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PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, July 1, 1982*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. NATCHER).

Rev. Charles Mallon, permanent deacon, Holy Family Church, Mitchellville, Md., offered the following prayer:

May God be gracious to us and bless us and make His face to shine upon us, that Thy way may be known upon Earth, Thy saving power among all nations.—Psalm 67: 1-2.

Father, our Nation is about to celebrate its 206th year of independence. During this time our Government has attempted to safeguard those self-evident truths which through Your grace and blessing we recognize as those unalienable rights of life, liberty, and the pursuit of happiness.

Because we believe this is the way You would have us live, we have charged our Government with the responsibility of securing these rights for us.

We pray that Your way will continue to be discerned by our Government and that this Congress will be a visible instrument of Your saving power to all nations.

We ask this through Christ our Lord. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 3127. An act for the relief of S. Sgt. Anne M. Fisher, U.S. Army Reserve;

H.R. 6451. An act to amend title 10, United States Code, to revise and codify the permanent provisions of law relating to military construction and military family housing; and

H. Con. Res. 367. Concurrent resolution providing for an adjournment of the House from any day between June 28 and July 2, 1982, and an adjournment of the Senate from July 1 or July 2 until July 12, 1982.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6685. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
July 1, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, the Clerk received at 9:45 p.m. on Wednesday, June 30, 1982, the following message from the Secretary of the Senate: That the Senate passed without amendment H.R. 6198.

With kind regards, I am,
Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bill on Wednesday, June 30, 1982:

H.R. 6198. An act to amend the manufacturing clause of the copyright law.

AGENCIES ENCOURAGED TO POSTPONE FURLOUGHS PENDING SUPPLEMENTAL APPROPRIATIONS

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute.)

Mr. EDWARDS of California. Mr. Speaker, it is our understanding that some agencies face furloughs which would become effective prior to July 12, which is the date the House is expected to return. We would simply encourage any of these agencies to take whatever steps are possible to postpone such furloughs until after the House has returned and considered supplemental appropriations.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, July 12, 1982, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SUPPORTING EXPRESSIONS OF CONCERN ABOUT POSSIBLE AGENCY FURLOUGHS

(Mr. LEWIS asked and was given permission to address the House for 1 minute.)

Mr. LEWIS. Mr. Speaker, I would only concur with the remarks of the gentleman from California (Mr. EDWARDS) regarding furloughs.

Both the gentleman from California and I are most concerned about the process which has held up this urgent, urgent, urgent supplemental, which came from our committee in the latter

part of March. Certainly if those agencies have been able to skate along since March and through April, May, and now June, we can extend ourselves a bit further and make certain that furloughs do not unduly harm our employees.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. LEWIS) and to include extraneous matter:)

Mr. GRADISON.

(The following Members (at the request of Mr. EDWARDS of California) and to include extraneous matter:)

Mr. WALGREN.

Mr. FRANK.

Mr. HAMILTON.

Mr. ADDABBO in three instances.

Mr. BARNES.

Mr. NATCHER.

ENROLLED BILLS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker pro tempore:

H.R. 3127. An act for the relief of S. Sgt. Anne M. Fisher, U.S. Army Reserve;

H.R. 6198. An act to amend the manufacturing clause of the copyright laws; and

H.R. 6451. An act to amend title 10, United States Code, to revise and codify the permanent provisions of law relating to military construction and military family housing.

SENATE ENROLLED BILL SIGNED

The SPEAKER pro tempore announced his signature to an enrolled bill of the Senate of the following title:

S. 881. An act to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 3816. An act to improve the operation of the fishermen's contingency fund established to compensate commercial fishermen for damages resulting from oil and gas exploration, development, and production in areas of the Outer Continental Shelf; and

H.R. 6198. An act to amend the manufacturing clause of the copyright law.

ADJOURNMENT

Mr. EDWARDS of California. Mr. Speaker, pursuant to the provisions of House Concurrent Resolution 367, I move that the House do now adjourn until July 12, 1982.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 367, 97th Congress, the House stands adjourned until 12 o'clock meridian, Monday, July 12, 1982.

Thereupon (at 10 o'clock and 6 minutes a.m.), pursuant to House Concurrent Resolution 367, the House adjourned until Monday, July 12, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4265. A letter from the Comptroller General of the United States, transmitting his review of seven new deferrals of budget authority and revisions to two previously reported deferrals, contained in the message of the President dated June 2, 1982, (H. Doc. No. 97-193), pursuant to sections 1013(a) and 1014(c) of Public Law 93-344 (H. Doc. No. 97-207); to the Committee on Appropriations and ordered to be printed.

4266. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment to Japan (Transmittal No. 82-66), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4267. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Japan (Transmittal No. 82-66), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4268. A letter from the Counsel to the Pacific Tropical Botanical Garden, transmitting the audit report of the garden for calendar year 1981, pursuant to section 10(b) of Public Law 88-449; to the Committee on the Judiciary.

4269. A letter from the Secretary of Health and Human Services, transmitting the fifth annual report of the Department on the Indian Health Care Improvement Act, covering fiscal year 1981, pursuant to section 701 of Public Law 94-437; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs, and Ways and Means.

4270. A letter from the Comptroller General of the United States, transmitting a report on developing Alaska's energy resources: actions needed to stimulate research and improve wetlands permit processing; jointly, to the Committees on Government, Operations, Interior and Insular Affairs, Public Works and Transportation, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on June 23, 1982, the following report was filed on July 1, 1982.]

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 6016. A bill to permit bank holding companies and Edge Act corporations to invest in export trading companies and to reduce restrictions on trade financing provided by financial institutions; with amendments (Rept. No. 97-629). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

Mr. HAMILTON introduced a bill (H.R. 6728) to establish a wilderness area in the Hoosier National Forest area, Ind., which was referred jointly, to the Committees on Interior and Insular Affairs and Agriculture.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5519: Mr. LEE.

H.J. Res. 172: Mr. WHITTEN.

H. Con. Res. 354: Mrs. COLLINS of Illinois, Mr. DIXON, Mr. NELSON, and Mr. DREIER.

H. Res. 412: Mr. ST GERMAIN and Mr. RUSSO.

SENATE—*Thursday, July 1, 1982*

(Legislative day of Tuesday, June 8, 1982)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable THAD COCHRAN, a Senator from the State of Mississippi.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Almighty God, Father of us all, we pray for our families which are so often the casualties of public service. May the Fourth of July recess be a time of reconciliation, renewal, and healing. May relationships between spouses, parents, and children be restored. Help the Senators not to import to their homes the stress and pressure from the Hill. Help them amid speaking schedules and campaigns to reserve adequate time for their loved ones.

Renew spouses in their sacred vows. Remind them of their marriage covenant which is unconditional for life, and that Thou art witness to that covenant. Help husbands to love their wives "as Christ loved His church and gave His life for her." Help parents and children to communicate, to listen, to understand, and to love each other. Gracious Father, fill the next 10 days with special blessing for our families. In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 1, 1982.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THAD COCHRAN, a Senator from the State of Mississippi, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. COCHRAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, today, after the recognition of the two leaders under the standing order, five Senators will be recognized on special orders of not to exceed 15 minutes each. Pursuant to the order entered previously, after the execution of the special orders, there will be a period for the transaction of routine morning business of 20 minutes in length in which Senators may speak for 5 minutes each.

After that, Mr. President, it is the intention of the leadership to ask the Senate to turn to the consideration of the jobs training bill, S. 2036, Calendar Order No. 650. While there is no time agreement on that measure, I urge Senators to consider the desirability of having a time agreement in order to dispose of the matter as promptly as possible.

It is the intention of the leadership, as well, to ask the Senate to turn to the consideration, after the jobs training bill, of the crime package, so-called, S. 2572, Calendar Order No. 599. It is possible that a time agreement can be reached on that measure, I believe. Included in that agreement may be a provision to proceed to the consideration of a second and shorter crime bill in order to accommodate the requirement of certain Senators. I am willing to consider that and to propose such an agreement if the principals involved in this matter and other Senators can agree on an overall and comprehensive unanimous-consent agreement.

Mr. President, both of these measures are important measures. Both of them are potentially long debates. But I would remind Senators that the Senate will go out today or tomorrow, according to the adjournment resolution which was agreed to last evening. It is my hope that we can finish our business today; indeed, it is my hope that we can finish it during the afternoon today. So, without any hint of coercion or intimidation, I urge Senators to consider that the brevity of their remarks on these two measures will expedite their departure for the Fourth of July recess.

REALLOCATION OF TIME

Mr. President, I ask unanimous consent that the time allocated to me and the distinguished Senator from Alaska (Mr. STEVENS) be aggregated and assigned to the control of the distinguished Senator from Oregon (Mr. PACKWOOD).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield the floor.

ACID PRECIPITATION DELIBERATIONS

Mr. BAKER. Mr. President, the Committee on Environment and Public Works this week began consideration of amendments to the Clean Air Act which address the problem of acid precipitation. This may well be the most controversial issue in this round of Clean Air Act revisions, and I commend and support my fellow members of the committee for their earnest examination of the very serious issues relating to acid precipitation.

While there is general agreement that acid precipitation does occur, strong consensus as to its causes, effects, and solutions has not yet emerged. Any strategy to ameliorate the acid precipitation phenomenon must take into consideration the uncertainties in the scientific data, yet address the problem as we now define it and allow adjustments over time to better respond to the problem.

As we move to further consideration of this complex issue, I will join my colleagues in evaluating a variety of measures to approach the acid precipitation problem. I recommend to my colleagues the editorial which appeared in the Chicago Tribune on June 9, outlining an acid precipitaiton strategy proposed by Senator DANFORTH. I ask that the editorial be inserted in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A WAY TO FIGHT ACID RAIN

The debate on the acid rain menace has largely degenerated into a regional feud between the coal-producing and coal-burning states of the Midwest and the acid rain victims of the Northeast. This, coupled with apathy on the part of both the Reagan administration and the general public, has

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

prevented the government from acting on this demonstrably federal problem despite evidence that it's killing lakes and trees over vast areas of the United States and Canada.

Sen. John Danforth, representing the coal-producing and coal-burning state of Missouri, has introduced legislation that may offer a way out. He recognizes that acid rain is a serious and growing problem that requires prompt action not more interminable study. But he opposes requiring the acid-producing states to pay the full cost of solving the problem.

Canada, which gets half its acid rain from the U.S. has embarked on a program to cut in half its own acid-producing emissions from smelters, coal-burning power generators and other sources over the next 10 years, at a cost of about $1 billion. The cost of installing scrubbers and other pollution control equipment to achieve the same reduction in the U.S. would be about $2.5 billion.

Sen. Danforth says this would compel utility companies in Missouri alone to raise their rates by 25 percent, which he calls an unfair burden. He agrees that acid rain travels hundreds of miles but questions whether Missouri pollutants can be blamed directly for acid rain in, say Vermont.

His remedy, Senate Bill 2594, proposes that both plaintiff and defendant in this dispute share the burden. It would impose a small kilowatt hour tax on all electricity produced in 22 states extending from the Mississippi River basin to the Atlantic seaboard. The proceeds would be deposited in a federal Acid Deposition Reduction Trust Fund to be returned to the states in grants to offset the cost of meeting sulfur reduction requirements.

If Environmental Protection Agency studies confirm that acid rain is transported even longer distances than now commonly believed, then the area covered by the bill would be extended to 31 states.

Sen. Danforth estimates that utility bills in the affected area would rise by no more than 5 percent.

Viewed in isolation, the concept upon which Sen. Danforth's plan is based might seem objectionable. If your neighbor is dumping garbage on your lawn, you shouldn't be required to pay part of the cost of removing it. The acid rain issue is not that clear-cut. We know that certain things can cause it, but we may not have identified everything that is a source. Besides, there are natural causes of acid rain that have nothing to do with man. As in the human body, too little acid can be as troublesome as too much acid.

So acid rain must be treated as a broad phenomenon and a federal problem much like pollution in the Great Lakes or soil erosion on the Great Plains. The federal government has as much of a right and duty to tackle it as it does to build all those Army Corps of Engineers water projects that powerful legislators demand for their constituents.

But a nationwide utility tax or the use of general revenues is as unlikely in the present political climate as a tax applied only to the coal states. Sen. Danforth's measure offers the best—and perhaps only—chance for action this year.

WATER OUTLOOK FOR COTTON AND THE COUNTRY

Mr. BAKER. Mr. President, some challenging ideas on future water supplies were recently offered to members of the Cotton Foundation by Robert Broadbent, Commissioner of the Interior Department's Bureau of Reclamation. Commissioner Broadbent summarized actions the Interior Department has taken to provide for the Nation's resource development needs, with emphasis on the cost and quality of water.

The Commissioner said that the administration is supporting continued water resource development. By advancing a program of cost sharing, the administration has acted to widen the investment base for future water projects. Mr. Broadbent pointed out that water costs are inevitably going to go up, however. Water scarcity and contamination, which have already hit some parts of the country, are problems that could worsen in the future.

Although we usually associate water scarcity with the arid Western region of the United States, where the Bureau of Reclamation operates, we need to be concerned with the water needs of the entire country.

Mr. President, the officers of the Cotton Foundation, whose headquarters are in Memphis, Tenn., are to be commended for including water supply problems on the agenda of their recent conference. I encourage my colleagues to focus their attention on the importance of water resources, and I recommend that Senators consider the points Commissioner Broadbent presented to members of the Cotton Foundation. Accordingly, I ask that the Commissioner's statemet be printed in the RECORD at this time.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ROBERT N. BROADBENT—"WATER RESOURCES: THE OUTLOOK FOR COTTON AND THE COUNTRY"

As a member of President Reagan's Administration, I think one of the most important points I can make is to stress our heavy commitment to getting excessive government off industry's back, getting our national defense strong again, getting the domestic economy back on track, and getting the concept of balance back into natural resources and conservation.

That was the commitment Ronald Reagan made when he was a candidate for President. That same commitment was endorsed by every man and woman appointed by President Reagan to serve in the Department of the Interior.

As Interior officials, our main interest is in natural resources and conservation. In less than two years as Secretary of the Interior, Jim Watt has already compiled a strong record of accomplishment. Secretary Watt has never sought controversy, but he has never ducked it. He set out to reverse the trand toward no-growth environmental absolutism, and he did it. He replaced extremist environmentalism with sound, balanced policies dedicated to America's development needs as well as America's conservation needs. Secretary Watt has attracted a lot of attention and he has achieved a lot of success.

The things we do in natural resources and conservation have direct impact on the Administration's goals of deregulation, economic recovery, and national defense.

Secretary Watt has laid the foundations of a Strategic Minerals Policy aimed at increasing commercial access to domestic deposits of critical metals like chrome, nickel, and cobalt. Without those minerals, we cannot produce strategic weapons, make vital industrial machinery, or build chemical processing plants. We import nearly all the chrome, nickel, and cobalt used in this country—much of it from uncertain suppliers like the countries of southern Africa and the USSR. By taking action to allow easier access to domestic sources of critical minerals, Secretary Watt is contributing to the health of the U.S. mining industry, aiding in our overall economic recovery, and improving our national security.

Secretary Watt's actions to spur development and production of energy from domestic resources also will help the cause of national defense, as well as economic recovery. So far, Secretary Watt has:

Ended the 10-year moratorium on coal leasing:

Made surface coal mine regulations more flexible, placing more authority in the hands of the State governments.

Developed a 5-year offshore oil and gas lease schedule, under which an average of 200 million offshore acres per year can be competitively leased.

Leased an area the size of Indiana for oil and gas exploration in the National Petroleum Reserve in Alaska.

Accepted applications for oil and gas exploration from companies ready to search for oil and gas on more than 100 million acres south of the Brooks Range in Alaska.

Set up new units in the Geological Survey to accelerate permits for exploration in the Overthrust Belt, a promising mineral and energy resource zone.

Sped up geothermal energy applications.

Established and staffed the new Minerals Management Service in Interior to supervise the accounting and collection of mineral royalty payments to the U.S. Treasury, and to consolidate management of Federal mineral leases both offshore and onshore.

Secretary Watt has made sound stewardship of public resources the hallmark of his administration in the Interior Department. Out of his belief that sound environmentalism and sound economics are not only compatible but inseparable, he has placed Interior squarely in the mainstream of environmental concerns.

Orderly development helps prevent increasing pressure for reckless resource exploitation—the kind that happens under emergency conditions, and that damages the environment, harms our quality of life, and causes political and economic fallout that is devastating in the long run. Long-term fallout from careless resource development includes the costly effects of water and air pollution; the sacrifice of sustained-yield, multiple uses of land in favor of short-term, single uses; plus heavy costs for after-the-fact environmental repair work on land and water resources that have been abused.

If orderly resource development by the private sector had not been encouraged, if flat-out restrictions against virtually all resource development and remained in place, the pent-up demand would eventually have blown out in a frenzy of reckless development bringing with it an unacceptable toll of environmental, social, and economic consequences. To prevent that, Secretary Watt has set us on a course of orderly, conservative extraction of the resources America

needs to be sound and secure economically, strategically, and environmentally.

Water resources have an important position in the Interior Department's stewardship of natural resources—water for people, farms, cities, factories, recreation areas, and the habitat (both natural and artificial) that sustains valuable fish and wildlife species.

Water resources are the major province of the Interior Department's Bureau of Reclamation, as well as the focus of some major accomplishments under the Reagan Administration.

During the previous Administration, a legal doctrine had been officially put forward claiming that a Federal "non-reserved water right" was automatically connected with the large Federal public domain landholdings managed by the Interior Department. The practical effect of that doctrine would have been to tie up virtually all water development plans in any public land State. Whatever the State wanted to do with its water would have been subject to a veto by some arm of the Interior bureaucracy—regardless of local needs and preferences. Bureaucratic veto power would have extended also to proposed development of the land itself, and to the resources of the land other than water, if the bureaucrats felt such development would have an effect on their claim of a "non-reserved water right."

That so-called Federal "non-reserved water right" was bad policy which had no relationship to the law. Secretary Watt's chief legal officer, Solicitor William Coldiron, reviewed that doctrine last year and found that it could not be legally supported. Secretary Watt promptly announced a new legal opinion getting rid of the Federal "non-reserved water right" concept and giving back to the States the control they ought to have over their own water resources. As it stands now, if a Federal agency can make a justifiable case that it needs water for a valid public purpose, the agency can take its case to the State authorities—the same as anyone else needing water—and the State authorities can decide.

Re-establishing State primacy over water rights was a major accomplishment of Secretary Watt's first year in office. It got the Federal government off the backs of the States and off the backs of the water users. It started the ball rolling on returning responsibility and authority to the State and local level.

More actions are underway in the Administration to give the States a bigger say in water development. A cost-sharing policy is being readied that will apply to all water projects the Federal government is involved in—Reclamation projects, projects of the Army Corps of Engineers, and water projects sponsored by the Tennessee Valley Authority and the Agriculture Department's Soil Conservation Service. The actual formula will be drawn to recognize distinctions between different kinds of projects—for instance, flood control, hydroelectric power, and irrigation—and will be based on the principal that he who benefits will also be he who pays.

Cost sharing will accomplish several purposes, all of them positive. It will extend the value of the Federal component in water resource investment, because the Federal share will supplement and extend investment dollars raised locally. It will subject the plans and designs for new projects to outside scrutiny by the non-Federal partners who will be sharing in the investment and who will need to be convinced the projects are technically and economically sound. It will assure solid local support, because part of the investment funding can be expected to come from local sources. And it will allow for continued water development with reduced Federal outlays.

That's the good news—that water development will be continuing and that the investment base will be widened.

The bad news is that water costs are going to go up.

As expenses for operating and maintaining irrigation systems increase, the cost of delivering agricultural water rises. As the price of energy for pumping continues to climb, the cost of using ground water keeps on going up. In places where salinity is a problem, and where croplands are threatened by damaging salt build up, extra costs are incurred for measures to control the salinity and for installing and operating drains.

Water conservation—measures for getting by with less water—can help. New technology has led to some very practical techniques for getting more production with less water. However, advanced technology does not come cheap. Conservation is not a complete solution. It is possible to conserve a lot of water without much help to the bottom line. It's a lot like the gasoline situation following the Arab oil embargo—people were shocked by the prices but panicked by the prospect of no gas. In agriculture, we're better off with costly water than no water, so we've got to be equally concerned about continued availability of the water as we are about how much it will cost.

Water availability is already a problem in places where urban and industrial demands threaten to outbid the farmers for a limited supply. It is a problem where water is being "mined" from underground aquifers faster than the aquifers can naturally recharge. It is a serious problem also where underground water resources have been contaminated.

Water price . . . water availability . . . water contamination—these are problems of today that could easily worsen in the future. If the problems that are already with us have to grow into a full-scale crisis before they are recognized and dealt with, then water users in the United States are in for some tough times. Not just cotton growers and other irrigators, but industrial and municipal water users as well. Not just in other people's cities and homes, but in ours. We all have to use water.

There is no shortage of problems, so what about solutions?

Research, engineering, and resource management all have a role in solving our water resource problems. We need better water resource technology, especially for ground water resources. Although the Bureau of Reclamation is recognized internationally for its engineering excellence, we're constantly working to improve our engineering. And the quest for better management is practically a religion in America.

The real question is, how are we going to get our research, our engineering, and our management skills totally engaged in the problem of water—before it becomes the crisis of water?

I would like to be more optimistic. But maybe a crisis is what it will take to get water problems taken seriously by the country as a whole. For the Bureau of Reclamation, the Corps of Engineers, the Environmental Protection Agency, and all the rest, to be told to do the job that needs to be done, maybe a crisis is what it will take. That's where we're headed.

Some influential groups and some powerful people know there's a water crisis coming. But among the American people at large, the story has not yet gotten across. Without an aroused public, it will be extremely difficult to mobilize a concentrated wave of demand that water problems be taken seriously and dealt with seriously.

The major media approach to the story of water resources is curious. Many science, engineering, and agriculture editors know and recognize the story. Some of the general circulation national magazines—Newsweek and Life, for example—have run cover stories on present and future water shortages, illustrated with pictures of parched and cracked dry lake beds, sinkholes caused by ground water overdraft, fields of withered crops, and dustbowl conditions. Many newspapers have run feature stories on the coming water shortage. Some have printed special sections devoted exclusively to water resource problems. There has been an earnest effort to communicate water *problems*. However, coverage of *solutions* to water problems is handled completely differently—as though the solutions were unrelated to the problems they are intended to solve. In their coverage of water projects, which are part of the solution, many environmental and political editors print stories written exlusively in terms of pork barrel politics, agribusiness bailouts, environmental disasters, unwarranted subsidies, and regional rivalries. You and I know stories like that are one-sided and incomplete. But how many general readers can be expected to know it? Not many.

So long as water problems and solutions to water problems are treated like two separate, unrelated stories, the chances for strong public support to emerge for water development are slim. That support may not develop at all until the water crisis hits home the way the oil embargo did.

As a public agency, the Bureau of Reclamation is obliged to listen to all points of view. We have rules committing us to a formalized program of public involvement as resources are assessed and plans are formed. Sometimes we have public meetings or hearings in connection with the environmental impact assessment process. Do you know what happens at those public meetings? The opponents come out in force to blast just about any development plan, and to blast us for even considering a plan. The proponents, the people who badly need the water and power, either don't show up or they sit quietly taking it all in. In a setting like that, it doesn't make much difference if the opponents' emotional outpouring is over some plan we were considering last year instead of anything currently under consideration. It doesn't make much difference how well prepared our planners and engineers are under conditions like that. Facts alone will not carry the day. Instead, the communications impact and the political fallout combine to stall the plan, or kill it outright, and we once again are forced to wait for the coming crisis.

If there is a lesson in this, it is that water interests have got to realize that the Government is no longer able to make their case for them. The cotton Foundation, the Farm Water Alliance, the Water Resources Congress, the National Water Resources Association, and similar organizations on all levels, right down to the county or conservancy district, have got to advance their point of view. Groups that are *for* water development have to speak out. Groups against development certainly are not bash-

ful about getting their views before the public.

The Bureau of Reclamation and the other water agencies of our country can do their part in solving water problems—in preventing a crisis—only if the water users themselves take the lead in:

Molding public opinion by presenting facts;

Explaining the value of benefits water projects will deliver, and the harm that will result from inaction;

Providing information about the need for water development, including who pays and who benefits;

Making sure water users' interests are clearly identified and fully explained;

Providing a positive voice to balance opposing points of view.

We don't have to have a water crisis. With strong, vocal, and visible support for water development, our water needs can be recognized and met. The problems can be solved. Some of the solutions will be very expensive. I'm not going to kid you by saying it's going to be easy or cheap. Public communication could turn out to be one of your most effective instruments, if you will make sure you use it and if you will join in communication efforts with other groups who share your interest in solving water problems. If you will do that, and if we all work together, I think a water crisis can be avoided.

There are some risks involved, but there are worse risks in trusting luck to take care of tomorrow's needs. Secretary Watt recently issued us all some advice, originally given by another great American, on the subject of striving for important causes. It goes like this:

"It is not the critic who counts, nor the man who points out how the strong man stumbles, or where the doer of deeds could have done better. The credit belongs to the man who is actually in the arena; whose face is marred by dust and sweat; who strives valiantly; who errs and may fail again, because there is no effort without error or shortcoming, but who does acutally strive to do the deeds; who does know the great enthusiasm, the great devotion; who spends himself in a worthy cause; who at the best, knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat."

The title of that is "Measure of a Man" and it came from Teddy Roosevelt on April 23, 1910. It also has meaning for us today.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I will take part of the distinguished Democratic leader's time and I will reserve the remainder for his use at a later time.

HOW WE CAN BARGAIN WITH THE U.S.S.R. ON NUCLEAR ARMS

Mr. PROXMIRE. Mr. President, I bring to the attention of the Senate an excellent analysis of the options available to the President of the United States in bargaining with the Soviet Union at Geneva on nuclear arms limitations. The analysis is contained in a New York Times magazine article of June 27. The author of this article, Leslie H. Gelb, is the former Director of the Bureau of Political and Military Affairs of the Department of State and is a recognized authority in this field.

Mr. Gelb presents a series of questions and answers, each in the format of a Memorandum for the President on the strategic arms reduction talks. On the issue of superiority, he points out the relative differences between the two forces that make it difficult to compare capabilities along exact lines. On balance, he calls the relationship a draw—with Soviet advantages in megatonnage, throw-weight and numbers of land-based missiles, while the United States leads in long-range bombers, total numbers of warheads, submarine technology and cruise missiles.

He states that the command, control, communications and intelligence capabilities of both sides are about equal. Other experts would argue that the United States has a lead in this area considering our early warning satellite technology and reconnaissance capabilities. Further, he argues that the reliability of the two missile forces is about the same. This is a difficult element to measure. The United States has the lead in solid-propellant technology which enhances reliability but the Russians carry out a more realistic testing program.

As for accuracy, in recent years Soviet missile accuracy has caught up with that of the United States for land-based systems. The United States will make a dramatic improvement in accuracy with the MX and Trident II missile systems. Both sides are rapidly heading for that day when all their missiles, land, sea, and cruise missile varieties, will be hard target capable.

Mr. Gelb also examines the logic of the initial proposal for a one-third cutback in missile systems.

As we know, that is what the President of the United States had proposed at Eureka a month or so ago.

Mr. Gelb shows that the attacking ratio under such a plan would be constant before and after the reduction—thus raising questions about the degree of safety that will be obtained from this proposal.

And, last, Mr. Gelb explores some issues which have not been debated sufficiently to develop a firm Executive Department position such as the long-term objectives of the U.S. cruise missile program and the coordinated problems of arms control.

Overall this article is a clear presentation of the options available to the President and his advisors at the beginning of this current round of negotiations.

As we all know, just this week the negotiations between the Soviet Union and the United States began at Geneva. These are extraordinarily critical. Indeed, some experts feel the outcome depends on the ability of this country and the Soviet Union to maintain peace in the nuclear world.

I think it is most important that we get as much information and understanding as we can, particularly since this Senate will later play a part, in all likelihood, in acting on the treaty that maybe agreed upon at Geneva.

Mr. President, I ask unanimous consent that a copy of the New York Times magazine article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times Magazine, June 27, 1982]

NUCLEAR BARGAINING

(By Leslie H. Gelb)

With your proposal for reducing Soviet and American long-range nuclear weapons by one-third, you have regained the initiative from the Western European and domestic nuclear-freeze and disarmament groups and put the Soviet Union on the defensive. But a year from now, the talks with Moscow due to begin this Tuesday will be deadlocked, both we and the Russians will be poised to deploy new and more devastating weapons, the peace movements are likely to regain momentum, and you will be in the initial phase of a Presidential campaign, vulnerable to charges of dragging your feet on arms control.

What are you going to do then? Cut back on your ambitious proposal, settle for a more modest treaty and run as a peace candidate, as President Nixon did in 1972? Or will you do what President Ford did in 1976—hold the line in the negotiations in order to hold onto the conservative vote (remember, you were challenging him in the Republican primaries then and accusing him of being soft on the Russians) and run as the man who wouldn's give in to Moscow? And what risks will either course hold for the nation's security?

There may be much in this memo you will not like, particularly coming from someone who was very much involved in negotiating the 1979 strategic arms limitation treaty, SALT II, which you found "fatally flawed." Let me assure you that this memo is not an argument for any one particular viewpoint. For the most part, the facts and judgments set forth represent the weight of expert opinion within your own Administration, as well as outside it. But some of the points may not have gotten to you because most of the people in your inner circle don't have much of a background in the highly complex field of strategic arms. That may have been evident to you after you had to alter your announced positions on how to deploy the projected MX missile, whether to abide by the unratified SALT II treaty, and other such matters.

This memo, as is the case with many news stories, is a way for your experts to send a message to their boss that otherwise might not reach you until it's too late. Let me try to define the key questions and hard choices as they see them.

Does the Soviet Union have superiority in strategic nuclear forces over the United States?

No, except for land-based missiles, and exactly what that means is open to argument. Each side's missiles are about equal in accuracy and reliability. But the Russian land-based missiles are much bigger than ours. This means they have more throw weight. That, in turn, means they can carry more nuclear warheads with greater explosive power to destroy targets protected by concrete and steel, like missile silos and command centers. But the gap will be narrowed as we deploy new warheads on our land-based missiles in the next couple of years. If and when the powerful new MX missile is deployed, the gap will be effectively closed.

In virtually all other strategic systems, the United States is in the lead, although the Soviets are closing.

American ballistic-missile-launching submarines are much quieter—and, therefore, harder to find—than their Soviet counterparts, and our antisubmarine-warfare capability is far better than theirs. This means that while the Russians can't find our submarines at sea, we can locate most of theirs. In other words, we have an invulnerable retaliatory force at sea and they don't—at least not for the next few years. Also, our submarine-launched missiles are more accurate and reliable than theirs.

American long-range bombers, although aging, are clearly superior to the equally aged Soviet force. Many more of our bombers could get through to their targets, even though the Russians have been spending more on their antiaircraft defenses, which are far better than ours.

Americans cruise missiles—pilotless miniature aricraft with their own guidance systems—are superior to the Russian ones.

Civil defense counts for practically nothing on either side, given the overwhelming problems of blast and radioactive fallout. While American efforts are negligible, the potential effectiveness of Moscow's program has been vastly exaggerated, as your intelligence estimates show.

In nuclear command, control communications and intelligence—the top leaders' capability of knowing what is going on and sending messages to those who push the buttons—the two sides are about equal.

In the number of nuclear warheads and bombs, which is generally regarded as the best measure of nuclear strength, the United States still has the edge, with a total now of about 9,000, though the Russians are coming close.

The experts who look at all of these factors call the strategic balance a draw. Put another way, I have yet to meet a senior American military officer invovled in this subject who would trade the American arsenal for the Soviet one. Only those experts who focus exclusively on Soviet superiority in land-based missiles think otherwise. And here the debate among the experts ascends to the level of theology.

In theory, Moscow could use only a few hundred of its land-based missiles with multiple warheads to destroy 90 percent of our land-based missiles, a good chunk of our bombers and whatever submarines are in port what has become known as the "window of vulnerability." This would leave you with at least 2,500 strategic nuclear warheads, mainly in submarines out at sea. Since few of these warheads would have the necessary accuracy and megatonnage to destroy protected Russian missiles, the theory is that you would be faced with the choice of hitting Soviet cities—thus inviting a counterattack on American cities—or doing nothing. In these dire circumstances, so the argument goes, you might choose to do nothing, and submit to Moscow's demands.

How realistic is this scenario? Would Russian leaders really assume they could launch so technically perfect an attack; that you would simply let American missiles sit in their holes and be destroyed without launching them during the attack, or that you would consider the estimated five million to 20 million instant American deaths to be a simple surgical operation not requiring a full-scale response against the Soviet heartland? No one I talked to was complacent about the power of Soviet land-base missiles; they all regarded it as an element of instability that should be dealt with. At the same time, almost all of them felt that in warning of that problem—in saying it gave the Russians a "definite margin of superiority"—you and many of your top aids disregard counterbalancing American strengths. Thus, in a crisis, you should not feel the need to make pre-emptive concessions, as some experts say you would.

I have heard it said that in urging steps to overcome Soviet "superiority," you are worried about public "perceptions" of the nuclear balance that could affect other governments' attitudes, whatever the actual balance may be. The answer to this is simple: World perceptions of the Soviet-American balance will be shaped to a large extent by what you and your senior advisers say about it. Moscow has unquestionably had the momentum, going from clear inferiority to parity in one decade. But if this proves anything, it is that both sides have the capacity to match the other's strength. As we and they deploy new weapons—within the limits of present and perhaps future arms controls—gaps in individual categories will open and close.

Would reducing warheads by one-third, as you proposed, eliminate the theoretical Soviet threat to our land-based missiles?

No. Some of your experts argue that there is greater safety in fewer missiles on both sides, but most see no change. The "window of vulnerability" derives from the calculation that the Soviets have 5,000 land-base warheads for destroying our 1,000-plus land-based missiles—a ratio of five to one. Even after the reductions contemplated in your proposal, that ratio would remain the same. (And a ratio of two to one would be sufficient.) In other words, your campaign charge that SALT II did not close the "window" can be turned against your own negotiating proposal.

In fact, this theoretical opening cannot be negotiated away unless the Russians agree to eliminate all, or at least most, of their big land-based missiles—their SS-18's and SS-19's—and no one has the slightest hope of persuading Moscow to give up its one advantage. In the near term, the problem can be solved only by giving our land-based missiles a high degree of invulnerability, by making them mobile or basing them in some deceptive manner. Your Administration has been casting about for a year and a half for some such scheme, with no success. No one else has any bright ideas. It may be that the only available solutions are worse than the problem. This would seem to be true of a new proposal you will soon be hearing from the Pentagon—that we build even more missiles, in order to multiply the targets the Soviets would have to shoot at.

Do we need "bargaining chips" in our negotiations with Moscow—new weapons projects we might be prepared to scrap in return for Soviet concessions?

Yes. Moscow is impressed by American technology and will bargain to curtail our inventiveness. But our chips must be weapons we would really want to keep if we did not get a worthwhile quid pro quo. And here you have a problem.

The one new system that worries the Russians most is the MX missile, because of the threat it would represent to their land-based missiles. It is also the system that faces the greatest skepticism in Congress, because of the difficulty of making it any less vulnerable than our present land-based Minuteman missiles. If you don't divine some better scheme for basing the MX, it looks as though Congress won't appropriate the money. If you don't cash this chip with Moscow soon, it may not be around to cash later.

You must know that our current arsenal is filled with bargaining chips that were never bargained away. Maybe you would just as soon it happened that way again—all those new missiles to clearly re-establish American advantages. But, as we have seen before, that's self-defeating. Moscow catches up sooner or later, and we end up being more worried than ever.

That is exactly what happened with MIRV's—multiple independently targetable warheads—at the beginning of the SALT I negotiations a decade ago. We were ready to test them in 1969, well ahead of the Russians. So, instead of seeking a prohibition of the new weapon, we grabbed our advantage and went ahead with deployment. By the time the Russians caught up, they had big missiles on which to put their MIRV's. And this gave them the very capability of destroying our land-based missiles that so frightens us today.

Is there any connection between the negotiations on medium-range missiles in Europe now under way in Geneva and the strategic-arms talks due to start June 29?

Yes, and a very important one. In Europe, our allies are pressing us to make a deal with Moscow to reduce the nuclear threat to their countries. Your proposal for doing that is the "zero option": The United States would give up its plans for deploying medium-range missiles in Western Europe—Pershing 2's and ground-launched cruise missiles—if the Soviet Union dismantled its existing SS-20's and other medium-range missiles.

The problem is that our new medium-range missiles will be able to hit Soviet territory from European soil. For that reason, Moscow would be very unlikely to make any deal on medium-range missiles without knowing at least the outlines of a strategic (intercontinental) arms agreement. In other words, the Russians will probably want to look at all the missiles—strategic and medium-range—we might be able to bring within range of Soviet territory before they agree to limits in either category.

There is another problem—a political one, and with our own allies. The initiative for deploying American medium-range missiles in Europe came from the European governments, with the primary aim of assuring a physical link between our military strategy and the defense of Western Europe. If you reached some kind of strategic-arms accord with Moscow without a simultaneous agreement on medium-range missiles, it would revive European fears that we are taking care of our own strategic concerns and ignoring theirs.

All of which is to say that the two negotiations are tied together and have to be thought of that way.

Should you continue to observe the limitations imposed by the SALT I and SALT II treaties?

Thus far, you have succeeded in having it both ways—condemning SALT II and abiding by it. You campaigned against the treaty, saying it locked the United States into a position of inferiority; once in office, you saw that the treaty kept the Russians from making large immediate additions to their arsenal while permitting you to go forward with the new strategic programs you espoused.

But now, pressures will arise within your Administration to break certain provisions that stand in the way of still further American advance. One example is Dense Pack, the latest scheme for basing the MX. It would have new silos dug close together, forcing the Russians to concentrate many missiles in a small target area. The Soviet missiles, according to this theory, would have to come so bunched up that their first explosions would detonate their subsequent warheads prematurely, thus leaving most of our MX's undamaged.

Whatever the realism of this concept—and it doesn't have many adherents yet—it would contravene the SALT II ban on new silos. It would also create pressures for departing from the 1972 treaty restrictions on antiballistic missiles (ABM's), for its proponents would want such weapons to defend their MX clusters. In fact, even without Dense Pack, some of your officials will press you to reopen the ABM treaty so that you can have antimissile defenses for any MX's you deploy. And that would raise the arms race to a new level.

Each side would suspect the other of greater readiness to launch a first strike and rely on its ABM's to lessen the effects of a retaliatory blow. Each side would be under greater pressure, in some desperate confrontation, to beat the other to the punch. The balance would be dangerously destabilized, and all this without any real assurance that the ABM's would work as planned.

In sum, it is clearly in the American interest to abide by the treaty limits. If the limits were removed, the Russians—whose production lines are open and whose missiles can take more warheads than ours—could add more nuclear weapons far more quickly than we. Anyone who pushes you to upset SALT II ought to have a very powerful case.

Are the Russians at all likely to accept your proposal for a one-third mutual reduction in warheads?

No, and they've already said as much. It asks them, in effect, to give up their one area of advantage—in large land-based missiles—without offering to forgo any of the projected new American weapons. First, the Russians will say, "Tell us what's wrong with SALT II," and will press for some modified version of that pact. Then, if you refuse to reconsider the treaty, they could offer some of their bargaining chips in exchange for some of yours. Or they could try to stop your strategic programs by reiterating their proposal for a freeze on new deployments.

Freeze proposals make effective propaganda, and that is important in itself. Negotiating with Moscow is in good part a game of patience, and your ability to be patient will depend on public support at home and in Europe for your negotiating position. The Western peoples will have to believe that you are being fair; otherwise, there will be a drumbeat for unilateral concessions on your part.

Is getting an agreement in the next year or two critical to containing the arms race?

Yes and no. The only new weapons we might be ready to begin deploying in the next year or so are cruise missiles. The MX is not due until 1986 at the earliest; the new Trident submarine missile, not until 1989; the B-1 bomber, not for another two or three years. The Russians are not expected to deploy their new weapons any earlier.

But there is something else to worry about—momentum. As the development and testing programs on both sides gather steam, it will be much harder to stop deployment later, when mutual renunciation of certain new weapons may become necessary for agreement.

In any event, given all the facts and the initial positions of both sides, the negotiations in their first phase will most probably lead to a stalemate. What will be your options then?

Option one: Hold the line. This means making no concessions and getting no agreement.

There will be substantial sentiment in your Administration for just that course. Many of you top officials are convinced that our big mistake in the past was not sticking to our position and waiting for the Russians to come around. They want to prove they're right. They would be equally satisfied, however, if Moscow did not come around, since, in their minds, it would justify the new American deployments. You may believe in this approach yourself.

But it could boomerang. Moscow will not be bargaining from a position of weakness. We have no grounds for expecting the Soviet leaders to capitulate to our demands out of fear of the new weapons on our production lines. All past experience points to their determination to match us again, weapon for weapon.

Sure, the Russian economy is in trouble, but so is ours. What if our own economic situation causes Congress to cut back on some of your bargaining chips? And what if public opinion here and in Europe comes to see you as the main stumbling block to an agreement? You could end up with no treaty and few new weapons. And if the peace and arms-control movements gain in strength, you could also be defeated in a bid for a second term.

Option two: Hold onto your proposal for a one-third reduction in strategic missiles, but offer something more to make it more attractive to Moscow.

Your proposal places no limits and offers no reductions on the number of bombers and cruise missiles. You could agree to reduce our bomber total from 400 to 300 and to limit each bomber to about 20 air-launched cruise missiles.

Moscow, of course, can be counted on to demand limits on sea-launched cruise missiles as well. The Russians are not likely to agree to cutting back on their land-based missiles while we deploy several thousand cruise missiles on our submarines, as you plan to do. So this approach would give little promise of breaking the deadlock. But it would put the ball back in Moscow's court and show that you're trying to find a compromise.

Option three: Agree to modify the SALT II treaty to your own and Soviet satisfaction.

You could try to lower the treaty's ceilings—from 2,250 to, say, 1,750 for missiles and bombers, and from 1,200 to 900 for missiles with MIRV's. You could try to remove the treaty's prohibitions against our building big missiles—so that, if we wanted to, we could build missiles as big as their SS-18—and against replacing old silos with new ones. You could try to tighten up on verification provisions. Moscow might accept something along these lines, and that would go a long way toward responding to the treaty's critics. With all these changes, you could call the treaty your own.

There doesn't seem to be a soul in Washington willing to bet on your going in this direction. Everyone says you've gone too far in condemning the treaty ever to retrace your steps. However, if you don't like what you see coming at you a year hence, a Reaganized SALT II might not look so bad by comparison.

Option four: Offer a mutual freeze on further deployments, and perhaps on testing and production as well.

You have rejected this approach as one that would leave us in an inferior position; reconsidering would make sense to you only if you were won over by the view that what we have is parity. Moscow, it should be noted, has given you an interesting variation to think about. The Soviet leader, Leonid I. Brezhnev, has spoken of freezing deployments but permitting testing and production, even while doing the "utmost" to curtail them. You aren't ready to make any new deployments for a while anyway, and the Soviet proposal would let you go ahead with your testing and development programs.

But it is true that a freeze is a tricky political enterprise, and once in for a penny, in for a pound, and you could well find yourself deprived of the bargaining chips that might be helpful in bringing about reductions.

Option five: Propose a trade-off banning the most threatening new weapons on both sides—say, no American MX and no Soviet SS-18; no American Pershing 2 and no Soviet SS-20.

The United States would be forgoing future deployments in order to eliminate existing Soviet weapons. That might not seem so appealing to Moscow, but it could be far more appealing than the prospect of seeing the new American weapons in place. The Europeans would be ecstatic about removing the SS-20, and American conservatives could delight in the banishing of the dreaded SS-18.

You could also propose eliminating all land-based missiles with multiple warheads. Restricting missiles to single warheads would go a long way toward reducing the risk of a first strike, since the attacker would have to use up most of his warheads and have few left for continuing the exchange.

For this kind of approach, timing would be critical. As noted above, you may be losing support in Western Europe for deploying the Pershings and in Congress for deploying the MX. If these trends grow, you'd want to move sooner rather than later. But if your support holds up, Moscow would take both the swap offer and the single-warhead idea more seriously.

What conclusions can be drawn from all this?

Two of your options—hold the line, or hold it but add sweeteners—are options that you like but that promise only stalemate.

Two other options—modify SALT II, or propose a freeze—could produce interim agreement, but you don't like either of them.

The fifth option—eliminate the most threatening weapons on both sides—represents a long shot at best.

Whatever approach you choose, you have got to ask your experts to concentrate hard on two subjects about which very little thinking has been done.

The first is cruise missiles. Your Administration has developed programs for deploying more than 10,000 of these drones, which can carry nuclear or conventional warheads and be launched from land, sea and air. The cruise missile could be an invaluable addition to our security or a dangerous complication. We ought to have some idea of the answer now, before we find ourselves in the same situation we faced with MIRV's 10 years ago.

In an age of technological advances that will make all bombers and all ballistic missiles, whether on land or at sea, vulnerable to enemy attack, the cruise missile could represent a secure and survivable system. Because these missiles are small, highly mobile and easily hidden, Moscow could not count on locating and destroying them in a first strike. All or most of them would be available for a retaliatory strike—a kind of ultimate deterrent.

But what happens when Moscow matches us in this new weapon? Flying only at subsonic speeds, cruise missiles are not first-strike weapons—yet. But the day of the supersonic and intercontinental cruise missile is not far off.

How will either side be able to keep tabs on these new first-strike weapons of pinpoint accuracy in the other's arsenal? Being small and easy to move and hide, they cannot be counted with the certainty that American and Soviet satellites can count each other's missile silos, bombers and submarines. There is no sure way to verify a cruise missile's range, no way to tell whether it is carrying a conventional or nuclear warhead. And apart from being a potential nightmare for the strategic balance, cruise missiles affect prospects for achieving reductions in other weapons. The Russians will not agree to big cuts in their ballistic missiles and bombers if they must prepare to face thousands of new cruise missiles.

The second subject that has not been given enough thought in your Administration is prevention of nuclear war. The main cause of an outbreak of nuclear hostilities, if it came, would not lie in weapons but in circumstances, surprises, failures in communication, crises escalating out of control. To get at these issues, you have to go beyond traditional arms control, which can limit competition, channel it along more predictable lines, ban certain weapons, stabilize the balance and build some mutual confidence, but which can't do much of anything else. Dealing with the issues of war prevention would require talks of an entirely new dimension, in a hitherto unexplored realm. You seemed willing to do this in proposals you made during your recent European trip.

The hurdles are enormous. Yet, for any President who is seriously committed to world peace, the time for such talks has arrived. The subject is so new that it is difficult to spell out exactly what the negotiations would cover. Certainly, they would seek to reduce fears of surprise attack by requiring advance notification of missile tests, by banning tests of depressed-trajectory missiles, which could strike targets even more quickly than ballistic missiles, and by improving hot-line communications and procedures—points you yourself enumerated while in West Germany.

But even these technical fixes are not enough. The talks should also stimulate a renewed effort to prevent the further spread of nuclear-weapons capabilities among other nations. As the negotiations go on, they could provide for a series of confidence-building measures, such as talks on a regular basis between the American and Soviet military chiefs of staff, biannual talks between the Secretary of State and the Soviet Foreign Minister and even a meeting every year or every other year between the President and the Soviet leader. Regularizing such contacts would depoliticize them to some degree and make them more businesslike. If you're lucky, you may be able to solve some of the major problems, but the minimum goal ought to be to prevent the problems from becoming worse.

The Falklands crisis is the most recent reminder of how hard it is for leaders to prevent situations from escalating out of control. Imagine what that crisis might have been had it flared between two nuclear-armed nations, particularly two superpowers, each with strong feelings about its national image. Your new weapons programs and your strategic-arms negotiating proposal are necessary but not sufficient conditions for keeping the peace.

MORE UNFOUNDED ARGUMENTS AGAINST THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, today I would like to complete my rebuttal to the false assertions directed at the Genocide Convention by Mr. Robert W. Lee in his book "The United Nations Conspiracy." Mr. Lee has used article II of the convention for a base on which to develop his argument. This article lists the specific acts which would qualify as genocide and therefore be treated as an international crime.

Mr. Lee believes that the act of deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, could include, and I quote, "refusing to grant the amount of welfare benefits deemed desirable." Nothing could be further from the truth.

By combining the issues of welfare benefits and the provisions of the Genocide Convention, Mr. Lee is attempting to exploit legitimate concern over the proper level of well-being in order to promote defeat of a treaty whose sole purpose is to safeguard the right to live.

Mr. President, the notion that the provision of any specific level of welfare benefits would by its very nature result in the type of systematic annihilation of a group, which this treaty tries to prevent, is absurd.

Again and again, Mr. Lee conveniently overlooks the operative phrase in article II. Any action proscribed by this convention must be committed with "intent to destroy, in whole or in part, a racial, national, ethnical or religious group."

The level of welfare benefits affects all who qualify, not specific group members. Thus, the conditions of article II for "intent to destroy" could not be proven.

Mr. Lee further states that the act of "imposing measures intended to prevent births within a group" could be meant to include, and I quote, "State laws which authorize court ordered sterilization of law breakers who are feebleminded or otherwise unfit to procreate normal children." Where in this assertion is the "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group?" The most expanded interpretation of these such laws cannot conceivably include such intent. These laws were created for much different purposes, none of which concern genocide.

Finally, Mr. Lee says that the act of "forcibly transferring children of the group to another group," could include and I quote once again, "forced busing of school children for racist purposes." While I have and will continue to oppose forced busing, such action cannot by any means be carried out with the intent to destroy, in whole or in part, any of the groups to which I have constantly referred. Furthermore, children who are bused are, and always will be bused back.

Mr. President, the Genocide Convention is a strong international statement condemning the heinous act of genocide. It is a fair and admirable assertion that this horrible act is an unacceptable deed taken not only against a particular group, but against all human beings. The United States has not yet made such an assertion. If our historic commitment to human justice is to remain legitimate, we must ratify the Genocide Treaty.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Assistant Secretary proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR PACKWOOD

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oregon (Mr. PACKWOOD) is recognized for not to exceed 50 minutes.

Mr. PACKWOOD. Mr. President, could I have that unanimous-consent order read again? How much time is allocated to the Senator from Massachusetts and to me?

The ACTING PRESIDENT pro tempore. There are 50 minutes allocated to the Senator from Oregon and 15 minutes under the previous order allo-

cated to the Senator from Massachusetts.

Mr. PACKWOOD. Mr. President, could I just for a moment suggest the absence of a quorum without being charged with the time?

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The Assistant Secretary proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Oregon is recognized.

THE EQUAL RIGHTS AMENDMENT

Mr. PACKWOOD. Mr. President, June 30, 1982, marked another milestone along the rough road toward equality for women in this country. Yesterday, the ratification deadline for the equal rights amendment expired. It is unfortunate, indeed tragic, that the deadline passed with us still three States short of the 38 needed to put the equal rights amendment into our Constitution. Today, however, is the beginning of a new era. Today we rededicate our efforts and reaffirm our commitment to equal rights for all Americans.

On July 14, Senator TSONGAS and I will reintroduce the equal rights amendment in the Senate. To date, 45 Senators have indicated they will be cosponsors. Over 150 of our colleagues in the House will also reintroduce ERA in the House the same day.

Opponents of ERA say it is not needed. They say times have changed, laws have changed and equality has been achieved.

But the need for ERA is no less today than it was 10 years ago.

We have made progress in some areas: Title IX for equality in education, the Equal Pay and Credit Acts are notable examples. But these and other equal opportunity laws do not have the force of a constitutional amendment. What Congress gives, it can also take away.

The American Bar Association explained the need for ERA this way:

> No ordinary statute can provide the bedrock protection assured by a Constitutional Amendment. No Court decision can provide that protection, for the courts can interpret, but they may not amend the Constitution.

Women should not have to fight for equality every 2 or 4 years with changing political winds. Equal protection and opportunity for women should not be subject to the capriciousness of politics. Equality is a basic constitutional right which must be guaranteed all Americans. A constitutional amendment is the only permanent insurance women will have of equal opportunities in education, employment, credit, retirement plans, and numerous other areas.

There is no doubt the character of women's place in our society has changed. More than 44 million women are in the work force. Women account for over 60 percent of the net growth in our labor force in the last 10 years. Our typical American family structure is changing. The stereotypical image of an employed husband, full-time housewife, and two school age children applies to less than 10 percent of American families today. The most prevalent type of family is now the two-parent, two-wage earner family. The facts tell the story:

More than half the children under 18 have working mothers, and the mothers of 43 percent of the children under six work outside the home.

The number of employed wives has tripled since 1950, with 52 percent of all wives holding jobs outside the home.

One of every seven families is headed by a woman and one of every nine women in the labor force is the sole support of her family.

The average married woman is employed for 25 years; the average single woman for 45 years.

ERA is the most powerful tool to insure women equal pay and equal opportunity in jobs. ERA is necessary to permanently end discrimination in the workplace.

As significant as the equal rights amendment is for women in the work force, the amendment will aid homemakers more than any other group of women. The ERA will secure the legal and economic rights of homemakers and guarantee that marriage be viewed as a legal partnership between husband and wife. Homemakers will no longer be second-class citizens with little economic or legal clout. The full-time homemaker who provides valuable services to the community as well as to her family will be recognized as an individual in her own right—not as the property of her husband.

The equal rights amendment is for all Americans. It is not just for the 51.4 percent of Americans who are female. ERA will insure women and men equal protection under the law. To deny that protection or to discriminate against one group, is to discriminate against all. In the final analysis, the rights of the least of us are the rights of all of us. Deny them to a few and you will deny them to all. There is no substitute for ERA. And there is no excuse for its failure. We will redouble our efforts for passage of this amendment, and will not rest until equal rights for women is part of our Constitution.

Mr. President, as we are all aware, at midnight last night, time expired for the ratification of the equal rights amendment. Because of the efforts of a handful of State legislators and a very small handful of States, the equal rights amendment was not passed.

Last night, Phyllis Schlafly, the self-acknowledged leader of the anti-ERA movement, hosted a party at one of the Washington hotels, calling it an Over-the-Rainbow Party, to celebrate the demise of the equal rights amendment.

Mr. President, I know during the fight on the equal rights amendment, each side engaged in what the other side probably thought were excesses. That is not unknown in combat, be it political or military.

In all battles we have our Mylais and our Malvinas which, when the war is over, we are ashamed of. And all of us have been involved in political battles where we may have said or done something untoward and in retrospect wish we had not done.

I am not now going to get into an argument over those who supported or those who opposed the equal rights amendment who, on occasion, made statements or did things that, in retrospect, they wish they had not done. The genuine test of a person's character is not whether they can stand adversity. It is whether they stand power.

The gala celebration, I think, reveals the attitude of those who are in opposition to the equal rights amendment. It was a victory celebration in which they played "Ding, Dong, the Witch Is Dead." John Lofton, the editor of the Conservative Digest, said, "We're here to celebrate a death, to dance on a grave."

Richard Viguerie said, "We've just witnessed a classic confrontation between the power elite and the people—and the people have won."

I might pause here to say to Mr. Viguerie that to the best of my knowledge most of the polls that exist in this country still show about two-thirds of the people supporting the equal rights amendment. I have not seen any polls on the power elite. Nor am I going to use the argument that because two-thirds of the people support this constitutional amendment it should pass. That is a bad argument to use.

It is an argument, it is a fair one, but to rest your sole defense or offense on that argument is a bad one because we are going to face a number of constitutional amendments in this Congress before the session is out. Some of those I will support; some of those I will oppose. Some of those that I oppose will have the support of a majority of the people who are polled, and vice versa.

When you are dealing with fundamental liberties, a retreat solely to the majority and to the polls in a danger-

ous approach. But as far as Mr. Viguerie is concerned, if he wonders who won and who lost, the people lost.

M. Stanton Evans, a conservative columnist, said, "When you hear the phrase 'gross national product'—that is not a reference to Bella Abzug." A very tasteful statement.

Then the group last night, to the music from "Kiss Me Kate," said, and I am paraphrasing their words quoting from the paper:

Where are you Ellie?
I'm sorry to tell you that your arguments were smelly.
Where are you Gloria?
Still pedaling your life style to housewives in Peoria.

Let me say to Ms. Schlafly, she has won a victory and I congratulate her. But she is the General Cornwallis of her movement. As the British had success at Bunker Hill and Fort Washington, and Brandywine and Germantown, so Ms. Schlafly one day will be at Yorktown. And at Yorktown when we win—and we will win—I hope that when we celebrate our victory we will celebrate it with grace and dignity and forgiveness. Because in victory, not in defeat, is measured the true magnanimity of all people.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Massachusetts (Mr. TSONGAS) is recognized for not to exceed 15 minutes.

Mr. TSONGAS. Mr. President, I would like to begin by commending the very thoughtful statement of the Senator from Oregon. I might say that my own view is that the victory of the Schlafly forces, if you will, is a Pyrrhic victory. Indeed, I think if viewed historically 10, 15, or 20 years from now, it will be understood that frustrating a fundamentally mainstream idea—the equal rights amendment—only results in greater momentum being built up as more and more women become politicized.

I think we will find they will not be involved in just the ERA issue, but in issues such as arms control and many others.

So I think in many respects the defeat of ERA yesterday, which was celebrated by the opponents, will, in the long term, have proven to be just the opposite. The fact that they had a gala event last night suggests that they have a rather short-term view of history.

Mr. President, yesterday, as the Senator from Oregon pointed out, marked the final deadline in the drive for ratification of the proposed equal rights amendment. The amendment was ratified by 35 States, just 3 States short of the number required to make the ERA the 27th amendment to the Constitution. It is now apparent that the march toward equal rights for women and men in this country must pause before it reaches its destination.

But the fight for equal rights will continue. As Sonia Johnson, one of seven women recently fasting in Illinois, said "the ERA is very much alive and compelling." In time, I am confident that this Nation will embrace the ERA, for it is a cause that is just.

Toward this end. I intend to reintroduce the ERA in the Senate on July 14, along with Senator BOB PACKWOOD and 44 colleagues. I expect to have more cosponsors by July 14. Indeed, I would like it to be at the 50-colleague level at that point. We hope that at least four more of our colleagues will see fit to join us by July 14.

In the House, a similar measure will be introduced the same day by Representative PAT SCHROEDER, Representative MARGARET HECKLER, and Representative DON EDWARDS.

Today my colleagues and I would like to discuss why the ERA should be made part of our Constitution.

The amendment seeks to eliminate sex as a factor in determining the legal rights of women or men. It requires that governments treat each person, female or male, as a citizen under the law without regard to gender. The amendment thus recognizes the fundamental dignity and individuality of each human being.

Since its first introduction, controversy over ERA has centered on essentially the same questions: Whether there should be room in the law for "reasonable" distinctions in the treatment of men and women; whether a constitutional amendment is the proper vehicle for improving the legal status of women; and how ERA might affect such areas as privacy, military service, domestic relations, criminal law, employment, education, and others. My colleagues and I would like to address these issues and discuss how each will be affected by the ERA.

The text of the amendment we plan to introduce on July 14 is the same amendment that was passed by the Congress in 1972. It reads:

SEC. 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of the article.

SEC. 3. This Amendment shall take effect two years after the date of ratification.

It is very simple, very straightforward, very compelling, which is why the polls show most Americans support it.

I believe the ERA is essential because it would, for the first time, grant women full status as equal citizens under the Constitution and establish a standard for eliminating discrimination based on sex. Only a constitutional amendment can adequately assure equal rights to the women and men of this country. It is the only insurance that women will have fair and equal opportunities in employment, education, benefit and retirement plans, marriage, and divorce.

A statute-by-statute, piecemeal approach to ending sex discrimination, whether at the Federal or State level, has not worked. Title VII of the Civil Rights Act, title IX of the education amendments and the Equal Pay Act are the laws most often cited as providing equal opportunities for women. The experience in the past 21 years have shown, unfortunately, that these statutes have not provided adequate enforcement and have not resulted in desired changes in the patterns and practices of discrimination. The current laws are simply not enough. Moreover, equal employment laws can be repealed at any time.

In Federal statutes alone, more than 800 sections of the United States Code contain sexually biased terminology inconsistent with the Nation's purported commitment to equal rights. State laws are also replete with provisions that assign women, on the basis of their sex, to an inferior role.

It is also clear that existing constitutional guarantees will not mandate the changes that are needed. Judicial interpretation has allowed sex bias to survive. For example, those challenging sex discrimination in the courts have found the 5th and 14th amendments unreliable and inadequate as a remedy for sex discrimination. Further, the U.S. Supreme Court has failed to apply the same strict standard in sex discrimination cases that it has mandated for weighing racial discrimination.

ERA is needed more today than ever if women are to achieve permanent economic equity. As workers, women are paid only 64 cents to every dollar paid to men. This is the same ratio that was paid to women a quarter century ago. As wives, women are still subject to laws that deny them equal partnership in marriage. As students, they are often steered away from the education that could pierce the barrier to better paying jobs. Further, women endure a criminal justice system that too often judges them by their sex and not be the acts they commit or by which they are victimized. The reality today is all too obvious: Women have not achieved equality under the law.

Current administration proposals are actually moving women backward in equal employment, education, credit, and other economic and social issues. For example, the administration—through the Office of Federal Contract Compliance Programs (OFCCP) in the Department of Labor—has proposed regulations reducing affirmative action requirements for women by Federal contractors and has proposed significant changes in title IX of the Education amendments.

So much for the President's remarks last night.

Public opinion polls show unmistakably that the vast majority of the American people favor passage of the equal rights amendment. In April, a Harris survey showed that ERA is supported by over 60 percent of the American public. I concur with Senator PACKWOOD that that is only an argument and certainly not the basis on which one would argue ratification on such an important issue.

Organizational support for ERA is also strong. Over 500 organizations representing more than 50 million Americans have endorsed the ERA. These include major labor unions, church and civil rights groups, legal, educational and medical associations and all major women's groups. Indeed, the ERA was supported in the platforms of both major parties for four decades, until the Republican party reneged in 1980.

The need for ERA was great in 1923, when it was first introduced in Congress. The need was great in 1972, when Congress first approved it. The need is still as great.

Mr. President, I think the time will come when Americans will look back on this period and wonder what all the fuss was about, why something that made such eminent good sense, that seemed so normal, would have been the subject of such controversy that, in many respects, it would have been a kind of barometer of our time. It is my hope that the amendment will be cosponsored by two-thirds of the Senate. We are well on our way there. It is my hope that the States will ratify it, that we can put this issue behind us; that when my three daughters are adults, they will look on this as an issue of ancient history.

Mr. President, let me read off the names of the cosponsors of the amendment:

Mark Andrews, Max Baucus, Joseph Biden, Jr., Rudy Boschwitz, Bill Bradley, Quentin Burdick, John Chafee, William Cohen, Alan Cranston, John Danforth, Dennis DeConcini, Alan Dixon, Christopher Dodd, David Durenberger, Thomas Eagleton, John Glenn, Slade Gorton, Gary Hart, Mark Hatfield, John Heinz, Ernest Hollings, Daniel Inouye, Henry Jackson, Nancy Kassebaum, Edward Kennedy, Patrick Leahy, Carl Levin, Charles Mathias, Jr., Spark Matsunaga, John Melcher, Howard Metzenbaum, George Mitchell, Daniel Patrick Moynihan, Bob Packwood, Claiborne Pell, Charles Percy, William Proxmire, Jennings Randolph, Donald Riegle, Paul Sarbanes, Harrison Schmitt, Arlen Specter, Robert Stafford, Ted Stevens, Paul Tsongas, and Lowell Weicker.

I ask you, Mr. President, can all these people be wrong?

Mr. President, I ask unanimous consent that the statement of Senator CRANSTON, who is unable to be with us this morning, be placed in the RECORD as if read.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

● Mr. CRANSTON. Mr. President, I join today, not in a ceremony of mourning for the equal rights amendment, but in a public reaffirmation of our commitment to the goal of placing within the Constitution of the United States a guarantee of full, equal rights of women—and men—in our country.

Let me first say that the equal rights amendment is not dead. On July 14, 1982, I will join with my colleagues in the Senate and the House of Representatives in reintroducing the equal rights amendment. We will not delude ourselves in believing that ratification of ERA will come easily, particularly under the hostility of the Reagan administration and its allies in the Congress toward women's rights. But neither should we feel that we will be starting from scratch.

The efforts of the past decade have not been in vain. The vast majority of Americans now strongly support the ERA. Every poll, every survey—even in the unratified States—show overwhelming support for the ERA. Ratification was blocked by a handful of individuals in key positions in the unratified States. They believed—mistakenly—that if the ratification period ran out, ERA would be dead. They are wrong. There can be no time limit placed on the pursuit of equality and justice.

Mr. President, ERA is needed today, as much as ever. Measured by any standard, sex discrimination has not been erased in our society. Women have made tremendous strides and hold important policymaking positions in every level of government, in every sector of our society. But discrimination and denial of equal opportunities because of gender continues. Women today earn on the average only 59 cents for every comparable dollar earned by men. Women continue to be concentrated in the lowest paying, least-valued jobs. The consequences of a lifetime of inequality is particularly devastating for older women. Because their lifetime earnings are lower, and many spend years out of the work force raising children, older women often have fewer resources to draw on. Poverty rates are much higher for older women, particularly those who outlive their husbands or who are unmarried. Women of all ages continue to face a patchwork of State laws and practices depriving them of equal ownership of property and continuing to stand as obstacles to equal opportunities and employment.

Although many barriers have been broken down and much progress has been made, without a constitutional amendment, much of the discrimination that still exists will continue. Without a constitutional amendment, much of the progress that has been made can be eroded. We have only to look at the recent proposals within the Reagan administration to repeal or weaken women's educational rights and to limit enforcement of equal employment opportunity laws, to see how quickly this progress can be curtailed.

Equality of rights without regard to sex must, like other basic civil rights, be a constitutional right. The women of this country deserve no less than a secure, constitutional guarantee of full citizenship and equality under the law.

Mr. President, I was an original cosponsor of the ERA when it was approved in 1972. I will be an original cosponsor when it is reintroduced on July 14, 1982. We must and will continue the ERA effort until it is successful, however long it takes. I believe that in the not too distant future, we will look back at 1982, not as the year ERA died, but as the year the final stages of ratification of ERA began.●

Mr. DECONCINI addressed the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Florida (Mr. CHILES) is to be recognized for not to exceed 15 minutes.

Mr. TSONGAS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, my understanding is that the Senator from Oregon and I have a combined total of 65 minutes. Has that time tolled?

The ACTING PRESIDENT pro tempore. The Senator is correct. The Senator may yield.

Mr. DECONCINI. Mr. President, will the Senator from Massachusetts yield?

Mr. TSONGAS. I yield to the Senator.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. DECONCINI. I thank the Senator.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

Mr. DECONCINI. Mr. President, a constitutional amendment which guarantees equal rights under the law to all persons regardless of sex is long overdue. I personally find it difficult to understand the controversy that has swirled around this issue. It is a simple matter: In a society of laws, which the United States is, all citizens must have equal standing. Anything less is simply unacceptable. I fear that too many well-meaning individuals have lost sight of the simple and profound elegance of the proposition, and have gone looking for demons and dragons. There are none. The equal rights amendment is what it says—nothing more, nothing less. We are all equal, that is all.

No one would disagree with the notion that the United States has long

been moving toward equality of rights without the ERA. Indeed, great strides have been made. The reason for this is that our entire society is suffused with the concept of equality. But, having said that, we must also acknowledge that there are still great obstacles to overcome. Nowhere are the discrepancies between the sexes more glaring than in employment wages.

The Equal Pay Act passed by the 88th Congress became effective June 11, 1964. Since that time, women have lost, not gained, ground in the battle for equal pay. In 1960, women comprised 33.3 percent of the work force and earned 60.8 percent of what men earned. In 1980, with women comprising 42.4 percent of the work force, they earn only 60.2 percent of male wages. These figures are a national embarrassment.

While many argue that the wage gap is largely attributable to women concentrating in low paying fields and lacking seniority, a recent Labor Department report disputes these claims. In March of this year, the Labor Department released a report on the weekly earnings of men and women compared in 100 occupations. This report reveals that women are earning substantially less than men within the same occupations. Within the legal profession, for example, a profession I share with 62 of my colleagues, women comprise 22 percent of lawyers yet they earn only 71 percent of what their male colleagues earn. In a profession dedicated to upholding the laws of this country we have not done a very admirable job.

Sixty percent of all retail sales clerks in this country are women, yet they earn only 67 percent of what their male counterparts earn. Thirty-seven percent of all bank officers are women, yet they only earn 60 percent of what male bank officers earn. The list is profoundly discouraging. In fact, there is not a single profession in this country cataloged by the Labor Department in which women earn more than or the same as men. In the nursing profession, where women compromise 90.9 percent of the work force, we find the smallest wage gap. But even here women earn only 94.7 percent of what men earn.

Mr. President, I ask unanimous consent to insert in the RECORD the complete study done by the Department of Labor entitled "1981 Weekly Earning of Men and Women compared in 100 occupations."

There being no objection, the study was ordered to be printed in the RECORD, as follows:

[U.S. Department of Labor, Bureau of Labor Statistics, Mar. 7, 1982]

1981 WEEKLY EARNINGS OF MEN AND WOMEN COMPARED IN 100 OCCUPATIONS

Engineering occupations dominated the list of the 20 highest wage and salary occupations for men in 1981, while occupations often found in the public sector were prominent among the top 20 for women, the U.S. Department of Labor's Bureau of Labor Statistics reported today.

These findings are from an analysis of usual weekly earnings as reported in a survey of households—the Current Population Survey (CPS). The earnings are for wage and salary workers employed full time (35 hours a week or more); the rankings thus exclude self-employed persons (for example, many physicians and attorneys).

Seven out of the 20 best paying occupations among men in 1981 were in the engineering field. (See table 1.) Median usual weekly earnings ranged from $507 for civil engineers to $619 for aerospace engineers. Salaried lawyers ($574) and physicians ($561) were in the upper half of the top 20 ranking. Also included among the top 20 were a number of technical occupations—economists ($580), computer systems analysts ($546), airplane pilots ($530), operations and systems researchers and analysts ($515)—and administrative occupations—sales managers ($566), college and university administrators ($552), elementary and secondary school administrators ($520), and bank officers and financial managers ($514).

Occupations in the educational field ranked among the 20 highest-paying for women. Median usual weekly earnings of women elementary and secondary school administrators were $363; vocational and educational counselors earned on average $336 a week; and secondary school teachers had median weekly earnings of $321. (See table 2.) Other public sector occupations in the top 20 for women were postal clerks ($382) and public administration officials and administrators ($337). Many of the best-paying occupations for women were the same or similar to those appearing in the men's ranking, for example, operations and systems researchers and analysts ($422), lawyers ($407), physicians, dentists, and related practitioners ($401), engineers ($371) health administrators ($357), and personnel and labor relations workers ($330). However, the earnings of women were generally much lower than those of men, even within these occupations. For example, the ratio of women's earnings to men's earnings was 71 percent for lawyers and 81 percent for physicians. The ratio was highest among postal clerks where women earned about 94 percent as much as men. (See tables 1 and 2.)

Table 3, in addition to presenting the median usual weekly earnings for men and women in over 100 detailed occupations, also shows the ratio of women's to men's earnings in each occupation and the percentage of women in each occupation. The data contained in this table will be analyzed further in a forthcoming article in the Monthly Labor Review.

A NOTE ON THE DATA

The data on median usual weekly earnings published in this release are based on information obtained monthly from one-fourth of the households in the Current Population Survey (CPS). Summary data on earnings from the CPS are now published on a quarterly basis. However, because of sampling variability, earnings data for very detailed occupations cannot be published quarterly and are aggregated into annual averages.

While much more reliable than quarterly averages, the annual averages are still subject to problems of sampling variability. This is why median weekly earnings for either men or women are not shown in this release for occupations where they make up less than 50,000 of the full-time wage and salary employment. Even with this restriction, the occupations for which data are shown account for nearly 95 percent of the full-time wage and salary employment level in 1981.

In addition to the problems of sampling variability, the earnings data from the CPS are also subject to problems of response error or bias. Special tests have indicated a slight tendency to under-report earnings in household surveys such as the CPS. General information on the statistical reliability and other aspects of the earnings data derived from the CPS can be found in BLS Bulletin 2113, *Technical Description of the Quarterly Data on Weekly Earnings From the Current Population Surveys,* Department of Labor, Bureau of Labor Statistics, January 1982.

TABLE 1.—OCCUPATIONS WITH HIGHEST MEDIAN WEEKLY EARNINGS FOR MEN EMPLOYED FULL TIME IN WAGE AND SALARY WORK,[1] 1981 ANNUAL AVERAGES

Occupation[2] and title	Male earnings
Aerospace and astronautical engineers	$619
Stock and bond sales agents	589
Chemical engineers	583
Economists	580
Lawyers	574
Sales managers, except retail trade	566
Physicians, medical and osteopathic	561
Electrical and electronics engineers	555
School administrators, college and university	552
Industrial engineers	549
Mechanical engineers	547
Computer systems analysts	546
Health administrators	545
Engineers, n.e.c.	530
Airplane pilots	530
School administrators, elementary and secondary	520
Operations and systems researchers and analysts	515
Bank officers and financial managers	514
Personnel and labor relations workers	514
Civil engineers	507

[1] Excludes any earnings from self-employment.
[2] Occupations listed are those in which male employment was 50,000 or more in 1981.

TABLE 2.—OCCUPATIONS WITH HIGHEST MEDIAN WEEKLY EARNINGS FOR WOMEN EMPLOYED FULL TIME IN WAGE AND SALARY WORK,[1] 1981 ANNUAL AVERAGES

Occupation[2] and title	Female earnings
Operations and systems researchers and analysts	$422
Computer systems analysts	420
Lawyers	407
Physicians, dentists and related practitioners	401
Social scientists	391
Teachers, college and university	389
Postal clerks	382
Engineers	371
Ticket, station and express agents	370
School administrators, elementary and secondary	363
Life and physical scientists	363
Health administrators	357
Public administration officials and administrators, n.e.c.	337
Vocational and educational counselors	336
Registered nurses	331
Personnel and labor relations workers	330
Computer programers	329
Editors and reporters	324
Secondary school teachers	321
Librarians	318

[1] Excludes any earnings from self-employment.
[2] Occupants listed are those in which female employment was 50,000 or more in 1981.

TABLE 3.—MEDIAN WEEKLY EARNINGS OF WAGE AND SALARY WORKERS EMPLOYED FULL TIME IN OCCUPATIONS WITH TOTAL EMPLOYMENT OF 50,000 OR MORE BY SEX,[1] 1981 ANNUAL AVERAGES

[Numbers in thousands]

Occupation	Total, both sexes		Men		Women		Ratio female/male earnings times 100	Percent female workers
	Total employed	Weekly earnings	Total employed	Weekly earnings	Total employed	Weekly earnings		
Total [2]	72,491	$289	$43,888	$347	28,603	$224	64.7	39.5
Professional, technical, and kindred workers	12,870	377	7,438	439	5,512	316	71.8	42.8
Accountants	960	379	579	433	381	308	71.2	39.7
Architects	60	428	57	432	3	—	—	5.0
Computer specialists	583	454	429	488	154	355	72.8	26.4
Computer programers	345	422	247	447	98	329	73.6	28.4
Computer systems analysts	199	519	149	545	50	420	76.9	25.1
Engineers	1,459	540	1,392	547	68	371	67.8	4.7
Aeronautical and astronautical engineers	83	614	81	619	1	—	—	1.2
Chemical engineers	64	575	59	583	5	—	—	7.8
Civil engineers	186	505	182	507	4	—	—	2.1
Electrical and electronic engineers	368	549	355	555	13	—	—	3.5
Industrial engineers	222	530	194	549	28	—	—	12.6
Mechanical engineers	239	540	233	547	6	—	—	2.5
Engineers, n.e.c	226	527	219	530	7	—	—	3.1
Foresters and conservationists	60	331	53	341	7	—	—	11.7
Lawyers and judges	299	550	237	579	62	410	70.7	20.7
Lawyers	279	546	219	574	60	407	71.0	21.5
Librarians, archivists, and curators	146	323	25	—	121	319	—	82.9
Librarians	136	320	20	—	115	318	—	84.6
Life and physical scientists	277	474	219	512	58	363	70.9	20.9
Biological scientists	53	423	33	—	19	—	—	35.8
Chemists	132	467	104	492	28	—	—	21.2
Operations and systems researchers and analysts	212	485	160	515	52	422	82.0	24.5
Personnel and labor relations workers	419	402	215	514	204	330	64.3	48.7
Physicians, dentists, and related practitioners	314	468	242	495	73	401	80.9	23.2
Pharmacists	98	463	74	471	25	—	—	25.5
Physicians, medical and osteopathic	189	501	148	561	41	—	—	21.7
Nurses, dieticians, and therapists	1,168	327	106	344	1,062	326	94.7	90.9
Registered nurses	924	332	39	—	885	331	—	95.8
Therapists	199	305	65	335	134	293	87.5	67.3
Health technologists and technicians	511	287	161	324	350	273	84.2	68.5
Clinical laboratory technologists and technicians	232	295	55	324	177	286	88.1	76.3
Radiologic technologists and technicians	82	290	31	—	52	268	—	63.4
Health technologists, n.e.c	155	268	72	317	83	240	75.7	53.5
Religious workers	268	284	244	286	25	—	—	9.3
Clergy	231	284	220	285	10	—	—	4.3
Social scientists	238	461	158	522	81	391	74.9	34.0
Economists	133	536	98	580	36	—	—	27.1
Psychologists	77	394	38	—	40	—	—	51.9
Social and recreation workers	454	295	185	339	269	273	80.4	59.3
Social workers	357	309	141	358	216	286	79.9	60.5
Recreation workers	97	226	44	—	52	186	—	53.6
Teachers, college and university	438	444	310	485	128	389	80.3	29.2
Teachers, except college and university	2,624	333	864	384	1,760	311	80.9	67.1
Audit education teachers	54	394	38	—	15	—	—	27.8
Elementary school teachers	1,244	322	221	379	1,022	311	82.2	82.2
Prekindergarten and Kindergarten teachers	143	262	4	—	138	264	—	96.5
Secondary school teachers	1,115	351	571	387	545	321	82.9	48.9
Teachers, except college and university, n.e.c	69	312	29	—	40	—	—	58.0
Engineering and science technicians	1,056	348	868	371	188	279	75.3	17.8
Chemical technicians	106	352	76	384	29	—	—	27.4
Drafters	319	343	259	364	60	277	76.2	18.8
Electrical and electronic engineering technicians	259	387	235	397	25	—	—	9.7
Surveyors	80	310	80	311	0	—	—	0.0
Engineering and science technicians, n.e.c	224	344	174	383	50	277	72.2	22.3
Technicians, except health, engineering, science	172	375	128	437	43	—	—	25.0
Airplane pilots	53	530	53	530	0	—	—	.0
Radio operators	56	233	23	—	33	—	—	58.9
Vocational and educational counselors	156	388	77	451	79	336	74.5	50.6
Writers, artists, and entertainers	791	350	525	387	266	302	78.2	33.6
Athletes and kindred workers	59	254	44	—	15	—	—	25.4
Designers	176	421	134	448	42	—	—	23.9
Editors and reporters	158	351	86	382	72	324	85.0	45.6
Painters and sculptors	100	297	55	329	45	—	—	45.0
Photographers	52	309	47	—	6	—	—	11.5
Public relations men and publicity writers	100	402	56	465	44	—	—	44.0
Writers, artists and entertainers, n.e.c	66	363	42	—	23	—	—	34.8
Research workers, not specified	157	362	96	437	61	307	70.3	38.9
Managers and administrators, except farm	7,864	407	5,630	466	2,235	283	60.8	28.4
Bank officers and financial managers	658	411	417	514	240	310	60.2	36.5
Buyers, wholesale and retail trade	139	316	73	400	66	250	62.3	47.5
Credit and collection managers	60	351	36	—	24	—	—	40.0
Health administrators	200	431	102	545	98	357	65.5	49.0
Inspectors, except construction, public administration	104	380	93	388	10	—	—	9.6
Managers and superintendents, building	96	278	46	—	50	226	—	52.1
Office managers, n.e.c	444	313	140	423	304	277	65.5	68.5
Officials and administrators; public administration, n.e.c	443	441	324	484	120	337	69.6	27.1
Officials of lodges, societies, and unions	106	429	79	501	27	—	—	25.5
Purchasing agents and buyers, n.e.c	260	390	182	453	78	285	62.9	30.0
Restaurant, cafeteria and bar managers	393	275	227	312	166	223	71.6	42.2
Sales managers and department heads, retail trade	330	300	204	380	126	216	57.0	38.2
Sales managers, except retail trade	353	540	307	566	46	—	—	13.0
School administrators, college	129	491	88	552	41	—	—	31.8
School administrators, elementary and secondary	262	475	176	520	85	363	69.9	32.4
Managers and administrators, n.e.c	3,713	431	2,984	481	729	281	58.5	19.6
Sales workers	3,601	306	2,412	366	1,189	190	52.0	33.0
Advertising agents and sales workers	100	334	50	418	50	258	61.7	50.0
Insurance agents, brokers, and underwriters	399	341	285	402	115	270	67.1	28.8
Real estate agents and brokers	218	326	100	390	118	277	70.9	54.1
Stock and bond sales agents	123	535	101	589	21	—	—	17.1
Sales representatives, manufacturing industries	369	434	310	473	59	306	64.7	16.0
Sales representatives, wholesale trade	768	396	686	407	82	303	74.3	10.7
Sales clerks, retail trade	1,032	178	410	229	622	154	67.4	60.3
Sales workers except clerks, retail trade	379	288	334	305	44	—	—	11.6
Sales workers, services and construction	169	332	112	397	56	235	59.1	33.1
Clerical and kindred workers	14,066	233	3,032	328	11,034	220	67.0	78.4
Bank tellers	464	189	28	—	436	188	—	94.0

TABLE 3.—MEDIAN WEEKLY EARNINGS OF WAGE AND SALARY WORKERS EMPLOYED FULL TIME IN OCCUPATIONS WITH TOTAL EMPLOYMENT OF 50,000 OR MORE BY SEX,[1] 1981 ANNUAL AVERAGES—Continued

[Numbers in thousands]

Occupation	Total, both sexes		Men		Women		Ratio female/male earnings times 100	Percent female workers
	Total employed	Weekly earnings	Total employed	Weekly earnings	Total employed	Weekly earnings		
Billing clerks	123	216	19	—	105	209	—	85.4
Bookkeepers	1,290	227	121	320	1,169	222	69.4	90.6
Cashiers	712	168	106	180	606	166	92.0	85.1
Clerical supervisors, n.e.c.	227	331	71	460	156	291	63.4	68.7
Collectors, bill and account	76	233	26	—	50	215	—	65.8
Counter clerks, except food	252	201	59	240	192	195	81.3	76.2
Dispatchers and starters, vehicle	106	327	65	385	41	—	—	38.7
Estimators and investigators, n.e.c.	477	319	219	394	258	256	65.0	54.1
Expediters and production controllers	248	328	148	366	100	275	75.2	40.3
File clerks	230	192	37	—	192	189	—	83.5
Insurance adjusters, examiners, and investigators	183	270	75	356	107	230	64.7	58.5
Library attendants and assistants	61	203	9	—	52	197	—	85.2
Mail carriers, post office	222	406	196	408	26	—	—	11.7
Mail handlers, except post office	138	222	70	245	67	202	82.3	48.5
Messengers and office helpers	60	198	47	—	13	—	—	21.7
Office machine operators	844	238	227	324	616	223	68.8	73.0
Computer and peripheral equipment operators	506	260	185	342	320	232	67.8	63.2
Key punch operators	212	223	11	—	201	222	—	94.8
Payroll and timekeeping clerks	203	247	40	—	163	237	—	80.3
Postal clerks	256	400	172	407	84	382	93.9	32.8
Receptionists	458	200	9	—	449	199	—	98.0
Secretaries	3,199	230	21	—	3,178	229	—	99.3
Secretaries, legal	159	260	1	—	158	260	—	99.4
Secretaries. medical	71	218	0	—	71	218	—	100.0
Secretaries, n.e.c.	2,969	229	20	—	2,949	228	—	99.3
Shipping and receiving clerks	480	247	376	263	104	205	78.2	21.7
Statistical clerks	333	242	71	326	261	227	69.7	78.4
Stenographers	55	275	7	—	48	—	—	87.3
Stock clerks and storekeepers	461	264	305	304	156	217	71.6	33.8
Teacher aides, except school monitors	168	167	6	—	163	166	—	97.0
Telephone operators	261	240	20	—	241	239	—	92.3
Ticket, station, and express agents	132	407	78	419	54	370	88.3	40.9
Typists	801	213	29	—	772	211	—	96.4
Miscellaneous clerical workers	997	233	184	325	813	222	68.3	81.5
Not specified clerical workers	336	227	70	292	267	217	74.6	79.5
Craft and kindred workers	10,558	352	9,963	360	595	239	66.5	5.6
Bakers	76	234	56	264	20	—	—	26.3
Brickmasons and stonemasons	87	401	87	401	0	—	—	0
Bulldozer operators	90	327	90	329	1	—	—	1.1
Carpenters	699	325	689	326	10	—	—	1.4
Compositors and typesetters	142	274	98	311	44	—	—	31.0
Crane, derrick, and hoist operators	136	402	136	402	0	—	—	0
Decorators and window dressers	66	210	22	—	43	—	—	65.2
Electricians	591	419	581	420	10	—	—	1.7
Electricic powerline and cable installers and repairers	122	409	121	410	1	—	—	.8
Excavating, grading, road machine operators; excluding bulldozer	269	337	268	337	2	—	—	.7
Blue-collar work supervisors, n.e.c.	1,772	394	1,587	409	186	262	64.2	10.5
Inspectors, n.e.c.	131	370	119	383	12	—	—	9.2
Job and die setters, metal	95	358	92	360	4	—	—	4.2
Machinists	532	356	512	360	19	—	—	3.6
Mechanics and repairers	2,888	326	2,827	328	60	275	83.9	2.1
Air-conditioning, heating and refrigeration mechanics	166	335	166	335	1	—	—	.6
Aircraft mechanics	121	427	116	429	5	—	—	4.1
Automobile body repairers	137	295	136	294	1	—	—	.7
Automobile mechanics	813	285	808	286	6	—	—	.7
Data processing machine repairers	95	395	88	401	7	—	—	7.4
Heavy equipment, mechanics, including diesel	958	346	942	348	16	—	—	1.7
Household appliance, accessory installers and mechanics	96	309	90	315	5	—	—	5.2
Office machine repairers	71	327	66	331	4	—	—	5.6
Radio and television repairers	83	336	80	344	4	—	—	4.8
Railroad and car shop mechanics	57	405	56	405	1	—	—	1.8
Miscellaneous mechanics and repairers	193	323	187	325	6	—	—	3.1
Millwrights	105	443	105	443	0	—	—	0
Molders, metal	52	253	42	—	10	—	—	19.2
Painters, construction and maintenance	258	271	248	275	10	—	—	3.9
Plumbers and pipefitters	377	404	376	404	0	—	—	0
Printing press operators	156	320	139	329	17	—	—	10.9
Roofers and slaters	78	267	77	266	1	—	—	1.3
Sheetmetal workers and tinsmiths	140	381	135	385	5	—	—	3.6
Stationary engineers	180	375	178	375	3	—	—	1.7
Structural metal craft workers	77	455	77	455	0	—	—	0
Telephone installers and repairers	316	412	284	417	32	—	—	10.1
Telephone line installers and repairers	75	387	71	384	4	—	—	5.3
Tool and die makers	164	433	159	436	5	—	—	3.0
Operatives, except transport	9,440	242	5,775	298	3,664	187	62.9	38.8
Assemblers	1,088	236	515	297	573	205	69.0	52.7
Bottling and canning operatives	51	279	31	—	20	—	—	39.2
Checkers, examiners, and inspectors; manufacturing	782	265	358	348	423	219	63.1	54.1
Clothing, ironers and pressers	87	164	20	—	67	153	—	77.0
Cutting operatives, n.e.c.	259	226	180	252	79	185	73.3	30.5
Drillers, earth	51	393	50	393	0	—	—	0
Filers, polishers, sanders, and buffers	111	223	73	246	38	—	—	34.2
Furnace tenders, smelters, and pourers	62	374	60	376	2	—	—	3.2
Garage workers and gas station attendents	217	179	204	181	12	—	—	5.5
Laundry and dry cleaning operatives, n.e.c.	126	166	38	—	88	151	—	69.8
Meat cutters and butchers, except manufacturing	150	316	141	325	10	—	—	6.7
Meat cutters and butchers, manufacturing	88	251	62	287	26	—	—	29.5
Mine operatives, n.e.c.	265	413	260	413	5	—	—	1.9
Mixing operatives	79	283	77	287	3	—	—	3.8
Packers and wrappers, except meat and produce	493	204	190	226	303	193	85.4	61.5
Painters, manufactured articles	146	269	124	282	22	—	—	15.1
Photographic process workers	69	230	33	—	36	—	—	52.2
Precision machine operatives	339	301	296	317	42	—	—	12.4
Drill press operatives	56	267	44	—	12	—	—	21.4
Grinding machine operatives	129	312	115	325	14	—	—	10.9
Lathe and milling machine operatives	100	322	95	327	5	—	—	5.0
Precision machine operatives, n.e.c.	54	258	43	—	11	—	—	20.4
Punch and stamping press operatives	105	292	72	316	53	—	—	31.4
Sawyers	118	204	107	208	10	—	—	8.5

TABLE 3.—MEDIAN WEEKLY EARNINGS OF WAGE AND SALARY WORKERS EMPLOYED FULL TIME IN OCCUPATIONS WITH TOTAL EMPLOYMENT OF 50,000 OR MORE BY SEX,[1] 1981 ANNUAL AVERAGES—Continued

[Numbers in thousands]

Occupation	Total, both sexes		Men		Women		Ratio female/male earnings times 100	Percent female workers
	Total employed	Weekly earnings	Total employed	Weekly earnings	Total employed	Weekly earnings		
Sewers and stitchers	734	157	24	—	710	156	—	96.7
Shoemaking machine operatives	71	154	20	—	52	147	—	73.2
Furnace tenders and stokers, except metal	82	342	81	342	1	—	—	1.2
Textile operatives	261	200	101	229	161	186	81.3	61.7
Spinners, twisters, and winders	83	207	26	—	57	189	—	68.7
Textile operatives, n.e.c.	123	194	54	219	69	180	82.1	56.1
Welders and flame cutters	678	334	643	338	35	—	—	5.2
Winding operatives, n.e.c.	56	237	31	—	25	—	—	44.6
Machine operatives, miscellaneous specified	1,261	273	908	309	353	206	66.8	28.0
Machine operatives, not specified	328	251	241	281	87	202	71.9	26.5
Miscellaneous operatives	724	232	480	262	244	185	70.5	33.7
Not specified operatives	150	271	101	311	48	—	—	32.0
Transport equipment operatives	2,792	303	2,656	307	136	237	77.2	4.9
Bus drivers	173	298	124	331	48	—	—	27.7
Delivery and route workers	446	274	421	280	25	—	—	5.6
Fork lift and tow motor operatives	373	284	352	284	21	—	—	5.6
Taxicab drivers and chauffeurs	112	240	104	246	8	—	—	7.1
Truck drivers	1,560	314	1,528	315	32	—	—	2.1
Nonfarm laborers	3,227	238	2,893	244	335	193	79.3	10.4
Carpenters' helpers	50	223	50	223	0	—	—	0
Construction laborers, except carpenters' helpers	654	250	642	252	11	—	—	1.7
Freight and material handlers	641	259	579	266	62	207	78.0	9.7
Garbage collectors	62	189	60	189	2	—	—	3.2
Gardeners and groundskeepers, except farm	349	200	332	202	16	—	—	4.6
Timber cutting and logging workers	55	246	55	246	0	—	—	0
Stock handlers	522	212	372	228	149	185	81.2	28.5
Vehicle washers and equipment cleaners	124	220	103	220	21	—	—	16.9
Warehouse laborers, n.e.c.	267	267	253	270	15	—	—	5.6
Miscellaneous laborers	168	297	155	308	12	—	—	7.1
Not specified laborers	241	245	215	246	26	—	—	10.8
Farmworkers	729	176	641	180	88	146	81.1	12.1
Farm laborers, wage workers	701	174	614	178	86	146	82.3	12.3
Service workers, except private household	6,990	196	3,475	238	3,515	170	71.3	50.3
Cleaning service workers	1,651	200	1,106	222	544	168	75.6	32.9
Lodging quarters cleaners, except private	99	142	5	—	94	141	—	94.9
Building interior cleaners, n.e.c.	559	184	253	213	306	168	79.2	54.7
Janitors and sextons	993	219	848	225	145	188	83.6	14.6
Food service workers	1,987	162	770	186	1,216	148	79.7	61.2
Bartenders	170	195	94	212	76	179	84.4	44.7
Waiters' assistants	70	143	57	144	13	—	—	18.6
Cooks, except private household	764	171	375	202	389	148	73.4	50.9
Dishwashers	105	135	73	136	32	—	—	30.5
Food counter and fountain workers	107	141	15	—	91	140	—	85.0
Waiters	532	150	79	200	453	144	72.0	85.1
Food service workers, n.e.c., except private household	239	165	76	178	163	160	90.0	68.2
Health service workers	1,415	188	178	216	1,237	185	85.4	87.4
Dental assistants	97	183	3	—	95	182	—	97.9
Health aides, except nursing	220	209	38	—	182	201	—	82.7
Nursing aides, orderlies and attendants	832	172	130	203	701	167	82.2	84.3
Practical nurses	263	227	6	—	256	227	—	97.3
Personal service workers	624	191	207	224	417	179	80.0	66.8
Attendants, recreation and amusement	88	182	49	—	39	—	—	44.3
Child care workers, except private household	83	151	11	—	72	145	—	86.7
Hairdressers and cosmetologists	191	179	29	—	163	172	—	85.3
Housekeepers, except private household	96	219	32	—	64	205	—	66.7
Protective service workers	1,313	315	1,214	322	100	226	70.3	7.6
Firefighters	218	362	216	364	3	—	—	1.4
Guards	500	232	436	236	64	214	90.7	12.8
Police and detectives	508	363	481	368	27	—	—	5.3
Sheriffs and bailiffs	70	324	66	325	4	—	—	5.7
Private household workers	315	107	17	—	298	104	—	94.6
Child care workers, private household	148	80	4	—	144	79	—	97.3
Maids and servants, private household	110	126	9	—	101	124	—	91.8

[1] Excludes any earnings from self-employment.
[2] Data for "Total" refer to all full-time workers, including those in occupations not shown.
— Earnings not shown where base is less than 50,000.

Mr. DECONCINI. As the father of two daughters and a son, I am disturbed that in the land of equal opportunity, equality may still depend upon sex. I am disturbed that we have not yet ratified a constitutional amendment to insure that all American citizens have equality of rights under the law. It is not enough to support equal pay but not equal rights. Only through the mechanism of a constitutional amendment will these rights truly exist.

Today, we need to renew our commitment to pass an equal rights amendment. We cannot allow yesterday's disappointment to deter us. Rather, we must rededicate ourselves to insuring that such an amendment becomes part of the Constitution.

Mr. President, in closing, I want to thank Laurie Sedlmayr of my staff for the fine work that she has done in preparing not only this statement but our position on the equal rights amendment.

Also, Mr. President, I want to point out that I firmly believe that many of those who oppose this amendment for whatever reasons they might have—and I am sure many of them have good conscience, moral reasons that this amendment is not the way to approach the problem—should leave yesterday behind, that we indeed mold a coalition of reasonable legislators and reasonable citizens in this great land of ours to bring equality to women.

As my statement points out, if women are going to continue to be second-class citizens in the area of employment, I challenge anyone to indicate that that is equality and that all the laws we may pass or have passed in States or here have not brought this about.

For that reason, it seems proper to this Senator that an amendment to the Constitution, however it may be worded, should insure that this Nation is on record, up front, without any embarrassment, that we believe in equality. That is why I will continue to work for a constitutional amendment that will insure equal rights for all Americans.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The time is controlled by either

the Senator from Oregon or the Senator from Massachusetts. Without objection, their time is aggregated and may be yielded by either Senator.

Mr. PACKWOOD. Mr. President, the Senator from Illinois has a very short statement we can put in the RECORD, and I know Senator PROXMIRE has been waiting, and Senator JACKSON. I would ask that they abbreviate their statements and put them in the RECORD because there are another seven or eight who are coming and we have only about 55 minutes left.

I yield to the Senator from Illinois.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DIXON. I thank the Senator.

Mr. President, I had sincerely hoped that this kind of a colloquy would not have been necessary on July 1. I had hoped that by now the equal rights amendment would be the law of the land.

I do not believe anyone anticipated 10 years ago that a call for equal rights would prove so divisive. There has been an awful lot of ballyhooing and dramatics from both sides in the last few years regarding this legislation. That is unfortunate, because in the process the goal of the ERA and the real issues involved have been lost in all the shouting.

One thing is certain, however, and our presence here today is a testament to it—the demand for equal rights will not be stopped—any more than a prairie twister can be stopped.

Now, I believe all of us are familiar with the various arguments surrounding the amendment. The ERA has been linked to—and has been the scapegoat for—a fear of change in society. We have heard that passage of this measure would bring about the breakdown of the family, we have heard Biblical references about the submissiveness of women and we have heard about unisex restrooms and women in combat.

These arguments, which helped to defeat the ERA this time around, were derived from what was perceived as an effort to impose a new lifestyle on men and women. The fact is that the roles of men and women have changed in recent years, while institutional barriers to equality still exist. The ERA is an accommodation to social reality and reconciliation of obvious inequalities.

As we all know, the legitimate authority in our Nation swells up from the bottom. And the endurance of that authority depends on our ability to adapt to changing conditions; to be flexible enough to recognize the needs of our citizens and respond to them.

It is, in fact, purely and simply, a social and economic necessity for women to enjoy their full and equal rights. None of us need to be reminded of the Nation's economic situation. We are all familiar with households in which the husband and wife must both work in order to make ends meet. In fact, the number of women in the work force has increased dramatically in the last few years. In the early sixties, 38 percent of women were in the work force, while in 1982 52 percent were bringing home paychecks. More than two-thirds of women between 20 and 45 are now working, and yet, on average, women make only 60 cents for every dollar earned by men. That statistic is for men and women of equal education. Can anyone deny that there is clearly a need here that must be addressed?

I think it should be kept in mind, however, that the ERA does not itself require anything. What it provides is opportunity. The fears of a social metamorphosis are groundless.

Mr. President, I was proud to be one of the movers behind a call for a constitutional convention in Illinois a few years ago. The constitution it brought forth, and which was ratified by the voters in 1970, contains an equal rights provision.

In Illinois, there has been no societal cataclysm as a result. Nor would there be at the national level.

I am grateful to be able to join as cosponsor of the resubmission of the ERA and I sincerely hope that during the next ratification period the public debate can center on the real issues involved and the necessity of its passage.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I promised the Senator from Wisconsin——

Mr. JACKSON. Mr. President, will the Senator yield for 45 seconds?

Mr. PACKWOOD. I yield 45 seconds, of course.

Mr. JACKSON. Mr. President, the equal rights amendment is very much alive. It continues to be debated here and throughout the Nation. Support has not waned. No one can reasonably argue against the proposition that neither men nor women should suffer discrimination because of their sex. Yet no one can deny, even with the substantial progress made in recent years, that women suffer discrimination at work, at school, and throughout their lives.

Times are changing and the need for ERA is greater today than ever. For the first time in our history, a majority of all women are employed. Only 39 percent of women were in the work force in 1965 and already the rate is up to 52 percent and is expected to top 65 percent in less that 15 years. Women comprise almost 42 percent of the entire labor pool in America, yet they still suffer discrimination. The average male worker receives $17,427 annually today while women receive just $10,244. In other words, for every $1 earned by a man, a women will earn just 59 cents. The figures dramatize the growing and continuing need for the ERA.

Public support is broad. Time magazine reported that the ERA was supported by more than a 2-to-1 margin. An NBC-Associated Press survey of likely voters found that 71 percent favored a constitutional guarantee of equal rights for women. Over 450 major organizations, with memberships well over 50 million, have endorsed the ERA. Moreover, the 35 States that did ratify the ERA represent 72 percent of the U.S. population. We must not drop the ball now. We must ratify the ERA.

I am reminded that the Constitution of Japan, entered into force on May 3, 1947, proposed by U.S. officials and agreed to by the Japanese contains the following article:

> All people are equal under the law and there shall be no discrimination in political, economic, or social relations because of . . . sex. . . .

I think the time has come for us to act on our teachings and include in our Constitution what we asked the Japanese to ratify 35 years ago.

We need the ERA to signal that sex discrimination is no longer acceptable in our Nation's laws, policies and practices. I am here to reaffirm a position I have taken since I first voted in support of the ERA in the Senate many years ago. I am proud that my own State of Washington was among the first to ratify the ERA and it has never waivered from its support. I believe that the ERA can and should be ratified on its own merits this time, and that we can achieve the long-awaited guarantee to men and women of equal justice under the law.

Mr. PACKWOOD. Mr. President, I yield to the Senator from Wisconsin, then the Senator from Ohio, and then the Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, yesterday, the time limit for ratification of the equal rights amendment expired. Today we begin the struggle anew—with renewed determination and vigor.

But even as we announce this effort, all of us who are strong supporters of the equal rights amendment have an obligation to answer the charge of skeptics: Why propose the ERA again? Has not the ERA had its chance for ratification particularly in light of the extension legislation adopted in 1978?

Mr. President, that question is a fair one and deserves a straightforward answer.

WHY DOES THE EQUAL RIGHTS AMENDMENT DESERVE TO BE RATIFIED?

First, the problem of sex discrimination persists. Notwithstanding the reassurances of opponents that women

have all of the rights which they need, the simple fact is that discrimination remains pervasive—in employment, in education, in family, and criminal law, in the military, and in hundreds of sections of the United States Code. The report of the U.S. Civil Rights Commission in December 1978 makes clear that we have made only limited progress in assuring that women enjoy the full benefits of their rights as citizens.

Second, as we pointed out in our Dear Colleague letter, currently the "legal rights of women are dependent upon legislation, Executive action, and interpretation by the courts." The current political climate makes clear that women cannot rely upon the future "good faith" of public and private officials as a guarantor of their rights. Laws can all too easily be changed. Executive actions rescinded. American women deserve a secure and enduring guarantee which can only come with a constitutional amendment.

Finally, the struggle for the equal rights amendment must be continued because of the need to answer the barrage of misinformation and lies that were raised by opponents during the first campaign for ratification. The fact that the same falsehoods and distortions were raised time and time again indicates to me that those of us who have been supporters of the equal rights amendment have not spoken out loud enough in addressing these allegations and repudiating them completely.

In my remarks today, I shall address one of those issues—women and the draft—which has been the subject of continuous distortion.

WOMEN AND THE DRAFT

Mr. President, a critical question raised by the ERA amendment is, "Will women be subject to the draft?" The answer in my opinion is clear. Yes, some women would be subject to the draft, should we have one at some future point in our history. Women and men would be subject to the same draft requirements under the provisions of ERA unless Congress and the courts find otherwise.

Having said that, however, it is important to understand what will not be required under ERA. ERA will not require that all women must serve in the military any more than all men must serve. Women who are conscientious objectors, who are unqualified for medical reasons, those with dependents, or mothers with children will not automatically be subject to the draft any more than men with particular exemptions would be.

Women may volunteer for military service, including combat duty, under ERA just the same as men but this duty need not and will not be arbitrary. Women will not have to serve in any capacity where they are not fitted.

Now let us think about this for a minute. If women are allowed equal access to the military during peacetime as volunteers and if they carry an equal responsibility during wartime and the draft, what does this mean?

Well, what does this mean? It means that we will have a more efficient, more capable fighting force. Today, military women lose less time per capita than men and this includes time off for pregnancy. Women have better retention rates than men, cost less to support than men, and have higher morale as expressed in lower AWOL rates.

They are much less a discipline problem than men mainly due to far lower rates of involvement with alcohol and drugs. From every perspective, therefore, women are good for the military in peacetime and during war. Since all women now must meet a higher educational standard than men before they can enlist, more women will mean a more educated military force and in today's modern world that cannot help but improve our capability.

WOMEN TOO WEAK?

Now, what about the image of a frail, untrained, weak willed, shy woman having to fight with heavy equipment in a cold, wet, foxhole in Korea? This is the imagery many like to conjure up to argue against ERA. This, of course, is patently absurd. In the next war every civilian may be subject to the full effects of warfare even more gruesome than front line soldiers. There is no place to hide from the blast of a nuclear weapon, the radiation pattern spreading out downwind, the fire storms, the contamination of water and food sources, the panic and death that would be commonplace. Technology has let us all share a new burden of warfare.

Even on the battlefield of a conventional war, technology has displaced brute strength as the edge of victory. Tanks, trucks, heavy weapons, are now fitted with serving devices—that is, with power assist mechanisms that reduce the requirement for brute strength. And fewer and fewer soldiers find themselves in the front lines. Depending on the definition of combat, only 10 to 15 percent of our defense manpower consists of front line troops.

We should not overlook a point I made before when considering women in combat. Only women with the proper skills, training, strength, and capabilities determined by our military chiefs as sufficient for combat will be allowed to engage in combat. Only women with the same minimum skills as men will be allowed in combat and then, of course, only on a volunteer basis. There are many men who do not qualify with the minimum standards of strength, training, and determination to be allowed in combat. There are many women who do qualify. If the choice is between an unqualified man and a qualified woman, there should be no hesitation to make the obvious choice for the good of our Nation.

When it comes to having a soldier in action next to me, in my judgment, it would not matter whether the soldier is female or male; it would depend greatly on whether that soldier is capable, alert, and competent to do the job. We know there are some men who are not capable, not competent, and some men who are. The same applies to women. This would be the basis for determination under ERA, not what their sex is, but what their ability is.

PROTECTIONISM FOR WOMEN

What lies behind this attitude of wanting to protect women from the dangers of warfare? It certainly is chivalrous, it is decent, it is humane, it is the product of our society, and it is sexist. Why sexist? In the words of one woman's group this protectionism "by denying us our total equality with men, perpetuates the insidious discrimination based on sex that now exists in every area of our lives. We are not asking for protection that implies an elitist sexist attitude of the superior capability and intelligence of men in setting national policy. We are asking for protection of our right to become directly involved in these issues and to determine for ourselves the kind of quality of lives we will lead."

RIGHT OF CITIZENSHIP

Military service is one of the more onerous duties of citizenship. The call to defend and die, if necessary, the right to serve or to refuse to serve, is central to the concept of democracy. To deny women this most fundamental of rights, to assert by legislation that women should be less concerned with the affairs of the world or the protection of our Nation, to claim that they have less a right to sacrifice their lives in defense of this Nation, is to deprive women of a fundamental place in our society.

ERA will not require any great intellectual jump for the Armed Forces. In the past several years, Congress and the Defense Department have been moving steadily toward full participation by women in the military. Many job classifications have been opened up to women. Women now serve in combat-related occupations. By virtue of the legislation passed on the fiscal year 1979 military procurement authorization bill, women are allowed shipboard duty. They are now permitted to serve as missile launch officers. They are flying jet aircraft and, according to the record, doing as well as or slightly better than the men in the program.

I repeat, they are doing as well in flying jet aircraft or better, according to the record.

Thus, ERA will not disrupt this developing pattern of greater participation by women.

EMPLOYMENT DISCRIMINATION

Mr. President, let us look at this issue from a different perspective. The Defense Department is the largest employer in the country. There are 2.1 million uniformed personnel and 1 million civilians in the defense system. If women are excluded from full participation in the military, the Federal Government would be encouraging a subtle type of discrimination. Without equal treatment in job classifications, women are discriminated against in advancement. Promotions follow certain career patterns that are often blocked to women. The problem is even more severe when one considers that women have been penalized by not being allowed to participate in the education of veterans' benefits available to so many men. The GI bill, medical care in veterans' hospitals, home loans, life insurance policies, job preference, remedial training—all of these benefits commonly available to men in the service, have been denied women through the device of limited participation. The fixed percentage barriers to the number of women in the military undoubtedly have had a profound effect on women in the opportunities lost.

EQUAL RIGHTS FOR MEN, TOO

Mr. President, equal rights for women really means equal rights for men. Exempting a woman from the draft or from military service is a form of discrimination against men. It means more men would be called. It means more men would die. If both men and women have a duty to serve their country, then burden-sharing is the only appropriate answer.

One last point, Mr. President, I ask a question for my colleagues to consider. During World War II, Russian women served in combat positions in the tank corps and in the Soviet air force. They actively participated in combat operations, and women's units won many awards. In Indochina, women served next to men as our adversaries. Unfortunately for us, we found how tough and strong and effective they were. My question is: "Are you any less dead if killed by a woman than a man?" Does it make any difference to the enemy if the hand that pushes the button belongs to a female rather than a male? Is the order to attack any less real when offered by a woman? Frankly, war has become so impersonal that distinctions of gender are no longer relevant. Capability, efficiency, numbers, weapons count—not gender.

I congratulate my good friend from Oregon and my good friend from Massachusetts for leading this fight to pass an ERA amendment as soon as we can.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. TSONGAS. Mr. President, I ask unanimous consent to have printed in the RECORD letters of support from the following organizations:

American Association of University Women, Massachusetts Caucus of Women Legislators, Massachusetts League of Women Voters, Massachusetts Division of American Association of University Women, National Council of Jewish Women, NOW Legal Defense and Education Fund (Project on Equal Education Rights), and Women's Legal Defense Fund.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN,
Washington, D.C., June 28, 1982.

Hon. PAUL TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: The majority of Americans favor a constitutional amendment to include women as equal partners in American society. We believe that ultimately the will of the American people will triumph. That the amendment did not ratify after 35 states voted for the ERA only reaffirms our commitment to its reintroduction on July 14.

To demonstrate the broad based national support for the Equal Rights Amendment we, as state division presidents of the AAUW, endorse and commend your efforts on behalf of equality for all women in this nation. We will work for ratification and will not tire until our job is done.

Thank you for your concern about the other half of the U.S. population.

Sincerely,

Mary Purcell, Sharon Schuster (California). Evelyn K. Bonner (Alaska). Mary Jo Fox (New Hampshire). Nylah K. Chilton (Washington). Robin E. Snyder (Maryland). Barbara Fischlowitz (Hawaii). Dorothy A. Snee (Delaware). Alice C. Cole (District of Columbia). Judith Sanderson (Colorado). Elaine Smith (Idaho). Sandra Bernard (New York). Mary M. Welsh (New Mexico). Neila Seshachari (Utah). Ilga A. Ross (Wyoming). Jean K. Jacobs (West Virginia). Lynnette K. Solomon (Texas). Deanna B. Lyons (Connecticut). Norma McShane (Vermont). Jeanie Page Randall (Tennessee). Marie R. Bonebrake (Arizona). Phyllis S. Thompson (Indiana). Loryann M. Eis (Illinois). May C. Bana (Ohio). Irma Dean (Missouri). Susan Kay Harris (Michigan). Dorothy Dedo (Wisconsin).

Edna M. Maddox (Georgia). Mary G. Davey (Rhode Island). Anne Harker Dayton (Pennsylvania). Doris B. Bentley (Louisiana). Marie Eloise Setser (South Carolina). Helen M. Owens (Kansas). Lou Dean Howard (North Carolina). Harriet Bragg (Massachusetts). Joan Porter (Alabama). Marjorie Jean Prince (Nebraska). Lorraine B. Scatena (Nevada). Joann Paden (Minnesota). Marjory H. Morse (Montana). Joanne V. Stern (Oregon). Mary Lou Thompson (Oklahoma). Sue Reehm (Arkansas). Allie C. Hixson (Kentucky). Kathleen Wood (Iowa). Kathie S. Gilbert (Mississipi). Janet G. Larsen (Florida). Virginia Kennedy (Virginia). Diane Sanders (Maine). Kelly Krein (North Dakota). Sally S. Minshall (New Jersey). Yvonne B. Wiles (South Dakota).

MASSACHUSETTS CAUCUS OF WOMEN LEGISLATORS,
Boston, Mass., June 14, 1982.

Hon. PAUL E. TSONGAS,
JFK Federal Building,
Boston, Mass.

DEAR SENATOR TSONGAS: The Equal Rights Amendment represents the most basic of human rights and freedoms which should extend to all people regardless of sex. It affirms the right of the individual in our society to be free from role or sex stereotyping and allows for the individual pursuit of goals and interests without discrimination.

The fact is the original U.S. Constitution of 1787, which was founded upon English common law, did not include women or slaves, both were "property" under common law, owned by husbands or by masters without individual rights under the law. The courts have failed to interpret the 14th amendment to include all women. In fact, women have but one constitutional right—the right to vote—for which a constitutional amendment was necessary.

Today, there is a record number of working women who struggle to support their families. Women earn 59 cents for every $1 earned by a man doing similar work. A female head-of-household earns less than ⅔ of what a male head-of-household earns, and this gap is widening. Over 800 sex-biased laws in the U.S. Code discriminate against women, and result in assigning women, solely on the basis of sex, to a subordinate role.

Women are discriminated against, on the basis of sex, in the workplace, in schools, in the courts and in the marketplace. Women are not second class citizens and should not be treated as such. The Equal Rights Amendment ensures full equality for all citizens of the United States and should be part of the U.S. Constitution.

We stand ready to assist you and your colleagues in the fight for women's equality.

Sincerely,

MASSACHUSETTS CAUCUS OF WOMEN LEGISLATORS.

LEAGUE OF WOMEN VOTERS OF MASSACHUSETTS,
Boston, Mass., June 11, 1982.

Hon. PAUL E. TSONGAS,
U.S. Senator,
Boston, Mass.

DEAR SENATOR TSONGAS: The League of Women Voters of Massachusetts strongly supports ratification of the ERA. Women need the permanent protection against discrimination that only the federal ERA will provide.

As the League of Women Voters of the United States' radio campaign says: "Nothing protects a woman like the ERA."

Sincerely,

MARGARET BLISS,
President, League of Women Voters of Massachusetts.

AMERICAN ASSOCIATION
OF UNIVERSITY WOMEN,
June 22, 1982.

Senator PAUL TSONGAS,
JFK Federal Building,
Boston, Mass.

DEAR SENATOR TSONGAS: As the American Association of University Women celebrates 101 years of service to women and education, members can look back over decades of concern for women's issues—suffrage, schooling, jobs, childcare, health, and much more. Since AAUW's top priority has been the ratification of the Equal Rights Amendment (so voted at every national convention since 1975) it is clear that our continuing priority will be ERA's resubmission and passage. Without the Equal Rights Amendment, over half the U.S. population lacks the "freedom and justice for all" that our country celebrated at its bicentennial.

In 1980, AAUW kicked off its campaign called "Action for Equity"—a program emphasizing the need for equity for women in the home, women working outside the home, equity for divorcees and single parent families, for widows and older women, for women in government and the military, in education and the media, for women in civil law, and the criminal justice system. The ERA—the whole issue of equity—is absolutely essential to women and to men. We all have a stake in it, and while it requires an investment of time and dollars, that investment will never decrease in value. It is an investment in ourselves, our future, and our children's future. What better investment can we make?

Sincerely,

HARRIET S. BRAGG,
President.

STATEMENT OF JULY 1, 1982, SHIRLEY LEVITON, NATIONAL PRESIDENT

Despite setbacks, the National Council of Jewish Women is pledged to work for an Equal Rights Amendment to the United States Constitution and to support legislative efforts at all levels of government that will ensure equality of opportunity for women in all areas. As other have said, we have a big job ahead.

Since its inception in 1983, the National Council of Jewish Women has taken an active role in furthering women's rights and strengthening the family through a coordinating program of education, service and advocacy. Most recently we have joined with others affiliated through the National Women's Conference Committee Task Force on Health in setting priorities to implement that part of the 1977 Houston Plan of Action. NCJW's primary health concern and emphasis lies in the struggle for women's reproductive freedom.

We continue to stand firm against all moves afoot to impose a limit on, or denial of, reproductive choice. Whether these attempts are related to the appropriations process or to adoption of substantive, restrictive legislation, or, to propose a change in the United States Constitution itself, NCJW is prepared to challenge each attack on a woman's right to choose, no matter how frequently they appear, or how invidious the form. It's important to be alert to the fact that when Congress reconvenes after July 4th, the Senate most likely will be debating and voting on several pieces of anti-abortion legislation which are the most restrictive today.

We remain persistent in our resolve to maintain our right of choice and to prevent all efforts to limit partially or totally this right to over one-half the population of our great and democratic Nation.

The present interpretation of a woman's right to choose abortion as decided by the Supreme Court in Roe v. Wade in 1973 accepts the constitutional commitment to separation of Church and State. The interpretation permits the sanctity of the family, in that it permits those values which are deemed important to a particular family to be taught and lived by that family, be it pro-choice or a no-abortion position.

The National Council of Jewish Women believes that it is time for both men and women to join together to address this critical issue and to erase all discriminatory practice.

PROJECT ON EQUAL EDUCATION RIGHTS,
Washington, D.C., June 11, 1982.

CHRIS BRIAND-NAYLOR,
c/o Senator PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR MS. BRIAND-NAYLOR: I am writing on behalf of Holly Knox, director of the Project on Equal Education Rights, in response to Senator Tsongas's request for information concerning the current status and discrimination of women. I have enclosed a testimony submitted by Shirley Chisholm for the Congressional Caucus for Women's Issues on May 12, 1982. Her testimony eloquently elucidates on the obstacles that still hinder the progress of women and stresses the deeply felt need to include women in the constitution. We hope this testimony along with the other enclosed materials can be used for inclusion in the Senate Congressional Record.

If we can be of any further assistance please contact Susan Feathers (myself) or Theresa Cusick at PEER.

We will be watching your progress and activities closely. Thank you for your support!

Sincerely,

SUSAN FEATHERS.

Enclosures.

TITLE IX ENFORCEMENT TESTIMONY—BY THE HONORABLE SHIRLEY CHISHOM

Mr. Chairman and members of the subcommittee on post-secondary education, I am pleased to address you today on behalf of the Caucus on Women's Issues. The caucus is concerned about the administration's reported decision to alter existing Department of Education regulations in order to exclude institutions from civil rights requirements if the institutions' only Federal support is from student financial assistance. We believe that this new "interpretation" of Federal assistance would have a devastating impact on the enforcement of various civil rights statutes, specifically title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972 and section 504 of the Vocational Rehabilitation Act.

The caucus is particularly concerned about the implications of this change in title IX enforcement. In 1972 after overwhelming approval in Congress the education amendments and title IX were enacted into law. Title IX is a provision of these amendments calling for the prohibition of sex discrimination. Under title IX, educational programs receiving Federal assistance are forbidden to discriminate on the basis of sex. Prior to the passage of title IX students were stereotyped in ways which limited them to careers traditionally associated with their sex. Since its enactment, however, title IX has served to clear the way for both men and women to pursue the careers of their choice. Educational institutions must now ensure equal access to all academic fields of study regardless of sex. As one of title IX's earliest supporters, I personally believe that the administration's attacks on title IX are reflective of a general ideological pattern which is openly hostile to civil rights enforcement. The administration is apparently unaware, or cares little about, the accomplishments of title IX. Let me clearly state, for the record, the impact this law has had on the lives of both young women and men in our educational institutions.

Extracurricular activities have become a significant supplement to formal education, but due to certain values which prevail in our society, a student's freedom to particiapte in the social club and organization of his or her choice is frequently limited. In a national study on the effects of title IX entitled "the half full, half empty glass" students told of policy changes under title IX that enabled them to enroll in previously single sexed organizations. In those cases where students chose to digress from traditional extracurricular activities, title IX made it possible. In addition, the report notes that title IX led the way in equal accessibility for men to fields such as nursing and home economics. Engineering was a male dominated profession until title IX came along. The number of women who chose engineering as a professional field of study had increased by more than 6,000 in 1980. Among men pursuing a vocational education in homemaking, the percentage had risen from 4 percent to 21 percent from 1969 to 1979. These improvements occurred despite the fact that 25 percent of women and 14 percent of men who chose these nontraditional careers were initially counseled against the decision.

Title IX has also been instrumental in mandating sex equity in school athletics. As we all know, it is this perceived threat to the American game of football which has caused title IX so many problems. Title IX has not killed any football programs that I am aware of. As a result ot title IX's mandate, however, opportunities for women in sports have occurred in the last 10 years that were previously unheard of. Through the enforcement of title IX, the number of females in interscholastic high school sports has increased by 527 percent since 1971 to more than one-third of the total. In the past seven years, the number of colleges offering athletic scholarships to women has jumped from 60 to 500. These advancements would not have been possible without title IX regulations. Without these regulations, a school can legally deny funds for women's athletics while purchasing new and better equipment for men's sports. Women's athletic scholarships could be cut or decreased while scholarship opportunities for men remained intact. Before title IX many schools paid only the men's travel to athletic competitions and women were left to raise their own travel funds. If limitations are imposed on title IX there would be no regulations to compel educational institutions to provide training facilities for both men and women.

Although progress in extending educational, athletic, and a host of other opportunities under title IX has been significant, advances in the area of employment have been less impressive. Of course, this situation is largely due to the continuing legal debate as to whether title IX was intended to address employment discrimination issues. The regulation has been challenged several times by those who feel the provisions contained in other laws, such as title

VII of the Civil Rights Act and the Equal Pay Act adequately protect employees against sex discrimination. This argument seems to suggest that additional civil rights laws hinder enforcement of existing laws. Needless to say, the formulation offers "a new beginning" for civil rights enforcement.

Maintenance of title IX is of particular importance given the fact that the number of women in administrative positions in public school systems remains disproportionately low. For example, at the elementary and secondary level a number of principals were women. Some improvement has been made since the enactment of title IX. Still more dismal is the number of women who hold positions as school superintendents. In 1980, out of approximately 16,000 district superintendents only 154 (less than 1 percent) were women. When compared to 65 women in 1974, however, the picture indicates some improvement in the situation. As of April 1981 the number of female superintendents had risen to 169. This further amplifies the continuing need for a law mandating equality of opportunity in education.

It would appear that some opponents of title IX coverage for employees have lost sight of the significant impact educators, administrators, and other school personnel have on students. How can our young people hope to learn the value of fairness and the importance of equality when it does not exist for those who educate? Thus if such gross inequities are allowed to continue, they would only serve to perpetuate this condition in future generations.

Title IX also plays an essential role in the economic stability of women. Given the current state of the economy as outlined in "The Half Full, Half Empty Glass" title IX allows women the freedom to further their education, and gain more marketable skills. Let me illustrate the need for sex equity in this area with a few statistics.

Women make up 42 percent of all paid workers.

Six out of ten women between the ages of 18 and 64 are currently employed outside the home.

Over half of all mothers with children under 18 years of age were working outside the home in 1979, including nearly half of the mothers with preschool children.

A great many women are also chief "breadwinners" for their families.

The majority of women work because of economic need. Nearly two-thirds of all women in the labor force in 1979 were single, widowed, divorced, separated, or had husbands whose earnings were less than $10,000.

Of all women workers, about 17 percent maintained a family; of black women workers, about 25 percent maintained a family.

In two-parent families where the wife is a wage earner, she usually contributes 25-40 percent of the family income; it is frequently the wife's earnings which keep a family out of poverty. In husband-wife families in 1979, 15 percent were poor when the wife did not work, while only 4 percent were poor when she worked.

These realities are compounded by the fact that women generally hold low-paying jobs. As a result, poverty among women and children is increasing.

"Women need education to get better jobs. Of the 10.8 million women at or below the poverty level in 1978, three-fifths were school dropouts." Overall, women suffer from higher unemployment than men. But unemployment among women with four or more years of college is proportionately lower than those who did not attend college. Through title IX these women are ensured equal consideration for both admittance and financial assistance, thus providing equal access to education results in economic benefits we can not ignore.

Despite the numerous successes title IX has enjoyed, there are those who still criticize this provision as being "ineffective and burdensome." Through either administrative regulation or legislative initiative opponents of title IX seek to dilute its authority. To these persons, title IX represents excessive governmental intervention at the Federal level. Title IX critics have seized on the decision in the Grove City College case as a rationale for changing title IX coverage. Senator Orrin Hatch, one of its chief critics, has labeled title IX "a showcase of Federal intervention at its worst". Senator Hatch is apparently unmoved by the momentous strides made in the struggle for sex equity in education. He has introduced a bill, S. 1361, that would restrict title IX's jurisdiction to those programs that are directly supported by Federal funding and not to those who received Federal assistance as is now the case.

Whether by legislation or administrative fiat, attacks on title IX are indicative of this administration's callous attitude toward civil rights enforcement. Support for segregated academies and court stripping measures regarding busing for desegregation are the latest in a series of anti-civil rights moves by the Regan administration. The President's recent statement that he was "unaware that some schools still discriminated on the basis of race" illustrates the basic problem: the administration is simply uninformed about the harsh realities of discrimination in our society.

Given this attitude, Mr. Chairman, Congress must step in to protect those laws which mandate equality in this society. In the case of title IX the caucus is convinced that a change in title IX coverage would have serious repercussions for those who depend on title IX for equal opportunities in education. To limit the jurisdiction of title IX would in essence deny an inalienable right to be assured equity in all educational pursuits. This is a basic right we should not hesitate to uphold, even if that results in the termination of Federal assistance. And to my colleagues, who labeled title IX "ineffective and burdensome", I can only reply that denying equal opportunities to anyone on the basis of their gender is a far greater burden than implementing our civil rights laws. The caucus firmly believes that title IX is of such tremendous importance that we must maintain this provision in its unaltered form.

Thank you.

STATEMENT OF JUDITH L. LICHTMAN, EXECUTIVE DIRECTOR, WOMEN'S LEGAL DEFENSE FUND

Good Morning. I'm Judith Lichtman, Executive Director of the Women's Legal Defense Fund. As a national membership organization, the Women's Legal Defense Fund has been challenging the laws and policies that discriminate against women for more than eleven years. Drawing on extensive day-to-day experience with women who turn to the Fund for assistance, we use litigation, counseling, advocacy, and public education to move toward an equitable society free of the problems of sexism.

Achieving equal employment opportunity is central to this goal. The work force is sex segregated, and women are concentrated in a few low-paying, dead-end jobs. To break this pattern, we must have laws that address the problems of sex discrimination, the laws must be enforced, and women and men must be aware of the ways that equitable workplaces benefit us all.

Looking at this chart of men's and women's salaries, you can clearly see that it does pay to be a man. The reality of the two paycheck family in this country is that two paychecks bring home one and ½ incomes. This gap—for every dollar a man earns a woman earns only 64 cents—is at the root of women's inferior economic status, and all of Reagan's actions have implications for this gap. Thus we have targeted the move for pay equity as our first priority.

We have asked you here today because we are seriously concerned. Under the leadership of President Reagan, the chances for women to improve our status in the workplace are threatened. * * *

The Women's Legal Defense Fund challenges President Reagan to publicly recognize that improving the economic conditions of Americans means improving the economic conditions of women. We challenge him further to pledge to direct his Administration to take concrete affirmative steps demonstrating a commitment to equity in the workplace, beginning with the following actions:

Reject proposed affirmative action regulations for government contractors, and publish regulations that provide the same protections as regulations scheduled to take effect in January, 1981.

Bring enforcement actions against federal contractors practicing wage discrimination.

Reject the proposed OFCCP rules that would perpetuate sex segregation in the construction industry.

Direct the Assistant Attorney General to seek affirmative action, including goals and timetables, to remedy past discrimination.

Eliminate proposed restrictions on back pay authority of OFCCP.

Issue a repudiation of the attempt to destroy safeguards against sexual harassment.

Reissue guidelines to prohibit employers from subsidizing employee dues in discriminatory clubs.

Discontinue the practice of achieving false savings in government through RIFs, and insure that any RIFs that are carried out do not have a disparate impact on women and minorities.

Foster a sound child care policy which would enhance the ability of women and families to maintain economic independence as workers.

Appoint women and men to the remaining Executive Branch vacancies who have a commitment to strong civil rights enforcement, and direct those currently holding positions to follow through on the responsibilities of those positions.

Insure women worker's access to job training programs.

Maintain a commitment to funding Women's Educational Equity Act programs directed at its original purposes of providing technical assistance and training for educational programs aimed at overcoming gender-based discrimination.

Mr. METZENBAUM. Mr. President, I am happy to join the distinguished Senator from Massachusetts and the distinguished Senator from Oregon in support of a new ERA resolution.

At one time, not long ago, it seemed inconceivable that the ERA would not

become a part of the U.S. Constitution. A statement of principle so simple and so straightforward that many ERA supporters, men and women, were hardpressed to understand a basis for opposition.

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

An eminently reasonable statement—who could disagree? In fact the principle appeared to be so obvious that some even questioned its necessity.

Well, we have come a long way since that naive beginning. As the disparity between male and female salaries became even greater—women earn 59 cents for every $1 earned by men—as it became obvious that the Supreme Court was not going to find the same protection for women in the Constitution that it held existed for other citizens, as the backlash against those who pioneered new avenues for women became stronger, we soon learned why the ERA was necessary.

And as the bitter, hardcore opponents of the ERA screamed for media attention, we began to realize how the ERA was going to be opposed. The ERA battle would not be fought on the high ground of reason; instead, it would descend to the hysterical level of accusation, exaggeration, and even outright fabrication. Men and women required to share public toilets, women forced onto the battlefield against their will, the family structure ripped asunder—this is the litany of horrors that would supposedly follow passage of the ERA. What happened to that simple, straightforward statement of equal rights?

Yet, ERA supporters continued to supply their Representatives with the undeniable facts and figures regarding inequality in America. We continued to believe that reason would prevail over hysteria. But as time passed, to our horror and disbelief, it became increasingly apparent that a vocal minority and a handful of powerful men might successfully block passage of this declaration of women's equality.

This is a shameful situation. It is shameful that the most rich and powerful Nation in the world will continue to deny equal rights under the law to 51 percent of its citizens.

But this situation will not continue. The history of the movement to achieve voting rights for women indicates the tenacity with which supporters of equal rights will continue this battle until it is won.

While the late 1960's and early 1970's saw the advent of the women's movement, the 1980's will be known as the decade that women became a powerful political force in this Nation. Recent polls reveal that women are voting in ever-increasing numbers and that they are beginning to vote their own interests rather than reflecting the views of their fathers, husbands, or other men in their lives. No longer can the women's vote be ignored or taken for granted.

In the next decade, I predict that if that same small handful of men continue to use their key political positions to bar equal rights for women, they will be swept out of office and replaced by Representatives committed to true equality for women.

While it sometimes appears that the wheels of justice grind exceedingly slowly, the ERA cannot and will not be stopped.

Mr. President, I think it is appropriate that we give a moment's attention to that which occurred here in Washington last night. A group met here—they called themselves Somewhere Over the Rainbow—to celebrate the demise of ERA. That group probably should more appropriately have been called Somewhere Over the Hill, because those who were there, those who were the honorees, those who put the program together, are those who indeed are over the hill so far as America is concerned.

They would like to turn the clock back. They would like to turn the clock back on programs we have moved forward with over the years, such as programs for women, infants, and children, nutrition programs for young and old. They would like to cut social security. They would like to go backward with respect to minimum wage laws. They would like to go backward with respect to job programs.

Those who met and those who were excited last evening about Over the Rainbow were indeed those who are the forces of reaction in America. They are the forces of negativism. They are the negative thinkers of America.

They want to go backward, and the real question with respect to this constitutional amendment is whether or not this Nation will move forward, as it should, to that point in our history where we recognize the full equality of all of our people, particularly those who have been sexually discriminated against over a period of years.

Mr. President, I think it is high time for our Nation to move forward and not permit those who would turn the clock back to press upon the rest of us their negative thinking. I think it is time for a future America and not for a backward movement.

Those who foolishly celebrated a supposed victory yesterday will wake up tomorrow to discover that real victory lies with the vast majority of citizens in this country who will not be satisfied until equal justice for women has been achieved, not just as a constitutional principle, but as a practical reality.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Thank you very much, Mr. President.

First of all, I want to commend my colleague, Senator TSONGAS, and my friend Senator PACKWOOD for introducing this legislation, and I welcome the opportunity to cosponsor it.

This morning, Mr. President, I welcome this opportunity to reaffirm my strong commitment in making the equal rights amendment part of the Constitution of the United States.

The temporary defeat of ERA is a national disgrace. But the deadline which passed today will be only the starting line of a new crusade to pass and to ratify equal rights. Mr. President, I remember the time in the Senate Judiciary Committee when we had the distinguished Senator from Indiana, Senator Bayh, who was so extraordinarily effective and provided such leadership on this issue both in the passing of the initial proposal and then the extension of time, and I welcomed the opportunity to stand shoulder-to-shoulder with Senator Bayh in the Judiciary Committee during the consideration of the amendment and the extension, and I looked forward to working with my colleagues in the Judiciary Committee for another successful effort over the period of these following weeks and months. I led the successful fight in the Judiciary Committee to extend the period for ratification of ERA. I will join my colleagues in the reintroduction of the equal rights amendment in the Senate and the House of Representatives later this month. And I will be proud to lead the fight again in the Judiciary Committee to pass ERA.

For too long, women have been relegated to the position of second-class citizens. For too long, the minority whose skin is not white and the majority who are women have been denied equality—which is the right of all Americans. I will not rest or retreat until our Nation at long last holds this truth to be self-evident—that not only all men, but all people, are created equal.

The ERA is more than a symbol; it can become the mandate for the Federal Government and for every State to insure equality in both the law and the life of this land. The need for ERA is as compelling today as when it was introduced in this Chamber 10 years ago. The facts of sex discrimination, especially in employment and health care, are no less stark now than they were in 1972.

More women are working today than ever before. In 1965, only 39 percent of women were in the job force according to the Labor Department, but the rate is 52 percent today and is expected to rise as high as 65 percent by 1995. However, women, on the average earn only 59 percent for every dollar earned

by a man. This disparity is true regardless of education.

The women with a college education earns less on the average than a man with an eighth grade education.

The problem lies not only in wage patterns but in barriers that still exist for women to enter high paying jobs traditionally held by men. In the last decade because of affirmative action and pioneer efforts to train women in traditionally male fields, the number of women in skilled trades has increased by 80 percent. Even with these increases women represent only 5 to 10 percent of our skilled professionals.

The result of these job and income inequities is the feminization of poverty. While poverty in general has declined slightly over the last 10 years, it is increasingly concentrated among women. Approximately 80 percent of families receiving aid to families with dependent children are headed by women; 61 percent of medicaid recipients are women; two-thirds of families living in Government subsidized housing are headed by women; and 69 percent of food stamp recipients are women.

More then half the households headed by women currently live in poverty, and this rate is increasing alarmingly. By the year 2000 the National Advisory Council on Economic Opportunity estimates that female-headed families will make up 100 percent of America's poor.

Female-headed households represent 15 percent of all families, but half of all poor families.

Child care is a critical factor in women's ability to move out of poverty. Yet 7 million children under 13 years old have no care while their parents work.

The economic condition of older women in this country is a tragedy. The average annual income of women over 65 is $5,000. The poverty rate of older women is nearly double that of older men. Particularly vulnerable are women over 65 who live alone. In 1980, one-third of these 6.3 million women had incomes below $4,000.

Women in America are the predominant consumers of health care services. Yet when it comes to health care, they are second-class citizens. For the inadequate coverage women receive, they pay as much as 50 percent more than their male coworkers for the identical plan and twice as much for a plan including maternity benefits.

Maternal mortality in the United States has declined dramatically in this century, but the rate is still higher than other industrial nations.

Continued discrimination against women in our society demands the equal rights amendment. But that cannot be the end of the effort; it is only an essential beginning. The full and equal participation of women should mean something beyond a place in the world that men have made. The inequality of women is not just a national problem; equality for women can contribute to different and better solutions in every area of national endeavor.

The traditional values and priorities of women can be a source of strength; they can enlarge our vision for our country; they can improve the ways in which all of us—men and women alike—will govern and live. The majority who are women have much to teach the minority who are men.

Nowhere is the women's perspective more vital than on the issue of war and peace. Women have always been in the forefront of the effort to find alternatives to international violence. From Jane Addams in 1915 to the "Women's Strike for Peace" during the Vietnam conflict, women who have been largely shut out of the political process have insisted on a human perspective—a priority for the lives of sons, husbands, and friends, and for the life of families. Women were not saying that the Nation should never fight; they have always recognized that relentless militarism must be met with a military response. Many who marched for peace also became Gold Star Mothers. But before moving toward war, they have demanded that we fully explore the possibilities of peace.

That heritage has a special relevance now. Together the United States and the Soviet Union now possess the equivalent of 1 million Hiroshima bombs. Mr. President, women have been extremely active and involved in one of the great issues of our time, if not the overriding issue of our time, and that is the issue of a nuclear freeze. Our stockpiles equal 4 tons of TNT for every man, woman, and child presently living on this planet. Our arsenals are bristling with weapons that could kill more people, burn more buildings, and sack more cities, than in all the conflicts from the beginning of history. Despite all our bombs and all our missiles, we stand essentially defenseless upon a stage on which the human drama could be closed in the flashing of a fireball.

I am pledged to a mutual and verifiable freeze and reduction of nuclear weapons. We must assure that this atomic age is not succeeded by a second stone age. I welcome the mounting concern of women across the country that we must focus less attention on preparing for nuclear war and more attention on preventing it. And I welcome the increasing and strong support of women for the nuclear freeze concept which Senator HATFIELD and I have introduced in the Senate.

The increasing numbers of women in the workforce requires new patterns of employment which permit women to combine the roles of homemaker and breadwinner. Government and the private sector must encourage and fund experiments with flexible hours, job sharing, and part-time jobs. This can do more than free women to work; it can also permit men to better balance the demands of their work and their families, to do their jobs while spending more time with their children.

And this can multiply our economic strength. We can tap more fully the talents, the skills, and the creativity of all our people. we cannot know what inventions are lost, what productivity is sacrificed, what progress is not made because we shut the doors of our economy to the Edisons, the Fords and the ordinary workers who happen to be women.

One imperative is child care. Existing centers provide care for only 2 percent of the children of working mothers. Women are at work, often because they have to be; they should never have to pay a hidden tax in the form of children left alone. Experiments in child care at workplaces can bring a different set of values to the world of business—for both women and men. The Federal Government should seek to move the economy in that direction.

Regrettably, the administration is taking the opposite approach, by eliminating all part-time jobs in some agencies, and sharply limiting flexibility of hours for employees with family responsibilities.

As we move to end discrimination against women in the workplace, we must also redefine the value of the work traditionally done by women. When secretaries were predominantly men generations ago, the profession had more prestige and relatively higher pay than it does today. Too often a profession seems to be low paying precisely because it is seen as women's work.

And too often, the values we hold as a nation are denied in our national economic policy. To raise a child; to teach the young; to nurse the old, the sick and the disabled have been treated as occupations outside the economic mainstream. Yet these endeavors are not secondary; they are primary to the quality of our society and the future of our economy. Our children will soon become the source of our prosperity. Eighty percent of us will someday die in an institution, a hospital, or a nursing home in which we receive care. How we treat those in such dedicated callings is a powerful measure of our own humanity.

We must move toward a redefinition of the idea of "work" itself. Women at home are workers. They are employed. Their jobs are important. Yet society has devalued their worth in practice while praising the worth of the family in theory. For example, the work of a housekeeper is counted in the GNP—unless she marries her employer and

continues to do the same job. We have regarded women as the economic dependents of men, when in fact women and men are economically interdependent.

We cannot redress all these wrongs instantly; we can, and we must, move in the direction of meaningful equality.

The defeat of the equal rights amendment is only a temporary delay in our fight for equality. That fight continues as strong as ever. As I continue to fight for ERA, I will fight as well for the economic rights of women. We will demand not only equal pay for equal work, but equal pay for work of comparable worth—and not only in present jobs, but in the new occupations of our future.

The road will not be an easy one. But we will work for as many days or years or decades or generations as are required to achieve our objective of equal rights.

● Mr. MATSUNAGA. Mr. President, the State of Hawaii is "No. 1 on Equal Rights." The Hawaii State Legislature was the first to ratify the proposed equal rights amendment to the U.S. Constitution, acting only hours after Congress approved the proposal in March 1972. In November 1972, the people of the island State voted by a large margin to add a similar amendment to their State constitution. During the past decade, the Hawaii State Legislature has acted to implement the State constitutional amendment, repealing or amending those State laws which were found to discriminate against women—or men—solely on the basis of sex.

In Hawaii, our experience with the ERA has been a good one. The dire predictions of opponents did not come true. Polls continue to show that ERA has an extremely high rate of public acceptance in Hawaii. Among other things, the adoption of a State equal rights amendment has focused greater attention of the needs of homemakers and children and has led to the enactment of more equitable State laws pertaining to marital property and child support. Government, private industry, and labor have cooperated in Hawaii to open up new job opportunities for working women, including job opportunities in fields traditionally reserved for men only.

Implementation of Hawaii's State equal rights amendment has been accomplished in a reasonable and pragmatic manner and the great majority of island State residents do not regard equal rights as a "radical" or "controversial" issue.

It is unlikely that these pragmatic and progressive changes in State law would have occurred had Hawaii not added an equal rights amendment to its State constitution, and it is unlikely that women will ever achieve equality of rights under the law if an equal rights amendment is not added to the U.S. Constitution. Federal courts, including the Supreme Court, have never applied the "equal protection" provisions of the 14th amendment consistently to women. From the time that suffragist Susan B. Anthony was denied the right to vote, in 1872, through Bakke against University of California Board of Regents, in 1978, the courts have held that the 14th amendment does not apply to gender-based discrimination. Efforts to remedy sex discrimination by statute have been only partially successful without a constitutional basis. In many cases, statutory prohibitions on discrimination have not been enforced or have been enforced only with great reluctance after considerable delay.

Under the circumstances, Mr. President, I continue to strongly support the ratification of an equal rights amendment to our Federal Constitution and I intend to join 45 of my colleagues in introducing a new resolution calling for ratification of an ERA on July 14, 1982.●

Mr. TSONGAS. Mr. President, I ask that the order be the Senator from West Virginia (Mr. RANDOLPH), then the Senator from Kansas (Mrs. KASSEBAUM), and then the Senator from Delaware (Mr. BIDEN).

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, it is a privilege and a responsibility to join with able Senators TSONGAS, PACKWOOD, METZENBAUM, KENNEDY, and other helpful colleagues as we speak this morning on the important subject of equal rights for women. I look back sometimes, not because of nostalgia but because of the historical aspects of certain developments in our country.

In 1854 there were three women employed as copyists in the U.S. Patent Office. In the following year, when they were soon to be dismissed, a Member of the House of Representatives wrote to the Secretary of the Interior on their behalf.

The Secretary replied:

> There is every disposition on my part to do anything for the lady in question except to retain her, or any of the other females who work in the rooms of the Patent Office. I have no objections to the employment of females in performance of such duties as they are competent to discharge, but there is such obvious impropriety in the mixing of sexes within the walls of a public office that I have determined to arrest the practice.

The lady in question lost her job. But she went on to distinguish herself a few years later in a job situation considered exclusively male. The lady's name was Clara Barton. Her work on the Civil War battlefields and as founder of the American Red Cross made her one of the most illustrious women in our Nation's history.

August 26 of this year will mark the 62d anniversary of women's suffrage, a true legislative landmark that has had an incalculable impact on the course of our Nation.

On August 26 in 1920 the Secretary of State certified that the 19th amendment had become a part of the Constitution. West Virginia ratified the amendment on March 10, 1920.

The enfranchisement of women to participate in the political life of our country was only the first major step in escalating the so-called battle for equality between the sexes. Today women seeking equal opportunity hold positions in all levels of business and government. Women have come a long way from the days when nursing and teaching were considered the only proper occupations.

I recall what Franklin Delano Roosevelt did on the day he was inaugurated in 1933. He nominated the first woman in the history of our country, Frances Perkins, to become Secretary of Labor. Was it a gesture? No. This truly wonderful woman served in that capacity for more than 12 years. This was the recognition of a gallant President of the United States in 1933.

And as we look back, we do know that women have properly found their ways to the larger world of industry and office jobs. They have encountered, however, a broad gamut of inequities in the number and kind of jobs open to them, the wages paid to them and the opportunities for advancement. Today, it is estimated that employed women are paid only 64 cents to every dollar paid for like work to men. Women are still the victims of substantial discrimination, especially in employment and education. Full-time homemakers are especially vulnerable to discrimination if they become widowed or divorced.

A constitutional amendment is the only insurance that women and young women of all races will have fair and equal opportunities in employment, in education, benefits and retirement plans, and credit eligibility.

Mr. President, I am privileged to join, in this renewed effort, as I indicated at the outset, with my colleagues, especially the Senator from Massachusetts, Mr. TSONGAS, and the Senator from Oregon, Mr. PACKWOOD. I look back to the former Senator Birch Bayh as a champion of our cause in an earlier period when we were fighting this legislative battle to pass the amendment and refer it to the States.

Today, I express my unremitting commitment, with other Senators, and hopefully the Congress as a whole, to assuring equal justice for women as well as for men under our system of law.

On July 14, as I understand the plan, there will be the reintroduction of the equal rights amendment, which I will join in as a cosponsor. It is my

understanding that there are 46 Members of the Senate who are cosponsors. I hope a majority of the Members of our body will enlist as active sponsors.

Although legislation has been enacted to eliminate sexual discrimination, such as title VII of the Civil Rights Act, title IX of the education amendments, the Equal Pay Act, and the Equal Credit Act, patterns and practices of discrimination still exist, evidence that these statutes have not provided adequate enforcement.

In addition, because these laws were enacted by Congress without the force of the Constitution, Congress can repeal them at any time without acceptable alternative legislation. The same is true for State and local laws. This is particularly threatening in light of the fact that the 1980 Republican platform did not support passage of the equal rights amendment for the first time in 40 years, although the ERA has 2 to 1 support among the American people as reflected in recent public opinion polls. Also, under certain conservative Federal deregulation plans, the repeal of equal credit and affirmative action regulation, the removal of enforcement procedures for equal employment laws and under block grant distribution plans, the dilution of equal education laws would occur.

The proposed equal rights amendment to the U.S. Constitution was first introduced in 1923, just 3 years after the ratification of the 19th amendment, by Senator Charles Curtis and Representative Daniel B. Anthony, Jr., nephew of suffragist Susan B. Anthony. Hearings were held by both the House of Representatives and the Senate Judiciary Committees beginning in 1929. Both reported the amendment, but there was no further action at that time.

Before 1972, the Senate twice passed the amendment, in the 81st Congress on January 25, 1950, and in the 83d Congress on July 16, 1953.

The House of Representatives passed the equal rights amendment in the 91st Congress on August 10, 1970, after the discharge procedure was used to free the proposal from committee. There has been no House committee action on an equal rights amendment for 22 years, and it was a major goal of proponents of the amendment, in the 91st Congress led by Representative Martha Griffiths, to bring the bill to the floor of the House. However, the Senate laid aside the proposed equal rights amendment, and no further action was taken by the 91st Congress.

House Joint Resolution 208 was introduced in the 92d Congress and was passed in the House of Representatives on October 12, 1971 by a vote of 354 to 24. The Senate passed the House version of the equal rights amendment, of which I was a cosponsor, by a vote of 84 to 8, on March 22, 1972, thus sending the proposed amendment to the States where ratification by 38 States—three-fourths of the 50 States—would have resulted in House Joint Resolution 208 becoming the 27th amendment to the Constitution.

The first State to ratify, Hawaii, did so within hours of final congressional approval. Our State of West Virginia ratified the equal rights amendment on April 22, 1972.

In late 1977, with approximately 18 months remaining until the March 1979 deadline for ratification and with 35 of the necessary 38 States having ratified the amendment, a movement began to extend the deadline for ratification. In the 95th Congress legislation was introduced to extend the deadline with the end result being the passage in both the Senate and the House of Representatives of House Joint Resolution 638, extending the deadline for ratification to June 30, 1982.

Unfortunately, as of yesterday, June 30, only 35 States had ratified the equal rights amendment, a mere 3 States short of the number needed for ratification of the amendment.

Undeniably, we who have supported the equal rights amendment in past years and who shall reintroduce it on July 14, are disappointed by the unsuccessful ratification effort. I stress we are not discouraged. On the contrary, we are more determined than ever to see its passage and ultimate ratification—assuring all Americans, regardless of gender, that equality is for all citizens.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the RECORD be kept open for those Senators who wish to make remarks later on today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I am pleased to join my colleagues today in reaffirming commitment to the principles embodied in the equal rights amendment. Obviously, I am disappointed in not being able to stand here today to celebrate the success of an effort which began 60 years ago, when the ERA was first introduced in the Congress.

I might add, by the way, that it was introduced by two Kansans—Senators Charles Curtis in the U.S. Senate and Representative Daniel Anthony in the House of Representatives.

Nonetheless, while that celebration must wait a while longer, I see this as a time not to mourn the passage of the ratification deadline, but rather to reflect on the accomplishments of women over the past decade and to chart the course for the future.

The ratification deadline is not so much an ending as it is a time for reflection and regrouping. We need to take this opportunity to determine what went wrong and how to correct it. We must carefully reexamine the concerns of those who have objected to the equal rights amendment. Unfortunately, the quality of the debate over equal rights has not always been the best, and this is an area in which we must clearly seek improvement.

As we undertake this analysis of the past and translate it into future efforts on behalf of the ERA, we will at the same time continue to build upon the progress which has been made in recent years. We have enacted a number of laws—such as the Equal Pay Act, title IX, and the Equal Credit Opportunity Act—which have been beneficial. Work on further reforms, such as those included in the Economic Equity Act, will continue even though action on the ERA has been delayed.

The battle over the equal rights amendment has raised the level of political sophistication of the women involved, and the lessons learned will never be forgotten. These skills can be translated into a wide array of activities which will bring further success and accomplishments.

Although much remains to be done, there is much to regard with pride. For example, the percentage of female membership in State legislatures has tripled since 1970; it is now 12 percent. From one-half to three-quarters of women in every type of elected office except Congress have entered their current office since 1973.

There have also been significant gains for women in the business world, including an increase of 52 percent between 1970 and 1979 in the number of women who are self-employed. Currently, 7 percent of businesses are owned by women. Women are also achieving in occupational categories traditionally dominated by men. Since 1960, the percentage of female attorneys has tripled. During this same period, the percentage of female accountants and physicians doubled.

Athletics is another area in which female participation has increased noticeably. Since 1972, participation in sports has increased 100 percent at the college level and 500 percent at the high school level.

Mr. President, I think we would do a disservice to the dignity of this debate if we simply go back to the old arguments that have been raised in the past 10 years, particularly the past 5 years.

We must be mindful to the concerns and must be mindful, I believe, of those who feel threatened by the ERA. Pioneer women have traditionally led the fight to protect family and community. With perserverance, courage, determination, and ingenuity they established this land. Certainly, in the

fields of endeavor that I have just mentioned, the pioneer women would find simply amazing fields undreamed of in those days, and, in fact, in just a relatively recent period of history.

We have the responsibility of writing, however, a new chapter for a new era. If we are to be successful, we must be mindful not only of our inspiring heritage, but we must be mindful of the anxieties which always surround an uncertain future.

I believe, as we again take stock of where we have been and where we wish to go, we can improve not only the opportunities and options that will be open to women, but we can improve on the debate in helping lay to rest some of the fears about what might happen or not happen regarding ERA.

I think we have a responsibility here in Congress to direct the debate from the grassroot level and encourage that debate to develop so that the way can be shown to achieve what has been a long, ongoing effort.

Thank you, Mr. President.

Mr. HOLLINGS. Mr. President, perhaps the approach historically to this matter, at this particular time, when we have failed to have the ERA amendment ratified by the several States, is that I look upon the defeat in that sense, historically, as one of opportunity.

I speak advisedly. I recall quite well back in the 1950's when the May 17, 1954, decision came out for desegregation of the public schools. That was quite a dramatic finding at the time. As one of the attorneys appointed to the arguments back in December of 1952, I was intimate to the negotiations that went on with the winners in that case, the NAACP, represented by now Justice Thurgood Marshall, and others.

It was thought that in order to bring about implementation under the expression "with all deliberate speed," what should be done would be to take the first grade, the first year, and integrate it; then, the second year, to integrate the first and second grades; and the third year, the first, second, and third grades; and over a 12-year period, the public school systems would have been integrated or formulated into a unitary school system.

Mr. Roy Wilkins thought well of that at the time. I will never forget it. However, after consultation with the other attorneys and otherwise, the answer was "no" to that proposal.

The reason for answering "no" was this: They said:

> Look, these are constitutional rights that cannot be denied, and we are not to be given our rights on the installment plan.

As a result, the atmosphere in the spirit of cooperation, negotiation, and trying to deliberate "in all deliberate speed," broke down. The rest is history. It led to the marches, Martin Luther King, the violence in Watts, Detroit, and many other towns, and we never had the requisite educational process so necessary to bring about the change in societal habits.

I have watched this ensue in the field of women's rights, and we find ourselves confronted with such nonsensical rejoinders as "they might have to go the same bathroom." You hear the most horrifying expressions of unreality when you mention the subject equal rights for women.

So I look upon it as a group that has been turned back, but a group that is just as dedicated as ever. Therefore, we will have to sort of sell our apples and educate society.

I do not think it is time lost. It is time gained. I think we will be very successful in a few short years.

I noticed that others have used the expression of John Paul Jones. I am reminded of it because I see my colleague on the floor with whom I serve on the Board in Annapolis. John Paul Jones did not study English in Annapolis, but his memory is emblazoned in bronze, when he said, "I have not yet begun to fight."

So perhaps that is the spirit in which we can now respond to the failure of the States with respect to ratification of ERA, and move into an overall educational process through the country and in our meetings—not in a confrontational way or hostile way or threatening way, but to explain to the people and allay their fears and concerns, that what we are looking for is not something selfish and undeserved. On the contrary, it is something a fundamental as the Constitution itself.

Mr. President, I ask unanimous consent that my prepared statement appear in the RECORD at this point.

The PRESIDING OFFICER. Without objection, so ordered.

Mr. HOLLINGS. Mr. President, yesterday terminated the current ratification period for the equal rights amendment. Some held celebrations to honor its demise. Some, I am sure, will breathe a sigh of relief that the matter "is finally over." Some will say that "the ERA is finished and done with." Well, in the opinion of this Senator, nothing could be further from the truth.

Today, we have heard from several of my colleagues on the importance and need for the equal rights amendment. I associate myself with their remarks. There is no need for me to repeat them. My colleagues have spoken eloquently, clearly and convincingly.

Yesterday, I received a letter from the chair of ERA, South Carolina, Jean Crouch, thanking me for my efforts in behalf of the ERA ratification drive in South Carolina. I have mixed emotions as I read it. Though we failed in South Carolina and the Nation, we are proud of our commitment, of our effort and of our direction in obtaining for women what is necessary and just. One phrase in Ms. Crouch's letter strikes me most of all, Mr. President. It said, "We shall not give up." And, it goes on to say, "We are confident that we can count on you and your continued support."

Mr. President, I am here today to tell South Carolina supporters of ERA that they are right on both scores. In the next few days, I will join with others, many of them present on the Senate floor today, to reintroduce the equal rights amendment. With renewed commitment, "we shall not give up."

In yesterday's Washington Post appeared an article by Margery Elfin. It presents a very important historical perspective on the equal rights amendment. I ask unanimous consent to have it printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HOLLINGS. Mr. President, this article spells out the difficulty the women of this Nation had in obtaining the right to vote. When the 15th amendment to the Constitution was passed and ratified, women, who were some of the most vigorous supporters of abolition, were left behind. They had to carry the fight for another 50 years before they gained the right to vote. Women at that time and now do not seek special treatment; they seek basic justice and freedom. They seek only the rights of citizenship.

As a father, I have watched with great pleasure as my children, sons and daughters, have grown to their majority. As any parent, I have taken great pride in them. And, as a parent I have done my best to love, nurture, educate and in general prepare them for what the future holds. I, for one, did not raise my daughters to accept the mantle of limited citizenship. I want for my daughters the same I want for my sons: The opportunity to rise to the highest level their ability will take them.

Unfortunately, this opportunity does not now exist. Look at some of the economic facts of life. Today over 55 percent of the women in this Nation work outside the home. It is a fact that women are paid less and promoted less. In my State, women are paid about three-fifths to two-thirds what men make. And, it is with much regret that I point out that women with college educations, let me emphasize that, college educations, earn less than men with a 9th- or 10th-grade education. And, with more and more women beginning to work outside the home—estimated by some to reach 90 percent by the year 2000—these startling statistics will only become worse unless we do something to bring about change.

The vehicle for this change is the equal rights amendment. Undoubtedly much progress has been made since the equal rights amendment passed Congress in 1972 and was sent to the States for ratification. Much of this significant progress has come in anticipation of the passage of the amendment. And, these are accomplishments in which the whole Nation can be proud. But the fact still remains that the legal rights of women are dependent on legislation, executive action, and interpretation by the courts. As Ms. Elfin said in her article:

In light of history, it is understandable that women would like to see spelled out clearly and simply within the Constitution a statement of equal rights. Women who agreed to hold their arguments in favor of blacks during the 15th amendment debates were to wait a full fifty years before they gained the vote.

The unfinished work must be completed. Full citizenship must be accorded to the majority of Americans. We must make the equal rights amendment a part of the Constitution, and "We shall not give up" until we do.

EXHIBIT 1

[From the Washington Post, June 30, 1982]

THE STRUGGLES OF OUR SISTERS

(By Margery Elfin)

Now that Phyllis Schlafly and her supporters are planning a celebration—today is the day Equal Rights Amendment dies—it seems timely to go back in history and look at another lost battle over the 15th Amendment, which enfranchised black males while excluding women.

In denying the vote to women more than 100 years ago, Congress raised questions about equality and citizenship that still remain unsettled. Women were grouped with the insane and children as people who were not sufficiently rational to vote. If our elected representatives wanted intellectual support for their 19th-century arguments, there was no dearth.

They could always cite Aristotle, who believed that women's domestic responsibilities did not permit them time to act in the public forum. Rousseau, who valued freedom highly, was evidently not so enamored of equality, for he believed that women were not to participate in the republic but were "within the chaste confines of the congugal union to persuade their husbands to follow the path of public virtue and to educate their sons to be good citizens, and thus to act on behalf of the glory of the state and public happiness." Even Thomas Jefferson, that staunch defender of democracy, thought that women, infants and slaves should not be full participants in that democracy.

Post-Civil War attitudes on women were confused. Women had been among the strongest supporters of the Abolitionist movement. Women had allied themselves with men in the fight for emancipation, yet found the alliance disintegrated quickly once that goal was achieved, and the question of women's suffrage remained unresolved. The refusal of the Republicans to honor their commitments to the women who had worked with them on the slavery issue resulted in deep fissures in the women's movement and an abrupt decline in the political influence of women in the years ahead.

Susan B. Anthony and 13 women in Rochester attempted to vote in 1872 (two years after the 15th Amendment had ignored them) and were arrested and indicted along with the registrars. Anthony was tried in district court without a jury and found guilty. She refused to pay the fine, saying that the "small-brained judge had with remarkable forethought penned his decision before hearing the case."

Then, as now, women were demanding the full rights of citizenship. Then, to a greater extent, they needed the support of men, as no women were part of the decision-making process that could grant the right to vote. When many of the men whom they had regarded as allies asked the women to remain silent and not confuse their cause with black male suffrage, suffragists knew they had lost. Those who continued the battle found themselves labeled racists, and the women's movement suffered damage that lasted generations. As with ERA, support was intense, but not sufficiently widespread. Not enough people thought the issue was truly important. The diehards, however, continued to introduce what came to be known as the Anthony amendment in both houses of Congress from 1878 until its final passage in 1919.

In *Bradwell* v. *Illinois* (1872), women were denied the right to practice law in Illinois, and it was ruled that the deprivation did not violate the 14th Amendment. In *Minor* v. *Happersett* (1875), it was decided that a state (Missouri) could deny the right to vote to women since voting was not protected by the 14th Amendment, and women were not covered by the 15th. Indeed, why would the 15th Amendment have been necessary if voting were a privilege and immunity covered by the language of the 14th? Despite minority views defining voting as a right, majority constitutional interpretation was firmly against women.

In the light of history, it is understandable that women would like to see spelled out clearly and simply within the Constitution a statement of equal rights. Women who agreed to hold their arguments in favor of the blacks during the 15th Amendment debates were to wait a full 50 years before they gained the vote.

Now, a single sentence, "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex" has apparently frightened state legislatures across the country. Can we really leave a guarantee of equal rights to the states? One would think that question was settled with the passage of the 14th Amendment. Reviving the debate would certainly be a historical. If the ERA is politically bankrupt as its critics contend, then they are suffering from historic amnesia and need to have their memories jolted by looking backward to the unhappy history of the 15th Amendment.

What lessons have we learned? The same people who seek to write speed limits and prayer into the Constitution see no need to specify equal rights. For this type of opposition, the motto of Elizabeth Cady Stanton and Susan B. Anthony in their publication, Revolution, must reek of radicalism: "Men, their rights and nothing more; women, their rights and nothing less."

Mr. BRADLEY. Mr. President, the deadline for ratification of the 1972 equal rights amendment has come and gone. But the deadline for achievement of equal rights will never end. I stand here today, not to mourn our failure to adopt the ERA over the past 59 years, but to reaffirm my commitment to making it a reality.

So it is important that we, here, today, rededicate ourselves to the passage of the equal rights amendment. The notion of equality is not just some abstract theory. The barriers that keep women from developing their full potential are barriers to the economic growth and progress of our entire country. Our country needs scientists and engineers—not just male scientists and engineers. We need research technicians—not just male research technicians.

There are those who will argue that sufficient protections against employment discrimination already exist in the law. Yet we know that laws are vulnerable to change whenever their strict enforcement inconveniences too many people. Constitutional protections at least require more effort to abridge.

Furthermore, the existing employment protections have not helped keep women from being "tracked" in lower paying jobs or given inferior status and pay for essentially the same work as higher paying, traditionally "male" jobs. The U.S. Civil Rights Commission has identified over 800 sections of Federal laws which set sex-based standards. Thousands more such examples exist in every State's laws.

These separate standards permeate laws affecting marriage and divorce, education, employment, retirement, and the criminal codes.

Many irrational fears have been raised about the disruption the passage of ERA would have on our social fabric. It would not require uni-sex bathrooms. Nor would it force women into combat. And it would not break up families and pressure women to go to work. In fact the only disruption would be to those numerous laws which still require sex-based standards.

What the ERA would do is to guarantee that a woman who can meet the physical and mental tests for a job cannot be excluded because she is a female. And young women who want to take metal shop classes may no longer be turned away solely because it is reserved for young men.

The sanctity of the home will not be violated. At the same time, ERA would set aside State laws which prevent women from having property, acquired with their effort and their money, at least shared with them, in the event a marriage breaks up. And the grounds for divorce and child custody would become the same for men and women.

The women of America are speaking up and standing up for themselves. They recognize that "special privileges" solely based on sex have too fre-

quently been turned into barriers to individual progress. If recent nationwide polls are accurate, the majority of all Americans support the adoption of the equal rights amendment.

It is disappointing that we have not succeeded thus far in our quest for passage of the ERA. But the cause is just, the issue will not disappear, and we will continue this legislative effort until the amendment is finally adopted.

Mr. STEVENS. Mr. President, yesterday marked the day on which the extension period for the ratification of the equal rights amendment expired. While this is a sad moment in the history of the women's movement, it has not caused any of the supporters of the ERA to waiver in their commitment toward recognition of equal rights for women under the law.

On July 14 the equal rights amendment will be introduced again. I have cosponsored the amendment. I voted for passage of the amendment when it was before Congress in 1972 and I supported the extension of the ratification period in 1978.

Alaska was one of the first States to ratify the amendment when it was sent to the States in 1972. Alaska's constitution assures equality for women, and that is a big factor in my support for the ERA. Such protection under the law should be extended to women in every State by having her rights under the law guaranteed by our U.S. Constitution.

The role of women in our society is changing. For a number of reasons, in particular economic necessity, more women are employed outside the home than ever before in U.S. history. For instance, in 1940, only 14 percent of married women were in the paid work force. Today, more than 50 percent of married women hold paid jobs. In 1981, 46 million women, or more than half of all females 16 and older, held paid jobs. And yet women still suffer from discrimination, particularly in the employment area. Statistics show that employed women are paid only 60 cents for every dollar paid to men. Also, men with high school degrees continue to make more than women with college degrees. Experts predict that the percentage of American women in the work force will continue to grow. As a matter of fact, in the last 10 years women accounted for 60 percent of the net growth of the labor force.

The equal rights amendment maintains the strong support of the American people. A 1981 Gallup poll showed that the equal rights amendment is supported by 63 percent of those polled. This same poll showed that women and men support the amendment to the same degree (63 percent). Cutting across income level, years of education, party affiliations and regional ties, polls show that support for the ERA spans the spectrum of American society.

Organizers of ERA supporters should take advantage of the grassroots support evidenced by the above polls. As proven by the course of the balanced budget amendment to the Constitution, State and local consensus on an issue can move Congress to act. When Congress returns from the 4th of July recess, we will be considering the balanced budget amendment. Frankly, an important reason this is happening is because almost two-thirds of the State legislatures, nearly enough to call a constitutional convention, petitioned us.

Obviously the need for this amendment is great, and still growing. I am pleased to be a cosponsor of the amendment.

Mr. HATFIELD. Mr. President, some 200 years ago, Abigail Adams wrote her husband John in the Continental Congress: "Don't forget the ladies." Unfortunately, he did.

So, from those first moments in America's history, women were resigned to a system of laws based on the Common Law of England. In that code women were assumed to be the property of their husbands. They could not vote, own property, or make a contract in their own name. In fact, they were listed in this way: Idiots, lunatics, convicts, mental defectives, and women.

But surely, substantial progress has been made toward the acceptance of women as equal partners since that document was written.

In a speech before her death, anthropologist Margaret Mead put that struggle in a useful historical perspective. Not since the paleolithic period, some 10,000 years ago, with the initiation of large-scale civilization, have women begun to be recognized as citizens and participants in the whole of societal life.

Placed in that timeframe, progress toward women's equality in the last 50 years seems even more incredible. Surely, it is one of the most significant historical trends of all time.

I certainly do not mean to paint an unrealistic picture; for, even now, in the most developed country in the world:

Women earn only 57 percent of what men earn.

Some 35 percent of households headed by women live below the poverty line, compared to 6 percent of those headed by males.

Despite their tremendous contribution to home and family, homemakers have no legal or economic status, and little or no protection upon retirement or disability. In many States, support laws, property laws, divorce laws, and inheritance laws, discriminate against the homemaker.

Wife beating is an increasing nationwide social problem.

Only 6.6 percent of the Federal judiciary are women. Only one woman has ever served on the Supreme Court. And only 50 have ever served on the Federal bench in its 200-year history.

Despite passage of equal credit laws, many women are still denied it, because of their sex.

Businesswomen are very poorly represented in the American economy. In 1972, women owned only 4.6 percent of all American businesses.

Since the beginning of the Republic, there have been 1,182 Senators; of them 12 have been women. Of a total 9,199 Members of the House, only 92 have been women. Today, of the 100 Members of the U.S. Senate, only two are women. Of the 435 Members of the House, only 20 are women.

Cultural mores still permit the degrading of women as sex objects and the promotion of pornography for profit.

And finally, American women, 53 percent of the population, still are not the equals of men before the law. Women are not included in the U.S. Constitution. That, Mr. President, must be remedied.

The goal of women's equality is not simply idealistic or philosophical. Although, certainly equality of women and men is an integral part of the foundation for a just society. But it is not a luxury to be postponed until more pressing problems are solved. The major socioeconomic problems facing us demand the attention of the Nation's majority—women.

For until women have a more direct voice and active participation in the whole of our national life, our democracy's maxim "of the people and by the people" is diminished by half.

And, unless there are changes in the situation of women, economic, social, cultural and political problems which face our Nation cannot hope to be solved.

Mr. President, I echo the many voices of my colleagues on the floor of the Senate today, and the millions of voices throughout the country in saying, "That the ERA will not go away." For indeed it will not.

While I deeply regret that the inclusion of women in the Constitution has not yet been accomplished, I believe its time, too, will come.

While we continue to pursue vigorously ERA ratification, we also must give our attention to remedies in federal statutes which discriminate against women, and cause real economic hardship.

Mr. President, an important step in that direction is the introduction of S. 888, the Economic Equity Act. My colleagues, Senator PACKWOOD, Senator DURENBERGER and myself joined last year in initiating this legislation which proposes reform in tax, insurance, public and private pension laws and

Federal regulation. We now have 25 Senate cosponsors and 103 cosponsors in the House. Some of the provisions have already been adopted in law, hearings on others are being held this summer.

Certainly, such efforts are not an alternative to the equal rights amendment. For only a constitutional principle can assure such fairness and equality in laws throughout the land. But with or without the ERA, statutory remedies must be pursued.

Mr. President, there are critics who charge that the women's movement has unrightfully forced women out of the home and away from the family. This claim ignores the fact: Most women work because of economic need. More families than ever before rely on women's wages to maintain their standard of living.

It seems obvious that changes in the economic and social life throughout the country—and around the world—during the next quarter century, will be intimately connected to changes in the status and roles of women.

I believe it is our responsibility to assure that equality of rights under the law should not be denied or abridged by the United States or by any State on account of sex. The achievement of that goal demands ratification of the equal rights amendment. I regret that in 1982 this remains a goal, and not an accomplished fact.

● Mr. WEICKER. Mr. President, I am proud to join with other Members of the Senate who will be reintroducing the equal rights amendment on July 14. Yesterday, the 10-year battle for ratification fell three States short of its goal, three States short of assuring that all Americans are treated equally under the law. I was fortunate to be able to vote for ERA in the House of Representatives in the 1970 and as a Member of the Senate in 1972. I expect to vote for it again as a Member of this Chamber. The battle for ERA is not over. The fight to ratification will be longer than anticipated, but it will be won. Americans have never been a people to abandon their ideals of liberty.

Mr. President, in 1774, 2 years before America declared its independence and started on the path of idealism which would make her the greatest nation on the face of the globe, Abigail Adams wrote to her husband, John:

> I long to hear that you have declared an independency. And in the new code of laws which I suppose it will be necessary for you to make, I desire you would remember the ladies, and be more generous and favorable to them than your ancestors. . . . If particular care and attention is not paid to the ladies, we are determined to foment a rebellion and will not hold ourselves bound by any laws in which we have no voice or representation.

If Ms. Adams were alive today in 1982, she would undoubtedly be pleased to find that women have the right to vote, although they had to wait until 1920 to get it. She would also be pleased to see women doctors, scientists, Governors, legislators, and judges. Upon closer examination, however, she would find that an equal voice for women is still far from reality.

In 1972, the Senate Judiciary Committee concluded their report on the ERA by stating that extensive sex discrimination in this country is:

> Directly attributable to governmental action both in maintaining archaic discriminatory laws and in perpetuating discriminatory practices in employment, education, and other areas. The social and economic cost to our society, as well as the individual psychological impact of sex discrimination, are immeasurable. That a majority of our population should be subjected to the indignities and limitations of second class citizens is a fundamental affront to personal human liberty.

Now 10 years later, there are still thousands of laws on the books that discriminate against women. In North Carolina, husbands control property that is held jointly by husband and wife. The wife, therefore, has no legal claim to the rent or profit of that property. In Ohio, women are prohibited from being a bellhop, an electric meter reader, a bowling alley pinsetter, and other jobs. In the Federal work incentive program (WIN), the law requires that priority be given to unemployed fathers, while three out of four individuals eligible and registered for the program are women, many of whom are the only source of income for their families.

Mr. President, women who work full time today receive an average of 59 cent for every dollare earned by men. The main reason for this gap is not a disparity in seniority between men and women, as some have alleged, but a disparity in wages paid between traditionally male jobs and traditionally female jobs.

In 1978, the columnist Ellen Goodman wrote:

> Four years ago in Seattle, the state was paying parking lot attendants more than secretaries. More recently, in the Midwest, a hospital was sued for paying psychologists more than psychiatric nurses. Today, the U.S. Department of Labor ranks child-care workers on a par with dog-pound attendants. And in factory after factory across the country, men who lift weights, however, infrequently, are paid more than women who do delicate handwork.

Despite the integration of women into law enforcement, construction, automobile repair, and other work, 80 percent of the women work in jobs that are overwhelmingly dominated by women, jobs that pay less than comparable men's work.

It has been estimated that 90 percent of all women will be employed outside the home at some point during their lives. During the 1980's, 66 percent to 70 percent of women ages 25 to 54 will be working. They will be working, not to purchase luxuries, but to support their families, to help feed their children, to provide them with proper medical attention and education, and to maintain their standard of living.

Mr. President, the problem of discrimination that these women face could have been easily eliminated by passage of the equal rights amendment.

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Those 24 words will guarantee that women are treated as full citizens under the law. Unfortunately, a handful of male legislators fell victim to the erroneous and misleading statements that have been circulated by opponents.

People have argued that the ERA is not needed because of the equal protection clause of the 14th amendment. However, the Supreme Court has never unequivocably ruled that the 14th amendment applies to sex discrimination. In fact, at times they have upheld gender classifications. Their failure to find sex discrimination suspect under the equal protection clause, puts the burden of proof on the complainant that a sex-based classification is unreasonable.

Opponents of the ERA have argued that the ERA is not needed because of title VII of the Civil Rights Act of 1964. However, employers with fewer than 15 employees are exempt from title VII, as well as the entire U.S. Congress. The ERA would change this.

Opponents have also argued that equal rights can be won through such executive orders as affirmative action, which has made valuable contributions to equality. For example, the percentages of women serving as bank officials and managers has risen from 17.6 percent in 1970 to the 1980 figure of 33.6 percent. Unfortunately as President Reagan is demonstrating, any administration can come in and decide affirmative action is not worth enforcing. So much for equality.

A constitutional amendment is the only way to guarantee equal rights. Legislation and executive orders are easily reversible; a Constitutional amendment is not. As Thomas Jefferson said:

> In questions of power . . . let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

The U.S. Commission on Civil Rights in their 1978 statement on the equal rights amendment concluded:

> Measured by any standard, gender lines have not been erased, and the history of unequal treatment of men and women has not been adequately redressed under existing law. Moreover, as a result of experiences under State constitutional amendments virtually identical to the proposed Federal

amendment, it is even clearer now than it was in 1972 that the ERA is the appropriate remedial action to address this inequality and assure women and men equal justice before the law.

Mr. President, I am proud that my State of Connecticut is 1 of 16 States that have equal rights clauses written into their constitutions to prohibit discrimination because of sex. Following passage of Connecticut's ERA in 1974, the State legislature changed many laws to comply with the equal rights provision and strengthened antidiscriminatory statutes already on the books.

Opponents of the equal rights amendment have claimed that the ERA will force freshmen coeds to stay with men in the college dormitories and abolish separate men's and women's bathrooms. They have also claimed that ERA will eliminate rape laws and break up families. These claims, which were ridiculous to begin with, are now clearly irresponsible.

None of these things have happened under Connecticut's ERA. Nor have they happened under any of the other State's ERA's. The only things that have happened are the advancement of women's economic rights and the expansion of their educational and employment opportunities.

Mr. President, when all is said and done, it will be clear that the ERA is not the Pandora's box of mischief and radicalism described by its opponents. Equality and liberty are not to be feared in America. Rather, this document will be viewed as a cornucopia of progress from which the fruits of fairness, opportunity, and justice will eminate and nourish an America yet to be.

Passage of the ERA will make our Constitution stronger and bring our country closer to the ideals of the American spirit and personal liberty. Finally, it will bring one of the longest chapters in the American Revolution to a fitting close and bring Abigail Adams the answer she sought from her husband 238 years ago.

Grant women equal rights.●

● Mr. GLENN. Mr. President, today marks the passage of an important national movement, a movement which Congress must not allow to expire but must resurrect and revitalize in the interest of all Americans. I rise to confirm my continued support for constitutionally mandated equal rights for women and to beseech this body to assure that those rights are not ignored due to the failure of the ERA.

Yesterday, the ratification process for the ERA tolled with but 35 of the required 38 States announcing their support for the amendment. In many instances, the ERA failed to pass in the statehouses for reasons far removed from the merits of the proposal. Frequently, open debate on the amendment was scuttled by the procedural machinations of a minority of legislators who harbored specious and irrational fears that equal rights for women would result in the breakup of the family, women casualties in time of war or an oversupplied labor market.

These few legislators have managed not only to restrain fulfillment of the most fundamental of our democratic principles—equality under the law for all Americans—but have subverted the popular will as well. Since the amendment was first bound over to the States in 1972, opinion polls have shown marked increases in support for the ERA, to the point where two-thirds of American voters now favor its passage. Within 2 years of its passage in Congress, 34 of the required 38 legislative bodies voted to adopt the amendment as part of the Constitution. The amendment was seen, as still is seen, not as a strained extension of constitutional guarantees but as a natural element of that document. There was nothing startling about the concept of equal rights for women—save that it was 200 years before the concept would become a part of our national charter.

In the middle of the 1970's, after the ERA was well on track toward virtually automatic ratification, a number of highly vocal, well-organized, and unrepresentative anti-ERA campaigns emerged to reverse this trend and to undercut the popularly supported cause of equal rights for women. These groups managed to convince wavering State legislators that their radically skewed interpretation of the effect of the amendment would be the consequence of a vote favoring ratification. Suddenly the words "(E)equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex"—words which can only connote principles of fairness, justice, and equality—were infused with a sinister, immoral intent. The amendment was taken as mandating unisex public restrooms and demanding that mothers abandon their children to serve in the trenches of the battlefields; accelerating divorce rates and families laid to waste were proclaimed a natural consequence. Amazingly, the arguments of the anti-ERA activists stalled the ratification process by preying on irrational fears and ancient prejudices.

Perhaps the most compelling argument offered by the ERA's detractors is that equal rights for women can be attained without the benefit of the amendment, that Congress and the courts can guard against discrimination by reason of sex just as effectively as can the Constitution. But legislation, judicial interpretations or executive actions lack the timelessness and stability of constitutional guarantees. We have already seen many instances over the past 10 years where measures designed to secure equality for women have been eroded by neglect, inadequate enforcement, or mere passage of time. Title VII of the Civil Rights Act, title IX of the 1972 education amendments, the Equal Pay and Equal Credit Acts are all examples of progressive enactments that have been applied by courts and Federal agencies with far less rigor than their congressional advocates had intended. The 13th amendment was required to abolish slavery in the United States, the 15th amendment was required to extend the franchise to black Americans and the 19th amendment further extended the right to vote to women. Discrimination on account of sex is no less significant a problem than the problems that gave rise to those earlier amendments. The right to vote and the right to be free from involuntary servitude could not be adequately remedied by resort to the courts or legislatures—neither can equality of rights for women.

The need for the equal rights amendment is no less urgent today than it was in 1972 when the ratification process began. To be sure, there has been significant progress made in ending discrimination against women over the past decade, but those advances have been made largely in anticipation of the ERA. To let this effort falter now would be a serious mistake. Therefore, I urge all my colleagues to support the reintroduction of the equal rights amendment on July 14, 1982.●

● Mr. LEVIN. Mr. President, equal rights for women in this country are long overdue, and for that reason I strongly support reintroduction of the equal rights amendment. Because the drive for ratification has highlighted inequalities which exist in the area of national defense, I want to take this opportunity to make some comments about the need for the ERA and the positive effect it will have in this area.

Opponents of the ERA have raised fears about its possible impact. They claim it would make the military less effective, would reduce the military's ability to choose personnel for specific functions and would require the military to use women in combat roles. Let me lay those fears to rest.

When the Senate considered an amendment offered by Senator KASSEBAUM and myself to include women in registration for the draft during the 96th Congress, I stated:

> Equality requires . . . equal obligation and equal opportunity. That is all this amendment offers women . . . that is all that it requires of them, and that is all it says to all Americans. We can accomplish the goal of equality without any negative military consequences.

I made that statement regarding an amendment to include women in registration for the draft, but the logic applies to fears opponents raise concern-

ing the impact of the ERA upon the military. The equal rights amendment would eliminate existing restrictions upon women in the military which are based solely upon gender. It would not prevent the military from distinguishing between men and women on the basis of their ability.

Opponents of the ERA claim that female participation in the Armed Forces will make our armies less effective. However, in 1976, the Army conducted a series of tests to determine if that was the case—Women's Content in Units Force Development Test—MAXMAC, October 3, 1977. According to the Department of Defense, the tests showed "no degradation in unit performance as a result of female content." Concerns have also been expressed about inclusion of women in active combat duty. Equality does not necessarily mean identical treatment.

The Senate Judiciary Committee's report on the ERA concluded that women should be able to volunteer for military service on the same basis as men under the amendment, that men and women would be treated equally with respect to the draft, and that once in service, both men and women would be assigned military responsibilities according to their personal qualifications and capabilities.

There are alternatives to active combat which provide a meaningful role to women in the military and at the same time help the Nation meet its military requirements in a time of war. In Israel, for example, women perform noncombat tasks and in doing so, promote the welfare of the country militarily, economically, and socially.

Mr. President, it is apparent that the role of women in the military can be enhanced without tying the hands of the armed services. With passage of the equal rights amendment, women in the military will be judged on an equal footing with men, rather than excluded from certain types of duties solely because of their gender. There is strong public support for the ERA. The amendment simply states that—

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

It provides that men and women are equal under the law. This does not mean that women and men are the same, but that the law cannot treat them differently solely because of their sex.

A constitutional amendment is essential if we hope to cut across all areas of government discrimination against women. In the military and in every other area, we can eliminate existing laws and regulations which distinguish between men and women on the basis of sex and make decisions based on their capabilities and qualifications instead. In the Armed Forces we can and should eliminate existing laws and policies which prohibit women from fully participating in the military and deprive the Nation of the support women can provide for a strong national defense.●

● Mr. HEINZ. Mr. President, today, the equal rights amendment remains one of our Nation's most important pieces of unfinished business. I have stood with the drive for passage of the ERA since it began 10 years ago, and I stand with it now. I remain committed to securing first-class citizenship for American women.

I am proud as a Senator from Pennsylvania to know that women in Pennsylvania do have the guarantees of an equal rights amendment. Since its adoption in 1971, my own State's equal rights amendment has been an effective instrument in helping Pennsylvania women fight discrimination. Pennsylvania's equal rights amendment eliminates invalid distinctions based on sex by mandating the equal treatment of men and women.

Pennsylvania has achieved impressive gains in family law. The legal status of married women has improved tremendously with the recognition of property rights which were previously denied them. Homemakers have also benefited from the State equal rights amendment since their significant contribution to family support is now recognized as a matter of law.

Although the State equal rights amendment has guaranteed the legal status of women in Pennsylvania, women in other States cannot be so confident that they have the same rights of equality under the law. We need such an instrument on the Federal level, and that is why I am cosponsoring the reintroduction of the ERA on July 14, 1982.

I am convinced that a Federal equal rights amendment is necessary to establish a national policy for the elimination of sex discrimination in the United States. A constitutional amendment is the only guarantee that women will have fair and equal opportunities in education, employment, benefit, and pension plans, as single women, during marriage, divorce, and through old age.

I believe that the American people demand legal recognition of what society has already recognized—that men and women must enjoy equal status and therefore, equal treatment. The reintroduction of the ERA is only the first step. We must renew the fight for passage of the equal rights amendment. It is the right fight and we cannot quit until the job is done.●

Mr. LEAHY. Mr. President, there are many ironies in the long struggle to pass the equal rights amendment on this, the day that marks the end of the first phase of that struggle. The early days of the ratification effort were heady and optimistic, and ratification appeared to be a certainty. It even seemed that the ERA was the confirmation of women's equal status, rather than a needed tool in the fight for that status.

But as the opposition to ERA developed, it became clear that the opponents saw the amendment as a threat to families, to the American way of life, and to women themselves. The hollow, specious, and tired arguments against equality reminded all of us the ERA and only ERA would ultimately secure the rights of both sexes under law. The campaign that has defeated the equal rights amendment for the moment is itself the best proof that ERA was sound in its approach and that only the Constitution can offer permanence to the rights that women and men have worked so long to perfect.

It is clear to me that State and Federal statutes which seek to end gender-based discrimination will not accomplish equality on a piecemeal basis, though they are essential. The laws and practices that have traditionally separated men and women on the scales of fairness and equality are pervasive. The Supreme Court in applying the 14th amendment applies special scrutiny to classifications based on race, religion, or national origin and has required a compelling interest to justify laws that discriminate among people on these grounds. But sex discriminaton is not a suspect classification, and the full rights of 14th amendment equal protection have never been extended to women.

The ERA will do more than alter the Supreme Court's interpretation of equality. The notion that the exploitation of women is an acceptable part of our economic and social system is hard to expunge through words alone. And not even the ERA will produce instant results. But the Constitution occupies a unique position in American life. The incredible revolution in racial equality began in earnest with a decision of the Supreme Court. But what the Court ordered was less important than what the Court taught. It is inconceivable that the Voting Rights Act extension passed overwhelmingly in both Houses would exist in any form today without that education.

The equal rights amendment will not only promote laws to narrow the still-prevalent gap between the earnings of men and women for the same work, will not only help to create marital support laws that are fairer for both men and women or looking to needs and abilities and not just to gender, will not only help reform criminal laws so that they judge both men and women on their conduct rather than their sex. Beyond all of these essential improvements, the ERA will create the potential for real change in how Americans perceive these problems, just as Brown against Board of Education focused the atten-

tion of a nation on problems that had been neglected for generations.

We need to back our rhetoric about equality with enduring protection. The anti-ERA campaign that has to date been so successful reminds us that styles and customs can change with the political winds. Rights that depend on statutory law can vary from Congress to Congress and from year to year in our State capitals. The current campaign to justify the opposition both to ERA and to equality itself is based in large part on the need to protect the family, and the message is that traditional sex-role distinctions must be left the way they were in antiquity if the family is to be saved. The American family will survive, because of the wisdom of our young people to build on the best traditions of the past and their courage to let each partner in a marriage develop his or her potential in his or her own way.

The real agenda of the equal rights amendment is individual dignity, the same agenda of every civil rights movement in the nearly 200 years that we have lived under the U.S. Constitution. When Phyllis Schlafly was asked last night at a gala celebration to mark the death of ERA what she thought of the plans of supporters to start all over again later this month, she said, "I'm going to laugh at them." This has always been the first attack of those who deeply fear the expression of individual dignity by women—a smiling, indulgent pat on the head. A laugh.

But these laughs will not be the best laughs, for the effort that ended yestereday to ratify the equal rights amendment will begin again on July 14. Its cause is just and, with perseverence, its adoption is a certainty. Men and women alike deserve no less and will settle for no less.

Mr. DURENBERGER. Mr. President, I wish I did not have to be here today. I wish that today, July 1, 1982, we were celebrating the beginning of a new era of constitutionally guaranteed equal rights.

Sadly, that is not the case. We are, though, celebrating a new era that I am confident will lead to constitutionally guaranteed equal rights. July 1, 1982, will be remembered as the beginning of the most impressive grassroots movement in the history of our country. On July 14, I will join my colleagues in reintroducing the equal rights amendment. My commitments to the Finance Committee and the tax markup prevent me from taking the time to say all the things that this occasion warrants. I will take the opportunity 2 weeks from now, at the time of reintroduction, to state in greater detail my strong and unwavering belief in equal rights and in the equal rights amendment.

For now, let me just say that 14 months ago, I introduced the Economic Equity Act (S. 888). When I, along with Senators PACKWOOD and HATFIELD, introduced this bill, I called it the "instrument by which we will write the next chapter of equality." Today, I want to remind my colleagues once again that the book that contains those chapters is the equal rights amendment.

Even if every provision of the Economic Equity Act is passed into law—even if State EEA's pass in each of the 50 legislatures—we will still not have what matters the most: the permanence of a constitutional guarantee of equal rights. The supporters of equal rights will come and go, but the Constitution and the constitutional guarantee of equal rights will and must be with us always.

Today, with these comments, and on July 14 with the reintroduction of the equal rights amendment, we recommit ourselves to that principle. Mr. President, I want to commend and thank Senators PACKWOOD and TSONGAS for the leadership they have shown in pulling together this remarkable bipartisan coalition. Working together, and working with the thousands of State legislators and citizens throughout this country who share our dedication to equality and justice, I am confident that we can bring about a new and welcomed era of equal justice under the law for all Americans.

Mr. STAFFORD. Mr. President, this is a day of renewal, not a day of defeat.

The equal rights amendment will be adopted, because it is the fair thing to do and because Americans—in the end—do the fair thing.

Those of my distinguished colleagues who have joined together today in this display of rededication to the cause of the equal rights amendment are making an overwhelming and detailed record for that cause, so there is no need for me to attempt to add to that detail.

I do want to add my pledge to continue to lend my support and my energy to the cause of ratification of the equal rights amendment.

I do not intend to give the impression that I feel the task will be any easier in the years ahead, despite my firm belief that ratification of the equal rights amendment by this Nation is inevitable.

Indeed, the battle ahead may be more difficult than the one we have just experienced.

Surely we have all learned from that experience, and that learning will help us to reach success in this quest for fairness for all Americans.

If we have learned anything by our recent efforts, it is that passage of an equal rights amendment is as important to men as it is to women—because it is important to the values held by all Americans.

Surely we have all been sensitized by the effort we have experienced and which we renew today.

Important gains have been made for the rights of women through changes in laws and changes in the attitudes of people. As women have gained more of the rights due them, all Americans have gained, because freedom and equality are diminished for all if they are denied to any.

I am proud today to renew my dedication to the cause of the equal rights amendment.

I am confident that this Nation will adopt this most recent declaration of what our Nation is all about because it is the fair thing—and the right thing—to do.

EQUAL RIGHTS AMENDMENT: CONGRESSIONAL ACTION IS NEEDED TO TURN DEFEAT INTO VICTORY

Mr. EAGLETON. Mr. President, some people have been saying recently that the equal rights amendment is an issue that should go away.

I agree.

It should go away as an issue because it should, instead, become an integral part of the U.S. Constitution.

As one who supported the ERA when it first passed the Senate, and as one who later voted to extend the deadline for ratification, I thoroughly lament the refusal of a small number of State legislatures to follow the clear wishes of a majority of American citizens. Their inaction permits ERA to lapse only three States short of ratification. It leaves the basic fact of women's inequality under law unremedied.

That is why I must join today with my colleagues in pledging that we will continue the essential effort to pass ERA. That is why I have already indicated that I will cosponsor and actively support the congressional resolution which is necessary to resubmit ERA to the States for ratification.

Mr. President, it is certainly true that our country has made substantial progress on some aspects of women's rights in the time since ERA first passed the Congress. Indeed, even though the ERA fight was not ultimately successful, by the time yesterday's cutoff point rolled around, the thousands of dedicated advocates of the amendment can take great pride in conducting what came to be a nationwide consciousness-raising session on the extent of sex discrimination in our society.

Yet, the sad truth is that current laws and regulations have not secured equal pay for equal work. Women still face a wage disparity of nearly 40 percent as compared to similarly unemployed men. Women who work—whether inside or outside the home—still face discrimination in pensions and health benefits. Discriminatory

inheritance and tax laws still leave many older women destitute.

A Department of Justice study showed that there are more than 800 Federal statutes still on the books which discriminate on the basis of sex. The same is true in greater numbers with regard to the laws of the 50 States.

There are some who say that supporters of equal rights for women should stop "wasting their time" on ERA, and instead, work against specific instances of discrimination at the Federal, State, and local levels. This notion poses a false choice—ERA and other reform efforts are not mutually exclusive. Clearly, ERA supporters over the last 10 or so years also were in the forefront of other efforts to reform discriminatory laws and practices. Yet, while piecemeal reform efforts can and should continue, we must not forget that ERA is the only way to make permanent changes in the hundreds of discriminatory laws that still litter the legal landscape.

Mr. President, the initial battle to place equal rights for women firmly in the Constitution has resulted in a lost battle. It is now up to Congress, State legislatures, and the public to see to it that we do not lose the war.

Mr. BURDICK. Mr. President. I am very pleased to join with a great many of my colleagues this morning in reaffirming the importance of passing an amendment to the Constitution that guarantees equal rights under the law to the women of this country.

Women play a variety of roles in our society, but from our perspective in North Dakota none is more important than that of the farm wife, who is generally a coequal partner with her husband in sharing the work and making the decisions which make their farm operation a success.

North Dakota homesteaders recognized early on that sex distinctions lost their importance when land needed to be cleared of rocks and prepared for tilling, when all hands were needed in the fields to bring in the harvest, when cows needed milking, and when a barn roof blew off and required emergency repair. It is the contributions of farm women, as much as men, that have made North Dakota the leading State in the country in the production of wheat and sunflowers.

But discrimination against the farm woman's economic rights, in such matters as requiring her to pay an inheritance tax on the farm at her husband's death unless she can prove that she helped pay for its purchase or improvement, and the difficulty she experiences in trying to obtain credit independently of her husband, have demonstrated the need for laws which recognize a women's true role in our State and our society.

I regret that yesterday's deadline passed without ratification of the first ERA because the amendment is even more necessary today than it was when first approved by Congress in 1972. There are more working women in America, more women as the head of their household, more widows living longer lives, who need its protection.

But yesterday marked only a temporary setback for the ERA, not defeat. The principle of equal rights for all Americans is so fundamental to our society that I am confident a second ERA, which I am pleased to have joined Senator TSONGAS and others in sponsoring, will be passed by the Congress and approved by the requisite number of States. It is impossible to counteract the force of an idea whose time has come, and as was the case with the major civil rights legislation enacted in the 1960's, so will women's rights eventually have its place in our laws. This cause is just and it will prevail.

Mr. SARBANES. Mr. President, on April 29, 1971, the Subcommittee of the House Committee on the Judiciary, on which I served, reported to the full committee House Joint Resolution 208, the equal rights amendment, following 6 days of exhaustive hearings in March and April. Mr. President, I was serving my first term as a U.S. Representative and was a member of the House Judiciary Subcommittee which undertook to hear testimony and subsequently report the equal rights amendment. I still recall Representative Martha Griffiths, the distinguished Congresswoman from Michigan and sponsor of House Joint Resolution 208, speaking as the first witness on behalf of the equal rights amendment before the subcommittee.

The House of Representatives approved House Joint Resolution 208 as introduced by Mrs. Griffiths on October 11, 1971, by the overwhelming vote of 354 to 24 and on March 22, 1972, so did the Senate by a vote of 84 to 8. Mrs. Griffiths' testimony in support of House Joint Resolution 208 was persuasive at the time it was presented. Fourteen members of the Judiciary Committee, including myself, emphasized this point in views appended to the committee report, as follows:

> The basic premise of House Joint Resolution 208 in its original forms is a simple one. As stated by Professor Thomas Emerson of Yale University, one of the Nation's foremost authorities on constitutional law, the original text is based on the fundamental proposition that sex should not be factor in determing the legal rights of women or of men.
>
> The existence of a characteristic found more often in one sex than the other does not justify legal treatment of all members of that sex different from all members of the other sex. The same is true of the functions performed by individuals. The circumstance, that in our present society members of one sex are more likely to engage in a particular type of activity than members of the other sex, does not authorize the Government to fix legal rights or obligations on the basis of membership in one sex. The law may operate by grouping individuals in terms of existing characteristics or functions, but not through a vast over-classification by sex.
>
> The main reason underlying the basic concept of the original text derives from both theoretical and practical considerations. The Equal Rights Amendment as proposed by Mrs. Griffiths embodies a moral value judgment that a legal right or obligation should not depend upon sex but upon other factors—factors which are common to both sexes. This judgment is rooted in the basic concern of society with the individual, and with the right of each individual to develop his own potentiality.

Mrs. Griffiths' testimony remains as persuasive today as it was 11 years ago, just as the equal rights amendment remains an urgent item on the national agenda. At that time I wrote:

> In every State, women are denied educational opportunities equal to those of men. In many States, a women cannot manage or own separate property in the same manner as her husand. In some States, she cannot engage in business or pursue a profession or occupation as freely as can a member of the male sex. Women are classified separately for purposes of jury service in many States. Some community-property States do not vest in the wife the property rights that her husband enjoys. In a number of States, restrictive work laws, which purport to protect women, actually result in discrimination in the employment of women by making it more burdensome for employers to hire a woman than a man.

Despite the improvement in some areas over the past decade, substantial discrimination remains. It may be less immediately obvious and subtler, but its effects are no less injurious or unfair to those affected by it. Women have entered the work force and assumed financial responsibility for their families to an unprecedented degree, and this makes the burden of discrimination even more difficult to bear. The arbitrary denial of equality is not only a loss to those individuals who suffer from it, but a tremendous loss to a society which denies itself the full benefits of each individual's potential. Our Nation can ill afford to let languish the abilities of any of its citizens, men or women, and it is therefore necessary that the effort for the equal rights amendment go forward.

Mr. PELL. Mr. President, I join with my colleagues today to express both sadness and confidence.

The sadness that I feel comes from the realization that the proposed equal rights amendment failed to become law by June 30. That failure should cause all of us to pause and to reflect on whether we each did all that we could to work for its approval. Something has gone wrong when a proposed constitutional amendment which is so strongly supported by the Congress and by the people of the United States has not been fully ratified by the imposed deadline.

The confidence that I feel comes from the realization that this day marks only the opening chapter, and not the conclusion, of our drive to enact the equal rights amendment as the 23d amendment to the Constitution of the United States. Through our Nation's unshakeable support of the ERA, and the growing involvement of women in politics, I know that our renewed campaign to enact the equal rights amendment will be swift, sure, and successful. Our Nation will be watching us as we reintroduce the ERA in Congress on July 14, and I know that our fellow citizens will share the confidence that I feel as they see the strength and depth of continued support for the ERA in Congress.

Sex discrimination has been an integral part of the laws, customs, and official practices of the United States. Until the ERA is ratified, we will be a nation divided into those who have all of their rights protected by the Constitution and those who have only some of those rights.

We have only to look at Congress, the Cabinet, and the highest echelons of corporate America to be vividly reminded of the barriers that still prevent many qualified women from exercising a major leadership role in our country. The continuing differentials in wage scales and positions of employment remind each one of us personally, daily, that every woman, every family, and every American suffers from sex discrimination. It is time for our country to shed the excess baggage of this discrimination and move into a new age.

As Hubert Humphrey once said:

> Now is the time to allow women to take their share of the responsibility for the success and failures of the future.

It is time for all of us to take advantage of the vast talents that over half of our population possesses. It is time for all of us to join to make the ERA a part of the Constitution.

THE FUTURE OF EQUALITY

Mr. HART. Mr. President, today is July 1, 1982, and, unfortunately, the inclusion of all Americans in the phrase "we the people" remains a goal, rather than a reality.

With the passage of the June 30 deadline for ratification of the equal rights amendment, we have fallen three States short of securing constitutional guarantees that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

The passage of the deadline is a tragedy. But, it is not the end. There is no time limit on our quest for equality.

The equal rights amendment was first introduced in Congress in 1923, 3 years after the women's suffrage amendment was ratified. It was originally drafted by the suffragist Alice Paul and introduced in Congress every year until 1972 when it finally passed both Houses.

In the 1970's women made dramatic progress—frequently against overwhelming odds—in securing their political and legal rights. We successfully pressed for ratificiation of the ERA in 35 States between 1972 and 1977. Ironically, some of these hard-won gains are now being used as evidence that constitutional protection of the right of women is, somehow, no longer necessary.

Precisely the opposite is true. We need the the equal rights amendment to protect what has already been won—by insuring it will never be lost again—and allow us to continue our progress. While State. local, and Federal governmental bodies may continue to promote equal rights, but, without a textual commitment in the Constitution to the ideal of equality between the sexes, the continuing battles over the "proper" place of women on our society may never be resolved. Women's rights are permanent rights; they deserve permanent guarantees.

An overwhelming majority of American people—75 percent according to recent polls—support equality of rights under the law for women.

Opponents of the ERA must realize that those of us who seek true equality for all people will never allow the equal rights amendment to die. We will never give up. We will never give in. We will reintroduce the ERA and we will work for its ratification.

Mr. MATHIAS. Mr. President, yesterday the official deadline for the current effort to add the equal rights amendment to the U.S. Constitution was reached. We who have supported and worked for ratification of the ERA are understandably saddened and disappointed. But we are not disheartened. We know that many past struggles for justice and equality have gone on much longer than anticipated. For example, as Maryland educator and delegate Constance Morella pointed out in a recent Washington Post editorial, "The first constitutional amendment relating to women's suffrage was introduced more than half a century before it was to be ratified."

Three years after the ratification of the 19th amendment, the equal rights amendment was introduced in Congress for the first time. Almost 60 years later we find ourselves still working and fighting for its ratification. But we know that the ERA, like suffrage, will eventually prevail, because the force of history cannot be denied indefinitely, and history demands that we reform outdated laws that treat women and men unequally.

With that goal in mind, on July 14 a bipartisan group of Members of both Houses of Congress will introduce a resolution calling, once again, for the enactment of the equal rights amendment. The need for the ERA remains as compelling today as it was when Congress gave final approval to the resolution 10 years ago. However, we now have an important advantage that we did not have in 1972: The equal rights amendment has been incorporated into 16 State constitutions and we can now look to their experience to determine the importance and efficacy of the ERA in achieving equality under law for men and women. This track record highlights the overwhelming need for a national equal rights amendment, and dispels many of the unfounded allegations that have been leveled at the ERA over the years.

My own State of Maryland was one of the first to add the ERA to its organic law. Ten years ago, shortly after ratifying the national ERA, Maryland added the language of the amendment to its Declaration of Rights of the Maryland Constitution.

According to a study done by the Maryland Commission on Women on the 10-year history of the Maryland ERA, "The State ERA, by guaranteeing equal rights regardless of the sex of the person, represents a mandate by the citizens of Maryland to the legislature to write new laws and to amend existing laws when applicable, and for the courts to interpret existing laws in accordance with the principles of equal rights for women and men."

The courts and the legislature have responded admirably. For example, the ERA has brought about much-needed reforms in employment. Maryland civil service laws, which have been made gender-neutral, now provide real equality of opportunity. The new laws prohibit denial of promotion opportunities to women because they are on maternity leave, and encourage part-time employment, which can be essential when trying to balance work with the demands of a young family. The ERA has inspired a new sensitivity to working women that has wrought a dramatic change in the lives of domestic workers—82 percent of whom are women—who, in 1973 were first brought under the State minimum wage law and, in 1975, first received workman's compensation benefits.

Things have improved a lot for women in Maryland in the last decade. And, we should encourage those States that have not yet added the ERA to their constitutions to follow Maryland's example. But State efforts, although very valuable, are not enough. True equality for all cannot be achieved in the absence of an ERA that is national in scope. An amendment to the U.S. Constitution would reflect our national commitment to equal rights for all and would provide

uniformity of law to insure protection for all the women in our land.

Finally, Mr. President, I would like to bring my colleagues' attention to a Washington Post editorial I referred to earlier by Constance Morella, aptly titled, "No Wake for the ERA." It tells us that this is not the time to mourn for the ERA, but to reaffirm our commitment to its passage and ratification.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 12, 1982]

NO WAKE FOR ERA

(By Constance A. Morella)

[The writer is a member of the Maryland House of Delegates from Montgomery County and an associate professor of English at Montgomery College.]

The word is out—and in elaborate script—that a big wake is planned for June 30, the deadline for ratification of the Equal Rights Amendment. The mourners will not grieve, but will celebrate the expiration of the amendment, counting on women on both sides of the issue to come together in a kind of harmony—strained to be sure—that was denied them during the course of the struggle.

As a legislator who supports the ERA as well as Maryland's own 10-year-old ERA, I recognize that the odds are not good for the amendment's passage. And although any individual in public life today is tempted with the lure of olive branches, I am convinced that the basic issue embodied in the amendment must continue to be pursued.

In all candor I know not the specifics of such pursuit but believe that wisdom on the matter will be distilled in the months ahead. I am sustained in my conviction by the fabric of American history, which illustrates all sorts of tear-but-wear in the area of women's rights. The first constitutional amendment relating to women's suffrage was introduced more than a half-century before it was to be ratified. Issues broached at the Seneca Falls Convention of 1848 did not emerge as serious topics of political and judicial concern until well into the next century. And Judith Sargent Murray's questions advanced during the course of the American Revolution, were politely relegated to obscurity for decades: "Is it upon mature consideration we adopt the idea, that nature is thus partial in her distributions? Is it indeed a fact that she hath yielded to one half the human species so unquestionable a mental superiority?"

History also reveals some trends that may shed light on strategies for the future, as for example the tactic of quid pro quo when Utah became one of the first territories to provide women's suffrage in 1870, it did so in part to ensure communal unity in the face of imminent federal interference. When women's suffrage leaders organized in the post-Civil War period, one alternative chosen was championing amendments to state constitutions. Most efforts failed, but leaders learned the artful strategy of advancing their aims through concentrating on small electoral entities such as precincts. And their reliance on this method proved decisive in the case of New York State.

When suffragettes pursued at the same time initiation of an amendment by Congress, it was not sheer coincidence that the final months of the struggle saw the entrance of the first woman into the House of Representatives. When earlier in the 19th century women recognized that the judiciary represented still one other avenue in which to seek suffrage, they forced the Supreme Court to go on record, leaving sometimes a track of inconsistencies: women, in one case, could be denied the vote by states; in another case, certain individuals because they were citizens of the United States (as were women) were made "voter(s) in every state in the Union."

Finally, as an educator, I believe there is one additional reason why the elaborate announcement of the death of the movement for equal rights is premature. The passage of time, the increase of education, and the simple matter of experience all together should bring challenges and evolution. Margaret Fuller, writing in 1845, expressed this perception best: "It should be remarked that as the principle of liberty is better understood, and more nobly interpreted, a broader protest is made in behalf of Women. . . ."

Mr. DODD. Mr. President, yesterday when the deadline for ratifying the equal rights amendment passed, it was three States short of the 38 required to amend the Constitution.

It will go down as one of the ironies of history, surely that this Nation with its unparalleled record for protecting the rights of its citizens, waited until the threshold of its second century to extend those rights to black Americans and into its third before guaranteeing them for women.

Nonetheless, Mr. President, it is clear that the ERA will be added to the Constitution. It is an idea whose time has come and whose fundamental justice is long overdue. Public opinion polls show a steady growth in support for ERA and a strong majority for it. I am confident that substantial majorities of both Houses of Congress favor it. Its arrival has been temporarily stalled—but a successful outcome remains inevitable.

I am proud to cosponsor the resolution reintroducing ERA which will be offered in the Senate on July 14. In that cosponsorship I know that I represent the sentiment of an overwhelming majority of the citizens of Connecticut. Nine years ago Connecticut ratified the ERA; I know it will act promptly to do so again. In addition, Connecticut is 1 of 16 States which provides within its own State constitution against discrimination on grounds of sex.

The text of the proposed amendment is simple, direct, and threatens no one. It says only that "Equality of rights under the law should not be denied or abridged * * * on account of sex."

The public record is abundantly clear as to just what that language is intended to accomplish.

It should help bring an end to inequality of economic opportunity—under which the average female worker earns about 60 cents for each dollar earned by a male.

It should help erase the remnants of inequality of educational opportunity—which has historically seen female students channelled into the least promising and least rewarding careers.

It should help redress the imbalance in legal rights—exemplified in the survival of literally hundreds of gender-biased terms in statutes in the areas of property, estate, and family law.

In short, this amendment seeks to assure no more and no less than that more than half our population have the opportunity to proceed as far as their talents, initiative, and effort can carry them.

That strikes me as neither revolutionary nor dangerous but simply a reaffirmation of what this Nation has symbolized for 200 years.

It is hard to see why anyone would object to a proposal embodying that elementary principle of human rights. In fact, most of the objections to ERA are based on tortured interpretations that distort the meaning of the amendment.

Certainly the epitome of that approach has been the spate of objections characterized by the charge that ERA will destroy the privacy currently accorded to Americans. Under the ERA, that argument says, men and women will have to share hospital rooms, public restrooms, dormitories, and so on.

Frankly, such an interpretation challenges commonsense, defies the legislative history of the amendment, and ignores existing constitutional protections of privacy. It is based on a kind of hysterical liberalism that considers all of the possible meanings of the words contained, in any possible context, and settles on the most inflamatory.

If that approach is allowed to undermine ERA, it will be a tragedy.

It is interesting to note that the same reasoning—if it could be called that—provides good cause for doing away with other vital, crucial and time honored constitutional rights as well.

It would imply that the first amendment meant that one could, without fear of retribution, yell "fire" in a crowded theater, an example which Justice Holmes dismissed contemptuously long ago.

It would imply that the second amendment meant that private citizens could carry submachineguns on the streets and government could do nothing.

Obviously that is not what is meant by the amendments. Their meaning instead rests in the intent of the framers and is limited by conflicting protections of the Constitution. So too with the ERA.

In fact, the committee testimony and floor debates which resulted in

congressional passage of the ERA a decade ago have made plain beyond any reasonable dispute that in areas affecting individual privacy, equal need not mean identical.

Furthermore, constitutional protection of rights of privacy have been a matter of law since the Griswold decision of 1937. Those rights now enjoy a history and presumption, secured by a line of cases since then, that is surely too firm to be shaken by a dubious reading of an amendment whose framers maintain it has a completely different meaning.

In short, the privacy violation argument is a red herring. It is less a serious concern about the effects of ERA than an attempt to distract attention from the very real problems which the amendment addresses.

The most obvious beneficiary of the equal rights amendment would be American women. But it would be shortsighted to believe that the justice it does for them is the sole rationale for its passage.

Sensitive historians of American slavery have argued persuasively that that terrible institution took its toll on masters as well as people under bondage. Trapping the ruling race in a racial ideology without justification in fact, logic, or morality, it distorted their vision of reality. In the end, it created a society based on false premises which was doomed to failure, and made a mockery of values they claimed to cherish. Ultimately, the slaveowners lost almost as much from the system as the slaves.

Similarly, the male minority of this country scarcely benefits from illusory superiority grounded in bias rather than reality.

In the American family, men and women will continue to share the responsibilities of partnership. Increasingly women are joining as partners in the responsibilities of business and industry, politics and government, academia, and the professions as well. In any of those areas, a relationship grounded in fairness and fact, rather than in anachronistic prejudice will redound to the advantage of both.

So, too, a nation which affords all its citizens—not merely half—the full protection of its laws and the incentives for full use of their talents is bound to be stronger, wiser, and more prosperous.

In short, the equal rights amendment is vital—not just to women but to all Americans, to our heritage of justice for all, and to our future as a nation.

Mr. MOYNIHAN. Mr. President, I rise today to speak of the equal rights amendment as the Senator from what may legitimately be termed the birthground of the women's rights movement.

I speak, of course, of Seneca Falls and Waterloo, N.Y. In July 1848 a group of five women met at the home of Jane and Richard Hunt in Waterloo. At that meeting, Elizabeth Cady Stanton of Seneca Falls, Mary Ann McClintock of Waterloo, Martha Coffin Wright of Auburn, N.Y., Lucretia Coffin Mott of Philadelphia and Ms. Hunt planned the First Women's Rights Convention, and later wrote the "Declaration of Sentiments." Modeled on the Declaration of Independence, the "Declaration of Sentiments" proclaimed women's equality with men and decried the inferior status women were accorded. It was endorsed at the convention, held on July 19 and 20, 1848.

The only controversial measure raised at that convention was to extend the right to vote to women. It would be 72 years before the Nation recognized Elizabeth Cady Stanton's call for votes for women. It would be 132 years before Congress created the National Women's Rights Historic Park in Seneca Falls and Waterloo, a tribute to the remarkable women of 1848 and a measure I am deeply proud to have sponsored.

In 1923 Seneca Falls hosted another Women's Rights Convention. That year, Alice Paul, courageous and unheralded campaigner for women's rights—she is not even deemed to merit inclusion in Harvard University's three volume set, "Notable American Women," wrote the equal rights amendment. At the 1923 convention the Nation Women's Party, which Ms. Paul founded in 1913, endorsed it. Thus did they carry on the work begun in Seneca Falls in 1848. Votes for women, they knew, are only a step toward full equality for women.

In 1923 Senator Charles Curtis and Representative Daniel R. Anthony, a nephew of Susan B., introduced the equal rights amendment in Congress. It was reintroduced in every session until Congress passed it in 1972. The ERA's supporters did not despair during 49 years waiting for the Congress to pass it, we did not despair during 10 years waiting for the States to ratify it, and we do not despair today. We are unswervingly dedicated to insuring that equal rights amendments become a part of the supreme law of the land.

The deadline for ratification has passed, but the equal rights amendment is far from dead, On July 14, I will join 37 of my Senate colleagues in reintroducing the ERA, which remains a vital, necessary initiative supported by the overwhelming majority of Americans.

This is not a day of mourning. It is a day to celebrate our dedication to equal rights for every American, and to pledge our best and unending fight to protect those rights. We will not rest until Congress and the States affirm that women share with men and equality before the law, and the vision of Alice Paul is at long last fulfilled.

● Mr. CHAFEE. Mr. President, it is my pleasure, as an original cosponsor of the equal rights amendment, to lend my support to its reintroduction. The need for this amendment has never been greater, and the failure of the ERA to be ratified the first time around should only strengthen our resolve to gain speedy passage of this vital constitutional change. Some will claim that it is time to give up the fight for the ERA, and for equality for women.

I do not agree. No change so important, so revolutionary, and so needed will come easily. Women's right to vote was not won in a matter of a few years; that battle took over 50 years. The civil rights battle was not fought and won in a decade. Indeed, it still goes on. And, so with equal treatment for women: The fight will go on.

Polls clearly indicate that most Americans support the ERA. It is time that legislators around the country take stock of what Americans want, and what Americans will be demanding until it is granted them: Simple equality under the law.

I am proud that my State of Rhode Island was among the first to ratify the amendment when it was first considered. I look to Rhode Island again to lead the way. But, first, my colleagues must put their stamp of approval on the ERA. We can only hope that if there be any objections to it or questions about the ramifications of its passage, that they be expressed openly and frankly, and that there be an opportunity to debate them.

Nearly 60 years ago, Alice Paul wrote the equal rights amendment. For most of this decade we have been mulling over our commitment to equality. An enlivened women's movement forced the issue to the fore at the beginning of the last decade, in order to ask just how deep our commitment runs. The question remains unanswered. The most purposeful way to respond to it is with a wholehearted commitment to ratify the ERA.

Many still ask why we need the ERA; in fact, many do not know what the amendment would do. The amendment states that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

In other words, governments cannot practice discrimination on the basis of sex. This is what the ERA attempts to mandate.

The ERA is not ultimately a restrictive measure, but rather a liberating one. The ERA would prohibit discrimination by government as employer. It would prohibit discrimination in the area of property rights.

The ERA would act as a catalyst for governments to revise laws which

countenance discrimination on the basis of sex. Most importantly, the ERA would make unequivocal this Nation's fundamental commitment to equality before the law. For this reason, ERA is not simply a women's issue. It is a basic issue of justice and represents a change from which both men and women would benefit.

The ERA is needed because we lack adequate judicial safeguards against discrimination. State laws vary widely in their protection of women against discrimination. Educational and economic opportunities are restricted for women. The gap in pay between men and women is widening rather than diminishing in spite of the fact that increasing numbers of women continue to enter the work force.

Laws and regulations dealing with everything from welfare to insurance to pensions provide no comprehensive protection against discrimination. Consequently, women are often discriminated against in these areas. The way to rectify this is by passing a simple but powerful amendment: the ERA.

I congratulate those who have worked for the passage of the ERA. They have advanced a cause which cannot be neglected. I join with them in this effort. I urge those who have been silent to speak up. This time the base of support will be broader, and the battle will, I hope, be swifter. I urge my colleagues to give their expeditious approval to this amendment.●

● Mr. GORTON. Mr. President, as are most of my colleagues, I am deeply disappointed that the equal rights amendment was not ratified by the necessary 38 States. It is unfortunate that a proposition of such manifest logic is viewed by a minority to be such a radical motion. It is even more unfortunate that a handful of State legislators can deny to nearly 51.4 percent of the population the full equal protection of the laws; and deny to 100 percent of the population the benefits that accrue to any society which avails itself of the talents and industry of all its citizens.

The concept that equality of rights under the law should not be denied or abridged on account of sex is one that ought to be contained in our Constitution. One can argue over whether its presence ought to be expressed or implied, but not that it ought to be in the Constitution. Only when we guarantee to all our citizens that they will be judged on their individual strengths and talents as well as their weaknesses rather than on characteristics which are an accident of birth, such as race and sex, will this Nation reach its maximum potential. It is clearly the duty of those of us in Congress to do all that we can to extend that guarantee to all Americans.

I do not believe that the answer lies exclusively with the ERA, although the ERA should certainly be a part of the answer. Even if the ERA is passed, however, it will require implementing legislation to realize its full promise. In my view, we have the authority under the 14th amendment to enact some of that legislation today, and I encourage my colleagues to pursue such a course of action.

The challenge, however, is not only to the hands of Congress. All Americans who support equal rights regardless of sex must now examine and give serious consideration to all avenues by which to reach that goal. A representative of a major national organization involved in the effort to ratify the ERA described the decision facing such groups in developing a strategy for the 1980's by aptly analogizing it to the lady and the tiger. A choice must be made to which door to open. I am personally confident, however, that given the innate sense of justice in the American people, regardless of which door is chosen, the ERA will eventually be a part of the Constitution. I will do my best to see that that is the case.●

(By request of Mr. ROBERT C. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. MELCHER. Mr. President, today I join my colleagues who feel as I do that we must rededicate our efforts to passage of the equal rights amendment by reintroduction of the amendment to the U.S. Constitution on July 14.

My State of Montana has a strong history of equality. Montana was one of the first States to grant women the right to vote, the very first to elect a woman, Jeannette Rankin, to the U.S. Congress, one of the first to enact a State constitution with an equal rights clause and, after a difficult battle, one of the last States to ratify the ERA in 1974.

This proposed amendment to the U.S. Constitution is not dead, and we again call it to the attention of the American people to renew our efforts to spell out clearly the constitutional guarantee of equal rights under the law for both men and women.

This is basic to our understanding of fairness, this is basic to our strong belief that rights of citizens are not to be ignored or denied, regardless of gender. A clear constitutional mandate is essential for the pattern of life, opportunities, and achievements of American women in this and all succeeding generations.

We rededicate ourselves to continue our determined efforts until our goal is realized by ratification of the equal rights amendment.●

Mr. RIEGLE. Mr. President, one phase of our continuing struggle to make equal justice under the law a reality for all Americans ended yesterday, June 30, 1982, as the ratification deadline for the equal rights amendment expired. I rise today to commend the valiant efforts of hundreds of thousands of individuals who have worked tirelessly over the last decade to enrich our Constitution and to broaden our definition of justice by the inclusion of the 27th amendment.

The ERA will not be adopted to the U.S. Constitution this year. Another generation of young women is maturing without constitutional protection. A handful of legislators, armed only with misinformation and prejudice has circumvented the will of the majority of Americans. Despite my disappointment over this turn of events, I remain convinced that democratic principles will ultimately prevail. The ERA will be ratified.

The momentum for ratification continues to grow. The majority of the citizens of this country believe in equal rights for women—polls have shown consistent 2-to-1 support for the equal rights amendment. In addition, 35 of the 50 States—a clear majority—have ratified the ERA. It is a further tribute to those who have worked to dispel the myths surrounding this amendment that national support for the ERA has continued to rise dramatically. National polls indicate that, between January and May of this year, support for the ERA increased 13 percentage points. This is proof that an overwhelming majority of Americans, both women and men, support constitutional protection of equal rights for all citizens.

The movement for equality will not be abandoned because June 30 has come and gone. Equal rights proponents have sent a clear message to the Nation that equality under the law will be a critical issue at the ballot box this November and in elections to come.

The fight for a constitutional amendment to guarantee the rights of women will continue. The need for the ERA is as urgent today as it was 10 years ago when the ratification process began. The Reagan administration's retreat from basic equal opportunity commitments, now present in regulations and statutes, has served to highlight the need for a constitutional mandate for equal treatment regardless of sex. We will adopt the equal rights amendment. It is a long-overdue legacy to our sons and daughters.

To demonstrate my dedication to equal rights for women, and to prevent any erosion of the momentum that has been building toward the realization of this goal, I will join my colleagues in introducing the ERA on July 14 and will continue to work for its passage.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. PACKWOOD. On my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

Mr. TSONGAS. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. TSONGAS. I request, after the Senator has completed his remarks, that the time remaining be yielded back.

The PRESIDING OFFICER. There are 5 minutes remaining.

Mr. TSONGAS. The Senator from Delaware is the last speaker, and he may not use all the time but I suspect he will.

ERA AND THE CRIMINAL JUSTICE SYSTEM

Mr. BIDEN. Madam President, throughout the past 10 years opponents of the equal rights amendment have managed to wage an intimidating campaign as to why we should not ratify ERA prior to last night's deadline. Visions of unisex toilets, young girls in foxholes dodging bullets, not to mention lecherous male soldiers following them through those foxholes, and homosexual marriages have danced through many heads.

That is what we have been told would happen by those who have been most strident in their opposition to the equal rights amendment.

Those were the arguments of those who now celebrate what they see as a death of ERA.

Obviously, all of us here on the floor are announcing the rebirth of ERA, not the death of ERA.

Madam President, you and my colleagues have heard from a number of distinguished speakers this morning discussing various aspects of why the ERA is so important. I associate myself with the remarks of my colleagues this morning. But I am going to be very specific, if I may. I would like to address my comments to ERA and the criminal justice system.

Madam President, as I said earlier, I do not believe the ERA is dead. I believe it is very much alive. A number of us from both parties in both Houses will be reintroducing the amendment on July 14. Having learned our lesson from the experience of the past 10 years, those of us who believe that women should be afforded equal constitutional protection will be better able to focus the ERA debate on the real issues of equal treatment of our citizens by our laws and not have to spend as much time talking about coed bathrooms.

And what better place to start than with an examination of the way in which the equal rights amendment would impact upon our Nation's criminal justice system.

Did you know, Madam President, that in some States a man finding his wife in the act of adultery may kill her on the spot and face a reduced charge of manslaughter? If the situation were reversed, however, and the wife found him in the midst of such an act, she would not have the passion killing defense available to her and would have to face trial on the charge of murder.

Did you know, Madam President, that several States punish prostitutes but do not punish those who seek to pay for their services?

Did you know, Madam President, that the Mann Act prohibits transporting females across State lines for "any immoral purpose" but does not protect males in the same manner?

Did you know, Madam President, that 25 States have no statutory rape laws protecting young boys?

Were you aware, Madam President, that many States have no laws recognizing the possibility that forcible rape can be committed by a husband against his wife regardless of the circumstances and the degree of coercion involved?

Are you further aware, Madam President, that many States still mandate intermediate sentences for women, while providing for minimum and maximum sentences for men?

This is done in the enlightened belief that women are more amenable to rehabilitation than men, but what this leads to, Madam President, are situations in which women must serve either much longer or much shorter sentences than men serve for precisely the same offense.

Finally, Madam President, did you know that the U.S. Civil Rights Commission, in a report issued in December 1978, concluded that women in prison generally receive far less vocational training or job placement assistance than men, and that training offered in women's prisons tends to be sex stereotyped, tracking women into lower paying and more traditional jobs?

In each of these cases, Madam President, Federal and State laws have the effect of discriminating against one or the other of the sexes. In each of these cases, Madam President, the equal rights amendment would result in the elimination of this discrimination, sometimes merely by changing one or two words in the law in order to make it sex neutral. Let me cite just two examples.

The Mann Act could be made to protect both sexes against interstate transportation for immoral purposes simply by changing the word "female" to "person." Prostitution laws can be made to hold members of both sexes accountable for their actions by treating both prostitute and patron in a sex-neutral manner.

I point out at this time, Madam President, that no State operating with its own ERA has acted to legalize prostitution and that all these States, with the exception of Alaska, now operate under a sex-neutral law. Hardly the stuff of coed bathrooms; hardly the stuff of women in foxholes.

Madam President, it is simply not enough to claim that existing laws already give sufficient protection against sex discrimination. As we have seen, many existing laws actually embody such discrimination.

I might also add, Madam President, that Federal and State laws may be repealed at any time. Equal treatment under the law is an ideal that must not be subject to the time and caprice of 50-percent-plus-1 of any legislative body acting to satisfy some temporary popular sentiment.

It is not enough to claim, Madam President, that the Constitution already provides adequate protection against sex discrimination. In a recent Supreme Court opinion, Mr. Justice Lewis Powell wrote:

> The court has never viewed sex as inherently suspect or as comparable to racial or ethnic classification for the purposes of equal protection statutes.

Let us further remember that it took half a century following the passage of the 14th amendment to grant women one of the most basic American rights of all, the right to vote—one, I suspect, they will not forget in the next election, in the light of what has happened to ERA.

Remember, too, Madam President, that for several years after the ratification of the 14th amendment, many States still had laws preventing women from owning property and holding certain jobs. The history of equal protection for women under the 14th amendment, therefore, is at best uneven and uncertain.

Madam President, I look forward with great anticipation to the committee and floor debate on the equal rights amendment following its reintroduction on July 14. The American people, by an overwhelming majority, want their Representatives in Congress to take positive action on this great commitment to equal justice. Let us listen to them, Madam President, and let us keep in mind what I said yesterday with regard to a totally different issue, the nuclear freeze, nuclear disarmament, mutually balanced and verifiable treaties. I said then that the freeze is an example, once again, of the American people leading their leaders.

So it is on the question of equal protection for women; once again, according to the public opinion polls, the outpouring of support from women

and men, from Republicans and Democrats, from all people in this country, we have an example of the people leading their leaders. We leaders had better follow their lead in this instance, because they are dead right.

Equal protection for women will not arrive fully until it is enshrined in the Constitution of the United States of America and we are deft enough, we are wise enough, and we have enough commonsense to make sure that we do not have a constitutional amendment that requires the distinguished Senator from Kansas, Mrs. KASSEBAUM, and the less distinguished Senator from Delaware to use the same bathroom at the same time. It is absolutely preposterous, nonetheless apparently convincing in certain minority sectors of our society, to scare the living devil out of people, to suggest that is what the ERA is all about. It is all about an equal shot.

I thank the Chair.

Mr. QUAYLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Senator from Florida (Mr. CHILES) is recognized for 15 minutes.

Mr. CHILES. I thank the Chair.

CRIME CONTROL ACT OF 1982

Mr. CHILES. Madam President, for 5 weeks now, Senator NUNN and I have come to the floor of the Senate every day and spoken out on crime, and on the need for the Senate to act promptly on anticrime legislation. Fortunately, we have a unique opportunity to act, because there are two anticrime proposals currently pending on the Senate Calendar. Unfortunately, however, we will lose this unique opportunity to do something about crime unless we act soon.

Time is running out in this Congress. As few as 42 legislative days remain, and we have many other issues to deal with. I am convinced that the Senate must pass crime fighting bills soon, and get those bills over to the House of Representatives in order to have a chance to put tough new anticrime laws on the books.

I mentioned that there are two bills now on the Senate Calendar. The first one, S. 2543, is a bill that Senator NUNN and I introduced on May 19. The second one, S. 2572, is a bill that Senator THURMOND and Senator BIDEN proposed just before the Memorial Day recess. Both bills have received strong support; 17 Senators have joined as sponsors of S. 2543, and over 50 Senators, including Senator NUNN and me, are cosponsors of S. 2572.

Madam President, this broad-based support shows me that the Senate is hearing the voices of the public, voices of concern over the crime wave which has made their towns and neighborhoods dangerous places to live. One reason for this wave of violence has been the influx of illegal drugs and the traffic in illegal drugs. We have come to see that drug dealers rely on violence to get their way, and oftentimes innocent bystanders are the victims of this violence. Florida has been hard hit by this drug-related violence, due to the fact that such a large percentage of the illegal drugs that come into this country come in through Florida. Sometimes, the murders and violence you read about every day in Florida's papers are directly linked to the drug trade. Other times, when you look at the murder and the circumstances surrounding it, it becomes clear that it is linked to drugs.

Just such a case occurred recently in Pinellas County, Fla., just outside of St. Petersburg. Last Saturday night, county sheriff's officials found the bodies of three young men in a small, rickety, wood-frame house in High Point, just outside St. Petersburg. The three men were dead. They had been murdered in an execution-type operation by three masked killers. They were found face down on the floor, their hands bound behind their backs with tape. According to police, each one of them had been killed with shotgun blasts to the head, neck, or back, as they were forced to kneel before their killers. The murderers left no physical evidence behind, and police have been unable to develop any solid leads in the case.

There was one witness to the slayings. He was the 8-year-old son of one of the victims. The young boy was unable to identify any of the killers because they were wearing masks. However, while the boy may not be able to identify the murderers, I am sure that he will never forget the brutal scene he was forced to witness. The boy is safe with his mother now, but I worry about the scars he will have to carry with him for the rest of his life.

Madam President, according to the county sheriff's office, the murder has all of the earmarks of drug-related violence. First of all, the killing had been carefully planned, and the fact that every room in the house was ransacked indicates that the killers were looking for something. It turns out that one of the victims had a prior conviction 3 years ago for possession and distribution of marihuana. At this point, police believe that it may well have been drugs, or drug money, that the killers were searching for. It all seems to add up to yet another drug-related murder.

Madam President, a columnist in the St. Petersburg Times, in referring to another murder, had the following to say. His remarks are applicable here. He said, and I quote:

> Authorities have said little about the murders, other than to brand them "drug related," which is becoming a phrase we hear more and more "drug related." How many crimes are explained away in that manner every day? Perhaps multiple murders are passé now in drug-soaked Florida, but they shouldn't be. What happened wasn't just drug related. It was a tragedy.

Madam President, this murder was the 10th murder in the unincorporated area of Pinellas County this year. Last year, there were 12 murders for the entire year. Can the Senate do something to stop this violence, and the drug trafficking which is one of the major causes of it? I believe that we can. We can do so by taking action on either one of the two crime fighting proposals now on the Senate calendar. Both proposals contain stiffer penalties for persons convicted of drug smuggling, and for persons who use a dangerous weapon to commit a crime. Both allow the Federal Government to get involved in murder for hire cases. By passing these proposals, we can help turn around the fight against drugs and crime.

In closing, I want to again remind my fellow colleagues that with S. 2543 and S. 2572 both pending on the Senate calendar, we have a golden opportunity to do something about crime. As I have stated before, either of these proposals could be brought up at any time. We will lose this opportunity, however, if we do not take action shortly. With only 42 days remaining in this session, it is clear that the Senate's hourglass is rapidly running out. Realistically, our time is even more limited if we consider the time that we should leave the House to address this legislation. Therefore, I am urging the Senate in the strongest terms possible to move on the anticrime bills that we have before us.

Madam President, we know that the Senate majority leader is seeking a time limitation on these two particular bills. I join with him in urging that Senators agree to a time agreement. The majority leader is proposing that we consider this legislation this afternoon. Nothing would please me more than to have the Senate debate and pass these proposals today, so that they could be sent to the House and the House could then have an opportunity to work on these measures. I urge the Senate to heed the call of the majority leader and the many of us who have tried to stress the need for this legislation and who now wish to

bring this legislation before the full Senate.

Madam President, I will yield to the distinguished Senator from Georgia as much time as he may need. He is a cosponsor of these bills.

As I said earlier, I congratulate the Senate majority leader on seeking to get a time agreement on this crime legislation. I certainly hope that the Senate will give the majority leader the time agreement so that we might consider this legislation.

Mr. BAKER. Madam President, will the Senator yield to me?

Mr. CHILES. I certainly will yield to the majority leader.

Mr. BAKER. I hope so, too, Madam President. This may be our big chance to pass this bill because we have, I detect, a willingness to accommodate special requirements to take care of certain elements within the package. I indicated yesterday that I would call up two bills sequentially if that would make it easier for some Members to agree to a time limitation. We can pass that bill today and do it promptly in my view. I urge Senators to consider that if we can finish the jobs bill, which I think we can sometime midday or a little after that, there is ample time to finish this bill. I hope that Members will consider giving us a time limitation and withholding amendments. There will be all sorts of opportunities to offer amendments to other legislation, but this needs to be done. I commend the Senator from Florida and——

Mr. CHILES. The Senator from South Carolina, the chairman of the Judiciary Committee.

Mr. BAKER. The Senator from South Carolina and others who have been deeply involved.

Mr. CHILES. The Senator from Georgia.

Mr. BAKER. The Senator from Georgia. And your persistence is remarkable indeed. I feel sometimes like the stone on which the drop of water has dripped for a long time. I am worn down. You have convinced me that we ought to do this bill, and my request is that we do it today.

Mr. NUNN. If I might comment on that, we had a strong suspicion that if the Senator from Florida and I spoke every day for several weeks to the Senate on this issue, just to keep us from speaking in the future the Senate would be willing to take this up. I know the majority leader is doing everything he can to get this done, and I want to thank him for doing that. I encourage him to continue to push for this kind of time agreement. We will do everything we can to help him.

Mr. CHILES. I certainly want to thank the majority leader as well. He has tried to schedule S. 2572 and S. 2543, the two bills that are presently on the calendar. Considering these proposals now will give the Senate ample opportunity to pass a meaningful crime package. We thank him very much for this opportunity.

Mr. BAKER. I thank the Senator from Florida. One final word if the Senator will permit me.

Mr. CHILES. Yes.

Mr. BAKER. At some point after we do the jobs bill, or before that, if we can get some indication that we can get an agreement, I will propound a unanimous-consent request, and I hope Senators will not object. I hope that they will contact their respective cloakrooms and indicate the minimum amount of time and the minimum number of amendments we have to deal with.

Mr. CHILES. I thank the Senator. I yield to Senator NUNN.

TITLE III—SENTENCING

Mr. NUNN. Madam President, I stand before my colleagues again to raise the consciousness of the Senate to the issue of crime and violence. Crime is a major problem that has been growing like a cancer within our society. It remains largely untreated. Senator CHILES and I have described, example after example, the urgent and drastic need to stop these increasing crime figures. The Crime Control Act of 1982 will provide a clear warning to all criminals that their activity will be severely penalized. The time has come to deal properly with sentencing in the area of narcotics and violent crime.

Reports and surveys illustrate the need to reduce the ever increasing criminal activity. The Justice Department has reported that nearly 1 out of 3 American households was touched by serious crime last year. Experience shows that violent crime will continue to grow unless and until our criminal justice system consistently accords violent offenders the tough sentences which their acts deserve.

Madam President, I am hoping that we can pass this legislation that Senator THURMOND and Senator BIDEN have sponsored. Senator CHILES and I are cosponsors of that legislation. We have our own legislation. There is an awful lot of duplication between our bills. I have been the chairman of the Permanent Subcommittee on Investigations and the ranking member now for approximately 3½ to 4 years. When I was chairman we spent most of our time investigating organized crime and narcotics activity, labor racketeering. There was a huge void in this area in terms of overall congressional scrutiny. We have focused attention on that. The Judiciary Committee has done a remarkable job of marking up this legislation, much of which came out of those investigations that we had in the Permanent Subcommittee on Investigations.

I am hopeful that we will be able to take up the Thurmond-Biden bill. I am hopeful that we will be able to take up the Nunn-Chiles bill, and I am hoping between the two we will be able to pass the most comprehensive reform of our criminal approach that we have had in many years in this country. Certainly all of us recognize that an awful lot of this has to be done at the State level; the Federal Government cannot solve all of these problems, but at least we can set an example in the Federal system of a criminal justice system that is fair, not just to the defendant but to the law enforcement community, to the victims of crimes in this country and to the public and society at large.

Unfortunately, our system has thus far failed to meet that challenge. Take, for example, the recent case of Dennis Scott Kaplan. A Florida jury in February found Kaplan guilty of taking a 21-year-old Fort Lauderdale woman to a vacant field, beating and raping her and then abandoning her. Despite the violent and serious nature of Kaplan's crime, the trial judge sentenced him only to 120 days in county jail for a crime which, under Florida law, had the maximum sentence of 15 years. Such a lenient sentence is hardly the kind of effective response needed to deter future criminal acts. Kaplan was sentenced to serve his time in a county jail because the judge feared that this proven violent offender might himself be subjected to "violent sexual abuse" in a State prison. Kaplan also received 3 years probation and was ordered to seek counseling.

This case is yet another example that clearly illustrates the dire need for enhanced penalties for those who commit violent and offensive crimes. Although the Kaplan case occurred within a State system, it is symptomatic of a problem which permeates the Federal system as well. Despite the need for governmental and citizen action at all levels—Federal, State, and local—very little is being done to strengthen law enforcement and our criminal justice system. S. 2543 will bolster law enforcement efforts within the Federal system by providing enhanced penalties for violent offenders. If one commits a serious crime, then one must be properly and adequately penalized. Without such penalties, our criminal justice system loses credibility in the eyes of both the offender and the victim.

Strong anticrime legislation must provide our criminal justice system with an effective means of combating the growing and complex problem of violent crime. S. 2543 will help insure that those who commit serious acts of violence will be prevented from serving such a lenient term as that given Kaplan. The Senate should act now, by way of strong anticrime legislation, to send a clear warning to all criminals that we will no longer tolerate their

violent and criminal affronts on the American public.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. I will not be asking at this time for unanimous consent to go directly to the jobs training bill, but I will as soon as the distinguished minority leader arrives on the floor or a designee of his. I will be asking unanimous consent to proceed to S. 2036, the jobs training bill.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. QUAYLE. I withhold.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 20 minutes with statements therein limited to 5 minutes.

Mr. QUAYLE. As I said, Madam President, I am going to suggest the absence of a quorum. Immediately following that I am going to ask unanimous consent to go directly to the jobs training legislation, notwithstanding the remaining morning business.

I will not propound that unanimous-consent request until the distinguished minority leader arrives or a designee of his to propound that unanimous-consent request, but that is what I intend to do.

THE BALD EAGLE

Mr. STEVENS. Madam President, earlier this month, Governor Hammond signed into law an Alaskan statute setting aside 50,000 acres for National Eagle Sanctuary in southeast Alaska. It is ironic that in this year of the 200th birthday of our Nation's symbol of freedom, the bald eagle is endangered or threatened by extinction in every State but Alaska.

Alaska's 30,000 bald eagles represent a population 10 times greater than the other 49 States combined. The 18-mile stretch of the Chilkat River, between the lumber town of Haines to the Native village of Klakwan attracts the largest winter convention of bald eagles in the world. Up to 3,500 of these birds can be seen sitting row after row on the spruce trees lining the river.

Timbering is the major resource use for the valuable timber stands in the Chilkat Valley. Over the years antipathy developed among lumber companies, conservationists, local, State, and the Federal Government.

For years there have been discussions about preventing the clear-cutting of the valuable timber stands in the Chilkat Valley as a way of protecting the habitat of the eagles. Since passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971—the precursor of the Alaska National Interest Lands Conservation Act (ANILCA) which was signed in December 1980—there has been controversy about timber harvests in the Chilkat Valley. An amendment attempting to designate the Chilkat Valley as a Federal preserve were proposed during the ANICLA debates, but I fought against that proposal. Wildlife management is the traditional responsibility of the State, and the Federal Government should not intrude in a matter which the State was more than capable of handling. I fought as a representative of so many Alaskans who did not want unwarranted Federal intrusion in their land. Although the Federal Government was attempting to protect the State's wildlife, and scenic beauty, Alaskan's believed then, and still do today, that management can be accomplished through the State's excellent wildlife management program; that a State can accomplish conservationist objectives, but at the same time allow for development of its tremendous potential of energy resources.

This proposal was defeated, based upon assurances that the State was capable of resolving the conflict. The Alaska bill which Governor Hammond signed reflects intensive efforts by the State Department of Natural Resources in foregoing a compromise plan for management of Chilkat Valley. The bill protects the eagle's habitat, while permitting harvest of timber resources on adjacent lands under State law. The bill is supported by national conservation groups such as the National Audubon Society and the Sierra Club, and by prodevelopment organizations such as the Haines Chamber of Commerce, the timber industry, and the Alaska Miner's Association.

This Alaska legislation indicates that not only is it possible to reach an equitable compromise between development and conservation, but that compromise can be shaped at the State level where it belongs.

Congress seemed to ignore this fact during the Alaska Lands debate, but the inevitable and undeniable truth is that strides in preserving and protecting wildlife in order to perpetuate wildlife in their essential habitats can be accomplished by the State of Alaska who has for years, and will continue to maintain in the future a viable and equitable wildlife management program.

BASIC RESEARCH AND BELL LABS

Mr. SCHMITT. Madam President, soon after coming to the U.S. Senate, I joined other members of the Communications Subcommittee in conducting a complete review of the regulatory structure governing our domestic and international communications system. As a result of this review, it became apparent that Congress must update the Communications Act of 1934. New communications technologies offer new choices to the consumer, rapidly replacing a monopoly-based industry with one that should be based on marketplace competition.

Several bills were considered by the subcommittee in 1979 and 1980, and in 1981, S. 898, the Telecommunications Competition and Deregulation Act of 1981, was reported out and passed the Senate 90 to 4.

Throughout our discussion and debate on this legislation, one of my major concerns has been the impact of any changes in the regulatory procedure or industry structure on the efforts of the Bell Laboratories to conduct basic research. I am satisfied that S. 898 would not adversely affect that important function of Bell Laboratories.

After announcement of the proposed settlement of the Justice Department's suit against American Telephone and Telegraph (A.T. & T.), I expressed concern that the divestiture of the Bell Operating Cos. that now provide substantial financial support to Bell Laboratories would be contrary to our national interest. Executives of A.T. & T. assured me they would continue to fund basic research. While I am not completely satisfied that the restructuring of A.T. & T. will not adversely effect our Nation's need for basic research, I am convinced the A.T. & T. management will attempt to fulfill their committment. Whether it can is another question.

There is a real concern, however, that H.R. 5158, under consideration by the House Energy and Commerce Committee, will further inhibit Bell Laboratories. Business Week magazine published a thorough analysis of this issue which I want to bring to my colleagues attention. I ask unanimous consent that this article be placed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Business Week, July 5, 1982]

BELL LABS: THE THREATENED STAR OF U.S. RESEARCH

Uncle Sam has taken his lumps recently in the world marketplace, but he is still the undisputed world leader in high-technology industries such as semiconductors, computers, and lasers. U.S. innovation created those industries and is still their driving force. A large part of that research base comes from just one source—Bell Laboratories, the research and development arm of American Telephone & Telegraph Co. But now the forces that are reshaping AT&T also threaten to cut off the flow of basic research from Bell Labs, endangering that U.S. leadership.

The tremors of change already are beginning to shake Bell Labs' headquarters in Murray Hill, N.J. As government regulators alter the rules under which AT&T must operate, their actions shift the laboratories'

position in the company, its sources of funding, and its R&D priorities. Bell Labs made its reputation in basic research and unquestionably is the preeminent industrial research institution in the U.S., if not the world. The labs are perhaps best known for the invention of the transistor, but they have also been prolific innovators in such areas as voice recording, radio astronomy, the solar cell, and lasers.

The way the labs operate is bound to change significantly as a result of the consent decree between AT&T and the Justice Dept.—and even more significantly if the current rewrite of the Communications Act of 1934 becomes law. The end result of these changes will be that Bell Labs no longer will be able to concentrate on what it does best—basic research. Instead, it may be redirected to typical product development, as is done by most industrial labs. "It is possible to kill Bell Labs as we know it," warns Arno A. Penzias, vice-president for research at the labs.

Bell Labs is the only significant survivor of an age when industrial laboratories did most of the nonproduct-oriented scientific research. Now virtually all basic research is conducted by universities, and corporate labs concentrate on applied R&D. "Most other organizations are looking at how to exploit technology, not at how to push it forward," comments John A. Roth, executive vice-president of Bell-Northern Research Ltd., the Canadian counterpart of Bell Labs that is itself a technology exploiter now.

In basic science, Bell Labs has been a marvel of innovation for more than 50 years. It will spend nearly $275 million on basic research in 1982—more than does the rest of U.S. industry, which has that work done mainly on the campus. Although basic research accounts for only slightly more than 10% of the labs' $2 billion annual budget, it has produced a prodigious flow of technology that has given the laboratories its formidable international reputation. Bell Labs is a "national treasure," says Michiyuki Uenohara, senior vice-president and director of research at Nippon Electric Co., Japan's largest producer of telecommunications equipment and semiconductor products. Changing it, he warns, "would be very damaging to the U.S."

AT&T has carefully fostered this leadership image to use in its corporate campaigns. Now a worried AT&T is using the labs as a central part of its major lobbying campaign and media blitz to defeat the overhaul of the Communications Act proposed by Representative Timothy E. Wirth (D-Colo.), which would go further than the consent decree in breaking up the company. Bell Labs also has its own public relations staff of nearly 60 to work with the press and to produce a long list of specialized publications.

Despite all the hype, though, it is becoming increasingly clear that any major shift from Bell Labs' current emphasis on basic research to conventional product development will hurt the nation and U.S. industry far more than it will AT&T. Bell Labs now has 10,000 patents in effect and is receiving new ones at the rate of one a day. And under a 1956 antitrust consent decree, AT&T was required to license those patents to other companies. It has 400 licensing agreements with U.S. companies and nearly 200 more with overseas corporations. "Without Bell Labs, there would be no Silicon Valley," says Bell Labs' Penzias. Semiconductor researchers readily admit that it would have taken years longer to make the shift from vacuum tubes to semiconductor chips without Bell.

From now on, AT&T will keep a tighter rein on its technology. Under the new consent decree, the company will no longer have to license its patents. At the same time laboratory officials concede that they will scrutinize scientific papers more closely for commercial value before they are published. "It is inevitable that we will be less free with publication," says Klaus D. Bowers, vice-president of electronics technology at Bell Labs.

At least one licensing agreement has already run into a snag. Negotiations to renew the arrangement that AT&T has had since 1966 with Japan's Nippon Telegraph & Telephone Public Corp. have suddenly become "very delicate," admits NTT President Hisashi Shinto. The problem is that NTT, which has no manufacturing arm, wants to incorporate technology from its Bell licenses into equipment that it has made by outside manufacturers. Bell Labs officials deny that there is any connection between NTT's difficulties and AT&T's business plans, but observers note that the Japanese company's licensees will be international competitors to Bell, which soon will reenter overseas markets in a big way.

The NTT agreement is a special case, but observers expect rubber-stamp renewals of licensing agreements with AT&T to become a thing of the past. And they assert that the company has a potential gold mine in commercializing its own technology. "Revenues may increase markedly if Bell Labs no longer has to license its technology to all comers," comments Gene I. Rochlin, a research policy analyst at the University of California's Institute for Government Studies.

CONSISTENT FUNDING

The key to the labs' success in basic science has been steady, long-term funding. From a single facility on downtown Manhattan's West Side, Bell Labs has grown into a sprawling empire with laboratories in 21 locations and nearly 25,000 employees. The lab directors over the years were able to shape a facility that combined the best aspects of academic life with industrial research. Bell scientists work in a campus-like environment where they can meet for breakfast in the cafeteria and play chess or softball during lunch. Unlike their campus counterparts, the Bell Labs scientists are not under continuous pressure to apply for research grants, and they have access to the best equipment.

Bell Labs has a better report card in basic research than do the universities, lab officials maintain, because its scientists are in constant contact with development engineers—a critical difference. "We do well because we are not an ivory tower institution," says Penzias. "We are at least as realistic as anyone else." Bell scientists believe that even basic research is done best when there is a clear goal in sight. For example, the project at Bell Labs that led to the invention of the transistor was begun 10 years before because researchers were looking ahead and saying, "20 years from now we will not have enough electrical power to provide for the heaters in the vacuum tubes," says C. Kumar N. Patel, executive director fo the Research Physics Div.

Bell Labs lost a battle within the corporate councils of AT&T, failing to persuade corporate officials not to settle the Justice Dept.'s antitrust lawsuit by agreeing to divest the operating telephone companies. Lab executives fought against divestiture because they did not want to lose direct contact with their customers. Other parts of AT&T, such as Western Electric Co., believed that giving up the operating companies was a fair price in return for AT&T's right to enter markets that were closed to the company by the previous consent decree, in force since 1956. "Divestiture wasn't our idea," says Bell Labs President Ian M. Ross. "We argued long and loud for running the network from end to end, and we didn't win."

Without the close link to the operating companies, the labs' customer feedback will cease. "Research done without the customers' needs in mind has difficulty—great difficulty. You flounder around in the dark," argues John S. Mayo, Bell Labs executive vice-president for network systems.

Another loss to the labs will be the working conditions that have attracted so many top scientists. "The ability to attract people will be very different," Bowers contends. Bell Labs has had the pick of graduating physicists and engineers. Seven of its scientists have won Nobel prizes, and its alumni are found throughout the communications and electronics industries and on the faculties of major universities. "We have the best theoretical physics group in the world," claims Penzias, who won a Nobel prize in 1978 for his discovery of the echoes of the "big bang" that gave birth to the universe billions of years ago.

LOCKED AWAY FROM COLLEAGUES

Nobel-class physics, however, may not be what the new AT&T needs in a corporate R&D facility. Already, AT&T's first forays into the competitive world are changing the face of the laboratory. Its American Bell Inc. subsidiary, set up on June 11, will market a product called Advanced Information Systems (AIS)—a network that will enable different types and brands of computers and terminals to communicate directly with each other over the telephone network. Because the new subsidiary—nicknamed Baby Bell—has to be kept separate from the company's telephone operations, it took 450 Bell Labs employees who are developing software and technology for the new system. Those employees, located in several laboratories, will be separated from their Bell Labs colleagues by locked doors.

Bell Labs will be needed for another new task that is a long way from basic research. The company is moving back into the international market after a hiatus of 50 years, and the task of adapting U.S. equipment to the standards required by overseas communications companies will fall to the laboratories. The consent decree leaves Western Electric, the company's manufacturing arm, wide open to competition from foreign competitors such as Philips, Siemens, Ericsson, and Northern Telecom, "and we feel there will be a loss of market share," says Charles E. Hugel, an AT&T executive vice-president who is also chairman of newly formed AT&T International Inc. "We are going to have to fill that loss with other markets," he says.

The divestiture of AT&T's telephone operating companies under the consent decree, now awaiting the signature of U.S. District Judge Harold H. Greene, lops some $100 million out of Bell Labs' budget for basic research. Although the operating companies will be able to contract with Bell Labs for specific research projects, they have never been eager supporters of Bell Labs' basic re-

search effort and may set up an independent engineering center.

Even bigger changes at the labs may be ahead. The Wirth bill would make the situation worse by placing barriers between Bell Labs and the only remaining operational part of the company—the Long Lines Dept. To keep regulated customers from subsidizing the profit-making parts of the company, Long Lines would be allowed by this legislation to contract only for specific research projects. It would be barred from contributing to the funding of the labs through AT&T as it now does, affecting an additional $90 million that now flows into the laboratories.

"The Wirth Bill tears at the very heart of the thing that has made Bell Labs so productive over the years," says Mayo. Wirth says that the Bell officials' fears are unfounded: "The bill isn't intended to impede either basic or applied research."

With the ability to market as well as manufacture, Western Electric—which now contributes 53% of the labs' annual budget—is eager to play a larger role in what research gets done a Bell Labs. Says President Donald E. Procknow: "Western will definitely be more prominently arrayed in AT&T." The story will be different, too, in basic research. "Anything you pay for development, you have got to get back," maintains Paul Zweier, executive vice-president of Western Electric.

In the past, Bell Labs has exerted a tremendous influence on AT&T. "The labs have, in fact, been the shadow government of AT&T," says Howard M. Anderson, president of the Yankee Group, a Boston consulting company specializing in communications. Anderson adds that "in most corporations, the manufacturing arm has an R&D department. At AT&T, the research department had a manufacturing arm."

"A BIG HASSLE"

Executives at Western Electric, as well as AT&T, expect to change that and are laying plans for future products that deregulation will allow them to market. And its priorities are clearly for marketable products. "There will be a big hassle over who funds what," predicts Western's Zweier.

Although the company says that this planning effort is in the very early stages and will not discuss any specific projects, the direction of the thrust is evident. Executives insist that they plan to stick close to Western's present role as a systems supplier in the telecommunications business. "We are not going to get into the cat- and dog-food business," says Solomon J. Buchsbaum, executive vice-president for customer systems at Bell Labs.

Bell Labs maintains, however, that its new R&D role will not be as constrained as it has been in the past. "We are now free to follow our technology where it leads," says Bell Labs' President Ross. And one very important direction has already been set by the FCC's decision to allow American Bell to market AIS. Bell systems engineers are working hard to convert the entire phone system into a digital communications network, substituting the off-on computer code of digital signals for continuous-wave voice signals all the way to each handset. When that process is completed, computerized information technologies such as videotex can easily be plugged into the system. "The whole telephone network will be one enormous computer," says Victor A. Vyssotsky, executive director for research at the Communications Principles Div.

This merger of computer and communications technologies takes advantage of what Bell Labs sees as its major strong points: microelectronics and computers, computer software, and photonics—using light like electricity in switching and computing devices. The building of the next generation of semiconductor chips is a crucial technology, and Bell Labs holds the basic patent on molecular beam expitaxy, a production technique for making devices literally an atom at a time that it believes will be very important in turning out these incredibly complex circuits.

Bell Labs has, for example, built an integrated circuit from gallium-arsenide that incorporates 16 tiny lasers along its edge. That chip will be used in converting electrical signals to light. The laboratories also hold basic patents on Josephson junctions, ultrafast electronic devices that work at supercold, liquid-hydrogen temperatures and promise to make possible extremely fast, very small computers.

Even though it started the semiconductor revolution with the invention of the transistor and has always had plenty of money to keep this development work going, Bell Labs fell far behind in the early 1960s when it decided not to work on what was to become the most important semiconductor manufacturing process. Its researchers did not push MOS (for metal-oxide semiconductor), because they believed that chips made from this process had reliability problems.

STICKING TO SCHEDULE

A massive catch-up effort was begun a few years ago, and now Bell Labs believes that it is finally about to bear fruit. Western Electric expects to go into pilot production this summer with the latest generation of random access memory chips—the 256K RAMs. Bell Labs and Western Electric failed to turn out earlier-generation memory chips at competitive costs. If the labs sticks to the schedule, it will win the race to begin production of such a large-scale computer component, which stores 256 times more data than 10-year-old chips but has roughly the same price and the same size as the older chip.

Another highly important research area in which Bell Labs had to play catch-up was in software, the lists of instructions that tell a computer how to do a job. After a heavy investment in time and effort—software now accounts for nearly half the research effort of the labs—Bell Labs now believes that it has a commanding expertise in software design. An operating system called UNIX, which Bell Labs scientists began developing in the late 1960s, for example, is now a favorite in a race to become the standard operating software for the 16-bit microcomputer market.

Bell Labs also considers itself a leader in developing "friendly" software that makes it easier for a layman to use a computer. To support this work, the labs have a large group of psychologists and human-factors experts. And it also believes that it has an edge in designing computers with high-quality speech synthesis that makes it possible for machines to understand human speech. "We are moving toward the friendly interface" between man and machine, declares Vyssotsky.

Despite such powerful technology, some industry observers question whether Bell Labs will be much help to AT&T in the competitive arena. They contend that the labs have used success in basic sciences to conceal poor performance in commercializing products. "On one hand they brag forever about the infinite stream of Nobel prize winners," notes Yankee Group's Anderson, "and on the other hand they leave AT&T barefoot and pregnant."

Part of that poor performance is taking too long to bring out new products, and this could be a real problem. The labs are certain to come under strong pressure from Western Electric to develop products on a far shorter timetable. "They don't do well on quick timetables, and that could hurt them," observes Chairman William G. McGowan of MCI Communications Corp., an increasingly vigorous AT&T competitor in long-distance communications. The goal of making products that are totally reliable, however, is ingrained at Bell Labs. Field trials, for example, are incredibly long, and all new equipment has had to be compatible with every piece of AT&T gear already in place.

One market where a delay in bringing out new products has hurt AT&T is the computer-controlled, digital private branch exchange (PBX). "This is a $2.5 billion market where everyone is pushing and shoving to get in," Anderson says, "and here you have the major player with a product that's six years old." Weakness in software design, a vital part of such a product, was partly responsible for the labs' problem here, he maintains. Even though Bell Labs asserts that it had developed the critical technology, it was beaten to the market. Northern Telecom Ltd., for example, made a decision in the early 1970s to develop a digital PBX and entered the market in 1976. Now the Canadian telecommunications equipment maker has a major position in this market and numbers among its customers many of the AT&T operating companies.

The digital PBX is a sore point at Murray Hill. "They keep [dumping] on us over the digital PBX," says an angry Penzias. Bell Labs executives maintain that they first chose to convert the large switches in the telephone network to digital technology. Claims AT&T's Hugel: "We elected to put digital into our largest, most complex technology. We [still] believe we are going to have the best digital switch anywhere in the world, and there's not going to be anybody near it."

But applied research at Bell Labs is not what most U.S. electronics manufacturers are interested in. They would like to see Bell Labs continue to emphasize its basic research work and offer them licenses. They hope that AT&T will manage to maintain a basic research operation even if it is separated from the rest of the company and run as a subsidiary. "Bell Labs ought to be restructured to leave it more of a fundamental research institution," says Richard M. Moley, marketing vice-president at Rolm Corp., a Santa Clara (Calif.) manufacturer of digital PBXs, a business that he admits "would have been impossible for us to get into without a license from Bell on two key concept patents."

The telephone company is still unsure of just what the future of Bell Labs will be. Says AT&T's Hugel: "One of my objectives is to produce as little change as possible as far as the climate for productivity in the labs is concerned. But what 'as little' is depends on what happens in Washington." Bell executives hope that the labs will withstand the impact of change. They believe that the corporate tradition of technology that exists in AT&T will hold the labs together. But they also realize that, for the first time, they are at the mercy of the marketplace. Says Buchsbaum: "We will sink or

swim according to what the market decides."

When the antiballistic missile program was scuttled a decade ago, Bell Laboratories all but abandoned the defense business. In 1971 more than 30% of its revenues had come from defense work; by 1976 that share had dropped to a bare 2%. But now—with their funding from American Telephone & Telegraph Co.'s operating companies threatened—the labs are quietly moving back into the military market.

Bell Labs has long had strong ties to the Pentagon. The labs played a potent role in the development of radar, sonar, and fire-control systems. And Bell System telephone lines carry more than 95% of the critical communications between the White House and the defense agencies. As a result, defense experts argued vigorously against breaking up AT&T in a vain attempt to keep that system intact. Asks one high-ranking naval researcher: "What good will this divestiture business do anybody, anyway? If it causes Bell Labs to be cut adrift, believe me, there will be serious complications for us."

The Nike missile launched the labs into post-World War II defense work. This weapon system had evolved by the late 1960s into the controversial Safeguard ABM system, and Bell was a major contractor. But them "the SALT treaty knocked out the ABM," says J. W. Schaefer, executive director of Bell Labs' Military Systems Div.

ENERGY BURST

One of the few defense projects Bell Labs continued was research on Navy underwater sound systems that pinpoint enemy submarines precisely. The labs also play a little-known role in helping to run—for no fee—Sandia Corp., a wholly owned subsidiary of Western Electric Co. that oversees design, development, and manufacture of nuclear weapons.

A project that has high priority both in the national security agencies and at Bell Labs is the protection of the communications system against "electromagnetic pulse." EMP, as it is called, is a burst of electromagnetic energy that is created when a nuclear weapon exploded in the upper atmosphere. That sudden surge of energy could knock out the nation's entire communications system—both military and civilian. Bell Labs has been working for the past seven years on a new system of switches that quickly gets rid of the EMP pulse before it can do any damage to the system. "Bell labs has been doing a great deal of research on what to do about the EMP problem," says Lieutenant General William J. Hilsman, director of the Defense Communications Agency.

In the Bell System's new, deregulated world, military work looks more attractive. It was the threat of growing competition—coupled with increasing Pentagon pressure to undertake such projects as EMP—that made Bell Labs' management decide in the mid-1970s that "we should begin to broaden our base," says Schaefer.

BIGGER PROJECTS

So far, the share of research for the military at the labs has not grown much above the 3 percent figure. But Bell Labs officials can foresee the figure growing quickly to about 10 percent—a figure that was a goal of the labs in the pre-ABM days. While Schaefer refers to ongoing work as "a smattering," others do not rule out bigger projects. "We're a systems company, we understand managing large projects," declares Charles E. Hugel, chairman of AT&T International Inc.

Indeed, Bell built the vast Distant Early Warning (DEW) line of radar stations from Alaska to Iceland. And if the ABM program is resurrected, as some military analysts expect, Bell Labs is likely to be an eager participant. "The military side of government is a voracious eater of new technology, and we are good at [providing] that," comments Solomon J. Buchsbaum, Bell Labs' executive vice-president for customer systems, which includes military work. Buchsbaum adds that whatever the government asks Bell Labs to do, "we will sit down and ask ourselves why we shouldn't do it," he says. "So our response will be a positive one, rather than looking for excuses not to do it."

RADIO BROADCASTING AND FREEDOM OF EXPRESSION

Mr. SCHMITT. Madam President, last year the Senate passed S. 270, the Radio Deregulation Act of 1981, which I introduced on January 27, 1981. The major provisions in that bill were later incorporated in the Senate's budget reconciliation package. Unfortunately, in conference on this package the House of Representatives rejected several provisions necessary to fully deregulate radio broadcasting through statutory action. On March 31, the Senate again passed a bill, S. 1629, deregulating radio broadcasting.

I was greatly encouraged to read press reports this week that the chairman of the House Telecommunications, Consumer Protection, and Finance Subcommittee, TIM WIRTH, is giving serious consideration to legislation that would deregulate radio broadcasting. We welcome the House activity.

From our standpoint, congressional action is long overdue on this subject. However, Senator BOB PACKWOOD, chairman of the Senate Commerce, Science, and Transportation Committee, in a feature article that appeared in Broadcasting magazine, made a persuasive argument that statutory deregulation of the radio broadcasting industry is not enough. To insure that all forms of the electronic media are permanently guaranteed freedom of expression, Senator PACKWOOD contends we must amend the Constitution.

This is an issue of importance to all Members of this body and the American people. I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAKING A CASE FOR CONSTITUTIONAL PROTECTION OF THE ELECTRONIC MEDIA

(A regulatory commentary from Senator BOB PACKWOOD)

Broadcasting's recent editorial [June 14] on Simon Geller's losing battle with the Federal Communications Commission to retain his license for WVCA-FM Gloucester, Mass., raised the question of where the FCC is going on radio deregulation and the broadcaster's right to program to his market. In my judgment, the Geller case is the most compelling argument for complete statutory deregulation of the radio broadcast industry, and for expansion of the First Amendment guarantees of freedom of speech and press to the electronic media. The heart of this matter is that Simon Geller's station is being pulled off the air because the government disagreed with what Geller was—and was not—broadcasting.

This power is the essence of government censorship and this case illustrates why I have proposed an amendment to the United States Constitution that would expand the First Amendment guarantees of freedom of speech and press to the electronic media.

The commission's decision in this case is based on an outmoded regulatory scheme that ignores the number and variety of radio broadcast outlets. Since enactment of the 1934 Communications Act, the number of radio broadcast stations has increased more than 15-fold (from 583 to over 9,000). There are a variety of radio stations available to almost all Americans. The FCC's 1981 figures show that 17 cities have 30 or more stations, 46 cities have 20 or more and 137 cities have at least 10 radio stations.

The FCC's study also showed that there is sufficient competition even in rural and semi-rural areas. Moreover, radio stations must compete with other news, information and entertainment sources, including television (public, commercial, subscription and cable), films, records, magazines and newspapers.

Yet, the extensive regulatory scheme that developed during radio's infancy is still being applied by the FCC. Although the commission is preparing to argue on behalf of its radio deregulation order in the D.C. Court of Appeals, the commission's strict interpretation of its statutory prerogatives in this case did not comply with the "spirit" of that order.

Last year, the Senate recognized that the FCC's involvement in program content must not be left to the vagaries of commission policies that are subject to reinterpretation by the commission or the courts. Unfortunately, except for lengthening the license term, the Senate was not successful in convincing the House of Representatives that such legislation should be enacted.

Again, this year, the Senate unanimously passed S. 1629, the Broadcast Deregulation Act of 1981. That bill contains provisions to completely deregulate the radio broadcasting industry and to eliminate competing applications for radio and television at renewal time.

If S. 1629 were the law, Geller would not have not to provide the news or public affairs programing that is readily available on competing stations. He would not have faced a competing applicant who merely promised to do a better job and he would still have his license.

The Senate bill focuses upon the licensee's record of performance rather than a challenger's promises. The bill bands competing applications, and the resultant expensive, time-consuming and arbitrary comparative hearings, such as the one experienced by Geller.

The comparative procedure was adopted originally to provide a competitive spur to broadcasters. The FCC's decision in the case of Simon Geller was based on these outdated comparative procedures that do not recognize the changed marketplace for radio broadcasting. Today, the real competitive

spur is not from potential challengers to a broadcaster's license renewal but from the overwhelming diversity of audio and video programing in urban markets and the increasing use of new technologies.

The following facts dramatically illustrate that the public interest is not being served in this case. Geller has been on the air for 18 years, through four license renewals. The people of Gloucester obviously enjoyed his programing and were well-served. What is equally obvious is that these same citizens did not rely upon Geller for nonentertainment programing. According to the commission's records, 48 (27 AM and 21 FM) other radio stations serve Gloucester. The administrative law judge found that the area is well-served by this multiplicity of stations. The FCC's decision rejected this finding and concluded that the record did not provide much evidence as to the nature of the service being provided by these many stations.

This case is also an outstanding example of the regulatory delay and uncertainty that do not benefit broadcasters or the public and that should be eliminated. Geller filed his last renewal application in November 1974. Some time later, the challenger filed its application. Yet it was not until February 1977 that the FCC designated this case for hearing. It then took the administrative law judge until June 1978 to decide in favor of Geller. Not to be undone, the FCC staff appealed to the full FCC. Almost two years later, on May 20, 1982, it voted 4–2 to take away Geller's license. The total time for this regulatory nightmare was over seven-and-a-half years. Another regulatory example of justice delayed being justice denied.

Clearly, the marketplace contains enough incentives for free and open competition in the broadcast industry without governmental intervention, particularly in radio broadcasting. Such competition is vital, not just in the economic marketplace, but in the marketplace for ideas and for the free expression of those ideas.

Deregulation benefits broadcasters and the public by insuring that government regulations are not used to usurp the First Amendment freedoms of broadcasters, and those of the listening public. In this case, FCC regulation was used to defeat the public interest rather than to promote it. The marketplace that was operating in Gloucester was ignored, and a government agency substituted its judgment for that of a broadcaster who had demonstrated that he was serving the needs and interests of his community.

The commission also noted that Geller's program efforts are inadequate when measured against the FCC's own deregulatory order, currently undergoing court review. The commission stated that licensees will still have to address the issues which they believe are of importance to the general community or to their listeners, depending upon the availability of other radio services. Is that not what Geller did? Yet the FCC admits that its deregulatory order probably would not go far enough to allow Geller to retain his license.

Passage of S. 1629 would help insure that the FCC could not silence the Simon Gellers of this country. Future Congresses, of course, could change their minds, and reimpose regulation. Furthermore, because radio regulations are ultimately based upon the "public interest" standard, this bill cannot prevent a future commission from interpreting the "public interest" in a manner that would effectively circumvent the congressional intent expressed in S. 1629.

The Geller case, then, raises issues that are far more fundamental than the pros and cons of statutory and administrative radio deregulation. Our nation was founded on the principle that the government has no business regulating speech and the press. These essential protections have not kept pace with technology. As electronic communications continue to grow in importance, and as new communications methods develop almost daily, we cannot allow the Congress, the courts and the FCC to decide that electronic speech deserves less than full First Amendment protection. S. 1629 may be the short-term answer to Simon Geller's problems, but only a new constitutional amendment can fully and permanently protect our most fundamental rights.

This new amendment would apply full First Amendment protections to the electronic media. The amendment would expand free press and speech principles, but would not alter the language of the existing First Amendment. I do not propose to "amend" the First Amendment.

I invite all those who are concerned about freedom of expression for the electronic media to join me in support of this effort.●

NOMINATION OF GEORGE P. SHULTZ AS SECRETARY OF STATE

Mr. KENNEDY. Madam President, the events surrounding the nomination of George Shultz as Secretary of State raises serious issues which the Senate must consider in the forthcoming confirmation process.

First, I believe that the country is entitled to a full explanation of the circumstances and reasons for the resignation of Alexander Haig. I disagree with President Reagan's statement at his press conference last night that these circumstances are none of the people's business. In his letter of resignation last Friday, Mr. Haig wrote that "the foreign policy on which we embarked together was shifting from that careful course which we laid out." The President cannot simply refuse to discuss these troubling developments. I hope that the Committee on Foreign Relations will seek this information directly from the administration and from Secretary Haig, so that we may learn the lessons of past mistakes and insist on better foreign policy leadership in the future.

Second, on the nomination of Mr. Shultz to be Secretary of State, I hope that the Committee on Foreign Relations will conduct a complete and searching review of the potential conflicts of interest that may exist because of Mr. Shultz' 8-year association with the Bechtel Group and the worldwide investments and involvements of this giant multibillion-dollar, multinational corporation.

In particular, on the extremely sensitive and complex issues in the Middle East, I know that the committee will thoroughly explore Bechtel's major contracts with Saudi Arabia and other Arab governments. In the past, Bechtel has been charged with complicity in the Arab boycott of Israel—a violation of the laws of the United States.

Third, we must deal with the extraordinary disarray in U.S. foreign policy. Sixteen months after taking office, this administration lacks Presidential direction, a coherent strategy, or even an effective administrative structure for dealing with the major crises and foreign policy challenges which we face. Throughout the world, America is no longer seen as the force for peace, liberty, and justice that have been its finest traditions in the past.

United States-Soviet relations continue to be plagued by serious confrontations. Although arms control negotiations have begun in Geneva, both superpowers have so far failed to take serious, concrete actions to reverse the arms race and reduce the dangers of nuclear war.

Our relations with our European allies are seriously frayed, most recently by simultaneous tensions over economic, East-West and North-South relations.

Our policy in Latin America flounders on the rocks of the Falkland Islands conflict and our misguided support of military solutions in Latin America.

Our policy in Africa flounders on rapprochement with the racist, apartheid regime of South Africa.

Our policy in Asia flounders on ineptitude in our China policy and mixed signals toward our major ally, Japan.

And our policy in the Middle East has failed to press consistently for a genuine and lasting peace in the region. The administration has substituted extravagant and sophisticated arms sales to the enemies of Israel for a peace policy which would encourage direct negotiations between the Arabs and the Israelis. Now, in Lebanon, we hear of mixed signals by the administration along at least three separate tracks to Jerusalem, Riyadh, and Beirut—jeopardizing the prospects for a secure peace in that war-torn nation and that crisis-ridden region.

For over three decades, the United States has been committed to peace in the Middle East and a secure and prosperous Israel—our strongest and only democratic ally in the region. The continuity of this policy is essential in the Middle East. I am concerned that Mr. Shultz and others in the administration intend to tilt American policy toward the Arab States at the expense of Israel—and ultimately at the expense of peace and our own vital national interests in the region.

The world needs bold, creative, and effective leadership from this Nation and its friends and allies. Instead, we find only conflict and confusion and doubts as to whether this administration has a Secretary of State in fact as well as in name. The resignation of

Secretary Haig has made the void in foreign policy leadership all too obvious to all the world to see.

We cannot afford this basic lack of leadership and direction. That is why the Senate must carefully scrutinize the nomination of George Shultz and use this opportunity to insist on major improvements in the development and implementation of American foreign policy.

THE TRAGIC END GAME IN LEBANON

Mr. PELL. Madam President, the situation in Lebanon has come to a critical and potentially tragic point. Within days, if not hours, we will know whether a bloodbath of immense proportions has taken place or has been avoided in Beirut. Israel's invasion was undertaken for reasons that are understandable. I sympathize with the Israelis in their understandable sensitivity and sense of insecurity as they, an island of pro-American democracy, find themselves surrounded by a sea of hostile Arabs over 25 times their population of whom many such as the PLO are desirous of destroying the State of Israel.

But the Israeli invasion of Lebanon has now left in its wake 10,000 dead, 16,000 wounded, and hundreds of thousands homeless among the civilian population according to Lebanese Government sources whose figures have not been contradicted by information gathered by our own administration. And sadly every child's life lost, every building reduced to rubble has been done with American weapons. Even this already tragic toll would pale in comparison with the loss of lives that would occur if there is an Israeli assault on Beirut.

I pray and hope that Israel will not go into Beirut. I can understand Israel's desire to take the opportunity to crush the last remnants of the PLO, but the huge loss of civilian lives that would be involved is not worth it. The PLO has intentionally interwoven itself amidst the civilian population of west Beirut and is, in fact, holding a large portion of that population hostage in order to deter an Israeli attack. But when a murderer holds an innocent person hostage, police forces do not shoot the hostage in order to kill the murderer, and the same policy should be followed here.

I hope very much that the PLO will agree to lay down its heavy arms and to leave Lebanon, but if that does not happen, other ways can be found to keep the PLO neutralized as a threat to Israel. Israel has already succeeded in driving the PLO well beyond the 40-kilometer line north of Israel's border that Prime Minister Begin initially announced was Israel's sole objective. There can be no justification for Israel to cause the deaths of thousands of additional civilians in an effort to finish off the PLO.

Just a week before Israel's invasion, I was in Jerusalem and tried to persuade the Israeli Government not to go into Lebanon. I believed then, as I believe now, that the efforts of our Special Ambassador, Philip Habib, held out great promise of dealing with the PLO provocation that brought the Israeli Government to the point of considering military action. I also went to Lebanon and saw with my own eyes the tremendous destruction, suffering and dislocation that the PLO-Israeli problem had wrought in Lebanon even before the June 6 invasion.

The Israeli action is a fact now, but it must not go further. In addition to preventing an assault on Beirut, the urgent task of American diplomacy now is to help put together a Lebanese Government that can unify the country and secure the early withdrawal of PLO, Israeli, and Syrian forces.

The United States must also do all that it can to support what will turn out to be a massive relief and rehabilitation effort. The Congress has taken an initial step in this regard by authorizing $50 million in immediate aid. It was in fact an amendment of mine in the Senate that increased the amount to this figure over the $20 million requested by the administration.

Looking further down the road, the United States must work to give Palestinian Arabs hope for the future so that they will no longer feel the need to support the PLO. This means persuading Israel that she must be more forthcoming in the autonomy negotiations relating to the West Bank and Gaza occupied territories.

In this regard, there should be an immediate moratorium on building new settlements or expanding existing ones in the West Bank. Israel should also be prepared to be more flexible on the terms of autonomy being offered to the Palestinian Arabs. The Arabs must have a say in land and water use policy. Increasingly, I believe, Americans are making a distinction between Israel's proper security needs—which will always have firm U.S. support—and Mr. Begin's designs on the occupied territories.

Finally, there has to be a clearer understanding with Israel on the proper use of U.S.-supplied military equipment. In this regard, I am particularly disturbed by reports that Israel has used cluster bombs in civilian areas of Lebanon in contravention of a specific agreement with the United States on the use of those cruel weapons.

LEADING THE ATTACK AGAINST DRUNK DRIVERS

Mr. PELL. Madam President, in the past year concerned citizens and lawmakers in nearly every State have succeeded in strengthening our laws against the leading cause of death and injury on our highways, the drunk driver.

I am particularly proud that my own State of Rhode Island has become a national leader in this area through the enactment of the most comprehensive drunk driver law in the Nation. The new Rhode Island law goes into effect at 12:01 am. tomorrow, July 1. It combines increased emphasis on getting drunks off the highways through stepped up enforcement and prompt license suspension with mandatory punitive sanctions and alcoholism rehabilitation programs. This law is the result of a month's long campaign by Gov. J. Joseph Garrahy, the State's highway safety director, Edward J. Walsh, and many dozens of concerned citizens and parents who testified in support of the new law. It is a tribute to both citizen initiative and the responsiveness of a progressive State legislature.

Yesterday's Christian Science Monitor contains an editorial I would like to share with my colleagues concerning the new Rhode Island law, and the national movement to end the senseless loss of life and crippling injury caused by the actions of drunk drivers. As a member of the President's Commission on Drunk Driving and sponsor, with my good friend and colleague JOHN DANFORTH of Missouri, of the drunk driving bill that unanimously passed the Senate on May 11, I am proud to commend Governor Garrahy, the general assembly, and the people of Rhode Island for their national leadership in this area.

Madam President, I ask unanimous consent that the Christian Science Monitor editorial entitled "Deterring Drunk Driving" be printed in full in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DETERRING DRUNK DRIVING

In the broadest sense, the tough new drunk driving laws that go into effect in Rhode Island tomorrow represent the labors of concerned citizens throughout the United States. The Rhode Island statutes are not the first of their kind, since similar approaches—involving mandatory license revocations and stiff penalties combined with alcoholism rehabilitation programs—are now found in several other states. The significance of the laws is what they represent: public recognition that there can be no compromise on the clear necessity of ending drunken driving on the nation's highways. And that the time for legislative action is now.

Indeed, what until recent years had been a problem dealt with mainly by a few specialists working here and there—highway safety officials, youth workers, temperance reformers, some crusading attorneys and business leaders—has now become a national movement that is encompassing dozens of organizations, thousands of individuals, and is sweeping right into state legislative chambers as well as the White House itself.

There is still much to be done. But there are already many evidences of public action. One of the questions troubling safety experts a decade ago was this one: "Can a concerned public, seeking solutions to the drinking and driving problem, bring about constructive changes in the face of apathetic legislatures, the political clout of the liquor and brewery industries, and the prevalence of drinking within American society?" Can it indeed! Just consider the reforms now taking place:

During the past five years some 19 states have raised their legal drinking ages to prevent teenage drinking and driving. That means that of the 28 states that had lowered legal drinking ages to 18, 19, or 20 in the early 1970s, over two-thirds have now reversed their laws. Public pressures must now be brought to boost the drinking ages in those states still allowing teenage drinking.

Efforts to stiffen state laws—particularly by imposing mandatory license revocations and some jail sentencing—are now underway in a number of states, in large part because of the success of citizen groups in California who won a tough law earlier this year. The new Rhode Island law is just the latest example. In Massachusetts, a legislative battle has developed over a proposed comprehensive new law.

Grass-roots citizens and youth groups are being formed to push legislation, monitor judges, combat youth drinking, and picket roadhouses and bars that tolerate problem drinking. In Massachusetts, for example, students at the Wayland High School formed a group called Students Against Driving Drunk (SADD) that has now spread to other states.

Finally, President Reagan earlier this year fulfilled a longtime recommendation of safety experts by setting up a 30-member national commission to work with state and local governments in devising new solutions to the drunk driving problem.

Still, the challenge of drunk driving in American society is far from over. The accident toll remains far too high. Drafting new laws, as important as they are, is only the smallest part of the task. Nor is the issue one of just "cracking down" on offenders in a stern, condemnatory approach. They too, after all, are victims in need of healing.

At the national level, some experts are considering a number of alternatives, ranging from national highway drinking standards (such as in Scandinavian nations, where drunken driving is punished swiftly and firmly), to such devices as warning labels on liquor and beer bottles, to a more concerted national program to provide for alcoholism treatment and rehabilitation programs. The entertainment industry must also be more honest in portraying alcoholism as the tragedy that it is, rather than treating it with humor—or cruel caricature.

But most important, there is a need to break the terrible trap of dependency on drugs themselves, of which alcoholism is only one aspect. The innate God-given freedom that belongs to each individual must be so widely recognized that there is no need for stimulants or resort to the chemical programming inherent in drug usage.

MANDATORY RETIREMENT

Mr. HATCH. Madam President, I am pleased to announce my intention of joining the Senator from Pennsylvania, Mr. HEINZ, in cosponsoring S. 2617, a bill to prohibit mandatory retirement in the private sector. I feel that it is critical that all citizens, regardless of age, are given the opportunity to be judged on the basis of their own skills and experience instead of being arbitrarily excluded from work simply because of the passage of time.

In my State of Utah, the legislature voted in 1979 to uncap our State antidiscrimination statute, and I feel that it is imperative that the Federal Government follow our example.

Mandatory retirement fails to acknowledge the contribution that older workers have made and can continue to make in the workplace. It disregards the importance of experience, skill, and dedication. Moreover, it is a disservice to our Nation's economy. It ignores a resource of skilled, proven workers at a time when our country is becoming skill deficient, a trend that is likely to continue over the next decade.

It is important, however, that when we consider this bill, that we understand fully its purpose and limitations. S. 2617 is simple on its face, but if it becomes law without the benefit of a full examination and explanation, it may have a significant, unintended impact on the employment patterns and policies of this country. Consequently, I feel that it is equally important that we make clear what is intended and what is not intended in the 10 brief lines of this legislation.

S. 2617 has but one purpose, the uncapping of the Age Discrimination in Employment Act of 1967, as amended (ADEA). In other words, it would prohibit an individual from being excluded from being hired or promoted or from being mandatorily retired solely on the basis of age. Nothing else in the act would be changed. The bill specifically does not address recent concerns with the procedural provisions of the statute concerning jury trials and liquidated damages.

It in no way affects current judicial decisions concerning the use of age as a bar to employment in positions involving stress or public safety, such as pilots or police officers. Similarly, S. 2617 does not address the issue of benefit accrual or other pension issues. It simply removes from the ADEA the existing statutory cap at age 70.

Nonetheless, the bill does raise several questions which need to be resolved. First, it is unclear what impact this legislation may have on youth unemployment, especially that of young minorities and women. The interim report on age discrimination in employment issued by the Department of Labor indicated that in general there would be no adverse effects on younger workers if the act were uncapped. It did state, however, that in some categories job competition would be increased.

Unfortunately, the categories mentioned were craft workers and managers, two of the principal classifications in which young minorities and women have had difficulty obtaining jobs. Moreover, the Department's conclusions are based on the presumption that few older workers will continue to work past age 65, an assumption that seems to run counter to the underlying purpose of the legislation.

Second, there is confusion with regard to the relationship between the ADEA and apprenticeship programs. According to regulations issued by the Department of Labor, the act's prohibitions do not apply to age limitations on applicants for bona fide apprenticeship programs. After Federal responsibility for the ADEA was transferred to the Equal Employment Opportunity Commission (EEOC), a proposal was made by that agency to rescind the Labor Department's regulations. The proposal has been left deadlocked by a 2-to-2 vote of the Commissioners, and it is uncertain what if any action the EEOC will be taking in the future. Clearly, this confusion needs to be resolved.

Finally, the bill would for all practical purposes eliminate what is known as the executive exemption. Under current law, this exemption is expressly limited to certain high paid executives who are between the ages of 65 and 70. The bill, as it now reads, would not carry this exemption beyond age 70.

As a result, employers could continue to retire executives between the ages of 65 and 70, but after reaching the age of 70, these employees would be protected from involuntary retirement because they would no longer be subject to the exemption. Obviously, this result is not what is intended by the bill's drafters and must be addressed.

Eliminating the mandatory retirement age will help to insure that the rights of this country's older citizens are not jeopardized by unnecessary and unfounded restrictions and limitations. It will protect, for older men and women, an important freedom—the freedom to choose whether to continue pursuing their careers, or if they so desire, to retire when they wish to do so. And, if the above issues are addressed and resolved, we can protect this freedom without endangering the hopes and aspirations of the young and the unskilled.

Mr. QUAYLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. QUAYLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TRAINING FOR JOBS ACT

Mr. QUAYLE. Madam President, the distinguished minority leader has arrived in the Chamber, and I propound the unanimous-consent request I indicated earlier.

I ask unanimous consent that the Senate proceed to the consideration of S. 2036, Calendar No. 650.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2036) to provide for a job training program, and for other purposes.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection.

There being no objection, the Senate proceeded to the consideration of the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike out all after the enacting clause, and insert the following:

That this Act, with the following table of contents, may be cited as the "Training for Jobs Act".

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STATEMENT OF PURPOSE

Sec. 2. It is the purpose of this Act to establish programs which will afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment, who are in special need of such training to obtain productive employment particularly in the private sector, by—

(1) emphasizing the involvement of the private sector in the planning and delivery of such training,

(2) conferring upon States and localities the primary responsibility for program design and operation,

(3) concentrating on job training rather than on income maintenance,

(4) establishing performance standards which measure results rather than process, and

(5) integrating job training with related programs and strategies at the State and local level.

DEFINITIONS

Sec. 3. As used in this Act—

(1) The term "artificial barriers to employment" means limitations in the hiring, firing, promotion, licensing, and other terms and conditions of employment which are not directly related to an individual's fitness or ability to perform the duties required by the employment position.

(2) The term "community-based organizations" means private nonprofit organizations which are representative of communities or significant segments of communities and which provide employment training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, National Council of La Raza, 70,001, Jobs for Youth, organizations operating career intern programs, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973), agencies serving youth, agencies serving the handicapped, agencies serving displaced homemakers, union-related organizations, and employer-related nonprofit organizations), and organizations serving nonreservation Indians (including the National Urban Indian Council), as well as tribal governments and Native Alaskan groups.

(3) The term "economically disadvantaged" means a person who (A) receives, or is a member of a family which receives, cash welfare payments under a Federal, State, or local welfare program; (B) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 per centum of the lower living standard income level; or (C) is receiving food stamps, pursuant to the Food Stamp Act of 1977.

(4) The term "Governor" means the chief executive of any State.

(5) The term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now consists of the Hawaiian Islands.

(6) The term "handicapped individual" means any individual who has a physical or mental disability which for such individual constitutes, or results in, a substantial handicap to employment.

(7) The term "long-term unemployed" means a person who has been unemployed for fifteen weeks or more.

(8) The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based upon the most recent "lower living family budget" issued by the Secretary.

(9) The term "offender" means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom services under this Act may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

(10) The term "private sector" means, for purposes of the State job training councils and private industry councils, persons who are owners, chief executives or chief operating officers of private for-profit employers and major nongovernmental employers such as health and educational institutions or other officers of such employers who have substantial management or policy responsibility.

(11) The term "recipient" means any person, organization, unit of government, corporation, or other entity receiving finan-

cial assistance under this Act directly from the Secretary.

(12) The term "Secretary" means the Secretary of Labor.

(13) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(14) The term "subrecipient" means any person, organization, unit of government, corporation, or other entity which receives financial assistance, or funds under a contract, through a recipient.

(15) The term "supportive services" means services which are necessary to enable an individual eligible for training under this Act, but who cannot afford to pay for such services, to participate in a training program funded under this Act. Such supportive services may include transportation, health care, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the training program and may be provided in-kind or through cash assistance or loans. Payments to participants under the previous sentence shall not be deemed to be allowances for purposes of this Act. The term supportive services does not mean and shall not be interpreted to mean wages, allowances, or stipends.

(16) The term "unemployed persons" means persons who are without jobs and who want and are available for work. The determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed.

(17) The term "unit of general local government" means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds as well as general corporate and police powers.

(18) The term "youth" means individuals who have not yet reached age 19.

TITLE I—STATE JOB TRAINING PROGRAM

ALLOTMENT; ALLOCATION

Sec. 101. (a)(1) Five per centum of the amount appropriated pursuant to section 301(a) for each fiscal year shall be allotted by the Secretary to the States in the same manner as provided in subsection (b) (2) and (3). The amount allotted under this paragraph shall be available to the Governor of each State.

(2)(A) Not more than 15 per centum of the amount allotted under paragraph (1) of this subsection to each State may be used for the costs of auditing activities and other administrative activities.

(B) The remainder of the amount allotted under paragraph (1) of this subsection to each State shall be used for job training programs pursuant to section 105(h)(2).

(b)(1) The remainder of the amount appropriated pursuant to section 301(a) for each fiscal year after complying with the set-aside under section 302(a), relating to Federal programs, and subsection (a) of this section shall be allotted by the Secretary in accordance with this subsection.

(2) Two per centum of the amount allotted under this subsection for each fiscal year shall be allotted to the Commonwealth of Puerto Rico, and not more than $5,000,000 among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(3) Subject to the provisions of paragraph (4), of the remainder of the amount allotted under this subsection for each fiscal year—

(A) 50 per centum shall be allotted on the basis of the relative number of long-term unemployed persons within the State compared to the total number of long-term unemployed persons in all States; and

(B) 50 per centum shall be allotted on the basis of the relative number of economically disadvantaged persons who are in the labor force within the State compared to the total number of economically disadvantaged persons who are in the labor force in all States.

(4)(A) No State shall receive less than one-quarter of 1 per centum of the amounts available under this paragraph for each such fiscal year.

(B) No State shall be allotted less than 90 per centum of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subparagraph, the allotment percentage for each State for the fiscal year 1982 is the per centum that each State received in 1982 pursuant to the formula allocations made under the Comprehensive Employment and Training Act of the total formula allocations for all States made under that Act in fiscal year 1982. For each succeeding fiscal year, the allotment percentage of a State shall be the percentage the State received pursuant to this subsection.

(5) For the purpose of paragraphs (3) and (4)—

(A) the term "State" does not include the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

(B) the term "long-term unemployed persons" means the average number of persons who have been unemployed for at least fifteen weeks for the most recent two-year period preceding the year for which the determination is made.

(c)(1)(A) Eighty-four per centum of the sum allotted under subsection (b) to each State shall be allocated among service delivery areas within the State on the basis of the relative number of economically disadvantaged persons who are in the labor force in each service delivery area within the State compared to the total number of such persons within the State.

(B) The substate allocations required by this subsection shall be made on the basis of 1980 census data until the Governor of the State and the Secretary of Labor agree that there is more recent statistical data for making the substate allocations which is sufficiently reliable to make such allocations.

(2) Two per centum of the funds allotted to each State shall be available to carry out the provisions of section 106, relating to State education and training agency grants.

(3) Six per centum of the funds allotted to each State shall be available to carry out the provisions of section 107, relating to education agency matching grants.

(4) Three per centum of the funds allotted to each State shall be used by the Governor to provide for job training programs under section 109 designed to assure the placement of older persons in employment opportunities with private business concerns.

(5) Five per centum of the funds allotted to each State shall be used by the Governor to provide incentive funding for programs exceeding performance criteria, including incentives for serving hard-to-serve individuals.

(d) The Secretary shall make the allotment required under this subsection within forty-five days after the date of enactment of any Act making appropriations to carry out this Act.

SERVICE DELIVERY AREAS

Sec. 102. (a)(1) The Governor shall, after receiving the proposal of the State Job Training Council, publish tentative service delivery areas for the State which will—

(A) promote effective delivery of job training services;

(B) have available an effective agency for administering job training services; and

(C)(i) be related to labor market or Standard Metropolitan Statistical Area boundaries but the requirement of this clause shall not be construed to require the Governor to designate an entire labor market area; or

(ii) be consistent with existing areas in which related services are provided under other State or Federal programs.

(2) Each area proposed by the Council under paragraph (1) shall include a written description of the reasons therefor.

(3) Units of general local government, business organizations, and other affected persons shall be given an opportunity to comment on the proposed service delivery areas and request changes in such areas. Comments jointly submitted by chief elected officials and representative business organizations may include any proposed agreements concerning planning or administration of programs in the service delivery area.

(4) The Governor shall designate service delivery areas within the State. Before making a final decision on service delivery areas for the State, the Governor shall review the comments submitted under paragraph (3).

(5)(A) The Governor shall approve any request from a unit of general local government with a population of five hundred thousand or more to be a service delivery area.

(B) The Governor shall approve any request which—

(i) is filed jointly by the units of local governments and the representative business organizations in the proposed service delivery area unless the Governor makes specific findings of fact why inclusion of those units of local government in a larger area will promote the purposes of this Act either because such area is needed to accommodate labor market factors or to coordinate with other service delivery areas for related programs, or

(ii) is filed jointly by a unit of local government with a population of two hundred and fifty thousand or more and the representative business organizations in that local area for that unit of local government to be a service delivery area.

If the Governor denies a request jointly filed under this subparagraph and the units of general local government and the representative business organizations in the area believe that the decision of the Governor is legally contrary to the provisions of this Act or regulations issued under this Act, such units and representatives may jointly appeal the decision to the Secretary.

(b) No change in a service delivery area may be made later than four months before the beginning of a program year or within two years of a previous revision.

PLANNING THE PROGRAM

Sec. 103. (a) The Governor shall annually prepare a statement of State goals and objectives for job training and placement programs to assist in the preparation of the

plans required under subsection (c) of this section and section 7(a) of the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act).

(b)(1) There shall be a private industry council for every service delivery area to be selected in accordance with this subsection. Each council shall consist of—

(A) representatives of the private sector, who shall constitute a majority of the membership of the council; and

(B) representatives of units of general local government, educational agencies (representative of all educational agencies in the service delivery area), organized labor, community-based organizations, economic development agencies, and the public employment service.

The Chairman of the Council shall be selected from among members of the Council who are representatives of the private sector.

(2)(A) Representatives of the private sector shall be owners of business concerns, chief executives or chief operating officers of nongovernmental employers or other officers who have substantial management or policy responsibility.

(B) Private sector representatives on the council shall be selected from among individuals nominated by general purpose business organizations after consulting with, and receiving recommendations from, other business organizations in the area and shall include representation from small business. For the purpose of this subparagraph, the term "general purpose business organizations" means organizations which admit to membership any for-profit business operating within the geographic area.

(C) Education representatives on the Council shall be selected from among individuals nominated by local educational agencies, institutions of higher education or general organizations of such agencies or institutions, and by private and proprietary schools or general organizations of such institutions, within the service delivery area. For the purpose of this subparagraph, the term "general organization" means an organization that admits to membership any educational institution of the appropriate category set forth in this subparagraph.

(D) The chief elected officials of units of general local governments with prior experience in administering job training programs within the service delivery area shall appoint members to the council from the individuals so nominated in accordance with an agreement entered into by such units of general local government within the service delivery area. In the absence of such an agreement, the appointments shall be made by the Governor. Members appointed under this subparagraph may be replaced only with the concurrence of the nominating and appointing authorities in accordance with the provisions of this paragraph unless the bylaws of the private industry council provide otherwise.

(3) The remaining members of the council shall be selected by agreement between the chief elected officials of such units of general local government in the area from individuals recommended by interested organizations. Labor representatives shall be recommended by recognized State and local labor organizations or appropriate building trades councils. If agreement cannot be reached, such other representatives shall be selected by the Governor on the basis of such recommendations.

(4) The number of members of the council shall be determined by agreement among the chief elected officials of the units of general local government in the area and, in the absence of such agreement, by the Governor.

(5) The Governor shall certify a private industry council whenever the Governor determines that its composition and appointments are consistent with the provisions of this subsection. Such certification shall be made or denied within 30 days after the date on which a list of members and necessary supporting documentation are submitted to the Governor.

(c) Whenever the private industry council is certified by the Governor, the council shall—

(1) prepare the program plan for the service delivery area; and

(2) certify training institutions and other agencies pursuant to section 105(d).

(d) In order to carry out its functions under this subsection, the council may hire such staff and exercise such other powers as may be necessary to prepare the plan.

(e) Each program plan shall contain—

(1) identification of the entity which will administer the program and be the subrecipient of funds from the State;

(2) a description of services and programs to be furnished within the service delivery area;

(3) procedures for identifying and selecting participants and for eligibility determination and verification;

(4) procedures for selecting service providers which take into account past performance in job training or related activities, fiscal accountability and ability to meet performance standards and which afford to appropriate education agencies in the area to be served the opportunity to provide educational services;

(5) the budget for the program year in such detail as the private industry council determines necessary, including any proposed expenditures for the succeeding two program years;

(6) expected performance accomplishments and a comparison with the performance of the previous program year;

(7) fiscal control, accounting, audit and debt collection procedures to assure the proper disbursal of, and accounting for, funds received under this title;

(8) subject to the statewide limitation in section 105(i)(2)(C), the amount to be spent on supportive services, and if such amount is more than 15 per centum of the funds available for the program year, a justification of why it is necessary to spend such amount; and

(9) a report of the activities conducted in the service delivery area in the previous program year.

In making the identification under clause (1) of this subsection, priority should be given to entities which have demonstrated or can demonstrate—

(A) the ability to administer a broad range of employment and training services;

(B) the capacity to administer such funds; and

(C) the ability to provide adequate safeguards for the protection of public funds.

(f)(1) Each private industry council shall publish a proposed plan or summary thereof one hundred and twenty days before the beginning of a program year and provide interested parties an opportunity for comment. The council may hire a hearing examiner to hold hearings if necessary. The final plan, or a summary thereof, shall be published not later than eighty days before the program year and shall be submitted to the Governor jointly by the private industry council and the chief elected official in the service delivery area, or, if there is more than one such official in the area by their designated representative. If such official or representative does not agree with all or any part of the plan, the private industry council shall reconsider the plan in whole or in part. If the disagreement cannot be resolved after mediation by the Governor, the proposed plan together with proposed revisions shall be presented to the Governor for resolution.

(2) The Governor shall disapprove the plan if—

(A) the Governor finds for specific reasons that the plan will not meet performance criteria,

(B) the Governor determines that the proposed program will not effectively serve the economically disadvantaged,

(C) the plan does not show that corrective measures for deficiencies found in audits or assessments from previous years have been taken or are acceptably underway,

(D) the entity proposed to administer the program will not have the administrative capacity to administer the funds or there are inadequate safeguards for the protection of funds received,

(E) the plan will not provide equality of access to services for all segments of the disadvantaged community in the area, or

(F) the plan will not otherwise adequately or properly carry out the purposes of the Act.

(3) Any disapproval by the Governor shall be made within thirty days after the date that the plan is submitted. Any disapproval by the Governor may be appealed jointly by the private industry council and the local elected officials to the Secretary.

(4) Not more than 15 per centum of the funds available for any program year in any service delivery area may be used to pay for the costs of administration (including evaluation) in that area.

STATE JOB TRAINING COUNCILS

Sec. 104. (a) To receive funds under this title a State shall establish a State Job Training Council chaired by the Governor or the Governor's designee.

(b) The members of the Council shall be appointed by the Governor. At least 51 per centum of the members shall be selected from among individuals who represent the private sector and 20 per centum from among individuals who are elected officials of units of general local government. The remaining members of the Council shall include one representative from the State employment service agency, and representatives of education, organized labor, private nonprofit community-based organizations, and other groups interested in job training programs.

(c) The Council shall provide advice to the State on all aspects of job training, job information, and job placement in the State.

(d) The Council, subject to the approval of the Governor, shall, with respect to programs under this title, propose substate service delivery areas, plan resource allocations not subject to section 101(c)(1), provide management guidance and review for all programs in the State and approval of all service delivery area plans, develop appropriate linkages with other programs, coordinate activities with private industry councils, and develop the State job training report and performance standards.

(e) In addition to performing the functions set forth in this Act, the Council shall also perform the functions previously performed by any State council established by

State law under the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act).

(f) The Council shall also review and provide written comments to the State on the State plan developed for the State employment service agency.

PROGRAM ELEMENTS

Sec. 105. (a) Funds allocated to service delivery areas under this Act may be used for—

(1) basic and remedial education, institutional and on-the-job training, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities and any other job training activity designed to prepare disadvantaged persons for, and place them in, employment;

(2) supportive services necessary to enable persons to participate in the program and to assist them in retaining employment;

(3) payments to employers for on-the-job training which shall not, during the period of such training, average more than 50 per centum of the wages paid by the employer to such participants, and payments in such amount shall be deemed to be in compensation for the extraordinary costs associated with training participants under this title and in compensation for the costs associated with the lower productivity of such participants;

(4) employment generating activities to increase job opportunities for eligible persons in the area; and

(5) establishing a loan fund, as a supportive service administered by the private industry council to be used by economically disadvantaged participants to provide expenses for the basic necessities of the participants.

To utilize the loan fund established under clause (5), participants must be ineligible for public assistance or otherwise unable to participate in or complete training provided under this Act. Each participant shall begin repayment of the loan, with interest, upon entry into unsubsidized employment or six months after the termination of the training.

(b) No funds under this title shall be used for allowances, stipends, wages, or public service employment.

(c)(1) A person shall be eligible to participate in a program conducted or assisted with funds allocated to a service delivery area under this Act only if the person is economically disadvantaged.

(2)(A) At least 50 per centum of the funds allocated to such area shall be used for persons who have not attained twenty-five years of age. The percentage shall be adjusted by the difference that the ratio of economically disadvantaged youth to economically disadvantaged adults in the service delivery area bears to that ratio for all States.

(B) Recipients of payments made under the program of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act who are required to, or have, registered under section 402(a)(19) of that Act and eligible school drop-outs shall be served at least in proportion to their percentage of economically disadvantaged persons sixteen years of age or over in the area. For purposes of this subparagraph a school drop-out is an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(C) Not to exceed 10 per centum of the funds may be used for participants who are not economically disadvantaged if such individuals have labor market disadvantages. The individuals described in the preceding sentence may include individuals who are handicapped, have limited English-speaking proficiency, or are displaced homemakers, ex-offenders, alcoholics or addicts, displaced workers identified under section 502, teenage parents, school dropouts, veterans, and older workers.

(d)(1) In selecting agencies or organizations to deliver services within a service delivery area, after complying with the procedures specified in section 103(e)(4), the primary consideration shall be the cost effectiveness of the agency or organization in delivering comparable or related services based on past performance.

(2) No agency or organization shall be used to provide occupational skills training unless the private industry council has certified that the level of skill provided is acceptable to employers in the area.

(e) All training agreements shall contain standards on the content, quality, duration, and results of the training.

(f) In each service delivery area the ratio of participants in on-the-job training assisted under this title in the public sector to participants in such training in the private sector shall not exceed the ratio between civilian governmental employment and nongovernmental employment in such area.

(g) Commercially available training packages, including advanced learning technology, may be purchased for off-the-shelf prices and without requiring a breakdown of the cost components of the package if such packages are purchased competitively and include performance criteria.

(h) Amounts available to Governors under section 101(a)(2) may be used for—

(1)(A) expenses of the State council, including evaluation of programs;

(B) technical assistance;

(C) developing linkages between programs funded under this Act and related programs funded under related Federal or State legislation;

(D) developing and providing labor market and occupational information; and

(E) developing a management information system compiling and analyzing reports from the system; and

(2)(A) providing programs for offenders and ex-offenders or other persons whom the Governor determines require special assistance; and

(B) providing programs for workers who have no reasonable prospect of returning to the occupation or industry from which they have been laid off.

(i)(1) No State may be paid funds from its allocation under this title unless the State submits a job training report to the Secretary.

(2) The State job training report shall—

(A) demonstrate that the State is fiscally responsible for the administration of programs under this title throughout the State;

(B) include (i) a statement of goals, objectives, and needs, and the performance standards established, and (ii) information on the types of activities to be funded, designated service delivery areas, and categories or characteristics of individuals to be served; and

(C) guarantee that the amount to be spent in the State on supportive services and costs of administration together shall not exceed 30 per centum of the funds available to the State under this title and that at least 70 per centum of such funds shall be spent for training.

(3) Beginning in the fiscal year 1984, the report shall include a description of how the State has met the goals, objectives, needs, and performance standards in the previous program year.

(4) The report, and any changes in the report, shall be made public on a timely basis and in such manner as to facilitate comments from interested units of general local government and persons.

STATE EDUCATION AND TRAINING AGENCY GRANTS

Sec. 106. The sums available for this section shall be used by the Governor to provide financial assistance to any State education agency responsible for education and training to provide services for eligible participants through cooperative agreements between such State agencies and entities administering programs in service delivery areas or other agencies or organizations providing services under this Act. Such services may include any service described in subsections (a) and (h)(2) of section 105.

EDUCATION AGENCY MATCHING GRANTS

Sec. 107. (a) The sums available for this section shall be used by the Governor for grants to any State education agency responsible for education and training to pay 50 per centum of the cost of improving education and training services for individuals eligible under this Act. The Governor shall allocate such sums to service delivery areas within the State pursuant to section 101(c)(3). Such grants shall be used in accordance with agreements which are negotiated by the designee of any such State agency as part of the plan for the service delivery area prepared and submitted in accordance with the provisions in section 103 (e) and (f). Such agreements shall provide for the contribution by any such State agency and the local educational agency, if any, of an amount equal to the amount provided in such grant. The matching amount shall not be provided from funds available under this Act, but may include the direct cost of employment or training services provided by State or local programs.

(b) Funds available under this section may be used to provide education, training, and related services to participants under this title.

EDUCATION STANDARDS

Sec. 108. (a) All education programs for youth supported with funds provided under this title shall be consistent with applicable State and local educational standards.

(b) Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in programs conducted or assisted under this title shall be consistent with the requirements of applicable State and local law and regulation.

TRAINING PROGRAMS FOR OLDER INDIVIDUALS

Sec. 109. (a) From funds available for use under section 101(c)(4), the Governor is authorized to provide for job training programs which are developed in conjunction with service delivery areas within the State and which are consistent with the plan for the service delivery area prepared and submitted in accordance with the provisions in section 103, and designed to assure the training and placement of older individuals in employment opportunities with private business concerns.

(b) In carrying out this section, the Governor shall, after consultation with appropriate private industry councils, enter into agreements with public agencies, nonprofit

private organizations, and private business concerns.

(c) The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

(d) An individual shall be eligible to participate in a job training program under this section only if the individual is economically disadvantaged and has attained 55 years of age.

TITLE II—NATIONAL JOB TRAINING PROGRAMS

PART A—NATIVE AMERICAN PROGRAMS

PURPOSE AND POLICY

Sec. 201. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian, Alaskan Native, and Hawaiian Native communities; (2) there is a compelling need for the establishment of comprehensive training and employment programs for members of those communities; and (3) such programs are essential to the reduction of economic disadvantage among individual members of those communities and to the advancement of economic and social development in the communities consistent with their goals and lifestyles.

(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of the individuals to be served by the provisions of this part, (1) such programs shall be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and groups and to other groups and individuals of Native American descent; and (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this part.

PROGRAM AUTHORIZED

Sec. 202. (a)(1)(A) In carrying out responsibilities under this part, the Secretary shall, wherever possible, utilize Indian tribes, bands, or groups on Federal or State reservations (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971) and the Oklahoma Indians, having a governing body for the provision of employment and training services under this section. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive employment and training program, the Secretary shall require such tribe, band, or group to submit a comprehensive plan meeting such requirements as the Secretary prescribes.

(B) The Secretary shall arrange for programs to meet the employment and training needs of Hawaiian natives through such organizations as the Secretary determines will best meet their needs.

(2) In carrying out responsibilities under this section, the Secretary shall make arrangements with organizations (meeting requirements prescribed by the Secretary) serving nonreservation Native Americans for programs and projects designed to meet the needs of such Native Americans for employment and training and related services.

(b) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provision of employment and training services under this section, the Secretary shall, to the maximum extent feasible, enter into arrangements for the provision of such services with organizations which meet with the approval of the tribes, bands, or groups to be served.

(c) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Native American employment and training programs authorized under this Act.

(d) Funds available for this part shall be expended for programs and activities consistent with the purposes of this section including but not limited to such programs and activities carried out by recipients or subrecipients under other provisions of this Act.

(e) No provision of this part shall abrogate in any way the trust responsibilities of the Federal Government to Native American bands, tribes, or groups.

PART B—MIGRANT AND SEASONAL FARMWORKER PROGRAMS

STATEMENT OF FINDINGS

Sec. 211. The Congress finds and declares that—

(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural employment problem and substantially affect the entire national economy; and

(2) because of the special nature of farmworker employment and training problems such programs can best be administered at the national level.

Sec. 212. (a)(1) The Secretary shall meet the employment and training needs of migrants and seasonal farmworkers through public agencies and private nonprofit organizations, including, but not limited to, programs and activities carried out by recipients or subrecipients under other provisions of this Act, as the Secretary determines have an understanding of the problems of migrant and seasonal farmworkers, a familiarity with the area to be served, and a capability to administer effectively a comprehensive employment and training program for migrant and seasonal farmworkers.

(2) Programs supported under this part shall include, but not be limited to, employment and training in traditional as well as newly developing agricultural occupations and related assistance and supportive services.

(b)(1) In awarding grants for services administered under this part, the Secretary shall use the standard competitive Government procurement policies.

(2) In administering programs under this section, the Secretary shall consult with appropriate State and local officials and may enter into agreements with such officials to assist in the operation of such programs.

PART C—RESEARCH, EVALUATION, PILOT PROJECTS, TRAINING AND TECHNICAL ASSISTANCE AND LABOR MARKET INFORMATION

RESEARCH

Sec. 221. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of employment and training research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems.

(b) The Secretary shall establish a program of experimental, developmental, and demonstration projects, through grants or contracts, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting employment and training problems. Research activities may include studies, experiments, demonstrations, and pilot projects in such areas as easing the transition from school to work, assessing the changing demographics of the American work force and addressing the short-term and long-term impact of the changes, increasing employment of skilled workers critical to defense readiness, and, subject to the last sentence of this subsection, projects developed in conjunction with the Secretary of Defense to meet civilian manpower needs on military installations and in the private sector, and eliminating artificial barriers to employment. The Secretary may pay not to exceed 60 per centum of the costs of projects developed in conjunction with the Secretary of Defense described in the preceding sentence, and the contributions of the Department of Defense may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

EVALUATION

Sec. 222. (a) The Secretary shall provide for the continuing evaluation of all programs, activities, and research and demonstration projects conducted pursuant to this Act, including their cost-effectiveness in achieving the purposes of this Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services.

(b) The Secretary shall evaluate the effectiveness of programs authorized under this Act with respect to the statutory goals, the performance standards established by the Secretary, and of increases in employment and earnings for participants, duration in training and employment situations, information on the postenrollment labor market experience of program participants for at least a year following their termination from such programs, and comparable information on other employees or trainees of participating employers.

(c) In order to reduce the paperwork burden and costs on recipients, the Secretary shall to the maximum extent possible use statistical sampling techniques.

(d) The Secretary shall prepare and submit to the Congress an annual report for employment and training programs. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs authorized in this Act in meeting the objective of this Act;

(2) a summary of major findings from research, evaluation, pilot projects, and experiments conducted in the previous fiscal year;

(3) recommendations for program modifications based upon analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary deems appropriate.

PILOT PROJECTS

Sec. 223. (a) From funds made available under this part, the Secretary may provide financial assistance for pilot projects which meet the employment-related needs of persons including the handicapped and displaced homemakers who face particular disadvantages in specific and general labor markets or occupations and other persons

whom the Secretary determines require special assistance.

(b) Each pilot project assisted under this section shall be designed to assist in eliminating artificial and other employment barriers faced by such persons.

(c) No project under this section shall be financially assisted for more than three years.

(d) In selecting recipients under this section, the Secretary shall give special consideration to applications submitted by community-based organizations of demonstrated effectiveness, as well as to labor unions, and trade associations and their affiliates that address nationwide concerns through programs operating in more than one State.

TRAINING AND TECHNICAL ASSISTANCE

Sec. 224. The Secretary, in consultation with the appropriate State officials and other recipients shall provide directly or through grants, contracts, or other arrangements—

(1) appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel; and

(2) appropriate technical assistance with respect to programs assisted under this Act.

LABOR MARKET INFORMATION

Sec. 225. (a) The Secretary shall set aside, out of sums available to the Department for any fiscal year including sums available for this title, such sums as may be necessary to maintain a comprehensive system of labor market information on a national, regional, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

(b) The Secretary shall assure that appropriate standards of statistical reliability and nationally standardized definitions of employment, unemployment, and industrial and occupational definitions shall be used in maintaining the system required by this section.

FEDERAL RESPONSIBILITIES

Sec. 226. (a) The Secretary, in cooperation with the Secretary of Commerce, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Education, and the Director of the Office of Management and Budget, through the National Occupational Information Coordinating Committee established under the Vocational Education Act Amendments of 1976, shall—

(1) review the need and the application of all operating national data collection and processing systems in order to identify gaps, overlap, and duplications, and integrate at the national level currently available data sources in order to improve the management of information systems;

(2) maintain, assure timely review, and implement national standardized definitions with respect to terms, geographic areas, timing of collection, and coding measures, to the maximum extent feasible; and

(3) provide technical assistance to the States in the development, maintenance, and utilization of labor market/occupational supply and demand information systems and projections of supply and demand as described in section 227, with special emphasis on assistance in the utilization of cost-efficient automated systems and improving access of individuals to career opportunities information in local and State labor markets.

(b) The Secretary, in cooperation with the Secretary of Defense, shall assure the development of an integrated occupational supply and demand information system to be used by States and, in particular, in secondary and postsecondary educational institutions in order to assure young persons adequate information on career opportunities in the Armed Forces.

(c) The Secretary and the Director of the Office of Management and Budget shall assure that, from the funds reserved for this part, sufficient funds are available to provide staff at the Federal level for the National Occupational Information Coordinating Committee to assure the coordination functions described in this section.

STATE LABOR MARKET INFORMATION PROGRAMS

Sec. 227. (a) In order to be eligible for Federal financial assistance, under this part, the Governor shall—

(1) designate the State occupational information coordinating committee or another organizational unit to be responsible for oversight and management of a statewide comprehensive labor market/occupational supply and demand information system;

(2) design a comprehensive cost-efficient labor market/occupational information supply and demand system which—

(A) is responsive to the economic demand and educational training supply support needs of the State and areas within the State, and

(B) meets the Federal standards under chapter 35 of title 44 of the United States Code and other appropriate Federal standards established by the Bureau of Labor Statistics;

(3) standardize available Federal and State multiagency administrative records and direct survey data sources to produce an employment/economic analysis published set of projections for the State and designated areas within the State which, at the minimum, includes—

(A) identification of geographic and occupational areas of potential growth or decline; and

(B) an assessment of the potential impact of such growth or decline on individuals, industries, and communities, including occupational supply and demand characteristics data;

(4) assure, to the extent possible, that—

(A) automated technology is used by the State,

(B) administrative records have been designed to reduce paperwork, and

(C) multiple survey burdens on the employers of the State have been reduced;

(5) publish and disseminate labor market/occupational supply and demand information and individualized career information to State agencies, area public agencies, private not-for-profit users, and individuals in the process of career decision choices; and

(6) conduct research and demonstration projects designed to improve any aspect of the statewide information system.

(b)(1) The analysis required under clause (3) of subsection (a) shall be used by States and by area entities to contribute in carrying out the provisions of this Act, the Vocational Education Act of 1963, and the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act).

(2) The assurance required by clause (4) of subsection (a) shall also include that the State will, to the maximum extent possible, assure consolidation of available administrative data and surveys to reduce duplication of recordkeeping of State and local agencies, including secondary and postsecondary educational institutions.

(3) If any Federal funds are used to carry out clause (6) of subsection (a), access to and information of the results will remain in the public domain.

(c) The Secretary through the National Occupational Information Coordinating Committee shall reimburse the States the costs of carrying out the provisions of this section but the aggregate reimbursements in any fiscal year shall not exceed the amount available under this part for this subsection.

(d) No provision of this part or any other provision of Federal law shall be construed to prohibit the State the right to combine, consolidate, or otherwise alter Federal administrative management information reporting requirements relating to employment, productivity, or training, if notice is transmitted by the Governor to the head of each appropriate Federal and State agency responsible for the laws governing the Federal reporting requirements. The notice shall specify the intent to combine, consolidate, or alter such requirements. The head of each appropriate Federal agency shall approve the combination, consolidation, or alteration unless, within sixty days after receiving the notice, the Federal agency can show the combination, consolidation, or alteration will not meet the essential purposes of the affected Federal law. Any adverse decision by the head of a Federal agency may be appealed to the Director of the Office of Management and Budget who shall decide the matter within sixty days after the appeal is made.

TITLE III—ADMINISTRATIVE AND GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS; PROGRAM YEAR

Sec. 301. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of titles I, II, and III of this Act, and the Job Corps.

(b)(1) Beginning with fiscal year 1984 and thereafter appropriations for any fiscal year for programs and activities under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(2) Funds obligated for any program year may be expended by each recipient and subrecipient during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the program plan.

(3)(A) Appropriations for fiscal year 1983 shall be available both to fund activities for the period between October 1, 1982, and July 1, 1983, and for the program year beginning July 1, 1983.

(B) There are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this paragraph for the transition to program year funding.

DISTRIBUTION OF FUNDS

Sec. 302. (a)(1) Of the amounts appropriated pursuant to section 301(a) for each fiscal year, 22 per centum shall be set aside for use by the Secretary in accordance with this subsection.

(2)(A) Sixty-six per centum of such amounts shall be available for the Job Corps in accordance with part B of title IV of the Comprehensive Employment and Training Act.

(B) There are authorized to be appropriated for the fiscal year 1983, in addition to amounts made available under subparagraph (A) of this paragraph, such sums as may be necessary for carrying out the Job Corps in accordance with part B of title IV of the Comprehensive Employment and

Training Act to assure that the amount available for the Job Corps in fiscal year 1983 is at least equal to the amount available for the Job Corps in fiscal year 1982. Nothing in this subparagraph shall be construed to reduce the amount available for programs for fiscal year 1983 as a result of appropriations made pursuant to section 301(a).

(3) Ten and one-half per centum of such amounts shall be available for Indians and Native Americans in accordance with part A of title II.

(4) Ten per centum of such amounts shall be available for migrants and seasonal farmworkers in accordance with part B of title II.

(5) The remainder of such amounts shall be available for costs of administration, and for research, evaluation, pilot projects, technical assistance, labor market information under title II, and the National Commission for Employment Policy.

(b) The remainder of the amounts appropriated for each fiscal year shall be allotted in accordance with section 101.

(c) The Secretary, with respect to financial assistance under part C of title II of this Act, and the Governor, with respect to financial assistance under sections 101(c)(5) and 105(h)(2), shall publish for comment a plan for the use of such financial assistance. After consideration of the comments received under the preceding sentence, the Secretary and the Governor, as the case may be, shall publish the plan for the use of such assistance.

PERFORMANCE CRITERIA

Sec. 303. (a) The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

(1) it is essential that criteria for measuring the return on this investment be developed; and

(2) the basic return on the investment is to be measured by the increased earnings of participants and the reductions in cash welfare payments.

(b)(1) The basic measure of performance for adult training programs is the increase in earnings and reductions in cash welfare payments resulting from participation in the program. The Secretary shall prescribe standards to measure the results of participation in the program. The standards shall include provisions governing—

(A) the base period prior to program participation that will be used;

(B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payments; and

(C) cost-effective methods for obtaining such data, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures.

(2) The Secretary shall prescribe standards relating gross program expenditures to total earnings gains and reductions in cash welfare payments to participants.

(3) Each Governor may prescribe variations in the standards prescribed under paragraph (2) based on specific economic factors in the State and in service delivery areas within the State.

(4) The Secretary shall prescribe variations in performance criteria for Native American and migrant and seasonal farmworker programs taking into account their special circumstances.

(c)(1) Recognizing the instability of youth employment, performance criteria for youth may be locally developed by the administrator of funds in the service delivery area based on (A) employment competencies recognized by the private industry council, and (B) placement and retention in employment.

(2) Performance criteria and employment competency standards shall be reviewed by the Governor and the Secretary for adequacy pursuant to regulations prescribed by the Secretary, and consistent with the requirements of section 108.

(d) The annual report for each service delivery area shall specify the extent to which programs exceeded or failed to meet relevant performance criteria.

(e)(1) The Governor shall provide technical assistance to programs which do not meet performance criteria. If the failure to meet performance criteria persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated delivery agencies or organizations or make such other changes as the Governor deems necessary to improve performance. The Governor may also select an alternative entity to administer the program for the service delivery area.

(2) The alternate administrative entity may be a newly formed private industry council or an agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area.

(3) No change may be made under this subsection without an opportunity for a fair hearing before a hearing officer.

(f) The National Commission for Employment Policy shall (1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training, (2) evaluate the usefulness of such standards as measures of desired performance, and (3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

MONITORING

Sec. 304. (a) The Secretary is authorized to monitor all recipients and subrecipients of financial assistance under this Act to determine whether they are complying with the provisions of this Act and the regulations issued under this Act.

(b) The Secretary may investigate any matter the Secretary deems necessary to determine compliance with this Act and regulations issued under this Act. The investigations authorized by this subsection may include examining records (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of a program of a recipient or subrecipient is conducted or in which any of the records of the recipient or subrecipient are kept.

(c) For the purpose of any investigation or hearing under this Act, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of books, papers, and documents), are made applicable to the Secretary.

FISCAL CONTROLS

Sec. 305. (a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles I, V, and VII. The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidance for the proper performance of audits. Such guidance shall include a review of fiscal controls and fund accounting procedures established by States under this section.

(2) At least once every two years, the State shall prepare or have prepared an independent financial and compliance audit of each recipient and subrecipient of funds under titles I, V, and VII of this Act. Under criteria established by the Director of the Office of Management and Budget, and upon application by the Governor, the Secretary may exempt designated recipients or subrecipients from all or part of the requirements of this section, except that any such exemption shall not apply to the State administering agency, the entity which administers the program for a service delivery area, or a private industry council. Any exemption under this section may be withdrawn by the Secretary in consultation with the Director of the Office of Management and Budget.

(3) Each audit shall be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States.

(b)(1) The Comptroller General of the United States shall, on a selective basis, evaluate the expenditures by the recipients and subrecipients of grants under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of each recipient and subrecipient in accomplishing the purposes of this Act. The Comptroller General shall conduct the evaluations whenever he determines it necessary and he shall periodically report to the Congress on the findings of such evaluations.

(2) Nothing in this Act shall be deemed to relieve the Inspector General of the Department of Labor of his responsibilities under the Inspector General Act.

(3) For the purpose of evaluating and reviewing programs established or provided for by this Act, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs that are in the possession, custody, or control of the State, a private industry council established under section 103 of this Act, any recipient and subrecipient of funds under this Act, or any subgrantee or contractor of such recipients and subrecipients.

(c) Every recipient and subrecipient shall repay to the United States amounts found not to have been expended in accordance with this Act. The Secretary may offset such amounts against any other amount to which the recipient and subrecipient is or may be entitled under this Act unless he determines that such recipient and subrecipient should be held liable pursuant to subsection (d).

(d) Each recipient and subrecipient shall be liable to repay from funds other than funds received under this Act upon a determination that the misexpenditure of funds was due to willful disregard of the requirements of this Act, gross negligence, or failure to observe accepted standards of administration. No such finding shall be made except after notice and opportunity for a fair hearing.

REPORTS, RECORDKEEPING, AND INVESTIGATIONS

Sec. 306. (a)(1) Recipients shall keep records that are sufficient to permit the preparation of reports required by this Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully.

(2) Every recipient shall maintain such records and submit such reports as the Secretary requires regarding the performance of its programs. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by the Congress or a committee thereof.

(b)(1) The Secretary may investigate such facts, conditions, practices, or other matters which the Secretary finds necessary to determine whether any recipient or subrecipient of funds or any official of such recipient or subrecipient has violated any provision of this Act.

(2)(A) In order to evaluate compliance with the provisions of this Act, the Secretary shall conduct, in several States, in each fiscal year investigations of the use of funds received by recipients under this Act.

(B) In order to insure compliance with the provisions of this Act, the Comptroller General of the United States may conduct investigations of the use of funds received under this Act by any recipient.

(3) In conducting any investigation under this Act, the Secretary or the Comptroller General of the United States may not request any information not readily available to such recipient.

(c) Each State receiving funds under this Act shall—

(1) make such reports concerning its operations and expenditures as shall be prescribed by the Secretary, and

(2) prescribe and maintain a management information system designed to facilitate the compilation and analysis of programmatic and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes.

ADMINISTRATIVE ADJUDICATIONS

Sec. 307. (a) Whenever any applicant for financial assistance under this Act is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient upon whom a corrective action or a sanction has been imposed by the Secretary. Except to the extent provided for in section 312, all other disputes arising under this Act shall be adjudicated under grievance procedures established by the recipient or under applicable law other than this Act.

(b) In any hearing conducted under subsection (a) the burden shall be upon the recipient to establish by clear, convincing, and probative proof that the findings of the Secretary were not based upon substantial evidence.

(c) The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part thereof has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. Thereafter the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days of such filing, has notified the parties that the case has been accepted for review.

(d) Any case accepted for review by the Secretary shall be decided within one hundred and eighty days of such acceptance. If not so decided, the decision of the administrative law judge shall become the final decision of the Secretary.

(e) The provisions of section 313 of this Act shall apply to any final action of the Secretary under this section.

AFFIRMATIVE ACTION

Sec. 308. (a) A contractor subject to the affirmative action obligations of Executive Order 11246, as amended, issued September 24, 1965, may establish or participate in training programs pursuant to this section for individuals meeting the eligibility criteria established in sections 105(c)(1), 202(a)(1), and 212(a)(1), which are designed to assist such contractors in meeting the affirmative action obligations of such Executive order. To qualify under this section, such a training program shall contain—

(1) a description of the jobs in the contractor's work force or in the service delivery area, for which the contractor has determined there is a need for training;

(2) a description of the recruiting, training, or other functions that the contractor or the organization that will be engaged to perform the training will perform and the steps that will be taken to insure that the individuals completing the training will be referred for job openings and that the training program is in accordance with the objectives of such Executive order;

(3) whenever an organization other than the contractor will perform the training, a description of the demonstrated effectiveness of the organization as a provider of employment and training services;

(4) a description of how the contractor will monitor the program to keep an accurate accounting of all trainees, including (A) whether the trainees successfully complete the training program, and (B) whether the trainees are or are not placed; and

(5) an estimation of the cost of the program and an assurance that the contractor will assume all costs of the program or the pro rata share of costs to the contractor of the program.

(b)(1)(A) If the training proposal is designed to meet the needs of the community rather than, or in addition to, the employment needs of the contractor, and has not been approved by another Federal agency, the program shall be submitted to the private industry council established under section 103 for a determination that there is a need for such training in the community.

(B) Individuals trained under any program satisfying the requirements of this section may be included by the private industry council in its performance accomplishments and the wage gains of such individuals shall be included in determining the compliance of the job training program of the private industry council with applicable standards.

(2) The Director of the Office of Federal Contract Compliance Programs, Department of Labor, shall promulgate regulations setting forth how the Office will determine, during a compliance review, the degree to which a training program will satisfy the contractor's affirmative action obligations may be considered in evaluating such employer's overall good faith effort, but (A) in no event may placement of trainees with employers other than a contractor be permitted to affect that contractor's affirmative action obligation respecting its work force, and (B) the content of the training program will not be subject to review or regulation by the Office of Federal Contract Compliance Programs. If during a compliance review the Director of the Office of Federal Contract Compliance Programs determines that a training program does not comply with its regulations, the Director shall—

(A) notify the contractor of the disapproval,

(B) set forth the reasons for the disapproval, and

(C) provide a list of recommendations which, if accepted, will qualify the training program under this section.

(3) A contractor who has a training program which contains the criteria set forth in subsection (a) and which is in accordance with regulations promulgated under paragraph (2) of this subsection shall continue to meet the affirmative action obligations of Executive Order 11246, as amended, but the contractors required to maintain a written affirmative action program need only maintain an abbreviated affirmative action program, the content and length of which shall be determined by the Director of the Office of Federal Contract Compliance Programs, to satisfy the written affirmative action program portion of their obligations under Executive Order 11246, as amended. Successful performance or operation of a training program meeting the criteria set forth in subsection (a) shall create a presumption that the contractor has made a good faith effort to meet its affirmative action obligations to the degree specified by the Director under paragraph (2) of this subsection.

(c) Nothing in this section may be interpreted—

(1) to compel contractor involvement in such programs,

(2) to establish the exclusive criteria by which a contractor can be found to have fulfilled its affirmative action obligations,

(3) to provide authority for imposing any additional obligations on contractors not participating in such training activities, or

(4) to permit the Office of Federal Contract Compliance Programs to intervene or interfere with the authority and responsibilities of the private industry councils.

ADMINISTRATIVE PROVISIONS

Sec. 309. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules and regulations as the Secretary deems necessary. Such rules and regulations may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. All such rules and regulations shall be published in the Federal Register at least thirty days prior to their effective date. Copies of all such rules and regulations shall be transmitted to the appropriate committees of the Congress at the same time and shall contain, with respect to each material provision of such rules and regulations, citations to the particular substantive section of law which is the basis therefor.

(b) The Secretary is authorized, in carrying out this Act, to accept, purchase, or lease in the name of the department, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of

section 3679(b) of the Revised Statutes of the United States.

(c)(1) The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds under this Act as deemed necessary to carry out this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

(2) The Secretary, with respect to grants, contracts, or agreements made under part C of title II of this Act, and the Governor, with respect to grants, contracts, or agreements made under section 105(h)(2), shall provide an opportunity for comment to the entity administering the program assisted under title I of this Act in each service delivery area before any such grant, contract, or agreement is made affecting the delivery of employment and training services in that service delivery area.

UTILIZATION OF SERVICES AND FACILITIES

Sec. 310. (a) The Secretary is authorized, in carrying out this Act, and to the extent permitted by law other than this Act, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with its consent.

(b) The Secretary is authorized to carry out this Act through the use, to the extent appropriate, of resources and facilities for job training and other skill development available in industry, labor, public and private educational and training institutions, vocational rehabilitation agencies, other State, Federal, and local agencies and other appropriate public and private organizations, with their consent.

INTERSTATE AGREEMENTS

Sec. 311. Whenever compliance with the provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such agreements, subject to the approval of the Secretary.

NONDISCRIMINATION

Sec. 312. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) No person, on the ground of sex, religion, or political affiliation or belief, shall be excluded from participation in, denied the benefits of, or subjected to discrimination in the provision of services under, any program or activity financially assisted in whole or in part under this Act.

(3) Participation in programs and activities financially assisted in whole or in part under this Act shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other persons authorized by the Attorney General to work in the United States.

(b) Whenever the Secretary finds that a State or other recipient or subrecipient has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2) or (a)(3), or with an applicable regulation prescribed to carry out subsection (a)(2) or (a)(3), the Secretary shall notify such State or recipient or subrecipient and shall request it to comply. If within a reasonable period of time, not to exceed sixty days, the State or recipient or subrecipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act, as may be applicable; or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient or subrecipient is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2) or (a)(3), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) For purposes of this section Job Corps members shall be considered as the ultimate beneficiaries of Federal financial assistance.

JUDICIAL REVIEW

Sec. 313. (a)(1) If any applicant for financial assistance under this Act is aggrieved by the Secretary's final order under section 307 whereby the Secretary determines not to award, or to only conditionally award, financial assistance, or if any recipient is aggrieved by the Secretary's final order under section 307 with respect to a corrective action or sanction imposed under section 306, such applicant or recipient may obtain review of such final order in the United States court of appeals having jurisdiction over the applicant or recipient by filing a review petition within thirty days of receipt of such final order.

(2) The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record upon which the final order was entered as provided in section 2112 of title 28, United States Code. Review petitions unless ordered by the court, shall not stay the Secretary's order. Petitions under this Act shall be heard expeditiously, if possible within ten days of the filing of a reply brief.

(3) No objection to the order of the Secretary shall be considered by the court unless the objection shall have been specifically and timely urged before the Secretary. Review shall be limited to questions of law and the Secretary's findings of fact shall be conclusive if supported by substantial evidence.

(b) The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The court's judgment shall be final, subject to certiorari review by the Supreme Court of the United States as provided in section 1254(1) of title 28, United States Code.

PROGRAM STANDARDS

Sec. 314. (a) The conditions of training and training-related employment shall be consistent with applicable State and Federal law.

(b) Persons in on-the-job training shall be compensated by the employer at the same rates, including periodic increases, as similarly situated employees or trainees and in accordance with applicable State and Federal law.

(c) Conditions of training and training-related employment shall be appropriate and reasonable in light of such factors as the type of work, local conditions, and the proficiency of the participant.

(d)(1) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) No program shall impair existing contracts for services.

(e) No provision of this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

TRANSITION PROVISIONS

Sec. 315. (a) The Secretary may provide financial assistance in the same manner that such assistance was provided under the Comprehensive Employment and Training Act (as in effect on the day before the date of enactment of this Act) to the extent the Secretary considers necessary to provide for the orderly transition from programs carried out under that Act to programs authorized under this Act.

(b) The authority granted to the Secretary by subsection (a) shall expire on September 30, 1983.

(c) Notwithstanding any other provision of law, the Secretary may waive the application of any requirement of law relating to rulemaking to the extent the Secretary deems such waiver necessary to carry out the provisions of subsection (a).

(d) Until September 30, 1984, the Secretary is authorized to withhold funds otherwise payable to a recipient under this Act to fully satisfy debts to the Government established against the same recipient as a recipient or subrecipient in any year under the Comprehensive Employment and Training Act. The authority granted in this subsection shall be in addition to the existing statutory, contractual, or common law rights of the Federal Government to establish or recover debts to the United States.

(e) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges, which have been issued under the Comprehensive Employment and Training Act as in effect prior to the effective date of this Act, or which are issued under that Act on or before September 30, 1983, shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

(f) The provisions of this Act shall not affect administrative or judicial proceedings pending on the date of enactment of this Act, or begun between the date of enactment of this Act and September 30, 1984,

under the Comprehensive Employment and Training Act.

(g) Upon implementation of this Act by the Secretary, no Federal funds shall be spent for Federal or State advisory councils under the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act) or for labor market advisory councils under title IV of the Social Security Act.

CRIMINAL PROVISION

Sec. 316. (a) Section 665 of title 18, United States Code, is amended to read as follows:

"THEFT OR EMBEZZLEMENT OF JOB TRAINING FUNDS; OBSTRUCTION OF INVESTIGATIONS

"Sec. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency or organization receiving financial assistance under the Training for Jobs Act knowingly enrolls an ineligible participant, embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property, which are the subject of a financial assistance agreement or contract under such Act, shall be fined not more than $10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(b) Any person who willfully obstructs or impedes, or willfully endeavors to obstruct or impede, an investigation by Federal authorities under the Training for Jobs Act or the Federal regulations under that Act, shall be fined not more than $5,000 or imprisoned for not more than one year, or both.".

(b) The analysis of chapter 31 of title 18, United States Code, is amended by striking out the item relating to section 665 and inserting in lieu thereof the following new item:

"665. Theft or embezzlement of job training funds: obstruction of investigations.".

REFERENCE

Sec. 317. Effective on the date of the enactment of this Act, all references in any statute other than this Act to the Comprehensive Employment and Training Act shall be deemed to refer to the Training for Jobs Act.

CONTRACT AUTHORITY

Sec. 318. The authority to enter into contracts or other obligations under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

REPEAL; AMENDMENT

Sec. 319. (a)(1) The Comprehensive Employment and Training Act, other than part B of title IV, relating to the Job Corps, and title V, relating to the National Commission for Employment Policy, is repealed.

(2) Section 5(b) of the Comprehensive Employment and Training Act Amendments of 1978 is repealed.

(3) Section 11(a) of the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act), relating to Federal and State advisory councils, is repealed.

(b) Part B of title IV of the Comprehensive Employment and Training Act is amended by adding at the end thereof the following:

"DEFINITIONS

"Sec. 469. For the purpose of this part—

"(1) the term 'economically disadvantaged' has the same meaning given that term under section 2(3) of the Training for Jobs Act; and

"(2) the term 'Secretary' means the Secretary of Labor.".

(c) Section 468 of the Comprehensive Employment and Training Act is amended by striking out "title II and part C of this title" both times they appear, and by inserting in lieu thereof "title I of the Training for Jobs Act".

(d)(1) Section 502(a)(1) of the Comprehensive Employment and Training Act is amended by inserting at the end thereof a comma and the following: "all of whom are nonvoting members".

(2) Section 503 of the Comprehensive Employment and Training Act is amended—

(A) by striking out clauses (6), (9), and (10);

(B) by redesignating clauses (7) and (8) as clauses (6) and (7), respectively;

(C) by inserting "and" after clause (6) as redesignated by this subsection; and

(D) by striking out the semicolon at the end of clause (7), as redesignated by this subsection, and inserting in lieu thereof a period.

(3) Section 504(a)(2) of the Comprehensive Employment and Training Act is amended by striking out "3" and inserting in lieu thereof "6".

TITLE IV—AMENDMENTS TO THE WAGNER-PEYSER ACT

PUBLIC EMPLOYMENT OFFICES PROGRAM

Sec. 401. Sections 1 through 10 of the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act), are amended to read as follows: "That in order to promote the establishment and maintenance of a national system of public employment offices, there is established within the Department of Labor the United States Employment Service.

"Sec. 2. For the purpose of this Act—

"(1) the term 'Secretary' means the Secretary of Labor;

"(2) the term 'service delivery area' has the same meaning given that term under the Training for Jobs Act; and

"(3) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

"Sec. 3. The United States Employment Service shall assist in coordinating the State public employment services throughout the country and in increasing their usefulness by developing and prescribing minimum standards of efficiency, assisting them in meeting problems peculiar to their localities, promoting uniformity in their administrative and statistical procedure, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system, and maintaining a system for clearing labor between the States. It shall be the duty of the Secretary of Labor to assure that unemployment insurance and employment service offices in each State, as appropriate, upon request of a public agency administering or supervising the administration of a State plan approved under part A of title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, shall (and, notwithstanding any other provision of law, is authorized to) furnish to such agency making the request, from any data contained in the files of any such office, information with respect to any individual specified in the request as to (1) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (2) the current (or most recent) home address of such individual, and (3) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor.

"Sec. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

"Sec. 5. (a) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State which—

"(1) has, except in the case of Guam, an unemployment compensation law approved by the Secretary under the Federal Unemployment Tax Act and is found to be in compliance with section 303 of the Social Security Act, as amended,

"(2) is found to have coordinated with the public employment service to provide unemployment insurance claimant services, and

"(3) is found to be in compliance with this Act,

such amounts as the Secretary determines to be necessary for allotment under section 6.

"(b)(1) Beginning with fiscal year 1984 and thereafter appropriations for any fiscal year for programs and activities assisted or conducted under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

"(2) Funds obligated for any program year may be expended by the State during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the program plan.

"(3)(A) Appropriations for fiscal year 1983 shall be available both to fund activities for the period October 1, 1982, and July 1, 1983, and for the program year beginning July 1, 1983.

"(B) There are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this paragraph for the transition to program year funding.

"Sec. 6. (a) From the amounts appropriated pursuant to section 4 for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount available for allotment in each fiscal year as the number of individuals in the civilian labor force in that State bears to the total number of individuals in the civilian labor force in all States, except that no State's allotment percentage under this section shall be less than 90 per centum of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subsection the Secretary shall determine the allotment percentage for each State for the fiscal year 1982 which is the per centum that the State received in 1982 under this Act as in effect prior to the amendment made by this Act of the total amounts available for payments to all States in fiscal year 1982. For each succeeding fiscal year, the allotment percentage of the State shall be the allotment percentage the State received under this subsection.

"(b)(1) Twenty-five per centum of the sum allotted to each State shall be allocated in accordance with the provisions of this subsection.

"(2) Not more than 10 per centum of the amount allotted under paragraph (1) of this subsection may be used for the costs of auditing activities and other administrative activities.

"(3) The remainder of the amount allotted under paragraph (1) of this subsection to each State shall be used for programs and activities described in section 8(b).

"(c) The remainder of the amount allotted to each State shall be allocated by the Governor or legislatively designated State agency among service delivery areas within the State on the basis of the relative number of individuals in the civilian labor force in each service delivery area within the State compared to the total number of such individuals within the State.

"Sec. 7. (a) Plans for service delivery areas shall be prepared, in consultation with the designated State employment security agency, by the private industry council established under the Training for Jobs Act. In any case in which there is no private industry council for a service delivery area, the employment service delivery area plan shall be prepared in cooperation with an official designated by the Governor.

"(b) Each service delivery area plan under this Act shall contain—

"(1) a proposed description of employment services and programs to be provided;

"(2) the priorities for providing services in addition to those required for veterans, but such priorities shall not deny referral services to any category of individuals;

"(3) the proposed budget for the program year, including resources planned for application of the work test; and

"(4) expected performance accomplishments and a comparison with the performance of the previous year.

"(c)(1) Each plan for a service delivery area shall be forwarded to the State office of the employment service agency for use in developing the consolidated State plan.

"(2)(A) The State shall prepare a consolidated State plan for carrying out the provisions of this Act within the State.

"(B) Each consolidated State employment service plan shall contain—

"(i) a description of the use of funds allotted to the State; and

"(ii) a composite of approved plans for service delivery areas within the State providing a statewide description of employment services to be provided.

"(3) Each consolidated State plan shall be submitted to the Secretary. If the plan conforms to the provisions of this Act and is reasonably appropriate and adequate to carry out the purposes of this Act, the Secretary shall approve the plan within thirty days after the plan is submitted.

"Sec. 8. (a) Funds allotted to a State for employment services and allocated to a service delivery area shall be used for—

"(1) job finding and placement services for jobseekers, including unemployment insurance claimants and veterans;

"(2) appropriate recruitment services for employers with vacancies;

"(3) employment counseling, testing, job development, and other employment services for jobseekers;

"(4) special technical services for employers; and

"(5) preparing the service delivery area plan.

In determining the use of funds, priority shall be given to local employee and employer needs.

"(b) Amounts available to States under section 6(b)(3) may be used for—

"(1) evaluation of programs;

"(2) developing linkages between services funded under this Act and related programs funded under related Federal or State legislation;

"(3) providing services for workers who have no reasonable prospect of returning to the occupation or industry from which they have been laid off;

"(4) developing and providing labor market and occupational information;

"(5) developing a management information system and compiling and analyzing reports therefrom;

"(6) providing incentives to reward superior performance in service delivery areas; and

"(7) supplementing services authorized under this Act in service delivery areas.

"(c) The Secretary is authorized to establish performance standards which shall take into account the differences in priorities reflected in State plans.

"(d)(1) No funds paid under this Act may be used for advertising in newspapers for jobs paying more than twice the minimum wage established under the Fair Labor Standards Act of 1938 unless the job is part of a State industrial development effort to encourage new business concerns to locate in the State or to assist an existing business to expand within the State.

"(2) Nothing in this Act shall be construed to prohibit the referral of any applicant to private agencies as long as the applicant is not charged a fee.

"(3) Funds allocated for employment service use in any State and service delivery area under this Act shall be administered in accordance with the approved plan.

"(e) In addition to the services described in the consolidated State employment service plan, the State may perform such other labor market related services as are specified in reimbursable contracts with the Secretary.

"Sec. 9. (a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under this Act. The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidance for the proper performance of audits. Such guidance shall include a review of fiscal controls and fund accounting procedures established by States under this section.

"(2) At least once every two years, the State shall prepare or have prepared an independent financial and compliance audit of funds received under this Act.

"(3) Each audit shall be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities and Functions issued by the Comptroller General of the United States.

"(b)(1) The Comptroller General of the United States shall, on a selective basis evaluate the expenditures by States of funds received under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of the State in accomplishing the purposes of this Act. The Comptroller General shall conduct the evaluations whenever he determines it necessary and he shall periodically report to the Congress on the findings of such evaluations.

"(2) Nothing in this Act shall be deemed to relieve the Inspector General of the Department of Labor of his responsibilities under the Inspector General Act.

"(3) For the purpose of evaluating and reviewing programs established or provided for by this Act, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs that are in the possession, custody, or control of the State.

"(c)(1) Every State shall repay to the United States amounts found not to have been expended in accordance with this Act. The Secretary may offset such amounts against any other amount to which the recipient is or may be entitled under this Act unless the Secretary determines that such State should be held liable pursuant to paragraph (2).

"(2) Each State shall be liable to repay from funds other than funds received under this Act upon a determination that the misexpenditure of funds was due to willful disregard of the requirements of this Act, gross negligence, or failure to observe accepted standards of administration. No such finding shall be made except after notice and opportunity for a fair hearing.

"Sec. 10. (a) Each State shall keep records that are sufficient to permit the preparation of reports required by this Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully.

"(b)(1) The Secretary may investigate such facts, conditions, practices, or other matters which the Secretary finds necessary to determine whether any State receiving funds under this Act or any official of such State has violated any provision of this Act.

"(2)(A) In order to evaluate compliance with the provisions of this Act, the Secretary shall conduct, in several States, in each fiscal year investigations of the use of funds received by States under this Act.

"(B) In order to insure compliance with the provisions of this Act, the Comptroller General of the United States may conduct investigations of the use of funds received under this Act by any State.

"(3) In conducting any investigation under this Act, the Secretary or the Comptroller General of the United States may not request any information not readily available to such State.

"(c) Each State receiving funds under this Act shall—

"(1) make such reports concerning its operations and expenditures as shall be prescribed by the Secretary, and

"(2) prescribe and maintain a management information system designed to facilitate the compilation and analysis of programmatic and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes.".

TITLE V—DISLOCATED WORKERS

AUTHORIZATION; ALLOTMENT

Sec. 501. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) Funds appropriated under subsection (a) in each fiscal year shall be allotted among the States on the basis of the relative number of long-term unemployed persons within the State compared to the total number of such persons in all States in accordance with the provisions of section 101(b)(3)(A).

(c) The Secretary is authorized to reallocate any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to use such amount within a reasonable period of time.

(d) For the purpose of this title, the term "State" includes the several States and the District of Columbia.

IDENTIFICATION OF DISLOCATED WORKERS

Sec. 502. (a) Each State is authorized to establish procedures to identify substantial groups of workers who—

(1) have been laid off from their employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

(2) are employed in operations or establishments which the employer has determined to shut down on a permanent basis; or

(3) encounter long-term unemployment, or have become discouraged, and may have substantial barriers to employment by reason of age.

(b) The State may provide for the use of the private industry councils established under title I of this Act to assist in making the identification established under subsection (a).

(c)(1) Whenever a group of workers is identified under subsection (a), the State, with the assistance of the private industry council, shall determine what, if any, job opportunities exist within the local labor market area or outside the labor market area for which such workers could be retrained.

(2) The State shall determine whether training opportunities for such employment opportunities exist or could be provided within the area.

(d) Whenever training opportunities pursuant to subsection (c) are identified, information concerning the opportunities shall be made available to workers. The acceptance of training for such opportunities shall be deemed to be acceptance of approved training within the meaning of any other provision of Federal law relating to unemployment benefits.

PROGRAM ELEMENTS

Sec. 503. (a) Subject to the provisions of subsection (b), financial assistance provided to States under this title may be used to pay 50 per centum of the cost of assisting workers identified under section 502 to obtain unsubsidized employment through job training and related services. Such training and services may include but are not limited to—

(1) job search assistance;

(2) job development;

(3) training in job skills for which demand exceeds supply;

(4) supportive services;

(5) relocation assistance; and

(6) programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of plant closures.

(b)(1) Whenever the average rate of unemployment for a State is higher than the average rate of unemployment for all States, the financial assistance described in subsection (a) to such State for that fiscal year shall be increased by 10 per centum for each 1 per centum, or portion thereof, by which the average rate of unemployment for that State is greater than the average rate of unemployment for all States.

(2) The Secretary shall determine the average rate of unemployment for a State and the average rate of unemployment for all States for each fiscal year on the basis of the most recent twelve-month period prior to that fiscal year.

LOCAL PARTICIPATION

Sec. 504. Every State receiving funds under this title shall give an opportunity to applicants to apply for funding of locally developed projects to carry out the provisions of this title.

CONSULTATION WITH LABOR ORGANIZATIONS

Sec. 505. Any assistance program conducted with funds made available under this title which will provide services to a substantial number of members of a labor organization shall be established only after full consultation with such labor organization.

LIMITATIONS

Sec. 506. (a) Not more than 30 per centum of the funds available under this title in any State shall be available for supportive services and cost of administration.

(b) No Federal funds under this title shall be used for paying wages, allowances, or stipends.

TITLE VI—COORDINATION OF JOB TRAINING ACTIVITIES

USE OF PRIVATE INDUSTRY COUNCILS

Sec. 601. No provision of any Federal law shall be construed to prohibit the use of a private industry council established under title I of this Act from being used for planning for, or advising on, programs under the Vocational Education Act of 1963, the Rehabilitation Act of 1973, or any other Federal law relating to employment or training.

ADVISORY COUNCILS

Sec. 602. (a) Notwithstanding any other provision of law, a Governor may combine two or more advisory councils whose functions relate to employment or training or use one such council to perform the functions of more than one such council if—

(1) the combined council meets the essential elements regarding composition of all the councils subject to the consideration or use carried out under this title; or

(2) a council performing any additional function meets the essential elements regarding composition of the council whose functions it is performing.

(b)(1) The Governor of any State wishing to merge or expand the use of an advisory council under subsection (a) shall give public notice of the intention to do so. The notice shall include the composition of the new or expanded council and its proposed functions.

(2) The notice required by paragraph (1) shall be transmitted to the head of each Federal department or agency having responsibility for the laws governing the advisory councils subject to the merger or expansion. The head of each such department or agency shall approve such new or expanded use unless he finds, for good cause shown, that such expanded council will not meet the essential purposes of the applicable Federal law. Any adverse decision by the head of a department or agency may be appealed to the Director of the Office of Management and Budget or to the head of any other agency designated by the President.

PERFORMANCE OF SERVICES BY STATE AGENCIES RECEIVING FEDERAL ASSISTANCE FOR TRAINING

Sec. 603. (a) Subsection (a) of section 7 of the Act of May 21, 1920 (commonly known as the Economy Act; 31 U.S.C. 686) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The provisions of paragraph (1) of this subsection (except the provisos of such paragraph) shall be applicable to any State agency receiving Federal financial assistance for job training or related programs, as designated by the Governor of the State or the Mayor of the District of Columbia.".

(b)(1) Each State agency may contract with any other State agency to perform the services for which Federal assistance for job training or related programs is received if the Governor determines that such a contract will promote efficiency of operation.

(2) For the purpose of this subsection the term "State" includes the several States and the District of Columbia.

TITLE VII—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

AUTHORIZATION OF APPROPRIATIONS; ALLOCATION

Sec. 701. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b)(1) From the funds appropriated under subsection (a), the Secretary shall first allocate to areas listed in section 101(b)(2) and to entities eligible under part A of title II the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

(2) The remainder of sums appropriated pursuant to subsection (a) shall be allocated among States in accordance with section 101(b)(3) and suballocated among service delivery areas within States in accordance with section 101(c)(1).

USE OF FUNDS

Sec. 702. Funds available under this title may be used for—

(1) basic and remedial education, institutional and on-the-job training, work experience programs, employment counseling, occupational training preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, and any other employment or job training activity designed to give employment to eligible persons or prepare them for, and place them in, employment; and

(2) supportive services necessary to enable such persons to participate in the program and to assist them in retaining employment.

LIMITATIONS

Sec. 703. (a) Programs under this title shall be conducted during the summer months.

(b) Individuals eligible under this title shall be economically disadvantaged persons under the age of twenty-two.

APPLICABLE PROVISIONS

Sec. 704. Private industry councils established under title I, local elected officials, State job training councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this title as private industry councils, local elected officials, State job training councils, and Governors do for funds available under title I.

Mr. ROBERT C. BYRD. Madam President, will the distinguished Senator yield?

Mr. QUAYLE. I am glad to yield to the minority leader.

Mr. ROBERT C. BYRD. I suggest that the distinguished Senator put in a quorum call.

Mr. QUAYLE. I say to the minority leader that I conferred with Senator KENNEDY's staff and stated that I would proceed with my opening statement. I understand that he is on his way to the Chamber and does not object to my proceeding.

Mr. ROBERT C. BYRD. If he has not arrived when the Senator has fin-

ished his opening statement, will the Senator then put in a quorum call?

Mr. QUAYLE. I assure the distinguished minority leader that I will do so.

Madam President, the measure before the Senate today is the job training bill that was reported by the Committee on Labor and Human Resources by unanimous vote. The vote occurred on June 9, and since that time we have been working with all Senators to try to conclude accommodations with respect to their desires.

Before I proceed into the merits of the bill, I should like to pay particular attention to a number of Senators who were helpful.

First of all, I express my appreciation to the chairman of the committee, Senator HATCH, for helping move this measure forward. Senator HATCH has always been very supportive and readily available for consultation on numerous occasions when we were confronted with various obstacles. I know of Senator HATCH's personal interest and support for the national job training bill. It has been evident since day 1, and I certainly want to thank him.

I also express my sincere appreciation and gratitude to the ranking minority member of the Committee on Labor and Human Resources, Senator KENNEDY. When we began deliberations on this legislation, Senator KENNEDY and I obviously had a difference of opinion on what a national training and employment bill should look like. After a number of discussions at the staff level and Senator to Senator, we came up with a compromise, the bipartisan measure which is now before the Senate.

Senator KENNEDY's knowledge and expertise, coupled with his strong commitment to training for disadvantaged youths and adults, was a very strong ingredient and element in this legislation.

The Senator from Massachusetts is well known for the energy he has expended in the training area, in helping the less fortunate, the downtrodden in our society. His thoughts and his idealism, which have been with him in all his days of public life, are indelibly impressed upon this piece of legislation.

Furthermore, I want to pay tribute to the Senator from Florida, Senator HAWKINS, for her immense contribution to this legislation. She has been consulting not only with me but with others in trying to move this legislation forward as expeditiously as possible. She made a number of valuable contributions and offered amendments which improved the merits of this legislation.

She was an original cosponsor of this along with Senator PELL.

Senator PELL in the full committee, along with Senator NICKLES, in the vocational education amendment, was also a very important ingredient in this legislation.

Finally, I would like to pay tribute to the ranking minority member on the Subcommittee on Employment and Productivity (Mr. METZENBAUM). Senator METZENBAUM, in the subcommittee as well as in the full committee, had a number of amendments that were adopted. The one I was particularly pleased with was an amendment containing a sliding scale with respect to displaced workers. It was his thought to help pay special attention to those regions of the country that had high rates of unemployment, and it was his leadership and knowledge, his involvement in that area, which have resulted in our now having a sliding scale that will do a lot for States such as Ohio, such as Indiana, where we do have high rates of unemployment.

Furthermore, Madam President, a number of other Senators were involved at the committee level. Amendments by Senators EAGLETON, RANDOLPH, RIEGLE, STAFFORD, and WEICKER were all adopted. They were excellent and outstanding amendments, and certainly went a long way to strengthen the bill.

Madam President, I would also like to read a sentence from a letter I received from OMB Director David Stockman on June 18 saying:

> The administration supports speedy enactment of job training legislation along the lines of S. 2036.

So I believe we can see the comprehensive support that we have for this legislation. It has traversed the legislative route for a long time. I can remember the distinguished senior Senator from Massachusetts and myself introducing the extension for youth employment about 14, 16 months ago which, when we got through, was sort of a forerunner of this legislation, which is now certainly much more comprehensive in its nature.

Madam President, this bill is geared toward helping those who are unemployed. This bill is emphasizing training, training for jobs, and training for opportunities. Its main emphasis is on the economically disadvantaged, and on economically disadvantaged youth.

Madam President, we have a new unfortunate phenomenon in our society today, and that is the high rate of unemployment of people who have been working for an industry for a period of years, the dislocated worker, whether it be in the auto industry or the steel industry or whatever industry where there are difficult times. These individuals have lost their jobs, perhaps with as many as 10, 15, or 16 years of seniority and, in many cases, they have no real chance of going back to that place of longstanding employment. We must encourage retraining, we must encourage training, we must encourage the decisionmaking process to begin now, and not just wait for a recall notice that may never come.

Furthermore, there are some income-security programs, unemployment compensation, SUB pay, and other programs that can afford at least some sort of maintenance for a period of time while these people seek retraining, assuming they do so in the near future. That is a new element of the bill.

But primarily this bill is to emphasize training, and there is no doubt that training is important.

This is not—and I want to repeat—this is not an income maintenance program. This is not a public service employment program. As a matter of fact, we have debated the issue of public service employment, and it is not part of this bill. Public service employment is not even part of the bill that is in the House of Representatives. That issue has been set aside. We are going to focus on training. As a matter of fact, what we try to establish is that as much as 70 percent of the funds can be used for training. That is what we say we want to achieve. We are going to allow for reasonable expenses in the bill for isolated cases that we will have to take care of.

Business and industry do a good job of training individuals but, unfortunately, they seem to take the cream of the crop. There is a certain structural group left in our society who will not receive any training, any opportunity, any advancement of skills unless the Federal Government has a comprehensive program that is geared toward and directed to those individuals, and that is precisely what this legislation is, and that is precisely why the Federal Government should be involved.

There is no doubt about it: There is a role for the Federal Government in employment training. I want to make plain my enthusiastic support for a comprehensive job training program.

Madam President, another initiative of this legislation is the involvement of the private sector. The private sector is immensely important. Under this legislation we establish a great deal of authority and responsibility in the private industry council of which 51 percent will be composed of the business and industry community. The remainder will be a composite of community-based organizations, educational organizations, labor organizations, and neighborhood groups. But the primary thrust is on the private sector, the reason being that the private sector is where 80 percent of the new jobs are going to be created. In that private sector 80 percent of that growth is going to come from small businesses. That is where the future is going to come from, and that is what the future of employment training is,

to try to get that responsible interaction from the private sector in conjunction with the public sector. That is truly the kind of federalism that all of us would like to see. You can call it new federalism, old federalism, or just federalism.

But what we are trying to do is to get that partnership between the private sector and the public sector working together for one common goal. In this case the common goal is training, training those people who do not have a job now, who do not have the skills and would not have them unless they have some special attention as this legislation is going to afford them.

I do not care what label you want to put on this bill. What we are trying to devise, and what we think we have accomplished is a structure that will see compatibility and cooperation that has not existed previously.

Madam President, we do in this legislation come forth with a standard test on measurement of success. As a matter of fact, one of the problems we have with the current system is that there is no measurement of performance. The new legislation will provide standards for judging the program by what is accomplished, by whether those trained are hired or earn more as a result of training.

It will end Federal involvement in the process of how people are to be trained; provide for the measurement of the outcomes and the removal of the Federal Government from the involvement in the details of the program's operations.

Finally, Madam President, there is a separate title to deal with summer youth. This was a debate we had in the committee. It was a debate we had ongoing for a number of months, and I am pleased to report that we have a separate title. The sums for the summer youth program do not come under the restrictions of the 70-30 breakdown on training costs versus allowances and administrative costs. It is a separate title to deal with a separate but very important and fundamental issue.

In conclusion, Madam President, this legislation is one of the most and, perhaps, the most, important pieces of social domestic legislation that will be dealt with by this Congress. It deals with a fundamental inherent problem we have in this country; namely, unemployment. It deals with a problem we are going to face today and in the future, and that is how we are going to train our people for the future jobs we have today and for the future jobs we have tomorrow.

I was recently visiting our unemployment training program in Indianapolis, and noticing how they were finding small business jobs in the community, and how they were training the people to go out and get those jobs now, job placement training to get someone placed in productive employment. The basic idea of this legislation is not to create a program to stay in permanently but, Madam President, it is more a program that there will be an incentive to not only get into, but also to get out of. It is a training program, training for jobs, and a program that has bipartisan support. It has been strongly debated. We will have some amendments today, and we will have a very thorough discussion, and I hope we can move this very important and significant legislation forward in the way in which it has come out of the committee, and that was by a unanimous vote of the Committee on Labor and Human Resources.

Madam President, I fully support the Training for Jobs Act, legislation that will provide for a job training program for this country. The full Committee on Labor and Human Resources favorably reported this bill by a unanimous bipartisan vote of 16 to 0. I am pleased that the administration has given its support to the bill as reported by the committee.

I want to extend my sincere appreciation to Senator HATCH for his leadership in keeping this bill moving through the legislative path in a timely manner. He has been supportive and readily available for advice and assistance on numerous occasions when we were faced with what seemed to be some overpowering hurdles. Mr. HATCH's personal interest and support for a national job training bill has been evident during this past year and a half; his leadership has been effective and produced results.

I also want to express my deep thanks to Senator KENNEDY. We had some very divergent ideas on what this training legislation should look like when we started out. In fact, we still have some divergent ideas and each of us would have preferred something somewhat different, but the desire for bipartisan legislation was shared by us both and the desire for a national job training program for this country was the overriding factor when differences surfaced. Senator KENNEDY's knowledge and expertise coupled with his commitment to training for disadvantaged youth and adults was a very strong impetus in the design and movement of this bill. Senator KENNEDY was a major contributor to the passage of the Youth Employment Demonstration Amendments of 1981 and is, without a doubt, a driving force behind S. 2036 as well.

The authorization of the Comprehensive Employment and Training Act expires this year. This Nation needs a new job training program for the dropout youth who are not prepared for employment, for welfare recipients who need training to escape from dependency, for the economically disadvantaged who cannot compete in the labor market without help. We also need a training program for the dislocated worker who needs new skills for the new jobs being created by the changing economy. The Federal Government has a responsibility to help meet these training needs.

New legislation must be based on four basic principles which are essential for an effective job training program. These principles are:

First, the new legislation must provide for the involvement of the private sector in the design and administration of training programs. Under the current CETA system, business involvement has been limited to title VII programs, and there is no requirement for the involvement of the private sector in all aspects of the program. Such involvement is essential because it is the private sector which will employ the graduates of the training programs and it is only those who will employ the graduates who can really define the kinds of training programs that are needed.

Second, job training legislation must recognize the true principles of federalism. The current CETA system limits the Governor to balance of State and special statewide programs and bypasses him altogether in other cases which provide for a direct Federal to local government relationship. The new legislation will recognize the role of the State in all local programs and end the excessive involvement of the Federal Government.

Third, job training legislation must truly be a training legislation and not an income maintenance program. The current CETA system has provisions relating to mandatory allowances and public service employment for which justifications include providing income transfers as well as job training and employment. The new legislation repeals these provisions.

Fourth, the legislation must insist on performance. The current CETA system does not have any effective means of measuring program results or penalizing nonperformance. The new legislation will provide standards for judging the programs by what they accomplish by whether those trained are hired and earn more as a result of training. It will end Federal involvement with the process of how people are to be trained. It will provide for measurement of the outcomes and remove the Federal Government from involvement in the details of program operations.

In addition to these basic principles, the legislation must address two other items of major concern:

First, new legislation must emphasize the need to provide training for the dislocated workers who have no realistic prospect of returning to the job from which they are laid off. Other Federal laws emphasize income transfers for these workers. Under the best

of circumstances hundreds of thousands of workers in the automobile industry and other basic industries may not return to their lifetime work. We must identify those workers who cannot go back to their old jobs and provide retraining for the new and expanding occupations which exist in the economy at the present time.

Finally, new legislation must provide for coordination between the multiplicity of employment and training programs that now exist. Coordination under current law is fragmentary at best.

The bill which has been reported by the committee is based on these principles and addresses these concerns.

I want to thank the members of the committee and so many of my colleagues for their support and interest in this legislation. As with any major bill the legislative path has been a difficult one. The bill has bipartisan sponsorship and was reported out of subcommittee and full committee by unanimous votes of 7 to 0 and 16 to 0 respectively. Excellent amendments were offered and adopted in these executive sessions. Senators NICKLES and PELL offered an amendment to provide an educational component for the job training program, which will bring education and training programs closer together in partnership improving services for individuals eligible under the act. Senators DENTON and EAGLETON offered amendments to provide much needed training programs for older workers, age 55 or older. Senator HATCH offered amendments for hold harmless provisions to ease the impact of fund redistribution to allow for a more orderly transition from the current program. Further amendments by Senators HATCH, KENNEDY, EAGLETON, RANDOLPH, RIEGLE, STAFFORD, HAWKINS, WEICKER, and METZENBAUM were adopted, all excellent amendments strengthening the bill.

I know and you know that this bill is the result of considerable deliberation, negotiation, and compromise. Everyone of us would have done it a little different it we had only ourselves to satisfy. That is not the case. The bill before us is equitable and responsive employment and training legislation and, I believe, reflects a realistic approach to the training needs in this country.

Thank you for your interest and support.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. COHEN). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join with the Senator from Indiana in recommending to the Senate that we accept this legislation.

First of all, I wish to commend Senator QUAYLE for the way he has addressed this issue. As a new member on the Human Resources Committee when we were considering the issue of youth training just a year ago, Senator QUAYLE showed great interest in this issue and worked effectively with the members of his party, as well as with the Democrats, to provide an extension of existing legislation while he went through an exhaustive set of hearings in different parts of the country to try and fashion and shape an alternative job training program.

He was extremely forthcoming in working with those of us who have been interested in this issue for a period of years in considering our various proposals while at the same time balancing the administration's interests. I think all of the young people who will benefit from this program are indebted to his persistence and his commitment to providing training for young people as well as the other features of the bill which will mean new opportunities for the older and the displaced worker.

I welcome the chance to join with him today as a cosponsor of this legislation. I think it incorporates many of the useful suggestions that emerged as a result of the course of our hearings. I think this is an extremely important bill.

This legislation is necessary and needed, particularly given the state of our economy. As a member of the Joint Economic Committee I have attended the monthly hearings—we have another one tomorrow—and listened to the Bureau of Labor Statistics talk about the rise in unemployment in our society. One of the most tragic aspects of those statistics is the figures on the unemployment. It is particularly tragic for those young people who live in the inner cities and for whom it is virtually impossible to acquire the skills which are necessary to be able to find gainful employment.

I think all of us are mindful of the fact that there are those who deride the importance of youth training programs and training programs in general and point out the want ads that exist in the Sunday supplements. But in any reasonable reading of those want ads, you will find that the want ads themselves show that there are jobs which exist but they are jobs which require some very specialized training and supplemental education.

What this program is designed to do is to provide that training and education for young people as well as for displaced workers and others in our society who are economically disadvantaged and unemployed. I welcome the opportunity to recommend that this legislation be adopted.

This is the first real initiative that recognizes and responds to the human dimensions of the serious economic problems facing our country. This bill offers new hope and new opportunity to young people trying to find their first job, as well as the older workers who find their skills no longer in demand. This legislation is not a jobs program, it is a youth training program. And I believe that we need a youth training program.

I think that we also need a jobs program. During the budget consideration, I offered an amendment on that particular issue. I was unsuccessful, but I still believe that, to meet our responsibilities to individuals in our society who have lost their jobs because of economic policies, we have an important responsibility to put them to work in constructive activities to rebuild their communities.

But that is not what we are considering today. We are considering a training program. the Training for Jobs Act is the first time that we have really asked business to join with Government as a full and voting partner in the very real job of preparing people for work.

In the various youth training programs that I have seen in my own State of Massachusetts, the involvement of the private sector has been exceedingly important. One of the truly outstanding youth job training programs that exists in my own State has been the Springfield Jobs Skill Center, which has the very active involvement of the small business community in the Greater Springfield area and has a placement rate which is one of the highest of any youth training program in the country. These young people get and keep jobs in the private sector. To a great extent, I think it is a result of the fact that the private sector has been actively involved.

We have incorporated that lesson into this legislation, which I think strengthens it over previous programs. It is the first time we have asked the Governors to take on a new and important responsibility for planning and guiding and overseeing these programs in their States and working with their local counterparts to carry them out.

One of the areas of rather considerable concern which we have worked out in this legislation—not completely to the satisfaction of either the Senator from Indiana or myself, but I think that we have a reasonable compromise—is how we are going to address the particular programs that are developed by cities and large political subdivisions in the respective States. I think we were mindful that the Governors have an important responsibility, but also that mayors and county commissioners have, in the past, developed considerable knowledge and expertise in administering these training programs.

One of the concerns that many of us have had is, to insure that greater au-

thority for the Governors would not mean the loss of important opportunities in many of the cities of those particular States. So we have tried to balance both the responsibilities of the Governors and also insure that large political subdivisions, major cities, and counties, would be given fair consideration and not excluded from very active participation in this legislation.

Mr. President, we have also concluded that performance and not grantsmanship will be the standard for judging which programs are continued. This was an aspect of previous youth legislation which I had sponsored, and I think it is extremely important. Now we are going to have tough, effective performance standards.

There are a number of other important provisions in this legislation. I will mention them just briefly, Mr. President.

We recognize that education and skilled training are essential if we are to put the unemployed to work in the jobs of the future. So there is an important provision in the area of education, to give educators a voice and a vote in providing this training. This bill requires, as well, that the employment service join together with business and local governments to provide help to those trying to find work.

This act recognizes the special needs of older workers. The Senator from Indiana has outlined those provisions. I just want to underline the importance that I give to those aspects of the legislation.

For the older workers who have lost their jobs for a variety of different reasons over which they had virtually no control, it is exceedingly difficult for them to find employment. But there are important provisions in the legislation to insure that older workers are going to be able to acquire skills, and displaced homemakers and those who dropped out of school will also have a second chance.

I think the bill builds on many of the lessons of the past. I am pleased it has broad support in this body.

I want to bring to the attention of my colleagues a number of changes made in the bill at the request of the administration which I do not support.

This legislation now prohibits the payments of wages, allowances, and stipends and greatly restricts the amounts that can be used for administration and supportive services.

There has been a great deal made of the point that we are not talking about an income maintenance program. That is true. But I think the record that was made during the course of the hearings also shows that some of the neediest people in our society do not have the resources to be able to continue to acquire the skills which are necessary because they are in dire financial straits.

One of the interesting aspects, and it is eminently understandable, is that the longer the training period lasts the greater the opportunity to actually gain employment and the better opportunity there is for the individuals to retain their jobs. Well, that is inconsistent with the fact that many of the individuals, young people in particular, do not have the financial means to participate in long-term training and, therefore, they are caught in a catch 22. While they are trying to gain skills they do not have any resources to be able to maintain themselves and, therefore, they are not able to continue the education programs and the training programs which will permit them to be self-sufficient. I think we should grant greater flexibility in this particular area.

The administration would not support provisions, to give greater flexibility to the local administrators in fashioning and shaping a program, and I question the administration's position on that issue.

I believe these provisions tie the hands of Governors, mayors, and businessmen by telling them what they cannot do before the program even gets off the ground. I think we should have given much greater flexibility, given the fact that we are building on the private sector and incorporating private enterprise into these training programs. Giving greater flexibility to those at the local level to exercise their good judgment just makes good sense.

We often hear, and we even heard last night, that not all knowledge is in Washington. We recognize that and believe that. That is one of the reasons that we wanted to give greater flexibility to those who are actually administering the programs, and then have effective performance standards so we would be able to judge whether those programs were being actually effective in achieving the objectives of the legislation. But that view did not prevail.

I believe we ought to trust in the commonsense and the honest intentions of the businessmen and women across the country who plan to run these programs. They are closest to the communities and know the needs, and they know the needs of employers. But I am hopeful, Mr. President, that these restrictions can be eased when we meet in conference with the House.

The Senator from Indiana is well familiar with these positions because we have talked frequently about them and have voted on them on occasions in the subcommittee. I am hopeful that we can make some adjustments on some of these provisions when we actually get to the conference.

I have a few amendments, Mr. President, but I am pleased that we are finishing the work on this bill before the Fourth of July recess. I look forward to the day when this bill is officially signed into law and we can get about the business of putting young Americans and older Americans back to work.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am pleased to be a cosponsor of S. 2036, the Training for Jobs Act, and I am pleased to see the legislation presented to the Senate in its present form. The legislation before us is the culmination of months of discussion, hearings, and negotiation. Several mountains had to be climbed before reaching this point, but the result has been worth it. This measure accomplishes everything we had hoped in the way of basic, fundamental reforms to Federal employment and training policies and, furthermore, it has the unanimous support of the Labor and Human Resources Committee and the Reagan administration.

It takes a long time and a lot of compromise to present to the full Senate a bipartisan, administration-backed bill. I want to commend the members of the Labor and Human Resources Committee, particularly Senator QUAYLE whose hard work and commitment has brought us to this important stage of the legislative process, and Senator KENNEDY, whose willingness to work together is evidence of our committee's strong desire to enact legislation we can launch enthusiastically on October 1.

I think both have exhibited the extraordinary ability on this particular bill and have done everything in their power to try and bring about a bipartisan approach. I personally am very appreciative to both of them.

I also want to commend the White House and Labor Department staffs who have participated actively in the process and who are as dedicated to the passage of S. 2036 as we are.

I was pleased to have played a role in the development of this bill and am proud of what we have achieved on behalf of the economically disadvantaged youth and adults who will benefit most from this new training program. I am also pleased that in establishing such a program we have made some essential changes in Government's approach to providing such services.

First, this is a training bill, not an income maintenance bill. One criticism of CETA was that is was expected to accomplish too much. S. 2036 is a bill which is expected to accomplish one goal—train people for jobs. The bill will assure skeptical taxpaying constituents that at least 70 percent of funds allocated will go directly for training. The costs of administration and supportive services must not exceed 30 percent on a statewide basis.

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Second, evaluation of the new system will be based on performance, not process. The key question which will be asked is not, "How has this training been delivered?", but "What are the results of the training? Has the training resulted in placement, earnings gains, and reductions in welfare?" This change in criteria for evaluation will eliminate much of the costly Federal monitoring and will give taxpayers new confidence that training programs are of long-run benefit to our Nation since the positive effects can be measured against costs.

Third, this bill will greatly increase the role of the private sector over that in CETA. While many businesses took an active interest in training, and while many prime sponsors welcomed that interest, there was no place under CETA for the private sector in other than an advisory role. The Training for Jobs Act recognizes that it is the private sector which will hire individuals graduating from these training programs. It is the private sector which can more probably predict the occupations which will be in demand in the future. It is the private sector which can best gage the quality of training curricula. It is the private sector which can encourage participation by businesses in the community. The major decisionmaking entity in the new legislation is the local private industry council. Consisting of a majority of private sector members, along with local representatives of local government, education, community-based organizations, the employment service and others, the council will have responsibility for planning the program for the service delivery area. It will be responsible for choosing a program administrator, for meeting the performance standards and for insuring the integrity of expenditures at the service delivery area level. This formal linkage is one that matters—it will establish the credibility of the Federal training effort with businesses of every size and will enhance the overall effectiveness of the program.

Fourth is the concept of federalism. Each level of government has been given its special responsibility under the bill. The State level has been given more discretion in S. 2036 than under CETA and would take over many of the duties now being performed in Washington. Actual program design and administration will be carried out primarily at local levels.

Finally, inherent in these concepts is the element of coordination. By combining representatives from major service deliverers and the employment service at both the State and local levels, overlap and duplication of efforts can be eliminated and dollars will be more wisely spent.

There are two other elements of this measure on which I wish to comment briefly. I was pleased that the committee augmented the percentage allocation for the Job Corps with such sums as may be necessary to maintain the authorization for this impressive program at the fiscal year 1982 level. The Job Corps concept has been proven as extremely effective in not only training our Nation's down-and-out youth, but in rehabilitating their attitudes toward life and work. This authorization, which still represents a reduction in real purchasing power due to inflation, is necessary to prevent the elimination of an estimated 10,000 Job Corps slots and the closure of several Job Corps centers around the country. It will permit essential capital improvements to be made on some Job Corps facilities, and continuance of the advanced career training (ACT) program for Job Corps graduates who show particular potential and interest in continuing their education at a junior college or trade school. The ACT program permits additional Job Corps assistance for these participants for 1 year.

I might add that I am not oblivious to the fact that there are problems with the Job Corps and there have been some management problems, some administration problems, and perhaps some others as well. We are going to have to get into those as a committee.

On the other hand, this is a great program which has helped give many hardcore unemployed youth an opportunity to get a job in this country. I might add that I support the Job Corps.

The Labor and Human Resources Committee also approved a provision which I believe will have two very favorable effects. The provision will permit Federal contractors with affirmative action obligations under Executive Order 11246 to finance or undertake independent training programs for eligible individuals in exchange for some paperwork relief from the Office of Federal Contract Compliance Programs. Without exempting the contractor from affirmative action responsibilities, this provision will provide an incentive for employers to voluntarily invest in training programs for the economically disadvantaged, therefore increasing the amount of funds available for training. Additionally, this section will focus training on actual job openings in the entire service delivery area and not just in the employer's own work force.

Mr. President, let me just conclude by reiterating my belief that the long and tedious process of negotiation with every interested party has paid off and enabled us to vote enthusiastically for a fair, workable, and responsible job training bill. I hope the Senate can remain united on this proposal for the sake of our constituents who eagerly await the unveiling of a rejuvenated Federal training program.

Finally, Mr. President, I pay special tribute again to Senator QUAYLE, who has been primarily responsible for this bill, and Senator KENNEDY, without whom I do not think the bill would be on the floor today. I thank him for his efforts and his ability to be conciliatory and work with the majority.

I might add one other person to this group, as well as all members of the committee. In particular, Senator HAWKINS, the distinguished Senator from Florida, has carried a lot of the ball on this bill along with Senator QUAYLE. She has worked very diligently, not only with Senator QUAYLE, Senator KENNEDY, and myself, but with the administration as well. She has played a pivotal role, it seems to me, in helping us to have a job training bill which, at this time, certainly seems imperative to me and I hope to all of our fellow Senators.

Again, Mr. President, I am grateful to all of my colleagues who worked so hard on this. I look forward to passing this bill today.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mrs. HAWKINS. Mr. President, before commenting on the merits of the Training for Jobs Act, which we are considering today, I want to publicly recognize members of the Labor and Human Resources Committee who have worked hard to bring this bill to the Senate floor. Perhaps more than any other Senator, Senator QUAYLE should be honored for his contributions to this legislation. S. 2036 is the impressive product of over 1½ years of hard work by Senator QUAYLE, chairman of the Senate Labor and Human Resources Subcommittee on Employment and Productivity, and his subcommittee staff. They are to be commended for their patience, diligence, and fairness during the development of this bill.

Well deserved praise should also be paid to Senator HATCH and Senator KENNEDY, who played crucial and difficult roles as mediators. I commend them for their work of behalf of this bill and their recognition of the fact that the problem of providing training to the disadvantaged and the unemployed is an issue that crosses party lines. Their success in removing politics from this legislation was demonstrated during subcommittee and full committee markups, when virtually all amendments offered were bipartisan measures. The leadership displayed by these Senators produced a remarkable result: the unanimous support of the Labor and Human Resources Committee and the administration's endorsement of S. 2036.

Formulating a legislative proposal to replace the comprehensive employment and training program has not been an easy task. The public perception of the CETA program is almost

uniformly negative. Much of the criticism is justified. Years of Federal involvement and billions of dollars expended on this program have not noticeably reduced chronic unemployment.

I believe this failure can be attributed to the congressional decision to transform CETA from a training program to an income support program for the unemployed. The public sector employment and income maintenance aspects of CETA have so dominated the program, that successful CETA training programs have been ignored.

During oversight hearings on CETA held in Washington, D.C., and my hometown of Orlando, Fla., I was encouraged by testimony concerning training programs operated by prime sponsors and private industry councils under title VII. Our legislation recognizes the success of these programs and builds upon CETA's existing framework to improve the Federal Government's employment and training programs but rejects massive public sector employment and income maintenance strategies that have failed.

GUIDING PRINCIPLES OF A NEW EMPLOYMENT AND TRAINING SYSTEM

Almost 1 year ago, Senator QUAYLE published a notice in the RECORD setting forth four basic principles he believed should be used in the formation of an employment and training policy. They were: Increased involvement of the private sector, recognition of the true principles of federalism, adherence to performance standards, and emphasis on training rather than income maintenance. The legislation that we are presenting today is based upon those four principles.

During the hearings, a wide spectrum of witnesses urged us to enhance the role of the private business in a Federal employment and training program. They pointed out that private employers already spend up to $100 billion annually on training activities and have learned how to make such expenditures cost effective. In addition, it will be private employers who decide whether or not Federal training is successful by hiring the program participants. I believe these witnesses made an important point.

It is time to recognize that the businessman is the expert in determining the type and location of future businesses, the skills that employers seek in potential employees, and what incentives are required to encourage employers to hire unskilled or disadvantaged individuals. It, therefore, makes sense that private employers should have a large role in designing the training programs.

The second principle, taking advantage of the strengths of the federal system, is also affirmed under this bill. The enhanced role of State governments inherent in S. 2036 reflects the committee's views that Governors are best suited for performing the supervisory roles of approving local plans, monitoring and auditing the performance of service delivery areas, insuring fiscal responsibility, and compliance with Federal guidelines. The Federal Government has already proven that it is unable to adequately monitor 476 prime sponsors and 55,000 subcontractors. Under this bill, the Federal Government will monitor only the States, and leave the monitoring of the local service delivery areas to the States. This is a most welcome improvement and an intelligent application of New Federalism concepts.

One of the most important principles that guided us in the development of this legislation is that performance, not adherence to detailed Washington regulation, is what counts. The prior emphasis on adherance to shifting regulations and guidelines stifled innovaton and prevented States from adopting programs most suited to particular needs of their community. I feel that one of the most important conclusions reached from our committee review was that the Federal Government should not dictate how results are achieved, but instead insist that programs meet tough performance standards. The Training for Jobs Act implements this philosophy by mandating performance standards that the PIC's must meet.

The fourth tenent that guided us was a belief that Federal funds overwhelmingly should be spent on training rather than income maintenance. Previously, wages, stipends, and allowances claimed almost half the cost of some CETA training programs with only 18 percent of CETA funds expended on actual training. I share the administration's concern that in many instances these payments were the chief incentive for participation in prior training programs, not the desire to improve their skills or obtain employment. Therefore, I support the administration's efforts to limit the use of Federal funds that are expended as wages.

Since the Training for Jobs Act successfully translates into legislative form these four principles, I am pleased to recommend its adoption by the full Senate. I am also pleased that refinements I suggested are included in this bill and would like to explain them.

One refinement deletes the requirement that members of the private industry councils be owners, operators, or chief executive officers of their own businesses. Although the intent behind this proposal is excellent, personnel managers rather than chief executives are often the real decisionmakers involved in hiring disadvantaged workers. During the hearings, an entire panel of private industry council members testified that they would not be able to continue to serve on PIC's because none were chief executive officers of their corporations. This would be a nonsensical result, and I am pleased we avoided it. It will make business participation more effective.

Another refinement relaxes a requirement that funds be evenly split between youth and adult training programs. The amendment I offered provides PIC's with flexibility on these percentages if they demonstrate that their areas have a disportionate percentage of disadvantaged adults or disadvantaged youth. I felt that this was necessary to give PIC's flexibility to develop training programs that meet the needs of the individual community and is consistent with decentralized decisionmaking.

Another change that strengthens the bill is the establishment of a loan fund to help certain trainees. One of the biggest controversies between the Senate committee and the Reagan administration was whether to permit the payment of wages, allowances, and stipends. While I agree that the majority of funding should go to training and not income maintenance, I was bothered by the lack of flexibility we were imposing on the PIC's to serve the most disadvantaged individuals. I offered an amendment which would allow PIC's to establish a revolving loan fund to lend money to participants that need a loan to acquire training.

I felt that there were circumstances when a loan will be necessary to allow someone to give up a low-paying job to acquire the skills necessary to obtain better employment. Without the loan, he or she may not be able to take advantage of the Federal training programs. Without this amendment, the PIC would only have the authority to give outright payments for expenses, not loans. I believe that this change will improve the cost effectiveness of this new training program. Highly motivated workers who would otherwise be denied a new chance in life will now have the temporary assistance needed for them to succeed.

Finally, I was pleased with the decision to exclude child support payments from the definition of income. Previously it was unclear whether child support payments would be considered in determining a participant's eligibility to participate in these programs. Studies have shown that the average child support payment is inadequate to cover actual expenses of raising a child and definitely should not be considered as supporting the parent. For reasons similar to those supporting a loan fund, I am glad that working mothers will now be able to afford to enroll in a program that offers a way out of low-paying jobs and poverty.

Mr. President, I am proud that these improvements to a good proposal were included and I believe they strengthen the bill. I urge the Senate to pass this landmark legislation.

UP AMENDMENT NO. 1059

(Purpose: to make technical changes)

Mr. QUAYLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. QUAYLE) proposes an unprinted amendment numbered 1059.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 74, line 15, insert before the period the following: "or a subrecipient".

On page 77, line 9, strike out "paragraph" and insert in lieu thereof "subsection".

On page 79, line 14, strike out "subsection" and insert in lieu thereof "section".

On page 84, line 5, strike out "subparagraph" and insert in lieu thereof "paragraph".

On page 84, line 19, strike out "the" the second time it appears and insert in lieu thereof "such".

On page 94, line 22, strike out "allocation" and insert in lieu thereof "allotment".

On page 96, line 15, strike out "(3)" and insert in lieu thereof "(1)".

On page 99, line 14, beginning with "(including" strike out through "Indians," on line 16 and insert in lieu thereof a comma and the following: "Oklahoma Indians, and including for the purpose of this Act, Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act,".

On page 126, line 3, beginning with "may" strike out through the word "the" the first time it appears in line 7 and insert in lieu thereof a period and the following: "The training and placement of trainees with employers other than the contractor may be considered in evaluating such contractor's overall good faith efforts, but in no event may placement of trainees with employers other than the contractor be permitted to affect that contractor's affirmative action obligations respecting its work force. The".

On page 138, line 17, strike out "2 (3)" and insert in lieu thereof "3 (3)".

Mr. QUAYLE. Mr. President, this amendment, which has been cleared on the other side, is a technical amendment that is necessary to conform with what the committee has done, and I urge its adoption.

Mr. KENNEDY. No objection, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment (UP No. 1059) was agreed to.

Mr. QUAYLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1060

(Purpose: To assure that not less than 2 per centum of the amounts appropriated under section 301(a) for each fiscal year shall be available for employment policy)

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) for himself and Mr. HATCH, proposes an unprinted amendment numbered 1060.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, line 5, after the period insert the following: "Not less than 2 per centum of such amounts shall be available for the National Commission for Employment Policy.".

Mr. KENNEDY. Mr. President, this amendment is to insure that not less than 2 percent of the funds available to the Secretary for national programs be used to support the National Commission on Employment Policy. S. 2036, as now written, continues the Commission as an independent agency but leaves the decision on funding to the discretion of the Department of Labor, and the Commission is intended by law to be an independent body that serves both the Congress and the executive branch. We have given the Commission important and substantially increased responsibility for developing performance standards and then also for doing the evaluation that will be critical to the success of the program.

I think it is imperative that this independent commission be truly independent and not be required to depend upon the Department of Labor for the funding, so a specific set-aside is necessary.

I have very considerable confidence in the National Commission. I have had the opportunity to meet with Ken Smith, the chairman, and a number of the staff, both have a well-deserved reputation. I think we will be extremely fortunate to have their involvement in the establishment of these performance standards, and then we in Congress will be able to oversee the effectiveness of these programs.

I hope that this amendment will be accepted.

Mr. HATCH. Mr. President, I support the distinguished Senator from Massachusetts in his amendment and ask that I be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I think this group has done a tremendous job providing Congress with accurate statistical analysis and other insightful studies. The work the Commission has performed for the Federal Government has helped all of us make a better assessment of these programs, as well as of employment and training needs of the future. I strongly support Senator KENNEDY's amendment and I hope that other Senators will do so also. We certainly want to insure adequate resources for the Commission and to cement its relative importance in this bill overall.

Mr. QUAYLE. Mr. President, as Senator KENNEDY and Senator HATCH have pointed out, this Commission has been very helpful. Mr. Smith has done an outstanding job. I commend the Senator for this amendment. We are talking about preserving the independence. He and the Commission should be commended. They have done outstanding work in the past, and we anticipate no less in the future.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1060) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table as agreed to.

UP AMENDMENT NO. 1061

(Purpose: To make Native American programs available to American Samoans living in Hawaii)

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1061.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 98, lines 16 and 17, insert after "communities" the following: "and American Samoans living in Hawaii,".

On page 99, line 25, insert after "natives" the following: "and American Samoans living in Hawaii".

Mr. KENNEDY. Mr. President, this amendment is intended to bring the American Samoans residing in the State of Hawaii into the native American program authorized under title II of S. 2036. This population has about as great an extent of poverty as any other group in America. Half of the population do not have a high school education. Unemployment is well above the national average. Less than one-third are fluent in English.

In 1904, the American Samoan people were accorded the status of American nationals. This program will be restricted to the island of Hawaii, which has a large American Samoan population and has the capability and the facility to develop effective programs.

This was a matter of very considerable interest to the Senator from Hawaii (Mr. INOUYE). The Senator from Oklahoma (Mr. NICKLES) has been concerned about it. We worked out his particular concerns.

I believe this is a justified amendment, one which will assist a population, which has not participated in this program or training programs generally. I think this has been an oversight, and I am glad that we have an opportunity to rectify that oversight.

Mr. QUAYLE. Mr. President, this is a good amendment. As the Senator has said, it is one that was worked out in the committee, after the committee met, and the Senator from Hawaii brought it up. The Senator from Massachusetts followed through. The Senator from Oklahoma also was instrumental with respect to this amendment. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (UP No. 1061) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1062

(Purpose: To modify the earmarking amount available to the Governor under State allotments)

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself and the Senator from Indiana (Mr. QUAYLE).

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. QUAYLE, proposes an unprinted amendment numbered 1062.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, line 21, strike out "(1)".

On page 76, line 2, before the period, insert a comma and the following: "and may be used for the costs of auditing activities and other administrative activities, and for activities pursuant to section 105(b).".

On page 76, strike out lines 3 through 9.

On page 94, line 5, strike out "101(a)(2)" and insert in lieu thereof "101(a)".

Mr. KENNEDY. This amendment eliminates the restrictions now in the bill on the use of funds set aside for the Governor to administer the program.

As now drafted, 5 percent of the funds allocated in each State are earmarked for the Governor, but no more than 15 percent of these funds can be used to monitor local performance, audit fiscal records, and provide technical assistance and develop management information.

We have asked the Governors to take on substantially more responsibility for the training; yet, we severely limit the resources that will be available to the Governors to do effective monitoring.

During the period of time from markup to the present, we have had an opportunity to talk to a number of Governors, and they have indicated to the members of the committee, that based on their experience in monitoring other programs, they believe this provides an unwise restriction on their ability to insure that effective programs will be developed.

Again, since one of the objects of the jobs training program is to do an effective job of evaluation and give additional responsibilities to the Governors, it seems that we should provide greater flexibility to the Governors for their oversight of these particular programs.

This amendment eliminates those restrictions in the bill on the use of the funds set aside for the Governors.

Mr. President, I ask unanimous consent to have printed in the RECORD some material in connection with this amendment.

There being no objection, the material was ordered to be printed in the Record, as follows:

DEPARTMENT OF MANPOWER DEVELOPMENT,
Boston, Mass., June 24, 1982.

Mr. ALBERT ANGRISANI,
Assistant Secretary of Labor,
U.S. Department of Labor,
Washington, D.C.

DEAR MR. ANGRISANI: I am writing to alert you to a critical issue relating to the Training for Jobs Act, S. 2036.

In its current form, the bill limits the flexibility of governors in managing the statewide program. Governors must cover costs of audit and administration under the 15% limitation (Sec. 101(a)(2)(A). The remaining 85% of the governor's grant appears to be limited, under Sec. 105(h)(2), to providing programs for ex-offenders, others requiring special assistance, and dislocated workers. As a result, the important activities outlined in Sec. 105(h)(1)(A-E) would somehow have to be covered under the 15% funds.

Realistically, I expect that 10% of the Governor's 5% grant (two-thirds of the 15% Admin.) would be needed simply for audits. That would leave no more than 5% for all other activities, which include audit related financial management, grants and cash management, contracts, monitoring, internal audit, legal and grievance, coordination, technical assistance, labor market and occupational research. Finally, implementation and maintenance of a uniform, statewide MIS system, a crucial element of the performance based funding in the new program, would have to be funded under this subsection. Given the cost of audits and related financial management activity, none of these important functions could be accomplished. Based on my experience running one of the largest Balance of State Prime Sponsors in the country, along with the Governor's Grant, the entire Governor's 5% grant would be required to perform the above functions; no money would be available for important statewide programs for ex-offenders and dislocated workers.

While I am sympathetic to the Administration's desire to maximize the services provided at the local and state levels, there are definite limits on the effectiveness of service programs developed in a management vacuum. The lessons of the massive PSE hire-up should be clear: without well-conceived, comprehensive management, audits will invariably reveal problems in accountability and documentation of allowable activities.

The importance of making an explicit, up-front investment in proper state management of the new employment and training system can hardly be overstated. The new federalism is predicated on the concept that states, given the resources and the mandate to oversee programs, will ensure provision of cost effective services and high levels of performance. States are ready to assume their responsibilities, but they must have adequate resources with which to work.

I would urge you to give Governors complete flexibility in allocating their funds among the several important management, coordination and program functions; the 15% limitation could be narrowed to cover only the cost of audits and audit related financial management. In addition, in order to free up adequate resources for statewide service programs, you might consider allocating a small percentage from the total state allocation (around 2%) for management oversight of the training system. Downward adjustments could be made in the other governor's grants (education, older workers) to insure maintenance of proposed sub-state allocations.

I am confident that the Administration has no desire to build failure into the new legislation by subverting the state's mandate for oversight of the program. With a few minor adjustments, S. 2036 can insure that Governors have the resources to manage the new training system in a cost effective, efficient manner.

Very truly yours,

MARIO A. ALFANO.

NATIONAL GOVERNORS' ASSOCIATION,
June 30, 1982.

Some facts from the States:

Maryland: The state currently expends $1.5 million for the cost of statewide administration, but under S. 2036 it estimates that it would receive only $451,750 to cover these same activities. For Maryland to receive the appropriate amount for statewide admin, the state estimates that there would have to be $11 billion nationwide for this program.

North Dakota: The state currently spends $140,000 for the costs of a statewide combined Council similar to that envisioned in S. 2036. Under S. 2036, however, the state estimates that it would receive $42,000 which it claims is not enough for even one audit. Unless this is changed, staff in the

Governor's office will recommend that the state not participate in the program.

Massachusetts. The state currently uses 5% of its BOS funds for central management, defined as grants management, fiscal management, monitoring, oversight, TA and audits for 12 subgrant areas. To cover these activities, the state estimates it would need 70% of the 5%—15% will pay only for audits and fiscal activity related to audits.

Illinois: The state estimates that 15% of 5% would mean about $1 million. The state currently spends $1 million on LMI alone; $1 million on TA; almost $1 million on the Council; and over $1 million on grants management for statewide programs. The state currently does participate only (not financial) MIS for one half of the prime sponsors, and this costs over $1 million. The state describes the admin limit provision in S. 2036 as "an unmitigated disaster."

Experience with block grants:

Community Services Block Grant allows 5 percent of the state's allocation to be spent on admin, with the definition of administrative costs left up to each state. According to COSCAA, the 5 percent is generally felt to be inadequate by all states, by most particularly in smaller states.

In responding to a survey by the Institute for Local Self-Government, the following states had these reactions to the 5 percent limit in CSBG:

Maine—should be 7-10 percent

Washington—should be 10 percent

Minnesota—should be 10 percent

Massachusetts—state could be more effective in monitoring if ceiling were raised.

According to NGA's *1982 Governors' Guide to Block Grant Implementation,* "overall, the states, as yet, are not seeing or feeling any alleviation of financial or administrative burdens with regard to audit and administrative requirements since enactment of the block grants." (page 21)

Mr. KENNEDY. Mr. President, I welcome the opportunity to hear from Senators who wish to question us about this amendment. It seems to me to be an important amendment, if we are really going to have an effective evaluation by the Governors, who bear an important responsibility for the success of this program.

Mr. HATCH. Mr. President, I ask unanimous consent that my name be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, these amendments will allow the Governors greater latitude in the use of the 5 percent State set-aside. A greater proportion of the 5 percent could be used for auditing and administrative activities under this amendment. The restrictions of 105(i)(2)(C) will continue to apply and, therefore, no change will be made in the requirement that at least 7 percent of the State's total availability under title I be used for training.

This amendment will insure adequate oversight of this training program by Governors and gives States flexible resources to do it.

I commend the Senator from Massachusetts for being willing to sponsor this amendment, and I support it strongly.

Mr. QUAYLE. Mr. President, I am a cosponsor of the amendment. Basically, the provision would just untie the hands of the Governors to allow them more flexibility. It is my understanding that it is supported by 25 Governors.

I express my appreciation to the Senator for bringing this matter to our attention, to provide a more workable solution and flexibility with our State officeholders—namely, the Governors.

I urge adoption of the amendment.

Mr. KENNEDY. Mr. President, to make clear what we are doing, we are eliminating 15 percent of the 5 percent; so the 5 percent remains intact. But if you look at 15 percent of the 5 percent, you realize that, for the most part, you are talking about a few hundred thousand dollars being available for the Governors to do the evaluation. There is still that overall limitation, but it gives the Governors greater flexibility.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Massachusetts.

The amendment (UP No. 1062) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1063

(Purpose: To provide a waiver of the supportive services and cost of Administration guarantee in the job training report)

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1063.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 95, line 14, after "training" add a comma and insert the following: "except that the Governor may request the Secretary to waive the requirement of this clause whenever exceptional circumstances within the State make it necessary.".

Mr. KENNEDY. Mr. President, this amendment would permit the Secretary of Labor to waive provisions now in the bill that require a Governor to assure that no more than 30 percent of the State's funds are spent on administration and supportive services.

Clearly, we want as much of the resources that are available under this legislation as possible to actually be used for the training programs, and that was one of the great concerns as the members of the committee shaped this legislation. We want to insure that a substantial part of these resources will be used for these purposes.

However, we do understand that there are certain circumstances which may require in excess of the 30 percent of the resources to be used for supportive services and, potentially, for administration. I can think of some States where that might be necessary.

We are not talking generally about administration but basically supportive services. Whether educational or health or other kinds of supportive services, we are trying to provide some degree of flexibility to the Governors, given the fact that now we have an effective way to evaluate the program.

Given the fact that our Nation is diverse, that States are diverse, and that the types of programs that will be developed will be diverse, we should be able to consider what the special needs are in those particular localities.

This is an issue, Mr. President, under this amendment which would permit a Governor to request the Secretary to waive the 30-percent restriction in light of particularly difficult circumstances within his or her State.

So all this would do is give the Governor the opportunity to request such a waiver by the Secretary. The Secretary would still have the opportunity to reject that proposal, but it does add an additional flexibility to this program, and in the review, in talking to both the Governors and also those involved in this kind of program, it seemed to me to be advisable.

We have been over this ground, I know, many times with my friend and colleague, the Senator from Indiana, and I know he understands this issue very well. I am hopeful if we are not able to resolve it here today that we will be able to resolve it in the conference with the House.

Mr. QUAYLE. Mr. President, I have sympathy for the merits of the amendment offered by the Senator from Massachusetts. He is trying to provide flexibility, which we are all for. I mean, if you want to take a position, the position the Senator from Indiana has taken throughout this whole legislation is trying to find flexibility. One of the arguments against this current structure is that it is too flexible. So it is clearly an amendment which deals with flexibility, which I strongly support, and I agree wholeheartedly with the Senator we are trying to use a substantial amount of funds for training. Senator KENNEDY and I both want to.

But the Senator has a way of going to the heart of a matter that has been of immense controversy throughout this whole legislative process, and that is how will we be able to insure that a substantial amount of moneys will go

to training and not for administration and support services.

We have come up with a 70-30 breakdown. I want to point out that the 70-30 breakdown does not apply to summer employment. Summer employment is excluded. It is under a separate title.

On allowances which the Senator from Massachusetts has continually expressed an interest in, not to prohibit certain individuals from getting into these programs if they have to serve a long time in the program or because of health care reasons or transportation or day care or whatever else it may be, the way we have been able to accommodate that is through reasonable expenses which will be afforded.

I have no doubt and I harbor no illusions that this will not be a major issue in the conference. This is going to be a major issue in the conference. The House of Representatives in the present legislation does not have this issue in their bill. It is an issue that came up during the course of the hearings. It came in the subcommittee and it came up in the full committee. It has been discussed by us a number of times.

So I will say the description of the amendment is to allow the Governor to petition the Secretary for a waiver, which strikes me as sensible. But at this particular juncture I could not support the amendment even though I do express sympathy for some sort of an escape clause which the Senator from Massachusetts is desirous of obtaining.

We have accommodated those who want to make sure that the substantial amount of funds will be put into training, and we have done so. But I would be less than candid if I did not say that this issue will continue to be with us throughout the process of enacting this jobs-training legislation. However, at this juncture and at this particular point I am constrained to oppose the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senator from Indiana has been responsive on this issue in question. The administration has been extremely reluctant to even provide this degree of flexibility. I brought this to the attention of our committee and we were unsuccessful in getting that provision included in the legislation.

I am well aware that if the Senator from Indiana is not prepared to—if we went to a vote I know we would not be successful and, quite frankly, given the general view of the Senator from Indiana, and given the fact that this will be an issue in conference I think we probably are better off in continuing to try to make progress on this issue in conference rather than having a decisive vote on the floor of the Senate here today, particularly given the attitude of the Senator from Indiana and his general response which I think is really quite hopeful on this issue.

So, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

UP AMENDMENT NO. 1064

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1064.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On p. 90, line 24 add following the word "employment": "for not to exceed six months."

On p. 158, line 21, delete the period and add following the word "employment": "for not to exceed six months."

Mr. HATCH. This particular bill language expands the potential uses of supportive services and would allow their provision with no time limit. Further, this phase is contrary to the definition of "Supportive Services" which stipulates that such services are limited to those necessary to participation in training.

Supportive services to enable poor or disadvantaged persons to participate in federally financed job training are recognized by the administration as essential.

These services include such specific costs as transportation, meals, day care, temporary shelter, medical care, and "other necessary expenses" while an individual is training.

It was never the intent to have these services follow a person after he or she completes a job training program. Yet S. 2036 contains a sleeper clause that extends eligibility for such services for an unlimited period of time after an individual completes a training program.

This provision could provide a basis for making a welfare program out of the proposed new Federal job training law. In the interest of preserving the integrity of the law and the tax funds to implement it, this amendment represents what I would consider a necessary corrective amendment.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Mr. QUAYLE. Mr. President, I support my distinguished chairman. I think it is a very worthwhile amendment. Again I want to state that I appreciate his immense contribution not only through this amendment but to the entire bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 1064) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1065

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1065.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On p. 114, line 9, strike the words "Part C of Title II" and insert in lieu thereof: "Section 221 and 222".

On p. 129, line 8, strike the words "Part C of Title II" and insert in lieu thereof: "Section 221 and 222".

Mr. HATCH. While it may be appropriate to provide for public comment on proposed plans relating to demonstration projects under title IIC, it is inappropriate and would tie DOL's hands, particularly when grants have to be expedited, to require DOL's plans for TAT, research, evaluation, and LMI to be put out for comment.

The PRESIDING OFFICER. Is there further discussion of this amendment?

Mr. QUAYLE. Mr. President, the plans we are talking about only have to be put generally now, they do not have to be published in the Federal Register, and we feel that this is the best accommodation that we could possibly make. I want to bring that to the chairman's attention concerning this amendment.

Mr. HATCH. With that assurance for the Record, Mr. President, we will withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. QUAYLE. Mr. President, at this time I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1066

(Purpose: To provide for a veterans' employment program to be administered at the national level)

Mr. SIMPSON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for himself, Mr. CRANSTON, Mr. THURMOND, Mr. NICKLES, Mr. WEICKER, Mr. MURKOWSKI, Mr. RANDOLPH, Mr. STAFFORD, Mr. PACKWOOD, Mr. BRADY, Mr. MITCHELL, Mr. DECONCINI, Mr. MATSUNAGA, Mr. COHEN, and Mr. SPECTER, proposes an unprinted amendment numbered 1066.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 102, between lines 13 and 14, insert the following new part:

"PART C—VETERANS' EMPLOYMENT PROGRAMS

"STATEMENT OF FINDINGS AND DECLARATIONS

"SEC. 221. (a) The Congress finds that (1) serious unemployment problems exist among service-connected disabled veterans, veterans of the Vietnam era, and veterans who are recently separated from military service, and (2) the unemployment problems experienced by many of these veterans are related to their military service.

"(b) The Congress therefore declares that (1) veterans' unemployment is a national problem and a national responsibility and (2) special programs to be administered at the national level are required to assist them and to meet their employment and training needs.

"PROGRAMS AUTHORIZED

"SEC. 222. (a)(1) The Secretary shall conduct, directly or through grant or contract, programs to meet the employment and training needs of service-connected disabled veterans, veterans of the Vietnam era, and veterans who are recently separated from military service.

"(2) Programs supported under this part may be conducted though public agencies and private nonprofit organizations, including, but not limited to, recipients or subrecipients under other provisions of this Act that the Secretary determines have an understanding of the unemployment problems of such veterans, familiarity with the area to be served, and the capability to administer effectively a program of employment and training assistance for such veterans.

"(3) Programs supported under this part shall include, but not be limited to—

"(A) activities to enhance services provided veterans by other providers of employment and training services funded by Federal, State, or local government;

"(B) activities to provide employment and training services to such veterans not adequately provided by other public employment and training service providers; and

"(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job-training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and under other provisions of law.

"(b)(1) The Secretary shall administer programs supported under this part through the Assistant Secretary for Veterans' Employment.

"(2) In carrying out responsibilities under this part, the Assistant Secretary for Veterans' Employment shall—

"(A) be responsible for the awarding of grants and the distribution of funds under this part and for the establishment of appropriate fiscal controls, accountability, and program-performance standards for grant recipients under this part; and

"(B) consult with the Administrator of Veterans' Affairs and take steps to ensure that programs supported under this part are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter IV of chapter 3 of such title, chapters 31 and 34 of such title, and sections 612A, 620A, 1787, and 2003A of such title.

"(c) Nothing in this part shall be construed to reduce the amount which would otherwise be available for services to veterans through programs and activities authorized by this Act or by any other law.".

On page 102, line 14, strike out "Part C" and insert in lieu thereof "Part D".

On pages 102 through 108, redesignate sections 221 through 227 as sections 231 through 237, respectively.

On page 113, below line 25, insert the following new paragraph:

"(5) two per centum of such amounts shall be available for veterans' employment programs in accordance with part C of title II.".

On page 114, line 1, strike out "(5)" and insert in lieu thereof "(6)".

On page 114, line 9, strike out "part C" and insert in lieu thereof "part D".

On page 129, line 8, strike out "part C" and insert in lieu thereof "part D".

On page 69, amend the table of contents by inserting after the item relating to Part B Title II the following:

"PART C—VETERANS' EMPLOYMENT PROGRAMS

"Sec. 221. Statement of findings and declarations.

"Sec. 222. Programs authorized.",

by striking out "Part C" and inserting in lieu thereof "Part D", and by striking out "221" through "227" and inserting in lieu thereof "231" through "237", respectively.

On page 75, between lines 16 and 17, insert the following:

"(18) The terms 'service-connected disabled veteran' and 'veteran of the Vietnam era' shall have the meanings provided in sections 2011(3) and 2011(2) of title 38, United States Code, respectively.".

On page 75, line 17, strike out "(18)" and insert in lieu thereof "(19)".

Mr. SIMPSON. Mr. President, I wish to submit an unprinted amendment which would provide a "set aside" of funds under title II of this legislation amounting to 2 percent of the discretionary fund which is administered by the Secretary of Labor. This fund presently has portions set aside for other national programs which serve specific groups suffering from particular unemployment problems. Among these are 10 percent for migrant workers and 10.5 percent for Indians.

Those eligible for the program covered by the amendment which I am submitting would be those service-connected disabled veterans and Vietnam-era and post Vietnam-era veterans. The funds, amounting to about $13 million, would not require any increase in the budget, and would be administered within the Department of Labor by the Assistant Secretary for Veterans' Employment.

This amendment is offered by myself with support of the original cosponsors, my friend from California and ranking minority member of the Veterans' Affairs Committee, Senator CRANSTON, along with Senators NICKLES, WEICKER, THURMOND, MURKOWSKI, RANDOLPH, STAFFORD, PACKWOOD, BRADY, MITCHELL, DECONCINI, MATSUNAGA, COHEN, and SPECTER.

Unemployment among veterans currently is very high, and we believe it would be a serious mistake to pass this legislation, which is the CETA replacement bill, without specifically providing funds to provide for employment training for our Nation's veterans. Veterans' employment is, indeed, a national responsibility which has been addressed by the expiring CETA bill and should not be overlooked in this jobs training legislation, S. 2036.

We urge the adoption of the amendment. I thank the sponsor and floor manager of the bill for his consideration of this measure.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in strong support of this amendment of which I am a cosponsor. It would establish an employment and training program for veterans under title II of S. 2036, the Training for Jobs Act. This program would be funded by a set-aside of 2 percent of the Secretary of Labor's discretionary fund under title II.

Mr. President, unemployment today among Vietnam-era and service-connected disabled veterans is at an all time high. It is estimated that the number of unemployed Vietnam-era veterans has exceeded 650,000. It is critical that Congress address this serious problem without delay.

I am in total agreement with this amendment which states that veterans unemployment is a national problem and a national responsibility, and that special programs are required at the national level to assist veterans to meet their employment and training needs. Until now we have provided employment and training programs under CETA, but there is no provision in S. 2036 which would insure this vital assistance.

Mr. President, we owe a great deal to our country's veterans. I can think of no group of Americans who are more

deserving of assistance during the time of high unemployment. I urge the support of my colleagues for the amendment.

(By request of Mr. ROBERT C. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. CRANSTON. Mr. President, I am delighted to join with my good friend, the distinguished chairman of the Veterans' Affairs Committee (Mr. SIMPSON), in offering this amendment to add to title II of the proposed "Training for Jobs Act" a new part C that would require the Secretary of Labor, through the Assistant Secretary for Veterans' Employment, to conduct—at the national level—programs to meet the needs of service-connected disabled veterans, veterans of the Vietnam era, and veterans who have been recently separated from the military. For the purpose of conducting such programs, our amendment would set aside 2 percent of the funds available under title II which, according to latest projections for fiscal year 1983, would mean that $13.6 million would be available for these programs in fiscal year 1983.

Mr. President, this amendment would add to the pending measure an authority which is based, in part, on an existing authority which I originally authored in title III of the Comprehensive Employment and Training Act during the period of time I served as a member of the Labor and Human Resources Committee. Under this authority, now set forth in section 305 of CETA, the Department of Labor has conducted a wide variety of programs and activities designed to meet the special needs of unemployed veterans, including the initiatives started under the Carter administration known as HIRE—Help Through Industry Retraining and Employment—and DVOP—the Disabled Veterans Outreach Program. As Members will recall, the success of that latter program led to the enactment, in Public Law 96-466 on October 18, 1980, of provisions I proposed to create a permanent, statutory authority—now section 2003A of title 38, United States Code—for DVOP.

In addition to those programs, the Department has also carried out a number of other activities and programs such as funding of an outreach and job placement program conducted by the National Urban League, a program of assistance for incarcerated veterans conducted by the National Council of Churches, and a series of technical assistance programs conducted by community-based organizations.

THE VETERANS' UNEMPLOYMENT PROBLEM

The continuing problems of disabled and Vietnam-era veterans seeking meaningful jobs and job training opportunities continue to be evidenced by tragically high rates of unemployment. In May, Mr. President, there were 685,000 unemployed Vietnam-era veterans over 25 years of age—over 57 percent more than there were in May 1981. The rate of unemployment among Vietnam-era veterans ages 25 through 29 years was 16.9 percent—more than 81 percent higher than the rate for nonveterans of the same age group. Indeed, Mr. President, one of the hardest hit segments of the labor force during this period of high unemployment are those individuals who served in this Nation's longest conflict—our newest generation of war veterans. In this regard, an article from the National Journal of April 10, 1982, entitled "The Last Time Unemployment Hit Nine Percent," described the current blight of unemployment among Vietnam-era veterans in the following terms:

Hardest hit by the current recession, as compared with 1975, are black men, women and teenagers and Vietnam veterans, particularly in the 25-29 age group, where the levels of unemployment have always been highest. In that veterans' group, unemployment jumped from about 7 percent to 17 percent since last July.

Mr. President, among veterans with service-connected disabilities the problem of unemployment is equally as devastating. Although no statistics are collected by the Bureau of Labor Statistics for such veterans, surveys conducted by veterans' organizations estimate rates of unemployment among severely and catastrophically disabled veterans as well over 50 percent.

In case of recently separated veterans, those individuals now leaving the military, the problem of trying to find work in an economy where the unemployment rate is now 9.5 percent is compounded by the fact that—by virtue of a provision enacted by the Omnibus Budget Reconciliation Act of 1981—honorably discharged veterans who are eligible for reenlistment are denied unemployment compensation and are essentially turned out into the cold. I have, with the distinguished Senator from New Jersey (Mr. BRADLEY), introduced legislation—S. 2028—earlier this year to rectify this disgraceful situation, and I am pleased to note that just this week the Finance Committee has given tentative approval to a provision that would restore certain unemployment compensation benefits for ex-servicemembers. Although the provision approved by the Finance Committee does not go as far as our proposal, I am extremely pleased that the committee has moved to remove part of the grossly unfair treatment of those veterans who honorably served our Nation that the 1981 Reconciliation Act imposed.

This small step, however, Mr. President, in no way alters the importance that the employment and training needs of these veterans be addressed soon after their return to civilian life so that the hardships associated with unemployment do not compound their transitions back into their communities and the mainstream of the labor market.

PROVISIONS OF THE AMENDMENT

Mr. President, I would like to make particular note of certain provisions of the pending amendment.

First, it states and would incorporate into law for the first time the Congress' declaration that veterans' unemployment problems are a national responsibility. I have long maintained that the obligations we owe this Nation's veterans are a continuing cost of providing for our national defense. I believe it is significant that this amendment would explicitly recognize this responsibility.

Second, our amendment would recognize that the problems faced by many service-connected disabled veterans, Vietnam-era veterans, and recently-separated veterans are related to their military service. As documented in the March 1981 study prepared for the Veterans' Administration by the Center for Policy Research, entitled, "Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers," Vietnam veterans have not achieved as high a level of education as their peers and hold jobs that are, on the average, at lower levels than those held by nonveterans of comparable age. The study concluded that, when background differences are controlled, Vietnam-era veterans—and, to the greatest extent, those who served in Vietnam—still show "residual disadvantage in educational and occupational attainment" and that in general "military duty in Vietnam had a negative effect upon post-military achievement."

Third, our amendment, by providing for a set-aside of 2 percent of the funds available for title II of the proposed "Training for Jobs Act," would for the first time provide a specific, mandated allowance for veterans' employment activities and programs within the Department of Labor. Under CETA, no specific set-aside was mandated and the programs were subject to the vagaries of the appropriations process and the decisions of the Secretary. I believe that providing this assurance of funding—of approximately $13.6 million in fiscal year 1983—for these programs is a significant and important improvement.

The significance of this set-aside is shown by the following figures provided to me by the Department of Labor. The $13.6 million figure for fiscal year 1983 is an amount $2.1 million greater than the total amount spent or obligated under the existing CETA title III authority in fiscal years 1979 through 1982 combined—which was $11.5 million. However, it should also be noted that at least $8.8 million more has been spent under other titles of CETA and other authorities over

this period on initiatives designed to serve exclusively the employment assistance, outreach, counseling, discharge upgrading, and other related needs of veterans primarily of the Vietnam era.

Fourth, Mr. President, it should be noted that our amendment specifies that the programs to be carried out under this part would be administered by the Assistant Secretary for Veterans' Employment. In this regard, the Assistant Secretary would have the responsibility for the awarding of grants and the distribution of funds as well as for the establishment of appropriate fiscal controls, accountability, and program performance standards for grant recipients. Further, the Assistant Secretary would be required to consult with the Administrator of Veterans' Affairs in order to insure that programs conducted by the Department of Labor are coordinated, to the maximum extent feasible, with appropriate programs conducted by the VA. These programs would include, as specified in the amendment, the VA's veterans' outreach services program; the vocational rehabilitation and GI bill educational assistance programs; the readjustment counseling program—popularly known as the "vets center" program; pilot programs for treatment and rehabilitation of alcohol or drug dependence or abuse disabilities; and opportunities for on-job training and apprenticeship training under the GI bill.

In addition, the Assistant Secretary for Veterans' Employment would be required to coordinate efforts under this authority with the Disabled Veterans Outreach program I mentioned earlier. It should be stressed, however, that it is not the intent of our amendment that DVOP be funded out of this 2-percent set-aside, but rather that it be funded out of other resources available within the Department of Labor. At present, DVOP is funded from the grants to States account, and I am aware of the problems in administration of DVOP as a result of that funding source. I want to advise my colleagues at this time that, in order to resolve some of the problems, I intend shortly to introduce, and pursue enactment of, remedial legislation.

Finally, Mr. President, I would note a concern that was raised by the American Legion with respect to the administration of programs under the prior CETA authority. The Legion expressed its dismay at the long delays that have often occurred between the time that an application for funding has been received by the Department of Labor and the time that a decision with respect to that funding has been made. I recognize that in many instances, particularly since the specific funding level for initiatives under this authority was never mandated by law, some delays were necessary in order to ascertain that funds were available. However, with a statutorily mandated funding level such as our amendment would provide and with responsibility for administration of the programs clearly assigned to the Assistant Secretary for Veterans' Employment, I urge the Department and the Assistant Secretary to take steps to insure that grant applications under this proposed authority are considered in a timely manner.

CONCLUSION

Mr. President, in light of the serious and continuing unemployment problems encountered by service-connected disabled veterans, veterans of the Vietnam era, and recently separated veterans, this amendment is clearly justified. Indeed, it would be a rejection of our national obligation to these veterans to fail to provide in this measure for their special employment and training needs.

In closing, I would like to thank the distinguished Senator from Wyoming (Mr. SIMPSON), the chairman of the Veterans' Affairs Committee, and the Senator from South Carolina (Mr. THURMOND), who has a long and very deep involvement in veterans' employment issues, for their assistance and cooperation in the development for this amendment.

Finally, Mr. President, I want to express my personal appreciation to Babette Polzer, of the Senate Veterans' Affairs Committee minority staff, for her excellent work in developing and drafting this amendment in consultation with the staff of other involved Senators and representatives of veterans' organization and others knowledgeable about veterans' unemployment problems and Department of Labor activities.

I urge my colleagues to adopt this amendment.

Mr. President, I ask that the text of the National Journal article I quoted from earlier, as well as a listing of the projects funded under the existing CETA title III provision since fiscal year 1979, be printed in the RECORD.

The material follows:

[From the National Journal, Apr. 10, 1982]

THE LAST TIME UNEMPLOYMENT HIT 9 PER CENT

The last time unemployment hit 9 per cent, during the 1974–75 recession, unemployment among government bureaucrats—the nation's safest employees—was about half that level.

Now unemployment has hit that mark again for only the second time since World War II, and bureaucrats still have more job security than anybody else in the work force.

In May 1975, when unemployment rose to 9 per cent, only 4.6 per cent of government workers were out of a job. Last month, when the Labor Department reported that unemployment hit 9 per cent again, only 4.9 percent of government workers were out of work.

The table below compares March 1982 to May 1975 in terms of levels of unemployment in selected industries. The figures are adjusted on a seasonal basis.

[In percent]

	May 1975	March 1982	Change
Construction	21.5	17.9	−3.6
Manufacturing	12.3	10.8	−1.5
Transportation and public utilities	6.2	5.6	−0.6
Trade	8.9	10.3	+1.4
Finance and services	6.9	6.9	
Government	4.6	4.9	+0.3
Agriculture	9.4	14.0	+4.6

Among household groups, white women workers are making a surprisingly strong showing. Since 1975, 8.2 million white women have entered the work force, compared with 4.7 million white men. Yet white women, who had a higher unemployment rate than men in 1975, are holding onto their jobs more successfully in the current recession than white men, and much more successfully than other groups that benefited from preferential hiring practices during the past decade.

Hardest hit by the current recession, as compared with 1975, are black men, women and teenagers and Vietnam veterans, particularly in the 25–29 age group, where the levels of unemployment have always been highest. In that veterans' group, unemployment jumped from about 7 percent to 17 per cent since last July.

The table below compares March 1982 to May 1975 in terms of unemployment levels for selected household groups. The figures are adjusted on a seasonal basis.

[In percent]

	May 1975	March 1982	Change
White men	6.8	7.0	+0.2
White women	8.1	6.9	−1.2
White teenagers	18.3	19.0	+0.7
Black men	12.6	18.0	+5.4
Black women	12.8	15.4	+2.6
Black teenagers	39.3	46.0	+6.7
Vietnam veterans, 25–29	7.3	17.0	+9.7
Nonveterans, 25–29	8.0	10.5	+2.5

National programs authorized under CETA, section 305 (veterans) fiscal years 1979–82

Fiscal year 1979 ($3.4 million):	
American G.I. forum	$200,000
Blinded Veterans Association	130,000
Community Services Administration	1,000,000
Flower-of-the-Dragon	107,000
National Black Veterans Organization	104,000
National Council of Churches	500,000
National Urban League	368,000
Public Information Program	250,000
U.S. Veterans Assistance Centers	700,000
Fiscal year 1980 ($4.2 million):	
American G.I. Forum	75,000
Blinded Veterans Association	153,000
Flower-of-the-Dragon	263,000
National Black Veterans Association	220,000
National Council of Churches	382,000
National Urban League	325,000
Public Information Program	425,000
U.S. Veterans Assistance Centers	738,000

White House Interagency Projects	1,585,000
Fiscal year 1981 ($2.6 million):	
U.S. Veterans Assistance Centers	872,000
Detroit (Neighborhood Services Department)	90,000
Oakland (Department of Social Services)	104,000
Seattle (Department of Human Resources)	28,000
American Association of Community and Junior Colleges	52,000
University of Minnesota	63,000
Blinded Veterans Association	175,000
National Urban League	416,000
National American G.I. Forum	350,000
National Black Veterans Organization	44,000
Community Systems Design, Inc	172,000
Center for Community Economics, Inc	118,000
St. Louis American Veterans Consortium, Inc	34,000
American G.I. Forum (San Jose, California)	21,000
Program to Advance Veterans Employment, Inc	35,000
Swords to Plowshares, Inc	25,000
Fiscal year 1982 ($1.3 million):	
American G.I. Forum	350,000
National Urban League	220,000
Blinded Veterans Association	200,000
Veterans Outreach and Community Services Program, City of Philadelphia	150,000
U.S. Veterans Assistance Centers	300,000
Unobligated	40,000
Vets Upgrade Center—New York	40,000

● Mrs. HAWKINS. Mr. President, I am pleased that Senators SIMPSON and CRANSTON have introduced an amendment to provide for special employment and training programs to be administered at the national level for our veteran population.

Veterans, especially recently separated veterans, service-related disabled veterans, and Vietnam-era veterans face special barriers to employment that require special consideration by the Department of Labor. Vietnam-era veterans comprise 43.6 percent of the more than 1 million unemployed veteran population. While much of this unemployment differential between Vietnam-era veterans and veterans of previous wars is attributable to unemployment rates for the 25 to 39 age group, Vietnam-era veterans still have unemployment rates significantly above their nonveteran counterparts. Despite the length of time since the termination of the Vietnam conflict, the younger Vietnam veterans continue to represent a labor market group with significant employment difficulties. In fiscal 1980, the jobless rate for these Vietnam-era veterans was 14.7 percent, as compared to 10.8 percent for their nonveteran counterparts.

The Nation has a responsibility to insure that the veterans that have served our Nation so well not be penalized in the job market because of their service. The recently separated veteran, the disabled veterans and the Vietnam-era veteran have encountered difficulty in reentering the job market after their service. They face special barriers to employment that are unique and the Federal Government should do all it can to assist them in finding employment I urge my Senate colleagues to accept this amendment.●

● Mr. PRESSLER. Mr. President, I would like to emphasize my support of a set-aside program for veterans in the Training for Jobs Act. I have come before this body many times in the past to defend the interests of Vietnam veterans, and I am extremely pleased to see them included in this amendment. By including these veterans along with the service-connected disabled and recently separated servicemen, we will clearly establish our national responsibility toward this group.

I believe that this is especially important for Vietnam veterans, for they have been the unfortunate victims of our national amnesia with regard to the war in Vietnam. As Americans attempted to put all memory of the conflict in Southeast Asia behind them, so did they attempt to forget the young men who returned from that war and were left physically and emotionally scarred by the experience. For many of these men, however, the scars remain. Today there are 747,000 unemployed Vietnam veterans. Proportionately, they suffer from a rate of unemployment even higher than the national rate. Job training would contribute enormously toward the effort to assist these men in their return to the work force. Many of them had their education interrupted by their military service, and it is only fitting that the Government should help them to complete their job training, in order to repay them for the sacrifices they have made on behalf of all of us.

We owe these veterans a great deal, and we are already late in living up to our responsibility toward them. Let us not wait any longer; I urge my colleagues to support this amendment and give these men their due.●

Mr. MITCHELL. Mr. President, I am pleased to be a cosponsor of this important veterans' training amendment offered jointly by Senators SIMPSON and CRANSTON. As a veteran and a member of the Veterans' Affairs Committee, I am deeply concerned about the employment problem facing our Nation's veterans, particularly those veterans of the Vietnam era.

The amendment recognizes the fact that unemployment among veterans is a national problem and a national responsibility. Statistics released by the Bureau of Labor Statistics for May show that 9 percent of the male, Vietnam-era veterans between the ages of 25 and 39 were unemployed compared to 8.2 percent of the non-veteran-male population for the same age group. For those aged 25 to 29 this gap was even wider: 16.9 percent versus 9.3 percent. An estimated 685,000 veterans aged 25 or over were unemployed in May.

This amendment would require the Secretary of Labor to set aside a certain percentage of the Secretary's discretionary funds for veterans' training programs. In fiscal year 1983, this would amount to $13.6 million. These funds could be used to provide employment and training services for Vietnam-era veterans or veterans with service-connected disabilities. Funds could also be used to provide outreach and information services to inform eligible veterans about employment training opportunities available to them.

I am particularly pleased that the amendment gives the Secretary of Labor the authority to provide employment services through public agencies and private, nonprofit organizations. This will allow local veterans' organizations, which, in many instances, have a better understanding of the employment needs of the veterans in their area, to provide services under this act.

Unemployment is a national problem. It affects all members of the population, veterans and nonveterans alike. There is no doubt, however, that many of the employment problems facing veterans, primarily those with service-connected disabilities and Vietnam-era veterans are related to their military service. This amendment will not solve the employment problems of these veterans. It will, however, provide much needed resources to assist veterans in obtaining the training needed to find a job.

In conclusion, let me say that I fully support the goals of this amendment and I urge its adoption.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I certainly wish to express my sincere gratitude to the distinguished chairman of the Veterans' Committee and certainly to the President pro tempore of the Senate for their deliberations on this amendment. It is a good amendment. I know very well that unemployment is a serious problem with the veterans. It seems prudent and advisable to accept the amendment which will allow a set-aside for the veterans. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (UP No. 1066) was agreed to.

Mr. SIMPSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1067

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1067.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 143, at line 4, insert after "6." "(a) From the amounts appropriated pursuant to Section 4 for each fiscal year, the Secretary shall first allot to Guam and the Virgin Islands an amount which, in relation to the total amount available for the fiscal year, is equal to the allotment percentage received by these entities in fiscal year 1982."

On page 143, line 4, strike "(a)" and insert "(b)".

On page 143, line 22, strike "(b)" and insert "(c)".

On page 143, at line 15, insert the following after the word "State": "(including Guam and the Virgin Islands)".

On page 144, line 8, strike "(c)" and insert "(d)".

Mr. HATCH. Mr. President, because reliable data on the civilian labor forces of Guam and the Virgin Islands are not available, funding for these jurisdictions will have to be allotted on a basis other than the formula proposed in the bill. The proposed approach will provide these entities with the same relative share of the total appropriation as they obtained in fiscal year 1982. This solves, I think, a serious problem. So I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (Mr. HATCH).

The amendment (UP No. 1067) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. QUAYLE. Mr. President, I am informed that the Senator from New Mexico is on his way to the floor and will be here in about 10 minutes. There has been a suggestion that maybe one or two other amendments may be offered. I do not foresee any major controversies. I am also informed that the Senator from Ohio, Senator METZENBAUM, may also have an amendment. But we are down to less than five, according to the count that I have.

I will be putting in a quorum call but I would inform and remind Senators that we are prepared to shortly go to third reading. Those Senators that are desirous to get their amendments before the Senate for debate should do so in an expeditious fashion.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. RUDMAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1068

(Purpose: To defer the forward funding program year provisions for 1 year)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) for himself and Mr. HOLLINGS proposes an unprinted amendment numbered 1068.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 112, line 9, strike out "1984" and insert in lieu thereof "1985".

On page 112, line 19, strike out "1983" and insert in lieu thereof "1984".

On page 112, line 21, strike out "1982, and July 1, 1983" and insert in lieu thereof "1983, and July 1, 1984".

On page 112, line 22, strike out "1983" and insert in lieu thereof "1984".

Mr. DOMENICI. Mr. President, I would call this amendment a forward funding amendment. Basically it does two things: It provides for forward funding but, at the same time, pushes forward funding into the next year and clearly prescribes, as the formula for budget authority appropriation, the notion of forward funding.

I think that forward funding will improve dramatically the effectiveness of this new job training program. More lead time for planning and improvement of programs will allow the private sector councils and State and local governments to plan more effectively and to coordinate the services better for the program and participants. This will undoubtedly increase the effectiveness of the program and means the Federal Government will see improved results.

By this amendment, I am obviously indicating my support for the concept of forward funding. I do that for another very important reason: Some of the most effective job training programs and most experienced personnel exist in our Nation's vocational education systems. One of the most severe stumbling blocks to improved coordination and cooperation between job training programs and vocational education has been the fact that these two programs have been operated on different funding cycles.

Just as soon as a vocational education school has established its budget and determined how much money is available to work with the local CETA program—this is based on past programs—the amount of money available for the jobs program is in doubt due to the sometimes uncertain nature of the Federal budget and the process called appropriations. Consequently, forward funding will not only improve the system, it will enable vocational educators, schools, community colleges, and other concerned institutions to work more easily and in a more coordinated fashion with the new job training program.

Mr. President, there is not enough room in the 1983 budget resolution to accommodate forward funding for the job training program in 1983, which I said in my opening remarks. Although forward funding would not increase outlays in fiscal year 1983, it would increase budget authority by an additional $2.8 billion.

There is simply, as I view it, realistically not room for this double shot of budget authority in the resolution, that being that needed for 1983 and that additional amount needed for the forward funding for 1984. For this reason, the amendment which I am introducing would maintain forward funding as an integral part of the job training system but would defer its implementation until fiscal year 1984. It is my expectation that the 1984 budget resolution would be structured to accommodate the forward funding for the new job training program if it is indeed successfully enacted.

I repeat that we are not talking about outlays. There is no problem of outlays in 1983. The problem is that if you forward fund in 1983, you have to take budget authority of a very large amount from some place else. Conversely, if you put enough budget authority in that year, they might defer it for a year anyway and use it somewhere else. So it seems to me we have come up with a pretty good compromise here, clearly putting us on record for forward funding, but deferring the double shot of budget authority to take care of it into the second year of the bill. I believe the floor managers have been conferred with on this issue and, unless there has been some change in direction, they are prepared to accept it.

I am prepared to answer any questions they may have and yield the floor at this time.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, as the distinguished Senator has pointed out, we are prepared to accept this amendment. I enthusiastically acknowledge and applaud the support of the chairman of the Budget Committee for the concept of forward funding. With his vast background, whether it be as mayor or chairman of the committee, he understands what fiscal stability is all about, he understands what financial planning is all about. He knows full well and has articulated most eloquently that you cannot have any kind of consistency in a program without some carefully determined planning. Basically, his amendment just defers it, as he aptly pointed out, to give the transition and also because of the budget situation we find ourselves in. Forward funding is a 2-year budget authority with 1 year of outlays.

I thank the Senator and look forward to working with him in the next budget resolution to provide this forward funding.

Mr. SCHMITT. Mr. President, I support passage of S. 2036, the Training for Jobs Act, including Senator DOMENICI's amendment to defer the forward-funding provisions of the bill until fiscal year 1984.

Prior to mark up by the Human Resources Committee, I suggested to Senator HATCH that S. 2036 simply authorize forward funding, instead of requiring it, thereby giving the Appropriations Committee some discretion in the matter. While I am disappointed that this change was not made, I am willing to accept the compromise proposed by Senator DOMENICI, which resolves the immediate problem of a possible shortfall in fiscal year 1983 budget authority for important human resources programs. If the Appropriations Committee had to provide multibillion dollar fiscal 1983 budget authority for the transition to forward funding of employment training programs, despite the fact that the budget resolution did not make room for this increase, it might have been necessary to make severe cutbacks in health and educational programs, as well as activities serving youth, the elderly, and the handicapped.

Mr. President, I nevertheless want to advise the Senate that the pending amendment is only a stopgap, and that there may be need for bill language in future appropriations measures to keep the program on a fiscal year funding basis, in the event future budget resolutions leave insufficient room for the resources needed for transition to the forward-funded program year.

With this understanding, I support adoption of the amendment by my distinguished colleague from the State of New Mexico, the chairman of the Budget Committee.

Mr. QUAYLE. Mr. President, I yield the floor. I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1068) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I would like to take a few minutes to capsulize what the Reagan administration and its supporters in the Congress have done in the last 2 years to employment and training programs. In the face of a high and growing rate of unemployment last year, this administration, with the backing of Congress, took $5 billion from CETA, the only program we have to employ and train the disadvantaged. Several attempts were made from this side of the aisle to partially restore funding for these programs. All of them failed.

This year, the Nation is suffering even more from the crashing failure of Reaganomics. Over 10 million of our people are without work. The unemployment rate has reached 9.5 percent, and for young blacks, unemployment has reached the shocking, disastrous level of 50 percent.

Here we have an administration where rhetoric emphasizes the American virtures of hard work and self reliance, and one of every two young black Americans, who want nothing more than a chance to practice these virtues, are seeking work and cannot find it.

In the face of these painful figures, Congress has cut the basic program to deal with this tragic situation by another $1 billion.

People throughout the country are wondering what in the world this Congress and this administration think they are doing. Millions of Americans have come to believe that compassion is a word that has disappeared from the vocabulary of the people who are running this country.

This year the President sent a budget to Congress which reinforces that belief.

He proposed cutting CETA by another $1.5 billion.

He recommended eliminating the senior community service program.

And he recommended reducing one of our most successful programs—Job Corps—almost by half.

These recommendations reflect a callousness and lack of compassion for those who are the most vulnerable in our society. The President describes this as an image problem. But I say that it is not an image. The lack of compassion shown by this administration toward the disadvantaged is real—it is cruel—and it is a tangible, painful fact in the lives of millions of increasingly desperate people.

The bill before us today rejects some of what the President recommended.

It protects the Job Corps program from the administration's mindless budget cuts.

It continues the summer youth program which is a safety valve—a provider of constructive activities for young people during the summer months.

It creates a new program to deal with the plight of dislocated workers who are being told almost daily of plant closings, business failures, and massive layoffs. It offers hope for some. But, it offers little for the thousands upon thousands of willing working people who have already exhausted their unemployment benefits.

Last week, in Columbus, Ohio, I heard about the plight of some of these individuals. They told stories of selling their homes in order to qualify for welfare, of being a few dollars over qualifying for food stamps, and of filling out hundreds of job applications without finding a single employer hiring.

This bill does nothing for them. Until this Government addresses itself to their plight—the cruel, callous image of this administration and Congress will remain precisely what it deserves to be.

I support this bill reluctantly—it is far from adequate. It, at least, demonstrates that this body recognizes the total inadequacy of the administration's program to deal with the plight of the disadvantaged in their attempts to prepare themselves for skilled occupations.

Mr. President, having made that statement, let me first say that the Senator from Indiana, who is handling this bill on the floor, in my opinion, has been very effective, very helpful, and very understanding in attempting to develop a bill in this area that would meet the needs of those affected by the legislation. I commend him for his ability in that respect.

UP AMENDMENT NO. 1069

(Purpose: To modify provisions with respect to service delivery areas and labor market planning and coordination)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself and Senator HAWKINS and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) for himself and Mrs. HAWKINS, proposes an unprinted amendment numbered 1069:

On page 87, between lines 3 and 4, insert the following:

(f) In addition to the description of services and programs within the service delivery area required under subsection (e),

whenever there is more than one service delivery area in a single labor market area, the private industry council for each such service delivery area shall include in the program plan under subsection (e) provisions for coordinating particular aspects of individual service delivery area programs, including—

(1) assessments of needs and problems in the labor market that form the basis for program planning;

(2) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

(3) coordinated or joint implementation of job development, placement, and other employer outreach activities.

On page 87, line 4, strike out "(f)" and insert "(g)".

Mr. METZENBAUM. Mr. President, this amendment, which I offer for myself and Senator HAWKINS, would provide better coordination between service delivery areas under this bill. The amendment would require, in the plan submitted by the private industry council, provisions to insure assessment of the needs and problems in a labor market; procedures to insure that program participants can receive skill training and employment opportunities throughout the entire labor market; and coordination of job development, placement, and other employer outreach activities.

This provision would insure that participants receive the best possible service in the programs and that the programs would coordinate their activities throughout an entire labor market.

I believe my amendment is acceptable and I move its adoption.

● Mrs. HAWKINS. I would like to cosponsor Senator METZENBAUM's amendment concerning facilitating coordination between service delivery areas within a labor market area. It makes sense for separate service delivery areas in a single labor market area to collaborate in data gathering and analysis of job needs and economic factors and to use a common data source for planning purposes. The existence of several service delivery areas is in a single labor market area may discriminate against the disadvantaged unless procedures are developed to insure access to jobs and training across service delivery area boundaries. Very often, training opportunities and job growth are concentrated in one part of the labor market while the heaviest concentrations of disadvantaged people are located in another jurisdiction.

I think that this amendment is an improvement on the bill and will improve the coordination between the private industry councils. I support its adoption by the Senate.●

Mr. METZENBAUM. Mr. President, it is my understanding that the Senator from Indiana will find this amendment acceptable.

Mr. QUAYLE. The Senator from Ohio is precisely right, Mr. President. This amendment is a good amendment. I thank him for the contribution he has made at the subcommittee and full committee level. Again, he has pointed out something that needs to be strengthened. I commend him for it and urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1069) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1070

(Purpose: To make modifications in provisions relating to the cost of administration)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1070.

On page 88, line 19, insert "(A)" after "(4)".

On page 88, lines 21 and 22, strike out "(including evaluation)".

On page 88, after line 22, insert the following:

(B) As used in this paragraph, the term "cost of administration" means only wages, fringe benefits, rent, equipment, and overhead costs not directly related to the provision of training or support services.

Mr. METZENBAUM. Mr. President, I offered this amendment to clarify what is meant by administrative costs. I offered this amendment in committee and the administration objected to it but could not present substantive reasons.

This amendment would allow the administrative entity to distinguish between what costs should be directly charged to overall administration and what costs should be charged to training. For example, you would charge the salary of the director to administrators, while you would charge the salary of a skill training instructor or a supervisor of a training course to training. It would also allow you to charge the appropriate percentage of a person's time to the appropriate function.

In the same sense, if half of a building were used as a training center and half for administration then these costs would be charged accordingly.

There are no hidden agendas in this amendment, just sound accounting procedures. It is puzzling to me why this administration would oppose an amendment that would streamline fiscal accountability in the system, according to approved accounting methodology.

Mr. QUAYLE. Mr. President, this is the same amendment that the distinguished Senator offered in the full committee. At that time, I said that I found nothing inherently wrong with it nor inherently incompatible with the 70–30 provision that the administration had requested. We made the statement that we would work to see if we could clarify the language and understanding with the Department of Labor. Thus far, we are still unsuccessful—but certainly not because of the lack of involvement of myself and the Senator from Ohio. This issue has just not been resolved with a full explanation of why the Department would oppose this.

I say to my friend that this whole 70–30 issue includes the accountability Senator KENNEDY is seeking. Senator KENNEDY offered an amendment on and then withdrew dealing with a possible safety valve to get out of the 70–30.

As to the merits of the Senator's amendment, I have really nothing to argue in opposition to it. The Senator knows full well as a skilled legislator that we are going to conference; he also knows this is going to be a major issue in the conference committee. There is absolutely no doubt about it.

Whatever kind of accommodations that we are going to have to make in the conference committee, whether it be with the House of Representatives or to redefine this, we are going to have to work together at that time, and I can assure the Senator that there will have to be a far more valid explanation from those who want to oppose this amendment. Unfortunately, I am put into a position of having to reluctantly oppose this because it goes right to the nub of the matter, and the Senator has been most gracious and indulgent in allowing me to explain my views. We have exchanged views in the subcommittee, the full committee, and now again on the floor. I can see we will go on to the conference committee and continue to discuss the issues, and so I hope that he will understand where I stand. The amendment is not disturbing to me. As a matter of fact, it seems like a good amendment, but there are those who oppose it and I am in such a position right now that I cannot lend my support to it.

Mr. METZENBAUM. Mr. President, I understand full well the position of the floor manager of the bill, the distinguished Senator from Indiana. As I have previously stated, he has been extremely cooperative with respect to this particular piece of legislation, as he is with all other legislation before us.

I feel that it perhaps would be inappropriate to force the matter to a vote in view of his need to oppose it, and I understand full well why he does. Under the circumstances, I think that possibly we can work the matter out in conference committee and therefore, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (UP No. 1070) was withdrawn.

Mr. METZENBAUM. Mr. President, I want to congratulate the Senator from Indiana and express my appreciation to him for his efforts in handling this legislation and I think making good progress under very difficult circumstances vis-a-vis the administration. I look forward to working with him in the conference committee.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, if it is convenient to the management of the bill, I would like to take about 3 minutes at this point.

Mr. President, this is a subject which I have long had an interest in and followed to some degree even back from my college days. I remember the beginning of the training programs. Vocational agricultural training in my State was the forerunner. I have been very pleased—somewhat surprised, if I may use that word—with the quality and value of this program. I am happy to know that our friend from Indiana has had a lot to do with it, as well as other Members who contributed, and staff also.

This is a very difficult subject to deal with. I am familiar with the practical application of these programs and know that it is difficult, yet some of the finest, most talented people are connected with these programs that do so much to train our youth.

We have some in Mississippi that are extraordinarily fine. I am delighted to support this bill. It stands on sound foundation. I will be glad to support the appropriation, too, that is necessary to carry on the program.

Mr. President, I intend to support this bill. I commend the Committee on Labor and Human Resources for reporting this bill and shaping it to provide the job training programs.

This bill does not continue or renew the public service job program of the Comprehensive Employment and Training Act which many of us considered to be nonproductive. As a matter of fact, it prohibits the use of funds authorized by the bill for jobs in the public sector. The purpose of the bill, and its primary emphasis, is to provide training for youths to provide them with job skills which will make them self-sustaining and useful citizens. I heartily support this objective.

Although there are some parts of this legislation that I have doubts about, I feel very happy with the majority of it. As I have indicated, I am especially pleased to see that the public service employment program under CETA has been eliminated. Under this program, the Federal Government was paying the salary of thousands of people who were, in many cases, just doing "make work." In most cases, this "make work" provided no training for them and in many cases the person never became sufficiently skilled to hold down a regular job, but went on welfare or unemployment. With the elimination of the CETA program, we can now put all of our efforts into training people so that they can eventually get off the Government dole and make it on their own.

I am also pleased to see that this bill continues the authorization of the Job Corps program which provides centers for economically disadvantaged youth between the ages of 14 and 22. The authorization for this will provide for a continuation of this program at a level at least equal to fiscal year 1982. In Mississippi, we have three Job Corps centers located at Batesville, Crystal Springs, and Gulfport. They are providing a great service to disadvantaged youth, and I am glad that under this authorization all three centers will be able to continue their services.

This act provides for a program of cooperation between the State education agencies and private industry. I am glad to report that in Mississippi, this cooperation is already underway through the private industries and our excellent vocational education system. In many cases, the vocational education schools in a particular area of our State have worked with industries in that area to set up programs which provide the industries with qualified workers. My main concern with this bill is that it does not go far enough to support the work of the vocational education programs which are already established. However, I realize that the vocational education system in Mississippi may do more in this area than in other States and that the other States at this time may not be prepared to handle this additional responsibility.

Mr. President, I say again that I support this bill and will do all that I can to see that we have a jobs training program which will provide unskilled Americans with the basic skills they need to become productive workers and useful citizens.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, while we have a moment, I want to express my deep gratitude and appreciation to the staff that has worked many hours in getting this bill where it is today. The chief counsel of the Employment and Productivity Subcommittee, Bob Guttman, has done an outstanding job, as have the people that work with him: Violet Thompson, Mary Sharp, Diann Howland, and also staff members Kitty Higgins, Kris Iverson, Luther Washington, Robin Rushton and Bruce Navarro. They have all been very much involved in this, and I just want the RECORD to show that they have put in an immense amount of time in contributing to this legislation. It goes without saying that their help, ingenuity, and steadfastness has led us to this juncture, and I want to pay tribute to them.

Mr. President, I see the Senator from Pennsylvania who has indicated that he may have an amendment, so I yield the floor.

UP AMENDMENT NO. 1071

(Purpose: To amend the Internal Revenue Code of 1954 to allow a credit against tax for contributions to programs providing job training)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) proposes an unprinted amendment numbered 1071.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44G the following new section:

"SEC. 44H. CHARITABLE CONTRIBUTIONS TO QUALIFIED JOB-TRAINING ORGANIZATIONS.

"(a) GENERAL RULE—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the qualified job-training charitable contributions of the taxpayer for the taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The amount of the credit allowed under subsection (a) with respect to any taxpayer shall not exceed $250,000.

"(2) LIABILITY FOR TAX.—

"(A) IN GENERAL.—The credit allowed by subsection (a) for any taxable year shall not exceed an amount equal to the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(B) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(i) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided under subparagraph (A) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(I) a job-training credit carryback to each of the 3 taxable years preceding the unused credit year, and

(II) a job training credit carryover to each of the 15 taxable years following the unused credit year.

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year ending before January 1, 1982, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried of the 18 taxable years to which (by reason of subclauses (I) and (II) such credit may be carried, and then to each of the other taxable years to the extent that, because of the limitation contained in clause (ii), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(ii) LIMITATION.—The amount of the unused credit which may be added under clause (i) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided under subparagraph (A) for such taxable year exceeds the sum of—

"(I) the credit allowable under this section for such taxable year, a

"(II) the amount which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED JOB TRAINING CHARITABLE CONTRIBUTIONS.—The term 'qualified job-training charitable contributions' means an amount equal to the amount of charitable contributions to qualified job-training organizations.

"(2) CHARITABLE CONTRIBUTION.—The term 'charitable contribution' has the meaning given to such term by subsection (c) of section 170.

"(3) QUALIFIED JOB-TRAINING ORGANIZATION.—The term 'Qualified job-training organization' means an organization which—

"(A) is described in section 501(c)(3); and

"(B) has been certified by the appropriate regional office of Employment and Training Administration of the Department of Labor as providing job training solely to one or more of the following; handicapped individuals, economically disadvantaged individuals, and displaced workers.

"(4) JOB TRAINING.—The term 'job training' means instruction in vocational and other skills necessary to obtain employment or a higher grade of employment.

"(5) HANDICAPPED INDIVIDUAL.—The term 'handicapped individual' means any individual who—

"(A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

"(B) can reasonably be expected to obtain employment as a result of job training.

"(6) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—The term 'economically disadvantaged individual' means any individual who—

"(A) received cash welfare payments under a Federal, State or local welfare program;

"(B) has an income, for the 6-month period before applying for job training with a qualified job-training organization which—

"(i) would have met the qualification for such welfare payments, or

"(ii) if computed on an annual basis, would not exceed the povery level established by the director of the Office of Management and Budget pursuant to section 673(2) of the Omnibus Budget Reconciliation Act of 1981; or

"(C) is a member of a family which meets the requirements of subparagraph (A) or (B).

"(7) DISPLACED WORKER.—The term 'displaced worker' means any individual who—

"(A) was employed by an establishment—

"(i) on a full-time basis, and

"(ii) for at least 1 year;

"(B) was not employed by such establishment in an executive, administrative, or professional capacity (as such terms are defined by the Secretary of Labor under section 13(a)(1) of the Fair Labor Standards Act of 1938); and

"(C) is currently unemployed because of—

"(i) a change in the technology of such establishment, or

"(ii) a total or partial closing of such establishment by reason of competing technology.

"(8) ESTABLISHMENT.—The term 'establishment' means any factory, plant, facility, or concern engaged in the production of goods or services, or both.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION OF CONTRIBUTIONS.—

"(A) CONTROLLED GROUP OF CORPORATIONS.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member shall be its proportionate share of the qualified job-training charitable contributions giving rise to the credit.

"(B) COMMON CONTROL.—Under regulations prescribed by the Secretary in determining the amount of credit under this section—

"(i) all trades or businesses (whether or not incorporated) which are under common control shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such trade or business shall be its proportionate share of the qualified job-training charitable contributions giving rise to the credit. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(2) ALLOCATIONS.—

"(A) PASSTHROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

"(B) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary."

(b)(1) Subparagraph (A) of section 55(c)(4) of the Internal Revenue Code of 1954 (relating to credits) is amended by inserting "44H(b)(2)(A)" before "53(b)".

(2) Subsection (c) of section 381 of such Code (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(30) CREDIT UNDER SECTION 44H.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44H, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44H in respect of the distributor or transferor corporation."

(3)(A) Section 383 of such Code (relating to special limitations on unused investment credits, work incentive program credits, new employee credits, alcohol fuel credits, foreign taxes, and capital losses as in effect for taxable years to which the amendments made by the Tax Reform Act of 1976 apply, is amended—

(i) by insering "to any unused credit of the corporation under section 44H(b)(2)(B)," after 44G(b)(2),", and

(ii) by inserting "JOB-TRAINING CREDITS," after "EMPLOYEE STOCK OWNERSHIP CREDITS," in the section heading.

(C) The table of sections for part V of subchapter 1 is amended by inserting "job-training credits," after "employee stock ownership credit," in the item relating to section 383.

(4) Subparagraph (C) of section 6511(d)(4) of such Code (defining credit carryback) is amended by striking out "and employee stock ownership credit carryback" and inserting in lieu thereof "employee stock ownership credit carryback, and job-training credit carryback".

(5) Section 6411 of such Code (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(A) by striking out "or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused employee stock ownership credit, or unused job-training credit";

(B) by inserting, "by a job-training credit carryback provided by section 44H(b)(2)" after "by an employee stock ownership credit carryback provided in section 44G(b)(2)," in the first sentence of subsection (a);

(C) by striking out "or an employee stock ownership credit carryback from" each place it appears and inserting in lieu thereof "an employee stock ownership credit carryback, or a job-training credit carryback from;" and

(D) by striking out "research and experimental credit carryback" in the second sentence of subsection (a) and inserting in lieu thereof "research and experimental credit carryback, or, in the case of a job-training credit carryback, to an investment credit carryback, a new employee credit carryback, a research and experimental credit carryback, or an employee stock ownership credit carryback)".

(c)(1) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44G" and inserting in lieu thereof "44G, and 44H".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44G the following new item: "Sec. 44H. Charitable contributions to qualified job-training organizations."

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

Mr. SPECTER. Mr. President, my amendment to S. 2036 is a tax credit for job training which is right in line with the legislation which is being considered at the moment. I commend the distinguished Senator from Indiana (Mr. QUAYLE) as well as the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from Utah (Mr. HATCH) for their work in presenting this legislation at the present time.

In making the amendment proposal at this time, I do so because it is right in line with the principal piece of legislation which is being considered. This proposal was introduced in the form of S. 2224 by me on March 17, 1982.

Mr. President, it has been said that the States should be governments which experiment with programs which, when proven successful, can be adopted as national programs. This amendment modifies to some extent a program which has been successful in Pennsylvania and other States.

Pennsylvania enacted the first of these programs, called neighborhood assistance programs, in 1967, and during the next decade Indiana, Missouri, and Delaware followed suit. More recently, Michigan, Florida, and Virginia began a similar use of tax incentives to promote job training and community development and to improve living conditions. In the spring of 1982, Wisconsin passed legislation providing tax credits to enhance the financing of economic development projects operated by community organizations. And at least 22 other States are considering tax incentive measures focusing specifically on the needs of distressed neighborhoods and communities.

Although these tax incentive programs vary from State to State, the enabling statutes are generally referred to as neighborhood assistant acts (NAA's), and the resulting activities are known as neighborhood assistance programs (NAP's). the evident popularity of the neighborhood assistance tax credit approach lies in its operational simplicity. In the typical program, a business receives a tax credit under State law for investing in or contributing to approved projects which improve economic and social conditions in low-income central city neighborhoods or rural areas. Activities for which tax incentives are provided include:

First. Corporate support or management of a community improvement or development project;

Second. Financial contribution to nonprofit, tax-exempt community organizations;

Third. In-kind assistance to neighborhood projects; and

Fourth. Job training.

Undoubtedly, the popularity of the neighborhood assistance tax credit has been enhanced by the diminished Federal support for community development. The demise of Government programs compels greater attention to private sector sources of funds if such activities are to continue at an appreciable level. NAP is designed to elicit such support by lowering the after-tax effective cost of participation. The resulting investment can directly support a project, or it can be an effective lever for obtaining a share of the remaining public aid.

For example, Philadelphia area businessmen and civic leaders have been encouraged by the Pennsylvania Neighborhood Assistance Act to contribute to three high school academies training young people in applied electric science, automobile repair, and business skills. I visited such an institution recently, Edison High School, in North Philadelphia, and found it to be an excellent program, one which would provide a useful model all over this Nation. Students who at the time of enrollment often show less than average promise are provided this specialized training at public high school sites.

Business leaders believe this program is an important Philadelphia job training activity. Many students thought to be below average achievers have developed during the training highly marketable job skills. Drop-out rates are a fraction of those of regular high school programs and the graduation rate is double. The involvement of local businessmen in the nonprofit corporations operating the program has helped assure placement opportunities for those who complete the program. Over 90 percent of the graduates are placed in jobs. The nonprofit corporations operating these three programs do not accept grants from public agencies. On February 23, of this year, I visited the electric academy and observed the school in operating. I was much impressed with what I saw.

Today, in proposing this amendment, although it is considrably more limited, it has great similarities to the Pennsylvania Neighborhood Assistance Program for Job Training, which will allow a credit of 20 percent against contributions to programs providing job training for handicapped and economically disadvantaged individuals. This credit, plus the already authorized Federal deduction in most cases, will represent about a one-third net cost to the contributing corporation.

Each training program would be developed by qualified nonprofit organizations and certified by the regional Office of Employment and Training Administration of the Department of Labor as providing job training solely to handicapped persons, economically disadvantaged individuals, or workers with obsolete skills. Private corporations would contribute the training funds. Unlike most programs of this type, there are virtually no administration costs to the Federal Government and all of the contributed funds remain in the local community. There is no expensive corps of Federal bureaucrats to take a cut from these funds as they flow from the community to Washington and back again. Under this proposal, they never leave the local community.

The maximum credit available for any single corporation is $250,000; thus, the program is especially supportive of training efforts by small- and middle-sized businesses. The administration can regulate the revenue impact by controlling through the Department of Labor, the number of approved applications. The National Economic Development and Law Center estimates that—

The state experience (with this program) suggests that the costs of a Federal program would be relatively modest.

There is little doubt that America is in a transition phase from heavy industry to high technology. Many skilled and dedicated workers are losing their jobs because of technological obsolescence over which they have little control.

On March 16, the Pittsburgh Post-Gazette carried a news story "No One's Safe, Steel Layoffs Still Growing; White Collar Workers Also Hit." On the same day, the Wall Street Journal headlined "Pittsburgh's Recession Shows How Layoffs Ripple Through Economy." While job training does not, of itself, create jobs, it will retrain skilled workers for new jobs as we create new jobs in the economy, as create we must for our American work force.

This amendment to S. 2036 will encourage the private sector to sponsor job training and retraining programs for these workers, as well as for disadvantaged and handicapped citizens.

Mr. President, I suggest that this amendment can be an important part of the overall job training efforts of this Nation. With the administration's proposal for enterprise zones this can integrate effectively with that economic uplift plan. New industry will need new trained employees, and this amendment provides a vehicle for local planning, development, and administration of job training. Thus, it is consistent with the concept of enterprise zones. It is consistent with the administration's support for local initiative and planning. It can also encourage job training in areas which are not designated as enterprise zones, as well as those which are. I think it fits right in with the proposals which Senator QUAYLE, Senator KENNEDY, and Sena-

tor HATCH are making in this principal piece of legislation today.

Mr. QUAYLE. Mr. President, I oppose the amendment offered by the distinguished Senator from Pennsylvania. I certainly applaud his involvement and understanding and compassion for job training and I understand what he is trying to achieve. He wants to give an incentive to have more on-the-job training.

We had a number of days of hearings at which businesses testified about the amount of training they are presently providing. Perhaps the Senator's suggestion of a tax credit would enhance training and would do precisely what this bill is set out to do and would be a way to promote and to expand its objectives. I do not argue that, and I do not pretend to make that argument at this particular juncture. However, I do make the following points, very briefly:

First of all, the timing is absolutely wrong. There is no way we can consider a tax credit at this time on a bill that has been reported by the Committee on Labor and Human Resources. The Finance Committee will have something to say about this.

I suggest to my friend that perhaps he tack this on as an amendment when the tax bill comes to the floor. We are going to have a tax bill. This is a revenue amendment, with Finance Committee jurisdiction. It is compatible with what we are trying to do, but it is entirely out of our jurisdiction.

Second, there have not been any hearings on this. We did not discuss this specifically. To my knowledge, there have not been any hearings.

Furthermore, we do not know what the cost will be.

So, even though the amendment may be one I would ultimately support, I do not know all the facts; I do not know all the circumstances. But it certainly would be inappropriate at this time. For those reasons, I oppose it.

Mr. DOMENICI. Mr. President, will the distinguished junior Senator from Indiana yield to me for an observation on the amendment that the junior Senator from Pennsylvania has offered?

Mr. QUAYLE. I am glad to yield to the distinguished chairman of the Budget Committee.

Mr. DOMENICI. Mr. President, I suggest to my good friend from Pennsylvania that the notion he incorporates in his amendment is an exciting and excellent one.

However, it seems to this Senator that in the Heinz-Domenici targeted job tax credit program that is now in existence, we are already doing most of what he is suggesting. Also, if I understand correctly that program, it is going to be extended for 2 or 3 years in the tax bill that is being considered by the Finance Committee. While it may not tie in precisely with the qualifications stated in this new Training for Jobs Act, it is obvious to the Senator from New Mexico that a large percentage of those men and women who qualify here for training under the Training for Jobs Act that is before us are going to qualify; thus, their employers are going to receive the tax credit under the targeted tax credit law which is in existence.

If it is to the contrary I would suggest that the distinguished floor manager of this bill is correct, the tax bill should be amended to make it more compatible if that be the desire of the Senator from Pennsylvania, and not amending the jobs bill to take care of the tax credit. I really do not think the House would even consider it. There is a great jurisdictional problem. They initiate tax measures, we do not, and there are all kinds of situations that make it very difficult.

I think the Senator has furnished a good service to us by calling to mind that we have to make those two concepts work better together to get the full benefit of what this jobs bill is trying to produce for your State, your people, and mine.

I thank the Senator from Indiana for yielding.

Mr. QUAYLE. I thank the Senator from New Mexico for his contribution. He is correct on this issue. We have a great deal of concern and sympathy for what the Senator from Pennsylvania is trying to achieve. But this is just simply not the appropriate time to do it.

Mr. SPECTER. Mr. President, I fully appreciate the comments which have been made by the distinguished Senator from New Mexico (Mr. DOMENICI) and the comments made in opposition to this amendment by the distinguished Senator from Indiana (Mr. QUAYLE). This measure is different from the tax credits which the Senator from New Mexico referred to. This comes from a different direction and provides tax credits for job training, as distinct from tax credits for employing certain workers. While it is true that there may be some overlap as to the people whom it would reach, they are entirely different programs.

The problem of unemployment and the necessity for job training and the necessity for a variety of approaches are realistically overwhelming in our society today and it impacts enormously and heavily all over this country and, perhaps, most acutely in a State like my own of Pennsylvania.

This is a supplemental approach to that which the Senator from New Mexico referred to. We are looking for local initiative. That has been the essence of President Reagan's approach in trying to bring the private sector more deeply into the system, and this tax credits for job training program accomplishes precisely that.

When the Senator from Indiana says that this is not the appropriate time, that it should better be brought at a time when the tax bill is considered, I am not unused to having heard those references in my brief tenure in this august body.

The pending bill is seldom the occasion to consider whatever amendment is proposed, and it would not surprise me, if I deferred this matter today and brought it up at the time when the tax bill were present, that the distinguished chairman of the Finance Committee would raise a similar consideration at that time.

It is no easy matter for a legislative proposal to get attention in the U.S. Senate, and that is a fact of life because there are so many legislative proposals and the Senate is so busy and the committees are so busy.

I would be willing to consider deferring action on this measure if there were positive assurances that there would be prompt hearings on this subject. I think that is a valid consideration.

The Senator from Indiana and I discussed that question in advance of my proposing the amendment. I realize the Finance Committee is busy today on a markup, but this is a measure which I believe in deeply. It is a very solid program. It has met with great success in Pennsylvania and in many other States. It is not an expensive project because the administration can limit the application of this program. It could be passed and they could limit the application to a few programs for the first year at very small cost and in a way that would provide a very excellent experiment for the administration to work with this concept.

In view of the importance of the problem, the overwhelming nature of the problem, of unemployment and the overwhelming necessity for attacking it on a number of levels, and the relative lack of movement of such a bill without what I am doing today, I must disagree with my colleagues, the Senator from New Mexico and the Senator from Indiana, and say that there is no time like the present, although I have no illusions about the likelihood of overwhelming success on this measure, and that is why I push it today.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. SPECTER. I withhold.

Mr. QUAYLE. The Senator can go ahead and ask for the yeas and nays. I hope he would not, but that is entirely up to his discretion.

This is an issue where I would be more than happy to try to contact the chairman of the Finance Committee. I tried but the Finance Committee is having markup hearings.

I could pledge my support and request hearings on this matter, if that would help. I simply believe the Senator has made his case. The Senator, as always, has made his case very eloquently, and I would certainly be more than happy to join with him in trying to explore this further. But I really wish he would consider deferring this matter and not forcing the Senate to vote on it at this particular time.

Senator DENTON is on his way over to offer some amendments. We have had a number of amendments offered and withdrawn in order to get their points across.

There have been amendments offered and accepted; there have been amendments offered and defeated; thus I would really request the indulgence of the Senator to withhold an actual vote on this, and I pledge my cooperation in the matter. I wonder if that would make any difference to him?

Mr. SPECTER. I would be willing to withhold pressing for a vote at this moment, but I would at least like to try to attract the attention of the chairman of the Senate Finance Committee in order to obtain a commitment as to hearings and to push this matter forward. The chairman of the Finance Committee will doubtless appear in response to a vote request, but I would be willing to defer the matter at this point to try to work it out so that we can have movement. But I do want to at least achieve the commitment as to prompt hearings with some suggested dates, and we can move the matter ahead.

Mr. QUAYLE. I would suggest that we try to pursue this, and I hope we will be able to accommodate the desires of the Senator from Pennsylvania because there are other related issues that could arise. I suppose someone could lodge a point of order against this amendment which, I presume, the Chair might sustain, in that this is a revenue measure initiated on the floor of the Senate, very questionable constitutionally and, furthermore, I would say in all candor that there is absolutely no way that the House of Representatives is going to accept this amendment if it were passed.

They are not going to take a revenue measure on this particular piece of legislation. So I hope we can work this out to meet the needs of the Senator from Pennsylvania, and I would appreciate his willingness to go ahead and defer at this time and to go ahead and work along another avenue.

Mr. SPECTER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SPECTER. Is it procedurally permissible to defer at this time without actually withdrawing the amendment?

The PRESIDING OFFICER. The Senator from Pennsylvania may request unanimous consent to temporarily lay his amendment aside. That would take unanimous consent.

Mr. SPECTER. Mr. President, I ask unanimous consent to temporarily lay this amendment aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The amendment is temporarily laid aside.

Mr. SPECTER. I thank the Chair and I yield the floor.

Mr. QUAYLE. I thank the Senator. I will be joining with him to try to work this out.

(Later the following occurred:)

Mr. SPECTER. Mr. President, since my amendment has been set aside by unanimous consent, I have had an opportunity to confer with the distinguished Senator from Kansas (Mr. DOLE), the chairman of the Finance Committee, who has arranged to provide a hearing on the bill I introduced in March which was the subject of the amendment today.

The Senator from Kansas has set that hearing for July 15, which will be ample time to have the matter heard and to have my measure attached to a Finance Committee bill.

In light of that, I hereby withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

(Conclusion of later proceedings.)

Mr. QUAYLE. Mr. President, the distinguished Senator from New Mexico has a statement, I believe. I yield to him at this time.

Mr. DOMENICI. Mr. President, my home State of New Mexico has a unique history of participation in employment oriented programs to train talented New Mexicans for gainful and productive use of their time. When I was chairman of the Albuquerque City Commission, we were the pilot city in the Nation for combining nine separate programs into a single, integrated, comprehensive manpower program. We succeeded in this pilot effort despite a stack of Federal regulations at least 2½-feet high. The Albuquerque experience helped to shape what became the Comprehensive Employment and Training Act—commonly referred to as "CETA."

Since my experiences in Albuquerque our national experience with CETA has now gone through several upheavals. We tried a large public jobs program which swamped the CETA system with problems and "crowded out" the type of attention that was needed to train people for jobs in the private sector. Various mixes in Federal-State-local relationships have been tried.

I know all of us hope the lessons of the past have been learned well. We should be ready now to put in place a jobs-training program that can operate for several years without major change—without constant changes in priorities, or in Federal rules that must be implemented.

It appears that the drafters of this bill have indeed done quite well in distilling the lessons of the recent past. They have presented a bill which I believe will serve the Nation well for the next several years. There are some aspects I would like to see changed, but on the whole this is a good bill.

The Training for Jobs Act insists on results rather than process. States and local programs will be judged by their successes in increasing earnings and decreasing welfare dependency of people receiving training. Private sector leaders, Governors, and local officials will be permitted to plan programs responsive to the needs they identify rather than merely responding to Federal guidelines. New Mexicans will monitor and evaluate the progress of training and placement in programs carried out in New Mexico. Local businessmen will shape training programs so that the skills produced will be the skills that are needed for Santa Rosa, Espanola, Silver City, Roswell, and Raton.

Our employment goals have always been to secure a permanent job in the private sector for program participants. This act gives the employers more say than they have ever had in shaping the training curriculum for potential employees. The Governor will determine geographic areas of service within a State. Each "service delivery area" will have a private industry council (PIC) that will have a majority of members from the private sector and will be chaired by a member from the private sector. All areas with populations under 250,000 will be served by a PIC whose membership will be determined by local elected officials and the Governor. The precise boundaries will be drawn by the members of the State job training council, appointed by the Governor to oversee the plans and activities of each service delivery area. Cities with populations over 250,000—Albuquerque, for example—may petition the Governor for designation as a service delivery area. If the business community concurs, the Governor must make the designations. In nonmetropolitan parts of a State the State job training council will determine the geographic areas best suited for service delivery programs. Each PIC will have a majority of private industry representatives and the other seats will be from government, education, labor, community organization, economic development agencies, and the Employment Service.

Federal funds may be used for basic and remedial education, institutional and on-the-job training, supportive services—including necessary cash

payments—and other activities designed to prepare disadvantaged persons for nonsubsidized employment. Unlike CETA, this act prohibits the use of funds for jobs in the public sector. There is an exception for Indian tribes and pueblos which will continue to be permitted to use Federal jobs training funds to provide necessary public services such as police protection, fire prevention, water delivery, economic development, housing, and other needed services.

Those eligible for participation will be persons whose family income is no more that 70 percent of the Bureau of Labor Statistics' lower living income level for the prior 6 months, or persons receiving cash welfare or persons receiving food stamps. People who do not qualify on the basis of income or welfare status, but who have other barriers to employment may also participate, but no more than 10 percent of the funds can be used for them. A program for displaced workers will also be allowed, but half of the funds for such a program must be non-Federal matching funds.

Overall, no more than 30 percent of total program funds can be used for nontraining expenses. This leaves 70 percent legally required for direct training of program beneficiaries. The average amount spent on training during the life of the CETA program was 18 percent. When we realize that CETA began at a funding level of $2 billion in 1973 and grew to $12 billion by 1977, it becomes quite clear that the bulk—82 percent—of the funds were used primarily for income maintenance—largely through public service jobs—and administration. This major reversal of philosophy—to spend the bulk of the funds on training—should lead to better employment opportunities and less dependency on the Federal Government.

Let me now comment briefly on the budget situation as it applies to this program. The amount of funding supplied will ultimately be determined in the appropriations process. Under the assumptions of the Senate Budget Committee fiscal year 1983 funding of $3.8 billion is projected for the programs authorized by this bill in the budget resolution approved last week. This is essentially a freeze at the fiscal year 1982 operating level, but it is a considerably lower funding level than was spent on CETA in recent years. As recently as fiscal year 1980, the CETA programs cost $9 billion. As is the case in nearly all areas, those running the program are going to be under great pressure to use smaller amounts of funds more effectively.

Besides creating a better program, the bill also corrects some institutional weaknesses. S. 2036 also amends the Wagner-Peyser Act, which governs the employment service, to assure a strong planning link between training efforts and job-placement efforts. Other changes made by S. 2036 include better targeting of the Employment Service's efforts to help find jobs for those in need, and allows, for example, the use of Federal funds for advertising only if the jobs advertised pay less than twice the minimum wage.

Mr. President, I do have a few concerns about this bill. I am concerned first that the drafters of the bill have defined the eligibility rules for the programs so broadly that there will be a continued failure—just as there was in CETA—to focus resources on people who are most in need of job assistance training. The National Commission on Employment Policy has stated that, even after eligibility was tightened substantially in the 1978 CETA amendments, there were many more eligibles than could be served in the program.

The bill before us proposes very little change in the eligibility rules, so the situation we have had will continue to exist. The result will be that some CETA operators, in order to show good statistics, will "cream." That is they will spend the resources provided by the Federal Government to work with people who are temporarily unemployed but who have good skills or significant work experience and could obtain other jobs without retraining. I acknowledge that this bill's limitations on the payment of training stipends will alleviate this problem somewhat. I still believe it would be better, however, to write the eligibility rules more tightly.

One group I am especially concerned about is the AFDC population.

There have been numerous studies showing that women benefit more on average from job training than men. Experience in the supported work programs funded jointly by the Ford Foundation and the Federal Government has shown that women receiving AFDC, even those that have been on AFDC for 3 or more years, did much better in moving to independent living than did the other hard-to-employ groups that the supported work program sought to help.

I am disappointed that there is not a clear, unequivocal, set-aside of a minimum percentage of the funding under this bill for service to AFDC recipients. On the one hand, the Federal Government, through tightening of welfare laws, is requiring AFDC recipients to search for work and to engage in so-called workfare. But here in the biggest Federal job-training program we are not making a clear commitment to using Federal resources to help get people off AFDC.

I realize that there are lots of contenders for CETA resources, but this did not stop the drafters of the bill from requiring that half the money be used for people under age 50. I do not see why we could not set as a minimum of 20 or 25 percent of the money be used for people receiving AFDC. Apparently, at least one-third of the 3 million adults on AFDC could benefit greatly from the types of training and development that the New Job Training Act will pay for.

As I recall it, the administration's original proposal would have limited eligibility to only AFDC recipients and disadvantaged youths. That targeting has been substantially modified in the bill as reported. I hope the managers of the bill will make clear why they chose not to put into it a clearer priority for service to AFDC recipients. I hope they reassure us that there is in fact going to be greater attention to AFDC recipients than appears on the surface.

I am also concerned that the bill, as presently structured, would require the fiscal year 1983 appropriations to cover a 21-month period from October 1, 1982, through June 30, 1984. While I concur with the intent of this provision—to move the program toward a forward funded basis and to improve coordination with schools and school districts, there simply is not enough room in the fiscal year 1983 budget resolution to accommodate this. I have offered an amendment that resolves this problem.

Mr. President, I wonder if the distinguished manager of the bill, the senior Senator from Indiana, would answer a couple of questions that I have about this bill.

Mr. QUAYLE. Mr. President, I would be more than happy to try to respond.

Mr. DOMENICI. Mr. President, with reference to the relationship of the Governor, a Governor of a respective State and the general legislature of a State, be it the two houses or the one that Nebraska has, my first question is: Am I correct in assuming that but for the passthrough provision for municipalities, the moneys for this program go to the Governor and are to be administered by the Governor as Governor of a sovereign State?

Mr. QUAYLE. Except for the passthrough, as the Senator is aware, the discretionary account goes to the Governor to be administered as the Governor and the executive branch normally would do. Now, that varies from State to State. Some States may put it over into an agency, other States may go other ways. But it is definitely an executive responsibility.

Mr. DOMENICI. Mr. President, I wonder if the Senator might give me the benefit of his reasoning as to why a State legislature should not have some prerogative with reference to how the executive branch of government would manage the discretionary moneys for this kind of training program. Let me tell the Senator, as he knows, I am a staunch advocate of re-

turning as many Federal functions to the State as possible. I am a staunch advocate of dispersing that power, giving as much discretion, once you have dispersed it, so we have the benefit of innovation, not the sterility of solely a National Government doing things.

But I am really concerned that we equate a Governor and an executive in a State as something, in particular, in the management capacity that is separate and distinct from a legislature and its powers.

I do not know why we are doing that. If we are going to do that on this program, are we going to do that when we send all of those programs back there under new federalism?

Now, let me give the Senator another thought. One might say: "Well, the State legislature could get involved in this because they might pass a statute saying: 'Anything that has to do with educating our young people is going to be managed out of the executive branch of government by the Department of Education and be subject to their rules and regulations regarding fraud, regarding bidding, regarding all these things.' "

Well, first, I would ask: Would that be valid here? But, equally as important, that situation is dependent upon the Governor. The Governor can veto that kind of bill, can he not? If he wants to run this program, he could even say to his State legislature, "I don't even want you fooling with this. I am going to manage it the way I want."

I do not see anything here that says he cannot do that and I do not like that. I think a legislature ought to have the normal, general legislative powers to make a program like this subject to the general powers of the State and then the Governor ought to run it that way. I do not think that can be done under this law.

Mr. QUAYLE. Mr. President, I say to my friend from New Mexico that the way this program is set up, it does go to the executive, being the Governor, who has an immense amount of discretion on the nonpassthrough amount. But we have no specific language in the bill that precludes involvement from the State assembly.

Furthermore, one of the major programs is the dislocated worker program which is a matching fund program. The only way that the Governor is going to get matching funds, in many cases, is through the appropriations of the State legislature. We are silent on the involvement of the State legislature.

I think that the Senator would agree with me that, as we try to develop block grants, or new federalism, or whatever we want to call it, what we are trying to do is to give as much flexibility as possible to our Governors and to the municipalities. If we would put in an absolute requirement that the State general assembly has to act on every single item of this training and employment bill, we are adding complexity to it. You are adding inflexibility to it. You are getting away from a coherent program that will have more chance of being efficient and effective.

So we came to this decision, after much deliberation with Governors, with members of the State general assemblies, with municipalities, with the counties, and we felt that the best position would be just to not specifically include, nor specifically exclude, and leave it to each individual State.

As the Senator pointed out, some have the unicameral and some have the bicameral legislatures. Each State acts differently. The State of Indiana acts differently through their training programs than the State of New Mexico. We have an elected education official. Every State is different.

For us to come up with some wisdom here and try to put in this legislation how each State general assembly is going to be involved in this, I think we would be defeating our purpose.

Mr. DOMENICI. Mr. President, let me say to the good Senator from Indiana that I am a staunch advocate of flexibility. But I am also a staunch advocate of checks and balance. I am also a staunch advocate that anybody that has too much authority tends to abuse it. Frankly, I have found that where we have sent moneys directly to States to be administered by Governors and where the legislatures and the Governor have been at odds, the Governor does his thing and the legislature sits by and says, "Fine, Governor, we are going to find some way that we can clip your wings." What has happened is that the programs have not been run very well, because the Governor has to reinvent the wheel and run it in his own way instead of involving the State legislature.

I do not want to see that happen to this program, and it may, because we do not even provide in this bill something as simple as language that would require, within a period of time, maybe 2 years, that a State have an implementation plan that the legislature approves of. That might be a way out of the dilemma that we are in. Give them a long time and then say by a certain time the legislature shall have developed an implementation for the Governor to administer this program. At least you will get some of the protections that the State builds in for its own money. Nothing is perfect. The State builds in programs and some of them do not work. Some of those are victimized. Some bidding is not done right with program money at the State level.

But I say to the Senator that I really wish we could find a way to force the Governor and the legislature to work together as soon as possible to come up with something they both agree protects their domain and their governmental representation—one is executive and one is legislative—rather than leaving it vague and invite the kind of problems that I see with programs like this.

Mr. THURMOND. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. THURMOND. Mr. President, I wish to associate myself with the remarks of the able and distinguished Senator from New Mexico on this subject. The legislature of a State represents the people in every segment of a State. It seems to me that they ought to have a say as to how this will be handled.

If a Governor has the complete say you are putting a lot of power in his hands to play politics. My judgment is that it would be better administered if the legislature would act on this and, as the distinguished Senator said, then the Governors would carry out the plans enacted by the legislature.

I feel that this would be most helpful, and I would hope that the distinguished and able Senator from Indiana in managing this bill would think about this and see if he could insert something here that at least would give a joint power and control, if not give the entire control, to the legislature to act and then for the Governors of the States to implement the plans of the legislatures.

Mr. DOMENICI. I want to thank the Senator for his remarks.

I do want to say this to my good friend, Senator THURMOND: The Senator from Indiana is correct on a couple of observations. A great deal of this program's success will depend upon the States putting up matching money. That is new and different, as we talk about CETA-type programs. I think that is salutory. That will bring in what we are talking about rather automatically because they have to appropriate that money. If they are going to do that, they will say, "How is the program being run? Why do you not run it like some other education programs? Why do you not let the education people run it? What agency are we going to use to run it?"

So he is partially correct. But I really believe the clue to doing this right is to find some language that will force them to work together up front, instead of leaving it where they begin to work apart and then we have to begin to put them back together.

Maybe it is an implementation program of some type.

Mr. THURMOND. In programs other than matching funds, you might say.

Mr. DOMENICI. Maybe. I think they ought to put matching into an implementation program so that they know what is being done with all of it. But basically, part of the protection is built in because of the extreme match requirement, but not the whole thing. And I do not think it would be as comprehensive without some legislative involvement.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Certainly, the Senator from New Mexico and the Senator from South Carolina, two most distinguished Senators, have obtained my attention. Their statements will not go unnoticed. I will only again reemphasize what we are talking about. Basically, there is about a 5-percent setaside on the moneys to be used. Most of the moneys will automatically pass through to the service delivery areas. As a matter of fact, we have it set up so that if it is over 500,000 that is automatically to go to the service delivery area, and if it is over 250,000 that is presumptive to go to the service delivery area, and then with some balancing to the chief executive and State officials.

Furthermore, by leaving it to the State assembly, speaking for at least Indiana, they will have a lot to say about what goes on with vocational education or any educational program, their own training programs. They fund these various agencies. I would keep this in mind, as we go into the conference, and the two of you have mentioned that to me, that it will not pass without a further study, to see if there is any kind of an accommodation. I do not want to leave any hope that I will be able to fulfill that, but it will be examined.

It will be very, very difficult to put in language on how you are going to force these two to deal with it up front, as the Senator from New Mexico said. We basically came to the conclusion that if you leave the language open, if you have the structure decentralized at the local level, that is one thing. At the local service delivery areas, it will be some State senator or representative who is dealing with the program. He will have a lot more to say about it, particularly if he is serving on the State education committee. That is the whole idea of the bill, to retain as much flexibility and give as much discretion as we can to not only the Governors but the chief executive officials who will be planning the administrative programs.

Mr. DOMENICI. Mr. President, I appreciate the remarks of the distinguished Senator from Indiana. Frankly, I am not sure, as much as I respect him and know of his concern, and having listened attentively to his words, that the assurances are enough. On the other hand, I am quick to admit that I do not know quite how I would want to take care of the problem that I have just brought to the attention of the Senator. I will look at it in the next half hour or 45 minutes and I may have a suggestion as to how I would want to do it. I might make that suggestion to the Senate.

Let me make this point: I am conscious of the fact that there are intervening institutions, PIC councils, cities with their particular groups, but basically, when you read this in its full context, it is clearly intended to make this program the Governor's program, and he could fix every one of those. He could find the districts that are not urban, the PIC council ultimately being even stronger than the mayor, or he can deny them money for almost any reason, as I read the bill. I am not arguing with that. It is the intention to get the Governors involved and make somebody responsible.

I am concluding that the legislature is inordinately left out as a result of this, instead of inviting their involvement or inviting the opposite, and I am trying to find some way to bridge that and make it where both are involved right up front as soon as possible.

I thank the Senator.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I rise to commend the Senator from Indiana for his leadership and initiative in this area. He has, I think, brought to the floor of the Senate a bill that is going to make a very valuable and important contribution to our efforts to assure that there is a program in place that provides training, which is greatly needed in many areas of this country, for jobs that we hope will increase in numbers and availability in future years. With the expiration of the CETA program in September of this year, the need is certainly apparent for a new and improved jobs training program.

I am happy to be one of the cosponsors of this legislation. I feel that it addresses the problem in a very comprehensive way, in an imaginative way, involving private industry, involving State and local governments, and not just reposing all of the responsibility for guidelines, regulations, and direction at the Federal level.

In our State, for instance, we have some CETA training programs that have been very valuable, but others have trained people for jobs that do not exist. I think this has been one of the failings of some of our job training programs in the past. We hope that by involving the private industry councils and others at the local level, that an accurate determination can be made about what kind of training is needed, the length or duration, and the structure of training programs, to help assure that those who are being trained can expect to have a job after that training is successfully completed.

At the same time, the legislation recognizes that the Federal Government does have an important role to play. It needs to provide leadership, an overall sense of direction, and to help assure that those results which we all hope for are in fact realized.

Again, Mr. President, I congratulate the Senator from Indiana and others who have worked so hard on this legislation. I surely hope that the Senate will pass it and we will see it be a very successful contribution to our job training needs.

Mr. QUAYLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE "TRAINING FOR JOBS" BILL IS AN IMPORTANT STEP, BUT IT DOES NOT PROVIDE ALL THE HELP WE MUST PROVIDE TO AMERICAN WORKERS DURING THE CURRENT RECESSION

Mr. ROBERT C. BYRD. Mr. President, the legislation we are considering today is vitally important to the future of our Nation—a future which depends upon a work force equipped with the skills to compete in an evermore-competitive environment.

I believe wholeheartedly that Government, for the benefit of all who live in these United States, must make available job training programs and provide assistance in linking those who need jobs with jobs that employers need done. Such a role for Government is vital to workers and their families; it also is vital for the American economy if we are to compete successfully with other economies around the world and if we are to maintain the standard of living that has made us the envy of the greatest portion of the Earth.

The training for jobs bill preserves a number of vital employment and training programs, and makes a number of changes in them which, by and large, will strengthen them.

In particular, I am pleased to see the summer youth employment program preserved.

I believe a very significant step has been taken by establishing a program to aid displaced, skilled workers who have little likelihood of returning to their previous jobs as a result of the decline of various industries, foreign competition, and other factors. In my own State of West Virginia, for example, the steel industry has been especially hard hit. This program of assist-

ance for displaced workers will make it possible to take the dedicated, energetic workers who have lost their jobs when steel plants have closed or curtailed their operations, and assist them in acquiring the skills and knowledge necessary to find new employment that will make full use of their capabilities.

I also believe that important benefits will result from the way in which this legislation will assure a greater degree of coordination between the employment service and the training and assistance programs authorized by this bill and between the employment service and private sector employers. These linkages should result in the employment service being more helpful both to those seeking jobs and to employers who need workers.

In this same vein, the bill also has taken a valuable step toward improving the usefulness of public job training and job search assistance efforts by instituting a much more intimate and regular connection between these efforts and the private sector, and by involving private sector businesses in actually designing and overseeing the functioning of these programs.

These are all steps in the right direction, and I compliment the members of the Labor and Human Resources Committee and managers of the bill for their efforts to produce a bipartisan compromise bill. I know that the negotiations were difficult and lengthy. Like any compromise, it does not fully satisfy everyone involved.

But the bill does extend the Federal Goverment's participation in employment and training programs, which has been and will continue to be a matter of great importance and is an absolute imperative as we are trying to dig ourselves out of this recession. The bill does make some important improvements in the way these programs are operated. And its passage will allow us to confer with the House on this matter and move to enactment legislation so there is no hiatus when the CETA program ends this fall. Consequently, I expect to vote for final passage of the bill.

Mr. President, we currently have the highest unemployment rate in over 40 years—since before the beginning of World War II in 1941. The last figures compiled by the Department of Labor show that over 10,500,000 workers have lost their jobs and do not have work. That is very nearly 10 percent of the entire work force—very nearly 10 percent of all American workers now are unemployed. And, of course, this does not even count the approximately 1.3 million workers who are so discouraged in their search for employment that they have simply given up looking, nor does it count the hundreds of thousands who are working part time only because they cannot find full-time jobs.

This is having nothing short of catastrophic consequences for these jobless workers and their families. As they exhaust their 39 weeks of regular and extended unemployment benefits and use up their savings, they face foreclosure on their mortgages or eviction from rented homes, inadequate diets, and postponement of needed medical care. Ultimately, they face true destitution.

Mr. President, the Congress has a moral obligation to try to cushion the blow on these unemployed Americans. For this reason, I introduced S. 2542, along with 21 original cosponsors, to establish a temporary emergency supplemental unemployment benefits program. Under my bill, a maximum of 13 additional weeks of unemployment assistance would be available—currently, in over 30 States—to jobless workers who are exhausting the extended benefits for which they are eligible.

Today we are considering a jobs training bill designed to help equip unemployed persons to secure and hold private sector jobs.

But while they are learning employment skills and looking for jobs, they and their families must eat. They must make mortgage or rent payments. They must pay for electricity, for medical bills, and other essential expenses.

Mr. President, even though the bill we are now considering will be extremely beneficial in many ways, it will not put groceries on the tables of the families of any unemployed workers. It will not pay a single month's mortgage or rent payment. It will not pay off a single creditor.

The bill that is before us today is necessary but really is not sufficient.

The bill I introduced on May 18 would make major strides toward meeting the other essential need of the unemployed—keeping them and their families alive, helping them last economically until we can manage to turn our sour economy around. But the mere introduction of the bill does not help even 1 of the 10½ million unemployed workers or their families. To provide help, the Congress must enact such a program.

My bill has been referred to the Finance Committee. During consideration of the budget in late May, I was heartened by the comments of the chairman of the Finance Committee, the distinguished senior Senator from Kansas. He agreed that our unemployment problem is distressing and that Congress must respond to it, and he assured this Senator and others that the Finance Committee would address the subject of supplemental benefits. But the committee has held the bill for over 6 weeks now, and I am not aware that any action has been scheduled on it.

Mr. President, we must not ask Americans who are suffering intensely at this moment to just hold on and sit tight. We must act now.

I seriously considered offering my bill as an amendment to the legislation before us today. However, I have decided that this is not the proper vehicle. I also believe, as I have said earlier, that the Finance Committee should consider my bill and recommend any adjustments to it that it believes are desirable. I am fully prepared to assist the members of the committee in their deliberations in any way possible, but I do not think further delay is acceptable. I hope that we have a report in the very near future on this matter from the Finance Committee. One way or another, the Senator must act to address this issue, and it must do so immediately.

Returning to the bill at hand, Mr. President; again I want to emphasize that enactment of job search and training legislation by this Congress is vital. The legislation presented to this body by the Labor and Human Resources Committee, the Training for Jobs Act on which we will vote momentarily, is an important step in the right direction. I support its passage, and I am hopeful the House will act quickly so legislation can be put in place well before current law expires in September. This is nothing short of an obligation to the people of this Nation.

UP AMENDMENT NO. 1072

(Purpose: To impose an income limit on those eligible for assistance who are not economically disadvantaged)

Mr. DENTON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. DENTON) proposes an unprinted amendment numbered 1072.

Mr. DENTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 92, line 25, before the period, insert the following: ", and, except for handicapped persons and dislocated workers identified under section 502, whose individual incomes do not exceed the higher of 200 per centum of the poverty level for individuals established by the Director of the Office of Management and Budget, or 140 per centum of the lower living standard income level for individuals as determined by the Secretary.

Mr. DENTON. Mr. President, I congratulate my colleague and friend from Indiana on what I consider a vast improvement over the old CETA program. I support the enactment of S. 2036. However, I do have one reservation, and I understand that the Sena-

tor will likely agree to the adoption of the amendment after I deliver a few remarks describing it.

The amendment I offer is intended to preclude taking away from those most in need the opportunity to obtain job training in favor of those who are in much less need, or even no need at all.

The amendment I offer simply requires that some eligibility standards based on economic need be applied to persons who otherwise qualify for job training assistance under this act because they fall into one of the labor market disadvantaged categories that are listed on page 93 of S. 2036, section 105(2)(c), of title I.

The bill specifies that the category of labor market disadvantaged "may include individuals who are handicapped, have limited English-speaking proficiency, or are displaced homemakers, ex-offenders, alcoholics or addicts, displaced workers identified under section 502, teenage parents, school dropouts, veterans, and older workers."

At present, job training applicants from these categories would not have an economic limitation whatsoever restricting their eligibility for job training assistance under S. 2036, which of course is funded at the expense of the American taxpayer.

This listing in S. 2036 is merely suggestive and not restrictive, so we could have many more categories of "labor market disadvantaged" than are now listed in the bill.

I am willing to see some preference extended toward these individuals. But I would prefer to see some kind of very conservative income cap apply that would limit eligibility to those Americans most in need. That is the thrust of my amendment.

If the Senate passes a bill that does not place an income limit on prospective job trainees, then we will be justly criticized for having provided a benefit for those Americans with the best lobbying machine, not those who are most in need. The criticisms will come despite the excellent other provisions of this bill.

I am, therefore, proposing that, except for handicapped persons and dislocated workers indentified under section 502, the income for eligible individuals with a labor market disadvantage may not exceed the higher of 200 percent of the poverty level as determined by the Secretary of Health and Human Services, or 140 percent of the "lower living standard income level" as determined by the Secretary of Labor.

If we do not adopt the standard I propose, then this section of the bill will be little more than a direct tax-subsidized giveaway to private businesses. I recall that many of my colleagues criticized CETA as a subsidized giveaway to the local public sector. A giveaway is a giveaway no matter who the recipient is.

I am not against having a set-aside of up to 10 percent of appropriated funds for persons who have a labor market disadvantage. I do, however, believe that equity demands that those persons otherwise eligible under this provision should come from the bottom, not from the middle or the top, of the economic ladder.

Just to repeat, I would except the handicapped and also the displaced workers previously referred to from coverage under my amendment.

I ask my friend from Indiana if he can see fit to support this minor alteration to his bill.

Mr. QUAYLE. I thank the distinguished Senator from Alabama.

Mr. President, we have conversed about this amendment. It is one I am willing to accept and support. I appreciate the genuine concern the Senator has in trying to direct this program to those who truly need it. That is basically the thrust of this amendment: It goes to the individual participant.

The Senator is saying that we as taxpayers and as a government will be willing to work our best for those who are truly in need, from an economic and means test, to provide training and opportunity.

We have discussed this amendment with a number of groups around the country—women's groups and youth groups—which will be affected by it. To my knowledge, they have no opposition.

So I commend the Senator for his intensity and his desire to provide a program directed to the truly needy, a program that will go to the heart of the matter, to those who are less fortunate than others.

I am willing to accept the amendment.

Mr. DENTON. I thank the Senator from Indiana.

Mr. President, to paraphrase what the Senator just stated with respect to the thrust of my amendment, it is not only to take care of the truly needy but it is also intended to avoid prejudicing their interests by giving governmental assistance to those who are less needy. There is a certain limited amount of money available for job training, and I believe we would be prejudicing the interests of those who are truly needy if we made it available for others.

I thank the Senator for his consideration.

Mr. KENNEDY. Mr. President, I am sympathetic to the objective of the Senator from Alabama. Quite frankly, I am somewhat troubled by the amendment. I think that as modified, it is less objectionable than the amendment previously offered.

If we are talking about 200 percent of the poverty level for the individual, that is approximately $9,000. Is that correct?

Mr. DENTON. About $9,300.

Mr. KENNEDY. That is just about the minimum wage.

We allocate a very limited amount of money. It is 10 percent of the funds that would be available under these criteria for an individual who is making the minimum wage in our society but might have some talent or some ability, and with some training, could move up significantly on the economic ladder. The amendment of the Senator from Alabama would preclude that small degree of flexibility that is built into the bill.

It is quite clear, from the nature of the language of the legislation as well as that in the report, the type of people we intend to have included, to be covered by this particular provision.

That has been stated, and the Senator has excluded the handicapped and the displaced worker, but what we are talking about are those with limited English-speaking proficiency, the displaced homemakers, the veterans and older workers, among this group there may be an individual who is barely making the minimum wage or the minimum wage, but has some capability with some limited degree of training to move out of the bottom of the economic ladder. We are talking about ex-offenders and alcoholics and addicts, and teenage parents, and as the Senator from Alabama knows that last group is increasingly a matter of concern in our society. They may be able to earn a minimum wage. But are we going to deny those individuals an opportunity to move on up the ladder, particularly when they are trying to provide for their dependents?

It just seems to me also it is going to require a good deal of paperwork anytime we accept a means test on any legislation because it adds to the bureaucracy and redtape.

What we have built into this legislation is a very important review of the effectiveness of these programs, with standards that will be set and which will be reviewed and evaluated.

What we have tried to do is to provide a considerable degree of flexibility to local administrators of these programs which, in this case, are going to be the private sector. So we are giving maximum flexibility to the local community. We are building on the private sector. We are establishing strict kinds of evaluation procedures.

It just seems to me that the Senator's amendment is unduly restrictive. What we are basically talking about is an extremely needy sector of our society, people who have a desire, who want to work, want the training, need the training; and to put a cap on, at the minimum wage, and say "If you are making the minimum wage you are going to be excluded from being

able to participate in this program," the Good Lord only knows with the amount of money we have in this program we are going to be hard pressed anyway to meet the Nation's needs.

But I do support the legislation and I think it can make a difference and, hopefully, be successful, and the American people and the Senate will see to it that it is expanded.

But I am troubled by the Senator's amendment and I would like to just be able to see what the implications are, what effect it is going to be with regard to some particular constituency groups which we have under the amendment excluded. So I would suggest the absence of a quorum.

Mr. DENTON. Mr. President, will the Senator yield for a couple of questions?

The PRESIDING OFFICER. Does the Senator withhold his request?

Mr. KENNEDY. Yes.

Mr. DENTON. I appreciate the good will and obvious intent to be careful which the distinguished Senator from Massachusetts has manifested in his statements. First, I would be willing to raise that 200-percent eligibility standard. I would prefer not to, but suppose we raise it to 250 percent of poverty, Senator KENNEDY. That would be a cap of almost $12,000 a year.

Second, I must respond to the Senator's objection regarding the complexity and the paperwork allegedly involved with the passage of my amendment by pointing out that we already have on page 72 of the bill several very major requirements which already have to be computed also and require paperwork. Third, in this section of S. 2036 we are dealing with only 10 percent of the job-training money, in this bill. And while you are correct, Senator, that the job training might take place in the private sector, it is nevertheless paid for by the taxpayer. And without my amendment we will have job training at the expense of the working people of this country very likely benefiting those who are not truly in need.

So I ask, will the Senator accept a 250 percent of poverty standard, for example? I would be willing to make that concession.

Mr. KENNEDY. I appreciate both the Senator's desire and intention. If the Senator is prepared to modify it to that extent it does seem to me, given the limited resources in this legislation in any event, it would achieve what the Senator is intending to do, and I would find it less objectionable. Will the Senator modify his amendment?

Mr. DENTON. Mr. President, I ask unanimous consent that the amendment I offered be changed so that where "200" occurs that the figure "250" be inserted.

The PRESIDING OFFICER. The Senator has the right to modify his amendment, and it is so modified.

Mr. DENTON. And I further ask that the figure for the lower living standard income level for individuals as determined by the Secretary, be changed to 175 percent. In other words, we go to 250 percent and 175 percent, respectively, which would follow through consistently in both categories there.

The PRESIDING OFFICER. Will the Senator repeat his modification to his amendment?

Mr. DENTON. In the case of the wording "workers identified under section 502, whose individual incomes do not exceed the higher of 200 per centum," we want to make that 250 per centum, and on line 7, where the term "140 per centum" occurs replace the number "140" with "175."

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 92, line 25, before the period, insert the following: ", and, except for handicapped persons and dislocated workers identified under section 502, whose individual incomes do not exceed the higher of 250 per centum of the poverty level for individuals established by the Director of the Office of Management and Budget, or 175 per centum of the lower living standard income level for individuals as determined by the Secretary.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Mr. QUAYLE. I move its adoption.

The PRESIDING OFFICER. If there is no further discussion, the question is on the amendment of the Senator from Alabama.

The amendment (UP No. 1072), as modified, was agreed to.

Mr. QUAYLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1073

(Purpose: To clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary)

Mr. KENNEDY. Mr. President, I have an amendment here on behalf of the Senator from California (Mr. CRANSTON). I believe the manager of the bill is familiar with this matter.

I send the amendment to the desk on behalf of Mr. CRANSTON.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) on behalf of Mr. CRANSTON proposes an unprinted amendment numbered 1073.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 159, after line 10, insert the following new title:

TITLE VIII—COMMUNITY SERVICES PROGRAM

AUTHORITY TO DESIGNATE A NEW AGENCY

SEC. 801. Section 682(b)(4) of the Community Services Block Grant Act (42 U.S.C. 9911(b)(4)) is amended—

(1) by inserting "(A)" after "(4)";

(2) by inserting "or to entities designated under subparagraph (B)" before the period at the end thereof; and

(3) by adding at the end thereof the following new subparagraph:

"(B)(i) In any case in which a community action agency is denied refunding or is terminated for cause by the Secretary during fiscal year 1982 (regardless of whether such community action agency seeks review of such determination), the Secretary, with the concurrence of the chief executive officer of the State involved, may designate another public or private nonprofit agency to administer a community action program (as defined in section 210(a) of the Economic Opportunity Act of 1964, as in effect on September 30, 1981) in the same community.

"(ii) If, after the Secretary makes a designation under clause (i) and before the State involved begins operating programs under the block grant established in this subtitle, a final determination is made to restore funding to the community action agency which was terminated or whose refunding was denied, then the agency designated under clause (i) shall lose its designation (as of the effective date of such final determination).

"(iii) Notwithstanding the foregoing provisions of this section, if the Secretary makes a designation under clause (i), then the agency so designated shall be considered to be an eligible entity for purposes of this subtitle through fiscal year 1983.".

On page 70, amend the Table of Contents by inserting after the item relating to TITLE VII the following:

TITLE VIII—COMMUNITY SERVICES PROGRAM

Sec. 801. Authority to designate a new agency.

Mr. KENNEDY. This amendment deals with a technical problem which has arisen under the community services block grant program.

The existing community services grantee in Sacramento, Calif., was defunded in March of this year. The General Counsel's Office in the Department of Health and Human Services has ruled that the Secretary is powerless to designate another entity to operate the program because there is no explicit authority in the Reconciliation Act for the Secretary to take such action.

The amendment of the senior Senator from California would simply provide the Secretary with explicit authority under these circumstances.

HHS has indicated it has no objection to the amendment and it is acceptable to the chairman of the Subcommittee on Aging, Family, and

Human Resources, Senator DENTON, the ranking minority member of that subcommittee, Senator EAGLETON, and I believe to both floor managers of this bill.

(By request of Mr. ROBERT C. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. CRANSTON. Mr. President, this amendment deals with a technical problem that has arisen in the community services program in Sacramento, Calif. This program has been shut down since March because of a bureaucratic snafu. As a result, thousands of low-income residents of Sacramento have been without a community services program.

Under the Omnibus Budget Reconciliation Act which was enacted last year, the community services program was transformed into a State block grant program. However, States were provided the option of a transitional year during which time they could request that the Department of Health and Human Services operate the program. California is one of the States that elected to have HHS run the community services program during the transition period.

In March of this year, HHS formally defunded the existing community action grantee, the Sacramento Economic Opportunity Council, because of substantial financial, administrative, and personnel problems. This action was fully supported by the Sacramento County Board of Supervisors and is not in any way being challenged here. The problem arose, however, when the board of supervisors requested HHS to designate another entity to serve as an interim grantee. The HHS General Counsel's Office determined that the Secretary was powerless to act because the Reconciliation Act did not give him explicit authority to designate a new community action agency grantee during the transitional period. As a result, the community services program in Sacramento has been shut down and the low-income community in Sacramento has been totally denied these services. The amendment being offered would simply give the Secretary of HHS the explicit authority to designate a new community action grantee where a preexisting grantee has been defunded or terminated for cause.

This amendment is identical to one introduced in the House of Representatives last month by Congressman ROBERT MATSUI. The Department of HHS has advised us that they have no objection to the amendment and the HHS General Counsel's Office provided us with technical assistance in the drafting of the amendment. It is also acceptable to the chairman of the Subcommitee on Aging, Family and Human Resources, Senator DENTON, and the ranking minority member, Senator EAGLETON.

I want to thank the distinguished floor managers, the Senator from Indiana (Mr. QUAYLE), and the ranking minority member of the Labor and Human Resources Committee, Senator KENNEDY, for their kind assistance in resolving this matter.

I ask unanimous consent that a letter I sent on February 26 to Secretary Schweiker regarding this matter, along with his response of May 12, be printed in the RECORD at the conclusion of my remarks. As this correspondence indicates, along with Congressman MATSUI and the Department of HHS, we have fully explored every possible avenue for an administrative resolution of this matter. It is clear that without this amendment, the situation will go unresolved and the low-income residents of Sacramento will unnecessarily be denied needed antipoverty services.

The letters follow:

U.S. SENATE,
Washington, D.C., February 26, 1982.

Hon. RICHARD S. SCHWEIKER,
Secretary of Health and Human Services, Washington, D.C.

DEAR DICK: I am deeply concerned about a situation which has arisen regarding the community services program in Sacramento, California.

As you know, California elected not to assume administration of the new community services block grant during fiscal year 1982. Under the provisions of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), the Secretary of Health and Human Services (HHS) is directed to carry out the community services program in those states under the provisions of law in effect on September 30, 1981, with respect to these programs.

Yesterday, my office was advised that the Office of Community Services (OCS) within HHS intends to terminate funding of the existing Sacramento community action agency, the Sacramento Economic Opportunity Council (SAEOC), because of its inability to administer the program satisfactorily. The Sacramento County Board of Supervisors, with the support of the Sacramento City Council, has submitted a request to OCS to have another entity, the Sacramento Employment and Training Administration (SETA), designated to administer the program for an interim period. OCS, however, has indicated to my office that it lacks the legislative authority to designate a new entity to administer the program during the transitional period since the Omnibus Budget Reconciliation Act does not contain specific provisions authorizing such actions.

The net result of these decisions is that no community services funds will be provided to any entity in Sacramento County. OCS has indicated that funds that would have been provided to Sacramento County will be distributed to other programs within the State of California.

This would be an intolerable result for the low-income residents of Sacramento County and clearly not one intended by the Congress in establishing the transitional period prior to state assumption of the community services block grant program.

Although I acknowledge that as a matter of statutory construction the matter is not free from doubt, I believe that HHS has the legal authority to resolve this situation. The general provision governing the Department's responsibilities for operating the community services program during the transitional year is the authority to operate the program under the provisions of law that were in effect on September 30, 1981, except to the extent that provisions in the Reconciliation Act are necessarily inconsistent with the repealed provisions. Section 210(d) of the Economic Opportunity Act as in effect on September 30 provided for the designation of a new entity to serve as a community action agency if the pre-existing community action agency failed to carry out its responsibilities "in a satisfactory manner."

Although section 682(b)(1) of the Reconciliation Act provides that, where a state has opted out, the Secretary shall "carry out programs (in accordance with paragraph (4)) under the provisions of law in effect on September 30, 1981," and paragraph (4) expressly directs the Secretary to "provide for the carrying out of such programs by making grants for such purpose to eligible entities (as defined in section 673(1))", which are defined as "any organization which was officially designated as a community action agency or a community action program under the provisions of section 210 of the Economic Opportunity Act of 1964 for fiscal year 1981," these provisions do not necessarily conflict with the more general purpose set forth in section 682(a)(1) "to permit, for fiscal year 1982 only, . . . the Secretary [to] operate programs under the provisions of law repealed by section 683(a)." Since the Reconciliation Act provisions do not deal at all with a situation where a designated community action program is defunded during fiscal year 1982 (indeed they do not expressly authorize such a defunding), the combination of section 682(b) (1) and (4) and 673(1) can be read as establishing the procedure for the Secretary to operate programs within an opt-out state where the community action agency has performed satisfactorily, leaving the underlying provisions of section 210 of the Economic Opportunity Act in place with respect to defunding and what the Secretary is authorized to do in that event.

The legislative history of the Reconciliation Act contains no evidence whatsoever to suggest that Congress intended to prohibit defunding where warranted or to allow a vaccum to arise in such a situation. I believe that a statutory construction is supportable that section 210 authority to designate a new entity under these circumstances was transferred to the Secretary under P.L. 97-35. Such a construction would clearly be consistent with Congressional intent to continue to operate community services programs in communities previously being served during the transitional period and would be consistent with the general rule of statutory construction to effectuate the principle purpose of the legislation.

Although conversion to state responsibility is scheduled to take place in October, I hope you will agree that it would be tragic to allow the low-income community of Sacramento County to be without services during this period. In that respect, I ask that you direct your General Counsel to review this situation on an urgent basis and to approach the legal questions involved from the standpoint of making every effort to find a legally colorable statutory construction which would allow the Department to take necessary action so that the low-income residents of Sacramento are not

deprived of the community services program during the transitional period.

My staff (Susanne Martinez, phone 224-3553) is available to work with your staff is whatever way appropriate to help resolve this matter.

With warm regards,
Cordially,

ALAN CRANSTON.

THE SECRETARY OF
HEALTH AND HUMAN SERVICES,
Washington, D.C. May 12, 1982.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: Thank you for your letter regarding distribution of Community Services Block Grant (CSBG) funds in Sacramento, California.

As you know, the Office of Community Services (OCS) has taken steps to deny refunding to the Sacramento Area Economic Opportunity Council (SAEOC), due to significant financial, administrative, and personnel problems. On March 2, 1982 a letter was forwarded to SAEOC informing them of OCS' intent to deny refunding. The agency also was informed that it had 30 days from receipt of the letter to show cause to this Department why a decision to deny refunding should not be made. To date, SAEOC has not responded to this letter and therefore we will proceed with redistributing SAEOC's funds to other eligible organizations.

The Office of Community Services will redistribute the funds among other entities in California which are listed in the Community Services Block Grant Act as organizations eligible to receive funds. Sections 682(b)(4) and 673(1) of the CSBG Act specifically limit eligibility to: (1) a community action agency so designated under the provisions of Section 210 of the Economic Opportunity Act (EOA) for Fiscal Year 1981 unless such agency had lost its designation as a result of a failure to comply with the provisions of the EOA; (2) a limited purpose agency which served the purposes of a community action agency; (3) a grantee who received financial assistance under Section 221 (Local Initiative) or Section 222(a)(4) (Rural Housing and Rehabilitation); and (4) migrant and seasonal farmworker organizations.

The statute thus makes eligible certain categories of organizations and not communities and does not make provision for a successor-in-interest should an organization be denied funding. OCS has concluded that the statute protects only these categories of organizations and not communities during FY 1982.

Since the Sacramento Employment and Training Agency (SETA) does not meet the eligibility requirements outlined in the legislation it is not eligible to receive funding in FY 1982. In FY 1983, however, California could allocate funds to the City of Sacramento (which will be eligible to receive funds directly from the State in FY 1983) which could then designate SETA as the responsible agency.

I hope this information addresses your concern over the distribution of CSBG funds in Sacramento, and explains the basis on which we are unable to provide funds to SETA.

Sincerely,

RICHARD S. SCHWEIKER,
Secretary.●

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. QUAYLE. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (UP No. 1073) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, while Senators are engaged in a bit of delicate negotiations, apparently, I have a unanimous-consent request that has been cleared by the distinguished minority leader. I would like to state it now for his consideration and that of other Senators.

UNANIMOUS-CONSENT AGREEMENT

AUTHORITY FOR CERTAIN ACTION DURING RECESS

Mr. BAKER. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Monday, July 12, 1982, messages from the President of the United States and the House of Representatives may be received by the Secretary of the Senate and appropriately referred, and that the Vice President, President pro tempore, and acting President pro tempore may be authorized to sign duly enrolled bills and joint resolutions.

Further, I ask unanimous consent that during the adjournment of the Senate over until Monday, July 12, committees may be authorized to file reports on Tuesday, July 6, 1982, between the hours of 10 a.m. and 3 p.m.

PROCEDURE ON JULY 12, 1982

Finally, I ask unanimous consent that when the Senate reconvenes on Monday, July 12, 1982, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the Calendar be dispensed with, and following the time allocated to the two leaders under the standing order, and any special orders, there be a period for the transaction of routine morning business not to exceed 30 minutes in length, with Senators permitted to speak for not more than 5 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

OLDER AMERICANS JOB LEGISLATION

Mr. BAKER. Mr. President, this request has been cleared on all sides, also, I believe.

A resolution has been reported unanimously from a committee. I refer to Senate Resolution 340. It was the intention of the distinguished minority leader, I understand, to offer that resolution as an amendment to this bill. But since that would pose procedural complications of a sort, he has suggested, and I am willing to provide, that after the disposition of the jobs bill, the Senate proceed immediately to the consideration of Senate Resolution 340.

Mr. President, I now ask unanimous consent that after the disposition of the jobs bill, the Senate proceed immediately to the consideration of Senate Resolution 340.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object.

I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. President, in private consultation with the minority leader, I have an indication that he might be willing to accept a very short time limitation on that measure. I ask unanimous consent that there be a time limitation of debate on that measure of not to exceed 10 minutes equally divided, the time to be controlled by the Senator from Indiana (Mr. QUAYLE) and the distinguished minority leader (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROLLCALL VOTE ON SENATE RESOLUTION 340

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on the passage of Senate Resolution 340.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRAINING FOR JOBS ACT

The Senate continued with the consideration of the bill (S. 2036).

UP AMENDMENT NO. 1074

Mr. DOMENICI. Mr. President, I have an unprinted amendment which I will read in just a moment. I think it will be acceptable to the distinguished floor manager.

At this late date, I will say to Senator THURMOND that nothing in this act shall preclude a State legislature from adopting implementation legislation consistent with this act and in no way changing the substantive provisions so that it is clear that that State could do that and that we do not, by our silence, intend anything to the contrary.

I will read the language:

Nothing in this Act shall be interpreted to preclude the adoption of state legislation providing for the implementation, consistent with the provisions of this Act, of the programs assisted under this Act.

Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1074.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 98, between lines 9 and 10, insert:

AUTHORITY OF STATE LEGISLATURE

SEC. 110. Nothing in this Act shall be interpreted to preclude the adoption of State legislation providing for the implementation, consistent with the provisions of this Act, of the programs assisted under this Act.

Mr. THURMOND. Mr. President, I think this is an improvement. I commend the able Senator from New Mexico for offering the amendment and the able Senator from Indiana for accepting it. I would prefer it be a little stonger from the legislative standpoint, but I believe it is an improvement, and I support it.

Mr. DOMINICI. Mr. President, from my standpoint, I want to make clear that what I have done fills a void, saying that the State legislatures could do this and we are not saying they could not. From my standpoint, I hope they do.

But more than that, from my standpoint I think that if those States do what is suggested here, what we are basically saying they have the authority to do, would result in the following predictions of the Senator from New Mexico.

First, that the programs under it will have far more acceptability statewide, and I think that is important.

Second, that the programs will be far less apt to be the victims of poor management.

Third, I believe they will be far less apt to be the victims of political pressure and far more apt to do the job intended.

With that, I would hope that the floor manager would accept it and that the legislatures of the United States would get a bit more interested in this kind of legislation and not complain after the fact that Governors can run programs without them having anything to say about them, while they have the purse strings and all the other things at the State level.

I yield the floor.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I congratulate the Senator from New Mexico for showing his usual intestinal fortitude in getting his way. I had in the past opposed this amendment. As a matter of fact, I had deliberated long and hard. But after the Senator from New Mexico and the Senator from South Carolina so eloquently pointed out to me my shortcomings in not involving the State legislatures, I do believe we have a position here that will try to get the two of them together.

I realize it when I see a good idea. I admit it. I thought I had answered their concerns fully and completely before. Evidently, I did not.

Mr. President, I am prepared to accept this amendment in the spirit in which it is offered. The Senator from New Mexico has gained a great deal of respect in this body, not only for his dedication to work on the Budget Committee, but also for his understanding of the entire Federal Government.

It is with a great deal of humility that I am willing to accept this amendment.

Mr. DOMENICI. The Senator makes my life so difficult, but I am so delighted to hear the Senator's kind words, mostly because he is going to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1074) was agreed to.

Mr. QUAYLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. QUAYLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1075

Mr. HATCH. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1075.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 134, between lines 22 and 23:

(f) No provision of this Act shall be construed to permit the use of any funds for any partisan political activities.

Mr. HATCH. Mr. President, the purpose of this amendment is to prevent partisan political activities with regard to state and local training programs, national programs, pilot programs, and other programs funded pursuant to the provisions of this bill. We think that this will resolve some of the concerns of some groups or individuals pertaining to this bill and in the end will serve this act well as we implement and operate the programs which it authorizes.

Mr. QUAYLE. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1075) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. BRADLEY. Mr. President, the legislation which we are considering today, the Training for Jobs Act, authorizes training programs to replace the programs now under the Comprehensive Employment and Training Act, CETA.

Since this legislation does reauthorize both the CETA State job programs and the various CETA national programs, I will, of course, vote for this important legislation.

I do so with mixed feelings, however. In many ways I am satisfied with this

reauthorization proposal and I congratulate the members of the Labor Committee for their work on the bill. In other ways I am deeply disappointed because, in my opinion, the Training for Jobs Act does not go far enough to train both unskilled workers who are economically disadvantaged and skilled workers who need retraining due to our changing economy.

The CETA programs have suffered greatly under the Reagan administration. In fiscal year 1981 over $7 billion was appropriated for the program. With the elimination of public service employment programs, this spending was cut by more than half. This year the administration's reauthorization proposal called for a scaled-down program of $2.4 billion, a further cutback in the Federal commitment to job training. This administration, I fear, simply does not understand that while these programs do have short-term costs, the long-run benefit to both our society and our economy are immense. I am very glad that the Senate Labor Committee has taken a more enlightened approach approving a much more substantial reauthorization bill. While no authorization figures are specified in the bill, it is estimated that the legislation will cost approximately $4 billion.

Critics may contend that we simply cannot afford to have such a large Government training program. I believe that we cannot afford not to maintain and increase the effort of Government at all levels to work with private industry to train men and women for jobs. We cannot afford to turn our backs on the unskilled, the poor, the young. We cannot afford to ignore the potential of our Nation's older workers. We cannot afford to close our eyes to dislocated workers, many of whom have skills which are no longer in demand in our economy.

It is my firm hope that there will be a full appropriation for the programs under the Training for Jobs Act. If we turn our back on the unskilled and reduce our commitment to training, we will be turning our back on the future of both our economy and our Nation.●

● Mr. DOLE. Mr. President, I rise today in support of S. 2036, the Training for Jobs Act, believing that this legislation is a responsible approach to assisting the long-term and structural unemployed. If we truly intend to help those who are disadvantaged in the labor market to assume a productive place in the American economy, our objective must be training and placement in the private sector. I commend the members of the Labor and Human Resources Committee for reporting a comprehensive job training program to meet that end.

The four principles on which this proposal is based, private sector involvement, federalism, training and performance standards, are, I believe, essential to a successful national training program. I would like to focus for a moment on the first of those principles: The need for private sector involvement. Mr. President, involvement of the private sector in our efforts to train and employ the economically disadvantaged is essential because it is the private sector that will employ the graduates of training programs. Only those who will provide the jobs can truly define the kinds of training programs needed in a locality.

But it has never been my belief that we should rely exclusively on representatives of the private sector for the design and administration of local training programs. To that end I introduced, along with the distinguished Senator from Connecticut (Mr. WEICKER), S. 1797 which mandated inclusion of community-based organizations on private industry councils as they existed in title VII of CETA. I am pleased that the legislation before the Senate today includes representatives of community-based organizations on the councils and on the State job training council.

Community-based organizations, such as OIC, SER-Jobs for Progress, the Urban League, and similar groups, have been striving for years to deal with the problem of structural hardcore unemployment. One need only review the long record of success of such groups to realize their importance to private industry council efforts to solve structural unemployment problems. Over the past few years under title VII of CETA, these groups with their experience and expertise in unemployment problem solving in their respective communities have provided critical input to private industry councils. It just seems to me that we are wise to draw on that expertise as well as that possessed by representatives of organized labor, local government, education, economic development organizations, and public employment services.

Finally, Mr. President, I commend the members of the committee for their efforts in bringing a truly bipartisan proposal to the Senate. Job training is an important function of the Federal Government and I am pleased to join my colleagues in support of this legislation.●

● Mr. CANNON. Mr. President, this is a time when all Americans are deeply concerned over the downward plunge of the economy and are confused by the posture the administration takes in describing our economic position. The President's economic goals are noble, but his strategy has created a new economic vocabulary in which up is down: A new language necessitated by the fact that all that should go up—the stock market, small business profits, spendable income for the average American and gross national product—goes down; while everything that should go down, goes up—prices, interest rates, and unemployment.

Unemployment and the fear of unemployment now faces millions of Americans. In my own State, jobs remain a high priority, particularly among minorities and youth who have traditionally experienced high unemployment rates above the national average. Yet some of the programs which would have assisted minority groups to further themselves in the job market have been targeted for budget reductions by this administration.

Clearly, now more than ever each of us must make strong efforts to tighten our belts. However, I will continue to oppose budget cuts that place the burden of those cuts on the elderly, the poor, minorities, children, and educational programs, while the oil companies and other money special interests continue to reap fortunes through special tax treatment at the Nation's expense.

The CETA program has been extremely successful in my State. Without the Federal support of employment and training programs, Nevada would not be able to offer these kinds of services to its citizens. There is simply not enough money at the State or local level to support this type of effort.

I am hopeful that the legislation passed today will be quickly enacted and implemented so that some of the original program goals of the old CETA program will continue to provide the necessary training for our Nation's youth, senior citizens, native Americans, dislocated, and disadvantaged workers.

Without further objection, I ask that the following letters be printed in the RECORD which outline some considerations Nevadans had on this important piece of legislation.

WASHOE COUNTY,
EMPLOYMENT AND TRAINING
DEPARTMENT,
Reno, Nev., April 9, 1982.

Senator HOWARD W. CANNON,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR CANNON: My job, as Director of the Washoe County CETA program, puts me in the business of vocational training and job placement. How to do that job most effectively depends on a number of factors.

There must be training in an occupation that needs workers. There must be an understanding and partnership between the private sector and government in designing programs that will meet entry level requirements. The length of training must be adequate enough to ensure successful placement. And most importantly, there must be economic climate that promotes and nutures these efforts, and which will ensure a job for those who complete training.

Although Washoe County has not been hit as hard by the surge in unemployment, as of February, 1982, we experienced a 5.8%

seasonally adjusted unemployment rate as compared to 8.8% nationally. I expect this percentage to increase as more and more small businesses and casinos close shop. As unemployment increases, so does the crime rate, suicides, and the desperate of people trying to make ends meet. The current economic downswing must be reversed. Even the best possible training program won't help people to get a job if none are available.

The CETA program is designed to help those who have no appreciable work skills or history. We work with economically disadvantaged youth and adults and base our program procedures on helping people to help themselves. Activities are designed to help foster self-sufficiency, personal accountability, and independence. We feel that attitude, reliability, and personal skills are at least as important as functional skills or education in getting and keeping a job. As a result, our programs are geared to dealing with the problems of attitude and motivation, as well as the teaching of a vocational skill.

The CETA program has often been depicted as one that puts an employed PH.D. to work. It has also been described as an income maintenance program. Let me hasten to correct these misunderstandings. Our adult clients normally have only the equivalent of a 5th grade education and are poor. Many are single parents. Some are ex-offenders, or are on welfare, Unemployment Insurance, or other form of public assistance. Most have sketchy work histories or none at all. Some have injuries that prevent them from returning to their old job and who need retraining. Others need help because there are no jobs in the occupation for which they were originally trained. All need help to become gainfully employed and contributing taxpayers.

Without the federal support of employment and training programs, Washoe County would not be able to offer these kinds of services to its citizens. There is simply not enough money at the state or local level to support this type of effort. The new federalism has adjusted the County's relationship to the State, and the State's to Washington, D.C. State and local governments have assumed greater responsibility for the provision of social services to the populace without a corresponding increase in revenues. In fact, the new tax package enacted last year in Nevada has put many local entities in a deficit situation. And we all know, from our experience last year in Washington, D.C. that the first programs to suffer will be social service programs, the "butter" of most budgets.

The Senate and House are now reviewing job training legislation because authorization for CETA expires in September of this year. Four primary proposals have been introduced: The Administration's bill, the Hawkins' bill, the Jeffords' bill and the Quayle bill. The most striking similiarities between these bills are the interest in promoting private sector involvement, giving discretion to governors on how the program should operate, and the elimination of training stipends.

Private sector involvement in training programs is a must when considered that 80% of all jobs are in private enterprise. I am concerned, however, that legislators place too much responsibility and liability on the private sector during a time when their foremost efforts are directed at surviving the current recession. It is also somewhat naive to hope that the private sector will want to deal with the maze of rules and regulations that has characterized the CETA program since its inception. I would recommend that a partnership be formed between private sector representatives, public and private nonprofit social service providers, and governmental entities to address the issues of job training and placement, but that the private sector role be directed toward policy making, not implementation of programs.

Secondly, I am concerned about the degree of state control over local programs. Not only would we then have a 3-tiered hierarchy between federal, state, and local governments, but a considerably higher proportion of costs would also be diverted away from training efforts in order to support the administrative functions at each level. We've heard a lot lately about how the new federalism will return control of programs to the states, but not much has been said about how that control will filter down to the local area. In the past, CETA funds came directly to Washoe County from the federal government. Operational and fiscal responsibilities were under local control, a situation that would change if funds were administered at the state level. If the state block grant concept is used to distribute employment and training monies, I would then recommend a mandated percentage pass-through of monies to the local level.

My last major concern is the trend toward elimination of training stipends. This idea is unrealistic in light of the financial obligations a participant has such as rent, food, clothing, etc. Training, in essence becomes their job. We normally pay $3.35 an hour for a 30-40 hour week, not an exorbitant income by any stretch of the imagination. A participant may need anywhere from 6 to 12 months of training to address educational deficiencies and vocational training. An income is essential during that period of time. I recommend that local programs be given the flexibility to decide whether stipends are appropriate or not, rather than mandate the issue at the national level.

One last point. It should be recognized that the CETA program distributes money to a large variety of communities, from major cosmopolitan centers to rural towns. This money stays in the community in the form of jobs, utility and rent payments, and stipends to participants who become taxpayers and consumers of local goods. The program helps people to get off welfare or Unemployment Insurance and back to work. It's a program that works and is needed here in Washoe County.

Sincerely,

CAROLE LEFCOURTE,
Director.

LAS VEGAS CLARK COUNTY CONSORTIUM, DEPARTMENT OF HUMAN RESOURCES,

May 11, 1982.

Hon. HOWARD CANNON,
U.S. Senator,
Washington, D.C.

DEAR SENATOR CANNON: As members of the Executive Board of the Las Vegas/Clark County Consortium, the Comprehensive Employment and Training Act Prime Sponsor for Clark County, Nevada, we would like to petition you to do everything within your power as our elected Federal representative to continue employment and training activities that retain as much control on the local level as possible.

As elected officials also, we have found that we work very well together in dealing with employment and training problems on our local level. We have developed a keen sense of understanding of the employment and training problems in our communities and, working through our staff, have come up with innovative and solid approaches to meeting those problems.

This Board would like to continue providing that policy direction to meeting a severe problem in our community. In addition, if we, as an Executive Board, continue to administer nationally provided funds for employment and training, we can do so at a lesser administrative cost than could the Governor of the State who would have to take administrative cost for his activities as well as then having administrative costs dedicated to running a program in the local area.

It is our belief that this would be the most efficient and effective way to meeting a severe national and local problem.

Anything that you can do to support our position would be greatly appreciated.

Respectfully yours,

WOODROW WILSON,
Chairman, Executive Board,
Clark County Board of Commissioners.
RON LURIE,
Mayor Pro-Tem,
City of Las Vegas.
DALE HUNTSMAN,
Councilman,,
City of North Las Vegas.
KENT ANDERSON,
Mayor Pro-Tem,
City of Henderson, Nev.
TIM TILMAN,
Councilman,
City of Boulder City.●

● Mr. MITCHELL. Mr. President, I rise in support of S. 2036, the Training for Jobs Act.

This legislation authorizes job training programs and is designed to replace the existing employment and training statute entitled, "The Comprehensive Employment and Training Act," enacted in 1973 and expiring on September 30. It is the product of negotiations conducted on a bipartisan basis with representatives of the administration and is supported by the committee members as well as the administration.

The Training for Jobs Act constitutes reform of our employment and training legislation as it makes a number of changes from current law. First of all, it is designed to provide training and training alone for the economically disadvantaged. It is not an employment program in the sense of providing public service jobs; and, is not an income maintenance program as the granting of wages, allowances or stipends is prohibited. However, it does allow for the provision of supportive services such as transportation, health care, child care, meals, and so forth, to help the disadvantaged with little means of support to participate in a job training program and retain employment.

Second, the bill aims training programs at disadvantaged persons, specifically, at dropout youth, welfare recipients, the economically disadvan-

taged who cannot compete in the labor market, and dislocated workers who have been laid off from their jobs and, with no prospect of returning to them, require new skills. Fifty percent of program funds for training under title I are required to be spent for persons under age 25.

In addition, separate provisions of the bill recognize other individuals who have difficult employment problems. Specifically, title II retains certain programs at the national level for Native Americans and migrant and seasonal farmworkers. Further, a new program is authorized to train economically disadvantaged workers who are aged 55 and over. Ten percent of program funds under title I can be used to train persons with so-called labor market disadvantages such as the handicapped, those with limited English-speaking ability, displaced homemakers, ex-offenders, alcoholics or addicts, teenage parents, and veterans. Finally, the bill extends the existing Job Corps program with funding to be continued at the current level and the summer youth employment and training program.

Third, the bill makes a substantial change in the role of State and Federal Governments. Gone will be the direct relationship between the Federal Government and the approximately 450 prime sponsors in existence under current law. Training funds will be allocated to the States in the form of a block grant and the Governors will be given much greater control and flexibility over the training of disadvantaged persons.

Further, the bill greatly increases the participation of private businesses in the training process. It calls for the establishment of private industry councils for each service delivery area. Membership on the councils is to consist of private business, which is to have majority representation and include small business, local government, education agencies, organized labor, community-based organizations, and the employment service.

The Private Industry Council is to prepare the job training program plan and thus have prime involvement in the local planning process. The intent is to forge a true partnership between the public and private sectors so as to insure that the skills being taught are in local demand and will lead to employment opportunities for the disadvantage and creation of the skilled work force needed to fill those opportunities.

This legislation differs from the companion measure reported by the House Education and Labor Committee in that the latter is closer to current law and has a modified prime sponsor program.

Mr. President, I urge my colleagues to act promptly on this legislation. It continues the Federal commitment to job training and to giving the disadvantaged skills which will permit them to find meaningful employment in an era characterized by rapid changes in technology and by a shift from manufacturing to service-based employment.

The State of Maine currently has three prime sponsors, all of which have excellent track records in providing training and employment opportunities. This bill would affect their status, although it would evidently give the Governor authority to maintain the same service delivery areas.

The extention of job training legislation is essential and I hope the ultimate compromise to be reached will have a salutary effect on the training capabilities in my State.●

● Mr. RIEGLE. Mr. President. Since this current recession began in July 1981, the number of individuals out of work nationwide has increased by over 2.5 million. The Department of Labor has stated that 9.5 percent of our Nation's population or more than 10 million people sought work in May of this year. And there are tens of thousands of others—nearly 100,000 in the first quarter of 1982—who have dropped out of the active work force and who need further training or retraining to be employable and once again become taxpaying citizens.

The painful toll of long-term unemployment is clearly evident in my home State of Michigan which has the dubious distinction of having the highest unemployment in the Nation for 2 consecutive years. My State is experiencing its 29th month of double-digit unemployment—the worst unemployment since the Great Depression. Michigan, as well as other industrial States, plagued by plant closings and severe economic conditions will benefit from a job training program, especially one such as S. 2036 which contains a dislocated worker program component.

I want to commend the subcommittee for including a provision to help alleviate the plight of the dislocated worker. And, I was pleased to cosponsor the amendment offered by my friend from Ohio, Senator METZENBAUM, which would provide States like Michigan with high unemployment and extreme fiscal limitations with an opportunity to participate in the dislocated worker program.

While I support many provisions of the Training for Jobs Act and have worked to insure its passage, I continue to have some major concerns which I hope can be worked out in conference. Of particular concern is the prohibition on wages and the increase in population size for the designation of service delivery areas.

I believe that the passage of S. 2036 is only a first step in attempting to deal with the problem of unemployment. This administration eliminated the $5 million CETA public service employment program last year at a time when unemployment was still rapidly increasing. A number of my colleagues and I opposed that move. Earlier this year, during consideration of the budget resolution, I joined with Senators METZENBAUM and KENNEDY in an attempt to include funds for a program to provide jobs for the long-term unemployed. We failed in that attempt, but there is no doubt that there is an increasingly great need for urgent measures to revitalize and restore the economy and to see that our citizens have the opportunity to work. A job training program is important and worthwhile. But there must be jobs available for trainees once they have completed their training. I am hopeful that the Congress will give the development of a jobs program the serious consideration worthy of the extent of the problem.

I intend to vote in favor of S. 2036 and urge my colleagues to support its passage.●

Mr. KENNEDY. Mr. President, I want to thank my colleagues for the support and interest they have shown in this training program.

We are taking an important step for millions of men and women in this country who want to work but cannot find it.

We are offering new hope and opportunity for young people seeking their first job.

I want to thank Senator QUAYLE and his staff for all of their hard work. Bob Guttman and Kitty Higgins of my staff deserve particular praise. They have done an outstanding job against sometimes difficult opposition.

Now the action on this legislation moves to the House where Congressmen HAWKINS and JEFFORDS have worked out a good bill.

I look forward to conference and to final passage.

I think we have a bill we can all be proud of.

Mr. QUAYLE. Mr. President, looking around and seeing no other Senators on their feet, I am prepared to move to third reading.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. QUAYLE. The yeas and nays have been ordered, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

I further announce that the Senator from Georgia (Mr. MATTINGLY) is absent due to illness.

I further announce that, if present and voting, the Senator from California (Mr. HAYAKAWA) and the Senator from Georgia (Mr. MATTINGLY) would each vote "yea."

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from Montana (Mr. MELCHER) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER) would vote "yea."

The PRESIDING OFFICER (Mr. ANDREWS). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—95

Abdnor	Exon	Mitchell
Andrews	Ford	Moynihan
Armstrong	Garn	Murkowski
Baker	Glenn	Nickles
Baucus	Goldwater	Nunn
Bentsen	Gorton	Packwood
Biden	Grassley	Pell
Boren	Hart	Percy
Boschwitz	Hatch	Pressler
Bradley	Hatfield	Proxmire
Brady	Hawkins	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Rudman
Cannon	Humphrey	Sarbanes
Chafee	Inouye	Sasser
Chiles	Jackson	Schmitt
Cochran	Jepsen	Simpson
Cohen	Johnston	Specter
D'Amato	Kasten	Stafford
Danforth	Kennedy	Stennis
DeConcini	Laxalt	Stevens
Denton	Leahy	Symms
Dixon	Levin	Thurmond
Dodd	Long	Tower
Dole	Lugar	Tsongas
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner
Eagleton	McClure	Weicker
East	Metzenbaum	Zorinsky

NOT VOTING—5

Cranston	Kassebaum	Melcher
Hayakawa	Mattingly	

So the bill (S. 2036) was passed as follows:

S. 2036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Training for Jobs Act".

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Sec. 801. Authority to designate a new agency.

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to establish programs which will afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment, who are in special need of such training to obtain productive employment particularly in the private sector, by—

(1) emphasizing the involvement of the private sector in the planning and delivery of such training,

(2) conferring upon States and localities the primary responsibility for program design and operation,

(3) concentrating on job training rather than on income maintenance,

(4) establishing performance standards which measure results rather than process, and

(5) integrating job training with related programs and strategies at the State and local level.

DEFINITIONS

(1) The term "artificial barriers to employment" means limitations in the hiring, firing, promotion, licensing, and other terms and conditions of employment which are not directly related to an individual's fitness or ability to perform the duties required by the employment position.

(2) The term "community-based organizations" means private nonprofit organizations which are representative of communities or significant segments of communities and which provide employment training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, National Council of La Raza, 70,001, Jobs for Youth, organizations operating career intern programs, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities

(as defined in section 7(10) of the Rehabilitation Act of 1973), agencies serving youth, agencies serving the handicapped, agencies serving displaced homemakers, union-related organizations, and employer-related nonprofit organizations), and organizations serving nonreservation Indians (including the National Urban Indian Council), as well as tribal governments and Native Alaskan groups.

(3) The term "economically disadvantaged" means a person who (A) receives, or is a member of a family which receives, cash welfare payments under a Federal, State, or local welfare program; (B) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 per centum of the lower living standard income level; or (C) is receiving food stamps, pursuant to the Food Stamp Act of 1977.

(4) The term "Governor" means the chief executive of any State.

(5) The term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now consists of the Hawaiian Islands.

(6) The term "handicapped individual" means any individual who has a physical or mental disability which for such individual constitutes, or results in, a substantial handicap to employment.

(7) The term "long-term unemployed" means a person who has been unemployed for fifteen weeks or more.

(8) The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based upon the most recent "lower living family budget" issued by the Secretary.

(9) The term "offender" means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom services under this Act may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

(10) The term "private sector" means, for purposes of the State job training councils and private industry councils, persons who are owners, chief executives or chief operating officers of private for-profit employers and major nongovernmental employers such as health and educational institutions or other officers of such employers who have substantial management or policy responsibility.

(11) The term "recipient" means any person, organization, unit of government, corporation, or other entity receiving financial assistance under this Act directly from the Secretary.

(12) The term "Secretary" means the Secretary of Labor.

(13) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(14) The term "subrecipient" means any person, organization, unit of government, corporation, or other entity which receives financial assistance, or funds under a contract, through a recipient or a subrecipient.

(15) The term "supportive services" means services which are necessary to enable an individual eligible for training under this Act, but who cannot afford to pay for such services, to participate in a training program funded under this Act. Such supportive services may include transportation, health care, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the training program and may be provided inkind or through cash assistance or loans. Payments to participants under the previous sentence shall not be deemed to be allowances for purposes of this Act. The term supportive services does not mean and shall not be interpreted to mean wages, allowances, or stipends.

(16) The term "unemployed persons" means persons who are without jobs and who want and are available for work. The determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed.

(17) The term "unit of general local government" means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds as well as general corporate and police powers.

(18) The terms "service-connected disabled veteran" and "veteran of the Vietnam era" shall have the meanings provided in sections 2011(3) and 2011(2) of title 38, United States Code, respectively.

(19) The term "youth" means individuals who have not yet reached age 19.

TITLE I—STATE JOB TRAINING PROGRAM

ALLOTMENT; ALLOCATION

SEC. 101. (a) Five per centum of the amount appropriated pursuant to section 301(a) for each fiscal year shall be allotted by the Secretary to the States in the same manner as provided in subsection (b)(2) and (3). The amount allotted under this paragraph shall be available to the Governor of each State, and may be used for the costs of auditing activities and other administrative activities, and for activities pursuant to section 105(h).

(b)(1) The remainder of the amount appropriated pursuant to section 301(a) for each fiscal year after complying with the set-aside under section 302(a), relating to Federal programs, and subsection (a) of this section shall be allotted by the Secretary in accordance with this subsection.

(2) Two per centum of the amount allotted under this subsection for each fiscal year shall be allotted to the Commonwealth of Puerto Rico, and not more than $5,000,000 among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(3) Subject to the provisions of paragraph (4), of the remainder of the amount allotted under this subsection for each fiscal year—

(A) 50 per centum shall be allotted on the basis of the relative number of long-term unemployed persons within the State compared to the total number of long-term unemployed persons in all States; and

(B) 50 per centum shall be allotted on the basis of the relative number of economically disadvantaged persons who are in the labor force within the State compared to the total number of economically disadvantaged persons who are in the labor force in all States.

(4)(A) No State shall receive less than one-quarter of 1 per centum of the amounts available under this subsection for each such fiscal year.

(B) No State shall be allotted less than 90 per centum of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subparagraph, the allotment percentage for each State for the fiscal year 1982 is the per centum that each State received in 1982 pursuant to the formula allocations made under the Comprehensive Employment and Training Act of the total formula allocations for all States made under that Act in fiscal year 1982. For each succeeding fiscal year, the allotment percentage of a State shall be the percentage the State received pursuant to this subsection.

(5) For the purpose of paragraphs (3) and (4)—

(A) the term "State" does not include the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

(B) the term "long-term unemployed persons" means the average number of persons who have been unemployed for at least fifteen weeks for the most recent two-year period preceding the year for which the determination is made.

(c)(1)(A) Eighty-four per centum of the sum allotted under subsection (b) to each State shall be allocated among service delivery areas within the State on the basis of the relative number of economically disadvantaged persons who are in the labor force in each service delivery area within the State compared to the total number of such persons within the State.

(B) The substate allocations required by this subsection shall be made on the basis of 1980 census data until the Governor of the State and the Secretary of Labor agree that there is more recent statistical data for making the substate allocations which is sufficiently reliable to make such allocations.

(2) Two per centum of the funds allotted to each State shall be available to carry out the provisions of section 106, relating to State education and training agency grants.

(3) Six per centum of the funds allotted to each State shall be available to carry out the provisions of section 107, relating to education agency matching grants.

(4) Three per centum of the funds allotted to each State shall be used by the Governor to provide for job training programs under section 109 designed to assure the placement of older persons in employment opportunities with private business concerns.

(5) Five per centum of the funds allotted to each State shall be used by the Governor to provide incentive funding for programs exceeding performance criteria, including incentives for serving hard-to-serve individuals.

(d) The Secretary shall make the allotment required under this section within forty-five days after the date of enactment of any Act making appropriations to carry out this Act.

SERVICE DELIVERY AREAS

SEC. 102. (a)(1) The Governor shall, after receiving the proposal of the State Job Training Council, publish tentative service delivery areas for the State which will—

(A) promote effective delivery of job training services;

(B) have available an effective agency for administering job training services; and

(C)(i) be related to labor market or Standard Metropolitan Statistical Area boundaries but the requirement of this clause shall not be construed to require the Governor to designate an entire labor market area; or

(ii) be consistent with existing areas in which related services are provided under other State or Federal programs.

(2) Each area proposed by the Council under paragraph (1) shall include a written description of the reasons therefor.

(3) Units of general local government, business organizations, and other affected persons shall be given an opportunity to comment on the proposed service delivery areas and request changes in such areas. Comments jointly submitted by chief elected officials and representative business organizations may include any proposed agreements concerning planning or administration of programs in the service delivery area.

(4) The Governor shall designate service delivery areas within the State. Before making a final decision on service delivery areas for the State, the Governor shall review the comments submitted under paragraph (3).

(5)(A) The Governor shall approve any request from a unit of general local government with a population of five hundred thousand or more to be a service delivery area.

(B) The Governor shall approve any request which—

(i) is filed jointly by the units of local governments and the representative business organizations in the proposed service delivery area unless the Governor makes specific findings of fact why inclusion of those units of local government in a larger area will promote the purposes of this Act either because such area is needed to accommodate labor market factors or to coordinate with other service delivery areas for related programs, or

(ii) is filed jointly by a unit of local government with a population of two hundred and fifty thousand or more and the representative business organizations in that local area for that unit of local government to be a service delivery area.

If the Governor denies a request jointly filed under this subparagrpah and the units of general local government and the representative business organizations in the area believe that the decision of the Governor is legally contrary to the provisions of this Act or regulations issued under this Act, such units and representatives may jointly appeal the decision to the Secretary.

(b) No change in a service delivery area may be made later than four months before the beginning of a program year or within two years of a previous revision.

PLANNING THE PROGRAM

SEC. 103. (a) The Governor shall annually prepare a statement of State goals and objectives for job training and placement programs to assist in the preparation of the plans required under subsection (c) of this section and section 7(a) of the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act).

(b)(1) There shall be a private industry council for every service delivery area to be selected in accordance with this subsection. Each council shall consist of—

(A) representatives of the private sector, who shall constitute a majority of the membership of the council; and

(B) representatives of units of general local government, educational agencies (representative of all educational agencies in the service delivery area), organized labor, community-based organizations, economic development agencies, and the public employment service.

The Chairman of the Council shall be selected from among members of the Council who are representatives of the private sector.

(2)(A) Representatives of the private sector shall be owners of business concerns, chief executives or chief operating officers of nongovernmental employers or other officers who have substantial management or policy responsibility.

(B) Private sector representatives on the council shall be selected from among individuals nominated by general purpose business organizations after consulting with, and receiving recommendations from, other business organizations in the area and shall include representation from small business. For the purpose of this subparagraph, the term "general purpose business organizations" means organizations which admit to membership any for-profit business operating within the geographic area.

(C) Education representatives on the Council shall be selected from among individuals nominated by local educational agencies, institutions of higher education or general organizations of such agencies or institutions, and by private and proprietary schools or general organizations of such institutions, within the service delivery area. For the purpose of this subparagraph, the term "general organization" means an organization that admits to membership any educational instituion of the appropriate category set forth in this subparagraph.

(D) The chief elected officials of units of general local governments with prior experience in administering job training programs within the service delivery area shall appoint members to the council from the individuals so nominated in accordance with an agreement entered into by such units of general local government within the service delivery area. In the absence of such an agreement, the appointments shall be made by the Governor. Members appointed under this subparagraph may be replaced only with the concurrence of the nominating and appointing authorities in accordance with the provisions of this paragraph unless the bylaws of the private industry council provide otherwise.

(3) The remaining members of the council shall be selected by agreement between the chief elected officials of such units of general local government in the area from individuals recommended by interested organizations. Labor representatives shall be recommended by recognized State and local labor organizations or appropriate building trades councils. If agreement cannot be reached, such other representatives shall be selected by the Governor on the basis of such recommendations.

(4) The number of members of the council shall be determined by agreement among the chief elected officials of such units of general local government in the area and, in the absence of such agreement, by the Governor.

(5) The Governor shall certify a private industry council whenever the Governor determines that its composition and appointments are consistent with the provisions of this subsection. Such certification shall be made or denied within 30 days after the date on which a list of members and necessary supporting documentation are submitted to the Governor.

(c) Whenever the private industry council is certified by the Governor, the council shall—

(1) prepare the program plan for the service delivery area; and

(2) certify training institutions and other agencies pursuant to section 105(d).

(d) In order to carry out its functions under this subsection, the council may hire such staff and exercise such other powers as may be necessary to prepare the plan.

(e) Each program plan shall contain—

(1) identification of the entity which will administer the program and be the subrecipient of funds from the State;

(2) a description of services and programs to be furnished within the service delivery area;

(3) procedures for identifying and selecting participants and for eligibility determination and verification;

(4) procedures for selecting service providers which take into account past performance in job training or related activities, fiscal accountability and ability to meet performance standards and which afford to appropriate education agencies in the area to be served the opportunity to provide educational services;

(5) the budget for the program year in such detail as the private industry council determines necessary, including any proposed expenditures for the succeeding two program years;

(6) expected performance accomplishments and a comparison with the performance of the previous program year;

(7) fiscal control, accounting, audit and debt collection procedures to assure the proper disbursal of, and accounting for, funds received under this title;

(8) subject to the statewide limitation in section 105(i)(2)(C), the amount to be spent on supportive services, and if such amount is more than 15 per centum of the funds available for the program year, a justification of why it is necessary to spend such amount; and

(9) a report of the activities conducted in the service delivery area in the previous program year.

In making the identification under clause (1) of this subsection, priority should be given to entities which have demonstrated or can demonstrate—

(A) the ability to administer a broad range of employment and training services;

(B) the capacity to administer such funds; and

(C) the ability to provide adequate safeguards for the protection of public funds.

(f) In addition to the description of services and programs within the service delivery area required under subsection (e), whenever, there is more than one service delivery area in a single labor market area, the private industry council for each such service delivery area shall include in the program plan under subsection (e) provisions for coordinating particular aspects of individual service delivery area programs, including—

(1) assessment of needs and problems in the labor market that form the basis for program planning;

(2) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

(3) coordinated or joint implementation of job development, placement, and other employer outreach activities.

(g)(1) Each private industry council shall publish a proposed plan or summary thereof one hundred and twenty days before the beginning of a program year and provide interested parties an opportunity for comment. The council may hire a hearing examiner to hold hearings if necessary. The final plan, or a summary thereof, shall be published not later than eighty days before the program year and shall be submitted to the Governor jointly by the private industry council and the chief elected official in the service delivery area, or, if there is more than one such official in the area by their designated representative. If such official or representative does not agree with all or any part of the plan, the private industry council shall reconsider the plan in whole or in part. If the disagreement cannot be resolved after mediation by the Governor, the proposed plan together with proposed revisions shall be presented to the Governor for resolution.

(2) The Governor shall disapprove the plan if—

(A) the Governor finds for specific reasons that the plan will not meet performance criteria,

(B) the Governor determines that the proposed program will not effectively serve the economically disadvantaged.

(C) the plan does not show that corrective measures for deficiencies found in audits or assessments from previous years have been taken or are acceptably underway,

(D) the entity proposed to administer the program will not have the administrative capacity to administer the funds or there are inadequate safeguards for the protection of funds received,

(E) the plan will not provide equality of access to services for all segments of the disadvantaged community in the area, or

(F) the plan will not otherwise adequately or properly carry out the purposes of the Act.

(3) Any disapproval by the Governor shall be made within thirty days after the date that the plan is submitted. Any disapproval by the Governor may be appealed jointly by the private industry council and the local elected officials to the Secretary.

(4) Not more than 15 per centum of the funds available for any program year in any service delivery area may be used to pay for the costs of administration (including evaluation) in that area.

STATE JOB TRAINING COUNCILS

SEC. 104. (a) To receive funds under this title a State shall establish a State Job Training Council chaired by the Governor or the Governor's designee.

(b) The members of the Council shall be appointed by the Governor. At least 51 per centum of the members shall be selected from among individuals who represent the private sector and 20 per centum from among individuals who are elected officials of units of general local government. The remaining members of the Council shall include one representative from the State employment service agency, and representatives of education, organized labor, private nonprofit community-based organizations, and other groups interested in job training programs.

(c) The Council shall provide advice to the State on all aspects of job training, job information, and job placement in the State.

(d) The Council, subject to the approval of the Governor, shall, with respect to programs under this title, propose substate service delivery areas, plan resource allocations not subject to section 101(c)(1), provide management guidance and review for all programs in the State and approval of all service delivery area plans, develop appropriate linkages with other programs, coordinate activities with private industry councils, and develop the State job training report and performance standards.

(e) In addition to performing the functions set forth in this Act, the Council shall also perform the functions previously performed by any State council established by State law under the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act).

(f) The Council shall also review and provide written comments to the State on the State plan developed for the State employment service agency.

PROGRAM ELEMENTS

SEC. 105. (a) Funds allocated to service delivery areas under this Act may be used for—

(1) basic and remedial education, institutional and on-the-job training, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities and any other job training activity designed to prepare disadvantaged persons for, and place them in, employment;

(2) supportive services necessary to enable persons to participate in the program and to assist them in retaining employment for not to exceed six months;

(3) payments to employers for on-the-job training which shall not, during the period of such training, average more than 50 per centum of the wages paid by the employer to such participants, and payments in such amount shall be deemed to be in compensation for the extraordinary costs associated with training participants under this title and in compensation for the costs associated with the lower productivity of such participants;

(4) employment generating activities to increase job opportunities for eligible persons in the area; and

(5) establishing a loan fund, as a supportive service administered by the private industry council to be used by economically disadvantaged participants to provide expenses for the basic necessities of the participants.

To utilize the loan fund established under clause (5), participants must be ineligible for public assistance or otherwise unable to participate in or complete training provided under this Act. Each participant shall begin repayment of the loan, with interest, upon entry into unsubsidized employment or six months after the termination of the training.

(b) No funds under this title shall be used for allowances, stipends, wages, or public service employment.

(c)(1) A person shall be eligible to participate in a program conducted or assisted with funds allocated to a service delivery area under this Act only if the person is economically disadvantaged.

(2)(A) At least 50 per centum of the funds allocated to such area shall be used for persons who have not attained twenty-five years of age. The percentage shall be adjusted by the difference that the ratio of economically disadvantaged youth to economically disadvantaged adults in the service delivery area bears to that ratio for all States.

(B) Recipients of payments made under the program of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act who are required to, or have, registered under section 402(a)(19) of that Act and eligible school drop-outs shall be served at least in proportion to their percentage of economically disadvantaged persons sixteen years of age or over in the area. For purposes of this subparagraph a school dropout is an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(C) Not to exceed 10 per centum of the funds may be used for participants who are not economically disadvantaged if such individuals have labor market disadvantages, and, except for handicapped persons and dislocated workers identified under section 502, whose individual incomes do not exceed the higher of 250 per centum of the poverty level for individuals established by the Director of the Office of Management and Budget, or 175 per centum of the lower living standard income level for individuals as determined by the Secretary. The individuals described in the preceding sentence may include individuals who are handicapped, have limited English-speaking proficiency, or are displaced homemakers, ex-offenders, alcholics or addicts, displaced workers identified under section 502, teenage parents, school dropouts, veterans, and older workers.

(d)(1) In selecting agencies or organizations to deliver services within a service delivery area, after complying with the procedures specified in section 103(e)(4), the primary consideration shall be the cost effectiveness of the agency or organization in delivery comparable or related services based on past performance.

(2) No agency or organization shall be used to provide occupational skills training unless the private industry council has certified that the level of skill provided is acceptable to employers in the area.

(e) All training agreements shall contain standards on the content, quality, duration, and results of the training.

(f) In each service delivery area the ratio of participants in on-the-job training assisted under this title in the public sector to participants in such training in the private sector shall not exceed the ratio between civilian governmental employment and nongovernmental employment in such area.

(g) Commercially available training packages, including advanced learning technology, may be purchased for off-the-shelf prices and without requiring a breakdown of the cost components of the package if such packages are purchased competitively and include performance criteria.

(h) Amounts available to Governors under section 101(a) may be used for—

(1)(A) expenses of the State council, including evaluation of programs;

(B) technical assistance;

(C) developing linkages between programs funded under this Act and related programs funded under related Federal or State legislation;

(D) developing and providing labor market and occupational information; and

(E) developing a management information system compiling and analyzing reports from the system; and

(2)(A) Providing programs for offenders and exoffenders or other persons whom the Governor determines require special assistance; and

(B) providing programs for workers who have no reasonable prospect of returning to

the occupation or industry from which they have been laid off.

(i)(1) No State may be paid funds from its allotment under this title unless the State submits a job training report to the Secretary.

(2) The State job training report shall—

(A) demonstrate that the State is fiscally responsible for the administration of programs under this title throughout the State;

(B) include (i) a statement of goals, objectives, and needs, and the performance standards established, and (ii) information on the types of activities to be funded, designated service delivery areas, and categories or characteristics of individuals to be served; and

(C) guarantee that the amount to be spent in the State on supportive services and costs of administration together shall not exceed 30 per centum of the funds available to the State under this title and that at least 70 per centum of such funds shall be spent for training.

(3) Beginning in the fiscal year 1984, the report shall include a description of how the State has met the goals, objectives, needs, and performance standards in the previous program year.

(4) The report, and any changes in the report, shall be made public on a timely basis and in such manner as to facilitate comments from interested units of general local government and persons.

STATE EDUCATION AND TRAINING AGENCY GRANTS

SEC. 106. The sums available for this section shall be used by the Governor to provide financial assistance to any State education agency responsible for education and training to provide services for eligible participants through cooperatives agreements between such State agencies and entities administering programs in service delivery areas or other agencies or organizations providing services under this Act. Such services may include any service described in subsections (a) and (h)(2) of section 105.

EDUCATION AGENCY MATCHING GRANTS

SEC. 107. (a) The sums available for this section shall be used by the Governor for grants to any State education agency responsible for education and training to pay 50 per centum of the cost of improving education and training services for individuals eligible under this Act. The Governor shall allocate such sums to service delivery area within the State pursuant to section 101(c)(1). Such grants shall be used in accordance with agreements which are negotiated by the designee of any such State agency as part of the plan for the service delivery area prepared and submitted in accordance with the provisions in section 103 (e) and (f). Such agreements shall provide for the contribution by any such State agency and the local educational agency, if any, of an amount equal to the amount provided in such grant. The matching amount shall not be provided from funds available under this Act, but may include the direct cost of employment or training services provided by State or local programs.

(b) Funds available under this section may be used to provide education, training, and related services to participants under this title.

EDUCATION STANDARDS

SEC. 108. (a) All education programs for youth supported with funds provided under this title shall be consistent with applicable State and local educational standards.

(b) Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in programs conducted or assisted under this title shall be consistent with the requirements of applicable State and local law and regulation.

TRAINING PROGRAMS FOR OLDER INDIVIDUALS

SEC. 109. (a) From funds available for use under section 101(c)(4), the Governor is authorized to provide for job training programs which are developed in conjunction with service delivery areas within the State and which are consistent with the plan for the service delivery area prepared and submitted in accordance with the provisions in section 103, and designed to assure the training and placement of older individuals in employment opportunities with private business concerns.

(b) In carrying out this section, the Governor shall, after consultation with appropriate private industry councils, enter into agreements with public agencies, nonprofit private organizations, and private business concerns.

(c) The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

(d) An individual shall be eligible to participate in a job training program under this section only if the individual is economically disadvantaged and has attained 55 years of age.

AUTHORITY OF STATE LEGISLATURE

SEC. 110. Nothing in this Act shall be interpreted to preclude the adoption of State legislation providing for the implementation, consistent with the provisions of this Act, of the programs assisted under this Act.

TITLE II—NATIONAL JOB TRAINING PROGRAMS

PART A—NATIVE AMERICAN PROGRAMS

PURPOSE AND POLICY

SEC. 201. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian, Alaskan Native, and Hawaiian Native communities and American Samoans living in Hawaii; (2) there is a compelling need for the establishment of comprehensive training and employment programs for members of those communities; and (3) such programs are essential to the reduction of economic disadvantage among individual members of those communities and to the advancement of economic and social development in the communities consistent with their goals and lifestyles.

(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of the individuals to be served by the provisions of this part, (1) such programs shall be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and groups and to other groups and individuals of Native American descent; and (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this part.

PROGRAM AUTHORIZED

SEC. 202. (a)(1)(A) In carrying out responsibilities under this part, the Secretary shall, wherever possible, utilize Indian tribes, bands, or groups on Federal or State reservations, and Oklahoma Indians, and including for the purpose of this Act, Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act, having a governing body for the provision of employment and training services under this section. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive employment and training program, the Secretary shall require such tribe, band, or group to submit a comprehensive plan meeting such requirements as the Secretary prescribes.

(B) The Secretary shall arrange for programs to meet the employment and training needs of Hawaiian natives and American Samoans living in Hawaii through such organizations as the Secretary determines will best meet their needs.

(2) In carrying out responsibilities under this section, the Secretary shall make arrangements with organizations (meeting requirements prescribed by the Secretary) serving nonreservation Native Americans for programs and projects designed to meet the needs of such Native Americans for employment and training and related services.

(b) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provision of employment and training services under this section, the Secretary shall, to the maximum extent feasible, enter into arrangements for the provision of such services with organizations which meet with the approval of the tribes, bands, or groups to be served.

(c) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Native American employment and training programs authorized under this Act.

(d) Funds available for this part shall be expended for programs and activities consistent with the purposes of this section including but not limited to such programs and activities carried out by recipients or subrecipients under other provisions of this Act.

(e) No provision of this part shall abrogate in any way the trust responsibilities of the Federal Government to Native American bands, tribes, or groups.

PART B—MIGRANT AND SEASONAL FARMWORKER PROGRAMS

STATEMENT OF FINDINGS

SEC. 211. The Congress finds and declares that—

(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural employment problem and substantially affect the entire national economy; and

(2) because of the special nature of farmworker employment and training problems such programs can best be administered at the national level.

PROGRAM AUTHORIZED

SEC. 212. (a)(1) The Secretary shall meet the employment and training needs of migrants and seasonal farmworkers through public agencies and private nonprofit organizations, including, but not limited to, programs and activities carried out by recipients or subrecipients under other provisons of this Act, as the Secretary determines have an understanding of the problems of migrant and seasonal farmworkers, a familiarity with the area to be served, and a capability to administer effectively a comprehensive employment and training program for migrant and seasonal farmworkers.

(2) Programs supported under this part shall include, but not be limited to, employment and training in traditional as well as newly developing agricultural occupations and related assistance and supportive services.

(b)(1) In awarding grants for services administered under this part, the Secretary shall use the standard competitive Government procurement policies.

(2) In administering programs under this section, the Secretary shall consult with appropriate State and local officials and may enter into agreements with such officials to assist in the operation of such programs.

PART C—VETERANS' EMPLOYMENT PROGRAMS

STATEMENT OF FINDINGS AND DECLARATIONS

SEC. 221. (a) The Congress finds that (1) serious unemployment problems exist among service-connected disabled veterans, veterans of the Vietnam era, and veterans who are recently separated from military service, and (2) the unemployment problems experienced by many of these veterans are related to their military service.

(b) The Congress therefore declares that (1) veterans' unemployment is a national problem and a national responsibility and (2) special programs to be administered at the national level are required to assist them and to meet their employment and training needs.

PROGRAMS AUTHORIZED

SEC. 222. (a)(1) The Secretary shall conduct, directly or through grant or contract, programs to meet the employment and training needs of service-connected disabled veterans, veterans of the Vietnam era, and veterans who are recently separated from military service.

(2) Programs supported under this part may be conducted through public agencies and private nonprofit organizations, including, but not limited to, recipients or subrecipients under other provisions of this Act that the Secretary determines have an understanding of the unemployment problems of such veterans, familiarity with the area to be served, and the capability to administer effectively a program of employment and training assistance for such veterans.

(3) Programs supported under this part shall include, but not be limited to—

(A) activities to enhance services provided veterans by other providers of employment and training services funded by Federal, State, or local government;

(B) activities to provide employment and training services to such veterans not adequately provided by other public employment and training service providers; and

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job-training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and under other provisions of law.

(b)(1) The Secretary shall administer programs supported under this part through the Assistant Secretary for Veterans' Employment.

(2) In carrying out responsibilities under this part, the Assistant Secretary for Veterans' Employment shall—

(A) be responsible for the awarding of grants and the distribution of funds under this part and for the establishment of appropriate fiscal controls, accountability, and program performance standards for grant recipients under this part; and

(B) consult with the Administrator of Veterans' Affairs and take steps to ensure that programs supported under this part are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter IV of chapter 3 of such title, chapters 31 and 34 of such title, and sections 612A, 620A, 1787, and 2003A of such title.

PART D—RESEARCH, EVALUATION, PILOT PROJECTS, TRAINING AND TECHNICAL ASSISTANCE AND LABOR MARKET INFORMATION

RESEARCH

SEC. 231. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of employment and training research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems.

(b) The Secretary shall establish a program of experimental, developmental, and demonstration projects, through grants or contracts, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting employment and training problems. Research activities may include studies, experiments, demonstrations, and pilot projects in such areas as easing the transition from school to work, assessing the changing demographics of the American work-force and addressing the short-term and long-term impact of the changes, increasing employment of skilled workers critical to defense readiness, and, subject to the last sentence of this subsection, projects developed in conjunction with the Secretary of Defense to meet civilian manpower needs on military installations and in the private sector, and eliminating artificial barriers to employment. The Secretary may pay not to exceed 60 per centum of the costs of projects developed in conjunction with the Secretary of Defense described in the preceding sentence, and the contributions of the Department of Defense may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

EVALUATION

SEC. 32. (a) The Secretary shall provide for the continuing evaluation of all programs, activities, and research and demonstration projects conducted pursuant to this Act, including their cost-effectiveness in achieving the purposes of this Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services.

(b) The Secretary shall evaluate the effectiveness of programs authorized under this Act with respect to the statutory goals, the performance standards established by the Secretary, and of increases in employment and earnings for participants, duration in training and employment situations, information on the postenrollment labor market experience of program participants for at least a year following their termination from such programs, and comparable information on other employees or trainees of participating employers.

(c) In order to reduce the paperwork burden and costs on recipients, the Secretary shall to the maximum extent possible use statistical sampling techniques.

(d) The Secretary shall prepare and submit to the Congress an annual report for employment and training programs. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs authorized in this Act in meeting the objective of this Act;

(2) a summary of major findings from research, evaluation, pilot projects, and experiments conducted in the previous fiscal year;

(3) recommendations for program modifications based upon analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary deems appropriate.

PILOT PROJECTS

SEC. 233. (a) From funds made available under this part, the Secretary may provide financial assistance for pilot projects which meet the employment-related needs of persons including the handicapped and displaced homemakers who face particular disadvantages in specific and general labor markets or occupations and other persons whom the Secretary determines require special assistance.

(b) Each pilot project assisted under this section shall be designed to assist in eliminating artificial and other employment barriers faced by such persons.

(c) No project under this section shall be financially assisted for more than three years.

(d) In selecting recipients under this section, the Secretary shall give special consideration to applications submitted by community-based organizations of demonstrated effectiveness, as well as to labor unions, and trade associations and their affiliates that address nationwide concerns through programs operating in more than one State.

TRAINING AND TECHNICAL ASSISTANCE

SEC. 234. The Secretary, in consultation with the appropriate State officials and other recipients shall provide directly or through grants, contracts, or other arrangements—

(1) appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel; and

(2) appropriate technical assistance with respect to programs assisted under this Act.

LABOR MARKET INFORMATION

SEC. 235. (a) The Secretary shall set aside, out of sums available to the Department for any fiscal year including sums available for this title, such sums as may be necessary to maintain a comprehensive system of labor market information on a national, regional, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

(b) The Secretary shall assure that appropriate standards of statistical reliability and nationally standardized definitions of employment, unemployment, and industrial and occupational definitions shall be used in maintaining the system required by this section.

FEDERAL RESPONSIBILITIES

SEC. 236. (a) The Secretary, in cooperation with the Secretary of Commerce, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Education, and the Director of the Office of Management and Budget, through the National Occupational Information Coordinating Committee established under the Vocational Education Act Amendments of 1976, shall—

(1) review the need and the application of all operating national data collection and processing systems in order to identify gaps, overlap, and duplications, and integrate at the national level currently available data sources in order to improve the management of information systems;

(2) maintain, assure timely review, and implement national standardized definitions with respect to terms, geographic areas, timing of collection, and coding measures, to the maximum extent feasible; and

(3) provide technical assistance to the States in the development, maintenance, and utilization of labor market/occupational supply and demand information systems and projections of supply and demand as described in section 237, with special emphasis on assistance in the utilization of cost-efficient automated systems and improving access of individuals to career opportunities information in local and State labor markets.

(b) The Secretary, in cooperation with the Secretary of Defense, shall assure the development of an integrated occupational supply and demand information system to be used by States and, in particular, in secondary and postsecondary educational institutions in order to assure young persons adequate information on career opportunities in the Armed Forces.

(c) The Secretary and the Director of the Office of Management and Budget shall assure that, from the funds reserved for this part, sufficient funds are available to provide staff at the Federal level for the National Occupational Information Coordinating Committee to assure the coordination functions described in this section.

STATE LABOR MARKET INFORMATION PROGRAMS

SEC. 237. (a) In order to be eligible for Federal financial assistance, under this part, the Governor shall—

(1) designate the State occupational information coordinating committee or another organizational unit to be responsible for oversight and management of a statewide comprehensive labor market/occupational supply and demand information system;

(2) design a comprehensive cost-efficient labor market/occupational information supply and demand system which—

(A) is responsive to the economic demand and educational training supply support needs of the State and areas within the State, and

(B) meets the Federal standards under chapter 35 of title 44 of the United States Code and other appropriate Federal standards established by the Bureau of Labor Statistics;

(3) standardize available Federal and State multiagency administrative records and direct survey data sources to produce an employment/economic analysis published set of projections for the State and designated areas within the State which, at the minimum, includes—

(A) identification of geographic and occupational areas of potential growth or decline; and

(B) an assessment of the potential impact of such growth or decline on individuals, industries, and communities, including occupational supply and demand characteristics data;

(4) assure, to the extent possible, that—

(A) automated technology is used by the State,

(B) administrative records have been designed to reduce paperwork and

(C) multiple survey burdens on the employers of the State have been reduces;

(5) publish and disseminate labor market/occupational supply and demand information and individualized career information to State agencies, area public agencies, private not-for-profit users, and individuals in the process of career decision choices; and

(6) conduct research and demonstration projects designed to improve any aspect of the statewide information system.

(b)(1) The analysis required under clause (3) of subsection (a) shall be used by State and by area entities to contribute in carrying out the provisions of the Act, the Vocational Education Act of 1963, and the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act).

(2) The assurance required by clause (4) of subsection (a) shall also include that the State will, to the maximum extent possible, assure consolidation of available administrative data and surveys to reduce duplication of recordkeeping of State and local agencies, including secondary and postsecondary educational institutions.

(3) If any Federal funds are used to carry out clause (6) of subsection (a), access to and information of the results will remain in the public domain.

(c) The Secretary through the National Occupational Information Coordinating Committee shall reimburse the States the costs of carrying out the provisions of this section but the aggregate reimbursements in any fiscal year shall not exceed the amount available under this part for this subsection.

(d) No provision of this part or any other provision of Federal law shall be construed to prohibit the State the right to combine, consolidate, or otherwise alter Federal administrative management information reporting requirements relating to employment, productivity, or training, if notice is transmitted by the Governor to the head of each appropriate Federal and State agency responsible for the laws governing the Federal reporting requirements. The notice shall specify the intent to combine, consolidate, or alter such requirements. The head of each appropriate Federal agency shall approve the combination, consolidation, or alteration unless, within sixty days after receiving the notice, the Federal agency can show the combination, consolidation, or alteration will not meet the essential purposes of the affected Federal law. Any adverse decision by the head of a Federal agency may be appealed to the Director of the Office of Management and Budget who shall decide the matter within sixty days after the appeal is made.

TITLE III—ADMINISTRATIVE AND GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS; PROGRAM YEAR

SEC. 301. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of titles I, II, and III of this Act, and the Job Corps.

(b)(1) Beginning with fiscal year 1985 and thereafter appropriations for any fiscal year for programs and activities under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(2) Funds obligated for any program year may be expended by each recipient and subrecipient during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the program plan.

(3)(A) Appropriations for fiscal year 1984 shall be available both to fund activities for the period between October 1, 1983, and July 1, 1984, and for the program year beginning July 1, 1984.

(B) There are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this paragraph for the transition to program year funding.

DISTRIBUTION OF FUNDS

SEC. 302. (a)(1) Of the amounts appropriated pursuant to section 301(a) for each fiscal year, 22 per centum shall be set aside for use by the Secretary in accordance with this subsection.

(2)(A) Sixty-six per centum of such amounts shall be available for the Job Corps in accordance with part B of title IV of the Comprehensive Employment and Training Act.

(B) There are authorized to be appropriated for the fiscal year 1983, in addition to amounts made available under subparagraph (A) of this paragraph, such sums as may be necessary for carrying out the Job Corps in accordance with part B of title IV of the Comprehensive Employment and Training Act to assure that the amount available for the Job Corps in fiscal year 1983 is at least equal to the amount available for the Job Corps in fiscal year 1982. Nothing in this subparagraph shall be construed to reduce the amount available for programs for fiscal year 1983 as a result of appropriations made pursuant to section 301(a).

(3) Ten and one-half per centum of such amounts shall be available for Indians and Native Americans in accordance with part A of title II.

(4) Ten per centum of such amounts shall be available for migrants and seasonal farmworkers in accordance with part B of title II.

(5) Two per centum of such amounts shall be available for veterans' employment programs in accordance with part C of title II.

(A) The remainder of such amounts shall be available for costs of administration, and for research, evaluation, pilot projects, technical assistance, labor market information under title II, and the National Commission for Employment Policy. Not less than 4 per centum of such amounts shall be available for the Nation Commission for Employment Policy.

(b) The remainder of the amounts appropriated for each fiscal year shall be allotted in accordance with section 101.

(c) The Secretary, with respect to financial assistance under part D of title II of this Act, and the Governor, with respect to financial assistance under section 101(c)(5) and 105(h)(2), shall publish for comment a plan for the use of such financial assistance. After consideration of the comments received under the preceding sentence, the Secretary and the Governor, as the case may be, shall publish the plan for the use of such assistance.

PERFORMANCE CRITERIA

SEC. 303. (a) The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

(1) it is essential that criteria for measuring the return on this investment be developed; and

(2) the basic return on the investment is to be measured by the increased earnings of

participants and the reduction in cash welfare payments.

(b)(1) The basic measure of performance for adult training programs is the increase in earnings and reductions in cash welfare payments resulting from participation in the program. The Secretary shall prescibe standards to measure the results of participation in the program. The standards shall include provisions governing—

(A) the base period prior to program participation that will be used;

(B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payments; and

(C) cost-effective methods for obtaining such data, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures.

(2) The Secretary shall prescribe standards relating gross program expenditures to total earnings gains and reductions in cash welfare payments to participants.

(3) Each Governor may prescribe variations in the standards prescribed under paragraph (2) based on specific economic factors in the State and in service delivery areas within the State.

(4) The Secretary shall prescribe variations in performance criteria for Native American and migrant and seasonal farmworker programs taking into account their special circumstances.

(c)(1) Recognizing the instability of youth employment, performance criteria for youth may be locally developed by the administrator of funds in the service delivery area based on (A) employment competencies recognized by the private industry council, and (B) placement and retention in employment.

(2) Performance criteria and employment competency standards shall be reviewed by the Governor and the Secretary for adequacy pursuant to regulations prescribed by the Secretary, and consistent with the requirements of section 108.

(d) The annual report for each service delivery area shall specify the extent to which programs exceeded or failed to meet relevant performance criteria.

(e)(1) The Governor shall provide technical assistance to programs which do not meet performance criteria. If the failure to meet performance criteria persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated delivery agencies or organizations or make such other changes as the Governor deems necessary to improve performance. The Governor may also select an alternative entity to administer the program for the service delivery area.

(2) The alternate administrative entity may be a newly formed private industry council or an agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area.

(3) No change may be made under this subsection without an opportunity for a fair hearing before a hearing officer.

(f) The National Commission for Employment Policy shall (1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training, (2) evaluate the usefulness of such standards as measures of desired performance, and (3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

MONITORING

SEC. 304. (a) The Secretary is authorized to monitor all recipients and subrecipients of financial assistance under this Act to determine whether they are complying with the provisions of this Act and the regulations issued under this Act.

(b) The Secretary may investigate any matter the Secretary deems necessary to determine compliance with this Act and regulations issued under this Act. The investigations authorized by this subsection may include examining records (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of a program of a recipient or subrecipient is conducted or in which any of the records of the recipient or subrecipient are kept.

(c) For the purpose of any investigation or hearing under this Act, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of books, papers, and documents), are made applicable to the Secretary.

FISCAL CONTROLS

SEC. 305. (a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles I, V, and VII. The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidance for the proper performance of audits. Such guidance shall include a review of fiscal controls and fund accounting procedures established by States under this section.

(2) At least once every two years, the State shall prepare or have prepared an independent financial and compliance audit of each recipient and subrecipient of funds under titles I, V, and VII of this Act. Under criteria established by the Director of the Office of Management and Budget, and upon application by the Governor, the Secretary may exempt designated recipients or subrecipients from all or part of the requirements of this section, except that any such exemption shall not apply to the State administering agency, the entity which administers the program for a service delivery area, or a private industry council. Any exemption under this section may be withdrawn by the Secretary in consultation with the Director of the Office of Management and Budget.

(3) Each audit shall be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States.

(b)(1) The Comptroller General of the United States shall, on a selective basis, evaluate the expenditures by the recipients and subrecipients of grants under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of each recipient and subrecipient in accomplishing the purpose of this Act. The Comptroller General shall conduct the evaluations whenever he determines it necessary and he shall periodically report to the Congress on the findings of such evaluations.

(2) Nothing in this Act shall be deemed to relieve the Inspector General of the Department of Labor of his responsibilities under the Inspector General Act.

(3) For the purpose of evaluating and reviewing programs established or provided for by this Act, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs that are in the possession, custody, or control of the State, a private industry council established under section 103 of this Act, any recipient and subrecipient of funds under this Act, or any subgrantee or contractor of such recipients and subrecipients.

(c) Every recipient and subrecipient shall repay to the United States amounts found not to have been expended in accordance with this Act. The Secretary may offset such amounts against any other amount to which the recipient and subrecipient is or may be entitled under this Act unless he determines that such recipient and subrecipient should be held liable pursuant to subsection (d).

(d) Each recipient and subrecipient shall be liable to repay from funds other than funds received under this Act upon a determination that the misexpenditure of funds was due to willful disregard of the requirements of this Act, gross negligence, or failure to observe accepted standards of administration. No such finding shall be made except after notice and opportunity for a fair hearing.

REPORTS, RECORDKEEPING, AND INVESTIGATIONS

SEC. 306. (a)(1) Recipients shall keep records that are sufficient to permit the preparation of reports required by this Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully.

(2) Every recipient shall maintain such records and submit such reports as the Secretary requires regarding the performance of its programs. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by the Congress or a committee thereof.

(b)(1) The Secretary may investigate such facts, conditions, practices, or other matters which the Secretary finds necessary to determine whether any recipient or subrecipient of funds or any official of such recipient or subrecipient has violated any provision of this Act.

(2)(A) In order to evaluate compliance with the provisions of this Act, the Secretary shall conduct, in several States, in each fiscal year investigations of the use of funds received by recipients under this Act.

(B) In order to insure compliance with the provisions of this Act, the Comptroller General of the United States may conduct investigations of the use of funds received under this Act by any recipient.

(3) In conducting any investigation under this Act, the Secretary or the Comptroller General of the United States may not request any information not readily available to such recipient.

(c) Each State receiving funds under this Act shall—

(1) make such reports concerning its operations and expenditures as shall be prescribed by the Secretary, and

(2) prescribe and maintain a management information system designed to facilitate the compilation and analysis of programmatic and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes.

ADMINISTRATIVE ADJUDICATIONS

SEC. 307. (a) Whenever any applicant for financial assistance under this Act is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient upon whom a corrective action or a sanction has been imposed by the Secretary. Except to the extent provided for in section 312, all other disputes arising under this Act shall be adjudicated under grievance procedures established by the recipient or under applicable law other than this Act.

(b) In any hearing conducted under subsection (a) the burden shall be upon the recipient to establish by clear, convincing, and probative proof that the findings of the Secretary were not based upon substantial evidence.

(c) The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part thereof has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. Thereafter the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days of such filing, has notified the parties that the case has been accepted for review.

(d) Any case accepted for review by the Secretary shall be decided within one hundred and eighty days of such acceptance. If not so decided, the decision of the administrative law judge shall become the final decision of the Secretary.

(e) The provisions of section 313 of this Act shall apply to any final action of the Secretary under this section.

AFFIRMATIVE ACTION

SEC. 308. (a) A contractor subject to the affirmative action obligations of Executive Order 11246, as amended, issued September 24, 1965, may establish or participate in training programs pursuant to this section for individuals meeting the eligibility criteria established in sections 105(c)(1), 202(a)(1), and 212(a)(1), which are designed to assist such contractors in meeting the affirmative action obligations of such Executive order. To qualify under this section, such a training program shall contain—

(1) a description of the jobs in the contractor's work force or in the service delivery area, for which the contractor has determined there is a need for training;

(2) a description of the recruiting, training, or other functions that the contractor or the organization that will be engaged to perform the training will perform and the steps that will be taken to insure that the individuals completing the training will be referred for job openings and that the training program is in accordance with the objectives of such Executive order;

(3) whenever an organization other than the contractor will perform the training, a description of the demonstrated effectiveness of the organization as a provider of employment and training services;

(4) a description of how the contractor will monitor the program to keep an accurate accounting of all trainees, including (A) whether the trainees successfully complete the training program, and (B) whether the trainees are or are not placed; and

(5) an estimation of the cost of the program and an assurance that the contractor will assume all costs of the program or the pro rata share of costs to the contractor of the program.

(b)(1)(A) If the training proposal is designed to meet the needs of the community rather than, or in addition to, the employment needs of the contractor, and has not been approved by another Federal agency, the program shall be submitted to the private industry council established under section 103 for a determination that there is a need for such training in the community.

(B) Individuals trained under any program satisfying the requirements of this section may be included by the private industry council in its performance accomplishments and the wage gains of such individuals shall be included in determining the compliance of the job training program of the private industry council with applicable standards.

(2) The Director of the Office of Federal Contract Compliance Programs, Department of Labor, shall promulgate regulations setting forth how the Office will determine, during a compliance review, the degree to which a training program will satisfy the contractor's affirmative action obligations. The training and placement of trainees with employers other than the contractor may be considered in evaluating such contractor's overall good faith efforts, but in no event may placement of trainees with employers other than the contractor be permitted to affect that contractor's affirmative action obligations respecting its work force. The content of the training program will not be subject to review or regulation by the Office of Federal Contract Compliance Programs. If during a compliance review the Director of the Office of Federal Contract Compliance Programs determines that a training program does not comply with its regulations, the Director shall—

(A) notify the contractor of the disapproval,

(B) set forth the reasons for the disapproval, and

(C) provide a list of recommendations which, if accepted, will qualify the training program under this section.

(3) A contractor who has a training program which contains the criteria set forth in subsection (a) and which is in accordance with regulations promulgated under paragraph (2) of this subsection shall continue to meet the affirmative action obligations of Executive Order 11246, as amended, but the contractors required to maintain a written affirmative action program need only maintain an abbreviated affirmative action program, the content and length of which shall be determined by the Director of the Office of Federal Contract Compliance Programs, to satisfy the written affirmative action program portion of their obligations under Executive Order 11246, as amended. Successful performance or operation of a training program meeting the criteria set forth in subsection (a) shall create a presumption that the contractor has made a good faith effort to meet its affirmative action obligations to the degree specified by the Director under paragraph (2) of this subsection.

(c) Nothing in this section may be interpreted—

(1) to compel contractor involvement in such programs,

(2) to establish the exclusive criteria by which a contractor can be found to have fulfilled its affirmative action obligations,

(3) to provide authority for imposing any additional obligations on contractors not participating in such training activities, or

(4) to permit the Office of Federal Contract Compliance Programs to intervene or interfere with the authority and responsibilities of the private industry councils.

ADMINISTRATIVE PROVISIONS

SEC. 309. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules and regulations as the Secretary deems necessary. Such rules and regulations may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. All such rules and regulations shall be published in the Federal Register at least thirty days prior to their effective date. Copies of all such rules and regulations shall be transmitted to the appropriate committees of the Congress at the same time and shall contain, with respect to each material provision of such rules and regulations, citations to the particular substantive section of law which is the basis therefor.

(b) The Secretary is authorized, in carrying out this Act, to accept, purchase, or lease in the name of the department, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

(c)(1) The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds under this Act as deemed necessary to carry out this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

(2) The Secretary, with respect to grants, contracts, or agreements made under part D of title II of this Act, and the Governor, with respect to grants, contracts, or agreements made under section 105(h)(2), shall provide an opportunity for comment to the entity administering the program assisted under title I of this Act in each service delivery area before any such grant, contract, or agreement is made affecting the delivery of employment and training services in that service delivery area.

UTILIZATION OF SERVICES AND FACILITIES

SEC. 310. (a) The Secretary is authorized, in carrying out this Act, and to the extent permitted by law other than this Act, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with its consent.

(b) The Secretary is authorized to carry out this Act through the use, to the extent appropriate, of resources and facilities for job training and other skill development

available in industry, labor, public and private educational and training institutions, vocational rehabilitation agencies, other State, Federal, and local agencies and other appropriate public and private organizations, with their consent.

INTERSTATE AGREEMENTS

SEC. 311. Whenever compliance with the provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such agreements, subject to the approval of the Secretary.

NONDISCRIMINATION

SEC. 312. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) No person, on the ground of sex, religion, or political affiliation or belief, shall be excluded from participation in, denied the benefits of, or subjected to discrimination in the provision of services under, any program or activity financially assisted in whole or in part under this Act.

(3) Participation in programs and activities financially assisted in whole or in part under this Act shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other persons authorized by the Attorney General to work in the United States.

(b) Whenever the Secretary finds that a State or other recipient or subrecipient has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2) or (a)(3), or with an applicable regulation prescribed to carry out subsection (a)(2) or (a)(3), the Secretary shall notify such State or recipient or subrecipient and shall request it to comply. If within a reasonable period of time, not to exceed sixty days, the State or recipient or subrecipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act, as maybe applicable; or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient or subrecipient is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2) or (a)(3), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) For purposes of this section Job Corps members shall be considered as the ultimate beneficiaries of Federal financial assistance.

JUDICIAL REVIEW

SEC. 313. (a)(1) If any applicant for financial assistance under this Act is aggrieved by the Secretary's final order under section 307 whereby the Secretary determines not to award, or to only conditionally award, financial assistance, or if any recipient is aggrieved by the Secretary's final order under section 307 with respect to a corrective action or sanction imposed under section 306, such applicant or recipient may obtain review of such final order in the United States court of appeals having jurisdiction over the applicant or recipient by filing a review petition within thirty days of receipt of such final order.

(2) The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record upon which the final order was entered as provided in section 2112 of title 28, United States Code. Review petitions unless ordered by the court, shall not stay the Secretary's order. Petitions under this Act shall be heard expeditiously, if possible within ten days of the filing of a reply brief.

(3) No objection to the order of the Secretary shall be considered by the court unless the objection shall have been specifically and timely urged before the Secretary. Review shall be limited to questions of law and the Secretary's findings of fact shall be conclusive if supported by substantial evidence.

(b) The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. the court's judgment shall be final, subject to certiorari review by the Supreme Court of the United States as provided in section 1254(1) of title 28, United States Code.

PROGRAM STANDARDS

SEC. 314. (c) The conditions of training and training-related employment shall be consistent with applicable State and Federal law.

(b) Persons in on-the-job training shall be compensated by the employer at the same rates, including periodic increases, as similarly situated employees or trainees and in accordance with applicable State and Federal law.

(c) Conditions of training and training-related employment shall be appropriate and reasonable in light of such factors as the type of work, local conditions, and the proficiency of the participant.

(d)(1) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) No program shall impair existing contracts for services.

(e) No provision of this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

(f) No provision of this Act shall be construed to permit the use of any funds for any partisan political activities.

TRANSITION PROVISIONS

SEC. 315. (a) The Secretary may provide financial assistance in the same manner that such assistance was provided under the Comprehensive Employment and Training Act (as in effect on the day before the date of enactment of this Act) to the extent the Secretary considers necessary to provide for the orderly transition from programs carried out under that Act to programs authorized under this Act.

(b) The authority granted to the Secretary by subsection (a) shall expire on September 30, 1983.

(c) Notwithstanding any other provision of law, the Secretary may waive the application of any requirement of law relating to rulemaking to the extent the Secretary deems such waiver necessary to carry out the provisions of subsection (a).

(d) Until September 30, 1984, the Secretary is authorized to withhold funds otherwise payable to a recipient under this Act to fully satisfy debts to the Government established against the same recipient as a recipient or subrecipient in any year under the Comprehensive Employment and Training Act. The authority granted in this subsection shall be in addition to the existing statutory, contractual, or common law rights of the Federal Government to establish or recover debts to the United States.

(e) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges, which have been issued under the Comprehensive Employment and Training Act as in effect prior to the effective date of this Act, or which are issued under that Act on or before September 30, 1983, shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

(f) The provisions of this Act shall not affect administrative or judicial proceedings pending on the date of enactment of this Act, or begun between the date of enactment of this Act and September 30, 1984, under the Comprehensive Employment and Training Act.

(g) Upon implementation of this Act by the Secretary, no Federal funds shall be spent for Federal or State advisory councils under the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act) or for labor market advisory councils under title IV of the Social Security Act.

CRIMINAL PROVISION

SEC. 316. (a) Section 665 of title 18, United States Code, is amended to read as follows:

"THEFT OR EMBEZZLEMENT OF JOB TRAINING FUNDS; OBSTRUCTION OF INVESTIGATIONS

"SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency or organization receiving financial assistance under the Training for Jobs Act knowingly enrolls an ineligible participant, embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property, which are the subject of a financial assistance agreement or contract under such Act, shall be fined not more than $10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(b) Any person who willfully obstructs or impedes, or willfully endeavors to obstruct or impede, an investigation by Federal authorities under the Training for Jobs Act or the Federal regulations under that Act, shall be fined not more than $5,000 or imprisoned for not more than one year, or both.".

(b) The analysis of chapter 31 of title 18, United States Code, is amended by striking out the item relating to section 665 and in-

serting in lieu therefor the following new item:

"665. Theft or embezzlement of job training funds: obstruction of investigations.".

REFERENCE

SEC. 317. Effective on the date of the enactment of this Act, all references in any statute other than this Act to the Comprehensive Employment and Training Act shall be deemed to refer to the Training for Jobs Act.

CONTRACT AUTHORITY

SEC. 318. The authority to enter into contracts or other obligations under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

REPEAL; AMENDMENT

SEC. 319. (a)(1) The Comprehensive Employment and Training Act, other than part B of title IV, relating to the Job Corps, and title V, relating to the National Commission for Employment Policy, is repealed.

(2) Section 5(b) of the Comprehensive Employment and Training Act Amendments of 1978 is repealed.

(3) Section 11(a) of the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act), relating to Federal and State advisory councils, is repealed.

(b) Part B of title IV of the Comprehensive Employment and Training Act is amended by adding at the end thereof the following:

"DEFINITIONS

SEC. 469. For the purpose of this part—

"(1) the term 'economically disadvantaged' has the same meaning given that term under section 3(3) of the Training for Jobs Act; and

"(2) the term 'Secretary' means the Secretary of Labor.".

(c) Section 468 of the Comprehensive Employment and Training Act is amended by striking out "title II and part C of this title" both times they appear, and by inserting in lieu thereof "title I of the Training for Jobs Act".

(d)(1) Section 502(a)(1) of the Comprehensive Employment and Training Act is amended by inserting at the end thereof a comma and the following: "all of whom are nonvoting members".

(2) Section 503 of the Comprehensive Employment and Training Act is amended—

(A) by striking out clauses (6), (9), and (10);

(B) by redesignating clauses (7) and (8) as clauses (6) and (7), respectively;

(C) by inserting "and" after clause (6) as redesignated by this subsection; and

(D) by striking out the semicolon at the end of clause (7), as redesignated by this subsection, and inserting in lieu thereof a period.

(3) Section 504(a)(2) of the Comprehensive Employment and Training Act is amended by striking out "3" and inserting in lieu thereof "6".

TITLE IV—AMENDMENTS TO THE WAGNER-PEYSER ACT

PUBLIC EMPLOYMENT OFFICES PROGRAM

SEC. 401. Sections 1 through 10 of the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act), are amended to read as follows: "That in order to promote the establishment and maintenance of a national system of public employment offices, there is established within the Department of Labor the United States Employment Service.

SEC. 2. For the purpose of this Act—

"(1) the term 'Secretary' means the Secretary of Labor;

"(2) the term 'service delivery area' has the same meaning given that term under the Training for Jobs Act; and

"(3) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

"SEC. 3. The United States Employment Service shall assist in coordinating the State public employment services throughout the country and in increasing their usefulness by developing and prescribing minimum standards of efficiency, assisting them in meeting problems peculiar to their localities, promoting uniformity in their administrative and statistical procedure, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system, and maintaining a system for clearing labor between the States. It shall be the duty of the Secretary of Labor to assure that unemployment insurance and employment service offices in each State, as appropriate, upon request of a public agency administering or supervising the administration of a State plan approved under part A of title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, shall (and, notwithstanding any other provision of law, is authorized to) furnish to such agency making the request, from any data contained in the files of any such office, information with respect to any individual specified in the request as to (1) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (2) the current (or most recent) home address of such individual, and (3) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor.

"SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

"SEC. 5. (a) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State which—

"(1) has, except in the case of Guam, an unemployment compensation law approved by the Secretary under the Federal Unemployment Tax Act and is found to be in compliance with section 303 of the Social Security Act, as amended,

"(2) is found to have coordinated with the public employment service to provide unemployment insurance claimant services, and

"(3) is found to be in compliance with this Act, such amounts as the Secretary determines to be necessary for allotment under section 6.

"(b)(1) Beginning with fiscal year 1984 and thereafter appropriations for any fiscal year for programs and activities assisted or conducted under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

"(2) Funds obligated for any program year may be expended by the State during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the program plan.

"(3)(A) Appropriations for fiscal year 1983 shall be available both to fund activities for the period October 1, 1982, and July 1, 1983, and for the program year beginning July 1, 1983.

"(B) There are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this paragraph for the transition to program year funding.

"SEC. 6. (a) From the amounts appropriated pursuant to section 4 for each fiscal year, the Secretary shall first allot to Guam and the Virgin Islands an amount which, in relation to the total amount available for the fiscal year, is equal to the allotment percentage received by these entities in fiscal year 1982.

"(b) From the amounts appropriated pursuant to section 4 for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount available for allotment in each fiscal year as the number of individuals in the civilian labor force in that State bears to the total number of individuals in the civilian labor force in all States, except that no State's allotment percentage under this section shall be less than 90 per centum of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subsection the Secretary shall determine the allotment percentage for each State (including Guam and the Virgin Islands) for the fiscal year 1982 which is the per centum that the State received in 1982 under this Act as in effect prior to the amendment made by this Act of the total amounts available for payments to all States in fiscal year 1982. For each succeeding fiscal year, the allotment percentage of the State shall be the allotment percentage to State received under this subsection.

"(c)(1) Twenty-five per centum of the sum allotted to each State shall be allocated in accordance with the provisions of this subsection.

"(2) Not more than 10 per centum of the amount allotted under paragraph (1) of this subsection may be used for the costs of auditing activities and other administrative activities.

"(3) The remainder of the amount allotted under paragraph (1) of this subsection to each State shall be used for programs and activities described in section 8(b).

"(d) The remainder of the amount allotted to each State shall be allocated by the Governor or legislatively designated State agency among service delivery areas within the State on the basis of the relative number of individuals in the civilian labor force in each service delivery area within the State compared to the total number of such individuals within the State.

"SEC. 7. (a) Plans for service delivery areas shall be prepared, in consultation with the designated State employment security agency, by the private industry council established under the Training for Jobs Act. In any case in which there is no private industry council for a service delivery area, the employment service delivery area plan shall be prepared in cooperation with an official designated by the Governor.

"(b) each service delivery area plan under this Act shall contain—

"(1) a proposed description of employment services and programs to be provided;

"(2) the priorities for providing services in addition to those required for veterans, but such priorities shall not deny referral services to any category of individuals;

"(3) the proposed budget for the program year, including resources planned for application of the work test; and

"(4) expected performance accomplishments and a comparison with the performance of the previous year.

"(c)(1) Each plan for a service delivery area shall be forwarded to the State office of the employment service agency for use in developing the consolidated State plan.

"(2)(A) The State shall prepare a consolidated State plan for carrying out the provisions of this Act within the State.

"(B) Each consolidated State employment service plan shall contain—

"(i) a description of the use of funds allotted to the State; and

"(ii) a composite of approved plans for service delivery areas within the State providing a statewide description of employment services to be provided.

"(3) Each consolidated State plan shall be submitted to the Secretary. If the plan conforms to the provisions of this Act and is reasonably appropriate and adequate to carry out the purposes of this Act, the Secretary shall approve the plan within thirty days after the plan is submitted.

"SEC. 8. (a) Funds allotted to a State for employment services and allocated to a service delivery area shall be used for—

"(1) job finding and placement services for jobseekers, including unemployment insurance claimants and veterans;

"(2) appropriate recruitment services for employers with vacancies;

"(3) employment counseling, testing, job development, and other employment services for jobseekers;

"(4) special technical services for employers; and

"(5) preparing the service delivery area plan.

In determining the use of funds, priority shall be given to local employee and employer needs.

"(b) Amounts available to States under section 6(b)(3) may be used for—

"(1) evaluation of programs;

"(2) developing linkages between services funded under this Act and related programs funded under related Federal or State legislation;

"(3) providing services for workers who have no reasonable prospect of returning to the occupation or industry from which they have been laid off;

"(4) developinig and providing labor market and occupational information;

"(5) developing a management information system and compiling and analyzing reports therefrom;

"(6) providing incentives to reward superior performance in service delivery areas; and

"(7) supplementing services authorized under this Act in service delivery areas.

"(c) The Secretary is authorized to establish performance standards which shall take into account the differences in priorities reflected in State plans.

"(d)(1) No funds paid under this Act may be used for advertising in newspapers for jobs paying more than twice the minimum wage established under the Fair Labor Standards Act of 1938 unless the job is part of a State industrial development effort to encourage new business concerns to locate in the State or to assist an existing business to expand within the State.

"(2) Nothing in this Act shall be construed to prohibit the referral of any applicant to private agencies as long as the applicant is not charged a fee.

"(3) Funds allocated for employment service use in any State and service delivery area under this Act shall be administered in accordance with the approved plan.

"(e) In addition to the services described in the consolidated State employment service plan, the State may perform such other labor market related services as are specified in reimbursable contracts with the Secretary.

"SEC. 9. (a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under this Act. The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidance for the proper performance of audits. Such guidance shall include a review of fiscal controls and fund accounting procedures established by States under this section.

"(2) At least once every two years, the State shall prepare or have prepared an independent financial and compliance audit of funds received under this Act.

"(3) Each audit shall be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities and Functions issued by the Comptroller General of the United States.

"(b)(1) The Comptroller General of the United States shall, on a selective basis evaluate the expenditures by States of funds received under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of the State in accomplishing the purposes of this Act. The Comptroller General shall conduct the evaluations whenever he determines it necessary and he shall periodically report to the Congress on the findings of such evaluations.

"(2) Nothing in this Act shall be deemed to relieve the Inspector General of the Department of Labor of his responsibiiities under the Inspector General Act.

"(3) For the purpose of evaluating and reviewing programs established or provided for by this Act, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs that are in the possession, custody, or control of the State.

"(c)(1) Every State shall repay to the United States amounts found not to have been expended in accordance with this Act. The Secretary may offset such amounts against any other amount to which the recipient is or may be entitled under this Act unless the Secretary determines that such State should be held liable pursuant to paragraph (2).

"(2) Each State shall be liable to repay from funds other than funds received under this Act upon a determination that the misexpenditure of funds was due to willful disregard of the requirements of this Act, gross negligence, or failure to observe accepted standards of administration. No such finding shall be made except after notice and opportunity of a fair hearing.

"SEC. 10. (a) Each State shall keep records that are sufficient to permit the preparation of reports required by this Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully.

"(b)(1) The Secretary may investigate such facts, conditions, practices, or other matters which the Secretary finds necessary to determine whether any State receiving funds under this Act or any official of such State has violated any provision of this Act.

"(2)(A) In order to evaluate compliance with the provisions of this Act, the Secretary shall conduct, in several States, in each fiscal year investigations of the use of funds received by States under this Act.

"(B) In order to insure compliance with the provisions of this Act, the Comptroller General of the United States may conduct investigations of the use of funds received under this Act by any State.

"(3) In conducting any investigation under this Act, the Secretary or the Comptroller General of the United States may not request any information not readily available to such State.

"(c) Each State receiving funds under this Act shall—

"(1) make such reports concerning its operations and expenditures as shall be prescribed by the Secretary, and

"(2) prescribe and maintain a management information system designed to facilitate the compilation and analysis of programmatic and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes.".

TITLE V—DISLOCATED WORKERS

AUTHORIZATION; ALLOTMENT

SEC. 501. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) Funds appropriated under subsection (a) in each fiscal year shall be allotted among the States on the basis of the relative number of long-term unemployed persons within the State compared to the total number of such persons in all States in accordance with the provisions of section 101(b)(3)(A).

(c) The Secretary is authorized to reallocate any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to use such amount within a reasonable period of time.

(d) For the purpose of this title, the term "State" includes the several States and the District of Columbia.

IDENTIFICATION OF DISLOCATED WORKERS

SEC. 502. (a) Each State is authorized to establish procedures to identify substantial groups of workers who—

(1) have been laid off from their employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupations;

(2) are employed in operations or establishments which the employer has determined to shut down on a permanent basis; or

(3) encounter long-term unemployment, or have become discouraged, and may have substantial barriers to employment by reason of age.

(b) The State may provide for the use of the private industry councils established under title I of this Act to assist in making the identification established under subsection (a).

(c)(1) Whenever a group of workers is identified under subsection (a), the State, with the assistance of the private industry council, shall determine what, if any, job opportunities exist within the local labor market area or outside the labor market area for which such workers could be retrained.

(2) The State shall determine whether training opportunities for such employment opportunities exist or could be provided within the area.

(d) Whenever training opportunities pursuant to subsection (c) are identified, information concerning the opportunities shall be made available to workers. The acceptance of training for such opportunities shall be deemed to be acceptance of approved training within the meaning of any other provision of Federal law relating to unemployment benefits.

PROGRAM ELEMENTS

SEC. 503. (a) Subject to the provisions of subsection (b), financial assistance provided to States under this title may be used to pay 50 per centum of the cost of assisting workers identified under section 502 to obtain unsubsidized employment through job training and related services. Such training and services may include but are not limited to—

(1) job search assistance;

(2) job development;

(3) training in job skills for which demand exceeds supply;

(4) supportive services;

(5) relocation assistance; and

(6) programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of plant closures.

(b)(1) Whenever the average rate of unemployment for a State is higher than the average rate of unemployment for all States, the financial assistance described in subsection (a) to such State for that fiscal year shall be increased by 10 per centum for each 1 per centum, or portion thereof, by which the average rate of unemployment for that State is greater than the average rate of unemployment for all States.

(2) The Secretary shall determine the average rate of unemployment for a State and the average rate of unemployment for all States for each fiscal year on the basis of the most recent twelve-month period prior to that fiscal year.

LOCAL PARTICIPATION

SEC. 504. Every State receiving funds under this title shall give an opportunity to applicants to apply for funding of locally developed projects to carry out the provisions of this title.

CONSULTATION WITH LABOR ORGANIZATIONS

SEC. 505. Any assistance program conducted with funds made available under this title which will provide services to a substantial number of members of a labor organization shall be established only after full consultation with such labor organization.

LIMITATIONS

SEC. 506. (a) Not more than 30 per centum of the funds available under this title in any State shall be available for supportive services and cost of administration.

(b) No Federal funds under this title shall be used for paying wages, allowances, or stipends.

TITLE VI—COORDINATION OF JOB TRAINING ACTIVITIES

USE OF PRIVATE INDUSTRY COUNCILS

SEC. 601. No provision of any Federal law shall be construed to prohibit the use of a private industry council established under title I of this Act from being used for planning for, or advising on, programs under the Vocational Education Act of 1963, the Rehabilitation Act of 1973, or any other Federal law relating to employment or training.

ADVISORY COUNCILS

SEC. 602. (a) Notwithstanding any other provision of law, a Governor may combine two or more advisory councils whose functions relate to employment or training or use one such council to perform the functions of more than one such council if—

(1) the combined council meets the essential elements regarding composition of all the councils subject to the consideration or use carried out under this title; or

(2) a council performing any additional function meets the essential elements regarding composition of the council whose functions it is performing.

(b)(1) The Governor of any State wishing to merge or expand the use of an advisory council under subsection (a) shall give public notice of the intention to do so. The notice shall include the composition of the new or expanded council and its proposed functions.

(2) The notice required by paragraph (1) shall be transmitted to the head of each Federal department or agency having responsibility for the laws governing the advisory councils subject to the merger or expansion. The head of each such department or agency shall approve such new or expanded use unless he finds, for good cause shown, that such expanded council will not meet the essential purposes of the applicable Federal law. Any adverse decision by the head of a department or agency may be appealed to the Director of the Office of Management and Budget or to the head of any other agency designated by the President.

PERFORMANCE OF SERVICES BY STATE AGENCIES RECEIVING FEDERAL ASSISTANCE FOR TRAINING

SEC. 603. (a) Subsection (a) of section 7 of the Act of May 21, 1920 (commonly known as the Economy Act; 31 U.S.C. 686) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The provisions of paragraph (1) of this subsection (except the provisos of such paragraph) shall be applicable to any State agency receiving Federal financial assistance for job training or related programs, as designated by the Governor of the State or the Mayor of the District of Columbia.".

(b)(1) Each State agency may contract with any other State agency to perform the services for which Federal assistance for job training or related programs is received if the Governor determines that such a contract will promote efficiency of operation.

(2) For the purpose of this subsection the term "State" includes the several States and the District of Columbia.

TITLE VII—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

AUTHORIZATION OF APPROPRIATIONS; ALLOCATION

SEC. 701. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b)(1) From the funds appropriated under subsection (a), the Secretary shall first allocate to areas listed in section 101(b)(2) and to entities eligible under part A of title II the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

(2) The remainder of sums appropriated pursuant to subsection (a) shall be allocated among States in accordance with section 101(b)(3) and suballocated among service delivery areas within States in accordance with section 101(c)(1).

USE OF FUNDS

SEC. 702. Funds available under this title may be used for—

(1) basic and remedial education, institutional and on-the-job training, work experience programs, employment counseling, occupational training preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, and any other employment or job training activity designed to give employment to eligible persons or prepare them for, and place them in, employment; and

(2) supportive services necessary to enable such persons to participate in the program and to assist them in retaining employment for not to exceed six months.

LIMITATIONS

SEC. 703. (a) Programs under this title shall be conducted during the summer months.

(b) Individuals eligible under this title shall be economically disadvantaged persons under the age of twenty-two.

APPLICABLE PROVISIONS

SEC. 704. Private industry councils established under title I, local elected officials, State job training councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this title as private industry councils, local elected officials, State job training councils, and Governors done for funds available under title I.

TITLE VIII—COMMUNITY SERVICES PROGRAM

AUTHORITY TO DESIGNATE A NEW AGENCY

SEC. 801. Section 682(b)(4) of the Community Services Block Grant Act (42 U.S.C. 9911(b)(4)) is amended—

(1) by inserting "(A)" after "(4)";

(2) by inserting "or to entities designated under subparagraph (B)" before the period at the end thereof; and

(3) by adding at the end thereof the following new subparagraph:

"(B) (i) In any case in which a community action agency is denied refunding or is terminated for cause by the Secretary during fiscal year 1982 (regardless of whether such community action agency seeks review of such determination), the Secretary, with the concurrence of the chief executive officer of the State involved, may designate another public or private nonprofit agency to administer a community action program (as defined in section 210(a) of the Economic Opportunity Act of 1964, as in effect on September 30, 1981) in the same community.

"(ii) If, after the Secretary makes a designation under clause (i) and before the State involved begins operating programs under the block grant established in this subtitle, a final determination is made to restore funding to the community action agency which was terminated or whose refunding was denied, then the agency designated under clause (i) shall lose its designation (as of the effective date of such final determination).

"(iii) Notwithstanding the foregoing provisions of this section, if the Secretary makes a designation under clause (i), then the agency so designated shall be considered to be an eligible entity for purposes of this subtitle through fiscal year 1983.".

Mr. QUAYLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the name of the Senator from Minnesota (Mr. DURENBERGER) be added as a cosponsor of S. 2036.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNITY SERVICE EMPLOYMENT FOR LOW-INCOME ELDERLY AMERICANS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Resolution 340, which will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 340) to express the sense of the Senate that no action be taken to terminate or otherwise weaken the community service employment program under title V of the Older Americans Act of 1965.

EMPLOYMENT FOR ELDERLY AMERICANS

Mr. ROBERT C. BYRD. Mr. President, last year, the Congress demonstrated its strong support for the title V employment program under the Older Americans Act, in a 3 year reauthorization. Just 12 months later, this February, the administration proposed eliminating the program.

The resolution before the Senate today expresses the sense of the Senate that no action be taken to terminate or otherwise weaken the community service employment program.

I introduced to this resolution, Senate Resolution 340, last March. Since that time, 33 Senators have joined as cosponsors, including Members from the other side of the aisle. A similar measure has since been introduced in the House and more than 200 Members have cosponsored it.

We now have a chance to demonstrate the Congress' strong support for the community service employment program. We need to reaffirm our support for this program.

Title V provides about 54,000 part-time jobs nationwide for low-income elderly Americans. A majority of program participants are elderly women. An overwhelming majority provide vital community services in public hospitals, day care centers, libraries and senior citizen centers. Many provide services for other senior citizens. Most participants have below poverty level incomes.

The administration has proposed that the community service employment program be eliminated. In its place, the administration has proposed job training block grant, with sharply reduced funding. In the block grant, senior citizens would vie for employment with migrant workers, displaced homemakers, Indians and other groups for training and employment opportunities. The title V program is not a job training program: It is a community service employment program targeted for low-income elderly workers.

The Labor and Human Resources Committee has rejected the administration's approach to the community service employment program under title V of the Older Americans Act. The committee has unanimously voted to report the pending resolution strongly supporting the program. I wish to thank the distinguished Senator from Missouri (Mr. EAGLETON) for his leadership in guiding the resolution through committee. As ranking member of the Aging Subcommittee of Labor and Human Resources, Senator EAGLETON has shown sensitive concern and significant leadership on critical issues affecting aging Americans.

There are about 690 senior citizens employed in community service jobs at minimum wage in West Virginia, and I have heard from many of them. The following is an excerpt from a letter received from one of my constituents in the southern part of West Virginia, which is representative of the concerns that have been expressed to me:

I am 78 years old and the chances of me finding another job if this program is discontinued are very slim, and near zero percent. I am retired on social security and receive only $296 per month. My living expenses are as follows: $100 a month for rent, $100 a month for utilities (in the winter months my utilities run as high as $250 monthly), plus money for groceries, plus $50 a month on health insurance premiums, plus money for personal needs. My wife is diabetic and disabled, and has to buy a lot of medicine and has large medical expenses. Both my wife and I require special diet foods. I have explained this to help you realize that should this program be discontinued, I would be unable to make it financially on the social security payment of $296 a month, as living expenses far exceed this amount.

These are proud people who bring a lifetime of experience and a wealth of understanding to the individuals they serve. Frankly, these people are hard pressed to make ends meet even with their jobs. To eliminate the senior jobs program would simply force working elderly citizens onto the welfare rolls. Any savings that would be assumed by eliminating this program would be borne by another. Further, the administration is proposing cutbacks in special nutrition programs for the elderly, supplemental security income, and medicare and medicaid programs. How will these people be able to survive?

I cannot support the termination of a program that provides self-sufficiency to individuals that have worked long and hard all of their lives—and continue to work—only to find that their "Golden Years" have turned to dross, and that they must swallow their pride, lose their independence, and turn to welfare in order to survive, this is a sad commentary for a nation such as ours, and I will not be a part of this action.

Mr. QUAYLE. I yield myself 1 minute.

Mr. President, I support this resolution expressing the sense of the Senate that no action be taken to terminate or otherwise weaken the community service employment program under title V of the Older Americans Act of 1965.

Title V provides a much-needed boost to the employment of our older Americans around the country. In my own State of Indiana, more than 1,000 older Americans are employed in productive, useful jobs around the State.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. KENNEDY. Mr. President, I urge the Senate to accept the resolution offered by the Senator from West Virginia (Mr. ROBERT C. BYRD.)

This is an extremely important program, not only for senior citizens but also for the people they serve.

Our Committee on Labor and Human Resources has evaluated this program time in and time out and finds that it is extraordinarily important for the communities and for the individuals involved in it.

I was the original author of title V of the Older Americans Act in 1968.

This program employs over 50,000 senior citizens in constructive and useful activities in communities across this country.

These men and women work as aides in community centers, as drivers for the Meals on Wheels program, as counselors for the elderly on issues of critical concern such as social security and housing. They work in day care centers, and hospitals and provide a range of other important services to the less fortunate in our society.

This program has always been extremely important to the senior citizens of Massachusetts and I strongly opposed the administration's plans to abolish it.

Nothing could be more foolish or shortsighted. I am pleased therefore that the Senate has chosen to go on record in support of maintaining this important program.

I commend the minority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Massachusetts (Mr. KENNEDY).

Mr. RANDOLPH. Mr. President, will the minority leader yield?

Mr. ROBERT C. BYRD. I yield to my senior colleague from West Virginia.

Mr. RANDOLPH. Mr. President, the action now being taken under the leadership of the minority leader, Sen-

ator ROBERT C. BYRD, and others, including those of us who are members of the Committee on Labor and Human Resources, is nonpartisan effort. It gives us the opportunity to commit ourselves again to a program for the older citizens of America, for those who even at the years that are called advancing, are able to do constructive work within the communities where they live, helping others of their age brackets and some older and some younger.

It is practical, it is needed, and it reflects a spirit of cooperation within this body that we adopt Senate Resolution 340 today.

Expressing the sense of the Senate that we will continue to support title V of the Older Americans Act.

The senior community services employment program funded under title V is a vital effort permitting the able-bodied elderly in their own communities to finds jobs, doing worthwhile work for which they are paid a small stipend to help supplement their meager incomes.

The small payment received by these individuals is not the reason the program is important. It is important because these senior citizens who are able bodied are working to help other seniors who are not, for one reason or another, able to help themselves due to age, illness, or disability. Senior companions assist others in their homes or provide transportation to senior nutrition sites for adequate meals. They also help individuals keep doctors' appointments and get to their local grocery stores, or do their shopping for them.

This program, though authorized under the Older Americans Act, is administered by the Department of Labor. The Labor Department recommended to the President that no funds be made available for title V in fiscal year 1983. The President accepted that recommendation and did not request funds for the program in his budget request.

Passage of this resolution, Mr. President, is important and imperative in order to let our seniors who depend on these jobs and services that they are not forgotten and we will not permit the program to be terminated for lack of funding.

Members of this body from both sides of the aisle are joined together on this resolution in recognition of the seniors who work in these jobs for rewards that are small in terms of money, but loom large in terms of the community services they provide.

Mr. President, when you are on small, fixed incomes as most of the elderly people in this country are today, any dollars earned to supplement that income can mean the difference between eating and not eating. For the people they serve, there is no substitute.

Mr. President, I realize the vote is about to occur on this resolution, and it is my earnest hope that it will be approved overwhelmingly.

Mr. QUAYLE. Mr. President, I yield 1 minute to the Senator from Alabama.

Mr. DENTON. I thank the Senator from Indiana.

Mr. President, I just want to register my previously expressed support, while I was managing the Older Americans Act, for the thrust of this resolution.

I commend the Senator from West Virginia, as well as Senator EAGLETON, the ranking minority member of the subcommittee, for their work in this area. I believe it is a very timely and necessary resolution.

Mr. EAGLETON. Mr. President, I urge all of my colleagues to support this resolution expressing the sense of the Senate that no action be taken to terminate or otherwise weaken the community service employment program under title V of the Older Americans Act.

The administration's fiscal year 1983 budget proposes to eliminate the special part-time jobs program for low-income elderly under title V, a program that, just last year, Congress reauthorized for 3 years at $277.1 million, $296.5 million, and $317.3 million for fiscal year 1982, 1983, and 1984, respectively. The administration proposes that title V be merged into a special target group employment program in which low-income older workers would vie for employment opportunities with migrant workers, displaced homemakers, and Indians, for a total funding level of $200 million.

Obviously, the magnitude of the funding reduction proposed by the administration would mean greater levels of unemployed older workers. It would mean that some of the 100,000 seniors who have benefited from job training and referrals provided through title V employment services will not receive those services. It would mean that communities throughout the country will no longer benefit from the work of these seniors. It would mean that many elderly will lose their self-sufficiency and sense of self-worth.

S. 2036, as reported by the full Labor Committee, rejects the administration's proposal to "fold" title V into the job training bill. But it does contain a special set-aside to place additional emphasis on training older workers. I fully supported that amendment, and commend the Senator from Alabama, Mr. DENTON, for taking a lead in this area. At the same time, I believe it is important that we send a clear signal to the 54,200 low-income elderly employed under the title V program that we are not in any way merging the title V program with this job training bill by adding a little emphasis on older worker training and that we intend to maintain this program in future years at the level necessary to insure that its current 54,200 jobs and its other services are maintained.

Mr. BENTSEN. Mr. President, I am pleased to join Senator BYRD in voting to retain funding for the Community Service Employment program under title V of the Older Americans Act.

Last year 89 Members of the Senate voted to reauthorize the Older Americans Act—including title V—until 1985. As a part of that effort, Senators HEINZ, CHILES and I offered an amendment to encourage the Department of Labor to develop a demonstration program that would move title V workers from public sector positions into private sector jobs. I am heartened to know that the administration shares our concern over implementation of that amendment. Department of Labor Under Secretary Malcolm Lovell recently testified before Senator DENTON's Subcommittee on Aging, Family and Human Services that DOL is:

> • • • moving forward in the development of criteria to be used in insuring that whenever such projects (demonstration programs for placing Title V participants in private sector jobs) are funded, they will include activities such as flextime, job sharing, and other alternative work arrangements that will better accommodate the needs of older workers.

Mr. President, I supported reauthorization of the Older Americans Act and cosponsored the private sector jobs amendment because I believe we must include the elderly of this country in the mainstream of community life. I also believe that we should encourage job placement in the private sector whenever and wherever it is feasible to do so. However, the 54,200 positions funded under title V offer a necessary supplement to private sector employment. In Texas, for example, close to 4,000 elderly individuals from each of our 254 counties now benefit by association with this program. The majority live in rural communities where they work in more than 1,200 host agencies; 48 percent are employed in community projects, 52 percent deliver services directly to the elderly across my State. The average Texas title V participant is between 65 and 70 years of age, has less than an eighth grade education, and lives on $350 or less per month.

If these older workers lose their positions as a result of elimination or reduction in funding for title V, it will be difficult at best for them to find alternative employment. Equally important is the fact that many community programs whose very operation is dependent on the availability of title V workers will be forced to curtail or suspend services altogether. This is an especially serious problem for the senior nutrition sites in rural towns across Texas,

for our libraries, our Head Start programs, and needed home health care.

Mr. President, I urge the Senate to reaffirm its commitment to title V by voting again as we did last year to retain this important and beneficial means of utilizing the many talents of the elderly of this country who want to continue to work.

Mr. CANNON. Mr. President, I am pleased to join an overwhelming majority of my Senate colleagues in voting today for continuation of the community service employment program under title V of the Older Americans Act of 1965.

The administration had wanted to effectively destroy this program under its budget plans for fiscal year 1983. No money was requested for it and its functions would have been shifted into a block grant to compete with other interests and constituencies for severely reduced funding.

The Senate is signaling today that it will not stand by while a vital senior program is dismantled or, at best, fatally weakened.

The part-time work done by thousands of senior citizens nationwide through this program serves our communities and the workers themselves. The title V programs mean opportunity for older Americans to continue working and contributing to society. What this means in increased self-esteem and service far exceeds the relatively small Federal support for this important employment program.

At a time when seniors have been threatened by an insensitive administration, today's Senate action should offer hope. I call upon my colleagues to maintain today's resolve and to resist cutbacks in senior nutrition programs, social security, transportation, medicare, medicaid, and other social programs of benefit to older Americans.

Mr. CHILES. Mr. President, I am pleased to cosponsor this Senate resolution in support of the senior community service employment program. This successful program authorized by title V of the Older Americans Act, employs 2,822 older Floridians and 54,200 senior citizens nationwide. I urge my fellow Senators to go on record in support of this program. A positive vote on this resolution will send a strong message to the White House: we oppose the administration's plans to eliminate funding for the title V program and replace it with a block grant.

I have always been a strong supporter of programs under the Older Americans Act, and took an active role in the reauthorization of the act last year. One item in this legislation which I was very interested in continuing was the senior employment program. This small program provides community service jobs at the minimum wage for low-income older Americans. This program has enabled many needy older Floridians to live independently instead of depending on welfare programs. Many older workers use this program as a stepping stone to nonsubsidized private sector employment. I was very pleased that legislative authority for this program was extended through 1982.

I was shocked and disappointed in February when the President proposed to completely eliminate this program in October. I believe the President's proposal sends all the wrong signals. This plan coupled with his proposal to force employers to pay private health insurance for workers over age 65 and cut medicare coverage is a tremendous disincentive for private enterprises to hire or retain older workers. If the administration continues down this track of providing greater financial incentives for forcing people into early retirement, it is going to put the social security trust funds in even worse shape.

In the present climate of high unemployment and a struggling national economy, it makes no sense to throw 54,200 older Americans out of work. Many presently productive people would be forced to apply for food stamps or other types of assistance. I do not see how this would be a budget savings; in fact, it appears that such an action would only cause the budget deficit to increase.

I urge my colleagues to join me in extending a big vote of confidence to many older Americans across the land by supporting this resolution.

Mr. THURMOND. Mr. President, I am pleased to support this resolution which expresses the sense of the Senate that funding be maintained for the senior community service employment program under title V of the Older Americans Act of 1965.

Mr. President, I have heard from literally hundreds of senior citizens in South Carolina who have found part-time jobs through this beneficial program. Many of these participants are elderly women and minorities who depend on these jobs to supplement their income. This program provides over 700 positions for poor older persons in South Carolina, most of whom would be forced to exist below the poverty level if they lose the jobs provided through this program.

The senior community service employment program has proven to be cost effective in providing employment opportunities to persons who would not otherwise find jobs in the private sector, especially during this economically troubled period. If this program is discontinued, many senior citizens who have heretofore been productively employed under title V will find it necessary to apply for unemployment compensation, welfare, medicaid, and food stamps. The net effect will be increased cost to the Federal Government in those various assistance programs.

Mr. President, for these reasons, I believe it is important that we maintain a reasonable level of funding for this program, which is helpful to the older Americans of this Nation who wish to work, stay active, and independent of Government handouts.

Mr. ROBERT C. BYRD. I yield back the remainder of my time, Mr. President.

Mr. QUAYLE. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ANDREWS). All time having been yielded back, the question is on agreeing to the resolution. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Georgia (Mr. MATTINGLY) is absent due to illness.

I further announce that, if present and voting, the Senator from California (Mr. HAYAKAWA) and the Senator from Georgia (Mr. MATTINGLY) would each vote "yea".

MR. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from Montana (Mr. MELCHER) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER) would vote "yea".

The PRESIDING OFFICER (Mr. KASTEN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 6, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—89

Abdnor	Eagleton	Metzenbaum
Andrews	Exon	Mitchell
Armstrong	Ford	Moynihan
Baker	Garn	Murkowski
Baucus	Glenn	Nunn
Bentsen	Gorton	Packwood
Biden	Grassley	Pell
Boren	Hart	Percy
Boschwitz	Hatch	Pressler
Bradley	Hatfield	Proxmire
Brady	Hawkins	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Hollings	Riegle
	Huddleston	Roth
Byrd, Robert C.	Humphrey	Rudman
Cannon	Inouye	Sarbanes
Chafee	Jackson	Sasser
Chiles	Jepsen	Schmitt
Cochran	Johnston	Simpson
Cohen	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Kennedy	Stennis
DeConcini	Laxalt	Stevens
Denton	Leahy	Thurmond
Dixon	Levin	Tower
Dodd	Long	Tsongas
Dole	Lugar	Wallop
Domenici	Mathias	Warner
Durenberger	Matsunaga	Zorinsky

NAYS—6

East	Helms	Nickles
Goldwater	McClure	Symms

NOT VOTING—5

Cranston	Mattingly	Weicker
Hayakawa	Melcher	

So the resolution (S. Res. 340) was agreed to, as follows:

S. RES. 340

Whereas the Senate unanimously reauthorized the Older Americans Act of 1965 last year to provide funding through fiscal year 1984;

Whereas the administration is proposing that the community service employment program for older Americans under title V of the Older Americans Act of 1965 be eliminated;

Whereas loss of the community service employment program will severely impact on the ability of local agencies to provide other services funded under the Older Americans Act of 1965;

Whereas the community service employment program under title V provides about fifty-four thousand part-time jobs nationwide for low-income older Americans;

Whereas 65 per centum of all participants in the community service employment program are elderly women; and

Whereas most participants in the community service employment program have incomes below the poverty level: Now, therefore, be it

Resolved, That it is the sense of the Senate that no action be taken to terminate or otherwise weaken the community service employment program under title V of the Older Americans Act of 1965.

Mr. QUAYLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. QUAYLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIME CONTROL ACT OF 1982

Mr. HEFLIN. Mr. President, it is my understanding that the Senate is contemplating proceeding to consider the bill S. 2572, a bipartisan crime bill that has been worked on by a number of Senators, a measure proposed with the idea of strengthening the procedural and substantive laws of the Federal Government pertaining to crime, and primarily violent crime.

This particular bill was written before the Hinckley verdict. The finding by the jury of not guilty by reason of insanity in the Hinckley case has caused a tremendous amount of discussion and debate to take place in the United States, in law schools and intellectual circles, in professional groups, and in the Congress of the United States.

We have had two hearings in the Judiciary Committee dealing with insanity, and a number of hearings are scheduled in the future.

The language in this proposed S. 2572 dealing with insanity and people who may claim the insanity defense, was all written before the Hinckley trial arose.

There are a number of issues which have arisen as a result of the debate and the discussion of the Hinckley matter which were not considered.

If we were to proceed to this bill and to pass it, we would be doing so without really receiving the benefit of the thinking of many people who are just now reviewing the realtionship of insanity to the criminal justice system.

These bills, now on the calendar, were all written before the Hinckley trial came up. There have been issues raised that will be considered in hearings in the near future by the Committee on the Judiciary. These hearings will deal with the defense which is now being considered by some of the States, which is known as guilty but insane, or guilty but mentally ill. So the hearings in the future will be dealing with matters which some of our States may have already reviewed.

The proposed legislation did not consider any of that. It did not have any hearings pertaining to it. This proposed legislation has a new standard dealing with insanity in which, in section 4242(a), insanity defense. It reads:

It is a defense to a prosecution under any Federal statute that the defendant, as a result of mental disease or defect, lacked the state of mind required as an element of the offense charged. Mental disease or defect does not otherwise constitute a defense.

We have had a little bit of testimony on this mens rea defense. The testimony thus far is that it may produce a bonanza for defense lawyers.

At one of the hearings, it was pointed out that if we would look at the crime of murder, murder has many states of mind. One element that has to be proved is malice. If it is going to be murder in the first degree, there is the necessary element of premeditation.

There are also, in all types of criminal cases, various elements of state of mind that must be found and proven.

Suppose that there were a case in which a person was charged with murder in the first degree. The defense lawyers would say, "All right, we shall try to reduce that to manslaughter so we will interpose an insanity defense, as it will be applicable to the issue of malice." Therefore, we would have the case where the defense lawyers might not say the insanity defense goes to the full issue or to the full question of guilt, but only as to whether it is manslaughter versus murder. If such a situation were to occur, I am afraid it could make a mockery of our criminal justice system. It could cause lawyers to have field days in regard to various elements.

In my judgment, Mr. President, the Senate should not proceed at this time to the passing of laws dealing with insanity defenses, insanity provisions, and related procedural matters, until there has been thorough and careful study made through the Judiciary Committee hearings. It is my feeling that this is a very important matter. It is one that we ought not to rush into because of emotion. It is one that ought to be considered very carefully. Therefore, I feel that I am going to have to object to the taking up of the measure, S. 2572, unless we have an understanding that we will not go into the issue of insanity.

I think this is a very complicated matter. The issue has arisen regarding the burden of proof in insanity defenses. Under the provision in this measure, you continue with the burden of proof being upon the prosecution to prove beyond a reasonable doubt that the defendant is insane.

There have already been bills introduced. There have been hearings on this and further hearings are scheduled.

There is the issue of plea bargaining. Under the method proposed in S. 2572, it could open wide the issue of "state of mind" for plea bargaining, with the idea that you could have plea bargaining to reduce something down to manslaughter as opposed to first-degree murder with the element of the state of mind, or mens rea, brought up.

I say again that this issue, in my judgment, should be carefully studied. The ramifications go in a lot of different directions. The type of verdict that is rendered also has an effect upon the punishment, and it has an effect upon treatment. All of these are matters that have not been considered in light of Hinckley.

We have had two hearings. We are even scheduled to have the prosecutors in the Hinckley case come before the Committee on the Judiciary in the near future.

Mr. President, this matter dealing with insanity was written before Hinckley. It does not allow for the questions that have been raised since Hinckley to be considered. That interrelationship was not involved and thoroughly considered. Therefore, in my judgment, we should not proceed with this bill if it is going to deal with the issue of insanity until the hearings are finished in the Senate Committee on the Judiciary.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I have great respect for the distinguished Senator from Alabama. However, I am deeply concerned about the objection he has raised, which may cause us to withdraw the change in the insanity defense in the present law. I have talked to a lot of people on this subject, a lot of lawyers and others, and we got an opinion from the Attorney General about the mens rea defense, which we are substituting in this bill for the present law on that subject. I wish to read this letter to the Senate.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., July 1, 1982.

Hon. HOWARD H. BAKER, Jr.,
Majority Leader, U.S. Senate, Washington, D.C.

DEAR SENATOR BAKER: This is to reiterate the strong support of the Administration for S. 2572, the Violent Crime and Drug Enforcement Improvements Act of 1982, and specifically for Title VII which we believe is the most effective and appropriate means of reforming the insanity defense.

In summary, this proposed reform of the present insanity defense would strictly limit sanity issues which may be raised at trial to those bearing upon the one truly relevant mental element involved in every criminal prosecution: whether the defendant had the mens rea or legal state of mind necessary for the offense. With respect to a prosecution for murder, the state-of-mind element of the offense is whether the defendant knowingly and intentionally took a human life. Under the mens rea approach, psychiatric testimony to the effect that the defendant did not know right from wrong or was acting in response to an irresistible impulse would be irrelevant and inadmissible during the guilt determination phase of a criminal trial. Of course, such evidence could be admitted during the sentencing stage if the defendant is found guilty.

By limiting the insanity defense to the one truly legal issue, we would avoid the miscarriages of justice and the gross deviations from basic rules of semantics which occur when a defendant is found "not guilty by reason of insanity" even where it is clear that he committed the offense and had the requisite legal state of mind. This, we believe, is the cause of the recent outpouring of public outrage over the verdict in the Hinckley case.

Adoption of the mens rea approach would also avoid the unseemly "battle of psychiatric experts"; the waste of judicial, prosecutorial, and medical resources and the unfairness arising from the present insanity defense procedure. On this last point, present law favors well-to-do over economically disadvantaged defendants. Furthermore, limitation of the insanity defense to the one legal issue—mens rea—avoids the necessity of further complicating the law by shifting the burden of proof or by reducing the standard of proof; in fact, the government must always, under our constitution, bear the burden of proof beyond a reasonable doubt as to the state of mind element of every criminal offense.

In short, we believe that reform of the insanity defense is urgently needed to restore public confidence in the criminal justice system. Although there are many different reform proposals pending before the Congress, some of which may have superficial appeal, we believe the mens rea approach embodied in Title VII of S. 2572 is the most effective, fair and sound approach to reforming the insanity defense. Moreover, this proposal is the same basic insanity defense reform reviewed at great length by this and previous Congresses and endorsed by this and previous Administrations. Clearly this proposal is a well thought out and considered approach—not an emotional response to the public furor over the decision in the recent case of *United States* v. *Hinckley*. We are confident, therefore, that careful scrutiny of Title VII of S. 2572 will reveal that Title VII of S. 2572 merits the prompt approval of the Congress.

Sincerely,

WILLIAM FRENCH SMITH,
Attorney General.

Mr. President, of course, any Senator has a right to object to a bill coming up. I want to say, though, that I am deeply concerned about crime in this country. There is a robbery committed every 1 minute in this country. There is a rape committed every 6 minutes in this country. There is a murder committed every 23 minutes in this country. Are we going to stand idly by and not take steps to protect the public? Are we going to let the criminals continue their rampage and bring about suffering to innocent people? This bill needs to be taken up now. It has been put off and put off, and now is the time for this bill to come up.

So far as the insanity plea is concerned, I would hope the Senator would not object to the bill coming up with a provision that the Attorney General and many other people have endorsed and which is felt by many to probably be the best solution. It may not be. Others have good ideas, too. There are bound to be other solutions. The distinguished and able Senator from Alabama could offer any proposal he wishes to in substitute of this particular proposal if he would like to do so. I hope he will not object to the bill coming up with a change in the insanity defense as provided in the bill.

I should like to ask him if he would consider just offering amendments when we reach that section of the bill?

Mr. HEFLIN. No, I would not. I am going to have to object to the bill coming up unless we remove all elements dealing with insanity. I do not know at this stage what amendments I would offer. I want to have hearings. I want to be advised. There were Senators this morning in the same position. They wanted to have further study. I think it is a matter that we ought not to rush into. This bill can come up right after the recess. We are at the last hour of the day before the recess is going to take place.

I am a cosponsor of this bill. I believe in everything that the Senator said about crime, but I cannot stand idly by and see us adopt standards and procedures that were written before Hinckley that may provide a field day for turning criminals loose. This I cannot do. Let me explain. There is a danger, when you are trying to establish mens rea, or state of mind, because mens rea can be divided into numerous fragments. If one of those fragments is not there, the prosecution's case may fall apart. We might be setting up a defense that is like a jigsaw puzzle: One little part of that jigsaw puzzle is absent and the defendant is turned loose, or the jury may have to find him not guilty of first-degree murder or second-degree murder or manslaughter in the first degree.

I am saying that a mens rea test be studied. It may be correct. but from looking at this at the present time I believe it is a trap door to turn criminals loose. And it will be a field day for defense lawyers. I think that we have to be careful about what we do. There is nothing in this type of bill that prohibits plea bargaining. There is nothing in this measure that relates itself properly to these defenses. The issue of guilty but insane or the issue of guilty but mentally ill has not been considered. And now there is a lot of discussion. I do not know whether it is good or bad. I want to hear it. I want to hear the experts. I cannot, at this stage, in a matter of emotion, sit back and see us adopt something that is going to have the reverse effect of what we intend. I cannot sit back and see us adopt a measure that means more and more criminals will be turned loose.

Under this proposed standard, I can see that in almost every criminal trial in the future of this country there is going to be a plea of not guilty by reason of insanity as to the state of mind, that is, regarding malice. What are the various fragments of the jigsaw puzzle that come together to present the state of mind? Burden of proof is one. Without the burden of proof being changed, from what it is at the present time, I frankly say that we are opening ourselves up to a situation where many guilty people will go free. There will be thousands of Hinckleys running loose under the standard that could possibly come from an interpretation of this language by some liberal judges. It is a dangerous situation. I think the tracks are greased in this regard. The Senate is going to pass this bill. If I agree to the inclusion of this section, it means that we will have this insanity language that was written prior to Hinckley when we have not had the benefit of debate, discussion, and the intellectual plowing of new ground in consideration of these issues. Therefore, I

object unless we remove these insanity phases from this proposed bill.

Mr. THURMOND. As I stated, there may be other solutions in this matter. On the other hand, the Attorney General of the United States, the Justice Department, this administration, and many others feel that the test that was placed in this bill is a sound test and, as they said, fair and effective.

However, it the Senator from Alabama is going to object to taking up the entire package, we will be forced either to not go forward with the bill at all or to delete this title VII on the insanity defense and take it up at a later date.

Is the Senator willing to go forward if we delete from the bill title VII, which refers to the insanity defense?

Mr. HEFLIN. Is it not just the defense. My position is this: I will not object to the bill coming up if all provisions of this proposed bill dealing with insanity, procedure, and otherwise are removed.

Mr. THURMOND. That is title VII.

Mr. HEFLIN. If that is title VII, I have not had an opportunity to study it, and that is the reason I am objecting, because I want more of an opportunity to study it. If the insanity provisions are taken out, that is agreeable to me.

Mr. THURMOND. Of course, this bill has been on the calendar for weeks and weeks, and Senators have had time to study it, if they saw fit to do so.

Mr. HEFLIN. Will the Senator tell me what title VII says?

Mr. THURMOND. If the Senator is objecting to taking it up on account of the change in the insanity provision, we will delete that from the package, so that we can go forward.

Mr. HEFLIN. Yes, if we can do that, it will be agreeable.

Mr. THURMOND. That is title VII.

Mr. HEFLIN. Does title VII cover the whole thing?

Mr. THURMOND. I understand that the majority leader and the minority leader want to be here when we take up this matter, so I suggest the absence of a quorum at this point, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATHIAS). Is there objection? Without objection, it is so ordered.

THE COASTAL BARRIER RESOURCES ACT

Mr. KASTEN. Mr. President, today I am proud to cosponsor Senate bill 1018, the Coastal Barrier Resources Act, and uge my colleagues actively to support it.

This legislation serves two important interests. First, it protects our Nation's remaining unspoiled natural resources. The natural beauty and wildlife habitat provided by the 2,500 miles of barrier shoreline require a Federal policy aimed at protecting these resources rather than the current policy which subsidizes development. More than 20 endangered or threatened species find habitat on coastal barriers. These include the bald eagle and the peregrine falcon, as well as the whooping crane, Eastern brown pelican, and sea turtles.

Second, S. 1018 prohibits new Federal expenditures and Federal financial assistance for development of barrier islands. At present, Federal tax dollars encourage development of presently undeveloped areas and then perpetuate that development by providing extensive disaster relief and rebuilding assistance in the aftermath of hurricanes and other storms.

S. 1018 is commonsense legislation which should be passed by Congress and signed into law. There is no logical reason for the Federal Government to be subsidizing the development of coastline which is so vulnerable to storms and hurricanes. Yet, what do we see?

We find coastal barriers being developed at a rate of 5,000 to 6,000 acres per year. The cost to the Federal Government for this subsidy over the past 6 years is estimated by the Department of Interior to be $800 million. This money has been used not only to develop barrier islands, but also to redevelop them after storms.

It is essential that Congress stop this subsidy. Last year, an important step in reversing the coastal subsidy policy took place when Congress included in the Omnibus Budget Reconciliation Act provisions which prohibited the sale of Federal flood insurance for new construction on undeveloped barrier islands after October 1, 1983. However, Congress must take the next step by enacting S. 1018 into law as soon as possible.

Secretary of Interior James Watt has stated that the present value of Federal expenditures on undeveloped coastal barriers over the next 20 years could cost the American taxpayer from $5.5 billion to $11 billion for initial construction, depending on the degree of development. If S. 1018 is enacted, that translates into a costs savings to the Federal Treasury of at least $250 million per year.

Mr. President, this entire issue can be summed up with one statement: At a time of widespread cutbacks in essential government services, can we afford to subsidize the seaside second homes of a select few? I think not, and I urge my colleagues to join me in supporting S. 1018.

THE CENTURIONS MOVEMENT

Mr. CHILES. Mr. President, many in this body have expressed their concern for the lives of the unborn, and rightly so. But few of us have expressed our concern for the continued vitality of the other extreme in our lifespan—the elderly. Many of our elderly citizens are confined to nursing homes, boarding houses, other institutions, or are isolated in their own homes. As people grow older, some suffer declining health, the loss of loved ones and friends, loneliness, excruciating boredom, and fear. They sit alone and wait out the long days and nights until they die.

In Florida, someone has acted to aid and comfort these elderly persons and help them through what is perhaps the most difficult period in their lives. Monsignor John McNutly, pastor of St. Mary's Roman Catholic Church in St. Petersburg, started a program several months ago called the Centurions. This program sends older volunteers and others to visit the elderly and convince them that their life is worth living. The Centurions have spread their helping hand through 11 counties on Florida's west coast. In many instances, the Centurion ambassador is the only contact that an elderly shut-in has with the outside world.

Of course, we have all heard of similar programs operated by churches and organizations across the country, but the Centurion effort goes farther: This program is designed to combat an alarming trend toward legal euthanasia and suicide. Organizations both in Europe and the United States have recently shown an interest in the legalization of euthanasia and suicide for the terminally ill. Monsignor McNulty and other Centurions worry that suicide might soon be viewed as a duty by older people who have been led to believe that their lives are without value and that they are a burden on society. The key to reversing this bleak attitude is to help restore the elderly person's sense of self-worth. The Centurions are taking on this difficult task.

It is interesting that the Centurions recruit most of their workers among older persons. I have often pointed out to my colleagues the wasteful practice of mandatory retirement and age discrimination. Here in our "throwaway" society we seem to say,"OK; you are 65, you're supposed to retire and not do anything more of significance. Let a young person take over." It is no wonder that some older people feel rejected and worthless, especially after they lose a spouse or suffer a severe illness. We have a great resource in our experienced, capable older Americans who wish to remain active and are willing to work. The Centurions are using these older persons to help their peers who are searching for a reason to continue living. Through

their companionship and counseling, the Centurions provide a valuable service to shut-ins and help them regain their self-respect and dignity.

I urge my colleagues to read the following story about the Centurions movement by Cindy Rose Stiff, which appeared in the Gainesville Sun on June 12, 1982. We must reaffirm our reverence for all stages of life, including the last one.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FLORIDA'S CENTURIANS: "WE CAN'T WAIT FOR ELDERLY TO BE ABORTED"

(By Cindy Rose Stiff)

ST. PETERSBURG.—Margarita Schimmel says she came to Florida to die.

It is not a surprising statement from a retiree who left lifelong friends and moved to the Sunshine State to finish out her life. Seven years later, Mrs Schimmel still is a talkative, storied woman, but until recently, nobody was listening.

"What was I doing with my days? Sleeping. I sleep all night and a lot of the day," she says. "My husband is a retired policeman from Brooklyn, but he works at night at a bank. So . . . I do some reading. But mostly I just sleep."

Mrs. Schimmel is not alone. As science and progress extend life spans, the nation's elderly face a numbing experience: declining health, loss of loved ones and friends, loneliness, boredom, fear, 365 days of watching the clock, 365 nights that fade slowly. If the elderly are not too sick and stashed away in nursing homes, convalescent homes and boarding homes, they often are isolated in their own homes.

In an attempt to do something about it, the pastor of a small church in downtown St. Petersburg started a movement seven months ago that has spread through 11 counties stretching along Florida's west coast. The program, called the Centurians, sends retirees and some mothers and students to visit, aid and comfort the elderly and convince them that life is worth living.

Numerous churches have similar visitation programs, but this one goes further: It is designed as a grass-roots movement to combat what Msgr. John P. McNulty sees as a cultural swing toward euthanasia. He hopes it builds momentum, much as the anti-abortion movement did, and spreads through the nation.

"Look at the nature of this society which is almost totally absorbed with money. All the things you read tell older people to get out of the way, you're holding up traffic, you're finished," says McNulty, pastor of St. Mary's Roman Catholic Church. "A society that finds new life disagreeable or inconvenient is certainly not going to hesitate with the physical wrecks of old age and the mounting expense of those physical wrecks."

McNulty notes that in the last three years there have been growing signs of interest in legitimizing euthanasia and suicide. Several organizations in England and the United States have promoted do-it-yourself guides on suicide for people who want to end it all, and such noted authorities as Dr. Christian Barnard, the South African heart surgeon, have made impassioned pleas for euthanasia and suicide for the terminally ill.

Opponents of those proposals, including McNulty, worry that the right to commit suicide might soon be viewed as a duty by old people who have been led to believe that their lives are without value and that they are a burden on society.

But, says McNulty, "How can we sit around issuing pamphlets against euthanasia, saying 'Tch, tch, it's an awful thing,' when we ourselves are proving the case. We ourselves don't care anything about these old people when they are lonely or sick or fearful."

McNulty is convinced the problem will get worse as federal financing for the poor and the aged dries up. Already churches and synagogues throughout the nation are seeing a resurgent demand for help. "We have hundreds of people we need to check on daily, who need transportation, who need something clean to wear, who need food who have gone helpless. That can happen in the course of a week. People go along fine for years and in the course of a week they can't fix a meal."

That's why McNulty formed the Centurians as part of the Respect Life Committee, probably best known for its involvement in the anti-abortion movement. He enlisted the help of an animated, jolly woman, Arlene Belefonte Diaco of St. Petersburg, who has traveled the west Florida coast rallying people in churches and meeting halls and offering tips on visiting the sick and shut-ins.

It is appropriate that the Centurians seek most of their workers among people aged 55 to 100. Some, much like Mrs. Schimmel, have nurtured families, built careers, erected churches, synagogues and homes and then been told to step aside and retire. Nobody in Florida had ever before asked Mrs. Schimmel to help.

"This is the first welcome I've had after all these years," she said. Mrs. Diaco adds: "We wonder who said to these wonderful 'retired' people to fall down and play dead? Take a good look at these people. They are mothers and fathers, lawyers, laborers, sailors, salesmen, professors."

The monsignor puts it in more religious terms: "Simply because we're old and fat and pensioned off doesn't mean we have been such towering examples of Christian fortitude and dedication that we can retire and throw our most effective years down the drain. So the Centurians enlist this large pool of active, capable men and women and let them do work."

Francis Golgowski, 67, of St. Petersburg talks about caring for the elderly as if she were just a youngster. "We can't wait for the elderly to be aborted. We can't wait until somebody decides who is too expensive to live any longer. We had to move first—that's what we're doing."

Ruth Emery, 53, of Largo says she's never met an old person who has asked to die during her weekly visits to two nursing homes. "They all want to hold on to life. Nobody should be allowed to take that away," says Mrs. Emery.

The aim is to have Centurians, who now number more than 400, at every institution and home for the elderly. The job is enormous. The St. Petersburg-Tampa area alone has 81 nursing homes with 8,975 beds and 119 other non-hospital institutions with 18,791 beds.

Margaret Mealy, 58, of Gulfport says it's hard to go into a nursing home to talk to strangers, some of them with vacant looks, heads propped on canes, doing nothing. "There was one woman in a fetal position, screaming. I was afraid to go over to her. I knew I had to see her. I just put my hand on her and she stopped screaming. I supposed she only wanted somebody there.

"Nobody likes to get old and not be able to take care of himself or herself," said Mealy. "But we can't just leave them to die. If they know I care, maybe they'll take more care of themselves."

McNulty recalls one of his own visits to a shut-in who sat dejected with her prayer book and rosary beads on the arm of her worn chair. She was hard of hearing and nearly blind.

"She said, 'Father, I wish God would take me home.' I said, 'Margaret, did you lose your faith or something? The way you're talking you'd think God didn't know where you were or your name had fallen out of his pocket. When God wants you, he'll call you.'

"'But I'm useless,' she said. 'I can't see across the room. I can't go shopping. I ache all over. I'm almost alone. What good am I?'

"'You're not useless,' I replied. 'Oh, you're useless the way the poor world looks at things. But I'll tell you what good you are. You're awfully good to me. I'm sitting here looking at you and the fact of your prayers and me coming over here. Why, you buck me up. You inspire me.'

"By the way, here we are using her as an example," added McNulty. "That's how 'useless' she was."

HE IS A MAN OF OUR TIME

Mr. KASTEN. Mr. President, I wish to bring to the attention of my colleagues the tremendous long-term contributions that a constituent of mine, Max H. Karl, has made on behalf of Israel, the Jewish people and the citizens of our community.

Mr. Karl is currently chairman and chief executive officer of the Mortgage Guaranty Insurance Corp. (MGIC), of Milwaukee, the Nation's largest insurers of private mortgages. His reputation is of international scope. It is only fitting that this past weekend, Mr. Karl received the Prime Minister's Medal, one of the highest awards made by the State of Israel, for his hard work and dedication on behalf of Israel and its people.

It gives me great pleasure to recognize his achievements today, Mr. President. I ask unanimous consent that an article published in the Wisconsin Jewish Chronicle on June 25, 1982, concerning Mr. Karl and the award that he has received be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAX H. KARL: "A MAN FOR OUR TIME"

(By Edwarde F. Perlson)

Some years ago, I think it was 1957, Time Magazine carried an article about Max H. Karl. It is now 25 years later and Max Karl is still a man of whom Time (not the magazine) will record the many munificent, magnanimous and magnificent things he has done—for his community, his people and the millions of persons he regards as friends and neighbors. If there is merit for a "man of all seasons," Max Karl is deserving of honor as an extraordinary Man of Our Time.

This Sunday evening, at the Marc Plaza Hotel, at a national tribute dinner, the ambassador of the (amazing) State of Israel to

the United States, his Excellency Moshe Arens, will present the Prime Minister's Medal to Max Karl. In his honor, friends, family, business and professional friends and fellow countrymen from all over this wonderful nation have purchased State of Israel Bonds in an unprecedented amount. An expected capacity audience of 600-plus will be present to salute this loved man.

In this city and state—and undoubtedly in many other cities and states—few have equalled such an outpouring of admiration and regard as the total sum of Bonds expresses.

And it is as it should be! Perhaps, it is only my humble opinion and estimate of a friend whom I have loved like a brother and whom I have eagerly and proudly watched catapult to the heights of service and eminence during the 33 years I have been associated with The Chronicle.

I knew Max Karl long, long before his rise into the upper echelons of Jewish world leadership—before he became the acclaimed financial leader who made it possible for hundreds of thousands of people to own their homes; before he gave from his own personal estate of millions of dollars so others could be saved and survive to live another day in a new nation, conceived in freedom and dedicated to democracy; before he was elected to the Housing Hall of Fame; and before he was honored by the University of Wisconsin-Milwaukee (with an honorary doctorate), by Marquette University (as a trustee emeritus), by Touro College, New York, as chairman of the Board of Directors; and long, long before he became chairman of the Board, director and chief executive officer of Mortgage Guaranty Insurance Corp., whose affiliates became known as MGIC, in fame and stature. Long . . . long . . . before.

And as I in meditation thought about his meteoric career, my memories of him drifted backwards in time—to more than a half-century ago. Ah, sweet and precious reveries! Across my screen of memories raced the careless, carefree days at the University of Wisconsin-Madison. Did I say carefree, careless? Sure, it was deep in the Days of the Great Depression; it was hopeless to care: Franklin D. Roosevelt, elected president, had closed the banks in the same semester we were to graduate from Law School. We didn't care—we had no money in the banks anyway!

But they were days—and days of our years—that were the breeding ground for never-forgotten, ever-remembered togetherness. We were brothers of AEP Fraternity, roommates in the fraternity house. Our relationship as brothers became cemented when a fatal illness took Harry Karl's life. Harry was Max's brother. It was a tragic ending for a brilliant young student, and for me a sorrowful loss, which in the telling won for me the Shomer Memorial Award for writing in the fraternity's AEP Quarterly.

Wounded by the grievous blow, we sealed our brotherhood by mutual affection. We became "partners" in Law School when we formed the firm of Feld, Karl & Perlson for Moot Court—and promptly lost our case.

Those years at the University—despite the ghastly spell of the Depression—were not without happiness. Max worked hard as a waiter at the Memorial Union (and even sometimes had to augment his fare with chocolate bars [3 for 10¢] when he was especially hungry.) When I became president of the House, we changed the rule that prohibited members from working in the kitchen.

Max even "worked" hard at two other avocations. One was with the famed Haresfoot Club in which he, with Stan Feld, Harvey (Gorenstein) Gordon, both of Milwaukee, and Stan Seader, of Far Rockaway Beach, N.Y., members of the fraternity, formed the sweetest, most melodious quartet this side of Lake Mendota. They were annual sensations, and when Max sang solo he was a super-sensation. The other "enterprise" was with partner David Previant (today one of our top legal lights) who paired with Max to win the all-University Bridge championship. When Max wasn't playing sudsy with dishes or bidding like a master in contract (not legal), he was studying—except when he wasn't studying.

Our friendship continued after graduation, though we each pursued different paths in law. When it came my turn to marry, not only was Max my Best Man under the *chupah*, but also the tenor who sang at my wedding. Oh, how he sang "O Promise Me."!

As did most young attorneys, Max began his legal career with Herbert Morse and Emil Hersh, both excellent real estate lawyers. Then, from about 1936 to 1942, Max, Mike Frank and Leonard Bessman formed a law partnership. With Mike, he later founded MGIC. Lennie moved to Madison where subsequently he became a Federal Court Bankruptcy judge, but not before he became one of the war heroes which Ernie Pyle wrote about in "This Is Your War." From 1942 to 1945, Max was busy as a staff sergeant in the US Air Force. While not even his sister, Min Friedman, will claim Max won the war all by himself, it could be admitted that he helped.

Thus, the years rush into eternity. My file, "Max H. Karl," bulges with biographical material. I know of no other personality in our community—at least in my time—whose career lists the magnitude of attainments, contributions and honors. This is not the first time that Israel has sent one of her illustrious diplomats to do honor to Max. In June 1973, in his honor, $3,000,000 in Bonds was sold. In my by-line story, I wrote "There was never anything like it in the entire history of the Israel Bond effort in the Milwaukee Jewish community." The event this Sunday evening even portends greater purchases at a grand rally.

His has been a labor of love—and, in turn, he has been loved by all and sundry. Almost boyish in appearance, a smile almost always wreathing his exuberant face, he is the synthesis of humility and grace. I think there isn't a single cell of arrogance in his make-up. He accepts—in self-wonderment—the good fortune that has fashioned his life—and he wants to—and does—show it with fervor and attachment to cause.

Small wonder that significant kudos and primary offices have been heaped upon him—so many that lack of space limits mention. But some should be: like the three terms he served as president of the Milwaukee Jewish Federation, his current chairmanship of the Israel Bond Organization of Wisconsin, his designation by the State of Israel for the Golda Meir Award, the Alpha Epsilon Pi fraternity's Gitelson Medallion, the Jabotinsky Award, the Milwaukee Press Club's "Headliner of the Year" award—and more and others.

In the alchemy of life, Max Karl's was a saga of unbelievable proportions. The son of Louis Karl, who eked out a bare living from a small grocery on the South side of Milwaukee. Louis brought up four children, with the help of his second wife, Frieda, in the crowded corner "emporium" (Louis Karl would have wondered what that was), which also served, upstairs and in back, as their living quarters. School was a major must in their lives, and Min, who was the oldest, and who became legal secretary to one of the very best law firms in the city, had no small part in their continuing higher education.

Yes, Max succeeded in the citadels of business. MGIC was a fantastic innovation in the world of finance. But even as he ascended the ladder to fame and fortune, Max never forgot to lend a hand—more properly, his voice—to the enjoyment of others. Thus, he was the Frank Sinatra (probably, even better?) of the Jewish community here, starring as a soloist in the several "Funzapoppin" Shows and Temple all-talent performances. Oh, how the girls swooned when he sang! (You might even compare it to the way his stock-investors reacted when MGIC soared into high notes.) How Max escaped show business only the gods know; his escape must be considered as marvelous a feat as Harry Houdini's famous escape acts!

But finance, philanthropy, education, the cultural arts and people and causes are not the only facets of his life. As some philosopher observed, "Man is not an island unto himself," and for Max this was a truth founded in fact. Thus, with his wife, Anita, they raised a family—a family of which they have cause to be proud, though never vain. Anita complements him in all his endeavors he undertakes; she is a companion, advisor and comfort. His two sons, Dr. Robert, a cardiologist in Miami, Fla., and Kenneth, a developer of outlet malls, are established and productive. Daughter Karen will soon marry (Dr. James Schwade of Miami, son of Dr. and Mrs. Leonard Schwade of Milwaukee. And, of course, three grandchildren enhance their lives. A brother, Michael, a professor at Washington University of St. Louis, is also a distinguished practitioner there. And there is still white-maned Min, widow of Dr. Harry Friedman, one of the very best press agents for her brothers and son, Gerald, and active in many local organizations. The Karl clan finds unlimited happiness in the togetherness of their love.

Have I said enough about this modest, gentle, unassuming young man. Young, did I say? Yes! In manner and mode, in degree and dedication, this fellow has devoted himself humbly, selfessly, assiduously and impartially to his fellow man. His strength has been an indefatigable spirit, a sense of oneness for all people. He will tell you that with the death of his brother he inherited Harry's attachment to true values of mankind. Maybe so.

But if you ask me—with full regard for all the loving kindness and unforgettable recollection I have of Harry, I tell you that Max is his own man, the architect of his own soul, a man who until the ends of Time this community will remember and love.

He is a Man of Our Time!

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 2572

Mr. BAKER. Mr. President, for some time now, spanning a period of hours, there has been a continuing effort to arrive at a time limitation by unanimous consent on the consideration of S. 2572, the so-called crime package. Negotiations have gone back and forth and I am advised now that there is some chance, at least, that the request I am about to put might meet with the approval of most Senators. At least, it is my hope it will meet with the approval of all Senators.

Mr. President, I will state the request now for the consideration of the minority leader and for all Senators who may hear me.

Mr. President, I ask unanimous consent that when the Senate turns to the consideration of S. 2572, a bill to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes, the bill will be considered under the following time agreement:

Four hours on the bill equally divided between Senators THURMOND and BIDEN, or their designees;

Fifteen minutes on an amendment to be offered by the Senator from South Carolina (Mr. THURMOND) dealing with authorization for appropriations and the effective date;

One hour on an amendment to be offered by the Senator from Nevada (Mr. LAXALT) to title II and the restitution provision of title V;

Thirty minutes each on amendments to be offered by the Senator from Tennessee (Mr. BAKER) relating to bail, drug penalties, and forfeiture.

Thirty minutes each on amendments to be offered by the Senator from Idaho (Mr. MCCLURE) relating to new 18 U.S.C. 1512 in title II, new 18 U.S.C. 3555, 3571, and 3613 in title V, and new 28 U.S.C. 991 (a), (g), (i), and (l) in title V;

Thirty minutes each on three amendments to be offered by the Senator from Pennsylvania (Mr. SPECTER) relating to bail and forfeiture;

Two hours on an amendment to be offered by the Senator from Vermont (Mr. LEAHY) relating to bail provisions;

One hour on an amendment to be offered by the Senator from Michigan (Mr. LEVIN) relating to forfeiture;

Thirty minutes on an amendment to be offered by the Senator from Michigan (Mr. LEVIN) relating to the presumption of innocence;

One hour on an amendment to be offered by the Senator from Michigan (Mr. LEVIN) relating to increased mandatory penalties for crimes committed with guns;

One hour on an amendment to be offered by the Senator from Alabama (Mr. HEFLIN) on an amendment relating to sabotage of electric generation and transmission;

One hour on an amendment to be offered by the Senator from Massachusetts (Mr. KENNEDY) relating to violent juvenile offenders;

Thirty minutes on a possible amendment to be offered by the Senator from Montana (Mr. BAUCUS) relating to a safety valve on imprisonment;

Forty minutes on an amendment to be offered by the Senator from Ohio (Mr. GLENN) on arson;

Thirty minutes on an amendment to be offered by the Senator from Arizona (Mr. DECONCINI) relating to the establishment of a Federal drug enforcement coordinator;

One hour on an amendment to be offered by the Senator from Arkansas (Mr. BUMPERS) relating to increased mandatory penalties for committing a crime with a firearm;

Thirty minutes on an amendment to be offered by the Senator from Rhode Island (Mr. PELL) relating to combining the heads of agencies involved with international drug enforcement into one agency with responsibility for international drug enforcement;

One hour on an amendment to be offered by the Senator from Ohio (Mr. METZENBAUM) relating to consumer fraud;

That no amendment dealing with the death penalty, the exclusionary rule, the Gun Control Act of 1968 other than those enumerated, or the Hobbs Act be in order;

Five minutes on any debatable motions, appeals, or points of order, if so submitted to the Senate.

Mr. President, let me restate one request in respect to the death penalty.

The request should read that no amendment dealing with the death penalty, the exclusionary rule, the Gun Control Act of 1968, other than those enumerated, or the Hobbs Act or habeas corpus be in order;

Five minutes on any debatable motions, appeals, or points of order, if they are submitted to the Senate;

That the agreement be in the usual form;

That there be 1 hour on first-degree amendments not otherwise enumerated and 30 minutes on second-degree amendments.

Mr. President, one correction on the request in respect to 18 U.S.C. 1512 in title II and other provisions to be offered by Mr. MCCLURE, I modify that to state: to be offered by the Senator from Alabama (Mr. DENTON).

Mr. President, before I complete the request, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, to complete the request, I will begin by modifying that portion of the request dealing with the death penalty.

It should now read that no amendment dealing with the death penalty, the exclusionary rule, the Gun Control Act of 1968, other than those enumerated, the Hobbs Act, habeas corpus, or any amendments dealing with an insanity defense or insanity procedures be in order.

Further, that title VII of the bill, dealing with insanity, be deleted from the bill.

Also, that an amendment be in order to be offered by the Senator from Missouri (Mr. DANFORTH) dealing with simulated control substances, on which there will be a time agreement of 30 minutes, equally divided, and an amendment to be offered by the Senator from New Mexico (Mr. SCHMITT) dealing with killer bullets, on which there will be a time limitation of 30 minutes equally divided.

That concludes the request, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object—and I hope it will not be necessary to object—I always wish to be agreeable if it is possible.

First, I extend my thanks to the distinguished Senator from Delaware, the ranking minority member of the committee, through whose courtesy I received a copy of this proposal about a half hour ago. I am a little uncertain about several of the items.

One is the proposal for 15 minutes on an amendment to be offered by the Senator from South Carolina dealing with authorization for appropriations and the effective date. I am wondering what authorization and what appropriations the Senator has in mind.

Mr. THURMOND. Mr. President, in response to the distinguished Senator from Maryland, I say that the authorization referred to is this. It is a very short amendment, and I will read it:

> There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions and purposes of this act.

As to the effective date:

> Notwithstanding any other provision of this act, no provision of this act shall take effect prior to October 1, 1982.

I will be glad to hand it to the Senator.

Mr. MATHIAS. I thank the Senator from South Carolina.

I ask the majority leader: Would this in any way affect the position which has been taken—and which is well known to Members of the Senate—by the Senator from Connecticut, who has lodged a serious objection against the authorization for the Department of Justice insofar as it touches on sev-

eral civil rights matters? I have not had a long time to consider this, so I am uncertain whether any of these amendments would touch upon the objections of the Senator from Connecticut.

Mr. BAKER. Mr. President, I am a little at a loss to answer the Senator from Maryland. I believe this is not an authorization bill for the Department of Justice, and therefore it would not directly affect those matters.

The agreement proposes that it would be in the usual form, which has the effect, of course, of providing against nongermane amendments, except as they may be qualified under this agreement.

I wonder if that answers the Senator's question. Otherwise, I am afraid I do not know.

Mr. MATHIAS. I do not know, either, and that is why I am asking the question.

I want to be sure that we do not do anything which prejudices the position of the Senator from Connecticut.

The amendment which the Senator from South Carolina has suggested is to authorize and to appropriate sums necessary to carry out the provisions of this act.

Mr. BAKER. Is the Senator referring to the very prolonged debate and the very substantial and energetic opposition to busing that the Senator from Connecticut advanced some weeks ago?

Mr. MATHIAS. The opposition to the limitation of the authority of the Federal courts to deal with segregation in the schools. I think that is a correct description of the concern of the Senator from Connecticut.

Mr. BAKER. Mr. President, I really do not believe that the authorization or appropriation proposed to be added by the Senator from South Carolina would have any effect on that. I think it would be for the purposes of this act; and as I understand it, this act does not deal with any of the matters that I believe the Senator from Connecticut is concerned about.

Mr. MATHIAS. Would this bill be open to further amendment which might bring that subject into the purview of the bill?

Mr. BAKER. It would not, unless the amendment were germane to the subject matter of the bill, since the proposal would provide that the agreement is in the usual form.

Mr. THURMOND. No other amendments can be offered.

Mr. BAKER. Mr. President, other amendments could be offered, and generally there would be a time limitation of an hour on first-degree amendments and 30 minutes on second-degree amendments, but those amendments would have to be germane.

Mr. MATHIAS. Can we agree that no amendments would be in order on the subject of jurisdiction of the Federal courts?

Mr. BAKER. Mr. President, let me include that in my request. I think that is the inevitable effect of this agreement.

If it is necessary to clarify the matter and to allay the concerns of the Senator from Maryland and the Senator from Connecticut, I amend my requesst to provide that no amendments shall be in order dealing with a proposed limitation of jurisdiction of authority of the Federal judiciary.

Mr. MATHIAS. If any other amendment would have to be germane, I assume that a direct attack on the busing question would be ruled nongermane by the Chair.

Mr. BAKER. That would be my opinion, I say to the Senator from Maryland. I really do not see how a busing amendment could be germane to this bill.

Mr. MATHIAS. There is one further question which I hesitate to raise because it involves some difference of opinion with my good friend from South Carolina and my good friend from Delaware.

I see that the time on the bill is to be equally divided between the Senator from South Carolina and the Senator from Delaware. I have no objection to that per se. I am sure they could entertain and edify the Senate not only for 4 hours but also for 40 hours. But they are both for this bill, and there are those of us who are not necessarily for every jot and tittle of the bill.

The alternative, of course, would be to authorize an amendment on the sentencing provisions included in the bill. I think perhaps that might be desirable, but it might also be possible simply to allocate some time for debate on the sentencing provision.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield to the distinguished minority leader.

Mr. ROBERT C. BYRD. The terminology "in the usual form" would provide that if both the managers were in favor of a particular amendment time in opposition thereto would be given to the minority leader or his designee, and I would be very happy to designate the Senator or anybody else on either side who might be opposed.

Mr. BAKER. That is a practice, I may say, that has worked very well. I have absolute confidence that the minority leader would continue the tradition of many years' standing that the one who opposed an amendment or the bill, for that matter, would have an opportunity to conduct debate in opposition.

Mr. BIDEN. Mr. President, if the majority leader will yield for a moment——

Mr. BAKER. Yes, I yield.

Mr. BIDEN. Any time under the control of this Senator that the Senator from Maryland would like, I will tell you ahead of time that the time you need will be under your control if you do not feel you have time under the "usual form."

Mr. MATHIAS. It would be 1 hour?

Mr. BAKER. The "usual form" does not deal with it, but on amendments not otherwise enumerated there would be a time limitation of 1 hour on first-degree amendments, 30 minutes on second-degree amendments, and 5 minutes of debate on any appeals, motions, or points of order if those occur.

Mr. MATHIAS. But the amendment goes to the sentencing question, which is the heart of the original bill, although you would scarcely know it from looking at the list of amendments. I do not know that I would offer the amendment; but, if offered, it would, I think, take 1 hour to a side at the very minimum. We probably ought to allow 2 hours to a side.

Mr. BAKER. Does the Senator wish me to include that?

Mr. MATHIAS. I think I am not alone in having serious questions on that subject, and I doubt that all that needs to be said could be accommodated in an hour. I would suggest 2 hours to a side——

Mr. THURMOND. On the sentencing question?

Mr. MATHIAS. On an amendment pertaining to sentencing.

Mr. BAKER. Mr. President, I further amend my request so that it will include an amendment to be offered by the Senator from Maryland (Mr. MATHIAS) dealing with the question of sentencing, on which there would be 4 hours of debate to be equally divided.

The PRESIDING OFFICER (Mr. PRESSLER). Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, if I could pursue it with the majority leader, the amendment would include related questions such as pardons and paroles which are generally included under the broad rubric of sentencing.

Mr. BAKER. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. If the Chair would not yet put the request, I want to be sure every Senator has had a chance to be heard. Does the Senator from Maryland have another matter?

Mr. MATHIAS. I have just had a communication, Mr. President, from the Senator from Connecticut, who would like to preclude the offering of any amendment on the subject of tax privacy.

Mr. BAKER. Mr. President, I am a little at a loss. I do not even know what the Senator is talking about, but since the managers on both sides have indicated they have no objection to that, I am willing to include that in my request.

Mr. President, I ask unanimous consent that no amendment dealing with tax privacy shall be in order.

Does the Senator feel he is at the end of his rope?

Mr. MATHIAS. One small last request, and it may not be necessary to make. Since the staff of the Criminal Justice Subcommittee has some expertise in the general field of the bill, I think it might be desirable if we could have 1 hour on the bill as a part of the general agreement.

Mr. BAKER. For the Senator from Maryland?

Mr. MATHIAS. If I could be the trustee of that hour, it may not be necessary to use a minute.

Mr. BAKER. Mr. President, I ask unanimous consent that 1 hour of debate be allocated to the Senator from Maryland—1 additional hour, in addition to that provided for the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, if the Chair would put the request, unless the Senator from Alabama has a question.

Mr. DENTON. Mr. President, reserving the right to object—although I do not intend to object—the Senate appears ready to proceed to the consideration of a very significant anticrime package. I note, however, that the bill does not contain a provision for a Federal death penalty and that the unanimous-consent agreement does not contain provision for an amendment reestablishing such a penalty. I know that omission of the death penalty from this bill will expedite its consideration, and I have acceded to it.

I also note that today, July 1, marks the first anniversary of the appearance of S. 114, the capital punishment bill, on the Senate Calendar. The bill was reported from the Judiciary Committee in June 1981 by a vote of 13 to 5. At this time, before the Senate proceeds to the consideration of a major legislative package designed to deter crime, I would like to inquire of the majority leader his intention with respect to S. 114 or similar legislation calendarwise.

Mr. BAKER. Mr. President, I thank the Senator. Does S. 114 deal with the death penalty? Am I correct in that?

Mr. DENTON. The capital punishment bill, the Senator is correct.

Mr. BAKER. Other than the fact that it has not been included in that agreement, I think, and to acknowledge that it would be a major debate, I cannot tell the Senator when we might schedule it. It is on the calendar, and it would be my intention to proceed to that at some point. But honestly I have not had a chance to focus much beyond this issue.

We are already scheduled when we return to proceed to the consideration of the constitutional amendment on the balanced budget; we have this bill before us; we have two other bills on which there are unanimous-consent orders to proceed to their consideration, to return to the consideration of the balanced budget amendment; an anticipation we are going to go to the second debt limit, and full expectation that to that bill will be offered a series of amendments, including one by the Senator from Alabama, I believe, dealing perhaps with abortion, and one by——

Mr. DENTON. Prayer in schools.

Mr. BAKER. One from the Senator from Iowa dealing with abortion.

We also have the reconciliation bills or rather compliance with the reconciliation instructions by the several committees who must comply; and we have to do all that by sometime toward the end of September.

So I must say to the Senator from Alabama I do not know when we can do that, but I will confer with him, and I will try to find a time.

The reason why I have gone to some length to explain it is because things are beginning to pile up, and I have sort of decided in my own mind that I ought to stop making commitments on when we are going to do things unless we have metabolized what we have already got on deck. But I assure the Senator I will give that every consideration and cooperate with him in trying to see that we reach that legislation.

Mr. DENTON. Mr. President, I know that the majority leader recognizes my respect for this patience and consummate skill in bringing a crowded schedule before the Senate.

I wonder if I might ask him to express whether it will be a reasonable hope that before the end of this session we might deal with that matter which is already 1 year old as far as the calendar is concerned?

Mr. BAKER. Yes, Mr. President, I would hope so. But in addition to the long list I just gave him we are going to have the world's champion continuing resolution or all of the appropriations bills.

We have not gotten a single appropriation bill from the House yet, so it is going to be tough, but I will try. I hope the Senator will accept that as my commitment, of my best efforts in that respect.

Mr. DENTON. I will yield to my distinguished chairman of the Judiciary Committee as to his judgment regarding that response.

Mr. THURMOND. Mr. President, I fully realize the deep interest the distinguished Senator from Alabama has in this bill and which has been on the calendar for over a year, and I have been hoping it would be called up, and I am hoping yet it will be called up. But if the majority leader says he will get to it, if he possibly can, I would suggest that the Senator not object to our going forward now with this package, which ought to be noncontroversial matters. That is what we tried to put into this package. We will work with the majority leader and try to get it up, if it possibly can be done. If it is not gotten up this year, we expect to introduce it next year.

The Judiciary Committee, as the Senator said, passed it 13 to 5. It has been on the calendar for more than a year. It is a very important piece of legislation, and even though someone might object to bringing it up, I hope the majority leader will see fit to motion it up at the appropriate time.

Mr. BAKER. Mr. President, I thank the Senator. As chairman of the Judiciary Committee, he, of course, is mindful of the high importance of this subject. As the President pro tempore and one of the most professional and effective Members of the Senate, I think he is probably sympathetic to my dilemma on scheduling. So I appreciate his statement and I join him in hoping that the Senator from Alabama will not object, based on our best efforts to accommodate that subject.

Mr. DENTON. Mr. President, I respond to the distinguished majority leader that I will not object. I hope that, as a body, we would accord a capital punishment bill which would bring to account, in terms of capital punishment, individuals for certain crimes, certain capital crimes. I think we could hardly delay many more months before it would appear improprietous because it is such a relevant consideration in an anticrime package.

But I recognize the judgment of the majority leader and the chairman of the Judiciary Committee.

Mr. BAKER. Mr. President, I thank the Senator from Alabama.

Mr. President, I see no other Senators seeking recognition on reservation at this point. I am prepared now to reiterate the request and I do so at this time.

The PRESIDING OFFICER. Is there objection to the majority leader's request? The Chair hears none. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 2572 (Order No. 599), a bill to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled, with the following exceptions:

15 minutes on an amendment to be offered by the Senator from South Carolina (Mr. THURMOND), relative to authorization for appropriations and the effective date.

30 minutes each on three amendments to be offered by the Senator from Tennessee (Mr. BAKER), relative to bail, drug penalties, and forfeiture.

30 minutes each on three amendments to be offered by the Senator from Alabama (Mr. DENTON), relative to new 18 U.S.C. 1512 in title II, new 18 U.S.C. 3555, 3571, and 3613 in title V, and new 28 U.S.C. 991(a), (g), (i), and (l) in title V.

30 minutes each on three amendments to be offered by the Senator from Pennsylvania (Mr. SPECTER), relative to bail and forfeiture.

30 minutes on an amendment to be offered by the Senator from Missouri (Mr. DANFORTH), relative to simulated controlled substances.

30 minutes on an amendment to be offered by the Senator from New Mexico (Mr. SCHMITT), relative to killer bullets.

30 minutes on an amendment to be offered by the Senator from Montana (Mr. BAUCUS), relative to a safety valve on imprisonment.

30 minutes on an amendment to be offered by the Senator from Arizona (Mr. DECONCINI), relative to the establishment of a federal drug enforcement coordinator.

30 minutes on an amendment to be offered by the Senator from Rhode Island (Mr. PELL), relative to combining the heads of agencies involved with international drug enforcement into one agency with responsibility for international drug enforcement.

30 minutes on an amendment to be offered by the Senator from Michigan (Mr. LEVIN), relative to presumption of innocence.

40 minutes on an amendment to be offered by the Senator from Ohio (Mr. GLENN) on arson.

1 hour on an amendment to be offered by the Senator from Nevada (Mr. LAXALT) to title II and the restitution provision of title V.

1 hour on an amendment to be offered by the Senator from Michigan (Mr. LEVIN), relative to forfeiture.

1 hour on an amendment to be offered by the Senator from Michigan (Mr. LEVIN), relative to increased mandatory penalties for crimes committed with guns.

1 hour on an amendment to be offered by the Senator from Alabama (Mr. HEFLIN), relative to sabotage of electric generation and transmission.

1 hour on an amendment to be offered by the Senator from Massachusetts (Mr. KENNEDY), relative to violent juvenile offenders.

1 hour on an amendment to be offered by the Senator from Arkansas (Mr. BUMPERS), relative to increased mandatory penalties for committing a crime with a firearm.

1 hour on an amendment to be offered by the Senator from Ohio (Mr. METZENBAUM), relative to consumer fraud.

2 hours on an amendment to be offered by the Senator from Vermont (Mr. LEAHY), relative to bail provisions.

4 hours on an amendment to be offered by the Senator from Maryland (Mr. MATHIAS), relative to sentencing, pardons, and paroles.

Ordered further, That no amendment dealing with the death penalty, the exclusionary rule, the Gun Control Act of 1968, other than those enumerated, the Hobbs Act, habeas corpus, insanity defense or insanity procedure be in order.

Ordered further, That title VII of the bill dealing with the insanity defense be deleted.

Ordered further, That no amendment dealing with tax privacy be in order.

Ordered further, That no amendment dealing with a proposed limitation of jurisdiction of authority of the federal judiciary be in order.

Ordered further, That debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 5 minutes, to be equally divided and controlled: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 5 hours, with 4 hours to be equally divided and controlled by the Senator from South Carolina (Mr. THURMOND) and the Senator from Delaware (Mr. BIDEN), or their designees, and with 1 hour to be controlled by the Senator from Maryland (Mr. MATHIAS): *Provided,* That the said Senators, or any one of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. BAKER. I thank the Chair. Mr. President, it is 5 o'clock in the afternoon. I have made a rough estimate of how long it will take to finish this bill and the best I can figure it out, it would take us until Monday morning if we go at it right now. I, for one, am in no mental condition or physical state to undertake that. So I inquire of the distinguished chairman of the Judiciary Committee, the Senator from Delaware, and others who are keenly interested in this matter, the Senator from Alabama and the Senator from Maryland: Is it their desire to proceed further with this matter now that you have accomplished the impossible and obtained this agreement, or are we prepared to end this matter at this time?

Mr. THURMOND. Mr. President, I wish to thank the able majority leader for his outstanding leadership in getting this consent agreement. I agree with him it would be very difficult to go ahead tonight, although I would be willing to go all night and all day tomorrow, because the public is crying out now about this crime situation.

But, under the circumstances, I think it would be fair and just if we carried over until Monday after we return from the recess and as soon as we can get to it after the constitutional amendment. What comes after that?

Mr. BAKER. We have two other bills that are already sequenced in. But I assure the Senator that I will try to reach it just as soon as possible and with this time agreement that is a major incentive for that purpose.

Mr. THURMOND. I thank the Senator.

Mr. BIDEN. Will the Senator yield?

Mr. BAKER. I yield.

Mr. BIDEN. Mr. President, I agree with the chairman of the committee. We should not proceed at this time.

CRIME CONTROL ACT OF 1982

● Mr. TOWER. Mr. President, no one can argue that one of Government's most basic responsibilities should be the protection of individuals and the community in general from crime. Yet, the ever-increasing magnitude of violent crimes committed in this country makes crime one of the most pervasive problems facing American society.

Statistics compiled by the Federal Bureau of Investigation for 1980 reveal that one violent crime is committed every 24 seconds. In any 1-hour period, an average of 2 people will be murdered, 10 women will be raped, 60 robberies will be committed, and 75 people will be assaulted. In 1980, we also experienced an increase in drug trafficking, drug abuse, and drug related deaths, with heroin-related deaths surpassing the 800-per-year level for the first time since 1976. While these figures are indicative of the immediate crime situation, we must never forget the significant long range impact which occurs as a result of every actual offense committed.

When we pay higher prices for an item to cover the merchant's losses to shoplifting, when our taxes are increased to support a larger police department, and when fear of the dangerous elements of our society becomes an all-pervading force in the lives of law-abiding citizens, we are all surely experiencing the effect of crime.

I recognize that there are no simple solutions to decrease the crime rate. However, effective measures must be taken immediately to alleviate the alarming crime problem, and I am convinced that the area in which a most drastic increase is needed is in the administration of our judicial system. The time for reform is long overdue.

Our criminal justice system is founded on the belief that any individual is innocent until he has been proven guilty in a court of law. While we must continue to provide procedural safeguards to protect the rights of those individuals accused of a crime, I am fully mindful of the existing anomalies in the system which work to the advantage of the accused through abuse of legal technicalities and thus to the detriment of the innocent, law-abiding citizen. I believe we must do all in our power to insure that victims of criminal assault, as well as society in general, are protected from these dangerous elements, and I will continue my efforts to work toward our goals in this regard, through enactment of swifter and more stringent criminal sanctions.

For these reasons, I am pleased to join my colleagues in cosponsoring the Violent Crime and Drug Enforcement Improvements Act of 1982. Each section of this bill addresses a present gap in the criminal justice code by eliminating some of the major abuses of the present system, particularly in regard to bail and sentencing procedures.

The bail reform aspects of this bill, I believe, are among the most important because they provide needed protection to the community from dangerous criminals. The propensity of an individual to present a danger to the community would be scrutinized carefully during determination of the appropriateness of bail, thus granting authority to the judge to detain an individual or determine the specific conditions for release under these circumstances. There is also included an inherent presumption of danger to the community if a particular individual commits a serious drug trafficking offense or uses a firearm in a violent crime. The criteria utilized for determination of post conviction release on bail also would be tightened significantly. Other provisions included within this title of the bill would increase the penalties for bail jumping, and would provide specific sentencing procedures for crimes committed while on release.

I firmly believe these provisions are essential if we are to keep the fundamental right to bail from degenerating into a means for criminals to continue to menace the community after they have been apprehended.

Currently, one of the major obstacles to obtaining criminal, convictions is the reluctance on the part of key witnesses and victims to testify against a suspect for fear of retaliation. Our judicial system cannot work effectively without cooperation from these individuals and moreover, it is fundamentally unconscionable that acceptance of the responsibility to report crimes and testify against those who perpetrate them should subject any individual to danger or harassment. This legislation addresses the problem by imposing criminal sanctions on anyone who impedes the criminal justice process by harming or threatening to harm a witness or victim associated with the trial, either during the trial process or by way of retaliation after its completion. I am particularly pleased that the bill provides needed safeguards to insure the protection of victims and witnesses of crime to the maximum extent possible.

In my view, the problems of violent crime and drug abuse among our citizens are inextricably paired. During the past decade, growing drug abuse by our young people has taken a terrible toll on the individual users, their families, and the very fabric of our society. In an effort to combat the blatant glamorization of drug use among our youth, as evidenced by the prevalence of "head shops" across the country, I have introduced legislation which would prohibit the use, possession, or delivery of drug paraphernalia, with especially severe penalties for those who provide these articles to minors. While I do not believe such action automatically will end the illegal use of drugs, I do feel that ending the open advertisement of drug use will help engender a healthy respect for the law and end the current display of drug use as an accepted life style. I am hopeful that Congress will find time this year in its already crowded schedule to pass my bill to outlaw such paraphernalia nationally. In the meantime, I wholeheartedly support the methods by which S. 2572 attacks the dangerous and damaging illegal drug industry, through the imposition of severe fines and penalties for drug trafficking and the inclusion of most dangerous nonnarcotic drugs into the category of narcotics in terms of penalties. I am especially pleased that the bill also increases the penalties. I am especially pleased that the bill also increases the penalties for distributing controlled substances in or on, or within 1,000 feet of, an elementary or secondary school.

Another serious gap in present law whereby it is not a Federal offense to kill, assault, or kidnap senior White House officials, Cabinet members, and Supreme Court Justices, would be changed under this legislation. In my view, it is vital that an offense involving these individuals, which would have such a particularly devastating impact on our Government and our national security, must be prosecuted in a uniform manner without the varied standards of proof and sentencing procedures which exist under State law. I am hopeful that by making such heinous crimes a Federal offense, we may be able to deter future acts of violence directed at our President and other senior Government officials.

I am fully aware that our Nation's crime and drug problems cannot be eradicated through enactment of one piece of Federal legislation. However, I firmly believe that united efforts on the part of all levels of government can and will ultimately result in a substantial curtailment of crime. The Violent Crime and Drug Enforcement Improvements Act of 1982 is a comprehensive and reasonable first step toward achieving our goals in this regard, since it addresses our dual responsibilities of providing more effective measures to deter criminal activity while insuring the safety of the law abiding citizen.

Taken together, these proposals increase the ability of the Federal Government to fight crime, to a significant extent, and I am confident that enactment of S. 2572 will greatly facilitate investigation and prosecution within our criminal justice system.

Therefore, I urge prompt adoption of this worthwhile legislation.●

● Mr. HUMPHREY. Mr. President, today I am happy to support S. 2572, a critically needed piece of legislation in our efforts to stem the ever growing national crime rate.

It is particularly rewarding to support the provisions of this bill which strengthen the criminal and civil forfeiture sections of our law. In March I introduced S. 2196 to amend the Comprehensive Drug Abuse Prevention and Control Act to provide law enforcement with the much needed weapon of forfeiture of real property when it is used in the growing, distributing or manufacturing of controlled substances. I am delighted to see the concept of this legislation included in S. 2572.

I wholeheartedly commend the efforts of this administration to tighten up law enforcement particularly in the area of drug trafficking, to include the use of military resources to assist in the effort, and to authorize the spraying of paraquat for eradication of the domestic marihuana crop. S. 2572 will permit the forfeiture of real property when it is used in furtherance of drug trafficking and will place the large growers of marihuana in this country on notice that they are subjecting their fields to forfeiture. In addition, it will permit forfeiture of various other types of property used in furtherance of violations of the Controlled Substances Act. This important addition to our national enforcement power will transmit a message clearly heard and understood by drug traffickers.

The problem of domestic marihuana production is particularly alarming. I will insert in the RECORD several newspaper articles which demonstrate the magnitude of this problem. According to the Drug Enforcement Administration (DEA) in 1980 domestic production of marihuana was between 700 and 1,000 metric tons. Of this number, only approximately 187 metric tons of marihuana were destroyed through joint State and Federal efforts. U.S. suppliers provide 7 percent of the marihuana consumed domestically with an approximate value of between $1 and $2 billion. Indeed in several States marihuana is among the State's leading cash crops.

Unless we take action immediately, through legislation at both the Federal and State level, to eliminate the enormous profits and relatively minor risks of these growers we cannot hope to reduce marihuana production in this country. It is my fervent hope in pursuing this legislation that the threat of forfeiture will induce domestic growers to produce crops other than marihuana. Likewise the production and distribution of all controlled substances is a very lucrative business which can only be halted through a multifaceted effort such as this legislation.

In addition to providing a disincentive to growers and manufacturers of marihuana in the United States, it is imperative that this country send a

signal to its neighbors. We are asking other nations to spray their domestic marihuana fields with paraquat, to pursue vigorous eradication and enforcement techniques, and to halt their export of controlled substances. We cannot ask this of our neighbors with any credibility unless we are willing to address the reality of the magnitude of our own domestic production.

The recent statement by the DEA that they have approved the use of paraquat for eradicating domestic marihuana crops was a most welcome one. This position, and more importantly its implementation, will be a strong indication to other countries that we are serious about eliminating the production of illicit marihuana in the United States.

Law enforcement needs weapons to fight the drug war on three fronts: through people, drugs, and profits. Although the Comprehensive Drug Abuse Prevention and Control Act currently provides the means to arrest drug traffickers and confiscate their illicit drugs, the forfeiture provisions contain a serious omission in neglecting to include land used in drug trafficking and production. The bill before us today will rectify this omission by providing law enforcement agents the vital ability to seize land used for marihuana production, and the pursuit of other violations of the Controlled Substances Act.

In addition to providing for the forfeiture of land used for growing, processing, or distributing illicit drugs, the bill clarifies current law by insuring that real property may be seized when it is being used in a continuing criminal enterprise in the pursuit of profits from drug trafficking. This provision will provide another means to attack large-scale profitmaking enterprises engaged in the illegal manufacture and distribution of marihuana and other drugs.

Naturally, there are instances when an owner of land is unaware of activities taking place on land he has rented or otherwise conveyed. The legislation provides that in this event, the owner of the land is protected from forfeiture.

This country has always placed the highest value on preserving an individual's rights to property from governmental intrusion and I fully support these protections. However, when land is openly and flagrantly being used to produce illegal substances, protections for an individual responsible for such illegal activities must necessarily be diminished. I am pleased to join my colleagues in supporting this critical effort.

At this point, Mr. President, I would like to insert in the RECORD the following articles:

OKLAHOMA FARMERS UP TO EARS IN POT

MUSKOGEE, OKLA.—Marijuana is growing as high as an elephant's eye in the eastern third of Oklahoma, casting an ever-widening shadow over the heart of the Bible Belt.

Law enforcement officials said the problem is so serious that a state that likes to brag about the height of its corn now has an international reputation as a producer of common and high-grade "sinsemilla" (seedless) marijuana.

In McIntosh County, state and local authorities have destroyed 60 tons of 10- to 15-foot-high marijuana plants so far this year.

Federal drug agents who recently borrowed a helicopter to look for crops in rugged northeastern Oklahoma found seven fields in two days.

Walter Zablocki, director of the Tulsa office of the U.S. Drug Enforcement Administration, said the agents happened to spot two of the fields while they were looking for fuel for the helicopter.

The clandestine farming operations and crops that bring several million dollars an acre have infuriated some law-abiding folks in the poorest region of Oklahoma.

"People here tend to be very rural. Religion is important," said John Walton, assistant district attorney in Muskogee County. "We like to think that we're the first people to wave the flag and show up for a 4th of July parade. People are incensed about this."

Two Muskogee County farmers have been convicted of growing marijuana during the last year. A third is awaiting trial.

Fred Means, chief of enforcement for the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, worked for several months as an undercover agent in eastern Oklahoma two years ago in the State's largest investigation of marijuana cultivation. The investigation resulted in 37 indictments.

"Our conclusion is that what we had seen was the tip of the iceberg," Means said.

Farming methods have become increasingly sophisticated during the last five years. Means said. Many growers use in-place irrigation systems. Some are importing exotic seeds from foreign countries.

State agents who arrested one Morris, Okla., grower last month found listening, devices in the suspect's marijuana field. Homemade bombs being built in the barn were apparently to be placed as mines in the same field.

Growers connected to large-scale distribution rings, unemployed "dopers," and wheat and corn farmers tempted by the weed's tremendous profit potential have all entered the Oklahoma marijuana cultivation market.

State agents have traced Oklahoma-grown marijuana to Illinois, California, Washington, North Dakota, New Jersey, Mississippi, Florida, Texas, and other states.

Law enforcement officials list Oklahoma and such southern states as Tennessee, Arkansas, and Georgia as chief producers of the country's domestic marijuana.

Eastern Oklahoma is special because of its central location, sparse population, and the climate, soil quality, and availability of water in foothills of the Ozark Mountains.

The same feature that has discouraged legal farmers—remoteness—is the one that attracts marijuana growers. Lush as most of northeastern Oklahoma is, much of the area is inaccessible except by plane.

POT IS NOW THE STATE'S NO. 4 AGRIBUSINESS AND THE LAW'S NO. 1 FRUSTRATION—CALIFORNIA MARIJUANA FARMS YIELD A BILLION-DOLLAR HIGH

(By Pamela G. Hollie)

LOS ANGELES.—On tracts hidden away in the mountains and forests of the northern coastal counties and in containers arranged boldly on big-city backyard patios, California seems abloom with marijuana these days. Though cultivating marijuana is a felony, the weed is plentiful and profitable. Indeed, except for cattle, milk and cotton, marijuana earns more than any agribusiness, more than $1 billion annually. In no other state is more marijuana smoked and produced, authorities say.

In part because the stakes are so high, cultivating marijuana is becoming an increasingly violent way of making a living. In the last three years, two persons have been killed and a number of gunfights and kidnappings have been attributed to disputes among growers. Not long ago, an observation plane carrying four sheriff's deputies was fired on by a sniper, presumably an angry grower. One of the deputies, who were being trained to spot marijuana from the air, was wounded in the attack.

Law enforcement agencies have staged a number of raids. Last fall, in one suburban county southeast of Los Angeles, more than 40 tons of marijuana were cut down or burned. This year, California Attorney General George Deukmejian has promised an even tougher crackdown. With a Federal grant, helicopters and specially trained deputies, a task force will concentrate on several counties, including Humboldt and Mendocino in the north, which are recognized as the state's principal growing areas.

NECESSITY MOTHERS AN INVENTION

The trade in marijuana is unregulated and untaxed, and there appear to be few counties that do not produce at least $1 million worth of marijuana annually. Estimates of the size of the state crop vary widely, and only one county reports marijuana in its agricultural statistics. Mendocino County conservatively estimated the street value of its 1979 crop at $1.2 million. The business has become so profitable that the Internal Revenue Service has decided to start trying to collect some of the unreported income from growers. Agents already have started files on some of those allegedly in the business.

California owes much of the growth of its marijuana industry to Mexico's efforts, begun in 1976, to stop the trade there by spraying marijuana fields with the poison paraquat. Mexican marijuana continued to flow north, but an increasing number of California users feared lung disease from paraquat-tainted pot and turned to the domestically grown product. California growers—who typically harvest and sell leaves to dealers who then peddle one-ounce bags on the street—now supply about 30 percent of the marijuana smoked in the state. There is not enough to export.

In the last five years, California growers have developed their own potent weed called California sinsemilla—Spanish for "without seed." Growers found that when pollination occurs, the female plant uses some of its tetrahydrocannabinol—the active ingredient in marijuana—to produce seeds. By preventing pollination, the growers force the plants to store the surplus THC in superpotent buds. California sinsemilla is recognized by users as superior to the old Mexican marijuana and sells for up to $200 an ounce, compared with about $40

an ounce for regular marijuana. When raids reduce the supply, the price goes even higher.

Some northern California communities have come to depend on the crop. In Gaberville, a little town in Humboldt County where new businesses have opened and the growers have made political allies and gained financial clout, the townsfolk don't talk to strangers about the area's crop. "Don't need no publicity," said Ted Kogan, a nine-year resident of the area.

The more firmly entrenched the industry becomes, the more state law enforcement officials doubt that their eradication efforts will succeed. Last year, officials estimated that they destroyed less than 10 percent of the estimated crop. What is more, marijuana cultivation simply does not have a high priority with most local law enforcement officials. The Humboldt County District Attorney, Bernie DePaoli, says that the stiffest penalty he will seek for a large grower—one in the $300,000 case crop bracket—is a year in the county jail.

Except for the state's raids on growers, little has been done to rid California of the crop. Prosecutions are rare and difficult, since the fields are seldom owned by the grower and, unless a grower is caught during harvesting in the fall, possession is often hard to prove. The marijuana isn't easy to find. Many fields are tucked away in rugged state parks. Some growers cultivate as many as 50 small plots.

In addition, marijuana growers have become a new sort of folk hero in California. Hiding out in the mountains and the deserts, they are often romanticized as refugees from the cities who have eked out a life in the wilderness fighting poachers, lawmen and the elements. Of course, many growers are nothing of the sort, but rather practical businessmen and blue collar workers.

Growing even one marijuana plant is a felony in California, even though possession of an ounce is but a misdemeanor, an offense about as serious as a traffic ticket. Pro-marijuana groups are trying to change the law. They would like to see cultivation for personal use legalized. Alaska is the only state which has such a law.

The California legislature, however, has resisted any change. Although an estimated 7 million people—about 42 percent of the state's adult population—have smoked marijuana, legislation introduced by Assemblyman Willie Brown, Jr., a San Francisco Democrat, to allow an adult to grow marijuana for personal use failed in the last session of the legislature. An initiative proposition, supported by the National Organization for the Reform of Marijuana Laws, a group based in Washington, D.C., failed to make the November ballot in California.

Such setbacks, however, do not affect the big growers, who would get no protection from such changes. For them, the battle will be won or lost in the fields.

OUT-OF-STATERS FLOCKING TO NEBRASKA TO PICK MARIJUANA

OMAHA (AP).—They come in airplanes and four-wheel drive vehicles, bearing special maps and wearing camouflage fatigues. They are marijuana hunters, and their target is the low-grade pot that grows wild along Midwestern fence rows and ditches.

The illegal marijuana harvest in Nebraska is on again and State Patrol officers say the pace this year is "hot and heavy."

Lt. Robert Clinkenbeard, head of the patrol's drug division in eastern Nebraska, said arrest statistics indicate that out-of-staters are doing most of the pot picking and taking the crop with them to be mixed with high-grade imported marijuana before it's sold.

Clinkenbeard said 436 people have been arrested for picking pot in Nebraska since 1975 and only 126 were Nebraskans.

He cited these incidents in the last two months:

Four people from Maine and a Massachusetts man were arrested along Int. Hwy 80 and 33 duffle bags stuffed with 1,455 pounds of "Nebraska ditch" were seized along with $4,000 in cash, two cars, and a van.

Twelve people from New York, Oregon, Hawaii, California, and New Mexico were charged with various drug law violations after several were arrested on a Nebraska farm that authorities suspect was rented solely for pot harvesting.

Near Lincoln, four Georgians were arrested in a field and 150 pounds of freshly picked pot seized. Authorities had been tipped that some people who had harvested in Nebraska before were back for more.

Clinkenbeard said that last year alone, 125 people were arrested for harvesting marijuana and almost two tons of pot worth an estimated $2 million were seized along with a $12,000 airplane and 26 vehicles valued at $64,000.

The harvesters are using ever more sophisticated methods. "For instance, they're using expensive police scanners, 50-channel programmable scanners. You're talking a lot of money there," Clinkenbeard said.

Nebraska road maps with prime marijuana areas marked are being sold around the country, he said. To avoid arousing the suspicions of local residents, some harvesters rent farmhouses.

"We've found these spots where they've had marijuana spread on all the floors of these old farm places to dry. Some use them as a place to store the stuff," Clinkenbeard said.

Authorities have also been finding garbage compactors used to compress wild marijuana into crude bales, he said. "They're kind of innovative in their dealings, so it keeps us on our toes trying to keep up with the latest trends."

Despite the evidence of ever more active domestic pot harvesting, federal officials say they're too busy trying to keep tabs on imports to help Nebraska or other Midwestern states.

"Our 2,000 agents are scattered extremely thin," Horton Heath, a spokesman for the Drug Enforcement Administration, said at the agency's headquarters in Washington. "They are not in a position to be able to aid the states in their domestic programs . . . and I don't see that situation changing.

"We rely on reports from the states. . . . Most of the knowledge and effort that goes on in this building is in connection with the international marijuana traffic. That's serious enough."

Heath said most marijuana available in the United States is grown in Colombia and enters this country most commonly through Florida. Other sources are Jamaica and Mexico. "About 7 per cent of it is grown domestically," Heath said.

Sophisticated smokers of marijuana shy away from wild marijuana, Heath said. Levels of THC—tetrahydrocannabinol, the chemical compound that gives pot its kick—in wild marijuana are just one half of 1 per cent.

"It's rather amateurish just to pick up wild marijuana unless it's being used to adulterate other stuff," Heath said. "Wild marijuana isn't of much interest to marijuana users."

Clinkenbeard says, however, that THC levels are unimportant to the people who travel thousands of miles to harvest Nebraska's wild weed, most of which comes from the hemp plants the federal government encouraged farmers to grow in World War II.●

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 5:30 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABDNOR). The clerk will call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering items on the Executive Calendar under "New Reports," and also for the purpose of taking up the nominations at the desk for the Federal Election Commission. I except from that request the one item on page 5 for the Energy-Expo '82.

Mr. ROBERT C. BYRD. Mr. President, there is no objection to proceeding with the nominations under "New Reports" on page 3 and page 4, and with the nominations at the desk referred to by the able assistant majority leader.

Mr. STEVENS. I will make that request later.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the nominations in Calendar numbers 812, 813, 814, 815, 816, 817, 818, 819, 820, and the three nominations at the desk for the FEC be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

Arthur J. Dellinger, Sr., of California, to be Deputy Inspector General of the Department of Energy.

THE JUDICIARY

John A. Terry, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of 15 years.

Steffen W. Graae, of the District of Columbia, to be an Associate Judge of the Su-

perior Court of the District of Columbia for a term of 15 years.

George W. Mitchell, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years.

WORLD HEALTH ORGANIZATION

Edward N. Brandt, Jr., of Texas, to be Representative of the United States on the Executive Board of the World Health Organization.

INTERNATIONAL COMMUNICATION AGENCY

Robert John Hughes, of Massachusetts, to be an Associate Director of the International Communication Agency.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

James B. Burnham, of Pennsylvania, to be United States Executive Director of the International Bank for Reconstruction and Development for a term of 2 years.

DEPARTMENT OF STATE

George Quincey Lumsden, Jr., of Maryland, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Allie C. Felder, Jr., of the District of Columbia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1984.

FEDERAL ELECTION COMMISSION

Lee Ann Elliott, of Illinois, to be a Member of the Federal Election Commission for the term expiring April 30, 1987.

Joan D. Aikens, of Pennsylvania, to be a Member of the Federal Election Commission for the remainder of the term expiring April 30, 1983.

Danny Lee McDonald, of Oklahoma, to be Member of the Federal Election Commission for a term expiring April 30, 1987.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask that the President be notified of the confirmation of his nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT ON THE CONFIRMATION OF ARTHUR J. DELLINGER, SR., OF CALIFORNIA, TO BE DEPUTY INSPECTOR GENERAL OF THE DEPARTMENT OF ENERGY

● Mr. McCLURE. Mr. President, on June 30, the Committee on Energy and Natural Resources favorably reported the nomination of Arthur J. Dellinger to be Deputy Inspector General of the Department of Energy. The vote was 18 to 0. The committee's vote followed a nomination hearing held on June 28.

The Deputy Inspector General of DOE has two primary responsibilities, both of which have been established by law and are set forth in the Department of Energy Organization Act. First, he assists the Inspector General in the Administration of the Office of Inspector General. Second, he would act as Inspector General during the absence or temporary incapacity of the Inspector General, or during a vacancy in that Office.

In assisting the Inspector General, the Deputy Inspector General assumes the duty of detecting and preventing fraud or abuse in the Department's programs and operations. He also has the responsibility of promoting economy and efficiency in all DOE activities. In carrying out these duties, the Deputy Inspector General conducts and supervises audits and investigations, and he also makes recommendations on policy changes and other corrective actions.

In his testimony before the committee, Mr. Dellinger described his professional experience as follows:

As a practicing certified public accountant for almost thirty-two years and with a law degree, I have gained valuable experience in audits and investigatory work; and have dealt with the communication of the results of such work to the persons for whom the engagements were performed. In addition my professional experience has provided me with knowledge gained through practice before agencies of government, including Federal, state, and local, and in both domestic and international areas.

More specifically, my work has been clearly associated with the examination of the accounting records and internal programs of management to determine deficiencies resulting in waste or wrongdoing and to recommend corrective procedures. These engagements have covered a wide range of commercial and industrial enterprises of varying size. Also, these have included a corporation wholly-owned by the U.S. Government, although located in a foreign country.

Mr. Dellinger also provided the committee with his views on the commitment he would undertake as Deputy Inspector General. He stated:

With my training, background, and experience, with the guidance provided by the language and legislative history of the DOE Act, and with the assistance of a competent staff, I assure this Committee that I am fully committed to assist the Inspector General, as his Deputy, to seek out, expose and report any waste or fraud in its activities and to promote economy and operating efficiency in the Department of Energy. I must add that my commitment to undetake this most challenging assignment is reinforced in no small measure by my personal knowledge of the President's own oft-expressed strong support for the work of the Inspectors General, not only in the Department of Energy, but thoughout the Government.

Mr. President, the Deputy Inspector General of the Department of Energy must have both the technical expertise and the demonstrated ability that will enable him to undertake his duties immediately, and to perform his job efficiently and effectively. Mr. Dellinger meets these criteria. He is well qualified to be Deputy Inspector General. Moreover, Mr. Dellinger has fully complied with the committee's rules, which require the filing of a detailed information statement and the submittal of a financial disclosure report.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval of the Presidential nomination of Arthur J. Dellinger for the position of Deputy Inspector General of the Department of Energy.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR CHILES ON MONDAY, JULY 12, 1982

Mr. STEVENS. Mr. President, I ask unanimous consent that on Monday, July 12, 1982, after the two leaders have been recognized under the standing order, the Senator from Florida (Mr. CHILES) be recognized for a period not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTIONS IN THE ENGROSSMENT OF H.R. 3663

Mr. STEVENS. Mr. President, I ask unanimous consent that the Secretary of the Senate, in the engrossment of H.R. 3663, be instructed to make the following changes, which I send to the desk.

The changes are as follows:

On page 93, line 20, strike "and"; on line 25, strike "transportation.'" and insert in lieu thereof "transportation';" and insert the following immediately after line 25:

'(4) by adding at the end thereof the following new subsection:

"'(f) Notwithstanding any other provision of law, the Commission shall not issue any permit to any motor contract carrier owned or controlled by a citizen of any contiguous country for a period of 90 days following the date of enactment of the Bus Regulatory Reform Act of 1982. After such period, the Commission may, at its discretion, postpone the issuance of any such permit for an additional period not to exceed 60 days.'".

The PRESIDING OFFICER. Without objection, it is so ordered.

OLYMPIC COMMEMORATIVE COIN ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking be discharged from further consideration of the amendment of the House of Representatives to S. 1230, the Olympic coin bill, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment of the House of Representatives will be stated.

The legislative clerk read as follows:

Resolved, That the bill from the Senate (S. 1230) entitled "An Act to provide for the minting of commemorative coins to support the 1984 Los Angeles Olympic Games", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Olympic Commemorative Coin Act".

COIN SPECIFICATIONS

SEC. 2. (a)(1) Notwithstanding any other provision of law, the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall issue not more than fifty million one-dollar coins which shall weigh 26.73 grams, have a diameter of 1.50 inches, and shall contain 90 per centum silver and 10 per centum copper.

(2) The Secretary shall determine the design of such one-dollar coins. Such design shall be emblematic of the 1984 summer Olympic games which are to be held in Los Angeles, California. On each such one-dollar coin there shall be a designation of the value of the coin, an inscription of the year of issue, and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(3) The coins shall be issued in two separate designs, one in 1983 and one in 1984.

(b)(1) Notwithstanding any other provision of law, the Secretary shall issue not more than two million ten-dollar coins which shall weigh 16.718 grams, have a diameter of 1.06 inches, and shall contain 90 per centum gold and 10 per centum copper.

(2) The Secretary shall determine the design of such ten-dollar coin. Such design shall be emblematic of the 1984 summer Olympic games which are to be held in Los Angeles, California. On each such ten-dollar coin there shall be a designation of the value of the coin, an inscription of the year 1984, and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) The coins issued under this section shall be issued in uncirculated and proof qualities.

(d) All coins issued under this section shall be legal tender as provided in section 102 of the Coinage Act of 1965.

(e)(1) The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

(2) The Secretary shall obtain silver for the coins minted under this Act from stocks of silver held by the Secretary of the Treasury or from any other federally owned stocks of silver.

SALES WITHIN THE UNITED STATES

SEC. 3. (a) Notwithstanding any other provision of the law, the coins issued under this Act shall be sold within the United States (including United States military and diplomatic establishments outside the United States) by the Secretary under such regulations as he may prescribe and at a price equal to face value, plus the cost of issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) All sales shall include a surcharge, established by the Secretary, of not less than $10 per coin for one-dollar coins and not less than $50 per coin for ten-dollar coins.

INTERNATIONAL SALES

SEC. 4. (a) The Secretary shall assign the rights to market the coins outside the United States (excluding United States military and diplomatic establishments outside the United States) to a marketing organization selected under section 5.

(b) The marketing organization assigned the rights under this section shall pay a price determined under sections 3 (b) and (d).

SELECTION OF INTERNATIONAL MARKETERS

SEC. 5. (a) As soon as possible after the effective date of this Act, a committee consisting of the Secretary of the Treasury, the executive director of the United States Olympic Committee, and the president of the Los Angeles Olympic Organizing Committee, shall solicit, in accordance with procedures specified by the Secretary of the Treasury, proposals from marketing organizations to carry out a marketing agreement. Such procedures shall include the publication of evaluation criteria that will serve as a basis for selecting one or more marketing organizations. Such criteria shall include—

(1) the financial resources and coin marketing experience of the marketing organization;

(2) the estimated proceeds from the sale or other disposition of the coins; and

(3) the commitment of the marketing organization to purchase a certain minimum number of such coins or to pay the surcharge on such coins; and

(4) the terms and conditions for the marketing of the coins, including—

(A) proper and equitable distribution of the coins, and

(B) accurate and otherwise appropriate advertising materials to be used in promoting the coins.

(b) Within forty-five days after the effective date of this Act, the committee shall consider all proposals received from marketing organizations under subsection (a) and select by majority vote one or more marketing organizations which offer the terms for marketing of the coins most favorable in accordance with the published evaluation criteria. Any marketing organization selected shall be acceptable to the Secretary of the Treasury.

DISTRIBUTION OF PROCEEDS

SEC. 6. (a) Fifty per centum of the amount of all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the United States Olympic Committee. Such amounts shall be used to train United States Olympic athletes, to support local or community amateur athletic programs, and to erect facilities for the training of such athletes.

(b) Fifty per centum of the amount of all surcharges which are received by the Secretary from the sale coins under this Act shall be promptly paid by the Secretary to the Los Angeles Olympic Organizing Committee. Such amounts shall be used to stage and promote the 1984 Los Angeles Olympic games.

(c) Amounts received by the Secretary from advance sale of coins to be issued under this Act shall be paid to the United States Olympic Committee and the Los Angeles Olympic Organizing Committee under subsections (a) and (b), provided that any amounts paid to the Committee shall not exceed an amount equivalent to the surcharges received by the Secretary from the advance sale of coins.

(d)(1) On March 31, 1985, the Los Angeles Olympic Organizing Committee shall remit to the United States Olympic Committee all amounts remaining from the disposition of the coins under this Act. In no event may such amount be less than that portion of the unobligated funds of the committee on that date represented by the ratio of the total amount of income received by the committee from the disposition of the coins minted under this Act to the total amount of income received by the committee from all sources.

(2) After March 31, 1985, all amounts received by the committee from the disposition of coins minted under this Act shall be remitted within ten days to the United States Olympic Committee.

(3) All amounts received by the United States Olympic Committee under this subsection shall be used solely for the purposes described in subsection (a).

IMPLEMENTATION AGREEMENT

SEC. 7. (a) The Secretary of the Treasury shall enter into an agreement with the marketing organization selected under section 5 which shall provide for the implementation of that section and which shall include an agreement on—

(1) the price and schedule of payments for the coins;

(2) the schedule and other provisions for the delivery of the coins; and

(3) the proportions of proof and uncirculated coins.

(b) The agreement between the Secretary of the Treasury and the committee shall ensure that the issuance of coins under this section shall result in no net cost to the United States Government.

(c) The agreement between the Secretary of the Treasury and the marketing organization shall direct that the marketing organization shall not use any words, perform any act, or make any statement, written or oral, which would imply or indicate, or tend to imply or indicate, that any portion of the coins' sale price to the public constitutes a tax-deductible contribution.

(d) To the extent possible, the agreement between the Secretary of the Treasury and the marketing organization shall be concluded within sixty days of the date of the selection of the marketing organization.

(e) The Secretary may terminate the implementation agreement and cease minting and the delivery of the coins issued under this section if the Secretary of the Treasury finds that such termination is in the best interests of the United States. Reasons for such termination may include actions which are inconsistent with the terms of the implementation agreement or advertising materials that are inappropriate for advertising the sale of United States coinage or otherwise not in keeping with the dignity of the United States coinage.

(f) If the Secretary of the Treasury exercises his authority under subsection (e), the amount of any proceeds guaranteed to the Los Angeles Olympic Organizing Committee and the United States Olympic Committee by a marketing organization under a marketing agreement shall not be reduced.

COINAGE PROFIT FUND

SEC. 8. Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under section 6 from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

AUDITS

SEC. 9. The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the United States Olympic Committee and the Los Angeles Olympic Organizing Committee as may be related to the expenditure of amounts paid under section 6.

FINANCIAL ASSURANCES

SEC. 10. (a) The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this Act shall result in no net cost to the United States Government.

(b) No coin shall be issued under this Act unless the Secretary has received full payment therefor.

(c) The Secretary shall certify, in reports required to be filed under section 11 of this Act, that he is in compliance with this section.

REPORTS TO CONGRESS

SEC. 11. Not later than forty-five days after the last day of each calendar quarter, the Secretary shall transmit a report to the Congress regarding the activities carried out under this Act during such calendar quarter. No such report shall be required with respect to any calendar quarter beginning after December 31, 1985.

● Mr. GARN. Mr. President, I view with great reluctance and disappointment the passage of the House-passed version of S. 1230. Almost 1 year ago today, the Senate got the ball rolling on Olympic coin legislation by holding hearings on July 15, 1981. After numerous changes were incorporated into S. 1230, to insure that abuses which have plagued past commemorative coinage programs could not be repeated, and to accommodate several concerns of the Treasury Department, the Senate passed the bill in December 1981.

The Olympic Coin Act, as passed by the Senate, called for minting 54 million coins in 25 different designs, using gold, silver, and copper-nickel metals. It was a large program, absolutely consistent with recent Olympic coin programs in West Germany, Canada, and the U.S.S.R., which would have encouraged purchases of the most number of coins by the widest possible audience. The private marketers chosen to sell the coins estimated that they would sell at least 60 to 70 percent of the coins, and would deliver to the Olympic committees between $170 to $200 million, or more. The purpose of this legislation is to help finance the Olympic games, and American amateur athletic activities; and I want to emphasize that the original S. 1230 held the promise of providing $200 million plus with a guarantee of $50 million.

I have the following points to make about this legislation as it now stands, which cause me to believe that it will fail to achieve anything even close to $200 million for the Olympic committees.

First, the Bureau of the Mint will not be able to sell 52 million coins in a 2- to 3-year time period. The Mint's own record on sales speaks for itself:

The Mint only sold 38 percent of the 1.5 million 1-ounce, and ½-ounce gold medallions authorized for 1980.

Similarly, for 1981, the Mint sold 15 percent of only 400,000 gold medallions.

Of 150 million Eisenhower dollars authorized, the Mint only sold 21 million proof and uncirculated coins over 4 years.

Finally, it took the GSA 8 years and seven sales to sell only 2.9 million Morgan silver dollars, with a $10 million budget for advertising.

Second, the private marketing expertise is not available under this bill to advertise, promote, sell, and deliver the coins to a nonnumismatic audience, thereby increasing coin sales. Government sales of coins have not produced large sales because they have been unable to reach and sell to the nonnumismatic audience. The Mint sells to coin collectors. A GSA employee involved with the sale of Carson City silver dollars remarked that "if you are really selling coins and going out to the numismatists and coin collectors, serious collectors, you are not going to have a big response."

In recent hearings before the committee, the GAO stated that the Treasury would have great difficulty selling 52 million coins in three designs in 2 years without the help of private enterprise.

Third, a big response to this coin program has been precluded by the small number of coins. The variety of Olympic designs for the coins, which would have prompted more sales, has been replaced by a program with only three coin designs.

Fourth, the program faces immediate competition from the George Washington coin program. At the end of June, the Mint released orders for $1 George Washington commemorative coins to be sold for $8.50 and $10.50; and in 6 months time they will advertise the sale of another $1 coin—the Olympic coin—for twice that price. With no outside marketers for the coins, reliance is placed on numismatists to purchase coins through the Mint list. The response to mailings from that list will certainly be reduced if collectors have so recently decided to purchase a George Washington coin.

Despite my reservations with this legislation, I believe that we should continue the Olympic coinage tradition and have a coin program. The administration wants an Olympic coin program. The Olympic committees support even this small program. The passage of time, coupled with the complete intransigence of the House to cooperate in putting together a more realistic program, dictate that this version of the bill is the only game in town. I hope that it will do something for our Olympic efforts.●

Mr. STEVENS. Mr. President, it is my understanding that this is a Senate bill with a House amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I join with Mr. GARN in hoping that at a later time the House will reconsider its action and agree with the Senate to authorize additional coins for the commemoration of the Olympics.

BIRTHDAY TRIBUTE TO THE FIRST LADY, MRS. NANCY REAGAN

Mr. THURMOND. Mr. President, the role of the President is one of awesome responsibility. Daily, he makes decisions which require great wisdom, courage, and sensitivity. As President, he is expected to convey to the Nation a sense of control and calm, even when he faces the most difficult situations.

President Reagan does exude this sense of reassurance, but what is the source of his strength? I feel that I know the President well enough to say that he finds his strength through a deep faith in God, in his belief in the American people, and from the love and support of his lovely wife Nancy.

Nancy Reagan is one of the most valuable assets of this great Nation. In the first instance, she is valuable for the support and encouragement which she provides her husband. However, she also uses her remarkable qualities to play a key role which touches the most important areas of humanity, through her work with drug abuse and the foster grandparents programs.

Nancy Reagan is an excellent example of what a First Lady should be. She is an able and compassionate person who has dedicated herself in a personal campaign to correct the severe drug abuse problem in our land. She has traveled extensively in hope of helping countless Americans, young and old, win the war against this tragic affliction.

She has also undertaken efforts to reemphasize the need for, and role of, voluntarism in America. In particular,

she has encouraged numerous Americans to participate in the foster grandparents program as a way of providing love and caring for many who would otherwise miss the blessings of these relationships.

The First Lady also brings to the White House a true sense of history and appreciation for that American monument. She understands that the family privileged to live in the White House holds a trust of physical property as well as a trust of leadership. She has been deeply involved in insuring that the White House is renovated and properly maintained for the American people.

On July 6, Nancy Reagan celebrates her birthday. I am sure that my colleagues join me in extending her the very best wishes on this joyous day and many happy returns. My wife, Nancy, is a great admirer of Mrs. Reagan, and joins me in offering our personal wish that she and President Reagan will enjoy many years of happiness and good health.

Mr. President, in order to share with my colleagues more about this outstanding First Lady, I ask unanimous consent that an article from the October 26, 1980, edition of the New York Times magazine be included in the RECORD at the conclusion of my remarks. Though this article is nearly 2 years old, it still captures the character of this wonderful First Lady, Nancy Reagan.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times magazine, Oct. 26, 1980]

THE BIGGEST ROLE OF NANCY'S LIFE

The interest in discovering how much influence Mrs. Ronald Reagan really has on her husband is immediately apparent to anyone who follows them on the campaign trail. At almost every stop, a local reporter will ask Nancy Reagan, as one did the other day in Erie, Pa., "If you become the First Lady, will you play an important role in helping your husband make his decisions?"

To which Mrs. Reagan replied, as she usually does, "My husband makes his decisions. I might suggest an idea to him, but my husband makes his decisions."

Her denials of influence have persistently been ignored, however, and she continues to be portrayed as a powerful, domineering woman who has enormous influence on and control over what her husband says, does and thinks.

Mrs. Reagan has a considerable amount of influence with her husband, but she is no Svengali. She is constantly by her husband's side and he considers her his best friend. She often attends staff meetings, and her husband uses her as a sounding board, discussing with her almost every important decision he makes. Because she is so finely attuned to her husband's needs, she advises on his schedule—how much time he needs to collect himself before a speech, how much rest he needs. She is also said to have good instincts about people, and the Republican Presidential candidate pays close attention to her judgments.

Nancy Reagan is a modern political wife, far more involved in the political process than, say, Mamie Eisenhower was, but she should not be compared to Rosalynn Carter, a very active First Lady. She has said that she will not attend cabinet meetings if her husband is elected, nor will Reagan send his family abroad to represent the United States, as Carter has done. However, if her husband is elected, Nancy Reagan will surely continue to be one of his key advisers.

Aboard his campaign plane, Reagan made it clear that he feels her role in his decision-making process has been misunderstood. "Many of the stories have distorted her character and her personality a great deal. Suggestions have been made that she is—how do I say it?—some kind of mastermind behind the scenes or something."

He was referring to two of the key moves in his political life, for which she is said to have been responsible: his switch from the Democratic Party in 1962 to the Republican Party and, more recently, for the firing of John Sears, Reagan's campaign manager in 1976 and the man who supervised his comeback this year, through his all-important victory in the New Hampshire primary. Although there is no evidence that his wife had a part in his decision to switch parties, she most certainly was involved in the behind-the-scenes events that led to Sears' dismissal. When a staff crisis loomed before the New Hampshire primary, it was to Mrs. Reagan that both sides in the dispute turned for help. While her husband did indeed make his own final decision, a reconstruction of the incident reveals that Mrs. Reagan served as an arbitrator in the dispute.

It is from her extraordinarily close relationship with her husband that Mrs. Reagan's real influence—which is not inconsiderable—as well as her mythical influence—which is boundless—both derive. She is part of the Him Generation—a woman who, in the words of the Tammy Wynette song, stands by her man.

"They are joined at the hip," says one friend of the Reagans in attempting to describe their relationship. "When they go to a party, they're together, although they mingle. She's well-bred, conservative, and not extraordinary except for her devotion to her man."

Over and over the same refrain is repeated. "She adores him, and he worships her," says Nancy Reynolds, a vice president of the Bendix Corporation who was formerly an aide to Governor Reagan. "It's 100 percent genuine. She has made life wonderful for him. When he comes through that door, Nancy Reagan is waiting for him. She looks like a million bucks. There's a terrific dinner on. She's the best listener you ever saw. Is there any one of us who doesn't want that?"

John Sears says it is that very closeness that leads to confusion about what Nancy Reagan's real role is: "She is very close to her husband. People from the outside, seeing their closeness, too quickly assume that she must have a hand in the positions he takes. I've never observed that to be the fact. It has been incorrect, at least in my experience, that she takes a strong hand about issues or anything of substance. Even on the very few occasions when she tried to say anything about substance, he did not take that kind of advice from her."

After a long morning of campaigning, Mrs. Reagan sat down for an interview in her suite in a Cleveland hotel. She is, at 57, still a very attractive woman—short, thin and always well-groomed. That afternoon she was wearing a black and white polka-dot dress designed by Albert Nipon, one of her favorite designers. Her hair looked as if it had just been professionally done, although she fixes it herself on the campaign trail. "She just doesn't wrinkle, through force of will or something," says someone who has worked with her.

She is gracious but unspontaneous often replying to questions with almost verbatim passages from her autobiography, "Nancy." What does Mrs. Reagan think of her image as a controlling woman? "That's just all wrong," she said. "He makes the decisions. We can get into a discussion of how to approach an issue, but the final decision is his. Of course, after 28 years of marriage, he influences me, and I influence him, to an extent. But that doesn't mean that you go in there and say, 'Do thus and so.' That just isn't so."

Discussion then turned to the dismissal of John Sears and her part in the incident. At the time many accounts implied that Nancy Reagan had been at least partly instrumental in getting rid of Sears and his associates, James Lake, Reagan's press secretary, and Charles Black, national political director. These accounts contributed to the image of Nancy Reagan as the behind-the-scenes manipulator. The truth appears to be that her involvement was subtle but significant.

According to one of the victims of the dramatic purge, it all started three weeks before the New Hampshire primary, when John Sears overheard Ed Meese, chief of staff for Reagan when he was governor and now one of the most important of Reagan's advisers, telling some staff members that Sears would be fired the day after the New Hampshire primary, along with Lake and Black. An intense rivalry over areas of responsibility had been going on between Meese and Sears.

Sears told Mrs. Reagan what he had overheard and said, according to the source, that this was "not tolerable." "He told her he knew we had some problems in the top management of the campaign and that he had a proposal for changing that."

His proposal was to bring into the campaign William Clark, Reagan's former executive assistant, whom he had appointed to the Supreme Court in California.

Mrs. Reagan says that she called Clark at Sears' request, but that he would not leave the bench to join the campaign.

As to whether she acted without consulting her husband, she says, "Well, to a certain extent that's true. At that point, New Hampshire was very important to us and that was the main thing on his mind." But she wants to make it clear that "I was just trying to be helpful. Being helpful and being influential are different things. I was not trying to pull strings or to make decisions as to who stayed or who went."

When Clark said he was not available, the Reagan camp turned to William Casey, the East Coast lawyer who was the chairman of the Securities and Exchange Commission under Richard Nixon. After Reagan had asked him to become chief of staff, but before the appointment had been announced, Casey joined the campaign in Massachusetts.

That evening, Reagan summoned Lake, Black and Sears to his hotel room. According to one of the participants, it was "a very contentious meeting. Anger, a great deal of anger was displayed by the Governor, and after two hours we were at the point where

Sears said something to the effect of, 'I cannot work here as long as Ed Meese continues to be in the spot he is in.' The clear intent was: 'Him or me.' At that point, Reagan blew up. He jumped out of his chair and shouted."

The day after the acrimonious meeting, Mrs. Reagan continued to "lend a sympathetic ear," as she puts it, to Black and Lake, who accompanied her to Chicago.

She was also listening to the other side, as Peter Hannaford, formerly director of public affairs for Governor Reagan and a longtime intimate, points out: "Participants on both sides were probably pretty open with Mrs. Reagan. She was trying very hard to ameliorate the tensions."

How the story ends depends upon who tells it. But all sides agree that on Feb. 26, the day of the New Hampshire primary, Reagan asked Black, Sears and Lake to come to his hotel room at 2:30 in the afternoon. When the three men entered, Mrs. Reagan was sitting to one side. Reagan told them promptly that they were fired and handed them a press release that announced their resignation.

"I think she really tried to help us put together something that would be satisfactory," said one of the three victims. "But I do believe that stormy meeting sealed our fate in the Governor's mind and there was nothing she could do about it. People who don't think Ronald Reagan's a strong person mistake him. He's a very strong person, and where he's made up his mind, neither hell nor high water's going to change it."

Nancy Reagan says, "We tried to work it out, and I tried to be helpful, but by the time we got to New Hampshire, it was obvious to all of us that we were kind of applying Band-Aids. It was a situation that just wasn't going to work. Ronnie decided that, before he knew what the results were, he would make a change, so that if he lost it wouldn't seem that this had come about because he had lost—which I thought was very * * *.

Although she is now the chic wife of a fairly wealthy and successful man, Mrs. Reagan has not always had such an easy life. She was the daughter of Kenneth Robbins, a New Jersey car salesman, and Edith Luckett, an actress. Almost immediately after her birth, her father deserted her mother, and Edith Luckett, known as DeeDee, had to go to work. She left Nancy in the care of her sister Virginia and her husband, Audley Galbraith, who lived in Bethesda, Md.

Although Nancy Reagan has only praise for the generosity and kindness of her relatives, she adds that, as a child, "you want your mother."

She got her, however, only for brief intervals: "Whenever Mother got a play that kept her in New York for any length of time, I'd go and stay with her. But I missed her."

According to people who knew DeeDee Luckett, like television journalist Mike Wallace, she was worthy of her daughter's adoration. "She's an absolutely lovely woman," says Wallace, "one of the funniest women ever, warm and fascinating."

If Nancy has fond memories of her mother, the same cannot be said for her father. She describes one unhappy meeting with him: "I went to visit my father once, and he said something about my mother that I didn't like. I got angry and said I was going to go back to my mother, and he locked me in a bathroom. It was a terrible feeling, and ever since then, I cannot lock the door, never do. Ronnie, sometimes in a hotel—this was before we got Secret Service—would say, 'Well, lock the bedroom door!' And I'd say, 'No! No! No!' It just brings back the whole thing to me."

Just before Nancy's seventh birthday, her life changed completely, and for the better. Her mother married a prominent Chicago neurosurgeon, Loyal Davis, and Nancy went to live with them. Nancy and Davis got along so well that at the age of 14, she became his adopted daughter and to this day refers to him as her father.

Davis, chief of surgery at Passavant Memorial Hospital in Chicago and the chairman of the Department of Surgery at Northwestern University, was, in Nancy's view, "a man of more strength and integrity than any I have ever known other than Ronnie."

Despite her fondness for Davis, she is eager to bury the story that she adopted his right-wing political views and then passed them on to her husband. "How that ever got started, I do not know," she said. "My father was never involved in politics. He was too busy teaching, being a professor of surgery, operating."

As for the suggestion that she persuaded Ronald Reagan to join the Republican Party, Nancy laughs off the idea: "I had nothing to do with it because I didn't know anything about politics when we got married. And I'm not proud of that. I should have, but I didn't. When I was going to college, we weren't as involved or as aware. I promise you, I couldn't have changed anybody to anything."

A friend of Nancy's agrees: "I think he turned without too much help. He made a lot of money, and he became very upset about the tax structure. I think his life was changing, and he chose her because he was changing."

"When I married Nancy," says Reagan, "she hadn't given a thought to politics. The story goes, if she didn't do it, it was her father, the surgeon. I was very conscious that during the years before I changed, Dr. Davis was most tactful—we didn't talk politics. I foresaw an increasing encroachment on individual freedom by government. And over the years I finally realized I could no longer support the leadership of the Democratic Party."

Nancy Reagan attended Smith College, where she majored in drama. After graduation, she embarked on a career as an actress, helped by her mother's friends, such as Zasu Pitts, Walter Huston and Spencer Tracy. After acting in some plays in New York, she managed to land a contract with M-G-M, and she left New York for Hollywood.

Although she has been reluctant to talk about any romantic life she may have had before she met Ronald Reagan, Nancy Reagan will admit that she dated Clark Gable: "I thought he was the nicest man I had almost ever known in his position. We went to a party once, and I thought I'd be standing there in a corner. With all the beautiful, glamorous people, I thought I would be left there twiddling my thumbs." But not at all.

"We went to ball games in the daytime, out for dinner and sometimes to the theater at night. It was fun." As for romance: "It was not what you're talking about. We had a great time for a couple of weeks when he was in New York."

Nancy Davis met her future husband through an odd turn of events. There was another Nancy Davis, who turned up on a list of Communist sympathizers. Nancy Davis, the actress, began to get mail addressed to the other Nancy Davis, and she was afraid that the confusion might hurt her career. She spoke to the director Mervyn LeRoy, with whom she was working on "East Side, West Side."

LeRoy recalls that he told her he'd get a hold of a friend of his. The friend was Ronald Reagan, president of the Screen Actors Guild, who had been divorced from his first wife, Jane Wyman, for four years. "I told him she was beautiful and that he might get to like her," says LeRoy. He was right. Reagan and Nancy were married shortly thereafter, in 1952.

After their marriage and the birth of their daughter, Nancy acted in a few more movies, including one with her husband, "Hellcats of the Navy," and then decided to abandon her career to devote herself completely to her husband and family. Reagan explains, "it was just the way she had been brought up by her mother. She felt maybe some people could manage both, but she didn't feel she could, and she chose the one she felt was the most important." Did he ask her to sacrifice her career? "I could never have asked anyone to do that."

Nancy and Ronald Reagan had two children, Patricia who is now 28 years old, and Ron, who is 22. By his first marriage, Reagan had a daughter Maureen, now 39, and an adopted son, Michael, who is 35.

Despite the surface of perfection Nancy and Ronald Reagan present as a couple, their relations with their children appear to have been subject to the same tensions experienced by many families. All four children dropped out of college. Patti moved in for a couple of years with a member of a rock group called the Eagles, despite her mother's belief that living together outside of marriage is "just playing house." Ron left Yale University to join the Joffrey II Dancers in New York.

Mrs. Reagan will admit that life was not always perfect in the Reagan household: "There are things in every family that you have to deal with. The 60's were a difficult time to bring up a child and to be a child. Certainly they were exposed to things that we were never exposed to. And I think every generation in a sense rebels against the preceding generation, some children more violently than others. Patti went through a period, not in any way as violently as a lot of children did. None of the children got into the drug culture—none of that."

Patti Reagan's views are the antithesis of her parents'. She is, for example, opposed to nuclear power, which her father favors.

On abortion, she disagrees with her parents: "They don't feel that morally and religiously it's right, but I don't think that is really the point. The reality of the situation is that unwanted pregnancies happen. Do we really want to go back to back-alley abortions? I don't think we do. Yes, it's something alive in you, but I think it would be more sinful to put it up for adoption," which is precisely what her mother recommends.

When Patti was living with Bernie Leadon, a guitarist for the Eagles, there was, according to Nancy's friend Betsy Bloomingdale, a Los Angeles socialite, "a separation of a couple of years, a period when they were not all that friendly." Accepting the fact that her daughter was living with a man to whom she was not married was, according to Mrs. Bloomingdale, "hard for Nancy because she has very defi-

nite principles of what is right and what is wrong, and she sticks by those principles."

Although Mrs. Bloomingdale remembers Nancy Reagan saying, "Oh, God, I don't know what next," today Patti has returned home to Pacific Palisades, the Reagan home in Los Angeles. Of her mother, Patti says, "I'm closer to her than I ever have been."

In his freshman year at Yale, Ron Reagan called his mother to tell her he was dropping out of school to become a dancer with the Joffrey ballet. According to Ron, his mother said, "It's fine with me. I'll put your father on."

His parents were tolerant of their children's views, says Ron, adding that Patti is "more vocal about her disagreements" than he is.

As for his mother, Ron says, "She is a very strong woman, and like most strong people she is capable of making enemies with people who perhaps disagree with her." He added that "she's very bright and warm—once you get to know her. Suffice it to say, she was a good mother, and she's very loving."

Maureen Reagan, who is today executive vice president of Sell Overseas America, was 11 years old when her father married Nancy. Maureen remembers that Nancy, as a stepmother, was "as sympathetic as she could be, since she had not had the experience I've now had." Maureen, who has been married and divorced twice, says, "I've found myself over the years dating someone who has children by a previous marriage, and I have to keep reminding myself what it was like to be the kid. Little girls want their daddy's time and wives want their husbands' time."

Although, Maureen says, "we haven't lived wrapped in plastic; we're out there in the real world." She concludes, "It doesn't make my problems any better to tell you about them, so why should I? I think that's basically been an attitude of the entire family. It's not that we're secretive. It's just that it isn't going to solve anything to talk about it over and over, so why talk about it?"

When Nancy Reagan talks about issues, she does not give any impression of passionate involvement. You look for a core of Nancy, some thought that is hers as distinct from theirs, but you do not find it.

Does she, like her husband, really believe that the Vietnam war was a "noble cause"? Mrs. Reagan says, "He never was in agreement with Kennedy on sending troops into Vietnam. He didn't think we should be fighting a land war there. But once they were there, there was this tiny country that was asking for help, and to offer help, he thought, was noble. He thought it was ignoble the way the war was conducted, that they weren't allowed to win, that they were sent in there with one arm tied behind their backs. He was most critical of that."

Does she think her husband lacks adequate experience in foreign affairs, as some of his critics have alleged? "Nope," she replies, tersely.

Does the charge that he is trigger-happy have any foundation? It makes her angry, she admits, "because, after all, a man who has children and who has seen four wars in his lifetime, how could anyone make a statement like that?"

Does she think her husband's age is a problem? "He wore everybody out during the primaries," she says. "And when the flu was going around, everybody on that plane including me got it. Not Ronnie." As for the thought of retirement: "Oh, but how awful," she exclaims, pointing out that "my father, at age 84, is still the editor of Surgery, Gynecology and Obstetrics."

On abortion, she repeats her well-known views: "I'm against abortion on demand except when the mother's life is in danger. I think it's taking a human life, and I just can't get beyond that point. There are so many people who would like to adopt a child now, and there are no children to adopt."

On the Equal Rights Amendment, she says, "I think that after eight years of trying the amendment route everybody should try to go the statute route."

Does she believe in equal pay for equal work? "Women should get paid whatever a man would get paid for the same job," says Mrs. Reagan. "I think it comes down to ability."

John Sears says that one area where Mrs. Reagan has influenced her husband on issues is on women's rights, and that, contrary to popular perception, "to some degree, in that particular area, she may have accounted for some softening of his positions."

Nancy Reagan has changed a lot since 1966, when her husband entered politics. "It was a whole new life and I was scared," she recalls. Her friend Nancy Reynolds says, "She was terrified for those first few years. Her husband was being condemned by the press. She would go to a football game and hear them yell, 'Get Reagan.' She has overcome a lot of shyness and she's able to take criticism better."

"She has learned a lot," says a prominent journalist, who has covered the Reagans since their Sacramento days. "She's got good practical sense. He makes more goofs when she's not around. He talks to her a lot. They really are married in a way that's basically appealing. She's grown on me like a sore tooth."

Political life, says Nancy Reagan, like anything else "gets easier the longer you do it. It becomes less strange to you if you like people, and I basically do."

If Ronald Reagan is elected President, Mrs. Reagan will continue her interest in the Foster Grandparents Program. She has also said that she would like to do something about the drug problem. But it is unlikely that social concerns will preoccupy her. They have not to date. She will probably continue to forgo her own pursuits in order to devote herself to her husband. "Her presence will make him happy, and solid emotionally," says Jim Lake. "I think that's her greatest contribution."

Flying from one campaign stop to another, Ronald Reagan reflected on what his life would have been like if he had not met Nancy. "I don't know," he said, "except I know I wouldn't have been happy. I was well aware that I was very lonely, although I guess I was a success in Hollywood and had all the perquisites that go with that. But I felt the need to love someone."

Then, without any prodding, he posed the key question, "Has she influenced my life?" He answered: "Yes, because I've never been happier in my life than I have been with her. She is very much what you see. There is a gentleness to her, a fierce feeling of family loyalty. I miss her very much when we're not together. We're very happy. I imagine if I sold shoes, as my father did, she would have wanted to help me sell shoes."

The plane was beginning its descent, but Reagan wanted to add one more thing: "She's a very intelligent person. I don't know of anything we don't talk about. When anything happens that's interesting or exciting, the first thought that enters my mind is how I'm going to tell her."

He concluded by recalling a remark he thinks was made by Clark Gable to the effect that "there is nothing more important than approaching your own doorstep at the end of the day, knowing that someone on the other side is waiting for the sound of your footsteps." He smiled and said, "I think that sums it up pretty well."

AN ACT OF PERSONAL HEROISM

Mr. PELL. Mr. President, occasionally we come across an example of personal courage in a crisis that is worthy of special commendation. Such an example occurred in my State of Rhode Island last weekend, when 17-year-old Jon Tesseo of Westerly saved the life of a young girl whose leg has been severed by a speeding train. Tesseo was on his way to work at a Saturday job when he heard screams from nearby railroad tracks. He rushed to a trestle where 15-year-old Lani Reynolds, also of Westerly, lay critically injured, her left leg severed above the knee by a passing train. One of Tesseo's 11 merit badges as a Boy Scout is in first aid, and he heroically stemmed the flow of blood from the injured girl's mangled leg. According to police officials who transported Miss Reynolds to Westerly Memorial Hospital, Tesseo's quick reaction to the crisis prevented the injured girl from going into shock and bleeding to death.

Mr. President, I would like to share with my colleagues a fine article on this heroic action which appeared in the Providence Evening Bulletin for June 29. I ask unanimous consent that the article, entitled "Differences Died in the Fight to Live," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Evening Bulletin, June 29, 1982]

DIFFERENCES DIED IN FIGHT TO LIVE

(By Christopher Scanlan)

WESTERLY.—Jon Tesseo is 17, the kind of boy parents look at and say "Why can't you be like that?" Clean-cut, yearbook photographer, a Boy Scout nine merit badges from Eagle. Just the kind of kid Lani Reynolds couldn't stand.

Lani Reynolds is 15 and, in her father's words, "a mixed-up kid."

She moved here from Maine last fall. Settling in was difficult. There was trouble with drugs and friends her parents didn't approve of. Last Friday night, Lani went out jogging and didn't come home. It wasn't the first time. She says she slept in the woods.

At 8:30 Saturday morning, Jon Tesseo was at work at Toscano's Men's shop on Canal Street.

An hour later, still dressed in her jogging clothes, Lani stepped onto the train trestle that kids use as a shortcut between Westerly and Pawcatuck, Conn., and started walking across. There is a walkway, but Lani didn't take it. She hopped along the railroad ties, the westbound track on one side, on the

other a 60-foot drop to the swift Pawcatuck River.

At 9:35, the Colonial, an Amtrak train headed for Washington, rounded the curve past the Westerly depot and bore down on the trestle.

In the engine compartment, the fireman pointed out the window. "Girl," he cried. The engineer hit the brake and pulled the whistle. The maximum speed along that section of track is 92 to 100 miles an hour. At that speed, it takes almost two miles for a train to stop. Lani was a third of the way across when she heard the train. She debated jumping into the river below, her father says, but decided that would be dumb.

Instead, she lay face down on the ties next to the rail and held on as tight as she could.

"By rights," her father says, "she should have been safe." But Otey Reynolds is an engineer at Electric Boat and he knows that an object moving at a high rate of speed creates a vacuum and as air rushes in to fill it, it makes a wind. "And the wind sucked her leg under the train," he said.

The train severed Lani Reynold's right leg above the knee. As it passed, the wind it created picked Lani up and slammed her back down on the wooden ties, facing the opposite way. What was left of her leg landed 61.5 feet up the track.

Jon Tesseo was on his way back from Fusaro's Tailors when two boys came running out of the parking lot beside the railroad tracks screaming for an ambulance.

"Take me there," Jon said.

Lani was sitting up on the trestle. At first, Jon didn't see anything wrong.

"My leg hurts," the girl cried. And he saw the leg was gone.

One of Jon's 11 merit badges is in first aid. After he sent the boys to summon help, everything he did was "all reflex," Jon—a tall, husky boy whose hair was neatly cut, his black shoes well-shined—said yesterday as he stacked shirts at Toscano's.

"Pretend you're in Bermuda," Jon told the girl. "You're sitting on the beach soaking up the sun."

Gently, he raised Lani's mangled thigh and kept it raised to stem the flow of blood.

When Police Chief Nunzio Cimalore ran up on the trestle a few minutes later, Jon was still holding Lani's thigh up. He was whitefaced and sweating, the chief said, "but he stayed right there . . . He prevented her from bleeding to death and going into shock."

An ambulance arrived, "Stay with me, please," Lani asked Jon. He got in the ambulance and held her hand all the way to Westerly Memorial Hospital.

Yesterday afternoon, Otey and Cheryl Reynolds sat in the living room of their ranch house on Arlington Street. A few hours before, Lani had been moved out of intensive care, "She's got a good attitude," her mother said. "She's faced the reality her limb is gone."

They talked about their daughter—"sort of the rebel in the family"—and the modest boy who may have saved her life. "He's a preppie. Everything Lani disliked," Mrs. Reynolds said. "I asked Lani if her friends would have done what he did. 'They wouldn't know what to do,' she said."

After Lani Reynolds was taken away for surgery Saturday, Jon Tesseo called Paul Gencarella, the owner of the men's shop, to ask for a few hours off. He felt a little sick. Jon left the hospital and walked to a friend's house nearby. Before he got there, he was sick in the street.

"He didn't get sick because of the gore," Gencarella said yesterday, "An ambulance attendant had told him he didn't think the girl would make it. She'd lost a lot of blood Jon said, "I should have make a tourniquet.' What make him sick was the thought he didn't do enough."

GENERAL WILLIAM C. WESTMORELAND

Mr. THURMOND. Mr. President, I rise today because a native of my home State who has given more than 40 years of distinguished service to this country has been seriously maligned by news reports broadcast earlier this year by CBS.

I speak, of course, of General William C. Westmoreland, who was portrayed in a television documentary on January 23, 1982, as the leader of a conspiracy to "suppress and alter critical information on the number and placement of enemy troops in Vietnam." The network also charged in its broadcast that General Westmorelend was part "of a deliberate plot to fool the American public, the Congress, and perhaps even the White House . . . " by the alteration of troop information.

Mr. President, needless to say, these are extremely serious charges about a man who served his country with distinction and honor as Commander of U.S. troops in Vietnam. They call into question the reputation of a career soldier who has participated in 17 battle campaigns in three wars, earned four Distinguished Service Medals, and has been decorated by 16 foreign governments for his outstanding service.

After CBS broadcast the report—entitled "The Uncounted Enemy: A Vietnam Deception"—General Westmoreland held a press conference in Washington to deny the charges. Joining him in denouncing the report were former Ambassador to South Vietnam Ellsworth Bunker, Lt. Gen. Daniel Grahame, and others. All refuted the charges made by CBS and requested a formal apology from the network. On the evening of January 26, 1982, CBS News broadcast a brief mention of the press conference, reiterated the seriousness of the charges, and issued vague assurances that the matter would be looked into further. There was no indication, however, that any formal, internal investigation would be conducted.

That changed, however, when TV Guide, in its May 29 edition, charged that CBS reporters who prepared the story about General Westmoreland may have ignored information that refuted charges against the General.

That article, entitled "Anatomy of a Smear: How CBS News Broke the Rules and 'Got' General William Westmoreland," also charged that the network reporters had a preconceived notion that the General was guilty of wrongdoing. Indeed, Mr. President, the TV Guide article—and another report in Washington Journalism Review—stated that CBS News reporters "turned a deaf ear" to information that suggested General Westmoreland and was not involved in any kind of a "conspiracy" to alter information about enemy troops.

Until the TV Guide article was published, General Westmoreland feels that the network did not take his denial of the charges seriously enough to launch a complete investigation. Now that the article has been published, I am hopeful that the network will conclude its promised interval investigation and publish its findings. Be assured that the citizens of South Carolina, and of this country, will watch with interest how CBS conducts itself during this investigation.

Mr. President, the final paragraph of the TV Guide article gets to the heart of the matter. It says:

> Lapses by the network in making this documentary also raises larger questions. Are the network news divisions, with their immense power to influence the public's ideas about politics and recent history, doing enough to keep their own houses in order? If this documentary is any evidence, then the answer may be 'no.' "

Two well-respected publications have called into question the practices by which CBS News prepared the report on General Westmoreland. Those articles very strongly suggest that CBS News, and indeed all facets of the media, must remain mindful of their obligations to the public and to themselves.

The responsibility the media carries is a heavy one. It should never be treated lightly.

Mr. President, I ask unanimous consent that the articles appearing in the May 29 edition of TV Guide and a recent edition of the Washington Journalism Review, regarding this unfortunate incident be placed in the RECORD, following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From TV Guide, June 1982]

ANATOMY OF A SMEAR

HOW CBS NEWS BROKE THE RULES AND "GOT" GENERAL WESTMORELAND

(By Don Kowet and Sally Bedell)

"Tonight, we're going to present evidence of what we have come to believe was a conscious effort—indeed, a conspiracy—at the highest levels of American military intelligence to suppress and alter critical intelligence on the enemy in the year leading up to the Tet Offensive."

Thus, on the evening of Jan. 23, 1982, CBS News correspondent Mike Wallace introduced a 90-minute documentary titled "The Uncounted Enemy: A Vietnam Deception." What followed was a powerful and polished examination of a sensitive chapter of our recent history. Using the compelling testimony of ex-military officers, the program attacked the reputation of Gen. William Westmoreland, the former commander of U.S. military forces in Vietnam.

The evidence amassed by CBS seemed to prove the U.S. military's intelligence operation in Vietnam, led by General Westmoreland, conspired to deceive President Lyndon Johnson, the Congress and the American public. Beginning in 1967, the documentary charged. Westmoreland has systematically underreported to his superiors the size and strength of the enemy, in order to make it appear that he was indeed winning the "war of attrition."

Three days after the show, Westmoreland and Lt. Gen. Daniel Graham, an ex-military-intelligence officer, held a two-hour press conference in Washington to denounce the documentary and to demand in vain an apology from CBS. Newsweek magazine, a New York Times editorial and columnist William F. Buckley all accepted the program's central premise—that Westmoreland had deliberately concealed crucial intelligence from President Johnson. But the Times and the Washington Post also published rebuttals from Walt Rostow and Gen. Maxwell Taylor (two former Johnson Administration advisers) challenging that premise. Soon it became clear that there were huge discrepancies between the documentary's portrayal of events and the version vehemently argued by the show's critics, many of them former officials with first-hand knowledge whose accounts were not included in the show.

The documentary was an ambitious attempt to shed light on one of the most important debates in recent American history: the question of responsiblity for our humiliating loss of a war that cost the lives of 57,000 Americans and inflicted wounds on the society and economy of this country that are still far from healed.

The seriousness of the charges made in the documentary, and the strong criticism it aroused, led TV GUIDE to undertake a two-month investigation of the making of "The Uncounted Enemy." Its purpose was not to confirm or deny the existence of the "conspiracy" that CBS's journalists say existed. Instead, we wanted to examine how they sought to document their charges against military intelligence and General Westmoreland himself.

Our investigation disclosed that:

CBS began the project already convinced that a conspiracy had been perpetrated, and turned a deaf ear toward evidence that suggested otherwise.

CBS paid $25,000 to a consultant on the program without adequately investigating his 14-year quest to prove the program's conspiracy theory.

CBS violated its own official guidelines by rehearsing its paid consultant before he was interviewed on camera.

CBS screened for a sympathetic witness—in order to persuade him to redo his on-camera interview—the statements of other witnesses already on film. But CBS never offered the targets of its conspiracy charge any opportunity, before their interviews, to hear their accusers, or to have a second chance before the cameras.

CBS asked sympathetic witnesses soft questions, while grilling unfriendly witnesses with prosecutorial zeal.

CBS misrepresented the accounts of events provided by some witnesses, while ignoring altogether other witnesses who might have been able to challenge CBS's assertions.

CBS pulled quotes out of context, in one case to imply incorrectly that Westmoreland was familiar with a meeting where estimates of the enemy were arbitrarily slashed—a familiarity that was crucial to proving the consipiracy.

CBS's own paid consultant now doubts the documentary's premise of a Westmoreland-led conspiracy.

"Sam Adams' role was to provide the research from which we began our reporting. He was not the man who determined what went into the broadcast or how it was cast * * *. The weight of the show was not the Sam Adams story."—George Crile

In early November 1980, CBS Reports producer George Crile flew to Virginia to visit Sam Adams at his farmhouse. The purpose of Crile's visit was to reexamine a controversy that in 1967 and 1968 had raged between the Central Intelligence Agency and Gen. William Westmoreland's MACV (Military Assistance Command, Vietnam) over the enemy "order of battle"—the official size and composition of the North Vietnamese and Vietcong fighting forces in Vietnam. The intelligence controversy focused on the size of the enemy force, and whether certain categories of the enemy, particularly shadowy organizations called Self-Defense and Secret Self-Defense (composed mainly of women, youths and older men, and often unarmed) were significant enough a threat to be listed in the order of battle as soldiers. Sam Adams, the only CIA analyst then studying that question full-time, argued that they should; the military said they should not.

In 1975, Adams had written an article about the controversy for Harper's magazine, where George Crile had been his editor. Now, five years later, Crile was visiting Adams in Virginia because he thought that the order-of-battle story might make a CBS documentary. He wanted to consult Adams' "chronologies."

On long, lined, yellow legal pads, in a tight, tiny scrawl, Adams had recorded every detail he could gather, crucial or just curious, of the 1967-68 order-of-battle controversy. His "master chronology" was now 140 pages long; if typed out, Adams estimates, it would fill 500 to 600 pages.

This master chronology was a principal weapon in Adams' crusade to prove that military-intelligence officers in Vietnam had conspired to conceal the true strength of the enemy.

From his most recent interviews, Adams had concluded that in 1967 MACV not only had intentionally underreported enemy troop strength in South Vietnam but had suppressed reports of hordes of enemy soldiers infiltrating into South Vietnam down the Ho Chi Minh Trail. Adams was convinced that the faked estimates and suppressed infiltration reports had left the American Army and American President unprepared for the all-out attack the enemy launched on Vietnam's Tet holiday—Jan. 30, 1968.

"I told George what these people had told me," says Adams, "and George got real interested. George said, 'I'll write something up.' I read his proposal," Adams adds, "and it pretty well followed what these guys had said and what was in their letters."

"Conspiracy . . . was a characterization which we agreed to use in the script only at the very end, after reviewing everything in the show."—George Crile.

In fact, the notion of a "conspiracy" was the central premise of the project from its inception. On Nov. 24, 1980, when George Crile sent his "blue sheet" (the proposal a producer submits to get his documentary idea approved) to his executive producer. Howard Stringer, its nine section heading included: "The Conspiracy," "The Key Conspirator Takes Charge," "The Conspiracy Is Forced To Expand" and "The Conspiracy Continues."

In his 1980 blue sheet, Crile proposed to document "how the U.S. Military command in Vietnam entered into an elaborate conspiracy to deceive Washington and the American public as to the nature and size of the enemy we were fighting." Crile went on to suggest "that a number of very high officials—General Westmoreland included—participated in a conspiracy that robbed this country of the ability to make critical judgments about its most vital security interests during a time of war."

That blue sheet's scenarios, key witnesses, villains—and its "conspiracy"—would appear virtually intact in the CBS documentary that aired more than a year later.

Early in January 1981, CBS gave Crile provisional approval. A $25,000 budget was authorized for preliminary interviews. It was decided that if the documentary was given the go-ahead, Mike Wallace would be its chief correspondent.

Crile's main source in the search for interviewees was a list of 60 former intelligence officers, a list Adams calls "probably the most important single document I supplied George." Carefully selecting from the list men whose testimony might support the conspiracy theory. Crile by April 1981 had enough interviews on film, he believed, to demonstrate that the documentary could be done. At a series of screenings, Roger Colloff, a CBS News vice president, and executive producer Howard Stringer (Crile's supervisor) viewed "selects"—segments of interviews chosen by Crile.

"We all decided there was indeed a broadcast," says Colloff, "and that it made sense to proceed."

CBS approved the documentary. The project was given a budget of $225,000. Other interviews were filmed, with Crile, the correspondent, relying largely on Sam Adams' expertise and Adams' chronologies. Mike Wallace would interview only Sam Adams himself; the two main "conspirators," Generals Westmoreland and Graham; and Walt Rostow, former adviser to President Lyndon Johnson.

"I have told [Sam Adams] I would see if we could pay him for his research. . . . I made it clear to him, however, that this might not be possible—among other reasons because he is sure to be a key interview in the show.—George Crile's blue sheet, Nov. 24, 1980.

Paying for Adams' research and expertise turned out to be possible. CBS News signed him on as a consultant—and paid him $25,000. (Hiring consultants is a common practice for news organizations undertaking complicated investigative stories.) And despite the reservations Crile expressed in the blue sheet, CBS News executives permitted Adams to tell his story on camera.

CBS disclosed in the documentary that Adams was a consultant. But viewers had no way to knowing the extent to which his dual role—as consultant and key witness—gave Adams an uncommon privilege in the presence of CBS's most feared inquisitor, Mike Wallace.

Adams took part in "chronology sessions" in George Crile's office. Adams would sit there with stacks of his yellow legal pads bulging out of a duffel bag. He would read aloud to Crile and Alex Alben, the show's researcher, the catechism—in exquisite detail—of the order-of-battle "conspiracy" as he had recorded it. When Crile and

Adams weren't around, staffers working on the documentary called these chronology sessions "The Adams Chronicles."

Mike Wallace never attended those sessions. Busy with 60 Minutes before May 1981, Wallace had met Sam Adams only twice, briefly.

Wallace says he was "curious" about Adams' story. He says he regarded Adams as "an expert—he had been studying the subject." But Wallace also realized that at the root of Adams' expertise lay an obsession. "One man's obsession"—a word often used when people talked about Adams—"is another man's truth," Wallace says. "I admire a man who is obsessed with the truth."

However, neither Wallace nor Crile's bosses, Colloff and Stringer, ever did any more to examine Adams' credibility than simply sit down and chat with him.

"Mike Wallace's role was to be the Edward Bennett Williams in a law trial, with his junior partner, me, preparing the case."—George Crile.

Wallace was scheduled to interview Sam Adams, CBS's paid consultant, on May 12 at Adams' farm. Adams has confirmed that, five days before the interview, he traveled to New York and spent two days, May 7 and May 8, at CBS. He was not able to recall the purpose of that visit. "But I can tell you what it wasn't," Adams volunteers. "I wasn't going over the questions for my interview. For my interview with Mike Wallace I went in cold turkey."

However, we have learned that prior to sitting down with Wallace, Adams was coached extensively at CBS News on the questioning he would be facing. Such rehearsals are forbidden by CBS's own published ethical guidelines for journalists, guidelines that expressly prohibit "interviews which are not spontaneous and unrehearsed."

"Literally, they did a mock interview," a CBS source told TV GUIDE. "George and Alex [Alben, the reseacher] ran through the questions in chronological order—the ones basically used by Wallace. Not only did they do a run-through—they gave Sam definite feedback on his answers. It was a conscious effort to rehearse the whole interview, from top to bottom."

Alex Alben recalls that he and Crile did have a "long session" with Adams. "It would be incorrect to use the word 'coached'—in the sense of 'Oh Sam, say this again, use a better word, do it this way, use this phrase'," says Alben. "It would be, 'Sam, you've told us your account of your meeting with Gains Hawkins on such and such a day.' And he would say [repeat] it—and I'm sure, if its any sort of coaching, it was that Sam knew essentially what would be covered."

In his interview with Adams, Wallace did act like an Edward Bennett Williams examining a "friendly witness" (Alben's term) who could support his case. Asking Adams tough questions, says Wallace, "never occured to me. My understanding was we were getting his charges on the record—whistleblower's charges, if you will." He adds: "And then we would go from there to find out whether what he said was so or not so."

Wallace went from the Adams interview to the Westmoreland interview—this time as an adversary, not an ally.

Crile telephoned General Westmoreland at his home in Charleston, S.C., on May 10, 1981, to arrange the Wallace interview for later that week in New York.

George Crile insists that he discussed fully with Westmoreland subjects to be covered in the interview. But Westmoreland disagrees. "The discussion on the phone was very vague," says Westmoreland. Crile told Westmoreland he would send him a letter confirming the topics to be covered.

Westmoreland arrived in New York on Friday, May 15, the day before the interview. On that same day, Crile wrote the letter of confirmation and had it dropped off at Westmoreland's hotel. The letter listed five topics that Wallace would cover. The real subject of the interview and the documentary—"What about the controversy between the CIA and the military over enemy-strength estimates?"—stood forth on the list.

In the documentary, Westmoreland seemed the picture of guilt—darting his eyes and licking his lips, in a state of agitation. During many of his answers, he stammered and fumbled—in contrast to Sam Adams, who was relaxed and expansive. Westmoreland was, in fact, so angered by the tone and tenor of Wallace's questions that, in an early break for a tape change, he turned to Crile and said, "You rattlesnaked me." Later during the taping, he snapped at Wallace, "I can't remember figures like that. You have done some research. I haven't done any research. I'm just reflecting on my memory."

Nevertheless, an examination of the unedited 102 pages of their encounter reveals that Westmoreland made his case more effectively off-screen than on.

Some of Westmoreland's denials would be included in the CBS documentary, but none of his most convincing explanations. For instance, on at least 10 different occasions Westmoreland argued that the relatively small size of the enemy force that attacked during the Tet Offensive demonstrated that, rather than underestimating the strength of the enemy, the military had overestimated it.

Not once, however, was this opposing argument offered in the show.

The segment of the Westmoreland interview that, in the documentary, would seem most incriminating focused on infiltration. CBS knew that in the fall of 1967, MACV's official infiltration figures—the number of regular North Vietnamese soldiers coming down the Ho Chi Minh Trail into South Vietnam—had never climbed above 8000 per month. But Crile had interviewed several MACV infiltration analysts who claimed that during the five months before Tet, they had been submitting infiltration estimates of more than 25,000 per month. The analysts also claimed that their superiors blocked these reports to keep enemy-strength figures low, to make it appear as if allied forces were wearing down the enemy.

To Wallace's surprise, when he asked Westmoreland what the monthly figures were just before Tet, Westmoreland replied ". . . in the magnitude of about 20,000 a month."

The documentary would juxtapose this statement with a statement of only 5500–6000 infiltrators a month that Westmoreland had made on Meet the Press in November 1967. "There wasn't any doubt in the Westmoreland interview," says Wallace. "He said it [20,000] at least three times." Wallace believes he gave Westmoreland "the opportunity to refresh his memory over and over."

However, the full transcript shows that Westmoreland expressed doubts when Wallace asked him about the discrepancy. The lower number, said Westmoreland, "was the rate that took place during the summer. But it did pick up. I would have to look at the reports before I could answer that question."

Westmoreland looked, and on June 9—seven months before air date—he sent Wallace and Crile at CBS what he says he considered at the time a correction, which said that the official MACV documents confirmed 5500–6000 through December. Then the numbers jumped in January to more than 20,000. Wallace and Crile did not tell their superiors about this correction, and it didn't appear on the show.

In May, a few weeks after Wallace cross-examined Westmoreland, George Crile interviewed a man he regarded as a key witness for the CBS case. George Allen had been Sam Adams' immediate superior at the CIA. He was a longtime Adams defender. However, Allen says he "tried to dissuade Crile from even doing the show, because I thought they were making a mountain out of a molehill."

Crile was dissatisfied with George Allen's interview. So he and Allen agreed to do it over again. However, before that second interview, Crile led the ex-CIA officer into a CBS screening room, Crile then proceeded to screen for Allen interviews already filmed, including segments of interviews with Col. Gains Hawkins, Gen. Joseph McChristian and ex-CIA analyst Joe Hovey, all of whose testimony Crile intended to use in the documentary to support the conspiracy charge against Generals Westmoreland and Graham.

"It was something I did to try to help George Allen speak with the dignity he did off camera," says George Crile.

"As I recall," says Allen, "Crile had in mind that my memory might be refreshed if I saw a bit of what others had to say at that point."

By affording Allen an opportunity to compare his views with those of interviewees already on film, Crile was permitting Allen to hear parts of the accusations against "conspirators" Westmoreland and Graham while denying the generals either an opportunity to hear the voices of their accusers before the interviews or to redo their interviews.

Mike Wallace's next interview, on June 3, 1981, was with Lt. Gen. Daniel Graham, a leathery, pugnacious champion of the military's hardest line. Out of 90 minutes, Graham—one of CBS's two key "conspirators"—showed up a mere 20 seconds on camera to deny the two basic charges against him: that he blocked infiltration reports in the fall of 1967, and that after the enemy's Tet Offensive, he engineered a cover-up by asking intelligence officers to alter MACV's historical record of the order-of-battle data stored in the military's computer.

On July 24, 1981, Mike Wallace sat down for a three-hour session with Walt Rostow, the adviser responsible for funneling to Lyndon Johnson information flowing from Vietnam. Rostow could tell Wallace exactly what the President did or did not know about the intelligence controversy over enemy strength. He repeatedly denied to Wallace that critical intelligence had been kept from President Johnson. Nevertheless, after a considerable expenditure of time, money and effort, CBS would deem not one second of Walt Rostow's interview worthy of airing. "I'm satisfied," says Wallace, "that in sum he added nothing to an understanding of this particular controversy."

Fifteen days after the CBS broadcast, in a letter in the Feb. 7, 1982 New York Times, Rostow wrote that President Johnson had

been fully aware of both the enemy order-of-battle debate and of Hanoi's planned all-out offensive.

"If Rostow had said in the interview with you what he said in the letter," we asked George Crile, "would that have been worthy of including in the broadcast?"

"Yes, sure," said Crile. "It would have caused us to believe that somehow a back-channel [a private message] had gone from Westmoreland to the White House."

TV Guide has learned that—contrary to CBS's assertions—Rostow did make to Mike Wallace every point he made later in his New York Times letter. The complete, unedited 112-page transcript of the Rostow interview reveals that Rostow assured Wallace that Johnson "knew that starting in the autumn of 1967 that . . . the North Vietnamese regulars were infiltrating at a higher rate." The President, Rostow said, "was following the number of the particular North Vietnamese units that were coming down, which he got straight from communications intelligence" that Rostow characterized as "of an unimpeachable kind."

On the order-of-battle controversy, Rostow told Wallace, "The point is [Johnson] did understand that . . . there was a debate and it was a debate essentially about whether they had underestimated in the past the scale of that category that you just described to me [guerrilla militia and political cadre]."

Yet CBS "killed" that Rostow interview in its entirety. By September—four months before air date—says researcher Alex Alben, Crile and Wallace had finished their on-camera interviewing. But CBS still had not sought out a number of officials pivotal to the controversy covered by the program: Ellsworth Bunker, the U.S. Ambassador to Vietnam; Ambassador Robert Komer, head of the Vietnam "Pacification Program"; George Carver, the CIA official in charge of Vietnamese affairs; Col. Charles Morris, chief of intelligence production at MACV; and his immediate superior, Gen. Phillip Davidson Jr., the top military-intelligence officer in Vietnam.

Davidson, whose name had threaded through the CBS research, was the most important of all these omissions. "If the figures on enemy strength were going to be manipulated, I had to do it." Davidson told us. "Westmoreland gave no orders about intelligence matters that didn't go through me." Davidson, in fact, was the single most powerful intelligence officer in all of Vietnam.

At one point, during a portion of his interview with Wallace that was not broadcast, an angry Westmoreland, tired of trying to answer questions his intelligence chief was better qualified to answer, asked Wallace why he had not spoken to Davidson. Wallace's response reveals why CBS had not talked to him.

"General Davidson is a very, very sick man," Wallace replied. "We want very much to talk to . . ."

Wallace and researcher Alben say Crile told them Davidson was very ill and that Crile had tried to reach Davidson repeatedly by telephone. Crile himself told us that he had tried to telephone Davidson but that no one had answered.

We reached Davidson at his home in Texas. Davidson said that as far as he knows CBS had "made absolutely no effort to get hold of me. They did not telephone me. They did not write me."

Davidson told us that in 1974 he had suffered from cancer that had been treated successfully. "For the past eight years," Davidson said, "I have been healthy"—a fact that we verified, after receiving Davidson's permission, with his private physician, Dr. Mauro Gangai, director of the Urology Clinic at the Brooke Army Medical Center in San Antonio, Texas.

With the documentary completed and the Jan. 23 broadcast only weeks away, George Crile suddenly decided to interview two principal characters he had previously omitted. For the first time, he telephoned Col. Charles Morris, formerly General Davidson's deputy and Daniel Graham's immediate superior. Crile says that Morris confirmed the documentary's story, although Crile cannot explain why he left this important confirmation until it was too late to include it. (Morris himself, however, now denies that he supported CBS's allegations.)

Crile also met for the first time with George Carver, the superior of George Allen; Crile had interviewed Allen extensively on camera. Carver was the CIA's expert on the order-of-battle controversy and had firsthand knowledge of decisions that George Allen could only speculate about. Crile had not interviewed Carver on camera, he says, because "we had cables, internal CIA memos and reports which explicitly documented Carver's actions throughout the period."

Carver also says he gave Crile information that contradicted the show.

On Jan. 22, the day before the broadcast, CBS ran a full-page ad that appeared in both The New York Times and The Washington Post. It showed a group of men sitting around a table. Emblazoned across that table in thick letters was the word: CONSPIRACY. The following evening, after more than a year of research and the expenditure of an estimated $350,000, CBS aired "The Uncounted Enemy: A Vietnam Deception."

Our own comparison of the broadcast transcripts with our interviews and the unedited transcripts of CBS's interviews reveals repeated journalistic lapses. Two incidents in particular demonstrate how, throughout the documentary, CBS produced distorted accounts of events to support its case.

The McChristian-Hawkins Briefing: The first piece of evidence in the documentary concerned a briefing in which Gen. Joseph McChristian (Gen. Phillip Davidson's predecessor), the chief of the military's intelligence in Vietnam, and Col. Gains Hawkins, MACV's expert on the Vietcong, told Westmoreland about documents showing that the enemy's forces were larger than had been previously believed. CBS alleged that Westmoreland subsequently "suppressed" this report.

In presenting its evidence, however, CBS misrepresented statements from both McChristian and Hawkins. Their comments about three separate incidents were woven together into what seemed to be one pivotal meeting.

TV Guide's study of the official unedited transcripts of George Crile's interviews with McChristian and Hawkins reveals that McChristian was discussing a cable about enemy strength that he took to Westmoreland. Hawkins, however, was talking about two separate briefings he gave to Westmoreland in "the main briefing room" at MACV's headquarters.

McChristian never told Crile he felt Westmoreland was "suppressing" his report. Said McChristian in the transcript (but not in the show): "He [Westmoreland] asked me to leave that cable with him 'cause he wanted to review it. Shortly thereafter I left the country, and I don't know for a fact actually what happened to that message. . . ."

When Crile tried to get McChristian to pinpoint the report as the reason for his transfer, McChristian told Crile that he had been notified of his transfer "some time before" he gave Westmoreland the cable. "George," said McChristian, "I don't think there was a connection in my trying to increase the estimate, because the trend on enemy strength was constantly going up." Instead, McChristian said, he suspected that he might have been transferred at the instigation of Lyndon Johnson's special ambassador to Vietnam, Robert Komer. "Komer came there to take over some of the operations which I had initiated," McChristian told Crile, "and I believe I was looked upon as being in the way of Mr. Komer."

Those explanations did not appear on camera. Instead, CBS said, "Shortly after Westmoreland suppressed his intelligence chief's report, General Joseph McChristian was transferred out of Vietnam," a strong implication that the report and the transfer were indeed linked.

The 300,000 Ceiling: CBS's "smoking gun" (Sam Adam's term), proving a Westmoreland-led conspiracy, was an order Westmoreland allegedly gave to his MACV delegation attending a National Intelligence Estimates Board meeting at CIA headquarters in Langley, Va. "The head of MACV's delegation told us," said Mike Wallace in the documentary, "that General Westmoreland had, in fact, personally instructed him not to allow the total to go over 300,000."

Crile: "Wasn't there a ceiling put on the estimates by General Westmoreland? Weren't your colleagues instructed, ordered, not to let those estimates exceed a certain amount?"

Col. George Hamscher: "We can't live with a figure higher than so and so."

Crile: "300,000 . . ."

Hamscher: ". . . is the message we got."

"When you look at it," admits Sam Adams, "it looks as if Hamscher is the head of the MACV delegation." George Crile says this juxtaposition of Hamscher was "not intentional." The fact is, of course, that Hamscher was not the head of the MACV delegation. He didn't belong to MACV, but to another branch of military intelligence based in Hawaii.

The real head of the MACV delegation—the man CBS says received that order—was Gen. George Godding.

Sam Adams says the reason Godding wasn't identified was "the same old problem . . . the mention of too many names." General Godding has another explanation. He says, "I never quoted any figures" to CBS. Says Godding, "I told CBS that I had the basis to negotiate . . . it was no conspiracy at all. The material that we carried back [to Langley] at that time was the best estimate that we had."

The documentary also said that Col. Gains Hawkins was "carrying out orders [stipulating a ceiling] that originated from General Westmoreland." But TV GUIDE's examination of CBS's official unedited transcript of the interview with Hawkins reveals that Hawkins told Crile no fewer than four times that he had not been given a numerical ceiling before the Langley meeting. Hawkins said to Crile that he had espoused what he felt was the "command position"—the level of enemy strength set at 296,000 by the May order-of-battle report.

"Who told you that? Anyone?" asked Crile. "No one told me. I deduced it. And I defended it willingly. I was not given any specific orders," Hawkins told Crile.

All these statements by Hawkins fell to the editing-room floor.

Beyond these pivotal incidents, CBS engaged in various forms of journalistic sleight-of-hand, including quotations taken out of context and their meanings distorted.

In one case, Westmoreland was shown reacting to Col. George Hamscher's account of a Pentagon meeting in August 1967, when military officers allegedly slashed totals of enemy units arbitrarily, to keep under the 300,000 ceiling.

"Now who actually did the cutting, I don't know," said Westmoreland in the documentary. "It could have been my chief of staff. I don't know. But I didn't get involved in this personally."

In the unedited transcript of the Westmoreland interview, however, Westmoreland delivered this statement in response to a question from Wallace about an entirely different meeting—one that took place not at the Pentagon but in Saigon, where the CIA and MACV reached agreement on the order-of-battle controversy.

By inserting Westmoreland's answer to a question about the Saigon meeting after George Hamscher's account in the Documentary of a Pentagon meeting, CBS improperly made it seem as if Westmoreland were acknowledging that he knew a Pentagon meeting had occurred.

"Adams has chronicled [the] conspiracy with unbelievable detail all the way to General Westmoreland's doorstep. It is for us to go beyond. . . . The task will be to follow the trail of the conspiracy to see how far up the chain of command it goes."—George Crile's blue sheet, Nov. 24, 1980

A few days after Westmoreland and Graham held their press conference to protest the documentary, Sam Adams showed up at CBS. He was concerned, he said, that statements made since the documentary by Rostow and others cast doubt on the show's premise—that Westmoreland had been concealing evidence from Lyndon Johnson.

Adams has since repeated this concern to TV GUIDE. He says that in helping to prepare the CBS show, he fell more acutely than George Crile that the conspiracy originated in the White House, not with Westmoreland. "The problem was," says Adams, "once you get above Westmoreland, my evidence at that time was marginally circumstantial—of the rumor variety."

Now, however, Adams is convinced that Westmoreland was "acting as a go-between rather than an instigator. In other words, he was a deputy sinner, rather than the chief sinner." Consequently, says Adams, "what I am doing, in my book, is I'm trying to get the smoking guns into the White House."

While Sam Adams strides up Pennsylvania Avenue, eager to plant his fresh conspiracy on the White House lawn, viewers of "The Uncounted Enemy" are left with the memory of a 90-minute documentary misshapen by personal bias and poor supervision. It seems clear from his actions that George Crile began work on the documentary already so firmly convinced of the conspiracy theory that he leaned far too heavily on the expertise of Sam Adams. It is just as clear that he was so persuaded by Adams' view of events that in several instances he failed to include in the documentary information from authoritative sources that cast doubt on Adams'—and Crile's—theory.

It is equally true that Crile's supervisors at CBS News failed to oversee his work effectively Presumably, it was part of their job to ask tough questions, to demand that their producer explore every lead and make every effort to include all relevant points about the controversy.

We do not know whether Crile and his colleagues were right about General Westmoreland and his military-intelligence operation. We can say, however, that "The Uncounted Enemy" was often arbitrary and unfair in its approach to a subject that surely demanded all the objectivity and thoroughness that the journalists of CBS News could muster.

The network's lapses in the making of this documentary also raise larger questions. Are the network news divisions, with their immense power to influence the public's ideas about politics and recent history, doing enough to keep their own houses in order? If this documentary is any evidence, then the answer may be no. The inaccuracies, distortions and violations of journalistic standards in "The Uncounted Enemy" suggest that television news' "safeguards" for fairness and accuracy need tightening, if not wholesale revision.

[From the Washington Journalism Review, June 1982]

THE UNCOUNTED ENEMY: A VIETNAM DECEPTION

(By Peter Braestrup)

On Friday, January 22, the Washington Post and New York Times carried a full-page CBS advertisement touting the next night's Mike Wallace-George Crile show: "The Uncounted Enemy. A Vietnam Deception." On a drawing of men in uniform sitting around a conference table was emblazoned one huge word: "CONSPIRACY."

The ad read:

"CBS Reports reveals the shocking decisions made at the highest level of military intelligence to suppress and alter critical information on the number and placement of enemy troops in Vietnam. A deliberate plot to fool the American public, the Congress, and perhaps even the White House . . ."

When the 90-minute show opened the next night at 9:30 EST. Mike Wallace laid down its theme:

"The fact is that we Americans were misinformed about the nature and the size of the enemy we were facing, and tonight we're going to present evidence of what we have come to believe was a conscious effort—indeed, a conspiracy at the highest levels of American military intelligence—to suppress and alter critical intelligence on the enemy in the year leading up to the Vietnamese Communists' January 1968 Tet offensive. . . .What went wrong in Vietnam is still one of the great questions of our recent American experience. We still don't know all the answers. But tonight we shall offer an explanation for one of the great mysteries of the war—why for so long our government apparently believed, and wanted all of us to believe, that we were winning the war."

In essence. Mike Wallace and producer George Crile were revising the complex history of the Vietnam war, recycling a tired 1975 Congressional mini-controversy over U.S. Vietnam intelligence, and—presto—producing a seemingly brand-new Vietnam "conspiracy scandal" with General William C. Westmoreland, the U.S. commander in Vietnam from 1964 to 1968, cast as villain. It was Westmoreland, according to CBS, who kept the bad news from Lyndon Johnson.

Wallace and Crile, however, skewed the facts. They omitted from their broadcast a crucial interview with Walt Rostow, President Johnson's national security advisor, who said that Johnson did know about the intelligence dispute over total "numbers" of enemy forces. CBS also failed to show that Johnson urged Westmoreland (and others) to proclaim "progress" in the war using inherently slippery statistics to shore up public support for his war policy. In fact, if villain there was in this complex drama, Lyndon Johnson would fit the role better than William Westmoreland.

Since his retirement as Army Chief of Staff in 1972, Westmoreland has been one of the few senior American leaders willing to defend and explain his Vietnam record—and that of his troops in virtually any forum, friendly of hostile. Former Defense Secretary Robert S. McNamara, by contrast, has simply refused to discuss Vietnam and thus, has been granted a kind of media immunity, not Westmoreland. He has been a willing target and an easy mark.

In television interviews (not to mention some of his optimistic wartime public statements) the general has always been his own worst enemy. His memory for details, even when the facts favor him, is now rusty. He occasionally shoots from the hip. He is easily exasperated by questions he considers unfair or malicious.

In their program, Wallace and Grile (a former Drew Pearson staffer and reporter for Ridder newspapers) lined up a set of prosecution witnesses against the general. These included a half-dozen retired military intelligence officers—mostly colonels—who had served in Westmoreland's Military Assistance Command Vietnam (MACV) headquarters in Saigon during the year before the communists struck at Tet in January, 1968. They variously asserted, often with considerable passion, that in 1967, MACV had set an arbitrary ceiling of 300,000 on estimates of enemy combat strength that included regular and some irregular forces. Moreover, they alleged, Westmoreland himself had once rejected a proposed boost in estimates of Vietcong irregulars (part-time guerrillas, tax collectors, local militia) because he feared the reaction in the press and in Washington. Some of these witnesses also alleged that MACV refused to raise the monthly estimate of North Vietnamese troops moving down the Ho Chi Minh Trail in late 1967—sticking with 8,000 instead of the higher estimate of 25,000.

In the documentary, Sam Adams, a former CIA analyst (and chief consultant on the CBS show) described the long 1967 quarrel between MACV in Saigon and the CIA in Washington over "order of battle" estimates of enemy manpower. Adams claiming that MACV, for political reasons, manipulated the numbers to minimize the Vietcong's true overall strength. Adams argued that if communist irregulars had been estimated accurately in 1967, the Vietcong "army" would have been twice as big as MACV said it was.

Little of this, of course, is news. In 1975, Adams and others testified about the numbers controversy before the Special House Intelligence Committee of Otis Pike (D-N.Y.) and Adams wrote about it that same year in Harper's magazine.

When he was interviewed by CBS, Westmoreland conceded that he had once rejected a senior subordinate's proposals to boost certain categories of irregulars and political cadres in the enemy "order of battle" because, he said, they had no "offensive capa-

bility" and the new numbers would only give a misleading public impression. But he denied issuing any orders to set an arbitrary 300,000-man ceiling on estimates of enemy strength.

To these tangled 14-year-old bones of bureaucratic disputes over enemy "numbers" and infiltration rates, Wallace and Crile added some 1967 film clips showing L.B.J. and Westmoreland proclaiming progess in the war. But their final product in no way justified the CBS thesis that there was a military "conspiracy" to keep the truth about Vietcong strength from President Johnson, thereby causing American surprise and disarray at Tet.

The program took full advantage of what George Crile later admitted were television "theatrics." "The Uncounted Enemy" was done in the classic 60 Minutes mode: Westmoreland shown closeup, sweating under the camera lights, dim in his recollections and increasingly angry. His apparent accusers calmly responded to friendly questions from Crile and Wallace. Wallace, cool and prosecutorial, underlined the show's theme. He said what the former intelligence officers did not quite spell out that there had been a "conspiracy" to keep L.B.J. in the dark, that the "numbers" affected the U.S. response to the Tet offensive and, by implication, that Westmoreland was behind it all.

In interviews, Wallace, aided by Westmoreland's lapses and shaky demeanor and abetted by quick CBS juxtapositions of other bits of film testimony, made the former Vietnam commander look like a criminal caught in the act. For example Wallace brought up an early 1967 proposal by Major General Joseph McChristian, then intelligence chief to boost MACV's estimate of "irregular" guerrillas and political cadres, perhaps by 200,000 men.

General Westmoreland: I did not accept his recommendation. I did not accept it. And I didn't accept it [not, just?] because of political reasons. That was a—I may have mentioned this. I guess I did, but that was not a fundamental thing. I just didn't accept it.

Wallace: What's the political reason? Why would it have been a political bomb shell? That's really. . .

General Westmoreland: Because the people in Washington were not sophisticated enough to understand and evaluate this thing and neither was the media.

Wallace: We underscore what General Westmoreland just said about his decision. He chose not to inform the Congress, the president, not even the joint Chiefs of Staff, of the evidence collected by his intelligence chief, evidence which indicated a far larger enemy.

After citing a controversy inside MACV over the magnitude of infiltration along the Ho Chi Minh Trail by North Vietnamese troops prior to Tet, Wallace questioned Adams:

Wallace: Didn't anyone feel the need—well, obviously, no one did feel the need to alert the president of the fact that there was—the enemy had a considerably greater capacity than was imagined.

Adams: Apparently not. Then Wallace questioned Westmoreland:

Wallace: Shouldn't someone from MACV have told the president?

General Westmoreland: But * * *.

Wallace: . . . that not only were the VC planning a massive attack, but that they were flooding the South with North Vietnamese regulars?

General Westmoreland: Well . . . . That, that—that was known, that was known.

Wallace: The president knew?

General Westmoreland: I—I have no idea whether the president knew it or not.

Wallace: Secretary McNamara said in January to the Congress about 6,000 people a month are coming down. Richard Helms of the CIA said the same thing. The Joint Chiefs of Staff were never told of an infiltration rate of 20,000 a month. Your command history does not mention 20,000 a month coming down. The White House was not told about 20,000 men a month coming down. Where is there a record of this infiltration having been reported to a higher authority?

General Westmoreland: I—I couldn't answer that without reviewing the record and the messages that were sent.

Wallace added two and two and got 98. He told the CBS audience:

"And so, the president of the United States, the American army in Vietnam and the American public back home were destined to be caught totally unprepared for the size of the [Tet] attack that was coming the following month. The president had been alerted to the enemy's intentions, but no one had been able or willing to inform him of the enemy's capability. . . . No one was prepared for what was about to happen."

Through sins of omission and commission, CBS twisted the complicated facts to produce a military "conspiracy." The facts themselves tell quite another story:

Certainly, there were arguments in 1967 with strong political overtones in MACV as in Washington, over certain categories of enemy "irregulars," but there was no argument between CIA and MACV over the latter's key estimate of 100,000-plus enemy regulars, something Wallace overlooked.

Contrary to what CBS implied, Westmoreland did not convey the same optimism to President Johnson that (at the president's urging) he unwisely expressed to Congress, the American public and the press. Scholarly postmortems and the Pentagon Papers make clear that in mid-1967, Westmoreland vainly sought White House approval for 200,000 additional troops for a more decisive strategy. He wanted to cut the Ho Chi Minh Trail and strike at communist bases in Cambodia. By Westmoreland's own account, and that of Ambassador Ellsworth Bunker, he told LBJ in early 1967 that, without such a strategy, the war, despite "progress," could go on for years.

LBJ was not kept in the dark on the CIA-MACV squabble. No less a figure than Walt Rostow says the president was aware of the dispute. Rostow said this when interviewed by Crile and Wallace, but his interview did not make it to the air.

We will probably never know if official American estimates of monthly North Vietnamese Army troop infiltration in 1967 were too low. Estimates were usually arrived at long after the fact American spies did not sit alongside the Ho Chi Minh Trail and count the North Vietnamese Troops as they came by. And as CBS failed to explain, those estimates were derived not only from MACV staffwork but also from other sources such as National Security Agency radio intercepts and sensor data. And, significant for January 1968, just before Tet MACV did increase its estimated infiltration down the Ho Chi Minh trail to 20,000, a crucial fact Westmoreland failed to remember in his interview—and CBS failed to state.

The president was not taken by surprise by a surge of enemy strength at Tet. An ample record shows he was warned by Westmoreland and by the CIA that a major enemy push was coming. As reported by the press at the time, LBJ * * * troop deployments to Vietnam in late 1967 and, as Rostow says, Johnson warned the Australian cabinet on December 21 of "kamikaze attacks" and dark days ahead.

He did not, however, warn the American people.

Contrary to what CBS implied, the "numbers" controversy did not affect the course of the war in the sense that high or low estimates of enemy manpower shaped LBJ's decisions in Vietnam. The Pentagon Papers show that McNamara's systems analysts were obsessed by numbers: kill-ratios, bomber sorties, body counts. Such numbers were grist for bureaucratic disputes. And at Johnson's behest, Westmoreland and others spoke out, using such inherently inexact statistics in order to sustain public support for his policy.

Certainly, Westmoreland's "progress" reports bred cynicism within the military, Congress and the media, and helped widen the "credibility gap" that yawned even wider under the shock of the Tet attacks. But for CBS to single out and pummel Westmoreland retrospectively for engaging in a "conspiracy" to keep the bad news from the president is misleading in the extreme. The record shows that neither President Johnson, nor Defense Secretary McNamara had any illusions about any quick success for the administration's war policy despite the fact that they ordered subordinates to tell the public that their policy was "working," even as they hoped to find a way out. When the communist Tet offensive came, it was a costly military setback for Hanoi, but a political disaster for LBJ.

These facts obviously did not suit the simple Wallace/Crile story line. And so they were excluded. In preparation for their show, Wallace and/or Crile interviewed in addition to Rostow, George Carver (special Vietnam assistant to CIA Director Richard Helms), and others, who contradicted the CBS "conspiracy" thesis. (After the broadcast, they contradicted it again.) But their viewpoints were not aired—or reflected in the CBS commentary. In fact, when Crile wrote Rostow in January to tell him he was being scratched from the broadcast, Crile conceded that Tet had been a "devastating setback" militarily for Hanoi. In the broadcast, Wallace dismissed that idea as a purely Westmoreland notion.

Crile also conceded in writing to Rostow that Tet did not come as a total surprise to President Johnson nor the military command, which was not the impression he and Wallace left in their broadcast.

When Crile took an advance videotape of the show to the Washington Post, diplomatic correspondent Don Oberdorfer, an old Vietnam hand, watched it. Oberdorfer had covered the "numbers juggling" testimony in 1975 before the Pike committee. As the film began to roll, Oberdorfer exclaimed, "Ah, Sam Adams again!" Afterwards, Oberdorfer told Crile: "Nice ambush journalism. But the whole thing had nothing to do with the communist offensive at Tet."

Three days after "The Uncounted Enemy: A Vietnam Deception" was broadcast, Westmoreland, Carver, former Ambassador Ellsworth Bunker and others held a rebuttal press conference in Washington in which they confirmed the existence of MACV and CIA-MACV disputes over "counting the enemy" but denied any "deception" of the president. Carver, Adams' old boss and MACV's antagonist in 1967, said: "We read

the same evidence in different fashions and disputed mightily as to how it should be read." It was a mistake, Carver said, "to interpret differences, even very sharp differences of opinion as necessarily being evidence of conspiracy."

Then other survivors of the Vietnam era spoke up for Westy. Roger Hilsman, a former State Department official and noted Vietnam "dove," wrote in the New York Times (whose editorial page had endorsed the CBS show): "I am naturally sympathetic to the anti-war sentiments behind Mike Wallace's CBS documentary . . . but in the name of truth, I must also say that you have been taken in and that Wallace's documentary is a prize example of irresponsible, when-did-you-stop-beating-your-wife journalism that strains for the dramatic at any cost . . ."

And, at last, Walt Rostow had his say: "It is difficult enough," he wrote to the Times, "for the nation to digest and put into perspective our experience in Southeast Asia without complicating the task with distorted renditions of what happened."

He had a point.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT—PM 148

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am pleased to send you the annual report of the National Science Foundation for fiscal year 1981. It describes research supported by the Foundation in the mathematical, physical, environmental, biological, social, behavioral, and information sciences and in engineering.

In scientific and engineering research there are surely many exciting developments to report. But, as NSF Director John Slaughter notes in his opening statement to this report, research breakthroughs are "built on thousands of individual research projects done over many years." It is that kind of perseverance that makes our scientific enterprise strong. But such perseverance is necessary because in the long-term our economic growth and productivity, our national security, and the general well-being of our people depend on the new knowledge that results from research.

We do face challenges. But I am optimistic about our ability to meet them. I am confident that the Foundation will maintain its record of excellence in advancing science and technology. I commend its work to you.

RONALD REAGAN.

THE WHITE HOUSE, *July 1, 1982.*

DEVELOPMENT OF SYNTHETIC FUELS—MESSAGE FROM THE PRESIDENT—PM 149

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with Section 106 of the Energy Security Act (P.L. 96-294), I transmit herewith the first annual report on activities undertaken by the Department of Energy, in cooperation with the Department of Defense, to implement the development of synthetic fuels under the Defense Production Act of 1950, as amended. The report covers the period from June 30, 1980, through November 1981.

RONALD REAGAN.

THE WHITE HOUSE, *July 1, 1982.*

ENROLLED BILL SIGNED DURING THE RECESS

On yesterday, June 30, 1982, during the recess of the Senate the Vice President signed the following enrolled bill, which had previously been signed by the Speaker pro tempore of the House of Representatives:

H.R. 6198. An act to amend the manufacturing clause of the copyright laws.

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:30 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker pro tempore has signed the following enrolled bills:

S. 881. An act to amend the Small Business Act to strengthen the role of the small innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy;

H.R. 3127. An act for the relief of Staff Sergeant Anne M. Fisher, U.S. Army Reserve; and

H.R. 6451. An act to amend title 10, United States Code, to revise and codify the permanent provisions of law relating to military construction and military family housing.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3776. A communication from the Under Secretary of the Interior, transmitting, pursuant to law, a report on expenditures to maintain the Lowell National Historical Park for the period July 1 through December 31, 1981; to the Committee on Energy and Natural Resources.

EC-3777. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on the activities of the Guam Development Fund for fiscal year 1981; to the Committee on Energy and Natural Resources.

EC-3778. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the first annual report on the financial condition and results of the operation of the Inland Waterways Trust Fund; to the Committee on Finance.

EC-3779. A communication from the Acting Assistant Legal Advisor for Legal Advisor for Treaty Affairs, Department of State, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to June 24, 1981; to the Committee on Foreign Relations.

EC-3780. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 8, 1982; to the Committee on Governmental Affairs.

EC-3781. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 8, 1982; to the Committee on Governmental Affairs.

EC-3782. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 8, 1982; to the Committee on Governmental Affairs.

EC-3783. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 8, 1982; to the Committee on Governmental Affairs.

EC-3784. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 8, 1982; to the Committee on Governmental Affairs.

EC-3785. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 8, 1982; to the Committee on Governmental Affairs.

EC-3786. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the council on June 8, 1982; to the Committee on Governmental Affairs.

EC-3787. A communication from the Director of the Office of Congressional and Public Affairs, Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission on the Government in the Sunshine Act for calendar year 1981; to the Committee on Governmental Affairs.

EC-3788. A communication from the Secretary of the U.S. Postal Rate Commission, transmitting, pursuant to law, an erratum notice to a previously transmitted proceeding before the Commission; to the Committee on Governmental Affairs.

EC-3789. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on financial interests of certain Department of the Interior employees required by the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-3790. A communication from the Administrator of General Services, transmitting, pursuant to law, a report on travel of those agencies spending more than $5 million annually on the transportation of people; to the Committee on Governmental Affairs.

EC-3791. A communication from the Administrator of Veterans' Affairs, transmitting, pursuant to law, a report on a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3792. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the annual report of the Board on activities under the Government in the Sunshine Act for calendar year 1981; to the Committee on Governmental Affairs.

EC-3793. A communication from the Secretary of Education, transmitting, pursuant to law, final priorities for the innovative programs for severely handicapped children program; to the Committee on Labor and Human Resources.

EC-3794. A communication from the Under Secretary of the Interior, transmitting a draft of proposed legislation to provide financial assistance to the Wolf Trap Foundation for reconstruction of the Filene Center; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1002. A concurrent resolution adopted by the General Assembly of the State of South Carolina; to the Committee on Appropriations:

"CONCURRENT RESOLUTION

"Whereas, United States Public Law 920, as amended, and Presidential Directive 41, express the intent of this nation's leadership to save lives and mitigate the effects of disasters or emergencies, natural or manmade, including acts of war, by comprehensive emergency management; and

"Whereas, the President has presented to the Congress a seven year plan to initiate a viable emergency preparedness program; and

"Whereas, both peacetime and wartime emergency operations concepts for response and recovery are reflected in the plan, thereby establishing a dual use system to benefit all citizens who must cope with these multiple and complex human problems; and

"Whereas, the Congress of the United States shares in the responsibility to protect the public from all hazards, both today and in the future; now, therefore,

"Be it resolved by the House of Representatives, the Senate concurring, That the General Assembly of South Carolina hereby commends the President of the United States for his leadership in this vital effort and for his proposal to increase the level of funding commitment so as to fully implement the program in a credible and timely fashion.

"Be it further resolved, That Congress is memorialized to support the President's seven year plan, fund his request as sumbitted, and direct this program to move forward as quickly as possible so that the United States may progress toward a truly effective comprehensive emergency management program.

"Be it further resolved, That copies of this resolution be forwarded to the President of the United States, to each member of the South Carolina Congressional Delegation, the Senate of the United States, and the House of Representatives of the United States."

"ASSEMBLY JOINT RESOLUTION No. 63

"Whereas, The United States Supreme Court has recently held that federal law governing military retired pay preempts state law relating to division of community property and that federal law governing military insurance policies preempts state domestic relations decrees; and

"Whereas, The effect of these decisions is to seriously impair the ability of the several states to provide fair and equitable rules governing the property rights of spouses during marriage and on dissolution of marriage in accordance with the marital property laws of the states; and

"Whereas, For example, in a typical case if a husband, a member of one of the armed services, and his wife, a homemaker, acquired during their marriage as their major assets a family home worth $60,000 and a military pension worth $120,000, under current law, if the marriage is dissolved, the husband would receive half the value of the family home plus all of the military pension, for a total of $150,000, while the wife would receive only half the value of the family home, for a total of $30,000; and

"Whereas, As a further example, if a husband, a member of one of the armed services, has minor children and upon dissolution of marriage is required by order of a state domestic relations court to maintain his $20,000 military life insurance policy for the benefit of the children as part of his child support obligation, under current law if the husband thereafter changes the life insurance beneficiary to a third person, on the husband's death the third person would receive all $20,000 and the minor children would receive nothing from the military life insurance policy; and

"Whereas, It is necessary that federal legislation be enacted authorizing the several states to characterize, divide, and otherwise treat military and other forms of retirement, pension, insurance, medical, commissary and like benefits provided by federal law the same as any other marital property in accordance with the marital property laws of the states in order to achieve justice in domestic relations; and

"Whereas, It is necessary that federal legislation be enacted to ensure that certain benefits provided by federal law are not entirely lost by one of the spouses upon dissolution of marriage; and

"Whereas, Legislation has been introduced in both the United States Senate and House of Representatives to address these matters; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the President and the Congress of the United States to enact legislation recognizing and not preempting the right of the several states to characterize, divide, and otherwise treat the military retirement of a member or former member of the Armed Forces of the United States or any other retirement, pension, insurance, medical, commissary or like benefits provided by federal law the same as any other marital property in accordance with the marital property laws of the states; and be it further

"Resolved, That the Legislature of the State of California supports enactment of the legislation that has been introduced in the Congress of the United States to the extent it addresses these matters in whole or in part; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Senate Armed Services Committee, to the House Armed Services Committee, and to the chairman of each committee of the Senate and House of Representatives that the Chief Clerk finds has under consideration legislation that addresses this issue."

POM-1003. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

POM-1004. A resolution adopted by the City Council of Great Falls, Montana opposing the availability of blast shelters and other survival resources for the President and others unless similar protection is made available for all citizens; to the Committee on Armed Services.

POM-1005. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Banking, Housing, and Urban Affairs:

"CONCURRENT RESOLUTION

"Whereas, Exports represent a most important contribution to the eonomic wellbeing of our nation, state, and local communities; and

"Whereas, More than seven percent of all jobs in Michigan are involved in the manufacture of products which are sold abroad; and

"Whereas, The current world situation is one in which free trade is limited and more and more sales are going to heavily subsidized foreign competitors which operate on not-for-profit economies; and

"Whereas, The lack of an aggressive U.S. export policy, especially in the area of financing, is creating a disadvantage for U.S. manufacturers who can no longer rely on product quality and superior productivity to sell their products abroad; and

"Whereas, It is extremely unlikely that the United States can negotiate for enforceable international agreements to create free

trade without an aggressive export policy; and

"Whereas, The Export-Import Bank is the only defensive tool available to large capital good exporters and their thousands of suppliers to meet foreign subsidized financing; and

"Whereas, The Export-Import Bank is a profit-making agency which has returned more than $1 billion to the federal treasury and retained $2 billion more in earnings since it was capitalized in 1945; and

"Whereas, Financing exports is an appropriate investment for this country in which returns from tax receipts and reduction in necessary unemployment benefits far outweigh the short-term necessity of lending money at below-market rates; and

"Whereas, An Export-Import Bank policy, which is willing to match or better foreign subsidized financing, will assist in establishing a strong exports policy; and

"Whereas, The failure to properly support the sale of exports may have grievous long-term effects; now, therefore, be it

"Resolved by the Senate (the House of Representatives concurring), That the members of the Michigan Legislature hereby memorialize the Congress of the United States to promote and foster the Export-Import Bank; and be it further

"Resolved, That copies of this resolution be transmitted to the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, and the members of the Michigan Congressional delegation."

POM-1006. A resolution adopted by the Senate of the State of Michigan; to the Committee on Environment and Public Works:

"RESOLUTION

"Whereas, the Nuclear Regulatory Commission authorization bill (H.R. 2330) has been referred to a House/Senate conference committee. Senate conferees have proposed a fuel import limitation provision which would serve to promote the essential security interests of the United States by encouraging sufficient domestic mining and milling capacity as a long-term supply source for domestic utilities; and

"Whereas, this proposal provides that no less than eighty percent of the future fuel requirements of any domestic reactor shall be supplied by source material mined and milled in the United States; and

"Whereas, this provision will ensure the viability of the troubled uranium mining and milling industries and put thousands of laid-off miners back to work; and

"Whereas, the people of Michigan are well aware of what affect foreign imports and unfair trade practices by foreign countries can have on certain industries in our state, such as iron mining, the steel industry and, most importantly, the automobile industry. The adoption of this proposal will send a strong and clear message to foreign countries that the United States will no longer tolerate unfair trade practices by foreign competitors; now, therefore, be it

"Resolved by the Senate, That this legislative body hereby supports the adoption of the U.S. Senate proposed fuel import limitation provision for the Nuclear Regulatory Commission authorization bill (H.R. 2330); and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and the Michigan congressional delegation."

POM-1007. A resolution adopted by the Senate of the State of Michigan; to the Committee on Finance:

RESOLUTION

"Whereas, the United States iron ore and copper industries are currently suffering from the dual impact of a depressed American economy and the unfair competition of foreign iron ore and copper producers. Indeed, while American iron ore and copper companies are privately owned, many of their foreign competitors importing iron ore and copper into this country are government owned, subsidized, or directed, and, consequently, they do not have to adhere to the same free-market system requirements as American iron ore and copper producers; and

"Whereas, the importance of iron ore and copper as raw materials for American industry cannot be overstated. Certainly, we in Michigan are dependent upon the availability of iron ore and copper for the manufacture of products built in this state. Moreover the continued viability of domestic iron ore and copper producers is vital to the strength of the American economy and our national defense; and

"Whereas, in recent years, foreign companies have produced an increasing percentage of the supply of iron ore and copper used in the United States. Moreover, the penetration by imported iron ore and copper into the American marketplace has had a devastating effect on the economic base and overall employment picture of the United States iron ore and copper industries. While the iron ore and copper industries in the United States have always favored the development of open, fair, and mutually beneficial world trade, it does not support the inequitable policy which requires American iron ore and copper producers to compete in this country with foreign iron ore and copper producers which receive substantial assistance from their governments; and

"Whereas, the problems of assuring that foreign companies compete fairly and legally confronts the iron ore and copper industries, many other industries, and our entire economy. While we value highly our trade with foreign nations, it is the feeling of this legislative body that the United States government should develop a policy of iron ore and copper import limitations which allows domestic iron ore and copper producers to compete fairly in the American marketplace; now, therefore, be it

"Resolved by the Senate, That the members of this legislative body memorialize the President and the Congress of the United States to impose iron ore and copper import limitations under the provisions of the Federal Trade Act of 1974; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to the members of the Michigan Congressional delegation."

POM-1008. A resolution adopted by the Council of the Borough of Baldwin, County of Allegheny, Pa., supporting the imposition of steel import limitations as provided for in the Trade Act 1974; to the Committee on Finance.

POM-1009. A resolution adopted by the Board of Trustees of Perrin-Whitt Consolidated Independent School District of Perrin, Tex., opposing tuition tax credits for parents of students enrolled in private elementary schools; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH (for Mr. EAGLETON), from the Committee on Labor and Human Resources, without amendment and with amendment and with a preamble:

S. Res. 340. A resolution to express the sense of the Senate that no action be taken to terminate or otherwise weaken the community service employment program under title V of the Older Americans Act of 1965 (Rept. No. 97-486).

By Mr. DURENBERGER, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 2363. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Rept. No. 97-487).

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 412. A resolution authorizing the printing of the report entitled. "Highway Bridge Replacement and Rehabilitation Program, Third Annual Report to Congress," as a Senate document (Rept. No. 97-488).

S. Res. 419. A resolution authorizing the reprinting of the committee print entitled "NATO: Can the Alliance Be Saved?" (Rept. No. 97-489).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with amendments:

S. 705. A bill to authorize the Secretary of Agriculture to convey certain national forest system lands, and for other purposes (Rept. No. 97-490).

By Mr. ROTH, from the Committee on Governmental Affairs, with amendments:

S. 2625. A bill to amend the Federal Property and Administrative Services Act of 1949 to make Federal surplus property more accessible to local emergency preparedness and volunteer firefighting organizations and to authorize and direct the Federal Emergency Management Agency to recommend available Federal surplus to the Administrator of the General Services Administration for transfer to such organizations, and for other purposes (Rept. No. 97-491).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Treaty Doc. No. 97-18. A Convention Between the United States of America and the United Mexican States for the Recovery and Return of Stolen or Embezzled Vehicles and Aircraft, which was Signed at Washington on January 15, 1981 (Ex. Rept. No. 97-55).

By Mr. MATHIAS, from the Committee on Rules and Administration:

Joan D. Aikens, of Pennsylvania, to be a member of the Federal Election Commission for the remainder of the term expiring April 30, 1983;

Lee Ann Elliott, of Illinois, to be member of the Federal Election Commission for the term expiring April 30, 1987; and

Danny Lee McDonald, of Oklahoma, to be a Member of the Federal Election Commission for a term expiring April 30, 1987 (Ex. Rept. No. 97-56 to cover all three nominees).

(The above nominations were reported from the Committee on Rules and Administration with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on Labor and Human Resources:

The following-named persons to be members of the National Advisory Council on Women's Educational Programs for the terms indicated:

For the remainder of the term expiring May 8, 1983:

Lilli K. Dollinger, of Texas, vice Rhine Lana McLin.

For a term expiring May 8, 1983:

Mary Jo Arndt, of Illinois, vice Kathleen Elaine Humphrey, term expired.

Marge Bodwell, of New Mexico, vice Paul Parks, term expired.

Marcilyn D. Leier, of Minnesota, vice Bernice Sandler, term expired.

Virginia Gillham Tinsley, of Arizona, vice Eliza Macaulay Carney, term expired.

For a term expiring May 8, 1984:

Judith D. Moss, of Ohio, vice Susan Margaret Vance, term expired.

Marie Sheehan Muhler, of New Jersey, vice Carolyn L. Attneave, term expired.

Eleanor Knee Rooks, of Tennessee, vice J. Richard Rossie, term expired.

Maria Pornaby Shuhi, of Florida, vice Sister M. Isolina Ferre, term expired.

Helen J. Valerio, of Massachusetts, vice Anna Doyle Levesque, term expired.

For a term expiring May 8, 1985:

Betty Ann Gault Cordoba, of California, vice K. Jessie Kobayashi, term expiring.

Gilda Bojorquez Gjurich, of California, vice Jewel Limar Prestage, term expiring.

Irene Renee Robinson, of the District of Columbia, vice Maria Concepcion Bechily, term expiring.

Judy F. Rolfe, of Montana, vice Virginia Foxx, term expiring.

Eunice S. Thomas, of Georgia, vice Barbara M. Carey, term expiring.

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed. Subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOREN:

S. 2708. A bill to avoid the double taxation of foreign source export income, and for other purposes; to the Committee on Finance.

By Mr. SIMPSON:

S. 2709. A bill to amend title 38, United States Code, to correct a technical error with respect to entitlement to dependency and indemnity compensation; to the Committee on Veterans' Affairs.

By Mr. LUGAR (for himself and Mr. QUAYLE):

S. 2710. A bill to establish a wilderness area in the Hoosier National Forest area, Indiana; to the Committee on Energy and Natural Resources.

By Mr. INOUYE (for himself, Mr. MATSUNAGA, and Mr. WEICKER):

S. 2711. A bill to specify that health maintenance organizations may provide the services of clinical psychologists; to the Committee on Labor and Human Resources.

By Mr. HEINZ:

S. 2712. A bill to prohibit the furnishing of capital assistance under the Urban Mass Transportation Act of 1964 to recipients who accept subsidized articles or materials; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SARBANES:

S. 2713. A bill to amend title 5, United States Code, to provide that a reduction in force may not be conducted until certain alternative measures have been exhausted; to ensure the cost-effectiveness of those alternative measures and of any measures taken in conducting a reduction in force; to safeguard against unnecessary disruption, productivity loss, and harm to labor-management relations due to a reduction in force; and for other purposes; to the Committee on Governmental Affairs.

By Mr. TSONGAS:

S. 2714. To clarify antitrust law with respect to joint research and development ventures to encourage the formation of such ventures, and for other purposes; to the Committee on the Judiciary.

By Mr. WALLOP (for himself and Mr. DOMENICI):

S. 2715. A bill to establish the National Park Visitor Facilities Fund, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself and Mr. BOREN):

S. 2716. A bill to enable milk producers to establish, finance, and carry out a coordinated program of dairy product promotion to improve, maintain, and develop markets for dairy products; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GLENN (for himself, Mr. KENNEDY, Mr. LAXALT, Mr. JOHNSTON, Mr. Bradley, Mr. KASTEN, Mr. COCHRAN, Mr. MATHIAS, and Mr. TSONGAS):

S. 2717. A bill to authorize the Attorney General to issue certificates of review applicable under antitrust laws with respect to joint research and development programs; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S. 2718. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of industrial revenue bonds; to the Committee on Finance.

By Mr. DODD (for himself, Mr. WEICKER):

S. 2719. A bill entitled "The Mashantucket Pequot Indian Claims Settlement Act"; to the Select Committee on Indian Affairs.

By Mr. QUAYLE (for himself, Mr. HATCH, and Mrs. HAWKINS):

S. 2720. A bill to provide transitional funding for the deregulation of health planning; to the Committee on Labor and Human Resources.

By Mr. SCHMITT (for himself, Mr. DOMENICI, Mr. MCCLURE, and Mr. THURMOND):

S. 2721. A bill to establish criteria for determining election boundaries in developing census information; to the Committee on Government Affairs.

By Mr. GRASSLEY:

S. 2722. A bill to expand exports of United States agricultural commodities, develop commercial markets for such commodities, promote the foreign policy of the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. RIEGLE (for himself, Mr. LEVIN, and Mr. DIXON):

S. 2723. A bill to expand the supply of stragetic skills in critical occupations in which there is a shortage of workers by providing retraining for experienced displaced workers from funds available for certain defense procurement; to the Committee on Armed Services.

By Mr. DANFORTH (for himself, Mr. HART, and Mr. GOLDWATER):

S. 2724. A bill to encourage States to provide unemployment benefits to certain partially unemployed workers; to the Committee on Finance.

By Mr. DODD:

S.J. Res. 211. Joint resolution to authorize and request the President to designate July 27, 1982, as "National Recognition Day for the Registry of Interpreters for the Deaf"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOREN:

S. 2708. A bill to avoid the double taxation of foreign source export income, and for other purposes; to the Committee on Finance.

EXPORT SALES CORPORATION ACT OF 1982

● Mr. BOREN. Mr. President, today I am introducing the Export Sales Corporation Act of 1982. This legislation will create an export incentive designed to preserve the benefits of the Domestic International Sales Corporation (DISC) while resolving many of the problems that have plagued DISC internationally since its inception. This bill is also designed to encourage smaller exporters, from the agricultural sector and elsewhere, to use these new provisions by allowing them to share in an Export Sales Corporation (ESC) in a joint exporting effort.

The necessity of preserving the export incentives of DISC becomes rather compelling when you consider that the position of the United States in international trade has weakened dramatically during the last several years. We are now in a foot race with the Federal Republic of Germany for the position of leading exporter, with Germany ahead for most of 1981 and for every year back to 1975. The United States presently holds approximately a 20-percent share of world trade, Germany around 18 or 19 percent, Japan approximately 15 percent, up from 10 percent in early 1980. France and the United Kingdom are hovering around 10 percent.

It should be noted, however, that the United States, as of the third quarter of 1981, had merchandise exports equal to 7.7 percent of GNP while Germany had exports of approximately 25 percent of GNP and Japan approximately 14 percent.

Although the United States in past years has made some progress in fostering exports, reversals have occurred and the prognosis is for a gradually worsening trade position.

Quoting from the 1982 Joint Economic Report:

The United States is in the midst of a gradual shift toward greater involvement in the world economy. In the past decade, the importance of the trade component of our GNP has more than doubled. Until early 1981, U.S. exports had grown rapidly for several years and appeared to be regaining some of the world share of manufactured goods that had been lost earlier in the 1970's. High interest rates and the overvalued dollar have since reversed that progress. The result has been large and increasing trade deficits which contributed heavily to the recession.

* * * * *

Export orders of major U.S. firms have gone down by about 40 percent while imports of goods such as steel and European autos have risen even though U.S. demand is weak.

* * * * *

[T]he low growth rate of recent exports contrasted sharply with the 18 to 27 percent annual increases in the preceding three years.

It is against this background that some trade experts are beginning to say that the dollar is more overvalued than it was when we went to flexible exchange rates in 1971 and devalued again in 1973. These trends coupled with a decline in relative productivity and international competitiveness must be closely monitored.

Fears regarding the effects of an overvalued dollar are also expressed in the Economic Report of the President:

Although cyclical factors have played and will continue to play an important role in movements of the trade account, the strong appreciation of the dollar through much of 1981 has already begun to be reflected in trade flows.

Of course, no one needs to be reminded of the $27.8 billion trade deficit in 1981 and the near record deficit for all merchandise trade of $37.7 billion. Indications are that we will continue to run a deficit for the foreseeable future.

Incongruously, at this time of increased competition and fears of even greater problems for exports, there are proposals to reduce the one serious provision for exports, the Domestic International Sales Corporation provision in the tax law. These provisions were instituted in 1971 and nearly emasculated in 1976. Still, today, they can be said to have helped those exporters who were patient enough and trusting enough to try to take advantage of them.

The positive impact of DISC upon U.S. exports has been significant. Increased exports attributable to DISC grew from $1.9 billion in 1972 to almost $7 billion in 1979. Since the enactment of DISC, United States nominal exports have increased from $43 billion in 1971 to $220 billion in 1980. During this time, export trade has become a larger component of the gross national product, growing from 4.4 percent in 1970 to 8.2 percent in 1980.

According to a recent Price Waterhouse study prepared for the U.S. Chamber of Commerce, the Business Roundtable, the National Association of Manufacturers, the Emergency Committee for American Trade, the Special Committee for U.S. Exports, the National Foreign Trade Council, and the American Business Conference—

The DISC provisions increase U.S. export sales by between $1.5 and $7 billion at little or no cost to the Treasury. In fact, under a reasonable set of assumptions, DISC may actually increase both output and total Treasury receipts at a time of low capacity utilization and high unemployment in the U.S. economy.

At best, DISC provides for only a 9 percentage point reduction in the nominal 46-percent marginal corporate tax rate; it is complicated; and the provisions have never had a ring of permanency to them. Smaller exporters have had difficulty with the complexity of the provisions.

The agricultural sector has been the principal user of DISC. In 1979, the most recent year for which statistics are available, over 29 percent of total gross receipts from DISC sales were attributable to sales of agricultural products, food and kindred products, and leather and tobacco products. Approximately 25 percent were attributable to sales of agricultural products alone.

DISC tax-deferred income on sales of agricultural products, food, leather, and tobacco was in excess of $215 million in 1979.

According to the Treasury Department, if DISC, had been eliminated, exports of nonmanufactured products—mainly agricultural commodities, but not including food and kindred products, leather, and tobacco products—would have been reduced by $200 million to $400 million in 1979.

Demand for agricultural products on world markets is especially responsive to price changes because identical products are supplied by many countries. Price increases, which must result from an elimination of DISC, will result in decreased competitiveness of U.S. agricultural products in foreign markets.

Smaller exporters have been discouraged from using DISC for a variety of reasons, primarily its complexity and cost. For years I have argued that smaller businesses deserve to be included in, not excluded from, the field of international trade. Therefore, I have made sure that the provisions of the Export Sales Corporation Act will permit smaller exporters to take advantage of the benefits available. ESC will be encouraged to allow smaller exporters to tie into their ESC by allowing them a $5,000 credit to defray a small portion of the additional administrative costs. Also, the Treasury Department is given the authority to promulgate regulations permitting unrelated shareholders to participate in exporting through an ESC on what I would describe as a patronage basis—with the benefits accruing to the shareholders on the basis of the volume of exports run through the ESC. Lastly, the act will direct the Treasury Department to publish a revised Handbook for Exporters highlighting the uses of an ESC for smaller exporters.

These provisions will enable smaller exporters to help themselves by expanding their export operations. This will be particularly important for small agricultural exporters at a time when exporting is being touted as a solution to the severe recession now confronting the farming sector.

GATT CONSIDERATIONS

In recent months an important new factor has arisen. On December 8 of last year, the GATT Council adopted a panel report that apparently determined that DISC is an illegal export subsidy under article XVI of the General Agreement on Tariffs and Trade. At the same time, the territorial tax practices of Belgium, France, and the Netherlands were determined to be legal. Certain understandings intended to protect DISC were woven into the GATT Council determination at the insistence of the United States, but it is arguable that these will not ultimately save the DISC. Upon GATT Council adoption of DISC panel report, GATT procedures permit our trading partners to press the DISC issue at a time of their own choosing. Any one of them could unilaterally assert the illegality of DISC, ask the GATT Council to advise us to amend our laws to make them compatible with the GATT, and upon our refusal to do so, request authority from the GATT Council to impose retaliatory tariffs or quotas across the board or selectively against U.S. exports into their market.

On March 28, 1982, the Canadians chose to press the issue at a meeting of the GATT Subsidies Code Committee. The Canadians asserted that GATT article XVI.1 requires countries to send the GATT a written description of all subsidies but that the United States had not included DISC in its notice. The United States responded that DISC is not a subsidy.

In reaction to this, the European Communities requested the GATT Council, on May 7, 1982, to advise the United States to "take appropriate action without delay to bring the DISC legislation into conformity with the provisions of the GATT." Furthermore, the EC requested the Council to keep the DISC issue on its agenda

"with a view to any appropriate follow-up," that is, retaliation.

On Tuesday, in Geneva, the GATT Council met again. The United States held fast to its view that the DISC is legal. The other countries held fast to their view that the DISC has been determined to be an illegal subsidy.

The GATT illegality problem is not theoretical. The administration did the best it could in a very difficult situation. Nonetheless, the likelihood of countervailing action against DISC exports by other countries is rapidly increasing. The procedural steps which must be taken by the countries that are attacking the DISC before countervailing action can be taken will probably be exhausted in the next several months, suggesting that retaliation against DISC is impending.

Nothing in the proposals to apply to a minimum tax to the DISC benefits addresses the GATT problem.

It should also be recalled that the permanency of the DISC provisions and their cost effectiveness have continually been drawn into question. It is not at all surprising that utilization of these provisions by U.S. exporters has always been marked with reluctance.

OTHER COUNTRY'S PRACTICES VERSUS DISC

In comparison, other countries have been much more straightforward and, one might say, effective in their tax incentives for exports. Many of our trading partners utilize the territorial approach to taxing foreign operations, that is, they only tax domestic earnings of a company. They exempt from taxation the earnings of a foreign subsidiary or, in some instances, a foreign branch. What is more, the transfer pricing rules and enforcement of those rules are by no means as strict as ours.

It is extremely difficult to pinpoint foreign tax rates and practices applicable to exports because studies of the tax rates are ordinarily derived from statutory rates, which may or may not reflect the true state of affairs; because integrated tax systems—where the corporate and shareholder taxes are melded together in some fashion—necessitate arbitrary assumptions as to dividend payout rates; because actual practices in some countries vary widely from the published rules; and because the rates, statutes, regulations, and practices are continually changing. Notwithstanding these difficulties, it can be safely asserted that the United States has one of the highest effective tax rates on export income. It reportedly has the highest effective rate with the possible exception of West Germany; and West Germany's rate is problematical given its integration system. The U.S. effective tax rate on exports, according to a 1977 study, was 27.4 percent as compared with 8.7 percent in France, 12.2 percent in the United Kingdom, and 17.9 percent in Japan. Of even more significance is the relationship between the effective rate on export income versus the effective rate on domestic income, since the difference determines where investment income will flow. In Japan, for example, domestic income bears an effective rate of 29.2 percent and export income an effective rate of 17.9 percent. In France, domestic income bears an effective rate of 34.3 percent and export income an effective rate of 8.7 percent.

A recent draft study summarized some of the foreign tax practices as follows:

It is generally believed if all forms of subsidization are analyzed—nontax as well as tax—that, overall, other countries subsidize their exports to a greater degree than the United States. Looking at tax rules alone, however, it might be assumed, based on descriptions of statutory provisions and rates, that certain other countries do not foster export performance to a remarkable degree. In fact, this is not the case. When actual foreign practices are drawn into the light, it is evident that every country, in one fashion or another, encourages exports by means of the structure and application of its tax laws. Each of the countries examined encourages exports in this way to a greater degree than the U.S. Also, with respect to each, a close examination of actual practices leads to the conclusion that taxation of exports is generally at an even lower rate than heretofore supposed.

Countries foster exports with tax laws and practices in widely varying ways. As a general rule, the number of overt "subsidies" in domestic tax rules has been reduced in recent years, but a number still remain. It is more common for favorable provisions to appear as foreign tax provisions in a country's internal tax laws. The territorial tax systems used by The Netherlands and France are obvious examples. Omissions in the coverage-tightening provisions of subpart F-type laws in the case of Japan and Germany are less obvious examples. One frequently encountered aspect is an approach to pricing rules that permits an allocation out of a large percentage of export profits. Based on the most recent developments, it would be an overstatement to say that foreign countries are moving in the direction of a more stringent enforcement of arm's-length pricing rules. In 1979, the OECD Council adopted a recommendation on the determination of transfer prices between associate enterprises. To date, only one country, Italy, has enacted new provisions or finally promulgated new rules tightening enforcement in this area. Another aspect which is often overlooked is the treatment of export expenses. There are, in fact, two principal variables in intercompany pricing rules: supplier markup and supplier cost. It is obvious that if a markup of 8 percent over supplier's cost is required as a result of statutory provisions, regulations, or audit practice, less foreign source income will be available for low-tax treatment than if a 4 percent markup were allowed. Less obvious but more important is the effect of allowing a low figure for the supplier's cost—usually by permitting the supplier to avoid allocating overhead cost as expenses to exports. No country examined appears to be actively pursuing this point.

In the United States, as of the time of the 1977 study, domestic income bore an effective rate of 36.7 percent and export income an effective rate of 27.4 percent. Many sectors of the domestic economy, after the tax law changes made by the Economic Recovery Tax Act of 1981, presently bear an effective rate significantly lower than that applicable to exports of merchandise and undoubtedly lower than that applicable to services which are exported. This observation is supported by the study of taxation of income from business investment contained in the President's recent Economic Report.

It is noteworthy that the new ACRS rules do not solve an exporter's problems. Based on a recent study, replacing old depreciation rules with ACRS reduced the effective rate of taxation on a typical manufacture-for-export project from 20.8 percent to 17.1 percent. Repeal of DISC today would increase the effective tax rate to 24.1 percent. In other words, the exporter's effective tax rate would be about one-fifth higher than it was before ACRS and before repeal. Also, ACRS does nothing for exports of services and little or nothing for short-lived, high-technology items.

REVENUE LOSS CONSIDERATIONS

In spite of the obvious need for continued and even greater support of exports, it is not suggested that the present dollar-of-tax-revenue level of support be increased. The battle against budget deficits is critical and must be won. Exporters realize that inflation is one of the secrets to the success of our principal competitors. Inflation can be viewed as a continual devaluation of tax items such as depreciation. High interest rates are also decried by exporters, since they lead to an over-valuation of the dollar and inevitably to resistance to the sale of our exports abroad. In addition, high interest rates make trade financing more expensive.

The present proposal will hold static revenue estimates at a par with present revenue estimates with DISC. DISC is presently projected to cost $1.7 billion in 1983. The present proposal would cost the same amount. The cost and, it follows, the benefits for exports and the economy can then be increased by measured increments over a period of time.

It must be said, however, that the feedback effect of this Export Sales Corporation proposal—which can be substantiated by solid economic analysis—are two-thirds to 100 percent. Conversely, proponents of the minimum tax on deferred DISC earnings must recognize that the revenue pickup will be this much less than static revenue estimates would indicate.

Stated differently, and under a slightly different analysis of the same issue, a reduction in export levels of only 3 percent as a result of imposition of the new alternative minimum tax would wipe out any revenue pickup.

EXPORT SALES CORPORATION PROPOSAL

In view of all of these considerations, it is proposed that Congress enact an Export Sales Corporation (ESC) provision in order to make our export tax rules GATT legal while holding the revenue cost constant. Also, without any revenue cost, we can make some minor changes to encourage exports by smaller exporters.

DISC should not be repealed, since I and others remain convinced that it is and always has been a legal trade practice. The ESC provisions should simply be laid alongside the existing provisions. Since most exporters will want to use the new provisions, the propriety of DISC under the GATT and the new subsidies code will become moot.

The Export Sales Corporation would operate as a subsidiary through which the U.S. exporter would make export sales or perform export services. Its scope would be basically the same as the present DISC. The pricing rules would generally be the same.

The GATT-legality problem would be solved by providing for the establishment of ESC's in a U.S. territory or a foreign country that imposes taxes. The ESC would then stand in the same shoes as similar companies utilized by Japanese, Dutch, French, and English exporters. While the DISC is viewed by some as an illegal trade subsidy, the ESC, under GATT precedents, would be a permissible means of avoiding double taxation of foreign income.

The revenue cost is held constant by deeming 100 percent of the income of the ESC to be distributed back to the U.S. shareholders and applying a 32-percent dividends received deduction. With DISC, the deferral of current taxation on 17 percent of export profits creates a nominal 9 percent reduction in taxes. With ESC, 32 percent of export profits would not be taxed. The result for the Treasury is the same.

The 32 percent figure is simply the percentage required to hold the revenue cost at the present level. Based on the most recent Treasury Department data, this figure was derived as follows:

	1983	1984	1985	1986
CALENDAR YEAR				
Revenue cost (millions) current law	$1,770	$1,830	$1,890	$1,960
ESC proposal with 30 percent div. rec. deduction	$1,650	$1,777	$1,920	$1,073
Additional rev. cost	($120)	($53)	$30	$113
Percentage required to hold rev. cost constant	32.17	30.89	29.54	28.36
FISCAL YEAR				
Revenue cost (millions) current law	$1,730	$1,810	$1,870	$1,930
ESC proposal with 30 percent div. rec. deduction	$1,613	$1,758	$1,899	$2,041
Additional rev. cost	($117)	($52)	$29	$111
Percentage required to hold rev. cost constant	32.17	30.89	29.54	28.36

With provisions for an Export Sales Corporation the United States would be on the same plane as its competitors. Then, if it is thought to be desirable, mutually effective rules on subjects such as transfer pricing can be negotiated through international forums.

The Export Sales Corporation provisions might also be more cost effective than existing provisions because they are simpler, they can be more readily used by smaller exporters, and they will be seen to be more lasting in nature.

Export Sales Corporations will allow the United States to neutralize many of the disadvantages we are now confronted with internationally, thereby enhancing the competitiveness of American exports in international markets. I believe that improving our international competitiveness is the ultimate goal of this legislation and am convinced that enactment of this bill would be a very significant step toward regaining American prominence in international markets.

Mr. President, I ask unanimous consent the a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

EXPORT SALES CORPORATION ACT—SECTION-BY-SECTION ANALYSIS

This bill provides for an Export Sales Corporation (ESC) supplanting the Domestic International Sales Corporation (DISC) provisions. The DISC provisions are not repealed.

SECTION 1

The title of the Act is the Export Sales Corporation Act of 1982.

SECTION 2

This section would add new sections 914 through 918 to the Internal Revenue Code to establish a territorial method of taxing export income earned by an ESC.

1. An ESC is an electing foreign corporation subject to the foreign country's tax. An Export Sales Corporation may be established in a U.S. possession, other than Puerto Rico which is within the customs territory of the United States. Section 915.

2. The ESC must limit its activities to exporting American products and related services. To qualify as an ESC, the corporations must meet a gross assets and a gross receipts test almost identical to the existing DISC tests. Sections 915 and 916. Failure to qualify will result in a corporation's being subject to current taxation under Subpart F, which is otherwise specifically made inapplicable to a qualifying ESC. As in DISC, provision is made to allow for qualifying distributions of assets and/or receipts, so as to avoid accidental disqualification. Section 915.

3. The income of an ESC is not subject to U.S. taxation. Section 914. Shareholders of the corporation, however, are deemed to have received, annually, 100 percent of their share of the taxable income of the ESC. These will be taxable dividends. Section 918. For ESCs wholly owned by a domestic corporation, an amendment to Section 245 of the Internal Revenue Code provides for an intercorporate "dividends received" deduction. The amount of this deduction is limited to 32 percent in order to hold the revenue cost constant.

4. No credit or deduction may be taken for foreign taxes paid or deemed paid by an ESC or by an ESC shareholder by reason of dividends paid by an ESC.

5. A corporation may not have both a DISC and an ESC as subsidiaries. Section 915.

6. Intercompany pricing rules similar to those for DISC would govern transactions between an ESC and its parent corporation. The only difference is the elimination of the increase in allocable taxable income equal to 10 percent of export promotion expenses. Section 917.

SECTION 3

1. Provision is made to allow the Virgin Islands to reduce its tax on an Export Sales Corporation by amendment to section 934 of the Internal Revenue Code.

2. An amendment is made to section 904(b) of the Internal Revenue Code to insure that ESC income will not increase a taxpayer's foreign tax credit limitation.

SECTION 4

A number of small business provisions have been provided. Unrelated shareholders can own stock in an ESC. The requirement of one class of stock is eliminated. A credit of up to $5,000 is provided for administrative expense for one shareholder for managing an ESC on behalf of other shareholders. Subchapter S corporations are permitted to own an ESC. The Secretary of the Treasury is authorized to promulgate regulations facilitating the establishment and operation of multiple-ownership ESCs. Also, the Secretaries of the Treasury, Commerce and Agriculture are directed to publish an updated version of the 1972 Handbook for Exporters explaining the benefits and operations of an ESC for exporters of all sizes.

SECTION 5

The assets and the earnings and profits of an existing DISC may be transferred to an ESC in a tax-free exchange. Rules are provided for transfer of basis in DISC stock and DISC assets as well as DISC earnings and profits, which must be separately accounted for. Previously taxed and previously untaxed DISC earnings transferred to an ESC are to the segregated. ESC dividends attributable to DISC untaxed earnings may be paid out over a 10 year period and are not subject to tax.●

By Mr. LUGAR (for himself and Mr. QUAYLE):

S. 2710. A bill to establish a wilderness area in the Hoosier National Forest Area, Ind.; to the Committee on Energy and Natural Resources.

CHARLES C. DEAM WILDERNESS

● Mr. LUGAR. Mr. President, I am today introducing with Senator QUAYLE a bill to establish the Charles C. Deam Wilderness Area in the Hoosier National Forest in portions of Monroe, Brown, Jackson, and Lawrence Counties. This will be a special area dedicated to the quiet enjoyment of nature. It will be a place in which all Hoosiers can be proud to reflect upon our heritage, our lives, and our future.

An identical House bill will be introduced by Representative LEE HAMIL-

TON and Representative JOEL DECKARD. The bills would designate as wilderness the 12,953-acre area recommended for wilderness designation by Gov. Robert Orr in November 1981. These are the Grubb Ridge and Cope Hollow areas recommended by the U.S. Forest Service for wilderness designation in its 1979 RARE II review and the Terril Ridge area also recommended for wilderness designation by Governor Orr. The lands designated as wilderness lie to the west of the lands leased by the State of Indiana from the U.S. Army Corps of Engineers.

Terril Ridge Cemetery and the Tower Ridge Road are excluded from the wilderness. The bills do not affect existing rights of access to the Terril Ridge Cemetery and to other privately owned land not contained in but surrounded by the wilderness. Access to valid occupancies within the wilderness is guaranteed by such means as are customarily enjoyed in accordance with section 5 of the Wilderness Act. Under the bills as well as under existing law, there would be no condemnation of private property without the consent of the owner. The use of private property not contained in but surrounded by the wilderness would continue to be governed by State and county rather than by Federal law.

Wilderness designations prohibit timber cutting and limit forest management activities. Fishing, hunting, camping, nature study and other recreational activities are permitted in wilderness areas. Trail maintenance and activities necessary for law enforcement and firefighting are permitted. Motorized entry is prohibited except for emergencies or for access to cemeteries.

Senator QUAYLE, Congressman HAMILTON, Congressman DECKARD, and I agree that these bills represent a final compromise settlement of the issues and that the number of acres of wilderness is sufficient to permit a wide variety of recreational, educational, and scientific opportunities. All remaining lands in the Hoosier National Forest would be released for multiple use management by U.S. Forest Service. Any further wilderness designations in Indiana would require an act of Congress.●

● Mr. QUAYLE, Mr. President, I am very pleased to join Senator LUGAR in introducing today legislation to provide for the Charles C. Deam Wilderness Area in Indiana.

This bill will establish, as a part of our national wilderness preservation system, 12,953 acres in the Hoosier National Forest as a wilderness area. Fishing, hunting, hiking, camping, and other recreational and nature study activities are permitted in wilderness areas. The relatively untouched aspect of wilderness will permit Hoosier residents to experience nature as it was in Indiana almost 200 years ago.

The Grubb Ridge (6,420 acres) and the Cope Hollow (3,611 acres) areas as recommended by the Forest Service are included in the wilderness area, as well as the Terril Ridge area (2,922 acres). Gov. Robert Orr recommended these areas for wilderness designation in November 1981. The Governor's endorsement of this wilderness area provided an impetus in finalizing a settlement on Indiana wilderness which results in today's legislation.

Tower Ridge Road is not included in the wilderness designation, since wilderness areas by definition must be roadless. However, the legislation assures access to Terril Ridge Cemetery.

Residing in this wilderness area are impressive stands of oak and hickory, with a good percentage of tulip poplar and planted pine. Regenerating fields along some ridges provide a natural break in the forest cover. The area contains some of the best populations of whitetail deer, ruffled grouse, and wild turkey to be found in Indiana. This area will be the home of red and grey fox, mink, weasel and the endangered Indiana bat. The Mount Carmel fault, the only faultline in Indiana, passes through the area.

The question of a wilderness designation for Indiana has been debated for many years. I am in complete agreement with Senator LUGAR and Congressman HAMILTON that this bill represents a final compromise settlement of issues which have been surrounding the wilderness question. The bill provides that all remaining lands in the Hoosier National Forest be released for multiple use management by the U.S. Forest Service.

I look forward to working with Senator LUGAR and Congressman HAMILTON, who is introducing an identical bill in the House of Representatives with the cosponsorship of Congressman DECKARD, in securing passage of this legislation before the adjournment of the 97th Congress in order that debate on Indiana wilderness can be completed.●

By Mr. INOUYE (for himself, Mr. MATSUNAGA, and Mr. WEICKER):

S. 2711. A bill to specify that health maintenance organizations may provide the services of clinical psychologists; to the Committee on Labor and Human Resources.

CLINICAL PSYCHOLOGISTS' SERVICES

● Mr. INOUYE. Mr. President, today I am introducing legislation on behalf of Senators MATSUNAGA, WEICKER, and myself, to amend the Health Maintenance Organization legislation in order to insure that our Nation's clinical psychologists will be able to participate as independent professionals in HMO's.

Under current law, "short-term (not to exceed 20 visits), outpatient evaluative and crisis intervention mental health services" are expressly included in the basic heath services that must be provided by HMO's The implementing departmental regulations recognize clinical psychologists as bona fide providers under the broad authority provided for "other health professionals (as the case may be) licensed to provide such services." Our amendment merely codifies current practice and in no way alters the current requirements imposed upon HMO's.

Mr. President, to be considered a clinical psychologist the practitioner must obtain a doctorate degree in psychology—a procedure that generally takes 5½ years of graduate training, including 1 year of supervised clinical internship—and also be licensed/certified in the State where he or she wishes to practice. Currently there are approximately 32,000 licensed health care psychologists in our Nation, but I understand that only 400 of these individuals practice in HMO's. The profession of psychology is formally recognized by a number of our Federal health programs including the Department of Defense CHAMPUS program, the Federal Employees' Health Benefits' Act, and the Federal Workers' Compensation program. On the State level, over 35 States, representing 85 percent of our population have now enacted "Freedom of Choice" legislation which requires that private insurance companies that offer mental health benefits allow the consumer the right of selecting a clinical psychologist if he or she so desires. In our judgment, the time has come to formally recognize this profession under the HMO Act as well.

Mr. President, I request unanimous consent that the text of our bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) paragraphs (1) and (2) of section 1302 of the Public Health Service Act are amended by inserting "clinical psychologist," after "podiatrist." each place it appears.

(b) Paragraph (4) of such section is amended by striking out "and podiatrists" and inserting in lieu thereof "podiatrists, and clinical psychologists".

(c) Paragraph (5) of such section is amended by inserting "clinical psychology," after "optometry.".●

By Mr. HEINZ (for himself and Mr. RIEGLE):

S. 2712. A bill to prohibit the furnishing of capital assistance under the Urban Mass Transportation Act of 1964 to recipients who accept subsidized articles or materials; to the Committee on Banking, Housing, and Urban Affairs.

TRANSIT ASSISTANCE LEGISLATION

● Mr. HEINZ. Mr. President, today I am introducing legislation designed to defend American industry against unfair predatory trade practices such as those represented by the recent sale of subway cars to New York City. In that sale, Bombardier, Inc. of Montreal was enabled by heavily Government-subsidized export credits to undercut U.S. bidders, although the American made cars would cost $31,000 less per car than would the Canadian-made models. The American suppliers could offer no more than traditional market financing for their product, while the Canadian firm offered cutrate Canadian Government-backed financing at 9.7 percent.

Mr. President, for many years our Government has been battling such unfair trade assaults against U.S. companies competing in the international marketplace. Now we are facing the dangerous reality of such attacks in our own home market.

Some would suggest that it is in the interests of both New York City and the United States as whole to take the cheaper offer, regardless of whether it is subsidized or not. Such a policy, Mr. President, avoids the real issues involved and ignores many of the facts. Let me illustrate the problem by means of the New York subway car case, although the danger is much more widespread. The chief U.S. bid came from Budd Co. Budd's plant where the subway cars would be manufactured is located in Troy, Mich.

First, the Budd bid on a per unit basis, was $31,000 per car less than Bombardier. Second, the fact that the Budd bid entails the use of twice as much American-made content—80 percent compared to 40 percent for Bombardier—makes a significant difference in calculating the total costs and benefits to the United States—not the New York City alone. In a recent study, the Congressional Research Service concluded that every $1,000 in domestic procurement yields $473 in Federal, State, and local taxes. The incremental tax revenue from the Budd purchase yields more than $115 million to Federal, State, and local treasuries, which offsets the price advantage in the total package if the Canadian Government offers 9.7 percent financial for 85 percent of the cost.

Thus, what may appear at first glance good for New York City is not necessarily good for the United States. But, beyond the question of price there are more fundamental questions with which we ought to be concerned. Certainly, it is cheaper to buy a TV set from a "fence" or mag wheels from "Midnight Auto Supplies." But, doing that also encourages criminals to steal and makes the buyer a part of that process. This same principle applies.

Remember, the Budd bid was $31,000 per car cheaper. The Bombardier price advantage came from the Canadian Government's willingness to offer subsidized export credit in clear violation of international agreements, going beyond both the limitation on minimum interest rate and on term of repayment. The New York City MTA would be an accessory to that crime. Yet some would suggest that New York take the money and run. This bill would prevent such irresponsible behavior.

What I suggested at the time of the original Canadian bid, Mr. President, is that the Secretary of the Treasury ought to use the power he has under section 1912 of the Export-Import Bank Act, a provision Senator STEVENSON and I added to the law in 1978 to allow the U.S. company from the Eximbank to match the Canadian export credit support.

I would point out that the U.S. domestic market is the richest and most inviting market in the world. If it were to be left unprotected by our Government how long would it take for our other major trade competitors to realize the advantage they could gain through subsidy?

Particularly, at a time of worldwide recession, our trade competitors would jump at the chance to export their unemployment to our shores through the vehicle of subsidized export credits and other devices. What we are discussing in such a case is not just the loss of a few thousand jobs in Troy, Mich. If other large contracts in our country were to be left similarly unprotected, we would be talking about the loss of industries.

This policy would be all the more foolish because we would be allowing the inefficient to drive the efficient out of business. Remember the per unit Budd bid was cheaper than the Canadian bid. Yet, repeated losses of this sort would destroy the domestic industry and leave us dependent on foreign producers at whatever price they chose to set. Moreover, what confidence could anyone planning to invest in the American mass transit industry—or any other industry—have if our Government stands aside in the face of an unfair foreign bid in our own domestic market?

To respond forcefully to Canada's subsidy offer in the MTA case, I have written Ambassador Brock suggesting a number of other remedies, and I ask unanimous consent that the text of that letter be printed at this point in the RECORD.

COMMITTEE ON FINANCE,
Washington, D.C., June 4, 1982.

Mr. WILLIAM E. B OCK,
U.S. Trade Representative, Office of the U.S. Trade Representative, Washington, D.C.

DEAR BILL: I am writing with regard to several of the issues raised in last week's Finance Committee hearing on the New York MTA purchase of subway cars.

The testimony by both government and private sector witnesses made clear that subsidized financing is involved—that the apparent Canadian offer is below both market rates and the minimum set by the International Arrangement.

The question at this point is how we can best deal with this problem in a way that will demonstrate our commitments to ending subsidized financing and to allowing market forces to prevail in procurements like this one. It is my view that achieving that objective demands action on a number of fronts. Specifically we should:

(1) seek to convince the Canadian government to revise its offer to make it consistent with market rates;

(2) have the Treasury Department declare that the proposed financing is, in fact, a subsidy, thereby opening the door to a matching offer from the Export-Import Bank;

(3) have the Eximbank make such an offer;

(4) on your own initiative take this matter to the GATT under all appropriate articles; and

(5) support domestic interested parties should they decide to file a countervailing duty petition with the Commerce Department.

Let me stress the importance of moving in all these directions at the same time. Relying solely on the GATT process or our own unfair trade laws could well produce a hollow victory, where we may "win" in principle but not change the course of events in the MTA case. From the Canadian or French point of view, of course, the only outcome that will have meaning is one where they are denied the benefits of the contract in New York, and thereby have demonstrated to them our determination not to allow subsidized financing.

I also want to caution the Administration that simple agreement on the revised Arrangement negotiated last month is not an acceptable solution to the current problem. First, the terms of the revision are a totally inadequate step that will have no measurable impact on subsidy practices; and, second, there is nothing in the revised Arrangement that suggests it will not be violated with the same frequency the current one has been. We need both a better Arrangement and a better means of enforcing it. The latter will be impossible to achieve without a clear demonstration of our willingness to act to match subsidies head-to-head. We have the means of doing that available under current law—Section 1912 of the Export-Import Bank Act—and we should immediately make clear our willingness to use it, rather than relying on a long and uncertain GATT process or an Arrangement that is completely inadequate to the task.

Sincerely,

JOHN HEINZ,
U.S. Senate.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Mr. HEINZ. Mr. President, I do not have faith in rational economic man to make rational economic policies in situations where the politics of unemployment impinge upon policymakers. A more probable scenario is that the leaders of the parliamentary democracies with which we compete will conclude that export credit subsidies have a valuable payoff in terms of jobs, and, hence, electoral popularity.

The way to deter our trade competitors from using subsidized export credits is not by standing aside and allowing them to win contracts—either at home or abroad—through the use of such credits. Only when our trade competitors perceive that export credit subsidy will not be rewarded with success will they sit down to the negotiating table to conclude an agreement to end such competition.

I would hope that my colleagues will join with me to focus on the reality of the international marketplace as it is in the 1980's. With the tremendous growth in international trade and commerce, it is more important than ever that we have a fair and enforceable set of international rules to preserve the market system. To preserve those rules we must be willing to defend our domestic companies against unfair, subsidized foreign competition. We have been telling our competitors for years that their policies are shortsighted, but those words alone have induced no progress.

Those are the issues I see at stake in the New York City subway competition. The issue is not simply whether we should take advantage of a Canadian Government subsidy. Rather, the challenge is whether we are able to see the real costs of the Canadian "gift," in terms of lost tax revenue, rewarding the inefficient, and the threat to the principles upon which a fair and equitable international trading system is based. We cannot afford to leave ourselves vulnerable to unfair trade practices of our trade competitors.

The bill I am introducing today will provide an additional means of conveying that message to domestic parties inclined to accept subsidy offers as well as our trading partners seeking to penetrate our markets. My legislation would deny capital assistance under the Urban Mass Transportation Act of 1964 to recipients who purchase, contract to purchase, take delivery of, or make payment on articles or materials that are subsidized, within the meaning of the GATT Subsidies Code.

The bill further states that such a violation is presumed to exist if: First, the Secretary of the Treasury has found a subsidy, pursuant to section 1912 of the Export-Import Bank Act, as I discussed earlier; second, the U.S. Trade Representative has made an affirmative determination in an unfair trade practice case pursuant to section 302(b)(2) of the Trade Act of 1974; or third, the Secretary of Commerce has made an affirmative preliminary determination in a countervailing duty case brought under the Tariff Act of 1930, as amended.

These provisions, Mr. President, will make clear that we are committed to the operation of free market principles in this country and that we oppose the continued use of export financing subsidies to gain artificial and unfair advantages. Since new mass transit legislation should be considered by the Congress this year, we have an opportunity to act on this issue shortly, and I will be working to that end.●

By Mr. SARBANES:

S. 2713. A bill to amend title 5, United States Code, to provide that a reduction in force may not be conducted until certain alternative measures have been exhausted; to insure the cost-effectiveness of those alternative measures and of any measures taken in conducting a reduction in force; to safeguard against unnecessary disruption, productivity loss, and harm to labor-management relations due to a reduction in force; and for other purposes; to the Committee on Governmental Affairs.

FAIR REDUCTION-IN-FORCE PRACTICES ACT OF 1982

● Mr. SARBANES. Mr. President, I rise to introduce the Fair Reduction-in-Force Practices Act of 1982. Reductions in force (RIF's), the procedures used by the Federal Government to dismiss its employees, have transformed one of the most highly skilled and dedicated work forces in the world into a corps of job-seekers. Thousands of Federal employees have been fired at the end of this very cumbersome and often mystifying RIF process. A far greater number of employees have been directly affected by the uncertainty, disruption, and poor working environment that have arisen at almost every agency where RIF's have been implemented or even proposed. There can be little doubt that today insecurity pervades the Federal Establishment. As employees scramble for a shrinking number of Federal jobs, employee effort deflected away from agency work at hand undoubtedly costs the Federal Government huge sums in lost productivity and cost overruns.

The Fair RIF Practices Act, which I am introducing today, would enable agencies to reduce the size of their work forces in an orderly manner consistent with sound management practices. Drawing upon recent experience in labor-management relations in private industry, the bill I am introducing requires a dialog between labor and management. It requires agencies to carefully explore cost-effective alternatives to RIF's and to negotiate with employee representatives concerning the use of such alternatives. These negotiations would focus upon ways to eliminate waste and inefficiency in order to achieve a level of savings that would preclude the need for a RIF. For the first time, we can harness in a cooperative effort both employees' desire to stay on the job and management's desire to improve productivity.

Agencies would be required to report on the course of their negotiations to both OPM and GAO. Such reports would include employee comments, cost-benefit analyses of the alternatives tested, and other information needed to insure that the requirements of the act had been met. OPM and GAO could then certify the RIF and a 30-day specific notice could be issued to employees affected.

The bill would not bring a halt to reductions in force, but would, however, reduce the number of employees separated from their agencies. Under the bill, those employees would be eligible for Government-wide placement in vacancies on the basis of occupational category. Employees would be placed in positions that would not force them to relocate or undergo major career changes.

In short, negotiations geared toward improving agency function together with extensive Government-wide job placement opportunities would enable employees to concentrate their full attention on providing quality services to the public. The individual employees, the agencies, and the public would all benefit, clear and compelling reasons to support this legislation.●

By Mr. TSONGAS:

S. 2714. A bill to clarify antitrust law with respect to joint research and development ventures to encourage the formation of such ventures, and for other purposes; to the Committee on the Judiciary.

JOINT RESEARCH AND DEVELOPMENT VENTURES ACT

● Mr. TSONGAS. Mr. President, U.S. technological leadership is eroding. The Japanese have launched the most serious challenge to U.S. industrial competitiveness that we have ever faced. The Japanese have learned to capitalize on the fruits of scientific research more effectively than we do despite the fact that much of that basic R. & D. is ours. Most importantly, the Japanese have used technology to dramatically increase the quality and productivity of their industrial production.

R. & D. is critical to technological innovation, industrial competitive strength, increased productivity, and economic growth. We must expand the amount and diversity of U.S. R. & D.; maintaining our leadership in basic research and launching new efforts in manufacturing technology.

Industrial supported R. & D. accounts for half the roughly $80 billion our Nation spends on R. & D. But three-quarters of that is spent on product development and only 4 percent on basic R. & D. Additionally, there are substantial technological opportunities that are not being exploited, particularly in manufacturing technology.

There is significant evidence that the private sector underinvests in R. & D. Research and development is often expensive and results are highly uncertain. Given the sophistication of reverse engineering by competitors, it is often difficult for an individual firm to appropriate the benefits of its own R. & D. Basic research is unlikely to provide short term returns on investment and industry tends to focus on incremental product improvements that can return quick profits. Industries with many small firms, such as housing, frequently spend very little on R. & D. and innovations are rare. Improvements to the technology base of a given industry, such as automation, machining, and chemical processing, which are important to an industry as a whole, are often too costly and risky for a single firm to pursue. It has also been shown that the social rate of return of R. & D. is often twice the private rate of return.

The formation of industrywide joint research and development ventures can overcome some of these barriers. Joint R. & D. ventures allow individual firms to share risks, aggregate resources to undertake large projects, permit R. & D. on a scale that maximizes efficiency and avoids duplication. Joint R. & D. ventures also combine complementary resources and talents possessed by different firms in different phases of a technology, and can result in accelerating the innovative process.

The Japanese have effectively used joint R. & D. efforts to accelerate technological development. The very large scale integration project in semiconductors and the fifth generation computer project are just two examples of Japanese-sponsored joint R. & D.

In Japan, joint research and development projects are exempt from Japan's antimonopoly law. In this country, joint R. & D. ventures can raise serious antitrust concerns. Ambiguities in the law and variability of enforcement create an uncertain legal environment that can expose a joint venture to Federal antitrust action as well as private suits.

In 1980, the Justice Department issued guidelines setting forth the Attorney General's views regarding the legality of joint R. & D. ventures, and began to utilize a business review procedure to give specific guidance to firms contemplating joint R. & D. ventures. But the Justice Department's review provides only a statement of present enforcement intentions, and does not preclude subsequent action that could be retroactive, or private suits. While the Justice Department business review provides substantial guidance, it still leaves uncertainty.

The legislation which I am introducing today would clarify antitrust law by giving protection to joint R. & D. ventures that have received Justice Department approval through the business review procedure.

The bill establishes criteria drawn from the Justice Department's antitrust guide concerning research joint ventures, that the Attorney General will use in approving ventures. Briefly, the Attorney General must find that:

First, participation in the joint R. & D. venture is open to all firms.

Second, results of the R. & D. will be made available to nonmembers on a reasonable basis.

Third, the venture will not lessen competition.

Fourth, restrictions, such as fees, are the minimum necessary for purpose of the venture, and not part of a pattern that would limit competition.

Fifth, the venture does not violate provisions of the Federal Trade Commission Act.

The bill allows a joint R. & D. venture to exclude foreign companies if their countries do not allow participation of U.S. firms in their joint R. & D. ventures. Finally, the bill gives immunization to joint R. & D. ventures that have been approved.

The particular approach taken by this bill is by no means the only way to resolve the antitrust uncertainty that now deters the formation of joint R. & D. ventures. Other bills have been or will be introduced in the House and Senate on this topic. I join my colleagues in urging prompt and favorable consideration of a measure to encourage joint R. & D. ventures. I believe this will be an important step in maintaining this Nation's technological leadership.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Joint Research and Development Ventures Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) research and development are major factors in the growth and progress of our industry and national economy;

(2) many firms are unable to perform their desired level of research and development due to the capital intensive nature of such research and development programs;

(3) the expense of carrying on certain research and development programs is prohibitive for many businesses;

(4) a firm's or an industry's ability to commit capital to research and development ventures is sometimes dependent upon such firm or industry being able to share the risks which such projects often entail; and

(5) to the extent that new information or products are brought forward as a result of such sharing, there are genuine procompetitive benefits.

(b) The purposes of this Act are to—

(1) encourage business concerns to undertake and obtain the benefits of research and development in order to strengthen the national economy and the United States international industrial competitive position;

(2) encourage greater use of joint research and development ventures by the private sector as a means of augmenting the total amount of research and development performed as well as increasing the diversity of research; and

(3) immunize an applicant from any retroactive prosecution from the moment the United States Department of Justice approves a stated venture until the project is completed, or the Department considers it injurious to the competitive balance for that venture to continue.

Sec. 3. For purposes of this Act—

(1) the term "applicant" means an individual who is a citizen of the United States or a partnership, corporation, or other legal entity organized under the laws of the United States or any State or territory of the United States seeking approval of a joint program for research and development;

(2) the term "research and development program" means a program which is—

(A) a systematic, intensive study directed toward greater knowledge or understanding of the subject studied;

(B) a systematic study directed specifically toward applying new knowledge to meet a recognized need; or

(C) a systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements;

(3) the term "joint research and development venture" means an association or venture established to carry out research and development programs; and

(4) the term "Attorney General" means the Attorney General of the United States or his designee.

ATTORNEY GENERAL REVIEW

SEC. 4. (a) Prior to the initiation of any joint research and development venture, the business concerns involved in such an effort may request and obtain the approval of the Attorney General.

(b) The request required by this section shall be in such form and contain such information and documentary material as the Attorney General shall by general regulations prescribe pursuant to section 553 of title 5, United States Code.

(c)(1) The Attorney General shall notify the applicants of his decision within 60 days after the filing of such request.

(2) Such decision shall be accompanied by the findings of the Attorney General.

(d) The Attorney General shall approve any joint research and development venture if he finds that—

(1) participation in the joint research and development venture is open to all domestic firms and domestic subsidiaries of foreign firms to the extent provided in subsection (g);

(2) the results of joint research and development ventures will be made available to all firms in the industry on reasonable and nondiscriminatory terms whether such firms are members or not;

(3) the joint research and development venture will not lessen existing or potential competition between firms to such an extent as to foreclose the existing or poten-

tial competitors from participating in such market;

(4) any restraints associated with the joint research and development venture—

(A) are necessary to the lawful main purpose of the agreement to form the joint research and development venture;

(B) hava a scope and duration no greater than is necessary to achieve that purpose; and

(C) are not part of an overall pattern of restrictable agreements that have unwarranted anticompetitive effects; and

(5) the joint research and development venture does not violate the provisions of the Federal Trade Commission Act.

(e) The Attorney General may approve any joint research and development venture even if individual firm research or competitive smaller joint research and development ventures are feasible.

(f)(1) The Attorney General may at any time withdraw approval of all or any part of the joint program by giving to such applicants a written copy of the findings and a notice of the withdrawal or modification of such previous approval.

(2) Such withdrawal is reviewable by the Court of Appeals for the District of Columbia.

(g) The Attorney General may approve a joint research and development venture even if it does not provide access to participation to domestic subsidiaries of foreign firms if it is found that that nation does not provide access to participation in joint research and development efforts to United States firms operating in that nation equivalent to such access provided domestic firms in such nation.

SEC. 5. No act or failure to act pursuant to and within the scope of any joint program for research and development which has been approved by the Attorney General shall be construed to be within the prohibitions of sections 1 and 2 of the Sherman Act, section 7 of the Clayton Act, and the provisions of the Federal Trade Commission Act. Upon notice of withdrawl of the approval of the Attorney General, the provisions of this section shall not apply to any subsequent act or failure to act pursuant to such program.●

By Mr. WALLOP (for himself and Mr. DOMENICI):

S. 2715. A bill to establish the National Park Visitor Facilities Fund, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL PARK VISITOR FACILITIES FUND ACT

● Mr. WALLOP. Mr. President, I am introducing legislation today that presents a positive and innovative solution to problems with visitor facilities in our national parks.

I have become increasingly aware of serious deficiencies in the physical plant of the national park system, and, especially, of the tremendous need for renovation and restoration of visitor facilities in our national parks. Many visitor facilities do not meet minimum health and safety standards. This bill would provide a means for addressing a number of these deficiencies.

The National Park Service, directly or through private concessioners, provides various visitor facilities ranging from backcountry campsites with no amenities to large hotels and lodges with a full complement of food, lodging, and other services. Under section 6 of the act of October 9, 1965, which sets forth national park system concessions policies, concessioners who construct visitor facilities or add improvements to existing buildings under a concession contract are responsible for maintaining them, and they receive a possessory interest in the facilities. At the end of their contract, concessioners are entitled to just compensation for any possessory interest in the facilities which has arisen. From time to time, however, by purchase, donation, or Government-funded construction, the Government has acquired ownership of about 1,000 structures and is directly responsible for their maintenance. It is these 1,000 Government-owned and maintained cabins, motels, and food facilities to which this bill is addressed.

The legislation would permit the combination of revenues generated from national park system franchise fees along with private contributions and management resources to upgrade the quality of national park visitor accommodations. Under the bill, revenues received from concessioners' franchise fees, authorized by section 3 of the act of August 25, 1916, would be paid into a special fund, the National Park Visitor Facilities Fund, in the Treasury. Moneys from the fund would be available for appropriation to the National Park Service for grants to the National Park Foundation, a federally chartered foundation authorized, in the act of December 18, 1967 (Public Law 90-209), to accept and administer gifts for the benefit of the national park system. The Foundation, with the concurrence of the Secretary of the Interior, would provide for the construction, rehabilitation, or other improvement of those visitor facilities not subject to concessioners' possessory interests. Upon completion of the projects, all right, title, and interest in the repaired or improved facilities would vest in the United States. The fund, and the authorities provided to the Foundation by this bill, would expire after 5 years.

As introduced, the National Park Service would recommend projects to be undertaken by the Foundation. The Foundation would review each project, and determine the cost and whether the project could be financed within the amounts appropriated from the National Park Visitor Facilities Fund and received from donations. The Foundation could also recommend projects on its own initiative. Upon mutual agreement of the NPS, Secretary, and the Foundation, the Foundation would let contracts for construction of the approved projects pursuant to criteria established by the Secretary.

The National Park Foundation is a proven entity which has been supporting National Park Service programs with private funding since its creation by the Congress 14 years ago. By providing the Foundation with authority to undertake projects approved by the Secretary, I believe that the visitor facilities covered by this bill can be rehabilitated expeditiously, efficiently, and in a cost-effective manner. The National Park Foundation will be able to attract both cash and in-kind contributions, draw upon the business expertise of its board members, and contract privately to accomplish the needed repairs. The net effect of the Foundation's participation in the improvement of the visitor facilities will be to maximize the number of repairs and renovations that will be completed with the moneys appropriated and the contributions received.

Mr. President, I believe that the revenues generated by park concession franchise fees should be earmarked in the National Park Visitor Facilities Fund to be available to repair and renovate national park visitor facilities. Earmarking funds will provide a readily identifiable source for funding visitor facilities renovations and repairs.

The bill addresses two concerns that might otherwise be raised by introducing the Foundation into the visitor facilities restoration process: First, the role of the Foundation in resource protection; and second, the role of the Foundation in concessions management.

Mr. President, the bill specifically states that its provisions will in no way alter the authorities and responsibilities of the Secretary for protection of the national parks under the act of August 25, 1916 (39 Stat. 535), as amended and supplemented. All actions or decisions of the Foundation, under the provisions of the bill, which the Secretary determines may affect visitors to, or the resources of, areas of the national park system would be subject to NPS review and appeal.

Similarly, the bill specifically provides that the Secretary would continue to exercise all authorities and responsibilities for concessions management vested in him under the act of October 9, 1965 (79 Stat. 969). The Foundation's sole function as to concessions would be to contract privately for the actual "bricks and mortar" repairs and construction of facilities according to needs identified by the NPS. Improvement made by the Foundation would become the property of the Federal Government.

The Department of the Interior estimates that revenues from concessions franchise fees would average approximately $6 million per year. My bill would authorize not more than $5 million of this amount to be paid into the fund annually. The remainder would be credited to miscellaneous receipts of the Treasury. The bill would au-

thorize a $4 million annual appropriation from the fund for grants to the Foundation, with an additional appropriation authorization of $1 million from the fund to be available for matching, dollar for dollar, both cash and in-kind contributions donated to the Foundation for restoration and repair of visitor facilities. I believe that such appropriated funding, combined with Foundation contributions and management resources, will enable the Foundation to complete upgrading of approximately 1,000 of the facilities for which the Government is responsible. I estimate that approximately $30 million in projects would be undertaken pursuant to the authorities of the bill during the 5 years in which the fund would exist.

I believe the bill would provide an imaginative and flexible method of improving Government-owned visitor accommodations in the parks, and I strongly recommend its enactment.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Park Visitor Facilities Fund Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) "Foundation" means the National Park Foundation established under the Act of December 18, 1967 (81 Stat. 656);

(2) "Fund" means the National Park Visitor Facilities Fund established under section 3 of this Act;

(3) "Secretary" means the Secretary of the Interior; and

(4) "Visitor facilities" means improvements in which no possessory interest is outstanding to real property within the areas of the National Park System used to provide food, lodging, or other services to visitors, including concessioners' employee dormitories.

ESTABLISHMENT OF FUND

SEC. 3. There is hereby established in the Treasury of the United States the National Park Visitor Facilities Fund. Notwithstanding any other provision of law to the contrary, beginning October 1, 1983. there shall be covered into the Fund, National Park System franchise fees, including building user fees and other remuneration due and owing the United States for the privilege of providing visitory accommodations and services in areas of the National Park System, in an amount not to exceed $5,000,000 in any fiscal year.

APPROPRIATIONS

SEC. 4. Beginning in fiscal year 1984, there is hereby authorized to be appropriated annually to the National Park Service from the Fund, to be made available for expenditure by the Foundation to carry out its functions under this Act, not more than $4,000,000, plus such sums not to exceed $1,000,000 as may be matched on a dollar-for-dollar basis by cash or in-kind contributions made to the Foundation for the purposes of this Act. Except as provided in section 8 of this Act, sums appropriated under this section shall remain available until expended.

ADMINISTRATION OF FUND PROJECTS

SEC. 5. (a) The Secretary shall, as soon as practicable after the date of enactment of this Act, appoint three non-governmental members of the National Park Foundation Board for a term to be established by the Secretary, who shall act as a committee of the Board to consider and recommend Fund projects to the Foundation. If a vacancy occurs on the committee, the Secretary shall appoint a non-governmental member of the Board to serve the remainder of the unexpired term.

(b) Prior to the beginning of each fiscal year, the National Park Service shall submit to the committee detailed recommendation for the construction, rehabilitation, or other improvements of those visitor facilities qualifying for moneys from the Fund during the forthcoming year.

Following the committee's review, those recommendations having the concurrence of the National Park Service, the Secretary, and the committee, shall be submitted to the Board of the Foundation for its approval.

Any project undertaken by the Foundation shall be consistent with the purposes for which the park area where the project is sited was established.

(c) Upon approval by the Board, the Secretary shall make grants to the Foundation for the purpose of carrying out projects so approved. Such grants shall be derived from sums appropriated from the Fund pursuant to section 4. The Foundation shall administer such projects and expend federal funds from such grants in accordance with applicable law and regulation. By undertaking to administer any project under this Act, the Foundation shall be deemed to have agreed that all right, title, and interest in any visitory facility with respect to which such project is carried out shall vest in the United States. The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation in connection with its activities under this Act.

(e) The Foundation shall include in its annual report to the Congress a description of Fund projects and the Foundation's accomplishments under this Act.

AUTHORITY OF THE NATIONAL PARK FOUNDATION

SEC. 6. For the purposes of this Act, the Foundation, in addition to any other authorities it may have—

(1) shall have all necessary and proper powers for exercise of the authorities vested in it by this Act;

(2) may execute all instruments deemed necessary or appropriate in the exercise of any of its functions under this Act; and

(3) may expend a portion of moneys received under this Act for such reasonable personnel and incidental expenses as are necessary to carry out its functions under this Act.

RESPONSIBILITIES OF THE SECRETARY

SEC. 7. The Secretary shall continue to exercise all the authorities and responsibilities vested in him by the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of October 9, 1965 (79 Stat. 969).

EXPIRATION OF AUTHORITY

SEC. 8. The authorities contained in this Act shall expire on September 30, 1989. After that date, any moneys previously covered into the Fund under this Act which have not been appropriated, or if appropriated, which have not been obligated, shall be transferred to miscellaneous receipts of the Treasury.●

By Mr. LEAHY (for himself and Mr. BOREN):

S. 2716. A bill to enable milk producers to establish, finance, and carry out a coordinated program of dairy product promotion to improve, maintain, and develop markets for dairy products; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY PRODUCTS PROMOTION ACT OF 1982

● Mr. LEAHY. Mr. President, today I am introducing legislation which will address one of the critical problems facing the dairy industry today—declining consumption of wholesome, nutritious dairy products.

The current debate on the dairy price support program has focused on the oversupply problem. All too often during this debate, dairy farmers in Vermont and the Nation are roundly criticized for producing too much milk.

All too often, the cry goes up to chop dairy price supports again to send those dairy farmers a clear signal on just how much we want them to cut back production.

Mr. President, instead of concentrating on cuts in dairy farmers' livelihoods, this legislation addresses the other side of the equation—the demand side.

Over the past decade, the consumption of dairy products has declined steadily, while production has steadily increased. As a result, the supply of milk and dairy products has outstripped demand and a surplus situation has developed.

The legislation I am introducing today would mandate a 5-cent per hundredweight checkoff for each of the more than 320,000 dairy farmers in this country. This 5 cents would be transferred to a national dairy promotion board, composed entirely of dairy farmers. The board would use these funds to implement an aggressive dairy product promotion program. This program will complement those already operating at the State and cooperative level.

For the first 2 years, the program will concentrate on those dairy products which make up our current surplus—cheese, butter, and nonfat dry milk. After this period, the program will include promotion of fluid milk and other dairy products as well.

The advertising would be generic in nature. No one dairy farm or brand of product would be favored. All dairy farmers will benefit from increased sales. The resulting reduction in Government purchases and surplus stocks will cut costs to the taxpayers.

Mr. President, the Economic Research Service of the Department of

Agriculture conducted a pilot promotion program several years ago. They concluded that the same program conducted nationally would increase cheese and butter sales by 2.9 billion pounds milk equivalent, an increase in dairy sales of $380 million at today's prices.

A similar program was operated by the United Dairy Industry Association during the 1980-81 period. That program increased sales of cheese by 16 percent over the 1979 level.

Mr. President, this industry financed program can work.

I am introducing this legislation today so that it may be considered by the Senate Committee on Agriculture, Nutrition, and Forestry along with other dairy proposals that have been offered by my colleagues.

I would welcome the comments and suggestions of my colleagues on the committee and in this body on ways to insure that this program serves the best interests of the dairy farmer and the taxpayer.

Mr. President, the well-financed campaigns of other beverage makers and producers of imitation dairy products have captured some of the market once held by our Nation's dairy farmers.

This program can help the dairy industry recapture some of that market while at the same time reduce the costs for the dairy price support program to taxpayers. Pilot programs have proven that a promotion program can increase sales and stimulate consumption.

Mr. President, I would urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the bill and a letter from the president of the Cabot Farmer Cooperative Creamery, Inc. be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Dairy Products Promotion Act of 1982".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that—

(1) dairy products are basic foods that are a valuable part of the human diet;

(2) the production of dairy products plays a significant role in the Nation's economy; the milk from which dairy products are manufactured is produced by thousands of milk producers; and dairy products are consumed by millions of people throughout the United States;

(3) dairy products must be readily available and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for dairy products is vital to the welfare of milk producers and those concerned with marketing, using, and producing dairy products, as well as to the general economy of the Nation; and

(5) dairy products move in interstate and foreign commerce, and dairy products that do not move in such channels of commerce directly burden or affect interstate commerce in dairy products.

(b) It, therefore, is declared to be the policy of Congress that it is essential and in the public interest to authorize the establishment, through the exercise of the powers provided herein, of an orderly procedure for the financing (through adequate assessments on all milk produced in the United States for commercial use) and the carrying out of an effective and continuous coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace and maintain and expand domestic and foreign markets and uses for dairy products produced in the United States. Nothing in this Act may be construed to mean, or provide for, control of production or otherwise limit the right of individual milk producers to produce milk.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "Board" means the National Dairy Promotion Board established under section 5 of this Act;

(2) the term "Department" means the Department of Agriculture;

(3) the term "dairy products" means manufactured products for human consumption that are derived from the processing of milk, and includes fluid milk products;

(4) the term "fluid milk products" means manufactured liquid products derived from the processing of milk and customarily consumed as beverages;

(5) the term "milk" means all classes of cow's milk produced in the United States;

(6) the term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(7) the term "producer" means any person engaged in the production of milk within the United States for commercial use;

(8) the term "promotion" means actions such as paid advertising, sales promotion, and publicity to advance the image and sales of, and demand for, dairy products;

(9) the term "Secretary" means the Secretary of Agriculture; and

(10) the term "United States" means the several States and the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

ISSUANCE OF ORDERS

SEC. 4. (a) Whenever the Secretary has reason to believe that the issuance of a proposed dairy products promotion order will tend to effectuate the declared policy of this Act, the Secretary shall give due notice and opportunity for a hearing upon the proposed order. Such proposal for an order may be submitted, and a hearing may be requested and proposal for an order submitted by an organization certified under section 7 of this Act, or by any interested person affected by the provisions of this Act including the Secretary.

(b) After notice and opportunity for hearing are given, as provided for in subsection (a) of this section, the Secretary shall issue a dairy product promotion order if the Secretary finds (and sets forth in such order), upon the evidence introduced at such hearing, that the issuance of such order and all the term and conditions thereof will tend to effectuate the declared policy of this Act.

(c) The Secretary may, from time to time, amend dairy products promotion orders.

REQUIRED TERMS IN ORDERS

SEC. 5. Any order issued under this Act shall contain the following terms and conditions:

(1) Providing for the establishment and appointment by the Secretary of a National Dairy Promotion Board that shall consist of not fewer than thirty-six members; and providing for the definition of powers and duties of the Board, which shall include only the powers enumerated in this section including the powers to (A) administer such order in accordance with its terms and provisions, (B) make rules and regulations to effectuate the terms and provisions of such order, (C) receive, investigate, and report to the Secretary complaints of violations of such order, and (D) recommend to the Secretary amendments to such order. The term of an appointment to the Board shall be for three years with no member serving more than two consecutive terms, except that initial appointments shall be proportionately for two-year and three-year terms. The Board may appoint from its members an executive committee whose membership shall, to the maximum extent practicable, reflect the membership composition of the Board. Such executive committee shall have such duties and powers as are conferred upon it by the Board.

(2) Providing that members of the Board shall be milk producers appointed by the Secretary from nominations submitted by eligible organizations certified under section 7 of this Act, or, if the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by, any such eligible organization then from nominations made by such milk producers in the manner authorized by the Secretary: *Provided,* That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of milk production volume throughout the United States. In determining geographic representation, whole States shall be used as a unit. A region may be represented by more than one director and a region may be made up of more than one State.

(3) Providing that the Board shall develop, and submit to the Secretary for approval, any promotion plan or project, and that any such plan or project shall take effect only if approved by the Secretary.

(4) Providing that the Board shall submit, to the Secretary for approval, budgets (on a fiscal period basis) of its anticipated expenses and disbursements in the administration of the order, including probable costs of dairy product promotion projects.

(5) Providing that each milk producer shall pay, at the plant of first receipt, an assessment based upon the number of hundredweights of milk for commercial use handled for the account of the producer, in the manner prescribed by the order, for the expenses and expenditures (including provision for a reasonable reserve and those administrative costs incurred by the Department after an order has been promulgated under this Act), that the Secretary finds are reasonable and likely to be incurred by the Board under the order during any period specified by the Secretary. The operator of the plant of first receipt shall collect such assessment from the producer and shall pay the sum to the Board in the manner as prescribed by the order. The rate of assessment prescribed by the order shall be five cents per hundredweight of milk for commercial use, or the equivalent thereof. To facilitate

the collection of such assessments, the order or the Board may designate different operators of plants or classes of such operators to recognize differences in marketing practices or procedures used in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment; and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(6) Providing that the Board shall maintain such books and records (which shall be available to the Secretary for inspection and audit), and prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, including reports requiring an appropriate accounting by the Board with respect to the receipt and disbursement of all funds entrusted to it.

(7) Providing that the Board, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order under terms and conditions specified in clause (1) of section 6 of this Act and for the payment of the cost thereof with funds collected through the assessments under the order. Any such contract or agreement shall provide that (A) the contractors shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project, and (B) the plan or project shall become effective upon the approval of the Secretary, and (C) the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require.

(8) Providing that the Board, with the approval of the Secretary, pending disbursement under a plan or project, may invest funds collected through assessments authorized under this Act only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(9) Providing that no funds collected by the Board under the order shall in any manner be used for the purpose of influencing any governmental policy or action, except as provided under clause (1)(D) of this section.

(10) Providing that the Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board, including a per diem allowance for travel expenses as recommended by the Board and approved by the Secretary.

PERMISSIVE TERMS IN ORDERS; RELEASE OF INFORMATION

SEC. 6. (a) Any order issued under this Act may contain one or more of the following terms and conditions:

(1) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising and promotion of the sale and consumption of dairy products, and for the disbursement of necessary funds for such purposes: *Provided,* That any such plan or project shall be directed toward the sale and marketing or use of dairy products to the end that the marketing and use of diary products may be encouraged, expanded, improved, or made more acceptable and shall make no reference to private brand or trade name: *Provided further,* That no such advertising or sales promotion program shall make use of unfair of deceptive acts or practices with respect to the quality, value, or use of any competing product: *And provided further,* That during the two-year period beginning on the effective date of an order first issued under this section, fluid milk products may not be promoted under this Act.

(2) Providing that operators of plants receiving from producers milk for commercial use maintain and make available for inspection such books and records as specified in that order; and providing for the filing of reports by such persons at the time, in the manner, and having the content prescribed by the order, to the end that information and data appropriate or necessary to the effectuation, administration, or enforcement of this Act, or any order or regulation issued under this Act, shall be made available to the Board and to the Secretary: *Provided,* That all information so obtained shall be kept confidential by all officers and employees of the Department, the Board, and contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information to be disclosed was furnished or acquired: *Provided further,* That nothing in this clause shall be deemed to prohibit (A) the issuance of general statements, based upon the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, or (B) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such persons.

(3) Providing terms and conditions incidental to and not inconsistent with the terms and conditions specified in this Act and necessary to effectuate the other provisions of such order.

(b) No information obtained under the authority of this Act may be made available to any agency or officer of the Government for any purpose other than the implementation of this Act and any investigatory or enforcement actions necessary for the implementation of this Act. Any person violating the provisions of this subsection, upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or to both, and, if an officer or employee of the Board or the Department, shall be removed from office.

CERTIFICATION OF ORGANIZATIONS

SEC. 7. (a) The eligibility of any organization to represent milk producers, to request the issuance of an order under section 4(a) of this Act, and to participate in the making of nominations under section 5(2) of this Act shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this section, and the Secretary's determination as to eligibility shall be final.

(b) Certification shall be based, in addition to other available information, upon a factual report submitted by the organization, which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(1) The geographic territory covered by the organization's active membership.

(2) The nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization.

(3) Evidence of stability and permanency of the organization;

(4) Identification of the sources from which the organization's operating funds are derived.

(5) The functions of the organization.

(6) A statement describing the organization's ability and willingness to further the aims and objectives of this Act.

The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production of milk and dairy products.

REQUIREMENT OF REFERENDUM

SEC. 8. (a) The Secretary shall conduct a referendum as soon as practicable among producers who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use for the purpose of ascertaining whether the issuance of an order is approved or favored by the producers. No order issued under this Act may be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than one-half of the producers voting in the referendum.

The Secretary shall be reimbursed from assessments collected by the Board for any expenses (other than salary payments to Government employees) incurred for the conduct of the referendum.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 9. (a) The Secretary shall, whenever the Secretary finds that any order issued under this Act or any provision thereof obstructs or does not tend to effectuate the declared policy of this Act, terminate or suspend the operation of such order or such provision thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of a representative group comprising 10 per centum or more of the number of producers subject to the order, to determine whether the producers favor the termination or suspension of the order. The Secretary shall suspend or terminate the order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(c) Prior to the fifth anniversary of any order issued under this Act, the Secretary shall conduct a referendum to determine if producers support continuation of such order. The Secretary shall terminate such order unless its continuation is approved or favored by a majority of producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(d) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this Act.

COOPERATIVE ASSOCIATION REPRESENTATION

SEC. 10. Whenever, under the provisions of this Act, the Secretary is required to determine the approval or disapproval of producers, the Secretary shall consider the approval or disapproval by any bona fide cooperative association of producers, engaged in marketing milk or dairy products, as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers: Provided, That if a cooperative association of producers elects to exercise this prerogative on behalf of its members, such cooperative association shall provide each producer on whose behalf the cooperative association is expressing approval or disapproval a description of the question presented in the referendum together with a statement of the manner in which the cooperative association vote was cast on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should such producer choose to vote. Such individual ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual votes.

PETITION AND REVIEW

SEC. 11. (a) Any person subject to any order may file, with the Secretary, a petition stating that any such order, any provision of such order, or any obligation imposed in connection with such order is not in accordance with law and praying for a modification thereof or for an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition, which shall be final if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, if a complaint for the purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

ENFORCEMENT

SEC. 12. (a) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this Act. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this Act may be construed as requiring the Secretay to refer to the Attorney General minor violations of this Act whenever the Secretary believes that the administration and enforcement of this Act would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any person who willfully violates any provision of any order issued by the Secretary under this Act, or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation, which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not lieu of, the remedies otherwise provided at law or in equity.

INVESTIGATIONS; POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS

SEC. 13. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this Act or to determine whether any person subject to the provisions of this Act has engaged or is engaging in any act or practice that constitutes a violation of any provision of this Act or of any order, rule, or regulation issued under this Act. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, as so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

ADMINISTRATIVE PROVISIONS

SEC. 14. (a) Nothing in this Act may be construed to preempt or supersede any other program relating to dairy product promotion organized and operating under the laws of the United States or any State.

(b) The provisions of this Act applicable to orders shall be applicable to amendments to orders.

AUTHORIZATIONS

SEC. 15. There are herby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Sums authorized to be appropriated by this Act shall not be available for payment of the expenses or obligations incurred by the Board in administering any order issued under this Act.

CABOT FARMER COOPERATIVE CREAMERY, INC.,
Cabot, Vt., June 30, 1982.

Senator PATRICK J. LEAHY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LEAHY: It is my understanding that you will be introducing the National Dairy Products Promotion plan in the U.S. Senate on July 1. As President of Cabot Farmers Cooperative Creamery, Inc., of Cabot, Vermont, I applaud your efforts to involve the dairy industry in attempts to eliminate current surplus dairy stocks through promotional programs. This proposal, developed by farmers, is a specific, positive plan to assist in dealing with at least one element of the current problem, too much milk and too little demand.

This concept is aimed at increasing consumption of dairy products, particularly those purchased by the Commodity Credit Corporation. These products, butter, cheese, and nonfat dry milk are currently the least advertised.

I am hopeful that the Products Promotion plan will gain bi-partisan support and early consideration before your committee and the full U.S. Senate.

Warmest personal regards,

LLOYD (PAT) PATTERSON.●

By Mr. GLENN (for himself, Mr. KENNEDY, Mr. LAXALT, Mr. JOHNSTON, Mr. BRADLEY, Mr. KASTEN, Mr. COCHRAN, Mr. MATHIAS, and Mr. TSONGAS):

S. 2717. A bill to authorize the Attorney General to issue certificates of review applicable under the antitrust laws with respect to joint research and development programs; to the Committee on the Judiciary.

ANTITRUST JOINT RESEARCH ACT OF 1982

Mr. GLENN. Mr. President, I am pleased to introduce the Antitrust Joint Research Act of 1982. This legislation is designed to help businesses obtain from the Justice Department a clear picture of the antitrust implications of proposed R. & D. joint ventures. By removing the antitrust uncertainties that often surround joint ventures of this kind, we will be clearing the way for increased private sector investment in R. & D.

Throughout our Nation's history, technological innovations achieved through research and development have been the driving force behind economic growth. Research produces knowledge; knowledge generates technology; and technology truly revolutionizes the way all of us live.

The United States still leads the world in R. & D., but our leadership is threatened by vigorous and expanding challenges from abroad. And the trends are not encouraging. Over the past 15 years, the proportion of America's GNP invested R. & D. has steadily declined—dropping more than 20 percent since 1965. During the same period and by the same measure, the Soviet Union's R. & D. investment has climbed by 21 percent, Japan's has risen by 27 percent and West Germany's by 41 percent. If we hope to maintain economic growth and preserve our international competitiveness, then we must reverse this trend by stimulating private sector R. & D.

R. & D. is an expensive and speculative undertaking, and the rewards it offers do not usually appear until many years after initial investments are made. Some businesses are just too

small to undertake R. & D. alone, and for others the risks are just too great to justify the necessary capital commitments.

One way to address these problems is for firms to pool their capital and expertise in research joint ventures. This practice is very common in Japan and Europe, and has helped vault their industries into the forefront of international trade. In the United States, the uncertain application of our antitrust laws to joint ventures and the fear of treble damage liability have proven to be significant deterrents to this vitally important activity.

The legislation we are introducing today will improve the climate for business investment in joint R. & D. by removing these antitrust uncertainties. Basically, the bill authorizes the Department of Justice to examine joint R. & D. proposals in advance and issure certificates of review to those the Attorney General determines do not violate the antitrust laws. Firms operating within the scope of a certificate could then make their investments and conduct their research activities without fear of criminal prosecution or civil suits.

Let me take a moment to explain what this bill does not do. It does not involve Government subsidies. It does not require us to establish a new Federal bureaucracy. And in a very real sense, it does not create any antitrust immunity. Only those research that are determined to be congruent without antitrust laws will be certified. Activities outside the scope of the certificate will be fully open to challenge by the Federal Government, the States, and private parties. And the certificate may be codified or revoked at any time by the Attorney General for good cause.

Indeed, this legislation breaks very little new ground. A business review procedure for joint ventures already exists at the Department of Justice. Unfortunately, it is of questionable value in its present form. The certificates issued by the Attorney General say only that the Department has no present intention to sue. It does not shield those involved from future Justice Department challenges, nor does it offer any protection from private suits. Against this background, it should not be surprising that only 29 attempts to use the procedure have been made since 1968.

There is simply no reason to allow uncertainties and misunderstandings about the application of our antitrust laws to continue to deter business investment in joint R. & D. projects. Nor can we reasonably expect the business community to commit its investment dollars to such projects without giving its members some solid assurances that Justice Department certificates of review are worth obtaining.

The legislation we are introducing today will help businesses clear up these misunderstandings and provide them with the assurances they need to have before committing scarce capital to research projects. I urge all Members of the Senate to join us in working for the swift enactment of this bill.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Antitrust Joint Research Act of 1982."

PURPOSE

SEC. 2. It is the purpose of this Act to encourage business concerns to jointly undertake research and development programs.

JOINT RESEARCH AND DEVELOPMENT PRO...OTION DUTIES OF ATTORNEY GENERAL

SEC. 3. To promote and encourage joint research and development programs the Attorney General may issue certificates of review.

APPLICATION FOR ISSUANCE OF CERTIFICATE OF REVIEW

SEC. 4. To request the issuance of a certificate of review, two or more persons shall submit jointly to the Attorney General a written application which—

(1) specifies conduct limited to a research and development program, and

(2) is in a form and contains any information required by rule issued under section 13.

ISSUANCE OF CERTIFICATE

SEC. 5. (a) The Attorney General shall issue a certificate of review to an applicant for the certificate if the application for the certificate satisfies the requirements of section 4, unless the Attorney General determines under subsection (b) that the conduct specified in the application is likely to violate the antitrust laws.

(b)(1) Not later than sixty days after the Attorney General receives an application under section 4, the Attorney General shall determine whether the conduct specified in the application is likely to violate the antitrust laws, except that if before the expiration of the sixty-day period the Attorney General requests that the applicant submit additional information, the Attorney General shall make the determination not later than the expiration of the sixty-day period, or of the thirty-day period beginning on the date the additional information is submitted, whichever period ends later.

(2) If the Attorney General determines that the conduct specified in the application is not likely to violate the antitrust laws, the Attorney General shall immediately issue a certificate of review to the applicant. If the Attorney General determines that the conduct specified in the application is likely to violate the antitrust laws, the Attorney General shall promptly transmit to the applicant a statement of the determination and the reasons in support of the determination.

(c) If the Attorney General denies an application for the issuance of a certificate of review and thereafter receives from the applicant a request for the return of all documents submitted by the applicant in connection with the issuance of the certificate, the Attorney General shall return to the applicant, not later than thirty days after receiving the request, the documents and all copies of the documents available to the Attorney General, except to the extent that the information contained in a document has been made available to the public.

(d) The Attorney General shall specify in each certificate of review issued under this section—

(1) the conduct, including activities and methods of operation, to which the certificate applies,

(2) the business entities participating in the conduct, and

(3) any terms and conditions applicable to the conduct.

(e) A certificate of review obtained by fraud is void ab initio.

REPORTING REQUIREMENT; AMENDMENT OF CERTIFICATE

SEC. 6. (a) Any of the persons who receive a certificate of review—

(1) shall promptly report to the Attorney General any change relevant to the matters specified under section 5(d) in the certificate, and

(2) may submit to the Attorney General an application to amend the certificate to reflect the fact or effect of the change on the conduct specified in the certificate.

(b) For purposes of section 4 and section 5, an application for an amendment to a certificate of review shall be deemed to be an application for the issuance of a certificate of review, except that the effective date of the amendment shall be the date on which the application for the amendment is submitted to the Attorney General.

MODIFICATION OR REVOCATION OF CERTIFICATE

SEC. 7. (a) If at any time the Attorney General determines that the conduct engaged in under a certificate of review violates or is likely to violate the antitrust laws, the Attorney General shall give written notice of the determination to the persons to whom the certificate was issued. The notice shall include a statement of the reasons in support of the determination. In the thirty-day period beginning thirty days after the notice is given, the Attorney General shall modify or revoke the certificate, as may be appropriate.

(b) The persons to whom the affected certificate was issued may bring an action in any appropriate district court of the United States to set aside the determination made under subsection (a) on the gound that the determination is erroneous.

JUDICIAL REVIEW; ADMISSIBILITY

SEC. 8. (a) Except as provided in section 7(b), no determination made by the Attorney General with respect to the issuance, amendment, or revocation of a certificate of review shall be subject to judicial review.

(b) No determination made by the Attorney General with respect to the issuance, amendment, or revocation of a certificate of review shall be admissible in evidence in any administrative or judicial proceeding in support of any claim under the antitrust laws.

PROTECTION CONFERRED BY THE CERTIFICATE OF REVIEW

SEC. 9. (a) None of the persons to whom a certificate of review is issued shall be subject to a criminal action for a violation of the antitrust laws or a violation of any State law similar to the antitrust laws if the violation arises from conduct specified in the cer-

tificate and if the certificate is in effect at the time the conduct occurs.

(b)(1) None of the persons to whom a certificate of review is issued shall be subject to a civil action for a violation of the antitrust laws or of any State law similar to the antitrust laws if the violation arises from conduct specified in the certificate and if the certificate is in effect at the time the conduct occurs.

(2) If, with respect to any claim brought by a person under the antitrust laws against any of the persons to whom a certificate of review is issued, the court finds that—

(A) the conduct alleged to violate the antitrust laws does not violate the antitrust laws,

(B) the conduct is conduct specified in the certificate of review, and

(C) the certificate of review was in effect at the time the conduct occurred,

the court shall award to the person or persons against whom the claim is brought the cost of suit attributable to defending against the claim, including a reasonable attorney's fee.

(c) None of the persons to whom a certificate of review is issued shall be liable under section 16 of the Clayton Act with respect to threatened loss or damage by a violation of the antitrust laws if the threatened loss or damage arises from conduct specified in the certificate of review and if the certificate is in effect at the time the conduct occurs.

INJUNCTIVE RELIEF

SEC. 10. Except as provided in section 9(c), a certificate of review shall have no legal effect on the authority of a court to grant equitable relief in an action for a violation of the antitrust laws brought against any of the persons to whom the certificate is issued. In granting the relief, the court shall have jurisdiction to modify or revoke the certificate of review, as may be appropriate.

DISCLOSURE OF INFORMATION

SEC. 11. (a) Information submitted by any person in connection with the issuance, amendment, or revocation of a certificate of review shall be exempt from disclosure under section 552 of title 5, United States Code.

(b)(1) Except as provided in paragraph (2), no officer or employee of the United States shall disclose commercial or financial information submitted in connection with the issuance, amendment, or revocation of a certificate of review if the information is privileged or confidential and if disclosure of the information would cause harm to the person who submitted the information.

(2) Paragraph (1) shall not apply with respect to information disclosed—

(A) upon a request made by the Congress or any committee of the Congress,

(B) in a judicial or administrative proceeding,

(C) with the consent of the person who submitted the information,

(D) in the course of making a determination with respect to the issuance, amendment, or revocation of a certificate of review, if the Attorney General deems disclosure of the information to be necessary in connection with making the determination,

(E) in accordance with any requirement imposed by a statute of the United States, or

(F) in accordance with any rule issued under section 13 permitting the disclosure of the information to an agency of the United States or of a State on the condition that the agency will disclose the information only under the circumstances specified in subparagraphs (A) through (E).

DESCRIPTIVE GUIDELINES

SEC. 12. (a) To promote greater certainty regarding the application of the antitrust laws to joint research and development programs, the Attorney General may issue guidelines—

(1) describing specific types of conduct with respect to which the Attorney General has made, or would make, determinations under section 5 and section 7, and

(2) summarizing the factual and legal bases in support of the determinations.

(b) Section 553 of title 5, United States Code, shall not apply to the issuance of guidelines under subsection (a).

ISSUANCE OF RULES

SEC. 13. Not later than ninety days after the date of the enactment of this Act, the Attorney General shall issue rules to carry out this title.

DEFINITIONS

SEC. 14. For purposes of this title—

(1) the term "antitrust laws" shall have the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that the term shall include section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that section 5 applies to unfair methods of competition,

(2) the term "Attorney General" means the Attorney General of the United States or his designee,

(3) the term "certificate of review" means a certificate issued by the Attorney General under section 5,

(4) the term "research and development program" means a program for—

(A) theoretical analysis, exploration, or experimentation, or

(B) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and pilot demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes,

except that the conduct of such program may include the establishment of facilities for the conduct of research, the collecting and exchange of research information, the conduct of research on a protected and proprietary basis, the prosecution of applications for patents and the granting of licenses, and the establishment of corporations to exploit patents, and

(5) the term "State" shall have the meaning given it in section 4G of the Clayton Act (15 U.S.C. 15g).

EFFECTIVE DATE

SEC. 15. (a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) Section 4 and section 5 shall take effect ninety days after the effective date of the rules first issued under section 13.

● Mr. KENNEDY. Mr. President, I am pleased to join today with Senator GLENN, Senator LAXALT, and several other of my colleagues in introducing legislation to enhance the environment for research and development in our economy. This is an extremely important initiative. In a real sense research and development forms the backbone of our economy. Our ability to achieve new gains in productivity, to beat inflation, and to create new jobs in the coming generations will depend on the extent to which we invest in and perform R. & D.

Unfortunately, our Nation's R. & D. effort has waned over the last decade. We no longer lead the world in the development of new technology, and we are paying the price in terms of more than just a loss of pride. Japan and Germany are leading us in the marketplace, and where we are handing out pink slips, they are creating new jobs.

The sponsors of this legislation hope to encourage American companies to perform R. & D. by clarifying the existing uncertainties in the antitrust laws that are now a hindrance. R. & D. is an expensive and risky enterprise, the benefits of which often go unrealized for years. Today, many firms are inclined to join together to perform R. & D. both to pool resources and to share in the considerable risks involved. However, some firms forgo this opportunity because of the threat of huge antitrust judgments. Vital R. & D. is consequently postponed if not put off altogether, and the overall national effort has suffered as a result.

Our legislation seeks to remove the discouraging elements inherent in the application of the antitrust laws to R. & D. joint ventures. Our objective is not to allow companies to join together and engage in anticompetitive behavior. But we do wish to provide firms with a determiniation of the legality of their research and development in advance of commencing that endeavor. With such a determination a company would then be able to proceed with R. & D. absent the threat of a treble damage attack sometime during the course of the work. By so doing, we can significantly reduce both the perceived risks of joint R. & D. and the resulting reluctance of firms to engage in it.

Mr. President, this bill is not the whole answer to our Nation's economic problems. But in a significant way, we believe that it can assist in encouraging U.S. firms to perform an activity that is so vital to sustained economic health. I urge my colleagues to to join in supporting this bill.●

By Mr. DODD (for himself and Mr. WEICKER):

S. 2719. A bill entitled "The Mashantucket Pequot Indian Claims Settlement Act"; to the Select Committee on Indian Affairs.

THE MASHANTUCKET PEQUOT INDIAN CLAIMS SETTLEMENT ACT

● Mr. DODD. Mr. President, I am introducing today, with the full support of the congressional delegation of Connecticut, a bill which settles the first outstanding Indian land claim in the State of Connecticut. The Mashantucket Pequot Indian Claims Settlement Act of 1982, supports legisla-

tion by the Connecticut General Assembly which recently granted the Mashantucket Pequot 20 acres of ancient burial ground and reaffirms Connecticut's policy of upholding the constitutional rights of Native Americans.

For the past 250 years, the Mashantucket Pequot Tribe has held title to their present State reservation. In 1976, reflecting their continued policy of self-sufficiency, the tribe brought suit against certain property owners in Ledyard, Connecticut. The Mashantucket Pequot Tribe claimed that the failure of the United States to approve of, in accordance with the Indian Trade and Intercourse Act of 1790, past transfers of land to private homesteaders renders them invalid.

Specifically, a settlement agreement has been reached between the Pequot Tribe and the Ledyard property owners for the transfer of approximately 800 acres of undeveloped land. The Mashantucket Pequot Indian Claims Settlement Act establishes a Federal trust for the purpose of land aquisition as agreed to in the settlement. In order for the agreement to be legally valid, this bill must be enacted into law.

This bill, by extinguishing all aboriginal title to the land, subjects the tribe to the laws of the United States. It upholds the tribe's right to receive lands to which they are entitled, to negotiate a settlement with property owners, and to become a federally recognized tribe.

Mr. President, I urge my colleagues to give careful consideration to this bill which reaffirms Connecticut's commitment to Indian self-determination and the rights guaranteed by the Constitution.

I ask that a copy of the bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Mashantucket Pequot Indian Claims Settlement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) there is pending before the United States District Court for the District of Connecticut a civil action which involves Indian claims to certain public and private lands within the town of Ledyard, Connecticut;

(2) the pendency of this lawsuit has placed a cloud on the titles to much of the land in the town of Ledyard, including lands not involved in the lawsuit, which has resulted in severe economic hardships for the residents of the town;

(3) the Congress shares with the State of Connecticut and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claims; and

(4) the parties to the lawsuit and others interested in the settlement of Indian land claims within the State of Connecticut have executed a settlement agreement which requires implementing legislation by the Congress of the United States and the legislature of the State of Connecticut.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "Tribe" means the Mashantucket Pequot Tribe (also known as the Western Pequot Tribe) as identified by chapter 832 of the Connecticut General Statutes and represented, as of the date of enactment of this Act, by the Mashantucket Pequot Tribal Council;

(2) the term "land or natural resources" means any real property or natural resources, or any interest in or right to any real property or natural resource, including minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights;

(3) the term "private settlement lands" means (A) the eight hundred acres, more or less, of privately held land which are identified by a red outline on a map filed with the Secretary of State of the State of Connecticut in accordance with the settlement agreement referred to in section 2(4) of this Act, and (B) the lands known as the Cedar Swamp which are adjacent to the Mashantucket Pequot Reservation as it exists on the date of enactment of this Act;

(4) the term "public settlement lands" means the lands described in sections 2(a) and 3 of the Act to Implement the Settlement of the Mashantucket Pequot Indian Land Claim as enacted by the State of Connecticut and approved on June 9, 1982;

(5) the term "settlement lands" means private settlement lands and public settlement lands;

(6) the term "Secretary" means the Secretary of the Interior;

(7) the term "transfer" means any transaction involving any change of title to or control of any land or natural resources or any right or interest in any land or natural resources, including any sale, grant, lease, allotment, partition, or conveyance, or any transaction or treaty, compact, or statute of any State which results in a change of possession or control of land or natural resources; and

(8) the term "reservation" means the reservation of the Tribe as defined by chapter 824 of the Connecticut General Statutes.

CONNECTICUT INDIAN CLAIMS SETTLEMENT FUND

SEC. 4. (a) As compensation to the Tribe for the extinguishment of any claim under section 5 of this Act, there is established in the United States Treasury a fund to be known as the Connecticut Indian Claims Settlement Fund. This fund shall be held in trust by the Secretary for the benefit of the Tribe and administered in accordance with this Act.

(b)(1) The Secretary shall spend, at the request of the Tribe, the principal of the fund and any income accruing to the fund to acquire land or natural resources for the Tribe or for similar purposes which promote the economic development of the Tribe.

(2) Lands or natural resources acquired under paragraph (1) which are located within the settlement lands shall be held in trust by the United States for the benefit of the Tribe.

(3) Lands or natural resources acquired under paragraph (1) which are located outside of the settlement lands shall be held in fee by the Mashantucket Pequot Tribe, and the United States shall have no further trust responsibility with respect to such lands and natural resources. Such lands or natural resources shall not be subject to any restriction against alienation under the laws of the United States or the State of Connecticut.

(c) For the purpose of subtitle A of the Internal Revenue Code of 1954, any transfer of private settlement lands to which subsection (b)(2) applies shall be deemed to be an involuntary conversion within the meaning of section 1033 of such code.

(d) There is authorized to be appropriated $900,000 to be deposited in the fund.

APPROVAL OF PRIOR TRANSFERS; EXTINGUISHMENT OF INDIAN ABORIGINAL TITLES AND INDIAN CLAIMS

SEC. 5. (a) Any transfer before the date of enactment of this Act from, by, or on behalf of the Tribe or any of its members of land or natural resources located anywhere within the United States, and any transfer before the date of enactment of this Act from, by, or on behalf of any Indian or nation, tribe, or band of Indians of land or natural resources located anywhere within the town of Ledyard, Connecticut, shall be deemed to have been made in accordance with the Constitution and all laws of the United States specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, or nation, tribe, or band of Indians. Any such transfer shall be deemed to have been made with the consent and approval of the Congress as of the date of such transfer.

(b) Any aboriginal title held by the Tribe or any member of the Tribe, or any other Indian or nation, tribe, or band of Indians, to any land or natural resources the transfer of which was consented to and approved in subsection (a) shall be considered extinguished as of the date of such transfer.

(c) Any claim (including any claim for damages for trespass or for use and occupancy) by the Tribe or any member of the Tribe or by any other Indian or nation, tribe, or band of Indians (including any predecessor or successor in interest of any such Indian, or nation, tribe, or band of Indians) against the United States, any State or subdivision thereof, or any other person which is based on—

(1) any transfer of land or natural resources which was consented to and approved in subsection (a), or

(2) any aboriginal title to land or natural resources the transfer of which was consented to and approved in subsection (a),

shall be considered extinguished as of the date of any such transfer.

(d)(1) This section shall take effect upon the appropriation of $900,000 as authorized under section 4(d) of this Act.

(2) The Secretary shall publish notice of such appropriation in the Federal Register when the funds are deposited in the fund.

JURISDICTION OVER RESERVATION

SEC. 6. Notwithstanding the provision relating to a special election in section 406 of the Act approved April 11, 1968 (25 U.S.C. 1326), the reservation and the settlement lands are declared to be Indian country subject to State jurisdiction to the maximum extent provided in title IV of such Act.

LIMITATION OF ACTIONS; FEDERAL COURT JURISDICTION

SEC. 7. (a) Notwithstanding any other provision of law, the constitutionality of this Act may not be drawn into question in any action unless such question has been raised in—

(1) a pleading contained in a complaint filed before the end of the one-hundred-and-eighty-day period beginning on the date of enactment of this Act, or

(2) an answer contained in a reply to a complaint filed before the end of such period.

(b) Notwithstanding any other provision of law, exclusive original jurisdiction of any action in which the constitutionality of this Act is drawn into question is vested in the United States District Court for the District of Connecticut.

(c) Any action to which subsection (a) applies and which is brought in the court of any State may be removed by the defendant to the United States District Court for the District of Connecticut.

RESTRICTION AGAINST ALIENATION

SEC. 8. (a) Subject to subsection (b), lands within the reservation and any settlement lands which are held by the Secretary for the benefit of the Tribe at any time after the date of enactment of this Act shall be subject to the laws of the United States relating to Indian lands, including section 2116 of the Revised Statutes (25 U.S.C. 177).

(b) Notwithstanding subsection (a), the Tribe may lease lands for any term of years to the Mashantucket Pequot Housing Authority, or any successor in interest to such Authority.

EXTENSION OF FEDERAL RECOGNITION AND PRIVILEGES

SEC. 9. (a) Notwithstanding any other provision of law, Federal recognition is extended to the Tribe. Except as otherwise provided in this Act, all laws and regulations of the United States of general application to Indians or Indian nations, tribes, or bands of Indians which are not inconsistent with any specific provision of this Act shall be applicable to the Tribe.

(b) Notwithstanding any other provision of law, the Tribe and members of the Tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes as of the date of enactment of this Act.●

By Mr. QUAYLE (for himself, Mr. HATCH, and Mrs. HAWKINS):

S. 2720. A bill to provide transitional funding for the deregulation of health planning; to the Committee on Labor and Human Resources.

HEALTH PLANNING DEREGULATION ACT OF 1982

● Mr. QUAYLE. Mr. President, on behalf of Senators HATCH, HAWKINS, and myself, I introduce S. 2720, a bill to provide transitional funding for the creation of a new, voluntary, nonregulatory health planning program.

The present health planning program will expire at the end of the year, and I have long been one of its critics because of the regulatory and bureaucratic burdens it has imposed on the States.

I am reluctant, however, to see the existing planning program expire when there is no alternative in place to curb medical cost increases.

I recognize that true planning and data collection activities play an important role in checking health care costs, and States should be encouraged to monitor their health resources and needs to avoid oversupply with the resultant increase in expenditures. We can support these activities, however, without imposing excess regulatory demands.

My bill repeals the current health planning law, title XV of the Public Health Service Act, and replaces it with a voluntary, 1-year program. States may opt to use these funds to continue State or local planning activities, or to invest in nonregulatory experiments designed to promote competition and reduce health care costs.

These funds may not be used, however, to continue any activity that regulates the planning, delivery, allocation, or financing of health care. If a State wishes to carry out certificate-of-need activities, they could do so using State funds.

The present health planning system was designed to address excess bed capacity, duplication of services, and the assurance of quality care to all citizens. I believe that my bill continues to support these goals while encouraging States to develop their own planning systems with a minimum of Federal intervention.

My bill provides a transitional period that will generate creative solutions to the growing problem of unchecked health care cost. I will continue to seek additional approaches to the problem of rising health care costs, and I urge that my colleagues who are concerned with this problem join me in my attempt to check the growth of health care expenditures.

SUMMARY OF THE BILL TO PROVIDE FOR THE DEREGULATION OF HEALTH PLANNING

This bill would repeal the present health planning program by repealing title XV of the Public Health Service Act, and would create a new voluntary program by amending the Public Health Service Act by inserting after title XV the following new title: "Title XV—the Health Planning Deregulation Act."

New section 1501 designates that the new program be authorized for $20 million for fiscal year 1983. Funding would actually be available through September 30, 1984, which will extend the program for 24 months.

New section 1502(a) directs the Secretary of HHS to allot funds based on the population of the State as determined by the most recent decennial census. An exception would be granted for States with a low population, as no State would receive less than $100,000.

New section 1502(b) requests that States desiring to receive an allotment under this title submit an application to the Secretary.

New section 1503(a) directs the Secretary to make payments in accordance with the Intergovernmental Cooperation Act.

New section 1503(b) directs that funds not paid to States shall be returned to the Treasury.

New section 1504(a) provides a description of the use of the funds, which shall be for: (A) State or local health planning; and (B) experiments designed to demonstrate nonregulatory strategies to promote competition.

New section 1504(c) directs that States will contribute a 25-percent match for the Federal 75-percent share.

New section 1505(a) directs the States to prepare a report and an audit of their activities under this title.

New section 1506(2) defines "health planning" to include the development, at the State or local levels, by public or private entities, of a plan or arrangement for the financing and delivery of health care and may include the compilation or conduct of studies, analyses, and data collection with respect to the financing and delivery of health care and the formulation of a State, regional, or local health plan. Under this definition "health planning" does not include any State or local activity that regulates the planning, allocation, financing, or delivery of health care services or resources, including a certificate of need program.

New section 5(a) repeals the current health planning program as of October 1, 1982.

New section 5(b) repeals the new Health Planning Deregulation Act as of October 1, 1983.

I ask unanimous consent that the text of the bill be printed in the RECORD at the end of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Health Planning Deregulation Act of 1982".

STATEMENT OF PURPOSE

SEC. 2. The purpose of this Act is to provide States with Federal support to continue nonregulatory health planning activities at the State and local levels and to discontinue the current federally mandated health regulation and planning system.

HEALTH PLANNING DEREGULATION

SEC. 3. (a) Title XV of the Public Health Service Act (as in effect on September 30, 1982) is repealed.

(b) The Public Health Service Act is amended by inserting after title XIV the following new title:

"TITLE XV—HEALTH PLANNING DEREGULATION

"AUTHORIZATION OF APPROPRIATIONS

SEC. 1501. For the purpose of carrying out the provisions of this title, there are authorized to be appropriated $20,000,000 for fiscal year 1983.

"ALLOTMENTS; APPLICATIONS

SEC. 1502. (a) From the amounts appropriated under section 1501 for fiscal year 1983, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated under section 1501 for that fiscal year as the population

of the State (as determined by the most recent decennial census) bears to the population of all States, except that no allotment of a State shall be less than $100,000.

"(b) Each State desiring to receive an allotment for fiscal year 1983 under this title shall submit an application to the Secretary.

"PAYMENTS TO STATES

"SEC. 1503. (a) Subject to the requirements of section 1504(c), the Secretary shall make payments, in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 and after receiving the application required by section 1502(b), to each State from its allotment under section 1502(a) from amounts appropriated for any fiscal year under section 1501.

"(b) Any amounts which are not paid to States under subsection (a) shall be returned to the Treasury as miscellaneous receipts.

"USE OF FUNDS

"SEC. 1504. (a)(1) Except as provided under subsection (b), payments made under section 1503 may be used to assist in meeting not more than 75 percent of the costs of activities relating to—

"(A) State or local health planning; and

"(B) experiments designed to demonstrate nonregulatory strategies to promote competition in the financing and delivery of health care.

"(2) No State receiving payments under section 1503 shall be required to use funds paid under that section to carry out the activities and services described in paragraph (1) in the same manner as similar activities and services were carried out under this title as this title was in effect prior to October 1, 1982.

"(b) The non-Federal share of activities supported under this title shall not be less than 25 percent.

"(c) A State shall expend amounts paid under this title by the end of the fiscal year following the fiscal year for which they were appropriated.

"REPORTS AND AUDITS

"SEC. 1505. (a) Each State shall prepare a report in such manner as the State finds necessary to secure an accurate description of the activities carried out under this title.

"(b)(1) Each State shall prepare an audit of its expenditures of amounts received under this title. Such audit shall be conducted by an entity independent of any agency administering activities carried out under this title and shall be conducted in accordance with generally accepted accounting principles.

"(2) Each State shall repay to the United States any amounts found not to have been expended in accordance with this title, except that the Secretary may offset such amounts against any other amount to which the State is or may become allotted under this title.

"DEFINITIONS

"SEC. 1505. For purposes of this title:

"(1) The term 'State' means each of the several States and the District of Columbia.

"(2) The term 'health planning' means the development, at the State or local levels, by public or private entities, of a plan for the financing and delivery of health care, and may include the compilation or conduct of studies, analyses, and data collection with respect to the financing and delivery of health care and the formulation of a State, regional, or local health plan. Such term does not include any State or local activity that regulates the planning, allocation, financing or delivery of health care resources or services, including a certificate of need program or a program regulating the amounts charged by providers of health care.".

EFFECTIVE DATE; REPEAL

SEC. 4. (a) Section 3 shall take effect on October 1, 1982.

(b) Effective October 1, 1983, title XV of the Public Health Service Act (as added by section 3 (b) of this Act) is repealed.●

● Mr. HATCH. Mr. President, along with Senators QUAYLE and HAWKINS, I am today introducing legislation to replace our current health planning laws. Our bill is based on four important principles: Giving States more discretion in conducting their business; lessening the regulatory burden of Federal activities; assuring the continuation of useful health planning activities; and eliminating the present regulatory Federal planning program.

The key points of the bill are:

Repeals existing law;

Establishes a new program for 1 year at $20 million which will assure planning money is available for 24 months, through September 30, 1984;

States could use money for health planning and nonregulatory competition experiments;

Local planning at State option only;

Federally supported health planning limited to true planning and data collection;

Federal money under the bill could not be used for regulation, including certificate of need (CON); and

States which want regulatory programs would have to fund them from their own money or by charging fees.

This bill represents an appropriate transition while this Congress considers the various means of restraining health care costs through increased competition. At the same time the bill repeals the Federal requirement for certificate of need. The certificate of need is a prime example of well-meaning regulatory policy which, though it failed in its purpose of fighting inflation by limiting service expansion, remains on the books. By itself, eliminating this highly regulatory planning authority will not stimulate market competition, but it is a significant step toward allowing States the necessary freedom to meet their own needs without Federal dictation. This may mean that many States will choose to continue their certificate of need programs with modifications. I see no basis for the Federal Government to object to this as long as the States act totally on their own initiative and use their own funds. Some will make the same mistakes the Federal Government has made, but I am confident that most will not.

Let us look for a moment at the facts concerning Federal health planning in relation to its initial goals of reducing health care costs:

First, according to GAO, it is true that over the past decade, the national average cost per day of a hospital stay has increased in cost by 237 percent;

Second, the cost of an average stay in the hospital has soared to $2,119 from $670, just since 1970;

Third, since 1974, when health planning was enacted, national health expenditures were 8.1 percent of the gross national product and have increased to almost 10 percent in 1981.

Fourth, hospital care expenditures represent 40.3 percent of total health spending in 1980 and the American Hospital Association said these expenditures have risen over 19 percent from the previous year;

Fifth, physician services, which represented 18.9 percent of national health expenditures in 1980, experienced more than a fivefold increase from 1965 to 1980;

Sixth, even hospital admissions have increased by 16 percent over last year; and

Seventh, During the last fiscal year, health expenditures in our country rose to $247.2 billion, or $942.94 per capita for every man, woman, and child in America.

I could go on—but the facts are clear. The initial purposes for the Health Planning Act were impressive, but available evidence does not support the hypothesis that health planning and its regulations have restrained growth in aggregate hospital investments or costs nor has it "stimulated" reduced costs in any area of health care. And at a time when inflation is nationally dropping and expected to continue to do so, every informed person predicts health cost inflation will continue—and at today's dramatic rates.

The Congressional Budget Office has targeted some specific areas where the Federal Health Planning Act has failed:

First, unclear and conflicting goals have limited the effectiveness of health planning. The broad mandate given by the Planning Act and sometimes poor communication between the Federal Government and local planning agencies have contributed to the problem;

Second, planning agencies have little authority other than using powers of persuasion to implement their goals;

Third, hospitals are reluctant to accept planning agency recommendations to merge, share services, or otherwise cooperate because such actions might lead to antitrust suits;

Fourth, because hospitals can invest in services equipment that are not subject to CON review, the potential effect on total investment in costs is reduced; and

Fifth, Federal requirements, such as those for representative local govern-

ing boards and comprehensive health plans, have absorbed agency resources.

The United States enjoys the greatest system of health care delivery in the world, but at increasing prices which our economy cannot afford. I cannot continue to support restrictive Federal regulations that are pointless and have no hope of curbing costs. Therefore, I agree with President Reagan's call to eliminate Federal involvement in State and local planning activities. This bill provides Federal support only for those health planning activities which are completely State-initiated and nonregulatory. States could maintain their own regulatory programs should they desire, but Federal funds would not be available. States should be allowed to determine whether or not their respective health planning programs will or will not include regulatory elements or whether or not to foster local planning as part of a State's program.

Therefore, I urge my colleagues to support this bill.●

● Mrs. HAWKINS. Mr. President, I rise to join Senator HATCH and Senator QUAYLE in introducing legislation that would provide transitional funding to the States to enable them to continue health planning activities.

The Committee on Labor and Human Resources, on which we serve, has struggled over the last 2 years with the question of whether to continue or terminate the National Health Planning and Resources Development Act of 1974. The administration has recommended the termination of the current health planning program and its budget recommendation for both fiscal year 1982 and 1983 has recommended a rapid phaseout of funding for this program. One of the first votes I cast in opposition to the President's budget recommendations, and it was not an easy vote for me, was in favor of an amendment offered in committee to have a slower phase-out of the funding for health planning. Although I, too, have difficulty supporting continuation of the existing health planning program, I believed, and I still believe, that the termination of funding for this program has been too abrupt.

I support and I am eagerly awaiting the introduction of the administration's competition proposals designed to utilize the forces of the marketplace to reduce the costs of health care. However, even if this proposal is received by Congress this session, it faces several years of congressional debate and will require several more years after enactment before its effects will be apparent.

In the intervening years, a gap is created in which the only program attempting to reduce the cost of health care has been eliminated. I feel that the Federal Government does have a responsibility to provide some financial support to the States for health planning activities because of its role as a major purchaser of health care services.

The legislation that we are proposing would not continue the existing National Health Planning and Resource Development Act. Nor would it allow the expenditure of Federal funds for regulatory activities such as the certificate of need program or programs regulating the amounts charged by institutional providers of health care. Our legislation is consistent with the administration's efforts toward federalism and away from unnecessary regulation. Instead of imposing standards and requirements upon the States, we hope that the flexibility provided in this bill will encourage States to develop innovative programs that meet the particular health planning needs of their State.

I feel that there is a need to continue funding for the nonregulatory aspects of health planning such as State, regional or local health plans, analyses and data collection, experiments designed to foster health care competition, and development of community-based coalitions whose purpose is to reduce the cost of health care.

For example, while the Nation is experiencing a decrease in the population of veterans, Florida is experiencing just the reverse. Florida is experiencing a tremendous growth in our veterans population. We estimate that our population of veterans will double in the next 20 years. The migration of the veterans population to the Sun Belt States such as Florida and the "graying" of this population is overtaxing the available health care facilities in Florida. The State of Florida estimates that by 1990 our State V.A. health system will require the capability of handling an additional 685,034 outpatient vists, and 2,300 more inpatient beds by 1990. Adequate health planning is needed to predict and avoid health crises such as this.

If all Federal support for health planning is eliminated, the expected cutbacks in data collection and analysis could reduce the ability of State officials to determine what facilities and projects are most urgently needed. My own State of Florida has realized the value in health planning and has taken the lead in this area by being one of the first States to assume financial responsibility over health planning. The Florida Legislature has enacted legislation which operates the certificate of need program on the State level and continues the community and consumer involvement in health planning by the use of local health councils. These programs will be funded out of increased fees for certificate of need licenses.

I feel that many States will follow Florida's lead and assume financial control over health planning programs. The widely vacilating funding levels for health planning in fiscal year 1982 did not serve sufficient notice on the States that Federal support for health planning was ending. I think that many States will recognize the need for health planning and assume financial responsibility over these programs. However, I am afraid that without this transitional Federal funding many States will adopt only the regulatory forms of health planning such as certificate of need, which can pay for itself out of licensure fees, but not the more expensive but much needed health planning activities of data collection and local planning councils.

I feel that the involvement of consumers, especially the major purchasers of health insurance, is needed to shape the local health care services. I would not like to see the involvement of these dedicated individuals end because budget priorities on the State level find it easier and cheaper to adopt regulatory approaches such as certificate of need programs.

Mr. President, I hope my Senate colleagues will join us in supporting this amendment. I feel that it is necessary to give the States sufficient time to enact legislation to continue health planning programs on the State and local level.●

By Mr. SCHMITT (for himself, Mr. DOMENICI, Mr. MCCLURE, and Mr. THURMOND):

S. 2721. A bill to establish criteria for determining election boundaries in developing census information; to the Committee on Governmental Affairs.

AMENDMENT OF CENSUS LAWS

● Mr. SCHMITT. Mr. President, I am pleased to introduce, along with my distinguished colleagues Senator DOMENICI, Senator MCCLURE, and Senator THURMOND, a bill which would require the Census Bureau to provide population information for purposes of reapportionment that conforms to the smallest administrative unit used by a State in statewide elections. If each State was allowed to get census data that conforms to political boundaries—which in most States would be precincts—then, States would be able to reapportion their legislatures after the 1990 census easily and cheaply. The events of the past few months in New Mexico clearly show that Federal laws regulating the use of census data to assist States in reapportioning legislatures are unworkable and in desperate need of revision. In January, a Federal three-judge panel declared unconstitutional New Mexico's reapportionment formula. Since then, my State has been forced to expend thousands of dollars just to convert census figures to conform New Mexico's precinct lines so that new boundaries could be drawn. All of this could have

been avoided had the Census Bureau been required under existing Federal law to provide census information that conforms to election boundaries as determined by the State legislature.

A brief background note should help clarify the purpose of this legislation. Prior to 1975, State legislatures spent countless hours devising fair and proper legislative boundaries in accordance with the one-man, one-vote principle. Decisions were based primarily on data collected by the Census Bureau. However, the information proved to be ill-suited to the needs of most State bodies. According to a survey conducted by the National Legislative Conference's Reapportionment Committee, nearly 50 percent of the respondents revealed that they had major difficulties resolving differences between census units and precinct boundaries during the 1970 reapportionment/redistricting cycle.

In an attempt to overcome the census enumeration district/political precinct conflict, Congress amended Federal laws relating to the use of census data to give States the chance to submit a plan, not later than 3 years before the census, identifying the geographic areas for which population tabulations would be desired for legislative reapportionment and redistricting purposes (Public Law 94-171).

This 1975 act also provided that, "Each such plan shall be developed in accordance with criteria established by the Secretary (of Commerce) * * *." One of these criteria allows the States to use precinct boundaries in the submitted plan. But this is where the problem begins.

Precinct boundaries must follow visible, easily-recognized features (e.g., streets, railroad tracks, drainage features such as streams, creeks, and lakes, topographical features such as ridges) which are indicated on the map. The single exception occurs where a precinct boundary coincides with a county line, the limits of an incorporated place (city, village, etc.), or the boundary of a minor civil division (township, etc.) which does not follow such a visible feature. (Federal Register, vol. 41, No. 63, p. 13639, 1976).

In 1975, communications began between the Census Bureau and the pertinent State officials in New Mexico. The latter submitted a precinct map for Curry County, an area that is certainly among the most Midwest in topography that can be found in New Mexico. The Census Bureau concluded that most of the precinct boundary lines follow a nonvisible feature—such as section lines. Unless these boundaries are revised to follow visible features, the Bureau would not be able to provide population counts for them.

In finding that Curry County's precincts were unsuitable, the Bureau made one conclusion virtually inescapable. And that is the Bureau's regulation requiring visible boundaries discriminates against New Mexico and other States because the nature of the landscape—the deserts and mountains and plains—makes the creation of such boundaries not all practical. It should hardly be surprising, then, that the Bureau's position of having New Mexico revise its precinct boundaries is unacceptable to my State's local governments and people.

By requiring the Census Bureau to provide census tabulations based on the smallest administrative units used by a State in Statewide elections, my bill would avoid 10 years from now the reapportionment problems New Mexico, and other States have undergone in 1982. Underlying those problems, however, is another, more enduring dilemma. The Census Bureau must see more clearly that its operations are not to be conducted for the convenience of its own staff, but rather for service to the States and their people. Unless these agencies are challenged, they will have no reason to change.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 141 of title 13, United States Code, is amended by adding after "nonpartisan manner." in the third sentence the following new sentence: "Such criteria shall also allow that requested geographic areas may include the smallest administrative units used in conducting Statewide elections.".

(b) The amendment made by this Act shall take effect on the date of the enactment of this Act.●

By Mr. GRASSLEY:

S. 2722. A bill to expand exports of U.S. agricultural commodities, develop commercial markets for such commodities, promote the foreign policy of the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL EXPORT EXPANSION ACT OF 1982

● Mr. GRASSLEY. Mr. President, I am introducing today the Agriculture Export Expansion Act of 1982, a bill aimed at expanding exports of agricultural products. Similar legislation was introduced in the House of Representatives earlier and was considered by the House Agriculture Committee during deliberations of its farm crisis bill. This bill is also similar to one of the provisions of S. 2661, although it includes an additional subsection critical to the effectiveness of this legislation.

Essentially, my bill amends title I of the Agricultural Trade Development and Assistance Act of 1954 by adding provisions that authorize credit guarantees for a term of 10 years; an interest buydown of 4 percentage points; a limitation on the funds used for this buydown of 25 percent of the Public Law 480 title I/III program; an exemption from the 75/25 percent allocation requirement section III; and an exemption from cargo preference requirements.

For some time now, I have been very interested in finding a way in which agriculture exports can be stimulated. Clearly, with our depressed commodity prices caused by a large surplus of grain, increased sales are essential in order to provide relief to our farmers during these trying economic times.

As the attached chart details, the benefits of this program will extend beyond the farm sector. In addition to the increased net farm income of $1 billion for fiscal year 1982, Federal tax revenues will increase by $123 million, employment will be increased, and the GNP will grow by $1,850,000.

I fully recognize that the provision dealing with cargo preference is controversial. However, I firmly believe that very serious consideration must be given to this exemption for the effectiveness of this legislation is at stake. In light of the critical need to expand our exports to spur the farm economy, it is essential that some concessions are made.

Mr. President, I ask unanimous consent that a table detailing the proposal be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

RESULTS ASSUMING A 4-PERCENT BUYDOWN WITH 10-YEAR REPAYMENT TERMS

	1982	1983
Export increase (million metric tons:)		
Wheat	3.6	3.0
Corn	2.1	2.2
Soybeans	.4	.3
Export increase (millions):[1]		
Wheat	$658	$550
Corn	$257	$272
Soybeans	$113	$86
Total	$1,028	$908
Producer price increase (Dollars per bushel):		
Wheat	.21	.23
Corn	.06	.09
Soybeans	.23	.31
Credit volume required (millions):[2]		
Wheat	$940	$785
Corn	$367	$389
Soybeans	$161	$123
Total	$1,469	$1,297
Budget outlay required (millions):[3]		
Wheat	$139	$116
Corn	$54	$57
Soybeans	$24	$18
Total	$217	$192
Deficiency payments saved (millions):[4]		
Wheat	$262	$287
Corn	$180	$270
Total	$442	$557
Storage payments saved (millions)	$28	$26
Increase in net farm income (millions)	$1,000	$1,600
Increase in GNP (millions)[5]	$1,850	$1,634
Increase in Federal tax revenue (millions)[6]	$123	$109
Increase in employment (thousands)[7]	29	26

[1] Valued at $175 per metric ton for wheat, $120 per metric ton for corn, $275 per metric ton for soybeans.
[2] Assumes 70 percent additionality.
[3] Direct outlay for interest buydown payed up front.
[4] Based on a 40 percent participation in acreage reduction program each 1-cent-per-bushel price increase on wheat lowers deficiency payments $12.5 million, for corn each 1-cent increase lowers deficiency payments $30 million.
[5] GNP multiplier is 1.8 of the increase on export value.
[6] Based on 12 percent of the increase in export value.
[7] 28,700 jobs per $1 billion export value.●

By Mr. RIEGLE (for himself, Mr. LEVIN, and Mr. DIXON):

S. 2723. A bill to expand the supply of strategic skills in critical occupations in which there is a shortage of workers by providing retraining for experienced displaced workers from funds available for certain defense procurement; to the Committee on Armed Services.

NATIONAL DEFENSE AND STRATEGIC SKILLS TRAINING ACT OF 1982

● Mr. RIEGLE. Mr. President, I introduce today the National Defense and Strategic Skills Training Act of 1982. This bill is urgently needed to rekindle career opportunities for thousands of experienced workers who have lost their jobs as a result of industrial change. It also would alleviate the shortage of skilled occupations that are needed to carry out our defense procurement program.

This legislation authorizes the Secretaries of Labor and Defense to insure that there is an adequate supply of strategic skills. Under the legislation, the Secretary of Defense would analyze the skilled labor requirements of the defense program, and the Secretary of Labor would identify any skills that will be in short supply. The Secretary of Defense would be authorized to use a portion of available procurement funds for training in selected skills, if he decided that such training would in the long run increase the efficiency of defense procurement.

The bill would help insure that the new job opportunities would be available to experienced workers who have lost their jobs as a result of major changes in our basic industries. States with a large number of dislocated workers and a sound training system would participate in the program by recruiting eligible trainees and establishing close working ties with defense contractors. Defense contractors would select workers and design the training for specific jobs.

The bill would not require additional funding, but would use available funds more wisely. A portion of the defense budget that otherwise would be used to bid strategic skills away from private industry, would instead be used to increase the supply of those skills. The Secretary of Defense would decide which major weapons systems would benefit from the training set-aside. Trainees could not replace currently employed workers.

Mr. President, I believe that this bill would help solve two pressing problems of U.S. industry. First, it would offer new career opportunities for experienced workers who have lost their jobs as a result of major changes in our basic industries. The structure of U.S. industry is changing rapidly. Thousands of experienced workers find that their skills do not fit the new requirements of industry. Moreover, the total work force in key manufacturing industries is declining. Peter Drucker, the renowned business analyst states that "By 1990, although employment may not be substantially lower, blue-collar employment in general will be no more than one-third of what it is now."

Mr. President, in several States, such as my own State of Michigan, this problem is pressing. Michigan's greatest economic challenge is created by accelerated change in the size and makeup of the auto industry's work force. Michigan will lose an estimated 300,000 to 400,000 auto-related jobs by 1990, a full 10 percent of the State's 1980 total employment. The supply of high wage auto jobs will shrink even more sharply as the industry shifts to more automated factories.

About one-half of that job loss has already occurred. The workers being laid off tend to be younger, open to retraining. However, most will have to lower their income expectations greatly and some categories of older workers will be laid off.

The American steel industry has also been badly hurt. Some 130,000 American steelworkers are currently unemployed or on reduced work schedules; a figure representing 30 percent of the domestic steel work force.

The Nation will suffer an enormous waste of resources—both in human and financial terms—if we do not retrain productive workers in skills that will be needed by industry in the future. Below is a table on the projected skilled labor shortages.

PROSPECTIVE SKILLED LABOR SHORTAGES IN SELECTED OCCUPATIONS, 1978–80

Occupation	Projected annual job openings	Annual training shortfall
Industrial machinery repair	58,000	57,500
Blue-collar worker supervisor	69,000	50,000
Computer operator	46,200	28,000
Machinist	22,500	21,300
Computer system analyst	21,200	21,200
Machine tool operator and setup worker	22,600	19,000
Licensed practical nurse	60,000	19,000
Maintenance electrician	15,500	14,400
Computer technician	8,800	8,500
Forge shop worker and millwright	6,700	6,200
Television and radio repair	6,100	5,500
Tool and die maker	8,600	4,900
Stationary machine engineer	7,700	3,700

Source: U.S. Department of Labor "Occupational Projections and Training Data," September 1980; U.S. Department of Labor, "Occupational Outlook Quarterly: Computers," Summer 1981.

Second, this bill would help avoid the shortage of workers with strategic skills. These shortages threaten to be a serious problem for the ambitious defense program on which we are embarked. Skilled labor bottlenecks would drive up the cost of military procurement and disrupt the civilian economy.

By 1990, the projected employment demand for craft occupations is 15.6 million, or an increase of 3.9 million over the employment level of 1978. This means approximately 323,000 additional craft jobs must be filled each year in this decade. The number of operative jobs is projected to be 17.7 million in 1990, an increase of 3.5 million over 1978. This translates into an average of 291,000 jobs opening up annually until 1990.

According to the National Tooling and Machining Association 1980 survey there is a current shortage of 60,000 skilled workers which is expected to reach 250,000 by 1985. The average yearly job opening for welders is 17,833 and their projected employment for 1990 is 784,000. For lathe machine operators, the average annual job openings projected are 4,750; 1990 projected employment is 210,000.

Imbalances in the supply and demand for skills result as products and processes in the economy change. Sudden changes can create large imbalances unless the training system quickly adjusts to the new requirements of the economy.

In a soon to be published article from the Bureau of Labor Statistics, the following points are made concerning the shortage of machinists:

During the 1970's they increased as a proportion of total employment, even during the 1975 recession;

Very low unemployment rates for skilled machinists is very compatible with a shortage of workers;

Employers currently are not able to hire as many skilled machinists as they would like; and

Current training is not sufficient to alleviate shortages.

In addition, most studies conclude that similar conditions have existed for some time and are very likely to continue in the future unless some specific action is undertaken to strengthen jobs retraining.

Many employers have increased training in an effort to reduce the shortage of skilled machining workers. Skilled machining workers must be trained on the job. Therefore, unless employers expand training, additional workers will not become available. Training, however, is very expensive and many exployers are not able to increase their training efforts to any significant extent.

Mr. President, I believe that the severity of this Nation's shortage of skilled workers combined with the current economic situation requires corrective Federal action. This proposed legislation would use existing appropriations, not new Federal money, to enable displaced workers to make a smooth transition into productive defense related employment. Their skills will not be wasted, we will have a more efficient defense buildup, and unem-

ployment will be eased. Mr. President, I ask unanimous consent to have printed in the RECORD the text of the bill. This program has received wide support from the UAW, AFL-CIO, and other trade groups.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Defense and Strategic Skills Training Act of 1982".

DEFINITIONS

SEC. 2. For the purpose of this Act—

(1) The term "defense procurement" means any procurement defined in section 2303 of title 10, United States Code.

(2) The term "Governor" means the chief executive of any State.

(3) The term "skilled occupations" includes only occupations for which the normal training program is at least one year but the term does not include any occupation for which a college degree is a normal prerequisite.

(4) The term "State" means each of the several States and the District of Columbia.

(5) The term "Secretary" means the Secretary of Defense.

SKILLED OCCUPATIONS SHORTAGE PROJECTION

SEC. 3. (a) The Secretary of Labor shall develop and publish a list of skilled occupations in which there is a substantial shortage of workers. The list shall be revised annually.

(b) For the purpose of this subsection there is a substantial shortage of workers with respect to a skilled occupation if the sum of the number of trained workers and the number of persons in training programs in that skilled occupation is less than the anticipated demand for the occupation for the five-year period beginning on the first day of the first month after the determination is made.

(c) The Secretary of Defense, after consultation with the Secretary of Commerce and the Secretary of Labor, shall prepare a list of occupations, based upon the list of occupations prepared by the Secretary of Labor under subsection (a), which, the Secretary of Defense determines will, because of the shortage of workers in any specific occupation, require an increase in the supply of skilled workers in that occupation to improve the efficiency of defense procurement. In preparing the list required by this subsection the Secretary shall consider the extent to which shortages of workers in an occupation listed under subsection (a) will arise through, or be exacerbated by, the demands of defense procurement.

PARTICIPATING STATES

SEC. 4. (a) Upon application by any State the Secretary of Labor shall designate the State a participating State for the purpose of this Act if the Secretary of Labor determines that—

(1) the State contains high concentrations of experienced workers dislocated by major changes in the economic base of the State or of a significant area within the State;

(2) the State has or will establish a statewide system for the selection, training, and relocation of displaced workers; and

(3) the State provides evidence of an understanding of Federal defense procurement procedures and established relationships with defense contractors sufficient to assist in the selection of participants, the design of training programs, and the placement of experienced displaced workers.

(b)(1) The Secretary of Labor, after consultation with the Secretary, shall approve any application which meets the requirements of subsection (a).

(2) The Secretary of Labor shall prepare and transmit to the Secretary a list of the States having an application approved under this section.

PROGRAM AUTHORIZED

SEC. 5. (a)(1) The Secretary shall set aside not to exceed 1 percent of the funds available in each fiscal year beginning after September 30, 1982, and ending prior to October 1, 1987, for all weapons systems designated by the Secretary for the purpose of this Act.

(2) The Secretary shall designate such weapons systems for the special training program authorized by this Act as he deems necessary.

(3) For the purpose of this section, the term "weapons system" includes (A) the procurement, or (B) the research, development, test, and evaluation of such weapons systems as are large and varied enough to contribute to carrying out the provisions of this Act, whether or not any such system was authorized prior to the date of enactment of this Act.

(b) The Secretary shall, based upon the skilled occupations shortage projection established under section 3, select appropriate contractors and subcontractors of each weapons system described in subsection (a) to participate in the special training program authorized by this Act. Each such contractor and subcontractor shall agree that—

(1) not less than 10 percent of the employees working on the contract or subcontract will be displaced workers who will be hired and trained under the special training program authorized by this Act;

(2) participants in the special training program authorized by this Act will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work or wages or employment benefits);

(3) participants in the special training program authorized by this Act will be recruited pursuant to arrangements with the Governor of any participating State, after consultation with appropriate labor officials for the planning, design, and implementation of such program, and will be selected by the contractor or the subcontractor, as the case may be; and

(4) such participants will be provided training in the participating State (either directly, or by way of contract or other arrangement) in the skills which the contractor or the subcontractor, as the case may be, determines to be necessary to the completion of the contract, including on-the-job training, training from agencies and institutions experienced in furnishing occupational training, or any combination of such training.

(C) From the sums set aside under subsection (a), the Secretary shall pay, in accordance with this section, to each contractor or subcontractor, as the case may be, the costs of training displaced workers pursuant to the agreement described in subsection (b). The cost of training shall include—

(1) 100 percent of search and recruitment costs;

(2) 100 percent of the cost of providing training to participants under the agreement for the first year of such training and 50 percent of such costs for the second year of such training (excluding wage subsidization); and

(3) relocation costs associated with providing training to participants under the agreement but not more than $1,000 for any single participant.

EFFECT ON OTHER LAWS

SEC. 6. In awarding contracts under applicable provisions of Federal law, the costs associated with carrying out the special training authorized by this Act shall not be considered.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 3 (a) and 4.●

By Mr. DANFORTH (for himself, Mr. HART, and Mr. GOLDWATER):

S. 2724. A bill to encourage States to provide unemployment benefits to certain partially employed workers; to the Committee on Finance.

SHORT-TIME COMPENSATION ACT OF 1982

● Mr. DANFORTH. Mr. President, the high level of unemployment in our country today is of great concern to all of us. Our economic difficulties over the past few years have caused layoffs in Missouri and all across the Nation. These cyclical layoffs have had a devastating impact on the lives of the individuals who have lost their jobs, as well as on their families; moreover, these layoffs have placed additional strains on society and increased the costs of social services provided by the Government.

It is, indeed, a great human tragedy that so many men and women who want the dignity and satisfaction of work have lost their jobs. It is a special tragedy for women, young people, and minorities, whose prospects for employment are even more dismal than those of others. We cannot disregard this human tragedy, nor the negative impact of these layoffs on society as a whole. We must continue to seek constructive, positive ways to mitigate the effects of these costly cyclical layoffs that disrupt many lives and place increased burdens on society.

Our main line of attack must continue to be to get the economy back on track. High interest rates fueled by sky-high budget deficits are the main stumbling block to economic recovery. In the meantime, we cannot ignore the victims of our economic malaise.

Today, I am introducing a bill which seeks to deal with one undesirable aspect of this Nation's unemployment insurance program—the fact that most States have programs which encourage layoffs rather than reduced workweeks. My bill, the Short-Time Compensation Act of 1982, would eliminate existing biases by encouraging States to provide prorated unemployment compensation to certain partially un-

employed workers. This addresses the critical problem of cyclical unemployment which faces us today by providing encouragement and technical assistance to the States that establish short-time compensation programs—programs that provide partial unemployment benefits for individuals whose workweeks are reduced pursuant to an employer plan under which such reductions are made in lieu of layoffs.

Short-time compensation is not available in most States today. Instead, employees on a reduced workweek usually are provided unemployment benefits only if the amount they earn is less than the weekly benefits that would be available if they were totally unemployed. In other words, the amount of benefits payable for partial unemployment is only the weekly benefit offset by the wages earned during the week. Anyone who earns more than he or she would get on unemployment insurance is ineligible for benefits even if unemployed most of the week.

Short-time compensation eliminates the earnings offset against benefits and promotes the establishment of worksharing as an alternative to layoff. STC programs enable employees to receive regular wages for the time they work and prorated unemployment insurance benefits for the time they do not, when the available work is shared through a reduced workweek for all rather than a full workweek for some and layoffs for others. For example, if an employer used a worksharing plan to reduce the work for all employees by 20 percent—going to a 4-day or 32-hour workweek, instead of laying off 20 percent of the workforce—the employees would receive their wages for their 4 days of regular work, as well as prorated unemployment compensation for one-fifth of the weekly unemployment benefits that would have been available to them if they were totally unemployed.

Mr. President, this bill does not mandate the use of short-time compensation, and it does not require the States to provide any more in total unemployment benefits than would be provided if an individual were completely unemployed. Nor does it interfere with the long-established division of responsibility within the Federal-State U.I. system, which gives each State board authority to develop unemployment compensation programs suited to local conditions. It only encourages the States to experiment with short-time compensation and, thus, to utilize their unemployment insurance funds in a more flexible manner that places a premium on employment, not layoffs.

This bill is very similar to H.R. 5904, introduced in the House by Representative PATRICIA SCHROEDER, who has worked for a number of years to reduce the hardships of unemployment by means of short-time compensation and worksharing. Hearings on H.R. 5904 have been held in the other body; it has a bipartisan support, and it has been endorsed by representatives of management and labor.

Specifically, the bill establishes a 3-year period for State experimentation with STC programs and requires the Secretary of the Department of Labor to draft model language that may be used by States to establish STC programs. During this 3-year period, the Secretary of Labor is also directed to provide technical assistance to States in developing, enacting, and implementing STC programs.

In addition, the bill requires the Secretary of Labor to conduct a thorough evaluation and to prepare a study or studies of those STC programs operating during the 3-year experimentation period. In preparing this study, the Secretary is directed to consult with employee and employer representatives to develop criteria and guidelines to measure such factors as the impact of the programs on unemployment insurance funds, the administrative costs of these programs, their impact on layoffs and unemployment, the extent to which the jobs of various groups are protected, and the other offsetting costs and benefits to be derived from such programs.

To assure uniformity, the bill urges the States to follow voluntary guidelines that are set forth in the bill; however, the only mandatory provision with respect to State action is the requirement that employers utilizing STC must be charged under State law for compensation in a manner that assures that such benefits are paid for by the employers to whom such compensation is attributable. This "pay as you go" provision is intended to protect the solvency and integrity of the State unemployment trust funds, as well as to assure that all employers contributing to State unemployment insurance funds are not made to subsidize the shared-work plans of those who seek STC for their employees.

Mr. President, I urge my colleagues to give serious consideration to this measure. Short-time compensation is not an untried idea. It has been used for many years in Western European countries, including West Germany, and a nationwide STC program has been initiated this year in Canada. In the United States, California has had a successful STC program since 1978. Arizona recently started such a program, and oregon will soon do so. In addition, several other States are considering STC proposals at the present time.

The use of short-time compensation should be encouraged because its benefits are many. It is attractive to employers, because work-sharing enables them to maintain their workforce intact, despite changing economic conditions. Employers are able to retain a skilled workforce and avoid the costs of new startups, recruitment, rehiring, and retraining—costs that are especially a problem for employers in high technology industries.

Workers benefit from short-time compensation and shared work, because they keep their jobs, maintain more of their income, and continue to receive job-related fringe benefits. In addition, STC programs preserve employment opportunities for the most recent entrants in the labor force—the women, young people, and minorities who often bear the brunt of layoffs as the last hired and first fired.

Moreover, short-time compensation is regarded as an effective tool to promote improved labor-management relations. Many collective bargaining agreements already contain worksharing provisions, but shared work is rarely used because there is no income replacement. The bill does not alter bargaining obligations with respect to the implementation of worksharing programs, but by encouraging the establishment STC programs, it provides a greater incentive for cooperative labor-management efforts to take advantage of the opportunities provided by worksharing.

STC programs provide, as well, a means to increase productivity because of higher morale and the preservation of employee skills; STC enables an employer to maintain a skilled workforce and return to full production more quickly and efficiently in response to any improvement in the economy. Local economies could also be stabilized by short-time compensation programs because they preserve the purchasing power of employees, who retain more of their income.

In addition, short-time compensation programs could provide a great benefit for the taxpayer. By reducing unemployment, STC programs could increase revenues and decrease Government expenditures for public assistance and other social services. Indeed, the Congressional Budget Office's preliminary estimates for fiscal 1983 are that each additional percentage point of unemployment increases the total costs of Federal entitlement programs by $5.5 billion and reduces Federal tax revenue by about $19.5 billion.

In sum, short-time compensation is a concept that should be tested to help alleviate the hardships and burdens of unemployment. It is not a cure-all and many firms may find it impractical. It is also no substitute for sound fiscal and monetary policies to stimulate economic growth and create new jobs. I believe, however, that the use of STC should be encouraged as a means for those areas of the country hurt by

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the present economic difficulties to reduce the negative impact of cyclical unemployment.

It is my hope that this bill will focus nationwide attention on the use of short-time compensation. As I have noted, however, this measure does not mandate the use of STC programs. Instead, the bill utilizes a voluntary, cooperative approach that is in keeping with the basic principles of federalism. While uniform guidelines are suggested for STC programs, the bill leaves it up to each State to decide what sort of program to implement. The role of the Federal Government is limited to providing technical expertise and assistance, and to preparing a nationwide study of STC programs that should assist State and Federal policymakers to resolve any uncertainties about the effectiveness, as well as the offsetting costs and benefits of such programs.

I ask unanimous consent that the full text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2724

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Short-Time Compensation Act of 1982".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to assist States which provide partial unemployment benefits to individuals whose workweeks are reduced pursuant to an employer plan under which such reductions are made in lieu of temporary layoffs.

DEVELOPMENT OF STATE PROGRAMS

SEC. 3. (a)(1) The Secretary of Labor (hereinafter in this Act referred to as the "Secretary") shall develop model legislative language which may be used by States as a model in developing and enacting short-time compensation programs, and shall provide technical assistance to States to assist in developing, enacting, and implementing such short-time compensation programs.

(2) The Secretary shall conduct a study or studies for purposes of evaluating the operation, costs, effect on the State insured rate of unemployment, and other effects of State short-time compensation programs developed pursuant to this Act.

(3) This Act shall constitute a three-year experiment, and the provisions of this Act regarding guidelines shall terminate 3 years following the date of the enactment of this Act.

(4) States are encouraged to experiment in carrying out the purpose and intent of this Act. However, to assure minimum uniformity, States are encouraged to consider requiring the provisions contained in subsections (b) and (c).

(b) For purposes of this Act, the term "short-time compensation program" means a program under which—

(1) individuals whose workweeks have been reduced pursuant to a qualified employer plan by at least 10 percent will be eligible for unemployment compensation;

(2) the amount of unemployment compensation payable to any such individual shall be a pro rata portion of the unemployment compensation which would be payable to the individual if the individual were totally unemployed;

(3) eligible employees may be eligible for short-time compensation or regular unemployment compensation, as needed, except that no employee shall be eligible for more than the maximum entitlement during any benefit year to which he or she would have been entitled for full-time unemployment, and no employee shall be eligible for short-time compensation for more than 26 weeks in any 12-month period; and

(4) eligible employees will not be expected to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but shall be available for their normal workweek.

(c) For purposes of subsection (b), the term "qualified employer plan" means a plan of an employer, or of an employers' association which association is party to a collective bargaining agreement (hereafter referred to as an "employers' association"), under which there is a reduction in the number of hours worked by employees rather than temporary layoffs if—

(1) the employer's or employers' association's short-time compensation plan is approved by the State agency;

(2) the employer or employers' association certifies to the State agency that the aggregate reduction in work hours pursuant to such plan is in lieu of temporary layoffs which would have affected at least 10 percent of the employees in the unit or units to which the plan would apply and which would have resulted in an equivalent reduction of work hours.

(3) to maintain employment relationships for minorities, women, youth, and other disadvantaged persons, during the previous 4 months, the work force in the affected unit or units has not been reduced by temporary layoffs of more than 10 per centum;

(4) the State agency reviews, at least annually, any plan put into effect to assure that it continues to meet the provisions of this subsection and of any applicable State law;

(5) the employer continues to provide health benefits and retirement benefits under defined benefit pension plans (as defined in section 3 (35) of the Employee Retirement Income Security Act of 1974) to employees whose workweek is reduced under such plan as though their workweek had not been so reduced; and

(6) in the case of employees represented by an exclusive bargaining representative, that representative has consented to the plan.

(d) Short-time compensation shall be charged under the State law in a manner which insures that such compensation is financed by the employers to whom such compensation is attributable.

(e) For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

REPORTS

SEC. 4. (a) The Secretary shall conduct a study or studies of State short-time compensation programs consulting with employee and employer representatives in developing criteria and guidelines to measure the following factors:

(1) the impact of the program upon the Unemployment Trust Fund, and a comparison with the estimated impact on the Fund of layoffs which would have occurred but for the existence of the program;

(2) the extent to which the program has protected and preserved the jobs of workers, with special emphasis on newly hired employees, minorities, and women;

(3) the extent to which layoffs occur in the unit subsequent to initiation of the program and the impact of the program upon the entitlement to unemployment compensation of the employees;

(4) where feasible, the effect of varying methods of administration;

(5) the effect of short-time compensation on employers' State unemployment tax rates, including both users and nonusers of short-time compensation, on a State by State basis;

(6) the effect of various State laws and practices under those laws on the retirement and health benefits of employees who are on short-time compensation programs;

(7) a comparison of costs and benefits to employees, employers, and communities from use of short-time compensation and layoffs;

(8) the cost of administration of the short-time compensation program; and

(9) such other factors as may be appropriate.

(b) Not later than October 1, 1985, the Secretary shall submit to the Congress and to the President a final report on the implementation of this Act. Such report shall contain an evaluation of short-time compensation programs and shall contain such recommendations as the Secretary deems advisable, including recommendations as to necessary changes in the statistical practices of the Department of Labor.

RELATION OF ACT TO OTHER LAWS

SEC. 5. (a) Nothing in this Act shall relieve any State of any condition imposed by the Federal Unemployment Tax Act.

(b) For purposes of determining the rate of insured unemployment under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, an individual receiving short-time compensation (as defined in section 3 of this Act) shall be counted only as that portion of one individual equal to that pro rata portion of full unemployment compensation which such individual actually is paid under the plan.

(c) An employee benefit plan which otherwise complies with sections 401 and 415 of the Internal Revenue Code of 1954 shall not be found to violate those sections because of technical noncompliance caused solely by the employer's participation in a qualified employer plan as defined in section 3(c) of this Act.●

By Mr. DODD:

Senate Joint Resolution 211. Joint resolution to authorize and request the President to designate July 27, 1982, as "National Recognition Day for the Registry of Interpreters for the Deaf"; to the Committee on the Judiciary.

NATIONAL RECOGNITION DAY FOR THE REGISTRY OF INTERPRETERS FOR THE DEAF

● Mr. DODD. Mr. President, today I am introducing a joint resolution to declare July 27, 1982, National Recognition Day for the Registry of Interpreters for the Deaf.

Mr. President, on July 27, members of the Registry of Interpreters for the Deaf will travel from all parts of the country to convene their national con-

vention in the city of Hartford in my State of Connecticut. The registry was founded close to 20 years ago in order to improve training and certification procedures for interpreters. Because of their outstanding work assisting close to 14 million Americans with hearing deficiencies, registry members deserve a day of national recognition.

Interpreters help guarantee that the talents of our deaf citizens are not ignored. By translating the spoken word in schools, courts, and conference rooms, interpreters insure that the hearing impaired can participate fully. Without such translation, students and workers would not be able to communicate with their nonhearing colleagues. Both groups would lose immeasurably if pathways for communication were to be lost.

We must not forget that interpreters do far more than merely translate words. They also serve as staunch advocates for the handicapped, making sure that the special needs and contributions of those who cannot hear are not forgotten.

In short, Mr. President, I believe that a day of national recognition for the Registry of Interpreters of the Deaf is well merited. I urge my colleagues to support me in my efforts to see that July 27 is designated such a day.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 211

Whereas there are fourteen million deaf and hearing impaired citizens of the United States;

Whereas interpreting for the deaf requires many years of training and experience;

Whereas the members of the Registry of Interpreters for the Deaf have worked, since the founding of the organization in 1964, to improve training and certification procedures for interpreters;

Whereas the members of the Registry of Interpreters for the Deaf have been instrumental in making Federal, State, and local services accessible to the deaf and hearing impaired;

Whereas members of the Registry of Interpreters for the Deaf make possible communication and understanding between hearing impaired persons and persons with normal hearing; and

Whereas the Registry of Interpreters for the Deaf has called its five thousand members to convention on July 27, 1982, in the city of Hartford, in the State of Connecticut: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating July 27, 1982, as "National Recognition Day for the Registry of Interpreters for the Deaf" and calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.●

ADDITIONAL COSPONSORS

S. 1018

At the request of Mr. RIEGLE, his name was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 1701

At the request of Mrs. HAWKINS, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1701, a bill to amend title 28, United States Code, to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing children and other specified individuals.

S. 1782

At the request of Mr. WEICKER, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 1782, a bill to amend section 305 of the Federal Property and Administrative Services Act of 1949 pertaining to contract progress payments made by agencies of the Federal Government, providing for the elimination of retainage in certain instances, and for other purposes.

S. 2036

At the request of Mr. RANDOLPH, his name was added as a cosponsor of S. 2036, a bill to provide for a job training program, and for other purposes.

At the request of Mr. QUAYLE, the Senator from Minnesota (Mr. DURENBURGER) was added as a cosponsor of S. 2036, supra.

S. 2094

At the request of Mr. DANFORTH the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 2094, a bill to amend the Trade Act of 1974 to insure reciprocal trade opportunities, and for other purposes.

S. 2127

At the request of Mr. COHEN, the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2127, a bill to revise the procedures for soliciting and evaluating bids for Government contracts and awarding such contracts, and for other purposes.

S. 2174

At the request of Mr. THURMOND, the Senator from New Mexico (Mr. SCHMITT), the Senator from Hawaii (Mr. INOUYE), the Senator from Missouri (Mr. DANFORTH), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2174, a bill to recognize the organization known as American Ex-Prisoners of War.

S. 2267

At the request of Mr. HEINZ, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 2267, a bill to amend the Internal Revenue Code of 1954 to allow the Secretary of the Treasury to waive the interest penalty for failure to pay estimated income tax, for elderly and retired persons, in certain situations.

S. 2338

At the request of Mr. PERCY, the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from New Mexico (Mr. SCHMITT), the Senator from Montana (Mr. BAUCUS), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 2338, a bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials.

S. 2493

At the request of Mr. DOLE, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 2493, a bill to amend the Food Stamp Act of 1977 to reform the food stamp program, and for other purposes.

S. 2556

At the request of Mr. DANFORTH, the Senator from Arizona (Mr. DECONCINI), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from South Dakota (Mr. ABDNOR) were added as cosponsors of S. 2556, a bill to require that furniture and decorative accessories for the use in offices of certain officers of the Government be procured by the Administrator of General Services, and for other purposes.

S. 2572

At the request of Mr. THURMOND, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 2572, a bill to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

S. 2618

At the request of Mr. ZORINSKY, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2618, a bill to limit the retirement annuity of Members of Congress and former Members of Congress.

S. 2648

At the request of Mr. PELL, the Senator from Maine (Mr. MITCHELL), the Senator from Arizona (Mr. DECONCINI), the Senator from Montana (Mr. MELCHER), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S. 2648, a bill to provide for the continuation of the National Diffusion Network.

S. 2674

At the request of Mr. COHEN, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2674, a bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of dis-

ability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

S. 2676

At the request of Mr. DODD, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 2676, a bill to establish a National Hostel System Plan, and for other purposes.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 208

At the request of Mr. GLENN, the Senator from Vermont (Mr. LEAHY), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Joint Resolution 208, a joint resolution with regard to Presidential certifications on conditions in El Salvador.

SENATE CONCURRENT RESOLUTION 46

At the request of Mr. LEVIN, the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of Senate Concurrent Resolution 46, a concurrent resolution expressing the sense of the Congress with regard to the mutual security efforts of the United States and Japan.

SENATE RESOLUTION 414

At the request of Mr. PRESSLER, the Senator from South Dakota (Mr. ABDNOR) was added as a cosponsor of Senate Resolution 414, a resolution expressing the sense of the Senate with respect to the need to demonstrate that the United States is a reliable supplier of grain, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

CONSTITUTIONAL AMENDMENT ON A BALANCED BUDGET

AMENDMENTS NOS. 1910 THROUGH 1917

Mr. LEAHY submitted eight amendments intended to be proposed by him to the joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal budget procedures.

NO NET COST TOBACCO PROGRAM ACT

AMENDMENTS NOS. 1918 THROUGH 1924

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted seven amendments intended to be proposed by him to the bill (H.R. 6590) to provide for the operation of the tobacco price-support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

● Mr. EAGLETON. Mr. President, I am today submitting several amendments to H.R. 6590, the "No Net Cost Tobacco Program Act of 1981." I should make it clear to my colleagues that the line and page numbers of the amendments are keyed to the bill as passed by the House. Unfortunately, the printed bill as reported by the Senate Agriculture Committee is not yet available from the printer.

I believe these amendments will improve considerably the bill as reported by the Agriculture Committee. H.R. 6590 permits the sale of all Flue-cured tobacco allotments and requires the sale of certain Flue-cured and burley tobacco allotments and marketing quotas. However, no provision was made to allow those who have not previously produced tobacco, including young farmers, to purchase allotments.

Not only do I believe that this represents a restraint of trade but it specifically closes the door on new farmers. Therefore, two of these amendments would provide that new farmers can purchase allotments.

The bill requires that those who purchase Flue-cured allotments continue to have a financial interest in the production of tobacco. This is aimed at preventing nonfarmers from purchasing allotments and at moving allotments back into the hands of producers where they rightfully belong. However, the same protections are not provided under the provisions relating to the sale of burley allotments. My amendment would extend the same conditions which would apply to those who purchase Flue-cured allotments to those who would purchase burley marketing quotas—that they continue to have a financial interest in the production of tobacco.

Another of my amendments would prohibit the sale of tobacco floor sweepings. In its recent review of the tobacco program, the General Accounting Office found what appears to be widespread abuse of a current procedure established by the Department of Agriculture which allows tobacco warehousemen to gather and resell tobacco which has fallen off already-sold, auctioned lots. The GAO found that a large percentage of warehousemen were selling in excess of what they were allowed. In addition, although practically all of the officials they interviewed indicated that floor sweepings should be low quality, low-priced tobacco, the GAO found that "most floor sweepings marketed brought prices approaching the average market price paid for producer first-sale tobacco." Almost 5.5 million pounds of floor sweepings were sold during the 1980-81 marketing year. If there is that much of a demand, I believe the farmers should benefit from these sales, not the warehousemen.

In making its review of the floor sweepings issue, the GAO found the Department of Agriculture highly reluctant to cooperate in providing even aggregate data on this issue. The Department cited section 373(c) of the Agricultural Adjustment Act of 1938, stating that they could not release this data. Although GAO was eventually able to obtain the data, the GAO felt constrained to provide it only in the form of a confidential report. Mr. President, I see no reason for this data to be restricted. Therefore, I am offering an amendment to clarify section 373(c) so that appropriate data will be available to the Congress and, therefore, the public, so that the tobacco program may be properly reviewed.

In addition, I am offering an amendment which would require the Secretary of Agriculture to provide several reports to the Congress in time for the 1985 farm bill dealing with the competitive position of U.S. tobacco in the world market, with the sale and leasing of allotments and quotas and the impact of these activities on the cost of production and with the effectiveness of this act in achieving a "no net cost" tobacco program. Having the benefit of these reports will allow a proper review of the tobacco program in 1985.

Mr. President, I will also propose an amendment which would change the effective dates for the modifications in the tobacco price-support formula made by H.R. 6590 so that they would "sunset" after the 1985 crop year. This would require the tobacco price-support program to come under review with all of the other farm programs when a new farm bill is written in 1985. I know of no reason why the tobacco program should be exempt from the periodic review the 4-year farm bill affords the Congress for all other farm programs.

On June 25, Senator HATFIELD and I sent a letter to the Secretary of Agriculture, John Block, requesting his comments on this legislation. We requested that he provide us with any suggestions he might have as to how this legislation might be improved to assure that the tobacco program be operated in a "no net cost" manner, and to assure that U.S. tobacco remains competitive on the world marketplace.

In my opinion, further authority is necessary, but I will defer introducing such an amendment until I have the Secretary's views.

Mr. President, it is my hope that over the few days between now and when this bill is considered, the chairman and ranking member of the Agri-

culture Committee will see fit to accept these amendments. I am willing to work with them toward that goal.

Mr. President, I ask unanimous consent that the letter Senator HATFIELD and I sent to Secretary Block and my amendments appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., June 25, 1982.

Hon. JOHN R. BLOCK,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: In accordance with section 1109 of the Agriculture and Food Act of 1981, the Congress is preparing legislation authorizing changes in the tobacco price support program aimed at putting it on a "no net cost" footing. On June 17, the House of Representatives passed H.R. 6590 entitled the "No Net Cost Tobacco Program Act of 1981", and a time agreement has been entered into in the Senate which will allow action on that legislation to be completed on July 14.

Although some in the Senate have concern about certain provisions in H.R. 6590 and will seek to amend it, it is crystal clear that (1) authorization will be provided for a "no net cost" tobacco fund or account as outlined in H.R. 6590 and (2) the Secretary will be given authority to adjust the price support level for certain kinds or grades of certain kinds of tobacco for this crop year. Since the Congress will expect that these provisions take effect this crop year, it is essential that the Department prospectively develop regulations to implement the basic provisions we have outlined. We would not want any delay in the issuance of regulations to disrupt the normal marketing process.

Any changes in this legislation you might suggest which would allow markets to proceed in the normal fashion and yet assure that the full contributions for the 1982 marketing year be captured would be appreciated.

No later than July 8, we would appreciate your providing us with the following:

(1) A section by section analysis of the bill as reported by the Senate Agriculture Committee, detailing the impact of each section on current program operation (copy enclosed);

(2) A Report on whether the authority given the Secretary is adequate to assure a "no net cost" program and, if not, what changes are necessary;

(3) The Administration's position on this legislation;

(4) A report on whether the authority provided the Secretary to adjust price support levels is adequate to keep U.S. tobacco competitive in the world market and, if not, what would be necessary;

(5) A report on whether the authority provided allowing the sale of flue-cured acreage allotments is likely to promote or hinder the small-family-farm character of the tobacco price support program.

Yours very truly,

MARK O. HATFIELD,
U.S. Senator.
THOMAS F. EAGLETON,
U.S. Senator.

Enclosure.

AMENDMENT No. 1918

On page 33, between lines 15 and 16, insert the following:

"'(c)(1) Any person who—

"'(A) acquires any Burley tobacco acreage allotment or marketing quota by purchase under subsection (a) of this section; and

"'(B) with respect to any crop of Burley tobacco planted after the date of such acquisition, fails to share in the risk of producing Burley tobacco under such allotment or quota in the manner specified in paragraph (2) of this subsection;

shall sell such allotment or quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedures specified in paragraph (3) of this subsection.

"'(2) For purposes of this subsection, a person shall be considered to have shared in the risk of producting a crop of Burley tobacco if—

"'(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

"'(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

"'(C) such person may not receive any of such return before the sale of such crop.

"'(3)(A) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with this subsection, then the allotment or quota specified in this subsection shall be forfeited and shall be reallocated by such county committee for use by active Burley tobacco producers or those intending to become active Burley tobacco producers, as defined by the Secretary, for use in such county.

"'(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.'".

AMENDMENT No. 1919

At the end of the bill, add the following new section:

PROHIBITION OF THE SALE OF TOBACCO FLOOR SWEEPINGS

SEC. 304. The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by adding immediately after section 314 thereof the following new section:

"'SEC. 314A. (a) Effective for the 1982 and subsequent crops of tobacco, the marketing of floor sweepings is prohibited.

"'(b) The marketing of any floor sweepings of any kind of tobacco shall be subject to a civil penalty of not less than 150 per centum of the average market price for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by any person found by the Secretary to be marketing such floor sweepings in violation of this section.

"'(c)(1) Any person who violates the provisions of this section shall be assessed a civil penalty by the Secretary under paragraph (2) of this subsection which penalty shall not be less than that provided in subsection (b) for each such violation. Each occurrence of a violation may constitute a separate offense. In determining the amount of the penalty, the Secretary shall consider the person's history of previous violations, the appropriateness of such penalty to the size of the business of the person charged, and the gravity of the violation.

"'(2) A civil penalty shall be assessed by the Secretary only after the person charged with a violation under this section has been given an opportunity for a public hearing and the Secretary has determined, by decision incorporating his findings of fact therein, that a violation did occur, and the amount of the penalty which is warranted, and incorporating, when appropriate, an order therein requiring that the penalty be paid. Any hearing under this section shall be of record and shall be subject to section 554 of title 5 of the United States Code.

"'(3) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order the Secretary shall file a petition for enforcement of such order in any appropriate district court of the United States. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall forthwith be sent by registered or certified mail to the respondent and thereupon the Secretary shall certify and file in such court the record upon which such order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order and decision of the Secretary or it may remand the proceedings to the Secretary for such further action as it may direct. Subject to the direction and control of the Attorney General, as provided in section 507(b) of title 28, United States Code, attorneys appointed by the Secretary may appear for and represent him in any action to enforce an order assessing civil penalties under this paragraph.

"'(d) All moneys collected pursuant to this section shall be deposited in the United States Treasury as miscellaneous receipts.

"'(e) As used in this section, the term 'floor sweepings' means the scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business.'".

AMENDMENT No. 1920

At the end of the bill, add the following new section:

CONFIDENTIAL DATA

SEC. 304. Section 373(c) of the Agricultural Adjustment Act of 1938 is amended by adding at the end thereof the following new sentences: " 'Notwithstanding the preceding provisions of this subsection, such data, as required and requested by a committee of the Senate or the House of Representatives, the Congress or any committee or agency of the Congress, or any Member of the Senate or House of Representatives, for use in connection with any matter involving the tobacco price support program or its operations shall be made available in accordance with such request. Such data made available in accordance with such request shall be deemed not to be confidential.' ".

AMENDMENT No. 1921

At the end of the bill, add the following:

STUDY OF TOBACCO

SEC. 304. (a) The Secretary of Agriculture, in consultation with the United States Trade Representative and the Secretary of the Treasury, shall—

(1) review and analyze the competitive position of tobacco exported from the United States in world markets with special emphasis on—

(A) the price of tobacco exported from the United States compared with the price of comparable kinds, grades, and qualities of tobacco exported from other tobacco production nations;

(B) production increases or decreases in other nations which compete with the United States in the exportation of tobacco in world markets;

(C) trends in the importation of tobacco into the United States; and

(D) the impact of duties, fees, quotas, export subsidies, and other trade barriers or trade incentives on United States tobacco exports and imports; and

(2) on or before January 15, 1985, report to the appropriate committees of Congress as to the matters set forth in paragraph (1) and shall make recommendations on—

(A) the optimum price support level for United States tobacco to be competitive in world markets;

(B) any actions that should be taken to encourage removal of trade barriers from tobacco importing nations or trade subsidies from tobacco exporting nations; and

(C) any changes that should be made in tobacco price support program authorized in section 106 of the Agricultural Act of 1949, as amended, to make the United States more competitive in world markets.

(b) The Secretary of Agriculture shall, on or before January 15, 1985, report to the appropriate committees of Congress on—

(1) the impact of leasing and rental of tobacco allotments and quotas on the cost of producing tobacco;

(2) the percentage of tobacco allotments and quotas owned by tobacco producers;

(3) the impact of this Act on the leasing and rental of tobacco allotments and quotas with special attention on whether the percentage of tobacco allotments and quotas owned by producers has increased;

(4) any legislative changes in the allotment and quotas systems the Secretary deems necessary to maintain the intent of Congress that this program benefit the producers of tobacco; and

(5) the effectiveness of this Act in achieving a no net cost tobacco program.

AMENDMENT No. 1922

On page 11, beginning with line 2, strike out all through line 5 and insert in lieu thereof the following:

SEC. 102. Effective for the 1982 through the 1985 crops of tobacco, section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end thereof new subsections (d) and (e) as follows:

AMENDMENT No. 1923

On page 18, beginning with line 22, strike out all through line 5 on page 19, and insert in lieu thereof the following:

"'(g)(1) The Secretary shall permit the owner of any farm to which a flue-cured tobacco allotment or quota is assigned to sell, for use on another farm in the same county, all or any part of such allotment or quota to any person who is or intends to become an active flue-cured tobacco producer. For purposes of this section, the term 'active flue-cured tobacco producer' means any person who shared in the risk of producing a crop of flue-cured tobacco in not less than 1 of the 3 years preceding the year involved, or a person who certifies to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, their intent to become a flue-cured tobacco producer.' ".

AMENDMENT No. 1924

On page 32, line 24, immediately before the comma, insert the following: "'or any person who intends to become an active Burley tobacco producer' ".●

CONSTITUTIONAL AMENDMENT ON A BALANCED BUDGET

AMENDMENT NO. 1925

(Ordered to be printed and to lie on the table.)

Mr. CHILES submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

● Mr. CHILES.

Mr. President, today I am offering an amendment to Senate Joint Resolution 58, the constitutional amendment to balance the budget. I ask unanimous consent that the text of my amendment be printed in the RECORD at the end of my statement.

Back on May 6, I introduced Senate Joint Resolution 196, my own version of a constitutional amendment to balance the budget. I strongly agree with the need to clearly establish the principle of a balanced budget in the Constitution. However, I am concerned about several of the particular provisions of Senate Joint Resolution 58. My greatest concern is that Senate Joint Resolution 58 has no enforcement procedure. The public has been presented with too many empty promises about balanced budgets. In fact, many Members are all too happy to give strong votes to the principle of a balanced budget, but then use that as an excuse to vote for all kinds of popular spending programs.

The amendment I am introducing today focuses on this single aspect, and adds to Senate Joint Resolution 58 the requirement that Congress adopt modifications to the Budget Act that will enforce the balanced budget goal, and that those laws be enacted within 1 year of ratification.

The other authors of Senate Joint Resolution 58 have pointed out that Congress always has the power to enact legislation to enforce a constitutional provision. That is true. However, Congress does not always choose to exercise that power. We have the power right now to enact legislation that will produce a balanced budget. The underlying premise of Senate Joint Resolution 58—with which I agree—is that we can no longer leave Congress the choice. Senate Joint Resolution 58 gives Congress the duty to balance the budget; my amendment requires Congress to fulfill that duty.

Mr. President, we need to be clear about what belongs in the Constitution, and what should be dealt with by legislation. The Constitution sets forth the fundamental principles of our democratic system, and must be able to endure for centuries. Requiring the Federal Government to live within its means is such a principle.

However, the particular procedures we use in Congress to implement those principles belong in statute, so we can revise and improve them with time and experience.

Senate Joint Resolution 58 sets forth a particular procedure—use of a three-fifths supermajority to waive the balanced budget requirement. That may be an effective tool. Personally, I think it is more likely to increase deficit spending, based on the experience we have had in the Budget Committee over the years. The time you have to run a deficit is during recession, and that is when the spending pressures are greatest, since people are hunting for jobs and income. Yet we have always found that to get enough votes to pass a budget resolution with a deficit through the House, you have to buy votes by putting in spending for pet projects. The more votes you have to buy, the more it costs you. However, my analysis might be wrong, and the three-fifths approach may be best. If we put it in the Constitution, we are struck with it, right or wrong. If we put it in statute, we can try one method or another, and find out what works.

Mr. President, we have learned one procedure which works to cut the budget, and that is reconciliation. It took us 5 years' experience to learn that to really cut any spending programs we need reconciliation, and we need it on the first budget resolution. If we are going to change entitlement programs in a way that saves money, we have to do it early in the year, so that the agencies have time to write regulations and train State and Federal workers to implement those regulations. There just is not time to do that on a second budget resolution in September or October, when the fiscal year begins October 1. It is also not realistic to expect committees which have gone through the entire legislative process, through working out differences within their committees, amending the bill on the floor and working out differences in conference, and then open up their whole bill to save money. We tried that in the past, on bills like the farm bill and the Higher Education Act, and it just did not work. Congress was just not willing to redo all its work. So it is much more effective to set out the legislative agenda for cost savings early in the year, instead of at the end. We have learned through experience that reconciliation works. We first tried it in 1980, on my motion at Budget Committee, and reduced the deficit by $5 billion. Last year we tried it on a much larger scale and reduced spending by

$130 billion. In the Budget Act amendments I have proposed, we would codify reconciliation and tie it to the balanced budget requirement. Those Budget Act amendments will not be before us when we consider Senate Joint Resolution 58, the constitutional amendment, but I want to use them as an illustration of how the constitutional amendment would be enforced, if Congress chooses to. This example also makes the point that enforcement procedures, whether they be supermajority votes or reconciliation, have to develop over time, and have to be modified to meet changing legislative circumstances. That is why they should be in statute, rather than in the Constitution.

Mr. President, my amendment puts the requirement for statutory enforcement procedures in place of the sentence that "the Congress and the President shall insure that actual outlays do not exceed the outlays set forth in such statement." That sentence is vague and therefore potentially dangerous. On the one hand, since it is vague, it is open to abuse. The President and Congress could issue a bland statement to the effect that, under the economic circumstances, everything possible has been done to balance the budget. That is what is done right now on the Humphrey-Hawkins Act goals on employment and inflation.

On the hand, that vague sentence could be used to claim unbounded Presidential impoundment authority. I recognize that the committee report states the intent that no impoundment power is being created. However, I am fearful of the uncertain situation created where committee report language is not tied to specific provisions in the bill. A willful President of either party could claim impoundment power and withhold funds, and it would take several years of court cases and further legislation to resolve. That would be a repeat of the constitutional crisis we faced in the early 1970's, before we passed the Budget Act. It would be unfortunate for the country to have to face that kind of divisive situation all over again.

Mr. President, I therefore hope that the Senate will adopt my amendment and replace that vague sentence with a firm requirement that Congress adopt statutory enforcement procedures within a year of ratifying the constitutional amendment.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 3, beginning with "Whenever" on line 17, strike out through the period on line 23 and insert the following:

"Section 2. Within one year after the date on which this article is ratified, the Congress shall adopt such laws or amendments to laws governing the development and adoption of the Federal budget as may be necessary to enforce this article. Such laws or amendments shall include procedures for the waiver of the provisions of section 1 of this article requiring that the total outlays are no greater than total receipts set forth in the statement required by such section for a fiscal year with respect to which the Congress declares a national economic emergency, such as a severe recession.".

On page 3, line 24, strike out "2" and insert "3".

On page 4, line 6, strike out "3" and insert "4".

On page 4, line 9, strike out "4" and insert "5".

On page 4, line 13, strike out "5" and insert "6".●

VIOLENT CRIME AND DRUG ENFORCEMENT ACT OF 1982

AMENDMENT NO. 1926

(Ordered to be printed and to lie on the table.)

Mr. LAXALT submitted an amendment intended to be proposed by him to the bill (S. 2572) to strengthen law enforcement in the areas of violent crime in drug trafficking, and for other purposes.

● Mr. LAXALT. Mr. President, when S. 2572, the Violent Crime and Drug Enforcement Act of 1982 was introduced on May 26, 1982, hearings had not been held on title II of this bill. As you know, title II contains many of the provisions of S. 2420, the Omnibus Victims Protection Act of 1982. That bill was introduced by my distinguished colleague, Senator HEINZ, and myself.

Subsequently, a comprehensive day of hearings has been held and a number of modifications, both technical and substantive, have been suggested to S. 2420. I offer this amendment in the nature of a substitute to title II, and the restitution section of the sentencing provisions. These changes are meritorious and are in no way controversial. I submit this amendment for printing in order that my colleagues may have an opportunity to study it prior to my offering it on the floor.●

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. COHEN. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Select Committee on Indian Affairs.

The hearing is scheduled for July 13, 1982, beginning at 9:30 a.m. in room 457, Russell Senate Office Building. Testimony is invited regarding S. 1795, a bill to exchange certain lands of the Hopi Tribe for certain lands of the Navajo Tribe.

For further information regarding the hearing you may wish to contact Timothy Woodcock, staff director or Peter Taylor, general counsel, of the Select Committee on Indian Affairs at 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, Room 6313, Dirksen Office Building, Washington, D.C. 30510.

Mr. COHEN. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Select Committee on Indian Affairs.

The hearing is scheduled for July 14, 1982, beginning at 9:30 a.m. in room 6226, Dirksen Senate Office Building. Testimony is invited regarding S. 2294, a bill to provide for the settlement of the land claims of the Chitimacha Tribe of Louisiana, and for other purposes.

For further information regarding the hearing you may wish to contact Timothy Woodcock, staff director or Peter Taylor, general counsel, of the Select Committee on Indian Affairs at 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, Room 6313, Dirksen Office Building, Washington, D.C. 30510.

Mr. COHEN. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Select Committee on Indian Affairs.

The hearing is scheduled for July 21, 1982, beginning at 9:30 a.m. in room 6226, Dirksen Senate Office Building. Testimony is invited regarding H.R. 3731, an act to amend the act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims.

For further information regarding the hearings you may wish to contact Timothy Woodcock, staff director or Peter Taylor, general counsel, of the Select Committee on Indian Affairs at 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, Room 6313, Dirksen Office Building, Washington, D.C. 20510.

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. WARNER. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Subcommittee on Energy and Mineral Resources. On Friday, July 30, beginning at 9:30 a.m., the subcommittee will continue oversight hearings on America's role in the world coal export market: The condition of America's coal ports. On Tuesday, August 3, beginning at 9:30 a.m., the subcommittee will hold a hearing

on S. 2704, to amend the Mineral Lands Leasing Act, and for other purposes. Both hearings will be held in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Energy and Mineral Resources, Room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding these hearings you may wish to contact Mr. Roger Sindelar of the subcommittee staff at 224-4236.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Subcommittee on Water and Power. On Tuesday, July 20, beginning at 10 a.m., the subcommittee will receive testimony on S. 2568, to provide for confirmation of the repayment contract of the Dallas Creek participating project of the Upper Colorado storage project; and S. 2684, to authorize the Secretary of the Interior to construct, operate, and maintain the Santa Margarita project, California, and for other purposes. On Thursday, July 29, beginning at 2 p.m., the subcommittee will receive testimony on S. 1918, to establish the Northeast-Midwest States Federal Hydropower Financing Authority. Both hearings will be held in Room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Water and Power, Room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding these hearings, you may wish to contact Mr. Russ Brown of the subcommittee staff at 224-2366.

SUBCOMMITTEE ON LABOR

Mr. NICKLES. Mr. President, the Labor Subcommittee of the Labor and Human Resources Committee will be holding an oversight hearing on the Federal Mine Safety and Health Act of 1977.

Since passage of the act there have been many concerns expressed about the statute itself. Some allege that the act should only cover coal mining, others that the MSHA statute does not allow enough flexibility in promulgating meaningful regulations, and still others contend that the act is sound but not properly enforced. As a result, there have been not only several pieces of legislation introduced in both Houses of Congress amending MSHA but also riders to various appropriation measures.

Therefore testimony is invited from interested parties on what changes, if any, are needed in the MSHA statute. I am hopeful that during the months subsequent to the hearing we can work together toward the development of a consensus bill for introduction in the 98th Congress. The hearing is scheduled for September 14 at 9:30 a.m. in room 4232 of the Dirksen Senate Office Building. Those wishing to testify should notify Charlene Abshire, in writing, at the Labor Subcommittee, Room 4232, Dirksen Senate Office Building, Washington, D.C. 20510, by August 2, 1982.

Mr. President, the Labor Subcommittee of the Labor and Human Resources Committee will hold a hearing on S. 2617, a bill to amend the Age Discrimination in Employment Act of 1967, and other issues pertaining to the ADEA on Wednesday, August 11, 1982, in room 4232 of the Dirksen Senate Office Building. The hearing will begin at 9:30 a.m. Members of the public wishing to testify should submit a written request as soon as possible to Senator NICKLES, Labor Subcommittee, 4230 Dirksen Senate Office Building, Washington, D.C. 20510. Staff contacts are Bruce Navarro and Charlene Abshire at 224-5546.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. QUAYLE. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be authorized to meet during the session of the Senate at 10 a.m. on Thursday, July 1, to hold a markup on the Clean Air Act amendments of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

OECD TALKS: GOOD SUCCESS—KEEP UP THE PRESSURE

● Mr. GARN. Mr. President, announcement was made yesterday of progress achieved in the negotiations on official export credit subsidies taking place within the Organization for Economic Cooperation and Development. The recent round of negotiations has resulted in several notable improvements affecting rates and conditions embodied in the arrangement on officially supported export credits.

Mr. President, on behalf of Senator KASTEN and myself, I applaud the efforts of our negotiatiors at the OECD talks and am pleased that there is continued movement toward more reasonable financing rates and away from heavily subsidized export financing. It seems that our major trading partners are coming to a greater realization of the absurdities involved in this costly competition in export credit terms.

As we note this progress, however, we also note that we are still a long way from achieving our goal of making financing a neutral factor in export sales competition. The arrangement still fails to embody the essential ingredients of automaticity in determining interest rates, and the minimum rates allowed are still significantly below current market levels.

It is therefore imperative that we maintain the momentum and keep up the pressure on our trading partners to be more forthcoming in future negotiations. Only our willingness and ability to continue to provide competitive financing, competitive in term and rate, will bring about the ultimate results that we seek. Any retreat in this regard will make future negotiations much more difficult and will prove much more costly to the Nation and the Export-Import Bank in the long run.●

SENATOR KENNEDY ADDRESSES CONFERENCE ON FEDERALISM

● Mr. TSONGAS. Mr. President, on May 8, 1982, my distinguished colleague, Senator KENNEDY, spoke before the Conference on Federalism at the Center for National Policy in Boston, Mass. His speech raised many important points about the Reagan administration's New Federalism proposal and economic policy. His remarks are a substantial contribution to the national debate on these issues.

Mr. President, I urge my colleagues to give Senator KENNEDY's statement their careful consideration. I ask that Senator KENNEDY's speech before the Center for National Policy be printed in the RECORD.

The speech follows:

ADDRESS OF SENATOR EDWARD M. KENNEDY

I am pleased that you have chosen Boston for this meeting. Here in Quincy Market and Fanueil Hall, the birthplace of our liberty more than two centuries ago, you are exercising the essential freedom to think anew—to debate and decide how the federal system can act anew—and how we can make America work again.

This task of reflection is the central purpose of the Center for National Policy. Through its studies, and through conferences like this, the Center is shaping a progressive alternative to the reactionary cliches of today. The men and women committed to this effort know that it is not enough to proclaim that we need new ideas—which is true in every age of history and every area of policy. A slogan is no substitute for substance. Instead, the Center has taken up the hard and demanding enterprise of charting new directions and different solutions.

Such an enterprise is indispensable. Those who question public policy make at least as important a contribution as the policymakers who are convinced that they already have the answers. I support the Center's purpose because I have sought the same objective over the years—from the first hearings which I conducted on airline deregulation in 1973 to the effort now underway in the Kennedy-Hatfield Resolution to achieve a nuclear weapons freeze.

You and I understand the necessity of responding to new realities. But we also believe that rethinking our ideas must never become an excuse for retreating from our ideals.

Franklin Roosevelt, whose centennial we celebrate this year and whose Centennial Committee is cosponsoring this conference, always proceeded in that spirit. He was a prophet of both timeless values and changing times. Nearly half a century ago, he forged a new and creative vision of federalism. In the face of national problems, he summoned the entire nation to national action.

And in the past half century, Americans could not have dealt with the Depression, or met the crisis of civil rights for minorities and equal rights for women, or moved toward social justice and a clean environment, if our national leaders had held to a rigid and outmoded ideology of hear-nothing, see-nothing, do-nothing federal government. Too often in the past, states' rights meant neglected wrongs.

Now, more than ever, Democrats and progressives must not retreat from this view of a vital federal role. In a society with aspirations to justice and vast geographical mobility, national standards have become a matter of decency and an imperative of public policy. The pain of hunger feels the same for a poor child in Mississippi or New York. An auto worker out of work in Detroit means lower productivity and lesser standards of life from Boston to Seattle. Polluted air and poisoned streams do not observe state and local boundaries.

So we must reject any so-called new federalism that is nothing more than a twentieth century doctrine of nullification and secession.

It offers us only a discredited old deal that would pit state against state, city against countryside, group against group. America would no longer be one country, but instead would become a collection of narrow and contending interests, a nation literally divided against itself, with liberty and justice only for some.

At the same time, we must recognize the distinctive character of the 1980s—and the different, more sensible possibilities of federalism. This decade can and should be a period of renaissance for state and local government; today, many Americans understand that Washington is too remote, and that decisions should be made closer to home. Progressives should not fear that feeling; for our prospects will frequently be better at the state and local level, on issues ranging from gun control to hospital cost containment.

The challenge now is to balance the imperative of national standards against the potential for state and local creativity.

But the contrived new federalism of the Reagan budget strikes a stark imbalance. Their original proposal to swap AFDC and food stamps for Medicaid was a transparent figleaf over their massive scheme for budget cuts. States would have lost $11 billion in 1984; they would have had to raise $60 billion a year more by the beginning of the 1990s. They called the second part of the proposal a turnback—but in reality it was a turn-your-back program on the elderly and the poor, the needy and the unemployed. From the outset, it was a program that gave the notion of a new federalism a bad name.

But even in the absence of this program, a program so swiftly discredited that it could never be enacted, the Reagan economic policy has already drained state and local resources. States and cities have borne the brunt of the budget cuts. Interest rates have made it prohibitively expensive for governments to finance roads, transit, and sewage and water systems—the essential infrastructure of our society. We hear a lot about looking to the issues of the future; but in an economy of declining federal assistance and rising unemployment and interest rates, states and localities cannot afford to see beyond even the most short-term problems. Few Governors or Mayors are proposing to build new water systems today; but in most of our older urban centers, the aging existing systems are steadily deteriorating and may soon become dangerous. In effect, the Administration's economic policy is an antifederalism that shifts to states and localities the costs of an unwise, unfair, and improvident tax giveaway of $750 billion to the most privileged individuals and corporations.

The Administration has also fought to limit state and local authority for the profit of special interests. The White House has supported efforts to prevent states from guaranteeing home buyers assumable mortgages. It has sought to restrict state power to regulate the transportation of nuclear wastes. The Administration may not believe in minimum national standards for education, nutrition, health care, the environment, and energy assistance; but it clearly does believe in maximum national standards to hamstring state and local restraints on concentrated private power.

The Reagan new federalism is in reality old feudalism which takes from states and cities to make up for the federal deficit. It offers them the form of greater power, but reduces the actual power of those governments to protect their people from large and impersonal institutions. The Reagan Administration is not pro-federalism, but anti-government.

This conference, like the Center on National Policy, can present truer and more constructive conceptions of federalism that do not rest on ideology, but on practicality. When Americans voted for Ronald Reagan, they were not seeking rightwing nostrums, but practical answers. And the one place where we will not find such answers is in a rigid philosophy that always calls for bigger government or smaller government.

President Reagan and I agree that the federal system is not working as well as it should, and that we must strengthen it. But we disagree profoundly on the nature of the change. Where government is bad, his cure is no government; mine is better government. His program is the repeal of federal responsibility; mine is the sharing of responsibility with state and local government. To paraphrase Robert Frost, two roads diverge before us—one leads to federal abdication, the other leads to the partnership of federalism. And the road we choose will make all the difference for our economy and our people.

We must encourage states and localities to fulfill their historic function as laboratories of government, seedbeds of public experimentation. The states have been the source of an impressive array of innovations, including public financing of elections, utility rate reform, freedom of information, and environmental protection. California has pioneered a moratorium on nuclear energy. And the movement for a nuclear weapons freeze began with local referendums and town meetings in western Massachusetts and Vermont. At every time of ferment and change in our history, this kind of creative federalism has helped to move the nation. Indeed, many of the programs of the New Deal followed the example and the experience of the states. Franklin Roosevelt's WPA of the 1930s paralleled Al Smith's jobs program of the 1920s in New York.

Where states and localities have the will to experiment, the Federal Government ought to get out of the way—so long as basic questions of civil liberties, civil rights, and fundamental public safeguards are not at stake. For example, the Administration regularly complains about the soaring budget for entitlements, but it rejects the one proven step that can stop the relentless inflation in Medicare and Medicaid—which is hospital cost control. On their own, eight states, including Massachusetts, have enacted a system of control. They have been effective in keeping costs down without diminishing the quality of care. Health inflation is a national problem, but this is an area where the states have proven that they can do the job. They deserve the first crack at cost containment. And a federal program should apply only when and where the states fail to act. On this issue, they have already shown us the kind of new federalism that actually means something in dollars and cents terms.

When Washington controls the resources or launches an initiative, it should remember that even the most national programs ultimately prosper or falter because of their impact on states, communities, neighborhoods, and families. For many years, I have favored the right of local communities to decide where to spend federal highway aid—on roads or mass transit. Similarly, I have taken the lead in designing a Mental Health Systems Act which will provide for a cooperative partnership among the federal government, states, and localities. In my view, that Act exemplifies federalism far better than the Administration's proposed bloc grant—which would mean more responsibilities and fewer resources for the states, and could mean the complete neglect of vital needs.

Federalism also has a special role to play in this time of recession and in our national transition to a new economic era. Federal job-training programs are essential, but so is state and local participation if we are to train people for jobs that are actually there. The Kennedy-Quayle Job Training bill, which is co-sponsored by a Republican Senator, involves a joint endeavor of the labor department, governors, mayors, and business. The purpose is not make-work, but to make individuals ready for productive work in the private sector.

I reject the notion that we must choose between extremes—that the Federal Government must be pervasively dominant in its programs, or alternatively that federalism demands a flight from national commitment. I am committed to a federal Title I education program, which assures funds to teach basic skills to poor children, whose parents often have the least political clout at the state and local level. I also know that sometimes regulations become excessive. But we do not have to throw out the educational benefits with the bureaucratic bathwater. We can ease the administrative burden without ending critical federal support. We can give local school boards and all the schools receiving federal aid more time to fill out courses in their curriculum, instead of more forms to fill out and mail to Washington. We can do this without destroying national protections for those whose voices and rights were denied in the not so distant past.

Federalism has a promising future, if we can free the idea from the misuses to which it has been put by the present Administration. We can open more paths to state and local initiative—and to the cooperation of government with each other and with the private sector. We can explore new arrangements to empower people and to give them a greater sense of control over their own lives, through grassroots communities and neighborhood groups.

And we must remove as well another obstacle which afflicts federalism as much as it blights our other hopes—the Reagan Administration's disastrous economic policy.

Whenever his critics complain about that policy, the President has challenged them with the question: "What is your alternative?" Somehow that question has become a measure of the present discussion: It is almost as if we would be better off endlessly continuing to do the wrong thing rather than stopping the policy, so that at the least we will not make things worse. In essence, the President is saying, the answer to failure must be more of the same. In fact, the President knows, his staff knows, and evey political reporter knows that as the party out of power, the Democrats will not unanimously agree on a single alternative, detail by detail. That has never happened in American history. Indeed only two years ago this month, when the Republicans were out of power, the Reagan program was scorned as "voodoo economics" by the man who now serves as Vice-President. There will not be one unified Democratic alternative until 1984. And given the nature of Democrats, we will never be as monolithic as the Republicans in Congress were last year. but an array of alternatives can contribute to the shaping of a more sensible economic policy.

Unfortunately that appears to be more and more unlikely. The Administration is now pursuing rhetorical rather than economic success. In the current budget controversy, White House aides, speaking as reliable sources, confide to reporters that their real purpose is not compromise, but the chance to shift the blame for deadlock and economic decline to the Democrats. And this week, sixteen months into his Administration, the President advised a fund-raising gathering to blame the Democrats for the economic mess the Republicans have created.

On the other side, some Democrats suggest we should do nothing—and simply wait for the economy and the Administration to collapse. I disagree with that as sharply as I disagree with those Republicans who are intent primarily on finding a political exit. As the only Senator up for re-election in 1982 who voted against the Reagan tax cut, I believe we do have an obligation to offer an economic alternative. Along with a number of my colleagues in the Senate, I tried to do so last year. I believe our suggestions then are even more urgent now, for we face a budget crisis of unprecedented size. It is a painful irony that the President who came to power on a promise to provide jobs and balance the budget has given us the highest unemployment since the Depression and the highest deficits in history. If we do nothing, the deficits will soar to staggering levels—to over $200 billion in the next three years, triple the size of any previous deficit in any previous Administration. Now Democrats have sometimes been accussed of being big spenders—but this is ridiculous.

Nor is it an answer to suggest that we amend the Constitution to require a balanced budget, but not until sometime in the future, after this Administration leaves office. That is what President Reagan has done; it is the budgetary equivalent of St. Augustine's prayer of long ago: "Oh, God, save me from my sins—but not yet."

I favor a balanced budget, but I reject this transparent constitutional quick-fix. The amendment they are offering is the constitutional equivalent in the 1980s of the prohibition amendment in the 1920s. It won't work, and it may well make all our economic problems worse. I hope that Congress, or at least the state legislatures will have the common sense to defeat this uncommon scheme by the Republicans to turn their voodoo economics into voodoo constitutional laws.

There may not be a unanimous consensus on a Democratic economic alternative—but I can outline a Democratic alternative on taxes and spending to cut the federal deficit in half over the next three years, and can make a balanced budget possible by 1986 or 1987.

First, on the revenue side, we should revise the excessive and unfair tax cuts enacted last year. We should repeal indexing and defer the third year of the Kemp-Roth tax cut. We must close the most flagrant loopholes which make no economic sense of fairness. None of us oppose tax deductions for energy exploration—but the oil companies did not need last year's tax giveaway of $33 billion. I do not oppose reasonable provisions for corporate leasing of tax incentives, but last year's leasing rules have become food stamps for the richest enterprises. They are a social safety net for the least needy in our society. And I continue to favor equitable and effective incentives to help reindustrialize America. That was a central position of my 1980 campaign; it is an urgent matter for the nation now. But I do not believe we should give the same incentive for land speculation and for steel modernization. We must target tax incentives—or we will only be giving away federal revenues without gaining economic growth.

We must also repeal the improvident and indiscriminate depreciation provisions that will create a negative income tax for many industries later in this decade. We can modify corporate tax policy to make it both fairer and more effective. The changes will eliminate some windfalls, but they can enhance economic growth.

In particular, it would be unfair to leave unjustified loopholes untouched and to leave the third year of the tax cut intact, and then try to balance the budget on the backs of average citizens, the needy, the elderly, and the middle class. The President has now demanded a $40 billion cut in Social Security. I will oppose it. We need to address long range problems in the Social Security system—but those problems must not become a pretext for salvaging the elderly, in order to salvage the Reagan tax cut for the truly wealthy.

Second, we must make an honest effort, in both domestic and defense policy, to restrain the growth of federal spending.

One area where cuts can prudently be made is the one area where increases have been so profligately approved. By the Administration's own reckoning, military spending in 1985 alone will more than equal all federal spending from the ratification of the Constitution until 1945. We can strengthen our national defense without impaling our economy on wasteful gold-plated weapons systems like the MX missile and the B-1 bomber. And a bilateral nuclear weapons freeze with the Soviet Union could save $100 billion over the next five years, and bring us greater national security in the bargain.

But those of us who share this view must be careful not to make ourselves a mirror image of the Administration, which mindlessly seems to favor indefensible defense increases and indiscriminate domestic cuts. We must insist on the efficiency of both military and domestic programs. If a program such as health planning grants fails, then we should alter it or abolish it. The measure of a program should not be purpose alone, but its actual productivity. We should develop measures of productivity—for example, to reward job training efforts that are most successful in placing trainees in jobs. And those that are least successful should be abolished.

For progressives to be credible, we must defend social justice—but we must oppose faltering programs. Our purpose is not action for its own sake, or regulation or deregulation for its own sake, but enduring values of progress, compassion, and an end to discrimination. We must be willing to set clear and measurable standards—and to enforce them. Many states and cities do it—and so can Washington. In many cases, we can judge a program's worth in part by whether local communities and private investors will pay a fair share of the bill for it. Above all else, we must not confuse our programs with our principles.

In closing, let me express my personal admiration for all of you who joined in the work of the Center for National Policy a year ago, when the progressive future seemed difficult and dark. Since then, the battle has sometimes been lonely. But you did not abandon the struggle.

You know that we need new ideas and new faces—but that we also need the backbone to stand for ideals in which we have always believed, and which are at issue today as much as in the past—ideals of hope, opportunity and equality.

There are those who say that our vision is out of style—and that it is time to be fashionable, non-committal, and evasive. But I reply: We must never be willing to cut our convictions to fit the fashion of reaction. No fight worth waging was ever won by quietly surrendering or by trying to join the other side.

This year, and in the years to come, progressives must be a continuing center of creativity, a tireless force for moving America forward. We must be, as Democrats have been at our best, an advocate for the average man and woman, a voice for the voiceless, a party for the powerless, a source of strength for those who suffer and are weak.

On their behalf, I will conduct my own 1982 campaign. For their sake, I intend to seek and to win re-election to the United States Senate. And from that place, I will continue to demand that for all those whose cause has been the commitment of the Democratic Party, our conscience shall not fail, our convictions shall not tire, our courage shall not dim, and our work shall continue—until our common dream comes true in this land and in the life of all the world.

BUS DEREGULATION

(By request of Mr. BAKER, the following statement by Mr. MATTINGLY was ordered to be printed in the RECORD:)

● Mr. MATTINGLY. Mr. President, I wish to show my support for the PRESSLER amendment to strengthen the entry standards in the bus deregulation bill, H.R. 3663. This amendment is one more piece of protection that is so desperately needed for rural areas of our country. It would strengthen the Senate bill, which has been diluted from the legislation that was so overwhelmingly supported by the House last fall. It is unfortunate that it must be withdrawn.

Mr. President, no one knows as well as I the horrors caused by excessive regulation. The Federal Government and the States have both overindulged in the regulation game, and its effects have been a sick economy, upset by mindless rules. I have worked with the administration in its attempts to see that this heavy burden is lifted from the backs of the consumer.

I will support some sort of bus deregulation. The State of Florida, a neighbor of my home State, has had bus deregulation for the last few years. That State has proven that with proper deregulation, the elderly and those residing in rural areas will continue to receive some sort of service. The service may be that of van pools, or new entrants into a community. But, Mr. President, I am pleased to see the success of proper deregulation that we all know results from a free market.

I am pleased to see that this bill does include some safeguards for small communities. The Interstate Commerce Commission must consider the effect that entrance or exit of a carrier will have upon small communities when allowing such actions of bus companies. And, most important, the national transportation policy includes the goal of providing and maintaining service to small communities as a guide of proper action by the ICC.

Mr. President, I will vote for final passage of this bill. I am confident that some sort of deregulation is demanded for bus service to thrive and prosper in the future. The people of Georgia have asked for deregulation with protection, and I will vote accordingly.

Mr. President, I ask to have printed in the RECORD a letter that has been sent to me by many people in Georgia regarding H.R. 3663.

The letter follows:

Hon. MACK MATTINGLY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATTINGLY: On November 19, 1981 The House of Representatives passed the Bus Regulatory Reform Act (H.R. 3663). It is now up to the Senate to pass this act which I think is very important.

The deregulation in the airline industry and in the trucking industry has been beneficial to the American public by the lowering of fares. I understood that deregulation of the bus transportation has been tried in Florida with great success.

I would like you to vote yes in the Senate on the Bus Regulatory Reform Act next week.●

EQUAL RIGHTS FOR HANDICAPPED PERSONS

● Mr. DODD. Mr. President, section 504 of the Rehabilitation Act of 1973 was the first major Federal law specifically protecting the civil rights of handicapped persons. Under 504, handicapped Americans have finally begun to receive equal opportunities under the law at work, at school, at home, and everywhere else.

Mr. President, the regulations which implement section 504 are now being reviewed by Vice President BUSH's Task Force on Regulatory Reform. As one of its original supporters, I believe that we must keep 504 intact. To redraft the regulations implementing 504 will undermine our commitment to equal rights for disabled Americans in health, education, employment, and housing services.

We hear a great deal these days about cutting out waste and mismanagement in government. Yet I can think of no greater waste than that of ignoring the talents of our many disabled citizens by failing to provide them with access to education, jobs, transportation, and community living arrangements.

Mr. President, last month the citizens of Connecticut held a rally in Hartford to let Congress know that they want to keep 504 unchanged. I commend all those who attended for their sincere and heartfelt efforts to keep this important piece of legislation intact.

I ask that the remarks at the Hartford rally made by the president of the Connecticut Coordinating Committee of the Handicapped, Mr. Arthur Pepine, be printed in the RECORD.

The remarks follow:

REMARKS BY MR. ARTHUR PEPINE

504 UNCHANGED

To the HEW 504 regulations I want to wish a hearty happy birthday. It was five years ago today that they went into effect. They were conceived in the Rehab Act of 1973 and had to gestate for nearly 4 years in bureaucracy's womb, a long time for federal regulations, until their induced birth in 1977. They were issued only after advocates across the country, sitting-in for a month, embarrassed them into publication. And hardly a year has passed without attempts, some successful and some not, to water them down. A stormy career for such a young thing.

Despite its age, 504 is what brings us together regardless of our disability. In it is the acknowledgement that our blindness or deafness, our mobility or mental impairments are as nothing compared to the oppression we share in common. For the very reason that it unites us, we must keep 504 unchanged. We are here today to say "Thus far and no further! We will not tolerate their starvation, their rescission, or their deregulation."

We are here today to say to our legislators and public officials that we will no longer be society's scapegoat. We will not tolerate our rights being held hostage by uninformed and prejudicial attitudes, by a mismanaged economy, or by the "New Selfishism" which has come riding out of the West.

We are here today to say that we scorn the charity and indulgences promised us by the gluttonous in our society. We want what is every American's by right; access and an investment in our future.

If it is right for our country to invest, through income tax deductions, in health care for the rich why is it wrong to invest in medicaid. If it is right to indulge those of affluence, through lowered tax rates, why is it wrong to invest in accessible transportation and housing? If it is right to stimulate industrial retooling, through accelerated depreciation allowances, why is it wrong to invest in special education and vocational rehabilitation? And, if it is right to spend millions on new prisons why is it wrong to invest in community based, humane institutions which don't reek of cruel and unusual punishment?

"Too expensive," is the excuse we are given for the withholding of our rights. While international conglomerates, the personally wealthy, and the military-industrial complex gorge themselves at the Reaganomics table, we are told to wait, bound up in our safety nets, until everyone else has had his fill.

If trickle-down economics and the "new federalism" ever achieve their promised prosperity, which is supposed to benefit us all, it will never justify the deprivation poor, disabled persons will have had to go through.

It is time we rejected the conservative brain wash which is threatening a thorough revolution backward. It is time we stopped running from liberal policies which, despite having never been forcefully pursued, have in them the potential for making of our society one of the most humane and just ones in the world.

Democracy, unlike fascism, is not efficient. It costs money and effort to make it work well: money in the form of taxes, fairly raised, and efforts required of us to ensure that those who represent us have the sensitivity and integrity to act on our behalf.

I urge you, dear friends, to join me in saying to our leaders that we are mad and we will not take it any more, We want 504 unchanged.●

THE WEINBERGER/CARLUCCI MANAGEMENT INITIATIVES

● Mr. GARN. Mr. President, I would like to call my colleagues' attention to an article written by Mr. Vince Puritano, the Executive Assistant to the Deputy Secretary of Defense, which appeared in the June issue of Defense '82. This article, which I will insert at the conclusion of my remarks, defines the management initiatives undertaken by the Department of Defense during the current administration. Critics of the Department still contend that waste is rampant throughout the Pentagon. However, concurrent with the increase in the level of defense spending is an increased emphasis on improving the management

and effectiveness of the myriad of programs that are necessary to support our defense posture. This administration must have the military capability to convince the Soviet leadership that the United States will stand firm in its resolve to protect the freedom of its citizens. Mr. Puritano's article will reassure those who support the administration's defense program that the Defense Department is actively working toward better management of its programs and resources.

Mr. President, I ask that Mr. Puritano's article be printed in the RECORD.

The article follows:

THE WEINBERGER-CARLUCCI INITIATIVES

(By Vince Puritano)

Last year, DOD began a broad-scope effort to deliver more defense for the dollar and to insure a better matchup between resources and requirements.

Very early in 1981—in the first days after their appointment—Secretary of Defense Caspar W. Weinberger and Deputy Secretary Frank C. Carlucci established an overall goal; strengthen U.S. defense posture in the most efficient manner possible. This article, written 14 months later, describes the ways that goal is being pursued.

Action aimed at the first part of the fundamental goal was swift in coming. Because of the decade-long lag in defense spending, the gap between U.S. and Soviet military investment had begun to achieve dangerous proportions. The public supported the new President's proposed defense spending increases and, within weeks of taking office, Secretary Weinberger proposed major increases to the fiscal year 1981 and fiscal year 1982 budgets submitted by the previous Administration. Congress overwhelmingly passed those appropriations.

Concurrently with the requests for added funds, and in keeping with the second element of the overall goal, Secretaries Weinberger and Carlucci announced a series of major management improvements to assure that these funds, along with the additional increases that would soon be proposed, would be used rationally and with the highest return.

To attain the goal of improved management, major initiatives have been taken in four areas during this past year:

Strengthening and emphasizing long-range planning and strategic thinking in order to relate military policy and strategy more closely to the long-term and changing threat while taking full advantage of our intellectual, scientific, and technological capabilities;

Streamlining the defense planning, programming, and budgeting system to stress planning, reduce paperwork, clarify the roles of central staffs and the services, and enhance the role of the Defense Resources Board;

Improving the weapons systems acquisition process by reducing costs, shortening lead times, reducing paperwork and regulations, providing for more stability in long-time procurement, and strengthening the defense industries; and

Focusing high-level attention on a number of major improvement efforts throughout the Department to reduce costs, to eliminate fraud and waste, to reduce duplication and overlap of functions, and to develop better management practices.

As we begin our second full year of defense planning, the current recessionary economic climate, accompanied by mounting federal deficits and major cuts in domestic programs, means that, more than ever, all defense officials have to make sure that the increased defense budgets and programs are truly well managed.

STRATEGY AND POLICY FORMULATION

Defense policy and military strategy must be continually adjusted to reflect the changing world environment, to overcome obsolete concepts and thinking, and to take full advantage of US and allied capabilities. But even the best strategic thinking will be of little use unless it can be translated into concrete plans and policies and discrete budgetary choices. We have, therefore, taken actions both to improve the translation of strategic thought into policy decisions and to make greater use of intellectual efforts in informing and guiding our decisions.

The strengthened planning process insures that strategy and policy requirements are constantly before our budget officials and planners. By reorganizing the programming and budgeting system, we provided the means for strategic thought and policy to influence the operations and decisions of the Defense Department. One effect has been that major program or budget decisions are no longer based primarily on the funds available in any single budget year. Instead, the decisions are now also measured against long-term threats and needs, long-term cost projections, and the new acquisition principles, particularly multi-year procurement.

To develop the intellectual foundation for defense strategy and policy, we have instituted more effective ways of using established outside research organizations, as well as internal study, and have created a new agency, the Strategic Concepts Development Center, located at the National Defense University. This Center will take advantage of the many resources of the National War College and will provide national strategy advice to the Secretary and Deputy Secretary of Defense and the Chairman of the Joint Chiefs of Staff.

THE PLANNING, PROGRAMING, AND BUDGET SYSTEM (PPBS)

PPBS is the process whereby mission needs are identified, matched with resource requirements, reviewed, and finally translated into budget proposals. Over the 20 years of its existence, the defense PPBS had grown top-heavy and congested with paperwork, excessive detail, and unneeded data, with too much emphasis on programming to the neglect of strategic planning considerations and professional military advice. At the request of the Secretary and Deputy Secretary, I led a comprehensive review of PPBS in mid-1981 with a view toward harmonizing our strategy with our military capabilities and streamlining our decisionmaking process. Following careful study involving the full participation of all the services and major staffs in the Office of the Secretary, the Deputy Secretary decided on a number of major changes to the DOD PPBS. The new approach enhances the participation of top DOD officials and of service line managers and ensures that the military advice of the Joint Chiefs of Staff and the Commanders of the Unified and Specified Commands is heard and fully considered.

We cut back by more than half the paperwork that was required for the PPBS process. Budget documentation has also been reduced and congressional committees have been asked to reduce the paperwork requirements they have imposed. Throughout the process, our guideline has been centralized control of executive policy development with decentralized policy execution. Under that arrangement, the Service Secretaries and senior staff can concentrate on major policy decisions in offering their advice and recommendations to the Secretary. The services have been given greater responsibility for the day-to-day management of the resources under their control. The OSD staff provides overall technical support and major mission analyses necessary to coordinate the capabilities of all the services and to meet the objectives identified by the President and Congress.

A major change has been the strengthening of the Defense Resources Board (DRB), vesting it with the authority to be the principal governing body of the Department's program review process. We can now use the full capability of the Department to formulate policy and design programs. The DRB includes the Service Secretaries as full members for the first time and makes available directly the views of the Commanders of the Unified and Specified Commands, also for the first time. The four Service Chiefs, are, in effect, de facto members of the DRB and are invited to all meetings where major policy issues are to be discussed.

In the last nine months of 1981, after the new PPBS and DRB decisions were made, the DRB met 31 times to review and decide on defense policy, strategy, planning, programs, and the budget.

As a result of the actions described above, the planning process, once characterized as the "silent P in PPBS" has been reshaped and reinvigorated. The programming phase has been streamlined and aimed more at major policy review than detailed program reviews, except for major systems, and the budget process has been improved, particularly by discarding much of the unneeded paperwork associated with the Zero Based Budgeting Process. Much progress has been achieved this first year—more is necessary this second year.

THE WEAPONS ACQUISITION SYSTEM

Early in 1981, the author led another task force, at the direction of the Secretary and Deputy Secretary, to improve and acquisition process. Decisions on 32 recommendations became the basis for the Acquisition Improvement Program. One major thrust of the recommendations was to stress long-range planning so that the services, the Congress, and contractors will know as far in advance as possible the full scope of each program. Another was the placing of emphasis on delegating greater responsibility and accountability to program managers in an effort to reverse the tendency towards micro-management by central staffs. The recommendations also focused on the efforts required to achieve more program stability and economical production rates. A fourth theme was the need to make doing business with the Defense Department more predictable and attractive. If we discourage innovative and efficient contractors from bidding for and participating in defense business, we will not restore a healthy, strong industrial base for military orders. A fifth group of proposed actions encouraged the use of realistic cost, budget, and funding figures so that both we and the Congress understand early what the total cost of full programs will be.

The fiscal year 1983 Defense budget that was sent to Congress on February 8, 1982, embodied a number of major decisions flowing from the Acquisition Improvement Program. To whose who do not believe we can implement the 32 acquisition system decisions, I say simply: read the fiscal year 1983 Defense Budget. Consider the following:

First, we have encouraged program managers to budget to most likely cost and to budget for technological uncertainty. The fiscal year 1983 budget request includes funds in RDT&E and procurement programs to cover areas of technological risk and unspecified but anticipated requirements for changes in equipment design or program cost increases. As an example, the Army has applied $87.1 million in fiscal year 1983 RDT&E funding to 12 programs to provide for technological uncertainty and we have added several billion dollars to our major production programs so that they are funded to their most likely cost.

In addition, front-end funding for procurement of adequate test hardware has been emphasized to reduce further the technological risk and avoid the need for expensive retrofits which could delay deployment or reduce our readiness levels.

We have stressed multi-year procurement to help realize savings through economical lot buys and more efficient use of production resources. The fiscal year 1983 Defense Budget includes 15 major multi-year procurement initiatives where putting more of the total program cost earlier in the program will produce net program savings of $815.4 million over the next five years through the benefits of more economical advance procurement. It is important for the public to understand that increased appropriations and outlays in the early years of multi-year contracts will let us buy the quantities planned over the full period for considerably less than the cost of those same quantities under year-by-year contracts. The chart on page 8 provides more detail.[1]

Next, in the area of economic production rates, we have found many instances where capacity exists, or will be financed by industry, to produce the quantities of equipment required at higher rates and, therefore, at lower unit costs. During 1981, we held special meetings of the Defense Resources Board focused on taking advantage of the increases in efficiency and unit cost savings that can result from higher, more efficient rates. We added $3.4 billion in the fiscal year 1983 budget request to 14 selected programs in order to raise fiscal year 1983 rates to more economical levels. We have also decided on increases in the fiscal year 1981, fiscal year 1982, and the outyear (fiscal year 1984-fiscal year 1987) rates. As a result, we expect to save $2.3 billion during the next five years on just those items the previous Administration planned to buy (see chart on page 6). Of course, the higher rates will also yield additional quantities of hardware during this period.

In addition, we are including funds in our fiscal year 1983 budget request to modernize the tools, equipment, and facilities of our in-house production operations. We screen candidates for these productivity investment projects and select only those that will generate a significant return on investment. The chart below shows the distribution of the $121 million we are requesting in fiscal year 1983. We expect to achieve a five-year savings of $558 million with these 72 projects.

In a similar vein, we are budgeting an increased amount for manufacturing technology programs in order to improve factory floor productivity and thus reduce weapon system costs. The program for the next five years calls for doubling the funding for manufacturing technology from the $700 million spent in the previous five years to $1.6 billion in fiscal year 1983-87. The fiscal year 1983 budget request contains $271 million for this effort. We plan to monitor our investment closely and demonstrate the cost effectiveness of this expenditure.

Beyond encouraging investment in a modern defense industry through more stable, efficient production programs and improved investment incentives, steps are being taken to develop a *production surge capability* where economically feasible. For example, the pacing items for M-1 tank production are various components of the turbine engine and fire control system. By adding $126 million to the fiscal year 1982 M-1 tank production program, we can increase the production rate of these pacing components for the fiscal year 1982 funded delivery period. A total of 180 tank sets of pacing components could then be "banked" for use to surge M-1 production or meet other logistics requirements at some future time. There would be no additional facilitization required since the surge could be accomplished with overtime and/or multiple shifts at existing and currently programmed facilities. We have included this "surge" program in our fiscal year 1982 supplemental request and plan to add others in the coming years.

We have reviewed all programs to determine the adequacy of support funding and, during the fiscal year 1983 budget formulation, trial procedures were initiated to *improve the visibility of program support funds* in the budget. These procedures required selected program managers to provide the Office of the Secretary of Defense with separate budget backup material clearly showing all support funding required and budgeted for the program. These procedures heightened the awareness of all management levels of the interrelationship between support funds in various appropriations and other elements of program cost. I anticipate that we will expand the use of these procedures in future years.

We expect to derive additional cost savings from implementing our pre-planned product improvement program. The actions we have taken and plan to take under this initiative respond to the concern that we too often seek to incorporate overly advanced technology in our system. Pre-planned product improvement offers an evolutionary approach to system development that plans future system upgrades while proceeding with lower risk alternatives to meet near-term needs. This enables us to provide for rational incorporation of increasingly sophisticated sub-systems developed and proven over the service life of our weapons systems. For example, under the F-16 Multinational Staged Improvement Program, improvements will be introduced into the F-16 aircraft at approximately the mid-point of production. Another program where this concept will be applied is the Army Fighting Vehicle System (FVS). Here, modification of fire control for TOW-2 missile integration and hardening of the vehicle against chemical, biological, and nuclear effects will be included in a block with other improvement initiatives.

A list of candidate programs for additional application of preplanned product improvements was prepared last summer. These programs are now under review in connection with initial planning for the fiscal year 1984 budget.

The changes associated with the Acquisition Improvement Program are wide-ranging. I believe that the progress we have made, including that reflected in the fiscal year 1983 budget, has been significant, considering the reforms were started less than a year ago. Many people in the Defense Department have worked mightily to help make those changes we have all recommended—it was an internal reform effort.

At the same time, we know that an undertaking as broad and fundamental as we have proposed will take time, since we are dealing with a way of doing business that has evolved over many years. It has been molded by industrial imperatives, statutory requirements, and bureaucratic exigencies. We recognize that the key to success is the sustained and serious interest of decisionmakers up and down the line. We are determined to continue applying the principles of economic and efficient management in our day-to-day decisions, building upon the support of those decisionmakers gained through their participation in the reform effort.

OTHER MANAGEMENT IMPROVEMENT EFFORTS

In September of 1981, the Secretary announced the creation of the Defense Council on Integrity and Management Improvement, chaired by the Deputy Secretary with the three Service Under Secretaries as members, as well as the Under Secretary of Defense for Research and Engineering, the Assistant Secretary of Defense (Manpower, reserve Affairs, and Logistics), and the Assistant to the Secretary of Defense (Review and Oversight). This Council has three major goals:

To explore, identify, and implement new management improvements and to expand upon and reemphasize existing programs in the Defense Department.

To spread the results of audits, inspections, and investigations throughout the Department.

To promote the exchange of ideas and information on innovative management and to provide a forum for dealing with tough management issues.

The Council has initiated a DOD-wide Management Improvement Program which involves all the Defense agencies as well as the services. Preliminary plans were submitted to the Council in November 1981, and programs are well underway. In most cases, the services and Defense agencies have established their management improvement programs to coordinate existing programs as well as provide a mechanism to begin developing and implementing new ideas.

The Council is reviewing each of these programs in a series of briefings at its monthly meetings, with more detailed staff-level meetings in between. These reviews have already resulted in considerable cross-feeding of ideas, particularly among the services. The top level attention and emphasis on management improvements provided by the Council has led to more than just an exchange of good ideas within the Pentagon. By creating a climate of support for better management, the DOD Management Improvement Program is encouraging personnel at all levels to develop, suggest, and implement innovative ideas. We have only begun to tap the field-level sources of better

[1] Charts not reproduced in the Record.

management techniques. The potential benefits there are virtually unlimited, and we are pursuing them. For example, the Army has taken steps to spread its Economies, Efficiencies, and Management Improvement (EEMI) program throughout that service. In March, the Army held a worldwide EEMI conference bringing together representatives of all Army commands. In addition, the Army is institutionalizing the EEMI programs as part of the PPBS cycle, so that result of savings will be carried into the budget cycle and can be tracked by audits.

In addition to the DOD-wide program, the Council has recently initiated major reviews of several key management areas, including:

Programs to manage and control inventory.

The program for disposal of surplus Defense Department property.

Programs to consolidate base support activities at neighboring installations.

Government-owned equipment and material currently in the possession of private contractors.

Defense Department health care delivery systems.

Appropriate Council members and their staffs are working together on these reviews to develop recommendations for achieving greater efficency and savings. Council members are doing preliminary evaluations on nearly 50 additional project areas where possible savings exist. Many of these potential projects are ongoing programs that are being studied to see if net benefits could be gained from a greater emphasis. Other project areas are new ideas, which the Council will continue to solicit, encourage, and develop.

The chart below lists a representative sample of the items currently undergoing preliminary evaluation. While space does not permit a description of each project area, a few brief examples can serve to illustrate the overall scope of the Council's reviews.

The Value Engineering Programs are organized efforts to reduce costs by adopting lower-cost methods and functions that continue to meet necessary performance, safety, quality, reliability, or maintainability standards. The Council is evaluating these programs in order to see whether substantial net benefits would result from expanding the resources devoted to value engineering and similar cost-saving management functions.

The Council plays a different role in vulnerability assessments. These assessments are conducted to identify aspects of an operation or functions within an organization that are particularly susceptible to loss or damage. While vulnerability assessments are already conducted in some areas of DOD, the current emphasis is on a government-wide effort led by OMB. The Council will monitor DOD progress toward meeting vulnerability assessment goals and will help ensure that vulnerable areas are made less open to losses and damage.

The Council's emphasis on management improvements has already led to renewed efforts in existing programs and to the more rapid development of innovations in the services and Defense agencies. The climate of support for innovative management fostered by the DOD-wide management improvement efforts will increasingly produce results that will benefit the entire Defense effort.

In June 1981, Secretary Weinberger instituted a weekly Secretarial Performance Review session. He and Deputy Secretary Carlucci examine the current status of selected major Defense programs in some detail during these sessions. The reviews provide an informal setting in which the Secretaries may become aware of problems in time to act on them and through which they can provide immediate feedback to the responsible Defense officials.

A selection of the topics covered in the 1981 sessions of the Performance Reviews, with presenting agencies, is shown in the chart on page 11.

In 1982, the Performance Reviews will focus on selected major weapons systems as well as ongoing programs. To provide even closer review of two very critical programs, the Secretaries are following progress on the B-1 bomber and the MX ballistic missile on a continuing bi-weekly basis.

The Secretary, within the last year, has also initiated a continuing audit, inspection, and evaluation process to eliminate waste and to prevent and detect fraud and abuse. He established a new senior position, the Assistant to the Secretary of Defense (Review and Oversight). This official is responsible for coordinating all activities within the Department concerned with the elimination of fraud, waste, and mismanagement. He monitors and evaluates program guidance to all DOD activities on matters regarding criminal investigation programs and conducts criminal investigations, as required, in the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, and the Defense agencies. He oversees the Defense Audit Service and monitors the adherence of all DOD auditors to internal audit, contract audit, and internal review policies and procedures. In addition, he ensures that all audit recommendations are agreed to and acted upon.

Beginning early last year, we have widely publicized a telephone hotline to help detect fraud, waste, and mismanagement in DOD programs. We have emphasized followup actions on these calls while guaranteeing the anonymity of the caller. This technique has proven quite effective and has led to a dramatic increase in the number of calls, 85 percent of which have resulted in useful suggestions.

The costs of our internal operations have been greatly reduced through elimination of unnecessary travel; reduced reliance on consultants and contract management services; reductions in base overhead; reduced purchases of unneeded equipment, supplies, and furniture; and capital investments that will increase productivity. These are the outcome of intensive reviews and hard-nosed decisions that will continue.

In addition to our own initiatives, we have examined scores of suggestions and recommendations on ways to save Defense dollars that we have received from the General Accounting Office, the Congressional Budget Office, the House Republican Study Committee, various congressional task forces, and individual members of Congress. Of course, many of these suggestions duplicate initiatives that we had already undertaken. Others have been incorporated into our management initiatives and budget.

I believe that the foregoing discussion conveys the strong sense of purpose with which we are pursuing our goal of improving DOD management. We have made solid progress in many areas, but we have far to go. I am convinced that we are going to succeed, for several reasons. First, our increased attention to long-range planning will lead to more rational decisions and more stability in our programs. Rational, stable programs are easier to support and to execute. Second, our insistence on broad participation in the review and decisionmaking process will capture and hold the attention of managers at all levels. Finally, our principle of decentralizing responsibility authority, and accountability will intensify the focus on execution of programs. In the final analysis, better program execution holds the key to the success I am predicting. Our resource management system is really a PPBES, where the "E" for execution serves to remind us that our work is not ended with the allocation of resources. On the contrary, it is only just beginning at that point in the process. The efficient execution of plans and programs is where we get the return on our investment and it is also where we will be judged by the public. Officials at all levels must understand completely the part they play in this process. There has been in recent years a raging debate about the virtues and vices of leadership versus management, but the plain fact is that, while some are expected to be leaders, we are all managers of resources. It is not a role to be denied, but a responsibility to be fulfilled.

We must do our job in a thoughtful, businesslike fashion, and we must see to it that the American public becomes aware of what we are doing right. That is our responsibility and it is an important one, because there are plenty of people who make their living telling about those instances where we fall short.

We have a sound program for management improvement. We need the combined effort of all Defense Department officials to make it the success it can be.●

SENATOR PERCY'S AIRLIFT SPEECH

● Mr. NUNN. Mr. President, I want to bring to the attention of my colleagues the excellent keynote speech that was delivered by the distinguished Senator from Illinois (Mr. PERCY) to the prestigious annual Air Force Association's military airlift symposium in St. Louis. His speech has some keen observations which I believe are quite pertinent to the military airlift issue now before the Congress.

In particular, Senator PERCY illustrates that our increasing foreign policy commitments require a strong airlift capability and that our present abilities in this area fall woefully short of the capacity needed to meet these commitments. Senator PERCY urges the airlift community to reach a consensus, lest the military end up with no new airlift to fill this urgent requirement.

As Chairman of the Senate Foreign Relations Committee, Senator Percy has a unique mastery of the complex relationship between defense and foreign policy and has some important observations on the strategy/force mismatch. He acknowledges the essential role of the Military Airlift Command in supporting our defense and foreign policy. I commend him for his insights into the airlift issue and urge my colleagues to take note of this

speech. I ask that his speech be entered into the RECORD at this point.

The remarks follow:

THE MILITARY AIRLIFT COMMAND: A KEY INSTRUMENT OF U.S. FOREIGN POLICY

It is a special pleasure for me to join in your deliberations today on our Nation's urgent military airlift needs. As you know, MAC is headquartered just across the river in a State in which I have more than a passing interest. The people of Illinois have long been among MAC's most avid boosters. We believe in MAC and believe in its mission. Though it may not enjoy the glamor of F-15 fighter commands or seem as imposing as SAC bomber outfits, MAC gets the job done, day in and day out, while standing ready if need be to accomplish its crucial wartime missions.

Let me first commend AFA and MAC for organizing this extremely relevant and timely symposium. In particular, kudos are very much in order for General James Allen, MAC's distinguished Commander-in-Chief, General Russ Dougherty, AFA's experienced and able Executive Director, and Hugh Enyart, President of AFA's Scott Memorial Chapter.

Having been on the receiving end of countless letters and telephone calls from Hugh, I know first-hand how hard he has worked to plan this conference and make it a success.

In preparing for my remarks today, I noticed that the AFA brochure announcing the symposium described its purpose as "a comprehensive, informative examination of the forces, capabilities, and equipment required now and in the years ahead to project U.S. power on a global scale in support of the national interest." I stress the words "and equipment." For as one who participated in last month's Senate debate on airlift procurement, I can attest to the need to bring some order out of the confusion that now prevails on this issue.

Glancing over the impressive list of DOD officials, military commanders and industry leaders who are participating in this symposium, I am tempted to suggest that someone lock the doors and not let anyone leave until agreement is reached on exactly what equipment is required by MAC now and in the years ahead. But, realistically, I would have to say that any contribution that this conference can make to establishing a single position within the airlift community on MAC's procurement needs would be very welcome indeed.

Just a year ago, it appeared that MAC was on the road to a sensible and long-overdue expansion of its strategic airlift capabilities. The Congressionally-Mandated Mobility Study had amply documented the need for such an expansion, and evaluation conducted by the Air Force demonstrated the advisability of procuring the C-17 for this purpose. I believed then, and still believe now, that the C-17 represents the most appropriate and cost-effective solution to our military airlift needs. The C-17's outsize cargo capability, high fuel-efficiency, and short runway landing and takeoff profile give it the optimum balance of inter- and intra-theater capability.

But somewhere along this road, MAC's well-structured airlift modernization plan began to unravel. Obviously, the crucial event was the Defense Department's decision to defer the C-17 in lieu of the C-5/KC-10 combination, arguing that this approach would provide MAC with new airlift capabilities faster than would be the case with the C-17.

Despite my preference for the C-17, I supported the Administration on its C-5 proposal during last month's Senate debate. At times, it is important that we not allow the best to become the enemy of the good.

Unfortunately, the Senate debate showed conclusively that if you change the rules of the game at halftime, you can change them again in the fourth quarter. Throughout this classic congressional shoot-out, I would imagine that MAC was sitting on the sidelines, hoping that when the smoke cleared there would be a consensus on some procurement option—even a C-47—that would move us towards our airlift augmentation objectives.

At this point, I am not optimistic that such a consensus will emerge. Whether or not the C-5 will be fully authorized and appropriated is highly uncertain. Two weeks ago, Secretary Carlucci told a House subcommittee that he would advise the President not to spend funds on a 747 buy, even if the House were to defer to the Senate position.

Some observers now predict that one potential outcome may be no new airlift programs in fiscal year 1983. Thus there is a real danger that MAC may find itself back at square one next year on its crucial procurement needs, just as it has been in year after year in the past.

The problem, of course, is that the world is not standing still while Congress, the Pentagon and industry argue over competing procurement approaches. As Chairman of the Foreign Relations Committee, I have been especially concerned by what some have termed the "strategy/force mismatch," that is, the indications that our armed forces have been assigned tasks far in excess of what they can—with reasonable assurance—expect to fulfill.

For most of the post-World War II era, U.S. conventional forces have been "sized" according to the number of "wars" that the United States might reasonably expect to find itself engaged in at any one time. In the 1950s and 1960s, military planners assumed that "two and a half wars" might have to be fought simultaneously; e.g., a major war with the Soviets in Europe, a major conflict with China in Asia, and a local skirmish with a Soviet or Chinese proxy elsewhere. In practice, though, U.S. general purpose forces fell far short of the levels and capabilities required by this strategy. Nuclear weapons, and the threat to use them first if need be, remained the keystone of U.S. defense policy.

By 1969, the Sino-Soviet split and the stirrings of U.S./Chinese rapprochement permitted a downgrading of the force planning requirement. The Nixon Administration switched to a "one and a half war" strategy, with principal emphasis on a major land war in Europe. Following the withdrawal of U.S. forces from Vietnam, military planners set about developing the robust conventional defense capabilities required by the NATO flexible response doctrine. Yet, as Secretary of Defense Brown later noted, U.S. capabilities were never "entirely consistent" with the "one and a half war" strategy, lacking in particular "the agility and mobility" required by the strategy.

In plain English, what the Secretary was saying was that the United States lacked the ability to move with power and speed to reinforce our allies holding forward defense positions in peacetime. In short, we needed more mobility, especially airlift. This, I would emphasize, was in the 1970s.

But in 1979/1980, the United States took on additional security obligations. Following the revolution in Iran, the Soviet invasion of Afghanistan, and the outbreak of the Iran-Iraq war, President Carter pledged that the United States would use all means, including military force, to preserve Western access to oil resources in the Persian Gulf region. The Carter Administration accelerated the establishment of the Rapid Deployment Force (RDF) and oriented RDF planning almost exclusively toward a Persian Gulf scenario.

Although U.S. armed forces were now expected to cope with simultaneous conflicts in Europe and the Persian Gulf while still protecting vital interests in the Far East, actual capabilities remained far short of what was required. In 1980, Lt. Gen. P. X. Kelly, commander of the RDF, testified that "simultaneity is one of our biggest problems." General Volney Warner, commander of the RDF's parent command, declared, "If somebody said we are going to one and a half wars today, in my view we are not going to make it."

In the last year or so, we have witnessed a further expansion of U.S. strategic requirements under the Reagan Administration. In his FY 1983 defense posture reports, Secretary Weinberger declared that "mechanistic assumptions" concerning the number of "wars" the United States might have to confront should be replaced with a recognition that any war with the Soviet Union is likely to be global in character. While stressing that the United States remains committed to "a defensive use of military strength," the Secretary called for a new ability to "carry the war to other arenas" should the Soviets attack in any one region. Under this new strategic concept, which has been termed "horizontal escalation," the armed forces would presumably conduct global counteroffensives against Soviet forces wherever they were deployed, including the Soviet homeland itself.

To be sure, the Administration has in recent weeks backed off a bit on the extent to which global operations might be conducted simultaneously. In a speech at Georgetown University, NSC Advisor Clark declared that "we must procure balanced forces and establish priorities for sequential operations to insure that military power would be applied in the most effective ways." Or, as General David Jones said last week, "We are in the priority business."

Whatever degree of multi-theater simultaneity is finally agreed upon, it is evident that our military airlift assets fall far short of the levels required to implement our strategy. In effect, we have for over a decade been living off past investments while increasing the tasks that our airlift force is expected to fulfill. This deficiency has been worsened by a shrinking U.S. overseas basing structure, uncertainties regarding overflight and staging rights, and restrictions on our ability to establish pre-positioned equipment in certain areas.

More and more, we are faced with the need for an autonomous, self-sufficient ability to airlift U.S. forces directly to threatened areas. Yet, as General Allen recently testified, even with the proposed C-5 and KC-10 procurements, we will fail to close almost half of the documented shortfall in inter-theater airlift capacity. If no consensus is reached in the near future on an appropriate airlift augmentation approach, the gap would be more than disadvantageous—it would be dangerous.

In my years in the Senate, I have constantly championed the cause of peace through deterrence. But deterrence cannot

be based on words or declarations alone. It must be founded on a credible capability to project U.S. power to areas where friends or allies are threatened.

The recent conflict over the Falkland Islands demonstrated all too well the possible consequences if one nation should conclude that another lacks the determination and the mobility to defend its interests abroad. And, I might add, I saw little evidence that Britain's formidable nuclear capabilities were a factor in either deterring the outbreak of the Falklands war or determining its outcome. Three decades into the nuclear era, there is still no substitute for robust conventional forces.

In a moving speech in Bonn earlier this month, President Reagan declared that the American commitment to Europe remains steady and strong. In the President's words, "Europe's shores are our shores; Europe's borders are our borders." The President cautioned, though, that our commitment to NATO will be an empty pledge unless we insure that American forces are ready and able to reinforce Europe and Europe is ready to receive them.

The key to such readiness is the Military Airlift Command. In promoting the peace and deterring war, it is essential that we maintain MAC as a stong and vital military force. I hope that all participants will leave this symposium with a renewed commitment to try to reach a consensus on the forces, capabilities and equipment that MAC will require in the years ahead. For in a time of severe fiscal constraints, those who cannot decide among themselves may well be left behind.●

HOW TO CLEAR A CABINET OFFICER

● Mr. COHEN. Mr. President, the Committee on Governmental Affairs has voted to report S. 2059, a bill which would amend the special prosecutor provisions of the Ethics in Government Act of 1978. In addition to amending the present law to make it more equitable and less costly to both the official under investigation and the Government, the bill would extend the special prosecutor provisions for 5 years.

In reaffirming its strong commitment to the special prosecutor law, the committee noted that the law is necessary to promote public confidence in the impartial investigation of alleged criminal activity by Government officials and to clear officials totally of any suspicion of criminality. An excellent editorial which appeared in yesterday's edition of The New York Times illustrates how the special prosecutor process performed these important functions in the case of Secretary of Labor Raymond Donovan.

I ask that the article entitled "How To Clear a Cabinet Officer," published in the June 30 edition of the New York Times, be printed in the RECORD.

The article follows:

HOW TO CLEAR A CABINET OFFICER

A special prosecutor has lifted the vapor of criminal charges from Secretary of Labor Raymond Donovan and in the process handsomely vindicated the Ethics in Government Act. Prosecutor Leon Silverman's finding that there is no credible evidence of criminality will not end the Secretary's political problems, nor add to his qualifications for office, but it goes surprisingly beyond merely sparing him an indictment.

Mr. Silverman took a broad view of his investigative charter and thus did not stop at the charge that prompted his appointment, that Mr. Donovan witnessed a bribe. The prosecutor also examined in depth the possibility that Mr. Donovan lied to the Senate in denying underworld ties during his confirmation hearings last year, and cleared him of that as well.

Since that accusation forms the heart of the attack on Mr. Donovan by Republican Senator Orrin Hatch and Senate Democrats, the report could go a long way toward stilling hostility in Congress.

The report ought also to quiet Reagan Administration carpings about the Ethics Act's special prosecutor provisions, which demand an independent counsel clothed with full grand jury powers when a high-ranking executive official is accused of crime. That law protects the public by guarding against favoritism, and it can be a boon to officeholders by giving them credible clearance when they deserve it.

Would anyone have believed the same exoneration if it had come from Mr. Donovan's Cabinet colleague, the Attorney General? The Administration keeps moaning about the burdens imposed by the requirement of an outside investigation; they surely have been worth the dividends.

There may even be political dividends for the White House. There is high-level embarrassment about the Administration's own shallow background check of Mr. Donovan at the time he was chosen. And the F.B.I., which warned the White House that Mr. Donovan might be vulnerable to charges of mob connections, must still answer complaints that it withheld damaging evidence from the Senate. But none of that has the urgency if seemed to have only a few days ago. That's because Mr. Silverman has reported so favorably on the results of his six-month search of some of the same evidence.

Secretary Donovan, who was wise enough to call for a special prosecutor before one was appointed, may even thank Mr. Silverman for saving his job. The prosecutor has just shown that there is no fire; this would be an odd time for the White House to dismiss Mr. Donovan because it smells smoke.●

FEDERAL COURT ORDER BENEFITS STATE'S NEEDY SCHOOL CHILDREN

● Mr. DODD. Mr. President, I applaud yesterday's Federal court decision which could result in additional $3 million to assist needy children in Connecticut.

Yesterday, Judge Norma H. Johnson issued a preliminary order barring the Department of Education from using 1970, rather than 1980, census data to distribute funds under title I of the Elementary and Secondary Education Act. I had signed the amici curiae brief in support of Connecticut and the other plaintiffs in the suit. I am pleased at the outcome of the preliminary hearing.

Title I provides compensatory education services for students in school districts with large numbers of poor and educationally disadvantaged children. It provides special reading and math programs for children in elementary and secondary school who are behind and need help. The purpose of title I is to provide this help to the children who need it most. Not to the children who needed it most 10 or 12 years ago.

Connecticut is one of five States in the country with the greatest increase in poverty since 1970. We do not intend to be one of five with greatest 10-year increases come 1990. But to avoid that, the State should have its fair share of services. The decision of Secretary Bell to use old data would have resulted in a loss for Connecticut of $3 million. That is a 12-percent cut from what the State will receive if the most recent data are used. The Congress did not vote a 12-percent cut. The State should not sustain a 12-percent cut.

Title I is one of our most successful programs to help disadvantaged children. One of the reasons for its success is its careful targeting to populations in need. Secretary Bell's decision to use old data for targeting need would have denied the services of this program to thousands of children who would benefit by those services.

Again, I applaud the U.S. district court decision. An article in today's Hartford Courant outlines the meaning of the decision in Connecticut. I ask that the text be printed in the RECORD.

The article follows:

[From the Hartford Courant, July 1, 1982]

FEDERAL COURT ORDER BENEFITS STATE'S NEEDY SCHOOLCHILDREN

(By Aaron Epstein)

WASHINGTON.—Eleven states, including Connecticut, won a federal court order Wednesday that could produce an additional $116 million for needy schoolchildren within their borders.

U.S. District Judge Norma H. Johnson issued a preliminary order barring Education Secretary Terrel H. Bell from using 12-year-old census data to dispense money to the states for low-income, low-achieving students in the 1982-83 school year.

Bells' distribution plan arbitrarily shortchanges states that gained large numbers of poor children in the 1970s and "contradicts the primary goal" of the federal compensatory education program, known as Title I, the judge declared.

Connecticut, which took part in the lawsuit, would lose $3 million in aid if the 1970 census figures were used. The state had about 55,000 low-income children in 1970, compared with an estimated 70,000 in 1980.

State education officials said the loss of funds would force Connecticut to drop about 5,000 of the 44,000 students currently served by Title I programs.

Other states that benefited from the court order are New Jersey, Pennsylvania, Michigan, New York, Illinois, Massachusetts, California, Idaho, Nevada and Utah.

They were opposed by 12 states, largely in the South, all of which would lose title I money if the federal government uses 1980 census data because they showed a decline in the number of needy children in the last decade.

Those states are Alabama, Colorado, Montana, North and South Carolina, Kentucky, Arkansas, Texas, Iowa, South Dakota, Georgia and Wyoming.

Robert Silverstein, a Washington lawyer representing those states, said the losing states and Bell had not decided whether to appeal or request a full hearing.

Lawyers for Bell argued that complete 1980 census data would not be available until after July 1, when the government planned to start disbursing Title I funds.

Johnson said, however, the up-to-date figures could be assembled without irreparably disrupting school plans throughout the country.●

A TRIBUTE TO ROBERT JOSEPH KIBBEE

● Mr. D'AMATO. Mr. President, in the history of mankind, our Nation is unsurpassed in its achievement of the highest levels of education. Not merely an education for those who are able to pay for it, but rather an opportunity for all those who desire to learn. This great accomplishment has taken time, patience, and a loving dedication by those who would see our schools reach ever farther toward the best education for our children.

We have lost a leader, one who has contributed greatly to our distinct position of academic glory. A man who has devoted his life not only to this Nation's students, but to the Nation itself. This man was Robert Joseph Kibbee, chancellor of the City University of New York, whose recent death at the age of 60 marked the untimely passage of a great master.

Dr. Kibbee's dedication to education and to the school was exemplified by his fierce drive to secure the financial status of the university. This struggle resulted in the 1979 landmark State law creating a permanent system of government for a newly independent and stable City University of New York.

Although we have lost a leader, we still have his accomplishments and dreams. They will last forever, for such essential ideas must and will survive. Dr. Kibbee's memory can be best expressed by the words of James Murphy, board chairperson of the City University of New York, when he said: "A great, a mighty spirit has left us." Mr. President, Robert Kibbee was a true devotee of education. He will be missed by the thousands of students who were given a chance to learn. He will be missed by the millions who shared his visions.●

THE 50TH ANNIVERSARY OF SOUTHBURY VOLUNTEER FIREMEN'S ASSOCIATION

● Mr. WEICKER. Mr. President, the strength of any community is not gaged by its numbers, its wealth, or its buildings. The true wealth lies within the soul of its people, in their generosity, and their willingness to give their best for the betterment of all.

This noble contribution to the greater society is at the heart of the volunteer fire company. The firefighter's prayer includes the lines; "I want to fill my calling and give the best in me." That is what the firefighters of the Southbury Volunteer Firemen's Association have been doing for the past 50 years—filling their calling by saving lives and property.

They receive no payment for the great risks they face and the long scorching hours they work. No payment except the gratitude and respect of the people of Southbury and the deep pride that wells inside the firefighter himself on knowing that he has done his job well.

On the 50th anniversary of the Southbury Volunteer Firemen's Association, it is fitting that they be presented with an American flag that has flown over the U.S. Capitol. It should serve as a symbol of the courage, honor, and devotion the Southbury firefighters have displayed—the same courage, honor, and devotion that have made the larger community of America the great Nation she is.●

WHY WE NEED THE LEGAL SERVICES CORPORATION

● Mr. HOLLINGS. Mr. President, in the recent issue of the American Bar Association Journal, Roger Cramton makes a very persuasive case for maintaining the commitment to legal services for poor people. For those who are not familiar with Roger Cramton, he enjoys a distinguished reputation as a professor of law, and law dean at Cornell University, and he served as chairman of the board of directors of the Legal Services Corporation from 1975–78.

Mr. President, I ask unanimous consent that the article I mention and a short discussion about the present controversies confronting this most worthwhile program be printed in the RECORD at the end of my remarks.

As one who supports legal services for poor people and believes that we all benefit from the vital service that the Legal Service Corporation provides, I am indebted to Dean Cramton for the compelling argument he makes for the program. One of the basic principles of our Nation is that we are a nation of laws, not of men. Providing legal services for poor people breathes life into this principle, not just for the well-to-do, but for every citizen.

In seeking to abolish Legal Services, the President overlooks the fact that it is one of the most efficient and cost-effective programs in the Nation. Only 3 percent of its budget is spent on administration. The rest of the funds are directed to assist local programs in their efforts to deliver legal aid to persons unable to afford it—eligible individuals must earn less than $4,700 and eligible families can earn no more than $9,300.

This attempt to exclude our Nation's poor from the system of justice is basically an antijustice act. Yet, at the same time, we Federal taxpayers subsidize the legal expenses—business expenses—of corporations to the tune of several billion dollars annually. If legal services were stopped for the rich, Mr. President, Washington, D.C. would be a ghost town.

And what are we arguing over? The Legal Services Corporation budget for fiscal year 1982 is a modest $241 million—down from $325 million the year before. Spending this year amounts to less than $7 per poor person for the nearly 30 million poor in our Nation. In the general population, an average of over $14 per person is spent on legal services. And, for the poor, legal services are often sought to insure food, shelter, health, and income—the basic necessities of life. Last year over 1.2 million poor people were served.

It is gratifying that the organized bar is actively supporting the maintenance of the Legal Services Corporation, as well as providing pro-bono assistance. As one who is fighting for this program I can think of no other group I would like to have on my side. But, for all our effort, we must remember that the ultimate responsibility of our system of justice does not rest with the lawyers alone—any more than the responsibility for feeding the poor rests with the grocers and farmers of this Nation. All of us must contribute.

Mr. President, last year we made significant changes in the administration of the legal services program. They were specifically designed to meet the objections raised by the administration. With that done, Mr. President, the job ahead is to remain firm in our commitment to provide poor people with access to the American system of justice. I urge you to read the article by Dean Cramton. It is thoughtful, well reasoned, and states very well the compelling need for legal services for poor people.

I ask that the article be printed in the RECORD.

The article follows:

[From the American Bar Association Journal, May 1982]

WHY LEGAL SERVICES FOR THE POOR?

(By Roger C. Cramton)

President Reagan's effort to abolish or cripple the national legal services program raises issues of special concern to lawyers. The profession imposes on itself the obligation, through one mechanism or another, to meet the needs of the poor for civil legal assistance. Since lawyers are interested in the question in many senses—economically, morally, and psychologically—there is a special duty to understand the underlying contentions.

Critics perceive the program as an effort of left-wing lawyers, recently graduated from law school, engaged as self-appointed representatives of the poor in test litigation designed to erode the free enterprise system. The program's defenders frequently respond with opposing sterotypes, asserting that the Reagan administration's proposal amounts to a denial of the nation's commitment to equal justice under law—"putting a price tag on justice, just like a Cadillac or a yacht," in the words of F. William McCalpin, an American Bar Association officer and former chairman of the board of the Legal Services Corporation. A dispassionate assessment of the underlying issues is much needed.

Criticism of the current legal services program fall into three categories: (1) the program is a political instrument of activist lawyers; (2) it is not a poor people's program but a lawyers' program; and (3) it is inefficient both in assisting poor people and in the costs it places on others.

The most common criticism is that it tempts judges to venture into areas that critics believe they should not enter. Howard Philips, who led the Nixon administration's unsuccessful attempt to dismantle the legal services program of the Office of Economic Opportunity in 1973, says:

"[I]t is a violation of the constitutional rights of every American to be required to subsidize activities which are essentially political in nature but are not accountable to the market place or the ballot box * * *. Legal Services attorneys have been involved in virtually every liberal cause * * *. And through the Legal Services Corporation, Congress has subsidized the liberal faith."

Taxpayers' funds, of course, should not be devoted to essentially political activities, but there is no evidence to prove that this is in fact what is going on. In one recent statement Phillips cited representation of Iranian student protestors, suits promoting affirmative action in employment and education, and claims of American Indians for tribal lands as typical activities of the program. Although I agree that representation of college students or illegal aliens has a low priority in the allocation of scarce federal funds, deportation proceedings, nondiscrimination statutes, and Indian land claims are appropriate areas in which the rights of poor people should be enforced. The well-to-do use members of the private bar to enforce their rights in these areas. Why is it "political activism" when poor people do so?

Nearly all assertions of legal rights on behalf of a particular class of persons are "political" in the sense that they involve the social distribution of benefits and status. Rights that are recent creations of legislatures or administrators are especially likely to be viewed as controversial and hence "political"; an outstanding current example is rights relating to affirmative action in employment. In the 1930s statutes relating to union organization were much more bitterly contested, and therefore controversial, than they are today. The passage of time may similarly mute some areas of current controversy. But access to the courts is a neutral principle applicable to all rights. The "political" label attaches because, despite the legislative or judicial creation of the rights sought to be enforced, some people continue to view them as controversial.

The "political activism" critique, insofar as it does not overlap with more general concern about judicial activism, involves two subthemes: the propriety of government's funding lawsuits against itself, and the relative emphasis in the legal services program on impact litigation as against individual client service.

In an era of widespread concern about the bureaucratic interference of government with private activity, it is surprising to hear voices from the right arguing that poor people should not be able to obtain representation to challenge the validity of governmental action that affects them. One would suppose that policing the bureaucracy on behalf of private individuals would appeal to conservatives.

Legal services lawyers sue governmental bodies to vindicate the legal rights of the poor. While it rankles some politicians to use government funds this way, there is every reason to make a large and fallible government accountable in its own courts. The legitimacy of the claims asserted, of course, is determined by the independent judiciary, not by the indigent clients or their lawyers. These suits may increase government expense because they cost money to defend and because they sometimes require increased disbursements for such items as wrongly withheld welfare benefits. Yet representation of the poor often reduces the workload of government agencies by putting the claims of poor people into a comprehensible form so that they may be handled easily and cheaply. Even if the increased costs exceed the savings, the government's compliance with the rule of law enhances its legitimacy, which is itself of substantial value.

The second subtheme of the "political activism" critique concerns the relative emphasis of the legal services program on litigation designed to reform the law or improve the condition of the poor. Critics talk as if the only cases a local program should handle are routine matters that affect only the individual client—a goal that is neither practicable nor desirable. A judicial precedent necessarily affects all persons similarly situated; and, now that mutuality of estoppel is no longer generally required, res judicata may bind the same defendant when sued by other plaintiffs.

The significance of a lawsuit cannot be determined at its outset. The importance of a decision results from the judicial rulings made at the conclusion of a case. Many lawyers have been disappointed when their "landmark" cases were decided ultimately on trivial points, and major rulings have often emerged from routine cases. Significant cases may be decided for or against the indigent client by the independent judiciary. The assertion that the program tempts judges to do things they should not do—the general concern with judicial activism—raises questions about the judicial branch, not the litigants before it.

It is true that the legal services movement has a shared ideology that highly values "law reform litigation." Abandonment of any opportunity to engage in significant litigation or legislative activity would make the program uninteresting to many of the better lawyers who now find it a fulfilling career. Inability to raise and win significant victories for poor people also would make a mockery of our claim of equal justice under law. The lawyer for the poor client would be restricted to repetitive and insignificant problems and presumably would have to abandon his client's interests, in violation of professional ethics (D.R. 7-101 (A)), when an issue of importance to others emerged.

Aside from these practical and philosophical difficulties with the concern about law reform, there is an efficiency concern. Repetitive litigation of the same problem in one-by-one-litigation is wasteful of private and public resources. The disposition of significant issues in a manner that affects a large number of people provides a much more efficient use of taxpayers' funds for legal services.

The concern about impact litigation also rests on an inaccurate perception of the underlying facts. The publicity given to a small number of highly visible controversies and the ambitious rhetoric of an occasional legal services lawyer, who may talk enthusiastically and unrealistically about changing the world through test cases, distort the reality of day-by-day work in a legal services office. The vast bulk of the cases and the attorney effort is directed to individual client service. In recent years only two tenths of 1 percent of all completed cases nationwide have been categorized by the independent programs that handled them as "significant"—that is, having importance beyond the individual client. Since more than a million cases are handled each year, only about 2,000 cases nationwide are thus viewed as significant by the lawyers who handled them. And because law reform litigation has a high status among legal service attorneys, they tend to exaggerate rather than denigrate the significance of a program's cases.

The real problem may be the reverse of the one imagined. Evaluations of individual programs and of the national effort almost invariably conclude that most programs are devoting a disproportionate amount of their time to routine matters and that federal dollars would be more effective if a larger portion were devoted to significant matters. Data concerning the frequency of class actions point in the same direction. A Legal Services Corporation survey of a random sample of staff attorneys in 1978 revealed that only 29 percent of them had participated in at least one class action during the preceding period of more than three years. Whatever the rhetoric may be at the national level, the individual programs find it impossible to resist the enormous pressure of the hurt, troubled people who fill their waiting rooms and request, with the most obvious need, routine legal services.

In short, the charges of political activism are illogical and lack factual support. Legal services lawyers are not ideological ambulance chasers but reasonably ambitious and idealistic attorneys who are trying to do good legal work under trying circumstances.

A more fundamental but less common critique of the legal services program is that, despite its noble pretense, it benefits lawyers instead of poor people. Stephen Chapman, for example, argued in a 1977 New Republic article that the principal benefits of the program run to its lawyer supporters and proponents, not to the poor people who are its ostensible beneficiaries. The program, according to Chapman, is a full employment bill for lawyers that bar associations support because it provides employment for the current overflow of young lawyers from the law schools, which would otherwise compete with the existing private bar. Since legal services programs are prohibited from taking fee-generating cases, his argument goes, they do not compete with private lawyers. Even more important every case handled by a legal services lawyer creates new business for other lawyers, since the opposing party needs the services of a lawyer. Thus the program has a tremendous multiplier effect on the demand for lawyers.

Chapman also characterizes the program as paternalistic and questions the value of providing legal services, rather than money, to the poor. He argues that lawyers exaggerate the importance of legal counsel, regarding it, "like food, shelter, and medical care, as a basic right." Lawyers, like every other group, tend to "magnify the importance of what they do," especially when public provision of legal services serves their self-interest and relieves them of the duty to provide pro bono publico services.

"The legal services program," Chapman writes, "may be the most extreme example of the paternalism of the American welfare state: denying the poor what they explicitly lack—money—in favor of the goods and services the government thinks they should have, in the amount and proportion it deems appropriate." If a negative income tax or other program redistributed income to the poor, some of them might purchase legal services with the money, but Chapman surmises that most poor people would not value legal services as highly as food, shelter, clothing, education, or even entertainment. The subsidized availability of lawyers to the poor, he continues, contributes to "the increasingly litigious character of American society and government" by turning "another ordinary piece of social friction into a legal dispute . . . inevitably [reducing] the areas of social life where people are free to interact without the formalities of legal procedures, and without the assistance of lawyers. . . . "

Since every group tends to identify its interest with that of society, lawyers need to struggle with these arguments. Lawyers as a class do benefit in many ways, psychic as well as economic, from the legal services program. And the societal trends toward litigious formalism and social fragmentation are painfully evident. On the other hand, the opportunity to enforce legal rights and responsibilities involves more than efficiency. Poor people who are defendants in civil proceedings do not have a choice—they are faced with the coercive power of the state. Similarly, one who needs to invoke the aid of the courts to enforce a right has no other alternative, if the opposing party refuses to settle. Access to the courts is not just another social or welfare benefit, but an issue that goes to the moral tone of a society and the legitimacy of its institutions. Belief in the priority of the rule of law is a view not confined to lawyers.

The economic arguments in favor of distribution of money rather than legal services assume that substantial amounts of money would be available for distribution and that market imperfections do not prevent rational choices by poor people. Both assumptions are dubious. The current appropriation for the national legal services program amounts to only about $10 per eligible poor person, a sum that will not purchase much in the way of legal services or anything else. And poor people, because they often are less well educated and informed, may lack reliable information concerning their need for legal services and how to get them.

Finally, there is a "free-rider" problem that discourages vindication of small claims when each claimant's stake is a small one. No one has an incentive to expend the amount necessary to litigate a $100 claim, but the pooling effect of legal services confers a benefit on all members of the group by supporting litigation based on the aggregated value of the claims. Society is benefited also because, through the effective operation of the adversary system, legal rules are clarified so that litigation of many future claims becomes unnecessary.

Arguments that the legal services program is paternalistic and lawyer oriented are closely related to the attacks based on economic efficiency. Richard Posner argues in his book *Economic Analysis of the Law* (1977) that providing free legal services to the poor "prevents many poor people from achieving their most efficient pattern of consumption." A poor person, he continues, would prefer $100 in cash rather than $100 in legal services. Given only the latter option, a poor person will accept free legal services unless their value to him is outweighed by the lost time an other inconvenience of dealing with a lawyer. As a result, the demand for free legal services will invariably exceed the available supply, creating a serious rationing problem. Since the value to some recipients will be less than its cost to the taxpayers, Posner contends, the distribution of free services is wasteful.

Posner also argues that free legal services misallocate resources in other respects. The adverse party must increase his legal expenditures or abandon his stake in the dispute. These costs, if a market for services and products is involved, inevitably will be passed on as costs of production. The provision of free legal services also creates opportunities for abuse when particular opponents are singled out for extensive and repetitive litigation. The typical litigant's hunger for justice is moderated by the relationship between what is at stake and the costs of getting it. The appetite for litigation will disappear as legal expenses approach the value of the expected outcome. Because a subsidized litigant does not operate under the same constraint, he might be willing to devote an indefinite amount of legal resources to a case to extort unjust settlements.

A similar problem arises, Posner continues, when the stakes of the parties in a legal controversy are widely disparate. If an injured plaintiff has only $1,000 at stake, while the defendant is worried about the res judicata effect of an adverse decision on related claims of a much larger amount, the latter's willingness to litigate may force a settlement for an amount well below the value of the claim. Institutional litigants, such as insurance companies or government agencies, thus may be able to bring great pressure on individual litigants because they have more at stake.

This ability to whipsaw opponents is present in some situations involving publicly funded legal services. As a factual matter, abuses do not appear to occur with great frequency, partly because legal services programs have such limited resources spread over so many potential cases. An amendment to the Legal Services Corporation Act now protects those inconvenienced by frivolous suits. As amended, the statute provides that a defendant who prevails in an action brought by a legal services program is entitled to an award of reasonble costs and legal fees incurred in defense of the action if the court finds that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the plaintiff maliciously abused legal process.

Arguments concerning the efficiency of the program fail to reflect the benefits provided to poor people when small claims, uneconomical to litigate individually by any claimant, are pursued systematically on behalf of several persons as a class. One of the great advantages of the program is that the substantial benefits accrue even to those who are not represented. To the extent that legal rules and procedures are modified in favor of welfare recipients, consumers, tenants, and other classes, everyone in the class, even those not eligible for free legal services, is benefited.

Although the philosophical and economic objections of critics such as Chapman and Posner raise serious questions, the political opposition to the legal services program is based on its very success and the erroneous perspective that exaggerates its law reform aspect. Although some errors of judgment in initiating cases are inevitable in a highly decentralized program, the virtues of local control (with members of the local bar a majority on its governing board) are great. Legal services lawyers do not waste their own time, or that of the courts, on frivolous cases. The judges who pass on these cases decide approximately 85 percent of them in favor of the program's clients, a remarkably high success rate. The rub about the legal services program may be that it is successful, and its very success creates opposition among interests adversely affected. "Political activism" and similar slogans may be code words for another complaint: "Their just claims have been upheld against us, and we resent it."

The legal services program is commonly viewed by its proponents as well as its critics as a mechanism for redistribution of social wealth to the poor. Grounding the program on such a grandiose objective is a big mistake. First, fundamental changes in economic well-being are the responsibility of the elected representatives of the people, not the independent judiciary. Second, even if this objective were consistent with democratic political theory, economic theory casts doubt on the notion that changing a legal rule will have the effect of redistributing income within the larger community. The redistribution objective is premised on a massive overestimation of litigation's capacity to produce dramatic changes in general economic status. Finally, this objective is not an apt description of the actual behavior of local programs, in which broad law reform efforts have only a limited role.

Global changes such as the large-scale redistribution of income within the community can rarely be accomplished by lawsuits. The power of the fisc—an area from which courts are almost totally excluded—is usually required for changes of this magnitude. Moreover, unforeseen consequences as well as political retaliation often are associated with efforts to do the impossible through court order. For example, studies indicate that the long effort in several states to require landlords to comply with building codes has tended to reduce the supply of low-income housing and to increase its price, leaving a doubt about whether poor people were the victors or the victims.

Although social justice in the sense of major redistribution of wealth is not an achievable and appropriate goal of the national legal services program, publicly funded legal assistance for the poor is an essential buttress of our enduring values because it (1) provides access to justice, (2) ameliorates the bias of law against the unrepresented, and (3) helps individual poor people to help themselves.

The program provides living proof that our ideal of the blindfolded lady with the scales—who treats both rich and poor alike—is not a figment of the imagination. The courts are not merely another social institution; they provide the essential confir-

mation that our legal rights are real, meaningful, and enduring. Political liberty requires access to the courts as much as it requires access to the voting booths. The provision of that access supplies a further reason why citizens may be expected to resort to political or legal processes for orderly change rather than to the violent and disruptive path of self-help. James Kilpatrick put it well in 1980:

"If there is one concept that our nation cherishes more than any other, it is the commitment that is carved in stone at the Supreme Court. The legend reads, 'Equal Justice Under Law' . . . [I]n the nature of things, poor families can accept the realities of being poor; they are not going to have the food, clothing, housing, higher education and materials amenities of the rich. What they cannot accept is the sense of being unfairly ground down by the millwheels of the law.

"We never will achieve the ideal of truly equal justice. Outside the antiseptic realms of mathematics, literal equality does not exist and ought not to exist. But at law, we must keep trying."

The legal services program improves legal rules and procedures so that poor people get a fairer break. Our institutions tend to respond to the interests that are present and represented. Just as regulatory agencies are frequently captured by industry representatives if they are closeted with them for a period of years, so legislatures, courts, and administrative bodies respond to the viewpoints that are presented and the arguments that are made. But they are generally responsive only to those who make their views known.

If, for example, all cases involving borrowers and finance companies were collection suits brought by well-represented creditors against unrepresented debtors, the law in the area inevitably would be skewed toward the creditor interests. Representation of even a small portion of debtors will have a remarkably salutary effect. The most egregiously unfair rules will be eliminated quickly, and intelligent law reform will take place on more closely balanced issues. The development of sound common law precedent depends on the adversary presentation of facts and arguments.

Legal services for the poor offer an effective and efficient remedy. It is an efficient remedy because it is not essential that representation be provided to every tenant, consumer, borrower, or the like in order for beneficient effects to be felt. Provision of legal services for some of the poor changes rules and procedures that benefit everyone in the affected class, even those who are not poor.

There is a tension, of course, between the idea that the legal services program is primarily delivery of routine "nuts-and-bolts" legal services to the poor and the economic arguments that the cases brought have a significance that goes far beyond the needs of the particular litigants. But controls in local programs, reinforced by national policies, can retain a client-oriented focus that prevents staff attorneys from engaging in random forays against windmills of their devising. There are both political reasons (increased respect for the law) and economic reasons (improved efficiency in the dispute-resolution process) that justify provision of services whose cost may often exceed what a middle-class litigant would pay for the services.

Finally, in a society that values the dignity of the individual, the role of legal services in helping the poor to help themselves must remain the basic justification. A divorce may allow the reshaping of harmonious family relations; a bankruptcy may be the prelude to a new economic beginning; or enforcement of housing or welfare rights may provide the stability necessary before other changes can occur. The legal services program helps bring justice to individuals who are hurt, troubled, unfortunate, and dispossessed.

Can we save the world by providing free legal services to the poor? Surely not, because history tells us that the use of litigation, backed by the coercive power of the state, will not produce heaven on earth. And there will be abuses here as in the exercise of all power over others. But we can bring a little light into the lives of others—and some self-respect into our own—if we devote at least a portion of our tax dollars and professional time to what is ultimately important; improving the lot of others.

LEGAL SERVICES FOR THE POOR: THREE CURRENT CONTROVERSIES

I

The state and local governments should run their own legal services programs.

PRO

Civil legal assistance for the poor may be viewed either as part of the administration of justice or as a social service function. In either case, it should be carried out by state and local governments, which have the responsibility for these matters in our federal system. Provision of defense attorneys for the poor in criminal cases is a responsibility of the state; and each state makes a decision as to the manner in which it is done. Some localities opt for a public defender (staff attorney) system and others use appointed counsel from the private bar. Compensation and other arrangements vary from state to state. A proper respect for federalism requires that legal aid be administered on the same basis.

CON

If we were writing on a clear slate and civil legal assistance for the poor was a constitutional requirement, there would be much to be said for leaving implementation to the states. But we do not write on a clear slate, and civil legal assistance for the poor is not recognized as a federal constitutional right. Prior to 1965 when the national legal services program started under O.E.O auspices, legal aid to the poor was provided to only a few through volunteer programs in some major cities. As in the field of welfare generally, the federal government took the lead in developing the program and establishing a minimum national standard of access. Perhaps the states should have done the job, but they did not.

Proposals to shift the responsibility to the states at this time often conceal a desire to eliminate civil legal assistance entirely, since the states are strapped for funds and are not in a position to embark on new social service programs. The analogy to the criminal defense field is not persuasive because in that situation the states are responding to a federal constitutional requirement that indigent defendants be provided adequate counsel. State support did not come about by choice but as a result of federal requirement.

Several other problems lurk behind the Reagan administration's suggestion that legal services be included in the social service functions eligible for funding from block grants to be transferred from the federal government to the states. First, no funds allocated to legal services are included in the block grant amount. Second, even as to programs that are included, the total amount in the block grant is reduced by 25 per cent. Third, costs of administration are likely to be higher for 50 state programs than for the current federal program, and poor people will suffer because of the uneven response that would likely result. Finally, since claims against state and local agencies are an important aspect of representing poor people, there is great danger of political interference with the program if it is administered by the same state officials who are frequent defendants. The fox should not be put in charge of the chicken coop.

II

The private bar, as part of its professional responsibility, should represent the needy in civil matters.

PRO

There are more than 500,000 lawyers in the United States. Each of them has a responsibility, as a lawyer, to assist the needy in obtaining legal help. If each lawyer handled two poor persons per year without charge, the same number of poor would be assisted as under the current federal program costing about $240 million.

CON

Lawyers do have an obligation to provide those who cannot afford legal services with the help they need. But it is fatuous to think that the bar, without the aid of an effective legal services organization, can do the job by itself.

First, the need is so great that both public and private programs are needed. The current national program serves more than a million poor people a year, but it turns away two or three times as many as it serves. And still more would want service if they thought is was available. About 15 per cent of the need for legal services for the 30 million people below the poverty line was met last year by the national program. The help of private lawyers is absolutely essential to meet the unserved need of the poor—to say nothing of the near poor, who are often not in a position to pay for lawyers.

Second, a well-organized legal aid program is necessary to assist private lawyers in serving the poor. Most lawyers deal with the rich and powerful in our society; they have little contact with poor people and their legal problems. This is especially true of those in the large corporate law firms, who can afford to be generous in terms of public service but who lack contact with poor clients or the experience that would enable them to handle their problems effectively. Legal issues relating to a corporate debenture are a far cry from the child-custody dispute, welfare claim, or housing-eviction problem that are the grist of poor people's legal needs. Their problems are not more or less complicated; they are just different. Cultural, ethnic, and racial barriers also separate most middle-class legal professionals from poor clients. A cleaning lady at home or an elevator operator at work constitutes the range of many lawyers' associations with poor people. For these reasons, the pro bono publico efforts of the private bar require an organizational framework such as the local legal services program in order to bring private lawyers together with poor clients and to use these lawyers' skills in the legal disputes in which their help will be effective.

Finally, lawyers as a profession cannot be expected to bear the entire burden of a basic human service. Although the professional obligation of lawyers is large, it is unfair to tax them with the full cost. Farmers do not expect to bear the cost of the food-stamp program; businessmen do not give away their products or services to the poor; doctors do not serve all poor patients free of charge. Lawyers should not be expected to contribute one fourth or more of their time to this public program. Many can and will contribute substantial time, especially if a legal services program provides a convenient vehicle for their doing so, but the fulfillment of this moral obligation cannot be expected to meet the dimensions of the problem.

III

The legal services program should be restructured to make better use of private attorneys and decrease the ideological content of the current program.

PRO

The current staff attorney system fosters a "law reform" focus that sometimes injects a "political" component into the program. Routine legal services for poor people are one thing, but taxpayers need not and should not be asked to fund activities that are designed to organize poor groups for political action, initiate highly publicized suits to mobilize pressure for social change, or invoke the aid of the courts for efforts to redistribute wealth within the community. The young, liberal lawyers who run the local legal services programs decide how they will spend their own time. There are grounds for suspecting that their agenda is one of their own making, not that of the eligible poor who need legal services. A judicare system—in which poor people would select their own lawyers, who would be reimbursed by the government—would avoid these difficulties.

CON

First, the statement assumes that a law reform focus characterizes the current program and that it is undesirable that even modest attention be given to larger-scale problems facing groups of poor people. These questions are discussed in detail in the foregoing article.

Second, protections against the use of taxpayers' funds for political activity, public demonstrations, grass-roots lobbying, and the like have been part of the national program since the Legal Services Corporation was established in 1975. Pending legislation would strengthen these protections and provide the corporation with a wide range of sanctions against abuses. Other than the fears and unverified anecdotes of those who oppose the program, it has not been demonstrated that more than occasional and isolated instances of poor judgment—inevitable in any large program—have occurred during the first six years of operation.

Third, more attention is and should be given to judicare alternatives and the involvement of private lawyers. Ten per cent of each program's fund must now be spent on measures involving private lawyers, and it is likely, if the program survives, that its judicare component will be expanded. It is easier, however, to add a judicare or private bar component to a staff attorney program than to carry out a program based exclusively on judicare. An organization that screens clients for eligibility is essential, in any case. And some legal problems of the poor require the attention of specialists in areas in which there are complex government regulations. The larger-scale lawsuits mounted by staff attorneys bring clarity to the law and sometimes eliminate the necessity for thousands of discrete, individual controversies. Government and more affluent citizens as well as poor people benefit as a result of zealous and efficient lawyering.

Finally, a whole judicare system would probably be much more costly than the current staff attorney system. The creation of a nationwide program quickly during 1975–80 led to a heavy reliance on the staff attorney approach. We are now in a position to work toward the most effective mix of strategies. This effort calls for a rational development of the current program, not its dismantling.●

TAXATION OF MULTINATIONAL CORPORATIONS

● Mr. HUDDLESTON. Mr. President, I am a sponsor, along with Senators MATHIAS, FORD, TOWER, and BENTSEN of S. 655 which would provide uniformity in the manner in which multinational corporations are taxed. The Federal Government has agreed in over 40 income tax treaties to use the arm's length method of corporate tax assessment and not to use worldwide combined reporting. In spite of those treaties a few States continue to use that system to reach outside of their borders and the borders of the United States to tax income to which they are not entitled.

Not only is this practice burdensome to U.S. corporations with overseas affiliates, but it clearly provides serious international irritation among our trading partners. The European Economic Community has filed two demarches in support of S. 655 and its House of Representatives counterpart, H.R. 1983. The treaties with the United Kingdom, France, and Canada all contain notes clearly expressing the need to solve the problems caused by a few States using worldwide combined reporting.

On June 29, 1982, the Supreme Court issued its opinions in two cases regarding taxation of dividend income received by U.S. corporations from their overseas affiliates. *ASARCO Inc.* v. *Idaho State Tax Commission*, No. 80-2015; *F. W. Woolworth Co.* v. *Taxation and Revenue Department of New Mexico*, No. 80-1745. I request that copies of the syllabus of each of those decisions be included in the report of my remarks. It should be noted that the decisions establish the general principle that a State may not tax value earned outside its borders and that the broad inquiry is "whether the taxing power exerted by the State bears fiscal relation to protection, opportunities, and benefits given by the State."

Still to be decided by the Court during its next term are *Chicago Bridge & Iron Co.* v. *Caterpillar Tractor Co.* (No. 81-349) and *Container Corp. of America* v. *California Franchise Tax Board* (No. 81-523). They will provide the Court the opportunity to reexamine the constitutionality of worldwide combined reporting. A rehearing of Chicago Bridge & Iron was ordered by the Court after oral arguments were heard on April 19, 1982. The Solicitor General made it quite clear in those arguments and in the amicus curiae brief which he filed, that worldwide combined reporting is unconstitutional.

While I am confident that the Solicitor General will continue to be active in the progress of that case, I trust that Secretary of the Treasury Donald T. Regan and International Tax Counsel Alan Granwell recognize that the Court's Asarco and Woolworth decisions strongly indicate the necessity that the Solicitor General not only continue that participation, but express the position of the Federal Government in the Container Corp. of America case by filing an amicus curiae brief and participating in oral argument.

Thank you.

The syllabuses follow:

[Supreme Court of the United States]

ASARCO INC. VERSUS IDAHO STATE TAX COMMISSION

APPEAL FROM THE SUPREME COURT OF IDAHO

(No. 80-2015. Argued April 19, 1982—Decided June 29, 1982)

Held: The State of Idaho may not constitutionally include within the taxable income of appellant nondomiciliary parent corporation doing some business (primarily silver mining) in the State a portion of intangible income (dividends, interest payments, and capital gains from the sale of stock) that appellant received from subsidiary corporations having no other connection with the State. Pp. 8–21.

(a) As a general principle, a State may not tax value earned outside its borders. "[T]he linchpin of apportionability in the field of state income taxation is the unitary-business principle." *Mobile Oil Corp.* v. *Commissioner of Taxes of Vermont*, 445 U.S. 425, 439; *Exxon Corp.* v. *Wisconsin Dept. of Revenue*, 447 U.S. 207, 223. Pp. 8–12.

(b) Here, based on the findings in the state trial court and the undisputed facts, appellant succeeded in proving that no unitary business relationship existed between appellant and its subsidiaries. Pp. 13–17.

(c) To have, as Idaho proposes, corporate *purpose* define unitary business—i.e., to consider intangible income as part of a unitary business if the intangible property (shares of stock) is "acquired, managed or disposed of for purposes relating or contributing to the taxpayer's business"—would destroy the concept of unitary business. Such a definition, which would permit nondomiciliary States to apportion and tax dividends "[w]here the business activities of the dividend payor have nothing to do with the activities of the recipient in the taxing State," *Mobil Oil Corp., supra*, at 442, cannot be accepted consistently with recognized due process standards. While the dividend-paying subsidiaries in this case "ad[d] to the riches" of appellant, *Wallace* v. *Hines*, 253 U.S. 66, 70 (1920), they are "discrete business enterprises" that in "any business or economic sense" have "nothing to do with the activities" of appellant in Idaho. *Mobil*

Oil Corp., supra, at 439-442. Therefore, there is no "rational relationship between [appellant's dividend] income attributed to the State and the intrastate values of the enterprise." *Mobil Oil Corp., supra,* at 437. The Due Process Clause bars Idaho's effort to levy upon income that is not properly within the reach of its taxing power. Pp. 17-20.

(d) Under the same unitary-business standard applied to the dividend income in question, Idaho's attempt to tax the interest and capital gains income derived from its subsidiaries also violates the Due Process Clause. Pp. 20-21.—102 Idaho 38, 624 P. 2d 946, reversed.

Powell, J., delivered the opinion of the Court, in which Burger, C. J., and Brennan, White, Marshall, and Stevens, JJ., joined. Burger, C. J., filed a concurring opinion. O'Connor, J., filed a dissenting opinion, in which Blackmun and Rehnquist, JJ., joined.

[Supreme Court of the United States]

F. W. WOOLWORTH CO. VERSUS TAXATION AND REVENUE DEPARTMENT OF NEW MEXICO

APPEAL FROM THE SUPREME COURT OF NEW MEXICO

(No. 80-1745. Argued April 19, 1982—Decided June 29, 1982)

Appellant's principal place of business and commercial domicile are in New York, but it engages in chain store retailing throughout the United States. Under its income tax laws, New Mexico distinguishes between "business" income, which it apportions between it and other States, and "nonbusiness" income, which it generally allocates to a single State on the basis of commercial domicile. Appellant reported its dividend income from four of its foreign subsidiaries, which engage in chain store retailing in foreign countries, as "nonbusiness" income, none of which was to be allocated to New Mexico. Similarly, appellant did not report as New Mexico "business" income a sum, commonly known as "gross-up," that it never actually received from its foreign subsidiaries but that the Federal Government (for purposes of calculating appellant's federal foreign tax credit) *deemed* it to have received. On audit, appellee determined that appellant should have included in its apportionable New Mexico income both the dividends and the gross-up figure. Appellant's protest was denied, but appellee's decision was reversed by the New Mexico Court of Appeals. However, the New Mexico Supreme Court in turn reversed, holding that both the dividends and the gross-up figure were apportionable New Mexico income.

Held:

1. New Mexico's tax on a portion of the dividends received by appellant from its foreign subsidiaries fails to meet established due process standards. Pp. 7-17.

(a) The linchpin of apportionability for state income taxation of an interstate enterprise is the "unitary-business principle." Appellant—as owner of all of the stock of three of its subsidiaries and a majority interest in the fourth—potentially has the authority to operate these companies as integrated divisions of a single unitary business. But the *potential* to operate a company as part of a unitary business is not dispositive when, as here, the dividend income from the subsidiaries in fact is derived from unrelated business activity of the subsidiaries, each of which operates a discrete business enterprise. *ASARCO, Inc.* v. *Idaho State Tax Comm'n, ante.* p.——; *Mobile Oil Corp.* v. *Commissioner of Taxes of Vermont,* 445 U.S. 425. Pp. 7-8.

(b) For due process purposes, the income attributed to a State must be rationally related to values connected with the taxing State. This limitation is not satisfied merely because the nondomiciliary parent corporation derives some economic benefit from its ownership of stock in another corporation. Pp. 8-9.

(c) None of the factors relevant to a State's right to tax dividends from foreign subsidiaries exists in this case. The record shows that appellant's and its subsidiaries' operations—such as store site selection, advertising, accounting, purchasing, warehousing, and personnel training—were not functionally integrated. And except for the type of occasional oversight—with respect to capital structure, major debt, and dividends—that any parent gives to an investment in a subsidiary, there was little or no integration of business activities or centralization of management. Thus, the subsidiaries were not a part of a "unitary business." *Exxon Corp.* v. *Wisconsin Dept. of Revenue,* 447 U.S. 207, distinguished. Pp. 9-17.

2. New Mexico's efforts to tax the "gross-up" income also contravenes the Due Process Clause. The "fictitious" gross-up figure is treated for federal foreign tax credit purposes as a dividend in the same manner as a dividend actually received by the domestic corporation from a foreign corporation. In this case the foreign tax credit arose from the taxation by foreign nations of appellant's foreign subsidiaries that had no unitary business relationship with New Mexico. Pp. 17-18—95 N.M. 519, 624 P. 2d 28, reversed.

Powell, J., delivered the opinion of the Court in which Burger, C. J., and Brennan, White, Marshall, and Stevens, JJ., joined. Burger, C. J., filed a concurring opinion (see No. 80-2015). O'Conner, J., filed a dissenting opinion, in which Blackmun and Rehnquist, JJ., joined.●

MEMORIES IN RED AND GREEN

● Mr. GOLDWATER. Mr. President, one of the most tragic and traumatic experiences in our national history was the Vietnam war. There are, and will continue to be, many people of honest and sincere convictions who will argue the pros and cons of that war for years to come. Too often, in the great discussions of strategy and tactics, we tend to forget the human element that is such a vital element of any military machine. Whether we discuss the Army, the Navy, the Air Force, or the Marines, we soon get bogged down in the questions of use and deployment of various weapons systems. The human element is treated as a necessary adjunct to make these systems operate.

One of the great tragedies that arose out of Vietnam was the overwhelming sense of defeat. Since this had never happened to us before, and because the United States insists upon winners in all walks of life, the GI's who returned from Vietnam were treated more differently than any other in our history.

Mr. President, in a recent issue of the Arizona magazine supplement to the Arizona Republic, Joe Kirkup wrote a very moving tribute to the men he fought and died with in Vietnam. Joe was an artillery forward observer with an infantry unit in that strange war. In that job, he saw the devastation and destruction on a human and personal basis that is difficult for anyone not being there to understand.

Mr. President, I ask that Joe's article, "Memories in Red and Green," be printed in the CONGRESSIONAL RECORD, because I, for one, will never forget the ultimate sacrifice that so many of Joe's comrades made.

The article follows:

MEMORIES IN RED AND GREEN

(By Joe Kirkup)

I always wanted to tell this story, always. I wanted to tell my mother, but that would have been cruel. I wanted to tell my girl, but she had already given up on me. I tried to tell my friends, but they'd interrupt me and say, "Forget that crap, Joe, you're home now."

I always wanted to tell it, and needed to tell it, and knew that if I could I would feel just a little better about what I had done. But nobody wanted to hear about a rotten war, in a rotten jungle, fought for the rottenest reason—none.

All I could do was tell it to myself, over and over in dreams. I had to gag on this story for 14 years until it has become a part of me like the shrapnel in my arm and the malaria in my blood. This is an ugly story and when it touches you it makes you dirty, but I've kept it for 14 years and I'd like to tell it now, if someone wants to listen.

I was an artillery FO (forward observer), attached to an infantry unit, "A" Company. We were in base camp for a few days of rest, which meant cold showers from aircraft wing tanks supported on wooden beams, morning eulogies for fallen comrades by a chaplain who didn't even know who they were, and whisky.

I was cleaning my gun; I had smashed it against a tree, then thrown it in the mud after Nickerson and Smith got killed. It turned out to be sturdier than it was reliable.

One of the infantry squad leaders approached me with an apprehensive look and a bottle of Old Grandad. He had a problem.

"My squad's got an ambush tonight, Kirkup."

"It's not my turn, take a mortar FO."

"They don't know what they're doing. If you come along we'll let you sleep."

On an 11-man ambush patrol, if you got in trouble at night, artillery was the only way out. I knew what I was doing and he knew I wouldn't say no.

About two hours before dark we left base camp, 10 infantrymen, one artillery FO, eight automatic rifles, one 30-caliber machine gun, about 50 hand grenades, four claymore mines, two grenade launchers, 11 bayonets and roughly 400 pounds of ammunition. We were on our way to commit homicide or suicide, depending on our luck.

We set up our ambush at the intersection of a dirt road in the forest. We dug foxholes, set out the claymore mines, linked the machine gun belts together and squeezed the ends of our hand grenade pins so they'd be easy to pull.

Dusk turned to darkness and darkness gave way to brilliant moonlight. The road ahead looked like a pearlescent strip through the black jungle.

As I sat there in silence I began to contemplate the absurdity of my circumstance. I was half a world away from home in a dark forest with a loaded gun. I was waiting silently for a group of Oriental youths to walk past so I could unleash upon them the wrath of Satan, leaving their mangled and bloody and dead bodies in the warmth and the moonlight.

I shook my head and tried to develop a logical rationale for the shrieking, screaming blood bath that might occur before morning. After failing at that I conjured up a vision of my friends Nickerson and Smith, dead in the morning sun. I was hoping for a flood of anger, but all I got was sadness and confusion.

If I were lucky, no one would come by and tomorrow I'd be able to regenerate my taste for coldblooded, point-blank killing.

I wasn't. We could hear them laughing and talking as they came. I reminded myself they would kill me if they could, then switched my safety selector to full automatic and wiped the sweat from my trigger hand.

Three young soldiers, rifles slung across their chests strolled happily past us, one pushed his buddy in jest, then we killed them.

In seconds it was over, the moonlight and crickets were ripped apart leaving the smell of cordite and ringing in my ears. My heart pounded as I stepped from the brush and looked at the bodies in the road.

The one near me twitched and gurgled as I watched his blood form a stain, still growing, on the moonlit ground. Someone tugged at my arm and walked away.

I just knew that when I got home people would reassure me that I did the right thing and that there was no other choice and that I had taken a young life like my own for a cause that was worthy of his existence and my sanity.

But no one offered any reassurance. All they said was, "Forget that crap, Joe, you're home now."

I had heard a really sad bit of news this morning, that half as many Vietnam vets have committed suicide as were killed in the war. It means that many thousand of us couldn't get used to being blind, or couldn't rationalize our paraplegia, or just never learned to live with the ghosts.

The suicide rate among 'Nam vets is 23 percent higher than for Americans in general. That statistic alone is an appalling commentary on the mental state of the afterbirth of the liberal revolution. What makes this gruesome piece of knowledge even more shocking is that only about one Vietnam vet in 10 was involved in combat and it is surely from that physically and mentally mutilated 10 percent that the bulk of the self-destruction has come.

I was a lucky one. Every morning when the first light of day filters in my window I take a few silent moments to appreciate the fact that I can see and walk and hug my old mongrel with both arms. All I have to deal with is the ghosts, and if they haven't killed me by now I guess I"ll make it.

Some of the ghosts have names. Joe Knowl was a sandy-haired, bright-eyed hell raiser from Rhode Island. His wife had a baby while we were on the troop ship to 'Nam. I guess the kid is about 14 now, the same age as her father's ghost.

"A" Company was stopped on a dirt road in the Michelin rubber plantation, west of Saigon. We were looking up the road as a group of Viet Cong crossed it about 800 meters away.

There was no way to catch the VC on foot so the responsibility for taking their lives fell upon me and the awesome artillery power at my command.

I took out my map and quickly estimated the coordinates of the enemy unit. Within a minute I had initiated a fire mission from a battery of huge 155-millimeter howitzers about 10,000 meters away.

The first volley exploded on the road where the VC had crossed, the second hit about 400 meters closer to us, and the third ripped the heart right out of "A" Company's forward platoon and right out of Joe Knowl's chest.

I called for a cease fire and scrambled toward the front of the unit amid the screams and the smoke and the broken rubber trees.

We found Knowl on the ground on his side like a dog that had been hit by a truck. He was covered with white powder and dust, there was a huge hole through the center of his chest from one side to the other. The shrapnel had smashed his rifle and carried parts of it into his body. I am still shaken by the image of his red blood against the green foliage.

I looked down at his face, a face that had always worn a smile. His eyes and ears were leaking blood and his upper teeth protruded over his lower lip as death had taken him in the midst of agony.

I have seen that face at least once a day for 14 years. I have seen his broken body in dreams where the face was replaced by those of friends and family. I have wished a thousand times that I hadn't called for the artillery or the gunners hadn't been so stoned that they failed to recheck their sights. I wish that Joe Knowl was alive, but he's not, he's only a ghost, my ghost.

The faces of death that live in my dreams and in my memories are mostly of my friends, but not all.

For countless agonizing days, "A" Company had moved slowly through the thick jungle. An hour of chopping and sweating and swearing would net about 400 meters of gained ground. My right arm was a mess of cuts from dragging my rifle through the thorny brush and the red lines of blood poisoning crept slowly from my infected hands toward my elbows. Dark patches of fresh blood stained the legs of my fatigues as it oozed from my scrotum and inner thighs, which had been rubbed raw from my sweat-caked trousers.

Finally the company stopped and the C.O. ordered two of the infantrymen to check out a dirt road that, according to his map, was nearby.

About 100 meters away the two sweaty, bloody, unshaven ground-pounders found the road and crept up to it cautiously from the jungle. As they peered from the brush they saw three VC carrying a Browning Automatic Rifle and walking toward them in the center of the dirt path. They waited for the Viet Cong to pass, then stepped into the road behind them and opened fire.

One of the enemy soldiers died in the road, the second made it into the rubber plantation on the other side and the third ran away wounded.

After an hour of searching we found him. He was sitting on the ground with his back against a rubber tree. His abdomen was ruptured and the vicious Vietnamese red ants had already found their way onto his entrails.

We approached him warily with our rifles set on full automatic. He was conscious and obviously terrified. He was also obviously dying.

We argued briefly about what to do. We couldn't take him with us and if we called for a helicopter it would give away our position.

The Cuban second lieutenant next to me (he was a mercenary) said that the man would die in any case and that we should kill him and keep moving.

No one agreed or disagreed as the lieutenant slowly and almost theatrically raised the muzzle of his M16, savoring the effect it had on the terrified soldier. It came to rest at a point inches from the bridge of his nose.

Those horror-struck, brown Oriental eyes turned and looked into mine. They were pleading for me to do something. I didn't.

A rapid burst from the automatic rifle exploded the man's head and left those pleading eyes pointed grotesquely in different directions. Bits of bloody flesh stuck to my shirt and my whiskers. It feels as if they are still there.

To some people, those of us who wasted our time and our lives in Southeast Asia will always be murderers. A half-a-million infantrymen will be remembered for half-a-dozen William Calleys.

There are very few heroes from an Army that didn't want to go to a place that no one cared about, to fight a war they wouldn't be allowed to win anyway.

But even in the midst of the butchery and the senseless death there were moments of honor and compassion.

"A" and "C" companies had marched from noon one day till 5:30 the next morning. All through the moonlit night the exhausted GIs had plodded steadily along the narrow Vietnamese roads in order to surprise a VC tax collector unit as it left a tiny hamlet at the break of day.

The trouble began as we approached two houses about 100 meters apart near the village. Heavy automatic weapons fire erupted from the closest house. We scrambled for cover.

Two helicopter gunships were called in for support as the machine gun bullets whined over our heads and ripped the bark off nearby trees. As usual, I was terrified.

Whenever we entered a village we were ordered to separate the good guys from the bad guys. It wasn't easy and any mistake could be fatal. The people in the house near us were obviously the bad guys.

As the gunships made their approach we flattened out on the ground and waited for the results. In microseconds a fusillade of rockets left the pods on the lead gunship and ripped into the tiny farmhouse, the wrong farmhouse.

There were shouts and screams and people ran out of the burning structure in panic. Most were children, some were being dragged or carried by bloody women in a senseless dance of horror and agony.

The VC in the other house darted toward the tree line and disappeared as the second gunship moved in for the kill.

A woman ran toward us with a small girl in her arms. One of the child's legs was completely gone and her eyes were wide in disbelief. Everywhere, it seemed, were bloody children and screaming Vietnamese women. I felt helpless.

Almost immediately a flight of six helicopters landed in a field nearby and our unit was ordered aboard. Someone said what we all were thinking.

"What about the kids?"

We were told that more choppers were on the way to pick them up and that we had to move out, now.

I don't know who said it, but he said it for us all.

"No way man, not till they take those kids."

The Cuban lieutenant pointed his rifle at a man near me.

"Move you son of a bitch," he said through clenched teeth.

"Sorry about that sir," the young soldier said to the black flash suppressor at the end of the officer's M16, "but I ain't going till they go."

The officers gave up, and we put the Vietnamese on the choppers. The girl with one leg was put on first with other badly hurt children, her mother tried to hold on to the skid as the helicopter took off. Someone found the girl's leg and we sent it on the next chopper wrapped in a plastic poncho liner. I'm sure it was too late, too late for her and too late for us. I was sick that day, but I was proud of my friends.

Not everyone that I remember died, not completely anyway. Some almost died and recovered and others died just a little and stayed that way. I think I belong to the latter and a rifleman named John Watson to the former.

In the spring of 1967, 90 or so teenagers and young adults tripped and struggled and cursed their way through an endless patch of Asian jungle somewhere between what is now Ho Chi Minh City and the Cambodian border. "A" Company was on the move.

The jungle floor was a living carpet of tangled vines and slippery moss. After trudging for hours with 50 pounds of C-rations and ammunition jerking at the shoulder straps of my web gear, I had given up trying to walk gingerly and resigned myself to stumbling along numbly as each step was interrupted by the infuriating vines.

My earlier daydreams of naked women and fast cars had given way to a singular preoccupation with the vivid image of a tall frosted glass of clear water. I knew it was too late for us to rendezvous with a resupply helicopter, which meant no mail and no water, in that order.

I hadn't eaten since early morning and finally the gnawing hunger chewed its way through the walls of my consciousness. As we moved, I opened a can of "Beefsteak with Potatoes and Gravy." The first inch of substance at the top of the can was solid, cold, white grease

Several of the vicious red ants that dropped on us constantly fell into my dinner, but at that point I was beyond caring. I finished eating and dropped the can quietly in the brush. Throwing the metallic object into the jungle might have produced a wild reaction from my jittery comrades.

A short time after sunset, we stopped and prepared our perimeter for the night. The ground was dry, hardened clay. My head throbbed as I tried to dig a foxhole with the tiny entrenching tool.

For reasons unknown to me, an ambush patrol was sent out farther in the direction we had been traveling. As an artillery forward observer, I was almost always required to accompany ambush squads. This one was an exception.

After the patrol had left and the sound of digging had died away, we sat smoking cigarettes and writing letters in the ailing light. The distant sound of rifle fire brought the brutal reality of our circumstance back into painfully sharp focus. We waited in absolute silence to receive word from the patrol.

Finally it came, a sniper had fired at the squad and hit one soldier in the lower back. He was bleeding heavily and in great pain. I soon learned it was the quiet young private named John Watson.

There were no landing zones nearby, which precluded even the thought of a helicopter rescue.

John Watson would not survive till morning, his only chance was a plan to carry him 2,000 meters in the pitch black jungle to a road where he would be picked up by an APC (armored personnel carrier) manned by some extremely brave or blatantly suicidal cavalrymen.

The only catch was that the infantrymen were not accustomed to navigating in the jungle at night. If they became lost it would be necessary to guide them with an air-burst artillery round timed to explode when it reached a prearranged set of coordinates.

To use this method of self location successfully, they needed someone who spoke the language of artillery control and was familiar with the logic of the procedure. I was practically, if not happily suited for the job.

As I and one infantryman tried to hurriedly work our way through the near dark jungle to the waiting ambush patrol, we couldn't help but remember that somewhere nearby was a VC sniper on a hot streak.

By the time we arrived, Watson had been placed on a stretcher fashioned from plastic ponchos and a pair of debranched sapplings. It was roughly 8 p.m. as we headed for our midnight rendezvous with the APC.

Basic wartime fatigue became physical exhaustion which finally gave way to a feeling of zombie-like automatism as we chopped and thrashed and struggled to carry the wounded man on the litter which was now sloshing with youthful blood.

Battered, sleep-starved young soldiers took turns cutting a path in the thick jungle. Now and again an exhausted stretcher-bearer would fall in a hole or trip on a vine. When this happened the wounded body of John Watson would drop agonizingly on the sharp, newly cut stalks. Watson would cover his mouth to suppress the scream then say, "That's all right, I'm okay."

At one point, as I was manning the rear of the litter, Watson said, "I really appreciate you guys doing this. Why don't you take a rest? I'll be okay, really." For him to say that as his life's blood filled the plastic stretcher in a hostile jungle 10,000 miles from home is still completely beyond my comprehension.

By midnight Watson had been given all the morphine that was available. We still had 1,000 meters to go and no one knew if the crew of the APC would dare to wait, unprotected, for our arrival.

They did. Some time just before 3 a.m., we came upon a narrow dirt road in the jungle and within minutes we had found the box-shaped track vehicle and the barely conscious Watson was loaded aboard.

A week or so later we heard that Watson had nearly died from the bone-jarring ride to base camp in the APC, and then later, like the ending to a TV melodrama, a letter came from a hospital in Japan. "I'm all right," it said, and, "Thanks again, John Watson."

Thank you, John Watson, for not dying and for showing me what courage really is.

Maybe it is the knowledge that he survived that helps me survive, and in writing of my survival I may help others of us who lost the war, but just need to win this one last battle, the battle to accept and to live with the fact that we will never be looked upon with pride as were veterans of the "real" wars. We will always be remembered as that half generation of fools turned drug-crazed killers of children who lost a nonwar and then had the audacity to come home.●

HENRY CABOT LODGE'S PERSONAL ASSESSMENT OF THE ROOSEVELT YEARS

● Mr. KENNEDY. Mr. President, this year is the 100th anniversary of the birthday of one of the 20th century's greatest American Presidents, Franklin Delano Roosevelt. To commemorate this great man and his contribution to world history, the Franklin Delano Roosevelt Centennial Commission, ably chaired by Arthur Schlesinger, Jr., recently held a series of meetings at the United Nations, which I had the honor to address. One of America's leading statesmen and greatest Senators, Henry Cabot Lodge, was also present to share his personal views of the Roosevelt era.

Henry Cabot Lodge, former Ambassador to the United Nations and Germany, head of the U.S. delegation to the Vietnam peace talks, and U.S. Senator for Massachusetts, eloquently depicts the vision and courage that President Roosevelt demonstrated in creating the United Nations:

As World War II drew to a close, Roosevelt, with characteristic vision, knew that the building of peace would require a global organization.

History has been well served by the United Nations, and in the nuclear age it is incumbent upon us to use international organizations as effectively as possible to press for arms control and disarmament. As Ambassador Lodge puts it,

After all is said and done, the more dangerous the world gets, the more we need the U.N. We should not shrink from trying new devices—however bold—which offer even a ray of hope that they can protect us from nuclear war

Mr. President, I ask that Ambassador Lodge's thoughtful and compelling remarks be inserted at this point in the RECORD:

The remarks follow:

PERSONAL ASSESSMENT OF THE ROOSEVELT YEARS

(By Henry Cabot Lodge)

Franklin Roosevelt may well emerge as the 20th Century's most influential president. He permanently changed the American conception of the role of government; he led our nation irreversibly out of isolation into the mainstream of world affairs; and his conduct of the office of the presidency has served as a model for many who succeeded him.

When FDR came to office, the United States was in the grip of the worst depression in our history. One out of four Americans was looking for work. The banking system was in a shambles. There was fear and mistrust. Some thought violent revolution was imminent. President Hoover's advice to his successor was to balance the budget.

Roosevelt quickly understood that more was necessary. He did not know exactly what "more" was, but he had the courage to experiment, and no one can recall those days in Washington without being struck by the sheer excitement—sometimes antagonism—induced by the avalanche of proposals and ideas coming from the White House.

Looking back on this activity today, one is struck both by how little was done and yet also by how much. Although government spending increased modestly in order to alleviate the burdens on the poor, it required the huge outlays of World War II to pull the country out of depression. The whole idea of what the role of government is in this country was fundamentally changed.

Before Roosevelt the task of government had been primarily to protect body and property and to safeguard the national defense. After Roosevelt our concept of government was greatly expanded to include defining the nation's goals and priorities; maintaining a healthy economy; guaranteeing a person's basic rights of income, health, housing, and work; assuring workers the right to organize unions and to bargain collectively; and controlling the power of business as it had never been controlled before.

FDR did not cause this concept of government to take root in America for ideological reasons, he was a consummate pragmatist. He saw a disintegrated country and knew something had to be done. "I see millions denied education, recreation, and the opportunity to better their lot and the lot of their children," he said in his second inaugural. Government had to act to change that situation. A pragmatic causist with deep compassion, Roosevelt changed the role of government in ways which he himself probably did not fully understand. We are even today living with the consequences of that change and still experimenting with what Roosevelt began.

Another great achievement of FDR's was the skill and courage with which he prepared public opinion in the United States for what he, before many, saw as the inevitability of World War II. As a senator in the late 1930's, I was acutely aware of the reluctance of the great majority of the American people to allow the United States to be drawn into the struggle against Hitler. German aggression was perceived as a European problem. Roosevelt saw his task—unpopular though it might be—to educate the people about the inevitability of U.S. involvement. In this, as in so much else, he showed mastery of timing. "Some people never understand", he said, "that you must wait even for the best of things until the right time comes." His lend-lease agreement with Britain to assist that nation was an act of foresight and courage masterfully timed.

As World War II drew to a close, Roosevelt, with characteristic vision, knew that the building of peace would require a global organization. Although many Americans were eager to withdraw into isolation and savor the fruits of victory, he had the courage and the strength to push forward with plans for the Dumbarton Oaks Conference in 1944 where the early planning for what was to become the United Nations took place. His health prevented him from going to the San Francisco meeting later that year where the UN charter was adopted. He told reporters: "I wish I could be there if only just to say howdy do."

After all is said and done, the more dangerous the world gets, the more we need the U.N. We should not shrink from trying new devices—however bold—which offer even a ray of hope that they can protect us from nuclear war. The United Nations, with all its faults and weaknesses, is the only world organization which is actually operating as such. It can still play a crucial role. The U.N. can provide a respectable alibi for settling disputes, because it enables governments to bypass considerations of pride and prestige.

As we advance ever deeper into the nuclear age, will we not prize more than ever our membership in the only organization operating, however imperfectly, on a completely global basis? Regional organizations, such as NATO and the Organization of American States, have definite and important places and, of course, we count on bilateral diplomacy for many things. But, for protecting ourselves against nuclear war, there appears to be nothing which can take the place of the U.N. And the continuous presence in New York of expert persons representing virtually all the nations of the world can save precious time and, perhaps, lives.

The end of this speech reminds us that while the U.N. works largely through agencies which have a somewhat mechanical appearance, its basic aims are the individual people scattered around the world. If the desires and needs of these people are being carried out the U.N. is succeeding.

The U.N. is above all a place where the representatives of nations can gather. It possesses no catalogue of victories. But its contribution is unique. It tells us about the past and points the way to the future. I am certain that Roosevelt would have been proud of the United Nations—with all its troubles.●

THE U.S. COAST GUARD: POOR, BUT PROUD AND LOOKING AHEAD

● Mr. COHEN. Mr. President, in the July 1982 issue of Smithsonian magazine, William H. MacLeish, a staff member of the Woods Hole Oceanographic Institution, provides an excellent profile of the praiseworthy and problematic mission of the U.S. Coast Guard.

The Coast Guard will celebrate its bicentennial in 1990. Formed as the Revenue Cutter Service to enforce our young Nation's tariffs and to stop smugglers of every description, the Coast Guard today provides Americans with a helping hand during peacetime and naval support during war.

In his article, Mr. MacLeish writes that, "Between 1970 and 1980, Congress has passed more than 30 laws giving new or expanded responsibilities (to the Coast Guard)." From the Bering Sea to the Caribbean, Coast Guard men and women provide vital assistance to the Nation in the areas of search and rescue maintenance of aids to navigation, maritime law enforcement including fisheries patrols and drug interdiction, safety inspections of vessels ranging in size from offshore oil rigs to the smallest sailboat, port and waterway security, vessel traffic and pollution control, the monitoring of hazardous cargoes and readiness training.

All of these duties are carried out by only 246 cutters, 2,100 small boats, 55 aircraft, and 116 helicopters. Each year, mariners in distress require search and rescue assistance in 80,000 cases. Nearly 7,000 people are saved annually.

The old surfman's statement, "You have to go out but you don't have to come back," best typifies the courageous service of the Coast Guard. Mr. MacLeish's article gives us a timely and informative view of the Coast Guard's mission. I commend it to the attention of my colleagues and ask that it be printed in the RECORD.

The article follows:

THE UNITED STATES COAST GUARD: POOR, BUT PROUD AND LOOKING AHEAD

(By William H. MacLeish)

The ocean is impossible. Waves rear to more than 40 feet and break full on the yacht's hull. Winds strong enough to shred the surface pin the small sloop on her side. Suddenly she capsizes, throwing the one man aboard her over the side. Just as suddenly, three men riding tandem aboard a strange new motorized inflatable boat slide over a comber and haul the doomed yachtsman to safety.

That rescue, off Cape Fear, North Carolina, last fall, brought congratulations from Coast Guard headquarters to the cutter *Alert* and medals to the men who manned her "rubber ducky" small boat. A fine example, the local people said, of the Coast Guard doing its job.

Americans close to a coast share a warm feeling for those sharp-prowed white vessels with the red racing stripes. We may have missed news of the *Alert's* exploits, but when we run out of gas off Galveston or the family 16-footer is late returning to Montauk from an island picnic, we know whom to call.

And we do, tens of thousands of us. In each of the Coast Guard's 12 districts, duty officers in scores of control rooms listen to the worried, the hysterical, and try to determine what response is required: a fast patrol boat, a helicopter, a fixed-wing aircraft, a cutter, or just reassurance. All told, our calls produce more than 80,000 SAR (Search and Rescue) cases a year in which the lives of almost 7,000 people are saved. No wonder that in the minds of many, the Coast Guard motto *Semper Paratus* translates as: always prepared to pull someone out of the soup.

But that's not all by half. While lifesaving is basic to the Coast Guard's existence, it is only one of so many missions that even the service's chiefs have trouble explaining them to the public. The world's largest search-and-rescue outfit is also the world's largest marine police force. Boarding parties leave cutters almost every day to search for illegal catches or equipment aboard Communist-bloc processing ships in Alaskan waters or Japanese long-liners off Cape Cod. Or they stop shrimpers, sloops and coastal freighters to look for marijuana, cocaine, Quaaludes and other items of an illicit trade now so pervasive that contraband drugs may rank second in value behind oil among our imports.

Multimission is the Coast Guard's byword. During their careers, most of the 40,000 "Coasties," about 1,700 of whom are women (there are also some 5,000 civilian employees), rotate through such broad-gauge activities as SAR, law enforcement (called

ELT, for Enforcement of Laws and Treaties) and aids to navigation—the operation of more than 40,000 buoys and beacons at sea and on inland waterways, as well as hundreds of long-range electronic navigational aids. The Coast Guard, one of our regular armed services, operates under the Navy Department during wartime, so readiness training is part of the equation. It conducts much of the nation's ice breaking in ports and all of it in polar areas.

Other more specialized missions, most of them regulatory functions assigned by federal legislation, lengthen the list: protecting the marine environment from sewage, oil spills and other pollutants; inspecting design and safety features of all manner of vessels—offshore drilling rigs, production platforms, tankers, container ships and pleasure boats; and insuring security of ports and waterways, including traffic control and the monitoring of hazardous cargoes like toxic chemicals and volatile fuels.

To do its many jobs, the Coast Guard deploys its people from the Bering Sea to the Caribbean, from the Great Lakes to the mouth of the Mississippi, from boot camp at Cape May, New Jersey, to the service's academy at New London, Connecticut. Shore-based units of all kinds number almost a thousand, not counting the Coast Guard Reserve and the Auxiliary, a group of volunteers assisting the regulars in boating safety and rescue. Two hundred and forty-six cutters are in the inventory as well as 2,100 small boats, 55 aircraft and 116 helicopters.

They are not enough. To carry out what Washington has assigned it, the Coast Guard has dug deeply into its capital: the training of its personnel and the upkeep and upgrading of its fleet. Last fall, the staff of the House Subcommittee on Coast Guard and Navigation released a detailed study of its charge. The report's findings are summarized in its title: "Semi-Paratus: the United States Coast Guard, 1981," an obvious play on the service's motto.

Congressman Gerry Studds of Massachusetts, the subcommittee chairman, has been hammering away at shortfalls. Though reenlistment rates among enlisted men are coming up from basement levels, he says, most have fewer than two years' experience in a service that places unusual reliance on the judgment of its lower ranks. (A coxswain of a small boat or rescue craft is the skipper of his vessel no matter what his rank.) The number of cutters has declined by almost a third in the last decade, a period when Coast Guard responsibilities have been proliferating, and the average age of a cutter is now about 23 years. "I for one," Studds told his House colleagues, "am tired of stories about Coast Guard vessels so decrepit they cannot be put to sea. . . ."

As part of its efforts to cut government spending, the Reagan Administration has proposed reduced funding in many categories of the Coast Guard budget.

The odd juxtaposition of clenched fist and helping hand runs straight through the Coast Guard's history. It is in the original version of the marching song: "*Semper Paratus* is our guide, Our fame, our glory too, To fight to save or fight and die! Aye! Coast Guard, we are for you!"

Lifesaving worked its way into the fabric of the service from the beaches. Lighthouse keepers often doubled as rescuers. As more and more merchantmen and immigrant packets were wrecked along American coasts, groups of men got together to do what they could about the survivors. The Humane Society of Massachusetts was among the first.

Revenue cutters did their share of rescue work, particularly after 1837, when Congress authorized the President to cause "public vessels . . . to cruise upon the coast, in the severe portion of the season . . . to afford . . . aid to distressed navigators. . . ." Cutters often little if any more seaworthy than the merchant fleet went looking for storm victims and found them. They rescued some 15,000 survivors of sea combat during the Second World War. In the years after that, until jet aircraft made transoceanic flight routine, cutters lay in mid-ocean, functioning both as beacons and standby rescue units. In 1947, the *Bibb* (still in service) guided the *Bermuda Sky Queen* to a crash landing nearby and took aboard all 69 of its passengers. The Coast Guard was on hand only hours after the liner *Stockholm* knifed into the *Andrea Doria* in 1965. And in 1980, in the largest operation of its kind, it worked with the Canadians to take passengers and crew off the cruise ship *Prinsendam*, afire off Alaska.

Yet, lifesaving today is still run largely from shore stations. Small cutters and patrol boats in inshore waters account for 80 percent of SAR cases. They are faster and better equipped than the old surfboats. But the men and women who crew them still go by the old surfman's slogan: "You have to go out, but you don't have to come back."

Most of the work is routine. At a typical base, the 41-footers are ready in their slips. A buoy tender lies alongside a dock with a couple of 82-foot patrol boats. Members of Congress of both parties have fought to restore cuts in key areas and to make sure that those monies are spent rather than hoarded against uncertain times. Coast Guard leaders have unstiffened their upper lips and begun speaking out about their plight. Admiral John Hayes, who recently stepped down as Commandant, has been exceptionally candid. "We cannot expect our people," he told Congress last year, "to continue responding reasonably under unreasonable conditions."

If one goes by the adage that success has many fathers, then the Coast Guard, historically at least, is a smash hit. It has inherited its missions from New England lighthouse keepers, from volunteers rowing out to square-riggers ripped open on the rocks, from the examiners in St. Louis who gave Mark Twain his steamboat-pilot's license and, foremost among forebears, the men who sailed the nation's first fleet.

LIGHTHOUSES AND REVENUE CUTTERS

Chronologically, the story could start with the lighthouses, the first of which was built near Boston in 1716. Others followed, on particularly nasty headlands, until in 1789 Treasury Secretary Alexander Hamilton proposed the creation of a federal lighthouse service to guide America's merchant marine. That turned out to be our first public-works bill. To bolster shipping, Hamilton asked for and got a Revenue Act from Congress favoring the import of goods in American bottoms, plus the funds to build ten cutters—fast and maneuverable schooners 40 feet or so at the keel. This was the Revenue Marine, later called the Revenue-Cutter Service, and its mission was to enforce Hamilton's tariffs and go after smugglers. Its officers held military rank. Since then cutters have fought in every war, from that of 1812 to the "brown-water" war in Vietnam, named after points of land, and 95-footers, named after capes. A 44-footer, designed to roll and right itself in terrible weather, is up on the ways. Crews tinker, chip and paint. Then word comes from the control room and three young people, a man and two women, break for their boat. The coxswain steps into his tiny cabin and clambers onto his cushioned conning chair. The engine burbles, the lines are let go, and in less than two minutes we're heading out.

Routine. A man from New Jersey out on "Mossbunker Shoal" with a broken propeller shaft. The coxswain eases the throttle forward and the 41-footer climbs a rung of water and starts to plane. Old Glory stretches astern. In half an hour we're threading among the fishermen looking for "New Jersey." Why didn't these boats help? "People should be so nice," says the coxswain.

There he is. Middle-aged, pale-skinned, trying hard not to look scared, not to look silly. "What a vacation," says the man. "When's it over?" asks a crew woman, throwing him the big nylon tow rope. "Now," says the man. The Coasties board and conduct a routine check. They find a fire extinguisher so corroded it wouldn't douse a match. The man shrugs. The patrol boat tows yet another careless citizen to port.

The Coast Guard is looking for more than carelessness. It did not take long for the Revenue Marine to branch out from the basic business of hailing inbound merchantmen and checking cargoes. Some actions, like the suppression of pirates in the Caribbean and Gulf, captured public admiration. But many of the laws the cutters enforced were, and are, at least regionally unpopular. Revenue ships sailed against slavers. They repeatedly closed ports in the early days in response to Presidential embargoes; captains like my great-great grandfather Moses Hillard of Connecticut ranted against the tyrant, Thomas Jefferson, whose policies were ruining their livelihood. Revenue cutters went after smugglers of opium and Chinese coolies on the West Coast. And fewer than ten years after the Coast Guard was created from the merger of the Revenue-Cutter and the Life-Saving services, its ships were in the thick of the "Rum War."

FIGHTING A LOSING BATTLE

Prohibition may have been a "noble experiment" for Herbert Hoover but, for the Coast Guard, it was an exercise in frustration. Mother ships loaded with bottles of all brands and qualities lay along rum rows off New York, Boston and other thirsty cities—just outside U.S. territorial waters—and offloaded onto speedboats for the dash to a midnight beach or a hidden inlet. Some rummies were captured. Both sides took casualties. Public sympathy was often on the side of the smugglers. Courts tended to be lenient in some areas. In Boston, Coasties were beaten on the streets.

Though reduced in size after Prohibition, the Coast Guard came out of the Rum War tougher than when it went in. It had acquitted itself well enough so that in 1936 Congress gave the service one of the most extensive grants of police power in the country's history. The Coast Guard became responsible for the enforcement of all pertinent federal laws on the high seas and navigable waters of the United States. Not only could cutter crews board suspect vessels of U.S. registry (and foreign vessels also, at the request or with the permission of the flag state) but they could do so in most cases without a warrant. That exercise of power still does not sit well with some jurists.

In the Sixties, the dry drugs began to appear: marijuana and, more recently, co-

caine and a pharmacopoeia of happy capsules. Some came in by plane. But marijuana in bulk required transport by sea. Ergo, the Grass War. The Coast Guard became involved gradually. In 1973, it seized only six vessels. Last year, it took 164. The marijuana they seized had a street value of more than $1.7 billion, close to the Coast Guard's entire budget.

The most successful drug buster last spring was the medium-endurance cutter *Dauntless*, with more than 50 seizures to her credit. Commander Mike Murtagh, her skipper for the past two years, thinks like a doper. He knows where they are liable to pick up their loads: along Colombia's Caribbean coast or in the islands. He knows their constraints in planning the trip north. *Dauntless* has concentrated many of her recent three-week patrols in and around the Yucatan Channel, the choke point between Mexico and Cuba.

No bust is typical, but the *Daisy Marivel* will serve as an example (p. 36). *Dauntless'* lookout spots it through giant "big eyes" binoculars (p. 32), a small, scruffy boat wallowing along on a northerly heading. Murtagh swings and comes up her erratic wake. Lieut. Larry Yarbrough, the operations officer (whose father had been a "revenooer" in the Southern mountains) uses the loudhailer to request the suspect's registry. No answer. Suddenly the boat crosses our bow, forcing us to veer off. Two men run from the cabin and throw weighted plastic bags overboard. They could contain guns or cocaine or other contraband whose possession carries stiffer penalties than the three to five years usually meted out for the first marijuana smuggling conviction.

The boat's skipper finally gets on the radio. He doesn't know his country of registry. He is Canadian, he says, and his crew are "of Spanish persuasion." Murtagh grins. There on the transom is the home port: Miami. The boat is eminently boardable.

Armed with .45-caliber automatics, nightsticks, a riot shotgun and an M-16 rifle, the boarding party pulls away from *Dauntless* in one of her two small boats. In ten minutes, Murtagh has the message: the suspect is carrying about ten tons of marijuana in 50-pound bales stuffed in every available space below decks. No record, but added to the thousands of other bales and plastic pouches seized by the Coast Guard, it translates into 15 percent of the stuff coming north.

The Coast Guard could do much better but is stretched increasingly thin. Two years ago, the service distinguished itself by shepherding more than a hundred thousand refugees from the Cuban port of Mariel to Key West—the SAR case of all SAR cases. But activities elsewhere had to be cut, sometimes drastically, to mount that effort: drug interdiction along the Atlantic Coast went down by as much as 85 percent during the Cuban sea lift. Similar rob-Peter-to-pay-Paul curtailments have been forced by the inflation of fuel prices and the initially experimental but now continuing Haitian-interdiction program (left).

Clearly, the Coast Guard does not have the wherewithal to perform the missions it has accepted. One reason why lies in the pace of what it calls "tasking." Between 1970 and 1980, Congress passed more than 30 laws giving new or expanded responsibilities, sole or shared, to the Coast Guard. The decade began with setting of vessel-sewage standards and the safety factors of small-boat construction and ended with rules for inland navigation. The net effect of the legislative loading, coupled with the decline in plant and equipment, has been to transfer Coast Guard men and women from the deck to the desk.

The Administration's passing of a military pay raise and the current recession have helped boost retention rates among enlistees. (Reenlistment among officers has remained high.) But the personnel picture is still not bright. It takes about eight years for the Coast Guard to get real return on its training programs, and not enough people are staying that long.

Some personnel problems are built in. Rapid rotation, long a basic military policy and essential to the multimission concept, clashes with the specialized needs of regulatory activities. A fisheries boarding-party member, for example, needs time to become familiar with fishing grounds and vessels and to accumulate knowledge about relevant laws and treaties, different types of equipment, and the kinds of fish being caught. All that does not come in a year. Overwork is a problem in some units, particularly search-and-rescue outfits, though you don't hear too much about it from the crews. Their gripes have to do with poor housing ashore, lack of medical programs for their dependents, poor training and equipment. And, among the more reflective, the hunt-versus-help syndrome. Time and again, at sea and ashore, Coasties told me: "I joined to save people, not to bust them."

In more than a few instances, the Coast Guard would have a hard time meeting its own safety standards. Repairs have been put off for so long and so often that the key ratio of operating days to maintenance days has been dropping like a stone. Spare parts for old vessels are increasingly hard to find and many have to be custom-made. Reconditioning does go on, but slowly. "What we're getting," says the skipper of a 95-foot cutter, "is already five years old by the time it's installed. I feel silly when I go aboard a Japanese trawler and look at his equipment."

A hand could be lent to the air wing, too. Helicopters are aging and acting up. At Otis Air Force Base on Cape Cod, the Coast Guard operates the last few "Albatross" amphibians in the military, planes built around 1950. They are lovely old birds, high winged and high sided. "These are good airplanes," says a crewman. "They may break on landing or takeoff, but never in the air."

Ours performs beautifully, after some headshaking over engine synchronization. We lift easily and head toward Georges Bank to "rig" boats, identifying and inspecting them from 100 feet or less.

"Ten seconds on our right," says the pilot, and a scalloper whips by almost too fast for us to read the identification numbers. We bank hard. "Don't get excited," says the comforting crewman. "Wing struts are the strongest thing we got." A stern trawler is below us, her net coned just under the surface. Then whales, also fishing. A group of gillnetters are setting out. They are close to an area where fishing is prohibited, and we bank again and again for photographs. We make two passes at a small lobsterman suspiciously clean; federal pressures in Florida have forced the dope traffic north.

We turn home, across the forearm of the Cape, watching the bottom sands go from green to gold in the shallows to white on the beaches. The wind bucks us on the way in, and we come down steeply. The prop acts up again. On the ground, the comforter says; "Didn't want to worry you out there, but these things are so old we just don't like to land them in the water."

NEW EQUIPMENT AND NEW PRESSURES

New equipment is coming. The Albatrosses are making way for jet aircraft, and a versatile new chopper is due in the next year. The *Bear*, first of the new "Famous" class of cutters, is about to join the fleet, and others will follow. But all told, these are little and late.

It will be a busy decade. The shape of things to come is discernible on the summer sea near any resort. Pleasure boats swarm like water striders on a pond. Many too many people on the water don't know what they're doing. In the control room of the Coast Guard base in Woods Hole, there is a constant clatter of distress. A bluefin tuna has mangled the hand of a sport fisherman. A couple from New Jersey can't get their transmission into forward. "Can't you get home in reverse?" asks the duty officer. Evening comes, and with it the frantic calls about overdue boaters. Inevitably, there is a false alarm among the real ones. A 41-footer races through the night fog after a sinking cabin cruiser only to find two kids playing with a radio.

The merchant marine is carrying dangerous cargoes, many in aging ships. When the 23-year-old tanker *Argo Merchant* piled up on the shoals off Nantucket in 1976, members of the Coast Guard's oil-pollution strike team risked their lives repeatedly aboard the vessel as she broke up and in the torrent of oil that poured out of her. New legislation will mean safer ships. But tanker traffic, perhaps from new oil fields far out on our continental shelves, is expected to increase, and so will the threat of accidents.

Even the new and sophisticated vessels pose problems, precisely because of their sophistication. Go out with Coast Guard inspectors to the *Larbi ben M'hidi*, more than 900 feet long, lying off Boston's North Channel with a full load of liquefied natural gas from Algeria. She is a "technoship," a construct of computers, valves and consoles. She is also a potential firebomb. If her safety devices malfunction, it she goes aground or collides with another vessel, no one is sure what might happen. But the educated guess is that if her supercooled cargo were to spill into Boston harbor, and come into contact with an open flame, much of the city might disappear in the resulting fireball. The chances are small, and some of the reasons can be found on the clipboards of the Coast Guard inspectors as they ride the motorized ladder up *Larbi's* towering side.

A busy decade, indeed. Oil companies are prospecting in deeper and more dangerous waters. Their rigs are proof against most storms, but not all. Witness the capsizing of the giant *Ocean Ranger* off Newfoundland last winter with the loss of more than 80 lives. Deepwater ports for handling ultra-tankers are coming in the Gulf. Fisheries must continue to be protected. All told, the continential shelf begins to look like a natural arena for resources competition. And guess who the cop on the beat will be?

The Caribbean will continue to be a Coast Guard sea. So will the waters off Alaska, patrolled and protected by the cutters ever since Seward bought it in 1867. (The first *Bear* once rescued winterbound whalers by sending them a party—driving a herd of reindeer for meat—1,500 miles over the ice.) Oil activities are picking up in the Far North. And interest in Antarctica is such that ice breaking probably will pick up there as well.

The same can be said for the Coast Guard's military role. The Navy has adopted a forward-defense strategy that implicitly leaves waters closer inshore pretty much to its sister service. The two have worked together to upgrade some cutters, and the Navy is paying to arm *Bear* and her siblings to complement its own vessels. Yet antisubmarine-warfare equipment is mostly out of date, and even the *Bear* is slow by Navy standards; her top speed is 19 knots.

Something has got to give under the pressures of wartime versus peacetime preparedness, sea duty versus shore duty, lifesaver versus law enforcer, multimission versus specialization. The top brass indicate that for one thing, nonoperational activities will not have the priorities they once did. Commandant Hayes is on record as "opposed to the assignment of any additional regulatory functions." His successor, Admiral James Gracey, carries this determination even further: "I decry the mentality which says: 'We have a problem, let's write a regulation to solve it.' I think we probably went overboard."

At least some responsibilities will be given to others. Ship inspection, for example, might be handled to some degree by the American Bureau of Shipping, an industry group. Bridge inspection (yes, the Coast Guard does some) could go to other agencies. Harbor authorities could be more active in developing and operating their vessel-traffic systems.

Aids to navigation could be reduced in number and automated. Solar power is being used on some right now. And the nation's last lightship, *Nantucket*, is being replaced by monster buoy 40 feet across. Seamen will miss the red hull, the high light turning, the baritone "free-umph" of her horn. A lightship, however, is not only expensive but a dangerous place to be. This one's predecessor was rammed and sunk with the loss of seven lives by the sister ship of the *Titanic* in 1934. "Nothing's changed," the skipper of the resupply cutter told me as we groped toward *Nantucket* in a warm October fog. "Incoming traffic still uses her radio beacon to home on. Hell, one [ship] came so close a few months ago," he went on, "that the guys took to the boats."

Boating safety is being picked up by some states, and that process could be accelerated. Perhaps more search-and-rescue work could be performed by the Auxiliary, though there is a limit to what those 43,000 volunteers can be asked to do, especially on a howling January night when the worst is likely to happen and, unfortunately, often does.

The most controversial proposal for the Coast Guard's future is the user fee. The Administration submitted a vaguely worded request in that direction last year and then withdrew it. The idea is being reworked and is gaining support, though critics say that what has been talked about so far would put a heavy load on commercial seamen: fishermen, tug operators and the like. They also argue against the bought-and-paid-for mentality that the fees might generate, replacing current perceptions of Coast Guard services as a public good.

Some form of user fee seems inevitable. Many feel that if oil companies wish to prospect and produce in polar areas, they should conduct or at least pay for their own ice breaking. Similarly, waters serving only a marina or yacht club might be marked by navigational aids at the expense of those users.

Administration supporters insist that the Coast Guard has, like the rest of the government, grown like Topsy and must be reshaped in a more rational way. Any extra funds for the service, the more militant declare, must come out of some other programs run by the Department of Transportation, the service's parent agency, most of which are already suffering from severe budget cuts.

There is a limit to what the Coast Guard can do in its own defense, both politically and psychologically. It is a military organization, possessed of an abiding military conservatism. As one sympathetic Congressman put it, "the Coast Guard is a service that has been an absolute team player with every Administration. They do not make inordinate requests. They take it out of hide. . . . The difficulty is that they have no more hide. . . ."

Most Americans continue to think well of the Coast Guard. You can see that when a patrol boat slides into any busy harbor. People sipping sundowners on their cruisers stand and wave. "Hey! I gotta nephew with you guys." A pretty girl on the dock yells, "I want to join!" Until recently, the goodwill has not translated into political pressure. But when the Coast Guard announced that proposed budget reductions would force cutbacks around the country, the reaction was loud and bipartisan.

No one is predicting how the Coast Guard will fare over time in a process that, after all, involves the entire federal establishment. More attention may be paid to priorities like training and maintenance, procurement, increasing efficiency, and higher levels of military preparedness. Whatever happens, the Coast Guard will be around to celebrate its bicentennial in 1990. "Sure," says Gerry Studds, its most persistent supporter on Capitol Hill, "it may have grown over the years like Topsy, but it has grown into something that is very special." ●

THE WILLIAM R. COTTER FEDERAL BUILDING

● Mr. DODD. Mr. President, by passing H.R. 4569, the Senate has approved the designation of the U.S. Post Office Building in Hartford as the "William R. Cotter Federal Building."

In taking that action, we signal our deep respect for a man who was my congressional colleague and dear friend. When Bill Cotter succumbed to cancer late last year, the people of the Hartford area lost an elected official who had given them loyal, steady, and effective representation in the House of Representatives for more than a decade.

During that time, Bill Cotter worked hard and well for measures designed to keep the price of food, fuel, and health care within the reach of the average citizen. He also devoted long hours to helping draft legislation to preserve the social security system.

On a personal level, Bill Cotter was a study in the qualities that one values in a friend: fairness, understanding, loyalty, courtesy, and kindness. A fundamental decency informed everything he did.

Renaming the Post Office in Hartford—a city of which he was a lifelong resident and dedicated public servant—in his honor should both commemorate his work and symbolize for his family the high regard in which all of us held him.●

NOMINATION OF EDWARD N. BRANDT, JR.

● Mr. TOWER. Mr. President, the Senate will consider shortly the nomination of Edward N. Brandt, Jr., for representative of the United States on the executive board of the World Health Organization.

As Assistant Secretary for Health for the Department of Health and Human Services, Dr. Brandt has exemplified the medical training, experience, and concern for our Nation's health deficiencies necessary for this demanding job. A native of Oklahoma, Dr. Brandt served as the vice chancellor for health affairs at the University of Texas, where he directed one of the most outstanding medical programs in the country.

Dr. Brandt possesses a wide ranging educational background, having received a bachelor's and a master's degree in math before attaining his medical degree from the University of Oklahoma Medical Center. He later went on to earn a Ph. D. in biostatistics.

Throughout his long and distinguished career of involvement in preventive and family medicine, Dr. Brandt has received numerous awards of recognition from his colleagues in the medical profession. Moreover, I applaud the commitment and dedication he has evidenced in his most recent appointment to improve the quality of health care available for all Americans.

For these reasons, I wholeheartedly support the nomination of Dr. Brandt to serve on the executive board of the World Health Organization and I urge my colleagues to join me in approving his nomination for this important position.

LANCASTER COUNTY FARMING

● Mr. HEINZ. Mr. President, agriculture is the leading industry in my home State of Pennsylvania. It accounts for over $3 billion in products and nearly one-fifth of the State's total income is agriculture related. In addition, about 900,000 Pennsylvanians have agriculture jobs.

One of the reasons for this phenomenal performance is the success of Lancaster County farming. This area, located in the southeastern corner of Pennsylvania, is blessed with an abundance of water, ideal weather, and rich, fertile soil.

Recently, Lancaster County received some much-deserved attention as one of the most productive agricultural areas in our country. The article, "The

County That Grows More Food Than New Jersey," written by the Washington Post's Ward Sinclair, is excellent because it treats the impressive past achievements of Lancaster County farming as well as the alarming trends which threaten future farming in Pennsylvania and other Northeastern States.

Mr. President, I am proud of the efforts which Lancaster County's farmers have made to confront the problems of soil erosion, loss of prime farmland, estate taxes, and land subdivisions, for example. Without adequate attention, these problems could grow to be insurmountable.

I welcome this opportunity to give some long overdue recognition to the farmers of Lancaster County. All who have traveled in this area of Pennsylvania certainly know that they are indeed "on the road to Paradise."

I ask that the article be printed in the RECORD.

The article follows:

THE COUNTY THAT GROWS MORE FOOD THAN NEW JERSEY

(By Ward Sinclair)

Morning mist rises along the road to Paradise, spinning a spring gauze around the silos and over the barns. Fields of last year's corn form an eerie stubblescape. Then the apparition looms on a far hillock. In the tow of three stately draft horses it comes, and old-fashioned moldboard plow, piercing and turning the soil guided by a boy, clad entirely in black, standing erect on his rig.

It is spring. The air is right and the soil is right and the Amishmen are back in the fields of plenty. The boy will go on for hours, up and back, up and back with his anachronistic team, readying the land for the seed that will become the corn that feeds the cow that makes the milk that feeds a nation.

This is 1982, but it could be two centuries ago. Horses and mules still pull plows in the fields around Paradise, an aptly named corner of the Pennsylvania Dutch country. A beguiling blend of old and new farming styles makes Lancaster County one of the richest agricultural areas in the world. Year in and year out, no other county in the United States without irrigation produces a harvest as bounteous as Lancaster County's.

Agronomists marvel at Lancaster County. In 1980 its farmers produced some $424 million worth of milk, eggs, poultry, grains, hay, tobacco, potatoes and vegetables, peaches, apples, wine grapes and more. Their inventory of cattle, hogs, sheep and chickens was valued at $253.3 million. Another perspective: This one county accounted for more farm products then the entire state of New Jersey, an phenomenon that brings a stream of visiting farmers to see how Lancaster does it.

The mystery is not profound. Lancaster is blessed with marvelously rich soil and benign weather, but so are many other places. There is something else here, rooted in the style of the European immigrant farmers who came here in the late 18th century. The stolid industry of the Amish and Mennonites, a sometimes contradictory mix of religion with modernity, pervades the place. Their quaintly austere ways attract tourism, and their work habits lure industry.

On the east side of the county, where the Amish and Mennonites are congregated around places like Paradise, Bird-in-Hand, Intercourse, Smoketown, Gap and Blue Ball, the panoramas are breathtaking. The picturesque little farms sit cheek by jowl, as though telescoped together in a photographer's long-range lens. All are neat, spotless, toy-like. It seems a view from some gentle, halcyon past.

But changes comes, even to Lancaster County.

While John Barley's neighbors inch along with their horses, his tractors can plow scores of acres in a day. Barley, 36, owns one of the county's biggest farms: 1,400 acres in crops, 500 milk cows, breeding stock, a computerized farm-management record-keeping program, heavy machinery, all the modern-day accouterments. The Amish would call him "English"—the term for non-Amish, non-Mennonites. No harm done, no slight felt.

For the record, John Barley in 1979 became the first Pennsylvanian ever chosen by the Jaycees as a National Young Farmer, an award something akin to a Pulitzer Prize in journalism or Most Valuable Player in the American League. But Barley is in some awe of his neighbors:

"The Amish and the plain Mennonites, they spend their time doing things that ought to be done. They don't have these outside involvements, they're not watching TV, they don't have to hurry up and finish work to get to a ball game. But that's the nature of Lancaster County. A peer pressure thing. We non-Amish are under pressure to be as particular and aggressive as they are."

Richard Blouse, president of the local chamber of commerce and industry, disagrees a bit. "One thing we sell here is our people. The work ethic is probably traceable to the type of settler we had here, a strong Pennsylvania German background. Skilled, productive people. It's more than just Amish or Mennonite. The attitude here is that we can do it ourself."

Farming here runs counter to the modern single-cropping practices of, say, the Midwest's huge machines and massive expenditures for fuel and chemical fertilizers and pesticides. Farmers use chemical in Lancaster, of course, but there is more mix and balance. For example, the air of Lancaster County carries the pungence of manure freshly spread to rejuvenate the fields—almost an impossibility on the bigger inland spreads.

And in an era when American farms are getting larger, Lancaster's farms are becoming smaller and more numerous. The county has more than 5,400 farms (one-fifth are Amish) that readily support families that work the land from generation to generation. And astonishingly, these farms average only about 80 acres each—a size that might evoke muffled derision around a nation where the average farm is around 450 acres.

The average Amish spread, by church fiat tilled only with horse- or mule-drawn implements, is 60 acres. Here the pacifist, plain-spoken Amishmen work in postage-stamp fields next to Mennonites, some of whom may use tractors—but only if the tractors have no rubber tires.

Around the edges, Lancaster farming has generated other major businesses. There are dairies and butchers and cheese makers, implement dealers and feed dealers. Amish craftsmen produce ingenious implements (a hydraulic lift plow and hydraulic power tools, for example) to meet church strictures on tractors and electricity. Farmers' markets and roadside stands provide an outlet for fresh produce. Livestock and hay auctions draw hundreds of customers every week. Sperry New Holland, which claims to be the country's biggest farm-implement manufacturer, got its start here and continues to run operations from the town of New Holland. A weekly livestock paper is published here; another weekly, Farmshine (phone: MAN-MILK), chronicles the dairy industry. Lancaster Farming, a tabloid newspaper that often weighs a pound, goes to 40,000 readers every week with a farmer's anthology of classifieds. If Lancaster Farming doesn't advertise it, the saying goes, it can't be bought.

Jay W. Irwin, the county extension agent, marvels at the cornucopia. "This is one of the best agricultural producing areas in the world. A place in England and another in the Soviet Union rank right up there. It's the weather, the moisture, the soil—60 percent of it is of the very best kind. And we have the people. Agriculture, you know, is a quiet industry. These people just go out and do their job. No other country has food as cheap as ours because of this great productivity."

But for all of this, things are not well in Paradise.

Lancaster farmers are afflicted by the same economic pressures as their brethren elsewhere. Despite the farming ethic, the land is eroding seriously. As farmers try to squeeze more from the soil and as the Amish subdivide their small tracts to keep sons near home, topsoil erosion has increased to an annual rate of about 9 tons per acre. U.S. Department of Agriculture conservationists consider soil loss above five tons per year to be "unacceptable"—eroding faster than man and nature can replace it.

The other problem is that they're not making any more farm land in Lancaster County. Farm operators are under heavy pressure to sell to developers building housing and services for the rapidly growing population (up about 14 percent over the decade). There is a belated effort here to save some of the best farm land from the bulldozers, but only the keenest of optimists see hope.

Amos Funk is one of them. He is 70 and farms 240 acres with his son on the west side of the county. Their vegetable fields are picture-book pretty and productive. Their old-fashioned country market at the town of Millersville is a page from another era. All around him, Amos Funk has seen the builders bid up the farm-land prices and then gobble it up. He still has hope, has to have it, since the county commission appointed him to head a farm preservation study team.

"We've got about 386,000 acres in farms right now, and we've lost thousands of acres in the last 20 years." Funk said. "We've come up with a plan that would allow about another 100,000 acres to go into development. The builders seem to like it. We'd like to save more than that, but we've had to make some compromises. It's not too late to save some of our best land."

Go to Dave Fisher's place over among the Amish, and you get a different picture. Fisher, active in the land-preservation movement, is Amish but is uncharacteristically dressed in green coveralls. Preceded by his jutting beard, he leads the way to the loft on his 76-acre spread. His 1981 tobacco crop is still there, tightly held in bales, waiting for a buyer. Right now, depressed tobacco prices have him as worried as the loss of farm land. "I've got maybe $8,000 worth of

tobacco in these bales," he said. "They say there's no demand. It's a game. They'll buy when they force the price down on us."

As for saving Lancaster's farm land, Fisher thinks it's pretty much a lost cause. "I say keep agriculture and housing apart," he said. "But we're 15 years too late. To give up 100,000 acres of farm land like they're talking about is nothing, if it's in the right places, where production might not be so good. All this industrial and housing development around here has pushed people out. There are 11 brothers and sisters in my family, and only two of us are farming. They'd all prefer to farm if they had a tall chance."

Not far away is Eugene R. Witmer's picturesque motel. Witmer bought six acres from a farmer who needed some cash, hired some Amish carpenters and put up a rock of a lodging place. The farm surrounds the motel; diners sit in the restaurant and gaze out on the bucolic scene: an old millstream, silos, barns, split-rail fences. Witmer, who used to head the county tourist-promotion bureau, is a tad sensitive to the debate over creeping urbanization. "Our economy depends as much on tourism as it does on agriculture," Witmer said. "Housing and shopping centers—not tourism—are what eat up this land. Farmland preservation activity is just getting started here. There is a good deal of concern that we may have started too late."

The picture unfolding in Lancaster brings an ache to Robert Gray. He headed a Department of Agriculture national agricultural lands study, which produced a report last year demonstrating the massive loss of some of the country's best farm land to development. Now he works in Washington with the American Farmland Trust, which keeps blowing trumpet calls for action.

"It's depressing for me to go to Lancaster, and I'm not an optimist," he said recently. "I hate to tell them, but I think they're closing in on the 10th inning of a nine-inning game."

Depressing, perhaps, but Don Ranck isn't buying it. Eleven generations of his family have been farming in Paradise Township and Ranck isn't planning to leave. A steam-powered railroad for tourists cuts through part of his 127-acre dairy operation. Knick-knack and curio shops are pushing out toward him from the hamlet of Strasburg.

Ranck and his wife, Virginia, aren't too concerned. In a way, they've even joined in. They've decked out part of their farm home for tourists, and they do a steady room-rental business during the warm months.

Ranck is a careful, conservative farmer. That comes with the blood to some degree, but it comes with being a dairy farmer as well. Dairying, the major farming activity in Lancaster County, produced $163 million in milk sales in 1980. A generous federal price-support program has made dairying a money-making enterprise.

But dairy farming is about as tough a job as a man could find. The farmer raises his own grains and hay to feed his stock. He breeds the animals and replenishes the herd. His cows make the juice that is the milk, cream, cheese, butter, ice cream and yogurt that nourishes the nation. The cows must be milked twice a day, rounded up and herded through the modern milking parlor, and there are no vacations. Dairying means knowing each cow's idiosyncracies, knowing the breeding and birthing techniques, nursing and tending to the young. Around the clock, cold nights and hot days. This is the Ranck's life.

This is the sort of travail that makes the Rancks think twice about expanding the farm. They are buying part of the family spread from Ranck's father, and they pause, consider and weigh the issues before they spend an extra dollar on developing the place. This year's project is the refurbishing of the huge white barn where their 72 cows are milked.

"Our biggest problem is: How big do we want to get? We could go to 110 cows and that would increase our cash flow by 50 percent," Ranck explained. The Rancks already have gone through a similar expansion, from 44 cows just five years ago. More income is attractive, but it means more problems and more risk.

Six, seven years ago, when banks were begging farmers to borrow low-interest money for expansion, Ranck and his father didn't bite. The Rancks figured a time would come when paying it back would be tough. Today is such a time, and while some overextended Lancaster farmers are bucking the storm of farm recession. Don Ranck feels fairly secure.

Ranck is in his early 30s, Mennonite but progressive enough to use a rubber-tired tractor, a cum laude graduate of Penn State. A gentle and respectful demeanor gives him special status among his more conservative Amish neighbors. They look to him for advice and listen closely when he speaks. The Rancks spent five years in Brazil doing mission work with poor farmers before they came back to Verdant View. He has been around, seen how others farm, pondered his place on the planet.

If instant impressions have meaning, one must judge that farm families like the Rancks are the rocks that will keep a nation firm and well-fed. Ranck husbands his tiny patch of earth, trying to make it better and more productive for the sons and daughters who may follow. His style came from his father, who learned it from his father, and it came from staying close to the soil and his stock.

He rotates his crops, puts no chemicals on his barley, uses only biodegradable weed killers on his corn, hires a custom applicator to cautiously apply pest control to the alfalfa. He didn't wait for federal money to flow before he put in his newest soil erosion control terraces.

"We have made changes here, but it is very expensive," Ranck said. Ranck pointed out toward one of the sloping fields off behind the barn. The untrained eye could barely perceive slightly manicured lines that would channel excess groundwater into a benign, nonerosive flow toward the little creek the crosses the farm.

Ranck has thought a good deal about his purpose here and where he may be headed. Like many other farmers these days he worries about the eroding soil, the loss of crop land to development, the tight economy. Somehow, he finds silver inside dark clouds. He doesn't say so specifically, but he knows some greater power intends that he not fail.

"I'm a general promoter of agriculture, I suppose," he said. "I believe we have the potential to have a strong agricultural system here. I know the large farms have built-in inefficiencies, and I think our small family farms will last longer than they. When prices fall, those big corporate farms are the first to suffer. We contribute our time to farming at a lot less value than you'll find on those bigger places. A family farmer doesn't expect to have the hours a hired farm manager has."

"And," Ranck continued, "I know this is a garden spot. An abundance of water, ideal weather, our soil. I have tried to put my finger on how much credit to put on the weather. I decided that weather and management account for about 80 percent of our production potential. But we are blessed, and it is awfully arrogant of us to think otherwise."

It's a thought from the road to Paradise.●

RESOLUTION ON ARLAND D. WILLIAMS, JR.

● Mr. HOLLINGS. Mr. President, I rise today to submit for the RECORD a concurrent resolution passed by the General Assembly of South Carolina memorializing Congress to pass House Resolution 367 conferring national hero status on Mr. Arland D. Williams, Jr.

The resolution tells the story of Arland Williams' heroism during the Air Florida plane crash in Washington, D.C., this past January. Mr. William gave his life so that others might live.

Passage of House Resolution 367 would recognize this heroism, and also provide inspiration for Americans all across this land.

Mr. President, I ask that the South Carolina General Assembly's concurrent resolution be appended in today's edition of the CONGRESSIONAL RECORD.

The resolution follows:

H. RES. 367

Whereas, Representative Daniel B. Crane of Illinois and others are sponsoring a resolution in Congress (House Resolution 367) which confers national hero status upon Mr. Arland D. Williams, Jr., a resident of Atlanta and a 1957 graduate of the The Citadel; and

Whereas, Arland Williams was a passenger on the Air Florida airplane which crashed in Washington, D.C. on January 13, 1982; and

Whereas, while mired in the wreckage of the plane in the Potomac River, he five times passed a survival line suspended from a helicopter to other passengers rather than take it for himself; and

Whereas, after repeatedly putting the safety of his fellow passengers ahead of his own, Arland Williams met his death by drowning; and

Whereas, the members of the South Carolina General Assembly certainly believe that the passage of House Resolution 367 would be a fine tribute to this extraordinary man who gave his life so that other fellow human beings might live. Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

That the members of the General Assembly hereby memorialize Congress to pass House Resolution 367 which posthumously confers national hero status upon Mr. Arland D. Williams, Jr., a 1957 graduate of The Citadel and a passenger on the Air Florida plane which crashed in Washington, D.C., who gave his life so that his fellow passengers might live.

Be it further resolved that copies of this resolution be forwarded to each United States Senator from South Carolina, each member of the House of Representatives of Congress from South Carolina, the Clerk of the Senate of the United States, and the

Clerk of the House of Representatives of the United States.●

ENERGY RESILIENCY

● Mr. COHEN. Mr. President, several weeks ago, the Subcommittee on Energy, Nuclear Proliferation and Government Processes of the Committee on Governmental Affairs, on which I serve, held a hearing on the capacity of our Nation's energy systems to withstand disruptions caused by anything from natural disasters to sabotage and terrorism. This capacity is known as our energy resiliency, and the hearing on it elicited widespread and diverse comment from many experts in the energy field.

Among the testimony the subcommittee received at the hearing was a statement by Amory and Hunter Lovins which summarized findings they had made for the Civil Defense Preparedness Agency. These findings are striking and offer a valuable insight into the current state of energy resiliency. The Lovinses recommend solutions that will, at the same time, give us greater national—and personal—control of our energy supplies.

I believe this statement is innovative and thought-provoking and I encourage my colleagues to read it. I request that the statement prepared by the Lovinses be printed in the RECORD at this point.

The statement follows:

PREPARED TESTIMONY OF AMORY B. LOVINS AND L. HUNTER LOVINS [1]

Over many decades, the United States has gradually built up an energy system that is extremely brittle—easily shattered by accident or malice. The Treasury is subsidizing the energy industries with over $10 billion a year to undermine the mission of the Armed Forces—by making it possible, for example, for a few people to shut off three-quarters of the natural gas supply to the Eastern states in one evening without even leaving Louisiana. Domestic oil systems are at least that vulnerable. Electric grids are even more so.

This grave and growing threat to national security comes not from hostile ideology but from misapplied technology. It is not a threat imposed on us by enemies abroad. It is a threat we have heedlessly, and needlessly, imposed on ourselves, by assembling complex, highly centralized energy technologies in ways that makes them prone to sudden, massive failures with catastrophic consequences.

Energy vulnerability poses more than a military threat. It is also a political threat. Any vulnerability which greatly alters the power balance between large and small groups in society can erode the liberties and the trust which underpin Constitutional government. Energy vulnerability also threatens abrupt lurches backwards, by decades if not centuries, in our economic progress and standard of living.

Yet there is an alternative to brittle energy. Available, cost-effective technologies, organized on different principles than in the past, can actually make major failures of energy supply impossible, meet all the energy needs of a dynamic economy, and save Americans trillions of dollars. This conclusion comes from a detailed (but discreet) analysis of how and why America's energy system is vulnerable, and how to design one that isn't. Commissioned in 1979 by the Defense Civil Preparedness Agency, our report was released by the Federal Emergency Management Agency last November.[2] It is published today in an updated version rewritten for a lay audience.[3]

Energy vulnerabilities are frighteningly real. Terrorists around the world exploit them weekly. We have documented recent assaults on centralized energy systems in upwards of twenty-six states and forty foreign countries. These attacks are becoming more frequent, intense, and sophisticated.

Federal policy has not just ignored but caused this risk. For example, after the Arab oil embargo of 1973 and the Iranian revolution of 1979, our government promoted substitutes for foreign oil which were themselves at least as vulnerable. Through the misguided belief that any domestic energy source must automatically be more secure than foreign oil, most Federal programs have actually increased energy insecurity, in ways that are more subtle and less tractable. That process continues. The Department of Energy seems unaware that its favorite technologies are compromising national security, despite warnings from the General Accounting Office and from inquiries into the Trans-Alaska Pipeline.

To be sure, imported oil is an urgent problem. It is also soluble: just raising the efficiency of buildings and cars could more than eliminate U.S. oil imports within this decade, before a power plant or synfuel plant ordered now could deliver any energy whatever, and at a tenth of its cost. We could save more oil (at a cost of a few dollars per barrel) by making efficient cars than Saudi Arabia gets from the world's biggest oilfield. But energy is more than oil, and energy security is far more than ability to keep the oil coming. Even zero oil imports would barely begin to reduce America's total inventory of critical energy chokepoints.

For example, the loss of three major domestic oil pipelines—each of which could be knocked out for more than a year by one person—could be more serious than a complete cutoff of oil imports (and could incidentally make the Strategic Petroleum Reserve all but useless). A few people can black out, for months to years, any of our nation's three regional electric grids. Certain attacks on natural-gas systems could incinerate a city.

These and worse disasters could happen through accident, natural cause, or intention, in ways too complex for any technologist to predict or forestall. Many basic features of today's energy system make it brittle. Fuel and power are hauled hundreds or thousands of miles from centralized, capital-intensive plants which require many scarce resources, including specialized skills and public acceptance. There is only limited ability to substitute fuels and change delivery systems. Grids and pipelines can maintain their synchronism and continuity only by computerized control and communication over great distances. Fuel distribution systems can be contaminated with noxious materials. Many supposedly independent energy systems rely on each other. Major repairs often need scarce crews and equipment, and spare parts that take months or years to get.

We have considered these matters both generically and in the specific context of liquefied energy gases, the oil and gas system, nuclear systems, and central-electric grids. Bipartisan Federal policy—which might be called "Forward, Lemmings!"—is expanding the most vulnerable systems: power grids with ever bigger stations and longer transmission lines, offshore and Arctic oil and gas, big pipelines, and synfuels. National coal policy aims to create in Wyoming a new, all-American Strait of Hormuz. Our nation is building an energy system fit only for a tranquil "technological paradise" in which everything works according to the blueprints.

Our research did not stop with the bad news; we sought and found remedies. From biology, and from the design of computers, warships, aircraft, reactors, and other devices, we derived some twenty design principles for inherently resilient systems in which massive failures are impossible or inconsequential. Such systems do not merely withstand stress, but emerge from stress more resilient than before. An energy system designed on these principles would be more efficient, diverse, dispersed, and renewable. This would make our nation far stronger and more secure. Yet the "premium" we must pay for the "insurance policy" of energy resilience, far from costing us money, pays us handsomely in both money and jobs, starting immediately. This is because a resilient energy system is faster to build, and cheaper both to build and to run, than the more centralized, vulnerable alternatives now is fashion.

The greatest resilience per dollar invested—the "most bounce per buck"—comes from raising energy productivity. Efficient energy use does far more than just replace the most vulnerable marginal sources, such as Persian Gulf oil. For example, if you live in a superinsulated house in Minnesota and your heating system fails in midwinter, you won't even know it for weeks. You'll find out only because the inside temperature will slowly drift down from 72° F to 62° or perhaps at worst about 55°. Such a house cannot get any colder than that, so neither you nor your pipes will freeze. Any point source of heat can bring your whole house back up to 72° say, a neighbor, or burning junk mail in a #10 can.

Thus wringing more work from our energy can help us live better at lower cost while making energy supply failures more graceful and correctable. On a national scale, the half-filled gas tanks of a 50-mile-per-gallon car fleet would run them for a month. Dispersed oil inventories between wellhead and gaspump would run the transportation system for a year—whereas now a major pipeline break can shut down a refinery in a few days. By using energy more efficiently, we can stretch our stocks, using them up so slowly that we have time to fix whatever is

[1] Energy policy consultants; currently Luce Visiting Professors at Dartmouth College. A biographical sketch is attached.

[2] A. B. & L. H. Lovins, "Energy Policies for Resilience and National Security," Final Report to CEQ (Contract #EQ9AC016) for FEMA (Contract #DCPA 01-79-C-0317), FEMA Work Unit 4351C, DTIC Accession #A108263, released 13 November 1982 by the Federal Emergency Management Agency, Washington, D.C. 20472.

[3] A. B. & L. H. Lovins, "Brittle Power: Energy Strategy for National Security," Brick House Publishing Company (34 Essex St., Andover MA 01810), 21 May 1982, ISBN 0-931790-28-X, $17.95. Foreword by Admiral Thomas H. Moorer (USN Ret) [Chairman of the Joint Chiefs of Staff under President Nixon] and Hon. R. James Woolsey [Undersecretary of the Navy in the Carter Administration].

broken or to improvise new supplies (such as alcohol fuels from biomass wastes). This ability of efficient use to buy time is yet another powerful reason to use energy in a way that saves money.

Over the next few decades, renewable energy sources—now over seven percent of total U.S. energy supplies, and the fastest-growing part—can replace most of the vulnerable parts of the energy system. Renewable energy flows cannot be cut off and require little or no distribution system. Despite fluctuations with time and weather, well-designed renewable supplies can be more reliable and predictable than nonrenewables: we can predict sun, wind, and rain much better than we can predict reactor accidents, terrorism, or Saudi politics.

A few examples show the resilience of dispersed, diverse sources:

When the power engineer in Holyoke, Massachusetts saw the 1965 Northeast blackout rolling toward him, he isolated the city from the grid and powered Holyoke with a newly installed gas turbine. Not having to turn off the city paid off the capital cost of that power plant in four hours.

In 1980, a thunderstorm blacked out West Chicago shortly after DOE officials had opened a demonstration photovoltaic-powered filling station. That station was the only one in the area pumping gas.

A man who powers his house with wind on the northern Great Plains recently reported that he was watching the TV news one night and saw that his whole area was blacked out. He went outside and looked: all his neighbors' lights were off. So he came inside and watched TV some more to see when his neighbors' lights would come back on.

Many of us would like to be in that position. And with modern renewable technologies, we can be, whether we're in the countryside or the city—but only if we change some rules. Today, most utilities require dispersed sources to be hooked to the grid in such a way that they cannot function without it. This is unnecessary and should be changed. We have indeed identified several neglected Federal policy areas where, without prompt action, much of the potential resilience benefits of renewables may be lost.

Efficiency and renewables are already the fastest-growing parts of our nation's energy supplies. Since 1979, the United States has gotten more than a hundred times as much new energy from savings as from all expansions of energy supply combined. Of those expansions, too, we have gotten more new energy from renewables than from any or all of the nonrenewables, despite subsidies biased more than ten-to-one the other way. After a head start of thirty years and $40 billion in direct Federal subsidies, nuclear power now delivers about half as much energy as wood. More megawatts of new generating capacity have been ordered from small hydro and windpower than from coal or nuclear plants, or both of them put together. We are approaching our millionth solar building. A quiet kind of energy revolution is well underway—building a resilient energy system from the bottom up, not from the top down. This vindicates the Jeffersonians, who think people are pretty smart and, given incentive and opportunity, can choose wisely for themselves. It also vindicates the true free-marketeers, who say that we can do many small, simple, accessible things faster through a decentralized market process than we could do a few big, complex things through a centrally planned economy on the Soviet model.

It does not, however, vindicate this Administration's policy that there is no need for Federal action—except to try to bail out a nuclear industry now dying of an incurable attack of market forces. A free market, after all, can only work by open and fair access to information and capital. Until the Department of Energy became a bastion of corporate socialism, it was making a good start on informing people of their opportunities, as DOE's Office of Consumer Affairs used to do; helping state and local governments to enable the market to work by clearing institutional barriers; abolishing (or at least equalizing) subsidies; and providing, as the Public Utility Regulatory Policies Act sought to do, a more competitive marketplace in energy services.

Today, Mr. Chairman, despite distinguished efforts by yourself and many of your colleagues in the Congress, most Federal policies are promoting the most expensive and vulnerable energy systems while stifling the cheapest and most resilient. As millions of individuals and thousands of communities seek to achieve energy security by their own efforts with their own resources—and to stanch the hemorrhage of energy payments out of their local economies—they are finding new barriers placed in their way by Washington. We hope our work will help to focus public attention on the national-security reasons, in addition to the obvious economic and social reasons, to reverse that dangerous course.●

S. 2556—FURNITURE PURCHASE REIMBURSEMENT ACT OF 1982

● Mr. DANFORTH. Mr. President, I am gratified that the chairman and the ranking minority member of the Appropriations Committee's Subcommittee on the Treasury, Postal Service, and General Government—Senator ABDNOR and Senator DECONCINI—along with the Senator from South Carolina (Senator HOLLINGS), have joined as cosponsors of S. 2556, the Furniture Purchase Reimbursement Act of 1982.

I introduced this bill, along with Senator CHILES, on May 20, after a field hearing held by the Subcommittee on Federal Expenditures, Research, and Rules at the Federal Labor Relations Authority. The FLRA spent more than $150,000 of the taxpayers' money to decorate the offices of its three members, despite a specific prohibition on furniture purchases by the Office of Management and Budget and without using the services of the Government's procurement agency, the General Services Administration.

Under S. 2556, all purchases of furniture for Presidential employees will have to be handed by the GSA; if a Federal employee violates that rule, he will have to pay for the furniture out of his own pocket. My message to Federal employees is very simple: Either do it right, or buy it yourself.

I welcome the support of the leaders of the appropriations subcommittee in this area, and I intend to press for speedy enactment of the bill.

I ask that the text of the bill be printed at the conclusion of my remarks.

The bill follows:

S. 2556

A bill to require that furniture and decorative accessories for use in offices of certain officers of the Government be procured by the Administrator of General Services, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Furniture Purchase Reimbursement Act of 1982".

SEC. 2. Notwithstanding any other provision of law, all furniture and decorative accessories to be used in any office of any officer of the Government appointed by the President, by and with the advice and consent of the Senate, shall be procured by the Administrator of General Services, unless such requirements can be met by—

(1) excess property available through the Federal Property Resources Service, or directly from another agency, or,

(2) new items available from regular sources of supply maintained by the Federal Supply Service, *Provided,* That the Administrator of General Services may authorize the competitive procurement of such furniture or decorative accessory by the agency after approving the specific requirement therefor.

SEC. 3. Any officer of the Government appointed as described in section 2 who procures or causes to have procured furniture or decorative accessories in violation of section 2 shall be personally liable for any expense to the Government incurred in procuring the furniture or decorative accessories.

SEC. 4. This Act shall take effect with respect to purchases of, and contracts entered into for, furniture or decorative accessories after the date of enactment of this Act.●

TAX REFORM: THE SELF PLAN

● Mr. QUAYLE. Mr. President, it is encouraging to note that the Democratic Party at its recent miniconvention in Philadelphia endorsed the principles underlying the SELF-Tax Plan Act of 1982 which I introduced on the floor of the Senate on May 20, 1982.

The Democratic Party's statement on new tax policy as reported in the New York Times (June 28, 1982) notes that "we must restructure the tax laws to make them fairer, simpler and more efficient." On May 20, on the Senate floor, I stated: "We must establish SELF as the overriding principle in taxation: simplicity, efficiency, low tax rates, and fairness."

The Democrats' statement goes on to say, "We should have a tax code in which all citizens with equal incomes are treated essentially the same way." On May 20, on the Senate floor, I said: "All income should be taxed equally. People who earn the same income should pay the same tax."

The Democrats continue: "We should have a tax code simple enough for all citizens to have a basic under-

standing of how the system works and how their own tax obligations are determined." On May 20, I said on the Senate floor, "People should be able to understand the basic requirements of the tax law and to file their returns by themselves, without the need for professional assistance."

It is interesting to me, Mr. President, that there are those in the Democratic Party who proclaim their discovery of tax simplification as a new initiative emanating from their party. However, a look back into history reveals that 40 years ago, in March 1943, a young economist working at the Department of Treasury whose name was Milton Friedman had written an article on the flat rate tax. In 1977, former Treasury Secretary William Simon, a Republican, called for scrapping the U.S. income tax system and replacing it with a simpler, more efficient, and more equitable system in a document called Blueprints for Tax Reform.

We welcome the Democratic Party's support for fairer, simpler, and more efficient tax laws. As the second phase of the Reagan administration's 3-year tax cut takes effect today, it is appropriate that we commit ourselves to moving for bold reform of the tax system. I look forward to working with my colleagues on this side of the aisle, and with my Democratic colleagues to reform the current tax system and will welcome their cosponsorship of the SELF-Tax Plan Act of 1982.●

THE PRESIDENT'S RECENT DECISION TO TIGHTEN TRADE RESTRICTIONS ON THE PARTICIPATION OF U.S. FIRMS IN THE SOVIET GAS PIPELINE

● Mr. MURKOWSKI. Mr. President, many of us were outraged when the Soviet Union invaded Afghanistan and therefore supported our Government's efforts to impose sanctions on the aggressors for their conduct. When the Soviet Union made it clear last year that they would not give the Polish people the right to form free trade unions, we again were indignant that a major power could run roughshod over a people in such a brutal fashion. It was clear to many of us that our efforts to convince the U.S.S.R. of our strong feelings about the basic human rights of the Poles were lacking in credibility and would have to be strengthened.

On June 18, President Reagan announced his decision, which I support, to extend sanctions against the planned Soviet natural gas pipeline to Western Europe. In addition to maintaining the ban on the sale of oil and gas equipment to the Soviet Union, the President extended the ban to cover equipment produced by U.S. subsidiaries abroad or by foreign holders of U.S. licenses. This move will block several European engineering contractors from using turbine rotor blades which they manufacture under U.S. license and should force the Soviets to forgo the use of advanced, strategic western turbine and rotor technology in building this pipeline and others planned in the future. Instead, the Soviets will have to rely on their own inferior technology and the completion date for the pipeline may be pushed into the late 1980's

The President took this action due in large part to the failure of the Polish Military Government to ease the repression which it has inflicted on the Polish people for over 7 months. It is clear that the imposition of martial law and the dismemberment of Solidarity was attributable to Soviet pressure on Poland's leaders. In addition, the Soviets bear full responsibility for the continued denial of human rights in Poland. Instead of recognizing that increased central control has failed to solve Poland's economic crisis, General Jarulselski, at the urging of the Soviets, has stepped up his efforts to liquidate opposition to his regime.

The Polish people sought the dignity of the workplace through free association in their union Solidarity in order to resolve their mounting economic problems. Such dignity meant, above all, respect for the individual, his talents, and his right to a just reward for his work.

The Polish search for reform was a peaceful movement. Solidarity respected both Poland's geographic situation and the imperatives for social progress.

After 18 months of achievement, Solidarity and the Polish people are being violently suppressed. In a grotesque parody of their own propaganda, the Communist authorities are employing the police power of the state to oppress the very workers they are pledged to protect. Thousands remain in jail and tens of thousands are being forced to violate their consciences. Poland today exemplifies the historic failure of Soviet-style communism to produce either bread or freedom.

The people of Poland are now looking to the West. We must give them clear unequivocal evidence of our support and the President's decision is exactly that. Our policies must be practical, taking into account Polish and Soviet realities. We want real progress, not just empty posturing.

I hope prudent Western leadership can help to achieve a greater degree of moderation in Poland so that the necessary process of reform may continue. With this in mind, I support and applaud the new steps President Reagan has taken to signal both the Polish and Soviet Governments of our concern.

There is another strong reason to oppose the Soviet pipeline. This pipeline, in combination with existing Soviet oil and gas exports to Western Europe, will augment the dependence of our allies on Soviet energy supplies to a dangerous level. The Soviets, who have a third of all known reserves of natural gas, will pump 1.4 trillion cubic feet of gas a year, raising the Soviet supplied share of Europe's gas supplies from 9 to 25 percent. These gas shipments will bring the Soviets $8 billion a year in desperately needed hard currency over the next 25 years.

This decision by the President has raised considerable controversy in West Europe and Japan, where cooperation with the Soviets in oil and gas ventures has become extensive, and in my opinion, excessive. I am pleased that President Reagan has sent U.S. Trade Representative Brock to Europe to alleviate our allies' concern and that he made a personal effort to persuade Prime Minister Thatcher of the need for Britain's support for these sanctions during her recent visit here.

If European security and policy flexibility is to be maintained, this intoxicating, increasing dependence on Soviet energy must be constrained. At a time when all of NATO is beginning to recognize the rapidly increasing capabilities of the Soviet armed forces, it is hardly appropriate to open a passageway of vulnerability which provides the Soviets with a potent tool for control over European foreign policy. I understand the desire of West European governments to decrease their reliance on unreliable Middle East oil sources. That is exactly what the United States is attempting to do by promoting coal extraction and stepping up its development of offshore oil resources in Alaska and the lower 48. However, Europeans should further investigate access to alternative energy resources in Europe and America before they turn to the Soviets. It hardly makes sense to exchange one unsafe source for another.

Considerable debate has occurred over what kind of trade should take place between the United States and the U.S.S.R. I am generally opposed to making one specific industry or area of our economy bear the brunt of U.S. efforts to condemn the ongoing repression in Poland and restrict Soviet adventurism. However, the trade which the President has now banned involves highly advanced oil and gas equipment that is only available from U.S. firms. If we are to avoid both assisting the Soviets in improving their military capabilities and cash reserve situation, we must act in the interest of our national security by tightly restricting the export of these strategic goods.

In Versailles this month the Western World approved a communique agreeing to "limit" Western financial credits to the Soviets, taking into account the need for "commercial prudence" in dealing with the Soviets. I

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feel President Reagan has acted in the proper spirit of this communique and that he deserves much credit for his determination to avoid any U.S. involvement in a project which we have always openly opposed. The President has stood by his belief that we should not assist the Soviets in subverting the independence of West Europeans. I applaud his efforts and call on my colleagues in the Senate to do the same.●

EXIM BENEFITS

● Mr. HEINZ. Mr. President, a few weeks ago a detailed study of the costs of the Export-Import Bank was reprinted in the RECORD. The article, by John H. Boyd, was very interesting and helps to draw attention to the question of the proper role of the Export-Import Bank.

Public policy, however, must be based upon a full evaluation of the costs and also the benefits involved in any issue. The Labor-Industry Coalition for International Trade recently published an excellent study that outlines in a very clear way the benefits of the Bank. In order to balance the dialog on this most important matter of public policy, I ask that the LICIT study be printed in the RECORD, along with the appropriation charts.

The material follows:

THE EROSION OF AMERICA'S COMPETITIVE EDGE

OFFICIAL EXPORT CREDITS AND INTERNATIONAL COMPETITION FOR JOBS AND MARKETS

(LICIT, the Labor-Industry Coalition for International Trade, May 1982)

FOREWORD

The Labor-Industry Coalition for International Trade, LICIT, is publishing this paper as the second in a series of pamphlets designed to contribute to the national debate on important international economic policy issues that directly affect large numbers of American firms and workers. International competition utilizing officially subsidized export credits is a critical trade problem confronting the United States. Yet the magnitude of this problem and its serious implications for important manufacturing sectors of our economy are not well understood or appreciated. The objective of this paper is to increase the awareness and understanding of this problem on the part of public officials, labor and business. We hope this understanding will result in broad-based support for a financially competitive U.S. Export-Import Bank to enable the United States to press effectively for multilateral agreement to end the unfair subsidization of official export credits.

The Labor-Industry Coalition for International Trade seeks to articulate the common interests of American workers and American business in promoting increased, balanced and equitable trade among all nations of the world. Without reference to outdated slogans of "free trade" and "protectionism," LICIT support open, fair competition for foreign products in the United States market and for American-made products in foreign markets. The Coalition is a voluntary association representing a representative number of key firms and manufacturing unions. It is not an official arm of any labor or industry group.

This paper was prepared by William A. Noellert, LICIT's staff economist, but represents collective contributions from many of the representatives from the member organizations of LICIT. We are also to Brian Turner and Allan Cors for their efforts concerning the respective contributions of labor and industry to this paper. The paper has benefited from the assistance and critical comments of many knowledgeable people outside of LICIT. Special thanks for their time and expert advice goes to the many professionals at the Eximbank, Treasury and the Office of Management and Budget, who provided factual information, although clearly not necessarily in each case approval of the policies expressed, with respect to much of the material contained in the paper.

The entirety of the views described in this paper are not necessarily those of any individual LICIT member. However, all of the members of LICIT believe that the analysis provided, the policy issues raised, and the position taken, will make an important contribution to public awareness of the efforts needed to bring under control the growing international competition utilizing officially subsidized export credits.

EXECUTIVE SUMMARY

The industrialized countries of the West are engaged in an escalating international competition for jobs and markets utilizing government-supported export finance. At stake are billions of dollars in manufactured exports and hundreds of thousands of jobs. For the United States the stakes are especially great because the competition is focused in those capital goods sectors where the U.S. has traditionally had a strong comparative advantage—commercial aircraft, construction equipment and machinery, extraction equipment and processing plants for primary resources, electric power plants and other heavy electrical equipment and large telecommunication systems.

Spurred on by U.S. insistence, and the increasingly costly nature of the competition, industrialized countries are attempting to negotiate the elimination of direct subsidization of official export credits. However, even as these international talks proceed, the U.S. Administration has unilaterally decided to curtail the ability of the U.S. Export-Import Bank (Eximbank) to support U.S. exports. It has sought reductions in Eximbank's authority to borrow money and extend export credits. Eximbank's direct loan authority was reduced 19 percent in FY 1982 and the Administration is seeking a further reduction of 14 percent for FY 1983. This decision, if not reversed, at best seriously impairs America's ability to negotiate agreed limits to official government export credit subsidies. More likely, this course of action is completely self-defeating.

The costs include not merely the billions of dollars invested in unnecessary international export credit competition by all participants. Far worse, "unilateral disarmament" by the United States in the export credits race means that U.S. exporters will lose billions of dollars of sales abroad. The human cost is greater. Hundreds of thousands of America's most skilled jobs are being lost.

From 1977 to 1981 the U.S. Export-Import Bank supported export sales of $71 billion upon which 2.2 million U.S. jobs depended. Even so, many U.S. jobs and export sales were lost to subsidized export credits of foreign governments. These losses of sales and jobs are now, sadly, increasing sharply.

In an ideal world, exports from different countries would compete on the basis of quality and price, not on the basis of anything as artificial as differences in the willingness of national treasuries to provide subsidized official export credit. Unfortunately U.S. firms and workers do not compete in an ideal world. Any serious analysis of the domestic and international context of Eximbank's programs demonstrates that it is critically important that government support for Eximbank's direct loans and loan guarantees should not be curtailed until U.S. negotiators succeed in eliminating international competition based upon subsidized official export finance. The guiding principle in these negotiations should be that officially supported export credits must be a neutral element in international trade.

This LICIT paper presents an analysis of the key issues relevant to the current domestic debate over the funding of the Export-Import Bank. It attempts to place that debate in the context of the international export credit competition, the outcome of which is so critical to important sectors of world commerce and the American economy. Until a new arrangement is negotiated that eliminates the government subsidy element in export finance, the United States' Eximbank must have funding adequate to enable it to meet financial competition from foreign export credit institutions. This is necessary not only to maintain our country's negotiating leverage, but also to preserve American jobs and market shares in the face of a growing challenge of unfair competition.

Continuation of the current loss of sales and jobs is causing permanent damage to the United States of the most far-reaching sort. It is the purpose of this paper to call attention to the long-term damage to the American economy being caused by policies based on short-term concerns. When the public is fully aware of the costs of the supposed savings made today at the expense of the U.S. industrial base of future decades, and of the employment lost for future generations of Americans, the current policies will be reversed. If this paper hastens that awareness even slightly, it will have served a useful purpose.

Howard D. Samuel, President, Industrial Union Department, AFL-CIO: "Our country's export credit policy can't be based on wishful thinking and an idealized vision of the world. The fact is that we are in an international export credit war where other governments are seeking to unfairly increase their exports of capital goods with subsidized financing. Over two and a half million American workers represent a major proportion of the human skills and knowledge that are the foundation of our country's industrial strength. further reducing Eximbank programs without having negotiated an end to the export credit war not only jeopardizes many of these workers' jobs. It also contributes to a further deterioration in America's industrial base."

I. INTRODUCTION: THE DOMESTIC DEBATE CONCERNING THE U.S. EXPORT-IMPORT BANK

Why have the levels of Eximbank operating authority been cut back in 1981-1982? The basic source of the difficulty has been a lack of understanding and public awareness concerning how the Eximbank operates and the benefits it provides for the U.S. economy. This lack of understanding masks the

importance and efficacy of the Bank, and has resulted in successful efforts to limit the Bank's operations. While the U.S. negotiators in the OECD have pushed hard to reach an international agreement to halt subsidized official export credits, other Administration officials have unintentionally undermined these efforts. In the budget process, they have questioned the need for any official export credit program at all, leaving the U.S. negotiators without adequate leverage to bring about the result that all American policy-makers desire: the curbing of export subsidies.

In FY 1982 there has been a 19 percent reduction of Eximbank's direct loan authority (from $5.4 billion to $4.4 billion). A further reduction of 14 percent (down to $3.8 billion) for FY 1983 has been proposed. As long as other countries continue to provide subsidized credit support for their exports, the effect of such reductions in this support of U.S. exports will not mean smaller federal budget deficits, but lost U.S. jobs and reduced federal tax receipts.

At present, most developed countries are offering export financing at interest rates substantially below prevailing market rates and below the rates these countries must pay to borrow funds. This subsidization of exports is widespread despite international condemnation of export subsidies by international agreement as far back as 1958 in the General Agreement on Tariffs and Trade. Export subsidies in the form of credit at below-market interest rates are implicitly allowed, however, by an international "Arrangement" adhered to by the United States and other major exporting nations, provided the rates are not less than the minimum rates established in the Arrangement. Currently, the interest rate floors set in the Arrangement are substantially below prevailing market rates and therefore do not act as barriers to subsidized export credit competition.

Before proceeding to analyze this international competition and possible solutions, it is important to understand the role of official export finance programs and how the Eximbank operates.

Senator John Heinz: "A non-competitive financing offer most often means loss of the sale and often permanent loss of market. If the government cannot end other nations' subsidies and will not match them, we force major losses abroad upon our companies here at home. We also force the outright transfer of business and technology abroad as industries move overseas or license their products in order to obtain competitive financing. Those, in the Administration and elsewhere, who complain about the movement of important American know-how and technology overseas should realize that our own policies accelerate this problem."

II. WORLD TRADE AND OFFICIAL SUPPORT FOR EXPORT FINANCE

A. The origins of official export credit

Governments have long been involved in providing official credit support for exports from their countries. The U.S. established its official export credit agency in 1934 after similar agencies had been set up by other countries. The British established their export credit agency in 1919, the Germans in 1926, the Italians in 1928 and the French in 1929. The Export-Import Bank of Japan was established in 1950.

The underlying rationale for the establishment of official export credit agencies is to fill an important void in international transactions by providing financing in those many instances when private lenders are unable or unwilling to finance the sale of goods overseas. This is due to the special credit characteristics and risks which are not present in domestic transactions.

First of all, exported goods are sold to geographically distant buyers who are likely to be less well known to the seller than buyers in the seller's own country. The buyer will also be subject to a different legal system and different trade customs.

Secondly, again for geographical reasons, the time taken for goods to pass from seller to buyer is generally longer for exports.

Thirdly, exporting entails an exchange risk, since it involves payment in a foreign currency, either to the buyer or to the seller, or to both. Exporting may also involve exchange control regulations.

Fourth, the long useful life of such goods makes buyers prefer credit terms that are longer than commercial banks generally are able to extend in international markets without some form of government guarantee.

Finally, dealing with buyers abroad entails further risks known as country or market risks. These range from delays in payment to outright default, for example, in the event of war or civil strife.

Thus, the objectives of the official export credit programs were twofold: to minimize the special commercial and political risks noted above so the producer would not be deterred from exporting and to provide the necessary credit to enable purchasers to pay for the exports.

B. The beginning of the credit competition

Until the late 1950s, officially supported export credits were not a significant factor in international competition. However during the 1960s it became standard practice for major exporting countries to offer some form of official support for most medium and long-term credit for capital equipment exports. This was the result of the rapidly escalating value of individual capital goods transactions, and a growing demand for them from developing countries. The size of the transactions and the financial status of the buyers meant that these exports could only be sold on credit, but the private sector would not provide the necessary credit due to the long maturities and the risk entailed. The financial package involving official export credit support came to be an element of international competition for large capital goods exports, on a par with technical quality and price.

By the 1970s, due to increasing international competition, governments like the United Kingdom began to subsidize the interest rate for export credit. While previous government involvement had been limited to intervention designed primarily to remove impediments to the provision of export finance by private banks, there was now direct subvention to the exporters. As the growth of world demand slowed in the 1970s, the efforts of exporting countries to match each other's offers became increasingly competitive. However efforts to control this competition were not very successful (see part III).

C. The Eximbank and the Federal budget

The recent debate about levels of "funding" for the Eximbank reveals widespread confusion concerning the impact of Eximbank programs on the overall federal budget.

The Bank does not receive any appropriations of taxpayers' funds from the Congress. As a self-sustaining U.S. government-owned corporation, Eximbank's policy has been to generate adequate earnings to cover its costs. Eximbank meets its day-to-day lending needs through funds raised in the open market. The Bank was capitalized in 1945 with $1 billion provided by the United States. Since that time, the Bank has paid dividends to the Treasury amounting to slightly more than $1 billion, and produced retained earnings of more than $2 billion.[1]

Congress establishes a limitation or ceiling on the amount of obligations which Eximbank can undertake in each fiscal year. Thus, with respect to Eximbank, the term "funding" is very misleading. Congress is not providing any funds or monies to the Eximbank in the yearly consideration and approval of the budget.[2]

The following table presents in a simple way how the Export-Import Bank appears in the federal budget.

However this budget treatment is very misleading. The surplus or deficit line in the budget represents the difference between the federal government's income and expenditures. A deficit shows that expenditures exceed income and therefore must be financed either through borrowings by the Treasury or by an increase in the amount of money printed. These borrowings must then be repaid by future tax receipts or further borrowing. Eximbank is different in the sense that outlays for Eximbank will be repaid with interest by the customers of the Bank and not through tax collections. In other words, unlike most other items in the budget, the Bank's outlays are actually loans and not expenditures. Eximbank generates its own receipts.

Eximbank outlays in any given year represent net borrowings of the Bank to meet its obligations and thus reflect a federal credit activity. The outlays of Eximbank are primarily related to the rate of change in Eximbank's direct loan obligations and not to the absolute level of loans committed in any given year. Outlays are influenced to a lesser extent by changes in net operating costs (primarily the difference between interest payments received for past loans and interest payable on new borrowings).

TABLE I.—EXIMBANK AND THE BUDGET

[In billions of dollars]

	1981		1982 [1]		1983 [1]	
	Total	Eximbank	Total	Eximbank	Total	Eximbank
Budget receipts	599.3	0.0	626.8	0.0	666.1	0.0
Budget outlays	657.2	2.1	725.3	1.9	757.6	1.9
Surplus or deficit (−)	−57.9	−2.1	−98.6	−1.9	−91.5	−1.9
Budget authority	718.4	6.9	765.5	4.0	801.9	2.7

[1] Estimate.

Source: Executive Office of the President, Office of Management and Budget, Budget of the United States Government Fiscal Year 1983. In this table, "budget authority" is an estimate of possible future borrowing. Outlays are

[1] The commitment authority of Eximbank under the Export-Import Bank Act to lend, guarantee, and insure is limited to $40 billion outstanding at any one time. This borrowing authority allows the Bank to incur obligations; no subsequent appropriation is required. The authority is both permanent and indefinite and allows the Eximbank to borrow from both the Treasury and private capital markets for as long as necessary. The amount of annual borrowing is not predetermined in the enabling legislation.

[2] Only the level of Eximbank's direct loan obligations affects outlays. Guarantees and insurance do not affect outlays, although 25 percent of guarantee and insurance authorizations are charged against the overall $40 billion statutory limit.

payments made by the issuance of checks or the disbursement of cash in order to liquidate obligations. Receipts are government collections of taxes, including social security taxes. The surplus or deficit is the difference between receipts and outlays. Note that Eximbank shows up in the budget in the outlay line but not in the receipt line. Any level of net outlays by Eximbank shows up in the budget as a subtraction from receipts. Thus in 1981, Eximbank is shown to have added $2.1 billion to the federal budget deficit.

The following table shows the actual relationship between direct loan obligations and outlays over a number of years and projections by the Administration through 1987.

This table shows that increases or decreases in direct loan obligations affect increases or decreases in the level of outlays, with a lag of several years. It also shows that a constant level of loan obligations will result in outlays approaching zero (1983–1987). The reason for this is easy enough to understand. Outlays for Eximbank are basically determined by the difference in any year between disbursements on loan obligations and receipts from repayment of principal of Eximbank's prior lending. Thus, assuming other things equal, a constant level of annual loan disbursements should be matched by an equal level of receipts from principal repayments.

To sum up, while Eximbank programs are included in the budget, these programs are federal credit activities. There is no appropriation of taxpayers' dollars, but merely an annual limitation on the amount of obligations Eximbank can enter into. The cost of borrowing is absorbed neither by the federal government nor by the taxpayers, but through repayments of loans by foreign borrowers, interest earnings, guarantee fees and insurance premiums.[3]

TABLE II.—DIRECT LOAN OBLIGATIONS AND OUTLAYS

[In millions of dollars]

	1975	1976	1977	1978	1979	1980	1981
Actual:							
Direct loan obligations	3,813	3,489	1,221	3,425	4,475	4,578	5,431
Outlays	1,504	856	340	100	200	1,836	2,066
	1982	1983	1984	1985	1986	1987	
Estimated:							
Direct loan obligations	4,400	3,830	3,830	3,830	3,830	3,830	
Outlays	1,855	1,918	1,188	1,385	1,317	647	

An accurate picture of how the Bank operates highlights the fallacy of current efforts to reduce Eximbank's authorizations as a means to reduce the federal budget deficit. Cutting Eximbank's authorizations will not have any effect on federal government expenditures financed from tax receipts. Moreover the small borrowings of Eximbank through the Federal Financing Bank will have no significant effect on interest costs to other borrowers in U.S. capital markets (see section H, p. 14).

The only conclusion that can be drawn is that those who want to reduce Eximbank's operations oppose this type of government activity out of a general predisposition against any government-directed intervention in goods or capital markets, even in the face of foreign government distortions of those markets, and not because of the impact on the federal budget. Unfortunately the reason often given for cutting Eximbank's activity is budget stringency—to cut a "subsidy". This position is not based on a real analysis of the costs to the U.S. economy of failing to offset the foreign government subsidization.

D. America's stake in world markets—Eximbank's role

No other country in the world appears to place as little importance on world trade as the United States does. This is perhaps due principally to our geography, our sheer physical size, the distance of most of our trading partners and our wealth of natural resources. The American awareness of trade is largely confined to primary products—petroleum imports from the Middle East is the principal example. But our farmers also understand clearly their dependence on world markets for their livelihoods. For manufactured goods, from government policy-maker to average citizen, the importance of export markets is not well appreciated.

Our nation's actual interest in exporting manufactured products has been growing steadily however. In 1980, 13.7 percent of all employment in U.S. manufacturing industries was related to U.S. exports of manufactured products. This accounts for one of every seven manufacturing jobs. (This compares to 10.2 percent only 3 years earlier or one of every ten manufacturing jobs.) During a time of relatively slow growth both domestically and internationally, the total share of U.S. employment related to manufactured exports increased from 3.6 percent in 1977 to 5.0 percent in 1980. Thus 5 million American jobs now depend directly on exports.[4] Those American workers produce over $150 billion worth of exports each year.

Eximbank has a major role in supporting this essential national activity. A deterioration in the U.S. trade balance in manufactured products would not only further accelerate the erosion of the U.S. industrial base, but would have serious implications for overall employment. A strong export capability is essential to earn the necessary foreign exchange we need to purchase oil and other raw materials in international markets. Export sales allow U.S. manufacturing firms to produce on a more efficient and economical scale, improving their international competitiveness and lowering unit costs to American consumers. This is especially important for large capital goods items where oveseas demand, especially in the newly industrializing countries, is growing much more rapidly than in most developed countries.

In FY 1981 the Eximbank authorized $12.884 billion in loans, guarantees and insurance which supported a total export value of $18.769 billion. These export sales were responsible for approximately 580,000 jobs. Over the last five years, from 1977 to 1981, the Eximbank, through total authorizations for loans, guarantees and insurance of $48 billion, supported export sales of $71 billion and 2.2 million jobs (see Chart I). This was during a period of record trade deficits for the United States when we imported over $140 billion more than we exported. Without Eximbank, our international trade position would have deteriorated even more sharply.

[Charts not printed in RECORD.]

These aggregate figures are known or understood by very few people. As is natural, the importance of a national activity is clear only when presented in terms of the impact it has at the local level on jobs and business activity in one's own area. A few examples bring home the importance of Eximbank's lending activities to each of the states. Listed below is the impact of Eximbank's operations in fifteen states over the last five years (see Table III. The full list of states is contained in Appendix A).

One conclusion that jumps out of this picture is that the importance of Eximbank financing is not confined to any single area or state. Much of the national livelihood and economic well-being is linked closely to Eximbank activities. This will remain the case until international competition in subsidized export credits is curbed sharply. Even then, export finance will remain a critical factor in allowing Americans to sell in distant market.

Another little known or understood fact about the effects of Eximbank's operations is that the large capital goods exports Eximbank supports, which are typically supplied by large American companies, are produced with components and services provided by hundreds of suppliers all across the nation. As an example, a 2,000 megawatt (enough electricity to light over 33 million 60 watt lamps) nuclear equipment export order valued at $880 million will involve suppliers in 174 cities and 31 states for a company like Westinghouse Electric Corporation (see Appendix B).

Geographic impact is only one aspect of the importance of Eximbank for the nation. Even a cursory analysis of Eximbank activities by industrial sector reveals how vital the Bank is to whole areas of economic activity in our country. Over the past five years, Eximbank has supported almost $22 billion of exports and 668,000 jobs in the transportation (primarily aircraft) sector. Construction, mining and refining and electric power equipment have also been major sectors receiving export support from Eximbank (see Table IV). These capital goods are technically advanced, of high quality and have a long useful life, often extending beyond 10 years. Associated with such products are highly productive, quality jobs including those for engineers, metal workers, electricians, research scientists, and machinists.

These characteristics of the capital goods sectors—technically sophisticated products requiring highly skilled productive workers—reflect the strengths of the United States' international competitiveness. It is not surprising that the capital goods sector has consistently registered the largest surpluses in the U.S. international trade accounts, averaging $43 billion annually over the last two years. The only other sector of the trade account showing a surplus was agriculture, again reflecting U.S. comparative advantage in world trade. Chart II illustrates the importance of the capital goods sector in overall U.S. Trade. What is particularly noteworthy is that the other major component of U.S. trade in manufactured products—consumer goods—averaged a deficit of $31 billion annually for 1980–1981. Without a strong export performance in the capital goods sector the U.S. would run deficits not only in total trade, but also in trade in manufactured goods.

[3] The rapid increase in interest rates in the past few years has cut deeply into Eximbank's net income because its borrowing costs now exceed interest rates on past loans. Because of this situation, the Bank is projected to have a small net loss this year for the first time in its history, which will have to be covered by its reserves (see Part IVA for more discussion of this point).

[4] U.S. Department of Commerce, Bureau of the Census, Origin of Exports of Manufactured Products, January, 1982, p. 13.

This brief presentation has shown the crucial importance of U.S. capital goods exports for U.S. jobs and manufacturing production. It is precisely in the capital goods sector that the Eximbank directs almost all of its resources. It is also in this sector that other industrial countries have targeted both their domestic industrial policies and their official export credit support to challenge the United States in international markets.

E. The impact of foreign industrial policy on the U.S. economy

In 1975 the United States' share of all aircraft exports from OECD countries was 70 percent. By 1980, the latest year for which comparable data is available, the U.S. share had fallen to 53 percent. This reduction in market share was not the result of the "invisible hand" of the market but rather the very visible hand of foreign governments. This 25 percent reduction in market share in just five years was primarily due to the market gains of Airbus Industrie.

Airbus Industrie is a consortium of predominantly government-owned or controlled enterprises consisting of companies from France (37.9 percent), Germany (37.9 percent), the United Kingdom (20 percent), and Spain (4.1 percent) as full partners, while Belgium and the Netherlands are associates. Government-furnished support is provided to the companies in the consortium through a variety of means not available to U.S. companies. This support includes development loans (at low or no interest), infusion of equity capital into government-owned companies and marketing support and subsidies. However such government support also extends to sales of aircraft overseas, the major market for the output of the Airbus consortium. The official export credit agencies of France, West Germany and United Kingdom have all provided extensive support for export sales of Airbus. This export credit support was a crucial factor in the rapid expansion of the export market share of Airbus for wide-body aircraft.

TABLE III.—EXPORT SALES AND EMPLOYMENT SUPPORTED BY EXPORT-IMPORT BANK AUTHORIZATIONS FOR 15 STATES—CUMULATIVE EXPORT AND EMPLOYMENT AMOUNTS FOR FISCAL YEARS 1977 THROUGH 1981

State	Exports supported (dollars)	Employment (man-years)
California	$6,232,076,046	192,569
Connecticut	1,671,550,730	51,665
Florida	848,053,512	26,203
Georgia	2,039,855,771	63,036
Illinois	5,855,763,599	180,950
Massachusetts	1,118,857,467	34,577
Michigan	1,838,526,483	56,856
Minnesota	870,100,410	26,883
New Jersey	1,826,483,664	56,547
New York	12,932,000,000	399,599
Ohio	1,314,907,426	40,634
Pennsylvania	2,811,730,774	86,891
Texas	4,165,943,178	128,729
Washington	11,771,000,000	363,724
Wisconsin	2,906,117,588	89,795
Total	58,293,966,653	1,798,658

Source: See Appendix A.

TABLE IV.—U.S. EXPORT-IMPORT BANK EXPORT SALES SUPPORTED AND EMPLOYMENT GENERATED BY PRODUCT GROUP, FISCAL YEARS 1977-81

[Dollars in millions and 1,000 man-years]

Product group	1977	1978	1979	1980	1981	Totals
Agriculture:						
Exports supported	$679.9	$616.9	$950.2	$958.3	$759.4	$3,964.7
Employment	21.0	19.1	29.4	29.6	23.5	122.6
Communication:						
Exports supported	$276.3	$316.1	$417.9	$950.7	$968.4	$2,929.4
Employment	8.5	9.8	12.9	29.4	29.9	90.5
Construction:						
Exports supported	$1,922.9	$1,650.1	$2,116.2	$2,136.4	$2,072.1	$9,987.7
Employment	59.4	50.9	66.9	66.0	64.0	307.2
Electric power:						
Exports supported	$716.4	$1,611.9	$1,308.2	$2,065.1	$1,257.9	$6,959.5
Employment	22.1	49.8	40.4	63.8	38.9	215.0
Manufacturing:						
Exports supported	$685.7	$660.6	$762.0	$1,011.3	$1,347.4	$4,466.9
Employment	21.2	20.4	23.5	31.2	42.5	138.8
Mining and refining:						
Exports supported	$705.7	$2,472.7	$1,295.1	$1,078.6	$1,615.4	$7,167.5
Employment	21.8	76.4	40.0	33.3	49.9	221.4
Transportation:						
Exports supported	$2,427.2	$1,932.4	$4,662.2	$6,362.4	$6,235.5	$21,619.7
Employment	75.0	59.7	144.1	196.6	192.7	668.4
Other Products:						
Exports supported	$342.2	$435.7	$403.1	$483.9	$513.6	$2,178.5
Employment	10.6	13.5	12.5	14.9	15.9	67.4
Miscellaneous Credits:						
Exports supported	$1,096.4	$1,204.6	$2,097.5	$3,390.3	$4,059.4	$11,848.2
Employment	33.9	37.2	64.8	104.8	125.4	366.1
Totals:						
Exports supported	$8,852.7	$10,901.0	$14,012.4	$18,436.9	$18,829.2	$71,032.1
Employment	273.5	336.8	432.9	569.7	581.8	2,194.9

Source: U.S. Export-Import Bank, "Authorization Distribution Analysis by Product Group."

What is important to understand, in the context of this paper, is the connection between industrial policies and international trade. Industrial policies are made by national governments. Yet most of the industrial sectors they affect, like the aircraft industry, are international in nature. National political decisions taken by some governments to promote and foster certain of their domestic industries affect the domestic industries of other trading partners and competitors. The decision of Lockheed to phase-out production of the L-1011 aircraft is directly related to the growing market share of the European government-backed Airbus Industrie. These international effects become that much more widespread and disruptive when the industrial policy objectives are actively supported by subsidized export credit assistance. In effect, this subsidized export support is a vital component of implementing industrial policy decisions in those industrial sectors which are highly internationalized.

Industries affected by such policies include not only aircraft, but also power generating equipment, telecommunications systems, heavy industrial and construction machinery, and other technically sophisticated capital-goods. The major economic issue to consider is what is the net effect of foreign government policies on the U.S. economy. How many large electric power plants, aircraft sales and huge telecommunications project does the United States lose to foreign competitors before U.S. industry is no longer at the leading edge of technology, production efficiency and international competitiveness? This is a subject for further research, but these questions are best answered by the managers and workers of those American firms who are currently in face-to-face competition with foreign companies backed by subsidized export credits. With respect to export credit policy, the United States should not allow the erosion of vital manufacturing industries to occur because of the unfair export credit practices of its major competitors. This entails a recognition that a key part of the implementation of the industrial policies of our international competitors is through their export credit programs.

F. A government with its eyes closed—The economic costs of lost export sales

The mayors of Seattle and Wichita and those from Tampa and Lester, Pennsylvania know about the importance of exports to their economies. They know what the absence of competitive financing terms from Eximbank means to local employment and the vitality of their regions. Why don't the decision-makers in Washington have this understanding? In an effort to reduce federal expenditures, borrowing and government involvement in the economy, serious consideration has not been given to the implications of cutting back on Eximbank's operations.

The Office of Management and Budget (OMB) in its fiscal year 1983 budget submission provides the following rationale for reducing Eximbank's direct lending authority:

"The changes support the Administration's policy to reduce federal subsidies that

distort market forces. Such changes are needed because:

The cost of interest subsidies on long-term loans is substantial; subsidized export credits transfer resources from domestic taxpayers to exporters or the foreign borrowing.

Subsidies distort trade and investment, result in a low rate of return on invested capital, and worsen the terms of trade, particularly in the short term.

Economic gains to the general public have not been identified or measured in any rigorous manner.

Claims that subsidized exports generate additional employment, income and Federal revenue while reducing expenditures for social programs fail to consider that credit diverted to exports must come at the expense of other sectors which will experience offsetting losses."[5]

These sentiments, to be found in any introductory economics textbook, are not an adequate guide to running a government. A "hands off" philosophy need not be accompanied by having an "eyes closed" policy with respect to what other governments are doing. Economic philosophy must at least be tempered by the facts.

The OMB discussion cited above makes no reference to the existence of international competition in official export credits. With this omission the authors may be concluding that foreign government distortions of international markets are either of minor consequence to the U.S. economy, or do not require a response by the United States government. The apparent attitude is that international economic events are not important in the formulation of U.S. international economic policy.

Foreign governments are, however, distorting international markets through the use of subsidized export credits. These practices are having significant effects on the U.S. economy. No one can accurately quantify total damage or list all the export sales lost to the United States because of officially subsidized export credits extended by foreign governments. This is because of the difficulty involved in obtaining comprehensive information on all the export transactions affected and in assessing the relative importance of the numerous factors which determine the competitiveness of each transaction.[6] There is the added difficult that many companies are reluctant to be publicly identified with respect to individual transactions they have lost due to foreign official export finance for fear of jeopardizing future business.

Despite the difficulties of gathering accurate and complete information, nine export transactions which were lost in 1981 and one transaction that remains in jeopardy because of subsidized financing by other governments have been identified by questioning just a few major American companies about their experiences (see Appendix C). These 10 cases would have resulted in over $1 billion in U.S. exports representing almost 35,000 man-years of employment.

The Machinery and Allied Products Institute (MAPI) just published the results of a survey of 39 multinational companies concerning instances during 1981 in which they sourced from a foreign subsidiary or other foreign affiliate in order to obtain competitive financing.[7] Of the 39 companies surveyed, 14 companies reported that 39 transactions with a dollar value of $386.7 million had been shifted to foreign affiliates primarily, if not exclusively, because of more competitive financing available to the foreign affiliate from the host government.

The MAPI survey results and the ten cases listed in Appendix C represent lost U.S. exports totaling over $1.5 billion and representing over 46,000 U.S. jobs. These examples do not represent a comprehensive inventory of all export transactions lost or sourced from a foreign affiliate in 1981 because of more competitive export financing available from foreign governments.[8] The data does indicate that at a time when Eximbank considered itself to be "competitive" a significant number of export transactions were still lost due to more competitive financing provided by other governments.

However, given the current and proposed future reductions in Eximbank authority, the Bank no longer considers itself competitive. The president of the Eximbank, Mr. Draper, in testifying on November 2, 1981 before the Trade Subcommittee of the House Ways and Means Committee, said the following when asked by Congressman Frenzel if Eximbank was competitive:

"No, we are not competitive. The numbers I gave you of cases won and lost was, as I pointed out, historical. I think you will find our competitiveness has deteriorated in the last year because of high interest that we are paying, and our inability to go down to the depths that our foreign competition have gone in reducing their rates to predatory numbers."

These remarks and data suggest that if current U.S. policy is not reversed concerning Eximbank financing, lost U.S. exports and jobs will continue to increase. In 1981 the operating authority for Eximbank's direct loan program was 42 percent higher than that currently proposed for FY 1983. Even in 1981 the Eximbank in many cases did not have the lending authority or operating policy to match the export financing terms of our major competitors. The reduction in the level of operating authority for Eximbank in FY 1982 and further reductions in FY 1983 will mean that the lost U.S. exports and jobs will be much larger than those lost in FY 1981.

Are Eximbank's activities distorting trade and investment, as OMB suggests? It is true that in some cases Eximbank is currently making loans below U.S. market interest rates and below the Eximbank's current cost of funds. But it is doing this in response to foreign competition. Its statutory mandate is to "provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are competitive with the Government-supported rates and terms and other conditions available for the financing of exports from the principal countries whose exporters compete with the United States exporters." To call such interest subsidies distortions of market forces misses the point that the origins of the distortions are foreign government export credit programs. Eximbank's efforts are an attempt to offset the distortions so that U.S. companies and workers do not unfairly suffer because of these foreign financing practices. Obviously the ideal solution—and one which U.S. negotiators are currently seeking—is to eliminate such direct export credit subsidies altogether. But this must be accomplished on a multilateral basis, otherwise the costs to the U.S. economy will be disproportionately high compared to any expenditures that may be required to continue to match foreign export credit subsidies.

To conclude that Eximbank is causing market distortions, assumes that foreign governments' industrial policies have no impact on the U.S. economy. When Eximbank is able to match the rates and terms of foreign export credits, which it is increasingly unable to do, it is removing distortions from the market.

Of the points that OMB makes, two arguments against an aggressive Eximbank policy of matching foreign export credit subsidies deserve to be addressed here: (1) that Eximbank efforts really result in no additional exports beyond those which would have been made with private credits, and (2) the argument that Eximbank activities divert domestic capital from its most productive uses by crowding out other borrowers and by raising interest costs to those who do obtain credit. Neither of these arguments appear to be supported by substantial evidence.

G. The U.S. export credit program: Does it result in additional exports?

"Additionality" is a concept which attempts to define the effectiveness of Eximbank's operations. The additionality of Eximbank's programs is the proportion of export sales supported by the Export-Import Bank which would not have been made without Eximbank assistance. A very high rate of additionality would indicate that Eximbank support for export sales is necessary to offset foreign financing practices and imperfections in private capital markets for export financing. A low proportion would indicate that Eximbank support is not really necessary since most of the export sales would have been made without Eximbank support.

Critics of the Export-Import Bank have stated that Eximbank programs do not give rise to additional U.S. export sales—that the additionality of Eximbank support is very low. However, while additionality is a difficult concept to measure, two studies by the Treasury Department have estimated the additionality of Eximbank's programs to be very significant, especially for the direct credit program.[9] For fiscal year 1978, Treasury estimated that the overall additionality of all Eximbank programs was 66 percent, while that for direct loans was 72 percent. This means that three quarters of the transactions supported with Eximbank direct loans would not have been made without Eximbank financing. The report stated:

"* * * the conclusion can be reached that, overall, Eximbank Bank activities in FY 1978 were successful: (1) in overcoming alleged imperfections of private capital mar-

[5] Executive Office of the President, Office of Management and Budget, Major Themes and Additional Budget Details, FY 1983, p. 209.

[6] These factors include: price, financing, quality, engineering design and technical specifications, reputation and promptness of delivery, and after-sales service. However, concerning products of generally similar characteristics, price and financing are normally the most important factors and the ones that are most easily quantifiable.

[7] Machinery and Allied Products Institute, *MAPI Survey of Selected Member Companies Concerning Export Financing*, March, 1982.

[8] The MAPI survey also reported that nine companies volunteered that they had lost $1.5 billion in sales and had not bid on $2.8 billion of potential business due to lack of competitive export financing. This data was not used because there was no way to independently verify that financing was a major factor in the $1.5 billion lost exports.

[9] U.S. Department of the Treasury, United States Treasury Report on the Additionality of U.S. Export-Import Bank Programs in Fiscal Year 1978, January 1980. A study was performed for Fiscal Year 1976 and arrived at similar results.

kets for financing exports; and (2) in meeting threats of foreign official credit competition. The direct credit program—which from a budgetary view is the most important Eximbank program—appears in Treasury's analysis to be highly additional, especially where commitments involve the greatest contract values for U.S. exports."

Despite the high additionality of the direct loan program, primarily because of its effectiveness in offsetting foreign export credit competition, the Administration is attempting to reduce the size of the program by 30 percent for FY 1983 compared to FY 1981.

Another way to assess Eximbank's additionality is to examine what happened when Eximbank direct loan authority was reduced from $3.4 billion in FY 1976 to $1.2 billion in FY 1977. The dollar export value of applications denied in calendar year 1976 totaled over $7 billion, primarily for capital goods. Eximbank's staff has found that only 10 percent of these sales went through after having been denied assistance by Eximbank because of lack of loan authority.

H. The U.S. export credit program and the concern with the diversion of capital

The second major argument commonly used to criticize the operations of the Export-Import Bank is that of diversion of capital to less efficient uses. This argument, used in the OMB document cited above, states that Eximbank borrowings in private capital markets result in a diversion of credit from more productive uses and bid up the cost of funds to those borrowers who are not "crowded out."

In fact, total Eximbank borrowings through the Federal Financing Bank (FFB) are so small relative to total borrowings in private capital markets that the cost and availability of credit to other users is not measurably affected. From 1977 to 1981, total funds raised in domestic credit markets totaled $1,655.4 billion. During the same period, Eximbank net borrowings through the FFB were $4.3 billion, or 0.26 percent of total borrowings in domestic credit markets. The operations of the Eximbank would have to be many times the current or historical level before it began to have an influence on either the availability of credit or the cost of borrowing in domestic capital markets.

Again, it is useful to keep in mind that many of the criticisms of the Export-Import Bank are based upon an idealized conception of domestic and international markets for goods and capital. They ignore distortions caused by foreign governments attempting to increase their country's world market shares, not on the basis of price and quality, but through subsidized export credits. They also ignore imperfections in international capital markets that limit the availability of export finance from private sources, especially for large capital goods transactions. These imperfections will only be overcome through government actions to reduce the risk and uncertainty to all participants. Part of this process is the maintenance of competitive U.S. official export financing.

Lawrence C. McQuade, Senior Vice President, W. R. Grace & Co.: "The American economy is an integral part of the world economy. In 1981 exports and imports of goods and services each amounted to about 12% of the U.S. Gross National Product. We look to foreign trade to sustain and stimulate our domestic economy, to create jobs for Americans, to provide raw materials for U.S. industry and to increase the diversity of goods and services available to the American consumer."

Thomas A. Holmes, Chairman, Ingersoll-Rand Company: "When an American company loses an export sale because of subsidized export financing provided by a foreign government, it is not only that company and its workers who lose. The cumulative effect of such losses will mean permanent damage to our country's industrial base. Lost sales and market shares will, over an extended period of time, result in a U.S. manufacturing capability that is less efficient, less technologically innovative, and less internationally competitive. It is in this sense that a financially competitive Eximbank is truly in our national interest."

Douglas D. Danforth, Vice Chairman and Chief Operating Officer, Westinghouse Electric Corporation:

"A competitive and amply funded U.S. Export-Import Bank is essential to the American heavy electrical equipment industry's ability to compete for large job-producing export orders and maintain its productive capabilities and technology. This is especially true now. While purchases by domestic utilities are declining, opportunities for exports to developing countries are expanding. Many Third World nations plan extensive electrification programs and initial orders will materially affect later purchasing decisions.

"Large export orders for capital equipment will enable companies such as my own to maintain a workforce of highly skilled engineers and production workers as well as the research and development needed to assure our continued technological competitiveness. Such orders will also help maintain production facilities that can meet our country's needs for strategic materials and products to protect our national interests.

"Westinghouse is eager to compete for export orders on the basis of price, quality, technology and service. But the deciding factor of purchase for some Third World customers is often strongly influenced by the financing offered on large projects. The government-subsidized, cut-rate terms and interest rates of export loans offered by our competitors in Europe and Japan often swing the business in their favor. Westinghouse can compete against any other company in the electrical equipment business but it can't compete against the financial resources of other countries.

"A competitive U.S. Eximbank backed by sufficient direct loan resources is the best way to deter other countries from using predatory financing as a means of winning big export orders and the best way to open up burgeoning new world markets for American companies and their employees."

Charles H. Pillard, President, International Brotherhood of Electrical Workers: "Today, almost 20 percent of the workers in this country making electrical and electronic equipment depend upon export sales for their jobs. We cannot afford to endanger the loss of these job opportunities because foreign companies receive subsidized export financing from their governments."

III. INTERNATIONAL COMPETITION IN OFFICIALLY SUPPORTED EXPORT FINANCE

A. The growth of competition since 1979

"The growing commercial rivalry among the developed countries and the growing similarities in price, quality and availability of their goods has meant that, in many cases, government financing arrangements have become the determining factor in many trade transactions. In the capital goods sector and the market for "big ticket" items in particular, it now appears that the contract goes to the exporter who is able to arrange the best financing for his sale."[10]

This was the conclusion reached by the Congressional Research Service in its 1978 study of export promotion programs in the major industrial countries. This statement remains accurate today, but the "commercial rivalry" it cites based on government supported export credits has since intensified dramatically. This growing beggar-thy-neighbor competition is reflected in the rapid growth of both the quantity of exports receiving official support and the degree of subsidy being provided.

Export sales receiving export credit support have been increasing more rapidly than exports in general (see Table V). At the same time the amount of direct subsidization provided by official export credits has grown even faster. The result has been that in recent years a higher percentage of total OECD exports have been receiving official export credit support along with a greater degree of direct subsidization.

The stakes of the game have risen while the costs of playing have also increased markedly. Why has this occurred? There are two major reasons: the continued slow growth and increasing unemployment in the OECD countries, and the rapid increase in interest rates.

The growth of real GNP in the OECD countries increased at an average annual rate of 3.5 percent between 1969 and 1979. However the western developed economies have now lost momentum. In 1980 growth was only 1.2 percent, and only 1.0 percent in 1981. The OECD is currently estimating that growth in 1982 will decline to about 0.3 percent. The slow growth has resulted in higher unemployment in the twenty-four nation OECD area. Unemployment increased from 5.5 percent in 1979 to approximately 7.25 percent in 1981 and is projected to exceed 8 percent in 1982. These unemployment levels reflect 21.4 million workers unemployed in 1980, 25 million in 1981 and 28.25 million in 1982. High unemployment makes exports far more important than they normally are, and many governments of the OECD countries have increased their export credit subsidies accordingly.

TABLE V.—OECD EXPORT-CREDIT AGENCIES EXPORT SALES SUPPORTED AND VALUE OF SUBSIDY PROVIDED

[Dollars in billions]

	1980	1981	Percent change
Export sales supported [1]	$144.6	$176.7	22.2
Subsidy on credits outstanding	$5.5	$7.3	32.7
Total exports	$1,049.0	$1,240.0	18.2

[1] Data available for only Canada, France, Germany, Italy, Japan, United Kingdom, United States.

Source: "U.S. Export-Import Bank, Report to the U.S. Congress on Export Credit Competition and the Export-Import Bank of the United States," various issues; U.S. Treasury Department and Organization for Economic Cooperation and Development, OECD Economic Outlook (December 1981), 30. The subsidy estimates were derived by the OECD by multiplying official credits outstanding by the difference between yields on government bonds for a given currency and the minimum matrix rate in the OECD Arrangement. The subsidy estimates for 1980 and based on credits outstanding at the end of 1979, and those for 1981 are estimated from credits outstanding at the end of 1980.

A second factor has also caused a substantial increase in the level of subsidies. Short- and long-term interest rates rose dramatically from levels prevailing in 1979, so that by 1981 the cost of credit in most OECD

[10] Congressional Research Service, Export Stimulation Programs in the Major Industrial Countries. (Washington, 1978), p. 40.

countries had increased by 4 to 6 percentage points over 1979 levels. In the context of official export credits, the rapid increase in interest rates has meant that the cost of funds for almost all the official export credit agencies has been well above the minimum interest rates—the floor below which loans may not be extended—provided for in the OECD Arrangement on Guidelines for Officially Supported Export Credits. This situation permitted, or some might say resulted in, a high degree of direct interest subsidization by some countries. Other countries have then had to either match the subsidized financing offers or risk potential loss of jobs and exports. This competition has substantially increased the cost of the export credit programs of all of the participants in the Arrangement.

B. The importance of export markets for capital goods

International competition based on official export credits reflects the high degree of importance most industrial countries give to export markets for their capital goods sectors. Export markets are important, not only to maintain industrial employment, but also to participate in the growth of world demand for capital goods. In addition, most capital goods production is characterized by economies of scale in production. Therefore the development of world markets is essential, not only to reduce costs and domestic prices but to maintain international competitiveness.

A major component of the industrial policies of most governments is their official export credit program. Export credit support, even on a subsidized basis, is seen by many governments to be one of the most effective means available to them to provide assistance to particular industrial sectors. Japan and most of the countries of Europe have government-directed programs, including fiscal and financial incentives, to develop high-technology industrial sectors that they consider important to their overall social and economic objectives. After what can be years of government fiscal and financial assistance, the success of a particular industrial policy may hinge on the ability of the industry concerned to sell in international markets and increase its market share. This is especially true for large capital goods where the economies of scale involved with additional export sales can lower a firm's unit costs substantially, improve profitability and increase its international competitiveness. Therefore the fact that many of the major competitors of the United States support their exports much more actively than the U.S. is, in this sense, not surprising.

TABLE VI.—U.S. SHARE OF DEVELOPED COUNTRY EXPORT MARKETS MAJOR CAPITAL GOODS SECTORS, 1975 AND 1980

[In percent]

Industry sector	U.S. export market share	
	1975	1980
Aircraft	69.7	52.9
Construction, mining, and other specilized industrial machinery	27.1	22.0
Electric power machinery and generating equipment	18.7	17.9
Machine tool and metalworking equipment	15.1	12.8
Telecommunications equipment	13.6	15.9

Source: Organization for Economic Cooperation and Development, "OECD Trade Statistics," Series C. Developed country export market is the sum of all OECD country exports in the particular sector in a given year.

What perhaps is more surprising is the continued lack of appreciation by U.S. economic policy-makers of the current and long-term effect of the industrial policies and export support practices of Europe and Japan on the U.S. economy and U.S. international competitiveness. There is little evidence that a blind reliance on market forces alone—and the willingness to unwittingly accept the consequences of the industrial policies of other governments—is an adequate basis for the conduct of international economic policy today. For even if the United States were to pursue a consistent laissez faire course, we would find ourselves faced with the continued pursuit of industrial policy and export promotion measures in other countries which would produce what would be regarded as unfair competition and trade distortion requiring retaliation or justifying protection.

Official export credit programs of most of the western industrialized countries are a means to extend domestic industrial policies to world markets. The effects of these programs and policies can be clearly seen by examining U.S. export market shares in those capital goods sectors where official export support is most pronounced. Between 1975 and 1980 the United States suffered a decline in export market share in four of five major capital goods sectors (Table VI). No single factor can wholly account for these market share reductions. However, among the most significant factors would have to be the industrial policy and export financing practices of the major industrial countries of the west. It can therefore be assumed that further reductions in Eximbank support for U.S. capital goods exports will help to accelerate these market share reductions unless agreement is first reached to halt the unfair competition from officially subsidized export credits.

C. International negotiations to eliminate official export credit subsidies

Subsidized export credits have been a long standing international problem. However, the magnitude of the trade being affected and the amount of subsidization being provided today make the issue a major international trade problem that far exceeds the degree of seriousness this issue had even 10 years ago.

There exist a number of major problems in any negotiations dealing with official export credits. First of all, because most of the major export credit agencies use different financial techniques in providing subsidies, the impact of the subsidies varies from one country to another. Also because of the diversity of domestic economic and financial systems and institutions in the OECD countries and differing trade patterns, it has proven difficult to fashion rules that do not appear to favor one country more than another.

However, the fundamental problem has been political in nature. A number of countries refuse to give up their "freedom" to seek a competitive advantage for their products in international markets by offering below-the-market credit terms. But when other countries match the subsidized credit terms, nothing is gained, because their relative competitive position is unchanged. Yet these countries persist out of the conviction that all of their subsidies won't be offset by other countries and that the cost of any subsidies to the government are more than offset by the benefits of expanding exports of capital goods and other industrial products.

The differences in national approaches to official export credits is indicated in Chart III. [Not printed.] In 1980 France, Japan and the United Kingdom all provided official credit support for more than 30 percent of their exports while Canada, Germany, Italy and the United States provided support for less than 9 percent of total exports. Chart IV presents the distribution of annual subsidy costs as estimated by the OECD. France, Japan and the United Kingdom are still the major subsidizers, but the different ranking compared with total exports supported reflect differences in domestic interest rates in the various countries and past commitments for export credit. For example, in 1980 Japan supported $56.1 billion in exports and France $35.2 billion. Yet France was estimated to have an annual subsidy cost of $2.342 billion and Japan of $566 million. This reflects both lower borrowing costs in Japan and a larger amount of outstanding credits on the part of France.

Efforts to achieve international control of export credits in the past 50 years—specifically to eliminate the wastefulness involved in competitive subsidization—have not proven very successful.

The first attempt to form some general rules regarding export financing took place in 1934. The British Government's Export Credits Guarantee Department (ECGD) and three private companies in France, Italy and Spain established the Berne Union (Union d'Assureurs des Crédits Internationaux) to "secure international acceptance of sound principles of export credit insurance, and the establishment and maintenance of discipline in terms of international trade."

The Berne Union was never able to exert effective control over what came to be an expanding competition in export credits, primarily because it was a non-governmental organization. However government negotiators have not been that much more successful in controlling the competition.

D. The OECD arrangement on guidelines for officially supported export credits

The governments of the OECD countries became involved in discussions concerning export credit policy in 1963. A Working Group on Export Credits and Credit Guarantees was instructed to evaluate national policies relating to export finance and insurance, examine the problems which arise and seek to relieve or mitigate these problems by multilateral discussion and cooperation. Through a long series of difficult negotiations and compromises, reflecting in part differences in approach mentioned above, agreement was reached on the text of an Arrangement on Guidelines for Officially Supported Export Credits which was accepted by all 22 members of the OECD Working Group on Export Credits in May 1978.

The Arrangement provided that the minimum down payment for any export credit be 15 percent. In addition the following minimum interest rate matrix was established.

The relatively rich countries are all the OECD countries except Greece, Portugal, Spain and Turkey and the capital surplus oil exporting countries. The intermediate countries are the East European countries and Greece, Portugal, Spain and Turkey. The relatively poor countries are all other countries not in the first two categories.

The minimum interest rates and maximum repayment terms set out in the Arrangement matrix are only guidelines. The Arrangement has provisions for a country wishing to offer lower rates or longer terms for an individual sale. The term "derogation" is used in the Arrangement to refer to behavior that follows certain agreed-upon

procedures when a country wishes to act in a manner which is not in conformity with the export credit guidelines, but seeks to avoid being in breach of the Arrangement. Where derogation occurs, a country offering terms which depart from those required by the Arrangement notifies the other participants of the terms it intends to offer at least ten days before issuing any preliminary commitment. This advance notice allows other participants to discuss the issue with the initiating participant and to offer terms matching those of the derogation or to introduce a new derogration.

CHART IV.—ANNUAL SUBSIDY COSTS OF OECD EXPORT CREDIT PROGRAMS, PERCENTAGE DISTRIBUTION, 1980

[Dollars in millions]

Country	Annual cost	Percent of total
Total	$5,526	100.0
Other OECD countries	$446	8.1
Canada	$137	2.5
Germany	$215	3.9
United States	$315	5.7
Italy	$425	7.7
Japan	$566	10.2
United Kingdom	$1,080	19.5
France	$2,342	42.4

Source: OECD, "Arrangement of Guidelines for Officially Supported Export Credits, Implications for the Arrangement of Operational Alternatives to the Present Matrix, Annex II, Table I (April 1980) based on credits outstanding at the end of 1979.

One result of experience under the Arrangement has been that the minimum interest rate levels established have also become the de facto maximum rates. Countries are aware that any offer above the minimum rate will not be competitive. Thus the Arrangement has in effect established a ceiling as well as a floor with respect to interest rates and repayment terms.

Certain categories of exports were excluded from the Arrangement. These included military equipment, agricultural commodities, aircraft, nuclear power plants and those ships covered by the OECD Understanding on Export Credits for Ships which was agreed to in 1974. Less formal "standstills" had previously been agreed to for aircraft and nuclear power plants. For example, the OECD Standstill Agreement concerning civil aircraft signed in 1975 specified the following conditions: no more than 90 percent of a purchase may be financed, and the specified maximum credit length was 10 years for large jet aircraft, 7 years for turboprop aircraft and helicopters and 5 years for other subsonic aircraft. No reference was made in the aircraft agreement to interest rates.

[In percent]

Classification of country	Number of years in repayment term		
	2 to 5	5 to 8.5	8.5 to 10
Relatively rich	7.75	8.00	NA
Intermediate	7.25	7.75	NA
Relatively poor	7.25	7.50	7.50

NA = Not available.

Assessments of the Arrangement vary among the different participating countries. France has expressed the greatest satisfaction with the Arrangement. This is the result of the fact that the provisions and coverage of the Arrangement correspond to the policy and institutional arrangements of French government support for export finance. This has not been the case for the United States, which has been the country that has most aggressively sought changes in the Arrangement.

E. The OECD arrangement in 1982: Why it's not working

There are four major flaws in the Arrangement which limit its effectiveness as a deterrent to subsidized international export credit competition. The first is that the minimum interest rates are fixed and it is extremely difficult to have them changed through negotiations. They therefore do not reflect changes in domestic and international money markets. That is why in the face of increasing market interest rates the subsidy element in export credits has increased substantially since the Arrangement took effect in 1978. This flaw in the Arrangement obviously favors countries like France which do not place budgetary restrictions on their export credit program.

The second problem or flaw is that the interest rates established by the Arrangement are identical for all currencies. This has created competitive advantages and disadvantages for various countries depending on differences in domestic rates for the various currencies. For example, if the minimum rate in the Arrangement is 10 percent, then official export credit agencies whose country has domestic market rates which are below 10 percent must either charge a premium over domestic rates or not extend credit. However, for export credit agencies in countries with domestic market rates above 10 percent, the Arrangement allows direct subsidization of interest rates in those currencies.

Setting the same interest rate for all currencies in the Arrangement also allows unfair subsidized competition in the domestic markets of the countries who are party to the Arrangement. As an example, assume again that the minimum rate is 10 percent. If domestic commercial yen rates in Japan are 8 percent while in the United States dollar rates are 14 percent, then Japanese firms could compete in the U.S. market with export financing of 10 percent in dollars (by obtaining yen at 8 percent and converting them to dollars at 10 percent, assuming the exchange risk was covered by the additional 2 percentage point premium over the yen rate). U.S. firms, which would only be able to put together a financing arrangement at 14 percent, would be at severe disadvantage. Yet, under the current Arrangement, such transactions are permitted. The solution is to have credits extended that reflect the commercial rate of the currency in which the credit is being extended. Credits offered in dollars should be at 14 percent while those offered in yen should be at 8 percent.

A third problem is that the only method of recourse available through the Arrangement is the authorization to match the interest rates and terms of a competitor. The Arrangement has no enforcement mechanism or penalties. If a participant doesn't have financial resources needed to match the terms of the derogating party, there is nothing further that can be done. Again, this state of affairs favors countries with no budgetary limits on their programs.

Finally, the Arrangement has no mechanism to deal with the problem of subsidizing the expansion of world capacity in industrial sectors already characterized by severe excess capacity. Competition to increase exports of industrial machinery has led the major OECD countries to provide subsidized financing for steel and textile plants in other parts of the world. These are industries which are already characterized by significant over-capacity and it is quite likely that new plants would not have been constructed if financing had been available only at market rates and market terms.

The United States negotiators have been aggressively pursuing changes in the Arrangement to correct these flaws. The U.S. objective is to establish a differentiated rate system where the basic minimum interest rate for each currency would be determined by its market rate of interest. Progress toward this objective has been extremely slow, with opposition from the EEC and France in particular. Limited success has been achieved in the form of increases in the minimum rates on two occasions since 1978, first in May 1980 and, more recently, in November 1981. The current rates are presented below, with the May 1980 rates given in parentheses.

[In percent]

Classification of country	Number of years in repayment term		
	2 to 5	5 to 8.5	8.5 to 10
Relatively rich	11.00 (8.50)	11.25 (8.75)	NA
Intermediate	10.50 (8.00)	11.00 (8.50)	NA
Relatively poor	10.00 (7.50)	10.00 (7.75)	10.00 (7.75)

NA = Not available.

Because market rates in Japan are below the new minimum rates, a special minimum rate was established to apply to the yen and other currencies (like the Swiss franc) with market rates of interest below the new minimum rates. The November 1981 agreement states that with respect to any currency whose commercial rate is below the minimum, export credit agencies may charge commercial rates in that currency, provided the export credit agency does not charge less than 9.25 percent.

The United States is also trying to improve the Standstill Agreements pertaining to aircraft and nuclear power plants. An interim agreement was reached in August 1981 between the United States, France, Germany and the United Kingdom to set a minimum interest rate of 12 percent for commercial jet aircraft sales to countries other than the parties to the agreement. A major factor in obtaining agreement was the U.S. threat to derogate from the 10-year term set by the 1975 OECD standstill agreement and extend loans with longer maturities. This interim arrangement will last until October 1982. In the meantime, the participants are exploring ways to improve the financing of aircraft sales in private capital markets.[11] Discussions began in March 1982 with respect to improving the standstill agreement pertaining to nuclear power plants.

Despite these U.S. efforts to improve international discipline with respect to subsidized export credits, an arrangement that effectively curtails competition utilizing subsidized offical financing has not yet been achieved. However, a series of international negotiations to eliminate subsidized export credits have been set in motion that could yield important results if the momentum can be maintained. Ultimately, success or

[11] See U.S. Department of the Treasury, Office of Trade Finance, Finance Guarantees for Long-Term Export Credits (November 17, 1981) and Aerospace Industries Assocation of America, Inc., Aircraft Financing: The International Equipment Trust (October 1981).

failure will depend heavily on America's "domestic" decisions taken in the coming year with regard to U.S. export credit policy and the U.S. Export-Import Bank.

IV. U.S. Export Credit Policy: Recommendations and New Directions

The export credit policy of the United States is at a crossroads. On the one hand, U.S. negotiators have made significant progress in the past year in setting the stage for the possible elimination of the beggar-thy-neighbor practice of competitive subsidization of official export credits. On the other hand, the Administration is engaged in efforts to reduce rapidly the direct loan authority of the U.S. Export-Import Bank by 30 percent in two years. These efforts undermine the possibility of negotiating a successful international agreement. Reducing Eximbank's ability to respond to foreign subsidized export credits offered by other countries not only costs the United States jobs and exports, but also takes away the ability of Eximbank to combat such action. These lost exports and jobs will mean future loss of international market shares and further erosion of the industrial base of the United States.

The analysis presented in this paper demonstrates the importance of U.S. firms and workers of maintaining a strong and financially competitive Eximbank until U.S. negotiators achieve their objective of an international arrangement that effectively eliminates the competitive subsidy element in official export credits. The first small steps which have been achieved by our negotiators in Paris toward such an effective international arrangement must not be jeopardized by an "eyes closed" policy here at home. U.S. export credit policy must be based on a realistic assessment of the trade-distorting practices of foreign official export credit agencies and the long-term economic interests of the United States.

A. Recommendations

Maintain a Financially Competitive Eximbank

The foundation of U.S. export credit policy in the near-term must be based on a financialy competitive Eximbank that has adequate lending authority to ensure that no U.S. exports or jobs are lost solely because of subsidized export credits provided by foreign governments. The decision taken by the Administration to seek reductions in Eximbank's obligational authority for FY 1983 must be reversed. Moreover, the level of obligational authority set for FY 1982, a reduction of 19 percent from FY 1981, must be reevaluated in the light of current international competition and the number of export transactions being lost to foreign subsidized export credits.[12]

The policy of the Eximbank must be to use the authority Congress provides it to assist U.S. exporters in meeting international competition based on officially subsidized export credits. If market interest rates remain high and other countries continue to subsidize, Eximbank may require a special appropriation to continue to match its competitors. Because Eximbank's accumulated income must also be a reserve against loan defaults and claims, it cannot continue to use its accumulated income to underwrite direct loans without jeopardizing its financial future and self-sustaining status. Therefore serious consideration should be given to legislative proposals such as those introduced by Congressman Neal (H.R. 3228) and Senator Heinz (S. 868) that would authorize an appropriation of $1 billion for a competitive export subsidy fund if satisfactory progress is not made in the export credit negotiations. The fund would be used to directly subsidize interest rates on private export credit in order to induce our competitors to negotiate an end to subsidized export credits.

[12] See Appendix C

Seek International Acceptance of an Export Credit System Based on Market Rates and Market Terms

U.S. negotiators should aggressively pursue the objective of eliminating the subsidy element in official export credits. The goal of international negotiations in the OECD should be a system based on market interest rates and repayment terms (tenor) where the primary function of official export credit agencies would be to provide guarantees and insurance when needed to overcome imperfections in international capital markets. A system based on market rates and market tenor in the currency in which the official export credit is denominated would allow no direct interest subsidy. Capital goods exports would then compete in international markets on the basis of price and quality, not on subsidized rates for official export credits. A necessary requirement for an official export credit arrangement based on market rate and tenor is that any official export credit agency should have access to financing in any of the other participant's currencies. This would deal with the potential problem posed by large interest rate differentials in various currencies where countries with lower domestic interest rates could provide export credits at rates below those countries with higher domestic interest rates.[13]

While the major negotiating effort should be directed at obtaining a market-oriented system of export financial support, other issues will have to be addressed. These include the issues of enforcement and the treatment of mixed credits (a package combining export finance and development assistance grants which makes the interest cost of the "mixed" package substantially less than the market rate). It may be that the best way to deal with the enforcement issue, once agreement on a market-based system is attained, is to bring the Arrangement under GATT auspices. Currently the Arrangement is exempted from coverage under the subsidies code.

There are obviously substantial difficulties to overcome in perfecting such a system for the OECD Arrangement. A major technical problem is that private capital markets have not adequately developed means to finance all the types of substantial capital goods transactions which occur in international markets. Far larger transactions, such as electric power plants and commercial aircraft, separate arrangements tailored to the particular circumstances of the category of the product involved are being negotiated (see New Financing Mechanisms).

Ultimately the issue is one of attaining a political consensus among the competing countries. This is the main reason why the U.S. Export-Import Bank *must not* be curtailed in any way if the objectives described above are to be achieved. In the longer-term, continued efforts should be made to perfect arrangements for private capital markets to provide the financing that the official export credit agencies provide today. The success of new financing mechanisms could reduce substantially the direct loan requirements of official export credit agencies.

[13] Another proposal to address this problem was made in 1979 by then Assistant Secretary of the Treasury C. Fred Bergsten. He suggested that all official export credit financing be denominated in SDRs (Special Drawing Rights of the International Monetary Fund), thereby eliminating all of the problems associated with setting rules in terms of many currencies and interest rates. This alternative should also be considered.

B. New directions and future issues

The focus of U.S. export credit policy in the near-term must be on negotiating a successful international agreement. In the long-term, efforts should be made, in cooperation with other participants in the OECD Arrangement, to facilitate to the extent possible the transfer of export credit finance now provided by governments to private capital markets. The United States should also consider a more appropriate budget treatment for Eximbank and possible alternatives to its current method of financing direct loans.

Whatever new mechanisms arise, developing countries will continue to require export credit assistance, but this should not be handled through a subsidy war among exporting countries. The need for long-term export credits at fixed rates is necessary in many cases because of the economic problems faced by the countries and their lack of developed long-term capital markets. Commercial bank lending for big-ticket capital goods, with highly fluctuating rates and limited tenor, creates severe debt service problems for already financially burdened developing countries.

Official export credit agencies provide a necessary function in facilitating world trade where private capital markets have not developed to provide necessary financing, especially of a long-term nature. As international financial markets develop further and perceived risks are reduced, the need for official export credit will also be reduced. In the meantime, the United States should continue to aggressively pursue a multilateral arrangement to end subsidized official export finance as a competitive element in international trade.

New Financing Mechanisms

A number of efforts are already underway with respect to reducing the role of government export credits in the commercial jet aircraft sector by relying on more export financing from private capital markets. Currently the Standstill Agreement relating to commercial aircraft limits repayment terms to no longer than 10 years and limits coverage provided by official export credit agencies to 90 percent of the aircraft price. An interim agreement, effective from October, 1981 to October, 1982, specifies dollar denominated interest rates for direct loans of not lower than 12 percent.

While the interim agreement is in effect, the United States and the countries of the Airbus consortium (France, Germany and the U.K.) are exploring a U.S. proposal, supported by the aircraft manufacturers, to extend loan repayment terms to 15 years which would make it feasible for private capital markets to be used for export financing for aircraft. The current repayment period limit of 10 years, while jet aircraft useful life exceeds 15 years, has created an imbalance between an airline's debt service and the cash-generating characteristics of jet aircraft. Extending the repayment period to 15 years would solve this problem and would open the way for longer-term financing at market rates as a trade-off for

officially subsidized export financing restricted to 10 years.

The financing mechanism being explored to achieve the transition to private market financing is an international equipment trust.[14] If this proposal is successful, government direct credits would be replaced by private capital loans with either government guarantees or asset security combined with government-issued political risk insurance.

While technical (and political) difficulties remain with respect to actual implementation of this new financing mechanism, it highlights the type of work that can be directed at long-term solutions to reducing the role of governments in providing direct credits for exports. The guiding principle is that officially supported export credits should be a neutral element in international trade.

The United States and other countries which export nuclear power plants have just begun to explore the possibility of adopting guidelines for this product not dissimilar to those adopted for aircraft. The technical problems here are even more acute as the cost of a plant is much greater than even a small fleet of aircraft and the useful life of the plant extends beyond 20 years. The important point is that new directions and options are being explored.

Options for the Treatment of Eximbank in the Budget and Alternative Sources for Direct Loan Financing

Over the years there has been continued debate and discussion concerning the most appropriate way to handle the budgetary treatment of Eximbank. Most of the debate has been concerned with the issue of whether Eximbank should remain on the budget or receive off-budget treatment. Indeed, in 1971 Congress removed the Bank's programs from the budget and in 1975 it returned the programs to the budget again. Proponents of having the Bank on the budget argue that this would allow greater Congressional control of Eximbank lending while proponents of off-budget treatment argue that this would allow Eximbank more flexibility to administer its mandate. However, the process by which the Bank generates budget authority and outlays is the same whether the Bank is on or off the budget. And given the current desire by both the Administration and the Congress to exert greater control over off-budget activities, taking Eximbank off-budget could become a distinction without a difference in any event.

A more useful line of inquiry would be to give serious consideration to moving Eximbank out of the international affairs function of the budget. As it now stands, Eximbank obligational authority is considered along with bilateral and multilateral foreign assistance appropriations. However, Eximbank is not a foreign assistance activity and much confusion arises from treating it as such for purposes of the budget. More appropriate treatment would be to move Eximbank to a line entry within the Commerce Department budget function where it more logically belongs.

Consideration should also be given to alternatives to Eximbank's current means of providing direct loans to determine if more efficient or fiscally prudent means could be utilized. Such afternatives could include a direct interest subsidy program for commercial bank loans or a refinancing facility through the Federal Reserve System at a special rate for export financing. These alternatives would have to be considered in the context of progress in the international export credit negotiations and efforts to expand longer-term export financing through private capital markets.

A direct interest subsidy program has been suggested by U.S. Trade Representative William Brock and others as a possible alternative to Eximbank's direct loan program. Under this alternative Eximbank would not extend direct loans but would subsidize private banks for the differential between what interest rate they charge and the interest rate extended to the foreign purchaser (the rate would depend on the Arrangement minimum or what foreign export credit agencies were providing). The major advantage of this type of program is that a much greater value of exports can be supported compared to the direct loan program for a given amount of money. A billion dollars of payment for interest subsidies can go much further toward supporting exports than a billion dollars in loans. A major disadvantage is that the interest subsidies would be direct unrecouped expenditures of taxpayers' money unlike the loans that would be repaid with interest. Also, subsidizing private banks would likely be more expensive than Eximbank borrowing through the Federal Financing Bank because Eximbank's borrowing rate will be somewhat less than the rate charged by private banks.

A second possibility that should be explored is the establishment of a refinancing facility for export credits through the Federal Reserve System similar to the program the French government operates. In France, medium-term credits (up to seven years) are provided through the commercial banking system with the exporter's bank financing around 30 percent of a credit at the prime rate and refinancing the balance with the Banque de France at a discount rate. The exact proportions are set so that the overall rate for the credit as a whole corresponds to the appropriate minimum rate in the OECD Arrangement. For long-term credits, the portion of the credit exceeding seven years is refinanced by the Banque Francaise du Commerce Exterieur (BFCE) at the minimum rate established by the Arrangement. To fund this program the BFCE raises loans, which have government guarantees, on domestic and international capital markets. The Ministry of Finance then makes up the difference between the cost of the loan and the rate at which the BFCE extends export finance. If the United States adopted such a system, it would have the advantage of removing most official export credit financing from any direct influence on the budget. However the conduct of monetary policy will be directly affected and the Federal Reserve System will still have to absorb the costs involved in refinancing the credits at a much lower rate of interest.

An Independent Policy Review Group

What is clearly needed is the establishment of an independent policy review group to examine all of the various policy issues concerning Eximbank and to make recommendations to the Congress and the Administration prior to September 30, 1983, when Eximbank's authority to enter into new obligations expires and must be renewed. The policy review group should consist of qualified individuals from both within and outside of government, including past Directors of the Bank, and representatives from business, labor and the academic community. The purpose of the review group would be to evaluate the policy issues raised in this paper and elsewhere concerning the Export-Import Bank including the budgetary treatment of Eximbank and possible ways to more effectively finance the Bank's operations. By presenting its recommendations to the Congress before consideration of legislation to extend Eximbank's operating authority, the independent review group will have laid the basis for an informed and sound judgment to be made concerning the Bank and the future course of U.S. export credit policy.

Congressman Stephen L. Neal: "If the United States hopes to get an effective international agreement reducing or eliminating government-subsidized export credits, we must negotiate from a position of strength. We can do that only by maintaining a strong Export-Import Bank. An aggressive Eximbank can convince our trade rivals that, if there is no agreement, we will do whatever is necessary to meet the competition."

Congressman Don Bonker: "Export financing is crucial if the United States is to maintain its international trade status. While our goods are competitive in price and quality, sales are lost due to the predatory financing practices of our major trading partners. At no cost to the American taxpayer, Eximbank provides loans to our exporters. These loans do not merely help the large corporations either. Boeing, for instance, one of the largest users of the Eximbank, has 4,500 subcontractors all over the United States. These small- and medium-sized firms also benefit from export financing."

Amory Houghton, Jr., Chairman, Corning Glass Works:

"Our company relies little on Eximbank programs due to the characteristics of the products we manufacture; however, I do believe that a financially competitive Eximbank is of a major importance to our country's overall manufacturing capabilities. Subsidized export credits provided by other governments undermine the competitive position and future development of many capital goods producers in the United States. A financially competitive Eximbank is necessary. It must be able to respond to foreign government actions and to put pressure on these governments to halt unfair practices.

"American companies exporting from the United States live in a highly competitive international market. I am confident that under circumstances of fair competition U.S. producers will maintain a healthy share of that market. But this won't happen if we slice Eximbank programs without having abolished the use of government subsidized export credits by foreign governments.

V. CONCLUSION

A major and immediate trade policy issue confronting the United States is the escalating international competition for jobs and markets based on government-subsidized export credits. The value of trade affected and the amount of subsidies being provided are greater today than ever before.

The United States must aggressively pursue international negotiations to end this competition as soon as possible. In order to ensure that these negotiations are successful, the Export-Import Bank of the United States must have adequate authority to prevent the loss of U.S. exports and jobs to foreign subsidized export credits. This

[14] Aerospace Industries Association of America, Inc. Aircraft Financing: The International Equipment Trust (October 1981), pp. 6-12.

means that recent decisions taken to reduce Eximbank authority must be reversed.

A failure to counter this unfair competition, and to negotiate its elimination, will mean that billions of dollars in U.S. export sales and hundreds of thousands of highly-skilled American jobs will be lost. In the longer-term such losses would contribute to a deterioration in the industrial base of the United States as major capital goods sectors of the economy lose their technological edge and international competitiveness because of reductions in market shares.

U.S. negotiators, backed by a strong and financially competitive Eximbank, should seek an international export credit system based on market interest rates and repayment terms. The objective should be to make official export finance a neutral element in international trade so that competition is based on quality and price and not differences in officially subsidized export credits.

Cooperative international efforts to facilitate the development of new financial mechanisms should be pursued so that private capital markets can assume much of the export financing now being provided with government support.

In preparation for Congressional consideration to renew Eximbank's operating authority in 1983, an objective evaluation of Eximbank's budgetary treatment, alternative mechanisms for financing its operations, and the role of the Bank in overall U.S. trade policy should be explored by an independent policy review group.

This paper has been an effort to put the current debate about the Export-Import Bank into proper perspective with respect to the domestic and international economic interests of the United States. We are confident that the current policies directed toward reducing the operating authority of Eximbank will be reversed when the public fully understands the essential functions Eximbank performs.

LICIT believes that the United States government should adopt a firm commitment to support U.S. exporters and provide them with equal competitive opportunities in world markets, including export financing. We hope this paper will contribute to the formation of such a commitment.

APPENDIX A.—EXPORT SALES SUPPORTED BY EXPORT-IMPORT BANK AUTHORIZATIONS BY STATE, CUMULATIVE EXPORT AND EMPLOYMENT AMOUNTS FOR FISCAL YEARS 1977 THROUGH 1981

State	Exports supported	Employment (man-years)
Alabama	$69,248,315	2,132
Arizona	99,247,925	3,065
Arkansas	96,494,779	2,997
California	6,232,076,046	192,569
Colorado	40,783,787	1,260
Delaware	690,391,516	21,321
Connecticut	1,671,550,730	51,665
District of Columbia	168,060,818	5,191
Florida	848,053,512	26,203
Georgia	2,039,855,771	63,036
Hawaii	7,295,600	226
Illinois	5,855,763,599	180,950
Iowa	142,291,566	4,388
Indiana	329,604,338	10,197
Kansas	229,560,705	7,107
Kentucky	75,295,462	2,324
Louisiana	194,776,418	6,026
Maine	3,400,000	105
Maryland	113,237,097	3,492
Massachusetts	1,118,857,467	34,577
Michigan	1,838,526,488	56,856
Missouri	60,211,776	2,169
Minnesota	870,100,410	26,883
Montana	627,673,749	19,405

APPENDIX A.—EXPORT SALES SUPPORTED BY EXPORT-IMPORT BANK AUTHORIZATIONS BY STATE, CUMULATIVE EXPORT AND EMPLOYMENT AMOUNTS FOR FISCAL YEARS 1977 THROUGH 1981—Continued

State	Exports supported	Employment (man-years)
Nebraska	37,553,980	1,174
Nevada	1,625,000	50
New Hampshire	59,740,990	1,854
New Jersey	1,826,483,664	56,547
New Mexico	3,249,535	100
New York	12,932,000,000	399,599
North Carolina	417,173,126	12,885
North Dakota	49,999,260	1,545
Ohio	1,314,907,426	40,634
Oklahoma	384,890,489	11,897
Oregon	273,978,713	8,467
Pennsylvania	2,811,730,774	86,891
Puerto Rico	2,700,086	83
Rhode Island	227,897,065	7,045
South Carolina	75,674,710	2,348
South Dakota	3,285,000	102
Tennessee	107,619,527	3,337
Texas	4,165,943,178	128,729
Utah	41,725,569	1,298
Vermont	3,937,494	121
Virginia	180,545,559	5,593
Washington	11,771,000,000	363,724
West Virginia	4,223,749	134
Wisconsin	2,906,117,588	89,795
Unallocable by State	9,155,853,929	282,916
Total	70,614,000,000	2,181,973

Notes: The value for exports and employment by State are based on the contract values of the company supplying the exports. To the extent that the main contractor depended on subcontracting from other States, the employment attributed to the main contractor's State would be overstated. For example, the $11.8 billion figure for Washington State is primarily for aircraft, much of the components of which come from many other States. Therefore a more accurate picture of the employment effect could be obtained if the subcontracting information were available. The totals under "Unallocable by State" include export transactions for which Eximbank records show as bank or other financial institution as the exported of record (usually associated with insurance or discount loans), but where the actual U.S. suppliers are not specifically identified in Eximbank records.

Source: Export-Import Bank Fiscal Authorizations 1977–81

APPENDIX B.—TYPICAL DOLLAR AND EMPLOYMENT VALUE FOR A 2,000 MEGAWATT NUCLEAR EQUIPMENT EXPORT ORDER

[Numbers based on assumed $0.88 billion order value and 26,000 man-years per $1 billion]

State	Number cities	Westinghouse plants dollar value (thousands)	Westinghouse plants man-years of employment	Supplier plants dollar value (thousands)	Supplier plants man-years of employment	Total dollar value (thousands)	Total man-years
Alabama	1	$130	3.4			$130	3.4
California	9			$17,148	445.8	17,148	445.8
Colorado	1			173	4.5	173	4.5
Connecticut	12			18,344	476.9	18,344	476.9
Florida	2	53,524	1,391.7			53,524	1,391.7
Georgia	1	117	3.0			117	3.0
Illinois	7			31,911	829.7	31,911	829.7
Indiana	6	7,680	199.7	9,388	244.1	17,068	443.8
Iowa	2			3,754	97.6	3,754	97.6
Kentucky	1			12,182	316.7	12,182	316.7
Louisiana	2			3,904	101.5	3,904	101.5
Maryland	4	6,833	177.7	3,216	83.6	10,049	761.3
Massachusetts	8			11,074	287.9	1,1,074	287.9
Michigan	5			3,598	93.5	3,598	93.5
Missouri	2	3,194	83.0	42	1.1	3,236	84.1
Nevada	1			14	.4	14	.4
New Jersey	13	2,922	76.0	22,269	579.0	25,191	655.0
New Hampshire	1			40	1.0	40	1.0
New York	14	4,496	116.8	117,007	3,042.4	121,503	3,159.2
North Carolina	4	25,026	650.7	39,807	1,035.0	64,833	1,685.7
Ohio	14	3,340	86.8	10,575	275.0	13,915	361.8
Oregon	2			17,844	463.9	17,844	463.9
Pennsylvania	39	286,257	7,442.7	89,902	2,337.5	376,159	9,780.2
Rhode Island	2			1,623	42.2	1,623	42.2
South Carolina	2	23,706	616.4	312	8.1	24,018	624.5
Tennessee	5			18,624	484.2	18,624	484.2
Texas	3			9,717	252.6	9,717	252.6
Virginia	3	1,449	37.7	694	18.0	2,143	55.7
Washington	4			4,305	111.9	4,305	111.9
West Virginia	1			5,602	145.6	5,602	145.6
Wisconsin	3			8,257	214.7	8,257	214.7
Total	174	412,674	10,885.6	461,326	11,994.4	880,000	22,880.0

	Amount (thousands)	Man-years
Westinghouse location:		
Lester, Pa	104,724	2,722.9
East Pittsburgh, Pa	59,400	1,544.5
Monroeville, Pa	56,892	1,479.3
Tampa, Fla	35,428	921.2
Cheswick, Pa	25,541	664.1
Columbia, S.C	23,705	616.4
Large, Pa	21,977	571.4
Pensacola, Fla	18,102	470.7

	Amount (thousands)	Man-years
Charlotte, N.C.	14,598	379.6
Blairsville, Pa.	9,913	257.8
Winston-Salem, N.C.	8,741	227.3
Baltimore, Md.	6,801	176.8
Muncie, Ind.	6,306	164.0
O'Hara Township, Pa.	2,629	63.4
Horseheads, N.Y.	2,297	59.7
Newark, N.J.	2,237	58.2
Buffalo, N.Y.	2,142	55.7
Bloomington, Ind.	1,422	37.0
Cincinnati, Ohio	3,375	87.8
Trafford, Pa.	1,138	29.6
Millburn, N.J.	681	17.7
Most involved States:		
Pennsylvania	376,159	9,780.2
New York	121,503	3,159.2
North Carolina	64,833	1,685.7
Florida	53,524	1,391.7
Illinois	31,911	829.7
New Jersey	25,191	655.0
South Carolina	24,018	624.5
Most involved cities:		
Pittsburgh area	184,528	4,797.9
Philadelphia area	108,560	2,822.7
Brooklyn	79,338	2,062.9
Winston-Salem, N.C.	39,691	1,032.0
Tampa, Fla.	35,428	921.2
Columbia, S.C.	23,705	616.4
Pensacola, Fla.	18,102	470.7
Charlotte, N.C.	14,576	379.0
West Caldwell, N.J.	12,271	319.1
Louisville, Ky.	12,184	316.8
Baltimore, Md.	10,051	261.3
Portland, Oreg.	7,180	186.7
Muncie, Ind.	6,306	164.0
Indianapolis, Ind.	5,694	148.1
Toronto, Ohio	5,263	136.8
Total	880,000	22,880
Westinghouse (47.6 percent of total)	418,674	10,885.6
Suppliers (52.4 percent of total)	461,326	11,994.4

EXAMPLES OF U.S. EXPORT SALES LOST OR JEOPARDIZED LARGELY DUE TO MORE COMPETITIVE FOREIGN GOVERNMENT SUPPORTED EXPORT CREDITS IN 1981

U.S. company	Customer location	Nature of business	Export price	Eximbank assistance	Winner of potential winner's assistance	Status—Winner
Boeing Co	Canada	(6) 767	$274,000,000	Boeing requested preliminary commitment in February 1981. Eximbank did not address request due to moratorium.	French/West Germany/British Government assistance: Unknown.	Lost—Airbus.
Boeing Co	Singapore (SIA)	(6) 757	$226,000,000	None, informal discussion between SIA and Eximbank indicated only 42.5 percent direct credit at 12 percent interest over 10 yr. plus 2 percent fee would be available.	French/West Germany/British Government assistance: 80 percent direct credit at 9.25 percent interest.	Lost—Airbus.
Combustion Engineering, Inc	Venezuela	Powerplant	$154,203,000	65 percent financing at 10.75 percent interest over 12 yr. An additional 20 percent at 15.5 percent interest, and a 2 percent fee.	Japanese Government assistance: 100 percent financed at 8.5 percent interest for 12 yr.	Lost—Japan.
Combusion Engineering, Inc	Mexico	Fossil Powerplant	$138,977,000	42.5 percent financed at 12 percent interest with an additional 42.5 percent to be provided by private financing at commercial rates through lenders satisfactory to Exim, 12-yr terms, 2 percent fee.	Japanese Government assistance: 100 percent financing at 8.5 percent interest for 12 yr.	Lost—Japan.
General Electric Co	Indonesia	Locomotive industry	$93,600,000	65 percent direct credit at 12 percent interest over 15 yr, 2 percent fee.	Brazilian Government assistance: 90 percent direct credit at 8.5 percent interest.	In jeopardy to Brazil.
Westinghouse Electric Corp.[1]	Mexico	Steel mill expansion	$85,000,000 (potential $400,000,000).	85 percent cover (10 percent of which was subsidized by the supplier) at 11.75 percent interest over 20 yr, 2 percent fee.	83.2 percent cover at 7.75 percent interest over 15 yr, 16.8 percent cover in nonrepayable grant plus local cost financing.	Lost—United Kingdom.
Westinghouse Electric Corp	Korea	Turbine generators	$80,400,000	85 percent cover (10 percent of which was subsidized by the supplier) at 10.75 percent interest with a 2 percent fee.	85 percent cover at 7.6 percent interest for 15 yr.	Lost—French.
General Electric Co	Venezuela	Medium steam turbine	$48,000,000	65 percent direct credit at 10.75 percent interest for 12 yr, 2 percent fee.	Japanese Government assistance: 85 percent direct credit at 8.5 percent interest.	Lost—Japan.
Westinghouse Electric Corp.[2]	Mexico	Escalators	$19,200,000	Eximbank declined to provide a direct credit due to low unit value of the equipment.	85 percent cover at 7.34 percent interest over 5–10 yr, 15 percent cover at 3–4 percent over 20–25 yr.	Lost—French.
General Electric Co	Panama	Gas turbine generators	$7,400,000	65 percent guarantee only	Japanese Government assistance: 85 percent direct credit at 7.75 percent interest.	Lost—Japan.
Frederick Electronics	Philippines	Telex switching equipment	$2,300,000	Eximbank indicated that amount would not qualify for direct lending program assistance.	Swiss Government assistance: 85 percent financed at approximately 9.5 percent interest over 10 yr.	Lost—Swiss.

[1] The United Kingdom extended a mixed credit to win this sale. Eximbank does not have the resources to match mixed credit offerings by other export credit agencies.
[2] This sale was lost primarily because of a mixed credit offer by the French.

Note: The total export value of these examples is $1,129,080,000 which represents 34,889 U.S. job opportunities.

Source: Committee on Employment through Exports, U.S. Export-Import Bank, Westinghouse Electric Corp., Boeing Co.●

CONGRESSIONAL REFORM

● Mr. GOLDWATER. Mr. President, at the present time, the Senate has established a special committee to look at the operations of this body and recommend possible reforms. If past efforts in this area are any proglue, Heaven help us and the American taxpayer. As a June 22 editorial in the Arizona Republic points out, the last time the Senate looked at procedural reform, all we did was to increase the confusion and skyrocket the cost of our operations to the point that it is now costing over $1 billion to operate Congress. This year alone, just the Senate and House operating costs will exceed $676 million and, as this editorial correctly points out, the biggest surge has come about because of the great increase in committee and personal staff which we have bestowed upon ourselves. While we can stand here and debate the pros and cons of the budget as it relates to the executive branch agencies, our own credibility will continue to suffer unless we turn the focus on ourselves.

Mr. President, I ask that this editorial from the Arizona Republic be printed in the RECORD.

The editorial follows:

COST OF CONGRESS

American taxpayers soon will be paying $1 billion a year to operate Congress.

Overall funding for Congress and its support agencies—including the Library of Congress, General Accounting Office and Government Printing Office—is $1.5 billion.

The cost of running the House and Senate has skyrocketed 868 percent since 1960.

Taxpayers will spend more than $676 million to operate Congress alone during this fiscal year. That figure was about $70 million in 1960.

The present Arizona congressional delegation of two senators and four representatives costs taxpayers about $8 million annually. That will increase with a fifth representative in 1983.

Much of the cost surge covers dramatically increased staffs in both houses, and the number of subcommittees and their workers as well as aides to each member.

As these committees and staffs have proliferated and costs have soared, Congress appears to have become less effective.

Two significant developments occurred in the mid-1970s that increased such inefficiency.

The first was congressional reform which broke from the traditional seniority system.

Staff enlargements were part of the package.

The second important aspect was the breakdown of discipline among both parties.

Party-line votes not only were no longer possible, but they were unpopular among Young Turk congressmen new to the Washington scene.

It is not only far more difficult to get legislation passed today than a decade or two ago, but even crucial lawmaking has languished.

The most notable example is energy policy. Congress has been trying to pass comprehensive national energy legislation since 1973 and has failed.

Many have asked over the past decade whether one man is capable of handling the increasing responsibilities of the presidency.

A similar question is now being asked of Congress—whether it is capable of setting and managing a reasonable national agenda.

The federal budget impasse is a prime example. Congress cannot arrive at a compromise with the administration.

Much congressional debate over the past year has centered on cost-efficiency.

The Congress would do well to take it to heart concerning itself.●

HEALTH CARE COSTS

● Mr. EAGLETON. Mr. President, on April 21, I inserted in the RECORD a series of articles from the New York Times regarding the spiraling costs of health care.

Subsequent to that, Ms. Wanda Johnson, director of education/community relations for Lucy Lee Hospital in Poplar Bluff, Mo., forwarded to me a copy of a recent Paul Harvey column entitled "Who Hikes Hospital Costs?" In that column, Mr. Harvey makes the point that the health care consumer is to a large extent responsible for the extraordinary rise in health care costs. Clearly, all Americans want the best possible health care. Clearly, no one is suggesting that we turn our backs on the technological advances which have vastly improved diagnostic ability and treatment.

Mr. President, I ask that the column, "Who Hikes Hospital Costs?" be printed in the RECORD.

The article follows:

WHO HIKES HOSPITAL COSTS?

Hospital costs increased another nineteen percent last year to a new record high; why?

Who is hiking our hospital costs? I've been searching for him; I'm close to finding him.

Every time the monthly "cost of living" report comes out up there at the head of the list of costs increasing fastest are "medical treatment" and "utility bills."

I examined first the escalating cost of electricity and discovered, sure enough, in a fairly representative city the household electric bill has gone up over the past 35 years 700 percent!

Holy Mackerel that's terrible!

Until you read the fine print. Actually, in that city, the cost of electricity per thousand kilowatt hours, has not increased at all.

The cost has increased 7 times because the household is using 7 times more electricity.

That household could reduce its cost of living tomorrow if it would shut off its air conditioner and its refrigerator and its electric shaver and its hair dryer and its deep freezer and its washer-dryer and its electric can opener and its dishwasher and its night lights and its radio and its television . . .

But it won't.

Luxuries have become necessities. We'll hurl epithets at the electric company when it is not they—but us—who are increasing our electric bills.

And we're not about to cut it out.

Is it true in hospitalization too?

Americans are now spending $274 billion a year for medical care.

Of the $274 billion most goes to doctors and therapy, only $110 billion goes to the hospital.

Nonetheless, this is an enormous increase over what we paid for medical treatment a dozen years ago.

Would we go back? Back to before sophisticated technology which makes possible pacemakers and transplanted organs and synthetic hip joints and mechanical pancreas' and artificial larynx and stereoscopically restored human eyesight.

Would we go back? No.

In what John Bedrosian calls our "quest for immortality" Americans are willing to pay whatever it costs to get the best doctors, the best therapy, the best . . .

As a result we are living longer.

Sophisticated treatment has improved recovery chances for heart attack victims a phenomenal twenty percent in ten years.

So more people go to the hospital more often and stay longer, maybe longer than necessary.

With insurers or employers or Government paying the bill, why not?

So—I've stopped searching for the culprit who has been hiking our costs of hospitalization. I was getting too close to finding him.●

EXPORT CREDIT TALKS: SUPERFICIAL PROGRESS, RENEWED FAILURE

● Mr. HEINZ. Mr. President, the latest round of talks within the OECD on official export credits has come to an end amidst cries of success on all sides. The progress that is hailed, though, is more pretended than real, for the success in the eyes of our competitors is not in the changes that were brough about but in the fact that another round of talks has come and gone without any movement being made on the real issues.

It is true, Mr. President, that interest rates were raised, though they still remain substantially below market rates. The Soviet Union and several other industrial countries have at last been graduated into the class of less subsidized rates that governs loans to developed economies. The whole point of the negotiations, however, is that the practice of officially subsidized export credits should be eliminated. Instead, the result of the latest round of talks has been to institutionalize the practice further.

Mr. President, the problem is not that the spread between the commercial loan rates and the official subsidized rates is too large. The problem is that there is a difference at all and that the Governments of our trade competitors are using that difference for predatory trade advantage. The true issue is not whether the Soviet Union should be receiving subsidized loan treatment as a developing country or as an industrial country. The issue is that officially subsidized credits are even available, and that worst of all they are available to industrial countries that are fully able to obtain loans in the commercial markets. These are the real issues, and the last few rounds of talks within the OECD have found us moving farther and farther away from them.

A few rounds ago negotiations centered on the need to tie interest rates automatically to the commercial loan rates. Several plans were advanced, and agreement was almost reached when the French, however, hesitated, stalled, and apparently acquiesced in allowing an overall increase in minimum interest rate levels. That was the last time that automaticity was a major issue. In the last rounds it has not even been seriously discussed, yet uniting official and market rates is the stated goal of the U.S. negotiators. One wonders why the key element of automaticity is no longer brought up, or why our negotiators come back satisfied with anything less.

Mr. President, I could talk at length about the pernicious practice of mixing export credits with foreign aid moneys to reduce effective interest rates far below the already insufficiently low arrangement levels. Severely curtailing that practice was supposedly a major goal of our negotiators in this latest round, yet precious little progress was reached on this issue. That fact surely was a success for our trade competitors who use the practice to undercut the sales of U.S. companies, but how can our negotiators call it a success?

Mr. President, we must acknowledge that the talks in the OECD have failed again as our trade competitors have made concessions that will do nothing to change the nature of the export credit war that is currently raging. We must continue to press ahead for real progress. We must increase the pressure on our trade competitors to be forthcoming with meaningful steps to end predatory official export credits. The Export-Import Bank more than ever must be aggressive in defending U.S. exporters. Anything less, Mr. President, would be to permit the Europeans and Japanese to unfairly rob us of our export markets at the expense of American industry and American jobs.●

PAPERWORK REDUCTION ACT OF 1980

● Mr. CHILES. Mr. President, on June 22 the Office of Legal Counsel of the Justice Department issued a legal opinion purporting to interpret what provisions of the Paperwork Reduction Act apply to paperwork requirements contained in existing and future regulations of Federal agencies. I have reviewed the opinion and, as an author of the Paperwork Reduction Act, I want to make a few comments. I will have much more to say later.

This opinion serves to distort and change the congressional intent expressed in the Paperwork Reduction Act. It is a flagrant example by unelected officials buried in the bowels of a Federal office building to rewrite and change a law passed by Congress and signed by the President.

The act is not even 2 years old, and already the bureaucrats of Washing-

ton are scratching and clawing to find ways to avoid congressional oversight and public participation and protection the law was designed to provide.

Let me explain.

The act provides that all paperwork requirements imposed on the public be assigned a control number by the Director of the Office of the Management and Budget demonstrating that a Federal agency has checked the paperwork burden involved for necessity and efficiency. That control number is to be displayed by the paperwork requirement so that anyone who must meet the requirement may see or find it. The public protection section of the act provides that without the control number no one can be penalized for not providing or keeping the information requested.

The public protection section is what I consider to be the most important provision of the act. It applies to all citizens, poor and rich people, young and old people, big and small businesses, State or local governments, hospitals, universities, and all other kinds of organizations.

Its purpose is to provide assurance to anyone that their Federal Government has taken steps to be sure that what paperwork is being asked or required is necessary and going to be used. If that assurance is not there, then the paperwork can be ignored—it is a "bootleg" requirement that can be ignored without fear of penalty.

This enforcement mechanism makes for a powerful incentive for agencies to check for necessity and get the control numbers. Without the numbers they can not insist on the information.

It provides a self-policing mechanism for the public to participate in insuring Government acts responsibly. They can ignore a requirement without a number, bring the bootleg to the attention of their Congressmen, or other appropriate official; or if the number is there, examine the publicly available file to see how the decision to impose the paperwork burden was justified and determined. Paperwork requirements must be reviewed every 3 years so the control numbers are essential to meaningful and ongoing public comments.

The mechanism also assists Congress provide oversight. The appearance or lack of numbers enables both the public and the Director of OMB to report to us on violations of the act.

Mr. President, this opinion of the Office of Legal Counsel amounts to legal advice to other executive branch agencies and has serious consequences.

The most destructive consequence is the opinion falsely asserts that the act does not require that control numbers be obtained or displayed for reporting the recordkeeping provisions contained in existing or future regulations. That is to say, for example, that if a regulation specifically says a veteran or a small businessperson has to report changes in income or gross sales monthly in order to remain eligible for an educational or business loan, then those reporting provisions do not have to display control numbers and public protection does not apply.

The examples of paperwork requirements that fall in this category could go on forever.

The public is put in the position of not knowing when the numbers mean anything and when they do not. All an agency has to do to avoid the control numbers is put their reporting and recordkeeping requirements in new regulations.

This assertion is bad advice, it flies in the face of what Congress intended. It does however, open the door for the bureaucrats in Washington that promulgate the regulations to go wild and openly resist the provisions of the Paperwork Act, to actively avoid the public participation, the self-policing, and congressional oversight aided by the public protection section.

Mr. President, the press has initially characterized this opinion as a curb on the authority of OMB. That misses the major point. The ultimate authorities of OMB contained in the act are not touched by the opinion. The chief consequence is the frontal assault it encourages on the public protection and participation provided by the public protection section. I am concerned that the Office of Legal Counsel in this case was not able to stand back from the bureaucratic turf wars that go on in Washington, some of which involve the Justice Department itself, and issue a judicious decision.

This one is wrong, and muddies the water in some rather unbelievable ways. For example, if one accepts the logic of the Office of Legal Counsel, the "fast track" emergency procedures authority given agencies to obtain an OMB decision before 60 days do not apply to regulations. Another conclusion would be that the authority for independent regulatory commissions to override the Director of OMB's decisions would not apply to the Director's authority over "collections of information" as opposed to "information collection requests" contained in section 3508 of the act. That authority is one of the most important granted the Director in the act.

Both conclusions are not what Congress intended, but are nonetheless plausible if one accepted their logic.

Mr. President, the opinion causes more problems than it purports to solve. Moreover, it amounts to a serious misreading of what Congress intended. As someone who worked for years to draft and pass this legislation, and as the Senate floor manager for the bill, I find the consequences of this false interpretation unacceptable.

I do not believe we should stand by while executive branch officials attempt to rewrite statutory law.

As a first step, I will request the Comptroller General issue a formal legal opinion in light of the Office of Legal Counsel opinion. I invite my colleagues to join me in that request.

I am also now seeking a means to go to court to correct this wrong. I strongly believe the opinion will impact the reporting provisions of the act to Congress and the ability of Congress to exercise proper oversight.

There are other means I and other Members of this body have available to exercise proper oversight and direction of laws we pass, and I anticipate speaking on this in the future.●

TRIBUTE TO KING KHALID

● Mr. HATFIELD. Mr. President, the news of the death of King Khalid, coming as it did during the widening conflict in Lebanon, did not allow the Members of this body to express our sense of loss as fully as we might have done had we been less concerned about the mounting civilian casualties in Lebanon. Although the Lebanese situation tragically remains unresolved, at this time, I should like to voice a tribute to King Khalid. With his passing, Americans have lost a friend who was not afraid to pursue moderation and peace in the face of strong pressures to retreat into repression and isolationism.

King Khalid took power in March 1975, following the shock of the assassination of his older, half-brother King Faisal. A pious, retiring man, in frail health, King Khalid accepted the crown because of a deep sense of duty, not because of any personal desire to govern. Putting aside his own inclination to follow the simple traditions of the desert, he moved swiftly to insure stability within the kingdom, satisfying the demands of Koranic justice with respect to his brother's assassin and renewing the ties between Saudi tribes and the monarchy. At the same time, King Khalid recognized the necessity for assuming the international role dictated by the wealth being generated through the development of the kingdom's vast oil resources. In exercising that role through years of great, often violent change within the Arab world, King Khalid encouraged a flexibility in Saudi policy that allowed incredible, institutional modernization within the farmework of Arab traditions. He was the first Saudi ruler to assert publicly that, should Israel withdraw from the territories occupied during the 1967 war, Israel and Saudi Arabia would coexist. While he severed relations with Egypt, when President Sadat made peace with Israel on other than those terms, King Khalid simultaneously moved the kingdom

more overtly into an Arab leadership role to fill the vacuum created by Egypt's post-Camp David ostracism. At the same time, his government nurtured a tough, but sound, cooperative relationship with the United States.

Under King Khalid, Saudi Arabia set forth its own peace initiative, drafted by then Crown Prince Fahd, and, in behind-the-scenes diplomacy sought to exercise a moderating influence on OPEC, to facilitate the release of Americans held hostage in Iran, and to mediate the differences that exist within the Arab world. Any one of those actions contained the potential to create serious problems within the kingdom, as illustrated all too clearly by the seizure of the Grand Mosque in Mecca by religious extremists in November 1979. In the aftermath of the violence at that holy place, King Khalid demonstrated great courage and statesmanship in restoring stability to the kingdom, while continuing his government's policy of moderation, modernization and alliance with the United States and the West.

I offer my condolence when I say we mourn his death. At a critical time in Middle East history, when Israel's military invasion of Lebanon and Iran's recent victories over Iraq pose complex and dangerous threats to the nations of the region, we shall miss the good offices of King Khalid,

But, we here in the United States are fortunate in our friendship with the Kingdom of Saudi Arabia and in its new leader King Fahd, a man of vision with the courage to pursue that vision. To him, we offer our sincere condolences on a terrible loss and pledge our support and cooperation in the years of challenge that lie before our two great nations.●

ROBERT GERHOLZ

● Mr. RIEGLE. Mr. President, Robert Gerholz is a man that I have known for many years. His involvement in the community of Flint and with the Rotary Club far surpasses what anyone can expect one man to do. Robert Gerholz's many accomplishments were recognized on May 21, 1982 when he was made a member of the Horatio Alger Society.

On his behalf, and, in recognition of his many contributions to all those around him, I would like to present some of the inspiring remarks that Robert Gerholz made during the ceremonies honoring him.

REMARKS MADE BY ROBERT GERHOLZ

It is extremely gratifying to have this opportunity to share with you some of my observations, experiences, and above all, my faith in God and the future of our country, and also our own city of Flint.

It is a heartwarming experience for me to have an opportunity to exchange ideas with my fellow citizens and to be among friends where faults are forgiven, where one's eccentricities are looked upon as evidence of a rugged individualism and where one's accomplishments are generously magnified.

Regrettably, in my 60 years of real estate, finance and community development, I have discovered no magic formula for success to share with you. I have no substitute for hard work, enthusiasm, innovation or creativity.

I have found no substitute for optimism. The optimist keeps the creative juices flowing on the front line where the action is. I have genuine optimism for the long range future of a dynamic Flint, the great state of Michigan and the U.S.A.

As we move from crisis to crisis, as we plan for the future, let us not lose focus on what's right with America.

Let's begin by counting our blessings, renewing our faith in our great nation, our rich religious heritage and in our dynamic free enterprise system which has contributed a significant measure to our achievement in spiritual, cultural, medical, social, scientific and educational progress.

The optimist looks forward to a future filled with exciting expectations and filled with challenging opportunities and progress.

I feel confident that more change will occur, ore growth will take place, more inventions added, more distance covered, more needs satisfied, more goods made, shipped, sold and recylced in the decade of the eighties than ever before.

Some say that America has lost its way, that opportunity is gone. Ridiculous. The world never exposed more frontiers for exploration, improvement and betterment than exist today. Of all our talents in the United States two stand giant-like above the rest—ability to be creative and innovative.

Never have the people in any nation displayed more ingenuity and resourcefulness—more basic creativity—than those in the melting pot of the U.S.A.

As we look ahead together this afternoon, I confidently believe that the opportunity for constructive and rewarding accomplishment in every field of endeavor is greater than anything we have experienced or dreamed of to re-industrialize and rebuild America.

I challenge you to establish an achievable goal and to cultivate a burning desire to achieve it. Reach for the stars and you'll never come up with a handful of mud.

The big prizes are for those who dare to think high, to think often and to think creatively. I am challenging you to think bigger, act bigger and to be bigger, and I promise you a richer, more exciting life in a more dynamic and viable Flint. Standing on the shoulders of the great men and women of the past, you have the most extended outreach for achievement that man has ever had. You can clutch the problems of your time, wrestle with them and win.

My brief remarks are to challenge to few who are going to accomplish things. Measure your powers, not your problems. Make things happen. Nothing happens without enthusiasm, dedication and total commitment. We are counting on you to make things happen. Will you, my fellow Rotarians and fellow Americans, have a part in making Flint and the United States a fabulous place for people to live, to work, a place where people can be intellectually challenged, mentally stimulated, socially invigorated, culturally enriched and spiritually inspired.●

AUTHORIZATION FOR COMMITTEE ON FINANCE TO FILE REPORT ON FRIDAY, JULY 9, 1982

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to file a report to accompany the spending and tax reconciliation bill on Friday, July 9, 1982, between the hours of 10 a.m. and 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL OF S. 2608

Mr. STEVENS. Mr. President, I ask unanimous consent that S. 2608, the International Security Enhancement Act of 1982, be referred to the Banking Committee not to exceed July 18, 1982, for the purpose of considering section 574.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session of the purpose of considering the nomination on page 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY-EXPO 82

The assistant legislative clerk read the nomination of Dortch Oldham, of Tennessee, to be Commissioner General of the U.S. Government for Energy-Expo '82.

Mr. BAKER. Mr. President, I want to take this opportunity to express my gratification at the confirmation of Mr. Dortch Oldham to be Commissioner General of the U.S. Government for Energy-Expo 82.

The position of Commissioner is a most important one, Mr. President. It carries with it the title of Ambassador and is the only position at the fair requiring Senate confirmation.

As Commissioner, Mr. Oldham will be the official representative for our country, and will oversee all official activities.

Dortch Oldham has my best wishes for this new challenge. I know Dortch well, and I also know that the fair, the State of Tennessee, and the Nation are

getting a fine individual and a dedicated public servant.

The PRESIDING OFFICER. Without objection the nomination is confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask that the President be immediately notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that we return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, JULY 12, 1982

Mr. STEVENS. Mr. President, I now move that the Senate stand in adjournment in accordance with House Concurrent Resolution 367 until Monday, July 12, 1982.

The motion was agreed to, and the Senate, at 6:18 p.m., adjourned until Monday, July 12, 1982, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate July 1, 1982:

DEPARTMENT OF STATE

George P. Shultz, of California, to be Secretary of State.

THE JUDICIARY

Patrick E. Higginbotham, of Texas, to be U.S. circuit judge for the fifth circuit vice Reynaldo G. Garza, retired.

E. Grady Jolly, of Mississippi, to be U.S. circuit judge for the fifth circuit vice James P. Coleman, retired.

DEPARTMENT OF JUSTICE

James O. Golden, of Virginia, to be U.S. Marshal for the District of Columbia for the term of 4 years, vice J. Jerome Bullock, term expired.

Eugene V. Marzullo, of Pennsylvania, to be U.S. Marshal for the western district of Pennsylvania for the term of 4 years vice Howard J. Turner, Jr., term expired.

IN THE NAVY

The following-named U.S. Naval Reserve officer, to be appointed permanent commander in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, LINE COMMANDER

Commander, line, USN permanent

Lattig, Glenn Douglas

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, LINE, LIEUTENANT COMMANDER

Lieutenant commander, line, USN permanent

Bell, Joseph Leonidas
Boniface, John Morrill
Brown, Wayne D.
Buske, Steven Paul
Clifford, John Daniel
Corrigan, Walter Elliott J.
Deets, Clifford Lee
Dykeman, Ronald Lee
Graham, David L.
Gray, James M.
Gummer, Steven G.
Hall, George Hamilton
Hoke, Robert E.
Horan, John M.
Janka, Dennis W.
Johnson, Charles C.
Jones, Jerry Dean
Jordan, Clarence Edward
Kadlick, Richard Mark
Kallas, Mary A.
Kumpan, Gregory L.
Lane, Michael J.
Long, Kirk Alan
MacDonell, Rory A.
McClanahan, Joseph E.
Moss, Duval Fletcher, III
Obryant, Kenneth Michael
Refo, Ian Blair
Reid, John Charles
Robinson, Theodore Lee
Sellers, David Noel
Sheehy, Hugh Francis
Shores, Leonard McCoy, Jr.
Taylor, William Ferguson
Verhalen, John P., Jr.
Walsh, Gilbert Charles, Jr.
Watts, Bruce Alan
Winters, Craig K., II
Wnuk, Henry J.
Zimmer, Larry W.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, LINE, LIEUTENANT

Lieutenant, line, USN, permanent

Abramson, Jay Jeffrey
Adams, Robert Lee
Allen, David Lee
Anthony, Stephen John
Arbogast, Eugene R.
Arcario, Benedict James
Ayers, Frazier Ledonn
Bagby, Steven Mallard
Bair, James Curtis
Baker, Clinton Bernard
Baliukas, Jerome Anthony
Banks, David E.
Bankston, Benjamin Hiram
Basciani, James Michael
Bauer, Michael James
Beebe, David Harry
Bell, Daniel Beecher
Bender, Glenn Steven
Bennett, Jan
Bishop, James Robert II
Bitar, Kenneth Joseph
Blasko, Gertrude Villa
Blouinmurphy, Richard Patr
Bludorn, Gregory Alan
Blue, Michael Franz
Bond, Lawrence Lee
Boveri, Stephen Louis
Braynon, Oscar James
Brocklehurst, David Alan
Brown, Donald Lee
Brown, Mark Keller
Bruns, Roger Charles
Burns, Christopher Scott
Bussone, Michael Joseph
Butt, Joseph Edward
Camelio, Francis James
Campbell, Stanley Victor J.
Carlson, Frederick Ralph
Carnahan, William Grady
Carney, Edward Raymond, Jr.
Casto, Daniel Pineda
Cattell, Herbert Daniel
Cavalieri, Ralph Phillip
Champion, William
Chlebanowski, Joseph Stan
Christian, Michelle Susan
Clark, Billy Lynn
Clark, Lanny Dale
Cochran, Daniel Walter III
Collins, Joe Milton
Collins, Steven Edward
Cooper, Ruth Anne
Corradini, John Charles
Costen, Laurel Marie
Cote, Thomas Andrew
Creveling, Robert Scott
Cronk, David John
Crosbie, Michael Kerbie
Cunningham, Brian Frederic
Cunningham, John Michael
Dalton, Mark Alan
Daniel, Thomas Raymond, Jr.
Daniel, Timothy Allen
Danner, Raymond Erwin
Decavage, John Joseph
Delucia, Tor Denis John
Demers, William Aime
Denham, Thomas Edwin
Denton, Willard Eugene
Desantis, Joseph Arthur
Deutschendorf, Randy John
Devendorf, Lee Earl
Dowling, Kenneth Evan
Dunan, Sally Elizabeth
Durkee, Steven Edmund
Duston, Keith Mark
Dvorak, Kathleen Kopp
Dyer, Nancy Ellen
Eastin, William Paul
Eckelberry, John R.
Eckhart, Jonathan Bradford
Edwards, Norman Marshall
Eide, Michael Cecil
Emerson, Thomas Harold
Etter, Larry D.
Fermoile, Paul Michael
Fetherston, Thomas Nelson
Fields, Franklin Noble B.
Fisher, Karl Bainbridge
Fisher, Robert Benjamin
Forster, Kenton Robert
Franklin, Howard III
Frazier, Charles Haynes
Frump, Deborah B.
Gear, Gary Wynn
Geisert, Roy Joseph
George, Gary Levern
Gerken, Cary Steven
Gilmore, Roger Alan
Gleason, Robert Edwin
Grady, Walter Ford
Green, Andrew Albert, Jr.
Guidry, Mark
Gunderson, Rick Alan
Haberman, Frederic W., Jr.
Hall, Douglas Beardslee
Hamman, Larry Virgel
Hardie, Bradley Stephen
Hatch, Harold Glen, Jr.
Hazel, Milton Ellsworth, II
Healey, John Francis
Hegland, David Kenneth
Herbert, Edward William, II
Hirsh, Deborah Duggin
Hobbs, William Ray, Jr.
Hocking, Douglas A.

Hoffmeister, Alexander F.
Holzworth, John George
Horn, Danny Kent
Howard, Karroll Lynn
Huber, Frank Bernard
Huegel, Albert C., III
Hull, Thomas L.
Hunt, Geoffrey Craig
Huntley, Jack Eugene
Hutchman, James Frederick
Ingram, Darryl Wilson
Innes, James Stephenson, Jr.
Jacobson, Theodore James
Jessen, Larry Scott
Jonesbey, Hassaun Ali
Kandalec, Donald Joseph
Kapuscinski, David I.
Keenan, Shannon Theresa
Kennedy, Michael Ernest
Kerste, Michael Allen
Kiefer, Roy Thomas, Jr.
Kiell, Jonathan
King, James Nathan
Kircher, Hartmann Joseph, I
Kolic, Edwin Robert
Lackie, Jon David
Landin, Lawrence Leroy
Lanfranchi, Michael Jon
Lawn, David Edward
Lawrence, Walter Anthony J.
Lee, Charles Edward
Lewis, David Bruce
Lewis, George Everie, III
Liles, William Timothy
Lillie, Stephen Odell
Lindsay, Michael Edward
Lindsey, Thomas Watson
Lipsmeyer, William M.
Little, Keene Hillis
Litzenberger, Ronald Will
Looman, Gretchen Ann Helwe
Lyle, David Nicholas
MacMillan, Denham Bruce
MacMillan, Peter Norman
Maiorano, Alan Gary
Malehorn, William Albert
McCarten, Michael Paul
McCauley, William Howard
McCluskey, William Robert
McDonough, William
McGarry, John Jeffery, Jr.
McKinney, John Edward
McMurran, Teresa Jill
McNamara, Kathleen I.
Mechling, Andrew D.
Michael, Gina Marie
Miller, Henri Matisse
Miller, Jeffrey David
Mols, Jeffrey William
Monahan, Dennis Gerard
Morel, David
Moss, Kenyon Lynn
Mueller, Heidi Rae
Murdy, Peter W.
Murphy, Leo Francis
Myer, Robert Charles
Needler, Mark S.
Ness, Mark Steven
Nichols, Thomas Merritt
Nolan, Terry Evell
Nolen, Marvin Darrell
Oakes, Bryan Robert
Olson, Thomas Francis
O'Shaughnessy, Kevin Paul
Osmon, Richard Steven
Parker, Carlton Dennis
Pech, David Joseph
Perko, Steven Robert
Perry, Timothy Randolph
Petermann, Glenn Michael
Peterson, Wallace Edgar
Pierce, Charles James, Jr.
Pohtilla, William Allen
Polizzi, John Cosmo
Poodiack, James Anthony
Postell, George Wallace, II
Pratt, Dennis Lee
Price, Richard W.
Rachel, Clemence John
Rachko, Katherine
Rankin, Paul Douglas
Rittinger, Thomas Edward
Roach, Stephen Henry
Rose, Douglas Robert
Rose, Stephen Wayne
Rosenthal, Mark Stuart
Roy, Robert William
Rynda, Douglas Charles
Sabalos, Nicholas, Jr.
Sadel, Mark S.
Salonia, Mark James
Sands, Edward Frederick
Schmidt, Richard Anthony
Schroeder, Mark Alan
Schuette, Albert Jesse
Schweitzer, Rory Joseph
Scott, Gregory Clinton
Shepersky, Terry Paul
Short, David John
Shropshire, James Ernest
Silirie, Kevin Paul
Simmons, Joel Harris, Jr.
Skinner, David Jack
Smith, Rodney Josep
Speck, Gregory James
Stathopoulos, Peter Nick
Stearns, Raymond Treece
Steele, David Howard
Steen, Stephen Martin
Stites, Ronald Paul
Strobridge, Ronald Lewis
Stuart, George Edwin, IV
Suehs, Derrick Jourdain
Sullivan, Christopher Paul
Sullivan, Mary Maureen
Summers, Stephen Chris
Surbridge, Thomas Bond
Susko, Stephen Andrew
Sweetser, Sheila Shropshir
Thomas, Steven Michael
Thompson, Francis Lutie, II
Thompson, James Alan
Thompson, John Michael
Timm, Laurence Bennett
Tomlinson, Sue Ann
Townsend, Wade Benton
Tritt, Gary Frederick
Trudeau, Barry W.
Tweed, Jay M.
Tymensky, Michael Leo
Underwood, James Robert
Urban, David Marvin, Jr.
Vargo, Joseph Elmer, III
Vazquez, Maurice Valdivies
Velie, Robert Jonathon
Viggiano, Glenn R.
Vulgamore, Joseph Martin
Walker, David Scott
Walls, Martha Jane
Walters, Charles Elwyn
Wasek, Joseph NMN, Jr.
Watson, Robert George
Wattam, Charles Ernest, Jr.
Weber, Jerome Thomas
Weihe, Douglas Lee
Welling, Patricia Ann
Wesley, Thomas Anthony
Whelan, Stephen W., Jr.
Wilcox, Richard Judd
Wilhelmy, Eric Lewis
Williams, Gary Alan
Williams, Irvin Gonzales, I
Wilson, Danny Lester
Wilson, Donald E.
Wink, Lawrence Joseph
Winter, Erich Hauser
Wolfe, Gary Steven
Wolters, William Alan
Zankofski, Deborah Ann
Zignego, Douglas James

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the line of the U.S. Navy subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, LINE, LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), line, USN, permanent

Adams, Randy Sanford
Alexander, Denese Mott
Anderson, David Owen
Antle, Stephen Bradford
Avery, Kenneth Larue
Avila, Nancy Lynn
Ayers, Robert Edward
Baldwin, Richard Stephen
Ball, James Fordney
Barber, Thomas Allan
Blake, James Franklin, Jr.
Bobbitt, Richard Brien
Brannon, Michael William
Brostrom, John Chester
Bunce, Thomas William
Burleson, Hayes Howell, Jr.
Bynum, Constance Brooke
Campbell, Thomas Warren
Carroll, Cecil John III
Chace, Christopher Bruce
Charles, Nancy Carol
Chenoweth, Cheryl Ann
Chickering, Ann Marie
Clark, Ronald Wayne
Clary, Robert William, Jr.
Coldiron, Roger Wayne
Cook, Edward Anthony
Copelof, Maureen T.
Craycraft, Steven Paul
Czuba, Virginia Therese
Daniels, Dianne Louise
Dassler, Dale Melvin, Jr.
Deming, Margaret Anne
Dietrich, Susan Shearer
Donahoe, Carol Ann
Dougherty, Bradford David
Driver, Douglas Bruce
Dubois, Linda Lou Borges
Farmer, Alan Carl
Faulkner, William Francis
Foster, David Heath
Gabriel, Mark Edward
Garcia, Vicente Chavez, Jr.
Gates, Cary Colin
Gerster, Paul Willard, Jr.
Glaves, Christopher Lee
Gutzmer, Stephen Michael
Heiberger, Michael
Hizenski, Amy Linda
Hobbs, Kathryn Michelle
Holderby, Don Murrell
Holt, Aileen Scott
Horlbeck, John Wilcox
Keller, Tracy Neal
Kibben, Jeffrey James
Kilian, Frederick Joseph
King, Glendon Mark
Kirtland, John Cochran
Landauer, Edwin Gerard
Lang, Elizabeth Jean
Lasko, Mark James
Lilly, Craig Douglas
Lipscombe, Clarence Dougla
Margiotta, Catherine M.
Marks, Beverley Frances
Martin, Carrie Elizabeth
Martin, Mary Ellen
McCandless, William Bruce
McGowan, Gary Eddy
Meyer, Clarence Nmn
Miller, Robert Bruce
Mitchell, David Milton

Mitchell, Martha Ann
Murrow, Kevin Patrick
Novinger, James Milton
Ogden, William Dean
Oksanengooden, Diane Pauli
Olsen, William Arthur
Pedersen, John Barry
Phillips, Laurence Mentor
Reynolds, Steven Michael
Ritchie, Joseph Carlton, Jr.
Rogers, Philip John
Ryan, Karen Lynn
Schneider, James Eugene
Schoonover, Mark Thomas
Shanks, Kurt Michael
Smith, David Marshall
Snively, John Dwain
Sousa, Thomas Edward
Sprayberry, Sharon Ann
Stephens, Terry Glenn
Sundin, Kristi Holli Chase
Taurman, Keith Lewis
Thies, John Laun
Tisdel, Yvonne
Title, Lynn Ann
Turner, Betsy Lee
Turocy, David Francis
Walker, Terrance Leroy
Wells, Lynne Ann
Wemyss, Thomas Parrish
Williams, John Victor
Wilson, William Earle
Winterberg, Helen Frances
Wunderl, James Douglas
Zampini, Lucia Marie

The following-named U.S. Naval Reserve officers, to be appointed permanent ensign in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, LINE, ENSIGN

Ensign, line, USN, permanent

Ascanio, Xavier
Ausdenmoore, Robert Michael
Baker, Cecil E.
Beavers, Fred Lewis
Berndt, Gary Louis
Beyrodt, David Charles
Biskaduros, James Keith
Brackett, Dean C.
Brown, James Patrick
Carr, Richard D.
Charles, Andrew Paul
Cohen, Martin Stephen
Connor, Michael Joseph
Downs, David
Faust, Marco Peter
Finnegan, Edward John
Frey, Gregory James
Goodpasture, Richard Paul
Gruber, David Brian
Gschwendner, Robert
Harvey, Gerry Jay
Haskell, Brian Jean
Hastings, Stephen Lawrence
Hawley, Samuel Hampton
Haynes, Harold Eugene, Jr.
Hein, Raymond Walter
Heisner, Harry Michael
Herbertson, Charles D.
Holland, Daniel Lawton
Holliman, Miles Kenneth, Jr.
Holm, David Jon
Hundiak, Arthur
Jensen, Kenneth Allan
Krehely, William Andrew
Kuczka, Allan Anthony
Leblanc, Leonard Rex
Leggett, Philip Edward
Lincoln, Mark Joseph
Lodmell, Joseph Carl
Manteufel, Robert Dale
McDonnell, Daniel E.
McGuire, Dennis Joseph
McNeil, Scott Alexander
Meadows, David Edgar
Melka, Joel David
Morrison, Alan Lee
Niemela, Van Alan
Oldenburg, Mark Edward
Olsen, John Rolf
Pahno, Demetrios Arthur
Petrosky, James A.
Platt, Christopher Winters
Reynolds, Bruce Alan
Rich, Daniel Wayne
Riggs, Gerald R., Jr.
Roberts, Jay Mitchell
Sagaser, Patrick Owen
Sanders, Charles Gower
Schmidt, Robert Dean
Scholze, James Thomas
Seeger, Donald Edwin, Jr.
Shaw, Robert Ernest
Shaw, Rory Michael
Smith, Ralph Quinton
Smith, Robert William
Smith, William Scott
Sommerer, Alan James
Stierwalt, Michael J.
Trepanier, Dennis Michael
Wakeland, Richard Eden
Williams, John David
Wilson, Stephen Durlin
Zoellner, Jay B.

The following-named U.S. Naval Reserve officers, to be appointed permanent commander in the Medical Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, MEDICAL CORPS, COMMANDER

Commander, Medical Corps, USN, permanent

Butler, William M.
Callaway, Robert A.
Duhaylungsod, Toribio M.
Hibbard, Blaine Zook, Jr.
Ho, Ben Tsunlin
Hogan, Bartholomew Toner
Khaw, Nocline
Kovalcik, Paul Jerome
Krasner, Robert, C. J.
Kung, Martin Datung
Lin, Fang Ling Hsu
Long, Truman Edward
Miremadi, Arjang Kamjani
Morte, Paul David
Muldong, Estelita T.
Nimlos, John Edward
Raval, Narendrakumar M.
Stock, Richard J., Jr.
Tibbits, Paul A.
Umfrid, Richard Paul, III
Urban, Donald G.
Vanslyke, Gary
Villegas, Remigio C., Jr.
Volpe, Rocco Joseph
Widman, Larry Allen
Wyre, Harry Wilmer, Jr.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Medical Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, MEDICAL CORPS, LIEUTENANT COMMANDER

Lieutenant commander, Medical Corps, USN permanent

Alona, Bienvenido Raz, Jr.
Andrada, Rosalia Corres C.
Austin, Robert Marshall
Barot, Amrutal Jethalal
Bibro, Mary Catherine
Bohman, Harold R.
Brown, Edward W.
Calderon, Jose Francisco
Carandang, Alberto Andal
Carandang, Estelita Limbo
Daniell, Fredric Dickey, Jr.
Dejesus, Antonita V.
Detriquet, John Michel
Digby, Donald J.
Doyle, Edward Jerome, Jr.
Dulay, Rolando Padua
Elie, Roland Charles
Field, David R.
Halbert, Richard E, II
Harrington, Tracy M.
Hobbs, Lafloyd Hueston, Jr.
Holston, John Seth
Kent, Peter D.
Kneeland, John Fogg, Jr.
Lazarus, Angeline
Longfield, Robert N.
Maano, Rio Rita Mastrili
Marsh, William L., Jr.
Navarro, Benjamin
Navins, John Paul
Oakland, John Howard
Ofarrell, Kathleen Anne
Orndorff, George R.
Patel, Anilkumar R.
Presely, Jimmy Clifton
Quiles, Benjamin
Remigo, Manuel Rivera
Rodriguez, Wilfredo
Ruffer, James A.
Ruiztorres, Ramon Luis
Shapiro, Alan I.
Super, Mark Anthony
Suseno, Wibowo Surjo
Sweeney, Brian Felix
Thomas, John Richard
Wolcott, Hugh Dixon

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenants in the Medical Corps of the U.S. Navy subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, MEDICAL CORPS, LIEUTENANT

Lieutenant, Medical Corps, USN, permanent

Andrich, Mary Patricia
Brown, Keith W.
Carlson, Stephen Alan
Cobel, Scott Douglas
Duncan, James M.
Garst, Paul Dimitre
Geller, Thomas John
Henry, Robert A., Jr.
Hibbs, Richard G., Jr.
Horner, Eileen
Juer, Robert C.
Lord, Jonathan T.
Luce, Rhonda F.
Lukowski, Peter Joseph
Mayer, David R.
McGue, Thomas E.
Miller, Ronald V.
Moore, Homer J., Jr.
Murray, Kevin M.
Newman, Robert J.
Nolan, Thomas E.
Oliver, Steve A.
Pratt, Michael Francis
Runyon, William G.
Sammons, James H., Jr.
Shilling, William Arthur
Vernalis, Marina N.
Zech, Edward Raymond

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Supply Corps of the U.S. Navy subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, SUPPLY CORPS, LIEUTENANT

Lieutenant, Supply Corps, USN, permanent

Arnest, John William

Bales, Randle D.
Boren, Kenneth Wayne
Day, David Patrick
Eudaley, Thomas Robert
Hughlett, Eric Christopher
Schindel, Lynn Elaine
Stewart, Richard Leon
Vandeven, Roger Lee
Woolnough, Bruce Duane

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Supply Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, SUPPLY CORPS, LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), Supply Corps, USN, permanent

Adams, Dawn Marlene
Boone, Terrence Charles
Bradley, Jeffrey Chester
Bruner, Charles David
Carmon, Donna Lee
Carver, Steven Grady
Crane, Judson Charles
Cummiskey, Joseph William
Cunningham, Thomas Gordon
Donney, Charles Ferdinand
Ewbank, Jonathan Stephen
Field, Daniel Patrick
Flowers, Antonia Michelle
Garvin, Clark Holland
George, Leon Andrew
Graham, Philip Elzy
Grimes, George W., II
Hayden, Michael Jay
Hitchcock, Jon Victor
Hov, Mary Ruth
Kennedy, Mark Jaye
Laster, John Robert
Lewis, Brian Richard
Lewis, James Arthur
Manheim, Thomas Conte
Marquis, James Donald
McKeever, Michelle Cecille
Meckler, Louis Martin, IV
Nost, Eric Foster
O'Connor, Craig William
Plunkett, Michael Joseph
Reiter, Donald Joseph
Russell, Frank Steven
Saggus, Diane Lynn
Thomas, Michael Don
Walker, Kenneth Michael
Walsh, Susan Jolie
Worley, Bruce Edward
Wright, George R.
Zell, Clifford Wayne

The following-named U.S. Naval Reserve officers, to be appointed permanent captain in the Chaplain Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, CHAPLAIN CORPS, CAPTAIN

Captain, Chaplain Corps, USN, permanent

Brasley, Lucian Roger
Dempsey, Richard Joseph
Koeneman, Alvin Berthold
Kukler, Richard
Libera, Angelo Joseph
Sullivan, Alan Peter

The following-named U.S. Naval Reserve officers, to be appointed permanent commander in the Chaplain Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, CHAPLAIN CORPS, COMMANDER

Commander, Chaplain Corps, USN, permanent

Cooper, Lynn Dale
Dunks, Max Elwyne
Jones, Harry Thomas
Lovejoy, Bradford
Moor, James Wallace
Nobles, Bryant Reginald, Jr.
O'Brien, John M.
O'Neil, Michael Peter
Radasky, Robert Michael
Rogers, Theodore Jackson
Roon, Albert Jay
Sawyer, James Douglas
Snow, Edward Eugene

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Chaplain Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, CHAPLAIN CORPS, LIEUTENANT COMMANDER

Lieutenant commander, Chaplain Corps, USN, permanent

Bebee, Roy L.
Belanus, Donald G.
Garrett, Thomas Clayton
Hines Joseph W.
Leavitt, Charles H., Jr.
Milas, Theodore P.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Chaplain Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, CHAPLAIN CORPS, LIEUTENANT

Lieutenant, Chaplain Corps, USN, permanent

Apgar, Ronald M.
Bankhead, Edgar Spencer
Brubaker, John Donald
Byrne, John Edward
Carter, Thomas C.
Duncan, James C.
Gibson, Arlo Ralph, Jr.
Hays, Franklin Ernest
Kerr, Joseph Reid, III
Miller, Glenn Ithamar
Morris, Donald Archie, Sr.
Newhouse, Edward Arthur
Nickle, George Houston
Nickols, James P.
Ross, Robert L.
Schwarting, James Donald
Shamburger, Douglas M. A.
Spangler, Dennis Eugene
Stoner, Gary Wayne
Tunnell, Ruben Wesley
Webb, John Allen
White, Michael Killian

The following-named U.S. Naval Reserve officers, to be appointed permanent lienteant commander in the Civil Engineer Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, CIVIL ENGINEER CORPS, LIEUTENANT COMMANDER

Lieutenant commander, Civil Engineer Corps, USN, permanent

Kaleba, Frank

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Civil Engineer Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, CIVIL ENGINEER CORPS, LIEUTENANT

Lieutenant, Civil Engineer Corps, USN, permanent

Ball, Kevin Kent
Band, Jean Alan
Barrett, James Morgan, III
Buchholz, Robert Peter
Eng, Edward
Grigsby, Daniel Lee
Holbrook, John Jess
Hoppe, William James
Laws, Larry A.
McMurray, Thomas David
Pavlos, Charles G.
Taunton, Harold D., Jr.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Civil Engineer Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, CIVIL ENGINEER CORPS, LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), Civil Engineer Corps, USN, permanent

Barszewski, Alan G.
Davis, Myron W., III
Eckel, Stephen T.
Hipp, Mark Richard
Maynard, Mark E.
Moncayo, Kenneth G.
Orndoff, Donald H.
Rechany, Alberto P.

The following-named U.S. Naval Reserve officers, to be appointed permanent commander in the Judge Advocate Generals Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, JUDGE ADVOCATE GENERALS CORPS, COMMANDER

Commander, Judge Advocate Generals Corps, USN, permanent

Dunlap, John Frederick

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Judge Advocate Generals Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, JUDGE ADVOCATE GENERALS CORPS, LIEUTENANT

Lieutenant, Judge Advocate Generals Corps, USN, permanent

Callahan, Joseph P.
Cooper, Carol Jean
Dickens, Leroy, Jr.
Greene, Thomas W., Jr.
Kelstrom, Nels H.
Miller, Richard B.
Santoro, Thomas C.
Sonday, Henry F., Jr.
Todd, Lawrence M.
Twining, Joseph Patrick
Walli, Janice Lynne
Wolensky, Lewis Merrill

The following-named U.S. Naval Reserve officers, to be appointed permanent commander in the Dental Corps of the U.S. Navy subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, DENTAL CORPS, COMMANDER

Commander, Dental Corps, USN, permanent

Vinton, Jeffrey R.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Dental Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, DENTAL CORPS, LIEUTENANT COMMANDER

Lieutenant commander, Dental Corps, USN, permanent

Eavis, Anne Marie
Fishback, Niel Mark
Hunter, Alvin John
Waterman, Marc Norris

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Dental Corps of the U.S. Navy

subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, DENTAL CORPS, LIEUTENANT

Lieutenant, Dental Corps, USN, permanent

Arrington, Ronnie W.
Black, Jay Allan
Brayer, William K.
Cimis, Gerald Michael
Ehrlich, Alex D.
Eldridge, Marion Co
Elrod, Kenneth
Fitzgerald, Patrick John
Fleischer, Howard C.
Glynn, Marian Ann
Golden, William Glen
Graef, Todd A.
Hawkins, Thomas N.
Hayden, Curtis L.
Hecht, Perry
Holt, James G.
Huber, Michaell Andrew
Huggins, Donna Rahn
Lytle, Robert B. Jr.
Mertz, Kenneth Alexander J.
Nicoll, Brain Keith
Olinzock, David R.
Santos, Andre Charles
Southard, Thomas Edward
Taylor, Darryl Lynn
Tyl, Jon C.
Tyson, Joseph Richard
Wallace, Stephen Wylie
Wolfe, Randolph J.

The following-named U.S. Naval Reserve Officers, to be appointed permanent lieutenant in the Medical Service Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, MEDICAL SERVICE CORPS, LIEUTENANT

Lieutenant, Medical Service Corps, USN, permanent

Bory, Alexander
Butner, Glen Arthur
Hassan, Lynn Carol
Kennedy, David Lawrence
Post, Lawrence Edward
Schneider, Kay Lynn
Spaulding, David L., Jr.
Walz, Marcia A.
Wilkens, Robert Charles

The following-named line officer to be appointed permanent lieutenant in the Medical Service Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

LINE, LIEUTENANT

Lieutenant, Medical Service Corps

Titi, Richard J.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Medical Service Corps of the U.S. Navy subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, MEDICAL SERVICE CORPS, LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), Medical Service Corps, USN, permanent

Bisignand, Dallas Andrew
Deliz, Donald Edward, Sr.
Edgmon, Johnny Dean
Hopkins, Jon L.
Jackson, Patrick Lewis
Kush, Charlene Dolores
Mattingley, Mark William
McConville, Kelly Joseph
Norton, James Alfred
Peake, Daniel William
Taylor, Ivory Wyzel

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Nurse Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, NURSE CORPS, LIEUTENANT COMMANDER

Lieutenant commander, Nurse Corps, USN, permanent

Benson, Teri Anne
Muehling, Janet Marie
Suiter, Phyllis Ann

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Nurse Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, NURSE CORPS, LIEUTENANT

Lieutenant, Nurse Corps, USN, permanent

Alft, Barbara Ann
Blackburn, Hilda Joan
Castle, Karen Schaller
Castleberry, Laura Annette
Chambers, Pamela Sue
Edwards, Mahlayna
Ehlers, Christine Diane
Finucane, Roseann
Flowe, Debra G.
Gainer, Vance Glenn, Jr.
Galloway, Sherry Dee
Green, Patricia Eva
Hayes, Sandra E.
Hearin, Linda Gwen
Hoyt, Janet Delay
Kaminska, Cheryl L.
Lappert, Patrice Ann
Laurent, Christopher Leon
Littrell, Susan Mae
Molella, Carolyn Dianne
Morgan, Jane Mercedes
Morgan, Janie Lindemann
Mulligan, Anne Marie
Myers, Heather Lee
Oliverio, Joseph Paul, Jr.
Pellini, Deborah
Reich, Twila Susan
Rogenmoser, James Francis
Ryan, Patricia L.
Ryan, Ruth Ann
Savage, Shelley Ann
Savitsky, Mary Strain
Shaughnesy, Larry Kevin
Shaver, James Carl
Sherman, Amanda Louise
Simmon, Chris Charles
Sullivan, Charles Lee
Tapp, Nancy Zikaras
Thompkins, Veronica Michel
Trimble, Debra Gay
Tuskey, Deborah Lynn
White, Joann Marie
Worthington, Sandra A.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Nurse Corps of the U.S. Navy, subject to qualifications therefor at provided by law:

U.S. NAVAL RESERVE, NURSE CORPS, LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), Nurse Corps, USN, permanent

Aho, Susan Marie
Batten, Catherine Mary
Blaisdell, Susan Anne
Bulla, Sally Ann
Campbell, Ray Charles, Jr.
Castellanos, Christina Isa
Etter, Mary Lou
Fidellow, Judith A.
Fink, Thomas Edward
Fulghum, Timothy Baird
Goodin, Patricia Jeanne
Happell, Jan Mildred
Mahler, Michael Oliver
Marine, Robert James
Miller, Diane Marie
Paad, David A.
Rodriguez, Diana Joy
Rosander, Janice Joyce
Slater, Mary Ellen
Tamoshunas, Patricia Anne
Veihmeyer, Anne Louise
Walsh, Carol J.
Wright, Danny Gene

The following-named limited duty officer to be reappointed permanent commander as a regular officer in the line of the U.S. Navy

LIMITED DUTY OFFICER, LINE

Commander, USN, permanent

Morrison, Virgil Eugene

The following-named temporary limited duty officers, to be appointed permanent lieutenant in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

LIMITED DUTY OFFICER, LINE, LIEUTENANT

Lieutenant, Line, USN, permanent

Bard, Carter Price
Bigelow, Jerry Blaine
Boyd, Edward Marshall
Evans, James Marvin
Moore, Michael L.

The following-named temporary limited duty officers, to be appointed permanent lieutenant (junior grade) in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

LIMITED DUTY OFFICER, LINE, LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), Line, USN, permanent

Goldstein, Alan Philip
MacDougall, David Russell
Ruggles, Gerald Paul

The following-named temporary limited duty officers, to be appointed permanent lieutenant in the line as a limited duty officer of the U.S. Navy, subject to qualifications therefor as provided by law:

TEMPORARY LIMITED DUTY OFFICER, LINE, LIEUTENANT

Lieutenant, limited duty officer—line, USN, permanent

Adamonis, Joseph Edward
Albrecht, Ricky Irvin
Alexander, Jose Antonio
Allen, Andrew J.
Allen, Gene Russell
Allen, Robert James
Anderson, Milburn Michael
Anderson, William Gerald J.
Appleby, Edward Robert
Aragon, Salvador Amoguis J.
Arlen, Richard L.
Arthur, George Robert, Jr.
Askin, William David
Atchison, Ralph L.
August, Bernard Joseph, Jr.
Ayers, William Stuart, Jr.
Bailey, Thomas P.
Baker, Charles Vincent
Baldassano, David Ray
Bancroft, Herman G., III
Bard, Carter Price
Barkman, John G., Jr.
Barlow, Cecil Edward
Barnes, Richard S.
Barnett, Otis
Bartleman, James Paul
Bassett, Kenneth Randolph
Baxter, Franklin Emet
Beckstrom, Donald R., Jr.
Begy, Carl Robert
Bell, John William

Bellard, Johnny
Benz, Leroy Shively
Berry, William W.
Bertrand, Shelton
Bickmann, Arnold Josef
Biggerstaff, William S.
Black, Edward James
Blount, Alvin Aaron
Boehl, Richard William
Botulinski, Thomas J.
Bouquet, Tommey Elton
Bowen, William Grant
Boyd, Edward Marshall
Boyles, Bruce A.
Bradhurst, John G.
Bradley, James J.
Brewbaker, Ronald Leroy
Brewer, David Allard
Bright, Leroy Frank, Jr.
Bristow, Isaac
Brittan, Harry L.
Britton, Scott George
Brookshire, David Reece
Brown, Gerald C.
Brown, Lance L.
Brown, Lonny D.
Brown, Paul Allen
Brown, Richard C.
Bruce, Jay David
Bucheister, Raymond Cecil
Bunker, Edward James
Burke, Larry Deane
Burke, Michael Lee
Burke, Richard Edward
Burkett, Michael Carl
Burleigh, Richard R.
Burrill, Joseph E.
Burton, Edward Olin
Burton, William J.
Callaway, Joseph E.
Callaway, Ralph Francis
Canell, Edward Joseph
Canfield, Bruce T.
Cannon, David William
Carey, Harold Frederic, Jr.
Carpenter, William Arthur
Carter, William Raymond, Jr.
Casanova, William
Casteen, John Douglas, Jr.
Casto, Stephen Matthews
Catherman, Ronnie N.
Ceely, Richard Allen
Celli, Lino Joseph
Chalker, James R.
Chambers, Keith Van
Chavez, Juan Leroy
Christopher, Ronald J.
Clark, Bruce Gregory
Clark, Michael Arthur
Clausen, Paul Kenneth, Jr.
Claytor, Linwood Clark
Clemons, Clevie L.
Clingenpeel, Roy
Clink, Robert Edward
Coble, Richard A.
Cochran, William Lee
Combs, Samuel Charles
Cook, James Robert
Cook, William Arthur
Cope, James Donald
Coppinger, Michael L.
Cordell, Thomas Robert
Cox, Robert Edward
Crandall, Roland Edwin
Crary, Howard Leslie
Crawford, Gary Lynn
Crouch, William Ersel
Crutz, David Alan
Curz, Adelbert, Jr.
Cullison, Richard Chester
Culver, Robert J.
Curtis, Charles Colby
Curtis, Larry Jean
Curtis, Richard Lassell
Czulewicz, Thomas St.
Dattoli, Joseph Salvatore
Davis, Charles Wesley
Davis, Jack L.
Davis, Leon D., Jr.
Dearbeck, Jerry Lee
Degloma, Thomas Edward
Delaney, Charles Joseph
Delgado, Anibal Lopes
Dell Franklin E.
Denecamp, Gustav A., III
Deryck, Wayne D.
Desilva, Philip E., Jr.
Dickert, Michael Boyd
Dixon, Willard Eugene
Doane, Ellis H., III
Dodds, William H., Jr.
Doolittle, Richard Fred
Dotson, Edward L.
Douglas, Robert Eugene
Dowling, Russell Lee
Drajna, Fred Andrew
Driver, Perry Davis
Ducom, Eugene Morgan
Dufeck, Jerry L.
Dumpert, David R.
Dundee, Jack L.
Dundon, Nicholas Gene
Dunphy, Joseph Joh G.
Edwards, Perry B.
Edwards, William Eugene, Jr.
Ekardt, Dennis Edward
Elford, David Alan
Elgo, Candido Rejel, Jr.
Elliott, Sidney Marvin
Ellis, James Paul
Ellsworth, Richard Homer
Egdahl, Craig Albert
English, Floyd Edward
Eschete, Donald P.
Evering, Edwin Louis
Fahey, Edward Francis
Fairbanks, John
Faris, John Michael
Farley, Harold, Jr.
Faulk, Allen Michael
Felder, Gary C.
Feldhous, Fredric Francis
Fenwick, Francis Carroll J.
Ferranti, Jerry Wilber
Ferris, Albert D., III
Fett, Hans G.
Fiore, Samuel Stephp
Fischer, Paul Karl, Jr.
Fisher, James Edward
Fitzgerald, William C.
Fitzsimmons, William M.
Flowers, Donald Henry
Ford, Jesse Burton, Jr.
Forgach, Gary L.
Fortner, William S.
Foster, Dennis Paul
Foster James W.
Fountain, Bruce E.
Fowler, Leonard Hill, III
Fox, Michael E.
Fox, William F., Jr.
Francia, Anthony A.
Francis, Clayton Albert
Franzen, Gerald Joseph
Frenck, Wayne Howard
Fry, Rene Maurice
Fulton, Terry L.
Gallipo, Leslie Kenneth
Gamble, Bruce T.
Gardner, David C.
Gardner, Dennis Michael
Gargus, Thomas Bell
Gerhart, William Charles
Gill, Bruce J.
Glidden, William Michael
Glynn, John Curtiss, Jr.
Goldberg, John Willi
Golden, Richard Vern
Goldin, Milton, Jr.
Goodlet, Sammie Nmn
Gowens, Michael Wayne
Grass, Richard John
Graves, Richard Harold
Graves, Robert Lynn
Gray, Arthur Rick
Gray, James Robert
Green, Nathaniel
Greer, Jerry Dean
Gregory, James L.
Griffin, Roy Duane
Gross, Harold
Gross, Robert Hazlitt, III
Gruben, Roger Sall
Guss, James Robert
Guy, William Palmer
Haag, Gunter
Habel, Garth Robert
Hada, Wilford V.
Hagan, Ralph Kenneth
Hagerty, George Joseph
Hall, Jesse Jon
Hall, Tommy Eugene
Hamann, Wiliam Frank
Hamilton, Ellis NMN
Hamilton, Robert W.
Hampel, Kenneth Earl
Hampton, Cecil L.
Hansen, Joseph A.
Hanson, Zane Leroy
Harmon, John M.
Harris, Charles Michael
Harris, David J.
Harris, Lawrence J.
Harris, William James
Harrison, Jonathan Charles
Harrison, Lonnie P.
Hart, Gerald Earl
Havemann, Leonard Paul
Hayes, John Howard
Heacock, Jerry David
Hendrickson, Wayne
Hervel, Richard C.
Hildreth, Billy Joe
Hill, Clarence D.
Hills, Stephen George Rich
Hobart, David Carl, Sr.
Hoffman, James Edward
Hohorst, Dedrich C.
Holbrook, Larry Edward
Holland, James Wesley, Jr.
Hollaway, Bily Dean
Holmberg, Hilding A.
Hood, Jack Nolan
Horn, Norman Clifford
Houchins, Ronald William
Houghton, Charles I.
Houghton, Frank Barnwell J.
Howard, John R.
Howard, William Dexter
Howell, Carleton Thomas, Jr.
Huck, Hugh Joseph, Jr.
Hunt, David Lamar
Hutson, Michael Thomas
Ingram, Charles Edward
Ingram, Michael Roy
Jacks, James Harold
Jaggard, Joseph F., Jr.
James, Richard Lee
Jelley, Kenneth Irving
Jens, Jeffrey Paul
Johann, Charles Louis
Johnston, David Harold
Jones, Donald Lee
Jones, Eric Merwin
Jones, Kenneth Wayne
Jones, Richard Lee
Jones, Stephen C., Jr.
Judy, Daniel Edward
Junker, Dwayne Neal
Kahler, Thomas Gohrs
Kantirakis, Johnnie Nick
Keast, Jerry Lee

Keever, Douglas F.
Kell, George Edward, Jr.
Kelley, William J.
Kelly, Peter James
Kenner, Robert P.
Kimmel, John Francis, Jr.
Kindergan, Walter S.
King, Michael Clayton
King, Roger Lee
Kirk, Lewis Marshall
Kislingbury, Wayne Joel
Klansnic, William J.
Knight, John Clayton
Knight, William Deloach
Knutson, Eugene Lee
Koebel, Jerry Albert
Koritar, John A.
Kraemer, Kent Hugh
Kramer, David Richard
Krub, Edward M.
Kulsicavage, Joseph M.
Kuntz, John F.
Lake, Billy Gene
Lambard, Richard E., Jr.
Lanman, George William, Jr.
Lashbrook, James Edward
Laun, Gary Lynn
Lauseng, Leroy Leonard
Lemaster, Robert Earl
Lewallen, Beasley Kent, Jr.
Lewis, Dave E.
Lineburg, Frederick F.
Locke, Dudley Betz, Jr.
Lockwood Tyrone NMN
Logue, Thomas Tyrrel, Jr.
Long, Richard K.
Long, Robert Clause
Longway, James Gordon
Lonigan, Thomas Jame
Lopez, Raymond Francis, Jr.
Lorenz, Duane Edwin
Losardo, Vito, Jr.
Loveless, Paul Francis, Jr.
Lucero, Daniel Raul
Luckenbach, James W.
Lund, Rodney Gene
MacDonald, Patrick
Mackie, James Palmer
Magnusson, Everett Carl
Maguire, Edwin J.
Mahoney, William Albert
Major, Frederick James, Jr.
Majority, James N.
Makowski, Frederick George
Manley, Larry Joe
Mann, Liberty Edward, III
Marsh, William David
Martin, Stanley Richard
Martine, Dennis Keith
Mayberry, Robert Terril
McAuliffe, Thomas J.
McAvoy, Arthur Rayond
McCammon, Michael Allen
McCaskill, Thomas H.
McClimon, Donald Eugene
McComb, Jeffery Lee
McCree, Joseph Wayne, Jr.
McKendry, Wallace Jay
McKinney, Patrick Douglas
McLemore, Henry, Jr.
McManigle, James Edward
McNabb, Steven Dennis
Merideth, Allen Thomas
Metcalf, Thomas Earl
Metheny, Marvin Douglas, II
Meyer, Thomas J.
Meyering, David Patrick
Miles, Neal S.
Miller, Charles James
Miller, Theodore Garth
Milling, Phillip O.
Milstead, James A.
Mirabelli, John Thomas
Mock, Robert C.
Mohs, Wayne C.
Moore, Bruce F.
Moore, Michael L.
Moore, Thomas L.
Morgan, Perry Wendell
Morgan, Robert Leroy
Morgan, Roger Dale
Morin, James Robert
Morse, Richard Bennett
Mosely Charles Lesley
Murphy, Curtis Owen
Muth, William Ernest
Myers, Harry S.
Nashif, Ronald Anees
Neeley, Martin F.
Newlan, James Douglas
Nidel, William John, Jr.
Nielsen, Robert Dalby
Noble, Thomas K., Jr.
Norris, Melvin Saul
Norton, James Lee
Obriant, James Edward
Ogden, Charles Thomas
Oiler, Larry Lewis
Oleary, Thomas Marsden, Jr.
Omeally Alfred Francis
Parker, Ronnie K.
Pasnak, Richard Paul
Patnode, William Bruce
Patrick, Robert J.
Patterson, Allen Hugh
Pauley, Frederick Paul, Jr.
Pauls, Thomas Edward
Pehling, Gary Walter
Petershagen, George Fredri
Picard, Roland Raymond
Pierson, John E.
Pind, Michael D.
Pittman, Ronald Cebe
Ploeger, Ernst Otto, III
Polak, Dennis M.
Poland, Thomas Richard
Polensky, Warren Dale
Polio, Joseph R.
Poole, James Watson
Poppe, Gilbert Carl
Porter, Vernon, Jr.
Prendergast, Richard Kevin
Preston, Richard W.
Proctor, James Roger
Prosser, David Roy
Prudot, John Thomas
Pugh, Robert William
Pulley, Samuel D.
Quijada, Richard Henry
Raines, John N.
Ramirez, Ray
Ramsey, Marshall N.
Randolph, George Harrison
Reilly, Everett, E., Jr.
Rhames, Wiilliam Chester
Rice, Stephen Wilhem C.
Richardson, Randall Morris
Rinaudo, Cosmo
Ringering, David Allen
Risk, Jerry Dale
Risko, Georgi W.
Roadinger, Michael J.
Robbins, David Eugene
Robbins, Johnny Gerald
Roby, David Allan
Rock, Stephen Kingsley
Rodger, Ronald Jack
Rosenboom, Roger Dale
Rouse, Russell E.
Royer, Kenneth Paul
Ruby, Donald Lee
Rugenstein, Mark Wayne
Ruple, Robert W., II
Russell, Kenneth W.
Sala, Alan Jerome
Salts, Rodney J.
Sammons, Ronnie Eugene
Sanderson, David Phillip
Sansom, Richard Thomas
Sargent, Roger A.
Schmitz, David Colin
Schorr, Gary Nelson
Scott, George Lee
Scott, Michael Randolph
Scribner, Terance Riley
Seater, Robert Earnest
Seay, David B.
Seidl, Joseph Michael
Serafin, Martin Edward
Setterlund, Charles Edgar
Severance, Frank R.
Sharpes, David Ralst
Sheldon, James Arthur
Shelton, John P.
Shrader, Robert Eugene
Simerly, Paul Bruce
Simmons, Jerry Max
Simonds, Frank Henry, Jr.
Simons, Alan Ray
Simpson, Jerry Roche
Sipin, Nelson A.
Sitton, George Denzil, III
Smith, Frank W.
Smith, Isaac Herman, Jr.
Smith, Randall Charles
Smith, Waymon A.
Smock, Terry D.
Smoot, Melton Leon
Sneide, Larry John
Snodgrass, William Joseph
Solt, Harrison Henry, III
Souza, Gerald Wayne
Sparks, Larry O.
Spruill, Danny Eugene
Stacy, Bobby R.
Stanwood, Arthur Hodg, Jr.
Stein, James Ernest
Sterling, Garl Vance, Jr.
Stevens, Thimas E.
Stone, John A.
Stone, William B.
Strawder, Freddie Eugene
Strother, Burhl E., Jr.
Suchland, Everett Burdett
Sudik, John Peter
Sullivan, Richard T.
Summey, Roger Allen
Swear, George M.
Sweeney, John Forest
Szakas, John Francis
Tanner, Randall E.
Taylor, Bobby J.
Taylor, Charles C.
Taylor, Connie Garron
Temer, Paul Lawrence
Tenant, James Junior
Tenaro, Harry N.
Thomas, Guadalupe
Thomas, James B.
Thompson, Harry Michael
Thompson, Larry Eugene
Tipton, Richard Gary
Tomlinson, Richard Stanley
Townsend, Walter Allen
Tucker, David Wayne
Turner, Lee Oliver
Turner, Phillip Arnold
Turner, Thomas J.
Turpen, Michael C.
Tyrrell, Marvin Frederick
Urrutia, Ronald
Utterback, Norman Arthur
Vansickle, William R.
Vaughan, Danny
Vaughn, Charles Roland
Venerdi, Herry Thoma
Viau, Raymond Allan
Vobrak, James William
Vorndran, Thomas Francis
Vredenburgh, Richard Harry
Wachter, Michael Lewis
Waddell, William Thomas

Wade, David Gene
Wagner, Phillip E.
Walker, Charles Bertr, Jr.
Walters, George Fredrick
Webb, Clyde Quinton
Weller, Phillip Andr
Wells, Ralph Chester
Wendell, Bertrum Woodville
Werner, James Paul
Westhusin, Daniel J.
White, John William
Whitener, Ronald Wayne
Wild, Lawrence Alan
Wilkins, Donald Michael
Williams, Leversia
Williams, Michael Edward
Willis, Gary L.
Willis, William R.
Wilson, David Kent
Wishon, Milborn Franklin
Woodburn, Harold John
Woods, Hubert Francis, Jr.
Woods, William Edward, Jr.
Woodward, William Leroy
Wright, Harry Anthony
Wright, Wardell Conklin, Sr.
Wroolie, Brad Lee
Yoshida, William Romain
Young, John Wayne
Youngblood, Adrian Corneli
Zane, George K.

The following-named temporary limited duty officers, to be appointed permanent lieutenant (junior grade) in the line as a limited duty officer of the U.S. Navy, subject to qualifications therefor as provided by law:

TEMPORARY LIMITED DUTY OFFICER, LINE, LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), limited duty officer—line, USN, permanent

Ackles, James Joseph
Ackley, Neil Francis
Acton, Bruce Joseph
Admire, George Ray
Albert, Steven M.
Anderson, Daniel Robert
Anderson, James Steven
Anderson, Jon Gordon
Anthony, Alan Wayne
Arguello, Gilberto Leroy
Armitage, Robert Allen
Armstrong, Vernon Loall
Arsenault, Robert Michael
Bajune, Lloyd George Ostra
Bakara, Michael Francis
Ball, Franklin Donald
Ballew, Neil Gene
Bangert, Randall Wilbur
Banks, Martin Michael, Jr.
Barrs, Daniel
Bartlett, Robert Leland
Bartoe, Thomas Joseph
Bates, Kameron Eugene
Baugher, Jackie Lero
Becker, Ernest Charles
Belanger, Michael David
Belec, James Medric
Bell, George Chester, Jr.
Bell, Robert Dwayne
Bender, Charles Michael
Bennett, Michael Ray
Benscoter, Richard Hayes
Benson, Thomas Stuart
Birge, Ronnie Howard
Blackmore, Donald Wayne
Blakley, Robert William
Blankenship, Clyde Wayne
Block, Lowell Karl
Bluestone, David Joel
Boling, Donald Olen
Borgen, Thomas Lynn
Boudah, Mark Fredrick
Boyer, Ralph Joseph, Jr.
Branges, Warren Gregory
Briquelet, John Arthur
Brooks, David Lynn
Brown, James Wesley
Brown, Larry Lee
Brown, Thomas Roy, Jr.
Callis, Lloyd Baker Jenkin
Campbell, William Richard
Canning, Thomas James, Jr.
Carpenter, Dennis Ray
Carr, George Anthony, Jr.
Case, Van Allen
Cashat, Harry Steve
Caviness, Edmond Carroll I
Chandler, Robert Franklin
Chesher, James Wilson
Chestnutt, Harold Dean
Choyeski, Frankie Dale
Coley, Henry Earl
Comp, Ralph Bernard
Compton, James Thomas
Cook, John Rue
Corbett, Johm Bertram
Cox, William Louis
Crabtree, Charles Daniel
Craig, Jonathan King
Crawford, Bobby Eugene
Crawford, Larry Keith
Crockett, Lawrence David
Crone, Michael John
Crooks, William Thomas, Jr.
Crosby, Larry Lonnie
Crosley, Michael Wayne
Crouch, George Nova
Crout, James Clifton
Cummings, Chester
Cunningham, Charles Gerald
Curry, Thomas Vincent
Daggett, Terence Lee
Darling, Peter Lloyd
Davidson, Ronnie Boyd
Davis, Louis Alfred
Devey, William Sidney, Jr.
Diaz, David Silva
Dickens, Richard Ray
Dickenson, Michael Lee
Dodson, Clifford Noble, Jr.
Downs, Bernard Raphael
Draper, David Eugene
Duggan, Paul Leo
Dunn, Robert Dwayne
Dustin, Larry James
Dutton, Michael Robert
Edgington, Cecil Johnny
Elliott, Michael Bruce
Elliott, Quinnie Nathaniel
Erwin, Bert David
Eskridge, William David, Jr.
Estrada, Joseph Earl
Estvanik, Daniel Clinton
Farmer, John L.
Faust, Richard
Fay, David Edward, Jr.
Fickes, Robert Larry
Figuerda, Gerald Ler
Fischer, Kip Victor
Flanagan, Hugh Felix, Jr.
Ford, Steven Daniel
Franklin, James Arthur
Freeman, Victor Ray
Fuller, James Byron
Fulwood, Lindsey Sheraman
Furr, Larry Eugene
Gage, Fredrick Eugene, II
Glass, Lonnie Glee
Godwin, Marshall Earl
Goldenberg, Jack Phillip
Gravelle, John Allen
Green, Richard Gerald
Green, Russell Wallace
Griffith, Lawrence Dean
Griffith, Roger Nyle
Gruber, David Paul, II
Gumtow, Richard Harry
Guptill, Edward Lee
Guthrie, Larry Joe
Haddox, John Louis
Hamby, Harvey Stevenson
Hamersly, Paul Craig
Hamiltion, Edwin Philip
Hanneke, Thomas William
Harritt, John Douglas
Hartley, William Jud
Haskins, Charles George
Hatfield, Randall James
Hawkes, Marshall Dean
Heath, Benjamin Arden
Heery, Joseph William
Henderson, John Gerard
Herman, Jimmie Keith
Hill, Douglas Duane
Hines, Gordon John
Ho, Norman Timhoy
Hochstein, Sidney Gene
Holden, Roy Monroe
Holloway, Marion Laverle
Holub, Daniel Francis
Honodel, Denton Eugene
Hosking, James Raymond
Hoskins, Bruce Wayne
Hough, James Howard
Howare, Donald Eugene
Howell, Thomas Ryles
Hudnell, Audie Lee
Hudson, John Edward
Huebner, Rolfe Niles
Hurst, Larry Carl
Icenhower, Howard Lamarr
Iferd, Frank
Ingraham, Leroy Diller
Jackson, Lawrence Wiiliam
Jackson, Noah William
Jansky, Anthony, Jr.
Javier, Pepito Mercado
Jefferson, Charles Ray
Jennings, Lacey
Jennings, Leroy Allen
John, Gary Albert
Johnson, Bruce Eric
Johnson, Dennis Willard
Johnson, William McKenley
Jolley, James Douglas
Jones, Don Lee
Jones, Wendell Eldee
Kaminsky, Paul Walter
Kappelman, Charles Augus I
Kelley, Steven James
Kennedy, John Michael, Jr.
Kerner, James Charles
Kersteter, Joel Ernest
Kight, Lawrence William
King, Leonard
Kiniston, Donald Dee
Kluber, Richard Harold
Knight, Michael Andrew
Kugler, David Lee
Kurek, John Henry
Kuriger, James Lawrence
Lakey, Carroll Lee
Landin, Donald W.
Lane, Jim Ross
Larkin, Stephen Everett
Lawless, Deaner Kadel, Jr.
Leary, Leo Henry, III
Lee, Richard Edwin Kealoha
Lemieux, Alidor Joseph
Lepak, Joseph Matthew, Jr.
Lester, Brian Edward
Linaburg, James Lee
Lincoln, Bobby Dean
Lindsey, Ben G., Jr.
Lippa, Val Edward
Litzinger, John Timo
Livingston, Jeffery Alan
Long, Curry Andrew
Lucas, Paul Robert
Lundgren, John Fredrick

Lydick, Wayne Allen
Lynch, John R., Jr.
Lyons, Lockwood Joseph
Macaraeg, Rosauro Carrasco
Machasick, Raymond Tex
Maljevac, Dennis Lam
Malson, Robert Charles
Manuel, Gary Lee
Manues, Jimmy Lee
Maples, Richard Gary
Martin, Daniel Richard
Maul, Ronald James
Mayfield, Andre Henry
Mayo, James Roland
Mayock, Patrick Michael
Mazzoleni, Michel Raymond
McAllister, Herbert J.
McAteer, Hugh Robert, Jr.
McCarthy, Thomas William
McCarty, George Edward, Jr.
McClain, Dennis Lynn
McClellan, Ronald Francis
McDonnell, Alfred Fr
McDowell, Julian Virgil
McElfresh, Thomas Carter
McGaughey, Philip
McKinney, Frank Alexander
McKinney, Robert Merle
McKinnie, Joseph Fra
McLain, Glen David
McQuiston, Jonathan Alan
McThompson, Larry Alan
Meadors, Dennis Edgar
Melay, William Denis
Melio, Craig Fenn
Merritt, Gene Riley
Milby, William Graig
Miller, Delbert Duane
Miller, Glenn Earl
Miller, Tommy Jay
Minor, Thomas John, III
Mixson, George Emory
Moody, Jack Weston
Moore, Patrick John
Moore, Thomas Joseph
Moorman, Ronald Bruc
Moquin, Walter Lyman
Munter, Charles Howard
Murphy, Charles Lewis, Jr.
Murray, Richard Prinn
Murray, Seawood, Jr.
Murtagh, Anthony
Musgrove, Rhudean Carl
Musto, Lawrence Louis, Jr.
Myers, Robert Harrison
Myers, William David
Norman, Milton Osborne
North, William Henry, III
O'Brien, Barry Thomas
O'Dell, Don Glenn
O'Dell, Harold Charles
O'Dell, James Craig
O'Denbrett, Vincent Dominic
O'Gonowski, Joseph Robert
O'Kane, Joseph Aloysius, Jr.
Olic, Frank Philip
Overbey, James Randall
Painter, Ted Arthur
Parron, James Blanchard
Patrick, Lorimer Dexter
Pavich, Albert James
Peebles, Gary Robert
Peters, Bryan Q.
Peterson, Thomas Bruce
Phillips, Charles Leon, Jr.
Piccirillo, John Frank
Pogge, Michael Lynn
Pollard, Stanton Eugene
Porter, James Michael
Porter, Robert Deaton
Prange, Wilmont John
Preston, John Steirly
Ptasznik, Alfre E., Jr.
Raeder, Thomas Lee
Rain, Stonewall Coburn
Reiter, Michael Leroy
Resner, William Edward
Reuter, Paul
Reyes, Godofredo Ma
Rockwell, John Ernest
Rohrssen, Ralph Edward
Rosenow, William Van
Ross, Daniel Fredrick
Rubink, Gerald Dean
Ruggles, Gerald Paul
Rustchak, Daniel Franklin
Ruth, Edward Lee
Rutland, William Joseph, Jr.
Scarborough, Leslie David
Scates, Timothy Earl
Schlink, Thomas Charles
Schmitt, Lew Frank
Schultz, Stephen Edward
Scott, Phillip Carl
Seibel, Harry John
Selden, Thomas Na, Jr.
Sellers, Charles Thomas
Sellers, Kenneth Ray
Sharp, Danny Dale
Sharp, Kennard Wayne, Jr.
Sharpe, Kenneth William
Shoemake, John Lynn
Silas, William Lester, Jr.
Simmons, John Clark
Simpson, Gary Wilbert
Sims, Hollis Ellison
Slone, David Curtis
Smith, George Olan
Smith, Raymond Horace
Smith, Samuel Melvin, Jr.
Snock, Maximillion Richard
Sonderman, Donald Duane
Spiva, Stephan Dale
Sprague, Robert William
Starnes, Winford Hubert, Jr.
Stephenson, Ralph B.
Stevens, John Henry, Jr.
Stewart, David Val
Suchland, Howard David
Sund, Jim Ervin
Swaim, Michael Scott
Sylvester, Richard Roland
Tamplet, Walter H., Jr.
Tapani, Raymond James
Tarlton, William Hugh
Teague, Robert Jennings
Tennyson, Alfred Louis
Thoms, Kenneth Wayne
Tichacek, James Frank
Troutt, Leland Kendall
Trumpower, Robert Eugene
Turner, Michael Arcia
Turner, Richard Emory
Tyler, Theodore Thomas, Jr.
Tyner, James William
Vanleeuwen, Fredrick Gerar
Veatch, Otis Marshall
Vick, James Frederick
Vogel, John Joseph, Jr.
Wainscott, Ronald Edward
Waite, Richard Keith
Walls, Leon
Warden, Richard Lee
Warren, Robert
Washington, George Penn
Watkins, George Augustus
Weber, Raymond Paul, Jr.
Webster, Robert Allan
Wentworth, Beuford Benjami
Westphal, Robert Lee
Wetherington, Rayford Earl
Whelan, Robert Lawrence
Whitney, Gary Louis
Wilcher, Larry Dwight
Wilke, Lanny Ernest
Williams, Danny Joe
Williamson, Gary Wayne
Wilson, A. J.
Wilson, Jessie Leroy
Wilson, Warren George
Wilson, William Dean
Wilson, Willie Calvin
Witte, Herman Gerhardt
Womeldorff, Gerald Dennis
Wright, Kenneth Jame
Wygans, Phillip Carl
Yoke, Robert Samuel, Jr.
Young, David Allen
Young, Harold Eugene

The following-named U.S. Naval Reserve limited duty officer of the line, to be appointed permanent lieutenant (junior grade) in the line as a limited duty officer of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE LIMITED DUTY OFFICER, LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), limited duty officer—Line, USN, permanent

Gilboy, Richard Patrick

The following-named temporary limited duty officers, to be appointed permanent lieutenant in the Supply Corps as a limited duty officer of the U.S. Navy, subject to qualifications therefor as provided by law:

TEMPORARY LIMITED DUTY OFFICER, SUPPLY CORPS, LIEUTENANT

Lieutenant, limited duty officer—Supply Corps, USN, permanent

Alligood, Clifford James
Asp, Lawrence W.
Bates, Leslie Allan
Bird, Jerry Lewis
Brooks, David C.
Camburn, Robert Vern
Cannon, Hammond G. Jr.
Contreras, Gregorio Arambu
Corelli, Einar L.
Cresto, John Helmer
Delaney, John V., III
Deno, Thomas R.
Dew, Harold Wayne
Donnellon, Earl Francis
Drain, Michael Everett
Garrison, John William
Humphries, John C.
Jackson, Julius Jose
Jio, Nathan M.
Konrad, Robert A.
Lauster, Ronald J.
Leib, Frederick William
Loftus, Edmund M., Jr.
Miller, Jack E.
Moody, Bryan Thayer, Jr.
Nelson, Richard A.
Pacheco, Edward William
Palmer, William Russell
Rickel, Jack Michael
Snow, Richard Chapman
Stowell, William J.
Toledo, Crispan A.
Tomas, Rufino M.
Wolfe, Gary T.
Wright, Edward

The following-named temporary limited duty officers, to be appointed permanent lieutenant (junior grade) in the Supply Corps (SC) as a limited duty officer of the U.S. Navy, subject to qualifications therefor as provided by law:

LIMITED DUTY OFFICER, S.C., LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), limited duty officer—S.C., USN, permanent

Bates, John Williams
Christopher, John Jeff, Jr.
Class, John Charles
Denosta, Carmelito Dantic
Deshurley, Joe Rex

Diorio, Nicholas
Fittro, Bill Dean
Frontiero, Anthony Peter
Giusti, Richard Francis
Gozum, Rogelio Torres
Hollis, Roy Allen, Jr.
Holstein, Augustine Charle
Iverson, Douglas Wayne
Keeter, John William
Klump, Paul Lucas
Ksiazek, Walter Jose
Mercado, Generato S.
Moreno, Mariano O., Jr.
Myers, Edward Stuart
Pigeon, Roger Emile
Ramstad, Robert Kendall
Space, Robert Kenneth
Stamper, Dallas Eugene
Sulzer, Thomas Gene
Travis, Glen Alvin
Ward, Michael Bernard

The following-named temporary limited duty officers, to be appointed permanent lieutenant in the Civil Engineering Corps (CEC) as a limited duty officer of the U.S. Navy, subject to qualifications therefor as provided by law:

TEMPORARY LIMITED DUTY OFFICER, LIEUTENANT

Lieutenant, limited duty officer, CEC, permanent

Haefner, Wayne David
Hays, John William
Jones, Hubert Samuel
Sefton, Reynold Anthon, Jr.
Smith, Robert M.

The following-named temporary limited duty officers, to be appointed permanent lieutenant (junior grade) in the Civil Engineer Corps (CEC) as a limited duty officer of the U.S. Navy, subject to qualifications therefor as provided by law:

TEMPORARY LIMITED DUTY OFFICER, CEC, LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), limited duty officer, CEC, permanent

Best, Billie Joe
Hays, John Allen
Lowe, Scott Freeman
Salling, Elmer Chris
Zeoli, Nicholas Francis, Jr.

The following-named temporary limited duty officers, to be appointed permanent chief warrant officer (CWO4) of the U.S. Navy, subject to qualifications therefor as provided by law:

TEMPORARY CHIEF WARRANT OFFICER, CWO4

Chief warrant officer (CWO4), USN, permanent

Kroll, Robert John
Satterwhite, Dudley Marsha

The following-named U.S. Naval Reserve chief warrant officer, to be appointed permanent chief warrant officer (CWO4) of the U.S. Navy, subject to qualification therefor as provided by law:

U.S. NAVAL RESERVE, CHIEF WARRANT OFFICER

Chief warrant officer (CWO4), USN, permanent

Copeloe, Sylvan Merle

The following-named U.S. Naval Reserve chief warrant officer, to be appointed permanent chief warrant officer (CWO2) of the U.S. Navy, subject to qualification therefor as provided by law:

U.S. NAVAL RESERVE, CHIEF WARRANT OFFICER

Chief warrant officer (CWO2), USN, permanent

Absher, Donald Richard

The following-named temporary chief warrant officers, to be appointed permanent chief warrant officer (CWO4) of the U.S. Navy, subject to qualifications therefor as provided by law:

Chief warrant officer (CWO4), USN, temporary

Chief warrant officer (CWO4), USN, permanent

Castillo, Rodolfo, R.
Harder, Kenneth E.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 1, 1982:

FEDERAL ELECTION COMMISSION

Joan D. Aikens, of Pennsylvania, to be a Member of the Federal Election Commission for the remainder of the term expiring April 30, 1983.

Lee Ann Elliott, of Illinois, to be a Member of the Federal Election Commission for a term expiring April 30, 1987.

Danny Lee McDonald, of Oklahoma, to be a Member of the Federal Election Commission for a term expiring April 30, 1987.

DEPARTMENT OF ENERGY

Arthur J. Dellinger, Sr., of California, to be Deputy Inspector General of the Department of Energy.

WORLD HEALTH ORGANIZATION

Edward N. Brandt, Jr., of Texas, to be Representative of the United States on the Executive Board of the World Health Organization.

INTERNATIONAL COMMUNICATION AGENCY

Robert John Hughes, of Massachusetts, to be an Associate Director of the International Communication Agency.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

James B. Burnham, of Pennsylvania, to be U.S. Executive Director of the International Bank for Reconstruction and Development for a term of 2 years.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Allie C. Felder, Jr., of the District of Columbia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1984.

ENERGY-EXPO '82

Dortch Oldham, of Tennessee, to be Commissioner General of the U.S. Government for Energy-Expo '82.

DEPARTMENT OF STATE

George Quincey Lumsden, Jr., of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

John A. Terry, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of 15 years.

Steffen W. Graae, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years.

George W. Mitchell, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years.

EXTENSIONS OF REMARKS

FINANCING OUR SOCIAL SECURITY SYSTEM

HON. WILLIS D. GRADISON, JR.
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 1, 1982

● Mr. GRADISON. Mr. Speaker, recently I participated in the American Home Economics Association "Center for the Family/J. C. Penney Forum" in Cincinnati to discuss retirement income generally and social security income in particular. I would like to submit for the RECORD the position statement I presented on how to finance the social security system.

Retirement income is provided through three principal sources—social security, employer pensions, and individual savings. I will focus on social security, which currently accounts for more than half of this income.

Social security was born out of the Great Depression. It was designed to provide a floor of protection for the elderly, who had been forced to accept public assistance during the Depression. Unlike welfare programs, however, people perceived social security benefits as earned rights which they were granted because of their tax contributions. The earned right concept and the accompanying independent nature of social security has made it our most popular social program in history.

However, for the first time it faces a severe and immediate financial crisis: Even with all three of its trust funds combined, the system is expected to become bankrupt by 1984. The social security trust funds have always been funded fully by the social security taxes initiated by the 1935 Federal Insurance Contribution Act—FICA taxes. But benefit payments have been higher than tax receipts for 8 years, drawing down the assets of the system steadily toward insolvency.

The question facing Congress today is how to finance the system in the short and long runs. There are two possible paths to take.

Congress can either borrow from the general revenues which the Treasury uses to fund most other Federal programs or it can maintain the traditional independent financing of the system by raising taxes and/or slowing benefit growth. In my opinion, Congress should take the route which makes social security benefits most secure in the long run. I believe independent financing best achieves this goal and that Congress should therefore develop a plan that preserves the independent nature of the system rather than using general revenues.

When benefits are generated entirely from taxes received, the level of benefits is automatically stabilized by the level of taxes. Given a high enough level of reserves to cushion the system from economic cycles, this benefit level is relatively determinable and predictable. With a stable and predictable foundation of benefits, people can made their important long-run decisions regarding other sources of retirement income.

Independent financing and the earned right concept inherent in the social security system also create higher lifetime work incentives than alternative needs-tested social programs which provide income for the elderly. Even though social security contains certain strong income redistribution elements, the system has never been considered a dole. Rather, because benefits are based on tax contributions, people realize that their level of productive work determines their level of retirement income. This creates higher work incentives and productivity over the lifetime of millions. When added together, significantly higher employment is the result. Because of these higher work incentives, social security is not only a successful retirement insurance policy, but also a highly efficient means of income redistribution.

If social security borrows from the Treasury's general tax revenues, the floor of protection social security provides is likely to become less secure, because in periods of economic stress the budget process could be used to cut benefits significantly and arbitrarily. Recent evidence of such possibilities arose during last month's budget debate. One reason social security was saved from $40 billion in benefit cuts this year is that it is viewed as an independently financed system that should be separate from the budget debate. Financing with general revenues would make social security fully and appropriately a part of each year's budget process. In turn, the stability of the tax-determined level of benefits would be eroded and the predictability of the ability to plan retirement income would be lessened substantially.

Using general revenues also would move social security a significant step toward becoming a welfare system. The concept that social security benefits are an earned right would become diluted and possibly ended, and the probability of social security becoming means-tested like a welfare system would increase, especially in bad economic periods. Social security thus could become an inefficient and unpopular social policy.

Finally, borrowing from general revenues sharply taxes the rest of the economy through higher inflation and real interest rates resulting from the necessarily higher amounts that Treasury must borrow in the market.

Given the problems inherent in general revenue financing, there are several changes I feel that should be made to preserve the independent status of the system.

First, I would remove the social security trust funds from the unified Federal budget. This would separate social security from the budget debate and allow a long-term financing solution to be prudently formed in an environment where legislators are concerned only with the system's problems. Separation would not affect the system's financial situation at all; rather, it would position Congress so that it finally could deal effectively with the financial crisis.

The philosophy of the rest of my package is to slow the rate of growth of benefits and thereby finance the system well into the 21st century. The specific proposals are drawn from ideas that have achieved bipartisan support.

Some additional funds are necessary in the short run. To supply these funds, I suggest including all new Federal employees and Members of Congress in social security. Besides providing much-needed revenues, this would right a blatant inequity in the coverage of the system.

Most important for the intermediate and long runs, the benefit replacement rate must be lowered back toward its pre-1972 level. The replacement rate is the percent of preretirement income one receives in social security retirement benefits. The 1972 social security amendments contained a technical error which allowed the replacement rate to rise unwittingly until 1977, when new amendments stopped the rise in the rate but did not return the rate to its historical level.

Also, there should be a slight rise in the retirement age to 66, phased in gradually over a decade. There is bipartisan support for a rise in the retirement age; but raising it beyond 66 seems unnecessary.

The only other long run change I advocate is to enact a triggered temporary decrease in the COLA whenever the system's reserves fall below a certain dangerous level. While my above

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

three proposals would finance the system under normal economic cycles, this trigger would serve as a guarantee for solvency designed only for use in unusually bad economic downturns.

A sound social security system is essential for families to best plan into the future what roles each member should fill to insure their unit's happiness and longevity. It is my goal to provide a secure floor of protection that will be combined with projected rising pension incomes and higher real wages to give the elderly higher real incomes. If projections come to fruition, the elderly will be better off, will work longer, and will be better able to care for themselves.●

A TRIBUTE TO JOHN DE RISO

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 1, 1982

● Mr. ADDABBO. Mr. Speaker, I am proud and honored to share an important event with my colleagues. My constituent, John De Riso, received the Eagle Scout award last Friday evening. As many of you know, this is the highest rank attainable in the Boy Scouts of America, and is indeed a great honor. To receive the Eagle Scout award, it is necessary to devote many years of dedicated involvement and service. My heartiest congratulations go to this fine young citizen.●

FILIPINO LADIES ASSOCIATION OF GUAM CELEBRATES 21ST ANNIVERSARY

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 1, 1982

● Mr. WON PAT. Mr. Speaker, I am proud to take this occasion to announce that one of Guam's most outstanding civic organizations, the Filipino Ladies Association of Guam (FLAG), is this year celebrating its 21st anniversary.

The Filipino Ladies Association of Guam has as its current president, the gracious and charming Mrs. Zeny C. Custodio. During the club's recent ball to celebrate its 21st anniversary, President Custodio recounted the countless times in which FLAG, as it is affectionately known, has donated time and effort and money to help make our island a better place to live and work.

This year is no different. The organization has worked long and hard to raise additional funds for community service work including the purchase of a badly needed respirator for the Guam Memorial Hospital. This is a good example of the type of continuing efforts of the Filipino Ladies Association of Guam to make life better for their fellow residents of Guam.

In a recent statement to her fellow FLAG members, President Custodio listed many of the projects which the club has been active in during its 21 years of public service. Included in her list was:

The construction of the first Sampaguita Pavilion at Ipao Beach in August 1966,

Donation of $20,000 to the Guam Heroes Memorial Park to build the foundation at Skinner Plaza in Agana,

Donation of $5,000 to the Guam Memorial Hospital Volunteers Association for the purchase of a kidney machine,

Assisted in funding construction of the Agana swimming pool which is used by many young people on the island,

Donation of a 55-volume set of books on the Philippine Islands to the Nieves M. Flores Memorial Library,

Compilation of historical research covering the Spanish occupation of Guam and the Philippines from the years 1521 to 1898,

Pledged a $10,000 donation for the future construction of the Guam Civic Center,

Gave $10,000 to the Papal Monument Committee for the construction of the revolving statue of Pope John Paul to commemorate his historic visit to Guam last year,

The funding of numerous scholarship programs for students at the University of Guam,

Contributions to countless other civic and nonprofit organizations on the island.

This list could go on and on, so great has been the civic-minded attitudes of the wonderful and hard-working ladies of FLAG through the years. It would be hard to imagine what our island would be like without this organization so great has been its far-reaching activities that have benefited citizens from every walk of life regardless of their race, religion, or political affiliation. As I stated recently in my letter to the organization, the countless donations of time, energy and money to various projects will never be forgotten by the people of Guam and FLAG will long live in the hearts and minds of our island.

Because of its prominence in our social lives on Guam, FLAG has attracted many of the finest women leaders from the Guam-Filipino community through the years as its members and leaders. I have been privileged to know and work with some of these excellent civic leaders in the past and look forward to doing the same with present and future FLAG leaders and members.

The Filipino Ladies Association of Guam was founded in 1962 by a group of island women headed by Mrs. Bea Macaraeg with the assistance of Mrs. Ligaya Fruto. The first official ball was held by the club in May 1963, at which time it crowned Miss Medy Cruz as its Miss Sampaguita. This year's Miss Sampaguita is the lovely Evelyn Feliciano, and her court consisted of Miss Evangeline Ong, who was first runner-up for the title, and Miss Charo Avellana Cruz, who was second runner-up in this year's contest.

Past presidents of FLAG are such distinguished ladies as Zenaida Custodio, who served as president in 1978 and now holds that highly respected post for a second time, Marilyn Abalos (1980), Polly R. Amistad (1971 and 1981), Edwina Jose (1977 and 1979), Annie Hernandez (1975 and 1976), Fley Salvallon (1973 and 1974), Carmina Schnabel (1972), Candy Ilagan (1970), Juling Illarmo (1969), Ginny Godoy (1966), Carmen dela Cruz (1963 and 1969), Bea Macaraeg (1962 and 1967), and Pacita Abelardo (1964 and 1965).

The present membership of the Filipino Ladies Organization continue to reflect the high standards of this outstanding organization and I am proud to list its offices and members as follows:

Zeny Custodio, president; Ginny Godoy, vice-president; Linda Tolan, treasurer; May Havana, recording secretary; Annie Hernandez, corresponding secretary; Polly R. Amistad, ex-officio. Members: Marilyn Abalos, Mary Agot, Polly Amistad, Tina Antolin, Isabel Balaoro, Ging Baquizal, Lucille Blake, Nita Cenzon, Zeny Custodio, Carmen dela Cruz, Virgie De Guzman, Fely Dy, Coring Edusma, Adela Estaura, Ginny Godoy, May Habana, Annie Hernandez, Nena Hernandez, Rose Hidalgo, Candy Ilagan, Juling Illarmo, Edwina Jose, Virgie Jose, Aurora Leonen, Carina Leon Guerrero, Helen Makapugay, Juliet Miranda, Cely Nisperos, Connie Pabalinas, Ma Fe Romero, Naty Siatong, Violeta Sobrido, Luz Soria, Linda Tolan, Gertrudes Tucker, Remy Wallace.

We from Guam are most fortunate to have FLAG in our midst and I wish each and everyone of these wonderful and hard-working ladies a long and successful future, and may their organization continue to prosper and grow. Thank you.●

JEFFREY BOREN TO RECEIVE AAA SCHOOL SAFETY PATROL LIFESAVING MEDAL

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 1, 1982

● Mr. NATCHER. Mr. Speaker, on July 28, the American Automobile Association will present seven young people the highest award given to members of school safety patrols

throughout the United States, the AAA School Safety Patrol Lifesaving Medal.

The seven recipients, credited with having saved a life while on duty at their school patrol posts, will be honored at special ceremonies during AAA day at the World's Fair in Knoxville, Tenn.

Jeffrey Boren is from the Second Congressional District of Kentucky. He is 13 years of age and resides in Bardstown. Jeffrey will be honored for his quick action and heroic act. In February of this year, he noticed a 7-year-old second grader begin to crawl under a car to retrieve some papers he had dropped. Noting that the car was about to pull away from the curb, he quickly pulled the child away from the car, while at the same time placing his arm across the windshield to alert the unsuspecting driver not to proceed.

AAA has sponsored school safety patrols nationwide since 1922. Today, the program includes more than 1 million children at 50,000 schools throughout our country. This year's medal recipients will join a list of 249 youth from 28 States and the District of Columbia who have been honored since the program began in 1949.

Mr. Speaker, Jeffrey Boren is to be commended for his judgment and courage in a dangerous situation.●

PORTUGAL AND AMERICA'S GOOD RELATIONS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 1, 1982

● Mr. FRANK. Mr. Speaker, pride in our diverse ethnic heritages is one of the strong points of American society. The fact that we are a nation which has been enriched by so many different streams of immigration is a source of great strength to us. Recently, one of my former colleagues in the Massachusetts State Legislature, Representative Stephen J. Karol, delivered an eloquent speech on the role of the Portuguese Americans in the United States and, particularly, in southeastern Massachusetts which he represents.

Representative Karol also talked of the strong relationships that exist now and have existed between the great democracies of the United States and Portugal and of the great strength which Portugal has shown as an ally of the United States in this difficult time.

Representative Karol is an extraordinarily able legislator who represents all of his constituents extremely well and I would like to share with the membership of the House, Representative Karol's excellent statement on the important and valuable contributions Portuguese Americans have made to the quality of life in southeastern Massachusetts and to the extraordinarily strong and mutually beneficial ties that exist between the United States and Portugal.

The statement follows:

ADDRESS BY REPRESENTATIVE STEPHEN J. KAROL

It is a great pleasure for me to be with all of you this morning to join in this celebration of faith and heritage. And I am grateful to have the opportunity to speak before you and proud that I do so as one who has been a social member of the Portuguese-American Club for a number of years. I should add that my good friend Mel Santos is always reminding me that I could become a full member if I would, in Mel's words, "just marry a nice Portuguese girl". And even though my mother has almost given up hope that I'll ever get married, with Mel's persistence as a matchmaker—well, you just never know!

I must say, however, that even as a social member I have had the chance to learn a great deal about the proud history of the Portuguese people and of the enormous contributions Portuguese-Americans have made to our nation.

For centuries, since the days of the great explorers—Vasco da Gama, Ferdinand Magellan, and Joao Rodrigues Cabrillo, who was the first European to set foot on the Pacific coast, sons and daughters of Portugal have ranked among the most prominent figures of modern history. And, certainly, any student of American history quickly learns of the major role Portuguese-Americans have played in the creation and development of our country.

Over the past three hundred years, more than four hundred thousand men, women, and children have emigrated from Portugal to our shores. Some of the early immigrants came to work on the whaling boats and fishing fleets off the coast of New England; others to the old farms and plantations of Hawaii or to the mines of Northern California during the gold rush days of the eighteen hundreds. And thousands upon thousands came here to Bristol County where they became the muscle and the backbone of industry in the textile mills of Fall River and New Bedford and in the jewelry factories of Attleboro and Taunton.

From these legions and the generations that followed were born some of the great names of American history—businessmen like Benjamin Mendes Seixas, the son of a Portuguese immigrant who, in 1792, was one of the founders of the New York Stock Exchange; artists like John Philip Sousa, the "March King", without whose music no Fourth of July celebration would be complete; scholars like Benjamin Cardozo, whose devotion to justice and the law led him to a distinguished career as a member of the Supreme Court of the United States. And no list of great Portuguese-Americans would be complete without mention of Walter Goulart, the first U.S. soldier killed in World War I. And, believe it or not, Robert Le Roy Ripley, the originator of Ripley's "Believe It Or Not", was a Portuguese-American. But even Ripley might have been surprised to learn that the oldest Jewish congregation in the United States, New York's Congregation Shearith Israel, founded in September of 1654, was established by twenty-three Portuguese Jews.

Perhaps no section of the country, though, has produced more prominent Portuguese-Americans than Southeastern Massachusetts. From the tenements of Fall River a young priest named Humberto Sousa Modoiros rose to become a Prince of the Church. And I'm sure that some of you here today recall with pride that day in 1944 when Massachusetts earned the distinction of electing Frank Oliveira, the son of immigrants to the Azores, as the first Portuguese-American to serve in the Congress of the United States. And I know you were just as proud in 1967 when Mel Santos became the first Portuguese-American member of the Attleboro City Council.

Today, I have the honor to serve in the Massachusetts Legislature with many Portuguese-American colleagues who are among the most respected political leaders in the Commonwealth; people like Tony Aguiar of Swansea and Ted Aleixo of Taunton—Mary Fonseca and Bob Correia of Fall River—and Dick Silva of Gloucester. And, over the years, our own community has benefited so greatly from the goodness and the generosity of men like Mauny Castro and Joe Fernandos.

The accomplishments of each of these Portuguese-Americans and so many others like them have served not only to help build the greatness of our nation, but also to keep strong the bond of friendship between the United States and Portugal. The two countries have enjoyed friendly relations since our earliest days as a nation when, in 1791, President George Washington established formal diplomatic ties, naming Colonel David Humphreys as the United States Minister Resident to the Queen of Portugal.

More recently, as a charter member of NATO, Portugal has been a partner of the United States in the cause of peace and freedom in Western Europe. And this commitment to justice and human dignity is no more evident than in Portugal itself, where the constitutional democracy established in the mid-seventies has created a government with a renewed dedication to meet the basic human needs of its people.

Time and time again in the last few years Portugal has stood in support of the United States while other nations have turned their backs. Portugal was the first country to follow the United States in imposing economic sanctions against Iran after Americans were taken hostage at the embassy in Tehran. Likewise, Portugal joined in the boycott of the 1980 Summer Olympics in Moscow in the wake of the Soviet invasion of Afghanistan. And, just a few months ago, Portugal answered President Reagan's call for sanctions against the Soviet Union for its role in the suppression of freedom in Poland, where just two days ago a Roman Catholic priest was sentenced to three and one-half years in prison for speaking out against martial law. Even though the Soviets are one of its major suppliers of oil, Portugal took this bold step on behalf of the people of Poland. Indeed, the Christian Science Monitor was right when a few weeks ago it called Portugal "America's most loyal ally on the other side of the Atlantic".

Of course, we are not surprised by the depth of Portuguese commitment to human dignity. For above all else, the sons and daughters of Portugal are a people of faith—the deep and abiding faith of Christianity. Through years of turmoil and years of suffering that faith has never wavered. And for those who enjoy the blessings of liberty and the fruits of their labors, that faith is not forgotten. Truly, the faith of the Portuguese people is as strong today as the faith exhibited years ago by Portugal's

venerated patrons: St. Francis Borgia, St. Anthony of Padua, St. Vincent, and St. George. The common thread of the Church is woven throughout Portugal's history. And it is the strength of that bond that holds Portuguese-Americans close to their ancestral home.

Those of you here this morning, by your presence and your continued dedication and devotion to the church, to your families, and to the great heritage of Portugal and its people, will keep that bond intact. And, in doing so, you will become the inspiration for the new generations of Portuguese-Americans who, in the tradition of those before them, will work to make this city, this state, and our nation an even better place for all of us to live.●

CONGRATULATIONS TO CHRIS WIERZBICKI

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 1, 1982

● Mr. ADDABBO. Mr. Speaker, it is with great pride that I share the accomplishment of my constitutent, Chris Wierzbicki, who recently attained the rank of Eagle Scout in the Boy Scouts of America. This award, the highest in Scouting, represents the principles of service and good citizenship. It is an honor achieved by only a select few, and Chris is to be commended for the hard work and dedication that this award entails. This fine Scout has my sincerest congratulations and best wishes.●

NEW VETO THREAT MAY FORCE FURLOUGHS

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 1, 1982

● Mr. BARNES. Mr. Speaker, President Reagan's last minute threat to veto an urgent supplemental appropriations bill he had earlier indicated he would sign may well mean that up to 15,000 Federal employees could be furloughed for several days between now and the middle of July. The House passed the so-called skinny bill last week following assurances from Republican Members that White House approval of that interim funding measure would follow quickly.

Mr. Speaker, the House has passed four supplemental appropriations bills in an effort to keep Federal agencies functioning. The President has vetoed two of them so far. One veto has been sustained. The other awaits action following the July recess. A third bill is stalled in the Senate. The fourth bill—the simplest, least controversial version—was suddenly amended by the Senate at the President's request with a complete substitute which makes it totally unacceptable to many in the House.

Perhaps now, Mr. Speaker, Members have a taste of what this administration has been dishing out to Federal employees. On pay, benefits, and job security, Federal employees have been told to take it or leave it. An alarming number of top career civil servants have already chosen to leave it, and more follow every day.

The Federal Government has already furloughed over 10,000 of its employees to date. Most of these employees have been furloughed for 1 day per pay period—which amounts to a 10-percent cut in pay. For many of the 15,000 employees for whom new furloughs are imminent, the cut in their pay may be even more dramatic.

One agency that will be hit by furloughs is the Office of the Inspector General at the Department of Health and Human Services. The Inspector General's Office oversees the largest nondefense agency in Government. Congress has just approved a budget resolution that anticipates billions of dollars in savings through management improvements and the elimination of waste and inefficiency. The Inspector General's Office will play a key role in dealing with this effort. Yet, by forcing furloughs, the President contradicts the entire thrust of his policy. He is crippling agencies whose major function is to find ways to save taxpayers' money.

Mr. Speaker, I regret the decision of the joint leadership that it would not be fruitful for the House to return from the July recess to deal with this matter. I understand that, given the latest bombshell from the administration, it may take some time to work out a new agreement. Hopefully, progress will be made and negotiations will be conducted so that we can again act immediately during the week of July 12. I understand the frustration of many Members who wonder whether it will ever be possible to work out an agreement with this administration—or if the President will keep his word when we do act. But there are thousands of Federal employees and millions of Americans who wonder why the process has gone on this long. And they have good reason to be outraged.●

MILITARY LESSONS OF RECENT WARS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 1, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, June 30, 1982, into the CONGRESSIONAL RECORD:

THE MILITARY LESSONS OF RECENT WARS

During consideration of the defense budget, members of Congress are frequently asked to make judgments about the value of modern weaponry. Although these judgments are not generally widely publicized, they are among the most difficult for member of Congress to make. All the troublesome elements of congressional decision-making are present: enormous amounts of money are at stake, competing manufacturers lobby intensely for favorable treatment, and close questions on highly technical subjects must be answered. Because of the long time required to produce modern weapons, Congress must decide what kinds of weapons will be most effective five to ten years from now.

Given the circumstances of the defense debate, it is not surprising that members of Congress pay attention to the latest wars to see what they reveal about the effectiveness of modern weaponry. The fighting in Lebanon, in the South Atlantic, and in the Persian Gulf has focused members' attention not only on new and glamorous military hardware, but also in the training, tactics, skill, and motivation of the contending forces. What do these wars have to teach us about our own national defense? Are our billion-dollar investments in weaponry giving us costly junk or effective instruments of war?

Hasty judgment based on incomplete knowledge of recent wars should be avoided, but some cautions and tentative speculation about modern weaponry and tactics is now emerging among military experts and among members of Congress who heed what the experts are saying. The basic conclusions most of which are reinforced by established military thinking, are these:

Men matter more than machines. The importance of troops who are well-trained and highly skilled has been shown in many ways. The Israeli pilots who had such stunning success over Lebanon have more training than any other airmen in the world. Their mastery of the skies over Lebanon virtually guaranteed the success of the main Israeli thrust by land. The British marines and infantrymen who so completely overwhelmed the more numerous Argentinian conscripts in the Falkland Islands are professionals. Ultimately, the battle for the Falklands was won not by any complicated, newfangled equipment, but seasoned, hard-fighting foot soldiers. The accuracy of tank gunners and the quick maintenance of aircraft—skills which come from good training—multiply the effectiveness of combat units and help lead to victory. There is no substitute for thorough training and motivation of troops.

Good tactics win battles. The integrated use of ground, sea, and air units can be decisive. The Israeli capture of Beaufort Castle in Lebanon, a heavily defended strong point of the Palestine Liberation Organization, occurred after a heavy bombardment and a daring night attack. The rigid, centalized command of the Syrians, which gave little flexibility or initiative to officers in the field, proved quite ineffective against the fluid, decentralized command of the Israelis. In the Persian Gulf conflict, both Iraq and Iran have had great difficulty coordinating their military operations. Neither side has been able to fly its aircraft, move its tanks, and fire its artillery in a coordinated fashion. The boldness and imagination of the British commanders in the Falkland Islands stood in stark contrast to the basically de-

fensive tactics of their Argentinian counterparts. In their final stand at Port Stanley, the Argentinians sustained a frightful pounding by land, sea, and air. The key to success in a military venture is to make all the parts of the system work together smoothly.

Electronic warfare is likely to be a major factor in future conventional conflicts. The ability to identify targets and then act promptly on the basis of the information will determine the outcome of many battles. It is worth noting that the Israelis successfully eliminated Syrian surface-to-air missiles early on in their invasion of Lebanon. Similar missiles had inflicted heavy damage on the Israeli air force in the 1973 war, but technical and tactical improvements in electronic warfare enabled the israelis to neutralize the threat this time. In the Falkland Islands the British were successful in jamming older Argentinian radar, but they failed to blind newer equipment with the Argentinians had purchased from the United States. Also, the British lacked airborne early-warning capability and long-range jet interceptors—deficiencies which caused them to suffer heavy losses from attacking Argentinian aircraft. It appears certain that few things will be more important in future military confrontations than unquestioned superiority in the electronic devices which can blind or confuse an enemy.

Standard weapons are still important. Most of the public attention has gone to newer and more sophisticated weapons like the surface-skimming, anti-ship missile which wrecked the British destroyer Sheffield, but standard ordnance such as armor-piercing projectiles and anti-tank shells are still vital to getting the job done. The restless search for high-technology weapons—a search which occupies the attention of defense establishments around the world—must not blind us to the importance of having standard (albeit much less sophisticated) weapons in the right place at the right time. We should not forget that the British Navy had to turn to the merchant fleet for transports to carry battalions of infantrymen and tons of equipment on the 8,000-mile journey from the home bases to the Falkland Islands.

Finally, we should take note of the fact that the Israelis handily defeated Soviet-equipped Syrian forces with currently available American weapons systems supplemented by improvements and innovative tactics of their own. American military leaders have commented that a comparison of the performance of American and Soviet military equipment seems to show the superiority of the former, especially when it is used by well-trained combat teams which employ sound battlefield tactics. Surely these results are causing some second thoughts among Soviet military experts about the effectiveness of their weapons.●

THE TRAGEDY IN LEBANON

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 1, 1982

● Mr. WALGREN. Mr. Speaker, the war in Lebanon endangers the interests of all parties who seek permanent peace in the Middle East. Thousands have already lost their lives in this conflict, and many more will die unless the tension is reduced. The cease-fire currently being observed by the Israelis and the Palestinians is a fragile one; a permanent settlement even more so. It seems clear that the United States is the only power in the world that can bring the war to a halt. Large Israeli forces stand poised on the outskirts of Beirut, waiting with American-made weapons to destroy the Palestinians. Only the United States can influence Israel to withdraw, but the Reagan administration has thus far been reluctant to use American leverage for this purpose.

The advantages of such an action are clear. American acquiescence to the Israeli incursion has isolated the United States worldwide on this issue and undercut our interests in the Arab community. The Saudi Arabians feel rightfully deceived by the United States for not restraining Israel. A Palestinian defeat in Beirut would create even more anxiety in Riyadh, given the potentially strong reaction by the more than 2 million Palestinian refugees who reside in nations throughout the Middle East.

Apart from our concern that American policy is adversely affecting our standing with our Arab friends, we should also be concerned about the effects of this war on Israel. The current war has elicited much opposition in this highly nationalistic state. The gross horror of the war has struck the moral sensitivities of many Israelis, who want neither to encourage the destruction of Lebanon nor to be seen as aggressive by her neighbors.

Ironically, this same reaction has dominated discussion of the military action in many parts of the world. Israel can only be helped from being magnanimous in victory and flexible in her demands.

It should be fairly obvious that the Palestinians will have little incentive to be flexible. Although the war has exposed their military weakness, and the reluctance of a major ally, Syria, to intervene on their behalf, their will to resist has not been shaken. Nonetheless, we should be concerned about the effects of this war on the Palestinian movement. No matter what happens in the coming weeks in Lebanon, the Israeli Defense Force cannot destroy the Palestine Liberation Organization. It perhaps can do itself a great disservice by weakening the moderate element of the PLO—El Fatah—to the point where extremist factions can take over the general thrust of the Palestinian movement. But would this result be in America's or Israel's best interests? I think not. Further, would not an Israeli victory merely give the Palestinians one more reason to oppose Israel?

The Israelis will not extinguish the Palestinian flame merely by taking their arms. Too many nations around the world would be willing simply to provide more.

We can best protect Israel by encouraging and abetting moderation on her part. Only by behaving in a moderate way can the Israelis expect moderation from her enemies.

Mr. Speaker, memories are strong in the Middle East; memories of past Western injustices, of past Israeli victories, of past Arab failures. These memories haunt the historical consciousness of all the peoples of the Middle East. We should neither fear nor bemoan the fact that these people have much to remember and much to hate. Rather, we should begin to set a new course by leading the nations of the Middle East to peace in the Lebanon War and encouraging the Israelis to pull back.●

BROADCASTING—WITH LESS RESTRAINT

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 1, 1982

● Mr. EMERY. Mr. Speaker, since the birth of this Nation, we as Americans have always fought for our rights as spelled out in the Constitution. One of the rights that we see exercised every day is the right of "freedom of the press." In a society that has depended on the reporting of the world around us by both the broadcast and print media, the right to freedom of the press is a precious one.

Therefore with the celebration of this Nation's 206th birthday only a few days away, let us remember and embrace this right that the framers of the Constitution set forth. Let us reflect on the institution of news reporting that has far and above separated us from the rest of the world.

Mr. Speaker, I would like to share with my colleagues an editorial that appeared in today's issue of the Washington Post. This essay is a fine comment on America's media as written by the Honorable Mark S. Fowler, Chairman of the Federal Communications Commission. It is as follows:

[From the Washington Post, July 1, 1982]

BROADCASTING—WITH LESS RESTRAINT

Over the past year as chairman of the Federal Communications Commission, I have set forth my views on the relation of the First Amendment and the electronic media. My views are plain, simple and sure: broadcasting deserves the same status as print under the "freedom . . . of the press" clause in the Constitution.

My insistence on First Amendment rights for broadcasters surprises some who know me as a conservative Republican. Some notable conservatives believe that more, not less restraint should be imposed on broadcast news organizations, particularly network television, which they view as biased against conservatives.

Television cannot be trusted to deal fairly with conservatives and their point of view; tools like the Fairness Doctrine, the argument goes, really protect conservatives by preventing broadcasters from coloring their reporting with a liberal viewpoint to which they are natually inclined.

Despite these grumblings—and the feeling is not exclusively a conservative one—I feel that it is correct constitutionally and as a conservative to support less, not more restraint on the press. To my mind, true conservatism means less involvement by the government in the lives and affairs of people. Content regulation of broadcasting is out of place in this scheme.

Perhaps some would like to see a federal commission telling newspapers to match, column inch for column inch, political ads they may accept. This same commission might be able to require newspapers to justify their coverage of a bond issue or whether they presented all sides of a tiff in the city council. Maybe this commission would tell them to get rid of sports scores and use the space for information deemed more valuable.

These are the types of decisions the FCC has gotten itself into over the last 30 years. It is content regulation that, no matter how lofty in intent, has no place in a country that guarantees freedom of the press in its Constitution.

Still, it's not often easy to resist the temptation to try to use broadcast regulations now on the books. This has been true of every administration since the advent of radio in America.

Sometimes coverage raises questions of simple fairness. Recently, the White House had to counter the impression left by a television documentary that purported to demonstrate the effects of the president's economic program on selected American families. The result was a very powerful documentary about some very unfortunate people.

But the program unfairly tied the misfortunes entirely to our economic recovery program. In doing so, it left a misleading impression about the president's efforts, but one not easily rebutted in a press conference, at least poised against the stirring style of the documentary.

Faced with what may be unfair treatment by some members of the electronic press, conservatives are surely lured to invoke rules like the Fairness Doctrine to try to get the other side across. But this is the wrong approach.

What principles do I follow in reaching equal treatment for print and broadcasting?

First, no one can expect the press to "get on the team" when it come to an administration's policies. The healthiest government-press relationship is one that can be described as "adversary." In using "adversary," I do not mean an antagonistic press that leaps before it looks. I do mean one that looks both ways before going into the streets with a story.

An adversary relationship imposes responsibilities on both sides. For those at the White House, it means never circling the wagons because they don't happen to like the way reporters are carrying a particular story. It means giving answers to reporters whenever they can; and when they can't, explaining why. It means not expecting the press to be a public relations arm, to do the job of justifying a president's policies to the people.

There are responsibilities for the press in an adversary relationship as well. The first is to report what is said—in short, to get it right. No administration likes criticism. But criticism is a lot easier to bear when it's based on a faithful account of what's being said or done. There's probably no more frustrating experience in government than to work long hours putting together a program only to find that a reporter won't take the time to understand it, or isn't given the opportunity to report it in a comprehensible fashion.

This problem particularly arises in broadcasting. It's been recognized that network news is often limited to a headline service. I don't fault broadcasters for this time limitation. But there are all sorts of headlines: some are used to sell papers; others are used to convey ideas.

I find in broadcasting an obnoxious tendency toward what I call "news Yak." News yak is copy that conveys not information, but charm; its used to impress people rather than inform people, to parade fluff instead of providing facts.

I don't object to editorial commentary in broadcasting or anywhere else. Nor am I claiming that broadcast reporters routinely mix news and commentary. Reporters are like any other people; they come to their work with experiences bound to shape perceptions. But if they are professional, they put their biases to one side and get on with the job of reporting as accurately as they can.

The problem is more a professional one. In the drive to become more interesting or flamboyant, the facts tend to run away from them; style overwhelms substance. Perhaps the root of the problem lies in the reporter's trying to convince a news producer to select his or her story from among the many vying for precious broadcast minutes. It's awfully hard to get it right when you're more concerned about getting it on.

And there is a second aspect to network news errors. In Thomas Jefferson's days, a newpaper that made a good faith error could retract or otherwise correct the mistake the next day. While hurtful, the mistake could be remedied. In fact, retraction laws remain on the books in many states; you can't sue for libel unless you've first asked for and been denied a retraction.

But with network news, when the truth is overturned, it is not quite so easy to set it right again. Audiences for evening newscasts shift somewhat each night. With documentaries, the likelihood of reaching the same audience in a followup broadcast is slimmer. Once an error occurs, the damage is done and is, for the most part, irremediable. Getting it right is all the more important . . . because getting it wrong can be so disastrous.

For those of us in government, the most important thing we can remember is to stay out of the way of the editor. As the Supreme Court said in 1973, "for better or worse, editing is what editors are for . . . That editors—newspaper or broadcast—can and do abuse this power is beyond doubt, but that is not reason to deny the discretion Congress provided. Calculated risks of abuse were taken in order to preserve higher values." Those values are freedom of speech and freedom of the press.

It's difficult for those who have the power yet to regulate the electronic press to remember this important idea. But remember it we must; the press must be free to report, to do its job, even though in doing so, it makes mistakes.

Likewise, carrying out this function, the press must remember that, though it owes no duty to any particular political leader, it owes one to the political process itself. Unlike any other American industry, the press receives special protection under our Constitution: the founding fathers prohibited Congress from restricting the freedom of the press to do its job.

That job always has been first and foremost to get the story and to get it right. It is not simply to get the story first. As we move to establish full First Amendment rights for broadcasters, we can expect no more from the press. The American people deserve no less.●

A TRIBUTE TO JOSEPH KOEHLER

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 1, 1982

● Mr. ADDABBO. Mr. Speaker, last Friday night, my constituent, Joseph Koehler, was presented with the Eagle Scout Award, the highest honor in Scouting. I am proud and honored to have met such a fine young man, one who exemplifies the principles of the Boy Scouts of America and good citizenship. This award is received by very few, and is a symbol of years of dedicated service. The rank of Eagle Scout represents great personal honor, and Joseph deserves all of our congratulations.●

HOUSE OF REPRESENTATIVES—*Monday, July 12, 1982*

The House met at 12 o'clock noon.

The SPEAKER. Today we have the pleasure of having a guest chaplain. The gentleman from Arizona (Mr. RHODES), a distinguished Member of this body, has decided he would bring from his hometown a close personal spiritual adviser, so we are honored to have as our guest chaplain the Reverend Burton F. Giese, Eternal Life Lutheran Church, Mesa, Ariz.

Rev. Burton F. Giese, Eternal Life Lutheran Church, Mesa, Ariz., offered the following prayer:

Lord God, Heavenly Father, we humbly acknowledge You as the supreme author and sustainer of all creation, as we now bring our petitions before Your throne of grace.

To the Members of this august House, grant special insights, sensitivities, and wisdom. Help them to establish precedents in love and justice for all mankind. To all those in local and national positions of leadership, including our Senators and President, give Your special blessings to their unique needs. Lead them in those paths which best serve You and their fellow man. Give to them and to us all, the gift of courage, compassion, strength, and wisdom. Grant these petitions, for we ask them in Your holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3663. An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers;

H.R. 4441. An act to amend title 17 of the United States Code with respect to the fees of the Copyright Office, and for other purposes; and

H.R. 6068. An act to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 6068) entitled "An act to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GOLDWATER, Mr. WALLOP, Mr. GARN, Mr. DURENBERGER, Mr. ROTH, Mr. SCHMITT, Mr. WARNER (for matters of interest to the Committee on Armed Services), Mr. MOYNIHAN, Mr. INOUYE, Mr. JACKSON, Mr. LEAHY, and Mr. BENTSEN to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1877. An act to provide for the reinstatement and validation of United States oil and gas lease numbered NM-12846;

S. 1894. An act to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes;

S. 1909. An act to provide for the reinstatement and validation of United States oil and gas lease numbered W-24153;

S. 1941. An act to provide for the reinstatement and validation of United States oil and gas leases numbered NM 25447 and NM 25452 Acq.;

S. 2034. An act to designate the lock and dam known as the Jones Bluff Lock and Dam, located on the Alabama River, as the "Robert F. Henry Lock and Dam";

S. 2036. An act to provide for a job training program and for other purposes;

S. 2146. An act to extend the lease terms of Federal oil and gas leases, W66245, W66246, W66247, and W66250;

S. 2240. An act to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules;

S. 2586. An act to authorize certain construction at military installations for fiscal year 1983, and for other purposes;

S. 2706. An act to amend title 28, United States Code, to modify the bar membership requirements for United States magistrates; and

S. Con. Res. 73. Concurrent resolution to condemn the Iranian persecution of the Baha'i community.

REV. BURTON F. GIESE

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, it is a real privilege to have had the opportunity to hear the Reverend Burton F. Giese of Mesa, Ariz., offer this morning's prayer, opening today's session in the House.

Pastor Giese is a third generation pastor, whose grandfather was a pastor in Milwaukee, Wis., and whose father served for many years as pastor of the Trinity Lutheran Church in Utica, N.Y.

Pastor Giese began his studies for the ministry at Bronxville's Concordia Collegiate Institute and received his bachelor's degree from the seminary in St. Louis.

He began his ministry in a multiple congregation at Forest and Connorsville, Wis. From Wisconsin he accepted a call to Christ Lutheran Church in St. Paul, Minn., where he met and wed Sharon Simon, with his father officiating at their marriage ceremony. Reverend and Mrs. Giese have two sons, Steven and Michael, and a daughter, Tina. Mrs. Doris Fink, the sister of Reverend Giese, is in the Hall today to be here at the time that her brother offered the prayer at the opening of this session.

The people of Eternal Life Lutheran Church congregation in Mesa are pleased and honored to have the Reverend Giese as their pastor. He has served in this capacity since 1976, after having served for many years as a minister in the Midwest, the South, and in California. It is fitting today that he add to his outstanding ministry by serving as the guest chaplain in this House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

89-059 O-86-8 (Pt. 12)

WASHINGTON, D.C.,
July 12, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the Certificate of Election for the Honorable Jean S. Ashbrook, who was duly elected Representative in Congress from the 17th District of the State of Ohio in a Special Election held on June 29, 1982.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

THE STATE OF OHIO, CERTIFICATE OF ELECTION OF JEAN ASHBROOK, REPRESENTATIVE TO CONGRESS

To the Clerk of the House of Representatives of the United States:

This is to certify that on the twenty-ninth day of June, 1982, Jean Ashbrook was duly chosen by the qualified electors of the Seventeenth Congressional District of the State of Ohio, a Representative from said District to represent said District of said State in the House of Representatives of the United States for the unexpired term ending January 3, 1983.

SWEARING IN OF THE HONORABLE JEAN S. ASHBROOK OF OHIO AS A MEMBER OF THE HOUSE

The SPEAKER. Will the gentleman from Ohio (Mr. LATTA), the dean of the Ohio delegation, along with the Ohio delegation, escort the Member-elect to the well of the House?

Mrs. ASHBROOK appeared at the bar of the House and took the oath of office.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
July 12, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, the Clerk received at 9:50 a.m. on Tuesday, July 6, 1982, the following message from the Secretary of the Senate: That the Senate agreed to the House amendment to S. 1230.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
July 12, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, I have the honor to transmit sealed envelopes received from The White House as follows:

(1) At 10:45 a.m. on Thursday, July 1, 1982 and said to contain a message from the President wherein he transmits the First Annual Synfuels Report.

(2) At 10:45 a.m. on Thursday, July 1, 1982 and said to contain a message from the President wherein he transmits the 1981 Annual Report of the National Science Foundation.

(3) At 4:55 p.m. on Thursday, July 8, 1982 and said to contain H.R. 6198, an Act to amend the manufacturing clause of the copyright law, and a veto message thereon.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

COPYRIGHT MANUFACTURING CLAUSE EXTENSION ACT—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-208)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning without my approval H.R. 6198, a bill that would extend for four years the "manufacturing clause" of the U.S. copyright law that expired on June 30, 1982.

The manufacturing clause requires that many printed materials be printed in the United States in order to enjoy copyright protection. The clause was written into law nearly a century ago, in an effort to strengthen our relatively new printing industry by limiting foreign competition. However, the "infant industry" justification for protecting our printing industry is no longer valid; our industry is now one of the most modern and efficient in the world.

During the recent Tokyo Round of Multilateral Trade Negotiations, our trading partners objected to the manufacturing clause as inconsistent with our international obligations. Extension of the clause, as provided in H.R. 6198, could result in increased international trade tensions that could endanger American jobs. I would further note that if the printing or publishing industry believes itself injured, or threatened by injury, due to the expiration of the manufacturing clause, it has the option of requesting relief under the Trade Act.

My Administration has placed a very high priority on strengthening free trade, and we are energetically seeking to remove artificial foreign barriers to American exports. We are confident that our free enterprise system will enable American products to face foreign competition in our own open market and to do well in markets overseas, provided our access to those markets is not blocked by protectionist barriers that distort international competition.

Given the importance of our efforts to remove foreign trade barriers, it would be self-defeating to extend an artificial barrier of our own. For these reasons, I cannot approve H.R. 6198.

RONALD REAGAN.

THE WHITE HOUSE, *July 8, 1982.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

□ 1215

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on the bill, H.R. 6198, be postponed until Tuesday, July 13, 1982.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object, I do so to inquire, No. 1, if that will be the first order of business on Tuesday, and, second, whether or not the leadership would anticipate another attempt to override the veto of the supplemental appropriations?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, let me say that I do not know, and I would ask the gentleman to yield to my distinguished friend, the majority leader.

Mr. MICHEL. I yield to the majority leader.

Mr. WRIGHT. If the gentleman from Illinois would yield to me for that purpose, it is the present plan that we should take whatever action is to be taken with respect to this matter on the copyright bill first and thereafter take such action as may be appropriate with respect to the veto on the supplemental appropriations bill.

Further, in response to the gentleman's question, I do not believe that a decision has been made firmly as to whether or not an attempt should be made to override the supplemental veto and further conversations will have to take place before that decision is made, and I would suppose the gentleman from Illinois might be privy to some of those conversations.

Mr. MICHEL. I understand.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FIRST ANNUAL REPORT ON ACTIVITIES OF DEPARTMENT OF ENERGY IMPLEMENTING DEVELOPMENT OF SYNTHETIC FUELS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce.

(For message, see proceedings of the Senate of Thursday, July 1, 1982, page S7891.)

ANNUAL REPORT OF NATIONAL SCIENCE FOUNDATION FOR FISCAL YEAR 1981—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. FARY) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

(For message, see proceedings of the Senate of Thursday, July 1, 1982, page S7891.)

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL MIDNIGHT, JULY 19, 1982, TO FILE REPORT ON HOUSE RESOLUTION 512

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services have until midnight, July 19, 1982, to file a report on the resolution (H. Res. 512) directing the Secretary of Defense to furnish certain information to the House of Representatives relating to procurement of the C-5B aircraft, and that, until after such date, notwithstanding the provisions of clause 5, rule XXII, a motion to discharge the committee from further consideration of that resolution not be in order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. DICKINSON. Reserving the right to object, Mr. Speaker, it is not my intention at this time to do so, but I would like to inquire of my distinguished chairman why he feels that this is necessary at this time and what will be the effects of the postponement?

Mr. PRICE. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Illinois.

Mr. PRICE. Mr. Speaker, the resolution is dated June 22, 1982, and was referred to the Committee on Armed Services on that date. The House adjourned on June 24 for the weekend and held pro forma only sessions on Monday, Tuesday, Wednesday, and Thursday of the following week. Thus, the committee has had no opportunity to consider the resolution, yet technically the 7 legislative days for reporting expire today.

Thus, my only purpose is to gain some time lost, particularly by the pro forma sessions, in order for the committee to consider the resolution. A meeting for Thursday, July 15 is planned for that purpose.

Mr. DICKINSON. Further reserving the right to object, it is my understanding, Mr. Speaker, that we have scheduled Thursday of this week to take up the matter under consideration at the present time.

Mr. PRICE. The gentleman is correct.

Mr. DICKINSON. And the committee, at that time, will decide what action to take with regard to the resolution; is that correct?

Mr. PRICE. Yes, it is.

Mr. DICKINSON. What the gentleman is requesting here simply allows us until Friday to report out whatever product comes as a result of our deliberations; is that correct?

Mr. PRICE. The gentleman is correct, except the target date is Monday.

Mr. DICKINSON. All right. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

INTRODUCTION OF A BILL ESTABLISHING THE U.S. CAPITOL PAGE BOARD FOR SUPERVISION AND EDUCATION OF CONGRESSIONAL PAGES

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, I am today introducing a bill which provides for a U.S. Capitol Page Board with the responsibility for the supervision, housing, and education of congressional pages. This is the same bill I introduced during the 96th Congress. It was needed then. The need is even greater today as witness the recent reports in the news media.

My concern was aptly expressed in a statement made several years back by the evaluating committee of the Middle Atlantic States Association for Secondary Schools, which is the accrediting institution for the Capitol Page School. Here is what that learned body then wrote:

> It seems inconceivable to the members of this committee, all but one of whom are parents, that a 14 or 15 year old boy should be turned loose in a large metropolis to find his own room, make his own arrangements for eating well balanced and nourishing meals, engage in health and moral activities, and watch over his own physical and moral well-being. It is one thing for a page to live at home or in the home of his sponsor, where he can be a part of normal family living so necessary at this stage in growth. It is something else again to give these youngsters the great opportunity to be of direct service to their Government, and at the same time, deprive them of the basic protections to which they were entitled at this stage in their development. The Washington of today is a different city from that of 20 years ago.

Mr. Speaker, although this Chamber long ago ceased the employment of pages under 16 years of age, the statement just quoted is applicable to all youngsters of high school age. So long as this body employs the youth of adolescent years, we have a responsibility to provide them with the basic protections we would expect for our own children should they be similarly employed away from their homes.

Our problem is the need for a focus on this responsibility within Congress. As it is, we have a splintering of the responsibility in too many places with none accepting overall responsibility for our pages.

The bill I am introducing today would remedy this problem. It would establish a Page Board consisting of the Clerk of the House of Representatives, the Secretary of the Senate, the Doorkeeper of the House of Representatives, the Sergeant at Arms of the Senate, and the Architect of the Capitol. These elective and appointive officers of our two Chambers each have a portion of the responsibility for the care and supervision of congressional pages. My proposal would have them mutually share the overall responsibility, and give them joint authority to develop and act on policy for the protective benefit of all pages employed by Congress.

Under the provisions of my proposal, the Page Board would—

First, develop and implement a comprehensive policy for the supervision, housing, and education of congressional pages;

Second, oversee residential and educational facilities for congressional pages;

Third, cooperate with appropriate persons in the carrying out of its responsibilities; and

Fourth, with the approval of the Committee on House Administration and Committee on Rules and Administration of the Senate, enter into such contracts and prescribe such regulations as may be necessary to carry out its responsibilities.

In addition, the Page Board would, with the approval of the Committee on House Administration and Committee on Rules and Administration of the Senate, appoint and fix the pay of necessary personnel to perform duties

with respect to the John W. McCormack Residential Page School in accordance with regulation prescribed by the Board.

Hearings and studies of our 191-year-old Page Corps and the Page School are abundant. Numerous efforts on behalf of pages—or to eliminate them—have been made as the history of proposed legislative measures attests. Lack of success has been attributed to insufficient motivation, an inability to project the need, and the lack of sufficient time and priority within the legislative process.

I believe my peers and colleagues in this Chamber now share my deep concern for the vulnerability of congressional pages, and will overcome those barriers of inertia that have heretofore foreclosed the necessary action for their protection.

There is little time before the Page School year begins. I urge action in time for the Page Board to make suitable preparations for the next entering class.

Those of my colleagues wishing to cosponsor this measure can do so by calling my office at extension 5-7884. Their cooperation and support will be greatly appreciated.

Thank you, Mr. Speaker.

ESTABLISHING OF U.S. CAPITOL PAGE BOARD

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I rise because I am intrigued by the suggestion that has just been made by the distinguished subcommittee chairman of the Committee on House Administration with reference to a page school, and I am sure it includes preeminently the need for a page dormitory with continuous around-the-clock supervision for these fine young people who come here to Washington. It seems to me that this is long overdue.

Many years ago, the Congress authorized the construction of a John W. McCormack Building for that expressed purpose and certainly it is not the kind of thing that we ought to allow any delays to stand in the way of its completion. It is something that is vitally needed.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Under the provisions of the bill we would establish this Capitol Board which will have the jurisdiction not only of building the dormitory to insure proper supervision and proper housing but also to carry out the responsibility of the Congress to young people who are 14 to 18 years of age.

Mr. WRIGHT. I thank the gentleman very much for that clarification because it seems that it certainly would border upon negligence of the grossest order were we to permit the continuance of the situation in which we are not only able to guarantee even the personal safety let alone the wholesome supervision of these fine young people, and that is what we really desperately need to achieve, and do it very quickly.

YOU CAN'T FOOL ALL THE OLDER AMERICANS

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, I rise to speak out on a different subject, the subject of the cost-of-living adjustment under social security. Now I am from Connecticut. I am a Connecticut Yankee and I remember well the quote from the old circus empresario, P. T. Barnum. It reads as follows:

> You can fool some of the people all of the time, and you can fool all of the people some of the time, but you cannot fool all of the people all of the time.

This quote, Mr. Speaker, certainly applies to what the administration is attempting to claim now on television, on the issue of the cost of living for social security.

Let us look at the record.

In 1981, the administration supported a phaseout of minimum benefits under social security, a phaseout of student benefits under social security, a restriction of the burial allowance under social security and, yes, they even tried to cut the retirement benefit for those who would retire at age 62.

In 1982, they tried to cap the cost of living and then they tried to delay the cost of living.

Mr. Speaker, the ads on behalf of the administration remind me of another P. T. Barnum quote, and apparently those offering them feel that, "A sucker is born every minute."

Mr. Speaker, the older Americans will not be fooled on this issue. They know the truth of the matter.

THE SOCIAL SECURITY GAME

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, only 10 months ago, President Reagan stood before the American people and declared that he was once and for all removing social security from politics.

The Republican National Committee obviously did not get the message.

In their latest round of television ads, the committee has once again removed social security from the conference table—and placed it on the political playing field.

By giving the President personal credit for social security cost-of-living increases provided automatically by law, they have made social security a political football.

By giving credit where credit is not due, the committee has made a mockery of the truth—once again, stretching the patience of the American people.

The problem with this social security game is that the losers are not the Democrats nor the Republicans. The losers are the unwilling spectators—America's working men and women and our retirees.

As the great political game wages on, Americans are forced to sit on the sidelines—never knowing which team will score the points, or whether someone will just drop the ball, leaving them holding nothing more than the memories of a broken contract.

We owe the American people more. We owe them a victory—and we can only achieve that victory if we work together.

I urge the President to assert his authority as the leader of the Republican Party—to demand removal of the RNC's social security ads from the airwaves—to demand return of social security to a pension program, not a political football.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 350, BALANCED BUDGET/TAX LIMITATION CONSTITUTIONAL AMENDMENT

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, I am today filing a petition to discharge from the Rules Committee, House Resolution 450, which will provide 10 hours of debate and consideration of House Joint Resolution 350, the balanced budget/tax limitation constitutional amendment of which Congressman ED JENKINS and I are primary sponsors. We have now been joined by more than 220 cosponsors of the balanced budget resolution, reflecting the growing recognition of the need to alter our budget procedures if we are to bring the Government's spending and deficits under control.

The severity of our problem is underscored by the projections of $100 billion budget deficits for this year and next at a time when we have a President who is seeking more vigorously than any recent holder of that office to restrain Government spending. Even with this leadership, Congress has demonstrated that it is unable to resist the demands for spending and keep them close to the Government's revenues. As a result we

have the largest deficits in our history which are seriously disrupting the Nation's economy.

Our constitutional amendment will require that the national budget be balanced unless three fifths of Congress is willing to vote to the contrary. Several years would be permitted for implementation of this condition. It is a requirement whose time has come. Since the chairman of the Judiciary Committee has not indicated a willingness to give us the opportunity to vote on this amendment, I am filing the discharge petition and inviting all my colleagues concerned about our fiscal condition to sign it promptly.

□ 1230

LET'S STOP PLAYING POLITICS WITH SOCIAL SECURITY

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I was troubled last week and today to see that the Speaker of the House and other Democrats again are trying to politicize the social security issue.

The Speaker, made the accusation that Republican television ads were an effort to "lie to the American people." The Speaker implied that President Reagan truly did not intend to keep his promise that social security beneficiaries receive their full 7.4 cost-of-living adjustment this July 3.

A lie? Let us set the facts straight. The Democrat reconciliation package last year contained a provision to delay the payment of the cost-of-living adjustment by 3 months. The facts are it was the Speaker of the House who took Chairman JAKE PICKLE into the political woodshed and stopped the Social Security Subcommittee last summer from holding any further meetings on comprehensive reform legislation to save the social security system. The facts also are that on November 5, 1981, the Washington Post reported that even if a bipartisan proposal which was being considered to address the financial problems of the system was voted out of the Ways and Means Committee, the Speaker would not have permitted it to be voted on by the House.

One thing is clear: We simply cannot permit the social security program to be politicized by any party. While a few elected officials believe they may gain by playing politics with social security, it is at the expense of millions of social security beneficiaries. As for this Member, I look forward to joining my House Republican and Democrat colleagues in a true effort to put the social security system back on firm financial footing and not to politicize it as an election year issue.

RAISE THE AGE LIMIT FOR PAGES

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, 6 or 7 years ago we had a hearing in the Committee on Education and Labor of which I am a member. The hearing dealt with the page situation, both housing and schooling. At that time I said that living in the complex with quite a few pages, that I do not believe it is in their best interests or ours to have the kind of situation that we have at the present time and suggested that the way to go, and I want to reinforce that suggestion now, is not to build a dormitory at the expense of the American taxpayer, but the way to go is to increase the required age. When our commitment is finished to the existing pages, then it would be my hope that we would move ahead and have that page age set at 18 and above. We would not have a school problem, nor would we have any other kind of problem in relationship to pages; so I would hope we would raise the age, not ask the taxpayers to build a dormitory.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RATCHFORD). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 13, 1982.

NACOA AUTHORIZATIONS FOR FISCAL YEARS 1983 AND 1984

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6197) to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such act for fiscal years 1983 and 1984, as amended.

The Clerk read as follows:

H.R. 6197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the National Advisory Committee on Oceans and Atmosphere Act of 1977 (33 U.S.C. 857-18) is amended—

(1) by striking "and" immediately after "1981,", and

(2) by striking "1982." and inserting in lieu thereof "1982, $605,000 for the fiscal year ending September 30, 1983, and $650,000, for the fiscal year ending September 30, 1984.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6197 reauthorizes the National Advisory Committee on Oceans and Atmosphere (NACOA) for fiscal years 1983 and 1984.

NACOA is composed of 18 Presidentially appointed members who have been selected for their knowledge and expertise in marine and atmospheric policy areas. The committee is charged with the responsibility to undertake a continuing review of the Nation's oceanic and atmospheric programs, to report annually to the President and Congress on the status of such programs, and to advise the Secretary of Commerce on the programs of the National Oceanic and Atmospheric Administration.

H.R. 6197 authorizes $605,000 for fiscal year 1983, and $650,000 for fiscal year 1984. This is a particularly critical time for our Nation's oceanic and atmospheric programs and the independent advice and recommendations received by the executive branch and the Congress from NACOA will be vital in the years ahead.

I urge my colleagues to support this legislation.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in full support of H.R. 6197.

Mr. Speaker, NACOA was established by Public Law 92-125 in 1971 to: First, continuously review the Nation's marine and atmospheric policies and programs; second, report to the President and Congress annually and upon request; and third, advise the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration (NOAA).

In 1977, as a result of congressional discontent with NACOA activities under its 1971 mandate, NACOA was reestablished by Public Law 95-63. The main changes brought about by this legislation were: First, a reduction

in the number of members from 25 to 18; second, the establishment of specific qualifications for NACOA members; and third, modification of NACOA's duties to allow the committee to concentrate more of its efforts on specific issues and reports on a selective basis, as distinguished from the annual reports.

NACOA has recently reported on diverse marine and atmospheric issues, including OCS revenue sharing, ocean dumping, Coast Guard research and development, ocean mining, and ocean satellite systems. Current activities include studies on ocean dumping legislation, Coast Guard roles and resources, and weather services. Major reports on fisheries, ocean minerals, and marine transportation will soon be completed.

Most of NACOA's operating expenses are associated with staff salaries and costs incurred by members attending regular NACOA meetings. NACOA's total budget request for fiscal year 1982, based on this planning assumption, was $648,000. Budget adjustments were necessary in order to conform to an authorization for fiscal year 1982 of $555,000 and an appropriation of $552,900. As a result, one staff position was not filled and another position will be left vacant after the departure of a staff member in April. The number of regular NACOA meetings has been reduced to eight. Additional budget reducing measures have included delaying work on an energy report and postponing reconsideration of the waste management issue (including radioactive waste).

Based on testimony before the subcommittee, I think the authorization levels we are asking for are at a reasonable level to account for inflation and to provide a limited number of operational and staff needs for NACOA. Therefore, Mr. Speaker, given the recent productivity of NACOA and the hope that NACOA will continue to be a useful sounding board for the administration's policies on ocean use, I definitely support the reauthorization levels contained in H.R. 6197, which was passed by unanimous voice vote by the Merchant Marine and Fisheries Committee.

Thank you, Mr. Speaker.

● Mr. D'AMOURS. Mr. Speaker, H.R. 6197 amends the National Advisory Committee on Oceans and Atmosphere Act of 1977 to provide authorizations for fiscal years 1983 and 1984.

The advisory committee, known as NACOA, was established in 1971. NACOA's duties are to review the Nation's marine science and service programs and to report its findings to the President and Congress. The committee is further charged to advise the Secretary of Commerce with respect to the activities and programs of the National Oceanic and Atmospheric Administration (NOAA).

NACOA has played a vital role in influencing ocean policy. In the past year, NACOA members have testified before congressional committees on such important issues as waste management and ocean dumping, oil spill liability and compensation, coastal barriers, and Outer Continental Shelf revenue sharing.

H.R. 6197, as reported out of the Merchant Marine and Fisheries Committee, recommends a 2-year authorization of $605,000 for fiscal year 1983 and $650,000 for fiscal year 1984. The fiscal year 1983 figure is $25,000 below the level funding requested by NACOA and is $50,000 above the fiscal year 1982 authorization.

Mr. Speaker, Congress is faced with increasing pressure to manage our oceanic and atmospheric resources in a responsible manner. We cannot fulfill this mandate without reliable technical advice of the kind NACOA has provided. I urge my colleagues to recognize NACOA's valuable contributions to Congress and to approve H.R. 6197.●

● Mr. LENT. Mr. Speaker, I support this 2-year authorization for the National Advisory Committee on Oceans and Atmosphere (NACOA) and urge its prompt passage.

NACOA's legislative mandate calls for a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of marine and atmospheric science and service programs of the United States. As pointed out in its 11th Annual Report of June 30, 1982, NACOA's membership is made up of diverse political, geographic, and vocational backgrounds to insure that their positions are national in interest. By considering the interplay among various aspects of policymaking—economic, environmental, legal and political, and scientific—in developing its positions, NACOA performs an even more valuable function than 10 years ago at the time of its inception when funds were more readily accessible for program support by the Federal Government.

The January 1981 report to the President and Congress, "The Role of the Ocean in a Waste Management Strategy," is an example. Going beyond the medium-by-medium approach to waste disposal and the patchwork quilt of environmental laws enacted in the 1970's, NACOA calls for a multimedium approach to waste management. Thus, this national advisory committee plays an active part in our efforts to develop waste disposal policies which weigh and balance the risks of various options to minimize environmental harm wherever possible.

I applaud this forward-looking approach and believe the continued work of the National Advisory Committee on Oceans and Atmosphere can help us develop sound national environmental policy.

Thank you, Mr. Speaker.●

Mr. FORSYTHE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 6197, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

U.S. CAPITOL GROUNDS

Mr. FARY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6417) to amend Public Law 96-432 relating to the U.S. Capitol Grounds, as amended.

The Clerk read as follows:

H.R. 6417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of July 31, 1946, as amended (40 U.S.C. 193a), is amended to include within the definition of the United States Capitol Grounds the following additional areas which are situated as follows:

(1) All sidewalks and contiguous areas presently under the jurisdiction of the District of Columbia located on the south side of Pennsylvania Avenue, Northwest, between the west curb of First Street, Northwest and the east curb of Third Street, Northwest.

(2) All sidewalks and contiguous areas presently under the jurisdiction of the District of Columbia located on the north side of Maryland Avenue, Southwest, between the west curb of First Street, Southwest and the east curb of Third Steet, Southwest.

(3) All sidewalks and contiguous areas presently under the jurisdiction of the District of Columbia located on the west side of First Street between the south curb of Pennsylvania Avenue, Northwest and the north curb of Maryland Avenue, Southwest.

(4) All sidewalks and contiguous areas presently under the jurisdiction of the District of Columbia located on the east side of Third Street between the south curb of Pennsylvania Avenue, Northwest and the north curb of Maryland Avenue, Southwest.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. FARY) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. STANGELAND) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. FARY).

Mr. FARY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, pursuant to section 1 of Public Law 96-432, approved December 10, 1980, a number of additional areas and portions of streets, including those portions of Pennsylvania Avenue NW., from the west curb of First Street NW., to the east curb of Third Street NW.; and Maryland Avenue, SW., from the west curb of First Street SW., to the east curb of Third Street SW., were included within the definition of the U.S. Capitol Grounds. Inadvertently, the sidewalks and contiguous land on the west side of First Street between Pennsylvania Avenue SW., and Maryland Avenue, SW., and flanking the Reflecting Pool along Pennsylvania Avenue, NW., and Maryland Avenue, SW., between First and Third Streets west, were omitted from Public Law 96-432.

The addition of the roadways in those areas of Pennsylvania Avenue NW., and Maryland Avenue SW., to the U.S. Capitol Grounds, pursuant to Public Law 96-432, creates the anomalous situation in which the National Park Service has jurisdiction over the area within the interior sidewalk lines near the Reflecting Pool (including the Reflecting Pool), the Architect of the Captiol has jurisdiction of the roadways up to the curb line, and the District of Columbia retains jurisdiction over the sidewalks themselves and the contigous strip of land adjacent to the Reflecting Pool.

H.R. 6417 would rectify the anomaly by providing along First Street and Pennsylvania and Maryland Avenues a more realistic and manageable jurisdictional arrangement, Viz, Capitol Grounds jurisdiction to the Park Service line, including the sidewalks. In addition, along the east side of Third Street between Maryland Avenue SW., and Pennsylvania Avenue NW., Capitol Grounds jurisdiction would similarly abut the Park Service property at the Reflecting Pool and include the sidewalks along Third Street.

Mr. STANGELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree wholeheartedly with the chairman of the subcommittee, the gentleman from Illinois (Mr. FARY).

Mr. Speaker, I support the committee-passed version of H.R. 6417, legislation to redefine the boundaries of the U.S. Capitol Grounds. As has been mentioned previously, the purpose of this bill is to clarify the definition of the Capitol Grounds and will include within that area, designated sidewalks and contiguous areas now bordering the Capitol Grounds.

The Architect of the Capitol will now have jurisdiction over these sidewalks and other contiguous areas rather than the District of Columbia which now maintains jurisdiction over these areas. This bill will help avoid confusion as to intended definition of the U.S. Capitol Grounds and will comply with the Architect's master plan for the U.S. Capitol.

I urge all Members to support this bill.

● Mr. HOWARD. Mr Speaker, H.R. 6417 is legislation designed to simplify the street and sidewalk jurisdiction surrounding the reflecting pool at the base of Capitol Hill. Presently, the streets are under the jurisdiction of the Architect of the Capitol and, as such, part of the Capitol Grounds, the sidewalks are under the jurisdiction of the District of Columbia, and the land within this area, including the reflecting pool, are under the jurisdiction of the National Park Service. The current situation is very confusing in terms of who is responsible for what. Therefore, this legislation would simply include within the definition of the Capitol Grounds the sidewalks which flank the reflecting pool. Passage of this legislation will provide for a more realistic and manageable system of jurisdiction by the Park Service and the Architect of the Capitol.●

Mr. FARY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. FARY) that the House suspend the rules and pass the bill, H.R. 6417, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FARY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 6417.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

RETAINING OF NUTRITIONAL GOALS IN THE SCHOOL LUNCH PROGRAM

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Cong. Res. 216) to express the sense of the Congress concerning regulations pertaining to meal-pattern requirements and nutritional requirements for meals served in programs under the National School Lunch Act, as amended.

The Clerk read as follow:

H. Con. Res. 216

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the school lunch program under the National School Lunch Act will retain the goal of providing one-third of the recommended dietary allowances of nutrients for children as established by the National Academy of Sciences.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky (Mr. PERKINS) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. GOODLING) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

□ 1245

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 216. This concurrent resolution was reported from the Education and Labor Committee by a unanimous voice vote and is identical to Senate Resolution 218 that has already passed the Senate.

Since the enactment of the National School Lunch Act in 1946, the goal of the school lunch program has been to provide, over a period of time, approximately one-third of the recommended dietary allowance for children as established by the National Academy of Sciences. The resolution before us today simply states that it is the sense of Congress that this overall one-third goal be retained in the school lunch program.

I want to commend my distinguished colleague from Ohio (Mr. HALL) and my good friend on the Education and Labor Committee, Mr. MILLER from California, for taking a leadership role in introducing this very worthy resolution.

House Concurrent Resolution 216 was introduced at a time when there was great concern that the Department of Agriculture intended to abandon the school lunch program's traditional one-third goal by issuing revised meal pattern regulations that could potentially impair the nutritional integrity of the school lunch program.

Although the Department of Agriculture has now withdrawn the controversial regulations, House Concurrent Resolution 216 reaffirms Congress intent that the school lunch program retain its longstanding goal.

Mr. Speaker, we must pass this resolution in order to insure that whatever changes are made in the school lunch program that the program continues to provide a sound nutritious meal for children.

The reason we are facing such a threat to the program is that the administration was successful last year in cutting out one-third of the funding

for the Federal child nutrition programs. Last year the Congress enacted $1.5 billion worth of cuts, and we are now seeing their effects.

As a direct result of the administration's proposals, 1,500 schools have now dropped out of the hot lunch program; 3,400,000 children have also dropped out of the program. And, despite the President's pledge that no poor children would be affected by these cutbacks, approximately 1.2 million of these children who dropped out of the lunch program are children from poor families.

I believe that the cuts we made last year will cause long-term harm to the health of our schoolchildren. And I just wish that there were some way that we could reverse these cuts.

But even if we cannot reverse these cutbacks, it seems to me that the minimum that we can do is to assure that the children who remain in the program receive a sound nutritious lunch.

That is the purpose of this concurrent resolution. We understand that the Department of Agriculture must help local school districts to find ways to cope with the severe cuts that the administration has forced on them while trying to maintain functioning local programs. But we do not want any changes to strike at the very heart of the program: A sound nutritious meal.

Mr. Speaker, I ask that my colleagues support this resolution and again I commend Congressmen HALL and MILLER for bringing it before the House. I am including the text of the committee report accompanying House Concurrent Resolution 216 in the RECORD. This report language was a bipartisan effort and clearly reflects the views of the committee on both sides of the aisle. I urge my colleagues to join with me in supporting House Concurrent Resolution 216.

The report language is as follows:

BACKGROUND AND NEED

Section 818 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), enacted on August 13, 1981, directed the Secretary of Agriculture to review regulations governing programs under the National School Lunch and the Child Nutrition Acts for the purpose of determining ways in which to accomplish cost savings within these programs at the local level. Conferees agreed, and the Omnibus Budget Reconciliation Act clearly states that any changes in nutritional requirements should be made only after other cost savings options had been exhausted, and that at no time should the regulations impair the nutritional value of the meals provided under these programs.

To underscore their concern, the Statement of Managers repeated their intent that:

"Before the Secretary changes current meal pattern requirements, he shall exhaust all alternatives for lowering local program costs. Further, any proposed changes must have a demonstrated local fiscal impact and a sound nutritional basis. The conferees understand that the phrase 'without impairing the nutritional value of the meals' should not be interpreted as requiring one-third RDA for every meal provided."

Since 1946, the goal of the National School Lunch Act has been to provide, over a period of time, approximately one-third of the Recommended Dietary Allowance (RDA) for children as specified by the National Academy of Sciences. Pursuant to the Act, the U.S. Department of Agriculture has issued regulations that fulfill the Secretary's duty to prescribe the minimum nutritional requirements for lunches served under the program.

On September 4, 1981, the U.S. Department of Agriculture proposed regulations which would have altered current meal pattern regulations. These proposed meal pattern regulations reduced portion sizes for all five school lunch components and made questionable crediting changes. The proposed changes in these meal pattern regulations were contrary to stated congressional intent in the Omnibus Budget Reconciliation Act in that they were issued prior to exhausting all of the cost-saving options and because some of these proposed changes potentially impaired the nutritional value of the meals. Several critical nutrients were dropped below the one-third goal established for school children. The proposed regulations submitted by the Department of Agriculture might have been construed as abandoning or moving away from the overall one-third goal.

In the face of strong public and congressional opposition, the Administration rescinded the proposed regulations on September 25, 1981, with the proviso that new regulations would be forthcoming.

On November 10, 1981, Representative Tony Hall (D-OH) and Representative George Miller (D-CA) introduced H. Con. Res. 216 to reaffirm Congress' intent to retain the traditional and long-standing goal of the lunch program that the nutrients in school lunches, averaged over a period of time, provide approximately one-third of the Recommended Dietary Allowance, as established by the National Academy of Sciences, for children served by the program.

The Subcommittee on Elementary, Secondary, and Vocational Education held hearings on this resolution on November 18th, at which time both Representatives Hall and Miller presented testimony as did representatives of Bread for the World, the American Federation of State, County and Municipal Employees, the National Dairy Council, the National Milk Producers' Federation, and the Supervisor of Food Services for Dayton, Ohio, City Public Schools.

House Concurrent Resolution 216 was marked up by the Education and Labor Committee on June 15, 1982. During that markup, Mr. Miller offered an amendment to the resolution to substitute the text of Senate Resolution 218. Adoption of the language of Senate Resolution 218, would elimnate any differences between House and Senate resolutions by removing the words "regulations" and "meal patterns" from House Concurrent Resolution 216. The Committee intends, however, that the removal of this language shall not be construed as granting authority to the Secretary to issue regulations that would either alter meal pattern regulations without exhausting all alternatives for lowering local program costs, or that would impair the nutritional value of the meals. In 1982, as in 1946 when the program began, meal pattern regulations are required so that the Secretary can fulfill his duty to prescribe the minimum nutritional requirements for meals served under this program.

The well-established purpose of the meal pattern regulations has been to set out the broad categories and minimum amounts of food that will approximate one-third of the RDA for nutrients over a period of time. These regulations provide a simple format for planning lunches, while taking into account the variation in meal planning skills and nutrition knowledge among local school lunch officials around the country. They also provide flexibility, in that many foods fit into each category and provide strong encouragement for school lunches to meet the goal of one-third of the RDA by setting out broad categories and minimum amounts of food. The Committee clearly intends that meal pattern regulations may be changed, as long as the traditional nutritional goal of providing children with one-third of their RDA at lunch time shall be maintained. The Committee reaffirms the intent of the Omnibus Budget Reconciliation Act's conference that the Secretary shall exhaust all alternatives for lowering local progam costs before seeking changes in meal pattern requirements and that no changes shall impair the nutritional value of the meals. The Committee also insists that the Department of Agriculture neither abandon nor move away from the overall one-third RDA goal.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, want to commend Mr. HALL and Mr. MILLER for bringing this resolution before the committee. It is a resolution that, if the young people and the new people in the Department of Agriculture would have understood that those of us on the Hill who have been around here for a while do have some good ideas and some good suggestions, and they would have come to us before they went ahead with the regulation making, we would not have needed this resolution. Unfortunately, they are new and they did not seek any guidance from those of us who have worked on this issue.

Much of that ill-fated meal pattern proposal, which came as a result of a Congressional mandate was good, but unfortunately the small portion of those proposed regulations which went astray gained all the publicity. The people that were hurt most through this publicity were those very dedicated people who are back in those kitchens and in those districts preparing those nutritious meals for young people.

Most of the publicity would indicate that they would take advantage of any kind of situation and provide anything that was not nutritious just to save a dollar. Well, anyone knows that they are there not for that purpose and that most of them would resign if someone insisted that they do that. But unfortunately, because of that kind of adverse publicity, it was necessary to have this resolution to indicate that, in fact, we want to continue to

provide those necessary nutritious meals.

The second unfortunate thing about it all is that after getting all that bad publicity and making those people who are on the firing line feel badly, we also now do not have the regulations that we, as a committee and a Congress told the Department of Agriculture we wanted, to give the kind of flexibility that was needed primarily to prevent plate waste in our local school districts.

So I would hope that after we pass this resolution, we would then move ahead and come forth with the necessary regulations written properly so that they cannot result in adverse front-page magazine or newspaper coverage.

In addition, Mr. Speaker, I would like to take this opportunity to compliment the gentleman from Kentucky, the distinguished chairman of our Committee on Education and Labor for his efforts. Along with Mr. MILLER of California and Mr. HALL of Ohio, we were able to agree on language for this resolution which received unanimous endorsement from both sides of the aisle.

I have stressed all along that since the other body has already acted it would be counterproductive for this body to adopt different language in an attempt to achieve the same purpose, that is to express the sense of Congress that the national school lunch program should retain the goal of providing to children one-third of the recommended dietary allowance of nutrients. With the language of this resolution as reported out of the Education and Labor Committee, Congress will now speak with one voice and send an unambiguous message that we intend that the one-third RDA goal for the school lunch program shall be maintained.

The well-established purpose of the meal pattern regulations has been to set out the broad categories and minimum amounts of food that will approximate one-third of the RDA for nutrients over a period of time. These regulations provide a simple format for planning lunches, while taking into account the variation in meal planning skills and nutrition knowledge among local school lunch officials around the country. They also provide flexibility, in that many foods fit into each category and provide strong encouragement for school lunches to meet the goal of one-third of the RDA by setting out broad categories and minimum amounts of food. The committee clearly intends that meal pattern regulations may be changed, as long as the traditional nutritional goal of providing children with one-third of their RDA at lunchtime shall be maintained. The committee reaffirms the intent of the Omnibus Budget Reconciliation Act's conference that the Secretary shall exhaust all alternatives for lowering local program costs before seeing changes in meal pattern requirements and that no changes shall impair the nutritional value of the meals. The committee also insists that the Department of Agriculture neither abandon nor move away from the overall one-third RDA goal.

In this time of change, many proposals are interpreted by people back home as actual policy. Unfortunately, the news media has a penchant for playing the dramatic stories and at times the subtle facts may be downplayed. That is why this simple measure we are considering today, House Concurrent Resolution 216, is so significant. It is important to assure parents that it is the intention of Congress that the quality of school lunch should remain high.

I would also like to point out that this resolution should be interpreted as a reaffirmation of the faith and trust that Congress places in the truly unsung heros of the school lunch program—the thousands of dedicated school food service workers who translate public policy into the reality of good nutritious meals for our schoolchildren. We recognize that as long as Congress provides them with the reasonable means for conducting this great program, these people will work consistently and conscientiously to attain the one-third RDA goal for school menues which Congress is reaffirming today.

So I would hope that everyone would support this sense of Congress resolution.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. MILLER), a member of the committee.

Mr. MILLER of California. Mr. Speaker, I rise in support of this resolution to confirm the sense of Congress that the long-standing goals of the national school lunch program shall be upheld.

As both my chairman (Mr. PERKINS) and the ranking minority member (Mr. GOODLING) have outlined, this resolution comes to us because of the actions taken by the administration without working with the members of this committee; in fact, contrary to long-standing goals of this program since 1946.

I would like very much to commend my colleague, the gentleman from Ohio, TONY HALL, for his efforts when this controversy came about last year, to get this resolution in order, to get it considered here and in the Senate, and for bringing it to our attention and getting these actions taken so that again, as we consider means of saving money in this program, we do not in fact allow the program and the dietary recommendations to deteriorate in that effort.

I would hope that the House would overwhelmingly support this resolution.

Mr. PERKINS. Mr. Speaker, I yield the remainder of my time to the gentleman from Ohio (Mr. HALL).

Mr. HALL of Ohio. Mr. Speaker, I thank the very distinguished chairman of the Committee on Education and Labor for yielding to me.

Mr. Speaker, last November, Congressman GEORGE MILLER and I introduced House Concurrent Resolution 216, a bill expressing the sense of Congress that the goal of providing one-third of the recommended dietary allowance of nutrients for children as established by the National Academy of Sciences be retained in the school lunch program.

I am here today to encourage your support for this resolution. In 1946 the school lunch program was created. This program was established with the purpose of safeguarding "the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food." The bill we have before us today, House Concurrent Resolution 216, makes no changes in that law. It only reaffirms our commitment to continue the lunch program with standards which have been consistent for close to 36 years.

Today, we are providing more than 27 million school-age children with close to one-third of the recommended dietary allowance which they require to remain healthy. I see no reason why we should fall short in continuing with our commitment.

The funding for the school lunch and other child nutrition programs was cut last year by $1.5 billion. The Budget Reconciliation Act of 1981 instructed the U.S. Department of Agriculture to propose regulations which would allow savings in the school lunch program at the local level to make up for these cuts. Congress was explicit in its directions that before standing meal pattern requirements were to be changed, and I make this quote from the statement of managers on the conference report—the Secretary—"shall exhaust all alternatives for lowering program costs." It was also stated that the Secretary should review regulations under both the National School Lunch Act and the Child Nutrition Act of 1966 to find ways to achieve savings—and I use another quote here—"without the nutritional value" of the meals provided by these programs.

On September 4, 1981, Congress received the Department's response to the guidelines which were rescinded by the administration. After I had reviewed the "old" regulations and had seen the detrimental changes proposed in the nutritional value of the meals, I thought it time that we take a

stand in confirming our goal to indeed protect the health and well-being of our Nation's children.

I am not saying that changes in the school lunch regulations cannot be made. Quite frankly, with the loss in funding we would have to make changes if we plan to maintain the school lunch program at all. What I am saying is that we can accommodate changes without compromising meal pattern standards which have been dedicated to meeting prescribed nutritional levels for the past 36 years.

Many of the children in the school lunch program come from families which depend on some type of aid from the Government. These people are receiving housing assistance, aid to families with dependent children, medicaid, and food stamps. The budgets of these programs were cut back last year. We have just approved a budget which will make even deeper reductions in their funding levels this year. We are watching the costs of food, utilities, housing, transportation, health care, and other basic living expenses rise. At the same time, we are witnessing reductions in funds for aid programs. What is to happen to the children of this country if we start to chisel away at the nutritional value of the meals which we provide them at school? What will happen if we cut back on the quality of the one meal that we are sure that they are receiving each day? I can tell you what will happen. We will be choosing the path of cutting corners to cut the budget, and we will be shortchanging our children's health.

In 1980, the Congressional Budget Office completed a report which concluded that school feeding programs are more effective in improving the nutrition of low-income children than direct money payments to their families. Studies conducted by health professionals for the Field Foundation in 1965 and 1967 found substantial improvement in the nutritional status of low-income children. They attributed this improvement to the school lunch and other child nutrition programs. Even the Department of Agriculture has study results which show that the diets of low-income children have been improved by school feeding programs. On the basis of such findings I think we can accurately say that the school lunch and other child nutrition programs are working. If the nutritional standards of the meals provided by these programs are detrimentally affected, evidence proves that the health of our children will be detrimentally affected. Mr. Speaker, this resolution sends a clear message that Congress will not tolerate any more attempts to weaken the nutritional standards of the school lunch program and that we will not risk a regression in the nutritional status which we have attained for our children.

During November, the Elementary, Secondary, and Vocational Education Subcommittee held hearings on this resolution. We heard testimony from individuals representing a wide range of public interests—nutritional, educational, religious, and labor oriented. The statements of all concluded on a common note—that we must hold firm to our commitment of maintaining a national school lunch program with a sound nutritional base.

On June 22, the resolution was unanimously reported by the full House Education and Labor Committee. Mr. Speaker, the action by the committee, I feel, is representative of the sentiments of this entire body—the sentiments that we protect the school lunch program nutritional standards and that we protect our children.

I have worked closely with Mrs. Betty Bender, the director of food services for Dayton public schools, in analysing the operation of the lunch program in my congressional district. We thoroughly discussed possible cost-saving changes that could be achieved in the program without tampering with nutritional standards. We agreed that there is a multitude of alternatives for living with the cuts without diminishing the quality of the lunches. In addition to the discussions I had with Mrs. Bender, I had the opportunity to review a survey conducted last year by the Hunger-Organizing Team in California. This single survey suggested more than 15 alternatives to making changes in meal patterns. These particular suggestions have been practiced and endorsed by individuals who know the national school lunch program probably better than anyone else—program directors and food service workers.

Mr. Speaker, this resolution has been formally endorsed by 82 national organizations.

National groups which have endorsed House Concurrent Resolution 216 include the following:

LIST OF NATIONAL GROUPS

Agricultural Marketing Project.
American Association of School Administrators.
American Association of University Women.
American Bakers Association.
American Federation of Government Employees.
American Federation of Grain Millers (AFL-CIO).
American Federation of State, County, and Municipal Employees.
American Federation of Teachers.
American Home Economics Association.
American Jewish Committee.
American Nursing Association.
American Public Health Association.
American Public Welfare Association.
Americans for Democratic Action.
Bread for the World.
Bridge, Inc.
Camp Fire, Inc.
Center for Community Change.
Center for Science in the Public Interest.
Child Advocacy Center.
Children's Defense Fund.
The Children's Foundation.
Child Welfare League of America.
Coalition of Labor Union Women.
Communication Workers of America.
Community Nutrition Institute.
Congress Watch.
Consumer Coalition for Health.
Consumer Federation of America.
Consumers Union.
Council of Great City Schools.
Cooperative League of U.S.A.
Delta Sig[illegible] Theta Sorority, Inc.
Food and Beverage Employees Department (AFL-CIO).
Food Research and Action Center.
Friends Committee on National Legislation.
International Ladies' Garment Workers' Union.
Interreligious Task Force on U.S. Food Policy.
Mennonite Central Committee.
National Anti-Hunger Coalition.
National Association of Farm Worker Organizations.
National Association of Social Workers.
National Catholic Conference for Interracial Justice.
National Child Nutrition Project.
National Coalition of ESEA Title I Parents.
National Community Action Agency Executive Directors Association.
National Conference of Catholic Charities.
National Congress of American Indians.
National Council of Churches Working Group on Domestic Hunger and Poverty.
National Council of Negro Women.
National Council of Senior Citizens.
National Education Association.
National Grange.
National Family Farm Project.
National Farmers Union.
National Hook-Up of Black Women.
National Milk Producers Federation.
National Paralegal Institute.
National Pork Producers Council.
National PTA.
National Rural Housing Coalition.
National Sharecroppers Fund.
National Urban League.
Project on Food Assistance and Poverty.
Rural America.
Rural Coalition.
Rural Corporate Accountability Research Project.
Society for Nutrition Education.
United Auto Workers.
United Cement, Lime, Gypsum, and Allied Workers International.
United Church of Christ.
United Egg Producers.
United Food and Commercial Workers.
United Fresh Fruits and Vegetables.
United Methodist Church Department of Human Wefare.
United Planning Organization Community Food and Nutrition Program Committee.
United Steel Workers of America.
United Telegraph Workers (AFL-CIO).
Women USA.
Women's Legal Defense Fund.
World Hunger Education Service.
Youth Policy Institute.

Mr. Speaker, this bill has been cosponsored by 92 Members of this House. An identical piece of legislation was passed by the Senate late last year. What more evidence do we need

that maintaining the nutritional standards of the lunch program is one of our priorities? Mr. Speaker, I will ask that my colleagues here in the House make known their support for this effort by voting for the adoption of this resolution.

● Mr. FAUNTROY. Mr. Speaker, I rise and support House Concurrent Resolution 216 which would reaffirm Congress intent that our school lunch program provide one-third of the recommended daily allowance (RDA) as specified by the National Academy of Sciences. It is a shameful commentary on the present administration that in 1981, the Department of Agriculture proposed regulations which lowered the nutritional standard. In reaction to public outrage, those regulations were withdrawn. It is indeed a sad commentary that it is necessary for us today to pass House Concurrent Resolution 216 to reaffirm our intent to maintain nutritional integrity of school lunch programs.●

Mr. PERKINS. Mr. Speaker, I have no further request for time.

The SPEAKER pro tempore (Mr. MILLER of California). The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 216), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution retaining nutritional goals in the school lunch program."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PRESIDENTIAL CERTIFICATIONS ON CONDITIONS IN EL SALVADOR

Mr. BARNES. Mr. Speaker, I move that the House suspend the rules and pass the joint resolution (H.J. Res. 494) with regard to Presidential certifications on conditions in El Salvador, as amended.

The Clerk read as follows:

H.J. RES. 494

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 728(e) of the International Security and Development Cooperation Act of 1981 is amended by adding at the end thereof the following: "The second certification required under this section may be made only if it includes a determination by the President that the Government of El Salvador (1) has made good faith efforts since the first such certification was made to investigate the murders of those six United States citizens and to bring to justice those responsible for those murders, and (2) has taken all reasonable steps to investigate the disappearance of journalist John Sullivan in El Salvador in January 1981.".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BARNES) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. BARNES).

Mr. BARNES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution has the unanimous support of the Committee on Foreign Affairs. It corrects an oversight in the law. There is no reason why it should be controversial, so I will not take up the time of the House with a lengthy statement.

As the Members are aware, section 728 of the International Security and Development Cooperation Act of 1981 requires that, in order to continue to supply military assistance to El Salvador, the President must certify every 6 months that the Government of El Salvador is meeting certain conditions with respect to human rights, control of the security forces, political and economic reforms, free elections, and negotiations to end the conflict. The first such certification was made last January 28, and the next one is due July 28.

The law also requires a one-time certification that the Government of El Salvador has made good faith efforts to investigate the murders of U.S. citizens and to bring to justice those responsible for the murders. That certification was made on January 28 but, under current law, there is no requirement that it be made again.

I think that when we drafted this provision a year ago, we assumed that the investigation of these murders would have been completed by now, so there was no need for an ongoing certification in the law. However, experience has shown that this is not the case. The case of the murdered churchwomen has not yet gone to trial, and the investigation of the murders of the labor leaders is still in its early stages.

When I was in El Salvador recently, I became convinced that our Embassy personnel find this particular certification requirement very useful in keeping the pressure on the Salvadoran Government, and I am convinced that the President should be required to make the certification once again. The resolution before us amends the law to require another certification with respect to the murders on July 28.

This measure was reported out of the Subcommittee on Inter-American Affairs on June 2 by unanimous voice vote, and was reported out of the full Foreign Affairs Committee on June 22 by unanimous voice vote. As amended in committee, it is the joint product of my colleague on the majority side, the gentleman from Massachusetts (Mr. STUDDS) and the distinguished ranking minority member of the subcommittee, the gentleman from New York (Mr. GILMAN). I wish to commend both of these gentlemen for their work on this issue.

Mr. Speaker, that is basically the purpose of the resolution.

□ 1300

Mr. Speaker, I yield such time as he may consume to our very distinguished committee chairman, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of House Joint Resolution 497, which extends into the second half of fiscal year 1982 a provision of law which originally applied only to the first half of fiscal year 1982.

One of the conditions which the Congress wrote into law last year with regard to military assistance to El Salvador was that the President must certify that the Government of El Salvador is making good faith efforts to investigate the murders of the four American churchwomen and the two American agrarian reform workers, and to bring to justice those responsible. That was a one-time finding. This resolution makes it applicable also to the Presidential certification which is required for the second half of fiscal year 1982.

The resolution also makes one addition, that the Government of El Salvador is investigating the disappearance of the American journalist John Sullivan.

I hope the Members will support this legislation.

Mr. BARNES. Mr. Speaker, at this time I yield such time as he may consume to the distinguished gentleman from Massachusetts (Mr. STUDDS), one of the authors of the joint resolution.

Mr. STUDDS. Mr. Speaker, I thank the subcommittee chairman for his remarks and for yielding to me.

Mr. Speaker, House Joint Resolution 494 is a simple, noncontroversial piece of legislation which should be support-

ed by every Member of this body. In substance, it would continue a process initiated last year under which continued military aid for El Salvador is made contingent on a Presidential certification that the Government of El Salvador is making good faith efforts to investigate and bring to justice those responsible for the murder of six U.S. citizens in El Salvador approximately 18 months ago.

In placing this condition on military aid to El Salvador, we are not making an unreasonable request; nor are we placing impossible demands on the law enforcement apparatus of El Salvador. We are simply asking that all reasonable measures be taken to find those who murdered U.S. citizens in cold blood. These cases differ from simple cases of homicide because there is ample reason to believe that the motive for the murders was political, and that members of the security forces of El Salvador were responsible for the crimes.

The Reagan administration has this year bestowed upon El Salvador the largest military aid program by far which we have ever made available to a Latin American country. Proposals are pending to ship another $90 million in airplanes, helicopters, grenades, and grenade launchers, bombs, rifles, ammunition, and miscellaneous equipment. I believe that American taxpayers have the right to know that their money is not being used to subsidize the very people who have planned or carried out the murder of U.S. citizens, or who have failed to cooperate in investigating their deaths.

I do not know who murdered the four American churchwomen, or the two agrarian reform workers; I do not know who was responsible for the disappearance of the journalist John Sullivan. There are those who have made accusations against specific individuals; there are those who have attempted to raise doubts about the intentions and good faith of officials in the Department of State. I do not join in such speculation, nor do I make any such accusations. I do, however, believe very strongly that continued pressure from the United States will be essential if any further progress in these inquiries is going to occur; and I do not know anyone remotely familiar with the history involved who could—in good faith—quarrel with that assessment.

Let me read briefly from the testimony of Mr. William Doherty of the American Institute for Free Labor Development before the Subcommittee on Inter-American Affairs last February:

> We feel that the arrests in the case of the three nuns and one lay church worker would not have taken place without strong and continuing pressure and technical advice from the USG.
>
> A large body of evidence has been assembled, which should lead to the indictment of the murderers; both the civilian intellectual authors of the crime and the military personnel who actually pulled the trigger. And we can tell you right now that this evidence implicates high ranking officers of the security forces.
>
> Both our government and the goes are in possession of this evidence. What is required now is that the investigations be continued with renewed enthusiasm, that the USG continue to apply pressure to see that this occurs, and that whatever technical support required be furnished by the FBI.

This statement was made on February 24. No indictments or convictions have since been forthcoming.

More disappointing still, it has been almost 5 months since six National Guardsmen were indicted for the murders of the four churchwomen, yet no date has been set for a trial.

House Joint Resolution 494 was approved unanimously by the Subcommittee on Inter-American Affairs and by the full Committee on Foreign Affairs. Many Members of both parties, including the ranking minority member of the Foreign Affairs Committee, have joined in writing to Senator PERCY urging immediate action on identical legislation in the Senate. This legislation is clearly not a matter of controversy among those familiar with the recent history of events in El Salvador.

This legislation will affect the second Presidential certification on El Salvador, which is due on July 28. Immediate action by both Houses of Congress will be necessary for it to become law. It was for this reason that the Foreign Affairs Committee sought to bring this measure up for consideration on the 23d of June. Incredibly, this effort was twice thwarted; the first time by the minority leader of this House. Shortly thereafter, when I sought the opportunity to explain the substance and importance of the bill, I was denied an opportunity to do so. I cannot speak to the motives or judgment of other Members of this House. But, I must say that I believe the effort to block timely consideration of this legislation is an effort ill befitting the leadership of either political party, and unrepresentative, I believe, of those in the minority party who have some understanding of what is at stake here.

The evidence of the past 2 weeks indicates that the administration is, for some reason, afraid of this legislation, and has attempted to delay action until after the July 28 deadline. It may well be for this reason that we have had to wait until today to consider this bill, and it may well be for this reason that some members of the Senate Foreign Relations Committee have thus far refused to act on identical legislation in the other body.

I ask all Members of this House to consider what is at stake here. Eighteen months ago, six American citizens were murdered, for reasons of politics, probably by members of the Armed Forces of a country to which we are now shipping vast quantities of military aid. Our request for justice is made not only on behalf of the families and friends of those who were killed; it is a request made on behalf of all the people of the United States. Can you for 1 minute imagine the response of the administration if six Americans were killed for political reasons by members of the armed forces of Nicaragua? Do you think President Reagan would be seeking to block a congressional resolution asking that justice be done in that instance?

House Joint Resolution 494 ought to be passed unanimously. It does not constitute a referendum on U.S. policy toward El Salvador; it does constitute a referendum on whether the U.S. Government cares about justice and about the safety and dignity of its own people.

Mr. BARNES. Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker , I yield myself such time as I may consume.

Mr. Speaker, as the ranking minority member of the Committee on Foreign Affairs, I would like to offer my support for House Joint Resolution 494.

I supported the original certification requirements contained in the fiscal year 1982 foreign assistance legislation. In addition, I supported the amendment to the fiscal year 1983 legislation that extended those conditions and reimposed the certification requirement with respect to the deaths of the Americans. This specific condition requires that the President certify that the Government of El Salvador has made a good faith effort to find and prosecute those responsible for the death of the Americans.

For these reasons, I support this resolution which extends this important part of the certification process. I believe that it is extremely important that the Congress, through this and other certification amendments, express the priority with which we attach to the investigation and prosecution of those responsible for the murders of the American missionaries and land reform advisers,

I urge all of our colleagues to join in support of House Joint Resolution 494.

Mr. GILMAN. Mr. Speaker, as the ranking minority member of the Subcommittee on Inter-American Affairs, I would like to offer my strong support for House Joint Resolution 494, a resolution to amend the existing certification language on aid to El Salvador.

I supported the original certification requirements regarding El Salvador contained in the fiscal year 1982 foreign assistance legislation. In addition,

I was pleased to offer the amendment to the fiscal year 1983 legislation that extended those conditions and reimposed the certification requirement with respect to the deaths of the Americans. For these reasons, I was delighted to cosponsor the resolution of the gentleman from Massachusetts (Mr. STUDDS).

Unlike the other requirements for the provision of aid to El Salvador, which must be renewed every 6 months, the certification on the deaths of the Americans was required on a one-time basis only. This resolution is necessary in order to insure continued reporting requirements and Presidential certifications that no military assistance be given to El Salvador unless "the Government of El Salvador has made good faith efforts to investigate" the murders of the American missionaries and land reform advisers and "to bring to justice those responsible for those murders."

House Joint Resolution 494 would require that reporting and certifications on the deaths of the Americans be submitted at the same 6-month intervals as the other certification issues.

During the consideration of the resolution by the Committee on Foreign Affairs one new element was added to the certification requirement. The committee unanimously adopted an amendment offered by Mr. STUDDS and myself, with the strong support of the gentlelady from New Jersey (Mrs. ROUKEMA), which seeks to focus attention on the disappearance of another American, Mr. John Sullivan.

Mr. Sullivan, a journalist, disappeared from his hotel in San Salvador in late December of 1980. The facts surrounding his disappearance are unknown, with what little information available suggesting foul play. As in the case of the missionaries and land reform advisers, the friends and relatives of the young reporter have expressed great frustration about the lack of cooperation and assistance that has been provided by the authorities in both San Salvador and Washington.

The amendment regarding Mr. Sullivan recognizes the differences between this case and that of the other Americans. It would, however, require that all reasonable steps have been taken by the Government of El Salvador to investigate his disappearance. In light of recent charges from former prisoners in the opposition that he is being secretly held by that government, our amendment would provide the needed leverage and priority to this case that it deserves.

If we ask the American taxpayer to support our policies to promote human rights and democracy in El Salvador, we can do no less than require that the Government of El Salvador support and protect those rights for American citizens in that country. By passing this resolution, we can insure that the needed cooperation is given to finding and prosecuting those responsible for the deaths of the Americans and that the disappearance of John Sullivan will not be ignored and forgotten.

Accordingly, I urge the adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI), the ranking minority member of the Committee on Foreign Affairs.

Mr. DERWINSKI. Mr. Speaker, I join in support of this resolution as I did in the committee. I think it is a proper effort to keep alive the pressure we have to maintain to see that justice is served and the investigation concluded and the culprits brought to justice.

I would like to point out, though, that the situation in El Salvador is incredibly complex. I would hope that we would not indulge in any prejudgments as to either the officialdom that may or may not have been involved, or individuals, until we finally get the facts. That is what we are really after and what our goal is, and the interest we all have in seeing that the murders of U.S. citizens be thoroughly cleared up and people brought to justice. That is what motivates our interest and our actions.

I am pleased that we have this strong committee support.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. BARNES. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Speaker, my concern is generally with the direction of our foreign policy in El Salvador, where I am among those who feel that we have put much too much emphasis on a military involvement and not enough concern on human rights or economic development.

But, my concern is specifically directed toward the lack of progress experienced as it relates to a prompt or speedy trial for those implicated already and not yet implicated in the murders of six religious workers.

Jean Donovan was one of those religious workers. Her brother, Mike Donovan, lives in Danbury, Conn., my hometown. I think it is appropriate, Mr. Speaker, as other Members have done, as the gentleman from Massachusetts did, to look back in the history of this matter.

The event which concerns me took place on December 2, 1980—December 2, 1980. In that period of time, in my judgment, there has been token little progress. Yes, six former National Guardsmen were arraigned in February 1982, but that was 14 months after the crime in question. And now, 5½ months later, very little is heard of the trial; very little is heard about further investigations; very little is expressed as far as concern on behalf of our Government through the State Department about bringing to resolution those who are responsible for the murders of the six religious workers.

I have a greater concern. During this period of time, from December 2, 1980, until today, July 12, 1982, the families of those murdered have been put off, have been brushed off, have been demeaned, and now they are being ignored. Frankly, as a Member of Congress, as someone generally concerned with foreign policy, as someone always concerned with human rights, I find it appalling that in July 1982 the attitude of those involved in our State Department appears to be "ignore the situation and perhaps it will go away."

To the credit of the members of the Foreign Affairs Committee on both sides of the aisle, to the direct credit of Chairman ZABLOCKI; to the direct credit of subcommittee Chairman BARNES, that attitude of the State Department, that attitude that if we ignore it long enough the situation will go away, is not being tolerated.

What this resolution does, a resolution that comes to us with bipartisan support from the committee and unanimous backing at the level of the Foreign Affairs Committee, is a resolution of concern, concern that Members of Congress want a prompt trial, want further investigation, want a resolution of the crime, and say today that further military aid will not be certified until we have that resolution.

So, I applaud the effort. I thank those directly involved, and on behalf of Jean Donovan's family may we say publicly, thank you for not forgetting a brave religious worker and a brave American.

● Mrs. ROUKEMA. I urge my colleagues to support this bill to amend the certification process for aid to El Salvador to include specific certification on the progress of the investigation into the disappearance of John Sullivan, a freelance journalist missing in El Salvador since December 28, 1980, and a resident of my congressional district.

This bill also requires specific certification on progress in the investigation into the murders of six other Americans in El Salvador.

I would like to commend the efforts of the gentleman from Massachusetts (Mr. STUDDS) and the gentleman from New York (Mr. GILMAN) for their leadership in the Foreign Affairs Committee on this issue. In a bipartisan spirit that demonstrates our desire to see the Sullivan case solved, both gentlemen amended this legislation in committee to specifically include reference to Mr. Sullivan.

There are several important reasons to include the Sullivan case in future certification reports by the President.

First, it specifically and officially states that the United States places a high priority on solving Mr. Sullivan's disappearance and requires the Salvadoran Government to undertake all reasonable efforts to investigate the disappearance.

Second, we have placed a heavy reliance upon the Salvadoran Government to solve the case. While the American Embassy has been able to do some investigative work by checking official records and other available sources, our Embassy has neither the authority nor the expertise to carry out an extensive investigation. Consequently, the United States is largely dependent upon the resources of the Salvadoran Government and its willingness to pursue the case with all possible diligence.

Third, it is important to point out that 18 months have passed since Mr. Sullivan's disappearance. Meanwhile, the Salvadoran Government has produced no evidence in this case through its own investigation. During this time, Mr. Sullivan's family has gone through tremendous mental anguish. Including the Sullivan case in the certification process will give assurances to the Sullivan family and the American people that all parties—the U.S. Government and the Salvadoran Government—are pursuing this matter in an orderly fashion.

I must stress the urgency of this action with the next certification deadline falling upon July 28, 1982. It is, therefore, essential that this bill be passed under suspension of the rules to expedite enactment into law. Furthermore, I have every hope that the other body will move quickly on this. I have sent, along with 13 other Members of the New Jersey congressional delegation, a letter to the chairman of the Foreign Relations Committee of the other body urging prompt consideration of an identical measure by that committee.

The text of the letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 12, 1982.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As Members of the New Jersey congressional delegation, we urge your Committee to act expeditiously on S.J. Res. 208, which concerns the Presidential certification process required for continued military assistance to El Salvador.

A provision in S.J. Res. 208 of considerable interest to us is the addition to the certification process requiring the President to certify that the Salvadoran government "has taken all reasonable steps to investigate the disappearance of journalist John Sullivan."

Mr. Sullivan is a resident of Bogota, New Jersey and his disappearance from a hotel in San Salvador was discovered in January 1981. There is some question as to the degree of priority attached to the case by the Salvadoran government, particularly in light of the considerable time which has elapsed without any hard evidence.

Consequently, we believe that the United States government's concern as to Mr. Sullivan's whereabouts should be underscored in a formal manner and that the Salvadoran government should be required to report its continuing efforts in this matter. S.J. Res. 208, which is identical to H.J. Res. 494, currently pending in the House, would accomplish these goals.

Furthermore, it is essential that action on this legislation be taken soon so that the requirements in the legislation will be effected in the next certification, due on July 28. We appreciate your cooperation in this matter.

Nicholas F. Brady, U.S. Senator; Bill Bradley, U.S. Senator; Frank J. Guarini, Member of Congress; Matthew J. Rinaldo, Member of Congress; Robert A. Roe, Member of Congress; Millicent Fenwick, Member of Congress; Peter W. Rodino, Jr., Member of Congress; Marge Roukema, Member of Congress; Harold C. Hollenbeck, Member of Congress; Joseph G. Minish, Member of Congress; James J. Howard, Member of Congress; Edwin B. Forsythe, Member of Congress; James J. Florio, Member of Congress; James A. Courter, Member of Congress.●

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Mr. BARNES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

● Mr. FAUNTROY. Mr. Speaker, I rise and support House Joint Resolution 494, which requires the President to make a second certification at the end of this month, that the Salvadoran Government is engaged in good faith efforts that would investigate outrageous murders of two American churchwomen, and two American labor leaders killed in El Salvador in December 1981 and January 1982. The passage of this bill is necessary if we are to continue to communicate with the Salvadoran Government our determination that the perpetrators of these horrible crimes be brought to justice.●

● Mrs. HECKLER. Mr. Speaker, four American missionary women were brutually murdered in El Salavador in December 1980. Through the months that followed, little progress was made in the apprehension and punishment of those responsible for such an atrocious crime. Finally, in the spring of 1982, the Government of El Salavador made it known that it had arrested six former members of the Salavadoran National Guard. Five were indicted for the murders. Yet no trial dates have been set.

Attempts by the families of these churchwomen to determine why the investigation has lagged have been met with silence by U.S. authorities. I have recently signed letters to officials at the Department of State, the Central Intelligence Agency, the Federal Bureau of Investigation, and the Defense Intelligence Agency urging immediate compliance with the freedom of information requests filed by these bereaved families.

Because three of the American churchwomen were members of the Maryknoll order, the Maryknoll Sisters have actively sought information regarding the killings. Sister Helene O'Sullivan of the Maryknoll Sisters Office of Social Concerns expressed to me:

The Maryknoll Sisters strongly urge the members of Congress to retain the investigation into the deaths of the American citizens in El Salvador as a condition of presidential certification. Both the families of the murdered churchwomen and the Maryknoll Sisters believe that the new government in El Salvador should be made aware that the investigation into the deaths of Americans is still a top priority for the Reagan Administration in its policy toward certification. We call upon your sense of integrity to see that justice and truth are served in the investigation into the murders of these four missionary women.

Other American citizens have been slain or have disappeared. Two young U.S. agrarian preform workers were murdered in January 1981. No arrests or indictments have been forthcoming in this case. Testimony received by a subcommittee of this House has implicated high-ranking members of the Salvadorian security forces in the slayings. Even more recently, an American freelance journalist vanished. Those who have studied the circumstances of his disappearance fear that he, too, is the victim of foul play.

I feel that this joint resolution will strengthen the cause of justice in all of these tragic situations. By requiring the President to certify that the Government of El Salvador has made good faith efforts in investigating these criminal acts, we can help to assure that the responsible parties are brought to justice.●

● Mr. OTTINGER. Mr. Speaker, I rise in strong support of House Joint Resolution 494, a bill to extend the Presidential certification of the investigation of the murders of six Americans in El Salvador. I commend my colleague from Massachusetts, Representative STUDDS, for introducing this important legislation, and the gentleman from Maryland, Representative BARNES, for his continuing leadership on this issue.

The International Security and Development Cooperation Act of 1981 requires a biannual Presidential certification that the Salvadoran Government is pursuing various economic and human rights reforms. As part of this certification process the President was required to attest only once that progress was being made to investigate the murders of six Americans in El Salvador. This bill would require a second certification on the investigation.

Two of the individuals who were so brutally slain in El Salvador were affiliated with the Maryknoll Mission in Ossining, N.Y., which I represent. I

have been active in helping Maryknoll and the families of all four of the slain churchwomen try to learn the exact circumstances surrounding this tragedy, and in opposing the Reagan administration's dangerous policies toward El Salvador.

In the year and one-half since these terrible deaths, I have seen a continued pattern of systematic violations of human rights by the Salvadoran regime, and serious delays in bringing to justice those responsible for the deaths of the Americans. Despite what the President may certify, there has been no progress on any aspect of his required certification.

The Salvadoran security forces continue their rampage, with over 12,000 civilians killed since the six Americans were murdered. The agrarian reform program is in total shambles as peasants are continuously evicted from their land and the Constituent Assembly delays the second phase of land reform. An election was held yet its legitimacy is now in doubt as evidence of electoral fraud is uncovered. This election resulted not in the hoped-for moderation of the Salvadoran Government, but the investiture of power in the hands of one of the most brutal human rights violators in El Salvador, Roberto D'Aubuisson. Meanwhile, there has been no movement toward negotiations with all parties to the conflict.

Facing a situation that is more dangerous and unstable than ever, President Reagan has consistently responded by escalating our involvement in El Salvador. He sent military advisers there in violation of the War Powers Act. He now seeks to give El Salvador $166 million in military and economic aid, including the training of two more Salvadoran battalions and the providing of helicoptors and additional equipment.

For the families of the Americans killed in El Salvador, perhaps the most distressing aspect of certification concerns the investigation of those deaths. We have seen an extremely dubious investigation plagued with uncertainties and delays. We know of five suspects awaiting trial, yet every reasonable critique strongly suggests that responsibility goes well beyond the five individuals charged.

Our own Government has exhibited an astounding attitude of unresponsiveness which seems to border on complicity with Salvadoran authorities. I was appalled to learn that the State Department, CIA, FBI, and DIA were not complying with Freedom of Information Act—FOIA—requests filed by the families of the churchwomen. I initiated a letter with Representatives MARY ROSE OAKAR and PETER PEYSER urging the four agencies to expedite these FOIA requests. Over 90 Members of Congress cosigned this letter, which noted:

The families of these gallant women have already experienced the trauma of having their loved ones brutally murdered in El Salvador. For U.S. agencies to be dragging their feet in complying with the law is not only a remarkably inhumane way to conduct their business but is also a violation of the spirit of the Freedom of Information Act.

It has become increasingly evident in the time since the Americans were murdered that the Salvadoran Government as well as our own Government needs further prodding to resolve this matter. We cannot idly accept delays that aggravate the pain of the surviving families as well as the national trauma of this incident.

This resolution is vital to insuring that those responsible for this heinous crime are brought to justice. I urge my colleagues to vote for House Joint Resolution 494.

I am including in today's RECORD a copy of the letter I initiated concerning the FOIA requests filed by the families of the churchwomen, and the list of cosigners:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 18, 1982.

We are writing in behalf of the relatives of American churchwomen slain in El Salvador in 1980, and their attorneys, the Lawyers Committee for International Human Rights.

In December 1980, four American churchwomen were brutally murdered in El Salvador. What followed was an extremely dubious investigation plagued with uncertainties and delays. Five suspects are now awaiting trial in El Salvador, but a reasonable critique of the investigation suggests that responsibility for this heinous crime goes well beyond the five individuals who have been charged.

The relatives of the slain churchwomen have attempted to ascertain what has delayed the investigation and whether it has indeed been complete and accurate. Their requests for cooperation from U.S. agencies in this matter have been met with incredible delays and unresponsiveness.

We urgently request that you do everything in your power to expedite the Freedom of Information Act (FOIA) request that has been filed with your agency in behalf of the families of the slain churchwomen by the Lawyers Committee for International Human Rights. Specifically, we urge you to immediately release all cables, memoranda, reports, letters, or other records which relate either to the deaths of Jean Donovan and Sisters Ita Ford, Maura Clarke and Dorothy Kazel in El Salvador on December 2, 1980, or to any investigations into those deaths which have taken place since December 2, 1980.

The families of these gallant women have already experienced the trauma of having their loved ones brutally murdered in El Salvador. For U.S. agencies to be dragging their feet in complying with the law is not only a remarkably inhumane way to conduct their business but is also a violation of the spirit of the Freedom of Information Act.

Given the urgency of this matter, we request your compliance with this request by July 2, 1982.

Sincerely,

Hon. Richard L. Ottinger (New York), Hon. Mary Rose Oakar (Ohio), Hon. Peter Peyser (New York), Hon. Les AuCoin (Oregon), Hon. Les Aspin (Wisconsin), Hon. Berkley Bedell (Iowa), Hon. Don Bonker (Washington), Hon. David E. Bonior (Michigan), Hon. William M. Brodhead (Michigan), Hon. George E. Brown (California), Hon. John L. Burton (California), Hon. Phil Burton (California).

Hon. Jonathan Bingham (New York), Hon. Shirley Chisholm (New York), Hon. William Clay (Missouri), Hon. Silvio Conte (Massachusetts), Hon. John Conyers, Jr. (Michigan), Hon. William Coyne (Pennsylvania), Hon. Ronald V. Dellums (Calfiornia), Hon. George W. Crockett (Michigan), Hon. Julian Dixon (California), Hon. Brian J. Donnelly (Massachusetts), Hon. Thomas J. Downey (New York).

Hon. Mervyn Dymally (California), Hon. Dennis E. Eckart (Ohio), Hon. Bob Edgar (Pennsylvania), Hon. Don Edwards (California), Hon. Glenn English (Oklahoma), Hon. John G. Fary (Illinois), Hon. Walter E. Fauntroy (District of Columbia), Hon. Vic Fazio (California), Hon. Millicent Fenwick (New Jersey), Hon. Geraldine Ferraro (New York).

Hon. Hamilton Fish, Jr. (New York), Hon. James J. Florio (New Jersey), Hon. Thomas Foglietta (Pennsylvania), Hon. Barney Frank (Massachusetts), Hon. Martin Frost (Texas), Hon. Harold Ford (Tennessee), Hon. Robert Garcia (New York), Hon. Sam Gejdenson (Connecticut), Hon. Dan Glickman (Kansas), Hon. William F. Goodling (Pennsylvania).

Hon. Albert Gore (Tennessee), Hon. Bill Green (New York), Hon. William Gray III (Pennsylvania), Hon. Tom Harkin (Iowa), Hon. Margaret Heckler (Massachusetts), Hon. Harold C. Hollenbeck (New Jersey), Hon. James M. Jeffords (Vermont), Hon. Robert W. Kastenmeier (Wisconsin), Hon. Barbara B. Kennelly (Connecticut), Hon. Dale E. Kildee (Michigan).

Hon. Tom Lantos (California), Hon. William Lehman (Florida), Hon. Mickey Leland (Texas), Hon. Mike Lowry (Washington), Hon. Nicholas Mavroules (Massachusetts), Hon. Robert T. Matsui (California), Hon. Matthew F. McHugh (New York), Hon. Barbara A. Mikulski (Maryland), Hon. George Miller (California), Hon. Norman Y. Mineta (California).

Hon. Joseph G. Minish (New Jersey), Hon. Parren J. Mitchell (Maryland), Hon. Joe Moakley (Massachusetts), Hon. Anthony Toby Moffett (Connecticut), Hon. Ronald M. Mottl (Ohio), Hon. James L. Oberstar (Minnesota), Hon. Jerry M. Patterson (California), Hon. William R. Ratchford (Connecticut), Hon. Frederick W. Richmond (New York), Hon. Peter W. Rodino (New Jersey).

Hon. Robert A. Roe (New Jersey), Hon. Benjamin S. Rosenthal (New York), Hon. Gus Savage (Illinois), Hon. Patricia Schroeder (Colorado), Hon. Charles E. Schumer (New York), Hon. John F. Seiberling (Ohio), Hon. James M. Shannon (Massachusetts), Hon.

Stephen J. Solarz (New York), Hon. Fortney H. Stark (California), Hon. Gerry E. Studds (Massachusetts).

Hon. Claudine Schneider (Rhode Island), Hon. Harold Washington (Illinois), Hon. James Weaver (Oregon), Hon. Ted Weiss (New York), Hon. Howard Wolpe (Michigan), Hon. Ron Wyden (Oregon), Hon. Doug Walgren (Pennsylvania), Hon. Sidney R. Yates (Illinois).●

● Mr. GARCIA. Mr. Speaker, I support House Joint Resolution 494, to amend section 728(e) of the International Security and Development Cooperation Act of 1981. This resolution requires the President in his human rights certification of El Salvador to make certain that the Salvadoran Government properly investigates the murders of the four religious workers committed in December 1980, and the two agricultural advisers who were killed in January 1981, and that it does all it can to bring their murderers to justice. It also requires the Government of El Salvador to investigate the disappearance of American journalist, John J. Sullivan.

It is a shame that there is a need for this amendment. The Salvadoran Government should have acted on these cases long ago. Excuses made by that Government for its inability to resolve these cases are weak. This is a parody of justice. The murder of American citizens abroad should not be taken lightly. Considering the brutal nature of these murders, it is even more appalling that something has not been done.

The four religious workers were there to help the people of El Salvador. They were not trying to stir up trouble. It is ironic that a benevolent institution such as the Catholic Church should be treated, in this instance, with such little respect by a largely Catholic country. I commend my colleagues for not forgetting the tragic nature of these women's deaths.

The cold blooded murder of the two agricultural advisers is a further example of the disrespect shown by the Salvadoran ruling elite for humanitarian efforts to help its people. I do not deny that the problems facing El Salvador are quite different than those facing the United States. But this is not a valid excuse for ignoring justice.

John Sullivan, whose disappearance continues to weigh heavily on his family, is another case in point. John has been missing in El Salvador since January 1981. The Government of that country has done little or nothing to aid his family in finding him. This is inhuman. Progress must be made in all these cases before any certification of human rights improvement can honestly be made.

El Salvador is not in the limelight any more. The war in the South Atlantic and the recent turn of events in the Middle East have helped to focus U.S. attention elsewhere. This does not mean that conditions in that country have improved. The attempted reversal of the land reform program by the new government is a clear indication that that nation's troubles are far from over.

Violence in El Salvador has not abated. As the war continues, the number of innocent victims mounts. This must stop. We cannot continue to send military aid to a nation prone to violence and self destruction. We must use our influence to help Salvadorans help themselves in stopping the violence.

This is not to say that U.S. interests should not be protected if we are to continue to send aid to El Salvador. But we should demand, not homage, but respect for our interests. This respect must include safeguarding the rights of U.S. citizens. Bringing to justice the murderers of the six Americans mentioned, and making an honest effort to find John Sullivan would be a step in the right direction.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. BARNES) that the House suspend the rules and pass the joint resolution (H.J. Res. 494), as amended.

The question was taken.

Mr. BARNES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BARNES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

FEDERAL EMPLOYEES FLEXIBLE AND COMPRESSED WORK SCHEDULES ACT OF 1982

Ms. FERRARO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2240) to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

The Clerk read as follows:

S. 2240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees Flexible and Compressed Work Schedules Act of 1982".

SEC. 2. (a) Chapter 61 of title 5, United States Code, is amended—

(1) by inserting before section 6101 the following:

"SUBCHAPTER I—GENERAL PROVISIONS";

and

(2) by adding at the end thereof the following new subchapter:

SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

"§ 6120. Purpose

"The Congress finds that the use of flexible and compressed work schedules has the potential to improve productivity in the Federal Government and provide greater service to the public.

"§ 6121. Definitions

"For purposes of this subchapter—

"(1) 'agency' means any Executive agency, any military department, and the Library of Congress;

"(2) 'employee' has the meaning given it by section 2105 of this title;

"(3) 'basic work requirement' means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise;

"(4) 'credit hours' means any hours, within a flexible schedule established under section 6122 of this title, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday;

"(5) 'compressed schedule' means—

"(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and

"(B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays;

"(6) 'overtime hours', when used with respect to flexible schedule programs under section 6122 through 6126 of this title, means all hours in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours;

"(7) 'overtime hours', when used with respect to compressed schedule programs under sections 6127 and 6128 of this title, means any hours in excess of those specified hours which constitute the compressed schedule; and

"(8) 'collective bargaining', 'collective bargaining agreement', and 'exclusive representative' have the same meanings given such terms—

"(A) by section 7103(a)(12), (8), and (16) of this title, respectively, in the case of any unit covered by chapter 71 of this title; and

"(B) in the case of any other unit, by the corresponding provisions applicable under the personnel system covering this unit.

"§ 6122. Flexible schedules; agencies authorized to use

"(a) Notwithstanding section 6101 of this title, each agency may establish, in accordance with this subchapter, programs which allow the use of flexible schedules which include—

"(1) designated hours and days during which an employee on such a schedule must be present for work; and

"(2) designated hours during which an employee on such a schedule may elect the time of such employee's arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the

purpose of accumulating credit hours to reduce the length of the workweek or another workday.

An election by an employee referred to in paragraph (2) shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

"(b) Notwithstanding any other provision of this subchapter, but subject to the terms of any written agreement referred to in section 6130(a) of this title, if the head of an agency determines that any organization within the agency which is participating in a program under subsection (a) is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such agency head may—

"(1) restrict the employees' choice of arrival and departure time,

"(2) restrict the use of credit hours, or

"(3) exclude from such program any employee or group of employees.

"§ 6123. Flexible schedules; computation of premium pay

"(a) For purposes of determining compensation for overtime hours in the case of an employee participating in a program under section 6122 of this title—

"(1) the head of an agency may, on request of the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), 5544(a), and 5550 of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act (29 U.S.C. 207), or any other provision of law; or

"(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

"(b) Notwithstanding the provisions of law referred to in subsection (a)(1) of this section, an employee shall not be entitled to be compensated for credit hours worked except to the extent authorized under section 6126 of this title or to the extent such employee is allowed to have such hours taken into account with respect to the employee's basic work requirement.

"(c)(1) Notwithstanding section 5545(a) of this title, premium pay for nightwork will not be paid to an employee otherwise subject to such section solely because the employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which such premium pay is otherwise authorized, except that—

"(A) if an employee is on a flexible schedule under which—

"(i) the number of hours during which such employee must be present for work, plus

"(ii) the number of hours during which such employee may elect to work credit hours or elect the time of arrival at and departure from work,

which occur outside of the nightwork hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

"(B) if an employee is on a flexible schedule under which the hours that such employee must be present for work include any hours designated in or under such section 5545(a), such premium pay shall be paid for such hours so designated.

"(2) Notwithstanding section 5343(f) of this title, and section 4107(e)(2) of title 38, night differential will not be paid to any employee otherwise subject to either of such sections solely because such employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized, except that such differential shall be paid to an employee on a flexible schedule under this subchapter—

"(A) in the case of an employee subject to subsection (f) of such section 5343, for which all or a majority of the hours of such schedule for any day fall between the hours specified in such subsection, or

"(B) in the case of an employee subject to subsection (e)(2) of such section 4107, for which 4 hours of such schedule fall between the hours specified in such subsection.

"§ 6124. Flexible schedules; holidays

"Notwithstanding sections 6103 and 6104 of this title, if any employee on a flexible schedule under section 6122 of this title is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, such employee is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, an appropriate portion of the employee's biweekly basic work requirement as determined under regulations prescribed by the Office of Personnel Management).

"§ 6125. Flexible schedules; time-recording devices

"Notwithstanding section 6106 of this title, the Office of Personnel Management or any agency may use recording clocks as part of programs under section 6122 of this title.

"§ 6126. Flexible schedules; credit hours; accumulation and compensation

"(a) Subject to any limitation prescribed by the Office of Personnel Management or the agency, a full-time employee on a flexible schedule can accumulate not more than 24 credit hours, and a part-time employee can accumulate not more than one-fourth of the hours in such employee's biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

"(b) Any employee who is on a flexible schedule program under section 6122 of this title and who is no longer subject to such a program shall be paid at such employee's then current rate of basic pay for—

"(1) in the case of a full-time employee, not more than 24 credit hours accumulated by such employee, or

"(2) in the case of a part-time employee, the number of credit hours (not in excess of one-fourth of the hours in such employee's biweekly basic work requirement) accumulated by such employee.".

"§ 6127. Compressed schedules; agencies authorized to use

"(a) Notwithstanding section 6101 of this title, each agency may establish programs which use a 4-day workweek or other compressed schedule.

"(b)(1) An employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition shall not be required to participate in any program under subsection (a) unless a majority of the employees in such unit who, but for this paragraph, would be included in such program have voted to be so included.

"(2) Upon written request to any agency by an employee, the agency, if it determines that participation in a program under subsection (a) would impose a personal hardship on such employee, shall—

"(A) except such employee from such program; or

"(B) reassign such employee to the first position within the agency—

"(i) which becomes vacant after such determination,

"(ii) which is not included within such program,

"(iii) for which such employee is qualified, and

"(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not later than 10 days after the day on which a written request for such determination is received by the agency.

"§ 6128. Compressed schedules; computation of premium pay

"(a) The provisions of sections 5542(a), 5544(a), and 5550(2) of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act (29 U.S.C. 207), or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

"(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by the applicable provisions referred to in subsection (a) of this section. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

"(c) Notwithstanding section 5544(a), 5546(a), or 5550(1) of this title, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of such employee's basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

"(d) Notwithstanding section 5546(b) of this title, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee's basic pay, plus premium pay at a rate equal to such basic pay rate, for such work which is not in excess of the basic work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirement for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of this title, as applicable, or the provisions of section 7 of the Fair Labor Standards Act (29 U.S.C. 207) whichever provisions are more beneficial to the employee.

"§ 6129. Administration of leave and retirement provisions

"For purposes of administering sections 6303(a), 6304, 6307 (a) and (c), 6323, 6326, and 8339(m) of this title, in the case of an employee who is in any program under this subchapter, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

"§ 6130. Application of programs in the case of collective bargaining agreements

"(a)(1) In the case of employees in a unit represented by an exclusive representative, any flexible or compressed work schedule, and the establishment and termination of any such schedule, shall be subject to the provisions of this subchapter and the terms of a collective bargaining agreement between the agency and the exclusive representative.

"(2) Employees within a unit represented by an exclusive representative shall not be included within any program under this subchapter except to the extent expressly provided under a collective bargaining agreement between the agency and the exclusive representative.

"(b) An agency may not participate in a flexible or compressed schedule program under a collective bargaining agreement which contains premium pay provisions which are inconsistent with the provisions of section 6123 or 6128 of this title, as applicable.".

"§ 6131. Criteria and review

"(a) Notwithstanding the preceding provisions of this subchapter or any collective bargaining agreement and subject to subsection (c) of this section, if the head of an agency finds that a particular flexible or compressed schedule under this subchapter has had or would have an adverse agency impact, the agency shall promptly determine not to—

"(1) establish such schedule; or

"(2) continue such schedule, if the schedule has already been established.

"(b) For purposes of this section, 'adverse agency impact' means—

"(1) a reduction of the productivity of the agency;

"(2) a diminished level of services furnished to the public by the agency; or

"(3) an increase in the cost of agency operations (other than a reasonable administrative cost relating to the process of establishing a flexible or compressed schedule.

"(c)(1) This subsection shall apply in the case of any schedule covering employees in a unit represented by an exclusive representative.

"(2)(A) If an agency and an exclusive representative reach an impasse in collective bargaining with respect to an agency determination under subsection (a)(1) not to establish a flexible or compressed schedule, the impasse shall be presented to the Federal Service Impasses Panel (hereinafter in this section referred to as the 'Panel').

"(B) The Panel shall promptly consider any case presented under subparagraph (A), and shall take final action in favor of the agency's determination if the finding on which it is based is supported by evidence that the schedule is likely to cause an adverse agency impact.

"(3)(A) If an agency and an exclusive representative have entered into a collective bargaining agreement providing for use of a flexible or compressed schedule under this subchapter and the head of the agency determines under subsection (a)(2) to terminate a flexible or compressed schedule, the agency may reopen the agreement to seek termination of the schedule involved.

"(B) If the agency and exclusive representative reach an impasse in collective bargaining with respect to terminating such schedule, the impasse shall be presented to the Panel.

"(C) The Panel shall promptly consider any case presented under subparagraph (B), and shall rule on such impasse not later than 60 days after the date the Panel is presented the impasse. The Panel shall take final action in favor of the agency's determination to terminate a schedule if the finding on which the determination is based is supported by evidence that the schedule has caused an adverse agency impact.

"(D) Any such schedule may not be terminated until—

"(i) the agreement covering such schedule is renegotiated or expires or terminates pursuant to the terms of the agreement; or

"(ii) the date of the Panel's final decision, if an impasse arose in the reopening of the agreement under subparagraph (A) of this paragraph.

"(d) This section shall not apply with respect to flexible schedules that may be established without regard to the authority provided under this subchapter.".

"§ 6132. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with—

"(1) such employee's rights under sections 6122 through 6126 of this title to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

"(2) such employee's right under section 6127(b)(1) of this title to vote whether or not to be included within a compressed schedule program or such employee's right to request an agency determination under section 6127(b)(2) of this title.

"(b) For the purpose of subsection (a), the term 'intimidate, threaten, or coerce' includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6133. Regulations; technical assistance; program review

"(a) The Office of Personnel Management shall prescribe regulations necessary for the administration of the programs established under this subchapter.

"(b)(1) The Office shall provide educational material, and technical aids and assistance, for use by an agency in connection with establishing and maintaining programs under this subchapter.

"(2) In order to provide the most effective materials, aids, and assistance under paragraph (1), the Office shall conduct periodic reviews of programs established by agencies under this subchapter particularly insofar as such programs may affect—

"(A) the efficiency of Government operations;

"(B) mass transit facilities and traffic;

"(C) levels of energy consumption;

"(D) service to the public;

"(E) increased opportunities for full-time and part-time employment; and

"(F) employees' job satisfaction and nonworklife.

"(c) With respect to employees in the Library of Congress, the authority granted to the Office of Personnel Management under this subchapter shall be exercised by the Librarian of Congress.".

(b) The table of sections at the beginning of such chapter is amended—

(1) by inserting before the item relating to section 6101 the following:

"SUBCHAPTER I—GENERAL PROVISIONS";

and

(2) by adding at the end thereof the following:

"SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

"Sec.
"6120. Purpose.
"6121. Definitions.
"6122. Flexible schedules; agencies authorized to use.
"6123. Flexible schedules; computation of premium pay.
"6124. Flexible schedules; holidays.
"6125. Flexible schedules; time-recording devices.
"6126. Flexible schedules; credit hours; accumulation and compensation.
"6127. Compressed schedules; agencies authorized to use.
"6128. Compressed schedules; computation of premium pay.
"6129. Administration of leave and retirement provisions.
"6130. Application of programs in the case of collective bargaining agreements.
"6131. Criteria and review.
"6132. Prohibition of coercion.
"6133. Regulations; technical assistance; program review.".

SEC. 3. Section 3401(2) of title 5, United States Code, is amended by inserting "(or 32 to 64 hours during a biweekly pay period in the case of a flexible or compressed work schedule under subchapter II of chapter 61 of this title)" after "week".

SEC. 4. (a) Except as provided in subsection (b), each flexible or compressed work schedule established by any agency under the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (5 U.S.C. 6101 note) in existence on the date of enactment of this Act shall be continued by the agency concerned.

(b)(1) During the 90-day period after the date of the enactment of this Act, any flexible or compressed work schedule referred to in subsection (a) may be reviewed by the agency concerned. If, in reviewing the schedule, the agency determines in writing that—

(A) the schedule has reduced the productivity of the agency or the level of services to the public, or has increased the cost of the agency operations, and

(B) termination of the schedule will not result in an increase in the cost of the agency operations (other than a reasonable administrative cost relating to the process of terminating a schedule),

the agency shall, notwithstanding any provision of a negotiated agreement, immediately terminate such schedule and such termination shall not be subject to negotiation or to administrative review (except as the President may provide) or to judicial review.

(2) If a schedule established pursuant to a negotiated agreement is terminated under paragraph (1), either the agency or the exclusive representative concerned may, by written notice to the other party within 90 days after the date of such termination, initiate collective bargaining pertaining to the establishment of another flexible or compressed work schedule under subchapter II of chapter 61 of title 5, United States Code, which would be effective for the unexpired portion of the term of the negotiated agreement.

SEC. 5. The amendments made by this Act shall not be in effect after three years after the date of the enactment of this Act.

SEC. 6. (a) Section 6106 of title 5, United States Code, is amended by striking out the period and inserting in lieu thereof a comma

and "except that the Bureau of Engraving and Printing may use such recording clocks.".

(b) The amendment made by this section shall take effect October 1, 1982. Section 5 of this Act shall not apply to the amendment made by this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from New York (Ms. FERRARO) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, In 1978, the Congress authorized Public Law 95-390 a 3-year experiment for Federal agencies on the use of alternatives to the traditional fixed-schedule 8-hour day. Since then, more than 350,000 Federal employees in 1,500 organizations have taken part in this successful experiment. The legislation we are considering, S. 2240, would permit, but nor require, Federal agencies to continue this program which the Office of Personnel Management found to be "successful in most situations from the perspective of experimenting organizations and individuals."

This Federal experience closely parallels the private sector experience. There is a substantial body of literature concerning the use of alternative work schedules in the private sector. Over 10 million full-time workers in thousands of different firms enjoy flexible schedules and compressed work weeks. These variations from the standard, fixed schedule 8-hour workday evolved as a means of coping with social change, particularly the dramatic increase of women in the work force, and the desire of all employees for a better accommodation between their working and personal lives. Employers found that they benefited from higher usage of buildings and equipment, decreased traffic congestion, and improved attendance, punctuality and morale. Employees felt they had more control over their working lives.

Flexible schedules have also helped reduce the conflicts between work and personal needs, particularly for working women and others with household responsibilities.

Because most Members are familiar with this issue, I will only summarize the background. The act required the Office of Personnel Management (OPM) to submit an interim report on the results of the experiment and legislative recommendations no later than September 30, 1981, so that Congress would have sufficient time to consider permanent legislation in an orderly fashion. I had planned to hold hearings last October. We did not receive the report from OPM until November 9, and as a result, our hearings had to be postponed. The report, as I have already said, found the experiment successful, but it did not contain the mandated legislative proposal.

When the administration failed to submit legislative recommendations, and only 8 weeks remained prior to the expiration of the original experiment, I introduced legislation in January. That legislation would have permanently authorized the same program which had been found to be successful.

On March 2 this house voted 255-142 in favor of H.R. 5366, the legislation which I introduced to permanently authorize the program. Unfortunately, the administration's opposition resulted in an insufficient vote to suspend the rules and pass the legislation. Because the entire program was about to terminate at the end of March, Congress approved an emergency extension which is currently in place, but will expire beginning July 24.

Despite a lack of facts to support their position, the administration has consistently contended that more management control over use of AWS is necessary. The administration working with my subcommittee and the appropriate committee in the other body developed legislation which was acceptable to them. That legislation, as initially introduced in the other body, would have altered the delicate balance between management rights and employee participation which have contributed to the success of the program. I believe that the bill which I introduced in January, which is identical to the current program, is a better piece of legislation. However, facing the reality of the fact that we could not pass legislation over administration opposition, last month I introduced legislation which contains the administration supported provisions, but with some modifications.

The administration supported bill which had been introduced in the Senate, S. 2240, was amended on June 30 to incorporate the provisions of my legislation. The amended bill, which is almost identical to my legislation, then passed the Senate by a vote of 93-2. That is the legislation which we have before us today.

I would like to briefly discuss the changes in this bill from the current program.

Section 4 of this legislation provides that flexible or compressed work schedules which are currently in existence and were established under the Federal Employee Flexible and Compressed Work Schedule Act of 1978 shall be continued by the agency concerned. The only exception to this continuation, if the program is contained in a contract provision, can occur during the 90-day period after the date of enactment of this act. During this period the agency may terminate the program, if it determines in writing that the current schedule has: First, reduced the productivity of the agency or level of services to the public or increased the cost of the agency's operations; and second, the termination will not result in an increased cost of agency operation.

Termination was an item which the administration insisted be in this legislation before it would support reauthorization. I believe that the legislation which is currently in existence and which closely parallels the bill which I introduced last January provides adequate authority for the cancellation of any program which is not in the best interest of the Government. But in order to insure that legislation was enacted, I included this provision in the bill which I introduced on June 15 and the bill we are considering today. There are several issues related to this section which I would like to explain.

Because of administration insistence, the decision to terminate is not negotiable or reviewable. If such termination occurs, however, the agency or the exclusive representation of the employees covered may, if written notice has been given to the other party within 90 days after the date of the termination, initiate collective bargaining pertaining to the establishment of a different alternative work schedule.

This requirement to negotiate applies to those agencies where there are agreements containing a provision for alternative work schedules or separate agreements for alternative work schedules in existence on the date of enactment of this bill. These negotiations for a new alternative work schedule shall be governed by existing law and the provisions of sections 6130 and 6131 of this bill.

In addition, I attempted to meet the concerns of several of the industrial unions which feared the imposition of alternative work schedules against the wishes of the employees by including a 3-year time limitation on the authorization.

In section 6131(b), the definition of "adverse agency impact," "(3) an increase in the cost of agency operations other than a reasonable administrative expense relating to the process of establishing a flexible or compressed schedule," is intended to prohibit a determination of an adverse agency impact based on cost if there is no increase other than a reasonable administrative cost which would be expected in the process of the establishing of a flexible or compressed work schedule.

The legislation clearly intends that the agency may not refuse to establish or continue an alternative work schedule program merely because there is a small administrative cost associated with the administration of that program.

The requirement in section 4 that an agency must determine prior to termination that such termination will not result in an increase in the cost of agency operations is intended in a similar manner.

The reasonable administrative costs related to the process of terminating a program are not intended to be considered as prohibiting termination of the schedule under section 4 of this legislation. I included this section because in a survey which I requested, GAO found that the cost to the Government of terminating the AWS programs in just 44 units employing 44,000 workers would be more than $1.4 million annually.

In section 6131, paragraph (2) of subsection (c) provides that an impasse resulting from an agency determination to not establish an alternative work schedule be presented to the Federal Service Impasses Panel. The agency will bear the burden in showing that such a schedule is likely to have an adverse agency impact. If the agency's presentation does not convince the Panel that the imposition of the particular alternative work schedule at issue would likely cause an adverse agency impact, the Panel will direct the parties to return to the bargaining table and to continue negotiations on an alternative work schedule. The only determination to be made by the Panel under section 6131 would be the specific issue of whether or not the agency has shown that the alternative work schedule over which impasse has been reached would result in an adverse agency impact.

I must say that I am particularly concerned about adding to the burden of the Federal Service Impasses Panel. At the end of this statement I will be putting into the RECORD a letter which I received from the Chairman of the Panel, Robert G. Howlett. Chairman Howlett points out that within the Federal Labor Relations Authority the Panel has worldwide jurisdiction over all negotiation impasses arising under title VII of the Civil Service Reform Act. In order to carry out this mandate, the Panel has only a small staff, currently only four full-time and one part-time professional employees. The Panel has an increasing caseload and has suffered serious decreases in resources. We must be certain Congress and the administration support adequate staffing for the Impasses Panel because we are adding to the already overburdened employees.

While this is not the bill which I or anyone who was involved in the issue would have had as our first choice, I believe that in view of the administration's opposition to the continuation of the current program, and their support of this bill, it is the most reasonable and responsible legislation which we can enact at this time. I urge my colleagues to join me in support of this legislation.

The letter from Mr. Robert G. Howlett follows:

FEDERAL SERVICE IMPASSES PANEL,
Washington, D.C., June 11, 1982.

Hon. GERALDINE A. FERRARO,
Chairwoman, Human Resources Subcommittee, Post Office and Civil Service Committee, House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR CHAIRWOMAN FERRARO: As Chairman of the Federal Service Impasses Panel, I am writing with regard to legislation which provides permanent authorization for Federal agencies to use alternative work schedules (AWS). I have been informed that you intend to introduce legislation similar to that pending in the Senate (S. 2240). The purpose of this letter is to let you know the probable impact of this legislation on the Panel.

As an entity within the Federal Labor Relations Authority, the Panel has worldwide jurisdiction over all negotiation impasses arising under Title VII of the Civil Service Reform Act. In resolving these impasses, the Panel, currently composed of five Presidential appointees who work on a part-time basis, is assisted by a small staff located in Washington, D.C. At present, the Panel employs only four full-time and one part-time professional staff members. Because of our rapidly rising caseload (we experienced a 55 percent increase in case-filings in FY 1981 and are experiencing a further increase this fiscal year) and our loss of three full-time professional staff positions during the past year, the staff is currently over-burdened in processing cases. For example, during the first seven months of FY 1982, it took the Panel an average of 140 days from our receipt of a request for assistance to issue a *Decision and Order* (based on the parties' written submissions) resolving the dispute, a 33 percent increase over our case-processing time during FY 1981.

I support the concept of the proposed statute. The Panel is well qualified to resolve AWS impasses. However, our present staff is so small that I am concerned whether we can be effective unless we are afforded additional professional and secretarial assistance. I hope that the Congress will provide the Panel with the necessary resources if the legislation is enacted.

Thank you for your consideration. If you need additional information, please contact me at the Panel's office.

Sincerely,

ROBERT G. HOWLETT,
Chairman.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as one of the original supporters of a test program which authorized Federal agencies to experiment with flexible and compressed work schedules, I am happy to endorse this bill. In extending the use of these schedules for 3 more years, the legislation gives Federal managers broad discretion to prevent disruption of agency operations or additional costs.

Based on the record of the past 3 years, the use of compressed or flexible work schedules has increased productivity, provided more service to the public and enhanced employee morale. It has become a valuable part of the Federal personnel system. The bill before us has the endorsement of the Office of Personnel Management and is supported by nearly all Federal employee organizations concerned with the issue.

Last March, Congress approved a 4-month extension of the experimental program to permit additional time in drafting permanent legislation. The legislation before us must be passed before the end of the month, if the program is to continue.

Under provisions of the bill, a program may be terminated if it is not in the best interest of the public, the Government, or the employee. An individual worker may request an agency to exclude him or her from a compressed time schedule on grounds of personal hardship.

During the last 3 years, more than 325,000 Federal employees in 1,500 organizations took part in the experimental alternate work schedule program. The interim report of the Office of Personnel Management indicated that 90 percent of the employees and the great majority of supervisors participating in the experiment wished to continue flexible work schedules. In view of the positive results of the program, it deserves to be extended. It is a personnel innovation which has demonstrated its worth.

I urge your support for a program that will continue to improve productivity and service to the public.

Mr. Speaker, I share the comments made by the gentlewoman from New York (Ms. FERRARO). She has worked long and hard to solve some of the problems that existed earlier.

I think we have a good, sound bill. I would like to point out that the practical feature of it is to give the executive branch some management tools. Flexitime is a management tool, and if properly utilized, it could effectively produce the kind of service that we all ask the often-maligned Federal bureaucracy to provide to the taxpayers and the citizens of this country. I think that is the positive attitude that we want to bring out.

I commend the gentlewoman from New York (Ms. FERRARO) for her persistence and patience in these legislative struggles.

Mr. Speaker, under general leave, the gentleman from Virginia (Mr. PARRIS), who we all know represents a goodly number of Federal employees, will be allowed to insert his remarks following my remarks.

Mr. Speaker, at this point I wish to insert a letter from Donald J. Devine, Director of the Office of Personnel Management, which was addressed to the Honorable WILLIAM D. FORD, chairman of the House Committee on Post Office and Civil Service, expressing support for this legislation. The letter is as follows:

OFFICE OF PERSONNEL MANAGEMENT,
Washington D.C., July 9, 1982.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that the House of Representatives is scheduled to consider S. 2240, a bill "to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules, "on July 12, 1982. This letter is to advise you of our support for this bill.

Under Public Law 95-390, the Federal Employees Flexible and Compressed Work Schedules Act of 1978, the Government has conducted a three-year experiment with the use of alternative work schedules. This experiment (which has been temporarily extended by Public law 97-160) has shown that alternative work schedules can be valuable and should be continued where appropriate, but the experiment has also shown that there is a serious need for greater management controls over the use of such schedules than was provided by Public Law 95-390.

S. 2240, as passed by the Senate, would accomplish these goals. The authority to utilize flexible and compressed schedules in the Federal Government would be continued for three more years, and the law would also provide a review mechanism whereby agency management could ensure that the use of such alternative work schedules would not adversely affect agency productivity or service to the public, or increase the cost of agency operations. The bill would also permit agency management to terminate unilaterally any existing flexible or compressed work schedules that management finds to be having such adverse effects.

We believe that S. 2240 represents a satisfactory compromise between the normal processes of labor-management relations in the Government and the need to ensure that the public interest is protected in the area of alternative work schedules. Accordingly, the Office of Personnel Management supports the enactment of S. 2240.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report on S. 2240.

Sincerely yours,
DONALD J. DEVINE, *Director.*

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, I rise in strong support of this bill.

I have taken the floor on two previous occasions to indicate my concerns about the previous flexitime provision. At that time I sometimes wondered whether I should have taken the floor because of the fact that I do represent a good number of Federal employees in my own area, and I understand that flexitime is a management tool which can be used effectively. At the same time, however, it has been brought to my attention by other people that I know working in other departments of the Federal Government in this area that abuses had taken place in the already existing flexitime program, and they have brought it to my attention very forcefully and indicated that some changes were necessary if we were going to make the accommodations for a program that would be truly workable.

In this particular bill we see that there are provisions for both unilateral termination and general termination. I think they have specifically outlined those types of considerations that ought to be reviewed when making a decision with respect to unilateral termination and general termination, including such things as simple and as basic as whether a flexitime schedule either to continue or discontinue such a schedule would have an "adverse agency impact."

Those words translate into basically three things: a reduction of the productivity of the agency, a diminished level of the agency's services furnished to the public, or an increase in the agency's operational costs. Those are concerns that I think any organization, be it in Government or out of Government, ought to have at the forefront if they are going to provide a service to the intended beneficiaries, in this case the taxpayers of the United States.

So I think we have achieved a reasonable compromise, such that management will have an opportunity to utilize flexitime as a prudent management tool. It will be there as an attraction, I think, for Federal employees currently in the work force and for those who might be considering whether they are going to join the Federal work force, and at the same time there are sufficient protections, I believe, in this particular bill that insure that we will not have a recurrence of some of the abuses that were outlined in previous programs or abuses that perhaps we cannot forecast at this time but which may crop up in the future.

In essence, I think it makes good business sense to allow the flexibility to the Government, and I applaud the authors and the chairman of the subcommittee and the ranking minority member for staying with this, despite the fact that there were some complaints over the previous efforts. I think in the long run it will be beneficial both to the Federal workers and to the taxpayers.

Mr. Speaker, I thank the gentleman from Illinois (Mr. DERWINSKI) for yielding me this time.

Mr. DERWINSKI. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. GILMAN), who is one of the very effective and productive members of the Committee on Post Office and Civil Service.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Illinois (Mr. DERWINSKI).

Mr. Speaker, I want to commend the subcommittee chairman for bringing this measure to the floor at this time, and I rise in support of the motion to suspend the rules and pass S. 2240, the Federal Employees Flexible and Compressed Work Schedules Act of 1982. The Senate, on June 30, 1982, passed this measure by a vote of 92 to 3, and the administration, in letters to the House leadership, has indicated that it supports passage of S. 2240.

As a long-time supporter of the alternative work schedules (AWS) program, and as a member of the Subcommittee on Human Resources, which has jurisdiction over this issue, I have come to recognize that this program significantly boosts employee morale and contributes to increasing Government efficiency. Indeed, a study by the Office of Personnel Management found that a vast majority of participating supervisors and employees strongly endorse this program.

As my colleagues recall, the House in March failed to pass under suspension a permanent authorization of the experimental and temporary AWS program enacted in 1978. Later that month, Congress passed a temporary extension of the AWS program which expires at the end of this month. Thus, if the AWS program is to continue, it is imperative that the House pass S. 2240.

While provisions of this measure differ from those contained in the original legislation enacted in 1978 and from those in the AWS bill reported from our subcommittee earlier this year, I believe that S. 2240 provides us with the essential compromise we need at this late hour if the AWS program is to continue uninterrupted.

Accordingly, because the AWS program has proved to be an effective morale builder for our Federal employees, and because the program has demonstrated that it is cost effective, I urge my colleagues to suspend the rules, and pass S. 2240.

Ms. FERRARO. Mr. Speaker, I yield 8 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I thank the gentlewoman from New York (Ms. FERRARO) for yielding this time to me.

Mr. Speaker, I rise in support of this legislation, but I also rise to point out a problem that I think the Members of the Congress should be made well aware of. One of the functions I perform as part of my job is to go out and make unannounced visits to Federal agencies. I walk unannounced into an

agency, selected at random, and visit with the employees and supervisors regarding their work.

A number of the agencies which I have visited operate with flexitime schedules. As I said, I support flexitime schedules for Federal employees. I think certainly it is beneficial for the employees and the Government and I believe we ought to work in every way we can to receive maximum productivity while providing employees a pleasant work environment and allowing them to take best advantage of their free time.

However, in all my visits I have only found one agency that was operating under flexitime schedules where accurate records were being kept. In this agency I believe accountability was provided because of a simple sign-in, sign-out accounting procedure called seriatim timesheets.

My point in rising to support this legislation is that we as Members of Congress must demand adequate recordkeeping and accountability from those agencies that operate under flexitime schedules. I am pleased to say that the administration recently joined me in my efforts to bring better accountability to flexitime schedules with the announcement by the Office of Personnel Management Director Donald Devine that his agency will be investigating the use of seriatim timesheets for employees working under flexitime schedules.

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Under seriatim timesheets each employee records his or her time of arrival and departure in order, one right after the other. This seriatim procedure is a simple method of assuring greater accountability for those employees that work under flexitime schedules.

I greatly appreciate the cooperation and interest the committee has shown in this regard. Congresswoman Ferraro has been helpful in bringing this time accounting method to the attention of the General Accounting Office. While there may be some difficulties with legislating this single accounting procedure for all Federal employees I am pleased that the GAO recognizes that this procedure does provide benefits for a number of offices that operate under flexitime schedules.

I support flexitime schedules and urge the passage of this legislation. I look forward to developments by the Office of Personnel Management and GAO for the use of seriatim time accounting sheets to help bring greater accountability to this beneficial program.

Ms. FERRARO. Will the gentleman yield?

Mr. BEDELL. I yield to the gentlewoman from New York.

Ms. FERRARO. I thank the gentleman for his comments and also for bringing this issue to the attention of the committee.

We will have in the report language a statement on accountability because the gentleman did raise this issue before. The statement is:

Because employees working flexible schedules will arrive and depart at varying times the committee believes it is important that a system exists for providing accountability for hours worked to ensure the credibility of the program from the perspective of the employees, management, and the public. One such system, for example, could be a sequential sign-in, sign-out sheet.

We did contact the General Accounting Office in order to find out whether or not there was a set way that we should determine how people should sign in or sign out and whether this could be used on a Government-wide agency basis.

We received a letter dated May 24, which I would ask unanimous consent also be included in the RECORD at this point.

In that letter we asked four questions with reference to the particular matter the gentleman brought up. One was:

Do you foresee any problems with legislating a Government-wide seriatim time-accounting requirement for all offices using flexible schedules?

The answer was:

We would prefer that the agencies have the latitude to select the best method that suits their particular circumstances.

Question 2:

Would exceptions to the requirement be necessary?

The answer was:

Exceptions would undoubtedly be necessary if seriatim time accounting were legislated. For example, there are numerous situations where employees such as auditors, farm agents, forest rangers, and law enforcement officials work at remote or offsite locations. Other problems arise when employees are at training sessions, on travel status, or at meetings. Employees under these circumstances do not have direct supervision or a facility to sign in and sign out.

Finally:

Does the General Accounting Office feel that legislative or administrative requirements would be more appropriate in this area?

They felt:

Administratively imposed time accounting requirements would be more appropriate than legislative imposed requirements because administrative controls are more amenable to change and can be adapted to meet the individual needs of all agencies.

I think with the language as set forth and with the legislative history of this bill and the discussion we have had, we have certainly put the agencies on notice that we expect good management with reference to this.

The letter referred to follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., May 24, 1982.

Hon. GERALDINE A. FERRARO,
Chairwoman, Subcommittee on Human Resources, Committee on Post Office and Civil Service, House of Representatives.

DEAR MADAM CHAIRWOMAN: As you requested in your letter of April 23, 1982, we have studied the four questions on the legislative proposal to incorporate a requirement in the Federal Employees Flexible and Compressed Work Schedules Act of 1982 (H.R. 5366) that seriatim time accounting be required in all Government offices using flexible work schedules. The specific questions raised and our responses follow.

Question 1. Do you foresee any problems with legislating a Government-wide seriatim time accounting requirement for all offices using flexible schedules?

H.R. 5366 amended title 5 of the United States Code to allow agencies to implement several different flexible and compressed work schedules. Based on our experience in writing "Title 6: Pay, Leave, and Allowances" of the "General Accounting Office Policy and Procedures Manual For Guidance of Federal Agencies" and in reviewing and auditing the designs of agency payroll systems, we do not believe it practical for any one standard form of time accounting to be legislated for all offices using flexible work schedules. There are several time accounting techniques that, if properly administered, would achieve the same result. Based on the particular circumstances, any one of these may be the most efficient and effective. A sign in/sign out sheet by time of arrival and departure (seriatim time accounting) is one way, time clocks are another way, and use of the standard time and attendance procedures (with proper supervisory controls) is a third way. Use of a minicomputer, with plastic employee identification cards and a turnstile (similar to the metro fare card system), is now being considered by some agencies. Use of these techniques is recommended for employees on flexible work schedules. For others on a more restrictive form of alternate work schedule, in small offices, or in widely dispersed offices with a few employees in each office, and conventional time and attendance recording by a timekeeper would be appropriate. Based on the particular circumstances of an office, all of the above methods have advantages. We would prefer that the agencies have the latitude to select the best method that suits their particular circumstances. In audits and reviews of payroll systems, auditors should evaluate the time accounting procedures selected to assure proper usage.

Title 6 requires that agencies must establish time accounting requirements under which timekeepers and supervisors assure themselves that all employees, regardless of their work schedule, are present for duty the required number of hours. To effectively carry out any time accounting system, supervisors must provide direct supervision to assure that all employees are on the job when they are supposed to be and are being effectively used. Supervisors are the key; they must properly do their job and assure that the selected time accounting system works effectively. In those situations where supervisors and employees do not work identical hours, additional supervisory controls should be implemented. For example, to insure coverage throughout the day, the supervisor might be responsible for assuring that employees arrive on time while another

monitors departures. The key point is that even under seriatim time accounting procedures, some supervisory control must be exercised. When appropriate, supervisors should also monitor the amount and quality of work performed to assure adequate productivity.

Question 2. Would exceptions to the requirement be necessary?

Exceptions would undoubtedly be necessary if seriatim time accounting were legislated. For example, there are numerous situations where employees such as auditors, farm agents, forest rangers, and law enforcement officials work at remote or offsite locations. Other problems arise when employees are at training sessions, on travel status, or at meetings. Employees under these circumstances do not have direct supervision or a facility to sign in and out. Their timekeepers are located at another location, and effective seriatim time accounting could not be maintained in auch instances. In those locations where time clocks are used, a duplication of effort would result if an exception was not granted. We believe that the use of time clocks would be equivalent to a seriatim time accounting form. There would, therefore, be no need to change their procedures. Finally, in cases where unions are involved, seriatim time accounting might be contrary to current union agreements.

Question 3. What degree of administrative effort would be necessary to implement such a requirement?

There is a high degree of administrative effort connected with most time accounting and reporting methods, including the one proposed. The proposed method would require more administrative effort than some other methods, such as the traditional time and attendance form, but may in some circumstances be the most efficient and effective method. Timekeepers and supervisors would be required under most systems to oversee and administer the seriatim time accounting procedures. They would also have to continue to maintain the regular time and attendance reports that record hours worked and leave taken, job orders charged, and other cost accounting information that serves as input to the payroll and accounting systems.

We do not believe that the amount of administrative effort required should be the only factor affecting the selection of a time accounting system. The important thing is whether or not the system will result in the Government receiving the best efforts of its employees. Consequently, we believe emphasis should be placed on agencies using effective supervisory controls and choosing whatever method provides the necessary administrative controls without creating undue cost in terms of excessive administrative procedures and recordkeeping.

Question 4. Does the General Accounting Office feel that legislative or administrative requirements would be more appropriate in this area?

In our view, administratively imposed time accounting requirements would be more appropriate than legislatively imposed requirements because administrative controls are more amenable to change and can be adapted to meet the individual needs of all agencies. We suggest that the legislation permitting flexible work schedules state that agencies must follow the requirements of "Title 6: Pay, Leave, and Allowances" of the "General Accounting Office Policy and Procedures Manual For Guidance of Federal Agencies." This is the vehicle presently in existence to set forth requirements regarding pay-related matters, including time accounting and reporting. Upon passage of legislation permitting flexible work schedules, we are prepared to incorporate in title 6 guidelines which must be followed by agencies. The guidelines would, in all likelihood, permit a range of techniques so long as the basic requirement of time accounting is met. Auditors could then check to ensure that these requirements are being met through system design evaluations and audits.

If you have any additional questions relating to any of the above areas, please contact us.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

Mr. BEDELL. I thank the chairman for the additional comments. I think we all want the same thing. I think all any of us want is adequate accountability.

I have no objection to providing the accountability that this Congress needs through administrative action. However, I believe the universal adoption of seriatim time sheets could be adopted very simply by the Federal Government if an exemption was provided for the offices where the employees do not normally work at their work stations on a regular schedule.

But I hope my colleagues realize that the lack of accountability that I observed during my unannounced visits were in offices that had employees that work at their work station on a regular basis. In these situations we should demand no less than a time recording system that provides accountability, and I believe the seriatim form of time sheets provides that accountability.

I support the Congresswoman in the passage of this legislation and am willing to work with the administration in providing adequate time accounting for employees under flexitime schedules. However, if we find that adequate time accounting is not adopted I would hope that the Congresswoman's committee would give serious consideration to taking action to provide accountability.

Ms. FERRARO. I thank the gentleman for his remarks.

● Mrs. SCHROEDER. Mr. Speaker, I rise in strong support of S. 2240, the Federal Employees Flexible and Compressed Work Schedules Act. This legislation continues for another 3 years the use of alternative work schedules (AWS) in the Federal Government.

I want to commend the gentlewoman from New York (Ms. FERRARO) for her tireless and effective work to bring this legislation back to the floor. Back in March, this legislation got caught in the crossfire between the Federal employee unions and the Reagan administration. A 3-month extension was passed to provide time to work out the differences. During these past 3 months, Chairwoman FERRARO has been able to craft a compromise between the warring factions. And, today, she brings to the House a bill which has virtually universal support among those affected by the legislation.

The Office of Personnel Management (OPM) supports the legislation. Every major Federal employee union supports the legislation. Major organizations responsive to the interests of women in the work force support the legislation. Federal managers, Federal employees, clients of Federal agencies, and State and local officials support the legislation.

Alternative work schedules draw such broad support because they address the needs of many segments of society. Federal workers are permitted to establish work schedules which meet their needs better. Mothers can find time to take care of their children. Commuters can reduce their drive time.

Federal managers are able to reschedule their operations to serve customers more hours each day. Through the use of compressed works schedules, many Federal agencies are now open to the public 10 hours a day, instead of 8. Productivity has increased as a result of flexitime and morale has surged as well.

State and local officials like alternative work schedules because they reduce congestion on highways and mass transit systems. Less congestion, and less commuting due to compressed work schedules, mean less pollution.

Since 1978, the Federal alternative work scheules program has been an experiment. One of the target areas for experimentation has been Denver. My constituents have been delighted with the success of the program. Federal agencies in Denver serve the public better and longer. Highway congestion has been reduced. Federal managers, Federal workers, State and city officials, and consumers of Federal services have all been delighted with the program and have been wanting to know why Congress has not yet extended it.

Today is our opportunity to move the program from an experimental basis to a fully operational basis. I would prefer the legislation to establish a permanent authorization, instead of 3 years, as is provided in this bill. Still, it is better to keep the program going than to let it die.

I chaired the subcommittee which drafted the original flexitime legislation in 1978. I have been surprised by the intensity of support which exists for this program. I am sure most every Member has received calls of constitutent support for alternative work schedules. This program was an experiment in worker participation in the workplace. Rather than having management set arbitrarily all aspects of

employment, the flexitime program was supposed to allow workers to be involved in establishing their work schedules. That is why the original legislation and the bill before us today provides strong opportunities for employee involvement through their unions. I hope that the administration takes to heart the congressional intent that alternative work schedules should be developed by and with the workers affected.

I urge support of the legislation.●

● Mr. PARRIS. Mr. Speaker, I rise in support of S. 2240, the Federal Employees Flexible and Compressed Work Schedules Act. Flexitime has proven to be a very successful program that does not require any additional appropriations and will improve the overall morale of the Federal work force.

We have before us legislation that is supported by the administration, Federal workers, and the unions which represent them. After considerable debate in the Senate, this same measure was approved by a 93-to-2 margin.

In 1978, a 3-year program was instituted authorizing Federal agencies to experiment with flexible and compressed work schedules. The Office of Personnel Management concluded in an interim report last fall that these alternative work schedules can produce improvements in productivity, greater service to the public and savings in costs. This bill which we are considering today would make flexitime a permanent program. This legislation would make the program a little different from the orginial trial program because of some compromises that had to be made between the administration, the Senate, the House, and some of the Federal employee unions. S. 2240 still contains all the elements that are necessary to provide the same benefits for the Federal workers.

As I have stated to this body in the past, we are not doing something really new and unique in the field of personnel management; but I would like to remind you that there are 10 million full-time workers in the private sector who enjoy flexible work schedules. These variations in fixed time have evolved as a means of coping with social change, particularly the dramatic increase of women in the work force. This is one of the most important aspects of this legislation.

In the past year, I have met with a number of Federal workers and the supervisors who report that flexible work schedules have worked well and should be continued. The adoption and implementation of flexible hour scheduling has enabled employees to gain some control over their hours of work. By adjusting their work hours they can meet their personal needs and preferences and still maintain their commitment to their job.

There is nothing complex about this program; the concept is quite simple. Flexible hours are those hours that proceed and follow the set hours and the time in which employees can choose their own times of arrival and departure. Flexitime may not be used by an employee to reduce hours of work, nor can it be used by an employee to relieve another employee from fulfilling a basic workweek requirement. Flexitime merely enables individuals to adjust their schedules so they can take care of personal matters like child care responsibilities or make contributions to the community by engaging in activities such as Scouting or youth sports teams. In addition, there are many elderly and handicapped people who also benefit from flexitime because they can travel to work more easily outside the hours of peak traffic.

Mr. Speaker, flexible schedules have proven to have other important aspects that benefit both employee and employer. There is very convincing evidence which indicates that this type of work scheduling has increased productivity, reduced the use of sick leave and tardiness, and has increased employee morale. In many instances, the hours of service to the public has been extended because many individuals have chosen to work earlier or later hours than the normal 9 to 5 schedule. By carefully arranging work shifts, employers can operate longer hours, resulting in increased service to the public.

By giving the supervisors this responsibility, the program has operated in a way which the employee's choice of arrival and departure does not interfere with the duties and requirements that are required of that position.

Everyone benefits from flexible work schedules. The Federal Government benefits from the program because the increased morale has led to an increase in productivity. If we want Federal workers to be effective and efficient, we must give them our support by allowing this program to continue.

The general public also benefits from this program because flexible work schedules have increased operational hours and has meant greater accessibility to services being offered by the various agencies. Another advantage of flexitime is that there has been some reduction in the number of workers who travel during peak traffic hours. This has resulted in less traffic congestion and air pollution from auto emissions of stop-and-go traffic.

Most importantly, the employees who participate in flexitime have an opportunity, to some extent, to determine the conditions and circumstances of their own employment. In light of the anxiety and instability created by the reduction-in-force process, the problems surrounding the health benefits program, and the extremely low cost-of-living increase given Federal workers, it is critical that we continue this important program.

I strongly support this program and I appeal to my colleagues to support Federal employees, their supervisors, and the general public, by voting in support of S. 2240.●

● Mr. SOLARZ. Mr. Speaker, I rise in support of S. 2240, the Federal Employees Flexible and Compressed Work Schedules Act of 1982.

I urge my colleagues to support the passage of this legislation which will avert the termination of the alternative work schedules and compressed time programs which have been in effect for Federal employees for the past 3 years. As author of the legislation which created this "flexitime" experiment, I am particularly gratified by the success of the program and particularly pleased that the Senate has seen fit to support the reauthorization of this program. I especially want to pay tribute to my able colleague, the gentlewoman from New York, Ms. FERRARO, who has provided tremendous leadership in the long and complicated effort to authorize the continuation of this highly successful program, which has improved employee moral and increased management adaptability in the Federal work force.

In truth, what other Government program has involved more than 325,000 people, been rated a success by more than 90 percent of the participants and 85 percent of the supervisors involved, and cost the Government no money? What other opportunity will we have to contribute so directly to the fostering of the good family relationships that we all believe are so important than continuing flexitime? What other chance will we have in these times of budget cuts, RIF's, and reduced pay raises to shore up the sagging morale of the people we depend on to make our Government work efficiently and humanely?

The Office of Personnel Management and Members of Congress are properly concerned with insuring that flexitime does not decrease Government efficiency or interfere with an agency's mission. The legislation before us today provides adequate safeguards against such problems limiting the use, and the benefits, of flexitime.

This legislation provides that flexitime can be used in any situation in which flexitime will provide benefits to Federal employees and their families, so long as Government costs do not increase, and agency productivity, efficiency, and service to the public do not decrease.

The legislation also provides a means for agencies and employees to work together in initiating, implementing, and even terminating flexi-

time programs. This good faith negotiating and abiding by agreements are essential to the creation and maintenance of the cooperative atmosphere needed to make flexitime beneficial for both Government agencies and employees.

Flexitime is a proven success in private industry and in the Federal Government. This legislation will authorize its continued use in the Federal Government and will not introduce anything new and untried. It will not cost the taxpayers any money. It will merely prevent the demise of a program which provides benefits to Government employees and their families, to the Federal Government and to the public. This legislation deserves our wholehearted support.

May the vote in the House today affirm this body's strong interest and respect for the quality and high caliber of our Federal employees who keep this Government operating and give these fine people the opportunity to work under flexible and compressed work schedules.●

● Mr. HOYER. Mr. Speaker, in 1978 Congress authorized Federal agencies to establish a 3-year experimental program of allowing Federal employees to make use of flexible and compressed workweek schedules. That program has by and large been very profitable for taxpayers, Government agencies, and the employees.

When the adjusted work schedule programs expired this past March 29, both the House and the Senate attempted to give this program a permanent authorization. At that time, there was some disagreement remaining between the Congress and the administration on a few particular provisions of the legislation. Those differences have since been resolved and the 3-year authorization we have before us today is the result of a bipartisan agreement that this program is a worthwhile and productive personnel policy.

I have been very supportive of my chairwoman's efforts to reach a compromise on this bill. While this bill does not require agencies to use flexible and compressed workweeks, I am confident that those agencies that have used the AWS program to their and their employees' benefit will continue to do so. On the other hand, if flexitime or compressed time results in agency disruptions, substantial cost increases, or reduced services to the public, agencies may proceed to terminate the program but only after consultation with employee representatives on alternative flexitime and compressed workweek schedules.

Both flexitime and the compressed workweek are widespread in the private sector. Because they have proven to be morale boosters and have helped increase productivity, the programs have been instituted in the Federal Government. Thousands of Federal employees now make use of the AWS program: a program that allows them greater freedom to care for their families; a program that makes them more accessible to public inquiries; and a program that encourages higher productivity on the job.

The AWS program is a proven cost saver. It is proven to open access to Government—especially to those citizens on the west coast who too often find Government offices in Washington closed for their inquiries. This legislation is supported by the administration, the AFL-CIO, the National Federation of Business and Professional Women's Clubs, and a host of other groups and organizations.

Mr. Speaker, I hope my colleagues will follow the lead of the Senate and give this bill the overwhelming support that was evident in the other body 2 weeks ago.●

● Mr. TRIBLE. Mr. Speaker, I wish to express my support for S. 2240, the Federal Employees Flexible and Compressed Schedules Act of 1982.

Flexitime permits working parents to adjust their work schedules in order to provide better care for their children. Flexitime boosts morale and productivity among the work force. Also, flexitime eases the traffic congestion which plagues our metropolitan areas every workday. Ten million Americans enjoy flexible work schedules, allowing them to balance their jobs with their personal needs and family responsibilities.

The Federal Government began a flexitime experiment 3 years ago, and it proved to be a tremendous success. The bill before us would extend this program on a permanent basis, and it deserves our support. This legislation permits—but does not require—Federal agencies to establish flexitime programs. Each agency will be able to tailor work schedules which best meet the needs of the public, the agency, and the employees. Under this legislation, programs which are determined not to be in the best interests of the public may be terminated, and any employee may request an exclusion from the program if it causes personal hardship.

This is a well-reasoned and balanced bill, and I urge my colleagues to give it their support.●

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. FERRARO) that the House suspend the rules and pass the Senate bill, S. 2240.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5366) was laid on the table.

GENERAL LEAVE

Ms. FERRARO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include therein extraneous material on the Senate bill, S. 2240, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

THE 15TH ANNUAL REPORT OF UNITED STATES-JAPAN COOPERATIVE MEDICAL SCIENCE PROGRAM, CALENDAR YEAR 1981—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Monday, July 12, 1982.)

THE 25TH ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM 1980-81—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompaning papers, without objection, referred to the Committee on Ways and Means:

(For message, see proceedings of the Senate of today, Monday, July 12, 1982.)

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, D.C., June 10, 1982.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following Projects on June 9, 1982:

CONSTRUCTION

Youngstown, Ohio: Federal Building and U.S. Courthouse.

ACQUISITION

Dallas, Texas: 555 Griffin Square.

REPAIR AND ALTERATION

Washington, D.C.: Liberty Loan Building, 14th and D Streets, NW.

Dallas, Texas: U.S. Postal Service Terminal Annex.

Denver, Colorado: Federal Building and U.S. Courthouse.

Lakewood, Colorado: Building 20, Denver Federal Center.

Detroit, Michigan: Federal Building and U.S. Courthouse.

Ogden, Utah: IRS Center, 1160 W. 1200 South.

Bayonne, New Jersey: Federal Records Center.

LEASES

San Francisco, California: Embarcadero Center.

Hyattsville, Maryland: Presidential Building.

San Francisco, California: Department of Health and Human Services, 100 Van Ness Avenue.

Washington, D.C.: Star Building, 1101 Pennsylvania Avenue, NW.

Atlanta, Georgia: Department of Labor.

The original and one copy of the authorizing resolutions are enclosed.

Every best wish.

Sincerely,

JAMES J. HOWARD,
Chairman.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON ENERGY AND COMMERCE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Energy and Commerce:

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
Washington, D.C., July 9, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On July 6, 1982, two of my staff were served with trial subpoenas commanding their appearance in the United District Court for the District of Columbia on Monday, July 12, 1982, or thereafter, to testify in *William P. Tavoulareas, et al.* v. *The Washington Post Co., et al.* and *Philip Piro,* Consolidated Civil Action Nos. 80-3032 and 2387.

As you know, the staff was previously served with deposition subpoenas on or about February 19, 1981 in this case, notification of which was laid before the House as required by Rule L (50). 127 *Cong. Rec.* H648-649 (daily ed. Feb. 24, 1981).

After we have made the requisite determinations under Rule L (50), I will notify you accordingly.

Sincerely,

JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations.

ALLEGATIONS OF ILLICIT DRUG TRAFFIC AMONG CONGRESSIONAL PAGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

● Mr. GONZALEZ. Mr. Speaker, while in San Antonio during the July 4 district work period, I received a mailgram from the distinguished majority leader, JIM WRIGHT.

I immediately addressed myself by way of acknowledgment to what I consider a fundamental issue, that the House must confront sooner or later. It is an issue I first raised during what I called the Abscam ouster meetings involving then-Representative Ozzie Myers and the subsequent cases. I offer for the RECORD at this point the copies of the correspondence:

MAILGRAM SERVICE CENTER,
Middletown, Va.,

Hon. HENRY B. GONZALEZ: Allegations of illicit drug traffic among Congressional pages and even more shocking allegations that some Members of Congress have abused their position to demand sexual favors from these young people make it absolutely imperative that we immediately construct an official Page Dormitory with competent and dedicated supervision around the clock. It is gross negligence that we have so long delayed implementing the authorized plan for an official John W. McCormack Page Dormitory.

Immediately upon our return in July, I shall move for swift action to complete such a dormitory. It need not be an expensive architectural monument nor a costly drag on tax resources. One appropriate nearby site exists, already government owned. An adequate and proper building could be erected within months and fully amortized by rents presently being paid by Congressional pages to private landlords.

The present situation is intolerable. It is absolutely impossible under the present circumstances to guarantee wholesome supervision or even personal safety to these fine young people whom we invite to Washington as the guests and employees of the Congress. The responsibility quite clearly is our own. Our failure to act is inexcusable. To tolerate the present sitution one hour longer than necessary would border on criminal negligence. Please join me in supporting this action long overdue and insisting upon its immediate implementation. If you agree, you may wish to call and advise my office of your support.

Nada Ruddock, 225-8040, can take your message.

Sincerely,

JIM WRIGHT,
Majority Leader.

WASHINGTON, D.C.,
July 7, 1982.

Hon. JIM WRIGHT,
Majority Leader of the House, House of Representatives, the Capitol, Washington, D.C.

DEAR JIM: I received your mailgram, and as important as it is to press on with the task of providing adequate, supervised housing for Congressional Pages, this alone will not solve the issues raised by allegations of misconduct by, or in some way, involving Pages. The most immediate need, it seems to me, is to assess the Page system, itself, and at the same time to consider the implications raised by investigative techniques that reportedly have been used by police agencies.

I, myself, have had misgivings about appointing Pages who could not reside at home here in the Washington area. I have been reluctant to allow minor aged young people, even of proven maturity, to live on their own in unsupervised situations. Certainly, a supervised dormitory would answer the housing problem. Even so, it would not guarantee that Pages would not in the future abuse their position, or be subjected to some form of abuse by their supervisors, peers or patrons. In other words, as long as Congress appoints young people to Page positions, it must either accept or deny responsibility for their misconduct or abuse of them by persons in positions of authority. The only way to eliminate the possibility of abuse would be to eliminate the Page system, itself, or substantially alter it.

PAUL SIMON has for years suggested that Pages be governed by an independent Board. This approach makes considerable sense. Pages need to have clear regulations to live by, an authority to enforce them, and (very importantly) a place to take their grievances. In this way, any Page who has been threatened, abused, misused, or subjected to any form of harassment by anyone—peer, supervisor, or anyone else—would have a place to go to make a complaint.

All sponsors make a serious effort to ensure that their appointees are responsible, that they conduct themselves responsibly, and that they are not in any way abused.

I do not think we can expect the Congress to police the Pages, nor the Pages to police ourselves. This brings me back to the first hard question—whether or not Congress should continue the Page system. If the system is continued, it certainly must be one in which supervised living arrangements are provided, and one in which Congress either clearly accepts or clearly rejects responsibility for the conduct of Pages. We must face the fact that any employee may somehow abuse his position, or be subjected to some form of improper demand, no matter what precautions are observed. That being the case, it would be well to consider whether adults should be employed to provide Page service, since adults are plainly expected to have more mature judgment.

The Page issue aside, it is a matter of immediate concern to me that one of our colleagues allowed an investigator to pose as a member of his personal staff. Honorable though the intent might be, such a tactic be abused with frightful ease, in a way that is wholly destructive of the ability of the House to function effectively. In an institution where mutual trust is an absolute essential, nothing could be more destructive than being subjected to the suspicion that any and every conversation is being reported to a police agency, which is precisely what would happen if investigators were premitted to pose as staff members. Though it might be argued that no one who has nothing to hide need fear anything, you know as well as I do that business here cannot be conducted without some assurance that confidential conversations remain confidential.

Accordingly, I would hope that despite the immediacy of the problem of housing for Pages, the fact is that it has been a problem for a long time. Solution of it ought to wait until the Page system, itself, can be reevaluated, and necessary changes made. At the same time, it would be unwise for the leadership not to recognize the threat to the House, itself, that is raised by permitting police agents to pose as staff members. That kind of tactic effectively kills meaningful political discussion in Communist societies;

it is a woeful error to think that it cannot happen here.

With best wishes.

Sincerely,

HENRY B. GONZALES,
Member of Congress.●

IN TRIBUTE TO ALDERMAN ANTHONY C. LAURINO ON 50 YEARS OF PUBLIC SERVICE TO THE PEOPLE OF CHICAGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise to pay tribute to my good friend, Alderman Anthony Carmen Laurino, of the 39th ward in the city of Chicago, who has given over 50 years of public service to the people of Chicago. The 39th ward is an integral part of the 11th Congressional District of Illinois which I have the honor to represent in the Congress.

Our city is fortunate to have such a dedicated and responsible individual as Alderman Laurino, who has been contributing to the well-being of the citizens in our community for the last half century.

Anthony Laurino, the youngest child of Italian immigrants, began his service to the city of Chicago on July 13, 1931, when he was employed as a clerk by the department of water. In March 1948, he was transferred to the city collector's office, where he became a license investigator. In 1964, Mr. Laurino became a ward committeeman of the Democratic Party for the 39th ward, and in the spring of 1965, he was elected to the office of alderman of the 39th ward. He has been reelected to both of these positions ever since, continuing in his admirable and tireless service to the people in his ward. Today, Alderman Laurino ranks second in seniority among the 50 members of the Chicago City Council.

In his unwavering dedication to high standards of excellence, Mr. Laurino has served on numerous committees in the Chicago City Council. Besides these important, influential roles, Alderman Laurino has been active in the Democratic Party for over 40 years, attending Democratic National Conventions, and every Illinois State Democratic Convention since 1936.

In addition to his official duties, Anthony Laurino has served as a member of the West Suburban Chapter of the Joint Civic Committee of Italian Americans, the Holy Name Society of St. Edwards Church, the advisory board to the Albany Park Community Day Center, the Sauganash and Edgebrook Community Associations, and as a 4th degree Knight in the Tonti Council of the Knights of Columbus. He is also committed to charitable causes, raising money for many worthwhile organizations. Because of his exemplary accomplishments and dedication to his community Alderman Laurino has been recognized by the Mayfair Lions Club, the Albany Park Community Center, the North River Commission, the Peterson Park Association, and numerous other community organizations.

Mr. Speaker, I warmly congratulate my good friend, Tony, on is 50th anniversary of public service, and extend to him my best wishes for abundant good health and many more years of service in dedication to the highest principles.●

DISABILITY INSURANCE AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 10 minutes.

● Mr. FRANK. Mr. Speaker, today I am introducing legislation which will make much needed changes in the process by which the Social Security Administration reviews cases of beneficiaries receiving social security disability insurance (SSDI).

Since Congress mandated in 1980 that all SSDI cases be reviewed every 3 years, the number of such reviews has grown dramatically. In fact, the Reagan administration decided to begin this increased review process in March 1981, well before the January 1982 startup which Congress had recommended in order to allow for planning and staffing requirements. The motivation for this decision was a clear example of budget cutting without sound thought or planning.

The results have been tragically chaotic: Nearly 50 percent of the cases reviewed have resulted in beneficiaries being dropped from the rolls. But approximately two-thirds of those who appeal their termination to an administrative law judge have had those decisions reversed, the highest reversal rate in history. Without doubt, the worst aspect of this process is that those who are reinstated lose their SSDI benefits and accompanying medicare coverage during the appeals process, which often takes up to 1 full year. For a disabled worker and his or her family entitled to these benefits, the strain of living without them is a cruel tragedy.

In addition, the standards for review are confused and often are in conflict among the various levels in the SSA administrative process. State agencies which administer the program under contract with SSA, often use standards which conflict with published SSA regulations, social security law, and Federal court decisions. Surely, this situation is indefensible.

The legislation I am introducing today would go a long way toward rectifying these problems. First, this bill provides that no disability benefits may be terminated unless SSA makes a showing that there has been a medical improvement in the beneficiary's case such that the individual is no longer disabled under the standards in effect at the time of the initial decision, or that such decision was clearly erroneous. I should point out that this would not apply to cases of fraud or to terminations based upon a finding that the individual is able to engage in substantial gainful activity.

Second, the bill requires SSA to promulgate, through the notice and comment procedures of the Administrative Procedures Act, uniform standards for disability determinations which would be applicable to all levels of decisionmaking and which would be in accordance with social security law. SSA would also be mandated to promulgate regulations governing the purchase and use of consultative examinations.

Third, the appeals process would be streamlined and, I believe, improved upon greatly. The State agency, in making a preliminary decision, would be required to notify the individual in clear language of the preliminary decision, the reasons for it and the evidence relied upon, and the rights the individual has to a personal interview with the examiner and to present additional medical evidence. If after this review, benefits are terminated, the next step would be an appeal direct to an administrative law judge, where a hearing would take place at which new evidence could be introduced by the individual. I believe the right to present new evidence at the ALJ hearing is absolutely critical if a fair and complete decision is to be made by the ALJ.

Fourth, my bill provides that benefits, including medicare and medicaid, will continue to be paid until the decision by the ALJ. However, in order to reduce frivolous appeals, taken only in order to continue benefits, any benefits paid during the appeals process would be treated as overpayments if the decision to terminate is affirmed by the ALJ. Nonetheless, the Secretary of HHS would be authorized to waive repayment of such benefits if the repayment would cause a severe financial hardship for the individual.

Last, SSA would be required to transmit quarterly reports to the Congress documenting the number of eligibility reviews conducted, the number of termination decisions made, the number of hearings requested, and the number of termination decisions overturned on appeal. Information on these subjects is, unfortunately, not complete at present.

Mr. Speaker, I would be remiss if I did not recognize the fine work of Senators LEVIN, COHEN, and SASSER, who have filed bills in the other body concerning this issue. That legislation was very helpful to me as I prepared the bill I am introducing. In addition, I

wish to commend the Aging Committee and its distinguished chairman, CLAUDE PEPPER, for its leadership in defending the rights of disability insurance recipients and to thank them for their assistance.

I hope the House will carefully consider this bill as it moves forward on legislation on the disability program over the next several weeks.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. FERRARO) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. FRANK, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GILMAN, to revise and extend his remarks in support of House Joint Resolution 494, amending the existing certification language on aid to El Salvador, before the final vote.

(The following Members (at the request of Mr. LUNGREN) and to include extraneous matter:)

Mrs. SNOWE.

Mr. COUGHLIN.

Mr. PARRIS.

Mr. BEREUTER.

Mr. MCKINNEY.

(The following Members (at the request of Ms. FERRARO) and to include extraneous matter:)

Mr. EARLY.

Mr. STARK in five instances.

Mr. DINGELL.

Mr. GARCIA.

Mr. MURTHA.

Mr. CLAY.

Mr. HAMILTON in 10 instances.

Mr. MAZZOLI.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. ROSENTHAL in 10 instances.

Mrs. BOUQUARD in five instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. PEPPER.

Mr. LANTOS in six instances.

Mrs. SCHROEDER.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1877. An act to provide for the reinstatement and validation of U.S. oil and gas lease numbered NM-12846; to the Committee on Interior and Insular Affairs.

S. 1894. An act to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1909. An act to provide for the reinstatement and validation of U.S. oil and gas lease numbered W-24153; to the Committee on Interior and Insular Affairs.

S. 1941. An act to provide for the reinstatement and validation of U.S. oil and gas leases numbered NM 25447 and NM 25452 Acq.; to the Committee on Interior and Insular Affairs.

S. 2034. An act to designate the lock and dam known as the Jones Bluff Lock and Dam, located on the Alabama River, as the "Robert F. Henry Lock and Dam"; to the Committee on Public Works and Transportation.

S. 2146. An act to extend the lease terms of Federal oil and gas leases, W66245, W66246, W66247, and W66250; to the Committee on Interior and Insular Affairs.

S. 2706. An act to amend title 28, United States Code, to modify the bar membership requirements for U.S. magistrates; to the Committee on the Judiciary.

S. Con. Res. 73. Concurrent resolution to condemn the Iranian persecution of the Bahá'í community; to the Committee on Foreign Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1230. An act to provide for the minting of commemorative coins to support the 1984 Los Angeles Olympic games.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on July 1, 1982, present to the President, for his approval, bills of the House of the following title:

H.R. 3127. An act for the relief of S. Sgt. Anne M. Fisher, U.S. Army Reserve; and

H.R. 6451. An act to amend title 10, United States Code, to revise and codify the permanent provisions of law relating to military construction and military family housing.

ADJOURNMENT

Ms. FERRARO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 41 minutes p.m.) the House adjourned until tomorrow, Tuesday, July 13, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4271. A letter from the Director, Office of Management and Budget, transmitting a cumulative report on recissions and deferrals of budget authority as of July 1, 1982, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 97-209); to the Committee on Appropriations and ordered to be printed.

4272. A letter from the Executive Associate Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Internal Revenue Service for "Salaries and Expenses, Taxpayer Service and Returns Processing, Examinations and Appeals, and Investigations and Collections," for fiscal year 1982, has been reapportioned for a supplemental estimate of appropriations, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

4273. A letter from the Acting Comptroller General of the United States, transmitting notice that previously deferred but unreported funds for certain Coast Guard operations have been made available for obligation, pursuant to title 10 of the Impoundment Control Act; to the Committee on Appropriations.

4274. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to Japan (Transmittal No. 82-67) pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4275. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense articles to Greece (Transmittal No. 82-68), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4276. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Department of the Air Force's letter of offer to Japan for defense articles from U.S. Active Forces' inventories, pursuant to section 813 of Public Law 94-106, as amended; to the Committee on Armed Services.

4277. A letter from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting notice of the proposed conversion to contractor performance of the base information transfer center function of McClellan Air Force Base, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4278. A letter from the Secretary of Housing and Urban Development, transmitting a study of the feasibility of using factory-built and other appropriate types of housing for Indians and Alaskan Natives, pursuant to Public Law 96-399; to the Committee on Banking, Finance and Urban Affairs.

4279. A letter from the Comptroller of the Currency, transmitting his annual report for the year ending March 31, 1982, pursuant to section 333 of the Revised Statutes; to the Committee on Banking, Finance and Urban Affairs.

4280. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with the Taiwan Power Co. (Taipower), Taiwan, exceeding $100,000,000, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4281. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-207, "D.C. Child Placing Authority Act Amendments Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the Distict of Columbia.

4282. A letter from the Chairman, Council of the District of Columbia transmitting D.C. Act 4-208, "Cable Television Communications Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4283. A letter from the Secretary of Health and Human Services, transmitting the annual report for fiscal year 1981 on the runaway youth program, pursuant to section 315 of Public Law 93-415, as amended; to the Committee on Education and Labor.

4284. A letter from the Secretary of Health and Human Services, transmitting the ninth report of the Director of the National Heart, Lung, and Blood Institute, pursuant to section 413(b)(2) of the Public Health Service Act; to the Committee on Energy and Commerce.

4285. A letter from the Secretary of Energy, transmitting the annual report on the operation of the State energy conservation programs for calendar year 1981, pursuant to section 365(c) of the Energy Policy and Conservation Act; to the Committee on Energy and Commerce.

4286. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the quarterly report for the period January through March 1982, on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; together with data on exploratory activity, exports, nuclear energy, and electric power, pursuant to section 11(c)(2) of the Energy Supply and Environmental Coordination Act of 1974, as amended; to the Committee on Energy and Commerce.

4287. A letter from the Secretary of State, transmitting a report on the activities and certain financial information concerning the participation of the United States in the Multinational Force and Observers, pursuant to section 6 of Public Law 97-132; to the Committee on Foreign Affairs.

4288. A letter from the Secretary of State, transmitting the 13th annual report on U.S. contributions to international organizations, pursuant to section 2 of the act of September 21, 1950; to the Committee on Foreign Affairs.

4289. A letter from the Secretary of State, transmitting a review of the exchange of letters between the United States and Czechoslovakia providing reciprocal social security payments, pursuant to section 11 of Public Law 97-127; to the Committee on Foreign Affairs.

4290. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the quarterly report on foreign military sales as of March 31, 1982, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4291. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to sell certain defense articles and services to Japan (Transmittal No. 82-67), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4292. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to sell certain articles and services to Greece (Transmittal No. 82-68), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4293. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the quarterly report on foreign military sales as of March 31, 1982, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4294. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license to export certain major defense equipment sold commercially to Mexico (Transmittal No. MC-11-82), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4295. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license to export certain major defense equipment sold commercially to Saudi Arabia (Transmittal No. MC-10-82), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4296. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a delay in submitting a report on the adequacy of measures to prevent U.S. citizens from promoting or serving international terrorism, pursuant to section 719(b) of Public Law 97-113; to the Committee on Foreign Affairs.

4297. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a proposed amendment to regulations relating to protective functions of designated security officers, pursuant to title 22, United States Code; to the Committee on Foreign Affairs.

4298. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on Haitian cooperation in controlling illegal emigration, implementing U.S. development assistance programs in Haiti, and observance of human rights, pursuant to section 721(c) of Public Law 97-113; to the Committee on Foreign Affairs.

4299. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, State Department, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112(a); to the Committee on Foreign Affairs.

4300. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112(a); to the Committee on Foreign Affairs.

4301. A letter from the Acting President, Overseas Private Investment Corporation, transmitting a report on the development of an additional criterion within OPIC, pursuant to section 9(b) of Public Law 97-65; to the Committee on Foreign Affairs.

4302. A letter from the Administrator of Veterans' Affairs, transmitting notice of a proposed new system of records for personnel security investigations, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4303. A letter from the Assistant Attorney General, Justice Department, transmitting a report on Department's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4304. A letter from the Assistant Secretary, Department of Housing and Urban Development, transmitting notice of proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4305. A letter from the Director, Administrative Office of the United States Courts, transmitting the actuarial report for the judicial retirement system, and the judicial survivors annunities system, for the year ended December 31, 1981, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended; to the Committee on Government Operations.

4306. A letter from the Assistant Secretary (Administration), Department of the Treasury, transmitting notice of new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4307. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend the Land and Water Conservation Fund Act of 1965, as amended, to dedicate certain fees to the protection and improvement of facilities and resources of the National Park System, and for other purposes; to the Committee on Interior and Insular Affairs.

4308. A letter from the Secretary of the Interior, transmitting notice of the proposed refund of $10,661.85 in excess royalty payments to Getty Oil Co., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4309. A letter from the Under Secretary of the Interior, transmitting a draft of proposed legislation to provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park and for other purposes; to the Committee on Interior and Insular Affairs.

4310. A letter from the Under Secretary of the Interior, transmitting notice of the proposed refund of $240,381.93 to the Exxon Co., U.S.A., for excess royalty payments, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4311. A letter from the Under Secretary, Department of the Interior, transmitting notice of the leasing systems to be used in oil and gas lease sale No. RS-2, central and northern California, South Atlantic, Lower Cook Inlet/Shelikof Straits and Mid-Atlantic, to be held on August 5, 1982, pursuant to section 8(a)(8) of the Outer Continental Shelf Lands Act, as amended; to the Committee on Interior and Insular Affairs.

4312. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of certain judgment funds of the Nez Perce Tribe of Idaho by the U.S. Court of Claims in Dockets 179-A, 523-71, and 524-71, pursuant to section 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

4313. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting a report relating to a proposal by the city of Memphis to demolish the Memphis Street Railway Co. office and streetcar complex, a property eligible for the National Register of Historic Places, pursuant to

section 202(b) of Public Law 89-665; to the Committee on Interior and Insular Affairs.

4314. A letter from the Chief Deputy Clerk, U.S. Court of Claims, transmitting the court's judgment order in Docket No. 291, *The Salt River Pima-Maricopa Indian Community, et al.* v. *The United States;* to the Committee on Interior and Insular Affairs.

4315. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

4316. A letter from the Chief Judge, Ninth Circuit, U.S. Court of Appeals, transmitting the report of the Judicial Council and the Court of Appeals of the Ninth Circuit, pursuant to section 6 of the Omnibus Judgeship Act of 1978; to the Committee on the Judiciary.

4317. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting a draft of proposed legislation to amend sections 2733, 2734, and 2736 of title 10, United States Code, and section 715 of title 32, United States Code, to increase the maximum amount of a claim against the United States that may be paid administratively under those sections and to allow increased delegation of authority to settle and pay certain of those claims, and for other purposes; to the Committee on the Judiciary.

4318. A letter from the Counsel, National Council on Radiation Protection and Measurements, Inc., transmitting a financial audit including verification of assets and liabilities, surplus or deficit analysis, and income and expenses, pursuant to section 14(b) of Public Law 88-376; to the Committee on the Judiciary.

4319. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to provide for State, local, or private operation of the fur seal harvest on the Pribilof Islands of Alaska; to the Committee on Merchant Marine and Fisheries.

4320. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes; to the Committee on Merchant Marine and Fisheries.

4321. A letter from the Chairman, National Advisory Committee on Oceans and Atmosphere, transmitting the committee's 11th annual report, pursuant to section 4 of Public Law 95-63, as amended; to the Committee on Merchant Marine and Fisheries.

4322. A letter from the Acting Chairman, Interstate Commerce Commission, transmitting the Commission's second annual report on section 8(a) of the Motor Carrier Act of 1980, the passthrough of savings on food and grocery transportation, pursuant to 49 U.S.C. 10732(b); to the Committee on Public Works and Transportation.

4323. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a notice of the proposed use of research and development funds to provide NASA participation in the construction of a mid-level facility on Mauna Kea, Hawaii, pursuant to section 1(d) of Public Law 96-316; to the Committee on Science and Technology.

4324. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business.

4325. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend subsection 302(a) of the Small Business Investment Act of 1958; to the Committee on Small Business.

4326. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business.

4327. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act to provide for subpena power; to the Committee on Small Business.

4328. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business.

4329. A letter from the Administrator of Veterans Affairs, transmitting the annual report for fiscal year 1981, pursuant to 38 U.S.C. 214; to the Committee on Veterans' Affairs.

4330. A letter from the Chairman, International Trade Commission, transmitting the Commission's 30th quarterly report on trade between the United States and the non-market-economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

4331. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting the 11 annual report on the financial condition and results of the operations of the airport and airway trust fund, covering fiscal year 1981, previously submitted pursuant to section 208(e)(1) of the Airport and Airway Revenue Act of 1970, as amended; to the Committee on Ways and Means and ordered to be printed.

4332. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to authorize combined grants to States for administrative costs necessary to enable them to carry out programs of aid to families with dependent children, medical assistance, and food stamps, and for other purposes; jointly, to the Committees on Agriculture, Energy and Commerce and Ways and Means.

4333. A letter from the Under Secretary for International Affairs and Commodity Programs, Department of Agriculture, transmitting the fourth quarterly report on the status of planned programing of food assistance under title I/III of the Agricultural Trade Development and Assistance Act, pursuant to section 408(b) of the act, as amended; to the Committee on Agriculture and Foreign Affairs.

4334. A letter from the Comptroller General of the United States, transmitting a report on better planning to reduce the size of wastewater treatment facilities and savings in construction costs (GAO/CED-82-82, July 8, 1982); jointly, to the Committees on Government Operations and Public Works and Transportation.

4335. A letter from the Comptroller General of the United States, transmitting a report stating an adverse opinion on the financial statements of the student loan insurance fund for the fiscal year ended September 30, 1980 (AFMD-82-52, July 8, 1982); jointly, to the Committees on Government Operations and Education and Labor.

4336. A letter from the Secretary of the Interior and the Secretary of Agriculture, transmitting the fourth report on the protection, management, and control of wild horses and burros on public lands, pursuant to section 11 of Public Law 92-195, as amended; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself, Mr. SIMON, and Mr. RATCHFORD):

H.R. 6729. A bill to establish the U.S. Capital Page Board for supervision and education of congressional pages, and for other purposes; to the Committee on House Administration.

By Mr. FOLEY:

H.R. 6730. A bill to authorize the Secretary of the Interior to declare costs incurred in the rehabilitation of Conconully Dam nonreimbursable and nonreturnable; to the Committee on Interior and Insular Affairs.

By Mr. FRANK:

H.R. 6731. A bill to amend the Social Security Act to provide that disability benefits may not be terminated without a showing of medical improvement, to provide for a face-to-face interview with the State agency, to continue benefits and eligibility for medicaid and medicare benefits through the administrative appeal process, and to require the Secretary of Health and Human Services to make quarterly reports with respect to the results of periodic reviews of disability determinations; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself, Mr. BIAGGI, and Mr. SNYDER) (by request):

H.R. 6732. A bill to amend the International Safe Container Act; to the Committee on Merchant Marine and Fisheries.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

431. By the SPEAKER: Memorial of the Legislature of the State of California, relative to municipal revenue bonds; to the Committee on Banking, Finance and Urban Affairs.

432. Also, memorial of the Legislature of the State of California, relative to the Railroad Retirement System; to the Committee on Energy and Commerce.

433. Also, memorial of the Legislature of the State of California, relative to the release of Anatoly Shcharansky; to the Committee on Foreign Affairs.

434. Also, memorial of the Legislature of the State of New York, relative to Jaroslav Javorsky's imprisonment in Czechoslovakia; to the Committee on Foreign Affairs.

435. Also, memorial of the Legislature of the State of California, relative to water hyacinth control; to the Committee on Public Works and Transportation.

436. Also, memorial of the Legislature of the State of California, relative to the Adoption Assistance and Child Welfare Act of 1980; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under Clause 1 of rule XXII,

Mr. LELAND introduced a bill (H.R. 6733) for the relief of Beatriz Medina Nisonger; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 864: Mr. McDONALD.
H.R. 1304: Mr. SMITH of Alabama.
H.R. 2231: Mr. DANIEL B. CRANE.
H.R. 2347: Mr. FIELDS and Mr. DORNAN of California.
H.R. 2952: Mr. ARCHER and Mr. GOLDWATER.
H.R. 3394: Mr. JOHN L. BURTON.
H.R. 3397: Mr. RICHMOND, Mr. STOKES, Mr. WAXMAN, and Mr. ROSENTHAL.
H.R. 4362: Mr. COUGHLIN.
H.R. 4898: Mr. DAUB.
H.R. 5133: Mr. SHUSTER and Mr. WORTLEY.
H.R. 5246: Mr. BUTLER.
H.R. 5248: Mr. DANIEL B. CRANE.
H.R. 5409: Mr. DANIEL B. CRANE.
H.R. 5513: Mr. SMITH of Alabama.
H.R. 5573: Mr. HERTEL, Mr. PARRIS, Mr. SCHEUER, Mr. WEAVER, and Mrs. SCHNEIDER.
H.R. 5868: Mr. NICHOLS, Mr. BLILEY, Mr. BROWN of Colorado, Mr. ROBERT W. DANIEL, JR., Mr. PATMAN, Mr. JOHNSTON, Mr. BEVILL, Mr. AKAKA, Mr. DUNN, Mr. LAGOMARSINO, Mr. HUTTO, Mr. CHAPPIE, Mr. FORSYTHE, Mr. LOWERY OF CALIFORNIA, Mr. PARRIS, Mr. GRADISON, Mr. DANNEMEYER, Mr. BARNES, Mr. HUGHES, Mr. MILLER of California, Mrs. MARTIN of Illinois, Mr. STUMP, Mrs. SCHROEDER, Mr. SUNIA, Mr. SOLOMON, Mr. FISH, Mr. LAFALCE, Mr. LIVINGSTON, Mr. SILJANDER, Mr. IRELAND, Mr. NEAL, Mr. RITTER, Mr. BENEDICT, and Mr. COATS.
H.R. 5904: Mr. CHAPPIE, Mrs. CHISHOLM, Mr. CONYERS, Mr. FASCELL, Mr. GEPHARDT, Mr. LEACH of Iowa, Mr. LEHMAN, Mr. MATSUI, Mr. MITCHELL of Maryland, Mr. OTTINGER, Mr. PEASE, Mr. STARK, Mr. FAZIO, and Mr. STOKES.
H.R. 5976: Mr. WYDEN, Mr. ROE, Mr. SUNIA, and Mr. HUGHES.
H.R. 6105: Mr. DWYER.
H.R. 6311: Mr. MARRIOTT and Mr. SHELBY.
H.R. 6498: Mrs. BOUQUARD.
H.R. 6542: Mr. LOWRY of Washington, Mr. TRAXLER, Mr. HUGHES, Mr. FASCELL, Mr. BEDELL, Mr. MATTOX, Mr. FAZIO, Mr. FAUNTROY, Mr. COELHO, Mr. FISH, and Mr. DE LUGO.
H.J. Res. 172: Mr. ANDREWS, Mr. MINETA, and Mr. GUNDERSON.
H.J. Res. 516: Mr. BEREUTER, Mr. CARMAN, Mr. COATS, Mr. SANTINI, and Mr. YOUNG of Florida.
H. Con. Res. 255: Mr. SYNAR and Mrs. SNOWE.
H. Con. Res. 275: Mr. SILJANDER, Mr. LEATH of Texas, Mr. TRIBLE, and Mr. DOWDY.
H. Res. 457: Mr. SKELTON.
H. Res. 473: Mr. FISH, Mr. SHAMANSKY, Mr. LANTOS, Mr. EVANS of Georgia, Mr. CONYERS, and Mr. DAVIS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

505. By the SPEAKER: Petition of the House of Representatives, Republic of Cyprus, relative to missing persons; to the Committee on Foreign Affairs.

506. Also, petition of Amnesty International, USA, Binghamton, N.Y., relative to Jaroslav Javorsky; to the Committee on Foreign Affairs.

507. Also, petition of Sportsmen's Council, Inc., Moses Lake, Wash., relative to Indian treaties; and the Federal Land and Water Conservation Fund; to the Committee on Interior and Insular Affairs.

508. Also, petition of the city council, Parma, Ohio, relative to relief in the city's appeal to the U.S. Supreme Court; to the Committee on the Judiciary.

509. Also, petition of James M. Carpenter, Lima, Ohio, relative to redress of grievances; to the Committee on the Judiciary.

510. Also, petition of the city council, Boston, Mass., relative to light rail vehicles; to the Committee on Public Works and Transportation.

511. Also, petition of the county board of Itasca County, Minn., relative to nuclear weapons; jointly, to the Committees on Armed Services and Foreign Affairs.

512. Also, petition of Sam Speck, State senator, Ohio Senate, Columbus, relative to a motor vehicle domestic content law; jointly, to the Committees on Energy and Commerce and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6030

By Mr. GARCIA:

—At the end of the bill add the following new section:

PROHIBITION OF CERTAIN WASTEFUL DEFENSE EXPENDITURES

SEC. 902. (a) The Secretary of Defense shall take such action as may be necessary to ensure that during fiscal year 1983 teletype is not used for routine, low-priority messages of the Department of Defense.

(b) The Secretary of Defense shall prescribe regulations to require that during fiscal year 1983 each individual provided a meal in the dining room of the Secretary of Defense in the Pentagon is charged an amount for that meal sufficient to pay for the full cost of that meal, including overhead and related personnel costs.

(c) Enlisted members of the Armed Forces may not during fiscal year 1983 be assigned to duty as personal aides to general and flag officers.

(d)(1) Except as provided in paragraph (2), during fiscal year 1983 the Department of Defense may not provide veterinary care for pets of members of the Armed Forces or their dependents.

(2) The Secretary of Defense may by regulation authorize exceptions to the prohibition in paragraph (1) in cases of hardship. In any case in which veterinary care is provided pursuant to such an exception, a fee shall be charged in an amount determined pursuant to regulations to be sufficient to provide reimbursement for the cost of the care provided.

SENATE—*Monday, July 12, 1982*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. THURMOND).

prayer

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Trust in the Lord with all your heart, lean not on your own understanding; in all your ways acknowledge Him, and He will direct your paths.—Proverbs 3: 5, 6.

Father in Heaven, Congress returns to unyielding problems: A budget that cannot be touched without hurting many; the demands of extravagant promises made in the past without present resources to meet them; the hard choices between what is right and what is wrong. We have been trying everything but nothing seems to work. We face the bankruptcy of the human wisdom. Give us the grace to admit it.

Deliver the Senate from the emptiness and futility of warmed-over ideologies, schemes and programs which have been tried and found wanting. Deliver us from the false pride of humanism that conceals vulnerability—that refuses to admit human extremity and will not submit to divine adequacy.

Help the Senators to avoid inordinate preoccupation with the election, which substitutes expediency for virtue and integrity and sacrifices the future for the immediate. Give them grace to take risks for the sake of truth and justice. As Thou didst give extraordinary wisdom to King Solomon to govern, give to Thy servants humility to acknowledge their need and grace to receive Your supply. In the name of Him, who is the way, the truth, and the life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECITAL

Mr. BAKER. Mr. President, this week's poem is by this year's Pulitzer Prize winner for fiction, John Updike. I ask unanimous consent that his poem "Recital" be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

RECITAL—ROGER BOBO GIVES RECITAL ON TUBA

HEADLINE IN THE TIMES

Eskimos in Manitoba,
Barracuda off Aruba,
Cock an ear when Roger Bobo
Starts to solo on the tuba.

Men of every station—Pooh-Bah,
Nabob, bozo, toff, and hobo—
Cry in unison, "Indubi-
Tably, there is simply nobo-
Dy who oompahs on the tubo,
Solo, quite like Roger Bubo!"

SENATE SCHEDULE

Mr. BAKER. Mr. President, I believe that under the order previously entered pursuant to the resolution of adjournment the reading of the Journal is dispensed with, no resolution will come over under the rule, and there will be no call of the calendar. Is that correct?

The PRESIDENT pro tempore. That is correct.

Mr. BAKER. Is there a period for the transaction of routine morning business provided for, to occur after the execution of a special order in favor of the Senator from Florida (Mr. CHILES), and that morning business shall extend no longer than 30 minutes, in which Senators may speak for not more than 5 minutes each?

The PRESIDENT pro tempore. That is correct.

TRANSFER OF ORDER FOR RECOGNITION OF SENATOR CHILES TO SENATOR NUNN

Mr. BAKER. Mr. President, I ask unanimous consent, on the request of the parties involved, that the time allocated on special order of the Senator from Florida (Mr. CHILES) be transferred to the Senator from Georgia (Mr. NUNN).

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. I believe there is also an order, is there not, for the Senate to turn to consideration of Senate Joint Resolution 58, Calendar Order No. 193, a joint resolution proposing a constitutional amendment to provide for a balanced budget.

The PRESIDENT pro tempore. That is correct.

Mr. BAKER. Then, Mr. President, am I correct that the Chair will lay that measure before the Senate before the expiration of the time for the transaction of routine morning business?

The PRESIDENT pro tempore. That is correct.

Mr. BAKER. It is the intention of the leadership to ask the Senate to remain in session only for the normal hours today. That means I do not expect the Senate to be in session past the hour of approximately 6 o'clock. I hope the time today, in addition to the time allocated for the transaction of morning business and the execution of the special order, will be devoted to opening statements in the debate on the constitutional amendment and general debate on other business. I do not anticipate that major amendments or perhaps any amendments can be disposed of on that subject today. It is an important matter, it is one not free of controversy. It is, however, a matter that I hope we can debate and conclude this week or no later than the early part of next week.

In addition to the constitutional amendment on the balanced budget, there is an order that the Senate will proceed on Wednesday, July 14, to the consideration of H.R. 6590, a bill to provide for the operation of the tobacco price support adjustment program under certain terms and conditions. It is my understanding that on Wednesday, notwithstanding that the Senate may still be engaged in the debate on Senate Joint Resolution 58, the constitutional amendment, that matter will be temporarily laid aside in order to comply with the provisions of the tobacco price support unanimous-consent order. Is that also correct?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. I thank the Chair.

Mr. President, there is also an order for the Senate to proceed to the consideration of the so-called reclamation bill, S. 1867, following the disposition of H.R. 6590, the tobacco bill. I shall consult and confer with the principals involved in the reclamation matter and we shall try to arrive at a mutually agreeable time to deal with that subject. I call the attention of Senators to the fact that there is an extensive unanimous-consent agreement dealing with the reclamation bill which takes up most of pages 2 and 3 of today's Calendar of Business.

I remind Senators as well that the constitutional amendment proposal, Senate Joint Resolution 58, will be considered under a unanimous-consent order which provides that no amendment dealing with additional constitutional amendments or topics not related to a balanced budget amendment be

in order. I am very grateful to all Senators for giving us that order. It should greatly limit the range of the debate on this subject. It even emboldens me to hope that we can finish the constitutional amendment on the balanced budget this week or early next week. I would prefer this week.

As I indicated earlier, the Senate will observe regular hours today. I hope that that can be the case for all of this week, which would mean, of course, that our regular late evening, if a late evening is required, will be Thursday evening.

I must say, however, that if we can finish the constitutional amendment this week, or if other urgent matters can be disposed of, since the Senate has a formidable schedule before it before the summer is out, that we might stay a little past the usual adjourning hour on other evenings as well.

In conclusion, Mr. President, the Senate will consider the constitutional amendment on the balanced budget this week. We will lay it aside temporarily on Wednesday to take up the tobacco bill. We may take up the reclamation bill as well. We will return then to the balanced budget amendment as and if that is necessary to complete it. I expect that we will observe regular hours this week except with the possibility that we could accomplish a great deal by staying a little past the regular time.

Mr. ROBERT C. BYRD. Mr. President, before the distinguished majority leader turns to another matter, will he yield?

Mr. BAKER. Yes, I yield to the minority leader.

Mr. ROBERT C. BYRD. According to the schedule which he has laid out, which is very helpful to all of us, does he have any thoughts concerning the urgent supplemental appropriations bill which was twice vetoed by the President, passed by the Senate the third time, and sent to the other body where it presently rests? Does the majority leader have any new information on that matter?

Mr. BAKER. No, I must say to the minority leader, I do not. It is my hope that the other body will accept the bill as sent to them by the Senate and send it on to the President, and I believe the matter would be liquidated. But if it is necessary to have a conference or to consider another version of the bill, then I would be pleased, of course, to adjust the schedule to accommodate that very urgent matter.

Mr. President, I thank the minority leader for inquiring on that subject, and I would add that to the list of items that we may have to deal with this week; that is to say, further action on the urgent supplemental appropriations bill.

Mr. ROBERT C. BYRD. Will the Senator once again indulge in a question?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. What about the nomination of Mr. Shultz? When may we expect that?

Mr. BAKER. I did not include that, Mr. President, because I have not yet conferred with the distinguished chairman of the Foreign Relations Committee (Mr. PERCY). The hearing I believe begins tomorrow on Mr. Shultz. It is my hope that we can take that up as soon as possible, given the very tense international situation that now exists. I think we urgently need a Secretary of State fully confirmed by the Senate, in place and operating at the earliest possible moment. So I will confer with the minority leader shortly after I confer with the chairman of the Foreign Relations Committee.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

Mr. BAKER. There is one other matter that has been called to my attention that deals with the Executive Calendar. There is also a unanimous-consent agreement that tomorrow, on July 13, the Senate will go into executive session for the purpose of considering the nomination of James Stearns to be Director of the Securities Investor Protection Corporation. There is a time agreement on that. That, of course, would require some portion of the day tomorrow. I do not expect it to be a long debate. It probably will require a rollcall vote.

Now, Mr. President, I may say that there is another matter lurking in the wings that we will have to deal with, and that is the tax bill ordered reported by the Finance Committee. We do not yet have a report on that bill, so I do not know when that is going to come up, but that is a privileged matter since I believe it was reported under the provisions of the Budget Act in compliance with the reconciliation instruction. But that is unlikely to be here in the next few days. I would like to do it as soon as possible, and I will confer as well with the chairman of the Finance Committee (Mr. DOLE) and others on the schedule.

What all this boils down to, Mr. President, in short form, is that we have a lot of work to do. They are all important matters, so I urge Senators to expedite the offering of amendments in the disposition of these measures and others as they must come before the Senate.

We have a relatively brief time to finish a very formidable schedule. I observe that we have not yet received the first regular appropriations bill. I do not know what the other body intends to do about that, but even without the appropriations bills we have a long and difficult row ahead of us. Therefore, I urge Senators to give their attention to the matters at hand and to help us in the bipartisan leadership to attempt to expedite these matters as we can.

(Mrs. KASSEBAUM assumed the chair.)

Mr. BAKER. Madam President, I apologize for the length of my remarks. I yield any time I have remaining to the minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Madam President, the remarks of the majority leader have been very helpful and informative, certainly most appropriate.

Does the Senator from Georgia wish me to yield him some time?

Mr. NUNN. I believe I have time under my own order.

The PRESIDING OFFICER. The Senator from Georgia is correct.

Mr. NUNN. After the minority leader completes his remarks, I think I have enough time.

Mr. ROBERT C. BYRD. Madam President, I yield such time as I have to the distinguished Senator from Georgia for his use and for his yielding to other Senators as needed.

Mr. NUNN. I thank the Senator from West Virginia.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. The Senator from Georgia is recognized.

CRIME CONTROL ACT OF 1982

TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Madam President, I am most pleased to be able to congratulate the Senate on registering its intent to act promptly on pending anticrime legislation. I want to particularly thank the majority leader, the minority leader, and the Senator from South Carolina, who are on the floor, all of whom have played an important role in getting this legislation in a position where it will shortly be considered by the Senate. I refer, of course, to the Senate's approval, shortly before recess, to a time agreement for consideration of S. 2572, the anticrime package introduced by Senators THURMOND and BIDEN. I applaud that action as a step in the right direction: That is, toward strong, effective and responsible legislation in the fight against crime.

Senator CHILES and I had that purpose in mind when, over 7 weeks ago, we introduced S. 2543, the Crime Control Act of 1982. By compiling in one bill those items of legislation which we considered most essential to law enforcement efforts, we hoped to gener-

ate some assignment of legislative priority to the growing problem of crime in this country

We were encouraged to find that the Thurmond-Biden bill, S. 2572, subsequently incorporated similar proposals to those suggested in three of the four titles of our bill: organized crime, bail reform, and sentencing. We heartily endorse those suggested reforms as needed legislative assistance to law enforcement against the growing numbers of organized criminals and drug traffickers.

Unfortunately, S. 2572 fails to include legislative reform in one of the four areas spotlighted in our bill: habeas corpus. That omission is particularly tragic since blatant abuse of the writ of habeas corpus daily wreaks havoc upon the ability of our judicial system to maintain even a semblance of credibility in the eyes of criminal offenders. Professional criminals successfully use frivolous and repetitive petitions for habeas corpus to continually evade and frustrate our criminal justice system. Moreover, they do so with apparent impunity, protected by outdated and ineffective statutory rules.

One ill-effect of the current statutory scheme has been the refusal of Federal courts to give sufficient weight to previous State court findings despite the failure of a petitioner to prove unfairness in State proceeding. In Montes against Jenkins, two separate petitioners, previously convicted of murder, sought habeas corpus relief. In unrelated trials, Montes had been convicted of second degree murder, while Sanders, the other petitioner, had been convicted of first degree murder. Posing nearly identical questions, the cases were consolidated for consideration by the Court of Appeals for the Seventh Circuit.

Montes originally appealed his State court conviction to the Indiana Supreme Court, alleging that his confession had been obtained illegally. In rejecting his claim, the Indiana Supreme Court made several precise factual findings, including, first, that Montes had been fully advised of his rights prior to any questioning; second, that he had signed a written waiver of rights prior to questioning; third, that he was again advised of his rights prior to later questioning; and fourth, that, on appeal, Montes had himself conceded that he had been advised of his rights prior to questioning.

Sanders also challenged the admissibility of his confession on appeal to the Indiana Supreme Court. The State court also rejected Sanders' claim, making precise factual findings, including first, that Sanders had been advised of his rights no less than seven times during the course of the criminal investigation; and second, that Sanders had signed a written waiver of rights which had been introduced as trial evidence.

Both Montes and Sanders petitioned the Federal district court for writs of habeas corpus, alleging that statements used against them had been obtained in violation of their constitutional rights. Despite the findings of the Indiana Supreme Court to the contrary, Montes alleged, without any factual support, that he had been questioned without having been advised of his rights. Relying on the findings of the Indiana Supreme Court, the Federal district court denied both petitions.

On appeal to the seventh circuit, the court reversed the district court, in light of the mere allegations which had been made by the petitioners. The seventh circuit made that ruling without any support from the appellate record that the findings of the Indiana Supreme Court had been insufficient or lacking in fairness in any way.

This type of ruling is a classic example of a Federal court, in the absence of direct statutory guidance, refusing to afford a State court's findings the weight which, by all indications, those findings deserve. Such rulings undercut the credibility of State court findings, while simultaneously contributing unnecessarily to the already overburdened Federal court dockets. S. 2543 affirmatively directs that Federal courts should refer to full and fair State determinations of fact as opposed to the mere unsupported and often contradicted allegations of petitioners. I suggest that this type of legislation is the very least which we, as a responsible Congress, can do to restore some measure of certainty and finality to our criminal justice system.

Madam President, I hope that after we take up S. 2572, the Senate will schedule time to consider the bill we have sponsored, which would substantially revise the habeas corpus proceedings as they now are carried out at the Federal court level.

This is one of the areas in which the public has the least confidence and, I must say, with justification.

I yield back the remainder of my time, unless someone else wishes to speak on this subject.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 5 minutes each.

ANATOMY OF THE SUPPORT FOR THE NUCLEAR FREEZE

Mr. PROXMIRE. Madam President, the nuclar freeze movement in America has become a central factor in the policies the President and Congress will follow in seeking a nuclear arms agreement with the Soviet Union. For weeks now, I have been discussing the nuclear arms inventory on both sides and the threat they pose to survival. Over the years, the United States and the Soviet Union have worked out agreements to ban nuclear testing in the atmosphere, and to limit the arms race. SALT I and SALT II, which have been observed though not ratified by the Senate, constitute some of the agreements worked out. Now U.S. and U.S.S.R. negotiators are at work at Geneva, Switzerland, on the START negotiations, seeking to reduce the nuclear arsenal.

So we have moved a little along the line toward nuclear arms control, but we and the Soviet Union have taken gigantic steps meanwhile to massively increase our nuclear potential. Today, between us, we have the nuclear equivalent of an appalling 4 tons of TNT for every man, woman, and child on Earth. One pound of TNT would blow a person to kingdom come. Both sides increasingly modernize or, to put it another way, sharply improve the kill ability, the accuracy, the assurance these massive arsenals will indeed bring death to tens of millions.

But now we have a new and different factor. We have far and away the most impressive antinuclear protest movement this country has ever seen. Yesterday's New York Times carried an indepth analysis of this movement by Fox Butterfield, chief of the New York Times bureau in Boston. The article gives an encouraging insight into the intelligence, the political balances, of Republicans and Democrats, conservatives and liberals—sober, thoughtful people who know what they are talking about. Some of the outstanding experts in the country are included in this group.

The Butterfield article stresses that this protest has probably become the most respectable mass protest in history. When the gigantic demonstration took place last month in New York City, the protesters showed their uniqueness in their friendly cooperation with the police and their really astonishing cleanliness. Imagine a mass appearance of 700,000 people any where, any time, who policed every bit of their own litter. That fact trivial by itself reminds us of the kind of force we now have working in this country to support and push and drive for a verifiable, mutual, nuclear arms agreement with the Soviet Union.

Mr. Butterfield's article provides a comprehensive insight that all of us in Congress should know about. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANATOMY OF THE SUPPORT FOR THE NUCLEAR FREEZE

(By Fox Butterfield)

Randall Forsberg was born in Alabama with "a few Georgia plantations ravaged by Sherman's troops floating around in my past," She graduated from Barnard College in the mid-1960's and became an English teacher at the proper Baldwin School in Bryn Mawr, Pa. There was little in her background to suggest that one day she would produce the idea that has turned the esoteric art of nuclear-arms control into an explosive popular issue.

Alan F. Kay graduated from the Massachusetts Institute of Technology, served in Army intelligence during World War II and got a Ph. D. in math at Harvard. He founded and eventually sold two highly profitable electronics companies, one of which worked for the Pentagon, before retiring to his home in Weston, a green-carpeted expanse of multiacre houses that is Boston's wealthiest suburb. There was little in his biography to suggest that he would provide the first key infusion of cash that enabled Miss Forsberg to translate her potent idea into action.

It was in 1980 that the retired businessman heard the former school-teacher, now a student of the arms race, make her proposal. She was calling for a freeze—a mutual and verifiable freeze by the United States and the Soviet Union—on the testing, production and deployment of all nuclear weapons. It was a very simple idea—too simple, some critics contended, since it did not allow for the staggering complexities of the arms race. But Mr. Kay recognized that its simplicity could also be a strength: It sidestepped the old hard-to-understand arguments about MIRV's, megatonnage, throw weight and inspection that had long baffled the public. So Mr. Kay contributed the money that set the freeze campaign in motion—$5,000 to help organize the first national conference of peace groups in Washington in March 1981, where it was decided to concentrate on promoting the freeze as a common strategy. He would eventually add a quarter of a million dollars, spread among several antinuclear-war groups.

In the year since that first meeting, the freeze idea has reached what some activists like to call critical mass, borrowing from the lexicon of atomic physics. A poll last spring by The New York Times and CBS News found that 72 percent of Americans favor a nuclear freeze. It has been endorsed by hundreds of town meetings, dozens of city councils and nine state legislatures. Last month, it was approved by the House Foreign Affairs Committee in a nonbinding resoution.

The freeze idea has provided a spark, but it is only part of a larger story, an extraordinary grass-roots, nationwide movement to stop the nuclear arms race. The movement has even influenced President Reagan, leading him to soften his longtime opposition to arms-control talks and inspiring him to offer several sweeping proposals to negotiate sharp reductions in nuclear arsenals with the Soviet Union.

The movement's scope was dramatically illustrated by last month's disarmament rally in New York City, in which an estimated 700,000 people participated, making it the largest political demonstration in the history of the United States. And there are a growing number of politicians in Washington who believe the antinuclear arms issue may play an important role in this November's Congressional elections and the 1984 Presidential contest. Two weeks after the New York rally, the Democratic Party, at its midterm convention in Philadelphia, endorsed a carefully worded freeze resolution that had been drafted by aides to the party's leading Presidential contenders.

The profile of this latest of protests a far cry from that of the powerful antiwar demonstrations of the late 60's. The leaders are not bearded radicals but middle-aged and middle-class men and women, many accustomed to positions of responsibility and prestige. They include doctors, lawyers, nurses, scientists, teachers and priests. Their chief battles have been fought, not in street confrontations, but at sermons and lectures, in books and pamphlets.

The history of the new movement offer special insights into the American political process and the state of the public mind and character. It also suggests how disparate ideas and people can be successfully joined, given good timing, a willingness to learn the hard lessons of modern political organizing and the presence of a powerful catalyst. In this case, the catalyst was a President whose continuous preaching about the need for a massive buildup of American nuclear forces aroused the fears of an already anxious nation.

The anxiety began with the scientists who build the bomb and then sought to place it under international controls. It surfaced publicly in the late 1950's and early 60's with the controversy over fallout from nuclear testing in the atmosphere. And it reappeared in the late 60's with public worry over the Pentagon's plans to build an antiballistic missile system in heavily populated areas.

These movements faded once they seemed to achieve their objectives, but they left a heritage of fear about nuclear peril. In 1978, a small peace group, the Institute for World Order, commissioned Yankelovich, Skelly and White, the polling organization, to study why more people don't join peace groups. Yankelovich's conclusion was that there was both widespread ignorance about what nuclear weapons do and deep latent concern about them.

"They became very interested in the problem and began talking about where can we sign up to stop this madness," recalled Greg Martire, a vice president of the Yankelovich organization. "They were not unaware of the dangers of nuclear war, but they had felt it was beyond their control."

Based on this study and another Yankelovich did in 1980 for a second peace group, the polling organization predicted that many people would join up if the issue was explained to them in understandable terms and if they could be shown how they could be effective. Today, speaking of the sudden growth of the antinuclear-arms movement, Mr. Martire says, "It doesn't surprise me. When we wrote those reports two years ago, it was clear the potential was there."

Bernard T. Feld is a 62-year-old professor of physics at M.I.T. His gentle manner, broad head and shoulder-length graying hair give him a resemblance to Einstein. Sitting in his sunlit office, he recalled his early career as an assistant to both Enrico Fermi and Leo Szilard; he took part in producing the initial chain reaction at the University of Chicago in 1942. "I was involved in the original sin," he said, "and I have spent a large part of the rest of my life atoning."

Soon after the United States dropped atomic bombs on Hiroshima and Nagasaki in August 1945, Mr. Feld left his Government research job to push for the creation in Washington of a civilian nuclear agency. He also helped establish the Federation of American Scientists, originally named the Federation of Atomic Scientists, the first group dedicated to controlling nuclear weapons.

Another M.I.T. scientist who participated in both the deveiopment of military hardware and arms control is Jerome B. Wiesner, who was president of the Cambridge school from 1971 to 1980. A pioneer in radar, he began his efforts to slow down the arms race in 1957 after President Eisenhower asked him to start work on civil defense and then design a system to measure Soviet compliance with a nuclear-test moratorium. "I became convinced we were running an arms race with ourselves," the craggy-faced, gray-haired Mr. Wiesner said. "The big inventions of the arms race have all been ours: the A-bomb, the H-bomb, intercontinental missiles, solid fuel rockets, high-accuracy guidance systems for missiles, MIRV's [multiple independently targetable re-entry vehicles], cruise missiles."

In 1961, Mr. Wiesner was named President Kennedy's science adviser and proceeded to urge the President to negotiate a comprehensive nuclear test ban treaty with the Russians. "There was a lot of public pressure at the time, with women's groups picketing in front of the White House every day," Mr. Wiesner remembered. "People were very upset about strontium 90 in their milk; it was something tangible, not just some vague fear about what might happen in the future. Occasionally, when I'd go into the President's office, he'd say, 'Your women are out there again.' "

But President Kennedy's talks with the Russians on a comprehensive treaty that would have barred testing underground as well as in the atmosphere foundered on the number of annual on-site inspections each side would accept. The United States demanded seven, the Russians would permit only three. In the end, at Nikita Khrushchev's initiative, Mr. Wiesner said, the two sides agreed to settle for an accord prohibiting tests in the atmosphere, dropping the stickier issue of underground experiments.

Mr. Wiesner now feels "there was a great opportunity lost in 1963. If a comprehensive test ban treaty had been signed, it would have been more significant than SALT in arresting things. At the time, we knew our weapons were considerably better than those of the Russians."

Henry W. Kendall, yet another M.I.T. Physicist and one-time consultant to the Defense Department helped found the Union of Concerned Scientists in 1969 to lead the battle against the ABM. He was elated when he won that struggle, but increasingly frustrated as he watched public interest in disarmament decline while the weapons race intensified. As Professor Kendall, a soft-spoken man dressed in an old dark gray wool suit and moccasins. analyzed the situation, the average citizen was put off by the "forbidding complexity of nuclear arms. They have been hidden behind the combined shroud of technology and national security."

During the 1970's, his organization, with headquarters in Harvard Square, switched its focus to the then more popular issue of nuclear power. The Union of Concerned Scientists grew rapidly, and by the time of the serious accident at the Three Mile Island nuclear power plant in 1979, the group had 100,000 contributors. But Professor Kendall was dissatisfied. "The dangers of nuclear power are so small compared with nuclear war," he explained, "it seemed to me like a

tangential issue." So in 1980 he pushed to return the organization to its original purpose, nuclear-arms control.

His timing was excellent. "The real hardline voice about nuclear weapons had emerged and started to really scare people," he said. "There was Reagan talking about fighting and winning a limited nuclear war and handing out his laundry list of building up every conceivable nuclear weapon because he claimed we were behind the Russians. It brought out the latent anxiety."

Because its strategy on one of the Yankelovich studies, the Union of Concerned Scientists set about organizing a series of teach-ins at what the group thought would be two dozen colleges last Nov. 11, Veterans Day. Eventually, 150 schools participated. "We hit a nerve," a professor at the University of Texas said afterward. "And this is Texas, not the Northeast." The Veterans Day events proved an important turning point, attracting widespread attention in the press and from television, focusing still more public interest on the issue.

While Professor Kendall in Cambridge was trying to reorient the Union of Concerned Scientists back to nuclear war, Dr. Bernard Lown was part of a similar attempt across the Charles River in Boston—with a group he had started in his living room in 1961, Physician, for Social Responsibility. One of the world's most distinguished cardiologists and a professor at the Harvard School of Public Health, Dr. Lown had pioneered the use of coronary-care units and much of the technology to help prevent sudden death from heart attack. An intense, articulate and precise man, he became concerned about the arms race after hearing a lecture on nuclear holocaust in 1959. He proceeded to organize a group of fellow physicians and to publish a series of papers on the medical consequences of thermonuclear war in the New England Journal of Medicine, one of the country's leading medical bulletins, in 1962. It remains the classic work on the total inadequacy of any medical response in an American city hit by a nuclear bomb.

After the partial Test Ban Treaty in 1963, however, the physicians' group atrophied. Seated in the wood-paneled Harvard Club in Boston's Back Bay section, Dr. Lown recalled that the organization was not really revived until 1980, when Mr. Reagan's campaign rhetoric rekindled the old fears. Dr. Lown calculated that doctors might accomplish what the physicists had never been able to do—arouse the public. "After all," he said, "if you have a serious problem, where do you go? In a secular age, the doctor has become priest, rabbi, counselor. Then, too, the doctor brings all the credentials of a scientist."

One of the key new activists in the Physicians for Social Responsibility was Dr. Helen M. Caldicott, an outspoken Australian-born pediatrician. She had been passionately involved in the antinuclear movement since she read the novel "On the Beach" as a teen-ager in Melbourne. The book, set in Australia, describes the end of the world in a nuclear war. She became president of the group in 1979 and resigned her practice and a teaching job at the Harvard Medical School.

Since then, Dr. Caldicott, who is 43 years old, has toured the country showing the film "The Last Epidemic," which describes in chilling detail exactly what would happen to San Francisco in a nuclear attack. She sees her work as a logical extension of the practice of medicine: "It is the ultimate form of preventive medicine. If you have a disease and there is no cure for it, you work on prevention."

The Physicians for Social Responsibility has increased its membership from 3,000 a year ago to 16,000 today. Thomas A. Halsted, the group's director, who once worked for the Arms Control and Disarmament Agency under the Carter Administration, says that it is now gaining more than 300 new adherents a week. The doctors' main organization tactic until recently has been their careful field work, conducting day-long educational symposiums for groups of 1,500 to 3,000 doctors in a dozen cities around the country. But P.S.R., as it is called, has also begun adopting direct-mail appeals.

This year, the physicians' group will only send out about one million letters, Mr. Halsted said (as many as a million at a time are sent out by some of the more sophisticated political action committees in Washington). The organization has been getting back about $4 for every $1 it spends on its new mailings, he added. And its own budget has increased from $400,000 last year to about $1.6 million this year. Its staff of 24 full-time employees has just moved to new quarters above a Woolworth's store in Cambridge and has opened another small office in Washington. To aid its work, the group has acquired its own computer and also rents time on a bigger computer system at Harvard.

The success of the scientists and doctors groups has been shared by dozens of other such organizations, including High Technology Professionals for Peace, Communicators for Nuclear Disarmament, Educators for Social Responsibility and Musicians Against Nuclear Arms, Alan Sherr, who is president of the Lawyers Alliance for Nuclear Arms Control, believes that organizing by guild has been essential to the movement's success.

Mr. Sherr quit his job as general counsel to the Massachusetts Office of Human Services last January to open a full-time office for the lawyers' group; his new office looks out over Boston's Granary Burial Ground, where Paul Revere and Sam Adams are among those interred. The guild approach, he said, "avoids the divisiveness of the Vietnam War protests"—a key factor in convincing older, conservative professionals to join the movement. During the 1960's, such men and women had no desire to be associated with the hippies and the flag-burning that were so prominent in the peace movement of that day. Their feelings are different toward telephone calls or letters from their peers.

Another important factor in convincing middle-class and middle-aged citizens to join the movement have been American churches—particularly the Roman Catholic Church, which has experienced a critical transformation.

According to Bishop Thomas J. Gumbleton, Roman Catholic Auxiliary Bishop of Detroit, the change began during the Vietnam War, "though not many bishops publicly identified with it at the time." In 1968, he recalled, the National Conference of Catholic Bishops had written a pastoral letter outlining the possibility "of a conflict between a person's conscience and what the Government asks you to do." This, Bishop Gumbleton said, "highlighted a problem that had been there for many Catholics. We had a heritage as an immigrant church. We tended to overcompensate for this by our patriotism. As Francis Cardinal Spellman used to say, 'My country, right or wrong.'"

But as the Vietnam War continued, the bishops began to re-examine the old arguments concerning a just war. And, as Bishop Gumbleton pointed out, the church's re-evaluation of the relationship between the individual and the state intensified with the Supreme Court decision allowing abortion in 1973.

In November 1980, with the collapse of the SALT II treaty and Mr. Reagan's campaign rhetoric about the need to increase America's nuclear arsenal, the Catholic bishops conference began work on a pastoral letter on the arms race. It is due to be issued this fall. Bishop Gumbleton, who is head of the American branch of Pax Christi, a Roman Catholic peace group, would not comment on its contents. But he referred to a statement made last year by Archbishop John R. Roach, president of the bishops conference, in which he proclaimed that "the most dangerous moral issue in the public order confronting us is the arms race." The nuclear freeze has been endorsed by 133 of the nation's 280 active Roman Catholic bishops.

An important facet of the peace movement has been the degree to which Boston and Cambridge have been its breeding ground. With the exception of Ground Zero, in Washington, and the church organizations, most of the major antinuclear-war groups have their headquarters in the Boston area or started there, including the freeze campaign itself. That is a traditional role for an area that has long been a center of liberal political thought and activity. And Benard Feld of M.I.T. offers another explanation. He talks about the "the critical-mass effect": "We have so many universities around here that people don't feel isolated and can talk to each other without feeling strange."

For Randall Forsberg, though, the transformation from private-school teacher to peace activist began elsewhere. It was in 1967, at the height of the Vietnam War, that Miss Forsberg married a young Swedish student and moved to Stockholm. The Swedish Government had decided one contribution it could make to world peace would be to monitor the arms race. So, in 1966, it had established the Stockholm International Peace Research Institute. Because the organizers wanted an international staff, Miss Forsberg was able to walk in off the street and get a job as a typist. (The institute was organized with the stated goal of providing independent analysis of the United States-Soviet balance of power. Within the last year, it has become a target of criticism, accused of issuing findings that tend to favor the Soviet point of view.)

Miss Forsberg's introduction to the complexity of the nuclear-weapons race came when she began reading what she was typing. She couldn't believe that the 1963 talks on a comprehensive test ban treaty had broken down over the dispute between Washington's demand for seven on-site inspections a year and the Russians' limit of three. Why not compromise on five, she wondered. Soon she was writing her own research papers on the arms race.

In 1974, divorced and the mother of a 5-year-old daughter, Miss Forsberg moved to Boston where she started graduate work in arms control at M.I.T. A few years later, she set up her own small agency, the Institute for Defense and Disarmament Studies, in suburban Brookline.

Miss Forsberg describes how she arrived at her freeze proposal: "I came to the conclusion that after the failure of the compre-

hensive test ban talks in 1963, the arms-control experts gave up on complete disarmament, even on substantial reductions in nuclear and conventional forces. What replaced it was the idea of managing a permanent arms race, the goal being to keep things relatively equal. The buzz word was stability, to avoid destabilizing weapons." Then when President Reagan began talking about a $240 billion buildup in MX missiles, cruise missiles and Trident submarines, she became convinced that "the United States was giving up even this limited goal."

The answer, Miss Forsberg felt, was an idea that would be simple enough to involve the public and that would actually lead to reductions in nuclear stockpiles and stop the introduction of ever newer, more lethal weapons—the mutual and verifiable freeze. And that would be equitable, she felt, because she was convinced, as are many supporters of the freeze today, that the United States nuclear arsenal is at least the equal of the Soviet arsenal, notwithstanding President Reagan's claims to the contrary.

Miss Forsberg herself believes the freeze idea has been "the single most important factor" in the sudden growth of the movement over the past year. She and other activists cite several additional key factors that have stimulated the movement: the Senate's failure to ratify the 1979 SALT II Treaty limiting strategic offensive nuclear weapons, President Reagan's talk about fighting and surviving a limited nuclear war and the Reagan Administration's push for a vastly increased Pentagon budget at a time when the economy is in recession. Each of these increased anxiety to the point where, for many people, Miss Forsberg feels, curbing the arms race no longer seemed a partisan political issue.

She does not, however, believe the explosion of the peace movement in Europe over the last two years has been important for its American counterpart. "The Europeans are reacting to a very specific problem," she said. "They don't want new American nuclear weapons deployed in their backyards, making them a target for the Russians. But this is not the issue for Americans; they aren't particularly concerned about what the Western Europeans are feeling."

Yet, as the American public has awakened to the antinuclear-weapons question, each new event has added to the movement's momentum, like the publication in The New Yorker of Jonathan Schell's series which has now become a best-selling book, "The Fate of the Earth." In California, Harold Willens, a Los Angeles millionaire, has led a drive which got more than 700,000 signatures, far more than needed, to put the freeze on the state's November ballot. And during one week in April, Ground Zero got a million Americans to watch films, listen to debates or circulate petitions in 650 towns and cities, 350 colleges and more than 1,200 high schools.

Where is the movement headed? Democratic and Republican politicians agree that the antinuclear campaign is becoming far more partisan and political. They disagree about how significant a role it will play this fall and in the 1984 elections.

Patrick H. Caddell, the Carter Administration's pollster, said the mammoth rally in New York tended to confirm his conviction that "the antinuclear-arms movement is the most significant movement since the environmental movement in the late 1960's." In Mr. Caddell's view, the disarmament issue may not come to a head until after November, but he sees it as a long-term movement that is bound to have a strong political impact.

On the other hand, Lance Tarrance Jr., a pollster in Houston who works mainly for Republicans, discounts the surveys, which indicate that three-quarters of the American people favor a freeze. When his interviewers go on to ask people if they want a freeze that would leave the United States militarily behind the Soviet Union, "Many people fall off the bandwagon," he said. "Support for the freeze is not firm; it won't hold up under stress,"

But the movement has clearly had an impect on President Reagan, affecting his policy if not his personal thinking. The first significant change took place back in November, not long after the widespread teach-ins on Veterans Day, when he proposed to the Soviet leader Leonid I. Brezhnev that Washington would forgo placing its new Pershing 2 and cruise missiles on European soil if Moscow would scrap its SS-20 missiles, already targeted on Western Europe.

Mr. Reagan appeared to be trying to outflank the burgeoning antinuclear-arms movement by being conciliatory instead of combative. Then last month he signaled a major switch away from his hard-line policy of linking arms control talks with Soviet aggression around the world. In a commencement speech at Eureka College in Illinois, he proposed a two-step plan in which the United States and the Soviet Union would initially reduce by one-third their inventories of nuclear warheads on land and sea-based ballistic missiles.

Yet many peace activists remain skeptical about Mr. Reagan's sincerity in wanting nuclear-arms control. At the same time he was making his latest offer to Moscow, the Pentagon, under Secretary of Defense Caspar W. Weinberger, was drafting a five-year plan for fighting nuclear war against the Soviet Union "over a prolonged period." It has also not gone unnoticed that Mr. Reagan's choice to head the United States delegation to the new talks on reducing strategic arms, which began in Geneva on June 29, is a conservative, retired Army lieutenant general, Edward L. Rowny. General Rowny, who resigned from the American SALT II negotiating team to protest what he felt were too great concessions by the Carter Administration to the Soviet Union, has charged that a freeze would lock the United States into an inferior position.

Despite the rapid spread of the anti-nuclear-arms movement, there is still far from a consensus about how the United States should proceed or whether the freeze proposal itself is a good plan. More than 25 different resolutions to end the arms race have been introduced in Congress, and a freeze resolution was rejected by the Republican-controlled Senate Foreign Relations Committee.

Even some of the most active members of the movement worry that the freeze is too simplistic and impractical. Roger C. Molander, the founder of Ground Zero and a former National Security Council staff member, asks: "Freeze what? Does it mean freezing every last vehicle that is rigged up to deliver nuclear weapons, like the A-6's on aircraft carriers?"

"The freeze campaign is a good way for people to express their concern about the dangers of nuclear war," he continues, "but the lesson we can learn from the last 20 years is that focusing exclusively on arms-control agreements or the development of new weapons is not enough. The hard thing to face up to is that you can't get real arms control without improving relations with the Soviet Union."

Mr. Molander is concerned that Americans are deceiving themselves by concentrating only on affecting United States Government policy. "There is a little too much of the feeling that the whole problem is in this country and that if we can just get our act together, the Russians will go along."

But many of the activists are heartened by their sudden success, particularly as seen in the huge New York rally. Joan Baez, the folk singer and a leader of civil-rights and anti-Vietnam War protests of the 1960's, remarked in New York: "I have been on peace marches since I was probably 14 years old. But never in all those years did I feel the kind of encouragement I do now." Dr. James Muller, secretary of the International Physicians for the Prevention of Nuclear War and an assistant professor of cardiology at the Harvard Medical School, was euphoric after the big rally. "It was far more people than we expected," he said.

Representative Edward J. Markey, Democrat of Massachusetts, one of the original sponsors of the freeze resolution in the House, is also optimistic. A tall, lanky, youthful-looking man of 36, with modishly long brown hair and clear blue eyes, Mr. Markey believes that "freeze workers are going to be the replacements this fall for the Moral Majority in the 1980 election. They may provide the margin in close contests and make them flip-flop, perhaps 20 to 30 seats."

"My belief," Mr. Markey added, "is that Reagan was not put on earth by God to bring us supply-side economics. His role is to sit down with Brezhnev and end the arms race, to do for nuclear arms what Nixon did for China. My role is to create the atmospherics, the public and Congressional support, that will make Reagan the greatest man who ever lived." Mr. Markey paused, then went on with a smile. "He can reject it, of course, but we will have tried."

THERE IS NO TIME LIMIT TO SAVING LIVES

Mr. PROXMIRE. Madam President, at this time of year, 33 years ago, President Truman transmitted the International Genocide Convention to the Senate for its advice and consent. From that moment on, opponents of the treaty have clamored that it has been considered long enough. But the length of time required to consider and approve a treaty, or any other measure, is not a factor on which support for or opposition to that measure should be based. The length of the consideration period bears no relation to either the merit of the proposal or the likelihood of its ultimate passage.

There can be no time limit to liberty and justice, no time limit to saving lives. If a bill, an amendment, or a treaty can help to relieve oppression, to safeguard freedom, and to prevent violence, there can be no deadline beyond which it should be abandoned. Can we turn to people who are struggling against the pain of prejudice and discrimination, people who may be threatened by the horror of genocide, and say to them, "Sorry, your time is

up"? Our long delay in coming to their aid is deplorable, but it in no way weakens the merit of the Genocide Treaty itself.

Nor is a long consideration period a sign of a measure's ultimate defeat. Legislation which attempts to expand the scope of human freedom and justice often requires a long period of reflection and debate before it is approved by the public and its representatives. These important measures are subjected to time-consuming scrutiny. Their potential effects are thoroughly analyzed by Members of Congress and by citizens across the Nation.

But there is another and more fundamental reason behind the long consideration times frequently required for human rights measures, and that is the difficulty of overcoming inertia. The problem and the need which give rise to a human rights bill or treaty may be urgently felt by only a few specific groups of people. Others who are not members of these groups may not recognize that problem and that need. They do not perceive the existing injustice; they are not aware of the pain and frustration experienced by members of the affected groups. This lack of awareness breeds apathy and resistance to change.

There is only one sure way to overcome the opposition of inertia, and that is to appeal to the human sense of justice. It means telling people over and over again about the sufferings of others. It means not giving up until those sufferings are recognized and understood. Then people will respond with generosity and fairness. Then they will support action to remedy the injustice. But this process takes time. It takes years, decades, and sometimes centuries to change the attitudes and assumptions of large numbers of people. Should we wonder, then, at the length of time required to consider measures which embody such changes?

It took almost a hundred years of agitation and persuasion before the prohibition of slavery was made a part of our Constitution. Another 100 were required to pass legislation protecting the right of minorities to vote. Decades of struggle preceded the extension of suffrage to women in 1920. And the recent defeat of the equal rights amendment, after 10 years of consideration, does not fool anyone into thinking that it will not eventually be passed. Just give it a little time.

Thus the lapse of 33 years since the transmittal of the Genocide Convention to the Senate in no way constitutes an argument against its final ratification. But this lapse of time is a sad testimony to our apathy and inertia. Our long delay does not invalidate the purpose of the Genocide Convention, but it does increase the danger to which many peoples of the world are subjected. For those who are threatened, every day that we wait is another day without our protection and support. It is for this reason that I urge the Senate to end its long period of consideration, and to act now to ratify the Genocide Convention.

WISCONSIN NATIONAL GUARD CONTINUES TO EARN HIGH PRAISE

Mr. PROXMIRE. Madam President, the Wisconsin National Guard is the most cost effective, proficient military organization in the entire Defense Establishment. There is strong, objective evidence to back up this claim.

Today, the National Guard of the United States—this is a fact that astonished me, and it should impress other people—comprises 46 percent of all combat elements in the defense structure of our country yet it costs only 5 percent of the personnel expenditures of the Army and Air Force. That makes it the best buy for the dollar in defense.

What is so special about Wisconsin's National Guard? Just listen:

The Army National Guard in Wisconsin has experienced a remarkable growth in recent years. At an overall strength of 8,670, or 93.4 percent of that authorized, the Wisconsin Army Guard has raised its strength percentage by 20 points over the past 2 years, placing Wisconsin now among the higher strength percentage States. This is a dramatic reversal of the drop in the Army Guard's strength since elimination of the draft in October of 1972. In the current fiscal year, 56 percent of the enlistments are initial commitments. At the same time, 76 percent of personnel completing their first enlistments are opting to reenlist. At the national level, only 53 percent reenlist at this time.

In addition to its greatly increased strength, the Wisconsin Army National Guard has continued to demonstrate its proficiency. The Wisconsin Rifle Team won first place in the 1981 All-Army Competition, the second straight year it was the top-ranking National Guard team. One of Wisconsin's top marksmen, M. Sgt. David Mills of Eau Claire, coached the most recent Olympic Pentathalon team. He is the first National Guardsman selected for that honor.

In June, the 32d Infantry Brigade, which contains nearly half of Wisconsin's Army National Guard members, completed its 2-week annual training by achieving the highest marks in memory. This rating was especially noteworthy because it was the first time in years that the brigade attempted the use of combined arms in a variety of exercises at the battalion level. The independent Regular Army evaluators gave the brigade an overall rating of "Excellent," with none of the units receiving any "Unsatisfactory" scores. They praised the high esprit de corps, strong desire to increase readiness, very professional technical and officer staffs and exceptional tactical field marches and combat service support. The evaluators noted that last year's exercises by the 32d Brigade were the best in years, and this year's was even better.

During the past year, the Wisconsin Army National Guard has also achieved a major cost savings of nearly $2,000,000, involving both State and Federal funds. The bulk of these savings were achieved by renovating an older armory rather than constructing a new one, implementing rigid energy saving measures, and revising purchasing methods.

Madam President, the Army National Guard component of the Wisconsin Department of Military Affairs does not have an exclusive hold on the honors. The Air National Guard is equally accomplished.

The Wisconsin Air National Guard continues to maintain a strength level just above 100 percent of its authorized level. Its 128th Air Refueling Group is a recent two-time winner of the Air Force Outstanding Unit Award. Last year, the 128th Tactical Control Fighter Wing was the winner of the Air National Guard Outstanding Flying Unit Award. The 1982 Outstanding Unit awards are yet to be announced, but the 128th Tactical Control Flight has been nominated for this coveted honor.

Retention rates in the Wisconsin Air National Guard continue to be well above the national average of 67 percent. Wisconsin's exceptionally high 82 percent rate contributes to the high efficiency and cost effectiveness of these forces since initial training costs are kept low.

The Air Guard in Wisconsin is now flying the latest USAF aircraft and weapons systems in the inventory. The A-10 and KC-135 aircraft are recent additions. The 128th Air Refueling Group's KC-135 aircraft and crew maintain round-the-clock alert status at a cost to the taxpayers of only 50 to 60 percent of the cost of an active Air Force refueling crew.

And that is not all of the story.

In addition to providing a substantial portion of the national defense, the National Guard also serves the people in many other ways. In Wisconsin, scarcely a week goes by without members of the Guard taking an active role in resolving some crisis. The Guard is always there to help in weather emergencies, searches, rescues, damage cleanup efforts, and in supplementing local police and emergency services when these local services are overextended.

The Guard assists the community by doing such things as sponsoring drives to aid the needy, grading fields and

clearing land for reforestation or recreational facilities, building small bridges and grading for roads on public lands, teaching classes to the public, and providing various services to groups of refugees, native Americans and the handicapped.

Just this past month, the Wisconsin National Guard participated as a principal organizer of the Wisconsin Summer Special Olympic Games, held at Stevens Point. The Guard provided the color guard and flew in the Olympic flag for the opening ceremonies. Members of the Guard also provided medical and water services for the games. The Special Olympics have come to rely very heavily on the Guard for their success.

Finally, Madam President, I must note that a good deal of the success of the Wisconsin National Guard can be attributed to the extraordinary leadership of Maj. Gen. Raymond A. Matera, the Adjutant General. His dynamic organizational abilities have been recognized not only in the State but in the Pentagon.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Does any other Senator wish to make a statement during morning business? Twenty-six minutes remain.

Mr. PROXMIRE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INVASION OF LEBANON

Mr. MELCHER. Madam President, nothing of real substance to end the Israeli invasion of Lebanon has changed since I last spoke here on the Senate floor on June 22. The events of the continuous siege of Beirut by Israeli forces continue to traumatize citizens in their homes and homeland of Lebanon.

The Israeli objective of wiping out PLO artillery battery strongholds in Southern Lebanon which shelled the Galileans in Israel was accomplished long ago. It is time for the Israelis to withdraw.

Since the Israeli economy and military are supplied principally from the United States, we have the responsibility to demand that the Begin government withdraw their troops forthwith. Sending our Armed Forces into Beirut is not necessary; we are involved enough already from the Israeli use of armaments supplied from this country.

The word from the United States should be blunt to the Israeli Government: Cease-fire, withdraw, and let humanitarian efforts proceed to help the Lebanese citizens bind up their war wounds.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. STEVENS. Madam President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of Senate Joint Resolution 58, which the clerk will state by title.

The assistant legislative clerk read as follows:

A joint resolution (S. J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decision-making procedures.

The Senate proceeded to the consideration of the joint resolution which had been reported from the Committee on the Judiciary with an amendment on page 2, beginning with line 11, strike all through and including line 12 on page 3, and insert the following:

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. The Congress may not require that the States engage in additional activities without compensation equal to the additional costs.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 6. This article shall take effect for the second fiscal year beginning after its ratification.".

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

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"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 6. This article shall take effect for the second fiscal year beginning after its ratification.".

Amend the title so as to read: "Joint resolution proposing an amendment to the Constitution altering Federal budget procedures.".

Mr. STEVENS. Madam President, while we await the managers of this resolution, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I have just been informed that the managers of this joint resolution are in a meeting downtown and that none of them will be available for at least an hour.

RECESS UNTIL 1:45 P.M.

Mr. STEVENS. Madam President, I ask unanimous consent that the Senate stand in recess until 1:45 p.m. today.

There being no objection, the Senate, at 12:37 p.m., recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENS).

The PRESIDING OFFICER. In my capacity as a Senator from Alaska I suggest the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. THURMOND. Mr. President, today, the Senate begins consideration of a measure that I believe can be considered truly historic in nature. I realize that the term "historic" is frequently used on this floor with regard to legislation. But in this case, it is well deserved.

Senate Joint Resolution 58 is a proposed constitutional amendment to require the Federal Government to achieve and maintain a balanced budget. It is a proposal that has been called for by many Members of Congress, including myself, for decades. It has been my judgment, and now it appears to be the judgment of a majority of the Congress, that the only way a balanced Federal budget can be achieved is through a constitutional amendment.

Why is it necessary to take the long, arduous path of a constitutional amendment to insure a balanced Federal budget? The reasons are too numerous to recite here, but the facts speak for themselves.

In 1929, Government outlays as a share of the gross national product were 3.11 percent. In 1980, that percentage had grown to 23.8 percent. Another way to look at this growth of the Federal Government is illustrated in the commmittee report on pages 35 and 37 as follows:

> The first $100 billion budget in the history of the Nation occurred as recently as 1962, more than 170 years after the founding of the Republic. The first $200 billion budget, however, followed only 9 years later in fiscal year 1971. The first $300 billion budget occurred 4 years later in fiscal year 1975; the first $400 billion budget in fiscal year 1977; the first $500 billion budget in fiscal year 1980; and the first $600 billion budget in fiscal year 1981.

In other words, Mr. President, the Federal budget has more than tripled in the last 11 years. The current estimate of $700 billion-plus, for fiscal year 1983, must be regarded as a sizable increase under any standard of comparison. Compounding the effect of these increases in the size of the Federal budget is the fact that tax receipts to offset them have not kept up. Thus, more and more of the Federal budget must be funded through deficit spending.

NEED FOR BALANCED BUDGET AMENDMENT

There are many reasons why the budget has grown to such proportions in such a short time. I will not dwell on the more obvious political reasons, which will no doubt become a part of this debate. In the last 21 years, the Congress of the United States has not been able to control Government spending. Mr. President, the budget has only been balanced once, one time, in the last 21 years. I know of no person in private enterprise who could afford to stay in business with constant deficits like those incurred by the U.S. Government.

The growth of entitlements has contributed more than anything else to a large Federal budget program which have cost-of-living escalators attached to them. Total outlays for benefit payments for fiscal year 1983, according to the Congressional Budget Office, will be $365.9 billion. These benefits include social security benefits, $173.5 billion; medicare, $55.3 billion; unemployment compensation, $22.6 billion; civil service retirement and disability, $21.1 billion; medicaid, $17 billion; food stamps, $9.6 billion; and the list goes on and on.

In comparison, only $40 billion represented benefit payments to individuals made through State and local governments. Direct grants to State and local governments totaled only $55 billion. In short, the Federal Government, through these entitlement programs, has a spending program that Congress has simply lost the ability to control. They are somewhat uncontrollable because of statutory law of the political support of each of the special interest groups affected.

It should also be pointed out that Congress has violated its own laws in recent years in enacting Federal budgets that are not balanced. Section 7 of Public Law 95-435 states:

> Beginning with fiscal year 1981, the total budget outlays of the Federal government shall not exceed its receipts.

There it is, Mr. President, the public law authored by my good friend and colleague, Senator HARRY F. BYRD, JR., of Virginia, which has been ignored by the Congress the past 2 fiscal years. Congress cannot even abide by its own laws on the matter of the budget. A constitutional amendment is the only way. Congress must obey the Constitution.

Mr. President, State governments have been much more capable of managing their budgets than has the Federal Government. Annually, more States incur surpluses instead of deficits, although that, too, is becoming more difficult. The principal reason is that most States have constitutional prohibitions on spending more than what is received in revenues. By the end of 1980, 39 States had constitutional provisions that limited the ability of a State to incur liability. An additional eight States had statutory constraints to this effect. Some States allow a small deficit, but place a statutory or constitutional cap on it or limits the purposes for which is may be used.

My State of South Carolina has a constitutional provision as well as a rule of the house of representatives that revenues and expenses must be balanced and, if revenues fall, legislative action must be taken to reduce expenses. Balanced budgets by governments can be achieved. A constitutional amendment is clearly the best way to do it. My State also has a constitutional amendment to require a balanced budget.

COMMITTEE ACTION ON SENATE JOINT RESOLUTION 58

During my early years in the Senate, I introduced several constitutional amendments to require submission by the President of an annual balanced budget and to prevent Congress from adjourning without having enacted such a budget. None of these proposals were acted on by the committee. More recently, in the 96th Congress, I joined with several Senators on Senate Joint Resolution 126, a constitutional amendment to balance the budget which was defeated narrowly by the Senate Committee of the Judiciary on March 15, 1980, by a vote of 9 to 8.

On March 27, 1981, at the beginning of the 97th Congress, I introduced, along with a number of cosponsors, Senate Joint Resolution 58. Extensive hearings were held by the Subcommittee on the Constitution, chaired by Senator HATCH and on May 6, 1981, the subcommittee reported favorably Senate Joint Resolution 58 with amendments. On May 19, 1981, it was reported favorably by the full committee and has been on the Senate Calendar awaiting action since July 10, 1981.

Mr. President, this measure represents the best thinking on this subject. During the subcommittee hearings on Senate Joint Resolution 58 and the related measures that were before the subcommittee, testimony was heard from almost every conceivable quarter. Economists, constitutional scholars, law professors, businessmen, trade groups, Government officials, and numerous Members of Congress filled our extensive hearing record with

views and advice on how this legislation should be drafted.

A few who testified opposed outright the proposal for a constitutional amendment to balance the budget saying that it is unworkable and places an economic straitjacket on the Congress and the President. We wrestle with those criticisms and have allowed in the proposed amendment for a suspension of the effect of the amendment following a declaration of war by the Congress. The Congress also has a certain amount of flexibility in the consideration and adoption of the statement of receipts and outlays. It may be a simple statement or as complex as is necessary to describe the anticipated revenues and expenditures in the fiscal year being addressed.

The proposed constitutional amendment, Senate Joint Resolution 58, as reported by the Committee on the Judiciary, adopts a consensus approach on several key issues. It represents the views and criticisms of a wide variety of legal and economic experts and knowledgeable citizens. It will be submitted to the States, if approved by the Congress, for their study and ratification. We cannot afford to debate the matter further. The time has finally come to address the issue of a constitutional amendment to balance the budget. Senator HATCH, Senator DECONCINI, Senator HEFLIN, and others on the Judiciary Committee should be recognized for their efforts to bring this matter to the Senate floor.

Mr. President, I especially commend the able Senator from Utah, Senator HATCH, for the magnificent work he has done on this legislation. The distinguished Senator from Utah is chairman of the Subcommittee on the Constitution of the Committee on the Judiciary, and he held many hearings on this subject. He has given a great deal of attention to the development of this resolution. He is an astute lawyer, and we are very proud of the excellent work he has done. I would like to acknowledge that today on the floor of the Senate.

DESCRIPTION OF SENATE JOINT RESOLUTION 58

Mr. President, section 1 of this proposed constitutional amendment requires a three-fifths vote of each House of Congress before the Federal Government can engage in deficit spending. This requirement would establish a norm of a balanced budget so that Government spending does not exceed Government receipts in any fiscal year. Congress must adopt an initial budget, which may be amended, prior to each fiscal year, which is subject to the deficit spending limitations established in this section.

Section 2 operates in conjunction with section 1 to insure a balanced budget. It addresses congressional access to annual automatic tax increases commonly referred to as "tax bracket creep." Under this section, a spending ceiling is established requiring Congress to adopt a level of receipts for each fiscal year that represents a proportion of the national economy no greater than that for the prior fiscal year. As a result, Congress is not automatically entitled to spend at increased levels resulting from inflated tax revenues. This spending ceiling can only be overcome by a majority vote in each House of Congress, with Presidential approval, of a bill directed solely to approving specific, additional receipts.

Section 3 provides that any of the requirements imposed by this balanced budget amendment may be waived should a declaration of war be in effect during any fiscal year.

Section 4 of the resolution as originally reported by the committee prohibits Congress from circumventing the deficit spending limitation and receipts ceiling imposed by this amendment by requiring the States to engage in new, additional activities without reimbursement. Because of concern about this language expressed by several Senators, including cosponsors of Senate Joint Resolution 58, this section has since been deleted from the resolution.

Section 5 defines the terms "receipts" and "outlays" in the broadest possible sense in order to reflect the intent of this amendment to fully cover Government spending. An exception is made for receipts from borrowing and outlays in repayment of debt principal in accordance with traditional accounting procedures.

Finally, Mr. President, section 6 establishes the effective date of this amendment as the second fiscal year following its ratification.

ECONOMIC THEORY OF THE PROPOSED AMENDMENT

The economic theory embodied in this proposed constitutional amendment embraces a fiscal approach toward Federal spending. This approach is in response to the demonstrated propensity of Congress to engage in deficit spending.

The Federal Government has run a budget deficit in 42 of the last 50 years. I repeat, the Federal government has run a budget deficit in 42 of the last 50 years.

While the frequency of these deficits has changed little in the past 10 years, the size of the deficit has increased at an alarming rate. In 1970, the national debt stood at $383 billion. Following fiscal year 1981, the total figure for debts incurred will stand just below $1 trillion. With this excessive deficit spending comes rising interest payments which increasingly comprise a larger share of the Federal budget. Total interest of $80 billion for fiscal year 1981 represents 12 percent of the entire Federal budget. For 1982, the interest ran over $100 billion. Clearly, deficit spending, with accompanying interest payments, is out of control.

Mr. President, increased Government spending contributes to an increased share of our Nation's economic output of goods and services represented by the gross national product. Prior to World War I, Federal spending, except during times of war, represented at all levels less than 9 percent of the GNP. By 1950, Federal consumption rose to 15 percent of the GNP at a spending level of $43 billion. For fiscal year 1980, Federal spending of $594 billion commanded 23 percent of the gross national product.

Although an increasing share of this massive Federal expenditure has been financed by deficit spending, the burden on American taxpayers has increased dramatically to pay the price for Federal excesses.

The economic symptoms of the Federal Government's carefree spending policies are well known to all. Inflation, caused in part by Government borrowing in the open money markets, has helped to send Government costs upward at record rates. What was once the strongest economy in the world is now characterized by low economic growth. Our economy is suffering from low levels of savings and capital formation. As a result, our country is in a vulnerable position in relation to world trade.

The recent inflation rates, which have so devastated our economy, are closely associated with increasingly large Federal deficits. The practice of deficit financing places the Federal Reserve Banking System in an indefensible position. As the Federal Reserve purchases a significant portion of each year's new debt, the money supply grows faster than the economy's ability to absorb this growth without increasing prices. Higher prices for goods and services result in higher interest rates and, ultimately, increased inflation.

Prof. Milton Friedman described the results of Federal Reserve financing of deficit spending when he noted:

> Interest rates are high because inflation is high. Inflation is high because the rate of money creation is high.

The alternative to deficit financing is increased levels of taxation. This is an unacceptable alternative. The American people should not be deprived of more of their personal income to finance excessive Government spending. Taking even more money from the Federal taxpayer will only result in less savings, less capital investment, and less economic growth.

Senate Joint Resolution 58 provides a reasonable approach toward remedying the economic ills that have plagued our country as a result, in large part, of massive Federal deficit spending. A constitutional amendment which mandates Congress to limit Fed-

eral deficits, which places a ceiling on spending, and which cuts off Federal access to inflated tax revenues, is a tool by which our Nation can get on the road to stable economic development.

CONCLUSION

Mr. President, this legislation is the result of a broad, bipartisan effort. The fact that there are now 60 cosponsors on Senate Joint Resolution 58 speaks for itself. If Senators have not joined in this effort, I hope they might decide to do so before we finish debate on this matter. I am also hopeful that Senators who may be considering amendments think carefully about offering them. The companion bill to Senate Joint Resolution 58 in the House has more than 200 cosponsors. If legislation is amended in the Senate and sent to the House and then to the House Judiciary Committee, its chances for passage in this Congress will diminish. It is late in the year. The time is right. I urge Senators to refrain from amendments and act quickly on Senate Joint Resolution 58.

I do not wish to dwell on this point, but I have waited for 28 years to witness the Senate begin deliberations on a constitutional amendment to balance the Federal budget. I do not mean to say "I told your so," but those of us in the Senate during the fifties and sixties who argued for legislation of this kind were regarded as "radical" and "anti-Government." We were dismissed as conservatives who used the argument for a balanced budget as an excuse to oppose Government programs.

Mr. President, I am not "anti-Government". I want my Government to work efficiently, fairly, and responsibly for all Americans. Government cannot be efficient, fair, or responsible when it spends more than it receives in revenues. We in Congress are part of Government, and in that role we must take responsibility for its fiscal well-being. We have failed in that responsibility for the past two decades.

Mr. President, Senate Joint Resolution 58 can restore our Government to a position of efficiency, fairness, and responsiveness to the American people. I urge the Senate to act favorably on Senate Joint Resolution 58.

Mr. President, I now yield to the distinguished and able Senator from Utah, who is chairman of the Subcommittee on the Constitution of the Committee on the Judiciary of the Senate.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I thank my distinguished chairman of the full Committee on the Judiciary. I shall have more to say on his outstanding contributions in this area later today.

Mr. President, for the first time in the history of the country this body is beginning a full-fledged debate on whether to amend the U.S. Constitution to require a balanced Federal budget. This debate comes after more than 50 years of debate in this country on the issue of restoring to the Constitution the "unwritten rule" of balanced budgets that existed for the first 150 years of our Nation's history. For the first time, Congress has the opportunity to send to the States of the Union a proposed constitutional amendment that incorporates expressly into the Constitution basic and fundamental concepts of fiscal responsibility, and open and accountable fiscal decisionmaking.

Senate Joint Resolution 58 became the first proposed amendment on this subject to be reported out of the Senate Judiciary Committee in May of last year when it was approved by an 11-to-5 vote in the full committee. This followed 12 days of hearings in the Subcommittee on the Constitution during the 2 previous years, and two favorable recommendations on the amendment by the subcommittee to the full committee. The amendment is the product of an extensive effort by the Subcommittee on the Constitution to develop a consensus constitutional amendment among a wide number of proposed amendments relating to balanced budgets, spending limitations, tax limitations, and procedural reforms. This has been an extremely difficult effort, but I believe that Senate Joint Resolution 58 has emerged as an effective and workable provision—one that is both economically and constitutionally sound.

SUMMARY

With the public debt approaching, and now surpassing, $1 trillion, efforts to secure a constitutional rule to require a balanced Federal budget have intensified. These efforts have been generated by the public, by the legislatures of the States, by representative national organizations, and by Members of Congress. Increasingly, the growing deficits of the National Government have come to be recognized as the root cause of many of the most persistent, and apparently intractable, economic problems of our Nation. Levels of inflation and unemployment have remained at historically unprecedented levels, while levels of economic growth and productivity have declined commensurately. Whatever one's philosophical view of the role of Government, it is difficult to view deficits as benignly as once may have been the case.

Senate Joint Resolution 58 would reassert constitutional limitations upon Federal spending and deficit practices that existed in the earlier years of our Republic through an array of formal and informal constitutional provisions and which have been eroded over the course of recent years. The abandonment of the "unwritten constitution" requirement of balanced budgets, the passage of the 16th amendment, the development of new judicial doctrines concerning the Federal spending power are some of the constitutional features that have contributed to the present situation in which there is a virtual absence of external constraints upon the ability of Congress to spend.

Specifically, the proposed amendment would address a serious spending bias in the present fiscal process arising from the fact that Members of Congress do not have to cast votes in behalf of new taxes in order to accommodate new spending programs. Rather than having to cast politically disadvantageous votes, they may either resort to increased levels of deficit spending, or allow the tax system through "bracket creep" to produce annual, automatic tax increases.

Members of Congress are thus free to respond to the concentrated pressures of spending interest groups—and reap the political advantage of doing so—without having to reap concomitant political disadvantages by reducing spending programs favored by some other spending interests or expressly raising taxes.

The result is that spending continues inexorably to rise whatever the genuine will of the people. The result in an essentially undemocratic and unresponsive process that enables Members of Congress to avoid ultimate accountability for their spending and taxing decisions. It is the existence of this institutional bias that convinced me that a constitutional solution is required.

Senate Joint Resolution 58 attempts to overcome this spending bias by restoring the linkage between Federal spending and taxing decisions. It does not propose to read any specific level of spending or taxing forever into the Constitution and it does not propose to intrude the Constitution into the day-to-day spending and taxing decisions of the representative branch of Government. As chairman of the Labor and Human Resources Committee, and a member of the Budget Committee, I would not wish to see these decisions moved to a different forum. The amendment merely proposes to create a new fiscal environment in which the competition between the tax spenders and the taxpayers is a more equal one—one in which spending decisions will once more be constrained by available revenues.

The amendment is not a panacea for the economic problems of the Nation. I do believe, however, that the amendment represents a major step toward securing a political environment in which fiscally responsible policies will be more easily possible, as well as an environment more conducive to honest and accountable fiscal decisionmaking.

It represents both responsible economic policy and responsible constitutional policy, and would constitute an appropriate response by Congress to the pending applications by nearly two-thirds of the States for a constitutional convention on this issue.

Most importantly, it would constitute an appropriate response by Congress to the clearly and frequently expressed view of the large majority of the American people in behalf of a constitutional amendment of the nature of Senate Joint Resolution 58.

The proposed amendment reads as follows:

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 5. This article shall take effect for the second fiscal year beginning after its ratification.".

Section 1 of the proposed amendment addresses the present spending bias resulting from the unlimited access Congress has to deficit spending. It would establish the norm of a balanced Federal budget, that is, one in which Government outlays do not exceed Government receipts. This norm could be overcome anytime three-fifths of the total membership of each House of Congress approved a specific level of deficit. Under this section, Congress would be required to adopt an initial budget for a fiscal year prior to that fiscal year, but would be permitted to amend such budget at any later date. Both the initial budget and any amended budget would be subject to the limitations established in this section. Congress and the President would both have continuing responsibilities to insure that the spending levels established in the budget were maintained.

Section 2 of the proposed amendment addresses the spending bias resulting from the access that Congress has to annual, automatic tax increases—"bracket creep". It is designed to insure that the balanced budget required in section 1 does not occur at levels of spending and taxing that result in the public sector constantly consuming an increasing proportion of the national product. Under this section, Congress would be required to adopt a level of receipts in its budget for any fiscal year that represented a share of the national economy no greater than that for the prior fiscal year.

Operating in conjunction with the balanced budget requirement of section 1, section 2 would establish a similar ceiling on outlays for any fiscal year. This presumptive ceiling could be overcome anytime an absolute majority of the membership of each House of Congress passed legislation approving specific additional receipts. Such a bill would be subject to Presidential approval or disapproval in the same manner as any other legislation. Tax indexing would be one means by which compliance could generally be achieved with this provision.

Section 3 would authorize Congress to waive any of the requirements imposed upon it by this amendment for a fiscal year in which a declaration of war is in effect.

Section 4 is a definitional section that clarifies the intent of this amendment to define outlays and receipts in the broadest possible manner. The exceptions in the definitions for "outlays" and "receipts" are consistent with traditional budget and accounting procedures.

Section 5 establishes as the effective date of this amendment the second fiscal year beginning after its ratification. The requirements of the amendment, in their entirety, would be applicable to such fiscal year.

A far more detailed explanation of the terms in these sections is contained at pages 43 to 60 of the committee report on Senate Joint Resolution 58 (S. Rept. No. 97-151). It should also be noted that an earlier provision of Senate Joint Resolution 58 adopted originally in the full committee, relating to spending requirements imposed by Congress upon the States, was later stricken by the committee.

Senate Joint Resolution 58 would then establish a series of fiscal norms that have to be understood if one is to fully understand the operations of the amendment. Section 2 establishes the first norm that planned levels, or statement, receipts cannot exceed the formula established in section 2. This would limit growth in receipts to growth in the overall economy. Section 1 establishes the second fiscal norm that planned levels, or statement, outlays cannot exceed planned levels, or statement, receipts. This is the basic balanced budget requirement. Finally, section 1 also establishes the fiscal norm that actual levels of outlays cannot exceed planned levels, or statement, outlays. This is one of basic enforcement provisions of the amendment, relating the planned statement or budget to the actual budget. Because of the far greater control that Congress has, effectively and constitutionally, over actual outlays than over actual receipts, there is no fiscal norm that requires actual levels of receipts to match planned levels, or statement, receipts.

WHY NOT A STATUTE?

An amendment to the U.S. constitution is an extremely serious step, one to be taken if and only if no alternative response to a serious public policy problem is likely to be effective. The major alternatives to Senate Joint Resolution 58 are, first, some statutory measure of fiscal restraint; second, new resolve by Members of Congress to restrain levels of Federal spending, taxing, and deficit; or third, the election to Congress of new Members who possess such resolve.

In my view, and in the view of the Judiciary Committee, these alternatives are not likely to prove effective alternatives. In one form or another, each of these has been employed in the past with unsatisfactory results. There is little reason to believe that they will prove any more effective in the future.

The first alternative is for Congress to resort to some form of statutory restraint. As pointed out in section VI of the committee report, a large number of these restraints have been proposed over the years, with several of these having been enacted into law, for example, Public Law 95-523, section, 2(a), 6(i); Public Law 95-435, section 7; Public Law 96-5, section 5. None, however, has succeeded in constraining Congress in its propensity to spend, tax, and incur deficits. The most obvious reason for this, ultimately, is that no Congress can bind a succeeding Congress by a simple statute.

A statutory balanced budget or tax/spending limitation can be effectively repealed in whole or in part by the simple expedient of adopting a new statute or a new budget which is in conflict with the earlier measure. Such a repeal need not even be explicit; it may be merely implicit in the fact of the contradictory later action. Statutory limitations remain effective only so long as no majority coalition forms to repeal the statutory constraints.

It is the premise of Senate Joint Resolution 58 that some greater rule is required if Congress is to overcome the spending bias existing within our political system. So long as simple majorities are able to engage in the same scope of fiscal practices as under present law—and they will always be

able to do so for as long as they are limited by nothing more than a simple statutory constraint—this spending bias will continue to exist. Congress will continue to have unlimited access to deficit spending, and it will continue to have available automatic tax increases.

It is the existence of this fundamental bias that also mitigates against the effectiveness of the other suggested alternatives: increased resolve to exercise fiscal restraint by Members of Congress or the election of new Members who will demonstrate such restraint.

The premise of the proposed amendment is that there is a structural bias within our political system that causes higher levels of spending than desired by the citizenry, not that a majority of Members of Congress are determined to engage in fiscally irresponsible practices. Senate Joint Resolution 58 is designed to enable Members of Congress to overcome this bias by establishing an external constraint upon the ambit of their fiscal activities. If this analysis is correct—see following section—the spending bias can be overcome only by an external constraint, something upon which Members of Congress can rely when spending interest pressures become excessive.

The alternatives to a constitutional amendment are not viable precisely because the fiscal history that Congress has written in recent decades reflects a serious defect in the institutional setting within which Congress operates. Only a constitutional amendment can overcome this. Periodic efforts by Congress during times of economic crisis to exercise unusual fiscal restraint are simply insufficient. Rather, there must be continuing efforts in this regard to prevent such crises, in the first place.

In a democracy, constitutions establish the structure of government by imposing restraints on the behavior of those who represent the people. For years, the body politic has suffered from the removal of constraints upon the Congress imposed explicitly or assumed implicitly by the Framers of the Constitution. The present amendment would reimpose, explicitly, those constraints as only a constitutional amendment can.

GENERAL CONCEPTS

The primary purpose of Senate Joint Resolution 58 is to correct a bias in the present political process in behalf of ever-increasing levels of Federal Government spending. Whether such spending is financed by higher taxes or new debt, most of the economic problems suffered by the Nation in recent years are caused, in major part, by excessive Government spending. High interest rates, and the resulting decline in investment and productivity, and increase in unemployment, all follow when the Government uses an excessive share of the Nation's resources, leaving too little for productive use by the private sector. If the Federal Reserve Board attempts to reduce these economic problems by increasing the money supply faster than increases in the supply of goods and services, inflation results.

While it is true that much of the enormous growth in Federal Government spending over the past two decades may have been a response to evolving notions of the role of the public sector on the part of the American citizenry—that is, a genuine shift in the will and desire of the people—it is the premise of Senate Joint Resolution 58 that a substantial part of this growth stems from far less benign factors.

In short, it is the premise of Senate Joint Resolution 58 that our political process is defective insofar as it is skewed toward artificially high levels of spending, that is, levels of spending that do not result from a genuine will and desire on the part of the people. It is skewed in this direction because of the characteristics of the fiscal order that have developed in this country in recent decades. It is a fiscal order in which Members of Congress have every political incentive to spend money and almost no incentive to forego such spending. It is a fiscal order in which spending decisions have become increasingly divorced from the availability of revenues.

CONCENTRATED BENEFITS-DISPERSED COSTS

It is important first to understand what some economists and political scientists have described as the concentrated benefit-dispersed cost phenomenon. This describes the fact that the benefits of any given spending program normally are concentrated within a relatively small class of beneficiaries, while the costs of such a program are dispersed throughout a relatively large class of persons, that is, the taxpayers. Thus, those parties who benefit from a particular spending measure stand to benefit greatly while those who bear the costs are affected insignificantly. The Italian economist Pareto described it in these terms:

> Let us suppose that in a country of thirty million inhabitants it is proposed, under some pretext or other, to get each citizen to pay out one franc a year, and to distribute the total amount amongst thirty persons. Every one of the beneficiaries will receive one million francs a year. The two groups will differ very greatly in their response to this situation. Those who hope to gain a million a year will know no rest by day or night. They will win newspapers over to their interest by financial inducements and drum up support from all quarters. A discrete hand will warm the palms of needy legislators, even of ministers . . .
>
> On the other hand, the despoiled are much less active. A great deal of money is needed to launch an electoral campaign. Now there are insuperable material difficulties militating against asking each citizen to contribute a few centimes. One has to ask a few people to make substantial contributions. But then, for such people, there is the likelihood that their individual contribution to the campaign against the spoliation will exceed the total amount they stand to lose by the measure in question . . . When election day comes, similar difficulties are encountered.
>
> Those who hope to gain a million apiece have agents everywhere, who descend in swarms on the electorate, urging the voters that sound an enlightened patriotism calls for the success of their modest proposal. They will go further if need be, and are quite prepared to lay out cash to get the necessary votes for returning candidates in their interest. In contrast, the individual who is threatened with losing one franc a year—even if he is fully aware of what is afoot—will not for so small a thing forego a picnic in the country, or fall out with useful or congenial friends, or get on the wrong side of the mayor or the prefect. In these circumstances the outcome is not in doubt; the spoilators will win hands down.—Cours d'Economie Politique (1896).

More recently, Arthur Burns, former Chairman of the Federal Reserve Board, expressed similar thoughts:

> The proximate causes of this governmental bias are quite clear. In general, spending programs are more popular with people than higher taxes. The potential beneficiaries of a spending program are often a numerical minority, but they have a stronger incentive to keep informed, to organize, and to lobby for their favorite program than those who bear the cost have to oppose it. The rising cost of political campaigns and the concurrent proliferation of fund-raising committees put intense pressure on legislators to vote for spending programs favored by such groups. We may, in fact, be entering an era in which governmental processes are overwhelmed by the naked demands of increasingly well-organized and effective interest groups. It is this concern that has led me to look with favor on even preemptory devices for offsetting the existing bias toward larger Federal spending and borrowing.—AEI Economist, April 1979.

The competition, then, between the taxspenders and the taxpayers is a highly unequal one; it is not at all surprising that the former should prevail so frequently. It is simply not worth the while of the individual taxpayer to spend as much time and effort to save himself a few cents or a few dollars on some program as it is for spending interests to secure millions or even billions of dollars for themselves. The spending interests tend to be intense and passionate in focusing upon individual spending measures likely to accrue to their benefit, while those who logically would be the most concerned about them, the taxpayers, tend to be diffuse and unorganized. Spending interests are politically visible and articulate and able to reward or punish legislators with their organized electoral support or nonsupport. Meanwhile, taxpayers are politically inarticulate, only minimally able to perceive their self-interest in the con-

text of isolated pieces of legislation. It is only when these spending programs are aggregated that the taxpayer begins to feel the full impact of such spending. Thus, it is only natural that legislators, however sincerely committed to fiscally responsible public policies, should be sensitive and responsive to the concerns of those who lobby for new expanded spending initiatives. As Prof. Charles Baird of the University of California at Hayward has observed:

> Whenever government programs are considered one by one, there is a bias toward government growth. Each program has a well-defined constituency that receives positive benefits therefrom. In many cases, the benefits from a particular program to a particular person represent a large part of that person's total income, while the tax cost to the beneficiary of that program is miniscule. Such direct beneficiaries of program A therefore are strongly motivated to organize, work, and lobby for the adoption and growth of that program. There is no countervailing incentive for taxpayers in general to organize, work, and lobby against program A in isolation because any individual taxpayer's share of program A is miniscule. Since elected representatives inevitably respond to lobbying efforts, there is a high probability that program A will be adopted even if the sum of the benefits therefrom are less than the sum of the costs.

The purpose of Senate Joint Resolution 58 is to create a more equal competititon between spending interests and taxpayer interests by reducing the structural bias toward higher spending within the Federal fiscal system that contributes to the current imparity. By reducing the bias, and creating a more neutral environment within which this competition can take place, the representative processes will be more responsive and accountable to the genuine desires and interests of the public at large with respect to levels of public expenditures. As Prof. Allan Meltzer of Carnegie-Mellon University has observed:

> Only by changing the ground-rules under which spending decisions are made can we expect to obtain the outcome which people desire.

The proposed amendment addresses two elements of the spending bias: The access Members of Congress have to deficit spending and the availability to Members of Congress of annual, automatic tax increases. Each of these elements enable Members of Congress to avoid having to vote for new taxes to finance new spending.

DEFICIT SPENDING

The first element of the spending bias relates to the virtually unlimited access that Members of Congress have to deficit spending. As the "unwritten constitution" requirement of budget balance has been disregarded in recent years, Members of Congress no longer are constrained in their ability to increase spending by the concomitant need to increase ordinary revenues. Permissible levels of spending no longer are defined, as they traditionally have been, by levels of revenues available. In consequence, Members of Congress are free to satisfy the demands of particular spending interests, and to obtain the resulting political advantages, without having either (a) to reduce spending for some other spending interest and incurring the resulting political disadvantages in doing so, or (b) to increase tax revenues and again incurring the resulting political disadvantages in doing so.

Members of Congress do not have to reduce levels of spending for one program in order to accommodate increases in other programs because there is no effective limit as to how much Congress may spend in its budget. Once the traditional linkage has been severed between spending and revenues, there is no need for Members to establish priorities as between alternative spending proposals; each can be satisfied simply by increasing the level of the deficit. The availability of deficit spending enables Members to avoid the hard political decision of having to choose among spending proposals and thereby creating for themselves some element of political disadvantages as well as political advantage.

Members of Congress do not have to increase revenues in order to accommodate increased spending because levels of spending no longer are related in any meaningful way to levels of revenue. Thus, not only is there no need for Congress to antagonize any other spending interest in the process of supporting a given spending measure, but there is no need to antagonize taxpayers by raising their tax burdens. Again, there is no element of political disadvantage Members of Congress are required to incur in order to reap the political advantages accruing to those who respond to the spending interests.

In this respect, the availability of unlimited deficit spending allows the political costs of spending measures to be deferred in time, while enabling the political benefits to be enjoyed immediately. While the benefits of the measure usually will be understood immediately by its beneficiaries, the costs—in the form of higher future taxes, higher future inflation, and higher future interest rates—usually will be evident only at some distant time. Indeed, there may be no political costs whatsoever unless those who suffer from these economic ills are sophisticated enough to understand the cause-effect relationship between the earlier spending and the present symptoms.

AUTOMATIC TAX INCREASES

The second element of the spending bias addressed by Senate Joint Resolution 58 relates to the access Members of Congress have, under our present system, to annual, automatic tax increases. As a result of the interaction between inflation—or real economic growth—and a progressive system of taxation, the public sector normally consumes a higher share of the national product each year. As individuals earn more dollars, whether they are real or nominal, an increasing share of these dollars are paid to the Government in taxes. Economists have referred to this as taxflation or tax bracket creep.

In consequence, Members of Congress do not have to expressly vote for higher taxes in order to increase revenue levels. As Prof. Charles Baird of the University of California at Hayward has observed:

> With "bracket creep", it is possible for members to raise taxes by doing nothing which is considerably less painful than raising taxes by voting to do so.

Such revenue increases accrue automatically to Members of Congress, through inaction. Members are able to satisfy spending interests, and to obtain resulting political advantages, without having to explicitly raise taxes and incur the wrath of the taxpayers. There is no visible or apparent financing of increased revenues.

APPROACH OF SENATE JOINT RESOLUTION 58

In seeking to reduce the spending bias in our present system—the unlimited availability of deficit spending and the access to automatic tax increases—the major purpose of Senate Joint Resolution 58 is to insure that, under normal circumstances, votes by Congress for increased spending will be accompanied either by votes (a) to reduce other spending programs or (b) to increase taxes to pay for such programs. For the first time since the abandonment of the traditional balanced budget requirement, Congress will be required to cast a politically difficult vote as a precondition for a politically attractive vote to increase spending.

Section 1 of the proposed amendment would address the first element of the spending bias—unlimited access by Members of Congress to deficit spending—by requiring a three-fifths vote of each House of Congress before the Federal Government could engage in such spending. Such a procedure would not prohibit deficit spending, but simply would reestablish, as a norm, a budget in balance rather than one in deficit. A consensus greater than a normal majority would be required to violate this norm. Unless such a consensus existed, Congress would be bound in its spending by its available revenues. Unless such a consensus existed, Congress would be forced to account for new spending in one program area by either reduced spending in another program area or by increased taxes. The political advantages resulting from support of new spending would be matched, at

least to some degree, by countervailing political disadvantages.

Section 2 of the proposed amendment would address the second element of the spending bias—the availability of annual, automatic tax increases—by requiring Congress to cast an express vote to increase taxes before it could take advantage of increased levels of revenue. Otherwise, the level of revenues available to the Federal Government, relative to the national economy, would not be permitted to increase from year to year. In the absence of an express tax increase voted by Congress, the public sector could no longer, as is now the case, grow at the expense of the private sector.

While section 1 would insure, as a norm, that Federal spending is matched by Federal revenues, section 2 would insure that such revenues are not raised in a hidden manner by Members of Congress. It would also insure that the normal balanced budget is not balanced at increasingly high levels by allowing taxes to increase inexorably each year. Congress no longer could remain silent and allow taxes to rise automatically, in the process undermining the most elementary notions of political accountability. Before Congress could make available to itself greater amounts of revenue for new spending initiatives, it would have to stand up in view of the public and place itself on record in behalf of such increased revenues.

It is important also to recognize the impact upon the budget process of section 1 operating in conjunction with section 2 and the balanced budget provision in section 1 work to produce an effective spending limitation as well.

Prof. Milton Friedman observes in this regard:

> Both the concepts of balanced budget and spending limitation are right and are combined in Senate Joint Resolution 58. It is more sophisticated than it appears on the surface. Sections 1 and 2 together achieve a limit on total spending and a balanced budget statement. It is an effective measure, in my opinion to limit government receipts and spending, on the one hand, and to produce a balanced budget on the other.

As a result, Senate Joint Resolution 58 effects a subtle, but important, change in the psychology of the budget process. Under the present system, each spending interest, in effect, competes with the taxpayers to raise the total ante in the Federal Treasury. As noted, these spending interests normally prevail in this competition. Under a system, however, in which some form of presumptive spending ceiling is in effect, these same spending interests are suddenly competing with one another in order to insure themselves a certain proportion of a fixed ante in the Federal Treasury. Not only will spending interests have to convince Congress that their favored programs merit funding at a certain level, but, in addition, will have to establish the priority of their programs. A spending ceiling comprised of something beyond mere congressional self-restraint will force Members of Congress to view spending requests in terms of relative desirability, not simply in terms of whether or not a program was desirable at all. An element of competition among the spending interests will be introduced into the budget process, undoubtedly to the long-term interests of those who finance the spending programs favored by these interests.

Thus, the proposed amendment would make it easier for well meaning, but beleaguered, Members of Congress to exercise fiscal responsibility in making their policy decisions. There would be an external constraint, something beyond their own ability to resist the importunings of the spending interests, upon which they could rely. As Prof. Roger Freeman of the Hoover Institution has noted:

> It is not that members of Congress do not wish to produce a balanced budget but that under the circumstances they can only do so at a grave political risk to their survival. They need a defense against excessive demands which allows them to say "no" to a multitude of pressure groups. Such a defense cannot be built by statute because any act of Congress can be amended or repealed by this Congress or the next. Only a constitutional amendment can impose credible and effective spending restraints.

Pro. James Buchanan goes on to elaborate:

> The fault lies not in the bad intentions of elected politicians. The basic causes for the dramatic, and readily observable, shift in U.S. fiscal habits after World War II and notably after 1960 are not hard to identify. Keynesian teachings had succeeded in effectively repealing an important element of the unwritten fiscal constitution within which American politics had been carried out throughout almost two centuries of its history.

In summary, the purpose of Senate Joint Resolution 58 is to eliminate the serious bias in behalf of spending that exists within the political process that allows Members to avoid having to vote for higher taxes in order to pay for higher spending and to establish a more genuinely neutral environment within which the budget competition occurs. The proposed amendment does not define what constitutes or what does not constitute a responsible budget, but only defines the institutional framework within which such budgets can be put together. Rather than Federal Government spending increasing inexorably, whatever the desires of the citizenry, the amendment would insure that such spending is set at levels more reflective of their genuine desires.

THE SPENDING BIAS IN OUR PRESENT FISCAL SYSTEM THAT PRODUCES UNDEMOCRATIC RESULTS WHICH DO NOT REFLECT THE GENUINE WILL OF THE PEOPLE

ELEMENTS RESPONSIBLE FOR BIAS

Access to borrowed funds (accessibility of deficit spending).

Availability of automatic tax increases ("taxflation" or "bracket creep").

OPERATION OF BIAS

Members of Congress do not have to vote for increased taxes in order to finance increases in spending. They may either engage in greater levels of deficit spending, or they may accrue additional revenues through annual, automatic tax increases.

Members can satisfy spending interests and incur resulting political advantages without having to incur countervailing political disadvantages by voting to raise taxes or by voting to reduce programs favored by other spending interests.

APPROACH OF S.J. RES. 58

Would eliminate the two elements of our fiscal system responsible for the spending bias: Sec. 1 establishes a norm of a balanced budget and requires a three-fifths majority to engage in deficit spending. Sec. 2 requires an explicit record vote of Congress before the Federal Government may collect a greater share of the national income. Given public opinion today, secs. 1 and 2 would create a spending limit. Spending interests would compete against one another for a share of fixed spending level rather than against taxpayers for an increasingly high spending level. Members would be forced to balance countervailing political advantages and disadvantages in voting for new spending programs.

CONSTITUTIONAL PROPRIETY

Senate Joint Resolution 58, in my view, is an amendment reflecting both sound economic policy and sound constitutional policy. The Judiciary Committee fully recognized the differing imperatives in putting together a constitutional provision, as opposed to a simple statutory provision.

SPENDING BIAS

The purpose of the proposed amendment is not to write into the Constitution any permanent economic policy; rather, as I discussed in the previous section, it is to eliminate a pronounced structural bias toward increased levels of spending that has developed within the political system. The existence of this bias has led to a fiscal process in this country that is unresponsive and largely undemocratic. It is unresponsive in that levels of public spending inexorably move upward whatever the genuine desires of the people; it is undemocratic in that it serves to obscure where responsibility lies for such increased spending.

Throughout most of the history of this country, public spending was constrained by an "unwritten Constitution" requirement of a balanced budget. While occasional deficits would be incurred, generally during wartime, public debt was regarded as something undesirable, something to be reduced and eliminated as quickly as possible.

A linkage existed between spending and revenue in the sense that public expenditures generally were set at levels that were matched by public revenues. Revenue estimates generally were established prior to expenditure estimates and served to define permissible levels of expenditures. It was an historical norm, described by Prof. Alvin Rabushka, of the Hoover Institution, as one in which:

> Public officials first determined what resources were available to government and against that constraint chose among the many competing claims on public spending.

Under this system, public officials could support new spending programs but only when they also were prepared to reduce other spending programs commensurately or to raise revenues to cover such new spending. This political reality served as an effective check upon the creation of unlimited numbers of new spending initiatives.

As new economic theories began to take hold in the middle years of the 20th century and as the traditional balanced budget requirement came increasingly to be disregarded, an entirely new fiscal environment evolved. With the severing of the historical linkage between spending and revenue, spending decisions increasingly have become divorced from revenue decisions. Spending decisions increasingly have been reached without consideration of whether or not revenues existed to finance such spending. The virtually unlimited accessibility to deficit spending has served to bridge whatever gaps have developed between levels of expenditures and levels of revenues.

As Prof. Craig Stubblebine, of Claremont Men's College, has noted:

> Planned deficits in years good and bad signify Congressional rejection of the fiscal rule which served America for the greater part of its life . . . with erosion of these fiscal disciplines, understood by and adhered to by the founders of this nation, no one should be surprised that the Congress has been unable to exercise the restraint necessary to secure and maintain economic stability.

The implications of this access to deficit spending as a substitute for the traditional balanced budget norm are important for our political system. It means that Members of Congress invariably possess political incentives to respond to the demands of spending interest groups for greater public spending. Such spending, unlike in past years need not be accompanied by votes to reduce spending in other areas or by votes to increase public revenues. In other words, the political advantages to be accrued by responding favorably to a spending interest no longer are accompanied by equivalent political disadvantages growing out of the need to antagonize some other spending interest or to antagonize the taxpaying public generally.

Dr. William Niskanen, a member of the President's Council of Economic Advisers, has remarked in this regard:

> Once the nexus between Federal spending and tax revenues was broken, no consensus developed on any other rule to constrain the level of spending and the deficit.

Professor Buchanan has remarked further:

> The simple arithmetic of politics suggests a regime permanent and continuing deficits in democratic society where there exists no constraint that dictates some balancing of the costs and the benefits of spending programs. "To spend without taxing"—this stuff of politician's dreams must somehow be held in check by rules of fiscal prudence.

The result is a strong and persistent bias in behalf of ever higher levels of public spending. Members of Congress are not required to vote for higher taxes in order to finance higher spending. However well-intentioned, and however committed a Member of Congress is to fiscally responsible policies, it is politically difficult to cast votes against spending measures. It is the legislative process itself that is flawed in this respect. The tax-spending interests are intense and articulate in support of their programs—for they normally stand to gain considerable amounts of public funds on a per-capita basis—while the taxpaying interests are diffuse and unorganized—for they stand to lose only nominal sums in the context of any single spending program. Such an unequal competition for tax dollars, not surprisingly, results in defeat more often than not for the taxpaying interests.

Recognition of the difficulties posed for the body politic by special interest groups stems at least as far back as Madison's discourses in the Federalist Papers. In the Federalist No. 10, Madison emphasized the paramount responsibility of the new Government to "break and control the violence of faction." Later in the same essay, he proceeded to define such "factions" as:

> A majority or minority of the whole, who are united and actuated by some common impulse or passion, or of interest adverse to the rights of other citizens, or to the permanent and aggregate interests of the whole.

The causes of such "factions" are "sown in the nature of man" and must be controlled by the institutions created by the new Constitution.

While not necessarily anticipating the precise harm that would be done to the "interests of the whole" by "factions" in the area of national economic policy, Madison did discourse upon the need for the institutions of the new Government to temper the influence of factions, not to compound it. "Ambition must be made to counteract ambition," Madison observed in the Federalist No. 51.

The present fiscal regime magnifies the role of factions within the political process and enhances the divisions between these factions and the interests of the whole; the fiscal regime established by the proposed amendment, on the other hand, would refocus the efforts of factions in a way that strengthens and reinforces the political system. Rather than such factions competing with the taxpayers, or the "interests of the whole," in order to increase the resources available to the public sector, instead they would be competing with one another in order to secure for themselves a higher share of a fixed level of resource available to the public sector. Instead of demonstrating merely that their program was a worthy one, the factions would have to demonstrate further that their program deserved priority.

REPRESENTATIVENESS OF PROCESS

The objective of Senate Joint Resolution 58 then is not to "read economic policy into the Constitution," as some have suggested, but to alter the spending bias in order to make the budget process one that is more responsive and more democratic. It does not seek to establish an alternative bias in behalf of reduced levels of expenditures, but simply to restore a semblance of neutrality—to insure that the political equation confronting Members of Congress who must vote on spending measures carries some element of countervailing political advantage and disadvantage.

An analysis by the Heritage Foundation on Senate Joint Resolution 58 concluded:

> Amending the Constitution to require that Congress always "balance" its fiscal decisions would be adding a political rather than an economic principle to the Constitution. A balanced budget implies neither a raising nor a lowering of either taxes or spending. It implies no decision about how much of the private wealth of the country the Congress may expropriate for governmental purposes. It contains no limitation of Congress' power to spend for the general welfare. It is based on no economic formulas. It merely proposes a unity; that appropriations be made to measure taxes and that taxes be made to measure appropriations. Issue Bulletin No. 59, March 6, 1980.

It is a premise of Senate Joint Resolution 58 that the representative political processes ought to be charged with primary responsibility for making day-to-day decisions with respect to spending and taxing. It is a further premise that elected representatives can be expected to make spending and taxing decisions more reflective of true public sentiment once the bias toward spending is overcome. Unlike many other proposed amendments that would prevent Congress from approving any particular item of expenditure or taxation, there is nothing in the proposed amendment that would establish any permanent level of expenditure or taxation in the Constitution. And there is nothing that would make it significantly more difficult to increase expenditures or taxation than to reduce expenditures or taxation.

All that the proposed amendment would do is restrict the elements in the present political system that enable Members of Congress to spend public funds without having to account for this spending. There is nothing in Senate Joint Resolution 58 that would preclude Congress from continuing to increase public spending; all that would be required is that the costs of such spending no longer be obscured or deferrred beyond public recognition. Unlike some proposed constitutional amendments that would make it difficult for Congress to respond to even genuine public sentiment for increased levels of spending or taxing, Senate Joint Resolution 58 would not pose an insuperable obstacle to this end. Concomitantly, however, it would insure that no insuperable obstacles existed to reduced levels of spending or taxing, as now exist.

As Profs. James Buchanan and Richard Wagner have observed:

> We must restore some rule that will restrict politicians in their natural, understandable proclivity to spend and to refrain from taxing . . . budgets will tend toward chronic deficits until and unless politicians are constrained by some constitutional rule which requires that the taxing and spending sides of the fiscal account be balanced.

Senate Joint Resolution 58 would democratize the budget process by making it a more honest and open process. Congress, as already noted, would remain fully capable of increasing public spending or taxing, but only in the event that it was equally willing to cast the difficult votes necessary to accomplish this. Section 1 would mandate that increased public spending for a program be matched either by votes to reduce spending for some other program, or by votes for increased taxes. Section 2 would prohibit increased revenues from becoming available through automatic tax increases. Members of Congress would have to go on record in support either of cutting some spending program, or of raising taxes generally, before it could effect higher public spending. Tax increases would have to be voted explicitly, rather than implicity imposed through deficit spending and inflation.

Prof. Robert Crawford, of Brigham Young University, has observed that the proposed amendment would "increase the flow of economic information into the political marketplace."

Rather than having to analyze hundreds of rollcall votes annually in order to assess the performance of their Representatives and Senators, members of the public (and their intermediaries) would have to analyze a mere handful of key votes in order to determine which legislators were responsible for increased levels of public expenditure, taxation, and debt. If the citizenry genuinely were desirous of increases, no doubt this would be reflected by their ballots; if, however, as I suspect is presently the case, the citizenry is not so desirous, this too would be reflected by their ballots.

In summary, the key provisions in Senate Joint Resolution 58—the balanced budget norm in section 1 and the abolition of automatic tax increases in section 2—are necessary elements of any measure to promote a more neutral budget process; they are not necessarily ends in themselves. So long as unlimited deficit spending and automatic tax increases remain available to Members of Congress, and so long as Congress does not have to vote higher taxes if it wants higher spending, the budget process will continue to be skewed sharply in behalf of higher levels of spending and only minimally responsive to the will of the electorate in this regard.

Perhaps most important, so long as these elements remain in place, the budget process will continue to be a dishonest one, with Members of Congress perpetually able to avoid accountability for their spending and taxing decisions, perpetually able to escape public identification for their policies, and perpetually able to reap the immediate political benefits of their actions while postponing indefinitely the political costs.

ECONOMIC POLICY AND CONSTITUTION

While, in my view, Senate Joint Resolution 58 primarily proposes an amendment of process, and reads into the Constitution a political principle of enduring value rather than a transient economic policy, it is still worth addressing the objections of those who find difficulty with the concept of placing a balanced budget provision or taxing limitation in the Constitution. Prof. Lawrence Tribe of the Harvard Law School, for example, states:

> The Constitution embodies fundamental law and should not be made the instrument of specific social or economic policies. . .to endure as a source of unity rather than division, the Constitution must embody only our most fundamental and lasting values. . . . but unlike the ideals embodied in the Constitution, fiscal austerity—however sound as a current goal—speaks neither to the structure of government nor to the rights of the people . . . it should be amended only to modify fundamental law—not to accomplish policy goals.

It is first worth noting that, with a single exception (maintenance of equal State representation in the Senate), there is no extant limitation upon the subject matter of Constitutional amendments. Although efforts were made at the founding Constitutional Convention to place substantive limitations in the article V amending clause, they were largely unsuccessful. Periodic amendments during the 19th century to place substantive limitations upon the amending authority were also unsuccessful. Later challenges to both the 18th and 19th amendments on the grounds of "unconstitutionality" failed as well, *National Prohibition Cases* 253 U.S. 350 (1920); *Leser* v. *Garnett* 258 U.S. 130 (1922).

While there may be no formal limitations in the Constitution regarding the subject matter of amendments, it is fair nevertheless to contend that: First, a proposed amendment may be inconsistent with the purpose and spirit of that document; second, the object of a proposed amendment is an inappropriate object to be addressed by the Constitution; or third, the form or structure of an amendment is inconsistent with the Constitution.

What Senate Joint Resolution 58 seeks to achieve is the elimination of a structural bias within our political system that has arisen through the confluence of growing interest group power and the abolition of the historical balanced budget constraint upon national fiscal policy. It does not mandate particular economic policy outcomes; it simply attempts to effect a more neutral environment within which budget decisionmaking can occur—an environment in which the self-interest of factions does not necessarily produce policy results at variance with the "interests of the whole."

Beyond that fact, however, it must be stated that the growth in the Federal Government in recent decades—a growth that never could have been anticipated by our Founding Fathers—does have implications for the freedom and well-being of the citizenry. The rights of people are threatened every bit as much by debasement of the currency through inflation, and by expropriation of the fruits of their labor through taxes, as they are by the existence of poll taxes or the inability of 18 year olds to vote. As John Maynard Keynes has observed:

> There is no subtler, no surer, means of overturning existing basis of society than to debauch the currency. The process engages all of the hidden forces of economic law on the side of destruction and does it in a manner in which not one man in a million is able to diagnose. Economic Consequences of the Peace (1920)

Laurence Silberman, former U.S. Ambassador and a former Fellow at the American Enterprise Institute, has stated further:

> The abuses feared in the 18th century and which our Constitution was designed to prevent are of a different order than the new inflation causing abuses of the 20th century. But the latter are no less dangerous to the functioning of American democracy or no less threatening to the stability of our political and social order.

In short, national solvency, the ability to pay one's debts, is a fundamental value of any nation.

The concept of "limited government" or "enumerated powers" that was at the root of the Constitution and that served to check the growth of the public sector during most of the

history of our country has been altered drastically by the evolution of public policy and constitutional interpretations during the 20th century in a manner that never could have been anticipated by the drafters of the Constitution.

These include the continued expansion of the notion of what constitutes "commerce * * * among the several States;" the development of new theories of congressional authority under the 14th amendment; the acceptance of the Hamiltonian conception of the breadth of the general welfare clause; the adoption of the 16th amendment allowing the imposition of income taxes; and the repeal of the traditional norm of a balanced Federal budget. In place of a spending power limited to the "enumerated" powers of article I of the Constitution, the courts have transformed this section into one investing Congress with broad and virtually unlimited spending authority. Prof. Milton Friedman has stated:

Such limits on total government spending were provided at an earlier date by the gold standard, an unwritten constitutional prohibition on deficit budgets, and Supreme Court interpretation of "inter-State commerce", "due-process" and similar terms in the Constitution in such a way as narrowly to limit Federal action in the economic area. These limits have now been swept away. They cannot be restored in their initial form. But some replacement is desperately needed.

Prof. William Breit states further that:

The balanced budget norm was so deeply ingrained during this time as to form a constraint of considerable power on the actions of government . . . the unwritten Constitution maxim of the balanced budget . . . had the result of chaining Leviathan. Buchanan and Wagner, Fiscal Responsibility in Constitutional Democracy 17 (1978).

The new economics (as well as new jurisprudence) has thus had the impact of removing these formal and informal limitations upon the growth of the Federal public sector—a sector that today consumes nearly one-fourth of the gross national product, up from approximately 3 percent in 1930, 10 percent in 1940, 14 percent in 1950, 18 percent in 1960, and 20 percent in 1970.

Not only has the public sector grown relative to the economy generally, but it has grown increasingly through public expenditures that are not financed by tax revenues—deficit spending. The greater share of the Nation's economic problems are directly or indirectly attributable to these fiscal realities. But it is not simply the economic health that is being threatened: it is the political health as well. As Judge Robert Bork, former U.S. Solicitor General, has observed:

The long-term growth of government's share of national wealth is a serious near-term threat to the vitality of the economy . . . less obviously perhaps rising government spending is a long-term threat to American political freedom. Social and political discontents may increase beyond tolerable levels as the decreased size of the pie intensifies disputes about its division. Inflation, which may become endemic if spending is not controlled, has destroyed democracies before. Increasing subsidies with conditions attached are a mode of coercion that may evade constitutional guarantees allowing government to buy decreased freedom it could not order directly. Rising spending also fosters the growth of great bureaucracies whose choices increasingly displace those of elected representatives. Even if the rule of the bureaucracies proves both stable and benevolent, which is by no means to be assumed, it is not the sovereignty of the people. Wall Street Journal, April 4, 1979.

He goes on to conclude:

Any systemic malfunctioning of government serious enough to threaten prosperity and freedom may properly be addressed by the Constitution.

The Founding Fathers, Judge Bork adds, had they not taken the concept of a limited central government for granted, would have incorporated a balanced budget provision and spending limitation provision into the original Constitution. It is fact of an increasingly unconstrained central government—perhaps the critical fact of contemporary U.S. society—that, at its root, is the basis for Senate Joint Resolution 58. It would be one of the few constitutional amendments to limit Congress, rather than the States, in any significant respect.

The Constitution as originally written, contained numerous economic doctrines and policies. As Prof. Kenneth Van Dam of the University of Chicago has noted:

When one contemplates the Constitution as a whole, considering provisions not specifically directed to fiscal matters and taking into account the federal structure created by the Constitution, an imposing edifice of fiscal powers and limitations can be perceived. The result is what I call the "fiscal Constitution." 44 University of Chicago Law Review 271, 272.

Van Dam goes on to argue:

One of the principal fiscal objectives of the Constitution was to ensure that state tax and tariff policies did not impede the creation of a free trade area among the states or permit some states to profit at the expense of others. Id. 274.

Prof. Aaron Wildavsky of the University of California notes further:

Dissatisfaction with monetary and debt policy under the articles of confederation spurred the devising of an entirely new document. The commerce clause, designed to prevent balkanization of trade by states, the prevention of duties on exports, the restricted issuance of money to the Federal Government and numerous other provisions are centrally concerned with economic policy. How to Limit Government Spending 74 (1980).

The 16th amendment to the Constitution, authorizing Congress to "lay and collect taxes on incomes," has also had incalculable impact upon the budget processes of the Nation. This amendment overcame the article I, section 9 prohibition upon the Federal taxing authority extending to unapportioned, direct Federal taxation, see *Pollock* v. *Farmers Loan & Trust Co.*, 157 U.S. 429 (1895).

In short, Senate Joint Resolution 58 fully meets the prerequisites of a sound constitutional amendment as opposed to a sound statutory measure. The subject matter—the spending bias within our political process—is of fundamental and lasting importance to the health of our economy and our polity. The particular approach adopted by the amendment—the creation of a budget environment that substantially reduces this bias—is consistent with the emphasis upon amendments of process within our Constitution. Finally, the language of the amendment—minimizing the use of technical, economic jargon, and essentially arbitrary numbers—is consistent with other provisions of the Constitution. The amendment does read a particular economic theory into the Constitution; it does not read precise spending or taxing levels permanently into the Constitution; it does not preempt the day-to-day legislative decisions of the representative branch of the National Government; and it is a flexible enough provision to permit the Government to respond to economic circumstances of a widely varying nature.

HISTORY OF BALANCED BUDGET CONCEPT

No concept is more a part of traditional American fiscal policy than that of the balanced budget. Throughout most of the Nation's history, the requirement of budget balancing under normal economic circumstances was considered part of our "unwritten constitution." As University of Virginia Prof. William Breit has observed:

The balanced-budget rule which served as part of the Constitution was, of course, not in the form of a written statement that every expenditure had to be balanced by a tax. But it nevertheless had constitutional status. For expenditures in excess of receipts were considered to be in violation of moral principles. The imperative of the balanced budget was an extra-legal rule or custom that grew up around the formal document. It existed outside the precise letter of the Constitution of all fours with the system of political parties, the presidential cabinet, the actual operation of the electoral college system, and the doctrine of judicial review. Buchanan and Wagner, Fiscal Responsibility in Constitutional Democracy 10 (1978).

The balanced-budget rule was an effective constitutional restraint in the sense of being part of a set of fixed principles antecedent to and controlling the day-to-day decisions of the national legislature.

18TH AND 19TH CENTURIES

Influenced by individuals such as Adam Smith, David Hume, and David Ricardo, the drafters of the Constitution and their immediate successors at the helm of the new Government

strongly feared the effects of public debt. As Thomas Jefferson stated:

The public debt is the greatest of dangers feared by a republican government.

Alexander Hamilton, who perhaps more than any other individual, influenced the course of American economic policy during our Nation's first century, noted:

As the vicissitudes of nation begat a perpetual tendency to the accumulation of debt, there ought to be a perpetual, anxious, and unceasing effort to reduce that which at any time exists, as fast as shall be practicable, consistent with integrity and good faith.

Earlier, in the Federalist No. 30, Hamilton had recognized the unhealthy propensity for public debt on the part of most governments when he wrote:

I believe that it may be regarded as a position warranted by the history of mankind that, in the usual progress of things, the necessities of a nation, in every stage of its existence, will be found at least equal to its resources.

Both Hamilton and Jefferson were in agreement that, whatever debt happened to be accrued by a nation, it ought to be repaid within some prescribed period of time. In Jefferson's view, one generation ought not to forever burden its successors.

Early American Presidents were in virtually unanimous agreement on the dangers of excessive public debt. In his Inaugural Address, President John Adams stated:

The consequences arising from the continual accumulation of public debts in other countries ought to admonish us to be careful to prevent their growth in our own.

President James Madison stated that one of the primary goals of his administration would be:

To liberate the public resources by an honorable discharge of public debts.

President James Monroe held a similar position observing that:

After the elimination of the public debt, the Government would be left at liberty . . . to apply such portions of the revenue as may not be necessary for current expenses to such other objects as may be most conducive to public security and welfare.

President John Quincy Adams also found a balanced budget to be a sound maxim of political economy:

Stewards of the public money should never suffer without urgent necessity to be transcended the maxim of keeping the expenditures of the year within the limits of its receipts.

Among the most uncompromising advocates of budget balance was President Andrew Jackson, who viewed public debt in uniquely populistic terms:

Once the budget is balanced and the debts paid off, our population will be relieved from a considerable portion of its present burdens and will find only new motives to patriotic affection, but additional means for the display of individual enterprise.

Prior to the Civil War, customs duties ordinarily were more than adequate to cover the limited expenditures of the National Government. During these years, deficits were rare. The majority of budget deficits that did occur were attributed to foreign conflicts—the War of 1812 and the Mexican War of 1846—and to several brief recessions in the late 1830's and the late 1850's. Whenever occasional deficits occurred, efforts normally would follow to repay them as expeditiously as possible.

Despite the enormous debts accumulated by the National Government as a result of the Civil War, the period following it through the end of the century brought little change with respect to the balanced budget philosophy. A run of 28 years of consecutive budget surpluses occurred during this period. The norm of an annual balanced budget continued to exert considerable influence on the exercise of public policy. Any significant departures from balance or from efforts to repay existing public debt were treated as sources of alarm.

President Andrew Johnson, in proposing to effect substantial reductions in the war debt, observed:

We should look at the national debt, as just as it is, not as a national blessing but as a heavy burden on the industry of the country to be discharged without unnecessary delay.

President William McKinley took the position that, even during unsatisfactory economic conditions, "The Government should not be permitted to run behind its debt." President Benjamin Harrison described unnecessary debt as "criminal."

The principle arguments raised throughout most of the 19th century to public debt were as follows: first, interest on the debt was a heavy burden upon the working classes; second, interest payments represented a redistribution of income in favor of the well-to-do classes; and finally, the capital freed from unproductive employment through debt reduction invariably would find its way into more productive and enterprising uses. As Samuel Inghams, Secretary of the Treasury under Andrew Jackson, noted:

Interest is now paid to capitalists out of the profits of labor; not only will this labor be released from the burden, but the capital, thus thrown out of an unproductive use, will seek a productive employment; giving thereby a new impetus to enterprise in agriculture, the arts, commerce, and navigation.

20TH CENTURY

The strong national consensus favoring a balanced national budget continued through the early decades of the 20th century. President Wilson argued in behalf of balanced peace-time budgets in observing,

Money being spent without new taxation and appropriation without accompanying taxation is as bad as taxation without representation.

It was President Calvin Coolidge's goal to run actual surpluses in order to pay the large national debt (for that time) $24 billion that had resulted from the First World War. He stated as his administration's primary fiscal objective—maintaining revenues at a level "not too greatly in excess of expenditures." He stated further:

The nation must make financial sacrifices accompanied by a stern self denial in public expenditures until we have conquered the disabilities of our finance . . . we must keep our budget balanced for each year.

The surpluses of the 1920's however, were followed by an unbroken string of 10 peace-time deficits during the 1930's and then six war-related deficits. So sustained a period of deficit spending represented something entirely unprecedented in U.S. history, although the Nation has suffered a prolonged series of deficits in relation to the Civil War. New economic theories that placed great weight upon the ability of the Federal Government to "manage" fiscal policy through deficits and surpluses emerged during this period.

The new theories found a fertile climate in part as a result of the Great Depression that had overcome the economy in the late 1920's and early 1930's. While there are many economic explanations for the Great Depression, it is extremely difficult to understand the argument of a small minority of individuals that the commitment of the Hoover administration to a balanced budget was in any way responsible. It is an argument that even most proponents of the "new economics" have rejected. Apart from the fact that it fails to explain why the commitment of earlier administrations to balanced budgets failed to trigger similar economic collapses, it is an argument that is inconsistent with the facts of Hoover administration policies. Despite the fact that there was at the time a substantial bipartisan consensus in favor of the need to balance the Federal Government's budget, such budgets were not produced. In the words of Lewis H. Kimmel in his historical analysis of Federal budget and fiscal policy, "The fight for a balanced budget had been made, but the battle was never won."

This is not to say that the budget deficits were responsible for the Depression, either. The Federal budget was simply not a major factor—one way or another—in causing the Depression. First, there was the far smaller scale of the Federal budget at that time. In the year 1929, the gross national product of the United States was approximately $100 billion. Federal expenditures for fiscal year 1929 represented approximately 3 percent of the GNP and the surplus for that fiscal year of $734 million represented approximately three-fourth of 1 per-

cent of the GNP. Thus from even the most determined Keynesian perspective, it is difficult to argue that Washington was engaged in any significant removal of purchasing power from the private sector. Second, the Federal budget is absolved of responsibility because the movement of the budget from nominal surplus to substantial deficit—the consequence of a rapid decline in the level of receipts—was such to mitigate rather than aggravate the severity of the downturn, from the Keynesian perspective. Later efforts to increase spending on emergency relief programs acted in precisely the same fiscal direction. Finally, the national downturn during this period was accompanied by a monetary deflation of unprecedented severity, one that took an extremely long period of time to reverse.

While there are various theories of the cause for the Depression, there is little basis for attributing the Depression to the state of the Federal budget, much less the idea that this budget normally should be in balance.

The Federal budget for fiscal year 1931 was the first budget to be prepared following the crash of the stock market in late 1929. It was submitted by President Hoover about 6 weeks after the collapse of the market. In this budget, surpluses were estimated for fiscal year 1931 and 1932, of $758 million and $499 million respectively. These estimations remained in effect even after a reduction in personal and corporate income taxes was enacted into law in December 1929, carrying with it an expected revenue, immediate revenue loss of $80 million for each of these 2 years. It was not until April 1930 that President Hoover conceded that, not only would the predicted surpluses not accrue, but that deficits could be expected for fiscal year 1931 of $20 to $30 million. The final deficit for fiscal year 1931 was $462 million or approximately 15 percent of the total level of public expenditures. The final deficit for the succeeding fiscal year was an overwhelming $2.7 billion or approximately 60 percent of the total level of public expenditures. Annual deficits of a similar magnitude recurred during the remainder of the decade as first one then a second depression occurred. The depression that struck the country in the late 1930's—finally was overcome only by this country's entry into the Second World War.

While the Hoover administration never retreated from its traditionalist attitude toward the balanced budget, the trend in expenditures during its tenure was upward, primarily because of greater outlays for public works and the Reconstruction Finance Corporation. Total Federal expenditures had increased by nearly $2 billion between fiscal year 1927 and fiscal year 1932, an increase of approximately 64 percent. Growing levels of public spending became a major issue in the 1932 Presidential campaign as Franklin Roosevelt criticized the incumbent administration for failing to achieve the "one sound foundation of permanent economic recovery"—a "complete and honest balancing of the Federal budget." Only 6 days after his inauguration, the Roosevelt administration summarized its views concerning the growing level of budget deficit:

> With the utmost seriousness, I point out to Congress the profound effect upon our national economy. It has contributed to the recent collapse of our banking structure. It has accentuated the stagnation of the economic life of our people, it has added to the ranks of the unemployed. Our Government's house is not in order and for many reasons no effective action has been taken to restore it to order.

The Economy Act of 1933 was enacted at this time, providing for spending reductions of approximately $500 million, in an effort to reduce the alarming growth of the public debt. During much of its first term in office, despite mounting public deficits, the Roosevelt administration continued to express its support for the achievement of a balanced budget. It was not until such deficits had persisted for several years that the administration attempted publicly to explain its fiscal policies in terms of the "new economics" and in terms of the need for the Federal Government to engage in the kind of demand management or "pump priming" required by this school of economic theory. For much of his first term, President Roosevelt argued that it was the "deficit of today" that was making possible the "surplus of tomorrow." The proposed budget for fiscal year 1937 was reported by the administration as being in balance, "except for recovery and relief."

World War II had an indelible impact upon Federal Government fiscal policies. During the war years, Federal expenditures rose from $9 billion to almost $100 billion, with the total national debt standing at about $250 billion when the fighting ended. The total public debt of the United States stood at a figure almost six times as large as the debt existing before the war and approximately 10 times that of the total debt following the First World War.

Following World War II, although the annual budget was no longer the sole standard by which fiscal policy was judged, there was continued expression of support for the idea of balanced budgets, particularly during times of economic expansion. Even the "new economics" required the achievement of surpluses during economic downturns. President Truman observed in his budget message for 1948 that:

> As long as business, employment, and national income continue high, we should maintain tax revenues at levels that will not only meet current expenditures but also leave a surplus for retirement of public debt.

The idea of budget deficits as a regular instrument of fiscal policy, however, was increasingly evident during this period, although the Truman administration managed to balance half of its budgets while incurring total deficits that exceeded total surpluses by only a small amount.

President Eisenhower continued along much the same lines, although he expressed far more public support for the concept of a regularly balanced budget than did his predecessor. He observed in his 1957 budget message:

> We strengthen our financial position by a balanced budget. We must make sure that we do not undermine our financial strength by laying the groundwork for future budget deficits.

It was not until the recession of 1957-58 that the Eisenhower administration proved incapable of compensating for deficits with subsequent surpluses. The $12.9 billion budget deficit in 1958 was (for the time) the largest peace-time deficit in the history of the Nation.

The real turning point in the history of U.S. fiscal policies occurred during the 1960's. Even the Keynesian objective of balancing surplus years with deficit years succumbed to the idea of regular, annual, uncompensated for deficits.

During the past two decades, the Federal Government has run deficits in all but a single year. The deficits have come during good times and they have come during bad times. They have come from Presidents who have pledged themselves to balanced budgets and they have come from Presidents whose fiscal priorities were elsewhere. They have come from Presidents of both parties.

Even more alarming, the magnitude of the deficits has increased enormously during this period. For the 7 fiscal years ending in fiscal year 1967, the total deficit was approximately $35 billion. For the next 7 fiscal years ending in fiscal year 1974, the total deficit was approximately $91 billion. For the next 7 fiscal years, ending in fiscal year 1981, the total deficit was $450 billion. The total national debt today stands just under $1 trillion, with nearly half of that total incurred during the past decade alone.

Whatever lip service may have been given to the concept of a balanced budget during the past two decades, it is clear that there either is a lack of will to conform with this ideal, or that fundamental obstacles to its achievement exist within the political system.

It is possible then to summarize the history of the Federal budgetary record into several distinct periods of varying lengths. Over the longest of these periods—from 1789 and 1932—

balanced budgets or surplus budgets were the norm. While budget procedures had little of their present organization, the concept of a balanced budget was accepted widely as the hallmark of fiscal responsibility. Those deficits that did occur—during wartime or during the most severe recessions—normally were compensated for by subsequent surpluses. During the second period—from 1932 to 1960—the rigid rule of annual balanced budgets gave way to a fiscal policy in which balanced budgets remained an overall objective but in which deficit spending nevertheless was viewed as a tool ocassionally useful to effect appropriate economic results. Finally, the most recent period—1960 to date—has seen unrelieved instances of deficits spending and increasingly high levels of deficit spending. The balanced budget concept, a concept which had exercised a decisively restraining influence during the second period, had dwindled into almost total irrelevance by the end of this latter period. Not coincidentally, the end of this period saw the United States engaged in some of the deepest and most intractable economic difficulties in its history.

ECONOMIC BACKGROUND

Two statements summarize the economic issues addressed by Senate Joint Resolution 58: First, the Federal sector has become increasingly prone to deficit financing since World War II; and second, the Federal sector, during that period, has come to command an increasing share of the Nation's economic output and income.

FEDERAL DEFICITS: INCREASINGLY FREQUENT AND LARGE

The Federal Government has run a budget deficit in 19 of the past 20 years, and in 42 of the past 50 years. Deficit spending has come to occur during good economic conditions and during bad economic conditions. While the past decade has seen little change in the frequency of these deficits, it has seen, however, significant change in the size of deficits. During the 1970's the Federal Government incurred the seven largest peacetime deficits in the history of the Nation, with eight deficits during this period having exceeded $40 billion. Following fiscal year 1970, the total national debt of the United States stood at $383 billion; following fiscal year 1981, just over a decade later, this figure will stand just below $1 trillion at $993 billion. More than half of our total debts will have been incurred during the past decade alone, with approximately two-thirds having been incurred in the past two decades alone. (See table 1.)

TABLE 1.—*National debt in the 20th century*

Year:	*Debt in billions*
1900	$1
1901	1
1902	1
1903	1
1904	1
1905	1
1906	1
1907	1
1908	1
1909	1
1910	1
1911	1
1912	1
1913	1
1914	1
1915	1
1916	1
1917	3
1918	12
1919	25
1920	24
1921	24
1922	23
1923	22
1924	21
1925	21
1926	20
1927	19
1928	18
1929	17
1930	16
1931	17
1932	19
1933	23
1934	27
1935	29
1936	34
1937	36
1938	37
1939	48
1940	51
1941	58
1942	79
1943	143
1944	204
1945	260
1946	271
1947	257
1948	252
1949	253
1950	257
1951	255
1952	259
1953	266
1954	271
1955	274
1956	273
1957	272
1958	280
1959	288
1960	291
1961	293
1962	303
1963	311
1964	317
1965	323
1966	329
1967	341
1968	370
1969	367
1970	383
1971	410
1972	437
1973	468
1974	486
1975	544
1976	632
1977	709
1978	780
1979	834
1980	914
1981[1]	993
1982[1]	1,075

[1] Estimated in fiscal year 1982 budget revisions.

Source: Office of Management and Budget.

With the rising national debt has come rising interest payments. Where interest absorbed approximately 6 percent of the national budget 20 years ago, in fiscal year 1981 interest payments will represent approximately 12 percent of the total budget. Total interest of $80 billion for fiscal year 1981 represents a total larger than the entire Federal budget during the late 1950's, and comprises the third largest expenditure item in the present Federal budget. It is a figure half as large as spending for national defense and one-third as large as spending for income security programs, including social security.

FEDERAL SPENDING AND TAXING: AN INCREASING SHARE

Prior to World War I, Federal spending represented a minor share of the Nation's economic output of goods and services. Other than in times of war, the relatively small amounts of Federal spending were financed primarily by import duties. Government spending at all levels represented less than 9 percent of the GNP.

Beginning with ratification of the 16th amendment in 1913, providing Federal access to taxation of incomes, and with the onset of World War I, the Federal sector has demonstrated a continuing propensity for growth, whatever the economic circumstances. Over the next 20 years, Government spending nearly doubled as a percentage of the economy. Since that period, however, spending has accelerated at an even more rapid pace, particularly Federal Government spending. In 1929, Federal expenditures of $3 billion represented just 3 percent of the total GNP. By 1950, the peacetime share had risen to 15 percent of GNP or $43 billion. For fiscal year 1980, Federal Government spending of $594 billion commanded 23 percent of GNP—the highest in the peacetime history of the United States. (See table 2.)

TABLE 2—*Federal Government outlays—Share of economy*

Fiscal year:	*Percent share of GNP*
1929	3.11
1930	3.42
1931	4.27
1932	6.93
1933	8.06
1934	10.97
1935	9.43
1936	10.85
1937	8.91
1938	7.69
1939	10.05
1940	9.91
1941	12.12
1942	24.77
1943	44.80
1944	45.33
1945	43.83
1946	26.14
1947	15.59
1948	12.09
1949	15.00

Fiscal Year-Continued	Percent share of GNP
1950	15.64
1951	14.75
1952	19.95
1953	21.29
1954	19.33
1955	17.87
1956	17.15
1957	17.73
1958	18.48
1959	19.65
1960	18.54
1961	18.97
1962	19.60
1963	19.16
1964	19.22
1965	17.82
1966	18.60
1967	20.34
1968	21.37
1969	20.30
1970	20.30
1971	20.42
1972	20.50
1973	19.67
1974	19.64
1975	22.40
1976	22.30
1977	22.02
1978	21.99
1979	21.54
1980	23.08

Source: Survey of Current Business, December 1980.

To illustrate this growth in another way, the first $100 billion budget in the history of the Nation occurred as recently as fiscal year 1962, more than 170 years after the founding of the Republic. The first $200 billion budget, however, followed only 9 years later in fiscal year 1971. The first $300 billion budget occurred 4 years later in fiscal year 1974; the first $400 billion budget 2 years later in fiscal year 1977; the first $500 billion budget in fiscal year 1980; and the first $600 billion budget in fiscal year 1981. (See table 3.)

TABLE 3.—BUDGET RECEIPTS AND OUTLAYS, 1789–1984

Fiscal year	Budget receipts	Budget outlays	Budget surplus of deficit (–)
1789–1849	1,160	1,090	+70
1850–1900	14,462	15,453	–991
1901–05	2,797	2,678	+119
1906–10	3,143	3,196	–52
1911–15	3,517	3,568	–49
1916–20	17,286	40,195	22,909
1921	5,571	5,062	+509
1922	4,026	3,289	+736
1923	3,853	3,140	+713
1924	3,871	2,908	+963
1925	3,641	2,924	+717
1926	3,795	2,930	+865
1927	4,013	2,857	+1,155
1928	3,900	2,961	+939
1929	3,862	3,127	+734
1930	4,058	3,320	+738
1931	3,116	3,577	–462
1932	1,924	4,659	–2,735
1933	1,997	4,598	–2,602
1934	3,015	6,645	–3,630
1935	3,706	6,497	–2,791
1936	3,997	8,442	–4,425
1937	4,956	7,733	–2,777
1938	5,588	6,765	–1,177
1939	4,979	8,841	–3,862
1940	6,361	9,456	–3,095
1941	8,621	13,634	–5,013
1942	14,350	35,114	–20,764
1943	23,649	78,533	–54,884
1944	44,276	91,280	–47,004
1945	45,216	92,690	–47,474
1946	39,327	55,183	–15,856
1947	38,394	34,532	+3,862
1948	41,774	29,773	+12,001
1949	39,437	38,834	+603
1950	39,485	42,597	–3,112
1951	51,646	45,546	+6,100
1952	66,204	67,721	–1,517
1953	69,574	76,107	–6,533
1954	69,719	70,890	–1,170
1955	65,469	68,509	–3,041
1956	74,547	70,460	+4,087
1957	79,990	76,741	+3,249
1958	79,636	82,575	–2,939
1959	79,249	92,104	–12,855
1960	92,492	92,223	+269
1961	94,389	97,795	–3,406
1962	99,676	106,813	–7,137
1963	106,560	111,311	–4,751
1964	112,662	118,584	–5,922
1965	116,833	118,430	–1,596
1966	130,856	134,652	–3,796
1967	149,552	158,254	–8,702
1968	153,671	178,833	–25,161
1969	187,784	184,548	+3,236
1970	193,743	196,588	–2,845
1971	188,392	211,425	–23,033
1972	208,649	232,021	–23,373
1973	232,225	247,074	–14,849
1974	264,932	269,620	–4,688
1975	280,997	326,151	–45,154
1976	300,005	366,418	–66,413
TQ	81,773	94,728	–12,956
1977	357,762	402,710	–44,948
1978	401,997	450,804	–48,807
1979	465,940	493,635	–27,694
1980	520,050	579,613	–59,563
1981 estimate	607,525	662,740	–55,215
1982 estimate	711,780	739,296	–27,516
1983 estimate	809,209	817,254	–8,045
1984 estimate	922,266	890,258	+32,008

TOTALS, INCLUDING OUTLAYS OF OFF-BUDGET FEDERAL ENTITIES

Fiscal year	Outlays of off-budget Federal entities	Total outlays	Total surplus or deficit (–)
1973	60	247,134	–14,098
1974	1,447	271,067	–6,135
1975	8,088	334,239	–53,242
1976	7,307	373,724	–73,719
TQ	1,785	96,514	–14,741
1977	8,700	411,409	–53,647
1978	10,359	461,163	–59,166
1979	12,467	506,102	–40,162
1980	14,245	593,858	–73,808
1981 estimate	23,198	685,939	–78,414
1982 estimate	18,309	757,605	–45,825
1983 estimate	15,326	832,580	–23,371
1984 estimate	14,726	904,983	+17,283

Notes: Data for 1789–1939 are for the administrative budget: data for 1940 and all following years are for unified budget in calendar year 1976, the Federal fiscal year was converted from a July 1–June 30 basis to an Oct. 1–Sept. 30 basis. The TQ refers to the transition quarter from July 1, to Sept. 30, 1976. Off budget Federal entity outlays begin in 1973.

Source: "United States Budget in Brief: fiscal year 1982," Office of Management and Budget.

Despite the fact that an increasing share of this spending has been accounted for through deficit financing, Federal tax burdens have had to increase enormously in recent years to pay for these expenditures. Per capita tax receipts have nearly doubled in the past 5 years alone, while the number of individual taxpayers paying more than 20 percent of their income to the Federal Government has nearly tripled in the past 15 years. Approximately 70 percent of all American families, through a combination of taxes and inflation, now have fewer real, after-tax dollars currently than 15 years ago.

ECONOMIC SYMPTOMS

From modest beginnings, the Federal Government has grown to become the dominant economic institution in the United States. No other entity comes close to it in ability to condition the course of economic events. It is the view of the Judiciary Committee that most of the economic difficulties currently being suffered by the Nation are attributable, directly or indirectly, to recent economic policies pursued by the Federal Government. Three statements summarize the consequences of increasing Federal deficits, taxation, and spending: First, after two centuries of relatively stable prices, inflation has become the economic norm; second, rather than sustained economic growth, the economy has come to be characterized by low growth; and third, rather than high levels of savings and capital formation, the economy has come to be characterized by low levels of savings and capital formation. As a result, the United States has become at an increasing disadvantage in world trade.

Typically, war-time inflation has been followed by a period of falling prices. As late as the 1930's the index of prices was essentially at the same level as that of 150 years earlier. By contrast, the period following World War II is distinguished precisely by the failure of prices to return to their prewar levels. Only in response to the price stabilizing policies of the 1950's was there a period of relative price equilibrium during the early 1960's. This period of stability, however, signaled only an end to the World War II and Korean war inflations; it did not contribute to a return to prewar price levels. Since the mid-1960's, inflation has come to dominate the economy—an inflation unmistakably associated with the Federal deficits of the late 1960's and 1970's. The 1939 dollar which had declined to a value of 40 cents by 1968 has declined to a value of well under 20 cents today.

As Federal spending and deficits have achieved peacetime record levels, the Nation's economy has crested and fallen. From sustained high annual growth rates in the 1960's of 5 to 6 percent, the real economic growth of the country has declined toward zero. The real gross national product has actually declined in 4 separate years over the past decade. The more that the Federal sector has drawn from the Nation's economic product the less robust the economy has been. As the Nation's annual growth has declined, so too has its relative economic position among world economies.

Also closely associated with the pattern of rising Federal spending and deficits has been the sharply declining pattern of personal savings and private investment. In recent years, personal savings has declined from 7 to 8 percent of disposable personal income to less than 5 percent, a greater than 50 percent reduction. At the same

time, private domestic investment has steadily declined as a proportion of the GNP. These levels are now among the lowest in the world among industrialized, Western nations.

PROXIMATE CAUSE AND EFFECT

The inflation which began in 1968 has been closely associated with large and continuing Federal deficits. These deficits have placed the Federal Reserve Banking System in an increasingly untenable position. If the Federal Reserve refuses to purchase the new debt offered by the Treasury, increasing pressure is placed upon private capital markets. Federal financing of deficits is competitive with private demand for borrowed funds. As a result, crowding out occurs as Federal borrowing displaces private borrowing, leading both to higher rates of interest and lower rates of private capital formation. As Prof. Roger Freeman of the Hoover Institution summarizes it:

If the Treasury competes for funds, it drives up interest rates and crowds out other would-be borrowers. Thereby, it reduces the funds which are available for private investment, holds back industrial expansion, and improvement in productivity and limits job creation.

If, on the other hand, the Federal Reserve purchases the new debt, the monetization of this debt may lead to a money supply growing faster than the economy's ability to absorb this growth without adding to prices. More money generally means higher prices for goods and services available in the economy. Higher prices today further generate expectations of even higher prices tomorrow. As former Chairman of the Federal Reserve, Arthur Burns, has observed:

When the Government runs a budget deficit, it pumps more money into the pocketbooks of people than it takes out of their pocketbooks . . . The persistence of substantial deficits in Federal finances is mainly responsible for the serious inflation that got under way in this country in the mid-1960's . . . when the deficit increases at a time of economic expansion, as it has done lately, we should not be surprised to find the rate of inflation quickening.

Prof. Milton Friedman notes further:

Interest rates are high because inflation is high. Inflation is high because the rate of money creation is high.

Faced with abnormally large Federal budget deficits, the Federal Reserve has tended to purchase a significant portion of the new debt. As inflation resulted, individuals have accelerated their purchase of consumer goods and services, in the process bidding up prices further, reducing personal savings, and reducing private capital formation.

The persistent growth of inflation has also placed Congress itself under pressure to index a variety of its funding programs—from school lunches to social security—in an effort to maintain relative levels of funding. Such spending has, of course, contributed to still higher levels of Federal deficits.

Prof. Lowell Harris of Columbia University summarizes the issue in the following manner:

Easing the financing of a Federal deficit by supplying new bank credit (money) has appeal. New money can be injected, into the economy, easing someone's problems. Businesses and governments get dollars that had not existed. Such injections seem to permit the accomplishment of good things. But as the funds thus created add to the flow through the economy, the cumulating results will differ from the initial results. The dollar loses buying power. Budget deficits invite the creation of money, and monetary expansion lies at the base of inflation . . . Federal deficits tempt the use of money creation as a means of getting dollars for the Treasury without evident pain.

In the face of unusually high levels of Federal spending, the alternative to deficit financing is, of course, increased taxation. This, too, has adverse economic consequences, apart from the diminished freedom of the citizen to consume, as he chooses, the fruits of his own labor. More taxes mean less post-tax personal income. On the one hand, less income means less money to save, less money for private investment in future output, and less economic growth. On the other hand, less income after taxes means less incentive to engage in productive economic activity generally—less incentive to work, less incentive to invest, and less incentive to do the things that contribute to economic growth. High rates of income taxation further distort the allocation of productive resources, invariably toward less efficient use of economic resources.

A constitutional rule limiting the growth of Federal deficits, spending, and taxation would contribute substantially toward the restoration of stable prices, stable employment, and stable economic growth.

STATE EXPERIENCE

In contrast to past Federal fiscal policies, continued deficit spending by the States has been a rarity. Perennially, more States incur general surpluses than incur general deficits. The vast majority of the States are prohibited, by constitution, from spending more than available revenues. A growing number of States, in addition, have imposed constitutional restrictions upon their own ability to spend or tax in excess of prescribed levels.

In comparing Federal and State fiscal policies, it is conceded that there are widely varying budgeting, accounting, and reporting practices. Also, by virtue of its access to the monetary printing press, there are different fiscal options available to the Federal Government than are available to State governments. In addition, there are different functions to be served by the fiscal policies of the Federal Government than by those of the States. Despite an appreciation of these differences, I believe that the ability of the States to operate within their constitutional constraints has been instructive. Such constraints have proven to be workable and have not inhibited significantly the ability of State governments to perform their most widely accepted functions. Because it has been required, State legislatures have learned to operate effectively within the external limitations of their constitutions, many of which are significantly more restrictive than Senate Joint Resolution 58.

By the end of 1980, 39 States had constitutional provisions limiting their ability to incur budget deficits. An additional eight States had enacted statutory constraints to this effect. These limitations fall into a number of broad categories. Some would constrain the Governor by requiring the submission of a balanced budget. For example, California's constitution reads in part as follows:

Within the first 10 days of each calendar year, the Governor shall submit to the legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenue, he shall recommend the sources from which the additional revenues should be provided. (Article 4, section 12a.)

In addition the California constitution requires that proposals to incur State debt be submitted to the electorate for approval.

Other States would impose direct constitutional limitations upon the State legislature. For example, Louisiana's constitution reads as follows:

Total appropriations by the legislature for any fiscal year shall not exceed anticipated state revenues for that fiscal year. (Article VII, section 10(b).)

Other States would combine restrictions upon the Governor and the State legislatures. For example, Maryland's constitution reads as follows:

The budget and the budget bill as submitted by the Governor to the General Assembly shall have a figure for the total of all proposed appropriations and a figure for the total of all estimated revenues available to pay the appropriations, and the figure for total estimated revenues. Neither the Governor in submitting an amendment of supplement to the budget bill nor the General Assembly in amending the budget bill shall thereby cause the figure for total proposed appropriations to exceed the figure for total estimated revenues, including any revisions, and in the budget bill as enacted the figure for total estimated revenues shall always equal or exceed the figure for total appropriations. (Article III, section 52(5a).)

Finally, some States would allow the contraction of extremely small amounts of debts which, in practice, effectively prohibits the use of such debt to finance significant expenditure items. For example, Iowa's constitution reads,

The State may contract debts to supply casual deficits or failures in revenues or to meet expenses not otherwise provided; but the contingent . . . shall never exceed the sum of two hundred and fifty thousand dollars. (Article VII, section 2.)

Table 4 summarizes existing constitutional and statutory restrictions upon State deficits.

TABLE 4.—LIMITATIONS ON STATE DEBT AND DEFICITS

State or other jurisdiction	Debt restriction		Operating deficit restrictions			
			Enactment phase		Execution phase	
	Constitutional debt limit	May exceed limit by popular vote	Budget must balance expense and revenue	Legislative appropriation must balance expense and revenue	Must reduce expense if revenue shortfall	Must tax to cover deficit
Alabama	$300,000		Constitution			
Alaska	N/R					
American Samoa	N/R					
Arizona	$350,000		Statute	Statute	Statute	
Arkansas	(1a)	Yes	C, S	Yes	(1b)	
California	$300,000	Yes	Constitution		(2)	(2).
Colorado				Constitution	Constitution	
Connecticut			Statute	Statute		
Delaware	N/R					
District of Columbia	N/R					
Florida	V		C, S	Constitution	Statute	
Georgia	(3)		C, S	do	do	
Guam	N/R					
Hawaii	(4)		C, S		Statute	
Idaho	$2,000,000	Yes	Constitution	Constitution		
Illinois			do	do		
Indiana	(5)		do	do		
Iowa	$250,000		Statute		Statute	
Kansas	$1,000,000	Yes	do	Constitution	do	
Kentucky	$500,000	Yes	do			
Louisiana			Constitution	Constitution	Statute	
Maine	$2,000,000	Yes	do	do	do	
Maryland			do	do		
Massachusetts			do			
Michigan	(6)		do	Constitution	Constitution	
Minnesota	P		Statute		Statute	
Mississippi	N/R					
Missouri	$1,000,000	Yes	Constitution		(7)	
Montana				Constitution		
Nebraska	$100,000		Statute	Statute	(8)	(8).
Nevada	AV		do	C, S		Constitution.
New Hampshire	N/R					
New Jersey	1 percent of approp	Yes	Constitution	Constitution	Statute	Do.
New Mexico	N/R					
New York	V		Constitution			
North Carolina			do		Statute	
North Dakota	AV		do	Constitution		
Northern Marianas	N/R					
Ohio	$750,000		C, S	C, S	Statute	
Oklahoma			Constitution	(9)	Constitution	
Oregon	$50,000; AV (P)		Statute	Constitution	Statute	Do.
Pennsylvania	(10)	Yes	Constitution	do		
Puerto Rico	N/R					
Rhode Island	$50,000	Yes	C, S			
South Carolina				C, R	Statute	Do.
South Dakota	$100,000		Statute	Statute	do	
Tennessee			Constitution			
Texas			do	Constitution	Constitution	
Utah	AV		Statute	do	Statute	
Vermont						
Virgin Islands	X		Statute		Statute	Statute.
Virgina	T (V for P)		do		do	
Washington			do		do	
West Virginia	P	P	Constitution	Constitution	do	
Wisconsin	AU for P; (11)			do		Constitution.
Wyoming	AV, T		Constitution	do		

(1) Arkansas—All bond issues which are supported by full faith and credit must be approved by vote of people; (b) Responsibility of each agency and chief fiscal officer of State.
(2) California—Deficits are covered by a reduction of expenditures and/or tax increase.
(3) Georgia—Present and proposed debt service on bonded indebtedness may not exceed 15 percent of net revenue collections of previous fiscal year.
(4) Hawaii—20 percent of the average of the general fund revenues of the State in the 3 fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to 18½ percent of the average of the general fund revenues of the State in the 3 fiscal year immediately preceding such issuance.
(5) Indiana—No debt except "to meet casual deficits in the revenue" payment of interest and defense. A deficit budget or appropriation is not considered a casual deficit.
(6) Missouri—Constitution: Permissive, not mandatory.
(7) Nebraska—In case of revenue shortfall statutory provisions allow for tax increase or government may call special session to reduce appropriations.
(8) Oklahoma—Constitution limits appropriation ceiling to 5-yr average revenue increase.
(9) Pennsylvania—Amounts to suppress insurrection, rehabilitate disaster areas; for capital projects not to exceed 1.75 times average of last 5 yr revenue.
(10) Wisconsin—$100,000 limit on casual debts.

Code: N/R—No response. AV—Percentage of property value. T—Percentage of taxes. V—Popular vote required for any debt. R—Rule of House. S—Statute. C—Constitution. P—Specified purposes only.

Source: National Association of State Budget Officers (1980).

In addition, by the end of 1980, eight States had adopted constitutional limitations upon State expenditures and revenue. An additional 10 States impose statutory restrictions to this effect. These limitations are summarized in table 5.

One recent study concluded that such limitations have had a "constraining effect on the proclivity of public sector spending at the State and local level." Uhimchuk, "Constitutional Tax Limits at the State Level" (1981, to be published).

TABLE 5.—LIMITS ON STATE EXPENDITURES AND REVENUES

State year-basis application	Method of control	Scope	Provisions for waiver
Arizona: 1978–C expenditures	Limits State expenditures to 7 percent of the personal income of residents. A committee establishes the level of income to be used as the index.	Includes all tax funds appropriated by legislature	To override provisions requires ⅗ approval of both houses of the legislature.

TABLE 5.—LIMITS ON STATE EXPENDITURES AND REVENUES—Continued

State year-basis application	Method of control	Scope	Provisions for waiver
California: 1979–C expenditures	Limits increases in State appropriations to changes in cost of living and the level of population. Revenues exceeding this amount must be offset by changes in the tax schedules over the ensuing 2 years.	Excludes approximately 60 percent of State expenditures—debt service, Federal court mandates, tax refunds, various insurance funds.	An override permitted; however, extra costs must be compensated for by reduced expenditures in the 3 ensuing years. Voters also can vote an increase, but this approval is operative for only 4 years.
Colorado: 1977–S expenditures	Limits general fund spending to 7 percent of the preceding year. Any receipts exceeding this limit by 4 percent must be used for tax relief.	Applies to all general fund appropriations	No special provisions; however, statute can be amended at any time.
Delaware: 1980–C expenditures	Limits general fund appropriations to a maximum of 98 percent of estimated revenue for that year. Excess revenue goes to a reserve account which cannot accumulate to more than 5 percent of estimated general fund revenue.	Applies to all general fund appropriations	Upon approval of 60 percent of each house voting, the additional 2 percent may be used in an emergency, or the reserve fund balance may be so utilized.
Hawaii: 1978–C expenditures	Limit increases in general fund expenditures to the estimated rate of growth of the State's economy (in practice, State personal income is the index). If general fund surplus exceeds 5 percent of revenue 2 consecutive years, tax refunds or credits must be provided.	Applies to all general fund expenditures except those using Federal funds.	Upon the Governor recommending a definite amount required, a ⅔ vote of each house may approve.
Idaho: 1980–S expenditures	Limits general fund expenditures to 5⅓ percent of total State personal income.	Applies to all general fund expenditures	Statute can be amended at any time.
Louisiana: 1979–S revenues	Limits State revenues to a percentage applied to current State personal income. The percentage is derived by dividing fiscal year 1978–79 revenues by 1977 State personal income. Excess revenues are deposited in a surplus fund which can only be used for tax refunds.	There are numerous exclusions, including Federal funds, severance taxes, utility income.	No special provisions; however, statute can be amended at any time.
Michigan: 1978–C revenues	Limits State revenues to a ratio (derived by dividing State revenue received in the prior fiscal year by State personal income the year before that) applied to State personal income reported during the prior year. (Note: In deriving the ratio, a 3-year average of personal income may be substituted for the prior year if it will result in a higher percentage.).	Federal funds are not included in the calculations of State revenues. In addition, the cost of general obligation debt service and loans to school districts are excluded.	Upon declaration of an emergency by the Governor and designation of amount required and method of funding, may be approved by a ⅔ vote of each house.
Missouri: 1980–C revenues	Limits State revenues to a ratio (derived by dividing State revenues in fiscal year 1981 by State personal income in calendar year 1979) applied to personal income in the calendar year prior to the year of appropriations. (Note: In determining personal income, a 3-year average may be substituted if it results in a greater amount than the 1-year level.).	Neither Federal funds not revenues raised to retire voter-approved debt are included in the revenue limitation.	Governor must request legislature declare an emergency and indicate the reasons and the amount required to meet it. In 1981–82, a simple majority of both houses is required. In subsequent years a ⅔ vote of each house will be required. If revenues exceed limit by 1 percent or more, they must be used as refunds to income taxpayers.
Nevada: 1979–S expenditures	Limits executive budgetary requests not (legislative action) to the rate of inflation and population growth using the biennium 1975–77 as the base fiscal period.	Applies to all appropriations included in the budget request	Legislature is not limited.
New Jersey: 1976–S expenditures	Limits expenditures for State operations and capital outlays to increases in State per capita income as measured between the 2d quarters of the preceding 2 years.	Excluded are appropriations supported by State aid to local governments, Federal assistance, and retirement of debt authorized by referendums.	Limit can be exceeded only if approved by the majority of voters in a statewide referendum.
Oregon: 1979–S expenditures	Limits expenditures to the rate of growth of State personal income for the preceding 2 years. If revenues exceed limit by more than 2 percent, they must be used as refunds to corporate and personal income taxpayers.	Excluded are debt service and appropriations for tax reflief	Statute may be amended at any time.
Rhode Island: 1977–S expenditures	Suggests that the Governor limit his budget request to an 8-percent increase over the preceding year's appropriations.	Applies to all general fund appropriations	Statute can be amended at any time.
South Carolina: 1980–S expenditures	Limits increases in State expenditures over the preceding year to the growth of personal income averaged over the preceding 3 years.	Applies to all State expenditures	Statute can be amended at any time.
Tennessee: 1978–C expenditures	Limits the growth of appropriations financed by tax revenues to the growth in the State's economy. In practice, the increase in personal income is used as the index.	Applies only to appropriations funded by tax revenues	Legislature can approve a specific act by majority vote delineating exact amount required.
Texas: 1978–C expenditures	Limits growth in State appropriations to the growth of the State's economy. In practice, growth in State personal income is used as the index.	Excludes revenues dedicated by the State constitution	Legislature may fund an emergency and authorize specific amount by majority vote.
Utah: 1979–S expenditures	Limits increases in appropriations to 85 percent of the increase in State personal income.	Exclusions include Federal funds, debt service, and user charges	Upon declaration of an emergency by the legislature, the limit can be overridden by a ⅔ vote of each house.
Washington: 1979–S revenues	Limits tax revenues to the rate of increase in State personal income as averaged over the preceding 3 years. Any excess receipts become part of the tax revenue for the next year.	Applies to all State tax revenues	Upon declaration of an emergency by the legislature, a specified amount may be approved by a ⅔ vote of each house.

C = Constitutional; S = Statutory.
Source: Tax and Expenditure Limitation, J. Ward Wright, the Council of State Governments, Lexington, Ky. (1981).

FOREIGN EXPERIENCE

Although it would be difficult to translate the constitutional experience of other nations with respect to balanced budgets into a lesson for the United States, it is nevertheless worth noting that there are several advanced western nations which have established some form of budget equilibrium as part of their organic law. Among these are the Federal Republic of Germany (art. 110 of the Bonn Constitution); Switzerland (art. 41 bis, sect. 2 (2) of Law of Dec. 18, 1968); Austria (art. 51); Belgium (art. 115, art. 3 of Law of June 28, 1963); and France (art. 47, Law of Jan. 2, 1949). As a result of differing budgetary definitions, differing budgetary practices, and differing influences of constitutional law upon budgetary practices, it would nevertheless be imprudent to rely upon these cases in determining the merits of Senate Joint Resolution 58 or any other similar constitutional amendment.

PUBLIC ATTITUDES

Public opinion polls have consistently demonstrated strong public support for the idea of a balanced budget constitutional amendment. Polls dating back to the 1930's have persistently shown a public sympathetic to the idea of placing permanent limitations upon the ability of Congress to spend in excess of available revenues. Table 6 contains a sampling of some of the most recent polls taken on this issue:

TABLE 6.—SUPPORT FOR CONSTITUTIONAL AMENDMENT

[In percent]

Poll	Favor	Oppose	No opinion
Gallup 1980 (Informed) [1]	75	16	9
Gallup 1980 [1]	67	13	20
Roper 1979 [5]	65	22	13
Gallup 1979 [2]	78	12	10
Gallup 1978 [2]	81	11	8
New York Times/CBS [3]	73	16	11
AP/NBC [4]	70	18	12

[1] Gallup (1980)—"A proposed amendment to the Constitution would require Congress to approve a balanced Federal budget each year. Government spending would have to be limited to no more than expected revenues unless a ⅗ majority of Congress voted to spend more than expected revenue. Would you favor or oppose this amendment to the Constitution?" (Informed poll was taken of those who have heard or read about proposals.)

[2] Gallup (1978–79)—"Would you favor or oppose a constitutional amendment that would require Congress to balance the Federal budget each year—that is keep taxes and expenditures in balance?"

[3] New York Times/CBS—"Would you favor or oppose a constitutional amendment requiring a balanced national budget except in times of emergency?"

[4] AP/NBC—"Would you favor or oppose a constitutional amendment which would require the federal government to balance the budget?"

[5] "Considering both the possible advantages and possible drawbacks, would you like to see a Constitutional convention called to consider an amendment to limit federal spending, or wouldn't you be in favor of such a convention?"

Further, the conclusion of the New York Times-CBS Poll that the "proposed budget-balancing amendment had a remarkably uniform level of support across the country and demographically" seems to be true of each of these polls. Over 70 percent of those identifying themselves as Democrats, Republicans, conservatives, and liberals favored such an amendment. The 1979 Gallup Poll, in addition, found that 84 percent of all respondents favored and only 5 percent opposed a constitutional amendment on this issue if provisions were made for emergency circumstances.

An extensive poll recently completed by Market Opinion Research confirmed these findings.

TABLE 7.—HERE ARE SOME AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES THAT HAVE BEEN PROPOSED BY VARIOUS PEOPLE AND ORGANIZATIONS. FOR EACH ONE, PLEASE TELL ME IF YOU GENERALLY FAVOR OR OPPOSE ADDING SUCH AN AMENDMENT TO OUR CONSTITUTION

[In percent]

	Total	Party identification			Regions								Education				Income		
		Republican	Independent	Democrat	New England	Mid Atlantic	East North Central	West North Central	Border	Deep South	Mountain	Pacific	Less than high school	High school/ vocational	Some college	College graduate	Under $15,000	$15,000 to $30,000	$30,000 plus
Total	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
Number of cases	(1,503)	(334)	(626)	(535)	(83)	(857)	(275)	(114)	(112)	(380)	(75)	(208)	(224)	(579)	(359)	(338)	(435)	(589)	(356)
An amendment that would require Congress to plan a balanced budget each year:																			
Very strongly favor	59	65	61	53	57	50	63	64	59	62	63	54	49	64	63	53	57	60	61
Not too strongly favor	20	21	17	23	22	24	21	14	17	19	17	20	28	21	17	17	23	18	18
Neither (vol.)	1	1	1	1	1	1	.....	1	.....	1	.....	1	.....	1	1	1	(1)	(1)	1
Not too strongly oppose	7	7	8	7	9	7	4	8	9	6	10	11	7	5	7	12	7	7	7
Very strongly oppose	8	5	9	10	8	14	8	7	5	7	7	9	6	6	10	13	5	11	9
Undecided	4	1	4	7	3	3	3	6	10	5	2	4	10	5	3	3	6	3	3
PDI[1]	+63	+73	+62	+58	+62	+54	+72	+63	+63	+68	+63	+53	+64	+74	+63	+44	+69	+60	+62
An amendment that would limit the amount of money that Congress could spend each year:																			
Very strongly favor	54	55	58	50	48	52	60	48	48	57	63	49	55	59	55	44	56	55	53
Not too strongly favor	19	20	17	21	26	22	18	16	18	18	19	16	15	20	22	16	17	19	18
Neither (vol.)	2	2	1	2	.....	2	2	.....	2	2	.....	2	1	1	2	2	1	2	1
Not too strongly oppose	10	10	9	12	15	9	5	16	17	9	7	13	13	5	8	20	9	10	13
Very strongly oppose	10	9	10	10	8	10	10	12	8	8	4	15	9	8	8	14	9	10	11
Undecided	6	4	5	7	3	4	6	7	6	6	7	5	7	6	5	4	7	4	4
PDI[1]	+53	+56	+55	+49	+51	+54	+63	+37	+41	+57	+72	+37	+49	+65	+60	+26	+56	+54	+48

[1] PDI: Percentage difference index equals percent favor minus percent oppose.
[2] Less than 0.5 percent.

A new Gallup Poll published last week again confirmed these findings:

TABLE 8.—CONSTITUTIONAL AMENDMENT TO BALANCE FEDERAL BUDGET

[Based on aware group, in percent]

	Favor	Oppose	No opinion
May 14 to 17	74	17	9
September 1981	73	19	8
April 1981	70	22	8

CONSTITUTIONAL AMENDMENT TO BALANCE FEDERAL BUDGET

[Based on aware group, in percent]

	Favor	Oppose	No opinion
National	74	17	9
Republicans	83	12	5
Democrats	67	21	12
Independents	76	18	6
College	75	19	6
High School	74	15	11
Grade School	70	23	7
Family income:			
$15,000 up	78	16	6
Under $15,000	66	20	14
Approve of Reagan	81	14	5
Disapprove of Reagan	66	22	12

Following are the questions asked:

"Have you heard or read about the proposal for a constitutional amendment which would require the federal government to balance the national budget each year?"

Those who answered affirmatively (66 percent nationally) were then asked:

"A proposed amendment to the Constitutions would require Congress to approve a balanced federal budget each year. Government spending would have to be limited to no more than expected revenues, unless a three-fifths' majority of Congress voted to spend more than expected revenue. Would you favor or oppose this amendment to the Constitution?"

As shown below, there has been little change in the public's views since this question was asked last year.

ENFORCEMENT

GENERALLY

While an earlier version of Senate Joint Resolution 58 contained language to the effect that, "The Congress shall have the power to enforce this article by appropriate legislation," this was removed from the proposed amendment because it was believed to be unnecessary language. Unlike earlier amendments to the Constitution that contained similar enforcement provisions, for example, the 19th, 23d, 24th, and 26th amendments, Senate Joint Resolution 58 imposes no limitation upon State actions; it limits only the authority of the National Government. Thus, the Judiciary Committee felt that the language of the "necessary and proper" clause in article I, section 8 would clearly effect the same results as an independent enforcement provision in the proposed amendment. Article I, section 8, clause 17, reads as follows:

The Congress shall have the power . . . To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the government of the United States or in any department or officer thereof.

I expect that Congress will enact legislation in a timely manner that will fill in the fine details of the process created by the proposed amendment and which cannot be addressed in as precise a manner by constitutional amendment as by simple statute. Congress power in this regard will be as broad as its power under the "necessary and proper" clause to carry into effect any other authority or power granted to it by the Constitution, see *Marbury* v. *Madison* 1 Cranch 137 (1803).

One of the elements of the process established by Senate Joint Resolution 58 that Congress is expected to implement is that specified in the final sentence of section 1. That sentence states:

The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

This sentence imposes a continuing responsibility upon Congress and the President to maintain actual levels of Federal spending within constitutionally permissible levels of spending. Congress and the President are to carry out these responsibilities through both, first, the authority presently available to Congress and the President to affect and influence the fiscal process; and second, any new authority created by Congress under its article I enforcement authority, and otherwise consistent with the Constitution of any new means by which Congress and the President can affect and influence the fiscal process.

It is not the intent of this provision, then, to establish any new authority in the President, absent congressional action, or to imply any reordering of the separation of powers balance between these branches of the National Government. This provision, for exam-

ple, does not invest in the President any new authority to impound appropriated funds. It is not mandated that Congress implement this or any other particular enforcement provision; it is expected only that the Congress insure that there be some effective means by which Congress and the President may each exercise authority to enforce this critical provision of the amendment.

In the absence of such legislation, it is still expected that the President will exercise his budget proposing authority, his veto authority, and any other authority presently available to him to carry out the mandate of the section 1 provision. The same would be expected of Congress, of course.

While there may be no sanctions expressly contained in Senate Joint Resolution 58 for the violation of any particular provision, it must first be recognized that Congress and the President are expected to act in accordance with the Constitution. Both Members of Congress and the President are obligated to take oaths of office that require compliance with the Constitution. Thus, in summary, I believe that: First, the language and the intent of Senate Joint Resolution 58 are clear; second, Congress and the President are to abide by this language and intent; and third, where necessary, Congress is to enact legislation that will better enable the Congress and the President to comply with the language and intent of the amendment.

Further, Senate Joint Resolution 58 is designed to promote its own enforcement through the political processes. By establishing a focus upon two or three critical votes each year relating to aggregate levels of taxation and deficits, in place of the present diffuse focus upon hundreds of individual spending measures, Senate Joint Resolution 58 is designed to enable the electorate to better identify those Members of Congress most responsible for higher levels of spending, taxing, and deficits. To the extent that the amendment succeeds in creating a more useful flow of political information to the electorate, and this is a major objective of the amendment, it will be enforced most effectively at the polls every other November.

ROLE OF FEDERAL COURTS

The question arises however about the role of the Federal courts—particularly the Supreme Court—in enforcing the provisions of the amendment. While several witnesses testified before the committee to the effect that explicit provisions ought to be incorporated into the amendment establishing judicial enforcement, others testified strongly in support of explicit prohibitions upon such enforcement. There is nothing in the amendment itself about this issue. By addressing it in this manner, I believe that Senate joint resolution establishes the correct balance in refusing to establish constitutional sanction for the Federal courts to involve themselves in fundamental macroeconomic questions, while not undermining their equally fundamental obligation to "say what the law is," *Marbury* v. *Madison,* 1 Cranch 137, 177 (1803).

While my own confidence in the idea of judicial self-restraint has been sharply diminished in recent years, I believe nevertheless that traditional judicial and constitutional conceptions of justiciability, and standing, as well as the idea of what constitutes a "political question" best reserved to nonjudicial branches of the Government, suffice to insure that the courts will not involve themselves, as a normal matter, in reviewing the operations of the budget process. This certainly was the clear intent and expectation of this committee.

The role of the Federal judiciary in reviewing compliance with the proposed amendment will be sharply limited—by both the Constitution and past judicial practices—for the following reason: First, there would only rarely, if ever, be "standing" in any individual or group of individuals to challenge alleged breaches of the amendment; second, even if such "standing" were conferred, the courts would normally treat issues raised under the amendment as "political questions" to be decided in the discretion of other branches of Government; and third, it is questionable that the courts would find most issues arising under the amendment to be properly "justiciable" in the sense of presenting the kind of "case" to which the judicial power attaches under article III of the Constitution.

The doctrine of standing is generally regarded as constitutionally mandated by the "cases and controversies" clause of article III. The "gist of the question of standing" is whether the party seeking relief has—

> Alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions, *Baker* v. *Carr* 396 U.S. 186, 204 (1962).

The personal stake or personal injury in fact must be direct and specific, not a "generalized grievance" whose impact would be "plainly undifferentiated and common to all members of the public." *United States* v. *Richardson,* 418 U.S. 166, 177, 179-80 (1974). "A plaintiff must allege some particularized injury that sets him apart from the man on the street," Richardson supra at 194.

Under the proposed amendment, a party would have to demonstrate that he suffered a differentiated or uncommon injury as a result of congressional violation of its constitutional duties to balance its budget, or limit spending or taxing to prescribed levels. Under most circumstances, this would be an extremely difficult demonstration, particularly since the actual breach of the amendment would normally arise from the fact that aggregate statement levels are violated, not from the fact that an individual spending or revenue measure may have contributed to that fact. In other words, even if Congress exceeded the statement limits in some respect, it would still be unlikely that the courts would look beyond that fact and examine which particular spending or revenue measures caused those results. This would normally preclude the showing of a differentiated injury to some party.

Federal courts increasingly, have been facing the question of standing in the context of suits brought by Members of Congress. While the Supreme Court has yet to consider the issue on its merits, the trend in lower court decisions has been to treat the legislator in a manner similar to any other citizen. As the District of Columbia Circuit Court has observed, the legislator-litigant "receives no special consideration in the standing inquiry," *Reuss* v. *Balles,* 584 F. 2d 461, 466 (1978). He is still obligated to demonstrate a particularized injury before standing will attach.

What constitutes such an injury still remains highly unclear. Most of the cases that have been considered by the courts have involved instances in which executive branch actions have resulted in alleged injuries to the plaintiff, see, for example, *Kennedy* v. *Sampson* 364 F. Supp. 1075, 1078 (D.C.D.C. 1974); *Mitchell* v. *Laird,* 488 F. 2d 611 (D.C. Cir. 1973). Recent district court decisions throw serious doubt on the ability of Members of Congress to sue on the basis of allegedly wrongful actions taken by Congress itself. In *McClure* v. *Carter,* 513 F. Supp. 265 (Dist. Ct. Idaho 1981), the Court held that a congressional plaintiff lacked standing to challenge the appointment of a Federal judge in violation of the ineligibility clause of the Constitution (article I, section 6, clause 2). In explaining its decision, the Court stated:

> Senator McClure had the opportunity to persuade his colleagues to vote against the confirmation and, in the conscientious performance of his duties, did just that. That he and like-minded Senators did not prevail in the Senate does not mean that the effectiveness of Senator McClure's vote was impaired. It means merely that he was on the losing side. . . . Under the Constitution, it was the duty of Congress itself, in the first instance, to determine Judge Mikva's qualifications both on the merits and on the issue of whether he was constitutionally eligible to serve as a judge. Page 270.

This concept of congressional standing was recently affirmed by the District of Columbia Circuit Court in a decision disallowing congressional

standing in cases in which the Congress, in the determination of the courts, "could adequately afford substantial relief to Member-plaintiff," *Riegle* v. *Federal Open Market Committee* (Civil Action No. 79-1703, 1981).

The case for congressional standing for alleged breaches of the proposed amendment is diminished substantially by the fact that such breaches normally would have resulted, not from the failure of the executive branch to take appropriate actions, but from the failure of a majority of Congress itself to abide by the provisions of the amendment or to establish appropriate compliance procedures. Under such circumstances, it would be extremely difficult to argue the propriety of judicial involvement.

Where the alleged violation occurs on the part of the executive branch, the diminution in congressional influence, that is, influence on the part of Congress as a whole, must amount to a disenfranchisement, a complete nullification or withdrawal of a voting opportunity, and the congressional plaintiff must point to a clear standard in the Constitution or in statutes by which disenfranchisement can be shown, *Goldwater* v. *Carter*, 617 F. 2d 697, 702 (D.C . Cir. 1979). It is insufficient that an individual legislator's influence be merely diminished so long as recourse to the legislative process remains.

Even if these barriers were overcome, and standing were conferred upon some litigant, the "political question" doctrine would still pose a formidable obstacle to a court taking cognizance of issues arising under the proposed amendment. An observer of the doctrine has described it in these terms:

> Political questions, are ones committed to other than judicial organs of government, not in term excluding judicial control, but with respect to issues so distinctly political in character that the courts regard it as improper to seek to exercise control, although in the exercise of the jurisdiction conferred upon it by the Constitution, the United States Supreme Court may feel called upon to determine issues equally as delicate as those which it avoids. Dood, "Judicially Non-Enforceable Provisions of Constitutions," 79 University of Pennsylvania Law Review 54, 85 (1931).

A "political question" has been described as one in which the courts "forego their unique and paramount function of judicial review of constitutionality." Henkin. "Is There a Political Question Doctrine?" 85 Yale Law Journal 579, 599 (1976). The test formulated by the Supreme Court in determining the existence of a "political question" has been articulated as follows:

> Prominent on the surface of any case held to involve a political question is found to be a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious departments on one question. *Baker* v. *Carr* 369 U.S. 186 (1962).

The clear constitutional commitment to Congress to control Federal spending (article I, sections 8 and 9) is sufficient to insure that the courts will exercise maximum caution in interfering with congressional determinations under the proposed amendment. It is evident that the process of developing a budget involves precisely the kinds of determinations for which legislatures are most capable and courts least capable. The need to respond to public sentiment, the need to negotiate the demands of various and competing spending interests, and the need to make difficult policy determinations about public spending and revenue priorities are clearly factors that mitigate in behalf of legislative branch, rather than judicial branch, determinations. Further, it is questionable that there are adequate standards for "judicial manageability" of the class of cases most likely to arise under the proposed amendment. Any examination of aggregate spending, taxing, and deficit figures produced by Congress would run up against the problem of uncovering "differentiated" injury to some party, while any deeper, more probing analysis, necessitating judicial inquiry into the process by which such numbers were produced, almost certainly would involve the courts in matters beyond their expertise—matters the determination for which are placed clearly within a coordinate branch of Government.

I also doubt that much litigation arising under the proposed amendment would be "justiciable" in the sense that appropriate relief could be fashioned by the courts. In describing the components of a "case or controversy", the Supreme Court has noted that there must be—

> A real and substantial controversy admitting of specific relief through a decree of a conclusive character. *Aetna Life Insurance Co.* v. *Haworth*, 300 U.S. 227, 240 (1937).

In other words, the courts must inquire "whether or not the claim presented and the relief sought are of the type which admit of judicial resolution," *Powell* v. *McCormack*, 395 U.S. 486 (1969).

It is difficult to conceive of workable and enforceable judicial decrees or orders being issued with repect to controversies under Senate Joint Resolution 58 that would not involve the judicial branch in matters of budget policy that are clearly within the primary authority of either the legislative or executive branches of the National Government. It is doubtful that the courts would relish, or that Congress would permit, the Federal judiciary to issue the kinds of orders and decrees, and maintain the kind of continuing oversight to insure the effectiveness of these orders and decrees, that would be necessary in matters of budget policy that are clearly within the primary authority order to ensure compliance with the proposed amendment.

In summary then, while the committee has chosen not to prohibit judicial review altogether of "cases or controversies" arising in the context of the proposed amendment—in the belief that the most serious and unambiguous violations of its provisions ought to be subject to external check as, for example, where congressional actions undermine the ability of public opinion to serve as an effective mechanism of enforcement—it nevertheless is expected that the amendment will be largely self-enforcing and self-monitoring.

First, Congress and the President each are expected to establish appropriate procedures for complying with the amendment; second, Congress and the President each are expected to monitor the actions of the other branch and, to the limits of their authority enforce the provisions of the amendment against that branch; and, finally, the public is expected, and will be in a superior position, to monitor the actions of both of these branches of Government and, where they fall short of complying adequately with the provisions of the amendment, enforcing it through electoral means. Only as a final resort, and only under the most compelling circumstances (as, for example, when the practices of either the Congress or the Executive undermine the ability of the amendment to be self-enforcing), do I anticipate to be a significant role for the judicial branch.

CONCLUSION

Mr. President, Senate Joint Resolution 58 is a reasonable and flexible constitutional amendment. It will, in my opinion, work to reform the budget environment in Washington without intruding needlessly into day-to-day legislative policy decisions. Senate Joint Resolution 58 is necessary if Congress is going to clearly communicate to the public, to the business community, and to the working people of this country that there is no longer time for "business as usual."

If we have learned one economic lesson from the past two decades, it is that there are consequences to economic decisions by the Federal Government. There are consequences—unfortunate consequences—in decisions year in and year out by the public sector to spend more money than it

has available to it. There are consequences in the form of rates of interest that threaten to destroy critical industries, while denying affordable housing to millions of working American families. There are consequences in the form of levels of inflation that reduce the value of every worker's paycheck, while denying those on a fixed income the standard of living for which they have saved and planned. There are consequences to the millions of Americans who are unemployed because of an increasingly stagnant economy. And there are consequences in the form of a generally reduced standard of living resulting from declining levels of national productivity, and levels of national economic growth.

The time is long overdue to restore some semblance of commonsense to the way this Nation conducts its economic affairs. That is all that this amendment does. It does not say that Congress cannot increase spending. It does not say that we cannot tax the people more than we already do. It does not say that we are forever prevented from incurring budget deficits. It does not say any of that. All that it says is that if Congress chooses to pursue any of these courses, they are going to have to make these decisions in the open air, and they are going to have to let the public know what their decisions are. Each Member of Congress is going to have to go on record—one way or the other. Each Member is going to have to be accountable to the demands and sentiments of his or her constituency. Each Member is going to have to make hard and explicit decisions about priority spending programs, about tax burdens upon the citizenry, and about spending public moneys that do not exist in the Treasury of the United States.

Mr. President, let me make three basic points about Senate Joint Resolution 58 that I believe are important ones. I hope that my colleagues will bear them in mind during this debate. First, the proposed amendment is not a panacea for the economic problems suffered by our Nation. It is not a magic wand that will automatically get our economic house in order. It is merely a first step toward restoring traditionally, sound economic principles as the guiding principles of our fiscal system. The amendment is designed only to restore some semblance of an environment within which responsible budget decisions can be made. It does not purport to dictate what precisely these decisions are.

Second, I recognize that there are details that are not addressed by this amendment. There is no doubt that there will be a need for enacting or implementing legislation to fill in the gaps of this proposal. We must bear in mind, however, that this is a constitutional amendment we are debating, not a mere statutory measure. The fine details, the precise definitions, and the minute procedures are not the subject of this amendment. This amendment establishes the broad constitutional policy of fiscal responsibility and fiscal accountability; subsequent legislation will, no doubt, be necessary to flesh in the particulars.

Finally, let me emphasize I am aware that this amendment is capable of being circumvented by various policies and procedures if there are a determined majority of Congress who wish to do this.

The Constitution generally does not provide an impregnable barrier against policies that are clearly contrary to its spirit. I am comfortable, however, in the belief that the Constitution is so widely respected and regarded in this Nation that this does not pose an insuperable barrier to the effective implementation of this amendment. I do not believe that this Nation can function on the premise that its elected representatives are enthusiastic about circumventing the basic law of the land. Whatever my disagreements may have been with other Members of this body on the issues that come before us, I do not believe that I have seen any of my colleagues purposely and consciously evade the prescriptions of the Constitution.

I urge the support of my colleagues for the proposed amendment, and also urge opposition to amendments to Senate Joint Resolution 58. The Judiciary Committee—both the Subcommittee on the Constitution and the full committee have attempted to develop a consensus constitutional proposal, one that would have as broad support as possible inside and outside Congress. I believe we have achieved that balance, and I would ask my colleagues to bear this in mind when they are called upon to vote on proposed amendments.

I would also ask my collegues to recognize the balance that has been drawn in the House where a companion measure to Senate Joint Resolution 58, House Joint Resolution 350, presently has secured the cosponsorship of more than 220 Members.

Many of the proposed amendments that have been introduced to deal with issues that are more appropriately dealt with in enacting legislation, while others would clearly erode the carefully crafted consensus that has been drafted by the committee.

If I were starting from scratch, there are provisions that I might like to see that would strengthen or relax the amendment in one respect or another.

However, I simply ask my colleagues to bear in mind that the present amendment is the result of a process as rigorous as that for any constitutional amendment in many years, and certainly far more thorough than most statutory legislation. It has been the subject of numerous days of congressional hearings, and the subject of great debate inside and outside Congress.

We have had input it its drafting from numerous Members of this body, including the Balanced Budget Caucus headed up by Senator LUGAR, ARMSTRONG, and BOREN, as well as numerous organizations.

In this regard, I want to pay special tribute to a number of Members, including the Chairman of the Judiciary Committee. Senator THURMOND is very appropriately listed as the chief sponsor of this amendment. He has worked for 28 years on the floor of the Senate to develop a balanced budget amendment that would put Congress on notice that the people in this country expect them to live within their means. I think he deserves great commendation for his leadership with regard to this amendment, both in the past and on the floor today.

It is also important for everybody to recognize that this is not only a consensus amendment, but it is a bipartisan amendment. Senator DECONCINI was the principal sponsor of the predecessor measure, Senate Joint Resolution 126, during the 96th Congress, and as ranking minority member on the Subcommittee on the Constitution has played an important, and absolutely crucial role in helping to bring to the floor for the first time this balanced budget amendment.

Senator DOLE also has made an outstanding effort within the committee to assist in the development of the amendment, as has Senator SIMPSON, who is an original cosponsor of Senate Joint Resolution 58. Senator HEFLIN, one of the original drafters of Senate Joint Resolution 58 during the 96th Congress, has also played a critical role throughout this process and deserves great commendation.

The leaders of the Balanced Budget Caucus, Senators LUGAR, BOREN, and ARMSTRONG, deserve much credit for their direction of the amendment's development and for creating the impetus behind this amendment.

Senator GRASSLEY, who was a leader in the House Balanced Budget Caucus before becoming a Member of this body, has played an active leadership role on the Judiciary Committee.

Another leader, of course, has been Senator HEINZ, who has focused great effort upon the development of a proper constitutional proposal.

All told, we now have 61 cosponsors of this amendment in the Senate, and others who have indicated their support. I am proud of that. I am proud that we finally have been able to bring the balanced budget amendment to the floor of the Senate at a time in our country's history when it appears that we need this amendment more than ever before.

Mr. President, I ask unanimous consent to have printed in the RECORD certain material related to this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

XVI. SOME QUESTIONS CONCERNING SENATE JOINT RESOLUTION 58

1. How does Senate Joint Resolution 58 work?

The amendment requires, first, the adoption of a "statement" or budget for each fiscal year in which total Federal outlays are no greater than total Federal receipts and mandates that actual outlays be no greater than statement or budget outlays. Second, the amendment requires that total receipts grow at a rate no greater than the growth of the national economy. Thus, actual outlays cannot exceed statement outlays which cannot exceed statement receipts which cannot grow faster than the economy.

2. Are the issues addressed by Senate Joint Resolution 58 suitable for the Constitution?

Yes. The proposed amendment seeks to re-establish constitutional limitations upon Federal spending and deficit practices that existed in earlier years through an array of formal and informal constitutional provisions and which have been eroded over the course of recent years. Specifically, Senate Joint Resolution 58 addresses a serious spending bias in the present political process arising from the fact that Members of Congress do not have to cast votes in behalf of new taxes in order to accommodate new spending programs. Rather than having to cast such politically disadvantageous votes, they may either resort to increased levels of deficit spending or allow the tax system, through "bracket creep" to produce annual, automatic tax increases. This spending bias has created severe economic and political difficulties that are fully deserving of being addressed by the Constitution.

3. How does Senate Joint Resolution 58 address this spending bias?

The proposed amendment overcomes this bias by eliminating the two elements in our political system responsible for the bias: (a) the unlimited accessibility to deficit spending; and (b) the availability of automatic tax increases. Section 1 would re-establish the balanced budget as a fiscal norm, while section 2 would require Members of Congress to have to vote to increase taxes before the Federal sector could ever consume a greater share of the national economy. Senate Joint Resolution 58, by doing this, would restore the traditional linkage between spending and taxing and ensure that votes to increase spending would have to be matched by votes to increase taxes.

4. Why does Senate Joint Resolution 58 provide for different qualified majorities in sections 1 and 2?

Section 1 addresses the element of the spending bias related to the Congress' unlimited accessibility to deficit spending. An extraordinary majority—in this case a three-fifths majority—is necessary to overcome this element of the bias. Section 2 addresses the second element of the spending bias related to the availability of automatic tax increases. An extraordinary majority was not essential in this section in order to overcome this bias, simply the requirement that Congress go on record before tax increases were imposed upon the people. The requirement of a constitutional majority in section 2, i.e. a majority of the entire membership of each House of Congress, is designed to ensure that any tax increase vote takes place under conditions of maximum political visibility.

5. Shouldn't Senate Joint Resolution 58 be tried as a statute before being placed in the constitution?

Previous efforts to impose fiscal responsibility upon Congress through statutes have not been successful because they do not address the fundamental spending bias within our political system. Congress, for example, was required under the law to balance its budget for fiscal year 1981. (P.L. 95.435, section 7) Not only can statutes always be repealed or ignored by a simple majority vote of Congress, but they do not address the underlying institutional defect or bias that makes it difficult for Congress to pursue fiscally responsible policies. To achieve this some external constraint upon Congress is necessary.

6. Will Senate Joint Resolution 58 preclude Congress from being responsive to economic conditions?

No. While the proposed amendment establishes a fiscal norm of balanced budgets and stable levels of outlays and receipts, these norms can be overcome by qualified majorities of Congress. If the slightly higher majorities for overcoming these norms cannot be obtained, there is reason to question whether or not a consensus exist on how best to respond to changing economic conditions.

7. Haven't economists criticized the notion of a balanced budget amendment?

Some have. However, their criticism had been directed largely toward amendments which mandate balanced budgets whatever the current economic conditions. Senate Joint Resolution 58 avoids these criticisms in two ways. First, the amendment only establishes the fiscal norm of a *planned* balanced budget, i.e., one in which Congress can reasonably expect outlays not to exceed receipts. Actual outlays, however, may exceed actual receipts—a situation which might arise if the economy tumbled into a recession and actually receipts fell below the receipts expected at the time the planned budget was adopted. Second, the Congress *can* adopt a deficit budget if a qualified majority of each House of Congress deems that conditions warrant a deficit.

8. Why does Senate Joint Resolution 58 link receipts to national income in section 2? Isn't the need for Federal receipts and outlays independent of the level of national income?

No. Except for periods of national emergency, Federal government spending is but one claimant on the nation's income. Excessive government spending means too little spending on other things, e.g. personal consumption, future investment, State and local governments. By linking maximum growth of Federal revenues and spending to the growth of national income, the amendment stabilizes the relationship between the Federal sector and the economy that supports that sector.

9. Doesn't the lag between growth of current receipts and spending and the growth of national income during the previous calendar year undermine the stability of the Federal sector?

No. In an economy which cycles between prosperity and recession, the approximately 21 months lag between fiscal year Federal taxing and spending and calendar year national income serves to moderate the business cycle. As the economy booms, Federal spending would be restrained by the slower pre-boom growth of national income—thus moderating what many see as the inflationary propensities of an over-employed economy. As the economy cycles toward recession, Federal spending would be supported by the faster pre-recession growth of national income—thus accommodating a Congress which desires to add an element of "stimulation" to the economy.

10. What is national income?

As used in the proposed amendment, "national income" is a generic term for the annual output of the economy. The Congress may choose to rely on any of several measures of economic performance, including Gross National Product, Net National Product, National Income, Personal Income, etc. What is important is that this economic indicator be used consistently from year to year or that some transition period accompany the substitution of one indicator for another.

11. Why doesn't Senate Joint Resolution 58 provide for the retirement of the accumulated Federal debt?

By establishing the norm of a balanced budget and thereby limiting future increases in the size of the national debt, the proposed amendment will lead to an increasingly less burdensome debt as the economy continues to grow. Beyond that, nothing in Senate Joint Resolution 58 prohibits Congress from paying off its present debt as it chooses. The Committee did not choose, however, to mandate a surplus budget which would have been necessary in order to provide for the regular repayment of debt.

12. Will Senate Joint Resolution 58 affect the ability of Congress to finance war expenditures through deficit spending?

No. A qualified majority of each House of Congress can approve deficit spending for national defense purposes, or any other spending purposes, if it chooses to do so. Moreover, a simple majority of Congress can waive the higher voting rules of the proposed amendment in any year in which a declaration of war is in effect. There is nothing in Senate Joint Resolution 58 that dictates particular spending priorities to Congress.

13. Won't Senate Joint Resolution 58 prevent a prompt response to an emergency arising when the Congress is out of session?

No, at least no more so than under the present Constitution. No administration can expend monies that the Congress has not appropriated. If, prior to its recess or adjournment, the Congress has not provided for emergency funding, only a recall of Congress into session could deal with this situation. This is neither more nor less true under the amendment.

14. Will Senate Joint Resolution 58 preclude Congress from meeting the genuine needs of the American people?

No. The vast majority of the voters have expressed strong interest in reduced levels of overall spending and taxing. In any event, if the fiscal norm established in section 2 is inadequate to meet these genuine needs, a majority of the membership of each House of Congress may vote at any time to set higher spending levels—so long

as it is also prepared to vote for higher taxes to finance such spending.

15. Can the Congress avoid the restraints of Senate Joint Resolution 58 by spending "off-budget"?

No. The proposed amendment makes no distinction between on-budget and off-budget spending. The term "outlay" is defined in section 5 to include both sorts of expenditures.

16. Can Congress avoid the restraints of Senate Joint Resolution 58 by guaranteeing loans?

Temporarily. Since loan guarantees do not represent outlays in the year in which the loans are guaranteed, the proposed amendment does not preclude the Congress from authorizing such agreements. However, to the extent that a guaranteed loan is defaulted by the borrower, the outlays will come under the terms of the amendment in the year of the default.

17. Can Congress avoid the restraints of Senate Joint Resolution 58 by imposing increased costs upon the private sector through increased rules and regulations?

Yes. Congressional use of regulation has always been an option to explicit taxing and spending, and will remain one under Senate Joint Resolution 58. As Professor James Buchanan has said about this point, however, "To fix the fence in one spot does not ensure that the cattle will not get out of the pasture at some other place. But it does mean that the cattle are less likely to get out than before the fence in the one spot was fixed."

18. Can the Congress avoid the restraints of Senate Joint Resolution 58 by mandating additional responsibilities upon State and local governments?

No. Section 4 of the amendment is designed to make explicit and re-emphasize the traditional federalism principle in the Constitution, reflected by the 10th Amendment, that restrains Federal interference with the operation of State and local governments.

19. With economic conditions so uncertain, how can Congress estimate its maximum available receipts?

Under current law, the budgetary process is a continuing one up until the beginning of each fiscal year. When Congress receives the annual Presidential budget message in January, it will have available the first national income growth estimates of the Commerce Department. By February and March, the second and third preliminary estimates will be available. In July, well before the October beginning of the fiscal year, the Commerce Department publishes its first formal estimates of national income growth. Typically, these are extremely close to the final growth data available two years later. It should be noted that the absolute levels of national income are not an issue in the proposed amendment, only the rate of growth in the indicator.

20. How is Senate Joint Resolution 58 to be enforced?

The proposed amendment is designed to be enforced primarily through the political process. As one witness has observed of the amendment, "It would increase the flow of economic information in the political marketplace." Rather than voters having to wade through hundreds of votes cast by their Senators and Representatives each year in order to determine their views on spending and taxing, they would be able to analyze only a small number of key votes. Further, Members of Congress would be more directly accountable for their decisions since they would neither be able to defer the costs of new spending programs—through deficit financing—nor totally avoid responsibility for imposing these costs—through automatic tax increases. In addition, Senate Joint Resolution 58 attempts to draw a balance so that federal courts will be in a position to review the most serious and unambiguous violations of the amendment, but not in a position to review basic day to day fiscal decisions better left to Congress and the Executive. Finally, it is expected that Members of Congress themselves and the Executive branch will seek to abide by the text and the spirit of the supreme law of the land.

CONSTITUTIONAL ASPECTS OF S.J. RES. 58/ H.J. RES. 350

(By Antonin Scalia)

This opinion addresses what might be termed the constitutional appropriateness of the amendment proposed by Senate Joint Resolution 58—by which I mean not the desirability of the amendment, but its compatibility in form and substance with the existing features of the Constitution. In preparing this opinion I have examined, in addition to the federal and some state constitutions, congressional hearings regarding the Joint Resolution and public commentary both for and against its enactment.

I cannot avoid the disparaging preliminary observation that the issue here addressed is not as important as it might seem. If it were established that the proposed constitutional amendment is 100% incompatible with the substance and structure of the existing Constitution, but also 100% desirable, then I would suppose there is no doubt it should be adopted. The incompatibility would merely demonstrate, one might say, that the Constitution is in greater need of revision than we thought, having become inadequate to modern needs in more than minor detail. Over the past century, many of the states have come to such a conclusion with regard to their state constitutions. State constitutional history of the period displays a constant movement away from the concise, generalized constitution that is the federal model to documents of great detail and complexity—particularly in the budgetary field. The resulting documents lack the elegance of the federal Constitution, but have evidently been thought better to serve the needs of the people.

But in the present case, it does not seem to me the painful choice even presents itself. I find nothing in the proposed amendment that is incompatible, in form, structure or technique, with the existing Constitution. I do not even find it novel in the general subject-matter to which it is addressed—though, as discussed below (p. 9), I would not in any event acknowledge the independent relevance of constitutional tradition (that is, its relevance apart from the argument on the merits of the proposal) insofar as the subject-matter is concerned.

FORM

In form, the proposed amendment seems to me entirely in accord with a federal constitutional tradition that favors the expression of broad, fundamental principles but leaves further specification and the elaboration of detail to later usage and experience. Thus, unlike some state constitutions the amendment does not attempt detailed definition of such terms as "receipts," "outlays" or "national income." Such specification has, of course, the advantage of increasing the certainty of application—and the corresponding disavantages of reduced flexibility and textural clutter. But whatever may be the merits of a more detailed approach to constitutional draftsmanship, it is surely not the approach reflected in the present federal document.

Thus, the existing Constitution does not attempt to specify what it means "to regulate Commerce with foreign Nations, and among the several States" (Art. I, Sec. 8, cl. 3); or what might be the precise difference between "Direct Taxes," which might be apportioned among the states according to their respective Numbers" (Art. I, Sec. 2, cl. 3) and "Duties, Imposts and Excises," which must be "uniform throughout the United States," (Art. I, Sec. 8, cl.1); or what might constitute a prohibited "Law impairing the Obligation of Contracts" (Art. I, Sec. 10, cl. 1); or the "Privileges and Immunities of Citizens" which each state is bound to accord to citizens from other states (Art. IV, Sec. 2, cl. 1); or the "Full Faith and Credit" which each state is bound to give to the public acts of every other state (Art. IV, Sec. 1); or the "Republican Form of Government" that the Union is to guarantee to every state (Art. IV, Sec. 4). The Bill of Rights, of course, is filled with such general principles that require further specification, including the prohibition of "establishment of religion," (Amend. I), the guarantee of "freedom of speech" (Amend. I), the prohibition against "unreasonable searches and seizures" (Amend. IV), the prohibition against deprivation of life, liberty or property "without due process of law" (Amend. V), and the prohibition of "excessive bail" (Amend. VIII).

The lack of specificity in some of these provisions is, in my opinion, greater than that which inheres in the present proposal. And it is not, of course, the result of the framers' inadvertence, but of their conscious judgment that details were better left to later elaboration. I might also note, in conclusion on this point, that the present Constitution uses the terms "receipts" and "expenditures" without further definition—in Article I, Section 9, clause 7, which requires "a regular Statement and Account of the Receipts and Expenditures of all public Money" to be published from time to time.

ENFORCEABILITY

One of the objections sometimes raised against the proposal is that it would not be enforceable, either because the courts would not entertain suits based upon it, or because Congress could easily comply with it technically while evading its purpose and intent—for example, by requiring private institutions to shoulder what were formerly governmental obligations.

As with the matter of form just discussed, so also here: Whatever may be the merits of a different approach (and I, by the way, do not think there are many) it is simply impossible to maintain that judicial enforceability or practical inevadability are characteristic of the provision of or present Constitution. Many provisions are not actionable in the courts, or can be readily observed to the letter while violated in spirit and intent. The Founding Fathers apparently thought that several hundred legislators are no more likely than five Justices to either violate or evade their oaths of office, and that even the President alone will probably not do so.

Foremost among the judicially unenforceable provisions of the Constitution are many of those going to the heart of democratic government—the election of the people's representatives and the manner of their deliberations. When someone asserts that the constitutionally prescribed manner of election has not been complied with, the Constitution leaves it to the respective houses of Congress, rather than the courts, to resolve the dispute. Article I, Section 5, clause I provides that "each House shall be the Judge of the Elections, Returns and Qualifications of its own Members." By reason of what is called the "political question" doctrine, see *Baker* v. *Carr*, 369 U.S. 186 (1962), it is inconceivable that the courts would seek to review this judgment. Nor would they look behind either house's determination that the constitutionally required quorum was present (Art. I, Sec. 5, cl. 1), or that a bill passed by the constitutionally required majority or two-thirds vote. Indeed they have even declined to review the validity of state ratifications of constitutional amendments, see *Coleman* v. *Miller*, 307 U.S. 433 (1939). And there are other "political questions," beyond those pertaining to the elective or legislative process, as to which the courts will not consider it their business to enforce constitutional guarantees—whether, for example, a state has a "Republican Form of Government" (Art. IV, Sec. 4), see *Luther* v. *Borden*, 48 U.S. (7 How.) 1 (1849), and (perhaps) whether necessary congressional approval for the cancellation of a treaty has been obtained, see *Goldwater* v. *Carter*, 444 U.S. 996, 1002 (1979) (opinion of Justice Rehnquist).

Other provisions of the Constitution are rendered unenforceable in the courts by reason of the doctrine of standing. This requires, as a condition of judicial jurisdiction, that the person seeking relief have suffered some particularized injury which sets him apart from the citizenry at large. Many constitutional provisions can be violated without giving rise to any such injury—for example, the prohibition against a member of Congress's holding any federal office (Art. I, Sec. 6, cl. 2) see *Schlesinger* v. *Reservists Committee to Stop the War*, 418 U.S. 208 (1974), or most prohibitions applicable to expenditure of federal funds, compare *Frothingham* v. *Mellon*, 262 U.S. 447 (1923), with *Flast* v. *Cohen*, 392 U.S. 83 (1968). One constitutional provision that has been held to be judicially unenforceable for this reason is a distinctly budgetary one: the requirement that "a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time" (Art. I, Sec. 9, cl. 7). See *United States v. Richardson*, 418 U.S. 166 (1974).

As for the notion that there is no room in our federal Constitution for prohibitions that can be observed to the letter but violated in spirit and intent: That should be sufficiently refuted by reference to the use of the commerce clause to evade the effect of the careful enumeration of federal powers (Art. I, Sec. 8) and of the Tenth Amendment. See, *e.g., Perez v. United States*, 402 U.S. 146 (1971) (use of commerce clause to assert police power over "loan-sharking"). It seems to me that the practical political obstacles to technical evasion of the proposed amendment are at least as high as those applicable to existing provisions of the Constitution. Ultimately, however, the theory of the document is simply that the people's representatives will not ordinarily violate their trust.

Whether or not one considers that theory adequate, it is in any event quite clear that neither judicial enforceability nor practical inevadability has in the past been a criterion for constitutional guarantees.

SUBSTANTIVE CONTENT

The one substantive prohibition of the proposed amendment is contained in Section 4, which disables Congress from requiring the states to engage in additional activities without compensation. Even if this alters existing constitutional doctrine, (which is doubtful), see *National League of Cities v. Usery*, 426 U.S. 833 (1976), it can by no stretch of the imagination be considered inherently "inappropriate" for the federal Constitution. Indeed, it is difficult to conceive of any provision more appropriate than one that delineates the powers or disabilities of the federal government, or of the separate branches of the federal government, vis-a-vis the constituent states. Section 4 would be no more out of place than the Tenth or Eleventh Amendments.

The essence of the proposed amendment, however, consists of the imposition upon Congress of three requirements that neither expand nor constrict its ultimate powers, but prescribe certain legislative procedures to be followed. These are: (1) A requirement for super-majorities applicable to certain votes—three-fifths of the total membership of each house to adopt a deficit budget, and a majority of the total membership of each house (as opposed to what would be the normal rule, a majority of those present) to increase federal receipts at a rate greater than the prior year's rate of increase in national income. (2) A requirement for an actual vote before a specified event may be permitted to occur (viz., the aforementioned increase in federal receipts). (3) A requirement for annual adoption of a budget.

The first of these requirements finds many parallels in the existing Constitution. A super-majority of two-thirds of all members is necessary for either house to expel one of its members (Art. I, Sec. 5, cl. 2), cf. *Powell v. McCormack*, 395 U.S. 486, 506-07 (1969); a super-majority of two-thirds of the members present is required for both houses to override a presidential veto (Art. I, Sec. 7, cl. 2), see *Missouri Pac. Ry.* v. *Kansas*, 248 U.S. 276 (1919), for both houses to propose constitutional amendments (Art. V), see *National Prohibition Cases*, 253 U.S. 350, 386 (1920), and for the Senate to convict on impeachment (Art. I, Sec. 3, cl. 6) or to ratify a treaty (Art. II, Sec. 2, cl. 2).

The requirement that Congress must take a vote before a particular event may occur (here, an increase in the proportional rate of taxation) is also not novel. The Constitution currently requires each house to vote its consent before the other may adjourn for more than three days (Art. I, Sec. 5, cl. 4). It likewise requires Congress to vote approval before a federal officer may accept any present, office or title from a foreign state (Art. I, Sec. 9, cl. 8); before a state may impose duties on imports or exports (Art. I, Sec. 10, cl. 2); before a state may enter into any agreement or compact with another state (Art. I, Sec. 10, cl. 3); and before a new state may be admitted to the Union (Art. IV, Sec. 3). In requiring a specific vote for a new level of taxation, the proposed amendment may be regarded as establishing for receipts a specific vote requirement similar to that which is already applicable to expenditures, through Article I, Section 9, clause 7, which provides that "no Money shall be drawn from the Treasury but in Consequence of Appropriations made by Law."

The last legislative requirement established by the proposed amendment—annual adoption of a statement of receipts and outlays—is somewhat different, in that it categorically requires congressional action, rather than merely requiring action if another event is to occur. This has fewer analogues in the text of the present Constitution, but would hardly be unique. Other explicit "legislation-forcing" provisions include the requirement of legislation for a decennial census (Art. I, Sec. 2, cl. 3), the requirement of compensation for Members of Congress (Art. I, Sec. 6, cl. 1), for the President (Art. II, Sec. 1, cl. 7) and for federal judges (Art. III, Sec. 1), and the requirement for legislative specification of districts within which criminal prosecutions are to be brought (Amend. VI). And some legislation is "forced" by necessary implication—for example, the implication arising from the requirement of a Supreme Court (Art. III, Sec. 1) and the Constitution's failure to specify its composition. To be sure, none of this legislative action is required *annually*, but that seems a difference in degree rather than kind. Moreover, as a practical matter the provision that "no Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law" (Art. I, Sec. 9, cl. 7) requires many annual appropriations—and Article I, Section 8, clause 12 prohibits appropriations for the army of more than two years' duration.

Even if these other instances of required legislative action did not exist, however, adoption of an annual budget has become such a regular and inevitable feature of our constitutional practice that it would be captious to object to its inclusion in the constitutional text. Of course the concededly necessary budget has not always been finished in time—but it is the very purpose of this proposed amendment to remedy that acknowledged defect.

ECONOMIC THEORY

The most vigorous attacks upon the proposed amendment relate to the substantive purpose for which the above discussed legislative procedures (and the accompanying prohibition of Section 4) are imposed. The amendment represents, it is said, an attempt to write a particular theory of economics into the Constitution.

That charge is certainly not valid with regard to the last of the legislative requirements discussed above—the required adoption of an annual budget. Surely that relates to bookkeeping rather than economics. If does not require or induce any particular content in the budget, but merely establishes what is thought to be a technique of sound fiscal management—or more accurately codifies in the Constitution a technique that has long been applied. It represents an entirely compatible addition to the budgetary requirements already contained in Article I, Section 9, clause 7:

"No Money shall be drawn from the Treasury but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

The other two legislative requirements—the requirement for supermajorities and the requirement for a vote on proportional tax increases—are more plausibly subject to the charge of embodying "economic theory." It is no response, it seems to me, that they do not require any particular economic course (viz., a balanced budget and no increase in taxes) but merely specify the procedures to

be followed when that course is to be abandoned. The fact is that through the imposition of such procedures they establish a presumption or bias in favor of that course and against alternative.

One reasonable response is that, while the extraordinary legislative requirements *pertain* to economic measures, they are motivated by political science and governmental theory rather than economics, and their intended effect is to eliminate rather than produce an economic bias or presumption. The proponents of the measure assert it is called for by a widely observed defect in our political process, which tends to produce deficit spending and increased taxes (whether or not they are desirable) when the people as a whole do not want them.

But it seems to me that for purposes of the present question, this discussion is beside the point. Economic principles are not now alien to the Constitution; and even if they were, I would not consider it a departure from any meaningful constitutional tradition to include them.

As to the former point: The document's frequent reference to "Money," "Coin," and "dollars" (Art. I, Sec. 8, cls. 2, 5, 6, 12; Art. I, Secs. 9, cls. 1, 7; Art. I, Sec. 10, cl. 1; Amend. VII) must be deemed an endorsement of the useful economic device of currency, and evidence of a clear bias against those who would return to a barter economy. One can hardly imagine a more clear embodiment of a favoritism for the gold and silver standard than the provision of Article I, Section 10, clause 1 that "no State shall . . . make any Thing but gold and silver Coin a Tender in Payment of Debts." The same clause displays a bias in favor of capitalist economics, when it prohibits the states from passing any "Law impairing the Obligation of Contracts," as does the Fifth Amendment, when it prohibits the taking of "private property . . . for public use, without just compensation." Moreover, the Constitution already contains a procedural device that produces (like Section 2 of the proposed amendment) a bias against increased taxation: While all other legislation may originate in either house, "all Bills for raising Revenue shall originate in the House of Representatives" (Art. I, Sec. 7, cl. 1).

But even if the current Constitution displayed no economic predispositions and even if it is conceded that the proposed amendment does so, it would seem to me strange to call the amendment for that reason contrary to our constitutional tradition. When the bonds of tradition are extended not merely to demand continuity of form and technique (issues of the sort discussed in the earlier portions of this opinion) but also to prohibit expansion of subject matter as well, then the Constitution has become a rigid (and thereby brittle) document indeed. But that cannot be so. The Fifteenth Amendment could not reasonably have been opposed on the simple ground that the Constitution had never sought to dictate voting qualifications before.

From my perusal of the congressional and public debate, I conclude that what has occurred in some instances is the subtle conversion of a small element of the argument on the merits into an entirely separate (and quite erroneous) appeal to constitutional tradition. When a subject is entirely new to the Constitution (as it is asserted, in my view erroneously, the present one is) it does not come with that testimonial of importance, permanence and certitude that a subject already addressed in the document possesses—and therefore greater proof of those necessary qualities may reasonably be demanded. But when this preliminary aspect of the argument on the merits slides into the quite different argument that a subject not hitherto addressed in the Constitution should for that reason alone not be addressed—when it becomes an independent argument based on constitutional tradition—then it seems to me quite plainly wrong.

A FORMULA SOLUTION, FROM: CONGRESSIONAL SPENDING

(By Dennis S. Ippolito)

Budget reform has come on hard times. Congressional budgets, hammered out after great investments of time and energy and with considerable acrimony, have been upset by changing economic conditions and, more important, political pressures. As spending and deficits have mounted steadily, attacks on Congress have become sharper. Many legislators believed that Congress might regain its institutional credibility if it could balance the fiscal 1981 budget and keep it balanced. But even if this budget-balancing effort were sincere, the prospects for its success were never very good. Moreover, the problem Congress faces goes far beyond one or two budgets. Lawmakers are now being confronted with serious proposals to limit their powers to tax and spend. Over the past few years, dozens of plans have been introduced in Congress to reform, once again, the budgetary process. While some of these plans represent only minor modifications in procedure or organization and would leave congressional discretion intact, others provide formulas—statutory or constitutional—that would determine the size of the budget or the balance between spending and revenue.

The debate promises to be lively and protracted. Richard Bolling, the Rules Committee chairman who claims much of the credit for the 1974 budget act and whose committee has jurisdiction over proposed changes in it, opposes all formula solutions as "mindless." According to Bolling, Congress is fully capable of disciplining itself under existing procedures: "Teeth are not what you need in this kind of internal discipline. What you need is will." Others doubt Congress' ability to achieve fiscal responsibility on its own. Robert Giaimo, the former House Budget Committee chairman, believes that a statutory spending formula is needed to defend "Congress' preordained ceiling against individual temptations." It is an interesting commentary on the spending problems in the House that several Budget Committee members, including Giaimo, have introduced spending-control statutes that would take some of the pressure off their committee. The Senate Budget Committee, which leads a less troubled existence, has generally disclaimed the need for any spending formulas, but even there some of the instinctive dislike of formulas appears to have softened.

Proposals for constitutional amendments, which would impose even more formidable limits on congressional powers, predictably give rise to more impassioned rhetoric. In order to decide which reform route is best, we must examine the way Congress has exercised its power of the purse in the past and the political factors that have shaped its decisions on spending and taxing. All that can be expected from Congress in the future, in the absence of some type of effective formula solution, is what it has done in the past.

PROCESS AND POLICY

The congressional budgetary process that was so widely heralded in 1974 has had a very limited impact on budget policy. Spending has not been greatly affected. There is no evidence of dramatic shifts in spending priorities or tax policy, nor have we any reason to suspect that congressional fiscal policy decisions would have been greatly different if the budget-reform act has not been passed.

All the 1974 budget act did was put into place a new decisionmaking process. It did not prescribe, nor could it, certain policy results. There was no reason to believe that procedural and organizational changes would restrain spending or balance budgets or reverse the growth of the public sector unless Congress' policy preferences took a sudden and unlikely turn in that direction. The new process was superimposed on a powerful and resilient system of spending committees, which took great pains to circumscribe the authority of the Budget committees and to protect their own influence and prerogatives. Many members of Congress are dissatisfied with the high spending totals of the past few years, but it would have been difficult for any incremental reform to produce results more to their liking—and anything beyond the limited and relatively neutral modifications of 1974 would probably have been rejected.

On the other side, according to congressional liberals, budgets have been too tight, hurting the poor and the elderly. Liberals believe fiscal policy has been insufficiently stimulative and budget priorities wrong—especially the new emphasis on defense spending. Finally, liberals are unhappy with the healthy growth in tax expenditures and the continued independence and power of the tax-writing committees, especially the Senate Finance Committee. But even if we accept these complaints as valid (a difficult thing to do given recent spending patterns), they simply indicate that Congress has not followed the precise policy route that liberals believe desirable.

The question is: What has budget reform accomplished? As far as the decision-making process is concerned, some improvements have been made. Congress now operates in a more orderly and coherent fashion, paying more attention to fiscal policy issues and the long-term consequences of spending legislation. The CBO gives Congress direct access to budget data and analysis, which are used in committees and on the floor. Budget resolutions and scorekeeping encourage better planning and coordination among the authorizing and appropriations committees. Butler Derrick, a South Carolina Democrat who once served on the House Budget Committee, vigorously defends these accomplishments, maintaining that Congress is "making better, more careful decisions based on a better understanding of the numbers and the long-term consequences." It is true that Congress can no longer ignore spending totals or deficits or other embarrassments that once were conveniently hidden from public view. If nothing else, the reforms have made legislators more accountable for what they do because what they do is far more visible. Greater care and accountability, however, do not ensure better decisions.

In fact, the most valuable, if unintended, lesson that emerges from the budget-reform experience is that changes in decisionmaking processes do not alter political realities. Budgets grow because there is wide-

spread public and congressional support for spending programs. Congressional procedures and organization may facilitate this growth, but the uncoordinated budgetary process that allowed spending to get out of control during the early 1970s managed to keep it well under control when there was a consensus on the need for balanced budgets. In the absence of any such consensus in 1974, and with massive electoral groups benefiting from income security and assistance programs, it was naive to expect Congress suddenly to take a new tack on spending. The political forces that had boosted spending were the same. Budget reform provided a minor check on these forces by requiring votes on spending totals, but members of Congress quickly demonstrated that electoral success was quite compatible with large deficits and high totals.

The 1974 reforms also affected presidential influence on spending. Presidents are hard pressed to overcome Congress on spending issues, at least over time. A president may be able to prevent some new spending programs, but he cannot change the momentum of past spending commitments, especially now that impoundments for reasons of policy are no longer feasible, and he lacks an item veto. And since so little spending comes in the form of annual, controllable appropriations, his leverage is reduced still further. Budget reform, by reducing presidential influence over spending, has weakened a potential source of restraint on spending.

In addition, congressional spending ceilings have proved remarkably flexible, leaving the rules of the congressional spending game unchanged. Groups that benefit from government spending do not have to compete against each other, because everyone understands that the totals will eventually be adjusted to accommodate them all. Spending thrives in the absence of centralized control and firm leadership in Congress, since coordination of actions is not necessary to raise spending but is very necessary indeed to reduce it. The "democratized" Congress born in the 1970s does not place a premium on discipline or internal cohesion. Its entrepreneurial members (with their very substantial staffs) are indirect beneficiaries of a massive pubic sector, and show no inclination to run the political risks of reducing that sector by changing the way Congress operates.

In sum, congressional spending does not increase in spite of public demands, but because of them. No one is being duped, although everyone professes astonishment and dismay when the costs of individually popular programs are added up. If Congress is to be blamed for anything, it is for failing to provide leadership to address this collective problem, while at the same time holding up the legislative power of the purse as somehow sacrosanct. In fairness, however, this failure is not unique to the modern Congress.

The fact remains that the collective problem cannot be avoided forever. Serious issues of public policy—the shift of resources from the private to the public sector, the impact of government budgets on the economy, a large proportion of the population dependent on government for some or all of its income, and the removal of most of the budget from annual review or control—are tied to current spending levels. And spending is the key; virtually everyone agrees that it is too high, but there is sharp disagreement on how to reduce or control it.

SPENDING-CONTROL OPTIONS

Further reforms in the congressional budgetary process designed to control spending now appear unavoidable. In this regard, the next round of budget reform will be different from its policy-neutral predecessor. Congress will eventually have to decide whether to complement modifications of its current process with statutory or constitutional formulas.

MODIFICATIONS

The first steps toward increased control of spending were taken early in 1980, as the Budget committees prepared the first budget resolution for fiscal year 1981. Emboldened by broad congressional agreement on the need for a balanced budget, the House and Senate Budget committees decided to force spending cuts on other committees by attaching reconciliation instructions to the initial budget for 1981. The Budget committees have pushed for additional changes, such as holding up final action on spending bills that exceed the targets in the first resolution unless and until Congress adopts a revised resolution permitting the added spending. The reconciliation initiative, however, probably represents the most important step that the Budget committees have taken. Predictably, it has been attacked by the spending committees. In the House, for example, most committee chairmen demanded the elimination of reconciliation instructions:

"Invoking reconciliation in the first step of the congressional budget process undermines the committee system, reposing in the Budget Committee authority to legislate substantively with respect to the nature and scope of federal activities. Such a procedure, which infringes on the legitimate roles of authority and appropriations processes, is not required in achieving a balanced budget." And some reactions were far less temperate. A staff spokesman on the House Education and Labor Committee likened the Budget Committee's approach to "guidance like that of Hitler or Stalin." Amidst the hysteria, the lesson the House Budget Committee had received on the responsibility of spending committees in 1979 was scarcely mentioned. When the House Budget Committee decided to oppose reconciliation in the second 1980 resolution, it hoped that spending committees would continue to report out spending cuts in line with the congressional budget. Of the almost $6 billion in legislative savings initially requested by the Budget panel, the spending committees responded with a not so grand total of just over $200 million in cuts.

The aggressive course taken by the Budget committees may be promising, but the circumstances in the spring of 1980 were, after all, unusual. An extraordinary inflation rate focused attention on the deficit when an election was just around the corner, and congressional Democrats were nervous. Even more stringent spending controls had considerable support; for example, in March the Senate Judiciary Committee managed to keep a constitutional amendment calling for a balanced budget from going to the floor by only a one-vote margin. The Democrats only response to Republican proposals for spending limits and balanced budgets were those measures sponsored by the Budget committees.

The Budget committees are not likely to have much success with reconciliation or moral suasion when electoral attention subsides, even if they finally manage to keep the fiscal 1981 budget under reasonable control. The spending committees have never tolerated centralized spending control, and they are not about to let "supercommittees" emerge at this point. The leadership commitment and political management needed to hold a centralized spending process together are not staples of congressional operations. As an example of the problem, Speaker Tip O'Neill has already complained about "dismantling the programs that I've been working for as an old liberal" and predicted there will not be "discipline in the House to actually make those cuts [to balance the budget]." One assumes that O'Neill is not speaking for himself.

At any rate, modification of the present budgetary process is at best a temporary expedient. The same assessment can be applied to other proposals that would leave congressional discretion unfettered. For example, Joseph Biden, a member of the Senate Budget Committee, has proposed eliminating most of the automatic spending (and automatic increases) that now occurs by ending permanent appropriations and requiring that spending be approved annually in appropriations bills. Biden's plan would bring a good portion of uncontrollable spending under the year-to-year restraints of the budgetary process and force Congress to make decisions it now avoids.

Richard Gephardt of the House Budget Committee would like to see less flexible budget resolutions. Gephardt has proposed that the Federal Reserve recommend to Congress spending and revenue levels that would then be used by the Budget committees when they prepared budget totals for the fiscal year. He also suggests that Congress be required to adopt a binding resolution by March 15. The concept of an early, binding budget resolution was promoted by the Joint Study Committee on Budget Control back in 1973, and something along these lines is needed if the budget resolution procedure is to gain credibility. Unfortunately, no resolution can be binding unless spending estimates are reasonably accurate and Congress insists on enforcing them. With the large amount of automatic spending now contained in the budget, accurate estimates and strict enforcement are difficult. Unless Congress brings entitlement spending under control, it cannot realistically expect to stay within spending totals. Thus the Gephardt proposal would probably suffer the same fate as past resolutions. Congress would agree to low initial totals, then economic conditions or other events would place pressure on these totals, and Congress would respond by abandoning them.

The chairman of the Senate Budget Committee, Pete Domenici, has complained loudly and often that the budget process "isn't selfpolicing and hence not credible." Domenici is also unwilling to count solely on political changes in Congress to strengthen the process. He has advocated much stronger enforcement of the budget resolutions and suggested that enforcement measures be available for use against individual spending bills before the overall spending ceiling is breached. He has also acknowledged, however, that any substantial success in efforts to control spending will require continuous pressure on Congress by the president.

Incremental changes in the budgetary process cannot solve the spending problem. All that procedural obstacles can do is make it more difficult or embarrassing for Congress to get the spending it wants. Procedures do not create incentives for lawmak-

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ers to limit spending. What is needed to bring congressional spending under control is something that will control Congress' political weakness; clearly, the only way to combat this political weakness is less rather than more congressional discretion over spending.

STATUTORY LIMITS

One option for controlling congressional spending that appears to have strong support in Congress is a statutory limit on expenditures that would tie the size of the federal budget to a fixed percentage of GNP. A bill introduced in the 96th Congress by Representative Giaimo, for example, limited direct spending and tax expenditures to 27.5 percent of GNP by fiscal 1983. Two other members of the House Budget Committee, Democrat Jim Jones of Oklahoma and Republican Marjorie Holt of Maryland, introduced separate bills to limit direct spending only, placing it under a 21 percent GNP cap in fiscal 1981 and a 20 percent cap thereafter. (The Giaimo and Holt proposals also require budgetary controls on federal credit and loan programs.) With Jones moving up to the Budget Committee chairmanship for the 97th Congress, statutory limitation of expenditures will continue to have a forceful influential spokesman.

Statutes limiting expenditures differ in scope and in the percentage of GNP set as a ceiling. Credit and loan programs should be subject to effective fiscal checks, either through controls on appropriations or through ceilings in budget resolutions, but whether or not they should be part of an expenditure limit is arguable. Connecting direct spending and tax expenditures also raises objections. The conceptual weakness of tax expenditures is well understood, and Congress has thus far refused to accept them as equivalent to direct spending. The purpose of a limit on expenditures is to control spending, not to force unspecified "reforms" in the tax code.

An expenditure limit should incorporate what can be defined fairly clearly—direct spending and GNP. It should make those definitions permanent, solving the problem of direct spending and leaving such matters as tax expenditures and credit and loan programs to the budget process. The precise level to be set for spending with respect to GNP is a more complicated problem. The 20 percent limit, which rests on a historical base of spending during the late 1950s and 1960s, has received the most attention. Such a limit would have to be phased in gradually, since Congress will have to hold spending within absolute limits. Setting the precise percentage of GNP, however, is not nearly so important as fixing the relative size of the federal sector, at least in terms of spending. There would be, finally, a connection between national wealth and the resources available to the federal government. And so long as that connection is secure, it does not matter whether the spending limit is based on this year's GNP estimates, last year's actual GNP, or some weighted average over a period of several years.

The proposed statutes setting limits on expenditures do not present serious technical problems, but they all have a glaring political weakness. Congress can, if it wishes, waive or override them. Virtually all such proposals provide that if the president recommends that the limit for a particular year be suspended, a majority of the House and Senate can set it aside. Proponents of the statutory approach believe that legislators would be reluctant to go on record as voting to suspend an expenditure limit. Although it conceivably might be more difficult to explain such votes than it is to maneuver around the votes on multiple budget resolutions each year, to expect this consideration to alter congressional behavior substantially is foolish. Over the past several years, Congress has readily ignored its own binding budgets when it has been confronted with the alternative of major cuts in spending. In 1979 it even went so far as to adopt language prohibiting a third budget resolution for fiscal 1980, only to raise spending dramatically through just such a third resolution several months later. When faced with the choice between symbolic totals and real spending programs, Congress finds it much less painful to sacrifice the totals. Unless the electorate were suddenly to exhibit a newfound propensity to discipline legislators on fiscal issues, Congress is likely to continue to disregard totals, even if they are prescribed by statute.

Some legislators argue that statutory formulas would enable Congress to resist pressures more effectively. Jones claims that "unless there is some artificial limit under which politicians can take cover, you aren't going to get the specific cuts"—a peculiar justification, at least for a statutory limit. It assumes that members of Congress know what they should do (that is, cut spending) but are somehow forced by political pressures to go against their better judgment. But it is equally likely that most members are committed advocates of spending programs, not reluctant spenders. Unless members of Congress believe that a fixed percentage of GNP is the only spending level the public will accept—and they are not likely to do so without overwhelming evidence—spending advocacy will not be greatly affected by a ceiling. Moreover, even if Jones is correct, the logical solution would be a constitutional rather than statutory limit, since political timidity will always threaten the latter's effectiveness.

Those opposed to statutory formulas do not always object on the same grounds. First, there is the question of congressional prerogatives. Such congressional veterans as Bolling and, while he was in the Senate, Muskie argue that Congress has demonstrated in the past the ability to handle spending issues and that the recent problems are merely aberrations. In fact, spending issues have always frustrated Congress, which has never found a satisfactory mode of internal organization to accommodate both spending demands and fiscal discipline. To maintain, as Bolling does, that the failure is one of will requires an admission that strong-willed antispending Congresses have been historical oddities.

Statutory spending formulas also come under attack because of the proposed link to GNP, which some people believe might result in such spending patterns as decreases when the GNP slumps during economic difficulties and increases when the economy is healthy or inflation is high. An additional objection is that the GNP is subject to error or actual manipulation in estimating and reporting and that the estimating agency would be subject to immense political pressures. The fiscal policy objections cannot be entirely dismissed, but spending limits would not prohibit adjustments in tax rates to provide economic stimulus or restraint. In fact, one of the most important contributions of the spending-limit approach would be to separate decisions about the necessity of desirability of various spending programs from decisions about economic stimulus. It is politically and practically much easier to move tax revenues up or down than it is to reduce spending programs once the need for stimulus disappears. If congressional fiscal policy options were limited to the tax side of the budget, one of the current biases for increased spending would be eliminated.

The estimating difficulties are not a serious liability. While the definition of GNP is not without some fuzziness, all that is required is to fix permanently the current basis of measurement, thus eliminating conscious manipulation. Past GNP is known, and forecasts are no more prone to error than other economic assumptions that are routinely used to project budgetary costs and revenues. Whether Congress would somehow be able to exploit these technical weaknesses to evade spending limits or find some other opportunities for avoidance appears to trouble mainly the opponents of formulas; perhaps their real concern is that formula limits might actually be effective. They probably have little to fear, since Congress can simply vote to ignore statutory limits if a spending crunch develops. If recent experience is any guide, such congressional behavior would seem to be almost inevitable.

Statutory formulas to limit taxes are another option for controlling congressional spending—though the control would be indirect. Most such formulas feature indexing provisions that would require adjustments in federal tax brackets to account for inflation. This option would keep taxpayers from moving into higher brackets because of nominal increases in income and prevent the inflation-boosted revenue increases that have been so conspicuous over the past several years. The overall effect of such proposals depends on how far they extend beyond the actual tax brackets to such matters as the computation of capital gains, or depreciation and other allowances, but the common goal is to reduce and fix the level of federal revenue as a proportion of GNP. If these reductions in revenues are not accompanied by reductions in spending, deficits will mount.

Indexing plans have never made much headway in Congress. Some people claim that indexing effectively institutionalizes inflation by removing one of the incentives to combat it. With a good portion of the spending side of the budget already indexed, so this line of reasoning goes, neither taxpayers nor beneficiaries will be greatly discomfited by inflation. Since Congress ordinarily enacts periodic tax cuts to offset at least some of these inflationary effects, however, it is difficult to see how indexing would seriously alter the response to inflation, although it definitely would eliminate the political credits that legislators receive for reducing taxes. More to the point, statutory tax formulas would have no direct effect on spending growth or deficits. Proponents of tax-limit formulas suggest that spending would be indirectly restrained by the reduction in revenue growth, so that Congress would be forced to vote for large deficits to maintain spending. But in the past, deficits have not proved to be at all unpalatable as a means of financing spending increases, and there is no indication that this situation has changed.

CONSTITUTIONAL LIMITS

Constitutional formulas are the final resort for those who are convinced that statutory formulas are ineffective. Two major types of constitutional solutions have been introduced in Congress: amendments

that require balanced budgets and amendments that set limits on spending. Both types would limit congressional discretion on taxing and spending, but their direct objectives—and probable effects—differ. A balanced-budget amendment would eliminate deficits; a spending-limit amendment would fix the relative size of the public and private sectors by preventing government spending from growing more rapidly than the economy.

The Balanced-Budget Amendment. The National Taxpayers Union has coordinated a national effort behind a constitutional amendment that would require balanced federal budgets. Some thirty states, four short of the required two-thirds, have petitioned Congress to approve such an amendment and submit it to the states for ratification, or to call a constitutional convention in order to propose it. Late in 1979 the Constitution subcommittee of the Senate Judiciary Committee narrowly approved a constitutional amendment requiring the President to recommend and Congress to adopt a balanced budget each year. (The proposed amendment also provided that revenues in a fiscal year would be limited to the same proportion of GNP as the previous year. A so-called emergency waiver provision was included to allow Congress to lift these restrictions by three-fifths votes of the House and Senate.) In March 1980, however, the full Judiciary Committee voted to keep this measure off the floor. The Republican majority on the Senate Judiciary Committee may force Senate action during the 97th Congress, but with the House Democratic leadership and Judiciary Committee chairman adamantly opposed to a balanced-budget amendment, the prospects for floor consideration in the House are dim. There is no real possibility, moreover, that Congress will convene a constitutional convention. Even if the required number of states do submit petitions, challenges to their validity, uniformity, and effect will no doubt delay action indefinitely.

The most common objection to the balanced-budget amendment is that the Constitution is not an appropriate forum for deciding fiscal issues. Since the objection would apply to any constitutional solution, the balanced-budget approach is not uniquely objectionable. A more specific objection is that it might cripple the budget as a tool of economic management. Since deficits would be prohibited (except during "national emergencies"), spending would have to decline during economic slumps in order to keep in line with reduced revenues. Spending would also increase most rapidly when economic growth was highest. Both responses to economic trends are reversals of conventional fiscal policy.

A constitutional requirement of balanced budgets would lead to creative bookkeeping, some people say, with perhaps separate capital and operating budgets or other devices employed by state and local governments to get around such restrictions. In addition, unless a balanced-budget requirement is accompanied by restrictions on revenues (which would complicate matters immensely), budgets can simply be balanced at high tax levels. Balancing the budget and limiting the growth of spending are not the same thing, and it is risky to assume that public resistance to increased tax burdens would outweigh the pressures toward spending.

A balanced-budget amendment might prevent deficits, but it would not directly halt the growth in the relative size of the public sector, and it would not ensure restraint in spending. The goal of eliminating deficits, which changes the rules of the spending game so that increases in spending cannot be financed and hidden by borrowing, is important because it restores direct confrontations between taxpayers' costs and benefits. It assumes, however, that a balanced-budget is the country's foremost economic policy goal. Most experts on fiscal policy agree that the economic issue is more complicated. Moreover, the real political problem is posed by spending, not by deficits. A balanced-budget amendment would not directly limit the rate of growth in spending or fix the relative size of the federal sector. It would treat, in effect, an unpleasant manifestation of fiscal irresponsibility, not the source of that irresponsibility.

Spending-Limit Amendments. Constitutional limitations of expenditures, like statutory ones, would restrict the rate of growth in federal spending to the rate of economic growth by setting a ceiling on the share of GNP that could be absorbed by the federal sector. The GNP caps for both types of proposals are similar. Many of the constitutional or statutory limits on expenditures would reduce federal spending to 20 percent of GNP within one or two years, and fix it at that level. Less stringent plans would allow spending at 21 or 22 percent of GNP.

There is an important difference, however, between the constitutional and statutory approaches. Constitutional limits cannot be readily waived or ignored. Most of the proposed constitutional amendments to limit expenditures contain an escape clause—a one-year suspension of the spending limit during a national emergency declared by the President and affirmed by an extraordinary majority of both houses of Congress. Without a genuine national emergency, however, the political branches of the government could not suspend a constitutional expenditure limit. Unlike a statutory limit, the loophole is relatively narrow and difficult to exploit.

A constitutional expenditure limit would not guarantee a balanced budget and would be subject to the same fiscal policy constraints and technical problems that apply to statutory spending limits. Its advantage over other solutions is that, unlike the balanced-budget amendment, it preserves a major fiscal policy option (the revenue side of the budget), and unlike a statutory spending limit, it is likely to result in effective control over spending. At the present time, Congress does not control the spending side of the budget, primarily because of entitlements. All that Congress can do with entitlement spending is hope to make accurate estimates, and when it fails, to ignore or work around spending ceilings.

Despite the obvious inconsistency between indexed entitlements and spending control, Congress has refused to consider any comprehensive review of the indexing problem, refused even to eliminate the semiannual cost-of-living adjustment for civil service retirees. With this protective response toward one of the least defensible indexing schemes, it is hard to imagine that Congress would willingly enact less generous indexing formulas for social security and other major benefit programs.

Members of Congress know full well that spending control is impossible without limits on entitlement spending. The political factors that insulate such spending, however, virtually guarantee that nothing will be done unless Congress is forced to act, and that is what an irrevocable expenditure limit would accomplish. A fixed ceiling on spending would mean that entitlements would have to be considered alongside other government programs. If Congress decided to keep indexing formulas, in place, funding for controllable programs would suffer, and Congress would no longer have the option of simply raising the spending ceiling. The result is likely to be modification if not elimination of indexing and other forms of automatic increases. At that point, government programs would compete for funds, and increases, on an equal basis.

With the maximum resources available determined in advance, the current budget process would be credible. Budget resolutions would be serious spending plans. Priorities would embrace the entire budget. Supplementals would be integrated into Congress' spending priorities and fiscal policy plans. Congress would, at last, be forced to take budgeting seriously—to reexamine the commitments it has make, to decide what it can realistically afford, and to make the painful choices between what it essential and what is merely desirable.

SPENDING LIMITS AND BUDGET REFORM

Several years ago most policy experts and public officials considered spending limits of any kind unthinkable—mere "easy answers" that thoughtful people understood could not possibly resolve complicated issues of public policy. Although some people in Congress and the CBO still insist that spending is under control or almost under control, that multiyear budgeting and planning are the answer to spending problems, and that huge budget margins and surpluses are just around the corner, more and more policymakers are beginning to think the unthinkable. The simple and inescapable lesson of the six years of the congressional budget process is that Congress has failed to control spending, and the situation is not likely to change. Indeed, it is likely to become even more serious as uncontrollable spending continues its upward drift.

For a growing number of skeptics, budget resolutions, multiyear projections, reconciliation, rescissions, and the various other appurtenances of the congressional budget process do not add up to spending control. The result has been a more searching examination of spending limits generally and a serious exploration of the merits of a constitutional limit. In particular, a debate is developing over such issues as effectiveness, flexibility, and constitutional propriety.

EFFECTIVENESS

An essential criterion for any constitutional rule is clarity of purpose. In the case of a constitutional limit on expenditures, that purpose is to link federal spending and economic growth, thereby substituting an economic constraint on the size of the public sector for the traditional political constraint. If an expenditure amendment is to make sense both to the public and to its representatives, its purpose must be set forth in clear, straightforward, and workable constitutional language.

Unfortunately, some of the expenditure proposals that have received widespread publicity over the past few years do not meet this standard. The long and complex amendment sponsored by the National Tax Limitation Committee (and Milton Friedman), for example, contains numerous formulas as well as detailed provisions related to inflation, debt reduction, state and local governments, and judicial discretion. The broad scope of this and similar proposals has a certain intellectual fascination, but it does not conform to what we customarily

consider the bounds of constitutional reality.

Less complex, shorter amendments have also been set forth by, among others, William Niskanen and Aaron Wildavsky. The Niskanen amendment contains an admirably concise key provision: "The percentage increase in total outlays in any fiscal year shall not exceed the percentage increase in the gross national product in the last calendar year ending prior to the beginning of said fiscal year. Beyond this limitation, it is necessary only to provide for emergencies by allowing the President and Congress (perhaps by a two-thirds vote of the House and Senate) to suspend the expenditure ceiling in any year. As with most of the recent amendments to the Constitution, the details of implementation and enforcement can be left to subsequent legislation.

Simplicity and clarity do not ensure, of course, that an expenditure limit will work. Implementation does present problems, since all contingencies cannot be foreseen or all evasions protected against. While a number of states have adopted constitutional expenditure limits in recent years, it is too soon to generalize about the impact of limits. Naomi Caiden reports that until now, compliance in such states has been reasonably good: "Budgets have been below the limitations. . . . Cash flow problems [have been] managed. . . . Cases of illegality or deliberate overspending appear exceptional and are easily detected." Since "these limits have not yet exerted serious pressure on government spending," however, concerns about evasion have not been dispelled. Under a different set of legal controls, the state of New York evaded budgetary restrictions through independent agencies and "moral obligation" bonds, while New York City contributed an extraordinary and disastrous lesson in creative bookkeeping. While these examples are decidedly atypical, they do discourage blind faith in the efficacy of government expenditure limits. Proponents of constitutional limits must deal with this issue, since evasions might create even more serious and intractable spending problems than those that now exist. It might be helpful, however, to distinguish first between inadvertent and deliberate budgetary pitfalls.

Inadvertent Overspending. Over the past few years, federal spending control has been seriously weakened by estimating errors and supplemental appropriations. Neither would be eliminated by a constitutional expenditure limit, but their effects could probably be controlled without great difficulty. Since the spending limit for a fiscal year would be set in advance (the best reason for using the growth rate of the previous year's GNP is that it eliminates the need for an estimate and thus sets a firm limit), contingencies or margins can be established to accommodate unanticipated spending increases. If these margins proved insufficient, Congress could authorize transfers of unspent funds or grant the President limited authority to impound them. The latter move is perhaps inevitable if a spending limit must be enforced, but Congress can easily protect against abuses by establishing a maximum percentage reduction in programs, which would eliminate the possibility of terminations and crippling reductions of the kind Nixon made. Congress could, moreover, mitigate if not entirely avoid the need for transfers or impoundments by improving its estimates and maintaining adequate margins. A constitutional spending limit would impose a discipline on estimates and supplementals that is now missing. If Congress had to pay a price for its mistakes, in the form of large contingency funds or greater executive discretion in regard to spending, its insistence on accuracy would no doubt increase.

Keeping direct spending within a limit determined by the GNP would therefore present no serious technical or definitional problems. Indeed, it would provide compelling incentives to improve the accuracy of estimates, discourage automatic increases in spending, and encourage serious review of past spending commitments.

Evasions and End Runs. Whether a constitutional expenditure limit would encourage extra budget forms of spending is problematical. Off-budget entities and credit activities already represent large gaps in budget control, and Congress may respond to an expenditure limit by using them even more extensively or by creating new and more imaginative evasive techniques. But Congress is already under growing pressure to eliminate the off-budget fiction and impose appropriations controls on federal credit activities, and the economic costs of fiscal irresponsibility may have sufficiently chastened elected officials to make budgetary end runs seem less attractive in the future whether or not a constitutional spending limit is passed.

A constitutional spending limit does not and cannot solve any and all fiscal problems. Unless the public and its elected representatives share a serious commitment to solving spending problems and are willing to live with the self-restraint that commitment implies, a constitutional check or any other solution cannot be expected to work. Whatever respect for restraint now exists, however, is clearly undermined by a system that fixes no limits. Under the currrent congressional budget process, a spending constituency's appetite is whetted by the knowledge that, whatever a budget resolution says more money can always be obtained. The eventual reward for a group that willingly accepts some sacifice is not the knowledge that totals will decline but the realization that other groups will take advantage of the spending slack. If totals are never fixed, restraint is difficult to achieve. With a constitutionally determined spending limit in place, however, restraint is reinforced rather than subverted, both for Congress and for the spending interests with which it must deal.

The spending problem has not arisen because Members of Congress are uniquely cynical or irresponsible, but rather because the pressure exerted on them to spend are intense, unyielding, and indeed proliferating. Internal reforms to control these pressures have repeatedly failed. A beleaguered Appropriations Committee chairman pleaded with his colleagues a century ago, "We ought to have some way . . . to protect us from ourselves." But Appropriations Committees have proved unequal to that task, as have presidential budgets, legislative budgets, omnibus appropriations, and, more recently, Budget committees and budget resolutions. A constitutional limit on expenditures would provide an unprecedented degree of protection, clearly distinguishable from earlier reforms, with greater prospects for success in pushing Congress toward fiscal responsibility.

Evasions and end runs are potential worries, but uncontrolled spending is a serious, immediate, and undeniably real fiscal problem. And in the absence of a perfect and guaranteed solution to all of government's fiscal dilemmas, a constitiitional expenditure limits is a prudent alternative. In the final analysis, nothing can prevent the public and Congress from deliberate and possibly even disastrous evasions, but a constitutional expenditure limit assumes that spending decisions in a democracy can, with modest assists, proceed in responsible rather than destructive directions.

FLEXIBILITY

Defenders of congressional prerogatives also fear that if constitutional expenditure limits are effective, they will limit Congress' discretion in regard to policy. Congress would no longer determine the size of the public sector, at least in terms of spending. Congress could not resort to the wholesale use of spending stimulus in nonemergency situations. Congress would lack the flexibility to respond to the changing needs served by the public sector.

The flexibility argument is disingenuous if not actually dishonest. Congress has never deliberately debated the appropriate size of the public sector, not has it paid much attention to the economic and political consequences of its expansion. Congress did not base its spending decisions on a carefully thought-out vision of the relationship between the public and private sectors. That relationship was defined over time by a series of discrete spending decisions. A constitutional expenditure limit would not remove the public-sector issue from the political agenda, for the simple reason that the issue has always been deliberately ignored by Congress. Moreover, a 20 percent GNP limit would not impoverish government, but would ensure that budget growth was in line with economic growth. Any lack of flexibility thereby implied would be easily outweighed by the enforced fiscal discipline.

The objection to constraint in regard to fiscal policy is a relevant consideration. Congress would have to depend largely on tax policies rather than spending to stimulate or restrain the economy. Although tax cuts may not be the only effective fiscal policy response to an economic slowdown, the economics profession is no longer quite so certain that spending is indeed a preferred form of stimulus. Economic policy merits aside, the advantage of tax cuts over spending stimulus is that they do not confuse the need for economic stimulus with the desirability of jobs programs or subsidized employment in the public sector or other spending programs. Economic stimulus and defensible government programs are entirely different matters. Fiscal policy decisions that affect primarily the revenue side of the budget would end this confusion.

CONSTITUTIONAL PROPRIETY

The argument that fiscal decisions should not be enshrined in the Constitution is not very substantial. The purpose of a constitution is, after all, to limit government. By controlling the amount of public sector spending, a constitutional expenditure limit does exactly that. The widespread notion that fiscal matters are not elevated enough to deserve constitutional resolution deliberately ignores the fact that the federal Constitution already treats them in some detail. In addition, many state constitutions have incorporated spending or taxing limitations as well as balanced-budget requirements. As Alexander Hamilton explained in the Federalist 30. "Money is, with propriety, considered as the vital principle of the body politic. . . . "Since the Constitution has provided the federal government with bountiful

access to revenue there appears to be nothing in the least remarkable about a parallel constitutional limit on spending.

A constitutional solution merely acknowledges that the democratic process has limitations, something that has been recognized in other policy areas. In the past the nation has agreed that certain individual rights and liberties need protection against possible abuse by the political process. The legislative power of the purse and the democratic process produce collective results that most citizens find distressing. At the same time, neither Congress nor the electorate has been able to fashion an effective solution to the spending problem.

EXPENDITURE LIMITS AND CONGRESS

A constitutional expenditure limit would represent a substantial but clearly defined change in the budgetary process. Congress would begin with a spending total that was not politically determined and one that could not be evaded. Thereafter, however, Congress would retain full discretion over allocations and priorities. With a fixed total, it is even possible that Congress might conduct more vigorous oversight of existing programs. There would be incentives to effect economies and to view impoundment as something more than an institutional affront. An expenditure limitation would be fully compatible with the congressional budget process—indeed, it should actually enhance that process. The Budget committees would be less vulnerable to attacks by spending committees; budget resolutions would be binding; and budget analysis would necessarily become a more integral part of the legislative process.

Congress would not be transformed by a constitutional expenditure limit, but its persistent and serious failure to bring spending under control would finally be solved. It would be solved, moreover, without resort to the elusive notions of "better" legislators or a "more informed" electorate, which often pass for political reform. Instead, there would be a direct, limited, and effective response to the lack of fiscal discipline in politics. We lack fiscal discipline not because we fail to appreciate its importance, but rather because we do not know how to reconcile it with the legislative power of the purse. A constitutional amendment that set a limit on expenditures would provide this reconciliation, correcting a political flaw in the democratic process and an institutional weakness of Congress. And such a constitutional amendment would protect both the electorate and Congress against the consequences of uncontrolled spending by the federal government.

A COMPELLING CASE FOR A CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET AND LIMIT TAXES

(By Alvin Rabushka, Hoover Institution, Stanford University)

Introduction

On November 26, 1798, a decade after the U.S. Constitution was written, Thomas Jefferson wrote, "I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of its Constitution; I mean an additional article, taking from the federal government the power of borrowing."

Today, the need for such an amendment to the Constitution is greater than ever. Large and protracted federal deficits have brought havoc to today's economy. The nation's trillion dollar debt represents a true and onerous burden to the average American citizen. The carrying cost on the debt has skyrocketed. The bill we pay arrives in several forms: higher taxes, declining real income, higher interest rates and, at present, a recession.

Are deficits the only cause of our economic troubles? Of course not. Many of the undesirable consequences popularly attributed to deficits would have occurred if government spending and money creation had followed their historic path of the past twenty years even with the budget balanced. However, the burden of taxation on current and future generations would have been quantitatively different. Government debt would be lower, tax rates higher and inflation about the same. The disincentive effects of taxes on investment and employment would not have been avoided. Therefore, in order to preserve our economic and political freedom, it's necessary to both outlaw deficits and to place a cap on taxes such that the size of government, relative to the entire economy, does not increase.

Statutory reform: Historically and inherently flawed

Reforming the federal budget process has been and remains a popular topic with politicians, scholars and taxpayers. Many of the reformers believe that statutory changes in the way Congress conducts its business can bring about a responsible federal budget without resort to a constitutional amendment. Proponents of this view claim that statutory reform would avoid the time-consuming and cumbersome process of amending the Constitution to achieve fiscal restraint. They believe that congress is capable of drafting legislation that will put its fiscal house back in order. This view has repeatedly been proven false, however.

Concern over reforming the congressional budget process has been debated extensively since 1921. For example, the Revenue Act of 1964 stated:

"To further the objective of balanced budgets in the near future, Congress by this action recognizes the importance of taking all reasonable means to restrain government spending."

The Budget and Impoundment Control Act of 1974 enacted major reforms—the establishment of budget committees within each house, the creation of the Congressional Budget Office to supply timely information and analysis, and the development of a budgetary timetable—to enable Congress to consider individual spending measures in light of overall budget objectives. In the Humphrey-Hawkins Full Employment Act, a balanced budget was declared to be a national public policy priority. An amendment offered by Rep. (now Senator) Charles Grassley and Senator Harry Byrd, Jr. to an IMF loan program measure was enacted into law and requires that, beginning with fiscal year 1981, total budget outlays of the federal government "shall not" exceed its receipts (Public Law 95-435). In 1979, a provision in a measure to increase the public debt limit stated that "Congress shall balance the federal budget" (Public Law 96-5), which required the congressional budget committees to propose balanced budgets for fiscal year 1981 and subsequent years.

None of these measures has effectively constrained deficits. None has reduced the share of national income taxed or spent by government. The most obvious reason for this is that no Congress can bind a succeeding Congress by a simple statute. A balanced budget or tax limitation statute can itself be repealed by the simple expedient of adopting a new statute or new budget which is in conflict with the earlier measure. The Byrd-Grassley amendment, which required a balanced budget for fiscal year 1981, provided no deterrent whatsoever to the adoption of a budget with a $50 billion deficit for that year.

Indeed, legislation passed by Congress has exacerbated the problem of runaway federal spending. A convincing case can be made that control over the budget has steadily declined since the 1974 Act. Despite congressional adherence to the budget timetable, deficits have assumed record proportions: seven deficits exceeded $40 billion in the 1970s, and a regime of $100 billion deficits appears likely in the early 1980s. Control over off-budget outlays has eroded even more sharply: off-budget outlays have increased from less than $1 billion in fiscal year 1973 to surpass $20 billion in fiscal year 1982. Finally, those items in the budget which are known as "uncontrollable" have increased from 72 percent in fiscal year 1973 to 77 percent in the fiscal year 1983 budget. (Technically defined, an uncontrollable is budget authority or an outlays which would require substantive legislation to cancel. These consist chiefly of open-ended entitlements such as Social Security and Medicare, open-ended programs such as interest payments on the national debt and farm price supports, and contracts and obligations entered upon in the past and payable in the present.) Congress has thus been wholly unable to impose its own priorities on the budget.

The source of this failure lies in the fact that there is a structural bias within out political system that causes higher levels of spending, taxing, and deficits than are desired by the people, even though most members of Congress believe that large deficits and excessive government spending damage the economy. This spending bias has yet to be corrected by internal reform, because none of these reforms allow members to cope with spending pressures. As will be demonstrated, the removal of prior constraints calls for the imposition of a new constraint. A constitutional amendment would reimpose those constraints that the framers of the Constitution originally imposed or assumed. It would go a long way to correcting the serious defects in the institutional setting within which Congress now operates.

Amending the Constitution

Article V of the Constitution provides two methods of proposing amendments. The first method, by which all 26 amendments have thus far been adopted, requires the proposal of an amendment by two-thirds of each House of Congress, and ratification by three-fourths of the states. The second method allows for an amendment drawn by a constitutional convention, which must be called by Congress in response to the application of two-thirds of the states. Whichever method is invoked, the proposed amendment must be approved by three-fourths of the states (36) before it becomes part of the Constitution.

Since 1975, the National Taxpayers Union has worked with the state legislatures to pass resolutions—of which thirty-one have thus far been approved—calling upon the Congress to invoke Article V of the Constitution and convene a constitutional convention for the purpose of writing a balanced budget amendment.

In early 1979, largely because of pressure being exerted by the states to convene a constitutional convention, the Senate Judiciary Subcommittee on the Constitution also began efforts to develop its own constitutional proposal to prohibit budget deficits. Senate Joint Resolution 58 (S.J. Res. 58), a combined balanced budget-tax limitation amendment, was reported out of the full Senate Committee on the Judiciary on May 19, 1981. Its companion in the House of Representatives is House Joint Resolution 350. The National Taxpayers Union is still actively working with several state legislatures—trying to bring the constitutional convention movement to a successful conclusion—in the belief that the continued pressure from the states will force the Congress to act. During the current session of Congress, both the Senate and House may well debate and possibly approve S.J. Res. 58/H.J. Res. 350.

A balanced budget amendment could overcome the inherent bias for increased federal spending by restoring the link between federal spending and taxing decisions. Under the terms of S.J. Res. 58, Congress could only adopt a planned budget deficit upon a three-fifths vote of the whole membership of both Houses. Moreover, unless Congress approved a bill by a majority vote of both Houses to increase taxes, federal revenues could not grow faster than the private economy; the amendment thus prohibits the federal government from consuming an ever-increasing share of our income.

Americans have come to the realization that the problem of deficits in this country is not one that can be resolved by any one individual or group of individuals. It is an institutional problem requiring a constitutional solution.

Many Americans believed that the election of fiscal conservatives would restore integrity to the conduct of the nation's fiscal business. They believed that a conservative President, Ronald Reagan, working with a conservative Congress would get control over the federal budget process. To their dismay, President Reagan has already abandoned his goal of a balanced budget by 1984. He has proposed future budgets with all-time record deficits, and he has even presided over an overall increase in government spending as a share of Gross National Product. The national debt, which surpassed $1 trillion in October 1981, is now forecast to grow by half-a-trillion dollars by 1985.

As a result of this abysmal failure to bring deficits under control, support for a balanced budget amendment now transcends both members of Congress and the state legislatures. Despairing of the federal government's ability to restrain spending and eliminate deficits, the American public has expressed its support for a constitutional amendment to require a balanced federal budget. According to Gallup, 80 percent of all Americans favor such an amendment.

Had the founding fathers not taken for granted the concepts of limited government, they might have incorporated a balanced budget amendment into the original constitution. Indeed, it was the 16th amendment, which authorized Congress to "lay and collect taxes on incomes," that is at the root of our present discontent with the budget process. Without a progressive income tax code, government spending might be substantially lower and the need for a restraining amendment correspondingly less.

175 years of fiscal prudence

The founding fathers adopted two explicit constitutional provisions and assumed a third which served to restrain spending. One reserved powers not expressly delegated to the federal government to the states and to the people. The second provided for per capita distribution among the states of taxes on income. The third, implicit, assumed that federal spending would not exceed federal revenues except in times of war or recession. All three have been abrogated or eroded by time and events, especially by the adoption of the Sixteenth Amendment (income tax) in 1913. Indeed, it is the income tax amendment that lies at the roots of the current balanced budget amendment movement.

Someone born in the post-depression era would regard deficit financing as normal budget practice. Yet until the great depression, the balanced budget, save in wartime or recession, was considered part of our "unwritten constitution." Thomas Jefferson warned that "the public debt is the greatest of dangers to be feared by a republican government" and proposed the idea of a balanced budget amendment as early as September 6, 1789. Alexander Hamilton strongly urged the repayment of national debt. Presidents John Adams, James Madison, James Monroe, John Quincy Adams, and Andrew Jackson all urged avoiding public debt. A balanced budget was synonymous with sound political economy.

Until the Great Depression of the 1930s, budget deficits occurred only in times of war and recession. The budget surpluses generated in good times were invariably used to reduce the national debt these deficits produced. Historical deficits of large proportions arose during the Revolutionary War, the War of 1812, the Mexican War of 1846, and during brief recessions in the late 1830s and 1850s. In each instance, the debts were immediately reduced at the onset of peace or prosperity. Between 1795 and 1811, Congress cut the national debt nearly in half from $84 million to just over $45 million. After the War of 1812, eighteen surpluses of (21 budgets) between 1815 and 1836 virtually eliminated the national debt. A run of 28 consecutive surpluses following the Civil War lowered the national debt from $2.7 billion to $960 million. Finally, throughout the 1920s, consecutive surpluses reduced the national debt from $24 billion to $16 billion, at the very time that major tax rate reductions were approved.

Sustained deficits first arose during the depression years of the 1930s and the war years of the early 1940s, leaving in their wake a national debt of about $170 billion. These deficits were consistent with the national experience of wartime and recession. When peace returned, deficits again disappeared. Between 1947 and 1960, seven surpluses of $31 billion roughly offset seven deficits of $32 billion. However, for the first time in American history, no effort was made to reduce the national debt.

Why the Congress can't and won't control Federal spending and deficits

Due to the operation of the unwritten norm of budget balance, the federal government was rarely troubled by budget deficits through almost 200 years of our history. Indeed, revenues and expenditures were not incorporated into an overall official budget until 1921.

But today federal budgets are wildly out of balance. Why?

The answer lies in the political reality that budget objectives and the budget process are in direct conflict. The Congress, as a whole, is concerned with stable prices, low interest rates, and full employment, which require some check on the scope of government spending. As individuals, however, each congressman confronts pressures to increase spending. The reality of our system has shown convincingly that the collective need to control spending is no match for the pressures each individual member faces to increase it.

The tendency for federal spending to grow is clearly highlighted in historical debates on congressional reform:

The growth of the cost of government as expressed in the increase of Federal taxation has been astounding . . . Our failure to reduce that cost has called attention to our need of the adoption of a system which will prevent waste and extravagance with inevitable inefficiency in the various departments.

Our present system cannot be conducive to economic administration, as it invited increated expenditures through the perfectly natural rivalry of numerous committees and the inevitable expansion of departments . . . Our present system is designed to increase expenditure rather than reduce it.

Each committee in the House quite naturally is jealous of both its jurisdiction and success in legislation. It will therefore push to the limit its jurisdiction over legislation and its demand for appropriation that enlarges the function falling under its jurisdiction. Appropriations from the several committees become a race between or among rivals to secure funds from the Treasury rather than safeguard them . . . The pressure is for outlay.

These words stem from the various participants in the debate on the Budget and Accounting Act of 1921, not the 1974 Act! Yet they are the same misgivings articulated during the debate on the 1974 Act. And despite the 1974 Reform Act, the misgivings still remain.

The concerns they represent reflect the empirical fact that the American political process is biased toward higher levels of federal spending; levels which do not reflect the genuine will of the people on the overall size of the budget. Federal spending is skewed toward these artificially higher levels because members of Congress have powerful incentives to spend the taxpayers' money yet they face few offsetting incentives to watch out for the taxpayers' interests.

Spending biases

This bias toward more spending is due, first, to what analysts of government call the phenomenon of "concentrated benefits versus dispersed costs." This describes the fact that the benefits of any given spending program normally are concentrated among a small number of persons, while the costs of such a program are dispersed throughout a much larger class, the general taxpayer.

The competition between tax-spenders and tax-payers is highly unequal: it is simply not as worthwhile for an individual taxpayer to spend much time and effort to save a few dollars in taxes as it is for the spending interests to secure millions or billions of dollars for themselves. The latter intensely focuses on those few spending measures from which they derive benefit, while the individual taxpayer, who might normally be concerned about the broader impact, is less likely to organize for the purpose of defeating a particular spending measure. Spending interests are able to reward or punish legislators with their organized electoral support or opposition. Taxpayers find it more difficult to perceive

their self-interest in the context of isolated pieces of legislation. Thus, whenever government programs are considered one by one, as they are in our budgetary system, there is a bias toward government growth. The result has been annual budget growth in the neighborhood of $100 billion, with even larger deficits forecast.

The explosion in federal spending is not due to failure to elect the "right" people, it is an institutional defect. The federal budget process is inherently biased toward deficits, higher taxes, and greater government spending. The trends toward bigger government and economic instability reflect the decisions of reasonable men and women in Congress who, as individuals, cannot successfully resist the pressures they face to increase spending.

A second source of bias toward greater spending is the separation of benefits, which are short-run, from costs which are typically more long-run. The benefits of spending programs are immediate, both to the recipients and the sitting congressmen who supported them. The costs of spending programs—in the form of potentially higher future taxes, higher future inflation, higher future unemployment or higher future interest rates—will be evident only at some future time, to be borne perhaps, by future congressmen. Since the electoral time horizon of all House members and one-third of the senators is never more than a year or two away, short-term benefits invariably take precedence over potentially long-run adverse economic effects due to higher government spending.

A third bias arises within the structure of Congress itself. The committee system, whatever its original intentions, finds members of Congress gravitating to those specific committees that allow them to serve their geographic constituencies by bringing home their "fair share." Farm state members typically serve on the agricultural committees, Western legislators on interior policy committees, urban legislators on urban policy committees, and so on. Reelection rewards those congressmen who successfully serve their constituencies, at the same time the actions of Congress as a whole damage the growth rate of the economy. The driving elements in each congressman's calculation is protecting his turf, getting his share of the pork barrel, not transgressing his colleague's committee jurisdiction; in short, concerns about self come first. It is not in the interest of an individual congressman to give up those dollars that benefit his constituents, since that reduction will have only a modest or even insignificant effect on overall spending. The same situation fits all 535 members of Congress. Unless the entire membership can agree to limit spending, no one member or group of members dare risk their constituents' wrath by surrendering benefits that have no appreciable effect on the total size of government spending, while their colleagues, who do not forgo spending, continue to earn the support of their respective constituents. The only viable solution to this dilemma is to alter the incentives which confront members of Congress. That is, we must change the rules under which congressmen operate.

Currently, there are two major gaps in these rules which nourish Congress' spending bias and flout widely recognized customs of fiscal prudence. First, members of Congress enjoy virtually unlimited access to deficit spending. As the "unwritten" rule of budget balance has been discarded, members of Congress can vote to increase spending without a concomitant vote to increase taxes. Spending decisions have become increasingly divorced from the availability of revenues. As a result, members of Congress can satisfy the demands of particular spending interests without either reducing spending for another interest or taking political heat for raising taxes. Rather than choose among alternative spending proposals, members jointly act to increase the deficit. The availability of deficit spending reduces the need for members to make hard political decisions by choosing among spending proposals.

A second element in the spending bias is that under our present tax system, members of Congress have access to annual, automatic tax increases. Our progressive tax code works to transfer more and more of our personal income to the government, because as individuals' incomes increase, they are taxed at progressively steeper rates. This rising share of national income paid in taxes is due to increases in real income or to inflation, a phenomenon known as "bracket creep," which has had the especially pernicious effects of raising tax burdens. In the last decade, government income tax collections have risen by about 16 percent for each 10 percent increase in personal income, largely as a result of inflation. In the last three years government receipts have outpaced inflation while average weekly earnings in private industry have fallen in real terms. Resources are being increasingly shifted from private to public hands. By trying to break even with cost of living increases, the typical wage-earner actually falls behind.

A progressive tax system allows Congress to raise taxes without having to vote an explicit increase either in tax rates or the size of the tax base. Federal income tax yields have grown about 75 percent faster than the GNP, which has allowed Congress to simultaneously collect a growing stream of revenues and enact a sequence of nominal tax cuts. Although Congress passed "tax-reform" measures in 1954, 1964, 1969, 1971, 1976, 1977, 1978, and 1981, taxes have not declined. It is only their rate of increase that has slowed. The accelerating frequency of congressional action reflects the higher rates of inflation throughout the 1970s. In each instance of tax reform, a rising trend of taxation was interrupted, but the long-run trend has been upwards.

Here again, individual congressmen confront strong incentives to do what is far from in the best interests of society. The benefits that they must deliver to retain their office prompts congressmen to support inflationary policies which net them greater spending authority, hence the ability to meet the demands of special interest groups.

Congress has finally voted to correct inflation-generated "bracket creep" by indexing tax rates to inflation, to take effect in 1985. In that event, the progressive tax code would only transfer a greater share of personal income to government when real growth occurs. But many economists and politicians have begun to suggest repeal or postponement of the indexing provision before 1985 to prevent "a drain" on Treasury revenues, thus maintaining the automatic increase mechanism.

The fiscal experience since 1960

Since 1960, these biases have yielded the current spending habits of the Congress; that is, deficits have become the accepted practice of federal budgeting. Apart from one modest surplus of $3 billion in 1969, the Congress has imposed a regime of persistent deficits. A national debt of $300 billion in fiscal year 1962 rose to $437 billion in fiscal 1972, surpassing $1 trillion in October 1981. Eight deficits in the 1970s were $40 billion or greater. Interest payments, which absorbed approximately six percent of the national budget twenty years ago, consumed about twelve percent in fiscal year 1981. It is a figure half as large as spending for national defense and one-third as large as spending for income security programs including Social Security. (Nor does this figure include the growing unfunded liability of social insurance programs and the implicit obligations of loan guarantees.)

The breakdown of the balanced budget norm fueled an explosive rise in federal spending. As recently as 1929, federal spending of $3 billion consumed only 3.1 percent of the gross national product (GNP). Since then, the federal sector has demonstrated a continuing propensity for growth, whatever the economic circumstances. In successive decades, federal spending grew to consume 10.0, 15.5, 18.5, 20.3, and 23.1 percent of GNP by 1980. In money terms, federal spending passed the $100 billion mark in 1962. A $200 billion budget was reached only 9 years later. In rapid-fire succession came $300 billion (1975), $400 billion (1977), $500 billion (1980), $600 billion (1981), with estimates of one trillion dollars by 1985.

A comprehensive picture of government spending must also include the spending totals of off-budget federal entities (e.g., Federal Financing Bank, Strategic Petroleum Reserve, Postal Service Fund, Rural Electrification and Telephone Revolving Fund, Rural Telephone Bank, U.S. Railways Association, and Synthetic Fuels Corporation). These have risen from $60 million in fiscal year 1973 to $10 billion in fiscal year 1978 to $21 billion in fiscal year 1981. The Reagan administration, despite pledges to reduce off-budget outlays, even included the Strategic Petroleum Reserve as an off-budget item in its first year to lower the official budget deficit.

The growth of federal spending has carried with it an enormous increase in federal tax burdens, which have risen from 15 percent of GNP in 1949 to 22 percent today. Taxpayers also face much higher marginal rates on income as inflation has pushed them into higher tax brackets. Households in the 70th percentile of taxpayers have seen their average top marginal rate rise from 20 percent in 1966 to 28 percent by 1981; for those in the 95th percentile, from 25 to 46 percent. Per capita tax receipts have nearly doubled in the past five years alone. The number of individual taxpayers paying more than 20 percent of their income to the federal government has nearly tripled in the past 15 years. Rising tax burdens, especially high marginal rates faced by many taxpayers, have eroded the incentives to work, save and invest.

Thus in sharp contrast with historical experience, the federal budget process has failed to show restraint in the post-WW II era. For the better part of 200 years, Americans held to a limited role for the federal government. Save for periods of war or recession, revenues from customs and excises were sufficient to fund those activities widely regarded as "proper" federal function. This consensus has broken down in the last fifty years. The greater part of the current federal budget is devoted to activities not funded fifty years ago.

What it means when Congress orders a deficit and the effect is has upon our lives

The federal government can finance its deficits in three ways. It can raise taxes. It can borrow in the capital markets. Or, it can print new money. By raising taxes, the government reduces the incentives of individuals and business to work, save and invest. By borrowing, the federal government competes with private borrowers, raises the rate of interest, and ultimately crowds out private borrowing. By printing money, the government fosters inflation which, in turn, reduces investment by increasing the risk-premium on long-term investment. In recent years tax burdens and high marginal rates have risen substantially. The 1981 tax rate cut attempts to correct this problem. Without new taxation, future deficits are likely to be financed largely by borrowing or new money creation. Let us examine the effects of these two methods.

Borrowing. When the government borrows to finance its budget deficit, it has an unfair advantage in its competition with private borrowers. Since government borrowing is backed up by the "full faith and credit" of the United States government, viz., the power to tax, the government gets first call on the available supply of credit. Moreover, the government will pay whatever rate of interest is required to get the funds it needs to sustain government spending. Private borrowers are not so flexible.

The price of credit—the interest rate—is determined by the intersection of the supply of and demand for credit. In the past decade, the percentage of disposable personal income that was saved fell by about half, from nearly 8 percent in 1971 to about 4 percent in 1980. As a result, total real savings have fallen, reducing the supply of new credit. At the same time, the government has sharply increased it annual demand for new credit. Total federal and federally-related borrowings have risen from $33 billion in FY 1971 to $155 billion in FY 1981. The rate of increase in government demand for credit has outpaced new savings. As in any such situation of rising demand, the price of borrowing will rise because of the competition among borrowers for limited funds. But when interest rates rise, private citizens will borrow less. Thus private borrowing is crowded out.

Borrowing to finance large deficits need not crowd out private borrowers if the supply of new savings is large enough to satisfy both public and private demands for credit. In Germany and Japan, savings rates have been from three to five times as large as in the United States, which explains why the German and Japanese governments can run substantially larger deficits as a share of GNP than the United States government, without equally adverse economic effects. The conjunction of rising credit demands and lower savings rates in the United States has driven up real interest rates to levels higher than at any period in our nation's history. To the extent that deficit finance raises real rates of interest and reduces investment in plant and equipment, we have fewer tools or machines in our old age and leave fewer tools for our children. We consume relatively more today but we are poorer and have fewer goods available tomorrow.

It is important to note that private borrowing is used disproportionately more for investment than is government borrowing. Budget deficits that are financed by borrowing mean that funds which might be used for the creation of capital goods are instead used to subsidize consumption. Deficits thus crowd out some investment in favor of greater consumption. Although some capital investment will still take place, the amount is lower than it would have been in the absence of a budget deficit.

Money Supply Growth. The inflation which began in the late 1960s has been associated with large and continuing federal deficits. Apart from Treasury borrowing, the government can also finance deficits by printing new money. This result occurs when the Federal Reserve Board (the Fed) increases its ownership of Treasury debt, which, in turn, effectively increases the amount of money and credit in circulation. This process is referred to as monetizing debt, which is largely synonymous with printing money to finance deficits.

It is technically true that there is no necessary relationship between budget deficits and money creation. The Fed can keep its ownership of government debt unchanged despite deficits, or increase its ownership of outstanding government debt in the absence of a deficit. Assume it does the former. Persistently large deficits, coupled with inadequate savings, will place upward pressure on interest rates, thereby crowding out private investment. This, in turn, leads to recession and higher unemployment. To ease these effects, the Fed can increase its ownership of Treasury debt, thereby increasing the supply of money. As the supply of loanable funds expands, other things being equal, the rate of interest will fall and fewer private borrowers will be crowded out. However, money creation reduces the real value of the existing stock of money, thus contributing to inflation.

Persistently large deficits during a period of economic recovery foster long-run inflationary fears that the Fed might monetize some portion of this debt. In the past decade, purchase of government debt by the Fed has contributed to rising inflation. Inflation, in turn, disrupts savings, investment decisions, and the prospects for economic growth. Personal savings rates fell throughout the 1970s and the average service life of capital expenditures, so vital to future increases in production efficiency, began to shorten.

Inflation puts economic stability and growth at risk; it has undercut investment and employment by increasing uncertainty over the profitability of long-run investments. This uncertainty, which is embodied in investment calculations in the form of higher risk premiums, prevents a normal package of capital projects—especially those for which the profit expectations are skewed toward the later years of the investment, eight, ten, or fifteen years in the future—from meeting acceptable financial criteria.

Reflecting increased investment risk, price earnings ratios in the stock markets have fallen to their lowest levels in two decades, largely as a consequence of the increased discount rate imposed on expected earnings growth. An inflationary environment makes it more difficult and uncertain to calculate the rate of return on new investment. Inflation not only skews rate-of-return calculations, it also acts to shift the investment pattern toward shorter-lived projects in which the uncertainty is less.

High investment risk thus blunts capital formation and the level of economic activity. It replaces the creation of long-lived capital assets with undue focus on the short run. To restore long-term investment requires a high level of business confidence, which can only be obtained by a credible and sustained reduction in long-run expectations about inflation. This implies that budget deficits must be minimized, preferably eliminated, thereby removing the consequent pressures on the monetary system of large federal deficits.

Interest rates are high because the demand for credit is high, especially on the part of the federal government. Money supply growth in recent years has been excessive, in part, because the Fed feels compelled to suppress interest rates by at least partially accommodating the excess credit requirements. Thus the prospect of multi-hundred billion dollar deficits in the next few years implies (if savings do not increase dramatically) continued crowding out and high interest rates or purchase of additional debt and a renewed inflationary spiral, which was the cause of declining business investment in the first place.

In short, deficits matter!

In fact, deficits matter in ways other than those purely economic. Yet another effect of excessive government spending has been the erosion of public confidence in government. Surveys conducted by George Gallup, Louis Harris, the Institute of Social Research at the University of Michigan, and CBS/New York Times reveal major shifts in public opinion between 1957 and 1978. The percentage of respondents who said that government wastes money rose from 46 to 80. But the number of those who said they trust Washington to do what is right most of the time declined from 75 to 34 percent!

Americans have increasingly felt the effects of inflation. Between 1958 and 1973, for example, the number of Gallup's respondents naming inflation as the nation's most important problem was always less than 20 percent. Since 1974, the percentage has ranged from a low of 25 to a high of 79. Complaints about taxes and government waste have escalated as taxpayers endured rising rates of inflation and stagnant real income. Indeed, according to Gallup, 80 percent of the American people favor a constitutional amendment to require a balanced budget.

SENATE JOINT RESOLUTION 58, A BALANCED BUDGET-TAX LIMITATION CONSTITUTIONAL AMENDMENT

Since 1979, members of the Senate Judiciary Subcommittee on the Constitution have sought to develop a "consensus" measure that would attract the support of as many proponents of a constitutional initiative as possible. Senate Joint Resolution 58, a combined balanced budget and tax limitation amendment, was voted out of the Subcommittee by a 4–0 vote on May 6, 1981, and reported out of the full Senate Committee on the Judiciary by an 11–5 vote on May 19, 1981. The measure enjoys the support of both the National Taxpayers Union, progenitor of the balanced budget constitutional convention movement, and the National Tax Limitation Committee, formerly sponsor of the Heinz-Stone spending limitation amendment.

Let us examine each section of the proposed amendment to see how it would redress the present imbalance in our budgetary process.

BALANCED BUDGET

Section 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than re-

vised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipt by a vote directed solely to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

The purpose of Section 1 is two-fold. First, Congress would be required to plan to balance its budget every year. It would do so by adopting a "statement" or budget prior to the start of each fiscal year, in which planned outlays (spending) do not exceed planned receipts (revenue). Congress could violate this rule and plan for a deficit only by a three-fifths vote of the whole number of each House of Congress, not just three-fifths of those present and voting. In contrast, a simple majority could approve a budget surplus. Second, Section 1 also mandates that actual outlays do not exceed the spending levels set forth in the approved statement or budget.

It is important to point out that the amendment establishes the basis for a planned balanced budget. It does not require that the budget be in actual balance during the course of the fiscal year. In some circumstances, actual outlays may exceed actual receipts. For example, a recession might reduce actual receipts below the level of receipts set forth in the planned statement. This is permissible under the amendment, but actual outlays could not exceed statement outlays. Deficits caused by increased spending, would also not be permitted.

If circumstances warrant, the Congress may adopt an amended statement of receipts and outlays for the fiscal year (provided again that outlays do not exceed receipts) at any time during the fiscal year. An amendment statement containing a deficit would require a three-fifths vote only if such deficit was greater than the deficit in the previous statement. Thus the budget would not be "locked in" and could be changed by an explicit vote of Congress in response to changing economic conditions.

An important feature of Section 1 is that it imposes upon the Congress and the president a mandate to prevent total actual outlays, which includes both on- and off-budget items, from exceeding statement outlays. For example, should the economy perform below expectations, leading to increased spending on "entitlements" or on debt service due to higher interest rates, the Congress would be called upon either to increase statement outlays and approve a deficit (by a three-fifths vote), or to postpone spending programs and/or to reduce eligibility for "entitlements." To guard against the possibility that actual outlays might exceed statement outlays through unintentional and presumably modest error, an obvious remedy would be for Congress to plan a surplus of equivalent size for the next fiscal year.

The Congress is expected to adopt the most accurate estimates of receipts and outlays that it can in drafting its budget, but in all cases a congressional majority will be the final arbiter among the choice of estimates. As the fiscal year unfolds, actual receipts may or may not meet expectations. An unexpectedly more robust economy may yield receipts above statement receipts; an unexpectedly weaker economy may yield receipts below statement receipts. Either result is permissible. The amendment imposes no obligation upon the Congress to react to the flow of actual receipts during the fiscal year, only to the flow of actual outlays.

Recent years have witnessed congressional failure to adopt a budget by the October 1 date on which a new fiscal year begins. Congress has funded government operations in such instances by adopting continuing resolutions. Under the amendment, this practice would be banned. Failure to adopt a statement of receipts and outlays by the October 1 deadline would be construed as an implied adoption of a statement in which both receipts and outlays are zero. In that event, the Congress and the President would be mandated constitutionally to ensure that fiscal year outlays also would be zero. In short, the government would shut down on October 1 without prior passage of a budget by September 30.

Loans for which the federal government guarantees in whole or in part the repayment of principal and/or interest impose no funding obligation on the treasury unless and until such loans come into default and the treasury must discharge the guarantee obligation. Such a discharge is intended to be construed as an outlay in the fiscal year of discharge.

A large portion of federal spending is currently on automatic pilot. That is, spending for "entitlements" grows every year as a share of federal spending. An amendment prohibiting deficits would create a strong incentive to bring these "uncontrollables" under control, since they would compete directly with discretionary programs. At present, the automatic growth of spending on "uncontrollables" erodes the ability of Congress to impose its own priorites on the budget, which is tantamount to passing the congressional buck.

Section 1 proposes to overcome the spending bias of Congress by restoring the linkage between federal spending and taxing decisions. It does not propose to read any specific level of spending or taxing forever into the Constitution, nor does it intrude into the day-to-day decisions of the government as to how the federal dollar is allocated. It merely restores the balance between tax-spenders by constraining spending totals to available revenues.

The amendment would compel public officials to determine first what resources are available to government (see Section 2 below) and, against that constraint, choose among the many competing claims on public spending.

Under the amendment, if politicians voted new spending programs, they would have to eliminate old programs or vote to raise additional taxes. Resistance to the elimination of existing programs or to tax increases would discourage many new spending proposals, thereby eliminating the current bias toward overspending. It would end future deficits and reduce the inflationary effect of new money creation, which has in past years both financed a portion of these deficits and raised taxes via bracket creep.

Political values and perceptions are important determinants of government action. For this reason, a balanced budget amendment is especially attractive. It is easy to understand—every household understands the need for living within its means. It is also widely supported.

TAX LIMITATION

Section 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

The purpose of Section 2 is to prevent tax receipts from growing more rapidly than the general economy, as occurs with our progressive tax code. Under the amendment, a "whole" majority of the membership of both Houses would have to vote to permit receipts to outpace general economic growth. In particular, Congress would be required to enact a bill expanding a specified tax base and/or increasing specified tax rates.

Put another way, Section 2 states that the balanced budget requirement in Section 1 should not occur at levels of receipts and outlays that consume an increasing proportion of the national economy. It attempts to achieve this result by limiting the increase in receipts for a new fiscal year to the percentage increase in the national income during the prior calendar year. If present tax laws are likely to yield revenues in excess of this limit, the Congress must modify the revenue laws to reduce anticipated receipts.

The relationship between the growth of national income during the prior calendar year and the growth of receipts during the following fiscal year provides the Congress with reasonably precise guideposts in its budgeting process. Quite accurate estimates of the growth in national income are available by mid-July prior to the beginning of the fiscal year.

Take fiscal year 1981, for example, which began October 1, 1980. The rate of increase in statement receipts for fiscal year 1981 would have been limited to the rate of increase of national income for calendar year 1979. Since national income rose 11.4 percent in 1979, statement receipts for fiscal 1981 could not have exceeded fiscal 1980 statement receipts by more than 11.4 percent. The planned increase for fiscal year 1981 with no changes in the current tax law was set at 14.5 percent. Had the amendment been in effect, the tax law would not have produced this automatic tax increase. Taxes would have been about $16 billion lower. To increase taxes, Congress would have had to explicitly vote for a tax increase for fiscal year 1981.

Statement receipts may also rise by less than the proportionate increase in national income. In that event, the new lower level of receipts would then become the base for statement receipts in subsequent fiscal years, until the Congress voted a rise in allowable receipts.

Let's recapitulate how the budget process would work under the amendment. First, the Congress would determine the increase in national income during the prior calendar year. That percentage rise, in turn, would determine the maximum increase in receipts the government could collect for the coming fiscal year. If, say, national income rose 10 percent during the last calendar year, then receipts could rise by no more than 10 percent for the new fiscal year. Since outlays cannot exceed receipts (the budget must be balanced or in surplus), government spending could not rise by more than 10 percent. Sections 1 and 2, in conjunction, establish a de facto spending limit. Thus neither taxes nor spending can grow more rapidly than the economy.

The amendment permits federal spending to grow more rapidly than the economy only if Congress explicitly votes to allow receipts to rise more rapidly than the growth of the economy. It takes a direct vote of a constitutional majority of both Houses of

Congress to permit the growth of federal spending to outpace the growth of the economy. Or, federal spending may outpace economic growth if Congress approves, by a three-fifths majority vote, a deficit in which outlays from year to year exceed economic growth rates. Thus the federal government is not hamstrung; it can meet what may be regarded as increased genuine needs of the people, if it also were prepared to vote on the record for higher taxes or deficits to finance higher spending.

WARTIME WAIVER

Section 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

In the event of a declaration of war, Congress has the discretionary authority to operate outside of the provisions of the amendment. Such a waiver would be on a year-to-year basis by concurrent resolution of Congress, as defined under Article 1, Section 8, of the Constitution. Congress would have to adopt annually a separate waiver for each fiscal year at issue.

BORROWING AND REPAYMENT OF DEBT

Section 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

The purpose of Section 4 is to exclude the proceeds of debt issuance from receipts. Thus, treasury notes and bonds would not count as receipts, but as the proceeds of selling debt. Similarly, the term outlays is intended to include all disbursements from the Treasury of the United States, both "on-budget" and "off-budget," either directly or indirectly through federal or quasi-federal agencies created under the authority of acts of Congress. Section 4 states that funds used to repurchase or retire Federal debt would not count as outlays. Interest accrued or paid in conjunction with the debt obligation would, however, be included in outlays.

The amendment permits Congress to plan for a budgetary surplus. Those surplus receipts, subject to the increase limit of Section 2, used to repay principal—that is, retire national debt—would not be counted as outlays. Should the government fully retire the national debt, the amendment would still allow the government to plan for an annual surplus, and even accumulate reserves. Interest earned on these reserves, however, would be subject to the revenue limit. (Admittedly, it would take generations for this scenario to develop.)

DATE OF IMPLEMENTATION

Section 5. This article shall take effect for the second fiscal year beginning after its ratification.

Section 5 stipulates when the amendment would take effect. If ratification were completed before September 30, 1982, the amendment would require Congress to adopt its first balanced budget statement before September 30, 1983; if ratification was completed between October 1, 1982, and before September 30, 1983, the first balanced budget adoption would be required by September 30, 1984, and so on.

SOME QUESTIONS AND ANSWERS ABOUT THE BALANCED BUDGET-TAX LIMITATION AMENDMENT

Q. Members of Congress face enormous pressures to increase spending. How would the amendment be enforced to overcome these pressures?

A. While there are no sanctions contained expressly within S.J. Res. 58 for the violation of any particular provision, the Congress and the President are expected to act in accordance with the Constitution. By establishing a focus upon two or three critical votes each year relating to the total level of taxation or the size of the deficits, in place of the present piecemeal focus on hundreds of separate spending measures, the amendment will enable the electorate to better identify those members of Congress most responsible for higher levels of spending, taxing, and deficits, with their harmful effects on inflation, interest rates, and unemployment.

Q. So far, Congress has disregarded those statutes that call for a balanced budget. Won't the Congress also find ways to circumvent the provisions of the amendment?

A. It is important to focus on the difference between an ordinary statute and a constitutional amendment. The reason that our civil rights have survived for 200 years is because they are expressly set forth in the Constitution. Without the protection of the Constitution, it is quite likely that many of our individual freedoms would have been eroded over time. Similarly, Congress will find it more difficult to flout the constitutional requirement of budget balance and tax limitation.

Q. Isn't it improper to read economic policy into the Constitution?

A. There are several answers to this question. First, the Constitution already contains numerous items which help formulate economic policy. Among these is the Sixteenth Amendment that made possible the income tax which has fueled rising levels of taxation and government spending. Secondly, the amendment does not dictate any given level of spending or taxing; it only overcomes the bias toward higher spending by eliminating the unlimited access to deficit spending and the availability of automatic tax increases. Under the amendment, Congress have to vote explicitly to increase, decrease or maintain any given level of government spending. Finally, the amendment only seeks to reimpose prior constitutional limitations on deficits which constituted an "unwritten" rule of budget balance.

Q. Won't the amendment hamstring the ability of Congress to respond to urgent or genuine needs of the American people?

A. No. The amendment is automatically waived for one year in the event of a declaration of war. For other emergencies, the Congress can adopt by a three-fifths vote of the whole membership of both Houses a planned deficit, and, by a majority vote of the whole membership, higher taxes.

Q. Won't it be difficult to agree on the definition of national income and other economic concepts in the amendment?

A. No. The Congress may choose to rely on any of several measures of economic performance, so long as this economic indicator is used consistently from year to year, or that some transition period accompany the substitution of one indicator for another.

Q. S.J. Res. 58 is a balanced budget-tax limitation amendment. How does it work to limit spending?

A. First, the growth in planned receipts from the coming fiscal year cannot exceed the growth of national income for the prior calendar year. Second, the requirement that Congress adopt a "statement" in which outlays do not exceed receipts limits the rise in outlays to the growth rate of national income. Finally, since actual outlays cannot exceed statement outlays, government spending cannot grow more rapidly than the private economy.

Q. Isn't it impossible to balance the budget during the course of the fiscal year?

A. The amendment does not impose a requirement of actual balance during the fiscal year, only the adoption of a planned balanced budget. Although the amendment monitors the flow of actual outlays to insure that actual outlays to do not exceed those set forth in the budget statement, actual receipts may exceed or fall below the level set forth in the statement. The amendment imposes no requirement that Congress react to the actual flow of receipts, only to the actual flow of outlays.

Q. Won't Congress just shift more and more of its spending policies "off-budget"?

A. No. Budget outlays include both "on" and "off-budget" items. Section 4 states, "Total outlays shall include all outlays of the United States except for repayment of debt principal."

NOTE ON ADDITIONAL READING

For a detailed statement on the legislative history of the Amendment and definitions of its terms and provisions, see the official Committee report. "Balanced Budget-Tax Limitation Constitutional Amendment," Report to the Committee on the Judiciary, United States Senate, 97th Congress, 1st Session, Report No. 97-151, Washington, D.C.: U.S. Government Printing Office, 1981.

CONSTITUTIONAL TAX LIMITS AT THE STATE LEVEL: AN OVERVIEW AND SELECTED CASE STUDIES

(By George A. Uhimchuk)

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V. FISCAL PERFORMANCE IN RELATION TO CONSTITUTIONAL RESTRICTIVENESS

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The results of both regressions that were run support the hypothesis that constitutional tax limits affect the performance of state governmental units. Specifically the results indicate that constitutional tax limitations tend to constrain the levels of state governmental spending. The first test that was performed used the average S or the average of the fraction of state income spent by the public sector as the dependent variable. In this test, the number of types of tax limits was used as the independent variable. The estimated coefficient was reported as −0.187698 with a standard error of 0.974649 and the associated T-statistic was reported as being −1.92580. The item that is of interest in these results is the sign of the coefficient which was reported as being negative. The negative co-efficient indicates that the estimated line of regression has a negative slope. This result may be interpreted as stating that as the number of types of tax limits is increased, then the particular state in question would tend to spend a smaller fraction of total income in that state. Although the T-statistic indicates that these results are somewhat weak, in that they are acceptable under a 90% degree of confidence rather than the usual 95% level of confidence, the hypothesis cannot be legitimately rejected or ignored. The second test that was performed used the number of types of limits as the independent variable and the average rank as the dependent variable. The estimated coefficient is reported to be 1.161761 with a standard error of 0.336099. The associated T-statistic was reproted to be 4.81290. Again the item that is of interest to this study is the sign of the coefficient which was reported as being positive meaning that the estimated line of re-

gression is positively sloped. The positive slope of the estimated line of regression indicates that as the number of types of tax limits are increased in a state's constitution, the rank of the state becomes higher. Since, in this case, the higher the rank of a state in question means that that state's government spends a smaller fraction of total income than the next lower ranking state, the result supports hypothesis. Note that in this second test, the results are within the usual 95% level of confidence. The discrepancy in confidence levels is perhaps the result of the fact that in the second test where rank is used, the spacing between the variables was equal and discrete whereas in the first test the fractions of spending levels appeared to be compacted in some regions to a greater extent than in other regions, as revealed by an examination of Table 3-3. The main contention to be made from these results is that there exists a relationship between the number of types of constitutional tax limits and the fiscal performance of a state's public sector. Furthermore, the results indicate that constitutional tax limitations have a constraining effect on the proclivity of public sector spending at the state/local level.

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CHAPTER 10.—MAJOR LESSONS TO BE LEARNED

I. Introduction

Traditionally, there has been a negative attitude expounded by many scholars toward the concept of constraining the fiscal powers of government. This negative attitude towards the constraint of governmental powers has become entrenched through time in the fields of public finance, political science, and constitutional law, and only recently, in the face of inflation, mounting fiscal deficit, and escalating taxation has the accepted wisdom come under intellectual scrutiny. Attention to this matter appears to have come from two independent directions. On the one hand, intellectual attention has focused upon constitutional tax limits as a continuation of the evolution of economic thought that was traced back to Adam Smith in Chapter 1. This body of thought has long recognized the need to constrain government constitutionally in order to promote the general welfare of society.

The second source of interest in constitutional fiscal restraint is new and may be considered to be a reaction on the part of the converts to political realities. Politicians, lawyers, political scientists, and economists, among others, have turned their attention to constitutional fiscal restraints only after the highly publicized 1978 California citizen initiative, Proposition 13, which was a mandate for fiscal responsibility in government. These new supporters of conservative fiscal principles form a group of individuals that appear to have been awakened to the fact that the citizen does not desire a paternalistic government, that governments can be led astray by their own institutional design, and that the relationship between the private and public sectors ought to be a balanced one. This chapter will proceed to outline the major conclusions that are brought out by this study.

II. Constitutional tax limits work

It was shown in Chapter 1 that there are eight readily identifiable forms of constitutional tax limits that are common to constitutions at the state level in the United States. Chapter 3 presented the historical starting point of each state of the Union and an examination of the product of two hundred years of evolutionary experience in the area of constitutional restraints on government's power to tax. The evidence presented in chapter 3 supports a simple, but nevertheless, important statement that constitutional tax limits do affect the fiscal performance of state governments and that the effect, in general, has been in the intended direction, i.e. tax limits tend to reduce the size of government spending.

III. Constitutional tax limits serve more than a single purpose

Part II of this work presented in four chapters in-depth examinations of the evolution of constitutional tax limits in the states of Virginia, New York, Florida, and Oklahoma. Within the case studies particular attention was paid to the social constitutions, events, and political actions that led to the inception of constitutional tax limits and to the amendment of pre-existing limits in that state's constitution. The case studies revealed that constitutional tax limitation provisions have been used for purposes beyond the theoretical recognition of limiting the size of government. Perhaps the most common use of tax limits has been to adjust the political environment to suit the needs and desires of a particular coalition. Constitutional tax limits were used as a tool either to eliminate competition in the political process or to manipulate the process of competition to produce a predetermined outcome. In addition, the case studies have indicated that constitutional tax limits have been used to restrict transfers of wealth between coalitions and to promote the economic development of the state.

IV. The historical trends of constitutional tax limits

Chapter 3 has shown that through time state constitutions have become increasingly restrictive concerning government's power to tax. However, the case studies of Part II point out that there has been considerable oscillation of the degree that a constitution constrains government's taxing power over short periods of time. As mentioned earlier in this study, and as supported by the case studies, constraints on the taxing power of government are adjusted to suit the needs of society. This is particularly evident in the presence of the citizen initiative. A good example of the adjustment process occurred in Oklahoma in the period of the Great Depression and the subsequent recovery. Although the particulars of the economic conditions were different, this adjustment process appears to be precisely what occurred in New York, Virginia, and Florida; it is quite evident that the citizen initiative plays an important role.

According to Chapter 3, Oklahoma is among the most constitutionally constrained states with 6 types of tax limits. New York and Florida, each having 4 types of tax limits in their constitution, are slightly more constrained than the average American state with the average number of types of tax limits being 3.36. Virginia, having 3 types of tax limits in its constitution is slightly below the average. From the historical section of Chapter 3 and from the case studies it is quite evident that these states entered the Union with constitutions that were less constrained. Oklahoma entered the Union with 4 types of tax limits written into its constitution, Florida entered the Union with one type of tax limit, and New York and Virginia entered the Union with no tax limits. During the interval of time covering the history of the United States, and that of the sample states examined, New York experienced the greatest amount of change in its constraints by increasing the number of types of tax limits by four. Florida and Virginia increased the number of types of tax limits written into the constitution by three and Oklahoma increased the number of types of constraints by two. It is evident from these figures that there has been little change in the ranking of apparent relative restrictiveness of the states through time, although the gap between these states has decreased.

V. Constitutional weaponry is short lived

The case studies reveal that a principal reason for the decrease in the gap between the most and the least restrictive constitutions has been the need to control government abuse of the fiscal system. This may be argued to be true despite the fact that many of the constitutional tax limitation provisions were written into state constitutions as a result of political bickering and rent-seeking on the part of certain coalitions. However, as may be noted in the history of New York and Virginia in particular, those constitutional tax limits that were used as political weapons did not survive the test of time, whereas those tax limitation provisions that were aimed at abuses of the fiscal system tended to survive through time. Consequently, it appears that the problem of using the fiscal constitution as a political weapon is a relatively short run phenomenon although quite costly to society.

VI. Potency of tax limits was recognized early

The data from Chapter 3 indicates that the most popular type of constitutional tax limit is the rate structure followed by the base limit. The least popular type of tax limit, according to Chapter 3 is the share limit. The historical case studies of Part II indicate that people did recognize the potency of the various tax limitation devices throughout the history of tax limits in the United States. Virginia, in particular, presents an example of a state where the rate structure tax limit had been amended on several occasions in order to adjust the degree to which government could tax discriminate. The adjustment process appears to have been tied to the revenue generating capability of the particular tax levy that was the target of the rate structure limitation. The base limit appears to have been popular due to some degree of altruistic behavior on the part of the majority toward some subset of society. However, equally important to the popularity of the base limit has been the promotion of certain activities that society considered to be desirable and especially activities that appear to be associated with positive externalities. The share limit's lack of popularity appears to also be associated with its potency as a limit on the size of the public sector. The share limit may be one of the most potent tax limits which has been used in the cases examined and was used only in New York where fiscal abuse was particularly damaging to the society. The share limit was first implemented in New York in 1881 to control the fiscal policies of municipal governments that had amassed excessive debts in the railroad expansion period of New York's history.

VII. Tax limits have been relaxed

The case studies have also pointed out that from time to time constitutional constraints upon government's power to tax have been relaxed. There appears to be two reasons for the relaxation or elimination of

fiscal constraints. By far the most common reason has been the result of a consumption decision on the part of the citizenry. The evidence presented in the case studies indicates that at times collectively provided services such as education, medical care, and so forth, were expanded as a direct result of public mandates. In general, this type of expansion of the public sector appears to have occurred during periods when the economy in general was expanding.

The alternative reason behind the relaxation of constitutional tax limits was the result of efforts on the part of a politically dominant coalition to secure discretionary control over the state fiscal system, in other words, a quest for power. Although there are some negative connotations associated with the quest for power, in itself, it may not be bad; much depends upon the process of power accumulation and how the power is utilized once acquired. Take, for example, the 1920 and 1928 constitutional revisions in Virginia under the Byrd administration. Clearly, the elimination of several of the constitutional constraints provided a significant increase in the power of the Byrd Machine. However, the Byrd administration utilized its increase in power not only to promote its own interests, but it also promoted prudent fiscal policies such that state debt was eliminated and taxes were reduced.

VIII. Amendment methods and social preferences

Chapter 2 in Part I reviews the institutions for amending state constitutions in the United States. Accordingly, there are three principal methods of initiating constitutional amendments in the United States, and that there are variations on these methods among the states. In addition, Chapter 2 indicates that the legal availability of the principal methods varies among states, and the case studies presented in Part II do shed some light upon the effects of the availability of the three methods.

Constitutional amendments in all states except Delaware must go through two phases in order to become a part of the state's constitutional laws. First, an amendment to a state constitution must be initiated or proposed by formal consideration. Second, the amendment proposal must be ratified by the general electorate. It may be argued that the referendum is a secondary check upon the ideas that end up being a part of a state's constitution.

The referendum in its present 1980 form is strictly a binary decision making process. The general electorate is only able to accept or reject whatever ideas are put before it, there is no mechanism for adjustment of proposals. On the other hand, the initiation of constitutional amendments is not subject to binary decision making, there is considerable opportunity for ideas to be adjusted to meet the desired wants of its sponsor. At the initiation stage one might say that "anything goes." Obviously, considerable importance must be assigned to the accessibility of the initiation process. Full accessibility to this process occurs in states that utilize the legislative, convention, and the citizen initiatives: at the other extreme, maximum restriction occurs in states that utilize only the legislative method of initiating constitutional amendments. This may have significant impact on special interest legislation.

IX. Citizen initiative works against special interest legislation

According to Landes and Posner, and Crain and Tollison, constitutional amendments form a more durable contract than legislative acts; consequently constitutional amendments are more desirable for special interest legislation.[1]

However, Landes and Posner, and Crain and Tollison do not consider the impacts of the convention and citizen initiative methods of introducing a constitutional amendment. It appears that the presence of the citizen initiative method has some perverse effects upon constitutional special interest legislation, primarily by reducing the durability of amendments. A review of the case studies of Part II indicates that there have been more constitutional amendments that appear to be of special interest in Virginia, New York, and Florida prior to 1968, than in Oklahoma and Florida after 1968. One may recall that Virginia, New York, and Florida prior to 1968 did not utilize the citizen initiative as a method of initiating constitutional change while Florida after 1968 and Oklahoma permit the use of the citizen initiative. Thus, the evidence presented in the case studies of Part II supports the findings of Crain and Tollison in the absence of the citizen initiative. If one assumes that special interest amendments work against the general welfare then it becomes readily apparent that the presence of the citizen initiative increases the costs of special interest amendments because the citizens can negate special interest amendments on their own accord. Thus, as expected, the evidence indicates that there appears to be less special interest legislation in states where the citizen has direct access to the amendment process.[2]

X. Proposition 13 in historical perspective

A comparison of the 1978 "Tax Revolt", which began in California with the adoption of the Jarvis-Gann Amendment (Proposition 13), with the evolution of constitutional tax limits throughout the history of the United States indicates that the 1978 California experience, and similar subsequent attempts in other states, is not very much different in terms of the product of the political process, from the evolutionary experience found in the case studies presented above. Clearly the 1978 "Tax Revolt" does not appear to be the result of machine politics. Nor does it appear to be based upon any sinister ulterior motive. The 1978 "Tax Revolt" appears to resemble the adjustments to the size of the public sector as found in the case studies. These adjustments to the size of the public sector are important in that they do reflect the fact that government taxing powers are abused from time to time. The abuse of the power to tax may or may not be intentional on the part of the bureaucrats. However, the bottom line is that the size of the public sector was over-expanded.

What differentiates the 1978 "Tax Revolt" from most, but not all efforts to restrain government's power to tax is the fact that the California experience was the result of direct action on the part of the citizenry. Thus, the major difference between the 1978 experience and the historical experience is not so much in the provisions of the tax limits, but rather in the method by which these limits came about. Even in this respect the 1978 California experience is quite similar to the events that occurred in Oklahoma during the Great Depression when property taxes were rolled back as a result of popular mandates. The difference between the Oklahoma experience and the California experience was that the legislators of the Depression era Oklahoma were given discretionary power over the tax reduction whereas the California legislator was faced with a specific mandate. Perhaps the reason for this difference lies in the economic environment of each situation. As mentioned, the Oklahoma action took place during a period when the economy of the state was quite depressed. Perhaps the voters of Oklahoma retained trust in their elected representatives because the legislators were also facing economic hardships. The California electorate was faced with an inflationary economy which on the surface appeared to resemble economic prosperity. The California voter, in general, was paying among the highest property taxes in the nation due to the combined effects of inflation on the valuation of property and the method of property assessment used in California. At the same time the California state government was accumulating a sizeable surplus of revenue which perhaps added insult to the injury of the taxpayer. Clearly the bounds of good government were overstepped in California which presumably provided a boom for the budget maximizing bureaucrat. Without the presence of the citizen initiative option in California it is quite doubtful that the California legislators would have acted on behalf of the property taxpayer. Perhaps relief to the taxpayer would have come in the form of increased government aid to those severely harmed by the property tax system. This would have meant an increase in the size of the public sector rather than the needed roll back of the public sector. Admittedly, one can only speculate as to what might have been. However, what is quite clear is that with the ratification of Proposition 13 in California, an agreement was reached as to the system of property taxation practiced in that state.

XI. Epilogue

The results of political actions are dependent upon many factors, so much so that the precise influence of any particular factor such as constitutional tax limits cannot be determined. The end state of a political process or the end product of a set of institutional arrangements may in fact be secondary in terms of importance to the process of change itself. A basic theme in Buchanan and Tullock's *The Calculus of Consent* is that the end state achieved through the democratic process is of secondary importance to the process itself.[3] In other words, agreement among people is of primary importance and not what in particular is agreed upon. The implementation of constitutional fiscal constraints involves an agreement among members of society and what becomes important is how that agreement is reached. Is the agreement among all members of a society, a majority of society, or imposed by a relatively small subset of

[1] William M. Landes and Richard A. Posner, "The Independent Judiciary in an Interest-Group Perspective," *Journal of Law and Economics* 18 (1975), p. 875; W. Mark Crain and Robert D. Tollison, "Constitutional Change in an Interest-Group Perspective," *The Journal of Legal Studies* VIII, No. 1 (January 1979), p. 165.

[2] Crain and Tollison believe that the durability of constitutional amendments and consequently the durability of constitutional special interest legislation may be proxied by the length of the constitution. The argument presented here indicates that this is so only in the absence of the citizen initiative.

[3] James M. Buchanan and Gordon Tullock, *The Calculus of Consent* (Ann Arbor: University of Michigan Press, 1962).

society? Thus, the institutions for amending constitutions may indeed be of greater significance than the particulars of any amendment incorporated into a constitution.

In summary, this study has shown that the evolution of constitutional tax limits at the state level in the United States has been quite rich. The study has revealed that tax limits are effective constraints upon the taxing powers of government. The case studies brought out the fact that constitutional tax limits have been used as political weapons which must be distinguished from legitimate attempts to curb abuses of the power to tax. Perhaps the most significant finding of this study is that the methods that are available to amend state constitutions play an important role in the evolutionary process of constitutional change, and this is the distinguishing feature of the 1978 experience from the attempts found in American history. Clearly, this study refutes the popular fear that the citizen initiative would cause the amendment process to get out of hand.

One may conclude that representative democracy as an economizing device in collective decision-making breaks down from time to time and that an acceptable solution is found in the institution of direct democracy. The citizen initiative as a method of implementing direct democracy has through time proven itself as a viable means of reaching agreement at the constitutional level of American Society.

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BALANCED BUDGETS, FISCAL RESPONSIBILITY, AND THE CONSTITUTION

(By Richard E. Wagner and Robert D. Tollison)

V. CONSTITUTIONAL PRINCIPLES, BALANCED BUDGETS, AND FISCAL RESPONSIBILITY

A Constitutional Framework for Budgetary Policy

It seems clear that we would be better off with a government that balanced its budget than with one that had a budget chronically in deficit. Yet there is a strong political bias in democracies toward deficit finance. Thus there is a gulf between desirable and actual budgetary policy. The recognition of this gulf inspired the call for a balanced budget amendment to the Constitution.

Many people who agree with this diagnosis of budget deficits may nevertheless be reluctant to have a balanced budget be made a constitutional requirement. These people would prefer to rely upon Congress to return us to fiscal responsibility. This approach, they feel, would be better than imposing upon ourselves a constitutional straitjacket. Congress has been responsible for our deficits, so Congress has the ability to restore budget balance. But how reasonable is it to rely upon the normal processes of congressional decision-making? It is these very processes that have brought about our chronic deficits. The change in our monetary order from a commodity to a purely fiduciary standard, along with the deterioration of a longstanding ethos hostile to budget deficits, brought about a climate favorable to deficit finance. An ethos cannot be adopted or rejected at will, so we cannot look to some simple restoration of past attitudes. We must look toward the development of constitutional requirements to offset our chronic bouts with deficit finance.

Constitutional rules can serve an important function in preventing or curtailing outcomes that, while undesirable, might nonetheless tend to result from ordinary legislative processes. The Constitution provides the framework within which legislative action can take place. The importance of a constitutional framework can be seen by analogy with the rules of a game. In this analogy, the rules are analogous to the Constitution, the play of the game is analogous to the legislative process, and the outcome of the game is analogous to the budget that is enacted.

In a basketball game, a player on defense can improve his chances of success by holding his opponent. Yet, if all defenders played this way, the end result would be a less interesting game. All, or at least nearly all, players are worse off when holding occurs than they would be in the presence of a constitutional rule against holding. If one person holds, he can gain a relative advantage. If another person refrains from holding, he will be disadvantaged. Without a constitutional rule against holding, holding will become rampant once the players recognize its usefulness. Yet all players would be better off playing the game without holding. They cannot do so without a constitutional rule against holding.

In the theory of games, the situation in which such generally undesirable outcomes can emerge is referred to as a prisoner's dilemma. The basic idea behind the prisoner's dilemma is a simple one. It describes a situation in which each person's pursuit of his self-interest can produce an outcome that is undesirable from the perspective of all participants. The tendency to resort to deficit finance fits within the framework. A legislator will typically secure more political support through budgetary policy under deficit spending than under a balanced budget because deficit spending makes it possible to confer additional expenditure programs or tax reductions upon desired constituencies. Each legislator individually will be motivated to support deficit financing. If one legislator refrains, the deficit will not be affected, but the benefits to his particular constituents may be reduced.

Suppose a congressman voted against all spending proposals in excess of the balanced budget level. The congressman's impact on spending would be negligible, and his political support would have weakened because some of his negative votes would have been contrary to the preferences of some of his constituents. The situation is like the one that would result if one basketball player tried to refrain from holding. The overall incidence of holding would be only minutely affected, and the player's team would be disadvantaged. As with a rule against holding, the requirement of a balanced budget would redound to the benefit of all, or practically all, legislators and their constituents. A constitutional requirement of a balanced budget is one way to provide this rule.

Budget Balance and Fiscal Responsibility in a Democracy

There is a fundamental sense in which any budget must of necessity always be in balance. By the nature of double entry accounting, each debit must possess an equal credit, so that a balanced budget is a tautology. A person who earns $30,000 in one year, paying $10,000 in taxes and spending $15,000, has in this sense a balanced budget, not a budget surplus. This is because the $5,000 that is saved is as much a debit item as the amounts spent or lost in taxes. Likewise, a person who earns $30,000, pays $10,000 in taxes, and spends $25,000 also has a balanced budget. While his debits add up to $35,000, so do his credits. He has a $30,000 credit from income, but he must also have a $5,000 credit item as well, possibly from a bank loan, or perhaps from the liquidation of capital—the particular source is unimportant.

When people speak of budgetary imbalance, of surplus and deficit, they have in mind something different from this double entry tautology. Of the two situations described above, the first would be commonly considered one of budget surplus, while the second would be considered one of budget deficit. What this means is that imbalance becomes meaningful through the exclusion of certain items from consideration—like the saving and the borrowing in the above illustration. The reason for excluding certain items is largely normative. One use of a system of accounts is to provide an assessment of a set of transactions. There are three patterns of sets of transactions: one allows for reproduction over time, with neither gain nor loss; one allows for expansion; and one allows for contraction. A person who earns $30,000, pays $10,000 in taxes, and spends $20,000 would, by virtue of this set of transactions, have done nothing to influence, for good or for bad, future transactions. In contrast, when $5,000 is saved, future growth is made possible, so the saving is excluded from the budget, and the budget is considered to be in surplus. And when $5,000 is borrowed, a mortgage is placed on future transactions, so the borrowing is excluded as a normal credit item, and the budget is considered to be in deficit.

By extension of this reasoning, a government's budget must always be in balance. When we speak of surplus or deficit, we are excluding from consideration some of the credit or debit items that necessarily must be present in and implied by the set of transactions of which the budget is a description. For instance, government debt or government revenues from money creation are as much a credit item as are tax revenues. Regardless of the method of finance, command over resources is transferred from private citizens to the government, and the budget is a reflection of this transfer. Expenditures indicate the amount of this transfer as reflected in the debit items on the government's account. The credit items must indicate the same amount, for they refer to the same transfer of resources. Whether expenditures are financed fully by taxation or whether to some extent they are financed by borrowing and money creation does not alter the fact that command over resources is transferred from citizens to government.

The fundamental distinction is really not so much one of balance or imbalance in the budget, but rather is one of whether the balance was achieved explicitly and openly or was achieved implicitly and secretively.

Our present accounting convention, in which borrowing and money creation are treated as categorically distinct from taxes and fees, reflects the belief that taxes and fees are in some sense normal or proper, while borrowing and money creation are not. Borrowing and money creation are recognized as being expedient devices that cannot properly be looked upon as a normal part of the public finances of our nation.

There is much wisdom in the categorical difference in the treatment accorded to fees and taxes on the one hand and to borrowing and money creation on the other. While all these devices are means of transferring command over resources from citizens to government, they entail quite distinct ways of achieving this transfer. With fees and taxes, there is an explicit and open transfer of command over resources from citizens to government. It is impossible to increase the utilization of resources by government without reducing to the same extent the utilization of resources by citizens. Taxes and fees are methods of finance that openly acknowledge this necessarily balanced budget nature of government fiscal operations. With borrowing and money creation, no such openness exists. With genuine borrowing, resources appear to be transferred to government by those who buy the bonds. However, bond-holders cannot be said to bear any burden, for they are lending to the government now in exchange for a greater return in the future. It is taxpayers who bear the burden, but this burden is not assigned at the time of borrowing. While the actual tax payments to amortize the debt will not be made until some time in the future, their necessity stems from the act of borrowing. Instead of this liability being made explicit at the time of borrowing, it is left as something to be worked out when the debt is amortized some time in the future.

It is the same with money creation. When government finances its activities by creating money, it erodes the real value of the money possessed by citizens. Money creation is equivalent to a tax on money, and it is a tax that operates by debasing the value of money. A doubling of the stock of money is essentially the same thing as taxing away one-half of the money possessed by each citizen. There is, however, a fundamental difference between creating money and taxing money holdings. In the latter case, government acts openly and aboveboard, but in the former case it does not. With money creation, the essential nature of its actions is hidden from view and is, to a large extent, obscure. The view, reflected in our accounting conventions, that money creation should not be regarded as a normal credit item in the government's account, though a tax on money holdings certainly would be so regarded, reflects ultimately the view that government should normally conduct its affairs in an open manner. An argument for a balanced budget is basically an argument for truth in packaging.

There is good reason for what might be called truth in packaging in government. It has long been recognized that the effective and responsive conduct of budgetary policy in a democracy requires that politicians bear the responsibility for their budgetary choices. It is indisputable that people will generally make better choices when they bear the responsibility for the consequences of those choices than if they are able to escape that responsibility. Tax finance forces legislators to take responsibility for their budgetary decisions; if they approve a greater utilization of resources through government, they must at the same time impose the higher taxes necessary to transfer command over the resources from taxpayers to government. Borrowing or money creation weakens this responsibility, for politicians need not face up openly to the transfer of resources implied by their budgetary decisions. A balanced budget requirement would promote responsibility or accountability in budgetary decision-making.

In 1896, Knit Wicksell articulated what is perhaps the essence of fiscal wisdom. Wicksell set out not only to elaborate principles for effective budgetary decision-making but also to describe a set of constitutional rules that would implement such principles. Wicksell recognized that such a constitution would need to contain several elements. One exceedingly important element for fiscal responsibility, Wicksell recognized, was that proposals for expenditures must be coupled with proposals for covering the cost. If a legislator is able to propose expenditure programs without having to make an explicit proposal to cover the cost, fiscal irresponsibility will creep in because the legislator can get away with promising benefits without saying from whom the resources will be taken. Each budgetary debit necessarily has an equivalent credit that reflects the transfer of the command over resources from citizens to government. A rule that requires an open recognition of this inherently two-sided nature of government budgets promotes fiscal responsibility.

The balanced budget requirement is simply a requirement that government should make explicit the resource extractions promised by and implied in its expenditure promises. If a politician is to promise expenditure programs for his constituents, he should be asked to take responsibility for covering the cost of those programs as well. This simple point is the true meaning of the balanced budget amendment. What is wrong with requiring that people take responsibility for their actions? We expect it of ourselves—and of our children as they mature. Why should we not expect it of our politicians as well?

Does Federal Spending Constitute a "Discovered Fault" in the Constitution?

(By Aaron Wildavsky)

THE BALANCED BUDGET AMENDMENT

The proposed balanced budget—Tax Limitation Constitutional Amendment, Senate Joint Resolution 58—is a remarkable piece of political engineering for a remarkable political time. My unreserved admiration goes to its drafters, because they have managed to imbed a spending limit within a balanced budget amendment. The amendment does this by limiting the total receipts for any fiscal year to the rate of increase in national income of the prior year.[1] If national income goes up X percent, revenues can increase only up to 4 percent. Before a too rapid reader realizes what has happened, taxation has been indexed against inflation. Then Congress is directed to provide for a balanced budget in which outlays are not greater than receipts, subject to a three fifths vote of the whole membership of both Houses to increase outlays without increasing revenues, i.e. to create a deficit. By itself this provision is strict.

[1] In its enabling legislation, Congress can choose among any of the standard estimates of national income, such as Gross National Product, National Income, Gross Domestic Product. It is not the measure but consistency in its use that matters.

However (perhaps I should add another however, however) a majority of the entire Congress is allowed to approve a bill authorizing additional revenues and therefore expenditures. Whew! To those who cannot follow the simplified notion, the appendix to this paper contains the amendment. It is ingenious but will it be efficacious?

This constitutional majority is sufficiently close to the existing system to make one wonder whether it is worthwhile going to all the trouble. The prior spending limit was both simpler and more stringent and would reduce the size of governments and lead to balanced budgets most of the time. There is the rub. Apparently without the "balanced budget" requirement it was not possible to get the resolution passed. The price of ingenuity, in this case the combination of revenue and spending limits, is complexity. It is not so much that any particular procedure is complex but that students of the subject will have to learn that there is a three-fifths vote for this and a majority vote of that and that the spending limit really determines the revenue limit unless Congress votes (by some majority) otherwise. The sticking point, beyond the issue of complexity, is that a majority vote (albeit a majority of all members, not merely those present) can raise the combined revenue and spending limits. The advantage of the procedure is that Congress must go on record as favoring higher spending. A super-majority is not required in the belief that Congressmen will not wish to go on record as raising taxes. Maybe, maybe not, depending, as we shall see, on enforcement of the amendment. Holding Congressmen accountable, it turns out, depends on these very same legislators. The fascination of the balanced budget amendment lies in how one alters political relationships deemed to be unsatisfactory by relying, in the end, on these very same relationships.

Let us begin this triple exercise in metapolitics—a political analysis of an effort to alter the politics of budgeting and taxation by restructuring the political rules—by considering the current political context out of which the balanced budget-tax limitation constitutional amendment (hereafter called the balanced budget amendment or, simply, the amendment) has emerged.

Has the Reagan administration's success spoiled constitutional expenditure limitation?

Few people predicted that the Reagan administration would succeed in lowering taxes (a 25 percent reduction over three years followed by indexing tax rates) and in cutting some thirty odd billion from the spending budget. Immediately the question arises of whether constitutional limitation is necessary in view of 1981's outstanding success, a success, at least, from the standpoint of those who favor lower spending. The argument goes like this: increases in spending of past decades were due to the preponderance of political forces favoring such spending and the reductions are due to the rise of forces opposed to that very thing. An alternative explanation, given by some Reagan supporters, is that at long last a new administration has arisen with the courage to tackle the spending interests; all it takes apparently is a combination of political support and political courage. The more analytically minded suggest a parallel scenario in which the strategic approach of the Reagan administration differs from its predecessors. The disadvantages of cutting spending are all in the individual programs whereas the

benefits come from reducing totals. In the past, legislators were faced with cutting this or that program with no certainty that a sufficient reduction in total would be achieved to be helpful for economic or social purposes. By aggregating cuts into the tens of billions, this argument concludes, the Reagan administration overcame prior strategic weakness. In fact, this argument continues, with the first hurdle successfully leaped, it will become easier in the future to reduce taxes and spending.

If ordinary politics can do it, there is no need for a constitutional amendment. But I don't think that over a period of years this Reagan effort will be successful and I would like to explain why. For one thing, succeeding administrations will not be able to mount the massive, concerted effort that was seen in 1981. Other matters will impinge on the political environment and it will not be easy to keep rallying the troops for what is ostensibly "a final charge." Those who are hurt by spending cuts, as always, will mobilize more often and with greater persistence than those whose only stake is in limiting totals. Spenders, I believe, will tire out the savers rather than vice versa. For another thing, the cuts achieved this time will in significant respects prove illusory. It will not have been enough merely to announce them but it will be necessary to persevere and to provide political majorities in favor of implementing the cuts. Why the illusions? Perhaps the estimates will prove faulty or the desire to achieve ostensible saving will have led to overoptimistic projection of reductions. Administrative actions may be taken that will offset the legislative moves or life will provide surprises for everyone. The result will be that decisions believed to have been taken "once and for all" will have to be taken over and over again. State experience with spending limits suggests that without a continuous coalition in favor of reduction, more things come up than can be imagined. In a word, nothing has been done to alter the fundamental proclivities of the spending system except to accomplish a temporary halt. In order to make this halt semipermanent, it would be necessary to keep winning electoral victories. No doubt if strong majorities committed to this purpose continue to be elected, there will continue to be lower than usual levels of spending. But if we set up a fairer test—mixed victories of higher and lower spending forces—will we discover as before that the outcome is continuously higher spending?

Is the congressional budgetary process as it now exists neutral in regard to claims for higher or lower spending? The Budget Act of 1974 expressed Congress desire to enhance its own power of the purse by giving it the ability to visibly relate revenue and expenditure. Since the broad coalition supporting the Act was made up both of high and low spenders, however, the new process was not designed to favor either side. On the one hand, the mere existence of budget committees raised up another possible impediment to higher spending; on the other hand, the need for these committees to maintain collegial relations with the tax and spending committees as well as remain subject to the will of Congress, meant that they had to subordinate themselves to the rampant desires for higher spending. The evidence from Allen Schick's "Congress and Money" [2] is conclusive:

"In almost a hundred interviews with Members of Congress and staffers, no one expressed the view that the allocations in budget resolution had been knowingly set below legislative expectations. 'We got all that we needed,' one committee staff director exulted. The chief clerk of an Appropriations subcommittee complained, however, that the target figure in the resolution was too high: 'We were faced with pressure to spend up to the full budget allocation. It's almost as if the Budget Committee bent over backwards to give Appropriations all that it wanted and then some.'" [3]

In considering the related question of mandatory spending, required by law and not subject to the annual appropriations process, Schick makes a powerful plea to consider this a conscious choice. ". . . 'Uncontrollability' is not an accident or an inadvertence of the legislative process but a willful decision by Congress to favor nonbudgetary values over budgetary control. . . ." [4]

Since budgeting, like history, is selectivity, Congress makes its most important choices by choosing what not to consider. Uncontrollability is a form of control. If much domestic spending is mandated and indexed and most defense spending is not, is that a bias in budgeting or just democracy at work?

Reducing the total size of the budget not only requires eternal vigilance but information on where to cut and coordination among programs so that increases in some do not balance out decreases in others. Increasing spending is easy, requires little information (any area will do), and even less coordination. Without a spending limit, no spending agency has an incentive to cut its budget because the contribution to the total is small and uncertain.[5] Is that natural, like mother nature intended, or unnatural, a bias that explains why government grows?

Whether or not these expectations would have been borne out by events, however, the Reagan Administration now has compelling reasons for clasping the balanced budget amendment to its collective bosom. Indeed, one has had to live through the topsy-turvy political world of the summer and fall of 1981 to believe what has occurred. An imaginary dialogue may do some justice to the situation.

LIBERALS. How dare President Reagan unbalance the budget, thus causing the perpetuation of high interest rates!

CONSERVATIVES. Why are you being so rigid?

LIBERALS. Men may be wrong but the market is right. Listen to the market!

CONSERVATIVES. What does Wall Street Know?

WALL STREET. We don't believe the government will balance its budget.

REAGAN ADMINISTRATION. Believe! Believe!

WALL STREET. Show us! Show us!

All that remains to end this phase of the conversation is for the Reagan Administration to say: "It says right here in the Constitution that we (and our successors) have to balance the budget." Not all marriages are made in heaven, but the shot-gun wedding of the Reagan Administration to a balanced budget amendment could not have been achieved without the extraordinary convergence of Wall Street and liberal politics in punishing the President for high interest rates by condemning his deficit spending.

The political task of the amendment's drafters was to merge the interests of those who want a balanced budget with those whose first priority is to limit spending and taxing. Balanced budget people feared that spending limits alone might submerge their priority; they were also sensitive to the charges of critics that requiring super-majorities to raise spending was undemocratic, rigid in face of the unexpected, and "anti-Constitutional" in that it wrote an economic formula into a document that should deal only with important procedural principles. The proponents of spending limits feared that budget balance would be achieved at their expense by raising taxes to meet ever-increasing spending. They were sensitive to criticism of their proposed amendment as overly technical, it being felt that formulas do not belong in a constitution. Bargaining between these two groups in the Senate and between the National Taxpayers Union (balanced budget) and the National Tax Limitation Committee (spending limits) outside the legislature, resulted in an integrative solution—limits within a balanced budget scheme, or, if you prefer, a balanced budget apparatus guided by limits on spending. The balanced budget people were able to claim that their proposal was procedural and the supporters of spending limits received reasonable assurance that higher taxes would not easily accommodate higher spending. Relating the procedural to the substantive questions, most interesting of all, resulted in a political rationale for the amendment. In a time when the mere mention of politics seems somehow underhanded, the proponents and opponents of this proposed constitutional amendment to balance the federal budget actually debated "high politics"—the structure of the American political system.

It is not often that Congress debates fundamental political theory. A strong statement of the pro-position came from Senator Orin G. Hatch (Republican of Utah):

"The premise of the amendment is that the representative, legislative process ought to have primary responsibility for day-to-day spending and taxing decisions. The further premise is that it cannot presently be entrusted to make those decisions in a responsive and responsible manner because of the existence of certain biases that exist that lead to higher levels of spending and higher levels of taxes. Once these biases can be overcome, it is not the business of the constitution to dictate precise economic policies or precise spending and taxing decisions."

"These biases exist, in short, because of the fact that there are political advantages gained from supporting spending programs and a lack of political disadvantage gained from opposing them. The awareness and interest of the groups which benefit from a political program are great, leading to heavy lobbying and political pressures in behalf of such spending programs. On the other hand, the taxpayers who generally bear the costs of such programs lose relatively little from each particular program and lack similar political interest and leverage. Thus, spending advocates and taxpayers do not compete on an equal basis.

"The 'consensus' amendment would reduce this bias toward spending by creating a countervailing political disadvantage for pro-spending votes that does not presently exist. For the first time, votes to increase spending would, under normal circumstances, have to be accompanied by votes to increase taxes or by votes to reduce other

[2] Allen Schick, "Congress and Money" (Washington, D.C.: The Urban Institute, 1980).

[3] Ibid., p. 313.

[4] Ibid., p. 571.

[5] See Aaron Wildavsky, "How to Limit Government Spending" (Los Angeles/Berkeley: Univ. of Calif. Press, 1980).

spending programs commensurately. Additional revenues that are presently available to elected officials, either through borrowing or through the automatic tax increases of inflation, and that make it easy for members of Congress to avoid politically difficult votes, would no longer be available. Section 1 of the amendment would reduce access to borrowing, while section 2 would reduce access to automatic tax increases."[6]

The pro-spending bias Hatch finds in the political system is to be offset by new rules (sections one and two of the amendment) creating an offsetting anti-spending bias.

Senator Hatch was by no means the only one to invoke basic political theory. Other senators used their own experience to bolster the theory. This is the understanding reached by Senator DENNIS DECONCINI (Republican, Arizona):

"Everyone . . . is for a balanced budget. When those of us in the Senate are asked to translate that abstract proposition into concrete refusals to spend for specific programs, *my experience has been that this institution has failed* [emphasis supplied]. The purpose of my amendment is simply to increase the political pressure on the other side of the equation. . . . My 2 years in the Senate, and the experience of my senior colleagues with whom I have discussed this issue convince me that unless there is a legal mechanism to force the Congress to suffer the consequences of its own fiscal irresponsibility, it is unlikely this Nation will return to the era when the Federal revenues consistently matched Federal expenditures." [7]

His striking phrase—". . . this institution has failed"—stands for a political failure, equivalent to the economists' market failure, that can be overcome by rewriting the rules for political action.

The remedy in rewriting the rules is proposed by Senator Richard G. Lugar (Republican, Indiana), explicitly in terms of ". . . the structural realities of our system . . . ." [8]

"Congress has an endemic tendency to spend in excess of revenues. Spending in excess of revenues is the course of least resistance. Each day a congressional office must confront many well-organized interests demanding consideration for their programs. These programs are not unworthy ones, and the members of these groups are not evil men and women. The pressures to spend are simply not counterbalanced by pressures for restraint, which are very diffuse, with the result that Congress says 'yes' to almost everyone.

"Legislative rules frequently apply a procedural device to situations in which restraint is difficult, pressure intense, and in which the subject matter involves departure from an important norm. The device is the supermajority—the requirement of more than a mere 50 percent plus one vote and it is ideally suited to the most crucial single decision made by the Congress each year, the passage of the Federal budget." [9]

The kind of experience that would lead a legislator to call for restraint on his own behavior was described by Senator David Pryor (Democrat, Arkansas):

"Recently, a group of people from my own State of Arkansas, Mr. Chairman, came to see me in our Washington office. After several minutes of visting they got out their shopping list and talked about this list of projects they wanted brought back home to their district. The grand total of their requests came to a sum well over $6 million. As they were leaving the office, the parting comment was, 'Senator, there is one more item on our list. We want you to do all you can to balance the budget and cut down on Federal spending.'" [10]

Observing this sort of behavior among his Congressional colleagues as well, Pryor came to believe that ". . . we must add . . . an outside restraining force to the system." [11]

We can wrap up the political theory of the pro-amendment forces by referring to the committee report accompanying S.J. 58 which argues that "there is a structural bias within our political system."

"In short, it is the [Senate Judiciary] Committee's view that our political process is defective insofar as it is skewed toward artificially high levels of spending, i.e. levels of spending that do not result from a genuine will and desire on the part of the people . . . because of the characteristics of the fiscal order that have developed in this country in recent decades. . . .

"Members of Congress do not have to reduce levels of spending for one program in order to accommodate increases in other programs because there is no effective limit as to how much Congress may spend in its budget. . . . The availability of deficit spending enables Members to avoid the hard political decision of having to choose among spending proposals and thereby creating for themselves some element of political disadvantage as well as political advantage." [12]

Though the opposite position was once taken by Anthony Downs,[13] no one today claims that the political process is biased against high spending. Nor does anyone claim that unbalanced budgets are desirable in and of themselves. Instead, the argument is made on two procedural grounds: one is that the political budgetary process is neutral, so that higher spending reflects political will,[14] and the other that any economic rule written into the Constitution must be too rigid because circumstances are bound to arise in which the rule proves counterproductive. A mild version of the political neutrality view is taken by Senator Max Baucus (Democrat, Montana) who introduced a bill, S. 526, that would do what the amendment does only by statute. And, Baucus added, "We could do it without the time-consuming and cumbersome process of amending the Constitution. We could display a new sense of congressional discipline. And we could leave open the option to try new economic techniques as required by our changing economic circumstances." [15]

The counter argument was that there was already a law requiring a balanced budget (Public Law 95-435) that had been ignored; and no law could bind a future Congress in general and certainly not to a particular kind of voting majority.[16]

A more direct challenge to the allegations of bias in the political process was made by Marshall Beil, speaking for the Committee on Federal Legislation of the New York City Bar, in opposition to the balanced budget amendment. Replying to a question by Senator Strom Thurmond (Republican, South Carolina) suggesting that the inability of Congress to control spending was one of those "discovered faults" (or structural defects) that James Madison had said justified amending the Constitution, Mr. Beil replied that

"There are no constitutional barriers of obstacles to Congress' control of federal spending. The Constitution already gives Congress plenary power in this area. Congress can balance the budget if a majority of Congress votes to do so. The 'fault' you have identified, Senator, is in the political process, not the Constitution. There is no reason to tamper with the Constitutional structure of the Federal government when Congress already has the power it needs to balance the budget by a simple majority vote". [17]

It's as simple as that: all that is required to lower spending is a majority vote.[18]

The implication is that higher rates of spending and taxing reflect the popular will, for otherwise it would be clear that democracy was not working. In the same manner, the "Open Letter Opposing a Constitutional Prohibition of Deficits in the Federal Budget," signed by over 500 economists concluded that "The people of the United States have other and better means available to improve the wisdom of national policy: by electing national officials who are competent, responsible, and responsive to the will of the electorate.[19]

Confronting the contention of failure in the political process, Paul Samuelson, one of the three Nobel Prize winners in economics to sign the letter, wrote the Senate Subcommittee on the Constitution, which held hearings on the balanced budget amendment, that

"Whenever it is the case that a bare or preponderant majority of the American people *permanently* conclude that the role of the public sector ought to be constrained in its fractional share of the total national

[6] Opening Statement of Senator Orrin G. Hatch of Utah, Hearings on a Proposed Balanced Budget Constitutional Amendment, Subcommittee on the Constitution, Senate Judiciary Committee, March 11, 1981.

[7] Hearings before the Subcommittee on the Constitution of the Committee on the Judiciary, U.S. Senate on Proposed Constitutional Amendment to Balance the Federal Budget, March 12, May 23, July 25, October 4, 11 and November 1, 1979 (Serial No. 96-41, p. 153.

[8] Ibid., p. 171.

[9] Ibid.

[10] Ibid., p. 254.

[11] Ibid.

[12] Balanced Budget-Tax Limitation Constitutional Amendment, Report of the Committee on the Judiciary, United States Senate on S.J. Res. 58 with Additional and Dissenting Views, July 10, 1981, 97th Congress, 1st Session (Report No. 97-151), pp. 4, 7, 42.

[13] Anthony Downs, "Why the Government Budget is too Small in a Democracy," *World Politics*, pp. 541-563. Downs' thesis was that benefits were diffused and hence hidden but taxes were concentrated and hence felt with greater strength. This thesis has not been picked up by others, perhaps because spending rose so sharply in the following years.

[14] The neutrality position is well-stated in Allen Schick's *Congress and Money* (Washington, D.C.: The Urban Institute, 1980). The contrary position is taken in my review of Schick's book, "Is the Budgetary Process Neutral?", *Society* (forthcoming, 1982)

[15] Report of the Committee on the Judiciary,

[16] See the comments of Senator Harry F. Byrd, Jr., who introduced this provision, p. 26, Hearings Before the Subcommittee on the Constitution.

[17] Ibid., p. 235.

[18] For the views of the Committee on Federal Legislation rejecting "Budget-Balancing by Constitutional Amendment," see pp. 239-249, Hearings Before the Subcommittee on the Constitution.

[19] Ibid., p. 540.

income or in its trend rate of increase, our representative democracy is capable of translating that will of the people into effective action: the American republic is not defective in its present organizational structure to secure what are stated to be the goals of the amendment to balance the budget or the amendment to limit the share and growth trend of the public sector. *There is no inherent flaw in our checks and balances and division of responsibility among the legislative, executive and judicial branch of governments that makes inevitable a process of 'logrolling' designed to swell the level of expenditures and taxes beyond that truly desired by the effective majority of the electorate.* Instead, the elaborated pure theory of public expenditure and of game theory more evenhandedly shows that there are countertendencies favoring realization of *both less and more* government expenditures than the pluralistic electorate really desire." [20]

Professor Samuelson indicated his willingness "to discuss the above conclusions, empirical data and analytical reasoning on which they are based," [21] but unfortunately, no one appears to have asked. I am unaware of any attempt to use game theory or pure (or impure) theories of public expenditure or any other theory to argue that the political process is impartial. Generally, social scientists say that all forms of organization are forms of bias one way or another. Nevertheless, Samuelson has put the argument on the proper plane of political theory.

It is difficult to disagree with Professor Samuelson's diagnosis of his own discipline: "Economics is so inexact a science and the future is so unpredictable that it is an act of arrogant folly to try to specify constitutional formulas applicable for the infinite future." [22]

Nor was the learned doctor the only one to fear that, as Senator Gary Hart (Democrat, Colorado) put it, "The result [of a balanced budget amendment] would be economic disaster." [23] Current economic understanding is that while budget balance is sometimes desirable, in the words of the Director of the Congressional Budget Office, Alice Rivlin,

"When the economy is sliding into a severe recession, attempting to balance the Federal budget will almost certainly make the recession significantly worse. Deficits occur automatically in recession since declining incomes produce lower Federal revenues and spending for unemployment compensation rises. At such a moment, raising taxes or cutting spending in order to balance the budget would reduce aggregate demand further and throw additional people out of work." [24]

It is also widely believed, as Martin Gerbert, Vice President of the International Union of the United Auto Workers told the Subcommittee on the Constitution, that

". . . if you have a requirement that you must always balance the budget, the immediate response is to raise taxes or to cut government expenditures in order to bring the budget back into balance. But the impact of increasing taxes is to suck money out of the economy. The impact of reducing expenditures is to reduce the flow of money into the economy. In both cases, the effect of the balanced budget response is to aggravate the recession." [25]

The reply of the amendment's supporters is that it will not work this way; on the contrary, they regard it as at least mildly anticyclical.

Indeed, in other days, advocates of the prior amendment to limit federal spending regarded requiring a balanced budget unwise: "No one proposes daily budget balancing, or weekly or monthly," Professor Milton Friedman declared, "Why annual?" [26] As Professor Craig Stubblebine explained—

"The difference between the two approaches [a balanced budget and a spending limitation] is whether the Constitution contains a policy or a process.

"A balanced budget amendment is a policy which you have instituted into the Constitution and may indeed be appropriate to today's circumstances, but may be wholly inappropriate 50 years, 100 years, 200 years from now. I can't think of any economist who would be so rash as to forecast what economic relationships will be in the future. . . . Senate Joint Resolution 56 [the proposed spending limit amendment], on the other hand, is a process for resolving the relationship between revenues and expenditures, between the private and public shares of American life." [27]

No wonder every advocate of the budget balance amendment swears up and down the line that it represents a change in procedure of structure, not in the substance of economic or budget policy. Is S.J. 58 addressed to a long-run spending bias or is it a short-term economic policy? It is time to look at the proposed amendment itself.

The first two sections tell the story:

"Section 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"Section 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law." [28]

But what story do they tell? The interaction between expenditure ceilings (limits on outlays) and a balanced budget (outlays must not exceed receipts) requires further elucidation. The language is straightforward but its consequences are round-about.

The first consequence to which I wish to call attention is that indexing of taxes is mandated. For its proponents, a major purpose of the amendment is to remedy political biases in the existing process, one of which, in their opinion, is that spending may be voted without simultaneously having to accept the onus of voting increased taxation to cover it. No longer. In its second section, the amendment establishes a fiscal norm; ordinarily, Congress and the President are to limit spending increases to the percentage increase in national income that actually occurred in the prior fiscal year. To raise that proportionate spending level, Congress, by a majority vote of all its members, must pass a bill, which the President must sign, raising the limit. Suppose, however, that the spending norm prevails. Under a progressive tax system, economic growth generates about one and a half times the amount of revenue for every percentage increase in personal income. What becomes of the excess, this time the surplus of revenue over expenditures? Either the national debt must be paid off or taxes must be cut. As the Report of the Senate Judiciary Committee asserts—

"Under its system of taxation, Federal tax receipts grow more rapidly than national income during either periods of real growth or periods of nominal growth caused by inflation. Stabilizing the share of that income available to the Federal government (as provided by section 2) would require Congress to enact annual tax cuts or to 'index' the tax system, unless it was prepared to vote annually for tax increases that would increase the Federal government's share of the economy." [29]

The purported structural bias in favor of spending is off-set by requiring a redistribution of revenues back to taxpayers, unless Congress votes to increase them every year.

Suppose Congress does not want to raise taxes but rather to raise spending specifically so as to create a budget deficit? Leaving the question of enforcement aside for the moment, section one of the proposed amendment requires a vote of three-fifths of all members of Congress to unbalance the budget. Congress can raise spending by an ordinary majority vote, providing it raises revenues for the purpose, but it must have a three-fifths majority to run a deficit. The spending limit tying totals to the past movement of national income is defended by the balanced budget requirement—revenues must match expenditures—and the balanced budget is defended by a three-fifths supermajority.

The key interpretative statement, expressing the essence of the amendment, comes from the committee report: ". . . actual outlays cannot exceed statement outlays which cannot exceed statement receipts which cannot grow faster than the economy." [30]

Immediately questions and criticisms came crowding in. Since revenues and expenditures are both estimates, what happens if the plan for a balanced budget that Congress and the President are required to submit, the "Statement of Receipts and outlays" mandated by the amendment, does not turn out as expected? Contrariwise, what is to stop Congress from deliberately putting in unrealistic estimates so that revenues fall far short of expenditures? Who is to enforce the amendment and how?

All the amendment demands is that "The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such [budget] statement." From this omission we learn that an excess of revenues is not ruled out. If, to take the

[20] Ibid., p. 559.
[21] Ibid.
[22] Ibid., p. 550.
[23] Ibid., p. 157
[24] Ibid., p. 261.
[25] Ibid., p. 285.
[26] Ibid., p. 412.
[27] Ibid., p. 357.
[28] Report of the Committee on the Judiciary, p. 1-2.
[29] Ibid., p. 43.
[30] Report of the Committee on the Judiciary, p. 43.

case that worries critics, an economic slowdown reduced revenues, Congress may amend its statement of outlays and receipts but it is not required to do so. Thus life in the form of a reduction in expected revenues may cause a deficit for that year without running afoul of the letter or spirit of the amendment. Once a statement of outlays is approved, however, the amendment obliges the President and Congress to keep actual outlays (government spending that year) from exceeding the outlays specified in the statement of intentions. The word "actual" refers only to outlays. In short, statement of a balanced budget expresses good intentions—the fiscal norm of budget balance—but enforcement is reserved for spending limits not revenue raising. This second consequence—only spending limits are enforced in reality—signifies that lowering limits in one year establishes a lower base for future expansion.

What we do not learn from the amendment itself is who will guard the guardians of the Treasury, since it appears they are to guard themselves. Irritating but fascinating: How can politics and politicians, which constitute the problem, be, by this amendment, made into its solution?

Faced with an intricate construction, which establishes budget balance as the norm but which does not mandate it, opponents of the amendment claim it is unworkable both because it is too easy to circumvent and too rigid to get around. Insisting on a balanced budget under all circumstances would make it too rigid, and allowing exceptions during emergencies would open up loopholes. Crises would be difficult to define. So the drafters decided against using the notion of crisis or emergency; instead Congress can raise expenditure or revenue with the right kind of majority without necessarily having to explain why.[31] This approach has led to criticism on the grounds that super-majorities are undemocratic, allowing 41 percent of Congress to dictate policy, and obstructionist, inhibiting response to changing circumstance. The proponents reply that it is the current budgetary political process that is rigid. According to Senator Lugar—

"We are presently on a course in which larger and larger portions of the budget are thought of as 'uncontrollable,' and therefore beyond the reach of serious scrutiny. This bizarre notion has vitality only because no binding limit on spending forces a reexamination of these spending programs or their automatic increases. A two-thirds requirement would liberate the budget process from the psychology of 'uncontrollability,'" . . . .[32]

The amendment Senator Simpson continues, "perfects our political process,"[33] by demanding open votes and, in Senator Heflin's words, "not rely on hidden taxes such as inflation to drive up federal revenues and thus finance increased spending."[34] Is it inflexible to require a super-majority to unbalance the budget or is it inflexible to be controlled by "uncontrollable spending" or be caught in the secret grip of "bracket creep"?

The argument of ineffectiveness is grounded in the view that the amendment will not work because it is too vague and because that vagueness will be used to defeat its purposes. An ancillary consequence is that unseemly disputes over the meaning of the amendment will discredit the very constitution it is supposed to strengthen. Allen Schick tells it the way it is:

"Any constitutional restriction on deficits or expenditures must come to grips with the issue of what constitutes the budget of the United States Government. The question of what ought to go into the budget is by no means settled; current practices are a compound of written and unwritten rules, many of which were introduced by the executive branch without the explicit concurrence of Congress. Moreover, the emplacement of an expenditure or budgetary restriction in the constitution will not bring an end to the improvisation of new governmental forms and accounting procedures. Quite the opposite, one can expect that the more formidable the restriction the more likely that it will invite the executive and legislative branches to contrive new practices. Only one thing can be certain, the more inclusive the definitive of the budget, the more restrictive will be any constitutional limitation on deficits on expenditures."[35]

The question of which items should be counted as belonging in the budget would be compounded, in his view, by disagreement over "what constitutes an outlay," since spending limits are imposed on outlays. He goes on to say that—

"There is almost no law on the subject, and a jumble of conflicting practices and traditions complicates the quest for defensible criteria. Yet a spending limitation cannot be enforced without rules for deciding what is an outlay. The issue, at first glance, seems straightforward and without complication: an outlay occurs whenever the federal government makes a payment of funds. the issue, however, is not whether a payment constitutes an outlay, but how outlays are computed for budgetary purposes. It is in the counting of outlays that difficulties abound."[36]

Beyond counting what should be included is the question of how to estimate what revenues and expenditures will be in the future. Yet the amendment depends on achieving balance for future and not for past years.[37] Evidently it is advisable to look at the mode of calculation proposed by the amendment's sponsors.

Definitions of receipts and outlays, revenue and expenditures in laymen's language, are left to the committee report, which specifies them in considerable detail. But what happens if receipts fall short of those specified in the statement? Nothing, necessarily. Only if actual statement outlays exceed actual outlays are Congress and the President mandated to reduce real outlays, unless they have specifically voted to unbalance the budget. How, then, is the amendment to be enforced if, as expected, there are differences over estimates?

Let us take a step back and ask first whether definitions or receipts and outlays are likely to prove troublesome? My answer would be, "Yes for receipts, which matter less, than for outlays, which matter more." The growth of national income refers to the prior year and estimates will be quite close to actual by the time Congress adopts its statement of receipts and outlays. Differences over what does and does not count as an outlay will arise but definitions in the committee report are sufficiently specific to keep the amounts involved within tolerable limits. Who will decide? The amendment and the report are quite clear on that: the Congress and the President will decide when they propose and adopt the required statement. As the committee blandly comments,

"Because the amendment statement looks to the future, a future necessarily shrouded in some measure of uncertainty, reasonable men may disagree as to the proper amounts or receipts and outlays to be expected. As a practical matter, a Congressional majority will be the final arbiter among the estimates. At most, this majority can be charged with adopting better rather than worse estimates of receipts and outlays for the coming fiscal year."[38]

If Congress is the arbiter of estimates, what happens if it fails to act reasonably and who is to say what is reasonable?

The major objection to the amendment (other than spending and tax limits themselves) is that it will make the judiciary the supreme arbiter of spending, a role for which it is wholly unsuited, thus bringing both Congress and the courts into disrepute. As Lane Kirkland, then Secretary-Treasurer of the AFL-CIO, expressed his concern;

"Second, these proposed amendments would indirectly grant broad, sweeping new powers to the judicial branch. What if the Congress fails to provide for a balanced budget? Could the Members be sued, or jailed for contempt? Could a court determine how to achieve a balanced budget? Would the Supreme Court take over the Congress until it met its constitutional responsibility? Who would enforce such a provision?

"These are questions without answers, because even the sponsors have no idea as to how the courts would rule. That's part of the problem with political expediencies and simplistic solutions, the questions they leave unanswered are often more complicated than the original problem."[39]

In response, the majority of the Judiciary Committee supporting the amendment expressed a novel doctrine—the amendment would enforce itself. Though some members were leery of a lack of judicial self-restraint, they felt the courts would stay away so they would not be stung by this hornet's nest. Private parties and individual legislators, the Committee report stated, would lack standing to sue.

In order to leave interpretation in the political process, the committee deliberately decided not to prohibit or encourage judicial review. Here are its own words on the meaning of silence about enforcement:

"It is difficult to conceive of workable and enforceable judicial decrees or orders being issued with respect to controversies under Senate Joint Resolution 58 that would not involve the judicial branch in matters of budget policy that are clearly within the primary authority of either the legislative or executive branches of the national government. It is doubtful that the courts would relish, or that Congress would permit, the Federal judiciary to issue the kinds of orders and decrees, and maintain the kind of continuing oversight to ensure the effectiveness of these orders and decrees, that

[31] Spokesman for the National Cattleman's Association, who took an active part in drafting the amendment, gives the rationale for using a super-majority rather than defining an emergency on page 347 of the Hearings. (Hearings Before the Subcommittee on the Constitution, op cit.)

[32] Hearings, op cit., pp. 174-75.

[33] Ibid., p. 524.

[34] Ibid., p. 529.

[35] Ibid., p. 62.

[36] Ibid. p. 65.

[37] Ibid. p. 62, 65, 67.

[38] Report of the Committee on the Judiciary, p. 45.

[39] Hearings, op cit., p. 190.

would be necessary in matters of budget policy that are clearly within the primary authority order to ensure compliance with the proposed amendment.

"In summary then, while the Committee has chosen consciously not to prohibit judicial review altogether of "cases or controversies" arising in the context of the proposed amendment—in the belief that the most serious and unambiguous violations of its provisions ought to be subject to external check—it nevertheless is expected that the amendment will be largely self-enforcing and self-monitoring. First, Congress and the President each are expected to establish appropriate procedures for complying with the amendment; second, Congress and the President each are expected to monitor the actions of the other branch and, to the limits of their authority, enforce the provisions of the amendment against the branch; and, finally, the public is expected, and will be in a superior position, to monitor the actions of both of these branches of government and, where they fall short of complying adequately with the provisions of the amendment, enforcing it through electoral means. Only as a final resort and only under the most compelling circumstances (as for example, when the practices of either the Congress or the Executive undermine the ability of the amendment to be self-enforcing), is there anticipated to be a significant role for the judicial branch.[40]

What these "compelling circumstances" might be, short of refusing to submit the required statement of a balanced budget, or vote to override it, is difficult to imagine.

In other words, an amendment designed to correct a political fault is to be left to be enforced by those committing it. Is this a self-defeating idea or a self-reinforcing concept in which politics depends on itself?

A good way to see how the new budgetary system might work is to ask how it would most likely be abused or avoided. Tax expenditures and regulations imposing costs on the private sector are used to an inordinate degree under the old system, so that the amendment could not appreciably worsen the situation. A better test would be the use of distorted estimates in the congressional spending statement.

There are only two ways to go in using estimates for strategic purposes: one can estimate receipts or estimates much higher or lower than one "reasonably" expects them to be. But I shall show that the amendment is cleverly constructed to prevent "budget busters" from doing this to their advantage. Estimating revenues too low would serve only to force statement receipts down, which would be counterproductive for those desiring higher spending and bigger government. Estimating receipts higher than expected would be a purely paper transaction because, by itself, it would have no effect on outlays, which the amendment limits to the proportionate growth of national income. Raising spending requires more than a higher estimate of revenue; it requires a majority vote to raise the spending norm.

Turning to the other side of the budget equation, estimating outlays lower than expected would be a conservative and not a liberal strategy: it would lower not only this year's spending but future spending as well. Providing estimates of outlays for greater than expected is doubly defeating: once because overriding the amendment's limit requires a vote specifically for that purpose, and once again because lower actual outlays not mere estimates provide a lower starting point for the following year's expenditures. Though marginal increases in spending might be managed by high revenue estimates and by less inclusive definition of outlays, these devices are too limited to defeat the purposes of the amendment.

In order to gain advantage, depending on how one views the size of government, it is necessary to manipulate not one but both sides of the budgetary equation. Estimating receipts and outlays far higher or lower than would be reasonable balances the budget on paper. No one is advantaged because everyone is revealed to be unrealistic without accomplishing a strategic purpose, i.e. lowering or raising the real level of spending and taxing. Supporters of smaller government may wish to be on the high side of spending and on the low side of taxing, thus, their expectations are borne out, allowing for a surplus. This approach is good for budget balance but not, however, for smaller government. As the committee report tells us, "Actual outlays must not be greater than statement outlays."[41] The Congress and the President are required to keep spending within the limit of the statement figure on outlays, not to estimate accurately. The higher the outlay figures, regardless of the receipts figure, the higher actual spending is allowed to go. Hence, the best (and only) strategy for the small government side is to keep the figure on statement outlays as low as possible. If they actually vote a lower total, and Congress and the President keep to it, they get a bonus, because those outlays become the base against which all percentage increases in the future are calculated. As the committee report says, "Specifically, a fiscally frugal Congress may adopt statement receipts which are less than the maximum permitted under this section by a simple majority of those voting on the statement adopted pursuant to section 1. Such a smaller than proportionate increase in statement receipts then would become the base for statement receipts in the subsequent fiscal years and, by linkage, to all future fiscal years."[42]

Similarly, the only successful strategy for the larger government side is to vote the highest possible statement outlays (with receipts to match). Thus they must get constitutional congressional majorities plus the President to agree to higher outlays. In order to avoid the three-fifths requirement for unbalancing the budget, the large government forces may wish to estimate receipts as higher than they actually turn out to be. Conversely, small government spokesmen will claim that receipts will be lower than contemplated, thus triggering the three-fifths super-majority.

The descriptive rule for understanding the prescriptive budget strategies is this: outlays involve struggles over postulates—How large should government be?—whereas receipts involve struggles over estimates—How large or small shall Congress say planned receipts will be? Obviously, if one side or the other commands a three-fifths majority, it can work its will. If low spenders command an ordinary majority, they can impose their ceiling on spending up to or below the growth of national income. The amendment is meant to be biased in giving advantages to the small government side to make up for the disadvantages its supporters believe to be imposed by the existing political structurte. They assert that

". . . what Senate Joint Resolution 58 seeks to achieve is the elimination of a structural bias within our political system that has arisen through the confluence of growing interest group power and the abolition of the historical balanced budget constraint upon national fiscal policy. It does not mandate a particular economic policy outcome; it simply attempts to effect a more neutral environment within which budget decisionmaking can occur—an environment in which the self-interest of factions does not necessarily produce policy results at variance with the 'interests of the whole.'"[43]

So much for strategizing; there is still the real world in which statement budget balances may be revealed for what they could turn out to be—empty promises made worse by apparent constitutional sanction. What is there to stop a determined President and Congress from unbalancing the budget while promising on paper to do so or allowing spending to exceed the ceilings it has itself established (on paper, of course)? The amendment's sponsors give a political answer to a political question:

"While there may be no sanctions expressly contained in Senate Joint Resolution 58 for the violation of any particular provision, it must first be recognized that Congress and the President are expected to act in accordance with the Constitution. Both Members of Congress and the President are obligated to take oaths of office that require compliance with the Constitution. Thus, in summary, it is the Committee's view that: (1) the language and the intent of Senate Joint Resolution 58 are clear; (2) Congress and the President are to abide by this language and intent; and (3) where necessary, Congress is to enact legislation that will better enable the Congress and the President to comply with the language and intent of the amendment.

"In addition, Senate Joint Resolution 58 is designed to promote its own enforcement through the political processes. By establishing a focus upon two or three critical votes each year relating to aggregate levels of taxation and deficits in place of the present diffuse focus upon hundreds of individual spending measures, Senate Joint Resolution 58 is designed to enable the electorate to better identify those members of Congress most responsible for higher levels of spending, and taxing, and deficits. To the extent that the amendment succeeds in creating a more useful flow of political information to the electorate, and this is a major objective of the amendment, it will be enforced most effectively at the polls every other November."[44]

Is this a believable response?

Compared to the prior proposed expenditure limitation amendment, S. J. 56, I consider that the balanced budget amendment would be somewhat less efficacious in accomplishing its substantive purposes. The spending limit amendment is simpler, less economically restrictive and more stringent on spending.[45] Its two-thirds super-majority

[40] Report of the Committee on the Judiciary, pp. 65–66.

[41] Report of the Committee on the Judiciary, p. 48.

[42] Ibid., p. 50.

[43] Report of the Committee on the Judiciary, p. 31.

[44] Ibid., pp. 61–62.

[45] See Aaron Wildavsky, *How To Limit Government Spending*, op cit.

to spend more than the percentage increase over the prior year would be much more difficult to override. And by now we know (viz. the discussion of strategies) that *it is the spending limit not the revenue provisions* of a balanced budget amendment *that are binding*. There is little reason, moreover, so far as I can see, for insisting on a balanced budget during an economic downturn. It is not an occasional unbalanced budget at an appropriate time that is worrisome but a perpetual string of deficits, a syndrome that would be ruled out effectively by spending limits under which revenues grow faster than expenditures.

But the balanced budget amendment does have one enormous advantage over the spending limit—political popularity. The idea of the balanced budget is overwhelmingly popular with all segments of the electorate, including liberals and minorities.[46] Should the amendment receive the necessary two-thirds majority in Congress (it is near that in the Senate but not yet in the House), its chances of approval by two-thirds of state legislatures are excellent.[47]

The persistent popularity of the balanced budget idea throughout American history, as well as its overwhelming current fevor, lead me to conclude that it is more likely to be enforced than would spending limits, for enforcement requires (a) favorable and lasting popular sentiment, (b) favorable officials inside the system and (c) favorable interest groups outside. Any observer of American politics would, I believe, conclude that spending limits alone are less likely to achieve the continuing support necessary for carrying out the spirit of the amendment that when they are folded within a balanced budget amendment. The opponents of the amendment are quite right in claiming that unforeseen contingencies must arise. That is why continuing political support is so important. Using the same reasoning, I reach the opposite conclusion: a balanced budget amendment is likely to be implemented with fidelity under new circumstances because many more people in and out of government will retain an interest in seeing that this is done. If, on balance, politics beats economics, that is the way it should be, since it is not merely a debate about current policy we are having but a constitution to live under we are contemplating amending.

[From the Wall Street Journal, Nov. 24, 1981]

THE BREAKDOWN OF THE BUDGET PROCESS

(By Norman J. Ornstein)

The federal government came to a screeching halt on Monday after days, nights and early mornings on Capitol Hill of bickering, compromise and, finally, a presidential veto; so too did the once proud and vaunted congressional budget process. Created in 1974 to let Congress assert its constitutional prerogatives and get control of the government's unwieldy pursestrings, the Congressional Budget and Impoundment Control Act looks like a lemon in 1981.

Constitutional prerogatives? Congressmen have spent the past 10 months letting President Reagan use their process to run roughshod over Congress' most preciously held powers of the purse. Control of the process? For the first time ever, the entire federal government was stopped by a funding failure—seven weeks into the fiscal year, not a single appropriation bill had been sent to the President for his signatuure, and the embarrassing prospect has been raised of going the full year on a temporary, or continuing resolution.

The congressional budget vehicle is still new, as reforms go, so it is worthwhile to review how and why it has fallen so far, so quickly.

There were many reasons for Congress to attempt to reform its budget process in 1974, but the main one was Richard M. Nixon.

ASSAULT ON CONGRESS

Congress was moved to change its fundamental ways of doing business for several reasons. First, it saw in Mr. Nixon a frontal assault on congressional powers in general, with the budget powers being nearest and dearest to Congressmen's hearts. Second, they saw Nixon attacking with blunt, powerful and unfair weapons—especially his use of impoundment beyond any precedent. Third, Congress—a liberal, Democratic Congress—saw President Nixon engaging in a radical attempt to use the budget process to overturn and subvert *its* priorities in social programs and domestic policies, and replace them with his own.

Beyond Nixon, there were other underlying reasons for Congress to contemplate budget reform.

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Building a budget on appropriations blocks had thus become more complex and more difficult; and, it was taking more time. Since at least the 1950s, Congress had trouble finishing its budget cycle between January, when the President's budget was submitted, and July 1, when the fiscal year began. The difficulty worsened by the early 1970s. Between 1972 and 1974, not one appropriation bill was enacted on time.

For all these reasons together (and with the additional impetus for reform provided by Watergate), Congress acted in 1974. Feeling itself fragmented, decentralized and too underinformed to withstand for long presidential assault, its budget-reform act that year sought to bring more coherence and centralization to the budget process.

New House and Senate committees were created to oversee the appropriations and revenue processes. A Congressional Budget Office was created to put Congress on an equal information footing with the OMB-equipped White House. Smarting from the Nixonian impoundment brouhaha, Congress passed new restrictive rules on presidential recissions and deferrals. Concerned about the growing demand for a more static supply of funds, Congress sought to build a more meaningful priority-setting mechanism: There would now be two budget resolutions, an early, advisory one, and a subsequent binding one, with a final reconciliation process to tie together loose ends. Aware of the growing delays in the process, Congress changed the fiscal year from July 1 to October 1 to give itself three more months to work things through.

The first two years of Congress' new process showed great promise. In the first full year of implementation, 1976, all regular appropriation bills were passed by the start of the fiscal year, October 1.

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By late 1979, however, signs of strain were everywhere.

Stagflation had moved from being jargon used at conferences of economists to a term of daily conversation. Jimmy Carter, a Democratic President, clashed over priorities with a Democratic Congress. Moreover, the balance of power in Congress was slowly shifting in a conservative direction after a period of liberal dominance in the mid-1970s. The still assertive Congress used its new budget weapons, especially the CBO, to rebuff presidential demands and challenge presidential economic projections and assumptions, creating one stalemate. Fights over priorities inside Congress stretched decisions and broke budget deadlines, creating yet another deadlock.

In 1980, unable to pass *any* budget on time, Congress for the first time used the "reconciliation" feature of the budget act, applying it to the first budget resolution (no second resolution passed). This limited device had little effect, except to highlight the inability of Congress and President Carter to agree on a budget. The fiscal 1981 budget was never completed. After five years, the reformed budget process appeared to provide the worst of both worlds: a firm roadblock against the President's power, and no improved Congressional alternative.

With the inauguration of Ronald Reagan, the whole process was turned upside down. A popular new President, elected in a landslide, focused on a single priority—budget reduction—with the public enthusiastically behind him, and with a changed Congress in disarray.

But early, sweeping Reagan victories have now turned to deadlock and delay worse than in 1980. Why?

The budget act did not totally change congressional structure.

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Mr. Reagan's victories were on the first budget resolution and reconciliation for fiscal 1982–13 separate appropriation bills still had (and remain) to be passed, along with a second budget resolution, to complete action on the 1982 budget. President Reagan's creative use of the process speeded up part of it but also, in many ways, delayed the normal appropriations timetable. This was worsened considerably by Mr. Reagan's second round of revised cuts in September.

WOUNDED PRIDE

Moreover, the budget process is only a vehicle for enforcing consensus. As Allen Schick comments in his masterful book "Congress and Money," budgeting is "the containment and resolution of conflict. A budget process is the routinization of choice; it consists of a repertoire of strategies to nudge the participants toward consent." The new process created a new repertoire, which forced an unnatural consensus on difficult choices in a handful of early votes. But, importantly, no consensus exists in Congress today on the specifics of the new direction of national policy, especially on painful budget cuts.

The President's masterful reversal of the intent of the budget act has deeply wounded congressional pride. Congress as an institution—especially in the eyes of its Democratic leaders—has been assaulted and humiliated (shades of Richard Nixon!). Their recourse is to resort to guerrilla tactics.

If there is a lesson in all this, it is not to return to the drawing board to create a Budget Act of 1982. Structural reforms alone won't work. As in the 1974 act, the un-

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[46] See the assortment of poll results reported in the Report of the Committee on the Judiciary, op cit., p. 13, where support from 1978-1980 ranges from 65 to 81 percent.

[47] In view of the length of this paper, I have omitted consideration of the amendment's provision designed to keep states whole. The present provision has divided the committee and a new one is contemplated. State support might depend on whether state governments feel adequately protected.

intended consequences will inevitably outweigh the expected ones. The problem is rooted in a painful rift over spending levels, spending priorities and political philosophy. Until a new consensus emerges in these areas, expect the delays and the deadlocks in the budget process to continue.

[From the Wall Street Journal, Feb., 4, 1982]

THE CONSTITUTION AND FISCAL REFORM

(By James Dale Davidson)

Alaska's legislature recently called for a constitutional convention to draft a balanced budget amendment. This was not merely a daydream resolution of the sort states sometimes adopt calling on Congress to find a new tune for the Star Spangled Banner or to make corn the national vegetable.

Under Article V of the Constitution, Congress must call a convention when two-thirds of the state legislatures petition it to do so. Alaska was the 31st state to officially act; the first since Ronald Reagan was elected. If three more states act, Congress will have no choice but to propose an amendment itself or stand aside while a convention drafts a stronger one.

The threat of a convention call is probably the only real power which the states retain over the federal government. Because this power is real, many legislators have been reluctant to use it. They have feared that Congress would retaliate for being nudged in an unwelcome direction by using some of its many real powers over the states.

The largest of these has been the power of the purse—which was quite effectively dangled before legislators when the constitutional convention movement gathered momentum during the last years of the Carter administration. Several states which had been poised to join the convention call stopped short when word came that Washington intended to retaliate by slashing revenue sharing and reducing public works expenditures in the offending states.

THREAT AND PERSUASION

The anti-convention lobbying, coordinated through Vice President Mondale's office, also had a gentler side. State legislators were promised that Mr. Carter would bring the deficit under control. They were told, in effect, "Give us a chance." The cause of the deficit was really just the OPEC oil price increase. A passing phenomenon. And besides, the congressional budget process was beginning to work. Or so they said. This combination of threat and persuasion worked.

The threats ended when Mr. Reagan assumed office, but state legislators continued to be cautious about employing the convention call. Although six states went half way to acting in 1981, and final passage failed by only a few votes in Missouri and Washington, the number petitioning for a convention remained stuck at 30. The legislators, like the country at large, hoped that the new Reagan administration would prove that constitutional reform was unnecessary—by bringing the budget under control and eliminating the deficits.

But as the vote in Alaska demonstrates, the mood in the legislatures is changing. There is nothing in the record of the last year to encourage an estimate that the federal budget will soon be balanced. Or that it will ever be balanced. Every economist who cares to hazard a guess about federal spending in the years to come is projecting deficits at ever higher levels. By 1986, there could be as much as $300 billion in red ink. Even if such estimates are grossly exaggerated, they still point to chronic fiscal imbalance. More evidence for those of us who believe that Washington's budget dilemma will not be solved without constitutional reform.

This is a view that members of the legislatures have been quicker to grasp than have many opinion leaders and economic experts. Perhaps this is because, as legislators, they face some of the same pressures to spend that bedevil Congressmen. These pressures have little to do with ideology. They arise from the basic dynamics of the legislative process. Politicians are rewarded for spending on behalf of small, organized constituencies at the expense of the large and unorganizable body of citizens. A program that takes a dime from every taxpayer could yield thousands of dollars to every member of a small group. That group will work hard to gain and keep the money. No one will work hard to save a dime. From this imbalance of incentives ever-rising government spending has resulted.

Some proponents of tax reduction have fallen into the trap of arguing that "deficits don't matter" because some big spenders want to make rate adjustments contingent on the size of future deficits. What this misses is the fact that the deficits have grown, not because of tax reductions, but because of the inexorable growth of spending. Mr. Reagan's 1983 budget will show that the percentage of national income spent by the federal government has not been reduced. Nor has the percentage of income taken in federal taxes declined. All the nominal tax reductions have achieved, for most taxpayers, is to offset plannd increases in taxes. In short, current and projected deficits reflect the inability of Congress and the administration to curtail spending growth.

This is exactly what Budget Director David Stockman warned of in his prophetic pre-inauguration memo to Mr. Reagan. Mr. Stockman knew that the danger to the administration's economic program would come on the spending side. He warned, accurately, of a repeat of the 1980 credit crunch, and a "Double-Dip Recession" if the administration could not produce "a believable plan for curtailing the federal government's massive direct and indirect credit absorption." As he warned, failure to curtail the deficit "would almost ensure that high interest rates would hang over the economy . . . deadening housing and durables markets and thwarting the industrial capital spending boom required to propel sustained economic growth."

Mr. Reagan tried and failed to achieve credible spending reductions through ordinary political processes. He made a gallant effort, but the federal government continues to grow. If he couldn't succeed in cutting outlays, who can? The likely answer is no one can. The job is undoable. The only way spending growth can ever be curtailed is by constitutional amendment.

That's why those who favor curtailing the federal appetite for the nation's resources should unite in support of constitutional reform. A soundly drafted amendment could not only keep the federal government out of credit markets, it would also help increase the incentive effect of any given tax reduction. Investors and other citizens would face lower interest rates. This would increase the capitalization of any given asset. Without deficits there would be less likelihood of expansionary monetary policies by the Fed. This would mean less inflation, implying a longer investment horizon.

A constitutional amendment would help insulate the marketplace from political shocks by making it more difficult for future administrations to casually undo the fiscal reforms that have proven so difficult to achieve. Because Congress could not raise taxes without a direct and explicit supermajority vote, there could be no more bracket creep. The federal portion of national income would be limited.

A MORE CREDIBLE SIGNAL

An amendment mandating a balanced budget and limiting taxes would not only be a more credible signal that the federal government could maintain spending discipline, it would also, therefore, help reduce expenditures. Interest charges on our trillion dollar debt are now a significant item in the budget. Interest rates today are higher than they might be otherwise because there is a widespread expectation that future federal deficits will be too great to be accommodated politically with a tight money policy. An amendment would change that expectation.

Not just American politicians, but all politicians have failed to reduce government spending through ordinary political processes. Except on a temporary basis at the end of wars, no Western nation has yet succeeded in slashing the government budget. If the Reagan program were to succeed in this respect, it would be the first to do so.

Instead of attempting to fashion political miracles, the President and his advisers should employ their scarce opportunities to implement lasting reforms. That means reshaping the budgetary process so that we have fiscal responsibility in Washington as a matter of course and not as a kind of heroic exception. The way to do that is to enact a balanced budget-tax limitation amendment to the Constitution.

THE BALANCED BUDGET AMENDMENT (S.J. RES. 58, H.J. RES. 350)

INTRODUCTION

Fueled by a grass-roots movement for fiscal restraint, a balanced budget and tax limitation amendment to the U.S. Constitution is gathering momentum in both Congress and the state legislatures. Since 1960, the federal budget has been balanced twice, while deficits in the same period have accounted for over half of America's total national debt now exceeding $1 trillion. Federal spending rose from $92 billion in FY 1960 to over $650 billion in FY 1981, an increase of over 700 percent. These statistics rightly lead to doubt of Congress' ability to conduct sound fiscal policy within the present budget process, giving impetus to the present drive to use constitutional means to restrain spending.

The Constitution can be amended in two ways. The first is the process that has been used to adopt every amendment since the original document—through a two-thirds vote by both houses of Congress followed by ratification by three-fourths of the states. The second is for two-thirds of the states to call a Constitutional Convention for the purpose of adopting an amendment—which then must be ratified by three-fourths of the states.

Proponents of the balanced budget amendment are using both methods. Thirty-one states have adopted resolutions calling for a convention, only three short of the necessary number to convene a convention; this is having the effect of forcing congressional action on the issue. Identical bills

before the Senate (S.J. Res. 58) and House (H.J. Res. 350) are expected to be acted upon during this session of Congress in order to avert a convention. President Reagan, in an April 29 nationwide television address, urged passage of an amendment, stating "Only a constitutional amendment will do the job. We've tried the carrot and failed. With the stick of a balanced budget amendment, we can stop government's squandering, over-taxing ways and save the economy."

While the amendment before Congress raises some serious questions, it does address the major problems inherent in America's budget process—the bias toward ever higher levels of federal spending and the lack of political accountability for either the use of deficit spending or automatic tax increases. It is not a quick remedy for all economic problems, but would favorably alter the method by which budgets are made.

BACKGROUND

Balanced budgets were part of America's "unwritten Constitution" from the nation's infancy until the onset of the Great Depression and the Keynesian revolution in economic thought in the 1930s. Nearly universally accepted was the maxim that the nation should live within its means. Though massive debts accrued during both the Civil War and World War I, surpluses returned as the norm. Budgets were formed not on the basis of desired expenditures, but on the basis of the expected revenue for that year. This linkage between spending and revenue, coupled with the longstanding belief that public debt is an evil, constrained Congress from spending more than the nation could afford.

This philosophy remained dominant until the 1930s, when revenues dropped sharply and massive spending for public relief began. Keynesian economic theory, which calls for deficits during periods of high unemployment and surpluses when there is inflation, became widely accepted. Manipulating the budget, it was felt, could counterbalance the business cycle. This seriously challenged the tradition of a yearly balanced budget. Additionally, widespread support for government involvement in social services led to the vast government spending that continues today. In 1930, public expenditures accounted for three percent of the GNP; today the figure is twenty-three percent.

The acceptance of a countercyclical budget policy with increased government involvement in social welfare coincided with fundamental political changes. The public started looking toward Congress and the federal government to provide increasing services, thus making the provision of constituent services a major requisite of every Congressman's tenure. As political parties have declined in power, pressure has increased on Congressmen to provide for their districts, since the attention has swung to each individual member's record. Thus, Congressmen try to keep their districts happy and themselves in office. The result has been massive boosts in spending in times of both recession and inflation—a practice that fatally violates Keynesian precepts. It is the inability of Congress as an institution to control the spending habits of members as individuals that has spawned the current crusade for budgetary reform.

THE AMENDMENT

The bills before the House and Senate state:

Section 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are not greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directly to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

Section 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

Section 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

Section 4. The Congress may not require that the states engage in additional activities without compensation equal to the additional costs.

Section 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

Section 6. This article shall take effect for the second fiscal year beginning after its ratification.

Sections 1 and 2 are the critical parts of the amendment. The first section in essence requires a balanced budget each year, unless three-fifths of Congress goes on record as endorsing a specified deficit. A deficit can also occur if actual receipts fall below expected receipts, which would normally be the case during a recession.

While Section 1 requires a balanced budget, Section 2 limits the growth in revenues to the rate of growth in national income. Thus, if GNP rose three percent in a given calendar year, tax receipts could not rise by a greater rate than that in the next fiscal year. Combining the two provisions, the amendment limits the growth in national income. The end result is a double-barreled restraint on the federal government's propensity to spend beyond its means: 1) a balanced budget and 2) controlled growth in federal outlays.

These restrictions would result in major changes in the budget process that could have widespread effects on our political system. The consistent use of deficit spending over the past two decades has allowed Congress to resort to deficit spending and inflation-driven bracket-creep without having to cast a politically difficult vote. This has barred the electorate from being able to place responsibility on individual members of Congress; in effect the electorate has been denied an effective voice in the budget process. This makes Congress very vulnerable to interest-group pressure.

Without a spending limitation, members of Congress can accommodate one spending interest and gain political capital without reducing other spending programs and facing political disadvantages. The political costs of excessive spending are deferred, resulting in high inflation (if the debt is monetized), huge deficits, and higher taxes, while the political benefits of the spending are immediately appreciated by those affected by the program and the Congressmen who support it. By the time the negative effects are visible, it is possible that those responsible for the harm may have already left office. A similar process occurs through the progressive tax structure, because inflation and economic growth automaticaly generate more revenue without the need for a potentially unpopular tax increase.

Taxpayers are the losers under the present system. Unlike the pressure groups, the taxpayers are woefully unorganized and have varying interests. When programs are examined on an individual basis, the cost to each taxpayer is barely noticeable, but when the costs of all the programs are added, the impact is severe. The requirements of balancing the budget and limiting the growth in spending will give the taxpayers an equal opportunity to influence spending decisions through the ballot box.

Under the amendment, Congressmen will be forced to remain aware of public opinion because the votes for deficit spending and tax increases will be votes directly on those issues. This should result in an examination of priorities when programs are considered. The spending limitation will force Congress to make choices, which should lead to more efficient government. Congress deems it necessary to spend more than what is expected if in receipts for the year, it has the option of voting for either a stated deficit or a tax increase. Members of Congress can be defeated at the polls on the basis of their votes for either deficit spending or tax increases—or they can be defeated for their unwillingness to use these measures when it is deemed necessary by the public.

The second section of the amendment establishes a relationship between the growth in receipts and the rate of growth in national income. This creates a budget process that is in part countercyclical. The twenty-one month lag between the midpoint of the calendar year that governs the increase in national income and the midpoint of the fiscal year could cause receipts to grow more rapidly than fiscal year national income during periods of recession, moderating downturns in the economy, and to grow more slowly during expansionary periods, reducing inflationary tendencies.

Section 2 also opens the possibility that government spending as a fraction of national income will decline. The tie between the rate of growth in national income and the rate of growth in receipts (and thus outlays from Section 1) provides a limit on spending that can be reduced over time. Milton Friedman explains, ". . . the limit is based on a year-to-year change, and hence, if in any year actual outlays are less than the maximum permitted, that sets a new and lower base for all future increases."[1]

THE DEBATE

Opponents of the amendment contend that fiscal policy is an inappropriate subject for a constitutional amendment and that Congress can restrain itself through legislative means. Representative Jim Jones (D-OK), Chairman of the House Budget Committee, stated that "there is no substitute for pure discipline and a constitutional amendment won't provide it."[2] And Repre-

[1] Milton Friedman in "Pass the 27th Amendment," Barron's, February 22, 1982, p. 11.

[2] "Congress Ponders Budget Balancing Amendment," New York Times, April 2, 1982, p. A18.

sentative Peter Rodino (D-NJ), Chairman of the House Judiciary Committee which oversees H.J. Res. 350, concurred, explaining, "Firm political resolve is needed to control budget growth. If that will does not exist, a constitutional amendment won't help. If the will does . . . an amendment would not be needed to bring about the fiscal balance we all want." [3]

History has taught, however, that mere statutory rules do not work, mainly because of the biases toward spending that the amendment seeks to negate. Even a Congress firmly committed to budgetary responsibility faces tremendous obstacles both short- and long-term. Statutes can be repealed by Congress as easily as they are enacted, by a simple majority; and one Congress cannot dictate permanent policy to a subsequent Congress. For example, the Federal Budget Control Act of 1974 mandated a balanced budget for FY 1981. The 1981 deficit was $57.9 billion.[4] The statute that called for the elimination of automatic tax increases through bracket creep by 1985, part of last year's tax cut package, has already been targeted for deferral by the Democratic leadership. The Constitution is the only lasting restraining mechanism on government power.

Another argument levelled against the amendment is that it is inflexible. Opponents fear that it would lock Congress into a policy of restraint in recessions and emergencies. The amendment's countercyclical features will moderate recessions without congressional manipulation. And if deficits are desired, Congress can vote for them. The amendment's intent is not to prohibit Congress from incurring a deficit, but to put Congress on record when it does so.

As for the argument that Congress would have to raise taxes to balance the budget in a recession, the amendment merely requires that planned revenues and outlays be in balance. If economic conditions during the year cause actual revenues to fall below actual outlays, the terms of the amendment would not be violated. Finally, the amendment may be waived during wartime.

It is also contended that a balanced budget amendment is biased against the poor. Yet the amendment does not require cuts in existing services, it only limits the growth in federal expenditures. Nor does the amendment dictate how the available revenue is to be spent. Congress is expected to act responsibly, and will be more likely to do so when the budget process is opened by the amendment to more public scrutiny.

The major weakness of the amendment is its lack of a strong enforcement mechanism. The only stated provision for enforcing it is that "The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement." This stipulation is vague and leaves much room for bypassing the amendment's intentions. If either the Congress or the President ignore their responsibilities, it is extremely doubtful that the amendment could be effectively enforced through the court system. The Senate Judiciary Committee Report stated:

"It is the view of the committee that the role of the Federal Judiciary in reviewing compliance with the proposed amendment will be sharply limited—by both the Constitution and past judicial practices—for the following reasons: (a) there would only rarely, if ever, be "standing" in any individual or group of individuals to challenge alleged breaches of the amendment; (b) even if such "standing" were conferred, the courts would normally treat issues raised under the amendment as "political questions" to be decided in the discretion of other branches of government; and (3) [sic] it is questionable that the courts would find most issues arising under the amendment to be "justiciable" in the sense of presenting the kind of "case" to which the judicial power attaches under Article III of the Constitution."

However, the Report also states that "while there may be no sanctions expressly contained in Senate Joint Resolution 58 for violation of any particular provision, it must be recognized that Congress and the President are expected to act in accordance with the Constitution." [5] While this statement might sound obvious, it nonetheless is extremely important. The nation's leaders are sworn to uphold the Constitution's provisions. While statutes can and have been ignored by lawmakers, the Constitution cannot. Because the amendment forces Congress to focus on a few key votes for deficits and tax increases, the ballot box can be used in some cases to deal with violators. Additionally, Congress is free to enact any new law that it deems necessary to enforce the amendment, though two commonly mentioned possibilities, increased presidential impoundment powers and a line-item veto are unlikely to be passed by Congress.

Unfortunately, there are numerous ways in which compliance of the amendment can be achieved while violating its intentions. Though no distinction is made between "on budget" and "off budget" outlays, "regulations, government-sponsored, privately owned corporations and other devices can be used to re-allocate resources as effectively as spending and taxation. As such activities escape the modicum of control imposed by current budget processes, they are more likely to run wild." [6] The possibility that resourceful Congressmen and bureaucrats would use these means is real, and they could seriously hamper the amendment's effectiveness.

CONCLUSION

It is clear that the American budget process is seriously deficient. It is also apparent that the public is concerned about federal spending and is willing to use constitutional means to change the system. In a September 1981 Gallup Poll, 67 percent of those surveyed favored a constitutional amendment to balance the budget and restrict spending; only 19 percent were opposed. This support cut across traditional political lines. The ultimate question, then, is not whether a constitutional amendment should be adopted, but whether this is the best one possible.

S.J. Res. 58/H.J. Res. 350 possesses economic and political virtues vital to the health of the American system. The elimination or sharp reduction in deficit spending and the limitation on spending will reduce inflationary monetary policies and allocate more financial resources to the private sector. The provisions that would force open votes in the Congress on deficit spending and tax increases will significantly reduce the budget process' bias toward spending by increasing individual accountability. The Amendment, moreover, provides enough flexibility to allow for the smooth running of government, as well as political disincentives to prevent violation.

While the amendment does not guarantee that the budget will be balanced by the end of the year, it at least gives the public more voice in the budget process. A government that continues to expand without restraint is a government that chokes off the private sector. To prevent this, the federal government needs imposed discipline. This is just what the balanced budget amendment will provide.

[From the Washington Times, Mar. 8, 1982]

AMENDING THE SPENDING

(By William Murchison)

Lewis K. Uhler grins the grin of a man whose moment in history has clearly come. Here's the nation, recoiling from projections of record federal deficits in the coming fiscal year, as well as in the next few years after that. And here's Uhler, explaining confidently, lucidly, patiently, how to keep this sort of thing from happening again.

The way to do this—I am paraphrasing Uhler's confident, lucid, patient exposition is to adorn the U.S. Constitution with the Tax Limitation/Balanced Budget Amendment.

These are not happy times for proposed constitutional amendments. The ERA is on its last legs, the ratification deadline coming up fast. The congressional-representation-for-Washington, D.C., amendment approved by Congress in 1978, sinks in legislative quicksand.

NOT SINCE '71

Anti-busing and anti-abortion amendments still germinate in Congress' womb. As for the once-famous school prayer amendment, only prayer could resurrect it now. Not since 1971, in fact, when 18-year-olds won the right to vote, has any amendment been subjoined to the constitutional text.

None of which distresses Uhler, a natty California attorney who has toiled for 10 years to limit government growth and now heads the National Tax Limitation Committee, a grassroots group of 500,000 members. The urgency of the other amendments, most of them, could be deemed marginal. Uhler's amendment, says Uhler, is urgent indeed. Or don't we read the papers attentively?

The amendment, revised to meet objections, would junk the present ineffective budget machinery, installing new equipment. Congress would have to come up with a budget under which total outlays—including "off-budget" items—matched total expected receipts. A three-fifths majority of each house could meet a specific emergency by voting "a specific excess of outlays over receipts" for that sole purpose. This answers past criticisms concerning the amendment's "inflexibility."

The amendment gets even better as you read: Section 2 provides that "total receipts for any fiscal year . . . shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year"—unless, again by three-fifth majorities, Congress says otherwise.

What you have here is double-barreled assurance. Spending can't exceed taxes. And taxes can't rise faster than the national income. All this assumes a Congress that will not, with malice aforethought, wreck

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[3] Ibid.

[4] Budget of the United States, Fiscal Year 1983.

[5] Report of the Committee on the Judiciary, United States Senate on S.J. Res. 58, Report No. 97-151, July 10, 1981 (Government Printing Office, Washington, D.C.), p. 61.

[6] Rudolph G. Penner, "The Nonsense Amendment," New York Times, March 28, 1982.

the process by piling exceptions as high as the Capitol dome. To be sure, if such a Congress ever convenes, we are in trouble on more counts than one.

What of the amendment's immediate prospects, then? Uhler thinks them splendid. The Senate Judiciary Committee last May approved the amendment 11-to-5. When last I heard, the amendment had 53 Senate co-sponsors. A vote by the full Senate is likely this spring.

Meanwhile, in the House, 150 cosponsors are pushing the amendment—concerning which Speaker Tip O'Neill, D.-Mass., is predictably unenthusiastic. A discharge petition may be needed to get the amendment out of committee.

TIME IS RIPE

Yet, Uhler is surely right: The momentum is on his side. Where is the point, where the consistency, in yowling about the Reagan deficit, then rejecting the measure likeliest to bring deficits under control? It is an election year. What a splendid campaign issue the amendment could become, wielded with the power of a neutron bomb against those who assert Congress' inherent right to the taxpayers' money.

Some haughty constitutionalists—a few, alas, style themselves conservative—proclaim the inadvisability of "cluttering" up the Constitution with "junk." As if the Constitution were a chaste Georgian parlor instead of the living law of the land, designed by the framers to accommodate the people's changing needs!

When something works, you leave it alone. But when it doesn't work—as the budgetary process doesn't, else we wouldn't have perennial and growing deficits—then you change it.

All of which is by way of saying to Lewis Uhler: strength to your arm. And good luck.

[From the Christian Science Monitor, June 8, 1982]

SENSIBLE

(By Lewis K. Uhler)

Confronted with a public debt of more than $1 trillion, a Congress that can only agree on larger deficits, Americans are demanding that the United States government balance its budget.

Voter surveys consistently reveal that the nation's fiscal problems are of highest priority to four out of five Americans, and a full two-thirds are demanding a constitutional amendment to require a balanced budget.

This bipartisan public mandate, and the federal government's increasing awareness of it, is focusing attention on the tax limitation/balanced budget amendment (SJR 58/HJR 350), which now has the endorsement/support of more than 60 U.S. senators, 200 members of the House of Representatives and the president of the country.

The amendment would (re-)introduce into the Constitution three fiscal "norms." First, planned (budgeted) federal outlays should be no greater than planned federal receipts: that is, the Congress should not *plan* a deficit. Second, planned receipts should not grow more rapidly than the underlying general economy, that is, the burden of federal taxation should not grow from year-to-year. Third—implicit in the first two—actual federal outlays should not grow more rapidly than the underlying general economy, that is, the burden of federal spending should not grow year-to-year.

A deficit could be planned for any given year, providing three-fifths of the membership of each house agree—and vote—approving the overexpenditure. Each year that the Congress wants to spend in excess of budgeted receipts it will have to vote again.

Authority to increase taxes by more than the growth rate of the economy would be retained by the legislature—but only if it could muster a majority of the full membership of each house and concurrently pass a bill setting forth the specific new taxes necessary to finance the excess. The amendment waives the balanced budget requirement during times of declared war.

These important annual voting rules, required to violate the norm, will alert the public, spotlighting any congressional attempts to overspend or overtax beyond the amendment limits. Citizens then have the opportunity to give their blessing or objection to the proposed increases, by their voting power over Congress.

Let's take a close look at some key issues:

1. There are those who feel the basic resolution to our federal economic quagmire lies in electing "good men" to public office. Certainly we should seek the best men and women available. But the nation's economic problems are largely traceable to an institutional defect that has evolved in the way we do our political business. Even the best legislators have become overwhelmed by a massive proliferation of special interest groups. The result is "special interest budgeting" at the expense of the broader interest. All members of Congress, to one degree or another, have become captives of the congressional spending bias. Growing congressional support for the amendment is "Exhibit A" that individual legislators recognize that Congress itself cannot solve this problem but needs the assistance and discipline of a constitutional rule.

2. Some claim that the amendment represents an unwarranted constraint on Congress's power to deal with the fiscal affairs of the nation. A closer look at constitutional history reveals that the provisions of this "new" amendment simply reinstate implicit constitutional controls that governed congressional taxing and spending habits until the 1900s. With the adoption of the 16th Amendment in 1913, we gave the federal structure the resources of the personal income tax with which to expand exponentially the power and scope of Washington. Also, until the 1930s, the unwritten "fiscal constitution" dictated that budgets be balanced except in times of armed conflict. The cumulative effect of the deviation from these two fiscal norms has been a profound erosion of the Jeffersonian concept of limited federal government.

3. Others claim that Congress own directive to itself—the Budget Control and Impoundment Act of 1977—is enough to curb taxes and the federal deficit. The history of deficits since 1974 does not confirm this view. Furthermore, this argument overlooks the fact that laws passed by one Congress can be repealed by another, either directly or by ignoring the earlier mandate. Legislation requiring a balanced budget in fiscal 1981 was enacted by the 95th Congress in 1979. Actual result? A deficit of more than $55 billion. Mere legislation—or pledges by Congress to do better—are not enough. After all, mere laws control men—only constitutions control government.

4. Some speculate that Congress might avoid amendment restraints by imposing increased costs on the private sector through greater demands for regulation. While such regulation would act as an additional burden, inhibiting real economic growth, it should be pointed out that the amendment discourages such perverseness by providing Congress with a strong incentive to stimulate real economic growth. In a nutshell, they can spend more—if the economy produces more.

Without an amendment to balance America's checkbook, our legacy has been inflation, unemployment, high interest rates, excessive taxation, and recession. The $1 trillion public debt is a mortgage on our future and the future of our country's generation unborn. Americans are feeling this burden, and are demanding that fiscal responsibility be assumed by our federal representatives. The means for meeting that demand lies in the passage of the Amendment to Limit Taxes and Balance the Budget.

[From the Washington Times, May 28, 1982]

BALANCED BUDGET AMENDMENT: THE STICK AFTER THE CARROT FAILS

(By William Rusher)

New York—Thirty-one state legislatures have now adopted resolutions calling for a convention to amend the Constitution to compel Congress to balance the budget. That is just three states short of the number needed to force the convening of such a convention, and this prospect has finally scared Congress into seriously considering heading it off by adopting a balanced-budget amendment of its own. The latter then would have to be ratified by the legislatures of 38 states, but Congress itself, rather than the states, is thought to be the main hurdle.

Congress has absolutely nobody but itself to blame for the current pressure for a balanced-budget amendment. Until Keynesian economics came along in the 1930s, it was taken for granted that the federal government would not spend, in peacetime, more than it took in during a given year. But Keynesian "countercyclical spending" put an end to all that, and since 1960 the budget has been balanced only twice.

The identical bills now before the Senate and House (S.J. Res. 58 and H.J. Res. 350) would require Congress to adopt for each fiscal year a statement of receipts and outlays in which total outlays do not exceed total receipts. By a three-fifths vote of both Houses, Congress could provide for a specific excess of outlays over receipts. In addition, Congress could waive the entire requirement by a simple majority vote of both Houses in any fiscal year in which a declaration of war was in effect.

But the bills before Congress don't stop with requiring a balanced budget in peacetime. In addition, they would limit taxes. Tax receipts, under the proposed amendment, would not be permitted to increase, in any fiscal year, by a rate greater than the rate of increase in national income in the last calendar year.

Nitpickers can and have complained that such an amendment would be hard to enforce. For one thing, it is rather vague. Exactly what, for example, is the "national income"? But as Sir Thomas Browne remarked, "What song the Syrens sang, or what name Achilles assumed when he hid himself among women, although puzzling questions, are not beyond all conjecture." It is a pretty safe bet that, if Congress felt the voters' breath hot enough on its neck to generate a budget-balancing constitutional amendment, it would balance the federal budget to the satisfaction of all but the most unappeasable.

The beauty of the proposed amendment—whose chief sponsor in the Senate has been Utah Republican Orrin Hatch—is that it would focus public attention on the budget process as a whole, rather than on its component parts. As matters now stand, Congress appropriates money for one program after another, each of which is undeniably meritorious and no one of which would, in and of itself, result in an unbalanced budget. Cumulatively, however, an unbalanced budget is precisely what they add up to.

The amendment, if adopted, would force Congress to decide which programs should have priority in the light of the revenues available to pay for them. If Congress can't or won't do so, it will be up to individual members of Congress to take the very great political risk of casting their votes in favor of an unbalanced budget. And 60 percent of both Houses will have to vote that way, or not even that recourse will work.

President Reagan endorsed the concept of a balanced-budget amendment in his April 29 television address. "We've tried the carrot and failed," he said. "With the stick of a balanced budget amendment, we can stop government's squandering, overtaxing ways and save the economy."

If Tip O'Neill and his Democratic colleagues are really as thoroughly convinced of the need for a balanced budget as they profess to be, they can demonstrate their enthusiasm by seconding Reagan's endorsement.

[From the Wall Street Journal, Apr. 28, 1982]

THE CASE FOR AN AMENDMENT TO LIMIT SPENDING

(By Lewis Uhler)

The Tax Limitation/Balanced Budget Amendment (S.J. Res. 58 and H.J. Res. 350) has emerged as one of the major issues of our day. But media commentary on this profound issue is often as superficial and inaccurate as the pace of the issue's emergence is dramatic.

In the interest of enlightened debate and to correct a few misconceptions about the amendment (including some issues raised in the Journal's editorial of March 29), herewith a few "Issues and Answers":

Issue: Don't tamper with the constitutional formula established by the founding fathers.

Answer: The founding fathers, far from endorsing the fiscal environment in which we find ourselves, carefully circumscribed the taxing powers and operational scope of the federal government. Adoption of the 16th Amendment (the income tax) made a profound change in the resource base of the federal structure, and the judiciary's loose interpretation of the interstate commerce, general welfare and other constitutional clauses accommodated enormous increases in the breadth of federal activity. We need a constitutional amendment to restore, not thwart, the founders' central purpose.

Issue: Under President Reagan the current system shows signs of working and hence a constitutional solution is unnecessary.

Answer: President Reagan has provided heroic leadership in an effort to reduce the rate of federal spending and tax growth. But the honeymoon period which can accommodate the political exertions required lasts only a short while. Witness the decline in public sentiment for the President—and the renewed intransigence of the congressional big spenders who again are feeling their oats.

Issue: The amendment may be more cosmetic than substantive.

Answer: The amendment does not require an exact equality of revenues and outlays each year. However, Section 1 does require that Congress plan a balanced budget as the federal norm by requiring a statement, adopted annually by Congress, in which receipts and outlays are in balance—and actual outlays may not exceed those in the statement. So, at bottom, the amendment is a spending limit. A three-fifths vote of the entire membership of both houses is required to intentionally plan an unbalanced budget. The effect of the amendment will be to achieve a balance and even surpluses over the life of a business cycle.

But the provision alone would not assure responsible budgeting. Section 2 limits the allowable receipts growth from year to year (and hence spending growth) to national income growth in the prior full calendar year. As the Journal observes, this might be viewed as constitutional "indexing" of the entire federal revenue structure—far better than merely indexing the personal income tax by statute which may be waived by Congress. To exceed this a majority of the full membership of both houses must so vote and approve a tax bill producing the additional receipts. This joins the political detriment of voting higher taxes with the political income of higher spending in a highly visible vote—and gives the President veto power and the Senate a chance to filibuster. (In time of declared war the limit is waived.)

Issue: The amendment may not be enforceable and anyway Congress will find methods to circumvent the impact of the amendment.

Answer: The amendment is enforceable and will be enforced. There would be high political risk attached to the very visible votes to unbalance the budget or increase the rate of taxing and spending growth. That's the external political control.

The amendment is designed to assure internal control as well. It requires that Congress and the President assure that actual outlays do not exceed outlays authorized under the balanced-budget statement. This safeguard plays off of the historic jealousy of Congress over its appropriations/budgetary authority. Congressional leaders become apoplectic when the President intervenes in their budget decisions—witness congressional reaction to President Nixon's unilateral impoundment of funds in 1973. Because the President will have to step in and make outlay decisions if actual outlays threaten to exceed the limit, Congress, to preserve its prerogatives, will have to adopt fiscal procedures and priorities to assure compliance.

Certainly, we can expect Congress to test the limits of the amendment—and seek to "ooze" around and through it where possible. That's where the National Tax Limitation Committee and other taxpayer lobbies will play a vital role in shaping the implementing legislation and in blowing the whistle on efforts to circumvent the amendment.

Will Congress seek to use regulations to expand its authority over citizens and organizations? Regulation has always been an option to explicit taxing and spending. It will remain under the amendment. However, as Prof. James Buchanan has said about this point, "To fix the fence in one spot does not ensure that the cattle will not get out of the pasture at some other place. But it does mean that the cattle are less likely to get out than before the fence in the one spot was fixed."

To claim perfection would be foolish and arrogant. What can be claimed is that the Tax Limitation/Balanced Budget Amendment is thoughtfully and soundly crafted to achieve a specific objective: reversal of the current Washington bias toward higher taxes and spending and unbalanced budgets. As Milton Friedman often cautions, "In our quest for perfection, we must not let the best be the enemy of the good."

[From the New York Times, Jan. 10, 1982]

DEFICITS DO MATTER

(By William A. Galston)

NEW HAVEN.—Even if the President accedes to the selective tax increases urged by his senior economic advisers, the Federal Government will incur huge deficits for the remainder of his Administration. The willingness to tolerate unbalanced budgets betrays a principle that Ronald Reagan has espoused throughout his political career. Worse, it is wrong in theory and dangerous in practice. Whatever supply-side economists may say, deficits do matter.

To begin with, deficits raise operating costs. If the Government runs a deficit of $100 billion and borrows to pay its bills, then (assuming an average interest rate of 12 percent) annual expenditures are $12 billion higher than if taxes had been increased to cover the deficit. And because the debt is never repaid, this extra expense is incurred not once but every year in perpetuity.

Second, deficits breed deficits. By boosting annual interest payments, each successive deficit increases the difficulty of achieving a balanced budget and forces the Government to borrow more, just to cover the interest on the debt. If projected deficits totaling more than $300 billion are not slashed further, interest costs will rise by at least $40 billion between now and 1984. As the economist Alan Greenspan has said, "Unless we rein in the forces of deficit expansion, they could proceed in a geometric fashion."

Third, deficits spur inflation. Some economists contend that as long as the Governent does not "monetize" the deficit—that is, as long as it sells bonds for money already in circulation rather than printing new money—it will increase neither the money supply nor the inflation rate. But this argument rests on an unrealistically narrow understanding of what constitutes "money."

Everyone knows that the Federal Government will never retire the bonds it issues. Rather, these bonds will be rolled over—reissued at the prevailing interest rate—as they come due. Thus, Government bonds become a kind of money, an additional way of making claims on future goods and services. To expand the permanent national debt is to increase demand. Unless the supply of goods and services rises commensurately, the result can only be higher inflation.

Fourth, deficits raise interest rates. If, as the Administration contends, the substitution of deficit-induced borrowing for taxation will accelerate economic activity, it will surely raise the private sector's demand for capital. Private and public-sector borrowing requirements will then collide, sending interest rates soaring, unless the deficit diminishes at least as much as private demand increases—an improbable combination at best.

Supply-siders offer two arguments, not always clearly distinguished from each other, in support of deficits that stem from tax reductions.

First, they argue that by augmenting the capital available for private investment, the money not taken in taxes will stimulate eco-

nomic growth, increasing the Government's revenue base and moving the budget toward balance at lower tax rates. But this contention is invalid. If the Government must borrow what it has not appropriated in taxes, then these funds are not available for private investment after all. What the Government gives with one hand, it takes back with the other.

Second, supply-siders argue that lower tax rates are designed to increase—and will increase—incentives for innovative entrepreneurs, who are ultimately responsible for higher productivity and growth but whose activities have been discouraged by burdensome taxation.

This contention is probably true—but, how true? Just to recover the added interest costs stemming from the tax-reduction deficits, these tax breaks would have to increase the overall growth rate of our $3 trillion economy, which averaged 3 percent over the past decade, by nearly one-half. A jump of this magnitude is highly improbable, especially since much of the tax reduction is going to individuals who are not now and will not be induced to become entrepreneurs.

Supply-siders have urged Mr. Reagan to discard traditional economic conservatism in favor of a new strategy—one that is more in tune, they argue, with political realities as well as with the requirements of economic growth. But this "new" strategy is just the latest version of our political system's perennial vice: the avoidance of hard choices.

Unless President Reagan has the courage to reaffirm his long-held conviction that deficits do matter, and to draw the necessary conclusions for his tax policy as well as his spending program, he will lock the economy on course toward an economic Dunkirk.

[From the Washington Times, June 9, 1982]

FROM THE HILL

On May 26, 1982, as I viewed the intense debate in the U.S. House of Representatives over the 1983 budget, I more fully realized that Congress does not have the courage or self-discipline to say no to the various special interest groups. By yielding to the desires of these groups, Congress has mortgaged this nation's future in exchange for temporary political power.

All that long May 26 evening and into the early morning hours of the next day, I sat on the House floor and watched as representative after representative vigorously defended increased government spending in almost every conceivable budget area. In the end, Congress was unable to pass any of the seven proposed budgets.

The main structural flaw in the budget process is the desire for so many segments of our society to live beyond their means. By yielding to the demands of the special interest groups. Congress is placing our children and grandchildren in financial bondage. Budget deficits are an especially convenient trick for Congress to appease the citizens. Congress can spend and spend, yet it can tell the taxpayer that it did not vote to increase taxes.

Unfortunately, the careers of politicians are far shorter than the consequences of their actions. Government grows and grows, and politicians spend and spend because votes are seldom won by lowering benefits. What the career politicians in Congress and the special interest groups refuse to admit is that the money they are spending is not their own. It is money the system does not have.

Congress and its career politicians just cannot say no. Weak human nature triumphs over common sense and Congress chooses the expedient and easy way out.

Our nation's founding fathers understood well the weaknesses and potential excesses of human nature. They, therefore, drafted an inspired Constitution to protect against the centralization and abuse of power. With an elaborate system of checks and balances, the founders created a system that, for the first time in history, guaranteed and protected political and economic freedoms.

Unfortunately, in recent decades, the restraints on Congress have slowly disappeared. Unable to depend on strong, disciplined political parties, or effective advocates of smaller government, Congressmen faced powerful special interest groups alone and vulnerable. In addition, with the advent of the media age, politicians found they could circumvent all other institutions and appeal directly to the voters with promises of more and more government goodies. The product of unchecked and unrestrained Congresses has been runaway government spending and huge budget deficits.

The solution to Congress' fiscal irresponsibility is a constitutional amendment to require a balanced budget. Congress needs to have its feet held to the fire until it can feel the burning flesh.

[From the Toledo (Ohio) Blade, Mar. 30, 1982]

BALANCED-BUDGET AMENDMENT OVERDUE

(By William Safire)

In the nation's capital it is known as "the creature from the boondocks"; among editorial writers it is derided as a device capable of doing enormous mischief; to liberal economic savants it is an apparition that strikes horror and loathing in fine-tuned hearts.

"It" is the balanced-budget amendment, a simple idea that has been sent by the states to pound on Washington's door. The idea would amend the Constitution to require Congress to balance the budget each year and would restrict the amount by which taxes could be increased except in case of war or a three-fifths vote to the contrary.

Such a notion would be laughed out of Washington were it not for the unique sponsorship. Thirty-one states, just three short of the necessary two-thirds, have voted to call for a constitutional convention to pass such an amendment. And Kentucky, Missouri, Ohio, and Vermont are on the way.

Unless Congress acts quickly to pass such an amendment of its own for ratification by the states, the power to initiate the amendment will be seized by the states. With incredible foresight the Founding Fathers offered this statehouse alternative to amend the Constitution in case the national government was not receptive to the will of the people.

In a few years two grass-roots lobbying organizations with a total membership of a million Americans—scorned as idealistic yahoos—have made use of this bludgeon provided by the Constitution. Who's yahooing now?

The creature from the boondocks is at the gates of the capital. In fear of a constitutional convention the Republican Senate is on the verge of approving the amendment and the Democratic House is uncertain about blocking it. The Reagan administration, awash in red ink and in need of a reaffirmation of conservative goals, is set to announce its support.

Now to the merits of the proposal, described here with reverence three years ago as "the Friedman amendment" after Milton Friedman, the Nobel laureate economist who lent the movement intellectual respectability as well as a few good ideas.

In essence the amendment holds a gun to the head of Congress: If you are going to vote to spend, you must vote to tax. No more of this mortgaging of tomorrow to pay for today. For two generations the national government—no matter who has been in power—has avoided this pay-as-you-go responsibility. The proposed amendment would force an elected representative to take the unpopular step of taxing when he chooses to tread the primrose path of spending.

But isn't deficit spending a good thing during recessions, and won't this amendment unduly restrict the lawmakers' flexibility to meet crises? The amendment has a clear answer: If three-fifths are persuaded that the pump needs priming, that avenue is open. But some device with the power of a constitutional mandate is needed to break the habit of deficit spending that goes on even in periods of prosperity.

This issue goes to the heart of the debate now going on about next year's budget. Figuring in off-budget items, we're facing real deficits of between $120 billion and $150 billion, and that's a tad steep. The same fear is being used two ways: Democrats are using the fear of that high a deficit to stop decreasing taxes, and President Reagan is using the fear of that high a deficit to stop the increase in nondefense spending.

In future years, with the Friedman amendment in force, the fear of a whopping deficit will be replaced by a constitutional requirement to eliminate any deficit, whopping or not. The classic battle between the welfare state and the skinflint state will be fought out as a matter of course each year, bringing a long-overdue discipline to what is now a chaotic process. The leaning—toward welfarism of skinflintism—will reflect that year's will of the American people.

The judgment will be better informed by virtue of the amendment's spending-limitation feature, which holds spending growth to the economy's growth. Voters will know if their representative voted to break or hold the line.

Is there hypocrisy involved in an administration, unable to balance the budget, supporting a law to do so in the future? Yes, some; but the Reagan men, reaching for restraint in such heretofore untouchable areas as the cost-of-living adjustment in Social Security ("the COLA freeze"), have earned the credentials for forcing a future president to submit a balanced budget.

You should not try to fine-tune a Constitution; this amendment would be adaptable to a surge of compassion, a neoliberal paradise, provided the people are prepared to pay for it. The only thing we have to fear is flimflam, and this is truth in spending. No more habitual borrowing. No more inflationary pie in the sky.

The amazing thing about the balanced-budget or spending-limitation movement is that it was rooted in a popular unease, organized in an unfamiliar but perfectly proper way, underestimated until it became hard to stop, and now bids fair to shape our future. The creature from the boondocks turned out to be the folks back home.

[From Barron's, Feb. 22, 1982]

PASS THE 27TH AMENDMENT AND MAKE A BALANCED BUDGET THE LAW OF THE LAND

"NEW YORK, February 16—Commercial and industrial failures jumped during the

week ended Feb. 11 to 529, the highest total in 40 years, reports Dun & Bradstreet. As well as rising from 449 in the previous week, business casualties surged above their comparable year-ago pact of 321.

"Concerns failing with liabilities of $100,000 or more increased most sharply, reaching 280 from 277 a week earlier and from 166 a year earlier. Meantime, smaller casualties involving liabilities under $100,000 increased to 249 from 222 in the preceding week and exceeded considerably the 155 of this size in the corresponding week last year."

The weekly business casualty report has become must reading for ghouls. Between 1979 and 1980, according to Dun & Bradstreet, failures increased by 55%. Between 1980 and 1981, they rose a further 45%. To date in 1982, they have climbed by 42%. (Last week's release reported that failures were the highest in 40 years. A spokeswoman at D&B explains that the reading was probably the highest since the 1930s, but that the records in those years are unreliable.) The figures are startling even if allowance is made for the relaxation of the bankruptcy laws. Taken together with the jobless rate, commodity prices, bond prices, auto sales and the housing market, the bankruptcy data constitute the statistical tracks of interest rates.

On the evidence, the cost of money is ruinous. It is high before tax and after tax, on a historical basis and on a real, or inflation-adjusted, basis. According to Merrill Lynch, corporate interest expense last year totaled $64 billion, up 45% since 1979. In 1969, the last year in which the federal budget was balanced, interest expense on the public debt amounted to $16.6 billion. In December 1981—that month alone—the interest cost of the debt was $14.8 billion. As interest rates have soared, the maturity of new bonds has shortened and the burden of bank loans and commercial paper has mounted. Improvisation has led to the commodity-backed bond, the floating-rate note and the zero-coupon debenture. Eugene Bohm von Bawérk, the turn-of-the-century Austrian economist, ventured the theory that the lower a nation's interest rates, the sounder its character, and vice versa. We would amend that, as follows: the more innovative a nation's bonds, the more precarious its debt structure. It follows in that case that a screw is loose.

Now come the Administration's projections of deficits of $98.6 billion in 1982 (up from $57.9 billion in 1981) and $91.5 billion in 1983. Probably the actual numbers will be higher. On their face, the projections are horrendously big. They are big in relation to the pool of savings to finance them, and in the light of widespread illiquidity, which is a condition of too much debt chasing too little cash. Either the debt is paid in printed money, which nobody wants, or with savings diverted from productive uses, which nobody wants. Chronic deficits either bid up interest rates (if financed from savings) or raise them via inflation (if financed by the issue of new money). Deficits, furthermore, are a symptom of financial confusion. All this has been loudly deplored, especially by the people who made it all but inevitable. Meantime, however, one promising development has gone almost unnoticed. It is the astonishing progress of a proposed Constitutional amendment to limit government spending and balance the budget.

The amendment is simplicity itself. It says that the budget should be balanced and second, says that the government's income should grow no faster than the taxpayers'. It follows that, because receipts would be held in check, so would outlays. The budget would be balanced by not higher taxes but by lower spending. As Milton Friedman, one of the fathers of the tax-limitation movement, explains, federal spending as a share of GNP might even decline: ". . . the limit is based on a year-to-year change, and hence, if in any year actual outlays are less than the maximum permitted, that sets a new and lower base for all future increases." The amendment would not absolutely debar a deficit, nor does it stipulate a penalty for Congressional noncompliance. In wartime, Congress could spend what it wanted. In peacetime, for that matter, it could choose to go into the red by a vote of three fifths of each house. The vote would be on that issue alone, in the sunshine.

As a Constitutional proposition, the balanced budget amendment would be a long overdue check to the 16th Amendment, which spawned the income tax. As a political device, it would give Congress the means to rise above itself. Under the current system, spending has powerful constituencies. Every man favors economy in government, which is no constituency. "Imagine," says James Davidson, chairman of the National Taxpayers Union, one of the organizations behind the amendment, "that you brought 435 people off the street, gave each of them a credit card with the same account number, and said, here, go to it, and by the way, whatever you spend, you'll only have to pay 1/435th of the bill at the end of the month. It requires a massive suspension of belief in the laws of rational economic behavior to think that a system like that is capable of limiting spending." The amendment would give the House and Senate a reason to say no.

A dead giveaway of the significance of the federal tax limitation movement is that so few people have paid any attention to it. When Alaska last month voted to endorse a call for a Constitutional convention, it became the 31st state to do so and the first since New Hampshire in 1979. If three more states follow suit, a convention would be called and an amendment drafted. If 38 states approved, the draft would become the next amendment to the Constitution. If Congress were to approve the amendment first, and submit it to the states, then no convention would be called. Political strategists at the National Tax-Limitation Committee, which is another friendly lobbying group, judge this the more likely course. A vote in the Senate (Senate Joint Resolution 58) is expected this spring, and in the House later this year.

In the drive for the Equal Rights Amendment, the impetus came from Washington, but this time the states are forcing the legislative issue. Nine states—Missouri, Washington, Rhode Island, Ohio, California, West Virginia, Hawaii, Montana and Illinois—have approved a resolution in one house but not the other. Four—California, Montana, Illinois and Kentucky—have urged Congress to submit a Constitutional amendment but declined to call for a convention. In one case, legislators didn't have the chance to decline. According to proponents, Vern Riffe, Jr., Democratic speaker of the Ohio House, has blocked the measure from coming to the floor for a vote by that body. (Riffe was unavailable for comment.) In the Missouri House, opposition oddly surfaced in a clutch of suburban St. Louis Republicans. Walter Mondale, the former Vice President and now would-be President, led stiff opposition by the Carter Administration. Still the bandwagon rolled.

Three popgun legal arguments have been leveled at the amendment. First, if Congress wants to balance the budget, it should resolve to do it legislatively and let the Constitution alone. Second, Article V of the Constitution, which provides for amendment by Constitutional convention, doesn't mean what it says. Third, if a convention were called, the delegates might run amok and abolish the Bill of Rights. As for the first objection, Congress has passed plenty of laws, to no avail. Public Law 95-435, for example, mandated a balanced budget in fiscal 1981. Concerning the second and third, the Special Constitutional Convention Study Committee of the American Bar Association decided: ". . . Congress has the power to establish procedures governing the calling of a national Constitutional convention limited to the subject matter on which the legislatures of two-thirds of the states request a convention." And: "We consider Congress' duty to call a convention whenever two-thirds of the state legislatures have concurred on the subject matter of the convention to be mandatory."

When the Constitution was framed some 200 years ago, it went without saying that a nation should live within its means. As recently as the 1920s, a Republican Treasury Secretary argued for lower tax rates in the context of age-old financial precepts. "Insofar as this Government is concerned," said Andrew Mellon in 1924, "its policy has been to keep its own house in order, to maintain the gold standard unimpaired, to balance the budget and to carry out a reasonable program for the orderly liquidation of the war debt." Starting in the Great Depression, each of those tenets was abandoned. Gold money was replaced by irredeemable paper, a balanced budget by chronic imbalance and the paying down of debt by its constant expansion. This year the voice of the people can be heard in Washington. It is saying: Enough.

[From the Chronicle, Sept. 9, 1981]

A CONCEPT FOR KEEPING CONGRESS HONEST

(By Robert Walters)

WASHINGTON.—Within the next month, the entire Congress of the United States will be guilty of engaging in illegal activity. Both the House and the Senate will have violated several federal laws.

In 1978, Congress enacted a law requiring that total budget outlays "shall not" exceed total government receipts, beginning with the 1981 fiscal year.

In 1979, the House and the Senate approved another law that explicitly stated that "Congress shall balance the federal budget" in 1981 and all subsequent fiscal years.

When the 1981 fiscal year comes to a close on Sept. 30, however, the government's budget for the 12-month period will reflect a very substantial deficit, expected to exceed $55 billion.

Notwithstanding those legal transgressions, it's not likely that a detachment of FBI agents, U.S. marshals or police officers will invade the Capitol on Oct. 1 to arrest the nation's 535 lawbreaking lawmakers.

Because of its special status, power and influence, Congress can (and does) violate its own laws with impunity—but the legislators presumably would be more respectful of a constitutional amendment requiring a balanced federal budget.

In a little-noticed action last spring, the Senate Judiciary Committee took the first step toward enactment of such an amendment, voting 11–5 to recommend that the full Senate approve the proposed measure.

To provide flexibility in the event of extraordinary circumstances, that provision could be overridden—but only by a three-fifths vote of each house of Congress.

To ensure that Congress does not purposely overestimate expected receipts, projected federal income would be allowed to increase at a rate no faster than the growth of the national economy—unless the legislators approve a tax increase.

The pending legislation still has not been called up for a vote on the Senate floor and a hostile House Judiciary Committee is determined to thwart any action in that chamber.

To become effective, the measure must be approved by a two-thirds majority in each house of Congress, then ratified by the legislatures in three-fourths of the states.

Despite those formidable barriers, the eminently sensible concept—aggressively promoted since 1975 by the Washington-based National Tax Limitation Committee—may well be an idea whose time has come.

Here's how it would work: The proposed amendment would firmly establish a balanced budget as a standard practice by requiring Congress to draft a budget each year in which "total outlays are no greater than total receipts."

Finally, Congress would waive the entire procedure during any fiscal year in which a declaration of war was in effect—but that provision wouldn't apply to undeclared wars such as those fought in Vietnam and Korea.

The need for stringent restrictions on deficit spending becomes especially obvious when examining the history of federal budgets since the founding of the nation.

For 143 years, from 1789 to 1932, balanced budgets or end-of-year surpluses were the norm—but the government has failed to avoid a deficit in 42 of the past 40 years. With the sole exception of 1969, there has been no balanced budget within the past 20 years.

The national debt, which has grown exponentially in recent decades, will reach $1 trillion for the first time in the nation's history within the next few months.

Critics of the proposed constitutional amendment argue that it fails to provide the flexibility that may be needed to deal with unexpected economic crises and that enforcement could pose serious problems.

Others fear that congressional ingenuity would lead to unpredecented growth in off-budget expenditures, loan-guarantee programs and other devices specifically designed to evade the constitutional restrictions.

But the unconscionable pattern of deficit spending in recent decades requires drastic action—and a constitutional amendment could provide the solution to a problem that already has become unmanageable.

[From the Los Angeles Times, May 30, 1982]

A GIANT STEP FOR FISCAL REPAIR: CONSTITUTIONAL AMENDMENT WILL FOSTER BALANCED BUDGETS

(By William Craig Stubblebine and Lewis K. Uhler)

The U.S. Senate now seems likely to bring the Tax Limitation-Balanced Budget Amendment to a vote in June. It approaches, if not achieves, a unique balance between the ideal and the practical and deserves to be adopted.

The amendment would put into the Constitution three important fiscal "norms":

Congress would be required to plan a balanced budget as the normal way of doing business. Only by three-fifths vote could Congress intentionally plan a deficit.

The growth of tax receipts would be limited to the growth rate of the economy. Congress could exceed this limit only if a majority were willing to vote for higher taxes.

The amendment links spending to tax receipts, so spending could not grow out of proportion to the tax-receipts limit in the amendment.

In short, the rate of federal spending and taxing could grow faster than the economy, but only if an explicit congressional consensus existed annually to violate the norms established by the amendment.

The proposed amendment is not without its critics. Even among proponents of fiscal responsibility there are some who believe either that amending the Constitution to promote that end is inappropriate or that the proposed amendment is inappropriate. Such opposition comes in seven forms.

One comes from those who believe that the only response to the present situation is election of "good" representatives. They fail to appreciate that the Congress is largely made up of well-intentioned individuals, many of whom have come to understand that they are as much prisoners as perpetrators. The history of fiscal irresponsibility is, in greater part, the consequences of a defective institutional setting, one that the proposed amendment would correct.

A second comes from those who believe that the amendment represents an unwarranted intrusion into the fiscal powers of Congress. They forget both that the fundamental purpose of a constitution is to restrain legislative majorities and that the Constitution, in its original and present casting, contains various "fiscal" provisions.

A third comes from those who would rely on statutory reform of Congress, especially reform of the 1974 Budget Act. They fail to reckon with the constitutional fact that what one Congress can enact into law, a subsequent Congress can repeal, either explicitly or implicitly. (The 95th Congress adopted legislation requiring balanced budgets which subsequent Congresses have repealed "by implication" each time they have adopted unbalanced budgets.) Statutes and "rules of Congress" cannot cure fundamental constitutional defects.

A fourth comes from those who take issue with specific aspects of the proposed amendment. They claim that certain "terms" used are so lacking in clarity that Congress will ride roughshod over their intent: receipts, outlays and national income.

These critics fail to appreciate the fact that by their standard of clarity, each and every provision of the Constitution drafted by the Founding Fathers would be rejected, including the entire Bill of Rights. Implicitly, they do not believe that members of Congress respond constructively to their constitutional obligations. Were this the case, the Constitution long since would have become a dead letter.

A fifth comes from those who argue that the amendment would entice the Congress to respond perversely. For example, restraining the growth of federal taxing and spending could pressure the Congress to rely more heavily on regulation of the private sector. Such regulation inevitably reduces the real growth of the economy. But in fact, the amendment provides Congress with incentives to stimulate real economic growth, since Congress will know it must encourage growth so that there will be adequate tax revenues.

A sixth comes from those who believe that the amendment is impractical, either on economic or administrative grounds. They fail to appreciate that it would accommodate—but not require—counter-cyclical fiscal policy. They also fail to appreciate that states such as California have administered the stricter balanced-budget provisions of their constitutions meaningfully and constructively. As implausible as it may be to the Washington establishment, federal compliance would be no more onerous.

Finally, opposition comes from those who would believe that some other amendment would be more effective; giving the President an "item veto," for example. There is no evidence that the item veto restrains either deficit spending or total government spending. Until Proposition 13, California was a high-spending state, in spite of its governor's constitutional item veto. Ronald Reagan's experiences as governor of California led him to initiate the first constitutional tax/spending limit movement. His experiences as President are leading him to support this amendment.

Justification for the amendment lies in the congressional fiscal irresponsibility that has burdened this nation at least since the end of World War II.

The American people have only two choices: to permit, with occasional interruption, continuation of the deterioration of the last 40 years or to begin repair of the constitutional defects that have become manifest. This amendment would be a constructive response.

DOES A BALANCED BUDGET FIT INTO THE AMERICAN CONSTITUTIONAL SCHEME?

"Money is, with propriety, considered as the vital principle of the body politic; as that which sustains its life and motion, and enables it to perform its most essential functions." So said Alexander Hamilton in Federalist Paper 30. The Framers of the Constitution and the Federalists (Hamilton, Madison, and Jay), who assigned themselves the task of persuading the American public of the need for the new Constitution, realized that the inability of the Articles of Confederation to provide the national government with a sure and stable source of income was a major reason for the convening of the Constitutional Convention.

The perennially unbalanced national budget is a result of the now institutionalized dichotomy between governmental revenue and expenditures. For nearly fifty years, Congress has regarded its power to spend funds as a function separate and distinct from its power to raise funds from taxation. The gargantuan national debt, now approaching a trillion dollars, is the product of this division of congressional attention. Since 1931, there have been only seven fiscal years in which revenues exceeded expenditures.

The Senate Judiciary Committee will soon vote on a proposed constitutional amendment that would require national expenditures to equal national tax revenues each year. Does such an idea fit into the principles of the Constitution? And should a balanced national budget be institutionalized as a permanent principle of American government?

Section 8 of Article I of the Constitution gives Congress the power "to make all laws- . . . necessary and proper." By means of this

law-making authority, Congress is given exclusive power over spending in Section 9 of Article I: "no money shall be drawn from the treasury, but in consequence of appropriations made by law." Likewise, Congress has exclusive authority over taxation by way of Section 8 of Article I: "The Congress shall have the power to lay and collect taxes, duties, imposts, and excises." The same clause gives Congress the power to "provide for the common defense and general welfare of the United States." Following that is the long enumeration of specific powers of Congress for the purposes of which Congress may pass laws and appropriate monies. As can be seen, the congressional authority to tax is brief and unspecified whereas the constitutional purposes for which Congress may spend are many and specific.

The contemporary Congress spends monies for governmental purposes and programs undreamed of by the Framers of the Constitution or the authors of the Federalist Papers. These purposes of governmental spending have been justified under the congressional authority to provide for "the general welfare."

The two principal authors of the Federalist Papers, Hamilton and Madison, did not agree about the scope of the general welfare clause, and this debate was continued throughout American history until finally resolved, or at least laid to rest, by the Supreme Court.

In Federalist 41, Madison makes a very plain case that the general welfare clause was not intended to be a blank check to Congress "to exercise every power which may be alleged to be necessary for the common defence or general welfare." Madison maintains that a presumed open-ended authority for Congress to initiate any governmental program or to exercise any power "to legislate in all cases whatsoever" is quite obviously contradicted by the enumeration of congressional powers in Article I, Section 8. "For what purpose could the enumeration of particular powers be inserted, if these and all others were meant to be included in the preceding general power?" The general welfare clause, Madison maintains, is "explained and qualified" by the "enumeration of particulars." In fact, more general powers of legislation, and therefore of taxation and appropriation, were granted by the existing Articles of Confederation, and the new Constitution intends to restrict such powers of Congress.

Hamilton, in Federalist 30 and 34, had another view. He too spoke of the contemporary problem of the Congress under the Articles of Confederation being unable to raise a sufficient amount of taxes in order to provide for the common good and the general welfare. But Hamilton saw "a general power of taxation" in the Constitution so that Congress could provide for the "pecuniary wants of the Union." And since the wants of the future, the "future exigences of the Union," could not be divined or accurately prophesied, the power of Congress to tax for future purposes must be left unrestricted: "Its future necessities admit not of calculation or limitation; and upon the principle, more than once adverted to, the power of making provision for them as they arise ought to be equally unconfined. . . .There ought to be a capacity to provide for future contingencies as they may happen; and as these are illimitable in their nature, it is impossible to safely limit that capacity." The Hamiltonian view was largely followed by Congress throughout the nineteeth century in that congressional appropriations were never limited to the strict enumeration of powers in section 8 of Article I. The passage of the Sixteenth Amendment instituting the national income tax was the most significant event in the history of the congressional taxing power, and, therefore, by implication in the congressional appropriations power. The dramatic increase in revenues prompted Congress to initiate new areas of governmental appropriations.

Until well into the Twentieth Century, the Supreme Court had been reluctant to define the scope of the general welfare clause and its relation to the enumerated powers of Congress. But as tax revenues and congressional spending rose, it became obvious that the power of the purse was undergoing a change of kind. The New Deal began another quantum leap in government spending. And finally the Supreme Court decided a case, *United States* v. *Butler* (297 U.S. 1. 1936), in which it definitively construed the general welfare clause according to Hamiltonian precepts. On constitutional grounds, the Court struck down the Agriculture Adjustment Act, ruling that the Act's coercive federal regulation of farm production and prices invaded the reserved powers of the states.

The Court stated that the scope of the general welfare clause was "the great and controlling question in the case." In considering the historic argument between Madison and Hamilton on the issue, the Court endorsed Hamilton's view as "the correct one." The Court said that the enumeration of powers in Section 8 did not limit the power to appropriate for the general welfare. Instead, the power was limited by its own terms, that is, spending by Congress must at all times be for general, as distinguished from local, welfare. And, the Court concluded, it was up to Congress to decide whether a proposed end was indeed general.

These constitutional conclusions by the Supreme Court have been regarded as the definitive settlement of the matter and have, in effect, closed the debate. In *Helvering* v. *Davis*, a case decided only the next year, the Supreme Court was already stating that the case was closed: "Congress may spend money in aid of the general welfare. There have been great statesmen in our history who have stood for other views. We will not resurrect the contest. It is now settled by decision. *United States* v. *Butler* supra . . . . The discretion belongs to Congress . . . . This is now familiar law."

But are spending and taxation connected by the terms of the Constitution itself? The Butler Court seemed to assume such a connection in its discussion of the general welfare clause. The Court rejected the argument that the congressional authority to provide for the general welfare was an independent power. "The view that the clause grants power to provide for the general welfare, independently of the taxing power, has never been authoritatively accepted." Such a construction would make the power of the national government unlimited. Instead, the power to spend for the general welfare must be taken together with the immediately preceding constitutional clause, the power to "lay and collect taxes," that is to say, taxing is for the purpose of spending, and spending must be for the general welfare. The power to appropriate must be as broad, and no broader, as the power to tax; and vice versa, the power to tax must be as broad, and not broader, as the power to appropriate. One power is measured by the other, and, it could be said, one power balances the other. So, the key to any kind of balance of the two would be the decisions about how much revenue to take in from taxation and how much to spend through appropriations. These are decisions of Congress.

Does the victorious Hamiltonian position, which has been unchallenged since the Butler case, imply that Congress at its discretion, may spend for any object? Hamilton's essays in the Federalist Papers show that his advocacy of a broad power of spending for the general welfare was based on the clause of the Constitution immediately preceding the general welfare clause, that is, the congressional power to provide for the "common defense." What does Hamilton have in mind when he vigorously argues that the power to tax and spend must be able to account for "future necessities' and "emergencies"? In Federalist 30, Hamilton uses the sudden outbreak of war as the example of the emergency which calls for already established broad powers of spending. A government with restricted fiscal powers would be unable to guarantee loans necessary to conduct the war. Forced to redirect funds customarily appropriated for domestic purposes, the national government would then cripple the internal affairs of the country.

In the next essay, Federalist 31, Hamilton again argues that the "general powers of taxation" are necessary for the purpose of being able to respond to "national exigencies." Such exigencies are "the national defense and securing the public purse against foreign or domestic violence." In Number 34, Hamilton argues that "the objects that will require a federal provision in respect to revenue" are "circumscribed within very moderate bounds." But, "future contingencies" may happen. And again, Hamilton uses the example of war as the reason for the national government's authority over a general power of taxation and spending. For a government able "to maintain those establishments which, for some time to come, would suffice in time of peace" would not be able to so provide "for the protection of the community against invasions of the public peace by foreign war or domestic convulsions."

Thus, Hamilton, the advocate of discretionary spending powers, saw the financing of war as the primary and dominant reason for such power. He argued for strong fiscal authority for the purpose of responding to emergencies. Massive, permanent, and far-flung domestic expenditures were not implied by the terms of the Constitution according to the Hamiltonian view:

What are the chief sources of expenses in every government? What has occasioned that enormous accumulation of debts with which several of the European nations are oppressed? The answer plainly is, wars and rebellions; the support of those institutions which are necessary to guard the body politic against those two most mortal diseases of society. The expenses arising from those institutions which are relative to the mere domestic police of a state, to the support of its legislative, executive, and judicial departments, with their different appendages, and to the encouragement of agriculture and manufactures (which will comprehend almost all the objects of state expenditure), are insignificant in comparison with those which relate to the national defense." (Federalist 34)

In addition to war, Hamilton foresaw the prompt payment of any public debts as the other major expense of government. Yet,

again, he thought that any future debts incurred by the national government would be caused by any future wars. In Federalist 41, Madison also saw any governmental debts as being for the sake of war: "the power of buying and borrowing money being the sinew of that which is to be exerted in the national defense."

Overall, Hamilton maintained that "frugality and economy . . . become the modest simplicity of republican government." (No. 34) The power of taxation must be broad and adequate but only "as far as the resources of the community will permit." (No. 30) "Every power ought to be in proportion to its object" (No. 30), meaning in the context of the essay, that taxation ought to be in proportion to the object of spending. But did Hamilton regard the converse as equally valid, that is, should spending be in proportion to taxation? Seemingly, he did. "Future necessities (i.e., expenditures) admit not of calculation or limitation, therefore, the power (i.e., taxation) of making provision for them as they arise ought to be equally unconfined." Nevertheless, "in the usual progress of things, the necessities of a nation, in every state of its existence, will be found at least equal to its resources." (No. 30) And, in the next essay, Hamilton lays down the principle that the power of taxation ought always be limited by "the exigencies of the nation and the resources of the community."

SPECIAL INTERESTS AND FACTIONS

Federalists 10 and 51 are Madison's famous discourses about political factions and the necessity of controlling them for the sake of well-ordered government. Indeed, these essays are Madison's definition of the kind of government the Constitutional Convention developed. A reading of all of Madison's contributions to the Federalist Papers indicates that he did not consider any principle more important than the ability of government "to break and control the violence of faction." (No. 10) Madison defined a faction as "a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the whole." (No. 10) The causes of factions (today we call them special interests) are "sown in the nature of man," and, therefore, government could not presume to control the causes but, instead, must seek everywhere and at all times to control and contain the effects of faction. By definition, individual factions do not "cooperate for their common good" but seek their mutually exclusive interests. Madison's solution, and his solution is the foundation of the American Constitutional system, was to incorporate special interests into the governmental process in order to control them. Thus, "the regulation of these various and interfering interests forms the principal task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of government." This is the reason for two of the most important foundations of the Constitution: the selection of a republican, representative form of government rather than a purely democratic one, and the fact that the American republic will be a large, extensive one with a large electorate. The first foundation controls factions by "passing them through the medium of a chosen body of citizens." The second controls factions because when you "extend the sphere ... you take in a greater variety of parties and interests," thereby forcing each faction to compete against the multitude of all other factions.

In Federalist 51, Madison uses the same idea when he explains the fundamental basis of the "compound" system of checks and balances proposed by the Constitution. Power will be divided between "two distinct governments," the state governments and the national government. This divison will be compounded by subdividing "the portion" of power allotted to each level of government "among distinct and separate departments," forming what we now call the tri-partite organization of government.

And what is the purpose of dual governments and the tripartite organization of each? In effect, government itself will be divided into what amounts to factions so that "its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places." No governmental department, that is, no governmental faction, will be able to accrue excessive power because the other departments would serve as constant checks on such ambitions "by giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the other." "Ambition must be made to counteract ambition." If so, both private factions and the governmental departments will neutralize the others of their kind so that no single one of them will accumulate excessive and dangerous power. The government will be able to control the governed and any and all factions of the governed. And also, the government will be able to control itself and any and all factions or divisions of itself.

CONCLUSION

Insofar as the word "budget" means a plan for the coordination of revenues and expenditures, it must be said that the national government has no budget now. Throughout three-quarters of the republic's history, spending and taxing were roughly the measure of each other—although there was no constitutional requirement that this be so. In the last fifty years, the division of the two, although beginning modestly, has grown to the point that these two most fundamental constitutional powers of Congress are completely separate and distinct.

With passage of the Congressional Budget and Impoundment Control Act of 1974, Congress attempted to bind itself by force of law to a coordination of national spending and taxing. The law mandates no balancing of the budget, but merely requires the Congress to pass a resolution early each year setting taxing and spending targets and then attempt to keep the subsequent appropriations process under the ceilings. Congress has not only never passed a budget resolution with equal spending and taxing ceilings, but has never even finished the appropriation process at the targeted spending ceiling. The Budget Act, a law binding Congress, is not really in fact a law since Congress, the law-making and law-repealing body, has complete discretion to make new laws, or, as is the case for the Budget Act, to violate the spirit of the law. The binding force of the Budget Act is voluntary on Congress. This is obvious according to our governmental scheme since no law, but only the constitution, can bind Congress.

Madison's plan to multiply the number of special interests in order to set them competing against one another, thereby preventing any one or few of them from gaining too much power or too much money, has obviously failed with regard to the appropriation process. In fact the opposite effect has happened in that the congressional tendency over the last fifty years has been to approve funding of all new proposals rather than none of them. The American scheme of constitutional government, designed to control the public effects of special interests, has turned into a system by which special interest can succeed. Special interests have proliferated, as Madison foresaw, but government has adapted into a means for serving these interests rather than a means for controlling them. Private factions have proliferated on their own. A multitude of these have won public vindication in that Congress has ordered that the factions become publicly funded institutions of government with enforcement powers to perpetrate their causes throughout the body politic. In a response of both cause and effect, the Congress has expanded its own organization in order to serve and fund these interests. (There are now more subcommittees than senators in the Senate—and more than 150 subcommittees in the House.)

Thus, spending factions have triple incarnations, two of which are government institutions. On the other hand, there are no tax factions; taxes have no constituency. The result is more spending than income—yearly budget deficit.

With the proliferation of the parts of government and the accompanying addition of appropriations to fund these parts, what has been ignored is the whole, or, in Madison's words: "the permanent and aggregate interests of the whole." The balanced budget amendment proposes that the two processes be made to measure each other, that single taxes and single appropriations be always related to the whole, and, in fact, to require that the congressional fiscal process become a budgetary process for the first time.

As the political system exists now, a proposal to appropriate for a specific object or tax from a specific source succeeds or fails on its own merits. A balanced budget as the overweening principle of Congress' fiscal authority would qualify each, individual funding or taxing decision by requiring that no part breach the whole. As such, a Madisonian element would be introduced into the fiscal powers of Congress for the first time. With the whole defined, the different factions would be forced to compete against each other for their parts of the whole. Currently, a faction need contend only with the discretion of the subcommittee that was created for the purpose of serving it in the first place.

Amending the Constitution to require that Congress always "balance" its fiscal decisions would be adding a political, rather than an economic, principle to the Constitution. A balanced budget implies neither a raising nor a lowering of either taxes or spending. It implies no decision about how much of the private wealth of the country the Congress may expropriate for governmental purposes. It contains no limitations of Congress' power to spend for the general welfare. It is based on no economic formulas. It merely proposes a unity: that appropriations be made to measure taxes and that taxes be made to measure appropriations.

GOVERNMENT SPENDING: THE NEED FOR PERMANENCE

(By Milton Friedman)

We have tonight, I think, a great deal of reason to congratulate ourselves on where we are, but we have absolutely no reason

whatsoever to be complacent about where we are. We are involved in a battle that goes well beyond the problem of the budget, the problem of spending limitation, the problem of economics.

The real battle that is being fought is the battle to preserve human freedom in the United States and throughout the world.

In fighting that battle, the economic element is important. It is not the only thing, but it is enormously important. Unless we preserve a free enterprise system we shall not preserve human freedom.

That is why I think the economic element is so important. But I do want to stress that the fundamental battle is much broader, and I want to convey a sense of perspective by putting the economic element in a broader context.

We tend, all of us, to think of first, our family, then our local city, then state and country. But what is going on, what we are involved in, is part of a worldwide movement. For most of the twentieth century, the world has been moving away from freedom and toward collectivism.

That has been true throughout the world. It's been a trend in the so-called Free World, in the western countries. It is reflected in the development of the welfare state in Great Britain since early in the twentieth century, in the New Deal in the United States, after the election of Franklin Delano Roosevelt. Similar movements have occurred in other western countries.

But the trend toward collectivism has gone far beyond the free countries. The success of the communist revolution in Russia was just as much part of that movement as the development of the welfare state in Great Britain. The success of the communist revolution in China was part of the same movement.

The movement went well beyond the Free World and well beyond the Iron Curtain world. The emergence in India of central planning and a welfare state was part of the same phenomenon. So also was the attitude that the only way in which the so-called underdeveloped countries could develop was by adopting the central planning techniques of the welfare state or of the communist world.

While that movement was going on, there were always a few voices crying out against it, saying that it was a movement in the wrong direction and was bound to lead to bad results. Those few courageous deserters included Ludwig von Mises from Austria; Friedrich Hayek from Germany; Henry Hazlitt and Leonard Read in this country—most of you can name them. This small handful of people kept aloft the belief in human liberty and freedom and free enterprise and free markets.

These dissenting voices were important. But they were not the major factor that produced a backlash worldwide against the ideas of collectivism and central planning. The major factor was the observable results of the movement toward the welfare state, toward collectivism. Experience tended to shatter high hopes.

Most notably, Russia, the country that was the shining hope of most of the people who in America are called liberals—and who everywhere else would be called socialists—proved an enormous disappointment.

Instead of turning out to be a land of plenty and a land where finally class no longer fought class, where workers were no longer exploited and so on, it turned out to be a land of tyranny, of misery, of the Gulag. I may say that Solzhenitsyn's "Gulag Archipelago" probably did more than any other single thing to drive that lesson home and to make the intellectuals to the world recognize what was going on.

At the same time, in the other countries, the growth of the welfare state everywhere generated large government spending, high taxes, high inflation. Equally important, the noble programs that had been established did not produce the results that had been promised. Disillusionment set in everywhere.

After World War II, there developed a trend in the opposite direction, a trend among intellectuals and a trend among the peoples of the world in favor of greater freedom for the individual and a smaller role for the state. That is the trend we are now experiencing and that we are now part of.

It was started in practice in a most unlikely place. The practical application of some of these ideas came in places like Singapore and Hong Kong and Taiwan, in places where underdeveloped countries, instead of following the standard practice of central planning, instead of following the practice of giving a few economic dictators control over how investment was allocated, adopted market mechanisms.

And lo and behold, they turned out to be the most rapidly growing countries in the world. Their example fostered a reaction against centralism and against collectivism.

In the intellectual world, Friedrich Hayek's "Road to Serfdom" was in some ways the most influential early stimulus toward a rebirth of faith in freedom. Dozens of others came later. Many of the people in this room have participated in the adventure of trying to spread the idea of freedom.

In the world of practical politics, the move away from collectivism and toward a freer world was manifested in Britain in the election of Margaret Thatcher. It was manifested in Sweden when a Social Democratic government that had been in office for forty years was turned out of office. It was manifested dramatically in the United States in the votes around the country on our issue, on tax limitation, on tax reform, Proposition 13 in California, in the adoption of spending limitation and tax limitation amendments in nine states.

It was manifested even more strongly in the dramatic election of Ronald Reagan to the presidency last fall and in the transfer of control to the Republicans. Those were all parts of the same trends. Again, the same trend was manifested behind the Iron Curtain—most strongly in the recent events in Poland.

Can you imagine fifteen or twenty years ago anything having gone on in Poland such as has been going on there recently? It didn't happen because the Russians suddenly became more tolerant to dissent. It happened because while every country of the world has been able to interfere with the flow of goods and the flow of people, none of them has been able to interfere with the flow of ideas, And it was the ideas that were coming over that Iron Curtain that ultimately underlay what's been happening in Poland.

The same trend has been showing up in the attempts by countries like Hungary and Romania to introduce market mechanisms into central planning. The same trend has been shown in the surprising willingness of communist China to invite me to lecture in China on how to introduce market mechanisms in central planning.

I don't believe that my advice will do them much good. I don't believe that they will succeed in getting very far, but I cite their interest as an example of the power of a trend once it gets underway.

That is the trend we are working on and it is the basic reason why we have reason for congratulation and for hope.

Coming closer to home. I want to talk about two things. First about what Orrin Hatch was talking about, the constitutional amendment; second, about what happens between now and the time that amendments get adopted.

You will, all of you, sooner or later, receive the text of the amendment that came out of the Judiciary Committee yesterday. I suggest to you that you examine it carefully and read between the lines as well as on the lines, because it is a very sophisticated amendment, and, on first reading, you may not recognize what impact it will have.

It has two essential provisions. The first provides that Congress shall, each year, enact a statement of receipts and outlays for the fiscal year in which receipts exceed outlays. That is, Congress shall enact a balanced budget.

It goes on to say that Congress and the President shall take whatever measures are necessary to make sure that actual outlays do not exceed the outlays projected in the budget statement.

The second provision is that the receipts proposed in the budget statement shall not go up from one year to the next by more than the percentage increase in national income. I have believed all along and I continue to believe that the crucial necessity is to limit spending—that the real tax that the American people pay is what the government spends. And what's called a deficit is not a deficit. It is simply a form of hidden taxation.

I favor the idea that taxation should not be hidden. That it shoud be open and aboveboard, and therefore I am entirely in support of the idea that we should seek to have budgets that are balanced. But I think the most important consideration is to have budgets that come down and don't go up. That's what's really important.

You can have balanced budgets that go up. Many a state in this country has a constitution provision requiring a balanced budget, but that hasn't prevented government spending in those states from going up as a fraction of income.

So in my opinion, the second provision is at least as essential as the first. The second provision, you will note, says that receipts shall not go up by a greater percentage than national income. However, since the first provision says that outlays shall not exceed receipts, the effect of the two together is to limit outlays.

So in effect, the amendment would prevent federal government spending from going up from one year to the next by more than a percentage increase in national income.

Moreover, as you can recognize, like our original design, the limit is based on a year-to-year change, and hence, if in any year actual outlays are less than the maximum permitted, that sets a new and lower base for all future increases.

Therefore, this amendment does have built in what I consider one of the most important and valuable parts of our original amendment as we drafted it. Namely, that it provides for a gradual ratcheting down of government spending as a fraction of income.

I think it is an amendment that if enforced and carried out, would be very good.

However, there are some things that I don't like about it. I am sorry that our original provision that provided for a severe limit to expenditures if inflation exceeds 3 percent per year has been deleted.

I am sorry also to see that it has no enforcement provision. But nevertheless, I have no difficulty whatsoever in endorsing it as it stands on the whole. We shall be very well served if it gets through the Senate and the House.

I agree with what Orrin Hatch said. If submitted to the states, it will be approved by three-quarters of them within less time than it took us to draft the original proposal.

I want to go to a difficult problem, about which I think there may be more misunderstanding and more difference of opinion.

At best, the federal amendment cannot come into operation for something like four years. It must get out of the Senate and the House. It must pass the states and the amendment even then comes into force only after two additional fiscal years. You do have to allow for time to adjust to it.

So it will be about four years. How that amendment works and what it does for us depends critically on where we are at the end of those four years. That's why the President's proposals for restraining the federal budget, for holding down federal taxes, is an integral part of the campaign to get the amendment passed.

There is a short term and a long term element of that campaign. The short term element is to try to do the best we can in the next four years to hold down the budget so that the constitutional amendment starts from as low a base as possible.

You notice, I didn't talk about budget cuts and tax cuts. Nobody, but nobody is proposing a budget cut. Nobody but nobody is proposing a tax cut.

As Orrin Hatch was saying under the budget as it now stands, government spending next year would go up by something like a hundred billion dollars. What President Reagan has proposed is that it go up by fifty billion dollars instead of a hundred billion dollars.

Maybe I'm a penny pincher, but that doesn't look to me like a budget cut.

Similarly, under the Carter budget, taxes are scheduled to go up by about a hundred billion dollars. Under President Reagan's proposals, taxes would go up by something like fifty or sixty billion instead of a hundred billion. Again, I don't call that a tax cut.

What the President is proposing is a slowing down in the increase in spending and taxing. It's a move in the right direction, and don't misunderstand me. I think that the budget message and the tax message that President Reagan proposed are remarkable documents. They show a great deal of courage and go a great, long way in starting the process of cutting government down to size.

But they only start the process.

Let me say a word about the expenditure side, and then I will go to the tax side.

On the expenditure side, we had what was called a great victory a week or two ago, when the Congressional resolution was passed. But that was a first step in a long process.

As Orrin Hatch said, they passed a resolution to balance the budget last year. What happened to it? The recent budget resolution like the one last year, so far as I am concerned, is at the moment pure paper. It is a pure expression of sentiment. It carries no power. There is absolutely nothing to make Congress live up to it except pressure from the public at large.

The real fight will be fought in committee after committee as each individual set of cuts in proposed appropriations comes to that committee and has to be adopted. That's where the real fight is going to be fought. That's where you are going to have hand-to-hand fights.

The real question is whether the momentum can be maintained to keep the pressure on so that in those successive committee fights, we'll end up with the total that the President has asked for. That's a long, hard road.

Moreover, this is the year 1981, 1982 comes, 1983 comes, 1984 comes. The reason we are all part of the National Tax Limitation Committee and have been fighting for a constitutional amendment is because we recognize how difficult it is to hold down government spending through statutory means by considering one program after another. We recognize that for each individual program there is a big constituency that wants to cut government spending at somebody else's expense.

So the battle is just starting.

Never in my lifetime, and I suspect in most of yours, have we had as great an opportunity to win that particular battle, thanks to the vote last November, thanks to the special character of the man we have in the White House—a man who has been extraordinarily effective, who is a man of principle, who has been sticking by what he says and will continue to do so.

So we have a chance to win it but it is a very difficult battle and it has to be fought over and over again.

I want to come to the tax side. There has been a great deal of criticism on the part of the press, and particularly on what's called Wall Street—a place where there is a lot of financial muscle and very little wisdom.

I might add one more thing. I have always said that the two places in the country where you have the shortest foresight, where people look ahead the shortest period, are Wall Street and Washington. On Wall Street, you look to what is going to happen next week. At least in Washington, you look to the next Congressional election, which is a little longer, though not much.

At any rate, there has been a lot of criticism that the President's tax proposals are radical, inflationary, irresponsible, that you cannot now start to hold down taxes unless you first hold down government spending.

Who is making these arguments? They are coming from the people who brought us where we are. They are coming from the people who are responsible for our present big budget. They are coming from the people who are responsible for our present high taxes.

They know very well how to keep the taxes high. That's what they are experts in. But what they don't know and don't understand is how to get spending and taxes down.

In my opinion, the situation is precisely the reverse of what they claim. I know if I had a child who was spending too much, the most effective way to cut his spending would be to cut his allowance. If you know anybody, whoever it may be, and you ask yourself what would be most likely to make him spend less, you can be sure it's to cut his income.

It's no different with Congress. It's no different with government. The Congress is going to spend whatever the tax system raises, plus a good deal more. But that good deal more is not indefinitely expansive. Especially under current circumstances, when there is enormous popular pressure for a balanced budget. That's manifested in the form which this amendment took. It's manifested in the success which Jim Davidson and his associates have had in getting thirty states to call for a constitutional convention.

Deficits are unpopular. The way to get the budget restraints implemented is to make sure the feet of Congress and the Senate are kept to the fire of having to avoid excessive deficits. The way to do that is to hold down the amount of money they have coming in.

That is why I have long been in favor of cutting taxes under any circumstances for any excuse for any reason in any way whatsoever.

I strongly favor the particular kind of tax cuts that President Reagan has proposed, cuts that are for three years so that you only have to vote once to keep their feet to the fire three years in a row. It's a terrible thing to have to face this fight each year, year after year.

I like the idea that the tax adjustment is across the board for individuals because that gives you a broad basis of support in the populace. If I had my way, of course, I would like the reductions in rates to be ever bigger. I think it would be nice if we could have tax changes that eliminated the whole of that hundred billion dollar increase that's scheduled in the budget.

But I am a little bit realistic, not often, but sometimes, and I recognize there are limits to what you can do. So I think the President's tax program makes a great deal of sense.

I'm not arguing for it on the mistaken view that people have attributed to some proponents of supply side economics. I am not arguing for it because I believe that cutting tax rates will increase government revenues. There is no doubt that there will be some effect in that direction. There is no doubt that cutting marginal tax rates on individuals will lead them to refrain from some tax shelters they might otherwise engage in, will lead them to work harder, will lead them to save more, to invest more effectively, and therefore that the reduction in revenue will be less than the Treasury will estimate by its standard procedures. But that's not my main argument.

In fact, if it were true that a particular cut in tax rates would increase government revenue, then I would say that the cuts weren't deep enough, because my objective is to reduce the revenue. I regard it as a disadvantage of a cut in tax rates if it does not decrease the revenue.

In order to get as much of an incentive effect as possible on enterprise, initiative, investment and so on, what you need to do is cut high marginal tax rates. There is no doubt that cutting those high marginal tax rates will have a big feedback effect by increasing the amount of income reported.

But we ought to cut tax rates deeply enough so that the feedback effect is more than offset and revenues decline. That is the only way, in my opinion, to bring effective pressure on Congress to keep spending down.

The other argument that is being made is that somehow tax cuts in tax rates are inflationary. Again, the people from whom that argument is coming are not the people I've heard in past years complain about inflation. The argument is coming from those people who produced the inflation, those

people who have told us all along that we are unduly concerned about the problem of inflation and are not sufficiently concerned about the problem of unemployment.

Let me go to the argument itself. There are two points I want to make.

The first is inflation is not produced by the budget. Inflation is produced by the Federal Reserve System and nobody else. The Federal Reserve System has been behaving, in my opinion, very badly. It has been engineering extraordinarily erratic monetary growth over the past couple of years. It has recently embarked on an expansionary path of monetary growth, which if continued, threatens to torpedo much of the President's economic program.

If there is a wild bull in the china shop at the moment, unfortunately, it's the Federal Reserve. If you want to stop inflation that's where you've got to look.

The second point is, if you reduce government spending by a dollar, that takes a dollar out of the stream available to bid for goods and services. If you reduce tax receipts by a dollar, that adds a dollar to the stream. Why don't the two cancel out?

Is there some way in which, when the government spends a dollar, that's not inflationary? But when a private individual spends a dollar it is?

Is there some way when the government spends a dollar it adds to employment, but when a private individual spends a dollar it doesn't add to employment?

I must say that is a distinction which escapes me completely.

Those who are arguing against the tax proposals are completely wrong from beginning to end. They should be rejected. We should all support as strongly as we possibly can the adoption in full of the proposals that President Reagan has made to cut tax rates as well as to restrain the budget.

As I said at the outset, we have reason for congratulation. I think the reporting of the amendment out of the Judiciary Committee is a marvelous thing and we ought to all be delighted with it. But we do not have any reason for complacency. We have not won. The first batter has been up to bat. The first ball has been thrown. The pitcher on our side got a strike. That's about where we are in this game.

Thank you.

[From the Freeman, May 1978]

INFLATION IN ONE PAGE

(By Henry Hazlitt)

1. Inflation is an increase in the quantity of money and credit. Its chief consequence is soaring prices. Therefore inflation—if we misuse the term to mean the rising prices themselves—is caused solely by printing more money. For this the government's monetary policies are entirely responsible.

2. The most frequent reason for printing more money is the existence of an unbalanced budget. Unbalanced budgets are caused by extravagant expenditures which the government is unwilling or unable to pay for by raising corresponding tax revenues. The excessive expenditures are mainly the result of government efforts to redistribute wealth and income—in short, to force the productive to support the unproductive. This erodes the working incentives of both the productive and the unproductive.

3. The causes of inflation are not, as so often said, "multiple and complex," but simply the result of printing too much money. There is no such thing as "cost-push" inflation. If, without an increase in the stock of money, wage or other costs are forced up, and producers try to pass these costs along by raising their selling prices, most of them will merely sell fewer goods. The result will be reduced output and loss of jobs. Higher costs can only be passed along in higher selling prices when consumers have more money to pay the higher prices.

4. Price controls cannot stop or slow down inflation. They always do harm. Price controls simply squeeze or wipe out profit margins, disrupt production, and lead to bottlenecks and shortages. All government price and wage control, or even "monitoring," is merely an attempt by the politicians to shift the blame for inflation on to producers and sellers instead of their own monetary policies.

5. Prolonged inflation never stimulates the economy. On the contrary, it unbalances, disrupts, and misdirects production and employment. Unemployment is mainly caused by excessive wage rates in some industries, brought about either by extortionate union demands, by minimum wage laws (which keep teenagers and the unskilled out of jobs), or by prolonged and over-generous unemployment insurance.

6. To avoid irreparable damage, the budget must be balanced at the earliest possible moment, and not in some sweet by-and-by. Balance must be brought about by slashing reckless spending, and not by increasing a tax burden that is already undermining incentives and production.

PRESIDENT ASKS FOR SUPPORT FOR BALANCED BUDGET AMENDMENT

PRESIDENT REAGAN. It is extremely difficult for the Congress to withstand the pressures for more spending. That's why I asked Congress to pass, as soon as possible, a constitutional amendment to require balanced federal budgets. And that's why I'm appealing to all of you, at the grassroots—start putting pressure on the Congress now. Let's find out who's hiding behind the rhetoric of balanced budgets, but is unwilling to make the cuts in spending needed to bring them about.

There are now two resolutions pending—one in the House and one in the Senate—that enjoy strong support, and that would lead to such a constitutional amendment. They would require the Congress to adopt a balanced statement of taxes and spending each year, but the growth in revenues could not exceed the prior year's growth in national income. In other words, it would contain a limitation so that you couldn't just have a balanced budget by always sending the bill to the taxpayers for whatever the deficit might be.

A balanced budget amendment would have to be ratified by three-fourths of the states. The Congress could approve a deficit, but only by a 60 percent vote of the full membership of both the House and Senate.

I'm convinced that most of you do support the need for a constitutional amendment. After my speech the night before last, the public response was more than seven to one in favor of the idea.

Government must stay within the limit of its revenues. This is not a political issue between parties; it's an issue simply of sense vs. nonsense, of endless red ink versus lasting recovery. With your voices and your support, good sense will prevail. Thank you, and God bless you.

[From Current, Vol. 4, Spring 1982]

S.J. RES. 58: THE TAX LIMITATION—BALANCED BUDGET AMENDMENT

(By Wm. Craig Stubblebine)

The Senate of the United States now seems likely to bring the Tax Limitation—Balanced Budget Amendment to a vote sometime late in April. Should both the Senate and the House act favorably, submission of the amendment to the States for ratification would bring to a close the activities of those who have sought a Constitutional Convention to deal with the issue of balancing the Federal budget. This is so because many of the current thirty-one of the necessary thirty-four State calls for such a convention provide that their call is valid if and only if the Congress fails to submit to the States just such an amendment.

In consequence, the proposed U.S. Constitutional amendment now is beginning to receive the attention of the body politic, including scholars and the media. This attention is richly deserved, for the amendment is the result of a long, thoughtful, and thoroughly scholarly process. Indeed, the more closely the amendment is examined, the more respect it generates. The amendment approaches, if not achieves, a perfect balance between the ideal and the practical.

THREE FISCAL NORMS

The amendment would (re-)introduce into the Constitution three fiscal "norms". First planned (budgeted) Federal outlays should be not greater than planned Federal receipts, that is, the Congress should not plan a deficit. Second, planned receipts should not grow more rapidly than the underlying general economy, that is, the burden of Federal taxation should not grow from year-to-year. Third, implicit in the first two, actual Federal outlays should not grow more rapidly than the underlying general economy, that is, the burden of Federal spending should not grow from year-to-year.

These norms were a part of the effective Constitution until the 1900's. The Sixteenth Amendment, adopted in 1913, explicitly voided the restraint on Federal taxing power placed into the Constitution by the founding fathers. The great depression and Keynesian fiscal theory of the 1930's undermined the implicit prohibitions on deficit spending during peacetime. In combination, both undermined the notion of limited Federal government, a notion at the core of American federalism.

While (re-)introducing fiscal norms which have been the sine qua non of fiscal responsibility, the proposed amendment nevertheless would provide the Congress with flexibility to accommodate change. Planned Federal receipts could be allowed to grow more rapidly than the economy, but only provided an absolute majority of the Congress can agree each year on the requisite tax law. Similarly, the Congress could plan a deficit, but only provided three-fifths of the membership of each House agree each year that circumstances warrant violation of the fiscal norm.

The burden of Federal spending could grow more rapidly than the general economy, but only provided a Congressional consensus annually exists either to violate the Constitutional norm of tax stability or the Constitutional norm of balance between taxing and spending. The higher voting rules and the necessity to revisit the issue each year would mean that a continuing consensus of members of Congress and their constituents must be maintained to violate

the Constitutional norms over time. Whenever that consensus breaks down, the Constitutional norms automatically reassert themselves.

Contrast this with present Constitutional law and Congressional practice. Laws providing for increasingly onerous taxing, spending, and deficit burdens are adopted for "all time." To stabilize these burdens, a consensus must emerge pressuring the Congress to enact new law. The difficulties inherent in reasserting fiscal responsibility are illustrated eloquently by the current budgetary turmoil in the Congress.

THREE CRITICAL VOICES

S.J. Res. 58 is not without its critics. Such critics may be classified into one or more of three camps. In the first are those who applaud the 1900's expansion of the Federal sector, including those who seek to transform America into a socialist state. Beyond observing that such a transformation clearly is contrary to wishes of the vast majority of Americans and that this majority has spoken to the contrary in elections and survey polls, there is little that can be said.

In the second camp are those who, while decrying this expansion of the Federal government, oppose any amendment which does not dictate a retrenchment of Federal taxing and spending and an end to inflation-producing deficits. They fail to appreciate that Constitutions establish a decision-making process, not a result.

At the same time, it should be noted that the proposed amendment is compatible with the emergence of a new consensus for a smaller Federal sector: a simple majority of the Congress could adopt a statement of receipts and outlays in which receipts grow more slowly than the economy. Each such fiscally conservative Congress would establish a smaller Federal share of the economy which would persist unless and until an extraordinary consensus appeared to approve a larger share.

The amendment also was drafted so as to provide the Congress with incentives to end inflation—by the simple expedient of linking the current fiscal year statement with the growth of national income in the prior calendar year. Under the amendment, inflation in the prior year would mean less real Federal taxing and spending during the succeeding fiscal year. The amendment eschews mandating equality between the revenues actually received by the Federal Treasury and the amendment's statement receipts. Because the amendment looks to the future, a future necessarily shrouded in uncertainty, such a mandate would face the Congress and the Administration with an impossible task.

In the third camp are those who, while decrying the present regime of fiscal irresponsibility, believe either that amending the Constitution in this area is inappropriate or that the proposed amendment is inappropriate. Such opposition comes in six forms.

SIX FORMS OF OPPOSITION

The first comes from those who believe that the only response to the present situation is election of "good" men to public office. They fail to appreciate that the Congress is now and always has been membered by many "good" men, men who have come to understand that they are as much prisoners as perpetrators. The history of fiscal irresponsibility is, in greater part, the consequence of a defective institution setting, a setting which the proposed amendment is designed to correct.

The second comes from those who believe that the amendment represents an unwarranted intrusion into the powers of the Congress to deal with the fiscal affairs of the nation. They forget both that the fundamental purpose of a constitution is to restrain legislative majorities and that the Constitution, in its original casting and in its present form, contains various "fiscal" provisions. Moreover, the amendment as drafted is conducive to an orderly and constructive conduct of the nation's fiscal responsibilities. For example, by linking the growth of national income, the amendment would accommodate—but would not require—counter-cyclical fiscal policy.

The third comes from those who would rely on statutory reform of the Congress, especially reform of the 1974 Budget Act. They fail to reckon with the Constitutional fact that what one Congress can enact into law, a subsequent Congress can repeal, either explicitily or implicitly. The 95th Congress adopted legislation requiring balanced budgets beginning with fiscal 1981. Subsequent Congresses have repealed this legislation "by implication" each time they have adopted unbalanced budgets. Statutes and "rules of Congress", however well drawn, cannot cure fundamental Constitutional defects. In any case, adoption of the amendment would not preclude the modifications of Congressional practices these critics believe would be amelioratory; if anything, the amendment would move the Congress to their adoption.

Also in the third camp are those who take issue with specific aspects of the proposed amendment. The claim has been made that certain "terms" used are so lacking in clarity that the Congress will ride roughshod over their intent: receipts, outlays, and national income.

Such criticism fails to reckon with the detailed analysis of the amendment prepared by the Senate Judiciary Committee in its Report. As part of the "legislative history", this analysis will control subsequent interpretation of the amendment, whether by the Congress or the Courts. As the Report makes clear, the amendment is drafted so as to permit considerable latitude in application and still be effective in promoting both a balanced budget and a stable Federal share of the economy.

These critics also fail to appreciate the fact that, by their standard of clarity, each and every provision of the Constitution drafted by the founding fathers would be rejected, including the entire "Bill of Rights". Of necessity, constitutions merely are collections of words until application gives them life. Implicitly, these critics do not believe that members of Congress respond constructively to their Constitutional obligations. Were this the case, the Constitution long since would have become a dead letter.

A fifth form of opposition comes from those who argue the amendment would entice the Congress to respond perversely. For example, by restraining the growth of Federal taxing and spending, the amendment could be seen as pressuring the Congress to rely more heavily on regulation of the private sector. Such regulation, invariably, reduces the real growth of the economy. As a counter to this incentive, the amendment has been drafted to provide Congress with an incentive to stimulate real economic growth.

TIME FOR CONSTITUTIONAL REPAIR

Finally, opposition comes from those who would believe that some other amendment would be more effective: giving the President an "item veto", for example. There is no evidence that the item veto restrains either deficit spending or total government spending.

California has been a rapid spending growth state, in spite of its Governor's constitutional item veto. The President's experiences as Governor of California led him to initiate the first constitutional tax/spending limit movement. His experiences as President surely will lead him to support S.J. Res. 58.

Justification for the amendment lies in the Congressional fiscal irresponsibility which has burdened this nation at least since the end of World War II. This history of an increasingly onerous tax burden of increasing deficit spending, of inflation and high interest rates, of declining rates of saving and investment, and declining rates of real economic growth is too well known to bear detailing here.

Against this history, the American people have only two choices: to permit, with occasional interruption, continuation of the deterioration of the last forty years or to begin repair of the Constitutional defects which have become manifest. Senate Joint Resolution 58 is a reasonable and constructive response.

NATIONAL DEBT GOES OVER $1 TRILLION

(By T. R. Reid)

The national debt, the cumulative result of two centuries of deficit spending by the federal government, went over $1,000,000,000,000 yesterday.

The Treasury Department said a series of routine financial transactions during the day pushed the debt total beyond the symbolic trillion-dollar barrier. The debt figure had topped $999.3 billion last Friday and then held steady for the next four business days as the Treasury's redemption of old securities nearly matched its issuance of new ones.

Yesterday, the government borrowed slightly more than $9 billion through new 13-week and 26-week Treasury bills, but retired only $8.1 billion of old securities.

The 13-digit debt is an inevitable result of tax and spending decisions made by Congress months or years ago. In the past few weeks, as the debt total approached the new benchmark, political figures from President Reagan on down have invoked the trillion-dollar liability as a symbol of government spending run amok.

"One trillion dollars of debt," the president said in his televised address last month. "If we as a nation needed a warning, let that be it."

The government's debt, though, is nothing new. "A national debt, if not excessive, will be to us a national blessing," declared Alexander Hamilton, the first secretary of the treasury.

And the federal government has had this blessing since 1789, when the new national government assumed liability for the $75 million in debts run up during the Revolutionary War.

By 1835, the government had reduced its debt to the lowest level ever—$37,513. Then budget deficits, due largely to military spending, sent the debt back up, and the total reached $1 billion midway through the Civil War. It took another 110 years, until 1974, for the figure to reach $500 billion.

In other words, half of the current trillion-dollar debt was incurred in the last seven years.

By some measures, however, the national debt has been of decreasing importance in

national economic accounts. During World War II, the debt was greater than the nation's total economic output—the gross national product. Today the debt total is only a third as large as the GNP.

The federal government's debt has grown at a rate of about 5.5 percent each year since 1960, but state and local government debt has increased even more, and private borrowing has grown almost twice as fast as Washington's has.

The debt grows when the government spends more than it raises in taxes and borrows money to make up the deficit. When the government runs a surplus, it can use the extra money to pay off some outstanding debts, but this has happened only once in the past 20 fiscal years.

The Treasury borrows the money by issuing securities—bills (with a maturity of up to one year), notes (one to 10 years' maturity) and bonds (10 to 40 years)—to individuals, banks, corporations, other governments and federal agencies. The biggest share of the debt, about $200 billion, belongs to huge federal trust funds like Social Security and the Civil Service retirement fund.

Because U.S. government securities are a famously safe investment—Uncle Sam has never missed a payment—and because of the accumulation of U.S. dollars overseas, foreign investors have become major lenders in the past decade. Today foreign governments and central banks hold about 14.5 percent of the debt.

Among other things, that means that U.S. taxpayers will send about $15 billion in interest payments this year to foreign governments, mainly wealthy oil-producing nations.

Mr. HATCH. Mr. President, I move the adoption of the committee amendment and that the joint resolution, as amended, be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER (Mr. COCHRAN). The question is on agreeing to the motion of the Senator from Utah.

The motion was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, today's consideration of Senate Joint Resolution 58, the popularly titled balanced budget/spending limitation amendment, marks another major step toward placing our country on the road to a responsible fiscal policy. The amendment embraces principles of governmental prudence that have guided us through much of our existence and which many students of American history feel are an unwritten part of our Constitution. It is only relatively recently in our history that we have ignored these precepts of Federal fiscal policy that form the underpinnings of a sound and respected Government. The results of our inability to control spending and our lack of willpower to pay our debts as we accumulate them are obvious to all. But it is not too late to return to policies that resulted in generally balanced budgets for three-quarters of our 206-year history. It is not too late to hit the brakes on the spend and spend, tax and tax, philosophy that has driven recent Congresses and administrations, but played a cruel trick on the American public. Senate Joint Resolution 58 is the vehicle that can, and I feel will, restore responsibility to our budgetmaking efforts. With the return of that responsibility—a term we will hear again and again during this debate—I believe the spirit of all Americans will soar and the great promise and hope that has been the birthright of all Americans will also be restored.

The distinguished chairman of the Constitution Subcommittee has related the enormous efforts that have preceded this moment. The successes have been exhilarating—the failures have hit and resulted in temporary discouragement. Three years ago when the constitutional amendment I had authored calling for a balanced budget, Senate Joint Resolution 126 was killed at the Committee on the Judiciary by a single vote, I felt an utter draining of spirit and great sadness for what might have been. The resurgence of the balanced budget concept in Congress and among a clear majority of the populace of the country has been among the greatest satisfactions of my term in the Senate.

Many factors and many people and organizations have been behind the resurgence of the balanced budget/spending limitation concept, but the clear leader of this effort in the Senate has been my friend and colleague of 6 years, Senator ORRIN HATCH of Utah, chairman of the Constitution Subcommittee of the Committee on the Judiciary. He has been scrupulously fair in dealing with all interested parties on this issue, tireless in his efforts to achieve legislative momentum for the amendment, and he has achieved a depth of knowledge and insight into this issue that will impress the public, scholars, economists, and all of us that will hear him over the course of deliberations on Senate Joint Resolution 58. While the news tonight may be filled with stories concerning the tainted honor of some of our Members, the Congress can take great pride that men such as ORRIN HATCH are willing to work so hard, so selflessly and with such impeccable honesty for those goals and principles the American people have demanded be implemented and which will serve as the fiscal cornerstone for the future greatness of our country. It has been a pleasure, as ranking minority member of the Constitution Subcommittee, to serve with and work with the Senator from Utah, ORRIN HATCH, and I particularly applaud his efforts on behalf of Senate Joint Resolution 58.

Within our body there are many Members who have given freely of their time and efforts to secure passage of an amendment somewhat like Senate Joint Resolution 58. I say "somewhat" because Senate Joint Resolution 58 is the product of compromise; happily, unlike some compromises, Senate Joint Resolution 58 as it is before us today clearly embodies the finest aspects of its predecessors and meshes together in a workable way. But it took the earlier efforts and thinking of our colleagues such as Senator HEFLIN, Senator BOREN, Senator ARMSTRONG, Senator MELCHER, Senator STENNIS, Senator GRASSLEY, Senator BYRD of Virginia, Senator HEINZ of Pennsylvania, and, of course, the distinguished chairman of the Judiciary Committee, Senator STROM THURMOND, to get where we are today.

Senator THURMOND has been pushing and working for this day, I know, since the day he came to the Senate. He talked to me personally about how important this is and how we cannot let this flame go out even when in the last Congress we lost in the Judiciary Committee by one single vote.

I remember Senator THURMOND saying, "Our day will come again," and indeed perhaps it is with us now. I thank him for his leadership and continued perserverance and zeal in this effort.

We are especially indebted to both the majority leader and the minority leader for their efforts in working out an arrangement on the time to enable the amendment to be brought to the floor in ample time for the Senate to give it thorough debate and for the House to have ample time, once we pass it, to take action either through a discharge petition or through their normal procedure.

Ample opportunity will present itself for gamesmanship. I hope that political partisanship will not be an issue here, and I do not anticipate that it will be. This effort has been bipartisan at every stage leading to the present, and I am certain that spirit of cooperation will continue.

In a recent poll, 80 percent of Americans supported this type of an amendment to the Constitution.

Thirty-one States have felt so strongly they have petitioned Congress to call for a Constitutional Convention. There is no place for petty efforts to confuse the public and thwart their will.

I would also like to take this opportunity to commend the many public interest groups and individuals who have devoted recent years of their lives to pushing for a constitutional

amendment such as Senate Joint Resolution 58. Two groups come immediately to mind: The National Tax Limitation Committee headed by Lew Uhler and assisted by Bill Shaker and an outstanding support staff, and the National Taxpayers Union headed by Jim Davidson and supported by Dave Keating and an excellent staff. Without these people and their grassroots efforts talk of a balanced budget amendment would be just that. I commend them and thank them for their years of service to this cause and their country.

Senate Joint Resolution 58 is the product of years of preparatory work and hearings. It has been modified many times before it reached the form as it appears now before you. Its authors make no claim that it is perfect—I, for one, have a different approach, a far more stringent approach to deficits that mandated an increase in taxes for whatever that deficit was run. We do feel that in its present stage it embodies the principles we strive to attain, and does so in a manner that is clear, concise and which does not introduce new principles that will unduly bias the budget and taxing process.

For these and other reasons articulated by Senator HATCH, I hope the resolution as it came from the committee can be adopted without major gutting amendments so that this excellent compromise can be the final amendment that is passed.

I feel the amendment as written gives us the proper guidance to fulfill its goals and that if each of us and our successors follow the spirit with which this amendment is imbued, that further language and guidance is unnecessary.

THE CASE FOR A BALANCED BUDGET TAX LIMITATION AMENDMENT TO THE U.S. CONSTITUTION

The Federal budget was last balanced in 1969. In the subsequent 12 years, Federal spending has increased three and one-half times and deficits have added $430 billion to the total national debt which now exceeds $1 trillion.

The combination of rapid growth in the Federal sector and the resulting deficits, financed to a significant extent through money creation, has been the cause of steady inflation, record interest rates and most recently, economic recession with falling output and rising unemployment.

The tax limitation/balanced budget amendment would require Congress to adopt a budget statement ahead of each fiscal year under which outlays would not exceed receipts. In addition, the annual increase in planned or budgeted receipts would be limited to the rate of growth in national income in the preceding calendar year.

As the year progressed, actual receipts would not necessarily equal budgeted receipts, but actual outlays could not exceed budgeted outlays. This one provision effectively limits the growth in Federal spending to the growth in national income.

Exceptions are provided. In any year, projected outlays could exceed receipts. Congress could plan a deficit by a recorded vote of three-fifths of the whole membership of each House.

The increase in planned tax receipts could exceed the rate of growth in national income by a vote of a majority of the whole membership in each House and approval by the President.

The provisions of the article would be waived for any fiscal year in which a declaration of war is in effect.

Critics of a constitutional amendment to promote fiscal discipline argue that its inflexibility would hamstring contracyclical fiscal policies. They maintain that statutory approaches are preferable.

The tax limitation/balanced budget amendment would put neither the economy nor Congress in a policy straitjacket. Deficits could still occur in recessions as actual revenues fell short of those in the budget plan and vice versa in expansionary periods.

Moreover, Congress could deal with emergency conditions by a three-fifths vote on deficits or a majority vote on taxes.

Statutory approaches have been tried off and on since the late 1960's. The record shows quite clearly they have failed.

Survey after survey demonstrates that a majority of the public wants an end to excessive Government spending and chronic budget deficits. Rapid ratification by the States is expected to follow congressional approval. Senate Joint Resolution 58 and House Joint Resolution 350 would pave the way for a new era of fiscal responsibility in the United States. That approval is vital to the economic certainty and predictability so essential to a long-term economic recovery.

EXPLANATION OF SENATE JOINT RESOLUTION 58 AND HOUSE JOINT RESOLUTION 350

The key provisions are contained in sections 1 and 2. These sections must be read as provisions that operate in conjunction with one another.

Section 1 of the proposed amendment establishes, as a fiscal norm, that the Federal budget be balanced. It does so by requiring that Congress adopt a statement or budget of planned receipts and outlays prior to each fiscal year in which planned outlays do not exceed planned receipts. If, in its judgment, circumstances warrant, the Congress may adopt an amended statement of receipts and outlays for the fiscal year—provided that outlays do not exceed receipts—at any time during the fiscal year. By a recorded vote of three-fifths of the membership of each House of Congress, a statement may be adopted containing a specific level of deficit. Any amended statements containing a deficit would require a three-fifths vote only if such deficit was greater than the deficit in the previous statement.

Section 1 also mandates that actual Federal outlays not exceed the planned level of outlays set forth in the statement. Both Congress and the Executive would have continuing responsibilities to insure that this limit is not breached. Thus, actual outlays cannot exceed statement outlays which cannot exceed statement receipts which cannot grow faster than the economy. At the same time, actual receipts may fall below planned receipts without requiring congressional or Executive action as, for example, when an unanticipated recession caused revenues to decline below expectations during the course of a fiscal year.

Section 2 of the proposed amendment establishes, as a fiscal norm, that Federal receipts should grow no more rapidly than the growth of the economy from which they are derived. The balanced budget in section 1 should not be balanced at levels of receipts and outlays that consume an increasing proportion of the national economy. It achieves this by requiring that receipts reasonably expected to be received by the Government not increase by a percentage greater than the percentage increases in the national income during the last calendar year ending prior to the beginning of the fiscal year. If, in its judgment, circumstances warrant, the Congress may permit a more rapid growth in receipts only by a recorded vote of a majority of the membership of both Houses to modify existing statutes to generate additional tax receipts.

Under its system of taxation, Federal tax receipts grow more rapidly than national income during either periods of real growth or periods of nominal growth caused by inflation. Stabilizing the share of that income available to the Federal Government—as provided by section 2—would require Congress to enact annual tax cuts or to index the tax system, unless it was prepared to vote annually for tax increases that would increase the Federal Government's share of the economy.

Sections 1 and 2, in conjunction, establish a linkage between the growth of the economy and the growth of Federal outlays, as well. Since receipts cannot grow faster than the economy (section 2) and outlays cannot exceed receipts (section 1), Senate Joint Resolution 58 would also establish, as a fiscal norm, that Federal outlays cannot grow faster than the economy (sections 1 and 2).

The relationship between the growth of income during the prior calendar year and the growth of receipts during the following fiscal year pro-

vides the Congress with reasonably precise guideposts in its budgeting process, minimizing the necessity for estimations. Under current practices, reasonably precise estimates of the growth in national income are available by mid-July prior to the beginning of the fiscal year. Prior to that, reasonably good estimates are available as early as the January prior to the fiscal year. The mid-July estimates, therefore, should cause only marginal revisions in the statement or budget for the coming fiscal year. The Congress is free to choose any of a number of estimates of national income as a benchmark for growth, for example, gross national product, national income, and so forth.

The relationship between the growth of income during the prior calendar year and the growth of receipts also establishes the Federal budgetary process as a mildly countercyclical instrument of fiscal policy. The 21-month lag between the midpoint of the prior calendar year and the midpoint of the fiscal year leads to receipts being able to grow more rapidly than the fiscal year national income during periods of recession, thus moderating down-turns in the economy, and more slowly than the fiscal year national income during the period of expansion, thus moderating the economy.

Section 3 would authorize Congress to waive any of the requirements imposed upon it by this amendment for a fiscal year in which a declaration of war is in effect.

Section 4 is a definitional section that clarifies the intent of this amendment to define receipts and outlays in the broadest possible manner. The exceptions in the definitions for "receipt" and "outlays" are consistent with traditional budget and accounting procedures.

Section 5 establishes as the effective date of this amendment the second fiscal year beginning after its ratification. The requirement of this amendment would, in their entirety, be applicable to such fiscal year.

WHY A CONSTITUTIONAL AMENDMENT

Efforts to secure a constitutional rule to require a balanced Federal budget and to limit the growth of Federal spending have intensified as the Federal Government's persistent failure to balance its budget has produced a public debt of over $1 trillion and as the Federal share of the economy has continued to increase.

The Nation's economic problems are attributable to these facts. Persistently high levels of inflation and unemployment and declining levels of growth and productivity all can be traced directly or indirectly to the fiscal policies and practices of the National Government.

The tax limitation-balanced budget amendment seeks to reestablish the limitations upon Federal spending and deficit practices that existed in earlier years through an array of formal and informal constitutional provisions. These provisions have been eroded over the years. The abandonment of the requirement of balanced budgets in the "unwritten constitution," the passage of the 16th amendment, the development of new judicial doctrines concerning Federal spending authority are some of the features that have contributed to the present situation, one in which there is a virtual absence of external constraints upon the ability of Congress to spend.

Specifically, the proposed amendment addresses a serious spending bias in the present fiscal process arising from the fact that Members of Congress do not have to cast votes in behalf of new taxes in order to accommodate new spending programs. Rather then having to cast such politically disadvantageous votes, they either may resort to increased levels of deficit spending or may allow the tax system, through bracket creep, to produce annual, automatic tax increases.

Thus, Members of Congress are free to respond to the concentrated pressures of spending interest groups—and reap the political advantages of doing so—without having to reap concomitant political disadvantages by reducing spending programs favored by other spending interests or by expressly raising taxes.

The result is spending that continues to rise inexorably, whatever the genuine will of the people. The result is an essentially undemocractic and unresponsve process that enables Members of Congress to avoid ultimate accountability for their spending and taxing decisions. It is the existence of this institutional bias that requires a constitutional solution.

The amendment proposes to overcome this spending bias by restoring the linkage between Federal spending and taxing decisions. It does not propose to read into the Constitution any specific levels of spending or taxing. Neither does it propose to intrude the Constitution into the day-to-day spending and taxing decisions of the representative branch of Government. It merely proposes to create a fiscal environment in which the competition between taxspenders and the taxpayers is more equal, an environment in which spending decisions once more will be constrained by available revenues.

One provision of the amendment would establish a balanced budget as a norm or Federal fiscal policy. It could be overcome, however, by three-fifths vote of Congress. A second provision would prohibit the Federal Government from consuming an increasing share of the national economy unless Members of Congress were willing to go on record to adopt the necessary tax increases. The conjunction of these two provisions would create an effective spending limitation.

Although not a panacea for the economic problems of the Nation, the amendment is a major step toward securing a political environment in which fiscally responsible policies will be more easily possible, as well as an environment more conducive to more honest and accountable fiscal decisionmaking.

Senate Joint Resolution 58 and House Joint Resolution 350 represents both responsible constitutional policy and responsible economic policy. Passage of this resolution would constitute an appropriate response by Congress to the pending applications by nearly two-thirds of the States for a constitutional convention on this issue.

These views are in agreement with President Ronald Reagan, who wrote last year that

Excessive Federal spending and deficits have become so engrained in government today that a constitutional amendment is necessary to limit this spending. I shall continue to emphasize the need for such an amendment.

And these views are in agreement with the overwhelming number of the American people who have consistently expressed their support for such a constitutional amendment.

QUESTIONS AND ANSWERS

Q. How does Senate Joint Resolution 58 work?

A. The amendment requires, first, the adoption of a "statement" or budget for each fiscal year in which total Federal outlays are no greater than total Federal receipts and mandates that actual outlays be no greater than statement or budget outlays. Second, the amendment requires that total receipts grow at a rate no greater than the growth of the national economy. Thus, actual outlays cannot exceed statement outlays which cannot exceed statement receipts which cannot grow faster than the economy.

Q. Are the issues addressed by Senate Joint Resolution 58 suitable for the Constitution?

A. Yes. The proposed amendment seeks to re-establish constitutional limitations upon Federal spending and deficit practices that existed in earlier years through an array of formal and informal constitutional provisions and which have been eroded over the course of recent years. Specifically, Senate Joint Resolution 58 addresses a serious spending bias in the present political process arising from the fact that Members of Congress do not have to cast votes in behalf of new taxes in order to accommodate new spending programs. Rather than having to cast such politically disadvantageous votes, they may either resort to increased levels of deficit spending or allow the tax system, through "bracket creep", to produce annual, automatic tax increases. This spending bias has created severe economic and political difficulties that are fully deserving of being addressed by the Constitution.

Q. How does Senate Joint Resolution 58 address this spending bias?

A. The proposed amendment overcomes this bias by eliminating the two elements in our political system responsible for the bias: (a) the unlimited accessibility to deficit spending; and (b) the availability of unvoted tax increases. Section 1 would re-establish the balanced budget as a fiscal norm, while Section 2 would require Members of Congress to have a vote to increase taxes before the Federal sector could ever consume a greater share of the national economy. Senate Joint Resolution 58, by doing this, would restore the traditional linkage between spending and taxing and ensure that votes to increase spending would have to be matched by votes to increase taxes.

Q. Does this Amendemnt write economic policy into the Constitution?

A. No. First the proposed amendment (re-) introduces into the Constitution fiscal norms, not policy. The fiscal norms are only those the founding fathers presumed were applicable to any democratic society—so much so that they did not bother to incorporate them explicitly into the Constitution. The two norms are limited growth of Federal taxing and spending and balance between Federal revenues and expenditures.

"Policy", by contrast, has to do with the management of affairs. To quote from Websters, policy signifies "a definite course or method of action selected from among alternatives and in light of given conditions to guide and determine present and future decisions".

Second, the proposed amendment provides a set of consensus rules by which these fiscal norms temporarily may be set aside if "given conditions" so dictate. One such circumstance would be a state of war, the financing of which traditionally has been partly through borrowing.

Q. Are deficits inherently inflationary? If not inflationary, what is the reason for the amendment's concern with budget deficits?

A. No. Deficits become inflationary only if the Federal Reserve System "monetizes" Treasury borrowing at a rate greater than is consistent with the growth rate of the underlying economy.

However, such a simple answer fails to acknowledge the pressures which come to bear on the Federal Reserve System to engage in excess monetization when faced with continuing and sizeable Federal deficits. If the money supply fails to expand, Treasury borrowings compete in the market for loanable funds, thus driving up interest rates and stifling the flow of capital to private investment. In turn, this reduces the rate of real economic growth in the economy. On the other hand, if the Federal Reserve System accommodates the additional Treasury borrowing, the money supply expands faster than the economy's ability to absorb the additional purchasing power. In turn, this leads to a bidding up of prices and inaugurates a new round of inflation. Neither alternative can be attractive to the Governors of the Federal Reserve System.

Not surprisingly then, the Federal Reserve has shown a propensity to seek the worst of both alternatives. That is, by turns, the Federal Reserve has pursued monetary restraint and monetary expansion, thus "whipsawing" the economy into a condition of "stagflation": stagnant real economic growth and inflation.

Eliminating the structural Federal deficits characteristic of recent years would aid both in terminating the current inflation and in promoting an era of monetary and price stability in the future. Establishment of a constitutional norm of fiscal balance between Federal revenues and expenditures is an important element of the proposed amendment.

Q. Why does Senate Joint Resolution 58 provide for different qualified majorities in Section 1 and 2?

A. Section 1 addresses the element of the spending bias related to the Congress' unlimited accessibility to deficit spending. An extraordinary majority—in this case a three-fifths majority—is necessary to overcome this element of the spending bias. Section 2 addresses the second element of the spending bias related to the availability of automatic tax increases. It requires that Congress go on record to pass a law raising taxes before the level of taxation can be increased. The requirement of a constitutional majority in Section 2, i.e., a majority of an entire membership of each House of Congress, is designed to ensure that any tax increase vote takes place under conditions of maximum political visibility. Like all laws, it can be vetoed and is subject to filibuster in the Senate.

Q. Does it not violate basic principles of democracy to require a supermajority of sixty percent to approve deficit spending?

A. No. First, the "basic" principle of democracy would be unanimity, not rule by majority. Lesser decision rules are employed only to avoid the problem of recalcitrant holdouts. That is, democratic societies depart from unanimity for practical reasons, not for principle.

Second, super-majority voting rules are employed when the significance of the decision requires evidence of a wide consensus. The Constitution now contains several decisions wherein such a consensus is demanded of the Congress: to override a Presidential veto, to impeach an officer of the Government, to expel a member of Congress, to concur on treaties, and to propose amendments to the States. Violation of the fiscal norm of balance between Federal revenues and expenditures similarly should demand such a consensus.

Q. Should not Senate Joint Resolution 58 be tried as a statute before being placed in the Constitution?

A. Previous efforts to impose fiscal responsibility upon Congress through statutes have not been successful because they do not address the fundamental spending bias within our political system. Congress, for example, was required under the law to balance its budget for fiscal year 1981. (P.L. 95-435, Section 7) Not only can statutes always be repealed or ignored by a simple majority vote of Congress, but they do not address the underlying institutional defect or bias that makes it difficult for Congress to pursue fiscally responsible policies. To achieve this, some external constraint upon Congress is necessary.

Q. Will Senate Joint Resolution 58 preclude Congress from being responsive to economic conditions?

A. No. While the proposed amendment establishes a fiscal norm of balanced budgets and stable levels of outlays and receipts, these norms can be overcome by qualified majorities of Congress. If the slightly higher majorities for overcoming these norms cannot be obtained, there is reason to question whether or not a consensus exists on how best to respond to changing economic conditions.

Q. Would not the amendment be destabilizing since it would require the raising of taxes or the cutting of spending during a recession, contrary to the dictates of countercyclical fiscal policy?

A. No. First, while the amendment does establish a fiscal norm regarding the balance between planned revenues and expenditures, it does not establish a relationship between actual revenues and expenditures. Thus, should a recession strike the economy, actual revenues may fall below actual outlays without violating either the terms of or the spirit of the proposed amendment.

Second, the Congress has within its power the planning of a deficit provided only that it can demonstrate the required consensus of its members. Should this consensus exist among the members of Congress relative to the efficacy of a planned deficit, the amendment is accommodating, not preventive.

Q. Have not economists criticized the notion of a balanced budget amendment?

A. Some have. However, their criticism has been directed largely toward amendments which mandate balanced budgets whatever the current economic conditions. Senate Joint Resolution 58 avoids these criticisms in two ways. First, the amendment only establishes the fiscal norm of a planned balanced budget, i.e., one in which Congress can reasonably expect outlays not to exceed receipts. Actual outlays, however, may exceed actual receipts—a situation which might arise if the economy tumbled into a recession and actually receipts fell below the receipts expected at the time the planned budget was adopted. Second, the Congress can adopt a deficit budget if a qualified majority of each House of Congress deems that conditions warrant a deficit.

Q. Why does Senate Joint Resolution 58 link receipts to national income in Section 2? Is not the need for Federal receipts and outlays independent of the level of national income?

A. No. Except for periods of national emergency, Federal government spending is but one claimant on the nation's income. Excessive government spending means too little spending on other things, e.g personal consumption, future investment, State and local governments. By linking maximum growth of Federal revenues and spending to the growth of national income, the amendment stabilizes the relationship between the Federal sector and the economy that supports that sector.

Q. Does not the lag between growth of current receipts and spending and the growth of national income during the previous calendar year undermine the stability of the Federal sector?

A. No. In an economy which cycles between prosperity and recession, the approximately 21 months lag between fiscal year Federal taxing and spending and calendar year national income serves to moderate the business cycle. As the economy booms, Federal spending would be restrained by the slower pre-boom growth of national income—thus moderating what many see as the inflationary propensities of an over-employed economy. As the economy cycles toward recession, Federal spending would be supported by the faster pre-recession growth of national income—thus accommodating a Congress which desires to add an element of "stimulation" to the economy.

Q. What is national income?

A. As used in the proposed amendment, "national income" is a generic term for the annual output of the economy. The Congress may choose to rely on any of several measures of economic performance, including Gross National Product, Net National Product, National Income, Personal Income, etc. What is important is that this economic

indicator be used consistently from year to year, or that some transition period accompany the substitution of one indicator for another.

Q. Why does not Senate Joint Resolution 58 provide for the retirement of the accumulated Federal debt?

A. By establishing the norm of a balanced budget and thereby limiting future increases in the size of the national debt, the proposed amendment will lead to an increasingly less burdensome debt as the economy continues to grow. Beyond that, nothing in Senate Joint Resolution 58 prohibits Congress from paying off its present debt as it chooses. The Committee did not choose, however, to mandate a surplus budget which would have been necessary in order to provide for the regular repayment of debt.

Q. Will Senate Joint Resolution affect the ability of Congress to finance war expenditures through deficit spending?

A. No. A qualified majority of each House of Congress can approve deficit spending for national defense purposes, or any other spending purposes, if it chooses to do so. Moreover, a simple majority of Congress can waive the higher voting rules of the proposed amendment in any year in which a declaration of war is in effect. There is nothing in Senate Joint Resolution 58 that dictates particular spending priorities to Congress.

Q. Will not Senate Joint Resolution 58 prevent a prompt response to an emergency arising when the Congress is out of session?

A. No, at least no more so than under the present Constitution. No administration can expend monies that the Congress has not appropriated. If, prior to its recess or adjournment, the Congress has not provided for emergency funding, only a recall of Congress into session could deal with this situation. This is neither more nor less true under the amendment.

Q. Will Senate Joint Resolution 58 preclude Congress from meeting the genuine needs of the American people?

A. No. The vast majority of the voters have expressed strong interest in reduced levels of overall spending and taxing. In any event, if the fiscal norm established in Section 2 is inadequate to meet these genuine needs, a majority of the membership of each House of Congress may vote at any time to set higher spending levels—so long as it is also prepared to vote for higher taxes to finance such spending.

Q. Can the Congress avoid the restraints of Senate Joint Resolution 58 by spending "off-budget"?

A. No. The proposed amendment makes no distinction between on-budget and off-budget spending. The term "outlay" is defined in Section 5 to include both sorts of expenditures.

Q. Can Congress avoid the restraints of Senate Joint Resolution 58 by guaranteeing loans?

A. Temporarily. Since loan guarantees do not represent outlays in the year in which the loans are guaranteed, the proposed amendment does not preclude the Congress from authorizing such agreements. However, to the extent that a guaranteed loan is defaulted by the borrower, the outlays will come under the terms of the amendment in the year of the default.

Q. Can Congress avoid the restraints of Senate Joint Resolution 58 by imposing increased costs upon the private sector through increased rules and regulations?

A. Yes. Congressional use of regulation has always been an option to explicit taxing and spending, and will remain one under Senate Joint Resolution 58. As Professor James Buchanan has said about this point, however, "To fix the fence in one spot does not ensure that the cattle will not get out of the pasture at some other place. But it does mean that the cattle are less likely to get out than before the fence in the one spot was fixed."

Q. Can the Congress avoid the restraints of Senate Joint Resolution 58 by mandating additional responsibilities upon State and local governments?

A. No. Section 4 of the amendment is designed to make explicit and reemphasize the traditional federalism principle in the Constitution, reflected by the 10th Amendment, that restrains Federal interference with the operation of State and local governments.

Q. With economic conditions so uncertain, how can Congress establish maximum available receipts?

A. Under current law, the budgetary process is a continuing one up until the beginning of each fiscal year. When Congress receives the annual Presidential budget message in January, it will have available the first national income growth estimates of the Commerce Department. By February and March, the second and third preliminary estimates will be available. In July, well before the October beginning of the fiscal year, the Commerce Department publishes its first formal estimates of national income growth. Typically, these are extremely close to the final growth data available two years later. It should be noted that the absolute levels of national income are not an issue in the proposed amendment, only the rate of growth in the indicator.

Q. How is Senate Joint Resolution 58 to be enforced?

A. The proposed amendment is designed to be enforced primarily through the political processes. As one witness has observed of the amendment, "It would increase the flow of economic information in the political marketplace." Rather than voters having to wade through hundreds of votes cast by their Senators and Representatives each year in order to determine their views on spending and taxing, they would be able to analyze only a small number of key votes. Further, Members of Congress would be more directly accountable for their decisions since they would neither be able to defer the costs of new spending programs—through deficit financing—nor totally avoid reponsibility for imposing these costs—through automatic tax increases. In addition, Senate Joint Resolution 58 attempts to draw a balance so that federal courts will be in a position to review the most serious and unambiguous violations of the amendment, but not in a position to review basic day to day fiscal decisions better left to Congress and the Executive. Finally, it is expected that Members of Congress themselves and the Executive branch will seek to abide by the text and the spirit of the supreme law of the land.

Q. Would not the amendment spur creative accounting schemes to circumvent its provisions, thus further weakening the Congressional budget process?

A. No. The "legislative history" of the amendment makes clear that all sources of revenue and expenditure are covered by its provisions, including both those on-budget and those off-budget. In fact, the amendment would strengthen the budget process by ending those practices of the Congress which now facilitate fiscal irresponsibility. In particular, the amendment should lead to bringing all items "on-budget".

Q. If the Amendment is successful, would it mean a reduction in Federal spending and would not the spending reductions focus on national defense and/or social security?

A. No. First, restraining the growth of spending does not mean reductions in the amounts now being spent on any program, including national defense and social security. What the amendment does do is to prevent total Federal spending from taking a larger and larger share of the nation's economy. Actually, since government spending is limited to growth in the national income, the amendment provides a powerful incentive for Congress to do the things which promote economic growth. Spending will increase as the economy expands.

Second, the programs most likely to come under Congressional scrutiny are those whose provisions require an increasing share of the national economy to fund. National defense, in recent years, has been allocated a declining share of national income. Many entitlement programs have been characterized by an increasing share of national income over time. While the amendment is neutral with respect to spending priorities, leaving such decisions to the normal political process, sensibility would suggest that many programs other than social security would have their provisions revised to conform to a steady-state share of national income. If so, neither national defense nor social security would need reduction to conform to the provisions of the proposed amendment.

Q. How would the Amendment result in a more proper level of defense spending?

A. Today's inflation and sagging economy has made it almost impossible to play proper levels of defense spending.

A major reason for today's inflation is the excessive spending of the past. At the same time that we were fighting a major war in Southeast Asia, Congress launched the "War on Poverty." Without a strong economy and a strong government, our ability to take effective military action will be greatly diminished.

Many believe that the real source of our military weakness has been excessive Federal spending. In 1970, spending on defense was 40 per cent of the federal budget and one-and-a half times the HEW budget. By 1979, defense spending had dropped to 23 per cent of the budget—and the HEW budget had grown to one-and-a half times the defense budget.

The Amendment will give members of Congress a tool which will allow them to say no to the special interests—and allow the government to set about the business of establishing priorities.

Recent history seems to demonstrate that a policy designed to produce both "unlimited guns" and "unlimited butter" will end up with neither. The effective way to achieve a proper military posture is through a strong economy. The long-term answer to a strong economy is the adoption of a constitutional amendment that will limit the future growth of both taxation and spending.

Mr. President, I ask unanimous consent that a table showing State legislatures which have passed balanced budget amendment applications be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

STATE LEGISLATURES WHICH HAVE PASSED BALANCED BUDGET AMENDMENT APPLICATIONS

State	Measure	Year adopted
Alabama	HJR 227, Act 302	1976.
Alaska	HJR 17 (Amended Senate)	1982.
Arizona	SJR 1002, HCM 2003	1979, 1977.
Arkansas	HJR 1	1979.
Colorado	SJM 1	1978.
Delaware	HCR 36	1975.
Florida	Sen. Memorial No. 234, HM 2801	1976.
Georgia	Res. Act No. 93, HR No. 469–1267	1976.
Idaho	HCR 7	1979.
Indiana	SJR 8	1979.
Iowa	SJR 1	1979.
Kansas	SCR 1661	1978.
Louisiana	SCR 4, SR 73, HCR 269	1979, 1978, 1975.
Maryland	SJR 4 (Original), Md JR 77 (Enrolled).	1975.
Mississippi	HCR 51	1975.
Nebraska	LR 106	1976.
Nevada	SJR 8, SJR 2	1979, 1977.
New Hampshire	HCR 8	1979.
New Mexico	SJR 1	1976.
North Carolina	Resolution 5	1979.
North Dakota	SCR 4018	1975.
Oklahoma	HJR 1049	1976.
Oregon	SJ Memorial No. 2	1977.
Pennsylvania	HR 236	1976.
South Carolina	SCR 1024, SCR 670	1978, 1976.
South Dakota	SJR 1	1979.
Tennessee	HJR 22	1977.
Texas	HCR 13, HCR 31	1978, 1977.
Utah	HJR 12	1979.
Virginia	SJR 36	1976.
Wyoming	HJR 12 (Original) JR 1 (Enrolled)	1977.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. DECONCINI. I yield.

Mr. THURMOND. Mr. President, I wish to compliment the able Senator from Arizona for the leadership he has provided on this constitutional amendment. He has made a valuable contribution to the amendment and has assisted greatly in helping to get this amendment to the floor.

He has made outstanding remarks here today and deserves to be highly commended because the stand he is taking is for the welfare of the country.

Mr. DECONCINI. I thank the chairman.

Mr. President, I would like to yield to the senior Senator from Virginia, who has been one of the leaders for a balanced budget amendment and, in fact, started us on this course I think back in 1980, by guiding through statutory prohibitions to deficit spending. Long before I came to this body, both Senator BYRD and his father led the charge for fiscal responsibility that laid the groundwork for our being here today with this measure. It is with great pleasure that I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank my friend from Arizona.

Mr. President, I feel that our Nation and the people of the United States owe a great debt of gratitude to the able chairman of the Judiciary Committee, the senior Senator from South Carolina (Mr. THURMOND), the able Senator from Utah (Mr. HATCH), who is chairman of the Subcommittee on the Constitution, and the manager of this legislation on the minority side, the able Senator from Arizona (Mr. DECONCINI), for their leadership in bringing to the floor of the Senate this proposed constitutional amendment.

This is a historic debate in the Senate. For many years, a number of Members of this body—myself included—have urged approval of a constitutional amendment to require a balanced budget policy for the Federal Government. After a long struggle, at last we have before us just such a proposal.

Fundamentally, the amendment being debated calls for two things: A balanced budget, unless three-fifths of each House of Congress specifically votes to let spending exceed receipts; and tax growth at a rate no faster than economic growth, unless a majority of both Houses of Congress specifically votes for a higher rate.

I am a cosponsor of Senate Joint Resolution 58. Many of us who have joined in sponsoring this amendment to the Constitution would have preferred different language. In my own case, for example, I would like stronger provisions—two-thirds votes required to approve a deficit or to raise taxes or spending beyond the rate of economic growth.

But the proposal before us is a sound compromise. It has wide support in the Congress and the Nation.

The need for this amendment is great. Over the years we have learned to our sorrow that the pressures for ever higher spending are concentrated and strong, while the pressures for fiscal restraint are diffused and weak.

Without an amendment of this nature, Members of Congress can vote an unending series of spending increases and never face the consequences of their actions.

The fact is that, taking into account the budget resolution already adopted by this Congress, our Nation operates by deficit financing in 24 of 25 years, with a surplus in only the 1 year of fiscal year 1969. Yes, deficits every year except one during the period fiscal 1961 through fiscal 1985.

It often has been suggested that we should not place a provision of this kind in the Constitution, but should merely enact a statute to require a balanced budget.

Let us examine that for a moment.

The fact is that there already is such a law.

In 1978, I sponsored, the Senate and House approved, and the President signed into law, legislation requiring a balanced budget beginning in fiscal year 1981.

That year has come and gone and we are farther today from a balanced budget than ever before in our history.

The Congress has refused to obey its own law—section 7 of Public Law 95-435.

The text of the Byrd amendment—and I prefer to call it the Byrd-Grassley amendment because of the effective leadership of then Representative GRASSLEY of Iowa, now Senator GRASSLEY of Iowa, when this measure was before the House of Representatives.

The text of this amendment which is now a part of the statutory law is as follows:

Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

I think the history of that provision is strong testimony in favor of the proposal now before the Senate. The Congress can set aside or refuse to obey a law of its enactment. But a constitutional amendment is a mandate from the people and cannot be set aside by Congress.

Yet the best measure of the need for a balanced budget amendment is the state of the Federal Government's finances in July 1982.

Recently the Congress passed a budget resolution in which it went on record as saying that deficits of $106 billion this year and $104 billion next year are appropriate.

Even though a majority of the Congress finds these deficits appropriate, I am convinced that a majority of the American people would find them highly inappropriate.

What these staggering deficits tell us is that Government spending is totally out of control. Let us consider some facts and figures.

For 1977 over 1976, spending grew by 10 percent.

For 1978 over 1977, spending grew by 12 percent.

For 1979 over 1978, spending grew by 10 percent.

For 1980 over 1979, spending grew by 17 percent.

For 1981 over 1980, spending grew by 14 percent.

For 1982—the current year—over 1981, spending will grow by 13 percent, according to the congressional budget.

So we see that despite assertions by national television commentators and various special interest groups, Federal spending has not been cut—it is still soaring.

In fact, even the rate of increase in spending remains virtually undiminished. The cost of Government last year rose by 14 percent; the increase this year will be 13 percent.

These pyramiding spending increases have added rapidly to the mountain of public debt and will continue to do so.

Looking again at the congressional budget, we find that it projects a national debt to $1 trillion $533 billion by 1985.

As in the case of spending, the rate of increase is fully as alarming as the actual magnitude of the debt. The $1.5-trillion figure represents an increase of $461 billion over today's debt.

In other words, the public debt will have increased by 43 percent—nearly

by half—in just 3½ years. From another perspective, the debt will have doubled since 1978—a period of 7 years.

This debt takes a straggering toll in interest payments. already interest on the Government's debt costs the taxpayers $115 billion a year. That is more than half of what we will spend for our entire national defense structure.

At the same time, the huge debt and huge increases in that debt, because they bring about enormous Government borrowing, have a devastating effect on the money market. Today the Government is soaking up more than half of all available funds to finance its debt.

That kind of borrowing exerts enormous upward pressure on interest rates, squeezing the very investment so badly needed for our economic recovery and preventing ordinary Americans from buying their own homes.

It is absolutely critical that the Government get its spending under control and put a halt to big deficits, massive borrowing, and Government dominance of the money market. It simply is not logical to believe that we can have a sound and lasting economic recovery unless this is done.

I certainly do not argue that Senate Joint Resolution 58, in and of itself, will somehow magically solve the Government's financial problems and put us on the road to a healthy economy.

But this constitutional amendment can accomplish two important objectives:

First, it can send a signal to the country that the Government has heeded the people, who long have called for a balanced budget policy.

Second, it can create a force for fiscal responsibility—a force that just does not exist today.

Lesser measures have been tried and found wanting.

It is time to commit the Government to a policy of balanced budgets.

Except by constitutional mandate, I know of no way to bring fiscal discipline to the Congress. The Congress has proved itself incapable of disciplining itself when it come to spending. To use Jefferson's phrase, we must bind Congress down by the chains of the Constitution.

Mr. President, I think this is one of the most important proposals ever to be brought before the Congress of the United States. I again commend the Senate Judiciary Committee, its able chairman, the minority manager of the pending legislation, and the Senator from Utah, Mr. HATCH, who is chairman of the subcommittee which did so much work on this legislation.

I ask unanimous consent that certain tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

National debt in the 20th century (in billions of dollars)

Year:	Debt
1900	1
1901	1
1902	1
1903	1
1904	1
1905	1
1906	1
1907	1
1908	1
1909	1
1910	1
1911	1
1912	1
1913	1
1914	1
1915	1
1916	1
1917	3
1918	12
1919	25
1920	24
1921	24
1922	23
1923	22
1924	21
1925	21
1926	20
1927	19
1928	18
1929	17
1930	16
1931	17
1932	19
1933	23
1934	27
1935	29
1936	34
1937	36
1938	37
1939	48
1940	51
1941	58
1942	79
1943	143
1944	204
1945	260
1946	271
1947	257
1948	252
1949	253
1950	257
1951	255
1952	259
1953	266
1954	271
1955	274
1956	273
1957	272
1958	280
1959	288
1960	291
1961	293
1962	303
1963	311
1964	317
1965	323
1966	329
1967	341
1968	370
1969	367
1970	383
1971	410
1972	437
1973	468
1974	486
1975	544
1976	632
1977	709
1978	780
1979	834
1980	914
1981 [1]	993
1982 [1]	1,075

[1] Estimated in fiscal year 1982 budget revisions.

Source: Office of Management and Budget.

Federal Government outlays—share of economy

Fiscal year:	Percent share of GNP
1929	3.11
1930	3.42
1931	4.27
1932	6.93
1933	8.06
1934	10.97
1935	9.43
1936	10.85
1937	8.91
1938	7.69
1939	10.05
1940	9.91
1941	12.12
1942	24.77
1943	44.80
1944	45.33
1945	43.83
1946	26.14
1947	15.59
1948	12.09
1949	15.00
1950	15.64
1951	14.75
1952	19.95
1953	21.29
1954	19.33
1955	17.87
1956	17.15
1957	17.73
1958	18.48
1959	19.65
1960	18.54
1961	18.97
1962	19.60
1963	19.16
1964	19.22
1965	17.82
1966	18.60
1967	20.34
1968	21.37
1969	20.30
1970	20.30
1971	20.42
1972	20.50
1973	19.67
1974	19.64
1975	22.40
1976	22.30
1977	22.20
1978	21.99
1979	21.54
1980	23.08

Source: Survey of Current Business, December 1980.

SPENDING GROWTH

For many years federal spending has been growing at alarming rates. The big explosion came in the latter part of the last decade, with annual growth rates from 10 to 21 percent.

Media reports of "drastic cuts" in spending are incorrect. The fact is that spending this year rose by $83 billion, and even the rate of spending growth declined by only a single percentage point—from 14 percent to 13 percent.

These are the facts:

FEDERAL SPENDING CHANGES, YEAR-TO-YEAR

[Dollars amount in billion]

	Total	Change from	Outlays previous year percent change
1960	$92	+$1	+1
1965	118	−1	−1
1970	197	+12	+6
1975	324	+56	+21
1976	365	+1	+13
1977	401	+36	+10
1978	448	+47	+12
1979	491	+43	+10
1980	576	+85	+17
1981	657	+81	+14
1982	740	+83	+13

[1] Senate Budget Committee figure.

Interest on the debt (billions of dollars)

1960	$9
1965	12
1970	20
1975	34
1976	38
1977	42
1978	49
1979	60
1980	75
1981	96
1982	115
1983	133

[1] Office of Management and Budget Figure.

Mr. THURMOND. Will the able Senator yield?

Mr. HARRY F. BYRD, JR. I am delighted to yield to the distinguished chairman.

Mr. THURMOND. Mr. President, I commend the able and distinguished Senator from Virginia for the excellent address he just made to the Senate. I wish every Member of this body could have heard his remarks. They were not long. They were incisive and right to the point.

Ever since the able Senator from Virginia has been a Member of this body, he has taken a strong stand for fiscal responsibility. His father did that when he was here many years ago.

I had the pleasure of working with his father Harry F. Byrd, Sr., one of the finest men I have ever known, who was here a long time. We worked together in trying to bring about fiscal responsibility.

So I am very proud of the remarks today of the distinguished Senator from Virginia. It reminded me of the days when his father was here and made similar remarks. They both have been strong men for this country and I wish that their warnings were heeded and will be heeded in the future by the Senate.

Mr. HARRY F. BYRD, JR. I thank my dear friend from South Carolina.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET CRISIS: CAN WE MANDATE THE SOLUTION?

Mrs. KASSEBAUM. Mr. President, we are engaged in the beginning of a very important debate. Amid thunderous clamor for action, when Congress seems adrift and unable to discipline Federal spending, support for a constitutional remedy grows. I personally would be supportive of the movement if I thought a constitutional amendment would actually achieve a balanced Federal budget.

I should like to explain, however, why I do not believe we can mandate a solution to the budget crisis. The Federal budget is not the problem; it is the result of the problem. The problem is that those elected to serve in Congress spend more money than the Federal Government takes in. As a member of the Budget Committee, I am painfully aware of this responsibility. If the Congress is going to come to grips with the budget problem, it is first going to have to come clean with itself and the American public. Proclaiming support for a constitutional amendment to balance the budget while voting for deficits in excess of $100 billion is not the type of behavior that inspires public confidence. A constitutional amendment will not change the underlying forces that drive Federal spending. As columnist James J. Kilpatrick points out:

> A cumbersome amendment, easily evaded, will not get us out of the pits of deficit spending. Only self-discipline will.

This struggle with priorities points out how the proposed amendment misses the essence of the budget problem. The challenge we face is how to balance our priorities: Workable pension programs, a sound and strong defense system, compassionate social policy, and a reasonable tax load. We cannot do it by the hocus-pocus of a constitutional amendment; and the thing about which I feel most strongly is that it is misleading in the concept that through that amendment, we somehow will have achieved a balanced budget.

No better illustration of the problem need be given than the question of "uncontrollable" spending as embodied in the entitlement programs. Unemployment insurance, medicare and medicaid, Federal and military retirement, railroad retirement, food stamps, and social security are all entitlement programs, and there are many others. They compose about 60 percent of our budget. These programs are funded each year on the basis of the number of people qualifying for certain benefits. Most of the programs are automatically adjusted for inflation which, in 1982 alone, added over $24 billion to the Federal budget. As I have mentioned, encompassing all the programs, it has grown to almost 60 percent. It is imperative for Congress to begin equitable, evenhanded entitlement reform.

Not only would a constitutional amendment be ineffective as a budgetary tool; I fear it could exacerbate the problem. Budget figures are only estimates of future expenditures and revenues, and experience has confirmed the difficulty inherent in accurately projecting future economic conditions. Yet, the consequences of miscalculations in the basic economic assumptions underlying a budget are dramatic. For example, a single percentage change in the level of unemployment can add as much as $25 billion to the Federal deficit. Similarly, a 1-percent error in the level of interest rates next year can cause spending projections to be off by $2.5 billion. For instance, had the House of Representatives original estimate of a 7-percent interest rate for fiscal year 1982 been preserved, we would be facing an additional deficit of $15 billion, since the current interest rate is around 13 percent.

Given this uncertainty in the budget process, it is likely that, despite the constitutional prohibition, Congress and the President would each year be faced with a budget in which actual expenditures exceed actual revenues. Such a result would, undoubtedly, lead to attempts to circumvent the constitutional provision through hidden expenditures and other legislative devices over which there is even less congressional control.

Even more troublesome is the possibility that by raising our budget problems to a constitutional level, we may invite action by the third branch of Government. Budgets are not self-enforcing. Should Congress and the President simply fail to agree on a balanced budget, the courts could conceivably be called upon to resolve the dispute and thereby further involve the judiciary in matters of social and fiscal policy more appropriately left to elected representatives.

In fact, Congress is already acting outside of the law in the budget process. In 1979, both Houses passed a law that carried with it a quickly forgotten amendment, legislating that Congress produce a balanced budget for 1981 and 1982. We have obviously failed to abide by that legislation, causing me to wonder why Members of Congress proposing this constitutional amendment overlooked their earlier commitment to a balanced budget as written into law.

The simple truth about Federal spending is that Congress is faced with a very serious problem. If we have the courage to face that realization and vote to balance spending with revenue, we will not need a constitutional amendment. If we lack the courage, a

constitutional amendment will only aggravate the problem.

We had the opportunity when we were voting on the first budget resolution, several weeks ago, to vote on a budget proposal that would have been in balance by 1985.

That particular proposal had the support of only 21 Senators. There are some hard choices that have to be made. And we have found that it is far easier to vote for a constitutional amendment to balance the budget than it is to vote for those priorities that will indeed enable us to achieve a balanced budget.

I am looking forward to participating further in this debate as it goes along, Mr. President, and will yield back time.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair.

Mr. President, I listened with interest to the remarks by the distinguished Senator from Kansas. It is difficult to disagree with her on the point that Congress has lacked the guts to balance the Federal budget. That has been painfully obvious for a generation now. Where I differ with my good friend from Kansas is whether Congress should have a constitutional mandate to balance the budget. Would not Congress respect that mandate?

Today I had the pleasure of going to the White House with several of our colleagues. At lunch with the President we discussed this proposed constitutional amendment to require a balanced Federal budget. At one point in the conversation I mentioned just one aspect of Federal spending that is understood and recognized only in the most superficial fashion by so many Americans.

That aspect is the so-called foreign aid program. And as I related to the President and others at that luncheon, last year I attempted to ascertain the precise total of what the taxpayers have been required to furnish since 1946 to finance this one program.

Would you believe, Mr. President, that there is not a computer in this city that can readily disclose that information? So we began looking into file after file in State Department and other sources. Laboriously we extracted the total cost of the foreign aid program. We broke it down country by country, year by year, and it came to something less than $300 billion since 1946—$286,476,000,000, to be more exact.

Then it occurred to me, Mr. President, that all of this money that has been spent on so-called foreign aid since 1946 was in effect borrowed money. I instructed by associates to go back to the drawing boards and to get the rate of interest at which the U.S. Government was borrowing money year after year beginning in 1946, apply that rate of interest to each additional year of foreign aid spending and roll forward the total based on the average rate of interest paid by the U.S. Government for money it borrowed.

We supplied the Library of Congress with all of the information we had, and the Library of Congress included its own information. Based, Mr. President, on the theory that this has been borrowed money, the Library of Congress ran up a total and sent it to me. When I looked at it I suggested to my associates in my office that they send the result back to the Library of Congress because the figure could not possible be that high. I did not believe it myself. But when one factors in the interest on borrowed money relating to the foreign aid program, the total cost comes to $2.3 trillion.

This is the story of the distress that confronts the American people today. The activities of Congress, the timidity of Congress, the recklessness of Congress, down through the years—the inclination to play politics with the public purse—all of this has brought us to a Federal debt in excess of $1 trillion.

Mr. President, the interest for 1 year, this year, on the national debt is more than $115 billion. It will cost the taxpayers more for debt service this year than it cost to operate the entire Federal Government less than 20 years ago.

Or put it another way: If we were not today obliged to include the $110 or $120 billion that will have to be paid in interest on the Federal debt, there would be no Federal deficit and there would be no economic crisis because the Federal Government would not be raking, off the top, $110 or $120 billion. That money would be left in the private sector. Homebuilding could proceed. People could buy homes and cars and other consumer goods they need and want. Businesses could afford to expand. Jobs would be created. Unemployment would be minimal.

But, no, for a generation this Congress has been spending money like there was no tomorrow. And now we are paying the price. I regret, Mr. President, to hear suggestions that we must not have a constitutional limitation on Federal spending. We should have had it long ago.

Nor do I think we should give credibility to declarations that this constitutional amendment will not work. It will be our duty to make it work. Unless Congress willfully violates the Constitution, we will have a balanced budget.

As the debate goes along, it would be useful, perhaps, to examine the voting records of Senators who are so eager to protest that a balanced budget constitutional amendment will not work. In fact, the voting records of all Senators ought to be examined. It will be interesting to see how each of us have voted on various appropriations bills that are busting the Federal budget.

I do not necessarily think we ought to argue about budget priorities. Priorities differ. I happen to be a strong advocate of an adequate national defense because I think that is the best way to assure peace. But I do not think there are many Americans out across this land who would take the position that this Government has not poured forth an abundance of dollars for all kinds of programs—many of which were doomed to failure at the time of their enactment. Call them entitlement programs or call them welfare programs. More than anything else, they are political programs. But in the final analysis they are programs that have broken the economic back of this country, and no other face can be put on it. That is why I have supported, since the day I first walked into this Senate Chamber as a Member, a constitutional amendment to require a balanced Federal budget. Nothing else makes sense because, as the Senator from Kansas has just said, otherwise Congress is not going even to abide by its own laws. But, presumably, Mr. President, Congress will think twice before it willfully, openly, flagrantly violates the Constitution of the United States.

So the discipline will be there, the discipline which such a constitutional amendment would impose on the Congress and the President. This discipline is imperative. The cost of not balancing the Federal budget is too high.

So it would provide important fiscal discipline. Yet the proposed amendment would not constrain the Government in an emergency such as war. The proposed amendment would also allow deficit spending during a "grave national emergency" if three-fifths of both Houses of Congress voted in accordance thereto.

Mr. President, there has been a growing psychological cloud hovering over this country for most of the past generation. At first it was no bigger than a man's hand. But now we have the psychology that the Federal Government holds the ownership of all the money that the taxpayer earns; and a benevolent Congress sits up here and decides how much we will let the taxpayer keep of his or her own earnings. The cart is before the horse. Congress has taken the position that we will decide how much we are going to spend before we decide how much we have got to spend.

Somebody asked the other day, "How much money does the Federal Government have?" The fellow answered, "It has $1 trillion less than nothing."

The Federal Government has no funds at any time except money taken from the American people. The Government can obtain funds either from taxes or the demonstrably ruinous deficit financing that has been going on for decades. The Government takes either through taxation, or other revenue-producing activities, the earnings of the consumers of this country or the Government takes funds via the far more dangerous and destructive route we have taken—that is, the Government takes by deficit financing, by borrowing money, by placing a mortgage on the future of our children and grandchildren.

There are some who have been saying all along, "This has got to stop." I commend the President of the United States for being the first President to advocate a constitutional amendment to require a balanced Federal budget. This may well be the most significant action he has taken in his administration.

But in any case, Mr. President, when the Federal Government imposes taxes equal to the amount of the expenditures, then citizens know to what degree they are being burdened to pay for Federal spending. Congress has to approve taxes to match the level of the outlays. Congress is required to justify expenditures which are popular or necessary with equal taxes which are never popular.

When the President and Congress so operate the Federal Government that the politically popular expenditures exceed the politically unpopular taxes then Congress is hiding the costs of what it is doing. So much of this practice, Mr. President, has been political on its face—buying votes with funds from the Federal Treasury. It is the old shell game of something for nothing. It is about as straightforward as a con game. It is about as honest as a chain letter that promises windfall wealth. It is the political "free lunch" except that we now know that it is not free.

So I think we ought to back off from this line of argument now and examine those arguments that say, "Well, we should not pass this because it will not do any good" or "it will limit us" or whatever reason that may be conjured up.

But I will state one thing, Mr. President. I would very much dislike being in the position of voting against a constitutional amendment to require a Federal balanced budget and then go back to North Carolina and explain my vote, because the people of North Carolina, as families or as individuals or as small businessmen, understand what happens when you constantly spend more and more each year than you take in. No family can survive, no business can survive, and the Federal Government has no reason to think it can survive under such a set of circumstances.

Let me say again that the Federal Government has no funds to spend except money taken from the taxpayers.

Let us not delude ourselves on the relationship between inflation, interest rates, and deficits, Mr. President. We have heard so much talk over the past several years about inflation. Everybody professes to be against it. We now hear talk about high interest rates and we see what these interest rates are doing to the private enterprise sector.

It makes little difference to say now that the interest rates are 5 or 6 points below what they were when Ronald Reagan became President. They are still too high. But when we say they are too high, justice requires, I think, that it also be said that this President inherited a destructive tradition of big budgets and high spending levels and an annual Federal deficit and a huge national debt, all of which combined have led this Nation further into the economic nightmare we face.

So I guess it is put up or shut up time for those of us in Congress, Mr. President. All of us can manufacture excuses for what we do or what we fail to do. But if we are unwilling at this crucial time to accept a discipline that will be difficult—some will even say it is impossible—then we are saying there is no remedy. And I say there is. I say that this Senate, if it has the intestinal fortitude, could balance the Federal budget. Of course, that would mean that we could not put off until after November—we could not put off to some later time—confronting the malignancy that we see growing before our very eyes.

Sure it will be tough and sure there will be screams. But it is really a matter of doing what we were elected to do. Were we elected to play a shell game, to deceive the American people, to try to buy popularity with the taxpayers' own money, to push our own priorities forth, pretending that they do not matter how much they cost? Those are questions we have to face.

Mr. President, one of the reasons, at the very beginning, for forming this Government was to preserve the sanctity of contracts between individuals in the various colonies. We do not often think about that aspect of what was done in Philadelphia. But it was rightly held by our Founding Fathers that for commerce to grow and for the Nation to prosper, contracts between citizens should be held enforceable.

But in our present economic circumstances, what are we doing today? Deficits cause inflation that destroys the constitutional principle of the sanctity of contracts. If I rent a house from someone for a given sum, I am in effect paying a different real amount every month based on the value of the dollar. The lease I signed for a sum certain is being violated regularly, not by either party to the lease, but by this Federal Government which is corrupting the medium of exchange in which that contract is denominated. So by the depreciation of the dollar, the Government has not only eliminated the sanctity of contracts, it has almost made it impossible for a contract to be written in terms of constant value.

Mr. President, I certainly do not suggest that the ratification of this constitutional amendment requiring a balanced Federal budget will solve all the economic problems facing our Nation, but it will do the following: First, it will restore honesty in Federal spending by tying revenue producing taxes closer to the Federal outlays; second, it will reduce the possibility of inflation caused by the monetization of new Federal debt; and third, it will encourage investment by reducing the fear of higher taxes in the future.

Mr. President, the liabilities of this constitutional amendment are evident. Balancing the Federal budget will be painful; it will be difficult. But the budget reflects only one aspect of the Government's burden on our society.

For one thing, the Federal budget does not reflect the hundreds of billions of dollars of resources spent annually by the people of this country in trying to conform to Federal regulations and filling out Federal paperwork. It does not address the question of what really is "off-budget" and what is "on-budget"—those Federal financial arrangements that are considered to be something special and not properly included in the budget.

But this constitutional amendment will bring a degree of honesty and it will also bring a discipline that has been long needed in this country. It is a good measure. It is a good move. It is sound, and I can assure the Senate that the people of this country want us to do this.

Congress will be negligent if we do not send this amendment to the States for ratification.

I thank you, Mr. President, and I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Will the distinguished Senator yield?

Mr. HELMS. I yield.

Mr. THURMOND. Mr. President, I want to compliment the able Senator from North Carolina for his excellent remarks and his position on this matter.

In my opinion, there will not be a more important piece of legislation that will come before this body this year or any other year than the balanced budget constitutional amendment.

This is the root of our troubles, spending more than we have taken in. We have balanced the budget only 1 year in the last 21 years. The interest is now over $100 billion a year. The debt has accumulated to over a $1 trillion a year. It seems to me that now is the time to act, not next year or the year after, but now, this year.

I have been waiting for 28 years to see an amendment like this adopted.

Harry Byrd, Sr., and I worked on this matter for many years. Others in this body have worked on it. But we are in trouble today because of fiscal irresponsibility. Who is responsible? The President does not appropriate the funds to run the Government. The judiciary does not do it. The legislative body does it. The Congress does it. The Congress has shown that it is not willing to bite the bullet and do what is necessary. Therefore, we must mandate, we must compel, the Congress to do what the taxpayers know ought to be done and what we down in our hearts know ought to be done. That is to balance this budget every year, unless there is a war, or this amendment provides that if three-fifths of each House will agree, 60 percent. So there is a way out if we have an emergency. What is wrong with this amendment? How can anybody go wrong in supporting this amendment?

I can tell you this, Mr. President, the taxpayers of this country want it.

I happen to have spoken in North Carolina in behalf of a Republican Congressman last Saturday night and the biggest applause I received in that speech was when I advocated a balanced Federal budget amendment. I can tell you the people of this country want it and they want this Senate to vote it. I hope the Senate has the courage to do what we all know has to be done.

Mr. HELMS. I thank my able colleague from South Carolina. It has been a privilege to work with him, Senator Byrd, and many others in this matter.

(The following proceedings occurred during the foregoing remarks by Mr. HELMS and are printed at this point by unanimous consent:)

Mr. HATCH. Will the Senator yield?

Mr. HELMS. Yes, I am delighted to yield to my friend from Utah.

Mr. HATCH. Mr. President, our good friend and colleague from Kansas has brought up a very interesting point that perhaps I could address. I think the Senator from North Carolina has already added some clarification here.

As I understand it, one of the arguments that the distinguished Senator from Kansas has raised is that this amendment is "unenforceable" because of the need to estimate figures and the difficulties we have had in estimating in the budgetary process.

If that is an accurate statement of what the distinguished Senator from Kansas meant, I would just point out that under current law the budgetary process is one which continues up until and into the beginning of each fiscal year. When Congress receives the annual Presidential budget message in January, it has available the first national growth estimates of the Commerce Department for the preceding calendar year. By February and March, the second and third preliminary estimates are available. And in July, and well before October at the beginning of the fiscal year, the Commerce Department publishes its first formal estimates of national income growth. Typically, these are extremely close to the final growth data available 2 years later.

It should be noted that the absolute level of national income would not be an issue in the proposed amendment. In other words, we would have concrete figures to rely on from the prior year. The only thing that is at issue under this amendment is the rate of growth. There would be an estimate on the rate of growth, but that would be considerably less of a problem than what we face in the budget process today.

In other words, we would have the figures from earlier years upon which to base our estimates for the next year. The only estimate of any kind would be the precise rate of growth for the previous year. Of the several measures that the Congress might choose to define this, most produce rates of growth that are virtually identical, so that should not be as much of a problem. I think that the Senator from Kansas may have mistaken this amendment, for some other proposed amendments. We had some 45 such amendments before our committee. We use historical figures in order to arrive at the statement of receipts and expenditures that are required under this particular amendment, not estimated figures.

In preparing its annual budget, as required by the amendment, there would be virtually no need whatsoever for "estimations." The permissible level of receipts and hence of outlays would be established on the basis of a clear formula representing the portion of receipts of the total economy from the previous fiscal year. That figure would represent a starting point that could be adjusted, as noted, if sufficient numbers of Members were in support of doing this.

Mrs. KASSEBAUM. Will the Senator from Utah and the Senator from North Carolina yield?

Mr. HELMS. I yield to the Senator from Kansas.

Mrs. KASSEBAUM. I understand that very clearly. Indeed, I am a member of the Budget Committee, along with my distinguished colleague from Utah.

I think we both know that it is very difficult sometimes to get accurate figures for the preceding years, I realize, as a matter of fact, that Senate Joint Resolution 58 only requires the Congress to adopt a balanced budget statement. Is that not correct? We are not really making assumptions as to how we are going to operate under that budget.

Mr. HATCH. It does require the Congress to adopt a statement of receipts and outlays for that year in which total outlays are not greater than total receipts, but it is based upon what happened in an earlier year, which figures would be available at the time of the new budget.

Mrs. KASSEBAUM. I was going to say that the figures would change from January to May. For instance, in our budget now we are working with the drop in the price of oil at $1 as a loss of revenues of $1 billion to us. I was simply pointing out that these are shifting sands that we have to deal with in the budget process.

Mr. HATCH. It should be pointed out that Congress would be able to adjust these figures right up to the beginning of the fiscal year. But then, the figures ought to be extremely accurate. This is a considerably different process than the process the Senator from Kansas and I have been going through on the Budget Committee. I agree with many of her views, but I was concerned that the distinguished Senator from Kansas had confused this amendment in the light of some of the earlier amendments which had been introduced.

Mrs. KASSEBAUM. I thank the Senator.

(Conclusion of earlier proceedings.)

Mr. THURMOND. I yield to the Senator from Kansas.

Mrs. KASSEBAUM. I just want to say that I have enjoyed working with the Senator from North Carolina on the Foreign Relations Committee and other committees. I believe he and I were two of the four who wanted to have the foreign aid legislation at the 1982 level. I know he does not regard me as a big spender in the Senate. I regard myself as a fiscal conservative.

Mr. HELMS. If the Senator will yield, there was nothing even implicit in my remarks that I regard her as a big spender. The record of each Senator will disclose that. I took exception only to the Senator's declaration of doubt that a constitutional amendment will be effective.

Mrs. KASSEBAUM. I think there are certainly some interesting ramifications to this matter. I would only say that if we check the voting records of those who oppose the balanced budget amendment, I would suggest that we check the voting records of

those who support it because, as I say, we have a legislative responsibility. It is not a constitutional responsibility but it is our responsibility. We have a mechanism in place that requires us to have that balanced budget. That was the argument I was trying to make, that if we could uphold our own responsibility, I do not think we have to look to a mechanism that would be falsely used, I feel that while it may be hard to go back to the voters of Kansas and say that I voted against this, because I do feel strongly about a sound and wise budget, I am also going to try to be honest about where I feel the responsibility lies, and the constraints that we have to work under here. While it is very easy to speak to that as being a mandate, I spoke earlier, of course, of the fact that I did not think we could mandate this solution to our economic problems.

I thank the Senator for yielding.

Mr. THURMOND. Mr. President, I certainly have the highest regard for the able and charming Senator from Kansas. I admire her for the courage of her convictions. I want to say to her, however, that the budget has not been balanced but once in 21 years. It has not been balanced but twice in 26 years.

Congress has proved that it does not intend to balance this budget unless it wants to. So if it is not going to do it, how else can we manage it?

I realize the Senator's point that we have a responsibility, and I agree to that; but Congress has not met its responsibility. It has spent beyond the income for the last 21 years except 1 year; for the last 26 years, except 2 years. If Congress will not meet its responsibility, then the only other way I know to do it is to mandate it with a constitutional amendment.

Again, Mr. President, I have the highest respect for the Senator from Kansas and I want her to know it.

Mr. GRASSLEY. Mr. President, I yield to the Senator from Utah as well.

Mr. HATCH. Mr. President, I also want to say I have the highest respect for the Senator from Kansas, but that the present resolution does take into consideration the legislative mandate. Rather than draft a new provision that adds economic figures and economic policies to the Constitution, Senate Joint Resolution 58 basically sets up a procedure whereby we eliminate the present biases that lead to ever increasing levels of public expenditures. Beyond that, we are working wholly within the legislative process.

There are many sincere people on both sides of this issue. But certainly, those of us who have endorsed this amendment are sick and tired of what Congress has been doing over the years in the abdication of its responsibilities.

The reason this is a consensus amendment is that it does not try to remake the Constitution in the image of some particular economic theory. What we want to do is correct the biases that have yielded ever-increasing levels of public spending, year after year, while retaining substantial flexibility for Congress in the fiscal decisionmaking process.

If we want to increase taxes or spending or deficits, that is permissible under this amendment. We can do it. All the amendment says is that we have to stand up and vote for these things. In other words, we cannot do what we have been doing in the past. We cannot allow responsibility for these basic decisions to be obscured and confused. We cannot continue to allow Members to avoid accountability for the inevitable consequences of their decisions.

All we are required to do under this amendment is let the people know what we are doing. If we are going to have deficit spending, they are going to know it. If we are going to increase taxes, they are going to know it.

I thank the Chair as well as the Senator from Kansas.

Mr. GRASSLEY. Mr. President, I certainly agree with the distinguished chairman of the Committee on the Judiciary, the Senator from South Carolina (Mr. THURMOND), when he says that this is perhaps the most important piece of legislation to come before this Congress. Perhaps it is even the most important in this decade. This constitutional amendment is a product of years of struggle to restore some semblance of fiscal discipline to the Federal Government.

This proposal to amend the Constitution to require a planned balanced budget is an appropriate and logical measure to regain control of rampant Federal spending and the consequential inflation and unemployment.

There has been an all too obvious demonstration that, over the years, Congress has been unwilling or unable to exercise its authority to pull tight the public purse strings. The record speaks for itself. Only once in the past 20 years did outlays stay within receipts. Due to the political extravagance of Congress over these last 20 years, this Nation faces serious economic problems. It has already dealt with double-digit inflation. But we still have 9.5 percent unemployment, a budget deficit estimated at $101.9 billion, and a total national debt of $1,000,710,748,000. This cumulative national debt figure amounts to more than $4,500 for each man, woman, and child in this country.

Mr. President, these figures are almost beyond comprehension. They are the alarming result of an unsatisfactory and irresponsible budget process. What is most appalling about this situation is that the trend toward greater Government spending and larger deficits is not abating. Now that the alarm has gone out and Congress is finally attempting to curb its own appetite, we are beginning to see just how difficult it is to correct 20 years of fiscal irresponsibility.

With the leadership of a strong conservative administration dedicated to fiscal restraint, we are finally beginning to slow the trend toward greater governmental encroachment into the private sector of our economy. But even this administration has had limited success in imposing fiscal discipline on the Federal Government. I am sympathetic to and even supportive of the President's efforts, but I suspect that, under the present budgetary process, there is not going to be a balanced budget. The political reality simply will not allow it. In effect, this is what Mr. Stockman admitted in that often-quoted article when he stated that "the hogs were really feeding." As a farmer, I must say that that is a very interesting analogy. And as a member of this Nation's great middle class, I fear that the feed is going to run out before the hogs are led to slaughter.

As elected officials, each of us is responsible for the current economic crisis, and it is our duty as legislators to see that this situation is corrected. Unfortunately, the budget has begun to control Congress rather than Congress the budget. If spending cannot be restrained by lawmakers, the lawmakers' spending will have to be restrained by law.

I believe that most of our citizens are convinced that the Government will never willingly stop its own growth. Thus they are demanding an amendment to the Constitution that will force the Government to stop growing. According to recent public opinion polls, nearly 80 percent of our citizens favor a balanced budget requirement for the Federal Government. Perhaps the most accurate indicator of the public opinion in this regard was the results of the 1980 election and the mandate that stemmed from that election. I believe that the resounding victory of the Republican Party was due in large part to public repudiation of big-spending legislators.

For years, I have wondered how long Congress could ignore the demands of its citizens that the Federal Government be responsible with the public purse. As cochairman of the House Balanced Budget Caucus in 1979 and 1980, I struggled with other concerned Members of both Houses to bring this matter to the attention of Congress. Now that 31 States, only 3 short of the required 34, have petitioned Congress to call a constitutional convention for a balanced budget constitutional amendment, some others on Capitol Hill are beginning to listen, and well they should.

I am convinced that most of my colleagues believe in and have in good faith striven for a balanced Federal budget, just as I have. Congress has been unable to attain this goal largely because of the strong bias in our political system that leads us to greater governmental spending than is desired by either the general populace or its elected representatives. The purpose of the proposed constitutional amendment is to alter the political and institutional processes by which our Government determines economic policy in order to account for this spending bias that has led to 22 unbalanced budgets in a row.

The spending bias exists because the political advantage gained from supporting spending programs. Groups representing persons who benefit from spending, lobby intensely and provide political support in the form of favorable votes at the polls. Such groups are stronger, better organized, and more active than they have been in the past.

On the other hand, the taxpayers who generally bear the cost of such programs lose relatively little from each particular program and are not aware of or vocal about them and the increased spending for each program. A simple cost-benefit analysis demonstrates that spending advocates and taxpayers do not compete on an equal basis. Consequently, lobbying pressure against a program is less intense and the likelihood of gaining significant political support as the result of a vote against a spending program is small.

This situation confronts every elected official, regardless of personal spending philosophy, because additional revenues are available from borrowing or from automatic tax increases caused by "bracket creep." Section 1 of Senate Joint Resolution 58 would reduce access to deficit spending financed through borrowing by ordering Congress to adopt a budget statement in which total outlays are no greater than total receipts. This planned balanced budget would be binding unless Congress specifically amended it by a three-fifths vote of both Houses. Section 2 would eliminate access to automatic tax increases by limiting any increases in total tax receipts to the rate of increase in national income. Any increase in the ratio of taxes to national income would have to be approved by a recorded majority vote of both Houses of Congress. Sections 1 and 2 together provide that expenditures may not exceed receipts which cannot grow faster than national income.

Contrary to the claims of its critics, this constitutional amendment does not lock the Federal Government into a specific economic program, nor would it prevent Congress from being responsive to economic conditions. Depending upon specific economic circumstances actual outlays may exceed actual receipts. The amendment only establishes the fiscal norm of a planned balanced budget. Disparities between actual outlays and receipts would not necessarily bring the Congress into a violation of the Constitution. The amendment simply requires that for Congress to adopt a planned deficit budget it must approve such a plan by a recorded three-fifths vote of both Houses.

Opponents of a balanced budget amendment contend that the Constitution is a magnificent document devoted to high principles protecting human rights and defining the framework for self-government. They do not believe that economic dogma should be written into the Constitution, that adoption of this amendment would trivialize and clutter the Constitution.

This amendment, as currently drafted, does not incorporate any particular economic doctrine into the Constitution, nor does it insure a specific level of spending. The language is moderate, brief and free from arbitrary numerical limits.

The purpose of the amendment is to reduce the systematic bias toward spending by making deficit spending less available and by requiring that all politicians be fully accountable for tax increases. I must emphasize that this amendment does not limit Congress, but merely allows for a more straightforward and honest approach to finance and budget policies. It insures that the elected representatives be accountable to the people and nothing more. I submit that this amendment fits right into the basic framework of the Constitution.

Those who fear that it clutters the Constitution or writes income doctrine into that document have nothing to fear, and a careful study of it will show them otherwise.

Critics of this proposed amendment raise numerous objections to its ratification, claiming that it would unduly constrain fiscal policy, or prevent adequate Federal response to a Mount St. Helens-type disaster, or be so complicated as to render it unenforceable. Each of these arguments and numerous others were more than adequately addressed in the extensive hearings held by the Subcommittee on the Constitution. I am beginning to wonder whether some of these critics, many who pay lipservice to fiscal restraint, simply are afraid of having their feet put to the fire.

I am confident that this proposed amendment is a workable solution to the economic crisis that presently grips our Nation. As a result of living under the same type of amendment in Iowa as a former chairman of the Iowa House Appropriations Committee, I know that it can be successfully implemented. I might add that the constitutional requirement for a balanced budget in the State of Iowa is much more stringent than proposed Senate Joint Resolution 58. The Iowa provision is an outright prohibition of an unbalanced budget.

For those who might yet have reservations I suggest that they look to the pattern set by the laboratories for government in the United States: the 50 State legislatures. State legislators exercise fiscal discipline. Why do the State legislatures excercise fiscal discipline while the U.S. Congress does not? Because the constitutions of the various States require a balanced budget. Regardless of the personal economic philosophies of the individual legislators setting State fiscal policy, the States operate within a balanced budget. Those individual legislators take an oath to uphold the supreme law of their State, and therefore excercise fiscal discipline because we are a government of law and not a government of men. Mr. President, I submit that it is time that a similar discipline be required of those who take the oath to uphold the Constitution at the Federal level as well.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. DOLE. I yield to the distinguished chairman of the committee.

Mr. THURMOND. Mr. President, I want to commend the able Senator from Iowa for the very fine statement he made on the floor of the Senate this afternoon. The Senator from Iowa sat in the House of Representatives and made a splendid record on fiscal responsibility. He has stood for a balanced budget for many, many years, ever since he has been in public life.

I want him to know that the statement he made is exemplany of his fine record in the past, and we are proud he has taken this excellent position.

Mr. DOLE. Mr. President, today the Senate is being presented with a historic opportunity. For the first time this Chamber has before it a proposed constitutional amendment to restore a proper balance to the way we conduct the fiscal affairs of the Government. The proposal now before us, Senate Joint Resolution 58, is not a quick fix, a response to a sudden shift in public opinion, or an attempt to evade our assigned duties under the Constitution with regard to decisions on taxing and spending. This is an idea that has been around for quite some time, but that has gained momentum in recent years because of the growing realization that there is something fundamentally wrong with the way we conduct fiscal policy.

Fundamental problems demand fundamental solutions. Those of us who

have worked to develop a responsible constitutional amendment over the past few years have not taken lightly our duty to respect the form and the spirit of the basic law of the land. The language of Senate Joint Resolution 58 is appropriate to the Constitution. It is not premised on any particular economic philosophy, but rather on the belief that Congress ought to make specific decisions on fiscal policy and be held accountable for those decisions. The amendment requires that we follow consistent procedures in setting fiscal policy, and establishes firm paramaters to govern those procedures. That is all there is to it, and it is something we very much need.

WHY RESORT TO THE CONSTITUTION?

Mr. President, there are many Members who are hesitant to add new language to the Constitution, even in the interest of greater fiscal responsibility. In fact, I understand there may be some proposals during the course of this debate to substitute various statutory provisions for the language of the amendment. We all understand and appreciate our obligation to exhaust possible statutory remedies before seeking a solution in a constitutional change. But in this case many of us have become convinced in recent years that simple legislation is not good enough. Experience seems to bear out this conclusion.

Let there be no doubt about it, our budget committees have done an outstanding job in trying to keep spending and deficits under control. The distinguished chairman of the Budget Committee, Senator DOMENICI, deserves our congratulations and our strong support for having moved the budget process along so effectively this year. I hope the budget we have adopted will continue to recieve unwavering support from the members as we undertake the specific legislative changes needed to implement it. Nevertheless, it has become clear that the existing tools are not sufficient to put the budget under control and keep it under control.

There is no question that the budget procedures mandated by the 1974 act have heightened our awareness of the problem. Matters could have gotten much worse without a budget process. Still, our track record on spending and deficits since 1974 has been about the worst in our history. Last year through the reconciliation process we made the first major assault on spending growth. This year we must do the same, and I trust we will follow through on reconciliation, as our Finance Committee already has done. I will address that a little later. But it is all too clear that to get fiscal policy back on track, we need a sustained, year-in and year-out approach. That is what has been lacking.

Mr. President, a constitutional amendment is not an overreaction. It goes to the very heart of the problem, which is the inability of the Congress to adhere to an overall limit on spending when daily spending decisions are made. It is not a criticism of Congress to say that it is responsive to the demands of constituents and of conflicting interest groups. That is what the representative function is all about. But this response to diverse pressures must be recognized as a fact of modern political life, a fact that makes it essential for us to impose an overriding restraint on spending. The only way to give priority to fiscal restraint—to give us a limitation within which we must set spending priorities—is to amend the Constitution to make that limitation part of the supreme law of the land.

A POLICITAL REFORM

The pending amendment, Senate Joint Resolution 58, is a political measure, not an economic one. When experience shows that existing politial structures and procedures are inadequate to deal with a problem that has become endemic to our Nation, the appropriate response is to alter that political system: but only to the extent necessary to deal with the problem. This has happened throughout our history, and most of the amendments to the Constitution have resulted from a recognition that, on a particular matter of a public concern, the original Constitution did not make adequate provision for the solution that was required. The Civil War amendments barred slavery and mandated equal protection of the laws; the 16th amendment authorized the Federal income tax; the 25th amendment provides an order of succession to the Presidency in times of Presidential disability or death. Each of these amendments was adopted to resolve an urgent dispute that could not be resolved adequately through the legislative process.

Mr. President, in the case of this fiscal responsibility amendment, the evidence of history is overwhelming that the Founding Fathers took for granted the notion that fiscal restraint and the avoidance of debt would be hallmarks of our National Government. And so they were, with the exception of wartime, for the most of our history. Only in recent decades has that norm been abandoned. Senate Joint Resolution 58 does not go so far as to establish a strict rule against the incursion of debt; it does provide rules that make Congress accountable for its decisions concerning debt, taxation, and spending. These are rules we need if we are serious about fiscal reforms that will safeguard the general interest of the public.

A STRONG LEGISLATIVE BACKGROUND

Senate Joint Resolution 58 has been thoroughly reviewed, debated, and revised in the legislative process that has brought us to this point. The present amendment is an outgrowth of the balanced budget caucus organized in the 96th Congress, in which I was pleased to participate. Early on it became evident that the best way to proceed would be to draft an amendment that combined a budget-balancing provision with a limitation on Federal spending or taxation. In its basic structure this consensus amendment resembles my own Senate Joint Resolution 5, introduced in 1979. The difference is that Senate Joint Resolution 5 expressly limited taxing and spending as well as deficits: the pending proposal, through the interaction of the balanced budget requirement with the tax limitation, effectively controls spending. The refinements made over the past few years have been, I believe, to the good of the proposal.

Mr. President, I believe that by public hearings and the actions of the Constitution Subcommittee and the Judiciary Committee we have properly simplified and clarified the amendment. In the Judiciary Committee I offered an amendment to strike certain language in section 2 that was redundant but might have been interpreted as an undue restriction on the taxing power. In addition, along with Senator GRASSLEY and others, I secured agreement to delete the original section 4 of the amendment, which dealt with imposition of additional costs on the States. That is an important issue we ought to deal with: but is has not been examined sufficiently to be dealt with here, and the provision might have distracted us from our main purpose.

A POPULAR MANDATE

The American people clearly are convinced that our fiscal house is not in order. Popular concern over runaway budgets is the reason why the drive for a constitutional convention to draft a fiscal restraint amendment is only a few States short of its goal. Market Opinion Research recently reported that 79 percent of the American people support a balanced budget amendment, and this overwhelming support is consistent with earlier readings of public opinion. No one should maintain that we ought to take certain steps just because they are popular; but in this case it seems that the people are ahead of the politicians. They understand that congressional spending habits have to be put under a firm limitation, and that only new procedures, externally imposed, can do the job.

Mr. President, for these and many other reasons I urge my colleagues to support the amendment. The language of this proposal has been developed over the past 3 years, thanks to the diligent efforts of the distinguished Senator from Utah, Senator HATCH, chairman of the Subcommittee on the

Constitution. There has been a conscious effort to draft an amendment that could enjoy broad bipartisan support while having sufficient force to make a real difference in our national life. I believe this effort has been successful.

I also suggest that this amendment, if approved by Congress, is not the end of the story. It is the beginning. Legislative implementation and compliance will be a complex and difficult matter—we should not deceive ourselves on that point. But it can and will be done once we have a clear constitutional obligation to fulfill. We can clearly demonstrate our willingness and ability to follow through on Senate Joint Resolution 58 by moving swiftly to implement the fiscal 1983 budget resolution through the reconciliation process. The Finance Committee has already moved to do precisely that, and the legislation we have agreed to will be up for consideration by the Senate in the days ahead. A vote in favor of our reconciliation bill will be the strongest possible indication to the American people that we are serious about the budget problem and that this constitutional amendment will be given full force and effect. Our actions on each of these matters will have a major impact now and for years to come. Let us be sure that we make the right choice.

Mr. President, I now shall address what will be coming before the Senate in the next week or 10 days from the Senate Finance Committee.

I say to those who vote for a balanced budget amendment, Senate Joint Resolution 58—which I think is an outstanding piece of legislation, much to the credit of the distinguished Senator from Utah (Mr. HATCH)—that we will have on this floor within the next week or 10 days the real test. We can vote for the balanced budget and say that it is not going to happen. It has to be passed by the House, ratified by the States, and that will take some time. It will make a great campaign this fall or maybe next year and the next year.

But we do not have to wait to demonstrate to the American people that we are fiscally responsible. We will have a package of spending reductions and tax and revenue increases from the Senate Finance Committee, which we will debate on this floor within the next week or 10 days, under a 20-hour time limitation, which I believe will really demonstrate—it will be the real litmus test—whether or not we believe in a balanced budget, whether or not we want to reduce interest rates, whether or not we want to reduce the deficits.

Let me take just a minute or two to discuss what the majority of us on the Finance Committee were able to do.

In developing a bill to raise almost $100 billion in revenues over 3 years, as mandated by the budget resolution, we have preserved without change the individual rate cuts and indexing which were promised and enacted last year.

These became the cornerstones that President Reagan promised the American people, that there would be a 3-year tax cut and starting in January 1985 there would be indexing of the tax system so the average working men and women would not be hit by bracket creep. So we had a very difficult choice, as the Presiding Officer knows, in our discussions in the Finance Committee and caucuses among Republican Members and others.

In order to preserve the third-year tax cut we had to make some very difficult choices. How can we possibly raise $98.3 billion over the next 3 years in revenues and can it be done?

We were able to raise the needed revenue by emphasizing several tax policy objectives other than raising marginal tax rates. To achieve this, the bill eliminates many unintended benefits and closes many loopholes. I believe the basic objective in this bill is fairness to the American people.

The thing we should do is bring down marginal tax rates. There has been a lot of talk in the past 10 days about a flat rate tax. There is a lot of interest in a flat rate tax. There are all kinds of different flat rate tax proposals.

The distinguished Senator from North Carolina (Mr. HELMS), has a genuine flat rate tax. The Senator from New Jersey (Mr. BRADLEY), has a modified flat rate tax. And others have introduced other proposals, and we will have hearings on those proposals in the Finance Committee in September of this year.

But we are not now discussing a flat rate tax. We are discussing a balanced budget amendment, and I hope that before this balanced budget amendment becomes effective, before it is ratified by the necessary number of States we will balance the budget through the budget process and through the resolve of Congress, the Republicans and Democrats alike, to do the right thing, to do the thing the American people have asked us to do, and that is to slow down Federal spending and to revise the Tax Code to make certain there are not some getting overgenerous treatment because of tax provisions that have been around the Tax Code for the past 10 or 15 years and, yes, a couple were put in last year.

First, we developed a package of measures designed to improve compliance with existing tax laws. It would be extremely infair to the vast majority of honest taxpayers to increase their taxes without making the utmost effort to collect substantial revenues from those who are not paying what they already owe under existing law.

Mr. President, if you read what we did carefully in the Finance Committee, $29.1 billion of the $98.6 billion raised, or about 29 percent, is in tax compliance. Why should we ask anyone in this country to pay more taxes before we ask those who evade taxes not to pay their fair share of the tax? And that is a matter that should have been addressed a long time ago.

So we have a lot of tax compliance.

In addition we have all the proposals submitted by President Reagan last September to close certain loopholes. We have found different corporations in the defense industry, for example, making millions and millions of dollars, and paying zero tax. And it occurred to the majority on the committee that everyone should make some contribution, rich or poor. So we have taken a look at some of those, some call them loopholes, some call them overgenerous provisions. I do not quarrel with anyone who takes advantage of the Tax Code if he is not evading taxes, but we believe that some of the provisions are too generous, and we have gone through the code very carefully over the past 4 or 5 months, and we believe we have put together a pretty good package.

The provisions for withholding on interest and dividends, optional withholding on pensions improved information reporting, and increasing penalties for noncompliance would raise about 30 percent of the total revenues over the 3-year period.

Just those few items would pick up taxes not being paid now and would mean $8.5 billion in fiscal year 1983, $9.4 billion in fiscal year 1984, and $11.2 billion in fiscal year 1985.

We also tried to make certain that corporations and high-income individuals, through the use of various incentive provision enacted over the years, could not avoid paying a fair share of their tax burden.

We also focused on specific provisions which individuals and corporations are using to reduce excessively their tax burden.

So we have an individual minimum tax. It occurred to us that everyone in this country, as I have said, should make some contribution.

Individual minimum tax: We significantly tightened the present minimum tax rules to restrict the ability of high-income taxpayers to escape paying any tax by excessively exploiting special credits and deductions, incentive provisions and loopholes. Fiscal year 1984, 0.2; and fiscal year 1985, 0.3.

We also tightened up pension plans.

Pension plans: Eighty percent of the revenue gain comes from wealthy doctors, lawyers, and other professional corporations who each are now allowed to put away tax free up to $165,000 per year and accumulate tax free as much as $12 million in their

pension funds. Fiscal year 1983, 0.2; fiscal year 1984, 0.6; and fiscal year 1985, 0.7.

Can anyone justify that when we are cutting foods stamps, medicaid, and other programs? We did not think so.

Defense industry: As I have indicated, the defense industry has avoided hundreds of millions of dollars of taxes by using accounting loopholes to report to the IRS much less income from long-term contracts than they report to their shareholders. The defense industry is benefiting from the buildup in defense procurement and should pay their fair share of taxes. Fiscal year, 0.8; fiscal year 1984, 2; fiscal year 1985, 2.4.

And we believe in this area if we can pick up about $5 billion over a 3-year period that we made a step in the right direction.

Leasing: Leasing is being used to sell or buy tax benefits and has allowed some profitable companies to avoid paying tax.

The amount of property that could be safe harbor leased would be phased down, a 50-percent limit would be placed on how much a lessor can reduce its taxes, and public utilities would no longer be permitted to use safe harbor leasing. All safe harbor leasing would be repealed after September 30, 1985. Fiscal year 1983, 1.4; fiscal year 1984, 2.6; and fiscal year 1985, 3.7.

Life insurance companies: Life insurance companies have discovered an unintended loophole and have used it to reduce drastically their tax burden. The bill would close this loophole. Fiscal year 1983, 1.5; fiscal year 1984, 1.5; and fiscal year 1985, 2.2.

Corporate tax preferences: A large number of corporate preferences which allow undue tax avoidance and distort the operation of capital markets were reduced by 15 percent. As an example of the kind of situation these changes are designed to respond to, preliminary figures show that, in the aggregate, the country's 20 largest banks last year paid less than 1 percent tax on U.S. source book income of more than $2 billion. Fiscal year 1983, 0.7; fiscal year 1984, 1.2; and fiscal year 1985, 1.1.

Foreign oil income: The bill closes loopholes which permit international oil companies to operate overseas without paying any U.S. tax. Fiscal year 1983, 0.2; fiscal year 1984, 0.5; and fiscal year 1985, 0.6.

Possessions corporations: We tightened the special tax treatment for companies doing business in Puerto Rico, which cost up to $60,000 per employee in some industries—4 time more per employee than the actual salary paid to each employee; a spending program this inefficient would have been eliminated long ago. Fiscal year 1983, 0.5; fiscal year 1984, 1; and fiscal year 1985, 1.1.

Dividend reinvestment: We repealed the provision which gives favorable tax treatment to dividends reinvested in public utilities, a provision which gives favorable treatment to one industry, at the expense of other industries, by not allowing the available supply of capital to flow to those investments which provide the highest return. Fiscal year 1983, 0.1; fiscal year 1984, 0.4; and fiscal year 1985, 0.4.

Mergers and acquisitions: We identified and eliminated some of the provisions in the tax law which provided tax avoidance and thus an artificial incentive for corporate mergers and acquisitions. Fiscal year 1983, 0.7; fiscal year 1984, 0.8; and fiscal year 1985, 0.7.

Industrial development bonds: We reduced the benefit flowing to those businesses who can benefit from tax-exempt financing, and thus reduced the disadvantage suffered by their competitors not able to benefit from this tax subsidy for particular investments. Fiscal year 1984, 0.3; and fiscal year 1985, 0.9.

Basis adjustment and ACRS deductions: The overall benefit from cost-recovery allowances and the investment credit was reduced so as to insure that the tax system would not induce businesses to undertake investments so unproductive that they would not be undertaken even in a world with no income tax. Fiscal year 1983, 0.4; fiscal year 1984, 1.3; and fiscal year 1985, 4.

Third, we found several areas in which those who were responsible for specific Government spending were not contributing their fair share toward the expense:

Federal employees' medicare: Eighty percent of Federal retirees age 65 or over receive medicare, even though they make contributions during only part of their careers.

The typical private sector worker works all his life to pay in the medicare funds. And if that is fair it should be fair for others who get full advantage of medicare.

So all we do is suggest that the Federal employees pay the medicare portion, just the medicare portion, of the social security tax. Fiscal year 1983, 0.6; fiscal year 1984, 0.8; and fiscal year 1985, 0.9.

Federal unemployment tax: The unemployment compensation system is supposed to be financed by a payroll tax on employers, but over the last decade the tax has been insufficient so that the system has frequently had to borrow substantial revenues from the Treasury, that is, from the general taxpayers. Thus, both Federal and State unemployement taxes are increased. Fiscal year 1983, 1.4; fiscal year 1984, 2.3; and fiscal year 1985, 3.0.

Airport and airway taxes: The taxes applying to airplanes were increased to insure that users, rather than all taxpayers, pay for the expenses of developing the airport and air control systems. Thirteen percent of the revenue raised by the bill comes from these provisions aimed at those responsible for specific Government spending. Fiscal year 1983, 1.1; fiscal year 1984 1.3; and fiscal year 1985, 1.4.

As a result of these efforts to increase compliance, to close loopholes which allow individuals and corporations to avoid their fair share of tax, and to make sure that those who are the primary users of certain Federal spending programs pay their way, only a few provisions in the bill—less than 15 percent of the total revenue—will affect the average taxpayer. Unfortunately, these provisions to increase the cigarette and telephone taxes and to restrict medical expense and casualty loss deductions have gotten press attention far out of proportion to their share of the revenue increase in this bill:

Telephone tax: The telephone tax will be increased by 1 percentage point in 1983 and by 2 percentage points in 1984 and 1985. A 1-percentage point increase amounts to only 20 cents for a $20 phone bill. Fiscal year 1983, 0.3; fiscal year 1984, 0.8; and fiscal year 1985, 1.5.

Cigarette tax: The price of cigarettes will increase by 8 cents a pack, which amounts to only $16 a year for someone who smokes 200 packs a year. If this tax had been increased to keep up with the inflation since the last time it was increased in 1951, it would be almost 30 cents per pack. Fiscal year 1983, 1.2; fiscal year 1984, 1.8; and fiscal year 1985, 1.8.

Medical and casualty deductions: The changes in the medical and casualty deductions will reduce by more than 80 percent the number of taxpayers who receive a partial reimbursement through the tax system for their expenses. At the same time that this important simplification and base broadening is achieved, however, catastrophic losses which significantly affect individuals' ability to pay will be deductible. Fiscal year 1983, 0.6; fiscal year 1984, 0.8; and fiscal year 1985, 0.9.

Mr. President, I ask unanimous consent to have printed in the RECORD a brief explanation of the different areas that we acted on in the Finance Committee which do total, as I have indicated before, over a 3-year period $98.6 billion.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TAXPAYER COMPLIANCE PACKAGE

GENERAL

The taxpayer compliance provisions, including withholding on interest and dividends, raise $29.1 billion over three years (29.5 percent of the total bill) without raising anyone's taxes—simply by enforcing the laws already on the books.

It is far fairer to begin our efforts to raise revenues by insuring that all taxpayers actually pay the taxes that have been previous-

ly imposed before raising the taxes of those who already pay.

The compliance package is very broad—it deals with every form of tax evasion that the IRS and I could identify in the past year.

The package is also fair—balancing the needs of taxpayers for low reporting burdens against the need of the Federal Government to collect the taxes imposed.

HIGHLIGHTS

Interest and dividend withholding

Payors of interest would be required to withhold at a 10 percent rate on payments of interest. This is the single largest element in the compliance package.

A "float"—use of the withheld interest—would be provided to help banks and S&L's cover the costs of implementing such a withholding program.

The Internal Revenue Service would be provided with authority to waive the withholding requirement for certain small financial institutions.

Noncompliance on interest and dividends costs the Federal Government almost $8 billion annually.

VOLUNTARY WITHHOLDING ON PENSIONS

The second largest revenue-raiser in the compliance package is voluntary withholding on pensions.

The Finance committee bill contains a modification of the present law voluntary withholding system on annuities and periodic pension payments. Unless the taxpayer elects out on an annual basis, the bill would require withholding on annuities and pensions paying out more than $5,400 annually.

A $5,400 floor for small pensions was added to the original Dole-Grassley bill to address concerns by some pension administrators that the administrative expense of withholding would be too great in comparision to the increased compliance for small pensions.

The provision would increase revenues by $1.2 billion in FY 83, $1.3 billion in FY 84, and $1.7 billion in FY 85.

TAX SHELTER PROMOTERS

A new penalty on abusive tax shelters would be created.

The new penalty addresses the tax shelter problem at its source—the promoter—rather than by penalizing the investor—who may be innocent.

The problem is enormous. About 250,000 tax shelter cases are pending before the IRS.

AUDIT LOTTERY PENALTY

Aggressive taxpayers will not be allowed to play the "audit lottery"—to gamble that their returns will not be audited and take very aggressive positions.

This penalty hits only high income taxpayers, however, because of its limited underpayments of more than $5,000.

CAPITAL GAINS

One of the worst compliance rates is in capital gains; 44 percent of all capital gains taxes are not reported.

The bill would require reporting of capital gains in a simple transactional form limited to gross proceeds of purchases and sales.

TIPS

The worst compliance rate we know is with respect to tips. Only 15 percent of what is owed gets paid.

The bill would add new reporting requirements without adding new recordkeeping obligations.

Mr. DOLE. Mr. President, I have tried to send to every Member of the Senate today a copy of this document which sets forth rather clearly the breakdown of increased revenues. Whether they pertain to business, overgenerous provisions, loophole closing, tax compliance, taxes on those responsible for specific spending, so-called user taxes, the airport and airway tax, which is supported by the industry, I think they will make very interesting reading.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a two-page document on tax compliance and areas that we think will be tightened up by the action taken by the Finance Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BREAKDOWN OF INCREASED REVENUES

[Dollar amounts in billions]

	3-yr amount (1983–85)	Percent of total
1. General business tax provisions (IR basis adjustment; 1985–86 ACRS changes; acceleration of corporate income tax payment; corporate minimum tax preference reform; construction period interest and taxes; IDB reform; leasing; and mergers and acquisitions)	$24.7	25.1
2. Loopholes primarily affecting one industry (possession credit limitation, foreign oil and gas income, life insurance company taxation, dividened reinvestment plan; completed contract method of accounting)	15.2	15.4
3. Compliance provisions (interest and dividend withholding, optional pension withholding, information importing and improved penalties)	29.1	29.5
4. Taxes on those responsible for specific spending (medicare, unemployment compensation, Airport-Airway)	12.8	13.0
5. Excise tax provisions (cigarette, telephone)	7.4	7.5
6. Other individual income tax provisions (minimum tax, pension reform, coupon stripping, casualty and medical deduction, etc.)	9.5	9.6
Total	98.6	100.0

Mr. DOLE. Mr. President, finally, let me again commend the distinguished members of the Judiciary Committee of which the Senator from Kansas is proud to be a member, and commend the distinguished chairman, Senator THURMOND, for his leadership in this area, and commend Senator HATCH, Senator DECONCINI, and others who played a vital role, and I hope that we can pass Senate Joint Resolution 58, without amendment. It seems to me it is important because we have a problem. I am certain the Senator from South Carolina knows the Senator from Kansas had a discussion this morning with the Congressman from New York, BARBER CONABLE, who is leading the efforts on the House side to pass it this year, and if we amend it we complicate those prospects which means we go back next year, and then we will lose another year.

So it is in our interest, notwithstanding probably the assumed merit of most of the amendments, that we move very quickly on this very important legislation.

(Mr. SYMMS assumed the chair.)

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. DOLE. I am happy to yield to the chairman.

Mr. THURMOND. Mr. President, I commend the able Senator from Kansas for the position he has taken on this joint resolution and everything he is doing to promote the passage of this constitutional amendment to balance the budget.

The able Senator from Kansas is the chairman of the Committee on Finance, and he understands finances as well as anybody in this body, and he understands how for years and years we have not balanced this budget—in fact, only once in the last 21 years—and the importance of taking steps to do it.

I want to commend him for his outstanding leadership in what he is doing to promote the passage of this amendment.

Mr. DOLE. I thank the distinguished chairman of the committee, and I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this Senator had the privilege of presiding over the Senate during the first hour of debate on this subject this afternoon. The Senator noted that both the distinguished chairman of the Judiciary Committee and the distinguished Senator from Utah not only strongly and eloquently advocated the passage of the resolution, but stated that they wished for no amendments to the resolution whatsoever, a statement in which they are echoed by the Senator from Kansas just a few minutes ago.

They made the statement primarily on the ground of the prospects of the proposal in the House of Representatives rather than on the merits of the proposal itself.

As a consequence, I do have a question or a series of questions to propound to the distinguished Senator from South Carolina and to the Senator from Utah, if he has not yet returned to his office.

Before doing so, however, I should have to confess that I came to this body as an opponent of this resolution or of any constitutional amendment on this subject. I must also confess that I still retain serious reservations about the appropriateness of acting in this field by passing a constitutional amendment as opposed to passing a statute for two reasons. The first of those reasons is my concern with whether or not this is an appropriate subject for the Constitution of the United States, which has been amended relatively rarely since the passage of the Bill of Rights.

My second reservation, which is perhaps more relevant to my remarks this afternoon, is that with all of the study that has gone into this proposal, it is still quite unclear to me, and I rather suspect to every Member of Congress, as to just exactly how it will work.

It is a matter of particular concern to me as to whether or not this amendment, should it become a part of the Constitution, will profoundly affect the balance between or among all three of the basic institutions of our Federal Government, the Congress, the Executive, and the courts.

It may be that the statement about the lack of acceptability of amendments on behalf of the sponsors or the managers of this bill simply reflects their view that whatever the length of this debate, there are 67 firm and solid votes for the amendment in its present form. If so, it might not be inappropriate for them so to state.

In my case, however, and I believe, in the case of a number of other Members of the Senate, with several of whom I have discussed this matter, a general feeling of opposition, a concern about passing a constitutional amendment on this subject, may perhaps be overcome with a somewhat greater degree of confidence than we have at the present time about the workability of this amendment should it become a part of the Constitution in the real world.

I have been privileged to share with the Senator from Utah membership on the Senate Budget Committee during my first 1½ years as a Member of this body. I have also come to share many of his frustrations with this process, and to become less certain that we can solve the problems of huge and overweaning deficits by the use of the tools which are available to us at the present time.

I find more force and persuasiveness now than I did 1½ years ago in the proposition around which the Senator from Utah put his proposal, the proposition that the forces in the world as it exists today, at least in favor of specific spending programs, the lobbying organizations favoring their protection and their interests, are simply stronger than the general taxpayer interest, the general public interest, on a limitation on the growth of the Federal Government and a limitation of or the elimination of Federal budget deficits.

That presents a good argument, it presents a forceful and a strong argument, in favor of some artificial change in the normal rule by majority in the Congress of the United States, and a fair justification for a 60-percent majority vote in order to unbalance the budget or to make significant changes in fiscal policy in the United States.

As a consequence, I am strongly inclined to favor this resolution if, in fact, it is written in a fashion in which it can deliver what it promises and, most particularly, if it does not simply amount to an abandonment of the responsibilities of the Congress of the United States in favor of the Federal courts and the Executive in the setting of budgetary and fiscal possibilities.

As a consequence, I have, unlike some of the printed amendments which will be before us during the course of the next few days, a series of proposals, some of which are still in the form of thoughts, about improvements to this amendment. The general attitude toward which I would appreciate either the Senator from South Carolina or the Senator from Utah expressing themselves. Some of them I think are purely procedural in nature. One, for example, simply would require the President to notify Congress when actual outlays will exceed statement outlays, and then to permit Congress in its sole discretion to decide what action to take.

Another expressly to set out the authority of Congress to define budget and accounting terms by statutes under the authority of the amendment.

Another explicitly to state Congress power to enforce the amendment by statute.

Another to require Congress to deal immediately with any unanticipated deficit occurring after the close of the fiscal year.

Another defining the revenue growth and estimating the growth rate of the national income in ways somewhat more precise than those required by the amendment now.

The two with which I am most concerned deal with the retention of the primary power and authority of Congress over the Federal budgetary process.

The first would be to strike the words—and I am quoting now—"and the President" from the last sentence of section 1 thereby making it clear that Congress has sole responsibility for enforcing the amendment and that the President is not granted by the Constitution new and additional powers which he does not presently possess.

The second is to add language expressly prohibiting the Federal court system from hearing cases brought pursuant to the provisions of this amendment.

I note in that connection, for example, that there is one sentence in the Judiciary Committee report accompanying Senate Joint Resolution 58 which states:

> It is the view of the committee that traditional judicial and constitutional conceptions of justiciability and standing, as well as the idea of what constitutes a political quesiton best reserved to nonjudicial branches of Government, suffice to insure that the courts will not involve themselves as a normal matter in reviewing the operations of the budget process.

I must say that I find little comfort in that assumption or in that single statement in a long committee report. It is my view that without anything more specific we are very likely to have a series of cases and controversies in the Federal courts of the United States after every single budget season, and that we may very well find the Supreme Court of the United States deciding that it states what the law is ultimately in this connection in this, as it has in so many other areas, and to rely simply on traditional ideas of what constitutes political questions is, I would submit, a weak reed on which to base the assertion that we are not shifting another major area of Government responsibility out of the Congress and into the hands of the courts of the United States.

At this point, I would be delighted to hear from either or both of the primary sponsors of this proposal, emphasizing, once again, at this point, that I am attempting, in bringing up these ideas, to act as a friend of the amendment rather than as someone who is attempting to muddy the waters.

I still, I must say, do have some concern about whether this is appropriately a part of the Constitution at all, though I have changed my views to a certain degree during the course of the last year and a half. But I have a grave concern about substantial reduction of the powers of the Congress in the field of budgeting authority, either in favor of the President or of the courts of the United States.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, the distinguished Senator from Washington brings up some very important constitutional points, I am appreciative of these questions and of the Senator's willingness to keep an open mind toward supporting the amendment.

With regard to the second question, it is not the intent of section 1 of the amendment to establish any new authority in the President, absent congressional action, or to imply any reordering of the separation of powers balance between the branches of the National Government.

This provision, for example, does not invest in the President any new authority over the impoundment of appropriated funds. Congress, however, may choose to amend existing impoundment statutes consistent with the Constitution and establish greater authority in the President to carry out his section 1 obligations by impounding funds. That is Congress right if it chooses to do so. We chose not to require it in this amendment.

It is not required that Congress implement this or any other particular enforcement provision. It is expected only that the Congress insure that there be some effective means by which the Congress and the President may each exercise authority to enforce this critical provision of the amendment.

In the absence of such legislation, it is still expected that the President will exercise his budget proposing authority, his veto authority, and any other authority presently available to him to carry out the mandate of the section 1 provision. That is what is meant by having the President as part of the section 1 provision, with respect to insuring that actual outlays not exceed statement outlays.

The same, of course, is expected of Congress. What this sentence means, is that the President is invested with no new substantive authorities—impoundment, line-item vetoes, and so forth—but simply that he is obligated to exercise his existing authority in light of new constitutional directions.

He is charged by this sentence with exercising his veto authority, his proposal authority, his executive or administrative authority generally in behalf of the new obligations set forth in this amendment. In other words, he is given new standards, by which to exercise his present authority, not new substantive authority.

With regard to the Senator's first question about the substantive aspects of Senate Joint Resolution 58 the essence of the proposed amendment consists of imposing upon Congress requirements that neither expand nor restrict its ultimate powers but rather prescribe certain legislative procedures to be followed.

Let me quote in this regard from Prof. Antonin Scalia of the University of Chicago Law School:

These procedures are: (1) A requirement for super-majorities applicable to certain votes—three-fifths of the total membership of each house to adopt a deficit budget, and a majority of the total membership of each house (as opposed to what would be the normal rule, a majority of those present) to increase federal receipts at a rate greater than the prior year's rate of increase in national income. (2) A requirement for an actual vote before a specified event may be permitted to occur (viz., the aforementioned increase in federal receipts). (3) A requirement for annual adoption of a budget.

The first of these requirements finds many parallels in the existing Constitution. A super-majority of two-thirds of all members is necessary for either House to expel one of its members (Art. I, Sec. 5, cl. 2), of *Powell v. McCormack.* 395 U.S. 486, 506–07 (1969); a super-majority of two-thirds of the members present is required for both Houses to override a presidential veto (Art. I, Sec. 7, cl. 2), see *Missouri Pac. Ry. v. Kansas,* 248 U.S. 276 (1919), for both Houses to propose constitutional amendments (Art. V), see *National Prohibition Cases,* 253 U.S. 350, 386 (1920), and for the Senate to convict on impeachment (Art. I, Sec. 3, cl. 6) or to ratify a treaty (Art. II, Sec. 2, cl. 2).

The requirement that Congress must take a vote before a particular event may occur (here, an increase in the proportional rate of taxation) is also not novel. The Constitution currently requires each House to vote its consent before the other may adjourn for more than three days (Art. I, Sec, 5, cl. 4). It likewise requires Congress to vote approval before a federal officer may accept any present, office or title from a foreign state (Art. I, Sec. 9, cl. 8); before a state may impose duties on imports or exports (Art. I, Sec. 10, cl. 2); before a state may enter into any agreement or compact with another state (Art. I, Sec. 10, cl. 3); and before a new state may be admitted to the Union (Art. IV, Sec. 3). In requiring a specific vote for a new level of taxation, the proposed amendment may be regarded as establishing for receipts a specific vote requirement similar to that which is already applicable to expenditures, through Article I, Section 9, clause 7, which provides that "no Money shall be drawn from the Treasury but in Consequence of Appropriations made my Law."

The last legislative requirement established by the proposed amendment—annual adoption of a statement of receipts and outlays—is somewhat different, in that it categorically requires congressional action, rather than merely requiring action if another event is to occur. This has fewer analogues in the text of the present Constitution, but would hardly be unique. Other explicit "legislation-forcing" provisions include the requirement of legislation for a decennial census (Art. I, Sec. 2, cl. 3), the requirement of compensation for Members of Congress (Art. I, Sec. 6, cl. 1), for the President (Art. II, Sec. 1, cl. 7) and for federal judges (Art. III, Sec. 1), and the requirement for legislative specification of districts within which criminal prosecutions are to be brought (Amend. VI). And some legislation is "forced" by necessary implication—for example, the implication arising from the requirement of a Supreme Court (Art. III, Sec. 1) and the Constitution's failure to specify its composition. To be sure, none of this legislative action is required annually, but that seems a difference in degree rather than kind. Moreover, as a practical matter the provision that "no Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law" (Art. I, Sec. 9, cl 7) requires many annual appropriations—and Article I, Section 8, clause 12 prohibits appropriations for the army of more than two years' duration.

Even if these other instances of required legislative action did not exist, however, adoption of an annual budget has become such a regular and inevitable feature of our constitutional practice that it would be captious to object to its inclusion in the constitutional text. Of course the concededly necessary budget has not always been finished in time—but it is the very purpose of this proposed amendment to remedy that acknowledged defect.

I would also call to the gentleman's attention my own remarks earlier today on the issue of economic policy and the Constitution. While I do not view Senate Joint Resolution 58 as primarily an amendment of economic theory, even if it were it would not constitute subject matter foreign to the Constitution.

I hope that these comments, which have been a little more lengthy than maybe my good colleague would have desired, will help answer some of the questions that my friend from Washington has. I really believe with all my heart that we can no longer afford having continued deficits year after year, good times and bad times. Being on the Budget Committee has reinforced that belief a great deal because I see a process that really could work but does not because there is no incentive on the part of anybody in the Congress to make it work. I think this amendment will bring out those incentives in a procedural context. It will enable the budget process to work far more effectively than it could have in the past.

Mr. GORTON. I thank the Senator from Utah. During the course of his answer, he raised quite a relatively small question which I think has not been previously asked but on which there should be some legislative history.

Under section 2 of the amendment requiring a majority of the whole number of both Houses of Congress to pass a bill to increase the percentage of the gross national product represented by total receipts for a year, is it the view of the Senator from Utah that this provision removes the constitutional right of the Vice President to break a tie in this body should there be a vote of 50 votes in favor of such a resolution and 50 votes against? Would the Vice President be prohibited from creating a majority in favor of such a resolution?

Mr. HATCH. That is an excellent question. It is my opinion that the Vice President would still have the right to break a tie in the case of a tie and establish the requisite constitutional majority. This would not change the present constitutional provision in that regard. The Vice President may create legislative majorities under present legislative procedure and I believe that he could create the constitutional majority under the newly established procedure. I would, however, like to consider this issue further. It is a good question.

Mr. GORTON. I thank the Senator from Utah. If I may, I would like to go back to my original questions. I asked the questions ineptly, perhaps, three different times, and I expressed one major concern. The Senator from Utah has addressed himself to one of the questions. The question to which he has addressed himself is whether or not section 1 of the amendment increases the power of the Executive as against that of the Congress setting the budget. The answer of the Senator from Utah is that it does not. I submit to the Senator from Utah that this is relevant to my other two questions, that one could easily interpret the last sentence of section 1 of the proposed amendment to be a constitutional right on the part of the President to engage in impoundment.

I fully agree with the Senator from Utah that there should be no change as a result of the constitutional amendment in that respect, even though I feel there are good arguments in favor of increasing the statutory right of the President in respect of impoundments. But I remain con-

cerned that the last sentence of section 1 is not clear in that respect.

I have two questions to which the Senator from Utah, to the best of my knowledge, has not addressed himself.

The first would be, Is it the position of the Senator from Utah and the Senator from South Carolina that no matter what the concerns of other Members here on questions like this, they are simply unwilling to accept any amendments to this resolution before it is voted in final form?

I ask that question because we are in a peculiar situation when we deal with constitutional amendments. There is, clearly, a very substantial majority of the Members of this body in favor of this constitutional amendment. They can, therefore, one presumes, defeat any amendment proposed to it. They may or may not be able to pass the amendment itself with the necessary two-thirds vote if they do so. At least part of my effort in the next few days will be governed by whether or not the sponsors are willing to consider any amendments whatsoever.

Mr. HATCH. Could I answer the question on the first point?

Mr. GORTON. Certainly.

Mr. HATCH. As I expressed earlier during the debate, Mr. President, I might wish personally to increase or decrease some of the restrictions in the amendment. As one who has worked hard for this amendment and for this opportunity on the floor of the Senate and who has worked hard with outside groups as well as the leaders in the House of Representatives, I know we have come through more than 40 amendments to the Constitution to arrive at this consensus amendment.

It has been expressed to me by the leaders in the House that, even though some might want some changes to meet their own concerns and even though we understand that that is the nature of the legislative process, they feel that with the lateness of the session, with the type of consensus amendment that exists and with the fact that we have consulted every Member of the Senate at one time or another if we amend this amendment on the floor of the Senate, they feel that it will be far more difficult to get it through the House. As we have here, they have also established a consensus in their body.

That is not to say that this is the only way a constitutional amendment can be written. It is not to say that I do not think that it would be improved from my own personal perspective. It is merely to say that we have achieved an extremely difficult compromise, one that I would hope most Members would be reluctant to undermine.

With regard to the Senator's thoughtful question concerning the last sentence of section 1, we intend to make it specific in the RECORD and in the legislative history of this matter that this will not give the President any rights that he does not presently have. It will allow him only to exercise the rights that he presently has in pursuit of the objective that actual outlays not exceed the outlays set forth in such statement.

To be far more specific, Mr. President, I believe that if the President desires impoundment authority he does not presently have or any other type of budget restraining authority that he does not presently have, he will have to get that from the Congress of the United States through legislation if that is permissible.

With regard to amendments, I would prefer to discuss them individually and see if there is something we can do to get House and Senate leaders together for discussion.

As of now, in spite of the fact that I might personally wish to support some amendments, I would have to vote against any amendment to this particular constitutional amendment because we have come through this difficult process. It has been a thorough and effective process. I think we have taken into consideration the concerns of every Member of the body, although we could not accommodate every such concern. We want to pass this amendment because we know this is the first real chance we have had in the history of the country to do so, at a time when it is critical to do so.

In that regard, let me compliment the distinguished Senator from Washington. I have paid some attention to his legislation to restrain spending. I want to personally compliment him on the efforts he has put forth to come up with wording that may represent a very good approach from a legislative standpoint. I think, however, that we are at a time in history where history tells us that we have to do something a little bit more than that, in spite of the excellent work and the outstanding draftsmanship performed by the distinguished Senator from Washington. I have read what the Senator has tried to do. I have great admiration for his efforts. I believe that more is now required, however.

I might also add that I think that the present bit of legislative history that the Senator has raised here has helped to clarify the impoundment issue, at least with respect to the intent of Congress. I do not think anyone could misconstrue what that is. I am grateful to the distinguished Senator for making that point.

Mr. GORTON. Mr. President, I thank the Senator from Utah for his compliment and for his candor. In one sense, I certainly agree with him that, at this point, it is highly unlikely that Congress is going to substitute a statutory approach for a constitutional approach even though, as the Senator points out, I would prefer that more cautious direction.

Nor did I bring this subject up here today to raise that as an alternative, but simply as a set of proposals which work within the framework of the constitutional amendment the Senator has drafted and work within its philosophy at the same time. It is not an attempt to change the thrust or the direction or the majority requirements or the like.

For that reason, I particularly appreciate the candor of the Senator in speaking to his difficulties in accepting amendments, a proposal which obviously has occupied many a mind over an extended period of time.

I suppose I must go back to my original comment: I am sure that I would take exactly the same position that is taken by the Senator from Utah if I were absolutely confident that I had 67 votes for the proposal that is here before us today. I simply ask the Senator from Utah to consider, during the course of the next 2 or 3 days, whether the ultimate outcome is close enough that he wishes a few additional votes in exchange for amendments that do not go to substance but do go to the way in which amendments would, in fact, be carried out.

Now, if I may, I should like to go on just a little bit.

Mr. HATCH. I should be happy to sit down with the Senator at any time, with our colleagues who are carrying this effort in the House and other Senate leaders to see if we can amend this measure further. I do not know that we can, but I share the Senator's feeling that there may be sufficient room for accommodation.

Mr. GORTON. That is an entirely fair comment. I intend to try to accomplish that in the course of the next few days.

I should like an answer to a question which remains unanswered which is, in the mind of this Senator, the most important of all of the questions which I have raised. That is the susceptibility of this constitutional amendment not simply to some kind of abstract judicial review, but to the direct interference by the courts of the United States in the substance or in the process of enforcing the amendment.

I must say that, in one sense, I am somewhat surprised at the ease with which the proponents of the amendment deal with that proposition, as I recognize the Senator from Utah and many of the other cosponsors as being among Members who are most disturbed by the nature of the judicial policymaking in the United States at the present time.

Given the fact that we now have courts which enter orders on how many square feet a State shall provide for prisoners in its prison system, out-

line the nature of requirements in the field of education, redistrict down to the last precinct our congressional and legislative districts, I must say that I have no confidence that we shall not, in the foreseeable future, have a set of courts which will make precise budgetary determinations pursuant to this constitutional amendment upon the assertion by any individual or organized group in the United States that, in some respect or another, Congress or the Executive have failed to carry out the requirements of this amendment. At the most fundamental basis, it seems to me that within the amendment itself, a clarification is required to see to it that this does, in fact, remain a political question.

Mr. HATCH. I appreciate the remarks of the Senator, and admit I share his concern about judicial "activism" in the courts of this land. I think the courts have increasingly abused their proper authority. On the other hand, what we do not want to do is interfere with the truly legitimate functions of the courts in our system of government. I believe that Senate Joint Resolution 58 has established the correct balance in refusing to establish constitutional sanction for the Federal courts to involve themselves in fundamental macroeconomic questions, while not undermining their equally fundamental obligation to "say what the law is." *Marbury* v. *Madison*, 1 Cranch 137, 177 (1803).

While there are a number of Members in this body whose confidence in the idea of judicial self-restraint has been badly undermined through the years, nevertheless it is the view of the Judiciary Committee that traditional judicial and constitutional conceptions of justiciability, and standing, as well as the idea of what constitutes a "political question" best reserved to nonjudicial branches of the government, suffice to insure that the courts will not involve themselves, as a normal matter, in reviewing the operations of the budget process. This, certainly, is the clear intent and expectation of this committee, as well as that of the gentleman from Washington.

I might say in summary that, while the committee has chosen consciously not to prohibit judicial review altogether of cases and controversies arising in the context of the proposed amendment in the belief that the most serious and unambiguous violations of its provisions ought to be subject to external check, the committee nevertheless expects that the amendment will be largely self-enforcing and self-monitoring.

First, Congress and the President each are expected to establish appropriate provisions for complying with the amendment. Second, Congress and the President each are expected to monitor the actions of the other branch and to the extent of their existing authority enforce the provisions of the amendment against that branch.

Finally, the public is expected to be, and I think will be, in a superior position to monitor the actions of both of these branches of Government, and where they fall short of complying adequately, to make sure that the Government complies adequately with the provisions of the amendment by enforcing it through the electoral process. Only as a final resort and only under the most compelling circumstances as, for example, when the practices of either the Congress or the Executive undermines the ability of the amendment to be self-enforcing is there anticipated to be a significant or effective role for the judicial branch. It is a highly limited, but I believe a desirable, role.

I believe the Senator has again raised an important constitutional question. We have tried to answer it in the committee report as best as we can. We have tried to establish an extremely difficult balance in this area. I think the gentleman's concerns are serious and thoughtful ones.

I suppose that if we covered every loophole or every possibility, it would be an impossible task. If we tried, I think we would have an amendment 50 pages long that probably would get us in far worse trouble than what a simple constitutionally written amendment might do.

I hope we will be able to persuade the distinguished Senator from Washington about the merits of this amendment not only because it would mean a lot to me personally to have him with us, but also because of his special legal expertise and because so many of us respect the Senator for the work he has done thus far in the Senate on legal matters.

Mr. GORTON. I thank the distinguished Senator from Utah for that information.

I wish I shared in his optimism about the willingness of the courts to exercise judicial self-restraint in connection with the enforcement of this amendment.

As I have said, however, I believe personally—and speaking only for myself as an individual—that that constitutes the greatest single weakness in this constitutional amendment. I have had grave doubts about that judicial self-restraint over the years and am seriously concerned about very specific court improvements thereon.

With that I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I see the distinguished Senator from Oklahoma. Does he wish to speak tonight on this matter?

Mr. NICKLES. I should appreciate it just for a few minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I believe that the issue before us today of a constitutional amendment to require a balanced budget and also to limit spending and taxes is probably one of the most important issues that has come before Congress in many years, and certainly, in my opinion, probably the most important issue that will come before us this year or possibly even next.

Mr. President, coming from a business background, I have been in the Senate for a grand total of 18 months. If there is anything that has disappointed me most it is the total and complete fiscal irresponsibility of Congress. We in Congress have not been responsible. We do not have a budgetary process that works. Federal spending has been and continues to be totally and completely out of control. We recently passed a budget in the Senate that has a deficit of $100 billion. Many voted for it, including myself, because a $100 billion deficit is better than a deficit of $180 billion, certainly the lesser of two evils.

When I go back to the great State of Oklahoma, a lot of people are very upset about the fact that we have deficits even approaching that magnitude, but the real problem is not just the deficits. The real problem is that our budgetary process has not worked and we have had Federal spending growing totally out of control.

For example, only 22 years ago, in 1960, Federal spending was less than $100 billion. Ten years later, it almost doubled to nearly $200 billion, in 1970. In 1980, it tripled, all the way up to a little less than $600 billion. Recently, we passed a budget that has spending figures in it of $769 billion in fiscal years 1983.

It just proves, the way this has compounded, 7.6 times what it was 22 years ago, that Federal spending is totally and completely out of control.

A lot of people say they want to balance the budget, but there are only two ways to do it. One is to cut spending and the other is to increase taxes.

The people in our part of the country have asked themselves, "Are we spending too much and taxing too little?" I would imagine that 80 or 90 percent are saying, "You are taxing plenty but you are spending too much."

This year we are spending approximately $3,300 for every man, woman, and child in the United States. Federal spending has been out of control and probably will continue to be out of control until we put on some type of constitutional restraint to make Congress live within our means and not just require a balanced budget but go the additional step, which also is very important, of putting a limitation on

taxes and putting a limitation on spending, so that we do not find that we have a balanced budget but we are slaves of the Government.

Right now, the average American family pays a 40–44 percent marginal tax rate.

So we need some constraints, and I believe we need constitutional constraints. Thirty-nine States have some type of constitutional restraints in their constitutions. The State of Oklahoma has one. We have lived with it through good times and bad. The Senator from South Carolina knows that States many times have been more responsible than we in Washington, D.C., have been.

I commend the Senator from South Carolina and the Senator from Utah for their leadership. I am pleased that the President has endorsed this concept.

As many of my colleagues are aware, I and many others circulated a letter urging the President to support the concept. Thirty-five other Senators signed the letter.

For years, the Senator from Virginia has given leadership to this issue, and I compliment him for it. Many of us have been in the private sector and have admired him in his continued fight urging Congress to have a balanced budget. I think it is high time. The American people are ready for it; they are asking for it. I think we will find that there are very few single issues that will be as well received and that could do such positive good for change in this country as passing this amendment.

I am glad to be a cosponsor of this amendment, and I hope and pray it will pass.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. NICKLES. I am happy to yield.

Mr. THURMOND. Mr. President, I commend the distinguished Senator from Oklahoma. He is a comparatively new Member of this body, and he has shown outstanding leadership and fiscal responsibility here, as he has in other fields.

What he has said here today on this question is extremely important, and I hope every Member of this body will take the time to read his fine remarks.

Mr. NICKLES. I thank the Senator.

SENATOR MARK O. HATFIELD

Mr. PERCY. Mr. President, on June 17, 1982, the Christian Science Monitor printed an excellent profile of my distinguished colleague from Oregon, Senator MARK O. HATFIELD.

In the 16 years I have served with Senator HATFIELD in the U.S. Senate, I have come to highly respect and admire this fine individual. Senator HATFIELD'S outstanding knowledge of issues and his genuine caring for the people of this great Nation lead me to commend him for his many contributions as a U.S. Senator.

Senator HATFIELD is dedicated to his work and to his constituents, and I feel the Christian Science Monitor accurately depicts the qualities that make him unique. The profile portrays him in an honest light—capturing the attributes with which many of us who have known him are so familiar.

I would also like to extend to Senator HATFIELD my very best wishes today as he celebrates his 60th birthday. I hope the coming year provides my distinguished colleague and friend with the goodness that he has shown so many others.

Mr. President, I ask unanimous consent that the June 17, 1982, Christian Science Monitor article on Senator MARK O. HATFIELD be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATOR MARK O. HATFIELD

(By Louise Sweeney)

WASHINGTON.—Mark Hatfield, who was among the first Americans to see Hiroshima after the atom-bomb blast, now leads a nuclear-freeze movement to prevent that kind of devastation.

"I see all life as a part of God's creation, and I think it's rather audacious and presumptuous of humankind to consider that it has the right to destroy creation, to destroy all life," says Mr. Hatfield, a Republican senator and lay minister from Oregon. He leans forward intently, his mild blue eyes lit with the fervor of an Old Testament prophet. "We've developed the ability to destroy the planet, but that doesn't give us the *right* to destroy the planet."

He is sitting in his high-ceilinged Senate office in a straight-backed Victorian chair drawn up to a Revolutionary War drum doubling as a table. Hatfield had just raised the specter of Libya's building a nuclear bomb and warns that 60 other countries will have nuclear weapons by the end of the century. Almost on cue the phone rings, and an aide enters to whisper, "The President wants to see you this morning." Hatfield takes the call. He listens "Yes. Yes. . . . I'll be there at 11 o'clock," in a calm, dispassionate baritone.

Hatfield is jointly sponsoring with Democratic Sen. Edward M. Kennedy of Massachusetts a resolution calling for a freeze on the testing, production, and deployment of nuclear weapons by the United States and the Soviet Union. He is the militant nuclear dove of his party, a man whose warnings echoed at the huge rallies in New York City last weekend keyed to the UN debate on a disarmament resolution.

At a later interview, he is asked about his sudden summons to the White House. Did it have to do with President Reagan's startling proposal three days later that the US and the USSR reduce their strategic missile arsenals by one-third? Senator Hatfield smiles quietly. The official purpose of the visit was to appear at a presidential announcement on the budget, he says. Pause. "But when I was down there, he [President Reagan] told me he was going to make those remarks at Eureka College, and said he thought I'd be *pleased*." Is Hatfield pleased? He is semi-pleased. Is it enough of a step?

"No. No. Not enough of a step. But . . . I'm delighted, of course. [It's] a step in the correct direction, yes, indeed it is. I think the President's a very sincere man, but I think there's a built-in contingency there [in the President's proposal] that makes it impossible for the Russians to respond to us. I think that they could respond to a freeze." He will go campaigning for one, he says as slowly and inexorably as a boulder beginning to roll down a mountain.

Sen. Lawton Chiles (D) of Florida sees a parallel between Hatfield's adamant, initially unpopular stance against the Vietnam war and his present championing of the nuclear freeze: "I suspect even if it (the freeze resolution) doesn't pass, it will have already had great influence. Some of the steps the President is taking and the other steps couldn't have happened without it. . . . The McGovern-Hatfield amendment was one of the earliest get-out-of-Vietnam propositions. . . . Time after time his propositions did not pass . . . but it was Mark Hatfield's perseverance over the years" that set the pattern.

Senator Hatfield views the resolution as part of a national groundswell against the imminent possibility of nuclear war. It's one of those instances "where the people are ahead of the politicians," he says. He ticks off the grass-roots support across the country, from New England town-hall resolutions to initiatives for a California referendum on the freeze. But the big push will not come at any particular rally or march, Hatfield says—the big push will be at the ballot box next fall, when the nuclear freeze issue becomes the litmus test for voters trying to decide which candidates to support.

As chairman of the Senate Appropriations Committee, Mr. Hatfield is acknowledged to be one of the most powerful Republicans in Congress, but there is none of the traditional politician's flash about him. At first encounter he is shy, reserved, formal. It is only as he begins to explain the spiritual impetus for some of his political decisions that the reserve melts away like a Popsicle on an August day. Then the words rush out and he becomes so excited he sometimes has to wrap his arms around his chest to restrain himself.

Mark Odom Hatfield is a quiet man who burns with a fierce inner light. Slender, dapper, handsome in an ascetic way, he has a neat head of carefully brushed gray hair, regular features with just a hint of granite about them, and seers' blue eyes with long, sandy lashes. Senator Chiles calls him "an elegant fella"; at one interview Hatfield wears a chalk-brown pin-stripe suit, coordinated striped shirt, patterned brown tie, and brown patent loafers.

In place of the standard senatorial ego appears an idealism focusing beyond himself. In person, the man gives off an aura of old-fashioned goodness as palpable as pine soap.

It doesn't bother Hatfield at all that the President and many of the members of his own party do not share his impassioned warnings about nuclear apocalypse now. As Senator Chiles points out, "Mark marches to a different drummer . . . he's very true to his own convictions."

He is, after all, the same Mark Hatfield who rose at the 1973 National Prayer breakfast, at which President Nixon was guest of honor, to stun the room with his words. In a modern version of Lamentations, Hatfield called Vietnam "a sin that scarred the national soul" and "an exile of love from our hearts," remarks that did not endear him to a fellow Baptist and friend, the Rev. Billy Graham, or to the supporters of the Presi-

dent with whom he shared the podium. In "Between a Rock and a Hard Place," one of the three books he's written about the conflict between his religious credo and politics, Hatfield points out that his words were directed not at a president but at what he calls "civil religion." He saw a "corporate national spirit of self-rightousness" over a war he considered a national sin, and a "lack of penitent response among millions of Americans." He feels the same way about the arms race.

When he answers critics who call the freeze and aid to the enemy, "junk food for the mind," or a "hysterical, apocalyptic ban-the-bomb mentality," his tone is soft but the words tough: "Interestingly, those were many of the same criticisms leveled against those of us who raised the questions about the validity of American interests in Southeast Asia, that brought us the longest war in [our] history. . . ."

Hatfield's own election to the Senate in 1966 was a referendum on Vietnam; he had spoken out from the start against the war, first as Oregon governor and then keynote speaker at the 1964 Republican National Convention. He voiced his antiwar protests so early, so vociferously, that the Washington Star called him "the Senate's most prominent dove".

His office reflects his values, with its well-thumbed Bibles and its Lincoln motif. The grave, sorrowful eyes of Abraham Lincoln gaze down from more than two dozen paintings and sculptures in a spacious room decorated with a gray marble fireplace and a red-velvet Victorian love seat.

Hatfield's definition of national security is quite different from that of many presidents. He emphasizes a "spiritual muscle" rather than stacks of lethal hardware. "There is to me a direct ratio between the increase of our arsenals and the diminishing sense of national security.

"In my opinion, the only president in modern history who had any comprehension of national security was Dwight David Eisenhower, who happened to be a five-star general. . . . He said that there comes a time in a nation's life when additional money spent for rockets and bombs, far from strengthening national security, will actually weaken national security—when there are people who are hungry and not fed, people who are cold and not clothed. For in the ultimate sense, that expenditure becomes a theft from those people, from those needs of those people." Hatfield stresses that he is not a pacifist; he believes we need a strong military, but he also believes we need a strong economy, a strong infrastructure, and "a strong spiritual life in this nation."

Hatfield says flatly that national security in the Eisenhower sense has been greatly weakened today by administration armaments spending that is a theft from the needy.

What he is most proud of in his 16-year career as a US senator is not some major piece of legislation, or that moment at the 1973 prayer breakfast with Nixon. It's the individual people he's helped which matters the most to him, he says. One example: persuading William P. Clark, when Mr. Clark was undersecretary of state, to cut immigration red tape that prevented Polish sailors who jumped ship in Oregon from being granted asylum and citizenship here.

His office handles over 200 constituents' cases each week. But his concern goes beyond Oregon to a global constituency of the poor. His association with World Vision, Bread for the World, and other private groups is prompted by his almost biblical anguish over poverty anywhere in the world:

"You know, in the Old Testament and New Testament, the most frequent measurement of people's righteousness by God's measurement, the most frequent example is our relationship to the poor. When we tolerate anyplace on this globe any kind of poverty and starvation, [we] are also by the way [tolerating], from a nontheological point of view, the seedbeds of violence and war. . . . When I think of what the world spends on armaments, two weeks of that expense—about $17 billion—could provide enough food, clothing, housing, clean water, for all the poor people in the world. . . . When you take the human resources and technicians and scientists and all the others required to create them [arms] with these other needs unmet, I think that is s-i-n."

His wife, Antoinette, sometimes asks him, "Why do you want to save a world that doesn't want to be saved?" The Hatfields married after a five-year courtship which began when the campus promotion king at Willamette decided to promote a romance between Hatfield, then dean of students, and the Portland State College dean of women, Antoinette Kuzmanich. When she decided to leave her Roman Catholic faith to join his Baptist church, the couple faced down a campaign of ecclesiastical disapproval from her former church directed at her—and at his political career. (Hatfield says that wouldn't happen now, after the ecumenism of Pope John XXIII.) They married in 1958, the year he became the youngest governor in Oregon's history.

With flashing brown eyes, black hair, and vivacious prettiness, Antoinette Hatfield manages to be both exotic and motherly-looking at the same time. Mrs. Hatfield, a candid, buxom woman in a Delft blue suit and pearls, runs her own successful real estate business in Georgetown. The Hatfields have four children: Elizabeth, 22; Mark O. Jr., 21; Theresa, 17; and Charles (Visko) Vincent, 15.

There are those who point to an occasional flaw—or idiosyncrasy. Hatfield is infamous for pouring hot coffee over his ice cream.

He has been described as tight—with his own money as well as the taxpayers'. And he considers Herbert Hoover a political hero. That may spring from the fact that his first political act was distributing handbills at the age of 10 to reelect Hoover, an adoptive Oregon native son, for president.

He grew up in Dallas, Ore., in a small-town atmosphere straight out of a Norman Rockwell painting, in a childhood with simple pleasures: making tin-can telephones; carving whistles out of willow sprouts.

His father, C.D., was a Democrat, a blacksmith in the bridge and building department of the railroad, "a spiritual man" who taught him the 12 tribes of Israel, four verses of "America the Beautiful," the books of the Bible, and who wanted him to be a minister.

His mother, Dovie Odom Hatfield, was a schoolteacher and a Republican, who urged him to make a name for himself. When he was 5, she parked him and her husband with her mother and went off to college for four years. After Salem High School, a BA from Williamette University, and service in World War II as a Navy lieutenant junior grade (Iwo Jima and Hiroshima), Hatfield took his master's in political science at Stanford, where he became a Republican. With his first job as an educator, at Willamette, he also began his political career as county chairman for the National Citizens Committee for the Hoover Report (on efficiency in government). From there it was a steady climb to state representative, state senator, secretary of state, then governor.

While he has been described as having been personally ambitious early in his political life, his biographers Robert Eells and Bartell Nyberg devote a chapter of their book "Lonely Walk—the Life of Senator Mark Hatfield" to a spiritual crisis in his life at the age of 31 that changed his focus. Turning to the story of Job in the Bible, Hatfield decided that Job's decision of unconditional commitment to serve God would be his. It is that spiritual commitment that has made him a sometimes reluctant candidate (he's not sure whether he'll run in 1984) when he has felt a clash between politics and his own principles. But his basic view is that church members must "witness" to their faith by becoming involved in politics, not ignoring its evils but helping clean it up. Would he run for president? Hatfield flatly answers "No."

"I have not reached the point . . . of selling my soul to Mephistopheles for a political career. I think you have to have a burning feeling in your lower abdomen that you are willing to make compromises with principle. I don't say this is true of people who seek the presidency. I think the tendency or vulnerability is there."

But he has equally strong words for Moral Majoritarians (such as those who mounted a campaign against him in Oregon) and who would try to equate a political vote with spiritual worthiness in issues like school busing, abortion, and the Panama Canal. "It is sloppy communication that frequently says if I am correct on this list of political issues, then that will equate to my relationship to God or be evidence of my spirituality or my Christianity. Now that's what I call *Apostasy*," he warns, "that is politicizing the gospel."

Anyone as outspoken as Hatfield on deep moral issues generally polarizes people. Senator Specter says people "may find Mark Hatfield in disagreement with their positions but never disagreeable . . . he does it without bruising any feelings." Senators Specter, Chiles, and Sam Nunn (D) of Georgia all mention the respect with which Hatfield is viewed in the Senate across party and ideological lines. "He's not afraid to speak out on an issue even though he may be the single, lone voice," Senator Nunn says.

Perhaps the best comment on Hatfield's character was made as a parting shot by his wife, after sitting for a rare interview. Mrs. Hatfield does not suffer the press gladly, but as she smiled goodbye, she said, "Whatever story you do, the man will shine through."

TRIBUTE TO MISS MARGUERITE TOLBERT OF COLUMBIA, S.C.

Mr. THURMOND. Mr. President, it has been said that the fate of America depends upon the education of its people. Few South Carolinians believed as strongly in America and the importance of educating its citizens as did Miss Marguerite Tolbert of Columbia, S.C., who passed away on July 6, 1982, at the age of 89. To her family

and friends I extend my deepest sympathy.

Miss Marguerite was a warm, friendly, and intelligent woman who devoted her entire life to helping thousands of individuals, young and old, expand their knowledge.

Her career was filled with educational accomplishments. She taught in numerous public schools, and later went on to become supervisor of the State department of education's adult education program for 17 years. Perhaps she will be remembered best for her service as assistant director of the Wil Lou Gray Opportunity School, which she helped found with her cousin, another legendary South Carolina educator, Dr. Wil Lou Gray. This institution has provided educational opportunities to thousands of South Carolinians who otherwise would not have had the chance to develop their academic skills.

Miss Marguerite was a loyal supporter of her alma mater, Winthrop College in Rock Hill, S.C. Because of her valuable contributions to that fine college as a trustee and alumna, Winthrop awarded her the distinguished Mary Mildred Sullivan Award, the highest honor given to a Winthrop graduate. Later, she received an honorary doctor's degree of humane letters from that institution.

Presently, a statewide committee is in the process of raising funds for the establishment of a Marguerite Tolbert chair at Winthrop College. This amendment will be the first of its kind in the college's education department, and Miss Marguerite will be the first woman in Winthrop's history to have a chair named in her honor.

The death of this outstanding educator is a loss for our entire State, but her life's record is one of significant contributions to South Carolina education.

Mr. President, in order to share more about Miss Marguerite Tolbert, I ask unanimous consent that two articles from the State newspaper appear in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the State, July 7, 1982]

MARGUERITE TOLBERT, SOUTH CAROLINA EDUCATOR, DIES

Miss Marguerite Tolbert, 89, who for 42 years was active in the education of South Carolinians, died Tuesday at the Methodist Home in Orangeburg.

She formerly resided at 1851 Devine St. in Columbia.

Born in Gray Court, she was a daughter of the late James F. and Medora Gray Tolbert.

Miss Tolbert was an honor graduate of Winthrop College, class of 1914, and received her master's degree from Furman University. She did further studies at Columbia University, Peabody College, the University of North Carolina and the New York University.

She later served as supervisor of Winthrop Training School and taught in the public schools of South Carolina.

She was a trustee of Winthrop College from 1950 to 1958 and received from her alma mater "The Mary Mildred Sullivan" medallion and an honorary doctor's degree in Humane Letters.

Miss Tolbert was instrumental in further adult education as state supervisor of adult education and as assistant director of the Wil Lou Gray Opportunity School.

In civic affairs, Miss Tolbert served as president of South Carolina Division of American Association of University Women, South Carolina. Council of the Common Good and the South Carolina Status of Women Conference, which named her South Carolina's Woman of the Year in 1966.

She served in the South Carolina Federation of Women's Clubs as a director of the South Carolina Cancer Society and headed the Red Cross Drive in Oconee County.

She was a former member of the Daughters of the American Revolution, United Daughters of the Confederacy, the Once-a-Week Club of Seneca, Business and Professional Women's Club, the Woman's Club of Columbia and the Social Survey Club of Columbia.

Miss Tolbert was a co-author with Miss Sarah Withers of "Letter Writing for You," "Good Workers All," and "A World Geography for Adults."

After retirement in 1965, she spent two years compiling and publishing the book "Distinguished Women From Laurens County."

She was a member of Washington Street United Methodist Church, serving as Circle and Sunday school teacher, and was honored by special membership in the United Methodist Women.

Surviving are a niece and a nephew.

Services will be held at 11 a.m. Thursday at Christ Chapel, Washington Street United Methodist Church, conducted by the Rev. Dr. C. J. Lupo Jr. and the Rev. Dr. Wallace W. Fridy. Burial will be at 2 p.m. in Laurens City Cemetery, Laurens.

The family suggests that those who wish may make memorials to the Marguerite Tolbert Chair of Education, Winthrop College Foundation, Rock Hill.

Dunbar Funeral Home, Devine Street Chapel, is in charge.

[From the State, July 10, 1982]

MARGUERITE TOLBERT

"The greatest reward is to see what happens to the underprivileged and deprived student when given a chance to succeed. . . . It's turning failures into successes—you think it can't be done, but it can," Marguerite Tolbert said in a 1971 interview with *The State*.

She had been retired six years at that time from a 50-year career devoted to education—adult education for the most part. With her cousin, Dr. Wil Lou Gray, Miss Tolbert in 1921 helped to found the S.C. Opportunity School, where thousands of undereducated South Carolinians have earned high school diplomas and improved their lives.

For 17 years she was supervisor of the State Department of Education's adult education program. But she found time to get into more projects, programs and organizations than we can account for here. Along the way she wrote three books simple texts for adults; taught in colleges; served two terms as a Winthrop trustee; and received a wall full of diverse distinguished service awards from women's, camping, cancer, historic, professional and Methodist organizations.

We cannot imagine anyone living a fuller, more dedicated and rewarding life than Miss Tolbert's, which has now ended at age 89.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT—PM 150

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

I am pleased to submit this Twenty-Fifth Annual Report on the Trade Agreements Program 1980/1981. In accord with Section 163 of the Trade Act of 1974, it provides detailed reports on specified trade-reiated programs. In addition to reporting on the full 1980 calendar year, this Report presents new trade policies and activities the Administration has undertaken in the Fiscal Year 1981.

As the U.S. economy has become more international in the past decade, foreign trade has an increasingly important role to play. The value of exports increased fivefold in the past ten years so that now 19 percent of U.S. goods is sold abroad. In 1980, five million jobs were related to exports; up from 3.5 million jobs in 1970. Because of the importance of foreign trade to the U.S. economy, support for a more open trading system is the cornerstone of our trade policy. This Report begins with a comprehensive statement of U.S. trade policy reaffirming both our commitment to trade liberalization and our resolution to secure compliance with international trade law and agreements on the part of our trading partners.

For this policy of open markets to be effective, U.S. firms need to be assured that foreign markets are free from

barriers and distortions. This report relates how we have dealt with violations of this nature in our bilateral relations with our trading partners, and in our participation in multilateral fora, such as the OECD and the GATT. We will continue to be vigilant in identifying distortions relating to trade and investment, such as export subsidies, export performance and local content requirements, creeping bilateralism, and excessive use of safeguards. We will be persistent in resisting the use of such practices by our trading partners, and insist on their adherence to international trade laws and responsibilities. We will also be identifying important new areas of the world economy that are ripe for formal international trade disciplines, especially in service sectors.

Trade liberalization is the responsibility of all nations, although the differing levels of development may make it difficult to define the equitable reductions in tariff and nontariff barriers that developing countries should undertake. We are convinced that trade can have greater leverage for improving their economies and their relations with us than development assistance. In 1980, for example, earnings from trade with the United States were twice the value of aid received from all bilateral and multilateral sources by the non-OPEC developing countries. As these countries evolve into mature international traders capable of greater liberalization, we will encourage their adoption of more fully reciprocal conditions of trade with us.

Equally challenging is the development of equitable trade relations with the nonmarket economies. With these countries, the United States seeks to develop mutually beneficial commercial relations in the context of responsible international political behavior.

The process of liberalizing trade and extending international disciplines is a challenging one, but it is one that offers important opportunities to improve the economic welfare of our own country as well as realize our national commitment to promoting economic development abroad.

RONALD REAGAN.

THE WHITE HOUSE, *July 12, 1982.*

ANNUAL REPORT OF UNITED STATES-JAPAN COOPERATIVE MEDICAL SCIENCE PROGRAM—MESSAGE FROM THE PRESIDENT—PM 151

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 5(h) of the International Health Research Act of 1960 (Public Law 86-610), I transmit herewith the Fifteenth Annual Report of the U.S.-Japan Cooperative Medical Science Program for Calendar Year 1981.

RONALD REAGAN.

THE WHITE HOUSE, *July 12, 1982.*

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of July 1, 1982, the Secretary of the Senate on July 6, 1982, received messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations recieved on July 6, 1982, are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:36 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1230. An act to provide for the minting of commemorative coins to support the 1984 Los Angeles Olympic Games.

The enrolled bill was subsequently signed by the Vice President.

ENROLLED BILL PRESENTED

The Secretary reported that on today, July 12, 1982, he had presented to the President of the United States the following enrolled bill:

S. 881. An act to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3795. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on the decision made to convert the custodial function at the Public Works Center, San Diego, California to performance under contract; to the Committee on Armed Services.

EC-3796. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on the decision made to convert the data transcription/data entry function at the Naval Shipyard, Charleston, S.C. to performance under contract; to the Committee on Armed Services.

EC-3797. A communication from the Acting Deputy Assistant Secretary of the Air Force transmitting, pursuant to law, a report on a decision made to convert the food services mess attendant function at North Truro Air Force Station, Massachusetts, to performance under contract; to the Committee on Armed Services.

EC-3798. A communication from the Acting Deputy Assistant Secretary of the Air Force transmitting, pursuant to law, a report on a decision made to convert the transient aircraft maintenance function at Tinker Air Force Base, Oklahoma, to performance under contract; to the Committee on Armed Services.

EC-3799. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision made to convert the guard services function at Fort Benning, Georgia, to performance under contract; to the Committee on Armed Services.

EC-3800. A communication from the Chairman of the Federal Home Loan Bank Board transmitting, pursuant to law, the 1981 annual report of the Board; to the Committee on Banking, Housing, and Urban Affairs.

EC-3801. A communication from the Chairman of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, the eleventh annual report of the Committee; to the Committee on Commerce, Science, and Transportation.

EC-3802. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Developing Alaska's Energy Resources: Actions Needed to Stimulate Research and Improve Wetlands Permit Processing"; to the Committee on Energy and Natural Resources.

EC-3803. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting a request that a copy of an international agreement with Saudi Arabia, transmitted to Congress pursuant to law, be destroyed as the Department intends to resubmit a copy of the agreement as a classified document; to the Committee on Foreign Relations.

EC-3804. A communication from the Director of the Congressional Budget Office transmitting a study entitled "Disability Compensation: Current Issues and Options for Change"; to the Committee on Governmental Affairs.

EC-3805. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 22, 1982; to the Committee on Governmental Affairs.

EC-3806. A communication from the Assistant Secretary of the Treasury (Administration), transmitting, pursuant to law, a proposed revision to a privacy act system of records; to the Committee on Governmental Affairs.

EC-3807. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the audit of the report of the U.S. Army Nonappropriated Fund Employee Retirement Plan for Fiscal Year 1980; to the Committee on Governmental Affairs.

EC-3808. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report of the Indian Health Care Improvement Act for fiscal year 1981; to the Select Committee on Indian Affairs.

EC—3809. A communication from the Counsel to the Pacific Tropical Botanical Garden, transmitting, pursuant to law, the audit report of the Pacific Tropical Botanical Garden for calendar year 1981; to the Committee on the Judiciary.

EC—3810. A communication from the Secretary of Health and Human Services, transmitting pursuant to law, the annual report on the status and accomplishments of the Runaway and Homeless Youth Program for fiscal year 1981; to the Committee on Labor and Human Resources.

EC—3811. A communication from the Secretary of Health and Human Services, transmitting pursuant to law, the Ninth Report of the Director of the National Heart, Lung, and Blood Institute, dated October 14, 1981; to the Committee on Labor and Human Resources.

EC—3812. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Disclaimer of Opinion On The Financial Statements of the Pension Benefit Guaranty Corporation For The Fiscal Year Ended September 30, 1980; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of July 1, 1982, the following reports of committees were submitted on July 6, 1982:

By Mr. COHEN, from the Select Committee on Indian Affairs, with amendments:

S. 1986. A bill to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Forth Belknap Indian Community, et al. in dockets numbered 250–A and 279–C by the U.S. Court of Claims, and for other purposes (Rept. No. 97–492).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 6260. A bill to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes.

S. 312. A bill for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia and Augustina Vashchenko.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S.J. Res. 212. An original joint resolution with respect to nuclear arms reductions (with additional and minority views) (Rept. No. 97–493).

By Mr. DOLE, from the Committee on Finance, with amendments, and an amendment to the title:

H.R. 4961. An act to make miscellaneous changes in the tax laws, and for other purposes (with additional, minority, and supplemental views) (Rept. No. 97–494).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Jaime Pieras, Jr., of Puerto Rico, to be United States District Judge for the District of Puerto Rico.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PERCY:

S.J. Res. 212. An original joint resolution with respect to nuclear arms reductions; from the Committee on Foreign Relations; placed on the calendar.

ADDITIONAL COSPONSORS

S. 398

At the request of Mr. ARMSTONG, the name of the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 398, a bill to amend the Walsh-Healey Act and the Contract Work Hours Standards Act to permit certain employees to work a 10-hour day in the case of a 4-day workweek, and for other purposes.

S. 1956

At the request of Mr. THURMOND, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 1956, a bill to amend title 38, United States Code, to authorize reimbursement for the reasonable charge for chiropractic services provided to certain veterans.

S. 2174

At the request of Mr. THURMOND, the names of the Senator from West Virginia (Mr. ROBERT C. BYRD), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of S. 2174, a bill to recognize the organization known as American Ex-Prisoners of War.

S. 2261

At the request of Mr. PRESSLER, the name of the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 2261, a bill to authorize funds for the U.S. Travel and Tourism Administration for fiscal year 1983.

S. 2603

At the request of Mr. ROBERT C. BYRD, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2603, a bill to amend the Trade Act of 1974 to insure fair trade opportunities, and for other purposes.

S. 2631

At the request of Mr. KASTEN, the name of the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 2631, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 2654

At the request of Mr. SASSER, the name of the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 2654, a bill to prevent the financing of the terrorist activities of the regimes of Iran and Libya through the purchase of oil for the strategic petroleum reserve.

S. 2658

At the request of Mr. SPECTER, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 2658, a bill to amend title 18 to delimit the insanity defense, and for other purposes.

S. 2661

At the request of Mr. HUDDLESTON, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 2661, a bill to improve farm commodity prices through expanded export development and the use of advance loans and payments under the price and income support programs to encourage participation in the acreage adjustment programs for wheat, cotton, rice, and feed grains.

SENATE JOINT RESOLUTION 205

At the request of Mr. EAST, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of Senate Joint Resolution 205, a joint resolution to designate September 1982 as "National Sewing Month."

SENATE CONCURRENT RESOLUTION 109

At the request of Mr. ARMSTRONG, the name of the Senator from North Carolina (Mr. EAST) was added as a cosponsor of Senate Concurrent Resolution 109, a concurrent resolution expressing the sense of the Congress that legislation should be passed in order to make the Government Printing Office more cost-effective and efficient.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate at 2:30 p.m. on Monday, July 12, to receive a briefing by Acting Secretary of State Stoessel on the possible use of U.S. Forces in Lebanon.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PASSIVE RESTRAINT STANDARD: A MISSED OPPORTUNITY

● Mr. HATCH. Mr. President, the recent appeals court decision reversing the National Highway Traffic Safety Administration's rescission of the passive restraint standard, is generating a great deal of misguided comment concerning liberal verus conservative judicial decisionmaking, when the real issue is whether or not a Federal agency can overrule Congress.

The court rightly held that it could not. The court noted that "Despite the legislative battles over whether to specify an airbag requirement or when the standard should take effect, each time Congress reviewed the passive restraint standard it was essentially confirmed." I concur with the court's decision. We cannot allow a Federal agency to accomplish through rulemaking what Congress refuses to approve legislatively. Such actions would undermine the foundations of our democratic system of government and rule of law would be rendered meaningless.

As a concerned parent and a longtime advocate of improved safety in automobiles, I support this new technology which has the capacity of saving 10,000 motorists from needless death yearly.

I also believe in the freedom to choose the best safety equipment our technology can provide. The technology, particularly airbags, which are clearly superior over the active belts in use today, has been available for years. Highway deaths and injuries have reached epidemic proportions. But America's motorists are still being denied the choice because no new airbag-equipped cars are in production in America today.

The passive restraint standard will give everyone concerned a choice. Because it is a performance standard, automakers can choose passive seat belts, airbags or some other system to meet the standard's criteria. The criteria, essentially, are that domestic and foreign auto manufacturers produce crash-worthy cars which prevent serious injuries to front seat occupants in frontal and front-angle crashes at 30 miles per hour crashes into stationary barriers.

The motorists will have the choice of having improved safety technology in his car. Several recent polls have indicated that a substantial number of America's motorists want the choice and are willing to pay for it—a factor which I hope domestic automakers will acknowledge and take advantage of.

The history of airbags is a saga of missed opportunity. The technology was pioneered by the American private auto industry as a safety breakthrough. Its lifesaving potential was recognized and supported by virtually the entire insurance sector and by numerous health groups, including the American Academy of Pediatrics, the Epilepsy Foundation, and the American College of Preventive Medicine. The members of these organizations face the tragic consequences of auto crashes on a daily basis.

Nevertheless, domestic manufacturers to date have not given airbags a fair market test. I hope they will recognize the tremendous competitive advantages they are passing up by keeping airbags on the shelf. Saved lives translate into saved dollars and lower insurance premiums. A more crashworthy car is a more competitive product, a factor foreign automakers are beginning to take into account. (Mercedes-Benz is equpping cars with airbags for the driver, but only in models not bound for the U.S. markets.) How long before other foreign automakers follow suit?

Another opportunity missed, and this time it's an opportunity to save lives and increase profits.●

NO EXCUSE FOR EXPORT OF HI-TECH HARDWARE

● Mr. ARMSTRONG. Mr. President, in the June 18 issue of the Washington Times, Mr. John Lofton had an excellent column highlighting the danger to our security, and the costs to our taxpayers, that have resulted from our reckless trade policies with the Soviet Union. The column points out that we have had to spend from $6 to $9 billion to compensate for the military advantage given to the Soviet Union as a result of one sale from which one firm netted $20 to $25 million. A bad bargain indeed.

I ask that Mr. Lofton's column entitled "No Excuse for Export of Hi-Tech Hardware," be printed in the RECORD.

The column follows:

[From the Washington Times, June 18, 1982]

NO EXCUSE FOR EXPORT OF HI-TECH HARDWARE

(By John Lofton)

Rhetorically, at least, the Reagan administration is starting to move on one of the most difficult and urgent problems facing the free world: How to stop the flow of militarily useful Western technology to our enemies.

In a recent speech to the Foreign Trade Association of Southern California, Secretary of Commerce Malcolm Baldrige cited an example of the kind of thing that should never have occurred:

"In 1972, the United States sold the Soviet Union 164 Bryant Centralign-B grinders capable of manufacturing the ball bearings used in ICBM guidance platforms. The United States netted between $20 and $25 million for that sale. The increase in Soviet ICBM accuracy that resulted from that sale, however, will cost the United States between $6 and $9 billion between 1978 and 1988 so we can improve our basing modes beyond that accuracy range achieved by the Soviets."

So, how do the people who sell this kind of stuff to our enemies defend their actions? The answer is not very well.

When I asked Jim Halborsen, president of the Bryant Grinder Corp., if the example cited by Baldrige is true, he said: "If you don't mind, I'd rather not discuss it. It isn't that I have anything to hide, it's just that a telephone conversation isn't the way to handle the subject."

But Halborsen does discuss the subject. Picking nits, he says that indeed his company did sell the Russians these grinding machines. But, he points out, they do not "manufacture" ball bearings but perform "a grinding operation on a component of a ball bearing." when asked if his machines helped the Soviets improve the accuracy of their missiles, he says he doesn't have "the slightest idea" if this is true.

But before you sell such machines to the Soviets, don't you first determine if they have any military use? Don't you care what end-use the Soviets make of your products? Halborsen replies: "I'd rather not continue this interview."

He suggests I submit my questions to him in writing.

He says his company has been treated "very poorly" by the media on this subject and he doesn't want this to happen again.

I say, in effect, hogwash, you just don't want to talk about this. Halborsen denies my accusation, noting ABC's "20/20" program did a story on the sale of his company's grinders to the Soviets and he was "pleased" with the way it treated him.

But reading the transcript of the Feb. 28, 1980, ABC program Halborsen praises, one wonders why it "pleased" him. Commenting on the sale of the Bryant grinders to the Soviets, the program's host observed:

"The machine doesn't make ball bearings, but it grinds out the channel in which the ball rolls. It can handle those tiny items we just showed you. Its accuracy is measured in millionths of an inch.

"In 1960, the Soviet Union tried to buy 45 machines like this. The sale was approved; but then a Senate committee held hearings and concluded that the machine was unique, and at least 85 percent of the bearings manufactured with the help of this grinder were used in defense industries. The sale was blocked.

At the height of detente the Soviets tried again. This time the sale went through and Moscow purchased 160 of these machines for $7.7 million."

On the ABC program, Dr. Samuel Huntington, a former presidential adviser who fought the sale, declared:

"The Department of Defense recommended strenuously against it. Said it would be a tragic error to sell those machines. And as a matter of fact managed to keep those machines from being sold to the Soviets for 12 years.

"There is no doubt that the sale that technology could have helped the Soviets greatly improve the guidance systems on their long-range missiles and thereby make our missile bases, missile silos, vulnerable," he said.

Incidentally, in the course of this ABC "20/20" program it was noted that no official of the Bryant Corp. would appear on camera to discuss the sale of the grinding machines to the Soviets.

Those American businessmen like Halborsen who sell militarily useful technology to the Russians make the lame argument that if they don't somebody else will. My favorite response to this pathetic rationale comes from Hesh Wiener, editor of Computer Decisions, a monthly trade magazine. In an article five years ago in the Business and Society Review—titled "Why Police States Love the Computer"—Wiener wrote:

"A spokesman for one of the large computer manufacturers, admittedly concerned about the way his employer's computers might be used, nevertheless defends his company's position: 'If American companies don't sell these countries computers, Japanese companies will.'

"Perhaps the U.S. Air Force (Army Air Corps in 1941) should have carried out a pre-emptive strike against Pearl Harbor."

The "good Germans" who went along with Hitler said they were "just following orders." The American businessmen who sell militarily useful technology to the Soviets say they are just taking orders. Both categories of individuals deserve our contempt and are as alike as the proverbial two peas in a pod.●

THE IMPORTANCE OF FIREARMS IN SELF-DEFENSE

Mr. EAST. Mr. President, in these days of increasing criminal violence directed against law-abiding citizens, the American people are crying out for help from their elected representatives. While we find solutions to deal with crime, citizens must be allowed to defend themselves. The June 30, 1982, issue of Reports from Washington published by the National Rifle Association, Institute for Legislative Action carries a story illustrating the importance of fireams for self-defense. I ask that the article entitled "Marine Corps Veteran Sees Stateside Action; Uses Shotgun Against Robber" be printed in the RECORD.

The article follows:

MARINE CORPS VETERAN SEES STATESIDE ACTION; USES SHOTGUN AGAINST ROBBER

A 78-year-old World War II veteran who wounded a would-be robber in his Detroit home on April 13 told police he is partially blind but can "see enough to shoot."

Paul Guthrie, a former Marine colonel who lost his left eye at Iwo Jima in World War II, said the robber followed his wife home from a bank and accosted her as she entered their home, pushing her down the basement steps and tying her up.

According to Detroit Police Inspector William Brandimore, the intruder "had appropriated a pair of scissors in the basement and was threatening Mrs. Guthrie. He had her tied up, had broken her hearing aid and broken her glasses. Her eye was swollen.

"Mr. Guthrie is hard of hearing. When he did not come down to see that the noise was in the basement, Walker grabbed him and said something to the effect, 'Give me the money or I'll kill her.'

"They heard the dog barking upstairs, and Mr. Guthrie told him, 'That dog is vicious.'

"Walker said, 'Well, you go upstairs and let him out but don't try any funny business.'"

Instead of letting the dog out, Guthrie grabbed a 16-gauge, double-barrel shotgun.

He told police, "I then went to the top of the stairs and yelled, 'Here I come!' When the guy came to the bottom of the stairs, I let him have it."

Inspector Brandimore said there was no question Guthrie acted within the law and noted, "In fact, he fired only one barrel of a double-barrel shotgun. When he saw his wife was safe, he didn't shoot again. He showed a lot of restraint."

Guthrie then went for help. When police arrived they found Walker still in the Guthrie home trying to climb out a basement window.

Walker was treated at Detroit Receiving Hospital for a wound to his left hip. He is currently in Wayne County Jail charged with armed robbery and breaking and entering.

He was given three years probation in February for breaking and entering an occupied dwelling. Police are investigating his possible connection with other crimes in the area.

Inspector Brandimore said, "We've had a lot of these punks picking on older people around here. This time a punk messed around with the wrong person."

The inspector predicted there is a good chance Walker will receive a stiff sentence because of all the media attention in the case. But, he said stiff sentences in such cases are the exception, not the rule, and that attacks on elderly citizens are a real problem in Detroit.

Inspector Brandimore cites lenient courts as part of the problem, noting that in one recent case a man who pleaded guilty to his twelfth felony conviction was given a 15-minute lecture by the judge on how he should seek help for his drug problem and then put him on probation—again.

Also, according, to the inspector, "They're not sending people back now. We caught a guy breaking into a house a week after he got of of prison on parole. We wanted to send him back.

"But they told us, 'No, we're not sending any parole violators back unless it's a violent crime.' So once they get paroled now, I guess they're home free unless they get violent.

"I don't know what the answer is. We're well familiar with the cast of characters, but it's the same cast. We shouldn't get to be on a first-name basis with them."

Regarding the Guthrie case, Inspector Brandimore concluded, "As a little aside, I just got a letter in the mail today (April 23) from North Carolina. A fellow sent a $5 bill to Mr. Guthrie in care of me 'to buy another box of shells—from one old Marine to another.'"

S. SGT. COLEMAN G. HILLMAN

● Mr. SASSER. Mr. President, during the recent recess, we celebrated 2 days of remembrance and recognition—July 4 and July 9. Both occasions enabled us to remember the debt we owe those serving in our Armed Forces.

July 9, 1982, was National POW-MIA Recognition Day, in honor of those who have been prisoners of war and those still classified as missing in action. A total of 2,500 American servicemen are still considered MIA's over 100,000 have been imprisoned during conflict.

We owe the servicemen considered MIA our most determined efforts to bring them home. We owe the former POW the health care and benefits they earned as prisoners of an enemy power. While I am proud that last year, Congress approved Public Law 97-37, the Former Prisoners of War Benefits Act, we must still step up our effort to bring the MIA's home to their families. Of the 2,500 men still listed as MIA, 45 come from the Volunteer tradition of the State of Tennessee, as did S. Sgt. Coleman G. Hillman, of Whitesville, Tenn.

Staff Sergeant Hillman was one of the brave Americans who sacrificed their lives for our freedom during the Vietnam war. He did not die for an unworthy cause—he died protecting the freedom and the ideal of democratic government which we celebrate on July 4. At the young age of 34, Coleman Hillman died on December 3, 1967, during a mortar barrage at Tam Ky, Vietnam.

Staff Sergeant Hillman's son, Richard, honored his father's memory in a poem published in the Memphis Commercial Appeal this past July 4. His eloquent tribute is a memorable statement on what the fight for freedom really means, and embodies the feelings many American citizens had for the Vietnam conflict. I commend Mr. Hillman's tribute to the Senate.

Mr. President, I ask that Richard Hillman's poem, "Dad," be printed in the RECORD at this point.

The poem follows:

"DAD"

For seventeen years he did his part,
He earned a Bronze Star and a Purple Heart.
A V.A. check and Social Security,
Can't replace the life in this family.
Wham! Bam! Vietnam?
He fought for his country because he gave a damn.
I sure loved him, but I won't see him any more,
My daddy was killed in the Vietnam War.
Now I have a son that he'll never see,
But that's the price you pay when you want to be free.
Vietnam was a mistake, it was a lesson learned.
Lord help them all, especially the living that returned.
Wham! Bam! Vietnam?
They died for their country because they gave a damn.
We sure loved them but won't see them any more,
Too many daddies died in the Vietnam War.
Well Dad didn't leave me a lot when he died,
But I'm sure damn glad that he left me his pride.
I'll agree with anyone that says war is bad,
But given a choice I would have died with my Dad.
Wham! Bam! Vietnam?
Another life lost for Uncle Sam.
Dad gave more than should be allowed,
He gave his all and I'm damn sure proud.●

FARMERS FACE CRUSHING INTEREST RATES AND FmHA NEEDS TO DO MORE

● Mr. SASSER. Mr. President, American farmers are facing severe economic problems. Farm interest costs are crushing agricultural profits, and more and more farmers are becoming delinquent on FmHA loans. Indeed, as of May 1982, 33.9 percent of FmHA loans were judged to be delinquent, and more and more farmers are simply going out of business.

American farmers are a hardy breed. They have a strong dedication to their occupation. They want to farm, and they are willing to take significant economic risks in the course of their daily business.

However, farmers in Tennessee and the Nation need some immediate relief

from the high interest rates caused by the tight money policies of the Federal Reserve Board. One of the surest ways of providing such relief is to have the Department of Agriculture place a 2-year moratorium on FmHA loan foreclosures and also to have the Department release some $600 million in economic emergency loans. The Secretary of Agriculture already has the authority to take both these steps but has refused to do so. I have introduced legislation (S. 2528) that would require the Department of Agriculture to put these policies into effect, and I would urge swift congressional action to relieve the crushing interest rate burdens of American farmers.

Mr. President, I ask that a recent Washington Post article dealing with FmHA policies as well as the full text of S. 2528 be printed in the RECORD.

The material follows:

FMHA: A 4-LETTER WORD

(By Ward Sinclair)

KINGSTON, OHIO.—A new dirty word has crept into the traditionally earthy language of the American farmer.

It's spelled F-m-H-A, and it stands for the Farmers Home Administration.

Time was, the FmHA got little but appreciation for its role as a benefactor of farmers who couldn't find financial aid in standard commercial channels. But that has changed.

Here in Ohio, as in other parts of the country, farmers and members of Congress are in a state of high agitation over FmHA's handling of 1982 farm operating loans and its treatment of heavily indebted farmers.

They say that Secretary of Agriculture John R. Block and the FmHA have not kept their promise of leniency in dealing with farmers' financial problems in these trying economic times.

A federal court ruling in Georgia this month held that FmHA rules discriminate against farm-loan applicants. This led members of Congress to order a General Accounting Office investigation of the agency's loan policies.

Rep. Thomas A. Daschle (D-S.D.), one of the complaining legislators, said, "The record is very clear. They are not being lenient with loan applicants. There is no sense of humaneness. FmHA has become antagonistic—they want people to come in on their knees, begging. The administration thinks it can save money this way. They don't understand that FmHA is supposed to be a service."

FmHA administrator Charles W. Shuman assured the House Agriculture Committee earlier this year that his agency did not have a "hit list" of delinquent farm accounts it wanted to phase out, although policy directives sent to the states suggested otherwise.

The latest FmHA figures, through the end of May, show that 33.9 percent of its farm loans were delinquent. Legislators contend that many of the delinquencies are the result of shaky farm economy, depressed commodity prices and weather damage, rather than poor management.

Block pledged to be lenient with farmers in trouble through no fault of their own, but FmHA statistics indicate a rapidly rising number of "forced" and "voluntary" liquidations, farmers giving up because they've been told by FmHA they can't make it.

Between October and the end of April, there were 351 FmHA foreclosures (compared with 140 in all of fiscal 1981). During the same period, 4,018 borrowers gave up the ghost. In May, another 1,477 borrowers packed it in.

While Block and his lieutenants steadfastly deny that FmHA has followed the coercive course that Daschle asserts, they find few believers in farmers like Eugene Patrick, a widely respected, innovative farmer who raises corn and soybeans on a 1,000-acre farm in Pickaway County, 40 miles south of Columbus.

Patrick took Block seriously when he pledged earlier this year that the FmHA loan policy would be guided by patience, generosity and efforts to guide economically troubled farmers through the hard times.

But somehow, Patrick figures, Block's promise got lost in translation. After months of haggling with the FmHA, facing new questions each time he answered the last ones, Patrick still can't get the 1982 operating loan for which he says he is qualified. His loan denial by county and district offices is being appealed to state headquarters.

Meanwhile, Patrick financed this year's planting with extended credit from Don Humphrey, his fertilizer dealer, who in return has a mortgage on the farmer's crop. Humphrey said he is carrying about 15 percent of his 5,500 custormers in similar fashion, a severe strain on his business, because of generally tightened lending policies in the area.

Patrick and his wife, Joanne, began negotiating with FmHA for 1982 operating money in October when it became clear that the Production Credit Association, which finances the bulk of Pickaway County's farmers, was going to get tougher.

The PCA's tightening threw a wrench into FmHA operations. As FmHA offices around the state were besieged with loan requests from farmers, they couldn't keep up with the paper flow. There weren't enough clerks and loan officers.

Paul Corson, head of the FmHA office in nearby Circleville, conceded that there had been problems. "Eventually, we had enough personnel, but unfortunately it took a lot of applications to pile up before we got the help we needed. . . . This state's FmHA offices are not very well staffed. Hopefully, the higher-ups will not let this happen again."

But there was something else new in the FmHA equation this year. Corson, again: "Anybody who came through here will tell you it took too long. But it takes time to meet all the requirements. And there were many changes this year. We were authorized to speed up the procedures, but even with that, a lot of farmers around here didn't know by March 1 that they wouldn't have credit from other sources."

The Patricks, however, prepared for the worst. They got nowhere with FmHA. The accountant and the lawyer they hired to help them to got nowhere. They now have a thick dossier that amply documents the frustrations of dealing with an agency that won't give yes for an answer.

Perhaps the most curious element in their dossier is FmHA's rejection of what appeared to be an innovative effort by the Patricks to deal with their problem.

"We knew we had to achieve a better cash flow because of the debt we incurred from hail damage in 1980 and low yields due to bad weather last year," Patrick said. "So we went out and got a contract to grow white corn, a contract with a milling firm for $3.50 a bushel, or about 75 cents more per bushel than we would get from yellow corn."

One of FmHA's rejections held that white corn wouldn't bring that price, even though the Patricks had produced a contract. Another FmHA rejection quoted an Ohio State University corn specialist to the effect that the Patricks' yield projections were too high.

But the specialist, Lawrence N. Shepherd, said in another document that Ohio State had no data on white corn yields. He suggested that FmHA follow yield projections from white corn experts at the University of Kentucky, whose information Patrick had used to buttress his application.

John J. Bowen, the Patricks' accountant, is in a quandary over this case, the most complicated and frustrating, he said, in his 20 years of helping farmers with their finances.

"During the last five years, credit institutions have required more information and better record-keeping by farmers. But the negative of this is that farmers believe with all their heart that they can tell these institutions their problems and get a response that is helpful. What they're getting now is a cold curtain," Bowen said.

S. 2528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Farm Stabilization Act of 1982".

ECONOMIC EMERGENCY LOANS

SEC. 2. Effective only for the fiscal year ending September 30, 1982, notwithstanding any other provision of law, the Secretary of Agriculture shall make new contracts of insurance or guarantee under title II of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. 1946 note) that will cause the total amount of money borrowed under such contracts by such date to equal $600,000,000.

LOAN MORATORIUM

SEC. 3. (a) Notwithstanding any other provision of law and in addition to any other authority that the Secretary of Agriculture may have to defer payments of principal and interest on loans and to forego foreclosure on loans, the Secretary of Agriculture shall permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made by the Secretary under title IV of the Consolidated Farm and Rural Development Act or any other law administered by the Farmers Home Administration, and shall forego foreclosure of any such loan, upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary shall permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period, except that, if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

(b) This section shall expire two years after the date of the enactment of this Act.●

AN ECONOMY IN TRANSITION

● Mr. GRASSLEY. Mr. President, despite the weakness in the economy, I believe the majority of Americans are convinced that we are headed in the right direction. They understand our economy has grown weak after a decade and a half of buying and borrowing at the expense of working and saving. Our current high levels of interest rates and unemployment reflect the attempt of Reaganomics to shift the economy from buy-and-borrow to work-and-save, from inflationary to disinflationary. It is a necessary shift if we are to restore structural health to our economy.

The Washington Post recently carried an editorial about the amazing tolerance the public has had for current economic conditions and policies. Most Americans believe that President Reagan should be given a chance, that he is pointing us in the right economic direction.

I urge my colleagues to read this editorial in order to better understand the mood of the Nation. The American people are not asking for a midcourse correction, or for a renewal of the archaic policies that caused this economy to sour in the first place.

Rather, they are asking for continued leadership away from those policies of the past 15 years, and toward an economy in which productivity and savings are once again virtues.

Americans understand that uncontrolled debt and overconsumption can only lead to economic ills. They have experienced these ills in their own households, so they understand the hardships facing the economy today. Not until American businesses and households alike have balanced their budgets and retired their debt will we have completed the transition to a work-and-save economy. Only then will interest rates and unemployment fall.

Mr. President, I ask that the editorial from the Washington Post be reprinted in the RECORD.

The editorial follows:

[From the Washington Post, July 6, 1982]

A TOLERATION FOR UNEMPLOYMENT

Suppose that someone has suggested to you, a year ago, that by July 1982 unemployment would be stuck at 9.5 percent with interest rates still in the stratosphere. Suppose this hypothesis added that by mid-1982 housing and automobile production would be way below the 1981 levels, while the federal deficit was rising rapidly and Congress was trying to cut social benefits. What would you have guessed, a year ago, the political atmosphere in this country would be by this time?

And—a more interesting question—why hasn't it happened that way? There's immense anxiety about the economy, and endless discussion of it. But the only thing visible at the moment that might be called a mass political movement, with real force behind it, is the nuclear disarmament campaign—which has nothing at all to do with economic policy.

At President Reagan's press conference last week, not one of the questions touched any aspect of the economic situation, although Mr. Reagan had opened it with a statement defending his tax program. The Democrats' convention in Philadelphia offered the familiar lectern-pounding, but was exceedingly cautious on anything that might actually cost money. The Democrats' performance seemed to indicate that Mr. Reagan has more latitude to pursue his plans than even the White House expected. A few days earlier, Congress had passed the Republicans' budget resolution. The past couple of weeks offer a wealth of evidence that the politics of jobs is well and truly off the accustomed track.

The reasons are a matter of speculation. But it's striking that repeatedly in interviews and polls, people who profess no faith whatever in the Reagan economic strategy still seem willing to give Mr. Reagan more time. Whatever the source of it, people are going through this recession with far more patience than they ever showed in the preceding ones. Perhaps there's been some erosion of people's faith in a president's ability to cure recessions with a wave of the golden wand. Perhaps the recurrence of severe inflation in the late 1970s frightened people more deeply than the prospect of plant closings does now. Certainly the unexpected strength of foreign competition in industries like autos and steel has stunned the strong labor unions at the center of the high-employment lobby. Perhaps, underlying all the other reasons, there's a current of uneasy suspicion that the country in general was living a little too high—spending too much, borrowing too much, not producing quite enough—and that a day of reckoning was inevitable. Hints of that are occasionally audible.

These currents of opinion are volatile, and no one can say when they might change. At this moment, it's clear only that this country's tolerance for very high unemployment, and the damage it causes, is a good deal greater than any past experience suggested. That is particularly surprising since the present recession is not moving toward the customary reassuring recovery, and there is sadly little reason to expect, in any very near future, a rapid improvement in jobs.●

THE PRIVATE MAIL CARRIAGE ACT

● Mr. DECONCINI. Mr. President, I submit for the RECORD the following statement I made before the Joint Economic Committee regarding S. 1801, the Private Mail Carriage Act.

STATEMENT OF SENATOR DENNIS DECONCINI

Mr. Chairman, Article I Section 8 of the U.S. Constitution specifically gives the Congress the authority to establish post offices and post roads. As recently as 1978, the U.S. Court of Appeals upheld the constitutionality of the Federal postal monopoly. I believe that this Congress would be doing this country a great disservice if we were to ignore the Court's findings and the intent of our Founding Fathers.

Certainly, deregulation is a desirable goal, and in most instances I am a strong and vocal supporter of deregulation. However, if we were to open mail delivery in this country to competition, the inevitable result would be chaotic, inconsistent, and inadequate mail service.

The Private Mail Carriage Act of 1981, S. 1801, would, in the short run, provide cheaper and speedier service to densely populated urban areas. In the long run it is likely to cause expensive and possibly erratic service to the great majority or rural areas in this country. As one example, look at my own State of Arizona which has a largely rural population. I doubt that many private companies would be clamoring to deliver the mail between Snowflake, Arizona, population 3,510 and Parker, Arizona, population 2,542, a distance exceeding 300 miles with no connecting interstates. And if a private concern were willing to deliver the mails, what price would rural Americans have to pay for their delivery service?

Certainly, it is one of the responsibilities of the Federal government to insure reasonable, timely, and affordable postal service. The crazy quilt of mail delivery that would spring up as a result of S. 1801 would result in inconsistent pricing, unreliable service, and high prices for rural America.

In recent years, we in Congress have sought to decrease government regulation and government interference in the marketplace. On the whole, I have supported these actions. However, I must oppose S. 1801 because of the disastrous effects it will almost surely have on this country. I urge this Committee and the Senate to take a close look at the testimony of other Senators, the Postal Service and the postal unions before causing permanent damage to the best mail delivery system in the world.●

SIGMA DELTA CHI AWARDS

● Mr. SASSER. Mr. President, the Society of Professional Journalists in Washington recently honored several distinguished journalists at their annual hall of fame awards presentation.

This year, David Brinkley of ABC News, Mary McGrory and Chalmers Roberts of the Washington Post, Allan Cromley of the Daily Oklahoman and Al Otten of the Wall Street Journal were inducted into the hall of fame. I congratulate this notable group for their contribution to their profession over a quarter of a century in the Nation's capital.

The invocation at the awards dinner was delivered by our Senate Chaplain, Richard C. Halverson. With unanimous consent, I ask that his words be included in the CONGRESSIONAL RECORD, followed by the biographies of the new hall of fame members:

The material follows:

INVOCATION—SOCIETY OF PROFESSIONAL JOURNALISTS, SIGMA DELTA CHI

ANNUAL HALL OF FAME AWARDS, NATIONAL PRESS CLUB, JUNE 17, 1982

Almighty God, gracious Father of us all, we thank Thee for the gift of language, for the art of expression and the skill of communication. May we never take these blessings for granted nor allow familiarity to breed contempt for them in us. Help us whose business is words to recognize the immense instrument we wield and be committed to its constructive use. Sensitize us to the enormous power of words to destroy and deliver us from the temptation to prostitute our profession by such abuse. Keep us from using words deliberately to confuse or mislead or deceive. It has been said that a picture is worth a thousand words, but it is also

true that a word may generate meaningful pictures in the mind of the reader. Give us the grace to use words to inform, instruct, nurture, edify and strengthen.

Thank Thee for this evening together, for the pleasure of each others company. May authentic respect and love infuse our relationship to encourage, heal and enrich all present. Thank Thee for good food, the farmers who produced it, the industry which processed it and those who skillfully prepare and serve it. While we enjoy always more than enough, may we remember those who never have enough. May we receive this food in gratitude and humility. In the name of Him Whose love was all-inclusive, unconditional and everlasting. Amen.

HALL OF FAME BIOGRAPHIES

Allan Cromley

Allen W. Cromley has covered U.S. nominating conventions and campaigns since 1956 and the Philippine election of 1965.

He covered President Nixon's 1969 trip to Europe and his 1972 summit trip to Moscow, plus the JFK assassination in Dallas, most of the Mercury and Gemini space flights, and action in South Vietnam.

He served as an officer of numerous professional organizations including the Washington SPJ and National Press Club.

Mary McGrory

Mary McGrory joined *the Washington Star* as a book reviewer in 1947. Her debut as a national commentator came in 1954 when she was assigned to the Army-McCarthy hearings, biggest story of the day.

McGrory received the Pulitzer Prize in 1975 "for trenchant commentary spread over more than 20 years as a reporter and columnist in the Nation's Capital."

She won the George Polk Memorial Award for national reporting in 1963.

She joined *the Washington Post* as a columnist in September, 1981.

David Brinkley

David Brinkley, a 38-year veteran of broadcast news, has reported on every president since Franklin Roosevelt and has been a dominant figure in network news since he teamed with the late Chet Huntley to coanchor the "Huntley-Brinkley Report." in 1956.

Brinkley has covered the White House, political conventions, and moon landings. He co-anchored a special on the Watergate scandal and participated in special coverage of President Richard Nixon's resignation. He reported on events following the assassinations of President John F. Kennedy, Senator Robert F. Kennedy, and Martin Luther King, Jr.

Brinkley has received wide acclaim for his reporting during national political conventions and election night.

He has won every major award broadcasting award including ten Emmy awards and two George Foster Peabody awards.

Al Otten

Alan Otten joined the Wall Street Journal as a staff reporter in 1946. He has never worked on any other publication in his newspaper career.

Otten was president of the White House Correspondents Association in 1963–64. He was named Washington bureau chief for the Journal in 1968 and London bureau chief in 1978.

In 1973 he took a one-year academic leave to serve as a Fellow of the Institute of Politics at Harvard University's John F. Kennedy School, of Government.

Chalmers Roberts

Chalmers Roberts joined the Washington Post as a reporter in 1933 and rejoined in 1949 after stints at the Associated Press, Japan Times, Toledo News-Bee, three Washington newspapers and Life magazine.

Roberts was chief diplomatic correspondent from 1953 to 1971 when he became a columnist.

He has won many prizes for reporting, research, and scholarly writing including a 1977 book—the Washington Post: "The First 100 Years."

AUTHORITY TO PRINT REPORT TO ACCOMPANY H.R. 4961

Mr. STEVENS. Mr. President, for the record, it is my understanding that this request has been cleared with the minority. I ask unanimous consent that the report filed today to accompany H.R. 4961, reported by the Finance Committee pursuant to the reconciliation instructions of Senate Concurrent Resolution 92, the first concurrent resolution on the budget of fiscal year 1983, be printed in two volumes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL 10 A.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate concludes its business today, if stand in recess until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS STENNIS AND NUNN

Mr. STEVENS. Mr. President, I ask unanimous consent that on tomorrow, following the recognition of the two leaders under the standing order, there be special orders for the recognition of the Senator from Mississippi (Mr. STENNIS) and the Senator from Georgia (Mr. NUNN), for not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that following the two special orders tomorrow, there be a period for the transaction of routine morning business, not to extend beyond 30 minutes, during which Senators may make statements, limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is my understanding that at the conclusion of routine morning business tomorrow, the Senate will resume consideration of Senate Joint Resolution 58, the joint resolution calling for an amendment to the Constitution to balance the budget.

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR RECESS TOMORROW BETWEEN 12 NOON AND 2 P.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess between 12 noon and 2 p.m. on tomorrow, Tuesday, July 13.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. STEVENS. Mr. President, is there any further business to come before the Senate?

The PRESIDING OFFICER. The Chair knows of none.

Mr. STEVENS. I ask unanimous consent that the Senate stand in recess in accordance with previous order.

Thereupon, at 6:14 p.m., the Senate recessed until tomorrow, Tuesday, July 13, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate July 6, 1982, under authority of the order of the Senate of July 1, 1982:

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Edwin J. Feulner, Jr., of Virginia, to me a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1985, vice Jean McKee.

FOREIGN SERVICE

The following-named career members of the senior Foreign Service of the International Communication Agency for promotion in the senior Foreign Service to the classes indicated:

Career members of the senior Foreign Service of the United States of America, Class of Career Minister:

Jay W. Gildner, of Florida.
John L. Hedges, of Maryland.

Career members of the senior Foreign Service of the United States of America, Class of Minister-Counselor:

James E. Bradshaw, of Tennessee.
Stanton H. Burnett, of Washington.
John F. Kordek, of Illinois.
Robert J. Korengold, of Maryland.
Norris P. Smith, of California.

The following-named career members of the Foreign Service of the International Communication Agency for promotion into the senior Foreign Service as indicated, and also, where indicated, for appointments as Consular Officer and Secretary in the Diplomatic Service of the United States of America.

Career members of the senior Foreign Service of the United States of America, Class of Counselor.

Juliet C. Antunes, of New York.
Norman C. Barnes, of New York.
Robert A. Cattell, of Virginia.
James L. Culpepper, of Washington.
William J. Dieterich, of Ohio.
Aurelius Fernandez, of Kansas.
Robert R. Gosende, of Massachusetts.
William L. Jacobsen, Jr., of Washington.
William R. Lenderking, Jr., of New Hampshire.
Edward C. McBride, of Georgia.
Dell F. Pendergrast, of Virginia.
Harold F. Radday, of California.

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Christopher Snow, of Utah.
John J. Tuohey, of Maryland.
Career members of the senior Foreign Service of the United States of America, Class of Counselor, and Consular Officers and Secretaries in the Diplomatic Service of the United States of America:
Wayne L. Corey, of the District of Columbia.
Werner Sauer, of New Jersey.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Lawrence A. Skantze, xxx-xx-xxxx xxx-...FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Thomas H. McMullen, xxx-xx-xx... xxx-...FR, U.S. Air Force.

Lt. Gen. Kelly H. Burke, U.S. Air Force, (age 52), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.

Executive nominations received by the Senate July 12, 1982:

DEPARTMENT OF STATE

Nicholas Platt, of the District of Columbia, a career member of the senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Henry F. Cooper, Jr., of Virginia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency, vice David Marion Clinard, resigned.

INTERNATIONAL MONETARY FUND

Charles H. Dallara, of Virginia, to be U.S. Alternate Executive Director of the International Monetary Fund for a term of 2 years, vice Donald Eugene Syvrud, resigned.

THE JUDICIARY

Mary Ann Cohen, of California, to be a judge of the U.S. Tax Court for a term expiring 15 years after she takes office, vice Cynthia Holcomb Hall.

Lapsley Walker Hamblen, Jr., of Virginia, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office, vice Sheldon V. Ekman.

James Harlan Stamper, of Missouri, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office, vice Irene Feagin Scott.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Philip Abrams, of Massachusetts, to be an Assistant Secretary of Housing and Urban Development, vice Philip D. Winn, resigned.

DEPARTMENT OF EDUCATION

Harry M. Singleton, of the District of Columbia, to be Assistant Secretary for Civil Rights, Department of Education, vice Clarence Thomas.

COMMUNICATIONS SATELLITE CORPORATION

Justin Dart, of California, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1985, vice Jesse Hill, Jr., term expired.

FARM CREDIT ADMINISTRATION

Tom H. Carothers, of Texas, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988, vice William Dale Nix, Sr., term expired.

Leonard R. Fouts, of Indiana, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988, vice M. R. Bradley, term expired.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. James A. Abrahamson, xxx-xx-x... xxx-...FR, U.S. Air Force.

IN THE ARMY

The following named officers for promotion in the U.S. Army, under the provisions of title 10, United States Codes, section 624:

CHAPLAIN CORPS

To be colonel

Forrest, Alfred T., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Ahnfeldt, Arnold L., Jr., xxx-xx-xxxx
Anderson, Jay H., xxx-xx-xxxx
Armstrong, Chalmers H., xxx-xx-xxxx
Babu, Sankaran S., xxx-xx-xxxx
Bascom, James F., xxx-xx-xxxx
Benenson, Michael W., xxx-xx-xxxx
Berenberg, Jeffrey L., xxx-xx-xxxx
Black, Kenneth E., xxx-xx-xxxx
Bleck, Robert G., xxx-xx-xxxx
Bolin, Robert B., xxx-xx-xxxx
Bornemann, Michael, xxx-xx-xxxx
Campbell, Arthur S., xxx-xx-xxxx
Cannady, Preston B., Jr., xxx-xx-xxxx
Casull, Brian H., xxx-xx-xxxx
Clark, Jeffrey R., xxx-xx-xxxx
Clemons, Donald E., xxx-xx-xxxx
Cline, William R., xxx-xx-xxxx
Condon, Brian F., xxx-xx-xxxx
Cucinell, Elynore A., xxx-xx-xxxx
Delacerna, Melchor F., xxx-xx-xxxx
Dewitt, Ralph O., Jr., xxx-xx-xxxx
Diluciano, Joseph P., xxx-xx-xxxx
Drake, Frank R., xxx-xx-xxxx
Eckert, Richard E., xxx-xx-xxxx
Garcia, Viera J., xxx-xx-xxxx
Gregory, Quinones G., xxx-xx-xxxx
Groh, Lawrence A., xxx-xx-xxxx
Gruschkus, Gerhard F., xxx-xx-xxxx
Guyden, Thomas E., xxx-xx-xxxx
Henke, Clarence E., xxx-xx-xxxx
Jade, Klaus B., xxx-xx-xxxx
Jenkins, Elray, xxx-xx-xxxx
Jones, George M., xxx-xx-xxxx
Keating, Philip J., xxx-xx-xxxx
Larsen, Lawrence E., xxx-xx-xxxx
Lewis, Ronald J., xxx-xx-xxxx
Logan, William E., xxx-xx-xxxx
Marsh, Verelyn H., xxx-xx-xxxx
Matthews, Joseph I., xxx-xx-xxxx
Mayer, Henry A., Jr., xxx-xx-xxxx
McCurdy, James R., xxx-xx-xxxx
McDonald, Paul T., xxx-xx-xxxx
McGuire, Arthur M., xxx-xx-xxxx
McWatters, Jack W., xxx-xx-xxxx
Mehlman, Ira, xxx-xx-xxxx
Mellette, Julian R., Jr., xxx-xx-xxxx
Mitchell, Michael H., xxx-xx-xxxx
Molnar, Albert C., xxx-xx-xxxx
Moreira, Allan, xxx-xx-xxxx
Musetti, Robert W., xxx-xx-xxxx
Ozaki, Joe K., xxx-xx-xxxx
Peters, Clarence J., xxx-xx-xxxx
Plonsky, Carl A., xxx-xx-xxxx
Plymate, Stephen R., xxx-xx-xxxx
Ricks, Robert E., Jr., xxx-xx-xxxx
Riverabetancourt, Rafael A., xxx-xx-xxxx
Rosen, Howard M., xxx-xx-xxxx
Sadoff, Jerald C., xxx-xx-xxxx
Seab, James A., xxx-xx-xxxx
Slay, Robert D., Jr., xxx-xx-xxxx
Smith, Dick R., xxx-xx-xxxx
Smith, George E., xxx-xx-xxxx
Sorensen, Gregory W., xxx-xx-xxxx
Spaulding, Vernon C., Jr., xxx-xx-xxxx
Taylor, Harvey G., Jr., xxx-xx-xxxx
Thompson, Needham J., Jr., xxx-xx-xxxx
Thompson, Prentice, Jr., xxx-xx-xxxx
Thornsvard, Charles T., xxx-xx-xxxx
Tiwary, Chandra M., xxx-xx-xxxx
Walters, Michael J., xxx-xx-xxxx
Wambaugh, George W., Jr., xxx-xx-xxxx
Weber, Richard W., xxx-xx-xxxx
Weir, Michael R., xxx-xx-xxxx
Wilkin, James H., xxx-xx-xxxx
Young, Michael B., xxx-xx-xxxx
Young, Timothy R., xxx-xx-xxxx
Zawadsky, Peter M., xxx-xx-xxxx
Zurlo, Joseph A., II, xxx-xx-xxxx

DENTAL CORPS

To be colonel

Barrett, Kay C., xxx-xx-xxxx
Bell, Lester J., xxx-xx-xxxx
Browkaw, William C., xxx-xx-xxxx
Burston, William A., xxx-xx-xxxx
Chretien, James R., xxx-xx-xxxx
Cruse, William P., xxx-xx-xxxx
Culver, David G., xxx-xx-xxxx
Danna, James A., xxx-xx-xxxx
Edmister, James R., xxx-xx-xxxx
Fowler, William H., Jr., xxx-xx-xxxx
Frey, William E., xxx-xx-xxxx
Grower, Marvin F., xxx-xx-xxxx
Hartwell, Gary R., xxx-xx-xxxx
Hecht, Robert C., xxx-xx-xxxx
Herman, Wayne W., xxx-xx-xxxx
Jones, Donald A., xxx-xx-xxxx
Mader, Carson L., xxx-xx-xxxx
Morgan, Don W., xxx-xx-xxxx
Nespeca, John A., xxx-xx-xxxx
Nurnberg, Richard A., xxx-xx-xxxx
Parkinson, Thomas D., xxx-xx-xxxx
Payne, Thomas F., xxx-xx-xxxx
Seng, George F., xxx-xx-xxxx
Stonge, Roland J., Jr., xxx-xx-xxxx
Vincent, Jack W., xxx-xx-xxxx
Zehngraff, Paul E., xxx-xx-xxxx

MEDICAL SERVICE CORPS TO BE COLONEL

Bazany, James L., xxx-xx-xxxx
Bolte, Gordon L., xxx-xx-xxxx
Bouchelion, Horace C., xxx-xx-xxxx
Bowles, Robert L., Jr., xxx-xx-xxxx
Brown, Carl D., xxx-xx-xxxx
Brown, Herman D., Jr., xxx-xx-xxxx
Carestia, Ralph R., xxx-xx-xxxx
Constable, Joseph F., xxx-xx-xxxx
Cundiff, David E., xxx-xx-xxxx
Daubel, Karl J., xxx-xx-xxxx
Erskine, John F., xxx-xx-xxxx
Feuerbacher, Charles E., xxx-xx-xxxx
Fishburne, Francis J., Jr., xxx-xx-xxxx
Grider, Robert J., xxx-xx-xxxx
Guthrie, Jack N., xxx-xx-xxxx
Hantman, Richard K., xxx-xx-xxxx
Harris, Jesse J., xxx-xx-xxxx
Hauer, Richard W., Jr., xxx-xx-xxxx
Helin, Donald D., xxx-xx-xxxx
Helton, Bobby K., xxx-xx-xxxx
Helton, Jimmy D., xxx-xx-xxxx
Hill, Thomas W., xxx-xx-xxxx
Hyde, Gary P., xxx-xx-xxxx

Lillard, Joseph K., xxx-xx-xxxx
Maruca, Robert T., xxx-xx-xxxx
McCormack, John C., xxx-xx-xxxx
Meyer, Gregory C., xxx-xx-xxxx
Miketinac, Bruce T., xxx-xx-xxxx
Mills, Wade T., xxx-xx-xxxx
Modderman, Melvin E., xxx-xx-xxxx
Newberry, Joseph H., xxx-xx-xxxx
Newman, Ronald G., xxx-xx-xxxx
Oliver, Gerald C., xxx-xx-xxxx
Ryan, Lawrence J., Jr., xxx-xx-xxxx
Schafer, Thomas E., xxx-xx-xxxx
Schlaeppi, Lloyd A., xxx-xx-xxxx
Sisk, Michael G., xxx-xx-xxxx
Stepp, Wendell, xxx-xx-xxxx
Timberlake, John S., xxx-xx-xxxx
Wahl, George H., xxx-xx-xxxx
Ward, John R., xxx-xx-xxxx
Williams, Charles, xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Hawkes, Harold W., xxx-xx-xxxx
Klavins, Ruta, xxx-xx-xxxx
Lott, Merjoery P., xxx-xx-xxxx
Webb, Annie J., xxx-xx-xxxx

VETERINARY CORPS

To be colonel

Beattie, Robert J., xxx-xx-xxxx
Botard, Robert W., xxx-xx-xxxx
Coats, Max E., Jr., xxx-xx-xxxx
Groves, Michael G., xxx-xx-xxxx
Jennings, Paul B., Jr., xxx-xx-xxxx
Roberts, Clifford R., xxx-xx-xxxx
Strahler, Eugene G., xxx-xx-xxxx
Taylor, James F., xxx-xx-xxxx

ARMY NURSE CORPS

To be colonel

Brice, Betty, xxx-xx-xxxx
Hildebrand, Teddy L., xxx-xx-xxxx
Hopson, Minnie L., xxx-xx-xxxx
Kelley, Joan M., xxx-xx-xxxx
Malson, Julia A., xxx-xx-xxxx
Phillips, Angeles E., xxx-xx-xxxx
Robitaille, Normand D., xxx-xx-xxxx
Sokoloski, James L., xxx-xx-xxxx
Spine, Mary L., xxx-xx-xxxx
Swenson, James W., xxx-xx-xxxx
Throwe, Gerald J., xxx-xx-xxxx
Vanlith, Rita W., xxx-xx-xxxx
Verret, Vlaise C., xxx-xx-xxxx
Walsh, Edith V., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Chadwell, Nancy E., xxx-xx-xxxx

ARMY

To be major

Bailey, Wayne T., xxx-xx-xxxx
Goodwin, Dawson S., xxx-xx-xxxx
Konkle, Thomas E., xxx-xx-xxxx
Newson, Charles W., xxx-xx-xxxx
Rogers, Warren A., xxx-xx-xxxx
Ryan, Lawrence M., xxx-xx-xxxx

CHAPLAIN CORPS

To be major

Taylor, Donald, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be major

Lieberman, Michael M., xxx-xx-xxxx

ARMY NURSE CORPS

To be major

Hagan, Mary L. M., xxx-xx-xxxx

IN THE ARMY

The following-named officers for promotion in the U.S. Army, under the provisions of title 10, United States Code, section 624:

ARMY

To be colonel

Abrams, Creighton W., xxx-xx-xxxx
Adams, Joseph F., III, xxx-xx-xxxx
Agee, Robert T., Jr., xxx-xx-xxxx
Albertson, Tom L., xxx-xx-xxxx
Allard, John A., xxx-xx-xxxx
Allen, Michael B., xxx-xx-xxxx
Allen, Ralph L., xxx-xx-xxxx
Amrine, Robert M., xxx-xx-xxxx
Anderson, Charles, Jr., xxx-xx-xxxx
Anderson, John E., xxx-xx-xxxx
Anselm, Donald C., xxx-xx-xxxx
Arbogast, Gordon W., xxx-xx-xxxx
Armstrong, Alan P., xxx-xx-xxxx
Atkinson, John H., III, xxx-xx-xxxx
Avery, John, Jr., xxx-xx-xxxx
Ayers, Thomas, III, xxx-xx-xxxx
Bacon, William E., xxx-xx-xxxx
Bailey, Glenn A., Jr., xxx-xx-xxxx
Baker, Alfred W., xxx-xx-xxxx
Baker, Rudolph, xxx-xx-xxxx
Barclay, Douglas H., xxx-xx-xxxx
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Danielson, Wendell E., xxx-xx-xxxx
Downes, Thomas J., xxx-xx-xxxx
Garrett, Robert G., xxx-xx-xxxx
Gray, George H., xxx-xx-xxxx
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Harano, Roger D., xxx-xx-xxxx
Johnson, Leroy, xxx-xx-xxxx
Mouchette, Edward D., xxx-xx-xxxx
Myers, Glenn L., xxx-xx-xxxx
Rowan, Edwin J., III, xxx-xx-xxxx
Shea, Donald W., xxx-xx-xxxx
Whiteside, Billy M., xxx-xx-xxxx
York, Edwin R., xxx-xx-xxxx

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To be colonel

Badami, James A., xxx-xx-xxxx
Bonfanti, Anthony J., xxx-xx-xxxx
Bozeman, John R., xxx-xx-xxxx
Degiulio, Anthony P., xxx-xx-xxxx
Gideon, Wendell R., xxx-xx-xxxx
Gilligan, Francis A., xxx-xx-xxxx
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Price, James F., xxx-xx-xxxx
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To be lieutenant colonel

Brown, Victor A., xxx-xx-xxxx

ARMY

To be major

Clark, Michael B., xxx-xx-xxxx

MEDICAL SERVICE CORPS.

To be major

Cherry, Robert N., xxx-xx-xxxx
Deal, Buck R., xxx-xx-xxxx

EXTENSIONS OF REMARKS

HOUSING MANAGEMENT DIRECTIONS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. GREEN. Mr. Speaker, I submit for the consideration of my colleagues the following continuation of John Simon's article, which examines management prospect in the public housing industry.

The article follows:

PRODUCTIVITY

"Productivity" is in danger of becoming a vague, catch-all word meaning almost anything its speaker desires. Housing managers have to take the word out of the clouds of the seminar or the press conference and bring it down to the operational level. That's exactly what many agencies have been doing for the last five years and when they do, one valuable perspective on the goal of increased employee productivity has emerged. Managers now ask not simply, "How productive are our employees?" but, more important: "How productively are we using our people?"

This criterion for developing productivity objectives has helped housing agencies on two fronts. Agencies have been able to avoid adopting gimmicky productivity milestones. They also have initiated greater employee cooperation through frequent management/staff meetings, on-the-job investigation and evaluation, vigorous suggestion plan programs, productivity review committees, and a candid and mutually cooperative relationship with the unions in which their employees may be members. These measures are made more effective when staff and line responsibilities have been restructured to conform to productivity goals.

The housing profession also must seek assistance from the private sector, universities, or other governmental units where productivity concerns are important.

The years of crisis have reinforced the long-standing problem of attracting and retaining talented, hard-working professionals to permanent careers in housing management. Housing managers operate a physical plant worth billions of dollars. They directly influence the lives of those millions of low-income persons who live in low-income housing. These two facts alone argue persuasively for the development of a cadre of decently salaried, lifelong professionals, men and women who will bring both general and specific expertise to bear on the challenge of creating and operating decent housing for low-income persons. Creating such a management cadre is one of the highest management priorities of the 1980s.

With hiring freezes in effect for many agencies, management must begin to develop this cadre from within as a major corollary of its productivity function. In the past, management theory and practice instruction was the preserve of managers. Today, the profession demands that management theory be assured a prominent role in staff training programs for as many employees as possible, from janitorial staff to departmental directors, from elevator mechanics to senior citizen resident advisors.

In addition to various NAHRO and HUD programs to increase professionalism, the New York program also utilizes the Urban Academy. The Academy, a not-for-profit joint venture of the city and the City University of New York, provides staff with the opportunity to improve managerial skills and learn computer operations and theory. Equally important, the housing professional is placed in a setting where the more effective delivery of housing services is placed within the context of improving the delivery of public services as a whole.

This "reintegration" of housing programs within the local government systems of which they are a part has never been more necessary. It goes far beyond mandated community development funding activities. In New York, as elsewhere, the city/agency relationship is one of deepening support and cooperation—ranging from security problems in public housing to youth and joint interagency programs.

Ending the superficial, primarily symbolic relationship with local government and entering into a real partnership is, or should be, a major goal for all programs. This means that management officials must participate regularly with municipal officials in making major housing policy decisions. Whether a program is large or small, a primary objective must involve a full-scale attempt to keep important events and critical issues in the forefront of local interest.

Here, the new "management," already involved in computerization, staff reorganization, new planning approaches, and productivity programs, takes on yet another (and more unfamiliar) function, that of improving the public image of housing programs. Americans have a false perception of public housing, little knowledge of its accomplishments and none whatever of its problems. This perception will not change overnight, nor is it susceptible to lasting change by "public relations" such as ribbon cuttings or isolated widely publicized events. The public information function requires consistent, knowledgeable planning, no less than any other management function. The housing profession, notably uncomfortable with "PR types" in years past, is required now to not simply employ public information skills, but, more pointedly, to direct them.

TENANT SERVICES

Tenants of public housing are, in the main, 365-day-per-year, 24-hour-per-day residents. The wear and tear on the physical plant is, accordingly, much higher than on most other forms of housing. Maintenance on every level is much more difficult just in terms of normal usage of apartments, elevators, lobbies and walkways. For most programs as well, the physical plant is also subject to a comparatively high degree of vandalism whether of the malicious or unintentional variety. Nationwide, as NAHRO has indicated, that heavy beating on housing has taken its toll. Ninety thousand units (and more every day) are going on public housing's equivalent of the endangered species list. This, however, only begins to describe the overall problem. Just as physical plant maintenance costs are severely underfunded, tenant expectations of better service have never been higher. They are not—it must be pointed out—outrageous demands.

Working elevators and playground equipment, social and community services, courteous service, greater security—these items and more, which reach the desks of housing managers, usually in the form of complaints, argue persuasively that the days when the provision of heat, hot water, and clean hallways and lobbies guaranteed tenant satisfaction or constituted "adequacy" are gone forever. In addition to much higher environmental expectations, many agencies also face increased tenant pressure for greater participation in the management function itself.

It is in this area that every management function previously discussed either succeeds or fails. Computerization, stringent productivity measures, and intergovernmental cooperation—these important management advances will mean little if today's more aggressive and knowledgeable tenant is not perceived as the most important resource in the management process. Bluntly, the classic adversary position between many housing programs and their clients must be significantly abridged if the low-income housing movement is to survive the 1980s.

The nuts and bolts of that process could be the subject of many discussions, each reflecting specific experiences and each of assistance to beleaguered colleagues in other programs. The common approaches involve improving the communications link with tenants and increasing program accountability procedures to a degree that was not in effect when tenant organizations in most programs were in their infancy.

A survey of management prospects and problems for the near future suggests that the next decade will be one of slow progress. The problems are immense and the resources committed to meet them are scarce. It is not a time for false optimism or equally false "pep talks." For the moment, all of the wagons are drawn in a circle.●

TRIBUTE TO ARTHUR KENNEDY, CIVIL RIGHTS ACTIVIST

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. CLAY. Mr. Speaker, earlier this year, our Nation lost one of our most highly committed and respected civil rights leaders, Mr. Arthur John Kennedy, Sr., of St. Louis, Mo.

The late Mr. Kennedy was distinguished by his commitment to ending discrimination and helping others learn to overcome the obstacles in life. In his lifetime, Arthur Kennedy realized the faith and determination to fulfill his aims. As a young man, he graduated from the Tuskegee Institute

and set out to fight discrimination against minorities in the established trade unions. He quickly earned a reputation as a civil rights activist and antagonist of trade union discrimination. His peers respected him for his ability to affect change and his devotion to the cause. Arthur Kennedy entered public service at the request of former St. Louis Mayor A. J. Cervantes. In his public life, Mr. Kennedy served as St. Louis' director of welfare, director of the St. Louis Model City Agency, and director of the St. Louis Agency on Training and Employment.

Arthur Kennedy was one of our city's most effective civil rights activists and public servants. St. Louisans will long remember and value the many contributions Mr. Kennedy made to improve the lives of others. Arthur Kennedy had an unfaltering devotion to his brothers and sisters; his memory is cherished in our community.●

NEW ROMANIAN AMBASSADOR HELPS TO REUNITE ROMANIAN FAMILIES IN UNITED STATES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. LANTOS. Mr. Speaker, many Members of Congress saw the demonstration by a group of Romanian Christians in front of the Cannon House Office Building. The group's protest dramatized the plight of their family members who desire to be reunited with them in the United States as provided by the Helsinki agreement.

By the most remarkable coincidence, I was alerted to the Romanian's demonstration just before an earlier scheduled meeting with a delegation of visiting Romanian parliamentarians. I shared my concern about these reunification cases with the legislators. Later that day, I accompanied the refugees to the Romanian Embassy where the new Ambassador, Mr. Mircea Malitza, personally promised them he would resolve their problem by the end of June.

I would like to draw my colleagues' attention to the reception the Ambassador gave to the humanitarian appeals made by Congressman BILL DANNEMEYER and myself. His prompt and positive response was extremely encouraging. From my brief experience with Ambassador Malitza, I am confident that he will work to restore good relations with the United States and to reduce East-West tensions. Both of our countries are fortunate that his country has chosen to send such an intelligent and effective emissary to the United States.

Because of my background—my wife and I survived the Holocaust in Hungary as Jews, and we escaped after World War II—I am acutely aware of the special suffering and problems of refugees from Eastern Europe, and I am committed to helping them whenever possible.

We have recently received word that the families of the following seven people have received permission to join their loved ones in the United States: Achim Barbas, Dumitru Dumitrescu, Nicolae Farcas, Cocan Traian, Marcel Miti Moldovan, Petru Radu, and Ecaterina Cega.

In addition to my friend from California, Mr. DANNEMEYER, I would like to extend my thanks to the following for their help to these Romanian friends: Congressman JACK KEMP; the Republican Study Committee; Dr. Richard Halverson, Senate Chaplain; the Helsinki Commission; Dr. James Ford, House Chaplain; Rev. Walter Tomme, Metropolitan Baptist Church, Washington; Ioan (John) Moldovan, Christian Solidarity International, Rockville, Md.; Rev. James Nicholls, Assemblies of God, Alexandria, Va.; Allan Scarfe, Keston College-U.S.A., Orange, Calif.; and our State Department.●

ADDITIONAL COSPONSOR IS ADDED TO HOUSE RESOLUTION 457

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. PEPPER. Mr. Speaker, from the beginning IKE SKELTON has supported this resolution rejecting the action of the Senate Budget Committee, endorsed by the President, which would have achieved $40 billion in budgetary savings through reductions in social security benefits. I regret the error of omitting the name of the gentleman from Missouri from the list of original cosponsors.●

AMENDMENT TO DEFENSE AUTHORIZATION H.R. 6030

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. GARCIA. Mr. Speaker, during House consideration of H.R. 6030, the defense authorization bill, I will offer an amendment the insures that teletype is not used for routine, low priority messages of the Department of Defense; requires that individuals receiving meals in the Secretary of Defense's dining room will be charged for the cost of the meal; insures that enlisted members of the Armed Forces may not be assigned to duty as personal aides to general and flag officers; and eliminates veterinary care for pets of members of the Armed Forces or their dependents.

I feel that cutting such programs should be considered in any serious discussion of defense spending measures. This is not a guns versus butter argument, but a suggestion that we begin saving money by not spending it on wasteful and inessential programs. The $30 million this amendment will save will hardly threaten our military security since these perks have nothing to do with defense.

This amendment will provide us the opportunity to further cut a military budget which the public and many Members feel is too high: and where better to cut than with the most blatant unnecessary military spending?

The amendment follows:

AMENDMENT TO H.R. 6030, AS REPORTED OFFERED BY MR. GARCIA OF NEW YORK

At the end of the bill add the following new section:

PROHIBITION OF CERTAIN WASTEFUL DEFENSE EXPENDITURES

SEC. 902. (a) The Secretary of Defense shall take such action as may be necessary to ensure that during fiscal year 1983 teletype is not used for routine, low-priority messages of the Department of Defense.

(b) The Secretary of Defense shall prescribe regulations to require that during fiscal year 1983 each individual provided a meal in the dining room of the Secretary of Defense in the Pentagon is charged an amount for that meal sufficient to pay for the full cost of the meal, including overhead and related personnel costs.

(c) Enlisted members of the Armed Forces may not during fiscal year 1983 be assigned to duty as personal aides to general and flag officers.

(d)(1) Except as provided in paragraph (2), during fiscal year 1983 the Department of Defense may not provide veterinary care for pets of members of the Armed Forces or their dependents.

(2) The Secretary of Defense may by regulation authorize exceptions to the prohibition in paragraph (1) in cases of hardship. In any case in which veterinary care is provided pursuant to such an exception, a fee shall be charged in an amount determined pursuant to regulations to be sufficient to provide reimbursement for the cost of the care provided.●

AMENDING THE INTERNATIONAL SAFE CONTAINER ACT

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday July 12, 1982

● Mr. JONES of North Carolina. Mr. Speaker, at the request of Secretary of Transportation Drew Lewis, I am joining with my colleagues, Mr. BIAGGI and Mr. SNYDER, to introduce legislation amending the International Safe Container Act—Public Law 95-208, December 13, 1977, 91 Stat. 1475 (46 U.S.C. 1501-1508). This bill will conform our domestic statute with a

recent amendment to the International Convention for Safe Containers, 1972.

This proposed legislation will enlarge the period of time available to the owners of existing containers to have them examined and plated in accordance with the International Convention for Safe Containers, 1972. Current law states that beginning on September 6, 1982, the Secretary of Transportation may examine or require examination of the certain existing containers to insure compliance with safety and structural standards set by the Convention and mandated by the implementing domestic legislation, the International Safe Container Act. Public Law 95-208, December 13, 1977, 91 Stat. 1475 (46 U.S.C. 1501 et seq.) The bill changes the date to January 1, 1985.

The original Convention protocol was signed in Geneva in 1972. Its provisions set uniform structural requirements to insure safety in handling, stacking, and transporting of cargo containers in the course of normal operations. The Convention came into force on September 6, 1977. The U.S. Senate had given its advice and consent to the Convention on September 15, 1976. After the subsequent enactment of the implementing legislation, the United States deposited its instrument of ratification on January 3, 1978.

Since the drafting of the Convention, the number of existing containers; that is, those containers on which construction was commenced prior to September 6, 1977, the date the Convention entered into force, within its purview has increased substantially. For example, between 1972 and 1977, the increase was a factor of approximately 2.5. This fact, when viewed in light of the relatively recent ratification of the Convention by other large container owning nations; that is, the United Kingdom and Japan, has forced many container owners to announce that they will be unable to examine and plate all existing containers within the time frame originally mandated by the Convention. Article III, section 3, required that every existing container be approved, examined and plated within 5 years of the date on which the Convention entered into force; that is, September 6, 1982.

In response to this situation, the Maritime Safety Committee of the Intergovernmental Maritime Consultative Organization (IMCO) on April 2, 1981, adopted an amendment to the Convention which would still require inital approval of all containers by September 6, 1982—as also required by section 3(a) of the act—but extend the time limits set forth in regulations 2, 9, and 10 of annex I of the Convention for examining and plating existing containers until January 1, 1985. This Convention amendment became effective on December 1, 1981. Thus, the bill introduced today merely adjusts our domestic statute to conform with the international treaty.●

ISLANDS IN THE STORM: OUR NATIONAL PARKS

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. BEREUTER. Mr. Speaker, one of the landmark bills passed by the last session of the Congress was the Alaska National Interest Lands Conservation Act. After years of debate, the Congress finally acted to preserve millions of acres of America's last frontier in national parks, wildlife refuges, and wild and scenic rivers.

The challenge to this body and the National Park Service will be to avoid the mistakes of the past with the sensitive ecosystems of these remote areas. Robert Cahn's Christian Science Monitor article, which follows, describes the task before us:

QUELLING THE STORM FACING THE PARKS—WHAT IT WILL TAKE

(By Robert Cahn)

When you drive up to the Savage River check-in station here, the ranger asks to see your reservation at one of the seven campgrounds deeper in the park. If you don't have one, you have to leave your car and use the free shuttle bus that serves the entire 89 miles of the lone road into the park.

If you want to stay overnight in the back country, you must have a permit. They are issued first-come, first-serve to only as many people as park resource managers have determined the fragile tundra can take without harm. If you plan to backpack into the hills near Igloo Creek during wolf denning season, you'll be turned away. Wolves are shy of humans even at long distance and might try to move very young pups out of danger, which could harm them. Nor is hiking permitted near Sable Pass—the area off the road is reserved for the grizzly bears.

"Up here the resources come first, the visitors second," says Bob Cunningham, superintendent of Denali National Park. "And we get no complaints." he adds. "The people conform because they know the restrictions make their experience more enjoyable."

And what an experience. The ride itself along the gravel road from Savage River affords the most spectacular natural wildlife show in the nation. America's Serengeti, played against a magnificent mountain-glacier-valley backdrop. Visitors usually see grizzlies foraging for food or romping over the tundra, and caribou, moose, and Dall sheep grazing or traversing river banks, valleys and foothills. As the road winds along, the driver stops the shuttle bus so passengers can watch wildlife and gaze at the ever-changing views (clouds permitting) of the nation's highest peak, Mt. McKinley. The mountain can be seen in its entirety, from its base in the tundra plains to its 20,320-foot summit.

The Park Service has been able to protect the natural resources in this older part of Denali—formerly Mt. McKinley National Park—because enough research had been done to establish carrying capacities—the amount of human use an area can take without harm. As recently as 1970 the park was getting only 30,000 visitors a year, and its small staff had the time and funds to do research.

But the park has more than doubled in size, to 4.4 million acres, as a result of the 1980 Alaska National Interest Lands Conservation Act. Another 1.3 million acres have been designated Denali National Preserve, adjoining the park. The current six-month summer season will see an estimated 250,000 visitors, and Cunningham voices a growing concern about protecting the added land and wildlife.

"Until we have some basic research, we can't define the type of use that is compatible in the new back country," he says. "And the impacts on the land are going to increase enormously."

Lack of the basic knowledge required to protect resources and avert crises is the one big cloud hanging over the national park land in Alaska. These areas in large part represent the future of the national parks. They now comprise 67 percent of the land in the entire system, thanks to the 1980 act's additions.

That legislation rode to passage on a nationwide wave of citizen support that outweighed opposition from oil, mining, lumber, and other development interests and the entire Alaska congressional delegation. Individuals in every part of the nation were willing to forego immediate and potential material gain to assure that a national heritage would be protected for future generations.

Congress responded by protecting 99 million acres of Alaska in national parks, wildlife refuges, and wild and scenic rivers. The National Park Service received 44 million of the acres for five large new parks, expansion and upgrading of two national monuments to national park status, and the addition of two new national monuments and three major national preserves, as well as preserves adjacent to most of the national parks.

SOME OF WORLD'S MOST SENSITIVE ECOSYSTEMS

Each new area contains unique scenic, wildlife, and cultural treasures and some of the most sensitive ecosystems in the world. Two of the parks, Gates of the Arctic and Wrangell-St. Elias, are more than three times larger than Yellowstone.

While the areas' remoteness is itself a shield of sorts, potential oil, copper, coal, hydropower, and road development, plus excessive visitor use, could pose threats in the not-too-distant future.

A small but energetic team is at work in the new areas, but it consists of little more than one superintendent and one permanent ranger for each area—some 40 people trying to assemble data and protect more than 44 million acres. There is practically no staff or funding for research. Yet the 1982 Park Service budget provides $375,000 for fixing up an unsafe dormitory and $500,000 for bridge and road repairs at Denali National Park.

Alaska Park Service officials worry that without more research they won't be able to prevent crises such as the situation at Glacier Bay National Park involving humpback whales, an endangered species. In 1978 a Juneau high school science teacher, who had been spending summers studying the whales, noticed that most of them left the bay unexpectedly when the cruise ship traf-

fic became heavy. Although burgeoning use of large and small boats was suspected, no data existed on how boat traffic and marine engine noise might affect the whales or the condition of their food supply. Superintendent John Chapman was able to get a crash research program started, and regulations were issued to restrict boat use to the 1976 level.

The Glacier Bay situation underscores the kind of management that will be needed in the Alaska parks. Their fragile, still-intact ecosystems demand a careful balance. Visitor use and outside development can't be allowed to outweigh the resources' ability to tolerate their impact.

"We must continue to value the true worth of these parks lest they succumb to the same type of influences that are making parks in the rest of the nation extremely vulnerable, beleaguered islands," said a Park Service official in Alaska.●

POW-MIA RECOGNITION DAY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. COUGHLIN. Mr. Speaker, last week we commemorated POW-MIA Recognition Day. I wish to take this opportunity today to reflect on the sacrifices made by these particular veterans. I also want to commend the many Americans whose unceasing efforts have assisted the former prisoners of war and the families of those servicemen still missing in action.

All Americans ought to remember those military personnel who, while in the service of their country, were captured and imprisoned by the enemy. While POW's, these men were, in many instances, subjected to the harshest, most inhuman treatment imaginable, but continued to endure with steadfast hope and determination. We owe a great debt to those POW's who returned as well as to the families of those who perished while in captivity.

Nor must we forget these unresolved casualties of war—those who are still classified as missing in action. Their families await news of their fate. In many cases, long years have passed while pleas to foreign governments have fallen on deaf ears. Only recently, through the efforts of citizens' groups, has the Socialist Republic of Vietnam begun to provide information concerning MIA's from our most recent conflict.

But this barely scratches the surface. I urge Congress to continue to bring public attention to this cause. I believe that world opinion can force the Socialist Republic of Vietnam to come forth with more details about the fate of MIA's. We cannot ease up our work on their behalf.●

NUCLEAR WEAPONS FREEZE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. STARK. Mr. Speaker, in the past several months we have been hearing more and more about the nuclear weapons freeze initiative, a concept that is fast gaining national support. This support is coming from every walk of life in our society.

Some of the most vocal proponents of the nuclear weapons freeze concept have been the churches in our communities.

Recently I received, from three pastors in my district, copies of sermons they had given on the nuclear weapons freeze issue. I would like to share their thoughts with you over the next few days, and I hope they prove as insightful to you as they did to me.

The following is an excerpt from a sermon given by Rev. Elizabeth Selle Jones at the Livermore Unitarian Fellowship, Livermore, Calif.:

Now I believe we have gotten ourselves into a serious situation on the avowed willingness to use or not use nuclear weapons as deterrents. As far as I can find out, the number, variety, sophistication, accuracy, and destructive power of our combined nuclear weapons have become so overwhelming that to use them very likely will destroy this planet. That includes every human being and most of the other animals on it, too. We and the Russians are holding as our deterrent the annihilation of life on this planet. This is a deterrent I hope all agree no one must ever use—no one must threaten to use it—because their threat might be called.

Aristotle's rule states: "The means to the end are not unlimited, for the end itself sets the limit in each case." I believe there is no human end that justifies the complete or the threat of complete and final destruction of the human race. To cut off forever the possibility of any future and all future generations is unthinkable, and, as I said, most of us don't want to think about it. Not even to prevent it.

I do not believe anyone wants, the extinction of this world, and I am cautiously encouraged about arms limitations and reduction talks resuming—soon, I hope. What I am worred about is miscalculation, such as the talk about limited war and survivability.

We do not know what the Russians will do if we use tactical nuclear weapons in case of a USSR invasion of Europe. The Russians do not know if we would risk it all by a full-scale retaliation to a pre-emptive strike by them. We do not know. We do not know. What I do know is that according to experts, we and the USSR have between us, stashed here and there in holes and submarines, enough nuclear devices to end it all, to wipe out millions of years of evolution as well as all future generations, including my grandchildren and yours, too. All could go up as a result of a miscalculation or accident.

What we also know and I hope we don't forget, is that we do not have a spare earth to practice on to see how far we can go before we hit doomsday. We only have this one precious earth. We cannot go too far and say, "Oops, we just exploded one too many and destroyed the earth." We do not know what the tolerance of life is, of the ecosystem, of the planet itself to withstand sustained nuclear explosions.

That reminds me of one of my family's favorite stories about the early days of the automobile. I may have told you. Well, here it is again. Many strange laws were passed to keep automobiles under control, but our favorite we call the unknown speed limit. Actually, I think we like it partly because it is such a good parable of life. Anyway, some towns passed speed laws but did not publish the top legal speed. Drivers had no way of knowing when they had gone too fast, when they had exceeded the unknown speed limit. The use of nuclear weapons may be much the same. Not until it's too late and we have exceeded the limit will we know we have gone too far.

My husband and his brother, when they were kids, often found a hidden box of chocolates. Each would eat a piece of candy and rearrange the others in hopes it would appear no pieces had been taken. Well, as you know from experience, there is a limit—not predictable until too late—to how many pieces you can take before you can no longer cover up the fact that someone has been eating the candy. Each brother would accuse the other of taking the piece that turned out to be one too many.

In the case of nuclear weapons, when the one too many has been fired, it won't matter who did it. To avoid such a calamity, in all haste we must start re-evaluating our values, our goals, our priorities, and most of all our silence. We have let the unthinkable remain if not unthought about at least unspoken about. Why are we silent in the face of this possible holocaust? It's hard to say. I can only look to my own silence and inaction and know the innumerable pressures to avoid the subject—but that must change for me and for others. I believe that is what is happening. I believe that is what the demonstrations are about, here and in Europe. People want to be heard before it is too late.

President Reagan says the freeze won't work. He's right; by itself it won't work. We will still have those 50,000 weapons strapped to our backs. But if you find that you are speeding down a course toward inevitable suicide, the first thing you must do is stop before you can turn back and go in a safer direction. That is the purpose of the freeze. I believe the next step would then be a bilateral gradual reduction in armament. As I said, the suggested high-level talks are encouraging if they produce any substance.

Jonathan Schell in his book "Fate of the Earth" says the next step is for nations to give up their sovereignty because that is what leads us to war. Many have had that dream—of an international arbitrating body—but so far none has worked very well. The latest, of course, is the United Nations—but one step at a time.

To return to the answer where this all started—the need for more nuclear weapons—questions I believe that answer might suggest are:

How can we ensure the destruction of all life?

How to end the usefulness of nuclear weapons as a deterrent power?

But I believe that if what we want is peace, the answer is not more and bigger nuclear weapons.

Human beings are capable of incredible acts of humanity and despicable acts of inhumanity. I believe a nuclear war, which

seems almost inevitable to me—by some act intentional or accidental, as long as we keep building more weapons or even keeping around the ones we have—would be the ultimate act of inhumanity. On the other hand, turning away from that in the direction of a new world, a new peaceful, trusting way of life together, would be the greatest act of humanity yet known.

Whether you believe in an Almighty One or not, whether you believe there is a realm which we should not investigate or invade because it is of God, does not mean that we have the right to destroy this sacred planet. Not for any reason. To invoke doomsday is not in our realm either. We do not have to become death or the shatterer of worlds. This planet is beautiful—much more beautiful in the light of the rising or setting sun, or the more subtle light of a full moon, than in the extraordinary flash of exploding nuclear weapons.

All of which points to the main problem. We must learn how to get along, how to solve conflicts without force, without strength being the deciding fact. We need to push politics into second place, or better still, third place.

You are right, we have never done it before. There may be little evidence that we can or have the will to do it now. But, considering the alternatives, we hardly have a choice, and I believe there are people in all nations including our own who want to try for it.

But as Adrienne Rich says, "We should begin with simple exercises first and slowly go on trying the hard ones. . . . In fact we can't live like that: we're forced to begin in the midst of the hardest movement, the one already sounding as we are born," or for some, before we are born: The elimination of the nuclear threat and the search for a secure and lasting peace.●

MR. AND MRS. HOMER TOWNSEND TO CELEBRATE 50TH ANNIVERSARY

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. CLAY. Mr. Speaker, it is my pleasure to announce to Congress that Mr. and Mrs. Homer Townsend, of St. Louis, are soon to celebrate their golden wedding anniversary. I am honored to pay tribute to the Townsends on this very special occasion.

Homer and Holland Townsend were married 50 years ago, on July 24, 1932. Since that day, the Townsends have proven a rare commitment to family life, community service, and the institution of marriage. In today's ever-changing world, I am inspired to know individuals capable of showing such deep understanding, loyal devotion, and unyielding commitment.

In behalf of the residents of our city, I want to thank Mr. and Mrs. Homer Townsend for their many contributions to our community, and offer Homer and Holland my deepest personal congratulations on the occasion of their 50th wedding anniversary. I wish the Townsends many more years of happiness and good fortune.●

ALISON CAMERON: A TRIBUTE TO A LITTLE GIRL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. LANTOS. Mr. Speaker, it is with sadness today that I call attention to a courageous little girl who lost recently her battle to overcome a near drowning accident 2½ years ago. Alison Cameron was only 3 years old when she died peacefully in her sleep June 25. Her death ended a 2-year struggle to regain her health, lost when she accidently fell into her parents' hot tub in January 1980.

She did not do battle alone. An entire community rallied to her side because Alison's parents, Phyllis and Don Cameron, refused to give in to doctor's prognoses that all was hopeless.

They took her home instead of to the State hospital that doctors had recommended. Since then, little Ali's parents and more than 300 dedicated and loving volunteers devoted themselves to daily therapy sessions, a painstaking treatment designed to stimulate her undamaged brain cells and compensate for the permanent damage she suffered in the tragic accident. It was long and tedious, but the Camerons and those volunteers never quit working and hoping.

Ali died, but her memory never will to those many who loved her.

I would like to share with my colleagues a very touching eulogy delivered at Alison's funeral by one of those persons who grew to love her. Terry Robertson captured the spirit, the hope, and the satisfaction that so many have felt by their experience with Ali the past 2 years

The eulogy follows:

IN MEMORY OF ALISON CAMERON

When Ali died Friday morning she was just 3 years, 5 months, and 16 days old. She lived on earth only a very short time. Yet in that time she had a more positive impact on more people and on a whole community than most of us have in a normal lifespan.

Ali's life was one surrounded by dedication, commitment, sharing, caring, trememdous faith and a love unparalleled by anything this community and peninsula has ever seen. I was the newspaper reporter who wrote the series of stories about Ali. Very few people know this, but I was also the newspaper reporter who nearly dropped the ball. Ali's story was almost never written and probably wouldn't have been except for a very persistent, lady, Janie Mohr.

I was writing a story on deadline one morning when I received a phone call from Janie. I remember that I was irritated for being disturbed in the middle of a story that, in light of what followed, paled significantly. I heard only about four words of what she said, "San Carlos family" and "daughter."

I took her phone number and rushed her off the line. I then forgot all about it until 2 days later when I was scratching for a story to write. But when I tried to get back to Janie, I found that I had somehow jotted down the wrong number. I thought, "well, it sounded like it could have been a good story."

As far as I was concerned, that was the end of it. Fortunately, so fortunately, Janie had other ideas. A week later she phoned again. Her first words to me were, "You didn't think I'd let you off the hook that easy, did you?"

That was without question the beginning of the most fulfilling set of experiences in my life and, I'm sure, in most of yours.

That afternoon I interviewed Phyllis while Don was at work. What I found in Phyllis was a determined and loving mother, unwilling to listen to the numerous doctors who told her that her daughter's case was hopeless. They had told her and Don that Sonoma State Hospital was the only answer. Phyllis, Don, their children and all of you proved the doctors wrong. "I want Ali to be able to reach her full potential," Phyllis told me that day. "That's the hope, the ultimate hope."

Later, Don told me, "We just want Ali to be able to express emotion and be able to communicate with people. It doesn't necessarily matter whether she can even talk. We just want to be able to have someone to love and who can love back."

In so many ways, both of their wishes were realized. A large part of that has to do with hundreds of loving, caring, dedicated people.

When I wrote the first story, I said that Ali needed 200 friends if she was ever to function as the bright, energetic child she was before that tragic January day 2½ years ago.

I expected perhaps 75 responses. I seriously underestimated this community's capacity for love. Within 24 hours, 150 people from all over the peninsula had volunteered to help. At the end of 2 days, the number had swelled to 300. By the end of the third day 500 people from as far south as Santa Cruz and as far north as Santa Rosa had volunteered in everything from patterning to donating money to cleaning the Camerons' house to cooking their meals. While Ali and her mother flew to New York for a series of tests designed to get them started on patterning, a group of neighbors met to decide what to do with all of you. This is the room where most of you met nearly 2 years ago.

None of you had ever met Ali, but your sense of giving, sharing, caring and love prominently stood out that night. Here are some of the comments written by some of you on the sign-in sheets posted at the doors.

"I'm delighted to be part of this experience. I pray for a speedy recovery," said one.

"Happy to help such a beautiful little girl," said another. "Thank you for the opportunity to share in your getting well and meeting your lovely family."

"I'm getting much more than I'm giving."

"Fills a spot in my heart."

"Wish I was able to give more."

"It's God's will that we share the joy of Alison's recovery."

Alison's cause was the essence of community spirit and God's will. Nearly all of you who volunteered hung in with Ali for the entire 2 years in one form or another. We have seen this angelic little girl slip out of her coma. We rejoiced when she took her first swallow. It was a thrill to see her begin to follow movement around her room, cry for the first time and, finally, turn herself

over. Little by little, we saw her improve and grow. She received love from all of us and somehow we knew that, as her father wished, she was returning it. She left an everlasting mark on all of us. You have left an everlasting mark on the Camerons. Phyllis told me last night that they think of you who were involved with Ali as family. Each of you who were patterners felt as if Ali were your own child, she said.

I would like to take this opportunity to remind all of us that none of us forget the Camerons with Ali's passing. The next few months are going to be a tough adjustment for them. No longer will people be marching in and out of their home on a daily basis. It is going to be very quiet there. Please, don't ever assume that you would be intruding by dropping by occassionally for a visit. And don't ever assume that somebody else is already doing that. They love each one of us and we love them. We need to sustain the relationships that have developed over the past 2 years.

About these past couple of years, there are those who would say that the path that the Camerons took was not the right one—that it was all very futile. They would point to Ali's death as proof.

We all know the truth. Phyllis and Don are two loving, dedicated and wonderful parents who knew what was best for their family and acted upon it. There decisions made for a much better and healthier family and community.

Because of Ali, five patterners have made decisions to dedicate the rest of their lives to physical therapy. One patterner was so moved by Ali that she is going to help out at a school for the mentally retarded in Millbrae. And because of Ali, the way was paved for other medically involved children to go to school within the county school system rather than have tutors come to their homes. From a very personal and private perspective, my life has been changed 180 degrees.

I would say that Ali was healed Friday morning. She was healed in the magnificent way that the Lord works—very peacefully, very quietly, and painlessly. She is free now. No longer is she imprisoned by her defective body. No longer will she have to suffer through bouts of illness. She is without suffering now. She has been perfected. The Lord has called her home and she is now embraced by a love deeper than any of us could ever imagine.

"Be joyful and rejoice for her, all you who love her. Be exceedingly glad with her, all you who mourn over her. For thus says the Lord, behold, I extend peace to her like a river."●

WEAKER AIR POLLUTION STANDARDS NOT GOOD FOR CALIFORNIA'S AUTO BUYERS OR SELLERS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. STARK. Mr. Speaker, with the reauthorization of the Clean Air Act soon to be reaching the House floor, I wish to share with my colleagues a letter I recently received from a concerned citizen regarding a proposed amendment to the act, H.R. 5252.

This amendment would seriously weaken many of the vital provisions of the existing Clean Air Act, as well as lower emission standards for automobiles. Specifically, H.R. 5252 would double the allowable nitrous oxide emissions from autos—from 1 gram/mile to 2 grams/mile—and would more than double the allowable emissions of carbon monoxides—from 3.4 grams/mile to 7 grams/mile.

The rationale behind this proposed increase in air pollution is that the easing of emission levels will be beneficial to the auto industry. The letter that I received from Mr. Stephen F. Snow, executive vice president of the Northern California Motor Car Dealers Association, Inc., who is certainly in a position to know the automobile business well, sheds a different light on what the loosening of these standards would mean to the Nation's most populous State: California.

The letter reads as follows:

NORTHERN CALIFORNIA MOTOR CAR DEALERS ASSOCIATION, INC.,
San Francisco, Calif., May 20, 1982.

Hon. FORTNEY STARK,
U.S. House of Representatives, House Office Building, Washington, D.C.

DEAR MR. STARK: Our association represents some 800 franchised new car dealers in Northern California. I am writing to express our concern about proposed changes in the Clean Air Act in H.R. 5252.

I am sure you are aware that California has separate air quality standards from those of the other 49 states. Until recently, these standards have imposed a heavy burden on both our members and the California motorist.

In general, and until just this year, these tighter emission standards have resulted in reduced model availability, substantially higher purchase prices, poor performance and—most important—substantially reduced fuel economy. Only in the last year have the California emission standards been close enough to the federal, that California new car buyers have been able to purchase substantially the same vehicles available in the other 49 states.

Our concern is that a lessening of the federal standards would put us right back in the same place, i.e., that California new cars would again be so different from those available in the other 49 states, that we would again face reduced model availability, higher car prices, poor performance, and reduced fuel economy.

Obviously this is a difficult issue, but we would like you to be aware that for Californians at least there are no benefits in relaxed federal emission standards. In fact, it may very well be that the opposite will be true and that these changes will work a hardship on new car buyers in California.

We would like you to be aware of our concerns, and I would be happy to discuss them with you or members of your staff if this would be helpful.

Sincerely,

STEPHEN F. SNOW,
Executive Vice President.

Mr. Speaker, this letter makes it clear that this amendment, besides imposing a substantial cost on air quality, will not be as clearly beneficial to business as its designers believe.●

MARINA TIEMKIN OF MOSCOW

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mrs. SCHROEDER. Mr. Speaker, I am concerned with the case of Marina Tiemkin of Moscow, who has been denied her right to emigrate.

Marina Tiemkin was granted an exit visa on October 19, 1972, but she has never been permitted to leave the Soviet Union. Furthermore, she has not been told if a new exit visa is required. A new exit visa would have to be initiated with a document from her father, Prof. Alexander Tiemkin, who currently resides in Israel. This however, is impossible since father and daughter have been denied any communication in the past 8 years.

If an exit visa can not be granted at once, Professor Tiemkin should be permitted to meet with his daughter in a neutral country such as Holland. The Dutch Minister of Foreign Affairs has already stated his country's willingness to host such a meeting.

Finally, phone and mail contact between Marina Tiemkin and her father should be restored immediately.

I am writing a letter to Soviet President Leonid Brezhnev and Assistant Secretary of State Elliot Abrams demanding the Soviet Union fulfill the Helsinki accords concerning human rights. I urge my colleagues to cosign.●

HONORING CRIS FLYNN

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. MURTHA. Mr. Speaker, one of the most important strengths of America is the individual spirit and commitment of citizens to their community and their country.

On Sunday, July 18, the Conemaugh Borough and Johnstown communities will join in honoring one such man, Cris Flynn. I will insert into the RECORD the citation for Cris. I want to add, however, that it is this kind of individual life, shared with his friends and devoted to his community, church, and country that is so much a hallmark of America. We constantly hear about problems facing our country, and many of them are difficult, but I am confident that as long as we have individual citizens like Cris who care, and who are willing to give of themselves, that there is no doubt America will continue to be the greatest country in the world.

The citation follows:

COMMUNITY SERVICE AWARD

It is with profound gratitude that we present this service award to "Cris" Flynn, for his contributions of Love, Labour and time, to the beautification of the property's of St. Joseph's Church.

Cris having served his country when needed, in his youth, in a time of peril, is now serving his Lord and creating a pearl in this community, in the interim of time. His efforts have enhanced the total community of Conemaugh Borough and the City of Johnstown. Our "Thanks" for a job "Well Done"—A "Labor of Love."

From your friends of St. Josephs Church, Your Neighbors and the Community.●

PARRIS SUPPORTS CAPTIVE NATIONS WEEK

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. PARRIS. Mr. Speaker, 8 days ago when we were enjoying the Fourth of July, millions of our fellow men were living under tyranny. Today throughout the world whole nations are held captive to foreign despotisms: The Czechs, the Poles, the Hungarians, the East Germans, the Bulgarians, the Romanians, the Cambodians, the Afghans. The list goes on and on.

In July 1959 President Eisenhower signed the first Captive Nations Week proclamation pursuant to Public Law 86-90 passed that year. The law requested that the President issue a proclamation each year "until such time as freedom and independence shall have been achieved by all captive nations of the world." The ethnic American calls us most strongly to this our highest task. Ethnic Americans, either personally or through their ancestors, have had the closest experience with foreign tyranny and are the most ardent advocates and defenders of traditional American values. They are the staunchest critics of those who hold captive nations. And the ethnic American is in all of us.

The goals enunciated by President Eisenhower were obscured in the seventies by talk of "geopolitical realities" and "realpolitik." These fancy terms were no more than a gloss over the unimpaired exercise of raw, brutal military power on smaller nations.

Meanwhile those who adopted these new concepts embarked on a domestic policy which did not recognize this country's own legitimate defense needs. They were ignoring our rivals' tremendous increases in military spending, while restricting their own country's. So a rival power was building up its war machine to solidify its tyranny in Eastern Europe and to undertake military adventures in Africa, Central America, and central Asia. We tacitly approved these policies in an era when some saw appropriating the levels of expenditure necessary to our legitimate defense needs as almost obscene. I submit that the real obscenity is the subjugation of Eastern Europe and Afghanistan and subversion of the economies of African and Central American nations. Tom Paine said in his revolutionary booklet "Common Sense;" "Men may cry 'Peace! Peace!' but there is no peace." Millions of our fellow men are ruled by governments whose authority lies not in popular consent but in war machines. Occupation is not peace.

Those who control the captive nations believe that we cannot last, that we cannot continue the course which we began in 1776. Silent acquiescence in their captivity is the first step toward the loss of our own freedom. In the struggle between government by coercion and government by the consent of the governed, in the struggle between totalitarianism and democracy, we as Americans faltered in the latter half of the seventies. As a nation of immigrants, let us again heed the voice of the ethnic American who knows so well the dangers of tyranny and the fragility of freedom. Let us reembark upon the course our rivals hope we cannot maintain. Finally, I respectfully urge the President to issue the Captive Nations Week proclamation.●

CREATING AND PRESERVING JOBS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report of July 2, 1982 into the CONGRESSIONAL RECORD:

The economy continues to languish in the depths of a severe recession. Interest rates have not budged, inflation is up again, and the jobless rate stands at its highest level since 1941, with more than 10.5 million Americans out of work. Indiana is suffering more than most other states as the twin pressures of recession and industrial change squeeze its labor force. Some 313,000 Hoosiers are unable to find work, and the state's unemployment rate is 12.3 percent.

Hoosiers are intensely frustrated with the serious joblessness gripping the state. As I travel though Indiana, constituents constantly ask me about the outlook for jobs and the response we should make to bring unemployment down. I discussed a strategy to create jobs in a recent newsletter. Now I want to point out other important ways that jobs can be created and preserved.

IMMIGRATION

At least five million illegal aliens live in the nation today. Most of them work and not all of them hold low-paying jobs. It is generally accepted that illegal aliens are taking jobs away from Americans and are depressing wages in many areas. Labor economists predict that there will be a high demand for low- and semi-skilled workers in the service occupations by 1985. Penalties for employers who knowingly hire illegal aliens, a tamper-proof system to identify workers by nationality, tighter control of our borders, and vigorous enforcement of present immigration laws will diminish the number of illegal aliens in the country and help ensure that Americans get these jobs.

INFRASTRUCTURE

Efforts to repair and upgrade the country's rapidly deteriorating bridges, highways, parks, sewers, railroads, water systems, ports, and public buildings are essential for economic growth. Such efforts not only create jobs in construction and supply, but also lead to long-lasting economic development as businesses take advantage of the improved infrastructure. Despite current budgetry constraints, this option holds great promise. Delays in projects to repair and upgrade infrastructure cost the federal government about $16 billion per year—nearly one-fifth of the annual federal appropriation for public works—and cost the people hundreds of thousands of good jobs.

TRADE

Although our international trade in goods continues to lag, services such as transportation, construction, banking, and insurance more than offset the deficit and show signs of growth. Of course, we should push exports of both goods and services because each additional $1 billion in exports creates 30,000 to 40,000 jobs here at home. The basic problem we face in bringing about this expansion of trade is protectionism abroad. Because our market is the most open in the world, we have the right and duty to demand that other nations open their markets to us. We must insist that non-tariff barriers to our exports be trimmed back as we expand our export credit programs, develop markets abroad, and cut costly rules and regualtions.

INDUSTRIAL CHANGE

Certain industries and regions of the country are now undergoing a deep economic transformation. The Hoosier economy, for example, is being changed by many different trends in the national and international economies. America has become more economically involved with other nations, and those other nations have become more competitive. Jobs are now being created in small service establishments. Information and communications as well are areas which have become major sources of employment. The technological revolution is having far-reaching effects, with robots cutting costs and displacing workers and word processing machines boosting output and changing the office. These and other realities should be confronted; Hoosiers must begin to adjust Indiana's economy to them. In brief, Indiana must think hard about the future of its ecomomic base, so that its labor force is prepared for the inevitable transition to computers, semi-conductors, biotechnologies, and other promising fields.

TAX CODE

At least 15 million jobs appear to have been lost in the United States between 1969 and 1976 as a result of plant closings in all industries—some 2.5 million jobs per year. Industries which are particularly hard-hit are automobiles, textiles, electronics, rubber, steel, and clothing. There are many reasons for this depressing trend, but one reason—a tax code which arguably encourages the closing down of one operation and the building of a totally new operation to replace it—is within our immediate power to influence. We might provide businesses with

a deduction for remaining in a community instead of abandoning it. The deduction would increase with the length of stay and would be sufficient to balance the incentive companies now have to move. To make the tax code neutral with respect to relocation abroad, we might modify the provision under which taxes on foreign earnings are deferred. The tax code certainly should not discourage the creation of jobs in this country.

SMALL BUSINESS

Small business generates a healthy 43% of the gross national product, but its capacity to create jobs is much greater. One study shows that firms with fewer than 20 employees were responsible for two-thirds of the nine million new jobs which opened up between 1969 and 1976. By contrast, the nation's largest corporations accounted for no net gain in jobs during the same period. Moreover, small business tends to be far more innovative than big business, and innovation creates jobs. Because joblessness will ease when small business begins to hire again, efforts to create jobs should be concentrated in this vital sector. I supported the recent move to increase small business' share of federal research and development. I hope that federal purchases from small business will also increase.●

EDUCATION CUTBACKS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. DINGELL. Mr. Speaker, the devastating impact of education budget cuts on local communities and taxpayers is concisely expressed in a letter I received from Superintendent William J. Ross of the Lenawee Intermediate School District. The concerns of Dr. Ross are shared by many in this body who continue to believe that education programs provide long-term benefits to the Nation. Education yields a high return to the Nation and remains a sound investment in human resources. To renege on our commitment to provide equal access to learning opportunities and to deny young people the chance to develop their individual talents and skills will impose a heavy social and economic cost. It is a cost society can ill afford if we are to alleviate hardcore poverty and provide for the young the job skills needed for a meaningful and productive life.

The letter of Dr. Ross follows:

LENAWEE INTERMEDIATE SCHOOL DISTRICT,
Adrian, Mich., June 16, 1982.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR MR. DINGELL: I am writing to you to express my concern over the proposed cuts in federally funded education programs for the fiscal year 1982 (via rescissions) and 1983 budgets. Our local public schools will be asked to absorb approximately $60 million in reduced federal support for the 1982-83 school year (not including proposed cuts in the school lunch and other related programs). Deeper cuts are proposed for 1983-84.

The students in our local schools who will bear the brunt of these reductions are those least able to shoulder the burden: the poor, the disadvantaged, and the handicapped. Even in the best of times, states across the nation lacked sufficient resources to adequately provide for these students. States will soon be forced to reduce already austere programs and services to levels incapable of meeting the current needs. The significant progress made in such areas as education for the handicapped, compensatory education for the poor and disadvantaged, and vocational education opportunities for these groups will be curtailed.

The Lenawee Intermediate School District Vocational-Technical Education Center serves nearly half of the high school juniors and seniors from our twelve local public school region (total K-12 student population of 20,000). Of this population, around 200 disadvantaged and handicapped students each year for the past 12 years have received significant extra support, via the Special Needs/Vocational Education program and federal support. The impact this has had on our community is obvious. More students leave school with employability skills—students who might otherwise prove to be burdens on our community. Yet, even with the excellent program we have, many students have to wait to get into the program. In other words, there is still an unmet need, especially in terms of developing alternative vocational education programs for handicapped students.

The vocational education department also administers the CETA Adult Vocational Training Programs in Lenawee County. Currently, Lenawee County is experiencing the most severe unemployment in recent history—21 percent as of March, 1982. In spite of this, nearly 75 percent of the adults successfully completing the CETA vocational training program are placed in jobs in the community. This year the LISD Vocational Education department had a 23 percent decrease in CETA funds available for training programs. As a result, fewer people have access to training opportunities at a time when they are needed most.

In the area of providing special education programs and services to eligible handicapped children, Michigan has a reputation as a national leader. I am disturbed by the effect the economic plight of the state is having on the quality and quantity of special education programs. Emergency rules were recently put into effect that may have a detrimental impact on the quality of services we provide. These changes were deemed necessary to save money at both the state and local levels. Many of our best trained and most recently hired staff across the state have been laid off due to reduced state support for special education. In just two years, the revenue shortfall from the state is approximately $500,000 for our ISD operation in special education alone. Last year we underwent serious reduction-in-force in the special education department, ultimately reducing staff by 21 positions—an approximate 20 percent cutback. I am concerned by this steady erosion in the base operations of our special education programs.

Federal support currently plays an important role in the delivery of special education services in our region. Federal funds currently comprise over 10 percent of our 1981-82 special education department budget. We are serving more handicapped students with staff paid from federal funds than ever before. Reductions in this revenue will seriously curtail our efforts to provide appropriate opportunities for handicapped students to achieve academic success.

The effects of severe cuts in the compensatory education programs, formerly ESEA Title I, now ECIA Chapter I, are sure to translate into reduced reading and math support opportunities in our local schools. Likewise, cuts in federal media support programs, Title IV-C for example, will reduce options to local teachers for selection of instructional methodologies.

Furthermore, I am concerned about the inflated figures the Administration is projecting as savings in administrative costs that will be made by restructuring the basic federally supported programs. I am also disturbed by the process whereby the appropriations mechanism is used to "re-write" the law, as was the case for the Education for All Handicapped Childern Act of 1975 (P.L. 94-142). Last year the authorization ceilings, enacted as part of the statute in 1975 and changed by the budget process, were significantly and permanently reduced.

I do not view the federal role in education as a "Big Brother" type intrusion in the area of local control. Federal programs assist our state in meeting its objectives. We do whatever we can to reduce administrative overhead and maintain the integrity of the program. I want you to know that the educational community in Lenawee County, Michigan, supports continued federal education programs at funding levels that will maintain or improve the number of opportunities in our area. Please keep these thoughts in mind as you make the important decisions concerning the federal education programs budgets in the near future.

Sincerely,

WILLIAM J. ROSS, Ph. D.,
Superintendent.●

PERSECUTION OF BAHA'IS IN IRAN MUST STOP

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. LANTOS. Mr. Speaker, the recent growing wave of persecutions of members of the Baha'i faith in Iran has reached severe and shocking proportions. These atrocities must not go unnoticed by a civilized world. The Baha'i religion, founded in Iran over 100 years ago, is an independent world religion with adherents in virtually every country of the world. In Iran, its 300,000 members comprise the largest religious minority within that country. Even though the Constitution of the Islamic Republic of Iran recognizes and protects Christian, Jewish, and Zoroastrian minorities, it denies recognition to the followers of the Baha'i faith. The lack of constitutional safeguards and denial of recognition permitted the Iranian Government to launch a self-righteous campaign to eradicate the Baha'i minority. This cruel drive has intensified in recent months with appalling executions, arrests, confiscation of property, and

other physical and psychological atrocities perpetrated on a peace-loving people.

Ironically, the Baha'is pose no threat to the Iranian Government. According to the tenets of their faith they may not participate in partisan politics; they are forbidden to use violence; they are taught to respect individual rights and religious freedom. One principal difference between Baha'i and Muslim ideologies is the Baha'i practice of according equal rights to women in the spiritual and administrative affairs of the Baha'i community. Such differences serve to fuel the false accusations that the Baha'is are opposed to Islam.

Appeals to Iran, by the United Nations and the European Parliament, to end the persecutions have fallen on deaf ears. The Congress of the United States will be soon acting on a resolution calling on Iran to end this discrimination and to cease the brutal executions within the Baha'i community.

The only hope for the protection of these nonviolent people is world awareness and outrage. A meeting on September 25 is being held in San Mateo County to bring to the attention of the citizens of the peninsula the torture and discrimination daily being perpetrated against Baha'is. It is my hope that similar meetings will be held in every community in the United States. The people of the free world must vigorously protest such atrocities. We must not ignore this vicious campaign by the Iranian Government to exterminate a whole people because of religious hatred.●

ALEXANDER PIRNIE

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 23, 1982

● Mr. CONABLE. Mr. Speaker, we are saddened to hear of the passing of Alex Pirnie, a man who left many friends behind when he retired from Congress in 1972, after seven terms in the House. At that time, he was ranking minority member of the Armed Services Committee, chairman of the United Nations delegation to the Interparliamentary Union, and active in many party and House activities.

Alex had a special tie with me, having graduated as I did from Cornell and Cornell Law School and having practiced law in his early years in upstate New York. He was particularly devoted to Cornell, an institution not far from his home, and after his departure from Congress I used to see him from time to time as a member of the Law School Advisory Council. He always had an intense interest in his friends here, had an understandable pride in his service to his country in Congress and as an officer during World War II. His was an instinctive warmth and friendliness which made him a popular member of any group.

I remember Alex particularly as a silver-tongued orator, a man who spoke thoughtfully and with a style and feeling for the English language that few of us in this House can attain. Another of his characteristics was his capacity for bringing people together, which was illustrated by his frequent multiple endorsements, sometimes by as many as three Parties in our fragmented New York political scene. That sort of unusual support does not happen except to people so respected in their home communities that they rise above the controversy of small politics.

I did not know Alex' family, but I am sure they understand that we in Congress share their sorrow at the passing of this good friend.●

FAIRFIELD UNIVERSITY

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. McKINNEY. Mr. Speaker, to date conservation has been our most effective weapon in the battle for energy independence. I would like to call to the attention of my colleagues a new energy management demonstration program which is being undertaken in my district. Fairfield University, located in Fairfield, Conn. has recently been selected to receive a grant from the John A. Hartford Foundation. The foundation will fund the first year of a 30-month program designed to cut energy cost by 20 to 25 percent. The university will develop models which will be used on other campuses around the country.

The following article from the Bridgeport Telegram gives more details concerning the project. I applaud everyone involved in this effort to further advance our goal of reducing energy imports through conservation.

[From the Bridgeport Telegraph, May 14, 1982]

FAIRFIELD UNIVERSITY CHOSEN FOR ENERGY PROJECT

(By Carol Grabowski)

Fairfield University has been selected as one of 12 colleges participating in a nationwide experiment aimed at slashing energy costs at universities up to 25 percent.

The university will take part in the program announced at a press conference Wednesday by officials of the Higher Education Energy Task Force and the Educational Facilities Laboratories. The project is being financed by a $300,000 grant from the John A. Hartford Foundation of New York.

The project will experiment with energy-saving procedures on the campuses and, if successful, apply them at other colleges. The grant will pay for a four-member task force to visit each campus and set up computer programs for college officials to use in monitoring energy use. The computer audits will be designed to point out where buildings are using too much energy and suggest ways to reduce that use.

The objective is to save between 20 and 25 percent of energy costs. The task force will also provide information to colleges on innovative ways to finance energy improvements.

"Fairfield is extremely fortunate to have been chosen as a demonstration institution in this pioneering program," John Hickson, the university's vice-president for business and finance, said Wednesday.

The university has introduced energy-saving techniques of its own over the last several years, Hickson said. Within the last two years Fairfield installed a computer system designed to control energy functions including exhaust fans, air conditioning and lighting. The university replaced inefficient windows in two dormitories with funds from a federal Department of Energy grant.

Recent campus building projects have also stressed energy savings, Hickson continued. The faculty offices building was constructed to save energy by capturing and recirculating the heat from business machines, lighting, air conditioning and people.

Other schools which will participate in the program include Franklin Pierce College in Rindge, N.H.; the State University of New York at Stony Brook; John Hopkins University in Baltimore; Chatham College in Pittsburgh; Pima Community College in Tucson, Ariz.; Humboldt State University in Arcata, Calif; Pomona College in Claremont, Calif; the University of North Dakota; Lincoln Land Community College in Springfield, Ill.; Westminster College in Salt Lake City, Utah and Virginia Polytechnic Institute in Blacksburg, Va.

Colleges were selected to provide a cross-section of the nation's 3,250 universities. "For the first time, total energy costs for higher education this academic year will exceed the $3 billion mark." task force director Christopher Crittenden said in announcing the program. "This represents a tremendous drain of resources away from the main business of schools—teaching."

Crittenden said that if implemented nationwide, such an energy conservation plan for colleges and universities could save up to $775 million annually. He noted that energy expenses now cost colleges an average of $363 per student.●

CLARK COUNTY POLL RESPONSES

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. BONKER. Mr. Speaker, earlier this year I sent a newsletter questionnaire to the constituents of the Third Congressional District in Clark County, Wash.

More than 3,000 county residents responded, most during the months of March and April.

After tabulating a large sample of these responses, I am struck by one, inescapable conclusion—the people of Clark County disagree with nearly all

of the Reagan administration's policies, across the board.

From military spending, nuclear arms, and foreign policy to social security, domestic budget cuts, energy, and environmental protection, the Reagan White House receives failing marks from Clark County residents.

Only 13 percent agree with President Reagan's massive proposed military spending increases. The remaining 87 percent said the military budget should be subjected to budget cutting measures, with an eye toward eliminating waste, mismanagement, and unnecessary weapons systems.

Only 16 percent supported the budget President Reagan submitted to Congress earlier this spring, with its projected deficit of $122 billion according to Congressional Budget Office estimates.

Some 74 percent of the respondents said Congress should not reduce social security benefits. The President's Budget Director, David Stockman, has told Congress that social security would not be exempt from future budget cutting proposals by the administration.

A full 55 percent believe last year's Reagan budget cut too much from vital domestic programs.

Eighty-six percent disagree with the Reagan administration's policy of sending arms and military equipment to El Salvador.

Sixty-eight percent opposed the environmental policies of Interior Secretary James Watt.

Seventy-five percent disagree with the President's plan to reduce funding for conservation, solar energy, and other renewable resources programs, while still pumping nearly $1.5 billion into nuclear power development.

Mr. Speaker, like all of my colleagues I am constantly traveling throughout my district, talking to constituents, holding meetings, and conducting forums. So I would say I have a very good idea of what the people of the Third District are thinking and I have been aware of a growing disenchantment with the administration's policies for some time.

But I must admit, Mr. Speaker, these poll responses caught even me by surprise, with the degree and intensity of dissatisfaction local residents feel toward the Reagan administration's policies.

I ask that the complete, tabulated results of the Clark County questionnaire be reprinted in the RECORD, and I recommend these findings to the attention of my colleagues.

CLARK COUNTY POLL

1. What do you consider the number one problem facing the nation and the Congress during 1982?

Economic issues were the Number One worry of Clark County residents, particularly Unemployment, High Interest Rates, Inflation, High Projected Budget Deficits, and the Reagan Budget Cuts.

TAXES, THE BUDGET, AND THE ECONOMY

2. Last month President Reagan presented to Congress his 1983 budget which contains an 18.1 percent increase in military spending, reduces spending for social programs by $13 billion, maintains the full range of individual and corporate cuts enacted last year, and calls for a 1983 federal deficit of $91.5 billion. Of the following, which would you recommend?

Adopt the budget as presented—16%.

Adopt an alternative proposal by Senator Ernest Hollings (D-South Carolina) which would freeze all federal spending at current levels, delay the Kemp-Roth personal tax reductions, and reduce the Administration's deficit by $50 billion—35%.

Adopt a second alternative which would scale back military expenditures, cut domestic programs where possible, defer Kemp-Roth indefinitely, and balance the budget—49%.

3. Last year Congress adopted a budget that cut $40 billion in non-military spending, such as social, health, and education programs, fisheries enhancement work, dredging around Mount St. Helens, Coast Guard services, and aid to local governments. Do you believe that Congress:

Cut too much—55%.

Should have cut more—24%.

Cut just about the right amount—21%.

4. President Reagan's economic and budget proposals, adopted by Congress last year, contained a 5 percent tax cut effective October 1, 1981, to help stimulate the economy. What have you done with the money you received?

Invested in stocks and/or bonds—5%.

Put the money into a bank or savings and loan institution—16%.

Spent it—32%.

Didn't get any," "On Social Security; got no tax break," "Only the wealthy benefited," etc. (write in)—41%.

Other—6%.

5. The President's "New Federalism" proposal will turn over many federally-sponsored programs to the states and local governments, giving them the responsibility to administer and support these services. In general, do you:

Support the New Federalism proposal—39%.

Oppose the New Federalism proposal—20%.

Believe Congress should carefully scrutinize the concept before taking action—42%.

SOCIAL SECURITY

6. In October, the President's Budget Director, David Stockman, told Congress that Social Security would not be exempt from future budget cutting proposals by the Administration. Do you feel that Congress should reduce Social Security benefits and/or delay future increases?

Yes—26% No—74%.

7. A number of proposals have been advanced as possible ways to ensure that Social Security system remains financially secure. What are your feelings on each of the proposals described below?

a. Reduce benefits for early retirement. Under current law, workers who choose early retirement at age 62 recieve 80 percent of what they would recieve at age 65. One of the changes proposed last year by President Reagan would reduce benefits for workers who retire at age 62 to only 55 percent of their full retirement benefits. Do you agree or disagree with this proposal?

Agree—22%. Disagree—68%.

b. Separate retirement fund from other programs. The Social Security system is actually composed of three different trust funds: the Old Age and Survivors' Insurance fund (OASI), the Disability insurance fund (DI), and Hospital Insurance (HI) which makes up a major part of the Medicare program. Another proposed change we would have Medicare and disability benefits paid from the general fund and not the Social Security trust funds. Do you agree or disagree with this proposal?

Agree—84% Disagree—16%.

c. Raise the retirement age. Another proposed change in Social Security would gradually raise the retirement age to 68. The early retirement age would also increase over time to 65. Do you agree or disagree with this proposal?

Agree—25%. Disagree—75%.

NATIONAL DEFENSE

8. President Reagan has called for extremely large increases in military spending over the next five years, claiming that America's defenses have been neglected in recent years. Other analysts believe substantial budget savings could be made by subjecting the Pentagon to the same kind of close scrutiny that domestic programs have received. Do you feel:

The defense budget should not be cut—13%.

The military budget should be subjected to budget-cutting measures, with an eye toward eliminating waste, mismanagement, and unnecessary weapons systems—87%.

9. The President has authorized $55 million in arms and equipment to El Salvador, and is now proposing to double this amount. Do you agree with this policy.

Agree—14%. Disagree—86%.

10. What course by the United States do you believe would do more to enhance world peace today?

Pursue deterrence through military superiority—19%.

Negotiate to limit and reduce nuclear weapons—52%.

Discourage the proliferation of nuclear arms capability to other nations—29%.

ENERGY AND ENVIRONMENTAL POLICY

James Watt, the Reagan Administration's Secretary of the Interior, has sparked a great deal of controversy through a number of actions, including a proposal to allow offshore oil drilling in sensitive areas and attempts to halt any new acquisition of land for public parks or recreational areas. In general, do you approve or disapprove of Secretary Watt's policies?

Approve—32%. Disapprove—68%.

12. The President's 1983 budget for energy programs calls for $211.7 million for conservation, solar energy and other renewable resources, and fossil fuels projects, an 89 percent cutback from 1981 funding levels. Nuclear fission and nuclear fusion programs, on the other hand, would receive $1.46 billion, a 5 percent increase. Do you agree with the Administration's energy priorities, as reflected in these funding figures?

Agree—25%. Disagree—75%.●

EDUCATION IN AMERICA MUST BE PRESERVED

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. LANTOS. Mr. Speaker, the best investment in America today is in the quality of education for our Nation's youth. Yet the administration's budget calls for drastic cuts in elementary and secondary education. In response, I have cosponsored legislation to strengthen and reinforce the Federal commitment to our children's education.

The American Defense Education Act, H.R. 6674, authorizes a voluntary national financial incentive program for local school districts. The incentives are designed to improve the quality of instruction in the fields of math, science, communications, foreign languages, technology, and guidance counseling.

Because of the importance of local input, the bill requires regular evaluations of the programs by local school boards, administrators, teachers, parents, businesses, and industry.

One of the most powerful forces in shaping American society has been our rapid technological development. The American Defense Education Act will help provide a strong foundation to face the challenges of the future.●

VOLUNTEERING TO RETIRE THE NATIONAL DEBT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. MAZZOLI. Mr. Speaker, I would like to draw the attention of my colleagues in the House to the little-known fact that the U.S. Treasury accepts tax-deductible donations of $2 or more to help reduce the national debt.

This program, which was authorized way back in 1961, has received too little attention and publicity. It would be a most useful program, especially in these days when the Nation is struggling to reduce deficits, to lower interest rates, and to put Americans back to work.

Persons who wish to earmark funds to reduce the national debt—today running at nearly 10 percent of the total national budget—should mail them to: U.S. Department of Treasury, Bureau of Government Financial Operations, room 324, annex No. 1, Madison Place and Pennsylvania Avenue, Washington, D.C.

The donations should be sent with a note explaining that the sender wants the donation to be devoted to reduction of the national debt and for no other purpose.

A constituent, whom I am proud to represent, suggested that the Government should launch a nationwide campaign to urge citizens to contribute funds to help reduce the crushing national debt. My constituent suggested that the effort center on the Fourth of July celebration since Americans cannot really be independent and free unless they can eliminate the national debt.

President Reagan has urged Americans, in a spirit of volunteerism, to contribute their financial resources and to devote their time and energies to solving the Nation's problems which, in recent years, the Government has tried to solve alone.

A campaign to reduce the Federal debt using contributions from John Q. and Mary Citizen fits right into the President's call.●

CONGRESSMAN EDWARD P. BOLAND ADDRESSES THE 1982 GRADUATING CLASS OF THE UNIVERSITY OF MASSACHUSETTS

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. EARLY. Mr. Speaker, on Sunday, May 30 last, I had the great pleasure of attending the 112th graduation ceremonies at the University of Massachusetts in Amherst, Mass.

It was an unusually enjoyable experience that reflected the excellent planning of Chancellor Henry Koffler and his university associates who directed that the whole program be carried forward with appropriate dignity, tempered with a sensible awareness of the natural excitement prevailing among the graduates and their guests.

For those of us who had sons or daughters in the graduating class it was a particularly meaningful occasion. We gathered with several thousand other parents, relatives, friends, and neighbors to congratulate our children and to wish them continuing good health and fortune down the uncharted road of reality beyond the campus grounds.

I was especially pleased that my dear friend and our esteemed colleague Congressman EDDIE BOLAND, of the Second Massachusetts Congressional District, delivered the principal commencement address. Needless to say, throughout the course of his remarks he again demonstrated his long-acknowledged remarkable ability to inspire others to the appreciation and acceptance of his own integrity of purpose, reality of vision, experienced wisdom, unbiased objectivity, goodwilled disposition for cooperative achievement, wholesome sense of humor, understanding of principled compromise, genuine compassion, and relentless commitment to the promotion of the common good.

Mr. Speaker, these are the lasting attributes of character and competence that have brought EDDIE BOLAND international recognition and admiration as one of the most effective and persuasive congressional leaders and orators in modern legislative history. They are the exceptional qualities that have earned him the very high respect and regard in which he is held by all Members of both political parties in the U.S. House of Representatives. They are the uncommon virtues and skills that have rightfully attracted the consistently unswerving loyalty and support of the overwhelming majority of his constituents throughout his exemplary and distinguished career in the military and public service of his district communities, his Commonwealth, and his country.

During the commencement exercise Congressman BOLAND was awarded a well-merited honorary degree of doctor of laws and other honorary degrees were conferred upon Adele Smith Simmons, president of Hampshire College; E. Virginia Williams, founder and artistic director of the Boston Ballet; William Julius Wilson, Lucy Flower Professor of Urban Sociology at the University of Chicago and a fellow at the Center for Advanced Study in the Behavioral Sciences at Stanford University; Andrew C. Knowles III, vice president of the Small Systems Group in the Digital Equipment Corp., and John F. Welch, Jr., the eighth chairman and chief executive officer of the General Electric Co.

Mr. Speaker, at this point I would like to include Congressman BOLAND'S thought-provoking address in the RECORD together with the citations accompanying the granting of the honorary degrees. The material follows:

REMARKS OF EDWARD P. BOLAND, UNIVERSITY OF MASSACHUSETTS COMMENCEMENT EXERCISES, MAY 30, 1982

President Knapp—Chancellor Koffler—fellow honorary degree recipients—platform guests—faculty, class of 1982—families and friends, I am honored and humbled to join with all of you on the 119th year of this magnificent institution and its 112th commencement exercise.

Since Chancellor Koffler wrote me, sometime ago, indicating that I would deliver the commencement address, I have given some thought to what I might say.

I asked Ellen Philbin of this class of '82, who interned in my Washington office for the past few months, what I should talk about. She suggested I talk about 5 minutes.

With a little leeway, I'll follow her advice. You are lucky. You'll get the rain speech instead of the 30-minute Sun address.

I extend my heartiest congratulations to every member of the class of 1982 for the achievement which has brought you here today.

It used to be commonplace for the members of an assembled freshman class to re-

ceive some words of warning from an academic dean soon after their arrival on campus.

After exhortations about the need for hard work and self-discipline, the dean would invariably say, "Look to your right and to your left. Only one of you will make it to graduation day."

Take a moment right now to look to your right and to your left; you might not know those sitting next to you very well but you share a common bond. You made it. And for that you should be proud and you deserve congratulations.

There are others in the audience, and some who are not with us today, who also deserve recognition. I am talking about the mothers and fathers, and the husbands and wives of the members of the class of 1982.

The sacrifices which the graduates had to make to ensure their presence here today were matched in countless ways by their families. I hope that you who are seated before me in cap and gown will not fail to acknowledge the debt you owe to those who did so much to ensure that there would be a day like today in your lives.

I noted earlier that a commencement speaker's primary duty is to offer some thoughts on the world as you will soon find out.

When Bob Hope, in a commencement address, was asked what advice he would give graduates as they go out into the world, he advised, "Don't go. It's a hard world out there." That is partly true. Mr. Hope jokingly advised "Don't go"—I say, "Don't be afraid to go."

You not only have little practical choice, but your enthusiasm and fresh perspective, as well as your knowledge, are desperately needed. Even the most casual glance at a newspaper, news magazine, or TV evening news broadcast, should alert you to the fact that the world which awaits you is one of enormous complexity.

When I arrived in Washington thirty years ago, the United States was unquestionably the preeminent force on the globe. We were engaged in not only the rebuilding of the nations devastated by World War II, but were launching an era of prosperity in this country that would lead to a level of national affluence few would have thought possible when this century began. In those years there did not seem to be any problem, domestic or international that was not amenable to a solution, a solution made in the USA.

Now, thirty years later, we are confronted with problems that seem to defy any solution: How to improve the economy without tearing apart the social fabric of the Nation; how to revitalize our industrial base without destroying the environment which supports us all; how to guarantee full participation in the economic and social life of the country for all our citizens; and how to effectively project our values and ideals into our dealings with other nations.

That these problems haven't been solved does not represent a diminishing of ability on the part of the American people, as much as it reflects significant changes in the world.

Our economy, which thirty years ago dominated the economy of the world, today must respond to the demands of a number of vigorous economies created out of the ashes of Asia and Europe. Our foreign policy must be responsive to the activities of nations which didn't exist, or at least didn't exist as independent states, thirty years ago.

We have had to become concerned with the dangers posed by acid rain, hazardous waste, leaded gasoline, and a host of carcinogens of which we were unaware, or took little notice thirty years ago. In a sense, we have become a victim of our own success. Redevelopment efforts that we have encouraged have enabled many countries to effectively challenge us in foreign and domestic markets. The tremendous advances made through research conducted in laboratories on campuses throughout the country have made us more aware of the fragility of our environment and the consequences of our actions upon it.

These events have produced frustration in this country, but that frustration has been in large part a product of the desire of young people like yourselves to get on with the task of addressing, rather than ignoring, the changed circumstances with which we find ourselves.

I can appreciate your impatience because there is a lot of work to do.

You know, in my lifetime we have eradicated diseases that once claimed thousands of lives each year and we have devised a communications network that can link every corner of the world in a matter of seconds. Yet in spite of these marvels of science and creativity that speak so eloquently of our higher instincts, we remain unable to live in harmony, whether as individuals or as nations.

We have devised weapons of destruction so terrible that a relatively small number of countries possess the capability of destroying the world as we know it. There can be no more urgent task facing all of us than controlling the number, size, and spread of these weapons. Not only is the danger that they may be used terrifying in itself, but their development and maintenance siphon away far too much of the world's desperately needed resources.

The billions of dollars that the nations of the world spend on nuclear weapons and on armaments each year can be put to better use. Reordering these priorities may be the greatest challenge facing your generation.

The nuclear freeze resolutions, now before Congress, are a good place to start. I believe that the support these resolutions have already drawn, both in Washington and throughout the country, is a good indication of the depth of feeling on this issue. It is a feeling that is shared by people throughout the world.

As you confront the tasks with which you will soon be faced, I strongly suggest that you reject the notion that events in the world are insusceptible of influence by any one individual.

In my experience in government, I have observed on countless occasions, that individual actions really can make a difference. The great currents which push and shape our Government and our country are, after all, only the sum of the actions of individuals. We have a participatory democracy in this country; a system of government whose greatest enemy is apathy.

Aristotle once said, "So, too, in life, it is they who act who rightly win the prizes."

I urge that you not be content to keep your ideas and your energy on the sidelines; get onto the field and participate. Make no mistake about it, if you do not, others will. That fact should give you no comfort, for those who choose to be active in the affairs of government may not reflect your views.

You owe it to yourselves, and you owe it to your Nation, to be a participant and not a spectator in the political life of your communities. You are about to join a group that is still select in our society—college graduates. The education you have received entitles you to expect a future bright with promise, but it also demands something from you.

From our earliest days as a nation, this country has placed a tremendous value on education.

It is absolutely remarkable, when you consider the historical context in which the United States was created, that our forefathers were so explicit in their desire that universal education be promoted and encouraged. Of course, their concerns were pragmatic. They knew that the success of the bold experiment in government they were launching would depend upon the day-to-day involvement of an informed citizenry.

In the words of Thomas Jefferson, "If a nation expects to be ignorant and free in a state of civilization, it expects what never was and never will be." All citizens in a free society have certain responsibilities that must be discharged to enable that society to continue. Those responsibilities, however, are not equal.

You have received an education of special quality, and you therefore have special responsibilities. Above all else, remember that this country's need for an educated citizenry will not end with your generation. It is likely to grow rather than diminish. Resist the temptation to say, "I've got my degree, I'm not interested in anyone else."

The maintenance of this university, and the maintenance of our system of elementary and secondary schools, is an expensive proposition. It can only be made less expensive by either reducing services or reducing students. It is hard to see how this country will be better off following either course. The money which we spend on education is quite literally an investment in the future of our country.

We must not allow a shortsighted approach to budget cutting to obscure the fact that progress in this country has historically been defined by the scope of the educational opportunities available to our young people.

By restricting those opportunities, we jeopardize both the ability our citizens to participate effectively in the affairs of our Government, and the manner in which that government functions. You have lives to lead, and I want most of all to close and let you get on with the business of leading them.

I can say with certainty that in the years ahead you will be challenged in ways impossible to predict today. Your response to those challenges will be the measure of your lives as individuals, and the life of our society as well. When you reflect in years to come on the accuracy of that measurement, I think you will be most pleased if you can say that you reserved to yourself the right to determine your own limitations.

Thank you. Good Luck and Godspeed.

EDWARD P. BOLAND

DOCTOR OF LAWS

Effectively combining eloquence and honor, devotion and diligence you have been more than a representative of Massachusetts' Second Congressional District for thirty years. You have represented the noblest motives of us all in striving to prevent and cure diseases, to improve housing, to develop a range of energy sources, to revitalize our cities, and to lend economic support to the truly needy here and abroad. Many thousands of us, in and out of your district,

understand why President Kennedy termed you "my man on the Hill."

Given at Amherst, Massachusetts, May 30, 1982.

ADELE SMITH SIMMONS

DOCTOR OF HUMANE LETTERS

Guided by an active aspiration to quality, you have led Hampshire College through its second decade with unflagging vigor and enthusiasm, continually invigorating others, while developing the fiscal and human strengths which will guarantee the college's future. Your academic skills and creativity have brought enduring benefits, both to your college and to its consortium, while your international efforts against hunger, ignorance, and injustice have earned you the admiration of your peers.

Given at Amherst, Massachusetts, May 30, 1982.

E. VIRGINIA WILLIAMS

DOCTOR OF FINE ARTS

Dancer, teacher, choreographer, and artistic pioneer, you have inspired us with your excitement with the world of ballet and drawn us into your continuing creation of beauty. You have earned our highest praise, for your professional achievements, for the selfless civic spirit in which these artistic endeavors have been shared, and for your abounding energy and empathy. When this century's history of American dance is written, your achievement will be central. Your vision, imagination, and dedication are an example to creative spirits everywhere.

Given at Amherst, Massachusetts, May 30, 1982.

WILLIAM J. WILSON

DOCTOR OF HUMANE LETTERS

Distinguished teacher, author, and humanist, you have brought your considerable talents to bear on the analysis and understanding of some of the major issues in contemporary society. From your years on our faculty to your present post as Lucy Flower Professor of Urban Sociology at the University of Chicago and Fellow at Stanford's Center for Advanced Study in the Behavioral Sciences, you have revealed the hidden, altered our perceptions of familiar relationships, and taught us to see through each other's eyes.

Given at Amherst, Massachusetts, May 30, 1982.

ANDREW C. KNOWLES

DOCTOR OF ENGINEERING

Loyal and energetic alumnus, you have served this University with dedication as a Trustee, as chairman of our first major capital effort, as an adviser, and as a friend. In our mutual concerns, as in your professional life, you have exhibited an unswerving commitment to responsiveness and responsibility. You have helped to forge ever closer ties between this University and the high technology industry. We honor you for your leadership, your acumen, and your exemplary support of our University.

Given at Amherst, Massachusetts, May 30, 1982.

JOHN F. WELCH, JR.

DOCTOR OF SCIENCE

Son of Old Massachusetts and lifelong believer in the power and potential of communication, you have shown the world of industry that competition and compassion may coexist. You have exhibited the principle that great success involves a willingness to take reasoned risks, and the rare determination to see decisions through to an intended conclusion. Your rise to eminence in the world of engineering and manufacturing does credit to your love of new ventures, to your personal growth, and to your Alma Mater. We honor you for combining corporate dedication with an effective philosphy of social responsibility.

Given at Amherst, Massachusetts, May 30, 1982.●

WE NEED A NUCLEAR FREEZE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. LANTOS. Mr. Speaker, with my strong support, the House Foreign Affairs Committee took historic action approving a resolution calling for a nuclear freeze. I am proud to be an original consponsor of House Joint Resolution 521, calling for a mutual and verifiable freeze on the testing, production, and deployment of nuclear weapons and delivery systems.

During the debate I argued that to proceed with the arms race is insanity.

The proliferation of nuclear weapons is the greatest single threat to our planet. The weapons of destruction that rained horror on Hiroshima and Nagasaki are like small firecrackers compared to today's nuclear destructive force. The United States and the Soviet Union's combined nuclear forces are now capable of terminating life on Earth.

A strong and lean national defense is necessary if we are to preserve our free society. Yet, the $1.6 trillion of military expenditures that the administration plans to spend over the next 5 years includes some 14,000 strategic and tactical weapons for the Nation's nuclear arsenal. Without building a single additional warhead, the United States and the Soviets now possess sufficient nuclear capacity to destroy every man, woman, and child of the Earth many times over—enough is enough.

The freeze would be followed by negotiations to achieve significant and balanced reductions in the nuclear arsenals of both nations, subject to rigid inspections. Our ultimate goal must clearly be a world free of nuclear weapons.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 13, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 14

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

235 Russell Building

Judiciary

Criminal Law Subcommittee

To resume hearings on S. 818, S. 1558, S. 1106, and S. 2658, bills limiting the insanity defense, establishing a Federal criminal verdict of "not guilty only by reason of insanity," and establishing procedures for dealing with defendants obtaining such a verdict.

2228 Dirksen Building

Select on Indian Affairs

To hold hearings on S. 2294, providing for the settlement of certain land claims of the Chitimacha Indian Tribe of Louisiana.

6226 Dirksen Building

Joint Economic

To continue hearings on the administration's national urban policy.

2359 Rayburn Building

10:00 a.m.

Foreign Relations

To continue hearings on the nomination of George P. Shultz, of California, to be Secretary of State.

1202 Dirksen Building

Labor and Human Resources

Alcoholism and Drug Abuse Subcommittee

Employment and Productivity Subcommittee

To hold joint hearings to review employee assistance programs for alcohol and drug abuse problems.

4232 Dirksen Building

2:00 p.m.

Foreign Relations

East Asian and Pacific Affairs Subcommittee

Closed briefing on recent ASEAN and ANZUS ministerial meetings.

S-116, Capitol

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

Rules and Administration

Business meeting, to consider a proposed resolution of regulations and/or rules changes needed to implement television and/or radio coverage of the Senate.

301 Russell Building

Select on Intelligence
To hold closed hearings on intelligence matters.
S-407, Capitol

JULY 15

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 2204, promoting interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts.
235 Russell Building

9:30 a.m.
Finance
To hold hearings on S. 2687 and S. 2547, bills changing the tax treatment of partial liquidations and of certain distributions of appreciated property, and S. 2224, providing a tax credit for contributions to charitable organizations that provide job training for handicapped and economically disadvantaged individuals and displaced workers.
2221 Dirksen Building

Special on Aging
To hold oversight hearings on the quality of care provided by nursing homes and their processes of certification.
5302 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to resume markup of S. 2352, S. 2392, S. 2480, and S. 2493, bills authorizing funds for the food stamp program.
324 Russell Building

*Environment and Public Works
Business meeting, to resume consideration of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building

Foreign Relations
To resume hearings on the current situation in the Middle East.
4221 Dirksen Building

Labor and Human Resources
Business meeting, to consider pending calendar business.
4232 Dirksen Building

Veterans' Affairs
Business meeting, to mark up S. 2379, requiring veterans to pay a funding fee on guaranteed home loans, and certain provisions of S. 2378, proposed Veterans' Disability Compensation and Survivors' Benefits Amendments, relating to cost-savings improvements in veterans' programs, and other related measures.
412 Russell Building

Joint Economic
To continue hearings on the administration's national urban policy.
2359 Rayburn Building

2:00 p.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue markup of S. 2352, S. 2392, S. 2480, and S. 2493, bills authorizing funds for the food stamp program.
324 Russell Building

Appropriations
Foreign Operations Subcommittee
To hold hearings to discuss assistance to El Salvador.
1114 Dirksen Building

Foreign Relations
To hold hearings on the nomination of Robert H. Phinny, of California, to be Ambassador to the Kingdom of Swaziland.
4221 Dirksen Building

JULY 16

9:30 a.m.
Finance
To hold hearings on S. 2673, providing for a Federal income tax credit for tuition.
2221 Dirksen Building

10:00 a.m.
Foreign Relations
To hold hearings on the nominations of Arthur H. Davis, Jr., of Colorado, to be Ambassador to Paraguay, Robert W. Duemling, of California, to be Ambassador to the Republic of Surinam, and George W. Landau, of Maryland, to be Ambassador to Venezuela.
4221 Dirksen Building

JULY 19

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 2197, S. 2498, and S. 1298, miscellaneous tax bills.
2221 Dirksen Building

10:00 a.m.
Judiciary
To hold hearings on S. 818, S. 1558, S. 1106, and S. 2658, bills limiting the insanity defense establishing a Federal criminal verdict of "not guilty only by reason of insanity," and establishing procedures for dealing with defendants obtaining such a verdict.
2228 Dirksen Building

Joint Economic
To resume hearings on the administration's national urban policy.
2359 Rayburn Building

10:30 a.m.
Labor and Human Resources
To hold hearings on the nomination of Gary L. Jones, of Virginia, to be Under Secretary of Education.
4232 Dirksen Building

JULY 20

9:30 a.m.
Finance
Health Subcommittee
To hold hearings to review medicare coverage for the treatment of alcohol-based disorders and alcoholism.
2221 Dirksen Building

Labor and Human Resources
Labor Subcommittee
Business meeting, to mark up S. 1541, amending the Employee Retirement Income Security Act (ERISA) by simplifying both reporting and disclosure requirements, and the process for employers to provide retirement income to employees, and providing incentives for employers to provide pension benefits to employees.
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 2568, clarifying the terms of the repayment contract for the Dallas Creek water project in Colorado, and S. 2684, providing for the construction, operation, and maintenance of the Santa Margarita water project in California.
3110 Dirksen Building

Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

Joint Economic
To continue hearings on the administration's national urban policy.
2359 Rayburn Building

11:00 a.m.
Foreign Relations
Business meeting, to consider pending calendar business.
4221 Dirksen Building

2:00 a.m.
Labor and Human Resources
To hold hearings on S. 1939, establishing a National Institute on Arthritis and Musculoskeletal Diseases, and authorizing funds for fiscal years 1983, 1984, and 1985, for its operating costs.
4232 Dirksen Building

JULY 21

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on miscellaneous tariff measures, including S. 1902, S. 2685, section 8(c) of S. 2094, H.R. 4566, S. 11, S. 231, S. 1552, S. 1565, S. 1588, S. 1717, S. 1723, S. 1746, S. 1979, S. 2031, S. 2247, S. 2396, S. 2560, S. 2566, S. 2692, S. 2699, and S. 2705.
2221 Dirksen Building

Labor and Human Resources
Labor Subcommittee
Business meeting, to continue markup of S. 1541, amending the Employee Retirement Income Security Act (ERISA) by simplifying both reporting and disclosure requirements, and the process for employers to provide retirement income to employees, and providing incentives for employers to provide pension benefits to employees.
4232 Dirksen Building

Select on Indian Affairs
To hold hearings on H.R. 3731, relating to the use of distribution of certain judgment funds awarded by the Indian Claims Commission or the U.S. Court of Claims.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building

Judiciary
To hold oversight hearings on Government merger enforcement policy.
2228 Dirksen Building

JULY 22

9:30 a.m.
Finance
International Trade Subcommittee
To continue hearings on miscellaneous tariff measures, including S. 1902, S. 2685, section 8(c) of S. 2094, H.R. 4566, S. 11, S. 231, S. 1552, S. 1565, S. 1588, S. 1717, S. 1723, S. 1746, S. 1979, S. 2031, S. 2247, S. 2396, S. 2560, S. 2566, S. 2692, S. 2699, and S. 2705.
2221 Dirksen Building

Judiciary
Juvenile Justice Subcommittee
To hold hearings to explore the problems of runaway youths.
2228 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the Federal Trade Commission's authority over deceptive advertising.
235 Russell Building

Energy and Natural Resources
Energy Regulation Subcommittee
To hold hearings on S. 2500, reducing conflicts in the licensing of hydroelectric powerplants and expediting the development of and simplifying the regulation of hydroelectric powerplants.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building

*Labor and Human Resources
Investigations and General Oversight Subcommittee
To hold hearings to review Federal and State expenditures for the purchase of children's vaccines.
4232 Dirksen Building

JULY 27

10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

JULY 28

9:30 a.m.
Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings to discuss alternative means of providing legal services to the poor.
4232 Dirksen Building

Veterans' Affairs
To hold hearings on proposed legislation clarifying certain United States Code provisions relating to veterans' employment programs.
412 Russell Building

Select on Indian Affairs
To hold hearings on S. 2153, providing for the distribution of funds awarded the confederated tribes of the Warm Springs Indian Reservation in Oregon by the Indian Claims Commission.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending Calendar business.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To resume hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building

2:00 p.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To resume hearings on S. 2131, authorizing funds through fiscal year 1986 for the safe drinking water program.
4200 Dirksen Building

JULY 29

9:30 a.m.
Labor and Human Resources
Business meeting, to mark up S. 1929, establishing an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
4232 Dirksen Building

10:00 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1918, establishing the Northeast-Midwest States Hydropower Financing Authority to make lower cost loans and loan guarantees for hydropower development.
3110 Dirksen Building

AUGUST 2

9:30 a.m.
Finance
To hold hearings on S. 2237, extending trade and tax incentives to promote economic development in the Caribbean Basin and Central American region.
2221 Dirksen Building

AUGUST 3

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold hearings on S. 2704, revising certain provisions relating to the lease and production of coal reserves.
3110 Dirksen Building

AUGUST 4

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 1405, proposed Carl Albert Congressional Research and Studies Center Endowment Act.
4232 Dirksen Building

AUGUST 5

10:00 a.m.
Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol and drugs on individuals while driving.
4232 Dirksen Building

AUGUST 10

9:30 a.m.
*Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

AUGUST 11

9:00 a.m.
Office of Technology Assessment
The Board, to meet on pending business items.
EF-100, Capitol

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.
4232 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States, S. 2418, permitting the Twenty-nine Palms Band of Luisena Mission Indians to lease certain trust lands for 99 years, S. 1799 and H.R. 4364, bills providing for the transfer of certain land in Pima County, Ariz., to the Pascua Yaqui Indian Tribe, and the substance of H.R. 5916, providing for certain Federal lands to be held in trust for the Ramah Band of the Navajo Indian Tribe.
6226 Dirksen Building

AUGUST 12

9:30 a.m.
*Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

Veterans' Affairs
Business meeting, to mark up S. 2378, proposed Veterans' Disability Compensation and Survivors' Benefits Amendments, and proposed legislation clarifying certain United States Code provisions relating to veterans' employment programs.
412 Russell Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the Student Loan Marketing Association (Sallie Mae).
4232 Dirksen Building

AUGUST 13

9:30 a.m.
*Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.
4232 Dirksen Building

SEPTEMBER 21

10:30 a.m.
Veterans' Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

SENATE—*Tuesday, July 13, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Gracious Father in Heaven, our hearts are heavy within us as we contemplate the tragedy and suffering in so many places. We lift our voices to Thee on behalf of the people of Lebanon and within the city of Beirut and for all who suffer agony in the Middle East. We pray, O Lord, that Thou wilt guide the leadership of the nations in the things which make for peace.

We remember with compassion the millions of displaced persons in our Nation and the world who languish in refuge settlements, many of which are little better than concentration camps. We pray for the poor, the persecuted, the oppressed and for all who are victims of injustice. Hasten, O Lord, the day when hate and violence, oppression and injustice will be dissolved in the grace and love and justice of God. In the name and for Jesus Christ's sake. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, today we will continue consideration of Senate Joint Resolution 58, a constitutional amendment to require a balanced Federal budget.

After the expiration of the time for the two leaders, special orders, and routine morning business, the Senate will continue debate on this measure.

By an order entered yesterday, between the hours of 12 noon and 2 p.m. today the Senate will be in recess.

From 2 p.m. until 4 p.m. we will continue the consideration of Senate Joint Resolution 58, and at 4 p.m. today the Senate will go into executive session for the purpose of considering the nomination of James G. Stearns to be the Director of the Securities Investor Protection Corporation. There is a 1-hour time limitation for the consideration of that nomination.

Later in the day, the majority leader will announce the schedule for the remainder of today.

LAW OF THE SEA TREATY

Mr. STEVENS. Mr. President, today I wish to congratulate President Reagan for his decision, announced last Friday, not to approve the Law of the Sea Treaty.

Some 30 Members of the Senate, of which I was one, joined together several weeks ago in sending a letter to the President urging him not to approve the Law of the Sea Treaty in its present form. The President's action, in my opinion, was wise and in the best interest of the United States.

His decision not to approve this treaty means that our Nation will have more time to address some of the problems that we have found in the current draft of that treaty. I am one of those who have been particularly concerned about the lack of investor protection in the deep seabed mining provisions of the treaty and feel that those provisions, which would have the effect of creating a new international mineral cartel, one of a socialized nature, would be especially inappropriate and in need of further refinement. Indeed from my point of view they would need a great deal of refinement. It is essential for U.S. security to maintain a firm position in this area, and I am pleased that the President has stated our position in a most clear manner on this issue.

The action of the President will give us the opportunity to continue to work on these problems.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the statement issued by President Reagan from the Santa Barbara Office of the White House on July 9.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE PRESIDENT

The United States has long recognized how critical the world's oceans are to mankind and how important international agreements are to the use of those oceans. For over a decade, the United States has been working with more than 150 countries at the Third United Nations Conference on Law of the Sea to develop a comprehensive treaty.

On January 29 of this year, I reaffirmed the United States' commitment to the multilateral process for reaching such a treaty and announced that we would return to the negotiations to seek to correct unacceptable elements in the deep seabed mining part of the draft convention. I also announced that my Administration would support ratification of a convention meeting six basic objectives.

On April 30 the Conference adopted a convention that does not satisfy the objectives sought by the United States. It was adopted by a vote of 130 in favor, with 4 against (including the United States) and 17 abstentions. Those voting "no" or abstaining appear small in number but represent countries which produce more than sixty percent of the world's Gross National Product and provide more than sixty percent of the contributions to the United Nations.

We have now completed a review of that convention and recognize that it contains many positive and very significant accomplishments. Those extensive parts dealing with navigation and overflight and most other provisions of the convention are consistent with United States interests and, in our view, serve well the interests of all nations. That is an important achievement and signifies the benefits of working together and effectively balancing numerous interests. The United States also appreciates the efforts of the many countries that have worked with us toward an acceptable agreement, including efforts by friends and allies at the session that concluded on April 30.

Our review recognizes, however, that the deep seabed mining part of the convention does not meet United States objectives. For this reason, I am announcing today that the United States will not sign the convention as adopted by the conference, and our participation in the remaining conference process will be at the technical level and will involve only those provisions that serve United States interests.

These decisions reflect the deep conviction that the United States cannot support a deep seabed mining regime with such major problems. In our view, those problems include:

Provisions that would actually deter future development of deep seabed mineral resources, when such development should serve the interest of all countries.

A decision-making process that would not give the United States or others a role that fairly reflects and protects their interests.

Provisions that would allow amendments to enter into force for the United States without its approval. This is clearly incompatible with the United States' approach to such treaties.

Stipulations relating to mandatory transfer of private technology and the possibility of national liberation movements sharing in benefits.

The absence of assured access for future qualified deep seabed miners to promote the development of these resources.

We recognize that world demand and markets currently do not justify commercial development of deep seabed mineral resources, and it is not clear when such development will be justified. When such factors become favorable, however, the deep seabed represents a potentially important source of strategic and other minerals. The aim of the United States in this regard has been to establish with other nations an order that would allow exploration and development under reasonable terms and conditions.

Mr. STEVENS. Mr. President, I reserve the remainder of our time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. NICKLES). Under the previous order, the Democratic leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish me to yield time?

Mr. PROXMIRE. No.

OUR CONTINUED VULNERABILITY TO OIL SUPPLY DISRUPTIONS

Mr. ROBERT C. BYRD. Mr. President, the July 11, 1982 issue of the New York Times magazine contained an article by Mr. Daniel Yergin which raises a number of very important points about our continued vulnerability to oil supply disruptions. Mr. Yergin is one of the authors of the widely read Harvard Business School Energy Report which was published several years ago. The article makes several important points:

First. The current oil situation has lulled the Nation into a false sense of security. Falling oil prices and plentiful supplies have contributed to a false impression that the energy problems experienced in the 1970's are a thing of the past. Mr. Yergin points out that the current situation is only temporary and that the problem is as bad, if not worse, than ever.

Second. The political and economic costs of another oil shock to the United States and other nations could be devastating and far reaching. Another disruption could bring about the conditions for increased social and political discontent. The economic costs of the two major oil shocks of 1973 and 1979 were staggering and could be even larger in the future. Mr. Yergin etimates a cost of $1.2 trillion to the United States and other industrialized nations in lost economic growth. Losses of such magnitude are among the major contributors to the current economic troubles of the United States and other nations.

Mr. Yergin's article is very timely, for he reminds us that we have not yet met the challenge raised by the energy crisis of the 1970's. We must not be deluded into a false sense of security by short-term considerations, such as OPEC's recent failure to reach agreement on production limitations. We must continue to press forward with the bipartisan energy initiatives which were overwhelmingly endorsed by the last Congress. The task of securing the Nation's energy future is not yet finished. As Mr. Yergin shows, we ignore that task at our peril.

Mr. President, I ask unanimous consent that a copy of Mr. Yergin's article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 12, 1982]

AWAITING THE NEXT OIL CRISIS

(By Daniel Yergin)

Near the end of a recent visit to the United States, the president of a national oil company in a member nation of the Organization of Petroleum Exporting Countries wrote out a list for his hosts: a shale-oil project in Colorado, a coal project in West Virginia, a tar-sands oil-extraction program in Canada, the Alaska natural-gas pipeline.

The list went on. Beside each item he wrote one of three words—"delayed," "postponed" or "canceled."

"What we're seeing," he said, "is the death of the alternatives." He was talking about alternatives to American dependence upon imported oil.

The performance was surprising. One might expect an official from an OPEC country to applaud prospects for an increase in American demand for his country's most valuable assets. In fact, he was frightened. The scenario was all too clear to him: Without the alternatives to imported oil, the United States requires more and more overseas petroleum; a sudden, unexpected event—an assassination, a war, a revolution—cuts deeply into available supply. The price soars, and the world economy is traumatized. "In that case," he said, envisioning the effect of a global recession on the long-term demand for his country's products, "everybody loses."

In 1973 and 1979, the nation experienced two oil shocks; we responded by initiating a host of bold and not-so-bold programs to protect us against a third such crisis. Today, those programs are disappearing. Even the great boom in the exploration for oil and gas in the United States, inspired by oil decontrol, high prices and the prospects for even higher prices, has passed its peak; the drilling rate is down a third since January, and drilling rigs are stacking up in Texas.

Essential to our ability to cope with another oil shock is continued momentum in energy conservation. Yet this, too, has been dwindling—and, in some cases, stopping altogether. The airlines are a dramatic case in point. The increase in oil prices hit airlines particularly hard, with energy as a share of total operating costs rising from 12 percent in the early 1970's to a current 30 percent. Many airlines responded by ordering a new generation of fuel-efficient jets, including the Boeing 757 and the Boeing 767. Many of these companies have now changed their minds. C. Edward Acker, the chairman of Pan American World Airways, recently explained why: "These two airplanes were ordered at a time when everyone was projecting a $2-a-gallon fuel price by the end of 1982 and a price of $3 by 1985. At the end of 1982, fuel will probably cost less than it did in 1980."

In the short run, such decisions seem to make sense. One would expect them from prudent businessmen under pressure from high interest rates, liquidity problems and poor business conditions.

Yet the sum of these actions may very well lead us, as a nation, into deep trouble. For the energy problem is not merely an issue of whether motorists pay $1.20 or $2.20 a gallon for gasoline. The energy issue really involves the possibilities for economic growth, and it is on such growth that our political and economic system depends. It spells the difference between jobs and unemployment lines; it helps to resolve national political tensions, and it eases potential international conflict.

According to calculations developed for "Global Insecurity," on which this article is based, the last two oil shocks have cost the United States and the other major industrial countries $1.2 trillion in lost economic growth—which Americans are now experiencing in the form of the worst economic slump and the highest unemployment since the Great Depression. There is high probability of another oil shock, which could trigger far graver economic and political consequences.

Ever since 1973, the year of the oil embargo and the first oil crisis, analysts and politicians have been looking into the energy future and sounding the alarm. The stakes are now even higher, and we could find by the end of the century that we have run out of time.

The alarms are being heard in almost every major industrial country in the world. The head of the Economic Planning Agency in Japan—a country whose growth rate is also dropping—recently remarked: "Japan is no exception to the worldwide deflationary impact of the second oil crisis." But one important country seems not to be listening: the United States.

In order to think sensibly about the past, it is necessary to understand the economic consequences of the last two oil crises. The 1970's were a watershed in modern economic history. They marked the end of the post-World War II era of high growth rates and full employment for most of the industrial world and the beginning of the current economic situation—alternating bouts of high inflation, low growth and high unemployment.

The oil shocks alone could not have caused such a major shift. But in carrying world oil prices from $2.50 to $34 a barrel, they were the primary driving forces.

The first impact was on inflation: The oil-price jumps were reflected directly in higher prices for gasoline, home heating oil and fuel oil. Up went the price index. With the rise in the price of oil came increases in the cost of anything connected with or substituted for it—from plastics and airline travel to coal, housing insulation and Hondas. Up went the price index. Meanwhile, people noticed that prices were going up, and so they sought to compensate through wage hikes. In this way, the oil-price rises became embedded in the underlying inflation—and in people's psychology. Up, up went the price index.

At the same time, the two oil shocks have extracted a considerable toll on economic growth through severe recessions and economic slowdown. The rise in the price of foreign oil means that purchasing power is drained from our economy to the oil producers—the so-called OPEC tax. The two price increases resulted in a cumulative OPEC tax on the industrial world between 1973 and

1981 of more than $1 trillion. The result is less real income and less money to spend, leading to a decline in economic activity and a rise in unemployment. It happened in 1975—and it is happening again today.

Faced with the double challenge of inflation and recession, most governments have chosen to focus on inflation as the more immediate threat. "Better 10 percent unemployed," they figure, "than 100 percent chasing to catch up with inflation."

And so they have used high interest rates and other restrictive monetary and fiscal policies to control inflation. But this approach has reinforced the slump brought on by the OPEC tax and has meant a historic retreat from the postwar commitment to full employment. Meanwhile, the general stagflation (plus high interest rates, uncertainty and increased energy costs) has meant much less investment—investment that is necessary for higher productivity and long-term economic growth.

Our economy is certainly weaker in the wake of the second oil shock than it was after the first. It's as if the economy was getting up off the floor after being knocked down in 1973, only to be kicked before it could get back on its feet again. The impact of a third oil shock could be even grimmer.

But how likely are further energy problems? After all, impaired economic performance and decay need not be the only responses to the oil shortages. Modern economies, unlike those of traditional agricultural societies, are not static. And in the nine years since the first oil crisis, a promising process of adjustment has been taking place in our economy. Adjustment, a reorientation of key patterns of energy consumption and production in response to the new realities of the world oil market, is a requirement for a stable economy and sustained economic growth.

Three major sources of oil outside OPEC—the North Sea, the North Slope of Alaska and a new oil province in Mexico—became available in the second half of the 1970's, adding about six million barrels a day to world supplies by 1981.

A good deal of switching to other fuels has also occurred. There is now a greater reliance on nuclear power, particularly in France, but the most important switch has been back to coal. International coal trade increased by 30 percent between 1978 and 1981.

By far the most important and powerful form of adjustment, however, has been in conservation. Until the late 1970's, the conventional wisdom had it that economic growth and growth in energy consumption had to march in lockstep. It has now been proved otherwise. In the United States, it currently takes 18 percent less energy to generate every unit of GNP than it did in 1973.

But there are two other factors that greatly complicate the picture. One involves oil inventories. In 1979, and 1980, as a hedge against even higher prices and a much larger interruption of supply, oil companies built up greater inventories than had been customary. Today, in response to high interest rates, pressure on profits and changed perceptions of the world market, these companies are, to varying degrees, running down those inventories. This inventory depletion has greatly accentuated the apparent drop in demand: Instead of importing oil, American oil companies have been using up their supplies.

The second factor is the deep recession. The link between energy consumption and economic activity has been loosened, but not broken. An economic downturn still leads to less energy consumption. Thus, the drop in oil use cannot be entirely attributed to the adjustment. Ulf Lantzke, the executive director of the International Energy Agency, has expressed the matter succinctly: "There still is an oil gap; only now it is expressed in the number of unemployed."

Looking at the pattern of the last decade, a somewhat pessimistic scenario for our energy future in the rest of the century begins to emerge. It is based on the strong possibility that there will be upheavals in the Middle East or a change in outlook by the ruling elite in Saudi Arabia and the already obvious difficulties in finding new supplies and raising capital for new energy projects.

In addition, there is the critical question of whether the United States can halt the decline in its oil production that began in 1970. In its last published World Energy Outlook, Exxon suggested that American oil production—today at 10.2 million barrels a day—might drop to 7.5 million barrels a day by the year 2000—and a lot of that production would have to come from oil reserves that have not yet been discovered. Others predict it might drop even lower. Such a fall in American oil production would cancel out the gains from a more fuel-efficient automobile fleet.

What about oil elsewhere? With the possible exception of reserves currently being explored off the east coast of Canada (which will be hard to recover) and despite the incentive of much higher prices, no discoveries comparable to Mexico, the North Sea and Alaska have been made since the middle 1970's.

Moreover, a number of important OPEC countries—Algeria, Libya, Nigeria, Indonesia—appear to be headed downward in their production capacity. They may not be significant oil producers at the end of the decade, leading to even greater reliance on the unstable Persian Gulf region for oil supplies.

Revolutions, terrorism, coups, social upheavals, regional conflicts, Soviet expansionism—all threaten to disrupt oil supplies from that region in the years ahead. Such disruptions or "political accidents" create the conditions for a third oil shock.

But accidents alone will not do it. The more likely flash point occurs when they interact with a market in which demand is rising—as was discovered in 1973 and 1979. Thus, ironically, the world enters the danger zone when economic activity is on an upswing.

Should all these eventualities come to pass, the price of oil could double yet again—to more than $70 a barrel.

A doubling of current prices would mean a jump in the OPEC tax of $80 billion a year—and another round of high inflation and economic slump. But it would hit a system already considerably weakened by the incomplete recovery from the earlier shocks.

The initial effect would be a sharp acceleration of inflation. This would be followed by a severe recession—both because of the sudden increase in the OPEC tax and because of the deflationary steps taken by the Government to reduce inflation. Unemployment would rise, and businesses would fall.

One immediate response might be more direct state intervention in the economy—direct bailouts for companies and sectors hardest hit: the Chrysler route. The hard-won compromises over energy prices might collapse, as various groups in society seek shelter from the rigors of the world oil market. On the other hand, the upward ratcheting of prices would have very painful short-term effects on the society, intensifying regional and social conflicts. There would be a search for "miracle" solutions and certainly a great effort to find a villain—oil companies, environmentalists or the Federal Government.

The consequences of the next oil shock would take a heavy toll in lost economic growth. In the years after World War II, growth provided the means to avoid the kind of grave crises that afflicted industrial societies in the 1920's and 30's.

Without that growth dividend, America becomes a "zero-sum society," in which the main tasks of the political system becomes, as the economist Lester C. Thurow puts it, "loss allocation." The recent budget fight was a battle over who loses how much. And in the economic slump that would follow the next oil shock, the battle would be much more painful, intensifying social conflict as energy became an engine of "ungrowth." Protectioist impulses would alsk mount temporarily insulating some industries from the pressures of the world market, but also penalizing consumers retarding adjustment undermining critical Western-alliance relations and lowering overall incomes.

Reduced expectatiions would take a heavy toll in terms of increased discontent and a loss of confidence in the future, which would undermine the economic and politcal foundations of society and increase social and racial tensions. Certainly, bitterness, suspicion and a sense of betrayal would be rife

In such circumstances, the basic legitimacy of our political system might be called into question, leaving the country vulnerable to demagogues who would offer firm authoritarian solutions.

There is a natural enough tendency to assume that such things simply cannot happen in the United States. Our political system has demonstrated a remarkable durability. But Franklin D. Roosevelt, who led the country through a protracted economic crisis, had his doubts. "When I became President in 1932," he once said, "it looked as if any extremist groups could gain tremendous following among the underprivileged and unemployed. Who knows? The United States might have had a dictator if the New Deal hadn't come along with a sensible program."

My aim here is not to be apocalyptic, but rather to emphasize the seriousness of the challenge posed by energy—a challenge that could indeed lead to a crisis of the same magnitude as the Great Depression.

This is what the energy problem is really about.

It is only prudent to consider such a scenario. But it is not inevitable, if we succeed in maintaining the momentum of adjustment. That is why we may now be in a time of decision.

There is an inherent contradiction between the short-term horizons of our political and business calendars—the next election and the next quarter—and the longer-term requirements of the adjustment process.

Nevertheless, what we need is a coherent response. It makes little sense to focus on just one aspect, as the Reagan Administration is doing by putting great emphasis on developing a military-deterent capability for the Persian Gulf, while assuming that

America's domestic energy problems are over.

Other countries are proceeding in a more rational fashion. Indeed, the country that has adjusted the most is Japan, which began from the most energy-spare base. In 1973, Japan used 57 percent as much energy for every unit of G.N.P. as the United States. By 1980, it used only 43 percent.

A basic consensus emerged in Japan in 1973 about the nature of the problem and what to do: It was dangerously dependent on imported oil; the rising costs threatened the balance of payments and were a major burden on the nation. Efficiency and fuel-switching had to be pushed; the economy had to be reoriented. There was a general agreement that Japan had to meet the long-term energy challenge in order to maintain its competitiveness in the world market.

Japan's response contrasts sharply with that of the United States, where a new energy policy seems to be announced every two years, and where there has been protracted debate as to whether there is a problem at all, let alone what it is and what to do about it. In Japan, the tradition is one of constraint. In America, the tradition is one of abundance. Rightly so. After all, the United States is also a significant oil producer: As late as 1952, it produced half the world's oil. But in the next two decades, we became the world's largest importer of oil. And we have little experience at being such a major consumer in a world market.

In the aftermath of the second oil shock, a consensus did start to emerge in the United States: In response to the events in the Middle East, the public began to accept the reality of the energy problem. But those ample supplies in the world oil market during the last two years caused the consensus to break down, gave rise to a "glut" psychology and led people once again —as they did in 1977 and 1978—to dismiss the problem as a thing of the past.

Unfortunately, it is also a problem of the future. The challenge is inescapable.

The last several years have demonstrated to liberals and conservatives alike the vitality of the market in responding to the swift change in the energy situation. Government has an important role in helping to correct the failures and imperfections of the market, to smooth out the instability that arises from fluctuations in oil prices and to bridge the gap between the short-term horizons of the private firm or individual and the longer-term horizen of the nation.

A reaskonabe program would channel capital and provide measured incentives to encourage alternative energy sources and conservation. It would stimulate innovative community-based programs and be responsive to the special needs of poor. It would support a broad energy research and development effort. The current Administration claims that research and development is part of its energy budget, but it has sought an energy budget that would strangle most such programs—with the exception of nuclear power.

There is a great deal of ignorance in the United States about energy efficiency, and information and education programs, gutted by the Reagan Administration, need to be revived. The Government must provide assistance for synthetic-fuel development—not of the magnitude of the $88 billion superplan that the Carter Administration sought, but on a more moderate scale.

Finally, emergency-preparedness measures must be developed. Fire-escape routes in skyscrapers are worked out in advance to avoid panic during an actual fire. Responses to oil emergencies need to be demarcated in advance for the same reasons. At present, such planning is incomplete. The Reagan Administration, to its credit, continued the filling of the Strategic Petroleum Reserve begun under Carter, and it has now reached 265 million barrels—perhaps a third of what it should be. Current storage limitations are slowing and may even halt further filling. Otherwise, there has been little preparation.

In particular, the country needs to develop a plan for stockpile and inventory management, an emergency gas tax plan to lower demand and a program of fuel switching in an emergency. The episodes of panic in 1973 and 1979 proved very costly. A glut can turn to a shortfall on little more than an assassin's bullet, and the orderly and reasonable functioning of markets can be brutally overwhelmed by an upheaval and the sudden panic of the unprepared.

Much change, some of it very damaging and impoverishing, has been compressed into a few short years. We now need time to permit the flowering of innovation and technology that will allow the 21st century to look back on these years as a trying interlude, but one safely managed. This is a reasonable and prudent goal. But to achieve it, we must cope wisely and realistically with the pervasive global insecurity that has been caused by earthquakes in the prices, the availability and reliability of world energy supplies. The terrain—political, economic and physical—makes further earthquakes very likely.

RECOGNITION OF SENATOR STENNIS

The PRESIDING OFFICER. Under the previous order, the Senator from Mississippi (Mr. STENNIS) is recognized for not to exceed 15 minutes.

BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

Mr. STENNIS. Mr. President, in view of the importance of this matter, ordinarily I would be tempted to ask for a quorum call to get more Members to the floor. We could then have a better chance to exchange views and discuss some of the major considerations that are applicable to Senate Joint Resolution 58. However, I know Senators are engaged in committee meetings and in discharging other duties. This is a matter that is going to be before the Senate for some time. It will be debated extensively, as it should be. I hope that all Senators will express their views on this resolution and will give any suggestions they may have that might improve it or make it more effective.

Mr. President, the proposal to adopt a constitutional amendment requiring a balanced budget is not a new subject. It is an old subject. It is not a new subject with me. I was concerned about it when I studied the Constitution in law school. I have been more particularly concerned about in the last 10 years when our fiscal affairs spun out of control. One of the causes of this was the passage of laws which were indexed, for example, to the cost of living. These greatly increased the deficits without any action by the Congress because they were already on the books and resulted in automatic increases in expenditures.

Anyway, this is a matter which has greatly concerned me for many years. As early as 1976, I advocated very strongly the adoption of a constitutional amendment requiring a balanced budget. Since then I have sponsored several other proposed amendments and have spoken many times on the Senate floor and elsewhere trying to get some progress in this field. In the past 2½ years particularly, as a result of digging deeper into the basic reasons and causes of our problems, and the conditions that have caused these large deficits, I have become convinced that the passage of a constitutional amendment is not just a matter of good government but is an absolute necessity for the preservation of our present system of government by representatives chosen directly by the people.

I believe that we will be under increased pressure from special interest groups in the future to overspend and run up additional deficits. I also believe that without the restriction and restraint of a constitutional amendment this demand will literally shake the foundations of our system of government.

Mr. President, there is now no effective law putting limitations on the Congress as to how much money it will appropriate. The sky is the limit. There is no effective restriction. The Congress is the sole judge subject, of course, the President's veto power. Even then the Congress can come back and by a two-thirds majority override the veto and appropriate the money anyway. It is a legal appropriation, and the taxpayers, the people, are bound by the action of Congress in that field unless and until some later Congress changes it.

We have handled our fiscal affairs well for most of the past 200 years, but the pressures on the membership of this body and the House of Representatives are now so great and growing that we are going to have to move in and put some restriction on the power to expend the taxpayer's money. This is not to protect the membership—I am not thinking about that—but it is a matter of protecting the taxpayers; it is a matter of protecting those who have to produce the revenue to pay the bills.

It is a matter of protecting the soundness of the American dollar, the soundness of our fiscal affairs. Those matters must be protected by all means.

Heretofore we have been able to do that. During the recess I spoke at sev-

eral Fourth of July celebrations, I asserted with pride—and the people responded to it, you could see the expression on their faces—that in our more than 200 years as a nation we have never defaulted in the payment of a legal obligation of the United States, not even for as much, I am told, as 1 hour. The legal obligations of this Nation have always been met no matter what conditions existed.

Our system of self-government has stumbled at times but has always come through. I have faith in that system. However, we have to make adjustments as we go along, and one thing we must do now is to insure the continuity of the faith and confidence that the people have in the obligations of the Government and the American dollar. To insure this we are going to have to put an effective restriction on the power of Congress to make appropriations.

What are some of the facts? Here are some that convinced me. According to the best calculations we can get we have in round numbers 66 to 68 million American citizens who are receiving a check of one kind or another from the Federal Treasury every month. There is no exact figure on this. There are a lot of duplications, but it is the best that could be worked out by those who are knowledgeable in this field. The total is somewhere in the neighborhood of 66 to 70 million. That means that more than a fourth and almost a third of the population of the country are now receiving Federal payments.

I do not think that condition, left alone, will get better. In the ups and downs of time it will probably get worse as more problems arise. This will put our financial affairs in a worsened condition. It will leave the Congress—and I am not trying to protect the Congress as individuals—it will leave the congressional branch of the Government in a more hazardous position and subject to greater pressure that will increase as time goes by.

So that is a powerful fact with me. It is not an argument but it is a fact of life. Those figures are correct or are at least in the neighborhood.

Another thing that convinced me was that a few months ago I was told that for each 1 percent increase in unemployment it costs the Federal Treasury $25 billion to $27 billion. This includes the decrease in the payment of taxes by those who became unemployed, and the increase in expenditures for unemployment compensation and welfare.

I was afraid to use those figures, but I got up nerve enough to use them in a public speech, and there was not any reaction. Two nights later the President of the United States used the same figures. So I just quit saying that those were facts, and just quoted the President. That made it more forceful. He was bound to have reached that conclusion based on the expert information he had. After all our debate and excruciating votes, in 1981 in an effort to reduce the budget deficit, the deficit was increased by $25 billion to $27 billion for every 1 percent increase in unemployment. These are hard facts.

It just shows how close we are to the borderline, and it convinces me, along with other facts, that we are going to have to seriously consider this matter and approve a strong, meaningful constitutional amendment and send it to the States, and try to convince them to ratify it. I believe it is protection for the system as a whole and that is the only reason I am supporting it.

You can point to various matters that cause this and cause that, but we are up agaijst the propksitikn that we must dk somethijg that wihh have a hkjg)range iipact to cure the situatikj we are ij rehative tk kur fiscah affairs* We pkssibhy caj fijd kther remedies ajd shkuhd try hard tk get iiiediate hegishatikj tk ieet the current situatikj* But uhthiatehy we are gkijg tk have tk face the facts ajd dk skiethijg tk get effective ckntrkh jj a perianent basis kver kur fiscah affairs* That is why I favkr this ckjstitutikjah aiejdmejt*

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The eliminatioj of deficits canjot be done overnight. We can make adjustments, make reductions, but we are not going to eliminate the deficits and balance the budget until we adopt a mandatory constitutional amendment. Even then it will take several years to get our financial and fiscal affairs under control.

But we can get out of this debacle. I am telling the people of Mississippi that we can. I believe we can. With equal force, I say there will be a temporary situation to get out on sounder ground. However, we must go back here and change the foundations of the system itself. Then we can build.

Mr. President, this is an old subject to me. I have outlined here some rather harsh facts that are realities. There is abundant faith in my mind and thinking about our ability to pull ourselves out of this situation. I am equally confident that without a balanced budget constitutional amendment we will slip back in in some few years to come. The time is here already when we can mend the fences and re-lay the foundation without intruding on anyone, big or little, old or young, ill or well, and without destroying any needed system. We can gradually lay the foundation here and then make adjustments on it.

Let me emphasize that I do not advocate this as a remedy for the situation we are now in with reference to our fiscal affairs. I do not advocate this for the protection of the membership of the Senate or the House of Representatives, not in the least. I am pleading and really begging for serious consideration of a major and radical adjustment of our fiscal affairs, and changing the system so that the Congress can use the great power it has to make choices, allot the money as it sees fit, set the priorities, make judgments as how the available funds should be spent. At the same time we would have a caution and a warning, well spelled out which would be a constant reminder that we could not go beyond a certain limit.

Now someone will say in debate that this will be a very difficult matter to draft and agree upon. The pending resolution would not go to the extreme. I know, on the practical side, that to pass something here we have to have give and take and compromise here and there. I highly commend the committee for having gotten together on the resolution which a majority of them support. To have gotten that far is a long step in the direction that I have advocated. With all deference, though, there is a flow in the resolution by providing that it can be overridden by a three-fifths vote. That is not a very difficult procedure, Mr. President. It is not hard to get.

We have written in our constitution in Mississippi that all revenue measures require a three-fifths vote before they become law. That is the only way to increase taxes in Mississippi. We have dealt with that. This three-fifths requirement has been in our constitution for decades. To pass an increase in the gasoline tax of one-half of 1 cent requires a three-fifths vote; so does an ad valorem tax increase or any other kind of tax increase.

So the three-fifths clause, even though it has some value, is not a remedy. It is a step in the right direction. And that is why I think we have to bite the bullet and write a requirement that goes further and really moves in and limits the power of the Congress to appropriate money.

The fact that budget deficits have soared over the past 3 years despite strenuous and unprecedented efforts by the Congress to get them under control has convinced me that the adoption of a balanced budget constitutional amendment is more than ever an absolute must. This Nation has faced many problems, trials, and crises since I have been in the Senate. Few, if any, have been more serious or dangerous than the fiscal and financial crises now confronting us.

I believe that the best hope for a solution to Federal fiscal problems is a constitutional amendment that will establish definite and effective limits and restrictions on the amounts which Congress can appropriate. Even after the adoption of such an amendment it will take several years for it to be fully operative and effective. In addition, any balanced budget constitutional amendment must contain escape provisions which will permit deficit financing in times of war or other clear national emergencies.

We now have a national debt of more than $1 trillion, and annual interest payments on this debt are around $115 billion. These and other facts make it clear that it is impossible for us to delay action any longer.

The adoption of a balanced budget constitutional amendment will be an unprecedented—even a drastic—step. It will mark the beginning of a new era in our Government and financial history. However, I do not see any other possible approach that will get our financial house in order and keep it in order after we have obtained a balance between income and outgo.

Let me recite a few facts. In 1961 the entire Federal expenditures were about $98 billion. In fiscal year 1983 the budget deficit alone is now projected to be $104 billion—$6 billion higher than all expenditures for fiscal year 1961.

We have been able to produce only one balanced budget in the last 22 years. That was in fiscal year 1969 and it was the product of a one-time change in accounting procedures.

The budgetary increases over the years are highlighted by the fact that in the 28-year period from fiscal year 1954 through fiscal year 1982 appropriations for the purposes of health, education, and welfare increased from $1.7 billion to $75 billion. During the same period defense expenditures increased from $34 billion to $218 billion.

The fragility of our fiscal structure and its susceptibility to outside events are evidenced by the fact that each increase of one percentage point in the unemployment rates costs the Government on the average of $25 billion to $29 billion annually as a result of reduced tax receipts and increased expenditures for unemployment compensation, welfare and other benefits. Last month, with about 10 million people unemployed, the unemployment rate was 9.5 percent. This was up from 7.4 percent a year earlier. It is probable that unemployment will rise even higher.

As things are today, the Congress has unlimited power to appropriate annually huge sums of money in excess of the estimated income for that year. It also has considerable pressures on it and political incentives to do just this. Deficits are almost inevitable in this situation. The time has come for the people to place limits on the uncontrolled power of the Congress to appropriate funds in almost unlimited amounts and thus create huge deficits year after year.

Let me make it clear that a balanced budget constitutional amendment is not a solution to the current financial problems we face. These must be solved by reducing and ultimately eliminating the huge deficits now confronting us. The constraints of a constitutional amendment will take effect over a period of years. We must work out of our present tight fiscal situation, but, even if we do, we can be sure that we will be faced with the same problem in a few years unless a constitutional amendment requiring a balanced budget is adopted.

This is a problem of the people. Therefore all of the people of the country, particularly those who pay the taxes, should work for and insist upon the adoption of such a constitutional amendment.

I hope to discuss this matter at greater lengths in further parts of this debate. I hope the leadership will allot the time. There is nothing more important on our entire docket this year, I think, than this subject matter. It ought to be thoroughly understood before there is a vote on it.

Mr. President, I yield the floor.

Mr. THURMOND. Will the Senator yield?

Mr. STENNIS. I am glad to yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I commend the able and distinguished Senator from Mississippi for the outstanding remarks he has made here on this constitutional amendment to balance the budget.

I think it is very noteworthy that the senior Senator in this body, one who has been here longer than any other Senator, comes out strongly for this constitutional amendment to balance the budget. I am sure that his statement here will have an influence on others. It is hoped that we can proceed promptly with action on this matter and we can soon send it to the House and that the House will adopt it and then give the people the protection it provides.

As I have said before, the Congress has not shown the restraint to keep the spending within the revenues. This constitutional amendment will compel that. It will mandate that. I am very pleased that the Senator stated such a strong position on this matter.

Mr. STENNIS. I thank the Senator very much. He and I have worked together on this matter before in one form or another. I have been very pleased with his highly effective work, as chairman of the Judiciary Committee that handles this and other important legislation, that he does in the committee so skillfully and helpfully. I know his committee has rendered a great service here in bringing out a measure that we can debate and perhaps pass. I will tell you, I found much more support, as I gage it, for this amendment than there has been at any other time when similar proposals were brought up.

I think there is a new in-depth realization and we have to do something. I thank the Senator for his kind words.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

Mr. NUNN. Mr. President, before I begin on the subject of habeas corpus and criminal reform, I want to add my comments to those of the Senator from South Carolina in commenting the Senator from Mississippi for his excellent statement. I think he put in a very fine historical perspective the need for a constitutional amendment that would require a balanced budget. I join him in those thoughts. I join him in this proposal for a constitutional amendment, which is about to be addressed by the Senate.

I also concur in the statement made by the Senator from South Carolina that having a Senator with the experience, knowledge, prestige, and wisdom of the Senator from Mississippi to come out four square for a constitutional approach to this very serious and longstanding fiscal problem is very noteworthy.

So I join in the remarks of the Senator from Mississippi. I share in those sentiments and I congratulate him on an excellent statement.

Mr. STENNIS. I thank the Senator very much.

Mr. THURMOND. Will the Senator yield?

Mr. NUNN. I am happy to yield.

Mr. THURMOND. Mr. President, I commend the distinguished Senator from Georgia for his stand in this matter, coming out for this constitutional amendment for keeping spending within revenues. The Senator from Georgia since he came to the Senate, has taken a strong stand for fiscal responsibility, and this action is characteristic of his fine behavior and contributions.

Mr. NUNN. I thank my friend from South Carolina. I congratulate him for his strong leadership in this regard. Not only in this matter but in the years in which I have served here, he has been an outstanding leader in advocating fiscal responsibility. I sincerely appreciate his remarks.

THE CRIME CONTROL ACT OF 1982 TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, I continue to stress and emphasize the importance of the Senate to act promptly on pending anticrime legislation before us. As Senator CHILES and I have consistently illustrated now for over a month, there is a great demand for reform in the laws concerning habeas corpus. As I pointed out yesterday, the Thurmond-Biden bill, S. 2572, fails to include this much needed reform in regards to our present legal attitude toward habeas corpus measures. Time and time again, criminal offenders have been extremely successful in using frivolous and repetitive petitions to delay the hand of justice at the expense of the American public. Today, more so than ever before, the courts are floodgated with cases of all kinds. In that context, trivial and ineffective petitions are just one more method by which our criminal justice system is continually discredited.

A typical and recurring problem is the refusal of the Federal courts to give sufficient and adequate weight to previous State court decisions. Take for example, McQueen against Swenson. McQueen was tried and convicted of second degree murder by a jury. He subsequently filed various challenges to his conviction including a collateral attack in the State trial court. The thrust of his challenge was whether he was afforded effective assistance of counsel. McQueen was given a full evidentiary hearing in the State court. He presented not only his testimony as to his lawyer's conduct throughout the course of the case, but in addition, presented the testimony of a cellmate.

The State countered the foregoing testimony by introducting the testimony of Hale Brown, McQueen's lawyer. Brown testified that he visited with McQueen some seven times while McQueen was in Hillsboro County jail and once or twice while at the county jail in St. Louis.

At conclusion of the State court hearing, the trial judge found no infirmity with Brown's conduct. As such, the court ruled that McQueen had not been denied effective assistance of counsel. Having the benefit of live testimony, the State court chose to believe Brown's testimony over that of McQueen's. After substantial testimony on the issue, it was also concluded that failure to interview the State's witnesses did not prevent McQueen from receiving a fair trial.

McQueen then filed a habeas corpus petition in Federal court again, alleging that he had been denied effective assistance of counsel. The Federal district court judge disposed of the petition without conducting a hearing, finding that the State court had conducted "a full and fair hearing." Thus, the Federal court had no valid reason to disturb the State court's factual findings.

The most disturbing problem highlighted by this case occurred at the Federal appellate level. The court of appeals for the eighth circuit reversed the district court's ruling. In doing so, the court held that the reported findings of the district court judge were not supported by the State court hearing, despite the absence of proof by McQueen that his hearing had been unfair or inadequate. On an issue of pure credibility of witnesses, the eighth circuit, without benefit of live testimony, rejected the State court finding and chose to believe McQueen rather than Brown.

The eighth circuit remanded the case to the district court for yet another evidentiary hearing on the matter, notwithstanding the fact that one hearing had already been afforded to McQueen on the same issue.

Mr. President, the urgent need for reform regarding habeas corpus is evident. S. 2543 would have assigned binding authority to those State court determinations of fact which were totally ignored by the eighth circuit's reversal in *McQueen*. Here again, the criiinal justice system is protecting a convicted criminal by providing him needless and undeserved access to the writ of habeas corpus, a measure too frequently used to floodgate and tie up our criminal justice system.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 30 minutes with statements therein limited to 5 minutes.

STEP UP IN MORE DEADLY AND HAIR TRIGGER NUCLEAR WEAPONS

Mr. PROXMIRE. Mr. President, this morning's New York Times carries an article describing in detail the implications in the nuclear arms race of our development of the Trident II, a submarine launched missile which will dramatically increase naval destructive power. This article adds to the evidence that even should the START negotiations between the United States and the U.S.S.R. now underway at Geneva attain full success with an agreement on both sides to reduce land-based nuclear launchers by a third, we would still have massive problems ahead. Continued buildup of weapons far more deadly and more accurate than ever before would intensify the nuclear arms race.

The article points out that whereas the Polaris missile will fire from nearly 3,000 miles and hit within 3,000 feet, the Trident II has a nearly 5,000-mile range and accuracy to within 400 feet. Mr. President, in the nuclear arms race, this greatly increased range and accuracy has great significance. Heretofore, the vulnerability of the land-based missile has been compensated for by their accuracy and range. But in Trident II we develop a weapon that combines the invulnerability of our quiet and highly mobile submarines with the range and accuracy of land-based missiles.

Some experts argue that this development will force the Soviets to put their land-based missiles on hair trigger alert and intensify the nuclear instability and the possibility of accidental war through computer error or human error.

This careful and competent analysis reinforces again the necessity of pressing hard for a more comprehensive nuclear arms limitation and reduction agreement between this country and the U.S.S.R.

Mr. President, I ask unanimous consent that the article by Philip M. Boffey be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRIDENT'S TECHNOLOGY MAY MAKE IT A POTENT RIVAL TO LAND-BASED MISSILES

(By Philip M. Boffey)

As public attention focuses on such land-based missiles as the MX and the Pershing 2, the United States Navy is accelerating development of a submarine-launched ballistic missile expected to dramatically increase naval destructive power.

The missile, known as Trident 2, is intended to give the Navy's missile submarines a potency comparable to virtually any land-based weapons system. It also may complicate efforts to bring the arms race under control.

"Trident 2 will be the most destabilizing first-strike weapon ever built," Representative Thomas J. Downey, a member of the House Budget Committee study group on defense, asserted early this year. The Suffolk Democrat's opinion is shared by some, but by no means all, arms controllers.

The new missile will be designed to have the greatest accuracy and largest nuclear payload of any undersea missile in the United States arsenal, and possibly the longest range. If the Trident 2 performs as expected, it will give American missile submarines for the first time the ability to destroy virtually any target in the Soviet Union, even missile silos built to withstand nuclear attack.

These characteristics will result from the advance of technology in virtually all aspects of the Trident system, from submarine navigation and the performance of the submarine's firing control system to the stability of the missile in flight and its warheads in descent.

The first submarine-launched ballistic missile, the Polaris, carried a single warhead. It could hit targets 1,200 nautical miles away within a probable error of a mile or two. There has been constant improvement in the missile's range, payload and accuracy, according to unofficial estimates in this highly classified field.

In time, the Polaris was upgraded to carry three warheads 2,500 nautical miles with a probable error of about 3,000 feet. Its successor, the Poseidon, which is still in use, has the same range but is more potent, being able to drop 10 warheads within 1,800 feet of their targets.

And the most advanced missile in the Navy's arsenal, the Trident 1, has even better accuracy at the far greater range of 4,000 nautical miles. Accuracy is considered the most important factor in a warhead's ability to destroy a target; payload is a close second.

Perhaps the chief advance leading to the increase in accuracy thus far has been a marked improvement in the submarine's navigational system. To hit a target in the Soviet Union, for example, it is necessary to know a missile's precise location at the time of firing, the precise location of the target and factors affecting the missile's precise location at the time of firing, the precise location of the target and factors affecting the missile's flight between the two. These factors can be calculated with considerable accuracy for a missile fired from a fixed land silo. But for submarines that are moving under water for extended periods, with little opportunity to take a navigational "fix," the point of firing is less certain.

That uncertainty has been steadily reduced through improvements in submarine inertial navigation system, an array of gyroscopes, accelerometers and computers used to calculate the ship's position based on its direction and speed of movement after submerging. One such advance is an electrostatically supported gyro monitor, which provides virtually frictionless support to a rapidly spinning rotor used to measure the ship's movement.

These shipboard improvements have been matched by a greater accuracy in navigational aids, or signals from shore-based radio transmitters and satellites circling above, which allow submarines to obtain accurate fixes on their position. As knowledge of the size, shape and gravitational field of the earth has increased, for example, the orbits of satellites can be more closely calculated, thus increasing the accuracy of navigational fixes based on the satellites as reference points.

Ideally, a submarine would prefer not to take fixes in the normal manner, because to do so it must raise an antenna close to or above the surface. The navigational improvements have lengthened to several weeks the time a submarine can stay submerged withour external fixes.

Scientists are working on underwater sound systems that would enable a submarine to recognize underwater topographic features and on instruments that would measure gravitational effects on shipboard navigational instruments, conceivably freeing the ship from external navigational aids.

There have also been improvements in the submarine's firing control system, which recomputes the path to the target every few seconds and in missile guidance and stability. The Trident 1, for example has an aerospike that may be extended from its nose after launch and reduces aerodynamic drag. And it is the first Navy missile with a stellar guidance system, which takes a star sight immediately after launching and corrects the flight path of the missile accordingly.

Even so, none of the submarine-launched missiles in use, including Trident 1, has the necessary combination of accuracy and payload to destroy targets hardened with steel and concrete, such as missile silos and command centers. The existing missiles are generally thought potent enough to destroy cities and other "soft" targets, such as military airfields, but not to threaten the Soviet Union's primary strategic force, its land-based intercontinental missiles.

But now the development program for Trident 2 is expected to produce the first naval weapon that can, in fact, destroy hardened targets. This will be accomplished chiefly by improving still further the accuracy of the missiles. One approach, considered the least likely by the Navy, would rely on satellite signals to provide mid-course corrections or on a terminal guidance system to provide last-minute aim to the warheads, thus overcoming any errors in navigation or firing control. The more likely approach will be to improve still further the inertial guidance system.

The expected potency of Trident 2 evokes a mixed response from experts concerned with arms issues.

Military leaders welcome the added punch of the Trident 2 because they believe the Soviet Union is forging ahead in strategic weapons. If the Soviet Union some day launches a surprise attack on American land-based missiles, they say, the United States needs the ability to retaliate with a submarine-launched strike against Soviet command centers and other hardened targets.

However, many interested in the field of arms control fear that Trident 2 will increase the likelihood of nuclear war. They say that the missile might be perceived by the Russians as a first-strike weapons, one capable of destroying their missiles in a surprise attack. This is particularly so since Trident 2 could be fired from submarines near the Soviet coast, giving far less warning time than the flight of intercontinental missiles launched from the United States.

"Trident 2 is a serious arms control problem—I think it's basically a mistake," said Herbert Scoville, Jr., president of the Arms Control Association and a former deputy director of the Central Intelligence Agency.

A GOOD DETERRENT WEAPON

Mr. Scoville says he considers Trident 1 "a good deterrent weapon" but that Trident 2 "a step backward" because it would give Soviet leaders a strong incentive to put their missiles on hair-trigger alert. Such an anticipatory action would increase the possibility of accidental war through computer of human error. "I'm in favor of submarines," Mr. Scoville said, "but not of first-strike submarines."

That opinion is not shared by all arms controllers and military analysts. Some believe Trident 2 will cause only slight instability between the superpowers. They consider it preferable to land-based missiles, which are easier to target and thus might invite a pre-emptive Soviet attack. Submarines, moreover, are much easier to count and verify for arms control purposes than mobile land-based systems.

In an article for publication in the July-August issue of Survival, a publication of the International Institute for Strategic Studies in London, Joel S. Wit, a defense consultant in Washington, calls Trident 2 an "attractive strategic option" that could be "more attractive" from an arms control standpoint than its competitors. He acknowledges that the Soviet Union might be driven to a dangerous launch-on-warning policy, but says the role of Trident 2 in causing this "should not be overemphasized." The Russians are also being driven in that direction by the MX, Pershing 2 and cruise missiles, he asserts.

THE WHITEWASHING OF GENOCIDE AND THE DISTORTION OF TRUTH

Mr. PROXMIRE. Mr. President, I recently received a copy of the newsletter of the Institute for Historical Review. In their June issue, the editors credit me for "immortalizing" their group in the CONGRESSIONAL RECORD in my speech on May 10. They quote my characterization of their institute:

> An organization whose purpose is to promote the notion that the Holocaust was the hoax of the 20th century. Its quarterly journal tries to convince readers that the Nazis did not systematically exterminate 6 million Jews; the poison gas used only to kill lice, not people; Anne Frank's diary was a fraud; and that Adolf Eichmann's trail was a frameup.

Then they thank me for giving such a well-put and truthful description of their activities.

Well, they may be flattered by my depiction of their institute, but I am not pleased by their gratitude. They smugly take pride in an endeavor that should induce shame. They write as if I had honored them, but they neglect to mention that I condemned them for their gross distortions of the historical facts.

As is my habit, I have tried to present an accurate picture of reality, and so the Institute for Historical Review congratulates me for summarizing their opinions so well. And as is their habit, these people have distorted the truth, for they infer praise where censure was intended. For those readers who may have been misled by the newsletter, let me emphasize that I do not support the Institute of its characterization of the Holocaust as mythical. It is ironic that a group that purports to pursue historical truth would portray criticism as commendation.

In that very issue, they spew more of the same detestable misinformation. They insist that "the Jews were not the victims of any genocide. There was no genocide against the Jews." They mock the Holocaust as "a historical shell that has been stuffed by the Zionist opinion-molders with lies, a little truth, and more lies" and as "canonized official history" that "has been pounded into the head of every willing dupe who could be reached and ensnared." Aside from displaying complete disregard for the evidence, this newsletter serves as a grim reminder that prejudice can easily find unwitting accomplices among those who twist history. What could better demonstrate that genocide is easily put out of mind, and that bigotry always stands ready to rise again?

Mr. President, the threat of genocide hangs over too many of the world's

people. I urge the Senate to send a resounding message to all: the United States of America regards genocide as an international crime and vows to seek punishment of those who are guilty of genocide. It is imperative that we ratify the Genocide Convention at the earliest opportunity.

A UNITED STATES-SOVIET GRAIN AGREEMENT

Mr. PRESSLER. Mr. President, yesterday, Secretary of Agriculture Block met with President Reagan on the issue of a new long-term grain agreement with the Soviet Union. I am a very strong advocate of our entering into a long-term grain agreement with the Soviets. In fact, I have suggested that we enter into an agreement at the level of 15 million metric tons per year.

Recently, I visited the Soviet Union and met with over 25 Soviet argriculture and trade officials. The Soviets are prepared to pay cash. They are not seeking long-term credit arrangements. They only want a reliable source of grain and a long-term grain agreement at 15 million metric tons would do that.

Mr. President, some people might say, about the American consumer? What happens to domestic food prices when we increase farm exports? A historical anahysis indicates that it has very hittle impact on food prices. For example, during the seventies agricultural exports increased from $7 to $40 billion while the percentage of the retail price that went to the farmer remained constant.

However, in general the consumer does benefit from farm exports because of its positive factor on our balance of trade. Our farm exports pay for one-third of our oil imports.

The impact on domestic food prices is also reduced by the grain surplus we have. In fact, we have more grain in storage presently in the United States than the Soviet Union grows in a year. The U.S. Government currently owns an estimated 800 million tons of surplus grain and it costs the Government an average of 31 cents per bushell to store this grain. If we do not reach a long-term grain agreement with the Soviets—and our present agreement runs out September 30—American taxpayers will continue paying to store the surplus grain, so the consumers will be far better off if the sale is made.

It is my strongest belief that if we do renew a long-term grain agreement with the Soviet Union, farm prices will be as much as 20 percent higher, and this is backed up by what has happened in the past when we have had grain sales to the Soviet Union.

The addition of George Shultz may aid Secretary Block in his efforts.

If we look at agricultural history and the history of consumer food prices, we will find that they were not adversely affected by grain sales but that our agricultural sector was assisted and our entire economy benefited.

Finally, what is the American public's interest in a long-term grain agreement? We must import oil and other items as a result. We have a balance-of-trade problem. We depend on exporting grain to get foreign currency to pay for these imports. In 1981 we exported $43.3 billion in agricultural exports which resulted in a $26.6 billion agricultural trade surplus. A lot of times we talk about exports and imports without much analysis, but the fact is that we have to sell something abroad in order to get foreign exchange to buy the things that we need in the international markets. Grain is one of the things we can sell to get foreign currency.

It is critical that we enter into a long-term grain agreement with the Soviet Union. The present agreement runs out September 30. I understand the White House will make a decision whether or not to begin negotiations on a long-term grain agreement in the next 10 to 15 days. President Reagan could make history by entering into a grain agreement of at least 15 million metric tons per year with the Soviets. The Soviets have bought as much as 22 million metric tons and have purchased 15 million metric tons this year already. Their crop looks very poor again this year so we should try and sell as much grain as possible. A 15-million-metric-ton minimum would be a good basis to start at.

Our past embargoes have not altered Soviet behavior in either Afghanistan or Poland or any place else, and unless we are going to have a total embargo we should enter into a long-term grain agreement.

Mr. President, I ask unanimous consent to have printed in the RECORD my recent letter to President Reagan and some additional materials regarding the long-term grain agreement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C., July 12, 1982.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As I stated in my earlier letter, the United States would greatly benefit from an extension of our current long-term grain agreement or negotiations of a new agreement. A long-term grain agreement with the Soviet Union would help to increase and stabilize farm prices, which would reduce government expenditures on farm programs. Also, the entire economy would benefit from increased agricultural exports which could be achieved by a long-term grain agreement. For your information, I am enclosing a brief summary of the advantages of a long-term grain agreement.

The Soviets have expressed a desire to extend our present long-term grain agreement and negotiation of increasd minimum grain purchase levels in the agreement. Many U.S. farm organizations, agricultural cooperatives and commodity groups support extension or negotiation of a new long-term grain agreement. With this kind of domestic support and the willingness of the Soviets to negotiate, it is important that we try to capture as much of the Soviet grain market as possible in a long-term grain agreement. I once again urge you to keep these factors in mind when you consider resuming negotiations with the Soviet Union on a long-term grain agreement. Attached are statements from the South Dakota Farmers Union, Farmland Industries and a Soviet trade official on a long-term grain agreement.

Thanks again for your consideration of this important matter.

Sincerely,

LARRY PRESSLER,
U. S. Senator.

ADVANTAGES OF A LONG-TERM AGREEMENT WITH THE SOVIET UNION

Assures the U.S. of a certain portion of the U.S.S.R. grain import market, but it does not limit U.S. farm exports. Increased farm exports are important to all sectors of the economy and to reducing the cost to the federal government of farm programs.

A long-term agreement would help to increase and stabilize the domestic farm prices. Currently, farm prices are depressed and farm income is at the lowest level since the 1930's.

If we do not extend our long-term agreement, other nations will secure our share of the Soviet market. Our share of the Soviet grain market fell from 75 percent to 23 percent after the 1980 grain embargo. Canada, Argentina and other nations have already signed long-term agreements with the Soviets and they are interested in increasing their sales levels in their long-term agreements. They are also increasing planted acres.

Soviet purchases of grain result in a net cash outflow and this reduces the dollars they have available for military construction.

Continued Soviet dependence on U.S. grain is an important political tool for the U.S. and a long-term agreement would help to continue this dependence.

SOUTH DAKOTA FARMERS UNION RESOLUTION

We, the members of the board of directors of the South Dakota Farmers Union, wish to commend U.S. Senator Larry Pressler for his efforts to enhance agricultural trade with the Soviet Union.

During his recent trip to the Soviet Union, Senator Pressler served as an able ambassador for the interests of American family farmers and ranchers. We join Senator Pressler in the belief that increased agricultural trade is in the best interests of both the Soviets and the American people.

FARMLAND INDUSTRIES, INC.,
Kansas City, Mo., June 23, 1982.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PRESSLER: As you know all too well, the Midwestern agricultural economy is in deep trouble. Most commodity prices are below cost of production. Interest rates remain high. Land values are slipping. Many farmers simply will not survive a con-

tinuation of present conditions when they must meet their bank indebtedness next winter.

We strongly believe that securing a long-term grain agreement with the U.S.S.R. would help improve the current price situation. The damage caused by the 1980 grain embargo has never been fully recovered. A new grain agreement would help restore stability to the market and strengthen prices, giving farmers an economic and psychological boost at a very critical time.

On behalf of the 500,000 farm families in the Farmland system, I have written President Reagan urging the Administration to immediately begin negotiations with the U.S.S.R. for a long-term agreement whereby we agree to supply and the Russians agree to purchase 20 to 25 million tons of United States grains per year over the next four years. I enclose a copy of my letter.

Should you be of the same view, anything you can do to encourage the Administration to proceed with these negotiations will be deeply appreciated by farmers among your constituency and the nation.

Sincerely,

JOHN F. ANDERSON,
President.

FARMLAND INDUSTRIES. INC.,
Kansas City, Mo., June 22, 1982.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Harvest of the 1982 wheat crop is well under way. Corn, milo, and soybeans will follow in a matter of months. Notwithstanding some very unusual and difficult weather conditions this spring and early summer, all evidence points to record or near-record harvests of these major food and feed crops.

Prices to the farmers are, with few exceptions, below break-even levels. More significant and, I might add, discouraging is the fact that there is presently little indication of price improvement. In short, this most basic of industries in the heartland of America is facing another very bleak year unless positive action is taken.

Mr. President, something can be done without crippling your efforts to bring government spending under control. The Administration needs to immediately begin negotiations with the U.S.S.R. for a long-term agreement whereby we agree to supply and the Russians agree to purchase 20 to 25 million tons of United States grains per year over the next 4 years.

For United States agriculture, and particularly for our basic grain producers, such an agreement would provide a greatly needed psychological and economic stimulus. It would provide the confidence and the stability that has been missing as a result of the 1980 embargo and subsequent actions or statements.

Time is of the essence. To be of benefit to hundreds of thousands of farmers who, because of the severe economic conditions, will be forced to sell their crop immediately at harvest, action on your part is needed now. The knowledge to buyers and sellers alike that, effective October 1, a new long-term agreement involving significant quantities of United States grain exports would be in effect, would have an immediate and beneficial impact for farmers.

Mr. President, the 500,000 farm families in 19 Midwest states, who through their local cooperatives own Farmland Industries, look forward to your early and favorable decision.

Sincerely,

JOHN F. ANDERSON,
President.

FROM THE SOVIET PERSPECTIVE

BROWN. In 1980, President Carter imposed trade sanctions against the Soviet Union which restricted the flow of agricultural products to your country. What impact did those sanctions have on current trade between the United States and the Soviet Union? How have President Reagan's policies affected this relationship?

KALASHNIKOV. American political leaders and businessmen who have had close links with the Soviet Union for many years are aware that economic embargos imposed by Western countries during the history of the USSR haven't worked and cannot work. It shouldn't be forgotten that the Soviet economy is one of the largest in the world. Some judge the Soviet economy mistakenly by some shortcomings which are multiplied for propaganda purposes.

Soviet foreign trade with Western industrialized countries comprises only one to one and a half percent of the gross national product. Thus the Soviet Union is practically invulnerable against any economic sanctions imposed by Western countries.

The American press has already reported losses to American farmers resulting from President Carter's embargo. Let's look at this problem from another angle.

The Soviet government is now in the process of implementing the Food Program adopted by the Communist Party's 26th Congress. Accomplishment of this program will likely influence Soviet activities on the world grain market. As a result, the USSR can reduce its future purchases abroad.

On the other hand, implementation of the Food Program doesn't narrow opportunities for future Soviet-American agricultural trade. Moreover, it creates new possibilities. Besides grain purchases, the Food Program can provide a real means for Soviet import of different agricultural products and cooperation in production of agricultural machinery.

As to the Soviet-American grain trade, when this trade was allowed to develop normally Soviet purchasers usually exceeded minimal levels. During the third year of the grain agreement, both sides achieved their largest success when total purchases reached 22 million tons. In 1980, when President Carter imposed sanctions, 14 million tons of grain were left at American elevators and the Soviet Union imported only eight million tons.

President Reagan's decision to lift the embargo allows an increase in Soviet purchases of American grain up to 9.5 million tons. Extension of the bilateral grain agreement resulted in further growth of Soviet imports. These figures speak for themselves as to how President Carter's embargo affected Soviet-American grain trade.

BROWN. There is currently a great deal of conjecture over the negotiation of a new, long-term grain trade agreement between the United States and the Soviet Union. Will the Soviet Union participate in a new five-year trade pact with the United States? Ideally, when should such negotiations take place?

KALASHNIKOV. The Soviet Union has always adhered to its commercial obligations in trade with foreign countries. The fact that the Soviet side met all of the requirements of the Soviet-American grain agreement can be given as a vivid example of that policy. This is the firm Soviet position in trade relations with foreign partners, including the United States, and we are not going to abandon it.

Soviet-American trade is influenced to a great extent by political problems in bilateral relations. But the Soviet and American sides have different views on trade between these two countries.

The current American administration tries to follow the so-called policy of linkage, using political instruments and imposing economic sanctions.

The Soviet side follows another course. We regard Soviet-American trade as an instrument to promote better understanding and cooperation between two countries and to ease political tension. Proceeding from this concept, the Soviet Union wouldn't like to decline totally the purchase of American grain. That's why the USSR doesn't withdraw from the American market despite the opportunity to limit its imports to the minimal levels provided by the grain agreement. This position should make American farmers confident in a reliable and stable Soviet market.

BROWN. If a new five-year grain trade agreement is negotiated between the United States and the Soviet Union, what changes in the agreement would your nation like to see implemented?

KALASHNIKOV. Specific answers to this question can be given when both parties concerned gather at the negotiating table and begin to discuss concrete problems. It's rather hard to discuss possible changes in the grain agreement, because it's not quite clear whether the opposite partner is going to conclude a new agreement at all.

After the Soviet-U.S. grain agreement was signed six years ago, the U.S. concluded grain agreements with other countries. And from the Soviet point of view, these agreements provide more favorable opportunities for both sides than in the Soviet-American grain agreement. In the American grain agreement the Soviets are required to buy six or eight million tons of American grain. But there are no such requirements on the American side to sell grain. So both sides are not on equal footing. This is one thing that must be changed in a new agreement. Also, in 1980 we contracted to purchase 22 million tons of U.S. grain, but we were forced to take delivery of only just enough to exceed the eight million ton limit. From our point of view, a new agreement should clarify that if certain amounts of grain are put under contract, they should be delivered.

Some people have discussed the possibility of including other agricultural products in the new Soviet-American grain agreement. It is my personal point of view that this should not happen. This is a grain agreement and only grain should be covered.

BROWN. Specificially, where does your country stand on raising the minimum and maximum allowable purchases stipulated in the agreement?

KALASHNIKOV. Representatives from both sides, in the press or in unofficial conversation, have been speaking about the possibility of raising the minimum levels by 12 million tons or by 15 million tons. The Soviet Union is ready to discuss these questions. Not only would we speak about possible increase in minimum levels, but also about the proportion between wheat and corn. As far as raising the ceiling, we must first know how many years this agreement will cover. After that, our economists will make some

calculations concerning this agreement and Soviet needs for American grain. Once we have this information, we will know more about these ceilings.

BROWN. From your point of view, where does this new Soviet-American agreement stand? Who should take the next step?

KALASHNIKOV. On December 19, President Reagan postponed the trade negotiations for an uncertain period. We were ready to discuss a new Soviet-American grain agreement at that time. This postponement hasn't been lifted. From our official point of view, the next step should be made by the American side, because we don't know if the American side is going to negotiate this agreement at all.

BROWN. Over the past two years, the Soviet Union has signed new long-term commodity agreements with five countries that guarantee purchase of large amounts of wheat each year. As a result, what role does U.S. wheat play in Soviet import plans?

KALASHNIKOV. In answering your first question, I reviewed the figures for Soviet grain imports from the U.S. They show that while implementing commercial obligations with other grain exporters, the Soviet Union also increased its purchases of American grain. As far as wheat is concerned, during the sixth year of the bilateral agreement we bought six million tons of U.S. wheat. This is a record figure during the years of the grain agreement.

BROWN. Is the USSR willing to pay more for grain supplies from other nations to avoid dependence on U.S. supplies?

KALASHNIKOV. In its relations with trading partners, the Soviet Union has always proceeded from the principle of mutual commercial benefit. This includes grain trade with the U.S. The Soviet Union always has been reliable and profitable trading partner for U.S. agriculture. We try to keep and develop relations with Western businessmen who don't let the USSR down. But if another country attempts to make the Soviet Union dependent on it or put pressure on the Soviet Union, we reserve the right to get rid of such partners and rely upon our domestic economy and other opportunities on the world market.

BROWN. In recent months, the Soviet Union has made some commercial credit purchases of agricultural products. Is this the result of temporary cash flow problems or is this the beginning of a new trend?

KALASHNIKOV. The USSR has always used different methods and instruments of payment in international trade. Before, no one in the West paid much attention to how the Soviet Union carried out its payments because they followed routine commercial practice.

But now, some Western circles with certain political goals are trying to make businessmen and banks unconfident and suspicious about Soviet solvency. This activity and related statements have no real grounds. The USSR has large commodity stocks, currency reserves, and the Soviet economy is so powerful that, according to estimates made by many serious American economists, there is no reason to doubt the Soviet financial credibility.

BROWN. The U.S.-Soviet maritime agreement expired last December. It required that grain exports be transported equally among U.S., Soviet, and Third World bottoms. Does such a requirement make U.S. wheat less attractive to Soviet purchasers? Is a new maritime agreement necessary to continue U.S.-Soviet trade?

KALASHNIKOV. The Soviet Union regards bilateral agreements, including the maritime agreement, as important elements in building mutual cooperation and trust between two countries. We think the expired agreement contributed to those goals.

But from our point of view, high American freight rates do not make expanded grain trade attractive. If the American side, in resuming negotiations on a maritime agreement, continues to insist on higher freight rates, it wouldn't be helpful for increased grain deliveries.

BROWN. Under the Soviet Union's current five-year plan, a 22.5 percent expansion in total foreign trade is projected. Is the capacity of Soviet ports and storage facilities sufficient to handle such an influx? What is the grain import capacity of the USSR?

KALASHNIKOV. Soviet foreign trade is not carried out only through sea and river ports. Very large shipments are transported by train, particularly in trade with socialist countries which constitutes the major portion of Soviet foreign trade. Train transport is used to a great extent in trade with Western Europe and some Asian countries. And a considerable portion of deliveries is carried out by truck transport.

As far as ports are concerned, they are being modernized and expanded in accordance with growing sea shipments. For example, during the recent years we built up new modern ports in Iljichevsk, which is close to Odessa, and in Nakhodka, in the far Eastern part of our country.

I can talk about our grain import capacity in the following way. According to the analysis and estimates of leading Soviet specialists, total Soviet grain requirements equal one ton for each citizen. We think we will reach such a harvest in the 1990s. We think this is realistic because the rate of grain production is higher than the rate of population growth. From 1961 to 1965, with a population of 232 million people, we produced 130 million tons of grain each year. And in 1976 to 1979, when our population reached 263 million people, we had an average harvest of 209 million tons.

But now the grain requirements, particularly feed grains, remain high due to dramatic changes in the diet of the Soviet people resulting from considerable growth in meat consumption. Now, when consumption of feed grains reaches 100 million tons, it is rather difficult to satisfy the needs of cattle breeders without grain imports, even when we have a record harvest of 237 million tons such as we had in 1978.

Mr. PRESSLER. Let me conclude by praising President Reagan for his consideration of this matter. I think his Secretary of Agriculture, John Block, is doing an excellent job in this area, and if a long-term grain agreement is reached it will be a feather in John Block's cap. He has been a lone voice in the Cabinet. It is not known publicly how courageous and how forcefully Secretary Block has argued in Cabinet meetings for a long-term grain agreement. He took his case to the White House yesterday, and I want to pay tribute to our Secretary of Agriculture for his efforts in this area.

This morning in the Foreign Relations Committee we are moving in the direction of confirming George Schultz as Secretary of State. George Schultz participated in developing the current long-term grain agreement in 1975. When he was Secretary of Labor, he negotiated with the longshoremen to load ships with grain bound for the Soviet Union when they refused to do so. As Secretary of the Treasury and as the head of the Office of Management and Budget, he worked out the financial arrangements with the Soviet Union for the large grain sales of the late sixties and early seventies. So he is no stranger to a long-term grain agreement with the Soviets.

Also, President Reagan has a reputation and a record of opposing a grain embargo to the Soviet Union unless it is a total embargo. It was President Reagan who lifted the 1980 grain embargo. The Senate is also on record opposing a selective grain embargo.

I had an amendment in the Senate 2 years ago—to carry out the grain embargo. By a three-vote margin after three successive votes we succeeded in passing the amendment. It was a historic vote. Indeed, Senator BAKER called it the most important agriculture vote of the year.

Shortly after that, Candidate Reagan made it a key issue of his campaign and he had the backing of the Senate, which at that time was controlled by the opposite party.

The point is that our policies have not been consistent. Our foreign policy has not been clear. We have used grain exports in an inconsistent way without applying the same standards for industrial products. By doing this we have been shooting ourselves in the foot. As was emphasized to us, whether it is grain or other areas of trade, we are in a situation that we have hurt ourselves worse because of the inconsistencies of our policy.

For example, the Soviet pipeline decision: The fact is that the Soviets by bringing gas to Europe will make our gas and oil cheaper because there will be less demand in the world for OPEC oil. It will make us less hostage to the Arab oil countries. Also, the pipeline is going to be built on about the same time schedule whether we sell the parts for it or not. We have unemployed people in Moline, Ill., while the French company that is supplying the rotors is now bringing in foreign labor to build them. The Japanese have 100 percent employment because they are selling the Soviet Union things that our contractors would have sold. Meanwhile American workers are unemployed. The currency is not coming into our country. The taxpayers and the economy suffers. We should think very carefully before we use trade as a foreign policy too. If it is thought out as to what the impacts will be, and if it is a total embargo that will have a real effect, that is one thing. If it is a patchwork policy that is inconsistent, then we end up hurting ourselves and our own economy the most.

Mr. President, I should like to again urge the administration to enter into a

long-term grain agreement, and the Senate to consider some of its resolutions which call for the President to enter into a long-term grain agreement.

CONGRATULATING THE ITALIAN NATIONAL SOCCER TEAM FOR WINNING THE WORLD CUP CHAMPIONSHIP

Mr. DECONCINI. Mr. President, I send a resolution to the desk on behalf of myself, the distinguished Senator from New York (Mr. D'AMATO), and the distinguished Senator from New Mexico (Mr. DOMENICI), and ask for its immediate consideration. This congratulates Italy for its World Cup victory.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 423) to congratulate the Italian National Soccer Team for winning the World Cup championship.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arizona?

Mr. ROBERT C. BYRD. I have no objection.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DECONCINI. Mr. President, today I am submitting a resolution congratulating Italy for its World Cup victory. On Sunday, the Italian team won its third World Cup championship in Madrid, Spain, with a 3-to-1 victory over a valiant West German team that also deserves our congratulations. Italy thus became only the second nation in history, along with Brazil, to win three World Cup championships.

It is estimated that more than a billion and a half people around the world watched Sunday's game. The World Cup is the world's premier sporting event and Italy can be justifiably proud of its glorious achievement. I would like to offer special congratulations to Paulo Rossi, named the tournament's most valuable player with six goals, and Dino Zoff, the 40-year-old goalie who was the oldest man in the tournament. All of the world can be proud of the accomplishment of Rossi, Zoff, and their teammates. America can look forward to participating in the final round of the World Cup. At that time we will know the excitement and pride that Italy feels today.

Mr. President, I thank the majority leader and the minority leader for their cooperation in handling this matter.

Mr. HEFLIN. Mr. President, I ask the Senator if I may be added as a cosponsor.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Sentor from Alabama (Mr. HEFLIN) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, if it is agreeable with the majority leader, I ask unanimous consent that Members may be permitted to be added as cosponsors of the resolution during the remainder of the day.

Mr. BAKER. Mr. President, I have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, may I ask the distinguished Senator from Arizona if I may at this time become a cosponsor.

Mr. DECONCINI. Mr. President, I make such a request.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The names of the following Senators were also added as cosponsors of Senate Resolution 423: Mr. BIDEN, Mr. EAGLETON, Mr. EXON, Mr. LEAHY, Mr. LEVIN, Mr. RIEGLE, Mr. SARBANES, and Mr. ROBERT C. BYRD.)

Mr. DECONCINI. Mr. President, I move the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 423) was agreed to.

The preamble was agreed to.

The resolution, with its premable, reads as follows:

Whereas, millions of people all over the world play and watch soccer, making it the most popular game in the world;

Whereas, the World Cup Championship is an international athletic competition among teams composed of the best players from each nation;

Whereas, the World Cup Championship is played once every four years to determine the best international team; and

Whereas, the national team of Italy played excellently to win the World Cup and claim the title of World Champions: Now, therefore, be it

Resolved, That the United States Senate honors and congratulates the Italian National Soccer Team on its victory in winning the World Cup Championship.

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF JAMES G. STEARNS

Mr. BAKER. Mr. President, as in executive session, I have a unanimous-consent request that I believe has been cleared by the distinguished minority leader. I will state it now for his consideration and that of other Senators.

Mr. President, I ask unanimous consent that the consent agreement entered into on June 30, 1982, regarding the nomination of James G. Stearns be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that, on tomorrow, Wednesday, July 14, 1982, at 3 p.m., the Senate go into executive session to consider the nomination of James G. Stearns to be a director of the Securities Investor Protection Corporation, under the following time agreement:

One hour on the nomination to be equally divided between the chairman of the Banking Committee and the ranking minority member, or their designees; and that following the conclusion or yielding back of time, the Senate proceed to vote upon the confirmation of James G. Stearns.

Further, Mr. President, I ask unanimous consent that, following the confirmation vote, and any motion to reconsider, and table, and the informing of the President that the Senate has given its consent to this nomination, the Senate resume legislative session and the pending business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. I thank all Senators.

AUTHORIZATION FOR TESTIMONY AND REPRESENTATION BY THE SENATE LEGAL COUNSEL IN CERTAIN CASES

Mr. BAKER. Mr. President, I have a housekeeping detail to be disposed of, a resolution in respect to the Senate legal counsel that has been approved by the distinguished minority leader.

Mr. President, I send a resolution to the desk on behalf of myself and the distinguished minority leader and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 424) authorizing testimony by Roy C. Meyers and Herman Schwartz, and representation by the Senate Legal Counsel in the cases of *William P. Tavoulareas, et al.* v. *The Washington Post Co., et al.* and *William P. Tavoulareas, et al.* v. *Philip Piro*, Civil Action Nos. 80-3032, 80-2387.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, this resolution under Senate rule XI would authorize testimony by Roy C. Meyers, a Senate employee and by Herman Schwartz, a former Senate employee, in the cases of *William P. Tavoulareas, et al.* V. *The Washington Post Co., et al.* and *William P. Tavoulareas, et al.* v. *Philip Piro.* (C. A. Nos. 80-3032, 80-2387), pending in the U.S. District Court for the District of Columbia. The testimony of Mr. Meyers and Mr. Schwartz has been requested by plaintiffs.

The resolution also directs the Office of Senate Legal Counsel to represent Mr. Meyers and Mr. Schwartz in connection with their testimony in

these cases to protect the privileges of the Senate if the need arises.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 424) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas, in the cases of *William P. Tavoulareas, et al.* v. *The Washington Post Co., et al.* and *William P. Tavoulareas, et al.* v. *Philip Piro,* Civil Action Nos. 80-3032, 80-2387, pending in the United States District Court for the District of Columbia, counsel for plaintiffs have requested the testimony at trial of Roy C. Meyers, an employee of the Senate and Herman Schwartz, a former employee of the Senate;

Whereas, Title VII of the Ethics in Government Act of 1978, Public Law 95-521 ("the Act"), establishes the Office of Senate Legal Counsel and provides that the Senate may direct its Counsel to represent the Senate, its committees, Members, officers, or employees;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that testimony of an employee of the Senate is needful for use in any court for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate;

Whereas, the Senate has previously authorized the production of documents and deposition testimony by Roy C. Meyers (S. Res. 265, 97th Congress, First Session) and Herman Schwartz (S. Res. 219, 97th Congress, First Session): Now, therfore be it

Resolved, That pursuant to section 704(a)(2) of the Act, the Senate Legal Counsel is directed to represent Roy C. Meyers and Herman Schwartz in connection with their testimony in the cases of *William P. Tavoulareas, et al.* v. *The Washington Post Co., et al.* and *William P. Tavoulareas, et al.* v. *Philip Piro,* Civil Action Nos. 80-3032, 80-2387.

SEC. 2. That Roy C. Meyers and Herman Schwartz are authorized to testify in the cases of *William P. Tavoulareas, et al.* v. *The Washington Post Co., et al.* and *William P. Tavoulareas, et al.* v. *Philip Piro,* Civil Action Nos. 80-3032, 80-2387, except concerning matters for which the Senate Legal Counsel or his representative determines are privileged from disclosure.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL NAVAHO CODE TALKERS DAY

Mr. BAKER. Mr. President, I have one other matter, I believe, that has been cleared by the minority leader. I will state it now for his consideration and that of other Senators.

Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 444, a resolution relating to Navaho Code Talkers Recognition Day, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the discharge? Without objection, it is so ordered.

The joint resolution will be stated by title.

The legislative clerk read as follows:

A resolution (H.J. Res. 444) to authorize and request the President to designate August 14, 1982, as "National Navaho Code Talkers Day."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the joint resolution, which was read twice by its title.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

There being no objection, the joint resolution (H.J. Res. 444) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AN ENERGY MYTH—PRIVATE FINANCING OF COAL RESEARCH AND DEVELOPMENT

Mr. RANDOLPH. Mr. President, as we follow various appropriation deliberations to be finalized during the next 2½ months, I feel it important to point out the shortsighted planning effort of this administration in their redirection of Federal fossil research and development budget. That request would reduce this program to $107 million for 1983, compared to the 1982 appropriation request of $417 million.

Further, in fiscal year 1981, $1.1 billion was appropriated for fossil fuels research and development. Last year's cuts in the program, amounting to $718 million, I believe, represent fossil energy's "fair share" of budget austerity. For the administration to now ask for a 94-percent reduction from 1981 levels is unwise. For the administration to now ask for a $276 million decrease in the 1982 coal program, to $91 million, is unthinkable.

Thus, my reason for sponsoring Senate Resolution 363 which recommends Congress appropriate for this coming fiscal year the same level of funding for fossil fuel research and construction that was appropriate last fiscal year. I also join with Senator GRASSLEY, Republican of Iowa, today in sponsoring a congressional briefing on direct utilization of high-sulfur coal reserves. As our letter to Members indicated, present methods of reducing sulfur emissions are very expensive and cumbersome. A number of innovative methods to solve these problems are being developed. Visible progress is being made. The research was in large part funded by the Department of Energy within a program area called coal preparation. Unfortunately, funding for these research efforts has been cut back because of budget restrictions. The amount of additional funding involved is small. The impact on coal-producing areas of the country and coal users is very large. Industrial coal users are especially hard hit. Without the successful development of a coal-cleaning technology to remove sulfur, these potential users would be obliged properly by environmental regulations to install scrubbers, which are prohibitively expensive for industrial plants.

America needs coal now more than any other time in our Nation's history. Coal may not be the fuel of choice for all Americans, but it will be the fuel of necessity for many decades.

The administration philosophy on coal R. & D. articulated by Jon Mares, Assistant Secretary for Fossil Energy at the Department of Energy, states:

Industries have historically propelled our Nation's technological progress in energy. Given today's economic incentives, this sector is well positioned to continue and expand its role in developing and marketing new fossil energy technologies with minimum government help. Government has played an important role, most notably in such areas as coal-oil mixtures, atmospheric fluidized bed combustion, and new synthetic fuel processes, but the market continues to be the ultimate judge as well as the ultimate beneficiary of new energy technology.

He goes on to talk about new private sector initiatives in energy technology and the results such action will produce. I submit this assumption will be correct over a long period of time, but over the next 10 to 15 years, if left totally to industry, established technology will tend to persist in spite of new technology.

Mr. President, the administration feels practical innovation will be forthcoming in the private sector without significant Government funding to force the closing of leadtime for commercial application.

This assumption is incorrect. True, individual coal companies conduct some research and development on their own. On the other hand, the National Coal Association had for many years financially supported a nonprofit research organization called the Bituminous Coal Research Institute (BCRI). Last year that support was withdrawn by the association. The BCRI was left to support itself as best it could by soliciting funds from individual coal mining companies—it

exists in name only today because of inability to raise funds.

One can conclude from this example that industry is not as willing to fund R. &. D. efforts as the administration would have us believe. Large expenditures for new equipment, and the need to maintain daily production quotas of coal, preclude the conservative and financially troubled coal industry from conducting innovative long-term R. & D. that would benefit the industry.

In past years the U.S. Government, to a much smaller degree than other developed countries of the world with coal reserves, has sponsored R. & D. to provide technological advancement in the Nation's coal mines. Of course, the Department of Energy (DOE) and the Bureau of Mines (BOM) must be concerned with both improving productivity and advancing health and safety standards, in addition to high-technology work in direct utilization and synthetic use of coal. None of these objectives could have been achieved with the funding levels and shifting responsibilities between DOE and BOM that now exist.

The growth in the percentage of the annual coal output produced by surface mining methods has grown rapidly since World War II to the point where only one-third is mined currently by underground methods. However, 68 percent of the known coal reserve base is minable only by underground methods. So, the growth in the portion of coal mined annually by surface methods will ultimately decline as easily accessible surface-minable coalbeds become depleted. This turn around will not occur for years, but it will occur. It is, therefore, imperative that the technology to mine coal underground safely, conservatively, and economically be available to replace the coals now surface mined, without disruption in either supply and quality or a significant increase in cost.

Despite the recession-related softness in the coal industry, the demand for coal is expected to increase in the near and long term, especially as OPEC again finds itself in a favorable position for increasing its price for crude oil. If, through productivity R. & D., and if we can solve a host of transportation factors, holding the price of U.S. coal competitive in the world market with such exporters as Australia, Canada, and South Africa, the markets for low-sulfur, high-Btu steam and metallurgical coals are likely to provide at the very least a strong swing export coal market. Incentives are also needed to increase coal use for domestic industrial and transportation needs, to guarantee our most valuable energy source does not, through overextension of exports, contribute to our internal energy vulnerability.

If the U.S. coal industry is to maintain its position as a major supplier of domestic energy and a major exporter of steam and metallurgical coal, its delivered cost must be competitive. The cost of mining coal underground can be reduced through:

Improved capital productivity to reduce the length of time it takes to get a new or expanded mine up to full production capacity;

Better mine planning and engineering design to optimize the utilization of available mining systems and equipment;

Modification of unnecessary environmental regulations; and

Increased worker productivity with improved machinery and related technology.

Mining is a basic industry characterized by a large number of companies. They operate under a wide variety of geographic and geologic conditions, experience cyclic boom-and-bust economic patterns, and must maintain a product cost as low as possible to realize even a minimum return on investment.

As mentioned before, all major coal mining countries have federally financed mining R. & D. efforts—generally larger on a dollar per ton basis than that of the United States. With the exception of the centralized, planned economies of the U.S.S.R. and its alined nations, the private sector of these countries also have R. & D. efforts which coexists with and benefits from the Federal effort. No coal producing free world country has been able to rely solely on privately owned coal companies to fund the necessary coal mining R. & D. and manage to keep that country competitive in world coal markets.

Mr. President, once again, the private coal industry does conduct R. & D., but much of that effort is directed toward achieving compliance with State and Federal regulations. This has been true for the last several years, especially since 1969—the beginning of several significant Federal regulatory changes affecting the coal mining industry.

There are distinct differences between the character of private and Federal mining R. & D. Generally speaking, the private sector by financial necessity concentrates their efforts on the low-risk, high-visibility areas which help their particular operation short term but produce only small, slow evolutionary changes in technology.

The Federal Government's role in mining R. & D. is justified because:

The benefits of a particular R. & D. effort cannot be retained exclusively by the contracting firm conducting the R. & D. for the Government, but are disseminated throughout the industry to both small and large mining firms.

The benefits from R. & D. usually accrue so far into the future that a private firm cannot justify the investment from the perspective of its own shorter term cash flow needs.

Any R. & D. effort demands a mix of personnel that cannot be organized or maintained by a small private mine. Often these talents involve aerospace, material, geophysical, and other disciplines. These experts are available in the Government

Mining R. & D. requires funding levels over long periods of time. Hence, not even the largest firms in the industry can undertake such effort.

A financially troubled industry reacts only to the present market situation while the Government should anticipate need and fund the development of technologies required in the future.

Mr. President, I submit the administration's interpretation of the facts used to arrive at their fiscal 1983 budget request were based on the premise that "any facts which, when included in an argument give the desired result, are fair facts for the argument." If we do nothing to encourage a continued and substantial Federal presence in coal research and development, the reoccurrence of liquid fossil fuel shortages will demand the administration and Congress to scramble in search of a solution to our newest energy crisis.

Even in the current budgetary climate, we must show commitment and full support for coal research and development. We must not subject ourselves and the Nation to yet another energy myth.

CONCLUSION OF MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, Senate Joint Resolution 58, which will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decision-making procedures.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr President, the effort in behalf of Senate Joint Resolution 58 has been one of the most genuine grassroots efforts that has occurred on legislation in recent years. It

is clear that the primary impulse for this legislation has come, not from Washington, not from Congress, but from the grassroots throughout the country.

This is demonstrated by the support for a balanced budget constitutional amendment by the public generally, by the State legislatures, and by representative national organizations. The views of the public are illustrated by the poll results contained in my opening statement. Without exception, public opinion polls have demonstrated broad, and deeply felt, support for a balanced budget constitutional amendment.

The views of the States are illustrated by the fact that 31 States have now applied to Congress for a constitutional convention to propose a balanced budget constitutional amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a table entitled "State Legislatures Which Have Passed Balanced Budget Amendment Applications."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE A.—STATE LEGISLATURES WHICH HAVE PASSED BALANCED BUDGET AMENDMENT APPLICATIONS

State	Measure	Year adopted
Alabama	HJR 227, Act 302	1976.
Alaska	HJR 17 (Amended Senate)	1982.
Arizona	SJR 1002, HCM 2003	1979, 1977.
Arkansas	HJR 1	1979.
Colorado	SJM 1	1978.
Delaware	HCR 36	1975.
Florida	Sen. Memorial No. 234, HM 2801	1976.
Georgia	Res. Act No. 93, HR No. 469–1267	1976.
Idaho	HCR 7	1979.
Indiana	SJR 8	1979.
Iowa	SJR 1	1979.
Kansas	SCR 1661	1978.
Louisiana	SCR 4, SR 73, HCR 269	1979, 1978, 1975.
Maryland	SJR 4 (Original), Md JR 77 (Enrolled).	1975.
Mississippi	HCR 51	1975.
Nebraska	LR 106	1976.
Nevada	SJR 8, SJR 2	1979, 1977.
New Hampshire	HCR 8	1979.
New Mexico	SJR 1	1976.
North Carolina	Resolution 5	1979.
North Dakota	SCR 4018	1975.
Oklahoma	HJR 1049	1976.
Oregon	SJ Memorial No. 2	1977.
Pennsylvania	HR 236	1976.
South Carolina	SCR 1024, SCR 670	1978, 1976.
South Dakota	SJR 1	1979.
Tennessee	HJR 22	1977.
Texas	HCR 13, HCR 31	1978, 1977.
Utah	HJR 12	1979.
Virginia	SJR 36	1976.
Wyoming	HJR 12 (Original) JR 1 (Enrolled)	1977.

Mr. HATCH. Mr. President, the views of representative organizations are suggested by a listing of some of the organizations supporting Senate Joint Resolution 58.

Mr. President, I ask unanimous consent to have printed in the RECORD, a list of such representative organizations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator ORRIN HATCH,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HATCH: This is to urge your support for S.J. Res. 58, the proposed Balanced Budget/Tax Limitation Constitutional Amendment. In our view, this amendment is a responsible measure—from both an economic and constitutional perspective—and would establish in the Constitution fundamental principles of political accountability.

S.J. Res. 58 is a carefully crafted, consensus constitutional proposal that will prove effective in eliminating the structural bias toward greater public spending in our fiscal process, while being sufficiently flexible to allow Congress to properly respond to a variety of changing economic and other circumstances.

At the same time that Congress is engaged in addressing short-term economic problems, it is critical that efforts also be made to address longer term economic difficulties. S.J. Res. 58 represents such an effort and ought to be supported.

State legislatures, representative national organizations, and the public generally have all made increasingly clear to Congress their desire for a constitutional amendment to restore an environment of public fiscal responsibility. We would respectfully ask you to recognize these calls and support S.J. Res. 58. Although we do not know what amendment may be offered to this measure, we would also ask you to recognize the balance that has been achieved in S.J. Res. 58 and view such amendments with great caution.

Sincerely,

American Bakers Association
American Council for Capital Formation
American Gear Manufacturers Association
American Subcontractors Association
Associated Builders and Contractors
Chamber of Commerce of the United States
Citizen's Choice
Independent Bakers Association
National Association of Homebuilders
National Association of Manufacturers
National Association of Temporary Services
National Cattlemen's Association
National Federation of Independent Business
National Knitwear Association
National Lumber and Building Material Dealers Association
National Screw Machine Products Association
National Tax Limitation Committee
National Taxpayers Union
Steel Services Center Institute
United States Jaycees
National Association of Wholesaler—Distributors and affiliated organizations:
Air-conditioning & Refrigeration Wholesalers
American Dental Trade Association
American Jewelry Distributors Association
American Machine Tool Distributor's Association
American Supply Association
American Surgical Trade Association
American Traffic Services Association
American Veterinary Distributors Association
Appliance Parts Distributors Association, Inc.
Associated Equipment Distributors
Association of Footwear Distributors
Association of Steel Distributors
Automotive Service Industry Association
Aviation Distributors & Manufacturers Association
Bearing Specialists Association
Beauty & Barber Supply Institute, Inc.
Bicycle Wholesale Distributors Association, Inc.
Biscuit & Cracker Distributors Association
Ceramic Tile Distributors Association
Ceramics Distributors of America
Coated Abrasives Fabricators Association
Cooperative Food Distributors of America
Cooper & Brass Servicenter Association
Council for Periodical Distributors Association
Council of Wholesale-Distributors, American Institute of Kitchen Dealers
Distributors Council, Inc.
Door & Hardware Institute
Drug Wholesalers Association
Electrical-Electronics Materials Distributors Assn.
Explosive Distributors Association, Inc.
Farm Equipment Wholesalers Association
Flat Glass Marketing Association
Fluid Power Distributors Association, Inc.
Food Industries Suppliers Association
Foodservice Equipment Distributors Association
General Merchandise Distributors Council
Hobby Industry Association of America
Independent Medical Distributors Association
The Irrigation Association
Institutional & Service Textile Distributors Association, Inc.
International Ceramic Association
Machinery Dealers National Association
Mass Merchandising Distributors Association
Material Handling Equipment Distribution Association
Monument Builders of North America-Wholesale Div.
Motorcycle Industry Council
Music Distributors Association
National-American Wholesale Grocers' Association
National Appliance Parts Suppliers Association
National Association of Aluminum Distributors
National Association of Chemical Distributors
National Association of Container Distributors
National Association of Decorative Fabric Distributors
National Association of Electrical Distributors
National Association of Fire Equipment Distributors
National Association of Floor Covering Distributors
National Association of Manufacturing Opticians
National Association of Marine Services, Inc.
National Association of Meat Purveyors
National Association of Plastics Distributors
National Association of Recording Merchandisers, Inc.
National Association of Service Merchandising
National Association of Sporting Goods Wholesalers
National Association of Textile & Apparel Distributors
National Association of Tobacco Distributors
National Association of Writing Instrument Distributors
National Beer Wholesalers Association
National Building Material Distributors Association
National Bussiness Forms Association
National Candy Wholesalers Association
National Commercial Refrigeration Sales Association
National Electronic Distributors Association
National Fastener Distributors Association
National Food Distributors Association

National Frozen Food Association
National Independent Bank Equipment Suppliers Assn.
National Industry Belting Association
National Industrial Glove Distributors Association
National Lawn & Garden Distributors Association
National Locksmiths' Suppliers Association
National Marine Distributors Association
National Paint Distributors, Inc.
National Paper Trade Association, Inc.
National Plastercraft Association
National Sash & Door Jobbers Association
National School Supply & Equipment Association
National Solid Wastes Management Association
National & Southern Industrial Distributors Association
National Spa and Pool Institute
National Truck Equipment Association
National Welding Supply Association
National Wheel & Rim Association
National Wholesale Druggists' Association
National Wholesale Furniture Association
National Wholesale Hardware Association
Northamerican Heating & Airconditioning Wholesalers
North American Wholesale Lumber Association, Inc.
Optical Laboratories Association
Outdoor Power Equipment Distributors Association
Pet Industry Distributors Association
Petroleum Equipment Institute
Power Transmission Distributors Association, Inc.
Safety Equipment Distributors Association, Inc.
Scaffold Industry Association
Shoe Service Institute of America
Specialty Tools & Fasteners Distributors Association
Spring Service Association
Steel Service Center Institute
Textile Care Allied Trades Association
Toy Wholesalers' Association of America
United Pesticide Formulators & Distributors Association
Wallcovering Distributors Association
Warehouse Distributors Association for Leisure & Mobile Products
Watch Materials & Jewelry Distributors Association
Water and Sewer Distributors Association
Wholesale Florists & Florist Suppliers of America
Wholesale Stationers' Association, Inc.
Wine & Spirits Wholesalers of America, Inc.
Wood Heating Alliance
Woodworking Machinery Distributors Association

Mr. HATCH. Mr. President, there is a growing base of individuals and organizations in this country who are determined to change "business as usual" procedures in Congress. I fervently hope that this body is sufficiently aware of this sentiment so that we can act on this issue in a deliberative manner, rather than having it imposed upon us by a last resort constitutional convention.

Mr. President, in particular, I wish to offer my respect to the National Tax Limitation Committee and the National Taxpayers Union for their outstanding efforts in behalf of a constitutional amendment for many years. They deserve great credit for this. At this point, I should like to give special praise to Senator HARRY F. BYRD, JR., whom I inadvertently I neglected mention in my remarks yesterday, for the outstanding work that he has done during his entire tenure in the Senate in trying to help bring the balanced budget amendment to the Constitution.

He has been one of the most consistent proponents of fiscal restraint in this body, and I just want to express the tremendous feelings I have toward him and the pride I have in serving with him in the Senate. I would note also that his father, also a distinguished Member of this body, was active for many years in proposing a similar amendment.

In addition, I should like to praise Senator HEFLIN once again. He was one of the original cosponsors and drafters during the 96th Congress of Senate Joint Resolution 126 a predecessor amendment. As we all know, he brings a great deal of legal ability, judicial ability, and constitutional expertise to this body. I feel particularly proud that he worked so strongly in the drafting effort of this particular amendment. I feel a great kinship and friendship with him. We are very grateful for the efforts he has made.

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. HATCH. I yield.

Mr. SYMMS. Mr. President, I will have remarks to make later, but I wish to take this opportunity to praise Senator HATCH, Senator THURMOND, and other members of the Judiciary Committee who brought this bill to the floor of the Senate. This is somewhat historic.

I know the Senator feels very strongly about this matter, as do I, that the bias in favor of spending has always been stronger than the bias in favor of not spending. So we have created this monster of the Federal spending machine that is literally, in States such as Idaho, Utah, and other parts of the country, putting people out of work because of the high interest rates that can be directly related back to the Federal budget. I think this is a positive step for those people who are out of work in this country, to get the Federal budget in order, and this is a good step in the right direction.

The question I want to ask the Senator is this: What is his interpretation of how this is going to be a limitation on increased taxes? I know that one section of this measure limits taxes. I know that Senator MATTINGLY has suggested that we put in some actual numbers that make it a percentage of the GNP. But I inquire as to the interpretation of the Senator from Utah as to how this amendment would be applied with respect to increasing taxes, (a), and (b), there is a lot of talk about percentage of the GNP, and so forth, but the reality right now, as I see it, is that we have $100 billion of expenditures in our present budget more than we have income. So that means we are going to borrow the money or print it. If we print the money and counterfeit our currency, so to speak, that hurts long-term interest rates. If we borrow it, it crowds people in the short-term interest rates and makes the demand on borrowing greater.

What is the interpretation of the Senator from Utah as to how much of the total production—down the road, say, 10 or 15 years after enactment—the Federal Government will be consuming, as a user of work and productivity instead of a producer of goods and services?

Mr. HATCH. The Senator from Idaho has raised a very interesting set of questions. There is no question that he is right.

The biases have been skewed in favor of deficit financing, in order to allow Congress to create new spending programs and permit inflation to push individuals into higher tax brackets. The bias is in favor of those elements rather than in favor of balancing the budget.

What Senate Joint Resolution 58 does, in section 1, is to remove the bias in favor of excessive spending. In order to have deficit spending in the future, there will have to be a three-fifths vote of the whole number of both Houses of Congress in order for approval.

It means that the Members of the Senate and the Members of the House of Representatives will have to stand up and be counted, if they want to spend more than we take in, by a three-fifths vote. Therefore, we remove the bias caused by deficit spending and establish the norm of balancing the budget by requiring that three-fifths vote.

The more significant part, to me, of the Senator's question is—how does this amendment deter increasing taxes as a method of balancing the budget? It really does not deter, in the ultimate sense, because Congress can either spend more by deficit financing, if it gets the requisite number of votes to do so, or it can tax more, if it gets the requisite number of votes to do so.

The significant difference is that in order to tax more the Congress of the United States will have to approve more taxes by a constitutional majority. In addition, we have the natural reluctance among Members of Congress to increase taxes.

Theoretically, we could increase taxes on the floor of the Senate by a 26- to -25 vote. That is a simple majority in the U.S. Senate. Once this amendment however is enacted, we would have to have 51 votes on the floor of the Senate in order to increase taxes. Regardless of how many negative votes there would be, there would have to be 51 votes on the floor of the

Senate, and there would have to be 218 votes on the floor of the House, as presently constituted. That would be a definite deterrent toward increasing taxes as a method of balancing the budget.

In addition, section 2 would prohibit taxes from increasing through inflation pushing taxpayers into higher marginal tax rate brackets. Taxes could not normally increase faster than the growth of the economy.

I think an important reason for these two sections is to improve the flow of information to the voters. Currently, in order to determine which Members of Congress favor more Federal spending, citizens must comb through as many as 200 to 300 votes in any given year to analyze the relative degree of spending attitudes in Congress.

This amendment to the Constitution will enable citizens to examine only a few votes a year in order to understand how their Representative and Senators feel about the amount of Federal spending, taxes, and deficits. I expect citizens would have to analyze probably three to five votes a year. That will be a tremendous change. Under this amendment, a few crucial votes every year will inform the citizens as to whether or not we are going to balance the budget or not as well as to the performance of their Representatives. I might add that this is an indirect, not a direct, tax limitation, in the sense that I have described this provision.

There will be no more automatic tax increases. Congress instead will have to expressly vote for tax and spending increases. If Congress desires to increase Federal spending, Senate Joint Resolution 58 permits that action. Senate Joint Resolution 58 will require Members of Congress to openly vote for more Federal spending, taxes or deficits. Congress must also expressly account for additional Federal spending by either voting to raise taxes or by openly voting for a deficit for a fiscal year.

A balanced Federal budget was part the unwritten rule of the Constitution for most of this country's history. During that time, there were occasions where we had deficit financing, but those occasions generally arose during time of war. As soon as wars were over, the leaders of the country balanced the budget again and repaid a portion of the public debt. Today we do not balance the budget because we do not have such a constitutional rule and because the incentives are biased against balancing the budget. Senate Joint Resolution 58 would provide such a rule.

Mr. SYMMS. I thank the Senator very much.

I think also one thing that is bound to happen, and I have had the experience of being in the other body as well as here, is that the pressures are enormous, particularly in an election year for Members of Congress; the House of Representatives and the Senate, to vote for whatever these projects are. There are all kinds of good ideas coming around and in most of the programs even that the Senator from Utah and I might not agree with philosophically, but if we throw enough money at almost anything we can do some good. So we do have a special interest group in lobbying for that project, whatever it is.

Mr. HATCH. That is the problem.

Mr. SYMMS. Now the Congressman can say, "Folks, I am all for you, but I cannot vote for this because the Constitution requires that if we do it we have to raise taxes and we cannot get the votes to raise the taxes."

Mr. HATCH. That is right.

Mr. SYMMS. Or "We cannot do this, and we are bound by the Constitution."

Mr. HATCH. Or Congress can say: "Look, your cause is just but we have narrowed down the spending programs of this country to only the most essential and salient spending programs. Can we go get the three-fifths vote necessary in order to deficit spend, for your programs or can we increase taxes in order to pay for your programs?" They will have to think in terms of priorities, not mere desirabilities.

In either event, each individual Member of Congress is going to have to stand up on his own two feet and expressly cast a vote one way or the other.

The Senator hit the nail right on the head. The problem with our fiscal process today is that each special interest spending group can make a fairly good case, perhaps, for its position, it can argue that it only costs pennies for each taxpayer and the taxpayers have no organization to offset the spending group's unusual influence. In other words, the spending interests exert concentrated, intense influence, while that of the taxpayers is disperse, and nonintense. What Senate Joint Resolution 58 means is that each Member of Congress and Congress as a whole will have to look over each spending proposal in light of the total pie of revenues that we will have rather than only in light of each discrete spending proposal. The Senator from Idaho, also a member of the Budget Committee, realizes that most of the time in the past in the budget process we have always looked at outlays first and then tried to jockey the revenues in order to meet these outlays.

Under the amendment, we are now going to have to look first at revenues and then try and keep the outlays within this revenue limit. The process will be reversed and restored to traditional budget-making processes. This will all be to the economic good of the Nation.

Mr. SYMMS. I do not need to tell the Senator this. He knows it being from the neighbor State of Idaho. I think Utah has a constitutional amendment also. But I know in Idaho they have a constitutional amendment, and so many times I have heard State legislators who happened to be, say, proponents of education and are known to be proponents of public education, they say:

> Look, you know we want to spend an extra $20 million more in whatever category, secondary or primary or the university or something, but we cannot do it because we do not have the money. We are required to balance the budget.

And it has worked very well in the States in this country, and there is no reason why it should not work well in the Federal Government.

I realize it is different. But the problem that we face in this country, and I will yield back to the Senator in a moment—I know he wants to go on—as I see it, is that for years and years and years the money in this country has been debased in order to cover the errors of the computation of income and outflow of the Federal Government, and the answer has been they always spent more. Whether they borrowed the money or printed the money or whether they taxed for the money, the Government was still growing at a rate faster than the private sector.

I know Senator THURMOND mentioned yesterday the numbers of people in this country and the percentages of the public, and later when I make my remarks I will insert this in the RECORD, that the overwhelming majority of Americans, Republican, Democratic, and Independents, want this amendment to the Constitution.

This is something the people in this country are demanding of us, and I think we should give them that opportunity.

I think the Senator from Utah and others have done a great service to this country to get this amendment up before the Senate so we can debate it and pass it hopefully and get it passed through the House of Representatives and let the States either ratify or reject it. I predict that it will be ratified in the timeframe it takes for the 50 States to have all their legislatures convene.

Mr. HATCH. I thank the Senator from Idaho for his thoughtful remarks.

Mr. SYMMS. I thank the Senator.

Mr. HATCH. As Senator GRASSLEY observed yesterday, the States have been a laboratory in this regard—a successful laboratory. Constitutional amendments to balance the budget can and do work, amendments far

more stringent in some respects than this one.

Again, I personally express my deepest appreciation to the distinguished Senator from Alabama, Senator HEFLIN, for the work he has done in helping to draft this amendment and facilitate this amendment.

The proudest thing I think all of us feel about this is that it is a genuinely bipartisan amendment; Democrats and Republicans have been working together in the interest of all the people in this country.

Mr. HEFLIN. Mr. President, I thank the Senator, and I appreciate the kind remarks made about me by the distinguished Senator from Utah, Senator HATCH. He certainly has provided the field marshal leadership in regards to this joint resolution.

I can remember back 3½ years ago that we were having a battle to get it out of the Subcommittee on the Constitution of the Judiciary Committee, and Senator HATCH then was leading the battle, and we did succeed, and we felt that was on the first step up the ladder toward victory.

Senator STROM THURMOND, Senator ALAN SIMPSON, and Senator DECONCINI were all active in the Judiciary Committee at that time. Indeed we were practically the only supporters. But we have now moved forward, and I believe there are now 62 cosponsors.

It is with a great deal of pleasure and satisfaction that I rise to voice my strong support for Senate Joint Resolution 58, a constitutional amendment requiring a balanced Federal budget. This is a very exciting and gratifying day for those of us in the Senate who have worked hard to see this balanced budget amendment come to the floor of the Senate.

Senate Joint Resolution 58 is similar to the first piece of legislation I introduced in the Senate in 1979, calling for a constitutional amendment to balance the budget. This fulfilled a pledge I made to the people of Alabama during my campaign and, by casting my vote in favor of this resolution, I am fulfilling that commitment.

The people of Alabama, like people all over this country, are crying out for relief from high interest rates, unemployment, and inflation. Large Federal deficits have wreaked havoc on our economy. The Nation's trillion-dollar debt represents an onerous burden to every American. It is the responsibility of this Congress to assume the leadership in bringing these problems under control and to provide the much needed relief for the average American worker and taxpayer.

It is appalling to note that, since 1960, the Federal budget has been balanced only twice. Deficits in this same period have accounted for over half of America's total national debt, which now exceeds $1 trillion. From 1960 to 1981, spending by the Federal Government rose from $92 billion to over $650 billion.

However, deficit spending by the Federal Government has not always been the norm. Indeed, until the Great Depression of the 1930's, a balanced Federal budget was considered part of our unwritten Constitution. In proposing a balanced budget amendment in 1789, Thomas Jefferson warned "the public debt is the greatest of dangers to be feared by a republican government," Presidents John Adams, James Madison, James Monroe, John Quincy Adams, and Andrew Jackson all argued strongly against a public debt.

Until the 1930's, deficit spending only occurred in times of war and recession. However, after each war, the war debts were immediately reduced at the return of peace and prosperity. In the last several years, for the first time in the history of this country, very little effort has been made to reduce the national debt.

It is clear from year after year of billion-dollar deficits that the conventional congressional budgetary process is no longer working. I am convinced that the Congress of the United States simply does not have the willpower to cut Government spending and balanced the Federal budget without a constitutional amendment mandate requiring it to do so. The source of this failure is the structural bias within our political system that causes higher levels of spending, taxing, and deficits than are wanted by the American people. This spending bias has yet to be corrected by internal reform, even though a majority of the Members of Congress believe that large deficits and excessive Government spending severly damage the economy.

The people of our Nation, after years of listening to vague promises from their elected officials, have lost faith in the ability of Congress to do what is necessary to turn the economy around. I believe the balance the budget amendment will restore the American people's confidence in their Government and the economy, and reimpose the spending constraints that our Founding Fathers originally assumed.

The concept of a constitutional amendment to require a balanced budget has been studied and proposed for many years. In my first floor speech in this body, I urged the Senate and the House of Representatives to assume the leadership in this battle. I noted then that a strong move was being made by the States to convene a constitutional convention in order to propose a balance the budget constitutional amendment. I felt then, and I feel now, that such a convention would be unwise and certainly would be unneeded if this body fulfills its own responsibilities and provides leadership in this area. At that time, however, the prospects for progress looked bleak indeed. There were many persons both in and out of Congress who thought the balance the budget movement would never get off the ground. Dozens of proposals for achieving a balanced budget were put forward; and, although each had its own constituency, no consensus could be seen for any particular approach to solving the problem.

Early in 1979, however, Mr. President, a coalition of Senators who were interested in healing this country's economic ills began to meet and seek ways of attacking these problems. This coalition of Senators and their staffs met frequently throughout the spring, summer, and fall of 1979 trying to arrive at a consensus measure which would be supported by all the various factions and constituencies who were seeking this same end, although by a variety of means. Several months of intensive work by the staffs of Senators THURMOND, HATCH, SIMPSON, DECONCINI, and myself, always in coordination and in conjunction with the efforts of the ad hoc Balance the Budget Committee made up of Members from the Senate at large, worked diligently on trying to find the best solution.

Finally, a measure was forwarded which took a fresh approach to the problem and which combined the best features of various competing approaches to the solution of the problem of balancing the budget and restraining Federal spending and Federal growth. Senate Joint Resolution 126 was introduced, and many other Senators joined us as cosponsors of it. The resolution we are considering today is basically Senate Joint Resolution 126 slightly modified.

Senate Joint Resolution 58 has been scrutinized by many Senators and interest groups, as well as the staffs of many in this body. It has been examined by outside experts; and while it does not garner universal acclaim, there is a strong feeling that this is an amendment that we can live with, that the American public will rally behind, and that has a realistic chance of being passed by this Congress and ratified by the several States.

Mr. President, I think at this point it is important to note the characteristics of this proposed amendment to the Constitution. It was not our intention when we drafted this amendment to write economic policy into the Constitution. In my judgment, it is only incidentally an economic amendment. Primarily, it is an amendment of process. Section 1 of the amendment establishes a norm, and that norm is that spending should not exceed revenues. If the Government is going to spend money for whatever purpose, it should and must have the money in hand to pay for the goods and services re-

quired. It is a concept that all Americans understand. You cannot continue to spend more money than you take in year after year and be on a sound economic footing. Section 1 of this resolution as drafted can be waived by majority vote in the case of war, or by a three-fifths vote of the Members otherwise.

Section 2 requires that revenues not grow at a rate which exceeds the growth of national income, thereby establishing another norm. This norm is that tax increases must be aboveboard and affirmatively approved by a vote of the elected representatives. This section does not try to control the level of Government spending, per se; what it does is provide that if the Government is going to raise taxes, it must be by majority in the open—not relying on hidden taxes, such as inflation to drive up Federal revenues and thus finance increased Federal spending. If this measure passes, the Congress will then be put in the position of making decisions about whether to cut out spending or to raise taxes to cover the increased spending. Either decision will be difficult, and this difficulty, I think, will inhibit the growth of needless Federal programs. Thus, in effect, this measure is both a limitation on spending and a limitation on taxation which are, of course, the major goals of any such amendment.

Section 3 will allow Congress, in the event of a declaration of war, the authority to operate outside of the provisions of the amendment. Such a waiver would be on a year-to-year basis by concurrent resolution of Congress, as defined under article 1, section 8, of the Constitution.

As mentioned, Senate Joint Resolution 58 is a unique combination of the many approaches proposed during the last several years. First and foremost, it is a balance the budget amendment. But as mentioned above, it also has the characteristics of a spending limitation and a tax limitation amendment. It expressly mandates a balanced budget which can be waived by Congress only by a three-fifths vote.

I might point out that is a three-fifths vote of the entire membership of the U.S. Senate and the House of Representatives.

It is a tax limitation because it prohibits hidden inflationary tax increases, and it is a spending limitation in that if there is no vote to raise taxes, spending will be held down by the section mandating a balanced budget.

There is strong bipartisan support for the amendment in both Houses of Congress. A balanced budget will be the measure to assure the American people that they can look forward once again to a sound economy. It is the vehicle by which we can begin to solve our economic problems and prevent their recurrence, and restore the confidence of the American people in their Government and their country's future. I urge my colleagues to support the passage of this amendment, one of the most significant additions to the Constitution since the Bill of Rights.

Mr. President, under the proposed constitutional amendment, all of the requirements pertaining to the balanced budget and a tax limitation can be waived by a majority vote of the entire membership of both Houses of Congress if a declaration of war is in effect. In my judgment, this exception is good, but I feel that it does not go far enough for this country can be in a state of military urgency at times other than when a declaration of war is in effect. There was no declaration of war in the Korean police action or in the Vietnam war.

In the dark days just before World War II, this country funded the arsenal for democracy without a declaration of war. It is very likely that Nazi Germany would have been successful had it not been for the support that was given to our later allies. It is significant to note that even on the eve of our entry into World War II, a draft passed by a one-vote majority. If America had not had the leadtime to rebuild its armed services before Pearl Harbor, the outcome of World War II might have been different.

While the bill would allow for deficit spending with the vote in the Senate of 61 votes in the time when there is a declaration of war, I think we ought to look toward the possibility of a state of military urgency. I hope that during the debate we can discuss this and possibly come up with a solution in regards to this one area that I feel is needed in this constitutional amendment.

I yield back the remaining time to the Senator from Utah.

Mr. DECONCINI. Mr. President, if the Senator will yield, I just want to comment on the Senator's statement. Having worked with the Senator from Alabama in the coalition that he discussed and the expertise that he has offered to this effort, I quite frankly do not believe, and I think the Senator from Utah does not believe, that we would be here today if the Senator from Alabama had not come forward with his experience and background in actually drafting much of the amendment during the hearings and in the course of getting this final compromise put together so that we could be here today. I thank him for that tolerance and the tenacity in which he continued to press for the constitutionality of this amendment.

I feel very confident, with his judicial background and involvement in this, that we have a very sound constitutional amendment.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. HEFLIN. I yield.

Mr. THURMOND. Mr. President, I commend the able Senator from Alabama for strongly supporting this constitutional amendment to balance the budget. The distinguished Senator from Alabama was chief justice of the Supreme Court of Alabama. He is an excellent lawyer. He understand the complexity of this amendment. I am very pleased that he has come out strong for it because it is simply a matter of fiscal responsibility being brought back to this Nation again. I want to commend him for taking this stand and for the fine address he has made in the Senate today.

Mr. HEFLIN. I wonder if the Senator from Utah might enter into a little colloquy with me.

In the original resolution, in order to insure that a balanced budget is complied with, there is the language in that bill that says:

> The Congress shall not pass and the President shall not sign any bill which would cause the total outlays for any year to exceed the total expenditures of the budget for such year.

In place of that is the language:

> The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

Does the Senator from Utah feel that that replacement language is as strong and as adequate to see that after a budget is passed that a bill does not come through the appropriations process that destroys the budgetary requirement as contained in this amendment?

Mr. HATCH. The language in Senate Joint Resolution 58 is virtually identical in meaning to the language quoted by the Senator. It is simply a more general statement. I would also say that it is an absolute prohibition, in the opinion of the Senator from Utah. Actual outlays cannot exceed the planned level of outlays in the budget.

Mr. HEFLIN. I would like to ask the Senator this question: In section 4 it defines the total receipts being the total receipts shall include all receipts of the United States except those derived from borrowing. Total outlays shall include all outlays of the United States except those for the repayment of debt principal.

That, I suppose, is placed in there for the purpose that if Congress, after balancing the budget, sees that it can start toward reducing the national debt, that language is put there in order to be an encouragement and an incentive toward the reduction of the national debt?

Mr. HATCH. The Senator is correct. This language represents current usage. We wanted to be as close to current usage as we could be in this regard. The Senator is totally correct in his assertion that this language also

insures that this amendment is not a barrier to debt repayment.

Mr. HEFLIN. I yield back the remainder of my time.

Mr. HATCH. I thank the distinguished Senator from Alabama.

I, again, would like to join in congratulations for the important work that he has done on this issue, on this amendment, and the expertise he has brought to this effort—constitutional, judicial, and legal expertise. We feel very grateful for his efforts. He has been an integral member of the bipartisan team of both houses of Congress that have put this together. I personally want to express my own feelings in this regard.

I appreciate the fine remarks that the distinguished Senator from Alabama, Senator HEFLIN, has made here.

In this regard, I would also like to praise Senator DOLE again for his remarks yesterday on the floor of the Senate pertaining to this amendment, and for the effort he has made in this area for many years. All of us in this body have appreciated the outstanding leadership he has provided as chairman of the Finance Committee, and as a member of the Judiciary Committee. He has played one of the most important roles in helping to bring this to the floor and in helping to shape the amendment so that it represented the broadest consensus that was possible. With his leadership, I believe that we will be able to pass this amendment on the floor of the Senate and give the House a chance to do the same.

Senator DOLE has been a long-time proponent of this idea and has worked closely with the Subcommittee on the Constitution in the development of this specific measure, even though not a member of that subcommittee. I want to express my personal appreciation to him for the effort he has made.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. I ask unanimous consent that the order for the quorum call be rescinded.

Is there objection? Hearing no objection, the quorum call is rescinded.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2 p.m. this afternoon.

Thereupon, at 12 noon, the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

Mr. MOYNIHAN and Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Mr. President, is it in order for the Senator from New Mexico to speak as long as he desires this afternoon, or is there some restriction?

The PRESIDING OFFICER. The Senator may speak for as long as he wishes. There is no time limit.

Mr. DOMENICI. I intend to speak for 30 minutes or so.

So I will ask the distinguished Senator from New York, did he need just a small amount of time, in which event I will yield?

Mr. MOYNIHAN. No. I appreciate the courtesy of my friend. I intend to speak about the same length of time. So I will yield to him.

Mr. DOMENICI. Maybe I will speak for 15 minutes and then stop and listen to the Senator from New York if he will listen to me for 15 minutes.

Mr. President, I first indicate that I have not had a chance to discuss the content of this speech nor the amendments that I intend to offer with the distinguished floor manager of the bill, the Senator from Utah (Mr. HATCH).

I clearly intend this afternoon or tomorrow to talk with him about them. I just could not adjust his schedule and mine so that I could do that before this presentation. So he will not be aware of some of them, but clearly it is my intention to discuss them with him in detail.

Mr. President, Senate Joint Resolution 58, the balanced budget constitutional amendment, provides the Senate with an unprecedented opportunity to build a foundation for responsible fiscal policies in the decades to come. I commend the Committee on the Judiciary for putting this amendment before the Senate.

This amendment will not of itself assure a balanced budget. It cannot by itself assure that Government spending and Government revenues will not grow faster than the national economy. Whether these results are achieved in the future will depend upon a multitude of decisions made by future Congresses and by future Presidents of the United States. As I have said many times, no tool or process will ever replace political will.

It, nevertheless, is my view that this amendment can increase significantly the chances that Congresses and Presidents will produce balanced budgets. The amendment can also be of considerable assistance to those who seek to restrain the growth of Federal spending and Federal taxes. In other words, while this amendment is not a panacea, it can help to generate the political will that is necessary if our National Government is to have responsible fiscal policies in the future.

However, I see a number of problems and pitfalls with the amendment as it now stands. I will discuss these problems later in my statement. Some of these problems can be solved through perfecting amendments here on the floor. These problems must be remedied, I believe, in order to preclude later controversies about the intent of the amendment and to head off problems which would arise in developing implementing laws and procedures.

In addition to the problems which can be solved through floor amendments, I want to discuss with the Senate some potential pitfalls which could make this amendment far less effective than its sponsors and I hope it will be. It is vital that these pitfalls be explored as we consider this amendment, so that we and our successors will be aware of the need for continuing vigilance to assure that the purposes of the amendment are really achieved.

I would like to vote for the amendment, but it does need improvement, and I sincerely hope the Senate will improve it and then approve it so that it can go to the House of Representatives and then to the States for ratification.

Once this amendment is approved by the Senate, it is vital that we develop and put in place at the earliest possible date a statute fleshing out details of how it will be implemented. By developing and testing implementing procedures as soon as possible, we can avoid confusion and controversy after the amendment is ratified.

By the time the Senate approves Senate Joint Resolution 58, I expect to introduce a bill amending the Congressional Budget Act and providing for the implementation of the constitutional amendment. I further intend to schedule hearings by the Budget Committee, which has significant jurisdiction in this area beginning this September, to consider my suggestions and other ideas for implementing the amendment and improving current budget procedures. This floor debate will be of considerable help in the development of the necessary implementing statutes.

It will likely take at least 2 years for three-fourths of the States to ratify the amendment. By the terms of the amendment, it will become effective for the second fiscal year beginning after ratification is completed. This means that at a minimum we are 3 year away from the time when the amendment will become binding. This gives Congress ample time to enact and test implementing procedures.

DO WE NEED THIS AMENDMENT

Let me turn now to the question of whether or not our Nation needs this amendment. I shall summarize the basic factors that lead me in the direction of supporting this amendment and also to make some comments about how the current congressional

budget process has worked. I an concerned that some consider this amendment necessary because they believe the current congressional budget process has not worked.

In my judgment, a strong case for the amendment exists despite the fact that the Congressional Budget Act of 1974 has been a considerable success. That act was a tremendous step forward in bringing order to the Federal Government's fiscal policies. A revised Congressional Budget Act is indeed the proper vehicle for implementing the constitutional amendment when it becomes part of our national basic law.

I might indicate, Mr. President, that the Budget Act, even for those who say it has been too cumbersome and does not have enough teeth, was not intended to take the place of political will. It has not and it cannot take the place of Members of Congress wanting to vote to reduce Government spending. Without that desire it does not matter what process we have and it really does not matter if we have a constitutional amendment, at least as I see it.

Some have asked, why can we not simply improve the Budget Act and not have a constitutional amendment? Obviously, we could proceed in that way. Certainly the congressional budget process should be improved, whether or not this amendment becomes part of the Constitution of the United States.

The reality, however, is that without constitutional pressure to limit the growth of the Federal Government and produce balanced budgets, Congresses and Presidents are not apt to deliver policies which will reach those two goals, certainly not as apt without it as with it. The experiences of the past 25 years are conclusive evidence that we cannot expect that there will be the political will required to restrain the growth of Government and balance the Federal budget, unless we put some tough constraints in place. If these restraints have to be constitutional, so be it. Putting this amendment in the Constitution will increase the pressure on Congress and on Presidents to produce the kind of fiscal policies the economy needs and the American people want.

As I said earlier, I strongly disagree with those who consider the 1974 congressional budget reforms to be failures. It is certainly true that the reductions in Federal deficits and the balanced Federal budgets that many hoped for in 1973 and 1974 when the Budget Act was being developed have not been achieved. Nevertheless, we have a congressional budget process that is working. Congress has dealt with overall spending totals and revenue limits. Congress has faced squarely the outlook for Federal deficits and has voted policies to restrain those deficits. In fact, in the last 2 years, they have voted for more such restraint than many thought possible. It is my judgment that without the experience we have had under the Congressional Budget Act, Congress would face far more uncertainties about how this constitutional amendment will work. We have tested during the last 7 years the processes that will now need to be further refined as we implement this amendment.

It was only 3 years ago that "reconciliation" was a term rarely heard. It has now become almost a standard tool in the congressional decisionmaking cycle. Indeed, there are those who contend that this important element of the Budget Act is the only way to assure that tough decisions to reduce entitlement spending are effected.

The last 2 years in particular have shown that a strong President who is committed to fiscal discipline, working with a Congress which is willing to use the budget process to help achieve a reorientation of fiscal policy, can deliver substantial results. We have had a turnaround in the fiscal affairs of this Nation. That we have not yet produced a balanced budget is not a sign of failure. It is a sign that we still have major problems on which we must continue to work. We know that swings in the Nation's economy have as much to do with whether we achieve a balanced budget as do the policies that Congress adopts. The experience we have had under the budget process demonstrates that additional pressure is necessary to produce fiscal policies that will stabilize the Federal sector in relation to the whole economy and produce balanced Federal budgets. I hope that this amendment will provide the needed additional pressure.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. I will be delighted to yield.

Mr. MOYNIHAN. Just for a question, because the Senator has raised a question which has occurred to many of us.

The Constitution is the fundamental law of this land and, with only one exception of which I am aware, has been confined to matters concerning the rights of citizenship in this Nation. Rarely—rather, never—has it incorporated a particular economic notion of the moment; and notions come and go, as knowledge comes and goes, in economic matters. Rights persist, or so we would like to think.

The Senator makes the point that once we resolve to change the Constitution, and do so, then at this point we will bring along legislation to implement the constitutional change. I ask this of the Senator: Does this not seem to suggest to him that it may not be wise to undertake so radical an action as to write a particular set of economic notions of the day into the Constitution, when we could do so on this floor by legislation?

What is the matter with simple legislation that he could propose, which would bring about the results he desires?

Mr. DOMENICI. I say to my good friend that the cornerstone of this process, this constitutional amendment, is the requirement that more than a simple majority in both houses must be willing to vote for a budget in which the expenditures are going to exceed the receipts as stated in the statement. We could do that in legislation, I say to my good friend from New York, but it is generally accepted that it would not be binding, because it would be a legislative act. Most of those who interpret legislative actions would say that the first item that came before Congress, received a majority of the votes, and thus became law, would take precedence over the statutory requirement to balance the budget

As a practical matter, I say to my good friend, the budget process, coupled with an amendment by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, Jr.), incorporated in the statutes of this country, stated that we would have a balanced budget a year ago, in fiscal year 1981.

I think his first one, which we adopted and put on an export control bill or some other piece of legislation, said that the budget would be balanced during a given year. From the time we adopted it, it has not received any discussion here. We rock along with a budget resolution that estimates things, we impove these, and then we estimate entitlements, and we go far beyond a balance. Nobody seems to be concerned that we are violating a statute. The truth of the matter is that we are not, because of those laws that comes along is equal to the others, and the last one is the prevailing law. So we need something like a constitutional amendment if we are going to get it done.

I think we should be very serious about this. We should get the amendment passed by both Houses. Then we should almost immediately put some laws on the books that would give us an opportunity to implement it through statute carrying out the intent as best we can. We will find out a lot in that process about how implementation is going to work.

POTENTIAL PITFALLS

Assuming we conclude that this constitutional amendment is necessary, we must frankly recognize that there are some potential pitfalls that could undermine the goals we seek. I want to explore some of these potential pitfalls so that the Senate as a whole will be aware of them. The existence of these pitfalls should serve as warnings that we should not expect the adop-

tion of this amendment to assume the achievement of the goals we seek without continued vigilance.

Let me now discuss some of the potential pitfalls.

ACCOUNTING GIMMICKS

One possibility for subversion of our goals would be to increase the use of revolving funds. Under current budget conventions, revolving funds are netted within the Federal budget. That is, only net operating losses of revolving funds show up as budget outlays. Billions of dollars in revolving fund receipts and expenditures go unrecognized in budget totals now because of the way such funds are treated.

If future Congresses and executive branch leaders were so inclined, they could classify additional segments of the Federal budget as revolving funds and show only the operating losses as budget outlays. For instance, the unemployment insurance program could be treated as a large revolving fund. Indeed, I suspect that a case could be made for treating social security that way. By doing this, the total amount of Federal outlays would be reduced and there would be room—even under this amendment—for significant spending increases.

I now refer to those because we are going to measure against revenues as a continuing approach to governing. In fact, we are going to review outlays as compared with revenues of the past. If you take out a whole list of expenditures through the use of revolving funds, you increase the base you can spend in relation to taxes received during the preceding period of time.

Likewise, it would be entirely possible to undercut this amendment by instituting a capital budgeting system for the Federal Government that would remove from the amendment's purview a substantial portion of Federal costs by treating capital costs as if they were not outlays. Under the type of capital budget used by many State and local governments, only the interest costs associated with bonds issued to pay for capital investments show up as expenditures in the operating budget.

In a recent study, performed for the Senate Environment and Public Works Committee, the General Accounting Office concluded that as much as 20 percent of the Federal budget could be transferred to a capital budget. GAO concluded that had such a system been in effect for fiscal year 1981, the budget deficit of approximately $58 billion could have been wiped out and a surplus as large as $74 billion could have been created.

Of course, it would be entirely possible to set up a capital budget in a way that would not subvert the intent of the constitutional amendment. The point is simply that political will power to keep budget concepts intact will be necessary in order to assure the effectiveness of the constitutional amendment. We should never underestimate the ingenuity of people who want to spend more Federal dollars. On that score I understand the distinguished junior Senator from Washington spoke yesterday about the issue of who would interpret the amendment in relation to the use of a capital budget. What convention are you following in terms of putting things such as revolving funds in a budget? Has Congress provided for it or not? Those kinds of issues we do not want determined in the courts.

I would indicate that one of my amendments would be a section that would say that we have to adopt legislation to carry out all of these purposes, clearly indicating it is our responsibility to make these kinds of definitions and definitional changes and nuances that I have just described.

BIGGER GOVERNMENT WITHOUT HIGHER SPENDING

Let me turn to a second kind of pitfall. Future Congresses and future Presidents could enlarge the role of the Federal Government in the economic life of the Nation, notwithstanding this amendment, by expanding the use of loan guarantees, tax expenditures and economic regulation.

Expanding these kinds of Federal activities would be a way of producing larger government within the outlay and revenue limits the amendment calls for. The letter of the constitutional amendment would thus be complied with, but its spirit would be subverted.

Federal loan guarantees are already an important and rapidly growing alternative to direct Federal outlays. The House and Senate Budget Committees have for some time been seeking ways to bring Federal credit activities—including loan guarantees—under more effective policy control. Such control will be particularly important if the constitutional amendment is adopted. Otherwise, there will be great pressure to use loan guarantees as replacements for direct Federal spending simply because they do not count against the budget totals.

Similarly, this amendment could encourage Government intrusion into the economy through the Tax Code. Frequent and hasty tax reductions may be required to limit revenue growth to that of national income.

Despite major tax reduction bills in 1977, 1978, and 1981, we would have had to make further tax cuts in 4 out of the last 6 years in order to comply with the amendment. Many of us would welcome tax relief if it came through lower marginal tax rates, but what would prevent a multitude of special interest tax loopholes from being created thus taking the place of spending programs? Too often when spending is cut on the outlay side of the budget increased amounts are spent on the revenue side through tax provisions and, believe me, they create programs that are very similar to the programs that we invent by statute, pass, and get signed.

Instead of additional outlays for the Department of Energy to promote conservation, we have energy tax credits. I am not picking between them. I am merely stating what has happened and what could happen. Instead of direct Federal grants for research and development, we have a new tax credit for research and development. Instead of direct subsidies to ailing savings and loan associations, we have tax-exempt all-savers certificates. The list could go on and on.

If we reduce outlays and increase tax expenditures, the amendment would be complied with while the encroachment of Government into the American economy and our ability to choose who we might help would be expanded, not limited.

By the same token, through increased regulation the Federal Government can disrupt markets and constrain economic freedom and efficiency without collecting additional taxes or spending more money. Regulation makes private businesses, nonprofit organizations, and individuals spend their money for purposes Government determines necessary. The economic costs of Federal regulation do not show up in the Federal budget. So this is one more way in which the constraints of the constitutional amendment could be evaded.

Again I am using these examples as a way to illustrate my point that we are going to have to be very vigilant as Members of Congress in the future. Certainly there are going to have to be legislation passed to carry out the purposes and intentions of this amendment.

Another potential pitfall I call the ratcheting of the revenue base. This pitfall is that revenues could be ratched upward, thus permitting a higher level of Federal spending while still achieving a budget balance.

For example, Congress could vote to change the tax laws so as to increase revenues. Under the amendment, this would require only a majority vote of both Houses plus a Presidential signature. In this case, Congress would not only have increased revenues for this year, but also would have ratcheted upward the base from which future year revenue limits are calculated.

Let me give you an example of this. Let us start with current law revenues of $1 trillion and assume national income grows at 10 percent per year. Suppose the Congress this year approved a tax increase of $50 billion. Five years from now, assuming no other actions in between, revenues

would be $74 billion higher than they would be had there been no tax increase this year. And that $74 billion would continue to grow each year in the future since the action we took this year would be a permanent increase in the base.

Mr. President, I ask unanimous consent that a table showing this phenomenon be included in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF REVENUE LIMIT WITH AND WITHOUT TAX INCREASE

[In billions of dollars]

	Federal revenue limit		Difference
	Without tax increase	First year [1]	
Preceding fiscal year	1,000	1,000	
Fiscal year No. 1	1,100	1,150	+50
Fiscal year No. 2	1,210	1,265	+55
Fiscal year No. 3	1,331	1,392	+61
Fiscal year No. 4	1,464	1,531	+67
Fiscal year No. 5	1,610	1,684	+74

[1] With $50 billion tax increase.

Assumptions: 10 percent per year nominal growth in national income. No further tax actions after first year.

Mr. DOMENICI. I should also add that this ratcheting up of revenues can also occur without any congressional action at all. This would happen if in a given year the economy produced revenue growth greater than Congress had predicted.

Either of these events would raise the level of revenues and permit the level of spending to rise, while still maintaining a balanced budget.

I do not offer these examples by way of criticism. They are not easy to accomplish, at least the one where you raise the revenue, and certainly if you have an excellent economic growth period and revenues go up, one would not complain, I am merely saying these are events that could occur and, in a sense, we have to be careful of them as we watch this process develop.

POSSIBLE ADVERSE ECONOMIC EFFECTS

Another potential pitfall concerns the possibility that this amendment may inadvertently prescribe the wrong fiscal medicine in some situations. Analyses done by my staff show that procyclical actions would have been required by this amendment during periods of severe recession.

Mr. President, I ask unanimous consent to print in the RECORD at this point a table showing the direction of the change required in outlays and revenues compared to actual levels in the years 1969–81. It shows, for example, that in the deep recession years of 1975 and 1980, the amendment would have required that actual outlays be reduced and actual revenues be increased—both procyclical actions, "procyclical" meaning conventional wisdom says they would do more harm than good. On the other hand, the amendment would have mandated some countercyclical actions in 1971 and 1974. In some other years shown on the table, the results are mixed.

I ask unanimous consent that the table for 1969–81 indicating the effect of the amendment's policies on the economy with the procyclical and countercyclical natures identified be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

EFFECT OF AMENDMENT POLICIES ON THE ECONOMY

Fiscal year	State of the economy	Compared to actual, the amendment would have required (or permitted)	
		Outlays to	Revenues to
1969	Expansion	Decrease	Decrease.
1970	Recession	Increase	Increase.
1971	Expansion	Decrease	Do.
1972	do	do	Decrease.
1973	do	Increase	Do.
1974	Recession	do	Do.
1975	do	Decrease	Increase.
1976	Expansion	do	Decrease.
1977	do	do	Do.
1978	do	do	Do.
1979	do	do	Do.
1980	Recession	do	Increase.
1981	do	do	Do.

Note.—Procyclical = outlay decrease or revenue increase during recession; outlay increase or revenue decrease during expansion. Countercyclical = outlay increase or revenue decrease during recession; outlay decrease or revenue increase during expansion.

Mr. DOMENICI. Mr. President, we can conclude that the amendment is apt to have undersirable economic consequences from time to time.

I am well aware, Mr. President, that analysis of past experience cannot tell us conclusively how things will be once this amendment is in place. If the Federal Government in fact returns to a balanced budget for a sustained period, the necessity for deviations now and then from the norms set forth in the amendment will probably not cause major problems.

In the final analysis, Mr. President, we must remember that it is the economy that will be the prime determinant of whether the budget is in balance.

Mr. MOYNIHAN. Will the Senator yield for a simple question?

Mr. DOMENICI. I am pleased to yield.

Mr. MOYNIHAN. I did hear the Senator say that during a number of years in the seventies, this amendment would have required the Government—the Congress—to act in ways opposed to the general judgment of economists in Republican and Democratic administrations alike, with respect to the role of the countercyclical policies which is simply to say that, when there is a recession on, the Government should spend more; when there is an overly expansive growth period on, the Government should spend less—working counter to the cycle in order to smooth it out, to modulate rather than to amplify.

Now, did I not hear the Senator say that this amendment would have required, in fact, that we amplify the ups and downs, that the better might be better but the worse would be even more worse. The swings would be more erratic and what has generally been economic policy for at least a half a century, or perhaps 100 years now, to even and ease things out, would have been prevented by this amendment? What does the Senator propose we do?

Mr. DOMENICI. I am merely indicating what the conventional wisdom is. I am certainly not saying that we could not have accomplished what the Senator has pointed out. If you want to put in some countercyclical policies, Congress could vote them in. I am merely saying you would have to do it with a full consciousness, if that is what you wanted to be the policy, because you might have the opposite being carried out if you were bound to the rigidity every year. This amendment says Congress can spend more than a balance if we want. They are just going to have to vote for it.

Mr. MOYNIHAN. It would require a 60-percent vote.

Mr. DOMENICI. That is correct.

Mr. MOYNIHAN. But the Senator does grant what economists do know. He knows what his own staff thinks. He knows what the staff at OMB thinks. The Senator is aware that the staff at the Office of Management and Budget thinks this is a disastrous amendment.

Without prejudice, I would put in the record what they advised Mr. Stockman—who then must have asked Mr. Deaver, or someone, and received better economic advice. But the fact is, this measure makes countercyclical economic actions more difficult, does it not?

Mr. DOMENICI. It sure does. But I am not so sure we ought not to be prepared to take that on. The good that will come from a balanced budget, judiciously applied with proper implementing language here in the Congress, with a good balance between entitlements and appropriated accounts and other things, and a good mix in our tax policy, is so important that we may be much better off with a balanced budget approach even if it is more difficult to prime the pump, which is really what countercyclical means.

Another type of pitfall relates to the difficulty of predicting accurately the levels of Federal outlays. And it is this one that bothers me the most, having worked in this field now for 7 years. I do not have the answers, but, obviously, we are going to have to be very concerned about the fact that we are not able to estimate many things about our Government as well as many think we should.

A budget can be $15, $20, $30, $40 billion off from what was expected in this country and no one can be accused of having done anything wrong.

It is just that way. The economy acts and the budget reacts.

Beginning with fiscal year 1980, we have had 3 straight years in which the original outlay targets set by Congress were $40 to $50 billion below the levels of outlays actually experienced during the fiscal year. Very little of this outlay growth was caused by congressional adoption of legislation producing higher spending than assumed in the respective budget resolutions that we voted on.

Mr. MOYNIHAN. Will my friend allow me to make one inquiry, because I know it matters very much to him? Is it not the case that in the last 5 years the most uncontrollable item in our budget, and in the committee which he runs with such rare grace, has been interest payments on the Federal debt—due to higher than anticipated interest rates? Is that not the case?

Mr. DOMENICI. That is generally true with reference to the last 2 years.

Mr. MOYNIHAN. May I say to the Senator, merely to help him out, that we do not have to have that problem. As a legal matter, all we have to do is tell the banks what the permissible rate of interest is. Then, that problem goes away. Just tell them, "That is all." In the Middle Ages, you got your ears clipped for lending at rates higher than permitted. Just tell the Chase Manhattan Bank, "The rate of interest is what we say it is in the budget resolution, 9¾ percent; above that, you go to jail." That is easy. There are not many bankers.

Mr. DOMENICI. Well, I know the Senator is not serious that it would be that easy to solve the interest problem, but he is making a point and I appreciate his making it.

Although I would suggest that the high interest rates, which we have had such difficulty predicting, are directly related to the fact that the deficits are too big.

I will say, technically, the Senator is right on the interest. But I will tell you that over the last 15 years the item in the budget that has grown out of all proportion is much broader than that. It is entitlements.

Mr. MOYNIHAN. But I say to my friend, in great seriousness, I was not speaking entirely in jest when I said Congress could legislate interest rates. Such things have happen in the past. But even more seriously, I was extending on his point, which I think was ably made, that, as he says, this legislation might move us away from economic and social measures as a means of bringing about desired results, whatever they may be. But it would move us toward greater regulation of business.

If interest rates are out of control—and this amendment barred a fiscal response—Congress might tell the banks what the rates of interest may be, and not let them go above that.

The Senator said it and, I think, he said it right. I can see the day—if he would permit me—when we would face the fact that we could no longer pay unemployment insurance, because it would violate this new clause of the Constitution. Congress then resolves this difficulty by simply making it a crime for any employer to lay off any employees and by making it mandatory that all unemployed employees be restored to their positions. That would not cost the budget any more than the costs of printing the bill and finding room in the prisons for the manufacturers who violate it. We could make it a crime to go bankrupt. Indeed, this amendment could be the most proregulatory measure we have had before us in a long time.

I thank the Senator from New Mexico for making that point.

Mr. LEAHY. Will the Senator from New Mexico yield for an observation?

Mr. DOMENICI. Let me say to my good friend, Senator LEAHY, that I would, under normal circumstances, be delighted to yield to him, but I have to be somewhere shortly, and I wanted to complete my remarks. I have agreed to yield for some observations to the Senator from Washington. But if the Senator will give me another few minutes, I will see if I can yield to him. But for now I would like to complete the four or five thoughts I have remaining, including a brief outline of the amendments that I proposed.

The original estimates in the budget resolutions were too low, primarily, I say to my friend from New York, because the economy performed more poorly than predicted—with higher inflation, unemployment, and interest rates and lower real growth than had been predicted. We should not forget the tendency of both the executive branch of Government and the Congress to squeeze original outlay estimates below prudent levels. That means that we are prone to be political with economic facts, and that has not changed much and probably will not.

What would happen if this type of outlay growth occurred after the amendment was in place? The amendment includes a provision—the last sentence in section 1—that "The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement"—that is, the approved congressional budget plan.

The report of the Judiciary Committee states that this provision is not intended to bestow new impoundment powers on the President. I believe there is some ambiguity on this, and I will discuss shortly a perfecting amendment I intend to propose to clarify this provision.

Even after the adoption of the amendment with reference to impoundment powers, I must in all candor state that there can be no certainty about how future Congresses and Presidents will deal with unexpected outlay growth. I stress here "unexpected outlay growth." Whenever it appeared that outlays were exceeding the stated levels, there would be at least four choices available:

First, Congress could vote to amend its budget statement to provide for an unbalanced budget. This would require affirmative votes of three-fifths of the whole number of Members in both bodies, pursuant to the amendment that is before us.

Second, Congress could reduce spending to keep outlays within the budget amount. This could be very difficult, depending on the size of the threatened outlay overage and the point during the fiscal year when that problems arose.

Third, Congress could raise revenues to avoid unbalancing the budget. This, too, could be very difficult, especially late in a fiscal year.

Fourth, Congress could have some kind of contingency fund that is there to take care of and make up for errors in estimates.

Procedures to assure that outlays do not exceed the amount provided in the congressional budget statement will be very difficult to develop. This will be one of the most challenging problems as we work on legislation to implement the amendment.

Before the constitutional amendment is approved by the Senate, we have an obligation to make sure that it is drafted as best we can. We must do all we can to insure that no substantial procedural or technical barriers exist to the effective functioning of the amendment. I have identified several problems which I believe we should deal with before it is voted on and voted out of the U.S. Senate. Let me describe each of the changes that I would hope to introduce through a series of perfecting amendments later in the debate.

First, eliminate the requirement for congressional votes as percentages of the whole number of both Houses. This is strictly a question of what do we want to do. It does not have to do with any of those technical things that I have been discussing this afternoon.

Section 1 requires the affirmative vote of three-fifths of the whole number of both Houses to approve an unbalanced budget.

Section 2 requires a vote of the majority of the whole number of both Houses in favor of tax legislation causing receipts to grow faster than national income.

These requirements are inconsistent with other special voting requirements

of the Constitution. For example, removal of the President through impeachment requires only a two-thirds majority of the Senators voting.

Mr. MOYNIHAN. Two-thirds of those Senators present.

Mr. DOMENICI. Two-thirds of the Senators voting. That means they are present. The same requirement exists for veto overrides and approval of treaties. So where we have a supermajority requirement, it is of those present, not of the body as a whole. My concern is that requiring votes on budget decisions by majorities of the whole number in both bodies would lead Members to be able to vote "no" simply by being absent during the key votes. I do not think we want to promote that.

Second, require that outlay reductions be achieved through legislation. The last sentence of section 1 creates the opportunity for Presidents to claim that they are obliged to impound funds unilaterally if Congress fails to keep outlays within the limits set in budget statements.

This is another one there could be debate about here on the floor. I think Presidents ought to have more authority, and I think we ought to give it to them. I think it ought to be congressionally sponsored and initiated. To help remedy this I would propose that two words be added, "by legislation," and that it be inserted in that sentence so it would read, "Congress and the President shall, by legislation, ensure that actual outlays do not exceed the outlays set forth in the statement."

Mr. MOYNIHAN. Can I ask one quick clarifying question? Does the Senator suggest that that final sentence of section 1 gives the President impoundment authority?

Mr. DOMENICI. I did not say that; no. I said it could be interpreted that way. The report clearly indicates, to my reading, that the Committee on the Judiciary did not intend that. But I think since we do not intend it, we might as well say what it is we do intend. I think we should give the President more authority to impound. It might be the first time that we adopt the implementing legislation that we find there is no other way to do it. He might need some extraordinary power to bring it into balance, but those two words would at least clarify it, I think.

As I discussed earlier there could still be problems in implementing this provision. My amendment would at least greatly reduce the potential for a bitter constitutional crisis over the impoundment powers in question.

Next I have an additional concern about provisions relating to permissible growth of receipts. I believe that there is more specificity in the amendment than there should be on the precise way in which permissible increases in receipts are to be calculated.

Section 2 establishes the norm that receipts provided for in budget statements for upcoming fiscal years shall not grow faster than the national income grew in the last completed calendar year. I discussed earlier my concerns about the possible procyclical economic effects of this requirement. Many people believe that these effects could be alleviated by lengthening the base period for national income growth beyond 1 year. Senator GORTON and I have introduced a bill which would use a GNP trend line. I think the distinguished Senator from New York was present when I discussed at length 3 years ago with the former chairman of the Budget Committee the GNP trend line approach for constraining Federal fiscal policy. Other Members of both Houses have made similar proposals.

Moreover, section 2, as now worded would preclude the Federal Government from shifting its fiscal year to be the same as the calendar year. The distinguished chairman of the Governmental Affairs Committee, Senator ROTH, has introduced a bill which would adopt the calendar year as the Federal fiscal year. You will recall we changed it from July 1 to October 1 in the Budget Act to give us more time to make budget decisions. October seems to be finding itself short regularly. Chairman ROTH thinks we should go on a calendar year. I believe the language in this amendment would preclude us from doing that.

So I think it is better to rely on legislation to lay out the details of the linkage between the growth of national income and receipts. I shall therefore offer an amendment that modifies this article to state simply that receipts shall grow no faster than national income unless Congress specifically enacts legislation to raise taxes.

Section 4 of the amendment provides for a waiver of all requirements of the amendment for any fiscal year in which a declaration of war is in effect. In recent testimony before the House Judiciary Committee on behalf of the administration, OMB Director Stockman recommended that waivers in national emergencies short of war should also be provided for. I have added that language. I am willing to listen to other suggestions on this one. It seems to me that maybe it is appropriate, but in any event I am not as concerned about it as long as Congress understands how rigid the language of war is, and the one I have added is just to broaden it so that national emergencies could be included.

Although it is probably unnecessary to provide——

Mr. MOYNIHAN. Will the Senator yield for a question? Precisely, what is a national emergency?

Mr. DOMENICI. Let me finish and I will then yield. I have a half page and I will be finished.

Although it is probably unnecessary to provide——

Mr. MOYNIHAN. Mr. President, may we have order? The chairman of the Budget Committee is speaking.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Mexico.

Mr. DOMENICI. Although it should not be necessary to provide in a constitutional amendment that Congress may adopt implementing legislation, most recent constitutional amendments have included such a provision. In this case I believe it is advisable to include the following provision in this amendment as implementing legislation. Section 6, I think, should say:

Congress shall by legislation provide for the implementation of this article, including, but not limited to, procedures for calculating the maximum increase in total receipts pursuant to section 2, the methods of implementing and terminating waivers under section 3, and definitions of terms and accounting procedures.

This clause specifically recognizes the need for legislation to flesh out procedures for calculating permissible increases in receipts and procedures for initiating and terminating waivers under section 4. As I indicated, I have not had a chance to discuss these previously with either the chairman of the full Judiciary Committee or the distinguished Senator from Utah, who chairs the subcommittee under whose jurisdiction this amendment arose and was reported out. It is my intention to offer these proposals as five separate amendments.

I ask unanimous consent that a copy of the constitutional amendment as it would read after the incorporation of my amendments be printed in the RECORD at the conclusion of my remarks. I think it would help Senators and their staffs to see clearly not only what I am proposing but how it would read as a completed amendment.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

S.J. RES. 58—BALANCED BUDGET AMENDMENT (Star Print) WITH CHANGES PROPOSED BY SENATOR DOMENICI

(Deletions in brackets, additions in Roman)

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths [of the whole number] of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall by legislation *ensure that actual outlays do not exceed the outlays set forth in such statement.*

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income [in the last-calendar year ending before such fiscal year,] unless a majority [of the whole number] of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war or national emergency *is in effect.*

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 5. This article shall take effect for the second fiscal year beginning after its ratification.[".]

"SECTION 6. Congress shall by legislation provide for implementation of this article, including, but not limited to, procedures for calculating the maximum increase in total receipts pursuant to section 2, the methods of implementing and terminating waivers under section 3, and definitions of terms and accounting procedures.".

Mr. DOMENICI. Now I would be pleased to yield to the distinguished Senator from Washington.

Mr. MOYNIHAN. Will the Senator allow me—as questions of definition are so important in this matter—to ask the Senator, precisely what is an emergency? I know what a declaration of war is; the Constitution refers to one. But what is a national emergency? I can offer a lot of reasons why different people would think we were in a national emergency. Does that not give to the courts endless powers and requirements of interpretation?

Mr. DOMENICI. Let me just tell the Senator a couple of things I had in mind. I think the Korean war was a conflict, not a war.

Mr. MOYNIHAN. We have not declared war since 1941.

Mr. DOMENICI. And Vietnam.

Mr. MOYNIHAN. We can, of course, resolve this by declaring war every time we see a deficit coming along. We can make an arrangement with, perhaps, Iceland. Everytime we saw a deficit coming, we declare war and then pay some kind of recompense to the Icelanders for having done so. They would understand it would be something like a Reno divorce; it would not require any real hostilities. We would not actually go to war, we would just declare it. Raparations could be agreed to in proportion to the deficit that had to be dealt with.

Mr. DOMENICI. Let me tell my good friend from New York I have as best I can told the Senate of some of the pitfalls. I think some of them can be rectified in the amendment itself, but many of the pitfalls will be there.

But we have to trust in the open debate of a Congress with votes required. Surely, if the Senator would like to follow up on his observation, and would like to be the sponsor of the declaration of war when there is not one around so he can overspend the budget, I am sure that he could introduce it and maybe get 51 votes in the Senate and then get it through the House, but I doubt it. And if he wants to do that with Iceland, to borrow his example, I doubt it, unless we have reached a point years from now where people do not care at all about fiscal policy and we have found some other miraculous way to solve things.

Mr. GORTON. Will the Senator yield to me?

Mr. DOMENICI. I should be pleased to yield to my good friend from Washington.

Mr. GORTON. I thank the distinguished Senator from New Mexico for his thoughtful remarks on this proposal to which I do have a couple of observations and perhaps an additional question or so.

As the Senator from New Mexico knows, he and I are close friends. There is no Member of this body who is peer of the Senator from New Mexico in familiarity with the budget process, with its pitfalls, and its opportunities. As a consequence any remarks or suggestions which he makes in connection with a proposal to put into the Constitution certain budget policies must be viewed as matters of considerable importance.

If I may, however, I would presume to make certain comments on the relative importance and relative value of the five suggestions which he has made, add one other suggestion to them, and also ask him whether or not he does not feel that some of them can be combined. Because I engaged in a considerable debate on this proposition last evening and because I received a number of significant answers from the distinguished Senator from Utah, this may be considered to be an extension of those remarks.

I would suspect, I say to the Senator from New Mexico, that of the five proposals which he has made, the one which would probably meet with the greatest degree of resistance from the sponsors and proponents of the constitutional amendment would be section 2, because it goes to the fundamental philosophical basis of this entire proposal; that is to say, the supermajority requirement for an unbalanced budget and the majority of the whole House requirement for increases in revenues. Obviously, the philosophy behind this entire amendment is subject to debate, but assuming the necessity or the desirability of a super majority in the one case and perhaps an absolute majority in the other case, it would not seem to this Senator at least that the present requirements of the amendment are onerous. Three-fifths majority is hardly an impossible majority to obtain, nor, of course, is the requirement that 51 Members of the Senate and a like percentage of the House vote for a tax increase; a radical change from the actual situation which obtains at the present time.

Mr. DOMENICI. I agree. In fact, I have not attempted to put my amendments into some kind of priority, but while I was delivering my speech I indicated that that was not the most significant one. I offered it so we would understand that it is slightly different than the other constitutional provisions where we need a supermajority, such as to vote for a veto override or impeachment, and we should know that it is different.

Mr. GORTON. That is certainly correct.

The second proposal about which I have certain reservations is the one to which the distinguished Senator of New York just spoke, and that is the addition of the words "or national emergency" to section 3. I agree with the Senator of New Mexico that a declaration of war is a defined action on the part of the Congress. It is, of course, a phrase included in the Constitution at the present time. National emergency is not included in the Constitution at the present time. I understand that what the Senator from New Mexico envisages is something like the Korean conflict or the Vietnam conflict, but one would presume that it would be relatively easy for the Congress itself to declare a national emergency because of an economic problem which caused it to wish to go back to a simple majority rather than a three-fifths majority, and as a consequence I have reservations about No. 4 of the Senator's five proposals.

Mr. DOMENICI. Will the Senator permit me to once again tell him that while I did not attempt to state my five ideas in any kind of priority, I agree that my amendment to section 3 is not the most significant one. However, I have a statement of the administration policy dated July 13, and it does appear that on this point there is a change from the Stockman testimony. Nonetheless the administration indicates that the language should be somewhat broadened. "Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect or there is an unforeseen imminent threat to national security" is the suggested language.

Mr. GORTON. I am not sure how we could provide for an unforeseen threat.

Mr. MOYNIHAN. I would like to see that defined by a district court—"unforeseen."

Mr. GORTON. I agree with the Senator from New York on that aspect.

Mr. DOMENICI. Does the Senator wish to comment on another provision?

Mr. GORTON. I wish to comment on another subject, to ask for the com-

ment of the Senator from New Mexico in connection with the other three proposals which the Senator from New Mexico has set forth. I believe there is a great deal of merit in each of them.

Yesterday afternoon, for example, in my extended discussion with the Senator from Utah, I raised the question about the impact of the last sentence of section 1 of this amendment.

I agreed with the question raised by the Senator from New York in this respect—that it is certainly open to constuction that we are granting by this sentence powers to the President which he does not have at the present time; that there is a serious question as to whether this does not create a constitutional right of impoundment when the President feels that Congress has not adequately followed up on its duties pursuant to this section.

The Senator from New Mexico attempts to cure that proposition by adding the words "by legislation" to modify any rights which the president may have. Of course, we do wish at least to retain the right of creation of an impoundment or authority by legislation. We have that at the present time, and we do not wish to restrict that. I will come back to that in a moment, because there may be a way, in my view, to cover all three proposals—Nos. 1, 3, and 5—of the Senator from New Mexico perhaps in a single change, rather than in three separate changes.

I also agree with the Senator from New Mexico that the restriction of looking at only the preceding calendar year in connection with the determination of what the limits are under this amendment is highly restrictive. I submit, however, that that change, which is the third of five amendments proposed by the Senator from New Mexico, can probably be cured by the last of his suggestions—that is to say, implementing authority which is relatively broad in scope, if, and only if, the reference in section 2 of the constitutional amendment to the last calendar year is removed. So that the whole proposition of how we determine whether or not total receipts for any fiscal year are not to be increased is a determination of Congress itself.

Moreover, I ask the Senator from New Mexico whether or not his new proposed catchall section would not also cure the problem created by the last sentence of section 1, if the last sentence of section 1 were simply stricken. I proposed yesterday that we drop the words "and the President" and there was some valid objection to that. But if what we want is the enforcement authority and the like to be set by Congress itself, why do we not simply drop the last sentence of section 1, the reference to the last calendar year in section 2, and add, with some slight changes, the general implementing section which the Senator from New Mexico has called the catchall section?

I see that the majority leader wishes to interrupt.

Mr. DOMENICI. What the Senator from Washington has said could very well be so, and we should explore it in the ensuing days and work on it. It might be that it would work.

Mr. BAKER. Mr. President, I inquire of Senators if this is a good place to interrupt for a moment.

There is a messenger from the House of Representatives at the door, seeking admission for the purpose of delivering, I believe, a veto message from the President of the United States.

Under the rules of the Senate, once that message is received, it will be read and spread of record in the Journal and made the pending business, temporarily displacing the matter before us. For a variety of reasons, I think this is a good moment to do that. This might discommode the Members involved in this debate, but it would accommodate a number of others.

I should like to propose that we bring in the messenger at this time. After the message has been received, I intend to ask unanimous consent that the vote on the message occur at 3:30 p.m.; that the time be equally divided between the majority leader and the minority leader or their designees.

Mr. DOMENICI. I have no technical reason to reserve the right to object until the majority leader proposes the unanimous-consent request. I should like to make a statement at this time, and then I shall not object.

Mr. BAKER. Yes.

Mr. DOMENICI. I say now, for the RECORD, that I am already receiving telephone calls in my office that the Domenici proposals here are intended to kill this amendment.

I hope they are not coming from members of the Judiciary Committee, and I am sure they are not.

I think I know as much about budgets and the potential pitfalls as anybody else in this body, and I do not say that about very many things. My amendments are intended to make this amendment work, not to destroy its effectiveness or to inhibit its passage.

As to those who think to the contrary, I should like them to look at my record and look at the amendments I propose. I hope supporters of this amendment would not run around the country talking about the constructive ideas I have proposed as if those who proposed this amendment are the only ones with any ideas about constitutional amendments to effect sound fiscal policy.

I will not object to the request of the majority leader.

Mr. MOYNIHAN. Mr. Leader, reserving the right to object, may I have the floor for one moment to speak to the Senator from New Mexico?

Mr. BAKER. Yes.

Mr. MOYNIHAN. I know the Senator must leave the Chamber, but before he does so, permit me to say that he was entirely within his rights in his last statement. He knows, as the Senator from Washington has said, that those who serve on the Budget Committee respect him as no other Member of this body in this matter. He has proposed five serious amendments which, while perhaps they can be refuted, must be considered. And they will be seriously and gratefully considered on this side.

Mr. GORTON. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. GORTON. I ask the majority leader only that when we complete action on the veto message and the vote, we return to the situation in which we find ourselves at the present time. The Senator from New Mexico has yielded to me, and I have not concluded.

Mr. BAKER. I assure the Senator from Washington that, as I understand the rules, when we complete action on the veto message, the Senate will resume consideration of the constitutional amendment, and we will find ourselves in the same condition.

Mr. DECONCINI. Mr. President, reserving the right to object, I wish to respond to the Senator from New Mexico by saying that at the proper time, some of us may argue in opposition to his amendments. I hope he realizes that there may be professional dissagreement as to what exactly these amendments may do. But I assure the distinguished Senator from New Mexico that I know of no one who is going around the country doing any such thing as he might infer is happening. If it is happening, it certainly is not happening from the Democrats who support the amendment.

Mr. BAKER. Mr. President, I observe the presence of a messenger from the House of Representatives, and I yield now so that the message may be received.

MESSAGE FROM THE HOUSE

At 3:07 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 6198) to amend the manufacturing clause of the copyright law, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved that the bill pass, two-thirds of the House of Representatives, agreeing to pass the same.

The message also announced that the House has passed the following bill, without amendment:

S. 2240. An Act to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6197. An Act to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal years 1983 and 1984; and

H.R. 6417. An Act to amend Public Law 96-432 relating to the United States Capitol Grounds.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 216. A concurrent resolution retaining nutritional goals in the school lunch program.

VETO MESSAGE—H.R. 6198, TO AMEND THE MANUFACTURING CLAUSE OF THE COPYRIGHT LAW

The PRESIDING OFFICER. The Chair lays before the Senate the President's veto message on H.R. 6198, which the clerk will report, and it will be spread in full upon the Journal.

Mr. BAKER. Mr. President, there are time constraints that I have been made aware of by Senators on both sides of the aisle. Copies of the veto message are available; and in view of that, I ask unanimous consent that further reading of the message may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message from the President is as follows:

To the House of Representatives:

I am returning without my approval H.R. 6198, a bill that would extend for four years the "manufacturing clause" of the U.S. copyright law that expired on June 30, 1982.

The manufacturing clause requires that many printed materials be printed in the United States in order to enjoy copyright protection. The clause was written into law nearly a century ago, in an effort to strengthen our relatively new printing industry by limiting foreign competition. However, the "infant industry" justification for protecting our printing industry is no longer valid; our industry is now one of the most modern and efficient in the world.

During the recent Tokyo Round of Multilateral Trade Negotiations, our trading partners objected to the manufacturing clause as inconsistent with our international obligations. Extension of the clause, as provided in H.R. 6198, could result in increased international trade tensions that could endanger American jobs. I would further note that if the printing or publishing industry believes itself injured, or threatened by injury, due to the expiration of the manufacturing clause, it has the option of requesting relief under the Trade Act.

My Administration has placed a very high priority on strengthening free trade, and we are energetically seeking to remove artificial foreign barriers to American exports. We are confident that our free enterprise system will enable American products to face foreign competition in our own open market and to do well in markets overseas, provided our access to those markets is not blocked by protectionist barriers that distort international competition.

Given the importance of our efforts to remove foreign trade barriers, it would be self-defeating to extend an artificial barrier of our own. For these reasons, I cannot approve H.R. 6198.

RONALD REAGAN.

THE WHITE HOUSE, *July 8, 1982.*

Mr. BAKER. Mr. President, I indicated earlier that I would ask for a vote at 3:30 p.m. I ask the minority leader if 3:40 would be all right.

Mr. ROBERT C. BYRD. Mr. President, that is agreeable. I ask that Mr. MOYNIHAN be allowed to speak for 10 or 15 minutes on the subject which the Senate was previously discussing, if he wishes, because I believe Senators have pretty much made up their minds.

Mr. LEAHY. Mr. President, I wish a couple minutes on the subject of the veto override which is of particular interest to me as one of the cosponsors of the manufacturing clause extension.

I certainly have no objection to the Senator from New York speaking on the other matter.

Mr. ROBERT C. BYRD. Mr. President, as I understand the majority leader he will ask that the time be equally divided on both sides between now and 3:40 p.m.

Mr. BAKER. Yes, it will be.

Mr. President, I say, by the way, that I will vote to override the veto; therefore, I will designate someone else to manage the time on this side.

Mr. President, I ask unanimous consent that the time between now and 3:40 p.m. be allocated to the debate on the veto message; that it be equally divided; that the time be under the control of the majority and minority leaders, or their designees; and that the vote occur on the veto message at 3:40 p.m. today, paragraph 4 of rule XII being waived.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. BAKER. Mr. President, since I believe I am correct in stating that the chairman of the Judiciary Committee and I both favor overriding, I will diligently set about finding someone to manage, but for the moment I yield the floor.

The PRESIDING OFFICER. Who yield time?

Mr. BAKER. Mr. President, I yield to the chairman of the Judiciary Committee.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today to urge my colleagues to vote to override the veto message of the President of H.R. 6198, a bill to extend the manufacturing clause of the copyright laws.

Under current law, the manufacturing clause affords protection to domestic manufacturers of printed materials by denying certain U.S. copyright protection to material printed overseas. It expired as of midnight June 30, 1982, an expiration date which was contained in present law. Because of the veto by the President of H.R. 6198, a bill passed by both the House and Senate to extend the manufacturing clause for a period of 4 years, the Clause has now lapsed and U.S. printers no longer have the protection of the manufacturing clause.

Mr. President, in returning without approval H.R. 6198, President Reagan based his veto action on a desire to remove foreign trade barriers. That is a laudable goal, one which under normal circumstances I could probably support. This situation is not one, however, where I believe our foreign trade interests are adversely affected. Moreover, expiration of the manufacturing clause, according to the Department of Labor, could lead to the loss of thousands of American jobs.

Mr. President, let me first respond to the statement of the President that to extend the manufacturing clause would lead to the creation of an artificial trade barrier. This argument is based on the assumption that the manufacturing clause prevents materials from the United States from being printed in Britain or other European countries. That is not a good reason, Mr. President, because very little material would be sent to Europe anyway, since the real competition to the U.S. printing industry comes from the Near East and the Pacific basin countries.

Second, with regard to the matter of jobs, a U.S. Labor Department study dated June 15, 1981, concludes that expiration of the manufacturing clause would cause a decrease in demand for printing leading to a loss of 78,000 to 172,000 job opportunities in the printing and publishing industry. It also concludes that an estimated 170,000 to 367,000 job opportunities could be lost in related industries.

Mr. President, we are talking about jobs for U.S. workers. Unemployment, although improving, is a contributing factor to our sluggish economy. I

cannot understand why President Reagan, who has actively encouraged private industry to do all it can to increase productivity, would allow some midlevel bureaucrats in the Federal Government to recommend a veto of legislation that may lead to the loss of up to 367,000 job opportunities. I am especially amazed that the President would take such advice in the face of a report by his own Labor Department that significant job opportunities could be lost.

Mr. President, I ask unanimous consent that the full text of the report by the U.S. Department of Labor be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, it is with great reluctance that I urge my colleagues to vote to override this veto message. President Reagan is my friend, the leader of my party, and is doing a great job of leading this Nation.

I have not voted heretofore to override any of his vetoes and I regret it is necessary now to do so. But he has been poorly advised on this matter.

Mr. President, no one I know on Capitol Hill knew the administration had serious problems with this legislation, either in the House or Senate. If I had been advised of the problems of the administration prior to congressional action, I may have taken steps to address those concerns. Neither I, nor anyone else in Congress of which I am aware, was given the opportunity to weigh the concerns of the administration. Notwithstanding notice of objections by the administration, since the President was clearly within his constitutional powers to veto any bill sent to him, I honestly believe the legislation once more before this body should be approved. It extends the manufacturing clause for a period of only 4 years. It will not lead to further trade barriers. It will save jobs for Americans. We should support American business any way we can, especially now when foreign industries are dumping their products almost unfettered into the U.S. marketplace.

Mr. President, I wish to say in closing again the Department of Labor figures which I just gave should be repeated, and that is that 78,000 to 172,000 job opportunities in the printing and publishing industry would be lost if the President's veto is sustained and also the Department of Labor figures show that 170,000 to 367,000 job opportunities could be lost in related industries if the President's veto is sustained.

So, Mr. President, as much as we admire our great President, and I think he is the greatest President since I have been in the Senate in 28 years, how can we stand by him when these facts confront us which we know if we take this action it will not be in the best interest of our country?

We have admiration for this President, but our first duty is to the people of this country. Our first duty is to the American Republic, and I think our first duty is to protect American jobs, and that is the reason I am going to vote to override this veto.

I urge my colleagues to do the same.

EXHIBIT 1

U.S. DEPARTMENT OF LABOR, BUREAU OF INTERNATIONAL LABOR AFFAIRS,
Washington, D.C.

(By Michael F. Moore, Office of Foreign Economic Research)

EXECUTIVE SUMMARY

The Manufacturing Clause of the U.S. Copyright Law provides protection from foreign competition for U.S. printers and publishers of certain types of printed materials by requiring that specified printing processes such as platemaking and binding be carried out in the United States. This Clause, in effect since 1891, will expire in July 1982. The printing and publishing industry is large, with 50 thousand firms, employment of 1.3 million, and estimated 1980 receipts of $68.1 billion. Therefore, it is important to gauge the impact of the expiration of the Manufacturing Clause upon the industry's and the nation's work force.

This study finds that the elimination of the Manufacturing Clause would cause a decrease in demand for American printing and publishing and, after the industry has adjusted, a loss of 78 to 172 thousand job opportunities in the printing and publishing industry. This long-run loss of employment opportunities in printing and publishing would be accompanied by a decrease in employment opportunities in firms (such as paper mills) which supply the printing and publishing industry. The total estimated loss of job opportunities in the U.S. economy is 170 thousand to 367 thousand.

The estimates contained here should be used only after carefully noting the accompanying qualifications. The reader is directed to page two, where it is stated that a ". . . given loss of job opportunities does not translate, one for one, into layoffs. Industry growth, voluntary job transfers, retirements, etc. can all alter the actual impact upon the printing and publishing work force. The broad range of the estimates reflects the informed speculation necessary to arrive at estimates for some sectors where requisite data were not available."

We believe these estimates to be the most accurate feasible, given existing data limitations. In order to provide a check on our results, two separate methodologies were used to derive the estimates presented here. Possible sources of error in these estimates and their relative importance are noted in the text and the Appendix.

THE EMPLOYMENT EFFECTS OF ELIMINATING THE MANUFACTURING CLAUSE OF THE U.S. COPYRIGHT LAW

The Manufacturing Clause of the United States Copyright Law provides a measure of protection from foreign competition for U.S. producers of certain types of printed materials. Generally, these printed materials include non-dramatic works in English, by U.S. authors. The protection afforded the domestic producers is the denial of U.S. copyright protection to foreign producers of such materials unless certain production processes, including typesetting of raised-surface type, platemaking, printing, and binding are carried out by U.S. producers.

The Manufacturing Clause, in effect in varying forms since 1891, is scheduled to expire on July 1, 1982. Although some of the protection it grants U.S. producers of printed matter has been eroded by technological changes in the printing industry, the retention of the Clause is still seen as necessary by many segments of the domestic printing and publishing industry, Standard Industrial Classification (SIC) 27. This paper attempts to assess the employment effects of allowing the Manufacturing Clause to expire. The first section examines eight sectors that make up the printing and publishing industry in order to estimate the sectorial and the aggregate industry labor impacts of permitting the Manufacturing Clause to lapse. Section two utilizes an elasticities approach to estimate the aggregate labor impact of the Manufacturing Clause lapse, in order to verify the accuracy of the aggregate estimate derived in section one. In both sections, input-output (I–O) analysis is used to estimate the indirect labor effects, i.e., the impacts on industries supplying SIC 27, of allowing the Manufacturing Clause to expire. Section three notes factors bearing on the reliability of the estimates obtained. An Appendix details the methodology employed in sections one and two.

1. Sectorial analysis

The expiration of the Manufacturing Clause could cause a direct long-run loss of 78 to 172 thousand employment opportunities in the printing and publishing industry, according to a sector-by-sector analysis of this industry. These figures represent from 6.2 percent to 13.9 percent of 1979 industry employment, presented in Table 1. This direct employment impact (caused by a loss of sales to retailers), when added to the indirect employment impact upon industries (e.g., paper mills and advertising) supplying SIC 27, results in an estimated long-run total loss of 170 to 367 thousand job opportunities in the U.S. economy.

TABLE 1.—AVERAGE 1979 EMPLOYMENT IN THE PRINTING AND PUBLISHING INDUSTRY (SIC 27)

1972 SIC Code	Description	In thousands	
		Production workers	Total employees
27	Printing and publishing	702.2	1,242.9
271	Newspapers	168.6	420.7
272	Periodicals	14.0	82.3
273	Books	52.9	103.0
2731	Book publishing	28.2	73.7
2732	Book printing	24.8	29.3
274	Miscellaneous publishing	29.6	48.5
275	Commercial printing	305.8	412.1
2751	Commercial printing, letterpress	128.0	173.2
2752	Commercial printing, lithographic	159.1	216.4
276	Manifold business forms	34.3	48.4
278	Blankbooks and bookbinding	53.6	64.6
279	Printing trade services	29.8	40.6

Source: "Employment and Earnings, March 1980," Bureau of Labor Statistics (Washington, 1980), p. 62.

These estimates should be interpreted carefully, for it is important to bear in mind that a given loss of job opportunities does not translate, one for one, into layoffs. Industry growth, voluntary job transfers, retirements, etc. can all alter the actual impact upon the printing and publishing work force. The broad range of the estimates reflects the informed speculation nec-

Footnotes at end of article.

essary to arrive at estimates for some sectors where requisite data were not available.[1]

The printing and publishing industry comprises eight sectors in the 1967 Bureau of Economic Analysis I–O tables. Table 2 describes these sectors, and notes the across-sector direct, indirect, and total employment opportunity losses estimated to result from the end of Manufacturing Clause protection. Table 2 presents both low and high labor impact estimates, and the key to these lies in the column labeled, "Percent Output Decrease."

For each sector, the lapse of the Manufacturing Clause was assumed to lower industry output over a given probable range.[2] For example, it was assumed that, all other things equal, in the long run the lack of Manufacturing Clause protection would depress domestic newspaper production by 0 to 2 percent. The 0 percent figure was considered the "Low Range Estimate," the 2 percent figure the "High Range Estimate," and the corresponding percentages were entered as "Percent Output Decrease" and used to compute the direct, indirect, and total job opportunity loss occurring as a result of this sector's output loss.

Where comparison has been possible, the estimates of employment opportunities lost (Table 2) are roughly consistent with estimates made independently. For example, Table 2 indicates that from 13.6 to 20.3 thousand direct job opportunities would be lost in sector 26.03, Book Printing and Publishing. A 1978 study by Prescott, Ball and Turben notes that, "Based on current total employment of 47.7 thousand by the U.S. book publishing and printing industry, the loss of employment will exceed 21 thousand upon elimination of the Clause."[3] Similarly, Edward V. Donahue, Vice President of the Graphic Arts International Union, estimates that over the next 15 to 20 years jobs lost that relate to book manufacturing "would total almost 40,000 . . . ."[4] Discounting for the two percent growth rate Donahue has projected as industry growth over the next 20 years, and subtracting job losses outside I–O sector 26.03, this translates into a current direct employment loss of 16.0 thousand, which is within the estimated direct loss range of 13.6 to 20.3 thousand for this sector. Finally, preliminary results of a Congressional Research Service study indicate that from 4.9 to 9.3 thousand job opportunities might be lost in the book printing industry, and this range overlaps the 8.8 to 13.2 thousand estimated here for book printing alone, but not shown separately in Table 2.

TABLE 2.—ESTIMATED EMPLOYMENT EFFECTS[1] OF "MANUFACTURING CLAUSE" ELIMINATION

Input-output sector	Description	Percent output decrease	Loss of employment opportunities (thousands)[2]		
			Direct[3]	Indirect[4]	Total
28A. LOW RANGE ESTIMATES					
26.01	Newspaper	0	0	0	0
26.02	Periodicals	10	1.4	3.2	4.6
26.03	Book printing and publishing	30	13.6	28.6	42.1
26.04	Miscellaneous publishing	20	5.9	4.7	10.6
26.05	Commercial printing	15	52.7	54.3	107.0
26.06	Manifold business forms, blankbooks and binders	0	0	0	0
26.07	Greeting car publishing	0	0	0	0
26.08	Miscellaneous printing services	10	4.1	1.8	5.9
	Total		77.6	92.7	170.3
	B. HIGH RANGE ESTIMATES				
26.01	Newspapers	2	3.4	2.4	5.7
26.02	Periodicals	15	2.1	4.9	7.0
26.03	Book printing and publishing	45	20.3	42.9	63.2
26.04	Miscellaneous publishing	40	11.8	9.4	21.2
26.05	Commercial printing	35	122.9	126.8	249.6
26.06	Manifold business forms, blankbooks and binders	5	5.0	4.7	9.7
26.07	Greeting card publishing	5	.7	.6	1.3
26.08	Miscellaneous printing services	15	6.1	2.8	8.9
	Total		172.2	194.4	366.5

[1] Based on average 1979 industry production worker or total employment as reported in "Employment and Earnings, Mar. 1980," Bureau of Labor Statistics (Washington, 1980), p. 62.
[2] Entries may not sum to totals due to rounding.
[3] Loss of employment opportunities in the input-output industrial sector.
[4] Loss of employment opportunities in industries supplying the input-output industrial sector.

From Table 2 we see that commercial printing (26.05) would suffer the greatest direct loss of job opportunities among the eight sectors, 53 to 123 thousand. Book printing and publishing (26.03), and miscellaneous publishing (26.04) follow in that order, but far behind with respect to job opportunity loss. Table 3, however, presents a different picture, showing the low-estimate direct labor impacts on these three sectors to be approximately the same relative to total sector employment. Note also that the miscellaneous printing services sector (26.08) is also hard hit in relative terms, with a loss of job opportunities estimated to be 10 to 15 percent of total sector employment.

TABLE 3.—EMPLOYMENT OPPORTUNITY LOSS AS A PERCENT OF 1979 TOTAL EMPLOYMENT, BY SECTOR[1]

Input-output sector	Description	Sector employment opportunity loss as a percent of 1979 sector employment	
		Low estimate	High estimate
26.01	Newspapers	0	0.8
26.02	Periodicals	1.7	2.6
26.03	Book printing and publishing	13.2	19.7
26.04	Miscellaneous publishing	12.2	24.4
26.05	Commercial printing	12.8	29.8
26.06	Manifold business forms, blankbooks and binders	0	4.4
26.07	Greeting card publishing	0	3.0
26.08	Miscellaneous printing services	10.0	15.0
Total		6.2	13.9

[1] Derived from tables 1 and 2.

To illustrate the relative importance and distribution of direct and indirect job opportunity losses, these data are presented in Tables 4 and 5 for I–O sector 26.03, book printing and publishing. Table 4 presents the low, and Table 5 the high range estimates for this sector. Using the low-estimate assumption of a 30 percent[5] decline in wholesale book sales (f.o.b., factory) as an example, we see that this translates into a direct loss of 13.6 thousand job opportunities. Indirect losses for the same 30 percent sales decline total 28.6 thousand.

TABLE 4.—DIRECT AND INDIRECT EMPLOYMENT OPPORTUNITY LOSSES RESULTING FROM A 30-PERCENT DECREASE IN SALES OF THE BOOK PRINTING AND PUBLISHING INDUSTRY[1]

Input-output sector	Description	Lost job opportunities[2] (thousands)
	Direct losses:[3]	
26.03	Book printing, publishing	13.6
	Indirect losses	
24.02	Paper mills	1.6
26.01	Newspapers	.4
26.02	Periodicals	1.3
26.03	Book printing, publishing	3.7
26.05	Commercial printing	3.1
26.08	Miscellaneous printing services	2.8
65.03	Freight transport, services	.4
69.01	Wholesale trade	1.4
69.02	Retail trade	1.0
71.02	Real estate	.8
72.01	Hotels, lodging	.4
73.01	Miscellaneous business services	1.1
73.02	Advertising	1.2
73.03	Miscellaneous professional services	.5
78.01	Post office	1.6
	Other indirect sectors	7.1
	Total indirect	28.6
	Total direct and indirect	42.1

[1] Based on average 1979 industry production worker or total employment as

reported in "Employment and Earnings, March 1980," Bureau of Labor Statistics (Washington, 1980), p. 62.

[2] Entries may not sum to totals due to rounding.

[3] Direct loss of employment opportunities in input-output industrial sector 26.03.

[4] Loss of employment opportunities in industries supplying input-output industrial sector 26.03.

TABLE 5.—DIRECT AND INDIRECT EMPLOYMENT OPPORTUNITY LOSSES RESULTING FROM A 45-PERCENT DECREASE IN SALES OF THE BOOK PRINTING AND PUBLISHING INDUSTRY [1]

Input-output sector	Description	Lost job opportunities [2] (thousands)
	Direct losses: [3]	
26.03	Book Printing, Publishing	20.3
	Indirect losses: [4]	
24.02	Paper mills	2.3
26.01	Newspapers	.6
26.02	Periodicals	2.0
26.03	Book printing, publishing	5.6
26.05	Commercial printing	4.7
26.08	Miscellaneous printing services	4.1
65.03	Freight transport, services	.6
69.01	Wholesale trade	2.2
69.02	Retail trade	1.5
71.02	Real estate	1.2
72.01	Hotels, lodging	.7
73.01	Miscellaneous business services	1.7
73.02	Advertising	1.9
73.03	Miscellaneous professional services	.7
78.01	Post office	2.4
	Other indirect sectors	10.7
	Total indirect	42.9
	Total direct and indirect	63.2

[1] Based on average 1979 industry production worker or total employment as reported in "Employment and Earnings, March 1980, "Bureau of Labor Statistics (Washington, 1980), p. 62.

[2] Entries may not sum to totals due to rounding.

[3] Direct loss of employment opportunities in input-output industrial sector 26.03.

[4] Loss of employment opportunities in industries supplying input-putput industrial sector 26.03.

The 15 sectors where the indirect employment impact is greatest are listed separately. These 15 account for 75 percent of the total indirect losses. The sectors containing the remaining 25 percent of indirect job opportunity losses are combined as "Other Indirect Sectors." Note that the sector with the greatest number of indirect losses, 3.7 thousand in Table 4, is also sector 26.03, book printing and publishing.

2. Elasticities analysis

The estimates arrived at in section one are based on key assumptions as to the range of likely domestic output effects of allowing the Manufacturing Clause to expire. To verify the validity of these assumptions a different methodology was employed to make an independent estimate of effects on employment opportunities in the printing and publishing industry.

Using two different import demand elasticity figures, plus findings from the Australian experience with imports of printed matter, along with 1978 employment and trade date for SIC 27, it was estimated that from 103 to 164 thousand direct employment opportunities would have been lost in the printing and publishing industry had Manufacturing Clause protection ended in 1978. These estimates lie well within the 78 to 172 thousand range estimated using the sectorial analysis of section one, even after making allowance for industry change between 1978 and 1979. In this elasticities analysis, incorporating the indirect employment effect on supplying sectors yields a total estimated loss of employment opportunities of from 226 to 349 thousand for the U.S. economy.

The aggregate elasticities analysis of this section draws upon the Australian experience with the post-1965 surge in imported printed materials which led to the Book Bounty Act. Under the Book Bounty Act, a subsidy of 33⅓ percent of the cost of production is paid Australian book manufacturers to enable them to compete successfully with imported books (the subsidy was initially 25 percent, but this was found to be inadequate). Subject to qualifications,[6] we can analyze the expiration of a duty reduction which reduces the price of imported printed matter by 33⅓ percent. Previously estimated and *a priori* price import demand elasticities [7] for books and periodicals were then applied to this assumed price reduction to estimate the range of increase in imports, and the accompanying range of decrease in U.S. production and direct employment opportunities. As in section one, I-O analysis was then used to estimate indirect and total employment opportunity losses. The results obtained using this elasticities approach support the estimates of section one.

3. Realiability of estimates

The above estimates of employment opportunity losses should be interpreted with care. The lack of certain basic data, such as the percent of printed material in each sector that is actually copyrighted, made necessary the approaches employed here, and prevented more accurate, point estimates. Noted below are additional factors to consider in using these estimates.

The estimates of indirect job opportunities lost in supplying industries reflect 1976 inter-industry relationships. To the extent that labor productivity in a supplying sector has increased (decreased) relative to a given printing and publishing sector since 1976, the employment effect in the supplying sector will be overstated (understated) here.

A direct employment opportunity loss in a given I-O sector should not be interpreted as the total loss for that sector, even if no other sectors suffer direct losses, for there are usually indirect losses for that same sector among the total of indirect losses associated with suppliers to that sector. This was noted in examining sector 26.03, book printing and publishing, where 13 percent of indirect job opportunity losses connected with sector 26.03 were within sector 26.03 itself.

The I-O methodology employed assumes constant returns to scale and fixed proportions among the various factors of production used in the printing and publishing industry. These assumptions are common to other studies mentioned above, but to the extent that they do not hold, the resulting estimates will be biased.

The accuracy of the section one estimates rests on the assumptions as to the effects on sectoral output of Manufacturing Clause elimination. These assumed output impacts are the informed judgments of analysts in industry, labor, and government. To the extent that these judgments are incorrect, the resulting estimates will be biased.

The section two elasticities analysis assumes a rough equivalence between the protective effect of the Australian Book Bounty and the U.S. Manufacturing Clause. To the extent that the latter is more protective of the industry, the employment effects of Manufacturing Clause elimination are understated here.

The estimates above assume no major shift to overseas manufacturing by American publishing or printing firms. Publishers contend there is no problem, and are quoted as saying that "99% of U.S. book manufacturing would remain in the U.S." [8]

All other things equal, however, a given capital investment will yield a greater return where wages are lower. For example, Nordberg has found that for three representative book runs, the labor costs per book were 75 percent, 72 percent, and 79 percent lower in Singapore than in the United States, as of January 1981.[9] Thus, incentive would exist for such a shift to offshore production, and, "according to sources within (the Book Manufacturers Institute) BMI, many publishers who have vowed not to go offshore with their manufacturing jobs are already looking abroad to investigate the situation." [10] These sources feel that, "any migration would have a domino effect on U.S. manufacturers * * *." [11] To the extent that such an offshore shift occurs the above estimates will understate long-run employment impacts.

APPENDIX

Methodology

To assess the probable effects of the expiration of the Manufacturing Clause on the work force in the printing and publishing industry, data were collected on total and production worker employment for 17 separate four-digit SIC industries involved in printing and publishing. In addition, literature descriptive of the product and production processes of each of these industries was studied. From these and a knowledge of intra-industry relationships it was decided whether all employees, or only production workers would be, for each industry, the appropriate employment figure to consider.

After reviewing the above information, and after receiving advice from industry analysts [12] an evaluation of the probable percentage impact upon industry output of the elimination of the Manufacturing Clause was made for each of the 17 SIC industries. This was done by taking into account available knowledge of the following factors, among others:

a. The extent to which industry output is copyrighted.

b. The extent to which domestic industry production processes are required for copyright protection.

c. The extent to which industry output is required to meet the American manufacture tests.

d. The extent to which the time-lag from writing to distribution and sale is important.

e. The extent to which special-order products and relatively small production runs characterize the industry.

Next, the estimated output changes were aggregated to the eight Bureau of Economic Analysis input-output classifications for printing and publishing. 1979 employment data were then used to estimate direct employment effects. The 1967 input-output tables, updated to 1976 for relative productivity changes, enabled an estimate of the indirect employment effects on sectors supplying SIC 27.

The aggregate elasticity estimates of section two also are based on an estimated range of decrease in U.S. output. In this case, the decrease in domestic output is esti-

mated by applying the Buckler-Almon price elasticities of U.S. demand for imported books and periodicals[13] to an estimate of the price effect of eliminating the Manufacturing Clause.

The price effect is assumed to be equal to the 33⅓ percent subsidy that Australia finds necessary for reasonable profits in its book industry, absent a manufacturing clause. By assuming that each dollar's worth of increased imports displaces a dollar's worth of domestic output, and using the output-employment relationships described above, we estimate aggregate employment effects that do not depend upon subjective estimates of sectorial output impacts. Price elasticities of both foreign and domestic supply are assumed infinite.

FOOTNOTES

[1] For a more thorough discussion of the assumptions and qualifications see: Office of Foreign Economic Research, "The Impact of Changes in Manufacturing Trade. . . ," in National Commission for Manpower Policy Special Report No. 30, "Trade and Employment," November 1978, pp. 261-270.

[2] Range assumptions are explained in section three and the Appendix.

[3] Prescott, Ball and Turben, "Manufacturing Clause Study," Summary of Findings, February 1978, p. 24.

[4] Edward V. Donahue, "The Impact on American Jobs by Elimination of the 'Manufacturing Clause' from the U.S. Copyright Law," Testimony before the Copyright Office, January 13, 1981.

[5] This estimate is from E. Wayne Nordberg, "Economic Impact of the Elimination of the Manufacturing Clause," Testimony submitted to the Office of the Register, U.S. Copyright Office, Library of Congress, January 13, 1981, p. 2.

[6] Explained in section three and the Appendix.

[7] Margaret Buckler and Clopper Almon, "Imports and Exports in an Input-Output Model," American Statistical Association, 1972 Proceedings, pp. 175-184.

[8] Jerome P. Frank, "BMI's Fight to Save the 'Clause' Heats Up," Publishers Weekly, June 5, 1981, p. 54.

[9] Derived from Nordberg, op. cit., p. 8.

[10] Frank, op. cit., p. 58.

[11] Ibid.

[12] One of the most knowledgeable and helpful in this respect was William S. Lofquist, an Industry Specialist for the Bureau of Industrial Economics, U.S. Department of Commerce.

[13] See note 7 of the text.

Mr. LEAHY. Mr. President, I ask unanimous consent that the time allotted to the distinguished minority leader, Mr. ROBERT C. BYRD, be put under my control.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I thank the Presiding Officer.

Mr. President, I concur with the distinguished President pro tempore, Mr. THURMOND, on this matter, and the veto should be overridden.

I note his concern that some midlevel bureaucrat may have decided this issue. I also note, however, it was not a midlevel bureaucrat who signed the veto but our highest elected official.

I am sure he did it for whatever reasons he thought best. Unfortunately, they are reasons that do not help us. The manufacturing clause was adopted by Congress almost a century ago. It provides for full exchange of copyright protection that the work of a U.S. author has to be printed in the United States or Canada.

Permitting the manufacturing clause to expire, as it did on July 1, and leave it unrevived could cause hundreds of thousands of Americans to lose their jobs. Not only that, but the expiration of the clause will put the American printing industry in a particularly vulnerable position in the international marketplace.

The U.S. Department of Labor, to give one example, has estimated that elimination of the manufacturing clause could result in a loss of 78,000 to 172,000 job opportunities in the printing and publishing industry alone and could also bring about a total loss of 367,000 job opportunities throughout the United States.

Our economy is already in trouble. We have more unemployed people than at anytime since World War II. We are facing the deepest recession to occur within my lifetime. We simply cannot afford to add still more unemployment to our economic problems.

Despite these clear facts, President Reagan has vetoed the manufacturing clause legislation and despite his announced reasons, no principle of free trade is threatened and no international obligations dishonored by preserving a law that both labor and industry have relied on for nearly a century.

As introduced, S. 1880, which I cosponsored with Senator THURMOND and several members of the Judiciary committee, would put this issue to rest by extending the clause indefinitely. Actually I would prefer an indefinite extension of the manufacturing clause to the 4-year extension that we finally agreed upon, but because time was running out we agreed on the 4-year extension, and that is what passed.

It passed here in the Senate and it passed in the other body. Earlier this afternoon, when the House voted on this override, they voted 324 to 86. I hope that my colleagues will vote the same way this afternoon when the matter comes before us, and that we will have as significant a veto override.

This is important throughout the United States. I have looked at this matter very directly, very personally. One of my interests in it, quite frankly, has arisen from the fact that we do a great deal of book printing and publishing in the State of Vermont, and when I recently went to Brattleboro, Vt., I talked with people both in and outside the industry. I talked with authors, with writers, and with printers, not the organized, national pressure groups, but with the people who would actually be affected by the veto of the manufacturing clause.

The extension of the manufacturing clause that we put together in the Senate deserves to become law because the manufacturing clause works and ought to be able to work in the future. Therefore, I will vote to override.

Mr. President, I note that others who may want to speak on this, the Senator from New York (Mr. MOYNIHAN) wishes to speak, and the Senator from Ohio (Mr. METZENBAUM) wanted to speak, and they are on their way.

I reserve the remainder of the time of the Senator from West Virginia, the time now yielded to me, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, how much time do I have remaining of the time yielded to the minority leader?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. METZENBAUM. May I have 4 minutes?

Mr. LEAHY. Mr. President, I yield 4 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 4 minutes.

Mr. METZENBAUM. I thank the Senator from Vermont.

Mr. President, this bill which now comes before us for overriding of the President's veto is an extremely important one from the standpoint of protecting jobs. I know of no issue that is more important to the people of this country at this time than the matter of employment of our people and the opportunities for people to have a job.

Unfortunately, we have been losing too many of our jobs to foreign imports, and the fact that the manufacturing clause of the copyright law would expire or did expire on July 1, 1982, makes this issue that much more important.

It certainly is right that if the book or catalog or directory or similar materials are to be protected by our copyright laws, how can anyone question the propriety of seeing to it that they are printed in the United States? I think it is right, I think it is just, and I think it is fair.

As a matter of fact, Mr. President, some months ago I was engaged in a political campaign with a man who, unfortunately, came to his early death. But the fact is that he and I were never in agreement with respect to issues of concern to the people of this country except in some few instances. He addressed a letter to me as follows:

Your support for the companion bill to my legislation saving more than 100,000 jobs

and about $700 million in payrolls in Ohio's printing and publishing industries is to be congratulated.

Clearly, your recent cosponsorship of Senate bill 1880, a measure introduced last November that parallels House Resolution 3940 which I introduced last June, increases the chances of legislation being passed to protect the livelihood of Ohio's working people in the printing and publishing industries.

The printing and publishing industries play a large role in Ohio's economy. I will not read all of the letter, but I do want to point out to my colleagues his last sentence:

I suspect, however, that with the lone exception of H.R. 3940, we will find few areas of agreement.

I am particularly pleased that John Ashbrook, who sponsored this legislation in the House, had he been here, I know he would have been one of those voting to override the President's veto, and I am pleased too, and I ask unanimous consent, Mr. President, to have printed in the RECORD Mr. Ashbrook's letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 1, 1982.

Hon. HOWARD M. METZENBAUM,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR METZENBAUM: Your support for the companion bill to my legislation saving more than 100,000 jobs and about $700 million in payrolls in Ohio's printing and publishing industries is to be congratulated.

Clearly, your recent cosponsorship of Senate Bill 1880, a measure introduced last November that parallels House Resolution 3940 which I introduced last June, increases the chances of legislation being passed to protect the livelihoods of Ohio's working people in the printing and publishing industries.

As you probably know from reviewing the bills, H.R. 3940 ensures that the manufacturing clause of the Copyright Law is not repealed. The clause currently is scheduled for elimination on July 1, 1982, as a result of an amendment passed in 1976.

The manufacturing clause provides that an American author of preponderantly nondramatic literary material who wants full copyright protection in the U.S. must have his work printed in the U.S. or Canada. These materials include books, greeting cards, catalogues, directories and periodicals.

The printing and publishing industries play a large role in Ohio's economy. There are 63 book publishers in Ohio. The largest, R.R. Donnelly and Sons, in fact, has a plant in Willard, Ohio.

I think it is tremendous that you recognized, in this instance, the needs and interests of working families in Ohio.

In the weeks and months ahead, I hope we have the opportunity to discuss in-depth and in full public view the many issues of grave concern to the people of Ohio and to the nation. I suspect, however, that with the lone exception of H.R. 3940, we will find few areas of agreement.

Sincerely,

JOHN M. ASHBROOK,
Representative to Congress,
17th District.

Mr. METZENBAUM. Mr. President, I hope all of the Members of the Senate will see fit to override the President's veto. I think if we are concerned about employment of people in this country, this is one of those measures that can help to assure that as a reality.

I yield back the remainder of my time to the Senator from Vermont.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. THURMOND. Which side is the Senator speaking on?

Mr. HUMPHREY. I want to speak in support of the President.

Mr. THURMOND. In support of the veto or to override it?

Mr. HUMPHREY. May I inquire by what means I may secure time to speak on behalf of the President?

Mr. THURMOND. I believe I control the time to override the veto. I am on that side. I do not know who has time on the other side.

Mr. HUMPHREY. Is it correct that we shall have a vote at 3:40?

Mr. THURMOND. Mr. President, how long does the Senator want?

Mr. HUMPHREY. Until the hour of 3:40. I understand we are to vote at 3:40. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senator from New Hampshire may be allowed to speak 3 minutes without counting it against the time of either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Hampshire.

Mr. HUMPHREY. I thank the Chair and I thank my friend from South Carolina.

Mr. President, there is not much time remaining. So that this discussion is not totally one-sided, I thought I would come to the floor and raise a few points that the President has raised in his own veto message. In fact, I suppose the best way to do it, given the short time remaining, is simply to read the President's veto message to the House of Representatives. I think the President has some good points. I do now know why there is such a rush to protect this particular industry when all other industries are subject to foreign competition.

Mr. President, the President's message reads as follows:

To the House of Representatives.

I am returning without my approval H.R. 6198, a bill that would extend for four years the "manufacturing clause" of the U.S. copyright law that expired on June 30, 1982.

The manufacturing clause requires that many printed materials be printed in the United States in order to enjoy copyright protection. The clause was written into law nearly a century ago, in an effort to strengthen our relatively new printing industry by limiting foreign competition. However, the "infant industry" justification for protecting our printing industry is no longer valid; our industry is now one of the most modern and efficient in the world.

During the recent Tokyo Round of Multilateral Trade Negotiations, our trading partners objected to the manufacturing clause as inconsistent with our international obligations. Extension of the clause, as provided in H.R. 6198, could result in increased international trade tensions that could endanger American jobs. I would further note that if the printing or publishing industry believes itself injured, or threatened by injury, due to the expiration of the manufacturing clause, it has the option of requesting relief under the Trade Act.

My Administration has placed a very high priority on strengthening free trade, and we are energetically seeking to remove artificial foreign barriers to American exports. We are confident that our free enterprise system will enable American products to face foreign competition in our own open market and to do well in markets overseas, provided our access to those markets is not blocked by protectionist barriers that distort international competition. Given the importance of our efforts to remove foreign trade barriers, it would be self-defeating to extend an artificial barrier of our own. For these reasons, I cannot approve H.R. 6198.

And that is signed by the President.

May I say in conclusion, Mr. President, that we are all upset at the nontariff trade barriers erected by Japan and other countries to our products. If we continue to extend barriers of the same kind, then we have no ground on which to argue against those erected by foreign nations.

I see no particular reason why we should extend this protection to this particular industry. There is another side, another party involved here, those who own the copyrights. They are not free today to have their works printed wherever they wish, and this is a freedom that, while it is denied to them, is available to other composers, musical composers, and others.

Therefore, Mr. President, I urge my colleagues to support the President and to refrain from overriding the veto, to support the veto. I thank the Chair.

Mr. THURMOND. Mr. President, in response to the distinguished Senator from New Hampshire, I would just like to say that the so-called manufacturing clause extends the full protection

of our copyright laws to a book written by an American author living in this country only if the book is manufactured or printed in either Canada or in the United States. The law was enforced by banning the importation and distribution of any book written by an American author which is printed in a foreign country. This affords a strong inducement to our authors to use our printers here in the United States.

Again I say it is estimated that about 75,000 to 175,000 job opportunities in the printing industry will now be lost in favor of foreign printers. This could affect as many as 356,000 job opportunities in the U.S. economy generally.

For the sake of the American workers, I hope the Senate will see fit to override the President's veto.

● Mr. SASSER. Mr. President, I rise today to join in the effort to override the President's ill-conceived veto of H.R. 6198.

In recent years, the printing industry has faced an increasing tide of competition from foreign countries. This has led to a decline in employment and in the overall health of the industry. We have the opportunity today to take one step in the process of reversing that trend and putting the American printing industry back on its feet.

The publishing industry is an important one in the State of Tennessee, and one of the companies which would be hardest hit by the expiration of the manufacturing clause would be the Kingsport Press in Kingsport, Tenn.

The current unemployment rate in my State is over 10 percent and in some areas of the State, far higher. We simply have to stop deliberately exporting American jobs to the rest of the world—and overriding the veto on H.R. 6198 is a good place to start.

The provisions of the bill extend until July 1, 1986 the requirement that imported, nondramatic literary works in English be manufactured in North America. Thus H.R. 6198 would protect badly needed printing employment in Tennessee and the Nation. I urge my colleagues to vote to override the Presidential veto of H.R. 6198.●

● Mr. SPECTER. Mr. President, I regret the necessity to vote to override the President's veto of the extension of the manufacturing clause of the copyright laws. I had been hopeful that the Senate's willingness to adopt the limited, 4-year extension contained in the House bill would have enabled us to extend the protections of the manufacturing clause more smoothly. In fact, I wrote the President on June 30, the day that Congress completed its action, to urge his prompt and favorable consideration of the legislation.

I believe it most unfortunate that the President rejected the congressional consensus and chose instead to veto the measure presented to him. Last summer, a most disturbing report was issued by the Department of Labor that projected that expiration of the manufacturing clause would result in a loss of 78,000 to 172,000 job opportunities in the printing and publishing industries and that total estimated lost job opportunities in the U.S. economy would total between 170,000 and 367,000. In my view, our economy cannot afford this significant loss of job opportunities and erosion of economic strength in our printing and publishing industries.

In my view this loss of jobs would result from unfair practices and should not be permitted to occur.●

Mr. DOLE. Mr. President, I believe we ought to support the President's veto action in this case. The Labor Department study suggesting that there would be a large job loss as a result of the expiration of the manufacturing clause has been discredited rather effectively. The Congressional Research Service and the Council of Economic Advisers both have conducted studies and concluded that there would be little or no effect on employment as a result of expiration. There is every indication that this industry is healthy.

In addition, I would note that the clause, if extended, may well violate our GATT obligations and is certainly inconsistent with them. There is a real risk that it will precipitate a GATT complaint and may cause retaliation by the Europeans, in particular, against U.S. trade interests.

In summary, I believe that in this case the administration should be given a chance to make its arguments before a precipitous vote to override. There are many issues at stake here that demand careful examination.

Mr. President, I ask that a letter from the Copyright Office to Representative KASTENMEIER on this issue be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 17, 1981.

Hon. ROBERT W. KASTENMEIER,
House of Representatives,
Washington, D.C.

DEAR REP. KASTENMEIER: This supplements the Copyright Office's testimony concerning H.R. 3940. Most, but not all, of this supplementary information concerns the rather marked disparity between the results, in terms of economic effects, of the estimates of the Congressional Research Service and the Office of Foreign Economic Research of the Department of Labor. Although the latter report was not received into the record of your hearing, its conclusions drew attention there and, I note, in the Senate when S. 1880 was introduced. There are four points which must be considered by anyone evaluating the Labor Report.

1. The present manufacturing clause does not protect the number of job opportunities remotely as large as the Labor Report suggests, because the clause does not cover the range of printed material assumed by the Labor Report. Only nondramatic literary works consisting preponderantly of English-language material are covered. As construed by the courts, "preponderantly" means that the surface area of textual material must be measured against the surface area of illustrative and other nontextual material; only if the former outweighs the latter is the work within the clause's scope. (*Stonehill Communications, Inc.* v. *Martuge*, 512 F. Supp. 349 (S.D.N.Y. 1981)). Thus, estimates of lost job opportunities with respect to the printing of blankbooks, business forms, heavily illustrated catalogues, greeting cards and the like are not credible if based on the expiration of the clause, because such works, and the jobs of their manufacturers, are in no way affected by the clause. The Copyright Office report, which emphasized the book publishing industry, did not do so in an attempt to minimize the impact of expiration. Its emphasis was based on the historic fact that virtually all of the debates, court cases, and Customs interventions have occurred with respect to books. Prior to the Labor Report, no one, including Mr. Nordberg, the economist hired by the Book Manufacturers' Institute, had ever suggested that such sectors of the printing industry as newspapers, commercial printing, "miscellaneous publishing," and "miscellaneous printing services" would in any way be affected by the expiration of the clause. I do not understand on what basis they were included in the Labor Report; and its conclusions should not be accepted unless their inclusion is explained.

Particularly troublesome is the inclusion of commercial printing. The Department of Labor adopts an Office of Management and Budget definition of commercial printing. As can be seen in the attachment, taken from the OMB's Standard Industrial Classification Manual, the output of the sector denominated commercial printing consists almost entirely of works not protected by the clause: bags, bread wrappers, calendars, cards, sheet music, post cards, bank notes, maps, and the like. Printers concerned about losing work in the manufacture of non-literary works, such as these, have nothing to fear from the clause's expiration because they are not now protected. While no one seems to know how many jobs in the commercial printing sector are clause-related, that number is far smaller than indicated in the Labor Report.

2. The Labor Report fails to distinguish between printing and publishing, but at least 70% of jobs in the book industry are in publishing rather than printing, and thus not protected by the manufacturing clause. As was made clear at the hearing, these are, for all practical purposes, separate industries. Another division of the Labor Department, the Bureau of Labor Statistics, distinguishes in its reports between book publishing and book printing, but does not do so with respect to other printing/publishing sectors. No one has suggested that publishers are going to lose jobs if the clause expires; thus one may reasonably—indeed, must—question the propriety of lumping printers and publishers together when predicting job losses. Interestingly enough, with respect to the book industry, 71.4% of those employed in August of 1981 were in publishing rather than printing.[1] To the

[1] Employment and Earnings, October 1981, Bureau of Labor Statistics at 72.

extent that the Labor Report has combined these sectors, one should probably discount its estimates by a like percentage, since only printers will even arguably be affected. Based on the limited scope of the clause and the differences between printing and publishing, the Copyright Office believes that fair analysis of Table 2 of the Labor Report (p. 5) should keep the following factors in mind:

SECTOR, DESCRIPTION, AND COMMENT

26.01.—Newspapers. Although covered by the clause, they are too time-sensitive to go abroad even at the 2% high range prediction.

26.02.—Periodicals. They are far too time-sensitive to permit ocean transport from the Pacific Basin of anything like 15% of present output.

26.03.—Book Printing and Publishing. 70 percent of these jobs are publishing and thus not threatened. Of the remaining 30 percent, not all of the output is protected by the clause. (Illustrated works, works of foreign authors, etc.).

26.04.—Miscellaneous Publishing. Undefined in the Labor Report but, to the extent that this concerns publishing jobs, none should be lost through expiration.

26.05.—Commercial Printing. No one, including the supporters of the clause, has ever before suggested that commercial printing is at issue here. There is no evidence concerning the extent to which commercial printers' output is copyrighted. Only copyrighted literary works are covered by the clause; thus the data here must be discounted to whatever extent copyright is not claimed *or* the works are not literary.

26.06.—Manifold business forms, blankbooks, and binders. Few job opportunities are threatened here since the works tend to fall into two categories unaffected by the clause: uncopyrightable works and works in which no copyright is claimed.

26.07.—Greeting card Publishing. The publishing-printing dichotomy is at issue here, as is the quantitative distinction between literary and other works. Few if any jobs should be threatened, since most greeting cards contain vastly more illustrative than textual materials.

26.08.—Miscellaneous Printing Services. Also undefined in the Labor Report. It seems unlikely that its products are literary works whose manufacturers are protected by the clause, since such works appear in some of the previous categories.

Of all of the sectors listed in Table 2, then, only 26.03 (Book printing and publishing) has even the potential for being seriously affected by expiration, and even there the predictions should be reduced by at least 70 percent to account for the vast majority of that sector's employment being in publishing than printing.

3. The sources for the quantitative estimates in the Labor Report are open to question because its predictions concerning output decreases are explained not by resort to objective data but only upon subjective "informed judgments of analysts in industry, labor, and government." With respect to the book industry, it is clear that the 35-40% range of output loss is taken directly and unquestioningly from the report commissioned by the Book Manufacturers' Institute and prepared by E. Wayne Nordberg to buttress their arguments in support of extension of the clause. There is no reason why the United States government should adopt the numbers of an interested party without independent examination. With respect to other sectors, where the report predicts large job losses, no explanation at all is given for the predicted output losses. In addition, the Labor Report treats the manufacturing clause as having the effect of a 33% import duty on books because that is the subsidy paid by Australia to its book manufacturers. For the reasons articulated by CRS in its report and described in ours, the "Australian experience" is hardly relevant to the future of the U.S. industries; and, even if it were, it is unclear how the clause, which prevents certain business from taking place, can be compared to a duty which increases transaction costs. Although the Labor Report cautions repeatedly against over-reliance on its data, "pro-clause" advocates appear to rely on its numeric conclusions and ignore such caveats. The importance of the caveats may be seen by examining two of them: At page 12, the Labor Report states:

"The lack of certain basic data, such as the percent of printed material in each sector that is actually copyrighted * * * prevented more accurate, point estimates.

Thus it is conceded that the percentage of copyrighted work is unknown. Since a critical issue in analyzing the effect of the expiration of the manufacturing clause is not merely whether a work is copyrighted, but also whether it is literary, the data become, of course, even more unreliable.

Then, at page 13, one reads: "The accuracy of the section one estimates rests on the assumptions * * * [which] are the informed judgments of analysts in industry, labor, and government. To the extent that these judgments are incorrect, the resulting estimates will be biased."

As stated above, these judgments do appear at best unexplained, if not clearly incorrect, thus meaning at least that an inference of bias would not be unjustified.

4. The Labor Department apparently assumes, incorrectly, that the clause's expiration will leave these jobs without alternative forms of protection. As I believe the hearing made clear, this is not at all the case. Expiration, combined with the protocol to the Florence Agreement, will place American printers on an equal footing with all other American workers. Provable threatened harm will entitle them to relief in the same forum to which most industries now go: the International Trade Commission.

The position of the Copyright Office is that number of jobs and job opportunities potentially directly exposed by expiration, far from being in the hundreds of thousands, is in the range of 5,000 to 9,000 found by CRS. This is not to say that anywhere near this many jobs or opportunities would be lost however: growth in exports and domestic demand and the availability of conventional trade relief from the International Trade Commisson should serve to prevent any signficant losses whatsoever.

Since the hearing we have received information concerning possible retaliation against the United States if the clause is retained. According to persons involved in trade negotiations, the Common Market countries and Switzerland have at various times refrained from seeking trade relief against the United States on the belief that the clause would expire in 1982. As recently as last month the matter was raised at meetings in Washington in which the E.E.C. apparently manifested an intention to pursue relief under the General Agreement on Tariffs and Trade if the clause were to be retained. While the scope and effect of any retaliatory measures can not easily be predicted, it is fair to assume that they will be adverse to U.S. interests. In addition, the British Embassy sent a letter to the State Department on December 9, 1981 (copy attached) in which it "note[s] with regret" the terms of H.R. 3940.

Thank you very much for the opportunity to amplify the record.

Sincerely yours,

DAVID LADD,
Register of Copyrights.

Enclosures:

1. OMB Standard Industrial Classification Manual showing the output of all printing and publishing sectors.
2. Letter from the British Embassy.

The PRESIDING OFFICER. The hour of 3:40 having arrived, under the previous order the question is: Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required. The clerk will call the roll.

Mr. BAKER. Mr. President, a parliamentary inquiry. A yea vote is to override and a nay vote is to sustain. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The bill clerk proceeded to call the roll.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. ABDNOR), the Senator from North Dakota (Mr. ANDREWS), the Senator from Oregon (Mr. HATFIELD), the Senator from Florida (Mrs. HAWKINS), the Senator from Nevada (Mr. LAXALT), and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Michigan (Mr. RIEGLE) is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) would vote "yea."

The PRESIDING OFFICER (Mr. D'AMATO). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 84, nays 9, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—84

Armstrong	Exon	Mitchell
Baker	Ford	Moynihan
Baucus	Garn	Nunn
Bentsen	Glenn	Packwood
Biden	Gorton	Pell
Boren	Grassley	Percy
Boschwitz	Hart	Proxmire
Bradley	Hatch	Pryor
Brady	Hayakawa	Quayle
Bumpers	Heflin	Randolph
Burdick	Heinz	Roth
Byrd, Harry F., Jr.	Helms	Rudman
	Hollings	Sarbanes
Byrd, Robert C.	Huddleston	Sasser
Cannon	Inouye	Schmitt
Chafee	Jackson	Simpson
Chiles	Jepsen	Specter
Cochran	Johnston	Stafford
Cohen	Kassebaum	Stennis
Cranston	Kasten	Stevens
D'Amato	Kennedy	Thurmond
Danforth	Leahy	Tower
DeConcini	Levin	Tsongas
Dixon	Long	Wallop
Dodd	Lugar	Warner
Domenici	Matsunaga	Weicker
Durenberger	Mattingly	Zorinsky
Eagleton	Melcher	
East	Metzenbaum	

NAYS—9

Denton	Humphrey	Nickles
Dole	Mathias	Pressler
Goldwater	McClure	Symms

NOT VOTING—7

Abdnor	Hawkins	Riegle
Andrews	Laxalt	
Hatfield	Murkowski	

The PRESIDING OFFICER. On this vote the yeas are 84; the nays are 9. Two-thirds of the Senators present and voting, having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

The Senate continued with the consideration of Senate Joint Resolution 58.

Mr. BAKER. Mr. President, it is my understanding now that the debate recurs on the constitutional amendment on the balanced budget and that the Senator from New Mexico has the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I believe the Senator from Washington had a question, and I yield for a question.

Mr. GORTON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order, so that the Senator from Washington and the Senator from New Mexico may be heard.

Mr. GORTON. Mr. President, at the time at which the Senate received the veto message, Senator Domenici and I were engaged in a colloquy and a discussion on the five amendments he has proposed to Senate Joint Resolution 58.

In capsule form, he had discussed certain reservations I have about the second and fourth of those amendments, one of which would lower the super majority required by the amendment itself and the other of which would have added the words "or national emergency" to the exception during the time in which a declaration of war is in effect.

If memory serves me correctly, the distinguished Senator from New Mexico also had certain reservations about those two amendments but felt it important that each of the concepts encompassed by them be seriously considered by the Senate. I had expressed a certain degree of agreement with each of the other three amendments which the Senator proposes, one of which deals with the question as to whether or not this constitutional amendment adds to the substantive powers of the President of the United States, specifically whether or not it gives to the President a constitutional right of impoundment, the second of which relates to what past year or group of years is most appropriately used in connection with determining budget and taxing limitations under the resolution, and the third of which calls for rather specific authority for implementing legislation.

I had stated rather tentatively the view that it might well be possible to consolidate the three proposals of the Senator from New Mexico and to meet all his goals, in each of which I share, by a single last section on the implementing authority of Congress and by dropping the last sentence of section 1 of the amendment and several words from section 2 of the amendment.

I am not certain that the Senator from New Mexico has had an opportunity to comment at length on those proposals; nor, of course, had we dealt with any comments of the Senator from Utah or the distinguished President pro tempore, who are the primary sponsors of the resolution itself.

I did express yesterday considerable concern over a similar but not identical matter, and that is the degree to which this constitutional amendment, if it were passed, would shift authority over the budget from both Congress and the President to the Federal courts. The Senator from Utah has assured me that it is the intention of the sponsors not to grant additional rights of review in the courts; and, of course, the committee report itself indicates confidence that the Supreme Court will continue its present political question doctrine and not intervene in any such matter.

They might well also have pointed out, I say to the Senator from New Mexico, that the Supreme Court of the United States has severely restricted the concept of the right of a taxpayer to bring lawsuits of a budgetary nature, that is to say the concept of standing.

I must say, however, that my reservations in this regard remain. We are, after all, dealing with a proposed constitutional amendment. If it becomes a part of the Constitution, it falls within the broad authority of the Supreme Court of the United States to review it and the Supreme Court might well feel required not only to interpret it but to authorize lower Federal courts to enter orders pursuant to it when those lower courts felt that in some respect or another Congress and the President had not appropriately discharged their responsibilities thereunder.

I, therefore, proposed yesterday an amendment to this constitutional amendment which would make it clear that the present disinclination of the Supreme Court to enter into questions of this sort continued substantially unchanged.

I now suggest that perhaps that amendment could be phrased in this fashion, confessing that I have not yet seen a draft from the legislative counsel which has totally satisfied me. I am inclined to think that we should say that only the United States acting in its sovereign capacity shall have standing to bring a lawsuit seeking to enforce the provisions of this article.

What my design is is to accomplish a situation in which individual taxpayers or individual spending groups could not under any circumstances get themselves into court in order to challenge actions of Congress or the President hereunder. I do think that perhaps the only appropriate kind of action pursuant to this article would be in the nature of a declaratory judgment action brought by the Attorney General of the United States.

And as I phrase this particular proposal it is with no pride of authorship but with simply the thought that both the sponsors of the amendment themselves and their reaction to it and the distinguished Senator from New Mexico will reflect on it and will comment on it. My design and that of the Senator from New Mexico, I am sure, is to see to it that to the extent that we feel it appropriate to call for super majorities in connection with certain budget requirements we, nevertheless, accomplish no change whatsoever in the traditional separation of powers over matters relating to the budget, that we neither add to nor subtract from the powers of Congress or of the President of the United States or of the Supreme Court and the other Federal courts of the United States to the extent that they have been exercised in the past.

It is my own view and my own commitment that if this resolution is amended so as to make this separation of powers clear so as to grant statutory authority to Congress to define terms and to implement the statute in a way outlined by the Senator from New Mexico I would intend to vote in favor of the joint resolution and would for that matter commit myself to do so.

I must say, and I think in this respect I probably differ somewhat from the Senator from New Mexico, that I cannot vote for the resolution in its present form. I may or may not be speaking for other Senators in saying so. A number of Senators have discussed the matter with me and a number I believe feel as I do but each of them will, of course, be required to speak for himself.

At this point, however, I would appreciate greatly the initial reaction of the Senator from New Mexico to this suggestion in connection with the courts and also to the possibility that his amendments 1, 3, and 5 might possibly at least be combined into a single

amendment under the terms and conditions I have outlined.

Mr. DOMENICI. I thank the Senator for his observations and his request of me.

Let me start with the last of the Senator's inquiries first. I certainly think there may be some way to make my three amendments more clearly identifying the role of the respected constitutional entities, to wit, the President and Congress. I think I can make that more comprehensive and perhaps in one amendment rather than three pieces and we will try to do that.

With reference to the Senator's notion that we should attempt to limit the opportunities for and the scope of the Supreme Court and Federal courts' jurisdiction to intervene in matters as they pertain to this amendment, I think the Senator understands that one of the reasons behind my amendments was to be more specific as to whose responsibility various aspects of this amendment belong on whose shoulders those activities lie. So I am moving in the same direction.

I had not given much thought to an amendment that would indeed be more generic than that and talk about jurisdiction to interpret and I will be delighted to do that in the next 24 hours and to talk with the Senator before he offers his amendment since he does not have the final draft of the amendment yet and is working on it. I will be glad to do that.

I am not sure that we can come up with an amendment that would not be too restrictive and not keep the pressure on.

The one thing I am worried about on the Senator's approach on jurisdiction is that he does not want to have the American people think that there is no one out there to keep the pressure on the Congress to do what the constitutional amendment requires. But certainly we do not want every economic decision, every decision about what is a budget, what is a deficit, what is the statement of account, what is the income level in the country and the growth in that, interpreted by the judiciary of this country at least to the extent that we can avoid it.

We want to know what part is our job and what part is the President's to the extent we can, so I will be glad to work on that and I thank the Senator for his comments today and questions, and I am most appreciative. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. JEPSEN. Mr. President, Senate Joint Resolution 58, the balanced budget-tax limitation constitutional amendment, is the most important matter to be brought before this body in many years. If enacted, this amendment will reverse the move toward fiscal irresponsibility and the excessive Federal involvement in our lives that has characterized the last several decades. It will help us reverse the inflation, high interest rates, low productivity growth and economic stagnation that has burdened our country in the past 10 years.

Before the views of John Maynard Keynes and his followers became accepted after the mid-1930's Congress tended to view balancing the budget as an important responsibility. In the 50 years before Keynes wrote his most famous book outlining his economic theories in 1936, the Federal Government ran a surplus in 27 years and a deficit in 23, with most of the deficits coming in wartime or recession. In only 6 of those years was the deficit as large as 1 percent of the gross national product—an amount equivalent to about $30 billion today.

In the 50 years since Keynes' so-called contributions were published, we have run deficits in 42 years and surpluses in only 8 years. That statement assumes we run a deficit in fiscal years 1983 through 1985, but I doubt anyone here would question that assumption. In 30 of those 50 years, the deficit exceeded 1 percent of GNP. The self-imposed fiscal discipline has been destroyed by the acceptance of the Keynesian view that budget deficits are not bad and indeed are a useful means of combating recessions and high unemployment.

On the spending side, Federal outlays absorbed less than 3 percent of our gross national product when President Hoover took office, while for this fiscal year they should absorb close to 24 percent our total output, a peacetime record. This increase in Federal spending has crowded out an enormous amount of private spending, both on consumer goods and on the investment goods that are so vital to our economic growth. It is no accident that America's economic decline relative to other nations began during this period of unprecedented growth in Federal involvement in our economy.

Many persons, including some well-known economists, dismiss the balanced budget as an old-fashioned concept. Some of them are fond of pointing out that while individuals must exercise financial responsibility, nations have powers that permit deficit financing, such as the ability to sell debt readily or even to print money to finance operations. While this is true, where has it gotten us? When Franklin D. Roosevelt assumed office in 1933, the Consumer Price Index was more than 25 percent lower than it was in 1800. Today, consumer prices are more than seven times as high on the average as when Roosevelt took office.

Bread is a good example. In 1933, bread sold for 7 cents a pound, while today 50 cents is a good price for a pound loaf. While it is true that the deficits that we have run rather consistently in the last 50 years did not have to be inflationary, the historical fact is that the Federal Reserve System has monetized much of the increased Federal debt, leading to rising prices.

We might be willing to accept inflation as the price that we have to pay for reduced unemployment if there were any evidence that deficit-financed Federal spending was at all successful in reducing unemployment. The seventies amply demonstrated that inflation does not eliminate unemployment. In that decade, the average annual unemployment rate was 6.2 percent—the highest average for any decade since the thirties—yet inflation reached the highest level of any predominantly peacetime decade in our history. The median annual unemployment rate in the 49 years since Roosevelt took office is no lower than in the 44 preceding years for which annual unemployment data are available, yet we had price stability in the earlier period but do not today.

I do not think I need to cite many statistics to convince you that interest rates have been higher in the era of big deficits than in the earlier period when budgets tended to be balanced. In the 46 years before Keynes' landmark book-made budget deficits respectable, the annual average interest rate on 4-month prime commercial paper never was as much as 7.7 percent, while in 8 of the 13 years since we last balanced the budget the rate has been higher than that, and it is now around 14 percent. While balancing the budget will not guarantee low interest rates, it will sure help.

A final point needs to be made in this review of the historical record. I do not need to remind Senators that America's role as the premier economy in the world has been severely challenged in recent years. Slow economic growth arising in part from the crowding out of private investment by Federal deficit spending has led to a situation where several European nations now have a higher GNP per capita than the United States.

In short, the modern ERA of big deficit spending has coincided with a marked worsening of our performance with respect to our major economic goals—price stability, full employment, reasonable interest rates, and a high rate of economic growth.

The historical record, then, shows that our economy performs much better in an environment of balanced budgets and controlled expenditures than in an environment of rapidly rising expenditures financed in part by taxation and in part by deficits requiring the issuance of public debt. Yet the best argument for the balanced

budget amendment is not an economic argument but rather a political one: This amendment will make American Government more democratic, more responsive to the wishes of the people.

Surveys and polls for years have shown that Americans want the Federal Government to balance its budget. They also show that they deplore the growth in the size of Government and the level of taxation. The 1980 elections are ample proof of this. Yet Government continues to get bigger, deficits get larger, and taxes remain high. In other words, the people's elected representatives have acted contrary to their wishes.

Why has this antidemocratic behavior occurred and how will the proposed constitutional amendment stop it? The answer relates to the fact that the benefits from most of the Government programs created in the last 20 years have been concentrated among comparatively few people, while the costs of these programs have been dispersed among the entire taxpaying public. Thus a comparatively few persons gain substantial benefits from the typical Government program, while most of the costs are borne by a huge number of persons, each of whom pays a relatively small amount. The beneficiaries, therefore, have an enormous incentive to push for adoption of the program, while the costs to the average taxpayer are not high enough to incite them to raise objections, so the bill becomes law.

Let us use an example. Suppose the special interests propose a new subsidy scheme that will benefit 300,000 producers by $3 billion. The average beneficiary of the program would thus gain $10,000. That is a big enough amount to make it worthwhile for the potential beneficiary to write letters, call Senators, and even contribute a few hundred dollars to organizations lobbying for passage of the bill. Yet the bill may impose $5 billion in costs on the other 230 million Americans—an average cost of $22. The average American will not get too excited about fighting to save his $22. Indeed, unless he spends a lot of time reading the newspapers, he will probably not even know about the cost. The cost is thus effectively disguised.

Therefore, 300,000 Americans will spend millions to lobby for passage of the bill while 230 million other Americans will spend little to fight it. The result, typically, is that the bill becomes law despite the fact that the costs to taxpayers of the legislation far exceeds the benefits to the small special interest group. America as a whole loses. It is no wonder that much of the growth in Government spending in the past several decades has come from programs serving comparatively small segments of the population, while programs with broader-based benefits, such as defense, have often growth much more slowly.

What will the balanced budget amendment do about this situation? It will increase the political costs to Members of Congress of approving special interest legislation. Take the hypothetical $3 billion subsidy. At the present, Congress can approve the subsidy and simply let the deficit be $3 billion larger. Alternatively, it may finance the spending from rising tax revenues resulting from inflation-caused bracket creep, instead of lowering tax rates to offset the effects of inflation.

With a balanced budget amendment in effect, however, things would be dramatically different. In order to approve the new subsidy program, Congress would have to explicitly approve a tax bill raising $3 billion, making the costs clear to the general taxpaying public and thus allowing them the opportunity to effectively protest the expenditure and resulting tax. Alternatively, the Congress can finance the program by reducing other spending by $3 billion, which forces it to compare the proposed new program with existing activities. If cuts are made in other programs to accommodate the subsidy, Congress will have to face the wrath of other special interest groups hurt by the spending cuts in other areas. For example, if housing subsidies are to be reduced to allow tobacco subsidies, the homebuilders might campaign against the tobacco subsidy, something that rarely happens now.

The balanced budget amendment, then, reduces the ability of special interests to influence legislation by raising the costs to Members of this and the other body of voting with those interests. It rights the current imbalance between the general public interest and the interests of diverse special groups. It tends to force Congress to compare the benefits and costs of a whole range of programs, which should lead to the reduction in the number of programs with high costs in relation tothe general social benefits.

Critics of the balanced budget amendment cite several objections to it that seem to me to be invalid when subjected to serious analysis. For example, they say that the amendment is too restrictive, that it ties the hands of Congress. They say that the amendment makes it impossible to engage in countercyclical fiscal policy to fight recessions. To begin with, the amendment does allow Congress to suspend the balanced budget requirement by a three-fifths vote, so if there is a strong consensus that an unbalanced budget is needed, this amendment would allow such a budget to be adopted.

Even more important, however, our recent economic history vividly illustrates the futility of Keynesian-style policies to fine tune the economy by manipulating aggregate demand. To fight rising unemployment, we moved from a budget that was almost in balance in 1974 to a $45 billion deficit in fiscal year 1975, yet unemployment in that year reached the highest level in 35 years. In the following fiscal year, 1976, the deficit rose again, this time to $66 billion, yet unemployment remained high that year and even in the following year averaged over 7 percent of the labor force—for the third consecutive year.

Since 1975, unemployment has averaged over 6 percent in 7 of the 8 years, while in the previous 30 years it averaged over 6 percent only twice. It is not coincidental that in the 8 fiscal years since 1975, the deficit has exceeded 1 percent of GNP in every single year, an event that occurred only twice before in American history, during the Great Depression and World War II. Therefore, it seems to me that making it more difficult to engage in deficit finance is more likely to reduce unemployment rather than create it, especially in the long run. In the long run, capital formation should be substantially enhanced, since the Federal Government would not be claiming a large share of private savings. The crowding out of private investment would be eliminated. Our rate of capital formation, now among the lowest of major industrial nations, will increase, and with that will come higher wages and more employment opportunities.

The amendment very carefully permits deficit spending to occur in years in which our Nation is at a declared war with other nations. There is nothing in this amendment that in any way impairs the national security. Indeed, by providing an environment for a stronger economy, the amendment should enhance our ability to have a strong national defense.

The tax limitation provisions of the amendment have been criticized by some on the grounds that they limit the ability of Congress and the President to finance needed public goods expenditures. To begin with, that is mostly not true. Congress can explicitly vote for additional taxes that increase the share of national income going to the Federal Government, but they must do so explicitly. This amendment ends unvoted and disguised tax increases, but permits tax increases that are enacted in accordance with our Constitution. With this amendment, no longer can inflation and bracket creep be used to raise taxes. The amendment would encourage Congress to permanently adopt tax indexation or a flat rate income tax, since otherwise it would have to routinely vote tax rate reductions to offset the disguised tax increases imposed by the progressive income tax.

The amendment does not rule out tax increases, but it does end the total-

ly unethical, undemocratic and fiscally irresponsible practice of promoting inflation through deficit spending, with the inflation in turn leading to higher real tax rates. The public is getting on to that game anyhow, but it is high time that Congress face a constitutional mandate that forces it to vote on tax increases. Taxation without representation, 20th century style, must stop.

Another point that opponents of this amendment fail to consider is that it does not constrain State and local governments. A growth in the provision of public goods and entitlement programs at the State and local level is permissible under this amendment. Thus, this constitutional initiative gives an assist to the concept of New Federalism. The Federal Government's long-practiced tendency to coopt major tax sources from the States will be reversed by this mandate. The amendment should give new vitality to efforts to bring Government closer to the people by returning many nondefense programs to State and local control.

In the long run under the balanced budget amendment, persons wanting high levels of public services and the accompanying tax levels could move to States offering such services, while persons favoring relatively few such services but lower taxes can move to States with low expenditures and taxes. By capping taxes and implicitly expenditures at the Federal level, this amendment adds new vitality to our Federal system by allowing for more divergent State and local governmental systems that cater to a variety of tastes.

The balanced budget amendment is not a panacea that will end all of our society's problems. It is nonetheless an important step toward improving American life in both a political and an economic sense. Politically, the amendment enahances congressional responsiveness to the will of the general public, making it less a prisoner of the lobbyists and special interest groups. It makes it easier for us to say "no" to the pleas of those special interests who have been so important in the growth of Federal activity in recent decades. Also, the amendment is consistent with a renewal of our Federal system, of a more responsive governmental structure that brings governmental activity closer to the people.

Economically, the balanced budget amendment is potentially enormously beneficial at both the macro and the micro level. At the macro level, it makes it more difficult for Congress to follow irresponsible policies that contribute to inflation, unemployment, high interest rates and low economic growth. At the micro level, it forces Congress to explicitly examine the costs and benefits of specific governmental programs, leading to a more rational decisionmaking process that will encourage a better allocation of public resources.

I urge Senators to vote for the balanced budget-tax limitation amendment.

Several Senators addressed the chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I ask unanimous consent that I may yield to the Senator from Colorado without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I have waited a long, long time for this day.

The first bill I introduced following my election to the House of Representatives more than a decade ago was a proposed constitutional amendment to require a balanced Federal budget. In every Congress since then, I have sponsored or cosponsored measures to amend the Constitution to provide for balanced Federal budgets.

Finally, after 10 long years, I have the opportunity to speak in support of a balanced budget amendment actually pending before the Senate.

When our forefathers laid the foundation and built the framework of the system of government under which generation after generation of Americans have lived and prospered, they wisely made provision for the fundamental law of the land to be changed to reflect changing times, changing needs, changing circumstances.

We are taking advantage of the procedures our forefathers wisely provided in the Constitution they drafted in 1787 in order to accommodate a change in circumstances they did not foresee.

But the measure before us, Senate Joint Resolution 58, proposes not so much a change in the Constitution our forefathers drafted, but a restoration.

We know from the federalist papers and other accounts that there were many issues that deeply and bitterly divided the soldiers, statesmen, farmers, merchants, attorneys, and clergymen who gathered in Philadelphia for that fateful convention. How would popular sovereignty be balanced against the need to "break and control the violence of faction?" How would the interests of the large States be balanced against the rights of the small? How would power be distributed among the executive, legislative and judicial branches of Government? How would power be distributed between the Federal Government and the States? These and many other issues were the subject of heated and prolonged argument before our forefathers hammered out the structure of government from which all of us have benefited ever since.

But there was one issue on which northerner and southerner, Federalist and Republican, frontiersman and townsman were agreed. In fact, the degree of unanimity was so profound it never occurred to our forefathers that their consensus need actually be written into the Constitution in order to keep future generations of Americans from going astray.

That consensus was that the Federal budget should be balanced. Government budgets in which outlays exceeded revenues were, in the eyes of the Founding Fathers, both immoral and ultimately fatal to free and democratic government.

"The public debt," Thomas Jefferson said, "is the greatest of dangers to be feared by a republican government."

On this issue Jefferson received no dissent from his great antagonist, Alexander Hamilton, who said:

> I believe it to be warranted by the history of mankind that, in the usual progress of things, the necessities of a nation, in every state of its existence, will be found at least equal to its resources.

John Adams warned that:

> The consequences arising from the continual accumulation of public debts in other countries ought to admonish us to be careful to prevent their growth in our own.

And James Madison declared that one of the primary goals of government should be "to liberate the public resources by an honorable discharge of debt."

The admonitions of our Founding Fathers about the evils of deficit spending and debt accumulation go on and on. What is remarkable about a group so noted for its diversity is the virtual absence of any contrary opinion concerning the necessity for balanced budgets. So, while a balanced budget provision was not actually written into the text, it was, as Prof. William Breit of the University of Virginia has noted, a part of the "unwritten Constitution."

According to Breit:

> The imperative of the balanced budget was an extra-legal rule or custom that grew up around the formal document. It existed outside the precise letter of the Constitution on all fours with the system of political parties, the presidential cabinet, the actual operation of the electoral college system, and the doctrine of judicial review.

So what we will be doing when we pass Senate Joint Resolution 58 and send it to the States for ratification is to restore to the Constitution something the drafters of the Constitution believed was there all along.

And we will be doing so at a time when there is a critical need to rebuild the credibility of the budget process.

For 150 years, Americans of all political persuasions observed this critical, unwritten provision of our Constitution. Under Federalist and Whig, Democratic and Republican Presidents

and Congresses, taxes were raised or spending cut so Government outlays did not exceed income. The dollar was sound, the economy boomed, the American political and economic system became the envy of the world.

But two back-to-back emergencies—the Great Depression and the Second World War—caused us first to lay aside, and ultimately to forget—the importance of balanced Federal budgets to our economic prosperity and our political stability.

Our amnesia was accelerated by the radical new theory of an Englishman named Keynes who said that under certain circumstances, deficits could be a good thing. But even Lord Keynes hastened to point out that in the long run, deficits would be just as harmful as every economist who preceded him said they would be, and that deficits incurred in bad times should be compensated for by surpluses in good times.

Unfortunately, Lord Keynes had failed to reckon with the political imperatives of deficit spending which soon developed. Spending is popular and taxes unpopular in good times as well as bad, and the "long run" for most politicians is only the time remaining until the next election.

So year after year, in good times and bad, deficit was piled upon deficit. Since the end of World War II, the Federal budget has been in balance or in surplus only eight times. Since 1960, only once.

At first, deficit spending seemed painless and rather pleasant, like the first swig of bootlegged wine or the first snort of cocaine.

But this fiscal methadone, like other artificial stimulants, eventually took its toll. It cost more and more to get steadily less satisfying fiscal "highs," of ever shorter duration. Finally, the highs were no more, and all that was left was the painful process of detoxification.

In 1940, after 8 years of depression our debt stood at $50.7 billion. After the largest war effort in history the debt rose to $270 billion. For 25 years, between 1945 and 1970, we enjoyed a period of sustained economic growth. The Congress continued to increase Government spending and continued to add to the deficit, but the expansion of the economy kept within reasonable bounds. By 1970, the postwar debt had increased from $270 to $382.6 billion.

However, during the Vietnam war, the fateful guns and butter decision of the Johnson administration laid the foundation for the present fiscal crisis. The decision to launch an entire new level of social-welfare programs in the midst of a major war and the Apollo Moon program began the formation of a powerful new mind-set. It became fashionable to adopt the attitude that if we could land a man on the Moon, we could do anything. There also emerged from this line of thinking, the assumption that we could also afford to do everything—even if we had to borrow heavily to do it.

The budget and economic consequences of this assumption began an ominous buildup in the decade of the 1970's. The debt tripled in one decade—in fact, it doubled in just 5 years between 1975 and 1980.

By the time the Reagan administration came into office, the debt had reached nearly $1 trillion. Beyond that, the Congress had created $1.5 trillion of unfunded liability in the social security system plus a myraid of other unfunded obligations in the form of loan guarantees and entitlements.

As the deficit spending and indebtedness have gained momentum, the damages to the economy have multiplied. The twin curses of runaway inflation and exhorbitant interest rates have been marching step-by-step with the increases in the public debt. In the last 20 years, the inflation rate increased from 1.5 percent to 13.5 percent and interest rates tripled. Federal borrowings, of necessity, have gobbled up more and more of the available capital—increasing from 18 percent in 1960 to nearly half of the capital the private economy can generate.

As Government has grown, so has its intrusion into the lives of every American. There are now 87,012 pages of Federal regulations that limit freedom in every phase of life—a sixfold increase in the last two decades.

The net effect is a serious decline of the productivity of industry and a slippage of America's standard of living from first to fifth in the world.

There are those who would contend that we have paid this economic price to improve the plight of the disadvantaged through the proliferation of social-welfare programs. Despite these well-intentioned programs, the poor have been hurt worse than anyone by the destructive economic effects of deficit spending. For example, the average rate of unemployment for young blacks (16–19 percent) averaged 50 percent higher during the 1970's after the Great Society programs were in full effect than during the 1960's.

For more then a decade now our economy has been on the rocks—bouncing from the Scylla of inflation to the Charydbis of high interest rates as the Federal Reserve Board vacillates between monetizing the debt and imposing a measure of restraint in response to Congress fiscal profligacy.

Disaster lurks if we continue on this course. One more bound off either rock could mean hyperinflation, catastrophic depression, or both.

Yet Congress is still unwilling to grasp the helm firmly and steer the ship of state back into safer waters. We all know the disaster that awaits us if we do not change our course. Yet Congress has not yet produced a budget that reduces spending to meet income, or raises revenues to keep pace with outlays.

All know what needs to be done, but none wishes to be the first to propose it. There are political costs in budget-cutting, and in tax-raising. So we drift closer and closer to the shoals of fiscal calamity.

I regret to say I fear the Founding Fathers overestimated the character of those who have succeeded them at the helm of the ship of state. For them, commonsense and a strong sense of moral propriety were all that they required to keep the budget in balance. But recent Congresses, including this one, have demonstrated that the unwritten Constitution is not enough. More tangible restraints—such as those contained in Senate Joint Resolution 58—are required.

There are those who say Senate Joint Resolution 58 is an attempt to write economic policy into a political document, the Constitution of the United States.

This is not so.

Senate Joint Resolution 58 does not specify any particular level of Federal expenditures, how those expenditures should be apportioned, or how the revenues to pay for those expenditures should be raised. Senate Joint Resolution 58 says only that whatever the level of expenditures for whatever purposes should not exceed, in ordinary times, the level of revenues raised. Senate Joint Resolution 58 clearly is a political response to a political problem, and one that is urgently required for the preservation of our political system. For if our economy collapses, liberty and democracy are likely to be crushed by the falling blocks and timbers.

There are others who argue that a balanced budget amendment would be too rigid; that precise balance is impossible in an economy the size of ours, where a change of one percentage point in the rate of inflation or unemployment can throw calculations off by tens of billions of dollars.

But Senate Joint Resolution 58 is, if anything, too flexible. Provision is made for reestimation of budget targets if warranted by changing economic circumstances. Congress may at any time provide for specific deficits by a three-fifths vote of both Houses. And the provisions of Senate Joint Resolution 58 would be set aside automatically in the event of war. State legislatures, working under similar State constitutional provisions, have demonstrated the practicality of the requirement for a balanced budget with stricter restraints than those imposed by Senate Joint Resolution 58.

All Senate Joint Resolution 58 would do is to reestablish balanced budgets

as the norm for U.S. fiscal policy, as it was during the years when our economy was becoming the most powerful in the world.

There is another provision of Senate Joint Resolution 58 which I believe is highly desirable. This is the safeguard provided in the proposed constitutional amendment which would keep the Federal budget from being balanced forever on the backs of the taxpayers.

The profligacy of Congress has been spurred on to a considerable degree by the phenomenon known as taxflation. Taxflation is the dismal product of the interaction of inflation with the graduated income tax. This is how it works. Congess votes an unbalanced budget. The currency is inflated to cover the deficit. Inflation pushes taxpayers into a higher tax bracket. Taxpayers now pay a higher proportion of their income in taxes than before, even though their real income hasn't increased at all. And politicans get the benefit of the revenues from a tax increase they didn't have to go on record as voting for.

We dealt a blow to the pernicious phenomenon of taxflation when Congress accepted as part of President Reagan's tax reform package the amendment I offered beginning in 1985, to index tax rates for inflation. But a law is just a law, and may be changed at any time by majority vote. Indeed, there has been already an attempt by Members of this body to repeal the indexing amendment and restore the inflation tax. More protection for our aggrieved taxpayers is warranted.

More protection is just what would be provided in section 2 of Senate Joint Resolution 58. This section would limit the increase in revenues for any fiscal year to the rate of increase in the national income in the preceding calendar year, unless Congress explicitly voted to increase taxes. Section 2 of Senate Joint Resolution 58 would in no way inhibit the ability of Congress to raise taxes, if such increases are deemed necessary. But it will inhibit the ability of Members to conceal from the electorate the fact that a tax increase has been enacted. Senators and Congressmen will have to go on record favoring tax increases if they wish to increase spending. This should lead to more judiciousness in decisionmaking, as Members weigh more carefully the tradeoffs between the proposed benefits of higher spending and the cost to taxpayers of providing it, and to a better informed electorate. Both developments will be very happy ones for democracy.

There are those who say a balanced budget amendment is no panacea for our Nation's fiscal woes. They are correct. But that is no argument against Senate Joint Resolution 58. In a democracy, in all of human life, there is no such thing as a perfect solution. Perfect solutions can be found only in a better world than this. In this imperfect world, we shall have to be satisfied with better rather than worse, with a step forward instead of a step backward.

There is very little question that the system Senate Joint Resolution 58 offers us is better, because things hardly could be worse than they have been. In the last year of President Carter's administration, we struck an economic bottom that the Keynesian wizards said was impossible—double-digit inflation and double-digit interest rates in a comatose economy. President Reagan has succeeded in reducing dramatically the rate of inflation since then, but high rates of interest and unemployment, generated primarily by Congress continuing failure to come to grips with deficit spending, remain unacceptably high.

The per capita Federal debt is now $4,403 or over $17,500 for every family in America. When we add the unfunded liabilities that have been quietly loaded upon the citizenry the indebtedness is more than twice that amount.

To bring this down to understandable terms, the cost of the interest this year on the national debt has now risen to the equivalent of $1,444 for a family of four. This single fact goes a long way toward explaining why the U.S. Government still cannot pay its bills, despite a whopping increase in the median family Federal tax load from $595 in 1960 to about $3,500 per year today.

How much more serious must it get before Congress acts?

The fact is that the patience of the American people is exhausted on this issue and if Congress fails to act, a constitutional convention will be ordered by the State legislatures.

Senate Joint Resolution 58 offers us the chance to step forward out of the economic slough of despair into which we have been plunging, deeper and deeper, year after year. It offers us the opportunity to restore the stability to the American economic system that made possible the growth that made our economy the envy of the world. Finally, Senate Joint Resolution 58 offers us the opportunity to restore to this generation of Americans, and to all other Americans past and future, the faith which the Founding Fathers passed on to us, and expected us to keep.

Mr. THURMOND. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Maryland has the floor.

Mr. MATHIAS. Mr. President, I am happy to yield for a brief interlude to any Member who wishes at the moment.

Mr. BOREN. Mr. President, will the Senator yield for a statement?

Mr. MATHIAS. I yield without losing my right to the floor.

Mr. BOREN. I thank my colleague from Maryland.

Mr. President, today marks the second day of a truly historic occasion and one of which I am exceedingly proud to be a part. For the first time in decades, the U.S. Senate is seriously considering the idea of a constitutional amendment requiring a balanced Federal budget. I particularly want to commend the efforts of my good friend and distinguished colleague from the State of South Carolina, Senator STROM THURMOND. Mr. President, in the 1950's and 1960's, and on through the 1970's and now into the 1980's, the voice of Senator THURMOND has been consistently raised in support of this proposal. For many years, Senator THURMOND and others were labeled as radical conservatives, proposing a preposterous idea that could not work and that certainly would never be taken seriously by the Senate. If there is ever living proof that persistence pays, it is found in the persistence and dedication of the chairman of the Judiciary Committee. Mr. President, I also want to commend others of my colleagues who have worked long and hard to bring us to this point.

This legislation has over 60 cosponsors. I joined this effort virtually on the first day of my Senate career, and I have pursued the passage of this legislation continuously since then. I have done so, Mr. President, for a number of reasons, and I would like to spend a few moments touching on some of them today.

First and foremost, it is the right idea at the right time in the right place. Not only does it have the cosponsors I have mentioned in the Senate, but it has over 200 cosponsors in the House. The President of the United States announced his public support and, if the mail in my office is any criteria, and I certainly believe it is, the people of the United States overwhelmingly support such a constitutional amendment. Mr. President, unless I miss my guess, I predict that, once this measure passes the House and Senate it will be ratified by the required number of States in record time—so great is the support for this proposal.

Let me review for a moment the provisions of Senate Joint Resolution 58. Section I simply states that prior to each fiscal year, the Congress shall adopt a statement in which total outlays are no greater than total receipts. This requirement may be waived by three-fifths of both Houses, under certain circumstances. The measure goes on to limit total receipts to the rate of increase of the gross national product. Remaining sections allow for a waiver for any fiscal year in which a declaration of war is in effect—prohibit Con-

gress from requiring that States engage in additional activities without compensation equal to the additional costs—provides what the phrase "total receipts" shall encompass—and provides an effective date.

As with any such proposal, there are those who say, "It won't work. It can't be enforced. We really don't know what we are doing."

Mr. President, I know that balanced budget amendments not only can work, they do work, and my home State of Oklahoma is a prime example. I look around this country and I see economic chaos in almost every quarter—State and local governments that struggle year in and year out to meet their obligations. In many States, that constant strain just to stay even leaves no room for expansion and progress—such needed and vital efforts as aid in economic development, decent livable wages for employees—the support for a growing and responsive educational system for the young men and women who are the future of the State—these become the victims of financial shortfalls that halt and frustrate State and local officials. If a State or local government is hit with an unexpected, large financial crisis, the shock waves spread throughout the system.

Also, Mr. President, I look at my State of Oklahoma and think back to the years when I served as Governor. I see a State that has low unemployment, a vigorous economic development program, a system of primary, secondary, and higher education that is alive and growing, a State which taxes its citizens at one of the lowest rates in the United States, and yet a State which year after year has approached each legislative session with a surplus in the treasury and the problem of how to best invest those resources in the future, not of how to shore up the past or maintain the present.

In very large measure, this happy condition in Oklahoma has been the product of our people's wisdom in recognizing the need for a constitutional amendment that forbids deficit spending and mandates the Governor and the legislature to spend no more than the State receives in the previous fiscal year. That is the very same type of proposal we consider today.

This is not to say that Oklahoma does not have any financial difficulties or that all our financial troubles at the national level will be solved once this amendment is adopted and ratified. But the history of our State is clear—during my stewardship as Governor, the State of Oklahoma was slapped with a Federal court order that required us to spend millions of dollars to build new correctional facilities. Such an order would have been devastating to many governments and, while it did cause difficulties for us, we were able to comply, and, Mr. President, maintain our obligations and commitments in most other essential areas. To be sure, those massive expenditures caused us to delay what I considered to be important work in health care and education and juvenile justice—but the point is that we were able to meet such a financial drain and go on. We were able to do so because of the resources on hand as a result of the balanced budget amendment.

Mr. President, I do not think any of the sponsors of this legislation claim it is perfect, that once in place no adjustments need be made and fiscal nervana will descend over all the land. In the case of my State, the need for fine tuning has arisen and been met, with a minimum amount of difficulty.

We conducted a referendum which I proposed during my term of office, to alter the formula by which the amendment prescribed the funds that would be available for appropriation by each legislative session. Our proposal tightened up the budget balancing amendment. The people of the State voted overwhelmingly for the proposal and our amendment in Oklahoma is stronger and the people of Oklahoma are better served.

Perhaps, Mr. President, the need for such an amendment on the national level would not be as compelling as it is if Congress and administrations of both parties had been able to exercise fiscal discipline through the years. There can be no denying that the main impetus among the American people today in support of this plan is their belief that in its absence the fiscal problems of this country will do nothing but get worse—deficits will continue to grow—interest rates will remain outrageously high and debt ceilings will be raised again and again.

Can anyone stand on this floor and deny such a view of the future? Not if they look at the past. Not only have budget deficits risen at a steady, unending rate over the past two decades, but, even more alarmingly, the rate of increase has quickened in recent years. Under the Johnson administration, $37 billion was added to the national debt—under the first Nixon administration, $64 billion—Nixon-Ford, $167 billion—Carter, $191 billion, and now we are on track for a $400 billion increase in the national debt in the lifetime of this administration. No wonder the people of this country do not believe Congress will ever balance the country's checkbook. No wonder they resent present confiscatory rates of taxation. No wonder their view of our economic future is laced with pessimism. No wonder, Mr. President, they are demanding a constitutional amendment to balance this uncontrolled, runaway Federal budget. The people have been ahead of the Congress on this issue for several years.

There are those who thought the revamping of the budget process would bring us closer to fiscal sanity and make it more difficult to engage in the excesses of the past. That noble effort has done little more than enable us to see more clearly and in starker detail the folly of our ways. Perhaps this bringing together of the various budgetary parts into a more defined picture is the greatest accomplishment of the Budget Act of 1974. Certainly if one is to measure the success of the act in terms of controls on Federal spending, its scorecard is bleak indeed.

I believe we will revise the budget process in the years to come, but we cannot rely on that reformation project alone. Even the most perfect budget process would require this amendment as a foundation and guiding principle.

We are told, Mr. President, that now is not the time and this is not the vehicle. I say we have spent 20 years and more getting to this place, we have spent 20 years and more abusing the American taxpayer, we have spent 20 years and more taxing and taxing, spending and spending without regard to the fundamental laws of economics that presaged a day of reckoning, and we have spent 20 years and more proving that the other way, the way of no balanced budget amendment, cannot, will not, and does not work.

The President has said it before, "If not now, when? If not us, who?"

Mr. President, I support this amendment with pride, I support it with faith, I support it as right, and I urge my colleagues to do the same.

Mr. MATHIAS. Mr. President, I now ask unanimous consent to waive section 306 of the Budget Act for the purpose of allowing an amendment which has been proposed and which is pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, will the Senator yield so that I may ask a question?

Mr. MATHIAS. I would be pleased to yield without losing my right to the floor.

Mr. LEAHY. Mr. President, I expressed earlier both in this body and in the committee, as well as in my own State my serious concerns about whether there is a sound intellectual basis for this constitutional amendment.

I have a letter signed by 80 economists, including a number of Nobel Prize winners, opposing the amendment, and I ask unanimous consent that the letter and their names be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ECONOMISTS' OPEN LETTER OPPOSING A CONSTITUTIONAL AMENDMENT REQUIRING BALANCED FEDERAL BUDGETS AND LIMITING FEDERAL TAX RECEIPTS

The undersigned professional economists, who hold a variety of views regarding national economic policies, nevertheless are united in opposing enactment of the proposed Constitutional Amendment embodied in Senate Joint Resolution 58 and House Joint Resolution 350. Our reasons are given below. We are not all equally impressed by each of these reasons; and some of us have still other reasons for opposing the Amendment. But we are unanimous in our conviction that such an amendment is not in the national interest.

1. Whether a given expenditure budget and set of tax provisions will produce a deficit or a surplus depends to an important degree on the state of the economy over a period that will end considerably more than a year from the time when appropriations and tax laws are enacted. This future state of the economy will be significantly influenced by the budget itself; but it also depends on many other events and circumstances that cannot be foreseen. Achieving the purpose of the proposed Amendment—*i.e.*, avoiding deficits—thus implies an impossible accuracy in economic forecasting. Of course, Congress could deliberately evade the purpose of the Amendment by making economic assumptions that its members knew or suspected were unlikely to be realized. Such devious procedures clearly should not be encouraged by an unworkable Constitutional provision.

2. Even if Congress were able accurately to foresee the state of the economy, and able accurately to predict the revenues and expenditures associated with any economic forecast and any set of tax laws and appropriations, it is bad public policy to enact a budget that would be balanced in a fiscal year foreseen to be characterized by excessive unemployment and deficient sales, production, and incomes. Such a balanced budget could, in those circumstances, itself markedly increase unemployment and further depress production and incomes.

3. Similarly, if the fiscal year for which the budget and tax rates were being determined were expected to be a year of strong demand, high production and employment, and rising inflation, the provision of the proposed Amendment that would limit the percentage rise in tax revenues to the previous year's percentage increase in national income could require tax rate reductions that would further increase demand and further fuel inflation, leaving tight money and high interest rates as the principal weapons for attempting to stabilize demand and prices.

4. Precise definitions of "expenditures", "revenues", "deficit", "national income" and related concepts are not included in the present draft amendment. Thus, the Amendment would need to contain (or the Courts would need to supply) such definitions. The relevance of any particular set of precise definitions changes materially over time. The Constitution cannot be periodically amended or reinterpreted to keep up with changing fiscal concepts and practices.

5. Constitutional limits on the use of budgetary policy for purposes of economic stabilization could in many cases be evaded by the use of regulatory policies or tax differentials designed to achieve the same ends. Regulatory provisions are normally far less efficient than economic incentives, and regulations or tax differentials seriously distort private economic choices. Inventing new forms of "off-budget" expenditures or financing would be another easy but undesirable means to frustrate the intention of the Amendment.

6. Interpretation of the Constitution—including this Amendment, if approved—is a function of the judiciary. We believe it unwise to involve the courts in the interpretation of economic theory and economic policy. It often takes years to develop a judicial construction sufficiently thorough to comprehend the full range of issues, arguments, and conflicts inherent in a new legal situation. Moreover, it often takes years to adjudicate the cases that arise to test the scope and application of a new legal concept. To be effective, economic policy must be flexible, and respond to changing economic conditions, institutions, and relationships; bringing the courts into the policy process would severely undermine the necessary flexibility.

7. The proposed Amendment demands a three-fifths vote of the full membership of each House of Congress in order to permit a Federal deficit under any circumstance other than a formal declaration of war. A special majority would also be needed to raise tax revenues by more than the previous year's increase in National Income (which might be a decrease). In a national emergency other than war, a prohibition of deficits or tax increases might make it impossible adequately to protect the national interest. A national-security emergency does not always (or, in recent history, even generally) involve a formal declaration of war; and a threat to national security may not always be so obvious that three-fifths of the members of each House will perceive it and actually vote that it exists. Further, acknowledgement of such a threat by so explicit an action might be highly inappropriate or even dangerous. The debate and confusion involved in such a major and unprecedented policy decision could preclude immediate response to an imminent danger.

8. Most of us agree that Federal budget deficits can be and often have been incurred unwisely—at the wrong times, or in the wrong amounts. However, we do not believe that the quality of our economic policies will be, improved by amending the Constitution. Rather, they will be improved only through better and wider public understanding of the economic elements in national policy, and by electing public officials who are competent, responsible, and responsive to the will of the electorate.

The motivation for Congress' sudden interest in amending the Constitution to prohibit deficits appears mainly to reflect frustrations associated with its inability to enact a fiscal-year 1983 budget that would be balanced in a year that it officially predicts will be marked by vigorous economic recovery. As the Washington Post noted editorially on June 21, "It is grotesque for senators and a president who cannot get their current deficit under $100 billion to support, piously, constitutional language putting it at zero."

The undersigned are all professional economists, engaged in research, teaching, consulting, or staff capacities. We sign this statement as individuals; our institutional affiliations are provided only for purposes of identification, with no implication that we represent anyone's views other than our own.

Gardner Ackely, University of Michigan, Former Chairman of the Council of Economic Advisers; Daniel S. Ahearn; Clopper Almon, University of Maryland; Albert Ando, University of Pennsylvania; Martin Neil Baily, Brookings Institution; Francis M. Bator, Kennedy School of Government, Harvard University; Abram Bergson, Harvard University; Ernst R. Berndt, Massachusetts Institute of Technology;

Robert L. Bishop, Massachusetts Institute of Technology; Dean O. Bowman, E. Cary Brown, Massachusetts Institute of Technology; Andrew Brimmer, Brimmer & Company, Inc., Former Governor, Federal Reserve Board; Henry J. Bruton, Williams College; Ralph C. Bryant, Brookings Institution; Richard N. Cooper, Harvard University; Paul Davidson, Rutgers University and Editor, The Journal of Post Keynesian Economics; Gerard Debreu, University of California—Berkeley.

Thomas F. Dernburg, American University; Dudley Dillard, University of Maryland; Evsey D. Domar, Massachusetts Institute of Technology; George C. Eads, University of Maryland; Robert J. Eggert, Eggert Economic Enterprises, Inc.; Robert Eisner, Northewestern University; Richard Everett, Former President of National Association of Business Economists; Murray F. Foss; George M. von Furstenberg.

Stephen M. Goldfeld, Princeton University; Richard Goode; Robert J. Gordon, Northwestern University; Roger H. Gordon, National Bureau of Economic Research; Jerry Green, Harvard University; Joseph Grunwald, Brookings Institution; Jack M. Guttentag, University of Pennsylvania; Burton C. Hallowell, President Emeritus of Tufts University; Daniel S. Hamermesh, Michigan State University.

Albert Gailord Hart, Columbia University; Walter W. Heller, University of Minnesota, Former Chairman of the Council of Economic Advisers, Former President, American Economic Association; William F. Hellmuth, Virginia Commonwealth University; Bert G. Hickman, Stanford University; Clifford Hildreth, University of Minnesota; Albert O. Hirschman, Institute of Advanced Study, Princeton University; Donald Hodgman, University of Illinois, U.C.

Hendrick S. Houthakker, Harvard University; Saul H. Hymans, University of Michigan; Carl Kaysen, Massachusetts Institute of Technology, Director, Program in Science; Peter B. Kenen, Princeton University; Joseph A. Kershaw, Williams College; Leon Keyserling, Former Chairman, Council of Economic Advisers, President, Conference of Economic Progress; Lawrence R. Klein, University of Pennsylvania, Nobel Memorial Prize in Economics, 1980, Former President, American Economic Association; Heinz Kohler, Amherst College.

Richard F. Kosobud, University of Illinois at Chicago; Lawrence B. Krause, Brookings Institute; Mordcai Kurz, Stanford University; Robert J. Lampman, University of Wisconsin—Madison; Robert Lekachman, City University of New York, Lehman College and Graduate Center; John M. Letiche, University of California Berkeley; Charles E. Lindblom, Yale University.

Wassily Leontief, New York University, Nobel Memorial Prize in Economics,

1973, Former President, American Economic Association; John Lintner, Harvard University; Glenn C. Loury, University of Michigan; Hyman P. Minsky, Washington University; Franco Modigliani, Massachusetts Institute of Technology, Former President, American Economic Association; Alicia H. Munnell, Vice President and Economist, Federal Reserve Bank of Boston; Roger Noll, California Institute of Technology; Joseph A. Pechman, Brookings Institution.

Rudloph G. Penner, American Enterprise Institute; George L. Perry, Brookings Institution; Wallace C. Peterson, University of Nebraska-Lincoln; Robert S. Pindyck, Massachusetts Institute of Technology; Lee E. Preston, University of Maryland; Fredric Raines, Washington University; Gordon C. Rausser, University of California-Berkley; Robert D. Reischauer, The Urban Institute.

Robert W. Resek, University of Illinois, U.C., Director, Bureau of Economic and Business Research; Earl R. Rolph, University of California; Daniel L. Rubinfeld, University of Michigan; Vernon W. Ruttan, University of Minnesota; Walter S. Salant, Senior Fellow Emeritus, Brookings Institute; Steven S. Salop, Georgetown University Law Center; Paul Samuelson, Massachusetts Institute of Technology, Nobel Memorial Prize in Economics, 1970, Former President, American Economic Association.

Isabel V. Sawhill, The Urban Institute; Thomas C. Schelling, Harvard University; F. M. Scherer, Northwestern University and Swarthmore College; Joseph Scherer, Hofstra University; Richard Schmalensee, Massachusetts Institute of Technology; Charles L. Schultze, Borookings Institution; Herbert A. Simon, Carnegie-Mellon University; Courtenay Slater, Former Chief Economist, U.S. Department of Commerce.

Robert Solomon, Brookings Institution; Peter O. Steiner, University of Michigan; Peter Temin, Massachusetts Institute of Technology; Hal R. Varian, University of Michigan; Steven B. Webb, University of Michigan; Sidney Weintraub, LBJ School, Univeristy of Texas at Austin; James S. Worley, Vanderbilt University; Frank C. Wykoff, Pomona College.

Mr. LEAHY. I am not aware of a substantial group of economists who believe the amendment represents good economic policy, and I would ask the proponents of the constitutional amendment if there is such a body.

Mr. THURMOND. Mr. President, if the Senator is propounding any questions to the Senator from South Carolina I would be glad to respond and say there are economists who support the amendment, and I would be glad to supply a list if he would like to have it.

Mr. LEAHY. I would appreciate that because I note in the Judiciary Committee print on page 5 that one of the economists the Judiciary Committee relied upon is the Italian economist Wilfredo Pareto. I must add it appears to have relied very, very heavily upon him for this constitutional amendment.

I am struck by the fact that he is not only the first economist quoted in the report but he is quoted at great length. I think over 300 words, and he is also quoted to explain the fundamental rationale for this constitutional amendment, the concept that there is a built-in bias for increasing Federal spending.

I am wondering whether the chairman is aware that the Encyclopedia Americana has described Pareto as "widely known for his contempt for democratic institutions. Mussolini's fascists claimed Pareto as the originator of their ideology?"

I am rather concerned that the committee report is citing as one of the substantial bases for this amendment the views of a man widely known for his "contempt for democratic institutions," and "the originator of the ideology of" Mussolini's fascists.

While I am waiting for the answer to that I would also state that Mr. Pareto, like many fascists, believed that "all species of living beings would degenerate but for the intervention of selection," and that "the human race does not escape this law." When I read this I became very interested. I knew that those in favor of the constitutional amendment, relying heavily on this great thinker, would certainly want to go back and see what else he thought about. Those very few who were tied up with other things to do during the recess, and did not have a chance to go through his readings at great length, should know a few things Mr. Pareto stood for, this man we are relying on for our new voodoo economics.

He welcomed alcoholism and tuberculosis because they kill off the lower classes. Let me quote what this man we rely on for our constitutional amendment once said:

> Tuberculosis is also a powerful means of selection, since only a small number of the strong are affected, while it destroys a very large number of the weak.

I mention that because I suspect that while it would not be of concern to the Judiciary Committee, it probably would be of interest to our committees which have jurisdiction over health matters, that we may have a constitutional amendment on tuberculosis.

He also said he thought alcoholism was especially positive because it not only kills the weak alcoholic himself but also affects his descendants as well. Let me quote:

> The objection is usually raised that alcoholism harms not only the individual but also his descendants. This is a very strong objection from the ethical point of view, but it is nothing from the point of view of selection. This objection even works against those who use it. It is obvious, in fact, that an agent of selection is so much the better when its action applies not only to individuals but also to their descendants.

I suspect that this economist would think rural health centers, infant feeding, and vaccination programs are a waste of money, and under this constitutional amendment there would probably not be money for such things. But I am surprised—indeed I am shocked—by the fact that he is cited by the Judiciary Committee of the Senate.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. LEAHY. Of course.

Mr. THURMOND. I just want to say this man has been dead, I guess, for 100 years. We did not say he was for the amendment.

Mr. LEAHY. Well, you quote him as about the first person in the report and he is quoted as providing the intellectual basis for the amendment.

Mr. THURMOND. That was probably just the effect of special interests on legislation.

Mr. LEAHY. The report also, of course, quotes, Andrew Johnson, James Monroe, John Quinch Adams, and the Federalists and others, and President Hoover. We are not keeping our quotes just to——

Mr. THURMOND. Those quotes are just to show they favored fiscal responsibility, and that is the bottom line of this amendment, fiscal responsibility.

Now, Nobel Prize winner Milton Friedman is an economist who supports this amendment, and there are others, too. I can furnish the other names to the Senator.

Mr. LEAHY. I think, Mr. President, I would like to go back to the heavy reliance on Mr. Pareto, in the committee report. I can speak later on another day with respect to Dr. Friedman, whom we admire, of course, in the State of Vermont where he lives part of the time. But Mr. Pareto I find really does embody the feelings that I see in much of this constitutional amendment, this selection out of the fittest, allow them to survive and get rid of everybody else. It is not, as many in the White House have said, that this is something that will bring about economic well-being, that a rising tide lifts all boats.

But I have impinged more on the time of my good friend from Maryland, and I appreciate and thank him for yielding to me.

Mr. MATHIAS. I am happy to accommodate the distinguished Senator from Vermont.

IN DEFENSE OF PARETO

Mr. HATCH. Mr. President, let me take just a moment of the Senate's time in defense of a great gentleman of Italian descent. Although I do not find myself in agreement with the entirety of his economic thought, I do believe that his reputation has been unfairly tarnished by one of our distinguished colleagues (Mr. LEAHY).

Among the many contributions of this distinguished scholar are:

First, his sharpening and fine-tuning of Wahas' mathematical approach to political economy.

Second, the development of his famous law of income distribution in which he analyzed the randomness of income distribution throughout various societies.

Third, the development of his theory of pure economics and his analysis of ophelimity, or the power of goods to give human economic satisfaction.

Fourth, his introduction of the "curve of indifference", a tool that has proven of great contribution to 20th century economic thought.

There are other contributions. I make only a few. I endorse none of his economic theories in particular. I do feel, however, that the U.S. Senate should not be on record in malignment of this distinguished economist.

UP AMENDMENT NO. 1076

(SUBSEQUENTLY NUMBERED AMENDMENT NO. 1931)

(Purpose: To provide a statutory basis for a balanced budget)

Mr. MATHIAS. Mr. President, I have an amendment pending at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) for himself and Mr. BAUCUS, proposes an unprinted amendment numbered 1076.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, beginning with line 1, strike out through the line 14 on page 4 and insert the following:

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That (a) title III of the Congressional Budget Act of 1974 is amended by inserting after section 301 the following new sections:

"LIMITATIONS ON OUTLAYS AND REVENUES

"SEC. 301A. (a) SPECIFICATION OF LIMITATIONS.—

"(1) Notwithstanding any other provision of this Act, it shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for any fiscal year beginning after September 30, 1982, or any amendment thereto or any conference report thereon if—

"(A) the adoption of such concurrent resolution as reported;

"(B) the adoption of such amendment; or

"(C) the adoption of the concurrent resolution in the form recommended in such conference report; would cause—

"(i) the appropriate level of total budget outlays specified in such concurrent resolution for such fiscal year to exceed the recommended level of Federal revenues set forth in such concurrent resolution for such fiscal year; or

"(ii) the recommended level of Federal revenues set forth in such concurrent resolution for such fiscal year to exceed the recommended level of Federal revenues set forth in the most recently agreed to concurrent resolution on the budget for the fiscal year preceding such fiscal year by a percentage greater than the percentage of increase in the gross national income which occurred during the calendar year ending before the first day of such * * * fiscal year.

"(2) For purposes of paragraph (1), the budget outlays to be made during a fiscal year, the revenues to be received during a fiscal year, and the gross national income for a calendar year shall be determined on the basis of estimates by the Director of the Congressional Budget Office.

"(b) WAIVERS.—

"(1) The provisions of clause (i) of subsection (a) (1) may be waived in the Senate or the House of Representatives with respect to the consideration of a concurrent resolution on the budget or any amendment thereto or any conference report thereon if three-fifths of the Members, duly chosen and sworn, of the Senate or the House of Representatives, as the case may be, vote to waive such provisions with respect to the consideration of such concurrent resolution, amendment, or conference report.

"(2) The provisions of clause (ii) of subsection (a) (1) may be waived in the Senate or the House of Representatives with respect to the consideration of a concurrent resolution on the budget or any amendment thereto or any conference report thereon if a majority of the Members, duly chosen and sworn, of the Senate or the House of Representatives, as the case may be, vote to waive such provisions with respect to the consideration of such concurrent resolution, amendment, or conference report.

"(3) If a declaration of war is in effect in a fiscal year, the provisions of clauses (i) and (ii) of subsection (a) (1) may be waived in the Senate or the House of Representatives with respect to the consideration of any concurrent resolution on the budget for such fiscal year or the next succeeding fiscal year, or any amendment thereto or any conference report thereon, by a majority vote of the Members of the Senate or the House of Representatives, as the case may be, present and voting.

"INCLUSION OF ALL FEDERAL ACTIVITIES IN CONCURRENT RESOLUTIONS ON THE BUDGET

"SEC. 301B. Notwithstanding any other provision of law, the appropriate level of total budget authority and total budget outlays and the recommended level of Federal revenues set forth in any concurrent resolutoin on the budget shall include the budget authority and outlays for, and revenues and receipts from, all activities of all departments, agencies, establishments, and instrumentalities of the Federal Government, except revenues derived from borrowing and outlays for repayment of debt principal.".

(b) Section 904(b) of such Act is amended by inserting "(except section 301A)" after "IV".

(c) The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 301 the following new items:

"Sec. 301A. Limitations on outlays and revenues.

"Sec. 301B. Inclusion of all Federal activities in concurrent resolutions on the budget.".

(d) Section 201 of the Budget and Accounting Act, 1921, is amended by adding at the end thereof the following new subsection:

"(k) Notwithstanding any other provision of law, the President shall include in the Budget submitted under subsection (a) proposed budget authority and estimates of outlays and receipts for all activities of all departments, establishments, and instrumentalities of the Federal Government, except estimates of receipts derived from borrowing and estimates of outlays for the repayment of debt principal."

Mr. MATHIAS. Mr. President, the pending amendment can be described very simply as proposing a statutory approach rather than a constitutional approach to the issue of a balanced budget.

I have offered this amendment on my own behalf and on behalf of the distinguished Senator from Montana (Mr. BAUCUS). I believe that most Members of the Senate have already received a copy of the amendment in their offices.

It would mandate a balanced budget, but it would do so by statute rather than by amending the Constitution of the United States.

Such a proposal, either by statute or by constitutional amendment, is extraordinary. But we live in extraordinary times. Unemployment and interest rates keep inching upward. The stock market continues flat. Industrial productivity is only 70 percent of capacity.

Now these conditions have multiple roots, many beyond the control of the U.S. Government. But one of the causes is excessive spending by the Federal Government, and that spending is within the control of the Congress of the United States.

We all recognize the imperative of coming to grips with the problem of our faltering economy. We all share a common goal—the development of a coherent, comprehensive fiscal policy to curb excessive Government spending, to limit the growth of Government, and to minimize unemployment. It is not the result that divides any one of us in this Chamber. It is the means that we use to achieve these laudable goals that cause dispute.

It is very difficult to take issue with the president of the Senate of Maryland, Jim Clark, who says that it is a good time to bring up the balanced budget amendment "* * * when we have got a $100 billion Federal deficit staring us in the face." Well, I hope, Mr. President, that we only have a $100 billion deficit staring us in the face. I fear the deficit may be larger than that by a good deal.

But, in any event, we all know where we want to go—to a balanced budget. The only real issue facing the Senate here is how to get there. And that is an issue which confronts this Con-

gress, this administration and, indeed, the whole American people.

Today the Senate is being asked to endorse one specific approach out of several alternatives in its effort to achieve fiscal responsibility. The question before us is not whether we should impose greater fiscal responsibility on ourselves; rather, the narrow question presented here today is whether or not Congress should invoke the constitutional amendment process in the manner prescribed by Senate Joint Resolution 58.

Mr. President, I would be less than candid if I did not disclose my misgivings about any attempt to adopt a mechanical formula to correct our human errors. Such a formula might provide an "excuse" to Members of Congress for casting certain unpopular votes, but to cast votes in the first place under such a screen is the refuge of sluggards and cowards.

If the judgment of Members of Congress is so lacking that they will not make prudent financial decisions, then no legal formula will be adequate to save us from ourselves. When wisdom is absent, cunning will prevail, and ways to avoid the restraint in the formula will soon be found.

That has been the experience in many of the States of the Union which are bound by their own constitutions to a balanced budget. And how do they operate? They simply resort to a double set of books—an operating budget that is always in balance and a capital account that is heavily in debt. Many foreign nations have provided for balanced budgets in their organic law, and they have similar experiences. Their governments find a way to avoid the restraint.

Before we amend our organic law, the Constitution, in a manner that seems likely to fail, or at least to require adjustment and tuning, let us do what we can do in a way that we can adjust and tune.

Few decisions that confront us as Members of Congress are more demanding than those in which we are asked to alter the Constitution. Such decisions call upon us to explore our individual philosophy regarding the essence, the spirit, the meaning, and the purpose of both the Constitution and the amendment process set forth in article V. The constitutional amendment process is the ultimate remedy available under our form of constitutional government. It should not be invoked routinely or casually.

As a general rule, we should resort to the amendment procedures prescribed under article V only when all other means of achieving a desired goal have been exhaustively explored and rejected. In a very real sense, the procedures delineated in article V should be treated as a "court of last resort." And, even if it appears that the amendment process is the only route available, we must satisfy ourselves that the specific proposal under consideration will actually achieve the end we seek.

Chief Justice Marshall, a great Virginian, told us never to forget that it is the Constitution that we are amending, and, if we err, the mistake can only be undone by retracing the same difficult path that we traced before.

Now, with these general considerations in mind, I have looked very carefully at Senate Joint Resolution 58. In joining with Senator BAUCUS, I have decided to suggest an alternative. I think it is premature for Congress to move at this time to the constitutional amendment route. The problem is urgent. The time required to amend the Constitution may not be available. By the time an amendment is debated and adopted by two-thirds of each House and three-fourths of the States, the problems may be beyond solution, and we may well preclude the possibility of finding a successful statutory response that calls for fiscal responsibility. I think this is an especially troubling prospect at a time when so much effort is being expended to rein in the deficit.

Let me just quote from the Chairman of the Board of Governors of the Federal Reserve System, Mr. Volcker, who said:

> I can only urge that deliberations on a constitutional amendment to provide for a balanced budget not become a kind of substitute or surrogate for the action needed, here and now, to deal with the pressing current situation. The debate will serve us ill to the extent it diverts attention from that present need.

And I think those are words of wisdom from the Chairman of the Federal Reserve.

Mr. HARRY F. BYRD, JR. Will the Senator from Maryland yield for a question?

Mr. MATHIAS. I am happy to yield for a question.

Mr. HARRY F. BYRD, JR. First, let me say that I certainly agree with the Senator from Maryland and with the Chairman of the Federal Reserve Board that a proposed constitutional amendment should not in any way prevent—and it does not prevent—the Congress taking the steps to balance the budget without a constitutional amendment.

Had the Senator from Maryland presented his proposal for a statutory mandate, though it has not been read I understand that is what it calls for——

Mr. MATHIAS. I will be glad to ask the clerk to read it.

Mr. HARRY F. BYRD, JR. That will not be necessary. Had he presented that amendment in 1978 or 1979, the Senator from Virginia would have been his strongest supporter.

Mr. MATHIAS. We practically did present it.

Mr. HARRY F. BYRD, JR. But the fact is that there is on the statute books now a statutory mandate that the budget be balanced. That is the law. The Senate passed such legislation. I will read the exact text of it, if the Senator will permit me.

> Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

That is the law now. It is a public law.

Mr. MATHIAS. And it has not worked very well.

Mr. HARRY F. BYRD, JR. It is Public Law 95-435.

Mr. MATHIAS. It has not worked very well.

Mr. HARRY F. BYRD, JR. The Congress has refused to obey its own law. That is why I say to the distinguished Senator from Maryland, my friend from Maryland, that a statutory requirement has been tried and the Congress refused to obey it. I think that is the strongest argument that can be made for the need for a constitutional mandate, because the statutory route has not worked.

Mr. MATHIAS. If the Senator from Virginia will bear with me just a little longer, I want to address his doubts because he is not alone in raising those questions. There are some who say that a statutory approach does not have the force of a constitutional amendment. Obviously, I do not agree with that.

Senate Joint Resolution 58 has, for example, a number of safety valves that are designed to avoid straitjacketing the budget process. In all fairness, our statutory approach has similar provisions. But what they both provide—and this is different from the act which the Senator has just quoted, which has been so ineffective—they both provide that you cannot waive the provisions for a balanced budget except by a vote of 60 Members of the Senate and 60 percent of the House.

That is the difference. That is a specific direction.

Mr. HARRY F. BYRD, JR. If the Senator will yield, that is no stronger than a precise law. The law now requires a balanced budget. The law requires it. The law mandates it.

Mr. MATHIAS. But the law today only requires that Congress, by a simple majority, can break its own rules, in effect, with respect to a balanced budget. The Senator and I have sat here many nights with the former Senator from Maine, Mr. Muskie, when he pleaded with us not to waive the requirement for a balanced budget, and we did it time and again by a simply majority of those present and voting.

What we are proposing in this statute would be different, and it would be, I think, strong enough.

Let me suggest to the Senator from Virginia that by simple rules of the Senate we bind ourselves to make certain decisions only by more than a simple majority. In the matter of cloture, we say there must be 60 Members in order to invoke cloture. That is not even a statute, let alone a constitutional amendment, but it works very well. The Senate does not invoke cloture with less than 60 Members.

Now we are saying that neither House can waive the balanced budget requirement, as a matter of law, except with 60 percent of the membership agreeing to do so.

I think the Senator will find that that will be just as effective. And let me say to the Senator from Virginia it would be an enormous satisfaction to him, I think, because we could have it while he is still a Member of the Senate. We could have it this month; certainly, this year. The constitutional amendment—well, who knows?

If the Senator from Virginia will let me proceed just a little further down this road, he may be more persuaded.

Mr. BAUCUS. Mr. President, will the Senator yield for a few moments to clear up one point?

Mr. MATHIAS. Yes.

Mr. BAUCUS. I think the Senator from Virginia made a very good point. The Senator from Virginia offered a bill a few years ago that required a balanced budget. The amendment offered by myself and the Senator from Maryland would require the budget to be balanced and it would be in the law, the same status as the provision offered by the Senator from Virginia.

As I see it, the difference in our amendment is the requirement that three-fifths of the Congress must approve budgets that are not in balance. As a practical matter our amendment is more workable because it permits deficit spending where there is a broad congressional consensus. There might be a need for exceptions that we cannot anticipate today. Our amendment contains a very strong bias toward balanced budgets, but with the flexibility of the three-fifths requirement for deficit spending.

Mr. HARRY F. BYRD, JR. If the Senator will yield——

Mr. HATCH. Will the Senator from Virginia yield to permit me to ask one question?

Mr. HARRY F. BYRD, JR. Certainly.

Mr. MATHIAS. Let me make this observation and then I will yield briefly to Senator HATCH.

It should be pointed out that we are talking about a statute now, and a statute cannot be altered as a rule of the Senate could, the rule on cloture could, by debate and a vote in the Senate. A statute can only be changed with the concurrence of both Houses of the Congress and the President. So, there is a substantial protection in this matter.

Mr. BAUCUS. On that point, I would like to go further, because, as a practical matter, it would take a 60-percent vote here in the Senate to break a filibuster, if someone wanted to filibuster a change in the law.

Mr. MATHIAS. The Senator from Utah has a question and I yield to him.

Mr. HATCH. As the distinguished Senator from Virginia pointed out, we passed the Byrd amendment in 1979 which required a balanced budget. Any subsequent statute, by a 51-percent vote, regarding spending implicitly overruled or bypassed or waived his statute, I do not care if you put in a 90-percent waiver in the statutory language; it can be waived by a 51-percent vote of both Houses of Congress at almost any time, and it would be.

Mr. MATHIAS. Let me violently object to that, because that is just not so. Laws are not ignored by Congress, and the law could not be waived by Congress. It would be the law of the land.

Mr. HARRY F. BYRD, JR. But Public Law 95-435 is the law of the land and the Congress has ignored it.

Mr. HATCH. Subsequent law—approved by 51 percent—would allow Congress to suspend the earlier law. That is the problem.

Mr. MATHIAS. The Senator from Utah has said that this constitutional amendment "is not inflexible. You can bust the budget. You can run deficits if you want. But you have to vote to do that. You have to pay a political price for it. That is the genius of the amendment."

If that is the genius of the constitutional amendment, it is the genius of the statutory approach.

Let me ask the Senator from Virginia a question. He has been here a little longer than I have.

Has the Senator ever seem cloture invoked with less than either 66⅔ percent, before we amended the rules, or less than 60 Senators voting?

Mr. HARRY F. BYRD, JR. No, but I do not see that it has a thing to do with this.

Mr. MATHIAS. It has exactly to do with this, because we have never changed the rule by which we require more than a majority vote in order to invoke cloture. Now, we will be establishing here by law a requirement that it takes more than a majority to bust the budget.

Mr. HARRY F. BYRD, JR. The Senate rule does not affect the House of Representatives.

Mr. MATHIAS. That is why we are making it a law. That is why we are putting it into a statute.

Mr. HARRY F. BYRD, JR. We have the law. We have the statute.

Mr. MATHIAS. No, we do not.

Mr. HARRY F. BYRD, JR. It is the point of the law right today.

Mr. MATHIAS. With the greatest respect and affection, I say to the Senator we do not have it and that is why I am proposing it.

Mr. DECONCINI. Will the Senator yield for a question?

Mr. MATHIAS. I yield for a question.

Mr. DECONCINI. The Senator from Maryland does not dispute the proposition that the Senator from Utah brought up that by a majority vote in both Houses and if signed by the President you could pass a law that would change his law, is that correct?

Mr. MATHIAS. That is true, and that is one of the reasons I think we should have it, because we may, as I said a moment ago, have to fine-tune and adjust.

Mr. DECONCINI. If the Senator will yield further, is he not really opening the door for whatever the whim may be of a simple majority to move back into deficit spending?

Mr. MATHIAS. Well, these legislative bills grind very slowly, and I do not think that we would get a bill through both Houses of the Congress and get the President's signature just on some wave of emotion.

Mr. DECONCINI. If I may just comment on the override of the President's veto, I think that bill passed here, not counting the week we had for the recess, and was overridden in a matter of days by both Houses. It seems to me the Senator from Maryland has a real intention here to try to balance the budget, and my only question to him is that it also appears to this Senator that it is not going to have anywhere near the weight that this constitutional amendment would have.

Mr. MATHIAS. Let me just suggest to the Senator that it may be that this is a subject on which we simply disagree, but I do think that the Baucus-Mathias amendment would give the budgetary process the discipline which the Senator from Virginia regrets that it does not have now and which we all agree that it does not have now. This statutory approach will give it that discipline.

Let me just point out the kind of people who agree with this, thoughtful, experienced, prudent people: Arthur Burns.

What man in Government today has had more experience with the way Government works and with the way the national economy works than Arthur Burns, former Chairman of the Board of Governors of the Federal Reserve System, former Chairman of the President's Council of Economic Advisers? Who knows more about how this Government works than Arthur Burns? Arthur Burns says, "Do not pass this constitutional amendment."

He said, "Try it out on the statutory approach."

Mr. HATCH. Where did he say that? I have not heard Dr. Burns say that.

Mr. MATHIAS. The Senator will find it in the committee report.

Mr. HATCH. Will the Senator please point it out?

Mr. MATHIAS. I will be glad to point it out to the Senator.

Mr. HATCH. Will the Senator yield?

Mr. MATHIAS. Let me just quote from Paul Volcker for a minute, because I think Paul Volcker, the current Chairman, has written some very interesting words. He says:

If the Congress does finally conclude that additional restrictions on the budget process * * * are desirable, I would suggest that they first be tried out by incorporating them into the congressional budget process. A simple step in this direction under the present budget process might be to require that any concurrent budget resolution involving a budget deficit require three-fifths majority vote. An explicit vote on target rations of receipts and expenditures to GNP or national income could also be easily incorporated into current budget procedures. In this way, unforeseen problems could be identified before the more profound and less easily reversed step of amending the Constitution is taken.

An echo of the wise words of Chief Justice Marshall.

Paul Volcker goes on to say:

The achievement and maintenance of discipline over federal spending is an absolute necessity if inflation is to be brought under control. I would hope that unduly rigid—and perhaps unsustainable—rules can be avoided. However, our recent history does increasingly suggest the wisdom of exploring means for introducing greater discipline into the budgetary process.

The Senator from Utah has asked me to be a little more explicit about Dr. Burns' statement. These were hearings before the Committee on the Budget of the Senate held apparently on January 21 of last year:

Senator SYMMS. Dr. Burns, just to pursue that a little bit further, do you think that we could do this by statute, or would it require a constitutional amendment?

Dr. BURNS. I have thought a great deal about a constitutional amendment; in principle I would love it. I believe I have read practically every resolution on that subject that has been introduced in the Congress. I have also tried my hand at drafting an amendment, and I have concluded that for the time being, at least, neither I nor apparently anyone else can write a constitutional amendment that would stand up under critical examination.

Therefore, I would like to proceed on a step-by-step basis. First, as I tried to do in the paper to which I referred and which will become a part of this hearing, write the best constitutional amendment that one can but introduce it as a statute.

That is the kind of expert advice that I do not think we can afford to ignore. Rather than invoke the constitutional amendment process at this time, I think we should enact legislation along the lines suggested by Arthur Burns and Paul Volcker.

Our amendment—I see Senators on their feet, and I am almost through—like the constitutional amendment, would prohibit Federal budget outlays from exceeding projected revenues, as the Senator from Virginia has urged us to do for a long time. It would also require a three-fifths vote by both Houses of Congress to bust the budget, and that I say to the Senator from Virginia is the new feature which would be effective but which is not presently in the law.

I do not want to speak for the Senator from Montana, but I believe he and I feel that neither of us are wedded to every jot and tittle that is in this amendment. We think it would fit in comfortably with the proposal of the Senator from Delaware on multiyear budgeting, which may also handle some of the long-term problems.

I hope the Senate will adopt the statutory approach.

Mr. DECONCINI. Will the Senator yield?

Mr. MATHIAS. I am about through.

Mr. DECONCINI. Go ahead.

Mr. MATHIAS. I urge Senators to support the statutory approach, to support this amendment, but I think we ought to level with the American people. We had better be honest about it because our amendment is not going to be a panacea for all the problems. The only thing that is going to get us out of the box we are in is courageous leadership, and honest, balanced, mature, responsible judgment. There is not any formula, there is not any arithmetical equation, that is going to just miraculously get us out of the problem. Responsible, mature judgment and courageous leadership is all that will do it.

If we had met the tough problems that faced us head on—what to do with the automatic cost-of-living increases for social security, the increase in defense spending, the indexation of the tax brackets, that is one that we have not faced yet. That is coming down the road—I say to the Senator from Virginia—like an express train coming down the Shenandoah Valley, indexation of tax brackets. Oh, how that is going to compound our budget problem. Now, as I said, if we had faced all these things, we would not be here today talking about an amendment to the Constitution. We would not be here attempting to coerce, or at least to appear to coerce, a balanced budget. But we postponed those hard decisions while we debate the pros and cons of amending the Constitution, and sometime later we will have to face them.

I suggest that, in the meantime, we adopt a moderate course as a demonstration of good faith. Let us try the statutory approach first and then move on to face the real problems. Then, if that fails, we can look at the radical alternative representative of a constitutional amendment.

I think that the statutory approach would succeed. To believe otherwise implies cynicism about this institution which would bode ill for the future of our democracy. It suggests a very basic distrust of the good judgment of the American people and the motives of their elected representatives—the idea that we would pass a law which says that we will not bust the budget except by the deliberate vote of 60 percent of both houses and then ignore it——

Mr. HARRY F. BYRD, JR. That is exactly what we have done. We have violated our own law.

Mr. MATHIAS. We have not had a law that requires 60 percent, and when we do, whether by law or by rule of the Senate, we obey that to the *n*th degree.

I asked the Senator a minute ago if, in his long experience in the Senate, he had ever known the Senate to ignore the provisions of the rules that require more than a simple majority. Neither he nor I can recall that we have ever ignored our rules in that respect. Certainly, we would not ignore a law in that respect. I simply will not associate myself with that kind of cynical thinking. The Constitution is too important a document to be used to get us over what I hope will be a transitory political dilemma.

With good reason, the American people will wonder—the American people are bound to wonder—how the same Congress that brought back a budget $100 billion in deficit—which I think most of us believe pretty openly is going to be worse than that in actual fact—how the Congress that brings back a budget $100 billion out of whack can sit here, with our hands folded piously before us, and vote for a constitutional amendment for a balanced budget.

There is a big gap there, a big gap that will require a lot of explanation.

I do not think we should use the Constitution as a fig leaf to cover our embarrassment over that deficit. We ought to bite the bullet and do the job of balancing the budget. In the meantime we should adopt this amendment, take the statutory route, as an important step towad the fiscal responsibility that would be available now—in 1982, not 1983, 1984, or 1985. I believe that it deserves the proper and careful consideration of the Senate.

I believe the Senator from Montana was seeking recognition.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BAUCUS. I will be happy to yield to the Senator from Utah. If he is amenable, I should like to speak to this amendment.

Mr. HATCH. I appreciate the courtesy of the Senator from Montana; I will make my remarks brief.

Mr. President, what is difficult for me to understand is how anybody, after watching 45 of the last 51 years produce unbalanced budgets and 20 of the last 21 years produce unbalanced budgets, can come in and piously say that a statute is going to solve our problems. We already have the Byrd amendment, which was approved overwhelmingly by both Houses of Congress in 1979, requiring a balanced budget for fiscal 1981. We already have other legislation in this same regard.

The fact that you put a 60 percent requirement into this statute does not mean anything. Any subsequent statute, by 51 percent, will amend or waive this statute. Let us not make any bones about it.

The fact is that there is an institutional, structural bias in the Congress of the United States to spend the public's money beyond its means. This is an institutional bias; it is a structural bias. It is one that has to be solved by external constraints. We cannot solve it here, by mere "self-discipline" no matter what pious platitutes are heard. I have heard the same utterances for the 5½ years I have been here. I presume that the Senator from South Carolina has heard them for the 28 years he has been here, and I know every year he has been here.

You reach the point where you say that, when 80 percent of the American people are for having an external, constitutional constraint upon Congress, then I think we have to listen to the people out there, who are sick and tired of what is going on.

We presently have a trillion dollar plus debt. The interest against that debt for fiscal 1983 will probably exceed $130 billion, which is about $31 billion more than the total Federal budget was 20 years ago. Who can genuinely say that a statute is going to solve this problem? I do not think I am being cynical. It is reality to come on this floor and say that this body cannot live within its means, what with the bias in favor of spending within the fiscal process—in particular the unlimited access to deficit spending and the availability of automatic tax increases.

The premise of Senate Joint Resolution 58 is that there is a structural bias within our political system that causes higher levels of spending than desired by the people—not that a majority of the Members of Congress are determined to engage in fiscally irresponsible policies. None of us wants to do that. All of us want to live within our means. I admit that I would also have a preference for a statute if there were any way of getting the Congress of the United States to live within its means. But the biases are such that we cannot do that.

Speaking of this, the gentleman from Maryland referred to "sluggards and cowards". How would you describe legislators who are pleased to spend money and pleased to satisfy each and every interest of spending organizations without having to let the American people know how much spending is going to be paid for—who is going to suffer the costs?

It is nice to be able to provide a free lunch by accounting for new spending with deficits or automatic tax increases, but there is no such thing as a free lunch in this country or anywhere else. There is only the illusion of a free lunch. Ultimately, the people pay—in the form of future inflation, future unemployment, and future interest rates.

Speaking of "sluggards and cowards," how would you describe those who are willing to take credit for the benefits of new spending without being willing to let the people know how that spending is going to be financed? How would you describe those satisfied with the sneakiness of automatic, unvoted-upon tax increases, and the policy of paying for spending today with tomorrow's inflation and unemployment.

With respect to the gentleman from Maryland's observations about two distinguished present or former heads of the Federal Reserve, an article in Fortune magazine recently states:

In an unexpected shift of view, Paul A. Volcker, chairman of the Federal Reserve Board, moved close today to support of a constitutional amendment that would require a balanced federal budget * * *

After the hearing, when asked how he weighed the pluses and minuses in his testimony, Mr. Volcker said: "I suppose I'm against it, with reservations." But he added, "You could state it the other way around too."

In other words, he is not resolutely opposed to this balanced budget amendment. He recognizes that something has to be done. It is simply a matter of degree as far as whether or not, in his view, an amendment is presently needed.

Arthur Burns is in a similar position. I believe that he, as probably are all of us, would be against a constitutional amendment if it could be done otherwise. In 1979, he was asked:

What would you like to see in fiscal policy?

He said in Newsweek:

The deficit needs to be cut drastically. Our economic situation requires it. Beyond that, I would like to see a definite move toward a constitutional requirement for a balanced budget.

That does not sound like he is resolutely opposed to an amendment.

Naturally, being like the rest of us he would prefer to not have to do that. He reached a conclusion we probably will.

He goes on to say:

I don't think we should move too rapidly, but there should be a statute that points in that direction.

Mr. MATHIAS. Mr. President, will the Senator yield for a question?

Mr. HATCH. I yield.

Mr. MATHIAS. What is the date of that?

Mr. HATCH. Newsweek, May 14, 1979.

Mr. MATHIAS. His testimony I read was 1981.

Mr. HATCH. That is fine.

He continues:

I don't think we should move too rapidly, but there should be a statute that points in that direction.

The next question was:

What would be the virtue of such an unprecedented move towards a balanced budget?

Answer. Such a shift in fiscal objective could change the inflationary psychology that is now raging in our country. Unless that psychology is changed, this country is in for trouble.

He said this in 1979. Now we have over $100 billion in deficit spending in 1982.

He said:

Unless that psychology is changed, this country is in for trouble—accelerated inflation at first, and later, a serious bout with unemployment.

I also call the attention of my dear friend from Maryland to page 5 of the committee report where we further quote Dr. Burns.

Mr. President, I ask unanimous consent to have those remarks printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

The proximate causes of this governmental bias are quite clear. In general, spending programs are more popular with people than higher taxes. The potential beneficiaries of a spending program are often a numerical minority, but they have a stronger incentive to keep informed, to organize, and to lobby for their favorite program than those who bear the cost have to oppose it. The rising cost of political campaigns and the concurrent proliferation of fund-raising committees put intense pressure on legislators to vote for spending programs favored by such groups. We may, in fact, be entering an era in which governmental processes are overwhelmed by the naked demands of increasingly well-organized and effective interest groups. It is this concern that has led me to look with favor on even preemptory devices for offsetting the existing bias toward larger Federal spending and borrowing. *AEI Economist, April 1979.*

Mr. HATCH. Mr. President, let me also say how pleased I am that the Senator from Maryland has evolved in his views toward support of a legislative balanced budget and tax limitation.

While I personally wish that he would be prepared to go further, as many of us are, I am, nevertheless, ex-

tremely impressed by his recent progress in this regard. This is very real progress, in my opinion.

I commend my distinguished colleague for it. I commend him for wanting to resolve this problem in the best way he feels he can within the constraints of his own conscience and his own beliefs. I believe, however, that the alternatives to a constitutional amendment are not viable precisely because the fiscal history that Congress has written in this country in recent decades reflects a serious defect in the institutional setting within which Congress operates. Only a constitutional amendment or an external restraint can correct this. Periodic efforts by Congress during times of economic crises to exercise unusual fiscal restraint are simply insufficient. Rather, there must be continuing efforts in this regard in order to prevent such crises in the first place.

I thank my colleague from Montana for giving me this time and yielding to me for this statement, and I appreciate the comments of my distinguished friend from Maryland. I understand what he is saying and I wish that what he is saying were true. I wish that we could, I wish Congress could overcome this institutional bias merely by self-discipline and self-will. But I do not see any evidence that it can and I do not believe that at least 80 percent of the people of this country see any evidence that it can be.

I thank the Senator from Montana.

Mr. MATHIAS. Mr. President, if the Senator from Montana will yield me a brief moment to correct the record. I am not suggesting that Congress correct this problem merely by self-discipline and will power. I am suggesting we do it by law, by statute, and that is the difference.

Mr. BAUCUS. Mr. President, I join my distinguished colleague from Maryland in offering this substitute amendment because I think he has hit the nail squarely on the head in the arguments he has presented thus far.

There is no doubt that we in Congress must enact constructive restraints on the burgeoning Federal deficit. All of us agree that the Federal Government must stop spending more than it collects in taxes. Certainly our soaring budget deficits are keeping interest rates at record high levels. Until the Federal budget deficit is eliminated or cut substantially, the Federal Government's need to borrow money to finance the debt will keep interest rates high.

I have just returned from a week-long series of meetings in western Montana where unemployment is over 10 percent, that is, districtwide.

I can tell you, Mr. President, that in may counties it is much higher. It is in the neighborhood of 20 or 30 percent in some counties. Those are forest-products-industry counties. And I can tell you it is creating havoc. Farmers and ranchers are facing the prospect of record losses.

It is against this backdrop that the amendment we offer here this afternoon is so vitally important.

Our proposal would provide immediate relief from the effects of budget deficits. It is a statutory approach. It can be enacted immediately and it does not require the country to wait for a lengthy ratification period to end. The proposal before us, Senate Joint Resolution 58, might not bring the Federal budget process needed discipline for 7 full years.

The constitutional amendment process is cumbersome, and those Americans who are suffering today cannot wait for us to ratify a constitutional amendment. We must act now.

Furthermore, Mr. President, I submit that if Senate Joint Resolution 58, is adopted by two-thirds vote in both the House of Representatives and the Senate that is where the process will stop. Once States realize when Congress cuts back on revenue that they will cut back revenue to States, the State legislatures then will not ratify the amendment.

The result, I submit, is no constitutional amendment to balance the budget, and no statutory amendment to balance the budget. The institutional biases toward deficit spending will continue to control the Federal budget process.

So I suggest that we think this thing through. If we adopt Senate Joint Resolution 58 in the final analysis in about 2 years it will be apparent that three-fourths of the States will not ratify Senate Joint Resolution 58.

If Congress adopts the statutory approach that Senator MATHIAS and I are proposing today, the provisions of Senate Joint Resolution 58 could be applied to the very next Federal budget. If these reforms are valuable—and I believe they are—then we ought not to wait to enact them.

What is the amendment offered by myself and the Senator from Maryland? It is very simple. It is a statutory amendment. It provides very simply that no deficit spending could be enacted unless both Houses of Congress had agreed to a deficit by a three-fifths vote.

Second, each Member of Congress would be required to vote for or against any tax increase that exceeds the rate in growth in gross national product. In essence, the measure will insure that Congress decisively confronts proposed increases in Federal taxes and Federal spending.

The bill's requirements are triggered early in the congressional budget process and continue to operate throughout the steps leading to the adoption of the budget.

The measure would also require the President to submit an alternative budget if the administration's proposed budget contains a deficit.

A very important point here is that Senate Joint Resolution 58 does not require the President to submit a balanced budget. The President should be required to submit a proposal showing how the administration would balance the budget if it were required to do so. He should share the burden of budget balancing, at least to this degree. The amendment offered by myself and the Senator from Maryland would take care of that defect in Senate Joint Resolution 58.

Additionally, submitting an alternative budget is critical, since it would permit Congress quickly and directly to consider and evaluate the option of adopting a balanced budget.

Later, during consideration of any concurrent budget resolution or conference report on such a resolution, a second requirement is applied. If the percentage of proposed Federal revenues compared to the estimated gross national product exceeds the percentage for the previous year, a separate vote must be taken on the question of whether the increase should be accepted.

In this manner, Congress will be forced to address an issue of concern to the taxpayers and the voters of this country—the growth of Federal spending beyond growth in the economy.

Last, if Congress decides to approve a deficit budget, it can do so under this proposal. But a three-fifths majority vote of both Houses would be required. I believe this extraordinary majority requirement properly places the presumption in favor of a balanced budget. It would still be possible to use deficit spending if economic exigencies required it—but only if it is supported by a broad consensus in the Congress.

STATUTE VERSUS CONSTITUTIONAL AMENDMENT

Mr. President, I believe that cutting back Federal spending this year is not enough. We must also enact executive branch and legislative branch reforms that can mean balanced budgets for years into the future.

It is clear that our current system contains biases that lead to increased Government spending and increased taxes. This is indeed the time to eliminate those biases.

The sponsors of Senate Joint Resolution 58 are to be commended for the work they have done in this regard. They have helped focus public debate on principles that can help Congress keep a lid on spending and taxes.

I am not simply supporting the goals of this resolution. Far from it. I believe the substantive provisions can make a real difference in the way this Government conducts its business.

I not only support the concept contained in section 1 which would require a three-fifths majority for the approval of a deficit budget. I support

legislation which would make that provision a legal, binding requirement.

I not only support the principle of avoiding hidden tax increases. I support legislation which would make a recorded vote on all tax increases, hidden or otherwise, a legal, binding requirement.

The issue for me is not whether substantive provisions that are contained in Senate Joint Resolution 58 are wise, because I have concluded that they are. The sole question for me is whether it would not be wiser to put such requirements in our Federal statutes, rather than in the Constitution.

I do not take this issue lightly. Quite frankly, the question of whether these provisions should be contained in the Constitution is a most difficult one for me.

The definitional problems posed by Senate Joint Resolution 58 are recurrent. What are "total receipts"? What are "expenditures?" What is "national income"?

Our inability to define these terms does not mean that we should not go forward with these provisions. The amendment we offer today uses these terms. However, our proposal is a proposal to amend the statutes of the United States.

My own view is that these terms can be incorporated most effectively in our statutes. As the definitions of the terms change over time, we can alter the statutes to accommodate these changes. More important, we can test the principles of Senate Joint Resolution 58 to see if they really do work.

We should keep in mind that any failure on our part not to balance the budget is not a failure of our Constitution. It is a failure of us as a people to make the appropriate demands on our legislature. And, it is the failure of Congress to implement the desires of its constituents.

It is for these reasons that I favor the statutory alternative embodied in our amendment.

CONCLUSION

The need to balance this year's Federal budget does not diminish the need for bringing additional fiscal discipline to this Government. We should begin by attempting to amend our statutes.

This approach will help us bring discipline to our Federal spending practices immediately—when we really need it rather than perhaps up to 7 years from now when this constitutional amendment may—and I underline the word "may" be adopted.

Mr. President, I cannot help but note that those who so strongly support the proposed constitutional amendment are unwilling to impose its discipline on themselves today.

If Senate Joint Resolution 58 represents good constitutional policy for future Congresses, why will this Congress not adopt the same rules?

If President Reagan thinks the provisions are workable, why does he not submit balanced budgets? Why will he not agree to engage in deficit spending unless three-fifths of the Congress agrees?

If these provisions are good enough for the Constitution, they should be good enough for the 97th Congress and the President.

Let us test these principles before we put them in the Constitution. Let us put these provisions to work for us now.

Mr. President, there have been two or three questions posed to the authors of this amendment, and I would like to address them very briefly. Question No. 1 is: Is there not a balanced budget provision already on the books, the point raised by the Senator from Virginia?

Yes, it is true there is a statute now on the books and, in my judgment as I see it, it is my impression that Congress has not followed the law, the provision offered by the Senator from Virginia.

But as I also see it, unfortunately there are not any enforcement provisions in that law; that is, Congress may not be living up to the law but there are not enforcement provisions. In effect, perhaps subsequent budget resolutions may have the effect of superseding that law, but I am not sure that they do, and I have not researched this point in any depth whatsoever, but it is my initial impression that perhaps it is the lack of enforcement provisions in the statute referred to by the Senator from Virginia that enables Congress to legislate in violation of the provisions of that statute.

I submit to you that the same problem applies to Senate Joint Resolution 58. So far as I read Senate Joint Resolution 58, there are not enforcement provisions there either. Perhaps someone can sue if that constitutional amendment were in effect, alleging that Congress has not lived up to the Constitution. I do not know what other enforcement provisions are available, and I do not know what the remedy would be, but I see that defect as well.

I only suggest to the Senator from Virginia and to those who already point out there is a statute on the books that the amendment offered by myself and the Senator from Maryland, is more workable because it does have a three-fifths requirement in it. The added flexibility will make it more likely that Congress will try to operate within its constraints.

It is true that the Byrd amendment to the Export Administration Act requires balanced budgets after fiscal year 1981. However, the Byrd amendment is very different than our proposal.

Our statutory approach does not require balanced budgets, but rather would only permit deficit spending if it were approved by three-fifths of both houses of Congress. This type of super-majority budget procedure is not a provision in current law.

The second question raised is: Cannot Congress by a 51 percent vote in the House and in the Senate override the provisions of the amendment offered by the Senator from Maryland?

The proponents of Senate Joint Resolution 58 concede that it operates by forcing Members of Congress to pay a political price by having to vote for deficit spending and higher taxes. Similarly, the statutory approach would force Members of Congress to go on record to undo those provisions that encourage a balanced budget.

Additionally, in practical terms, a simple majority of the Senate could not rescind these statutory requirements, as 41 Senators could effectively prevent such a measure from being adopted.

In addition, such a measure would have to be passed by the House and signed by the President of the United States.

So it seems to me the requirements of the provisions of the amendment offered by the Senator from Maryland, as a practical matter, are very, very difficult to rescind by statute.

Third, is it not hypocritical to propose that we apply these balanced budget procedures to next year's budget, when everyone knows we will not balance the budget next year?

Response: The statutory approach will not require balanced budgets next year. It will merely require three-fifths of the Congress to approve a budget that calls for deficit spending.

If such a provision is appropriate for inclusion in the Constitution, then it will have to withstand the most extreme economic crises, including future ones that may be more calamitous than the deficits we are likely to face next year.

The real hypocrisy is that the President, who has brought us the first billion-dollar deficit, is pushing this proposal. It is President Reagan's policies, his $750 billion tax cut and his $1.6 trillion spending plan for defense that have caused our unbalanced budget this year. If the President believes these new budget ground rules are such a good idea, then he should agree to live under them himself.

Now, it is possible that we could change the proposed constitutional amendment to make it more palatable. I mention that because I am, frankly, torn as to whether we should adopt the constitutional approach if the statutory approach is rejected. Like all of us, I want to change the institutional biases here that push us toward deficit spending. But, like all of us here, I want to do it in a way that brings the

most honor upon all of us as an institution and in a way that is not deceptive and misleading to the American people. So I suggest that we take the first step toward fiscal responsibility by adopting the statutory approach offered by myself and the Senator from Maryland.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, before making a few remarks on this subject, I would like to move to table the amendment of the distinguished Senator from Maryland.

Mr. MATHIAS. I hope the Senator would withhold the tabling motion.

Mr. THURMOND. With the understanding that we will not cut off debate.

The PRESIDING OFFICER. It would take unanimous consent to move to table. That normally closes debate.

Mr. THURMOND. I ask unanimous consent to table the motion without cutting off debate.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Reserving the right to object. If the Senator from South Carolina is going to——

Mr. THURMOND. If the Senator wants me to withhold it, I will.

Mr. MATHIAS. I do not see any virtue in it. When we get to the point when we want to vote, the Senator can move to table. I would rather have an up or down vote.

Mr. THURMOND. I can withhold it, if you want.

The PRESIDING OFFICER. The Senator withholds the tabling motion.

Mr. THURMOND. Mr. President, I shall not have very much to say on this amendment. I wish to say what the distinguished Senator from Maryland is doing is just offering a statute similar to the present law, except requiring 60 percent, three-fifths of the bodies. Now, if we can change the present law to 60 percent, which we have to do to adopt this, and it is done today, then tomorrow we could change it from 60 percent back to what it is today. In other words, Mr. President, the last statute controls. The last statute adopted controls.

Now, the able Senator from Virginia, in 1979, as was stated here on the floor today, along with Senator GRASSLEY, they were able to get an amendment adopted requiring, beginning with the fiscal year 1981, that total budget outlays of the Federal Government not to exceed its receipts. That is on the statute books now. It is Public Law 95-435, section 7. That is the statute today. What good has it done?

The able Senator from Virginia hoped it would do good and I did, too. And I am in sympathy with his position on fiscal responsibility. But it has not accomplished the purpose. The Congress has not accomplished the purpose. The Congress has not followed it. They came along and passed other statutes that, in effect, nullified it.

And then in that same year, in 1979, a provision and a measure to increase the public debt limit stated that Congress shall balance the Federal budget. That is Public Law 96-5, section 5. That did not get results. And that was only a majority would be required. Under legislation, the Congressional Budget Committees were required to propose balanced budgets for fiscal years 1981 and subsequent years. And that has not been done.

So, Mr. President, there is no use coming on with a statute now and expect to get results when a statute has been tried before with a mere majority, not 60 percent. It has not been followed.

Mr. MATHIAS. Will the Senator yield for a question?

Mr. THURMOND. I am glad to yield.

Mr. MATHIAS. The Senator has put his finger on the difference—that we have had a statute before, but, I believe the Senator said, and I certainly would agree with him if he said it, that we have not had a statue with a 60 percent voting requirement, a 60-percent requirement for approval. That is the difference. That is the new factor. That is the thing that will make the budget ceiling mandatory and will make it work.

Mr. THURMOND. Mr. President, as I just stated, if we should adopt this today, then a week later, if we went ahead and acted and adopted a statue on something else, the last statute controls. If we can change the statue today with a majority to 60 percent, why can we not change it later from 60 percent back to a majority?

Mr. MATHIAS. Will the Senator from South Carolina yield again for a question?

Mr. THURMOND. Yes.

Mr. MATHIAS. Is the Senator really so optimistic about the efficiency and the speed of the legislative process that he thinks we are going to pass bills this way one week, and this way the next week, and this way the next week, and this way the next week? I wish the Congress was a little more efficient. But they are not that efficient. And I do not believe the Senator from South Carolina means to imply that we can pass bills that speedily.

My goodness, when I think of two or three specific pieces of legislation in which the Senator from South Carolina and I have been interested for a long time, we labored at the vineyard and we keep at it and we do not seem to get them passed. I do not think you are going to have this problem, particularly when it requires the concurrence of the other House and the signature of the President to repeal or to amend a statute, that you are going to have the problem that one day it is this way and the next day it is that.

Mr. THURMOND. Mr. President, it is just simply the fact that the last statute controls. And if you passed a statute today with 60 percent, the next day you can pass another statute with a majority.

Mr. HATCH. Will the Senator yield?

Mr. THURMOND. Yes.

Mr. HATCH. I think if you look at the Byrd amendment—and the distinguished Senator from Virginia is on the floor at this time—it did not refer to a majority vote. It flatly stated that there could be no budget deficit in fiscal year 1981. No budget deficit period.

In other words, not even 100 percent could change that statute as far as the deficit was concerned—until, however, another 51 percent majority came along.

Mr. THURMOND. And is it not a fact that 51 Members of this body can pass any statute at any time, and when they do pass it, it takes precedent over any former statute that conflicts with it?

Mr. HATCH. There is no question about it. Even if you put a 60-percent provision in it, I think that comparison to the filibuster rule is a poor comparison.

Mr. BAUCUS. Will the Senator explain that, please?

Mr. HATCH. I was just about to do that.

The filibuster rule is a time-honored institutional procedure to guide us as we debate various matters. The filibuster rule, rule XXII, is a protection to the legislative minority. It is a protection that any one of us, or at least the vast majority of us, would fight for as hard as we could.

The proposed statute serves other functions. It involves matters more fundamentally related to partisan, philsophical, political differences. It is not an institutional protection for the Senate as a fully deliberative legislative body as was clearly anticipated by the Founding Fathers. The filibuster rule is inextricably related to the inherent, constitutional nature of the Senate.

To say that this is a more difficult procedure—the statute proposed by the distinguished Senators from Maryland and Montana—than that proposed by the balanced budget, tax limitation amendment is, I think, erroneous.

If the balanced budget tax limitation amendment is passed by the requisite two-thirds vote and ratified by three-quarters of the States, this amendment would likely become the 27th amendment to the Constitution. As the 27th amendment, it would have the political backing of the vast major-

ity of people in this country—a genuine consensus in the country.

The difference is that we can change statutes by a 51-percent vote any time we want to, and, because of this, there will be no change in the institutional biases within the fiscal system. That being the case, there will be no significant new political pressure on Members of Congress to live within their Nation's means. We will not have to do so, anymore than under current law. The traditional rule of balanced budgets that constrained spending in the earlier years of our country will not have been restored in any significant respect—a rule that served our Nation well until up to the 1960's.

I thank the distinguished Senator for yielding.

Mr. THURMOND. If the Senator from Montana has a question, I would like to confine it to questions.

MR. BAUCUS. I appreciate the Senator from South Carolina yielding for the purpose of a question. My question is this: Is it not true that it would take 60 Senators to vote to reduce the 60-vote requirement of the amendment offered by the Senator from Maryland? Is it not true that in order to break a filibuster to change a statute it takes 60 Senators in this body to break a filibuster to change the law?

Mr. THURMOND. It would take 60 percent to break a filibuster at any time. But a statute passed subsequent to the passage of this statutory amendment could be passed by a majority at a later date.

Mr. BAUCUS. But is it not true——

Mr. THURMOND. Of course, if there is a filibuster, it would take 60 percent on any statute.

Mr. BAUCUS. Let us assume that the amendment offered by the Senator from Maryland is the law. Let us assume that for the moment. Under that statute, it would take three-fifths of both Houses of Congress to vote for an unbalanced budget. That is the basic provision of the statute offered by myself and the Senator from Maryland.

I understand the argument of the Senator from Utah, and also the argument of the Senator from South Carolina. That is, Congress by a 51-percent vote can change a statute. Congress could dilute the three-fifths requirement of the statute offered by the Senator from Maryland so, as a practical matter, according to that argument, the statute offered by the Senator from Maryland is fairly weak.

My answer to that is that if those who want to dilute the three-fifths requirement to change the statute offered by the Senator from Maryland want to do so, as a practical matter they would have to muster enough votes to break a filibuster.

Mr. THURMOND. They would not have to do it unless a filibuster was conducted. If a filibuster was conducted, of course it would take 60 Senators to break any filibuster.

Mr. HATCH. Will the Senator yield on that point?

Mr. THURMOND. I am glad to yield.

Mr. HATCH. They would not have to vote to break a filibuster because any subsequent statute that caused the Federal Government to spend more than it took in would, by implication, overrule the statute proposed by the Senator from Maryland and the Senator from Montana. The Senate and the House are independent bodies and can pass any legislation that would result in deficit spending. Consideration and passage of legislation which results in a deficit would be allowed in spite of the proposed statute. It is merely a statute that could be amended by a 51 percent vote. It could also be effectively ignored by the Congress during the appropriations process if Congress approves appropriations bills which cause a deficit. If there are two inconsistent statutes, by the law of statutory construction, the latter statute in time controls.

Mr. BAUCUS. I understand the point the Senator is making, but I think the resolution of that conflict is unclear. It may well be that the last statute does control. Certainly, if in an expressed provision stated it was superseding a prior statute, it would be clear. Where there is no reference to the prior statute, it is less clear. And where further the prior statute is a statute, as would be the case here, a subsequent statute on the budget resolution, not directly on point, would be even less clear.

I suggest that the most clear case—that is, where the subsequent statute expressly relates to the preceding statute—that in that case, because it expressly relates to the preceding statute, we would have the issue joined and it would take a 60 percent vote here in the Senate to break the filibuster.

Mr. THURMOND. Mr. President, in my opinion the last statute controls. Of course, it is my judgment, further, that if a filibuster is conducted, it would take 60 Senators to break the filibuster.

Mr. President, I want to proceed, and I will be glad to answer questions when I finish. I do not intend to talk very long.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Thank you, Mr. President.

Mr. President, in my judgment, we are not going to restrain spending until we adopt a constitutional amendment. I have been here for 28 years. The budget has not been balanced but one time in the last 21 years and but twice in the last 25 years. The Congress has not shown restraint to balance the budget. With a debt now over $1 trillion, I am convinced that this body, through a constitutional amendment voted on by the States, has to mandate to balance the budget.

The Congress will not do it. There are too many pressures. There are lobbyists around here, special agents around here, people coming from home, people talking all the time about their particular program. They all have special reasons to feel their programs are better than the others. It turns out that we keep spending more and more and have not balanced the budget, as I said, for a long time.

I am convinced that the people of this country want a balanced budget. Thirty-two States have passed resolutions calling on Congress to convene a constitutional convention. For what purpose? To consider a balanced budget. The public wants a constitutional amendment to balance the budget. That is what the public wants. Only two more States would cause the Congress to convene a constitutional convention for the purpose of considering an amendment to balance the budget.

That shows the thinking of the people of this Nation.

I want to say further that the United States Chamber of Commerce recently had Mr. Gallup to take a poll.

The most recent U.S. Chamber/Gallup survey of consumer attitudes toward a wide range of policy issues found heavy public support for an amendment to the Constitution which would both require a balanced budget and limit tax increases to no more than the increase in GNP during the previous year.

Mr. President, that is exactly what we do in this constitutional amendment. We do both of those things.

By a ratio of 3 to 1, respondents favored an amendment similar to the balanced budget tax limitation constitutional amendment now before the House and Senate.

It is the very question they voted on, the very constitutional amendment that is before us now.

Respondents were asked their opinion of a two-part proposed amendment as follows: First, Congress would not be allowed to approve a budget with an expected deficit unless both the House and Senate approve the budget by a three-fifths vote or in the event of war; second, Federal tax increases could not be larger than the increase in the Nation's total output of goods and services during the previous year.

Again, I say that is exactly what this constitutional amendment does.

Now, what were the results? Sixty-four percent, almost two-thirds, of those polled responded that they would favor such an amendment, while only 20 percent opposed it. Sixty-four percent. I want that figure

to soak in. Sixty-four percent of the people of this Nation who were polled said they favored this constitutional amendment, only 20 percent opposed it. Seventeen percent had no opinion.

This support holds up along a wide cross-section of the public. Union members favored it by a ratio of 63 percent to 24 percent. Nonunion members favored it 64 percent to 19 percent. Ironically, the only important source of opposition to the amendment comes from the leadership of several major trade unions.

Mr. President, support for the amendment was also widespread among major income groups. Respondents from families with incomes of $15,000 or less favored the amendment 58 percent to 17 percent, so they cannot say that this amendment is against the poor. Over $15,000, both support and opposition increased, respectively, to 68 percent and 22 percent.

Now, these results are based on face-to-face interviews by the Gallup organization with 1,504 adults, 18 years and older, conducted during June 11 to June 14, 1982. It is very probable, 95 chances out of 100, that the findings are within 3 percentage points of the figures that would have been obtained if the entire adult population had been interviewed. Because of sample size, the margin of error for subgroups is larger.

There is no question in my mind that if the people of this country are going to get a balanced budget, they are going to have to get it through a constitutional amendment. Is it not clear that for 21 years this budget was not balanced but one time? So why do we fool around and try to pass a statutory provision that we know will not get results? The people of this country want this budget balanced. If we are going to do right by them, if we are going to balance this budget, then I say let us adopt this constitutional amendment. It is not a perfect amendment, but it comes as near I think to accomplishing our purpose as most any provision that I know could be adopted.

I yield to the able Senator from Iowa.

Mr. GRASSLEY. I thank the Senator for yielding. I would like to just carry on from the point where he said that the only way we are going to have a balanced budget is through a constitutional amendment and that it is not going to be accomplished by statute. As the Senator from Virginia said, I helped——

Mr. THURMOND. Over a period of years. You might balance it one year.

Mr. GRASSLEY. Yes; as the Senator from Virginia said as a Member of the other body I helped with the Byrd-Grassley amendment that presently is supposedly the law of the land. Unfortunately when you pass a statute in this regard you get nothing but a hollow victory. I would like to explain to the Senator from Maryland that if his proposal had been made 5 years ago, I would have helped the Senator at that time to have that language adopted instead of what Senator BYRD proposed. I would even suggest that Senator BYRD probably would have worked hand in glove with the Senator at that particular time.

Mr. MATHIAS. Let me just say for the RECORD that my proposal has been pending for some years.

Mr. GRASSLEY. Let me explain why passage of a statute would be a hollow victory. Let us suppose that the Senator was successful, and I do not think he is going to be, on this proposal. Having gone the statute route in 1978 as a Member of the other body, I know that if you get a statute passed, you just have a hollow victory. On July 29 of that year Senator BYRD was successful in getting his amendment passed and it came over to the other body. As I was interested in helping him, I had to be on the House floor with instructions to the House conferees to agree to the Byrd amendment. What happened? The opponents knew that I was going to offer that proposal. They thought that it would carry, and they just put off and put off and put off ever voting on it until the middle of September. Finally they gave up, knowing that I had the votes and that it would be adopted.

As an individual I believed in a balanced budget and fiscal responsibility, and was desirous of achieving passage of some statute, some sort of public policy statement that this Congress believed in and was intent upon gaining a balanced budget. Therefore, I had to virtually camp out on the floor of the House of Representatives for hour after hour, week after week, just to guarantee that those who opposed that public policy did not bring it up sometime when I would not be present to force a vote.

Now, after all of that, the Byrd-Grassley amendment mandating a balanced budget by 1981 became the public law of this country. But what was it in the final analysis? After all the effort that Senator BYRD provided and after all the effort that I provided to see that it was adopted it was a hollow victory. Why? Because Congress came along and adopted another budget resolution. Just as the Senator from South Carolina has stated, since the succeeding resolution has precedence over what had previously passed, what we wanted to accomplish was not accomplished. It was just a hollow victory. As much as I appreciate what the Senator from Maryland is trying to do, I would have appreciated it more 4 years ago.

Mr. MATHIAS. It was available 4 years ago.

Mr. GRASSLEY. I still appreciate it very much. But when it is all said and done, it is just a statute. We take an oath to uphold the Constitution of this country. We abide by that Constitution. Most of us would not do anything to detract from upholding the constitutional law of the land. But a simple statute does not carry the same weight as a constitutional amendment. That is why the Byrd-Grassley amendment has not accomplished what we wanted it to accomplish.

So I beg the Senator to take the constitutional route because of the potency of the oaths which we take to uphold the Constitution.

I remind the Senator that nearly 40 States have a constitutional requirement for a balanced budget. Most States have a balanced budget. Why? Because whether they are liberals or conservatives, Democrats or Republicans, the elected representatives abide by their State constitutions. In my own State of Iowa, when liberal Democrats controlled the legistature, we still had a balanced budget. Why? Because the Iowa legislators have respect for the State constitution. A constitutional amendment is going to be more successful than any simple statute that is passed. It is just that plain and simple.

Mr. THURMOND. Does the Senator from Maryland care to answer?

Mr. MATHIAS. I appreciate the courtesy of the Senator in permitting me to respond.

Mr. President, first of all, I think most of us attempt to obey the law. We want to obey the law. We try to obey the law. If we transgress occasionally, it is due to inadvertence or negligence, but not to any lack of desire to give full respect to the law—to the statutory law as well as to the constitutional law. I do not think we should be cynical about the respect that people in this body and people throughout the United States have for the law. If it is the law, people will obey it.

However, the Senator from Iowa has said that he feels that he gained a hollow victory, because when he and the Senator from Virginia attained a statutory requirement for a balanced budget, it did not result in a balanced budget. If that victory was hollow, and I think he deprecates his own efforts—he and the Senator from Virginia should take more credit for having established a principle—but if there was a hollow element in that victory, it was in the enforcement procedure. What I am suggesting is that we provide the enforcement mechanism, which is simply a 60-percent vote, which makes it more difficult to waive the balanced budget requirement. I am saying that one single Senator could stop a budget that was not balanced by raising a point of order under

my amendment to the Budget Act; it would require a 60-percent vote before you can defeat that point of order and waive the balanced budget requirement.

Night after night, the former Senator from Maine, Mr. Muskie, pleaded with us not to waive the requirement for a balanced budget, and I must say that he did pretty well. He had his share of victories on that. But when he lost, it was somewhere between 50-percent and 60 percent of those present and voting. Had we had the statute proposed this afternoon by the Senator from Montana and me, had this been on the books—the Senator from Louisiana was there during all those long nights, and I call on his memory—the Senator from Maine would have won every time, because on the few occasions when he lost and when the budget was busted, it was by a fairly narrow margin, somewhere in the 50-percent range.

What I am proposing is that if you go back and look at the legislative experience in the U.S. Senate and in the House of Representatives, you will find that this would be effective—not only effective, but also, I say to the Senator from Iowa, it is available now, 1982. It is all very well to sort of use as an incantation the idea that a constitutional amendment—a constitutional amendment, a balanced budget amendment—is going to do something magic.

King Canute, whom we all remember from our reading of history, was told by his courtiers: "If you just do this or that or the other thing, wonderful results will flow from it. If you just have a constitutional amendment, oh, King, if you just have a balanced budget, oh; King, all your troubles will go away."

Do you know what the king finally had to do? He led his courtiers down to the beach and stood them all along the edge of the water, and he ordered the ocean to recede. We all know that the ocean did not recede.

You just cannot have any magic words that roll back the tide. You have to work at it.

Dr. Burns expressed it very well. He said, "I think it is a matter of political will." That is what it is all about.

What we are trying to do, I say to the Senator from Iowa, is just to put in that little extra mechanism that will complete his victory and do it very effectively.

I appreciate the kindness of the Senator from South Carolina in allowing me to respond to the Senator from Iowa.

Mr. THURMOND. Will the distinguished Senator indicate whether or not he wants to vote tonight on this amendment? I have an inquiry from Members who want to catch a train. We are ready to vote at any time.

Mr. MATHIAS. I appreciate the courtesy of the Senator from South Carolina. I am advised that there are Members who wish to speak, who are engaged in an important meeting at the White House at the present time. I am not sure just when they will return, but I think it would be very difficult for us to vote tonight.

Mr. THURMOND. I think it is just as well not to have a vote tonight, if that will suit Senator DECONCINI.

I see the majority leader in the Chamber.

We were just discussing whether to have a vote tonight. We are ready to vote at any time, but we are willing to accommodate the distinguished Senator from Maryland. What is the wish of the majority leader?

Mr. BAKER. Mr. President, I thank the distinguished chairman of the Judiciary Committee and the Senator from Maryland.

I had announced yesterday when we convened that yesterday and today we would try to adhere as closely as possible to the regular adjournment time, which is approximately 6 o'clock.

Although it is still possible to have that vote, our cloakroom indicates that a number of Members are off the Hill, and it might take some time to get them back. So I would prefer to have the vote tomorrow.

Mr. MATHIAS. I am perfectly happy to stay here as long as necessary and vote tonight. But there are Members who are engaged in meetings off the Hill and who wish to participate in the debate.

Mr. THURMOND. In view of the statement by the majority leader, I suggest that we not vote tonight, and we can conclude in a few minutes.

Mr. BAKER. AS soon as that is done, it will be my intention to ask the Senate to have a brief period for the transaction of routine morning business. Then we would resume consideration of this matter, under the previous orders, after the disposition of the tobacco bill and perhaps the reclamation bill as well.

Mr. THURMOND. I was going to suggest to the able Senator from Maryland that he introduce his statutory provision as a separate bill.

In my State of South Carolina, we have a statute on the question of balancing budgets, and we also have a constitutional provision. I would see no conflict in doing both here.

Mr. MATHIAS. I am happy to say to the Senator from South Carolina that it is Senate bill 526, introduced on February 20, 1981.

Mr. THURMOND. I will be glad to support it as a statute, but not in lieu of the constitutional amendment. I feel that the safest course, the best course, the wisest course, the one that will really get results, is the constitutional amendment. I should like to see him go forward with his statute, and I have a feeling that he can get this statute passed.

Mr. MATHIAS. I would like to get it passed tonight.

Mr. THURMOND. Will the Senator consider following that course?

Mr. MATHIAS. I think the place to pass it is here and now, in this proceeding.

Mr. THURMOND. But not in place of the constitutional amendment.

Mr. MATHIAS. Yes.

Mr. THURMOND. I would have no objection to it following this constitutional amendment, and I would be glad to support it.

Mr. MATHIAS. I think that passing it as an alternative to the constitutional amendment follows the advice of Dr. Arthur Burns. He says we should not fuss with our Constitution unless we know what we are doing, and the way to find out what we are doing is to pass this in statutory form and try out the process. I think that is the proper way to go.

Mr. DECONCINI. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. I yield to the distinguished Senator from Arizona.

Mr. DECONCINI. I should like to address one thing that the Senator from Maryland brought up, and that is the problem that passing this might pose to the public, indicating that after adopting a budget with a deficit of over $106 billion, to now come in piously and move toward a balanced budget, tax limitation, constitutional amendment is—I cannot recall the exact words, but certainly it did not appear that we had it all together.

My observation is that the people of Arizona have certainly gone along with the poll that the distinguished chairman from South Carolina has mentioned. Indeed this is just kind of the icing on the cake, after we have gone this far for these many years with huge deficits, after we have a conservative Republican President who tried to reverse things and was unable to do so, after we have the economic downturn that we have had far greater than the administration had anticipated. We are witnessing deficits now of well over $100 billion. What better reason can we think to find some new answer? And this is it. So I do not think anyone has to be embarrassed or look as if they are creating any false images. What they are doing is finally getting to this. As the Senator from South Carolina pointed out at a noon luncheon recently, he has been working on it for 28 years, maybe before that, before he was here. I have only had 6 years at this, and I am delighted to see it happen at my young, tender age and I am sure the Senator is happy to see it happen any time but now certainly the time and moment is here.

So I hope we can defeat the amendment of the Senator from Maryland. I

know it is offered with good intentions, and he continuously cites Mr. Burns and Mr. Volcker. We can cite many people who support the constitutional approach with economic backgrounds. But I am not sure they always are the ones who lead us in the right direction. Under the Burns administration on the Federal Reserve we had the highest interest rates and highest inflation. Now under the Volcker administration we have the highest interest rates and the highest unemployment. So I am not sure that is any great test of who we should follow. I think what we should follow is prudence and the fact that it has not worked. What has not worked? The process that we are using now and regardless of who sits in the White House, or who controls this body on the political spectrum the fact is we just not have been able to balance that budget and now we have an opportunity to do so. I thank the Senator.

Mr. THURMOND. I wish to thank the able Senator from Arizona for his very pertinent and helpful remarks.

The PRESIDING OFFICER. The Senator from Montana.

Mr. THURMOND. Does the Senator from Montana wish me to yield to him?

Mr. BAUCUS. Yes, if the Senator will yield to me.

Mr. THURMOND. I am glad to yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, I wish to ask the Senator from South Carolina a question. I understand the view of the Senator from South Carolina, that the Mathias-Baucus amendment be offered in addition to Senate Joint Resolution 58 not in lieu of Senate Joint Resolution 58. I think all of us can safely say we do not know whether or not Senate Joint Resolution 58 will eventually become part of the Constitution. It may not pass this body. It may not pass the other body. It may not be ratified by three-quarters of the States. We just do not know.

So I am asking the Senator from South Carolina if he would support the Mathias-Baucus statutory approach in the event that Senate Joint Resolution 58 is not adopted.

Mr. THURMOND. Mr. President, the Senator from South Carolina would be pleased to support the Mathias-Baucus amendment at any time.

The constitutional amendment would have to be passed by both bodies and then be proposed to the States and three-fourths of the States would have to ratify it. That may take several years. So I would see no conflict. If the Senator pushed his statute now I would be glad to vote for the statute. And I think it would be well to have both.

As I just told the able Senator from Maryland my State has both. We have a statutory provision that demands a balanced budget; we have a constitutional provision that demands a balanced budget. The constitutional amendment is going to take longer and if the statute can be passed quickly maybe it would be helpful. I think it would be helpful. But let us not just stop with the statute. Let us go forward and not offer the statute in lieu of this constitutional amendment. The country needs the constitutional amendment. That is the bedrock. That is the thing that cannot be changed easily. That is the thing that people want. That is the very thing that this poll that was taken shows that two-thirds of the people of this country want a constitutional amendment, and I would hope that we would take no step to interfere with the passage of this constitutional amendment and at the same time we can go forward with the Senator's statutory amendment, and I am hopeful that that would be of benefit.

Mr. BAUCUS. I appreciate the response.

May I further inquire whether the Senator from South Carolina would work actively to support the Mathias-Baucus statutory approach, regardless of the outcome of the vote on the Mathias-Baucus and regardless of the outcome of the vote on Senate Joint Resolution 58? Assuming Senate Joint Resolution 58 passes both Houses by two-thirds votes during the ratification period it seems to me that we should have the statutory approach in effect in place so that we in Congress and those in the States can see how it is working.

So I am asking the Senator from South Carolina if he would support enactment of the statutory approach so that it can be in effect during the ratification process?

Mr. THURMOND, Mr. President, I thought I made it plain that I do not think any step should be taken to stop this constitutional amedment in any way, shape, or form. I think it is the only sure way to restrain Congress. However, I will be glad to support the Mathias-Baucus amendment in the form of a statute at any time it is brought on the floor of the Senate.

Mr. BAUCUS. Including next month, including next year,

Mr. THURMOND. Including next month, next year or the year after or the year after that.

Mr. BAUCUS. All right.

I thank the Senator from South Carolina.

Mr. DECONCINI. Mr. President, It is important to note that the balanced budget amendment has garnered wide support from throughout our great Nation. It has shown itself to be a truly bipartisan effort which has many advocates in each major political party. It should also be pointed out that the efforts on behalf of this amendment are being made from both sides of the aisle. Earlier efforts have been completely bipartisan, with Democrats and Repulicans alike sharing the goal of returning fiscal responsibility to Government. Indeed, Senate Joint Resolution 58 has 18 Democratic cosponsors so far.

Democratic cosponsors for this measure include: Senator BENTSEN of Texas, Senator BOREN of Oklahoma, Senator BURDICK of North Dakota, Senator BYRD of Virginia, Senator EXON of Nebraska, Senator HEFLIN of Alabama, Senator HUDDLESTON of Kentucky, Senator JOHNSTON of Louisiana, Senator MELCHER of Montana, Senator NUNN of Georgia, Senator PROXMIRE of Wisconsin, Senator PRYOR of Arkansas, Senator SASSER of Tennessee, Senator STENNIS of Mississippi, Senator ZORINSKY of Nebraska, Senator LONG of Louisiana, Senator CANNON of Nevada, and myself.

I am confident that with the continued support of the President and both Republicans and Democrats in the Senate who so far have cosponsored this joint resolution and those who are leaning to vote in favor of it, this needed legislation will soon be adopted.

COMMENTS ON AMENDMENT OF SENATOR DOMENICI

Mr. HATCH. Mr. President, the concern, of the Senator from New Mexico with the need to deal with economic emergencies is understandable. The question that I ask is whether the solution to economic emergencies is increasing the Federal deficit. What can be achieved by increasing the deficit that would help eliminate economic emergencies? The reason that this amendment to the Constitution is required is that the deficits which the Senator seeks to permit under his change to the proposed amendment have in the past led to the economic crises that we have faced over the last few years, and that face us today.

One of the greatest dangers that we must avoid in our pursuit of the stable economy is the belief, generally attributed to John Maynard Keynes but more accurately to many of his followers, that the economy can be managed through the manipulation of aggregate demand. The Keynesian response focuses on demand and ignores real questions concerning productivity and output in the economy.

The use of fiscal policy, either tax changes or expenditure changes, to stabilize the economy results only in a change in the private or public components of the GNP, but these changes have little or no impact on the total GNP itself.

Empirical economic studies indicate that deficit spending by the Federal Government merely crowds out private economic activity. Thus, by itself, deficit spending does nothing to aid

the unemployed, but merely switches resources from the private sector to the public sector. At the same time it produces increases in interest rates, as the Federal Government increases its bid for private resources in the Nation's capital markets.

Add to this deficit spending an unnecessarily large expansion in the money supply, as our Nation's central bank moves to reduce higher interest rates, at least in the short run, and the result is future inflation. This inflation not only taxes the populace in another way, but in a most insidious way. By destroying the value of the Nation's medium of exchange it eventually leads to further economic disruption. Not the least of these disruptions is an increase in interest rates, at times large increases as we have seen recently, as capital markets respond to the decline in the value of the dollar. When at last the central bank attempts to restrain the money supply to a level which is more compatible with the true economic growth rate of the economy, another disruption occurs which causes even more unemployment. To anyone who has read a newspaper recently, this situation seems all too familiar.

Mr. President, at this time I ask unanimous consent to insert in the RECORD a recent article by a distinguished authority on monetary policy and financial markets, Prof. David I. Meiselman, of Virginia Polytechnic Institute. Dr. Meiselman's clear explanation of the mistakes in macroeconomic policy would be useful for all of us to read.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Tax Review, May 1982]

FISCAL POLICY AND INTEREST RATES: THE GREAT DEFICIT SWINDLE OF 1982

(By David I. Meiselman)

In this season of discontent, there is more than usual confusion about, and attribution of, blame for our economic problems. For example, some people who label themselves supply-siders assert that how the world works contradicts the views of monetarists about the important role of the quantity of money in shaping economic events, the links between the quantity of money and inflation, and the connections between changes in money and short-period changes in business conditions.

From other quarters, we hear and read that the current recession is clear evidence of the failure of the supply-side approach, in general, and of the 1981 tax cuts, in particular. (A careful look at the record indicates that the 1981 tax rate reductions did not, in fact, reduce tax rates for the bulk of taxpayers when adjustment is made for bracket creep. Furthermore, even though some individual programs have been cut, total Federal expenditures continue to grow, both in the absolute terms and relative to Gross National Product.)

In my judgment, critics of the supply-side analysis and opponents of the Reagan Administration's attempt to shrink the size and role of government have the wrong culprit when they link the current recession to the Administration's fiscal fiscal policy. As I shall demonstrate, this criticism is misdirected and stems, in part, either from misinformation or from a hidden agenda.

WHAT IS SUPPLY-SIDE ECONOMICS?

It would be helpful if I made explicit what I understand the supply-side and the monetarist approaches to be. Supply-side economics asserts that fiscal policy, especially its tax component, effects incentives, economic efficiency, and economic growth. Taxes distort relative prices and relative costs. The results are impaired efficiency and retarded growth. Change the rules or change the rewards and you change the results. In brief, most supply-siders believe that the best tax reform is tax reduction.

For example, if there is a differentially high tax on the part of income devoted to saving, as there has been (and will continue to be after the entire 1981 tax package goes into effect), people respond by saving less and by consuming a larger fraction of income. The result is a fall in capital formation and slower economic growth, both of which we have experienced in the past decade. Real wages depend ultimately on the productivity of labor. Thus, one result of less capital is a fall in real labor income, a phenomenon we also observed in recent years, even before the recent business cycle decline. This is the essence of the standard economic analysis which concludes that the long-run incidence of a tax on capital falls on labor. By causing a private sector capital shortage, a tax system that is biased against saving and investment ends up causing both high real interest rates and low real wage rates.

THE KEYNESIAN VIEW

Keynesians also believe that taxes profoundly affect the economy. But the Keynesian analysis is based on the belief that tax changes, especially changes in income taxes, work by altering aggregate demand. Traditionally, Keynesians have been little concerned with supply. Mired in their view of the Great Depression of the 1930's, a largely erroneous view at that, and acting as if they believe that demand creates its own supply. Keynesians have usually displayed litle or no concern for problems of output and productivity. Keynesians emphasize what economists label "income effects" resulting from changes in taxes and government spending.

By contrast, supply-siders separate themselves and differentiate their analysis by emphasizing the incentive effects of tax changes, particularly on supply decisions and output. Hence, the title of Supply-Side Economics. Supply-siders, to their credit, have emphasized many of the old tools and truths of economics, including the fact, as I heard Phil Gramm say a few years ago, that only in the dictionary does consumption come before production.

THE MONETARIST VIEW

Monetarists, like Keynesians, also focus attention on aggregate demand. Monetarists believe that the nominal quantity of money is the major and the dependable determinant of aggregate demand, or nominal Gross National Product (GNP). Monetarism is a new label for an old set of analytical and empircal propositions called the Quantity Theory of Money.

According to the Quantity Theory of Money, the stock of money determines aggregate spending. Although government tax and expenditure policies may alter expenditures for individual components of GNP, changes in the component parts of the total have little or no impact on total nominal GNP itself. Consequently, for a given stock of money, which fixes nominal GNP, if there is an increase in government spending, total GNP remains essentially the same, but private spending shrinks to accommodate more government spending. Government spending crowds out private spending.

For monetarists, although nominal GNP is determined by the nominal quantity of money, in the long run, real GNP is determined by real factors. In the long run, the printing press only generates inflation; money cannot produce goods and services. Rather, output depends on supplies of labor, capital, and raw materials, the state of technology, the vigor and resourcefulness of our people, a stable and constructive framework of law and public policy, and so forth, plus the incentives to put these productive resources to efficient use. These are precisely the kinds of real factors that supplysiders, too, emphasize.

What I have just described are monetarist propositions about long-run relationships between the nominal stock of money, inflation, and nominal GNP. When considering these real, or supply, relationships, I find general agreement between the monetarist and the supply-side approaches. Indeed, monetarists have always emphasized that relative prices, incentives, and so forth—microeconomics—are the essential stuff of real variables, and that the quantity of money in the long run merely determines the level of prices, not the level of output.

But monetarists clearly distinguish between the long-run, or permanent, effects of monetary change and the short-run, or temporary, effects of monetary change. Although the printing press can have very little impact on real variables in the long run, fluctuations in the stock of money are the central and the crucial factor in the short-period fluctuations in output, employment, and profits, usually called the business cycle.

It turns out that changes in the quantity of money first affect real variables—after a lag of something like two quarters. Money alters prices later, much later.

Historically, it has taken about a year before monetary change affects inflation. After a year, prices start to respond, with a peak effect about seven quarters after the initial change in money. This seven-quarter lag is consistent with the current sharp decline in the inflation rate. You may recall that, seven quarters ago, the second quarter of 1980, the money supply collapsed. The rapid expansion of money in the second half of 1980 raises some doubts about the persistence of the current dip in the pace of inflation, especially later in 1982.

When there is slack in the economy, faster money growth initially leads to more sales, higher employment, more output, increased profits, and rising stock prices—but not much change in inflation. With expansionary monetary policy, the good news of rising real GNP comes first. Only later do we get the bad news of more inflation. The initial gains in output and employment erode and finally disappear, replaced by higher prices.

Slowing money growth also affects real variables first and prices only later. The results are a mirror image of the consequences of faster money growth just described. Initially, there is the bad news of reduced output and employment, just as we have seen in recent months, and just as we saw in the first half of 1980. Only later do we get

the good news of reduced inflation. Note that for expansionary monetary policy, the good news of more output comes before the bad news of more inflation. For restrictive monetary policy, the bad news of reduced output comes before the good news of reduced inflation. This lack of symmetry in the effects of expansionary and of restrictive monetary policies undoubtedly contributes to the inflationary bias of discretionary monetary policy.

The myopia of politicians and government officials, the powerful incentives to show results—or at least programs—before the next election, leads to an emphasis on immediate problems, instant solutions, and intervention that is both destabilizing and inflationary. Even the best intended attempts to tame the business cycle by fine-tuning and by counter-cyclical monetary actions have given us both more inflation and instability. In turn, the resulting inflation and instability, plus the tax bias against saving and investment, are major factors in record-high interest rates.

A MONEY SUPPLY RULE: ZERO MONEY GROWTH

The lags in the effect of money, the incentives for mischief inherent in discretionary policies, and the problems caused by uncertainty about future changes in the stock of money inherent in discretionary monetary policy argue, not only for slow and stable money growth, but slow and stable money growth mandated by law.

The monetary rule I prefer is fixed quantity of the M-1 measure of money. To get from here to there, I propose a gradual one percentage point per year decline in the growth of M-1: 4 percent in 1982, 3 percent in 1983, and so forth. There would be no more money growth after 1985. By 1985, M-1 would be 10 percent higher than at the end of 1981, or approximately $484 billion. Zero money growth is approximately consistent with zero inflation, which is why zero money growth is the central part of my proposed rule.

M-1 velocity has been rising approximately 3.5 percent per year, so zero growth is consistent with nominal GNP also increasing at the same 3.5 percent rate. Before the economic slowdown of recent years, output increased between 3 percent and 4 percent per year. I see no reason why, once we return to economic health, output cannot return to its earlier trend. Thus, the entire growth of nominal GNP would generally represent a growth in output, not prices. This is why the price level will tend to be stable with a fixed money stock.

After 1985 the rule would be: "No more money and no less." This clear and simple rule would have many virtues. It would add a most welcome note of certainty to all markets, drive down interest rates now, eliminate the inflation, stabilize the economy, and prevent government from using inflation as a tax collector. To be sure, variations in velocity or in real economic growth would cause some variability in the price level. However, these changes are bound to be small, especially in comparison to the inflation roller-coaster we have experienced that has been the direct result of fast and variable money growth. In addition, a stable money stock would eliminate the major source of the business cycle instability of output, employment, and interest rates and would have inherent price level and interest rate stabilization properties.

THE GOLD STANDARD RULE

I may add that proponents of a gold standard and of a fixed nominal price of gold have an excellent point in proposing an explicit rule. The main problem with fixing the gold price is that it is the wrong rule.

Intervention to fix the price of gold would require Treasury purchases of gold whenever the free market price of gold fell, and sales of gold whenever the free market price of gold increased. Gold is now convertible to the dollar, but not at a government fixed price. After all, there is a free market in gold. Convertibility is not the issue; price fixing is. I may add that in the past, concern for maintaining the fixed gold price was a major source of and rationalization for a wide range of anti-competitive and costly interventions by government.

Consider the specific intervention that would have been required had the United States been on a policy of price fixing in the gold market in recent months. While inflation has been abating, enormous government purchases of gold would have taken place had the gold price been fixed at last year's level of $500 or so per ounce, last summer's level of $400 per ounce, last month's level of $375 per ounce, or last week's level of $325 per ounce. Yesterday [March 16], the price of gold closed at $312 per ounce. Who's to know what next week's or next month's gold price will be.

Government purchases to prop up the prices of gold would be financed, not by taxes nor by sales of U.S. Government Bonds, but by direct resort to the printing press, by new money creation. Inflation can be generated by gold certificates just as surely as inflation is generated by bank deposits and Federal Reserve notes.

In other words, if Russia sells gold to buy grain to feed its people, if Iraq and Iran sell gold to finance their war or to adjust to a decline in petroleum prices and production, Treasury intervention to fix the gold price would require an increase in the stock of money in the United States, resulting in more inflation. This raises the question whether we should have a monetary system under which poor Russian harvests or Persian Gulf wars not only cause distress in Russia, Iraq, and Iran, but also generate U.S. inflation.

These examples from today's news illustrate the principle that the gold standard rule of a fixed price of gold is incompatible with a rule or a policy of slow and stable money growth that is essential for moderating inflation and for curbing the sharp swings of the business cycle and interest rates. A fixed gold price inevitably means that U.S. monetary actions respond to all kinds of disturbances unrelated to achieving stable prices and stable money. These include both shifts in domestic "real" factors, such as new gold discoveries, changing technological conditions and changes in the prices of gold substitutes, that would alter the free market price of gold as well as a wide range of disturbances from abroad that reflect foreign circumstances rather than U.S. inflation. We can and we do make enough trouble for ourselves without importing still more.

Fixing the nominal price of gold may be better, or less bad, than unrestrained and chaotic use of the printing press, but these are not the only alternatives. There are better monetary rules, including the rule for zero money growth I have just proposed.

Fixing the nominal price of gold does not, and cannot, insure and never has insured stable prices. The gold standard proposal confuses real and nominal prices. It also confuses the fixed—by governmental intervention—nominal price of gold and the purchasing power of money. You cannot target a stable price level and a fixed nominal price of gold at the same time. If stable real value or stable purchasing power of money is what is meant by the quality of money, then a monetary rule which results in stable prices rather than government price fixing in the gold market is the rule that also insures the quality of money as well.

KEYNESIAN FISCAL POLICY

Before returning to the Quantity Theory and Supply-Side Economics, I wish to comment further on the Keynesian view of fiscal policy. Although rigorous research and repeated real world experiments and experience have demonstrated again and again that the central elements of the Keynesian analysis are simply wrong, Keynesian views still exert a powerful influence on the thinking of many of our citizens, especially those over the age of 40. Nevertheless, the clear evidence is that when allowance is made for the effects of money, changes in government spending, changes in taxes, and changes in the deficit—the aggregate components of fiscal policy, have essentially little or no systematic influence on inflation, the business cycle, or short-period fluctuations in nominal GNP.

This is not the same as stating that taxes, deficits, or government spending have no effects at all. These elements of fiscal policy influence resource allocation, income distribution, interest rates, efficiency and growth, but not the business cycle which has been the primary focus of Keynesian attention. This is why there is essentially no trade-off, as Keynesians contend, between monetary policy and fiscal policy.

In the short run, monetary aggregates cause the business cycle. In the short run, fiscal policy aggregates have little of no dependable impact on the business cycle. In the long run, monetary policy has little or no influence on real variables. In the long run, fiscal policy, by affecting efficiency, growth, income distribution, and incentives, does influence the size and composition of the pie.

Confusing short-run and long-run effects of monetary and fiscal actions is a major source of the flawed public policies of recent years, unrealistic expectations, and the dashed hopes for easy and quick solutions.

WHAT DOES FISCAL POLICY DO?

The analysis of fiscal policy is highly complex. Precise, dependable answers may not be currently available for all important questions, both because of the complexity of the analysis and the absence of a sufficient body of tested and dependable empirical relationships, for example, between interest rates and saving or investment. These deficiencies in our knowledge argue for humility and for tentativeness in certain conclusions; they are not an argument for adhering to the conventional Keynesian and Wall Street analysis that yields answers that are both simple and simply wrong.

To understand what fiscal policy does and does not do, consider separately the components of fiscal policy—expenditures, on the one hand, and the financing of those expenditures, on the other hand.

GOVERNMENT SPENDING: A TAX

First, for a given stock of money (which determines total spending), government spending tends to replace or crowd out private spending. Government spending for goods and services shifts resources to the public sector. Because government use of resources leaves fewer resources for private

sector use, government spending is itself a tax. The expenditure tax is analytically independent of how expenditures are financed.

To be sure, the effects of the shift of expenditures and of the expenditure tax also depend on the productivity of the public sector use of the resources relative to their productivity in the private sector. However, the low, or negative, productivity of many government programs, itself the result of the general lack of public sector incentives for efficiency plus the vast and costly mechanisms for redistributing income which subsidize consumption, means that, in general, big government results in less aggregate real output. The efficiency losses resulting from governmental spending are inevitably augmented by additional distortions stemming from all methods used to finance expenditures. This is why using government expenditures as a measure of the cost of government understates the total burden and the total cost of the budget.

FINANCING GOVERNMENT: MORE DISTORTIONS

The complete analysis of the effects of the budget also depends on how the government spending is financed. Each method of financing expenditures adds its own set of additional costs and distortions. If expenditures are financed by taxes, the taxes tend to depress or to alter private sector activities, perhaps facilitating the shift of resources from private to public use. The effects of taxes on output and on demand depend on the characteristics of the specific taxes involved. No tax is neutral, but some taxes are greater hindrances than others. Suffice it to note in this brief presentation that the U.S. tax system has become, and remains, strongly biased against saving, capital formation, and economic growth, and is correspondingly strongly biased towards consumption and government spending. Moreover, because spending in the aggregate depends, not on tax rates, but on the quantity of money, the main impact of the tax structure on aggregate demand is on the composition of spending, not on total spending per se.

DEFICITS AND INTEREST RATES

Expenditures financed by selling government securities (assuming a given stock of money) also end up reallocating resources from private to government use. For a given demand for Treasury securities, if the Treasury sells more interest-bearing debt, real interest rates rise. Instead of the depressive effects of taxes, we now have the depressive effects of higher real interest rates which reduce interest-sensitive expenditures and interest-sensitive activities, but also encourage a shift from consumption to saving.

For many public policy issues, the crucial analytical question is whether it is appropriate to assume that the demand for Treasury securities is given and fixed. The disturbance analyzed may well change the demand for securities as well as the supply. For example, the impact on interest rates of raising taxes in order to reduce deficits depends on how the tax increase affects the demand for Treasury securities as well. This is why, in analyzing the impact of tax rate changes on deficits and interest rates, it is simply wrong to consider only the supply of Treasury securities and to neglect demand, as many Wall Street analysts do. Changing tax rates may also affect the demand for securities, in general, and perhaps the demand for Treasury securities, in particular. In turn, the consequences of a tax change on the demand for securities depends on how the altered taxes affect both saving and the uses to which taxpayers put their assets. In addition, a tax change may affect investment and the private demand for funds. "Revenue enhancements" may lower the recorded deficit, but such tax increases do not necessarily reduce either real or nominal interest rates.

For a given level of expenditures, I do not believe that an a priori case can be made that any specific proportion of tax and debt financing is optimal. If the goal is to minimize the cost of distortions caused by both taxes and deficits, then the economic costs of debt financing must instead be compared to the economic costs of the specific taxes which are levied. (Taxes should be analyzed in the context of the current tax code, not an idealized or neutral tax system) The comparison between debt and tax financing depends crucially on which taxes are involved, not on the revenues the taxes happen to generate.

Finally, expenditures can be financed by monetizing the deficit, merely by printing money, noninterest-bearing debt. The increased supply of dollars would cause more inflation, a further fall in the value of each dollar. Inflation is a tax on all money balances. Moreoever, under the present tax code, inflation effectively increases tax rates and imposes a wide range of capital levies, so that more than cash would be taxed.

One conclusion of this discussion is that the complexity of these relationships cannot be captured or understood by reference to the simple numbers on revenues or deficits used to describe budget aggregates, as is the current fashion. It also helps to explain why the usual statistical data on government revenues, taxes, and deficits have little or no historical relationship to inflation, interest rates, or GNP.

One cannot generalize about the effects of budget deficits on interest rates, inflation, and resource allocation, because so much depends on how the deficits are financed. Similarly, one cannot generalize about the consequences of eliminating deficits per se. It makes a difference whether government expenditures are reduced or taxes are increased. It also make a difference which expenditures, and especially which taxes, are altered. Reducing the deficit by cutting government expenditures that have low productivity or subsidize consumption, in my judgment the bulk of the nondefense budget, would tend to lower interest rates and increase output and employment. Balancing the budget by increasing taxes that bear on saving or impair productivity is likely to increase interest rates. Balancing the budget by increasing taxes that fall on investment and capital formation, by reducing returns to capital formation, and by reducing incentives to private borrowing to finance capital outlays may lead to a decline in interest rates, but at the heavy cost of impaired growth.

Thus, it does not follow that reducing deficits need lower interest rates. That depends on which steps are taken to reduce spending or to increase revenues, not on the size of the deficit.

This is why I am so skeptical about stated concerns for the size of the deficit and the presumed links between deficits and interest rates that omit both reference to the specific measures to eliminate the deficits and to the required analysis of what these budget-balancing measures would do. There is even more uncertainty about evaluating the impacts of stated budget deficits because of the peculiar and arbitrary character of government accounting and budgeting procedures and the statistics the current budget process happens to generate. For example, including so-called "off budget" items involving large numbers of loan and guarantee programs would increase the numbers in the budget and the numbers called "deficit." Treating capital outlays for roads, buildings and the like in a separate capital budget, as private businesses do, with only "expenses" for depreciation and maintenance included in current expenditures, might well reduce the numbers in the budget and shrink the numbers labeled "deficit," but alter nothing of substance. Moreover, because even the best, most disinterested forecasts of budget deficits have almost always been very far off the mark, there is little basis for confidence in the reliability of either budget or deficit estimates. Future government expenditures, revenues, and deficits depend on future inflation and economic circumstances that depend so heavily on future Federal Reserve policies. Future deficits also depend on actions of future Congresses, many members of which have not yet been elected to office.

KEYNESIANS AND THE DEFICIT

For many years, Keynesians have had a serious interest in the size of the deficit as a central feature of their analysis of economic fluctuations and of their public policy recommendations. On one level, Keynesian analysis has emphasized short-run business cycle or stabilization goals almost to the exclusion of considering the impacts of taxes, expenditures, and deficits on efficiency and income distribution. On another level, many Keynesians have used legitimate concerns and desires for economic stabilization as convenient rationalizations for their hidden agenda for increasing the size and scope of government and for changing the distribution of income.

Changing the budget deficit is the main tool of Keynesian aggregate demand management and stabilization policy. Because Keynesians believe that higher deficits are systematically and dependably related to increased aggregate demand, Keynesians believe larger deficits help to offset recessions, whereas reduced deficits, even surpluses, are required to fight inflation.

Note that applying the Keynesian analysis need not result in more and more government expenditures. It has worked out that way—and not by accident! According to Keynesian doctrine, larger deficits needed to fight recession can be achieved by cutting taxes; more government spending is not necessary. Smaller deficits needed to curb inflation can be reached by reducing government spending rather than raising taxes. Thus, hypothetically, Keynesian doctrine could result in a downward ratcheting of taxes and government expenditures, not the upward ratchet we have observed.

THE HIDDEN AGENDA

The biased application of Keynesian theory reflects the inherent biases of both politicians and many of their advisors who use Keynesian tools to achieve their desired goals of big government, high taxes, inflation and income redistribution.

How else explain the great concern early in 1982 for the scheduled July 1983 tax reduction and for the indexing of tax rates in 1984 a year and a half away? Why the repeated calls for the elimination of future tax reduction and tax rate indexing now? Why do the Tip O'Neills of the world sud-

denly express concern about budget deficits, perhaps for the first time in their political lives? Why do we see an absence of the usual Keynesian assertions that budget balance is irrelevant or the mythology of economic cretins and neanderthals? If tax reduction is a spur to economic recovery, as Paul Samuelson, Walter Heller, James Tobin, and the other heroes of the 1960's Kennedy Tax Cut certainly believe, shouldn't we hear more about moving forward the 1982 and 1983 tax cuts, and even increasing those tax cuts now to help get the country moving out of the recession? As for the July 1983 tax cuts, if Keynesians were true to their traditional beliefs, they should argue, as they did in questioning the original program's three-year tax reduction package, that we should wait and see what 1983 brings.

THE DEFICIT SWINDLE

I believe we hear so little about speeding up or enlarging tax cuts and so much about rescinding the 1983 tax cut and the 1984 indexing of the Federal Tax Code precisely because there is a well understood link between revenues and government spending. Spenders simply want the revenues to maintain or to expand government spending. Spenders want control of more of your income so they can spend it the way they, rather than you, wish. In my judgment, the sudden and novel concern for deficits is a hoax. If taxes are increased in the name of interest rate reduction and fiscal prudence, but the revenues, as before, are spent for bloated budgets, it will be a swindle.

Understandably, the big spenders are fighting hard to retain the revenue system that depends on inflation-induced, unlegislated tax rate increases—bracket creep—under which they have prospered while the economy has suffered. To succeed, the big spenders need, as before, the cooperation of fiscal conservatives eager or willing to raise taxes to reduce deficits. In the process, fiscal conservatives become the tax collectors for spenders. After each tax increase, deficits don't really decline, either, because expenditures tend to rise at least as fast as revenues. I may add that many people who supported, and continue to support, tax reduction and indexation of the tax code do so precisely because they believe that restraining revenues is necessary to restrain government spending.

In my view, some proponents of the supply-side approach were, and still are, on shaky grounds when they embraced the Keynesian position about the large and certain short-run impact of changes in taxes, including the small tax reduction that took place in 1981. Because monetary policy dominates in shaping short-period and business-cycle phenomena, the effects of monetary policy swamp the effects of tax and expenditure policy in the short-run. Confusion about these relationships and lack of sufficient appreciation of the time required to adjust to a new set of tax circumstances—especially in the current context of uncertainty, the lack of confidence in government, and the absence of a monetary rule for slow and steady growth—have led some supply-siders to expect too much and to promise too much in the short run. Disappointment with the initial results in the 1981 tax cut which, because of bracket creep, was no tax cut at all for most taxpayers, should not obscure the useful long-run results of tax reduction, both in reducing the harmful effects of high tax rates and in limiting revenues available to the big spenders.

The current recession is no reason to abandon efforts at fundamental reform of taxes, spending, and regulation which stem from supply-side considerations.

Indeed, I would hope that the recession and the increasingly unhappy, costly, and unpleasant experience we have had with discretionary monetary policy, would lead to the adoption of a monetary rule that would mandate the slow and steady money growth that is a necessary partner with supply-side tax and budget reductions in restoring the economic health of the nation.

Mr. HATCH. Mr. President, I think the efforts of the Senate would be better focused if we set about doing what we can do to promote long-run economic growth and stability in the economy by bringing out-of-control Federal spending under control. Unfortunately, too many of the comments on our current economic situation are faulty because they focus on just that—our current situation. While we talk here about the specific details of our present economic situation and discuss the fine details of how it should be addressed, the economic environment changes, and by the time that any detailed policy which we might enact is effective, it turns out to be impacting on some new economic environment—perhaps negatively.

If the current economic situation is the result of faulty policy, it is due to the efforts during the 1960's and 1970's to fine tune the economy, with the result that there was no effective policy—except in the negative sense that it produced massive expansion of Government and high price-level inflation.

An examination of the history of the congressional budget process and where the major weak points are in the present budget process, shows the greatest weak point in the process is the exceptions it allows. Supposedly fixed second and third budget resolution ceilings have been slipped to allow for additional billions in Government spending and to accommodate a "fiscal dividend" of billions more revenues.

Every year but one since the Congressional Budget Act went into effect the supposedly binding second budget resolution ceilings have been increased to allow more spending. As the Congressional Budget Office has pointed out "despite inclusion of allowances for additional appropriations, a third resolution or revised second resolution has been needed to accommodate supplemental requests for every year except 1978." The table called Annual Adjustments to Budget Resolution Limits, shows that supposedly fixed spending ceilings have been slipped every year but one to allow a total increase of $295.8 billion in budget authority and $260.3 billion in outlays. The table also shows that supposedly solid revenue floors have been raised over the same period to accommodate a "fiscal dividend" totaling $248.3 billion. It is evident that increments to the base in one year are not counteracted by commensurate cuts in succeeding years, but are ratchet-like and provide a higher starting point for the following years.

I ask unanimous consent that this table called Annual Adjustments be included in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ANNUAL ADJUSTMENTS TO BUDGET RESOLUTION LIMITS

[In billions of dollars]

	Budget outlay	Budget authority	Deficit	Revenues
Transition quarter set by fiscal year 1976—2d Budget Resolution Conference Report	101.7	91.1	15.7	86.0
Transition quarter revised by fiscal 1977—1st Budget Resolution Conference Report	102.2	96.3	16.2	86.0
Fiscal year 1977 3d Budget Resolution Conference Report	417.45	472.9	69.75	347.7
Fiscal year 1978 1st Budget Resolution Conference Report, revision of fiscal year 1977 limits	409.2	470.2	52.6	356.6
Fiscal year 1978 2d Budget Resolution Conference Report	458.25	500.1	61.25	397.0
Fiscal year 1979 1st Budget Resolution Conference Report, revision of fiscal year 1978 limits	498.8	568.85	50.9	447.9
Fiscal year 1979 2d Budget Resolution Conference Report	487.5	555.65	38.8	448.7
Fiscal year 1980 1st Budget Resolution Conference Report, revision of fiscal year 1979 limits	494.45	559.2	33.45	461.0
Fiscal year 1980 2d Budget Resolution Conference Report	(1)	(1)	(1)	(1)
Fiscal year 1981 1st Budget Resolution Conference Report, revision of fiscal year 1980 limits	613.3	697.2	+.5	613.8
Fiscal year 1981 2d Budget Resolution Conference Report	632.4	694.6	27.4	605.0
Fiscal year 1982 1st Budget Resolution Conference Report, revision of fiscal year 1981 limits	661.35	717.5	58.05	603.3
Fiscal year 1982 2d Budget Resolution	661.35	717.5	58.05	603.3
Fiscal year 1983 1st Budget Resolution Conference Report, revision of fiscal year 1982 limits	734.1	777.672	105.7	628.4

[1] Conferees reported in disagreement.

Source: Senate Labor and Human Resources Committee Staff.

Mr. HATCH. The balanced budget amendment as reported, would help remedy this situation because it would decrease the pressure to slip the second resolution ceilings. Hence, Senate Joint Resolution 58 as presently worded would help restore credibility to the budget process.

In this connection, the strongest safeguard for holding the line on fiscal levels agreed to is the availability of a point of order that could be raised against bills violating spending limits or lowering revenues below the revenue floor. But this provision has been waived several times, especially when a large amount of spending has been at stake.

The strongest means of all in the congressional budget process for controlling spending is section 311(a) which allows a point of order to be raised against bills which violate the levels set in the second concurrent resolution. For example, in cautioning against frequent waivers of 311(a) Senator HENRY BELLMON said that "if the Senate ever gets to the point that it sets aside the Budget Act frequently, it will have mortally wounded the budget process * * *." (CONGRESSIONAL RECORD, p. 11228, May 14, 1980).

However, this single strongest means in the congressional budget process to enable the Congress to stay within the fiscal totals agreed upon has been waived repeatedly, more so in the House than in the Senate.

In the Senate, 311(a) points of order have been raised four times and waived only once. But this record in the Senate is not as good as it appears since second resolution limits have been regularly bypassed in considering the ensuing third or fourth budget resolution adjusting the previously set, supposedly fixed budget resolution limits. In the House, 311(a) has been waived every time that it has been raised, for a total of 12 times in the last 3 years.

I ask unanimous consent that a list itemizing congressional actions on 311(a) points of order be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL ACTION ON 311(a) POINTS OF ORDER AGAINST INCREASING THE SPENDING LIMITS OR LOWERING THE REVENUE FLOORS SET IN SECOND OR LATER BUDGET RESOLUTIONS

1. ALL 311(a) WAIVERS GRANTED BY THE RULES COMMITTEE IN THE HOUSE OF REPRESENTATIVES APPROVED

95th Congress, First Session: None.

95th Congress, Second Session: None

96th Congress, First Session: H. Res. 242 granting a rule waiving 311(a) on H.R. 111 providing for the implementation of the Panama Canal Treaty.

96th Congress, Second Session: H. Res. 663 granting a waiver on H.J. Res. 545 providing urgent appropriations for the Food Stamp program; H. Res. 529 granting a waiver on H. Con. Res. 204 approving extension of non-discriminatory treatment to the People's Republic of China; H. Res. 688 granting a waiver on H.J. Res. 554 providing FTC appropriations for fiscal 1980.

97th Congress, First Session: H. Res. 137 granting a waiver on H.R. 3512, Supplemental Appropriations Bill for fiscal 1981.

97th Congress, Second Session: H. Res. 355 granting a waiver for consideration of H.J. Res. 389, Supplemental Agriculture Appropriation, fiscal year 1982; H. Res. 355 granting a waiver for consideration of H.J. Res. 391, Supplemental Labor Appropriations, fiscal year 1982; H. Res. 356 granting a waiver for consideration of H.J. Res. 392, Supplemental, Health and Human Services, fiscal year 1982; H. Res. 415 granting a waiver to protect certain portions of H.R. 5922, Urgent Supplemental Appropriations, 1982; H. Res. 461 modifying H. Res. 415 to change some of the programs in H.R. 5922 covered by the waiver.

2. ACTION ON 311(a) POINTS OF ORDER IN THE SENATE

Allen Amendment having the effect of lowering revenues withdrawn under threat of 311(a) point of order, October 1, 1976.

Point of order sustained against Heinz amendment to Revenue Act of 1978 providing an energy credit for the elderly, October 9, 1978.

Waiver in order to consider H.J. Res. 545, an emergency supplemental appropriation for food stamps upheld by a vote of 71:17, May 14, 1980.

Point of order sustained against Cranston amendment restoring funds for a Solar Thermal plant in California, June 27, 1980.

Mr. HATCH. The phraseology in the original Senate Joint Resolution 58 is aimed, hopefully, at obviating any confusion as to estimates. This is why a measure of prior year GNP growth was chosen. It would lend greater credibility and reliability to the figures in this statement of receipts and outlays. Prospective estimates are always far more subject to controversy due to less evidence having come in than estimates, such as proposed in Senate Joint Resolution 58, which are, in a sense, based on retrospective data.

To illustrate my point, I ask unanimous consent to insert in the RECORD some tables prepared by the Senate Budget Committee, "Comparison of Economic Assumptions in President's January Budget Request and Senate Reported Budget Resolution to Totals," showing what kind of estimating variations we will have to contend with if we continue to rely on purely prospective estimates of GNP growth for determining revenues.

It is also pertinent to point out that Aaron Wildavsky, a noted congressional budget expert, has said that a balanced budget amendment will force improvements in estimates.

As soon as every spending agency and interest knows that for every big increase there must be a corresponding decrease, not only this year but in years to come, they will become partisans of policy analyses. Their activities are desirable and others, that would take from theirs, are not. Thus, the analytic activities of the CBO would become much more important. Data on rates of current and estimates of future spending would also be more highly valued. The penalties attached to bad data and poor estimates would be far more severe than in the past; an agency and program would have to do without because all spending must fit within a genuine constraint.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

COMPARISON OF ECONOMIC ASSUMPTIONS IN PRESIDENT'S JANUARY BUDGET REQUEST AND SENATE REPORTED BUDGET RESOLUTION TO ACTUALS

FISCAL YEAR 1976 BUDGET

	President Ford, January 1975	Senate reported		Actual
		FCR	SCR	
(Calendar year 1976)				
Percent change:				
Real GNP	4.8	NA	NA	5.4
CPI	7.8	NA	NA	4.8
Percent:				
Unemployment	7.9	NA	NA	7.7
3-mo T-bills	6.4	NA	NA	5.0
(Fiscal year 1976, in billions of dollars)				
Outlays	349.4	365.0	375.6	366.4
Revenues	297.5	297.8	300.8	300.0
Deficit	−51.9	−67.2	−74.8	66.4

FISCAL YEAR 1977 BUDGET

	President Ford, January 1976	Senate reported		Actual
		FCR	SCR	
(Calendar year 1977)				
Percent change:				
Real GNP	5.7	6.0	5.6	5.5
CPI	6.0	5.5	5.4	6.8
Percent:				
Unemployment	6.9	NA	NA	7.0
3-mo T-bills	5.5	5.8	6.6	5.2
(Fiscal year 1977, in billions of dollars)				
Outlays	393.6	412.6	412.8	402.7
Revenues	350.7	362.4	362.0	357.8
Deficit	−43.0	−50.2	−50.8	45.0

FISCAL YEAR 1978 BUDGET

	President Carter, January 1977	Senate reported		Actual
		FCR	SCR	
(Calendar year 1978)				
Percent change:				
Real GNP	5.1	5.4	4.6	4.8
CPI	5.2	5.4	5.6	9.0
Percent:				
Unemployment	6.6	6.0	6.4	6.0
3-mo T-bills	4.4	4.6	5.8	7.2
(Fiscal year 1978, in billions of dollars)				
Outlays	458.5	458.8	459.0	450.8
Revenues	400.7	395.6	395.0	402.0
Deficit	−57.7	−63.2	−64.0	48.8

FISCAL YEAR 1979 BUDGET

	President Carter, January 1978	Senate reported		Actual
		FCR	SCR	
(Calendar year 1979)				
Percent change:				
Real GNP	4.8	4.5	4.0	3.2
CPI	6.1	6.0	6.7	13.3
Percent:				
Unemployment	5.9	5.6	5.7	5.8
3-mo T-bills	6.1	6.4	7.4	10.4

FISCAL YEAR 1979 BUDGET—Continued

	President Carter, January 1978	Senate reported FCR	Senate reported SCR	Actual
(Fiscal year 1979 in billions of dollars)				
Outlays	501.0	498.9	489.5	493.6
Revenues	440.5	443.3	447.2	465.9
Deficit	−60.5	−55.6	−42.3	27.7

FISCAL YEAR 1980 BUDGET

	President Carter, January 1979	Senate reported FCR	Senate reported SCR	Actual
(Calendar year 1980)				
Percent change:				
Real GNP	2.5	2.3	0.9	−0.2
CPI	6.7	7.8	9.3	12.4
Percent:				
Unemployment	6.2	6.8	7.2	7.1
3-mo T-bills	7.6	7.6	8.4	11.5
(Fiscal year 1980, in billions of dollars)				
Outlays	531.6	532.4	543.1	479.1
Revenues	502.6	503.6	514.7	520.1
Deficit	−29.0	−28.8	−28.4	59.5

FISCAL YEAR 1981 BUDGET

	President Carter, January 1979	Senate reported FCR	Senate reported SCR	Actual
(Calendar year 1981, except SCR which is fiscal 1981)				
Percent change:				
Real GNP	1.7	2.3	1.0	1.8
CPI	9.2	9.9	10.9	10.4
Percent:				
Unemployment	7.4	7.5	8.5	7.5
3-mo T-bills	9.0	9.7	NA	14.4
(Fiscal year 1981, in billions of dollars)				
Outlays	615.8	612.9	633.0	660.5
Revenues	600.0	612.9	615.1	602.6
Deficit	−15.8	0	−17.9	57.9

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Mr. President, could I inquire?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Are we prepared now to conclude the debate for this evening on this measure?

Mr. THURMOND. Mr. President, I would think so. As I understand the majority leader would like to adjourn at a reasonable time and we can now postpone it until another date.

Mr. BAKER. I thank the Senator.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, if there are no other Senators seeking recognition for the purpose of debating the pending business, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 6:30 p.m. in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. (Mr. COHEN). Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Mr. President, there are certain other items that can be dealt with by unanimous consent at this time. I invite the attention of the minority leader to the following bills and resolutions that are cleared on this side for action by unanimous consent:

Calendar Order No. 661, H.J. Res. 225; Calendar Order No. 667, H.R. 4935: Calendar Order No. 698, S. Res. 412; Calendar Order No. 699, S. Res. 419; and Calendar Order No. 703, S. 312.

Would the minority leader be in a position to consider all or any part of those measures by unanimous consent at this time?

Mr. ROBERT C. BYRD. Yes. The calendar orders enumerated have been cleared on this side of the aisle and this side of the aisle is ready to proceed en bloc if the majority leader wishes.

Mr. BAKER. Mr. President, I thank the minority leader.

I ask unanimous consent that the items just identified be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

MANAGEMENT WEEK IN AMERICA

The joint resolution (H.J. Res. 225) to designate the week beginning June 5, 1983, and ending June 11, 1983, as "Management Week in America," was considered.

Mr. GLENN. Mr. President, the House-passed resolution before us is identical in purpose to a measure, Senate Joint Resolution 73, which I introduced on April 29, 1981, and which the Senate passed on June 25, 1981.

As approved by the House, this measure differs only in moving the date for recognition of Management Week in America to the week of June 5, 1983.

Mr. President, along with the other sponsors of these resolutions, I believe it appropriate that the Congress acknowledge the essential role of the management profession in insuring the continued strength of the American economy. Such recognition can help to improve the quality of management and to encourage those with management responsibility to increase their commitment to excellence. That is the goal of the nonprofit National Management Association, a growing professional organization headquartered at Dayton, Ohio, with 245 chapters and 62,000 members across the country.

The joint resolution was ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CERTAIN CHANGES WITH RESPECT TO SECURITIES AND COMMODITIES

The bill (H.R. 4935) to amend title 11, United States Code, to correct technical errors, and to clarify and make substantive changes, with respect to securities and commodities, was considered.

Mr. DOLE. Mr. President, enactment of the Bankruptcy Reform Act of 1978 marked the first comprehensive revision of the Bankruptcy Code in over 40 years. As is often the case, when major changes are made in any statute, various technical and substantive problems in the new provisions are first recognized only after they become law. The purpose of the bill before you, H.R. 4935, is to correct certain flaws in the securities and commodities provisions of the Bankruptcy Code.

In the last Congress, both Houses passed bankruptcy bills containing securities and commodities amendments very similar to those in H.R. 4935. These earlier bills did not, however, become law because of differences between the two bodies over changes in the retirement system for bankruptcy judges. In addition, in the last session of the present Congress, the Senate passed a bill, S. 863, that would also make amendments to the securities and commodities provisions of the code comparable to those to be made by H.R. 4935.

Because of the similarity of the securities and commodities provisions of the present Senate and House bills, as well as the pressing need for many of these amendments, I wholeheartedly recommend passage of H.R. 4935. As I have stated, a majority of the amendments to be made by the bill are purely technical. Accordingly, I will describe only its most important provisions.

Section 3(c) of H.R. 4935 would amend section 362(b)(6) of the code to clarify that a commodity broker, forward contract merchant, stockbroker, or securities clearing agency may set off a claim for a margin or settlement payment against cash, securities, or other property which it is holding, notwithstanding the bankruptcy of the party for whose account such cash, securities, or property is held and despite the automatic stay of section 362(a). This means that if a commodity or securities brokerage firm, forward contract merchant, commodity clearing organization, or securities

clearing agency has a claim for a margin or settlement payment against the debtor arising, before or after the filing of the petition, out of commodity contracts, forward contracts, or securities contracts—or the liquidation of those contracts—and holds cash, securities, or other property with respect to the same or other commodity contracts, forward contracts, or securities contracts, it would not be stayed from setting off that claim against such cash, securities, or other property, or against any amount with respect to such contracts that it would be required to pay. In the case of forward contracts, the net amount due to or owing from the debtor would be the sum of the net amounts, if any, due or owing with respect to each such contract of the debtor. This section would not permit a setoff that would be unlawful under any applicable law or regulation.

Simultaneously with the repeal of section 764(c) of title 11, section 4 of H.R. 4935 would create a new section 546(d). Section 764(c), together with provisions of section 548, generally prohibits a trustee from avoiding a transfer that is a margin payment or settlement payment, except where the transfer, first, was made with an actual intent to hinder, delay, or defraud other creditors and second, was not taken in good faith by the recipient. These provisions apply to margin or settlement payments made by any debtor, whether or not such debtor is a commodity broker. The new section 546(d) reiterates and clarifies the provisions of current section 764(c). The new section also encompasses both stockbrokers and securities clearing agencies. Thus, it has been placed among the general provisions in chapter 5 of title 11, rather than among the commodity broker provisions of subchapter IV of chapter 7.

Section 5 of the bill would amend section 548(d)(2)(B) of the code to clarify that all margin payments are taken for value to the full extent of such margin payments. In other words, the value received by the debtor who makes a margin payment to a commodity broker, forward contract merchant, stockbroker, or securities clearing agency is equal to the amount of such margin payment. This change, coupled with proposed new section 546(d), makes clear the intent of the code to prohibit a debtor's trustee from setting aside any portion of a margin payment except in the event the transferee of such payment did not take it in good faith.

Section 6 of H.R. 4935 would add a new section 555 to the code to assure that a court or administrative agency cannot stay, avoid, or otherwise limit the right of a stockbroker or securities clearing agency to exercise a contractual right to cause the liquidation of a securities contract because of a condition of the kind specified in subparagraphs (A), (B), or (C) of section 365(e)(1).

A savings clause is included in section 555 at the recommendation of the Securities Investor Protection Corporation and Securities and Exchange Commission with regard to certain orders under the Securities Investor Protection Act of 1970 or any statute administered by the Securities and Exchange Commission. The operation of this savings clause is intended to apply only to an order that (i) is sought by a trustee appointed under the Securities Investor Protection Act of 1970 or by the Securities Investor Protection Corporation pursuant to authority conferred by that act, or (ii) is sought or issued by an administrative agency pursuant to authority conferred by a statute administered by the Securities and Exchange Commission.

It is essential that stockbrokers and securities clearing agencies be protected from the issuance of a court or administrative agency order which would stay the prompt liquidation of an insolvent's positions, because market fluctuations in the securities markets create an inordinate risk that the insolvency of one party could trigger a chain reaction of insolvencies of the others who carry accounts for that party and undermine the integrity of those markets.

Section 6 of H.R. 4935 also would add a new section 556 to the code to make explicit that the bankruptcy of an entity will not prevent a commodity broker or forward contract merchant from causing the liquidation of a commodity contract or forward contract because of a condition of the kind specified in subparagraphs (A), (B), or (C) of section 365(e)(1). The new section would also make explicit the right of a commodity broker or forward contract merchant to receive and retain variation or maintenance margin with respect to commodity contracts or forward contracts of a customer, when and as due, irrespective of whether the commodity contracts are specifically identifiable.

For purposes of section 556, a court order authorized under the provisions of the Securities Investor Protection Act of 1970, as referred to in new section 555 and issued with respect to an entity that is both a stockbroker and a commodity broker or forward contract merchant, would not affect the rights relating to commodity contracts and forward contracts described in section 556. In addition, as used in section 556, the terms "variation" and "maintenance" margin payments would be construed in conformity with their use in the definition of the term "margin payment" in section 761(15).

Section 556 would not impose upon a trustee any statutory duty to make variation or maintenance margin payments. However, in the event a trustee fails to make such payments, a commodity broker or forward contract merchant may exercise its contractual right to liquidate, if it has not already done so. In addition, as used in section 556, the right to liquidate a commodity contract would only be the right to close out an open position. For example, the right to liquidate would not constitute the right to transfer cash, securities, or property held with respect to such contracts, except to the extent otherwise provided in title 11.

The amendments which H.R. 4935 would make to the securities and commodities provisions of the Bankruptcy Code are needed to insure that the market protection purposes of the code are achieved. Accordingly, I recommend passage.

Mr. MATHIAS. Mr. President, I have a question regarding the scope of section 3(c) of H.R. 4935, which basically would amend section 362(b)(6) of the code to exempt from the general stay of actions against a debtor the setoff of a claim against the debtor for a margin or settlement payment arising from a commodity contract, forward contract, or securities contract against cash, securities, or other property held by a commodity broker, forward contract merchant, or stock broker to margin, guarantee or secure other contracts of the debtor.

The language of section 3(c) is more restrictive than that of section 25(b)(3) of S. 863, the parallel provision of Senate bankruptcy technical amendments bill, which would have exempted from the automatic stay the setoff of any mutual debt and claim regarding futures contracts, forward contracts and other specified contracts. I understand that the purpose of the narrower language of section 3(c) is to prevent setoffs for charges such as commissions, or by entities such as banks, which are not necessary to achieve the market protection functions of section 362(b)(6).

I too am concerned about achievement of these market protection functions. Accordingly, my question is whether a settlement payment owed to a customer with respect to a commodity contract, forward contract, or securities contract is property held by a commodity broker, forward contract merchant, or stockbroker to guarantee or secure the customer's other contracts within the meaning of section 3(c), and may therefore be offset against a margin or settlement payment owed by the customer with respect to that or another contract.

Mr. DOLE. Yes.

The bill was ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING AUTHORIZATION

The resolution (S. Res. 412) authorizing the printing of the report entitled "Highway Bridge Replacement and Rehabilitation Program, Third Annual Report to Congress," as a Senate document, was considered and agreed to, as follows:

S. RES. 412

Resolved, That the annual report of the Secretary of Transportation to the Congress of the United States in compliance with section 144(i), chapter 1 of title 23, United States Code, entitled "Highway Bridge Replacement and Rehabilitation Program, Third Annual Report to Congress", be printed as a Senate document.

SEC. 2. There shall be printed three hundred additional copies of such document for the use of the Committee on Environment and Public Works.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING AUTHORIZATION

The resolution (S. Res. 419) authorizing the reprinting of the committee print entitled "NATO: Can the Alliance Be Saved?" was considered and agreed to, as follows:

S. RES. 419

Resolved, That there shall be reprinted for the use of the Committee on Armed Services two thousand copies of its committee print, entitled "NATO: Can the Alliance Be Saved?", a report of Senator Sam Nunn to the Committee on Armed Services, May 13, 1982.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF TO CHMYHALOV AND VASHCHEKO FAMILIES

The bill (S. 312) for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko, was considered.

Mr. LEVIN. Mr. President, 20 years ago, in 1962, the Vashchenkos and Chmykhalovs, two Pentecostalist families from Chernogorsk, Siberia, determined they could not freely practice their religion in the Soviet Union. The Soviets had persistently violated their freedoms of thought, conscience, and religion guaranteed in the Final Act of the Conference on Security and Cooperation in Europe and the Universal Declaration of Human Rights.

Acccordingly, they began emigration procedures in order to come to the United States.

They explicitly followed the letter of Soviet law in filing applications, obtaining invitations from U.S. sponsors, and paying processing fees. But the Soviets have repeatedly denied them exit visas.

Instead, they have subjected family members to constant persecution, harassment, deprivation, and confinement in pyschiatric hospitals, labor camps, and state "reeducation" schools.

Despite this treatment, the Vashchenkos and Chymkhalovs have steadfastly maintained their commitment to emigrating to a free land.

Sixteen years after they began their emigration efforts, in June 1978, eight members of the two families traveled over 2,000 miles to the American Embassy in Moscow at the invitation of Embassy officials. They went seeking emigration advice, not asylum.

But a young boy in their party was dragged away and beaten by Soviet guards before he could enter the Embassy.

The remaining seven stayed in the Embassy waiting for news of the boy. Two weeks later, family members in Chernogorsk phoned them and reported that the boy had been badly beaten and counseled the seven to remain in the Embassy for their own safety.

As word of their plight was publicized, they became known to the world as the "Siberian Seven" and Western nations rallied to their cause.

Human rights organizations began working throughout the United States and Western Europe to promote their emigration.

In March 1982, Congress approved a resolution calling on the Soviet Union to allow them to emigrate. The Department of State reports that senior executive branch officials have raised the issue with top Soviet officials. The Department also reports that Ambassador Max Kampelman raised this matter repeatedly in plenary sessions of the Madrid Conference on Security and Cooperation in Europe.

Despite these efforts to precipitate the granting of exit visas, the Soviets refuse to allow the Vashchenkos and Chmykhalovs to leave. The Soviets have insisted that in order to emigrate, they must return to their hometown and file yet another series of applications.

To protest Soviet refusal to allow them to emigrate, Lidia and Augustina Vashchenko went on a hunger strike in late December 1981.

Lidia grew so weak that she was removed to Moscow's Botkin Hospital. Upon her recovery, she did indeed return to Chernogorsk and joined her brothers and sisters in filing countless applications and paying numerous processing fees. But still she cannot leave.

Lidia met the Soviets' demand by returning to her hometown, but the Soviets have not fulfilled their commitment.

Since Lidia returned home, all hopes for a resolution to this emigration case have been stymied.

After several months of offering empty promises and false information, in June 1982, the Soviets again officially denied them their exit visas. Their situation grows bleaker by the day.

They have been subjected to increasing police harassment and brutality. Currently, family members are not permitted to work and they have been reduced to picking over garbage to feed themselves.

On June 27, 1982, 4 years after entering the Embassy, two Vashchenko family members began another hunger strike. On July 1, 1982, two more family members joined the protest in order to advance their 20-year emigration effort.

While this legislation will not secure exit visas for the Vashchenkos and Chmykhalovs, it will grant them protection under the U.S. Constitution. In so doing, the families will be assured of our deep and abiding concern for them. The bill will also let the Government of the Soviet Union know that congressional interest in this case of human rights violations is mounting.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Congress finds that—

(1) since 1962, thirteen members of the Vashchenko family and eleven members of the Chmykhalov family from Chernogorsk, Siberia have requested that they be released from Soviet citizenship and be permitted to receive exit visas so that they may leave the Union of Soviet Socialist Republics legally and in accordance with the Universal Declaration of Human Rights; and

(2) since June 27, 1978, seven members of the Vashchenko and Chmykhalov families have resided in the United States Embassy in Moscow and have been living in accordance with United States laws.

SEC. 2. Notwithstanding any numerical limitations or any other provision of the Immigration and Nationality Act, for purposes of such Act, Maria and Timofei Chmykhalov, and Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko shall be issued visas and admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required number during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of such Act, or if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 202 of such Act.

SEC. 3. Notwithstanding section 316 of the Immigration and Nationality Act or any other provision of law, for purposes of the Immigration and Nationality Act, Maria and Timofei Chymkhalov, and Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko shall be held and considered to have been lawfully admitted to the United States for permanent residence as of June 27, 1978, and to have been physically present and residing therein continuously since such date.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there are a number of nominations on my executive calendar which are cleared for action at this time. I invite the attention of the minority leader once again to those nominations beginning under National Advisory Council on Women's Educational Programs, beginning on page 3 of today's executive calendar, continuing through all of the nominations on page 4 and all of the nominations on page 5, including the one nomination of Jaime Pieras, Jr., of Puerto Rico, to be U.S. district judge appearing under the caption "The Judiciary."

Mr. ROBERT C. BYRD. Mr. President, in response to the majority leader, the minority is ready to proceed with the nominations enumerated.

Mr. BAKER. Mr. President, I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering the nominations just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominees be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the nominees are considered and confirmed en bloc.

The nominees confirmed are as follows:

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Lilli K. Dollinger, of Texas, to be a Member of the National Advisory Council on Women's Educational Programs.

Mary Jo Arndt, of Illinois, to be a Member of the National Advisory Council on Women's Educational Programs.

Marge Bodwell, of New Mexico, to be a Member of the National Advisory Council on Women's Educational Programs.

Marcilyn D. Leier, of Minnesota, to be a Member of the National Advisory Council on Women's Educational Programs.

Virginia Gillham Tinsley, of Arizona, to be a Member of the National Advisory Council on Women's Educational Programs.

Judith D. Moss, of Ohio, to be a Member of the National Advisory Council on Women's Educational Programs.

Marie Sheehan Muhler, of New Jersey, to be a Member of the National Advisory Council on Women's Educational Programs.

Eleanor Knee Rooks, of Tennessee, to be a Member of the National Advisory Council on Women's Educational Programs.

Maria Pornaby Shuhi, of Florida, to be a Member of the National Advisory Council on Women's Educational Programs.

Helen J. Valerio, of Massachusetts, to be a Member of the National Advisory Council on Women's Educational Programs.

Betty Ann Gault Cordoba, of California, to be a Member of the National Advisory Council on Women's Educational Programs.

Gilda Bojorquez Gjurich, of California, to be a Member of the National Advisory Council on Women's Educational Programs.

Irene Renee Robinson, of the District of Columbia, to be a Member of the National Advisory Council on Women's Educational Programs.

Judy F. Rolfe, of Montana, to be a Member of the National Advisory Council on Women's Educational Programs.

Eunice S. Thomas, of Georgia, to be a Member of the National Advisory Council on Women's Educational Programs.

THE JUDICIARY

Jaime Pieras, Jr., of Puerto Rico, to be United States District Judge for the District of Puerto Rico.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I now ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERASIAN CHILDREN

Mr. HAYAKAWA. Mr. President, the Senate has only a few months left in the 97th Congress in which to consider a multitude of important issues and legislation. But in the rush to pass a sound budget, reform our criminal justice system, and consider sensitive social issues, I hope that we will not overlook the plight of the Amerasian children of Southeast Asia. I hope that we will pass S. 1698.

When the United States withdrew from the conflicts of Korea and Southeast Asia, it left behind the human flotsam and jetsam that we now call Amerasians. These children of American fathers and Asian mothers are not accepted in their lands of birth. The shape of their eyes and the color of their skin set them apart and make them lifelong targets of ostracism and persecution.

I have joined Senator DENTON as a cosponsor of S. 1698 because I believe we have a moral responsibility to assist the Amerasian children in returning to the land of their fathers. The bill is carefully crafted. It will not open the floodgates of uncontrolled immigration, but will allow the Amerasians to immigrate to the United States under our current immigration laws.

S. 1698 will allow Amerasian children from Korea, Thailand, Vietnam, Kampuchea, and Laos born after 1950 to apply for entry into the United States under the first and fourth immigration preference categories. Currently no such categories are available to Amerasians. The bill requires that each eligible child have a sponsor who will be financially responsible for the applicant for 5 years or until the age of 21, whichever is longer.

It is unconscionable that we, knowing of their plight, do nothing to aid the Amerasians. It was the responsibility of the Government to involve the United States in the Asian conflicts and it is the responsibility of the Government to heed the cries of the children of U.S. servicemen who remain behind after the fighting has ceased and our troops have returned.

Mr. President, last month in Senate hearings the administration spoke out strongly for passage of S. 1698. This month Vietnam announced that it would allow its 8,000 Amerasians to leave the country. Now it is up to the Congress to pass S. 1698 and bring our children home.

I ask unanimous consent that an editorial from this Monday's New York Times be printed in the RECORD, and I recommend it to my colleagues.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BRING THE DUST CHILDREN HOME

The cause of the pitiful bui doi, the dust children of Southeast Asia, has just been advanced by a surprising benefactor, the Foreign Minister of Vietnam. It's an opening that Congress, as it returns to work today, has a duty to seize.

The dust children of Vietnam, like the offspring of G.I.'s and other Americans elsewhere, are blond, or black, or blue-eyed, or round-eyed: visibly Western. Many are harassed. Many are left to run the streets. Even those whose mothers struggle to get them into the United States, cannot come. Vietnam won't let them out. America won't let them in.

Now, however, Foreign Minister Nguyen Co Thach says his country is ready to let out the 8,000 Amerasian children in Vietnam. He no longer insists that their fathers first admit to paternity, a condition that

barred most. He says only that Congress must pass the pending legislation permitting the children's entry.

Perhaps it is a mistake to take all this at face value. Perhaps Mr. Thach has other purposes in mind. Vietnam needs no license from the United States Congress. It could simply let the children go, and force American officials to scramble to admit them as refugees.

But it is more likely that Mr. Thach means what he says. Refugees are, by definition, fleeing persecution; for the children to be labeled refugees would paint Vietnam as a persecutor in world opinion. Legislation would provide a neutral remedy, extending to Americans the priority status to which children of Americans are entitled.

Some argue that, so long as Vietnam says no, the legislation is meaning piety. If Mr. Thach is sincere, that argument collapses. But even if he is not, the case for action remains compelling. To eliminate the obstacle at this end would put the onus squarely on Vietnam.

And there's a still-more important argument for the bill. There are Amerasian children also in Korea, Thailand, Laos, even Cambodia. Whatever happens in Vietnam, legislation would be required for them to come to America.

Representative Romano Mazzoli, Chairman of the House Immigration Subcommittee, understands that. He pressed for an Amerasian provision in the pending immigration reform bill. Senator Alan Simpson understands that. He promises prompt action on the Amerasian bill proposed by Representative Stewart McKinney of Connecticut and Senator Jeremiah Denton of Alabama.

The enemy now is time. Though it is still steamy July, there aren't many legislative days left in the 97th Congress. Before adjourning to campaign, it must still act on tax increases, spending cuts, clean air, bankruptcy—not to mention the big immigration bill. In other words, time is running out for America to claim its children.

They will always, indelibly, be American. They will not long remain children.

NURSING HOME REGULATIONS

Mr. BOREN. Mr. President, I am today joining as a cosponsor of Senate Resolution 411, introduced by my friend from Arkansas, Senator PRYOR. This resolution expresses the sense of the Senate disapproving proposed regulations issued by the Department of Health and Human Services on May 27, 1982, changing survey and certification requirements for nursing homes and other health care facilities participating in the medicare and medicaid programs.

I want to commend my able colleague from Arkansas for his aggressive leadership in protecting the interests of the nearly 1½ million Americans who currently reside in nursing homes. I share his deep concern that these proposed regulations would undermine our efforts to maintain the highest possible standards for nursing home care.

Although I support efforts to streamline Federal rules and regulations to eliminate costly, duplicative bureaucratic requirements, I cannot support changes such as those proposed by the Department which run the risk of compromising the quality of care afforded the residents of nursing homes. Among other things, the proposed regulations would eliminate requirements for such things as quarterly staffing reports, automatic resurveying of facilities found out of compliance with health and safety standards, and mandatory annual inspections. It is the latter proposal—dropping the annual inspection requirement—which particularly concerns me.

Mr. President, we have made hard-fought gains in our efforts to improve the quality of care in the Nation's nursing homes. I strongly believe we must continue doing all we can to maintain and improve the standards of care. As an elected official, I feel it is my duty to help assure our elderly citizens receive the kind of care they need and deserve.

I am pleased to add my name as a cosponsor of Senate Resolution 411, and I urge its adoption by the Senate.

TOO MUCH AUTHORITY TO POSTAL SERVICE

Mr. HATCH. Mr. President, on May 19, 1982, the Senate passed S. 1407 by voice vote. At that time the vote on the measure was unanimous. If this measure were before the Senate today I would make certain that at least one vote was cast in opposition to the bill and I feel certain that several others here today might consider voting against this bill also.

I am well aware that the bill was passed by the Senate Subcommittee on Civil Service, Post Office, and General Services by a 3-to-0 vote, and in fact was passed out of the Governmental Affairs Committee by a 14-to-0 vote. However, what concerns me is that the National Health Federation was attempting to bring to the attention of the Congress some grave problems with this legislation. I say this because the NHF has played a critical role in enacting, amending, or killing many major Federal and State health legislative and regulatory proposals for the past 27 years. In reading the RECORD, I have noticed that no mention was made of the opposition by NHF. I feel this failure was a disservice to the Senate.

In addition to NHF's opposition, the widely read, highly respected and influential columnist, James J. Kilpatrick, had written two articles several weeks prior to the debate on the bill. Both of these articles expressed strong opposition to giving the U.S. Postal Service additional inspection and enforcement authority, such as was passed in S. 1407.

Mr. President, I am sorry that the legislation providing the Postal Service with this authority was passed. I think it behooves all of us to watch a little more carefully when items are brought up on the calendar and presented as noncontroversial in nature. I know I will in the future.

SMALL WORLD ENTERTAINERS

Mr. HATCH. Mr. President, later on this week a group of young entertainers from along the Wasatch Front in northern Utah will depart Salt Lake City to participate in the first annual Hong Kong International Children's Choir Festival. To these young boys and girls this will be a trip that will always be remembered. After singing in Hong Kong they will have the opportunity to visit the mainland of China for a day and will culminate their trip by singing at Disneyland upon their return to the United States.

Groups such as the Small World Entertainers do not materialize overnight. This group began in 1969 as a family unit entertaining at senior citizen functions and benefits for charities. Soon the family group expanded to include many talented children.

Mr. President, the Small World Entertainers have been privileged to perform at many locations and with many groups. They have performed on television in the past with such notables as Jimmy Dean and Mel Tillis. These young children, their parents and the people who give so much of their time to make all of this possible are to be commended and I am proud to say that they are from the great State of Utah.

S. 2326—THE SMALL BUSINESS PATENT PROCUREMENT FOR NEW DEVELOPMENTS AND TECHNOLOGIES

Mr. HATCH. Mr. President, with the exception of persistently high interest rates, perhaps the greatest outside threat to establishing a small business and making it prosper today is the impact of Government policies and regulations. Because such regulations often place disproportionate burdens on small businesses, I believe it is important that we, as public policymakers, act responsibly to insure that a healthy regulatory environment is maintained for the small business community.

For this reason, I am pleased to be a cosponsor of S. 2326, along with Senators WEICKER, THURMOND, DECONCINI, and KENNEDY. This bill is designed to maintain an equitable regulatory framework for small businesses procuring patents for new developments and technologies.

Under the administration's proposal to recover 100 percent of the cost of maintaining, filing, and issuing patents, small businesses would be re-

quired to pay approximately $3,200 to obtain a patent; a prohibitive sum for a small inventor. Although this schedule is not unreasonable to the development of a large firm, I believe it would have a significantly negative impact on the small business community, and consequently, to the Nation's development as a whole.

The accomplishments of small businesses in providing the market with new technology and responding to changing market conditions have always been, and continue to be, remarkable. It is a well-known fact that small businesses continually outperform large businesses in the area of research and development. Their breakthroughs not only supply the Nation with vital new technology, but also provide the Nation with more jobs. In fact, an MIT Development Foundation study indicates that young technology companies with sales equaling only 2 percent of those in major industry created 34 percent more jobs than those created by major companies.

S. 2326 will allow small businesses to pay 50 percent of recovery costs to the Patent Office, and as amended in H.R. 6260 will provide for price indexing adjustment of the fees every 3 years. The Patent Office has assured sponsors of the legislation that the enactment of this payment schedule will pose no administrative difficulties.

Because of the substantial contributions made by small businesses in the area of research and development and because I believe the 100 percent recovery fee schedule will place a disproportionate economic burden on small businesses, I have endorsed and cosponsored S. 2326, and thank my colleagues WEICKER, THURMOND, DECONCINI, and KENNEDY for their efforts in securing passage of this legislation.

WHAT WE GAIN FROM THE EQUAL RIGHTS AMENDMENT

Mr. MOYNIHAN. Mr. President, of the many things said and written about the recent lapsing of the period for ratification of the equal rights amendment, few were as eloquent or as optimistic as a column that appeared July 4, 1982, in the Niagara, N.Y., Gazette.

The column, authored by the newspapers' managing editor, Ms. Katherine Moore, notes that "regardless of what was lost in ERA itself, we should never lose sight of the many gains. Whether it wanted to or not, the Nation did have its consciousness raised."

That, Mr. President, is a sentiment worth noting for it is important to locate the battle for the equal rights amendment in the context of history and in the prolonged struggle women in America have pursued for equal rights and equal opportunity.

It was 134 years ago that American women held their first convention dedicated to organizing a women's movement in this land. Elizabeth Cady Stanton and Lucretia Mott organized that pivotal meeting, held in 1848 in the Wesleyan Chapel at Seneca Falls, N.Y. That convention issued a "Declaration of Sentiments," modeled on the Declaration of Independence, calling for equal education opportunities, the right of women to own property and women's suffrage.

It would be 72 years before the Nation responded to Elizabeth Cady Stanton's call for votes for women by ratifying the 19th amendment to the Constitution in 1920. Such was the pace at which our political institutions responded to what was arguably the single largest mass movement in American history. There were, I must confess, moments in which I thought it would take Congress nearly as long to commemorate the events at Seneca Falls. Happily, however, it took but 10 months to enact legislation I proposed in February 1980 to establish a Women's Rights Historic Park at Seneca Falls as part of our national park system.

There was another, less renown, women's rights convention in Seneca Falls. In 1923, Alice Paul, courageous and unheralded campaigner for women's rights—she is not even mentioned in Harvard University's three volume work, "Notable American Women!"—wrote the equal rights amendment. At the Seneca Falls convention that year, the National Women's Party, which Ms. Paul founded in 1913, endorsed it. Thus did they carry on the work begun in Seneca Falls in 1848. Votes for women, Ms. Paul knew, are only a step toward full equality for women.

But from that first convention in Seneca Falls, we can measure the progress women have made toward recognition of their fundamental rights. And, as Ms. Moore notes in her column, from the growth of a modern women's movement in the late 1960's and early 1970's until now, we can measure the extraordinary gains women have made as equal participants in the economic and social life of our Nation.

The lesson is simple: It may take time, but the struggle continues and in the end, it invariably achieves its goal. Just so with the struggle for women's suffrage. So, too, with the continuing fight for ERA.

Mr. President, I ask unanimous consent that Ms. Katherine Moore's column from the Niagara Gazette of July 4, 1982, be printed at this point in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Niagara (N.Y.) Gazette, July 4, 1982]

ERA RAISED OUR CONSCIOUSNESS

(By Katherine Moore)

DEAR READERS: The Equal Rights Amendment died quietly at midnight Wednesday.

Its wording was simple:

"Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

The fact it didn't become part of the United States Constitution after 10 years of campaigning seems incredible. This is the mighty United States, leader of the modern world—of the "free world." Yet equality for its women is not stipulated in its Constitution as it is for men.

For a lot of women—and men—the fact and the injustice go beyond simple rage or frustration. It's possible there will be some regression now that ERA is out of the way. No one really expects that women will be ordered to wear veils, but we can't afford to ignore the powers of an increasing conservative Supreme Court.

The failure of ERA is easier to understand if you realize that the decision was made by a relatively tiny handful of state representatives, predominently male. Despite our idealistic notions and faith in them, they don't always vote the wishes of the majority of their constitutents.

Many surveys over the years showed that had the amendment gone to public vote, it would have passed. Maybe ERA should be introduced again, this time with the decision to be made by women. Perhaps, since women weren't equally represented in the ranks of state lawmakers, the whole thing should be thrown out and reintroduced. Many court cases appear to have been based on less.

There's no doubt that every inch of ERA's ill-fated journey will be reviewed; someone will agonize over every stumbled step. Much will be learned from the misconceptions of ERA opponents.

They were the ones who honestly and fearfully believed the ridiculous notion that women and men would be forced to share toilets in public places, as we do in our homes. And they were the Phyllis Schlaflys who knew better but profited greedily by fomenting and feeding these misconceptions.

But there were victories. Many of them. Women have made great strides toward equality during the past 10 years. Pay, in many instances, is more equitable. Talented women are now found in positions that formerly were the exclusive domain of men. A young woman can freely dream of becoming a jet pilot, a police officer, a firefighter.

Men, too, have increasingly crossed the sterotype line to become kindergarten teachers, nurses, telephone operators. Men are no longer embarrassed if they enjoy being more involved in the rearing of their children and the art of homemaking.

Gains. Regardless of what was lost in ERA itself, we should never lose sight of the many gains.

Whether it wanted to or not, the nation did have its consciousness raised.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

NATIONAL URBAN POLICY REPORT—MESSAGE FROM THE PRESIDENT—PM 152

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to the National Urban Policy and New Community Development Act of 1970 (42 U.S.C. 4503), I transmit herewith the third biennial National Urban Policy Report.

RONALD REAGAN.

THE WHITE HOUSE, *July 13, 1982.*

MESSAGES FROM THE HOUSE

At 3:07 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 6198) to amend the manufacturing clause of the copyright law, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved that the bill pass, two-thirds of the House of Representatives, agreeing to pass the same.

The message also announced that the House has passed the following bill, without amendment:

S. 2240. An act to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6197. An act to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal years 1983 and 1984; and

H.R. 6417. An act to amend Public Law 96-432 relating to the United States Capitol Grounds.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 216. A concurrent resolution retaining nutritional goals in the school lunch program.

ENROLLED BILL SIGNED

At 4:55 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bill:

S. 2240. An act to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 5:19 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 6682) making urgent supplemental appropriations for the fiscal year 1982, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved, that the bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6685) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. LONG of Maryland, Mr. YATES, Mr. ROYBAL, Mr. BEVILL, Mr. BENJAMIN, Mr. FAZIO, Mr. CONTE, Mr. MCDADE, Mr. EDWARDS of Alabama, Mr. MYERS, Mr. COUGHLIN, Mr. REGULA, and Mr. GREEN as managers of the conference on the part of the House.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 6197. An act to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal years 1983 and 1984; to the Committee on Commerce, Science, and Transportation.

H.R. 6417. An act to amend Public Law 96-432 relating to the U.S. Capitol Grounds; to the Committee on Rules and Administration.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 216. Concurrent resolution retaining nutritional goals in the school lunch program; to the Committee on Agriculture, Nutrition, and Forestry.

ENROLLED BILL PRESENTED

The Secretary reported that on today, July 13, 1982, he had presented to the President of the United States the following enrolled bill:

S. 1230. An act to provide for the minting of commemorative coins to support the 1984 Olympic games.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs:

Special Report on Commodity Investment Fraud with additional views (Rept. No. 97-495).

REPORT ON COMMODITY INVESTMENT FRAUD

● Mr. ROTH. Mr. President, on behalf of the Permanent Subcommittee on Investigations, which I chair, I am today filing with the Senate a report on commodity investment fraud. The report contains an overview of the 8-month investigation by the PSI staff into commodity fraud which culminated in 3 days of public hearings held by the subcommittee in February of this year. The report also makes several recommendations including an increased role for the States in combating commodity investment fraud; the need for more effective registration by the Commodity Futures Trading Commission (CFTC), the Federal Agency responsible for regulating the futures industry; and a continued ban on commodity options until such time as the CFTC can prove to Congress that such contracts can be effectively regulated by Federal or State authorities, as required by section 4c of the Commodity Exchange Act.

It is gratifying to see that some of the report's recommendations are already being implemented. For instance, the Agriculture Committee has reported out S. 2109, the Futures Trading Act of 1982, also known as the CFTC reauthorization bill, which authorizes the sharing of enforcement and registration information with appropriate State officials. The bill also clarifies State jurisdiction over off-exchange transaction and unregistered traders. Moreover, commodity registration or licensing duties, which are extremely taxing on the limited CFTC resources, are expected to be transferred to the National Futures Associations, a self-regulatory association, by October of this year. Finally, fingerprinting requirements for individuals required to be registered under the act have been implemented, as of July 1, 1982.

Despite these gains, many of the problems illustrated by the report remain. The States are still preempted from exercising antifraud jurisdiction over individuals registered with the Commission; the NFA now indicates that it may be unable to assume its regulatory duties as originally planned for at least 5 years; and the CFTC finger printing requirements will not apply to anyone who has registered with the Commission before July 1, 1982.

Of greater concern, however, is the Agency's apparent commitment to its pilot options programs, despite serious questions as to the CFTC's ability to regulate this type of instrument. At a time when commodity fraud schemes are bilking customers of at least $200 million a year, the CFTC has authorized the trading of an exotic instru-

ment with an absolutely abysmal track record. In fact the Federal Government has banned options several times in this century. Quite understandable, the new Futures Industry Association has already indicated that, after a 6-month learning stage, it will actively promote the expansion of the commodity options pilot program. But, in a June 1981, memorandum to the Commission, the Director of the Division of Enforcement of the CFTC recommended that the pilot options program not be adopted because it could not be policed, despite minor changes later adopted by the Commission, the Enforcement Director was still expressing reservations at our PSI hearings in February 1982. The reservations centered primarily on the increased CFTC responsibility that will result from the options programs.

The report also points out that the Commission was advised by a senior staff member that already scarce resources would have to be diverted from other needed programs to regulate options.

Now we detect growing support for an expansion of the options program. Specifically, there is a movement toward allowing options on physicals. The CFTC has set July 30, 1982, as its deadline for public comment on its proposal to expand the pilot program and, from all indications, it is preparing to implement such an expanded program. Yet, the CFTC does not have the ability or the resources to effectively regulate these instruments.

Within the next few weeks, the Senate will be asked to consider S. 2109, the CFTC reauthorization bill. Prior to that consideration I would urge my colleagues to review the subcommittee's report and to familiarize themselves with the extremely important issues at hand.●

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COHEN (for himself and Mr. LEVIN):

S. 2725. A bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process, and that periodic reviews of disability cases shall be carried out only to the extent that adequate time and personnel are available; to the Committee on Finance.

By Mr. SASSER:

S. 2726. A bill to provide for an increase in monetary aggregates and the maintenance of stable interest rates, to provide for the voluntary establishment of dual prime rate policies by the Board of Governors of the Federal Reserve System, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH:

S. 2727. A bill to amend the Social Security Act and the Internal Revenue Code to provide more consistent social security coverage for U.S. citizens employed by foreign subsidiaries of American business: Elimination of requirement that American employer be a corporation; to the Committee on Finance.

By Mr. PERCY (by request):

S. 2728. A bill to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DeCONCINI (for himself, Mr. DOMENICI, Mr. D'AMATO, Mr. HEFLIN, Mr. BAKER, Mr. KASTEN, Mr. BIDEN, Mr. EAGLETON, Mr. EXON, Mr. LEAHY, Mr. LEVIN, Mr. RIEGLE, Mr. SARBANES, and Mr. ROBERT C. BYRD):

S. Res. 423. A resolution to congratulate the Italian National Soccer team for winning the World Cup Championship; considered and agreed to.

By Mr. BAKER:

S. Res. 424. A resolution authorizing testimony by Roy C. Meyers and Herman Schwartz, and representation by the Senate Legal Counsel in the cases of William P. Tavoulareas, et al. v. The Washington Post Co., et al. and William P Tavoulareas, et al. v. Philip Piro, Civil Action Nos. 80-3032, 80-2387; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COHEN (for himself and Mr. LEVIN):

S. 2725. A bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process, and that periodic reviews of disability cases shall be carried out only to the extent that adequate time and personnel are available; to the Committee on Finance.

SOCIAL SECURITY DISABILITY BENEFITS

Mr. COHEN. Mr. President, today Senator LEVIN and I are introducing legislation to provide an interim solution to the grave problems resulting from the Social Security Administration's procedures for reviewing the continued eligibility of individuals receiving disability benefits. We intend to offer this legislation as a floor amendment at the earliest opportunity to provide immediate relief to the thousands of disabled individuals who are having their benefits erroneously terminated only to be reinstated to the program after the lengthy appeals process has run its course.

Last month, Senator LEVIN and I introduced comprehensive legislation to revamp the SSA's procedures for conducting the reviews. Because it will take time for Congress to consider our legislation, we believe that it is imperative that an interim bill be approved as soon as possible to protect those severely disabled workers whose benefits are wrongfully terminated and to slow down the process so that it may proceed at a more rational pace.

In response to a congressional mandate, the Social Security Administration has been conducting continuing disability investigations (CDI's) of individuals with nonpermanent disabilities to insure that only those who are still disabled and unable to work continue to receive benefits. Unfortunately, the implementation of this law has created chaos and inflicted pain the Congress neither envisioned nor desired when it enacted what was intended to be a sound management tool.

The hardships imposed on disability recipients have been severe. Benefits have been terminated in more than 40 percent of the cases reviewed—far above the 20-percent rate originally predicted by the General Accounting Office. In a number of cases, the claimants appear to be severely disabled and unable to resume working.

The administrative law judges, who hear appeals from the claimants, are reversing the cessation decisions for more than two-thirds of the individuals who appeal. But the road to reinstatement is arduous and lengthy, and, in waiting for a final decision, the claimant may be without benefits for many months, or even a year, due to the tremendous backlog of cases. Individuals who are reinstated by an administrative law judge receive back benefits, but their checks usually are not resumed for several weeks after the decision is rendered.

Our interim solution to these problems has two parts: It would continue disability payments until a hearing is held before an administrative law judge, and it would direct the Secretary of Health and Human Services to proceed with the reviews at a rate which insures that sufficient staff and time are available to conduct high quality investigations.

This legislation would eliminate the needless financial hardships now imposed on disabled people mistakenly removed from the program who will have their benefits restored by an administrative law judge. It would provide financial protection and the continuation of benefits that these claimants eventually would receive anyway. To control the cost of this provision and to discourage frivolous appeals, our bill would require claimants to repay any benefits paid pending appeal if the judge upholds the termination decision.

The second part of our bill directing the Secretary to slow down the number of cases reviewed would help both claimants and the State agencies which conduct the investigations. Currently case files are literally overflowing out of boxes in some State offices. Unreasonable burdens have been im-

posed on many State agencies, particularly in those States where personnel freezes have prevented the hiring of needed staff. By directing the Secretary to proceed with the reviews at a pace that recognizes the necessity for careful evaluations and a more even workload, our legislation would improve the quality of the decisions and lessen the backlog of appeals.

Mr. President, fundamental reforms are undoubtedly needed in the Social Security Administration review procedures, and I believe that the comprehensive legislation that Senator LEVIN and I introduced on June 24 would accomplish this goal. However, Congress would be remiss in waiting for comprehensive legislation to solve these urgent problems. While we should continue to seek long term reforms, we should act immediately to provide relief for the disabled Americans who are the victims of a faulty and unfair system. I urge my colleagues to support our efforts to provide both short term and long term solutions.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Continued Payment of Disability Benefits During Appeal

"(g)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

"(C) a timely request for a hearing with respect to the determination that he is not so entitled is made under section 221(d),

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII), continued for an additional period beginning with the first month for which (under such determination) such benefits are no longer otherwise payable and ending with the month preceding the month in which a decision is made after opportunity for such a hearing.

"(2) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1) pending a hearing, and the decision after opportunity for such hearing affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title.".

(b) The amendment made by subsection (a) shall apply with respect to determinations (that individuals are not entitled to benefits)—

(1) which (A) are made on or after the date of the enactment of this Act, or (B) were made prior to such date but with respect to which a timely request for a hearing under section 221(d) of the Social Security Act was made on or prior to, or within 60 days after, the date of the enactment of this Act and with respect to which such hearing was not held prior to such date; and

(2) which are made prior to January 1, 1984.

SEC. 2. (a) Section 221(i) of the Social Security Act is amended—

(1) by inserting "(1)" after "(i)";

(2) by inserting ", subject to paragraph (2)" after "at least every 3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The requirement of paragraph (1) that cases be reviewed at least every 3 years shall only apply to the extent that the Secretary determines that sufficient personnel and processing time are available to ensure that the reviews conducted are of the highest quality. The Secretary shall determine the number of cases which can be adequately reviewed by the applicable State agency or by the Secretary (as may be appropriate), given the requirements of the preceding sentence, and where, as a result of such determination, less than all cases are being reviewed every 3 years, the Secretary shall establish uniform criteria for giving priority to reviews of those types of cases in which ineligibility is most likely to be found.".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

● Mr. LEVIN. Mr. President, last month Senator COHEN and I introduced a major comprehensive reform bill for the social security disability (title II) review process, S. 2674. Today's bill would provide stopgap relief until the Senate can fully consider that comprehensive legislation.

The bill we introduce today would allow those persons who are subject to what we call CDI or continuing disability reviews to continue to receive their disability benefits through any appeal of a termination decision to an administrative law judge. Presently benefits are terminated 2 months after the person is detemined to be no longer disabled by the State agency. Appeal to an administrative law judge can take anywhere from 9 months to 1 year after the termination. Should the administrative law judge affirm the termination decision, the benefits paid after the termination date would be treated as overpayments and recoverable by the Social Security Administration. This provision would be effective through December 31, 1983. The bill would also direct the Social Security Administration to slow down the number of CDI reviews it undertakes in order to reduce the existing backlog and the concomitant pressure on the disability examiners.

These legislative proposals are the product of an extensive investigation into the disability review process by the Subcommittee on Oversight of Government Management of the Govermental Affairs Committee. Senator COHEN is the chairman of that subcommittee, and I am the ranking minority member.

The investigation demonstrated the serious problems that are inherent in the CDI system and the fact that such problems are exacerbated by the massive increase in the number of cases subject to review—a result of the congressional directive in the 1980 Social Security Amendments to review each disability case once every 3 years. I refer my colleagues to the statements of Senator COHEN and myself made at the time S. 2674 was introduced in the June 24 CONGRESSIONAL RECORD for a more detailed explanation of our findings. The entire review process desperately needs revision, and S. 2674 attempts to do that. Understandably, it will take time to pass that or similar legislation. However the inequitable temination of individuals deserving of benefits will not be suspended in the interim. We must act to temporarily alleviate the effects of the present system while we try to permanently improve it, in order to avoid needless human suffering.

Senator COHEN and I intend to offer this bill as an amendment to the upcoming debt ceiling bill to insure speedy congressional and Presidential action. We seek and welcome the support of all our colleagues in this effort.●

By Mr. SASSER:

S. 2726. A bill to provide for an increase in monetary aggregates and the maintenance of stable interest rates, to provide for the voluntary establishment of dual prime rate policies by the Board of Governors of the Federal Reserve System, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

INTEREST RATE REDUCTION ACT OF 1982

● Mr. SASSER. Mr. President, today I am introducing the Interest Rate Reduction Act of 1982.

Mr. President, this country is in a deep recession. And a prime cause of this recession is high interest rates. High interest rates are literally crushing the life out of our economy.

The prime rate now stands at 16½ percent. The average mortgage rate stands at 16.87 percent, and in the last several months it has not been uncommon for the "real" rate of interest to exceed 8–10 percent, the real rate of interest being the prime rate less the rate of inflation.

The economic distress caused by high interest rates is widespread. Our annual rate of housing production is half of what it should be to house a growing and changing population. For the first 6 months of this year, small business failures totaled 11,987. If that

rate keeps up through the end of this year, we will see more small business failures than at any time since the Great Depression. We are only using about 70 percent of our industrial capacity, and farm debt has increased to $2 billion in the space of 5 years.

In short, Mr. President, high interest rates are ripping Main Street apart. The most basic components of our economy—housing, small business, and farming—are being devastated by high interest rates.

And in the midst of all this economic distress, what do we find?

We find that after restricting the growth of the money supply last year to a rate of 2.3 percent when it could have let the money supply grow by some 6 percent, the Federal Reserve Board in 1982 decided that it should let the money supply only grow by a rate of some 2.5 percent to 5.5 percent.

Now presently, the Federal Reserve Board is within its monetary targets, but only because of a precipitous $9 billion drop in the money supply since the week ending June 1. And there is still very little indication that the Federal Reserve Board intends to revise its money supply targets this year in order to counter the interest rate crunch we are now experiencing.

Mr. President, the Congress cannot sit idly by while high interest rates impede our chance of economic recovery. The American people expect the President and the Congress to exert some leadership on this matter.

That is why I am introducing the Interest Rate Reduction Act of 1982 today. The bill was three main sections.

The first section would authorize the establishment of a dual prime rate policy in each of the 12 Federal Reserve districts. This dual prime rate policy is patterned after the dual prime rate policies encouraged by Federal Reserve Board Chairman Arthur Burns in 1973–74. It offers the financial community in each Federal Reserve district the opportunity to establish a two-tiered prime rate policy designed to ease interest rate pressures on various sectors of the economy that are in danger of failing as a result of high interest rates. I would emphasize that the dual prime rate policy is voluntary in nature and it does not require our financial institutions to make loans to high-risk borrowers. Nor does the prime rate policy put into effect any mandates that would restrict lending to various sectors of the economy. The legislative authorization for this policy extends until the end of 1983.

The second component of the legislation calls on the Federal Reserve Board to provide for an increase in the monetary growth targets for 1982 and 1983. Specifically, S. 2726 calls for a monetary growth rate of 9–10 percent for M_1 in 1982, and for a growth rate of 6–8 percent in this monetary aggregate for 1983.

Such an increase in the monetary targets would indicate to the financial markets that the Federal Reserve Board is reversing its tight money policy for this 2-year period. It would tell businessmen and consumers that there will be a sufficient money supply for consumers to buy the goods they need and for businesses to invest in expanding their productive capacity. It would acknowledge the fact that the tight money policies of the Federal Reserve Board should be reversed so that interest rates can be lowered over the next 2 years in order to help bring about the economic recovery that our country so desperately needs.

Finally, the last component of S. 2726 provides for changes in the terms of the members and Chairman of the Board of Governors of the Federal Reserve Board.

It stipulates that the members of the Board of Governors shall serve for terms of 7 years and that the Chairman of the Board of Governors shall serve for a 4-year term concurrent with that of the President.

The purpose of this last section of S. 2726 is to make the Federal Reserve Board more accountable to the Congress, the President, and the American people. It provides that the Chairman of the Federal Reserve Board shall be appointed by the President, thereby insuring that the Chairman of the Board will reflect the administration's monetary policy viewpoints. It also shortens the terms of the members of the Federal Reserve Board so as to provide for more diverse membership on the Board. This will give the President and the Congress the opportunity to have more small businessmen, farmers, and representatives of other sectors of the economy serve as members of the Board. All too often the Federal Reserve Board's membership has been composed of former Federal Reserve Board staff and former presidents of Federal Reserve Board banks. Since the conduct of monetary policy affects every part of our economy, I think that it is only fair that the opportunity for more diverse membership on the Board be actively sought by the Congress and the President.

Mr. President, I ask unanimous consent that the full text of the Interest Rate Reduction Act of 1982 be printed in the RECORD, along with various news articles and editorials concerning the adverse impact that high interest rates are having on the American economy.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interest Rate Reduction Act of 1982".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) extraordinarily high interest rates are pushing this country into a severe economic recession;

(2) manufacturing production capacity is at an alltime low as measured by the statistics of the Board of Governors of the Federal Reserve System on industrial capacity;

(3) small business bankruptcies amounted to over 17,000 in 1981 and may exceed 20,000 in 1982 given current interest rate levels;

(4) housing production reached its lowest level in 1981, and current mortgage rates threaten further deterioration in the housing industry;

(5) national unemployment is at record levels and threatens to go above 10 percent in 1982; and

(6) a root cause of these serious economic problems is the tight monetary policies presently practiced by the Board of Governors of the Federal Reserve System.

(b) The purpose of this Act is to authorize the Board of Governors of the Federal Reserve System to implement in each of the twelve Federal reserve districts a "dual prime rate" policy that will protect small business, farm, and other selected borrowers against burdensome levels of interest rates, to stabilize interest rates, and to make certain modifications in the terms of the Board of Governors of the Federal Reserve System.

DUAL PRIME RATE

SEC. 3. The Federal Reserve Act is amended by inserting after section 2A the following:

"DUAL PRIME RATE

"SEC. 2B. (a) Not later than 30 days after the date of enactment of this section, the Chairman of the Board of Governors of the Federal Reserve System shall convene a meeting of the presidents of the twleve Federal reserve banks for the purpose of encouraging the establishing of dual prime rate lending policies to aid the distressed sectors of the economies in each of the Federal reserve districts. The Chairman may call such additional meetings as may be required to implement a dual prime rate policy as he may deem necessary.

"(b) In establishing a dual prime rate policy for each Federal reserve district, the President of each Federal reserve bank, after appropriate consultation with the economic community in each district, shall aim to institute a lending policy by the bank which provides for below market interest rates to small business, farm, and other selected borrowers that require such below market rates in order to maintain or prudently expand their business operations during the current recession.

"(c) As used in this section—

"(1) the 'dual prime rate' policy shall be predicated on the existence of a 'large business prime rate' and 'small business prime rate';

"(2) the 'large business prime rate' is that rate charged by a commercial bank on short-term loans to large businesses with the highest credit standing, and generally corresponds to a prime rate for borrowers who have access to national money and capital markets; and

"(3) the 'small business prime rate' is the rate applicable to (A) borrowers who do not have ready access to national money and capital markets and whose assets do not

exceed $20,000,000; (B) borrowers whose economic failure would have a serious adverse effect on the District's economy; and (C) qualified home mortgage and other consumer borrowers who would use low-cost loans for the consumption of housing, automobiles, and consumer durable goods.

"(d) Nothing in this section requires a bank to encourage lending policies to individual borrowers that are not warranted in an effort to maintain the economic health of the District's economy.

"(e) The voluntary 'dual prime rate' policies established by this section shall remain in effect until December 31, 1983.

"(f) The Chairman of the Board of Governors of the Federal Reserve System shall transmit to the Congress not later than January 1 and July 1 of each year during the period referred to in subsection (e) a semiannual report concerning the implementation of 'dual prime rate' policies authorized pursuant to this section. Such report shall be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs.".

MONETARY POLICY

SEC. 4. (a) Section 2A of the Federal Reserve Act (12 U.S.C. 225a) is amended by inserting "(a)" after "Sec. 2A.", and by adding at the end there of the following:

"(b) Notwithstanding the provisions of subsection (a), the Board and the Federal Open Market Committee shall increase monetary aggregates and maintain stable interest rates. The Board shall transmit to Congress, not later than December 31, 1982, and July 15, 1983, written reports setting forth—

"(1) the efforts of the Board during the preceding six months to maintain interest rates at a stable level; and

"(2) the objectives and plans of the Board with respect to increases in the monetary aggregates for the calendar year in which the report is transmitted and for the six months following the date of the report, taking into account the past and prospective developments in employment, industrial production, business investment, real income, productivity, international trade and payments, and prices.

"(c) The reports required by subsection (a) shall be transmitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) Notwithstanding the provisions of subsection (a), the Board shall permit an annual growth of nine to ten per centum in the monetary aggregate known as M_1 for 1982, and an annual growth rate of six to eight per centum for such monetary aggregate for 1983. The board shall take appropriate actions to insure that interest rates will be stabilized at a level close to the historical average relationship between nominal interest rates and the rate of inflation.".

(b) The amendments made by this section shall take effect upon enactment, and shall expire on December 31, 1983.

TERMS OF MEMBERS AND CHAIRMAN OF BOARD OF GOVERNORS

SEC. 5. (a) The first paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 241) is amended by inserting after the first sentence thereof the following: "On and after the date of enactment of the term of office of each member shall be seven years.".

(b) The second paragraph of section 10 of such Act (12 U.S.C. 242) is amended by inserting after the third sentence the following: "The term of office of the Chairman shall in any case expire when the term of the President making such designation expires.".

[From the Nashville Banner, June 25, 1982]

CONGRESS SHOULD THROTTLE THE FED

Now that the Senate has approved a Republican-sponsored 1983 budget outline, following action taken by the House of Representatives Tuesday, it is time for Congress to devote its undivided attention toward easing the persistent high interest rates, which have had a devastating effect on the nation's economy.

The budget just passed by Congress reflects the dilemma. The $769.8 billion tax and spending plan calls for a record $103.9 billion deficit, $21 billion in tax increases and billions in spending cuts for social programs. It could have been worse. As great as the budget is, and as high as the deficit is soaring, President Reagan said the plan "recommits this government in a clear course toward lower growth of spending, steadily declining deficits and eventually, the ability to live again within our means."

The Treasury Department, in an effort to see a lowering of prohibitive interest rates, is considering ways to place the independent Federal Reserve Board under administration control. The Treasury Department would like to restrict the autonomy of the Fed because, according to Treasury officials, lenders have grown fearful and uncertain over the Fed's erratic control of the money supply. The officials contend that interest rates would have come down if the Fed had maintained the stable, tight-money course it pledged to pursue, instead of letting the money supply grow overly tight and then overly loose.

In February, President Reagan correctly placed much of the blame for the recession and other economic ills on the Fed, which he said should have followed a policy of gradual and less volatile reduction in the growth of the money supply. Fed chairman Paul Volcker, an appointee of former President Carter, has pursued a policy of high interest rates with the result being one of this nation's worst economic crises in history. Had the Fed's policies been different, and had it controlled the money supply evenly, the economy would have been significantly better.

In his column on the *Nashville Banner* Forum page Tuesday, syndicated columnist David Broder wrote that more and more political leaders are blaming "Volckernomics" for the recession and are demanding that Mr. Volcker and the Fed come up with a monetary policy that brings interest rates down and permits recovery to take place. The pressure is building fast, Mr. Broder noted, hastening a "moment of truth."

Mr. Broder cited a decision announced in October 1979 by Mr. Volcker that the Fed would conduct its business with the objective of controlling the growth in the money supply, signaling the abandonment of its concern with interest rates, and would no longer use its powers to ensure that credit would be available or affordable. The results have been ruinous. Mr. Broder was quoting Sen. Edward Kennedy, who has joined Rep. Jack Kemp in denouncing the Fed's policies. Rep. Kemp went so far as to say he would like to require Mr. Volcker and the Fed to rescind the 1979 policy decision.

"Jack Kemp and Ted Kennedy don't agree on many things," Mr. Broder said. "But when the conservative Republican from Buffalo and the liberal Democrat from Boston start to sound the same note, you can safely conclude that the whole political orchestra will soon be playing that tune."

Mr. Broder said growing numbers of political leaders think the 1979 decision holds the key to the interest squeeze and that it caused the 1980 recession and the recession of 1981–82. Sen. Kennedy, Rep. Kemp, and other members of Congress want to know why interest rates remain at murderous levels while inflation is down and Congress struggles to get budget deficits under control. All the while, Mr. Volcker demurs at any changes that would curb the independence of the Fed or force it to abandon its 1979 policy.

The budget just approved by Congress is perhaps the best that could be devised in the present economic circumstances. The budget alone, however, cannot guarantee lower interest rates. Until interest rates do come down, there can be no sustained economic recovery. Today, interest rates are edging up again from the prime rate of 16.5 percent.

The Volcker course of manipulating the money supply while ignoring interest rates has clearly been a failure, as evidenced by the highest sustained interest rates in history in the period since the October 1979 policy pronouncement. Congress strongly recommended that the Fed adjust its policies in line with federal spending restraints and move to lower interest rates as federal spending slows. But Mr. Volcker stubbornly resists changing his policy and, in effect, told Congress that what the Fed does is none of its business.

It is understandable, then, that support is growing in Congress for Mr. Volcker and the Fed to assume a more responsive attitude. Congressmen are fed up with the Fed's refusal to seek lower interest rates at a time when they are fighting to reduce deficits. It doesn't make sense. It didn't in 1979 and it doesn't in 1982. Nor will it in 1983 and 1984.

There is sheer frustration in congressional efforts to cut spending, reduce deficits and agree on a recession-era budget while the Fed continues to pursue its policies that have proved totally ineffective in lowering interest rates that are devastating this nation.

Three years of ruinous high interest rates attest to the ineptness of the Fed's policies, which ignore altogether the remedies for economic illness. The home-buyer, the automobile-buyer, the appliance-buyer, the loan-seeker—all of us need no further proof of soaring interest rates. They are choking the economy.

It appears that Congress, at last, recognizes that, and is in a mood to take immediate and positive steps toward controlling the money supply, even if it means drastic changes at the Fed. That changes are necessary in the national interest is apparent; that those changes can be wrought through a courageous and bold initiative on the part of Congress is necessary; that Congress can bring itself to do it remains to be seen.

It will have no greater opportunity, now that the groundswell of criticism against Fed policies is sweeping a recession-weary populace. The people want change, and Congress should do it.

[From the New York Times, July 7, 1982]

U.S. BUSINESS FACES YEARS OF HIGH RATES, FORECASTERS CAUTION

(By Karen Arenson)

A growing number of economists are predicting that high interest rates are here to stay for at least another couple of years. That, they say, could have serious consequences for the already battered economy.

If their predictions come true, the face of American business may change in major ways.

This is not the first time in recent years that business has faced sudden adversity. In the 1970's energy prices shot up overnight. That problem was solved in a relatively short time by revising operations, converting to alternate fuels and slashing energy use. Similarly, when inflation became the bane of business, innovative financial techniques helped soften the blow.

The problem of high interest rates, however, goes to the heart of what enables an economy to grow and prosper—capital spending on the factories and equipment that improve productivity and thus fuel economic expansion.

"Without increasing capital, we are not going to get increasing production, and there will be no increases in real wages or in the standard of living," said Benjamin M. Friedman, a Harvard University professor of economics.

In each interest rate cycle, new peaks are reached, setting off new alarms in the business community. What is coming as a shock this time is that rates have remained so high while inflation has plummeted, leaving real interest rates, adjusted for inflation, at record levels.

With the banks' prime lending rate at 16.5 percent, for example, and inflation at about 6 percent, the real interest rate for a top-level corporate borrower is 10.5 percent. That is in sharp contrast to the 2 percent to 3 percent that has held through most of recent history. And with lower inflation, many businesses simply cannot pass along the higher interest rates in the form of higher prices.

Several of the major economic forecasting services, including Data Resources Inc. and Chase Econometrics, are predicting declines in the prime rate (on which most commercial interest rates are based) of only one or two percentage points by the end of 1984, and they expect long-term rates to decline only two or three points.

Interest rates are considered likely to stay high for several reasons. Among them are the Federal Reserve Board's restrictive monetary policy, the Government's continuing need for money to finance its projected large budget deficits and investors' fears that inflation may spurt up again.

Despite a recent one-month jump in the Consumer Price Index, most long-term projections for inflation remain modest, in the range of 6 percent to 7 percent during the next two and a half years.

SURPRISE ELEMENT IS FOUND

"Most of us in the business world thought that interest rates would drop back as inflation fell," said James B. Farley, chairman of the Booz, Allen & Hamilton consulting firm. "We have gotten lower inflation, but the surprise element is that interest rates have not come down."

While many people still hope that a reduction in the Federal deficit will bring rates down sharply, others are skeptical that there can be any quick fix.

"We have seen the core rate of inflation go up continuously for 15 years, through five different Presidential administrations," said Ruben F. Mettler, chairman of TRW Inc. and of the Business Roundtable, explaining why his company is not counting on much of a decline in interest rates.

"The drop in inflation is very encouraging, but it is still a very short experience," he said. "A quick down-turn in inflation doesn't suddenly lead to a drop in long rates." The core rate of inflation reflects rises in wage costs, less gains in productivity.

Even the more optimistic business experts do not see a return to the old balance of interest rates and inflation. For example, Richard L. Lesher, who is president of the United States Chamber of Commerce, said he expects the prime rate to fall—but only to 13.5 percent by the end of this year and to 10.5 percent to 11.5 percent by the end of 1983.

Whatever the course of future interest rates, many business executives are preparing for a continuation of the current squeeze.

"Nobody knows for sure whether rates are going to come down or not, but for several months now we have begun to manage as if rates may not come down," said Thomas E. Burtch, manager of investor relations at the Dow Chemical Company. "We are moderating expenses, cutting capital spending and reducing debt."

Financial Darwinism obviously could have some benefits. Companies that survive the period of high rates will probably become leaner, more efficient and more productive.

But such transformation will come only at a steep price. Not only will there be more lost production and high unemployment and less investment and growth, economists predict, but also business will become more concentrated, companies will produce fewer, more profitable products and investment will shift from certain interest-sensitive areas into other sectors that offer higher rates of return.

How a business responds to continuing high rates depends very much on the type of business it is in.

HUGE OUTLAYS FOR MACHINERY

Those in more labor-intensive businesses, for example, are less affected by the high cost of money than those in capital-intensive industries, which require huge outlays of money to pay for machinery. And those in businesses such as high technology, where it is still possible to raise prices, are in a better position than those in commodities or other low-profitability sectors.

"Companies with the right technologies have very little problem passing on higher interest rate costs to their customers," said Leonard S. Yurkovic, vice president for finance at S.I. Handling Systems, an Easton, Pa., company with about $35 million in annual sales of automated handling systems and no short-term debt.

Obviously, some companies simply will not survive. Already, Dun & Bradstreet reports, bankruptcies are running at their highest rate since the 1930's. Many fear that the pace will pick up further.

"If these interest rates don't come down significantly within six months to a year, we are going to see some pretty well-known household names in balance-sheet trouble—and I don't mean just International Harvester," said Peter G. Peterson, chairman of Lehman Brothers Kuhn Loeb. He was Secretary of Commerce under President Nixon.

AN EFFICIENT USE OF FUNDS

One thing that particularly worries Mr. Peterson and other financial experts is that companies may already be using funds efficiently, so there may not be much more they can do to improve their use of money.

"When energy prices rose in the 1970's, it was far easier for business to cut back on its use because it had a lot of fat in it," Mr. Peterson said. "But on the money side, a fair amount of fat has already been run out by our more efficient use of money."

While companies can try to cut back on their borrowing, that leaves the problems of staying in business and growing. Companies must still raise capital somehow.

As onerous as the cost of debt is, said Henry Wallich, a governor of the Federal Reserve Board, the cost of financing through the issuance of shares is even more expensive because the dividends that must be paid are not tax-deductible for the corporation while interest payments are.

"If a project does not pay when financed with debt, it certainly will not pay if financed with equity," he concluded. Low stock prices make it unlikely that many companies would even be willing to issue stock now.

Thus, for many companies, survival is a more critical issue than growth.

A STRUGGLE FOR SURVIVAL

"It's pretty hard to be creative in an economic environment like this," said Robert H. B. Baldwin, president of Morgan Stanley & Company. "We just had two major international companies visiting here, and what being creative means to them is cutting the hell out of their work forces, cutting the hell out of their capital expenditures, cutting the hell out of their businesses. But they're going to survive."

Another common response at many companies is to cut back on capital investment programs to hold borrowing costs down.

"There is very strong evidence already that capital spending is deteriorating," said Norman Robertson, chief economist at Pittsburgh's Mellon Bank. He noted that contract awards for new manufacturing plants are at their lowest level in at least a decade.

K Mart, for example, is planning to open only 65 new stores this year, down from 173 last year, and to concentrate instead on refurbishing existing stores.

In the utility industry, Stanley T. Skinner, executive vice president and chief financial officer at the Pacific Gas and Electric Company, said slicing capital spending plans is a necessary strategy for survival. But he warned that it means longer-term risks. "The impact of these decisions will really not surface or be apparent for some years," he said, "until suddenly the plant is inadequate to service the demand."

NEW INVESTMENT PRIORITIES

Other companies are not cutting investment budgets so much as they are shifting their investment priorities, placing more emphasis on businesses that are either less sensitive to interest rates or that bring the highest returns on investment.

Allen Sinai, a senior vice president and economist at Data Resources, said, "If you are a forest products company, you will have to ask whether to stay in a business related to lumber and housing or to go into something completely different."

He added: "We are facing a midlife crisis for American business—a totally new environment. What we are getting now is really a rethinking of the whole reason for being in business."

At TRW, spending is up for both research and development and capital investment.

But, as Mr. Mettler, the company's chairman, pointed out: "The spending is heavily focused on electronics and high technology. We are not putting much capital into expanding our capacity into expanding our capacity in industrial tools or automobile components."

At Dow Chemical, where the product mix has been 75 percent commodities and 25 percent specialty products, the company would like that to be 50-50 or even 40-60 by the end of the decade.

FOCUSING ON SPECIALTY ITEMS

"The specialty products are less capital-intensive, they tend to command higher prices and they tend to be less cyclical," noted Thomas E. Burtch, manager of investor relations at Dow Chemical.

One issue is whether the economy will be better off as a result of these shifts. TRW's Mr. Mettler thinks they "will exacerbate the wide differences in health among different sectors of the economy: The interest-sensitive sectors will fall farther and farther behind."

Mr. Robertson of the Mellon Bank added: "It is fashionable to say that a variety of high technology industries will arise to take the place of the dying ones. But I don't see how we can have a healthy, growing economy with a stagnant or decaying manufacturing sector."

Some industries, such as housing and automobiles, are already on their knees.

"Certain industries can cope with high rates, but clearly the housing industry is one that is not coping," observed Rudy Oswald, chief economist at the American Federation of Labor and Congress of Industrial Organizations. "The difference between 10 percent interest rates and 16 percent just prices most prople out of the market."

BUILDER EXPRESSES PESSIMISM

Merrill Butler, president of the Butler Housing Corporation in Irvine, Calif., said, "The only way to make housing affordable would be to build one-bedroom apartments with 600 square feet and one bath, stacked 30 stories high, with 50 people to a story, the way they do in Europe."

For now, most builders are not building at all. As Mr. Butler puts it, "Our industry is already on the verge of total collapse." And he predicted pessimistically, "By the time business gets around to dealing with high interest rates, the country will have collapsed economically. What we're seeing now is a compounding rate of destruction of American business, and we can't keep it up."

In the auto sector, Chrysler has already gone through a major restructuring to enable it to earn a profit on much lower sales. The company's fixed costs are now only half of what they were, and Chrysler now needs to sell only 1.2 million cars a year to break even.

"We can survive now," said Lee A. Iacocca, the Chrysler chairman. "I've already gone through the wringer." But he added, "You can not sell cars or houses with interest rates floating up and down between 15 and 20 percent."

CHRYSLER'S CASH CHALLENGE

Mr. Iacocca now faces a choice that typifies the problems for the economy. Chrysler's restructuring, including the sale of its profitable tank division, has enabled the company to accumulate $1 billion in cash. Mr. Iacocca said, "I'm torn about whether to put it into robots and cars or into the money market."

The latter, he noted, offers a good return, probably at less risk than investment in productive capacity. "There is now a cult of companies that are doing just this," he said.

But if there are no easy answers, it is nonetheless likely that companies, over a number of years, can adjust, slowly and painfully, to continuing high interest rates, just as they coped with rising energy prices and inflation.

"I feel quite confident that the U.S. business community is very astute and will come out of this, but it will take some adjusting," Mr. Farley at Booz, Allen said. "It is not just a matter of resizing operations but also of repositioning, and it will require some psychological adjustment as well. It will be an interesting few years. It will not be business as usual."

[From the New York Times, June 2, 1982]

SPENDING BY BUILDERS DIPS 0.6 PERCENT

ROAD CUTBACKS LEAD DECLINE

WASHINGTON.—Spending on new construction fell six-tenths of 1 percent in April, partly as a result of a sharp drop in municipal spending for highways and streets, the Government reported today.

April's decline from March's level nearly offset a five-tenths of 1 percent gain in March, the Commerce Department said in a report that revised some earlier figures. The Government had originally reported that new construction spending had fallen eight-tenths of 1 percent in March from February's level.

The April estimate of new construction at a seasonally adjusted annual rate of $232.8 billion was virtually identical with the January rate of $232.7 billion and was down 5.6 percent from the annual rate of $246.5 billion in April 1981, the report said.

NO IMMEDIATE RECOVERY SEEN

"I would characterize construction in general as being in a holding pattern" that likely will last at least a while longer, said David Cross, a senior economist with Chase Econometrics in Bala-Cynwyd, Pa.

Details of the Commerce Department report showed construction of new housing down 2.3 percent in April. Samuel Pierce Jr., Secretary of the Department of Housing and Urban Development, said he expects no housing recovery until late in the year.

According to the April report, spending on new housing construction dropped to an annual rate of $51.1 billion in the month from a rate of $52.3 billion in March.

Total residential construction, pushed by spending for additions and repairs, rose one-tenth of 1 percent, to a rate of $76.9 billion, while non-residential private construction rose 1.1 percent, to a rate of $66.2 billion.

Both Mr. Cross and Mr. Pierce said the problem is the same as it has been for months—high interest rates have made it prohibitively expensive for most builders to finance new construction and for buyers to afford home mortgages.

"Nobody is going to commit now, while rates are so high and there is still the promise—no matter how timid—that rates will edge down," Mr. Cross said.

A major cause of the overall April dip was a $2.4 billion, or 16.6 percent, drop in municipal and state government spending for highways and streets from March's $14.5 billion annual rate.

"The drain on state and local budgets in this recession has been enormous," Mr. Cross said. "And unless you have a cave-in, you can always defer a repair" to a street.

The report said total private construction rose nine-tenths of 1 percent, while public construction dropped 5.4 percent.

[From the Wall Street Journal, June 8, 1982]

FACTORY ORDERS PLUNGED 2.3 PERCENT DURING APRIL

NEW-HOME SALES FELL 15.3 PERCENT TO LOW AT 315,000 RATE AS RECESSION WORSENED

(By Laurie McGinley)

WASHINGTON.—Two Commerce Department reports provided further evidence that the recession worsened in April as factory orders declined sharply and sales of new, single-family homes plunged to a low.

The department reported that new factory orders fell 2.3% in April to a seasonally adjusted $155.26 billion. That followed a revised 0.3% increase in March to an adjusted $158.87 billion and a 1.3% rise in February to an adjusted $158.87 billion. The March performance earlier had been estimated by the department as a 0.2% rise.

Separately, the department reported that sales of new, single-family houses dropped 15.3% in April to 315,000 units on a seasonally adjusted annual basis. That rate was down from the revised adjusted March annual rate of 372,000 units and was 32.5% below the year-earlier adjusted annual rate of 467,000 houses. The March rate initially had been estimated at 334,000 units.

"The two reports, taken together, are uniformly grim," said Robert Ortner, the department's chief economist. "They provide no indication at all that the recession ended in April . . . and there's no reason to believe things turned around in May."

Mr. Ortner added that the only "glimmer of sunshine" in the reports was a 0.3% contraction in factory inventories in April to a seasonally adjusted $274.16 billion. Inventories decreased 0.5% in March to an adjusted $274.92 billion. After shedding excess inventories, businesses customarily step up their orders to restock supplies.

But a turnaround in the economy appears some distance away, especially with interest rates at such historically high levels. In a statement, Commerce Secretary Malcolm Baldrige noted that the factory-order figures reflect the continuing "pressure of high interest rates, and stress the importance of congressional action on the budget."

Congressional efforts to pass a budget for fiscal 1983, which begins Oct. 1, collapsed in shambles last week when the House rejected all pending budget proposals. Many economists maintain that the budget impasse is contributing to continued high interest rates by fueling fears in the financial markets about the size of the prospective federal deficit.

"As long as there is no compromise in Washington, the money markets will remain very nervous," predicted David Cross, a senior analyst with Chase Econometrics, a consulting firm in Bala-Cynwyd, Pa. The markets are "worried that the Treasury will be borrowing enormous sums of money, and possibly drive up interest rates so that the private sector is crowded out of the market," Mr. Cross said.

Mr. Cross contended that yesterday's factory-orders report suggested the economy has reached bottom but hasn't made any progress toward a recovery. A sharp, 5.1% decline in new orders for nondefense capital goods in April reflects the "tremendous hesitation" of businesses to invest with interest rates at their current levels, he said. The report showed orders for nondefense capital goods decreased to an adjusted $20.07 billion.

Other government reports released earlier also suggested that the economy continued to deteriorate in April. The Labor Department reported that unemployment rose to 9.4% of the work force, the highest since 1941, and the Federal Reserve Board said factory output fell a seasonally adjusted 0.6%, the eighth decline in nine months. Some economists said yesterday that the drop in factory orders presaged further increases in unemployment and declines in industrial output.

The Commerce Department reported yesterday that orders for durable goods—items that last three years or more—fell 3.9% to an adjusted $76.84 billion in April, after rising 1% to an adusted $80 billion in March.

New orders for nondurable goods, which last less than three years, fell 0.6% to an adjusted $78.42 billion in April after falling 0.5% in March to an adjusted $78.87 billion.

Factory shipments in April were down 0.5% to an adjusted $157.45 billion after falling 0.7% in the preceding month to an adjusted $158.24 billion.

The April rate of new, single-family home sales fell below the previous low of 335,000 houses set last September. The department began keeping such sales data in 1963.

In April, sales activity declined in every region of the country, especially in the South and the North Central region. At the end of the month, there were an estimated 264,000 unsold new houses, representing a 10.3-month supply at the April rate. This compares with a March figure of 271,000 unsold new houses.

Housing sales, like starts of single-family homes, have been depressed the past year because of high interest rates and the recession. In the first four months of this year, 121,000 new houses were sold, down 29% from 170,000 units in the year-earlier period.

In April, the median sales price for a house was a near-record $72,400, up from $68,100 in March and exceeded only by $72,600 in August 1981. In April 1981, the median price was $68,700.

[From the New York Times, June 10, 1982]

REGAN SEES NO PLUNGE IN INTEREST RATES FOR 1982

(By Jonathan Fuerbringer)

WASHINGTON.—Treasury Secretary Donald T. Regan, who has predicted sharp declines in interest rates in the past, cautioned today against expecting any dramatic decline in interest rates this year, even if Congress approves a budget resolution and then a budget.

Turning to domestic matters after attending the economic summit conference at Versailles, France, last weekend, Mr. Regan said the prime rate should fall to 14 percent by the end of this year from the present level of 16 percent at a few banks and 16½ percent generally. Beyond that, Mr. Regan was unsure what might happen to interest rates.

"Just how much further they might come down I don't know," he said in an interview. "I don't know because you are battling psychology here," he added, referring to the fear of future deficits and skepticism about the permanence of the improvement in inflation. "This is something—and I'm not trying to waffle on this—this is something that is outside the experience of all of us in interest rates."

THE OUTLOOK FOR RECOVERY

Despite the caution on interest rates, Mr. Regan said the Administration was still expecting an economic recovery in the second half of the year, with the gross national product growing at an annual rate of about 4 percent (after allowing for inflation). But some economists have argued that such sustained growth would require a sharp drop in interest rates.

Both Mr. Regan and Murray L. Weidenbaum, chairman of the President's Council of Economic Advisers, who testified before the Joint Economic Committee of Congress today, did say that signs of the recovery were not as certain as the Administration would like.

"We have not seen the growing signs of recovery that I would have expected at this stage of the business cycle," Mr. Weidenbaum said.

"We see a lot of signs," Secretary Regan said. "But, putting them together, definitely the recovery hasn't started yet. Right now you see the signs that the recovery could be taking place, but you can not actually say for sure it has taken place."

Both of these comments and Mr. Regan's remarks about interest rates reflect a marked change in the Administration's optimism about the economy, particularly because interest rates have not declined significantly. In February Mr. Regan was talking about the economy's "roaring back" in the late spring, and today Mr. Weidenbaum suggested that the gross national product could be declining in the present quarter. In this year's first quarter, the G.N.P. fell at a 4.3 percent annual rate.

A LOOK AT FED'S APPROACH

In his February remarks, the Treasury Secretary also said that the then-recent jump in the prime rate to 16½ percent was temporary and would unwind in four to six weeks.

Mr. Regan, who was a critic of the Federal Reserve last year and early this year, today endorsed the current track of Federal Reserve policy, although some critics contend that the Fed is easing its tight grip on the nation's money supply.

He acknowledged that, in looking at the numbers, "over the past six months the Fed has had an easy-money policy." But he said such figures might be explained by the movement of unexpectedly large amounts of money into interest-bearing checking accounts, known as NOW accounts. This is the Fed's explanation of why it is not concerned that the closely watched M-1—the basic money-supply measure comprising currency, NOW accounts and other checking accounts at banks and savings institutions—is far over its target for the year.

When asked why the Administration has not objected, Mr. Regan said: "Well, we've recognized the problems they've had. And, while we wish that there was another way to solve this, we recognize the practical difficulties they're having."

The Secretary also said that he had an open mind on the question of raising the M-1 target during the central bank's midyear review in July. "I'd keep an open mind on that," he said. "I'd want to see the evidence." But he added, "I'm not dogmatic about it."

PROBLEM OF THE M-1 TARGET

Some members of the Fed argue that trying to force M-1 back into its current target range of 2.5 percent to 5.5 percent for the year might be too restrictive if much of the over-target growth was because of the shift to NOW accounts. As of the end of April, the annual growth rate was 8.7 percent. One way to deal with this problem, some officials at the Fed acknowledge, is to raise the M-1 target.

Mr. Regan said that, if the NOW account explanation is right, the money supply might be too tight now, despite what statistics show.

Some critics of the Fed argue that raising the target would send a negative signal to the financial markets because it would appear that the Fed was backing off from its anti-inflation policy. But other critics contend that, if the Fed does not ease, the recovery would not have a chance to get up a head of steam.

Mr. Regan disputed some recent estimates that the Treasury would have to borrow about $90 billion in the last six months of this year. He argued that this would imply a $180 billion deficit for the 1983 budget, which, he said, he does not expect Congress to allow. "No, I don't see the need for $90 billion at this point," he said.

Mr. Regan argued that even approval of a budget resolution by the House and the Senate would start a decline in interest rates. He also said that his forecast for the recovery assumed that a final budget would be approved by fall and that Congress, possibly in a special session after the elections, would deal with Social Security before the end of the year.

[From the Baltimore Sun, June 10, 1982]

REAGAN AIDE SAYS HE KNEW OF DIP

WASHINGTON.—President Reagan's chief economist conceded yesterday that the White House privately projected in February, 1981, that a recession was on its way. Yet, in its public forecasts, the administration was saying just the opposite—and it was October before Mr. Reagan acknowledged the downturn.

Murray L. Weidenbaum, chairman of Reagan's Council of Economic Advisers, said also that persistently high interest rates remain a mystery to the administration. And despite its forewarning of the recession, it has no strong feel for when it will end, he said.

Mr. Weidenbaum's testimony to the Joint Economic Committee of Congress triggered an angry exchange with the panel's chairman, Representative Henry S. Reuss (D, Wis.), who demanded to see the unpublished administration figures which, on February 18, predicted the downturn that began months later.

To the public, the president's official spokesmen were taking an opposite tack for most of the year. On July 11, spokesman David Gergen declared, "We're not forecasting a recession." While the administration backed off somewhat from an earlier prediction of growth, Mr. Gergen said the economy would improve by the end of the year and the unemployment rate would decline in 1982 from the 1981 range of 7 percent. The jobless rate now stands at 9.5 percent.

While most private economists say the recession actually started in July, it was October before President Reagan conceded that there was "a slight, and I hope a short, recession." Just days before that, Mr. Gergen still had refused to use the word recession to characterize the economy.

Mr. Weidenbaum refused to turn over to the congressional panel the data that supported the February prediction, and asked Mr. Reuss not to make the matter a constitutional confrontation between the executive and legislative branches of government.

"I wish you wouldn't describe some unpublished work sheets . . . as creating a

constitutional crisis. That's a little overstatement," Mr. Weidenbaum told Mr. Ruess.

"Well, they will produce one unless you produce the documents," Mr. Ruess responded.

Mr. Reuss asked Mr. Weidenbaum to dispatch an aide right away to fetch the documents. The congressman even offered to make a limousine available.

But Mr. Weidenbaum replied: "No, I will not," saying he would have to check first with the attorney general on the legality of the request.

Earlier, Mr. Weidenbaum testified that "we have no truly satisfying account of why interest rates have remained so high." As for the panel's question "Is Reaganomics working?" he said that "it's clearly too early to make a clear-cut evaluation."

"But I do share the view," he said, "that interest rates are the key to why the recession has persisted. . . . I attribute the deepness of the recession to the fact that interest rates remained higher longer than most analysts anticipated."

Mr. Weidenbaum set Mr. Reuss off after stating that "unpublished worksheets supporting our economic White Paper of February 18, 1981, estimated two consecutive quarters [of declining economic activity], which corresponds to the common rule of thumb for calling a downturn a recession."

Mr. Reuss, one of the most strident critics of the president's policies, charged that Mr. Reagan promised economic prosperity when he came into office and never told the public that a recession was likely until much later in the year, when the economy already was in a slump.

"I'm talking about the frankness with which the administration informed the country about our economic outlook," Mr. Reuss said.

"Beginning in March, 1981, I alerted Congress" of negative indicators in the economy, Mr. Weidenbaum replied. "Now, if the Congress wasn't paying attention, that's not my fault."

[From the Washington Post, June 11, 1982]

BUSINESSMEN CUT BACK ON INVESTMENT

(By John M. Berry)

WASHINGTON.—Plagued by high interest rates, collapsing markets and fast declining profits, businessmen are slashing their plans to invest in new plants and equipment, jeopardizing a key element of the Reagan economic program.

A Commerce Department survey released yesterday showed businesses plan to invest 2.4 percent less this year than they did in 1981, after adjustment for inflation. The new survey indicates a sharp reversal in business spending plans since the start of the year.

Most private forecasters expect the actual cutbacks in investment will turn out to be even larger than shown by the survey.

If inflation is included, executives of nonfarm businesses said they plan to spend $328.6 billion on new plants and equipment this year, up 2.2 percent from 1981. But only three months earlier they had scheduled a 7.3 percent increase. The next quarterly survey could well show an additional sharp drop, analysts said.

The business and personal income tax cuts at the heart of the Reagan program were supposed to encourage large increases in saving and investment. The resulting addition to the nation's productive capacity was expected to help hold down inflation in the future.

Now the outlook for investment is sufficiently gloomy that some top administration officials are questioning whether the president's program can achieve its long-term goals. Financing the huge prospective federal budget deficits will require a large share of the nation's total saving, saving that otherwise would be available to fund more business investment. At the same time, the size of the looming deficits combined with the Federal Reserve's tight monetary policies have kept interest rates unexpectedly high.

"If it takes 10 years to bring the fiscal equation back into balance we will run such large deficits in the interim that we will never get the investment we want," one high administration official said in a recent interview.

The outlook is hardly bright for either deficits or interest rates. The Congressional Budget Office said yesterday that the Republican budget resolution passed by the House would produce deficits for the fiscal years 1983 to 1985 totaling $259.2 billion, more than $28 billion higher than its proponents claimed. The rejected Democratic version, which called for much larger tax increases, would have produced deficits totaling $248.5 billion over the same period, the CBO estimated.

Meanwhile, Treasury Secretary Donald T. Regan told reporters that passage of the Republican measure would mean that the commercial bank prime lending rate "will come down under 14 percent by the end of the year. If there is no budget at all, I don't see interest rates coming down."

The Reagan administration predicted last year that the large business tax cuts approved by Congress would spur an investment boom. The bulk of the business tax cuts was tied to new investment, which now can be written off for tax purposes much more rapidly than in the past.

Not long after taking office, Regan told Congress the proposed tax cuts would cause business investment to rise 11 percent a year faster than inflation for at least the next five years. Investment would hit 12 percent of the gross national product by 1983—a level never before achieved by the U.S. economy. By 1986 14.4 percent of GNP would be invested by business.

Now the outlook is quite different. Even if there is a consumer-led economic recovery after the 10 percent cut in individual income taxes July 1, the Commerce Department survey indicates no increase in investment in the third quarter and only 0.6 percent rate of increase in the fourth quarter.

Again, most private forecasts are more pessimistic. For instance, Data Resources, Inc., a widely used economic consulting firm, expects declining investment throughout the year, with the total, including farms, down 6.5 percent in real terms for the year as a whole.

If DRI's forecast for the next couple of years turned out to be correct, the share of GNP going for business investment during the four years of President Reagan's term would average about 10.8 percent, down from 11.2 percent during President Carter's four years in office. In addition, because of the deep recession, the level of investment will have been depressed substantially, not just the share of GNP.

Commerce Secretary Malcolm Baldrige, in a statement, compared the survey's 2.4 percent drop in real terms with an 11 percent decline in 1975. "The lesser decline in this recession is due to the accelerated depreciation portion of the president's economic recovery program," he argued. "Even though excess capacity is dampening expansion plans, businesses are buying machinery to increase productivity, reduce costs, and become more competitive."

[From the New York Times, June 14, 1982]

U.S. URGED TO EASE MONETARY CONTROLS

(By Paul Lewis)

PARIS.—The Bank for International Settlements, warning that the world economy is now "in a highly unstable situation," is urging the United States to relax its tight monetary policy in order to lower interest rates and stop the "near stagnation of the industrial economies" from turning into "a real slump."

But a relaxation of monetary controls by the United States, the bank says, must be accompanied by steps to prevent an upsurge in inflation; these steps should include cuts in the budget deficit and curbs on wage increases.

In addition, the B.I.S. often known as the "central bankers' central bank" because it is owned by the major Western central banks, wants the United States to intervene more actively on foreign exhange markets to stablize the dollar and to encourage private banks to continue lending to the developing world.

The B.I.S.'s prescriptions for the United States, which apply to most other industrial countries too, are part of a general strategy for lowering interest rates and promoting economic recovery, without sacrificing the gains made in the fight against inflation. The strategy is outlined in its latest annual report, which is to be released Monday in Basle, Switzerland, the bank's headquarters.

VIEWS OF WESTERN CENTRAL BANKS

The bank's recommendations reflect the views of the big Western central banks. But many of the recommendations, including the need to relax monetary policy, control incomes by administrative means and intervene more on exchange markets, appear to run flatly contrary to the professed beliefs of the Reagan Administration.

Yet, the bank concludes its report on a cautious note, warning that while the policy guidelines it sketches out may "help check the growth of unemployment and prepare the ground for a recovery of investment, they are not likely to revive economic expansion in the short run."

Indeed, although the bank describes the recent decline in employment in practically all the advanced nations as "intolerable," it warns that "the outlook is frankly bleak," since the past weakness of investment and profits "would make it difficult to reach an acceptable level of employment even in the event of an economic recovery."

EMPHASIS ON INTEREST RATES

This year, after years of warning about the perils of rising world inflation and urging greater monetary discipline, the bank appears seriously alarmed by the extent and persistance of the downturn these policies have caused and by the prevalence of very high interest rates everywhere.

"The Western industrial world finds itself at present in a highly unstable situation," the bank says. "Substantial gains have been registered in the fight against inflation, but the underlying inflationary expectations are still strong; on the other hand, there are numerous forces at work which are steering the world toward stagnation."

The bank warns that "Between the Scylla of a renewed acceleration of inflation and

the Charybdis of protracted stagnation, the path looks extremely narrow."

While governments cannot afford to relax their anti-inflationary policies without risking a big revival of inflationary pressures, the bank wants them to change the mix of policies they are following "to prevent the near-stagnation of the industrial economies, which is the temporary but inevitable corollary of disinflation, from triggering a real slump in the world economy."

TIGHTER U.S. FISCAL POLICIES URGED

Its idea is that monetary policy could be relaxed, "allowing some fall in the present very high level of real interest rates in the world." The burden borne by monetary policy in the control of aggragate demand should be substantially eased "so as to take the pressure off real interest rates," the bank writes.

But in the United States particularly, this must be accompanied by a tighter fiscal policy aimed at reducing the budget deficit and also by steps to limit the rise in wages. Otherwise, it concludes, "it is difficult to see how inflationary expectations could be lastingly defused."

Although the bank does not specifically call for the United States and major Western countries to adopt formal incomes policies, there can be little doubt that its thoughts are running in this direction. By limiting the growth of wages, the bank points out, Western industrial countries will be rebuilding depleted corporate profit margins and thus paving the way for an upturn in investment and job creation.

The B.I.S. also urges the major countries to intervene more in exchange markets to maintain stable relationships between their currencies, saying that erratic currency swings promote inflation and protectionism, while inhibiting trade and investment. However, its major concern is with "exchange rate cycles," which can lead to the prolonged undervaluation or overvaluation of major currency. Both situations tend to depress the world economy, the B.I.S. argues.

If a currency is undervalued for a long period, as the dollar was during President Carter's Administration, other countries take protectionist measures because exports are cheapened while domestic inflation tends to rise, the B.I.S. says. Overvaluation, on the other hand, as now seems to be the situation with the dollar, depresses industrial growth by pricing exports out of world markets.

Finally, the B.I.S. worries that private banks may add to world deflation by refusing to continue lending to developing countries in need of external financing of their big balance of payments deficits. The danger is that a drying up of bank credit, brought about by bankers' fears that they might not get repaid, would lead to a rapid contraction in world trade that would further intensify the recession.

True to its reputation for financial prudence, the B.I.S. says it does not think that banks should finance all debtor countries indefinitely. But in an imperfect world, it thinks private banks should continue to work with international institutions such as the International Monetary Fund to promote a gradual adjustment of debtor countries' finances that does not threaten trade.

[From the New York Times, June 16, 1982]

FACTORY OUTPUT OFF 0.2 PERCENT IN MAY

WASHINGTON, June 15.—The output of the nation's factories and mines dropped in May for the ninth time in 10 months, the Government reported today. But the size of the decline—just two-tenths of 1 percent from the April level—raised new hopes the recession may be easing.

"The corner is here," declared Donald Straszheim, vice president of Wharton Econometrics. He asserted that industrial production is rising this month and will continue climbing "for months to come."

Robert Ortner, the Commerce Department's chief economist, was more cautious. "Apparently the recession continued in May," he said. But he characterized the May decline as "kind of moderate," and added that an upturn is "if not at hand, then close at hand."

The small May decline reported by the Federal Reserve Board came after drops of eight-tenths of 1 percent in April from the March level and eight-tenths of 1 percent in March from the February level.

CONSUMER DURABLES UP 2.3 PERCENT

A surge in auto production pushed factory production of consumer durable goods up 2.3 percent from April, but output of business equipment fell 1.6 percent and production of basic metals fell seven-tenths of 1 percent. All consumer goods production rose eight-tenths of 1 percent after having risen by the same amount in April, the Federal Reserve said.

In later economic data reported today, new car sales by the General Motors Corporation, the Ford Motor Company and the Chrysler Corporation rose eight-tenths of 1 percent in the June 1-10 period, marking the fourth consecutive period of positive sales results.

The overall decline in industrial production in May meant the factory utilization for the nation's manufacturers also dropped—probably under 71 percent of capacity for the first time during this recession, analysts said. That was still above the 69 percent low of the 1974-75 recession. Factory utilization figures are to be released Wednesday.

INVENTORY LIQUIDATION SLOWING

For months, production has been held down as the nation's businesses sold off inventory rather than increase production to meet demand. During that period of inventory liquidation, production cutbacks contributed to an unemployment rate of 9.5 percent, the highest in 41 years.

But Government figures have shown the inventory liquidation slowing, a development reflected in the May industrial production figure. Nevertheless, Mr. Ortner cautioned that "manufacturers still seem intent on cutting back inventories some more." But he added that "if we get a sustained pickup in retail sales, then production can follow."

Details of the Federal Reserve's May production report showed these developments:

Production of consumer durable goods—relatively expensive and long-lasting items—increased 2.3 percent, "reflecting a sharp rise in automotive products and little change in home goods output." Autos were assembled at an annual rate of 5.6 million units, up about 10 percent from April.

Output of business equipment—mainly heavy machinery—"was reduced 1.6 percent further in May, following cutbacks totaling more than 10 percent over the nine preceding months. Large declines occurred in May in output of building and mining and of manufacturing equipment.

Military equipment production rose six-tenths of 1 percent.

Output of construction supplies increased four-tenths of 1 percent after sharp declines in March and April.

Breaking down the overall figure, the report said that output of factory products dropped one-tenth of 1 percent in May while production of materials fell seven-tenths of 1 percent.

All of the figures were adjusted for normal seasonal variations.

At 140.3 percent of the 1967 average—a benchmark year used only for measuring future changes—the industrial production index was 8.8 percent below its July 1981 level.

[From the New York Times, June 17, 1982]

FACTORY USE OFF TO 70.8 PERCENT IN MAY, A 7-YEAR LOW

WASHINGTON, June 16.—The nation's manufacturers operated at just 70.8 percent of capacity in May, the Government reported today. Last month's rate was the lowest in seven years, although the monthly drop was smaller than those in the previous two months.

Factory use, like industrial production, has now declined in nine of the last 10 months, but a number of economists say both are likely to start climbing again in June or July.

May's drop of two-tenths of 1 percent in manufacturing capacity utilization brought the use rate to its lowest level since the 70.3 percent of May 1975, according to the Federal Reserve Board report.

The Fed reported Tuesday that industrial production, a major contributor to national economic activity, also declined two-tenths of 1 percent in May. The reports on output and utilization are based on the same figures.

Allen Sinai, a senior vice president at Data Resources, said the new factory use figures showed the economy "gently floating, about to touch bottom." But he added, "We could bounce along the bottom for several months."

The May decline in factory use followed drops of five-tenths and six-tenths of 1 percent, respectively, in March and April, and the smaller decrease was likely to be viewed as a sign that the recession was easing.

A big part of the good news in the report—as it had been in industrial production—was in autos.

"The capacity utilization rate for the motor vehicles and parts industry rose substantially in May for the fourth consecutive month, but the industry was still operating at less than 60 percent of capacity," the new report said.

Less encouragingly, it said the operating rate for producers of primary metals continued to drop sharply as "the utilization rate for the iron and steel industry fell to a preliminarily estimated level of about 46.9 percent, the lowest since the prolonged steel strike of 1959."

DROP IN NONELECTRICAL MACHINERY

Without furnishing exact numbers, the report also said that "another large decline occured in the operating rate for producers of nonelectrical machinery."

Other details within manufacturing showed the utilization rate for primary processing industries—those doing work early in the manufacturing process—declining four-tenths of 1 percent, to 67 percent, in May—below the 68.2 percent low point of the 1975 recession.

The rate for advanced processing industries edged down one-tenth of 1 percent,

72.8 percent of capacity—still above the 1975 low point of 69.4 percent.

May was a slightly worse month for producers of industrial materials than for manufacturers, with capacity utilization for industrial materials dropping six-tenths of 1 percent, to 69.9 percent—only half a percentage point above the March 1975 low of 69.4 percent.

[From the Washington Post, June 19, 1982]

REGAN SEES INTEREST RATES UP, WITH POLICY CHANGE POSSIBLE

(By John M. Berry)

Treasury Secretary Donald T. Regan, predicting that interest rates are headed higher, yesterday revealed that the Reagan administration has begun a study of ways to change its economic policies if the high rates short-circuit the expected economic recovery.

"I don't think I'll talk about . . . what our specific plans are, but obviously these are questions that we have addressed to ourselves over the past three months. We are trying to come up with solutions," Regan said during an interview at The Washington Post.

"If interest rates don't come down rather quickly, [and] unemployment hangs high, the obvious course of action [that] would be demanded, at least, from us by the Congress would be, do something, don't just stand there," he continued.

"I have a study on my desk . . . of what other presidents did in similar circumstances . . . We have to consider what our actions might be."

Another administration source described the policy reexamination as "far-reaching," but said it was "occurring within the framework of present presidential policies." However, the source added, "Some of the options are not so routine."

Regan, as he has in the past, put virtually all of the blame on the Federal Reserve for the high level of interest rates. "The Fed's policies are correct," he declared. "It's their practices that are leaving a lot to be desired."

He said Federal Reserve actions have led to conditions in financial markets in the last two or three weeks that indicate the next move in the prime lending rate at banks, now 16½ percent, will be up, not down.

The recent decline in the price of gold, he said, is evidence it is not a fear of inflation that is holding up interest rates, while the lack of a rally in financial markets following Thursday night's congressional compromise on a 1983 budget resolution indicates it is not worry about the size of the budget deficit, either.

"You have to say it's monetary. What else is left," he asked.

Whatever the cause, many money market rates continued to rise yesterday. The rate paid on large 90-day certificates of deposit, a major source of lendable funds for banks, reached 15 percent, up 1.3 percentage points in a week. Partly as a result of the higher rates, the stock market fell again with the Dow-Jones industrial average hitting its lowest level in more than two years.

Meanwhile, the Federal Reserve reported a $1.4 billion increase in the money supply, to a level of $454.4 billion in the week ended June 9. The money supply currently is above the level for which the Fed is aiming, and analysts attribute part of the increase in interest rates to the markets anticipation that the Fed will have to tighten credit conditions again to reduce money growth.

Erratic growth of money from month to month and quarter to quarter, Regan said, "have made for this confusion in the money market, and as a result of the confusion, the uncertainty [about Fed policy] is keeping real rates of interest much higher than they otherwise would be."

Regan said flatly that President Reagan's economic policies were not responsible for the recession. Rather, that the money supply grew at an annual rate of less than 1 percent for a six-month period last year.

"Under that consideration," he said, "you had to induce a recession."

As for his review of current administration policies, Regan said, "What I am trying to do is to be ready in case I'm asked to do anything. After all, that is my job as secretary of the Treasury, to be ready to change policies if we have to. Not that I'm suggesting it. But you cannot wait until someone says, you know, we are in a crisis, let's change. And you say, to what?

"You have to anticipate * * * be ready for change," he said. "You have these plans you can pull out of a file and go to work on if need be. That's what I'm doing right now. I'm not saying that we will. I'm not predicting that we will. I'm merely saying that if it happens, I have to be ready."

The Council of Economic Advisers and the Office of Management and Budget are involved in the review along with the Treasury Department. Regan said the study of the way in which past presidents responded to economic difficulties was done by Treasury.

[From the Wall Street Journal, June 21, 1982]

TREASURY STUDIES CURBS ON POWER OF FED ON WORRY RECOVERY IS BEING UNDERMINED

(By Eileen Alt Powell)

WASHINGTON.—Worried that "erratic" growth in the nation's money supply is undermining recovery from the recession, the Treasury is studying whether to recommend curbing the independence of the Federal Reserve Board.

Beryl Sprinkel, under secretary for monetary affairs, said that "various options" have been under study and that any decision to recommend changes in the Fed's composition or policies will be made "sometime in the future" by Donald Regan, Treasury secretary. Congressional approval would be required for any major changes.

"The major issue is what do we mean by independence," Mr. Sprinkel said. "The President should have the right to put in place the kinds of policies he was elected for." He added that the Reagan administration "has asked for stable monetary growth since arriving in office, and we don't think we are getting it."

Federal Reserve officials declined comment on the matter.

The Federal Reserve System was established in 1913 following a series of bank panics. In addition to regulating commercial banks, it is responsible for controlling the nation's supply of money and credit.

Until 1935, the Treasury secretary and comptroller of the currency, a Treasury official who oversees federally chartered banks, were members of the Fed board. But the Banking Act of 1935 removed them from the board to give it greater independence and set up the 14-year terms for subsequent board members.

ROLLER-COASTER EFFECT

Mr. Sprinkel emphasized that the Treasury endorses the Fed's monetary goals but objects to what he called the Fed's inability to achieve them in a stable manner. "The Fed has brought monetary growth down on average, which is what we have wanted," Mr. Sprinkel said. "But it has been a roller coaster."

Mr. Sprinkel asserted that this "made the recession deeper last year" and that currently it is having an "adverse impact" on the financial markets, where interest rates have been rising. "Unless long-term rates come down in the period ahead, we won't get a durable recovery that leads to deepening of capital investment, productivity improvement and creation of jobs," he concluded.

He declined to provide details of the Treasury's study of the Fed, saying that "all options" are being considered.

The Treasury's study parallels growing concern in Congress about the tight-credit course the Fed has set. The fiscal 1983 budget resolutions passed by the House and Senate in recent weeks ask the Fed to re-evaluate its monetary policies in the wake of congressional action to narrow the federal deficit.

Legislation has been introduced to require that the Treasury secretary be a member of the Fed's board and to make the terms of the Fed's chairman and vice chairman "coterminus" with that of a president. Other, similar bills are pending.

Paul Volcker, chairman of the Fed, has argued that Congress should be careful in considering changes in the Fed's mandate, noting that its structure was designed to shield it from political pressures that could undercut long-term goals. And as recently as last week he told the Joint Economic Committee of Congress that growth in the nation's money supply "has been consistent with our general policy intentions." He added: "I don't anticipate any significant change in our operating procedures in the near term."

FINANCIAL MARKETS' FEARS

In its most recent report, the Fed said that M-1, the monetary measure that includes cash and checking accounts, grew $1.4 billion the week ended June 9. Such growth, plus an expected surge early in July when Social Security payments are increased and federal income-tax rates are cut, have made financial markets worried that the Fed may continue its tight-credit policies, driving interest rates up further.

Worried about such a possibility, Reagan administration officials have begun to review economic policies that may have to be changed if interest rates don't soon begin to drop.

The president's Council of Economic Advisers and the Office of Management and Budget also are involved in the review, Treasury officials said.

The officials said the Fed is getting particularly close attention because of its central role in monetary and credit policies. One official quoted Treasury Secretary Regan as noting that inflation is slowing and that fiscal policy is moving toward smaller federal deficits. "He concludes that it's monetary policy that is disrupting the markets," the official said.●

By Mr. HATCH:

S. 2727. A bill to amend the Social Security Act and the Internal Revenue Code to provide more consistent social security coverage for U.S. citizens employed by foreign subsidiaries of

American businesses: Elimination of requirement that American employer be a corporation; to the Committee on Finance.

SOCIAL SECURITY COVERAGE FOR UNITED STATES CITIZENS WORKING ABROAD

Mr. HATCH. Mr. President, I am introducing today a bill to amend the Social Security Act and the Internal Revenue Code which will provide greater consistency of treatment for U.S. citizens working abroad for various types of American employers.

It is common for U.S. citizens to be requested by their domestic employers to work for affiliated businesses in foreign countries. Frequently, however, such a foreign assignment will deprive a U.S. citizen of coverage under the Social Security Act. It can also render him ineligible to participate further in the qualified plan of his former domestic employer. Legislation in needed to rectify these problems. The solution can be achieved by amending section 210(a) of the Social Security Act, section 3121(1) of the Internal Revenue Code, and making other minor conforming changes in the manner proposed herein.

Section 3121(1), as presently worded, allows a domestic corporation to continue the social security coverage of United States employees assigned to related foreign subsidiaries. Section 3121(1)(8) defines "foreign subsidiary" as a "corporation" in which a required percentage of voting stock is owned, directly or indirectly, by a domestic "corporation." Thus, section 3121(1) requires a relationship between two corporations. If a U.S. citizen is assigned to a foreign employer which conducts its business in partnership form, rather than in corporate form, section 3121(1) does not apply and the citizen is excluded from social security coverage for the duration of his foreign employment. The inapplicability of section 3121(1) will also make that employee ineligible to participate further in the qualified plan of his former domestic employer since social security coverage under section 3121(1) is a precondition for covering foreign-based employees in qualified plans.

In enacting section 3121(1), Congress did not intend for social security coverage to depend upon the form in which the U.S. employer conducts its business abroad. On the contrary, section 3121(1) was enacted to prevent exclusions from coverage which had occurred because of a change in business format. Under prior law, a U.S. citizen employed by an American employer at a foreign location was covered under social security. If, however, the American employer found it necessary to operate his foreign business as a subsidiary established under the laws of the foreign country—thus becoming a foreign employer—the results under prior law was the termination of the social security coverage for U.S. citizens working at the foreign location. Congress enacted section 3121(1) specifically to prevent U.S. citizens from being excluded from social security merely because their former American employer decided to do business as a foreign employer. Unfortunately, by describing the foreign employer as a "corporation" Congress did not resolve the problem entirely.

Sections 127 and 128 of H.R. 6652, introduced last session by Messrs. PICKLE and ARCHER, would have made all of the changes necessary to correct the problem. Those provisions, with minor clarifying changes, should be included in the present social security legislation. Such changes are noncontroversial and should have no revenue effect. Of these changes, Commissioner of Social Security, John A. Svahn, has said:

There would be no significant cost effect on the program, because it seems certain that there would be only a relatively small number of individuals involved. In summary, I believe that amendments along these lines would be desirable and would result in greater consistency of treatment for U.S. citizens working abroad for different types of American employers.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. (a) Section 210(a) of the Social Security Act is amended in the matter preceding paragraph (1) by striking out "of a domestic corporation (as determined in accordance with section 7701 of the Internal Revenue Code of 1954)" and inserting instead "of an American employer (as defined in subsection (e))".

(b)(1) Section 3121(l) of the Internal Revenue Code of 1954 is amended—

(A) in its sideheading, by striking out "DOMESTIC CORPORATIONS" and inserting "AMERICAN EMPLOYERS" instead,

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A)—

(I) by striking out "any domestic corporation" and inserting "any American employer (as defined in subsection (h))" instead,

(II) by striking out "such corporation" and inserting "such employer" instead, and

(III) by striking out "such domestic corporation" and inserting "such American employer" instead, and

(ii) in subparagraphs (A) and (B), by striking out "the domestic corporation" each time it appears and inserting "the American employer" instead, and

(C) in paragraphs (2) through (8) (including their sideheadings), by striking out "domestic corporation" and inserting "American employer" instead,

(D) in paragraph (9), (1) by striking out "DOMESTIC CORPORATION" in the sideheading and inserting "AMERICAN EMPLOYER" instead, and (2) by striking out "Each domestic corporation" and inserting "Each American employer" instead, and

(E) in paragraph (10), by striking out "on domestic corporations" and inserting "on American employers" instead.

(2) Section 6413(c)(2)(C) of the Code is amended by striking out "domestic corporation" and inserting instead "American employers".

(3) Section 1402(b) of the Code is amended by striking out "domestic corporations" and inserting instead "American employers".

(4) Section 406 of the Code is amended—

(A) in the sideheading of subsection (a), by striking out "DOMESTIC CORPORATION" and inserting instead "AMERICAN EMPLOYER",

(B) in subsection (a), by striking out "a domestic corporation" and inserting instead "an American employer (as defined in section 3121(h))",

(C) in the remaining subsections, by striking out "a domestic corporation" wherever it may appear and inserting instead "an American employer",

(D) by striking out "such domestic corporation" and "the domestic corporation", wherever they may appear, and inserting instead "such American employer", and "the American employer", respectively,

(E) in subsection (c)(3), by striking out "another corporation" and inserting instead "another trade or business", and

(F) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking out "another corporation" and inserting instead "a corporation", and

(ii) in paragraph (1), by striking out "any other corporation" and inserting instead "any other trade or business".

(c) The preceding subsections of this section are effective with respect to quarters beginning after December 31, 1980.

COVERAGE OF EMPLOYEES OF FOREIGN SUBSIDIARIES OF AMERICAN EMPLOYERS: FOREIGN EMPLOYER MAY BE AN UNINCORPORATED AFFILIATE; OWNERSHIP REQUIREMENT REDUCED

SEC. 2. (a) Section 210(a) of the Social Security Act, as amended by section 127 of this Act, is further amended in the matter preceding paragraph (1) by striking out "subsidiary" wherever it appears and inserting "affiliate" instead.

(b)(1) Section 3121(1)(8) of the Internal Revenue code of 1954 is amended—

(A) in subparagraph (A), by striking "corporation not less than 20 percent of the voting stock" and inserting instead "trade or business not less than 10 percent".

(B) in subparagraph (B), by amending the text to read "a foreign trade or business that is owned by or related to a foreign trade or business described in subparagraph (A), if the percentage of that ownership or relationship, when multiplied by the actual ownership percentage determined under that subparagraph, is not less than 10 percent", and

(C) in the matter preceding subparagraph (A), by striking out "subsidiary" in the text and sideheading and inserting "affiliate" instead.

(2)(A) Section 3121(1) of the Code (other than paragraph (8)) is amended by striking out "subsidiary" and "subsidiaries" wherever they may appear in the text of sideheadings and inserting instead "affiliate" and "affiliates", respectively.

(B) Paragraph (3) and (9) of section 3121( ) are each amended by striking out "foreign corporation" and "foreign corporations" each time they appear and inserting

instead "foreign trade or business" and "foreign trades or businesses", respectively.

(3) Sections 6413(c)(2) and 6413(c)(2)(C) of that Code are each amended by striking out "foreign corporations" in the sideheading and inserting "foreign trades or business" instead.

(4) Section 1402(b) of that Code is amended by striking out "subsidiaries" and inserting "affiliates" instead.

(5) Section 406 (including its caption) of the Code is amended by striking out "foreign subsidiaries" and "foreign subsidiary" whereever they may appear and inserting instead "foreign affiliates" and "foreign affiliate", respectively.

(c) The preceding subsections of this section are effective with respect to quarters beginning after December 31, 1980.

By Mr. PERCY (by request):

S. 2728. A bill to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes; to the Committee on Foreign Relations.

U.S. PARTICIPATION IN THE 1984 LOUISIANA WORLD EXPOSITION

● Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans.

This legislation has been requested by the Department of Commerce and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a statement of purpose and need, and the letter from the Secretary of Commerce to the President of the Senate dated June 17, 1982.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with the Act entitled "An Act to provide for Federal Government recognition of and participation in international expositions proposed to be held in the United States, and for other purposes," approved May 27, 1970 (Public Law 91-269; 22 U.S.C. 2801, et seq.), the President is authorized to provide for United States participation in an international exposition to be known as The 1984 Louisiana World Exposition (hereinafter in this Act referred to as the "Exposition"), to be held in New Orleans, Louisiana. The purposes of the Exposition are—

(1) to offer the citizens of the world a greater understanding and appreciation of rivers and fresh water as a basis of life; providing food, transportation, and energy; generating related industrial and commercial activity; and serving as a source of aesthetic gratification, social interchange and inspiration for the arts;

(2) to create an awareness of the need to conserve and protect the world's fresh water resources from the hazards of increasing demands, diminishing supplies, pollution and ecological disruption; and

(3) to stimulate international trade, encourage tourist travel in and to the United States, and promote cultural exchanges.

SEC. 2. (a) The President, through the Secretary of Commerce (hereinafter in this Act referred to as the "Secretary") and the other officials designated in this Act, is authorized to carry out in the most effective manner the proposal for United States participation in the Exposition, transmitted by the President to the Congress pursuant to section 3 of Public Law 91-269 (22 U.S.C. 2803) required by the 1928 Convention. Relating to International Expositions, as amended, entered into by the United States at Paris on April 30, 1968 (hereinafter in this Act referred to as the "Convention"), and the General Rules for The 1984 Louisiana World Exposition, as approved by the Bureau of International Expositions.

(b) The President is authorized to appoint, by and with the advice and consent of the Senate, a Commissioner General of the United States Government for The 1984 Louisiana World Exposition, who shall be in the Department of Commerce and who shall be the senior Federal official for the Exposition. The Commissioner General shall have such duties and exercise such responsibilities as may be prescribed by the Secretary and as may be necessary and appropriate to fulfill the obligations of the United States Government under the Convention and the General Rules for The 1984 Louisiana World Exposition. The Commissioner General shall be compensated up to the rate of basic pay which is equal to the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) The Secretary shall designate a Commissioner General of Section for United States participation in the Exposition (as provided for in the proposal referred to in subsection (a)), who shall be in the Department of Commerce and who shall perform such duties in the execution of this Act as may be delegated or assigned by the Secretary, including serving as director of the United States pavilion.

SEC. 3 Subject to the availability of appropriations, the Secretary is authorized to:

(a) Incur all necessary expenses to carry out the purposes of this Act, including but not limited to, expenditures for the design, development, construction, installation, rental, purchase, or other acquisition of exhibits and materials and equipment therefor, and the actual display, dismantling and disposition thereof.

(b) Lease such buildings and other structures or space therein (including commercial space for administrative purposes) and any land appurtenant thereto, and to make such improvements and renovations as may be appropriate for United States participation in the Exposition.

(c) Incur all necessary expenses for United States participation in the Exposition including but not limited to transportation, insurance, safekeeping and storage, maintenance and operation, printing, purchase of reference books, newspapers, and periodicals, and publicity.

(d) Enter into such contracts and agreements as may be necessary to provide for United States participation in the Exposition.

SEC. 4 The Secretary is authorized to obtain the services of consultants and experts as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate in effect for grade GS-18 under the General Schedule, to the extent the Secretary deems it necessary to carry out the provisions of this Act. Subject to the availability of appropriations, persons so appointed shall be reimbursed for travel and other necessary expenses incurred, including a per diem allowance, as authorized by section 5702 and 5703 of Title 5, United States Code, for persons in the Government service employed intermittently.

SEC. 5. (a) The Secretary is authorized to recruit, train, and accept the services of individuals without compensation as volunteers for or in aid of those functions, services or activities in and related to United States participation in the Exposition.

(b) The Secretary is authorized to provide for incidental expenses, such as transportation, uniforms, lodging, and subsistence of such volunteers.

(c) Volunteers shall not be deemed employees of the United States except for the purposes of Chapter 171 of Title 28, U.S.C., relating to tort claims and for the purposes of Chapter 81 of Title 5, U.S.C., relating to compensation for work injuries.

SEC. 6. (a) The Secretary is authorized to:

(1) Purchase for resale and to sell at fair market value, without regard to the requirements or limitations of other statutes: books, brochures, recordings, souvenirs and other items in keeping with the theme of the Exposition and commemorative of the United States participation therein, and charge an amount sufficient to realize a reasonable profit thereon;

(2) Enter into contracts and leases, including cooperative arrangements and concessions agreements, with respect to the sale of such items; and

(3) Credit the proceeds therefrom to the appropriation for the United States participation in the Exposition. To the extent that such proceeds exceed the amounts necessary to provide for such participation, they shall be recovered into the Treasury as miscellaneous receipts.

(b) The Secretary is authorized to provide free aid and assistance to visitors to the United States Pavilion in emergencies.

SEC. 7. In fulfillment of the Government's responsibilities attending its official recognition of the Louisiana World Exposition, Inc. (hereinafter in this Act referred to as "LWE, Inc."), as the organizer of the Exposition, and resulting from its position as the inviting Government, the Secretary of Commerce shall take all reasonable measures to facilitate the participation of other Governments and their nationals, assure adherence to the letter and spirit of Bureau of International Expositions protocols, and collaborate with LWE, Inc. in its efforts and those of the Federal Government to successfully organize, develop, and administer the Exposition.

SEC. 8. Private individuals, firms, associations, agencies, and other groups shall be encouraged to participate to the maximum extent feasible in carrying out this Act and to make contributions of funds, property, use of property, and services which the Secretary is hereby authorized to accept, to be utilized to carry out the purposes of this Act.

SEC. 9. The head of each department, agency, or instrumentality of the Federal Government is authorized—

(1) to cooperate with the Secretary with respect to carrying out any of the provisions of this Act; and

(2) to make available to the Secretary from time to time, on a reimbursable or nonreimbursable basis, such personnel as may be necessary to assist the Secretary in carrying out any of the provisions of this Act.

SEC. 10. Within one year after the date of the official close of the Exposition, the Secretary shall transmit to the Congress a report on the activities of the Federal Government pursuant to this Act, including a detailed statement of expenditures. Upon transmission of such report to the Congress, all appointments made under this Act shall terminate, except those which may be extended by the Secretary for such additional period of time as he deems necessary to carry out the purposes of this Act.

SEC. 11. After the close of the Exposition, all Federal property not acquired from Federal appropriations or sources may be disposed of in the discretion of the Secretary of Commerce, upon such terms and conditions as he shall deem appropriate, without regard to the provisions of the Federal Property and Administrative Services Act of 1949 and other applicable Federal laws relating to the disposition of excess and surplus property.

SEC. 12. The functions authorized by this Act may be performed without regard to the requirements, prohibitions and limitations of the following laws:

(1) Section 16(a) of the Administrative Expenses Act of 1946 (31 U.S.C. 638a) to the extent that it pertains to hiring automobiles.

(2) Section 201(a) of the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 481(a)).

(3) Section 305(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255(c)) (security for advance payments), and section 3648 of the Revised Statutes of the United States (31 U.S.C. 529) (advance of public moneys), if the Secretary determines that it is impracticable to obtain adequate security and there is a compelling need to make an advance payment.

(4) Section 322 of the Act of June 20, 1932 (40 U.S.C. 278a) (lease of buildings to the Federal Government), if the Secretary determines that waiver of that section would be in the best interests of the Federal Government.

(5) Section 2 of the Act of March 3, 1933 (41 U.S.C. 10a) (Buy American Act).

(6) Section 501 of title 44, United States Code (printing by the Government Printing Office).

(7) Section 3702 of title 44, United States Code (advertisements without authority).

(8) Section 3703 of title 44, United States Code (rates of payment for advertisements).

SEC. 13. The Secretary may issue such rules and regulations as he deems necessary to carry out the functions and duties imposed by this Act and, except where otherwise designated or limited in this Act, may delegate the performance of such functions and duties and the authority to issue such rules and regulations to such officers and employees of the Department as he may designate.

SEC. 14. To carry out United States participation in the Exposition, there are authorized to be appropriated $10,000,000 to remain available until September 30, 1985.

THE SECRETARY OF COMMERCE,
Washington, D.C., June 17, 1982.

Hon. George Bush,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana, and for other purposes, together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this legislation to the Congress from the standpoint of the Administration's program and that enactment of this legislation would be in accord with the program of the President.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

Enclosures.

STATEMENT OF PURPOSE AND NEED

This bill would authorize participation in the 1984 Louisiana World Exposition to be held in New Orleans and would also authorize an appropriation of $10,000,000 for the costs of such participation.

Authorizing legislation is required for U.S. Government participation in a Federally recognized exposition held in this country under Public Law 91-269 which established the procedures for Federal Government recognition of and participation in international expositions held in the U.S.

This legislative proposal is modeled after the authorizing legislation for Federal participation in this year's energy exposition to be held in Knoxville, Tennessee, Public Law 96-169.

The legislative proposal would provide for the design, development, and operation of a United States exhibit, including special modification of the U.S. Pavilion building, and the overall Federal responsibilities for the oversight of the exposition by the Commissioner General of the United States who is to be appointed by the President. The United States Pavilion building will be made available to the Government for the duration of the Fair without cost by the Louisiana World Exposition, Inc., the organizer of the Fair.

The few substantive changes in this proposal from the Knoxville authorizing legislation and the rationale behind them are discussed below. These changes in the proposed legislation have been made either because of problems that earlier fairs authorized under Public Law 91-269 had encountered or because of the uniqueness of the New Orleans approach where the U.S. pavilion is to be leased at no cost to the Government, not constructed by it. These specific provisions, identified by section number, include:

Section 3(b): The Secretary is given broad authority to lease such buildings and appurtenant land as appropriate to U.S. participation in the Fair. Contrary to the practice in previous fairs in which the Government participated, the Government will not itself construct the U.S. pavilion. Rather, the organizers of the New Orleans Fair will construct the pavilion building and make it available to the Government, without cost, for the duration of the Fair. This provision would authorize the Secretary to enter into a lease with the organizers for that purpose at no cost to the Government.

Section 5: This section authorizes the Secretary of Commerce to accept the services of individuals without compensation as volunteers to assist in carrying out the activities related to United States participation in the Exposition. This section has been added because of questions which have arisen at the Knoxville Exposition over the ability of the Department to accept the services of volunteer health care professionals.

Section 6: The Secretary is authorized to either operate or contract for the operation of a concession within the pavilion for the purpose of selling souvenirs to those attending the Fair. Proceeds from any sales would be used to support U.S. participation in the New Orleans Fair. To the extent funds are not needed for that purpose, the funds so produced would be deposited in the Treasury. Such authority would not only relieve the Government of some of the cost attendant to U.S. participation but would also stimulate the private sector producing the souvenirs.

Section 7: This section clarifies the responsibilities of the Secretary of Commerce with respect to the Government's role in facilitating the participation of other governments and their nationals by assuring adherence to Bureau of International Expositions' protocols and generally supporting the efforts of the organizer of the New Orleans Fair. In previous fairs, the role of the Secretary of Commerce has not been expressly stated. This provison would correct that shortcoming, thereby removing a source of confusion to many international participants who have been unable to distinguish the role of the U.S. Government as it related to that of the organizer.

Section 8: The Secretary is expressly authorized to accept private contributions in support of U.S. participation in the Fair. Such contributions have been accepted in previous fairs under the Department's gift statute, 15 U.S.C. 1525. Including a special gift authority in this bill would highlight the importance of such contributions and also clarify an ambiguity in the Department's gift authority which fails to mention the contribution of services.

Section 11: This section authorizes the Secretary of Commerce to dispose of all Federal property developed and acquired for the Fair as he shall see fit, provided that such property is not acquired from Federal appropriations or sources. Inasmuch as no pavilion building is being constructed by the Government in New Orleans, the majority of the property in question would be the exhibits. It is the Department's intention to acquire many of the exhibits through loans and donations. Consequently, that property left for disposal will have little or no residual value for other Federal agencies, but could be used by New Orleans or some other city in Louisiana as an educational attraction. The Secretary, having worked closely with state and city officials in connection with the Fair, would be best situated to determine the most beneficial disposition of the property.

Section 12: The waivers contained in this section have been taken from the authorizing legislation for the Knoxville Exposition.●

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. BURDICK, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 38, a bill to amend title XVIII of the Social Security Act to au-

thorize payment under the medicare program for certain services performed by chiropractors.

S. 611

At the request of Mr. THURMOND, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 611, a bill to amend section 5 of the Uniformed Survivors Benefits Amendments of 1980 to provide the same annuity benefits to the surviving spouses of certain former members of the uniformed services who died before September 21, 1972, but after their discharge or release from active duty, as are provided under such section to the surviving spouses of certain former members who died before such date while serving on active duty.

S. 1701

At the request of Mrs. HAWKINS, the name of the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 1701, a bill to amend title 28, United States Code, to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing children and other specified individuals.

S. 1939

At the request of Mr. GOLDWATER, the names of the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 1958

At the request of Mr. DOLE, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 1958, a bill to amend title XVIII of the Social Security Act to provide for coverage of hospice care under the medicare program.

S. 1984

At the request of Mr. MELCHER, the name of the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 1984, a bill to amend the Federal Trade Commission Act to protect the legislative and regulatory authority of the State legislatures, and for other purposes.

S. 2000

At the request of Mr. DOLE, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 2000, a bill to amend title 11, United States Code, to establish an improved basis for providing relief under chapter 7, and for other purposes.

S. 2225

At the request of Mr. BAUCUS, the name of the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2225, a bill to amend the Internal Revenue Code of 1954 to remove certain limitations on charitable contributions of certain items.

S. 2420

At the request of Mr. HEINZ, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Iowa (Mr. JEPSEN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Oklahoma (Mr. NICKLES), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2420, a bill to protect victims of crime.

S. 2565

At the request of Mr. NUNN, the names of the Senator from Arkansas (Mr. PRYOR), and the Senator from Maine (Mr. COHEN) were added as cosponsors of S. 2565, a bill to amend the Internal Revenue Code of 1954 to provide for the disclosure of returns and return information for use in criminal investigations, and for other purposes.

S. 2572

At the request of Mr. THURMOND, the names of the Senator from Mississippi (Mr. STENNIS), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 2572, a bill to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

S. 2585

At the request of Mr. CRANSTON, the names of the Senator from Florida (Mrs. HAWKINS), the Senator from Nevada (Mr. CANNON), the Senator from South Carolina (Mr. THURMOND), the Senator from South Dakota (Mr. PRESSLER), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2617

At the request of Mr. HEINZ, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Ohio (Mr. GLENN), the Senator from Connecticut (Mr. WEICKER), the Senator from Connecticut (Mr. DODD), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Nevada (Mr. CANNON), the Senator from Illinois (Mr. DIXON), and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 2617, a bill to amend the Age Discrimination in Employment Act of 1967 to eliminate mandatory retirement and other forms of age discrimination in employment.

S. 2646

At the request of Mr. ROTH, the name of the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 2646, a bill to amend section 103(b)(6) of the Internal Revenue Code of 1954 with respect to the exemption from the industrial development bond provisions for certain small issues.

S. 2655

At the request of Mr. FORD, the names of the Senator from Nevada (Mr. CANNON), the Senator from Montana (Mr. MELCHER), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. WEICKER), the Senator from North Dakota (Mr. ANDREWS), the Senator from Tennessee (Mr. SASSER), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 2655, a bill to provide increased maximum limitations for student loans under part B of title IV of the Higher Education Act of 1965 for certain students who lost benefits under the Social Security Act as a result of amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2721

At the request of Mr. SCHMITT, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2721, a bill to establish criteria for determining election boundaries in developing census information.

SENATE JOINT RESOLUTION 110

At the request of Mr. HATCH, the name of the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of Senate Joint Resolution 110, a joint resolution to amend the Constitution to establish legislative authority in Congress and the States with respect to abortion.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 207

At the request of Mr. DOLE, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Nevada (Mr. CANNON), the Senator from North Carolina (Mr. EAST), the Senator from Mississippi (Mr. STENNIS), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Missouri (Mr. EAGLETON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Wisconsin (Mr. KASTEN), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. GLENN), the Senator from Georgia (Mr. NUNN), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of Senate Joint Resolution 207, a joint resolution to authorize and

request the President to designate the week of August 1, 1982, through August 7, 1982 as "National Purple Heart Week."

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. HEINZ, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of Senate Concurrent Resolution 73, a concurrent resolution to condemn the Iranian persecution of the Bahai community.

SENATE RESOLUTION 411

At the request of Mr. PRYOR, the name of the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of Senate Resolution 411, a resolution expressing the sense of the Senate that the Secretary of Health and Human Services should not adopt as final rules proposed rules issued on May 24, 1982, relating to survey and certification procedures for nursing homes and other health care facilities and suppliers participating in medicare and medicaid programs.

AMENDMENTS SUBMITTED FOR PRINTING

CONSTITUTIONAL AMENDMENT ON A BALANCED BUDGET

AMENDMENT NOS. 1927 THROUGH 1929

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN submitted three amendments intended to be proposed by him to the joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

AMENDMENT NO. 1930

(Ordered to be printed and to lie on the table.)

Mr. MATTINGLY submitted an amendment intended to be proposed by him to the joint resolution, Senate Joint Resolution 58, supra.

AMENDMENT NO 1931

(Ordered to be printed.)

Mr. MATHIAS (for himself and Mr. BAUCUS) proposed an amendment to the joint resolution, Senate Joint Resolution 58, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. WARNER. Mr. President, I would like to announce for the information of the Senate and the public that the oversight hearings before the Subcommittee on Energy and Mineral Resources on America's role in the world coal export market previously scheduled for July 27, 29, and 30 have been rescheduled for Tuesday, August 10; Thursday, August 12; and Friday, August 13, beginning at 9:30 a.m. in room 3110 of the Dirksen Senate Office Building.

For further information regarding these hearings, you may wish to contact Mr. Roger Sindelar of the subcommittee staff at 224-4236.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the subcommittee hearing regarding S. 1918, to establish the Northeast-Midwest States Federal Hydropower Financing Authority, scheduled for Thursday, July 29, will begin at 10 a.m. instead of 2 p.m., as previously scheduled.

For further information regarding this hearing you may wish to contact Mr. Russ Brown of the subcommittee staff at 224-2366.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate at 2 p.m. on Tuesday, July 13, to hold a nomination hearing to consider the nomination of George P. Schultz, of California, to be Secretary of State.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate on Wednesday, July 14, to hold a nomination hearing to consider the nomination of George P. Schultz, of California, to be Secretary of State.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 14, at 2 p.m. to hold a full committee closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be authorized to meet during the session of the Senate at 2 p.m. on Wednesday, July 14, to hold a nomination hearing to consider the nominations of: Patrick E. Higginbotham, of Texas, to be circuit judge for the fifth circuit court of appeals; E. Grady Jolly, of Mississippi, to be a circuit judge for the fifth circuit court of appeals; and Richard A. Gadbois, Jr., of California, to be U.S. district court judge for the central district of California.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ETHIOPIANS IN THE UNITED STATES

● Mr. KENNEDY. Mr. President, I am gratified that the administration has finally reversed its policy of restricting the temporary immigration status of Ethiopians in the United States. In doing so, the administration has recognized the tragic fact that human rights conditions have not changed inside Ethiopia since we first began approving requests of Ethiopians for extended voluntary departure status over a year ago.

This was the point of the letter I wrote to former Secretary of State Haig over 6 months ago. And this was the thrust of the resolutions that were introduced last month in both the House and Senate—cosponsored by more than 60 Members of Congress.

As I indicated in my letter last January, it would be unconscionable to deport Ethiopians back to their country given the clear evidence that Ethiopians with ties to the United States suffer systematic discrimination, including imprisonment. I hope the administration will continue to look favorably upon extending the policy of granting voluntary departure status to Ethiopians until conditions change in their country.

Mr. President, I ask that the news report on the administration's decision, as well as my letter of last January 28, be printed in the RECORD.

The material follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., January 28, 1982.

Hon. Alexander M. Haig, Jr.
Secretary of State,
Department of State,
Washington, D.C.

Dear Mr. Secretary: I am writing to express my deep concern over reports that the Department of State is now recommending to the Immigration and Naturalization Service that asylum applications or requests for extended voluntary departure from Ethiopians in the United States be denied.

Clearly, conditions have not changed inside Ethipia since we first approved requests for extended voluntary departure for Ethiopians. If anything, they have seriously deteriorated. Indeed, most observers would agree with Ambassador Jeane Kirkpatrick that human rights violations in Ethiopia are "savage." And there is strong evidence that Ethiopians with any ties to the United States—such as graduates from American schools and colleges—suffer systematic discrimination, sometimes imprisonment.

Therefore, I would appreciate learning what the Department's policy is now on extending the temporary immigration status of Ethiopians in the United States and whether you are favorably considering asylum applications from Ethiopian nationals. Not every Ethiopian in the United States can individually justify a claim of persecution or well-founded fear of persecution, but they surely can claim a well-founded fear of indiscriminate violence and sys-

tematic human rights violations. To deport an Ethiopian under these circumstances, and at a time we have publicly condemned at the United Nations Ethiopia's human rights record, would be unconscionable.

Many thanks for your consideration and best wishes.

Sincerely.

EDWARD M. KENNEDY,
Ranking Minority Member.

[From the New York Times, July 7, 1982]

STATE DEPARTMENT REVERSES POLICY ON ETHIOPIAN EXILES IN UNITED STATES

(By Bernard Weinraub)

WASHINGTON, July 6.—The State Department, reacting to a plea by an unusual Congressional coalition of blacks, conservatives and liberals, has reversed its policy and proposed that more than 15,000 Ethiopian exiles remain in the United States and not face deportation hearings.

The State Department proposal follows a series of strongly worded resolutions in the House and Senate urging the Administration to revise its policies toward Ethiopian students and refugees who fled here in the 1970's to escape the Marxist regime that took power in Ethiopia in 1974. Since then, there have been accounts of widespread religious and political persecution there.

In 1977, the State Department granted "voluntary departure" status to Ethiopians in the United States, allowing them to remain here indefinitely. Last August, the State Department said Ethiopia had stabilized to a considerable degree and recommended the cancellation of the program that allowed Ethiopians to remain. The Immigration and Naturalization Service started deportation hearings against Ethiopians, a move that stirred numerous members of Congress, especially from the Los Angeles and New York City areas where there are large Ethiopian populations.

"While Government sponsored killings and disappearances in Ethiopia have ebbed, by no stretch of one's imagination should the United States forcibly repatriate individuals to this Government," said Representative Julian C. Dixon, Democrat of California, who co-sponsored a resolution with Representative Jack F. Kemp, Republican of New York, urging the State Department to revise its proposal and extend "voluntary departure" to all Ethiopians who have lived in the United States before 1980.

Since 1980, Mr. Dixon said, most Ethiopians have come to the United States with the sanction of the Govenment there.

Mr. Kemp said that if the State Department effort to spur deportations was carried out, it would lead to imprisonment or possible death for many Ethiopians who had lived in the United States. He called the Ethiopian Govenment "one of the most barbaric in the world," and said the regime had tortured and killed thousands of people, including children.

More than 60 members of the House and Senate supported Mr. Dixon's and Mr. Kemp's resolution. They included Senators Edward M. Kennedy and Paul E. Tsongas, Democrats of Massachusetts; Daniel Patrick Moynihan, Democrat of New York; Carl Levin, Democrat of Michigan; Nancy Landon Kassebaum, Republican of Kansas, and Alan Cranston, Democrat of California.

ABRAMS LEADING POLICY FIGHT

Senate aides said Elliott Abrams, Assistant Secretary of State for Human Rights and Humanitarian Affairs, spearheaded the move to revise official policy toward the Ethiopian refugees. The aides said it was "difficult to demonstrate that conditions have stabilized in Ethiopia" to the point where the refugees could return home without concern that they would be imprisoned.

State Department officials said that in recent days, Deputy Secretary Walter J. Stoessel, Jr. had written to Attorney General William French Smith seeking a shift in the rules to make them correspond to the Dixon-Kemp resolution. As Attorney General, Mr. Smith oversees the Immigration and Naturalization Service, which would have handled deportation hearings.

Although several hundred notices for deportation have been sent to Ethiopians in the last year, none have actually left the United States, according to Senate aides. Mr. Dixon and Mr. Kemp have said that passage of an immigration bill now before Congress would give the Ethiopians in the United States the opportunity to become permanent residents.●

WHERE EDISON ELECTRIC INSTITUTE STANDS ON S. 1606

● Mr. HEINZ. Mr. President, because of my concern about the ill effects of neglecting a thorough and expeditious cleanup of Three Mile Island 2, I introduced S. 1606 to provide an equitable method of funding for cleanup procedures.

Recent newspaper articles may have created a misunderstanding of the position of Edison Electric Institute, a major association of electric companies, on S. 1606. I recently received a letter from EEI clearly stating their support for my bill. I request that their letter be inserted in the RECORD.

The letter referred to follows:

EDISON ELECTRIC INSTITUTE,
Washington, D.C. June 18, 1982.

Hon. JOHN HEINZ,
U.S. Senate,
Washington, D.C.

DEAR JOHN: Because a possible misunderstanding about the Institute's position on S. 1606 may have occurred as a result of recent publicity, I thought it appropriate to state clearly and concisely our position on S. 1606.

Although a voluntary program would produce some electric utility industry funds for the cleanup of TMI-2, legislation is necessary because only a federal requirement can assure that the utility industry contribution is equitably distributed among nuclear companies, that the amount of the industry contribution is known, and most importantly, that these funds will be forthcoming for the duration of the cleanup. We believe that S. 1606 provides an appropriate legislative vehicle to accomplish these objectives. We continue to object, however, to Section 9 of the bill which contains a provision, added to the original bill supported by EEI, which makes reference to the ratemaking treatment of the fees by the Federal Energy Regulatory Commission and State Commissions. We are concerned that the wording of Section 9 and the fact that it was added to the bill may give rise to the inference as to how State Commissions should treat the payments required by the proposed legislation. EEI believes that Congress should not instruct states on the way they treat these fees for purposes of ratemaking.

Despite our concerns about Section 9, we support the Committee passage of the bill in its current form because we believe it is necessary to have prompt and positive action on this leigslative proposal as part of the overall cost-sharing program for the cleanup on TMI-2. However, we will continue to urge deletion of Section 9 when the full Senate considers this bill.

Sincerely,

FREDERICK L. WEBBER.[1]

MORE AMERICAN JOBS LOST TO FOREIGN COMPETITION

● Mr. GOLDWATER. Mr. President, recently, there came across my desk a press release from the SCM Corp. manufacturers of typewriters. This press release is one of the most damning things I have seen on our country's inability to protect the manufacturers we still have in this country.

It is quite apparent that the Japanese have as their aim the acquisition of all typewriter manufacturing in the world, whether it puts U.S. companies out of business or not. The Japanese have been dumping typewriters in competition with SCM for a long time and it is obvious now that SCM will have to abandon much of its manufacturing in the United States and move—where? To the far Pacific, where it will have a better chance of competing with Japan's typewriter industry, because it is quite obvious that our Commerce Department has no intention of offering the type of protection needed.

I ask that the press release be inserted at this point in my remarks.

The press release is as follows:

SMITH-CORONA TO ASSEMBLE MORE ELECTRO-MECHANICAL TYPEWRITERS IN SINGAPORE; CITES COMMERCE DEPARTMENT DUMPING DECISION; CORTLAND EMPLOYMENT TO BE AFFECTED

CORTLAND, N.Y., June 30.—SCM Corporation's Smith-Corona typewriter group will increase production of electro-mechanical typewriters at its Singapore factory and produce fewer at its manufacturing facilities in the Cortland/Groton area of New York.

As a result, Smith-Corona's Groton plant will be phased out over the next 18 months, and this will result in the eventual loss of approximately 400 jobs. "Most if not all of the employment reduction will be accomplished by normal attrition," James I. Sherrill, vice president—Smith-Corona operations, said, "and there will be no effect on employment for at least nine months to a year." Smith-Corona will institute job retraining programs for those workers who will be shifting jobs and placement services if any jobs will be eliminated. "We expect that employment in Cortland will stabilize at approximately 2,800," Mr. Sherrill added.

The move will not result in a special charge against fiscal 1982 earnings.

For the year ended June 30, 1981, SCM's typewriter and appliance groups lost $8.8 million even though appliances was profitable. The combined loss for the group for this fiscal year is expected to increase to more than $25 million with both parts of the group unprofitable and the loss for typewriters higher than for fiscal 1981.

"A significant reason for these losses has been the effects of a decade of dumping in

the U.S. of portable electric typewriters from Japan," Freeman Robinson, vice president-general manager of Smith-Corona, said. "Agencies of the U.S. government determined that Japanese typewriters were being dumped in this country in violation of U.S. law. Despite the determination that Smith-Corona was being injured by this dumping, and even despite the strong personal involvement of Congressmen Gary Lee, George Wortley and the entire New York delegation, our own government has applied the law to the disadvantage of Smith-Corona. Within the past few weeks, we learned that the Commerce Department will reaffirm its early decisions that reduced the dumping duties initially found by as much as 90 per cent. In fact, we understand that Commerce plans to further reduce the duties to virtually nothing," he added.

Nevertheless, Smith-Corona will continue its fight for effective enforcement of U.S. laws against unfair trade, "since Japanese dumping has been a primary cause of the dislocation of our U.S. jobs. Our objective is to maintain the Cortland facility for production of the top-of-the-line products. These too, are vulnerable to unchecked foreign dumping," Mr. Robinson added.

"SCM's Cortland facilities will continue to produce electronic products, as well as some electro-mechanical typewriters," Mr. Sherrill said. In addition, the three-plant facility at Cortland will continue to fabricate parts and supplies for machines to be assembled both in Cortland and in Singapore.

Smith-Corona's recently-introduced electronic line includes two electronic office typewriters, the first electronic portable typewriter made in the U.S. and the TP-I, a full character, low cost printer. "Sales of the electronic portable and printer have been good," Mr. Sherrill said.

"We believe the best course for our business is to concentrate high technology product development and production in the Cortland plants," Mr. Robinson said. "As part of this policy, earlier this month we announced the transfer of our Manufacturing and Engineering Research and Development headquarters to Cortland," he added.

"This transfer of additional production to Singapore is essential to help us reduce costs and enable us to compete more effectively with typewriters imported from Japan," Mr. Robinson said.

Mr. Sherrill said that his staff will work with the Tompkins County Industrial Development Agency to promote the sale of the Groton building. "We will cooperate in every way to make this as smooth a transition as possible and will keep the village and town advised of our progress," he added.●

CLEAN AIR—INDUSTRY'S VIEW

● Mr. EAGLETON. Mr. President, no corporation is more affected by the requirements of the Clean Air Act than St. Louis-based Monsanto. I think it is essential that the viewpoint of those who must live with this act in the course of their day-to-day activities be carefully weighed by the Congress. Accordingly, I commend to my colleagues a letter written by Monte C. Throdahl, senior vice president, environmental policy, Monsanto, and published in the St. Louis Post-Dispatch, June 15, 1982.

While I do not subscribe to all the points raised by Mr. Throdahl, I nevertheless believe it is a thought-provoking and clear expression of the business community's position that our clean air goals be integrated with our objectives of having a prosperous and growing economy.

Mr. President, I ask that the text of Mr. Throdahl's letter be printed in full.

The letter referred to follows:

[From the St. Louis Post-Dispatch, June 15, 1982]

A BETTER ROAD TO CLEAN AIR

(By Monte C. Throdahl)

The current debate on renewing the Clean Air Act is not, as some would have us believe, about clean air versus dirty air. We all want clean air; most of us are willing to dig relatively deeply into our pockets to achieve it. Rather, the clean-air debate is, or ought to be, about proceeding under the current cumbersome and unnecessarily costly law versus updating it to improve its effectiveness.

The current law sometimes has been called a "sacred cow," to be tampered with only at the risk of losing elections, or at least your friends. Why is it sacred? Have we not learned from a decade's experience with it how to design a better, less disruptive clean air program? Of course we have. The politically diverse National Commission on Air Quality, after 2 years of study, recommended 109 steps for improving our clean-air effort. These steps included making some critical changes to the current law.

The present administrator of the U.S. Environmental Protection Agency has said, "The Clean Air Act must be updated, so that we can build upon the substantial progress of the 1970's and meet the air quality needs of the 1980's. Our efforts should recognize the need to focus federal resources on effective measures and minimize unproductive, unfocused conflicts."

Legislation that would accomplish these goals has been introduced in Congress. In the House, it is a bipartisan measure whose principal sponsor is Congressman Thomas Luken, an Ohio Democrat. In the Senate, several clean-air reform bills (one covering auto emissions, the others covering industrial emissions) are pending. Their principal sponsors include Missouri's Senator Eagleton and Senators Byrd (D-WVa), Riegle (D-Mich), and Garn (R-Utah).

These bills have similar thrusts and purposes. They would:

Maintain the current health-based approach to setting federal air quality standards;

Give States more responsibility to managing their air pollution control programs to meet the federal standards;

Reinstate certain 1980 auto emission standards allowing continued, less expensive clean-air progress;

Require the best available controls for industrial sources while streamlining unworkable procedures for these facilities.

Many states and local officials, most industries, and some labor unions have endorsed these improvements, but the defenders of the sacred cow are having none of it.

Shortly after the Luken amendments were introduced, a coalition of environmental groups and one labor union roasted them at a news conference. The coalition said the amendments would halt progress in areas not meeting standards, that they would "completely eliminate" special protection for parks and wilderness areas, and that the current Act created jobs and economic growth.

The National Environmental Development Association—a combination of some industries and labor organizations—responded. It said that the Luken measure would require the best available control technology for industrial operations in areas not meeting standards, that the bill would continue special protection for designated parks and wilderness areas and that Congress could extend this coverage to additional acreage if it is desired.

Finally, the association said it was not claiming that the Clean Air Act "is shutting down plants and throwing American workers out of jobs". Rather it said: "Complex regulatory requirements in some provisions of the Clean Air Act place unnecessary obstacles in the path of new, environmentally sensitive construction and the modernization of the nation's aging industrial base for no benefit to improved air quality. As a result, inefficient, energy-wasteful and polluting industrial facilities are perpetuated."

Progress toward clean air would continue under the Luken and similar bills. No state would be allowed to weaken or rollback pollution control "implementation plans" to which it is already committed. But the savings from the leaner Luken approach would be significant. After studying the economic effects of the Clean Air Act on 150 large and small businesses, a consultant to the Business Roundtable last year reported that "several billions of dollars could be saved by a more efficient Clean Air Act, without sacrificing air quality gains".

Few of us regard our own thinking or activities as "sacred" or "not subject to change". Rather, we modify our thoughts or behavior based upon past experience. Congressman Luken and others are attempting to apply our collective experience with the Clean Air Act to amend it. Their bills are progressive; they are not measures for "dirty air". To cavalierly label them such is dirty pool.●

LET US GIVE UP ON LAND-BASED MISSILES

● Mr. DANFORTH. Mr. President, I come here today to repeat myself. Reduction of the risk of nuclear war is the most important moral imperative in the history of humankind. I believe fervently that the recitation of this essential truth is a duty which cannot recur too often. Nuclear weapons are fundamentally different from all other weapons. They are the most deadly product of civilization ever conceived. Their use would produce the ultimate human tragedy and physical catastrophe. In fact, no justification for their existence can be made except solely as a deterrent to nuclear war.

Any purpose which assumes the use of nuclear weapons is—on its face—immoral and unimaginably dangerous. I reject categorically the suggestions which have been advanced at various times over the last decade that nuclear weapons can act as a substitute for less than adequate conventional military forces, or that they can be used in a way that produces military victory, or that their use somehow can be limited. Such arguments are utter non-

sense. We must accept, once and for all, the fact that nuclear weapons have no military purpose. To contemplate their use is to contemplate the end of human history—and the end of creation.

Since nuclear weapons should exist solely as a deterrent to nuclear war, it is altogether fitting to examine the question whether certain nuclear weapons carry a higher probability that they might ever be used. The answer is obvious and the answer is yes. The weapons most likely to be used are the so-called first-strike weapons.

On April 25, 1982, a 17-member Independent Commission on Disarmament and Security Issues, composed of present and former political leaders from industrial countries, the Third World, NATO, and the Warsaw Pact issued a report. Cyrus Vance from the United States and Giorgi Arbatov from the Soviet Union were Commission members. The Commission made two principal findings with respect to reductions and qualitative limitations in United States and Soviet strategic weapons. First, the parties should reaffirm the limitations and restraints within the SALT II Treaty. I agree. Second:

> The parties should *seek a follow-on treaty providing for major reductions* and qualitative limitations resulting in essential parity at substantially lower and more stable levels of forces. Particular *emphasis should be accorded to reductions and qualitative limitations that would reduce fears of a "first strike,"* an attempt to disarm an opponent or to forestall a possible attack by a preemptive surprise attack. (Italic added.)

In my view, the Commission is exactly right. Negotiations should concentrate on lowering, substantially, the deployment of nuclear weapons and should target first strike weapons as a top priority.

Mr. President, on March 18, 1982, I proposed on the floor of the Senate that a primary point for discussion between the United States and the Soviet Union be cancellation of the proposed M-X missile in return for Soviet dismantling of SS-18 missiles. Both are first-strike weapons. A freeze without reductions in nuclear weaponry would perpetuate an intolerably insecure and threatening situation. Therefore, mutual reductions in the most dangerous and destabilizing elements of the arsenals of the superpowers; namely, heavy, highly accurate land-based ICBM's, must be our initial goal.

Mr. President, I ask that an article by Michael Getler of the Washington Post, which makes basically the same point on a much broader scale, be printed in the RECORD.

The article referred to follows:

LET'S GIVE UP ON LAND-BASED MISSILES—THE ONE RADICAL ARMS REDUCTION ALTERNATIVE THAT JUST MIGHT WORK

(By Michael Getler)

GENEVA.—Soviet and American negotiators here again are discussing how to limit their nuclear arsenals, but the best way to deal with the fears that drive the nuclear arms race won't be on the negotiating table.

That ideal solution would be to get rid of land-based, intercontinental-range missiles entirely. To be sure, this is a radical solution. But in the end it might also prove the safest and most prudent step for both sides.

The point is that the theoretical threat of a first-strike against vital military targets on each other's homeland will never really disappear until the vital targets themselves—the underground missile silos—disappear.

Facing up to such a proposal would be exceedingly difficult but perhaps not impossible, especially if the phaseout of these missiles was proposed to take place gradually over perhaps 10 years.

This is not a new idea. But perhaps the time has come to take a fresh look at it because the superpowers are now at a crossroads in the arms race, as the new strategic arms reduction talks illustrate, where strategic concepts should be reviewed.

The United States has had a traid of land and submarine-based missiles and bombers for about two decades now, and it has served the country well. Three different systems vastly complicate the timing any attacker would need to try to catch all three forces by surprise. It gives assurance that one or two of those forces will survive to strike back.

And, in a perverse way, the existence of missiles on land assures that Americans will die in an attack by the Soviets. In the view of strategists, this increases deterrence because Moscow will know that an American president won't accept huge casualties and thus will surely fire back if attacked.

But a world without ICBMs on American or Soviet territory would be safer than anything in the current situation. This would be a world in which neither side had large numbers of militarily useful strategic targets on the other's territory, a fact that would surely reduce the damage in the unlikely event a nuclear exchange did occur. (Today, the Soviets have about 1,400 land-based ICBMs; the United States has 1,052.)

Critics argue that reliance only on missile-firing submarines and bombers would allow Moscow to concentrate its money on anti-submarine warfare (ASW) and thus cripple the next most potent force. But the oceans are almost incomprehensibly vast and opaque places to hide in, and the United States is better at ASW anyway. Washington could sink just as much money into building even more elusive submarines and finding ways to protect them.

Communicating with submarines has also been something of a problem. But it is accomplished now and it could—perhaps using the money saved from land-based missiles and antimissile defenses to protect the land-based missiles—be improved by adding more powerful land-based transmitting stations and airborne relay planes to keep in closer touch.

Critics also argue that perhaps 40 percent of our missile submarines are in port at any one time. (For the Soviets the percentage is much higher.) The answer is to build more.

The overriding point is that missile-firing submarines at sea today are all but invulnerable to attack. Thus they do not have to be fired first in a crisis and indeed are impossible for an enemy to knock out with any confidence. They offer the best way to end the fear that really grips any president and population; that there will be a hair-trigger on the nuclear button.

Along with submarines, bombers remain a useful and also non-threatening investment. They can be useful for many roles. They take hours to get where they are going and thus are not good first-strike weapons. They can carry conventional and atomic bombs. They are visible as symbols, yet they can be recalled. Most importantly, they are manned by human beings who are very resourceful.

It seems safe to predict that the idea of eliminating land-based missiles will not be considered here. Indeed, it seems out of the question. There are vast institutional pressures—both in the Soviet and American air forces and military-civilian bureaucracies—that undoubtedly would resist.

The thought is especially repugnant to the Soviets, who have 70 percent of their nuclear missile power on land (compared to about 30 percent for the United States.) The branch of the Soviet armed services responsible for land-based rockets has enormous bureaucaratic power.

But a decade of arms control talks about more conventional solutions have not produced much success. And this proposal is potentially attractive even if the Soviets won't accept it. With a new generation of more accurate submarine-based missiles coming into service, the United States could decide unilaterally to give up its land-based missiles over a period of years, replacing them with new submarine-based missiles, thus removing these dangerously appealing targets from the maps of strategic war planners in Moscow.●

JOSEPH LEANDRA—A WELL-LOVED PRO

● Mr. PELL. Mr. President, some individuals have a character, cheerfulness, and an outlook that enrich the whole community. One man who has these qualities is Joseph Leandra, the tennis professional at the Newport Casino for more than 40 years.

In all the years that his fellow Newporters and I have known him, he has always been found to give himself and add to the general reservoir of good will in our community. In this regard, I ask that there be printed in the RECORD following these remarks the article that appeared in the Providence Journal of Friday, July 9, 1982, concerning Joseph Leandra.

The article referred to follows:

[From the Providence Journal, July 9, 1982]

A PRO IS LOVED FOR 42 YEARS OF SERVICE AT NEWPORT CASINO

(By Bill Reynolds)

NEWPORT.—The thing was, it was only going to be a part-time job for a while, just something to tide him over until he became a teacher.

But now it is 42 years later and Joe Leandra has gone from being a part-time tennis pro at the Newport Casino to something close to an institution there. Almost as much a part of the Casino as the Victorian architecture, the verdant lawns, the horseshoe piazza.

"No, it was never planned," said Leandra the other day while waiting for the day's Miller Hall of Fame competition to begin. "It just sort of happened. I kept liking it. So I kept staying."

He has stayed for more than four decades now, while the country has gone from Roosevelt to Reagan and tennis from Don Budge to Bjorn Borg, from Alice Marble to Chris Evert. Leandra has known them all.

He was here the day in the late '40s when, after an argument with Jimmy Van Alen, Pancho Gonzales stood in the stadium court and hit a ball that probably ended out on Memorial Boulevard somewhere.

He was here the day Brooke Shields' grandfather, then one of the leading players of the era, came to play mixed doubles with a society matron after a night of revelry and promptly passed out on the court.

"The game was different then," he remembers. "There wasn't the interest there is now."

In fact, when he started back in 1940, tennis was a genteel sport, as upper-class as polo ponies, and the Casino essentially was the playpen for the summer colony. But unlike most other places, where the game was considered a little less red-blooded than other sports, some interest in the game had trickled down from the Casino throughout the city.

At least it did to Leandra. For he had grown up virtually across the street from the Casino and used to sneak into tournaments as a kid. He began learning the game in the dusty public parks, only a serve away from the manicured lawns of the Casion but light-years away in life-style. He played both at De La Salle Academy and at Providence College.

"I was never much of a player," he admits, "but just like cheese, I've gotten better with age."

So when the job of teaching tennis opened up after he graduated from PC, what could be a better summer job? Hit a few tennis balls on the grass at the Casino and not have to sneak in to do it.

"Right from the beginning I liked everything about it," he says. "The teaching. The people. Just being here every day."

It also was as if the job had been created for him. For he is, after all, a man who has never married, who lives only a few blocks away from where he grew up; a man who says he has not left Aquidneck Island in 12 years and says he is continually kidded that his entire world seems to consist of a few blocks.

"Everything I desire is here," he says. "Why should the mountain go to Mohammed?"

So this week, in tennis white, he is running a mini-tournament for the players' wives, setting up the teams, passing out the trophies, doing all the little things that go with the Miller Hall of Fame matches, and doing it all with enthusiasm.

For the past 25 years he also has been in charge of the buildings and grounds in addition to being the pro, the one constant in a succession of people who walk through the Casino's Victorian arches. "Everyone always asks me when I'm going to take a vacation," says Leandra, 66, looking around at the emerald lawns, the buildings that speak of permanence and tradition, at this little sliver of paradise on a July morning. "And I tell them, what for? I got it here 365 days a year."

For 42 years.●

FIVE WHO MAKE AMERICA GREAT

● Mr. DOMENICI. Mr. President, too often, we concentrate our Nation's recognitions and tributes to famous Americans, those in positions of public leadership, men and women with social status, unique talents, or wealth and power in the business world. Unfortunately, as a consequence, the small sacrifice, the little favors, personal commitments, performed day after day, year in and year out, go unrecognized. There are many more of these kind of Americans than the few celebrities recognized through our media, and these unrecognized citizens represent the essential ingredient in our society that has made it thrive and prosper throughout the years—the willingness to reach out and help a neighbor.

Davene Bennett, of Hatch, N. Mex., is that kind of American. For 35 years, she has cared for foster children and now fulfills that role as mother and guiding force for young people who at a tragic point in their lives, had no one to take care of them. Her special personal selfless sacrifice should not go unrecognized. Roy Blount, Jr. in the July 4 issue of Parade magazine, wrote about her and four others like her in an article entitled "Five Who Make America Great." I ask that the entire article be made a part of the CONGRESSIONAL RECORD.

The article referred to follows:

FIVE WHO MAKE AMERICA GREAT

(By Roy Blount Jr.)

Davene Bennett's kids have been Apache, Laguna-Pueblo, Hopi, Choctaw, Chicano, black, Anglo Chinese, Japanese, Filipino and Korean: 181 of them in all. She and they have also raised somewhere in excess of 40 horses, from mustangs to Arabians. She is a full-blooded Cherokee herself.

"Lots of em come here pretty prejudiced." she says. "But after they live together a few months, they forget about it. It's kind of international here, but I don't think about those differences until somebody asks me about it."

It was 35 years ago, when she was living in Carlsbad, N.M., that Davene, now 58, took in her first two foster kids, to go with her three natural ones. She was divorced in 1961, but she continued to take on new charges. Since 1964, she has reined herd on anywhere from seven to 18 foster kids at "Casa de Paz," a 13-room concrete-and-rock building in Hatch, N.M.

Some stay only briefly before they're reunited with their natural parents. Others stay as long as 12 years. Most of them are abused, neglected, delinquent before they come to Davene, but she sounds surprised when asked if she's ever had any trouble loving any of them. She's only sent one back—a girl who needed psychological counseling, which she couldn't get in Hatch.

What the kids of Casa de Paz do get is exposure to animals. "The kids learn to show affection for their horses and dogs, where they can't with people," she says. "And they learn to take on responsibility. Most of 'em never had to do anything they didn't want to. Here, they have chores."

"Children and horses are alike in that you have to have the upper hand with both," she says. "And they both try to please. If they're made to respect you, they both respond favorably. If not, they both give you a hard time."

Every summer, limited finances permitting, Davene takes the kids on a several-week horseback pilgrimage through the New Mexico outback. One year they were out for three months. The kids all call her "Mom." When one of them leaves, she says, "it's like losing one of your natural children. It never gets any easier."

In Florida, you can buy a bumper sticker that says "Will the Last American to Leave Miami Bring the Flag With Him?" Whoever conceived that anti-Hispanic sentiment must not have met Miami's Dr. Manuel de Jesus Reyes Xiques—who has been the founder or the chairman or a director of everything from the local Cuban Sertoma Club to the Crime Commission of Greater Miami. If there is any classic example in this country of the civic booster-organizer, it is Manolo Reyes.

"When I left Cuba in 1960, I had a law practice and was sales manager of radio station CMQ, making 800 pesos a month when a peso was worth a dollar," he says, "I came here with a wife and three children and one dollar in my pocket. I flew into Miami on the morning of Aug. 23 and analyzed the market.

"I didn't have the diction for radio. So, TV. What was the best channel? I went directly that morning to the purchasing agent of Channel 4. I presented him with the idea of a Latin news show in Spanish, That was about 10 a.m. I told him if I hadn't heard from him by 1 o'clock, I'd go to Channel 7. They hired me at $100 a week. I put on the first program two weeks later. I did a daily show for 18 years. I was the first to announce in the United States the presence of Soviet troops in Cuba. If you were caught listening to my show in Cuba, you went to jail.

"Castro and I were at the University of Havana together, always tangling. He had his viewpoint. I had mine. He was always running around with a gun in his belt. You never saw him in class.

"I was never part of the Batista government. Batista was a dictator. Under Batista, the people saw with one eye. Under Castro, they are blind. The Cuban people want to see with two eyes."

In 1977, Manolo's news show won an Emmy. He had a juris doctor degree from the University of Havana, but he decided to get one from the University of Miami too. While he was at it, he left television to become vice president in charge of public relations at Palmetto General Hospital, which was regarded as inhospitable by Hispanics in the surrounding community. He changed that perception.

"I said I would become a citizen the day I heard the national anthem and tears came to my eyes," he says. "I wanted to feel it. I was one of the guys who founded the Latin YMCA here. We held a party for Vietnamese refugee children in Miami. People said, 'Manolo, they won't understand.' I said. 'There is an international language of balloons and gum and little rabbits.' And I told those children and their parents. 'This is a nation formed by refugees. You are in the first chapter of American history.'

"And I saw the flag. And I thought of my children: Manny Reyes, a middle linebacker drafted by the Dolphins: his neck is 20 inches, he's a monster. Now he runs a jewel-

ry store. My daughter Grace is in speech pathology. My son Charlie is a private pilot. Where would they be if we'd stayed in Cuba?

"I asked myself. 'Manolo, are you still in that first chapter?' No. I have taken the main stream. I now realize what is the American dream. I became an American citizen." That was in 1975.

In 1976 and '77, he headed a citizenship drive among Miami Latins. On July 4, 1976, the largest swearing-in ceremony in U.S. history naturalized 7149 Miamians. In 1977, about 22,000 more became citizens.

One of Nellie May Rowe's masterpieces done in pencil and felt-tip pen and crayon, is called "Pig on the Expressway." Others are harder to sum up. "That's a cat standin' in a peach," she says, or, "That's a blue thing I drawed, with long claws. I just drawed the animal. I don't know what he is. But it's him."

"I can just look and see something on the wall," she declares. "Be so plain to me. And if I got a pencil, I draw it. You know what? Sometimes I be asleep at night. And using my pencil. Wake up and find what I drawed. People try to tell me what they want me to draw. That ain't on my mind. That's on theirs, I got things on my mind to draw. I'm different from everybody else's drawin.' "

She has also sewed rag dolls—the size of small people—that are different from anybody else's rag dolls, and she saves her used gum in coffee cans until there's enough to make what are perhaps the world's only chewing-gum sculptures. Now, at 82, she is weakened by cancer. She is still drawing, however, and now she knows that people around the world are seeing her art in major museums and at the World's Fair in Knoxville. For years she sold her paintings for a few dollars, but now Judith Alexander of the Alexander Gallery in Atlanta looks after her interests, and Nellie Mae no longer has to live in her two-room shack in a small north Georgia town. Even so, she plans to stay there as long as her health permits. "I'm not trying to make a rich person out of myself," she says. "Nooo, I'm doing what I love to do. I'm not grasping. I'm living in the Lord's hand."

"People used to call me a hoodooer," she says. "Come to have their fortune told. I said, 'I don't know what a hoodooer do. I can't tell you a thing but to do what I do: Go to God.'

"Cause I want to be sho', when he give me my little wings. I'm ready to fly to heaven on them. But I don't think he's ready for me to start flappin 'em yet.

"My daddy lived in slavery time. Said they used to feed the people from a trough like the hogs. And now they say people went to the moon. I don't know. We all put on this earth to do different things. Maybe some was put on it to go to the moon. I ain't saying anything against 'em.

"But, you know, you could tie a string around me. Under my arms. And lift me up and stand over there and take a picture and say. 'See, Nellie went to the moon.'

"I don't know. Lot of folks believe it. But I just can't get it in my mind. Not yet."

If she does, though, she'll know how to draw it.

There are fewer than 100 people in Blackey, way back up in the coal-mining hills of eastern Kentucky. "I know this is the tail end of the damn world," says Joe Begley, 64, who runs the Caudill General Store there with his wife, Vernell Caudill Begley, "but sometimes the tail end'll backlash." He is a deputy sheriff and has been invited to the White House a couple of times.

"People say to me. 'Why are you against everthing?' " he notes. "I say. 'The last flicker of my life'll be against something. I'm against destruction. It's going to come to us all. But we might as well be against it till it does come.' "

He is rawboned and wears a beard like Lincoln's. Back in 1967, he decided it was high time the big coal companies started being less destructive of the countryside they were pulling billions of dollars worth of black gold out of and started leaving some of that money with the people who inhabited that countryside. He organized 300 people, and they eventually got things done and done right.

"Sometimes organizers that come in here from the outside, they want to be a little radical, a little dangerous," he says. "They enjoy it better that way. I don't believe in destroying the very thing I'm saving. I believe in the legal route. If you start working for a law in this nation, you're lucky to get it in 15 years. And that takes some burning of the midnight oil."

It also takes not being deterred when every window in your car gets shot out. "Glass comes cheap." Joe says. Improvements come hard, but today he can point to medical clinics that have been brought into the hills and a tax that has been levied against the coal companies. He also can be proud of his work in support of the 1977 federal law regulating strip-mining. He went to the White House for the signing of that. "Jimmy Carter sat across from me at that big mahogany table and said, 'I been told you're regarded as a real S.O.B. where you come from.' " Begley recalls, "I said. 'That's right. Mr. President. I hear the same about you.' "

Joe's local duties call for many talents. One of these is "enforcing whatever the people here want me to enforce" as deputy sheriff. Sometimes that means locking up good friends. "You got to get down in the dirt with people, and fight with 'em, and talk to 'em, and get drunk with 'em, and listen to 'em, and love 'em," he says. It also means the less complicated pleasure of arresting anybody in a big company truck who tries to drive too heavy a load over Blackey's one-lane bridge. "The people built that bridge, not the coal companies," he notes. "And we got to run school buses over it."

"People want to come in here and haul everything out," Begley says. "But we got to live here, in this dirt. By God, that's where we all got to wind up: we better take care of it.

"When I wake up in the morning. I look out the window and see if I'm still here. And if I am, I'm the happiest man in the world."

It would be either preposterous or sexist to describe most board chairmen as loyal, petite and grandmotherly but, in Moya Olsen Lear's case, those attributes are highly pertinent.

"I'm not an engineer. I'm not a business person. I can't even fly an airplane," she says. "I have no background at all to prepare me for this. I just love the people I work with." She is chairman of Lear Avia Corp., and it's a good thing for her, she says, because "I don't know how to play bridge." She adds, "I don't know how to play golf. This has saved my life." It is also good for the company, which would never have survived or created the Lear Fan jet without her.

Moya's late husband, Bill Lear, invented the car radio, the eight-track stereo, the automatic pilot and the Lear jet. But before he could finish his last inspiration—the nine-passenger Lear Fan jet—he died of leukemia at the age of 75. "Mom," he said to Moya on his deathbed, in her arms, "be sure this plane goes forward."

That was four years ago, Moya was 62, and she had spent the 36 years of their marriage as a housewife and mother. She had never chaired anything before—"just kept the coffee pot hot," she says. Her children were grown. Without the husband she had been so close to, she was inclined, she says cheerily, to end her own life with the sleeping pills she had "squirreled away."

But that wouldn't have been the loyal thing to do. She resolved to "keep Bill's gang together" and to make sure the Lear Fan went not only forward but up.

So she took over the company. When other family members protested Bill Lear's having left $6 million of his fortune toward the continuation of the Lear Fan project, she insisted that his wishes be followed. By keeping the company alive, she saved the jobs of 300 employees. She also took it upon herself to keep their spirits high.

On Dec. 31, 1980, the first Lear Fan taxied down the runway. Employees and their families cheered. But the tires burned out, and the takeoff had to be delayed overnight.

For the right den mother, however, even the calendar will bend. When the plane flew on New year's Day, 1981, the British—who contributed $50 million to finance the project, on condition that a working model could fly before 1981—officially congratulated the Lear Fan for proving itself on "Dec. 32, 1980."

It will be a year or so before the plane can be certified by the Federal Aviation Administration. But 265 orders already have come in from companies planning to fly their middle-management people around in the Lear Fan. It's quite a little aircraft, its body made entirely of an epoxy and graphite composite that is half as heavy as aluminum and twice as strong as steel. It's powered by a pusher propeller in the rear. It gets 11 miles to the gallon, which may be better than your station wagon does.●

EDDIE JONES: HE MAKES THINGS HAPPEN IN NASHVILLE

● Mr. SASSER. Mr. President, recently Edward F. (Eddie) Jones, executive director of the Nashville Area Chamber of Commerce, was featured in Advantage, a business magazine published in Nashville. The article pointed out the importance of Eddie's leadership role in the business community and in Nashville generally.

The magazine reports that Eddie is regarded as "the one person in town who can successfully bring together all elements of the community."

Because of his leadership and executive ability and the example he is setting as executive director of the Nashville Chamber, I am placing in the RECORD herewith the article from the magazine Advantage. I thought the success story of Eddie Jones would be of benefit to my colleagues and other national leaders.

The article follows:

ADVANTAGE INTERVIEWS EDDIE JONES

(By Jim Sparks)

In the late '50s, Edward F. Jones spent about 18 months in Washington—and hated almost every minute of it. The reason? He didn't feel he was accomplishing anything. Eddie Jones likes to see results.

As executive vice president of the Nashville Area Chamber of Commerce, Jones now gets his fair share of opportunities to help make things happen. He is very much a catalyst in a wide variety of civic projects, and he obviously enjoys his role. Friends and associates talk about his behind-the-scenes power in Nashville and describe him as the one person in town who can successfully bring together all elements of the community.

His first ambition was not to make news, but to report it. Born March 10, 1924, in Lawrence County, Tenn., Jones moved here with his family at the age of five. His father had been a gentleman farmer, timberman and businessman in Lawrence County, but suffered heavy losses during the Depression and moved to Nashville to work in the mortgage loan department at Commerce Union Bank. He later went to work for Guaranty Mortgage Co., where he spent most of is career.

Jones attended public schools here and while at East Nashville High School served as editor of the school newspaper. After taking part in a high school journalism clinic at Washington & Lee University in Lexington, Va., and falling in love with the campus, he decided to go to college there.

He enrolled at Washington & Lee in the fall of 1942. Shortly after he had completed his first quarter there, a recruiting team from the U.S. Army Air Corps (forerunner of the Air Force) visited the campus, and young Jones—like many of his contemporaries—got fired up about going to war.

Actually, he had already made up his mind that he wanted to be a flier for Uncle Sam, and soon he was taking the Cadet Corps exams and eagerly awaiting the results. As there was going to be a waiting period, he decided that rather than start his third quarter at the university he would go home to Nashville and see if he could get a job as a copy boy at the Nashville Banner. He figured his acquaintance with Banner sportswriter Fred Russell might help, and as soon as he got here he went to see him.

"It had not occurred to me that the draft had just about cleaned out the newspaper," says Jones. "If you were warm and breathing and could type, you were very much in demand." He was offered a job not as a copy boy, but as a police beat reporter. He was paid $18 per week. He kept the job for about three months, until he got the call to enter the Cadet Corps.

In March 1944, two days after his birthday, Jones graduated from pilot training and received his wings. It was a proud and happy day. His spirits sunk, however, when he learned that he was headed for Lincoln, Neb. That's where the B-24 bomber crews were being formed, and he had his heart set on flying a fighter plane.

A flight surgeon friend of his tipped him off the fact that if he weighed less than 150 pounds, he would be disqualified from multi-engine flying, and the only alternative would be to send him to single-engine fighters. Jones quickly dropped six pounds (down to 149) and was soon on his way to Windover, Utah, and P-47 fighter pilot school.

As a member of a fighter squadron based in Italy, Jones flew 76 missions between September 1944 and V-E Day in May 1945. On one mission he was shot down by anti-aircraft fire and had to crash-land in an Apennine Valley wheat field.

When he arrived back in the states, he expected to be reassigned to the Pacific theater of war, but the hostilities there soon ended, and he was assigned to Lackland Air Force Base near San Antonio, Texas. His superiors at Lackland noticed that his record included newspaper work, and soon he found himself serving as public information officer for the base. Meanwhile, he had taken and passed the exam necessary to be commissioned in the regular Army. He could not get reassigned to a full-time flying unit, however, so after three years he left the service.

He didn't leave San Antonio, however. He liked the town, and he was able to land a job in the newsroom of radio station KTSA, where he worked for about a year. Then he moved on to Corpus Christi, Texas, and station KSIX, where he was given the responsibility of setting up there news department at the then-new station. Again he stayed about a year. But now homesickness was starting to set in.

In 1950 he returned to Nashville and the Banner, starting out as a general assignment reporter and eventually getting his own daily column, "Assignment Nashville." It started out as a radio-TV column but came to include other aspects of the entertainment scene as well as human interest vignettes.

Through his work at the newspaper, he got to know quite a few people in government and politics, and in the fall of 1956 he agreed to take the job of public information officer for the Tennessee Department of Safety, then headed by Hilton Butler. That in turn led to his being asked to serve as staff director for a traffic safety subcommittee of the House Interstate and Foreign Commerce Committee in Washington, a job he began in March of '58. He soon realized he had made a mistake.

"It was really the only work experience I've ever had in my life that I wasn't happy with," says Jones. "It was one of the most frustrating things imaginable, because the pace is tortuously slow. I think there is a tremendous amount of inefficiency in government at all levels, but at the federal level in particular.

"I spent about a year and a half up there and a million or so dollars, and I could not see one thing that we had produced. We had passed one House-Senate concurrent resolution, which granted the consent of Congress to the various states to enter into interstate compacts for the purpose of promoting traffic safety.

"I really thought there must be something better I could do."

He called his old boss, Hilton Butler, who by then had been named state adjutant general, and went to work for him once again as a public relations man. Buford Ellington was governor at the time, and when the governor and Revenue Commissioner Alf McFarland got into a spat that resulted in McFarland quitting the post, Ellington appointed Butler to head the Department of Revenue. Again, Jones went along.

When Frank Clement was preparing to run for governor in 1962, Jones became his press secretary and remained in that capacity throughout Clement's term. He was very close to the Democratic governor and became the first press secretary in the nation to be elevated to cabinet status.

Jones' clout actually went far beyond that of the typical press secretary. "He was the one key guy the governor leaned on," claims a long-time friend of his. "He was so close to Gov. Clement that he could act for him."

Did Jones actually make policy? "Only to this extent," the former press secretary explains. "I felt I knew Frank Clement extremely well—what motivated him, what went on in his mind—and with a high percentage of accuracy could anticipate his decisions. I never did anything that I didn't think would have been handled by him the same way."

He has been encouraged to seek political office himself, Jones says, "but I think the people who know me best know that's really not my bag. Sometimes I think you can do more out of office than you can in office. You've got a lot more flexibility. The guy who's sitting in the hot seat—in office—he's got to be looking over his shoulder all the time and worrying about balances between constituences. Sometimes the real meat of the problem gets blurred by so many political considerations. I could do things as press secretary that Frank Clement could not do as governor, although I'd rather not give any examples.

"I like the role of being on the outside, trying to help make things happen on the inside."

In 1967 Jones joined the Chamber of Commerce staff as director of civic affairs. It was actually a special assignment—heading the organization's liquor-by-the-drink campaign. He became executive vice president of the Chamber September 26, 1968. A past president of the Tennessee Chamber of Commerce Executives Association, he is a member of the board of directors of the Southern Association of Chamber of Commerce Executives.

One likes to quote the Chinese philosopher and historian Lao-tzu, who is 604 B.C. penned the following lines about leaders and leadership;

A leader is best
When people barely know that he exists,
Not so good when people obey and acclaim
him,
Worse when they despise him.
Fail to honor people
They fail to honor you.
But of a good leader, who talks little,
When his work is done, his aim fulfilled,
They will say,
"We did this ourselves."

While Jones would never admit to being a "leader," the centuries-old words come very close to describing his style.

Advantage interviewed Eddie Jones recently, and the following is from a transcript of the conversation:

What gives you the most satisfaction in your job with the Chamber of Commerce?

Well, let me tell you about the Chamber of Commerce a little bit to understand the satisfaction of the job. We're got about 4,000 members who represent about 3,000 businesses that range all the way from a two-person "mom-and-pop" shop to the largest corporations in Nashville. That's a very broad constituency. In that mix of membership, you've got minorities; you've got women; you've got small businessmen; you've got big businessmen; you've got professionals who are not business people at all.

I don't think working for the Chamber would have been as satisfying a job 135 years ago, when this organization was founded. This Chamber has been, at various times, the Commerce Club, the Nashville Commercial Club and has had several other names.

It was founded by a group of Nashville businessmen, merchants primarily, who got together to try to put some heat on the riverboat captains about the tariffs they were charging. I'd say that up until fairly contemporary times, chambers of commerce have been almost business-protective organizations—to fight off everybody else and get the best deal you can in your cash register.

The process had changed a lot by the time I came to the Chamber, and it has changed light years since I've been here. There has been an acceptance—or recognition, really—on the part of people in the world of business and commerce that it's good business to have a good town. And that doesn't necessarily mean keeping taxes off of a business or fighting riverboat tariffs; it can mean having good parks; it can mean having a good public education system; it can mean doing something about the water and sewer program.

So with that kind of charge from your constituency—"Just make this a good town"—that opens doors so wide that you can get involved in everything going on. It's a fascinating process.

Through luck or skill or credibility or somehow, we have come, I think, to be regarded by a lot of different elements of the community as a neutral ground where you can get it all together.

Seeing something that needs to be done and being able to sit down with the head of the NAACP and talk about it and sit down with the chairman of NLT and talk about it, and being able to reach out to all these different things that you sometimes need to put together to make something happen—what could be more satisfying?

What did you mean when you said the Chamber has changed "light years" since you've been here?

I don't think when I came here that the Chamber had as close a tie with as many different elements of the community as it has now. I've spent an awful lot of personal time with the Council of Christians and Jews, the Urban and Regional Ministry, the NAACP, the Minority Purchasing Council and just about every other organization in town, so that now I've got a personal link somewhere to just about everything that's organized in the community. I think it has beefed up our effectiveness and given us an awful lot of credibility.

I would have to say that another way in which I derive satisfaction from this job—and this is pretty nebulous, I admit—is being in a position to know what's going on. I have a monumental amount of curosity. I can sit here today, and without really trying to orchestrate it, know just about what all is going on in town. It's a great place to keep up with everything that's happening.

Do you have a regular "grapevine" that you tune in to each day?

It's sort of regular, but it shifts and changes. Some are once a week, and some are once a month, and some are every day.

Well, tell me this: Have you heard anything lately that you're especially excited about? Or especially dismayed by?

Yeah, I have, but . . . I'm in some confidentiality problems there. I'm very proud of the reputation I think I have for preserving confidentialities, which gives you access to a tremendous amount of information. I've never knowingly violated a confidence. For example, I'm able to talk with both newspapers on fairly sensitive matters, and each of them knows I will never tell the other one.

What community projects or problems are you most concerned about right now? What's at the top of your priority list?

Well, let me just ramble without putting them in order. One matter before the community that is going to have a potentially significant impact on the community is the convention center situation. We've got the room tax increase authorized, and we now have a UDAG grant for that project. Sometime during the summer and fall months, using the UDAG grant contract as a basis, the city will have to sit down and negotiate the fine details with the hotel developer on such matters as shared space, physical linkages of the two structures, management control and some other very complicated and tedious things.

But it would appear that we are way, way down the road on a groundbreaking on a major downtown urban development by early next year. And I would think it would be ready for its first convention by late '84 or early '85.

That could really be a shot in the arm in terms of continuing urban renewal for downtown. I hate to see downtown without a crane on the skyline or a street closed. And something's going to happen this year—Third National's going to start its building, or City Centre will start, or Bobby Mathews will start his building, or all of them will start.

Something's going to happen, and people will be grousing that the street's closed and rocks are falling, but that's great.

In terms of government services, there's the water-sewer problem. That's a very serious thing. The unavoidable annual increased cost of operating the department will reach a point in 1983 at which it will absorb all of the rates that are now being paid. At that point, one of two things can happen: You'll have to raise the rate substantially to keep paying your debt service on your bonds and salaries and to do the maintenance on the system, or the city can sit here—and I can't believe this can happen—and do nothing, and the bondholders could seize control of the system and set the rate at a rate that will satisfy the bonds—it's in all bond covenants. That needs to be resolved before it gets anywhere close to that point.

Mass transit has got bad money problems, and I don't know what's going to happen, but I don't think we can afford to be a Birmingham and close the mass transit system. After about 60 days they realized the city couldn't un without it.

It's hard to pick up a newspaper in any major city I visit without seeing a mass-transit-in-trouble story, most of which involve funding. Of course, the General Assembly has now passed a bill which allows the metropolitan areas in Tennessee to hold a referendum for the purpose of authorizing or voting down a one-cent increase in the gas tax with the funds earmarked for support of mass transit. It's possible that a referendum could be called either in the August primary or the November general election for the voters of Nashville to express themselves on whether or not they're willing to impose a tax, with the proceeds to beef up the mass transit system.

How do you think they would vote?

I'd hate to make a call on it this early. Of course, the general trend across the country has not been good for the public voting tax increase. I think the management of the MTA needs to convince the general public that it has contained its operating costs to the maximum extent that they can be contained. But unless a pretty good case can be made that MTA is doing as much as it can within the terms of what it now has available, I don't think it's going to be very easy to psych the public up into providing any more funds.

Then there's a very broad area—and this doesn't necessarily have anything to do with the Chamber, but with me as an individual. I've been working some with the Urban and Regional Ministry, which is basically an Episcopal group that has broadened out into a somewhat broader committee representing probably eight to 10 different major denominations and faiths. We're still sort of floundering around trying to see how we get the churches into what I think has to be a more productive role in meeting the needs of the needy.

Is there much support among the religious leaders here for the idea?

I think that somehow they haven't been asked right so far. The problem is that there is not a mechanism for dealing with the religious community as one body. We don't have a ministerial alliance here, as some cities have. We don't have one body that clergy from all faiths and denominations belong to.

In which case there would be one individual who would lead such an organization.

Right. Ideally, you could get the clergy from our 700 churches and synagogues together in one room and say, "Will each of you take this piece of the pie." But we don't have that mechanism.

I don't think you're ever going to replace—and should not replace—all of the governmental social services with churches or businesses or any other private sector agency, but you've got to see how much they can do to balance off how much more government needs to do. That's all I'm trying to get at—let's measure our strengths and see how much capacity we've got.

Overall, speaking nationally, is it realistic to expect the private sector to take over a major chunk of the delivery of social services?

Well, number one, we don't know for sure the definition of "private sector."

Well, let's say anything non-government.

To answer your question—no, I really don't think so. But I think that a lot of private sector entities can do more than they have been doing—take the last United Way campaign, for example.

I think both the public sector and the private sector are going to be in kind of a transition period for a few years, finding out who can do what and getting it balanced off.

I understand that you're very interested in the continued development and future of downtown. What do you think will be the eventual character of downtown?

I think that somehow—I've just got the gut feeling—that we're on the verge of a move to residential development of some sort downtown. A riverfront park may trigger it, or something in the Gulch may trigger it, or something I haven't even dreamed of may trigger it, but I think there's an increasing number of people, particularly young people, who had just as soon put the car up and walk back and forth to work—if they had a good environment in which to live in the central city—and not worry about mass transit or private transportation either one. There's an economic factor, and then it's a fun thing to do.

Of course, if that happens, that's going to generate more support services—more family-type restaurants, more entertain-

ment, dry cleaners, corner drugstores and so forth.

So I'm pretty bullish on downtown. What I'd like to see happen, and what I really think is going to happen, is that we'll get another one or more major office buildings downtown and some other capital project like a convention center and hotel, and mixed in with that will be someplace for people to live.

Do you do much lobbying of the state Legislature?

What lobbying we do is done by me. I register as a lobbyist for this organization, and I am its only registered lobbyist.

The Chamber is very, very selective in supporting or opposing legislative measures, and when we do come out for something, it means that we looked at an issue a long time and are very serious about it. We don't, in any given session, pick out 20 or 30 bills that we are for or against and go up and work on them; we kind of "single-shot" it. And when we do single-shot, I sort of carry the ball.

You have been described to me as one of the prime movers in this town in getting things done, as exercising a lot of influence and wielding a lot of power, behind the scenes though it may be.

To me, "power" is not the right word. It's a matter of having a lot of friends over a broad cross-section of the community, of having mutual confidence in each other and of being able to be sort of a "think tank" thinker—here is a way to get something done, and it will take this particular group of influences to make it happen. Then it's a matter of bicycling the story around and seeing it come together.

Those intangibles such as community pride and energy and determination—are they as strong in Nashville now as they were, say, 10 years ago? You're certainly in a position to be very closely attuned to that sort of thing.

I think it's there, and possibly even a little stronger.

Historically, I think, the thing that has set Nashville apart from other cities is the ability of leadership groups or power structure groups to work as a group. There are a lot of different power structures—there's a political power structure, and there's a business power structure, and there's a minority power structure, and there's an academic power structure, so "power structure" is sort of a generic term.

A friend of mine from Memphis who has been very active in civic and governmental affairs there has told me what he considers to be the big difference between Nashville and Memphis. He said, "We can have a thing that we need to deal with in Memphis, and we'll immediately organize into four armed camps with four different opinions on how to get the job done, and nobody will ever talk to anybody else again about it, outside of their own constituencies. But here in Nashville you've got this deal where, when the fire bell rings, everybody comes running, even though they've been fighting it out in the commercial world, stealing accounts and everthing else, but they all sit down and say, 'Hey, we've got to do something about this for the town.' "

And that's been there for a long, long time. Bill Weaver and Guilford Dudley, for example, when they were both heading competing insurance companies, served as co-chairmen of the Chamber's Central City Development Committee for years.

I understand that you were one of the people responsible for establishing the Leadership Nashville organization. Why did you feel it was necessary, and what do you expect it to eventually accomplish?

We felt that this community didn't really have any formal process for trying to take a cross-section of the city's emerging leaders and get them better prepared to take the responsibility that comes along with leadership. There are a lot of people in influential positions who have never been to a meeting of the Metropolitan Council or don't know what it's like inside the city jail or who have never had a meal in North Nashville.

The more you know about a town and its parts and what makes it tick, the better you can make judgment calls when you get in a position to have some influence. That was the theory of it.

The idea is not to "create leaders." The idea is to try to identify people who, for whatever reason, are emerging leaders. For better or for worse, they're going to have some leadership role in this community, and the more they know about it, the better leader they're going to be.

The program has gotten a good deal of recognition. We've had people from other cities come to see how we do it so well in Nashville.

But what's the measure of success of the program?

Part of it, I would say, is in the Leadership Nashville Alumni Association. They don't just go through the course and quit; they're staying together. If you're churning out 30 or 35 people out of that program every year, and in 10 years you've got a corps of 350 people who know what makes a town run and what it's all about, and they're scattered all over town in all sorts of different groups, you've got a pretty good base there that can influence the direction of the city and do it in an informed manner.

All chambers of commerce are very concerned with their city's image and try to shape it in a certain way. In the minds of decision-makers in business and industry elsewhere in the country, how do you think Nashville is perceived today? I get the impression that there may be executives out there who are looking for a city in which to relocate, but that many of them still have a negative impression of Nashville.

Yeah, the no-shoes, hayseed, guitar-pickin' thing. It's true that that image persists, but that's not the way that industrial prospects make relocation judgments.

People deal in numbers—in land costs, in taxes, in labor supply, and a whole bunch of other things. This is where location decisions begin to come together. Then when it gets up to the corporate level, where you've got a guy who spends a lot of time at the New York Philharmonic, he may not be too impressed with the idea of moving to Nashville. But if his staff people say this is a place we ought to look at, he's going to come take a look—and that's where this serves us well.

You bring in a guy—and I've seen this happen—and you put him in a limousine and put him in a suite at one of our finer hotels, and then you run him up to the City Club or the Cumberland Club, and pretty soon his eyes are bugging out and he's forgetting all about the hayseed image.

Then the next day you drive him by Cheekwood and through Belle Meade and go over and look at the Performing Arts Center, and it's such a contrast to the image he had of Nashville before he got here that we come out a hell of a lot better than maybe we really are!

It seems to me that a lot of the development taking place in Nashville these days is being funded by sources outside of our local financial community. Do people elsewhere have more belief in the future of Nashville than our own bankers?

I was recently asked that same question. I didn't know the answer to it then, and I don't know the answer to it now.

But I think you have to consider the size of our local banks—$10 million is about the limit on any kind of a deal that they can do directly. I've got to assume that they could be lead banks in forming consortiums or pools or something.

I think that, overall, the Nashville financial community has a basically conservative posture, but I don't think that's the reason. They're not all that conservative, because look what they did in '78 and '79—they lost a ton of money.

A lot of people were surprised when Ted Welch and his friends at the Gulch couldn't arrange a satisfactory deal to build their convention center project there. Were you?

Yes, I was. But I think that at the time that Ted was talking so bullish—which was about a year before he got the green light to take a shot at it—he probably could have put it together, but the economy changed so much in that interval.

I've been told—and I'm sure not in any confidence—by Ted that he felt that he had at least a sort of handshake commitment out of Prudential on a straight mortgage deal about a year before he really started trying to get the money, and then it had changed to equity and then to something else with an increased percentage of equity, and the terms sort of got unbearable. I think it boils down to financial institutions at this particular point in time being wary of long-term, fixed investments.

We've talked about some of Nashville's strong points, but what about the weak points? Where do we most need to improve?

No metropolitan area will ever be utopia, with no need for improvement.

I would say—and this is more a shortfall of the city than a problem—that we have underutilized some assets of this city, particularly in terms of the higher education system. With our 17 colleges and universities, the faculties alone have got to be a tremendous pool of brain power. It's kind of like the churches. Somehow we've never found—and maybe have never really worked at it seriously—a way to use that asset to the best advantage of Nashville, in terms of getting more research-oriented business in here.

Are you actively working on that?

We've sort of talked about some things, just at the staff level so far, such as trying to develop an in-place group that represents a lot of different academic disciplines. So, for example, if Fred Harris [the Chamber's economic development director] gets onto a prospect that's into data processing or pharmacology or something that we're not really qualified to deal with on a technical basis, we would have a pool of people here who could talk their language and give them the kind of answers they need.

Tell me about the retired executives corps you're been developing.

This is just being formed this year. There's a lot of talent among this group, and some people who are still pretty young at heart and in spirit.

What will be their purpose?

Well, we're going to let them pretty well define their own mission, but what I hope they'll do is make themselves available to, say, a small business that has gotten in

trouble and just really needs some expert management advice.

SBA has tried a similar program, hasn't it?

Yep. But I think we might make it work.

You get to see the top business leaders in town in a way in which their employees, friends and associates do not get to see them. What are the common qualities that you find among the leaders of the business community?

Well, leadership is almost indefinable, but it appears to me that the most effective top executives are those who can assemble under them the right people to do the right jobs, who can form the teams and delegate the responsibilities, and thereby leave themselves time to manage.

Of course, depending on the kind of business, you've got to make all kinds of financial judgments and calls, but I really think the key to success may be more in people management than in money management. If you've got the right people, the money will get managed right.

There's a great tendency on the part of a lot of people—myself included, sometimes—to try to do more than one person can do. If you can't give people their jobs and have enough confidence in them to let them do their jobs, there are going to be many decisions that don't get made, because you're dealing at too low a level.

You like to operate at a fast pace, don't you?

Yes, I like to move things fast. I like to start early in the day; I get here about 7:30 every morning—that gives you an hour before anybody thinks you're there, and lets you get organized and do a little day-to-day planning.

I guess my weakness is that I'm really not a long-range planner. I don't mind taking on something and staying with it as many years as it takes to do it, but I'm more objective-oriented. I'm not good at sitting down in a think-tank situation and trying to lay our objectives for the next 15 years. Really, what I'm worried about is what we need to get done by 4 o'clock today.●

THE PERSECUTION OF THE "INFIDELS"

● Mr. HEINZ. Mr. President, the Senate recently passed Senate Concurrent Resolution 73, a resolution which condemns persecution of the Baha'is, holds the Government of Iran responsible for upholding the rights of all its citizens, including the Baha'is, and expresses the hope that the discrimination and brutal executions with the Baha'i community cease immediately. It further urges the Iranian Government to take whatever means are necessary to end this extermination of law-abiding citizens who only wish to worship in freedom. By expressing Congress concern and anger over this tragic situation, I hope that we have drawn attention to the Baha'is' plight.

At this point I would like to bring to the Senate's attention an article recently published in the New Republic entitled "Attack on the Baha'is: The persecution of the 'infidels.' " In it lies a description of the relentless oppression by the Iranian Government against the Baha'i community. The article, written by Prof. Firuz Kazemzadeh, vice chairman of the National Spiritual Assembly of the United States and chairman of Middle East studies at Yale University, is vivid in describing the inhumane and unconscionable treatment toward the Baha'is by the Khomeini regime. It also focuses on the history of the Baha'is and the roots of the Government's oppression.

Professor Kazemzadeh concludes that "there can be little doubt that the persecution of the Baha'is will continue, and will claim additional victims, though one may hope that the pressure of world opinion may restrain its fury." Everyone would agree, Mr. President, that our relationship with the nation of Iran is, at best, strained. However, any form of pressure that can be applied on the Government of Iran is helpful.

As a nation committed to the human rights of all, we cannot sit silently, for it is our obligation to bring to light this terrible tragedy. We have completed a small step in passing this resolution. Now we must encourage greater efforts to bring worldwide pressure on the Iranian Government.

Mr. President, I ask Professor Kazemzadeh's article be printed in the RECORD at this point.

The article referred to follows:

[From the New Republic, June 16, 1982]

THE PERSECUTION OF THE "INFIDELS."—ATTACK ON THE BAHAIS

Throughout Iran, war is being waged against the Bahai religion. The overt assault began in August 1979, a few months before the overthrow of the Shah, when Savak, the secret police, anxious to divert the anger of the populace from the government, provoked anit-Bahai riots in Shiraz. In the years since the establishment of the Islamic Republic, the situation has progressively deteriorated. On January 24, 1981, replying to a *New York Times* editorial that had denounced the execution in Iran of 111 Bahais over the past three years, the *Tehran Times* blustered: "The former Shah always tried to employ mercenaries, Tudeh Party traitors, Bahais and Zionists. . . . The West must know that all its mercenaries will eventually be caught and, if necessary, executed even if their number reaches 111,000."

Iranian state-owned radio and television and the state-controlled press have endorsed every measure that has been taken against the Bahais and have spared no effort to represent the Bahai faith as a subversive political movement in the service of Russian, Britain, the United States, and international Zionism. Foundamentalist mullahs see the very existence of the progressive Bahais as an affront to their strongest beliefs.

The Bahai community in Iran has lost all of its local centers, and its national headquarters in Tehran, as well as schools, cemeteries, and holy shrines around the country. Membership records, archives, memorabila, and community funds have been confiscated, and many libraries. orphanages, and hospitals have been looted by gangs. Vandalism is common in places of religious and historical significance to the believers.

Individual Bahais have also come under attack. Some have been jeered at and stoned in the streets, others beaten with sticks and metal pipes. Several, including two brothers and a married couple, were doused with kerosene and burned to death. The list of cities and villages where atrocities have been committed is several pages long and reads like an Iranian gazetteer: Abhar. Babolsar, Chalus, Darakhsh, Fathabad, Gorgan, Hamadan, Jahrom, Kashan, Laljin, Maragheh, Neyriz, Piranshahr, Rostamrud, Shiraz, Tabriz, Urumiyeh, Valiabad, Yazd, Zanjan. . . .

In its early stages, the persecution of the Bahais seemed locally organized and directed. But evidence has been growing that a carefully conceived plan for the eradication of the Bahai faith from Iran has existed since the mid-1950s. The centers of anti-Bahai activity are clerically sponsored organizations that came into being nearly thirty years ago, in close cooperation with the Savak. One such organization is the Tabliqate-Eslami (Islamic Propaganda), whose purpose is to disrupt Bahai meetings, prevent the conversion of Moselms to the Bahai religion, and generally harass the Bahai community. It is ironic that this group later was to become a training ground for antigovernment activists who used Tabliqat-e-Eslami to good advantage in their struggle against the Shah.

But the Tabliqat-e-Elsami has not forgotten its anti-Bahai past. Having become an influential organization in postrevolutionary Iran, with connections at the highest levels of government, the Tabliqat-e-Eslami has been ideally placed to realize its old hopes of destroying the Bahais. Three means have been used to achieve this end. The first was to deny the Bahai community space. It was believed that without centers, unable to meet except in very small groups, and lacking recreational and social facilities for the youth, the Bahai community would gradually suffocate. The second was to deprive the Bahai community of funds. The third was to destroy it by killing its leaders. The centers, meeting places, all other physical facilities, and funds were expropriated in 1979. Systematic killing began in 1980.

In Tabriz, Tehran, Hamadan, Shiraz, Yazd, and several other cities and towns, most of the members of the local assemblies (democratically elected bodies that administer Bahai communities) and a number of other leading Bahais have been arrested and tried on such outlandish charges as collaboration with imperialists and Zionists, promotion of prostitution, corruption on earth, and warring against God and His Messenger. All have been found guilty, condemned to death, and promptly executed.

The events in Yazd, the scene of bloody persecutions in 1903, in which hundreds of Bahais lost their lives, were especially poignant. The populace was again aroused by the mullahs. At the instigation of Ayatollah Sadduqi, an inveterate scourge of all infidels and particularly of Bahais, six members of the Bahai Assembly of Yazd and an 85-year-old visitor from a nearby village were accused of being foreign spies and tried in front of television cameras, affording the public an extraordinary glimpse into the workings of Islamic clerical justice. No substantive evidence was ever introduced. The prosecution's case rested entirely on hearsay, which proved sufficient for the judges to convict all seven. The defendants maintained to the end that their only crime was adherence to the Bahai religion. The court offered to dismiss the charges and release the defendents if they recanted. They indignantly refused the offer and reaffirmed

their faith. They were executed at dawn on September 7, 1981.

"Kill ye the infidels," began the statement of the Islamic Revolutionary Court of Yazd issued that same day. The people of Iran, it continued, "will no longer sit indifferently and allow that, in the country that is the cradle of Islam and is governed by the Koran, a group of hired agents tread upon the blood of the martyrs, serve the U.S. and Israel the usurper, and betray Islam and the Koran." The Court declared that the execution of the seven was a warning to the enemies of Islam and Iran.

While the trial was underway in Yazd, the nine members of the Bahais' governing body, the Assembly of the Bahais of Iran, were abducted and disappeared without a trace. All inquiries into their disappearance have proved fruitless, and they must be presumed dead. Eight of their nine successors on the National Assembly were executed in December 1981. In January 1982, six members of the Bahai Assembly of Tehran were put to death, along with a woman in whose home they had been meeting.

Thousands of Bahais have written to the authorities protesting the murder of their leaders and reaffirming their loyalty to the nation, their nonparticipation in partisan politics, their commitment to the rule of law and their determination to adhere to their faith even at the cost of their lives. National Bahai assemblies from more than one hundred countries joined in the protest and sent cables to the Ayatollah Khomeini, urging him to stop the executions or to produce evidence that any of the executed Bahais had been guilty of the crimes attributed to them.

Through the summer and fall of 1981, the scope of the persecutions widened. More than 10,000 Bahais have been driven out of their homes. Many have found refuge with friends and relatives, but thousands have camped in flimsy tents in the open country, exposed to the elements and the danger of starvation. In the larger cities, many have had their assets frozen by the banks. Hundreds of teachers, army officers, and government employees have been laid off, and retired employees have lost their pensions. Hospitals have fired many Bahai doctors and nurses, depriving the population of much needed services.

One of the most distressing and sinister aspects of the anti-Bahai campaign has been the systematic assault on Bahai children. The Ministry of Education has taken measures to "guide them to the right path." One Bahai mother in Yazd writes:

It is not uncommon for two or three instructor of religious classes or trained ideologists of the Ministry of Education, as well as a number of students, to join forces and suddenly attack a Bahai child of ten or eleven years. With all their power they try to shatter the very foundation of his beliefs. They will argue with him for hours and even use unfair methods to guide him. . . . Sometimes such discussions . . . take place in the classroom. The teacher begins with a barrage of insults and calumnies against the Faith. The child, of course, does not passively accept these insults—he reacts. . . . Impressive responses are given by the Bahai child, which often make the teacher speechless. . . . The teacher then becomes angrier and he leaves the classroom and consults with other teachers who come to his rescue. Here are three of them attacking one young child.

Bahai children have been held up to ridicule and segregated in the classroom. Pointing at a 15-year-old girl, a teacher of religion announced: "Let it be known to all of you that Roya is defiled and untouchable, and none of you is to have any contact with her." Hundreds of Bahai children have been expelled from school. Physical attacks have also been reported. In one or two small towns, school authorities went so far as to assist teachers of religion in kidnapping Bahai children whose parents were then informed that the children had been converted to Islam and did not wish ever to see them.

Bahais outside Iran have appealed to the public and their governments to speak up in behalf of their endangered co-religionists. Appearing on August 28, 1981, before the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities in Geneva, the representative of the Bahai International Community, an organization accredited with consultative status to the Economic and Social Council, gave a long list of instances of discrimination and persecution on purely religious grounds. The Sub-Commission adopted a resolution expressing "its profound concern for the perilous situation facing this religious community," and urging the Secretary General "to continue his efforts to persuade the Government of Iran to prevent further attacks on the Bahai Community and to grant them freedom." In a second resolution adopted on March 11, 1982, the Sub-Commission requested the Secretary General "to establish direct contact with the Government of Iran on the human rights situation prevailing in that country and to continue his efforts to ensure that the Bahais are guaranteed full enjoyment of their human rights and fundamental freedoms."

The hostility of a large segment of the Shiite clergy toward the Bahai faith is deeply ingrained. The mullahs will not be reconciled to the existence in Iran of a religion whose members have been recruited largely from Moslem ranks; revere Muhammad but deny the finality of his dispensation; believe in the progressive revelation of religious truth through an unending series of prophets; and believe in world peace and world government, the equality of races and sexes, tolerance and nonviolence, enlightenment and science. The mullahs know that the Bahais are not foreign agents—their accusations are designed only to justify their persecutions to the outside world. But they also know that the Bahais are agents of change, advocates of education, feminism, religious freedom, and social justice. Thus their hatred of the Bahais is both theological and ideological. The structure of their thought permits no toleration of divergent views.

The intensification of the war with Iraq, the struggles within the clerical regime, the continuing economic difficulties, and the growing need for outside support have made the Iranian government more conscious of international public opinion. No killings of Bahais were reported in February and March. But recently an insurance company refused to pay survivors' benefits to a Bahai widow, claiming that because of her religion she had no right to the property of her deceased husband. Another widow has been denied custody if her children on the same grounds. The government continues to dismiss Bahais from their jobs and encourages an economic boycott against businesses owned or run by the Bahais. And recently there have been reports of the execution of eight more Bahai leaders. There can be little doubt that the persecution of the Bahais will continue, and will claim additional victims, though one may hope that the pressure of world opinion may restrain its fury.●

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 9:30 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business this evening it stand in recess until the hour of 9:30 a.m. on tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent after the recognition of the two leaders under the standing order, that the following Senators be recognized on special order for not to exceed 15 minutes each: Senators TSONGAS, PACKWOOD, and NUNN.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR A PERIOD FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the expiration of the time allocated to the two leaders under the standing order and the special orders as just provided that there be a period for the transaction of routine morning business to extend not past the hour of 10:30 a.m. in which Senators may speak for not more than 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TOBACCO BILL

Mr. BAKER. Mr. President, there is an order for the Senate to proceed to the consideration of the tobacco bill, so-called, at 10 a.m. In view of the arrangements which have just been agreed to, I ask unanimous consent that that order be changed to provide that the Senate proceed to the consideration of the tobacco bill at 10:30 a.m. on tomorrow.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JAMES G. STEARNS

Mr. BAKER. Mr. President, there is also an order previously entered for the Senate to consider an item on the Executive Calendar tomorrow. I would remind Senators that at the hour of 3 p.m. the Senate will go into executive session for the purpose of considering the nomination of James Stearns, to be a Director of the Securities Investor Protection Corporation, on which there is a 1-hour time agreement.

THE RECLAMATION BILL

In addition, Mr. President, I would call the attention of Senators to the fact that there is a unanimous-consent

order in respect to the reclamation bill which provides that after the disposition of the tobacco bill, the Senate will proceed to the consideration of that item.

It is anticipated, therefore, Mr. President, that after the formalities of the opening of the Senate tomorrow, including the recognition of the two leaders and the recognition of Senators on special orders and the transaction of routine morning business, the Senate will take up the tobacco bill, and after the disposition of it, absent other arrangements, the Senate will proceed to the consideration of the reclamation bill.

It is hoped, Mr. President, that both of these measures can be disposed of promptly and that we can return to the consideration of the constitutional amendment resolution.

SENATE JOINT RESOLUTION 58

Mr. President, once again I would express the hope that we can finish the debate on the constitutional amendment in reference to a balanced budget sometime this week or if it is not possible to do that we could arrive at a time certain for a final passage vote on that measure.

NOMINATION OF GEORGE SHULTZ

Mr. President, I also would wish to reiterate the statement I made this morning, that is to say, I believe it is important that we proceed to the consideration of the nomination of George Shultz to be Secretary of State as soon as that nomination is available to us from the Foreign Relations Committee. When the nomination is reported, as I expect it will be shortly, I will confer with the minority leader and attempt to assign a time for the consideration of that matter by the full Senate.

RECONCILIATION BILL

The reconciliation bill from the Finance Committee dealing with the tax package should be available tomorrow or the following day, depending on the ability of the Public Printer to provide that report. It is anticipated that we will proceed to the consideration of that matter sometime early next week.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow, the Senate will convene at 9:30 a.m. After the recognition of the two leaders under the standing order, three Senators will be recognized on special orders of not to exceed 15 minute each.

After the execution of the special orders, there will be a brief period for the transaction of routine morning business to extend not past the hour of 10:30 a.m.

At 10:30 a.m., the Senate will proceed to the consideration of H.R. 6590, Calendar Order No. 695, the so-called tobacco bill, on which there is a time agreement.

After the disposition of the tobacco bill, the Senate will proceed to the consideration of the reclamation bill, S. 1867, Calendar Order No. 533, on which there is a time agreement.

At 3 p.m. tomorrow afternoon, Mr. President, according to an order previously entered, the Senate will go into executive session for the purpose of considering the nomination of James G. Stearns, of Nevada, to be a Director of the Securities Investor Protection Corporation.

After the nomination is disposed of, the Senate will return to legislative session for the purpose of resuming consideration of either the tobacco bill or the reclamation bill or the constitutional amendment on the balanced budget, as the case may be.

It is not anticipated that Wednesday will be a late evening. It is anticipated that it may be necessary to have a late evening on Thursday. The leadership does expect a session on Friday, unless it is possible to dispose of these matters and to either dispose of, or to have a time certain to dispose of, the constitutional amendment on the balanced budget.

I would hope to have a further announcement in that respect early on tomorrow.

I inquire of the minority leader if there is any other matter he wishes to bring before the Senate at this time.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader for his courtesy. I have no other matters.

Mr. BAKER. I thank the minority leader.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. BAKER. In that case, Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to, and the Senate, at 6:33 p.m., recessed until Wednesday, July 14, 1982, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 13, 1982:

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

The following-named persons to be Members of the National Advisory Council on Women's Educational Programs for the terms indicated:

For the remainder of the term expiring May 8, 1983:

Lilli K. Dollinger, of Texas.

For a term expiring May 8, 1983:

Mary Jo Arndt, of Illinois.
Marge Bodwell, of New Mexico.
Marcilyn D. Leier, of Minnesota.
Virginia Gillham Tinsley, of Arizona.

For a term expiring May 8, 1984:

Judith D. Moss, of Ohio.
Marie Sheehan Muhler, of New Jersey.
Eleanor Knee Rooks, of Tennessee.
Maria Pornaby Shuhi, of Florida.
Helen J. Valerio, of Massachusetts.

For a term expiring May 8, 1985:

Betty Ann Gault Cordoba, of California.
Gilda Bojorquez Gjurich, of California.
Irene Renee Robinson, of the District of Columbia.
Judy F. Rolfe, of Montana.
Eunice S. Thomas, of Georgia.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Jaime Pieras, Jr., of Puerto Rico, to be U.S. district judge for the district of Puerto Rico.

HOUSE OF REPRESENTATIVES—*Tuesday, July 13, 1982*

The House met at 12 o'clock noon.

The Reverend David Howle, pastor, Edgewood Baptist Church, Columbus, Ga., offered the following prayer:

Heavenly Father, because Your Word tells us that we are to pray for those who are in authority, we thank You today for our country, our Constitution, our leaders, and especially for our President.

We pray that You will build a wall of protection around the marriage and family of every National, State, and local official.

We pray that You will give to them the wisdom and courage to uphold our Constitution, which established the Republic based on Your absolute laws, and for strength to cast down every law, policy, and personal example which weakens families or Your moral standards. For Your Word says that if we humble ourselves, pray and seek Your face, and turn from our wicked ways that You will heal our land.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 363, nays 25, answered "present" 1, not voting 44, as follows:

[Roll No. 177]

YEAS—363

Addabbo	Atkinson	Benedict
Akaka	AuCoin	Benjamin
Albosta	Badham	Bennett
Alexander	Bafalis	Bereuter
Anderson	Bailey (MO)	Bethune
Annunzio	Bailey (PA)	Bevill
Anthony	Barnard	Biaggi
Archer	Beard	Bingham
Ashbrook	Bedell	Bliley
Aspin	Beilenson	Boggs
Bonior	Frank	Lungren
Bouquard	Frenzel	Madigan
Bowen	Frost	Markey
Breaux	Fuqua	Marriott
Brinkley	Gaydos	Martin (IL)
Brodhead	Gephardt	Matsui
Brooks	Gibbons	Mattox
Broomfield	Gilman	Mavroules
Brown (CA)	Gingrich	Mazzoli
Brown (CO)	Glickman	McCIory
Broyhill	Gonzalez	McCloskey
Burgener	Gore	McCollum
Burton, Phillip	Gradison	McCurdy
Byron	Gramm	McDade
Campbell	Gray	McDonald
Carman	Green	McEwen
Carney	Gregg	McGrath
Chappie	Grisham	McHugh
Cheney	Guarini	Mica
Clausen	Gunderson	Michel
Clinger	Hagedorn	Mikulski
Coats	Hall (OH)	Miller (CA)
Coelho	Hall, Ralph	Mineta
Coleman	Hall, Sam	Minish
Collins (IL)	Hamilton	Mitchell (NY)
Collins (TX)	Hammerschmidt	Moakley
Conable	Hance	Mollohan
Conte	Hansen (ID)	Montgomery
Corcoran	Hansen (UT)	Moore
Courter	Hartnett	Moorhead
Coyne, James	Hatcher	Morrison
Coyne, William	Hawkins	Motti
Craig	Heckler	Murphy
Crane, Daniel	Hefner	Murtha
Crane, Philip	Heftel	Myers
D'Amours	Hendon	Napier
Daniel, Dan	Hertel	Natcher
Daniel, R. W.	Hightower	Neal
Daschle	Hiler	Nelligan
Daub	Hillis	Nelson
Davis	Holland	Nichols
de la Garza	Hollenbeck	O'Brien
Deckard	Hopkins	Oakar
Dellums	Horton	Oberstar
Derwinski	Howard	Obey
Dicks	Hoyer	Oxley
Dingell	Hubbard	Panetta
Dixon	Huckaby	Parris
Donnelly	Hughes	Pashayan
Dorgan	Hunter	Patman
Dornan	Hutto	Patterson
Dougherty	Hyde	Paul
Dowdy	Ireland	Pease
Downey	Jeffries	Pepper
Duncan	Jenkins	Perkins
Dunn	Jones (NC)	Petri
Dwyer	Jones (OK)	Peyser
Dymally	Kastenmeier	Pickle
Dyson	Kazen	Porter
Early	Kemp	Price
Eckart	Kennelly	Pritchard
Edgar	Kildee	Pursell
Edwards (AL)	Kindness	Quillen
Edwards (CA)	Kogovsek	Rahall
Edwards (OK)	Kramer	Railsback
Emery	LaFalce	Rangel
English	Lagomarsino	Ratchford
Erdahl	Lantos	Regula
Erlenborn	Latta	Reuss
Evans (DE)	Leach	Rhodes
Evans (GA)	Leath	Richmond
Evans (IN)	Lee	Rinaldo
Fary	Lehman	Ritter
Fazio	Lent	Roberts (KS)
Fenwick	Levitas	Robinson
Ferraro	Lewis	Rodino
Fiedler	Livingston	Roe
Findley	Loeffler	Rogers
Fish	Long (LA)	Rose
Fithian	Long (MD)	Rosenthal
Flippo	Lowery (CA)	Rostenkowski
Florio	Lowry (WA)	Roth
Foley	Lujan	Roukema
Ford (TN)	Luken	Roybal
Fowler	Lundine	Rudd
Russo	Snyder	Waxman
Sawyer	Solarz	Weaver
Scheuer	Spence	Weber (MN)
Schneider	St Germain	Weber (OH)
Schulze	Stangeland	Weiss
Schumer	Stanton	White
Seiberling	Stark	Whitehurst
Sensenbrenner	Staton	Whitley
Shamansky	Stokes	Whittaker
Shannon	Stratton	Whitten
Sharp	Studds	Williams (MT)
Shaw	Stump	Williams (OH)
Shelby	Swift	Wilson
Shumway	Synar	Winn
Shuster	Tauke	Wirth
Siljander	Tauzin	Wolf
Simon	Taylor	Wolpe
Skeen	Thomas	Wortley
Skelton	Trible	Wright
Smith (AL)	Udall	Wyden
Smith (IA)	Vander Jagt	Wylie
Smith (NE)	Vento	Yatron
Smith (NJ)	Volkmer	Young (FL)
Smith (OR)	Walgren	Young (MO)
Smith (PA)	Wampler	Zablocki
Snowe	Watkins	Zeferetti

NAYS—25

Barnes	Forsythe	Schroeder
Butler	Gejdenson	Solomon
Coughlin	Goodling	Stenholm
Dannemeyer	Harkin	Walker
Dickinson	Jacobs	Washington
Dreier	Johnston	Yates
Emerson	Miller (OH)	Young (AK)
Evans (IA)	Roemer	
Fields	Sabo	

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—44

Andrews	Derrick	Marks
Applegate	Ertel	Marlenee
Blanchard	Fascell	Martin (NC)
Boland	Foglietta	Martin (NY)
Bolling	Ford (MI)	McKinney
Boner	Fountain	Mitchell (MD)
Bonker	Garcia	Moffett
Brown (OH)	Ginn	Molinari
Burton, John	Goldwater	Nowak
Chappell	Holt	Roberts (SD)
Chisholm	Jeffords	Rousselot
Clay	Jones (TN)	Santini
Conyers	LeBoutillier	Savage
Crockett	Leland	Traxler
DeNardis	Lott	

□ 1215

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

REV. DAVID HOWLE

(Mr. BRINKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRINKLEY. Mr. Speaker, it is with great pleasure and pardonable

pride that I introduce today's guest chaplain—my close friend and pastor, the Reverend David Howle, of Columbus, Ga.

As minister of my own church, Edgewood Baptist, for the past 10 years, David has brought the sunshine of faith into the most desolate of lives.

A graduate of Samford University in Birmingham, Ala., and Southern Seminary in Louisville, Ky., Reverend Howle served as a Baptist missionary to Korea for 7 years.

His lovely wife Carol and 12-year-old daughter Holly are with him today. But they are just the tip of the iceberg, since the Howles have four other children and four grandchildren, as well. The Jim Harford family is accompanying them.

David Howle's steadfast service to his fellow man has earned him the love and respect of each and every life he has touched, and we are, indeed, fortunate to have a man of his uncommon commitment and eloquence open our session today.

He loves tennis and the Auburn University football team; he is a comfortable man to be with, except I would rather he be for the 1980 national champions, the University of Georgia. Most importantly, David is a bearer of the good news. Welcome, David. I am proud of you and your life in the service of our Father, rendered to your fellow man.

RE-REFERRAL OF H.R. 4428 TO COMMITTEE ON WAYS AND MEANS

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the bill, H.R. 4428, be re-referred from the Committee on the Judiciary to the Committee on Ways and Means.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE FOR REMAINDER OF THE WEEK

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit while the House is proceeding under the 5-minute rule for the remainder of this week.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. CORCORAN. Mr. Speaker, I object.

The SPEAKER. The Clerk will note 10 objectors.

Messrs. FRENZEL, GINGRICH, RITTER, LUNGREN, PASHAYAN, WALKER, BEARD, BADHAM, ROBERTS of Kansas, and EDWARDS of Oklahoma also objected.

The SPEAKER. Objection is heard.

INTRODUCTION OF RESOLUTION AUTHORIZING INVESTIGATION BY COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

(Mr. STOKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, on behalf of the gentleman from South Carolina (Mr. SPENCE) and myself, I have today introduced a resolution which authorizes and directs the Committee on Standards of Official Conduct to conduct a full and complete inquiry and investigation of alleged improper conduct which has been the subject of recent investigations by the Department of Justice and other law enforcement agencies. This investigation is to determine whether Members, officers, or employees of the House of Representatives have violated the code of official conduct of any law, rule, regulation, or other applicable standard of conduct with respect to improper or illegal sexual conduct of Members, officers, or employees of the House; alleged illicit use or distribution of drugs by Members, officers, or employees to employees of the House, including congressional pages, in exchange for the aforementioned. This resolution also establishes special procedures which may be used by the committee in conducting the investigation.

While the committee has authority under the rules of the House to conduct such an inquiry and investigation, it is essential that the House act at the earliest possible time to provide evidence of its support of the committee in this matter and to provide the specific procedural tools necessary to conduct an effective and efficient inquiry.

The committee intends to move in an orderly and efficient manner to obtain all the information needed to fulfill the constitutional duty delegated to us by the House to investigate these serious charges. With that in mind, I instructed the staff of the committee on July 1 to commence a thorough investigation of the allegations as reported by the media at that time.

I urge speedy consideration of this resolution. With the support of the House our committee will proceed in an orderly fashion in pursuing this investigation.

This resolution very closely parallels similar ones agreed to by the House in the Korean investigation and in the Abscam matter. Those resolutions greatly facilitated our work in those inquiries and this one will do likewise.

Mr. Speaker, I include the text of the resolution at this point in the RECORD as follows:

H. RES. 518

Whereas information has come to the attention of the House of Representatives that the Department of Justice and other law enforcement authorities are conducting investigations of—

(1) alleged improper or illegal sexual conduct of Members, officers, or employees of the House;

(2) illicit use or distribution of drugs by Members, officers, or employees of the House; and

(3) the offering of preferential treatment by Members, officers, or employees to employees of the House, including congressional pages, in exchange for any item referred to in subclause (1) or (2); and

Whereas clause (4)(e)(1) of rule X of the Rules of the House of Representatives entrusts the Committee on Standards of Official Conduct with the authority (1) to recommend to the House of Representatives from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House of Representatives, (2) to investigate any alleged violation, by a Member, officer, or employee of the House of Representatives, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities and, after notice and hearing, to recommend to the House of Representatives, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances, and (3) to report to the appropriate Federal or State authorities, with the approval of the House of Representatives, any substantial evidence of a violation by a Member, officer, or employee of the House of Representatives of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation: Now, therefore, be it

Resolved, That the Committee on Standards of Official Conduct be and it is hereby authorized and directed to conduct a full and complete inquiry and investigation of alleged improper conduct referred to in this resolution which has been the subject of recent investigations by the Department of Justice and other law enforcement agencies to determine whether Members, officers, or employees of the House of Representatives have violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct. The scope of the inquiry and investigation may be expanded by the committee to extend to any matters relevant to discharging its responsibilities pursuant to this resolution or the Rules of the House of Representatives.

SEC. 2. The committee may report to the House of Representatives any findings, conclusions, and recommendations it deems proper with respect to the adequacy of the present Code of Official Conduct or the Federal laws, rules, regulations, and other standards of conduct applicable to the conduct of Members of the House of Representatives in the performance of their duties and the discharge of their responsibilities.

SEC. 3. The committee, after appropriate notice and hearing, shall report to the House of Representatives its recommendations as to such disciplinary action, if any, that the committee deems appropriate by the House of Representatives and may pro-

vide such other reports of the results of its inquiry and investigation as the committee deems appropriate.

SEC. 4. (a) For the purpose of conducting any inquiry or investigation pursuant to this resolution, the committee is authorized to request or compel—

(1) by subpena or otherwise—

(A) the attendance and testimony of any person—

(i) at a hearing; or

(ii) at the taking of a deposition by one or more members of the committee; and

(B) the production of things of any kind; and

(2) by interrogatory, the furnishing under oath of such information as it deems necessary to such inquiry or investigation.

(b) A subpena for the taking of a deposition or the production of things may be returnable at such places and times as the committee may direct.

(c) The authority conferred on the committee by subsections (a) and (b) of this section may be exercised—

(1) by the chairman and the ranking minority member acting jointly, or, if either declines to or is unable to act, by the other acting alone, except that in the event either so declines or is unable to act, either shall have the right to refer to the committee for decision the question whether such authority shall be so exercised, and the committee shall be convened as soon as practicable to render that decision; or

(2) by the committee acting as a whole.

(d) Subpenas and interrogatories authorized under this section may be issued over the signature of the chairman, or ranking minority member, or any member designated by either of them. A subpena may be served by any person designated by either of them and may be served either within or without the United States.

(e) Any member of the committee or any other person authorized by law to administer oaths may administer oaths pursuant to this resolution.

(f) All testimony taken by deposition or things produced by deposition or otherwise, or information furnished by interrogatory pursuant to this section, other than at a hearing, shall be deemed to have been taken, produced, or furnished in executive session.

SEC. 5. For the purpose of conducting any inquiry or investigation pursuant to this resolution, the committee is authorized to sit and act, without regard to clause 2(m) of rule XI of the Rules of the House of Representatives, at such times and places within the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

SEC. 6. The committee is authorized to coordinate its investigation with the Department of Justice or any other law enforcement agency and to enter into any agreements with that Department or any such agency which the committee determines to be essential for the prompt and orderly performance of its duties: *Provided*, That such agreements shall not be inconsistent with applicable law or with any Rule of the House of Representatives unless otherwise provided herein for the purpose of this investigation. Without regard to clause 2(e)(2) of rule XI of the Rules of the House of Representatives, the committee may restrict access to information received from the Department of Justice or any other law enforcement agency to such members of the committee or other persons as the committee may designate.

SEC. 7. The committee is authorized to seek to participate and to participate, by special counsel appointed by the committee, on behalf of the committee and the House of Representatives in any judicial proceeding concerning or relating in any way to any inquiry or investigation conducted pursuant to this resolution, including proceedings to enforce a subpena.

SEC. 8. The authority conferred by this resolution is in addition to, and not in lieu of, the authority conferred upon the committee by the Rules of the House of Representatives. In conducting any inquiry or investigation pursuant to this resolution, the committee is authorized to adopt special rules of procedure as may be appropriate.

INTRODUCTION OF THE STATE OF THE TERRITORIES ACT

(Mr. WON PAT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WON PAT. Mr. Speaker, the members of the Territorial Caucus are today sponsoring legislation to require the President to report annually to the Congress on the state of the Nation's territories. Our goal is to focus attention on the plight of the 3½ million territorial Americans.

Our lack of political power now makes it easy for administrations such as this one to overlook us or discriminate against us in their national policies and fail to formulate territorial policies whatsoever.

Primary examples are last year's budget and tax cuts. The President's budget policies treated us more harshly than the States. The President's tax policies undermined our economies and revenue bases.

We hope that the report will act as a catalyst for policymaking that is fair to the loyal Americans of the territories.

INTRODUCTION OF A BILL TO ESTABLISH A SPECIAL PROSECUTOR TO INVESTIGATE ALLEGATIONS OF CONGRESSIONAL MISCONDUCT

(Mr. HARKIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARKIN. Mr. Speaker, today I am introducing legislation, H.R. 6734, which would require the appointment of a special prosecutor to investigate allegations of illegal sexual and drug related activities within the Congress.

Current law requires the appointment of a special prosecutor only in instances of allegations of serious wrong-doing by members of the executive branch and members of Presidential campaign committees. My legislation would require the appointment of a special prosecutor to investigate and prosecute the charges which have been made regarding illegal activities between Members of Congress and congresssional pages.

The mere suggestion that such activities may have occurred is particularly odious, and strikes at the very heart of the Congress; the integrity of its Members. The American people expect—they demand—a complete and thorough investigation. They deserve no less.

Mr. Speaker, I want to make clear that I have confidence in the members of the Ethics Committees in Congress to conduct such an investigation. But I also realize something else is at stake here, namely, public confidence. The American people deserve the highest possible assurance that any investigation is complete, that no stone has been left unturned, and that there is not the slightest hint or opportunity for a conflict of interest or coverup. They deserve the highest possible assurance that prosecution will include all those who might be involved, and will be to the full extent of the law.

Only a totally independent special prosecutor, appointed by the courts and who answers to no one—not an in-House committee nor even the Justice Department—can provide that maximum assurance and confidence which is so vital.

□ 1230

VIVA ITALIA!

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, around this Nation and the world from Milan to Mulberry Street—from Salerno to San Francisco—the cry is "Viva Italia!" For the first time in 44 years, Italy is the winner of the World Cup soccer's highest award and one of sports most coveted prizes.

Italy captured the World Cup championship by skillfully conquering a series of opponents—the most notable being Brazil whom experts picked to win the World Cup. After that victory in the quarter finals—Italy played like a team of destiny. They reached their apex with their 3 to 1 victory over West Germany on Sunday.

In a sport like soccer, it takes many artists to create a masterpiece. The Italian championship team had many artists led by the remarkable Paolo Rossi who scored the pivotal first goal in the championship game and whose inspired play throughout the series thrilled millions of fans. In addition, the outstanding goalkeeping of Capt. Dino Zoff and the expert coaching of Enzo Bearzot all contributed significantly to the championship.

The world reaction to Sunday's victory was perhaps best summed up in a headline from yesterday's New York Post which proclaimed "Italy Rules the World!" To President Pertini and all the other Italian Government offi-

cials and to the people—congratulations on a great victory.

PROPOSED USE OF AMERICAN TROOPS IN LEBANON

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, during the recess, I received many phone calls and letters, as I am sure many of the Members did, from our constituents expressing great concern about the proposed use of American troops in Lebanon. I cannot remember a single letter or telephone call favoring sending American troops to Lebanon. My response was that certainly no such action should be taken without full consultation with Congress, as required by the War Powers Act, and then only if it is agreed to by all sides and is limited to assisting in the peaceful evacuation of PLO military forces from Beirut.

Given our experience in Vietnam, we must not forget how difficult it is to extricate our troops once they are committed on one side in a combat situation.

The only apparent justification for using U.S. troops would be to prevent the wholesale destruction of West Beirut, which could cause the death of thousands of civilians.

Congress should insist that any such U.S. action be accepted in advance by the Lebanese Government, the PLO, the Syrians, and the Israelis, and also be part of a larger international force under United Nations supervision.

Furthermore, such an operation should be undertaken only if there is a clear prospect not only for prompt disengagement but also for complete withdrawal of U.S. forces from Lebanon.

A FORMER PAGE SPEAKS UP

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, today I received a letter from a former page Mary Catherine Mayhew, who served in the U.S. House of Representatives. I would like to read excerpts from her letter, a copy of which I submit for the RECORD.

Mary Catherine expresses appreciation for the opportunity that she received in serving as a page in this House and goes on to say: That she would much like to forget the headlines which appeared on television and in the newspapers the last several days:

Because my stay in Washington was both rewarding and educational. Working as a runner in the House of Representatives I learned the responsibility of working hard, no matter how difficult and tiresome that might become.

I came to Washington with the determination to learn more about my Government, and as a result I received a valuable education. I have much respect for the Government process as a result of my services as a page, and I believe fully in the page program.

I am sorry that a few incidents, like the ones that have been reported recently, might jeopardize the chances of future young Americans being exposed to the first-hand working of their Government and it is my hope that at the conclusion of all of this that the honor and dignity of the page system might be restored to the feeling that I had while I served as a page in the U.S. House of Representatives.

This fine young American is, without a doubt a future leader of our Nation. We owe her the responsibility to restore her pride. Thus, a complete, thorough, and speedy investigation is mandatory for a resolution of these charges. I feel a special obligation to move quickly on this urgent matter.

The letter follows:

JULY 9, 1982.

DEAR CONGRESSMAN ALEXANDER AND MR. MILES: I wish to thank you for giving me the wonderful opportunity of being a page. As for myself, I would much rather forget the headlines which have appeared on television and in the newspapers, as my stay in Washington was both rewarding and educational.

Working as a runner I learned the responsibilities of working hard no matter how tiresome it might become. But I must say that my job as floor page will always be the most memorable. Being on the floor while the budget was debated was an experience I will never forget. I learned so very much about the legislative process.

I came to Washington with a determination to learn more about my government and as a result I received a valuable education. I have much respect for the governmental process and I believe fully in the page program. Lately as a result of the scandal, I have spoken with many reporters and I have conveyed to them only the highest praises because of my positive experiences as a page.

I'm sorry that a few incidents like this might jeopardize the chances of future pages being exposed to the first hand workings of our government.

I hope that at the conclusion of all of this, that the page program can be restored with honor and dignity that I felt while I served as a congressional page.

Thank you again for the opportunity which has not only increased my knowledge of the legislative process but has also increased my desire to become actively involved in government.

Yours truly,

MARY CATHERINE MAYHEW.

PRESIDENT SHOULD NOT SEND TROOPS TO LEBANON

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I am not a great believer in scientific polls but I am a great believer in the unscientific polls that each one of us takes as we go back to our home districts.

And, based on the unscientific poll which I took this past recess, I can tell the Members that the American people do not want troops deployed to Lebanon, they do not believe that that action should be taken, without at least the consultation of the Congress under the terms of the War Powers Act.

Before we left Washington for our recess, I sent a letter and a telegram to the President urging him not to give heed to the advice of his aides who are urging this action upon him, without bringing it to the attention of Congress and through us to the American people. We need to know what is involved, what the instructions of our Marines would be, what their opportunities would be to defend themselves.

Mr. Speaker, this is the time for this body, this Congress, to demand an opportunity to hear the evidence that would encourage a President to deploy the Marines. If that evidence is not persuasive, than we ought not to deploy these people into those very dangerous circumstances.

So I hope—and the American people hope—the President does not follow-through with the advice he is now getting.

RESOLUTION CALLING FOR THE APPOINTMENT OF AN INDEPENDENT PROSECUTOR IN THE CONGRESSIONAL PAGES SCANDAL

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HECKLER. Mr. Speaker, I am today introducing a resolution calling for the appointment of an independent prosecutor to examine allegations of misconduct purportedly involving Members of Congress and congressional employees.

Allegations being circulated are said to relate to incidents of personal conduct which, if substantiated, are incompatible with the discharge of the public trust. And they constitute unacceptable behavior for employees of the Congress of the United States.

My call for an independent prosecutor turns on the question of public perception and public trust.

I have no doubt that an investigation conducted by a committee of the House would be anything but accurate, thorough and eminently fair to all concerned.

But I believe the public would remain skeptical of the results.

Citizens tend to look askance at any group that undertakes to investigate itself.

Nothing would gratify me more than to have an official inquiry find and de-

clare that the allegations are without foundation, and that no Member or employee of the Congress has violated the law or abused the power of office.

Should an investigation lead to this happy conclusion, I want the public to believe it—and to accept the findings without reservation.

In my judgment, only the appointment of an independent prosecutor furthers this objective.

THE TRIUMPHANT ITALIANS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I would like to take a moment to ask my colleagues to join me in an "Italian Salute"—a tribute to that wonderful country that gave us the Mona Lisa, veal piccata, the gentleman from the First District of Massachusetts, and of course, the reigning kings of soccer.

In a spectacle watched by an estimated 1 billion fans worldwide, the Italian team showed the skill, determination, and yes, intelligence, that has made their country the model of Western civilization. Their shrewdness and versatility were victorious over the physicality of the German team, testament to the fact that brains will always win over brawn.

We Italians are a people of passion, and have proved once again that our perspicacity and persistence are worthy of world acclaim. Those of us who watched the game here were awestruck by the triumphant triumvirate—Oriale, Rossi, and my long lost nephew Bruno Conti—as they gave new meaning to the term "fancy footwork."

Viva Italia!

THE USE OF ILLEGAL SALES TACTICS ABROAD

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, once again the U.S. Government has found a major contractor in the United States guilty and fined for illegal international sales practices used abroad.

I have introduced today a resolution that would call attention to that fact and require penalties for firms who insist on using persistent illegal sales tactics throughout the world, and I ask the support of my colleagues.

LEGISLATION TO ABOLISH INSANITY DEFENSE FOR FEDERAL CRIMES

(Mr. BEARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEARD. Mr. Speaker, today I am introducing a bill to abolish the insanity defense for Federal crimes, a bill I have been working on for some time but which was given even more necessity by the outrageous verdict in the Hinckley trial a few weeks ago.

The Hinckley trial showed that each side can bring psychiatric witnesses to the stand to support whatever viewpoint they want. That kind of burden should not be put on the jury.

Under my bill the jury would determine guilt or innocence and then, if the defendant were convicted, his attorneys could offer evidence of mental instability during the sentence process. If deemed necessary by the judge, he could receive treatment, but he would serve out his sentence.

My bill would not affect those unfortunate people so retarded as to not even be competent to stand trial.

It is time government at all levels started to care as much about the rights of the law-abiding citizens as they have the criminals.

SUPPOSED FAIRNESS VERSUS TRUE FAIRNESS

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, while this House was taking its Fourth of July recess, the Democratic Party met in Philadephia under a banner which proclaimed the slogan, "With Fairness for All." That banner and that slogan were a source of wonderment for many of us who have believed that the basic principles of this country declare, "With liberty and justice for all."

But perhaps the slogan says in a very clear way where the Democratic Party has gone astray from important principle.

In the name of supposed fairness Democrats have raised taxes and deficits and thereby succeeded in undermining economic liberty. Not surprisingly, the Philadelphia convention called for tax increases.

In the name of supposed fairness, Democrats have imposed a massive body of regulation on the country which has made a mockery of justice.

In the name of supposed fairness, liberal Democratic policy has developed laws that protect the criminal and thereby deny justice and liberty to the innocent.

The Republican Party believes in fairness, too. But we believe that true fairness is a result of enhancing liberty and assuring justice.

Sloganeering on fairness is purely political. Liberty and justice are principles which allow a nation to rise above petty politics.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 366

Mr. GILMAN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of House Concurrent Resolution 366.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from New York?

There was no objection.

RECTIFYING AN OLD INJUSTICE—THE KOREAN VETERANS MEMORIAL

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, on June 23, I sponsored House Joint Resolution 523, to authorize the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of members of the Armed Forces of the United States who served in Korea.

The Korean police action is the only major conflict in the history of the United States which has no national monument to commemorate its battles and recognize those who answered our country's call with pride and honor.

Korean veterans believe that the time has come for Congress to rectify this oversight. A national committee with an impressive array of dignitaries listed as sponsors has already been formally designated and incorporated for this purpose. This effort is completely nonpartisan and has received an overwhelming response to date. The land for the memorial will be provided by the U.S. Government, but all costs of design and construction will be financed by the memorial committee with funds raised through public subscriptions.

The United States sent 1.6 million servicemen into Korean zones, with over 40,000 soldiers killed and 103,000 wounded. This memorial will serve to demonstrate that the United States of America does not intend to forget those soldiers who laid down their lives in Seoul, Pusan, or Inchon and should be recognized by a similar commemoration. The supreme sacrifices of these men and women must not be forgotten. Therefore, it is only fitting that this memorial be constructed in our Nation's Capital as a lasting symbol of a grateful Nation.

BALANCED BUDGET HYPOCRISY

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, it seems clear that the Reagan administration is determined to lead us into George Orwell's "1984"—well ahead of time.

Consider the repeated attempts by President Reagan and other Republicans to cut social security benefits; and the new TV commercial by the Republican National Committee giving the President the credit for the latest cost-of-living increase.

Consider Ronald Reagan's approach to arms control—we must build thousands more of nuclear warheads before we can eliminate a few.

But now we have the ultimate in political hypocrisy—Ronald Reagan, who is responsible for the largest budget deficit in our Nation's history, now wants a constitutional amendment to mandate a balanced budget. His party dominated the budget process, and produced a plan he eventually approved—with a deficit of well over $100 billion. The mischievousness of the idea aside, does he think he can hide and cover up reality by leaping into fantasyland with this phony amendment?

We can all be thankful and reassured that the American people will not buy Ronald Reagan's latest version of new think.

CERTIFICATION OF MILITARY AID TO EL SALVADOR SHOULD BE EXAMINED THOROUGHLY

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, today the House of Representatives will vote on House Joint Resolution 494, a resolution to reinstate the certification requirement regarding the investigation of the murders of six, possibly seven, American citizens in El Salvador. And so today we have a rare opportunity to express our moral conviction that American taxpayers should not be asked to support programs that put lethal weapons in the hands of military and security forces who murder, torture, and rape innocent civilians. Today, we have one more opportunity to insist that countries that allow the wanton murders of American citizens and others to go unpunished shall not continue to enjoy a privileged and subsidized relationship with the United States.

When the foreign assistance legislation was first passed last December, with these certification requirements included on a once only basis, no one anticipated that by July 1982, we would still have no action. It is an outrage to the intent of this Congress that 18 months have gone by and the alleged killers of the four churchwomen—who have been identified and held in custody since April 1981, have not yet been put on trial.

As we approach the deadline for another certification of military aid to El Salvador, we should examine all of the requirements well. How long will we tolerate the cavalier arrogance that asserts there has been progress when all the evidence suggests otherwise. More and more Americans are seeing cuts in programs which affect them and are questioning why their tax dollars should be used to support policies and regimes which seem to have little effect on popular insurgent movements and only seem to succeed in increasing the power of military/security forces over their own population—and which seem to reap only a harvest of more violence and intensified anti-Americanism. Let us take these certification requirements seriously, and act in behalf of the conscience of the American people.

Today I would especially like to commend the producers of a remarkable film which will be shown on PBS later this month: Ana Carrigan, Bernard Stone, and David Meyer. I invite Members of Congress to view their film this week in a preview sponsored by my office on Thursday. If you have wondered who these women were, and what they were doing in El Salvador, the film "Roses in December" answers that question—and raises other questions. It is the story of Jean Donovan and of her three companions, Dorothy Kazel, Ita Ford, and Maura Clarke—four American women who, even in death, continue their gift of hope and compassion to the poor everywhere.

□ 1245

EL SALVADOR MURDER INVESTIGATION

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I would like to join with the gentlewoman from Ohio in her statement that she has just made and call to the attention of the House one other factor. Two weeks ago I had announced in New York that I felt that our own Government was helping to conceal the facts on what really happened to the murdered churchwomen in El Salvador.

The FBI and our own State Department are refusing to release the information.

It was interesting to note that a full page ad was taken out in the newspapers by the Government of El Salvador after the announcement I made in New York that said they could not understand why Members of the U.S. Congress were so concerned over the murder of four American churchwomen when so many other thousands had been killed in El Salvador.

I think they missed the point completely and I believe that not only should we pass the bill on suspension today overwhelmingly, but we should suspend all aid to El Salvador.

COPYRIGHT MANUFACTURING CLAUSE EXTENSION ACT—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore. The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 6198) to amend the manufacturing clause of the copyright law.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 1 hour.

Mr. KASTENMEIER. Mr. Speaker, I yield to the gentleman from Illinois (Mr. RAILSBACK) one-half hour for purposes of debate only and yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support this motion to pass H.R. 6198, the Copyright Manufacturing Clause Extension Act, a bill, the purpose of which is to protect thousands of American jobs in the printing industry, the President's veto notwithstanding.

This bill passed this body 4 weeks ago today on June 15. The vote was 339 to 47, having been reported favorably by the Committee on the Judiciary by a unanimous vote of 22 to 0. The bill also passed the other body and its Judiciary Committee without objection.

The sole purpose of the bill is to extend for 4 years the provision of the copyright law known as the manufacturing clause. Unless this is approved, these provisions will have expired permanently as of July 1, 1982, less than 2 weeks ago.

The manufacturing clause requires that books and periodicals written in English by Americans and by foreigners who are domiciled in the United States, must by printed and bound in the United States or Canada if they are to enjoy complete copyright protection. This clause in variation, had been part of the law since 1891, and is believed to have contributed significantly to a healthy book manufacturing industry in the United States.

The Department of Labor on June 15, 1981, caused to be printed a report which it did not officially release until much later which estimated that if the clause were allowed to expire, the printing industry would lose possibly 78,000 to 172,000 jobs and that the total loss of job opportunities in the economy might be as great as between 170,000 and 367,000.

Now, the President vetoed this bill because he believes it is restrictive of free trade. This is true. It is certainly a modest restriction on free trade and

from my point of view, it is one that ought to be eventually eliminated completely from the copyright laws; however, as the House and the other body have so clearly stated, 1982 is not the year to put any American jobs in jeopardy. There are over 10 million people out of work in this country and to threaten any more families with the dreaded specter of unemployment is not acceptable. It is wrong.

This bill is a reasonable one. It extends the manufacturing clause for only 48 months. During this period of time, hopefully, the House Committee on Ways and Means, the House Committee on the Judiciary, the administration, the other body, and the industry itself, can develop a policy to permanently resolve this question in a manner which will both protect jobs and promote free trade. That is the ultimate objective.

Now, for those who believe that the President is absolutely adamant about any extension, let me give you the thrust of the testimony of the administration before my subcommittee, and I quote the Office of U.S. Trade Representative in their testimony:

> The administration proposes a compromise which would extend the manufacturing clause, but would delegate to the executive branch the authority to terminate the clause upon a determination that it is in the national economic interest to do so.

Well, our committee was unwilling to delegate that sort of responsibility to the executive branch. The copyright laws are a primary responsibility of the Congress.

It would be, Mr. Speaker, a genuine shame if this provision which protects the jobs of so many thousands of Americans were permitted to expire during this, the worst economic downturn we have suffered in decades.

So I urge my colleagues to join me in overriding the President's veto on the notion that in this year, 1982, it is most important that we protect jobs.

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the motion of the gentleman from Wisconsin, to override the disapproval of the President of the bill, H.R. 6198, which has been called the Copyright Manufacturing Clause Extension Act.

The manufacturing clause which has been a part of the Copyright Act since 1891 currently provides that a book which is preponderantly of nondramatic literary material and written by an American author domiciled in the United States, must be printed in the United States or Canada to be entitled to full and unqualified copyright protection in the United States.

This bill, which represents really a bipartisan effort, passed the House on June 15 by a vote of 339 to 47, having been favorably reported by the House Judiciary Committee by a unanimous vote of 22 to 0 and also by the Ways and Means Committee. The bill also passed the Senate Judiciary Committee and the full Senate without objection.

The President in his veto message stated that the clause was no longer necessary to protect the U.S. printing industry, which he called one of the most modern and efficient in the world. Yet you have a situation where the U.S. Department of Labor in a recent study concluded that a phaseout of the clause could result in the loss of job opportunities in the printing industry alone in the range of 78,000 to 172,000, with a total loss of job opportunities to the entire U.S. economy in the range of 170,000 to 367,000 jobs.

Moreover, as modern as the U.S. printing industry may be, I think it is very important that we recognize that it is probably the most highly labor intensive of any major manufacturing industry in the United States. As a result, wage differentials between the United States and low wage rate countries, such as Hong Kong and Singapore, are much more destructive to printing than to most other manufacturing industries.

President Reagan indicated that he vetoed the bill because he believes it is restrictive of free trade. I want to say that I represent a district in Illinois, and I am a very strong believer in free trade, and yet during 3 days of hearings held by the Courts Subcommittee on this issue, it was well documented by several witnesses that the main threat to the American printing industry and to American jobs rests with the Japanese. The Japanese are prepared, we believe, to undertake the building of major facilities in the low wage Pacific basin countries, such as Singapore, Taiwan, and Malaysia. I think we all recognize the hard line that Japan has taken—enjoying free access to American markets while maintaining a variety of subtle trade barriers to protect Japanese markets. What could be more ridiculous than to let the manfacturing clause expire and simply hand over to Japan a big hunk of our Nation's seventh largest industry, while receiving nothing in return from Japan?

By the same token, the Canadians have highly discriminatory mailing rates and significant tariffs ranging up to "effective tariffs" of 40 percent on printing that U.S. firms have attempted to ship into Canada. Because the manufacturing clause has been scheduled to expire, the Canadians have done virtually nothing to pull down these trade barriers. If the manufacturing clause is extended, we will have a basis on which to deal with the Canadian problems. The important point here is that the manufacturing clause has been scheduled to expire for the last 5½ years, and yet how many countries have removed trade barriers as a result? I do not know of any.

If we allow the manufacturing clause to expire, we will be engaging in unilateral disarmament, in my opinion, while at the same time needlessly jeopardizing large numbers of American jobs. Accordingly, I urge my colleagues to support the motion to override the President's veto of H.R. 6198.

Mr. Speaker, this was a bill, or a law, that was initiated by our late colleague, the gentleman from Ohio, for whom all of us in this Chamber had the highest respect, and that is Congressman John Ashbrook.

At this time I would like to yield to the new Congresswoman from Ohio for some comments, Congresswoman ASHBROOK.

Mrs. ASHBROOK. Mr. Speaker, I thank the gentleman from Illinois for yielding.

I rise in support of overriding the veto of H.R. 6198, the 4-year extension of the domestic manufacturing requirement of the copyright law.

This bill, in its original form, was introduced by John Ashbrook, my late husband. As a printer, he was deeply interested and always supportive of the American printing industry. In the 17th District of Ohio, printing is a job-providing industry.

Without the manufacturing clause, books, catalogs, greeting cards, directories, and periodicals printed in the United States would be printed in other nations—taking jobs away from Ohioans and other Americans. Estimates of job loss in the American printing industry range from 78,000 to 172,000. Total job loss throughout the entire economy is estimated to range from 170,000 to 367,000.

The manufacturing clause poses no restrictions on U.S. authors or publishers. No U.S. author can be denied a copyright or denied the right or ability to have his or her works printed as a result of the clause. The clause does not apply to foreign authors who wish to have their works published in the United States.

This is a jobs issue, pure and simple. I urge my colleagues to support overriding the veto, which will assure that the American printing industry will continue to prosper as fair trade.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time. I would urge that the gentleman from Illinois yield further to Members who have requests for time.

Mr. RAILSBACK. Mr. Speaker, I yield 6 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I oppose the motion to override the veto by the President of H.R. 6198. The President acted wisely in not accepting a continuation of this discriminating and trade distorting provision. The veto should be sustained.

President Reagan outlined two basic reasons for rejecting this bill. First of all, it is an outdated statute that was enacted nearly a century ago to protect an infant printing industry as it struggled for a place in the competitive marketplace. The need for this special shelter has gradually declined and Congress and the Judiciary Committee have recognized that fact by continually narrowing the scope of the manufacturing provision.

□ 1300

Now the provision applies only to copyrighted materials of a nondramatic nature, published in English by United States domiciled authors. It does not apply to works of art, musical compositions, dramatic works, sound recordings, or even motion pictures.

Therefore, the statute discriminates against one single class of authors and denies them the copyright protection in a free and open market.

In 1976, the Judicary Committee recognized that the manufacturing clause was the last vestige of an obsolete statute. They put the industry on notice that the clause was unjustified economically as well as trade distortive, and set a termination date of July 2 of this year.

The committee at that time wrote in its report:

After carefully weighing the arguments, the committee concludes there is no justification on principle for a manufacturing requirement in the copyright statute, and although there may have been economic justification for it at one time, that justification no longer exists.

Mr. Speaker, that argument applies with equal force today, according to the testimony of the Copyright Office. There was no evidence placed into the record, either before the Judiciary Committee, the Ways and Means Committee, or at the more extensive hearings held by the Copyright Office, that the industry has changed since that report was issued in 1976.

The second reason that the President used in his veto message is that the manufacturing clause is a serious trade barrier that clearly violates our international obligations under the GATT. It is also violative of the Florence Convention, the Bern Convention, the Universal Copyright Convention, and other international agreements. It violates the principle of national treatment by not allowing importers the same treatment as domestic producers, and it violates the most-favored-nation principle by providing Canada with an exemption to the requirement.

Ironically enough, we exempted Canada, I am told, because we expected them to sign the Florence Convention, which they then did not do.

Over the past years, and particularly during the MTN negotiations of the Tokyo round, our trading partners complained vigorously about this manufacturing clause. They were told by the then administration that since it expired anyway, there was no sense in negotiating because it would go away.

Specifically, Switzerland, Great Britain, and the EEC have complained bitterly and have served notice that they will take their complaint to the GATT and seek retaliation against our exports. That means, Mr. Speaker, that while we think we may be protecting jobs in an industry which probably does not need it, we are likely to be sacrificing jobs in industries that are now exporting. In fact, one of them may be the export of books by the very same industry.

We have always pointed to the expiration date when we have discussed this with our trading partners and telling them we were going to conform our practice to the international agreements to which we had become a party. The President believes, and quite rightly I think, that a further extension of the manufacturing clause will weaken his ability to secure additional markets abroad. Our goal of strengthening exports and our efforts to remove artificial foreign barriers to American exports will be made much more difficult if this bill becomes law.

It is unlikely that our trading partners will accept this extension without that formal challenge in the GATT that has already been threatened. Those trade tensions endanger American jobs and undercut the competitive positions of American products and services being sold abroad today, and which we would like to sell tomorrow.

Mr. Speaker, I believe the most important reason to sustain this veto is that the President believes that maintaining the provision is a liability to his trade policy and to our foreign policy.

No President, not President Reagan nor any other President, exercises his veto capriciously. He has to make it with great care. If the bill becomes law, he knows he will have additional difficulty in expanding U.S. markets abroad or in maintaining the markets that we now have and in exercising U.S. foreign policy objectives, particulary in Europe, where our relationship has come under very strong strains recently.

In my judgment, it is important that the President not only for reasons of trade, not only for reasons of export jobs, but also for reasons of our general relationships with our NATO allies, ought to be sustained in this particular veto.

Mr. Speaker, I think the President was right to reject the bill. I believe the veto should be sustained, and I urge my colleagues to vote against the motion to override.

Mr. RAILSBACK. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. McDADE).

Mr. McDADE. Mr. Speaker, I rise to urge that we override the President's veto on H.R. 6198. I was an early sponsor of this legislation, and I continue to believe that we must continue this clause.

While I appreciate the President's concern regarding excessive international trade barriers, I think the manufacturing clause does not present a problem in this regard. It was first enacted in 1891 and has provided important support for the printing industry in the last 90 years. The manufacturing clause represents the status quo and not a recent change which might adversely affect foreign industry. Our trading partners can hardly complain that this bill imposes a new hardship upon them.

This bill passed the House with almost a 300-vote margin (339–47). It has widespread bipartisan support. Both labor and management are behind this measure in a remarkable display of unity and cooperation. Indeed, there were only 47 votes against the bill when it passed the House on June 15.

The printing industry employs nearly 400,000 Americans. The Department of Labor, in a study of the manufacturing clause, found that its repeal could lead to the loss of nearly 370,000 jobs in printing and related industries. This is a real problem with real jobs at stake.

The many printing concerns located in my district have graphically demonstrated to me what the impact would be if this protection were abolished. The result would be the wholesale destruction of our domestic printing industry.

Mr. Speaker, I think the President received poor advice on this bill. It does not create protectionistic new trade barriers, but it does enable this important industry to survive. I urge that we vote to override the President's veto of H.R. 6198.

Mr. KASTENMEIER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I rise, with those who on both the Republican and Democratic sides are urging that this veto of the President be overriden.

I think it is really bewildering at this time, with the economic conditions in our country, that the President would suggest that this bill which basically, as the previous speaker has indicated, will save nearly 370,000 jobs, that we would consider sustaining the President's veto.

It really shows, frankly, an insensitivity and a lack of understanding on the part of the Republican administration on the issue that is so vital to the American people, and that is the issue of jobs.

I urge that this House, as it did when it voted by a vote of 339 to 47 to pass this measure, to keep the jobs in the printing and supply industry, that they will equally vote that way to override the veto at this time.

Mr. RAILSBACK. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, H.R. 6198 extends the manufacturing clause of the Copyright Act for yet another 4 years.

Over the years since the 19th century origin of the clause, it has, has been narrowed so that it now only prohibits the importation into the United States of copies of copyrighted, nondramatic literary works, in English by a U.S. national domiciled in the United States.

The previous liberalizations of the manufacturing clause have not produced harmful effects on our printing industry. We have a very competitive U.S. industry.

We justified the first version of the clause to protect an infant industry. We no longer have an infant industry, but rather an extremely healthy industry with a balance of trade surplus.

In short, we do not need the manufacturing clause.

Now, what are the international consequences of this legislation?

This administration has been on the offensive against other countries that violate their international trade obligations. The efforts have been bipartisan efforts.

The President, by vetoing this bill, is continuing to steer a consistent course in our international trade policy.

The manufacturing clause was "grandfathered" when we joined the General Agreement on Tariffs and Trade (GATT) in 1948. We undertook then, to bring such grandfathered legislation into conformity with the GATT as soon as practicable.

Many of our fellow contracting parties in the GATT are of the view that grandfathered legislation loses its protection once it has been modified. The manufacturing clause has already been modified, but our trading partners did not challenge us because we did lessen the coverage of the manufacturing clause. When our negotiators refused to negotiate the elimination of our nontariff barrier under the manufacturing clause (during the Tokyo round of multilateral trade negotiations), our trading partners objected. Their objections were most understandable.

However, they ultimately agreed not to press for its negotiated elimination, because it was scheduled to expire in 1982. Now, when the United States is pressing other countries to eliminate barriers to trade, we will be asked to defend a piece of blatant protectionism.

We may not be successful in that defense. The clause has lapsed. The grandfather clause protection may no longer apply.

The result could be the required payment of trade compensation by the United States to other countries, especially in areas where others seek increased import opportunities in our markets, or the withdrawal of concessions benefiting U.S. exports.

The U.S. agricultural sector is particularly vulnerable to retaliation, as are other highly competitive export sectors. At this point I include the following:

DEPARTMENT OF TRADE,
SECRETARY OF STATE,
London, May 13, 1982.

Hon. WILLIAM BROCK,
U.S. Trade Representative,
Washington, D.C.

DEAR AMBASSADOR: Now that I have taken over from John Biffen as Secretary of State for Trade, I should like to convey to you my warmest greetings, and say how much I look forward to working with you and your colleagues in the Administration in tackling the difficult problems that beset the international trading system at the present time.

However I hope you will not mind if I begin our relationship by raising an important problem: I am writing to you to express my concern at the prospect of the provisions of Section 601 (the "Manufacturing Clause") of the U.S. Copyright Act 1976 (public law 95-553) being extended beyond 1 July 1982 by legislation currently before the Congress, specifically Bill H.R. 3940, sponsored by the late Representative Ashbrook.

I believe that the manufacturing requirement was first introduced into the United States Copyright Law in the nineteenth century in order to nurture an infant American printing industry. The circumstances which led to this kind of protection can hardly be said to exist today. Should H.R. 3940 become law, it would perpetuate a serious and quite unjustified nontariff barrier to trade. During the Tokyo round of GATT negotiations, the U.S. Administration pledged to remove it. The continuation of the manufacturing clause in any form would unbalance the equilibrium of concessions which were negotiated. The Bill is also contrary to the spirit of the UNESCO "Florence Agreement" to which both our countries are signatories. Neither the UK—nor indeed any other member states of the European Communities—imposes such restrictions: all we ask is that our printing and publishing industries be granted the same opportunity to bid for work in the United States as your printers do for work here.

You will know that Her Majesty's Government and the European Commission have made repeated diplomatic representations to the Administration during the last year or so. I am writing to you personally to ask you and your colleagues to use what further influence you can with Congress to ensure that this nontariff barrier is not extended. The removal of the manufacturing clause is, in my view, long overdue. If it is retained, I am convinced that the European Community will pursue its complaint in the GATT—a complaint which we would strongly support. The Community is considering other measures which are now being widely advocated by the European printing industry. This industry has been faced for decades with a fundamentally inequitable situation and is now legitimately and increasingly concerned about the prospect of this situation being prolonged.

Yours sincerely,

LORD COCKFIELD.

Mr. Speaker, it is my intention, to approach this from global position. The gentleman from New York just said something that requires immediate rebuttal. The gentleman, in effect, charges that if the veto of this bill is sustained that there would be 375,000 jobs lost. That is sheer nonsense, and we all know it.

The figures show that this is a healthy industry. In fact, what the gentleman's figures do not show, and none of you who are proposing to override the veto can demonstrate, how many jobs will be lost when foreign countries start to retaliate because of actions taken like this.

The facts of life are that the greatest shot in the arm to the economy of our country and, for that matter, the world economy, is the freest possible flow of trade.

When you start on the course of selective interference with free trade, you invite retaliation. I defy anybody, I defy anybody supporting the override to stand here in the well or at any microphone and say that he can prove that by overriding this veto we will have a net plus to American employment. You cannot do it.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Illinois.

Mr. RAILSBACK. The gentleman is absolutely right. I think that none of us can stand up here and say we are going to lose so many jobs; but I would point out to the gentleman that it was our Department of Labor, under the Republican administration, that made that estimate on the top side. In other words, it is our own Department of Labor that is estimating that potential loss of jobs.

Mr. DERWINSKI. Mr. Speaker, let me quickly clarify that record.

We have had a slightly confused Department of Labor because the Secretary has had problems unrelated to administering that shop.

I would also like to clear the air, to be sure that we understand that the President was not ill-advised. The veto, as I understand it, occurred after Mr. Haig left.

I say these things because I understand there is a cynical political mood in the air.

I appreciate the fact that overriding the veto is tempting because only 47 of us saw the errors in this bill in advance and properly positioned ourselves. But I urge the Members to look at the broad picture. At this time, if you want to use this vehicle to start an unnecessary, difficult period of trade retaliation, you may in the long run be

creating a minus in American employment rather than a plus.

So I would urge all of those who are not absolutely committed to a position to look at this issue carefully and objectively and support the President and sustain the veto.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the distinguished gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding, a gentleman for whom I have held such high regard on issues dealing with foreign affairs.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. RAILSBACK. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I would hope that those who voted for this legislation will continue to vote for it today by voting against the President's veto. No one knows how many jobs we may lose or we may gain, but let me tell my colleagues that in a situation such as I have with the Three Mile Island situation, which the Congress of the United States does not seem to care about until we blow up and then, I suppose, we will be offered all sorts of things; with Caterpillar in our district on its back because of the pipeline problem brought on by the Government; with the grain embargo; with reneging on the butter sales, we have all the problems we can handle in the district at the present time.

We cannot take a chance that we might even lose one job.

I would like to call your attention to a few things in the President's veto message. He said:

> During the recent Tokyo Round of multilateral trade negotiations, our trading partners objected to the manufacturing clause as inconsistent with our international obligations.

Big deal. I would like to see these international trading partners play free trade by the same rules that we play. Why must we always make the first exception, the second exception, the third exception, and the fourth exception?

Second, the President went on to say:

> I would further note that if the printing or publishing industry believes itself injured, or threatened by injury, due to the expiration of the manufacturing clause, it has the option of requesting relief under the Trade Act.

□ 1315

That really helps the unemployment situation. I checked with CRS, and they said that the earliest we could get that relief from such action would be 6 months. However, the average is between a year and a year and a half. By that time we will be totally devastated in our particular area.

Then the President goes on to say:

> My administration has placed a very high priority on strengthening free trade, and we are energetically seeking to remove artificial foreign barriers to American exports.

Again, I would say that when they are able to show me—I have heard this from the last four administrations that we are making great headway and really moving on this issue and getting everybody to play the free trade game—as soon as they can show me, for instance, six illustrations of where Japan has joined us in this whole free trade effort, then I will be very happy to vote with the President in this free trade movement, but until that time we cannot afford to take the chance that we can lose one job in my district or any other district in this country at this particular time.

I would certainly hope that we would override this veto because I think it is ill-advised.

Mr. RAILSBACK. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, the President is to be commended for his rejection of the protectionist rationale underlying H.R. 6198. This bill would extend the so-called manufacturing clause, which restricts the importation of copyrighted nondramatic, literary materials published in English by American domiciled authors. Under the clause, such materials must be published in the United States or Canada in order to receive full copyright protection.

This legal dinosaur was originally enacted to protect an infant printing industry in 1891. After 91 years proponents of the bill would lead us to believe that the infant was slow to mature. This is belied by the facts however. The U.S. printing industry is one of the most modern and efficient in the world today.

Like most special interest legislation, H.R. 6198 seeks to protect a select economic group—in this case the printing industry—at the expense of the rest of us. Moreover, it must be borne in mind that we are not concerned with "mom and pop" printing operations when considering the protection of publishers of books, periodicals, and the like. However, such blatant acts of protectionism are always couched in appeals to universally held objectives—in this case the desire to promote domestic employment. Unfortunately, such appeals are usually grounded on false economic assumptions.

Proponents of the bill warn of a potential loss of American jobs if the clause is removed. However, this notion is based on what French economist Fredric Bastiate described as an illusion arising from a failure to distinguish the seen from the unseen. While the number of American jobs directly exposed to foreign competition can be easily discerned, the number of jobs in export-related industries lost as a result of protectionism are less salient but not any less real for those families affected. What we are really talking about here today is the protection of an identified economic interest at the expense of yet to be defined casualties.

Specifically, during the recent Tokyo round of trade negotiations, our partners objected to the manufacturing clause as a barrier inconsistent with our international trade obligations. The U.S. response was that the clause was not an appropriate topic for negotiations because it was scheduled to expire on July 1, 1982. Its extension as provided in H.R. 6198 could result in retaliation that would itself jeopardize American jobs in other sectors of the economy.

Also, contrary to the assertions of some proponents of the clause, its removal is likely to have a minimal impact on American jobs. Both the Congressional Research Service and Copyright Office indicate that the growth in exports and domestic demand will mitigate any job dislocation attributable to imports.

If the printing or publishing industry believes that it has been injured due to removal of the clause, they always have the option of filing under section 201 of the Trade Act of 1974 for relief.

Since the Kennedy round of trade negotiations, it has become increasingly apparent that the expansion of international trade is an integral element of domestic economic growth. I ask you to join me in liberating this 91-year-old infant from a clear case of overly protective Government. Please vote "no" to sustain the President's veto.

Mr. RAILSBACK. Mr. Speaker, I yield my remaining time to the gentleman from Michigan (Mr. SAWYER).

The SPEAKER pro tempore. The gentleman from Michigan (Mr. SAWYER) is recognized for 8 minutes.

Mr. SAWYER. Mr. Speaker, I, for the first time, am joining in an attempt to override a veto of President Reagan. I was only one of two of the total Michigan delegation that voted to sustain the last veto, which was a rather painful one for me since our building industry is in bad shape, as is our automobile industry. On this one, however, I cannot go along, much as I would like to be a team player.

This is not a new trade protection move. This is something that has been on the books for 91 years. This is not something that is going to provoke foreign retaliation. If retaliation were going to be provoked, it would have been provoked for 91 years. This is the status quo we are now talking about changing, and what a time to change the status quo that costs American jobs. In Michigan, we have over 15 percent unemployment. Our automobile industry is, because of free trade in

large part, in shambles. We have a large logging industry that cuts aspen, that makes paper in the north woods of Michigan. We have seven papermills. We have many, many smaller printers, as does virtually every other State in the Union. The printing industry is small businesses, but it is the seventh largest manufacturing business from the point of view of employment in the United States. We are not playing with some little, obscure employment source.

And what does this copyright manufacturing clause cover? It covers books, catalogs, directories, periodicals, newspapers, copyrighted commercial printing, copyrighted forms, greeting cards, copyrighted advertising materials and all kinds of copyrighted printing services.

The Department of Labor—and that is the current administration's Department of Labor—estimates that the repeal of the manufacturing clause, or allowing it to expire as it will if this veto is sustained, will cost a minimum of 72,000 American jobs in the printing industry alone, up to a maximum of 178,000 jobs in the printing industry alone. If we take jobs in total, the ancillary businesses, paper, logging, ink manufacturing, and various other things that go into that, they estimate it will cost a minimum of 170,000 American jobs and a maximum of 367,000 jobs.

Now, at a time when our unemployment is running over 10 million people, right now the highest since the Great Depression, if there were a time to repeal the manufacturing clause or to allow it to expire, this certainly is not the time. What we do not need is more unemployment falling heavily on small industry.

We are not the first one to experiment with this. Australia got this idea and they had a manufacturing clause, and they repealed it 10 years ago. As a net result, they now have to subsidize their printing industry 33⅓ percent to maintain a printing industry in Australia at all.

If there is talk that the termination of the manufacturing clause is not going to hurt very much, let us take a look at what the people in Singapore, who are one of the big beneficiaries, have to say about it. I am looking at the December 1981 photostat copy of the Straits Times of Singapore. The title is, "Good Times Ahead for Local Printers," and it says among other things:

An imminent relaxation in America's copyright laws is promising brighter days ahead for Singapore printers.

A provision in the new law says that from July 1, 1982, books by American authors printed and bound anywhere in the world will still be eligible for copyright protection within the U.S.

This will give Singapore printers a good opportunity to expand into the U.S. market.

In effect this means that "about 45 per cent of the U.S. printing market will be vulnerable to foreign competition," said the latest issue of the Mirror, a Ministry of Culture publication.

I say, if we want to help Singapore and Hong Kong, and Taiwan, then let us go ahead and sustain this veto. If we are concerned about American jobs and protecting jobs in this seventh largest employing manufacturing industry in the United States let us not sustain the veto. When this law was voted to be phased out in 1976 there was a 5-year time span given so that our negotiating teams from the State Department and foreign trade groups would have time to get into place some kind of alternative protection that would not destroy this industry. Nothing has been done in those 5 years, and we are in the same position as we were before the phaseout because of the failure of the State Department or trade agencies to do their job.

What we are proposing in this bill is not an indefinite perpetuation of the manufacturing clause, but a further 4-year extension to give our trade people time to get something in place that will stop the devastation that is predicted by the Department of Labor. I urge that we join in supporting the motion of Mr. KASTENMEIER to override.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I want to commend the gentleman on his statement. It grieves me to have to vote against the administration, but I am just a little bit distressed about those who complain about the American economy while they drive around in Mercedes and Jaguars, wearing their Hong Kong suits and their Gucci shoes. I think that if the business community does not have enough sense to protect itself and get the economy moving by staying with American products, we ought to give them a little help.

That is what the gentleman says, and I commend him for his statement.

Mr. SAWYER. I thank the gentleman.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, the gentleman has made a very fervent statement. I think he is putting his chips on the wrong horse. We have very serious problems in trade coming up, and this is a comparatively modest and long-standing excrescence in the trade law.

We are the only major publishing country that restricts its book trade through manufacturing requirements in this copyright law. I would hope most earnestly that our friends here in the Chamber would consider the implications of a vote on this bill against the President's veto, which would have the effect of damaging American credibility in critical trade issues that are coming up with respect to Europe in issues like steel and autos.

Mr. SAWYER. If I may recapture my time, I very much respect the gentleman from New York, but if he had heard as much as I have heard in the State of Michigan about foreign markets and free trade, as look at what they do when we try to ship into Japan our products—I happen to have Amway Corp. in my district. They insist on opening every single bottle of detergent, making a test on each and every bottle——

Mr. CONABLE. This measure relates to publishing only.

Mr. KASTENMEIER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Speaker, I rise in support of the effort to override the veto of the President. I must say that I do so with very mixed feelings. The law which this bill seeks to extend for 4 more years is probably the best example of blatant protectionism that is available anywhere in the code of the United States. It is a terrible law with hardly any justification.

The only justification that I can think of for continuing this provision for another 4 years is that it is not a permanent extension; and second, the possible effect on jobs. Even the effect on jobs would not necessarily sway me were it not for the attitude of this administration toward people who lose their jobs because of import penetration.

This administration has systematically cut back on unemployment compensation. It has systematically cut back on any efforts and programs to retrain workers who get laid off because of import penetration. I think this administration has to realize that it cannot have it both ways. It cannot promote free trade on the one hand which may lead to unemployment in various industries, and then say to unemployed workers, "We are sorry, you are on your own; no unemployment for you, no job retraining for you."

So, essentially because of the callous attitude of the administration toward what happens to unemployed workers, I find myself in the unenviable position of having to vote to override the veto of this bill.

Mr. KASTENMEIER. Mr. Speaker, may I inquire, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) has 21 minutes remaining.

Mr. KASTENMEIER. Mr. Speaker, as we conclude this debate on this issue, I believe that the House today will in fact override the veto of the

President because in July 1982 there is a deeper concern about jobs than the other issues which are attendant to this legislation and to the trade questions that come out of it.

□ 1330

As a matter of fact—and I say this in a conciliatory way—I am perhaps less concerned about trading partners and the reaction in other capitals of the world about what we may do here today than I am about American authors and publishers who we are asking to be patient for another period of time, 4 more years, before they will be free of the manufacturing clause. But even so, as far as trade goes, in the House report in 1976 we indicated that the committee recognizes that the immediate repeal of the manufacturing clause might have damaging effects on certain segments of the U.S. printing industry.

We also—or the Senate did, with our concurrence—commissioned an economic report pending the possible phaseout.

All this, then, suggested to anyone interested in the subject that the phaseout in fact was conditional in part on economic conditions in the United States and on levels of unemployment. The result was that in this year we made a considered judgment to extend the manufacturing clause.

I should also state that the manufacturing clause has been delimited at least seven, eight, or nine times during the last period of nearly one century, and in 1976 we further limited it so that its actual application is not as broad as some would think and does not consist of an overwhelming or overriding protectionist measure. The 4-year extension is reasonable, and I think this body will so find it, Mr. Speaker.

Mr. EMERY. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Maine.

Mr. EMERY. Mr. Speaker, I thank the gentleman for yielding?

I am really very concerned about the direction that U.S. trade policies have taken in recent years, and for that reason I am going to vote with the gentleman to override the President's veto.

Unlike some of the other Members who have spoken here today, I am not reluctant to vote to override because we in Maine are facing many of the same problems in international trade that some of our other colleagues here face with this particular issue. I do not want to get far afield from the subject of this particular debate, but our shoe and textile manufacturers have suffered because of lack of sympathy by the administration, not simply in this administration but several, and we have lost thousands of jobs over the last 5 or 10 years to trade situations which have worked against the interests of domestic shoe and textile production.

At the present time we are facing several very difficult problems with agriculture in Aroostook County, particularly import problems with Canadian potatoes coming in and flooding American markets. The fishing industry, the wood products industry, the wood dowel industry, and the cement industry have all had similar problems.

I would hope that a vote on this particular piece of legislation would provide at least some measure of concern from us to the administration and those who helped to build that trade policy to explain to them that some measure of protection and fair trade is necessary to protect American jobs and to secure industries that are suffering for a variety of reasons.

Mr. KASTENMEIER. Mr. Speaker, I appreciate the remarks of the gentleman from Maine (Mr. EMERY). Of course, concurrent with the interests of the Judiciary Committee, the Committee on Ways and Means has been interested in this problem, and I think this is an expression of it.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I am happy to yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I hope my colleagues will understand that foreign markets are now growing much faster than our domestic market. I do not know about the experience of the gentleman from Maine, but I suspect that Maine is heavily involved in the export trade, being a seaboard State.

I hope the gentleman will not cut off his nose to spite his face on an issue like this, because clearly we cannot participate in the world market unless we are willing to accept competition here at home. In fact, the United States can compete and is competing very well. Were we not to be importing over 60 billion dollars' worth of oil every year, we would have a huge trade surplus.

So, Mr. Speaker, for us to decide that we cannot compete and must shut out others from our markets and, therefore, in effect run the risk of shutting ourselves out of the world market would indeed be shortsighted and foolish.

Mr. KASTENMEIER. Mr. Speaker, I appreciate the comments of the gentleman from New York (Mr. CONABLE), but looking at the history of this as some have suggested, we see that this is not a new impediment that we are urging upon the Congress or the American people. This is an extension of an instrumentality that is nearly 100 years old and which has been narrowed and narrowed very considerably.

Mr. CONABLE. Mr. Speaker, will the gentleman yield on that point?

Mr. KASTENMEIER. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, we are asking other countries to open their markets to us. We really cannot get them to change if we will not change.

Let me say that the fact that this has been on the books for 100 years indicates what a historical excrescence it is. In fact, we were trying to protect at that point an infant publishing industry which now is one of the strongest in the world and clearly competitive. The technology is available everywhere, and it is a technology so advanced that labor is no longer the issue in this type of work that it was a 100 years ago when we first adopted the manufacturing clause.

Mr. KASTENMEIER. Mr. Speaker, my only comment is that I wish the Department of Labor could agree with that, but it is reported to us authoritatively that that is not the situation with respect to what can be anticipated as it relates to the domestic industry, and I think we have to take note of it especially this year.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I am happy to yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Speaker, I just cannot let that last comment of the gentleman from New York go unanswered.

Actually the labor content of printing a book in the United States today is approximately 17 percent, whereas in Singapore it is 4.6 percent. Now, that is almost a 15-percent differential in labor costs and labor content due to the wage rates prevailing in Singapore.

So I cannot accept this statement off the cuff by the gentleman from New York that there is not much labor involved. There is a big element of labor involved.

● Mr. GREEN. Mr. Speaker, today I am voting to override the President's veto of H.R. 6198, the copyright manufacturing clause extension. I want to explain my vote on this legislation because it is a complex issue.

Normally I oppose legislation which hinders free trade. However, given that there has been a manufacturing clause in our copyright laws since 1891 and its termination is likely to have a serious impact on the printing industry and its employees, I believe that a 4-year extension is appropriate. I also support this action with the understanding that the printing industry, the Congress, and our trade agencies will explore alternatives to this provision. In reviewing the debate on original passage of H.R. 6198, I think it is clear the leadership of the Judiciary Subcommittee on the Courts and the Ways and Means Trade Subcommittee share my views. In fact, I was pleased

to see that Chairman GIBBONS of the Trade Subcommittee has requested a study by the International Trade Commission to determine the true effect on the industry and workers of terminating the manufacturing clause.

I hope that the ITC will undertake a comprehensive review of this provision. I would also urge those agencies which conduct our trade negotiations to continue their efforts to arrive at an equitable solution to this issue.●

Mr. KASTENMEIER. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 324, nays 86, answered "present" 2, not voting 21, as follows:

[Roll No. 178]

YEAS—324

Addabbo	D'Amours	Gingrich
Akaka	Daniel, Dan	Gonzalez
Albosta	Daniel, R. W.	Goodling
Alexander	Daschle	Gore
Anderson	Daub	Gray
Annunzio	Davis	Green
Anthony	de la Garza	Gregg
Applegate	Deckard	Guarini
Ashbrook	Dellums	Gunderson
Aspin	DeNardis	Hagedorn
Atkinson	Derrick	Hall (OH)
AuCoin	Dicks	Hall, Ralph
Bailey (PA)	Dingell	Hall, Sam
Barnard	Dixon	Hamilton
Barnes	Donnelly	Hance
Beard	Dorgan	Hansen (UT)
Bedell	Dougherty	Harkin
Benedict	Dowdy	Hartnett
Benjamin	Downey	Hatcher
Bennett	Dunn	Hawkins
Bereuter	Dwyer	Heckler
Bethune	Dymally	Hefner
Bevill	Dyson	Heftel
Biaggi	Early	Hendon
Bingham	Eckart	Hertel
Bliley	Edgar	Hightower
Boggs	Edwards (AL)	Hillis
Boland	Edwards (CA)	Holland
Bolling	Emerson	Hollenbeck
Bonior	Emery	Hopkins
Bouquard	English	Horton
Bowen	Erdahl	Howard
Brinkley	Evans (DE)	Hoyer
Brodhead	Evans (GA)	Hubbard
Brooks	Evans (IA)	Hughes
Brown (CA)	Evans (IN)	Hunter
Broyhill	Fary	Hutto
Burton, Phillip	Fascell	Jacobs
Butler	Fazio	Jeffords
Byron	Fenwick	Jenkins
Campbell	Ferraro	Jones (NC)
Carman	Fish	Kastenmeier
Carney	Fithian	Kazen
Chisholm	Flippo	Kennelly
Clausen	Florio	Kildee
Coelho	Foley	Kindness
Coleman	Ford (MI)	Kogovsek
Collins (IL)	Ford (TN)	Kramer
Conte	Fountain	LaFalce
Conyers	Fowler	Lantos
Corcoran	Frank	Leach
Coughlin	Frost	Lehman
Courter	Fuqua	Lent
Coyne, James	Garcia	Levitas
Coyne, William	Gaydos	Long (LA)
Craig	Gejdenson	Long (MD)
Crane, Daniel	Gephardt	Lowery (CA)
Crockett	Gilman	Lujan
Luken	Pease	Smith (NJ)
Lundine	Pepper	Smith (PA)
Markey	Perkins	Snowe
Marriott	Petri	Snyder
Martin (IL)	Peyser	Solarz
Martin (NY)	Pickle	Solomon
Matsui	Porter	Spence
Mattox	Price	St Germain
Mavroules	Quillen	Stark
Mazzoli	Rahall	Staton
McCollum	Railsback	Stenholm
McCurdy	Rangel	Stokes
McDade	Ratchford	Stratton
McEwen	Regula	Studds
McGrath	Reuss	Swift
McHugh	Richmond	Synar
McKinney	Rinaldo	Tauzin
Mica	Ritter	Taylor
Mikulski	Robinson	Trible
Miller (CA)	Rodino	Udall
Miller (OH)	Roe	Vento
Mineta	Roemer	Volkmer
Minish	Rogers	Walgren
Mitchell (MD)	Rose	Walker
Mitchell (NY)	Rosenthal	Wampler
Moakley	Rostenkowski	Washington
Moffett	Roth	Watkins
Mollohan	Roukema	Waxman
Montgomery	Roybal	Weaver
Motti	Rudd	Weber (OH)
Murphy	Russo	Weiss
Murtha	Sabo	White
Myers	Savage	Whitehurst
Napier	Sawyer	Whitley
Natcher	Scheuer	Whitten
Neal	Schneider	Williams (MT)
Nelligan	Schroeder	Williams (OH)
Nelson	Schulze	Wilson
Nichols	Schumer	Wirth
Nowak	Seiberling	Wolf
O'Brien	Sensenbrenner	Wolpe
Oakar	Shamansky	Wright
Oberstar	Shannon	Wyden
Obey	Sharp	Wylie
Ottinger	Shaw	Yates
Oxley	Shuster	Yatron
Panetta	Simon	Young (AK)
Parris	Skeen	Young (MO)
Pashayan	Skelton	Zablocki
Patterson	Smith (IA)	Zeferetti

NAYS—86

Archer	Gibbons	McCloskey
Badham	Glickman	McDonald
Bafalis	Goldwater	Michel
Bailey (MO)	Gradison	Moore
Bellenson	Gramm	Moorhead
Breaux	Grisham	Morrison
Broomfield	Hammerschmidt	Patman
Brown (CO)	Hansen (ID)	Paul
Burgener	Hiler	Pritchard
Chappie	Huckaby	Pursell
Cheney	Hyde	Rhodes
Clinger	Jeffries	Roberts (KS)
Coats	Jones (OK)	Shelby
Collins (TX)	Kemp	Shumway
Conable	Lagomarsino	Siljander
Crane, Philip	Latta	Smith (AL)
Dannemeyer	Leath	Smith (NE)
Derwinski	LeBoutillier	Smith (OR)
Dickinson	Lee	Stangeland
Dornan	Lewis	Stanton
Dreier	Livingston	Stump
Duncan	Loeffler	Tauke
Edwards (OK)	Lott	Thomas
Erlenborn	Lowry (WA)	Vander Jagt
Fiedler	Lungren	Weber (MN)
Fields	Madigan	Whittaker
Findley	Marks	Winn
Forsythe	Martin (NC)	Young (FL)
Frenzel	McClory	

ANSWERED "PRESENT"—2

Johnston	Wortley

NOT VOTING—21

Andrews	Clay	Leland
Blanchard	Ertel	Marlenee
Boner	Foglietta	Molinari
Bonker	Ginn	Roberts (SD)
Brown (OH)	Holt	Rousselot
Burton, John	Ireland	Santini
Chappell	Jones (TN)	Traxler

□ 1345

Messrs. HAMMERSCHMIDT, COATS, and HILER changed their votes from "yea" to "nay."

Messrs. BARNARD, CARNEY, and CARMAN changed their votes from "nay" to "yea."

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

Mr. JOHNSTON. Mr. Speaker, I wish to have the RECORD show at this point, immediately following rollcall vote 178, that I voted "present" in order to avoid a conflict of interest.

PERMISSION TO FILE REPORT ON RADIO MARTI

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until midnight tonight to file a report on Radio Marti.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. CORCORAN. Mr. Speaker, reserving the right to object, I wonder if under my reservation I could inquire of the gentleman from Colorado (Mr. WIRTH) whether or not his request has been cleared with the senior Republican on the committee.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Colorado.

Mr. WIRTH. We have until the close of business today for filing the report on Radio Marti.

We had drafted all of the report. There was committee action today that will change some of the report language.

To assure that the committee gets it in on time we have to file by midnight tonight to do it, and that is all.

I think everyone has been working on the report.

Mr. CORCORAN. Do I understand the gentleman to say that the senior Republican on the committee has approved this request?

Mr. WIRTH. Let me defer to the gentleman from Iowa (Mr. TAUKE) on that matter.

Mr. TAUKE. Mr. Speaker, will the gentleman yield?

Mr. CORCORAN. Under my reservation, I yield to the gentleman from Iowa.

Mr. TAUKE. I appreciate the gentleman yielding.

I had made the request to extend the deadline until midnight tonight. I have not checked with the senior Republican on the committee, but I asked for this additional time.

□ 1400

I requested the additional time because, as the gentleman knows, the committee just acted on the issue this morning. The report that is going to be filed in conjunction with the committee's activity is being written at the current time. I, among others, may have an interest in filing a minority view. If we do not get the extension to midnight tonight, it may be impossible to file a minority view.

Mr. CORCORAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit today if the House proceeds under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. CORCORAN. Reserving the right to object, could the gentleman from Colorado tell us what the contemplated plan is for today involving the Energy and Commerce Committee's consideration of this legislation?

Mr. WIRTH. If the gentleman will yield, it is my understanding that the chairman of the full Committee on Energy and Commerce intends to proceed as rapidly as possible. The order of business for the full committee will initially be a number of consensus amendments. The gentleman understands that one will be offered by the gentleman from California (Mr. DANNEMEYER) on data processing, and a second will be a variety of amendments offered by the gentleman from Washington (Mr. SWIFT).

It would then be our intent to try to move as quickly as possible to start through the amendment process.

There are a lot of discussions going on, as the gentleman knows, related to some of the controversies in the bill, and the more expeditiously we can proceed with the noncontroversial elements in the legislation, the more quickly we can get to working out those controversial areas.

I was hoping we could get all of that other activity out of the way today so that we can then focus on what the gentleman is well aware can be sometimes controversial issues in the rewrite of the communications bill.

Mr. CORCORAN. Mr. Speaker, continuing my reservation of objection, I wonder if the chairman of the full committee would care to amplify on what has been said by our friend, the gentleman from Colorado.

Mr. DINGELL. If the gentleman will yield, I would observe that it is the intention of the chairman of that particular committee to see to it that the matter moves expeditiously toward its conclusion, but not so much so as to deny any Member, including my good friend from Illinois, full opportunity to have matters properly explained, understood and properly voted on, as well as an opportunity for Members to properly discuss all issues.

Mr. CORCORAN. Mr. Speaker, the rules of the House exist for a reason, and in this particular case, under my reservation, let me say that the request that has been made is that we would in the Committee of the Whole consider legislation, vote on amendments, and at the same time consider the very controversial question of whether or not to rewrite the Communications Act of 1934 which, by implication, means we have not done it in the last 50 years. So, I do have some concern about the procedure that is involved, and I would like to have some assurance—although I am predisposed not to object on a day-by-day basis—that there would be no attempt to completely consider the bill in 1 day's time, or anything of that nature.

Mr. WIRTH. If the gentleman will yield, I think that there are a number of amendments outstanding. We would hope to deal with those that are not of a controversial nature very expeditiously. It will take time to work out the other amendments, and certainly there will be no attempt made to move the bill without respect for those who might have a different opinion on the various amendments.

Mr. CORCORAN. Mr. Speaker, continuing my reservation, one of the concerns I have is that there has been an attempt, just as recently as the last hour, to enter into some compromise on some of the major policy questions, and I would hope that we would not pass over those sections of the bill before full consideration can be given.

Mr. WIRTH. Mr. Speaker, we will certainly reserve any time. It would be my intent, as the subcommittee chairman, in working with the minority and with the chairman, to assure that, where there are those areas of controversy, perhaps if we have not worked those out, we will have an opportunity to do that tonight, tomorrow, and so on.

Mr. CORCORAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

URGENT SUPPLEMENTAL APPROPRIATIONS, 1982—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore. The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 6682) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Mississippi (Mr. WHITTEN) is recognized for 1 hour.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto message of the President to the bill (H.R. 6682) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, and that I may include extraneous and tabular matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield 30 minutes to the gentleman from Massachusetts (Mr. CONTE), for purposes of debate only, pending which I yield myself such time as I may require.

Mr. Speaker, it is quite an unusual distinction for me to have the privilege here of speaking in opposition to a veto of an appropriation bill by the President of the United States. But it is not the first time. It was my privilege, during the administration of President Eisenhower, for whom I had the greatest admiration, to make the motion to override his veto. The first time we failed to override the veto it went back to the committee and we cut it 2½ percent across the board and reported a bill with 63 new starts. This was years ago. The President's veto message said, in effect, in view of all of the problems that we have, in view of in our commitments at home and abroad, in view of our obligations, our debts and our commitments, we cannot afford to have 63 new starts in our own country. We failed to override the veto. As I have said, it went back to Appropriations Committee, and we returned it with 63 new starts retained in the bill, while we cut the total amount of money by 2½ percent.

In the argument before the Congress, I used the President's veto message. I said, "My colleagues, the more we owe and the greater our obligations at home and abroad, the more imperative it is that we take care of our own country, because it is our country

where the wealth is and not in money."

May I say, I am for balancing the budget. I realize that we need to keep the value of money stable so that industry and business may proceed. May I say that our Committee on Appropriations has done its part.

Do you realize that in 37 out of the past 39 years your Committee on Appropriations has brought bills in under the budget, and the 2 years when we were over, it was principally because of military spending?

I think it would be well for our Budget Director, Mr. Stockman, to read other books on economics. Of course, there are numerous economic theories, and I tell you that the one he is following was tried 100 years ago by a French economist named Say and found wanting then—and it is found wanting today.

Mr. Speaker, on June 24, 1982, the House attempted to override the President's veto on H.R. 5922, the original urgent supplemental bill for 1982. The vote was 253 to 151. Although the veto was sustained, 63 percent of the Members present and voting wanted to override the veto. So the people's Representatives were overwhelmingly in favor of that bill. Now, why? Because we distinguished between investment spending, real spending, or as I call it, between productive spending, where you take people off of unemployment compensation and you have them paying taxes—where you have the results of their efforts opposed to the other case with no efforts at all.

May I say, and I hope I may have your attention, the bill which has been vetoed was an effort by the Congress—and I am sure all of you, like I do, differ with some of it—to meet emergencies where we have commitments such as student loans. It was to carry out obligations which we have incurred and which we owe; it was to keep from costing us more money because we would have to borrow it under different circumstances. And there are provisions in it that some of you might differ with on how to approach, but by and large, it was to put the people back to work and meet our obligations on an emergency basis.

But back to this matter of the budget. Of course, we need to balance the budget, and we have done our part on this committee to reduce spending. And remember that last year we were asked to rescind $15.1 billion and we rescinded $14.3 billion. We were asked to go along with a cut of 10 percent in the budget. We went along. Next we were asked for a further reduction of 12 percent, and we went along with 7 percent.

So we have a wonderful track record in trying to cut where we could. May I say, most of the subcommittees of our committee were looking for support so that we could cut something back. But now the cuts that we are asked to make are cuts in the real wealth of our own country.

Do you realize that we have not had a new start in meeting the water needs of our major cities in the last 2 years? Do you realize that they asked us to increase defense spending $37 billion, when the investigations that have been reported out show tremendous waste in military spending? Do you recall that a big part of our problem is because it was thought that if we forgave the windfall profits tax, the recipients would spend that money in extending their business, in searching for oil, and that big business would spend its money to expand? That has not happened.

They are asking us to cut additional funds to replace that money which, under that unfortunate tax bill last year, has not been realized. Why do we not suspend that instead of trying to cut domestic programs which slow our operations down?

The illustration which I have used—and I have used it at home in five or six speeches and they got the point, may I say—is that we have got to give thought to where the budget is balanced. We have got to give thought to the fact that it must be balanced at a high-enough level to carry on operations of this Government, to deal with our debts, to keep up defense. I was told—and you have heard it before from me—that some years ago Ethiopia had the only balanced budget in the world. They did not owe a dollar; and they did not have one either.

And may I say that this bill that was vetoed made an effort to restore employment where unemployment and bankruptcies were rampant. In the paper that covers my district, half a page was devoted to the businesses that have failed in that area.

AGRICULTURE—ON THE ROCKS

Probably the worst area hit is American agriculture, where, because of low prices, high interest rates, prior indebtedness, cost of making a crop, the investment greatly exceeds the likely return.

Mr. Speaker, we have tried everything possible—and have had some degree of success—to open up sources of credit, to keep our farmers farming. In many cases we learned that the Farmers Home Administration itself is subject to day-to-day clearance of its operations by the OMB.

Mr. Speaker, if the farmers go down, all the rest will follow. This history shows. I do not believe the President nor most of the administration leadership has realized that agriculture is basic, is the very foundation upon which our economy rests.

FARM DEBT—A NATIONAL PROBLEM

The farmers are in debt today by $200 billion—three-fourths have their land under mortgage. They can never repay a cheap dollar borrowed—unless they maintain volume and get a fair price. The farmer's profit is simply volume times price less cost. Something must be left over for the farmer to live on. Out of his decreasing share of the dollar, you now expect him to plow back an increased share of his small take to take care of the land for future generations. If he does not get an adequate price and volume, he can only wear out his land and then go broke—pulling all of us down with him. So history shows.

Former Secretary of Agriculture Ezra Taft Benson reduced our farm production by holding our products off world markets. Because of that short-sighted policy, much of our business moved to our competitors. We finally got Secretary Benson to use CCC to move our products back into world markets. The facts are shown in our hearings of fiscal year 1976, volume 7.

We must make our offering price or offering terms competitive in world trade, but first we must have farm prices high enough to pay the cost plus a profit—if we are to prevent a continuing breakdown of our standard of living.

Of course, Mr. Speaker, we must work to balance the budget—but we must do it at least shoulder height and not at ankle height where present policies are leading us.

MONEY VERSUS WEALTH

I repeat, we could leave our children all the money in the world and a worn-out land like China and India, and they could never make it.

On the other hand, if we leave them a rich and developed land, with our material wealth protected—our land, our forests, and our rivers and streams, our highways, our schools, and factories in order—they could set up their own financial system.

□ 1415

Today in my own State of Mississippi we are far better off than we were just a few decades ago. We as a country have grown in real wealth, in our ability to provide an improved standard of living and provide opportunities for our children, and our children's children. We have reduced infant mortality by 74 percent, provided telephone coverage to over 97 percent of our households, over 45,000 new books published each year, over 11 million students enrolled in our colleges and universities, a life expectancy 12 years longer than just a few years ago, and twice the number of doctors we had years ago.

All of this, my friends, is a far cry from shortly after World War II when we lagged far, far behind as did two-thirds of the States. There simply was no way for such States that are primarily agricultural, or for that matter States with very large cities, to have in any way obtained the necessary funds,

either by bond issues, or other loans to stimulate the necessary development for growth.

It took Federal programs and the Federal Government to obtain the required funding for these fine programs which added to the overall wealth of our Nation. Now we are paying back those people who with the Federal Government helped pull themselves up by their own bootstraps.

Where would our country be without revenue sharing, where would our towns and cities be without the sales tax? We would have no flood control projects, no development or rivers and harbors, and no recreational facilities.

I would like to remind my colleagues that for 37 out of the last 39 years we have been below the budget—and only in the last 2 years have we exceeded it because of military spending. We must continue to believe in equalizing the opportunities of all the people in this country, from my State of Mississippi to each coast. We need to equalize opportunities, and minimize the hurt inflicted on many of those on fixed incomes, on those people receiving social security, and veterans pensions. I will continue to support national programs that develop and protect the Nation, its wealth, and its people, and at the same time help restore the value of our money.

If a fellow just would take time and read a little history, one should read the history between 1776 and 1787 when you had each colony going its separate way. At that time, according to John A. Krout, a vice president of Columbia University, all interests joined in a demand for a strong central Government. This included economic interests, holders of Government securities, manufacturers, merchants, financiers, land speculators ar : all the rest.

I was on the way back here from Mississippi recently, and in Virginia they are thinking of putting a quarantine on certain goods and produce from out of State. You cannot have 50 States meeting their own problems out of their pockets. Some of them will not suffer so much because they get increased military spending and they will come out all right. But when you put it back on the other way you will find that each time you have to cross the State line you are going to have to pay taxes. Human nature has not changed. If there is any way to break down a country internally, it is to have 50 separate units competing with each other for taxes, for income, and in many cases you would not have it.

Do you realize that we would not have any rural electrification in this country if we had to do it State by State? Do you realize there would be no Interstate Highway System? Do you realize they are letting those things deteriorate so we can give more money to military spending?

Did you read in yesterday's paper where 13 countries to whom we are selling arms when what they need is food are behind in paying interest on the loans for the weapons? Can we be surprised when we are pushing weapons of war to countries around the world? Sometimes they use it and sometimes we furnish both sides. I tell the Members it is time we put first things first. As I said in my motion to override President Eisenhower's veto, the more we owe, the greater our monetary problems and the more imperative it is to take care of your own land to develop our rivers and harbors; to go ahead with our public works projects to provide the water for our big cities.

I say to the Members we bring to you a message here. The outcome of this particular bill is not as important as for us to put first things first. I believe that the administration, particularly the Budget Director, cannot distinguish between money and the real wealth of the country which is your land.

Do you realize we have before us a budget that cuts the soil conservation program about two-thirds, which could take us back to the Dust Bowl days that we had in the West? Do you realize there has not been a new water development start in 2 years? Instead we have been giving tax breaks to big business which they hoped would spend their money to expand, but they have not.

So, when I come to this conclusion, let me say again, this country is constituted of three equal coordinated branches of Government. We are the people's branch. Each time we let the courts encroach on our rights they are encroaching on the people's rights. Each time we let the executive branch encroach they are encroaching on the people's rights. I do not wish to imply that a veto of anything Congress does is encroaching, it is not. It is a discharge of the responsibility of the President, and he is my President and this is my country. I want to tell you, I will do the very best I know to keep us from reestablishing the situation that existed when I went to the Mississippi Legislature. You could not buy a sack of flour on the credit of New York or the credit of the State of Mississippi. I do not want to go that way. You know what they did before the bottom fell out? They had tight money, high interest rates, and they said let private enterprise come in.

Yes; the Federal Reserve System holds itself, and it is all powerful, it holds itself as unapproachable. I asked the General Accounting Office to make a study of the Federal Reserve System so now at least we will know what somebody else thinks about it.

The U.S. News & World Report wrote about the Trident submarine, and how the program has wasted considerable sums of money and been delayed time after time. We have tanks, and the motors still will not operate properly after working on them for years. Let us start getting some defense for our money. Let us let some of this money go in and get back to the real defense of our country. And let me tell you again, I have supported defense since 1941, but defense is different from military spending. I expect to keep on supporting defense. But you have to have a strong economy and public support in readiness and capability. Let us not lose public support by spending money on excessive military spending that ought to be spent to support defense.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

I asked the gentleman to yield so that I can pay tribute to the fine statement that he has made here. I know that the gentleman feels very, very strongly about the defense of our country. He expressed the view, which I share wholeheartedly, that the strength of this country depends upon our protection and the conservation of all of the assets of this country, and I want to commend him for making one of the finest statements that I have heard.

Mr. WHITTEN. I appreciate very much the statement by my colleague.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Before we left on the recess, we were terming these bills that we were dealing with in the supplemental as the "fat bill" and the "skinny bill." If I recall what we were saying was that in one instance we were dealing with one that had only the very, very urgent matters in it, the skinny bill, and in the fat bill we had some things in that were over and above what was absolutely essential.

Can the gentleman tell me is what we are dealing with right now, the fat bill or the skinny bill?

Mr. WHITTEN. May I say to the gentleman the use of the terms was a relative matter. One was fat as compared to the other which was skinny. Those were words that were picked up here and often used. I am sure the gentleman, having listened to them many times, was one of those who described them that way. But this is a comprehensive bill (H.R. 6682), and the other one (H.R. 6685), was passed in the event this one would be vetoed. We passed H.R. 6685 to hold things together until July 20. May I say that

when it went to the other body they added a whole lot to it.

Mr. WALKER. What I am trying to figure out for those of us who——

Mr. WHITTEN. I have only limited time. I will let the gentleman discuss it a little later. I cannot yield further.

May I say that I am not talking too much about it, but involved in this bill is a commitment that we made to students; involved in it is a commitment that we made to cities and towns through EPA. Involved in it are many, many things. The housing item providing emergency mortgage subsidies has been removed. I had my own ideas how best to handle it. But I do think that when unemployment is spreading over the Nation, when bankruptcies are getting just like they did before the last depression, it is time we did something about it. I went along with the best judgment of those of my colleagues who know the most about it and I just say that this is the time to express yourselves, because if this is overridden it might make some folks downtown listen, and I do not make reference to the President. I hope you will override.

Mr. CONTE. Mr. Speaker, for the second time, the President has vetoed an urgent supplemental appropriation bill for fiscal year 1982.

The first bill, which was vetoed and sustained, contained a $3 billion housing subsidy. The President strongly objected to that provision, and I agreed with his position, and voted to sustain the veto.

However, I said at that time that my support extended only to the housing provision. The urgent supplemental which is now before the House does not contain the $3 billion housing subsidy. I support this bill, and I will vote to override the President's veto.

This bill contains some 44 individual items, totaling $5.9 billion in budget authority, $5.7 billion in rescissions, $36 million in transfers, and $8 million for the liquidation of 1981 obligations. The bill reimposes the $3,000 limit on tax deductions for Members' living expenses.

On a bill which contains that many items, and that much money, the position of any Member must be a matter of individual conscience and individual judgment.

My own judgment is that this bill should be enacted into law, the objections of the President notwithstanding.

We have been debating urgent supplementals since March, and on at least 4 different bills. So I would like to take a minute to summarize for the Members of the House the items contained in the bill before us.

First of all, the bill contains 15 separate items which have been designated as urgent by the administration: $1.3 billion for food stamps, urgent transfers for programs in the Department of Labor and the Department of Health and Human Services, appropriations for the Pell grant program in the Department of Education, $2.4 billion for EPA construction grants, urgent appropriations for the CAB, the ICC, the Merit Systems Protection Board, administrative expenses in the Department of Commerce, social security mailing costs, the U.S. Customs Service, the Bureau of Alcohol, Tobacco and Firearms, and $1 billion for food stamps.

The bill contains a number of other appropriations which have been added by the Congress: $63 million for summer youth employment, $210 million for community service employment for older Americans, $60 million for health services, $57 million for the work incentives program, $23 million for refugee assistance, $24 million for the Corporation for Public Broadcasting, $150 for the Government National Mortage Association, $48 million for the Coast Guard, $103 million for the Federal Highway Administration, $2.7 million for the Secret Service, $62 million for the Postal Service, $6.5 million for the National Archives and Records Service, $1.5 million for the Tax Court, $2 million for the National Oceanic and Atmospheric Administration for weather stations, $40 million for the Corps of Engineers for use in the Mount St. Helens area.

I believe the President was right to veto the first urgent supplemental. The bailout for the housing industry was a precedent we simply could not afford to set. I supported him on that issue, and on that issue alone. The bailout issue has been settled in the President's favor.

The first urgent supplemental was reported by the Committee on Appropriations in March.

Since that time the urgent supplementals for fiscal 1982 have been frustrated and delayed by 4 months of demogogery and political chicken.

It is easy to see the importance of $1.3 billion for student loans. It is not so easy to see the consequences for innocent Federal workers.

The Merit Systems Protection Board has been forced to furlough some 300 workers. Those workers are, in effect, being paid half time. I ask my colleagues: How would you like to support your families, and to pay your bills, on half-time pay? These employees, and others, have suffered enough from the political games that have been played with these supplementals. This bill should be enacted, and I will vote to override the veto.

Mr. Speaker, because of the delay in final enactment of this urgent supplemental appropriations bill, the Merit Systems Protection Board has been forced to curtail its operations drastically and place its employees on half-time, half-pay furloughs. Inasmuch as there was no certainty as to when or whether the urgent supplemental would be passed, the Board had to slow its rate of spending remaining funds in order to allow for a skeletal operation to continue.

If the urgent supplemental question is settled, the Board will be able to resume full operations with the supplemental funds, and it will be able to use the remaining funds under the continuing resolution to pay its employees for the time lost due to the emergency situation.

It is my understanding that an agency may place employees on administrative leave or excused absence for short periods of time when it has been forced to shut down in whole or in part for emergency or management reasons. In this case, the Board's furlough was forced by its efforts to maintain a minimal level of operations when there were no assurances that a supplemental appropriation would be approved and signed, thus allowing the necessary funds for full-time operations.

It seems to me that the Board took the only reasonable course available to it under the circumstances when it furloughed its employees. Instead of spending ahead as if everything was a certainty, they attempted to stretch out their remaining funds in case there was no urgent supplemental. It would be unfair to penalize the employees because of the failure of Congress to pass the necessary legislation to allow the Board to operate at full scale. I consider the Board's action to be responsible management, and in my opinion, once the urgent supplemental is passed and available to the Board, the furlough should be treated as a situation justifying administrative leave or excused absence so that employees can be justly paid.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I am still trying to figure out here whether or not this bill, in the parlance that was given to us on the floor before we went home on recess—we voted on two bills, one bill was the fat bill and one bill was the skinny bill. That is what was talked about here on the floor.

Is this bill that we are voting on today the fat bill or is it the skinny bill?

Mr. CONTE. Let me say that we coined those words.

Mr. WALKER. We did and that is what I am trying to figure out.

Mr. CONTE. We coined those words in the office of the gentleman from Mississippi (Mr. WHITTEN).

The President sent up a veto on the bill which contained a $3 billion housing subsidy. In that veto he also ob-

jected to certain other items. During debate on that veto, I said that I was supporting the President on his veto, that the chairman and I were cosponsoring another bill, and it would come up immediately. The Speaker asked me if the President was going to veto that bill. At that point we did not know that the President would veto that bill. At that point, the Speaker of the House recessed the House and we met in the office of the gentleman from Mississippi (Mr. WHITTEN), with the Speaker, the majority leader, and the minority leader. Congress was trying to get out of here, we were trying to map out some strategy where we could pass these bills, one completely stripped down—if the gentleman wants to use skinny—completely stripped down with nothing in it, with very few essentials, and this one here. This is the bill that has been vetoed.

Now if the gentleman wants to use those words, go ahead. That bill has become very pregnant over in the Senate. That bill is back over here now and hopefully today we will go to conference on that bill.

Mr. WALKER. If the gentleman will yield further, so, in other words, what we are being asked to override here is what we termed before the recess as the fat bill? The President has vetoed the fat bill. He regards it as too fat—at $1.3 billion over his request—and so therefore we are being asked to override the fat bill, not the skinny bill; is that correct?

Mr. CONTE. We are asked to override the first bill.

Mr. WALKER. I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, I reserve the balance of my time for the moment.

Mr. CONTE. Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I rise in support of overriding this veto.

I want to mention only three things that are involved in this bill which have been excluded from the bill that was passed by the other body, purportedly representing the President's wishes.

Actually the President himself was not necessarily involved.

David Stockman, the Director of the Office of Management and Budget, was, according to the best of my information, consulted and asked for permission with regard to just what things may or may not be included in that emergency supplemental appropriations bill.

The Senate acted in direct obeyance and obedience to the command of the appointed Director of the Office of Management and Budget, David Stockman.

Now let me just read these three items which were excluded at the insistence of David Stockman from the appropriations bill as passed by the Senate.

□ 1430

One is the $63 million that was provided in the House bill for a summer youth employment program. Now, it just so happens that that amount of money for a summer youth employment program was encompassed in the budget resolution which was ostensibly embraced by the President as representative of the kind of thing that he thought we ought to be doing.

This is not a budget buster. This represents funds that were authorized and contemplated for 1982 in the budget resolution that this House passed, that was passed in the other body, and that was represented as the will of the President. Now at the last minute, upon the instructions of David Stockman, he wants to commend to us that it be cut out and we not be allowed to use our own judgment in its inclusion—summer youth. When, at the moment, 52 percent of the nonwhite youths are unemployed, cannot find jobs, because they lack marketable skills.

Does it make sense to leave out this amount of money while at the same time it is being requested that we spend $2 billion to build new prisons? One of the ironies of our time is that it costs more money to keep a young man in prison for a year than it would to send him to the most expensive university in America.

Mr. PEYSER. Mr. Speaker, will the majority leader yield at that point?

Mr. WRIGHT. Yes, I yield to my friend.

Mr. PEYSER. I would just like to point out to the majority leader, in this work period we just finished, I had the occasion just 3 or 4 days ago of being in Nyack, N.Y., on the streets. I walked over to a group of young men, young black men, standing on the corner. I went over and I asked them what were they doing this summer, and the one young man, and these were young men I would say 16 to 18 to 19 years old, and he said, "Are you kidding? You are the Congressman. Why don't you tell us what we are going to be able to do?"

I said, "Well, you know, we are working and trying to get a summer youth program."

And they said, "The summer is nearly half over from our point of view. When are you going to let us do some work?"

I think this is what is happening all over the country, certainly in urban areas, where you have young men and women who really want to try to do something and we had the money to do it, my understanding is correct, and from what the majority leader has said, that was within the budget program.

Mr. WRIGHT. It certainly was. It was part and parcel of the budget, for in 1982, there was passed in this House and in the conference committee report only a few days ago and which had the imprimatur of the President's approval and at the last minute he came and said, notwithstanding that fact, that he was asking us to make ourselves subservient to the commandments of David Stockman and take it out.

Mr. PEYSER. Well, Mr. Leader, I just hope, I honestly do, that this Congress has the guts to stand up for what we did and for what these young people need. It is really tragic if we turn our backs and simply say, "You go your way, work out your own problems. Don't look to the Congress for any help."

I hope we will do what the majority leader is suggesting.

Mr. WRIGHT. I thank the gentleman from New York for his cogent comment.

I would only add that there are two other items in relatively the same category; the community service employment for older Americans. The funding in this appropriation bill which was vetoed and which is left out of the bill as passed by the Senate and sanitized and approved by David Stockman is identical to the 1981 appropriation.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. WHITTEN. Mr. Speaker, I yield 3 additional minutes to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, I thank the chairman for that additional time and I shall not ask for more.

The only other thing I want to mention in passing is the $30,500,000 for the Coast Guard. I cannot imagine why this is excised from the budget upon Mr. Stockman's command at a time when the President is talking about a war on drugs and a war on crime. The Coast Guard is warning us that unless it has this amount of money, it is not going to be able to conduct for the remainder of this year an effective job of surveillance to stop the traffic in narcotics that is coming into our coast lines.

Now, it seems to me that is a relatively small amount of money to pay to save American youth and America's cities from the heinous drug culture that preys upon the bone and body and minds of our young people in increasing numbers.

Underlying all three of these items, I think there is something even more profound and that is the question of whether or not we in the Congress of the United States are going to retain unto this body the dignity that was

granted to us in the Constitution of the United States in which it was clearly specified that all money bills must originate in the House of representatives. For all practical purposes during the entirety of the past year we were placed at the mercy of the President of the United States. This House passed 13 regular appropriation bills last year. The other body did not take any of them, did not take them up, did not even vote on them until September of last year and thereby forced us to come back with a continuing resolution in order to keep the Government functioning, through no dereliction of this House. Yet, the President self righteously went on television and condemned the Democratic Congress for not having sent him any regular appropriation bills.

Very significantly, he neglected to mention that the House had acted in a timely way and had passed all those appropriation bills and that it was the fault of the Senate, or it was the fault of the Office of Management and Budget for not giving orders to the Senate in a timely way and letting them know which bills it would accept.

Are we going to be subservient? Are we going to allow an appointed official in the Office of Management and Budget to dictate the infinitely detailed terms of our appropriations? If we are, then we shall have abrogated the responsibilities that were given to the Congress in the Constitution of the United States.

It seems to me that is the most critical issue underlying this motion to override.

Mr. CONTE. Mr. Speaker, we had reserved our time, but now I see we have a debate going.

I yield 5 minutes to my good friend, the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Speaker, I am always intrigued and interested in the eloquence of the majority leader, who knows full well or would had he only been on the floor a few minutes ago that this House is subservient to no one. We just proved that by overriding the veto of the President on a bill with which many Members did not agree with his veto.

This House is fully capable of governing itself and doing what it wishes.

Mr. WRIGHT. Mr. Speaker, will the gentleman from Georgia yield?

Mr. GINGRICH. Of course, I yield to by good friend.

Mr. WRIGHT. I am looking at the CONGRESSIONAL RECORD for June 24, 1982, rollcall 175, in which we passed this identical bill that the President vetoed, and unless I am mistaken, the gentleman from Georgia voted for the passage of the bill; is that correct?

Mr. GINGRICH. The gentleman is not mistaken at all.

Mr. WRIGHT. And now the gentleman is saying that he has the courage of his convictions and is going to support the position he took at that time, or is he saying that he is being subservient to the President and changing his position?

Mr. GINGRICH. I think as the gentleman who has on many occasions stood in the well and spoken for the administration when the gentleman was their floor leader, the gentleman knows full well that as a member of a team trying to govern a country, you often do things with which you might not have entirely agreed.

Mr. WRIGHT. Oh, I see. If the gentleman will yield for a further question, I am sorry, I misunderstood. The gentleman from Georgia is now the floor leader of his party?

Mr. GINGRICH. No. I am simply working with our floor team.

Mr. WRIGHT. Oh, I see.

The question the gentleman raised was the question of whether we were subservient to the Executive and I thought perhaps it was somewhat germane.

If the RECORD was correct in reporting that the gentleman had voted for this legislation, now if the gentleman is not subservient, does the gentleman intend to vote to override?

Mr. GINGRICH. I do not intend to vote to override.

If I may reclaim my time, will the majority leader also answer my question. Did we or did we not just a few minutes ago override in this House the veto by the President?

Mr. WRIGHT. Will the gentleman yield to me for that?

Mr. GINGRICH. Certainly, I yield.

Mr. WRIGHT. We did and we did so quite gloriously, it seems to me, and I am suggesting that we do so again.

Mr. GINGRICH. Well, if I may reclaim my time, we have proven that when we wish, this House can override the President of the United States, this President. We are subservient to no one and the Office of Management and Budget would like to have seen us sustain the last veto, which we overrode; but the majority leader, the distinguished gentleman from Texas, raised a different issue, which goes beyond subservience.

This House is, I think, at the mercy of the American people, and the American people have clearly for 2 years now been asking us to cut spending, have been asking us to bring spending under control and have said over and over again that the Federal Government is too large, that the medicine of the past has failed and that it is time for new medicine.

The gentleman from Texas referred to 52 percent unemployment among minority youth. That is, in fact, a tragedy. That was also a tragedy when it was virtually that high 2 years ago under the previous President. It has been a tragedy now for most of the last decade. It is getting worse. It is a tragedy that we have 9½ million unemployed, but it was a tragedy when 7 million of those unemployed were already unemployed in 1980.

There is an eloquent quotation from the senior Senator from Massachusetts, Senator KENNEDY, in which he said in 1980 that we are faced with a depression in 1980 and he warns of the dangers of the policies then in place in 1980.

Now, the fact is that those policies of taxing and taxing, of spending and spending, those policies have made this country very sick.

The fact is that we have followed a program for the last decade which has gotten us into steadily more trouble, that this Government has grown out of control, that when this administration took over, the Department of Health and Human Services was increasing at an annual rate of 18 percent in its spending. That means that Department was doubling its size every 4 years.

This issue today is very simple. We were when we voted last in the process of leaving this city, this body was adjourning. I voted, as many people did, to send two supplementals to see what would happen after we departed for the Fourth of July recess, to allow the Senate, the other body, to work with the White House to see what could be agreed to.

The fact is that it is possible to cut spending more than the current vetoed bill cuts it. It is possible for us to do better, that everyone who wants to bring down interest rates has an obligation and an interest to vote to sustain the veto to help bring down those interest rates, that we are slowly beginning to see some signs in the money markets that there is a belief that maybe, just maybe, this Congress is turning away from its policy of taxing and taxing, spending and spending.

The SPEAKER pro tempore. The time of the gentleman from Georgia has expired.

Mr. CONTE. Mr. Speaker, I yield 1 additional minute to the gentleman from Georgia.

Mr. GINGRICH. Let me just say in closing, Mr. Speaker, I do thank the gentleman from Massachusetts for yielding.

Many of us, as the distinguished majority leader pointed out, may have voted to facilitate the negotiations in order to leave for the Fourth of July recess. We are now faced with the reality that nothing was worked out, that we are back here again together, that we do have a chance to help bring down interest rates, to help cut spending and to help fight the inflation rate.

I think it is vital that we continue the policies that we have begun of trimming the Federal Government. I urge sustaining the President's veto

and I do so without being subservient, just as a few minutes ago on a different bill in which I disagreed with this President, I voted to override, but on this issue at this time I vote and urge to sustain the President's veto.

□ 1445

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Texas, (Mr. GRAMM).

Mr. GRAMM. I thank the gentleman for yielding this time to me.

Mr. Speaker, I think in all this discussion about the head of the Office of Management and Budget vetoing bills, which is somewhat a rewrite of the Constitution that I studied in the seventh grade, that somehow we have lost our perspective on what we are doing here.

Before we went home for that long recess, this body mustered its courage and sustained a veto of a very popular measure; $3 billion that was aimed at helping the most depressed industry in America. That was a courageous vote, and I would like to address my remarks very simply to the people who voted then to sustain the President's veto.

I would like Members to look at what they are doing if they voted to sustain the President's veto when it had $3 billion to help the most depressed industry in America, and if they, in turn, vote to override the President's veto now. What Members would be saying is, "I was willing to take $3 billion away from the homebuilding industry, the most depressed industry in America, free enterprise in practice, because the economy required it, because we cannot go on bailing out every sector of the American economy. At some point we have to deal with the big problem of Government borrowing 50 cents out of every dollar that is being borrowed in the American capital market today."

What Members would be saying, by overriding the veto here, is that while they were willing to sustain a veto to knock down a housing subsidy, they are now willing to override a veto to protect WIN, CETA, the Postal Service, and HUD.

I do not think that represents the relative priorities of this House. I think most Members of this House are willing to hold the line on nonemergency spending.

I think most Members of this body believe that we can hold the line on WIN and CETA and the Postal Service and HUD without doing any real damage to the social structure of our society.

I would like simply to conclude by saying that I believe that if we are not willing to hold the line on spending, on programs like CETA and WIN, that we are not serious about trying to deal with the deficit problem.

We are not talking about spending which is going to occur after October 1 during fiscal year 1983; we are talking about spending that is going to start immediately in this fiscal year, and I believe that sustaining this veto is one of the most important votes that we are going to cast in the remainder of this session.

I urge my colleagues to vote "no" on the motion to override, to sustain the President's veto and to apply to WIN and CETA and the Postal Service the same kind of fiscal restraint that we applied to the home building industry. That vote was tough; this vote ought to be easy.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. I thank the chairman very much for yielding to me. As Members know, the last vote that was taken on the overriding of the President's veto on this floor, which our Republican colleagues joined so readily in, believe me, was no vote showing a great profile of courage. That was easy. Many of my colleagues said, "We have got to establish some independence, so let us take this vote that we can override and then we can knuckle under to the administration on a vote that really is important to this country, and none will know that we really caved in when it counted."

One of the statistics that the gentleman from Georgia a couple of minutes ago mentioned, he said very blithely that after all, the unemployment for minority youth a couple of years ago was just about at the same level as the 52 percent today.

I would like to tell the gentleman that in 1980 that unemployment figure was 29 percent, which by itself was outrageous, but that was 23 percent less than the figure is today.

To say that, because we had unemployed minority youth 2 years ago, what is the difference if we have nearly doubled that number today? Well, I say there is a major difference and this House ought to reflect that. It is just the same as saying what is the difference that the elderly have a little tougher time than they had 2 years ago? After all, we can all survive.

But let me tell Members, it means something to the elderly, it means something to the young, and if Members want to make a vote that is a profile in courage, then vote to tell this administration that you have had enough, that you have gone with them, and now they have everything their way; so let us change it and let us give them the Congress version of what this budget should be and the people of this country will have a halfway decent chance to survive.

Mr. CONTE. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. The distinguished gentleman from Texas made the accurate point that I had voted earlier and then had changed my vote.

It was brought to my attention, if the gentleman will note on June 4, 1980, he in fact voted for a bill which in fact on June 5, 1980, he voted to attempt to sustain the veto of.

So it is often possible that those of us in this body, even men of far more experience and learning than myself, to decide on balance to help sustain a President.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, today we have been told that we are subservient if we try to be careful with the taxpayers' money. We have been told that we are independent or courageous if we spend more of the taxpayers' money than necessary.

I thought that we resolved that kind of question on the budget resolutions that we have passed in the last 2 years.

The bill before us at this moment, which the President has vetoed, spends about $1 billion more than he asked for. In fact, this bill, H.R. 6682, conflicts with the continuing resolution which we passed last year. It reverses policy decisions we made last December. There is nothing urgent or necessary about those policy changes. They merely satisfy the spending urges of the Appropriations Committee.

This House has no choice. If it wants to preserve the course of fiscal sobriety, it can only support the veto of the President. We must vote "no" on the motion.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I would like to ask the gentleman from Minnesota a question based on his last remarks. He said this bill is one point something billion dollars over the President's requested budget. I am advised that this appropriation is fully within the limits of the budget resolution which the Administration supported and which Congress just recently passed.

Does the gentleman have different information?

Mr. FRENZEL. Mr. Speaker, if the gentleman will yield, I do not know about that. I made a statement that I thought was responsible, and that is that this bill contains a good deal more spending than the administration asked for in its urgent supplemental.

Mr. LEVITAS. Mr. Speaker, I would like to simply point out for the RECORD that the administration supported budget which this Congress just passed, which the gentleman from

Minnesota, I believe, voted for with a $100-some billion deficit, included everything that is covered by this appropriation; this bill is not above the budget resolution. This bill is below the budget limits.

Further I still have not heard anyone address the question about how we provide for the Coast Guard, for example, without this appropriation. The funding for the Coast Guard in this bill will enable it to maintain searches for and intercept vessels smuggling dope and narcotics into our country. That illegal traffic is destroying the lives of our people, especially the young. How can we fail to provide the Coast Guard with the funds to do that job. If we fail to override this veto, those funds will not be available to let the Coast Guard do its vital work.

Mr. FRENZEL. Mr. Speaker, the gentleman is inquiring about 1982 items. We passed a budget for 1983 last month which included a third resolution for 1982. That resolution would accommodate this spending, but there will be other supplementals which may be necessary and urgent, but will not fit into the budget resolution if we pass this one.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding me this time, because I think it is important to recognize that indeed some who did vote for this urgent supplemental when it passed the House in its fat version can vote to sustain the veto as well, because what we were voting for was an alternative to a grossly obese bill that had been turned down and, in fact, we did pass two different approaches, one that we called fat and one that we called skinny.

This has been established in debate as the fat bill. How fat? Well, the President says it contains in excess of the requested budget authority nearly $1 billion more than was requested by the administration.

What does that mean? What does that fat mean? Well, he says that a key to lasting economic recovery is to bring down interest rates, and keep them down, and in order to do that we have got to start disciplining ourselves here in the Congress. That is exactly what we are trying to do with this attempt to sustain the President's veto, to discipline ourselves in a way that will assure that we can get interest rates down, that we can begin this job of economic recovery.

I would suggest it is extremely important that what we do here today is show that we are determined to stay on the road to economic recovery by turning down a bill that we ourselves said was fat when it left here.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Speaker, leaving aside what terminology was used, did not the gentleman know all of that at the time he voted for this bill on June 24 of this year?

Mr. WALKER. Mr. Speaker, I would say to the gentleman, as he well knows, we vote on alternatives around here. We had just turned down a grossly obese kind of bill and we were voting for an alternative that we regarded as somewhat more responsible.

We also, though, approved another bill that was a skinny version. We were attempting to give the Senate a choice at that particular time because we were headed home on recess, we were going to leave town. Many of us voted what we thought was a responsible vote at that time in order to present the Senate a choice

That does not mean that we did not recognize there was some fat in the bill. The President said that fat was too much. I think that is the reason why anyone who wants to do the right thing about keeping the economy on the right course will vote to sustain his veto now.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the minority leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. I thank the gentleman from Massachusetts for yielding to me.

Mr. Speaker, I obviously rise in support of the President's veto on this measure. Even though we overrode the President—not with my vote, but with a sufficient number earlier in the day on the copyright bill—I would hope that the President's position would be upheld here on this supplemental appropriation.

This revised bill still contains nearly a billion dollars in unrequested, nonurgent funds in addition to those urgent items requested by the administration.

The bill adds almost 20 supplementals not requested in the budget, including unneeded funds for the National Archives, the Postal Service, CETA, refugee assistance, Ginnie Mae, and a number of other nonurgent appropriations provided for in more than 10 major categories.

While Congress is debating which nonurgent items to add to the supplemental, 10 agencies are awaiting requested funds totaling $4½ billion that really are urgent and essential to continuing agency operations for the rest of the year.

Finally, I believe a responsible budget with a reduced deficit remains the best fiscal policy to put an end to high interest rates and to move toward economic recovery.

Incidentally, for those Members who are particularly concerned about the Proxmire amendment regarding Members' pay, the amendment is also contained in the so-called skinny supplemental which we passed and which the Senate amended and sent back to us. That version will, I assume, be taken up if we sustain the veto, so there is no basis for voting to override simply on the pay issue.

Mr. KAZEN. Mr. Speaker, will the distinguished gentleman yield?

Mr. MICHEL. I would be happy to yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, what did the other body do with the so-called skinny-skinny bill that we sent over there that apparently would have satisfied the administration and everybody else?

Mr. MICHEL. Well, of course, we passed that bill as well just before we broke for the recess, hoping that if the one measure were to get vetoed, there would be then a followup measure which could be enacted and accepted by the administration. The other body amended that measure and sent it back over here.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I would be happy to yield to my friend, the gentleman from Mississippi.

Mr. WHITTEN. I thank the distinguished gentleman for yielding.

I might add that the amount added by the other body was $766 million.

Mr. KAZEN. Then they have already taken it up?

Mr. WHITTEN. That is right. And may I tell the gentleman that we have a letter from Mr. Stockman that it is OK.

Mr. KAZEN. I thank the gentleman for that information. Apparently we are doing our job in this body and it is the other body that is fouling us up.

Mr. MICHEL. Mr. Speaker, we have had our differences with the other body from time to time and I think we have generally exercised pretty good judgment in approving lower rates of expenditure over here.

I see the gentleman from Kentucky sitting over there, with whom I served for so many years on the Appropriations Committee. It used to be kind of a standing joke around here about how the other body always increased the items that we wanted to hold steady on.

□ 1500

I think we ought to adhere to the practice of holding to a lower figure, and hopefully that is one way we can eventually balance the budget.

Mr. CONTE. Mr. Speaker, I have no further requests for time.

Mr. WRIGHT. Mr. Speaker, would my distinguished friend, the ranking

minority Member, yield to me, or is he all through?

Mr. CONTE. I am all through.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, I was so mystified by something that is very noncontroversial. I assure you that I shall not arouse the passions. My only purpose is because I was so mystified, assuming it probable that the gentleman from Georgia had been absolutely correct when he discovered some inconsistency in my votes back in 1980, saying that I had voted one day for a proposition and voted the next day against overriding the proposition.

Now, I am advised that that is almost true, but not quite true. On one day I had voted against disapproval of an oil import fee, and the next day I had voted against overriding the President's veto of a debt limit bill, which apparently was vetoed on the basis that the disapproval of the oil import fee had been attached.

Now, if I had not succeeded in confusing the issue further, perhaps that does not quite consist of exactly the same thing as voting for a proposition one day and then voting against it the next day. But, I do thank the gentleman from Georgia for calling my attention to it. I had forgotten all about it.

Mr. WHITTEN. Mr. Speaker, I yield myself the remaining 2 minutes.

I do this, Mr. Speaker, to point out that I think the debate clearly shows the difference in viewpoints. We have talked about jobs and activity and work, where people would come off the unemployment rolls, be productive and pay taxes, and we would have the results of that work.

Debate on the other side has primarily had to do with money. May I say again, this money is not going to reduce the debt. It is going to increase the deficit because of the unfortunate tax bill which we passed last year and which has not worked. We have a $100 billion deficit in fiscal year 1982 partly by reason of that unfortunate tax bill.

The other thing is, we do not have the British parliamentary type of system here. We represent the people. We are supposed to represent the best interests of our people. By the same token, we have three bodies which have to work together for the overall interests of the country. I can understand supporting the President, but after all, our primary responsibility is to the people of the Nation who send us here. We are supposed to represent those people when we vote with or against a Presidential veto.

I know everyone is going to do what they think best, but I do think the debate has clearly shown that on the one hand they are looking at money; on the other hand, we are looking at productive investment.

The SPEAKER pro tempore. All time has expired.

Mr. WHITTEN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were yeas 242, nays 169, not voting 22, as follows:

[Roll No. 179]

YEAS—242

Addabbo	Findley	Mica
Akaka	Fish	Mikulski
Albosta	Fithian	Miller (CA)
Alexander	Flippo	Mineta
Anderson	Florio	Minish
Annunzio	Foley	Mitchell (MD)
Anthony	Ford (MI)	Mitchell (NY)
Applegate	Ford (TN)	Moakley
Aspin	Fountain	Moffett
Atkinson	Fowler	Mollohan
AuCoin	Frank	Mottl
Bailey (PA)	Frost	Murphy
Barnes	Fuqua	Murtha
Bedell	García	Natcher
Beilenson	Gaydos	Neal
Benjamin	Gejdenson	Nelligan
Bereuter	Gilman	Nelson
Bevill	Glickman	Nichols
Biaggi	Gonzalez	Nowak
Bingham	Gore	Oakar
Boggs	Gray	Oberstar
Boland	Green	Obey
Bolling	Guarini	Ottinger
Boner	Hall (OH)	Panetta
Bonior	Hall, Ralph	Parris
Bouquard	Hamilton	Patterson
Bowen	Hance	Pease
Brinkley	Harkin	Pepper
Brodhead	Hatcher	Perkins
Brooks	Hawkins	Peyser
Brown (CA)	Heckler	Price
Burton, Phillip	Hefner	Pursell
Byron	Heftel	Rahall
Chisholm	Hertel	Rangel
Clinger	Hightower	Ratchford
Coelho	Holland	Regula
Collins (IL)	Hollenbeck	Reuss
Conte	Horton	Richmond
Conyers	Howard	Rinaldo
Coyne, William	Hoyer	Rodino
Crockett	Hubbard	Roe
D'Amours	Huckaby	Rose
Daschle	Hughes	Rosenthal
Davis	Hutto	Rostenkowski
de la Garza	Jacobs	Roybal
Dellums	Jeffords	Russo
DeNardis	Jenkins	Sabo
Derrick	Jones (NC)	Santini
Dicks	Kastenmeier	Savage
Dingell	Kazen	Scheuer
Dixon	Kennelly	Schneider
Donnelly	Kildee	Schroeder
Dorgan	Kogovsek	Schulze
Dougherty	Kramer	Schumer
Dowdy	LaFalce	Seiberling
Downey	Lantos	Shamansky
Dunn	Leach	Shannon
Dwyer	Lehman	Sharp
Dymally	Levitas	Simon
Early	Long (LA)	Skelton
Eckart	Long (MD)	Smith (IA)
Edgar	Lowry (WA)	Smith (NJ)
Edwards (CA)	Luken	Smith (PA)
Emery	Lundine	Snowe
Evans (GA)	Marks	Solarz
Evans (IN)	Matsui	St Germain
Fary	Mattox	Stark
Fascell	Mavroules	Stokes
Fazio	Mazzoli	Stratton
Fenwick	McDade	Studds
Ferraro	McHugh	Swift
Fiedler	McKinney	Synar
Tauke	Weaver	Wolpe
Udall	Weiss	Wright
Vento	White	Wyden
Volkmer	Whitley	Wylie
Walgren	Whitten	Yates
Wampler	Williams (MT)	Yatron
Washington	Williams (OH)	Zablocki
Watkins	Wirth	Zeferetti
Waxman	Wolf	

NAYS—169

Archer	Goodling	Napier
Ashbrook	Gradison	O'Brien
Badham	Gramm	Oxley
Bafalis	Gregg	Pashayan
Bailey (MO)	Grisham	Patman
Barnard	Gunderson	Paul
Beard	Hagedorn	Petri
Benedict	Hall, Sam	Pickle
Bennett	Hammerschmidt	Porter
Bethune	Hansen (ID)	Pritchard
Bliley	Hansen (UT)	Quillen
Breaux	Hartnett	Railsback
Broomfield	Hendon	Rhodes
Brown (CO)	Hiler	Ritter
Broyhill	Hillis	Roberts (KS)
Burgener	Holt	Robinson
Butler	Hopkins	Roemer
Campbell	Hunter	Rogers
Carman	Hyde	Roth
Carney	Ireland	Roukema
Chappie	Jeffries	Rudd
Cheney	Johnston	Sawyer
Clausen	Jones (OK)	Sensenbrenner
Coats	Kemp	Shaw
Coleman	Kindness	Shelby
Collins (TX)	Lagomarsino	Shumway
Conable	Latta	Shuster
Corcoran	Leath	Siljander
Coughlin	LeBoutillier	Skeen
Courter	Lee	Smith (AL)
Coyne, James	Lent	Smith (NE)
Craig	Lewis	Smith (OR)
Crane, Daniel	Livingston	Snyder
Crane, Philip	Loeffler	Solomon
Daniel, Dan	Lott	Spence
Daniel, R. W.	Lowery (CA)	Stangeland
Dannemeyer	Lujan	Stanton
Daub	Lungren	Staton
Derwinski	Madigan	Stenholm
Dickinson	Marriott	Stump
Dornan	Martin (IL)	Tauzin
Dreier	Martin (NC)	Taylor
Duncan	Martin (NY)	Thomas
Dyson	McClory	Trible
Edwards (AL)	McCloskey	Vander Jagt
Edwards (OK)	McCollum	Walker
Emerson	McCurdy	Weber (MN)
English	McDonald	Weber (OH)
Erdahl	McEwen	Whitehurst
Erlenborn	McGrath	Whittaker
Evans (DE)	Michel	Wilson
Evans (IA)	Miller (OH)	Winn
Fields	Montgomery	Wortley
Forsythe	Moore	Young (AK)
Frenzel	Moorhead	Young (FL)
Gibbons	Morrison	
Gingrich	Myers	

NOT VOTING—22

Andrews	Ertel	Marlenee
Blanchard	Foglietta	Molinari
Bonker	Gephardt	Roberts (SD)
Brown (OH)	Ginn	Rousselot
Burton, John	Goldwater	Traxler
Chappell	Jones (TN)	Young (MO)
Clay	Leland	
Deckard	Markey	

□ 1520

The Clerk announced the following pairs:

On this vote:

Mr. Foglietta and Mr. Jones of Tennessee for, with Mr. Goldwater against.

Mr DUNCAN changed his vote from "yea" to "nay."

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The SPEAKER pro tempore. The message and the bill are referred to the Committee on Appropriations.

The Clerk will notify the Senate of the action of the House.

ANNOUNCEMENT OF MEETING

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTEN. Mr. Speaker, I would ask that all members of the Appropriations Committee meet in room H-140 immediately for further consideration of the urgent supplemental for 1982. That would be room H-140, in the Capitol, immediately, for all members of the Appropriations Committee.

AUTHORIZING AN INVESTIGATION BY THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. WRIGHT. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 518) authorizing an investigation by the Committee on Standards of Official Conduct.

The Clerk read as follows:

H. RES. 518

Whereas information has come to the attention of the House of Representatives that the Department of Justice and other law enforcement authorities are conducting investigations of—

(1) alleged improper or illegal sexual conduct of Members, officers, or employees of the House;

(2) illicit use or distribution of drugs by Members, officers, or employees of the House; and

(3) the offering of preferential treatment by Members, officers, or employees to employees of the House, including congressional pages, in exchange for any item referred to in subclause (1) or (2); and

Whereas clause 4(e)(1) of rule X of the Rules of the House of Representatives entrusts the Committee on Standards of Official Conduct with the authority (1) to recommend to the House of Representatives from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House of Representatives, (2) to investigate any alleged violation, by a Member, officer, or employee of the House of Representatives, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities and, after notice and hearing, to recommend to the House of Representatives, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances, and (3) to report to the appropriate Federal or State authorities, with the approval of the House of Representatives, any substantial evidence of a violation by a Member, officer, or employee of the House of Representatives of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation: Now, therefore, be it

Resolved, That the Committee on Standards of Official Conduct be and it is hereby authorized and directed to conduct a full and complete inquiry and investigation of alleged improper conduct referred to in this resolution which has been the subject of recent investigations by the Department of Justice and other law enforcement agencies to determine whether Members, officers, or employees of the House of Representatives have violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct. The scope of the inquiry and investigation may be expanded by the committee to extend to any matters relevant to discharging its responsibilities pursuant to this resolution or the Rules of the House of Representatives.

SEC. 2. The committee may report to the House of Representatives any findings, conclusions, and recommendations it deems proper with respect to the adequacy of the present Code of Official Conduct or the Federal laws, rules, regulations, and other standards of conduct applicable to the conduct of Members of the House of Representatives in the performance of their duties and the discharge of their responsibilities.

SEC. 3. The committee, after appropriate notice and hearing, shall report to the House of Representatives its recommendations as to such disciplinary action, if any, that the committee deems appropriate by the House of Representatives and may provide such other reports of the results of its inquiry and investigation as the committee deems appropriate.

SEC. 4. (a) For the purpose of conducting any inquiry or investigation pursuant to this resolution, the committee is authorized to request or compel—

(1) by subpena or otherwise—

(A) the attendance and testimony of any person—

(i) at a hearing; or

(ii) at the taking of a deposition by one or more members of the committee; and

(B) the production of things of any kind; and

(2) by interrogatory, the furnishing under oath of such information as it deems necessary to such inquiry or investigation.

(b) A subpena for the taking of a deposition or the production of things may be returnable at such places and times as the committee may direct.

(c) The authority conferred on the committee by subsections (a) and (b) of this section may be exercised—

(1) by the chairman and the ranking minority member acting jointly, or, if either declines to or is unable to act, by the other acting alone, except that in the event either so declines or is unable to act, either shall have the right to refer to the committee for decision the question whether such authority shall be so exercised, and the committee shall be convened as soon as practicable to render that decision; or

(2) by the committee acting as a whole.

(d) Subpenas and interrogatories authorized under this section may be issued over the signature of the chairman, or ranking minority member, or any member designated by either of them. A subpena may be served by any person designated by either of them and may be served either within or without the United States.

(e) Any member of the committee or any other person authorized by law to administer oaths may administer oaths pursuant to this resolution.

(f) All testimony taken by deposition or things produced by deposition or otherwise, or information furnished by interrogatory pursuant to this section, other than at a hearing, shall be deemed to have been taken, produced, or furnished in executive session.

SEC. 5. For the purpose of conducting any inquiry or investigation pursuant to this resolution, the committee is authorized to sit and act, without regard to clause 2(m) of rule XI of the Rules of the House of Representatives, at such times and places within the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

SEC. 6. The committee is authorized to coordinate its investigation with the Department of Justice or any other law enforcement agency and to enter into any agreements with that Department or any such agency which the committee determines to be essential for the prompt and orderly performance of its duties: *Provided*, That such agreements shall not be inconsistent with applicable law or with any Rule of the House of Representatives unless otherwise provided herein for the purpose of this investigation. Without regard to clause 2(e)(2) of rule XI of the Rules of the House of Representatives, the committee may restrict access to information received from the Department of Justice or any other law enforcement agency to such members of the committee or other persons as the committee may designate.

SEC. 7. The committee is authorized to seek to participate and to participate, by special counsel appointed by the committee, on behalf of the committee and the House of Representatives in any judicial proceeding concerning or relating in any way to any inquiry or investigation conducted pursuant to this resolution, including proceedings to enforce a subpena.

SEC. 8. The authority conferred by this resolution is in addition to, and not in lieu of, the authority conferred upon the committee of the Rules of the House of Representatives. In conducting any inquiry or investigation pursuant to this resolution, the committee is authorized to adopt special rules of procedure as may be appropriate.

The SPEAKER. Is a second demanded?

Mr. SPENCE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. WRIGHT) will be recognized for 20 minutes, and the gentleman from South Carolina (Mr. SPENCE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I yield myself such time as I may consume.

I certainly will want to yield such time as he will need to the chairman of the Committee on Standards of Official Conduct, the gentleman from Ohio (Mr. STOKES).

Pending that, let me simply say on behalf of the House leadership this course of action has been agreed to in a bipartisan meeting in which the minority leader and the Speaker, the assistant minority leader and assistant

majority leader, and I, as well as the chairman and ranking minority member of the Committee on Standards of Official Conduct engaged today. It was unanimously agreed that we should move as expeditiously as possible, which is to say, to authorize that committee to proceed with all of the powers and entitlements it needs to establish the truth and make official recommendations to the House of Representatives with respect to the allegations which have been made to that committee concerning the behavior of certain Members and employees of the House of Representatives.

This resolution is identical in its terms to resolutions by which that committee of the House has been empowered on previous occasions to inquire into other allegations and to make recommendations for action by the House.

I believe that committee has established a reputation for integrity. I believe the committee never has abused its authority.

I believe the House has confidence in its Commmittee on Standards of Official Conduct. It is uniquely, among the committees of the House, totally bipartisan in character. It contains exactly the same number of members of each party: Six Democrats; six Republicans.

Its recommendations in the past usually have been unanimous.

So I believe by this means the House has the opportunity and it has the responsibility today to take this action empowering this committee, with all of the authority that it needs in order to make a complete inquiry, and expeditious inquiry, into the allegations that have been made against Members and employees of the House, to find all of the pertinent facts, to divulge them in the proper manner to the Members of the House, and to make any recommendations that that committee in its wisdom may see fit as a result of those disclosures to make to the House.

Mr. Speaker, I reserve the balance of my time at this moment and would expect the gentleman representing the other side might care to speak to the same subject.

Mr. SPENCE. Mr. Speaker, I would like to defer to the chairman of the Committee on Standards of Official Conduct and reserve the balance of my time.

Mr. WRIGHT. Mr. Speaker, I yield 8 minutes to the distinguished chairman of the Committee on Standards of Official Conduct, the gentleman from Ohio (Mr. STOKES).

□ 1530

Mr. STOKES. Mr. Speaker, I urge adoption by the House of House Resolution 518. This resolution would authorize and direct an inquiry and investigation by our committee of alleged improper conduct which has been the subject of recent investigations by the Department of Justice and other law enforcement agencies to determine whether Members, officers, or employees of the House of Representatives have violated the code of official conduct or any law, rule, regulation, or other applicable standard of conduct with respect to certain improper or illegal sex acts and/or improper or illegal involvement in controlled narcotics.

While the committee, to some extent, already has authority under the rules of the House to conduct such an inquiry and investigation this resolution will authorize the committee to proceed in a more orderly and efficient manner in this particular matter.

The "Whereas" clauses in House Resolution 518 list the areas of investigation by the Department of Justice and other law enforcement authorities which are the areas of our concern. These investigations include:

First, alleged improper or illegal sexual conduct of Members, officers, or employees of the House;

Second, illicit use or distribution of drugs by Members, officers, or employees of the House; and

Third, the offering of preferential treatment by Members, officers, or employees to employees of the House, including congressional pages, in exchange for any of the items referred to above.

Additionally, the "Whereas" clause of the resolution restates and emphasizes clause 4(e)(1) of rule X of the Rules of the House of Representatives which entrusts the Committee on Standards of Official Conduct with the authority: First, to recommend to the House from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House of Representatives; second, to investigate any alleged violation, by a Member, officer, or employee of the House of Representatives, of the code of official conduct or of any law, rules, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities and, after notice and hearing, to recommend to the House of Representatives, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances; and third, to report to the appropriate Federal or State authorities, with the approval of the House of Representatives, any substantial evidence of a violation by a Member, officer, or employee of the House of Representatives of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation.

In the "Resolved" clauses the committee is authorized and directed to investigate the aforementioned matters and to report to the House its findings, conclusion and any recommendations.

Section 4 of the resolution has a number of procedural provisions that the committee regards as essential to the efficient and expeditious conduct of its investigation.

Subsection (a)(1)(A) of section 4 would allow the taking of depositions by one or more members of the committee. This is a far more efficient means since House Rule XI (2)(h)(1) otherwise requires a minimum of two Members for receiving evidence or taking testimony.

Subsection (a)(1)(B) of section 4 is expanded from the way House Rule XI now reads. As changed, this subsection would allow the committee to compel the production of "things" of any kind. It is felt that this breadth is necessary in view of the fact that we do not now know what types of things may become relevant during the investigation.

Subsection (a)(2) of section 4 allows the committee to require the furnishing of information by interrogatories. Interrogatories are not specifically mentioned in House Rule XI, but it is felt that under some circumstances, this can be a very useful tool for obtaining information.

Pursuant to subsection (c) of section 4, the compulsory process authority conferred by the House upon the committee in subsections (a) and (b) of section 4 may be exercised by the committee as a whole or by the Chairman and the ranking minority Member acting jointly: if either declines or is unable to act, the other may act alone. However, the subsection also provides that either the chairman or the ranking minority member may refer the exercise of authority to the committee as a whole. Subsection (c) is necessary because House Rule XI would require a majority of the committee itself to act unless the committee had delegated its power to the chairman alone. Allowing the Chairman and the ranking minority member to act jointly, absent a reference to the committee as a whole, would appear to be both more feasible and fairer, and yet retains the safeguard of allowing either the Chairman or the ranking minority member to ask the committee as a whole to act.

Similarly, subsection (d) of section 4 would allow both subpenas and interrogatories to be issued over the signature of the chairman, the ranking minority member, or any member designated by either one of them. This works a change in House Rule XI, which would require the signature of the chairman or someone designated by the committee. This change is de-

sirable in view of the number of cases that may come before the committee at one time and the necessity for its being able to act quickly in certain circumstances.

In the same subsection, a subpena is allowed to be served either within or without the United States on any national or resident of the United States or on any other person subject to the jurisdiction of the United States. This may become important because the Rules of the House do not speak directly to where subpenas may be served and on whom.

Subsection (e) of section 4 allows any member of the committee or any other person authorized by law to administer oaths. This is a necessary change in House Rule XI, under which the chairman or someone designated by the committee must administer oaths.

Subsection (f) of section 4 contains a provision which would result in all information received by deposition, interrogatory or by any other means (other than at a public hearing) being deemed to have been taken in executive session. Approval of this provision would help insure committee control over the very sensitive information to be gathered.

Section 5 restates the provisions of House Rule XI(2)(m), which authorizes the committee to sit and act at such times and place within the United States, whether the House is meeting, has recessed, or has adjourned.

Section 6 is an important one in several respects. First, it would allow the committee to negotiate with the Department of Justice or other law enforcement agency. As a result of these negotiations, the committee is hopeful that it will receive certain information before they would normally release it, thus allowing the committee to become well prepared even while they are proceeding with prosecutorial functions. Second, the proviso in section 6 states that no agreement shall be inconsistent with applicable law or House Rule, particularly those provisions requiring House approval before information obtained by the committee with respect to violations by Members or employees can be given to other agencies. There is no intention to change House Rule X in this respect. Third, under some very unusual circumstances the committee feels that confidential information may be received by its counsel, its chairman, and its ranking minority member which for various reasons should not immediately be revealed to all members of the committee, whereas House Rule XI contemplates that all members of the committee would have access to all information at all times.

Section 7 would authorize the committee, acting through special counsel, to represent the committee in any judicial proceeding concerning or relating in any way to the committee's inquiry and investigation. An example of such a judicial proceeding would be one seeking to enforce a subpena. Another would be one in which both the Justice Department and the committee are together seeking a protective order in relation to certain confidential information given to the committee. Finally, there may come a time when the committee feels that it must proceed with its investigation whether or not the Department of Justice is still engaged in some phase of its prosecutorial function. The Department might at that time attempt judicial intervention, and the committee wishes to be in a position to defend its action and to assert the constitutional duties and responsibilities of the House.

The Constitution places on the House of Representatives the duty to police itself. Allegations of impropriety must be proven or disproven in a manner which is fair, impartial, thorough, and expeditious. The quick approval of House Resolution 518 by the House would be a strong first step in that direction.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield for a question?

Mr. STOKES. I yield to the gentleman from Texas.

□ 1540

Mr. GONZALEZ. I am compelled to ask the question because we do not have any copies of this resolution before us, as the gentleman realizes.

My question is, Does this contain the same proviso in the prior two resolutions that were part of, I believe, section 6, and it may be that this tracks that, whereby the committee will in effect prostrate itself before the Justice Department in the obtainment of information?

All of these scandals and all are emanating from sources that apparently the Justice Department has had and has leaked out.

Now, the proviso that I have strenuously objected to since the last two similar resolutions says that the committee will let the Justice Department determine what members will be entitled to that information and that the committee—it does not say who—but the committee shall judge which member of the committee or the House will have access to that information.

Mr. WRIGHT. Mr. Speaker, I would like to yield myself 1 minute in which to respond to the question presented by the gentleman from Texas (Mr. GONZALEZ).

Section 6 reads as follows:

The committee is authorized to coordinate its investigation with the Department of Justice or any other law enforcement agency and to enter into any agreements with that Department or any such agency which the committee determines to be essential for the prompt and orderly performance of its duties, provided that such agreements shall not be inconsistent with applicable law or with any rule of the House of Representatives.

So that in reality it says the committee may restrict access to information received from the Department of Justice. It does not give to the Department of Justice or any other outside agency the right or the power to release or restrict such information. It retains that power within this committee of the Congress.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of myself as ranking minority member of the Ethics Committee, and on behalf of the minority leadership, I would like to agree with what our chairman and our majority leader have said and ask for passage of this resolution.

We are asking for nothing we have not asked for before and received on other occasions when we have been faced with this kind of a situation.

I think right now it is important mainly that we proceed expeditiously for a number of reasons.

It is imperative that we clear the names of those people who may be unjustly accused in this matter. It is important that we deal firmly with those people who we find guilty of wrongdoing and, finally, it is important that we proceed expeditiously in order to convince the American people that we can deal with these problems ourselves in this body.

Again I would like to agree with our chairman and ask for speedy passage of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. WRIGHT. Mr. Speaker, I yield 2 minutes to the distinguished assistant majority whip, the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, last week, during the July 4 recess, allegations of scandal were levied against the Members of Congress as well as the pages who assist them in carrying out the tasks of the legislative branch. The quick response of the House Committee on Standards of Official Conduct by introducing a resolution seeking an expansion of the powers of that committee to include additional subpena powers, together with the authority to hire special counsel, additional investigators and staff, demonstrates the desire of the committee and the Congress to investigate the allegations quickly, thoroughly, completely, and comprehensively.

Today, I received a letter from a former page expressing appreciation for the opportunity that she received in serving as a page in the House—saying that she would much like to forget the headlines which appeared on television and in the newspapers the last several days "because my stay

in Washington was both rewarding and educational. Working as a runner in the House of Representatives I learned the responsibility of working hard, no matter how difficult and tiresome that might become."

In conclusion she says that she laments that she would like to forget information she has received over the last several days, stating her hope that the Congress will take speedy action to restore the honor, dignity, and pride that pages enjoy who have served in the Congress.

Mr. Speaker, the effort that we are making today in adopting this resolution will authorize the committee to remove the cloud of doubt that hangs over the Capitol and the people who work here. I urge the adoption of the resolution.

Mr. SPENCE. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I rise in support of this resolution. I think it is absolutely essential that we move forward to grant the Ethics Committee with the expanded authority that they are requesting in this resolution, and that we do so immediately so that they can undertake the necessary investigations and hearings that may be required to look into the various allegations that have recently been made. As a member of the Rules Committee, I have to say that I recognize that this is an unusual procedure to bring this resolution directly to the floor of the House of Representatives, but in this instance I think that it is the responsible thing to do. Again, this procedure expedites the ability of the Ethics Committee to move forward instead of delaying it before the Rules Committee, and there is nothing new in this resolution that the Rules Committee has not considered in the past in somewhat similar situations.

For instance, as I recall, it is similar to what the Rules Committee recommended in the Abscam case, in the so-called Koreagate case, and others. So I think it is perfectly proper that we move in this manner and bring this resolution directly to the floor.

I would like to say that I think that the committee itself should also move in a very timely but thorough manner to determine what, if any, wrongdoing has occurred and recommend whatever action may be necessary by the full House.

It is necessary that we take this immediate action so that we can preserve the confidence of the American people in this institution, Mr. Speaker, and I do support this resolution.

Mr. GONZALEZ. Mr. Speaker, will the gentleman from Texas (Mr. WRIGHT) yield for an additional question?

Mr. WRIGHT. Mr. Speaker, I wonder if we could inquire as to how much time remains on each side?

The SPEAKER. The gentleman from Texas (Mr. WRIGHT) has 6 minutes remaining, and the gentleman from South Carolina (Mr. SPENCE) has 15 minutes remaining.

Mr. WRIGHT. Mr. Speaker, I wonder if the gentleman from South Carolina has any additional time that he would like to yield at this time?

I will indeed respond to the request of my friend from Texas (Mr. GONZALEZ), but I should not like for our side to exhaust its time completely prior to the using of such time as the other side may deem proper.

Mr. SPENCE. I have some time I would like to yield, Mr. Speaker.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, I rise in support of an investigation. I think to do any less would not be in the public interest. It is quite clear that the allegations that have been made are of such a serious nature as to require an investigation. I am exceedingly disappointed that the procedures before the House did not permit a consideration of the issue by the Rules Committee which could have allowed for the introduction of an amendment authorizing appointment of a special prosecutor.

□ 1550

I feel that it is unfortunate for the membership and for the American people that the House at this time will not have the chance to vote on the question of whether or not they wish to have an independent prosecutor to investigate the allegations here.

My call for an independent prosecutor turns on the question of public perception and public trust. I have respect for the members of the Ethics Committee and I wish to express that respect. I do not doubt that an investigation conducted by a committee of the House would be anything but fair and accurate and thorough and, in fact, concerned with the rights of everyone. But I do believe that the public will be skeptical of the results.

I intend to vote for this investigation, but I do this with great reservations and a great sense of disappointment that the House has not been able to express its will on the issue of the independence of a prosecutor.

With all due respect to the Ethics Committee, we are entering a political time when Members will be out campaigning, and will be absent from committee considerations, and these are issues that should be raised. I believe that the only way we can deal with the public confidence at this time on these serious questions and allegations before us would be by the appointment of a special prosecutor and I think that this objective is not met by the resolution before us, which does not permit amendment. This is a body that is charged with a mandate to deliberate and we are failing to deliberate the full scope of this question when we do not consider the independence of a prosecutor.

Mr. WRIGHT. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I agree that it would be preferable if the House had a chance to amend this legislation. I would hope that the sentiment in favor of amending would be around when we do the budget resolution so we do not do those under closed rules like last year.

I do believe, Mr. Speaker, that given the welter of charges which have been made, some of which have been quite demagogically exploited, that some form of independent investigation is needed both to recommend punishment for those who are guilty, and as a protection for the integrity of this institution.

Serious charges of misbehavior—even criminal misbehavior—have been made. And some of our Members have amplified these unfortunate charges in an irresponsible way. The result has been an atmosphere in which some independent investigating authority is a necessary protection for the reputation of the House. Only an independent investigator will be credible to the public in dealing with these charges.

I hoped that we could have adopted a resolution providing for an independent investigator. Since that appears unlikely, I would hope that the Ethics Committee, in which I have confidence, would do the utmost within this resolution to provide for as much independence as it can legally give to its investigators.

In an atmosphere in which charges have been made and then repeated irresponsibly, in an atmosphere which has been so poisoned, I think the integrity of this institution, and the vindication of the democratic process which has sent Members here, will be best served by an independent investigatory body.

If we cannot have an investigator with a more formal independence—which I prefer—I want to express my hope and my confidence that the Ethics Committee will do the utmost it can to provide the actual independence, which I believe is needed to deal with the atmosphere which has been unfortunately created surrounding these unfortunate charges.

We want the charges answered. We want people who may have been guilty brought to book, and we want the demagogy which has arisen around this issue dissipated. An independent investigator would have best accomplished this. In its absence, the Ethics Committee must provide as independent a grant of authority to its investi-

gators as it can within the framework of this resolution.

Mr. SPENCE. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Speaker, I rise in support of the resolution.

Mr. Speaker, I want to take a little different tack on this resolution, maybe, and say that I, as one freshman Congressman here, have met some of the finest men and women from all over this country from both races, of wealth and poverty of education and not so well educated.

I want the American people to know and I want my colleagues to know that I consider it an honor to have served in this august body and hope to continue to serve with men and women of the caliber that I have met here.

I must say that the young people who I have seen serving as pages on the floor of this House of Representatives have been above reproach, children of whom their parents can be very proud and that we who have appointed them can also be proud.

I am confident, Mr. Speaker, that the case of yellow journalism that I saw on CBS news the other night, where Dan Rather silhouetted two discreditable witnesses, as far as I am concerned, and made national news headlines with his yellow journalism, hiding behind the silhouettes of two unidentified people; there will never be, I say to the gentlewoman from Massachusetts, there will never be public confidence in this body as long as journalists, and I use the term very loosely, like that, reporting the news to the American people.

I want to say to the Members of the House, you know, you cannot dip clear water from a muddy stream. I want the American people to know that we who represent them here in this House of Representatives are indicative of the people from whom we come. I am confident that maybe there are some wrongdoings in this House and maybe there have been some immoral and illegal acts. I hope this resolution will bring that to light and anyone guilty of that will be prosecuted to the fullest extent of the law; but I do not want the American people to think for 1 minute, Mr. Speaker, that this House of Representatives is full of rouges and dope addicts and people who do illegal things for graft. This is an honorable body, representative of the Americn people whom we represent here.

I commend the leadership on both sides for bringing this resolution to light, but I want to assure my colleagues that I consider it still to be the greatest honor of my life to serve here among the vast majority of my colleagues.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

I just would like to say in answer really to those who do have concerns about a Special Prosecutor, really, I think that is a misnomer because we do not have the power to prosecute and we cannot really transfer to someone else that power. We would only be transferring to someone else the power to investigate and to report back to us as a body and in the final analysis we would end up making that final decision which we cannot transfer to anyone else in this world. That is our responsibility in this body.

To further allay the concerns of those people, I would like to say that in effect right now and in prior cases, too, witness the Abscam cases, we did have a Special Prosecutor and that the Justice Department at the same time investigated and really prosecuted people for criminal violations, at the same time this body through the House Ethics Committee and finally this body itself was dealing with those ethical considerations that only we can deal with and we cannot transfer to anyone else; so I would like to explain those things.

□ 1600

Mr. Speaker, I yield 1 minute to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. I thank my colleague for yielding this time to me.

Mr. Speaker, I want to express my respect for him and for the other members of the Ethics Committee. I think the Ethics Committee has acquitted itself very well and indeed in the scandals of last year and other years when we have been dealing with traditional corruption in Government.

We are dealing here with entirely new and far more sensitive areas of abuse of power if the allegations are true. I think we have a responsibility to the young people who are the pages, to our service in this Congress, and to the people of America, to the parents, to the Congress itself, to deal with the sensitivity of this situation so as to inspire confidence in the integrity of this Congress.

We are dealing with a question of public trust, of public perception, of faith in this Congress. I think at this moment it behooves us to rise to the highest standard and do what we have never done before, because the allegations have never, never appeared before and have never been so sensitive.

I am disappointed that today we will not have the opportunity to vote—with all due respect, which I have for the Ethics Committee—to vote for the creation of a special prosecutor who could investigate this case with absolute objectivity and independence and, hopefully, to my great satisfaction, if it were to occur, report to the American people, who would then believe us that, indeed, there was no corruption.

● Mr. RAHALL. Mr. Speaker, I rise in favor of the resolution. As a member of the Committee on Standards of Official Conduct, it has been my experience that a resolution such as this has facilitated an orderly and efficient inquiry by the committee in the past and will accomplish the same in this instance. In addition to the procedural changes, this resolution allows the membership of this House to call for a prompt and thorough inquiry in this matter.

Because of the serious nature of the allegations, I believe it is important that the House act without delay and approve the resolution.●

Mr. SPENCE. Mr. Speaker, I yield back the balance of my time.

Mr. WRIGHT. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. I thank my distinguished colleague from Texas for yielding this time to me to pursue the question I first raised, but I also rise to say, what I neglected to say the first time, how disappointed I am that the House would be doing this to itself and that we would have to short circuit the only protective processes which are the parliamentary processes in considering this very important and, under the circumstances, unprecedented action, particularly with the inclusion of that section.

The distinguished majority leader read section 6, but I do not think I recall going down to the pertinent phrase that I am concerned about, where "the committee may restrict access to information received from the Department of Justice or any other law enforcement agency to such members of the committee or other persons as the committee may designate."

This, as I objected before—and I will show for the record that I voted no on the last resolution for the same reason.

The SPEAKER. The time of the gentleman from Texas (Mr. GONZALEZ) has expired.

Mr. WRIGHT. Mr. Speaker, let me simply conclude by saying that there never has been, to my knowledge, any responsible allegation, even hinting or suggesting that the House Committee on Standards of Official Conduct has engaged either in a witch hunt or in a whitewash. Nobody has ever suggested during the very difficult, agonizing days in which this committee undertook the painful task of investigating the allegations and charges that had been rampant in the newspapers with respect to Members' involvement, or alleged involvement, in some supposed Korean scandal, that it was covering up; nobody ever suggested that it was on a witch hunt, and it was for that very purpose that it had to have the right to restrict information that came

from the Justice Department and from other agencies, least the reputations of innocent people might be forever and indelibly stained.

This committee has behaved with responsibility and it has behaved with propriety and with probity and with courage in regard to the Abscam investigation, in regard to investigations of at least three of our former colleagues in the U.S. House of Representatives.

Those were not easy chores. Never, under any circumstances, has it ever been alleged or suggested or even hinted remotely that the members of this bipartisan committee have been other than fair, have been other than independent in their inquiry, fair and fearless in their judgment, and honorable in their recommendations to this House.

Under those circumstances, I think it would be wholly unwarranted for this House to do anything other than to grant to this committee that we created and upon which we repose the responsibility that the rest of us really did not want to discharge individually, an onerous and difficult responsibility and yet a necessary responsibility under the Constitution to act as our watchdogs and to act as our consciences and to help us to do those things that the Constitution expects us to do to maintain the integrity of the U.S. House of Representatives.

It could not be any more independent a group than this. Surely under the Constitution we would not be empowered to ask that the administrative agency of Government appoint someone to investigate the Congress and if we did, we would be derelict in the oath that we took to uphold and defend the Constitution and to uphold and defend the integrity of this institution and to recognize our responsibilities as a Congress of the United States.

So it is for that reason that I know that a majority of this body, and perhaps almost a unanimity of this body, will vote without question to pass this resolution.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. WRIGHT) that the House suspend the rules and agree to the resolution, House Resolution 518.

The question was taken.

Mr. WRIGHT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that pursuant to the provisions of clause 5, rule I, he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings. There will be one other rollcall vote following this 15-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 1, not voting 25, as follows:

[Roll No. 180]

YEAS—407

Addabbo	Dixon	Hillis
Akaka	Donnelly	Holland
Albosta	Dorgan	Hollenbeck
Alexander	Dornan	Holt
Anderson	Dougherty	Hopkins
Annunzio	Dowdy	Horton
Anthony	Downey	Howard
Applegate	Dreier	Hoyer
Archer	Duncan	Hubbard
Ashbrook	Dunn	Huckaby
Aspin	Dwyer	Hughes
Atkinson	Dymally	Hunter
Badham	Dyson	Hutto
Bafalis	Early	Hyde
Bailey (MO)	Eckart	Ireland
Bailey (PA)	Edgar	Jacobs
Barnard	Edwards (AL)	Jeffords
Barnes	Edwards (CA)	Jeffries
Beard	Edwards (OK)	Jenkins
Bedell	Emerson	Johnston
Beilenson	Emery	Jones (NC)
Benedict	English	Jones (OK)
Benjamin	Erdahl	Kastenmeier
Bennett	Erlenborn	Kazen
Bereuter	Evans (DE)	Kemp
Bethune	Evans (GA)	Kennelly
Bevill	Evans (IA)	Kildee
Biaggi	Evans (IN)	Kindness
Bingham	Fary	Kogovsek
Bliley	Fascell	Kramer
Boggs	Fazio	LaFalce
Boland	Fenwick	Lagomarsino
Bolling	Ferraro	Lantos
Boner	Fiedler	Latta
Bonior	Fields	Leach
Bouquard	Findley	Leath
Bowen	Fish	LeBoutillier
Breaux	Fithian	Lee
Brinkley	Flippo	Lehman
Brodhead	Florio	Lent
Brooks	Foley	Levitas
Broomfield	Ford (MI)	Lewis
Brown (CA)	Ford (TN)	Livingston
Brown (CO)	Forsythe	Loeffler
Broyhill	Fountain	Long (LA)
Burgener	Fowler	Long (MD)
Burton, Phillip	Frank	Lott
Butler	Frenzel	Lowery (CA)
Byron	Frost	Lowry (WA)
Campbell	Fuqua	Lujan
Carman	Garcia	Luken
Carney	Gaydos	Lundine
Chappie	Gejdenson	Lungren
Cheney	Gephardt	Madigan
Chisholm	Gibbons	Markey
Clausen	Gilman	Marks
Clinger	Gingrich	Marriott
Coats	Glickman	Martin (IL)
Coelho	Goldwater	Martin (NC)
Coleman	Goodling	Martin (NY)
Collins (IL)	Gore	Matsui
Collins (TX)	Gradison	Mattox
Conable	Gramm	Mavroules
Conte	Gray	Mazzoli
Conyers	Green	McClory
Corcoran	Gregg	McCloskey
Coughlin	Grisham	McCollum
Courter	Guarini	McCurdy
Coyne, James	Gunderson	McDade
Coyne, William	Hagedorn	McDonald
Craig	Hall (OH)	McEwen
Crane, Daniel	Hall, Ralph	McGrath
Crane, Philip	Hamilton	McHugh
Crockett	Hammerschmidt	McKinney
D'Amours	Hance	Mica
Daniel, Dan	Hansen (ID)	Michel
Daniel, R. W.	Hansen (UT)	Mikulski
Dannemeyer	Harkin	Miller (CA)
Daschle	Hartnett	Miller (OH)
Daub	Hatcher	Mineta
Davis	Hawkins	Minish
de la Garza	Heckler	Mitchell (MD)
Dellums	Hefner	Mitchell (NY)
DeNardis	Heftel	Moakley
Derrick	Hendon	Moffett
Derwinski	Hertel	Mollohan
Dickinson	Hightower	Montgomery
Dicks	Hiler	Moore
Moorhead	Rodino	Staton
Morrison	Roe	Stenholm
Mottl	Roemer	Stokes
Murphy	Rogers	Stratton
Murtha	Rose	Studds
Myers	Rosenthal	Stump
Napier	Rostenkowski	Swift
Natcher	Roth	Synar
Neal	Roukema	Tauke
Nelligan	Roybal	Tauzin
Nelson	Rudd	Taylor
Nichols	Russo	Thomas
Nowak	Sabo	Trible
O'Brien	Santini	Udall
Oakar	Savage	Vander Jagt
Oberstar	Sawyer	Vento
Obey	Scheuer	Volkmer
Ottinger	Schneider	Walgren
Oxley	Schroeder	Walker
Panetta	Schulze	Washington
Parris	Schumer	Watkins
Pashayan	Seiberling	Waxman
Patman	Sensenbrenner	Weaver
Patterson	Shamansky	Weber (MN)
Paul	Shannon	Weber (OH)
Pease	Sharp	Weiss
Pepper	Shaw	White
Perkins	Shelby	Whitehurst
Petri	Shumway	Whitley
Peyser	Shuster	Whittaker
Pickle	Siljander	Whitten
Porter	Simon	Williams (MT)
Price	Skeen	Williams (OH)
Pritchard	Skelton	Wilson
Pursell	Smith (AL)	Winn
Quillen	Smith (IA)	Wirth
Rahall	Smith (NE)	Wolf
Railsback	Smith (NJ)	Wolpe
Rangel	Smith (OR)	Wortley
Ratchford	Snowe	Wright
Regula	Snyder	Wyden
Reuss	Solarz	Wylie
Rhodes	Solomon	Yates
Richmond	Spence	Yatron
Rinaldo	St Germain	Young (AK)
Ritter	Stangeland	Young (FL)
Roberts (KS)	Stanton	Zeferetti
Robinson	Stark	

NAYS—1

Gonzalez

NOT VOTING—25

Andrews	Dingell	Roberts (SD)
AuCoin	Ertel	Rousselot
Blanchard	Foglietta	Smith (PA)
Bonker	Ginn	Traxler
Brown (OH)	Hall, Sam	Wampler
Burton, John	Jones (TN)	Young (MO)
Chappell	Leland	Zablocki
Clay	Marlenee	
Deckard	Molinari	

□ 1620

Mr. DASCHLE changed his vote from "nay" to "yea."

Mr. GRAMM changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend thier remarks with respect to House Resolution 518, which was just agreed to.

The SPEAKER pro tempore (Mr. MINISH). Is there objection to the request of the gentleman from Ohio?

There was no objection.

PRESIDENTIAL CERTIFICATIONS ON CONDITIONS IN EL SALVADOR

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the unfinished business is the question of suspending the rules and passing the joint resolution (H.J. Res. 494), as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. BARNES) that the House suspend the rules and pass the joint resolution (H.J. Res. 494), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 1, not voting 33, as follows:

[Roll No. 181]

YEAS—399

Addabbo	Coughlin	Fountain
Akaka	Courter	Fowler
Albosta	Coyne, James	Frank
Alexander	Coyne, William	Frenzel
Anderson	Craig	Frost
Annunzio	Crane, Daniel	Fuqua
Anthony	Crane, Philip	Garcia
Applegate	Crockett	Gaydos
Archer	D'Amours	Gejdenson
Ashbrook	Daniel, Dan	Gephardt
Aspin	Daniel, R. W.	Gibbons
Atkinson	Dannemeyer	Gilman
Badham	Daschle	Gingrich
Bafalis	Daub	Glickman
Bailey (MO)	Davis	Goldwater
Bailey (PA)	de la Garza	Gonzalez
Barnard	Dellums	Goodling
Barnes	DeNardis	Gore
Beard	Derrick	Gradison
Bedell	Derwinski	Gramm
Beilenson	Dicks	Gray
Benedict	Dingell	Green
Benjamin	Dixon	Gregg
Bennett	Donnelly	Grisham
Bereuter	Dorgan	Guarini
Bethune	Dornan	Gunderson
Bevill	Dougherty	Hagedorn
Biaggi	Dowdy	Hall (OH)
Bingham	Downey	Hall, Ralph
Blliey	Dreier	Hamilton
Boggs	Duncan	Hammerschmidt
Boland	Dunn	Hance
Boner	Dwyer	Hansen (ID)
Bonior	Dymally	Hansen (UT)
Bouquard	Dyson	Harkin
Bowen	Early	Hartnett
Breaux	Eckart	Hatcher
Brinkley	Edgar	Hawkins
Brodhead	Edwards (AL)	Heckler
Brooks	Edwards (OK)	Hefner
Broomfield	Emerson	Heftel
Brown (CA)	Emery	Hendon
Brown (CO)	English	Hertel
Broyhill	Erdahl	Hightower
Burgener	Erlenborn	Hiler
Burton, Phillip	Evans (DE)	Hillis
Butler	Evans (GA)	Holland
Byron	Evans (IA)	Hollenbeck
Campbell	Evans (IN)	Holt
Carman	Fary	Hopkins
Carney	Fascell	Horton
Chappie	Fazio	Howard
Cheney	Fenwick	Hoyer
Chisholm	Ferraro	Hubbard
Clausen	Fiedler	Huckaby
Clinger	Fields	Hughes
Coats	Findley	Hunter
Coelho	Fish	Hutto
Coleman	Fithian	Hyde
Collins (IL)	Flippo	Ireland
Collins (TX)	Florio	Jacobs
Conable	Foley	Jeffords
Conte	Ford (MI)	Jeffries
Conyers	Ford (TN)	Jenkins
Corcoran	Forsythe	Johnston
Jones (NC)	Mottl	Sharp
Jones (OK)	Murphy	Shaw
Kastenmeier	Murtha	Shelby
Kazen	Myers	Shumway
Kemp	Napier	Shuster
Kennelly	Natcher	Siljander
Kildee	Neal	Simon
Kindness	Nelligan	Skeen
Kogovsek	Nelson	Skelton
Kramer	Nichols	Smith (AL)
LaFalce	O'Brien	Smith (IA)
Lagomarsino	Oakar	Smith (NE)
Lantos	Oberstar	Smith (NJ)
Latta	Obey	Smith (OR)
Leach	Ottinger	Snowe
Leath	Oxley	Snyder
LeBoutillier	Panetta	Solarz
Lee	Parris	Solomon
Lehman	Pashayan	Spence
Lent	Patman	St Germain
Levitas	Pease	Stangeland
Lewis	Pepper	Stanton
Livingston	Perkins	Stark
Loeffler	Petri	Staton
Long (LA)	Peyser	Stenholm
Long (MD)	Pickle	Stokes
Lott	Porter	Stratton
Lowery (CA)	Price	Studds
Lowry (WA)	Pritchard	Stump
Lujan	Pursell	Swift
Luken	Quillen	Synar
Lundine	Rahall	Tauke
Lungren	Railsback	Tauzin
Madigan	Rangel	Taylor
Markey	Ratchford	Thomas
Marriott	Regula	Trible
Martin (IL)	Reuss	Udall
Martin (NC)	Rhodes	Vander Jagt
Matsui	Richmond	Vento
Mattox	Rinaldo	Volkmer
Mavroules	Ritter	Walgren
Mazzoli	Roberts (KS)	Walker
McClory	Robinson	Washington
McCloskey	Rodino	Watkins
McCollum	Roe	Waxman
McCurdy	Roemer	Weaver
McDade	Rogers	Weber (MN)
McDonald	Rose	Weber (OH)
McEwen	Rosenthal	Weiss
McGrath	Rostenkowski	White
McHugh	Roth	Whitehurst
McKinney	Roukema	Whitley
Mica	Roybal	Whittaker
Michel	Rudd	Whitten
Mikulski	Russo	Williams (MT)
Miller (CA)	Sabo	Williams (OH)
Miller (OH)	Santini	Wilson
Mineta	Savage	Winn
Minish	Sawyer	Wirth
Mitchell (MD)	Scheuer	Wolf
Mitchell (NY)	Schneider	Wolpe
Moakley	Schroeder	Wortley
Moffett	Schulze	Wyden
Mollohan	Schumer	Wylie
Montgomery	Seiberling	Yatron
Moore	Sensenbrenner	Young (AK)
Moorhead	Shamansky	Young (FL)
Morrison	Shannon	Zeferetti

NAYS—1

Paul

NOT VOTING—33

Andrews	Edwards (CA)	Nowak
AuCoin	Ertel	Patterson
Blanchard	Foglietta	Roberts (SD)
Bolling	Ginn	Rousselot
Bonker	Hall, Sam	Smith (PA)
Brown (OH)	Jones (TN)	Traxler
Burton, John	Leland	Wampler
Chappell	Marks	Wright
Clay	Marlenee	Yates
Deckard	Martin (NY)	Young (MO)
Dickinson	Molinari	Zablocki

□ 1630

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6070

Mrs. BOUQUARD. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 6070, the Income Tax Simplification Act.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

EXPLANATION OF REASON FOR CONFERENCE WITH THE SENATE ON SUPPLEMENTAL APPROPRIATION

(Without objection, Mr. WHITTEN was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTEN. Mr. Speaker, our colleagues will recall that we passed a bill (H.R. 6685) making temporary appropriations to deal with emergency situations in the House shortly before the recess. That was passed subsequent to passing the bill on which we just failed to override the President's veto, and may I say that we passed it as protection in the expectation that the comprehensive bill would be vetoed and probably the veto would be sustained.

In a nutshell, and I shall not repeat all of the statement I made at that time, when the bill reached the other body, we had expected that they would accept the House bill which provided temporary funding until July 20 which we knew was necessary so as to get the train on the track, so to speak, and continue with the emergency items. Instead they opened the matter up in the other body only retaining the House number and offered one large substitute amendment of their own choosing.

So, in the Senate amendment to the House bill which we sent to them, H.R. 6685, the other body deleted some $633,762,000 that the House included.

In its place they substituted, and I shall not bother with each of the items here, $766,950,000.

So the other body has written an entirely new bill.

In going over the items which they changed in the other body, many of them are items that have previously been approved by the House or seem to be in line for approval in the two bills that were vetoed for entirely different reasons. In the long run I do not wish to take a position against some of them here, but many of them we can agree with.

The Committee on Appropriations met just moments ago on an emergen-

cy basis and whereas the earlier vetoed bill was sent back to the committee, we decided to defer further consideration of that for the time being, certainly for the time being.

I am here now at the direction of the committee, and the resolution before us is to let us go to conference with the other body on the bill that left here as a temporary, July 20 bill, but which they changed the expiration date to September 30.

Not only did they change the date to September 30, which made it an entirely different vehicle from our number and our bill but with the big amendment substituted, they put in their list of projects and eliminated those of almost an equal amount on the House side that we were interested in.

So, without further ado, this is to let us go to conference. So now, Mr. Speaker, I would make the motion after having explained what is contained in it.

□ 1640

APPOINTMENT OF CONFEREES ON H.R. 6685, URGENT SUPPLEMENTAL APPROPRIATIONS, 1982

Mr. WHITTEN. Mr. Speaker, pursuant to clause 1 of rule XX and by direction of the Committee on Appropriations, I move to take from the Speaker's table the bill (H.R. 6685) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) is recognized for 1 hour.

Mr. WHITTEN. Mr. Speaker, I yield 30 minutes to the gentleman from Massachusetts (Mr. CONTE), pending which I yield myself such time as I may require.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Florida for purposes of debate only.

Mr. PEPPER. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman well knows, there is an item in the House bill of $23 million for refugees. That is the amendment offered by Mr. LOWRY, I believe it was, from the State of Washington, and it was very largely supported, I think unanimously supported, here in the House.

There are 21 States that are affected by that amendment. Florida happens to be one of them, which has $10 million involved. And it arises from the fact that when the administration cut off the payment to the refugees, our State law did not allow us to cease our contribution until we had given 60 days notice. Consequently, we incurred an indebtedness or an expenditure of $10 million. Other States are similarly affected. All I am hoping is that the distinguished chairman, who has done such a magnificent job representing the view of the House, although the Senate did not include that item—it is still, I understand, in conference—will insist as strong as he can on the inclusion of that item in the conference report.

Mr. WHITTEN. I thank my colleague, the gentleman from Florida.

Mr. Speaker, we have tried to deal with this problem, realizing what a problem they do have in the gentleman's State and in many others.

Mr. Speaker, I have no further explanation, other than the fact that the description I made earlier spells out the situation.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

I concur in the remarks of the chairman of the full Committee on Appropriations, the gentleman from Mississippi (Mr. WHITTEN). On March 23, we reported out the first urgent supplemental. Some people have been already furloughed. Others have been laid off. It is an unfortunate situation that we find ourselves in.

We sent two bills over to the Senate before the July recess, with the expectation that if the Senate passed the first bill, and the President vetoed it, that they would pass the second bill and send it to the President intact. We did this in good faith. Instead, they turned around and added $633 million to that bill, which is back over here today and which will go to conference.

I have been on the committee for 24 years, Mr. Speaker, and I have never seen the House treated so shabbily as we have been this year, not only on this, but on certain other personal matters. I hope that it will stop here. I hope that the House will stand up for its rights and stand up for what it believes in.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and that I may include extraneous and tabular matter, on the measure presently being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, ADDABBO, LONG of Maryland, YATES, ROYBAL, BEVILL, BENJAMIN, FAZIO, CONTE, MCDADE, EDWARDS of Alabama, MYERS, COUGHLIN, REGULA, and GREEN.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6214, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 97-630) on the resolution (H. Res. 519) providing for the consideration of the bill (H.R. 6214) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5617, COAST GUARD AUTHORIZATIONS FOR FISCAL YEARS 1983 AND 1984

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 97-631) on the resolution (H. Res. 520) providing for the consideration of the bill (H.R. 5617) to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THIRD BIENNIAL NATIONAL URBAN POLICY REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

(For message, see proceedings of the Senate of today, Tuesday, July 13, 1982.)

IT'S TIME TO ABOLISH THE INSANITY DEFENSE

The SPEAKER pro tempore (Mr. KILDEE). Under a previous order of the House, the gentleman from Tennessee (Mr. BEARD) is recognized for 15 minutes.

● Mr. BEARD. Mr. Speaker, today I am introducing a bill that I have been working on for some time. It would disallow the use of the insanity plea in the jury's determination of guilt or innocence for Federal crimes. I am hopeful, of course, that Federal action of this kind would influence many State legislatures to follow suit. Eleven of

my colleagues are joining me as original cosponsors, and from my conversations with my fellow Members on the House floor, many more share my view that the insanity defense needs to be removed from our criminal law.

I believe that the question of insanity is so complex that the average juror—who is a layman—should not have to make such a judgment. There has never been a clearcut definition of insanity, and to ask a jury to choose which psychologist or psychiatrist to believe is unfair. If you truly believe in the system of being tried by a jury of your peers, you must not ask the impossible of them.

What my bill does is essentially this: A defendant such as John Hinckley would not be able to plead "not guilty by reason of insanity" in a Federal criminal trial. He could only plead guilty or not guilty. Thus, evidence of insanity would not be given to the jury during the trial.

The defendant would be tried simply on the question of whether he did or did not commit the crime. The defendant could not plead insanity to escape responsibility.

In Hinckley's case—for example—he shot the President. We all saw it on television. He also freely admitted that he had planned to do it for some time. If my bill had been in effect at the time, John Hinckley would have been guilty without question.

Under the provisions of my bill, the question of insanity would be considered after the guilty verdict, during the sentencing process. If the judge sees the need, he can order treatment for the criminal. That treatment would continue until the authorities declared the criminal cured, and then he would serve out the rest of his sentence in prison. The parole board could also take the mental state at the time of the crime and the success of any later treatment into consideration when the individual came up for parole.

The point to remember is the criminal is going to serve a sentence. He is not going to simply go to a hospital for a period of time and then go free, as is currently the case.

I would also add that this would in no way affect those unfortunate individuals who are so deranged or retarded that they simply do not know what they are doing. My bill specifically says that someone of that condition would not come to trial at all: The judge would immediately institutionalize such a person.

I am convinced from my own discussions with the people of Tennessee that the law-abiding citizens of this country are fed up with the direction we have taken in this country for the past 20 years of bending over backward to protect the rights of the vicious criminals while ignoring the rights of the victims.

You hear the liberal lawyers screaming about the rights of criminals. I think they and some of the liberal judges in this country are blind to what is happening to the most basic liberty of all Americans—the liberty to walk the streets without fear for your very survival. That civil liberty is disappearing and I think the time is way past due for our Government—at all levels—to do something about it. And that means putting criminals where they belong, which is in jail, and for a long, long time. And for the most vicious of them, it means the death penalty—period.

This bill is only the latest in a whole package of crime bills that I have introduced over the course of this Congress, and will reintroduce and push as a Senator. These include mandatory sentences for those who use a gun in a crime, mandatory sentences for drug pushers, longer times in prison before eligibility for parole, and denial of any proceeds from books or movies about a criminal's participation in a particular crime. Undoubtedly the first thing John Hinckley will do when he gets out of the hospital is sell the book or movie rights to his story. My bill would make sure that any such proceeds would go to the Jim Bradys of this world, who will suffer for the rest of their lives because of the acts of the John Hinckleys.

I will soon be introducing a bill on career criminals and will support strongly—as I always have—reintroduction of the death penalty into Federal law.●

THE BUSINESS ENERGY TAX CREDIT ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 10 minutes.

● Mr. FISH. Mr. Speaker, today I am jointly introducing legislation with the distinguished chairman of the Science and Technology Committee, the honorable gentleman from Florida (Mr. FUQUA) to help our Nation tap the potential of our renewable energy resources. This legislation, the Business Energy Tax Credit Act of 1982, would extend the termination date for the business energy tax credits for solar, wind, geothermal, and ocean thermal energy systems until December 31, 1990. These tax incentives, originally enacted as part of the Crude Oil Windfall Profit Tax Act of 1980, are currently scheduled to expire at the end of 1985.

Our energy situation is certainly much brighter than it has been in the past. The recent trends in oil imports and energy conservation have indeed been quite encouraging. It is gratifying to see that we are now importing almost 44 percent less oil than we did during the high point of 1978.

But I hope that we will not be lulled into a false sense of complacency by our current situation. There have been strong indications that recent economic conditions have also been very instrumental in influencing oil demand, and future economic conditions are extremely difficult to predict. We still import a significant quantity of foreign oil, with recent indications that this level cold possibly reach as high as 4.4 million barrels per day by the end of this current calendar year. Moreover, recent developments in the Middle East, as well as projected oil market conditions, have served notice that we must continue to reduce our current dependence on uncertain foreign oil supplies.

This situation makes it imperative that we press forward with the development of our domestic renewable energy resources. I believe that the need for solar and other forms of alternative energy is just as real today as it was in 1974, when the Federal Government embarked on the development of these promising resources. Many recent studies have indicated that these energy resources can play a significant role in meeting our Nation's future energy needs. According to the Harvard Business School study entitled "Energy Future," various energy analysts project that solar energy could, in fact, contribute between 7 and 23 percent of our energy needs by the year 2000, a substantial factor by any standard.

The Science and Technology Committee has spent a great deal of time investigating the means to help our Nation maintain its leadership in the energy area, and in particular, in the development of promising renewable energy technologies. It was most disturbing to learn during recent Science Committee hearings that many of our major foreign trading partners were increasing their support for these technologies at a time when the United States was curtailing its support in this area. The message from these hearings was clear—it is certainly in our Nation's best interests to maintain a balanced energy program. We cannot afford to "put all of our eggs in one basket," such as in nuclear fission or fusion. Rather, a diversified energy supply mix is critical to our economic future. This means that we must continue to push forward with the development of our promising energy technologies, whether it be in fossil fuels, renewable energy, or new energy-efficient measures.

Over the past several months, the Science Committee has heard from several witnesses on the future of our domestic renewable energy industry. By and large, they have all strongly recommended investment tax incentives as the most effective means to stimulate the development of promis-

ing renewable energy technologies. Various studies have also suggested that a strong financial incentive, such as an investment tax credit, was needed in order to allow these technologies to successfully compete in scarce capital markets. In my own State of New York alone, the current business energy tax incentives have proved quite successful. Recent projections indicate that these tax incentives could stimulate the installation of an additional 500 megawatts of electricity and 55 trillion British thermal units of energy from renewable resources by the year 1985, representing over $885.5 million of investment in alternative energy by New York State businesses.

The legislation we are introducing today would permit businesses to receive a 15-percent energy investment tax credit through the year 1990 for investments in solar, wind, geothermal, and ocean-thermal energy equipment. This credit would be in addition to the current 10-percent investment tax credit available in many instances. It will help the infant alternative energy industry in the development of promising new energy technologies and in raising the venture capital or third-party financing necessary for initial commercial projects. The credit will also provide industry manufacturers with more predictable markets and insure that these technologies can enter the marketplace at their appropriate time of commercialization. Since a tax credit is already in effect through the year 1985, this legislation would not have any adverse budgetary implications in the 1983-85 time frame, the time period which has been of great concern to us during our recent budget deliberations.

Even though the Congress has previously passed a tax incentive in 1980, many of these technologies are still in their infancy stage, and must overcome several technical barriers before they will be commercialized. Without this extension, I am afraid that several new technologies, such as wind, solar photovoltaics, and ocean thermal energy systems, will be unable to receive the market support that is needed to tap their potential.

Mr. Speaker, our Nation must prepare now for the day when petroleum will be a scarce resource. This legislation is a significant step in this direction. I believe that we can ill afford to confront another national energy tragedy and that we must take steps now to develop a diverse energy supply mix.

Our Nation has been a world leader in the development of new energy technologies. The legislation which we are introducing today will help us maintain this leadership. This initiative is compatible with the administration's approach that near-term technologies should be the responsibility of the private sector. I believe that it will encourage the private sector to move forward aggressively in the development of promising new energy technologies with minimal Federal involvement.

This legislation follows:

H.R. 6736

SECTION 1. SHORT TITLE.

This Act may be cited as the "Business Energy Tax Credit Act of 1982".

SEC. 2. EXTENSION OF ENERGY INVESTMENT TAX CREDIT FOR CERTAIN PROPERTY.

(a) SOLAR, WIND, AND GEOTHERMAL PROPERTY.—Subclause (II) of the table contained in clause (i) of section 46(a)(2)(C) of the Internal Revenue Code of 1954 (defining energy percentage) is amended by striking out "1985" and inserting in lieu thereof "1990".

(b) OCEAN THERMAL PROPERTY.—Subclause (III) of the table contained in such clause (i) is amended by striking out "1985" and inserting in lieu thereof "1990".●

SOVIET JEWISH EMIGRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. SMITH) is recognized for 5 minutes.

● Mr. SMITH of New Jersey. Mr. Speaker, as cochairman of the 97th Congressional Class for Soviet Jewry, I believe I must relay the desperate situation of Soviet Jewish emigration.

Mr. Speaker, over the last few months, emigration of Jews from the Soviet Union has virtually come a halt. The emigration of Jews reached its peak in 1979, when some 51,000 were granted exit visas, but has sharply declined in recent months to a mere 100 to 200 per month; a number I must emphasize is an all time low.

While the numbers bespeak nothing but pessismism, the 97th Congressional Class for Soviet Jewry refuses to be discouraged in our efforts to persuade Moscow to adopt a more humane policy. We are working with Mark Levin and David Harris, the directors of the Washington office of the National Conference for Soviet Jewry, to help Soviet Jews reach their dream of religious freedom.

Mr. Speaker, the members of the 97th Congressional Class for Soviet Jewry are joining together to show our support for Soviet Jews by delivering speeches here in Congress in support of the families we sponsor. For the next 21 days, members of the congressional class will address the House on the individual long-term refusenik they have adopted.

In January, Mr. Speaker, I traveled to the Soviet Union. The 9 days I spent in Moscow and Leningrad have left a deep and lasting impression on me.

One can never actually imagine the extreme hardships that the refusenik families face on a daily basis, in their attempt to achieve religious freedom. Mr. Speaker, in the United States, religious freedom is accepted as a way of life but in the Soviet Union, religious freedom is a constant struggle.

I returned home from my trip with a deeper commitment to human rights in general and a deeper commitment for securing the human right to emigrate from the Soviet Union. I have come home with a greater appreciation of our own fundamental freedoms and liberties. As a nation of immigrants, I am proud that the United States is the leader in promoting global emigration rights and in providing basic human freedoms.

Mr. Speaker, today emigration remains restricted for all citizens of the Soviet Union. Soviet authorities speak of the reunification of families, usually meaning families torn apart by World War II and the postwar period, thus effectively avoiding the term "emigration".

By using the grounds that they seek to be united with their relatives, usually in Israel, some Jews have been permitted to emigrate since the late 1960's. Unfortunately, this represents only a small fraction of the number of Jews who have the desire and the dream of finding religious freedom in their lifetime.

Mr. Speaker, several reasons are cited as to why Soviet Jews want to emigrate, including the need for religious freedom, to escape the growing discrimination and anti-Semitism that they face in the Soviet Union, or the need to go to Israel to work as Jews to strengthen the state.

Yet, for hundreds of thousands of Jews, the decision to apply for exit visas is not an easy one. Many Jews wait as long as a decade or longer before they are granted permission to emigrate. Almost all of them lose their jobs, leaving them without any visible means to support themselves or their families. They are almost always the constant target of harassment by their community, by the KGB, and by other Soviet officials.

In addition to the legal requirement that Soviet Jews be invited to emigrate to Israel by a close relative living in that country, the Soviet authorities have made their own government bureaucracy increasingly difficult to deal with. They monitor the mail, and confiscate or delay the delivery of such invitations. They place numerous restrictions on the issue of visa applications which make the entire process increasingly difficult. The Government will not accept applications in cases where part of the family does not wish to emigrate, or cannot.

This, Mr. Speaker, is a catch-22 situation. In the Soviet Union, families are large, and an immediate family can constitute three complete generations. If the Soviet Government refuses emigration for one family member, the chances for the remainder of the family to leave may be nil.

Mr. Speaker, allow me to point out that such persecution of Jews in the Soviet Union is in direct violation of the commitments to freedom of thought, conscience, expression or religion, and emigration made by the Soviet Union through its adoption of and/or participation as a signatory to the United Nations International Covenant on Civil and Political Rights the Final Act of the Conference on Security and Cooperation in Europe at Helsinki, the United Nations Charter, and the Universal Declaration on Human Rights. Additionally, such persecution is in violation of the Soviet's own Constitution.

The ban on the study and teaching of Hebrew, a basic and fundamental desire of many Soviet Jews, completely lacks legality. In article 27 of the Helsinki Final Act, it states,

> In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess their own religion or to use their own language.

Mr. Speaker, article 36 of the 1977 Constitution of the Russian Republic, guarantees "the possibilities to use their native language . . . and the provision of facilities, for self-education."

Additionally, the official Communist Party program, as reprinted in Pravda on March 17, 1972, states that "any Citizen can learn and teach a language he prefers."

In some way, this was admitted by the Government organ Izvestia, when on December 24, 1976, in an authoritative article entitled "The Indestructible Power of the Soviet Culture," declared that, "no one in the Soviet Union is forbidden to study any language, including Hebrew or Yiddish."

This statement apparently serves as official confirmation that the Soviet Government is aware that the Hebrew language is closely tied to Jewish culture.

In his article "International Law and the Right to Study Hebrew in the USSR," Dr. William Korey, the director of international policy research at B'nai B'rith International, states,

> Clearly, the right of a national minority to maintain and extend its cultural heritage through means of teaching that involves the use of the minority's language is at the heart of the modern civilized society and is accorded fundamental recognition in international law.

Collectively, the plight of the "refuseniks" is a tragic indictment of official Soviet policy. By denying Soviet citizens, specifically Jews, the right to emigrate, the Soviets are violating several international legal standards which they say that they have accepted.

Mr. Speaker, only a few short months ago, in small, simple apartments like that of Dr. Aleksander Lerner, a refusenik since 1972, I personally witnessed the hardships and alienations suffered by those whose only crime was and is a desire to be free.

I heard the father of three young children describe the horror of being interrogated by the KGB. I watched with compassion as the mother of Anatoly Shcharansky, the refusenik who was sentenced to 13 years in prison on a trumped-up charge of treason, tearfully asked us to increase the public outcry on behalf of her son.

The refuseniks were eager for us to know the reality of their situation. They were eager for us to take their cause to the free world. They know, as we do, that recognition of their right to emigrate—even if only partially secured—will be won only if those in the West make it a priority issue.

Mr. Speaker, we must show the Soviet Union that we in the United States care, that we remember these refusenik families, and that we shall never forget the hardships and the fears that these people face on a day-to-day basis. We must demonstrate to them that the U.S. Government ranks human rights as a top priority issue, and make them realize and appreciate the fact that on this particular issue, we shall not budge. They must know that in the United States, the basic issue of human rights is not a partisan one; that no matter what party controls the White House, the Senate, or the House, we, Mr. Speaker, as free Americans, will not be satisfied until all of those who wish to be free are free.

Mr. Speaker, we as Americans enjoy religious freedom as a way of life, whereas Soviet Jews must request religious freedom and such requests cause them nothing but oppression by the hands of the Soviet Government. As members of the 97th Congressional Class for Soviet Jewry we have devoted ourselves to the sponsorship of oppressed Soviet Jewish families.

Mr. Speaker, I have sponsored Yuli Kosharovsky. Yuli Kosharovsky is one of the leading and most well-known figures in the large Jewish community in the Soviet Union. As a teacher of Hebrew and Jewish culture in Moscow, he has been the constant target of harassment by the KGB and other Soviet officials.

Mr. Speaker, Yuli is one of the most remarkable men I have ever had the opportunity to meet. He is devoted to his wife and children, his community, and his religion. He is devoted to the basic fundamental principles of freedom of thought, conscience, religion, and emigration that he believes he is entitled to as a human being.

Although he lives in constant fear, Mr. Speaker, Yuli Kosharovsky does not live afraid. The terror of KGB interrogations have become an accepted norm in his lifestyle. He has learned to live with their harassment.

Mr. Speaker, Yuli Kosharovsky is a brave, courageous man who has fought the Soviet Government for over a decade in his attempt to gain emigration to Israel for himself and his family, where he can practice the faith of his choice freely and without fear or harassment.

But, Mr. Speaker, fighting the Soviet Government is not an easy thing to do when you are a Jew in Moscow. Since Yuli first applied for emigration in April of 1971, he has not had an easy time.

Soon after applying for his exit visa, Yuli began to experience a series of problems which, unfortunately, continue through today. He lost his job as a radio electronics engineer, and has been forced to take on odd jobs to support his family.

Yet Yuli remains proud, Mr. Speaker, and he will not accept charity from his friends, both in the Soviet Union and abroad. And his struggle continues.

On occasion, he has been placed under house arrest, spent time in jail on trumped-up charges, and taken away from his family without being given any type of explanation.

Mr. Speaker, over the past 11 years, Yuli has had his home searched on many occasions, and such searches have increased rapidly over the past months. He has had his books and religious materials confiscated, and his family suffer through harassment.

Because of his stature within the refusenik community, I am concerned that Yuli may become the next Viktor Brailovsky. We must take action to prevent this from happening. We must let the Soviet Government know that we know about Yuli, and that we care about him.

Mr. Speaker, I am happy to say that the response in the House to the plights of Yuli Kosharovsky have been tremendous. Since Congressman ED WEBER and I introduced House Resolution 269 on November 12, 1981, we have received over 60 cosponsors. I am pleased to say that JIM SHANNON, who accompanied me to the Soviet Union and met Yuli with me, joins me as a cosponsor of the resolution. House Resolution 269 passed this body on May 4.

Mr. Speaker, we in the U.S. Congress can help this fine man gain the freedom he deserves and desires so much. Yuli Kosharovsky is not alone. There are so many other refuseniks who want their basic freedom to practice their religion, and you will hear about some of them during the next 21 days.●

□ 1650

NEED FOR REFORM OF SOCIAL SECURITY DISABILITY REVIEW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER. Mr. Speaker, today I am introducing legislation to reform the social security disability review process.

This measure which I discussed in a newsletter to constituents drafted last week—indentical to S. 2659, introduced in the Senate on June 22 by Mr. SASSER of Tennessee—would amend the Social Security Act to provide that disability benefits may not be terminated prior to completion of the reconsideration process—including an evidentiary hearing—to authorize continuation of medicare entitlement through the administrative repeal process, and to require the Secretary of Health and Human Services to make quarterly reports with respect to the results of periodic reviews.

Since early spring, Mr. Speaker, I have received distressing complaints from constituents, as well as from my staff who specialize in social security issues, of unfairness in the Social Security Administration's reviews of disability recipients.

These complaints have ranged from recipients' being subject to reviews soon after they have undergone lengthy eligibility proceedings, being examined for complicated disabilities in pro forma sessions, and having their disability and medicare payments cut off after they were called for review—but before their cases were settled either affirmatively or negatively.

While all three complaints are very serious, the last complaint is most grave, because some beneficiaries have suffered loss of income and health benefits while under review. It is estimated that nearly half of all recipients have their payments cut during the review process, despite the fact that almost 70 percent of those who appeal the denials have their benefits restored, based on the merits of their cases. Nonetheless, they must endure great hardship during the review process, the least of which—terrible in itself—is worrying about what will happen to them.

Mr. Speaker, I would like to trace a little of the history of the disability program. In the last decade, the number of persons receiving disability benefits increased dramatically, rising from 1.5 million to 2.7 million between 1970 and 1976. From 1970 to 1980, payments increased from $3.3 billion to $15.9 billion. This growth prompted Congress to consider and approve disability reform legislation in 1980, social security disability amendments known as Public Law 96-265.

One provision of this law required the Social Security Administration, beginning in January 1982, to review the cases of disabled workers on the disability rolls at least once every 3 years, unless the disability is considered permanent.

The administration, in March 1981, decided to accelerate these reviews. This was done despite the lack of appropriate resources to handle the large increases in State agency caseloads. The lack of resources—for example, shortages of physicians to conduct medical examinations and of administrative law judges to hear cases—is in large part the reason for unfair treatment of recipients and erroneous denials that result in overturning of decisions upon appeal.

As a result, some of my constituents—and, I am sure, some represented by each of my colleagues—have suffered greatly. One constituent of mine, a man in his forties who is unable to sit or stand for more than a few minutes of time and who must spend most of his day and night in bed because of back and leg problems for which additional surgery—with no guarantee—is called for, was told by SSA that he can lift 10 pounds and do light work. He was informed by letter that his case was reviewed, without an opportunity for him to be heard. This man is hardly mobile and has no education.

Another constituent of mine, a female cancer patient who has undergone chemotherapy and has been diagnosed to be terminal, has undergone tremendous "bureaucratic trials" with SSA. Discouraged because of her illness and the trials she has endured, she refuses to appeal her case because she believes she can no longer cope with the mental and physical anguish she would undergo.

Still another of my constituents, a woman in her fifties, fought vigorously to gain her right to disability and won. About 3 months later, she received a notice that her case was being reviewed. Having gained disability benefits after showing—through impartial medical testimony—that she would undoubtedly be disabled during her working life due to numerous serious physical ailments, she is greatly distressed about being subject to still another hearing.

The legislation—ably developed by Mr. SASSER—which I am introducing today addressed the problems I have outlined. First, it provides for an adjustment period of up to 6 months, during which benefits will continue to be paid. Presently, there is only a 2-month grace period.

Second, it provides for an evidentiary hearing during the review process, in order to give the recipient an opportunity for a face-to-face meeting with the persons hearing the appeal. Presently, no face-to-face contact is offered until a claimant reaches an administrative law judge.

Third, it provides for the extension of medicare eligibility until such time as a decision is reached by the administrative law judge. Presently, medicare benefits are terminated after the grace period, a particular hardship for beneficiaries who have difficulty obtaining health insurance from private carriers and paying the premiums, if they can be insured.

Fourth, it requires the Secretary of Health and Human Services to report to Congress on a quarterly basis on the results of periodic reviews.

Estelle Superior, caseworker in my Fall River district office since 1974, is known throughout the southern half of my district for her expertise in social security matters. Indeed, throughout her years of service, she has become known affectionately as Mother Superior because of the time and care she has devoted to such cases. After our last discussion about legislation to address the problems in disability review, she wrote me a memo stating the case most poignantly for introduction and prompt enactment of this bill. The memo reads:

> From my vantage point, I see a dire need for help in cases involving disability. Correspondence from SSA to disability recipients is frightening, confusing, and disturbing them, as well as discouraging them from exercising their rights to obtain help.

The arguments are strong for acceptance of this measure, Mr. Speaker. I urge my colleagues to join me in this effort, by cosponsoring the legislation I am introducing today.

NATIONAL POW/MIA RECOGNITION DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recongized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, according to a resolution recently adopted by both Houses of Congress, National POW/MIA Recognition Day was observed July 9. The congressional resolution calls on the President to proclaim such a day every year, asking the American people to pause and reflect upon the tremendous sacrifices made by all former POW's and on the plight of all those brave individuals still listed as missing in action.

I know many of my colleagues last week participated in ceremonies and memorials around the country in tribute to the 142,307 Americans who have been subjected to prisoner of war captivity during the four wars the United States has fought in this century. They heard firsthand the moving accounts of cruel and inhumane treatment suffered at the hands of their captors. Many of these very special patriots died as a result of such treatment, and others still suffer to a far

greater degree than other veterans of America's wars.

In the first session of this Congress, Public Law 97-37, the Former Prisoner of War Benefits Act of 1981, was enacted to address this issue. This major legislation allows compensation benefits for psychosis and anxiety neurosis, provides eligibility for inpatient and outpatient treatment for former POW's, and reduces from 6 months to 30 days the required period of captivity for presumption of malnutrition.

Mr. Speaker, I urge my colleagues and all Americans to join together in thankful homage to those who have suffered that we might remain free.●

CHINA BEACH MONUMENT DEDICATION CEREMONY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 15 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, I was recently honored to participate in a ceremony in San Francisco dedicating a beach to honor the Chinese fishermen who plyed the waters of San Francisco Bay. The China Beach Monument, part of the Golden Gate National Recreation Area, serves as a fitting and proper recognition of the contribution these men made to the city of San Francisco.

I am pleased to include in the RECORD two speeches from that ceremony. The first was made by Park Historian James Delgado and the second by Mr. Henry Chung of San Francisco:

REMARKS BY JAMES DELGADO

We stand here today, overlooking the Golden Gate, entrance to one of the world's greatest inland harbors and a center for Pacific Coast trade and commerce for over a century. Through that narrow passage have passed thousands of ships of every size, rig, and registry, each of which in its own way helped to create the City of San Francisco and the State of California as we know them. It is only fitting, then, that today we pause to recognize the very important contributions of a hardy band of mariners whose vessels actively plied these waters and anchored in this cove, giving it a name—the Chinese-American fishermen to whom this monument is dedicated.

The discovery of gold in California in 1848 and the subsequent arrival of thousands of argonauts the following year forever changed the fortunes of San Francisco. Formerly a sleepy little hide trading outpost nestled and nearly lost in the midst of the sand dunes of the San Francisco peninsula, San Francisco became a virtual instant city, growing as thousands poured in monthly on their way to the gold fields in the Sierra. Some stayed and many returned to build the solid foundations of a major metropolis. Hence out of an assembly of men and women of all colors, creeds, and countries a city was formed. As a unit, and as separate and individual entities, each group made a distinctive contribution; among them were the Chinese.

The contributions of the Chinese-American community were diverse and varied. Their story has been explored and is being told through the efforts of dedicated historians such as Thomas Chinn, Him Mark Lai, Phillip Choy, Nancy Wey, Eve Armentrout-Ma and Jack Chen.

Through the work of these and other researchers, then, we have gained a better understanding of the role and the significance of Chinese-Americans in San Francisco, California, and American history. There is, however, one vaguely defined area which has been studied by but a few—the contributions of Chinese-American fishermen to the maritime industries of the region.

Starting in or around 1850, in the midst of the California Gold Rush, Chinese fishermen were operating along the Pacific shore, basically in San Francisco—later at Monterey, San Deigo, and on the northern reaches of the Bay—supplying tons of needed sea food to the growing cities. On San Francisco Bay camps and villages established by these fishermen and their families grew and burgeoned. At Rincon Point, now the San Francisco anchorage of the Bay Bridge, historians believe the first village was established, with others following so that by the 1880s over 30 villages were occupied on San Francisco Bay alone, with some 3,000 to 4,000 fishermen living in them. Operating in these waters, the fishermen caught sturgeon, smelt, herring, shrimp, and a variety of shellfish, including crabs and abalone. Harvest after harvest was successful, often encouraging perhaps not as fortunate competitors—usually non-Chinese—to complain against Chinese "over-fishing."

The atmosphere of these less enlightened times, when race relations were at best severally strained and serious troubles existed for the Chinese community, eventually became a determining factor in ending the heyday of the Chinese fishermen. Racist agitation, anti-Chinese legislation forbidding the use of Chinese style bag nets, and the export of salted shrimp to China as well as many minor regulations and ordinances, and increased competition from groups of non-Chinese fishermen combined to force a decline in the activities of Chinese fishermen. Bay fill, pollution, and other environmental changes also contributed to their demise, so that by the early twentieth century most fishing villages were gradually becoming deserted—by the end of the 1940s, they were basically a thing of the past. Today, only one fisherman, Frank Quan of China Camp in Marin County, is known to carry on the tradition.

Gone are the days when fleets of junks could be seen on the bay, around the Golden Gate and up and down the coast, reaping the harvests of the sea and providing a much needed service to the infant state. The romance of these "strange" craft can no longer be savored by the non-Chinese residents who observed them from shore—today, only China Camp, now a State Park in Marin County, exists to physically remind us of these people and their times—elsewhere are only names on the land—and memories.

It is now the time to lift these memories out into the light, for examination, and presentation to all of us, Chinese and non-Chinese. This monument that we are dedicating to these fishermen and their contributions is an excellent start, and hopefully in the future additional research and writing, as well as the preservation and restoration of sites such as China Camp State Park, and the marking of sites such as China Beach will be the rule—not the exception.

REMARKS BY HENRY CHUNG

My dear friends, first of all, I wish to take this opportunity to welcome you all here on this lovely bright Saturday morning. It is not easy to give up your weekend time to attend a dedication. Both my wife and I are grateful to you for your coming and joining in this small ceremony.

Secondly, I want to thank the National Park Service, especially Mr. Doug Nadeau and park Historian James Delgado and Stephen Smith and many others for their untiring patience, and kind and efficient cooperation they have demonstrated in this endeavor.

Thirdly, I like to say a few words to express my gratitude to my lovely wife, Diana. We have been married for more than 30 years. No matter what the circumstances are, she is always on my side. She is my prime source of strength and advice. Meanwhile, I always take her estimate into account in making our final decision. And for the most time, her opinion is just as good as mine. For instance, this very idea of erecting a stone monument here was hers. Is it a wonderful idea?

Fourthly, when we are gathering here today to honor the Chinese fishermen, we can not help paying our tribute to the Chinese immigrants as a whole. The first Chinese was admitted into this country in 1820. A record number of Chinese were admitted during the period of the "goldrush" and again during the years of railroad construction. Through their valuable services, at least two most difficult mammoth projects were accomplished. One was the railroad construction which broke the isolation between the West and the East. This brought about the ever increasing prosperity to the West. The other was the swamp land reclamation which increased the land value in California to the greatest extent, making it possible that California become the predominant agricultural States in the United States. Their efforts are not in vain. As a matter of fact, their courage, persistence and their enterprising spirit has paved the way and laid a sound foundation for the future Chinese immigration.

Last but not the least, both my wife and I are immigrants from China. As we all know, immigrants have made this country great. However, we feel privileged and fortunate to live and to work in this community. As business people, we should be involved in the community, making it prosperous and maintaining and improving its quality of life. Our humble contribution is an investment in our quality of life and is one of our attempts to say "thank you" to the community for the opportunities and kindnesses which it has provided us during our stay in this country. In addition, we would like to dedicate this monument to symbolize a promise and to serve as a reminder for the future Chinese immigrants to follow their ancestors' path to make even greater contribution toward their adopted new country. Indeed, it is our duty to serve our community and the country we live in. When we decided to set up this monument here, we did not have the slightest idea to seek any personal publicity, nor were we in the sense of self-sacrifice. We did this rather in the spirit of self-fulfillment without vanity and pride. We believe it is the way to attain our inner happiness and spiritual satisfaction. We believe that through services to our community, patriotism and citizenship can be best fullfilled.

Let us look around, ladies and gentlemen; this is one of the most beautiful beaches in San Francisco. The Blue Pacific water, the magnificent world famous Golden Gate bridge and the many beautiful hills surrounding us are incomparable. Out there lies the Pacific Ocean, and beyond that, the land which my wife and I are indigenous to, China. Let this monument symbolize a welcome to all of the ships of trade and commerce from China headed for the port of San Francisco. Let us hope that the long time friendship between China and the United States can be reinforced and strengthened. Thank you for being with us. I love you. May our Mighty God bless you all.●

NEW ADMINISTRATION SPACE POLICY SHOULD BE GROUNDED

The SPEAKER pro tempore. Under a previous order of the House, The gentleman from California (Mr. BROWN) is recognized for 30 minutes.

Mr. BROWN of California. Mr. Speaker, for some time I have been calling for leadership on the part of the administration in the establishment of a bold and aggressive space policy for this Nation. Under President Jimmy Carter, and again under President Ronald Reagan, I introduced legislation to establish a national space policy in the hopes of promoting the development of a coherent, long-range national space policy. But the newly announced national space policy, released on July 4, 1982, by the President at the landing of the final test flight of the Shuttle, can be said at best to be a "treading water" policy, and at worst, and more accurately stated, a strictly militarily inspired space policy, which neglects the civilian economic and technological needs of the Nation.

The heavy-handed priority placed on the military uses of space comes as no surprise; but the blatant and unabashed use of the civilian space agency (the National Aeronautics and Space Administration—NASA) for Department of Defense purposes is unprecedented and a shocking departure from the past. With the growing use of the Space Shuttle for national security missions, NASA, as has been said before, will operate much like a trucking agency for the Pentagon.

Sadly, this new space policy merely articulates what has been feared to be this administration's policy in regard to space programs. Funding for DOD space programs for the first time this year is equal to NASA's entire budget. In future years, defense spending in space is scheduled to exceed NASA spending while NASA will spend a significant portion of its budget on military applications.

What is left of the space program when the military emphasis is accounted for is a shrunken and, if we are lucky, a static space program. The benefits provided this country economically through space technology spinoffs, through jobs, and through improvements throughout sectors of our society—spanning agriculture, communications, medicine, energy—are unparallelled in any other Federal programs. To turn our back on the fundamental economic strength represented by our country's scientific leadership in the name of national security is, in my view, a form of hypocrisy. It is also bad economic policy.

Mr. Speaker, some of my colleagues may call me harsh, overreactive, or just plain wrong. A casual reader of the space policy will note correctly that there are provisions in the policy for a civil space program along with the space transportation program and the national security space program. But surely program funding is a better way than policy statements to determine where the administration's priorities lie. And if this year's budget debate is any indication, the administration's priority is in military uses of space.

Indicative of the new emphasis on the military uses of space is the choice of the Chairman for the Senior Interagency Group on Space (SIG) announced in the Space Policy on July 4. The SIG is established "* * * to provide a forum to all Federal agencies for their policy views, to review and advise on proposed changes to national space policy, and to provide for orderly and rapid referral of space policy issues to the President * * *." Space policy issues will be referred to the President by its chairman, the Assistant to the President for National Security Affairs. The Administrator of the National Aeronautics and Space Administration is listed as a member of SIG. There is no doubt of the military bias for the uses of outer space.

I was as proud as any American on our lastest launch and landing of the Space Shuttle. But if the defense establishment takes over the Shuttle, as it is likely to, can risking the rest of the space program be justified in the name of national security? The threat of closing a superb laboratory such as the Jet Propulsion Laboratory in California or the Lewis Laboratory has been floated as a possible way of offsetting the budget cuts to protect the Shuttle. The Venus orbiting imaging radar project was canceled and the Galileo Jupiter mission is not assured. Cuts in research and analysis have hit the planetary sciences hardest although the feared and rumored cancellation by the administration of the planetary programs did not occur.

Perhaps the cuts in the planetary program indicate best where the administration's priorities are and where it has gone wrong. Despite its past successes, and the inspiration and national pride this program fosters, the planetary program is in serious trouble and is getting no better. There were 38 lunar and planetary launches in the 1960's, 14 in the 1970's, and, with the cancellation of the Venus orbiting imaging radar, 1 approved mission for the 1980's. In 5 years there has been no new program successfully initiated. Adjusting for inflation, the fiscal year 1983 budget for planetary programs is two-thirds the expenditures of 5 years ago.

But cutbacks in programs do not reflect the whole story with regard to the President's space policy. Clearly lacking in the policy is an aggressive high-challenge space engineering initiative such as a permanent space station operating in low Earth orbit. The omission is a perplexing one as such a space station has been considered a logical next step in our space efforts. However, this type of activity will not just happen by itself. It will take the kind of commitment and vision that a space policy should provide and which was not provided in this new policy. The Administrator of NASA, James Beggs, was surely disappointed in the lack of any mention of a space station. Only 10 days before the President announced his policy, Mr. Beggs, in a speech in Michigan said:

> I believe that our next logical step is to establish a permanent manned presence in low-earth orbit. This can be done by developing a manned space station * * * We think that such a station could be built and placed in orbit by 1990 * * * Now that we have the Space Shuttle, we owe it to the Nation to make optimum use of this new capability * * * In fact, the Shuttle program was originally conceived to include a space station.

It is difficult to imagine an initiative such as this one being carried out under the low-keyed space policy.

Similarly lacking was any initiative regarding the exploitation of our satellite capabilities. On the contrary, the administration has in the past stated its intention of transferring the Landsat program to the private sector while failing to provide any plan for accomplishing this objective. I am not convinced that the administration's goal to transfer Landsat is a reasonable one.

I feel strongly that there is an important role for the Government to play in the area of remote sensing. I offer the conclusions and recommendations of the House Subcommittee on Space Science and Applications calling for a global resource information system as an example. Solutions to many global concerns such as threats to the ozone layer, the carbon dioxide problem, and global air and water pollution, as well as global mineral and energy exploration would benefit from the existence of such a system. Some of these objectives might be met by involvement of the private sector as emphasized in the President's space policy. But others, such as observation of the ozone layer, or the carbon dioxide problem would most appropriately

be the responsibility of the Federal Government.

Much as I regret having to state it in such terms, this administration's space policy can be likened to early European imperialism, where economic exploitation is achieved by the use of superior technology, and guaranteed by the use of force, rather than cooperation. Such a policy cannot work in a world where new generations of technology develop every 10 years. The United States cannot be sure of its technological superiority, although we generally see a correlation between where we spend our money and where we get results.

We are spending our money on weapons systems and other national security projects, while cutting our support for civilian uses of space. Two results are likely. First, increased tensions and an accelerated arms race, and second, a decline in our economic posture, with a loss of markets to our economic competitors.

Mr. Speaker, it does not have to be this way. We can keep and strengthen the measures to keep the arms race out of space. We can negotiate an antisatellite warfare treaty, rather than unilaterally try to dominate space militarily. We can continue to lead the world technologically in the peaceful uses of space. And finally, we could show a touch of greatness, as befits a great power, in sharing this wealth of knowledge with others in the pursuit of human progress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YOUNG of Missouri (at the request of Mr. WRIGHT), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GINGRICH) to revise and extend their remarks and include extraneous material:)

Mr. LUNGREN, for 60 minutes, on July 14.

Mr. BEARD, for 15 minutes, today.

Mr. FISH, for 10 minutes, today.

Mr. PAUL, for 20 minutes, today.

Mr. SMITH of New Jersey, for 5 minutes, today.

Mrs. HECKLER, for 5 minutes, today.

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. MONTGOMERY, for 5 minutes, today.

Mr. PHILLIP BURTON, for 15 minutes, today.

Mr. WILLIAM J. COYNE, for 15 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. BROWN of California, for 30 minutes, today.

Mr. BOLAND, for 5 minutes, today.

Mr. HUBBARD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GINGRICH) and to include extraneous matter:)

Mr. GILMAN.

Mr. HOPKINS in two instances.

Mr. LOWERY of California.

Mr. COLLINS of Texas in three instances.

Mr. BEREUTER in three instances.

Mr. BEARD.

Mr. GREEN.

Mr. DAUB.

Mr. SOLOMON.

Mr. RUDD.

Mr. MCGRATH.

Mr. MARTIN of New York.

Mr. FIELDS in three instances.

Mr. BROWN of Ohio.

Mr. DERWINSKI in three instances.

Mr. CONTE.

Mr. BROYHILL.

(The following Members (at the request of Mr. HOYER) and to include extraneous matter:)

Mr. RANGEL.

Mr. DE LUGO.

Mr. SOLARZ.

Mr. ROSENTHAL.

Mr. STARK.

Mr. BOLAND.

Mr. MCDONALD in 10 instances.

Mr. STUDDS.

Mr. LEHMAN in two instances.

Mr. MARKEY.

Mr. BARNES in two instances.

Mr. MILLER of California.

Mr. ROSE.

Mr. WEISS.

Mr. FRANK.

Mr. BIAGGI.

Mr. HOYER in two instances.

Mr. FORD of Michigan.

Mrs. BOUQUARD.

Mr. MAZZOLI.

Mr. OTTINGER in five instances.

Mr. HUBBARD.

Mr. HEFTEL.

Mr. BEDELL in three instances.

Mr. SHELBY.

Mr. WILLIAM J. COYNE.

Mr. TRAXLER in four instances.

Mr. AUCOIN.

Mr. DOWNEY.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2240. An act to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

ADJOURNMENT

Mr. BROWN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 14, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4337. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the security guard services function at the Naval Technical Training Center, Corry Station, Pensacola, Fla., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4338. A letter from the Director, Federal Emergency Management Agency, transmitting the quarterly report, for the period April to September 1981, pursuant to section 11 of the Strategic and Critical Materials Stockpiling Act, as amended; to the Committee on Armed Services.

4339. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the buildings and structures maintenance function at the Norfolk Naval Shipyard, Portsmouth, Va., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4340. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to lease a certain naval vessel to the Government of Turkey, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

4341. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with the Government of Colombia in the amount of $375 million, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4342. A letter from the Acting Chairman, Interagency Committee on Handicapped Research, Department of Education, transmitting a report on the activities of the agency and some recommendations for future research coordination and activities, pursuant to section 203 of Public Law 95-602; to the Committee on Education and Labor.

4343. A letter from the Chairman of the Board, U.S. Railway Association, transmitting the Association's annual report for 1981 on the performance of the Consolidated Rail Corporation, pursuant to section 307(b) of the Regional Rail Reorganization Act of 1973, as amended; to the Committee on Energy and Commerce.

4344. A letter from the Chairman, Federal Communications Commission, transmitting a report for alternative financing options for public broadcasting, pursuant to Public Law 97-35; to the Committee on Energy and Commerce.

4345. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to sell certain defense equipment and services to Malaysia (Transmittal No. 82-70), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4346. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to sell certain defense equipment and services to Singapore (Transmittal No. 82-71), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4347. A letter from the Assistant Secretary for Congressional Relations, transmitting reports on political contributions by various ambassadorial nominees and by members of their families, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

4348. A letter from the Comptroller General of the United States, transmitting a report and recommendation concerning the claim for reimbursement of Mr. Rocco A. Trecosta for back pay, pursuant to the Meritious Claims Act of 1928; to the Committee on the Judiciary.

4349. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to permit disclosure from tax records of the addresses of individuals who have defaulted on health education loans; to the Committee on Ways and Means.

4350. A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to amend chapter 18 of title 22, United States Code, to permit domestic dissemination of records of the U.S. International Communication Agency that have been accessioned into the Archives of the United States; jointly, to the Committees on Foreign Affairs and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALL of Ohio: Committee on Rules. House Resolution 519. Resolution providing for the consideration of H.R. 6214, a bill to authorize certain construction at military installations for fiscal year 1983, and for other purposes (Rept. No. 97-630). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 520. Resolution providing for the consideration of H.R. 5617, a bill to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes (Rept. No. 97-631). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5427. A bill to authorize support to Radio Broadcasting to Cuba, Inc.; with amendments (Rept. No. 97-479, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HARKIN (for himself and Mr. MAZZOLI):

H.R. 6734. A bill to provide for appointment of a special prosecutor for certain offenses alleged to have been committed by Members of Congress or congressional employees; to the Committee on the Judiciary.

By Mr. FUQUA (for himself, Mr. FISH, Mr. HEFTEL, and Mr. MATSUI):

H.R. 6735. A bill to amend the Internal Revenue Code of 1954 to extend until December 31, 1990, the energy investment tax credit for solar, wind, geothermal, and ocean thermal property; to the Committee on Ways and Means.

By Mr. FISH (for himself, Mr. FUQUA, Mr. HEFTEL, and Mr. MATSUI):

H.R. 6736. A bill to amend the Internal Revenue Code of 1954 to extend until December 31, 1990, the energy investment tax credit for solar, wind, geothermal, and ocean thermal property; to the Committee on Ways and Means.

By Mr. BEARD (for himself, Mr. WHITEHURST, Mr. SMITH of Oregon, Mr. HARTNETT, Mr. FORSYTHE, Mr. BAFALIS, Mr. GINGRICH, Mr. LAGOMARSINO, Mr. MONTGOMERY, Mr. SANTINI, Mr. WON PAT, and Mr. YOUNG of Florida):

H.R. 6737. A bill to abolish the insanity defense for Federal crimes; to the Committee on the Judiciary.

By Mr. COLLINS of Texas:

H.R. 6738. A bill to amend the Public Utility Regulatory Policies Act of 1978 to provide for the consideration of construction work in progress, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROBERT W. DANIEL, JR.:

H.R. 6739. A bill to make a minor revision in the boundary of the historic Eppes Manor, a component of the Petersburg National Battlefield; to the Committee on Interior and Insular Affairs.

By Mr. DOWNEY (for himself, Mr. FRENZEL, Mr. GUARINI, Mr. DUNCAN, Mr. AUCOIN, Mr. DASCHLE, Mr. BONER of Tennessee, Mr. EVANS of Delaware, Mr. FRANK, Mr. PATTERSON, and Mrs. KENNELLY):

H.R. 6740. A bill to amend the Internal Revenue Code of 1954 to clarify certain requirements which apply to mortgage subsidy bonds; to the Committee on Ways and Means.

By Mr. DREIER:

H.R. 6741. A bill to amend the Internal Revenue Code of 1954 to provide that a 14-percent income tax rate shall apply to all individuals, and to repeal all deductions, credits, and exclusions for individuals other than a $2,000 deduction for each personal exemption; to the Committee on Ways and Means.

H.R. 6742. A bill to reform the insanity defense; to the Committee on the Judiciary.

By Mrs. FENWICK:

H.R. 6743. A bill to amend the Flood Control Act of 1970 to include the possible prevention of loss of life among the factors to be considered in evaluating the benefits of proposed water resource projects; to the Committee on Public Works and Transportation.

H.R. 6744. A bill to authorize the flood control project for Green Brook, Raritan River Basin, N.J.; to the Committee on Public Works and Transportation.

By Mr. GOODLING:

H.R. 6745. A bill to increase the minimum age for appointment as a page of the House of Representatives, and for other purposes; to the Committee on House Administration.

By Mrs. HECKLER:

H.R. 6746. A bill to amend the Social Security Act to provide that disability benefits may not be terminated prior to completion of the reconsideration process including an evidentiary hearing, to provide that medicare entitlement shall continue through the administrative appeal process, and to require the Secretary of Health and Human Services to make quarterly reports with respect to the results of periodic reviews of disability determinations; to the Committee on Ways and Means.

By Mr. HYDE:

H.R. 6747. A bill to provide for conveyance of certain real property to the State of Illinois for National Guard purposes; to the Committee on Armed Services.

By Mr. KRAMER:

H.R. 6748. A bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

By Mr. LAGOMARSINO:

H.R. 6749. A bill to amend title 3 of the United States Code to provide additional authority for the reimbursement of States and localities for expenses of protection services they provide for the President at Federal request; to the Committee on Public Works and Transportation.

By Mr. MONTGOMERY:

H.R. 6750. A bill to amend title 38, United States Code, to clarify certain procedures with respect to the disposal of excess real property of the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. SILJANDER (for himself, Mrs. CHISHOLM, Mr. HOYER, Mr. ROE, Mr. SOLARZ, Mr. SMITH of Pennsylvania, and Mr. WEISS):

H.R. 6751. A bill to establish a National Commission on Neurofibromatosis; to the Committee on Energy and Commerce.

By Mrs. SMITH of Nebraska:

H.R. 6752. A bill to exclude agricultural commodities obtained or financed by the United States and transported in dry bulk carriers from certain requirements that such agricultural commodities be transported on privately owned U.S.-flag commercial vessels and vessels of the United States; to the Committee on Merchant Marine and Fisheries.

By Mrs. SMITH of Nebraska (for herself and Mr. SIMON):

H.R. 6753. A bill to establish objective criteria and procedures for closing and consolidating weather stations; to the Committee on Science and Technology.

By Mr. WEISS:

H.J. Res. 532. Joint resolution to provide for the designation of the week beginning on October 24, 1982, as "National Tourette Syndrome Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. BADHAM:

H. Con. Res. 371. Concurrent resolution expressing the sense of Congress that a Government contractor that has been convicted of illegally failing to disclose payments of commissions to overseas agents should not be awarded any Department of Defense contracts for a period of 1 year; to the Committee on Armed Services.

By Mr. DERRICK:

H. Con. Res. 372. Concurrent resolution urging the President, in negotiating bilateral textile and apparel agreements, to utilize fully existing authority to limit the growth of foreign shares in the U.S. market; to the Committee on Ways and Means.

By Mr. DOWNEY:

H. Con. Res. 373. Concurrent resolution calling for arms control and world order; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. HOWARD:

H. Con. Res. 374. Concurrent resolution expressing the sense of Congress that the Department of Defense should make no further awards of implementation of contracts pursuant to Office of Management and Budget Circular A-76 until October 1, 1983; to the Committee on Armed Services.

By Mr. ECKART:

H. Con. Res. 375. Concurrent resolution expressing the sense of the Congress with respect to the imprisonment and treatment of Alfreds Zarins by the Government of the Soviet Union; to the Committee on Foreign Affairs.

By Mr. STOKES (for himself and Mr. SPENCE):

H. Res. 518. Resolution authorizing an investigation by the Committee on Standards of Official Conduct; to the Committee on Rules.

By Mr. DORNAN of California (for himself and Mr. SCHULZE):

H. Res. 521. Resolution disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania; to the Committee on Ways and Means.

By Mrs. HECKLER:

H. Res. 522. Resolution expressing the sense of the House of Representatives that the Speaker of the House should appoint an independent prosecutor to investigate fully the current allegations concerning drug abuse and sexual misconduct by Members of the House of Representatives and pages; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 808: Mr. EDWARDS of Alabama, Mr. MCCURDY, Mr. RITTER, Mr. WASHINGTON, Mr. ERTEL, Mr. WAMPLER, Mr. HUBBARD, Mr. HUTTO, Mr. HAMMERSCHMIDT, Mr. HALL of Ohio, Mr. HANSEN of Idaho, Mr. COUGHLIN, and Mr. BEARD.

H.R. 1292: Mr. HAMMERSCHMIDT.

H.R. 1527: Mr. BADHAM, Mr. HUNTER, and Mr. LOWERY of California.

H.R. 1650: Mr. THOMAS.

H.R. 1918: Mr. PEYSER.

H.R. 2530: Mr. GRAMM and Mr. ROBERTS of South Dakota.

H.R. 3252: Mr. ROEMER and Mr. SUNIA.

H.R. 3269: Ms. FIEDLER, Mr. HAGEDORN, Mr. WEBER OF Ohio, Ms. OAKAR, and Mr. FLORIO.

H.R. 3298: Mr. DASCHLE.

H.R. 3984: Mr. CRAIG.

H.R. 4015: Mr. TRAXLER, Ms. OAKAR, Mr. KOGOVSEK, Mr. FRANK, Mr. MAZZOLI, Mr. PEASE, Mr. STOKES, Mr. HARKIN, Mr. LEE, Mr. SIMON, Mr. LAFALCE, Mr. MCKINNEY, Mr. BEDELL, and Mr. WILLIAMS of Montana.

H.R. 4070: Mr. WILLIAMS of Montana.

H.R. 4325: Mr. BIAGGI.

H.R. 4588: Mr. HERTEL, Mr. LUKEN, Mr. MOFFETT, and Mrs. SNOWE.

H.R. 4784: Mr. STOKES, and Mr. WAXMAN.

H.R. 4890: Mr. ROBERTS of Kansas.

H.R. 5088: Mr. STOKES, Mr. JACOBS, Ms. OAKAR, and Mr. SAVAGE.

H.R. 5127: Mr. MCCOLLUM, Mr. BETHUNE, Mr. EMERSON, Mr. HANCE, Mr. SAM B. HALL, JR., Mr. WOLPE, Mr. BENNETT, Mr. ARCHER, Mr. STENHOLM, Mr. COLLINS of Texas, Mr. WYDEN, Mr. DE LA GARZA, Mr. ST GERMAIN, Mr. FROST, Mr. HENDON, Mr. KILDEE, Mr. PARRIS, Mr. ROBERTS of South Dakota, and Mr. GEJDENSON.

H. R. 5192: Mr. ST GERMAIN, Mr. COLEMAN, Mr. JONES of Tennessee, Mr. WIRTH, and Mr. PHILIP M. CRANE.

H.R. 5242: Mr. BROWN of Colorado, Mr. DASCHLE, Mr. LIVINGSTON, and Mr. DUNN.

H.R. 5351: Mr. PERKINS.

H.R. 5441: Mr. NEAL.

H.R. 5446: Mr. HALL of Ohio.

H.R. 5448: Mr. HARTNETT, Mr. DOUGHERTY, and Mr. ANDERSON.

H.R. 5503: Mr. BARNES.

H.R. 5618: Mr. HAMMERSCHMIDT.

H.R. 5717: Mr. HUBBARD.

H.R. 5738: Mr. FAUNTROY, Mr. DYMALLY, Mr. SCHUMER, Mr. STOKES, Mr. OBERSTAR, Mr. WON PAT, Mr. BARNES, Mr. RODINO, Mr. MOAKLEY, Mr. WAXMAN, Mr. PEPPER, Mr. SMITH of Pennsylvania, Mr. BEILENSON, Mr. SCHEUER, Mr. WYDEN, and Mr. MITCHELL of Maryland.

H.R. 5755: Mr. MILLER of California and Mrs. SNOWE.

H.R. 5769: Mr. ALBOSTA.

H.R. 5833: Mr. FISH.

H.R. 5918: Mr. LOWRY of Washington.

H.R. 6124: Ms. OAKAR, Mr. BEDELL, and Mr. EDGAR.

H.R. 6140: Mr. HOLLAND and Mr. PEPPER.

H.R. 6161: Mrs. MARTIN of Illinois, Mr. SHAMANSKY, Mr. ERTEL, and Mr. MCKINNEY.

H.R. 6170: Mr. WYLIE, Mr. DWYER, Mr. MCCOLLUM, Mr. GREGG, and Mrs. MARTIN of Illinois.

H.R. 6262: Mr. BADHAM, Mr. BEDELL, Mr. BROWN of California, Mr. CONTE, Mr. DERWINSKI, Mr. FISH, Mr. FRENZEL, Mr. FUQUA, Mr. GOODLING, Mr. HARKIN, Mrs. HECKLER, Mr. HUCKABY, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LUNDINE, Mr. LUNGREN, Mr. MARRIOTT, Mr. MATSUI, Mr. MOORE, Mr. NEAL, Mr. RAILSBACK, Mr. REGULA, Mr. ROE, Mr. SHANNON, Mr. WILSON, and Mr. WON PAT.

H.R. 6313: Mr. ALBOSTA, Mr. FOLEY, Mr. KOGOVSEK, Mr. ALEXANDER, Mr. TRAXLER, and Mr. RAHALL.

H.R. 6314: Mr. ALBOSTA, Mr. KOGOVSEK, Mr. ALEXANDER, Mr. TRAXLER, and Mr. RAHALL.

H.R. 6321: Mr. TAUKE.

H.R. 6347: Mr. EDWARDS of California, Mr. ANNUNZIO, Mr. MINISH, Mr. BRODHEAD, and Mr. SMITH of Pennsylvania.

H.R. 6365: Mr. WEAVER.

H.R. 6433: Mr. FLORIO.

H.R. 6457: Mr. WEISS.

H.R. 6463: Mr. ROBERTS of Kansas.

H.R. 6465: Mr. BEREUTER.

H.R. 6497: Mr. LIVINGSTON.

H.R. 6499: Mr. WILLIAMS of Montana.

H.R. 6506: Mr. ALBOSTA.

H.R. 6529: Mr. EDGAR, Mr. WINN, Mr. SPENCE, Mr. MITCHELL of Maryland, Mr. BIAGGI, Mr. HUGHES, Mr. MAVROULES, and Mr. HOWARD.

H.R. 6613: Mr. ROTH, Mr. DOUGHERTY, Mr. GINGRICH, Mr. FRANK, Mr. MCCLORY, Mr. FORSYTHE, Mr. WON PAT, Mr. FRENZEL, Mr. LUNGREN, Mr. WYDEN, Mr. OTTINGER, and Mr. JEFFORDS.

H.R. 6618: Mr. SCHUMER, Mr. DELLUMS, Mr. STOKES, Mr. MITCHELL of Maryland, Mr. CROCKETT, and Mr. SEIBERLING.

H.R. 6629: Mr. SMITH of Pennsylvania and Mr. ERTEL.

H.R. 6661: Mr. GRADISON and Mr. MCGRATH.

H.R. 6716: Mr. FINDLEY, Mr. CORCORAN, Mr. JACOBS, Mr. DREIER, Mr. BLILEY, AND MR. FORSYTHE.

H.J. Res. 355: Mr. SCHEUER and Mr. SHAMANSKY.

H.J. Res. 415: Mr. FISH.

H.J. Res. 424: Mr. DENARDIS.

H.J. Res. 496: Mr. LAGOMARSINO, Mr. FARY, Mr. SUNIA, Mr. FORSYTHE, Mr. HEFTEL, Mr. WINN, Mr. BUTLER, Mr. ROUSSELOT, Mr. WEISS, Mr. WHITLEY, Mr. HOYER, Mr. FRENZEL, Mr. BLILEY, Mr. O'BRIEN, Mr. HOWARD, Mr. ERDAHL, Mr. WASHINGTON, Mrs. KENNELLY, Mr. ROE, Mr. SCHEUER, Ms. OAKAR, Mr. STUMP, Mr. STOKES, Mrs. HECKLER, Mr. DWYER, Mr. FOGLIETTA, Ms. MIKULSKI, Mr. BAILEY of Pennsylvania, and Mr. MOTTL.

H. Con. Res. 124: Mr. FORD of Tennessee, Mr. WOLPE, Mr. MARKEY, Mr. DYMALLY, and Mr. MAVROULES.

H. Con. Res. 310: Mr. SANTINI, Mr. EDWARDS of California, Ms. MIKULSKI, Mr. BAILEY of Pennsylvania, Mr. LANTOS, Mr. BOLAND, Mr. HUGHES, Mrs. FENWICK, Mr. ADDABBO, and Mr. RICHMOND.

H. Con. Res. 324: Mr. TRIBLE and Mr. SYNAR.

H. Con. Res. 334: Mr. HARTNETT and Mr. FRENZEL.

H. Con. Res. 341: Mr. FISH, Ms. OAKAR, and Mr. MCCURDY.

H. Con. Res. 356: Mr. LEBOUTILLIER, Mr. RODINO, and Mr. DWYER.

H. Con. Res. 361: Mr. EDGAR, Mr. WALGREN, Mr. FOGLIETTA, Mr. SCHUMER, Mr. WILLIAMS of Montana, Mr. FORSYTHE, Mr. MOAKLEY, Mr. CORRADA, Ms. FERRARO, Mr. CONTE, and Mr. SCHEUER.

H. Con. Res. 362: Mrs. KENNELLY, Mr. FAZIO, Mr. DENARDIS, Mr. EDGAR, Ms. FERRARO, Mr. EARLY, Mr. DWYER, Mr. WALGREN, Mr. MITCHELL of Maryland, Mr. FISH, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. SCHEUER, Mr. CORRADA, and Mr. MCHUGH.

H. Con. Res. 364: Mr. WON PAT, Mr. GUARINI, Mr. WOLPE, Mr. WYDEN, Mr. STOKES, Mr. VENTO, Mr. MCHUGH, Mr. HYDE, Mr. EDGAR, Mr. MILLER of California, Mr. ENGLISH, Mr. HERTEL, Mr. FRENZEL, Mr. DWYER, Mr. FAUNTROY, Mr. MINETA, Mr. YATRON, Mr. MCCURDY, Mr. SUNIA, Mr. HUGHES, Mr. ANDERSON, and Mr. FIELDS.

H. Res. 309: Mr. MILLER of California, Mr. RINALDO, Mr. EDGAR, Mr. WASHINGTON, Mrs. SCHNEIDER, and Mr. DWYER.

H. Res. 421: Mr. BIAGGI, Mr. BINGHAM, Mr. BONIOR of Michigan, Mr. ERDAHL, Mr. JONES of North Carolina, Mr. LEE, Mr. MAZZOLI, Mr. MINETA, Mr. WYDEN, and Mr. YATRON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 6070: Mrs. BOUQUARD.

H. Con. Res. 366: Mr. GILMAN.

EXTENSIONS OF REMARKS

DAYS OF REMEMBRANCE 1982

HON. BILL GREEN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. GREEN. Mr. Speaker, on April 20, 1982, an assembly was held in the Capitol rotunda as part of the "Days of Remembrance," commemorating the victims of the Holocaust. This annual ceremony reminds us that human life is to be treasured, not destroyed. I would like to take this opportunity to share with my colleagues the very moving remarks delivered on this occasion.

REMARKS BY MARK TALISMAN, COCHAIRMAN, U.S. HOLOCAUST MEMORIAL COUNCIL

In this hallowed hall of freedom and democracy, we gather for this Nation to remember, never to forget. As our Chairman, Elie Wiesel, has said, "What we all have in common is an obsession not to betray the dead, the dead we left behind or who left us behind. They were killed once, they must not be killed again through forgetfulness."

You, the Members of the House of Representatives and of the United States Senate have forever committed this Nation to this remembrance, and, through this act, to the future, never again to be stained with the infamy of what has been committed in the name of law and statecraft. Unanimously, you, the United States Congress assembled, have and will continue to demonstrate that humankind must never again respond to the basest instinct under the guise of legislative and administrative process. Your children and theirs, our Nation, can now follow in the footprints you have indelibly etched in the soul of this great Nation. Memory is now law.

On behalf of the Council, I would like to commend this Administration for its investigation and prosecution of Nazi war criminals who have been living in this country, and this Congress for its support of this critical effort. The Office of Special Investigations of the Department of Justice has undertaken exceptional work in spearheading the prosecution of these war criminals against humanity.

REMARKS BY SIGMUND STROCHLITZ, CHAIRMAN, DAYS OF REMEMBRANCE, U.S. HOLOCAUST MEMORIAL COUNCIL

Mr. Speaker, Senate Majority Whip, Chairman of the United States Holocaust Memorial Council and distinguished guests.

I am greatly honored and also humbled to stand here today in the presence of those who have been elected to guide the destinies of our Nation and recall the memory of the six million Jews and millions of others who perished in the Holocaust.

The memory of the Holocaust was kept alive for a long time by some scholars who sensed that the Holocaust was not mere history indeed, it may have had great implication for the future. And, of course, by survivors who were not only pointing out what a vicious or, at best, indifferent world has done to our people, but also what it has done to itself.

The last years, however, have seen a dramatic change. It was perhaps the United States Congress among others who helped to bring about that change by passing Public Law 96-388 that provides for appropriate ways for this Nation to commemorate the Days of Remembrance. We are grateful to you, especially now.

In a period when survivors are getting older and the prospect of the last survivor looms before us, and being conscious of the fact that it will not be long before the only evidence left of the tragedy that befell our people will be books, museums, and our testimonies, it is reassuring that by an act of Congress the Days of Remembrance are and will be, in the years to come, commemorated in state capitals, in cities, and in towns across the country and in the Nation's capital.

The Acts of Congress make it possible to bring to the wide attention of the American public, not only what happened to the six million Jews and millions of others, but how it happened, and, even more important, why it happened.

It was, on the one hand, the indifference of the western world to the burning of synagogues and mistreatment of the Jewish people before the war and the collapse of the Evian Refugee Conference that Hitler interpreted as a sign of weakness or tacit approval by the rest of the world of his acts.

On the other hand, let's not forget that the rest of the Christian world, with some exceptions, bears the same responsibility. The choice of Jews as victims stemmed either directly or indirectly from the church treatment of Jews and it's liturgy and theology. The tragedy can only be understood if related to the ethical, philosophical, and theological traditions of western civilization.

From Professor Elie Wiesel, the Chairman of the Council, we have learned that we are responsible for one another and that that responsibility is not limited to the past but to the future as well. The future is hidden in the past. We have a sacred duty to bring the events of the past to bear on the present for the sake of the future.

In conclusion, let me express, on behalf of the Days of Remembrance Committee, my deep appreciation for inviting us to conduct this year's national ceremony in the Rotunda. And at the same time, point out that not only did the Congress unanimously support the establishment of the Council and all it's functions, but, for the first time in the history of that nation, a survivor, Thomas Lantos, a child of a survivor, Sam Gejdenson, and one who escaped at the last moment from Nazi Germany, Senator Rudy Boschwitz, are members of that Congress. We are all very proud of them.

To everyone present, thank you for joining our annual commemoration. Your presence lends honor to this historic occasion.

REMARKS BY THE HONORABLE THOMAS P. O'NEILL, JR., SPEAKER OF THE HOUSE OF REPRESENTATIVES

Chairman Wiesel, Senator Stevens, Council Members and Friends.

Speaking about the Holocaust is always difficult. There is a sense that anything anyone can say about millions of people being put to death must be inadequate. But there is also a sense that something must be said in the name of the past and the future. We must testify to the Holocaust in order to reaffirm our insistent belief in the sacredness of human life and in the strength of values.

The Holocaust stands as a unique event in the unique history of the Jewish people. It also stands as an event as an event in the history of modern man—who can turn civilization into a weapon for its own destruction.

We mourn the destruction of Eastern European Jewry—as a people and as a culture of learning and piety. We also mourn man, who is capable of destroying others and all that gives life a meaning.

All of us who cherish the sanctity and dignity of human life and the grandeur of a people's culture, must recall the souls of those whose lives were so cruelly destroyed. We must commit ourselves to maintaining their culture, so that our lives may be enriched and their memory cherished.

It is my privilege to welcome all of you to this magnificent room in formal recognition of our national commitment to see a museum and a living memorial to all victims of the Holocaust established. The Acts of Congress which created the Council and the Joint Resolution which enabled this ceremony to take place are steps which this Congress has unanimously taken, in furtherance of the commitment. We look forward to the Holocaust Museum and Memorial which will be among this Nation's most vital contributions to the ennoblement of the human spirit.

The Holocaust challenges us to mourn each individual who was reduced to ashes—as individuals, not as the numbers which the Nazis tried to make them. The Holocaust declares the necessity everywhere and always to defend each human life and to uphold its sanctity.

We must learn from the past, not only to remember, as the Bible suggests, "to destroy the spirit of evil," but also to envision a time to come when, as the Prophet Isaiah says: "They shall not hurt nor destroy in all My Holy Mountain."

Thank you.

We gather today in remembrance of the six million Jews and others who died in the Holocaust—a catastrophic event unparelleled in the course of human history. Six million Jews went to their deaths in ovens and gas chambers or were worked to death in the concentration camps scattered throughout Eastern Europe. Two out of every three European Jews died—one-third of the World's Jewish population. Those camps were so unimaginable gruesome that even children and grandchildren of those who survived bear psychological scars. Those who survived live not only with the physical and psychological scars, but with the fear that it could happen again. The Jewish faith stresses remembrance—zakhor. Jews are admonished in the Torah to "remember Amalek" and along with Amalek, Haman, Titus and others who plotted the destruction of the Jewish people throughout the ages.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

We remember the Holocaust today to demand that history not repeat itself. All generations must know of those horrors. If they do not know, they will not learn the lessons history offers. History demonstrates that the world cannot remain indifferent to human misery and suffering. In Elie Wiesel's book, "The Town Beyond the Wall," a survivor of Auschwitz says there is only one thing he has wanted to understand since the war—how a human being can remain indifferent.

Today we join together with firm resolve that this Nation will not remain indifferent to human misery and suffering wherever we may find it.

REMARKS BY THE HONORABLE ELIE WIESEL, CHAIRMAN, U.S. HOLOCAUST MEMORIAL COUNCIL

Mr. Speaker, Senator Stevens, Members of the House of Representatives and the Senate—Friends,

On behalf of the United States Holocaust Memorial Council, it is my honor and privilege to thank you for joining us at this solemn assembly of remembrance. With the sole exception of the State of Israel, ours is the only nation that has chosen to annually commemorate the victims of the Holocaust at a national ceremony—and we are grateful to both nations.

One day, when the Memorial will be completed, we hope to be able to tell you, our friends in the Senate and the House, how much we owe you: for us, Survivors, gratitude is the most human of virtues. We know how to say thank you. Having been spared—for reasons we do not comprehend—we realize that every minute is grace: we must be grateful for every day we live—and for every friend who is willing to share our awesome responsibilities.

So, we thank you, Members of the Congress, we thank you our cherished friend, Sidney Yates, especially, for your tireless and gracious efforts on our behalf, and we thank all of you.

On behalf of the Council, I would also like to commend the Administration for its investigation and prosecution of Nazi war criminals who have been living in this country. Under the leadership of Allan Ryan, the Office of Special Investigations of the Department of Justice has done exceptional work in prosecuting these perpetrators of crimes against humanity. We, of the Council, urge our government to continue its pursuit of justice.

Let us remember on this day and in this place what Nazism did to its Jewish victims, for what they did was legal. In this place we must remember that, because this is where law is being formulated and law is being enacted. It was legal then to imprison political adversaries, it was legal to practice euthanasia on mentally retarded patients, it was legal to hunt down and execute resistance-fighters, it was legal, and commendable, to push Jews into ghettos, to torment them, to torture them, to gas them, to burn them: everything was done with so-called due process according to Nazi law. Which means: the Nazis had corrupted the law itself. They made it into a weapon against humanity. So remember that it can be done—for they did it. The law itself became immoral, unlawful, inhuman.

The same applies to culture, my friends. When culture lacks the necessary ethical dimension, it ceases to be a shield against evil. Quite the contrary: it attracts it. Often, we on the Council, who live day and night with the lessons we try to draw from that period, ask ourselves the questions, Why Auschwitz? Why Majdanek? How is one to explain that these monuments of evil and death dominated the heart of European civilization and Christendom? The killers did not come from the underworld; they were highly educated persons, and some of them had college degrees and Ph.D.'s in medicine, physics, and liberal arts. What did they want to achieve? What did they try to prove?

I hope you understand me. I speak with gratitude, not with bitterness. Had there been sessions such as these, in those times, there would have been no Holocaust. But somehow there was a darkness that descended upon the world. Very few lights: a Wallenberg, the Danish people, resistance-fighters, but they were so few. We have the feeling that madness invaded history, and therefore the killers could kill, the slaughters could slaughter, and the victims perished. Oh yes, some fought and others prayed, some hated and others went with their families because they didn't want to abandon them. But what happened then? What happened to our faith in humankind? I don't know.

One of the great surprises that we had after the war, in April 1945, was to discover that the world knew. On April 19th the Warsaw-Ghetto uprising began, on April 21st the Washington Post and New York Times printed the stories about the ghettos. The names—Treblinka, Auschwitz—were known to you here in the United States before they were known to us, Jews in Hungary. I don't know what happened. We never will know what happened. We are trying to tell the story. Because we believe that if we all tell the story, we shall save the world. Because the world is in danger and for the first time on a planetary scale. That was an unique fate that we had, but we believe if we tell what the world did to one people, we can save other people, and mankind, from a similar though different fate.

But then, we look around us and what we see is not gratifying. So much violence, so much fear, so much injustice, so much hunger, so many wars, so many children dying, so many disappeared, so many Jews being persecuted in Russia, and so many Falashas waiting to get out of Ethiopia. And of course, Israel—Israel which is the land of survivors, the land of refugees—the solitude of Israel—how can we accept the solitude of Israel? Israel is trying her best to remain collectively human in a society that besieges it.

And yet, yet, we must tell the tale, we know we can not tell it, but we must try to tell it for the sake of the future—for the sake of mankind.

May I, my friends, leave you with a story I just read—and read, and read, and shall be reading many more times. It is in a book called "The Black Book," published by the Holocaust Library, which is a collection of chronicles of the massacres in eastern Europe. An eyewitness tells the story of a Jewish mother who tried to hide her children in a basement while the killers were killing in Babi-Yar. But then she decided to leave the basement—it was too dangerous—and go perhaps to the countryside. She was caught with her children in the street, and soldiers were joking, laughing. When they caught her, they beheaded one child in her presence, and they kept on laughing. Then they beheaded the second child in her presence, and they kept on laughing. So the mother seized her two dead children, clasped them to her breast. I don't know why, I am afraid to know why. According to the eyewitness, insane with grief, she began to dance. . . .

My good friends, we owe it to the mother and her dead children not to allow the killers to go on laughing.●

IN SUPPORT OF FLEXIBLE WORK SCHEDULES

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 12, 1982

● Mr. WOLF. Mr. Speaker, I am a strong supporter of legislation to provide alternative work schedules for Federal employees and was extremely pleased that the House yesterday passed S. 2240 which will allow this program to continue.

More than 1,500 Government organizations with over 325,000 employees have participated in the AWS experiment over the past 3 years and have proven that this program can work and work well. I might add that the concept of flexible working hours is one that is used quite extensively and successfully in the private sector.

Alternative work scheduling has permitted Federal employees to use work schedule designs which depart from the traditional 5-day, 40-hour week. According to Office of Personnel Management reports, alternative work schedules, under a variety of arrangements including flexible times of arrival and departure and compressed work weeks, have lead to greater efficiency in Government.

Another important point which must be made in discussing this legislation, however, is its importance to the family. Under alternative work scheduling, parents who work can adjust their work hours to meet their family responsibilities. I think this is extremely important and offers the opportunity for the Federal Government to provide a work option for its employees which can boost morale and productivity.

I believe that proper safeguards for agencies to monitor this program's operation have been included in this legislation and I want to commend my colleagues, who, in passing this bill, have recognized that alternative work schedules can lead to efficient Government.●

OIL IMPORT FEE AND ITS EFFECT ON AGRICULTURE

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. BEREUTER. Mr. Speaker, there is great concern among the farmers of America over proposals to

institute a $5-per-barrel oil import fee. A recent editorial in the Sioux City Journal highlights the serious detrimental effects which such an import fee would have upon those who produce the food and fiber for the United States and much of the rest of the world. As the article points out, imposition of a $5-per-barrel fee would result in the loss of 5 to 8 percent of net farm income at a time when farm income is already severely depressed. The American farmer simply cannot afford this additional burden.

Proponents of such an oil import fee must address the lack of fairness in an approach which would put a heavily disproportionate share of the burden for reducing the deficit and U.S. dependence on foreign suppliers upon this relatively small segment of the economy. The aforementioned article sheds additional light upon these aspects of the oil import fee issue, and I urge my colleagues to consider the points made in the article:

[From the Sioux City Journal, July 9, 1982]

NO IMPORT FEES

There is some consideration in the administration and among a few congressmen to establish a $5 per barrel oil import fee to reduce the federal deficit. Another purpose supposedly would be to further cut U.S. dependence on oil imports.

Those are lofty goals, but fraught with danger for the American economy. In the first place, Americans have reduced oil imports by more than one third since the end of 1979—both by conservation and by greatly increased domestic production.

The imposition of a $5 import fee would result in an increase of 12 cents a gallon on gasoline, fuel oil, jet fuel and all other petroleum products if the fee is fully passed through, according to Iowa Petroleum Council figures.

Industries that are dependent on oil and oil products would bear a disproportionate share of the fee. It would be discriminatory, because they also would be charged disproportionately with reducing the federal deficit.

A recent study by the National Council of Farmer Cooperatives indicates a $5 fee would rob American farmers of five to eight percent of an already severely depressed net farm income, which this year is expected to be as much as $10 billion under the already depressed 1981 level of $23 billion.

The petroleum council estimates that the $5 fee would increase farmers' fuel costs by about $1 billion and create additional shock waves for the producers, who cannot pass the increased costs along without a boost in the price of food.

Oil import fees are in reality a return to trade obstructionism, but with the additional hazard of imperiling a vital segment of the American economy.●

THE SYSTEM OF FORCED LABOR IN RUSSIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. McDONALD. Mr. Speaker, in the debate over the Yamal pipeline in the Soviet Union, nothing until recently, had been said about the role of forced labor in the project. Since the early days of Bolshevik rule in the Soviet Union, forced labor has been a part of every major project in the Soviet Union. Thus, in addition to the question of trade, there is the question of our participation in another project involving the use of forced labor in the U.S.S.R. Mr. David Satter wrote a very incisive item on this issue which appeared in the Wall Street Journal of June 24, 1982. In my view, it bolsters the President's stand against our participation in the project. Members who consider this just to be a trade question should read this item and ponder anew. The article follows:

THE SYSTEM OF FORCED LABOR IN RUSSIA

(By David Satter)

There is unlikely ever to be conclusive evidence that the Soviet Union is using forced labor on the West Siberian gas pipeline, but all circumstantial evidence suggests that the inmates of Soviet labor camps will play their part in supplying Siberian gas to the West.

The exact route of the pipeline is unknown but if it originates in the Urengoye gas fields and leaves Soviet territory at Uzhgorod, its first stage should traverse the Komi autonomous republic in Western Siberia, which contains one of the densest concentrations of labor camps in the Soviet Union. The Soviet authorities are known to have used forced labor for pipeline construction at least twice—for an internal gas pipeline that originated at Ukhta, near the start of the West Siberian gas line, and on the "Friendship" line, which supplies gas to Eastern Europe.

Forced labor is by no means exceptional in the Soviet Union. It is an integral part of the economic system, and it is extremely doubtful whether the current Soviet economy could function without it.

The Soviet economy needs forced labor because it is extremely wasteful of manpower. Subordinated in its entirety to the regime's political goals, the economy does not allow managers the independent authority to make even the simplest cost savings.

The state planning agency tells factory directors what to produce, when to produce it, from whom to obtain materials and how many workers to employ. Unable to be efficient, enterprise overstate their resource requirements, particularly their need for manpower. The artificial shortages that are created are made good through forced labor.

WORKERS HAVE NO RIGHTS

The Soviet authorities publish no figures on the use of what amounts to slave laborers but enough is known to make it possible to estimate with reasonable certainty that of a total work force of approximately 115 million persons, as many as five million are either inmates of labor camps, performing assigned work while in internal exile or serving out minor sentences by working in labor-intensive branches of industry.

The inmates of labor camps, who comprise the largest and most economically significant group of forced laborers, are believed to number no fewer than three million, and they work in virtually all areas of the economy where manpower is in short supply.

Branches of industry heavily dependent on labor from the prison camps include logging, housing construction, road building and the mining of diamonds, uranium and gold.

In addition to labor-camp inmates, the Soviet reservoir of forced laborers includes at least a half million persons who have been sentenced to internal exile and one million to two million, including chronic alcoholics, prostitutes and first offenders, who are serving in "chemicals," that is, working off their brief sentences by performing heavy work in labor-short industries.

The presence of such a vast reserve of forced laborers having no rights sets the tenor of the whole economy and sharply limits the concessions the Soviet authorities are obliged to make to motivate the non-prison work force. Problems in finding workers do not necessitate fundamental reforms because they can always be solved by increasing the number of people in confinement.

A generation ago, the inhabitants of the Gulag would have been political prisoners, but today there are only a few hundred persons in Soviet camps who have been formally convicted of political crimes.

The majority of labor-camp inmates are arrested and sentenced for terms of three to seven years on charges of either theft, hooliganism or violations of the passport laws.

In a society of endless shortages, where a value structure based on religion was forcibly destroyed, stealing flourishes. Theft is common at every level of Soviet society, including the very highest, and elaborate systems of falsification and theft exist in most industries.

This makes it relatively simple to find candidates for the labor camps. Large-scale arrests for stealing and black-market operations take place not because, in most cases, crimes were unexpectedly uncovered but because at one moment the authorities decided to change their attitude to the corruption that had existed all along.

Thousands of arrests for hooliganism are also a direct result of Soviet social conditions. Vodka sales are a major source of revenue for the state. In provincial cities and workers' districts, where there are few distractions, vodka is one of the few consumer goods that is always available. Mass drunkenness is common, and when fights break out, they can lead not only to the arrest and sentencing of the persons involved but also to labor-camp sentences for everyone who happened to be in the vicinity.

The passport laws, which are intended to help control the movements of every citizen, also help to maintain the labor-camp population. There are some people in Soviet society who live illegally in areas, usually large cities, where they are not registered. These are usually people who, for whatever personal reason, cannot adapt to the Soviet system of total control. Such persons, sometimes called "Bichi," from the abbreviation in Russian for "Formerly Intellectual Person," are rounded up regularly in identity checks that take place in cities all over the country.

The population of forced laborers is thus constituted not just of hardened criminals but, in the majority, of people who are vulnerable to arrest because they have made typical adjustments to the nature of Soviet life. This vast pool of rightless manpower is then used to solve many of the Soviet economy's endemic problems.

Labor-camp inmates can be assigned to any work in any place and moved from project to project at will. Their work norms are high but every prisoner knows that his conditions of confinement, bad to begin with, can be made immeasurably worse if he fails to comply.

PRISONERS ARE CHEAPER

The use of forced labor is inexpensive. The average salary for a prisoner is 60 to 80 rubles a month compared with a minimum salary of 150 rubles for a free worker and a possible salary of up to 500 rubles for a person who agrees to work in remote parts of Siberia.

Of the prisoner's salary, half is deducted by the state, a quarter pays for his food (the worst scraps in the Soviet distribution system) and for his share of the expense of running the labor-camp system. That leaves 15 to 20 rubles a month at his disposal.

Western businessmen who argue that it is possible to enter into profitable business relations with the Soviet Union without being a participant in the repressive Soviet system probably underestimate the extent to which repression is the way the system operates.

In a Western society, in which people are expected to find work, the punishment for failure to do so is unemployment. In Soviet society, where people are assigned work, the punishment for failure to accept it is a labor camp.

With their labor vitally necessary in the camps, the persons arrested every year for minor crimes stand little chance of being acquitted once an arrest has been made. Investigation in most cases is rudimentary, and the accused is often sentenced to a labor-camp term regardless of what it finds.

It is these convicted persons, many of them barely aware of what they've been accused of, who, in their hundreds of thousands, are swept every year into the labor-camp system, to work anonymously and probably unwillingly on vast development projects, including, quite possibly, the West Siberian gas pipeline. Through their presence, the pipeline becomes a far more apt symbol of the true nature of East-West cooperation than its Western backers could imagine.

(Mr. Satter, formerly a correspondent in Moscow for the Financial Times, is writing a book about the Soviet Union.)●

NATIONAL TOURETTE SYNDROME AWARENESS WEEK

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. WEISS. Mr. Speaker, today I am introducing legislation which would declare the week of October 25, 1982, as "National Tourette Syndrome Awareness Week."

Growing up with any medical affliction is difficult for a child. But children with Tourette syndrome are faced with multiple secondary handicaps which are often more crippling than the physical limitations caused by this disorder.

Tourette syndrome (TS) is a neurological movement disorder which strikes children between the ages of 2 and 16, and lasts a lifetime. TS is characterized by multiple repetitive movements called tics, and involuntary vocalizations. Throughout history, tic movements such as facial twitches, shoulder shrugging, and head jerking have been interpreted as "nervous habits." Vocalizations such as throat clearing, shrieking or barking, have been perceived by society and professionals alike as a sign of behavorial deviance. Thus people with TS have been unduly stigmatized and judged unacceptable by society, even though their chronic condition may well be caused by a chemical malfunction of the brain.

Tourette syndrome afflicts youngsters throughout the world. It is estimated by some neurologists that there may be as many as 100,000 undiagnosed cases in the United States alone.

Recent genetic studies suggest as many as 3.5 million people might be affected by Tourette syndrome or related tic disorders. At this time, the cause of the syndrome is unknown, and although medication can successfully control about 70 percent of the symptoms for most patients, a complete remission is rare.

People with Tourette syndrome today face a different future than they faced a decade ago. At that time, virtually no research was being conducted into the cause or alleviation of this disorder; today, investigations into the cause of TS and its cure are underway. Ten years ago only a handful of physicians in the United States were able to diagnose TS; today, hundreds of physicians are treating thousands of TS patients as the result of the educational and advocacy efforts of dedicated volunteers.

In the recent past, people with severe forms of TS were relegated to institutions where they received ineffective and harmful treatments. They faced a lifetime of agony, only learning the name of their affliction at age 50 or 60. Five years ago, the average timespan between onset of TS and proper diagnosis in the United States was 7 to 10 years; today almost 50 percent of newly diagnosed patients are children below the age of 13.

We cannot underestimate the extent to which publicity concerning Tourette syndrome has influenced the rate of these impressive and encouraging advances.

Mr. Speaker, I urge my colleagues to join me in cosponsoring this resolution. National Tourette Syndrome Awareness Week would help alert the public and professionals to the urgent need for additional research into the cause and treatment of this illness. It is my hope that our efforts will eventually lead to a final victory over this physically debilitating, emotionally devastating, and socially crippling disease.

H.J. RES. —

Whereas Tourette syndrome is a neurological disorder which occurs in children between the ages of 2 and 16 and lasts for the remainder of the life of each afflicted child;

Whereas Tourette syndrome is characterized by repeated tic movements and involuntary vocalizations which are physically debilitating, socially crippling, and emotionally devastating;

Whereas an estimated 100,000 Americans currently suffer from Tourette syndrome and an additional 3.5 million Americans suffer from less severe forms of this affliction;

Whereas the lack of knowledge about this disorder on the part of health professionals and the public causes additional hardships for those afflicted with Tourette syndrome;

Whereas greater public understanding of Tourette syndrome will encourage those persons currently diagnosed as suffering from this disorder and nurture hope for those who are suffering from the disorder but whose afflictions have not been diagnosed or have been diagnosed incorrectly; and

Whereas thousands of caring volunteers and the families of persons afflicted with Tourette syndrome have devoted much time and energy to educate health professionals and the public about this disorder: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on October 24, 1982, is designated as "National Tourette Syndrome Awareness Week" and the President of the United States is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies, interest groups and organizations, and all of the people of the United States to observe that week by engaging in appropriate activities and programs to show their support and concern for those Americans afflicted with Tourette syndrome.●

DAVID ROGERS WINS DIRKSEN AWARD

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. BOLAND. Mr. Speaker, on June 15, David Rogers of the Boston Globe was honored as the recipient of the Dirksen Award for Distinguished Congressional Reporting for his coverage of Congress in 1981.

The Dirksen Award, presented annually by the Everett McKinley Dirksen Congressional Leadership Research Center, is given for outstanding reporting of the activities of Congress. The members of the Massachusetts delegation were pleased that the work of Dave Rogers was recognized with this signal honor. Dave is an incisive, articulate, hard-working journalist

who possesses a rare ability to explain even the most complex issue or procedure. He pursues a story with vigor, his questions reveal preparation and an understanding of his subject, and he has a writing style that is both pleasing and effective. In addition, he has an innate sense of fairness that has won him the respect of those of us whom he covers.

Mr. Speaker, on behalf of the other members of the Massachusetts delegation, I want to congratulate Dave on his achievement. It is a well-deserved honor for a job that is being done in a truly outstanding fashion.●

THE AFL-CIO AND THE BLACK WORKER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. RANGEL. Mr. Speaker, I would like to draw your attention and that of my colleagues to a special issue of the Journal of Intergroup Relations entitled "The AFL-CIO and the Black Worker: Twenty-five Years After the Merger." Authored by Herbert Hill, formerly national labor director of the NAACP and currently professor of industrial relations and Afro-American studies at the University of Wisconsin, the report documents foot-dragging by the AFL-CIO in eliminating institutional racism from its own ranks. Says Hill:

Despite the formal declaration of a nondiscriminatory policy, the merged labor federation did not initiate internal changes on racial practices. On the contrary, the AFL-CIO and its affiliates repeatedly resisted pressure to eliminate racial discrimination.

Perhaps most important in the study are Mr. Hill's predictions for the future. If, he says, the AFL-CIO continues on this path, it will undermine its credibility and its power. Unless changes are made immediately, "the AFL-CIO will cease to be a significant institution in American society."

What is true here is true throughout society. Neither management, nor labor, nor government, nor the private sector can afford to ignore our minority citizen. To do so is to foster grave consequences. I commend Mr. Hill's study to you. For your information I have included here a brief summary of his work:

The Journal of Intergroup Relations, in a special issue released on June 7, 1982, published Herbert Hill's critical report entitled "The AFL-CIO and the Black Worker: Twenty-five Years After the Merger". This research study is based upon extensive examination of federal court records and government documents as well as field investigation over a two year period. Hill, formerly the National Labor Director of the NAACP and currently Professor of Industrial Relations and Afro-American Studies at the University of Wisconsin, writes:

"All the evidence indicates that each individual affiliate continued the racial practices traditional with that union long after the merger and that the effect of AFL-CIO policy upon affiliated unions was virtually nil. Despite the formal declaration of a nondiscriminatory policy, the merged labor federation did not initiate internal changes on racial practices. On the contrary, the AFL-CIO and its affiliates repeatedly resisted pressure to eliminate racial discrimination."

After studying the findings of fact and law in hundreds of court cases involving labor unions, Hill found that ". . . Although the AFL-CIO initially supported the enactment of Title VII, the employment section of the Civil Rights Act of 1964, organized labor resisted compliance and succeeded in delaying for years delivery of Title VII remedies to minority plaintiffs by raising repeated challenges to the law. . . . It reveals much about the conservative character of the AFL-CIO, that the compulsion of law was necessary."

The documentation reveals that in addition to being concentrated in low-wage occupational classifications, women and minority union members are frequently denied participation in union leadership positions. According to Professor Hill, "A major example is the International Ladies Garment Workers Union where a white male union leadership, though impotent in relation to employers, perpetuates its domination over a membership consisting mainly of Hispanic, Asian and black women workers."

Hill explains how the construction unions, confronted with the potential loss of job control as a result of civil rights laws and federal administrative regulations, responded by developing two approaches which gave the illusion of fulfilling legal requirements, but actually served to evade and circumvent the law. These two approaches were the Apprenticeship Outreach Programs and the related Hometown Plans. He writes:

"While there has been an overall increase during the past decade in non-white participation in apprenticeship training, there has been little change in the percentages of black journeymen admitted into unions controlling employment in the skilled occupations. Black construction workers remain heavily concentrated in unskilled laborers jobs and in the trowel trades. Apprenticeship training is obviously not an end in itself. It is meaningful only if it leads to skilled employment and it has failed to do so for blacks seeking to enter the crafts."

Professor Hill states that the persistence of discriminatory patterns against racial minorities and women within unions reflects the internal decay of organized labor. A major manifestation of this decline is the failure to organize the south, a failure which has had ". . . profound consequences for the entire union movement throughout the country." According to his study:

"For the past quarter of a century the industrial development in the southern states has been phenomenal. Between 1962 and 1978, for example, the south experienced the highest absolute and relative growth in manufacturing employment of any region in the nation. . . . As its membership base erodes and its influence diminishes, organized labor will become more vulnerable to attack and less able to defend the interests of those workers who remain within its ranks. If this process continues, as it has for two decades, the AFL-CIO will cease to be a significant institution in American society."

Professor Hill discusses in detail the racial practices of many unions affiliated to the AFL-CIO, and concludes his report by observing that:

"Unless organized labor transforms itself into a social movement with broad goals and a new conception of union membership that goes beyond dues-payers in a collective bargaining unit, it will continue its current decline. And if it is transformed, the character of a new dynamic labor movement will be expressed most significantly in its active and special concern for the problems of racial minorities and women at the work place and in the community."

Herbert Hill, who served on the NAACP staff from 1949 to 1977, has written extensively on issues relating to race, labor and the law. He is the author of several books including Black Labor and the American Legal System, and testifies frequently as an expert witness in civil rights litigation.

The Journal of Intergroup Relations is in its twenty-third year as the official publication of the National Association of Human Rights Workers, an organization of officials of public and private civil rights agencies, scholars, and other professionals in the field of intergroup relations.●

DISSENT IN ISRAEL

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. BEREUTER. Mr. Speaker, the Lincoln (Nebraska) Journal recently published a short editorial commenting on Israeli reaction to their nation's recent invasion of Lebanon. As the Congress begins to examine this situation in terms of the necessity or appropriateness of U.S. involvement in this tragic situation, I think the points made in this short piece are well worth consideration, and I insert the article in the CONGRESSIONAL RECORD for the benefit of my colleagues.

[From the Lincoln Journal, July 9, 1982]

DISSENT IN ISRAEL

U.S. citizens traveling abroad sometimes run into expressions of anti-Americanism. That can be an unpleasant experience, especialy if one happens not to agree with the particular U.S. policy that has offended residents of the country visited. It seems unfair, being blamed for something one didn't do and doesn't approve of.

Americans might, then, keep in mind that not all Iraelis cheer their nation's invasion of Lebanon and the destruction visited upon Beirut.

Traditionally, wars unite nations, and this has certainly been true of Israel during its relatively brief but troubled existence. Even now polls show a majority of Israelis supporting the government of Menachem Begin in its effort to root out the source of Palestine terrorism.

Nonetheless, the current conflict is marked by more ambivalence and outright dissent than any other in Israel's history.

One poll done for the Jerusalem Post showed a third of the respondents saying the invasion was "too big," a case—this is paraphrase but perhaps appropriate considering the civilian casualties—of overkill.

A few days ago a group called Peace Now, which has raised the issue of civilian deaths

in Lebanon, staged a giant rally in Tel Aviv, something that has never happened before in Israel in war time.

Protests are also coming from reservists recently released from the army. And an organization called Soldiers Against Silence is being formed to try to coordinate the protests.

Dissent is likely to remain low-key as long as war goes on. But, depending on how successful the anti-PLO operation is and how long the fighting lasts, an outburst of public anger is possible.

For Americans and others shocked by the ruthlessness of Israel's operation in Lebanon, it is well to keep in mind that some Israelis are shocked, too.

CARIBBEAN BASIN INITIATIVE

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. BARNES. Mr. Speaker, the time for the Congress to deal with the Caribbean Basin Initiative (CBI) is almost gone. It is hard to imagine that it has been a full year since we began work on the CBI. I make this comment not because of how much we have accomplished, but because of how far we have to go.

During the last year, we have made progress on several fronts. The mere existence of the CBI has raised the visibility of the problems of the Caribbean Basin. President Reagan's efforts in even making the proposal have crystalized attention in both the executive and legislative branches. It has also sent a clear and distinct message to the people of the Caribbean Basin that the United States cares about them. And it signals the beginning of a move away from our tendency to make foreign policy on a crisis-to-crisis basis. It is this positive and constructive nature which has led me to actively support the CBI. Although I would prefer some changes in the program, I have been and will continue to do all that I can to get it passed.

Throughout the last year, I have been optimistic about the chances of passage of the CBI, and perhaps because of my nature, I remain optimistic. But time is running out. The New York Times recently made this point in an excellent editorial. It is a message that we in Congress ought to heed and if the President cares about the CBI, now is the time to act.

The text of the editorial follows:

[From the New York Times, June, 30, 1982]

THE GREAT CARIBBEAN FIZZLE

The air is running out of the Caribbean Basin Initiative for three reasons: (1) President Reagan and his main aides show little sign of caring; (2) as the November election nears, the power of Protectionist lobbies grows; (3) liberals and moderates suspect the plan is just a cover for new military aid to El Salvador.

The story is sadly familiar. Time and again the United States has proclaimed itself ready to foster growth and stability in its backyard. Enthusiasm lasts about six months, until successive Administrations take full measure of the resistance to anything that costs money or risks jobs.

President Reagan's plan was indeed bold. It envisioned benefitting 22 million people in 33 countries with trade preferences, investment incentives and $350 million in emergency aid (including $128 million for El Salvador). Preferential tariffs would be a break with American practice, but they confirm Mr. Reagan's faith in free-market development.

The heady broth quickly chilled in Congress. Two wars, a Presidential voyage, and the Haig resignation have been distracting. Even so, the initiative was never shown even a fraction of the ardor Mr. Reagan gave to selling Awacs to Saudi Arabia.

Contrary to the interests of the Caribbeans, as well as Americans, the Administration meekly yielded to sugar import quotas. Yet the great initiative sits stalled in the Senate Finance Committee and is under attack from many sides. Caribbean leaders still touchingly expect deeds to match Mr. Reagan's words. Their need is underscored by the plight of Costa Rica, an insolvent yet stable democracy. The country's troubles stem from its own mistakes, from sinking coffee prices, soaring energy costs and the liberality of foreign banks, whom it now owes $3.2 billion.

In Washington last week, President Luis Alberto Monge heard the usual pieties about hemisphere solidarity. Maybe he'll be helped before he must settle accounts with the International Monetary Fund. Congress in fact took the unusual step of expressly earmarking $20 million as emergency aid to Costa Rica last winter. But the money has yet to be disbursed; what was meant as a gesture of solidarity is now hostage to the I.M.F. deal.

If Mr. Reagan really cares about the region, he has about two months of legislative time to prove it.●

THE THREAT TO CUT OFF AID TO EL SALVADOR

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. McDONALD. Mr. Speaker, it appears that being an ally of or being supported by the United States these days is a mixed blessing for any sovereign nation. The little nation of El Salvador, as an example, seems to receive a different signal each month from the United States. In my view, this is not helpful when the energies of the Government of El Salvador are fully engaged in attempting to fight off a Cuban- and Sandinista-sponsored revolution. Latins are known for their pride and it is difficult to see how El Salvador can continue to accept all these zigs and zags in direction from Washington and still carry out a coherent policy to win over the leftists in El Salvador. In this regard, the editor of the Salvadoran daily El Diario de Hoy wrote an excellent editorial on this issue which was printed in the Wall Street Journal of June 25, 1982. It merits the closest attention of my colleagues, so that they may know of how it feels to be on the other end of these conflicting signals from Washington. The item follows:

THE THREAT TO CUT OFF AID TO EL SALVADOR

(By Enrique Altamirano)

The U.S. Senate Foreign Relations Committee recently issued a warning to the Salvadoran government: If the constituent assembly, elected by a massive popular vote, modifies or delays application of the "reform program" decreed in March 1980 by the de facto junta led by Napoleon Duarte, U.S. aid will be suspended. To symbolize the seriousness of the threat, the committee cut off more than $100 million from the Reagan administration's proposed aid package to El Salvador.

Such threats to suspend aid are not new in El Salvador's experience with the U.S. The recent warning made by Committee Chairman Charles Percy is but the latest on a long series of similar acts the past three years:

In August 1979, Salvadoran President Romero was told that U.S. aid was to be suspended if he failed to call for immediate presidential elections, which, according to Salvadoran law, were not due until 1982.

In September 1979, that threat was repeated, this time pressuring the Salvadoran armed forces to overthrow elected President Romero. They did so Oct. 15.

In January 1980, the Salvadoran army was intimidated into forming a new government with the Christian-Democratic Party. It was a fresh version of the failed first revolutionary junta, also formed to comply with U.S. State Department criteria.

In February 1980, the ruling junta abolished constitutional law and took other steps to carry out a far-reaching program of "structural changes" in order to qualify for U.S. economic and military assistance. The junta decreed property confiscation and total nationalization of the Salvadoran banking and export systems, moves that would be illegal in any Western democracy.

During 1980, the "economic scarecrow" was repeatedly used to defuse "rightist" military coups. Despite a mounting guerrilla offensive, no military aid was provided to El Salvador in 1979 or 1980.

In December 1980, the Carter administration suspended aid after the deaths, in El Salvador, of the six leaders of the FDR, a political front for the guerrillas. When a few days later four religious American women and two American advisers working for the Salvadoran agrarian reform were murdered, the White House pretended the suspension was ordered as a result of the later deaths.

Military aid was renewed by petition of the incoming Reagan administration, but suspension was again suggested if the military attempted to oust the Christian Democrats in the revolutionary junta prior to President Reagan's inauguration.

In mid-1981 the threat was repeated unless immediate elections were convened for a constituent assembly. The U.S. aid carrot was instrumental in persuading the Salvadoran armed forces to abstain from voting, at a time when young soldiers by the hundreds were dying in the defense of their country.

In April 1982, the message was that aid would be cut off unless the defeated Christian Democrats were included in the govern-

ment-to-be, whatever alliances the other parties reached. And, according to the Washington Post, U.S. prodding helped elect Alvaro Magana as the new Salvadoran president, though he was not a member of any of the parties that took part in the March 8 elections.

Now the aid-threat is again being applied to keep the "reform" process initiated by the Carter-backed, de facto Duarte junta from being reversed, modified or frozen by the constituent assembly, which enjoys a mandate of between 80 percent and 90 percent of the Savadoran electorate.

In sum, the threat of U.S. economic or military aid suspension has been exercised against El Salvador at least 10 times since 1979.

But now for the first time, many Salvadorans are openly asking whether to continue complying with the U.S.-imposed course of conduct—which in two years has totally bankrupted the country—or whether to save the economy by rejecting the reforms and restoring legality and confidence to the country's failing economic system. After all, the lost revenues caused by diminishing harvests are much larger than the total aid promised, even if no consideration is given to such side-effects as rampant unemployment.

One of the clearest indications of the damage that has been inflicted on the Salvadoran economy is the fact that less than 50,000 manzanas (one manzana is 1.7 acres) have been prepared for cotton growing in the present season (planing should be done no later than mid-July, so that the present estimate will hardly change). Prior to the 1980 "reforms," up to 125,000 manzanas of cotton were planted, with much higher yields. Thus, cotton production is down to about 40 percent of pre-reform levels.

Such agricultural collapse can be better understood after realizing that the proportional value of leasing land relative to the total cost of cotton production is between 12 percent and 15 percent. This proportion is not very different for other crops, such as cane sugar or cereals. The remainder of the cost of production is made up of agro-chemicals, labor, technology and loan servicing. Therefore, when the major commercial properties were confiscated, the greater portion of invested resources were excluded or expelled from agricultural activities.

Foreign aid is of utmost importance for El Salvador to continue acquiring essential goods and services such as medicine, fertilizer, machinery, equipment, newsprint and spare parts to refurbish what terrorism has destroyed or what has worn out. All this was purchased entirely with Salvadoran resources until the country became an experiment for the Carter administration's social models.

Most Salvadorans now realize that accepting aid conditioned on U.S.-imposed economic policies only presages future coercion.●

WASTE IN THE GOVERNMENT PRINTING OFFICE

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. BEARD. Mr. Speaker, I learned recently that millions of dollars worth of unused Government publications at the Government Printing Office had to be sold for scrap because not one of them had sold as many as 50 copies in a year. Imagine, $11 million worth of publications sold for scrap.

Included among those publications which did not make GPO's best seller list were the following volumes: The State Department's "U.S. Treaties and International Agreements," which sold 14 copies, HUD's "Affirmative Fair Housing Marketing Technique," which sold 3 copies, USDA's "Culture of Sugar Cane for Sugar Production in the Mississippi Delta," which sold 2 copies, a committee print entitled "Establishing a 200-Mile Fisheries Zone," which sold 7 copies, and the Interior Department's "We've Come Back for a Little Look Around," which sold 6 copies.

It is absolutely ridiculous for the American taxpayer to underwrite these worthless publications. It seems to me that we should cease publishing these titles altogether, and, I expect, a good many others besides.

I would like to credit the present Public Printer, Danford Sawyer, for identifying these good-for-nothing publications and for cleaning out his warehouses. Mr. Sawyer is making a valiant effort to battle waste at the Government Printing Office, and I commend him for his dedication to reducing the number of publications printed at taxpayer expense. His actions are compatible with our own efforts to reduce spending, and he deserves our unqualified support.●

COMMITMENT TO ISRAEL

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. SOLOMON. Mr. Speaker, today I rise to express my strong commitment to the State of Israel. In the late 19th century, a man by the name of Theodor Herzl had a vision—the establishment of a homeland for Jews. His vision became a reality in 1948 when Jews from all over the world succeeded in founding a nation in the land of their forefathers.

The United States has always supported the actions of the men and women who had the courage and fortitude to secure a nation to fulfill the dreams and aspirations of millions of oppressed Jews: It was also the first country to recognize Israel and one of the few countries to provide foreign aid to stem Arab hostility.

From the beginning of its existence, the Israeli nation has faced hostile neighbors who publicly state that they do not recognize Israel and seek to destroy the "settlement" in "Palestine." Despite such hostility, the Israelis, with U.S. aid, have managed to build a strong country, both militarily and economically.

In 34 years, Israel has become an oasis of stability in an area that has a history of political instability. I am forever grateful that the United States has such a strong friend in such an unstable area, and I will continue to support such a cherished ally to insure the continuation of stability.

It is unfortunate that some countries and organizations in the Middle East continue to harass a nation that seeks only the right to exist. Israel has been forced to protect itself by military campaigns aimed at these influences. Israel is not aggressive for the sake of destruction. The Israelis have proven that they seek peace—the Camp David accord was a calculated risk taken in the hope of peace with Egypt. Under this accord, Israel relinquished land and oil upon which it has depended for safety. The military retaliation against the PLO this past June is also a means through which Israel seeks peace.

The PLO's incessant attacks against Israel lead me to conclude that Israel's seemingly harsh retaliation is not only justified but necessary because Israel must protect itself at all cost. The attack was not an overreaction to PLO hostility, nor is it an indication that a major war will erupt in the Middle East. Although the potential for conflict in the region to escalate into a widespread war cannot be underestimated, the circumstances surrounding this conflict suggest that military action will be confined to Lebanon.

A more likely danger, however, is that international pressures on Israel will bring a return to the conditions that caused the conflict in the first place. This has happened before; in March 1978, Israel invaded Lebanon only to bow to international pressure and pull out. After Israeli forces withdrew, the PLO base in southern Lebanon solidified and terrorist activity escalated. The massive influx this year of Soviet-built weapons for the PLO, in the wake of a nominal cease-fire agreement, demonstrates again the futility of trying to impose a solution without recognizing the real problem. There can be no peace in the area until the authority of the Lebanese Government and the right of the Lebanese people to determine their own destiny are restored.

The Israeli retaliation against the PLO provides many avenues that U.S. foreign policy can follow in the future. I strongly believe that we must continue our role as middleman in the negotiations between the Israelis and the Egyptians and support Israel in its effort to eliminate PLO and Syrian influence, so that the power of the Lebanese Government can be restored. And last, we must continue our effort to

develop our allies in this region so that the potential for conflict lessens.

Again, I stress that Israel is our ally—it deserves and will get my full support as it strives for peace and prosperity in an area torn by conflict and deprivation.●

CIVIL DEFENSE IN A NUCLEAR AGE: THE DELUSION OF SURVIVAL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. FRANK. Mr. Speaker, one of the gravest errors now being perpetrated in our national policy is the large amount of time and money being spent to give people a false sense of security that they can survive a nuclear war if only they follow a proper evacuation plan.

These nuclear evacuation plans which pretend to be able to move large numbers of people away from the horrors of nuclear war are a costly fraud. They waste scarce taxpayers' dollars and they give some people the false sense that nuclear war is survivable.

I am very proud as a resident of the city of Newton, Mass., to report that the Board of Aldermen of Newton recently voted to make clear to the residents of the city the futility of the nuclear evacuation schemes, and the fact that, in the face of the threat of nuclear devastation, "our only hope is prevention of nuclear war."

Mr. Speaker, I wish to share with my colleagues the thoughtful and persuasive pamphlet mailed by Mayor Mann of Newton and the Newton Board of Aldermen, and I congratulate the mayor and the aldermen for discharging so faithfully their responsibilities to tell the truth to their constituents about the terror of nuclear war, and the urgent need for arms reduction as the only way to avoid these terrors.

The pamphlet follows:

CIVIL DEFENSE IN A NUCLEAR AGE: THE DELUSION OF SURVIVAL

WHAT A NUCLEAR ATTACK WOULD MEAN TO THE RESIDENTS OF NEWTON, MASSACHUSETTS

Theodore D. Mann, Mayor; Matthew Jefferson, President Board of Aldermen, Carol Ann Shea, Vice President Board of Aldermen.

CITY OF NEWTON, MASS.
May 1982.

DEAR NEWTON RESIDENT: Over the past several months I have met with a group of Newton residents who are deeply concerned about the future of mankind and the destruction that could result from a nuclear catastrophe. They reinforced my own growing concern regarding nuclear proliferation and the total inadequacy of the proposed civil defense evacuation plan in the event of a nuclear attack or threat of attack.

In collaboration with these dedicated citizens, we have developed a public information pamphlet on the implications and consequences of a nuclear attack and how we may prevent or prepare for it.

I commend the citizens who, out of concern for mankind, have prepared this pamphlet and have willingly expended both their time and money in its publication. Their efforts will be rewarded if each of us is willing to ponder seriously the basic question that this booklet raises: whether mankind can survive a nuclear war.

Sincerely,

THEODORE D. MANN,
Mayor.

BOARD OF ALDERMEN,
Newton, Mass.

The Board of Aldermen recognizes its responsibility to inform the citizens of the City of Newton that there is no reliable protection from a nuclear attack and that reliance on any Civil Defense evacuation plan would be a manifest delusion. Our only real hope is prevention of nuclear warfare. We are, of course, aware that the sole guarantee of protecting our citizens from nuclear warfare would be for all nations with nuclear arms to destroy those arms and renounce their use. Since we hope this brochure will help our citizens ally themselves in the important movement to discontinue the nuclear arms race, we have endorsed this message.

Federal regulations require that the cities circulate to every residence contingency crisis location plans in the event of nuclear war.

This booklet has been prepared for you, at the request of the Mayor and with the endorsement of the Board of Aldermen, by a group of citizens from the following organizations: Newton Civil Defense Advisory Council, Newton for Nuclear Weapons Freeze, Action for Nuclear Disarmament.

NUCLEAR WAR EVACUATION PLAN FOR NEWTON

The Federal Emergency Management Agency (FEMA) and the Massachusetts State Civil Defense Agency (MSDA) have developed plans or the evacuation of the citizens of Newton to Plymouth, N.H., in time of increased danger from nuclear war. Newton is included in an "area where the greatest danger may exist." The plans give information about who will be evacuated, where you will be relocated, how to get there, what to take, what to do when you arrive, facts about a nuclear explosion, and how to protect your family. The plans are available at City Hall, Newton, or at the main library.

WHAT HE PLAN, SAYS, AND COMMENTS

Several days should be available for evacuation: In some situations, that much time might be available, but it is also possible that a nuclear war might begin with a surprise attack, or with a crisis that left inadequate time. In these cases, evacuation would be useless or seriously damaged at the very start.

Drive to Plymouth, N.H. by way of Rt. 128, 93 & 3. If you get caught in a traffic jam, be patient. Do not get out of line. All routes will be crowded. Be sure to have gasoline; do not buy more than you need: During an ordinary rush hour, Route 128 can now be tied up simply by drivers slowing down to look at an accident on the other side. During an evacuation, hundreds of thousands of people from a number of suburbs would be trying to get to their evacuation sites along the same routes. Under the special conditions of nuclear evacuation—which may well amount to panic—there is immense potential for unprecedented and crippling traffic jams.

Plymouth, N.H. will "be safer from direct attact." Although it is unlikely that a nuclear bomb would fall on Plymouth, it is possible that an enemy could retarget on any evacuation area. Futher, no location can be made absolutely safe from the dangers of radioactive fallout which would arise if a bomb were exploded at ground level, rather than, as at Hiroshima and Nagasaki, in the air. Although fallout would be unlikely to reach all evacuation areas, it could reach some. There may be nowhere to go without significant risk of radiation sickness.

Plymouth, residents will be willing and able to accommodate us: With the best will in the world, evacuation will pose massive problems of social relocation. Plymouth is a small town with a population of 3,400. It has 7 policemen and 7 firemen. Newton has about 85,000 people.

Take your S.S. Card, Insurance policy, stocks and bonds, will, bank book and credit cards: No Comment.

Do not take firearms, narcotics or alcoholic beverages: No Comment.

Listen to the radio for information and advice: Communication may be totally disrupted by electromagnetic pulse (EMP) from a single high altitude nuclear explosion, even at a distance from New England. EMP knocks out electronics, including telephones and radios which rely on transistors.[4]

The greatest danger in the evacuation plan is that it may lull the public into believing it could survive a nuclear war, perhaps increasing the likelihood of having one.

NUCLEAR WEAPON: HOW POWERFUL

A single 1 megaton warhead would devastate an area 14 times as great as the bomb dropped on Hiroshima. A 20 megaton bomb would devastate 100 times as much area as the Hiroshima bomb.

WHAT ONE NUCLEAR WEAPON WOULD DO TO NEWTON

If a 1-megaton nuclear bomb were dropped on the center of the City of Newton, the City would cease to exist. Almost everyone in the City at the time would be killed immediately. Nothing recognizable would remain within a mile of ground zero, and little within 2 miles. Little of significance would be left standing in the rest of the City. Most houses would be destroyed. This devastation would occur within seconds, and survivors who were away at the time of the explosion—including any successfully evacuated—would have nothing to return to. The effects of a 1 megaton bomb on Newton would extend well beyond the City's boundaries. Such a bomb would inevitably be a major disaster for Boston, Brookline, Needham, Waltham, and Weston. It would cause severe problems for much of greater Boston.

IS SURVIVAL POSSIBLE?

It is unlikely that Newton offers an attractive strategic target to Soviet planners. But Greater Boston—and especially the electronics industry spread out along Route 128—would be a prime target even in a comparatively restricted attack. If only one 20-megaton bomb were dropped on Boston, the effect would be devastating throughout the metropolitan area. In Newton, and in many other cities and towns, the following sequence could be anticipated.

In the first hours thousands would be dead or injured and many others would suffer retinal burns and deafness: transportation, police and fire services would be destroyed; depending on the location of ground zero, Newton-Wellesley Hospital would be severely damaged or totally destroyed. Although Greater Boston has a ratio of physicians to patients far more favorable than the national average, even our superior medical care system would collapse in a situation in which most of a physician's patients required emergency care, medicines and hospitals were largely unavailable, and transport difficult to impossible.

In the first day a firestorm might rage through Newton at 800 degrees C, consuming oxygen, creating toxic gases, and causing occupants to flee bomb shelters. Initial exposure to radiation would cause vomiting, diarrhea and ulceration of the mouth.

In the first month many more would die without medical care of even relief from pain. Food and drinking water would be scarce and contaminated. Resistance to infection and disease would be lost because of fall-out and direct radiation.

In the first year destruction of reservoirs, food supplies, transport, and sanitation systems would claim more victims through thirst, starvation and disease. Outside sources of re-supply would be unlikely. Mosquito and fly populations might explode. Tuberculosis could become common, along with possible epidemics of cholera, typhoid, and plague.

In the future for a few survivors there would be a future but it would be a clouded one. If the attack on Boston were to be part of a massive assault on the United States, the survivors might envy the dead.

"There will be no peace until the people of the world stand up and ask for it" Dwight D. Eisenhower (1959)

If we consider the consequences of a nuclear war and the problems of civil defense, it seems obvious that nuclear war is a disease without a cure. Prevention is our only hope.

Everyone agrees about this. The disagreement comes on the best form of prevention. Since the end of the second World War, the nuclear powers have pursued the theory of deterrence, and no war of any sort has broken out among them.

In addition to deterrence, the U.S. and the U.S.S.R. have discussed limitations on nuclear arsenals. The Salt I Treaty, which began the process, limited the development of anti-missile missiles. The still unratified SALT II Treaty would limit the number of intercontinental weapons launchers possessed by each side to 2500. It would do nothing to control the number of warheads and little to reduce the number of launchers. The Reagan administration has now proposed immediate talks (Strategic Arms Reduction Talks—S.T.A.R.T.) with the Soviets aimed at sharply reducing the number of nuclear weapons in each arsenal.

There are other positions: some, especially in Europe, have advocated unilateral disarmaments for their countries. Recently in this country there has been support for a negotiated "freeze" on the construction or deployment of new nuclear weapons.

The City of Newton has no mandate to tell its citizens what they ought to believe on these complex and controversial issues. But the nuclear issue itself is so important that everyone ought to have informed opinions on it. We urge all citizens of Newton to study the matter as carefully as they can, and to convey their opinions to their representatives in Congress, their Senators, and the President. The best hope for preventing nuclear war is that through a highly educated citizenry and a responsive government we will develop the right policies. To this end, you can help by educating yourself and then informing others. You can discuss the issue with the members of organizations to which you belong, and you can write letters to the editors of newspapers and magazines.●

EX-CHARGER CHAPLAIN MURRAY DIES

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. LOWERY of California. Mr. Speaker, it is with sadness that I inform this House of the passing of a beloved San Diegan, the Rev. J. Walshe Murray, and call attention to the following article that appeared in the San Diego Union on July 12, 1982.

EX-CHARGER CHAPLAIN MURRAY DIES

The Rev. J. Walshe Murray, well-known educator and former San Diego Chargers' chaplain, died in his sleep yesterday morning at his home in El Cajon. He was 68.

Father Murray also served as chaplain of the Syracuse Nationals basketball team, now the Philadelphia 76ers, from 1953 to 1957. He was chaplain of the San Diego Chargers from 1963 to early 1975.

As the Chargers' chaplain, Father Murray offered humor as well as encouragement to the team.

During one game, when then-Charger coach Sid Gillman uttered an expletive and the name of a deity, Father Murray called out, "name dropper." He later joked that such language "keeps me in business."

Born in San Francisco, Father Murray was ordained at St. Mary's Cathedral in San Francisco in 1944 by the late Archbishop John J. Mitty.

He was known affectionately to some as "Moses," a name he acquired at a dinner when some Jewish friends told him that "Murray" is a form of the biblical prophet's name.

His teaching career included service at Loyola University in Los Angeles as athletic director, professor of philosophical psychology and chairman of the philosophy department. From 1955 to 1957, he taught at Le Moyne College in Syracuse, N.Y.

He also saw service as a member of the faculty of Santa Clara University, and as a professor of philosophy at the University of San Francisco.

Early in the 1950s, he served for a year at Christ the King Catholic Church in Southeast San Diego.

In 1954, he became dean and athletic moderator at the University of San Diego, and later was principal of Marian High School in Imperial Beach.

Father Murray also was pastor of St. Pius X parish in Jamul, and of Queen of the Angels parish in Alpine.

He was the late Bishop Charles Francis Buddy's first appointment to the San Diego Urban League, and also was the only priest to be elected president of the Friendly Sons of St. Patrick of San Diego. He also was a member of the National Conference of Christians and Jews.

He is survived by a brother, Stanley, of Palo Alto.●

AVOIDING THE WAR POWERS ACT

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. BARNES. Mr. Speaker, President Reagan has announced that he has decided in principle to send U.S. troops to Lebanon. This decision raises a number of very important questions, and these must be answered before we send a single American soldier into war-torn Lebanon. The President has said that providing U.S. troops to a multinational force in Beirut would help stabilize the situation and insure that the Palestine Liberation Organization leaves Lebanon. It might just do this, but it might also mean that the United States will become directly involved in the persistent fighting and terrorist attacks that have plagued Lebanon for most of a decade.

I think that Congress has a responsibility to look into the proposal and assess the potential risks and benefits for our national interest. Under the War Powers Act, this is exactly what we must do. However, last week, the chairman of the Foreign Affairs Committee, Congressman CLEMENT J. ZABLOCKI was informed that the President is considering an attempt to avoid the congressional involvement which is mandated under the War Powers Act. The War Powers Act was enacted because of the widespread view that the Congress must reassert its constitutional role in deciding when and where the United States should go to war. The law requires that when U.S. Armed Forces are introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, the President must terminate the use of these forces in 60 days, unless Congress declares war or specifically authorizes the use of the forces.

The administration, in attempting to avoid this congressional role, is engaging in a very dangerous challenge to the legislative branch. Congressman ZABLOCKI, who was the primary author of the War Powers Act, has declared this to be unacceptable. I want to join my colleague and urge the executive branch to comply with the law. I also want to share with my colleagues of the House a copy of the letter which Chairman ZABLOCKI has sent to the President. The text of the letter follows:

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 6, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of State informed me this morning of your willingness in principle to provide U.S. troops to a multinational force in Beirut in order to insure the orderly departure of the Palestine Liberation Organization from the city.

While I applaud your intent to fully comply with the War Powers Resolution, I am disturbed to learn that you may file a report pursuant to section 4(a)(2) of the Resolution rather than section 4(a)(1).

Any common-sense assessment of the situation in Lebanon must conclude that, if the United States agrees to participate in this multinational force, it would be introducing its armed forces into hostilities or into a situation where imminent involvement in hostilities is clearly indicated by the circumstances.

Thousands of lives have already been lost since Israel entered Labanon on June 4. Several cities have been destroyed and countless ceasefires have been broken. The city of Beirut is presently under siege. These conditions clearly meet the section 4(a)(1) test for reporting under the War Powers Resolution should U.S. troops be sent to Beirut.

I trust that you, Mr. President, will report under section 4(a)(1) if the plan to send U.S. troops to Beirut is implemented. A report under section 4(a)(2) would not constitute full compliance with the War Powers Resolution in these circumstances. Rather, it could only be interpreted as an attempt to avoid capriciously the subsequent requirements of section 5 of the War Powers Resolution. Such an action would have incalculable effects on executive-legislative relations on a variety of foreign policy issues.

With best wishes, I am

Sincerely yours,

CLEMENT J. ZABLOCKI,
Chairman.

1. WAR POWERS

a. War Powers Resolution

Public Law 93-148 [H.J. Res. 542], 87 Stat. 555, 50 U.S.C. 1541-1548, passed over President's veto November 7, 1973

Joint Resolution concerning the war powers of Congress and the President.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This joint resolution may be cited as the "War Powers Resolution".

PURPOSE AND POLICY

Sec. 2. (a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

CONSULTATION

Sec. 3. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

REPORTING

Sec. 4. (a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace of waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

CONGRESSIONAL ACTION

Sec. 5. (a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Notwithstanding subsection (b), at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.

CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL

Sec. 6. (a) Any joint resoluton or bill introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determined by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise detemine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the

sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respectives Houses in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

Sec. 7. (a) Any concurrent resolution introduced pursuant to section 5(c) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

INTERPRETATION OF JOINT RESOLUTION

Sec. 8. (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this joint resolution and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term "introduction of United States Armed Forces" includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEPARABILITY CLAUSE

Sec. 9. If any provision of this joint resolution or the application thereof to any person or circumstances is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

Sec. 10. This joint resolution shall take effect on the date of its enactment.●

HAVANA'S DRUG SMUGGLING CONNECTION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. McDONALD. Mr. Speaker, there are those here in the Congress who feel that Fidel Castro is misunderstood and that we can wean him away from Moscow. They feel that if we only restored relations with Fidel that all animosity would disappear—that he is not really a dedicated Communist. If all the above is true, and I do not believe so for a minute—what do the proponents say now with the Reader's Digest of July 1982, revealing proof of Castro's involvement in the drug smuggling to the United States? I commend the article to the attention of my colleagues.

HAVANA'S DRUG SMUGGLING CONNECTION

(U.S. intelligence received the first informant reports as early as 1975. Scattered, largely unsubstantiated, they were greeted with skepticism. But by the fall of 1981 the proof was undeniable: in return for massive payoffs, Fidel Castro was providing the protection of Cuba ports and territorial waters to major drug smugglers shuttling between Latin America and the southeastern United States.

(Since then, intelligence reports from federal and state law-enforcement agencies have revealed that the smuggling has pumped millions of dollars into Cuba's cash-starved economy. Additional millions have been transferred to Cuban-backed guerrilla movements throughout Latin America. Finally, Castro has used the channels of the drug traffic as a pipeline through which hundreds of tons of weapons and supplies have been funneled to Marxist insurgents in Colombia, El Salvador and Guatemala, among others.

(Here—compiled form law-enforcement and intelligence sources of three nations—is the full story.)

(By Nathan M. Adams)

At 3 a.m. on July 21, 1981, Benedicto [1] maneuvered his 60-foot boat through the shoals of the Great Bahama Bank, 17 miles off Cuba's north coast. His radar registered the hundreds of sand bars and tiny cays scattered before him like pearls from a broken necklace. During his five-hour trip from Key West, Benedicto had kept his eyes glued to the screen, searching for that single blip which could represent a U.S. Coast Guard cutter. There was none, and he breathed easier.

Benedicto was a marijuana smuggler, considered one of the best by his Colombian employers. Over the past several years, he had made numerous voyages between Colombia's La Guajira Peninsula and the coastal waters of southern Florida. But this was the first time that he had been directed to pick up a shipment in Cuba.

Shortly before dawn Benedicto and his associate, who skippered a companion vessel, caught sight of the sweeping beam of the lighthouse on Cayo Paredón Grande, a kidney-shaped cay well inside Cuban territorial waters. Using a predetermined frequency, Benedicto spoke several code words into the ship-to-shore telephone. Twenty minutes later, he say the Russian-made gunboat nosing through the swells toward him.

The gunboat guided the two vessels to a "mothership," a huge trawler that had left Colombia a week earlier with 56 tons of marijuana. At daybreak, two members of the Cuban intelligence service, the DGI, began supervising the transfer of the cargo to the small boats. When they broke for lunch, the two intelligence officers asked Benedicto to purchase some items for them in Miami—closed-circuit-video security systems, U.S.-manufactured pistols, MAC-10 submachine guns.

The cargo transfer continued. At sunset the two small boats, each loaded with about a ton of marijuana, were ready for the return voyage to Key West. Provided with Cuban flags that would be discarded just outside U.S. waters, running without lights, and shepherded for much of the journey by a Cuban gunboat, Benedicto had an uneventful journey.

Over the next three months, Benedicto completed two more voyages to Cayo Paredón Grande. But early last November he was arrested by government authorities for marijuana smuggling after having been

[1] Not his real name.

picked up by the Florida Marine Patrol. Facing a lengthy prison term, Benedicto cooperated, providing the Florida Department of Law Enforcement and other agencies with full details of his Cuban involvement.

BUSINESS EXPENSE

Until the mid-1970s, Colombian smugglers shipped millions of tons of marijuana and cocaine to the United States without the aid of the Cuban government. To reach the coasts of southern Florida—and their rendezvous with the small "feeder" boats that shuttle the cargo ashore-Colombian motherships usually sailed through the Windward Passage, a narrow strait between the eastern tip of Cuba and Haiti. The smallest error in navigation, however, could place a vessel within Cuban waters, where it would be seized, its cargo of drugs confiscated, and crew imprisoned.

Smuggler losses to Cuban patrol boats began to amount alarmingly. Then, in late 1975, some of Colombia's largest drug smugglers met secretly in Bogotá with Cuban Ambassador Fernando Ravelo-Renedo to negotiate a release of their ships and crews. Ravelo-Renedo responded with Havana's counteroffer. In return for payments of up to $800,000 per vessel, the ambassador said, Cuba was prepared not only to ignore motherships detected in its waters, but to provide refueling and repair services in its ports. Upon leaving port, the vessels would be provided Cuban flags and gunboat escorts to the feeder boats out of the Florida Keys.

It was an offer the smugglers could not refuse. Even a modest 25-ton marijuana shipment could bring its owners as much as $12 million when offloaded to American importers. Thus, $800,000 was simply a business expense. For Havana, the arrangement provided cash for Marxist insurgencies under way in Nicaragua, El Salvador and Guatemala. And the smugglers who carried drugs north could ferry supplies and weapons for guerrilla forces on their trips back.

TRUE PICTURE

One of Havana's lucrative clients was Alfonso Cotes, a member of one of Colombia's most politically powerful smuggling families. Another was Alfonso Garcia, the owner of several large Colombian motherships plying Cuban waters. Cuban agents also established contacts with at least three major drug smugglers based in Miami, including Juan Lozano "Johnny Crump" Peréz, a Colombian marijuana trafficker and convicted cocaine dealer.

But the most important of Havana's drug-smuggler clients was Jaime Guillot-Lara, also a Colombian. The Drug Enforcement Administration (DEA) had been watching him since 1975 and estimated that in the late '70s he was delivering over 400,000 pounds of marijuana, more than 20 million illicit methaqualone pills and thousands of pounds of cocaine to U.S. markets each year. Meanwhile, he had acquired partial or outright ownership of nearly a half-dozen motherships.

A relative latecomer to the Cuban connection, Guillot-Lara was not introduced to Ambassador Ravelo-Renedo until the spring of 1980. Meeting at the Cuba embassy in Bogotá, Guillot-Lara and the ambassador quickly came to terms. In return for $200,000 for each ten-ton marijuana shipment, Guillot-Lara would receive transit protection in Cuban waters. The tax was less than that levied on other traffickers because Guillot-Lara supported the budding M-19 terrorist movement in Colombia.

After transferring marijuana and cocaine cargoes in Cuba, Guillot-Lara agreed to carry arms to the M-19 insurgents. Over the next year, he met with Ravelo-Renedo or his associates in Bogotá and in Panama and Mexico to arrange arms deliveries to Colombia as well as drug transfers in Cuba. Meanwhile, in Havana, one of the most powerful officials in the Castro government was in charge of coordinating the smuggling activities of Guillot-Lara and other major Colombian traffickers. He was Rene Rodriguez Cruz, a ranking member of the elite Central Committee of the Communist Party as well as nearly half a dozen other organizations, and president of the powerful Cuban Institute of Friendship with the People—often used as a cover for DGI intelligence activities.

In March 1981, however, Castro's Colombian activities were upset when local authorities seized a cache of M-19 weapons. Arrested guerrillas implicated the Cuban embassy as an M-19 recruitment center, leading Colombia to break off diplomatic relations with Havana and expel Ambassador Ravelo-Renedo and his staff. The rupture proved only an inconvenience to Guillot-Lara and his Havana controllers. In succeeding months, two of Guillot-Lara's ships, the *Karina* and *Monarca* (renamed the *Zar*), delivered 200 tons of supplies and munitions to M-19 revolutionaries on Colombia's Pacific coast.

On November 7, Colombian patrol boats spotted the *Karina* offloading another arms shipment on the Pacific coast. The ship was sunk and all but four crewman perished. When he heard the news, Guillot-Lara fled to Cuba and then to Nicaragua.

Intelligence sources report that he met there with Cuban Armed Forces Minister Raul Castro, Fidel's brother. Guillot-Lara was instructed to travel to Mexico City, where the Cuban embassy provided a $500,000 payment for an earlier arms shipment. The remainder of the money—a $1-million letter of credit—was to be delivered by Cuban couriers for a future shipment.

But Guillot-Lara did not have the chance to close the deal. On November 23 he was tipped off that he was being followed by Mexican police. Panicked, he phoned the Cuban embassy for help. Later that night he was met by two Cuban military attachés who provided him with false documents. They drove him to the Nicaraguan embassy where he was given $700,000 to cover bribes and other expenses involved in fleeing to France. But on November 25, he was arrested by Mexican authorities and charged with the possession of false documents.

Desperately, Cuban representatives tried to obtain Guillot-Lara's release before he could tell interrogators what he knew. They approached the Mexican government four times, but to no avail. Jaime Guillot-Lara was talking his head off. And U.S. law-enforcement and intelligence agencies had their first picture of the full extent of Cuba's use of the narcotics traffic.

On January 8, Guillot-Lara was indicted by a federal grand jury in Miami for conspiracy to smuggle marijuana. A week later, his Miami associate in drugs and arms, Johnny Crump, was also indicted on smuggling charges. In April 1982 Crump was given a 25-year suspended sentence with a six-year probation. The reason—Crump has been cooperating with federal authorities.

But Guillot-Lara's fate is far from sealed. Despite a U.S. extradition request and the overwhelming evidence of his guilt, including his own admissions, U.S. officials are not optimistic that he will be returned to the United States for trial.

Even as these events took place Cuban officials, after holding talks with the Carter Administration in 1978 and 1979, agreed to take action against drug smugglers passing through or near their waters.[2]

MORE PROOF

In Miami DEA and state and local law-enforcement agencies continue to unravel the ties between Havana and major drug rings. In addition to Guillot-Lara and Crump, they have documented two other key international traffickers:

José Medaro Alveo-Cruz. A 42-year-old marijuana and cocaine smuggler, Alvero-Cruz ships an estimated 200,000 pounds of drugs into the United States each year via Cuban waters. His relationship with Havana dates back at least to November 1976 when he traveled to Spain and obtained a Cuban passport—No. 247—from the Cuban embassy in Madrid.

He has been seen meeting with Raul Castro at least four times in the past three years. In 1978 he was instrumental in arranging the shipment of 5000 weapons to Sandinista guerrillas in Nicaragua.

In September 1979 Alvero-Cruz was arrested by DEA agents in Miami for delivering more than 20 pounds of cocaine during an undercover operation. When witnesses refused to testify—they had been threatened with death—the charges were dropped. But Alvero-Cruz was convicted on tax charges and is currently appealing a ten-year prison sentence. DEA agents expect him to try to flee to Havana.

Osiris Santis. A 39-year-old Cuban native, Santis boasts the aliases of *El Animal* and *El Asesino.* Suspected of having committed at least one Miami murder and ordering several others, he is also a drug smuggler whose vessels receive the protection of Cuban ports. He is suspected of arranging the purchase and delivery of weapons to El Salvador guerrillas. According to intelligence sources, Santis purchases drugs directly from Havana's middle-men who act as agents for Columbia's M-19 terrorist faction. The movement is said to control several key cocaine laboratories in Colombia—as well as sizable marijuana shipments from La Guajira. The profits are then plowed back for operating expenses.

What, if anything, can be done to sever the Havana connection? One welcome development is the stepped-up activity of the President's Task Force on Crime in Southern Florida, Under the command of Vice President George Bush, over 200 agents from DEA and Customs—and five additional U.S. Coast Guard cutters—have been sent to southern Florida in an attempt to stem the flow of illicit drugs and arms. The effort has already established proof of continuing links between Cuba and the drug traffic. But the Task Force cannot accomplish the enormous task of severing the Havana connection alone. It is time for our State Department to apply pressure on Mexico and Colombia to assist us. And the time has long since passed for the Departments of State and Justice to make available to the American public the truth about Castro's involvement in the multi-billion-dollar drug trade.●

[2] In April 1982 the Miami *Herald* reported that Cuba had renounced the agreement.

SCHOOL SAFETY PATROLS HONORED

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. LEHMAN. Mr. Speaker, on July 28, the American Automobile Association will present seven very deserving young people with the highest award given to members of school safety patrols throughout the United States: the AAA School Safety Patrol Lifesaving Medal.

The seven recipients, credited with having saved a life while on duty at their school patrol posts, will be honored at special ceremonies during AAA day at the World's Fair in Knoxville, Tenn.

I am very pleased to have this opportunity to recognize and commend Miss Lajuana M. Gamble, one of the recipients of the 1982 award, who resides in my district. Lajuana is a 12-year-old student at Hisbiscus Elementary School.

Lajuana, while on duty one morning, prevented a 9-year-old from being seriously injured. She grabbed the rear of the youngster's bicycle seat and pulled the rider to a sudden stop as his bicycle, which had no brakes, headed onto a heavily traveled roadway.

We are all most proud of Lajuana, as well as the other award winners, and delight in recognizing their exceptional judgment and courage.●

WELCOME TO OUR NEWLY NATURALIZED AMERICANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the Orange, Rockland, and Ulster County residents of New York's 26th Congressional District who have recently chosen to become citizens of the United States, with all of the privileges, freedoms, and responsibilities that American citizenship entails.

Our Hudson Valley region in New York State is proud of its newest citizens, and I invite my colleagues to join in welcoming the following newly naturalized Americans and extending to them our best wishes for a happy and prosperous life in their new homeland:

Alicia Kayas Arguelles, Souad Battista, Sabine Jungwirt Bridges, Delmy Marlene Brooks, Nea Chun Chin, Nea Sum Chin, Cathy He-En Choi, Linda Kyung Choi, Elza Hyun Choi, Joseph Sung Choi, Young Ok Commins, Christine Elias, Mariam Falkowitz, Magda Chavez Ferrante.

Petros Foundas, Michele Friscia, Mitchell Scott Geis, Gilippo Greco, Marguerita Zileff Herman, Abraham Hershowitz, Cornelia Hoerstgen, Valentino Iandiorio, Gilberto Irias, Chana Kaufman, Feigy Kaufman, Itamar Tuvia Kaufman, Venkatarathnam Kolla.

Dominique Lattinelli, Angela Yuan Leclair, Janet Lim, Jacqueline Martinez, Graciela Solari McCormack, Sean McElgunn, Kenneth McGinty, Miriam Matilde Medellin, Pessie Chava Melamed, Kum Ye Menard, Gourthartaj Kesh Mirian, Ursula Monika Morasse, Gerald Andre Paul, Vasant Maganlal Prajapati.

Robert Prati, Mahlubi Barney Qhobosheane, Constance Olive Reilly, Cynthia Rosalba, Assunta Tramma Rossi, Maura Rostran, Alejandro David Samson, Mostafa Shahroozi, Moshe Steinmetz, Shaindel Steinmetz, Eduardo Alfredo Toranzo, Ricardo Valdebenito, Olga Marina Velez.●

RETIRING PRINCIPAL HONORED

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. MILLER of California. Mr. Speaker, an outstanding principal will retire from the Richmond Unified School District this summer and I want to take this opportunity to salute her.

Mary McVittie is completing 39 years of dedicated service with Richmond Unified Schools. This includes teaching English, history, public speaking, and economics at El Cerrito High School for 8 years. She became vice principal at Roosevelt Junior High, now Gompers. Later she served as vice principal at De Anza High School for 4 years and went to Adams Junior High in 1959 as their vice principal and for the last 4 years as their principal.

Our community is most grateful for Ms. McVittie's consistent love for the children. She held high standards for her students and treated them with respect. She has been an inspiring educator and we will enjoy the benefits of her outstanding service for many years to come. Mr. Speaker, I know that you and my other colleagues join with me in saluting and commending Mary McVittie and wish her the best for a long, well-deserved retirement.●

NUCLEAR ARMS DEBATE INTERNATIONAL PROBLEM THAT DEMANDS INTERNATIONAL SOLUTION

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. HOPKINS. Mr. Speaker, during the July 4 district work period, my thoughts on the nuclear arms race were published in the Louisville Courier-Journal and Times, the Woodford Sun, and other newspapers. Critical issues face us in the coming days and weeks; we have entered into arms reduction talks with the Soviet Union, and we will soon likely be debating the merits of a nuclear freeze here in the House of Representatives. Accordingly, I would like to share my published thoughts on an international problem that demands an international solution.

The nuclear arms debate has, to date, focused upon the United States and the Soviet Union, with resolution of nuclear inequalities and proliferations heaped solely upon their shoulders.

I would like to suggest that the nuclear debate not be exclusive to these two superpowers, albeit they are the unquestionable harbingers of golbal nuclear policy. In addition to these circumscribed talks, I propose an intensive, issue-oriented World Congress on Nuclear Disarmament within the existing framework of the United Nations, where all sovereign nations deliberate the polestars of comprehensive, international nuclear policies.

Resolution of nuclear differences between the United States and the Soviet Union will hardly address or solve the instabilities among and between nations which have, or hope to have, nuclear weaponry's devastating potential. The United States and the Soviets, alone or together, cannot—and should not—define nuclear parameters to the satifaction of all nations. Even if a palatable solution for the superpowers were negotiated, it would be unreasonable and unrealistic to believe the nuclear insanity which grips our globe had ceased.

There are too many hair-trigger renegades yet to realize power, too many volatile upheavals yet to materialize, too many unknowns in almost every corner of the world—too many, over and above our present international uncertainties. (Reference: the abrupt eruption of Great Britain versus Argentina, two fine countries which shouldn't be fighing, with not an ideological bone to be picked between them).

Leaders can be unpredictable and irrational, as history has shown us. Though the superpowers have safeguards against irrational and unprovoked assault, there are nuclear-developing junior powers which have yet to install these fail safe mechanisms, and with more nations achieving nuclear capabilities and delivery, the world is growing less secure almost with each passing hour.

The clock ticks on the time bomb of our making.

This is not an issue restricted to the 1980s or 1990s, but one which has far-reaching ramifications. The time to focus on these long-term effects, with respect to nuclear's polemic international policies, is now. It is time to acknowledge nuclear arms as a global issue; all countries and their peoples have a stake in its unified resolution. Further, by recognizing that all nations, from the outset, will be regarded as equals in the debate, the international community will be stepping forward into an arena never before entered.

Recently, the United Nations became the stage for a massive anti-nuclear demonstration, illuminating the belief the United Nations is the proper forum to consign this global issue. It is not an accident that nuclear protestors chose the United Nations to focus their collective fears and concerns. The United Nations, as the international mediating body, is charged with solving crises among nations. Certainly, in recent

years, the United Nations has been ineffectual, but that in no way diminishes its responsibility. Its importance, regardless of recent successes or failures, has not escaped the masses who wish to express their antinuclear views. I, too, believe the United Nations, where protocol and logistics are well established, is the correct tribunal.

I have written Ambassador Jeanne J. Kirkpatrick, expressing my belief that it would be gainful to place the World Congress on Nuclear Disarmament on the agendas of the General Assembly and the Security Council for inceptive perusal. I have also written the President and the Secretary of State, asking Administration support. Certainly, any initiative by Ambassador Kirkpatrick would be buttressed by the official favor of the Administration.

If I were in control of the blueprint for the World Congress on Nuclear Disarmament, I would propose—simply, plainly, directly—an immediate nuclear disarmament. No ifs, ands or buts. That would be my starting point. Each nation's spokesman would answer the international call for the reduction and the ultimate elimination of the world's stockpiles of nuclear arms and they would forbid their reintroduction. Such agreement could be enforced by verification and regular inspections and, if necessary, imposition of worldwide trade embargoes and sanctions on dissenting countries.

Nations acting separately cannot solve this most international concern of all—survivability of the world. No nation is immune from the threat of nuclear madness; all nations must be a part of the solution.

As a member of the Armed Services Committee, I have attended many classified briefings and I am convinced we are on the brink of nuclear insanity. It is time to end this ultimate madness and bring the nuclear nations to their senses.

Two recent developments argue that this is an opportune time to press for a comprehensive, worldwide crusade against nuclear arms. The nuclear arms reduction negotiations by the President and the not entirely negative response by the Soviet Union lend hope that meaningful discussions can begin. And, there is the growing awareness of the dangers of nuclear weapons as generated by the anti-nuclear movement. My mail, as well as that of my colleagues, reflects the increasing concern among constituents of all ages and backgrounds.

I leave the intricacies of refinement to those experts in international semantics and agendizing. Still, it is with a fervent hope that my suggestion—that the international nuclear arms crisis be recognized, addressed, debated and solved by the international community—is heeded, before the hours and days tick off, before it is too late and the crisis is uncontrollable.

Just as the decision of the seven major Western industrial democracies to try aligning their national economic policies more closely in the future has been hailed as "the most important accomplishment of this year's Western economic summit meeting," so a similar agreement, with regard to nuclear arms control, should be examined.

I believe the United Nations should solemnly and earnestly accept its charged responsibility and unite the nations with a resolution to end the nuclear insanity.●

REPROCESSING—A NECESSITY FOR MEANINGFUL ARMS CONTROL

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mrs. BOUQUARD. Mr. Speaker, on May 20, 1982, I warned my colleagues that proposals to totally freeze production of plutonium could halt the pursuit of the development of safe, reliable, and economic advanced nuclear technologies. I also pointed out that the best way to reduce the plutonium proliferation threat is to "burn" it up to produce electricity.

Simon Ramo, a director of TRW, Inc. and chairman of TRW-Fujitsu Co. recently pointed out the usefulness of this concept to meaningful arms control efforts in a recent article in Business Week. I urge my colleagues to consider his innovative approach to achieve both arms reduction and verification simultaneously.

A PLAN TO VERIFY NUCLEAR-ARMS REDUCTION

(By Simon Ramo)

Large-scale nuclear-weapons reduction by the U.S. and the Soviet Union will take place when two conditions are met. The first is that the leaderships in both countries reach a complete conviction that a nuclear war cannot be won. Starting one with the aim of winning is an idea whose time, if it ever came, has now passed. The second condition is that means must exist for satisfying each nation that the other has complied with the agreed reduction without requiring on-site inspections of either country by the other.

If these two conditions were to become realities, disarmament negotiations would be greatly accelerated. The two nations would gradually come to realize that nuclear-related exenditures, reaching hundreds of billions of dollars during the next decade, endanger the success of the battle each is waging to cure grave economic ills and that the perils of mutual ruination from a nuclear war has become unacceptable.

Soviet Chairman Leonid I. Brezhnev has made emphatic public statements that a limited nuclear war is not possible because the inevitable escalation would lead to the destruction of both societies. The Soviet Union, he vows, will not make a first strike. If the Soviet Union really has accepted these ideas, it should be willing to negotiate real nuclear-weapons reduction as soon as we propose a way to meet the second requisite—assurance that each side is complying with reduction agreements. But if the Soviets' true views and plans are quite different, we cannot succeed in arranging steps for mutual disarmament. We will learn their real purposes only by entering into negotiations.

When both nations show that they are resolute in their willingness to retaliate against a nuclear attack, and are perceived to possess the means to do so even after being struck first, one mandatory condition is met. Only one role for a nuclear-arms force would remain: to deter each side from ever employing its nuclear weapons.

But how can the two nations reduce their nuclear weapons with unquestioned verification—yet without on-site inspection? The solution is found by solving another problem, the one the nations would take on when they dismantle nuclear warheads: What should be done with the dangerous, costly nuclear waste? Bury it in the sea? Let it pile up, at great risk? The answer is to transform the nasty negative into a useful positive: The bomb materials should be converted to fuel for nuclear electric-power generators.

Both nations know that each is capable of judging with sufficient accuracy the bomb stockpile of the other and the amount of nuclear material it contains. Suppose that, with neither side disclosing its inventory totals, each commits itself to bringing a weight of fissionable material corresponding to substantial arms reduction to a reprocessing facility, where it would be put into a form ready to produce electricity in a reactor. Published estimates of the total warhead stockpile indicate that enough fuel is contained in half of it to generate electric power for well over a decade at a level much greater than that of the largest existing power plant.

Nuclear materials delivered to the controlled reception site obviously could not at the same time remain in a nation's bomb aresenal. With elegant simplicity, arms reduction and verification would occur simultaneously.

What if, after the agreement, one of the countries secretly embarks on a rapid replacement of the contributed bomb materials? With a substantial fraction of the crucial innards of the current bomb inventory given up to the conversion facilities, high production rates would be needed. The scale of such cheating would disclose the operation to the other side through off-site monitoring.

Negotiations would fail if one side found the quantity of materials proposed for delivery by the other unacceptable. The U.S., for example, might offer a certain weight of plutonium or U-235, claiming that it was equivalent to a large reduction of our inventory yet disclosing no information about our total bomb yield or the relation of yield to weight. The Soviets might propose a more modest contribution, perhaps arguing that they have a smaller stockpile than we do or implying that their warhead designs produce high yields with relatively little critical matter. It is likely, in such a case, that scientific fundamentals, which know no national boundaries, would exert the dominant influence. Neither nation would expect to bamboozle the experts of the other.

Would the reduction of fissionable material necessarily limit the effectiveness of overall nuclear-weapons systems? As missile-guidance accuracy increases, as bomb designs are further advanced, and as the remaining nuclear materials are spread over more warheads and missiles, a reduced total of fissionable materials need not mean decreased potential for destruction and less peril. Admittedly, we cannot halt advances in science and technology by arms-reduction agreements. What we can and should do is mount a determined nuclear-arms-reduction effort to combat the strong trend toward more powerful, accurate weapons—a trend that is realistic to expect.

Complications exist that impose limitations on what the nuclear-reduction program I have described might accomplish in the short term. Most important, the dangers and negotiating difficulties surrounding the

issue of tactical nuclear weapons stationed in Europe are very real. But none of these complications would be made worse by this approach.

Such a program, in fact, would do more than lower the probability of nuclear exchanges between the two superpowers. It would improve the overall world arms-control environment.●

THE PLO AS AN OCCUPYING POWER

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. ROSENTHAL. Mr. Speaker, in a column in the June 25, 1982 edition of the Washington Post, Roland Evans and Robert Novak report on conditions suffered by the Lebanese at the hands of PLO guerrillas before the Israeli operation took place. The writers, who have in the past been critical of Prime Minister Begin's policies leave no doubt that the proper course to pursue in Lebanon is the withdrawal of all foreign troops—Syrian, PLO, and Israeli—so that the Lebanese can once again renew their peaceful lives and tranquil coexistence with their neighbors.

Regardless of one's views toward the Israeli action in Lebanon, we cannot allow ourselves to mythologize the PLO. The reports from Lebanon documenting the continuing violence in the region have conspicuously ignored the conditions that existed for the past 6 years since the PLO invaded Lebanese territory. The taking of civilian lives can never be condoned. Not when its done by the Palestinians. Not when its done by the Israelis. However, the killings must never be used as an excuse to promote or legitimize a terrorist organization such as the PLO. To do so is to ignore the historical context of the Mideast turmoil.

The column follows:

[From the Washington Post, June 25, 1982]

(By Rowland Evans and Robert Novak)

THE PLO AS AN OCCUPYING POWER

SIDON, LEBANON.—Israel's accusation that the PLO was a rogue elephant whose arms and swagger created resentment and fear in Lebanon's largest cities was no fabrication.

That becomes clearer as the initial shock of the Israeli invasion dissipates and the Lebanese, picking up the threads of life, start talking.

The PLO was born out of Israel's statehood in Palestine and its later occupation of the West Bank and Gaza, creating generations of refugees. Once incorruptible, its extraordinary success in accumulating arms and money despite political failure to retrieve part of its land has made the PLO itself an occupying power—a power without responsibility.

The ambition of the PLO—Palestinian self-determination on the West Bank—remains an exemplary cause that President Reagan may soon decide needs redemption. But the PLO's methods of attaining it in Lebanese cities we visited up to Beirut tend to support Israel's claim that the PLO has become permeated by thugs and adventurers.

"The worst elements in the PLO took over from the best," a Christian Lebanese surgeon told us in Sidon. A whiff of decaying flesh was in the air from bodies rotting under tons of debris bulldozed off the main streets.

We encountered the surgeon by chance. We asked him how the people of Sidon like the Israel invaders. His answer: "If you want to know, come to my farm and see."

The farm, on a strategic hilltop overlooking the harbor, had been taken over without negotiation, compensation or advance notice by local PLO commanders in 1974. The house was littered with the refuse of six years—filthy uniforms, broken chairs, slogans on the walls. That was the least of it. Two small barns were packed with munitions, guns, dynamite, detonators, even made-in-America helmets still in their crates.

Hidden in the orchard were two heavy artillery pieces. In a shed in the pigpen were dozens of unopened cartons of hand grenades. The wreckage of 12 automobiles, said by the surgeon-farmer to have been "requisitioned" by the PLO down in the city, littered the front yard.

"You ask how do we like the Israelis" the doctor said. "Now you can see. Compared to the hell we have had in Lebanon, the Israelis are brothers."

While the PLO occupied and ravaged his farm, the surgeon-farmer lived in a small downtown apartment. But for the 60,000 Lebanese in Sidon (a population that had swelled with 240,000 Palestinian refugees by the time the Israeli army arrived), surviving the PLO was another kind of hell.

A young teacher told us about it. A Shi'ite Moslem, she had lost an uncle killed in the Israeli invasion. Her brother was being held by the Israelis. That would seem to be reason for anger, but there was none. "We have not been able to keep our schools open," she told us. The PLO toughs made classrooms too dangerous. Girls were molested. Schools shut down.

With her were three other young Lebanese: a Maronite Christian, a Shi'ite Moslem and a Sunni Moslem. Each in turn told a similar story: an apartment taken over by the PLO, cars stolen, thievery in town up by a recorded 5,000 percent, vineyards and orchards ruined.

Israeli soldiers were conspicuous everywhere in Tyre and Sidon on our June 22 visit. They represented a totality of military power inconceivable to the only people contiguous to the Jewish state never—until June 6—invaded by the might of Israel.

Yet, in the two cities of Tyre and Sidon, there is reason to take seriously the Israeli estimate of Lebanese casualties: a total of 250 killed and less than 1,000 wounded.

Perhaps those low casualties had some impact on the Lebanese when the shooting stopped. Perhaps the final outcome in Beirut will change opinions even here. But that seemed unlikely.

More probable in the aftermath of the Lebanese invasion is this: The PLO is justly accused of a grave disservice to the people who took it in here and to the people it represents. To itself, the disservice is greatest of all.●

WHAT IS DRIVING THE BOEING CO.?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. McDONALD. Mr. Speaker, I think we should ask ourselves why the Boeing Co. is trying to overturn the C-5 military airlift aircraft decision which was made by the Department of Defense, unanimously supported by the military services, and approved by the Armed Services Committee. The simple truth is that commercial jetliner sales are off substantially. The article in the July 6 Christian Science Monitor states Boeing's profits are falling and its debt structure is rising rapidly.

Let us look at the facts as presented in the article. Boeing has 14 new and used 747 jetliners in its inventory. Boeing cannot sell them in today's economic climate. The 747 airliner is a glut on the market today. Therefore, Boeing wants to sell them to the taxpayer at twice, yes, at two times, the original price paid for them in the late 1960's. Boeing's "cash cow," the 727 jetliner, is being produced at a rate of 2 aircraft per month, down from 10 per month. The new 757 and 767 jetliner's development costs are staggering and the airlines are canceling or deferring delivery of them.

Simply stated, Mr. Speaker, Boeing has been riding the crest for a long item. Now it is encountering some ruts in the road. We must remind ourselves that we are discussing the defense posture of our Nation here today—not the balance sheet and sales forecast of the Boeing Co. We can ill-afford to substitute unwanted commercial airliners for military airlifters, or K-cars for armored personnel carriers. The bottom line is that the 747 airliner cannot do the job at any price and we should support the decision to procure C-5B aircraft to improve the immediate airlift shortfall that exists.

The article follows:

BOEING BUCKS COMMERCIAL-JET TAILSPIN

(By Norman Sklarewitz)

RENTON, WASH.—Inside the vast expanse of Building 4-82 on the shore of Lake Washington is a rare sight in American industry today—an active commercial airplane production line. Here in various stages of assembly, are twelve 737 jetliners. Next door, in Building 4-81, are five of Boeing Company's new short-to-medium-range twin-jet 757's.

Some 40 miles to the north, at Everett, Wash., the scene repeats itself as Boeing's other new entry into the international airplane market, the 767 wide-body twin jet, is in production. That plane is already completing its test flights and first deliveries will begin in August, to United Airlines.

The flurry of activity here is unusual because orders from the commercial airline industry have gone into a tailspin. Airlines, es-

pecially in this country, are suffering from a decline in passenger volume, skyrocketing fuel and operating costs, and ruthless price cutting. Many carriers are delaying replacing older, inefficient planes as long as possible.

Adding to Boeing's difficulty in selling new planes is something of a glut of used and even new aircraft already on the market. In all, fourteen 747's, most of them good as new, are available for immediate delivery to anyone in the market for a jumbo jet. Most of the jets were ordered by airline carriers which, at this time, can't afford to fly them.

Although suffering from declining profits, Boeing seems to be playing the game better than some aircraft builders.

For example, the Lockheed Corporation in Burbank, Calif., is ending production of its L-1011 wide-body jetliner when current orders are filled. There are only 14 of them and delivery is expected by late next year; then Lockheed's long association with the commercial aircraft industry will end.

Things are not too bright over in Long Beach, Calif., either, where the Douglas Aircraft Company turns out its DC-9's and 10's. Only three DC-10's are on production line now, with one more on order. There are 23 firm orders for DC-9's.

By comparison, Boeing has orders for 547 planes of all models. At the end of the first 1982 quarter, these civilian transport orders were valued at $16.5 billion.

Commercial aircraft sales generally account for some 85 percent of Boeing's total revenues. For the three months ended March 31, the Boeing Company reported sales of $2 billion and profits of $61 million, compared with year before results of $2.4 billion in sales and $144 million in profits.

Boeing's chairman, T. A. Wilson, says the drop in profits was due, "primarily to significantly lower commercial jet transport deliveries; a continued high level of research, developmental, and engineering expenses related to new jet transport programs; and lower interest income."

For 1981 the Boeing Company reported sales of $9.7 billion and profits of $473 million compared with year before sales of $9.4 billion and profits of $600.5 million.

In addition to its commercial plane division, Boeing has its military airplane division in Wichita, which is responsible for a B-52 bomber updating program and other military programs. The Boeing Aerospace Company in Kent, Wash., turns out the new air-launched cruise missile and is awaiting final go-ahead for five AWACS (airborne warning and control system) and six 707 tanker-cargo planes for the government of Saudi Arabia.

Boeing's future economic health is tied, however, to the three new aircraft—the 757, the 767, and the 737-300 short-range jetliner. More than half of all Boeing's new plane orders are represented by that lineup. To develop the three the company has invested between $3 billion and $4 billion.

Richard W. Welch, president of the Boeing Commercial Airplane Company division, calls that a "fantastic" investment which is, without question the largest in the history of American aviation.

"It's long been a characteristic of our industry to undertake tremendous gambles," Mr. Welch admits. The spending is a "risk" he says, but "Boeing is extremely happy with the response by airlines to its new products."

Initial optimism over carrier acceptance of the two completely new jetliners has, however, been dampened. Boeing was rocked earlier this year when American Airlines canceled its $600 million order for 15 of the 757's in the face of the depressed economy. And United Airlines had planned to spend $1.6 billion for 39 of the 767s. But United says it will delay or possibly even cancel its plan for twenty 767s.

Air Canada says that it is going ahead with delivery of the first of its 12 orders for 767s but that it will delay its decision to acquire 18 more of the planes at least until Sept. 15.

Such reverses have taken their toll at Boeing. The Boeing Commercial Airplane Company has 46,700 employees, down by some 4,000 within the last year as production of the famed 747 jet slowed from seven planes a month to an average of 2½ a month. Only two 727s are turned out a month now, compared with a dozen two years ago.

Foreign airlines have long bought a majority of Boeing's commercial planes, and the company still looks overseas for customers. But that market is clouded now. Blamed are policies of the Export-Import Bank which are becoming, in Boeing's view, too restrictive. This policy comes at a time when American planemakers face growing competition from Airbus Industrie, a consortium that includes the governments of France, West Germany, and the United Kingdom.

Airbus Industrie produces a twin-jet, wide-body jetliner called the Airbus A300 which competes head-on with Boeing's new 767 and, to some extent, the older 747. Boeing charges that the development and manufacture of the A300 has been subsidized with as much as $5 billion by the governments of the three cooperating countries. In testimony before the Senate Appropriations Committee subcommittee on foreign operations in mid-June, Boeing's president, Malcolm T. Stamper, called for Export-Import Bank policies to be corrected "so that the bank encourages—rather than discourages—the export of commercial jet airplanes."

For all of the problems Boeing faces, Richard Welsh, of the commercial airplane division remains optimistic. "We have, in the past, sustained substantially worse conditions," be says. "We do not believe that the airlines of the world are going to continue to operate obsolete equipment in the numbers they now are once traffic and the economy turn around.●

HOUSE JOINT RESOLUTION 494

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. STUDDS. Mr. Speaker, yesterday through an oversight, I neglected to formally add the names of several Members of Congress as cosponsors of House Joint Resolution 494, legislation the House will be considering today. As you know, House Joint Resolution 494 would retain a requirement that President Reagan certify to the Congress, in order to continue to provide military assistance to the Government of El Salvador, that that country has made a good faith effort to investigate the murders of the four American missionaries and two agrarian reform workers murdered in El Salvador a year and a half ago. I would like to correct the record at this point, and thank Congressman DORGAN, Congresswoman SCHROEDER, Congressman OBERSTAR, and Congressman FRANK for their strong support for this legislation, and would like to make the record clear that they have all joined me in cosponsoring this important legislation.●

JUSTICE SANDRA DAY O'CONNOR

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. COLLINS of Texas. Mr. Speaker, Supreme Court Justice Sandra Day O'Connor has already proven that President Reagan made an excellent choice when he appointed her to the Court last year. As the first woman to serve on the Supreme Court, Justice O'Connor has shown herself to be an able jurist and an advocate of sound legal principles.

Justice O'Connor had an excellent background for a Supreme Court Justice. She graduated magna cum laude from Stanford Law School and served for 8 years as an Arizona Superior Court judge and on the Arizona Court of Appeals before her appointment to the Supreme Court. In addition, Justice O'Connor served for 5 years in the Arizona State Senate where she gained first-hand experience in the legislative process. I believe that this experience was critical in making Justice O'Connor less likely to allow the Federal courts to overrule decisions made by State legislators.

In her first year on the Supreme Court, Justice O'Connor has proven to be a defender of the States' right to enact their own laws and punish criminals.

In the important case of Engel against Isaac, Justice O'Connor voted to limit the right of convicted criminals to appeal their convictions to Federal court after their appeals have already been denied by State appeals courts. She correctly stated in the majority opinion:

> Federal intrusions into state criminal trials frustrate both the states' sovereign power to punish offenders and their good faith attempts to honor constitutional rights.

In another recent case, Justice O'Connor sided with the majority in sustaining a 40-year prison sentence for a narcotics offender against liberal charges that the sentence was too severe. If we are to stop crime, the States must be allowed to punish criminals without undue Federal interference.

At the age of 51, Justice O'Connor can look forward to a long and produc-

tive career on the Court. President Reagan did an excellent job by appointing a brilliant judge who has the opportunity to serve many years on the Court. She thinks independently and her decisions consistently have logic.

After two decades of judicial decisions that gave more consideration to criminals than their victims and curtailed the rights of States, Justice Sandra O'Connor is a welcome addition to the Supreme Court. President Ronald Reagan's appointment of Justice O'Connor is proving its merit. Sandra O'Connor may well qualify as one of the greatest of the Justices who have served on our Nation's Supreme Court.

Let me quote from the current issue of U.S. News & World Report on Justice O'Connor.

Sandra Day O'Connor, a little-known Arizona judge when President Reagan appointed her to the Supreme Court a year ago, has wasted no time making her mark in Washington.

Ignoring the tradition that new Justices don't create waves, O'Connor during her first term wrote some strongly worded decisions—several of them aimed pointedly at senior Justices.

Some experts are surprised that O'Connor has so often parted company with the majority. Of the 34 opinions she has written, nine were dissents and 13 agreed with the majority but stated different reasons.

As a former state legislator and an ex-state judge, O'Connor's most significant long-term role may turn out to be as a defender of state powers. When the Court approved federal restraints on state utility regulators, she dissented, declaring: "State legislative and administrative bodies are not field offices of the national bureaucracy.

Here are some sound observations on Justice O'Connor as analyzed by the Congressional Quarterly:

It is clear that from her own experience as an assistant state attorney general, state legislator and state judge, she is more aware than any other justice of the difficulties faced by police, lawyers, judges and other state officials when they try to comply with confusing and unclear directives from the nation's highest court.

First, the justices were inclined to place more power and responsibility in the hands of state and local officials—and less in the federal government. And second, the court was disposed—even more than in the 1970s—to back the arguments of police, prosecutors and state judges and to reject those of defendants.

O'Connor's vote contributed to the strength of these trends. She quickly became a fully participating member of the court, and provided an articulate voice.●

A NEVADA JOB PROGRAM THAT WORKS AND WORKS WELL

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. SANTINI. Mr. Speaker, I would like to share the success story of a Nevada job training program called Center for Employment Training of Nevada (CET). As the ever-increasing shower of criticism toward Government programs is heard, it is good to stop and reflect upon one program which is working and working well.

CET of Nevada was incorporated in early 1976 to provide job training for unskilled and economically disadvantaged communities in Nevada. It now boasts a 65-percent placement rate.

In this multicultural training center students train in an environment which provides many of the same problems and requirements of a normal job. Students punch a time clock and are docked when absent, just as on a job.

From their first contact with CET, participants are encouraged to take charge of their own lives. They are accepted into training based on criteria of need rather then on qualifying tests, and no attempt is made to screen out persons with problems unless those problems would bar the individual from obtaining competitive employment in a particular skill.

CET's approach to skill training evolved from a pervasive community-oriented belief in the innate worth and dignity of every human being. For that reason CET believes training institutions that work with unskilled economically disadvantaged persons should be flexible enough to adapt.

CET's approach to skill training is one that is tailored to the needs of the students rather than to the convenience of teachers. In fact, there are no teachers, and very few lectures. Training is similar to on-the-job training in industry. The major difference between CET and the school system is that CET provides flexibility and individualized, tutorial instruction. Adult schools and community colleges have a highly structured course length and content, regardless of student readiness. A CET course length is variable and shifts with the needs of trainees.

CET recognizes that the only source of unsubsidized jobs lies with the business and industrial community. From CET's earliest organizational stages, the program has sought to involve itself with the private sector.

The unique and alternative methodology used by CET to motivate, train, and place unskilled, economically disadvantaged persons into good-paying jobs is unlike any other used by schools or training programs in Nevada. Its methodology is innovative because unlike traditional approaches it is an intensive and comprehensive attempt for a short period of time to train the "whole person" to respond to his or her own self-perceived needs for the future.●

MORTGAGE REVENUE BONDS CAN WORK

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. DOWNEY. Mr. Speaker, it has been 1½ years since this body put itself on record by an overwhelming margin to continue tax-exempt mortgage revenue bond financing.

In this time, endless wrangling over regulations, parliamentary maneuvering, and delays have stood in the way of making these programs workable.

Relatively minor adustments in the original legislation are needed now if this mechanism for providing housing is going to be made available to our States and localities. I do not have to remind any of my colleagues that other sources of providing housing are quickly drying up. Already in many communities, mortgage revenue bonds are the only way to provide needed housing for low and moderate income people.

Today, I am introducing a bill with 10 of my colleagues which would make the changes necessary to get the programs going. I hope you will consider cosponsoring it as soon as possible. It is my hope that this legislation can be considered during the coming markup in the Ways and Means Committee.

CIVIL DEFENSE—UNWORKABLE PLAN FOR UNWINNABLE WAR

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. MARKEY. Mr. Speaker, the Reagan administration has proposed its plan for $4.2 billion civil defense program over the next 7 years. This plan has been severely criticized by people all over the country, and with good reason. It is based on the unbelievable notion that a nuclear war is somehow survivable and winnable.

The administration's civil defense plan is laden with highly questionable assumptions such as a long warning period before a nuclear attack, and a calm, cooperative populace. The details of their plans, such as providing less than 4 square feet for people in fallout shelters, reveal the gross inadequacies of such plans. Recently, columnist Jack Anderson spelled out some of the most obvious deficiencies in the civil defense program. His piece makes a simple, dramatic point above all else—in a nuclear war, there is little to choose between "winner" and "loser." I now submit Mr. Anderson's column to be printed in full in the CONGRESSIONAL RECORD:

[From the Washington Post, July 3, 1982]

ADMINISTRATION'S CIVIL DEFENSE PLAN CRITICIZED

(By Jack Anderson)

In 40 million households next year, Americans will find a new feature in their telephone books along with instructions for calling emergency numbers and inquiring about their phone bills. They can also study detailed plans for evacuation of their neighborhood in the event of nuclear war.

This alternative to Dial-a-Prayer is part of the Reagan administration's proposed $4.2 billion, seven-year civil defense program designed to show the Russians that we are capable of surviving the holocaust. The ambitious master plan represents the final departure from the idea that "mutual assured destruction" is the best deterrent to nuclear war.

The administration plan reportedly includes such bizarre elements as the rapid dismantling of essential industrial equipment for postwar reassembly, and a mobile presidential command post that would roam the supposedly intact interstate highway system disguised as a moving van.

Civil defense advocates argue that an effective program would enable a substantial portion of the U.S. population to survive Armageddon. Critics claim it could encourage the American people to believe that nuclear war might not be so catastrophic after all—and thus would make it all the more possible.

More persuasive, though, is the argument of pragmatic hardheaded critics who say the administration's grandiose scheme simply won't work. They contend that the whole idea of the United States surviving an all-out nuclear exchange in any recognizable shape is absurd.

The Center for Defense Information, a research organization led by retired military officers, has made a comprehensive study of the administration's plan, from evacuation to postwar rebuilding. I've obtained a draft of the center's unpublished report and it is devastating. Here are the highlights:

The administration's civil defense plan is "a mixture of halftruths and 'best case' scenarios which represent a profound and dangerous disregard for the destructive nature of nuclear weapons."

Casualty predictions of only 40 million dead are based on three unrealistic assumptions: that the Soviets would attack only once, that they would somehow fail to hit any nuclear power plants, and that all survivors would have near-perfect fallout protection. In other words, to make the government's predictions come true, deaths from "disease, starvation, mass fires or firestorms are considered insignificant."

The government plan depends on three to seven days' warning of a Soviet attack to evacuate 150 million people from 400 high-risk areas to 2,000 "host" locations in the boondocks. If the Russians don't obligingly wait, they could catch millions of Americans in mid-flight, out in the open and far more vulnerable than if they had stayed put. On the other hand, if the Russians slyly delay their attack till long after evacuation is completed, food supplies in the countryside would be critically depleted.

The government assumes that all bus drivers and traffic control personnel would choose to remain at their posts instead of with their families. It also assumes that the nation's millions of gun owners would follow official instructions and leave their weapons behind.

Though the government plans to convert 1.5 million buildings into fallout shelters, this will still leave tens of millions of evacuees with the burden of building their own makeshift shelters with supplies they bring with them. Even if the Soviets obligingly withheld their missiles during blizzards or floods, to help the home handyman in his shelter construction, "it will be impossible for a typical family of four to get any significant portion of the materials and supplies needed into a family automobile."●

PAUL MONTGOMERY ELECTED PRESIDENT OF THE INDEPENDENT BANKERS OF PENNSYLVANIA

HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. ATKINSON. Mr. Speaker, today I am pleased to announce that one of my constituents, Mr. Paul M. Montgomery, has been elected president of the Independent Bankers of Pennsylvania. As we all know, the IBP is a statewide trade association. It is comprised of 180 community banks dedicated to serving the needs of Pennsylvania's independent banks and the promotion of a strong independent banking system in the Commonwealth of Pennsylvania.

Mr. Montgomery was elected president of the IBP on April 27, 1982. He was one of the 12 Pennsylvania bankers who organized the Independent Bankers Association, which was chartered in January of 1974. In addition, Paul Montgomery is a member of the IBP Legislative Committee, and was elected treasurer in 1978.

Mr. Montgomery has also been listed in Who's Who in Banking and Who's Who in Finance and Industry. And he has received the Towne-Gowne "Man of the Year" award in 1974.

In addition, to Paul Montgomery's achievements in the business community, he has also been quite active in community work. Mr. Montgomery has helped to organize the N. Kerr Thompson Memorial Scholarship for Slippery Rock State College, and is a trustee to the Butler County Community College. He is a board member to the Health Services Association of Southwestern Pennsylvania, and the vice president of the Slippery Rock Area Red Cross. Further, he has served as a member of the Harrisville Volunteer Fire Company. And is an elder, and Sunday school teacher at the Grove City East Main United Presbyterian Church.

Mr. Speaker, I am very proud that Paul M. Montgomery is a constituent in my congressional district. I am sure all Members of Congress, agree that Mr. Montgomery's business and community achievements are admirable. And, I wish him the best of luck in his new endeavor as the president of the Independent Bankers Association of Pennsylvania. I am sure that Paul Montgomery will do a fine job.●

SOBER FACTS ABOUT NUCLEAR WAR

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. McDONALD. Mr. Speaker, many myths about nuclear weapons are being spread in conjunction with the present frantic efforts on behalf of the so-called "nuclear freeze." The so-called "peace" effort originating in Moscow is also helping to perpetuate some of these myths. What is more interesting to note however, are two facts. One, the Soviet General Staff has made plans to fight and win a nuclear war if necessary. Two, the Soviet Government arrested the only private group advocating peace telling its members that "they must not meddle in affairs that do not concern them." Therefore, in the interest in shedding some light on the subject, I am inserting into the RECORD, a recent statement by Dr. Petr Beckmann about the true effects of nuclear war as printed in Washington Dateline, volume V: No. 24.

SOBER FACTS ABOUT NUCLEAR WAR

(By Dr. Petr Beckmann)

Yes, nuclear war would be terrible, and the facts below are in no way intended to belittle its horror. They are, however, intended to refute the myth that nuclear war means the end of civilization, making defense of the Free World pointless.

Can a single bomb wipe out a whole city? No, it can't. You would need 438 megaton bombs (the power of 22,000 Hiroshima-sized bombs) to destroy Los Angeles, and none of them could be "wasted on pulverizing the rubble."

Then how come Hiroshima and Nagasaki were each destroyed by a single bomb? They weren't. Earth covered backyard shelters were undamaged at 100 yards from ground zero; and a woodframe house at exactly 1 mile from ground zero was badly damaged but remained standing. The day after the blast, the bridges were open to traffic; the second day, trains were operating; and the third day some streetcars resumed service. The people in those two cities had neither warning nor basements; yet in Dresden where they had both, about as many were killed in the non-nuclear air raid of Feb. 13, 1945 as were killed in Nagasaki.

But today's H-Bombs are 1,000 times more powerful than the Hiroshima bomb. The distance of equal destruction varies as the third root of the released energy; 1,000 times more powerful means the same destruction at 10 times the distance. An earth covered shelter would be undamaged at 1,000 yards from ground zero; a wooden house would be severely damaged but remain standing at 10 miles rather than 1 mile. Grim—but not the end of the world.

But the radiation from nuclear bombs would leave the Earth a radioactive inferno for decades, and the survivors would die of

cancer leaving genetically damaged offspring. The fact is that only a few hundred of Hiroshima's 70,000 dead were victims of radioactivity, and no genetic damage could be detected against the normal background among the survivors, though they (and even their chromosomes) have been examined with extraordinary thoroughness for decades. This is not surprising, since ordinarily only those who suffer unprotected exposure to the initial radiation will receive a dose high enough to be lethal.

But the fall-out will eventually kill everybody. No, it won't. In essence, the highly radioactive isotopes will soon spend themselves, while the long-lived isotopes do not radiate intensely (though some can be dangerous if they get into the body.) Shelters can protect from early fall-out and filtration can prevent ingestion of radionuclides such as strontium and iodine.

But that would mean spending years in shelters. No, it wouldn't. Use the rule of seven: For every sevenfold increase in time, the radioactive level due to fall-out decreases by an order of 10. The level measured 1 day after detonation will decline to $\frac{1}{10}$ in a week, to $\frac{1}{100}$ in 7 weeks, and to $\frac{1}{1000}$ in 343 days.

And how does one live without food or water? One does not have to. Food and water are not contaminated by fall-out radiation, only by the fall-out particles themselves. Dust proof packaging protects the food and radioactive particles can be filtered from contaminated water.

Bur instead of all these gruesome details, is it not better to keep the peace by the "balance of terror" via "mutually assured destruction"? There is nothing balanced or mutual about this doctrine; it is the root of America's present predicament. Under the MAD strategy of unilateral self-deterrence, the U.S. dismantled its anti-aircraft missile defense, canceled its anti-ballistic missile system, and deliberately let its civil defense die, all under the assumption that if the civilian populations were defenseless hostages to nuclear destruction, war would be deterred.

And has it worked? To the contrary, war has been brought much closer. The Soviets were not so stupid as to accept the MAD strategy. While America disarmed, they feverishly built up their forces and turned civil defense into a weapon of war.

What then will prevent war? That which has unfailingly deterred war through the ages: the will to fight and the capacity to win. In time, America's technological superiority might let it regain the capacity to win; but it is the will to defend itself that is now being dangerously sapped by defeatists, demagogues and fear peddlers.

But there has never been a war as terrible as nuclear war. There has never ever been a war as terrible as the next one. Yet there have always been men and women who stood up to evil and risked their lives for their liberty.

But the losses in nuclear war would be so terrible that defense for whatever reason becomes immoral. The morality of war does not depend on the weapons with which it is fought. You have exactly one life to risk in the defense of everything that makes it worth living, and it matters little whether you lose it to a spear, a bullet, or nuclear radiation. Your forefathers risked, and often gave, that one life for your life, liberty and pursuit of happiness. You have no right to squander their heritage, to invite war by weakness, and to leave your children to the demeaning cancer of serfdom.●

TRIBUTE TO MR. KAUNO A. LEHTO

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. ROSE. Mr. Speaker, Mr. Kauno A. Lehto was an individual who provided invaluable service to the States of North Carolina and South Carolina during his tenure as Finnish Consul to both of these States.

Last December, Mr. Lehto met an untimely death. We in North Carolina were greatly saddened by this, for he held a great love both for Finland and the United States.

I feel that it is proper to commemorate his service to the United States and to Finland. Mr. Lehto served his church, his country, this country, and his community in a noble manner. He was widely known and revered throughout the State and the Nation. I would like to honor Mr. Lehto by inserting into the CONGRESSIONAL RECORD the following tribute:

TRIBUTE TO CONSUL KAUNO A. LEHTO

In a world full of tensions and strife it always gives me great satisfaction to note that the relations between Finland and the United States traditionally have been, and presently are, excellent.

In the web that forms these relations formal contacts and statements between officials, of course, play a leading role. But without the multitude of relations on other levels covering all possible fields of human endeavor, I do not think one could really speak of good relations, in a deeper sense.

The role that the dedicated group of American citizens, which forms our Honorary Consular corps in this country, plays in this respect, is invaluable. Consul Kauno A. Lehto was one of these extraordinary men and women who voluntarily and without pay give so much of their time and energy for promoting Finnish-American relations.

When the news about Consul Lehto's tragic and violent death reached the Embassy, it came as a shock: Finland had suddenly lost one of its most dedicated and able friends in the United States. I personally had lost an esteemed friend and dear associate.

Mr. Lehto served the country where he was born for more than 20 years as Consul in Wilmington, North Carolina. He was known as a man who always was willing to assist seamen and other travellers in need of help. As the number of Finnish ships calling at Wilmington declined in recent years, much of Consul Lehto's work as a Consul centered on promoting Finland and educating Americans about our country.

The Embassy of Finland is deeply grateful for the services Consul Lehto, a great Finnish-American, rendered to his native country. May his memory remind us of the strong ties that unite the people of Finland and the United States of America.

JAAKKO ILONIEMI,
Ambassador of Finland.

WASHINGTON, D.C., *June 22, 1982.*●

TRADE AND POLITICS, A VOLATILE MIX

HON. JOSEPH M. GAYDOS

OF PENNSYLVAINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. GAYDOS. Mr. Speaker, there can no longer be any doubt that our Nation's ship of commerce is listing badly in the seas of international trade.

For the most of the past decade, we have recorded growing annual deficits in our dealings with foreign partners. One industry after another has been swamped by waves of red ink and sent "May Day" messages to our Government that, for the most part, have gone unheard.

As chairman of the House Steel Caucus, I have been particularly concerned with the battering the domestic steel industry has been taking during this trade storm. The industry, its steelworkers and caucus members have consistently sent out SOS's to the Federal Government with little or no response. Fortunately, it appears one of our signals finally was heard by the Department of Commerce. The DOC, you recall, issued some preliminary findings early last month on the illegal trade practices of certain foreign nations.

But, steel is not the only American industry taking a battering in the trade storm. There are others heading for the reef, as indicated in a recent editorial by Stanley L. Modic, editor of Industry Week magazine, which I am inserting in the RECORD for the consideration of my colleagues.

It appears Mr. Modic shares my long-standing concern over what has become a common practice by officials of our Nation: that is, mixing our Nation's trade policies with international politics.

That has proven to be a volatile concoction that has at last exploded in our faces, severely damaging numerous American industries and the jobs of hundreds of thousands, perhaps millions, of American workers.

TRADE WAR: IT'S TIME TO FIGHT BACK

Trade is like the weather: everybody talks about it but nobody seems able to do anything about it. What's even more ludicrous is that we are sitting in the middle of a trade storm and don't have enough sense to seek shelter from the elements.

The merchandise trade balance has been in deficit for the U.S. for the last six years, hitting a negative $32.9 billion in 1981. Manufactured imports now take more than 11% of the U.S. market, totaling $142.5 billion last year; that's up from 2.8% in 1962 when these imports amounted to only $7.6 billion (see Page 61).

At the same time, made-in-America goods are losing out in the world market. In 1962, U.S. industry accounted for 22% of the world's manufactured export sales. Today that figure has slipped to 16.8%.

America sits as the largest, most open market, all but inviting other nations to flood it with their goods. As a result, developed and underdeveloped countries alike are building their economies and solving their unemployment and subsequent social problems at the expense of the U.S. economy.

At the same time, American industry is stymied as a world trader, not only by the self-serving tariff and nontariff barriers of other countries, but also by the polices of its own government which treats trade as a stepchild, used too often by the U.S. as an instrument of international political and military maneuvering.

The bottom line is jobs. Industry Week estimates that auto imports alone last year deprived 443,000 Americans of work throughout the economy (see table on Page 71). However many more become unemployed as sector after sector of the American economy gets hit by low-cost, foreign government-subsidized imports is anybody's guess. And it's anybody's guess because statistics on trade are kept in a myriad of government agencies and most often they're not comparable.

"We has met the enemy, and it is us." Pogo's observation has been used to describe many situations, but none more appropriately than the U.S.'s deteriorating position in world trade. It is time the U.S. faced up to the reality that there is a difference between free trade and fair trade, and moved to seek shelter from the trade storm which is drowning our economy.●

THE PLIGHT OF SENIOR CITIZENS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. STARK. Mr. Speaker, today I would like to share with my colleagues a poignant letter from an elderly woman which I feel is representative of the difficulties which the Reagan administration's economic policies have wrought on the aged. When 15 years old, this woman escaped from Poland, a country whose economy we like to think is decades behind us. Sadly and ironically, though, she expresses shock and disgrace at the misery and despair which the U.S. aged feel.

Her personal familiarity with the daily struggles of the impoverished senior citizen—their loss of homes, ability to buy hamburger only once a week, general lack of money and even loss of will to live—removes these people from being impersonally categorized and classified as numbers, and highlights the human difficulties of Reagan's effort to cut expenditures. This woman still has faith in, and love for, the freedoms of the United States. Yet, she pleads for relief for the senior citizen from the present reduction in medicare and health programs.

I feel that her anger and shame accurately express the feelings of the majority of the U.S. elderly toward the present domestic policies of the Reagan administration. At this time when we are considering further drastic cuts in programs which the elderly rely upon, I think that this letter is particularly important for us to reflect upon. The letter follows:

Congressman PETE STARK.

DEAR SIR: There are many Senior Citizens, including myself, whom I have talked to—I know many, many people living in San Leandro, Hayward, etc., who are extremely worried about the Social Security, Medicare, hospitals, etc.

They tell me they are on a fixed income. They have lost their homes because they could not keep them, due to lack of money and inflation. They have even told me what they live on. Some of them can only buy hamburger once a week.

They are getting older not younger. They can't even work part-time because of their health. So they barely exist from day-to-day. They are very depressed, and have lost their will to live.

I am very interested in people, especially the elderly, for I know what they are going through, and I have an awful lot of compassion for them. I came here from an Iron Curtain country (Poland) when I was 15 years old and I know what suffering is. I escaped from Poland and nearly died getting here. I had no money, no food, just the clothes on my back.

Because it was so hard for me to get here, I love this country and for what it stands. I still have faith in the U.S., but a man like Reagan hasn't helped it any. Listening to these senior citizens I know what they are going through, and I feel like hanging my head in shame.

To think that his policies will wreak an awful hardship on these poor people, who are struggling to exist, and for him to get on TV and tell the public that he came from a poor family, and that he knows what it is to struggle is a farce, and hypocritical.

I definitely am against all these reductions in Medicare and health and domestic programs. It will hurt all Senior Citizens, and even the young people because it won't be long before they will be in the same positions, namely, Senior Citizens.

As far as the build-up of military defense is concerned, it is not crucial at this time. The U.S. had done very well in the past, and will do the same in the future. As you say, there exists a lot of waste in the Pentagon establishment. Who is he trying to impress?

The people of the U.S. have already proven to the world that if there is a war here, you will find that we will stand united together, no matter what, to preserve our freedom, and at that time we will sacrifice to the last penny to build our defenses up if necessary.

Mr. Reagan is doing things all wrong. I can't believe how he thinks, unless he doesn't care for the people.

My reaction right now is that I am mad and angry, and I hear all the people I know tell me the same.

Mr. Stark, as our Congressman, please, please try to see that he does not succeed in what he is trying to do domesticwise, because it will be tragic for the elderly. It's hard enough for them to cope with inflation, without putting extra grief on them.

Thank you for your patience in reading this letter. I know you will do your best.●

VICTIM'S RIGHTS

HON. ELDON RUDD

OF ARIZONIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. RUDD. Mr. Speaker, if the twisted logic of the John Hinckley decision left one clear public outcry, it was, "What about the rights of the victim?"

A recent editorial written by the publisher of the Arizona Republic summed up the injustice of one of our court's landmark cases—The Miranda decision—by asking if the law is meant to protect the innocent or the guilty.

Some advocates of civil liberties would like us to believe that such rights are exclusively granted to criminals. If our judicial system is to be credible, we need to stop legislating escape loopholes for the guilty and start recognizing the rights of their innocent victims.

We should look for more ways to offer protections for the vast majority of our public, which has good reason to be outraged.

Just as John W. Hinckley, Jr., was responsible for gunning down our president and his aides, Congress should be responsible enough to correct the distorted legalities that make a mockery of American justice.

LET LAWMAKERS HEAR THE PUBLIC'S DEMAND FOR VICTIM'S RIGHTS

(By Darrow Tully)

"We do not have to visit a madhouse to find disordered minds; our planet is the mental institution of the universe."—Goethe

John W. Hinckley Jr. could be freed in 55 days.

I really don't know who is the craziest—Hinckley, the jury that acquitted him, the lawmakers who passed the insanity plea in the first place, or we citizens who tolerate such a ridiculous situation.

The entire premise of the insanity defense is subject to question.

The government used three psychiatrists and one psychologist in an attempt to prove Hinckley sane.

The defense used six psychiatrists and psychologists to prove him insane.

That would seem to raise some doubt as to the validity of the insanity plea, because it then becomes the responsibility of an unsophisticated jury to determine which "expert" testimony to accept.

Some of the jurors have been quoted as saying how confused they were by the testimony. Others stated they resented the responsibility of determining Hinckley's sanity.

Five of the jurors said that Hinckley should receive mandatory treatment in a mental institution and then complete a term in prison.

Sara Jane Moore is serving a life sentence for attempting to shoot then-President Gerald Ford.

In contrast with Hinckley's act, which resulted in terrible injuries for four innocent human beings, Sara Jane Moore injured no one.

It took the government 15 months to bring Hinckley to trial, but Moore was arrested, convicted, sentenced and incarcerated in less than four months.

James A. Vincent was arrested the same day as Hinckley for verbally threatening the life of President Reagan.

A Cincinnati federal appeals court Wednesday upheld Vincent's conviction which resulted in a five-year prison sentence.

A rural Kansas man has been sentenced to a year in prison for shooting the tires of a van he suspected of being used in the burglary of his home.

No one was hurt, but he was charged with destruction of private property and because a gun was used, he received a mandatory one-year term.

The judge noted that if the defendant had simply killed someone, he could have exercised discretion to grant probation or a suspended sentence.

What madness!

Since the infamous U.S. Supreme Court *Miranda* decision, many citizens have had reason to ask whether the law is meant to protect the innocent or the guilty.

Delays in trials have led to acquittals because of the death or disappearance of witnesses, or charges being dropped because a merchant decided not to have goods tied up for years as evidence in a trial.

How many proven criminals will continue to be turned loose because some enterprising attorney has convinced some gullible judge that some inconsequential trial error should result in such an action.

A new battle cry is being heard across the land.

It is called Victim's Rights.

The right of the victim to be a part of the pre-sentencing hearing and to be heard.

The right of the victim to sue for damages from the criminal.

The right of the victim to look to the state for financial or psychological help if appropriate.

Certainly the state has afforded similar guarantees to criminals—why not the victims?

U.S. Attorney General William French Smith summed up the situation quite clearly when he said:

"There must be an end to the doctrine that allows so many persons to commit crimes of violence, to use confusing procedures to their own advantage, and then have the door opened for them to return to the society, which they victimized."

I agree with Smith.

Now let's try to get our lawmakers to do something about it.●

LAW OF SEA TREATY AGAINST BRITISH INTEREST, SAYS MEMBER OF PARLIAMENT

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. FIELDS. Mr. Speaker, to sign the Law of the Sea Treaty in its present form would be massively against British interests and would stir up untold trouble for the future, Mr. David Atkinson, a British Member of Parliament and a Member of the Council of Europe, warned recently in London.

Mr. Atkinson said that, while some kind of treaty was probably necessary, the price which developed countries of the West were being asked to pay for it was ludicrously high.

He strongly believed that the proposals governing seabed mining, involving the creation of an international seabed authority, would diminish rather than maximize the supply of raw materials from the seabed:

If implemented, the proposals would do for deep seabed mining what internationalisation and ill thought-out regulation have done for large sections of British industry—reduce supply, destroy incentives, discourage investment, raise prices, and result in inefficiency as well as causing no end of political squabbles. Like nationalisation, the treaty would result in what amounts to partial confiscation—mining companies being forced to share their technology with the new authority. Indeed, there would appear to be no effective safeguard at all to protect private investment.

Equally disturbing, the U.K.—like the U.S. which is expected to pay a large share of the I.S.A.'s so far unspecified budget—cannot even be assured of a place on the I.S.A.'s 36-strong executive council. By contrast, the Soviet Union is virtually guaranteed a permanent seat, plus two proxy seats. This is grotesque.

A basic objective of British foreign policy should be to ensure that strategic seabed materials become available to our engineering industry. Clearly this cannot be done under a bureaucratic regime of international ocean management which will take little account of market factors.

Very regrettably this appears to be another issue on which the West is confused and divided. While there is no automatic identity of interest between Europe and the U.S.A., it seems to me to be both economically and strategically vital for Britain and other European countries to support the U.S. on this issue. Each western nation pays lip service to the notion of western unity and then goes and behaves in a way which diminishes it. This is a recipe for disaster.

For those who wish to read a powerfully argued but fair case for not signing the treaty in its present form, I can recommend a publication entitled "The Law of the Sea Treaty: Can the U.S. Afford to Sign?", written by Roger A. Brooks and produced by The Heritage Foundation, a conservative research body based in Washington.●

THE PEACE MOVEMENT AND THE SOVIET UNION—I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. McDONALD. Mr. Speaker, events in New York on June 12 and 14 were to mark an increased stage in the activity and momentum of the peace movement in this country. Not only did the movement seek President Reagan's presence at the U.N. Second Special Session on Disarmament, but it further sought an American statement in favor of a nuclear freeze, a no first strike policy, and/or a unilateral U.S. reduction in weaponry.

Fortunately, the so-called peace movement was disappointed as far as its latter demands were concerned. No doubt, however, they were pleased with the Soviet statement, for they proceeded to trumpet it as a major peaceful step while ignoring the series of first strike nuclear weapons tests which followed a few days later by those same people who gave the world its no first strike pledge. This is obviously an indication of how both the Soviet Union and the peace movement interpret the word "peace."

One person who has experienced "peace" under the Soviet system is Vladimir Bukovsky. For 12 years Mr. Bukovsky was confined in Soviet prisons, work camps, and psychiatric hospitals. He was released in 1976 to the West following the public outcry at this one example of how the Soviets keep the peace.

In the May 1982 issue of Commentary magazine, Mr. Bukovsky wrote a penetrating article entitled "The Peace Movement and the Soviet Union." His work is another in a growing series of documentation on the reality behind the Western peace movement. I strongly commend this article to my colleagues. The article follows:

THE PEACE MOVEMENT AND THE SOVIET UNION

(By Vladimir Bukovsky)

"Peace will be preserved and strengthened if the people take the cause of peace into their own hands and defend it to the end."—JOSEPH STALIN, 1952

The "struggle for peace" has always been a cornerstone of Soviet foreign policy. Indeed, the Soviet Union itself rose out of the ashes of World War I under the banner of "Peace to the People! Power to the Soviets!" Probably from the very first, Bolshevik ideologists were aware of how powerful a weapon for them the universal craving for peace would be—how gullible and irrational people could be whenever they were offered the slightest temptation to believe that peace was at hand.

Only a year before the Bolsheviks raised their banner, the most terrible prospect for any Russian would have been to see an enemy burning down his villages and defiling his churches. Yet once blinded by the slogan, "A just peace without annexations or tribute," he was to rush from the front lines, along with hundreds of thousands of his fellow soldiers, sweeping away the last remnants of the Russian national state. He did not want to know that his desertion had done no more than simply prolong the war for another year, not only condemning thousands more to death on the Western front, but ending in that very German occupation of the Ukraine and Russia he had so much dreaded just a year ago. For the moment the only thing that mattered was peace—right now, and at any price.

Hardly anyone taking part in the stampede back home in 1917 knew the first thing about the ideology of Communism—except possibly for a couple of simple slogans and this one incendiary word: Peace. In a country of 70 million there were only 40,000 Communists. Anyone who had taken the trouble to read the Communists' "fine print" with just a little care could have discovered that what their soon-to-be masters

meant by "peace" was not peace at all but rather the "transformation of imperialist war into civil war."

The Russian people were in any case so fed up with the war by then that they did not care. Anything seemed better, or at least not worse. After three years of civil war, however, in which some 20 million people were slaughtered or died of starvation, cold, and typhoid (i.e., ten times as many as were killed at the front during the whole of World War I), the war came to seem a trifle by comparison, a sort of frontier skirmish somewhere in the Byelorussian swamps.

And once again an irresistible craving for peace drove people to accept Soviet rule—as a lesser evil. Anything was now preferable to this monstrous slaughter, starvation, and typhoid. They would give anything for some kind of order.

The order imposed by the Communists was nothing more than a permanent state of civil war, both inside the country and around the world. Or as Lenin put it, "As an ultimate objective peace simply means Communist world control." Thus, while comrade Chicherin, at the Conference of Genoa in 1922, was appealing to the entire world for total and immediate disarmament, crowds of bewildered people in the Soviet Union were marching to the cheerful song:

"We'll fan the worldwide flame,
"Churches and prisons we'll raze to the ground.
"The Red Army is strongest of all
"From Moscow to the British islands."

Indeed, the churches were the first to be put to the torch. As for the prisons, the Communists were in no hurry to carry out their bold promise. Quite the contrary, the number of prisons grew with each year to accommodate tens of millions of "class enemies" or "enemies of the people." And speaking of worldwide flame, one need only compare the map of the world of, say, 1921 with that of 1981 to see that the song's promise was not entirely empty.

Once they recognized the power of "peace" as a weapon, the Communists have never let go of it. In this respect, it must be admitted, Soviet politics have invariably been most "peaceful." We must at the same time bear in mind that according to Communist dogma, wars are the "inevitable consequence of the clash of imperialist interests under capitalism," and therefore they will continue to be inevitable as long as capitalism exists. The only way to save humanity from the evil of wars, then, is to "liberate" it from the "chains of capitalism." Accordingly, there is a very precise distinction to be made between "just wars" and "unjust wars." "Just wars" are those fought "in the interest of the proletariat." It is perfectly simple and perfectly clear: just wars are absolutely justifiable because they lead to the creation of a world in which there will be no wars, forevermore. Proletarians are all brothers, are they not? So, once the world is rid of capitalists, imperialists, and various other class enemies, why should those who are left fight one another?

By this same impeccable logic, the interests of the proletariat are best known to the advance-guard of the proletariat, that is, the Communist party, and should be defined by Lenin, Stalin, Khrushchev, and Brezhnev, since they are in turn the advance-guard of the Communist party.

As soon as we have pinned down this formula and deciphered its terminology, the course of history becomes absolutely clear. For instance, Soviet occupation of the Baltic states and Bessarabia, or the war with Finland in 1939–40, were of course perfectly just, as was the partition of Poland, achieved in cooperation with Nazi Germany in 1939. On the other hand, the Nazi attack on the Soviet Union in 1941 was blatantly unjust. By the same token, any attack by the Arabs on Israel is just, as least insofar as it is successful. If Israeli resistance to attack is successful, however, then all peace-loving peoples must protest.

It goes without saying that world public opinion must accept the distinction I have outlined above and direct every effort in the struggle for peace toward establishing it. Fortunately, there are a great many "progressive" people in the world, people for whom any direction taken by Moscow is progressive because by definition it is taken in the service of socialism. Thus, before the Molotov-Ribbentrop pact of 1939 was signed, the energies of all progressive people were mobilized against fascism, whether in Spain, Italy, or Germany. As soon as the pact was signed, the notion of what was progressive and what was not changed drastically.[1]

On February 2, 1940, for example, the German Communist leader, Walter Ulbricht, later to become head of the East German state, was permitted by the Nazi government to publish an article in Die Welt in which he said: "Those who intrigue against the friendship of the German and Soviet peoples are enemies of the German people and are branded as accomplices of British imperialism."

The British Daily Worker adopted a similar line and greeted the new alliance as a victory for peace, as did the American Daily Worker. On September 19, 1939, when the war was raging in Poland, it published a declaration of the National Committee of the American Communist party proclaiming the war declared by France and Britian on Nazi Germany to be an imperialist (that is, "unjust") one, which should be opposed by the workers. This appeal was immediately supported by fellow-travelers like Theodore Dreiser, and Communist trade unions set out to sabotage production in munitions factories, lest any aid reach Britain or France. Right up to the eve of the Nazi invasion of Russia, Communist propaganda did everything possible to dissuade the United States from helping the European democracies in their war against Nazi Germany. These pages in the history of the glorious "struggle for peace" by the progressive social forces are not much spoken of any more, particularly where the young might hear.

But nowhere was this "struggle for peace" as influential as in France, where the Communist party and its fellow-travelers were openly defeatist before, and remained so during—and some time after—the Nazi invasion of France. The French Communist party, which was quite considerable in strength, worked so energetically to undermine the French war effort as to suggest a fifth column. Within a month of France's declaration of war the party's leader, Maurice Thorez, fled to Moscow to direct the resistance to French preparations against Germany. In November 1940 Thorez and his associate Jacques Duclos exulted openly over the fall of France, Thorez declaring that "the struggle of the French people has the same aim as the struggle of German imperialism."

The Franco-German alliance alluded to by Thorez expressed itself in concrete terms. German propaganda leaflets dropped over the Maginot line pointed out that "Germany, after her victory over Poland and since her pact with Russia, disposes of inexhaustible resources in men and material," while all the Communist deputies petitioned President Herriot to make peace in response to Hitler's appeal. After Communist publications had been suspended by decree in France, the party continued to publish its propaganda on German presses. Its leaflets urged troops, dockers, and others engaged in essential war work to resist and to sabotage the country's effort. In March 1940, a party leaflet claimed that the Allied failure to launch an offensive was due to the effectiveness of the party's defeatist propaganda. And there can be no doubt that this effective spreading of defeatism, coupled with a serious campaign of sabotage in munitions factories, play a major role in the catastrophic French defeat of June 1940.

At the very time that General de Gaulle, in London, was issuing his appeal for resistance, the French Communist paper l'Humanité said: "General de Gaulle and other agents of British capital would like to compel Frenchmen to fight for the City. . . ."

Later Khrushchev was to recall that "Stalin once told me that Hitler had sent a request for a favor through secret channels. Hitler wanted Stalin, as the man with the most authority and prestige in the Communist world, to persuade the French Communists not to lead the resistance against the German occupation of France." Evidently Hitler's request was not denied.

Even in Yugoslavia, where the Communist movement had directed all its efforts to vilifying the British and French, Tito's first appeal for a struggle against the German invaders did not come until June 22, 1941. It was not the German conquest of Yugoslavia that aroused his ire, but the German invasion of the Soviet Union. Even in faroff Buenos Aires, a British diplomat had noticed that Nazi diplomats were "collaborating with local Communists in a very dangerous attempt to win over the masses with the cry of 'away with British captialism and commercial exploitation.'"

As soon as Nazi Germany turned against its great Eastern ally, the "struggle for peace" was instantly terminated. Indeed, the sudden outburst of patriotism among the "progressive social forces" was remarkable. No strikes, no condemnation of Western imperialism—as if the latter had never existed. For the remainder of World War II the Allies were to enjoy a happy time of industrial peace and a relaxation of the class struggle. The war, of course, was now a "just" one.●

[1] Much of the material that follows here on the early days of World War II is taken from the book by Nikolai Tolstoy, "Stalin's Secret War" (1981), where the appropriate references can be found.

DISABILITY AMENDMENTS OF 1982

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. OTTINGER. Mr. Speaker, I rise today to bring to the attention of my colleagues some very serious problems with H.R. 6181, the Disability Amendments of 1982.

Members have been led to believe that H.R. 6181 will solve the current crisis in the continuing disability investigations (CDI's) in both the social security disability insurance (SSDI) and supplemental security income (SSI) disability programs. However, there is nothing in this bill which addresses adequately the current problem of massive terminations from the disability rolls of severely and permanently disabled persons who are unable to work. H.R. 6181 will not only not solve these problems, it will create additional obstacles to eligibility for severely disabled workers. It appears that H.R. 6181 was drafted with the intent of helping certain disabled individuals. Instead, in its final draft there are two provisions—sections 5 and 7—which permit injustices for those least able to protect their own rights. Consequently, I urge my colleagues to oppose H.R. 6181 unless sections 5 and 7 are amended. Otherwise, the bill will deprive the disabled of an opportunity for a thorough case review before an administrative law judge (ALJ); the result will be an even greater number of deserving recipients being denied benefits.

Section 5 of this bill would undermine the role of the ALJ and impair the recipient's right to a fair and impartial hearing. The provision would seal the case record at the reconsideration level. Also, reconsideration is to be conducted by the State agency which determines eligibility and administers the benefits. Thus, the review is not performed by an independent party. In addition, it must be remembered that very few people are represented until the ALJ stage, where they are assisted in obtaining evidence. State disability agencies are unlikely to have the staff or the resources necessary to assist recipients in obtaining all material necessary to insure a fair review, which means that in most cases disabled recipients must locate all of the required medical and vocational evidence. In fact, despite a 53-percent increase in its workload in 1982, New York State's Office of Disability Determinations' budget has only been increased by 2.5 percent when adjusted for inflation.

Disabled claimants deserve full due process to argue their case, particularly mentally disabled individuals who must pass tests which are inherently subjective. These persons are entitled to an impartial face-to-face hearing before an administrative law judge.

Section 7 presents even more serious problems. While I agree with the goal of section 7—to create uniform standards at all levels of review—I object strenuously to the provision's open-ended language which would allow the Social Security Administration to do whatever it wishes relative to the establishment of uniform standards. This provision would do no more than perpetuate an existing problem.

I oppose the use at the ALJ hearing level of any standards that are not issued for public comment. It is critical that the public be made fully aware of the disability determination process and the standards used. SSA is already utilizing informal instructions inconsistent with the law and regulations, such as the social security rulings and the program operations manual systems, to reduce the number of claims allowed. The Social Security Administration must be held accountable to the Congress and the public. Like other agencies, it should be required to subject its standards to public notice and comment. By requiring the publication of all eligibility criteria in the Federal Register, uniform standards will be assured and the rights of the disabled will be protected.

I doubt that there is any Member who is not aware of the tragic emotional and financial circumstances of constituents who recently have been improperly cut from the disability program. Nothing in H.R. 6181 will prevent the Social Security Administration from continuing to cut eligible disabled workers.

Even though some of the other provisions of H.R. 6181 would provide some minimal help to people whose disability benefits have been cut off, not a single national organization representing disabled people supports the bill in its present form. Sections 5 and 7 are so harmful that the whole bill should be opposed unless both sections are amended.●

PATRIOTISM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. DERWINSKI. Mr. Speaker, the Fourth of July very properly produces a great deal of patriotic spirit which is shown in community commemorations in villages and cities across the country. The Palos Regional News, serving suburban Chicago, takes a look at the emotion evoked during this holiday observance in their July 1 editorial. I wish to insert it at this point for the Member's attention:

[From the Regional News, July 1, 1982]

PATRIOTISM IS NOT A SPECTATOR SPORT

Fireworks will crackle on the Fourth of July, banners wave, bands blare and paraders strut.

It is all in the American tradition, the citizens' way of expressing thanks that this democracy has survived, waxed robust and provided strong leadership during trying periods.

President Reagan put into words an aspect of American idealism when he said ". . . We as Americans have the capacity now, as we have had in the past, to do whatever needs to be done to preserve this last and greatest bastion of freedom."

But this unique holiday observance goes much further than merely applauding marchers, cheering at ball games, and eating hot dogs and apple pie.

There is opportunity here for careful appraisal of American ideals and accomplishments—how we got where we are today and how we will approach the challenge of the 1980s.

On the economic front two generations have been born which have never experienced a serious depression. There have been pockets of distress, but these have been largely eliminated by 35 years of continued prosperity.

The slumps which have occurred have generally been mild and have quickly run their course.

In the years following World War II the United States came forth with the Marshall Plan to help restore the shattered economies of war-torn nations. Such a program had never been attempted before.

This American largesse has helped to reduce, if not banish, misery in many countries. It has also contributed to reviving the economic muscle of some industralized nations which have since strongly challenged the commercial leadership of the United States.

And this country still stands as a beacon of freedom and liberty. America is unquestionably the land of opportunity, the summit of dreams.

So what do all these facts add up to? Simply this. Every citizen should realize we have a country of astonishing strength, generosity and idealism. All of us should try to fortify these traits in the American character.

There have been, and will continue to be, unhappy moments in our history. The whole world learns about them. It is such candor in the American open society that wins the admiration even of our critics.

Are you willing to suffer small inconveniences to attend a meeting or discussion on community affairs? The practice of drift or neglect of small problems can lead to larger troubles later.

Patriotism is not a spectator sport. You do not score any points standing on the sideline.●

ONE HUNDRED YEARS OF CONTINUOUS SERVICE TO MICHIGAN

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. TRAXLER. Mr. Speaker, I would like to take this opportunity to congratulate the Atkins family of the Atkins' Hardware & Furniture Store on their 100th anniversary of continuous service in Michigan. It is a remarkable achievement for any organization to thrive for over a century; it is especially noteworthy that five generations of the same family have operated and maintained this successful business.

The founder of the company, D. C. Atkins, was a former lumberjack and traveling salesman. In 1882, he invest-

ed his life savings, $134, in a tram and in a pump factory. Eventually he sold the pump factory but not before inventing two pumps called the Chain and Force models.

D. C. Atkins' previous traveling sales experience gave him a 70-mile radius of acquaintances who became loyal customers of his growing store. The big leap in the business came when he bought large quantities of merchandise and transformed his modest store into a wholesale department store. This new store sold all of the necessities for a house or farm. The products ranged from buggies and wagons to window shades and lace curtains. Incidentally, D. C.'s original store complex still stands today and has been recently renovated by the most recent generation of Atkins.

D. C. Atkins married Jane Grahm and had eight children. Three of those children, George, A. W., and T. W. went into the business with him. By 1919 A. W. Atkins had bought out his partners and was sole owner of the store. He married Ella Sutherland and had one child, a boy named Carson. After finishing college, Carson continued the Atkins' tradition and took over the business in 1927. He married Vera Runge and had two sons, Bob and Fred, who are the current owners of the store. Carson is the person primarily responsible for pioneering the store into modernity. He achieved this transition by living with his family on $10 a week, putting all other profits back into the store. Today, his sons Bob and Fred are the owners of the store.

The Atkins family also serves their community in civic and church groups. Carson and his wife Vera have been on the Community Chest Board and Vera has served on the board of trustees of the First Presbyterian Church. Carson's and Vera's idea of hometown service has been handed down to their offspring. Their son Bob is a member of the Presbyterian Church as well as the Vassar Lions, Chamber of Commerce Retail Committee, and the Downtown Development Authority. Their other son Fred is a member of St. Lukes Lutheran Church, the Vassar Fire Department, and the Economic Development Commission.

Today, in the fast paced world of corporate business it is good to see America's purist business values and traditions reaffirmed. The 100th anniversary of this "American Dream" gives us all reason to reflect on the proud history of small business in America. I think the five generations of the Atkins family deserve much recognition for their efforts. I wish them a prosperous future and continued success.●

PULASKI'S 150TH ANNIVERSARY

HON. DAVID O'B. MARTIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. MARTIN of New York. Mr. Speaker, I invite my colleagues to join me today in honoring the village of Pulaski, N.Y., in this, its sesquicentennial year.

Chartered on April 26, 1832, Pulaski today is a bustling, but charming community of approximately 2,500 permanent residents.

Because Pulaski is named after a major figure in America's fight for independence, it was certainly appropriate this year that the village marked its 150th anniversary on July 3, 4, and 5, just as our Nation was celebrating the anniversary of its independence, with parades and other patriotic festivities.

What makes that dual celebration especially appropriate, Mr. Speaker, is this: Pulaski, N.Y., is a great American community, blessed by nature and by the character of its people.

Located near Lake Ontario, and on the slopes of the ecologically unique Tug Hill area, Pulaski is a gateway to both the Adirondacks and the Great Lakes-St. Lawrence Seaway region. It is a year-round paradise of clean air and pure water, with renowned fishing, year-round, on the Salmon River, excellent hunting, sandy beaches in summer, and unequalled skiing and snowmobiling in winter.

Yes, Pulaski's natural blessings, friendly people, and excellent facilities do, indeed, make it a vacationer's paradise. But that is far from all. The village is located in an important dairy producing region of New York. Located along three major highways, it is an important trading center for a significant portion of our State's population.

In short, Mr. Speaker, Pulaski, N.Y., is an ideal community for living, for working, and for playing.●

S. 881

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. BEDELL. Mr. Speaker, yesterday the Senate presented to the President, for his signature, the Small Business Innovation Development Act, S. 881. This vital piece of legislation seeks to strengthen the role of small high, technology firms in the Federal research and development procurement process.

That this important piece of legislation is about to be signed into law is a tribute to the many small business people who, at their own time and expense, lent their strong support on its behalf. One member of the small business community who deserves special recognition in this regard is Mr. Richard DiCicco. He was instrumental in shaping the debate on the Small Business Innovation Development Act as it worked its way through the legislative process.

Mr. DiCicco is on the cutting edge of the high-technology industry. An electrical engineer with an MBA, Mr. DiCicco has designed a data base that links buyers and sellers of high technology products and ideas. His company, Technology Catalyst, Inc., provides marketing services to thousands of small, high technology firms working in almost every technological area imaginable.

During the debate on the Small Business Innovation Development Act, Mr. DiCicco provided the Congress with the facts and figures needed to understand this complex issue. For example, when questions arose as to the size of the small business, high technology community in the life sciences field, Mr. DiCicco searched his data base and found more than 2,500 small firms involved in life science research. The Government had the names of less than 100 in their files.

I would like to commend small business people such as Mr. DiCicco for their commitment of time and effort on behalf of the Small Business Innovation Development Act. The overwhelming majorities by which this legislation passed in the House and Senate are a tribute to them as well as a recognition of the important role small business has to play in our national research and development efforts.●

LAW OF THE SEA TREATY: OFFICIAL STATEMENTS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. FIELDS. Mr. Speaker, I am including in the RECORD the official statements of President Reagan and LOS Ambassador James Malone concerning the U.S. decision on the Law of the Sea Treaty. I urge my colleagues to read these statements and support the President on this important matter.

Thank you, Mr. Speaker.

The statements follow:

STATEMENT OF AMBASSADOR JAMES MALONE

For the past decade, the United States has participated in the Third UN Conference on the Law of the Sea Treaty. Upon taking office, the Administration conducted an extensive review of the treaty. Last January, the President reaffirmed the United States' commitment to the multilateral process for concluding an acceptable treaty. He an-

nounced that we would return to the negotiations to seek to correct unacceptable elements in the deep seabed mining part of the Draft Convention. In this regard, he outlined six objectives which needed to be met.

During the two month session last March and April, the United States engaged in intense negotiations. Despite a dedicated effort to reach an agreement that would meet the President's six objectives, on April 30th, the conference adopted a convention that met none of them. The adopted treaty would create the following problems for the United States:

It would deter deep seabed mining.

It would not provide the United States or other nations with a role in seabed decision-making that adequately reflects and protects its interest.

It would allow amendments to enter into force for the United States without its approval. This is clearly incompatible with the United States approach to such treaties.

It would require the mandatory transfer of technology.

It opens the possibility for providing funds to national liberation movements.

The United States voted against this convention, as did three other nations. There were 17 abstentions and 130 voting in favor of the convention. The nations voting no or abstaining represent countries which produce more that sixty percent of the world's Gross National Product and provide more than sixty percent of the contributions to the United Nations.

Following the close of the negotiations, the United States conducted a careful review of the outcome of the Conference. A report on the relevant issues was submitted to the President. Based on this review, the President decided that it is not in the United States interest to sign the Convention. He decided also that the US would participate in the remaining conference process only on a technical level and on the non-seabed provisions.

The United States engaged in continual consultations with our allies throughout the Conference and plans to continue this dialogue.

As a leading maritime power with major coastal interests, the United States has played a historic role in the development of international law. Our national policies have defended freedoms of navigation and communication, promoted rights of resource exploration and development, and advanced obligations to protect the marine environment. The years ahead will witness new technologies and expanded maritime commerce.

The United States must be prepared not only to meet the challenges to traditional maritime activities, but also to take new initiatives to assure the orderly development of oceans resources in response to market forces. Therefore, we will attach a high priority to the further development of a national oceans policy. Bilateral and multilateral cooperation will be an important component of the new policy. Its aims will be to protect and promote the array of affected United States economic, political and security interests.

STATEMENT BY THE PRESIDENT

The United States has long recognized how critical the world's oceans are to mankind and how important international agreements are to the use of those oceans. For over a decade, the United States has been working with more than 150 countries at the Third United Nations Conference on Law of the Sea to develop a comprehensive treaty.

On January 29 of this year, I reaffirmed the United States' commitment to the multilateral process for reaching such a treaty and announced that we would return to the negotiations to seek to correct unacceptable elements in the deep seabed mining part of the draft convention. I also announced that my Administration would support ratification of a convention meeting six basic objectives.

On April 30 the Conference adopted a convention that does not satisfy the objectives sought by the United States. It was adopted by a vote of 130 in favor, with 4 against (including the United States) and 17 abstentions. Those voting "no" or abstaining appear small in number but represent countries which produce more than sixty percent of the world's Gross National Product and provide more than sixty percent of the contributions to the United Nations.

We have now completed a review of that convention and recognizes that it contains many positive and very significant accomplishments. Those extensive parts dealing with navigation and overflight and most other provisions of the convention are consistent with United States interests and, in our view, serve well the interests of all nations. That is an important achievement and signifies the benefits of working together and effectively balancing numerous interests. The United States also appreciates the efforts of the many countries that have worked with us toward an acceptable agreement, including efforts by friends and allies at the session that concluded on April 30.

Our review recognizes, however, that the deep seabed mining part of the convention does not meet United States objectives. For this reason, I am announcing today that the United States will not sign the convention as adopted by the conference, and our participation in the remaining conference process will be at the technical level and will involve only those provisions that serve United States interests.

These decisions reflect the deep conviction that the United States cannot support a deep seabed mining regime with such major problems. In our view, those problems include:

Provisions that would actually deter future development of deep seabed mineral resources, when such development should serve the interest of all countries.

A decision-making process that would not give the United States or others a role that fairly reflects and protects their interests.

Provisions that would allow amendments to enter into force for the United States without its approval. This is clearly incompatible with the United States' approach to such treaties.

Stipulations relating to mandatory transfer of private technology and the possibility of national liberation movements sharing in benefits.

The absence of assured access for future qualified deep seabed miners to promote the development of these resources.

We recognize that world demand and markets currently do not justify commercial development of deep seabed mineral resources, and it is not clear when such development will be justified. When such factors become favorable, however, the deep seabed represents a potentially important source of strategic and other minerals. The aim of the United States in this regard has been to establish with other nations an order that would allow exploration and development under reasonable terms and conditions.●

PLAY BALL

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. DE LUGO. Mr. Speaker, the people of the U.S. Virgin Islands and I are extremely proud of one of our native sons who will be participating in the All-Star Game later today in Montreal, Canada—Elrod (Ellie) Jerome Hendricks. Even though Ellie has lived in the Baltimore area since 1970, he was born and raised in St. Thomas. His story is certainly one of success.

Ellie Hendricks' career in baseball began with the Milwaukee (Atlanta) Braves' organization (1959–60). He then spent 2 years at Winnipeg in the Cardinals' system (1962–63) before going to Mexico. The "Babe Ruth of Mexico," as Hendricks was affectionately known, enjoyed his best minor league seasons in the Mexican league (AAA) where he hit 109 homers in 4 years. In his last season there (1967), he led the league in homers (41) and was second in RBI's (112).

The Winter League in Puerto Rico has seen his performances every year, with one exception, from 1960 through 1977. The only exception occurred in 1971 when the Baltimore Orioles went to Japan. Ellie's 112 homers in the Winter League rank him second on the all-time list to former St. Louis Browns outfielder Willard Brown.

Hendricks joined the Baltimore Orioles in 1968 after spending nine seasons in the minors. During the 14 years that have elapsed since then, Ellie has been with the O's for over 12 years. He played 26 games for the Yankees and 6 weeks for the Cubs.

Ellie played in more than 100 games in each of the O's three pennant-winning seasons (1969, 1970, and 1971). He and Andy Etchebarren more or less split the regular catching job from 1968 through 1971.

In November 1977, Ellie was appointed bullpen coach for the Baltimore Orioles. He served as player-coach for the team during portions of 1978 and 1979. Now, he will serve as bullpen coach in the historic exhibition of America's favorite pastime which will be played in Canada today.

It is my understanding that Ellie's personal attributes equal his athletic ability. This has made him one of the most popular personalities to wear an Orioles uniform. In addition to speaking Spanish and playing the flute, he is an accomplished afterdinner speaker and is very active in his community. Truly he is an exemplary citizen.

Ellie Hendricks is an outstanding man. His 23 seasons in professional baseball tell a story of commitment, physical and moral fortitude, and de-

termination. These are the same qualities that have made this country great. My friends in the Virgin Islands and I wish Ellie and his teammates continued success when the familiar cry is sounded in Montreal's Olympic Stadium—play ball.●

A CHANCE TO ELIMINATE TERRORISM

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. McGRATH. Mr. Speaker, the tragic loss of life in Lebanon has called into question the actions of our friend and ally, Israel. What many have lost sight of are the factors which caused this situation in the first place, namely the previous subjugation of Lebanon, an independent state, by Syria and the PLO.

A letter in today's New York Times by the noted authors Betty Friedan, Garson Kanin, Bayard Rustin, and Irwin Shaw, places Israel's actions in their proper perspective, and I commend it to the attention of my colleagues.

[From the New York Times, July 13, 1982]

A CHANCE TO ELIMINATE TERRORISM

To the Editor:

We commend the editorial of July 1, "Judging Israel," which restored some clarity and provided much needed background for a proper understanding of the Lebanon crisis. It was particularly welcome at a time when so many commentators are behaving as though today's problem originated with the movement of Israeli troops across the border, and voices are being heard which would return us to the same situation which spawned the present violence and destruction.

Middle East strife, tensions and violence, including the recent devastation with the great tragedy it has brought to innocent people, must be traced to our failure to face up to the two basis causes of the problem:

● Arab refusal (with the exception of Egypt) to accept Israel as a sovereign state in the area.

● Financial, military, diplomatic and moral support by Arab governments (and the Soviet Union) of a terrorist movement which, to this very day, calls for the destruction of Israel.

We hope our Government leaders have come to realize that appeasement of forces which support terrorism will not bring Mideast peace, nor the stability which the U.S. needs in its own interests.

The elimination of terrorism in all parts of the world has been an oftstated goal of President Reagan. Now is the time to seize the moment to rid the area of all terrorist forces. To the P.L.O., which supports and trains terrorists elsewhere, national boundaries have proved to be meaningless.

We mourn the deaths of the many innocent civilians caught up in the present tragedy. But we have no tears for Arab governments and leaders who condone and encourage the stationing of terrorists along with their firing ranges and armories within civilian camps, schools, mosques and residential areas, so that when the inevitable retaliation erupts, the loss of innocent lives can be exploited for propaganda purposes. The positioning of military personnel and equipment in such areas deserves the contempt of the civilized world, and appropriate international agencies should move to outlaw such cruel and cowardly tactics.

Peace in Lebanon now—and in the not too distant future throughout the Middle East—will be speeded when Lebanon is rid of all foreign armies and private militias, when a reconstituted Lebanon (with which Israel has never had a territorial quarrel) is helped to become once again a strong sovereign state determining its own destiny and able to safeguard the lives of its citizens, Moslem and Christian.

Once terrorism is removed and tranquility returns, it will be easier for both Israelis and Palestinians to sit together at the negotiating table and arrive at a mutually acceptable definition of autonomy.●

IMPROVE EFFICIENCY AND CUT COSTS AT GOVERNMENT PRINTING OFFICE

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. BROYHILL. Mr. Speaker, in an article signed by George Archibald of the Washington Times staff, I read with interest that the Public Printer, Danford Sawyer, wants to improve efficiency and cut costs at the Government Printing Office. He thinks that the GPO should be run by a Board of Directors chosen by the President and the Congress. He feels that the Joint Committee on Printing is thwarting his efforts to make the GPO competitive with other Federal agencies and printers in the private sector.

Mr. Sawyer's primary complaint is the committee's resolution attempting to prohibit him from implementing 6 days of planned furloughs. Mr. Sawyer also says that 80 percent of GPO overhead is personnel expenses for inplant production, and this forces the GPO to farm out many jobs to the private sector for the executive agencies and others who do not want to pay GPO's high costs.

This seems to me to be a ridiculous state of affairs, considering that there are 6,200 workers and numerous expensive machines that should be kept busy. Given the fact that Mr. Sawyer is a highly successful professional businessman, we should certainly be giving him our full cooperation to correct the situation at GPO, which I am given to understand has been going on for quite some time.●

HUGH SIMS, JR.

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. SHELBY. Mr. Speaker, foundries are a basic industry—a primary factor in the system of production of the capital goods industry. While few foundries produce an end product, their castings become components of such diverse facilities and equipment as military tanks and ships; oil and natural gas exploration, production, processing and distribution; electrical power generation and distribution; coal mining equipment; auto and truck engines, transmissions, and drive train components; farm equipment; and nearly all large industrial machinery.

The metal casting industry contributes to the quality of life for the American public in almost every single aspect of daily existence. I would like to take this opportunity and recognize Mr. Hugh Sims, Jr., an outstanding individual who has played a vital role in promoting the cast metals industry in Alabama.

Hugh is currently vice president of Vulcan Engineering Co., which is located in Helena, Ala. Recognized for his leadership capabilities, he was recently elected vice president of the American Foundrymen's Society, a national organization of the metal casting industry.

During this year's annual meeting of the Alabama Cast Metals Association, Hugh was reelected to continue serving as president of this organization. His depth and knowledge of the industry have earned him respect not only among his peers, but throughout the State's entire business community as well.

After graduation from the University of Alabama, he joined American Cast Iron Pipe Co. as a metallurgist. He then worked as a foundry manager before founding his own company, Simsco Industries. In 1976 he became vice president of Vulcan Engineering and president of Birmingham Alloys.

Men of Hugh's caliber are difficult to find today. He knows the concerns of the industry and how these issues interact with our Nation's and State's well-being. Working with industry leaders like Hugh make my job as a Representative in the U.S. Congress so meaningful. It is truly a pleasure to sit down with him and discuss legislation affecting our State. He is the kind of individual who is always working behind the scenes, always putting his best foot forward, and who is always looking to the future with new ideas.

It is indeed an honor for me to share this tribute with my colleagues in the House of Representatives. These few words could not begin to pay the rec-

ognition Hugh Sims, Jr., deserves for his contributions to the metal casting industry. I am honored to know this outstanding individual and to have the opportunity to work with him on industry concerns.●

TRIBUTE TO DOUG HARVEY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. OTTINGER. Mr. Speaker, I rise to pay tribute to a man who had a tremendous impact on industrial energy conservation in this country, Douglas G. Harvey, who died June 14 at the age of 53 of cardiac arrest at his home in Baltimore. Doug Harvey, as Director of the Department of Energy's Office of Industrial Programs from 1975 to 1981, and more recently as a private consultant, testified many times before the Congress, expressing his views on the need for an active Federal role in fostering improved energy productivity in U.S. industry. Under his leadership the industrial energy conservation program became a model of a well managed, cost-effective, industry-government cooperative program.

Doug was a forceful and charismatic leader, yet a man whose greatest joys were his family and his work as an engineer. Himself a prolific inventor, Doug had a unique gift in that he genuinely felt and could communicate excitement over the inventions of others. He probably knew more about industrial energy conservation than anyone else in the country.

Since leaving Government in 1981, Doug had operated a consulting business from his home. He had recently been notified of pendency approval by the U.S. Patent Office for a new anaerobic digestor which he had invented with his son, Christian. His was a lifetime of accomplishment and public service, but those who knew him knew an inveterate tinkerer who seemed to always have a new idea, a new gadget he was designing or building. He could speak for inventors so well because he was an inventor's inventor.

After graduating from Trinity College in 1952 and a year later receiving a master's degree from MIT, Doug joined the Air Force, serving 3 years at Wright-Patterson AFB doing nuclear propulsion research.

From 1956 until 1967, he served as director of radioisotope power systems at Martin Marietta Corp. developing equipment to power satellites. A book he wrote on the use of radioisotopes for generating electrical power was published in 1964. In 1961, he was a Maryland nominee for the Junior Chamber of Commerce Man of the Year; he was listed by Life magazine as among the Top 100 Young Men and Women in the United States, and he was presented the Lawrence B. Sperry Award as the year's Most Outstanding Young Man of Science.

From 1967 until 1971, he served as vice president and director of advanced systems for the Sanders Nuclear Corp., where he began working on other aspects of energy production and conservation.

From 1971 until 1975, he served as vice president of Hittman Associates, Inc., where he was active in studies of energy and the environment. During this period, he was coauthor of a book, based on a company project, entitled "The Automobile, Energy, and the Environment."

Doug was a member of the American Chemical Society and the Institute of Electrical and Electronic Engineers.

He is survived by his wife, the former Dolores Colandrea; a son, Christian D. Harvey, of Fremont, N.H.; a daughter, Ellen R. Stevens, of Anchorage, Alaska; two brothers, Herbert Harvey of Buffalo and Lawrence Harvey, of New York; and a sister, Elaine Stabell, of Glendora, Calif.

We have lost a great friend. The world is better because he lived; it will be poorer for his passing.●

LAW OF THE SEA TREATY: NOT LAW, PIRACY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. FIELDS. Mr. Speaker, I am pleased to place in the RECORD an excellent and perceptive editorial by the Washington Times relative to the President's recent announcement concerning this Nation's rejection of the so-called Law of the Sea Treaty.

I commend both the President and the Times for their refreshing deference to America's long-term domestic and foreign interests in taking their positions. The hundreds of letters coming into my office from all over the Nation literally scream in outrage about how this treaty was negotiated over the years. Not one single letter has been in support of the treaty, except those few from Eastern organizations which support any and all internationalist programs.

Mr. Speaker, the Times editorial follows:

NOT LAW, PIRACY

Sometimes, the only good treaty is a dead treaty. Take the Law of the Sea Treaty, expected to be signed by more than 100 nations, but already rejected by Ronald Reagan and several other world leaders. The history of the treaty—more than seven years in the negotiating—is a fine lesson of how a series of negotiations can be doomed from the start.

No one doubts that it would be useful to clarify some of the conflicting national claims to various straits, mineral deposits, and other sea resources. Ask the Argentines. As Mr. Reagan made clear in his statement last week, the U.S. harbors no objection to the treaty provisions governing rights of passage, territorial limits, and other navigational minutiae.

The proposed agreement, however, is concerned with more ambitious stuff than the resolution of a few oceanic punctilios. What this treaty is all about, and has been from the start, is the redistribution of wealth; namely, the oil and gas deposits and mineral nodules that populate the ocean floor. Western firms and countries have spent many years and many dollars developing the technology to harness these resources—and now, as Little Red Hen slides the bread out of the oven, all the other animals are crowding around for a free share.

Under the accord, technology used to mine the seas would be distributed free to all countries. Companies would be forced to rent out their mining equipment to groups that wanted to have a crack at mining on their own. Resources removed would be divided up and doled out to the Third World in large doses.

Not just Third World governments, mind you: according to testimony given by U.S. chief negotiator James Malone, the set of groups eligible for a handout would include the PLO and other national liberation groups. All of this activity would be governed by an "International Seabed Authority," a body tilted heavily towards the Third World countries that are clamoring for its creation.

Is the final treaty draft just the result of clumsy negotiating? We think not. The U.N. statement of principles which launched the negotiations refers to the seas as "the common heritage of mankind." To the U.S., and under international law until now, that phrase simply meant that the seas belong to no one: anyone is free to come along and use them provided they are willing to undertake the effort.

As the negotiations have made clear, however, a number of countries do not share that interpretation. To them, the seas belong not to no one, but to everyone: they are to be regulated, divided up, governed.

Talk has its limits, and no amount of talk can resolve these two irreconcilable principles. The best course is the one charted by the President. Abstain from the talks until a consensus emerges as to the purpose of negotiation. In the meantime, mining operations will continue as planned; ships will sail as they have for hundreds of years.

It is a system that spreads its rewards on those who take the risks and do the work—a pretty good way to encourage the "equitable harnessing" of the common heritage of mankind.●

THE 97TH CONGRESSIONAL CLASS FOR SOVIET JEWRY

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. WILLIAM J. COYNE. Mr. Speaker, I am pleased to inform my colleagues that Representative CHRIS SMITH and I have organized the 97th Congressional Class for Soviet Jewry. This newly formed group, consisting

of 43 freshmen Members, was established to dramatize the plight of prisoners of conscience and long term refuseniks who are seeking to emigrate from the Soviet Union.

Despite the fact that the Soviet Union is a signatory of the Helsinki Accords, it has not adhered to the intent or the spirit of this document. This is evident in the fact that Jewish emigration from the Soviet Union dropped from over 51,000 in 1979 to 9,448 in 1981.

Working in conjunction with the National Conference for Soviet Jewry, we have targeted those refuseniks who have been waiting visas for more than 6 years. Each Member has adopted, if you will, a refusenik and will be writing to the proper authorities in the United States and the Soviet Union on their behalf. For the next month Members of the 97th Congressional Class will be making floor statements about the refuseniks they have adopted. We hope in this manner to speak for the remaining 2 million Jews in the Soviet Union.

Working with the Jewish community in my district, I have adopted two Soviet Jews. I would like to take a few minutes to tell my colleagues about Benjamin Bogomolny and Yuli Kosharovsky. Benjamin Bogomolny has the distinction of being the second oldest refusenik in the Soviet Union (this does not refer to his age, but rather to the fact that he has been attempting to emigrate for the second longest period of time). In 1966, the Bogomolny family received affidavits to emigrate to Israel, while at the same time their brother and son, Benjamin, was drafted in the army. Since completing his term in the army, Mr. Bogomolny has repeatedly tried to emigrate. The official reason given by the Soviet Government is that he may have learned State secrets while in the army and that he may constitute a threat to national security.

Mr. Bogomolny has been under constant harassment since he first sought a visa. I recently learned from his brother-in-law, Eli Lapa, who resides in Montreal, that the Bogomolny family has sent Mr. Bogomolny another invitation to come to Israel. This is necessary before emigration forms can be completed. However, the Soviet Government claims that it is not aware of the invitation. This is another attempt by that Government to stifle emigration by Soviet Jews.

Yuli Kosharovksy first submitted his application in 1971. He has been denied permission since then by Soviet officials. As one of the early leaders of the Soviet Jewry movement, Mr. Kosharovsky continues to speak out for freedom to emigrate. Although he is by profession a radio electronics engineer, he is not permitted to work in his given field. Further, he has been harassed, arrested, and threatened by the Soviet Government.

In the fall of 1981, local authorities searched the apartments of four Hebrew teachers and confiscated their teaching materials. Mr. Kosharovsky was one of the Hebrew teachers who was targeted by the Soviets in their attempt to eliminate religious study. He fears that he could be arrested at any time.

The situation for Jews in the Soviet Union will only improve if there is continued support for their cause in our country. The 97th Congressional Class is committed to the fact that the rights of Soviet Jews will remain an important issue for the Congress and the administration.

I am submitting a membership list of the 97th Congressional Class for Soviet Jewry.

MEMBERSHIP LIST—97TH CONGRESSIONAL CLASS FOR SOVIET JEWRY

William J. Coyne, Co-Chairman, of Pennsylvania; Christopher Smith, Co-Chairman, of New Jersey; Tom Lantos of California, Dennis Eckart of Ohio, Bill McCollum of Florida, Sam Gejdenson of Connecticut, Albert Lee Smith of Alabama, Barney Frank of Massachusetts, Vin Weber of Minnesota, Bobbi Fiedler of California.

Tom Foglietta of Pennsylvania, George Wortley of New York, Charles Schumer of New York, Lawrence DeNardis of Connecticut, Bernard Dwyer of New Jersey, Dennis Hertel of Michigan, Ed Weber of Ohio, John LeBoutillier of New York, Joseph Smith of Pennsylvania, Guy Molinari of New York.

Joe Skeen of New Mexico, Greg Carman of New York, Mervyn Dymally of California, David Dreier of California, Ron Wyden of Oregon, Steny Hoyer of Maryland, Duncan Hunter of California, Bob Shamansky of Ohio, E. Clay Shaw of Florida, Mark Siljander of Michigan,

Barbara Kennelly of Connecticut, Jack Fields of Texas, Bill Lowery of California, Dan Coats of Indiana, Hank Brown of Colorado, Lynn Martin of Illinois, Hal Daub of Nebraska, Claudine Schneider of Rhode Island, Ray McGrath of New York, James Coyne of Pennsylvania, Buddy Roemer of Louisiana, Frank Wolf of Virginia, Wendell Bailey of Missouri.●

"ISLANDS IN THE STORM: OUR NATIONAL PARKS"

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. BEREUTER. Mr. Speaker, in recent days, I have shared with the Members of this body an outstanding description of the problems facing our national park system. Readers of these articles will no doubt bemoan these worrisome developments. I would hope, however, that this series of articles would prompt all House members to join me in the search for solutions to these problems as soon as possible. Delay may allow irreparable damage.

Author Robert Cahn, who won a Pulitzer prize for his 1968 Christian Science Monitor series entitled "Will Success Spoil the National Parks?" offers his suggestions in the following article. I hope that my colleagues will read his recommendations carefully and then join in a bipartisan effort to enact yet this year park protection legislation of which we can all be proud.

The article follows:

"QUELLING THE STORM: WHAT WILL IT TAKE?

(By Robert Cahn)

Just how well are those "beleaguered islands" in the other states faring since the revelations of the 1980 State of the parks Report? Is the Park Service making progress in understanding the actual condition of the natural resources and setting up systems to monitor changes? Is it having any success in countering the more than 4,300 adverse influences reported and protecting the scenic attractions, wildlife, and historic sites?

DICKENSON'S PLANS LAY GROUNDWORK FOR PROGRESS

There are some indications of progress in the plans of Park Service Director Russell Dickenson, the regional directors, and most superintendents to give higher priority to resource protection. Early last year the park Service submitted to Congress a plan for prevention and mitigation of resource-management problems. It proposed adding 30 new positions for resources specialists who would get their training in parks that need help and then remain in those parks. Also recommended were week-long courses to train superintendents, midlevel, and beginning employees in resource management. Problems needing immediate attention would be indentified under the plan, and then funding would be directed toward those considered most urgent. Other elements in the plan: completing resource management plans for all parks, revising outdated plans, developing methods for monitoring air, water, land, and wildlife conditions, and setting up systems to collect and disseminate information about these conditions.

DIFFICULTY IN TRANSLATING PLANS INTO ACTION

Translation of the plans into actions has been disappointing, despite the good intentions of the Park Service. Interior Secretary James Watt, G. Ray Arnett, assistant secretary for fish and wildlife and parks, and the departmental budget officials have set policies that have placed highest priority on making parks safe and accessible to an increasing number of visitors. Restoration of run-down utilities, roads, structures, and visitor facilities leads their agenda. Most of the fix-up projects were necessary.

But notable among the items in the health-and safety category is $575,000 out of a bare-bones 1982 budget, to rehabilitate hot-springs swimming pools at Olympic National Park. Protecting natural resources remains low on the priority list. The natural resource management division in Washington has been reduced from the 14 employees it had two years ago to only five today.

Park superintendents are allowed a good deal of flexibility in using funds allotted their areas, but they know they will be rated on how well they adhere to the priorities set by Washington. They must absorb automatic pay hikes and inflation within

operating budgets fixed at last year's levels, and must gear their expenditures toward facilities improvement.

One-fourth of the superintendents have either not completed their park's resource management plans, due Dec. 1, 1981, or have not revised plans that are as much as a decade out of date. No parks have yet been able to confirm or deny the validity of the 75 percent of the threats listed in the 1980 State of the Parks Report that could not be adequately documented.

But despite frustrations, some progress has been made. When the Interior Department budget office decreed that the parks could not add the 30 new positions for an already funded program to train resource managers, regional directors and park superintendents volunteered to find unfilled positions that could be used for the program. They even contributed toward salary costs so that 37 employees could enter the program, scheduled to start this summer. And 120 superintendents and 60 midlevel employees have completed special one-week courses in natural resource management.

In the 1982 budget, the Park Service did get $10 million in new money to take care of significant cultural resource projects—mostly restoring historic structures. Although no funds were added for the 38 urgent, significant natural resource problems the Park Service had identified, some of them did start getting attention. This was largely because superintendents shifted funds from other park needs and regional chief scientists diverted special science funds.

MEMORANDUM EMPHASIZES RESOURCE MANAGEMENT

Director Dickenson recently sent a memorandum to all regional directors asking them to put increased emphasis on natural and cultural resource management in their 1984 budget requests and stated his intention to initiate a multiyear effort to increase the funding in this area. He also proposed enlarging the Park Service science program to meet priority research needs, with special emphasis on long-term research. However, most of the superintendents and other Park Service officials I talked with doubted that Dickenson will be able to reverse the priorities set from above.

Lack of support for resource protection is not the only matter troubling the Park Service "troops" in the field. Rangers and superintendents are deeply concerned that the service, with its long tradition of strong leaders and virtual autonomy in policymaking, has in the last decade lost control of its own destiny.

RECENT PARK SERVICE DIRECTORS HAVE HAD SHORT TENURES

For its first 55 years the Park Service had only seven directors—among them leaders like Stephen Mather, Horace Albright, Newton Drury, and George Hartzog, who became well-known public figures, set the policies for the service, and built strong ties with Congress. No director had ever been fired. In the last 10 years four Park Service directors have been fired and the average tenure has been 2½ years. None of the four directors since Hartzog left in 1972 has had close relationships with the members of Congress who oversee Park Service policies and budgets.

During this 10-year period Assistant Interior Secretaries for Fish and Wildlife and Parks Nathaniel Reed and Robert Herbst, who were strong advocates for the parks, assumed a prominent role in Park Service policymaking. The current assistant secretary not only takes the lead in policy but he and his staff tend to involve themselves in Park Service operations as well. Many among the rank and file perceive the present set of Interior Department political appointees who oversee the Park Service—Watt, Arnett, and Ric Davidge (Arnett's special assistant for Park Service affairs)—as having biases that run counter to resource preservation. Arnett was California director of fish and game under Reagan and is an advocate of hunting and the use and manipulation of resources rather than strict preservation. Before going to the Interior Department, Davidge was Washington representative for the National Inholders Association, a job in which he constantly opposed National Park Service land acquisiton policies.

Watt, as "the chief ranger" (a designation he gives himself in speeches), is the most controversial secretary Park Service veterans can recall. His public apologies for the "shameful condition" of the parks offend many park employees. While they agree that many aging facilities and structures need repair, they say Watt's choice of words unfairly puts the blame on the Park Service. His statement "We will use the budget system to be the excuse to make major policy decisions" is interpreted by many as a strategy for sidestepping laws and regulations. Also unpopular with many Park Service people: Watt's backing of the administration policy of weakening the Clean Air Act, which could increase pollution in national parks; his specific management objective to "open up wilderness"; and his advocacy of expanded coal and off-shore oil leasing on public lands near national park areas.

On the other hand, in his first 18 months Watt has visited a number of national parks and make a generally favorable impression on employees who have met him. He has not taken major actions that would harm the old-line national parks, although he advocated some snowmobile use in Grand Teton, Lassen, and Sequoia, jet airplanes in Grand Teton, and power rafts on the Colorado River within Grand Canyon. He has not given away the parks to concessionaires. He came down in favor of continuing regulations to limit boat use in Alaska's Glacier Bay until whale research could be completed. He told the American Mining Congress that he was "adamantly opposed" to mining in national parks and said to newspaper managing editors that "national parks will never be targeted for energy or mineral development as long as I am secretary." (He has yet to rule on pending proposals for energy exploration and development adjacent to national parks.) And his memorandum last year to director Dickenson on management of the National Park System was generally supportive of the parks.

POLITICAL CLIMATE HEMS IN PRESENT DIRECTOR

Director Dickenson, who began his Park Service career as a seasonal ranger at Grand Canyon 36 years ago, is personally popular in the service. Those who complain about the directives coming out of Washington generally recognize that in the Interior Department's present political climate a strong stand for traditional Park Service priorities would probably spell the end of his directorship. And a political appointee from outside the service could be his successor. They remember what happened in 1972, when Hartzog was fired and replaced on a Nixon campaign advance man who had no experience in parks and had never administered a branch of government.

Observers both inside and outside the Park Service note an urgent need for application of modern management techniques in Washington as well as in the field to cope with the increasingly complex management problems of the vast national park system. Four independent studies over the past five years have revealed serious flaws in the way the agency is managed. A 1980 survey of employees found a high degree of frustration over management and communication within the agency.

Park Service veterans say they have never seen morale lower throughout the service. There are, of course, day-to-day grievances such as over-emphasis on police work, tight budgets, and short staffing. These keep them from serving visitors or protecting the resources as they would like to.

Employees' morale is also affected by what they see as interference from departmental political appointees. Word spreads fast in a tightly knit organization, and news of superintendents being overruled in their professional judgment or reprimanded for statements critical of Watt's policies hurts morale. A prime topic of discussion at last fall's annual conference of park rangers was Watt's appointment of Charles Cushman to his blue-ribbon National Park System Advisory Board. Cushman is head of the National Inholders Association, an organization often at odds with many park officials. The appointment only added to their suspicions about the bias of department officials.

WASHINGTON OVERRULES SNOWMOBILING BAN

I learned from sources other than the principals that the Sequoia superintendent's decision to ban a demonstration by snowmobilers because it could damage the park was overruled by Assistant Secretary Arnett's office. The superintendent of Olympic was overruled in a condemnation recommendation he had made against an individual who had purchased one of the few remaining inholdings on Lake Crescent and immediately clear-cut and sold the timber in violation of park policies, leaving a noticeable blemish on the lakeshore. The superintendent's recommendation was reversed by Arnett's special assistant, Davidge, who held up the condemnation and ordered that a land exchange be arranged. The result was that the Park Service had to purchase the property and agree to provide the seller with use of a government-owned $70,000 house and property on the lakeshore for 25 years. The individual was fined $100 in court for illegal commercial logging within a national park.

Park Service officials say they are often put on the defensive because special-interest groups, sensing a relaxation of traditional protection for parks, have gone to the assistant secretary's office with complaints against present policies and requests to open park areas to assorted prohibited activities. At Everglades, it is a demand to approve the use of airboats on a wilderness trail and to revoke a scheduled ban on commercial fishing in the park. At Capitol Reef in Utah stockmen seek 40-year extensions of expired grazing leases within the park; at Lassen, it's expansion of skiing facilities; at Carlsbad and Guadalupe Mountains in New Mexico, it's permission to destroy mountain lions within the parks because they are suspected of killing ranchers' sheep outside the park.

Most people familiar with the situation believe that the Park Service and the national parks will survive these troubled times. Some of the parks staunchest supporters are working to ensure that. The

prestigious Conservation Foundation will soon complete a two-year study of the national parks, documenting a need for better management and resource protection. The 63-year-old National Parks and Conservation Association (NPCA) convened a select group of the nation's best-informed experts on park matters, with some officials of the National Park Service as observers. They developed an action agenda for resolving the park problems, and their conclusions were sent to Congress and to the administration. They appear in a book "National Parks in Crisis." just published by NPCA. The Conservation Foundation, the Wilderness Society, and other leading environmental organizations, along with NPCA, are bringing pressure to bear on Congress to enact a law to correct some of the problems.

Congress is now considering two separate versions of a National Park Resources Protection Act authored by Representatives Douglas Bereuter (R) of Nebraska and John Seiberling (D) of Ohio. The legislation generally would require preparation of a biennial report by the Park Service of the welfare and integrity of park natural and cultural resources, indicate threats to them, and actions being taken to counter such threats. Although approaches vary in the two versions, the bills' central provision would ensure that federal agencies' actions outside of park boundaries are consistent with the goal of protecting park resources. And the Seiberling bill would give the Park Service authority to award small grants to local governments located near parks for land-use planning to help them arrive at land uses compatible with park resource protection.

THE NATIONAL PARK'S MOST URGENT NEEDS

The various forces working to assure the survival of the national parks emphasize certain urgent needs, which include:

Increased priority for natural and cultural resource preservation.

Increased staffing so park units can carry out their mission, hiring of additional natural and cultural resource specialists, and enlarging programs to train present personnel in resource management.

Better information on the status of resources, establishment of systems to monitor changes in the parks, and regular reporting of threats to resources, along with long-range plans to deal with them.

Improvement of scientific research in the parks and better coordination of science programs with resource management.

Continued expansion of the national park system through establishment of units representing such distinctive features as: prairie land; the Great Basin, primarily in Nevada; Mono Lake, California; and other geological, biological, archaeological, and historical areas of national significance.

Acquiring through pruchase, or protecting by other means, the private lands within national park boundaries that are necessary for protection and compatible use of the park resources, and continued use of the Land and Water Conservation Fund where necessary.

Restoring Park Service interpretive programs that have been eliminated and ensuring that such programs communicate the true value of the parks and the threats they face.

Determining carrying capacities of all units in the National Park System and devising a process for preventing excessive use.

Better protection from the impact of development or from other projects originating outside the parks, including legislation requiring federal agencies to give full consideration to the impact on parks before they undertake projects or grant permits.

"Without a dramatic change in policy and management priorities, the outcome will be inevitable—the slow, subtle deterioration of resources will proceed, and at some point in the future the parks will reach the point where the magnificent ecosystems they represent have been stressed to the point of unalterable change," comments Nathaniel Reed, who was assistant secretary for fish and wildlife and parks under Presidents Nixon and Ford. "They will then no longer constitute the heritage they were intended to preserve."

Conditions in the national parks provide an early warning signal that can alert the nation to what may be happening to the natural environment as a whole. They are also the nation's best indicator of what can be called its environmental ethic. They provide a measure of the willingness of today's citizens to adhere to a set of values that includes not only appreciation of the nation's natural and cultural heritage, but a desire to share it with others and leave it unharmed for future generations.

Opinion surveys uniformly show that Americans put a high value on their national park system. So long as that sense of value remains strong, there's reason for confidence the parks will survive.●

EXTEND THE MANUFACTURING CLAUSE

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. SAWYER. Mr. Speaker, my record has traditionally been one of support for the Reagan administration, but today I voted to override the President's veto of H.R. 6198, a bill to extend the copyright manufacturing clause to July 1, 1986, and I applaud my fellow Congressmen who joined with me. This bill is designed to protect jobs in the American printing industry. Due to the expiration of the clause on July 1, 1982, and the President's veto, no trade policy exists with respect to the American printing industry, and thus, once again, another American industry, formulated by many small businesses, would have suffered from the one-way flow of free trade in the international market. But by your actions these jobs have been saved.

The manufacturing clause has been the source of trade policy protection for the printing industry since 1891. In 1976, Congress adopted a 5-year phase out of the clause, designed to give the Department of State time to establish alternate trade protection for the printing industry.

No such trade policy was established and on June 17, 1981, Representative John Ashbrook introduced a bill to extend the copyright manufacturing clause. The House adopted a compromise version of the extension, H.R. 6198, on June 15, 1982, by a suspension vote of 339 to 47. The Senate passed H.R. 6198 by a unanimous consent voice vote on July 9, 1982. The President's veto was a surprise after the noncontroversial bill received strong support in both Houses and the endorsement of the Printing Industries of America, the Book Manufacturer's Institute, and the AFL-CIO.

The manufacturing clause requires that literary works, such as books and periodicals, which are written in English by resident American authors, must be bound and printed in the United States or Canada if they are to enjoy copyright protection. When an author cannot find an American publisher, then the author is excused from the requirements of the clause. The clause applies to nondramatic, literary, and copyrighted materials and thus would generally cover the following printed materials: Books, catalogs, directories, periodicals, newspapers, copyrighted commercial printing, copyrighted business forms, greeting cards, copyrighted advertising materials, and miscellaneous copyrighted printing services.

I endorsed this bill because it is the only form of protection, for one of this country's most labor intensive industries, from the competition of overseas firms. Without this protection there will be a loss of 170,000 to 367,000 jobs, a loss of 30 to 40 percent of the American printing industry's business and jobs. The loss of printing business and jobs will fall most heavily on small businesses.

The veto of this bill, in light of its importance to American small business and jobs is particularly frustrating because the Department of State has had 5 years to develop an alternative to the copyright manufacturing clause and failed to do so. By overriding the President's veto, the State Department now has an additional 4 years to come up with adequate trade protection measures, to insure fairness in the international book marketplace. We can eliminate the clause prior to the 1986 expiration date in H.R. 6198, without harm to the printing industry, as soon as the Department of State formulates an alternative trade policy.

Once again I commend you for seeing the urgent need for passage of this much needed legislation. And I urge the Senate to also follow House action on this bill so the Congress can reassure the country that we indeed are committed to saving jobs.●

TESTIMONIAL HONORING JOHN C. MARCHESI

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. CONTE. Mr. Speaker, fellow colleagues, I would like to take a

moment today to pay tribute to a close friend from my district who has done a great deal to improve his community through his work for the Sons of Italy, ITAM Lodge No. 564. I am proud to be a member of the ITAM which is located in Pittsfield, Mass.

John C. Marchesi is one of the founders and charter members of the ITAM lodge. The ITAM is one order of the Sons of Italy, a nationwide fraternal organization. The Pittsfield lodge, with a membership of over 800, has the distinction of having the largest membership in the country. In addition to lodges in the United States, the Sons of Italy has orders in both Canada and Bermuda.

The ITAM building itself is an impressive structure. Located on Pontoosuc Lake, the lodge was completed in 1973 and today is a very popular sight for many social activities. The land had been purchased in 1968 and after a tremendous group effort, the groundbreaking ceremony was held in 1972. In addition to raising the necessary funds to build the lodge, the members also pitched in with their own skills to complete the building.

I am proud to say that John has risen through the ranks of the order and now maintains the national office of trustee. This is a great honor for John, especially in light of the fact that out of the entire membership, approximately 300,000, there are only 20 national officers. In addition to his present office, John has also held the positions of lodge chaplain, assistant venerable, and venerable. Also, he was State supreme delegate and grant trustee. The State delegation had elected John supreme delegate and at the national convention in the spring of 1981, John was elected to his current position of national trustee.

The motto of the Sons of Italy is liberty, fraternity, and equality. As a personal friend of John, I will attest he has lived up to this motto in every way. He has worked diligently for his lodge and community by assisting in the organization of such activities as the ITAM charity ball, family picnic, clam bakes, and holiday parties. He was also instrumental in starting the pitch league and bingo games that the ITAM sponsors. On a national level John is on the sports and Hall of Fame committees.

On July 17, 1982, John's brothers at the ITAM will be honoring him for his work on behalf of the Sons of Italy. As you can see from the picture I have painted of John, this testimonial is well deserved. However, a description of him would be incomplete if I did not mention John's work for the community through his position with the parks department of Pittsfield. John is especially active in the youth sports program in the city and there are few youngsters active in any of the city's sports programs who would not recognize John. John certainly gives each activity he is involved in his best effort.

Again, I am proud to say that John is my friend and I am equally proud that I am a member of the organization which he represents so well. Thank you.●

HOUSING VETO HURTS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. AuCOIN. Mr. Speaker, just a few weeks ago, the President vetoed an emergency housing bill. But he did more than just veto another piece of legislation, he killed an opportunity to put hundreds of thousands of people to work in a myriad of industries and to spark new life into a depressed economy.

Mr. and Mrs. Vernon Mosser of Willamina, Oreg., know that for a fact. Mr. Mosser, through no fault of his own, has lost two jobs due to business shutdowns.

The sad thing is that their story is not unique. It is a story millions on Main Street are becoming all too familiar with and a story for which the administration promises a happy ending—if we can hold out just a little bit longer. Unfortunately, so many families like the Mossers cannot afford to wait.

As fond of anecdotes and stories about the average hard-working American as the President is, I thought I would share with him and my colleagues a letter I received from the Mosser family. The story of the Mossers is why the housing bill should have been signed. It documents the human pain the administration has caused by vetoing the housing bill.

The letter follows:

WILLAMINA, OREG., *May 26, 1982.*

Representative LES AuCOIN,
Washington, D.C.

DEAR MR. AuCOIN: President Reagan says we should "Bite the Bullet," and "Hang in There." We can't afford to buy bullets, and our rope has frayed to the breaking point.

Mr. Mosser was out of work for 9 months in 1980 when Champion Building Products closed its Willamina Plywood permanently. We managed to survive that by the skin of our teeth.

In October 1980 Mr. Mosser began working for Hamption Veneer, a division of Willamina Lumber. Mr. Mosser worked all of 1981 and we managed to get caught up by January 1982. But by the end of January 1982, Hampton Veneer closed its plant down for an indefinite period of time.

Contrary to what Mr. Reagan thinks, not all households have both husband and wife working. Mr. Mosser is and has always been the only one in this household employed. We have lost 60% of our income. We can not cut that many corners.

The last full month of employment Mr. Mosser paid in the following:

Federal income tax	$328.00
State income tax	122.00
FICA	73.66
FICA (matching company fund)	73.66
Total	597.92

For the year of 1981:

Federal income tax	$4,453.37
State income tax	1,513.56
FICA	1,827.67
FICA (matching company fund)	1,827.67
Total	9,622.27

If Mr. Mosser is unemployed the whole year of 1982 the government will pay him $7584.00 not to work.

How! How? can Mr. Reagan call the bill you introduced as being a "bail-out." With 100,000 people unemployed in Oregon, and also tens of thousands working curtailed shifts, it would not take more than a year to earn it all back. Also interest subsidy will be a guaranteed return.

We feel it is foolish for the government to give Mr. Mosser $632.00 a month not to work. When you add what we don't pay in and what we are paid not to work, it comes to $1229.29 a month from us alone.

The lumber industry affects a great many other lines of work. It's no wonder our country is in such an economic slump. I can't believe Mr. Reagan cannot see this. Oregon does not stand alone, as you're well aware of many other states are in the same situation. How can Mr. Reagan ignore this?

We are under the assumption that the Congress and the Senate run our country—but it seems Mr. Reagan and a few of his Rich Friends run it. So why don't our elected officials come home. At least we could save that much money.

Being citizens of Oregon we feel Mr. Reagan has no regard for our welfare or any other lumber depended state's welfare.

Maybe if we float out into the ocean we can apply for "foreign aid."

Respectfully,

VERNON L. AND JUANITA J. MOSSER.●

THE SUPREME COURT ON PUBLIC EDUCATION

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. MURPHY. Mr. Speaker, on June 28, 1982, the Supreme Court issued its first interpretation of the provision of "free appropriate public education" under Public Law 94-142, the Education for All Handicapped Children Act. In a 6-to-3 ruling on Hendrick Hudson Central District Board of Education against Rowley, the High Court reversed the lower court decision stating that the school district was not required to provide a sign-language interpreter for a child minimal residual hearing.

While it is critical to point out the implications of this case to the provision of appropriate educational services to other handicapped children, it is equally important to attempt to clear up some of the misinterpretation that has occurred over the facts in

this decision. First, the Supreme Court did not deny the provision of an interpreter for Amy Rowley because it was too expensive, as was implied by a June 30, 1982, Washington Post editorial. The Court determined that, based on Amy's performance in school with other supplementary services and additional tutoring, she is receiving an adequate education, since she performs better than the average child in her class and is advancing easily from grade to grade.

Second, the Court did not hold that school districts would no longer have to provide sign-language interpreters for deaf students as was reported in the June 29, 1982, issue of Education Daily as well as in numerous newspapers around the country. While the Supreme Court did not require that the Hendrick Hudson Central School District provide a sign-language interpreter for Amy Rowley, the Court clearly stated that this opinion would not preclude the provision of these services to other handicapped children.

In this case, Amy Rowley, a child with severely impaired hearing, is an excellent lipreader but still misses a substantial portion of what is said in her classroom. The Rowleys agreed with the individualized education program (IEP) as developed by the school system but insisted that Amy also be provided with a qualified sign-language interpreter for all of her classes. The school board complied with the lower court's ruling that she was entitled to this assistance under Public Law 94-142 but appealed the ruling to the Supreme Court.

The High Court determined that a handicapped child is receiving a "free appropriate public education" if the State has complied with the procedures of the act and the individualized educational program was reasonably calculated to enable the child to "benefit" from the educational program. If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.

Using these requirements as a standard, the Court found that Amy was receiving an adequate education consisting of instruction and related services calculated to meet her educational needs. However, since neither the district court or the court of appeals adequately addressed the issue of whether the school district followed the act's procedural requirements in the development of Amy's IEP, this case was sent back to the district court for further proceedings on this issue. While some advocates may feel that this decision is too limiting, it is important to emphasize that the High Court reaffirmed the value of parent participation in the educational process, the development of the individualized education program, and other procedural safeguards in the act as critical determinants of an appropriate education for an individual child.

Since the passage of Public Law 94-142 in 1975, over 4 million handicapped children are now receiving educational programs appropriate to their unique needs which will allow them the opportunity to become self-sufficient, taxpaying citizens. Let us put the Rowley case into perspective. This Supreme Court holding is a very narrow one—limited to one handicapped child who is receiving substantial specialized instruction and related services, and who is performing well above average in the regular classroom of the public school. It should not be used as a justification for providing inappropriate educational programs for the many other handicapped children throughout the country. However, since the Court's interpretation of Public Law 94-142 imposes no clear obligation upon States beyond the requirement that handicapped children receive some form of specialized education providing adequate educational benefits, it will be the responsibility of both parents of handicapped children and concerned professionals to insure an accurate interpretation of the Rowley case by Federal, State, and local education agencies.●

AAA SCHOOL SAFETY AWARDS

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. BROWN of Ohio. Mr. Speaker, on July 28, the American Automobile Association will present seven young people the highest award given to members of school safety patrols throughout the United States, the AAA School Safety Patrol Lifesaving Medal.

The seven recipients, credited with having saved a life while on duty at their school patrol posts, will be honored at special ceremonies during AAA day at the World's Fair in Knoxville, Tenn.

This year's medal recipients will join a list of 249 youths from 28 States and the District of Columbia who have been honored since the program began in 1949.

AAA has sponsored school safety patrols nationwide since 1922. Today the program includes more than 1 million children at 50,000 schools throughout the country.

Two of the recipients of the 1982 award are from my district. They are Lawrence E. Eagle and Donald R. Grimm, both 11, of Xenia, Ohio. They will be honored for their quick actions and heroic acts. On November 3, 1981, Lawrence was stationed on one side of the crosswalk, and Donald was at his post on the other side. As several students were heading across the intersection, both patrols noticed an approaching car that was not slowing down to stop for the red light. Lawrence and Donald grabbed and shoved the youngsters out of the path of the car as it ran the red light.

Lawrence and Donald should be recognized for their exceptional judgment and courage in a dangerous traffic situation.●

ROLLING STONE MAGAZINE ON H.R. 5153, DOMESTIC CONTENT BILL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. OTTINGER. Mr. Speaker, I would like to call to the attention of my colleagues an article by William Greider which appeared in the July 22 edition of Rolling Stone magazine. Mr. Greider analizes well the need for this country to adopt measures which will aid the American auto industry in its efforts to rebuild—a rebuilding effort that is vital to the American economy.

THE UAW FIGHTS FOR SURVIVAL

(By William Greider)

After the recession ends, a new and chilling reality will dawn in America: for thousands of unemployed workers in autos and steel and other basic industrial sectors, the recession isn't going to end. Those workers will never be called back to the plant.

Faced with this prospect, the United Auto Workers began a legislative counter offensive, which has become the subject of pious clucking among high-minded policymakers. For many years, the UAW was the progressive pillar or organized labor, the one union that usually took the high road. Now, it seems, the UAW is playing down and dirty with the cherished principle of free trade. The action centers around H.R. 5133, a bill the union drafted last winter that would effectively blunt the influx of Japanese imports by requiring that cars sold in America be substantially made in America. Broadly dismissed at the time as a raw and even dangerous lunge toward protectionism that could rapidly lead to trade wars with our allies, the UAW's legislation was given little chance for more than embarrassment in Congress. A drastic remedy proposed by a union in desperate circumstances.

The embattled union set about doing what labor lobbyists do best—prowling congressional offices for support. Reluctant representatives began receiving batches of letters from the rank and file back home. Local union leaders came to call. If a congressman still hesitated, he might hear from the UAW's political money man, reminding him of past and future campaign contributions.

Week by week, as unemployment spread across the nation, more legislators put aside their private misgivings and signed on. H.R. 5133, as one sponsor put it privately, is "a crappy bill," one he hopes he will never have to vote for; but he may be stuck now. By the end of June, H.R. 5133 had collected

217 cosponsors in the House, virtually a majority, and sixteen in the Senate. Senator Edward M. Kennedy, long faithful to free trade, signed on early, perhaps mindful that this is an important labor issue that will be remembered by the UAW in the presidential politics of 1984. On the other extreme, Representative Delbert Latta, a retrograde Republican from Bowling Green, Ohio, also became a sponsor. Latta has a lot of auto workers in his district.

If UAW lobbyists can steer past various legislative obstacles, they hope for a floor vote, at least in the House, before the November elections. In which case, respectable objections may wilt in the presence of political imperatives. Representative Fortney H. Stark Jr., a Democrat from Oakland, California, who signed up when a GM plant closed in nearby Fremont, laying off 2500 workers, neatly described the options: "I have a very simple measure. I walk through my district and count all the Japanese industrial executives. Then I walk through again and count the American auto executives. Then I count the members of the UAW. This way, I have no trouble deciding how to vote."

Like the other major industrial unions, the UAW is hemorrhaging and fighting for its own survival. And H.R. 5133 is an extreme measure. In broad terms, it would compel foreign and domestic auto makers to operate factories in this country and employ American workers if they wish to sell their cars here. The more cars they sell, the greater the demand for "domestic content" in parts and labor, rising to a requirement of ninety percent for the best-selling models. Obviously, this plays hell with the principle of unfettered international commerce that our government has espoused since World War II.

But H.R. 5133 is also the glimmer of a good idea. Certainly such drastic legislation will not be enacted without substantial softening, but it provides the opening wedge for a fundamental debate that cannot be avoided in the Eighties. Crudely stated, the bill forces the politicans to decide if America will simply stand by and play the good-natured wimp in the name of free trade while a major portion of our industrial base and hundreds of thousands of our best manufacturing jobs are lost to Japan and other countries that do not play fair themselves.

The governing ethos of free trade has dominated both political parties for a generation. Too bad about the auto workers and the steelworkers and the others, the free traders say with a shrug, but on balance, free trade is a good thing for all of us. The wounded labor unions counter with an angry *no*, maintaining that America is playing the patsy by following old rules that no longer apply to the new realities. While our markets are relatively open to imports and our major multinationals are free to make their own investment decisions, every other major industrial nation plays a different game, controlling and subsidizing capital investments, protecting their basic industrial sectors from foreign dominance in one way or another. If the U.S. doesn't start to play tough, it is going to lose millions of jobs in this decade, including the best-paying factory jobs that have helped so many working-class families attain middle-class status. In time, as Americans understand the ruinous consequences of this, more and more are going to side with labor. If Democrats or Republicans do not respond, then the next George Wallace will.

Something must be done. The auto industry is in its thirty-ninth month of depression. Thirty major plants from California to New Jersey are closed. Approximately 250,000 auto workers have been laid off, and supplier firms, materials industries and dealerships have let go of twice that number. Right now, of course, the UAW bill provides the Democrats with an opportunity for election-year flimflam at the Republicans' expense. If Reagan is forced to a veto, so much the better.

An uglier sentiment, tinged with racism, bubbles just beneath the surface: the growing resentment toward the Japanese. In Detroit, a union parking lot has a sign up that reads, park your imports in Japan. Most sophisticated critics are fed up with the fact that American taxpayers, in effect, pick up the tab for Japan's national defense, protecting the sea lanes free of charge for our competitor. Even congressional offices are receiving nasty "anti Jap" letters from high-tech engineers in Silicon Valley. California governor Jerry Brown put it this way: "In a sense, we are forming a colonial relationship with Japan. We ship her raw materials, she ships us finished goods."

Representative Richard Ottinger of New York, the Democrat who first introduced the UAW bill, thinks that Japanese industrialists ought to get the message and respond now, rather than risk congressional action. "No-body really wants to set up a protectionist world," Ottinger said. "What we would like to do is use this as leverage to make sure a fair situation is worked out."

The principal pressure is aimed at Toyota and Nissan. Toyota, the leading imported automobile in the U.S. market, has virtually no production here. Nissan, which makes Datsuns, is opening one truck assembly plant in Tennessee, but it will depend mostly on imported parts. No Japanese auto maker followed the lead of Volkswagen in making substantial investments in American production. The Volkswagen Rabbits now sold in America approach seventy percent domestic content. "They can't tell us it can't be done," said the UAW's chief lobbyist, Dick Warden, "because Volkswagen did it."

The UAW's domestic-content legislation, or some variation of it, would avoid the worst protectionist features of hard quotas or high tariffs. If Americans prefer Japanese cars because they are better cars, they can still buy them. If the Japanese are more efficient managers, they can transfer their productive efficiency to American factories. "Some portion of the $13 billion auto market that the Japanese have in the United States. ought to be built here, instead of running the factories overtime in Japan," said the UAW's Don Stillman.

Toyotas and Datsuns are the political foil for H.R. 5133, but the UAW's real target is closer to home—the American multinational corporations who make and sell cars around the world, particularly General Motors and Ford. Looking into the future, beyond the recession, the union sees a grim prospect in which U.S. companies, in a search of cheaper labor and global efficiency, build more and more factories in other countries. This trend toward a "world car" is already under way, and the UAW predicts it will accelerate if the government doesn't intervene. About 2.5 million engines and 1.7 million transmissions will be imported for American cars in each of the next few years. An independent survey estimates that the imported content of American cars, which is now less than five percent, could increase to thirty percent by 1985 and nearly forty percent by the end of the decade. Would you buy a J-car from Brazil? They are already here.

GM has been particularly brusque in its disregard for American workers. This spring, the UAW reluctantly agreed to a revised contract permitting a general cost-cutting campaign in GM plants—an agreement that barely won ratification because so many workers were skeptical of the company's cries of distress. As if to prove them right, GM announced a generous new bonus plan for its executives the day the contract was signed. The plan was hastily modified to quell rebellion. A few weeks later, GM added further injury by announcing that it had just completed an agreement to import subcompacts similar to the Chevette from Japan. The company will buy as many as 200,000 a year from Isuzu Motors, in which GM owns more than a one-third interest. This was an ominous message to the union that similar deals would follow, and that the production jobs on small cars would thereafter be exported to foreign workers.

Inevitably, the American workers themselves are blamed. Their wages are too high and union work rules too inefficient, making the cost advantages of foreign production overwhelming by comparison. The UAW and other unions are trying to reform the inefficient work rules, but the wage differential between U.S. and foreign workers portends an unacceptable ultimatum: if Americans want to keep their jobs, they must accept less compensation for their labor. Trouble is, American workers don't live in Brazil or Japan; they pay American prices. Thus, the global logic of economic efficiency is forcing a brutal reduction in the standard of living for millions here.

The wage argument against American labor is not nearly as persuasive as it used to be. U.S. auto workers are still the best paid anywhere, but the gap between the U.S. and other industrial nations, including Japan, is narrowing steadily. Overall, the American manufacturing worker is no longer the best paid in the world. In 1980, according to U.S. Bureau of Labor statistics, production workers in Germany, Belgium, the Netherlands and Sweden earned more, and those in France and Canada were close to parity. The governments in those countries, by the way, all provide substantially greater social benefits for their citizens—i.e., subsidized housing, family allowances, guaranteed health care—than American workers enjoy.

Who is to blame? Everyone and no one. The Detroit executives should properly be at the top of the list. All along, they were as complacent about inefficient production as the union, and more to the point, they profoundly misjudged the future of their own industry. If Detroit had listened to its critics (including UAW leaders), or even to the federal government, it would have been better prepared for the dramatic shift in buyer demand toward smaller and more efficient cars, which the Japanese and other importers answered effectively. The Washington politicians were complacent, too, particularly for not demanding fair play in international trade. For two decades, U.S. negotiators have sweetly preached free trade while the other guys kicked and gouged us at every opening. That was tolerable when American industries overwhelmed world markets. In that sense, no one is to blame. Free trade allowed our economic competitors to grow and innovate while America's factories relied on the country's natural advantages.

Now that system has to change—and soon—or domestic politics in America will witness an ugly rebellion in the next few years. The distant promise of high-tech in-

dustries will not help those who remain laid off. Neither will robots or any of the technological innovations intended to make American industry more efficient. We are talking about a fundamental restructuring of American employment, the kind that could sow political bitterness for a generation.

No one pretends that those economic trends can be repealed, but a decent respect for social order ought to compel the politicians to reexamine the premises of free trade and how it really operates in the world of multinationals. The gut question is this: should global corporations based in the United States continue to move their capital investments—and the jobs capital creates—around the world, completely free of the social consequences for America? The Reagan administration, devoted to the "magic of the marketplace," as the president calls it, is most unlikely to address that. Nor are the neoliberal Democrats who are already writing off autos and steel as "sunset" industries of the past. But any new economic agenda that claims to be progressive must start by confronting the multinationals and the damage they do in the name of efficiency.

In the simplest terms, this new agenda would challenge the definition of efficiency that has prevailed under the banner of free trade. A corporation draws up its own balance sheet for every investment decision—comparing wages, taxes, transportation costs and so forth—and decides that, all things considered, it would be more efficient to make axles in Japan or engines in Mexico or whatever. In theory, the bottom line is unassailable, because presumbably everyone benefits from efficiency.

But the narrow balance sheets of corporate decisions makers inevitably leave out costs that others must pay, such as the social and economic costs created by transporting capital away from established centers of industry, not to mention the intangible misery that's caused. In narrow terms, one could probably caculate that it would be more efficient to close down the aging factories in Detroit and start over again in Brazil. Except someone would have to pay for the consequences. The same consumers who theoretically might benefit from cheaper cars from Brazil would bear an enormous burden via government taxation for the economic dislocation—the lost value of public investments like roads and schools, the welfare costs of unemployment, shrinking tax revenues, the need to retrain and relocate dispossessed workers. In rough terms, this is what makes many global transactions by multinational corporations losers for Americans generally while the deals look like winners for the individual companies. In the long run, multinational reform must force them to consider these external costs in their calculations; otherwise, Americans are going to subsidize their own deindustrialization.

Such reform isn't as radical as it sounds. Seventy-five years ago, when industrial workplaces routinely violated the health and safety of their workers, companies argued against the improvements imposed by government regulation on the grounds that these added to their production costs, raising prices and making them noncompetitive. The same objection was made when government began imposing environmental rules on corporations. In time, the corporate managers were compelled to accept that these so-called external costs of doing business must be included in their balance sheets, not pushed off on taxpayers. Now, a similar case must be developed: multinational corporations cannot transport jobs and factories around the world without bearing some responsibility for the ruin they leave behind.

The UAW has begun to make that case and is likely to find growing respect for its position. Political scientist Joel Rogers, among others, predicts that the simple banner of free trade must yield to a more complicated understanding of how the world really works and how Americans must defend their interests in it. The bill's message to other nations, Rogers suggests, should go like this:

"We recognize the global market for cars, but we're not going to tolerate investment decisions made on the basis of depressed wages in third-world countries and elsewhere. If you expect to get into the American market, then you are going to have to do some production in America."●

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. MAZZOLI. Mr. Speaker, the Immigration Reform and Control Act of 1982, H.R. 6514, which was unanimously reported from my Subcommittee on Immigration, Refugees, and International Law on May 19, has as one of its major aims stopping illegal immigration. The bill, however, also reforms substantially our legal immigration policy.

One of its major provisions provides immigration benefits for the Amerasian children—those half American, half Asian children fathered by American servicemen in Vietnam, Korea, Loas, Cambodia, and Thailand.

The language in H.R. 6514 is very similar to that in H.R. 808, The Amerasian bill authored by the gentleman from Connecticut, Congressman STEWART MCKINNEY.

As extensive testimony before my subcommittee demonstrated, the Amerasian children suffer terrible discrimination in their home countries because of their mixed parentage. Father Alfred Keane, members of the Pearl S. Buck Foundation, and many others who work with these Amerasian children have provided poignant testimony about the hardships they suffer.

Recently, I met with Gen. John W. Vessey, Jr., Chairman of the Joint Chiefs of Staff, Lt. Gen. Harry A. Griffith, and their wives to discuss the Amerasian bill. General Vessey was commander of our forces in Korea and Lieutenant General Griffith was there with him. These distinguished officers and their spouses argued eloquently on behalf of the Amerasian children, and the need to enact legislation on their behalf.

The American people have taken the cause of the Amerasians to their hearts. Since becoming chairman of the Immigration Subcommittee last year, I have heard from Americans from across the land who support these Amerasian children and want them to come to the United States.

The language in the immigration reform bill, which every one of my subcommittee members strongly supports, demonstrates that we in Congress are also sensitive to the plight of the Amerasian children.

There are many good reasons for this Congress to enact the Immigration Reform and Control Act of 1982 this session, and the Amerasian provisions is certainly one of the most important.

Two excellent editorials have appeared recently concerning the Amerasian children, one in the Louisville Courier Journal and the other in the New York Times. I am including these at the conclusions of my remarks for the benefits of my colleagues.

[From the New York Times]

BRING THE DUST CHILDREN HOME

The cause of the pitiful *bui doi*, the dust children of Southeast Asia, has just been advanced by a surprising benefactor, the Foreign Minister of Vietnam. It's an opening that Congress, as it returns to work today, has a duty to seize.

The dust children of Vietnam, like the offspring of G.I.'s and other American elsewhere, are blond, or black, or blue-eyed, or round-eyed: visibly Western. Many are harassed. Many are left to run the streets. Even those whose mothers struggle to get them into the United States, cannot come. Vietnam won't let them out. America won't let them in.

Now, however, Foreign Minister Nguyen Co Thach says his country is ready to let out the 8,000 Amerasian children in Vietnam. He no longer insists that their fathers first admit to paternity, a condition that barred most. He says only that Congress must pass the pending legislation permitting the children's entry.

Perhaps it is a mistake to take all this at face value. Perhaps Mr. Thach has other purposes in mind. Vietnam needs no license from the United States Congress. It could simply let the children go, and force American officials to scramble to admit them as refugees.

But it is more likely that Mr. Thach means what he says. Refugees are, by definition, fleeing persecution; for the children to be labeled refugees would paint Vietnam as a persecutor in world opinion. Legislation would provide a neutral remedy, extending to Amerasians the priority status to which children of Americans are entitled.

Some argue that, so long as Vietnam says no, the legislation is meaningless piety. If Mr. Thach is sincere, that argument collapses. But even if he is not, the case for action remains compelling. To eliminate the obstacle at this end would put the onus squarely on Vietnam.

And there's a still-more important argument for the bill. There are Amerasian children also in Korea, Thailand, Laos, even Cambodia. Whatever happens in Vietnam,

legislation would be required for them to come to America.

Representative Romano Mazzoli, Chairman of the House Immigration Subcommittee, understands that. He pressed for an Amerasian provision in the pending immigration reform bill. Senator Alan Simpson understands that. He promises prompt action on the Amerasian bill proposed by Representative Stewart McKinney of Connecticut and Senator Jeremiah Denton of Alabama.

The enemy now is time. Though it is still steamy July, there aren't many legislative days left in the 97th Congress. Before adjourning to campaign, it must still act on tax increases, spending cuts, clean air, bankruptcy—not to mention the big immigration bill. In other words, time is running out for America to claim its children.

They will always, indelibly, be American. They will not long remain children.

[From the Louisville Courier-Journal, July 11, 1982]

PROSPECTS BRIGHTEN FOR BILL TO ADMIT AMERASIAN CHILDREN OF GI'S

Vietnam's announcement that it will allow the abandoned children of U.S. servicemen to leave if America will accept them is encouraging news. Now it just remains for Congress, where support has been growing steadily, to pass the Amerasian Immigration Act so this country can begin making up for years of pretending this was someone else's problem.

No one knows how many youngsters of mixed blood there are as a consequence of three decades of our military presence in Asia, or how many would seek adoption or sponsors in the U.S. if given preferential treatment under immigration quotas. Estimates run as high as 80,000, including children in South Korea, Laos and Thailand. But even if all applied and were accepted, they would simply displace other refugees eligible for admission.

Few causes are more just—and especially in Vietnam. Nearly all the children born there to native women and American GIs are denied public schooling, refused ration cards, despised (like their mothers) as outcasts.

The Hanoi government, embarrassed by the problem, has been slow to agree publicly to a workable solution. As recently as last month, it said no youngster could leave unless his father agreed to take him. But in private, the Vietnamese have said they would cooperate if the emigration could be handled tactfully. And now Foreign Minister Nguyen Co Thach imposes no conditions. If Congress passes the legislation, he said last week, "We will give them permission to leave."

And on Capitol Hill? The author of the bill to give quota priority to Amerasian children, Representative Stewart McKinney of Connecticut, has more than half of that body as co-sponsors. And the situation looks equally promising in the Senate, especially now that the Reagan administration has pivoted 180 degrees to support it.

If there's a remaining risk, it could be in current, foolish proposals to expand the bill to include the mother and even the siblings of Amerasian children. Or, since the measure is coupled in the House with the more wide-ranging and thus more controversial omnibus immigration bill (which covers such thorny matters as sanctions against employers who knowingly hire illegal aliens), there's the chance the defeat of the latter could shoot down the Amerasian bill, as well.

Perhaps that won't happen. The omnibus bills have strong bipartisan support, too—thanks largely to the splendid teamwork of subcommittee chairmen Romano Mazzoli of Louisville, a Democrat, in the House, and Alan Simpson of Wyoming, his counterpart in the Senate. They agree with those who say the Amerasian makes a profound claim on our national conscience. But they could be excused for noting that the abandoned children of GIs are only one of many immigration problems this nation long has refused to face squarely.●

NUCLEAR ARMS ISSUES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. LANTOS. Mr. Speaker, at a recent meeting here in Washington between Members of the U.S. House of Representatives and Members of the European Parliament our colleague, Chairman ZABLOCKI, presented an excellent statement on nuclear arms control and on initiatives in Congress dealing with nuclear arms issues. Our European colleagues found the statement informative and useful. Chairman ZABLOCKI has provided leadership and direction to committee consideration of the nuclear arms control issue and I am sure that my colleagues will find his insights valuable in their own deliberations, discussions, and debates of this vitally important issue. Chairman ZABLOCKI's statement made on June 24 at the 20th meeting between delegations of the European Parliament and of the U.S. Congress follows:

STATEMENT OF HON. CLEMENT J. ZABLOCKI

I am very pleased to be here once again with our European colleagues to participate in these valuable exchanges between Members of the U.S. House of Representatives and Members of the European Parliament. While I intend my remarks today to be brief, I nevertheless hope that they will provide some useful insights into the current congressional activities and perspectives on nuclear arms control. It is, I am sure you will agree, probably the most important issue with which we have to deal as elected representatives. Nor is it an exaggeration to say that the very survival of mankind may well depend on what we do, or God forbid, do not do on this question. The second session of the 97th Congress has devoted a great deal of time and attention, and rightfully so, to the issue of nuclear arms control. For example, the Subcommittee on International Security and Scientific Affairs, which I chair, and on which my distinguished colleague from Kansas, the Honorable Larry Winn serves, has held six extensive and informative hearings over the last five months on nuclear-related questions. The subcommittee considered some 20 separate resolutions on nuclear arms control and focused particular attention on several key issues which included:

U.S. arms control policy and its effect on the NATO alliance, including the status of the INF negotiations in Geneva;

The Reagan administration's strategic modernization program and its relationship to U.S. negotiating posture;

The extent to which the administration has recognized the positive benefits of arms control in enhancing U.S. national security interests; and

The role of Congress in shaping U.S. arms control policy through legislative action.

In the past several months, we here in the United States and you in Europe have witnessed a heightened public awareness on the subject of nuclear arms control. In a recently-conducted U.S. poll, an overwhelming majority of the American public—some three to one—want action now on nuclear arms control. Furthermore, the poll indicated a surprisingly broad-based support for nuclear arms control, shared almost equally by Republicans and Democrats, men and women, conservatives and liberals.

In response to the American people's demand for progress in arms control and action now on reductions, Members of Congress of both political parties have sponsored or co-sponsored resolutions embodying differing approaches to nuclear arms control. One proposal calls for a freeze on nuclear weapons. Another approach is a resolution endorsed by the Reagan administration which essentially contends that an equitable arms control agreement at sharply reduced levels of forces is only possible after a massive unilateral increase in the nuclear arsenal which would force the Soviet Union to make concessions. My own resolution, House Joint Resolution 443, was introduced as a way to bridge the gap between the freeze proponents and the administration supporters. These three approaches by no means represent all the resolutions introduced by my colleagues which are pending before the committee. Unfortunately, we don't have enough time to explain each and every one this morning.

Yesterday, after a thorough and complete debate on all the resolutions, the full House Committee on Foreign Affairs met to consider these and other congressional resolutions on nuclear arms control. H.J. Res. 443, as amended, was reported to the full House of Representatives by a bipartisan vote of 28–8 with a majority of Republicans voting in favor. The amended resolution calls for a mutual and verifiable freeze and reduction in nuclear weapons and for approval of the SALT II treaty. The amended resolution makes good arms control sense and acknowledges that arms control is a step-by-step process. The committee's action is a concrete response to the call of the American and European people for reductions now in the nuclear arsenals of both superpowers and a halt to the nuclear arms race.

Implementation of my SALT II amendment adopted by the committee would require the Soviets to reduce their present number of nuclear systems by 254 missiles or bombers, about ten percent of Soviet forces. It would also enhance confidence in verification of U.S.-Soviet arms control agreements by requiring suspicious Soviet activities to be reported to a U.S.-Soviet Standing Consultative Commission where they can be explained or stopped. Previous Soviet activities that may have violated arms control agreements have been stopped by the committee. Finally, the amended resolution endorses the President's START proposal which calls for significant reductions in the nuclear arsenals of both the United States and the Soviet Union.

Responsible congressional involvement in the arms control process will only enhance the prospects for a START agreement that will receive the full and complete support

and confidence from the U.S. Congress and the American public.

Nothing we can do in our lifetimes is more important than to lift the shadow of nuclear war from the human race. The way to get rid of nuclear weapons is to get rid of nuclear weapons.

By establishing SALT II as the baseline for upcoming negotiations, we can indeed start START now—in four days, on June 29th!●

NUCLEAR WEAPON FREEZE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. DOWNEY. Mr. Speaker, the following resolution calls for an immediate nuclear weapons freeze and for eventual negotiations on a treaty for comprehensive disarmament under a reliable world security system.

This resolution is unique in an important sense. Within a few months it will have been introduced into the Parliaments of Australia, Canada, Iceland, India, Italy, Jamaica, Kenya, New Zealand, Nigeria, the United Kingdom, and the European Parliament, as well as into this House. In the European Parliament, which is made up of directly elected representatives of the whole European Community, it has already been signed by 150 members, more than a third of the Parliament. This initiative has been proposed by Parliamentarians for World Order. It is the first time that legislators from around the globe have risen simultaneously to introduce concrete proposals for peace.

I do not intend this resolution to duplicate in any way the resolution calling for a nuclear freeze and the approval of SALT II which the House will vote on shortly, and of which I am a cosponsor. I introduce it together with my fellow legislators in Parliaments around the world. They share my concern for building effective global institutions to maintain peace, and are working to build worldwide political support for arms control. I do so also to emphasize that, while we work to stop the nuclear arms race now, it is even more important to eliminate the threat of nuclear war.

Mr. Speaker, it is my opinion, and that of some 600 of my colleagues on every continent who belong to Parliamentarians for World Order, that this resolution outlines the minimum requirements for humanity's long-term survival.

The resolution follows:

H. CON. RES. 373

Whereas, the ever-present risk of nuclear war poses an unacceptable threat to the future of the entire human race, given the existence of fifty thousand nuclear weapons with the destructive power of one million Hiroshima bombs;

Whereas, a world which spends more than $500 billion a year on armaments while millions of people die from hunger is unjust and dangerous;

Whereas, the chief obstacle to disarmament and development is not technical difficulty by a lack of political will;

Resolved by the House of Representatives (the Senate concurring), The nuclear powers should seek a freeze by all nations on the testing, production and deployment of nuclear weapons and delivery systems pending a genuine reduction in nuclear arsenals, leading ultimately to a treaty for comprehensive disarmament under enforceable world law, which should include: Disarmament by all nations to the level of arms required for internal security; a world development fund through which a fixed proportion of the resources made available through disarmament will be devoted to development in the poorest nations.●

HANDGUN BODY COUNT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. LEHMAN. Mr. Speaker, on March 31, 1981, Americans with their own eyes witnessed John W. Hinckley, Jr., try to assassinate the President of the United States. Easily bypassing all security measures set up for the President's protection, he was able to make his assassination attempt from near point blank range. How did this would-be assassin reach his target without detection? His weapon was the most common concealable machine of death available—the handgun.

Hinckley was recently found innocent of his crime by reason of insanity. As was revealed during the trial, Hinckley had had a history of mental problems. However, one Federal requirement for obtaining a handgun is that the purchaser must have no history of mental incompetence. Another requirement is that the purchaser be a citizen of the State where the gun is purchased. Hinckley, a resident of Colorado, bought the gun in Texas. In addition, the purchaser must not have a criminal record. John Hinckley had had three handguns confiscated from his possession while trying to board a plane in Nashville. Failing to meet each of these three criteria, John W. Hinckley, Jr. was, nonetheless, still able to obtain a handgun.

Obviously our present handgun control laws are not sufficient. Various proposals have been made to institute waiting periods so that the prospective purchaser can be investigated to be sure he meets each of the Federal and local criteria for obtaining a handgun. Such legislation would help keep handguns out of the possession of criminals and persons with mental disorders.

Today, though, the situation remains unchanged. The handgun body count for the month of May registers 651 handgun deaths of which 96—the Nation's single highest total this month—occurred in my home State of Florida. Since January, 3221 handgun deaths have been accounted for.

The list follows:

HANDGUN BODYCOUNT, MAY 1962

ALABAMA (2)

Timothy Ferrell, unidentified male.

ALASKA (9)

Gary Bullen, Jody Coson, Ronald Hoffman, Sabrina Imlach, Herff Keith, Joseph Kimler, Donald Pierce, Jay Sylvester, Rebecca Phillips.

ARIZONA (10)

Ricky Albert, Paul Armijo, Michael Buck, Timothy Chadwick, Grover Cockerhern, James Contino, Dawn Durfee, Wayne Thomas, Lydia Wills, unborn baby Wills.

ARKANSAS (5)

Paul Denton, Eddie Morris, Brett Smith, Richard Stanley, Ezra Graham, Jr.

CALIFORNIA (52)

Eric Alvarez, Arthur Benson, Daniel Benson, Oscar Bernal, Lucille Bloom, Robert Bloom, Sr., Larry Brockington, Christa Cardin, Raul Copero, Frank Duran, Terri Foster, Ralph Galt, Frank Garcia, Edward Guyton, Jr., Robert Hall, Caleb Hamilton, Ellen Hansen, Robert Harper, Walter Harper.

Isidoro Jimenez, George Johnson, Chad Karstetter, James Kendall, Robert Knight, David Lovett, Henry Lucas, Victoria Mercado, Raymond Olsen, Danny Podilla, Nicasis Paminsan, Otis Peoples, George Perry, Sgt. Joseph Player, Ann Playle, Thomas Resendez.

Adelaido Robles, Mark Scott, James Shamblee, William Smith, Sharon Thomas, Rosaria Trujillo, Patrick Van Sant, Regino Vega, unidentified females (3), unidentified males (6).

COLORADO (11)

Samuel Avila, Abe Cruz, Bridget Cruz, Lawrence Decoteau, Robert Gallegos, Randy Layton, John Martinez, John Mays, Mildred Mays, Davis Valdez, unidentified female.

DELAWARE (2)

Wyant Brooks, Francis Lambert.

D.C. (13)

Leonard Best, Lionel Brown, Anita Butler, Dale Butler, Mark Cregar, Siraj Haque, Jean Jones, Steven Jones, Lucy Pirtle, Hector Ravollo-Angulo, Christopher Thomas, Robert Tobin, Unidentified male.

FLORIDA (96)

Peyton Adams, Jose Aquirre, Ernesto Alvarez, Jennifer Amdus, James Anderson, Antonio Angel, Jesus Arias, Mary Awed, Donald Ball, Sidney Bellan, Harold Blackman, Sr., Reinaldo Bonilla, Roy Brabham, Virginia Bradley, John Buell, Harris Burgess, Kenneth Butler, Richard Cain.

Roberto Camba, Ramon Caro, Pedro Chaves, Ronald Colson, Rafael Correa, Rubin Crespo, John Crookshank, Bryan DeWire, Ileana Diaz, Sturman Dillehay, Mildred Ditmais, Richard Disepo, Brent Dochery, Arthur Doster, Jean Dunham, Jerry Finnegan, Marcello Floyd, Donald Fraser.

Carlos Garcia, Paulino Gonzalez, Everett Hall, James Hall, Richard Hampson, Pamela Hearn, Michael Heater, Felix Hernandez, Natacha Hernandez, Leo Honigman, Glenna Jarrett, Carmel Lamadrid, Joseph Leonard, Jerry Lewis, Sylvia Libman, Lawrence Liebgott, Graham Lord, Mary Martel, David McClendon, Thomas McMahan, Fernando

Mesa, Jessie Mitchell, Billy Murphy, Rodobaldo Padron.

William Partrea, Padro Pevez, George Pickett, Felipe Portuondo, Dominick Prianti, Jose Rey, Luisa Ribot, Raul Rodrigez, Lawrence Schum, Owen Scott, Betty Seaton, Willie Shell, Mauricio Torres, Rudolfo Trevino, Paulino Trujillo, Jamie Van Zwaren, Jorge Vasquez, Henry Villar, Jr., Derich Walker, Kathy Weiler, Kristy Weiler, Nancy Weiler, Charles Winich, Alan Winter, Spencer Woodward, Werner Zimmerman, Unidentified males (10).

GEORGIA (14)

Kevin Baldwin, John Barrett, Timothy Billingelea, William Bonds, Bobby Brock, Carl Buffington, John Casson, Earl Grant, Myong Mun, Billy Murphy, Unidentified female, Unidentified males (3).

ILLINOIS (76)

James Adams, Davis Aguiller, Charles Black, Charles Bottorff, William Brown, Debbie Bushman, Sherwin Bundza, Renard Burt, Sam Cali, Roger Cannon, John Carotenuto, Michael Chiappetti, Steve Chuchta, June Corcelli, Cornelius Crowe, Ricky Cunningham, Selano Dardofski.

Charles Dixson, Curt Fairgrieve, Lillian Final, Charles Henderson, Carlos Hernandez, Jimrei Harris, Sylvester Giles, Fred Gladney, Kenneth Gorney, Pamala Gran, Michael Greeson, John Griffis, Vincente Guerrero, Patricia Guisto, Lynton Holden, Gregory Jackson.

Joe Jackson, James Jemo, Robert Jones, Lavenia Katherine, Calvin Lee, Enrique Lorenzo, Millard McClanahan, Arthur Meck, Reggie Mentor, Walter Montgomery II, Walter Montgomery III, Eva Moses, James Murphy, Audrey Ness, Allen Norris, Rickie Peterson, Luis Ramos.

Randle Reitev, Rene Ray, Frederick Rivers, Eddie Russell, Fatha Salen, James Scott, Donald Shannon, Gordon Stephens, Terry Stanford, Raymond Suderski, Antonio Sweeney, Tony Tate, Innocente Testado, Charles Thomas, Luke Thomas, Bruce Tompkins, Liborio Torres, Francisco Vargas, William Waters, Robert Wenot, Johnnie Williams, James Winbon, James Wright, Unidentified female, Unidentified males (2).

INDIANA (3)

Frances Rumely, Vickie Smith, William Smith.

IOWA (4)

John Anderson, Ronald Comer, Harold Doan, Todd McLaughlin.

KANSAS (4)

Eugene Beary, Shelly Kendig, Jim Marn, Lyndon Youngers.

KENTUCKY (4)

John Bush, Sue Gayle, Margaret Kidd, George Ritchey.

LOUISIANA (8)

Leonard Blackwell, Henry Boston, Rev. John Celestine, Cressie Lloyd, Kamelash Katta, Nageswari Katta, Cindy Podnar, Ruby Smith.

MAINE (1)

Gille Faucher.

MARYLAND (18)

Joseph Anderson, Nancy Ayres, Harris Burgess, Ronald Hylton, Stephen Hyiding, Edward Johnson, Steven Jones, Keith Miller, James Morris, Samuel Moseley, Joseph Steenken, Kathy Thomas, Edward Turpin, Darrell Washington, Frank Welch, Kenneth Wise, Noah Young, Unidentified male.

MASSACHUSETTS (9)

Michael Donahue, Orhan Gunduz, Edward Halloran, John Hess, Joseph Mistretta, Jr., Jeffrey Robinson, Sandor Schlesinger, Unidentified males (2).

MICHIGAN (40)

Jereline Baggett, Herman Beavers, Harry Burr, Alvin Burrell, Dan Cole, Roscoe Cole, Ervin Cox, Fred Crawford, Dominic Cummings, Eric Curry, Clinton Dodge, Douglas Donahue, Michael Finn, Teresa Grzeck, Larry Griffin, Bartrum Haynes, Ronald Humphrey, Virgil Jensen.

Dana John, David Knall, Serafina Licari, Victoria Lokar, Russell Lumpkins, Phillip Marcill, Frank McGowan, Felix Martiato, Charles Mathis, Jeff Messer, Carl Phelps, Mary Porter, Claude Richard, Queena Robinson, John Ross, Hana Salami, Tom Sellers, Harry Strutz, Michael Subjeck, Norris Terry, David Weatherspoon, Unidentified female.

MINNESOTA (2)

William Christopher, Police Officer Russell.

MISSISSIPPI (1)

Anna Johnson.

MISSOURI (28)

William Bankhead, Uester Belk, Stanford Bell, George Brown, Oteria Elder, Dennis Foster, Randy Graham, Carmel Green, Teresa Gregorczyk, O'Dell Hayden, Haler Hodges, Gary Jackson.

Henry Jones, David Kane, Reanel Lee, Stanley Lucket, Santiago Medina, G. Schierbaum, Raymond Smith, Ali Suziman, Thomas Toney, Melvin Woods, Eileen Wilson, Vestor Wilson, Curtis White, Samuel Young, Unidentified males (2).

NEVADA (4)

David Brickley, Richard Cole, Fran Hayhoe, Walter Hayhoe.

NEW HAMPSHIRE (1)

Michael Bouchard.

NEW JERSEY (3)

Junior Coleman, Warren Hatcher, Gary Pavlik.

NEW MEXICO (5)

Randy Browing, Franklin Clark, David Coriz, Christy Hopkins, Beverly Keith.

NEW YORK (30)

Mary Alcide, Whitlock Bowles, Edgar Echeverri, John Figueroa, George Frazier, Nicholas Gregoris, Ralph Gregoris, Leslie Hebbert, Eldrige Merritt, Dagmar Martinex, Oswaldo Martinez, Ralph Oriol.

John Papa, Peter Roach, Michael Scheel, Bernard Seabrook, Annie Shephard, Anthony Stabile, Leon Stern, Frances Tarlowski, Rosaria Turjillo, Pasquale Varrale, Luis Velez, Miguel Velez, Maria Vera, Unidentified female, Unidentified males (4).

NORTH CAROLINA (2)

Mary Grady, Vincent Williams.

OHIO (41)

Wilber Allison, William Black, Willie Blevins, Rita Bostic, Deborah Butcher, Larry Butler, Raymond Closter, Robert Dillard, Arthur Douglas, Herbert Durham, Reginald Gaines, David Grisso, Lillian Final, Neal Herring, Arthur Holmen, Richard Janice, Raymond Jenkins, William Kelly, Jr., Dennis Klimic, Joseph Marando, Jeffrey Mills, Jessie Mitchell, Carl Mixon, Patrick Moran.

Karen Prusha, William Redwine, Timothy Rogers, Charles Russell, Jason Sanford, Sally Schmidt, Carol Stein, Ricky Suggs, Mark Thomas, Kenneth Todd, Lester Turner, Stanford Washkenicz, David White, Calvin Williams, Steven Williams, Roger Young, Unidentified female.

OKLAHOMA (6)

Dennis Dierkson, Terriel Greer, Corrine Hanson, Thomas Maston, Sr., Larry Murphy, Opal Yates.

OREGON (6)

Donald Cox, Dallas Assen, Betty Irwin, Steve Irwin, Rudolph Peterson, Steven Witkowski.

PENNSYLVANIA (14)

Denise Alden, Victoria Bowman, Junior Coleman, Allen Crankshaw, Hector Echeverria, Abe Green, Alfred Kenlin, Steven Kennedy, Chester Laws, John Mosley, Julia Pizzaro, Ernest Price, Robert Suckle, Catherine Wynn.

SOUTH CAROLINA (4)

M. L. Bradshaw, Jessie Harris, Larry Riggins, Wilson Ward, Jr.

TENNESSEE (13)

Michael Anderson, Cecil Browning, Kenneth Collins, Mary Harbrook, Michael Harris, James Jones, L. Cpl. Dale Jordan, William Lockridge, Michael Morris, Benny Pannell, John Taylor, Jr., Jerry Thompson, Maggie Skipper.

TEXAS (77)

Aureliano Acuna, Danny Angermier, Severiano Areilano, Raymond Atkins, Joe Brown, John Burns, Larry Burris, Harold Burton, Manuel Bustamante, Felix Campos, Isodora Carmona, Anotonio Castillo, Martin Castro, Timothy Chadwick, Tim Christian, John Coleman, Larry Coloier, Patricia Crain, George Crayton.

Albert Dillard, Francisco Dominguez, Terance Edwards, Pandora Franklin, Manuel Gil, Ruben Granado, Arthur Green, Teresa Grzeck, Darrel Harrison, Henry Hays, Caroline Horace, Sam Iles, Billy Kelly, Gary Kimick.

George Landrum, Maria Laredo, Senobio Laredo, Ulac Loving, Jr., Jesse Martin, Carlos Martinez, Howard McClaplin, Robert McKenzie, Raymond Mendoza, Bertoldo Moran, Gerald Munoz, John Musee, James Nelson, Kirk Odom, Cisto Ojida, Robert Pasley, Henry Penrice, Julian Pineda, Jorge Portillo, John Postert, Willie Price.

James Reeves, Thomas Riggle, Sequismundo Rodriquez, Jose Ruiz, Steven Schnck, Kwan Shin, Joseph Skipper, Samuel Soto, Marcus Staggers, Paul Stupalski, Penny Swallers, Michael Terry, C. R. Upchurch, Angela Valderrams, Daniel Villanueva, Clarence Wilkinson, Billy Williams, Alvin Wyatt, Virginia Yanez, Unidentified males (4).

UTAH (3)

Brian Allan, Kiyoshi Miyazaki, Dan Worrel.

VIRGINIA (9)

Cecil Calloway, Steven Chapman, Willy Cherry, Joseph Cyrus, Jr., Iraj Haque, Helen King, Pinkey Lawley, Lucy Pirtle, Christopher Thomas.

WASHINGTON (13)

John Bartol, Mark Bartol, Donald Brown, Robert Harlan, Kenneth Nye, Joseph Pham, Kim Pham, Samuel Swanson, Unidentified females (2), Unidentified males (3).

WEST VIRGINIA (8)

James Gill, Shelba Mills, Police Capt. Myers, Daniel Whitely, Deborah Whitely, Carol Woodrum, Joseph Workman, Gary Saunders.

WISCONSIN (5)

Charles Doyle, Deanne Duquette, Cheryl Heck, John Jenkin, Mattie Perry.

WYOMING (1)

Dean Catsimanes.

PREVIOUSLY UNREPORTED HANDGUN DEATHS—1982

January

California

Filliman Mendoza.

North Carolina

David Smith.

February

California

Roger Torres.

Maine

Arthur Curit, Jr.

March

Alabama

Wendall Conway, Maggie Weathers.

Florida

Clarence Strong.

Nevada

James Wilson.

New Hampshire

Valerie Blair.

North Carolina

Fred Sheron, Fletcher Turner.

Ohio

Paula Cunningham.

Texas

Arthur Wells.

April

Alabama

Earnest Hicks, Sr.

D.C.

Mary Lazaron.

Florida

Mary Brown, Collin Cambell, David Collins, Allan Cooper, Richard Cudeyro, Joseph Davis, Victoriano Diaz, Waltan Edmondson, Lois Fernandez, Marc Fortunee, Charlie French, William Guzman, Stephen Henley.

Felix Hernandez, Vera Hinkley, Meyer Kovalsky, William Lockette, Richard Luncy, Rene Machin, John Nagler, Charles Palidene, Howard Paul, Alberto Rodriguez, Felix Seavy, Anne Symons, Cesar Valle-Cruz, Carlos Velentin, Gary Walker, Jeanette Wims, Otto Woodbury, Herbert Wright.

Georgia

Roy Collins.

Minnesota

William Golla.

Pennsylvania

Candido Santiago.

Texas

James DeWitt, John Dunnavant, Alan Loftin, Joseph McClain, Rudy Ricondo.●

THE PROBLEMS AT GPO

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. HOYER. Mr. Speaker, the employees of the Government Printing Office have been under siege by Public Printer Danford L. Sawyer ever since he arrived in Washington last year. Mr. Sawyer has made it a personal crusade to change the character of GPO at the expense of dedicated public servants through attempted RIF's, furloughs, and salary cuts in direct violation of the authority of this Congressional Joint Committee on Printing and of the Kiess Act, which governs his relationship with the GPO employees.

Some 4,000 men and women—employees of GPO and their friends and families—marched on June 29 in protest against Mr. Sawyer's actions, which they felt to be illegal. Their position was upheld a few days later by Federal District Court Judge Oliver Gasch in a decision he issued on July 2.

I am familiar with the Government Printing Office and its work—indeed, each of us in this body receives almost daily the CONGRESSIONAL RECORD, the Federal Register, and dozens of other documents which have been produced there. These very words will be set into type overnight and be on our desks early tomorrow morning because the highly skilled workers at GPO have once again produced hundreds of pages of copy between the time we adjourn at night and the time we reach our offices the next day.

I know many of the 5,000 employees at GPO. Many of them live in my district and groups of them have visited me to discuss their problems. They have not come to ask for handouts; they have not come to ask for favors; they have come to ask that Mr. Sawyer be prevented from taking their jobs and livelihood through illegal and ill-advised actions.

William J. Boarman, vice president of the Public Employee Department, AFL-CIO, and president of the Columbia Typographical Union, ITU, AFL-CIO, has been acting as their spokesman. He appeared immediately after the June 29 march before the Committee on the District of Columbia, chaired by my distinguished colleague from the District of Columbia, WALTER E. FAUNTROY.

The following is a copy of his prepared remarks for that hearing.

My name is William J. Boarman, and I am a vice president of the Public Employee Department, AFL-CIO, also I am president of the Columbia Typographical Union, representing printers in the District of Columbia and, I am proud to say, the oldest continuous union local in the United States. I am testifying today in several capacities. First, on behalf of the 34 national and international AFL-CIO unions, representing 2.2 million public employees, affiliated with the Department; and also on behalf of the Joint Council of GPO unions, which is comprised of 12 local unions affiliated with eight international AFL-CIO unions.

I am here today to voice our serious dissatisfaction with the recent actions of the Public Printer. They are having a severe, detrimental effect on the Government Printing Office and its employees. Frankly, we are shocked at the wave of anti-worker propaganda that Mr. Sawyer has released to the press during the past few months. We would like to discuss a number of these serious issues with this committee.

The Government Printing Office has been a model agency since its creation over 125 years ago. It is also a profit-making center for the government. The GPO has conducted its daily business without any hoopla or fanfare until recently.

As printer to the government, the GPO is a sophisticated and professional printing enterprise. It employs highly trained and skilled craftspeople who produce high quality work under routinely impossible deadlines. The Congressional Record and the Federal Register, as you well know, are printed daily and without delay.

One observer of the GPO described its operations in the following way: (and I quote) "I think the quality of operation is excellent . . . Frankly, I stand in awe of their ability to produce . . . The Congressional Record in itself in one evening is a feat, but to also produce the Register and the extraordinary number of bills and reports and what have you that are also produced is quite a feat.

"The production staff and other supporting departments in the Government Printing Office are of extremely high caliber. Frankly, I am surprised, coming from the private sector, I have a prejudice—and I am more than willing to admit it—about the Federal bureaucracy, and I have been much surprised to find that the Government Printing Office has been able to attract and to retain some very high quality people; and the end result is some very high quality work.

"The work produced is on a time schedule that is almost miraculous." (end quote)

This observer spent sufficient time at the GPO to look into all of its operations before he spoke of GPO's excellence in such glowing terms. That observer is, in fact, Danford L. Sawyer, the Public Printer.

Now he has changed his tune, but the quality of work at GPO and its dedicated, efficient staff has not changed.

Mr. Sawyer, who less than a year ago praised GPO's staff and operations, is considering firing up to 2,000 GPO workers, plans to lay off the entire staff for six days, intends to impose a 22 percent pay cut over the next three years and wants to abolish collective bargaining at GPO.

These plans are both draconian and absurd. Mr. Sawyer appears to live in some twilight zone and chooses to disregard totally both the Congressional Joint Committee on Printing and the Kiess Act. He is lashing out with untrue, unfounded and highly inflammable attacks on workers and their unions.

Mr. Sawyer has made his intentions clear. He would like to gut GPO, destroy collective bargaining and eliminate the GPO unions.

The impact of implementing his plans would mean economic devastation for Washington, D.C. and the surrounding Virginia and Maryland communities. The layoffs and salary cutbacks would mean a loss of approximately $80 million annually to the area. The GPO now employs approximately 5,000 workers in Washington. The area would offer little alternative employment opportunities for most of those highly skilled workers who Sawyer would like to fire.

When one goes behind the rhetoric in Mr. Sawyer's press releases and speeches, one

finds little supporting facts; he has in fact, created his own mythology.

Mr. Sawyer says that the GPO printers are the highest paid in the western world. Then Mr. Sawyer says that they are paid more than printers in the private sector. Finally, Mr. Sawyer says that they are the highest paid in government. Each of those statements are myths.

The facts are that on January 1, 1982, the hourly rate of pay for union compositors was $14.35 at GPO; the average hourly wage for private sector union compositors in 11 cities was $14.57 in 1981, and Bureau of Engraving and Printing pressmen earn $14.84 an hour. And our GPO printers note with pride that no other printers could match their ability to reproduce and distribute the Congressional Record overnight. A fact which Mr. Sawyer, has publicly recognized.

Remember, that we are talking about highly skilled, professional printers who must go through a difficult apprentice program and then obtain journey status in private industry before they may apply for a job at GPO.

Over the years, the unions and the Public Printer have agreed to an orderly formula whereby a number of U.S. cities with similar costs-of-living would be surveyed to determine the types of wage settlements being negotiated in the unionized private sector. This information would be used as a benchmark for negotiations between the parties.

The system worked fairly well. Listening to Mr. Sawyer testify at his confirmation hearing we believed that the system would continue to work. Now we see that Mr. Sawyer does not care about his previous sworn testimony or respect the laws which regulate the parties.

Paying prevailing wages to skilled crafts persons is standard government practice. The Secretary of Labor, in fact, determines and publishes the prevailing hourly wages which must be paid for government construction and service contract work.

Mr. Sawyer says that the JCP has always gone along with the unions wage demands on all wage appeals.

The facts contradict this myth. First, Mr. Sawyer has never appeared before the JCP on any appeal. The fact is that the Committee has nearly always supported past Public Printer's positions on wage matters.

Mr. Sawyer says that GPO union members are purposely destroying computer tapes sent to GPO by other agencies in order to re-set them and preserve union jobs.

This myth has no base in fact.

I have been with this union for a long time, and want to assure this committee that the kind of resetting "make work", which the Public Printer is accusing us of, has never, repeat, never happened at GPO.

Destroying government property is a criminal offense.

I would ask Mr. Sawyer why, if he believes it has happened, he hasn't taken the appropriate action called for in the law.

Mr. Sawyer says that he wants to furlough and layoff GPO workers because of a very light work load at GPO.

The fact is that the work load is now quite heavy. Mr. Sawyer had planned to begin furloughing employees on June 1. However, GPO employees worked through the Memorial Day Weekend in order to meet deadlines.

As the work of Congress increases, so does GPO's. And that means overtime and a proper level of staffing; not layoffs.

Mr. Sawyer says that he may have to fire large numbers of employees and institute a 22 percent salary cut-back because of GPO's poor financial status.

The facts indicate that GPO's financial status is healthy and in the black. If you will compare GPO's financial statement of assets and liabilities, you will see that the agency continues as a profit making center.

Mr. Sawyer says that GPO personnel costs account for 80 percent of GPO's budget.

The fact is that personnel costs account for more than 25 percent of the budget and he so testified on February 23, 1982, before the House Appropriations Committee. Which Mr. Sawyer do we believe?

Mr. Sawyer says that "a typical (printing) job produced by GPO costs about twice what it would if we produced it in the private sector."

The fact is that his own figures show that fully 72 percent of the $646 million worth of printing for which the GPO was responsible in fiscal 1981 was, in fact, subcontracted to private firms. The remaining 28 percent was done principally for Congress and included the Congressional Record, the Federal Register, committee transcripts and reports and similar documents. I am not aware that the Congressional Record and the Federal Register had been put out on bid. If I am correct, how then could he conclude that a private company could do the job for 50 percent less.

As important as all of the above is to employees at GPO, there is another matter that should directly concern the Congress. Mr. Sawyer has directly challenged the authority of Congress in a manner that would undermine respect for the law.

At his confirmation hearings, he said he would honor all negotiated agreements with the unions and would continue to bargain with the representative unions on all issues. Mr. Sawyer also said that he saw no reason for a reduction in force to be necessary at GPO. And he indicated that he was very concerned that the people who have worked at GPO are recognized and that their jobs are preserved.

Mr. Sawyer said that he would honor decisions of the JCP revolving around negotiations over wages, salaries and compensation and that he is more than willing to sit down and attempt to reach agreement in a harmonious vein.

Mr. Sawyer is now ignoring each of his commitments made at the nomination hearings. He wants to unilaterally change the rules and ignore both the Kiess Act and the JCP.

We remember that Mr. Sawyer said he would negotiate with the unions, so we met with him to discuss some of his problems regarding possible layoffs. We made it clear that we would negotiate in good faith, but that we needed proof that his proposed drastic cuts were, in fact, necessary to keep GPO alive.

In a most arrogant way, Mr. Sawyer told us that he didn't come to the meeting to negotiate, that he doesn't have to negotiate with us and that the furloughs and cuts will take place as scheduled.

We were astonished that he chose to ignore the collective bargaining agreement, the Kiess Act and the Joint Committee.

Attorney General Brownell in 1956 advised the President that: "It is plain from the legislative history of this Act that Congress conferred very broad employment authority on the Public Printer, subject, however, to suitable congressional supervision through the Joint Committee on Printing. Congress retained control over the Public Printer's actions by subjecting all agreements reached to review and approval by the JCP." 41 Op Atty. Gen at 286.

The Attorney General concluded that "hour-fixing authority was necessarily conferred by the Act, and the establishment of regular hours of work and the regular workweek is generally recognized as part of wage negotiations and the Public Printer is required to conduct such negotiations." 41 Op Atty. Gen at 287.

In 1956, the Comptroller General reached the same conclusion in an opinion directed at the Public Printer. Implicit in his opinion is that ultimate authorization for the reduced workweek must be forthcoming from the Joint Committee.

When the Act was originally passed, Rep. Kiess made it clear that such a large power over public expenditures would not have been vested in any one officer without some suitable restriction or supervision, and he compared the role of the JCP with that of a board of directors for the GPO. It is clear from the Opinion of the Attorney General that the very broad employment authority of the Public Printer is subject to suitable Congressional supervision through the Joint Committee.

The furloughs will effectively reduce the regular work week of the affected employees. And it also seems clear that the Public Printer cannot establish such a program without altering the regular workweek agreed upon with the unions and approved by the Joint Committee.

Under the Kiess Act, the Public Printer does not have the authority to act unilaterally and that any such authority must be exercised in accordance with the statutory requirements of conferences with the recognized unions and approval by the Joint Committee.

In addition, Rep. William Ford, one of the authors of the Civil Service Reform Act, disagreed with GPO's counsel and stated explicitly that Mr. Sawyer does not have the authority to furlough any employees. Mr. Ford wrote:

"Nothing in the Reform Act affects, or was intended to affect, the authority (or lack thereof) of the Public Printer under the Kiess Act (44 U.S.C. 305). To the extent furloughs were governed by that Act prior to the enactment of the Reform Act, they should continue to be governed following its enactment.

"I am certain that we had no intention of limiting the Joint Committee's authority when we passed the Civil Service Reform Act." (end quote)

It appears that Mr. Sawyer wants to separate himself, as Public Printer, from all oversight and control. The Public Printer is appointed by the President, but he is not responsible to the Executive branch.

Mr. Sawyer would like to eliminate the role of the JCP to monitor and have oversight authority over the GPO. In addition Sawyer has taken it upon himself to disregard the Kiess Act and call for the abolishment of collective bargaining. In fact, in a statement read into the Congressional Record by Senator East, Mr. Sawyer said he would like to see the JCP abolished and its powers transferred to the Public Printer.

Which Sawyer should we believe? The nominee who promised to abide by the laws, or the current Mr. Sawyer who wants to bust the unions and the backs of the workers.

After the Joint Committee on Printing passed a resolution preventing Mr. Sawyer's unilateral actions, a stunned Sawyer attempted to blame the political influence of

our unions, saying that we have been funding the committee members' campaigns to a very large degree.

Not one GPO union contributed a penny to any JCP members' campaigns. This fact can easily be verified at the Federal Election Commission.

Mr. Chairman, we will make the same commitment to the Joint Committee on Printing that we made to the Public Printer.

We are prepared to negotiate. All we ask is that Mr. Sawyer present the economic evidence and make his case. Propaganda assaults in the press is not negotiating. Stonewalling the Congress is not cooperation.

In fact, Mr. Chairman, the GPO unions are prepared to go further and make this additional pledge to the Congress:

We will go anywhere, at anytime, to negotiate a resolution to this dispute. If the JCP was to send the Public Printer and the union representatives into a room and say, "Don't come out until you have an agreement," we would stay as long as it takes. Appoint a mediator. Name a fact finder. We will negotiate.

Yes, we are upset at the vicious diatribes of Mr. Sawyer. But we are craftspeople. We are proud of our work and GPO's tradition of excellence. We are not willing to see that destroyed and the morale of the workers undermined in such a way that jeopardizes our productivity and pride in our work.

The damage Mr. Sawyer's plans would create for Washington, D.C., Virginia and Maryland would be very large. Besides a financial loss upwards of $80 million, the area would be unable to find employment for all the skilled workers thrown out of work.

If preserving the agreement requires some "give" on our part, that is what negotiations is about—"give and take."

But negotiation only works if both parties are committed to it. We are, and we await Mr. Sawyer at the collective bargaining table.

Finally, Mr. Chairman, I'd like to say that there has been a great deal of rhetoric—of charges and counter charges—surrounding the matters I have discussed today. There has been too much heat and not enough light.

It is my hope that this committee will give truth the chance to out and will make a full report to the public on the facts you find.

On behalf of the employees of GPO and their unions, we thank you for this opportunity to appear here today to lay our case before you.

I and my associates will be happy to answer any questions you or the other members of the committee may have.●

CONTINUE TO SUPPORT THE PRESIDENT

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. HUBBARD. Mr. Speaker, Mrs. Leila McManus, a constituent of mine in Paducah, Ky., has written me a letter urging that I support the President's economic proposals. I believe Mrs. McManus' letter is very timely and appropriate and I would like to share it with my colleagues at this time. The letter follows:

Sir: I am convinced that only the President's plans can save America from total economic collapse. We must have a balanced budget. In order to do that, please stop giving the working man's money away. Almost all of the so-called social programs take all initiative away from the recipients. I have often wondered if these programs were a part of a grand hoax designed to keep people down.

The Social Security program should not be considered a sacred cow. All of you know that the program must be cut. Get everything out of it that is unrelated to retirement and it will not be the bottomless pit for the working man's dollar that it now is. How ridiculous that a college education for anyone should come from a retirement program. Parents who want their children university trained should buy enough insurance to cover the costs in case of their deaths.

Please continue to support the President's plan for a cut in personal income taxes. It seems that only he is for the working man. Obviously, Tip O'Neill is for the non-working man. It seems that only the President understands that the working man is paying far too much in income taxes. It is incredible that a family of four with an income of $25,000 must pay $7,000 in income tax. It is incredible that my husband and I, who are fast approaching retirement age, have to pay federal income taxes far in excess of every penny that we spend for all other expenses combined. No, more taxes are not the answer for a balanced budget. All of you know that cuts in spending are the only answer because working Americans are fed up.

Yours truly,

Mrs. LEILA MCMANUS,
Paducah, Ky.●

CONGRESS SHOULD EXTEND INDUSTRIAL ENERGY CONSERVATION TAX INCENTIVES

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. HEFTEL. Mr. Speaker, as the President seeks to dismantle the Department of Energy, and as Congress looks for ways to meet its new budget obligations, it is imperative that we do not abandon the important gains that we have made in energy conservation and utilization over the past 10 years. The industrial energy conservation tax credits, which were enacted in the 1978 Energy Tax Act to provide an important stimulus to energy conservation in the private sector at minimal cost, represent one important program that deserves to be continued.

On June 10, I introduced H.R. 6572, legislation which would extend the termination date from 1982 to 1985 for the industrial conservation tax incentives enacted in 1978. H.R. 6572 also extends so-called "affirmative commitments" to renewable energy as well as industrial conservation projects. Affirmative commitments assure companies that projects begun but not necessarily completed by 1985 will continue to be eligible for tax incentives until 1993, despite the 1985 expiration date.

If we do not take action to extend these industrial energy credits, the Nation may never realize important new gains in energy conservation. For example, H.R. 6572 extends tax incentives aimed at encouraging American industry to convert to coal, our most abundant energy source. It also would provide continuing incentives to encourage cogeneration by industrial or commercial facilities. Cogeneration is perhaps the most important and readily accessible source of industrial conservation in the near term. Very simply, cogeneration is the production of two forms of useful energy from one fuel source, leading to a more efficient use of the primary energy. In addition, H.R. 6572 would continue the program of incentives aimed at promoting retrofits of inefficient manufacturing plant equipment and accelerating the recycling of solid waste into useful energy.

Both the national economic costs of dependence on foreign oil and continuing U.S. strategic vulnerability to energy supply disruptions demand that we seek near-term solutions to our energy problems. Energy policy in the early 1980's must respond to this challenge by stimulating increased domestic energy production and by removing impediments to an accelerated energy conservation program in U.S. industry. The current tragic upheaval in the Middle East demands that we not back away from the national effort to accelerate our energy conservation technologies. In addition, our economy is not so strong that we can afford to eliminate the only significant remaining targeted Federal incentive for industrial energy conservation.

I fully realize that budget constraints have made it virtually impossible to enact a comprehensive energy conservation tax incentive program during the remaining months of this Congress. I, therefore, offer H.R. 6572 to merely continue for 3 years a program that has significantly advanced the state of the art of industrial energy conservation. I believe that the United States is still in a very vulnerable position with regard to its energy supplies. We have not arrived at the point where we can honestly say that we have solved either our short-term or our long-term energy problems. Hence, I believe that the administration has made a grave mistake in failing to recognize the economic and national security implications of our continuing dependence on Middle East oil.

Mr. Speaker, I offer H.R. 6572 to once again encourage congressional debate on America's energy problem and to focus attention on solutions which will promote the energy security which has alluded us thus far.●

SSA DISABILITY REVIEWS

HON. RICHARD L. OTTINGER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 13, 1982

● Mr. OTTINGER. Mr. Speaker, I wish to enter in the RECORD the following letter sent to Senator WILLIAM COHEN, chairman of the Senate Committee on Governmental Affairs Subcommittee on Oversight of Government Management, from the American Psychiatric Association. This medical association and I have a very strong interest in the continuing disability investigations (CDI's) being conducted by the Social Security Administration. I have risen before this body many times in recent weeks to lambast the disregard for human dignity that has accompanied the overzealous, scandalous SSA campaign to reduce the number of disabled individuals receiving vitally important benefits. Unfortunately, for hundreds of thousands of disabled workers, the purge has not stopped; in fact, the assault has most certainly increased.

The letter from the American Psychiatric Association places this current review process in its proper perspective. I am sure that, after reading the text of the letter, my colleagues will understand better the grave concern all of us must have for the plight of the disabled individual. These concerns apply not only to the mentally ill—perhaps the least able of disabled persons to protect their own rights—but to all disabled persons in this country. A reading of this letter should also augment the import of amending pending legislation, H.R. 6181, Disability Amendments of 1982, which, in its present form, works to the disadvantage of all disabled people.

The text of the letter follows:

AMERICAN PSYCHIATRIC ASSOCIATION,
Washington, D.C., May 28, 1982.

Hon. WILLIAM COHEN,
Chairman, Subcommittee on Oversight of Government Management, Governmental Affairs Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the American Psychiatric Association, a medical specialty society representing over 27,000 psychiatrists nationwide, I am pleased to present our views and concerns to the Subcommittee regarding the Administration's ongoing efforts to review the current Social Security Disability Insurance (SSDI) rolls. We are very much aware that periodic review of disability cases is necessary not only to reduce fraud and abuse, but also to confirm that SSDI recipients continue to meet eligibility requirements and remain unable to work. However, the Administration's current approach, in an apparent excess of fervor to reduce Federal expenditures, we believe, is contrary to both the letter and spirit of the careful review that was mandated by Congress in the Social Security Disability Amendment of 1980. Moreover, it is being conducted in a manner contrary to sound medical practice. Not only is the program administratively confusing and awkward for the recipients, physicians, state officials and judges involved in it, but it works a special hardship upon the mentally ill SSDI recipients who, by virtue of their illness itself, are particulary vulnerable.

THE SITUATION

In March, 1981, the Social Security Administration began an accelerated review of the claims of people receiving SSDI benefits, a review which Congress mandated be conducted beginning January, 1982. In fiscal year 1982, the Administration hopes to complete 520,000 such reviews, as contrasted to 200,000 conducted in fiscal year 1980. According to a Social Security Administration document of March 11, 1981, OMB "proposed through improved and tightened management of the continuing disability process, that SSA find a way to save the trust funds and additional $200 million in savings in 1982." These continuing disability reviews (CDIs) undertaken since that time, constitute the SSA response to the OMB directive. Among the means of achieving the OMB savings, again according to the SSA document, were to: increase the required number of cases states must review each month (adding 20,000 further cases monthly beginning May 1981, and upping that number to 31,000 further cases monthly in fiscal year 1982); targeting the nonpermanently disabled SSDI recipients over review of disabled SSI recipients, since the potential savings from the SSDI cases would be greater; and defer the requirement of personalized denial notices (mandated by law) to "free personnel to concentrate on reviewing disability claims."

What these recommendations have led to has been a nightmare for the state level review agencies. Those agencies, charged with the initial review (as well as with the first level reconsideration of disputed denials), are under tremendous pressure, without adequate time to "gear up" and without adequate staff to handle the increased review load. As a result, reviews are often perfunctory, without adequate medical evidence and with insufficient attention to individual problems. Indeed, the SSA directive regarding the relocation of individuals from producing personalized denial notices into handling the review process, highlights a deeply disturbing component of the problem: staff who are inadequately trained to read and evaluate appropriately medical records submitted (when time permits) by the attending physician. Further, the SSA has argued that by beginning its review process nine months earlier, it has actually spread the new workload imposed on the state agencies out over a greater time frame, thereby easing their burden. However, the evidence is to the contrary. The impact of institution of the reviews in FY 1981, rather than mid-way through FY 1982, has merely added a full year's worth of additional reviews to the state agencies' already overburdened workload. It is hard to believe that, with this increased volume, any examiner, even one who is well trained, could give appropriate time and attention to the medical and other documents comprising an SSDI recipient's claims record. Further, the increased workload of those physicians providing consultative evaluations assures that insufficient time can be given to permit a thorough physical and mental evaluation of recipients undergoing the CDI review.

THE MENTALLY ILL

The nightmare is even greater for the SSDI recipient, and specifically the mentally ill SSDI recipient. The review procedures are not designed to recognize the very special limitations of these SSDI recipients. When a case is pulled for CDI review, the state agency mails the disability recipient a three-page form seeking detailed information about his or her medical condition and employability. If this form is not completed and returned within 35 days of mailing, benefits are often terminated.

Many of the mentally ill under psychiatric care, capable of living in community-based settings as long as they receive proper medication to control their symptomology, but legitimately disabled, are unable to understand that their only source of income is being threatened. They often do not understand the complexity of the forms, or the necessity of such forms being completed. They either neglect to return the forms, or to complete them adequately and, as a directed result of their disabilities, lose their monthly support (a sum far lower than that associated with hospitalization, often the only recourse when SSDI benefits are terminated). The problem is compounded by the failure to provide the appropriate follow-up in cases in which forms are not completed, to attempt to ascertain why such form was not returned, to seek the advice and counsel of an attending physician who has previously attested to the continuing disability of such person.

Moreover, given the nature of mental illness itself, it is often inappropriate if not impossible to receive an accurate self-evaluation by a mentally ill SSDI recipient using such forms. It is the very nature of the illness which causes a patient to deny or distort the medical significance of such illness. In a sense, the completion of the CDI form requires a person to make statements about him or herself which, based upon the serious psychiatric, as opposed to physical, nature of the illness, are almost by definition going to be inaccurate.

A hypothetical example of a mentally ill disability recipient's reaction to the receipt of a notice of proposed termination may be instructive in light of the foregoing:

Mrs. X, age 47, is a chronic schizophrenic. She has spent the majority of her life in state institutions, but was deinstitutionalized 5 years ago to halfway house. She has been maintained on psychotropic medication, which has assured that her symptoms are not obviously disruptive to those around her, but has not "cured" the symptoms. She has been determined to be medically disabled and not capable of substantial gainful employment. She thus has been eligible for and has receivable SSDI benefits. She has sought employment, but has been unable to find such employment, and remains delusional, though not overtly evidencing her symptoms in her outward demeanor. She continues to hear voices, and is unable to devote any concentration to any job. She receives a notice that a CDI is to be conducted and is instructed to complete the three-page form. As is the case with many of the deinstitutionalized chronically mentally ill, she does not wish to be rehospitalized. She fears that unless she proves that she is "well" and "employed" on the form, that she will be recommitted to a state institution. Thus, she completes the form, that she will be recommitted to a state institution. Thus, she completes the form inappropriately, indicating that she no physical or mental impairment, and that she has sought employment. (Indeed given the nature of the illness, she may actually believe this to be true). She may even "create" a work history. Her dis-

ability benefits are then terminated, based upon her report of wellness. She is reinstitutionalized.

What we find disturbing about the CDI process is not only the apparent disregard of the special and complex nature of mental illness in this initial data-gathering, but also that the case record of a current SSDI recipient is wholly discounted in the CDI process. We understand from SSA that when a CDI is undertaken, evidence must be gathered *de novo*, as if no prior history of disability existed. We find the disregard of an existing medical history to stand in clear opposition to procedures assuring a full and sound medical evaluation. Its redevelopment, upon notice of a CDI, places an undue hardship upon the patient and his or her treating physician, if one exists.

Perhaps it is the combination of these two matters, coupled with the heavy reliance upon SSA directives regarding the CDI procedures (as contrasted to the statute and regulations with which the directives, such as the POMs, are not always in accord) which has led to the termination of the mentally ill from the SSDI rolls at a rate of 30 percent, while they represent only 11 percent of recipients.

We have received reports from members of the APA that their severely ill patients now receiving SSDI benefits are being closely scrutinized by the state agencies responsible for SSDI review and, in a number of cases, benefits have been terminated, contrary to the opinion of the consulting physician. (See attached letter). It is unclear whether consultative evaluations were conducted. Were such evaluations conducted, however, the evidence presented was probably in conflict with that of the attending physician, and the patient was terminated from the rolls without regard to the report of the treating physician (notwithstanding an appeals court ruling that special consideration be given to the reports from such treating physicians—Dav V. Weinberger, 522 F. 2nd 1155 (9th Cir. 1975)). It is also entirely possible that the recipient did not appear for such consultative evaluation, often held in a single centrally-located place in the state. This would not be particularly unusual for a mentally ill SSDI recipient, particularly since he or she may well continue to deny his or her illness.

THE PROCESS

Although denial of disability benefits can be appealed, the process does not seek to maintain the SSDI recipient in the community during that period. SSDI recipients lose all benefits shortly after receiving a termination notice—including Medicare benefits (which they cannot receive until on the DI rolls for two full years). During the time their appeal is pending, which, notwithstanding a court-ordered 165-day time limit between termination and appeal can often be as long as a year, the former recipient receives no benefits. Even if benefits are then reinstated, many severely disabled individuals will have already lost their homes or will have been forced to discontinue residential or treatment programs.

Many terminated recipients do not know their right to appeal to an Administrative Law Judge (ALJ); many do not have the capacity to do so; and many have already been reinstitutionalized and cannot do so. We do know, however, that many of those individuals seeking redress at the ALJ level—over 60 percent of them—have their benefits restored. We have wondered about the difference between the initial processes (including reconsideration) and the ALJ appeal. The answers appear to be several:

An ALJ has a face-to-face meeting with the recipient, and is thereby better able to review aspects of demeanor, affect, functional ability that are easily visible to the eye;

The patient may well have deteriorated in the period intervening between reconsideration and the ALJ hearing;

And most important, the ALJ is bound by the statute and regulations, whereas the state level officers rely upon the POMs and other SSA directives which are not necessarily consistent with either the law or regulations.

THE RESPONSE

We know that Congressional legislation, H.R. 6181, seeks to resolve several of these discrepancies which work first to the recipients' disadvantage but later to his or her advantage. However, we believe that the legislation fails in several respects, particularly regarding both means of resolving the differing baseline policy documents governing ALJ versus state agency decision-making, and its requisite that the medical record be closed at the reconsideration level.

We are also aware that SSA has indicated that it is developing a consolidated series of standards for use at levels of CDI and SSDI evaluation. We are equally troubled by this approach.

Neither the proposed legislation nor the SSA efforts to develop a standardized policy will provide for public comment—including comment by the medical profession such as psychiatry—on the validity of the criteria being established for eligibility determinations. The legislation would make all currently-used documents binding upon all reviewers; the SSA would have us accept a new package which would substitute for statute, regulations and all other less formal but nevertheless currently documents.

The APA suggests that it is most appropriate for whatever documents are used for SSDI or CDI determinations to be subject to the Administrative Procedures Act requirements regarding Federal Register publication and public comment. Medical professionals, and the organizations that represent them, are well qualified to help ascertain the appropriateness of such documents, and their potential strengths and weaknesses in reviewing particularly complex disabilities such as mental illness.

Moreover, we would strongly recommend that CDI reviews conducted upon an individual claiming mental illness as a primary disability be required to include: (1) a direct outreach effort to secure the information contained in the self-evaluation document sent when the CDI is undertaken, which should include a face-to-face meeting with a state examiner; (2) a required full consultative evaluation conducted by a psychiatrist, who is singularly qualified to perform such evaluations of a psychiatrically ill SSDI recipient; and (3) a full review of the recipient's medical history to date, as provided by the attending physician and existing SSDI case records.

The costs associated with what we believe to be a more appropriate initial CDI are insignificant when contrasted to the increased costs of the appeals process. The SSDI recipient's approximately $15 daily benefit from his or her continued eligibility is insignificant when compared to the $100 to $500 a day it costs to maintain a disabled person in a hospital. The costs associated with a more thorough, accurate review of a recipient's right to remain on the DI rolls is small when contrasted to the potential future costs to either the health care or criminal justice system into which such an individual would likely be diverted absent his or her disability check.

The APA urges, on behalf of psychiatrists and those patients we treat, that an immediate halt be brought to the wholesale SSA activities to remove patients wholesale from the SSDI rolls, until legislative remedies to the detrimental situation now confronting hundreds of thousands of our nation's least protected individuals can be adopted. We hope that current Congressional efforts will be considered a springboard for reform, but urge that the changes we have proposed herein be incorporated in any legislation adopted by the Congress on behalf of the mentally and physically disabled.

I hope you will make this statement part of your hearing record on this most important issue.

Sincerely,

JAMES FOLSOM, M.D.,

Chairman, Committee on Rehabilitation, American Psychiatric Association.●

HOUSE OF REPRESENTATIVES—*Wednesday, July 14, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Lord, even as we praise You for the unity You have given all humankind, we confer that we too easily miss the harmony of Your world and instead divide and war against each other. We admit that so quickly we see our own position and ideas with earnest devotion, but we look at another's with suspicion. We have so often taken Your name, O Lord, and used it to justify our action, and we fail to see that Your word is a judge and a beacon for all sides and all people. May the awareness of our common creation and our shared humanity cause us to seek Your will that concord and peace may be our way and righteousness own mutual desire. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate, having proceeded to reconsider the bill (H.R. 6198) entitled "An act to amend the manufacturing clause of the copyright law," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was resolved, that the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The message also announced that the Senate had passed without amendment a bill and joint resolutions of the House of the following titles:

H.R. 4935. An act to amend title 11, United States Code, to correct technical errors, and to clarify and make substantive changes, with respect to securities and commodities;

H.J. Res. 225. Joint resolution to designate the week beginning June 5, 1983, and ending June 11, 1983, as "Management Week in America"; and

H.J. Res. 444. Joint resolution to authorize and request the President to designate August 14, 1982, as "National Navaho Code Talkers Day."

POSSESSIONS TAX CREDIT LEGISLATION WILL DESTROY PUERTO RICAN ECONOMY

(Mr. CORRADA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORRADA. Mr. Speaker, the House Ways and Means Committee will soon consider a list of potential revenue-raising options, while considering changes in the current tax policies to conform them to the budgetary goals set forth in the budget resolution.

I am aware that during this process the committee gathers information and analyzes cost-benefit factors regarding each revenue-raising option before it. I wish to convey to my colleagues my deepest concern about any modifications or changes to the existing tax policies toward Puerto Rico and the U.S. possessions.

The proposal to limit the possessions tax credit as approved by the Senate Finance Committee will destroy the economic development program of Puerto Rico, cause industries to leave the island and considerably reduce future investment there. This will make illusory the revenue gains expected from the proposed limitation, will increase unemployment to new heights, and increase welfare dependency. This is a matter of very grave concern to Puerto Rico and I very strongly urge you to reject any proposals to change the possessions tax credit (IRC section 936).

Furthermore, such changes are not supported by the Reagan administration as stated by Assistant Secretary Chapoton during Senate Finance Committee session. In the event that changes to this policy were desirable, the matter should be dealt with only after carefully examining all ramifications and public hearings are held to allow all concerned parties to be heard.

RENEWED EFFORT TO PASS ERA

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, today marks a rededication for all interested in the fight for equality in America. Today marks the start of a renewed effort to pass the equal rights amendment, to secure for women the equality before the law which has been denied them far too long.

To those who say the amendment is not necessary, I urge them to look at the facts. Women in America earn 59 cents for every dollar made by their male peers. Seventy-five percent of all Americans living in poverty are women. In 1960, 5 percent of the Nation's managerial posts were held by women. In 1980, women held only 6 percent of these positions.

Few people in my own State of Connecticut will remember that it took two tries for the general assembly to ratify the amendment in 1972. I remember it well, for I was speaker of the house and worked hard to get the amendment ratified the second time around.

Today, America faces the same task that Connecticut confronted 10 years ago. We must regroup, rethink, and renew our efforts to pass this basic protection of rights for all women in America. And perhaps, Mr. Speaker, we will finally be able to guarantee to all women the rights they have been denied.

FARMERS SHOULD BE PAID FOR BEING TOOLS OF AMERICAN FOREIGN POLICY

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, today I am going to begin circulating a petition to try and put some pressure on the President to involve this country in some long-term grain trade talks with the Soviets.

This administration keeps talking about the free market. They say let the farmer operate in the free market.

What free market? When you take away one of the largest potential customers for American agricultural products abroad, can you suggest that there remains a free market? Of course not.

Now it seems to me that both Democrat and Republican administrations over the years have been perfectly willing to use farm products as a tool of their foreign policy. I think it is time to tell this administration and every other administration "Put up or pay up. If you want to use farmers' markets as a foreign policy tool, then you pay the farmers for the injury you do to their markets."

We have very serious troubles out there in the Farm Belt. In real dollars farmers' income this year is projected

to be the lowest since the USDA began collecting statistics.

For the first time in 12 years export sales are projected to be down this year.

Farmland values are decreasing for the first time since 1954.

This year for the first time in history the interest costs paid by the American farmer exceed the net farm income by farmers.

At this time it is just fundamentally wrong for this administration to refuse to negotiate a long-term grain trade agreement with the Soviets.

Again, this administration ought to put up or pay up. If they want to use farmers' markets for their foreign policy games then let us say to them "You pay the farmers for the injury you are doing to the farm markets in this country."

AUTHORIZATION OF FRANKLIN DELANO ROOSEVELT MEMORIAL

Mr. HAWKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 400) to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. HAWKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 400), with Mr. KOGOVSEK in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Pursuant to the rule, the first reading of the joint resolution is dispensed with.

Under the rule, the gentleman from California (Mr. HAWKINS) will be recognized for 30 minutes, and the gentleman from Georgia (Mr. GINGRICH) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased today to present to the House Joint Resolution 400, a bill authorizing the construction of a memorial honoring Franklin Delano Roosevelt in the Nation's Capital.

Before beginning, may I at this time pay tribute to the House Members of the Franklin Delano Roosevelt Commission, particularly to the gentleman from New York, Mr. HAMILTON FISH; the gentleman from New York, Mr. WILLIAM GREEN; the gentleman from New Jersey, Mr. JIM HOWARD; and the gentleman from New York, Mr. LEO ZEFERETTI.

I should also like to point out that one of the cosponsors of the resolution has also been identified with the furtherance of this legislation, the gentleman from Florida, Senator PEPPER, as well as our colleague from Virginia, Mr. DAN DANIEL whose family I think in a very practical and spiritual way typified the life and times of Franklin Delano Roosevelt. These are truly the unsung heroes in this saga and I certainly wish to recognize and pay tribute to their contribution.

Mr. Chairman, in 1955, Public Law 84-372 established the F. D. R. Memorial Commission "for the purpose of considering and formulating plans for the design, construction, and location of a permanent memorial to Franklin Roosevelt in the city of Washington." In 1959, Congress reserved a site for the memorial—Public Law 86-214—in West Potomac Park in the District of Columbia. As many of you will recall, many earlier designs for a memorial were rejected by various oversight panels; in fact, it is estimated that since 1960, over 500 attempts have been made to arrive at a design appropriate to President Roosevelt and to the site. I think it is fair to say that through the work of the F. D. R. Memorial Commission and professional and public responses, virtually every avenue was explored to find an approach to the memorial appropriate to the man, the site, and the times. I am pleased to advise that the design presented to the Congress by the F. D. R. Memorial Commission in House Joint Resolution 400 has received the approval of the relevant design review agencies and the support of the Roosevelt family for the design and the construction of the memorial.

The memorial design, created by noted architect Lawrence Halperin, will be a landscape garden consisting of garden spaces facing the cherry walk and the Tidal Basin with sculptured images and quotation of the man and the time linked by a series of granite walls. Because water played such an important part in Franklin Roosevelt's life, waterfalls, pools, and runnels will be a major element in the memorial. The landscape solution harmonizes with the existing park and the other memorials nearby.

The Congressional Budget Office estimates the cost of constructing the memorial to be $31 million, a figure adjusted for inflation over the anticipated 4-year construction period. Annual maintenance costs are estimated to be $1 million starting in 1986. At first blush, the cost figures seem high. However, let me provide some cost comparisons which will give a framework in which to consider the F. D. R. Memorial. If the Lincoln Memorial were built today, the cost of construction would be over $62 million. If the Washington Monument were built today, the cost of construction would be over $47 million. If the Jefferson Memorial were built today, the cost of construction would be over $40 million. Now, if the F. D. R. Memorial were built today, the Department of the Interior estimates it would cost $28.6 million; the CBO estimate of $31 million is the cost adjusted over a 4-year construction period. As far as maintenence costs, the annual operational costs today for the three major memorials are each running over $1 million; the $1 million maintenance figure for the F. D. R. Memorial is already adjusted for inflation beginning in 1986.

House Joint Resolution 400 is not an appropriations bill.

House Joint Resolution 400 authorizes to be appropriated such sums as may be necessary to carry out the provisions of the resolution. This authorization bill is the first step in a two-step process; upon enactment, the F. D. R. Memorial would require consideration by the Appropriations Committees. Congress will have the opportunity at that time to consider the budgetary situation and the national economy in reviewing the appropriation request for the F. D. R. Memorial. Also, a mix of Federal and private funding for the memorial could be considered at that time.

Mr. Chairman, House Joint Resolution 400 would authorize and direct the Secretary of Interior, subject to the supervision and approval of the F. D. R. Memorial Commission, to construct the F. D. R. Memorial at the site in West Potomac Park in accordance with the general design developed by the Memorial Commission and approved by the Commission of Fine Arts. Construction, operation, and maintenance of the memorial would be carried out by the National Park Service. The resolution authorizes to be appropriated such sums as may be necessary to construct, operate, and maintain the memorial.

Let me point out that the action proposed in this resolution authorizes a memorial to be built in the Nation's Capital and does not preclude other plans to honor our 32d President elsewhere in the United States. It has been the intention of the Congress since 1955 to provide for a memorial to Franklin Roosevelt here in Washington, the seat of the Federal Government, the Nation's Capital, a city visited by millions of Americans and foreign visitors each year.

Mr. Chairman, the F. D. R. Memorial Commission has completed a major part of its congressional charge and has presented the 97th Congress with plans for a memorial in Washington,

D.C., honoring Franklin Roosevelt. The Congress must authorize the Commission's plans before their work can proceed. The Senate passed identical legislation by unanimous voice vote on March 8 of this year. The administration has deferred to the Congress on a memorial for Franklin Roosevelt. The memorial has bipartisan support.

The year 1982 marks the centennial of F. D. R.'s birth. In January, we held a very moving joint session of Congress in this Chamber marking the anniversary. It is both fitting and appropriate that the 97th Congress move one step further in honoring the man by authorizing a memorial in Washington in this centennial year.

I urge all my colleagues, on both sides of the aisle, to vote for passage of House Joint Resolution 400.

□ 1015

Mr. Chairman, I yield 5 minutes to a distinguished Member of this body, the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Chairman, this is a happy day for Americans and for people all over the world who love freedom, many are still living who fought with him to preserve it.

There have been times in the last few years when I despaired a bit that I would ever live to see the Congress of this great country provide a suitable memorial for President Franklin Delano Roosevelt. Now, thanks to the splendid initiative of the distinguished gentleman from California (Mr. HAWKINS), the initiative of the other body, the Franklin D. Roosevelt Memorial Commission, the Fine Arts Commission, and all who have had a part, including many of my distinguished colleagues who are here today, that has become our hope and early reality.

When this House, as I hope it will in a few minutes, approves this resolution in the same language as that approved by the Senate, the Congress of the United States will have established in the law of this land, which I am sure will be approved by our President, the obligation to construct this memorial here in the capital of our country beside the beautiful waters of the Potomac which Franklin Roosevelt so much loved.

It is not necessary, Mr. Chairman, of course, that we build a memorial here in the national capital for Franklin Roosevelt to be honored for generations to come—for his face and his spirit are to be seen all over America: in the fertile fields where once was the Dust Bowl; in the harnessed rivers which once were the source of devastating floods; in the roar of the water pouring over dams that he made possible to provide energy for America's peace and even for the preparation of our defense. The waterways, the rivers and harbors, the highways all over America, is the hand of Franklin Delano Roosevelt. I see him in the homes of people who never had a home before. I see him in the schools which would not have existed without him. I see him in educational institutions of many forms. I see his handiwork in the improved art of painters and musicians and dramatists that he did not forget in those terrible disastrous days of the Depression. I see him in the lights of rural homes lighted by the REA; in the rural homes connected with the world by rural telephones; in rural and city libraries.

But, Mr. Chairman, he will live even longer in the hearts of Americans who are grateful for what he did for them and for this beloved country. And if I do not embarrass him by my reference to it, in all of America there was never a more beautiful and, I thought, more fitting tribute paid to Franklin Delano Roosevelt than by the distinguished gentleman from Virginia (Mr. DAN DANIEL), who stood on this floor when we had the rule providing for the joint meeting of the House and Senate to commemorate the 100th anniversary of Franklin Delano Roosevelt's birth, and said:

> I would be ungrateful if I did not stand before my colleagues and express my gratitude to the man who made that blessing possible for me—Franklin Delano Roosevelt.

I thought that was one of the finest and most notable statements I have ever heard.

But all over America, there are the humble people who do not have the privilege to speak on this floor and in whose hearts gratitude for what Franklin Delano Roosevelt did for them will never die until the last breath passes from them. They will go to their graves chanting their remembrance of Franklin Delano Roosevelt as their friend. I wish that were true of everybody in America who profited by his leadership, the leaders of the capitalistic system which he found broken and which he restored, the commerce and trade of America which he revived. He gave capitalism and the free enterprise system of America another chance and put them on the high road to recovery.

So, today, it is very fitting indeed that we stand here to cast our vote and to express our sentiments in favor of having this beautiful memorial to symbolize in our Capital that imperishable spirit, that noble man and friend; that genius of democracy, Franklin Delano Roosevelt.

Mr. GINGRICH. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I have been long awaiting this day when the House of Representatives would be voting to approve a design for the construction of the Franklin Delano Roosevelt Memorial. I share the commitment to this project demonstrated by my colleagues from Florida (Mr. PEPPER) and the Chairman of the House Administration Committee (Mr. HAWKINS). Their eloquent support of the memorial is greatly appreciated.

Mr. Chairman, the issue we are discussing today can be put quite simply. Do we or do we not want to authorize the construction of a suitable memorial to Franklin Delano Roosevelt in the Nation's Capital. We are all familiar with the reasons why such a tribute is appropriate—Franklin Delano Roosevelt was our only four-term President; he led us out of the Depression and to triumph in the Second World War; he created some of the Nation's great and enduring social programs, including social security. His sense of history and destiny deserve lasting recognition—on this we can all agree. The mandate of the F. D. R. Memorial Commission has been to provide an appropriate memorial, and the design before us today is the best proposal. I know, as a member of the F. D. R. Memorial Commission of the past decade, that every effort has been made to provide for a subtle, yet fitting setting and design for the memorial, and this is it. The unanimous voice vote approval of the authorization by the other body is an indication of the bipartisan support for the design.

The original cost of this memorial has been cut in half by the architect without losing any of the appeal of the design. The site is, appropriately, in close proximity to the Lincoln and Jefferson Memorials, and is far simpler in scope and design. The embodiment of F. D. R.'s ideals and contributions to American history are depicted throughout the memorial so that all Americans can share in this significant part of our Nation's heritage. Suggestions have been made that a living memorial to F. D. R. would be more appropriate and that F. D. R. himself did not want more than the stone tablet currently in front of the Archives. I, for one, would not presume to second guess our late President; but I would suggest that the American people want and deserve a lasting and significant memorial to F. D. R. Clearly, F. D. R. was being immodest in suggesting he wanted nothing bigger in his memory than a tablet the size of his desk. It is in keeping with his great contributions to American society that he would make such a statement. We serve him well by taking action that would authorize the construction of the memorial.

Franklin Delano Roosevelt represented the true American tradition and spirit—strength, nobility, and courage. By overcoming his handicap, he remains an inspiration to the disabled. By creating the social security system, he is dear to the hearts of all elderly Americans. He gave hope to Americans in dark economic times. I believe we should let America know

that we will not forget F. D. R.'s contributions to history.

Mr. HAWKINS. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. HOWARD), a member of the Franklin Delano Roosevelt Commission.

Mr. HOWARD. Mr. Chairman, we have memorials to George Washington, Thomas Jefferson, and Abraham Lincoln, but one memorial has yet to be built: the memorial to our 32d President, whose place in history deserves its hallowed ground. His was the inspiration that encourages man to do great things, to look beyond impossibility, beyond hopelessness and despair, beyond man's imperfections, to his potential to dream the proverbial impossible dream.

We must not forget that time in our history when, because of a terrible depression, we had nearly lost all hope; we were vulnerable from within. Or that time when, because of a terrible war, we nearly lost our national identity; we were vulnerable from without. We did not lose to the threat from within; our hope was restored. We did not lose to the attack from without; we became stronger. For restoring our faith in ourselves as a people and a world power, one man alone is responsible, and I do not need to tell you who that man is.

When Franklin Delano Roosevelt became President, the banking system of the United States had collapsed. Herbert Hoover had just informed the Nation: "We are at the end of our string. There is nothing more we can do." The national spirit reflected Hoover's statement. We were a nation more frightened than we had ever been in our history. We had nothing to fight with; our enemy was intangible, illusive—and implacable. Middle-class men were selling apples on street corners; lawyers and school teachers were on relief; and farmers dumped milk and plowed under pigs, hoping to raise prices so that they could eat. And normally law-abiding citizens were holding sheriffs at bay to prevent the forfeiture of their property. The fabric of our society was in shreds; we came as close to a revolution as we had since the Revolution in 1776.

On March 4, 1933, we changed Presidents and direction. F. D. R. brought us the New Deal which turned Washington, a tranquil, southern town, into a magnetic power base that attracted bright men full of new ideas. From this base sprang the National Recovery Administration, the Civilian Conservation Corps, the Public Works Administration, and the Works Program Administration. What started out as a fireside chat became a national goal. Our pride in ourselves as human beings was reestablished. Bread lines became public works projects; failing banks became monetary reserves; wilderness areas and natural resources became handiwork for conservation; culture became the joy of working artists. One grateful citizen wrote:

DEAR PRESIDENT ROOSEVELT: I'm proud of our United States and everytime I hear the Star-Spangled Banner I feel a lump in my throat. There ain't no other nation in the world that would have sense enough to think of WPA and all the other A's.

By the end of the thirties, the country no longer sought a panacea—there was none; and a living and improved economy had greatly improved the national mood. But by the end of that decade, America was faced with another calamitous event—the Second World War was looming on the horizon. When Pearl Harbor was attacked, F. D. R. acted swiftly and decisively; he rallied the strongest retaliatory force the world had seen. The spirit of the Nation was heightened and unified by an invasion from overseas; in the mind of America, there was no question but that the enemy would be defeated.

Between these two cataclysmic events, the depression and the Second World War, America's political balance, its economic health, and its old habits and values were reassessed and improved, because, as it had been during historical moments in the past, America was blessed with a man whose imagination and versatility and willingness to take a risk pulled us out of our turmoils. The people loved and trusted F. D. R. so passionately that they in a sense elected him President for life.

It seems only fitting that we recognize the deeds of Mr. Roosevelt by a deed of our own; by constructing finally the memorial for which the Franklin Delano Roosevelt Memorial Commission was founded. We will not only have completed the plan for the mall established in 1901, but we will have fulfilled a debt to a great President.

The cost for building the memorial will not diminish, and if we calculate from past figures, we can expect it would cost much more in the future. Without a crystal ball, no one can guarantee a good time for building the memorial. We can guarantee it to be a worthwhile public works project—F. D. R. would have appreciated that.

I believe this memorial ought now to be constructed; I believe it ought to be constructed in the city from which F. D. R. and the New Deal made its impact and to which thousands of people come every year to pay their respects. F. D. R., out of modesty, may have only wanted a monument the size of his desk on Pennsylvania Avenue, but the American people, in great numbers, come to Washington because they want to stand in the shadows of the men who are memorialized here. F. D. R. cast a great shadow; let us cast our votes to honor a great man.

I urge the adoption of this resolution.

□ 1030

Mr. GINGRICH. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. MCDONALD).

Mr. MCDONALD. Mr. Chairman, "de mortuis nil nisi bonum." Of the dead, say nothing but good. I for one must dissent from that sentiment.

The legislation that we are now considering would authorize and direct the Secretary of the Interior to construct the Franklin Delano Roosevelt Memorial in Washington, D.C., at an estimated cost of $31 million with an annual maintenance cost of approximately $1 million. In addition to the untimeliness of spending this enormous amount of money when we are attempting to reduce our overbloated Federal budget, this bill is another in a growing number of bills before this body to commemorate the myth that F. D. R. saved our free enterprise system from going socialist and saved the world from a totalitarian dictatorship. Nothing could be further from the truth.

Historical records show the following:

When F. D. R. assumed the Presidency, he reputiated campaign promises and the 1932 Democratic Party platform which called for a 25-percent reduction in the size of the Federal Government and instead introduced a multitude of alphabet agencies to regulate all aspects of life.

His very first act as President was to confiscate the gold of our citizens and unleash the inflation we are now having much difficulty in bringing to an end.

Two of F. D. R.'s basic antifree market measures, the National Recovery Act (NRA) and the Agricultural Adjustment Act (AAA), which are slated for inclusion on the memorial, were found to be unconstitutional by the Supreme Court. Undaunted, F. D. R. had Congress reenact key provisions of the unconstitutional NRA and AAA.

Due to these Court decisions, Mr. Roosevelt attempted to pack the Supreme Court, and by 1937 he had a subservient Court which from that date on, in case after case, overturned the original and traditional constitutional limitations on an all-powerful central government. By 1939, his expanded powers and programs were in full effect. However, rarely did New Deal legislation achieve its advertised goal, but all involved a greater concentration of power in the hands of the Federal Government. Only the most catastrophic of events could save F. D. R.'s programs from complete and utter failure: World War II.

While running for an unprecedented third term, F. D. R. promised the electorate again and again that our boys were not going to fight in any foreign wars. However, he secretly assured the

British he would help them, but they would have to wait until after the election.

Having broken the top Japanese diplomatic code in August 1940, F. D. R. knew on November 22, 1941, that if a satisfactory conclusion to the long drawn out negotiations with the Japanese was not reached by November 20 that "the deadline absolutely cannot be changed. After that things are automatically going to happen." On November 25, F. D. R. told his Cabinet that "We are likely to be attacked, perhaps, as soon as next Monday." So, on November 26, F. D. R. had his Secretary of State hand the Japanese Ambassador a second ultimatum; one he knew they could not accept. The Japanese attacked Pearl Harbor 10 days later, on December 7.

Two of F. D. R.'s economic programs may be viewed as great successes. His attempt to inflate the Nation's quantity of money reached his goal before World War II and is still going full blast. F. D. R.'s other success was his program for unemployment insurance. His programs have certainly insured unemployment.

On the 100th anniversary of Franklin Roosevelt's birth, the magazine Soviet Life, which is published by the Soviet Embassy, took the occasion to acknowledge that it was F. D. R. who almost singlehandedly saved the Soviet Union from collapse in 1933 by establishing relations with that country and thus "produced positive results for the cause of peace." One such result from which F. D. R. is praised is the Yalta Agreement in which, among other conditions, the Soviet Union was guaranteed domination of Eastern Europe, including Poland. In addition, the article praises F. D. R. for his "important socioeconomic reforms, that greatly changed life in America." With friends like Soviet Life, the memory of F. D. R. needs no enemies.

In conclusion, F. D. R.'s basic interference with free market procedures and his international treachery have let to the further disintegration of the ways of Western civilization. They thus must bear a major responsibility for our present distressing economic situation with soaring inflation, high interest rates, mass unemployment and current world crises.

In view of the record and a hard look not at the myth but at the reality, I submit that we do not need another memorial to Franklin Delano Roosevelt and urge my colleagues to oppose House Joint Resolution 400.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I simply say at long last that a memorial for President Franklin Delano Roosevelt is being considered by this House. He, like his predecessors, have not been without some controversy. But clearly the record shows and history reveals that his accomplishments are long to be remembered and have impacted on our country like no other President in history.

This morning the distinguished gentleman from Florida (Mr. PEPPER) and the gentleman from New Jersey (Mr. HOWARD), enumerated in detail his many accomplishments. However, I would like to give my colleagues a young man's perspective, a young man who lived through those trying days. A very young man who looked about and looked to his family. He looked to his community where many people were unemployed, consistently unemployed, people who had been working all of their lives and just yearned for the chance to work again. People who have come to live in and enjoy the privileges of our great country. And then look to his family and look to a father who had worked all of his life and provided for his family with pride, a man who had not worked a single day for 4 years despite the fact that he went out every day to seek employment, and compelling a loving mother and wife to leave the household and work as a charwoman at $8 a week and take care of the supper and all of the needs of the family, and take care of three sons. Looking at the world about him this young man while in school, saw nothing but despair and hopelessness and asked what was in the future for him. What was the purpose of going to school. Because when you came out as a graduate he only envisioned joining the millions of jobless who were just wandering, listlessly not knowing what the future held. He observed a world about him and looked at a community where adults and executives were on the corner selling apples, applying for public assistance, elderly dying of malnutrition, streets blighted with household belongings of families evicted from their home for failure to pay rent.

A young man who supplemented the income of the family by making a dollar and a half a week shining shoes. His mother made $8. That $9.50 afforded them the privilege of not going on home relief, which was considered a shameful refuge, a young man who would stand on line to get milk 3 cents cheaper at some agency, and stand on line with many others who did so shamefully.

President Roosevelt shifted the Nation, objectively concerns he looked to the people, provided hope, provided jobs, provided a means to continue living life with some pride. If for no other reason this memorial should be built, it should be for the fact that he gave hope and in fact provided opportunity, and a revival of our Nation and its people.

I can tell the Members I will never forget those days, never, never forget those days as long as I live, because I was that young man. Of course, I am privileged to be here this day never having thought for a moment at that time that one day I would be here a Member of Congress to pay tribute to a man who I think all humanity should regard in the most revered and respected fashion.

Mr. GINGRICH. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I have no personal memory of Franklin Roosevelt. I was born in the last couple of years of his administration and do not have the experience to call upon that some of the gentlemen have here mentioned, and perhaps that is a shame. It does give me an opportunity, however, to view the issue that we have before us today from a somewhat historical perspective and try to take a look at some of the issues that I think this Congress has to consider. And I think, for example, that it does no disservice to the memory of Franklin Roosevelt, nor does it do a disservice to the effectiveness of his leadership at a time when the country faces crisis, to question the kind of funding stream that we are creating in this legislation today.

I think that it may well be that this Nation does owe to this great leader some kind of memorial, but I think that when you take a look at what we are doing here today you have got to raise some questions about the specific language that we are in the process of approving.

For example, the language in this bill creates, at least in authorization form, an entitlement program. We are not limiting funding here. We are not doing anything of the kind. We are creating in fact an authorized entitlement program beginning September 30, 1982, and going on for the future.

I think that has to be a concern at a time when we are faced in this country with severe financial crisis again, not unlike some of the crisis that Franklin Roosevelt faced up to during his period of leadership.

We, also, I think, have to look as a matter of historical perspective at the fact that the man himself believed that a fitting memorial to him should be something modest and something not expensive to the taxpayers, and he did this not just because of a personal modesty, which I understand from people who knew him was something that he did exude, but also because it was his political philosophy.

I quote from Franklin Roosevelt speaking in 1930. He said:

> If we do not halt this steady growth of building commissions and special legislation we shall soon be spending billions of dollars more.

In other words, what he was saying, when he said that he did not want a large memorial, was that it was some-

thing that he believed in personally, and it was something that his political career had been based upon, and I think that we, in viewing that kind of historical perspective should be reflecting on that as we go about our duties here today.

What I intend to do at the appropriate time is offer an amendment. My amendment will be similar to one that I have offered on the floor here on several occasions previously, which would tie this matter to the balanced budget law of the Nation.

□ 1045

We have a law which requires a balanced budget. I am going to offer an amendment to say that we ought to in the course of the authorization of this memorial assure ourselves that at least it is being done within the context of the law. That would make certain that we could go ahead, authorize the memorial, but assure the American people that at this time when we face a financial crisis in this country that the funding stream, the entitlement stream that we are creating, would not come about unless it was done within the context of a balanced budget.

Mr. GINGRICH. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, I represent a different view. I have a different perspective from the views expressed by the gentleman from Georgia who preceded me in the well.

I march to a different drummer, a drummer who conceived the March of Dimes and who spent many of his most productive years in my home State of Georgia.

Mr. Chairman, I am not troubled by a memorial to F. D. R., this great man, in West Potomac Park. It would be a fine and fitting tribute and memorial to this great man and to the fact not only that he died, but that he lived and he lived effectively and as a great President of a great nation.

Warm Springs, Ga., was a place where he conceived many of the reconstruction programs, as pointed out by my colleague, the gentleman from New Jersey. One which was not referred to was embraced by President Franklin D. Roosevelt, as advanced by Steve Pace of the Third District of Georgia and it dealt with the rural electrification program, which has meant so much to rural America over the years and should also be added to the notable list of things that this great man conceived in the small southern town of Warm Springs, Ga.

At this point, Mr. Chairman, if I could ask the chairman of the Committee a question, I would be pleased; for in my view the memorial effort that we consider here today, this particular issue, is a nonexclusive, noncompetitive issue, with the proposition that there could be other fitting memorials that could be considered independently at a later time. For example, as the chairman knows, we have legislation which has passed the House of Representatives which would provide a study of the Warm Springs, Ga., Rehabilitation Institute as a living memorial to Franklin Delano Roosevelt. This would by no means diminish that effort, which would in my judgment be considered independently of this fine effort by the gentleman from California.

Mr. HAWKINS. Well, will the gentleman yield the time?

Mr. BRINKLEY. I yield.

Mr. HAWKINS. I think the response is certainly positive, that this resolution in now way preempts other actions that may be adopted by this body. As a matter of fact, there are some of us who would strongly support the other efforts, not to the exclusion of this; however, this effort, I think it should be remembered, is one on which all of the relevant agencies have agreed. This is one on which the other body has already agreed and to which the President has deferred, so that without this effort, then nothing else can proceed. To that extent, it is unique, but it does not in any way preclude in its wisdom this body adopting other memorials to the late President.

Mr. BRINKLEY. I thank the gentleman and I certainly have great respect for his position and for his advancement of this legislation.

I would say to the gentleman who has yielded me the time, my colleague, the gentleman from Georgia, that I also have great respect for his position, because it is a position of fiscal responsibility, as opposed, I think, to the memorial goals which are accomplished in this bill.

Therefore, I think as we approach this issue and the others that will be coming up from time to time, perhaps as I leave the Congress, the 98th Congress, I will leave some seeds that will have been planted well for consideration to be given to the study that will be made on Warm Springs, Ga.

In conclusion, I tell my colleagues in this body that Warm Springs, Ga., is a fitting place for a memorial that lives, which serves people who are in life as a spinal cord rehabilitation center, the place at Warm Springs where F. D. R. lived well and he died there.

I would say that in our body we have three outstanding gentlemen who were also at Warm Springs. We have Congressman GINN, Congressman SKELTON, and Congressman SCHEUER, whose lives were enhanced and enriched also by having swam and lived and been restored to health in the healing of Warm Springs, Ga.

A bit of history in final conclusion, the Indians went there as a place of truce also, not be hostile but to be healed again.

F. D. R. was a healer and I share so very deeply the conviction of the gentleman from Florida (Mr. CLAUDE PEPPER) as he expressed his fine sentiment about this great American.

I thank the gentleman from Georgia for having yielded me this time. I support this legislation.

Mr. GINGRICH. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I rise in support of House Joint Resolution 400, a bill to authorize construction of a memorial to Franklin Delano Roosevelt. As a member and secretary of the F. D. R. Memorial Commission, I feel it is very important that this bill pass as soon as possible.

F. D. R. was one this country's greatest modern leaders. He was elected to the highest office in the land an unparalleled four times. He led our country through some of its darkest hours—the Great Depression and World War II—to unequalled greatness. He is personally beloved by many, and deeply admired by even his detractors for his personal courage and leadership. This brilliant man, who more than any other shaped the political landscape of America in this century, should be honored by erecting a fitting memorial in our Nation's Capital. Because this year marks the 100th anniversary of F. D. R.'s birth, now is the best time to focus attention on the life of this remarkable President.

F. D. R. himself once said, "We do our best that we know how at the moment, and if it doesn't turn out, we modify it." This is a fair description of efforts to bring a memorial to F. D. R. to pass. Several earlier designs for the memorial were rejected by the agencies with jurisdiction over this matter. But the design authorized by House Joint Resolution 400 has been approved by all of them, and has the strong support of the Roosevelt family. The memorial will be a landscape garden of sculpture representing important aspects of F. D. R.'s life, which will be complemented by waterfalls, pools, and other uses of water. The design is a scaled-down version of that submitted in 1978, and it is a reasonable reflection of the budgetary constraints under which we operate. The total cost of the memorial will be about $31 million, with an annual maintenance cost of about $1 million. Private funds may supplement public ones for construction of the F. D. R. Memorial, and Senator HATFIELD testified during Senate hearings on this matter that a strong effort to solicit private funding will be made.

House Joint Resolution 400 will enable us to build a memorial that will grace our Capital City and provide a fitting and long-overdue tribute to F. D. R. During this F. D. R. centenni-

al year, acceptance of this proposal is even more fitting. Let the Congress put an end to its chronic foot dragging on the F. D. R. Memorial, and pass House Joint Resolution 400.

Mr. GINGRICH. Mr. Chairman, I yield myself such time as I may consume.

Let me say, first of all, that Franklin Roosevelt was a great man, that I agree with the emotions of the gentleman from Florida that this is a far different country because of Franklin Delano Roosevelt and, indeed, I think Franklin Delano Roosevelt deserves a memorial, because I think he was the greatest President of the 20th century.

I do think, however, that on two counts we should place that memorial in Warm Springs, rather than here.

The first count is that I think Franklin Roosevelt with all our Presidents would most appreciate and most understand a living memorial and at a time of limited resources he of all people would insist that we spend money on human beings, rather than on granite.

Second, Franklin Roosevelt himself in his own lifetime as a practicing politician who had seen this city over many years came to believe that there were too many monuments in this city, too many memorials and that we had gotten into the habit of building something new to someone with almost every term of Congress.

It was President Roosevelt himself who said that the only monument that he ever wanted in Washington was something that would be no larger than his desk. I do not think that was said in jest. I think it was said because he appreciated the current condition of the Mall, the beauty of the space, the sense of dignity with Jefferson and Lincoln and Washington. As a visionary, he could look down the road two or three generations from now and he could see a Mall so cluttered with stone and rock and sculpture that it had lost the tranquility and the beauty and the sense of repose in nature. As a statesman, I think he felt that the time to draw the line had come.

Let me say candidly, I think the time to draw the line has come. I hope to introduce shortly a bill which would prohibit any further building in the area of the Mall extending over to the Jefferson Memorial, because frankly, I think we owe it to our grandchildren to leave them enough green space that they can decide to do something. I do not think we necessarily have to build monument after monument, building after building, sculpture after sculpture. I think it would be nice to leave if not a wilderness area in this city, at least a peaceful green area in the city.

Finally, I am going to urge my colleagues to vote "yes" for the Walker amendment, because even for those of us who feel most passionately that there should be a memorial in Washington to Franklin Delano Roosevelt, I think it would be hard for any of us to argue that we need to build that memorial today in a time of tight budgets at the cost of taking $30 million in construction costs and $1 million a year in maintenance costs away from other programs that deal with direct human need. I think that would truly be a travesty against the memory of Franklin Roosevelt and the New Deal.

So I think it is totally appropriate to have an amendment which would restrict any Federal spending on this memorial until after we had achieved a balanced budget and brought down interest rates and created a time in which we were spending money we actually had, rather than spending money which would come only through borrowing.

Finally, I would urge those who are concerned to vote against building the memorial, because I think there is an alternative. They do not preclude each other. The gentleman from California is right; but I think there is an alternative more human, more in the spirit of Franklin Roosevelt, and that is to build a memorial at Warm Springs; so while I respect the memory of Franklin Roosevelt, I study his Presidency, I encourage others to look at him as probably the greatest American President of this century; but I think there are alternatives to honoring his memory more fitting with the beliefs and the character of the man we have talked about today.

Mr. HAWKINS. Mr Chairman, I yield 6 minutes to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. ZEFERETTI. Mr. Chairman, will the gentleman yield to me?

Mr. DAN DANIEL. Of course, I yield to the gentleman.

Mr. ZEFERETTI. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the legislation.

Mr DAN DANIEL. Mr. Chairman, first of all, let me express appreciation to the gentleman from California (Mr. HAWKINS) for bringing this resolution to the floor, and second, to thank him for permitting me to participate in this discussion.

I would also be ungrateful if I did not respond to the very gracious comments made by my friend and colleague, the gentleman from Florida (Mr. PEPPER). I am indeed grateful for his sentiments.

I rise in support of House Joint Resolution 400, which would authorize and direct the Secretary of the Interior to proceed with construction of the Franklin Delano Roosevelt Memorial.

It has been 37 years since the death of President Roosevelt and one might argue that such recognition is long overdue. There have been, however, complicating factors, involving the wishes of the family and other considerations, and it is therefore important that this resolution provides that any action be subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission.

Time casts the contributions which anyone has made to society in a different perspective than the era in which they are made. Some of our Presidents, large in their own time, have dimmed from public recognition with the passage of time. Others have come to be viewed in the light of history as having made a far greater impact than their contemporaries might have imagined.

By any measure, however, Franklin D. Roosevelt will be viewed by most historians as among the few who have left an imprint which will forever be visible.

He came along at a time when the country was deep in hopelessness and he provided hope. He saw a nation which was fearful and with his ringing words that "the only thing we have to fear is fear itself," he instilled the courage to face those fears. His imagination sparked an emotionally paralyzed nation.

While others looked at our national condition as a multitude of problems, he saw beyond them; he saw a nation whose potentials were untapped. He used our imperfections as stepping stones rather than stumbling blocks.

How close we came to revolution in those bleak days no one will ever know—but a nation which had lost faith in itself soon regained that faith and began that long climb back.

Some of the remedies were not successful; some were outright mistakes; and some started this Nation on a trend which the President never envisioned. That this is so is borne out by his words upon signing the original Social Security Act:

> We can never insure one hundred percent the population against one hundred percent of the hazards and vicissitudes of life . . . .

But his memory is a recognition that the Depression was a watershed for America.

The debate over whether great men shape their times or the times shape the man will go on as long as the world stands. But Roosevelt was certainly synonymous with his time. Many of his solutions were revolutionary—and the willingness of the Nation to accept them was not always apparent. Millions were unemployed—and he put them to work. He utilized available skills where this could be done, and provided training where it was possible, for he knew the value to the Nation and the human spirit of productive work. Both the Civilian Conservation Corps and the Works Progress Administration left some lasting good. Just as today we push the state of the art in science and technology in that earlier time Presi-

dent Roosevelt pushed the state of the art of human development.

His "fireside chats," his confident smile, and his undeniable optimism sparked a forward thrust which the Nation desperately needed. For this, we can ever be grateful.

The times required imagination, and he provided it. That history placed him in the right place at the right time makes him no less a candidate for recognition.

A memorial in Washington is deserved—and I urge that the resolution be approved

□ 1100

Mr. HAWKINS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The Clerk will read.

The Clerk read as follows:

H.J. RES. 400

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to construct the Franklin Delano Roosevelt Memorial in accordance with the general design developed by the Franklin Delano Roosevelt Memorial Commission and approved by the Commission of Fine Arts on September 20, 1979. Such memorial shall be constructed in that portion of West Potomac Park in the District of Columbia which lies between Independence Avenue and the inlet bridge, reserved for the memorial by a joint resolution approved September 1, 1959 (Public Law 86-214).

SEC. 2. The Franklin Delano Roosevelt Memorial shall be operated and maintained by the Secretary of the Interior subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 3. There are authorized to be appropriated, for fiscal years beginning after September 30, 1982, such sums as may be necessary to carry out the provisions of this joint resolution.

The CHAIRMAN. Are there any amendments?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 2, after line 22, insert the following new section:

SEC. 4. No funds authorized under this act shall be expended in violation of section 7 of Public Law 95-435.

Mr. WALKER. Mr. Chairman, this is an amendment that I have offered on a number of appropriation and authorization bills this year. It relates to language adopted by this Congress and since reaffirmed on a couple of occasions by this Congress that says that beginning in fiscal year 1981 we shall have in this country a balanced budget.

What this particular amendment does is to say that no funds expended in this bill may be spent in violation of that law of the land.

I have offered it and made many arguments about this particular provision of law, but let me suggest that this is a particularly appropriate place to consider this kind of an amendment.

First of all, it does no harm whatsoever to the authorization process that we are about here. Those who feel strongly that we need to authorize a memorial can vote for this amendment because the only impact of my amendment is on section 3 of the bill with regard to the funding.

The authorization process can go forward; we can go ahead and authorize the memorial; we can place it as it is said; we can authorize the Secretary of the Interior to go ahead and carry out the provisions of this bill. But it is the funding stream to which this speaks, which speaks to the concern that at least a number of us on this floor have.

We are not opposed to the idea of a memorial, but we do believe this is an inappropriate time to begin a funding stream, particularly a funding stream which amounts to an entitlement for this particular project.

So what my amendment would do is say, fundamentally, that we believe a memorial is possible but that the memorial should be built within the context of a balanced budget and within the context of the law of the land that now exists.

Let me also suggest it seems to me that it would be entirely inappropriate for us to authorize a memorial in direct contravention of the law. I do not think that that serves the memory of Franklin Roosevelt very well, to say that we are going to allow spending here in direct violation of the law of the land. That is not what Franklin Roosevelt and his career were all about.

So this particular amendment, it seems to me, provides a service to that memory by saying that as we approve this memorial, we recognize that the law of the land, Public Law 95-435, should stand inviolate by the particular action we are taking.

Finally, let me say that I think that Franklin Roosevelt would understand this amendment. I quote from Franklin Roosevelt, who was speaking to the Nation in 1932, on October 19, in which speech he said;

> If the nation is living within its income, its credit is good . . . If, like a spendthrift, it throws discretion to the winds, and is willing to make no sacrifices at all in spending, if it extends its taxing power to the limit of the people's power to pay and continues to pile up deficits, then it is on the road to bankruptcy.

That is Franklin Roosevelt speaking.

Franklin Roosevelt understands why this amendment is being offered. I would ask my colleagues to approve the amendment.

Mr. HAWKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I regret that there are Members of this body who presume to speak for the late Franklin Delano Roosevelt, and whether or not he would desire or not desire a memorial. The fact is that this issue has been settled since 1955 when the Congress itself resolved the issue and authorized a commission to proceed with the formulation of a design and construction of a memorial.

This was later confirmed when Congress authorized and reserved a site for the memorial.

So it seems to me that the appropriateness of the time in which the appropriation is going to be made, the amount of it, whether or not some of it will be supplemented by public subscription, is a matter which belongs before the appropriate committee, which is the Appropriations Committee.

It seems to me now what some are trying to do is to stop this process in the name of the man for whom the memorial is to be dedicated on the basis that he does not desire it.

I think that is a little presumptive.

This matter has been thoroughly reviewed by the F. D. R. Memorial Commission; with four Members of this body sitting in on that Commission, two Republicans and two Democrats.

The other body has approved the identical resolution.

The Roosevelt family—and I assume they speak perhaps closer to the views of the late President than does any one of us—has certainly approved it.

We have scaled down the original plans that might have cost more money than this.

So it is up to us—that is, this body itself, not the other body, but here in this body. The time has come for us to act. This is not the final process. This is only the first step.

I would suggest that we need to vote on the matter, we need to at least approve what has been the controversial aspect of it, which is merely the design, and then leave to the Appropriations Committee whether or not the amount is appropriate, the time is appropriate, and whether or not this body wishes to block this resolution or to proceed with the action which has been before this body for almost three decades.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

Mr. Chairman, I share the gentleman's sentiments in relation to the amendment, but I pose the question: Does the gentleman have any information with relation to previous memorials, has a condition as contained in

this amendment ever been incorporated?

Mr. HAWKINS. Does the gentleman mean as to the cost?

Mr. BIAGGI. No; as far as the balanced budget requirements are concerned.

Mr. HAWKINS. Mr. Chairman, I say to the gentleman no, there has never been any such suggestion to demean the memory of those to whom we thought honor was due.

We have never gotten into that issue. I regret it has been dragged in today.

In addition to that, may I say this amendment has been presented within a period of 2 legislative weeks to numerous other proposals before us and we have consistently rejected this amendment.

I think it would be very inappropriate for us to set a precedent here today when we are here to honor the memory of a man who certainly, I think, should not be presumed to be against what we are attempting to do.

Mr. BIAGGI. I thank the gentleman.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from New York.

Mr. GREEN. I thank the gentleman for yielding.

Mr. Chairman, I find it difficult to find how the amendment is to be applied by the Secretary of the Interior.

As I understand the basic Walker amendment in Public Law 95-435, it says:

> Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

How is the Secretary of the Interior to deal with the amendment now before us? I think everyone will remember that 2 years ago we passed what purported to be a balanced budget, the first budget resolution.

Of course, it did not work out. By the end of the fiscal year it turned out there were some $58 billion in deficits. However, on October 1 of that fiscal year, on the basis of the first budget resolution that this Congress had adopted, the Secretary of the Interior had the right to expect that we had a balanced budget.

Now, if he then went ahead, and this resolution had been in effect, and he had started to spend money on the Franklin Roosevelt Memorial pursuant to an appropriation, would he then somehow find himself in violation of the Anti-Deficiency Act if subsequent fiscal events turned out to result in a deficit?

So I really am at a loss to see how in a practical context the Secretary of the Interior is to proceed under the Walker amendment.

□ 1115

Mr. HAWKINS. I think the gentleman is certainly correct. I think that is reasonable.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. HAGEDORN and by unanimous consent, Mr. HAWKINS was allowed to proceed for 2 additional minutes.)

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield.

Mr. HAGEDORN. Mr. Chairman, I thank the gentleman for yielding. I might say that if we were in the times of 1955, when we were operating with balanced budgets, or nearly so, and our economy was in a solid situation as it was in that period of time, maybe the country might be more supportive of embarking and moving forward even closer to authorizing and constructing a $30 million memorial to Franklin Delano Roosevelt, but I think there is a feeling of despair throughout the length of this country that the likes of even Roosevelt's tactics and politics would not be able to correct much of the problem today of excessive government, spending gone wild, programs never controlled, that has led us to this point.

I think that if we approve this today, this amendment, that would be in the spirit of Franklin Roosevelt; that is, do not spend the money unless you have it. Have a strong, sound economy, and that may be the best testimony we could leave right today, to adopt this language saying that until this Congress comes up with a balanced budget, we are not going to spend money absolutely not essential for the well-being of this Nation.

I think maybe that is where the feeling lies with many of us who are going to support the Walker amendment.

Mr. HAWKINS. I think the gentleman has a point, and there is a school of thought that says we should not proceed on anything until we have a balanced budget. That means that we would stop the process of dealing with things on their merit. I think we must decide that this is not the time to debate the balanced budget. That could be debated on everything. I would suggest that the gentleman bring in an omnibus bill that we might legislate on, which would apply to everything across the board, but are we to be faced with this on every issue that comes before the body, as to whether or not we can act or cannot act on the basis of a balanced budget? We will get into a battle over whether the budget should be balanced.

Mr. HAGEDORN. If the gentleman will yield further, certainly in relationship to social security, no, it should not be applied, nor to medicare or medicaid or even food stamps, but those programs are going. But this is probably, in the minds of most people, not exactly the top national priority to go forward. If there is one small area in a part of the budget that we can restrain spending and hold out, we should do it.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. ROEMER and by unanimous consent, Mr. HAWKINS was allowed to proceed for 2 additional minutes.)

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, I understand in the colloquy earlier the gentleman from California and the gentleman from Georgia spoke about the Warm Springs idea, a living memorial, as it were. Could the gentlemen, for the benefit of those of us who were not involved in the committee hearings or in the thought processes, explain why the committee in the House chose not to adopt or advance the Warm Springs idea? Was it considered? Did the gentleman find that it lacked merit compared to this memorial in this particular proposal?

Mr. HAWKINS. No, I would say that this resolution was adopted without any prejudice with respect to the Warm Springs, Ga., project. As a matter of fact, the gentleman who has been in the forefront of suggesting it, Mr. GINGRICH, is a member of the House Administration Committee. This matter was discussed; the resolution was discussed.

The issue I construe to be a completely separate one. Personally, I would support his proposal, but I think that should not be indicating that because the Warm Springs project has merit, that this one should not also be supported. House Joint Resolution 400 has the support of the various groups involved with the memorial: the Memorial Commission itself, the Roosevelt family, the Commission on Fine Arts, and the other body, I might add.

I think this proposal has greater support than the other, and I think largely because this memorial is in the Nation's Capital. Many individuals may not be able to travel to Georgia or to one of the other States, but most visitors do come to the Nation's Capital.

Mr. ROEMER. If the gentleman would yield briefly, I was targeting on one thing. Did the committee compare the Warm Springs idea in relation to these others, and decide it was not as valid or as appropriate?

Mr. HAWKINS. In fairness to Mr. GINGRICH, may I say that we did not have the specific proposal that he has indicated before us, so it is true that

this has not been compared, as the gentleman suggests.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. BRINKLEY and by unanimous consent, Mr. HAWKINS was allowed to proceed for 2 additional minutes.)

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. Yes.

Mr. BRINKLEY. Mr. Chairman, I thank the gentleman for yielding, and I respond to the gentleman from Louisiana, Mr. ROEMER, to inform him that the feasibility study advanced in behalf of the Warm Springs initiative was referred to the subcommittee chaired by the gentleman from Ohio (Mr. SEIBERLING), the Subcommittee on the Department of the Interior. My understanding is that many groups support both concepts.

For example, I think the Roosevelt family may well support the initiative of the gentleman from California which is before us today, and I can state in my place that the Roosevelt family, for example, does support a different concept which is at Warm Springs, Ga., which is to make a living memorial to assist people, and which would be a testimony to F. D. R., not only that he died, but that he lived and that his memory today is in behalf of the living. That would be the one specific initiative that is being carried forward in the Senate. We hope it will come back in the form of a study, and that this idea will receive a good reception when we send it up at a later time.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I would like to clarify this matter largely for the benefit for the gentleman from Louisiana. I said in my earlier remarks in favor of this legislation that this was it. It was an up or down vote on this particular memorial in the city of Washington.

The Franklin Delano Roosevelt Commission was created under Public Law 84-372 in 1955 "for the purpose of considering and formulating plans for the design, construction and location of a permanent memorial to Franklin D. Roosevelt in the city of Washington." No site outside the city of Washington was considered as an alternative because it was a mandate of this body to the Commission, so that is not the matter before us.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. FISH and by unanimous consent, Mr. HAWKINS was allowed to proceed for 2 additional minutes.)

Mr. FISH. I cannot visualize this going back to the drawing board after presenting this House with four different proposals over the last several years. So, to get back to the principal point here, if I could direct a question to the chairman of the committee on the pending amendment, does not the chairman think it is unnecessarily redundant to repeat existing law in a bill as it goes through the House? Obviously, it has to reflect the status of the law that is already on the books.

Mr. HAWKINS. Well, certainly the gentleman thinks it is redundant, but far beyond that, I think that it is aggravating to the extent that all of the parties have agreed, and were we to go to conference I do not know what there is we could possible do in modification of the resolution to meet the objections that may be raised in the other body. I think we have been on this issue almost 30 years, and I think the time has come to resolve it. I think the issue raised by the amendment is something that should be debated by the Appropriations Committee, and I am quite sure it will be.

Mr. FISH. That is where it will lie, and we have been told here in section 3 of the pending resolution, which talks about such sums as may be necessary to carry out the provisions of this joint resolution. It was not meant to be an entitlement. It has been very clear in testimony by members of the Commission before the Senate Rules Committee and the House Administration Committee that we recognize that we are going to have the Commission imposing upon itself the burden of justifying sufficiently to the satisfaction of the Appropriation Committees of the Congress every item of expenditure as we go forward with this memorial.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Let me say that on the Walker amendment I cannot imagine any easier vote for anyone who has exercised the slightest pretense to being a fiscal conservative or a fiscal moderate than to vote yes.

We are dealing with a memorial which by testimony today has been worked on for 27 years, which has had four different proposals, which involves red granite which is not going to disappear. Granite is going to be in Minnesota when we finally balance the budget. It may be older granite by that point, but it is going to be there. We are talking today about a very simple question, whether even on an item as tiny as a dead memorial to compare with a living memorial, whether an item as tiny as a piece of rock, this Congress has the courage to slow down and wait until we can pay for it out of tax money.

The reality is, the Congressional Budget Office estimates it is going to cost us $33 million over the next few years to build this memorial. That is the Congressional Budget Office estimate. That $33 million, given our current fiscal condition, is going to be borrowed. Now what, pray tell, is so urgent about a piece of rock that we had to borrow $33 million at the current interest rates to add to the deficit to build a memorial which even the people who want to build it have spent 27 years trying to get sorted out?

All we are suggesting is that if this Congress cannot delay its gratification long enough to balance the budget on an item as simple and small as a memorial made out of granite, then there is probably no hope for us ever balancing the budget. I would far rather see $33 million spent on human beings over the next 4 years than borrow $33 million to spend on a piece of granite.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. If he would indulge me, I would like to clarify some of the remarks that have been made with respect to the amendment so that the Members do not misunderstand what is happening.

First of all, it was indicated we ought to deal with this matter in a larger context, to deal with a balanced budget. I could not agree more. That would be fantastic.

I say to the gentleman from California that there is a discharge petition at the desk right now to bring a constitutional amendment on a balanced budget to the floor, and we might welcome everyone to sign that discharge petition so that we can get the matter out in greater context.

Also, the question has been raised as to how this thing would work. The gentleman from New York (Mr. GREEN) raised the question as to how this could possibly work with the Secretary of the Interior. I think that is a question that maybe should have been discussed when we approved the law of the land. What we have done is, we have enacted the law of the land which says that we shall have a balanced budget beginning in 1981, and maybe we ought to look at the mechanism. But, the fact is we did not. We have gone through and reaffirmed that law of the land on two occasions, the last being a few days before the summer recess. The fact is, this Congress has agreed that that language is what it wants and we continue to reaffirm it, so that the working details of it are not relevant to the issue I have raised.

Third, the issue has been raised as to whether or not any other memorial has ever been tied to a balanced budget. This is not tying it to a balanced budget. It is tying it to the law of the land. I submit that there has

been no memorial ever created in this town in direct contravention of law, that what we did was totally decided to violate the law and build the monument.

I suggest that my amendment makes certain that this memorial does not get built in violation of law either, because I come down to the fundamental question in this amendment, not whether or not we are restating the law of the land as it is; what the amendment says is, we shall not violate the law of the land. I think it is entirely appropriate to put into the language of this bill something that says we will not violate the law of the land.

I say again, this does not change the authorization language in the bill. We can go ahead and authorize the program. What it changes is the funding stream. I think that is entirely appropriate.

I thank the gentleman for yielding.

□ 1130

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield to me?

Mr. GINGRICH. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, I would just like to pursue that thought for a moment. This is, of course, an authorization bill. As a member of the committee, is that the gentleman's understanding?

Mr. GINGRICH. It is an authorization bill.

Mr. BRINKLEY. The gentleman's argument is very cogent about the deferral of money until we really have more on hand to do things. But, of course, we do have the appropriations process to follow, and I know the gentleman from Pennsylvania is suggesting even further deferrals.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. GINGRICH) has expired.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, some question has been raised as to the cost of this memorial. I thought the figure given was an erroneous figure, and I wanted to try to set the record straight in terms of cost.

The Lincoln Memorial was built in 1922. It cost at that time $3,045,000; in 1981 dollars that would have been $59,860,000.

The Washington Memorial was built in 1884, and that cost $1,187,000. In 1981 dollars that would have been $45,260,000.

The Jefferson Memorial—and I well remember my wife and I attending the ceremony, as many others did, when President Roosevelt dedicated the Jefferson Memorial in 1944—was built at a cost of $3,000,000. In 1981 dollars that would have been $37,960,000.

The cost of this project is $23 million, not $33 million, as I thought I heard somebody say. The cost is $23 million, much less than any of the other great memorials that have been constructed here in our Capital.

In conclusion, Mr. Chairman, let me say this. This is just an authorization bill. I do not know of any practice that has been established in this body that every time we pass an authorization bill we tell the Appropriations Committee and the future Congresses what they are going to do and when they are going to do it. This is just an authorization bill. When the funds are appropriated will depend upon the action of this body at a subsequent time. We have no right to bind this House at another time or our committees that have the duty to do what is the right thing to do.

So I hope this laudable measure will not be obscured by deviations from the subject here that get into a different area of consideration which is appropriate to the future, not to this happy day when I hope we are able to adopt this memorial which is of such a significant nature.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 247, not voting 28, as follows:

[Roll No. 182]

AYES—158

Anderson	Duncan	Jeffries
Archer	Dunn	Jenkins
Ashbrook	Dyson	Johnston
Badham	Edwards (OK)	Kindness
Bafalis	Emerson	Kramer
Bailey (MO)	English	Lagomarsino
Barnard	Evans (DE)	Latta
Bennett	Evans (IA)	Leath
Bereuter	Fenwick	LeBoutillier
Bliley	Fiedler	Lee
Bonior	Fields	Levitas
Breaux	Findley	Lewis
Brown (CO)	Fithian	Livingston
Broyhill	Forsythe	Loeffler
Burgener	Gingrich	Long (MD)
Butler	Goodling	Lott
Campbell	Gradison	Lowery (CA)
Carman	Gramm	Lujan
Carney	Gregg	Lungren
Chappie	Gunderson	Marlenee
Cheney	Hagedorn	Marriott
Clausen	Hall, Ralph	Martin (NC)
Coats	Hall, Sam	Martin (NY)
Coleman	Hammerschmidt	McClory
Collins (TX)	Hance	McCollum
Corcoran	Hansen (ID)	McDonald
Coughlin	Hansen (UT)	McEwen
Courter	Hartnett	McGrath
Craig	Hendon	Michel
Crane, Daniel	Hightower	Miller (OH)
Daniel, R. W.	Hiler	Montgomery
Dannemeyer	Hillis	Moorhead
Daub	Holt	Morrison
Davis	Hopkins	Myers
Derwinski	Huckaby	Napier
Dornan	Hunter	Oxley
Dreier	Jacobs	Parris
Pashayan	Sharp	Taylor
Patman	Shaw	Thomas
Paul	Shelby	Trible
Petri	Shumway	Volkmer
Quillen	Shuster	Walgren
Roberts (KS)	Skeen	Walker
Robinson	Skelton	Watkins
Roemer	Smith (AL)	Weber (MN)
Rogers	Smith (NE)	Weber (OH)
Roth	Smith (OR)	White
Rousselot	Snyder	Whitehurst
Rudd	Solomon	Whittaker
Santini	Spence	Winn
Schneider	Staton	Wortley
Schulze	Stump	Young (AK)
Sensenbrenner	Tauzin	

NOES—247

Addabbo	Florio	Moakley
Akaka	Foglietta	Mollohan
Albosta	Foley	Moore
Alexander	Ford (MI)	Mottl
Annunzio	Ford (TN)	Murphy
Anthony	Fowler	Murtha
Applegate	Frank	Natcher
Aspin	Frenzel	Neal
Atkinson	Frost	Nelligan
AuCoin	Fuqua	Nelson
Bailey (PA)	Garcia	Nichols
Barnes	Gaydos	Nowak
Bedell	Gejdenson	O'Brien
Beilenson	Gephardt	Oakar
Benjamin	Gibbons	Oberstar
Bethune	Gilman	Obey
Bevill	Glickman	Ottinger
Biaggi	Gonzalez	Panetta
Bingham	Gore	Patterson
Boggs	Gray	Pease
Boland	Green	Pepper
Bolling	Grisham	Perkins
Boner	Guarini	Peyser
Bonker	Hall (OH)	Pickle
Bouquard	Hamilton	Porter
Bowen	Harkin	Price
Brinkley	Hatcher	Pritchard
Brodhead	Hawkins	Pursell
Brooks	Heckler	Rahall
Broomfield	Hefner	Railsback
Brown (CA)	Heftel	Rangel
Burton, John	Hertel	Ratchford
Burton, Phillip	Hollard	Regula
Byron	Hollenbeck	Reuss
Chappell	Horton	Rhodes
Clinger	Howard	Richmond
Coelho	Hoyer	Rinaldo
Collins (IL)	Hubbard	Ritter
Conable	Hughes	Rodino
Conte	Hutto	Roe
Conyers	Hyde	Rose
Coyne, James	Jeffords	Rosenthal
Coyne, William	Jones (NC)	Rostenkowski
Crockett	Jones (OK)	Roukema
D'Amours	Kastenmeier	Roybal
Daniel, Dan	Kazen	Russo
Daschle	Kemp	Sabo
de la Garza	Kennelly	Sawyer
DeNardis	Kildee	Scheuer
Derrick	Kogovsek	Schroeder
Dickinson	Lantos	Schumer
Dicks	Leach	Seiberling
Dingell	Lehman	Shamansky
Dixon	Leland	Shannon
Donnelly	Lent	Simon
Dorgan	Long (LA)	Smith (IA)
Dougherty	Lowry (WA)	Smith (NJ)
Dowdy	Luken	Smith (PA)
Downey	Lundine	Snowe
Dwyer	Madigan	Solarz
Dymally	Markey	St Germain
Early	Martin (IL)	Stanton
Eckart	Matsui	Stark
Edgar	Mattox	Stokes
Edwards (AL)	Mavroules	Stratton
Edwards (CA)	Mazzoli	Studds
Emery	McCurdy	Swift
Erdahl	McDade	Synar
Erlenborn	McHugh	Tauke
Ertel	McKinney	Traxler
Evans (GA)	Mica	Udall
Fary	Mikulski	Vander Jagt
Fascell	Miller (CA)	Vento
Fazio	Mineta	Wampler
Ferraro	Minish	Washington
Fish	Mitchell (MD)	Waxman
Flippo	Mitchell (NY)	Weaver

Weiss	Wirth	Yates
Whitley	Wolf	Yatron
Whitten	Wolpe	Zablocki
Williams (MT)	Wright	Zeferetti
Williams (OH)	Wyden	
Wilson	Wylie	

NOT VOTING—28

Andrews	Evans (IN)	Molinari
Beard	Fountain	Roberts (SD)
Benedict	Ginn	Savage
Blanchard	Goldwater	Siljander
Brown (OH)	Ireland	Stangeland
Chisholm	Jones (TN)	Stenholm
Clay	LaFalce	Young (FL)
Crane, Philip	Marks	Young (MO)
Deckard	McCloskey	
Dellums	Moffett	

□ 1145

The Clerk announced the following pair:

On this vote:

Mr. Philip M. Crane for, with Mr. Fountain against.

Ms. FERRARO and Mr. HERTEL changed their votes from "aye" to "no."

Messrs. FORSYTHE, FITHIAN, LIVINGSTON, and COLLINS of Texas changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. KOGOVSEK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 400) to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes, pursuant to House Resolution 508, he reported the joint resolution back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GINGRICH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 254, noes 151, not voting 28, as follows:

[Roll No. 183]

AYES—254

Addabbo	Frank	Ottinger
Akaka	Frost	Panetta
Albosta	Fuqua	Parris
Alexander	Garcia	Patman
Annunzio	Gaydos	Patterson
Anthony	Gejdenson	Pepper
Applegate	Gephardt	Perkins
Aspin	Gibbons	Petri
Atkinson	Gilman	Peyser
AuCoin	Gonzalez	Pickle
Bailey (PA)	Gore	Porter
Barnes	Gray	Price
Beilenson	Green	Pritchard
Benjamin	Grisham	Pursell
Bethune	Hall (OH)	Rahall
Bevill	Hamilton	Ratchford
Biaggi	Hammerschmidt	Regula
Bingham	Harkin	Reuss
Boggs	Hawkins	Rhodes
Boland	Heckler	Richmond
Bolling	Hefner	Rinaldo
Boner	Hertel	Ritter
Bonior	Hightower	Rodino
Bonker	Holland	Roe
Bouquard	Hollenbeck	Rose
Bowen	Horton	Rosenthal
Brinkley	Howard	Rostenkowski
Brodhead	Hoyer	Roth
Brooks	Hubbard	Roybal
Broomfield	Huckaby	Russo
Brown (CA)	Hughes	Sabo
Burton, John	Hutto	Sawyer
Burton, Phillip	Jeffords	Scheuer
Chappell	Jenkins	Schneider
Chisholm	Jones (NC)	Schroeder
Clausen	Kastenmeier	Schulze
Clinger	Kemp	Schumer
Coelho	Kennelly	Shamansky
Coleman	Kildee	Shannon
Collins (IL)	Kogovsek	Shelby
Conable	Kramer	Simon
Conte	Lantos	Skelton
Conyers	Leach	Smith (IA)
Coyne, William	Lehman	Smith (NJ)
Crockett	Leland	Smith (PA)
D'Amours	Lent	Snowe
Daniel, Dan	Levitas	Solarz
Daschle	Lewis	St Germain
de la Garza	Long (LA)	Stanton
DeNardis	Lowery (CA)	Stark
Derrick	Lowry (WA)	Stokes
Dickinson	Lundine	Stratton
Dicks	Madigan	Studds
Dingell	Markey	Swift
Dixon	Marks	Synar
Donnelly	Martin (IL)	Tauke
Dorgan	Matsui	Thomas
Dougherty	Mattox	Traxler
Dowdy	Mavroules	Trible
Downey	Mazzoli	Udall
Dwyer	McClory	Vander Jagt
Dymally	McDade	Vento
Dyson	McHugh	Wampler
Early	McKinney	Washington
Eckart	Mica	Weaver
Edwards (CA)	Miller (CA)	Weber (OH)
Erdahl	Mineta	Weiss
Erlenborn	Minish	White
Ertel	Mitchell (MD)	Whitley
Evans (GA)	Mitchell (NY)	Whitten
Evans (IA)	Moakley	Williams (MT)
Fary	Mollohan	Williams (OH)
Fascell	Morrison	Wilson
Fazio	Motti	Wirth
Ferraro	Murphy	Wolf
Findley	Murtha	Wolpe
Fish	Napier	Wortley
Fithian	Natcher	Wright
Flippo	Neal	Wyden
Florio	Nelligan	Wylie
Foglietta	Nichols	Yates
Foley	Nowak	Yatron
Ford (MI)	Oakar	Zablocki
Ford (TN)	Oberstar	Zeferetti
Fowler	Obey	

NOES—151

Anderson	Bailey (MO)	Bliley
Archer	Barnard	Breaux
Ashbrook	Bedell	Brown (CO)
Badham	Bennett	Broyhill
Bafalis	Bereuter	Burgener
Butler	Hall, Sam	Myers
Byron	Hance	Nelson
Campbell	Hansen (ID)	O'Brien
Carman	Hansen (UT)	Oxley
Carney	Hartnett	Pashayan
Chappie	Hatcher	Paul
Cheney	Heftel	Pease
Coats	Hendon	Quillen
Collins (TX)	Hiler	Roberts (KS)
Corcoran	Hillis	Robinson
Coughlin	Holt	Roemer
Courter	Hopkins	Rogers
Coyne, James	Hunter	Roukema
Craig	Hyde	Rousselot
Crane, Daniel	Jacobs	Rudd
Daniel, R. W.	Jeffries	Santini
Dannemeyer	Johnston	Seiberling
Daub	Jones (OK)	Sensenbrenner
Davis	Kazen	Sharp
Derwinski	Kindness	Shaw
Dornan	Lagomarsino	Shumway
Dreier	Latta	Shuster
Duncan	Leath	Skeen
Dunn	LeBoutillier	Smith (AL)
Edgar	Lee	Smith (NE)
Edwards (AL)	Livingston	Smith (OR)
Edwards (OK)	Loeffler	Snyder
Emerson	Long (MD)	Solomon
Emery	Lott	Spence
English	Lujan	Stangeland
Evans (DE)	Lungren	Staton
Fenwick	Marlenee	Stump
Fiedler	Marriott	Tauzin
Fields	Martin (NC)	Taylor
Forsythe	Martin (NY)	Volkmer
Frenzel	McCollum	Walgren
Gingrich	McCurdy	Walker
Glickman	McDonald	Watkins
Goldwater	McEwen	Weber (MN)
Goodling	McGrath	Whitehurst
Gradison	Michel	Whittaker
Gramm	Mikulski	Winn
Gregg	Miller (OH)	Young (AK)
Gunderson	Montgomery	Young (FL)
Hagedorn	Moore	
Hall, Ralph	Moorhead	

NOT VOTING—28

Andrews	Fountain	Railsback
Beard	Ginn	Rangel
Benedict	Guarini	Roberts (SD)
Blanchard	Ireland	Savage
Brown (OH)	Jones (TN)	Siljander
Clay	LaFalce	Stenholm
Crane, Philip	Luken	Waxman
Deckard	McCloskey	Young (MO)
Dellums	Moffett	
Evans (IN)	Molinari	

□ 1200

The Clerk announced the following pair:

On this vote:

Mr. Fountain for, with Mr. Philip M. Crane against.

Mr. BREAUX and Mr. BEREUTER changed their votes from "aye" to "no."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 508, the Committee on House Administration is discharged from further consideration of the Senate joint resolution (S.J. Res. 95) to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes.

The Clerk read the title of the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 400) was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

(Mr. SAM B. HALL, JR., asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM B. HALL, JR. Mr. Speaker, on rollcall vote 180 on the 13th of July, it indicates that I did not vote. I came into the Chamber at the appointed time and inserted the card and voted in favor of the resolution on rollcall vote 180. I would like the RECORD to reflect that I voted for that resolution.

And also, Mr. Speaker, on rollcall vote 181, dealing with the conditions in El Salvador, I did not vote because I was in a meeting at that time; but had I been present, I would have voted "aye."

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6685, URGENT SUPPLEMENTAL APPROPRIATIONS, 1982

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 6685) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ELECTION OF HON. JIM WRIGHT AS SPEAKER PRO TEMPORE DURING THE ABSENCE OF THE SPEAKER

Mr. LONG of Louisiana. Mr. Speaker, I offer a privileged resolution (H. Res. 523) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 523

Resolved, That the Honorable Jim Wright, a Representative from the State of Texas, be, and he is hereby, elected Speaker pro tempore during any absence of the Speaker, such authority to continue not later than July 19, 1982.

Resolved, That the President and the Senate be notified by the Clerk of the election of the Honorable Jim Wright as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SWEARING IN OF HONORABLE JIM WRIGHT AS SPEAKER PRO TEMPORE DURING ABSENCE OF THE SPEAKER

The SPEAKER pro tempore. The Chair asks the gentleman from Texas (Mr. WRIGHT) to assume the chair.

Mr. WRIGHT assumed the chair and took the oath of office administered to him by the gentleman from Washington (Mr. FOLEY).

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate insists upon its amendment to the bill H.R. 6685 entitled "An act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes," disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. GARN, Mr. SCHMITT, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. MATTINGLY, Mr. SPECTER, Mr. PROXMIRE, Mr. STENNIS, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. HUDDLESTON, Mr. BURDICK, Mr. LEAHY, Mr. DECONCINI, and Mr. BUMPERS to be the conferees on the part of the Senate.

□ 1215

EQUAL RIGHTS AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado (Mrs. SCHROEDER) is recognized for 60 minutes.

GENERAL LEAVE

Mrs. SCHROEDER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks, and to include extraneous material, on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Madam Speaker, today, 200 Members of the House and 51 Members of the Senate have reintroduced the equal rights amendment (ERA) and in doing so, have reaffirmed their belief that American men and women should have equal rights under the law. That we have so much support in the House and Senate should amaze those who claimed the ERA effort would die on June 30. It has not and like the phoenix rising from the ashes, the effort is stronger than ever.

I have sponsored this special order so that my colleagues and I could discuss the need for the ERA and dispel some of the myths surrounding it. Lack of understanding of the effects of the amendment has confused some State legislators and the public alike about the ERA. Opponents have obfuscated the issue at every chance and added to the confusion. Thus, while a majority of the American people support the ERA, an even larger majority expresses support for the principle for equal rights. In Utah, for example, respondents to a 1980 poll supported the exact wording of the language by nearly 2-to-1 margin. Yet, when asked whether they favored the ERA, many of the same respondents answered no.

In reintroducing the equal rights amendment, Congress is sending a clear message to all those who believe in the "E" and the "R", but not the "A": The goal of equal rights can most effectively be secured by adding the equal rights amendment to the U.S. Constitution. Without that protection, our legislative and legal gains are, at best, tenuous.

For the past 9 years, men and women in my State of Colorado have been guaranteed equal rights under a State ERA similar to the one introduced today. It was passed in 1972 by a 2-to-1 margin and reaffirmed in 1976 by the same margin when an attempt to repeal was defeated. I think by looking at what happened in Colorado, it will help sort out the facts and fiction surrounding the consequences of the ERA.

Here is what did not happen:

The courts were not flooded with cases. By stimulating legislative reform, passage of the ERA helped reduce the number of claims to be resolved in the courts. With passage of the ERA, legislative efforts to bring Colorado's laws into compliance were addressed. Correcting legal inequities against women became a priority.

Colorado has not instituted any coed unisex restrooms. With the exception of those maintained in private homes and businesses.

Colorado has not had any homosexual marriages because of the ERA. In fact, when two men attempted to file for a marriage license, the attorney general ruled that the State's ERA did not change the definition of marriage and does not discriminate on the basis of sex because marriage between two

women is prohibited, as well as between two men.

Women have not been denied alimony and child support. Women continue to receive child support and maintenance payments.

The ERA has not had any effect on the abortion issue. It has remained a separate issue.

The ERA has not eliminated rape laws. Protection against sexual assault has been given to men and boys. Three of the 11 cases that have been appealed under ERA were from men convicted of sexual assault. In each case the court ruled that "the sexes are not similarly situated and equal treatment is not required."

The changes that did take place in my State affected the economics of Colorado women. Protective laws that restricted women's employment opportunities were knocked out. In the States' divorce laws, the economic partnership of the marriage became a factor in court. Courts now look at the financial situation and contribution of each party before awarding alimony or child support in divorce settlements.

Therein lies the reason why women will continue to fight fervently for the ERA. It is economics. It is survival. Women have learned that equal legal rights translates into economics.

The past 10 years of debate on the equal rights amendment have been enlightening for many women. It has been a decade of learning many lessons:

Homemakers have learned the economic value of their services has been ignored in the social security system.

Working women have learned that they earn 59 cents for every dollar a man earns.

Wives have learned that divorce is the primary cause of poverty among women and children and that anyone can become a welfare queen overnight.

Female students have learned that the median income for college graduate women is $12,300 and $20,324 for college graduate men.

Businesswomen have learned that no women are chief executive officers (CEO's) of the Forbes 500 companies and that 70 percent of the top 1,300 companies have no women on their boards.

Women are making the connection between the equal rights amendment and the alarming trend of the feminization of poverty. The desire to stop that trend will refuel the effort to ratify the ERA.

I am confident the stamina and perseverance that is the history of the civil rights and womens' movement in this country will keep women active in this battle of the war for equality.

Madam Speaker, at this time I would like to yield to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Madam Speaker, I thank my colleague for yielding and I certainly want to commend the gentlewoman on her very, very fine remarks and her leadership on what is one of the most important issues facing the Nation today, in my judgment, and that is the equal rights amendment.

I would like to point out one area very, very briefly where I believe the equal rights amendment if it had been passed, and if it will be passed, would assist women, particularly the older women, which is one of my primary concerns. The social security system beyond saving it and beyond saving the varieties of cuts that have been proposed, is in and of itself very inequitable toward women, because when it was founded in the thirties the situation and the work force confronting women was very, very different, and so today, in 1982, the social security system does indeed discriminate against women and it discriminates against the varieties of types of women and their varieties of work.

It discriminates against the homemaker who goes in and out of the labor force, who if she has not worked for 5 years or been in the labor force for 5 years, let us say they have children, raise their family, does not receive disability benefits, is not eligible for disability benefits. It discriminates against the working spouse, the working woman, who contributes to her marriage by assisting economically, because she is bound to receive less if she did not work in terms of social security benefits than she will by being a working spouse. It discriminates against widows, it discriminates against divorcees and I honestly believe from the bottom of my heart if we had an equal rights amendment that provides for equal justice under the law, that we would see an elimination of those inequities in just that one area.

I think all of us who have mothers, or grandmothers, friends, relatives, who are discriminated against, particularly under the social security system, would really like to see that relieved. I think that is one area where the equal rights amendments would be very, very helpful. I again want to thank the gentlewoman and others for their real leadership on this issue.

Madam Speaker, much publicity has been devoted to explaining why ratification of the equal rights amendment failed and what are the ramifications of its failure. Some commentators believe that ERA was not ratified because it was not a clear representation of a total women's movement. Implicit in this belief is the concept that few women truly cared about the importance of incorporating ERA into the Constitution, that the movement "alienated" a large group of women in the United States. Other commentators believe that ERA represented a "radical movement" in our country. In a country whose political viewpoints are becoming more rightist, a radical movement or liberal doctrine is unlikely to be accepted.

I personally believe that neither of the presumptions are correct. In fact, affirming equal rights for all American citizens under the law is going to affect all women in our country, and more importantly this basic democratic principle is one reason we legislators have been elected: To represent and preserve the rights of our constituency.

The number of women joining the labor force is rapidly increasing. Many of these women are working to support their families, thus showing that the composition of the American family has changed drastically in the past several decades. A large portion of poor families in our country are headed by women. In addition, the poorest citizen in the United States is the elderly female over 65.

Today, the issue of equal rights has become an issue of economic survival. The number of women in the work force receiving social security and other income security payments is not going to dwindle. Economics has proven that women are not receiving comparable salaries, pensions, and work credit for social security.

Reintroduction of the equal rights amendment reaffirms our commitment to providing equal rights under the law. In addition, its reintroduction marks another point in history at which women are attempting to gain recognition in our society. Over 60 years ago, women fought to gain the most basic right that a person can exercise in a democratic society—the right to vote. Women have also made significant gains to attain rights through enactment of specific laws. We will continue to fight until full equality is reached.

During the Constitutional Congress, Alexander Hamilton made an important observation. In closing, I would like to share his thoughts with you:

> There can be no truer principle than this—that every individual of community at large has an equal right to the protection of government.

Adoption of the equal rights amendment by my colleagues and the States in the Union will insure this principle.

Mrs. SCHROEDER. Madam Speaker, I thank the gentlewoman from Ohio. There are many Members who have asked for time to speak and many have all sorts of time constraints. I know the gentleman from Massachusetts (Mr. FRANK) has been waiting for an hour and a half, so I now yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentlewoman from Colorado for yielding.

Madam Speaker, I wanted to add to those who are paying tribute to the gentlewoman from Colorado for her

leadership on this. Her service on the Judiciary Committee and on the Subcommittee on Constitutional Rights, I think, adds a great deal of force to her argument when she talks about the need for a constitutional amendment because she has spent so much time on that issue I would like to echo what she said about experience.

I campaigned in 1976 for the equal rights amendment in Massachusetts. I wish at the time I had kept a list of the horror stories that the people opposed to the ERA were citing. They predicted that marriage would dissolve, that privacy would dissolve, that the parent-child relationship would dissolve. It is important we tell people of good will who have been misled by irresponsible charges that the equal rights amendment in the States where it has been adopted has led to none of the problems that have been predicted.

In fact, the equal rights amendment in Massachusetts, as in other States that have adopted it, has been helpful in leading to the diminution further of legal discrimination against women. It simply has not led to the problems that it has been accused of.

The other point I want to make, Madam Speaker, is this: I hope people will not treat this issue, the equal rights amendment, as a favor that men are being asked to do for women.

What we are trying to do is to get all Americans to do a favor to ourselves by removing from our Constitution a stain of inequality and, unfortunately, that stain is there. We are proud of our Constitution. We are proud of our democratic system. The move for the equal rights amendment is a move by all of us who support it, who want to be even more proud, who do not want any vestige of legally sanctioned discrimination in our fundamental document.

The gentlewoman from Colorado is correct when she said it has not led to a flow of lawsuits. In fact I believe we get more litigation because there are more ambiguities and more uncertainties in the current state of the law.

There ought not to be any dispute in America about putting a principle of legal equality into our Constitution. Were it not for the consciously distorted misrepresentation by many of the opponents there would be no dispute. It is our job to reach the people who still have not understood the fact about it and explain that the simple expression of legal equality carries with it none of the negatives that have been imputed to it and, in fact, would move us closer in this country to the goal of full equality before the law that we have so long professed.

□ 1230

Mrs. SCHROEDER. Madam Speaker, I thank the gentleman from Massachusetts.

I am happy to yield to the gentlewoman from Massachusetts (Mrs. HECKLER), who has been working so hard and so long in this area. I know she, too, as I do, wishes ERA had passed and that we did not have to do this today, but we salute her leadership.

I yield to the gentlewoman.

Mrs. HECKLER. I thank my colleague for yielding.

I think I am the only woman Member of this House who was a part of the fight initially for the ERA and now that we are joined again in the reintroduction of the amendment by so many, I would say my determination to the commitment for the achievement of the equal rights amendment is as great as ever.

What a fitting day—Bastille Day—it is to reintroduce the ERA in the House and in the Senate. With this reintroduction, I believe that we are pledging once again to break down the barriers which are inevitably a part of American life and bar us even today from full equality.

ERA supporters are not a plurality. We are not just a majority. We represent a mandate of the American people, of men and women, for equality itself.

The ERA was introduced today with nearly 200 original cosponsors and the number of cosigners is growing by the hour.

ERA is a phrase and a term that has indeed meant an "era" for me, in introducing the original amendment and seeing it approved by both Houses of Congress and working to get it ratified by 35 of the necessary 38 States and preventing a few of the ratifying States from rescinding their actions and getting an extension of the deadline for ratification.

ERA, these three letters propel me now and I am sure many others in this Congress, to promise that we will devote another era—and I shall if necessary—to achieving the addition of these 24 words to the Constitution:

Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

I fought to achieve approval of the ERA in 1971 by the House. Today there are only three Members of the House who are presently serving who voted against that bill—only three remain in the House.

I battled from the sidelines for Senate passage of the amendment in 1972, helped found ERAmerica in 1976 with Alan Alda to build a sophisticated lobbying group to convince State legislatures of the justice of this cause, worked in the State of Massachusetts for the passage of this amendment, and traveled from State to State to raise funds for the ERA. Now we find we have not yet achieved the success of our goals, and yet I feel strongly that the words of Susan B. Anthony should guide our course, that there will never be another season of silence on this green Earth until women have the same rights as men.

But I also feel, because I believe in the equality of the sexes, that we should paraphrase a great man who speaks for this moment, the indomitable Winston Churchill:

We shall not flag or fail. We shall go on to the end. We shall fight in Illinois. We shall fight in the tropics of Florida, the oil fields of Oklahoma. We shall fight with growing confidence and growing strength in all State legislatures. We shall defend our rights, whatever the cost may be.

When we introduce the ERA today, the rallying cry for men and women concerned with this amendment will be, "We shall never surrender."

ERA, 24 little words; indeed, 24 essential words to be added to our Constitution. We are women. We are equal. All American women will assert that and our equality will not be denied.

On this Bastille Day, we have the strength, courage, and confidence for victory, achieved with the support of so many of our male colleagues and, indeed, the support of the vast majority of the American people, we shall succeed.

It has been a pleasure for all these years to work with dedicated women, such as the gentlewoman from Colorado, who has devoted herself unflinchingly to this battle. The inspiration of her strength and commitment, I think, has not passed unnoticed by Americans from every area of this country.

I feel, indeed, that this inspiration and the inspiration of all the women who have really gone to the grassroots and rallied at the trenches and lobbied the subcommittees and now possess such growing political sophistication means that the achievement of our goal is before us. Together, we shall succeed.

I thank my colleague for yielding.

Mrs. SCHROEDER. Madam Speaker, I thank the gentlewoman from Massachusetts.

I now yield to the chairman of the Judiciary Committee, who has also been a strong, strong supporter, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Madam Speaker, I thank the gentlewoman from Colorado for yielding.

First, I would like to pay tribute to the gentlewoman from Colorado for taking the initiative in this special order today in calling to the attention of the House this very important issue once again, which has been before the American people for so long and which unfortunately failed of ratification as of June 30, this year, but nonetheless, I would like to point out as one of the prime sponsors of this legislation that what we need to do is to really go forward once again and for this purpose,

today I am introducing, with 198 cosponsors, a proposed amendment to the Constitution to guarantee equal rights for the women of our country.

The equal rights amendment, as we all know, came very close to ratification when time ran out on June 30 this year. Our purpose in reintroducing this fair, just, and necessary amendment to the Constitution is to keep alive the issues that were given life by ERA's inspiring journey across America.

The decisions made in our various State capitols were reached by the slimmest of margins, and they reflect neither a convincing victory nor a clear defeat for the opponents or the proponents of ERA.

Nonetheless, ERA's journey must continue, because the issues and problems that gave rise to this movement are no less real today. Yes, we have made progress toward equal opportunity for women in these intervening years. But there would not have been this progress, I am convinced, without the zeal and persistence of the equal rights champions.

We must not permit the fires to cool, for despite the progress, women today still suffer from discrimination in employment, in education, in pensions, and in many other areas. We must make certain, once and for all, that "Equality of rights under the law shall not be abridged by any State on account of sex."

So today we begin the battle anew. My colleagues and I are reintroducing the equal rights amendment to send a message throughout America—that there will be no retreat in the fight for equal rights for all Americans; and that the march toward equal opportunity for all goes forward with ranks undiminished and dedication undaunted.

Madam Speaker, I include the text of the amendment to be printed in the RECORD as follows:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect two years after the date of ratification."

Mrs. SCHROEDER. I thank the gentleman. My gracious—I am touched.

Madam Speaker, I yield to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Madam Speaker, I am pleased to be joining so many of my colleagues today as an original cosponsor of legislation proposing an equal rights amendment to the U.S. Constitution. The equal rights amendment is the embodiment of equality for all people. It stands for gains—not losses. Most importantly, it bestows official recognition on the many contributions which women continue to make to our society, both as homemakers and mothers as well as in other endeavors.

I support the equal rights amendment because I am concerned about the rights of my 10-year-old daughter, my wife, and my 82-year-old mother. Indeed, I am concerned about the rights of all Americans.

The equal rights amendment is long overdue. Women are entering the work force in record numbers, some out of desire, many out of economic necessity to help support their families. Yet, according to recent statistics, women continue to earn less than their male counterparts. An unequivocal standard prohibiting sex discrimination is clearly needed to guide the courts and help protect against contradictory rulings. Continued progress is important not only for those working outside the home, but for those working in the home as well. Recognition of the economic contributions of those working in the home for too long has been taken for granted. This should not be permitted to continue.

Over half the population of the United States is women who share in the responsibilities of citizenship under the law. It is important that steps are taken to insure that women also share in the rights guaranteed by the law. The present Congress must act to insure the continuation of the progress which has been made since the first equal rights amendment was introduced in 1923 by approving a constitutional amendment to protect the legal status of all women and men in our Nation.

Mrs. SCHROEDER. Madam Speaker, I thank the gentleman.

I yield to the gentleman from California (Mr. PATTERSON).

Mr. PATTERSON. Madam Speaker, I thank the gentlewoman for yielding to me.

It is almost beyond comprehension that we find ourselves in 1982 still debating whether the women of America—over one-half of our population—should be treated equally under the laws of our country.

It is unfortunate that this debate must still continue. We must not give up our hope and efforts. Our temporary setback must be laid behind us and the struggle continued until equal rights for women are guaranteed in the Constitution.

In an effort to focus on the concerns and needs of women, I recently sponsored a special women's forum in my home district in Santa Ana, Calif. The forum, which included New York Congresswoman GERALDINE FERRARO as keynote speaker, allowed me to hear firsthand the problems women of Orange County, Calif., face each day. Although the equal rights amendment will not solve all of the problems, it is a step in the right direction toward true equality for both women and men.

Some claim that, in recent years, women have obtained equal status and that implementation of the ERA is not necessary. My constituents and I disagree. Women still earn only 59 cents for every dollar earned by men. Only 5 percent of the executives in the top 50 American companies are women. Only 19 of the 435 Members of the House of Representatives, 2 of the 100 Members of the Senate, and 12 percent of the members of our State legislative bodies are women.

Poverty continues to be an important issue to Orange County women; nationally, three out of every five persons with incomes below the poverty level are women. One-third of all women-headed, single-parent households, are in poverty. Over 90 percent of aid to families with dependent children recipients are women.

The inequities are obvious and the statistics go on and on. Something must be done. The equal rights amendment is a major step to guarantee our national commitment. We must not deny the women of America equal rights and opportunity at work, at school, or at home. Equality under the law must be a basic right for all Americans. It is one of the cornerstones upon which this country was founded.

By reintroducing the equal rights amendment in Congress today, we are sending a clear message to the people of this country that the struggle for equal rights and opportunity for women will not die. We are assuring that there is still hope. It is an issue that will not go away.

Mrs. SCHROEDER. Madam Speaker, I thank the gentleman for his support.

I yield to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Speaker, I am proud to be an original sponsor of the equal rights amendment which we are reintroducing today. In both the Minnesota State Legislature and the U.S. House of Representatives, I have been a sponsor and supporter of the ERA and other legislative initiatives to guarantee the full protection of our Constitution for all Americans.

Our Nation has made significant progress in recognizing the rights of individuals and in trying to rectify past abuses. However, we have not gone far enough. Current laws and court rulings have not been enough to insure the protection of the rights of women. Differences in law among

States and inconsistencies in legal interpretation undermine the fundamental principle that women and men stand equal before the law.

It was a disappointment to me, as an American citizen and Member of Congress, to see the recent ratification deadline pass without a provision guaranteeing equal rights for both sexes incorporated into the Constitution. Despite the overwhelming support of the American people and a majority of State legislatures, a late blooming campaign of negativism and false fear stopped ERA three States short of ratification. I have confidence, though, that the idea of equal rights guaranteed for all citizens remains an important concern and value.

The ratification of an equal rights amendment has been a long, hard struggle. The first ERA was proposed 60 years ago but it was not until 1972 that Congress first approved the ERA. Congress has maintained its strong support for the ERA since that time. The 1979 ratification extension, which I cosponsored, emphasized the need for an ERA. Today's introduction of a new ERA and its bipartisan sponsorship and support further underline the continuing commitment of Congress to the ERA.

Mr. Speaker, opponents of equal rights for women say equality is already the case. I, as well as the overwhelming majority of the American people, say that this essential principle must be stated in the Constitution as a lasting commitment of the United States to its citizens. I am confident the long struggle for an equal rights amendment will be successful. Basic justice demands no less.

Mrs. SCHROEDER. Madam Speaker, I yield to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Madam Speaker, I thank the gentlewoman for yielding.

I rise as a cosponsor of the newly reintroduced equal rights amendment, and want to pay tribute to the gentlewoman from Colorado for the excellence of the leadership she has brought to this all-critical issue. There is no more patriotic cause in this country, no cause that is more fundamental to the traditions and principles that distinguish our Nation, than the effort to secure equal justice and opportunity for each and every citizen. This is what the ERA is all about.

This country suffers because women have been prevented from making the contribution that their numbers and talents allow. Too often, they have been denied rights to which they are entitled because of practices based on social convention or ignorance. I believe these practices have always violated the spirit of the Constitution. But women will never be fully protected until laws which discriminate against them violate the letter of the Constitution; their rights will never be fully secure until the principle of equal rights for all is embodied in the fundamental law of the land.

Congress recognized this in 1972, and I deeply regret that the amendment it passed fell short of ratification. But the passage of the June 30 deadline must not be viewed as a failure, and I join this special order not as a mourner, but rather, as a celebrant. The past 10 years have seen enormous progress in the cause of equal opportunity for all Americans: women have acquired responsibility and realized accomplishments that were unthinkable 10 years ago. As a public servant, it is particularly exciting for me to see how women have "arrived" politically—the ERA effort has provided a vehicle for the political involvement of thousands of women who previously had little experience in political organizing. Those women have turned their attention to a wide range of important issues, and their voices are being heard more clearly than ever before.

Men, too, have benefited from the newfound awareness that no profession, social role or personal commitment should be restricted to members of one sex. The principle of equal rights is therefore as relevant for men as for women—for it provides the vehicle for creating new opportunities and outlets for members of both sexes. The passage of the equal rights amendment would be liberating for all. No doubt this is why it is supported as strongly by men as by women nationwide.

Unfortunately, any gains in sexual equality will always be threatened by the whim of a few legislators—or by the social views of a small minority—until equal rights become protected by the Constitution. And yet, this dramatic step to end discrimination once and for all would say nothing that is not already implicit in the Constitution. The equal rights amendment states, simply, that equality under the law should be denied to no one in this country; that the principles of equal opportunity, equal rights and equal responsibility should be applied universally. The equal rights amendment does not alter but only reaffirms traditional American principles.

Last week, several rallies and special events were held in my district—as they were in cities across this country—to commemorate the beginning of a new era in the struggle for equal rights. In Battle Creek, Mich., a ceremony was held at the gravesite of Sojourner Truth. A black woman, born into slavery, Sojourner Truth, educated herself and dedicated her life to the cause of justice and equality for all. Her life and her work are particularly noteworthy both in terms of her success and her failure. To a great degree, our willingness as a Nation to finally heed her call for dignity and equality for all Americans shows that even one small voice will someday be heard when it is the voice of fairness and reason. Nevertheless, our failure to eliminate the last vestiges of inequality and ignorance show that Sojourner Truth's dream is far from realized.

On this day, when we reintroduce the equal rights amendment, we must remember that the struggle for women's rights in this country is not 10 years old nor even 50 years old; it is as old as the Nation ifself. My colleagues and I rise today to affirm that we have not yet heard the death knell for women's rights, nor will we ever. By reminding ourselves of the gains that women have already made, and by retaining the knowledge that ERA touches all of us, let us recommit ourselves to the cause.

Mrs. SCHROEDER. Madam Speaker, I thank the gentleman.

I yield to the gentleman from California (Mr. MINETA).

Mr. MINETA. Madam Speaker, on July 14, 200 years ago, King Louis the Sixteenth and Marie Antoinette of France learned a very painful lesson. The spirit of freedom and equality cannot be suppressed.

The people who hold the reins of power in the United States would do well to heed this lesson. A majority of Americans support equal rights for women. We will not rest until these rights are guaranteed. Just as the citizens of France tore down the doors of the bastille which symbolized their oppression, so we will tear down the walls of ignorance and fear which stand in the way of freedom for American women.

The equal rights amendment is the most powerful tool that women can wield to overcome discrimination. Passage of the amendment would end discriminatory government programs and close the legal loopholes in State and Federal laws. The amendment would also require a stricter standard of review for sex discrimination suits and provide the climate necessary for vigorous enforcement of the law. Further, adoption of a constitutional amendment will guarantee that the protections for women cannot be repealed by the whims of future lawmakers.

Today we renew our commitment to liberty and justice for all. I am proud to be a part of this renewal. I urge swift passage of this resolution.

Mrs. SCHROEDER. Madam Speaker, I yield to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Madam Speaker, I am delighted that the equal rights amendment is being reintroduced. I am very pleased to be a cosponsor of that amendment. I look forward to its speedy enactment.

I want to pay my tribute to the distinguished gentlewoman from Colorado (Mrs. SCHROEDER), to the distin-

guished chairman of the full Judiciary Committee, the gentleman from New Jersey (Mr. RODINO), and to the distinguished chairman of the subcommittee, the gentleman from California (Mr. EDWARDS).

To my mind, the equal rights amendment stands for a simple proposition, fulfillment of our basic judicial tenet of equal justice under the law for all Americans.

We made great strides in fighting sexual discrimination, but we must have the strength of a constitutional amendment.

This Nation stands for liberty and justice for all and we seek to bring that to reality for all Americans.

My own State of Illinois played a pivotal role. Unfortunately, it was not a successful culmination of the effort to obtain ratification of the equal rights amendment in the legislature and I look forward to my State adopting the new amendment as a result of the new drive that is beginning today.

The causes of justice and equal rights know no deadlines and I think the effort must go on until this is won.

I thank the gentlewoman for yielding.

Mrs. SCHROEDER. Madam Speaker, I thank the gentleman from Illinois.

The gentlewoman from Maine (Mrs. SNOWE), has been a wonderful, wonderful supporter of the equal rights amendment for a long time, and I now yield to the gentlewoman from Maine.

Mrs. SNOWE. Madam Speaker, I thank the gentlewoman.

I, too, want to commend the gentlewoman from Colorado for her commitment to the equal rights amendment in the last decade and to the gentlewoman from Massachusetts (Mrs. HECKLER) and her equal commitment to this very important issue.

I do believe it is going to be an important issue in the decade of the 1980's.

Madam Speaker, equality under the law for every American is not an idea that can be swept away by the passage of a deadline, or by the political myopia of a State legislator. Equality under the law is an idea whose time has come, an irresistible force which will beat down any obstacle in its path by the power of truth in its message.

The cause we promote today transcends the personalities and the politics of the women's movement. It goes beyond the just-concluded debate which saw an equal rights amendment ratified by this body in 1972, and then quickly transformed into a political football. Instead, equality under the law for all Americans is the next step along the path of progress our Nation has traveled since its birth. It is the logical course of an enlightened Republic, and for this reason, it will never go away.

It has now been almost 60 years since this body first considered an equal rights amendment. Some might consider this a sign of weakness in the underlying philosophy of the equal rights amendment, but the victories of Susan B. Anthony and Dr. Martin Luther King in earlier battles were, of course, not won overnight. That these causes took years of determination and suffering to bring them to their rightful conclusions surely is no indictment of their worth—indeed, quite the contrary.

Last month, the equal rights amendment before the States failed to be ratified. It did not die, as it cannot die, because the facts speak for themselves. I think these facts are worth repeating.

The majority of Americans in this country who live in poverty are women. Three out of four living in poverty in this country are women. More than 90 percent of those who receive social security minimum benefits are women.

Two out of three households who receive food stamps are headed by women, as are nine of the ten households receiving AFDC.

A woman earns 59 cents to every dollar earned by a man.

A woman with a college degree, a hard-earned college degree, only is qualified to receive a salary comparable to a man with an eighth grade education.

And consider this fact, the majority of the population in this country is comprised of women. That means there are 5 million more women than there are men in this country who are facing the struggles of everyday existence and by the year 2000 that figure will be 7 million women more than there are men in this country.

So Madam Speaker, our action today serves to continue the inevitable progress toward equality under the law that some would resist, and to send the message that no tactics or strategies can divert forever a basic human truth.

I urge the commitment of my colleagues to guarantee equality under the law to all Americans through the passage and ratification of the equal rights amendment, and I hope these figures and statistics are registered in the minds of those individuals who will bear the responsibility in the next decade, who will be casting their votes on this equal rights amendment.

□ 1245

Mrs. SCHROEDER. Madam Speaker, I now have the honor of introducing the subcommittee chair, Congressman EDWARDS, who has been absolutely marvelous in this fight for ERA and we are very honored to have him leading it once again.

I yield to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. I thank the gentlewoman for yielding.

Madam Speaker, we all thank the gentlewoman from Colorado for arranging this important debate today. She certainly is one of the great champions for liberty and justice in our country today.

In 1972, the first equal rights amendment was passed from Congress and went to the States for ratification. Finally, we thought, the dream of our foremothers, the dream of equal rights under the law for all of our people, was about to happen. Finally, America was about to fulfill its promise of "liberty and justice for all." With high spirits, high hopes, and total commitment to the fulfillment of this dream, people of vision across the land began the ratification effort.

The members of the National Organization for Women, brilliantly led by President Eleanor Smeal, made a truly heroic effort, never letting up for a day in the past 10 years, working tirelessly toward the dream of equality.

Members of scores of organizations, including the American Association of University Women, the Coalition of Labor Union Women, the League of Women Voters, the National Federation of Business and Professional Women's Clubs, the National Women's party, the National Women's Political Caucus—groups from the Girl Scouts of the USA to the Older Women's League—joined together, working shoulder to shoulder, pursuing that dream. People of every race, and of both sexes, in every part of the country, dedicated themselves to this great struggle for equality, and my heartfelt thanks go to each and every one of them.

Because of their efforts, society developed a new understanding of the gross inequities between women and men in this country. This was the necessary first step toward change. Because of their efforts, many women have been able to forge their way into politics, into the judiciary, into business, into many previously all-male bastions. Women have gone into every social, institution, in ever-increasing numbers, courageously fighting for the equality upon which human dignity is based, the equality that is promised as an American birthright and yet which has been denied to over half of the American population. Because of these efforts, women have arrived at a new plateau in their struggle for justice.

Indeed, eight women's "hunger for justice" led them to a 37-day fast in Springfield, Ill. In that extraordinary act of heroism, Zoe Ann Ananda, Dina Bachelor, Mary Barnes, Mary Ann Beall, Sonia Johnson, Shirley Wallace, Mary Wood, and Sister Maureen Fiedler demonstrated to America and to the world once again that "ordinary

women are capable of extraordinary things."

The American women's movement has a past to celebrate and now has a big future to plan. Out there in the 50 States are many millions of people on the side of the equal rights amendment who are aching for justice. All have been heartened and inspired by the phenomenal progress of the modern women's movement and by their decision to engage in tough politics, for the high hopes of 1972 have been tempered into steely resolve by political reality.

The disappointment, the frustration, and the anger stirred on June 30, when a handful of male legislators in the States failed to allow ratification of the equal rights amendment will be put to work to achieve the success that cannot be denied. The women's movement is now a politically skillful and energetic force. The equal rights amendment has been reintroduced. The second stage begins today.

The ERA resolution, cosponsored by this unprecedented number of House Members, Democratic and Republican, will be referred to the Judiciary Subcommittee on Civil and Constitutional Rights, chaired by me.

Be assured that we will move ahead, with enthusiasm and confidence, relying on the overwhelming nationwide support generated in the past few years.

Mrs. SCHROEDER. I thank the gentleman from California.

Madam Speaker, at this time I yield to one of our bright new stars, the gentlewoman from Connecticut, Mrs. BARBARA KENNELLY.

Mrs. KENNELLY. Madam Speaker, I thank the gentlewoman from Colorado for yielding.

It is good to announce that I am no longer the brightest or the newest star, that we finally in the history of the Congress have reached the point of having for the first time 20 women in this body.

Madam Speaker, 2 weeks ago, a 10-year drive to ratify the equal rights amendment to the U.S. Constitution ended without success. The ERA passed the Congress in 1972. The deadline for ratification was extended in 1978, but the allowance helped little. The unfortunate result is that today there is no guarantee of equal rights for women. Without this constitutional safeguard, rights for women rest on little more than an untested patchwork of State and Federal law. And because this patchwork is an imperfect knit, women still struggle to gain equal pay for equal work and other forms of equal treatment under the law.

Madam Speaker, today the equal rights amendment has been reintroduced. In the House it is sponsored by 198 Members; in the Senate, 51. This action gives all of us renewed hope. On June 30, as opponents celebrated the ERA's downfall, one proclaimed the amendment "not only dead now but forever in this century." Madam Speaker, we are determined to prove this wrong.

Fortunately, we long ago left behind the age when women were denied the vote along with children, convicts, and idiots. And yet, we still have far to go before equal rights for women will not rely solely on shifting and conflicting laws and the judges in the courts who divine their meaning.

By reintroducing the ERA, we are looking forward to a future where full equality is secured by the Constitution, the fundamental law of the land. Today this equality is elusive. In too many instances, equality depends on the State in which a woman lives or the law under which she files her court petition.

Reflecting on the ratification drive, which begins again today, I am reminded of Susan B. Anthony's dictum:

> Men, their rights and nothing more; women, their rights and nothing less.

These words are repeated often because they express our aim precisely. We seek to broaden constitutional protections for men and women with 24 simple words:

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

The resolution we introduce today will, I hope, pave the way for a new and intensified effort to graft these words onto the U.S. Constitution.

As round 2 of the ratification drive begins, we must allow neither fear of change nor fantastic predictions of dire consequences discourage or defeat us. And we must never abandon the cause. Confident that right is on our side, that justice is on our side, that the vast weight of American opinion is on our side; we take heart in the gains we have made, and we vow to invest new energy in efforts to attain the goal of full equality.

Madam Speaker, I urge prompt and positive action on ERA.

Mrs. SCHROEDER. I thank the gentlewoman from Connecticut for her very moving statement.

Madam Speaker, I would like at this time to yield to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. I thank the gentlewoman for yielding.

Madam Speaker, the seat I now have here in the Congress was once held by the first woman in Congress, Jeanette Rankin. Montanans sent Ms. Rankin to Congress before most States in the Union had granted women the right to vote.

Ten years ago Montanans wrote and adopted a new State constitution. It includes the equal rights amendment.

Montanans have a long tradition of which we are proud.

Today I join with my colleagues in Congress in reintroducing the equal rights amendment. This amendment is a basic, fundamental right, and its passage remains important in assuring equal opportunity for both men and women in this Nation.

Of all this Nation's efforts, the struggles for simple equality have been the most noble and the most difficult. The effort to remove an entire race of people from the backs of democracies required a century and a half of perseverance.

Now we move again to another struggle, equality unimpeded by a person's sex.

Mike Mansfield, a fellow Montanan, said it well:

> Discrimination against women has represented an indelible scar on the economic and social fabric of our national life. To help eradicate that scar required constitutional change. I simply feel it is wrong that the full promise of America has been denied some citizens because of sex. The Equal Rights Amendment is an essential ingredient in the effort being waged to correct this inequity.

We have fought now for 10 years to ratify the equal rights amendment. If we must fight for 10 more, so be it. This Nation's movement toward equality for all its citizens is irreversible.

I thank my good colleague and I commend my good colleague from Colorado for her magnificent efforts on behalf of equality in this Nation.

Mrs. SCHROEDER. I thank the gentleman from Montana. The gentleman is a tribute to the woman who held the seat before.

Madam Speaker, I yield at this time to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. I thank the gentlewoman for yielding to me.

Mr. FAZIO. Madam Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from California.

The SPEAKER pro tempore. Without objection, the gentleman from California (Mr. FAZIO) is recognized.

There was no objection.

Mr. FAZIO. I appreciate the gentleman yielding to me at this time.

Madam Speaker, I would simply like at this time to join in the effort at renewal today, renewal of the ongoing battle for equality under the law and under the Constitution, in specific terms for women.

I would like to particularly congratulate the gentlewoman from Colorado, and the Congressional Caucus on Women's Issues, of which I am proud to be a member, for the leadership role she is playing on this particular issue as well as on many other fronts.

I think the fight for ratification of this new ERA will be a long and difficult one, but if we focus our attention on the inequities the women experience in the workplace, we are bound to succeed.

With that, I would join today in cosponsoring this new ERA and look forward to the ongoing educational effort which has never, never stopped since the original introduction of ERA several years ago.

Today we again introduce the equal rights amendment. Over the years, progress has been made in providing greater rights for women; however, disparities still exist. The need for the ERA has not diminished.

The need is most vividly demonstrated in the area of employment. Here the disparity of treatment between the sexes is most obvious. Women are concentrated in jobs at the lowest end of the spectrum in regard to both status and pay. For example, figures show that in the last 8 years, while the percentage of women in the work force has steadily risen, the wage ratio of men to women has actually declined. On average, women earn only 64 cents to every dollar earned by men. Clearly, economic equality has yet to be achieved.

Equal protection and opportunity for women—like other basic civil rights—must be guaranteed by constitutional amendment. Only then will it be insulated from the everchanging political climate. And only then can we be sure that any progress made is permanent. Moreover, we have seen that the statute-by-statute, piecemeal approach currently pursued at the State and Federal levels has not worked. In sum, current statutes have not gone far enough, and they are subject to repeal at any time.

Every poll has shown that the American public overwhelmingly supports the ERA. Several hundred organizations—ranging from church groups to legal and medical associations—have also strongly endorsed the measure. Given such broad support, I am confident of the eventual success of the ERA. And at that time we may well look back in retrospect and wonder why the goal of equality for women ever raised such controversy. Such a day will indeed be welcome.

Mr. PEYSER. I thank the gentleman.

I would like to say briefly at this time that I am looking forward really to the second time in my career in the Congress of voting for ERA. I hope that is a vote that we are going to cast this year in the House of Representatives.

There is one other point I would like to bring out.

Madam Speaker, we have to fight a much tougher battle this time than we did the last time. We have to be prepared to fight, really, out in the streets against many of the outrageous lies and misrepresentations that were made by those who felt that the equal rights amendment should be defeated.

I know of many instances when there was a complete disregard for truth and honesty and integrity by those who fought this measure. They were willing to say anything to get people so disturbed and so confused that they said, "Well, maybe we should not have equal rights."

But I think the fight this time, we have all learned something, and we have learned that we have got to be tougher; we have learned that we have got to put out more than we put out before, and we are going to win the battle.

It is going to be won because of the great leadership of many of the women in this Congress, and many of the men who are chairing the committees which are going to bring this legislation up.

I am confident and optimistic that by the time, and hopefully even before the time, but by the time the 1980's are over women will be equal with men under the law. This is what we are striving for; this is what will be accomplished.

I thank the gentlewomen for yielding to me at this time.

Mrs. SCHROEDER. Madam Speaker, I thank the gentleman from New York, and I thank the gentleman from California (Mr. FAZIO).

REINTRODUCTION OF EQUAL RIGHTS AMENDMENT

The SPEAKER pro tempore (Mrs. KENNELLY). Under a previous order of the House, the gentlewoman from New York (Ms. FERRARO) is recognized for 60 minutes.

Ms. FERRARO. Madam Speaker, I want to join my colleagues in congratulating our colleague from Colorado, Congresswoman SCHROEDER, for the work she has done on the equal rights amendment not only over the past 10 years, but certainly for the work she has done in preparing for the reintroduction of this amendment today.

After 10 years, what is there left to say about the ERA?

The foes of the equal rights amendment—and they are a minority of the American people—are still spreading the same untruths about the ERA.

So I do not feel I will be repeating myself if I tell my House colleagues, on this day of reintroduction of the ERA, some of the truths about women in America today.

Women have come a long way since Congress passed the ERA in 1972. There are three times as many women serving in State legislatures. There are 10 times more women engineering school graduates. There are almost twice as many married women in the work force. There is a woman on the Supreme Court for the first time in history. There are 20 women in this House, the largest number ever.

Our President claims he favors the E and the R but not the A. "See," he tells the American people, "See how well women are doing." Meanwhile, his administration is trying to undercut the very laws and Federal agencies that have made these advances possible. Until women are written into our Constitution they will be at the mercy of every reactionary tide which sweeps over our national institutions.

When Joe GI came home from World War II, Rosie the Riveter was out of a job. When President Reagan spoke to editors at a lunch last year, he blamed women working for the massive unemployment caused by his economic policies.

Women have always worked. They are working now outside the home in record numbers because they have to, as much for financial necessity as for pride in achievement. And when they work, they earn less than the men who work alongside them.

Time magazine, in an article this week about equality for women, printed a fascinating chart. It showed that, since 1971, the number of women in the work force has grown from 31.6 million to 46.9 million.

It also listed median weekly wages for men and women by occupation. Let me quote some of those figures:

Female engineers earn $371 a week. A male engineer earns $547. Women lawyers make $407, male attorneys earn $574.

Even in so-called female professions and jobs, the few males in them earn more than their female colleagues.

A waiter earns $200 a week, while the waitress makes $144. A nurse earns $326; the male nurse $344. A woman who teaches in elementary school makes $311 while her male colleague is earning $379.

This is not equality and this is not equal rights. The situation is equally bleak for women who choose to stay home. Phyllis Schlafly and others like her claim the utmost respect and admiration for these women. At the same time, they are loud in support of Federal budget policies which punish poor women with children and try to strip them of the shreds of dignity which remain to them.

The Schlaflys also do not know about, or are ignoring, social security and pension policies which are unfair to widows and divorced women, condemning many of them to a bleak old age. I am sure these struggling women are heartened to know that Phyllis Schlafly's Eagle Forum believes the ERA is a "polarizing force" in American life which is best swept into the dustbin of history.

The Eagle Forum likes to scare Americans by telling them the ERA will guarantee women in combat, higher insurance rates for women, and the elimination of protections against rape. Their arguments are phony.

First of all, there is no part of our Constitution that has not been interpreted and reinterpreted by succeeding generations of justices. The equal rights amendment could well undergo a process similar to that experienced by the 14th amendment, which has been so important in the struggle for civil rights for minorities.

But, unlike a law or statute, the ERA would build a body of precedent to safeguard the rights of men and women.

Second, even now, combat roles are reserved for those physically capable of handling them. Not all men are eligible to be drafted and of that select group, not all would be sent to the frontlines. Women in our country have played a valiant role in frontier combat. As unarmed nurses, they have risked their lives on battlefields in our wars and as transport pilots they have flown through enemy fire only later to be denied the rewards of combat pay.

In a recent brochure, Schlafly tried to tell me why I should recoil at the thought of my two daughters in the Army. She talked about "the rough environment, the lack of privacy, the close sleeping and dressing conditions, the harassment, the grueling physical tasks, the dangerous night duty, being taught to fight and kill."

Well, I do not know about Phyllis Schlafly, but I do not want that for my son, either.

The foes of ERA talk darkly about the elimination of the laws which protect women from sexual assault. What the ERA would do is extend similar protections to men.

As a mother, my son's safety from assault is as important to me as my daughters'.

When the foes of ERA talk about higher insurance rates for women, they are talking about car insurance for women under 25. They fail to mention the unfairly high premiums women are paying for life and disability insurance—premiums that ignore their greater life expectancy.

Those who oppose the ERA do it not only because they fear women moving forward but because they really want women to go back—back to a time when women were denied full economic, political, and social participation in our society.

But we are not going back. We are going forward. The equal rights amendment begins here and now. I am convinced it will soon take its rightful place as the 27th amendment to our Constitution.

□ 1300

Madam Speaker, I yield to our distinguished colleague, the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Ms. Speaker, I thank the gentlewoman for yielding to me.

Madam Speaker, I stand on the floor of the House of Representatives to reaffirm my strong commitment to the equal rights amendment. Passage of the equals rights amendment is not the most we should expect but rather the very least.

During its long years of struggle for life, the equal rights amendment has been minimized and trivialized by its opponents. Their strategy has been to throw up smoke screens and fabricate illusionary issues. Unisex toilets and military service are not the issues of the equal rights amendment. Simple economic and social equality is the issue and it is the only issue.

We will not settle for piecemeal legislation, a few bills slipping through Congress, a few States supporting women's rights. As I have said before, can you imagine Lincoln deciding that we could have emancipation without a proclamation; that we could simply do it plantation by plantation? Equal rights will not work State by State. It has to be an open recognition of the rights of women—all over the Nation—all at once.

The ERA is the minimum. American women are tired of getting whispered to one at a time. We are tired of being told, "Don't worry honey, I'll take care of you." The work of women has helped build this country, yet the work of most women is often overlooked and undervalued.

I say to those who have hesitated or refused to support the equal rights amendment that this is a new beginning and just a beginning. I say to those same people that if you do not have enough respect for the person who brought you into this world, your own mother, to include her in the Constitution, then you sadly lack an understanding of simple justice.

Women are not asking to be written into the Constitution. We are demanding it. After 200 years of working, waiting, and hoping, our patience has run thin but our energy and commitment have not. We will continue the struggle until we have won, and win we will.

Ms. FERRARO. I thank the gentlewoman for her comments.

Madam Speaker, I yield to my colleague, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Madam Speaker, I want to complement the gentlewoman from New York (Ms. FERRARO) and the gentlewoman from Colorado (Mrs. SCHROEDER) and the others who are leading this fight here today.

July 14 marks another milestone in the struggle for women's rights. Today in Congress, the equal rights amendment was reintroduced. The proposed amendment is a constitutional guarantee of equal rights for all Americans.

At the present time, in jobs of equal responsibility, women often earn substantially less than their male counterparts. The ERA will be an important tool to end discrimination in employment. Women account for 60 percent of the growth in the work force over the past 10 years. It is now time to secure the rights to which women are entitled.

Constitutional equality for women is now at stake. One law at a time is too slow a process to achieve this goal. The ERA would put the ideal of equality for men and women at the heart of every piece of legislation and every law.

Women have been struggling to achieve equal rights for centuries. Although women have only been in the workplace for several decades, they have always been "working mothers". Women have shaped the lives of all past leaders whether it be as wives, mothers, or colleagues. It is time that women are recognized for the roles they have fulfilled as the equals of men.

The ERA deals with economics and civil rights—not with lifestyles as many of its opponents suggest. This is a basic issue to protect the rights of women in situations such as jobs, education, and social security.

The time is now to pull out all of the stops to legitimize the God-given rights of equality for all American citizens in the Constitution. As an original cosponsor of the resolution in the 92d Congress and a cosponsor of the present resolution, I assure you that I will continue my support of the equal rights amendment as actively as possible until the ERA is ratified and I encourage my colleagues to do the same.

Ms. FERRARO. Madam Speaker, I thank the gentleman for his remarks and for his offer of help.

Madam Speaker, at this time, I yield to our distinguished colleague from Iowa (Mr. BEDELL).

Mr. BEDELL. Madam Speaker, for many of us, its hard to fathom that an amendment called the equal rights amendment could be so difficult to win the approval of two-thirds of our States. It is equally hard to believe that an amendment which exists on the sole premise of liberty, justice, and equality for all would be found objectionable. Unfortunately, the Constitution does not say "equality of rights under the law shall not be denied or abridged by the United States or by a State on account of sex."

Some say the issue is wornout, old, and that supporters should allow it to fall silent. But as I review history I am reminded that any question of equality and citizenship that remains unsettled cannot be allowed to fall silent. I like to think I fight for what I believe is right. And I most definitely believe that equality for all is right.

The entire issue continues to come back to the Constitution—the eloquent protector of our liberties and rights. Our Constitution correctly provides for and protects some basic

human rights to serve as a model for other nations. Indeed, our Founding Leaders put word and pen together in magnificent form. But it is not perfect. In fact, we have had to improve upon the original 26 times. I dare say there will be more improvements—hopefully at least one more—as our society continues to review, deliberate, and agonize over issues. During the deliberations of some of those 26 improvements deadlines were not met, as was the case 2 weeks ago. And in response I must say again, that any questions of equality and citizenship that are unsettled cannot be dropped.

Therefore, I rise today to give my full support to the reintroduction of the equal rights amendment and am very pleased to know that approximately 198 other Members share my strong support.

Ms. FERRARO. Madam Speaker, I thank my colleague from Iowa.

At this time, I yield to our distinguished colleague from Rhode Island, Congresswoman SCHNEIDER.

Mrs. SCHNEIDER. Madam Speaker, I would like to commend my colleague for her leadership in this body in making every effort to achieve the equality women have worked so hard for and certainly deserve.

Like the right to vote, the right to equality under the law will become part of the Constitution. I am proud to be among those to reintroduce the equal rights amendment in Congress and continue the campaign for its ratification, confident of success.

The drive for the equal rights amendment has changed American politics. Never before have so many women raised so much money, been so active in lobbying and campaigning, and learned so much about politics. According, to Pollster Louis Harris, one of the major developments of this decade will be the full-blown emergence of women as a powerful new force in American politics. Public officials everywhere will be held accountable, and those legislators who have voted against women will be replaced.

I would like to interject one anecdote. While campaigning last weekend back in my district, I went through a factory where there was an elderly gentleman who said that he had been working every day of his life and was thrilled that I was a Congresswoman. I asked why. He said he had been working every day of his life to support his three daughters, and he feels that when he passes away I will continue to support them in my own way. One is a doctor, one is a lawyer, and the third a housewife with children. He firmly believed that unless we had more women taking up the responsibilities and positions of women, we would not be able to obtain that type of equality under the law that this gentleman believed was so very necessary.

The argument that we do not need the ERA because there are no longer any discriminatory laws is completely wrong. Gender-based laws can be as picayune as the North Carolina statute that requires a husband, but not a wife, to go to court for a legal name change if the couple wants to use a combined or hyphenated name. Or the laws can be reflective of deep-rooted stereotypes, such as the Georgia law that states that the husband is the head of the family and the wife is subject to him.

Married women are the big losers. Property rights, marital regulations, provisions for separation and divorce, and statutes concerning wills and intestate succession combine to discriminate against women—whether they are homemakers, work in a family-owned business, work outside the home, are widowed, are divorced, or getting a divorce.

So, despite the many rights that women have won over the past decade, equal opportunity and equal treatment under the law are incomplete and impermanent. The rights we have gained could be revoked by changes in the political balance of Congress, administrative action, or a realinement of the Supreme Court.

Without the ERA in the Constitution, the shift of a few votes could wipe out equal employment opportunity, equal access to credit and equal education. Many women's rights were enacted by small margins. For example, the law that gives a woman the right to sue an employer who discriminates against her would not be on the books if three Senators had changed their minds.

The reason the ERA has not yet been ratified is because a few State legislators who ignored the wishes of their constituents and a vast majority of citizens throughout the country. These legislators bottled the ERA up in committee, tied it up by parliamentary maneuver, and used backroom political pressure to defeat it. But those days are past.

I expect the new ERA—with the same simple, straightforward language—to win approval in Congress and then be ratified by the required 38 States. State elections will make all the difference—with legislators who oppose ERA held accountable.

I believe the ERA drive will be looked upon as the turning point in the women's movement. Women will move from being spectators to the inside political track.

I firmly believe that ERA, more than anything else, is a bread and butter issue for women; 70 percent of the Nation's poor are women. According to the National Advisory Council on Economic Opportunity, this figure could rise to 100 percent before 2000. The irony of this decade of advancement for women is that it has also been the decade of the feminization of poverty. While this is most prevalent among elderly, black, and Hispanic women, the fastest growing segment of poor women are single, white, and raising children with no or little support.

Jobs alone are not the answer. While men's poverty is a consequence of unemployment, women's is the result of occupational segregation. In spite of the fact that more women are employed now than ever before, 80 percent of these women are concentrated in traditional "womens work," service and clerical jobs, which are not only low paying but have declined in real earnings for years. The great strides made by women into traditionally male occupations chiefly reflects their very low starting point and even in these areas equal pay for equal work is still mostly theoretical.

Ms. FERRARO. I thank the gentlewoman for her remarks.

Madam Speaker, I yield to the gentleman from Washington (Mr. LOWRY).

Mr. LOWRY of Washington. Madam Speaker, I thank our colleague from New York for yielding. I would also join in complementing her for her outstanding job on this vital issue, and also the gentleman from Colorado (Mrs. SCHROEDER), who had the time before the gentlewoman from New York, for her outstanding job on this continuing fight; and the fine comments which were made by our colleague from Rhode Island.

I have to note, as I sit here listening to these excellent contributions, that there are only 20 women out of 435 Members of this House, and when we look at the quality of representation on this floor and throughout the year by these 20 women, I will be happy to see the day when there is more equality shown in the membership of this House in that representation.

Madam Speaker, the issue of equal rights for women has taken on a new meaning since Congress passed the equal rights amendment in 1972. The equal rights amendment is not an ideological debate about lifestyles. It is purely and simply intended to guarantee civil rights and freedom from economic discrimination for over half of the population of this country.

While the gains made by women in the last 10 years are great, the limitations on these gains are also great. Congressional enactment of legislation addressing particular areas of concern to women has been only partially effective.

Laws such as the Equal Pay Act of 1963, the Civil Rights Act of 1964, and the Education Act of 1972 all have provisions prohibiting sex discrimination in certain federally supported programs—but their effectiveness has been limited within society as a whole. For example, women only earn on the

average 59 cents for every dollar a man earns. A women with a college education still earns less than a man with an eighth grade education. Women still face widespread job "tracking" that puts them in clerical positions regardless of their skills or education. Despite the growing number of single-parent families headed by a woman, women must face the attitude that their wage is only supplemental to a man's income. The result of this widespread discrimination is that women are the fastest growing group of poor in the Nation.

The piecemeal approach of the past is not adequate to guarantee economic justice and equality.

Mr. FERRARO. Madam Speaker, I thank the gentleman for his very gracious remarks.

I yield to the gentleman from Illinois (Mr. WASHINGTON).

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Mr. WASHINGTON. Madam Speaker, I thank the gentlewoman from New York for yielding, and I want to commend the gentlewoman from New York (Ms. FERRARO) and also the gentlewoman from Colorado (Mrs. SCHROEDER), as well as all those others who joined with her in permitting us this opportunity to state our position in strong support of the equal rights amendment.

I think it was a tragic blunder for my State, the State of Illinois, not to have ratified this amendment a long time ago. It was particularly tragic in light of the fact, No. 1, that it was done through a parliamentary maneuver, and No. 2, that the State of Illinois, through its own ratification in 1970, guaranteed all women within its purview equal rights. That is a blunder that I believe, together with other Members, including the gentleman from Illinois (Mr. YATES) we will rectify.

Madam Speaker, I just want to restate my wholehearted support and commend these fine gentlewomen for giving us the opportunity to renew our support for the equal rights amendment.

Madam Speaker, that the 10-year struggle to ratify the equal rights amendment ended in defeat, should not be surprising. These are shifting and dangerous times we are living in. At a time when this administration is bent on undermining every nondiscrimination provision and every enforcement mechanism in the Federal arsenal, it should not be suprising that the ERA was not ratified. The head of the Department of Justice argues in favor of separate but equal in school segregation cases. He has boldly stated that his Department would not pursue constitutional remedies in cases where intentional violations have been proven. Again, we should not have been surprised that 15 States never ratified the ERA.

This is not a normal political climate. This administration has been captured by the radical right, and no civil rights law or civil liberties protection is being left untouched. Efforts have been underway for months to weaken regulations promulgated under the 1964 Civil Rights Act. We are all witnesses to the proposal by this administration to give tax exempt status to segregated academies, and to allow federally guaranteed student loans to be used at segregated colleges. It, indeed, is not surprising then that five States that ratified the equal rights amendment sought afterward to rescind that action.

To me, the ERA is a nondebatable issue. Black people have suffered from discrimination, degradation, and inequality in all areas of life from time immemorable. So, on this issue of peoples' rights, it is easy to identify with the inequities women are facing. The issue here is very clear. The ERA would establish a fundamental legal principle that the law must deal with the particular attributes of individuals, not with classifications attributed to one sex or another.

When I was in the Illinois House of Representatives, I supported the ERA each time it came up. It came up five times. And, while chairman of the judiciary committee as early as 1976, I was instrumental in getting out this issue with a vote of 18 to 2. It was a stupid and tragic blunder for the leaders of each Illinois House to promote the requirement of an extraordinary majority of two-thirds ratification by the State of Illinois, particularly in light of the fact that in most instances, both houses were in support of its ratification. This blunder is even more inexplicable in light of the fact that in 1970 Illinois included in its new constitution equal rights for women within the State.

We cannot leave to chance that equal protection under the law without regard to sex will be a foregone conclusion without specific language in the law. This is why we are continuing the effort today in reintroducing the amendment.

Ms. FERRARO. Madam Speaker, I thank the gentleman from Illinois (Mr. WASHINGTON) for his kind remarks.

Mr. SHAMANSKY. Madam Speaker, will the gentlewoman yield?

Ms. FERRARO. I yield to my colleague, the gentleman from Ohio.

Mr. SHAMANSKY. Madam Speaker, The struggle for equal opportunity for all individuals in our society, which is in part the struggle for the equal rights amendment, did not end on June 30.

In this country we stress equality of opportunity, It is part of the special character of American life and we are justly proud of it. Yet half of our population—American women—earn on the average just 59 cents for each dollar earned by American men. Obviously, equality of opportunity for the sexes in not yet a fact.

The United States is stronger than it would otherwise be because of the approximately 41 million working women. They make up 42 percent of the American work force and contribute to the strength and prosperity of this country.

Yet despite advances in many areas, the wage disparity persists. Despite real gains by the women's movement, less than 7 percent of all working women hold managerial level jobs, This compares with twice that percentage for men in managerial level posts.

In this fundamental area—equality of opportunity and equal pay for equal work—legislative action is still needed. The struggle continues, and for that reason I am proud to be able to join today as a cosponsor for the reintroduction of the equal rights amendment.

Ms. FERRARO. Madam Speaker, I thank the gentleman from Ohio (Mr. SHAMANSKY) for his remarks.

Mr. WEISS. Madam Speaker, will the gentlewoman yield?

Ms. FERRARO. I yield at this time to my good friend, the gentleman from New York, Mr. TED WEISS.

Mr. WEISS. Madam Speaker, I really appreciate the gentlewoman's yielding to me.

Madam Speaker, at the outset I want to commend our colleagues, the gentlewoman from New York (Ms. FERRARO), the gentlewoman from Colorado, (Mrs. SCHROEDER), and the others for arranging this special order marking the start of a new campaign to give women and men equal protection under the law.

Madam Speaker, today, with the reintroduction of the equal rights amendment, we recommit ourselves to the struggle for equal rights.

Two weeks ago, as the deadline for ERA ratification passed, we were just 3 States short of the 38 needed to make it the 27th amendment to the Constitution. The disappointment was deeply felt by everyone who had been involved in working for its passage.

The ERA opponents rejoiced, apparently presuming there had been a death, but I believe their celebration was premature, and I know it will be short-lived. They have failed to grasp a fundamental reality—that the efforts to pass this amendment will not cease until it becomes part of the Constitution. The reservoir of public support for equal rights is deeper now than ever before. Polls consistently show that two-thirds of Americans favor passage of the ERA.

Public support and understanding of the need for ERA is just one of the benefits reaped in this decade-long struggle. Among the ERA forces, there is a heightened political sophistication, a keener understanding of the opposition, and a resolute determination to continue fighting on other fronts as well as the ERA drive. The first focus will be to defeat the opponents of equal rights. In addition, lawsuits and boycotts will be directed against corporations that practice sex discrimination.

Meanwhile, the ERA opponents are still claiming that the ERA is not needed because women can win equality through Federal laws already on the books and changes in State and local statutes.

But no statute can provide the all-encompassing protection of a constitutional amendment. Statutes can be repealed or undermined, a lesson we are learning only too well under this administration. Support for equal rights can disappear as quickly as changes occur in the White House the Congress, or the State legislatures.

Currently, we have a President who pays lipservice to women's rights but works actively to subvert the gains women have made. Nothing so dramatizes the need for ERA as the administration's pathetic record on equal rights. Antidiscrimination laws, such as the title IX prohibition on discrimination in federally funded education programs, are being weakened. Social programs that seek to equalize opportunity for women in employment, education, housing, and other areas are being reduced or eliminated. Fewer women are being considered for judicial and Federal appointments than under past administrations.

Women cannot even rely on existing statutes to protect them. The Equal Pay Act, for example, was passed in 1963, but women are still paid less than men for doing the same work in every job classification in the labor force. College educated women, on the average, earn less than men with an eighth grade education. Poverty has increasingly become a female phenomenon; two out of every three poor adults are women.

ERA is not just for women in the labor market. Full-time homemakers will benefit from it as well, since discrimination against women is still rampant in our tax and retirement systems, insurance policies, family law and, other areas.

Moreover, by eliminating sex as a factor in determining legal rights for all citizens, the ERA will protect men as well as women. A man should not be denied the opportunity to learn nursing, for example, any more than a women should be denied the opportunity to learn engineering. Family law and criminal law should not treat men more harshly than women.

The ERA, in its simplicity, offers the best argument for itself: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." I am confident that those words will become part of the Constitution before another ratification deadline has passed.

Ms. FERRARO. Madam Speaker, I thank the gentleman from New York (Mr. WEISS) for his remarks.

Mr. LEACH of Iowa. Madam Speaker, will the gentlewoman yield?

Ms. FERRARO. I yield at this time to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Madam Speaker, the issue of the equal rights amendment and in fact all constitutional amendments should not be a matter of partisan concern. But I would like to comment briefly as a Republican Member of this body on several aspects of this issue and about my party's attitude toward ERA.

Madam Speaker, the Republican Party was born and teethed in the antislavery movement and was the first to endorse the principle of equal rights for women at a national convention. In fact, Susan B. Anthony wrote in 1872:

> I shall work for the Republican Party and call on all women to join me, precisely. . .for what that Party has done and promises to do for women, nothing more, nothing less.

Today the Republican Party does not have the luxury of ducking the issue. A party without principle is a party without a future.

Historically, in this country and in similar Western democracies, one political party emphasizes rights and one opportunities. The former stresses individual initiative based on restraining government and the latter government intervention to assist the disadvantaged. This is the historical contrast in America between the party of Lincoln and the party of Roosevelt.

Failure of the Republican Party today to adhere to its heritage jeopardizes its rationalization for existence. The Democratic Party is in the extra-ordinary position of usurping the rights issue from Republicans and becoming the party of both rights and opportunities.

It is time for the Republican Party to come home, not only to its principles, but to its heritage. The equal rights amendment should be adopted.

Ms. FERRARO. Madam Speaker, I thank the gentleman from Iowa (Mr. LEACH) for his kind remarks.

Mr. GILMAN. Madam Speaker, I rise to take this opportunity to reaffirm my support for the equal rights amendment.

June 30 marked the end of the time permitted for the ratification of the equal rights amendment to the Constitution. June 30 was a sad day for me, as well as for millions of American citizens; because on June 30, we were just three States short of the necessary number to ratify the ERA.

Madam Speaker, the ERA is not dead. Today, I am pleased to join several of my colleagues in reintroducing the amendment. We must begin again. The groundwork has been laid and the work of so many has not been, and will not be, in vain.

I voted for the ratification of the ERA when I served in the New York State Legislature, and I voted to extend the deadline for ratification as a Member of the House of Representatives.

For too long, women have suffered official discrimination because of their sex. In many cases, men have suffered as well. There is no reason for the simple words of the equal rights amendment to have engendered so much controversy. These words reaffirm values which most Americans support and which are embodied in most recent Federal and State laws.

Today, we are reintroducing the original text of the ERA, which reads:

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article. This amendment shall take effect 2 years after the date of ratification.

Madam Speaker, the rights of women and minority members have been denied and ignored long enough. Accordingly, it is my fervent hope that the Congress will recommend, and the States will adopt, the language of the equal rights amendment as the 27th amendment to the Constitution.

● Mr. HOYER. Madam Speaker, time after time we have seen overwhelming support for this amendment at every level of our society except in the few State legislatures who have refused to acknowledge the basic rights of women. We, in the State of Maryland, were among the first to ratify the equal rights amendment in 1972. Not only did we acknowledge the national amendment, but we adopted an additional amendment to our State charter assuring equality of rights.

The very foundation of this Nation is the recognition of equality of rights. This fundamental truth must be maintained unless we plan to relegate the majority of this country's citizens to a secondary position.

The arguments we have heard during the recent debates on the ERA have been—"we already have equal rights in this country."

Tell that to the women who do not receive equal pay for equal work; tell that to the women who are trying to raise and support their families but who are not eligible for private pensions; tell that to the farm women who are hardest hit by estate taxes yet find

it difficult to receive Federal farm credit.

The ERA does not require a woman to do anything she does not want to do. It does, however, permit a woman to do anything she wants to do. It expands the opportunities—and most importantly—the rights of women into the 20th century.

I will be working hard to insure the quick passage of the ERA in the Congress, and later with members of the Maryland State Legislature, to reaffirm our overwhelming support for this vital issue.●

● Mr. McKINNEY. Madam Speaker, it is with great pleasure that I join so many of my colleagues in reintroducing the equal rights amendment. It seems to me that we have reached an odd situation where, just as the ratification deadline passed and the amendment failed, its support seemed to reach new heights. Because of this, I believe we have a responsibility to reintroduce this necessary and important amendment, and furthermore I am certain of its ultimate approval.

We are all familiar with the myth of Sisyphus, that poor man who pushed a rock up a hill only to have it roll back down every time. At times, it has seemed a Sisyphean task convincing the American public of the need to incorporate one simple, but crucial, sentence into the Constitution: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." Yet how important that one sentence is! There are still parts of this country where a woman loses claim to all her possessions when she marries, or where a single woman can be denied credit or ownership. Women still earn only 60 percent of what men earn at the same jobs.

Yet there is good reason to be optimistic, for the history of ideas shows us that the cultivation of new attitudes is not a Sisypean task. Indeed, there comes a point when enough voices join to push that rock over the crest of the hill and start it down the other side, gathering votes along the way. I think we are nearly at that point. Although the ratification deadline has just passed, more people support full equality under the law for women than ever before—an estimated 75 percent, in fact. New ideas, however, face stubborn resistance from the forces of the status quo, and they need money, hard work, and most of all time to win the day. If the ERA has failed to clear 38 State legislatures, perhaps it is because the entrenchment of old ideas remains strong there. In 2 years' time, this may no longer be the case.

As the movement to enact equal rights for women has gathered strength and breadth, so too has the composition of its supporters. Originally, the effort of a determined band of forward-looking individuals who sometimes had to shout to be heard, it has grown into a veritable grassroots movement supported by men and women of all occupations. And slowly, the basic tenets of the equal rights amendment have worked their way into our social mores. In the 10 years since the ERA was originally ratified by Congress, the role of women in our society has changed profoundly—one of the greatest and swiftest changes in American social patterns. In increasing numbers, women have joined the work force, pursued positions of responsibility, and gained new respect and importance. It has been a quiet revolution, as all effective revolutions are.

What remains is for us to back up this deep change in our society with the legal foundation of a constitutional amendment. So while some may be quick to claim that ERA had its day in the Sun and failed, I say that the time is now ripe for this amendment. The necessary change in attitudes has finally begun to occur, and this change will begin to make itself felt in voting patterns. The equal rights amendment is an issue of justice and economics. The issue will not go away until the amendment becomes law, for the groundwork has all been laid. The notion of true equality for women has reached that crest and is gathering momentum. Only history will tell whether we were perceptive enough and gave it the opportunity to exhibit its strength.●

● Mr. RATCHFORD. Madam Speaker, I am pleased to join the many supporters of equality and civil rights today as an original cosponsor of the proposed equal rights amendment.

I am struck by the fact that the ERA is being reintroduced with so many cosponsors in both the House and Senate, and that a number of other Members of Congress have indicated they will vote for the amendment.

When time ran out on ratification of the amendment 2 weeks ago, its opponents claimed a great victory. I think their sense of triumph will be short-lived.

Like the 19th amendment which guaranteed women the right to vote, the equal rights amendment was not a first-time success. In fact, the ERA was first introduced into Congress in 1923.

Furthermore, it took my own State of Connecticut two tries before the amendment was ratified in 1972. I think the lessons of the 19th amendment and the ERA ratification in Connecticut should serve as important examples to supporters of the amendment, for as these instances illustrate, perseverance and conviction will go far to secure long-denied rights.

There have been comments aplenty that the equal rights amendment is not necessary; that the enactment of new laws, the rejection of old ones, and the heightened sense of women's rights which evolved from the effort to ratify the equal rights amendment have achieved in effect all that would be secured in principle if the amendment was passed and ratified.

That assessment, Madam Speaker, is quite simply wrong. Today in the workplace, women across the Nation earn only 59 cents for each dollar men earn in the same jobs. Embarrassingly, the disparity is even wider in Connecticut: For every dollar earned by men, women earn only 57.5 cents. Even young women—who should be affected by few of the institutional and emotional prejudices that hound older, working women—only make 75 cents for each dollar earned by their male peers.

Furthermore, the headway women are alleged to have made into the professional ranks is much smaller than might be imagined. In 1960, 12 percent of the Nation's professional and technical workers were women. Two decades later, the figure had risen only to 16 percent. In 1960, 5 percent of the Nation's managerial posts were held by women. In 1980, women held 6 percent of these positions.

The statistics are staggering, especially in light of the fact that women account for 42 percent of the workforce.

To make matters worse, women have also assumed greater responsibility in family roles, and the economic insecurity that is cast upon them in the workplace is now being brought home. Twenty-five percent of the Nation's heads of households are women, a jump of over 50 percent in 10 years. Tragically, the women who head households are also among the victims of wage and occupational disparities so prevalent in the workforce. It comes as no real surprise, then, Madam Speaker, that 32 percent of the Nation's families headed by women are low-income families, and that 75 percent of all Americans living in poverty are women.

The inequities are not limited to jobs and wages, though, and the instances of discrimination by sex that we all have seen in the past must not be allowed to continue.

Facts belie the rhetoric. Progress in guaranteeing women's rights has been illusory at worst, insufficient at best. And the disparities and inequities that currently abound will not disappear overnight if the equal rights amendment is ratified. Still, the amendment is an absolute necessity if women are ever to be guaranteed equality before the law.

Seventy years ago, extending to women the right to vote was, to some people, a radical departure from the status quo. Ten years ago in Connecti-

cut, extending to women a guarantee of equal rights was viewed in a similar light. Both times, Madam Speaker, the advocates of women's rights learned their lessons from initial defeats and went on to achieve their goals.

I think this new beginning for the equal rights amendment will be similarly successful. We have learned our lessons; we have an overwhelming majority of the American people behind us, and, most importantly, we are working for a concept which is fundamentally consistent with our Nation's heritage and values.

As speaker of the house in Connecticut, I watched the ERA first go down to defeat. Supporters of the amendment, including myself, regrouped and convinced a number of members of the legislature that the amendment merited their support.

Our efforts succeeded, and I am convinced that the equal rights amendment will ultimately reach a similar, successful conclusion. I am proud to be a part of the movement to approve and ratify the equal rights amendment, Madam Speaker, and I look forward to guaranteeing at long last the rights of Americans, men and women alike.●

● Mr. McHUGH. Madam Speaker, I am proud to be a sponsor of the equal rights amendment. There is no more fundamental principle in our great democracy than that every citizen shall be treated equally under the Constitution. This amendment will assure that there will be no discrimination on the basis of sex anywhere in our land.

Although the original amendment fell short of ratification, the attention focused on ERA during the ratification process helped to advance the cause of equal rights for women and other disadvantaged groups in our society. In that sense, it has already made a substantial contribution to a more fair and just society.

It is coincidental and yet fitting that the ERA amendment be reintroduced on Bastille Day. Both the French and American Revolutions were dedicated to a reversal of the old order in which most of society was held down for the benefit of the privileged few. The ERA amendment will truly signal the fulfillment of a promise that over the years has been gaining in our land—that respect for individual rights and human dignity means that all of our citizens can fully share in the fruits of a free society.●

● Mr. BIAGGI. Madam Speaker, I join with my colleagues today in this discussion about the future of the equal rights amendment. I regret the fact that on July 14, 1982, we are not celebrating the ratification of the ERA. Indeed, June 30, 1982, will go down in history as one of the most regrettable dates in our Nation's history. I continue to find it inconceivable that in a Nation which prides itself on its advocacy for equal rights for all, that a constitutional amendment securing these rights for women could not be ratified by three-fourths of the States.

Due to the fact that I did not want the date of June 30 to be viewed as the end of this Nation's commitment to equal rights for women on June 23, I introduced House Joint Resolution 529, the new equal rights amendment. It is identical to the original and provides for the same 7-year ratification process including approval by two-thirds of Congress. I also intend to join the effort led by my colleague, Mrs. SCHROEDER, relative to the new ERA.

In concept and in practice, equal rights for women should not be viewed as something alien to our Constitution or way of life. In fact, the failure of us to provide this as the law of the land puts us in a regressive light in the eyes of those who hold this Nation up as an example of the leader of freedom and rights.

As we evaluate the future strategies for gaining ratification of the ERA, let us not dwell too long on past mistakes of direction. If the merits of ERA are stressed by responsible and respected spokespersons, then I have greater confidence in the ability for us someday to hail the successful completion of the ratification process and this longstanding inequity and inconsistency in our Nation.●

● Mr. FORSYTHE. Madam Speaker, I am honored in joining my distinguished colleagues in cosponsoring the bill to reintroduce the equal rights amendment.

Having long supported equal rights and equal opportunities for women, I believe the ERA is nothing short of a necessity. I am disappointed that the June 30 deadline for ratification of this amendment was not met, but feel it in no way discredits the drive for the adoption of the equal rights amendment to the Constitution of the United States.

It seems anachronistic for our great land of equal rights to be squabbling over a bill to insure equality to women, some 200 years after the birth of what we call a "free" Nation. This freedom should also be freedom from discrimination.

Today, women are an integral part of our Nation and our work force. Once the notions which link this amendment to unisex toilets and drafting women into the Armed Forces are put aside, I cannot see how anyone can question the validity of the ERA. Who would hold that women who obtain the same education from the same universities as their male counterparts should be paid less for the same job? And yet the figures show that women today are paid only 59 cents to every dollar paid to men. With figures such as these, there does not seem to be any question about the need for an equal rights amendment to illustrate our commitment to guarantering equal rights for women.

For a subject as important as the end of discrimination based on sex, we need a policy that is nationwide. It is not acceptable to rely on laws and other legislation that vary from State to State, and that can be repealed at any time. Yes, we have made great strides toward equality, but this amendment would insure that we do not make any backslides.

I urge my colleagues to quickly pass this bill, so that the equal rights amendment can begin the ratification process again. The 27th amendment is needed to bring our Constitution in touch with 20th century society.●

● Mr. WALGREN. Madam Speaker, the fight to ratify the equal rights amendment began anew today. I have joined with 175 other Congressmen and 46 Senators in reintroducing the equal rights amendment to include in our Constitution the following 24-words:

> Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

Martin Luther King once said that "History is inclined toward Justice." It is so important to everyone concerned with justice for women that we view the expiration of the first ratification deadline not as a failure, but as a prelude to what will be certain victory. The sensitivity of our society to women's rights has developed substantially over the past 7 years. We clearly have a long way to go. But it seems to me important to remember that, when all is said and done, the women's movement is grounded in human nature . . . and therefore cannot be reversed.

Clearly a vocal minority appealed to by the radical right will continue to try to sabotage equal rights for women by falsely painting those 24 simple words as an issue of lifestyle, not of equality. We should realize that this kind of misrepresentation can succeed in the short run—but is bound to fail in the long run.

To me, the most promising aspect of the past 7 years has been the growth of an intelligent, concerned, grassroots political involvement throughout the Nation that, I believe, is capable of clearly dispelling misrepresentations and electing representatives who are truly committed to equal rights. And that, of course, is the most important thing. We should be encouraged that success in several elections will move other officials firmly behind the ERA.

And perhaps we should take some comfort in the truth that, if the ERA is to have real meaning and life, we will need sensitive State and Federal legislators anyway. So, although the road seems longer, the truth is that real progress may come faster be-

cause the ground has been prepared so well.

Those who have dedicated their lives to equal rights deserve special credit for their participation in the movement to include equal rights for women in our Constitution. Amending the Constitution is not easy. But the progress thus far should encourage us to redouble our efforts and confirm our belief that the equal rights amendment will become part of our Constitution.●

● Mr. STARK. Madam Speaker, I am submitting this special order today in support of the reintroduction of the equal rights amendment. My emotions surrounding this action are mixed. With regards to the organization, I feel pleasure in being part of the women's movement, a force which has stuck together and persisted in seeking equal opportunity for all Americans. Yet at the same time, with regards to the cause, I am angered by the fact that the United States has not already ratified this amendment. A simple piece of legislation, this constitutional addition would officially eliminate ancient laws and practices that blatantly discriminate against half of our population. In a nation that supposedly values "liberty and justice for all," I find it ironic that ratification entails such a long battle.

Many people contend that women already have full rights under the 14th amendment. Although this "due process" clause should protect everyone equally many State courts have chosen to interpret the law in a loose context. From State to State, one can find countless examples of sex discrimination still mandated by law. For instance, in Maine and Wisconsin husbands are given the rights to all business profits, including those earned by their spouses. Likewise, in Pennsylvania, a married woman must file a petition to open a business, whereas a married man is not required to do the same. These and countless other laws serve to discourage women from participating fully in professional activities of the day.

Discriminatory practices are seen in economic statistics as well as legal mandate. According to Department of Labor statistics, women get paid 59 cents for every $1 men make doing identical work. This probably accounts for many American families which are living in poverty, since one-third of them are headed by single mothers.

The renewed struggle for sex equality will continue to be difficult. Enlighted feminists will still have to confront the loud minority of Americans opposed to the ERA, but, as a Member of this 97th Congress, I pledge my unwaivering support to the passage of the equal rights amendment.●

● Mr. FOGLIETTA. Madam Speaker, I rise today in support of the equal rights amendment.

The equal rights amendment seems uncomplicated. The wording is straightforward. The idea is not particularly profound. In fact, when this concept is considered by the average citizen, there is little question of his or her support. Yet 10 years have passed since the introduction of the ERA and I am dismayed that we have been unable to ratify it.

Contrary to the narrowminded belief of some, this amendment is, by no means, dead. Today, the ERA is being reintroduced. I am proud to be one of its original cosponsors. I am wholeheartedly committed to work for the ratification of the equal rights amendment. As Members of the Congress of the United States, it is our responsibility to set the example for State legislatures and pass the ERA as soon as possible. Equal rights must be guaranteed by law and not denied or abridged on account of sex. We cannot afford to waste another 10 years.●

● Mr. JAMES K. COYNE. Madam Speaker, the equal rights amendment is another important step in the journey to equality for all Americans. Many decades have passed since this journey began and many milestones have been reached, but so much more ground is waiting to be traversed.

The equal rights amendment is not a superfluous exercise inserted midstride in the journey to equality. Although there are now more women in college than at any time in our Nation's history, more women in State legislatures than at any time in our Nation's history, and more women in Congress than at any time in our Nation's history, full equality has yet to be realized. We cannot look at these achievements and complacently allege that women are now equal and no more needs to be done. Just as the right to vote was a critical advancement in the march toward equality for women so, too, will be the passage of the ERA.

Without the equal rights amendment, equality must be litigated case by case—a slow process that does not insure universal protection. Women should not have to go to court to fight for equality in the workplace, equality in pay, equality in educational opportunity, equality in pension benefits, or in social security.

Neither should the equality of women be dependent on laws that can be repealed or changed by a simple majority. The rights guaranteed by the Constitution and the responsibilities imposed by the Constitution cannot and should not be denied by reason of a person's sex.

The passage of the equal rights amendment is a vital step in the inexorable march toward equality for women. It must, and will, be realized.●

● Mr. BROWN of California. Madam Speaker, our Nation which was founded on the principle of "justice for all," has historically been unjust to over one-half of its population: women. From the time that Abigail Adams wrote to her husband, John, only partly tongue in cheek, "If particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by any laws in which we have no voice or representation," women have been struggling. They struggled for over a century to obtain what should have been a simple right, the right to vote. Now they are struggling for another simple and hardfought right, the right of equality.

With today's introduction of the equal rights amendment (ERA), the history of this struggle continues. The necessity for this struggle is not something to be proud of. Since it was originally introduced in 1923, the ERA has fought a constant battle against those who wish to maintain their power. Yet time and time again polls overwhelmingly indicate that the vast majority of Americans support this simple constitutional amendment.

At the first women's convention at Seneca Falls, N.Y., in 1848, it resolved, "That it is the duty of the women of this country to secure to themselves their sacred right to the elective franchise." It took over 70 years to obtain that right, but what is significant about that resolution is that it proclaimed it women's duty to secure their rights. Just as men must participate today, they must have participated then, but the impetus, the leadership, the drive must come from women.

Women have learned these important skills in their participation of the abolitionist, labor, and civil rights movements. It is no coincidence that after each of these movements obtained great strides, women in turn called attention to their demands, their rights.

This last decade of struggle has been particularly difficult and frustrating—the ERA goal so close and yet failing. But one thing women did learn, and unfortunately it was a hard lesson, is that women must fight for their rights. As simple, as sensible, as those rights may seem, no one will give them away. And once those rights are secured, as undoubtedly they will be, the fight to preserve those rights will have to be maintained.

Recently, women have begun to understand just how vulnerable they still are as nearly every program, every advance, has been attacked or weakened by the Reagan administration. The Women's Education Equity Act, title IX, family planning, the equal rights amendment, and countless other programs and regulations have been threatened. I am pleased to see that women are learning to be politically aware and are striking back. Then,

perhaps their daughters will not have to fight the same battles, until one day the motto of Elizabeth Cady Stanton and Susan B. Anthony will ring true, "Men, their rights and nothing more; women, their rights and nothing less."●

● Mr. ROYBAL. Madam Speaker, the passage of the deadline for ratification of the equal rights amendment was a blow to the struggle for equality among all Americans. However, in spite of the remaining States refusal to act on the amendment, it is in a triumphant mood that I speak before you today.

The fact that this amendment has been so promptly reintroduced, and with so many cosponsors, is proof positive that the battle for equality is not lost. The people who have sacrificed so much for this cause, invested untold amounts of their time and money, and in some cases even endangered their lives, will not just fade into the background. The organization and the grassroots support are still there, as recent fundraising successes demonstrate. The seeds are sown, the stage is set and the curtain is about to rise again. Only this time, I am confident that the final scene will be quite different.

I am honored to be a part of this process. I have not lost my determination to insure that no one in this country be relegated to second-class status because of their sex. I do not accept the arguments of those who assert that the ERA is unnecessary because of existing statutes. The fact still remains that women earn only 59 cents for every dollar a man brings home, and are discriminated against in hundreds of ways virtually every day of their lives.

I have served in this body for almost 20 years, and have seen many worthy causes go up in flames. Equal rights for women will not be one of them. There are too many of us, and our commitment is too strong. We Members of Congress represent the first obstacle faced in the struggle for final passage of a new equal rights amendment. Let us strive to make this obstacle one of the easiest to overcome.●

● Mr. LANTOS. Madam Speaker, today I am proud to join over 200 of my colleagues in the Congress in reintroducing the equal rights amendment. The ERA is not dead and will not die. I, and a majority of my colleagues in the Congress will see to it that the ERA stays in the forefront of the national agenda until equality for women under the law is finally achieved.

The amendment does not require that women be the same as men. But it does require that women have the same rights under the law as men on such issues as jobs, wages, education, pensions, and social security benefits.

The bill contains the same language as the original equal rights amendment, first introduced in 1923. Its essential section reads:

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

More that 44 million American women participate in our Nation's work force. Yet a woman earns only 59 cents for every dollar earned by a man. Passage of the equal rights amendment will eliminate laws that contribute to this gap in fundamental fairness and equity.

Whether a woman chooses to stay at home or decides to enter the work force, she should have the same opportunity as men to succeed in her choice of occupation, in her education, and in her contribution to society.

My cosponsorship in reintroducing the ERA reflects my continued commitment to establishing a solid legal foundation for equality for all women.●

● Mr. FAUNTROY. Madam Speaker, as a staunch advocate of the political, social, and economic empowerment of all people, I am pleased to join my colleagues Chairman PETER RODINO of the Committee on the Judiciary and Senator PAUL TSONGAS as a cosponsor of legislation reintroducing the equal rights amendment.

As a Member of the Congress, who has been at the forefront of the fight against all injustices, especially those experienced by black men and women, I recognize the common struggle that unites blacks and women in the understanding that, while some of us may have come over here on different ships, we are in the same boat now.

It is in this spirit of unity in strength that I join my colleagues in this effort to secure fundamental human rights for all of our sisters in America.●

● Mr. EDGAR. Madam Speaker, 76 years ago, Susan B. Anthony said, "Failure is impossible." We come here today to recommit ourselves to a task whose failure is, indeed, impossible and unthinkable—the task of guaranteeing equal rights under the law to the women of the United States.

For 10 years now, women and men have struggled together to secure the equal rights amendment in State legislatures across the Nation. Unfortunately, we have not yet attained our goal. But that cannot stop us. Women worked for 50 years to have the equal rights amendment by the Judiciary Committee and allowed to be brought to the floor of the House. We will not allow 60 years of work to go for naught.

As we work here in the House of Representatives to secure the rights of women, to attain equal pay for equal work, to attain equal pay for work of comparable worth, as we work for adequate day care, for adequate education, health and nutrition programs, we look back on the history of the struggle for women's rights, and we know that our work is not completed. So today as we come together to renew our commitment to the equal rights amendment, we see what our obstacles are, we see clearly what our goals are, and we know still that failure is impossible.●

● Mr. MATSUI. Madam Speaker, I rise to participate in a special order which marks a new beginning in our struggle to secure equality for all people. Today, I have joined with a number of my colleagues to reintroduce the equal rights amendment. This act is not an acknowledgment of past failure but rather a reaffirmation of our commitment to insure the civil rights of all our citizens, women as well as men, are protected under the Constitution.

Since the equal rights amendment first was introduced in Congress by Senator Curtis and Representative Anthony in 1923, its philosophical basis has persisted, grown in strength and stature, and educated many Americans about the existence of sex discrimination and segregation which still lingers in our society. During the past 60 years, proponents of the amendment have devoted countless hours toward making equal rights for women a reality. The present generation of ERA supporters must emulate the persistent efforts of their predecessors and neither become discouraged by setbacks nor forsake their goal of a just and equitable society. Profound social change can take generations to occur, and we must take comfort from the realization that 89 years elapsed before Thomas Jefferson's proposal to abolish slavery, which he advocated in the Declaration of Independence, was embodied in the 13th amendment and added to the Constitution.

Over the past decade, women have won numerous victories in their struggle to become citizens with equal rights, opportunities, and advantages. Much remains to be accomplished, however, as women continue to earn less than their male counterparts. For example, the median earnings of year-round, full-time workers in 1955 were $2,719 for women and $4,252 for men approximately 65 cents to the dollar for women. In 1979, earnings were $10,168 for women and $17,062 for men, roughly 59 cents for every dollar paid to men. According to these figures, women would be required to work 9 days, nearly twice as long, to earn the same amount that men are paid in 5.

The need for an ERA goes beyond questions of mere economic equity, however, as the amendment would guarantee all Americans, regardless of their gender, the equal protection and due process entitlements inherent in

our Constitution. With the enactment and ratification of a 59-word clause to the Constitution, women will be assured fair and equal access to opportunities in employment, education, benefit and retirement plans, and the acquisition of credit. An ERA will guarantee necessary protections for women throughout marriage, divorce, and old age. Given our national dedication to the protection and expansion of individual rights, it is inconceivable that women have been denied these basic entitlements.

The Congress cannot tolerate these inequities, and it is incumbent upon us to pursue with renewed purpose the final ratification of the ERA. As Justice Cardozo has written:

> The process of justice is never finished, but reproduces itself, generation after generation, in ever-changing forms. Today, as in the past, it calls for the bravest and the best.

It is now time for our generation to proceed.●

● Mr. DWYER. Madam Speaker, it is an honor for me to rise today and join with my colleagues in this special order as we launch the important campaign to reintroduce the equal rights amendment. Knowing that the growing political awareness among American women will strengthen the national commitment to equity, I am proud to be a cosponsor to this legislation and I applaud my colleagues, Congresswomen SCHROEDER and HECKLER, for arranging this special order.

The equal rights amendment is needed more today than when it was first introduced in 1923 and passed by Congress in 1972. Congressional enactment of legislation addressing particular economic problems of women have been only partially effective. Public laws such as the Equal Pay Act of 1963, the Civil Rights Act of 1964, and the Education Act of 1972 contain titles specifically prohibiting sex discrimination in certain federally-supported programs. However, these statutes have not provided adequate enforcement and have not resulted in desired changes in the patterns and practices of discrimination. Most importantly, the equal rights amendment is needed to achieve permanent equality for women without the possibility of reversals in our laws. Since the current equal opportunity laws were enacted by Congress, without the force of the Constitution, subsequent Congresses could repeal these laws. State and local governing bodies have the ability to do the same with their laws presently granting equality. Equality under the law must be a basic right for all Americans. The ERA is necessary to establish a national policy and to set a standard for the elimination of discrimination based on sex.

A constitutional amendment is the only insurance that women and girls will have fair and equal opportunities throughout their lives and I am proud to be part of this effort.●

● Mr. MOFFETT. Madam Speaker, I am proud to join with over 190 of my colleagues in the House in reintroducing the equal rights amendment. With almost half of the Senate signing on a original cosponsors, with over 450 major organizations representing over 50 million Americans endorsing the ERA, and with a groundswell of grassroots support for equal rights for women, we are sending a clear message to the Nation that the fight is far from over.

Ratification of the proposed 27th amendment to the Constitution has been long in coming. The movement for equal rights for women has been an historic one, dating back to the colonization of the Nation. After the Declaration of Independence was written and as the new Nation's laws were being drafted, women were questioning their "special status"—a status of legal inferiority before the law. During the 19th century, the women's rights movement began to coalesce. Such stalwart advocates of equality as Elizabeth Cady Stanton and Susan B. Anthony helped to push it along. By 1920, the voting franchise for women became the 19th amendment to the Constitution. Three years later, the equal rights amendment was introduced into Congress for the first time.

We have been fighting for the social and economic justice to be secured by the ERA ever since. The equal rights movement has been an inexorable one, always going forward despite setbacks along the way. The constitutional guarantee of equal rights for women is long overdue, but I am convinced that such a guarantee is the will of the Nation and we will be successful in our efforts.

Madam Speaker, the current condition of our economy demands equity for women. We are witnessing the feminization of poverty in this Nation and this ominous trend must be waylaid immediately. The President's Federal budget calls for an inequality of sacrifice by women, considerably worsening their economic outlook. In a recent report on the budget proposals for fiscal year 1983, entitled "Inequality of Sacrifice," it is noted that "by the year 2000, female-headed households and their children are expected to comprise 100 percent of the poor." This is an extraordinarily grim forecast, and one which we must heed today.

Opponents of the ERA have claimed that the amendment threatens the stability of the family. This criticism has always struck me as a supreme irony. I think that the budget cuts and weakening of equal rights enforcement policies do more to threaten the family than anything else. As the "Inequality of Sacrifice" report states:

> The Reagan budget means greater instability for families. For women who head their families—half of all families in poverty—it will mean a faster decline into deep poverty; it will mean less child care, less nutritional assistance, fewer health services. For women who are separated, divorced, widowed, or abandoned by their husbands, it will mean reduced possibilities for job training, less support for their children's education, and greater difficulty in getting legal services.

The ERA seeks to remedy the problem of economic injustice. For the good of our families, for the health of our economy, for the cause of equality under the law, we must ratify the ERA. Mr. Speaker, I would like to submit the following press release on reintroduction of the amendment to the RECORD.

MOFFETT AIDS RESUMPTION OF FIGHT FOR ERA: "EQUITY AND JUSTICE FOR WOMEN"

WASHINGTON, D.C.—Congressman Toby Moffett added his name as an original cosponsor of the equal rights amendment which was reintroduced in Congress today. "Despite the conservative climate and the apparent indifference of a small group of politically powerful State Legislators," Moffett said, "we are not going to permit the cause of equality for women under the Constitution to wither or fade away. I think that it's a powerful statement on behalf of equality that 195 of my House colleagues are joining in this effort."

This is not a new battle for Moffett. In 1978, as a two-term Member in the House, Moffett supported extension of the period for ratification of the ERA. He wrote to State Legislators in South Carolina, North Carolina, Florida, Oklahoma, and Illinois urging their approval of the amendment. After a district court judge moved to nullify the extension period earlier this year, Moffett joined in the call for an expedited appeal of the case before the Supreme Court. "While we've had some disappointments along the way," he said, "the battle must go forward."

"Let's face it, women have only been permitted to vote in this country since 1920," Moffett remarked. "Their inadequate political and social power is reflected in the fact that women earn 59 cents for every dollar earned by men; 60 percent of those living in poverty are women."

Moffett noted that President Reagan has recommended a statute-by-statute approach to equal rights for women. "Unlike the important Constitutional guarantee of equality, legislation to 'clean up' bias can be bottled up in Committees, repealed after elections, or written with loopholes," Moffett stated. "The Equal Rights Amendment is a clean, clear commitment to economic and social justice which should be embodied in the nation's most basic legal instrument, the U.S. Constitution."●

● Mrs. MARTIN of Illinois. Madam Speaker, today the equal rights amendment, first proposed in 1923, is being reintroduced in Congress. I sponsored this amendment in the Illinois Senate, I voted for the amendment in the Illinois House, and although I am glad to once again demonstrate my support for the amendment's ratification, I regret that its reintroduction is necessary.

I believe ratification of the amendment is vital to the effort to eliminate discrimination that women have in the past been subject to and continue to face today. Opponents of the equal rights amendment claim that current law provides ample redress to any citizen who can prove injury from racial, sexual, or other discrimination. Experience has demonstrated that, in actual fact, such legal protection does not always exist. In some parts of the United States today, for example, otherwise qualified women are denied access to certain jobs men can obtain, women are subject to more restrictive employment regulations than are men, and women lose possession on marriage of any property to which they originally held title. It is apparent that popular conception has precluded equal treatment of male and female citizens, and has relegated women to positions that are economically, socially, politically, and domestically subordinate to men. This has precipitated the need for Federal intervention designed to elevate currently selective civil rights protection to a broader and more inclusive level. Just as government action has been necessary to help secure equal privilege for black Americans, so is it now needed for female Americans.

In addition, the equal rights amendment provides the most effective mechanism to remedy the glaring economic distortions that have developed in the respective earning powers of men and women. Approximately half the country's labor force is female, yet a woman today earns only 66 cents for every male-earned dollar. The structure of the labor market channels women to the lowest-paying and least attractive sectors of the job market; these circumstances obviously hinder the capacity of women to compete evenly with men in the modern economy. By enacting legislation intended to overcome these disparities, economic parity may eventually be achieved.

And finally, the equal rights amendment is necessary in the broadest and most general sense. This Nation should take every step possible to remove from public and popular opinion the stereotypes that confine both men and women to limited and artifical roles, and should not hesitate to formally, publicly, and loudly declare the constitutional and legal equality of all.

The struggle to ratify the equal rights amendment has not been in vain, and failure of three-quarters of the States to meet the ratification deadline does not herald the amendment's defeat. Rather, the past decade of ERA debate has revealed to the American public an unhealthy and unjust state of women's affairs. A majority of Americans favor passage of the equal rights amendment, and I am confident that its reintroduction today will allow this support to be reflected in the ratification process.

Reintroduction will allow the hearings and the debate that can lead to consensus. It is my hope that Congress can then pass an amendment that will garner the support of not only those who worked for equal rights in the past, but those who have fought the amendment, rather than the concept of equal rights for all. But as one who on the State level has heard every explanation pro and con, watched excesses of word and deed, and read too much both of truth and distortion, I want more than just print, television, and radio coverage of debators, celebrities, and demonstrators. I want passage.●

● Mr. MAVROULES. Madam Speaker, today, we again take up the fight for the equal rights amendment. On June 30, opponents jubilantly celebrated the "demise" of the amendment. But to them, and everyone, I say the ERA has not died.

The basic principle behind this amendment is so simple that it is hard to understand the controversy that it has generated.

It recognizes that currently the legal rights of women are not fully protected by either the 5th or the 14th amendments of our Constitution. The ERA simply acknowledges the fundamental dignity and individuality of every person.

Certainly, all American citizens, regardless of sex, have the right to equality under the law.

Law-by-law and State-by-State reforms to eliminate sex discrimination offer no guarantee for fair treatment.

I admit that some advances have been made in eliminating discrimination against women. But these few gains depend on legislation and Executive enforcement. Without a Constitutional guarantee, laws Congress has enacted can be repealed at any time.

I am speaking of title VII of the Civil Rights Act, title IX of the education amendments, the Equal Pay Act, and the Equal Credit Act, all of which are intended to provide equal opportunities for women.

Unfortunately, our experiences of the past 20 years have shown that these statutes have not been adequately enforced and have not resulted in the desired changes in the patterns and practices of discrimination. Our current laws are simply not enough.

Our Nation's greatest resource is its people. Can we afford to squander the abilities of over one-half of our citizens?

I believe that men and women are equal and that all of us will be served by the elimination of sexual discrimination. Women should not be denied jobs because of their sex.

As I said once, so I repeat again, sex discrimination must be permanently eliminated—not tomorrow, or next year, or next decade, but now.●

● Mr. GLICKMAN. Madam Speaker, I rise today as an original cosponsor of the resolution introduced today proposing the equal rights amendment and I would hope that Congress will approve the amendment quickly. Someday our grandchildren will read that the ERA failed to be ratified in 1982 and they will be as puzzled as were school children who read of the long struggle to secure the right to vote for women 60 years ago. National polls indicate overwhelming support for the ERA. I am proud that my own State of Kansas was one of the first States to ratify the ERA shortly after it passed the Congress last time and I also want to do whatever I can to insure ratification by the States this time.

The state of the economy has underlined the importance of the ERA because the battle for equal rights is very much an economic issue. Women in this country, on the average, earn only 59 cents for every dollar earned by men. Poverty is overwhelmingly a women's issue. Two out of three older Americans living in poverty are women; 70 percent of all legal aide clients are indigent women seeking help with social security, food stamps, or aid to families with dependent children (AFDC); 61 percent of all recipients of medicaid are women; 50 percent of all persons living in subsidized housing are elderly women living alone. It is important to keep in mind that although the 9 million female-headed families in the United States make up only 15 percent of all families, they make up fully one-half of all the families living below the poverty level.

The basic goal of the ERA is to insure basic constitutional protections for all of our Nation's citizens. But, the ERA failed to be ratified, in part, because the real issues were clouded by irrelevant and peripheral arguments and because radical views on both sides got more attention from State legislatures than the fundamental principles behind the amendment. In an effort to move ratification along this time, one suggestion that has been made and which the Congress needs to examine is the possibility of changing the word "sex," the last word in section 1, to "gender." This could prove to be a clarifying change which might help to defuse some of these irrelevant arguments and refocus the debate on the concept of basic fundamental rights for all citizens. In that way, it would enhance the chances for ratification. I am writing to the following organizations and individuals to solicit their thoughts on the ramifications of such a change: National Organization for Women, American Association of University

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Women, National Women's Political Caucus, American Bar Association, Congressional Research Service, League of Women Voters, Laurence Tribe (Harvard Law School), William Van Alstyne (Duke University School of Law), American Civil Liberties Union, Women's Equity Action League, B'nai B'rith Women, National Association for the Advancement of Colored People, Common Cause, Church Women United, U.S. Commission on Civil Rights, Justice Department, and National Federation of Business and Professional Women.

Madam Speaker, the struggle for equal rights in America did not end on June 30. There should be no time limit on equality. This is fundamental to all women; in fact to all Americans. My father, my son, and I are entitled to all the protections guaranteed by the Constitution and I see no reason why my mother, my wife, and my daughter are not entitled to these same basic rights as well.●

● Mr. MATTOX. Madam Speaker—

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights . . .

Those words to not apply only to men, they must apply to all. It is evident in our society that they do not; we, therefore, are reintroducing today the equal rights amendment (ERA).

The ERA, which was first introduced in 1923, failed to become part of the U.S. Constitution before the original deadline for ratification ran out and has failed to attain enough States for ratification before the extension limit ended on June 30. The States that did not ratify the ERA should hang their heads in shame because they are collaborating in the continuation of discrimination.

We, the supporters of equality, pledge not to give up this mighty struggle until not only the ERA, but also equality for all citizens is reached in this great country of ours. We feel certain that the States which have stood firm through this first endeavor will act immediately upon passage of this legislation to again ratify the ERA. All right-thinking Americans should accept this new amendment as their rallying cry for equality. It is encouraging that so many Members of this Congress are strongly in favor of this legislation.

The wording of the ERA is simple. "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." We have considered changing this simple language to try to refine it and to satisfy some of its critics, but we have decided that there is no real reason for that action. What needs to be said is said in a clear, straightforward manner. Equality of rights is the cornerstone on which our representative democracy is built.

I am, and will continue to be, a strong adherent to the cause for equal rights, not only for women, but for all citizens of this Nation. In 1971, when the Texas State Legislature ratified the original equal rights amendment to the U.S. Constitution, I strongly supported its action. At that same time, the legislature placed on the ballot an amendment which would include equal rights language in our State constitution. I was running for the State legislature in 1972 and had the privilege of campaigning actively or that State equal rights amendment. Passage of the amendment was an important part of my platform. I was elected, and the amendment passed overwhelmingly. In 1975, I served as a member of the committee of the Texas House of Representatives which had jurisdiction over constitutional matters. The committee reviewed the claims of opponents of equal rights. The committee was presented with statements of the appalling effects equal rights laws would have on our State. We found then, and I am happy to report now, 10 years later, that none of the evils forecast by ERA's detractors have come to pass in Texas. ERA has served as a positive force in our State. Many laws have been changed to erase the inequality women have faced in the areas of credit and property rights.

In 1978, as a member of the U.S. House of Representatives, I again had the privilege of showing my support for equality for all citizens by voting for extension of the ratification deadline for the ERA. Along with other supporters, I participated in marches and counseled legislators in other States in order to encourage the ratification of the amendment. As an individual who had been a long time supporter of equality, I wanted others to know that political success is in no way thwarted by backing the equal rights amendment.

In good conscience, we cannot say that women deserve fewer rights than men. Women are the backbone of our families and our Nation. They are taxpaying citizens. Those who oppose the ERA forget the contributions that women have made. They overlook the fact that women carry many of the burdens and only reap part of the benefits. It took more than 140 years for women to obtain the right to vote. Until 10 years ago, they did not have an equal opportunity for education or a right to equal pay. We are slowly moving to rectify the imbalance. The ERA is one of the ways in which we can do this.

Along with ERA advocates, I felt the bitter disappointment of not gaining enough States for ratification. Nevertheless, I have learned from our history that if we do not give up in our struggle for right, success will come. There is old saying: "When the going gets tough, the tough get going." In the face of adversity, we need to get going. We need to stand up for what is right.

We Americans pride ourselves on our freedom and it is right that we should. We are the greatest free nation in the world. We are a beacon of liberty. People the world over look to this Nation as as example of a free society. We of all people should not forget that freedom is more than a word, it is a right, We need to realize that in restricting the rights of others, our own are restricted. Abraham Lincoln pointed out that "in giving freedom to the slave we assure freedom to the free."

America should stand as an example for other countries in the area of human rights and we should use our influence to advance the cause of women's equality internationally. We already use our Nation's influence abroad to fight racial discrimination. We should also use our influence to fight discrimination against women. Before we can do this, we must be certain that our own house is in order. We must wipe out any vestiges of discrimination against women in the laws of this Nation.

I believe that women, indeed all Americans, are entitled to equal access and equal treatment under the law. If we err in our judgment as to the rights of individual citizens, we should err in the direction of liberty and not in the direction of restriction. I agree with Woodrow Wilson when he said that: "Liberty does not consist in mere declarations of the rights of man. It consists in the translation of those declarations into definite actions."

My colleagues I will be leaving the Congress this year, but I will continue to support the cause of equal rights for all citizens, I intend to push for ratification of the ERA and defend the rights of all our Nation's citizens in whatever position, or capacity, I may hold in the future.●

● Mr. ERTEL. Madam Speaker, Today I am reintroducing the equal rights amendment in the House of Representatives. And today I and my colleagues in Congress who support the ERA are renewing our commitment to the fight for full and equal rights for women under the Constitution.

There are those who viewed June 30 as a day for burying the ERA. But there can be no time limit on the struggle for women's equality in our society. Many legal rights of women are protected by statutes, court rulings and executive orders. We can and will continue to work for statutory change, but women need the permanent protection against discrimination guaranteed by a constitutional amendment. More than ever before, the ERA is an issue of economic justice. The majority of women are in the work force, but

women still only earn an average of 59 percent of what men earn. Three out of every five persons living in poverty are women. And women are being hurt disproportionately by the Reagan administration's cuts to social programs.

The ERA campaign will be successful because something else is happening. For the first time, polls are showing women's views on political issues differing substantially from those of men. Women, who won the right to vote 60 years ago, are now emerging as a voting bloc to be reckoned with and they will work for and vote for those who represent their interests.

In 1848 the first convention of the American women's movement was held in Seneca Falls, N.Y. The "Declaration of Principles" adopted at Seneca Falls stated: "We hold these truths to be self-evident: that all men and women were created equal * * *" In 1982, 134 years later, this truth is still not written into our Nation's Constitution. The fight for women's equality is longer than we thought, but, as Members of Congress today are declaring to the American people, it is more alive now than ever.●

● Mr. BARNES. Madam Speaker, today marks a new beginning for an old idea, the equal rights amendment. The reintroduction of the amendment is not marked by failure, however, but by new energy, united support, and stronger determination than before. It is a challenge that we meet with a revival of commitmemt. It gives us an opportunity to reaffirm our convictions, to draw lessons from the past, and to work even harder for ratification.

The majority of women in this country share the same problems, frustrations and goals for their families and for themselves. Over 70 percent work outside the home because of economic necessity and are faced with burdens relating to day care, inequitable salaries and benefits, lack of access to traditionally male jobs, and discrimination in education and training. If they are divorced, they are subject to restrictions on custody and child support, credit eligibility, and the disposition of marital property. If they are elderly, they suffer from disproportionately lower pensions, aggravated by cuts in vital services such as medical care and housing.

Predictions about a destruction of the family unit or a "breakdown in morality" do not belong in this debate. We are concerned about barriers in everyday life that cut women off from the economic equity to which they, as human beings, are entitled. The equal rights amendment is needed to establish a national standard of protection against discrimination based on sex. It is the only assurance of equal rights and opportunities for all Americans.

It took the women's vote 41 years to get through Congress. The equal rights amendment will be ratified when the majority of men and women in Congress and in State legislatures across the country reflect the will of the American people on this issue. Our commitment to ratification must be translated into the election of public officials who are sensitive to the problems of women and their families and who truly want change. I am looking forward to working with my colleagues in Congress, women's groups, and ERA supporters everywhere for as long as it takes to achieve our goal.●

● Mr. BINGHAM. Madam Speaker, I am proud to join my colleagues today in reintroducing the equal rights amendment. Today marks the start of the ratification process for the ERA and I am confident that this time ERA will become the law of the land.

There is no need to resort to recriminations over our June 30 loss. No one ever said that enactment of ERA would be easy though, early on, it seemed as if the amendment would sail through the legislatures. Frankly I do not think that we anticipated the tenacity and determination of the opponents of ERA. Those people who are frightened at the very idea of equality for women put up a good fight. Using scare tactics, they were able to convince many women and the necessary number of legislators that ERA meant unisex bathrooms, and end to alimony, women in combat, and a host of other frightful prospects. Of course they distorted the amendment, they lied about the amendment, and, sadly, they prevailed.

It will not happen again. This time those of us who back ERA know what we are up against. We are ready to fight their distortions with truth. Women all over the country are ready and determined to use the ballot to convince hesitating lawmakers that ERA is the only way.

There is one point that should not be overlooked. Opponents of ERA won the first round. But that is all it was. Those of us who back ERA intend to fight for it until it is part of the Constitution. We will keep coming back and unlike our opponents, we only have to win once.●

● Mr. CORRADA. Madam Speaker, I am honored to join today with a majority of the Members of the House of Representatives in reintroducing the equal rights amendment. I urge and expect the Congress to quickly approve the ERA for President Reagan to sign it and the States to ratify it. It is incredible to realize that even in this day and age, equal rights are not fully recognized to the over 50 percent of our population made up by women. The only clear way that this injustice can be redressed is through the enactment of the equal rights amendment.

To the same extent that there can be no discrimination on the basis of race, there should be no discrimination of the basis of sex. Work outside the home is no longer a matter of choice for the majority of women—if it ever was—equal pay for equal work is a matter of economic survival. The statistics are all there; they have been compiled, analyzed, studied, and debated, but the bottomline remains that women in the work force remain at the bottom of the line in terms of salary, promotion, recognition, and advancement. The progress made by women by focusing attention on this situation should not be underestimated. It is encouraging to note that young girls and women today take for granted their right to work at any job they choose and to which they are qualified. Nevertheless, this belief and confidence in their ability to tackle any job, is sometimes turned to disillusionment when faced by deeply engrained prejudices and resistance to recognizing the changed circumstances in which we live.

The needs and aspirations of all women should not go unrecognized any further. Fifty-eight percent of all mothers with children under 18 years of age were in the labor force in 1981 and 45 percent of mothers with preschool children were working. This represents a tripling in the number of working women since the end of World War II and a tenfold increase in the number of working mothers for the same period. For Hispanic women, 48 percent, or a total of 2.2 million women, are currently in the work force.

In conclusion the time is long overdue in this matter of human and economic justice. I urge all Members to endorse and expedite consideration of this vital constitutional amendment.●

● Mr. WIRTH. Madam Speaker, the women's rights movement has accomplished a great deal in the past decade, helping many women find their places in the boardroom, the laboratory, and in the House and Senate. But the average woman still earns only about 66 cents for every dollar earned by men, and poverty is becoming an increasingly female phenomenon.

Women have made great strides toward eliminating discrimination in our legal system, but the U.S. Civil Rights Commission found in 1978 that there were over 800 sections of the United States Code containing sex bias or sex-based terms.

There is no substitute for the commitment to equality for all Americans that the equal rights amendment provides, and there is no substitute for its ratification. At least 70 percent of the American people support this simple declaration, and by reintroducing it today, we hope to make the will of the majority heard.

The failure of the requisite 38 States to ratify the amendment by June 30 resulted not from a lack of popular

support, but from the intransigence of a handful of politicians. This minority must not be allowed to decree that more than half the U.S. population will continue to suffer discrimination.

Our Nation has a strong tradition of its people forcing the government to act. We saw it with the civil rights movement, and with the environmental movement. We shall see it with the women's movement, as well. I just hope that enough of the Government wakes up to the will of the people this time around to make the ERA part of our Constitution.

Without the ERA, years of progress accomplished through the hard work of many thousands of Americans can be buried in the sand dunes of shifting political fashion.

The equal rights amendment to the Constitution is essential not only to protect gains already made, but to secure the true equality for everyone, regardless of sex, that our society still lacks. In our own institution, the House of Representatives, only 19 of 435 Members are women. Only 5 percent of the executives in the top 50 companies are women. Three out of five working women earn less than $10,000 a year.

For women who have not had the opportunity for careers or for higher education, the statistics are more shocking. Women are heads of 15 percent of all families, but half of all poor families. The National Advisory Council on Economic Opportunity estimates that female-headed families will make up 100 percent of America's poor by the end of the century. Nearly three-quarters of the people over 65 who are poor are women, and the great majority of elderly minority women are living either near or in poverty.

Despite such obvious inequity, it is these women who will bear the biggest brunt of the administration's unfair economic program. Deep cuts in programs ranging from aid to families with dependent children to low-income housing to job training will increase rather than ameliorate this disproportionate burden.

The equal rights amendment will not be a panacea, but it will take our Nation a long way toward guaranteeing equal treatment under the law and equal opportunity for all Americans.

My State of Colorado adopted the ERA to its own constitution in 1972, and in 1976 rejected an attempt to repeal it. None of the negative horror stories ERA opponents warn us about came to pass; indeed Colorado's ERA has been a resounding success. I hope that States which have not supported the amendment will realize women and men can wait no longer for this measure to become part of our Constitution.

The ERA will replace political whims with permanence; it will replace loopholes with clarity, and it will replace partial equality under the law with full equality under the law.●

● Mr. GREEN. Madam Speaker, I am pleased to be a cosponsor of the equal rights amendment to the Constitution, which has been reintroduced today, and would like to take a few moments to express my support of this vital amendment.

It was a great disappointment to me that the equal rights amendment was not ratified by the last three States it needed by June of this year. Since 1972, the time of its most recent introduction in the Congress, I have supported the amendment and its goals. I feel strongly that passage of this amendment would assure women of equal protection and treatment under the law with respect to employment, pension laws, education and many other areas in which women are participating in increasing numbers today.

It is important that we continue this battle to protect the rights of women. Women have made many, many admirable and difficult gains in their effort to carve out an equal place for themselves in all aspects of our society. To deny them legal rights which would be assured with passage of this amendment would be, in my mind, unthinkable. I hope that, this time, the amendment will be ratified with enthusiasm by those who ratified it last time, and without hesitation by those who have not yet taken that step. I am proud to be a cosponsor of this new equal rights amendment and would urge my colleagues on both sides of the aisle who believe in equality—and I hope that includes all my colleagues on both sides of the aisle—to join me in pushing for ratification of the amendment.●

● Mr. SCHUMER. Madam Speaker, today's reintroduction of the equal rights amendment signals a positive new beginning in the effort to secure equality for women. Since the ERA was first introduced in Congress in 1928, its goal has remained clear and unchanged: To insure equal rights under law for all women in this country. Unfortunately, achievement of that goal has remained elusive.

The struggle by women to overcome inequality has been long and arduous. Women continue to confront formidable barriers to equal occupational opportunity and wage parity. It is an outrage that working women in this country receive less than two-thirds of the salaries of their male counterparts. Despite the fact that various Federal and State statutes prohibit discrimination based on sex, the vagueness and inconsistency in these statutes allow for the continuation of institutionalized discriminatory practices. Women have consistently been denied the protection of individual rights provided in the Constitution. Nothing less than a constitutional amendment is needed to rectify this injustice.

Although the most recent attempt to ratify the ERA has failed, the efforts of its proponents have clearly altered the public consciousness and awakened the Nation to the need for the ERA. The majority of Americans continue to believe in the necessity of the equal rights amendment. I urge my colleagues to listen to this public conscience and support the ERA legislation introduced today.

Madam Speaker, I suppose many are extending personal congratulations to Ms. Phyllis Schalfly and her cohorts for their temporary success in stemming the tides of progress. Ms. Schalfly has been enormously successful in convincing State legislators throughout the country that women should remain in the home—and therefore do not need protection against educational and employment discrimination—while she herself has abandoned the home for one of the most successful political careers in the country.

But while many are extending congratulations to Ms. Schalfly for promoting misconceptions, I remind her that polls overwhelmingly show that the majority of Americans support an equal rights amendment. I remind her that the tides of progress cannot and will not be halted or turned back. Women have come much too far politically, socially, and professionally to endure unequal treatment for long. Enjoy this victory, Ms. Schalfly, for it is sure to be your last.●

● Mr. FISH. Madam Speaker, on June 30, 1982, the equal rights amendment fell three States short of ratification. The battle for equal rights actually began in 1923, when the amendment was first introduced. It was finally passed by the Congress in 1972. While the past 10 years have been spent by proponents of the ERA attempting to realize a fundamental right that all persons are entitled to equal protection under the law regardless of sex, their wholehearted commitments have not been in vain.

The legislative history of the ERA clearly demonstrates there was little disagreement about the general intent of this amendment. The Senate Judiciary Committee report notes:

> The basic principle on which the amendment rests may be stated shortly: Sex should not be a factor in determining the legal rights of men and women . . . the amendment will affect only govenmental action; the private actions and the private relationships of men and women are unaffected.

Despite general agreement on the intent of the ERA, doubts have been cast on its effect. ERA was directed at eliminating gender-based classifications in law which specifically deny equality of rights or violate the principle of nondiscrimination with regard

to sex. In essence, gender would be eliminated as a factor in making determinations in day to day living. I believe that most, if not all, of the fears regarding ERA's effect were unfounded.

Since the passage of ERA by the Congress, the effort to make it a part of our Constitution has helped women to become increasingly involved in politics. Women have been elected to political office in unprecedented numbers; have been appointed by mayors, Governors and Presidents to positions of great authority; and have emerged as a critical factor in national politics. No longer can candidates ignore the views and needs of women.

The ratification effort had yielded many other benefits for women. Significant gains in protection under Federal, State and local statutes have occurred. Many gender-based classifications have been removed and greater protection has been afforded for discrimination based on sex. However, ERA is still needed to provide true equality of rights under the law.

I join my colleagues today in lending my full support for the achievement of a fundamental human right, one that all individuals in this Nation should enjoy.●

● Mr. AuCOIN. Madam Speaker, I take great pride in joining with my colleagues here today in reintroducing the equal rights amendment. I am for the E, the R, and the A. Because without the amendment, the same small group of people who worked to defeat it will make sure that discriminatory laws now on the books do not change.

And they will use the same misinformation and downright lies to do so, even though 63 percent of the women and men in this country support the ERA.

Opponents said the ERA would mandate unisex toilets. That Boy Scout and 4-H Clubs would be radically changed. That ERA would destroy the family.

Phyllis Schlafly stirred up a stew full of fears about the draft and marriage. She led well intentioned people down a path strewn with untruths that played upon their concerns and fears. She told housewives that the ERA would "take away their right to be a woman."

I cannot help but wonder if these same women and men who worried about what she said would be persuaded to go along with one of her newest projects—a personal campaign against the nuclear freeze movement. You see, she believes that, and I quote, "the atomic bomb is a marvelous gift that was given to our country by a wise God."

That makes about as much sense as saying that couples who decide not to have children should give up their social security benefits because they are not willing to provide a new workforce in the next generation. But she said that too.

Ronald Reagan did not support the ERA either, even though he did when he was Governor of California. And it is not hard to see why with George Gilder, the patron saint of supply-side economics, telling him that working wives, women with independent means, and government programs that support any of the above are enemies of the civilized society.

Do we need an equal rights amendment? Why are we joining together today to reintroduce a measure which was so recently defeated when the President says we can do it by looking at statutes?

We need this amendment because statute by statute changes are temporary, not lasting. They address specific, often narrow, policy issues one at a time. They can be repealed easily subject to sudden changes in the political tide. Their effect can be nullified with a simple regulation change. Only a constitutional amendment will eliminate sex discrimination on all levels, and do so permanently.

And because no matter what the anti-ERA forces say, women are not getting a fair shake under the laws of this country.

Women represent 42 percent of the total work force, yet they still earn about 60 cents on the dollar compared to men. They account for 60 percent of the net growth of the labor force in the past 10 years, yet they still get the jobs at the bottom of the ladder. Women with college degrees are often paid less than men who did not complete high school. Eighty percent of all families receiving AFDC welfare payments are headed by women; 70 percent of all food stamp recipients are women and children; 66 percent of all families living in federally subsidized housing are headed by women. Nearly 75 percent of all our senior citizens living below the povery line are women.

And less than 10 percent of all American families fit the traditional picture of an employed husband with a full-time homemaking wife and two children under the age of 18. Less than 10 percent.

In reality, 15 million children live in families totally dependent on the mother's income. There are 8.2 million female-headed families in this country—15 percent of all families, but 50 percent of all poor families.

So we have reintroduced this measure today. The President should join with us in supporting our effort. But he would not. Maybe we can convince him to substantively address discrimination against women by supporting the Economic Equity Act of which I am a cosponsor. But he probably would not do that either.

This time, as we press on with our fight, opponents from this White House to the courthouse would not get away with it. And neither will those who presented ratification in three final States. Women are organized like never before, they are raising money like never before, they are voting differently than men like never before, and they are running for seats in public office like never before—and winning.●

● Mr. RANGEL. Madam Speaker, proud as I am to take part in this continuation of the fight for the equal rights amendment, it makes me heartsick that the fight is necessary. America should be ashamed that universal, fundamental principles of freedom and equality remain unfulfilled in the United States.

For much of the history of our Nation, the American dream has been reserved for white males. Even at our most inspired moment—the formulation of a constitution based on inalienable individual rights—our Government denied the franchise to women, and citizenship itself to black slaves. The defeat of the equal rights amendment demonstrates that we are not so far from those days as we might have hoped.

Yet Americans chafe under oppression. Our history books are filled with the noble struggles of men and women overcoming these institutional injustices, securing for themselves and for posterity those fundamental rights which they had been denied.

The fight to ratify the ERA falls within this proud tradition. Eventually, the forces of equality, of liberty, and of democracy will triumph. The women of America cannot much longer be denied the rights that ought to be the privilege of all American citizens.

As long as the fight continues, my voice will be raised in support. The failure to have ratified the ERA is a blemish on the honor of our Nation, and an insult to half our citizenry. We must, and we will, prevail.●

● Mr. WILLIAM J. COYNE. Madam Speaker, I rise in strong support of the equal rights amendment. In doing so, I stand with the two out of every three Americans who favor this most important civil rights measure.

What we reintroduce here today as an amendment to the U.S. Constitution will be much debated. In this round of the debate, I hope that proponents and opponents alike will concentrate on the real issue ERA addresses—economic discrimination on the basis of sex.

Opponents of ERA confuse the argument by contending that the ERA is a social issue, and a social issue alone—a matter of determining how one section of society relates to another. But we should remember that it is the perpetuation of economic inequality by

reason of sex that is the underpinning of those relationships.

Some of those who helped defeat ERA in the first round—and I emphasize that it was only the first round—appear unaware of the facts of life in 1982 America. They offer a rather odd, anachronistic view of women's place in our Nation—seen but not heard, preoccupied with household chores to the exclusion of nearly all else, unwilling to bear the burdens of men.

Let us look at the world as it is, not as some people wish it to be. In 1980, 60 percent of women 16 to 64 were working for pay. The 44.6 million women workers comprise 42.6 percent of the work force. They include single women as well as mothers. In 1981, for example, 31.8 million children, or 54 percent of all children, had mothers in the labor force. In the last decade, women accounted for nearly 60 percent of the increase in the civilian labor force—roughly 13 million women compared to more than 9 million men.

As the numbers grow, the pay and status of women do not. Inadequate protections against sexual discrimination allow employers, in some instances, to hire women as a "cheaper pair of hands" with little fear of legal reprisal. This contributes to some rather irrational use of job skills. According to the National Commission on Working Women:

In 1979, full-time women workers who were high school graduates earned less on the average than male workers who had not completed elementary school. Women workers who had graduated from college earned less than men workers with an eighth grade education.

The situation is not improving. Today a woman can expect to make only 59.6 cents for every dollar a man makes. Women were arguably better off in 1955. I would like to share some statistics which show a rather distrubing trend:

	Annual earnings		Women's earnings as percent of men's
	Women	Men	
1955	$2,719	$4,252	63.9
1960	3,293	5,417	60.8
1965	3,823	6,375	60.0
1970	5,323	8,966	59.4
1975	7,504	12,758	58.8
1979	10,168	17,062	59.6

Source: national commission on working women.

Another shocking statistic which makes clear that women bear the brunt of economic discrimination is this: seventy-five percent of all people living in poverty are women. This is all the more ironic when we consider the role women play in lifting families out of poverty. According to the Department of Labor:

It is frequently the wife's earnings which raise a family out of poverty. In husband-wife families in 1979, 14.8 per cent were poor when the wife did not work; 3.8 per cent when she was in the labor force. Of all wives who worked in 1979, the median contribution was more than one-fourth of the total family income. Among those who worked year round full time, it was nearly two-fifths. Among black families, the median contribution of working wives was one third of the total family income.

The labor force participation of married women has almost tripled, from 17 percent in 1940 to 47 percent in 1977. Married women now number almost 25 million persons and account for nearly 25 percent of the paid labor force, up from 9 percent in 1940.

We need a strong ERA to protect the rights of the millions of women in the workplace. We also need an ERA to insure that women receive the full benefits of Government programs which theoretically treat all equally, but in practice evidence major discrimination against women.

Let us consider our social security system, the subject of much discussion during budget debates, but generally ignored at other times. In 1980, 35 million social security beneficiaries received $120 billion in benefits. About 52 percent of those beneficiaries were adult women. The social security system touches the lives of 90 percent of the 100 million or so workers in paid employment aged 16 or older, 40 percent of whom are women.

Under existing law, the benefit paid to the dependent spouse of a worker insured for benefits is 50 percent of the benefit paid to the retired worker. This law was enacted in 1939. It reflected the typical family role of that time of the husband being the sole source of family income while the wife was a homemaker. It also reflected the presumption that most marriages would be lifelong. Things are often very different today.

In private pensions, women fare little better. A 1972 study showed that 49 percent of men, but only 21 percent of women employed in the private sector were covered by a pension plan on their longest job. Those covered were not assured that they would receive a pension at retirement. Pension plans usually require 10 years of participation before an employee acquires a substantial interest in his or her pension credits. This is of particular concern to women, since many do not work long enough in one job to acquire a vested interest in their pension credits. Moreover, women tend to work more frequently for employers who do not have plans, and tend to work part time or part year more often than men do.

In the area of Government service, it is worth noting that the average male annuitant on the civil service retirement rolls as of September 30, 1978, received a monthly benefit of $903 while the average female annuitant received a monthly benefit of $606. Women tend to have lower earnings and shorter attachment to the Federal work force than men.

Madam Speaker, enactment of the ERA will not bring about an immediate end to the economic inequities women face. Without it, however, we can be assured that the women of the next generation will face many of the problems faced by women of this generation. We cannot rely on a hodgepodge of various State ERA's—and Pennsylvania has a good one—to remedy the economic injustice that is truly national in scope. My colleague from Maryland, Representative BARBARA MIKUSKI, has likened this route to "freeing the slaves one plantation at a time." Those State amendments would not address the Federal problems I outlined earlier. Nor does Federal legislation such as the Equal Pay Act and title VII of the Civil Rights Act of 1964, and Executive Order No. 11246, which deals with Federal contract compliance, cover employees of the U.S. Congress or of elected officials—employees which certainly deserve the full protection of civil rights guarantees.

We need ERA. It is a basic economic issue that relates to women's jobs, pensions, wages, social security, education, and many other areas. As long as injustice continues, there will be a campaign to bring about change.

There is no time limit on equality.●

● Mr. DOWNEY. Madam Speaker, I would like to take this opportunity to once again express my hearty support for the equal rights amendment. As a cosponsor of the original amendment, I also endorse today's reintroduction of the ERA by the members of the Congressional Caucus for Women's Issues.

As the wording of the bill states in part:

Equality of rights under law shall not be denied or abridged by the United States or by any state on account of sex.

I firmly believe that it is essential to guarantee women's equality under the Constitituon.

The fight for equality of rights for women shall not be halted simply because the original deadline has passed. I myself believe that insuring women economic justice and equality under all laws has become more vital and am willing, once again, to actively support ratification of the equal rights amendment.

It is with the hope of facilitating the passage of the amendment in this round of ratification that I would like to publically reaffirm my continued support of the ERA and my desire to foster the strengthening of America's conviction to commit itself to women's equality.●

● Mr. DICKS. Madam Speaker, I am delighted to appear here today in support of the reintroduction of the equal rights amendment. It has been very

encouraging for me to see the names of six of the seven representatives from the State of Washington listed as original cosponsors of this legislation to reintroduce the equal rights amendment, in addition to both U.S. Senators from Washington State. It is a sign that we in Washington State are committed to the fight for equal rights for women and have not been discouraged by that fact that we fell just three States short of ratification the first time this amendment was considered by the American people.

It is an important issue; we cannot become discouraged. If we as a Congress cannot emphatically say that we are committed to the principle of equal rights for women, expressed in this brief amendment, then we cannot be true Representatives of all the men and women of the United States.

What we are saying is simply: Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

I hope and expect that this second effort to State our national policy of nondiscrimination on the basis of sex is successful, and I am proud to be here today to speak out on behalf of the issue.●

● Mr. SABO. Madam Speaker, today 199 Members of this body and 53 Senators have joined together in reintroducing the equal rights amendment.

The need for this amendment has never been clearer. While the roles women play in our society are changing dramatically, our laws have not kept up with these changes. Most American laws affecting property rights during marriage are based on 19th century attitudes that discriminate against women. Inheritance and insurance laws often discriminate against women.

Equal pay and equal opportunity do not exist. Three out of five Americans living below the poverty line are women. Women must work 9 days to earn what men earn in 5 days. Two out of three older persons living in poverty are women. And the members of poor women grow larger every year. Obviously our laws are not adequate to eliminate sex discrimination.

The majority of the American people support the equal rights amendment. Organizations with membership of over 50 million people have endorsed the equal rights amendment. I think we should pass this amendment quickly and send it out to the States so that the public's will to end sex discrimination in the laws of this society can be realized.●

● Mr. FORD of Tennessee. Madam Speaker, 2 weeks ago, I attended a rally hailing "A New Day for ERA" in my Memphis, Tenn. district. The rally took place on July 1, 1 day after the ratification period for ERA expired. Opponents of equal rights hailed the day as a tremendous victory. However, ERA supporters knew that the occasion gave birth to a new struggle for equal rights.

Rallies similar to the one I attended in Memphis were being held across the Nation on July 1. At each, huge supportive audiences signaled the readiness of the American public to institute a change in equal rights policy. It is a change which will insure that all citizens—regardless of gender—shall be protected fairly and equally by the Constitution.

I believe firmly that the renewed spirit exhibited by ERA supporters at the July 1 rallies will motivate a clear and overwhelming victory for the new ERA. I can state such a claim unequivocably, because I know that in Congress, in our State capitals and in the hearts and minds of all Americans, no cause is more just, no goal more basic to democracy, no belief more essential to lasting freedom than our determined drive for equality.

I stand with great pride before you to express my support of the ERA. My pride is based on a knowledge that the passage of the amendment will enhance the lives of all Americans, and will finally end the cruel injustices that arise from sex-based discrimination.

One deadline has passed, but the battle for equal rights has not failed. The fight for equality will not relent until a constitutional amendment is ratified. Now is the time to live up to our constitutional guarantee that "equality of right under the law shall not be denied or abridged by the United States, or by any States on account of sex."●

● Mr. PICKLE. Madam Speaker, in the wake of the ERA's much publicized "passing," it is heartening to witness and disciple to a second coming. The equal rights amendment is not dead, it lives on as a unifying goal, and a worthy idea. Through defeat it has been reborn to political vitality.

Despite all the scare stories that are sometimes read into the ERA, it is really nothing more than a simple affirmation of equality and fairness. It has nothing to do with "sameness," but everything to do with opportunity—the kind of opportunity and judgement based on individual character that Texans have always valued.

In the 10 years since the amendment was introduced, women have made great advances, and I do not believe those struggles were in vain. But it will take more hard work, and more patience, before equal rights become the law of the land. The reintroduction of the equal rights amendment is, at least, a brisk first step in the right direction. It is the harbinger of redoubled efforts to come.

I was proud to be a cosponsor 10 years ago, and to sign the discharge petition that first got the ERA out of the Judiciary Committee. I am equally proud today to be an original cosponsor of ERA II.●

● Mr. BONKER. Madam Speaker, it is with great conviction and pride that I join with 204 Members of the House and 51 Senators in reintroducing the equal rights amendment.

I believe our prompt reintroduction of the amendment will send a message to State legislatures across the country that the ERA has good friends in Congress who intend to make ratification and equality of rights under the law for women a top priority.

Poll after poll shows that over 75 percent of Americans support equality of rights under the law for women. Over 450 organizations representing more than 50 million Americans have endorsed the ERA. This overwhelming support includes a broad array of Americans—labor unions, church and civil rights groups, legal, educational and medical associations, and all major women's organizations.

Yet despite this Nation's well-established support for just and fair treatment of women, this administration has not been swayed from its outright opposition to the equal rights amendment.

The Reagan administration's record on women's issues has been abysmal. Since coming to office, the White House has set out to weaken the hard won gains of women by purposefully relaxing Federal affirmative action requirements and slashing Federal funds for vital social programs that serve predominantly low-income women and children. President Reagan's appointment of women to high-level positions reflects the administration's dismal record on women's issues. Out of 398 top Government posts, only 44 have gone to women.

It is hard to believe that in this day and age, with over 46.9 million women in the work force, the President of the United States would work against an amendment to the Constitution that directly affects women's jobs, wages, education, pensions, social security, and homemaker's status. ERA is a bread and butter issue that only attempts to improve the economic well-being and social status of American women.

I am proud to come from the State of Washington, which has demonstrated its strong commitment to fairness by ratifying its own equal rights amendment to the State constitution. In all, 14 States have enacted ERA into their constitutions, and these States are an excellent example for ERA implementation on the national level.

During consideration of adopting ERA into the Washington State constitution, opponents made numerous grave and unsubstantiated claims about the problems the amendment

would bring. These were the same shamelessly specious arguments used by opponents of ERA on the national level.

Despite the doomsayers' predictions, Washington State's experience under ERA has been a wholly positive one, and one which has contributed greatly toward full equality for women.

Madam Speaker, in the largest sense we should not mourn ERA's temporary setback. I believe the opponents of equality may have won the battle but lost the war. The struggle for ratification has brought tens of thousands of women into the electoral process, equipped them with political skills and experience, and created a whole new political force that will not go away and cannot be ignored.

Today, I pledge with you to continue my efforts to win passage of ERA and guarantee equal rights for all Americans. Unlike the man in the White House, I believe in the "E", the "R", and the "A".●

● Mr. LELAND. Madam Speaker, I would like to express my strong support of the equal rights amendment (ERA), which sadly enough, has been reintroduced in the House of Representatives. Those States who failed to ratify the ERA should be disgraced and embarrassed that still, freedom, justice, and equality remain an unfulfilled dream for some of us in this land of freedom.

Freedom and equal rights for women is long overdue. But, we as minorities have never won any rights or received justice without a struggle. We are used to the suffering that is necessary to gain such simple triumph that many take for granted in this country. We will prevail. The ERA will prevail because we have the determination to continue this struggle for humanity, for as long as necessary, in order to obtain equal rights for women.

We must rededicate ourselves to the democracy for equal justice. Because the passage of the equal rights amendment is imperative now. Currently, women still earn 59 cents for every dollar a man earns. Three out of five persons with incomes below the poverty level are women. And older women are the fastest rising poverty group. The passage of the equal rights amendment would establish a uniform policy that would erase the history of sexual discrimination in America. I say to you today, the time has come for equal rights, equal pay, and equal opportunity for women. As a cosponsor of the equal rights amendment, along with over 200 Members of Congress and millions of determined Americans—we will not settle for less. For not only are all men—but all people are created equal.●

● Mr. STOKES. Madam Speaker, I would like to thank my colleagues, Congresswoman PATRICIA SCHROEDER from Colorado and Congresswoman MARGARET HECKLER of Massachusetts, for taking out this special order on the equal rights amendment. I address my colleagues today on this subject with mixed emotions.

First, I am pleased to be a cosponsor of this constitutional amendment which is being reintroduced today. I plan to be an active partner in the movement in this legislative body to win passage for the equal rights amendment.

Second, I am appalled that this process has to take place again because of the lack of positive action by a few States on the equal rights amendment. As we all know, June 30, 1982, was the deadline for ratification of the equal rights amendment by the States. The ratification deadline passed with us still 3 States short of the 38 needed to put the equal rights amendment in the Constitution. This is a sad commentary on a nation which boasts of equality and justice for all of its citizens.

In my mind, the equal rights amendment is one of the landmark pieces of legislation considered by the Congress and a critical issue in the history of this Nation. It is essential because it would, for the first time in this Nation's history, grant women full status as equal citizens under the Constitution and establish a standard for eliminating discrimination on the basis of sex. The prompt and judicious manner in which we act on this amendment may well be the sole hope for women to have fair and equal opportunities in employment, education, and other facets of their everyday lives.

Madam Speaker, we must act as soon as possible on this constitutional amendment. We cannot afford to bide our time and merely pay lip service to the philosophy that all of our citizens, especially women, are equal in our society. We can no longer tolerate the current piecemeal approach to ending sex discrimination through existing laws such as title VII of the Civil Rights Act, title IX of the education amendments and the Equal Pay Act. These laws, while addressing some of the problems of women, have not provided adequate enforcement and have not placed us closer to eradicating the practices of discrimination against women in this Nation. We must act now, positively and definitively, on the only measure which may address the problem, the equal rights amendment.

We need only to look at women in the workplace in this Nation to justify the need for expeditious action, congressional approval and ratification of the equal rights amendment. Today, more than 44 million women are in the working sector of this Nation. They account for over 60 percent of the growth of our labor force in the last 10 years. While that may sound impressive, when balanced against the fact that women are still paid only 64 cents to every dollar paid to men, the situation is placed in its proper perspective. This and other inconsistencies in the treatment of women cannot be allowed to continue.

Madam Speaker, in closing, I would like to say that there was a great need for the amendment when it was first introduced in 1923; 49 years lapsed before it was passed in Congress in 1972. In 1982, I hope that we will give the equal rights amendment the final momentum needed for it to become a part of our Constitution. By doing so, we will be one step closer to actually being a nation of equality and justice for all citizens.●

● Mr. WAXMAN. Madam Speaker, I have joined approximately 200 of my colleagues in reintroducing the equal rights amendment. It was essential that we immediately reintroduce ERA to reaffirm our commitment to equality on the basis of sex. By so acting, there will be no erroneous perception in this country of an interruption in support by Congress of this long overdue change to our Constitution.

This legislation is an outright rejection of the President's mathematical notion that explains his support of two-thirds of ERA—equal rights, and opposition to one-third—the amendment.

Two-thirds of ERA, simply stated, is the status quo. Two-thirds of ERA will mean continued inequality for women in employment, education, and health care. Two-thirds of ERA will mean that pockets of inequality will exist throughout the country in States that lack their own ERA or will not enforce it.

Ironically, two-thirds of ERA does not even assure American women of two-thirds of their rights. Women presently earn less than two-thirds of what men earn for comparable work; actually, only 59 percent, I suspect that President Reagan understands that 59 percent of equality is not two-thirds of equality. But I truly doubt that he understands that two-thirds of equality is, in fact, inequality.

The battle to secure ratification of ERA will be long and difficult. Regaining the momentum will take time. But we will prevail.

The polls clearly show that support for this constitutional remedy to inequality pervades the country. A recent Harris poll shows an approval rate of 63 to 34 percent nationwide. Thirty-five States, representing 70 percent of the population, ratified the amendment before last June 30.

For many voters, of both political parties, ERA will rank with budget cuts, unemployment, taxes, and peace as issues on which final ballot decisions are made.

History tells that it took three generations for women to gain the right to vote. We, in Congress, who are acting today, pledge ourselves to keep

introducing the equal rights amendment for however many generations it may take until it, too, becomes part of the Constitution. Some battles are quickly won. Others take longer. We will persevere until our constitution accords to women—the majority of all Americans—full citizenship.●

IN SEARCH OF FAIRNESS—THE 1983 BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 30 minutes.

● Mr. GREEN. Madam Speaker, when this Congress convened in January 1981, we faced double-digit inflation, interest rates which seemed unimaginable only a few years ago, unemployment well above our historic norms, the lowest personal savings rate of any industrialized country, and declining growth in our productivity. Last year we began a program which many of us hoped would lead to economic recovery. Unfortunately, our economy is not improving as rapidly as we had hoped. Although inflation has eased considerably, unemployment continues at unacceptably high levels, the recession persists, and interest rates, though down, remain far too high. I have long believed it essential that we pare Government spending and reduce the deficit as one element of our approach to our economic problems. However, we need to do this in a fair and equitable manner. All segments of the Federal budget must take their share of the cuts. When we began this process last year, excesses could be found everywhere, and I consistently emphasized to my colleagues in the Congress and to the White House that no programs should be exempt from scrutiny.

BILL GREEN PRIORITIES

Having said this, I hasten to add that we must still set priorities. Clearly, some programs provide greater benefit than others and should be given emphasis. In contrast, other programs contain greater waste and should be cut more. As last year, my greatest priorities for funding this year continue to be mass transit, health care, education, legal services for the poor, energy conservation, food stamps, and housing. I also continue to think that we cannot support and do not need all of the enormous increases proposed for defense, particularly in the area of strategic nuclear weaponry though I do support increased spending for improved conventional military readiness, and that we should cut back on agricultural subsidies and environmentally dangerous water projects. These were the views I had last year and which I carried with me into this year's budget battle.

OUTLINE OF THIS STATEMENT

In my statement today I should like to recap briefly the events of last year and, thereby, explain what led up to our present budget debate. Then I will describe actions this year which brought us to consideration of the first budget resolution. Finally I want to outline in some detail the various proposals for the first budget resolution and explain my votes.

GYPSY MOTHS

How did we get where we are in trying to form a budget for the coming fiscal year? What events led us to the task we now face? During consideration last year of the budget, it became clear to me that I would face a great challenge in fighting for the critical interests of my region of the country. Consequently, I joined in organizing a group of Republicans from the Northeast and Midwest, which has become known informally as the "Gypsy Moths," to contrast us with southern conservative Democrats, who have been known for years as "Boll Weevils," to work for our regional interests within the context of our overall desire to restrain the growth in Federal spending.

ACTION IN 1981

Throughout last year we fought for the programs most important to our region and met with considerable success. Among other accomplishments, we killed an attempt to place a cap on medicaid, saved mass transit operating assistance, preserved a sound guaranteed student loan program, protected funding for energy conservation, and helped to retain funding for the Legal Services Corporation, which provides essential legal counsel for the poor.

While I was pleased with these successes, I was disturbed at the unreasonably high defense expenditures proposed by the administration. Several times when the Gypsy Moths negotiated with Budget Director David Stockman, who was representing the President, I pressed the defense point and told Stockman that there simply was no way that the Pentagon could absorb that level of increase—$20 billion—in a single year without gross waste. Every time Mr. Stockman responded that he knew the increase was too large, but that he needed to hold that money in reserve as a kind of contingency fund. He asked, for example, what would happen if we suffered another natural disaster of the magnitude of Mount St. Helens? In such an event, he argued, he would need an additional billion dollars or so, and he would not want to get that by simply adding to the dificit. Instead, he said, he would want to take that from defense. Or, Mr. Stockman asked, what if interest rates did not come down? In that event he would probably need several billions of dollars. Again, he would want to take that from defense rather than to add to the deficit. It was after these discussions—and our successes in preserving programs important to our region—that most of the Gypsy Moths joined the majority of the Congress during the summer of 1981 in approving Mr. Reagan's initial round of spending cuts.

As last year wore on we were spared another natural catastrophe such as Mount St. Helens. Unfortunately, however, interest rates remained very high, thus threatening a higher deficit than the $43.5 billion projected. I then expected Mr. Stockman and the administration to make good on their assurances and reduce the proposed defense budget. To his credit, Mr. Stockman did make this case to the President, who I regret, sided with Casper Weinberger, his Secretary of Defense, and decided that defense would not be cut. Failure to proceed with the Stockman plan to cut defense spending has cost us dearly. As a result, the financial markets lost confidence that what they had been told would be a $43.5 billion deficit could in fact be at that level, and interest rates shot up, thereby aggravating the deficit further.

In the fall, the President announced his intention to make a second round of cuts of 12 percent across the board in domestic discretionary programs, but defense was to be exempted. This was unacceptable. Consequently, the other Gypsy Moths and I argued that social programs had already taken their cut and now so should defense. We helped to reduce that 12 percent proposal to only 4 percent, but I was still unwilling to go along with that. It just made no sense to me to cut into social programs again and, at the same time, just allow defense spending to run wild. As a result, I voted in the minority against the second round of cuts last year.

ACTION IN 1982

The President submitted his budget proposal for the 1983 fiscal year in February of this year and it was rejected almost immediately by most Members of Congress. The President continued to propose cuts in social programs that were drastic and increases in military spending that were excessive and wasteful. Clearly, this was unacceptable to me and I was pleased that objections voiced in both the House and Senate resulted in withdrawal of this plan entirely.

RESCISSIONS OF 1982 MONEY

The President's February submission not only outlined his recommendations for 1983, but it also proposed revisions in the 1982 budget, which had been finalized only a few weeks earlier. For example, the administration requested that the Congress rescind about $9 billion in housing assistance, in addition to several other rescission requests. This particular rescission request was referred to the

Appropriations Subcommittee on HUD and independent agencies, on which I am the ranking minority member. I was disturbed that a rescission request of this magnitude came only 6 weeks after we had reached a compromise with the administration on the HUD and independent agencies appropriations bill and, in essence, repudiated that compromise. My subcommittee rejected the request and voted instead to rescind only $100 million. As of this writing, the supplemental appropriation bill to which this was attached has still not been finalized and, consequently, no money has been rescinded from the Department of Housing and Urban Development, though it is plain as a result of the Senate's position, that the supplemental appropriations bill will rescind more than I had hoped.

SENATE PLAN ON SOCIAL SECURITY

Following abandonment of the President's February plan, Members in the House and the Senate set about to try to craft their own budgets which would be more reasonable and which would have a better chance of gaining approval. One of the first of these came from Senator PETE DOMENICI, the chairman of the Senate Budget Committee. This plan would have increased defense and cut various social programs, including social security. Our Nation's seniors deserve a social security system on which they can count, and I regret that today's trust funds are on the brink of disaster. To restore the integrity of the trust funds and to reassure the country's elderly, I have recognized the need to make some short- and long-term changes in the system. I have endorsed certain changes in the system to shore up its financing and thereby regain seniors' confidence, but I do not think that we should seek to balance the budget by attacking social security. The Domenici approach was particularly ill-conceived.

To my dismay, the White House seriously considered endorsing this proposal and adopting it as its own new budget. My Gypsy Moth colleagues and I immediately requested a meeting with administration officials to voice our concerns. We conferred with White House Chief of Staff Jim Baker and OMB Director David Stockman and told them we simply could not support the Domenici plan nor would we support any plan which sought to balance the budget by cutting social security. Following that meeting, House Republican Leader BOB MICHEL announced that he would not propose the Domenici plan in the House and that some other budget proposal would have to be devised. This was a major victory for our Gypsy Moth group.

NEGOTIATIONS ON A NEW BUDGET

At that point the House Budget Committee set about to write its budget proposal. Together with other Members of the Cypsy Moth steering committee, I testified before the Budget Committee and strongly recommended fewer cuts in social programs, less of an increase in defense, and $25 to $30 billion in new revenues, which we thought should come from the tax breaks given the oil companies last year and a variety of other sources.

At the same time Minority Leader BOB MICHEL commenced a marathon series of negotiations among OMB Director Stockman, representatives of the Boll Weevils, and my Gypsy Moth group with the hope of reaching agreement on a budget which might gain a majority in the House. From the outset I doubted that there was sufficient common ground to bring these two very diverse groups together. As an active participant in the negotiations, I can attest to the fact that the sessions were long, arduous and frustrating. The Boll Weevils were unwilling to budge significantly on the defense spending issue and they were demanding very substantial cuts in entitlements, such as medicaid, medicare, and food stamps, and domestic discretionary programs. The programs these Democrats wanted to hit hardest were exactly the programs I listed at the outset of this statement as my priorities—mass transit, education, health care and others. The programs I proposed to trim—defense, agricultural subsidies, and water projects—were the very programs most dear to the Boll Weevils.

BUDGET RESOLUTION ALTERNATIVES

After many sessions, the Republican leadership decided it had a package which could win. However, the product of these negotiations was one which, in my view, simply did not meet the criteria of equity and fairness. In short, it cut too drastically into social programs and continued down the road of unconscionable increases in military dollars. It was not a package I could support.

"MINOR" BUDGETS

There were several other budgets, however, that would also be offered. The first four of these were relatively minor and attracted few votes. The Miller substitute would have frozen almost all spending at 1982 levels and at the same time allowed revenues to rise gradually as a result of economic growth and inflation. In this way, Congressman MILLER would eventually have brought the budget into balance. This seemed an arbitrary approach to me, one in which we in the Congress abandoned our own judgment about which programs should be curtailed or eliminated.

Both the Obey and Fauntroy substitutes were attractive in some of their features, but terrible in others. Each was more reasonable, for example, in the treatment of domestic discretionary and entitlement programs, but they also called for enormous and totally unrealistic tax increases which, coming in the midst of a serious recession, could have had a devastating economic impact. To illustrate, Mr. OBEY would have repealed some of the most important economic stimulus portions of last year's tax bill and would have gutted the safe harbor leasing provison of that bill. Our own MTA in New York has taken important advantage of that provision in order to purchase badly needed now transit vehicles. I was responsible last year for adding that provision to the bill to aid mass transit and I was not willing to vote for a budget resolution which presumed its elimination. The Rousselot substitute provided for a balanced budget, but it would have done so by instituting an oil import fee—which would be devastating to the Northeast, slashing income security programs by over $26 billion, and cutting transportation by $3.5 billion, health programs by $8.7 billion, and education and training by $4 billion.

MAJOR BUDGETS

After defeat of these minor substitutes, we moved to consideration of the three principal alternatives: those offered by Representives LATTA—the Republican proposal—ASPIN—a coalition proposal—and JONES—the Democratic proposal. Because of the unusual conditions under which we considered these measures, we were also faced with votes on dozens of amendment to them, amendments which were often narrow in scope and would affect only relatively small portions of the substitutes.

EDUCATION AND DEFENSE AMENDMENTS

Two of the most important of these affected education and defense, and I voted for both of these. Representative SIMON offered an amendment to the Jones—Democratic—budget to increase education by $688 million to be distributed as follows: $228 million for title I, ESEA; $79 million for handicapped education; $60 million for vocational education; $238 million for Pell grants; and smaller amounts for educational block grants, Head Start and libraries. I was pleased to join a majority of my colleagues in support of this amendment. This same amendment was also offered to the other two major substitutes and I was pleased to see that it was successful in both cases.

I also voted for Representative SCHROEDER'S amendment to the Latta—Republican—budget which would have altered defense figures so as to retain the pay increase, add spare parts, reduce the number of supergrades in the Pentagon hierarchy, eliminate the B-1 bomber, take out all money for the MX missile except those for research and development, eliminate one of the new nuclear car-

riers, and remove money for binary chemical weapons. Unfortunately, this amendment did not prevail.

LATTA BUDGET

The New York Times editorialized on the day that the three major substitutes came to the House floor that "anyone who believes in sharing economic burdens fairly would, ideally, vote against all three." The Latta proposal was that which came out of the negotiations with the boll weevils, which was endorsed by the President and the House Republican leadership, which was offered by Congressman LATTA—the top Republican on the House Budget Committee—and which I have already indicated I found unacceptable. There can be no question that we need to get Government spending under control, but I am not willing to do that by decimating important programs that benefit the poorest of our society while we allow profligacy in the Pentagon.

THE ASPIN SUBSTITUTE

The Aspin substitute was intended by its authors to be a middle ground package between the Latta and Jones budgets. In its initial form it was more reasonable than either of the others in certain respects, but also less attractive in a few. During consideration of the three substitutes, however, Representative OAKAR offered an amendment to each to bring medicare back to full funding and to make this up by reducing defense. This was one of the more reasonable of the amendments offered and I voted for it. Ironically, however, the final result of the Oakar amendment was to leave the Aspin substitute, as amended, with the highest level of defense spending of any of the three major alternatives. For this and other reasons I voted against it and it received the fewest favorable votes of any of the big three.

THE GREEN AMENDMENT

The Jones substitute which was produced by the House Budget Committee was the most attractive to me of the three major proposals before the House. It had the smallest cuts in entitlements and domestic discretionary programs, provided the most reasonable increase in defense spending, and came the closest to the sort of budget I had recommended to the Budget Committee in the testimony I mentioned earlier.

I continued to be troubled by two important aspects of the Jones budgets, however. First, the level of defense spending was still too high. Chairman JONES obviously persuaded his committee to go along with this inordinately high figure in the hope of attracting conservative southern Democrats, the so-called Boll Weevils. President Reagan had requested $263.35 billion (budget authority) for fiscal year 1983, and Chairman JONES' committee included $242.85 billion. This was still somewhat too high. I believe that we need some increase in defense, but not so much that it is going to be wasted. Also, I think that that increase should go primarily for personnel and readiness and not for such weapons as the MX which no one has figured out how to base, or the B-1, which at best can perform its mission better than the currently operational B-52 for only 3 or 4 years.

Second, I was troubled by the level of tax increase contained in the Jones budget. During debate Chairman JONES made it clear that this revenue increase ($31.7 billion) would, in his mind, necessitate elimination of the third year of the tax cut which Congress enacted in 1981. In my view, such elimination would be foolish; it would deny middle income taxpayers the break they need and have been told they would get, and it would have a severely dampening effect upon an already troubled economy.

Consequently, I offered an amendment to the Jones substitute to reduce defense budget authority in 1983 by $16 billion, to reduce defense outlays by $4 billion, and to reduce the tax increase by $4 billion. My amendment would have accomplished several important goals: It would not have added to the deficit contained in the Jones budget, it would have brought revenues to a level where the Ways and Means Committee would have been able to retain the third year of the tax cut, and, because of the high ratio of budget authority to outlays cuts, it would have forced the Armed Services and Appropriations Committees to make necessary choices in strategic weapons systems rather than making cuts in readiness. This amendment would have brought defense outlays about $15 billion below the President's request. I think it is also important to emphasize that my amendment would have resulted in even greater savings in fiscal years 1984, 1985 and beyond because the scope of my amendment would have forced cuts in strategic weapons systems, which would have some outlay savings in the initial year or two, but tremendous savings in the outyears. Obviously, this sort of serious approach to the long-term deficit problems would have helped to restore the confidence of the financial markets.

Since my amendment did not seek to adjust other items in the Jones budget, it implicitly showed my support for that proposal's smaller cuts in domestic discretionary and entitlement programs compared with the Latta and Aspin substitutes. My amendment was endorsed by Americans for Democratic Action (ADA) and other organizations.

During the extensive debate on my amendment, I indicated that I would be willing to vote for the Jones substitute if the Green amendment were adopted. At the conclusion of the lengthy debate, the question was put to a voice vote and the Chair announced that the amendment had carried. At that point, Representative JONES, who opposed my amendment, asked for a division vote, during which Members rise and are counted. At the conclusion of the division the Chair announced that I had won by a single vote. After my having won twice, Representive JONES then demanded a recorded vote, in which all Members are summoned to the House floor and record their votes in an electronic voting machine. Unfortunately, an insufficient number of Members was willing to cast a recorded vote to decrease defense spending and the amendment failed.

THE JONES BUDGET

As I mentioned earlier, the Jones budget was by far the most attractive to me of the three which were presented. Unfortunately, Mr. JONES made his proposal a test vote on elimination of the third year of the tax cut. I think this personal income tax cut should be retained, I thought the Jones defense figures were somewhat too high, and, thus, I voted along with a majority of my colleagues against the Jones proposal.

BUDGET IMPASSE

Having defeated all of the various proposals, we found ourselves without any budget and at a momentary impasse. Despite what some in the financial community may have thought, this was neither catastrophic nor unprecedented. In fact, budgets had been defeated on the first round twice before in the short history of the budget process—which began in its current form only in 1974. The obvious approach was simply to go back to the drawing board, make some revisions in the proposals, and try again. Naturally, I hoped that moderates in the House would be able to come together and fashion a reasonable budget for the second round. Unfortunately, the Republican proposal became more conservative, and the Democrats on the Budget Committee threw in the towel by crafting a budget they knew would not attract the moderate Republican support they would need if victory was to be theirs.

THE SECOND TRY

To be honest, most observers conceded that the Latta proposal probably would have prevailed on the first round had it not been amended by Representative OAKAR to increase medicare and reduce defense. The success of this amendment to the Latta substitute lost it many conservative Democrats and the Latta proposal, as amended, failed. As the Republican leader announced on the night of the defeat of the first round proposals, the logical approach for him was to take his package a few degrees to the right

and hope to pick up enough conservative Democrats to carry the day.

That is exactly what he did, and it proved to a successful tactic. The new Latta budget was similar to the one in the first round, but it assumed larger cuts in nondefense programs than the earlier version. Representative LATTA proposed $2.2 billion more in cuts in entitlement outlays than the earlier version and $1.3 billion more in cuts in domestic discretionary programs. Obviously, from the priorities I have set forth throughout this statement, this was even worse than the Latta proposal I voted against earlier, and I voted against this one. Some Members argued that it was essential that we have some type of budget in order to give a positive sign to the financial markets and, therefore, we should vote for the Latta proposal. However, I agreed with the Times on the day of the vote when it advised that "there are things worse than" ending up without a budget, "and * * * one is (the) Latta budget. If this cruel proposal can be defeated today, the House can try again in the days ahead to bargain out a more reasonable compromise." As the Republican leader had predicted, however, he had attracted enough conservative Democrats for a majority and he won his victory on June 10.

Demoralized after their earlier defeat, the Democrats on the second round simply heaped on spending, ran up a deficit of $107.5 billion, and were defeated. I voted against their proposal too.

RESOLVING HOUSE-SENATE DIFFERENCES

The conference between House and Senate Members to resolve differences between the differing versions passed by the two bodies was a short one. Their compromise, or conference report as it is known, adopted the House figures for defense and revenues, and cut medicare $3.6 billion more than the House version which I had voted against. It cut $2.3 billion in assistance programs for the poor, including medicaid, aid to families with dependent children (AFDC), supplemental security income (SSI), and food stamps; and it cut $187 million in discretionary spending for education. Clearly, this was not a budget which reflected my priorities and on June 22 I was 1 of 208 Members of the House who voted against it. To my chagrin, the other side has two more votes than we did and the conference report was adopted.

THE SEARCH FOR FAIRNESS CONTINUES

Although I am disappointed at the contents of the first budget resolution, I should emphasize that this is only the first step in a budget process that will take us into the fall and possibly until the end of the year. We should remember, after all, that the first budget resolution merely sets broad spending goals and does not itself make cuts or raise revenue. At the outset of this statement, I indicated that I was looking for an approach to our economic problems that would be fair and equitable. Our next steps will be to pass a budget reconciliation bill, various appropriations bills and a tax bill to comply with the budget resolution the Congress has adopted. This will be an arduous task, and I pledge at this time to use my position on the House Appropriations Committee to pursue that course of fairness and equity and to try to bring reasonableness to our approach.●

INSANITY DEFENSE TO BE SUBJECT OF CRIMINAL JUSTICE SUBCOMMITTEE HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Madam Speaker, the Subcommittee on Criminal Justice has scheduled a series of hearings on legislation pertaining to the insanity defense. The first hearings are scheduled for Wednesday, July 21, and Thursday, July 22 in room 2237, Rayburn House Office Building. Persons and organizations wishing to testify or submit statements on the insanity defense are invited to contact the subcommittee in room H2-362, House Office Annex II, telephone (202) 226-2406.●

CODIFICATION OF TITLE 8, UNITED STATES CODE, "ALIENS AND NATIONALITY"

The SPEAKER pro tempore. Under a previous order to the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Madam Speaker, I am today introducing a bill to revise, codify, and enact without substantive change certain general and permanent laws, related to aliens and nationality, as title 8, United States Code. This bill has been prepared by the Office of the Law Revision Counsel as a part of the program of the Office to prepare and submit to the Judiciary Committee of the House of Representatives, for enactment into positive law, all titles of the United States Code.

Anyone interested in obtaining a copy of the bill and a copy of the draft report to accompany the bill, should contact: Edward F. Willett, Jr., Law Revision Counsel, House of Representatives, H2-304, House Annex No. 2, Washington, D.C. 20515.

Persons wishing to comment on the bill should submit those comments to the Office of the Law Revision Counsel not later than September 15, 1982.●

HECHT S. LACKEY, SR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. HUBBARD) is recognized for 5 minutes.

Mr. HUBBARD. Madam Speaker, I speak today in tribute to and recognition of a longtime friend of mine, Hecht S. Lackey, Sr., who died last Wednesday at age 80 at his home in Henderson, Ky.

Lackey served as Henderson's mayor from 1954 to 1962 and his administration tripled the capacity of the municipal powerplant, upgraded the city's water system, housing, and streets, and became the first Kentucky municipality outside Louisville to establish a mayor's biracial commission.

In 1955, during his first term as mayor, Lackey was named president of the Kentucky Municipal League. In 1957, he was the main promoter for obtaining a community college at Henderson.

I have mentioned only a few of his outstanding accomplishments as mayor of Henderson, Ky., a city of 24,800 across the Ohio River from Evansville, Ind.

Lackey was elected chairman of the Methodist Hospital board in 1947 after he helped lead a campaign to purchase the city hospital and turn it over to the Louisville Conference of the Methodist Church.

Following his years as mayor, Lackey continued to be an active civic leader. In 1963, he organized and became the first president of the Audubon Board of Realtors. He also was appointed as chairman of the Henderson Community College Advisory Board that year.

In 1962, he was appointed to the Kentucky Human Rights Commission. A year later, he was appointed to the Kentucky State Board of Education. He became chairman of the State board of education in 1968. Also in 1968, he became chairman of the Kentucky Association of Community College Advisory Boards.

During the 1960's, Lackey was honorary chairman of a $500,000 fund drive to expand Community Methodist Hospital.

Lackey also was a pioneer in communications in the Henderson area.

Ten days after Pearl Harbor was bombed in 1941, radio station WSON—a longtime dream of Lackey's—signed on the air. He sold that station, along with sister station WKDQ, to his son Henry in 1979.

In 1953, Lackey organized a corporation that put Henderson's television station, WEHT, on the air.

Other positions he held included chairman and director of the Henderson Federal Land Bank Association.

He also was an elder and a trustee of the Presbyterian Church of Henderson.

Tributes were numerous this past weekend at Henderson for Lackey, including an editorial in Henderson's daily newspaper, the Gleaner, and praise from his senior minister, Dr. W. Marvin Randolph, and a black Baptist pastor, Rev. Austin Bell, who served on Lackey's Biracial Commission for 8 years.

Dr. Randolph, speaking at the funeral service before a capacity crowd of about 400 at Henderson's Presbyterian Church, told of his admiration for "God's lackey Hecht," describing Hecht Lackey, Sr., as "God's servant and lackey."

Lackey is survived by his wife, Rebecca Woodruff Lackey, and four sons, State Senator Henry Lackey of Henderson, Hecht S. Lackey, Jr., of Seattle, Wash., George W. Lackey, of Tampa, Fla., and Herndon D. Lackey of New York City, and nine grandchildren.

Lackey's Congressman extends his sympathy to the survivors and friends of this outstanding American and Kentuckian who was indeed an inspiration to those of us who knew and admired him

INTRODUCTION OF H.R. 6735, EXTENDING RENEWABLE ENERGY BUSINESS TAX CREDITS TO 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

● Mr. FUQUA. Madam Speaker, the renewable energy business investment tax credits enacted in 1980 as part of the Crude Oil Windfall Profit Tax Act, are proving sucessful in ways that few of us foresaw at the time. According to testimony received by the Science Committee, aggressive entrepreneurs are using the tax credits, along with the accelerated depreciation provisions of the Economic Recovery Tax Act of 1981 and the utility buy-back provisions of the Public Utilities Regulatory Policy Act of 1978, to finance renewable electric systems and sell power to the grid. As a result, the market penetration of small windmills, parabolic trough collectors, photovoltaics, and other renewable energy technologies has been dramatically accelerated.

As chairman of the House Science and Technology Committee, I am pleased to see technologies that were developed with my committee's support successfully commercialized by the private sector with the aid of the business tax credits. However, I am concerned that this same assistance will not be available for the next generation of solar technologies which are just entering the engineering development phase. Systems such as solar thermal central receivers, parabolic dishes, large wind turbines, OTEC plants and advanced photovoltaic arrays will first achieve technological maturity in the mid 1980's. Unfortunately, that corresponds to the date the tax credits are scheduled to expire—December 1985.

The purpose of the bill that I and Mr. FISH, the ranking minority member on the Energy Development and Applications Subcommittee, are introducing today is to smooth the transition of these technologies from DOE to the private sector. By taking action now to extend the 15-percent business investment tax credit for solar, wind, geothermal, and ocean thermal technologies we insure that the first prototypes of these systems will be able to achieve modest market penetration. This incentive should provide the seed capital needed for mass production and ultimate widespread marketability. We also give the supplier and utility industries time to plan for the orderly development and demonstration of these technologies.

This continuity is especially important in light of the recent changes in the DOE renewable energy program. No longer can we count on repowering demonstrations or wind energy technology applications or mass purchases of photovoltaics, or geothermal loan guarantees to ease the transition to private sector financing. No longer can we even count on DOE to complete existing technology development and demonstration programs in an orderly manner. Therefore, it is crucial that we send the renewable energy industry a signal that Federal support will last long enough for it to be able to bring these new systems into the marketplace in the late 1980's.

I would like to stress that this is a very modest initiative. It would entail no additional revenue losses in 1983, 1984, or 1985. It would apply only to those renewable energy technologies contained in subclauses II and III of clause (i), section 46(a)(2)(c) of the Internal Revenue Code. It would exclude solar equipment for residential use, small scale hydroelectric facilities, industrial conservation investments, and a host of other desirable but potentially expensive items. It would not increase the size of the renewable energy business tax credits, but simply extend their period of application. It would not involve the Federal Government in any direct intervention or regulatory programs that would be contrary to the philosophy of this administration.

In sum, this very modest initiative would provide the needed incentives and stability of planning for the private sector to commercialize new solar technologies on its own. It would extend the Federal Government's historic role of assisting in the emergency of new energy industries—as it did for the oil, hydroelectric, and nuclear industries—to renewable energy systems. I urge my colleagues to support this initiative.●

THE RARE OLDTIMER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 10 minutes.

● Mr. PHILLIP BURTON. Madam Speaker, on June 25, 1982, a distinguished San Franciscan, prominent labor leader, and my dear friend, Joe O'Sullivan, was recently honored for his years of concern and dedicated service to his union and to the people of San Francisco.

Joe O'Sullivan was honored at a testimonial at the United Irish Cultural Center, Inc., and proceeds from this dinner were used to send youngsters to the Catholic Youth Organization's Camp Armstrong in the coastal redwoods country north of San Francisco.

On the occasion of this dinner, the newspaper the Irishman printed an article about Joe O'Sullivan entitled, "The Rare Old Timer."

I am placing that article in the CONGRESSIONAL RECORD to share with my colleagues this rare insight into one man's struggle for justice:

[From the Irishman, June 1981]

THE RARE OLD TIMER

Joseph Michael O'Sullivan, born July 13, 1902, in Tralee County Kerry, still has the passport which allowed him entry to the United States in 1924. He was a black-haired youth of 23, by trade a "joiner," and he was already a legend at home for his activities with the Irish Republican Army and his near escape from execution at the hands of the Free State Army during the Civil War.

Now 78, O'Sullivan is still a legend. One of the best-known labor figures in the Bay Area, he has been active for 56 years in the Carpenters' Local 22. Often a controversial figure, he has fought for better working conditions and is probably responsible for finding more jobs for workers in the trade than any other individual. With Jane, his wife of 55 years, the articulate and gracious O'Sullivan lives in the outer Mission District.

"Tralee was the headquarters of the British Army in County Kerry, and I'd say they had more soldiers stationed in Tralee than the population, which was 10,000 at the time.

"The Black and Tans used to patrol the streets together, in groups of 22 or 24. Curfew was 7 p.m., and everybody had to be inside with no lights burning. If you happened to have lights on they'd come and burn that house down and kill anyone in it.

"As a Boy Scout, I was given jobs to do. For example, although there was curfew on, we used to watch for lorries, to see which direction they would take. Usually a blockage would be put in the road or a trench dug, so when the armored cars came and were stopped, the IRA would make soldiers take off their hats and coats and shoes and would let them walk back to Tralee. There wasn't much killing.

"In 1920 I went to England with my brother, Jimmy, and we joined the "volunteers" (to protest the Partition). We were

known by numbers, not names, and when a building was burned down in Ireland, we burned down a building in England.

"I came back to see my mother, I guess it was around Christmastime. I had gone out one night with some friends, and I came home late, around 11 p.m. I didn't know that two members of the Irish Free State Army (who, during the transition time, were working more or less with the Black and Tans to enforce the Partition) had come to the house earlier looking for me.

"So I went to bed, and about 1:30 in came these two guys, and one of them stuck a revolver in my mouth and told me 'Now, you be brave, and things will go easy.'

"This may sound funny to you, but I heard a voice speaking to me. It said, 'Knock the gun out of his hand and run.' So I knocked the gun out of his hand and ran, but the other guy opened fire. I got one bullet through here (a scar still shows on the back of O'Sullivan's neck) and out my jaw, another one hit my tie, and two more passed through my coat."

O'Sullivan still cannot hide his emotion as he remembers meeting his parents the next day, who had known to find him at the house of some cousins. His mother knelt the entire night through, from 1:30 a.m. until 7 a.m., when she got up from her knees and said, "Joe's been shot, but he's not dead."

While recovering at the infirmary, O'Sullivan got a tip that the Free Staters were coming for him again. So, with seven pounds given him by his father, and without a pass to explain his departure, he left for England and worked a year as a carpenter with his brother, neither of them paying income tax in protest of the British government, before getting a passport to come to this country where an O'Sullivan brother was already living in San Francisco.

Soon after arriving here, the O'Sullivan brothers joined the Carpenters' Local 22 and found that their proficiency in the trade landed them plenty of work.

Then, the 1926 Carpenters' strike began, which was the third attempt to break the post-World War I, building-boom-triggered, "American Plan," which resulted in workers' wages being cut by as much as 71 percent.

The three O'Sullivan brothers, with two other Irish workers and a French driver, formed a "wrecking crew," sabotaging work sites where scab labor was employing, beating up the workers, and destroying tools. Not a savory job, but, as O'Sullivan says, he was young and tough at the time.

In the course of the strike a man was killed, rumored to have been hit on the head with a two-by-four. The October 26, 1926, edition of the San Francisco Bulletin blared, "Seven jailed for murder in Carpenters' Strike."

O'Sullivan was jailed for three weeks before two other men confessed to the killing.

The strike was lost after 12 months, and O'Sullivan, blacklisted for his participation, worked in Vallejo and Marin County before joining the union in 1928.

In 1935, O'Sullivan ran for Business Agent of the Local and was beaten by a man who had scabbed through the 1926 strike. He ran again in four months, this time winning the office.

Later, O'Sullivan's Local would strike for and win health and welfare benefits, the pension program and the dental plan.

When World War II began, carpenters were needed to work round the clock in shipyards and housing projects. O'Sullivan supplied the needed thousand workers by negotiating with the Homebuilders' Association, who had until then refused any cooperation with the Local.

O'Sullivan enlisted, serving as Navy Chief in the Seabees for three years. When the war ended, he was asked to resume office with the Local. In 1947, he was elected President of the Carpenters' District Council and later President of the San Francisco Building and Trades Construction Council.

An amendment was passed in 1975 prohibiting union members over 70 years of age from seeking office. O'Sullivan, who was then 73, believes he was the union member the officials had in mind.

"I'd been bucking piecework shoddy workmanship, greasing of nails, using one nail where two are required—and, of course, I don't think the higher-ups liked it too well."

O'Sullivan took legal action, but the Courts upheld the statute. Then, members of his Local organized a petition drive for a dispensation from the Union's president general. That, too, failed.

At the time, the San Francisco City Strike was underway, and O'Sullivan, representing the Building and Construction Trades Council as Chairman of the Negotiating Committee, had been found in contempt of court and sentenced, with five others, to five days in jail and a $500 fine.

When O'Sullivan retired in 1977, the union gave a dinner in his honor at the Hilton Hotel. The facility, which holds 2,000, was filled to capacity. After all the bills were paid, O'Sullivan donated the $28,000 in proceeds to charity.

Since his retirement, O'Sullivan has been called upon to act as host and organizer of dinners for such dignitaries as Senator Edward Kennedy and Ireland's labor leader Michael Mullens. Representing the Irish Community, he served as Grand Marshall of this year's St. Patrick's Day parade, and in 1980 was awarded a trophy, presented by Senator Kennedy, as Irish Man of the Year.

Indeed, the Irish community has felt his influence, not only in his fight for better working conditions, but in the countless numbers of immigrants for whom he has found work in the construction trades. Anyone—Irish or not—looking for a job in the trades has, in some way, been looked after by O'Sullivan.

"Irish, Italians, Germans, Russians, Swedes, Finns, Turks, you name it. I looked after them and I didn't care who they were. Human beings," he said. "—all entitled to work."●

U.S. FARM EXPORT POLICY AND SOVIET GRAIN PURCHASES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ANTHONY) is recognized for 10 minutes.

Mr. ANTHONY. Madam Speaker, I rise to speak on behalf of the American farmer. The American farm economy is now in the third year of the worst economic depression we have experienced in 50 years. Net farm income for the last 2 years, adjusted for inflation, has been at a level equivalent to the 1932-33 period, when thousands of farmers were driven into bankruptcy. The outlook for 1982 shows no sign of price improvement or economic recovery for farmers. The farm families I represent cannot hold on much longer. Many will not be able to operate after this year unless dramatic developments soon turn the farm economy around.

One development that many of my farmers hope for is assurance that the United States and the Soviet Union can reach accord on a new long-term agreement for the sale and delivery of American grain to the U.S.S.R. Yet, the evidence is clear that the de facto grain embargo toward the Soviet Union imposed last December by President Reagan, is likely to continue. Yesterday's testimony in the Senate by Secretary of State designee George Schultz, gave no positive assurances that the administration favors a renewal of the 1975 grain agreement or that Soviet purchases made in the future will actually be delivered. The Washington Post confirmed this in an article on July 14. This is a formula for wrecking the farm economy of the United States.

Despite the action of President Reagan last year in formally lifting the Carter embargo on grain sales to the U.S.S.R., he has refused to allow Secretary Block and U.S. Trade Representative Brock to move forward to negotiate a renewal of the 1975 U.S./U.S.S.R. grain agreement. This agreement served the interests of both countries including the farmers of the United States and the consumers of the U.S.S.R.

The agreement was negotiated in 1975 by a previous Republican administration to cover the period through September, 1981. It assured annual sales of 6 to 8 million tons of grain to the U.S.S.R. It was extended by the Reagan administration for a year while they attempted to formulate a coherent policy regarding agricultural and industrial trade with the U.S.S.R. To date, the administration had failed to establish that they have a reliable export policy for agriculture.

Negotiations on another long-term agreement were scheduled for last February but were canceled by the U.S. side in December 1981, due to the Polish situation. This indefinite postponement of further talks with the U.S.S.R. on grain and the latest apparent decision within the administration, continues to weigh on the farm economy. Former Secretary of State Haig no longer remains as one of the obstacles to a new grain agreement with the U.S.S.R. It is time for the de facto Reagan embargo to end and for the President to allow the Secretary of State Designee, Mr. Schultz, to join with Secretary Block and Ambassador Brock so that plans for a long-term grain sales policy toward the U.S.S.R. can be established. To fail to do so will worsen the already desperate situation for America's farmers and will nullify any possible recovery of the farm economy for the next several years.

It is a fact that the Soviets will need to import in excess of 40 million metric tons of grain next year in order to maintain their livestock industry. They will be able to purchase grain from numerous worldwide sources to supply their needs. They already have bilateral supply agreements with Canada, Australia, and Argentina. The European Community will continue to sell the grain to the U.S.S.R. just as it will continue to participate in the joint pipeline venture with the U.S.S.R. which has provoked so much antagonism toward the United States by our allies. Yet, the American farmer is being effectively shut out of this major market by the administration's indecision and failure to formulate a consistent and dependable policy. To continue down this road only damages the U.S. economy and maintains the depression in agriculture. The U.S. farmer's livelihood will apparently continue to be a hostage to U.S. foreign policy considerations.

The U.S. Wheat Associates recently described a continued embargo as likely. In their view:

> The willingness of the Administration to inflict serious long-term damage to an already dangerously weakened U.S. economy in striving for obscure and likely unobtainable foreign policy goals is extremely alarming. . . .

The administration must recognize that without a reliable, assured policy of trade, the U.S. farm economy will be unable to emerge from the depression it is in. The result will be catastrophic for thousands of farm families, their local communities, and ultimately, the Nation's ability to feed itself and millions around the world.

I believe that the time has come for the administration to reach a consensus in favor of a grain sales policy toward the Soviet Union. Such an agreement would enable the U.S. economy and our farmers to benefit while the hard currencies used by the Soviets to purchase food from us would be unavailable for strengthening their military and strategic forces.

The evidence is clear that the Soviets have the ability to purchase grain elsewhere in the world and the failure of the Carter embargo demonstrates that we are not able to deny them the grain they need unless other supplying countries join us in that effort.

It is time for an infusion of realism to be injected in our Nation's foreign policy to counter the ineffective and destructive de facto grain embargo of the Reagan administration. If Secretary Block cannot persuade the administration of the value in such an agreement for the United States, then his usefulness as a spokesman for American farmers will have to come to an end. If that occurs, he should resign and return to Illinois.

□ 1330

SOCIAL SECURITY

The SPEAKER pro tempore (Mr. SAM B. HALL, JR.). Under a previous order of the House, the gentleman from California (Mr. LUNGREN), is recognized for 60 minutes.

GENERAL LEAVE

Mr. LUNGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous material, on the subject of my special order today.

The SPEAKER pro tempore (Mr. HUBBARD). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LUNGREN. Mr. Speaker, no other Federal program directly affects the lives of so many Americans as does social security.

Presently almost 1 out of every 7 Americans, or 56 million Americans, receive social security benefits and 1 out of every 2 Americans, or 117 million Americans, now contribute to the system through payroll taxes.

One of the highest priorities facing this Congress is restoring financial solvency to the social security program. There can be no doubt about the extent of the financial problems facing the system.

We have postponed consideration of this for some time. We have denied that this problem exists. But no longer can we do that.

The experts are in agreement now on this. According to the Congressional Budget Office the Social Security Board of Trustees, the Social Security Actuaries, the Retirement and Survivors Benefit Trust Fund, OASI, in which 85 percent of all social security benefits are paid, will be unable to pay full benefits beyond June 1983 and the entire system faces the possibility of insolvency by 1984.

In other words, Mr. Speaker, we have talked in the past about the long-term problems that we might have, about how some time in the distant future there may be some difficulties, and that has allowed us, as we have pushed this off into the future, to fail to come to grips with the problem.

Mr. Speaker, we can no longer afford to do that. We are talking about June 1983 for insolvency of one of the major three trust funds and, in fact, the largest one.

We are talking about full insolvency of all of the trust funds by 1984.

It is therefore up to the Congress to put the system back on firm financial ground and to do that as soon as possible.

Mr. Speaker, I called this special order today to set the record straight on social security as a member of the Aging Committee of the House of Representatives particularly concerned about those who seek to make social security a political football for the November 1982 elections.

The facts are that until the bipartisan task force formally called the National Commission on Social Security Reform releases its suggestions and reports to the Congress there should be no political rhetoric heard from any elected official regarding possible solutions or potential reforms. We really cannot begin discussing specific proposals until we have the benefit of the Commission report expected before December 31 and perhaps by November of this year.

Parenthetically, Mr. Speaker, I would say that in some ways it is too bad that we have to wait for the Commission report, but some will remember that the President of the United States had the courage and fortitude to come before the American people approximately a year ago and suggest that the social security system was in some difficulty and suggest further that those of us who have been elected to positions of responsibility in the executive and legislative branch must take some action to take care of those problems.

As all will recall, the President was met with a hailstorm of criticism suggesting that he was trying to undo the social security system.

Some voices were raised, if you can believe it, in this very Chamber condemning what the President had done. So despite the best intentions of this President we had to pull back and hold off on making any suggestions of serious reform of the system in terms of a national debate until we had established a commission.

I am sorry the President was forced to do that but political realities primarily created by this institution in this Chamber necessitated that he do that.

So what it means is that we will have the benefit of the Commission report sometime late this fall or beginning next year but it will also mean that the problem will be worse at that point than it was just a year ago. Therefore the solution may have to be more difficult than it would have been just a year ago if we had accepted the President's challenge for this House to make the tough decisions.

Mr. Speaker, if we were sent to this House to make easy decisions we certainly would not ask for the pay that we get. Many of us I do not think would work as hard as we have to get to this place.

This institution, both the House of Representatives and the Senate, would not be held in the esteem with which it is if people thought that the easy decisions were to be made here.

But I had always thought, and perhaps mistakenly so, that when we took

this job and took an oath to uphold the Constitution that we were going to accept the responsibility of making tough decisions.

Certainly one of the toughest decisions we have to make is how to restore solvency to the social security system. Americans should know that no proposal is now being considered in the Congress to change the present social security system.

Again, this is because we are waiting for the Commission report.

Furthermore, all current beneficiaries should be assured that no consideration is being given to reducing any earnings-based benefits being received by present recipients. I underscore earnings-based benefits because there are many other benefits that are not earnings based that have been placed on or grafted on to the social security system.

As a Member of Congress having the privilege of representing a large number of senior citizens, and I represent the original community of Leisure World where we have between 8,000 and 10,000 residents and the average age now is about 75, every third person there is 83 years of age or older, having the opportunity to speak to them on this issue I have found that they know that there are things other than earnings-based benefits.

They have suggested to me on many occasions that if we have to do something to restore solvency to the system one of the areas they have asked me to look at and one of the areas they hope the Congress will look at collectively is that of those benefits that are not earnings based.

By the way some have been discussing the social security program, however, many Americans now have been led to believe that changes may be made very soon. As a matter of fact, some have even been told changes have already been made and that is why so many are in somewhat of a questioning mood right now as they are getting their social security checks.

Mr. Speaker, I think the President of the United States, Ronald Reagan, should be commended for his efforts to depoliticize this effort. He had the wisdom to appoint a bipartisan commission to address the financial problems facing the social security system and for the Commission report to come after the November 2 elections.

If there is any issue that should be overseen in a bipartisan manner that issue surely is social security.

But in light of all of this, Mr. Speaker, it disturbs me to learn that the Speaker of the House and other Democrats are trying to repoliticize the social security issue.

On July 8, 1982, the Speaker was reported in the Washington Post as calling Republican television ads as an effort to "lie to the American people."

The implication clearly was that the President truly did not intend to keep his promise that social security beneficiaries would receive their full 7.4 percent cost-of-living adjustment this July 3.

These accusations are nothing more than a low blow and in the recent budget renegotiations President Reagan never once advocated changing the July cost-of-living adjustment for social security beneficiaries.

Furthermore, if the facts must be known, if the facts must be known, a budget proposal offered by the ranking Democrat on the Senate Budget Committee, that is the ranking Democrat on the Senate Budget Committee, contained a provision to change the cost-of-living adjustment for beneficiaries. That was not the President of the United States. That was the ranking member from the other side of the aisle in the other body on their Budget Committee.

In addition, last year during the budget reconciliation consideration it was the Democratic-controlled Ways and Means Committee which reported out a proposal to change the July cost-of-living adjustment. It was also the Democratic-controlled Budget Committee which brought this proposal for consideration before the House floor which contained the same provision.

Some who have accused my party of attempting to play politics with the social security issue and have indicated that somehow my party is to be held responsible for bringing forward some suggestions that changes ought to be made which would result in prospective benefits, that is benefit increases in the future, should really look at the record, should really look at the record.

There was some criticism that was immediately voiced some months ago when in the Senate Budget Committee considerations they suggested that we ought to acknowledge that over the next 3 years there will be a $40 billion shortfall in the social security system. They said that this was terrible because it would scare the recipients on social security that somehow we are going to balance the budget on the backs of the social security recipients.

Somehow forgotten, somehow obscured by the smokescreens of criticism that were then arising into the political atmosphere on the banks of the Potomac was the fact that it was a statement of reality. That is, unless we do something over the next 3 years there will be a shortfall of $40 billion in the social security trust fund.

We can say that we are not going to deal with it. We can say that we are not going to raise taxes to cover it. We can say we are not going to make some changes in benefits to respond to that. We can say any of those things we want but we cannot deny reality that there will be a $40 billion shortfall over the next 3 years in the social security trust funds combined.

But interestingly enough, as this criticism erupted like a volcano in both the House of Representatives and in the U.S. Senate, from the other side of the aisle they had forgotten to mention that the Democratic Party's action in 1977 when, I will remind my colleagues, the Democratic Party controlled the House of Representatives, controlled the U.S. Senate and also, of course, controlled the White House, the action they took in 1977 will total $93 billion in increased social security taxes and cuts of prospective social security increases, a figure more than twice what the Senate Budget Committee had initially stated as a recognition of the amount necessary to keep the social security system solvent over the next 3 years.

□ 1345

Let us just look at what happened as a result of that action taken by the Democratic Party as it controlled the House of Representatives, the U.S. Senate and the White House in 1977. This is the impact that we will see in 1983, 1984, and 1985—not by anything suggested by President Reagan, not by anything suggested by the Republican controlled U.S. Senate, not by anything suggested by any leader of my party in the House of Representatives. This is what is the impact over the next 3 years as the result of actions taken by the Democratic controlled House of Representatives, U.S. Senate and White House in 1977:

First, for the average beneficiary retiring this year at age 65, the 1977 measure will result in a cut of $130 per month in benefits. That is right; $130 a month in benefits, or more than $5,000, if you count CPI increases over the next 3-year period. That is not something done by President Reagan. That was something done by the Democratic controlled Congress and White House in 1977. For the maximum beneficiary over that same 3-year period of time, those cuts will total more than $6,000. For the average taxpayer, the 3-year additional social security tax will total a mere $685.

Let me just repeat, because sometimes it is very difficult to understand here what the facts are. These are cuts in projected benefits and tax increases that are now going into effect and will continue to go into effect over a 3-year period of time as the result of the Democratic Party-passed legislation, that is, when they controlled the House, the Senate and the White House.

Going on further, for the maximum paying taxpayer, the added tax translates into a 3-year hike of $2,280. I hope everybody heard that—$2,280 in

increased taxes placed on the shoulders of the maximum paying social security taxpayer, not by President Reagan, not by the Republican leadership in the Senate, not by the Republican leadership in the House. But, no, because of a decision made and placed into law by the Democratic controlled House of Representatives, U.S. Senate, and White House.

For the system as a whole, the 1977 amendments will mean that for fiscal years 1983 to 1985, $83 billion in increased taxes—and I would just remark in passing that this is a part of the largest increase in taxes ever placed on the American taxpayer during the peacetime history of the United States—and a $10.3 billion cut in benefits.

The point I am trying to make with all of this, Mr. Speaker, is not that the system does not need to have some changes, not that what was done in 1977 was entirely unpalatable or wrong, but the fact that the members of the party who are now viciously attacking in political rhetoric the President of the United States and his party for suggesting that we need to do something to take care of the social security system did far more in terms of increased taxes, did far more in terms of cutting projected benefits than has ever been even entertained unofficially or informally by this White House or by members of my party in this particular Congress.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, many Members on both sides of the aisle have had a great deal to say recently about the politicization of social security, and rightly so. A lot of people have done a lot of talking, and a lot of people have scared the daylights out of our senior citizen population.

My research indicates that these scare tactics have been used by Democrats, apparently trying to woo older Americans away from their traditional home with the Republican Party. Of that, I will say more later.

First, however, I want to take strenuous exception to the attacks made by prominent Democrats, including the Speaker, the Democratic national chairman, the Democratic Congressional Committee and Congressman CLAUDE PEPPER on the integrity of the President, the Republicans, and myself with respect to the July social security cost-of-living increase.

Some time ago, recognizing that the Democrats were trying to paint Ronald Reagan and the Republicans as some kind of social security villains, I had some ads produced. One, which the Republican National Committee decided to air nationwide, said basically: the President promised the 7.4-percent social security cost-of-living increase; you got it.

Apparently, the ad hit an extremely sensitive nerve if news reports on the releases flowing from Democrat offices are an indication. According to those reports, the Democrats were in a fury over the suggestion that President Reagan protected the 7.4-percent cost-of-living increase. Although the COLA was admittedly scheduled to go into effect under prior legislation, I say that the President does deserve credit.

Item. The House Democrat leadership's 1981 budget reconciliation bill would have shifted part of the social security COLA from July 1982 to October 1982.

Item. The Senate Budget Committee in 1982 proposed some $40 billion in social security savings. The ranking minority member, ERNEST F. HOLLINGS, Democrat of South Carolina, specifically proposed postponement of the COLA.

Item. Even the administration's own Department of Health and Human Services in 1981 proposed a series of social security reforms that would have postponed the COLA.

In the face of all of this, who was it who stood fast for cost-of-living adjustments as scheduled? To quote Social Security Commissioner John Svahn:

> The President was one of the few people in Washington who didn't want to change this year's cost-of-living adjustment, and that goes for a lot of people in the Administration who advise him," (Speech to the National Alliance of Senior Citizens, June 14, 1982.)

According to both wire services at the time of the Senate Budget Commission proposal in the spring of 1982, President Reagan refused to go along with any COLA postponement. UPI said:

> The White House dismissed a proposal by Senate Republican leaders for a 2-year freeze on Social Security cost-of-living adjustments as part of a package of measures to cut the deficit.

AP quoted White House spokesman David Gergen, "Social Security is off the agenda for 1982," and went on to say, "Gergen indicated the administration expects Congress won't consider a freeze on Social Security benefits this year. 'As long as they know what his view is, we assume they'll take that into account,' Gergen said."

And back when the much-mentioned HHS proposals were aired, the Charlotte News, May 14, 1981, regarding postponing the COLA, quoted an "administration source, who asked to remain anonymous" who "said the politically sensitive proposal has not been sent to President Reagan for approval."

And what did the President himself say? In a May 1982 letter to me and other Members of Congress, President Reagan wrote:

> In the past few days, several facts about Social Security have been distorted by political rhetoric. As you talk with senior citizens and Social Security beneficiaries, I hope you will give them my personal assurance that they will receive their full 7.4 percent cost-of-living increase in July.

And, Mr. Speaker, I was pleased to so reassure my constituents at that time; and I was pleased to see the President's pledge upheld this month; and now I am pleased to be able to say once again, "Ronald Reagan has kept his word."

That is not to say that there are not some hard decisions to be made once the bipartisan commission on social security makes its recommendations—and we are lucky to have a President who recognizes that necessity. But among those decisions will not be one that would reduce by so much as a dime the earned benefits of those on the system now.

Meanwhile, while all of this was going on, what were the Democrats saying? Those same Democrats who are accusing the Republicans of politicizing social security?

Well, Congressman CLAUDE PEPPER, using social security as a fundraising device for the Democratic party, said in part in a letter to thousands of senior citizens: "Unless you and I act—and act immediately—social security benefits could be drastically reduced or destroyed." Blaming the "President and his hatchetman, David Stockman," PEPPER asked these older Americans for their hard-earned money so that the Democratic Party could "count on your help in this battle to save social security." Not political?

And, while I was not privy to the internal discussions of the Democratic leadership, I did read the following in Time magazine, May 24, 1982:

> Texas Democrat J. J. Pickle, chairman of the House Ways and Means Subcommittee on Social Security, at that time (May of 1981) was drafting a bill (on Social Security) . . . In one of the more egregious examples of the partisanship that has dogged all efforts at Social Security reform, House Speaker Tip O'Neill ordered Pickle to go no further. The reason: O'Neill saw an opportunity for Democrats to assail Reagan as an enemy of Social Security, and he did not want the issue clouded by anything that could be interpreted as a Democratic plan to reduce benefits for anybody.

Not political?

On November 5, 1981, the Washington Post reported, in a story about the defeat of proposed social security reforms, reported:

> At a stormy session yesterday, O'Neill and other Democratic leaders reportedly warned Pickle that they still oppose long-range cuts and that if his amendment succeeded in committee it would never be allowed to reach the floor.

Obviously, these actions are blatantly political.

The fact is that social security is a national commitment regardless of

which party is in power. The American people have been done a serious disservice by those who suggest otherwise.

As President Reagan wrote in his September 24, 1981, letter to Mr. O'NEILL requesting the Speaker's cooperation in establishing the National Commission on Social Security Reform:

> The problems facing the nation today provide more opportunities for partisan debate than either you or I would prefer. Under these circumstances let us agree that forty-five years of tradition and consensus are too valuable to be broken, and the welfare of 36 million Americans too important to be jeopardized, by legitimate differences over matters immediately at hand.

Mr. Speaker, I brought this matter to the floor today and I documented this for a very specific reason: I was under the impression in September that we had reached an agreement on a bipartisan sense to seek a solution to insure the elderly of this country that their earned benefits would be protected in the future and to insure for all of the people now paying into the system that the system would be solvent when they retire. Unfortunately, by the use of bumper stickers, false statements, and advertisements sent out to look like official social security checks, the Democratic National Committee has politicized the issue. On July 1, the Republican Party put on the air a very simply advertisement, which I happen to have drafted, telling the truth, and I think it is important because truth benefits all Americans.

□ 1400

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

I think the scenario that the gentleman has just outlined is truly an outrage and the people ought to be outraged about.

I too have seen bumper strips that say, "Save Social Security, Vote Democratic." I think that the elderly and those people who are dependent upon a monthly check by the Social Security Administration have been greviously misled, and I think it is unfortunate that we would resort to the politics of fear, the use of emotion for those people who are admittedly having a difficult time getting along. But to try to scare them into how they want to vote in 1982 is a shocking disgrace and I think that this expose on the floor today is a good example of how we have to counter the massive funds of the National Democratic Committee and its use to take to the American people such unfair suggestions.

I met recently when I was back home on the Fourth of July recess with a number of southern Minnesota senior federation members, and I think that the National Democratic Party ought to bring a few of these people in and learn what the concerns are, and the concerns are, yes, there are problems with social security; yes, we recognize there are going to be changes, we do not want to put higher taxes on our kids and our grandkids for the future, and let us tighten up and make some corrective changes. And they have got a whole list of ideas that are not seriously damaging to anyone who is on the system if they were to be applied. But I think most of us think prospectively changes ought to apply to future applicants and not to those who are currently receiving social security assistance. But I think we ought to put behind us the politics of fear, the fact that legislative solutions have been denied because the Speaker's demands of key leaders that have taken the lead in solving social security problems from bringing forth to the floor, to the Congress, ideas and ways to solve the social security dilemma for this year and next year and into the 21st century are abominable and I commend those people who have worked diligently on both sides of the aisle to point out that there are problems, there are solutions that can be passed and need to be passed if we are going to provide the security for millions and millions of American people into the future.

I compliment the gentleman for bringing this very important matter to the floor of the House today.

Mr. LUNGREN. I thank the gentleman for his comment.

Mr. Speaker, the American people deserve better than to have misinformation and fear wrongfully imposed upon them regarding the social security program. Let it be known that there is no vacuum on the social security issue. Those that make statements regarding social security will have to back their words with actions. It is unfortunate that the words of many in the Democrat Party have repeatedly been inconsistent with their actions. In fact, one could be convinced from some of the rhetoric that the Democrats are saviors of the social security system. I wish it were true, but unfortunately it is not. I wish we had a bipartisan savings program for the social security system, but unfortunately that is not true.

Let me just illustrate this shortly.

First, last year the House Social Security Subcommittee held extensive meetings on a bill to address the problems of the system. For several weeks under the able and bipartisan leadership of Chairman JAKE PICKLE, the distinguished gentleman and Democrat from Texas. I want to stress bipartisan leadership of Chairman PICKLE because he did in fact consult and work with both sides of the aisle trying to build a consensus. Chairman JAKE PICKLE, the distinguished gentleman and Democrat from Texas worked to develop a package to be considered later by the House so that social security benefits would not be interrupted. It is unfortunate that this bipartisan effort was halted by the Speaker of the House and by the Democrat leadership when the Speaker of the House took Chairman PICKLE into the political woodshed and told him not to hold any further meetings on comprehensive reform legislation to save the social security system. The rug was literally pulled out from under the subcommittee. Why would the Speaker of the House do this? I cannot say for sure. I cannot get inside the gentleman's head.

But it sure makes social security a political issue for November 1982. What other reason could there be for tying Chairman PICKLE's hands from further consideration on a true reform bill? The Speaker was aware of the reports from the social security actuaries that unless Congress acted, in November of this next year benefits would not be able to go out in a timely manner.

It is also unfortunate that this action by the Speaker of the House, which stopped one of the true actions to address the financial problems facing the program, has quietly and conveniently been swept under the rug. On October 30, 1981, the Washington Post cited how the Democrat leadership was preventing the Social Security Subcommittee from holding further meetings on a comprehensive reform bill. The article even quoted the ranking minority member of the subcommittee, the gentleman from Texas, Mr. BILL ARCHER, as saying, "Chairman (PICKLE) wanted to hold a hearing today, but the Speaker told him he could not hold a hearing today."

In spite of these actions by the Democrat leadership, some Members of Congress did not just want to stand by and do nothing while the system continued to lose $12,300 every single minute of last year. Incidentally, the Social Security Administration now informs us that the financial problem has grown worse as now the system is losing $17,000 every single minute of every day this year. But a bipartisan effort was attempted on November 4, 1981, in the Ways and Means Committee again by Chairman PICKLE who was joined by the ranking minority member of the Ways and Means Committee, the gentleman from New York (Mr. CONABLE)

This bipartisan plan to address the system's problems was offered in committee and was ultimately voted down mainly along party lines. However, the next day, the Washington Post reported that the Speaker and other Democrats warned and chastised Chairman

PICKLE that if the bipartisan amendment passed the committee, it never would be allowed to reach the floor of the House for consideration. So much for the democratic process, I suppose.

Conveniently, another attempt to deal with the problems facing the social security system was to be prevented. The question then must be asked, Is the Democrat leadership truly interested in addressing the possibility of benefits not being paid out in a timely manner? If another effort is made to address this issue, will the Democrat leadership allow it to reach the floor of the House? In light of these past actions, the answers to these question are unknown. But the answer is suggested.

An editorial in the November 6, 1981, Baltimore Evening Sun put the entire issue into perspective last year:

There will never be an easy time to deal with Social Security's problems. The longer Congress waits, the harder it will be. The public sorely needs some peace of mind on this issue, and that is only going to come after a decision is finally made.

The editorial follows:

[From the Baltimore Sun, Nov. 6, 1981]

O'NEILL'S IDEA OF HOG WILD

No stopgap measure involving inter-fund borrowing or the like is going tc help the Social Security system out of its current difficulties. What is needed, and needed soon, is a commitment to make the system sound far into the future. A total overhaul of the Social Security system may not be needed, but sensible and modest changes are a must.

What we have in mind is something like the proposal that Representaitve J. J. Pickle (D., Tex.) and Barber Conable (R, N.Y.) put before the House Ways and Means Committee day before yesterday. The central feature is to begin in 1990 to raise gradually the retirement age from 65 to 67, offer workers inducements to stay employed after that and reduce slightly future benefits. These changes would provide an estimated average of $20 billion annually for the retirement fund for the next 75 years.

That is the sort of medicine a patient like Social Security needs. It won't taste too bad and it will restore health. It would cause present and future retirees nothing like the abrupt distress the Reagan proposals of earlier this year would have caused. It would cause almost no distress, in fact. But 18 of the 21 Democrats on the Ways and Means Committee followed the wishes of Speaker Thomas (Tip) O'Neill, Jr., and voted against it. It lost 14-18.

"I don't think we ought to move hog wild," Mr. O'Neill, said. He said he favored setting up a study commission. Hog wild! More study! Somebody's been spiking his Geritol.

There has been more than enough study for this very modest change to be implemented. As Dwight Bartlett said after resigning as chief actuary of the Social Security Administration in September. "We don't need another study group. It's time to fish or cut bait on this issue." If the Democrats don't like the specifics of the Pickle-Conable approach, the responsible thing is to propose alternative changes now, not say let's wait till another study group can come up with recommendations—after the 1982 elections. Congress ducked the issue in 1980 because there was an election ahead, and 1984 will be ahead after a study commission report is digested.

There will never be an easy time to deal with Social Security's problems. The longer Congress waits, the harder it will be. The public sorely needs some peace of mind on this issue, and that is only going to come after a decision is finally made.

As I stated previously from their words, you would think that the Democrat leadership really was interested in sitting down at the table for serious discussion on how we can preserve the continued payment of social security benefits for present and future beneficiaries.

If all I read were bumper stickers, and if I did not know the real facts, I too would probably be inclined to believe that the Democrats are the true saviors of the social security system. In fact, last year bumper stickers began appearing proclaiming this very point. As mentioned by the gentleman from Minnesota, these bumper stickers read "Save Social Security, Vote Democratic."

About the same time that these bumper stickers began appearing, the Democratic National Committee—which I am informed has at least a talking relationship with the Speaker of the House and the Democratic leadership in this House of Representatives, began sending out a political solicitation letter. According to the letter, which was contained in a brown envelope stating "Important Social Security Notice Enclosed," but not identifying the source of the material and thereby indicating to many constituents in my district that that must be some official information from the social security system.

The letter said the election of Democrat liberals would insure to save the social security system and the election of conservative candidates could mean the end of social security. It was this same letter which national columnist David Broder, of the Washington Post, called the most deceptive political solicitation letter he had ever seen.

Later in the text of the letter the true motive is revealed: requesting a political contribution. Without ever once recommending any real solutions except for donating money to the Democrat Party, the letter stated:

Because you care about your community, the society you live in, and your own future, I hope you will help us in the Campaign to Save Social Security.

Your emergency contribution of $15, $25, $100 or whatever you can afford will help launch this campaign.

Now I did not realize saving the social security system was so easy. All you have to do is contribute $15, $25, $100, or whatever you can afford to the Democratic National Committee and we will have saved the system.

Mr. Speaker, I wait with bated breath to see the bill introduced on the floor of the House which indicates that we will have as a national program a contribution of $15, $25, $100 or whatever you can give to the Democratic National Committee so that we can save the social security system. But you know, Mr. Speaker, the question must be asked, If the Democrat Party really cared why do they not permit the Social Security Subcommittee to act? Why did they stop this Social Security Subcommittee from acting last year?

Mr. Speaker, I am inserting in the RECORD the Democrat solicitation letter, as well as an additional one again recently circulated by the Democrat National Committee.

The letters follow:

WASHINGTON, D.C.

DEAR SOCIAL SECURITY CONTRIBUTOR: Social Security is no longer secure. Unless you and I act—and act immediately—Social Security benefits could be drastically reduced or destroyed.

With the President and his hatchetman, David Stockman, treating Social Security as if it were a charity rather than the earned benefits of hard-working Americans, you and I are in trouble!

Yes, Ronald Reagan and the New Right Republicans—ultra-conservatives and wealthy businessmen—have blatantly chosen to ignore the fact that you and I and millions of other Americans have earned these benefits.

In the name of "efficiency" and "budget cutting," the Republicans have simply turned their backs on millions of Americans who have spent their lives earning their right to Social Security benefits.

On assembly lines, in the military services, in offices and small businesses, millions of Americans have paid into the Social Security fund with their sweat.

They've worked hard to raise and educate their children. They've lived through the Depression, war, and social turmoil. They've seen inflation eat away at what little they've been able to save.

Social Security is their rightful return on a lifelong investment in hard work.

I, for one, am not going to stand by silently and let the Republicans destroy Social Security. And, I don't think you will either. That's why I'm writing to ask you to join with me and the Democratic Party in the Campaign to Save Social Security.

The Democratic Party instituted Social Security under Franklin Delano Roosevelt. Over the years it has been the Democratic Party which has enhanced Social Security in the belief that a strong Social Security System is essential for a free society, a growing economy, and a stable nation.

Now, the Democratic Party has set as its number one priority the goal of saving the Social Security System.

Here's the battle plan for the Democratic Party's new Campaign to Save Social Security.

1. First, the political staff of the Democratic National Committee has begun drawing plans to ensure the election of candidates in 1982 who will stand for, work for, and fight for a strong Social Security System.

2. Next, the staff of the Democratic National Committee is alerting Party organizations all across the country to begin mount-

ing massive grassroots efforts to save Social Security.

3. Third, I'm sending hundreds of thousands of letters like this to special friends and concerned citizens like you asking for a special contribution to the Democratic Party to help with this campaign.

Believe me, the ballot box is the most important weapon we have against those who would destroy our Social Security System.

But, to elect and reelect candidates who will defend Social Security will not be easy. Nor will it be cheap.

In 1979 and 1980, the New Right-dominated Republican National Committee raised $62 million. The Democratic National Committee raised $15 million. The gap was nearly $50 million.

If we allow that $50 million gap to continue, we will be facing a Congress more responsive to New Right theories about the need to cut Social Security.

However, if we can raise the money needed to elect candidates who will defend the Social Security System, we can protect the real life needs of those Americans already retired or planning to retire.

In 1980, the Republicans' extra $50 million made it possible for them to provide their candidates with the most modern technology, research, and advertising available. We can not afford to face another campaign like that.

And the elderly, whose savings are being destroyed by inflation and whose futures are being threatened by the opponents of Social Security, can afford it even less.

I know the tide can be turned. In recent weeks, voters in Jackson, Mississippi elected their first Democratic Congressman in ten years. He is a Congressman committed to Social Security.

And, not long ago, the Democratic Candidate for Congress in Ohio came within 400 votes of a victory in a district which has not elected a Democrat since the 1936 Roosevelt landslide. In that district the Democrats also made an issue of Social Security.

Public opinion poll after public opinion poll show strong support for Social Security. There is no doubt the Democrats can win. And, Democratic candidates who have been targeted for defeat by the New Right Republicans—leaders like Henry Jackson, Pat Moynihan, Howard Metzenbaum, Paul Sarbanes, Edward Kennedy, Morris Udall, Patricia Schroeder, Lawton Chiles, Jim Sasser—can be reelected.

But, electing and reelecting Democrats who will defend Social Security requires closing the $50 million gap. It will require your help and mine. That's why it is so important that I hear from you right away.

Last November the American people used the ballot box to send a message to Washington. But, they didn't get what they voted for.

Candidate Ronald Reagan promised to defend the Social Security System. Four months later, President Reagan showed his true colors by indicating that he intends to gut Social Security.

And his fellow New Right Republicans are also showing their true colors. Those who are now demanding that Social Security be cut are the very same people who advocate lowering the tax rates of major oil companies, real estate interests, corporate executives, and other wealthy citizens.

They are the same people who want to give the Pentagon a virtual "blank check" for spending billions for every new weapon system it desires.

The New Right Republicans say it's time to "get tough" on expenditures. But who do they choose to "get tough" with?

Not giant contractors—with billions of dollars in cost overruns.

Not consulting firms—which take the government for billions each year.

Not big oil companies—which have been targeted for special tax relief.

No, they chose to get tough with the most vulnerable people in American Society—the elderly.

I am lucky. I do not rely on Social Security payments to meet my living costs.

But millions of Americans are not so lucky. Week after week, year after year, they have contributed to Social Security. And in planning their futures, they have relied on the Social Security System.

Now, the Reagan Administration and the New Right Republicans—going back on their campaign promises—pose the greatest threat to Social Security since its creation.

Social Security is paid-in insurance—not charity. But for Social Security to survive, we need another kind of insurance—political insurance.

You and I need political insurance to ensure that New Right extremists and politicians with little sensitivity to human needs are not in a position to make Social Security policy.

And, to do that, the Democratic Party needs your help to next year elect candidates to office who will stand for, work for, and fight for a strong Social Security Program—a Social Security Program which is at the top of our list of priorities, not at the bottom.

Because you care about your community, the society you live in, and your own future, I hope you will help us in the campaign to save social security.

Your Emergency Contribution of $15, $25, $100, or whatever you can afford will help launch this campaign.

Please let me know that the Democratic Party can count on your help in this battle to save Social Security.

The stakes are enormously high for all of us.

Sincerely,
Congressman CLAUDE PEPPER,
Chairman,
House Select Committee on Aging.

DEMOCRATIC NATIONAL COMMITTEE,
Washington, D.C.

I am concerned that I have not heard from you recently. Since you were previously a supporter of the Democratic Party, I have some disturbing news to tell you. So disturbing that you will see why it is so important for you to renew your support and help the Democratic Party's Campaign to Save Social Security. Immediately.

Here's the bad news.

Republican-controlled Senate and Reagan White House have just agreed to press for additional deep cuts in Social Security.

This callous and shocking effort to force a "Budget Compromise" means more suffering . . . more hardship for millions of older Americans. It is simply the latest Republican scheme to make up for their record-high Federal deficits . . . caused by their own tax giveaways to the rich and privileged.

Right now, Reagan and his Republican Senate Budget Committee are working to steamroll their gigantic slash of Social Security program through Congress. You and I can't let them get away with it.

The lives of millions of our fellow citizens . . . and our own families . . . are being placed in grave jeopardy. You and I must not let the Republicans get away with this . . . now now . . . not ever!

But the Republicans will succeed unless you and I act today. We must mobilize millions of our fellow citizens against this mean-spirited brand of Republican politics that asks the most vulnerable citizens in our Nation to pay the outrageous price of ill-conceived and unfair Republican policies of privilege and wealth.

You and I have stopped them before . . . we stopped Reagan last year when he tried to cut benefits and raise the age for social security eligibility. And we can stop him and his congressional Republicans again!

Through our campaign to save social security we are already fighting back . . . generous past support has helped us finish a hard-hitting twenty-eight minute film for television titled "Forget Not Old Friends."

This film, which clearly spells out the threats to older Americans, is now being shown on television around the country. Our film project exposes Republican attacks on social security, as well as their less well-known but just as vicious attacks on medicare and medicaid.

Only massive citizen pressure on the President and Congress can stop them from wielding their heartless budget axe over and over again against millions of older Americans. Americans who now feel betrayed by a Nation they worked so hard for.

But to mobilize millions of citizens needed to give the Campaign to Save Social Security political clout requires your immediate help.

But this is expensive and I need your help to launch this emergency campaign. We can't lose one minute.

Your immediate gift of $15, $20, $35, or more is critical to this effort.

And while we must fight the immediate threat to social security, we must also act to protect the long-range future of social security . . . medicare . . . and medicaid.

That means electing more and more Democrats to the House and Senate this year who will stand up for and work for protecting all the retirement assistance programs so critical to older Americans.

Please act today to protect the lives of your family and the millions of senior citizens who are looking today to the Democratic Party as their last and best hope.

Please renew your financial commitment to the Democratic Party right away.

CHARLES T. MANATT,
Chairman.

DEMOCRATIC NATIONAL COMMITTEE,
Washington, D.C.

DEAR SOCIAL SECURITY CONTRIBUTOR: Social Security is no longer secure. Unless you and I act—and act immediately—Social Security benefits could be drastically reduced or destroyed.

With the President and his hatchetman, David Stockman, treating Social Security as if it were a charity rather than the earned benefits of hard-working Americans, you and I are in trouble!

Yes, Ronald Reagan and the New Right Republicans—ultraconservatives and wealthy businessmen—have blatantly chosen to ignore the fact that you and I and millions of other Americans have earned these benefits.

In the name of "efficiency" and "budget cutting," the Republicans have simply turned their backs on millions of Americans who have spent their lives earning their right to Social Security benefits.

On assembly lines, in the military services, in offices and small businesses, millions of Americans have paid into the Social Security fund with their sweat.

They've worked hard to raise and educate their children. They've lived through the Depression, war and social turmoil. They've seen inflation eat away at what little they've been able to save.

Social Security is their rightful return on a lifelong investment in hard work.

I, for one, am not going to stand by silently and let the Republicans destroy Social Security. And, I don't think you will either. That's why I'm writing to ask you to join with me and the Democratic Party in the Campaign To Save Social Security.

The Democratic Party instituted Social Security under Franklin Delano Roosevelt. Over the years it has been the Democratic Party who has enhanced Social Security in the belief that a strong Social Security System is essential for a free society, a growing economy, and a stable nation.

Now, the Democratic Party has set as its number one priority the goal of saving the Social Security System.

Here's the battle plan for the Democratic Party's new Campaign To Save Social Security.

1. First, I have directed our political staff to immediately begin drawing plans to ensure the election of candidates in 1982 who will stand for, work for, and fight for a strong Social Security System.

2. Next, I have ordered our staff to alert Party organizations all across the country to begin mounting massive grassroots efforts to save Social Security.

3. Third, I'm sending hundreds of thousands of letters like this to special friends and concerned citizens like you asking for a special contribution to the Democratic Party to help with this campaign.

Believe me, the ballot box is the most important weapon we have against those who would destroy our Social Security System.

But, to elect and reelect candidates who will defend Social Security will not be easy. Nor will it be cheap.

In 1981, the New Right-dominated Republican Party Committees raised $75 million more than their Democratic Party counterparts.

If we allow that $75 million gap to continue, we will be facing a Congress more responsive to New Right theories about the need to cut Social Security.

However, if we can raise the money needed to elect candidates who will defend the Social Security System, we can protect the real life needs of those Americans already retired or planning to retire.

In 1980, the Republicans' huge war chest made it possible for them to provide their candidates with the most modern technology, research, and advertising available. We cannot afford to face another campaign like that.

And the elderly, whose savings are being destroyed by inflation and whose futures are being threatened by the opponents of Social Security, can afford it even less.

I know the tide can be turned. In a 1981 special election, voters in Jackson, Mississippi elected their first Democratic Congressman in ten years. He is a Congressman committed to Social Security.

And, not long ago, the Democratic Candidate for Congress in Ohio came within 400 votes of victory in a district which has not elected a Democrat since the 1936 Roosevelt landslide. In that district the Democrats also made an issue of Social Security.

Public opinion poll after public opinion poll show strong support for Social Security. There is no doubt the Democrats can win. And, Democratic candidates who have been targeted for defeat by the New Right Republicans—leaders like Henry Jackson, Pat Moynihan, Howard Metzenbaum, Paul Sarbanes, Edward Kennedy, Morris Udall, Patricia Schroeder, Lawton Chiles, Jim Sasser—can be reelected.

But, electing and reelecting Democrats who will defend Social Security requires closing the $75 million gap. It will require your help and mine. That's why it is so important that I hear from you right away.

In 1980 the American people used the ballot box to send a message to Washington. But, they didn't get what they voted for.

Candidate Ronald Reagan promised to defend the Social Security System. As President, Ronald Reagan has shown his true colors by indicating that he intends to gut Social Security.

And his fellow New Right Republicans are also showing their true colors. Those who are now demanding that Social Security be cut are the very same people who advocate lowering the tax rates of major oil companies, real estate interests, corporate executives, and other wealthy citizens.

They are the same people who want to give the Pentagon a virtual "blank check" for spending billions for every new weapon system it desires.

The New Right Republicans say it is a time to "get tough" on expenditures. But who do they choose to "get tough" with?

Not giant corporations—which are swallowing each other up in a mad rush toward economic concentration.

Not consulting firms—which take the government for billions each year.

Not big oil companies—which have been targeted for special tax relief.

No, they chose to get tough with the most vulnerable people in American Society—the elderly.

Millions of Americans rely on Social Security payments to meet their living costs.

Week after week, year after year, they have contributed to Social Security. And in planning their futures, they have relied on the Social Security System.

Now, the Reagan Administration and the New Right Republicans—going back on their campaign promises—pose the greatest threat to Social Security since its creation.

Social Security is paid-in insurance—not charity. But for Social Security to survive, we need another kind of insurance—political insurance.

You and I need political insurance to ensure that New Right extremists and politicians with little sensitivity to human needs are not in a position to make Social Security policy.

And, to do that, the Democratic Party needs your help to elect candidates to office who will stand for, work for, and fight for a strong Social Security Program—a Social Security Program which is at the top of our list of priorities, not at the bottom.

Because you care about your community, the society you live in, and your own future, I hope you will help us in the Campaign to Save Social Security.

Your Emergency Contribution of $20, $30, $100, or whatever you can afford will help ensure the success of this campaign.

Please let me know that the Democratic Party can count on your help in this battle to save Social Security.

The stakes are enormously high for all of us.

Sincerely,

CHARLES T. MANATT,
Chairman.

It is important to point out that the second letter was brought to my attention by an outraged senior citizen constituent in her 83d year who was a recipient of the letter.

This is the letter to which I refer. It is identified as a priority message. It indicates that the Republican controlled Senate and Reagan White House have agreed to press for additional deep cuts in social security. It says that there will be more suffering, there will be more hardship for millions of older Americans, that the Republican scheme is one to make up their record high Federal deficit caused by their tax giveaways to the rich and the privileged.

Mr. Speaker, I would remark here, of course, that it is the Republican Party that has taken an official position in the House of Representatives to separate out the social security trust funds from the budget so that we will not have the problem of people viewing the social security trust fund as one in which if you run a surplus it looks like it brings the overall deficit of the Federal Government down.

I would remind the Speaker that, of course, it was in the sixties, as we were escalating our effort in Vietnam under President Johnson, that he made the suggestion that we try to bring the social security trust fund online with the other elements of the budget because the social security trust fund ran, believe it or not, a surplus at that time and it helped make the overall deficit appear to be smaller.

Mr. Speaker, it is just rather difficult for me to understand why this President, President Reagan, can be accused by some, representing the Democratic Party officially, of politicizing the social security issue, when bumper strips say, "Save Social Security, Vote Democratic," when letters are going out deceptively wrapped in envelopes which seem to suggest that they are from the social security system, scaring social security recipients in my district, when letters go out from the chairman of the Democratic National Committee saying that the Republicans want to devastate the social security system, when the Speaker of the House does not allow us to even meet in the subcommittee given the responsibility to take care of the social security system, when they would not even be allowed to meet much less to act, that then my party and the President from my party somehow can be criticized for politicizing the issue.

Mr. Speaker, unfortunately, the political jockeying on social security does not appear to be at an end. The July 19, 1982, issue of Newsweek informs us that the American public is soon to be

hit by television ads produced by the Democrat Party showing a pair of Republican scissors cutting up a social security card.

I suppose for honesty's sake they will show us a pair of Democratic scissors marked 1977 cutting up a larger portion of that card as a result of the actions taken by the Democratic Party in the House, Senate, and White House in 1977. But again I am not going to hold my breath until that happens because I would like to live a few years longer.

The important point that must be made today is this: We cannot further continue to play politics with the social security system. While a few may gain some political advantage in the short term, it could be at the expense of millions of Americans who rely on their earned social security benefits.

If there is ever an issue which should not be politicized it is social security. I called this special order today to urge that we take the political rhetoric out of the social security discussion. I have illustrated that we can have political rhetoric on all sides from all political spectrums, if that is what we which, but I doubt that is going to get us anywhere. Let us call a halt to it. Let us have the Speaker of the House join and the leadership of the Democratic side join with the Republican leadership and the President of the United States in acknowledging that there is a difficulty with the social security system, and let us get on with the business of providing the solutions to those problems.

We must wait until we have substance and specifics to debate on this issue.

It is my desire that the Congress will be able to act to resolve the financial crisis facing the system, restore public confidence, reestablish the integrity of the problem, and insure the continued solvency of the trust fund.

To achieve this objective, I look forward to joining my House Republican and Democratic colleagues in a true effort to put the social security system back on firm financial footing and not to politicize it as an election year issue.

□ 1415

The solutions to the social security program are going to be difficult enough, but if we complicate them further with political rhetoric, we may create an impossible tasks for ourselves. By joining in a true bipartisan effort, all Americans will gain, as present and future beneficiaries will know that their social security program will be preserved by their Congress.

Mr. Speaker, at this time I would like to yield to the gentleman from Idaho (Mr. CRAIG).

Mr. CRAIG. Mr. Speaker, I thank the gentleman very much for yielding. I would like to thank my colleague from California for taking this special order to address the problem of social security and the whole issue that has grown out of this Congress and this body to make it a 1982 campaign issue.

I find it very unfair and plainly wrong that we take issues and effectively demagog them to a point where they become confused and misunderstood. The social security system is one such current issue.

Over the last few months, I have visited over a dozen senior citizens across the State of Idaho and spoke to them about the present situation in regard to social security.

I provided them with some figures that are documented and can be understood, not the brown paper envelopes marked "official". I think the facts spell out what this Congress has done in the last 10 years as it relates to the elderly of this country. We have those who are on entitlement—those who receive at least some of their livelihood from a Federal check—versus those in society that in essence pay the bills, Mr. Speaker.

Half the people of this country will pay more in social security taxes than Federal income taxes this year, it would appear. Currently, 36 million people receive social security benefits. Social security is paying out between $17,000 and $18,400 more than it collects every minute of every hour. In other words, it is losing just over $1 million per hour. It is estimated that the social security deficit in 1982 will be around $9.1 billion. For 1983, the deficit is estimated to increase to about $11.7 billion.

The largest cause for the deficit has been Congress decision to link social security benefits to increases in the Government's Consumer Price Index (CPI), starting in 1975. When the double-digit inflation hit—1979–81, it caused cost-of-living adjustments (COLA) to increase social security benefits by over $200 billion. Another $11.3 billion was added when a 7.4-percent COLA increase was added in July.

Everyone should realize that during the period from 1970 to 1981, social security benefits increased faster than the salary of the average working family. The average working family in this country received an average salary increase of 121 percent in that 11-year timeframe while persons receiving social security benefits alone, not considering the other Federal assistance programs, checks increased 128.7 percent.

Along the same framework, in 1960, the average family in this country was taxed at the rate of about 16 percent of their gross income for every level of Government services—from the community level tax to the Federal tax. But by 1981, through the wisdom of this Congress, this same average family was taxed at about 43 percent of their gross income. As a result, we saw in this country an unmistakable trend this Congress must not deny or fail to recognize.

In the late 1970's and the early 1980's, the productivity rate in this country began to fall very dramatically. Why? Simply, the average worker—the individual who pays for all the other things that we now talk about before this Congress—could not keep up with taxes we were forcing them to pay.

Productivity dramatically decreased because he or she was paying around 35 to 40 cents of every dollar they earned to some level of government to provide some kind of service. The incentive to produce more and increase one's income was gone. Why should you do it if the Government is going to take it away from you?

As we talk about the contract this Government has to those on social security, I think we must maintain a perspective as to where we were and where we are today. There is no one in this Congress today, Democrat or Republican, who will deny social security benefits to those people who are entitled to them. I repeat, they will receive their benefits, as July 1 of this year clearly proved.

For the sake of discussion, let us take a quick look at the benefits and contributions of an average single male earner retiring at age 65. If he retired in 1960, his social security benefits would be $49,554 and his contribution—tax—would be $7,311. If he retired in 1980, his social security benefits would be $78,804 and his contribution would be $34,694. However, if he retired in the year 2030, his social security benefits would be $56,938, while his contributions—tax—would be $62,525. These figures are based on current law and constant $982. As one can see, the benefits coming to the average 1980 retiree will be something over twice the amount of his contributions. By 2030, retirees will get less than their contributions.

I am beginning to see, coming from my constituents, the response that I hoped over the last 3 years would come. The young people of this country are finally beginning to say, "What about us? Why are we not being talked about in the overall spectrum of social security? We are the ones who are currently paying the bills and we are not at all sure when we get to the age when it is time for us to receive the benefits, that they, in fact, will be there. What about us, what about the young taxpaying citizens of our country today?"

We cannot discuss social security without briefly talking about the 1983 budget. It is interesting that this administration, which is being wrongly

accused of dismantling the social security system, did not propose a COLA freeze in their budget. The idea came from the Congress itself. And yet because of today's situation, it is desirable to say that this was the administration's proposal. It is those who have been in negotiation—members from this body, and the Senate—that have proposed possible alternatives to the social security situation.

In the final analysis, the question remains, Mr. Speaker, what have we done to the system itself? Well we have made it a hodge-podge of programs way beyond what was originally intended, and we have done so in a fiscally irresponsible manner, because we choose to take the easy route and not the right route.

The easy route is to add a program without providing an effective actuarial base in which taxes are increased according to the level of money flowing out of the program. So, we now have a system today that pays out about $18,400 more a minute than it takes in. In addition, the ratio of workers supporting social security beneficiaries is dropping significantly. In 1950, there were 16 workers to every beneficiary. In 1960, there were only five workers to every beneficiary. Today the ratio is 3 to 1. Twenty years hence, the ratio will be less than two people paying into the system for every person receiving benefits.

We sit here in 1982, and say that we are going to continue to provide all the benefits the system is dedicated to provide knowing full well we are bankrupting the entire program. We have increased the benefits without addressing the difficulties which need to be corrected and adjusted. To assure those senior members of our society, who Congress contracted with in the 1930's, we need a fair, ongoing, and responsible system which will provide a minimum income flow.

As Members of this Congress, everyone is dedicated to serve the elderly. However, when we talk about the very important issue of maintaining a lifestyle for the elderly of this country who are on fixed incomes, often we like to spread across the spectrum of this issue many topics which are not relevant. Nevertheless, there is one topic which is very relevant today. It is our responsibility to make the social security system stable and strong. The decisions and the task will not be easy. Social security is not an issue that will merely go away if we say we will do nothing. I think that is why we are here today as Members participating in this special order on social security—to undertake the complicated task and to make the difficult decisions.

If we in any way deny our responsibility, move it into the political spectrum, we have only destroyed the future of the elderly people of this Nation. It is our responsibility, Mr. Speaker, to grasp hold of that issue, to correct the problems in the social security system.

Once again, I thank my colleague, the gentleman from California, for taking this special order to bring the truth out of the demagoguery that has existed for the last several months on this floor about this most important issue, very important to millions of Americans.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for his comments.

Now I yield to the gentleman from Missouri (Mr. EMERSON).

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding and wish to take this opportunity to commend him for the valuable public service he is performing by giving us an opportunity to address the subject here today.

Over the past year and a half we have, indeed, repeatedly witnessed a very unfortunate, and I think irresponsible, example of the political exploitation of an issue that is simply too important to be used as an object of partisan rhetoric.

I speak, of course, about social security. There is no doubt that Congress will have to take steps to correct the long term financing problems facing the social security system, and I know of very few Members of this House who do not recognize that need. Likewise, I do not know of very many in this House who want to deny deserving recipients of social security payments that they are now, or soon will be receiving.

Yet, almost without exception, every effort to bring the subject of social security before this House has been "shot down" by partisan exploitation. Certainly, I have not agreed with many of the proposals for social security reform that have surfaced over the past several months; but honest disagreement and constrictive debate are very different from condemning those who put forth such proposals as wanting to "take social security away" from those who need and deserve its benefits.

As long as this game of political football continues, I am afraid that the very real problems of social security will go unsolved, and that is a disservice the American people should not tolerate. We now have a very capable bipartisan commission preparing recommendations on how to meet the financial demands of the social security system, and I have reason to believe that those recommendations will be responsible, equitable, and farsighted; however, the real question will be whether or not this Congress is willing to put politics aside and receive those recommendations in a serious and constructive manner. If that is accomplished, there is no reason why we cannot take the necessary steps to insure the future of the social security system and do so in such a way that the benefits of millions of deserving Americans will not be endangered.

People all across this Nation are concerned, and in some cases deeply alarmed by the questions surrounding social security. However, I think it is time for us to realize that their concern is based not so much on doubts that the problem can be solved, but rather on Congress ability to rise above partisan games and arrive at a responsible solution.

In short, the best way to relieve our constituents' fears about social security is for Congress to quit kicking this issue around and scaring people with all of the unmitigated partisan rhetoric that we have heard and get on with the obligation to provide long-term stability to a program that is such a vital part of our national fabric.

Once again, I thank the gentleman for yielding to me at this time.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for his comments.

I guess in conclusion, I would say that if we were the ultimate trustees of the social security system, were held to the same standard that we apply to trustees of most pension programs, we might be facing the bar of justice today.

As Members of this Congress, we ought not to hold ourselves to a lower standard, certainly. We ought not to hold ourselves even to the same standard that we apply to others involved in trusteeship positions for private pension plans.

□ 1430

We ought to be leaders, symbols of what ought to be done and, therefore, we ought to at least hold ourselves to an additional standard. I think by any measurement we have not done that in the past and I hope if we put partisan politics aside that we can approach that standard of conduct as those who are the ultimate overseers of the social security system in the very near future.

● Mr. ROBERTS of South Dakota. Mr. Speaker, I appreciate this opportunity to participate in today's special order on social security as it is a topic of great concern to so many Americans, especially our senior citizens. It is also a topic that has been largely politicized in the last year, and this is a disgrace to the American people.

I have been visiting with many of our senior citizens in South Dakota in recent months, discussing the problems that they are facing and the concerns that they have for such programs as social security. It is terrible that members of our Congress have attempted to scare our older Americans for their own personal political gain. Yes, the social security system is in fi-

nancial danger, but only through studying and working together to maintain a sound trust fund will the system be maintained. Frightening and using scare tactics on our senior citizens to gain political votes will not help, but only harm the future of our retirement system. It is totally necessary to take social security out of the political arena and look at the system honestly, taking the measures necessary to put it back on firm footing.

Through numerous town meetings and local discussions in my district, it has become overly apparent to me that the main concern of our older Americans is the large growth of our Federal Government and the intervention of the Government in our everyday lives. South Dakota senior citizens are a proud and strong group of citizens, and they resent being depicted as totally destitute and wards of our State for the political gains of those in Washington. In addition, our senior citizens are the people who built this country, and they are not pleased to see our Government mortgaging away the opportunities for their sons, daughters, and grandchildren through continual excessive Federal spending and growing Federal deficits.

I was raised by my grandfather and grandmother in South Dakota and grew up knowing the dedication and strength that our older citizens have. I think we owe our older Americans the respect that they deserve, as they are the ones who helped build this country. It is indeed time to reduce our huge Federal spending traits, lower the deficit, and take our retirement system out of political games and put it back in the black.●

● Mr. CLAUSEN, Mr. Speaker, I believe that the time has arrived, and is indeed long overdue, to clear up a matter that has been plaguing Members on both sides of the aisle—the political pressures being applied to those Members who wish to address and resolve the serious financial problems facing the social security system.

I am certain that we all agree on one point: The need to provide assurance to the American people that social security will continue to fulfull its fundamental purpose—to provide a basic floor of financial protection against unavoidable risk due to old age, disability or the death of a spouse. Given that such a consensus exists, it follows that it is imperative that we address the issues of social security, aging, and health care in a positive and constructive manner. I recognize and support the positive steps that have already been taken, such as the establishment of the Bipartisan Commission on Social Security. As you know, this Commission was established to study options for improving the system, in order to preserve its financial integrity. The Commission is mandated to report its findings by the end of this year, findings which will no doubt receive careful attention by the Members of this House and of the other body.

In addition, I have joined a number of my colleagues in support of legislation to separate the social security trust funds from the unified Federal budget, which would return the system to its original budget status and purpose. The intent of this proposal is to assure that changes in social security would be made only to make the system more solvent and not to reduce the overall Federal deficit. Social security would no longer be considered during the politically charged budget process; I believe this would assist in creating a better political climate for addressing the problems of the social security system, and alliviate the concerns of our senior citizens.

As I stated previously, I applaud these positive actions. But they are only preliminary measures—the real issue is still confronting us. For the past 7 years, social security has paid out more in benefits than it has collected in tax revenues, and the system has had to repeatedly draw on its reserves to meet benefit payments. Even though interfund borrowing will keep the social security trust funds operational through mid-1983, the short-term outlook for the system, particularly for the old age and survivors insurance (OASI) trust fund, must be cause for concern. In the April 1982 report of the social security trustees, the short-term projection for OASI under current law was that this trust fund will not be able to pay benefits after July 1983 unless Congress takes remedial action. The long-term outlook for the system is not any more encouraging, as the report projects a substantial long-term deficit based on the fact that the so-called baby boom generation will begin to retire and will be supported by fewer active workers paying social security taxes.

The seriousness of the situation social security is facing has been evident for quite some time now—clearly, action is needed, and soon. Millions of Americans are depending on social security benefits for their retirement. It is the responsibility of this Congress to insure that social security continue to provide the benefits that our retirees have paid for, without living in constant fear of bankruptcy.

I urge my colleagues on both sides of the aisle to rise above partisanship, for this is an issue that goes beyond partisan differences. Let us strive together to insure that our older Americans will live in comfort and dignity without fear.●

● Mr. DREIER. Mr. Speaker, we face, in this Congress, no issue more important than insuring the continued financial stability of our social security system. Congress has an absolute responsibility to treat older Americans with dignity and respect.

It is, therefore, most unfortunate that this issue has been made into yet another political football. Instead of seeking an effective legislative remedy to the financial crisis in social security, many in Congress would rather attempt to gain political mileage through such dubious tactics as implying that President Reagan did not intend to keep his promise that social security beneficiaries would receive their full 7.4 percent cost-of-living adjustment this past July 3. As we all know, the President did, indeed, keep this promise.

The lives and well-being of our senior citizens must not be used as political stepping stones by the people who represent them. We must, today, recommit ourselves to working ever more diligently toward a fair and workable solution to the problems facing social security. If we allow it, instead, to become another politicized election year issue, we will do a great disservice to the senior citizens of this country. It is time that we direct ourselves to substantial and concrete action instead of mere verbiage.●

● Mr. LOWERY of California. Mr. Speaker, the financing problems confronting the social security system are extremely serious and very real. For the sake of the 36 million social security beneficiaries, as well as the millions of workers who support the system, it is time that we drop the "Madison Avenue School of Politics" techniques and instead concentrate our creative efforts on honest reforms rather than political potshots and gimmickry.

When President Roosevelt signed the social security program into law in 1935, the system was limited in scope and clearly defined. Its sole objective was to provide middle and lower income workers with a safe and systematic way of providing for their own retirement. In 1940, the first year that the system paid monthly benefits, there were only 222,000 beneficiaries receiving cash benefits that averaged less than $20 a month. Total expenditures that year mounted to just $62 million.

In the ensuing years, however, social security grew much faster than was ever expected. A significant portion of this growth was due to congressional actions that increased benefits, expanded eligibility, and added extraneous programs without honestly facing up to the real costs involved. While politically popular, many of these actions were not particularly fiscally sound.

Today, social security has grown in size and scope to become the largest domestic program in the United States. It consumes more than 27 percent of the Federal budget, and will spend $200 billion in 1982. Thirty-six

million people, one out of every seven Americans, now receive checks from the Social Security Administration. The typical retired worker and spouse now receive benefits of $640 a month; benefits that are adjusted annually for inflation and not subject to taxation.

The phenomenal growth in social security programs has placed a tremendous tax burden on both employees and employers. This burden is far heavier than was ever intended. At its inception, the social security tax rate on workers was a modest 1 percent on the first $3,000 earned in covered employment, for a maximum annual tax of just $30. The employee tax was expected to peak at 3 percent in 1949, and that tax rate was to be sufficient to finance the system indefinitely on a self-sustaining basis.

However, the early projections simply did not prove true. The social security payroll tax has been increased 16 times to its current rate of 6.70 percent. In 1970, the typical worker paid $274 in payroll taxes. This year, on an income of $14,000, his social security tax burden will increase to more than $1,000, and by 1990 he can expect to be paying more than $2,000 in social security taxes. As we all know, this tremendous rate of increase is a result of the 1977 Social Security Amendments enacted by President Carter. At the time, it was promised that the scheduled increase—the largest peacetime tax incease in history—would be sufficient to insure the solvency of the social security system for generations to come. Unfortunately, the 1977 amendments failed to deliver what was promised, and the system is once again confronted with the very real specter of bankruptcy.

Social security is a pay-as-you-go system, meaning that the current generation of workers is paying for the current generation of retirees. Unfortunately, however, since 1975 the system has been paying out more than it has been taking in. In 1981, retirement and disability benefits exceeded contributions by nearly $5 billion. Today, the three social security trust funds have assets equal to just 2½ months of benefit payments. Despite the fact that the 1977 amendments increased revenues to the system by over $450 billion between 1980 and 1990, the funds are projected to deteriorate even further in the future.

There have been charges from the other side of the aisle that the social security picture is not as dismal as Republicans would lead the public to believe. However, Republicans are not alone in their projections. The Social Security Board of Trustees, the Congressional Budget Office, and a wide variety of private actuaries and economists all report the same bleak outlook. Under any major set of economic projections, the retirement trust fund—the one that pays 75 percent of all benefits—would, in the absence of interfund borrowing, be bankrupt within the next 2 years. Even interfund borrowing, which has been authorized through December 1982 to deal with the immediate financing problems, does not deal with the fundamental problem: the system's income is insufficient to meet benefit costs. And the situation will only deteriorate further in the future, when the baby boom generation reaches retirement age. The number of elderly in this country will more than double in the next 50 years, with the proportion of elderly people in the overall population reaching 20 percent. By 2030, actuaries predict that there will be only 2 social security taxpayers supporting each beneficiary, as compared to the 3.2 taxpayers who support each beneficiary today.

There are no easy or painless solutions to the social security problem. However, reasonable options do exist for curbing the growth of the system to keep the cost of the program in line with what the taxpayers are willing and able to pay. As Members of Congress it is our responsibility to take the necessary action before the current short-term problem turns into a long-term disaster.

Unfortunately, the use of social security as a political football in recent months so far has made responsible, effective reforms impossible. However, I am optimistic about our future prospects. The bipartisan National Commission on Social Security Reform, appointed by President Reagan last year, is currently working toward the formulation of legislative reforms to restore financial integrity to the system. Hopefully, they will be able to lay politics aside and come up with some fresh, reasonable ideas capable of attracting bipartisan support by the Commission's designated deadline of December 31, 1982.

We are all in this together: Working taxpayers, social security beneficiaries, administrators, and lawmakers. Therefore, we must work together if we are to arrive at a solution to our social security problem that is in the best interest of us all.●

● Mr. GOODLING. Mr. Speaker, with November approaching, once again I find the social security system being used for political purposes. I am referring, of course, to the latest round of accusations regarding this year's automatic benefit provision or cost-of-living increase. Just when it appeared we were over the months during which Budget Committee members especially—in both Houses, and on both sides of the aisle—tried to "balance the budget" by tampering with COLA's; and, just when the checks containing the 7.4 percent increase were "in the mail," now, both major political parties have produced television commercials on this understandably sensitive subject. The end result of this, naturally, is that social security is again being used as it was never intended to be—for political gains. And, once again, it is front page news.

One of the ads in particular has generated much criticism from the Democratic leadership, who have since publicly stated that this Republican President had ideas to play with COLA's this fiscal year. I find this especially interesting because two of the main contenders for freezing or curtailing social security COLAs just happened to be Democratic Senators on that body's Budget Committee. From the moment the fiscal year 1983 budget debate commenced, there has never been a single request from the administration to limit these benefits.

I do not want to take this opportunity to criticize my colleagues on the other side of the aisle, because I believe the social security debate—more than any other perhaps—should be bipartisan. It bothers me, in fact, that my own party chose to run ads on social security in the first place. I confess that I have not seen those ads, but I would also criticize them if they could be interpreted as "taking credit" for benefits that have been provided automatically by law since 1975.

I would point out, however, that there probably would not have been any plans for such ads at all, had there not been several months of previous congressional attempts by members of both parties who insisted upon inserting the social security issue into an increasingly complex budget debate. What followed was national media coverage of stories about "cutting COLA's," and then, 535 offices on Capitol Hill were inundated by constituent visits, letters, and phone calls—many of them by confused and upset elderly social security recipients who are not budget examiners or CPA's and so were bewildered by the role of social security in the Federal budget.

It was at this time that I and 80 of my colleagues cosponsored legislation to remove the social security trust funds from the unified Federal budget. I did this because I believe that separation will allow everyone to look objectively at the social security picture and thus make the decisions which have to be made to insure social security's survival. But, we cannot encourage a bipartisan package of recommendations from the National Commission of Social Security Reform if that reform becomes entangled in heated, political budget discussions.

And so, I will repeat what I have remarked many times in this Chamber—using the problems of social security to win votes will not help the system's financing problems one iota. When elected officials who were entrusted in this capacity by their constituents to

safeguard the well-being of all the people take social security into their power-hungry hands as though it were a political football and run away with the program just to tackle the other side, then they do a great disservice to a lot of innocent people. For, social security affects everyone, the young and the old, the worker and the retired. Any troubles it encounters will hurt everyone. The only way to correct the system's impending difficulties is by a united effort. Let us wait for the recommendations from the National Commission on Social Security Reform.

Let us stop these political scrimmages and let Congress and the administration work together to insure the program's short- and long-term success.●

THE MIDEAST CONFLICT

The SPEAKER pro tempore (Mr. ANTHONY). Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 20 minutes.

Mr. PAUL. Mr. Speaker, our involvement in the Palestinian-Israel conflict poses a moral and political dilemma for all Americans. I have met no one eager to send troops to Lebanon or willing to assume the financial burden it is bound to create. If true peace could be bought with money or foreign commitments, many Americans, as they have in the past, would go along with continuing financial and military aid to the Mideast.

Many Americans, however, reject the entire notion of overseas adventurism and giveaways for both moral and constitutional reasons. This group is now joined by the growing number of those disillusioned with the rare success, and frequent harm that comes from our interventionist foreign policy and masochistic foreign aid programs. They will no longer stand idly by and watch our young people get bamboozled into another no-win war by being put between two warring factions with the false hope that peace will be miraculously achieved. The only thing holding the Camp David accords together are billions of dollars of American taxpayers' money, and for this reason they are built on a shaky foundation, bound to crumble whenever the storm winds of conflict blow.

I find it inappropriate to criticize Israel for wanting to secure its borders. Yet if this means more military action than seems reasonable and it is financed entirely with American tax dollars, the U.S. Congress and the people of the United States who elect the Members of Congress bear a responsibility for what is happening.

Interventionism in the internal affairs of other nations and policing the world to "make it safe for democracy" do exactly the same thing as domestic economic intervention. They create many more problems than they solve. The Vietnam war is a good example of that is likely to result when intervention is pursued and our national security is not our only concern. Obviously our loss in Vietnam did not precipitate a war in Hawaii or California. It has been frequently argued that the reason why we stay in Europe, the Mideast, and the Far East is to prevent the battles from occurring on our own shores. In an age of ICBM's and space technology, this argument seems ludicrous. Yet the policies never change.

The absurdity of interventionism was clearly demonstrated by our participation in the Rio Treaty and in NATO. Obviously we could not perform both commitments except by making war against both Argentina and Britain. In the long run it is anyone's guess as to what this will do to our relationship with our neighbors to the south. Neutrality obviously would have served our national interest to a much greater extent.

Now we witness again this same absurd policy in the Mideast—we supply all the weapons and tacitly endorse the invasion of Lebanon, at a significant dollar cost to all Americans. Because innocent Lebanese civilians have been injured and killed, we cannot stand idly by. A proposed $20 million grant to Lebanon is quickly increased to $50 million for "humanitarian" reasons. To refuse would mean that America and the U.S. Congress are heartless and enjoy seeing the innocent suffering.

Because of the war we helped to create we offer to risk not only more dollars but now American boys to rescue the PLO, an organization we have never recognized and have as policy tried for decades to destroy. When will this ever end? Economically we are teetering on the brink of collapse, and militarily we remain weak; weak and defenseless from a Soviet missile attack. All this interventionist activity designed to make us look strong serves only to weaken and demoralize our people. The American people are tired of sacrificing themselves for the world; it never seems to help and the cost is now prohibitive. On top of it all we are not respected and generally condemned for our meddling.

The foreign policy debate that has existed for the past 45 years must be changed from a discussion of whom we should support, the Arab countries or Israel, Argentina or Britain, Greece or Turkey, North or South Vietnam, to a debate about interventionism or armed neutrality.

It is interventionism, inflation, and trade wars that inevitably lead to economic isolationism and finally to war. The pattern of the 1930's is a typical pattern of interventionism and trade wars leading to war. A sound money, free trade, and "keep your guns at home" program can give us peace and prosperity. The inflation that has permitted a massive international debt to accumulate is clearly intertwined with all the military activities of recent years. Martial law was declared in Poland on the day many loans were due to be paid to the international bankers.

It appears that Argentina's $34 billion debt to Western banks and governments will never be paid. The massive debt of Brazil and Mexico plus all the other Third-World nations is, indeed, a ticking time bomb. Subtle Arab threats not to renew their billions of dollars of short-term deposits in New York banks could easily influence our policy in the Mideast. Only through neutrality with strength can we hope once again to have a foreign policy of sense and direction.

But it is not the administration that is solely to blame; the Congress is equally culpable. It is so easy for Members of Congress to be critical of what the President is doing in the Mideast yet they themselves are as much to blame as he is. Why does Congress now have a right to criticize the President for his daily decisions?

Last year the Congress encouraged the President to pursue a course he deemed necessary to stabilize the Mideast. By resolution the House—overwhelmingly 391 to 1—encouraged "the President to pursue a comprehensive and coordinated policy in Lebanon, including the development of an effective cease-fire, resolution of the issue of Syrian missiles, and promotion of the independence, sovereignty, unity, and territorial integrity of Lebanon." Although the resolution does not have the force of law, it impies that Congress endorses virtually whatever action the President deems necessary and encourages further involvement in the Mideast.

Although it is clear the President has acted in accordance with the congressional intent, the bigger question remains: Are the Congress and the President acting in accordance with the intent of the American people? I am convinced the American people no longer endorse foreign adventurism and believe that our best interests are secured by a policy of armed neutrality.

This was the policy of our Government from its founding until 1917. It is only in the 20th century that interventionism has been accepted as a foreign policy, with the obvious consequences of unprecedented world wars and the loss of enormous numbers of American lives on foreign soil. Our experiment with foreign policy interventionism has failed, just as our experience with domestic economic interventionism has failed.

Let us learn from that experience and reinstitute the policies of free trade, neutrality, and a strong defense that took this country from an underdeveloped agrarian economy to the world's major economic force. Only such policies will extricate us from absurd situations such as that which now prevails in the Mideast.

CONFERENCE REPORT ON H.R. 6685

Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 6685) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 97-632)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6685) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, having met, after full and free conference, have been unable to agree.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
JOSEPH P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
TOM BEVILL,
ADAM BENJAMIN, Jr.,
VIC FAZIO,
SILVIO O. CONTE,
JOSEPH M. McDADE,
JACK EDWARDS,
JOHN T. MYERS,
LAWRENCE COUGHLIN,
RALPH REGULA,
BILL GREEN,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, Jr.,
JAMES A. McCLURE,
JAKE GARN,
HARRISON SCHMITT,
THAD COCHRAN,
MARK ANDREWS,
JAMES ABDNOR,
BOB KASTEN,
ALFONSE M. D'AMATO,
ARLEN SPECTER,
BILL PROXMIRE,
JOHN C. STENNIS,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
TOM EAGLETON,
LAWTON CHILES,
WALTER D. HUDDLESTON,
QUENTIN N. BURDICK,
PATRICK J. LEAHY,
DENNIS DeCONCINI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6685) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, report that the conferees have been unable to agree.

However, disagreement to the amendment of the Senate is a technical matter. There is agreement among the conferees as to the motion which will be offered by the managers on the part of the House. The rules of the House prohibit the managers on the part of the House from agreeing to an amendment of the Senate that would have been subject to a point of order if it had originated in the House. The amendment of the Senate clearly would have been subject to a point of order. The amendment struck out all of the text of the House bill and substituted therefor a number of new appropriating paragraphs and other provisions, and restored most of the items in the text of the House bill.

The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which (1) provides $45,000,000 for the summer youth employment program not included in the Senate amendment; (2) provides $1,000,000 for nursing research grants not included in the Senate amendment; (3) provides $20,000,000 for the refugee and entrant assistance program not included in the Senate amendment; (4) provides $35,000,000 for the Work Incentives Program instead of $57,621,000 contained in the Senate amendment; (5) provides $72,000,000 for the Federal-Aid Highway Program in addition to the $19,000,000 contained in the Senate amendment; and (6) provides $42,000,000 for the Postal Service Fund not included in the Senate amendment. The conference agreement also has the effect of increasing by $171,000,000 the rescission in the rent supplement program.

The Text of the amendment which will be offered is as follows:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Urgent Supplemental Appropriations Act, 1982") for the fiscal year ending September 30, 1982, and for other purposes, namely:

TITLE I

CHAPTER I

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

(TRANSFER OF FUNDS)

For an additional amount for "Program administration", $8,742,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

EMPLOYMENT AND TRAINING ASSISTANCE

For an additioanl amount for the Summer Youth Program under part C of title IV of the Comprehensive Employment and Training Act, $45,000,000.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $4,259,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $5,623,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

For an additional amount for "Health Services", $60,080,000, of which $3,500,000 shall be used to provide twelve months of transitional funding for those University Affiliated Facilities previously funded under section 502(a) of the Social Security Act or predecessor legislation (title V of the Social Security Act as in effect prior to the enactment of the Maternal and Child Health Services Block Grant), but for which termination of such funding has been announced during fiscal year 1982.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

For an additional amount for "Health Resources", $1,000,000, which shall be available for nursing research grants.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

WORK INCENTIVES

For an additional amount for "Work incentives", $35,000,000.

DEPARTMENTAL MANAGEMENT

OFFICE OF THE INSPECTOR GENERAL

(TRANSFER OF FUNDS)

From amounts appropriated for fiscal year 1982 for payments to States for Medicaid Fraud Control Units, there is transferred to the Office of Inspector General, Department of Health and Human Services, for necessary expenses, $13,941,000.

SOCIAL SECURITY ADMINISTRATION

REFUGEE AND ENTRANT ASSISTANCE

For an additional amount for "Refugee and Entrant assistance", $20,000,000, to be available only to reimburse States which by reason of court order, State statute or regulation, or other administrative restraint could not implement the change in regulations published on March 12, 1982, for refugee assistance and domestic assistance for Cuban and Haitian entrants.

DEPARTMENT OF EDUCATION

STUDENT LOAN INSURANCE

For an additional amount under title IV, part B of the Higher Education Act, $1,300,000,000, to remain available until expended.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,650,000.

RELATED AGENCIES

ACTION

OPERATING EXPENSES, DOMESTIC PROGRAMS

For an additional amount for "Operating expenses, domestic programs", under the provisions of the Domestic Volunteer Service Act of 1973, as amended (Public Law 93-113, as amended, 42 U.S.C. section 4951 et seq.), $2,000,000.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For an additional amount for payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934 as amended, an amount which shall be available within limitations specified by said Act, for the fiscal year 1984, $24,400,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to

pay for receptions, parties, and similar forms of entertainment for Government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity excluding from participation in, denying the benefits of, or discriminating against any person on the basis of race, color, national origin, religion, or sex.

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $309,000.

CHAPTER II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING (RESCISSION)

Of the amount of authority provided under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982 and prior Appropriation Acts, $94,382,000 of contract authority and $4,098,640,000 of budget authority are rescinded: Provided, That any balances of authorities made available prior to enactment of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, which are, or become, available for obligation in fiscal year 1982, shall be added to and merged with the authority approved in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, and such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1982: Provided further, That $190,860,000 of contract authority and $4,098,685,000 of budget authority shall be used for the public housing program, including $18,960,000 of contract authority for assistance in financing the development or acquisition cost of low-income housing for Indian families, $90,000,000 of contract authority for modernization of existing low-income housing projects and $1,263,005,000 of budget authority for new construction and substantial rehabilitation as authorized by section 5(c) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c); and $870,969,000 of contract authority and $15,228,518,000 of budget authority shall be used for new construction and substantial rehabilitation and assistance to existing housing units, including amendments for units reserved in prior years, under the lower-income housing assistance program (section 8, United States Housing Act of 1937, as amended): Provided further, That of the foregoing amounts, $152,715,200 of contract authority and $3,700,000,000 of budget authority shall be for projects under section 8, United States Housing Act of 1937, as amended, the rents for which are approved pursuant to the note governing financing adjustments (46 Fed. Reg. 51903, October 23, 1981) or any published amendment thereto or successor note, except that the Secretary shall include in the determination of the fair market rental a debt service factor reflecting the lesser of (A) 14 percent or (B)(i) where the rate of interest on the permanent instrument sold to finance the project is 12 percent or less, such rate of interest or (ii) where the rate of interest on the permanent instrument sold to finance the project is more than 12 percent, one-half percent below such rate of interest but not less than 12 percent, and except that the Agreement to Enter into a Housing Assistance Payments Contract shall not be required to include a provision requiring that construction must be in progress prior to October 1, 1982: Provided further, That with respect to newly constructed and substantially rehabilitated projects under section 8, United States Housing Act of 1937, as amended, during 1982, the Secretary shall not impose a percentage or other arbitrary limitation on the cost and rent increases resulting from increased construction cost in exercising the authority to approve cost and rent increases set forth in section 81) of such Act: Provided further, That none of the merged amounts available for obligation in 1982 shall be subject to the provisions of section 5(c)(2) and (3) and the fourth sentence of section 5(c)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): Provided further, That no funds provided under this or any other Act shall be used to terminate a reservation of contract authority for any project under section 8 of the United States Housing Act of 1937, as amended, on account of the inability of the developer or owner of that project to obtain firm financing, unless such termination occurs no less than twenty four months following the date of initial reservation of contract authority for such project: Provided further, That $74,375,000 of contract authority and $1,750,000,000 of budget authority provided under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, shall not become available for obligation until October 1, 1982, and $89,321,727 of the foregoing budget authority shall be for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act: Provided further, That to the extent that the amount of budget authority which is recaptured or deobligated, including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 C.F.R. part 883.207, does not equal $5,000,000,000 on June 30, 1982, the amounts deferred in the immediately preceding proviso may be used in accordance with, and in addition to, the amounts provided in the third proviso of this paragraph, except that to the extent such amounts are used, an equivalent amount of such recaptured or deobligated contract authority and budget authority, which become available on or after July 1, 1982 through September 30, 1982, if any, shall be deferred until October 1, 1982.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for Operation of Low-Income Housing Projects", $198,000,000: Provided, That of the total amount available in fiscal year 1982 for "Payments for Operation of Low-Income Housing Projects", $1,215,275,400 shall be made available pro rata solely in accordance with the Performance Funding System (as set forth in 24 C.F.R. part 890, as of February 8, 1982).

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 pf the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is further reduced in fiscal year 1982 by not more than $3,340,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m), 205(k), except that for the project authorized by said section the Administrator shall allocate to the State of New York an amount equal to one-third of the total cost from the amount made available under this paragraph to the State of New York, one-third from the amount made available to the State of New Jersey, and one-third from the amounts made available to the remaining States, 206, 208, and 209, $2,400,000,000, including grants for biological treatment facilities to repair or replace small community systems but not to exceed three systems suffering operational problems outside the warranty period where the existing Environmental Protection Agency planned systems have proven to be inoperable by the local municipalities, where determined to be necessary, to remain available until expended: Provided, That of such amount, $3,965,426 in additional funds (the amount which was withheld from the State of Kansas by reason of an accounting error by the Federal Government) shall be made available to the State of Kansas: Provided further, That nothing herein shall prohibit any project specified in section 201(m) from receiving a grant under section 201(g), in compliance with all relevant procedures under title II of the Federal Water Pollution Control Act, as amended, and paid from funds allotted to the State by section 205 and appropriated by this Act: Provided further, That the Administrator, upon application by the Governor of the State of Ohio, with the approval of the Committees on Appropriations, shall before October 1, 1982, commit existing unobligated funds from the State's Wastewater Construction Grant, allotments to fund the Solid Waste Energy facility in Akron, Ohio.

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, $5,000,000 shall be made available to the Department of Health and Human Services, upon enactment, and up to an additional $2,000,000 may be made available by the Administrator to the Department for the performance of specific activities in accordance with section 111(c)(4) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Management of all funds made available to the Department shall be consistent with the responsibilities of the trustee of the fund, as outlined in section 223(b) of the Act.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

Notwithstanding any other provision of this or any other Act, of the funds appropriated under the heading, "National Aeronautics and Space Administration, Research and development" in Public Law 97-101, not less than the amounts hereinafter set forth shall be made available for the purposes specified: $31,200,000 for expendable launch vehicles; $323,500,000 for physics and astronomy (including $40,000,000 for Shuttle-

Spacelab payloads); $205,000,000 for planetary exploration (including $1,700,000 for the mid-level facility in Hawaii); $39,500,000 for life sciences; $328,200,000 for space applications (including $2,300,000 for the search and rescue program, $5,000,000 for technology transfer, $6,000,000 for upper atmosphere research satellite experiments, $16,200,000 for Shuttle-Spacelab payloads, and $15,400,000 for a 30/20 gigahertz test satellite); $8,000,000 for technology utilization; $264,800,000 for aeronautical research and technology; $111,000,000 for space research and technology; and $402,100,000 for tracking and data acquisition: Provided, That of the funds available for the Space Shuttle, including space flight operations, not less than $80,000,000 shall be made available for design, development and procurement of liquid hydrogen-liquid oxygen (Centaur) upper stages for use in launching the Galileo and Solar Polar spacecraft in 1986: Provided further, That no funds may be obligated for other upper stages, including kick stages, for the Galileo and Solar Polar spacecraft after the enactment of this Act except for work performed prior to the effective date of this Act, together with liability for termination: Provided further, That no funds appropriated in this or any other Act may be obligated for a Solar Maximum repair/retrieval mission until the Secretary of the Air Force enters into an agreement with the Administrator to reimburse the National Aeronautics and Space Administration 50 per centum of the costs of such mission (exclusive of the costs attributable solely to equipment for the Solar Maximum spacecraft and to equipment capable of reuse): Provided further, That upon request by the Administrator of the National Aeronautics and Space Administration and approval by the Committees on Appropriations not to exceed $50,000,000 from the unobligated balances of funds appropriated under the heading "National Aeronautics and Space Administration, Construction of facilities" or "National Aeronautics and Space Administration, Research and program management" in Public Law 97-101 and Public Law 96-526 shall be available for the Space Shuttle, including space flight operations: Provided further, That the Administrator makes sufficient funds available to assure that a second Space Shuttle launch pad at the Kennedy Space Center, Florida, is operational by January 1, 1986.

ADMINISTRATIVE PROVISION

Limitations in section 501(40) of title V of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, are amended as follows: The limitations on the Department of Housing and Urban Development's Office of the Assistant Secretary for Legislation and Congressional Relations are increased from 26 full-time permanent positions and 27 staff years to 31 full-time permanent positions and 33.5 staff years, the limitation on the National Aeronautics and Space Administration's Office of the Comptroller is increased from 150 full-time permanent positions to 161 full-time permanent positions, the limitation on the National Aeronautics and Space Administration's Office of External Relations is increased from 120 full-time permanent positions to 125 full-time permanent positions, excluding those positions allocated for Technology Utilization activities, and the limitation on the Veterans Administration's Office of Planning and Program Evaluation is increased from $1,500,000 to $2,300,000.

CHAPTER III—DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $17,500,000, to remain available until expended.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAY PROGRAM

Section 3(a) of the Federal-Aid Highway Act of 1981 is amended by striking the period at the end of the first sentence and by inserting the following: "plus, an additional amount not to exceed $19,000,000 in obligation authority to carry out section 310(d)(3) of Public Law 97-102.".

For an additional amount of authority to execute contracts to replace or rehabilitate highway bridges according to Title 23, United States Code, Section 144, $19,000,000 out of the Highway Trust Fund, to remain available until expended: Provided, that obligations incurred under this authority shall not be subject to any law limiting obligations for Federal-Aid Highways.

Section 3(a) of the Federal-Aid Highway Act of 1981 is further amended by striking the period at the end of the first sentence and by inserting the following: "plus, an additional amount not to exceed $53,000,000 in obligation authority which the Secretary shall allocate to the States in order to increase such total obligation limitation, so that the reduction of any State's final obligation limitation is held to 15 per centum of the tentative limitation issued by the Secretary on October 1, 1981.".

NATIONAL SCENIC AND RECREATIONAL HIGHWAY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

Any amounts previously authorized to be derived from the Highway Trust Fund for payment of obligations in carrying out the provisions of 23 U.S.C. 148, are to be transferred to and administered under the appropriation "Federal-aid highways".

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Section 303(d) of the Rail Passenger Service Act, 45 U.S.C. 543(d), is amended by changing the period at the end thereof to a semicolon and adding the following: "except that the holding of securities issued by a railroad shall not be deemed to be violative of this prohibition: Provided, That the officer who holds such securities recuses himself from any decisions which bear directly on such railroad, and makes full public disclosure of such holdings.".

RELATED AGENCIES

CIVIL AERONAUTICS BOARD

PAYMENTS TO AIR CARRIERS

For an additional amount for "Payments to air carriers", $28,400,000 to remain available until expended: Provided, That $8,242,000 shall be used to liquidate obligations incurred during September 1981, to provide for subsidy payments under 49 U.S.C. 1376 and 1389: Provided further, That notwithstanding any other provision fo law any funds appropriated for "Payments to air carriers" in this or any other Act which are not obligated by September 30, 1982, shall be available for obligations only for section 419 (49 U.S.C. 1389) subsidies, except for adjustments to section 406 (49 U.S.C. 1376) payments for service provided prior to September 30, 1982.

INTERSTATE COMMERCE COMMISSION

PAYMENTS FOR DIRECTED RAIL SERVICE

For an additional amount for "Payments for directed rail service", $8,000,000, to remain available until expended.

Section 120 of the Rock Island Railroad Transition and Employee Assistance Act is amended—

(1) in subsection (a)—

(A) by striking out "the Rock Island Railroad" the first place it appears and inserting in lieu thereof "any railroad subject to section 77 of the Bankruptcy Act, or subchapter IV of chapter 11 of title 11, United States Code, which has ceased to provide passenger commuter service over any line of the railroad";

(B) by striking out "2-year" and inserting in lieu thereof "3-year"; and

(C) by striking out "Rock Island Railroad" each place it appears (other than the first time it appears) and inserting in lieu thereof "railroad"; and

(2) in subsection (b), by striking out "the Rock Island Railroad" and inserting in lieu thereof "any railroad".

CHAPTER IV

DEPARTMENT OF THE TREASURY

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $81,604,000.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $23,825,000: Provided, That no funds made available by this Act or Public Law 97-161 may be used to accomplish or implement any proposed reorganization of the Bureau of Alcohol, Tobacco and Firearms or the transfer of the Bureau's functions, missions, or activities to other agencies within the Department of Treasury in the fiscal year ending on September 30, 1982: Provided further, That no reorganization of the Bureau of Alcohol, Tobacco and Firearms or the transfer of the Bureau's functions, missions, or activities to other agencies within the Department of the Treasury subsequent to September 30, 1982, shall be accomplished or implemented without the specific, express approval of both the House and Senate Committees on Appropriations.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $14,865,000, of which $8,000,000 shall be used for salaries, expenses, equipment, and other related expenses for Operation Exodus.

U.S. POSTAL SERVICE

PAYMENTS TO THE POSTAL SERVICE FUND

For an additional amount for payment to the Postal Service Fund for revenue forgone on free and reduced rates of mail, pursuant to 39 U.S.C. 2401(c), $42,000,000: Provided, That notwithstanding any other provision of law, the Postal Service shall use these funds promptly to revise the adjustment to preferred rates made pursuant to section 108 of Public Law 97-92 so that all mail covered by the 16-year phasing schedule established pursuant to section 3626 of title 39, United States Code, shall benefit from step 13 on such schedule through September 30, 1982. This provision shall take effect ten days after enactment of this Act.

Effective October 1, 1982, section 1723 of the Omnibus Reconciliation Act, Public Law 97-35, is amended by striking out "(a)" before "Notwithstanding" in subsection (a) and by striking out subsection (b).

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $500,000.

FEDERAL BUILDINGS FUND

Notwithstanding the provision immediately following the repairs and improvements line item projects under the heading "General Services Administration, Federal buildings fund, Limitations on availability of revenue" in H.R. 4121 as passed by the House and in H.R. 4121 as reported for the Senate on September 22, 1981, funds presently available for repairs and alterations nonprospectus projects shall be used to initiate the design and related work required to begin the repairs and alterations of the U.S. Court of Appeals building, Atlanta, Georgia.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $4,006,000.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $238,000.

U.S. TAX COURT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,530,000.

CHAPTER V

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,171,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $3,500,000 to be derived by transfer from the Economic Development Revolving Fund.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $2,000,000, to remain available until expended.

RELATED AGENCY

INTERNATIONAL COMMUNICATION AGENCY

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

Appropriations made available under this heading for fiscal year 1982 may be used for lease of real property for periods of up to twenty-five years in Africa, Asia, the Caribbean area, and Europe.

CHAPTER VI

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

For an additional amount for the "Food Stamp Program", $1,006,616,000.

CHAPTER VII

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", $40,000,000, to remain available until expended: Provided, That $18,000,000 of the funds provided shall be for flood control measures and features on the Cowlitz and Toutle Rivers in the State of Washington.

TITLE II

GENERAL PROVISIONS

SEC. 201. Any institution of higher education specifically cited in the conference report on the Education Amendments of 1980 (report numbered 96-1337) as a unique institution which the conference committee for that legislation intended to be recognized as a developing institution eligible to apply for funds under title III of the Higher Education Act ot 1965, shall be treated as an eligible institution for such purpose for fiscal year 1982, notwithstanding section 322(a)(2)(A) of such Act.

SEC. 202. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 203. Notwithstanding any other provision of law, none of the funds provided for International Organizations and Programs in Public Law 97-121, the Foreign Assistance and Related Programs Appropriation Act for Fiscal Year 1982, shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the South West Africa Peoples Organization, or Cuba.

SEC. 204. No funds appropriated or otherwise made available for fiscal year 1982 shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Federal Mine Safety and Health Act of 1977 on any State or political subdivision thereof. Notwithstanding section 101(a)(3) of Public Law 97-92 or any similar or comparable provision of any other law, during fiscal year 1982 the Mine Safety and Health Administration shall have the same enforcement authorities vested in such Administration on September 30, 1981.

SEC. 205. Effective upon enactment of this Act and for the remainder of fiscal year 1982, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 206. Notwithstanding any other provision of law, the amounts appropriated for fiscal year 1982 under Public Law 97-51 (as amended by Public Law 97-85) and Public Law 97-92 (as amended by Public Law 97-161) for purposes of section 340 of the Public Health Service Act shall be available for funding grants and contracts under such section in areas that are not urbanized areas and in urbanized areas.

SEC. 207. Notwithstanding any other provision of this Act, any other Act, or section 413D of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for the fiscal year 1982 among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in the fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for that fiscal year: Provided, That the Secretary shall allocate sums to institutions in each State notwithstanding section 413D(b)(1)(B)(ii)(I) of the Higher Education Act of 1965.

SEC. 208. Notwithstanding any other provision of this Act, any other Act, or section 442 of the Higher Education Act of 1965, the Secretary shall allot the sums appropriated pursuant to section 441 of the Higher Education Act of 1965 for the fiscal year 1982 among Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the States (including the District of Columbia and the Commonwealth of Puerto Rico) so that the allotment of Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and each State (including the District of Columbia and the Commonwealth of Puerto Rico) bears the same ratio to the amount appropriated as the allotment of Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and each State (including the District of Columbia and the Commonwealth of Puerto Rico) for the fiscal year 1981 bears to the total amount appropriated pursuant to section 441 for that fiscal year: Provided, That the Secretary shall allocate sums to institutions in each jurisdiction notwithstanding the second sentence of section 446(a) of the Higher Education Act of 1965.

SEC. 209. The Secretary of Education and the Director of the National Institute of Education shall not terminate any long-term special institutional agreement (or any other grant agreement or contract which incorporates by reference such long-term special institutional agreement) which—

(1) was entered in to under section 405(f) of the General Education Provisions Act, relating to laboratories and centers, and

(2) is in effect on the date of enactment of this Act,

prior to the original completion date established by such long-term special institutional agreement (or any other grant agreement or contract which incorporates by reference such long-term special institutional agreement).

SEC. 210. (a) The Secretary of Agriculture shall initiate construction on not less than fifteen new projects under the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) during fiscal year 1982.

(b) Any project proposed for construction pursuant to the Act referred to in subsection (a) and submitted to the Director of the Office of Management and Budget for review shall be deemed to be approved by the Director unless disapproved by him within ninety days after submission.

SEC. 211. (a) Subsection (a) of section 112 of the Act of December 15, 1981 (95 Stat.

1194), is amended by inserting after "in connection with a qualified issue" the following: ", except to the extent such funds are used in connection with the consideration of granting of an exemption from the application of such revenue ruling or regulation under proposed income tax regulation section 1.103-7(b)(6)(ii) or any similar statute or regulation".

(b) Subsection (d) of section 112 of the Act of December 15, 1981 (95 Stat. 1196), is amended to read as follows:

"(d) It is the sense of the Congress that after August 23, 1981, the Secretary of the Treasury or his delegate, in all cases, should enforce any revenue ruling or regulation described in paragraph (1) or (2) of subsection (a) in a manner consistent with the provisions of this section. Nothing in the preceding sentence shall prevent the Secretary of the Treasury or his delegate from granting or considering an exemption from the application of such a revenue ruling or regulation under proposed income tax regulation section 1.103-7(b)(6)(ii) or any similar statute or regulation.".

SEC. 212. Notwithstanding any provision of this or any other Act, none of the funds appropriated for the Department of Labor, Mine Safety and Health Administration, shall be used to classify a mine in the potash industry as gassy based upon air samples containing concentrations of methane gas, unless such classification standard has been adopted through formal rulemaking on or after November 5, 1981.

SEC. 213. None of the funds provided in this or any other Act shall be used to implement an apportionment and staffing plan to specifically phase down the Public Health Service Commissioned Corps.

SEC. 214. The Department of Agriculture, U.S. Forest Service, within available funds, shall expend not less than $1,000,000 for research on the cyclocrane concept of a lighter-than-air heavy lift vehicle for use in logging operations.

SEC. 215. (a) The last sentence of section 162(a) of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by inserting ", but amounts expended by such Members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of $3,000" after "home".

(b) Paragraph (4) of section 280A(f) of such code (relating to coordination with section 162(a)(2) is amended to read as follows:

"(4) COORDINATION WITH SECTION 162(a)(2).—Nothing in this section shall be construed to disallow any deduction allowable under section 162(a)(2) (or any deduction which meets the tests of section 162(a)(2) but is allowable under another provision of this title) by reason of the taxpayer's being away from home in the pursuit of a trade or business (other than the trade or business of renting dwelling units)".

(c) Subsection (a) of section 139 of the Act of October 1, 1981 (95 Stat. 967), is hereby repealed.

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 216. For an additional amount for National Guard Personnel, Army, such amount as is necessary to make 850 mandays available to the Kentucky Army National Guard to implement and operate the Medical Assistance to Safety and Traffic program in Kentucky through August 1, 1982, to be derived by transfer from Operations and Maintenance, Army National Guard.

SEC. 217. (a) None of the funds which are made available by this or any other Act shall be used to study, plan, or implement the termination of the operation of the Southwestern Indian Polytechnic Institute located in Albuquerque, New Mexico, in fiscal year 1982.

(b) The Secretary of the Interior shall use funds made available to the Department of the Interior under the Act of December 23, 1981 (95 Stat. 1391), to operate Southwestern Indian Polytechnic Institute through fiscal year 1982.

SEC. 218. Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981, and section 102(c) of the Federal-Aid Highway Act of 1976, the Secretary may approve the use of interstate construction funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, on projects for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System in accordance with the provisions of 23 U.S.C. 119, or for those purposes for which funds apportioned under 23 U.S.C. 104(b)(1), (2), and (6) may be expended, in a State which received no more than one-half of 1 per centum of the total apportionment under 23 U.S.C. 104(b)(5)(A) for the fiscal year ending September 30, 1983, where necessary in order to fully utilize funds apportioned under 23 U.S.C. 104(b)(5)(A) through the fiscal year ending September 30, 1982, but within the obligational limitation established by section 3 of the Federal-Aid Highway Act of 1981.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ADDITIONAL EXPLANATORY MATERIAL

The conferees agree that for accounts, projects and activities which have been considered and acted upon by the Congress in identical manner in both H.R. 5922 and H.R. 6685, the provisions of the conference report on H.R. 5922 and associated documents shall apply, except for the rent supplement program.

As part of the fiscal year 1983 budget submission, the administration proposed a fiscal year 1982 rescission to reduce budget authority by an additional $1,750,480,000 in the rent supplement program over the amount already approved for reduction in fiscal year 1982. The Department of Housing and Urban Development would recapture this authority by converting 40,000 more rent supplement units to section 8 in 1982 than were originally proposed. Actual conversions are estimated to reach 60,000 units in 1982 compared with the previous estimate of 20,000 units. The conversion of 40,000 additional units above the previous 1982 estimate will result in the recapture of $46,840,000 more of rent supplement contract authority than previously projected. Approximately $43,500,000 of the additional contract authority proposed to be recapturd would, under the conference agreement, be utilized to provide needed amendments to units not yet converted, including State-aided projects. The remaining $3,340,000 of contract authority are proposed for rescission. The amendments approved in 1982 will support increased costs on the remaining rent supplement projects for 2 years until conversion to section 8 is accomplished. Limiting the amendments to 2 years rather than an average of 34 years contemplated when the 1982 budget was passed or the 5-6 year conversion period as proposed by the Senate, reduces the amount of recaptured budget authority required to support the amendments. As a result, $1,750,480,000 of budget authority would be available for rescission by adopting the faster conversion rate proposed by the conferees. Through this action, the need for additional amendment money in the out-years was reduced by $171,000,000 from the Senate version, thus increasing the amount of budget authority available for rescission by $171,000,000 over the amount assumed in the Senate provision.

The conferees agree that a total of $91,000,000 in new contract authority for the Federal-Aid Highway Program should be provided as follows:

Bismarch-Mandan Bridge	$15,000,000
Steubenville-Weirton Bridge	4,000,000
Canal Street Bridge, East Chicago	10,000,000
U.S. 12 Bridge over Trail Creek, Michigan City	9,000,000
Preclude certain States from absorbing more than a 15 percent loss in obligational authority	53,000,000
Total	91,000,000

The metrorail project not under construction in Miami, Fla., was estimated to cost $866,500,000 when the full funding contract was signed in May 1976. Since that time a number of factors, particularly inflation, have resulted in cost escalations for the system. It is now estimated to cost $986,900,000 to complete the metrorail system. The conferees continue to concur with language included in House Report 96-186 that instructed the Urban Mass Transportation Administration (UMTA) to "refrain from making grants to pay for the cost overruns in projects covered by full funding contracts that are in excess of extraordinary costs already provided for in the contract."

The Conferees are aware that UMTA and the Metro Dade Authority have been negotiating payment of extraordinary costs permitted under the full funding contract since September 1981. While the Metro Dade Authority has requested compensation for $45,000,000 of extraordinary costs permitted under the contract, UMTA to date has agreed that $10,000,000 to $15,000,000 of those costs are fully eligible for payment. The Conferees therefore direct UMTA to make immediate payment to the Metro Dade Authority for those extraordinary costs that both parties now agree are appropriate and fully justified under the terms and conditions of the full funding contract. The necessary funds for these payments shall be reprogramed from funds already available, in accordance with established procedures for reprogramming.

The conferees agreed to recommend an appropriation of $42,000,000 for the U.S. Postal Service to enable preferred rate mailers to continue to mail at the rate for step 13 of the 16 year postal rate phasing provisions of the Postal Reorganization Act, as amended.

Organizations such as the March of Dimes, the American Cancer Society, the American Heart Association, and hundreds of other non-profit organizations provide very valuable services to the citizens of this nation and are urged to continue their important programs.

CONFERENCE TOTAL—WITH COMPARISONS

NEW BUDGET AUTHORITY

The total new budget (obligational) authority for the fiscal year 1982 recommended by the Committee of Conference, with comparisons to the fiscal year 1982 budget estimates, and the House and Senate bills for 1982 follow:

Budget estimates of new (obligational) authority, fiscal year 1982	$4,543,371,000
House bill, fiscal year 1982	4,524,123,000
Senate bill, fiscal year 1982	[1] 5,291,073,000
Conference agreement, fiscal year 1982	[1] 5,448,452,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1982	+905,081,000
House bill, fiscal year 1982	+924,329,000
Senate bill, fiscal year 1982	+157,379,000

[1] Includes $24,400,000 in advance appropriations for fiscal year 1984.

RESCISSIONS

In addition, the total rescission of budget authority recommended by the Committee of Conference, with comparisons to the President's proposals, and the House and Senate bills follow:

President's proposals	−$7,750,269,165
House bill	−4,098,640,000
Senate bill	−5,678,120,000
Conference agreement	−5,849,120,000
Conference agreement compared with:	
President's proposals	+1,901,149,165
House bill	−1,750,480,000
Senate bill	−171,000,000

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
JOSEPH P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
TOM BEVILL,
ADAM BENJAMIN, JR.,
VIC FAZIO,
SILVIO O. CONTE,
JOSEPH M. McDADE,
JACK EDWARDS,
JOHN T. MYERS,
LAWRENCE COUGHLIN,
RALPH REGULA,
BILL GREEN,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, JR.,
JAMES A. McCLURE,
JAKE GARN,
HARRISON SCHMITT,
THAD COCHRAN,
MARK ANDREWS,
JAMES ABDNOR,
BOB KASTEN,
ALFONSE M. D'AMATO,
ARLEN SPECTER,
BILL PROXMIRE,
JOHN C. STENNIS,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
TOM EAGLETON,
LAWTON CHILES,
WALTER D. HUDDLESTON,
QUENTIN N. BURDICK,
PATRICK J. LEAHY,
DENNIS DECONCINI,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FOUNTAIN (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. DECKARD (at the request of Mr. MICHEL), for today and the balance of the week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. FIEDLER) to revise and extend their remarks and include extraneous material:)

Mr. PAUL, for 20 minutes, today.

Mr. GREEN, for 30 minutes, today.

(The following Members (at the request of Ms. OAKAR) to revise and extend their remarks and include extraneous material:)

Ms. FERRARO, for 60 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. COELHO, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. FAUNTROY, for 5 minutes, today.
Mr. HUBBARD, for 5 minutes, today.
Mr. FUQUA, for 5 minutes, today.
Mr. PHILLIP BURTON, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. FIEDLER) and to include extraneous matter:)

Mr. LEWIS.
Mr. RUDD.
Mr. CORCORAN.
Mr. STANGELAND.
Mr. EMERY.
Mr. SOLOMON.
Mr. LEBOUTILLIER in four instances.
Mr. WORTLEY.
Mr. COUGHLIN in two instances.
Mr. BAILEY of Missouri.
Mr. BEREUTER.
Mr. MICHEL.

(The following Members (at the request of Ms. OAKAR) and to include extraneous matter:)

Mr. RANGEL.
Mr. STARK in two instances.
Mr. OTTINGER.
Mr. AUCOIN.
Mr. DOWNEY.
Mr. ROSENTHAL.
Mr. FRANK.
Mr. RODINO.
Mr. SOLARZ in two instances.
Mr. LANTOS in four instances.
Mr. MATSUI.
Mr. MAZZOLI.
Mr. SKELTON in five instances.
Mr. MOFFETT.
Mr. WILLIAM J. COYNE.
Mr. BOLLING in two instances.
Mr. NICHOLS.

ADJOURNMENT

Mr. MOAKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Thursday, July 15, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4351. A letter from the Director of Facility Requirements and Resurces, Office of the Assistant Secretary of Defense, transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Army and Air National Guard, and the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4352. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense articles to Singapore (Transmittal No. 82-71), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4353. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to Malaysia (Transmittal No. 82-70), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4354. A letter from the Deputy Assistant Secretary of Defense (Research, Development and Acquisition), transmitting a report to exclude the examination of records by the Comptroller General from a contract with the Royal Ordnance Factory of the British Government, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

4355. A letter from the Chairman of the Board, U.S. Railway Association, transmitting the Association's annual report on the performance of the Consolidated Rail Corporation, pursuant to section 307(b) of the Regional Rail Reorganization Act of 1973, as amended; to the Committee on Energy and Commerce.

4356. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license to export certain major defense equipment sold commercially to Saudi Arabia (Transmittal No. MC-12-82), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4357. A letter from the Chairman, Federal Mine Safety and Healty Review Commis-

sion, transmitting a report on the Commission's administration of the Government in the Sunshine Act during calendar year 1981, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

4358. A letter from the Secretary of Agriculture, transmitting notice of a proposed new record system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4359. A letter from the Acting Secretary of the Department of the Interior, transmitting a report on the Bartram National Trail as a part of the National Trails Systems Act, pursuant to Public Law 90-543, as amended; to the Committee on Interior and Insular Affairs.

4360. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to permit the collection of fees for tonnage measurement services; to the Committee on Merchant Marine and Fisheries.

4361. A letter from the Administrator, General Services Administration, transmitting numerous lease prospectus amendments, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4362. A letter from the Assistant Secretary of the Army for Civil Works, transmitting a Corps of Engineers report on the Poso Creek Stream group, California, in response to resolutions of the Committee on Public Works and Transportation of the House of Representatives, adopted January 31, and March 22, 1946, and May 8, 1964; to the Committee on Public Works and Transportation.

4363. A letter from the Administrator, Small Business Administration, transmitting volumes I and II of the 1981 annual report of the activities of the Administration; to the Committee on Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee of conference. Conference report on H.R. 6685 (Rept. No. 97-632). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RODINO:

H.R. 6754. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to aliens and nationality, as title 8, United States Code, "Aliens and Nationality"; to the Committee on the Judiciary.

By Mr. ZABLOCKI (for himself and Mr. BROOMFIELD):

H.R. 6755. A bill to authorize assistance to promote economic revitalization in the Caribbean Basin region; to the Committee on Foreign Affairs.

By Mr. BEDELL:

H.R. 6756. A bill to amend the Agricultural Act of 1949 to require the Secretary of Agriculture to make land diversion payments for the 1983 crops of wheat and feed grains; to the Committee on Agriculture.

By Mr. GEJDENSON:

H.R. 6757. A bill to amend title 10, United States Code, to prohibit the Department of Defense from entering into contracts for the design of naval vessels in foreign countries; to the Committee on Armed Services.

By Mr. GOODLING:

H.R. 6758. A bill to authorize the sale of defense articles, defense services, and unclassified defense service publications to U.S. companies for incorporation into end items to be sold to friendly foreign countries; to the Committee on Foreign Affairs.

By Mr. GRAMM:

H.R. 6759. A bill to designate a certain dam on Mountain Creek, Tex., as the "Joe Pool Dam"; to the Committee on Public Works and Transportation.

By Mr. BLANCHARD (for himself, Mr. LUNDINE, Mr. DINGELL, Mr. FORD of Michigan, Mr. ALBOSTA, Mr. BONIOR of Michigan, Mr. BRODHEAD, Mr. CONYERS, Mr. CROCKETT, Mr. HERTEL, Mr. KILDEE, Mr. TRAXLER, Mr. WOLPE, Mr. BROOMFIELD, Mr. DAVIS, and Mr. SILJANDER):

H.R. 6760. A bill to amend the Export-Import Bank Act Amendments of 1978 to improve the ability of the United States to meet foreign competition; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUGHES:

H.R. 6761. A bill to amend title 5, United States Code, to liberalize certain provisions authorizing reimbursement for expenses of sale and purchase of a residence upon the transfer of a Federal employee; to the Committee on Government Operations.

By Mr. MINISH:

H.R. 6762. A bill to establish the U.S. Capitol Page Board for supervision and education of congressional pages, and for other purposes; to the Committee on House Administration.

By Mrs. SNOWE:

H.R. 6763. A bill to amend the Tariff Schedules of the United States to provide duty-free treatment for imported steam; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. PEPPER, Mr. MURPHY, Mr. HUTTO, Mr. GIBBONS, Mr. LEHMAN, Mr. BEDELL, Mr. MATSUI, Mr. WON PAT, Mr. EDWARDS of California, Mr. HUGHES, Mr. CORRADA, Mr. ROSENTHAL, Mr. WINN, and Mr. WILSON):

H.R. 6764. A bill to provide that State law shall apply to the enforcement of due-on-sale clauses by Federal savings and loan associations and by national banks; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WORTLEY:

H.R. 6765. A bill to amend the Internal Revenue Code of 1954 to provide a refundable credit against income tax for social security taxes paid by an individual who has attained age 62 but not age 68; to the Committee on Ways and Means.

By Mr. RODINO (for himself, Mr. EDWARDS of California, Mr. RAILSBACK, Mr. FISH, Mrs. SCHROEDER, Mrs. HECKLER, Mrs. BOGGS, Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mrs. FENWICK, Ms. FERRARO, Ms. FIEDLER, Mrs. KENNELLY, Mrs. MARTIN of Illinois, Ms. MIKULSKI, Ms. OAKAR, Mrs. ROUKEMA, Mrs. SCHNEIDER, Mrs. SNOWE, Mr. ADDABBO, Mr. AKAKA, Mr. ALBOSTA, Mr. ALEXANDER, Mr. ANDERSON, Mr. ANTHONY, Mr. ASPIN, Mr. AUCOIN, Mr. BARNES, Mr. BEDELL, Mr. BEILENSON, Mr. BENJAMIN, Mr. BIAGGI, Mr. BINGHAM, Mr. BLANCHARD, Mr. BOLLING, Mr. BONIOR of Michigan, Mr. BONKER, Mr. BROHEAD, Mr. BROOKS, Mr. BROWN of Ohio, Mr. BROWN of California, Mr. BROWN of Colorado, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mr. CLAUSEN, Mr. CLAY, Mr. CLINGER, Mr. COELHO, Mr. CONABLE, Mr. CONTE, Mr. CONYERS, Mr. CORRADA, Mr. COUGHLIN, Mr. WILLIAM J. COYNE, Mr. JAMES K. COYNE, Mr. CROCKETT, Mr. D'AMOURS, Mr. DASCHLE, Mr. DECKARD, Mr. DELLUMS, Mr. DENARDIS, Mr. DERRICK, Mr. DICKS, Mr. DIXON, Mr. DONNELLY, Mr. DORGAN of North Dakota, Mr. DOWNEY, Mr. DUNN, Mr. DWYER, Mr. DYMALLY, Mr. ECKART, Mr. EDGAR, Mr. EMERY, Mr. ERDAHL, Mr. ERTEL, Mr. EVANS of Iowa, Mr. FARY, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mr. FITHIAN, Mr. FLORIO, Mr. FOGLIETTA, Mr. FOLEY, Mr. FORD of Michigan, Mr. FORD of Tennessee, Mr. FORSYTHE, Mr. FOWLER, Mr. FRANK, Mr. FRENZEL, Mr. FROST, Mr. GARCIA, Mr. GAYDOS, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GILMAN, Mr. GINN, Mr. GLICKMAN, Mr. GRADISON, Mr. GRAY, Mr. GREEN, Mr. GREGG, Mr. GUARINI, Mr. HAMILTON, Mr. HARKIN, Mr. HAWKINS, Mr. HEFTEL, Mr. HERTEL, Mr. HOLLENBECK, Mr. HOWARD, Mr. HOYER, Mr. JACOBS, Mr. KASTENMEIER, Mr. KILDEE, Mr. KOGOVSEK, Mr. LAFALCE, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LEHMAN, Mr. LELAND, Mr. LONG of Maryland, Mr. LONG of Louisiana, Mr. LOWRY of Washington, Mr. LUKEN, Mr. LUNDINE, Mr. MCCLOSKEY, Mr. MCHUGH, Mr. MCKINNEY, Mr. MARKEY, Mr. MATSUI, Mr. MATTOX, Mr. MAVROULES, Mr. MAZZOLI, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOLLOHAN, Mr. NELLIGAN, Mr. NOWAK, Mr. OBERSTAR, Mr. OBEY, Mr. OTTINGER, Mr. PANETTA, Mr. PATTERSON, Mr. PEASE, Mr. PEPPER, Mr. PEYSER, Mr. PICKLE, Mr. PRITCHARD, Mr. PURSELL, Mr. RAHALL, Mr. RANGEL, Mr. RATCHFORD, Mr. REUSS, Mr. RICHMOND, Mr. ROE, Mr. ROSE, Mr. ROSENTHAL, Mr. ROYBAL, Mr. RUSSO, Mr. SABO, Mr. SAVAGE, Mr. SCHEUER, Mr. SCHUMER, Mr. SEIBERLING, Mr. SHAMANSKY, Mr. SHANNON, Mr. SHARP, Mr. SIMON, Mr. SMITH of Iowa, Mr. SOLARZ, Mr. STARK, Mr. STOKES, Mr. STRATTON, Mr. STUDDS, Mr. SWIFT, Mr. SYNAR, Mr. TAUKE, Mr. TRAXLER, Mr. UDALL, Mr. VENTO, Mr. WALGREN, Mr. WASHINGTON, Mr. WAXMAN, Mr. WEAVER, Mr. WEBER of Ohio, Mr. WEISS, Mr. WILLIAMS of Montana, Mr. WIRTH, Mr. WOLPE, Mr. WON PAT, Mr. WRIGHT, Mr. WYDEN, Mr. YATES, Mr. YATRON, and Mr. GONZALEZ):

H.J. Res. 533. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. ERTEL:

H.J. Res. 534. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. NELSON:

H.J. Res. 535. Joint resolution proposing an amendment to the Constitution altering congressional budget procedures; to the Committee on the Judiciary.

By Mr. LONG of Louisiana:

H. Res. 523. Resolution electing the Honorable Jim Wright as Speaker pro tempore during the absence of the Speaker; considered and agreed to.

By Mr. EMERY:

H. Res. 524. Resolution expressing the sense of the House of Representatives that the community service employment program under title V of the Older Americans Act of 1965 should not be terminated or weakened; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

437. By the SPEAKER: Memorial of the Legislature of the State of California, relative to acid rain; to the Committee on Energy and Commerce.

438. Also, memorial of the Legislature of the State of California, relative to parolees; to the Committee on the Judiciary.

439. Also, memorial of the Legislative Assembly of the Commonwealth of Puerto Rico, relative to amendments to section 936 of the Internal Revenue Code; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LANTOS introduced a bill (H.R. 6766) for the relief of Shanna Teresa Milich; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3039: Mr. SAWYER, Mr. MINETA, Mr. FORD of Tennessee, and Mr. WALGREN.

H.R. 4509: Mr. JOHNSTON and Mr. STANGELAND.

H.R. 4647: Mr. ADDABBO, Mr. AKAKA, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. ARCHER, Mr. ATKINSON, Mr. BAFALIS, Mr. BAILEY of Pennsylvania, Mr. BEARD, Mr. BEILENSON, Mr. BETHUNE, Mr. BEVILL, Mr. BIAGGI, Mr. BLANCHARD, Mr. BOLAND, Mr. BRODHEAD, Mr. BROOMFIELD, Mr. BROYHILL, Mr. CHAPPELL, Mr. CHENEY, Mrs. CHISHOLM, Mr. CLAY, Mr. CLINGER, Mr. COELHO, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CONYERS, Mr. CORRADA, Mr. COUGHLIN, Mr. JAMES K. COYNE, Mr. WILLIAM J. COYNE, Mr. DANIEL B. CRANE, Mr. CROCKETT, Mr. DAN DANIEL, Mr. ROBERT W. DANIEL, JR., Mr. DANNEMEYER, Mr. DAUB, Mr. DAVIS, Mr. DIXON, and Mr. DONNELLY. Mr. DOUGHERTY, Mr. DUNN, Mr. DYSON, Mr. EDGAR, Mr. EMERSON, Mr. ERTEL, Mr. FAZIO, Mr. FINDLEY, Mr. FISH, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. FORSYTHE, Mr. GINGRICH, Mr. GONZALEZ, Mr. GOODLING, Mr. GRAY, Mr. GRISHAM, Mr. GUNDERSON, Mr. HAGEDORN, Mr. RALPH M. HALL, Mr. HANCE, Mr. HANSEN of Utah, Mr. HARTNETT, Mr. HAWKINS, Mr. HILER, Mr. HILLIS, Mr. HOLLAND, Mr. HOLLENBECK, Mr. HORTON, Mr. HUBBARD, Mr. HUTTO, Mr. HYDE, Mr. KEMP, Mr. KILDEE, Mr. KOGOVSEK, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LATTA, Mr. LEATH of Texas, Mr. LEE, Mr. LELAND, Mr. LENT, Mr. LEWIS, Mr. LOTT, Mr. LUJAN, Mr. LUKEN, Mr. MCCLOSKEY, Mr. MCCURDY, Mr. MCGRATH, Mr. MARKS, Mr. MARRIOTT, Mr. MARTIN of North Carolina, Mr. MAVROULES, Mr. MICA, Ms. MIKULSKI, Mr. MILLER of Ohio, Mr. MINISH, Mr. MITCHELL of New York, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MOORE, Mr. MOORHEAD, Mr. MURPHY, Mr. MURTHA, Mr. MYERS, Mr. NAPIER, Mr. NATCHER, Mr. NELLIGAN, Ms. OAKAR, Mr. O'BRIEN, Mr. PANETTA, Mr. PARRIS, Mr. PASHAYAN, Mr. PEPPER, Mr. PICKLE, Mr. PRITCHARD, Mr. PURSELL, Mr. QUILLEN, Mr. RAHALL, Mr. RAILSBACK, Mr. RATCHFORD, Mr. RHODES, Mr. RICHMOND, Mr. RITTER, Mr. ROBERTS of Kansas, Mr. ROBINSON, Mr. RODINO, Mr. ROE, Mr. ROGERS, Mr. ROTH, Mrs. ROUKEMA, Mr. RUDD, Mr. SABO, Mr. SANTINI, Mr. SCHULZE, Mr. SHANNON, Mr. SHUSTER, Mr. SIMON, Mr. SKEEN, Mrs. SNOWE, Mr. SNYDER, Mr. SOLOMON, Mr. STANGELAND, Mr. STANTON of Ohio, Mr. STOKES, Mr. STRATTON, Mr. SUNIA, Mr. SYNAR, Mr. TAYLOR, Mr. THOMAS, Mr. TRAXLER, Mr. TRIBLE, Mr. UDALL, Mr. VANDER JAGT, Mr. VENTO, Mr. WALGREN, Mr. WALKER, Mr. WASHINGTON, Mr. WEBER of Ohio, Mr. WEBER of Minnesota, Mr. WHITEHURST, Mr. WHITTAKER, Mr. WILLIAMS of Ohio, Mr. WILSON, Mr. WINN, Mr. WOLPE, Mr. WON PAT, Mr. WORTLEY, Mr. YATRON, Mr. YOUNG of Alaska, Mr. ZABLOCKI, Mr. ZEFERETTI, Mr. SILJANDER, Mr. SMITH of Pennsylvania, Mr. RANGEL, Mr. GRADISON, Mr. DYMALLY, Mr. SAVAGE, Mr. HERTEL, Mr. FIELDS, Mr. ALBOSTA, Mr. ALEXANDER, Mr. ANTHONY, Mr. BARNARD, Mr. BONIOR of Michigan, Mr. BREAUX, Mr. DELLUMS, Mr. DINGELL, Mr. FASCELL, Mr. FLIPPO, Mr. FOLEY, Mr. FOUNTAIN, Mr. FOWLER, Mr. GEJDENSON, Mr. SAM B. HALL, JR., Mr. HALL of Ohio, Mr. HEFNER, Mr. HERTEL, Mr. HUGHES, Mr. JONES of North Carolina, Mr. MATSUI, Mr. MAZZOLI, Mr. MILLER of California, Mr. MINETA, Mr. OBERSTAR, Mr. PERKINS, Mr. PEYSER, Mr. PRICE, Mr. ROSE, Mr. SCHUMER, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. SPENCE, Mr. STARK, Mr. STUMP, Mr. WAXMAN, Mr. WHITLEY, Mr. WHITTEN, Mr. WIRTH, and Mr. WRIGHT.

H.R. 5105: Mr. DREIER, Mr. WINN, Mr. DAN DANIEL, Mr. JEFFRIES, Mr. WORTLEY, Mr. OXLEY, Mr. GINGRICH, Mr. ROEMER, and Mrs. BOUQUARD.

H.R. 5328: Mr. ROE, Mr. GINGRICH, Mr. BAFALIS, Mr. LENT, Mr. CORRADA, Mr. KILDEE, Mr. WOLF, Mr. YATRON, Mr. MORRISON, Mr. ROBERTS of South Dakota, Mr. BAILEY of Pennsylvania, Mr. CORCORAN, and Mr. RATCHFORD.

H.R. 5495: Mr. OBERSTAR, Mr. FAUNTROY Mr. PEPPER, Mr. MITCHELL of Maryland, Mr. OTTINGER, Mr. FAZIO, Mrs. CHISHOLM, Mr. CROCKETT, Mr. GRAY, Mr. FRANK, Mr. VENTO, Mrs. BOUQUARD, Mr. DELLUMS, Mr. BONKER, Mr. SABO, Mr. DICKS, Mr. EDGAR, Mr. BINGHAM, and Mr. AUCOIN.

H. R. 5584: Mr. HARTNETT, Mr. SKELTON, and Mr. LUJAN.

H.R. 5585: Mr. STANGELAND.

H.R. 5762: Mr. WILLIAMS of Ohio.

H.R. 6190: Mr. BAILEY of Pennsylvania, Mr. FRANK, Mr. WEAVER, Mr. COELHO, Mr. MITCHELL of Maryland, Mr. MATSUI, Mr. SCHUMER, Mr. FORD of Tennessee, Mr. PERKINS, Mr. ROE, Mr. GARCIA, Mr. MOAKLEY, Mr. WORTLEY, Mr. BEDELL, and Mr. BROWN of California.

H.R. 6239: Mr. AKAKA, Mr. HENDON, and Mr. STARK.

H.R. 6429: Mr. DREIER, Mr. NELLIGAN, Mr. VENTO, Mr. GUNDERSON, Mr. FISH, and Mr. FRENZEL.

H.R. 6460: Mr. LENT, Mr. MARTIN of North Carolina, and Mr. FORD of Tennessee.

H.R. 6467: Mr. DYSON, Mr. CLINGER, Mr. WILLIAM J. COYNE, Mr. GLICKMAN, Mr. SAM B. HALL JR., Mr. LUKEN, Mr. RUSSO, Mr. SAWYER, Mr. WALGREN, Mr. FISH, Mr. PRICE, Mr. FAZIO, Mr. BURGENER, Mr. DYSON, and Ms. MIKULSKI.

H.R. 6512: Mr. STOKES.

H.R. 6526: Mr. NEAL, Mr. HILLIS, Mr. WOLF, Mr. GINGRICH, Mr. DELLUMS, Mr. ROYBAL, and Mr. LELAND.

H.R. 6527: Mr. HILLIS, Mr. WOLF, Mr. GINGRICH, Mr. NEAL, Mr. STUDDS, Mr. LELAND, and Mr. DELLUMS.

H.R. 6538: Mr. MOORE, Mr. BINGHAM, Mr. MOTTL, Mr. HAMMERSCHMIDT, Mr. KEMP, Mr. LEE, Mr. MICHEL, Mr. PRITCHARD, Mr. LOWERY of California, Mr. RICHMOND, Mr. RODINO, Mr. SANTINI, Mr. SAM B. HALL, JR., Mr. DWYER, Mr. CONABLE, Mrs. SNOWE, Mr. STANGELAND, Mr. STOKES, Mr. NEAL, Mr. MURPHY, Mr. STENHOLM, Mr. HUGHES, and Mr. ROBERTS of Kansas.

H.R. 6575: Mr. BEDELL, Mr. EDGAR, Mr. MITCHELL of Maryland, and Mr. CORRADA.

H.R. 6579: Mr. GINGRICH, Mr. SOLOMON, Mr. WON PAT, and Mr. MCGRATH.

H.R. 6591: Mr. BONIOR of Michigan, Mr. FORSYTHE, Mr. GARCIA, Mr. RAHALL, Mr. SMITH of Pennsylvania, and Mr. WYDEN.

H.J. Res. 144: Mrs. MARTIN of Illinois.

H.J. Res. 172: Mr. WHITEHURST and Mr. PATMAN.

H.J. Res. 456: Mr. LEE, Mr. STANGELAND, Mrs. HECKLER, Mr. SIMON, Mr. ADDABBO, Mr. MAVROULES, Mr. ROBINSON, Mr. LENT, Mr. STENHOLM, Mr. NATCHER, Mrs. MARTIN of Illinois, Mr. WORTLEY, Mr. TAYLOR, Mr. WHITTEN, Mr. OXLEY, Mr. MITCHELL of New York, Mr. FRANK, and Mr. PATMAN.

H.J. Res. 500: Mr. DE LA GARZA.

H.J. Res. 504: Mr. BEARD, Mr. BEVILL, Mr. BLILEY, Mr. COLEMAN, Mr. CORRADA, Mr. DANIEL B. CRANE, Mr. DOUGHERTY, Mr. ERDAHL, Mr. GEPHARDT, Mr. LIVINGSTON, Mr. LUKEN, Mr. SKELTON, Mr. TAUZIN, and Mr. WEBER of Minnesota.

H. Con. Res. 276: Mr. GORE, Mr. LOWEY of Washington, Mr. SIMON, and Mr. BEDELL.

H. Con. Res. 355: Mr. PANETTA, Mr. SOLARZ, Mr. HERTEL, Mr. WORTLEY, Mr. FAUNTROY, Mr. JOHN L. BURTON, Mr. DIXON, Mr. GUARINI, Mr. DWYER, Mr. MITCHELL of Maryland, Mr. WEAVER, Mr. SMITH of Pennsylvania, Mr. ZABLOCKI, Mr. WYDEN, Mr. FROST, Mrs. CHISHOLM, Mr. RANGEL, Mr. ADDABBO, and Mr. ZEFERETTI.

H. Res. 268: Mr. ADDABBO, Mr. PATTERSON, Mr. WILLIAMS of Montana, Mrs. KENNELLY, Mr. SABO, Mr. WAXMAN, Mr. PHILLIP BURTON, and Mr. ALBOSTA.

H. Res. 394: Mr. DENARDIS.

H. Res. 454: Mr. RATCHFORD and Ms. FERRARO.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

513. By the SPEAKER: Petition of the Township Committee, Berkeley Heights, N.J., relative to telecommunications legislation; to the Committee on Energy and Commerce.

514. Also, petition of the city recorder, Forest Grove, Oreg., relative to nuclear weapons; jointly, to the Committees on Armed Services and Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6181

By Mr. HAMMERSCHMIDT:

—Page 3, line 20, insert after "determination." the following new sentence: "In any case in which a timely request for a hearing under section 211(e) is made with respect to the decision on such reconsideration and the individual requesting such hearing elects (in such manner and form and within such time after such request as the Secretary shall by regulations prescribe) an extension of the period for continued payment of benefits pending such hearing, such period shall be extended to the end of the month preceding the month in which the hearing decision is made (without regard to whether it is the final decision of the Secretary).".

Page 3, line 21, insert "(A)" after "(2)".

Page 3, line 23, strike out "and".

Page 3, line 25, insert after "benefits," the following: "and a timely request for a hearing on such decision as provided under section 211(e) is not made,".

Page 4, insert after line 2 the following:

"(B) If, after a decision upon a reconsideration requested as described under paragraph (1)(C) with regard to an individual's entitlement to benefits, a timely request for a hearing on such decision is made as provided under section 211(e)(1), and the decision upon such hearing affirms the determination that he is not entitled to such benefits, any benefits paid under this title pending such reconsideration or hearing pursuant to an election under paragraph (1) (for months in the additional period for which such benefits were paid) shall be considered overpayments for all the purposes of this title.

—Page 27, line 14, insert "PERIODIC REVIEW OF DISABILITY DETERMINATIONS;" before "OWN MOTION REVIEW" (and conform the table of contents on page 2).

Page 27, immediately after line 15, insert the following:

SEC. 6. (a)(1) Section 221(j) of the Social Security Act (as redesignated and amended by section 5 of this Act) is further amended by striking out the first two sentences and inserting in lieu thereof the following: "In any case where an individual is determined to be under a disability, such determination shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, within three years after the date of the determination; except that where a finding has been made that the disability is permanent, such review (if any) may be conducted at such time as the Secretary determines to be appropriate. Where the review of a determination under the preceding sentence results in a finding that the individual continues to be under a disability, any subsequent review of the same determination shall be at the discretion of the State agency or Secretary (as the case may be); and at the completion of any review under the preceding sentence which results in such a finding the State agency or Secretary shall determine whether any such subsequent review appears to be appropriate and, if so, when it is likely to be conducted. In notifying any individual that he or she is entitled to benefits based on disability at the time of the initial determination of such disability, or that he or she continues to be entitled to such benefits as a result of a finding made upon a review under this subsection, the Secretary shall include a notice of whether a review or subsequent review under this subsection will be scheduled and, if so, the expected date of that review.".

(2)(A) Except as provided by subparagraph (C), the amendment made by paragraph (1) shall apply only with respect to reviews of disability determinations made in the case of individuals whose initial month of entitlement to benefits (based on the determination involved) is a month after September 1982; and section 221(i) of the Social Security Act (as in effect immediately prior to its redesignation and amendment by this Act) shall be of no force or effect after September 30, 1982.

(B)(i) In the case of individuals whose initial month of entitlement to benefits based on disability was a month before October 1982, reviews of disability determinations for purposes of continuing eligibility shall be made at the discretion of the Secretary but (except as provided in clause (ii)) shall be limited in any calendar year to a number of cases which, when added to the number of cases (other than those involving disabilities found to be permanent) that are reveiwed for the first time in such year under section 221(j) of the Social Security Act, does not exceed the total number of cases in which entitlement to disability insurance benefits under section 223 of such Act began in the preceding calendar year.

(ii) In addition to the reviews permitted under clause (i) in any calendar year, the Secretary may in his discretion review disability determinations in selected cases involving other individuals whose initial month of entitlement to benefits based on disability was a month before October 1982, but only to the extent that the Secretary affirmatively determines that the review of the selected cases will be cost-effective while assuring that sufficient personnel and administrative processing time will be available for the conduct of reviews of the highest possible quality under such section 221(j).

(C) Findings and decisions made as a result of reviews conducted under subparagraph (B) of this paragraph shall thereafter be treated for purposes of the second and third sentences of section 221(j) of the Social Security Act as though they had been made as a result of reviews conducted under the first sentence of that section.

Page 27, line 16, strike out "SEC. 6. (a)" and insert in lieu thereof "(b)".

Page 28, line 6 strike out "(b)" and insert in lieu thereof "(c)".

By Mr. SYNAR:

—Page 29, line 10, insert after "223(d)." the following new sentence: "Such uniform standards shall be consistent with applicable law and regulations, shall be subject to the requirements of section 553 of title 5, United States Code (relating to administrative procedure with regard to rule making), and shall be treated as public information required to be published in the Federal Register under section 552(a)(1) of such title (relating to public information; agency rules, opinions, orders, records, and proceedings), except that, in applying such section 552(a)(1) to such uniform standards, the last sentence thereof shall be disregarded.".

Page 19, line 20, strike out "this title," and all that follows down through "render" on line 22 and insert in lieu thereof "this title and regulations of the Secretary, render".

SENATE—*Wednesday, July 14, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable ALFONSE D'AMATO, a Senator from the State of New York.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Almighty God, who reigneth in righteousness, who turneth the Godless to destruction, give us ears to hear and minds to heed the words of the Psalmist.

Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful.

But his delight is in the law of the Lord; and in his law doth he meditate day and night.

And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit in his season; his leaf also shall not wither; and whatsoever he doeth shall prosper.

The ungodly are not so: but are like the chaff which the wind driveth away.

Therefore the ungodly shall not stand in the judgment, nor sinners in the congregation of the righteous.

For the Lord knoweth the way of the righteous: but the way of the ungodly shall perish. Amen. Psalm 1.—King James Version.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 14, 1982.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ALFONSE D'AMATO, a Senator from the State of New York, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. D'AMATO thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, today, after completion of the usual opening procedures, there are three special orders scheduled.

After the completion of these special orders, there will be a period for the transaction of routine morning business not to extend beyond 10:30 a.m., during which time, Senators may speak for not more than 3 minutes each.

At 10:30 a.m., under a previous order, the Senate will begin consideration of H.R. 6590, the tobacco bill, under a time agreement.

At 3 p.m. today, the Senate is scheduled to go into executive session for the purpose of considering the nomination of James G. Stearns to be a Director of the Securities Investor Protection Corporation.

Mr. President, the majority leader is attending a meeting at the White House. He will give the Senate a further update on the schedule of the Senate sometime later during the course of the session today.

Mr. President, I ask unanimous consent that the special order for Senator PACKWOOD be transfered to Senator TSONGAS.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that we may reserve the remainder of the leader's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

THE EQUAL RIGHTS AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, in 1774, Abigail Adams wrote to her husband John: "I long to hear that you have declared an independency. And in the new code of laws which I suppose it will be necessary for you to make, I desire that you would remember the ladies * * *. If particular care and attention is not paid to the ladies, we are determined to foment a rebellion and will not hold ourselves bound by any laws in which we have no voice or representation."

Unfortunately, Mr. President, those ladies were not remembered. Instead it would take them 144 years after the Declaration of Independence of this country to gain the right to vote.

The first constitutional amendment pertaining to women's suffrage was introduced more than a half century before it was ratified. When Congress sent the 15th amendment to the Constitution to the States to ratify, women—who were among the strongest proponents of abolition—were left behind. They were instead grouped with children and the mentally ill as people not capable of voting. For another 50 years, they were to wage the fight for the constitutional right to vote until the 19th amendment to our Constitution was ratified in 1920.

HISTORY OF THE EQUAL RIGHTS AMENDMENT

The first equal rights amendment was introduced more than a half century ago, 3 years after women were granted the vote. Hearings on the proposed amendment were first held by both the House of Representatives and Senate in 1929. Both Judiciary Committees reported the amendment, but there was no further congressional action at that time.

Before 1972, the Senate passed the amendment in the 81st and 83d Congresses. The House of Representatives passed the amendment in the 91st Congress; however, the Senate laid it aside and took no further action.

In the 92d Congress, in October 1971, the equal rights amendment was passed by the House of Representatives by a vote of 354 to 24. The Senate sent the proposed amendment to the States to ratify by a vote of 84 to 8, on March 22, 1972.

I am proud that my State of West Virginia was among the first to ratify the equal rights amendment—exactly 1 month after the Congress sent it to the States—and it has never waivered from its support.

As part of what has become procedural custom, the Congress included a 7-year period for ratification in the preamble to the proposed equal rights amendment. The Congress adopted this arbitrary deadline on the assumption that it would be a reasonable period of time to insure full and open debate on the merits of the issue: The legal equality of more than half of America's population.

The debate on the amendment took a different turn. In 1977, with only a little more than a year before the ratification period would expire in March

1979, an extension movement began. The 95th Congress passed legislation extending the ratification time to June 30, 1982.

Unfortunately, we have now seen this ratification period expire only 3 States short of the 38 needed for the proposed equal rights amendment to become the 27th amendment to our Constitution. Regrettably, the inclusion of all Americans, in the words of the Constitution, "We the people," remains a goal to be pursued rather than a reality.

It is a sad irony that this Nation, with its record for and commitment to protecting the fundamental rights of its citizens, will wait until its third century to guarantee those rights to women. Thirty-five years ago the United States proposed a Constitution for Japan that included a provision for equality under the law, regardless of sex, for the Japanese people. The time has come for us to act on our beliefs and include in our own Constitution what we asked another nation to ratify 35 years ago.

THE EQUAL RIGHTS AMENDMENT WILL BE ADOPTED

The equal rights amendment belongs in our Constitution. In a society of laws, all citizens must have equal protection under the law. It is inevitable that the amendment will be ratified because it is the fair and right action to take, and the American people believe in fairness.

For the past 10 years, public opinion polls have shown that a vast majority of Americans believe that the women of this country deserve the constitutional guarantee of full citizenship. Recent national polls have strengthened public support for ERA with more than two-thirds of the American people supporting it, or 2 to 1 support for ratification.

This growing support is broad-based. Polls show that it cuts across income levels, years of education, and regional ties. Even in States which have failed to ratify the amendment, polls demonstrate a majority of citizens support the ERA.

Diverse organizational support for the amendment is also strong. More than 500 organizations representing some 50 million Americans have endorsed the equal rights amendment. They include major labor unions, religious groups, legal, medical, and educational associations, and all major women's organizations.

While the Congress should not be proposing constitutional amendments or writing legislation simply on the basis of public opinion polls, it is important to recognize that public support for the equal rights amendment spans the spectrum of our society. This realization is of consequence in attempting to understand why the ERA has not been ratified, and why we are reintroducing the amendment today, in its original language—as the Congress overwhelmingly passed it 10 years ago.

The text of the amendment is simple and direct. The public, legislative record is overwhelmingly clear as to what the language of the amendment means. The amendment states: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." These words relate only to government actions—government laws—not to private action or social relationships. The amendment seeks only to eliminate gender as a determining factor in the legal rights of women and men.

When the equal rights amendment passed the Congress, it was not anticipated that worthwhile debate on the equal legal rights of women to enter into contracts, to own and inherit property, to establish credit, and similar matters would become overshadowed by fears of imposing a new lifestyle on men and women.

Debate on the amendment took a confusing turn as opponents claimed that "equality" would mean "sameness." The consequences of a vote for ratification were portrayed as mandating that men and women share public bathrooms, dormintory and hospital rooms. These arguments ignore the existing constitutional protections of privacy—protections that would exist along side the protection of equality under the law.

Opponents of the ERA have suggested that women will be compelled to serve in military combat if the amendment becomes law. More than 350,000 women served in the American military during World War II and more than 150,000 American women are providing some sort of military service today. While I recognize the proud contribution these women have made to our country, I oppose the drafting of women to serve in combat. The Senate voted against registering women for the draft in the last Congress, a decision I supported.

The questions of registering women for military service and requiring women to participate in combat are going to be determined by the Congress and the courts, whether or not the ERA becomes law. Some legal scholars believe that the constitutional protections of privacy would prevent many women from being compelled to serve in direct combat. However, on the grounds that national defense represents a constitutional concern with the Congress empowered "to provide for the common defense," The courts have historically not interfered with military decisionmaking.

In the constitutional interest of national defense, the judiciary has acted to assume that congressional and military decisions to exclude women from combat have been both rational and sensible. The Supreme Court's recent decision in Rostker against Goldberg, a case challenging the all-male draft, represents a continuation of the Court's historic deference to Congress in this matter.

It is tragic that campaign of exaggeration and misinformation has temporarily delayed the equal rights amendment's ratification by raising unreasonable fears. Arguments similar to "the amendment would defeminize women and make them like men," were used earlier in our Nation's history by those who opposed the 19th amendment, establishing the right of American women to vote. During that time, the motto of Elizabeth Cady Stanton and Susan B. Anthony's publication "Revolution" was: "Men, their rights and nothing more; women, their rights and nothing less." The same slogan could clearly speak for ratification of the equal rights amendment today.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator from Wisconsin need some of my time?

Mr. PROXMIRE. I should like just a little time.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Wisconsin (Mr. PROXMIRE) such time as he may want.

WHO WOULD PUSH THE NUCLEAR BUTTON?

Mr. PROXMIRE. Mr. President, for several weeks now, I have been discussing on the floor of the Senate the factual basis for a nuclear arms limitation agreement with the Soviet Union. At the heart of such an agreement lies the power possessed by the President of the Soviet Union and the President of the United States to push a button and begin a nuclear war. On March 29 of this year, Time magazine carried an editorial by Hugh Sidey discussing this grim prospect and its implications, the significance of the immense, enormously expensive nuclear arsenal we have assembled, and what purpose it serves.

Here is Time's conclusion:

What all of this suggests is that we have built ourselves into an era of nuclear absurdity. We have created a glittering armada of rockets, warheads and electronics, controlled by the unfathomable workings of the minds of a few frightened men. From all over the world there is the muttered protest of people who perceive this as a technological monstrosity. America's march up the nuclear mountain was made in the name of peace. The time for a courageous march down, under the same banner, may be at hand—if the other side is willing.

Mr. President, I ask unanimous consent that the full editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LAUNCHING AN ARMAGEDDON

(By Hugh Sidey)

A while back Richard Nixon presided over a dinner discussion of NATO strategy, which called for a nuclear response to a massive Soviet ground attack. "Would an American President take out Leningrad and Moscow if he knew he would lose New York and Los Angeles?" asked the former Chief Executive, who then rushed on to answer his own question: "No President is going to do that."

Henry Kissinger was asked recently if he had ever encountered in Moscow or Washington a man, or group of men, he thought capable of pushing the mythical "button" that would send off a first salvo of missiles. Kissinger, who has spent more time than anyone else with the leaders of both nations, was silent for a few seconds. He began to chew at one of his gnawed fingernails. "You mean, is there anyone capable of knowingly bringing about a nuclear holocaust? . . . I really do not know," Kissinger finally answered. "We talk about it a great deal, but it is beyond human comprehension. I am not sure there is any leader in either country who, when confronted with the choice, could actually push the button."

John Kennedy told France's Charles de Gaulle that the U.S. would nuke the Soviet Union if it ever attacked Europe. De Gaulle never believed him and indeed Kennedy wept one day when contemplating a possible confrontation with the Soviets over Berlin. Jimmy Carter sat straight-backed in his chair in the Oval Office a couple of years ago and insisted that he could order a nuclear attack. None of his listeners thought he could.

Gerald Ford and Leonid Brezhnev once held each other's hands in the back seat of the Soviet leader's limousine as they pledged their personal commitments to maintain peace. To this day, Ford does not think that Brezhnev, no matter how great the Soviet missile advantage may be, is capable of marching into the Kremlin's command center and launching Armageddon. Ford obviously was not. "You won't do that because you are a human being," he said last week. His former Secretary of Defense James Schlesinger finds it "very dubious" that either of the major powers would really have the psychological capacity to strike first. He doubts the "madman" theory and the idea that missiles might be launched by computer failure. The human minds in charge of today's arsenals will still reject the holocaust as long as there is a fragment of evidence that it doesn't have to happen. There will always be that fragment. Clark Clifford, the Washington sage who has served four Presidents, declares: "It never seriously enters [Presidents'] minds that they really will have to use today's missile forces."

There are dissenters, of course, Zbigniew Brzezinski, Carter's National Security Adviser, doubts that the men in the world who are now in power are capable of starting the big nuclear war. But he also believes that the Soviet system is capable of producing "another Stalin," a man who may have, says Brzezinski, presided over the slaughter of 60 million of his own people. Thus Ronald Reagan and his experts must plan for the possibility and declare that they are up to the hideous potential, no matter how remote. Pentagon experts by the score argue that the Soviets, given their nuclear advantage and the chance to incinerate the U.S., might do it. And among these men is a shared belief that a terrorist or a rogue nation with a nuclear weapon or two could trigger atomic exchanges that might lead to global devastation.

What all of this suggests is that we have built ourselves into an era of nuclear absurdity. We have created a glittering armada of rockets, warheads and electronics, controlled by the unfathomable workings of the minds of a few frightened men. From all over the world there is the muttered protest of people who perceive this as a technological monstrosity. America's march up the nuclear mountain was made in the name of peace. The time for a courageous march down, under the same banner, may be at hand—if the other side is willing.

SOME SOVIET TOOLS OF GENOCIDE

Mr. PROXMIRE. Mr. President, the use of nuclear weapons is an unconscionable act which all men should condemn. Today, such condemnations are becoming commonplace. But, while we are accustoming ourselves to such opposition to nuclear warfare toois, we are allowing a travesty of similar gravity escape our attention. In Southeast Africa, tucked away in a now little noticed corner of the world, innocent people are being slain with deadly weapons. The victims are guilty only of being members of a group which is targeted by the Vietnamese for eradication. The Hmong of Laos, like so many Afghans fighting the Soviets for their freedom, are suffering unheard-of horrors and death because of this silent weapon. No earth-shattering explosion accompanies this weapon's use, no jagged metal is strewn, no mortars thump in the distance. Instead of bombs falling from the sky, a quiet rain descends as an airplane similar to a crop duster drones away in the distance. This rain, however is tainted unusual colors. Its droplets can be red or green or blue or yellow.

In many cases, the effects are immediate. Residents of the area develop blisters and strange itchy rashes on their skin. Their vision becomes blurry, they find it difficult to breathe. Dizziness and nausea set in. Those who were caught out in the open vomit blood. Some begin to go into convulsions. Their skin begins to turn black. Some "recover"; many die. The weapon has only just begun to sow its evil intent.

A number of Southeast Asian refugees thought that they had escaped the horrors occurring in Laos when they made their new homes in the United States this past year. Unfortunately, they find that they cannot escape the longer term effects of the weapon that was unleashed in their homeland. This weapon's effects follow these people wherever they go because this weapon, like nuclear weapons, causes absorption of poison into the body. The most deadly of the poisons used have been identified as mycotoxins which are various types of fungal poisons. Since February of 1981, 38 refugees have died sudden deaths. Thirty of these are unexplained. These were healthy people who had no symptoms of illness. All but one were men. Eighty-seven percent were Hmong. All had been in the United States less than 1 year. All were either from attacked areas or could reasonably be assumed to have passed through such areas in their flight from Southeast Asia.

Biological and chemical weapons are now being used as tools of genocide. In using these weapons against dissident ethnic groups such as the Hmong, the Soviets and their Vietnamese proxies have once again shown how little they value human lives and how ready they are to eliminate dissent by attacking en masse innocent ethnic, religious, and racial groups.

The attacks in Southeast Asia, which have been suspected since 1975, are believed to have killed over 10,000 people. Yet world opinion has responded as if in a myopic stupor. At a time when the world's populations are striving to reduce the risk of the horrors of nuclear war, it is truly ironic that the very real dangers of biological and chemical warfare have not attracted a similar amount of attention. It took 37 years until the dangers of nuclear war gained widespread cognizance. Can we wait another 37 years before people realize the dangers of biological/chemical warfare?

The relationship between the devastating effects of both nuclear warfare and biological/chemical warfare is stressed by Dr. Bernard M. Wagner in a Wall Street Journal editorial dated June 17, 1982. Dr. Wagner, who is a professor of pathology at Columbia University, concluded his article with the following admonition:

It is clear that the world-wide scientific community must intensify its research efforts concerning the enormous hazard to mankind posed by these lethal toxins.

The threat of limited, controlled, biological warfare is, at least for me, on a scale with nuclear war. With toxins having both acute and delayed effects, an aggressor can achieve his ends without the problems posed by nuclear blasts. Besides, toxins can be delivered in an insidious, almost undetectable manner defying even late recognition of the act. . . .

The current outcry by civilized peoples against nuclear weapons with a demand that they be outlawed must also extend to chemical/biological warfare. Our government, along with all other nations, must find a way to pressure the Soviet Union and its clients into halting this activity. Until then, prudence dictates that we formulate policies to safeguard populations at risk.

Genocide has been practiced in numerous ways in the past, from the displacement and consequent starvation of the Armenians to the Nazi gassing of the Jews. The newest tool of genocide has apparently undergone its first test runs with the biological/chemical

attacks in Southeast Asia. Mankind must continue to condemn the use of biological/chemical weapons in any form, for any purpose, by all parties. The Genocide Convention is a part of the international efforts to place limits on the destructive capability and evil intentions of certain unscrupulous governments. I urge prompt ratification of the Genocide Convention so that we can avail ourselves of another tool which will aid us in our attempts to stop the Soviet tools of genocide.

Mr. ROBERT C. BYRD. Mr. President, I yield the remainder of my time to Mr. TSONGAS.

RECOGNITION OF SENATOR TSONGAS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Massachusetts is recognized.

Mr. TSONGAS. Mr. President, I thank the minority leader for the time.

A CONSTITUTIONAL AMENDMENT TO GUARANTEE EQUAL RIGHTS FOR WOMEN AND MEN

Mr. TSONGAS. Mr. President, today we reintroduce the equal rights amendment. We shall have a ceremony on the steps of the Capitol at 1:30 p.m. I urge the 51 Members of the Senate who have cosponsored the resolution to try to attend the session this afternoon. We hope to get as many Members of the Senate and as many of the 199 Members of the House as possible.

Mr. President, the march toward equal rights for women in this country must continue. Two weeks ago, the deadline for ratification of the 1972 equal rights amendment passed and, even though 35 States ratified the amendment, the total fell three short of the number required to make the ERA part of our Constitution. The fact is that millions of Americans have dedicated themselves to the cause of equal rights for women in this country and their efforts have not been in vain. We have come a long way in the journey toward passage of the ERA. That journey may be long, but it will end and it will end successfully.

Today, as I said, I am reintroducing the resolution, along with Senator PACKWOOD and 49 other colleagues. The amendment is simple and straightforward. It is a mere 52 words in length. In essence, it prohibits the denial of equality of rights on the basis of sex. In the House, the same measure is being introduced by Representative PAT SCHROEDER, Representative MARGARET HECKLER, and Representative DON EDWARDS. They have 192 other cosponsors in their body.

The struggle to secure equal rights for women in this country has never been an easy one. In 1920, nearly a century and a half after the birth of this Nation, women finally won the right to vote upon passage of the 19th amendment. It is hard for us in this day and age to realize that it was only 60 years ago that women were allowed to vote.

Three years later, the equal rights amendment was introduced into Congress. It was then introduced every year subsequently until 1972, when it finally passed both Houses of Congress. In 1978, as we all know, Congress approved an extension, which expired on June 30 of this year.

The need for ERA was great in 1923, when it was first introduced, as it was in 1972, as it is now. Equality of rights without regard to sex must, like other basic civil rights, be a constitutional right. The women of this Nation deserve no less than a secure constitutional guarantee of full citizenship and equality under the law.

EQUAL RIGHTS AMENDMENT

The equal rights amendment I am introducing today seeks to eliminate sex as a factor in determining the legal rights of women or men. It requires that government treat each person, female or male, as a citizen under the law without regard to gender.

The amendment thus recognizes the fundamental dignity and individuality of each human being.

From the beginning of the debate over the ERA, controversy has centered on the same questions: Whether there should be room in the law for reasonable distinctions in the treatment of men and women; whether a constitutional amendment is the proper vehicle for improving the legal status of women; and how the ERA might affect such areas as privacy, military service, domestic relations, criminal law, employment, and education. I would like to address these issues and discuss how each will be affected by the ERA.

The amendment I am introducing today is identical to the one passed by the Congress in 1972. It reads:

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This Amendment shall take effect two years after the date of ratification

That, I would submit, is really quite simple.

I believe the ERA is essential because it would, for the first time, grant women full status as equal citizens under the Constitution and establish a standard for eliminating discrimination based on sex. Only a constitutional amendment can adequately assure equal rights to the women and men of this Nation. It is the only insurance that women will have fair and equal opportunities in employment, education, benefit and retirement plans, marriage, and divorce.

A statute-by-statue, piecemeal approach to ending sex discrimination, whether at the Federal or State level, has not worked. Title VII of the Civil Rights Act, title IX of the Education Amendments and Equal Pay Act are the laws most often cited as providing equal opportunities for women. The experience of the past 21 years has shown, unfortunately, that these statutes have not resulted in desired changes in the patterns and parctices of discrimination. The current laws are simply not enough. Moreover, equal employment laws can be repealed at any time.

Further, the U.S. Civil Rights Commission has identified over 800 sections of Federal laws which set sex based standards. Thousands more such examples exist in State laws.

It is also clear that existing constitutional guarantees will not mandate the changes that are needed. Judicial interpretation has allowed sex bias to survive. For example, those challenging sex discrimination in the courts have found the 5th and 14th amendments unreliable and inadequate as a remedy for sex discrimination. Further, the U.S. Supreme Court has failed to apply the same strict standard in sex discimination cases that it has mandated for weighing racial discrimination.

NEED FOR EQUAL RIGHTS AMENDMENT

ERA is needed more today than ever if women are to achieve permanent economic equity. More women are working today than ever before. I think we recognize that according to the U.S. Department of Labor, 52 percent of women are in the job force compared to 39 percent in 1965. This figure is expected to jump as high as 65 percent by 1995. Yet, as workers, women are paid only 64 cents to every dollar paid to men. This is the same ratio that was paid to women a quarter century ago. Women with college education earn less on the average than a man with an eighth grade education. And while women account for more than 40 percent of all white collar jobs, they hold only one in 10 managerial positions, and one in seven professional jobs.

As wives, women are still subject to laws that deny them equal partnership in marriage. Despite their significant contribution to the home and family, many homemakers have no legal or economic status and little or no protection upon retirement or disability. In many States, support laws, property laws, divorce laws, and inheritance laws, discriminate against the homemaker.

Despite the passage of equal credit laws, many women are still denied credit because of their sex.

As students, women are often steered away from the education that could pierce the barrier to better paying jobs. And, despite Federal and State laws prohibiting sex discrimination in educational institutions and programs, many discriminatory patters still persist.

In the field of criminal law, women endure a criminal justice system that too often judges them by their sex and not by the acts they commit or by which they are victimized.

The reality today is all too obvious: Women have not achieved equality under the law.

Recent administration proposals are actually moving women backward in equal employment, education, credit, and other economic and social issues. For example, the administration has proposed regulations reducing enforcement of equal opportunity laws and has proposed significant changes in women's educational rights.

Without the foundation of a constitutional amendment, equality of rights for women under the law is a mirage.

EFFECT OF THE EQUAL RIGHTS AMENDMENT

The ERA would have the effect of requiring the Government to treat females and males equally as citizens and individuals under the law. It would not require that any level of government establish quotas for women or men in any of its activities; rather, it would simply prohibit discrimination on the basis of a person's sex. The amendment would apply only to governmental action; it would not affect private action or the purely social relationships between women and men.

The adoption of the ERA would result in the elimination of the use of sex as the sole factor in determining, for example, who would be subject to the military draft, if it were reinstated; who in a divorce action would be awarded custody of a child; who would have responsibility for family support; or who would be subject to jury duty. Moreover, public schools could not require higher admission standards for persons of one sex than the other, and courts could not impose longer jail sentences on convicted offenders of one sex. In essence, the amendment would eliminate from the law sex-based classifications that specifically deny equality of rights or violate the principle of nondiscrimination with regard to sex.

Questions have been raised regarding the effects of the ERA in the areas of privacy, military service, marriage and the family, protective labor laws, and criminal laws relating to sexual offenders. Let me speak to these concerns.

RIGHT OF PRIVACY

Opponents of the ERA have expressed concern that, with the adoption of the ERA, separate restrooms, prisons, and dormitories for males and females would be prohibited. However, the legislative history of the amendment and the adoption by 16 States of State equal rights amendments discount these concerns. The 1972 report of the Senate Judiciary Committee states that two legal principles are especially significant in this regard:

One principle involves the traditional power of the State to regulate cohabitation and sexual activity by unmarried persons. This principle would permit the State to require segregation of the sexes for these regulatory purposes with respect to such facilities as sleeping quarters at coeducational colleges, prison dormitories, and military barracks.

Another collateral legal principle flows from the constitutional right of privacy established by the Supreme Court in *Griswold v. Connecticut*, 381 U.S. 479 (1965). This right would likewise permit a separation of the sexes with respect to such places as public toilets, as well as sleeping quarters of public institutions.

Put simply, the State's traditional regulatory powers and the constitutional right of privacy would permit a separation of the sexes with respect to public restrooms, sleeping quarters in public institutions, and prisons.

MILITARY SERVICE

A critical question concerning the ERA relates to women and military service. As I view the amendment, women would be allowed to volunteer for military service, including combat duty, on the same basis as men. But this duty would not be arbitrary. Women would not have to serve in any capacity to which they were not fit just as men are not required to serve where they are not fit.

The ERA would require Congress to treat women and men equally with respect to the draft, if a draft were reinstated. This would mean that both women and men who met physical and other requirements, and who are not exempt or deferred by the law, would be subject to conscription.

It is important to note what will not be required by the ERA. ERA will not require that all women must serve in the military any more than all men must serve. Women who are conscientious objectors, who are unqualified for medical reasons, who have dependents, or who are mothers with children would not automatically be subject to the draft any more than men with particular exemptions would be.

In its effect the ERA would mean a more efficient and capable military. Further, women in the military and as veterans would receive the same benefits.

DOMESTIC RELATIONS

The ERA would affect State domestic relations laws that make distinctions based on sex. For example, the amendment would bar a State from imposing a greater liability on one spouse than on the other merely because of sex. Child support required of each spouse would be defined in terms of functions based, for example, on each spouse's earning power, current resources and nonmonetary contributions to the family welfare. Divorce laws would have to be sex-neutral so that factors other than gender would determine the payment of alimony and the custody of children.

And contrary to the fears raised by opponents of ERA, the ERA would not destroy the family. It would not force women out of the home or downgrade the roles of mother and homemaker. On the contrary, the status of the homemaker would be strengthened. The amendment would guarantee a "partnership" in which marital property belongs to both husband and wife. And it would insure that outdated laws which discriminate against women be deleted from Federal and State codes.

LABOR LEGISLATION

Many States have labor laws which bar women, whether qualified or not, from certain jobs—jobs which are open to men. Other States have weightlifting laws applicable only to women. Still others have laws limiting the hours women can work. Title VII of the Civil Rights Act prohibits sex discrimination in employment in certain instances where sex is not a "bona fide occupational qualification." Court decisions have invalidated many State laws based on title VII which prohibit or limit employment of women in certain occupations. But many State laws of this kind are still on the books.

Ratification of the ERA would result in equal treatment for women and men with respect to State labor laws. State statutes which bar women entirely from certain occupations would be invalid. However, laws which offer a real benefit could be extended to protect both women and men. For example, the ERA would insure that laws providing rest periods for workers or minimum wage benefits or health and safety protections would cover both sexes.

CRIMINAL LAW

As for the criminal law, the amendment would prohibit a State from providing for different punishments for women and men who commit the same crime. Laws which are limited to one sex would have to be extended to both, or such laws would become invalid. For example, many prostitution laws make only the acts of women criminal and not those of men. Under the ERA, these laws could be extended to cover both prostitutes and patrons.

SUMMARY

Mr. President, we renew today the drive toward equal rights for women and men in this country. As we do so,

support for the ERA is broad and deep across the Nation. Public opinion polls show that a majority of Americans favor passage of the amendment.

Supporters are as diverse as they are numerous. The list of organizations supporting the ERA include major labor unions, church and civil rights groups, legal, educational and medical associations and all major women's organizations.

The extent of popular support is not alone a rational for amending the Constitution. But the arguments for the ERA are in themselves compelling.

In the Senate, I urge all my colleagues to join me and Senator PACKWOOD and a majority of the Members of this body in cosponsoring the equal rights amendment.

The tide of public support behind the amendment indicates that it is an idea whose time has come. I am confident that it is only a matter of time before the ERA becomes the law of the land. I hope the day will come soon for the benefit not only for the women of this country, but for all Americans.

Mr. President, on a personal note, as the father of three daughters, I hope the time will come when they ask me why we even bothered. I hope that equality will become such a mainstream part of America that amendments such as this will seem, in retrospect, to have been a rather curious endeavor. It seems to me that my daughters ought to have the same rights and advantages as those who happen to be men.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the text of the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 213

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This amendment shall take effect two years after the date of ratification.".

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. TSONGAS. I yield.

Mr. JACKSON. Mr. President, it both saddens and delights me to be here today speaking out in favor of reintroduction of the equal rights amendment.

I am delighted, on one hand, because believers of this great cause have not lowered their banner. They want to continue and go on with the struggle that has been fought for so long already. And they will not rest until they succeed.

And, at the same time, I am saddened—saddened because the struggle is even necessary. The equal rights amendment should have been ratified may years ago.

To me the most regrettable thing that happened during consideration of the initial equal rights amendment is that it became a political wedge and was used to pit liberals against conservatives, one group against another, and so on. It became a rallying cry for certain groups.

Rights for women are not privileges. They cannot be granted or taken away. They are fundamental human rights and should be secured like all others by the Constitution of the United States.

I have advocated the equal rights amendment since my first election to the U.S. Senate.

It is my belief that the progress made in recent years—much of it in anticipation of the ERA—toward ending discrimination against women must be protected by ratification of the equal rights amendment. At present, the rights of women are dependent on legislation, executive action, and interpretation by the courts. None of the rights gained in these ways has a guarantee of permanence.

Public support for the equal rights amendment has remained strong over the years and continues today. A national survey, by NBC and the Associated Press, of likely voters this year found that 71 percent favor a constitutional guarantee of equal rights for women. More than 450 major organizations, with a combined membership in excess of 50 million, have endorsed ERA. And, more important, the 35 States that did ratify the ERA represent 72 percent of the U.S. population.

Japan's constitution, proposed by the United States after World War II and agreed to by the Japanese, contains a provision guaranteeing equal rights to women. I think it is high time for us to follow our own teachings and do no less than what we asked the Japanese to do 35 years ago.

If there is any doubt about the need for the ERA, one need look no further than current employment statistics:

For the first time in U.S. history, a majority of all adult women are employed.

The average male worker in the United States is paid $17,427 annually compared to $10,244 for a woman.

Thirty-five percent of women workers are found in only 25 of 440 job categories; women make up 99 percent of all secretaries, yet only 6 percent of all craft workers.

Seventy percent of all teachers are women, but only 18 percent of the pricipals and assistant principals are women.

Women comprise 51.3 percent of the U.S. population, yet only 10 percent of all public officers are held by women.

Only 14 percent of the students in higher paying vocational education programs—agriculture, trades and industry, and technical—are women.

The equal rights amendment is needed to signal that sex discrimination is not acceptable in the workplace, nor in schools, nor in government, nor anywhere else in American life.

Mr. TSONGAS. I thank the Senator from Washington for his support.

Mr. PACKWOOD. Mr. President, 2 weeks ago, I stood on this floor with my friend, Senator TSONGAS, along with a number of our colleagues to discuss the equal rights amendment. The day before, the deadline for ratification of ERA had passed. ERA had fallen three States short of becoming an amendment to our Constitution. But neither the tenor nor the tone of our remarks that day were despairing. Rather our statements were ones of determination and of resolve.

Fifty-one Senators join me today to reintroduce the equal rights amendment in the Senate. On the other side of the rotunda, 181 Representatives are introducing it in the House. To paraphrase an oft-used expression: "Today is the first day of the rest of the fight for ERA."

I will not dwell this morning on the need for ERA. Suffice it to say, the American people want the equal rights amendment. Today we begin the process which will make that goal a reality.

Mr. GORTON. Mr. President, I am now and I have always been a supporter of the equal rights amendment.

America's greatest resource is our people. When we deny equality of opportunity to fully half our population, we deny ourselves the benefits of their expertise, their industry, their strength.

But beyond our own self-interest, we must pass the equal rights amendment because it is right and just that we do so.

A nation born of a fierce battle for independence and self-determination cannot continue to harbor institutional impediments that prevent millions of Americans from achieving these same goals.

We will pass the equal rights amendment. Our Nation's history mandates it, our future demands it.

Mr. MOYNIHAN. Mr. President, today I join 50 of my Senate colleagues in reintroducing the equal rights amendment. I am mindful of a

strong sense of duty to right a great wrong, and mindful also of the place occupied by the ERA in the context of the prolonged struggle women in America have pursued for equal rights and equal opportunities.

I may perhaps be more conversant with that history than others, for I speak as the Senator from what may legitimately be termed the birthground of the women's rights movement.

I speak, of course, of Seneca Falls and Waterloo, N.Y. In July 1848, a group of five women met at the home of Jane and Richard Hunt in Waterloo. There, Elizabeth Cady Stanton of Seneca Falls, Mary Ann McClintock of Waterloo, Martha Coffin Wright of nearby Auburn, Lucretia Coffin Mott of Philadelphia and Ms. Hunt planned the first women's rights convention and later wrote the "declaration of sentiments." Modeled on the Declaration of Independence, the declaration of sentiments proclaimed women's equality with men and decried the inferior status women were accorded. It was endorsed at the Seneca Falls convention, held on July 19 and 20, 1848.

The only controversial measure raised at that convention was to extend the right to vote to women. It would be 72 years before the Nation heeded Elizabeth Cady Stanton's call for votes for women. Such was the pace at which our political institutions responded to what was arguably the largest mass movement in American History—there were, I must confess, moments in which I thought it would take Congress nearly as long to commemorate the events at Seneca Falls. Happily, however, it took but 10 months to enact legislation I proposed in February 1980 to establish a Women's Right Historic Park at Seneca Falls and Waterloo as part of our National Park System.

In 1923, Seneca Falls hosted another women's rights convention. That year, Alice Paul, courageous and unheralded campaigner for women's rights—she is not even deemed to merit inclusion in Harvard University's three volume work, "Notable American Women!" wrote the equal rights amendment that we introduce today. At the 1923 convention the National Women's Party, which Ms. Paul founded in 1913, endorsed it. Thus did they carry on the work begun in Seneca Falls in 1848. Votes for women, they knew, are only a step toward full equality for women.

In 1923, Senator Charles Curtis and Representative Daniel R. Anthony, nephew of Susan B., introduced Alice Paul's equal rights amendment in Congress. It was reintroduced in every session until Congress passed it in 1972. The ERA's supporters did not despair during 49 years waiting for the Congress to pass it, we did not despair during 10 years waiting for the States to ratify and we did not despair when the ERA fell three States short of ratification. We are here today to reaffirm our unswerving dedication to insuring that the equal rights amendment becomes a part of the supreme law of the land, despite any temporary setbacks we may suffer in the process.

Today is a day to celebrate our dedication to equal rights for every American, and to pledge our best and unending fight to protect those rights. We will not rest until Congress and the States affirm that women share with men an equality before the law, and the vision of Alice Paul is at long last fulfilled.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the RECORD remain open for the remainder of the day so that Senators who would like to insert statements on the ERA may do so.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

● Mr. MATHIAS. Mr. President, today, I join 50 of my colleagues in the Senate, and 202 in the House, in introducing a resolution to add the equal rights amendment to the U.S. Constitution. We do so in keeping with the promise made on the Senate floor 2 weeks ago to renew the struggle for equality and justice for the women and men of this Nation. Most of us have been committed to the passage and ratification of the ERA since early in our political careers. I have been working for a constitutional amendment guaranteeing equality under the law ever since I entered Congress over 20 years ago. I did not think then that I would still be here in 1982 fighting for the realization of a goal so simple, so straightforward, and so consistent with our Nation's basic values and principles.

The role of women in our society has changed dramatically since Congress first passed the ERA in 1972. The last decade has seen record numbers of women in the workplace, in every field of endeavor and on every level of responsibility. Yet, despite these seeming advances, much more remains to be done. For example, women earn, on the average, far less than men. It has become a well-known, yet startling, fact that a woman earns 60 cents for every dollar earned by a man. In 1955, she earned 65 cents. This "wage gap" is due, in part, to the fact that, despite the growing numbers of women in law, medicine, and other professions, women remain concentrated in low-paying "female" occupations. This alone, however, does not explain the "wage gap." Studies show that within every occupation women are paid less than men. So, whether surgeon or stenographer, a woman receives substantially less income than her male counterpart.

The need for the ERA is now more compelling than ever. Our society is changing, and our laws must be brought up to date. We, in Congress, have the ability to pass legislation to end gender inequality, but our efforts can never be truly effective without the equal rights amendment to back them up. Only when the women of this Nation have been given their rightful place in the Constitution will they be able to achieve and maintain equality with men. It is high time "equality of rights under the law" became a constitutional reality for all Americans.●

RENEWING OUR COMMITMENT TO EQUALITY

● Mr. HART. Mr. President, today is an important day in the history of America. It is a day on which we reaffirm our commitment to pursue the full realization of our country's most cherished principle: Equal rights for all Americans.

With the passage of the June 30 deadline for the ratification of the equal rights amendment, we fell three States short of securing constitutional guarantees that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

The passage of the deadline was a tragedy. But, it was not the end. There is no time limit on our quest for equality.

The equal rights amendment was first introduced in Congress in 1923, 3 years after the women's suffrage amendment was ratified. It was originally drafted by the suffragist Alice Paul and introduced in Congress every year until 1972 when it finally passed both Houses.

In the 1970's women made dramatic progress—frequently against overwhelming odds—in securing their political and legal rights. We successfully pressed for ratification of the ERA in 35 States between 1972 and 1977. Ironically, some of these hard-won gains are now being used as evidence that constitutional protection of the rights of women is, somehow, no longer necessary.

Precisely the opposite is true. We need the equal rights amendment to protect what has already been won—by insuring it will never be lost again—and allow us to continue our progress. While State, local and Federal governmental bodies may continue to promote equal rights, but, without a textual commitment in the Constitution to the idea of equality between the sexes, the continuing battles over the "proper" place of women in our society may never be resolved. Women's rights are permanent rights; they deserve permanent guarantees.

An overwhelming majority of American people—75 percent according to recent polls—support equality of rights under the law for women.

Opponents of the ERA must realize that those of us who seek true equality for all people will never allow the equal rights amendment to die. We will never give up. We will never give in. We will succeed in including all Americans in the phrase "We the People."●

● Mr. WEICKER. Mr. President, I am proud to join with 45 of my colleagues in reintroducing, for ratification by this Congress and the States, the equal rights amendment.

Mr. President, we hear from many of the ERA's opponents, including the President, that they are for the "E" and the "R" but not the "A." However well-intentioned their position may be, it simply is not tenable. There will be no "E" and "R" without the "A."

Somehow, this whole constitutional amendment process seems to have been turned on its head. Just yesterday, we were debating the merits of a constitutional amendment to balance the Federal budget, an attempt to write a particular brand of fiscal thinking into our national charter. Also on the Senate calendar is an amendment to impose a particular religious belief regarding a woman's right to an abortion. Two other proposed amendments would make official prayers and segregation acceptable again in our public schools. And yet another would establish a mechanism for determining senatorial pay.

Some of the very same Senators who have jumped on the bandwagons of these amendments as necessary alterations in the Constitution do not see the need for an equal rights amendment. How they can do this is beyond me.

Maybe they and their supporters back home have lost sight of what our Constitution was intended to be. We know from their writings that the Founding Fathers drafted the Constitution as the broadest statement of our rights and liberties as Americans. To make it a litter basket for every political issue too hot to handle is not worthy of our political traditions. Yet that is what most of these constitutional amendments amount to—and in a trash basket is where they belong, not in the Constitution.

The equal rights amendment stands apart as a fundamental restatement of what our democracy is all about. "Equality of rights under the law shall not be denied or abridged by the United States or by a State on account of sex." What could be more fundamentally American than the notion of equal rights?

Perhaps the problem is that some have lost sight of why the amending option was left open to us. While the Constitution itself is silent on the subject of what consitutes an appropriate amendment, the Federalist papers advocate an approach which "guards equally against that extreme facility which would render the Constitution too mutable and that extreme difficulty which might perpetuate its discovered faults."

Surely, if posterity has discovered a fault in the Constitution, it is that it does not speak for women. As a recent article in the Connecticut Bar Journal points out:

When the Federal Constitution was drafted and ratified, women were in an entirely different, and much inferior, social and legal category than men. . . . No word, sentence, clause or article of this remarkable political document in any degree changed the second-class legal (and social) position of American women. It is fair to say, therefore, that the constitutions of the United States, and of the States subsequently admitted to the Union, were written by *men* to ratify a social and political compact among *men*, designed to establish a form of government wholly controlled and administered by *men*. (Emphasis added.)

Some ERA opponents point to the equal protection clause of the 14th amendment as sufficient to nullify every law that makes distinctions based on sex. However, history has shown the Supreme Court hesitant to strike down classifications by sex with any consistency. In fact, according to the Yale Law Journal, the Supreme Court's approach to women's rights has been characterized by a vaguely stated but strongly implied belief in women's separate place and an extremely lax attitude toward State laws based on sexual stereotypes.

So, court decisions are no substitute for the ERA. Neither are our civil rights laws. Recent legislation like the Equal Pay Act of 1963, title IX of the Education Amendments of 1972, the Equal Credit Opportunity Act of 1976, and the Pregnancy Discrimination Act of 1978 were great achievements. But they leave plenty of loopholes open for overt discrimination against women by failing to address all kinds of discrimination everywhere. Only the equal rights amendment can do that.

To shift gears and seek to address and overturn sexual discriminatory laws one by one would be to slow the equal rights movement to a glacial pace. If you truly believe in equal rights, you should want to see them realized today, and not sometime in the 21st century.

Another problem with the legislative approach is its lack of permanence. On this very floor we have recently witnessed newly-won civil rights and liberties under attack. They will always be vulnerable. Passing the ERA would put equal rights for men and women out of the reach of reactionary tides and trends. There would be less opportunity to backslide on our commitment to equal rigths.

The equal rights amendment is not a measure designed to win the votes of any single-issue group, religious sect, or political party. The ERA is for everyone. Homemakers need the ERA as much as career women, men as much as women. Its supporters come from all walks of life and all parts of the country. On many an issue they quarrel but on this much they agree: Discrimination on the basis of sex is inconsistent with all our Nation stands for.

Mr. President, we needed the 13th amendment to abolish slavery, the 15th amendment to extend the franchise to black Americans, and the 19th amendment to extend the right to vote to women. We need to make the equal rights amendment the 27th amendment to our Constitution to afford men and women equal rights under law.●

● Mr. BAUCUS. Mr. President, I rise today as a cosponsor and enthusiastic supporter of Senate Joint Resolution 213, which proposes adoption of the equal rights amendment.

For 200 years, Americans have been pioneers in the cause of equality, justice, and freedom. Montanans, too, have been pioneers. I am proud to represent the State which sent to Congress its first woman member, Jeannette Rankin. As the representative of Montana's First Congressional District, she was an effective advocate for women's suffrage and equal rights. It is unfortunate that the fight for the equal rights amendment continues so many years after her service in Congress. Today, we renew our efforts to bring equality and justice to American women.

The ERA states quite simply that:

(E) quality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

This is not a difficult proposition. Montana included the amendment in its State constitution in 1972. It is a self-evident principle of simple justice. It would not prevent anyone, man or woman from living the kind of life he or she prefers. It would not force anyone, man or woman, to live according to rules dictated by others.

We all support equal pay for equal work. But that is not happening in many jobs. What the amendment would do is to provide women with opportunities—the opportunity to share fully in America—the opportunity to receive just rewards for personal efforts—the opportunity to enjoy equal rights.

Mr. President, I beleive that the precious and fundamental principles of freedom and justice must be extended to encompass all Americans. Over half of all Americans are women. As Americans, they should be treated equally under the law. As Americans, we should be proud that the search for equality never ends.●

EQUAL RIGHTS AMENDMENT

● Mr. HATFIELD. Mr. President, it is hard to believe that, even now, in the

most developed country in the world, American women, 53 percent of the population, still are not the equals of men before the law.

The economic plight of today's American woman is even greater than it was a few decades ago. Equal economic opportunities take on even greater importance when we recognize that the majority of American women who work outside the home are single, widowed, divorced, or their husband earns less than $10,000 per year. Fewer than 20 percent of our families are traditional, in that the husband works outside the home while the wife and mother cares for the children. The majority of families in America, in fact, rely on either two wage earners or a single head of household to support them. Almost 1 family in 3 is headed by a woman, compared to about 1 in 18 headed by a man. These are realities which must be addressed. Ratification of the equal rights amendment is imperative if we are to assure that women who choose to work outside the home, or who must because of economic realities, will have equal opportunities in such things as employment, housing, and credit.

The general principles on which the equal rights amendment rest are simple. Unfortunately, they have been grossly misrepresented. Legislative intent is clearly stated in the Senate Judiciary Committee report on the ERA:

> The basic principle on which the Amendment rests may be stated shortly: sex should not be a factor in determining the legal rights of men or women. . . . The Amendment will affect only governmental action; the private actions and the private relationships of men and women are unaffected.

By eliminating gender-based classifications in the law which specifically deny equality of rights, every Federal or State law which makes a discriminatory distinction would be invalid under the equal rights amendment. Both proponents and opponents of the amendment agree that proper interpretation of the ERA would result in the elimination of the use of sex as the sole factor in determining, for example, who, in a divorce action, would be awarded custody of a child; who would have responsibility for family support; or who would be subject to jury duty. Public schools could not require higher admissions standards for persons of one sex than the other; courts could not impose longer jail sentences on criminals of one sex. Thus, certain responsibilities and protections which have been or are now extended to members of one sex, but not to members of the other sex, would have to be either extended to everyone or eliminated entirely.

While I do not intend to make light of the strong feeling that opponents have about the amendment—indeed, there is room for rational debate on the potential impact and interpretation of the amendment—I do believe that many of the expressed fears are unfounded. The linking of homosexuality and the forcing of women to accept the same responsibilities as men with the equal rights amendment is totally false. If I truly believed that the family structure would be destroyed, that women would be forced to choose a particular lifestyle, I would do all that I could to defeat it.

Perhaps the most effective counteraction to the claims of the ERA's opponents is the actual experience of those States, 16 in number, which have adopted a State ERA.

Rape laws have not been invalidated by State ERA's. No laws providing for separate toilets have been overturned. No laws prohibiting homosexual marriages have been invalidated. Women have not lost their right to be supported by their husbands. In fact, support within a marriage has never been guaranteed by law, but has been a matter of custom.

Rather, reports from all States assert that women have gained rights with more equitable decisions given at divorce to homemakers, to children, and to husbands, with the improvement of opportunities for credit, housing, and employment. Many States are in the process of revising their laws to bring them into alinement with ERA requirements.

I believe that it is our responsibility to assure that equality of rights under the law should not be denied or abridged by the United States or by any State on account of sex. Therefore, I wholeheartedly join my colleagues as a cosponsor of the reintroduction of the equal rights amendment. I will continue to vigorously support its passage by the Congress and its ratification by the States.●

Mr. CRANSTON. Mr. President, I am proud to join today with 50 of my colleagues in introducing the equal rights amendment. I was an original cosponsor of the amendment approved by the Congress in 1972. My commitment to ERA has not diminished since then. Nor has the need for ERA diminished.

Mr. President, the issue addressed by the equal rights amendment is one that goes to the very core of our national commitment to equality of rights for all of our citizens. The equal rights amendment simply and plainly provides that equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. It would give constitutional force to the basic principle that government at all levels should treat women and men as individuals having equal rights under the law. It would extend to the women of this Nation clear and full status of equal citizenship under the Constitution.

The history of the struggle for women to enjoy equal rights under the laws of this Nation amply demonstrates how difficult attainment of this simple justice has been. It has been only 62 years since the women of this Nation were granted the right to vote and that struggle took 72 years.

It has been almost 60 years since the equal rights amendment was first introduced in the Congress. There are those who believe that the equal rights amendment is dead. They are wrong. There can be no time limit placed on the pursuit of equality and justice. The vast majority of Americans support ratification of the equal rights amendment. Today, with the reintroduction of the equal rights amendment, we continue the effort to achieve completion of the great and important task of securing constitutional recognition of the rights of women—and men—to be free from invidious discrimination based on sex.

HISTORY OF ERA

Mr. President, I would like to take a moment to review the history of the equal rights amendment. It was first introduced in the Congress in 1923. Over the years, it has been the subject of many hearings and intensive debate. Forty-nine years after it was first introduced, it was approved by both Houses of Congress—the House of Representatives in an overwhelming vote of 354 to 24 on October 12, 1971; and the Senate by a vote of 84 to 8 on March 22, 1972. Within 48 hours, 6 States ratified the amendment; within 3 months the total had grown to 20. By 1978, 35 States, representing 75 percent of the country's population, had ratified the equal rights amendment.

Ratification by three additional States was necessary to achieve the three-fourths required by the Constitution for the amendment to become law. However, by the end of 1978, the ratification period of 7 years, as originally provided by Congress, was drawing to an end. Recognizing the importance of the debate on the ERA and the continuing need for its ratification, Congress, after extensive debate, extended the deadline for ratification from March 22, 1979 to June 30, 1982—a 3-year, 3-month, and 8-day extension—to allow the remaining 15 nonratifying States additional time to consider this important measure.

As my colleagues know, the June 30, 1982 deadline passed without ratification by the necessary 38 States. Ratification was blocked in key States by a handful of individuals determined to thwart the amendment and the will of the vast majority of Americans who favor ERA. The widespread, documented support for ERA was ignored.

The opponents of ERA believed, mistakenly, that ERA would die after June 30. Today's reintroduction of

ERA refutes that notion. I believe that in the not to distant future we will look back to 1982, not as the year ERA died, but as the year that the final steps toward achieving ratification began.

THE NEED FOR ERA

Mr. President, although we have made tremendous progress in the past 10 years in promoting equality under the law for women, ERA is needed today as much as ever. Measured by any standard, sex discrimination has not been erased in our society. Discrimination and denial of equal opportunities because of gender continue to plague women.

The devastating consequences of persistent discrimination against women are amply demonstrated by the economic status of women. Women today earn, on the average, only 59 cents for every comparable dollar earned by men. In fact, the disparity between the wages of men and women has been growing, not declining. In the 1950's, full-time female workers earned 64 percent of what similarly situated male employees earned. A woman with a college education earns less on the average today than a man with an eighth grade education.

Although many employment barriers facing women have been broken down, most women still face occupational segregation into the lowest paying, least valued jobs with few opportunities for advancement. State laws restricting the hours women can work and prohibiting women from working in certain occupations, although of dubious legality under Federal EEO legislation, continue on the books.

The staggering percentage of women living in poverty reflects the impact of this persistent employment discrimination. Two out of three poor adults in this Nation are women. More than half of the total number of poor families are headed by women. Indeed, just as the statistics indicate that the disparity between the wages of men and women has grown, recent studies indicate that the families headed by women are experiencing a steady decline in their economic status. Although the total number of poor families in America changed little between 1969 and 1978, the composition of these families has shifted dramatically. The number of poor families headed by men dropped from 3.2 to 2.6 million, while the number of poor families headed by women increased by one-third, from 1.8 to 2.7 million. The impact that job discrimination has on these statistics is illustrated by data indicating that if women were paid the wages similarly qualified men earn, about half of the families now living in proverty would not be poor.

Discrimination in employment represents only one facet of the problems that confront women in our society. A patchwork of State laws exist which set different rules for women and men in areas such as ownership of property and marital rights. States laws and legal presumptions that discriminate against women upon the dissolution of marriage also continue to exist. For example, in some States today, a wife's services to her husband's business are presumed to be gratuitous; as a result, in these States courts will deny a wife's claims for property rights based on the time and effort she has contributed to her husband's business.

The consequences of a lifetime of discrimination is particularly devastating for older women. Single women—either never married, widowed, or divorced—comprise nearly three-fourths of our Nation's elderly who are living in poverty. The income protections for old age that individuals receive from pensions, insurance plans, or social security are often not available to women, or when they are, the costs are often higher or the benefits are lower for women than for men.

Women who have been full-time homemakers experience perhaps the greatest inequities in old age. For example, the economic value and contribution of a woman's work as a homemaker is ignored in the social security system. Since she is not credited with any retirement benefits in her own right, a homemaker's eligibility to receive social security is tied to her husband's benefits, limited to 50 percent of his basic benefits, and commences only after he retires. For a divorced homemaker, this means that if her former husband chooses to work beyond retirement age, she receives no benefits during that period; if he chooses to retire early, her benefits are reduced.

Similar inequities exist under various private and other public pension programs. Working women also continue to face discrimination through the use of sex-based actuarial tables to compute retirement benefits and premiums.

The list goes on. The fact is that discrimination on the basis of sex continues in our society. Without a constitutional amendment, it is likely to continue as a pervasive, negative force that hinders the ability for women to participate fully in our society and will retard the full realization of the human potential of women as well as the enormous economic contributions they can make.

WHY A CONSTITUTIONAL AMENDMENT IS NEEDED

Mr. President, there has been much debate in the past decade over the need for an amendment to the Constitution in order to insure women equality of rights before the law. There are those who argue that the goal of equal treatment can be attained through statutory and regulatory reforms or through the adoption of equal rights amendments to State constitutions. Others suggest that adequate protections already exist under the equal protection clause of the 14th amendment. Although much has been achieved in the past 10 years through legislative, administrative, and judicial actions to break down barriers denying women equal opportunities, those efforts have inherent limitations.

First, statutory changes and administrative enforcement of legislative protections are transitory in nature and can be diminished or withdrawn as the political tides in particular jurisdictions ebb and flow. The fundamental right to equality is too precious to be subjected to this type of seesawing. The efforts of the Reagan administration to curtail enforcement of existing Federal EEO requirements and undermine programs such as title IX amply demonstrate the vulnerability of legislative and administrative protections. Only through a constitutional amendment can the women of this Nation be guaranteed equal justice under the law.

Second, reliance on a State-by-State approach to dealing with the problems of discrimination on the basis of sex would result in a piecemeal approach, with some States actively carrying out the commitment to equal rights while others lag far behind. A woman moving from one State to another would face the prospect of conflicting approaches and resulting legal entanglements.

More fundamentally, to abandon a constitutional amendment and to relegate the fight for equal rights to the State level would be to denigrate the quest for equal justice for women to a lesser status than other basic civil rights. Our Constitution embodied the basic principles upon which our Nation is governed. Discrimination on the basis of gender, no less than other forms of discrimination prohibited by the Constitution, denies individuals equality under our laws. Only a national commitment embodied by a constitutional amendment will suffice to eradicate sex discrimination.

Finally, it is sometimes argued that the rights of women are adequately protected by the equal protection clause of the 14th amendment which, if properly interpreted, would nullify laws which treat men and women differently without rational basis. Although the recent decision of the U.S. Supreme Court in *Mississippi University for Women* v. *Hogan* — U.S. — (June 29, 1982), striking down a State law restricting admission to a nursing school on the basis of sex, is encouraging, review of other cases decided the past decade involving sex-based classifications indicates the unevenness and uncertain protection against sex bias afforded by the 14th amendment. The Supreme Court appears to have set-

tled upon a "middle tier" standard of review for sex-based classifications—one requiring more than simply a rational basis but less than the "strict scrutiny" required when certain fundamental rights, such as voting or the right to travel, are infringed or where classifications based upon factors such as race or national origin are involved. Although this approach has been of value in some respects, the dissenting opinions of some of the Justices are indicative of the difficulties in relying upon the 14th amendment as the basis for eliminating sex-based discrimination. Moreover, there has been considerable difficulty and confusion among the lower courts in interpreting the Supreme Court's analysis of gender-bias claims under the 14th amendment. Conflicting lower court interpretations of the standard for review of sex-based classification continue to delay and deter efforts to eliminate sex discrimination.

Mr. President, the struggle to achieve equal rights for women through statutory, regulatory, administrative, and judicial efforts should continue. Significant advancements have been achieved through these routes. But equality of rights without regard to sex ought to be a constitutionally secured right, like other basic civil rights enjoyed by Americans. Nothing short of a constitutional amendment will provide the women of this Nation with a secure guarantee of equal status and dignity under the law.

ERA—MYTH VERSUS REALITY

Mr. President, perhaps one of the most distressing problems that has plagued the ERA has been the misinformation and distortions used in the campaigns to block ratification. A striking example of this misinformation is illustrated by a poll conducted in the State of Utah, asking voters whether they approve of the following language: "Equality of rights under the law shall not be abridged by the United States or any State on account of sex." That language was approved by nearly a 2-to-1 margin among those questioned.

Yet, when the same voters were asked whether they favor or oppose ratification of the equal rights amendment, many who favored the equal rights language stated their opposition to ratification of ERA. These conflicting responses can only be interpreted as representing a fundamental lack of understanding about what ERA actually would provide.

The campaign against ERA has played upon this lack of understanding and raised various specters of bizarre practices following ratification of ERA—unisex bathrooms, elimination of child support and alimony laws, and broad expansion of Government intervention into family life.

The simple answer to these allegations is to look at the 16 States which have adopted equal rights amendments to their State constitutions. None of the abuses that the opponents of ERA have alleged would arise under ERA have materialized in those States.

CONCLUSION

Mr. President, the supporters of ERA must not delude themselves that ratification of ERA will come easily, particularly given the hostility of the Reagan administration and its allies in the Congress toward the rights of women.

On the other hand, we are not starting from scratch. Tremendous progress has been made in the past decade toward guaranteeing women and men equal status and dignity under the law. Women have made tremendous strides and hold important policymaking positions at every level of government, in every sector of our society. The vast majority of Americans now favor ERA. Every poll, every survey—even in the nonratifying States—shows this overwhelming support among the American people for ERA.

Women will continue to make progress and make invaluable contributions to this Nation. There is no way that the opponents of ERA can turn back the clock. The women of this country—and their supporters—will not tolerate a return to an era when blatant discrimination and barriers to equal opportunities relegated women to the sidelines of our society. In 1960, only 37 percent of all workers were women. That figure has since climbed to over 50 percent. In the past 10 years women have accounted for over 60 percent of the net growth in our labor force; and in the labor-scarce years ahead that demographic trends suggest, women will play an increasingly more important role in the labor market. It is estimated that in the next decade, two-thirds of new labor markets entrants will be women. This tidal change in the composition of our work force is enriching the world of work and the fabric of our society. It will continue to do so and will rise to its full potential if the equal rights amendment is ratified.

We cannot, as a nation, as a society committed to equal opportunities for all individuals, allow discrimination based upon sex to rob us of the contributions and the talents of women. Ratification of the equal rights amendment represents a clear commitment to equal rights for all individuals and a sound investment in the future of our society.

● Mr. INOUYE. Mr. President, as one of the many cosponsors of the equal rights amendment, it is my strong belief that the equal rights amendment will provide equal opportunity for all people, regardless of sex. I firmly believe that both men and women should have legal equality guaranteed by the Constitution.

I am very proud that Hawaii has the distinction of being the first State to ratify the equal rights amendment soon after the approval by the Congress in 1972. This is in keeping with the Hawaiian tradition of equal status for both men and women.

It is with this in mind that I urge my distinguished colleagues to support this very vital and necessary amendment to give full recognition to the tremendous contributions women have made and continue to make to our Nation. I look forward to the speedy passage of this legislation.●

● Mr. DANFORTH. Mr. President, the issue presented by the equal rights amendment is simple and basic. The issue is equality under the law.

The language of the equal rights amendment is clear. With lucidity and force, the amendment would elevate to constitutional standing a principle that is a bedrock of American Government.

The importance of the equal rights amendment to the women of the United States is profound. Its ratification would not instantly set right objectionable provisions of Federal and State law which remain on the books, despite great progress toward their elimination. The amendment would set a clear standard of constitutional law under which such provisions could be changed.

These are the reasons I support the ERA. I state them as clearly and as simply as I am able. These are the reasons I endorsed the amendment while attorney general of Missouri and the reasons I look forward to its eventual ratification.●

● Mr. SPECTER. Mr. President, I rise today to join my Senate colleagues in support of reintroduction of the equal rights amendment.

Amazing as it may seem, American women—who now comprise over 51 percent of the population—remain underpaid and discriminated against. Women may comprise 42 percent of the American labor force, yet 80 percent of these women remain isolated in low-paying, low-status, dead-end jobs. Despite decades of commitment on the part of women suffragists, the 1980's have brought little more for women than the 59 cents they earn for each male dollar.

A constitutional amendment, calling for equality for women, is crucial to the vitality of the American spirit. The equal rights amendment to the U.S. Constitution was first introduced in 1923. Years have passed and progress has been made, but the goals of the women who originated the notion of the ERA and the need for ERA have not diminished. Subtle forms of discrimination against women

continue to exist. The need for an equal rights amendment continues to be urgent.

Some Americans misunderstand the meaning of the equal rights amendment. They consider the proposed amendment to be a threat to family life and to the traditional roles of men and women. The sole concern of the ERA is to require equal treatment under Federal and State laws and practices for all persons, regardless of sex. The ERA simply assures that American women have the same rights and responsibilities as American men.

I am proud to be a cosponsor of this legislation to reintroduce the equal rights amendment and to be a supporter of equality in American society.●

Mr. COHEN. Mr. President, last month I noted with concern the passage of the deadline for the ratification of the equal rights amendment. Today I am pleased to join with my Senate colleagues in the reintroduction of the ERA.

At one time we thought that the final ratification of the ERA was in sight—only three States were required to approve the amendment and it would become a part of the Constitution. We now discover that with the finish of the race, even with the will to reach our goal, we were prevented from attaining the victory.

Lord Macauley once described our Constitution as "all sail and no anchor." I disagree with him, but I fear that we may find his description applicable to the fight for equal opportunities and equal rights for women. I believe that the Constitution is the anchor to the laws of the land. Perhaps more than that, it is the Constitution that charts where our laws should point. Without the ERA, whatever laws are passed to further the equality of women in every aspect of American society will be all sail and no anchor.

Since 1972, when Congress approved the ERA, there have been many changes in the laws of the land, passed by Congress and State legislatures, or mandated by the courts. Yet, there is nothing in the Constitution to secure these laws. A persistent argument against the ERA has been that the amendment was unnecessary, that the rights which it would grant have been or are being granted by judicial decision and statute. Others have argued that expanded interpretations of the 14th amendment would guarantee the rights to women which the ERA would guarantee.

Perhaps the perception of legal necessity for ratification of the ERA has diminished since 1972. Yet, what if we discover the changes made over the last 10 years are like Lord Macaulay's sails? Where will they take us when the tack changes?

We must remember that despite changes in the law, what we seek through the ratification of the ERA is the guarantee of fundamental rights, and the anchor for those laws.

In 1978, I worked for an extension of the deadline for the ratification of the ERA. My compromise won additional time for the process—until June of 1982. I believe the need for the ERA is no less urgent today, and I hope that we will someday see it in place as the 27th amendment to the Constitution.

Since this is a congressional question rather than a judicial one at this point, I think we should place this issue in a larger time frame of our history as a nation.

In one of Abigail Adams' letters to her husband John, she encouraged him to modify the British laws and customs that dictated the near total subordination of a woman's status and identity to that of the man. She asked him to "remember the ladies."

Well, something happened on the way to the convention. Neither Adams, nor Jefferson, nor Madison, nor Hamilton seemed to remember the ladies; they were not included in the Constitution, and women have been struggling for nearly 200 years to secure the basic rights that are guaranteed to men, ones that we accept as self-evident truths.

It is written in the Declaration of Independence that we hold these truths to be self-evident—that all men are created equal. Well, we have learned through the painful experiences of history, including a bloody Civil War, that not all men were created equal in the eyes of the law and it took the 13th and 14th amendments to declare that the color of one's skin was not a rational or fair determination of one's rights.

Today, we have many laws that seek to eliminate an irrational or prejudicial bias against women. There are many more that remain. I submit that the 27th amendment to the Constitution will be no more redundant for women than the 13th or 14th amendments were for ethnic or racial minorities. I maintain this is much more than a symbolic gesture, but if it were only symbolic it would be no less important. Our lives, our values, our social conscience are strongly influenced by symbols.

The thrust of the amendment is to allow each person to achieve the highest level of his or her potential. Nothing could be more fundamental than allowing each individual the opportunity to reach as high as his or her talent will allow.

The heart of the matter is that not just for years, not just for generations, but for centuries, women have been regarded as being less than deserving of full and equal rights and responsibilities in our societies.

By the wonderful mysteries of birth, by an uncalculated fusion of chromosomes, a majority of the citizens in our society, regardless of physical or intellectual ability, regardless of their potential for social contributions, are granted different rights, are stereotyped and suffer greater prejudices.

In weighing the equity of a policy that we are given the choice of pursuing, I believe we must consider the centuries of discriminatory policies which over the years have denied women a separate legal existence if they were married, and denied them the right to equal participation and responsibility in our society.

Without passage of a constitutional amendment, we will continue to perpetuate serious inequalities and revive some which have now been prohibited. Women will not achieve equality under the law.

Over 60 years ago, women fought for and won another basic right—the right to vote. Now, nearly 60 years since the first introduction of the ERA, women deserve nothing less than full equality of rights in the Constitution.

● Mr. KENNEDY. Mr. President, I am pleased to join my colleagues in the reintroduction of the equal rights amendment in the Senate and the House of Representatives today.

The temporary defeat of ERA is a national disgrace. But the deadline which just passed will be only the starting line of a new crusade to pass and to ratify equal rights. I led the successful fight in the Judiciary Committee to extend the period for ratification of ERA. And I will be proud to lead the fight again in the Judiciary Committee to pass ERA.

For too long, women have been relegated to the position of second-class citizens. For too long, the minority whose skin is not white and the majority who are women have been denied equality—which is the right of all Americans. I will not rest or retreat until our Nation at long last holds this truth to be self-evident—that not only all men, but all people, are created equal.

The equal rights amendment is more than a symbol; it can become the mandate for the Federal Government and for every State to insure equality in both the law and the life of this land. The need for ERA is as compelling today as when it was adopted by the Congress 10 years ago. The facts of sex discrimination are no less stark now then they were in 1972.

Consider the following:

Women in general earn only 59 cents for every dollar earned by men.

Women are concentrated in sex-segregated occupations at rates of pay which do not equate comparable wages to comparable work. Women make up 99 percent of all secretaries, 89 percent

of all health workers, and 6 percent of all craft workers.

Nearly three-fourths of Americans over 65 below the poverty level are women.

Only 10 States have constitutional protection under the law for women. Inheritance tax, tax law, and the property rights of husbands and wives are important areas of discrimination under State law.

Although women comprise 51 percent of the population, they hold only 10 percent of all public offices.

Continued discrimination against women in our society demands the equal rights amendment. But that cannot be the end of the effort; it is only an essential beginning. As we continue to fight for ERA, we must fight as well for the economic rights of women. We will demand not only equal pay for equal work, but equal pay for work of comparable worth—and not only in present jobs, but in the new occupations of our future. The full and equal participation of women should mean something beyond a place in the world that men have made. The inequality of women is not just a national problem; equality for women can contribute new ideas and better solutions in every area of national endeavor.

The traditional values and priorities of women can be a source of strength; they can enlarge our vision for our country; they can improve the ways in which all of us—men and women alike—will govern and live.

The road to ratification will not be an easy one. But the extraordinary importance of the effort gives us the strength to see the struggle through to the final victory that will come. We will work for as many days or years or decades or generations as are required to achieve our objective of equal rights, so that at last ERA will take its rightful place in the Constitution of the United States.●

● Mr. GLENN. Mr. President, I regard the June 30 deadline for passage of the equal rights amendment not as an end, but as the beginning of a new struggle to eliminate discrimination based on sex. To be sure, many of the advances contemplated by ERA have been fulfilled by legislatures and the courts, but these advances may prove fleeting and short lived in the absence of a provision of constitutional magnitude. Indeed, without the amendment the desire of a majority of Americans—that women be afforded the same rights under the law as men—will likely remain unquenched. Therefore I rise to urge this body to reaffirm its commitment to equality for all Americans and support the reintroduction of the equal rights amendment.

Discrimination persists in all facets of American life—in employment, educational opportunities, in the military. We have already seen where measures designed to correct discrimination based on sex have fallen into disuse due to inadequate enforcement procedures, reversals in policy, or simple neglect. For example, title IX of the 1972 education amendments was enacted to prevent sex-based discrimination in federally funded education programs. But many schools have yet to comply with the sports provisions by providing more money and effort to the men's program than to the women's program. At the time this legislation was enacted the then Department of Health, Education, and Welfare took 3 years to issue enforcement regulations.

It is a disgraceful situation when 51.4 percent of the population of this most advanced of nations must constantly resort to the courts or petition their legislators to secure equality of rights and even then cannot be assured that those rights are secured for all time. It is a situation that cannot be tolerated.

Without the constitutional guarantee equal rights for women can never fully be guaranteed. I therefore implore my colleagues in Congress to acknowledge our crucial role in extending those constitutional principles of equality to all Americans and to become the force motivating a renewed and reinvigorated drive for passage of the equal rights amendment.●

● Mr. RIEGLE. Mr. President, I rise as an original cosponsor of the equal rights amendment which is being introduced today in the identical form approved by the Congress 10 years ago. Our decade-long effort to ratify this amendment has only served to strengthen my conviction that the ERA belongs in the U.S. Constitution.

I deeply regret that such a reintroduction is necessary—that the extension of constitutional protections to over half the population of this Nation has been delayed by a small number of State legislators. Unfortunately, the lessons of history tell us that fundamental rights are often achieved only at the price of long-term concerted effort. One has only to look to the enduring women's suffrage movement—a 70-year struggle to gain the most basic right to vote—to be painfully reminded that equal rights have not been readily granted to women.

Nevertheless, the tenacity and courage of dedicated women and men led to the adoption of the 19th amendment in 1920. In 1982, with recent press documenting women's changing voting patterns and their growing impact of the major issues of our time, it is difficult to imagine an America without the political participation of women. We must not forget the hard-won battles of our history or the benefits we all reap by a steadfast commitment to democratic ideals. I have no doubt that the equal rights amendment will be adopted to the U.S. Constitution. Women and men committed to equal justice will not rest until this is accomplished.

It is our responsility in the Senate and in the House of Representatives to begin the ratification process once again by approving this measure and sending it on to the 50 States. My own State of Michigan ratified the ERA within 3 months of its introduction 10 years ago. I am confident that the people of Michigan will again press for passage of this important piece of legislation. With national support for the ERA continuing to gain momentum, we owe it to the people of this country to renew our efforts to ratify the 27th amendment.●

THE ERA WILL NOT DIE

● Mr. MITCHELL. Mr. President, I am pleased to join my colleagues, Senators TSONGAS and PACKWOOD, in reintroducing the equal rights amendment. I am disappointed that the requisite 38 States failed to ratify the amendment by the June 30, 1982, deadline. However, the fight to grant women equal protection under our Constitution is not over.

It took three generations of women to obtain the basic, fundamental, democratic right to vote. Perhaps it will take another three generations of women to obtain equal protection under the supreme law of our land. I hope not. Already, the second generation of women has joined the battle for equal rights. I hope that we are more enlightened now than we were at the turn of the century, and that it will not take as long for women to win full equality under our laws.

Through dedication and perseverance there will ultimately be an amendment to the Constitution that provides that "Equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex."

What could be more basic? It seems reasonable to think that the granting of equal protection for women's rights would be passed by acclamation.

Instead, it has been argued that we do not need an equal rights amendment to our Constitution, because the rights of women are already adequately protected by our current laws.

If that is so, why then do women still earn 40-percent less in the work force than men?

Why do the professions which are dominated by women, such as nursing, rank among the lowest paying professional jobs?

Why do women who are retired receive half as much as men receive from social security and other pensions, a factor which places so many of our elderly women below the poverty level, through no fault of their own?

These are some of the reasons we need an equal rights amendment. Be-

cause it is clear that women are not adequately protected against economic discrimination.

We are not talking about unisex restrooms. We are talking about elderly women who find themselves in poverty, because they are women, because they are entitled, under our laws, to half of what retired men receive.

The president of the Brunswick, Maine, chapter of the National Organization for Women, Joan Tronto, stated succinctly the need for an equal rights amendment, during a recent interview with the Brunswick Times Record:

ERA is important for people who are powerless, and are in no position to challenge discriminatory laws.

Those who say that women are already adequately protected without an equal rights amendment overlook the fact that the patchwork of individual laws to protect the rights of women can be repealed at any time. Women have no guarantee that those antidiscrimination laws now in place will not be repealed. Only a constitutional amendment will guarantee that permanent protection.

The Maine Legislature a few years ago erased all language in its laws that discriminated against women, I am proud to say. But that is not enough. Women in Maine still earn 59 cents for every dollar earned by men. Retired women still receive an average of $3,759 a year, while men receive an average of $6,430, a fact that the State's legislature alone cannot erase.

The addition to our Constitution of equal rights amendment is an economic issue, a humanitarian issue, one that appeals to our Nation's basic principle of freedom and equality for all.

I am disturbed over the failure to ratify the ERA this year. But the fight for the equal rights amendment is not over. The intervening years before 38 States can ratify the new equal rights amendment that we are introducing today will be difficult ones for elderly women, and for women who provide the sole support for their families.

There is no choice but to begin again. I am confident that the amendment will become part of our Constitution because this Nation cannot much longer ignore the need to grant equal status to women.●

● Mr. CHAFEE. Mr. President, as an original cosponsor of the equal rights amendment, I am pleased to say a few words on its behalf.

Today marks the beginning of a new effort to gain ratification of the equal rights amendment. This effort will not stop until ratification is achieved. Many of us experienced great disapointment over the failure of a few final States to ratify this much-needed measure. It was painful to come so close, and to come up short. At the same time, the enormous support which the amendment received means that, as a nation, we are now ready to grant men and women equal protection under the law.

It will be a mark of our civility and maturity as a nation when we finally ratify this amendment. We will be taking a huge step forward. Such steps have not always been taken with grace or with ease. Witness the battles waged over granting women the right to vote, or those over providing members of minority groups with basic civil rights. The country was torn over whether to make such advances. Yet we made them, and it now seems incredible—and indeed shameful—that we labored so long before making them.

The merits of the equal rights amendment have been debated. In my view, it has been shown beyond any doubt that this amendment is necessary to assure that governments not take actions which discriminate against individuals on the basic of sex. In the absence of this amendment, discrimination goes on—in education, in employment, in the granting of credit and insurance, and in the receipt of benefits.

I think that we have shown that State action is not enough. Indeed, the very suggestion that an issue as basic as "equality of rights under the law"—for this is what the ERA addresses—is a State or local matter reflects a misunderstanding of the principles on which this country has been and ought to be based. Should we have ignored the need for the 13th amendment by arguing that the States would resolve the problem of slavery at such time, and in the manner that they saw fit? No. Should we have retreated from our commitment to equality with suggestions that we were "tampering with the Constitution?" No. Supporters of the ERA have thoroughly demonstrated the shallowness of the objections to it; but we stand ready to meet any further objections that may be raised. We will continue to discuss those objections and prove that they are based on erroneous assumptions, or on principles that are in opposition to the direction in which we want this country to move.

On rare occasions, the Constitution needs to be amended. Not to reflect a passing social or economic view, not to limit the jurisdiction of courts, and not to distort the principles which underlie this great document. On rare occasions, the Constitution needs to be amended to insure that our system of law is serving the best interests of all Americans. The equal rights amendment does just that.

The ERA is an amendment for men and women. It will benefit both by helping to eradicate distortions and biases in the law, and discriminatory practices which have made legitimate the notion that unequal treatment is acceptable. It is not. The ERA says that governments will not practice discrimination. Let us affirm that commitment and pass this amendment.●

Mr. TSONGAS. Mr. President, I ask unanimous consent that letters of support from various persons and groups be printed in the RECORD at the end of the various statements.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WALTER F. MONDALE,
Washington, D.C., July 14, 1982.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR PAUL: I am very pleased that you are re-introducing legislation today to add the Equal Rights Amendment to the U.S. Constitution.

I know that with your leadership the Congress will once again put the ERA before the American people. And this time I am confident we can mobilize the majority in the country that believes in equal rights for all its citizens and wants that guarantee incorporated in our Constitution.

I look forward in the weeks and months ahead to working with you to ratify the Equal Rights Amendment. Joan and I will continue to speak and work for adoption of the ERA all over America, and we stand ready to help you in any way we can.

Sincerely,

WALTER F. MONDALE.

MASSACHUSETTS WOMEN'S
POLITICAL CAUCUS,
Boston Mass.

Re statement of support for the equal rights amendment.

Senator PAUL TSONGAS.

It becomes increasingly evident that the proposed Equal Rights Amendment to the United States Constitution will not be ratified in 1982. It becomes painfully and ironically apparent that a simple and concise amendment calling for the affirmation of equality of opportunity under the law will be rejected; this, though equality and liberty are purported to be the birthright of all Americans. Contrary to the desires of their constituents, state representatives have elected to say "no" to this constitutional affirmation of equality of opportunity regardless of sex. The opponents of the amendment, many of whom sit in our nation's legislatures, have purposely and maliciously blurred the distinction between equal regard and equal treatment. They insist that adoption of an amendment which explicitly guarantees the gender-blind application of the principles of equality and opportunity will cause the destruction of traditional American values. In fact and in practice, all that such an amendment would destroy are the forces in our society which deny over half the population the equal consideration that they deserve. They ignore the fact that equality and opportunity are two of the most basic American traditions; traditions that have been fought for for over 200 years by those who have truly believed in justice and freedom. Our opponents' arguments give substantial insight into what their values really are and into the depth of their commitment to 20th century ideal of justice and equality. From their actions, it would seem that they are not very committed at all. They hide behind the concept of personal freedom, forget-

ting—or choosing to forget—that no freedom is obsolute, that freedom becomes limited when if impinges upon the rights and liberties of others; rights and liberties such as equal opportunity for education, for employment and for equal pay for equal work. These are issues that the E.R.A. speaks to and these are issues which people concerned with women's civil rights and liberties shall refuse to forget. The equal rights amendment is not dead, nor is the fight for equality finished: they are, it would seem, simply defeated this time around. The Massachusetts Women's Political Caucus is committed to this fight for equality, and it will be won.

THE COMMONWEALTH
OF MASSACHUSETTS,
HOUSE OF REPRESENTATIVES,
Boston, Mass., June 15, 1982.

Hon. PAUL TSONGAS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR TSONGAS: July 1 is a historic date for women in this country. Thank you for introducing the resolution in the Senate in support of an equal rights amendment to the United States Constitution.

This time we will win.

Sincerely yours,

MARY JANE GIBSON,
State Representative.

MASSACHUSETTS COUNCIL OF CHURCHES,
Boston, Mass., June 15, 1982.

STATEMENT FROM THE REVEREND DR. JAMES A. NASH, EXECUTIVE DIRECTOR MASSACHUSETTS COUNCIL OF CHURCHES

America's failure to adopt a federal Equal Rights Amendment does not diminish the legitimacy of the cause; nor should it discourage us from continuing to pursue this worthwhile goal. The Massachusetts Council of Churches has supported the ERA since 1976. I heartily endorse a refile of the ERA.

The role of government is not to mirror the imperfections of a society, but to reflect a vision of justice which will inspire individuals to the highest standards of fairness, restrain institutions from abuses of power, and protect the disenfranchised.

Women all-to-often have been a beleaguered majority in our society, who have been dependents upon unpredictable privileges rather than independent claimants of equal rights under the law.

Passage of a federal Equal Rights Amendment will provide a constitutional guarantee for women to enter all arenas as persons of equal worth, equal responsibilities, and equal rights.

The ERA is more than a sign, it is the substance of our new understanding of the role and status of women in American society. I urge its adoption at the earliest possible time.

NATIONAL COUNCIL OF JEWISH WOMEN,
New York, N.Y.

NATIONAL COUNCIL OF JEWISH WOMEN—STATEMENT UPON THE INTRODUCTION OF THE EQUAL RIGHTS AMENDMENT, JULY 14, 1982

The Board of Directors of the National Council of Jewish Women, recently assembled in New York City, supports the reintroduction and passage, in Congress of the Equal Rights Amendment. NCJW further urges passage of state Equal Rights Amendments consistent with the federal language and reaffirms its commitment to support other measures that will ensure equal opportunity and legal rights for women at the federal, state and local levels.

Existing laws have not prevented discrimination on the basis of sex. The legal rights of women remain dependent on legislation, executive action and court interpretation, without the guarantee of permanence that an Equal Rights Amendment would provide. The Amendment would set forth a clear, uniform principle for courts and state legislatures to follow, and would put an end to such discrimination.

Building on the momentum of the last ten years of organized efforts, the National Council of Jewish Women will continue to work for a federal Equal Rights Amendment and to support legislative efforts at all levels of government that will ensure equality of opportunity for women in all areas, including employment and economic equity.

SHIRLEY I. LEVITON.

ERA DAY, JULY 14, 1982, BY THE MAYOR OF THE DISTRICT OF COLUMBIA

Whereas, on Wednesday, July 14, 1982, over 200 members of the United States Senate and House of Representatives will reintroduce the Equal Rights Amendment (ERA) in Congress as a reaffirmation of the Nation's commitment to the goal of placing within the Constitution of the United States a guarantee of full, equal rights for women—and men—in our country; and

Whereas, the vast majority of citizens strongly support the ERA, and over 500 organizations representing more than 50 million Americans have endorsed the ERA, including major labor unions, churches, civil rights groups, legal, education and medical associations, and all major women's groups; and

Whereas, although women have made tremendous strides and hold important policy making positions in every level of government, in every sector of our society, discrimination on the basis of sex has not been eradicated in this country; and, for this reason, ERA is needed today as much as any time in history; and

Whereas, women today earn on the average of only 60 cents for every comparable dollar earned by men, women continue to be concentrated in the lowest paying jobs, more than half the households headed by women currently live in poverty, and by the year 2000, the National Advisory Council on Economic Opportunity estimates that female headed families will make up 100 percent of America's poor; and

Whereas, the text of the amendment is simple and direct, reading as follows: "Equality of rights under the law should not be denied or abridged by the United States or by any state on account of sex:"

Now, therefore, I, the Mayor of the District of Columbia, do hereby proclaim Wednesday, July 14, 1982, as "ERA Day" in Washington, D.C., and ask the residents of our community to join with me in saluting the ERA supporters in the U.S. Congress for reintroducing this critical piece of legislation.

ORDER OF PROCEDURE

Mr. TSONGAS. Mr. President, I have no further need for time. What is the agenda before the Senate?

The ACTING PRESIDENT pro tempore. After the Senator from Massachusetts concludes, there is a special order for the Senator from Georgia. After that, there will be a period for the transaction of morning business.

Mr. TSONGAS. I have no request for time on the equal rights amendment, so I yield back the remainder of my time, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

Mr. NUNN. I thank the Chair.

THE CRIME CONTROL ACT OF 1982 TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, Federal court dockets abound with examples of the serious misuse and manipulation of the writ of habeas corpus by criminal offenders. Senator CHILES and I have taken the Floor, day after day for the past month, recounting to the Senate example after example of the ease by which career criminals routinely delay or escape punishment. We continue to emphasize the fact that criminal offenders now consider the writ of habeas corpus as a tried and true vehicle by which to frustrate the ends of justice.

In manipulating habeas corpus to their own ends, convicted criminals have discovered not one, but many, loopholes in the current statutory scheme governing habeas corpus proceedings. Earlier this week I focused on the refusal of Federal courts, under current law, to adequately defer to State court findings on identical factual issues. This morning I turn to yet another avenue by which criminals have learned to abuse the great writ: The deliberate failure to disclose known facts in order to insure relitigation of the same issue years later.

Consider the scenario in the case of Beach against Blackburn. Beach was indicted for first degree murder in the course of an armed robbery. During his State trial, Beach moved to suppress as evidence a statement which he had given to North Carolina authorities prior to being returned to Louisiana. The State court held a full evidentiary hearing on the question of the voluntariness of the statement, during which Beach refused to testify. The evidence established that Beach had been fully warned of his rights prior to giving the statement. More-

over, he had signed a written waiver of counsel and of his right to remain silent prior to making the statement. Based on the hearing evidence, the State court denied the motion to suppress Beach was convicted.

On appeal to the Louisiana Supreme Court, Beach again claimed that the statement was inadmissable. The Louisiana Supreme Court affirmed his conviction, concluding that the hearing record below "fully support[ed] the ruling that the defendant understood his fifth amendment rights and voluntarily waived same when he gave the oral and written statements."

Beach then turned to the Federal court system for relief via a petition for a writ of habeas corpus. Again he claimed that his confession had been involuntary. To support that claim, however, he raised, for the first time in the entire criminal proceeding, new factual allegations: That his "treatment" by North Carolina authorities had rendered his confession incompetent. By failing to disclose these allegations earlier, Beach had, of course, precluded the possibility of a full hearing by the State court on the issue. Nevertheless, the Federal district court denied his petition, finding no support in the record for Beach's new version of the facts.

The Court of Appeals for the Fifth Circuit reversed the district court's ruling and ordered an evidentiary hearing on the new factual allegations, since the State court had not addressed them in the earlier hearing. This was so despite the fact that Beach could have raised these facts in the original hearing and chose not to do so.

This case demonstrates what, unfortunately, has become routine "strategy" in many habeas corpus cases filed by State prisoners. They originally attack the admissibility of a statement and a full hearing is held by the State court. The court makes a finding based on the facts raised during the course of the hearing. Years later—6 years, in the Beach case—the petitioner again alleges the statements to be inadmissible, but on the basis of different facts, even though those facts were known at the time of the original hearing. Under current law, the Federal court is not free to dismiss the petition even where it is obviously lacking in factual support.

The habeas corpus proposals in S. 2543 would prevent State prisoners from receiving new hearings on the basis of new and unsupported facts which were readily available to them at the time of the original hearing. Where new facts are alleged after an earlier determination by the State court, our proposal would require a new heraing only where the newly alleged facts could not have been developed at the earlier State hearing. In the Beach case, the fifth circuit made no finding that the new facts could not have been presented earlier nor did they consider the neglect of Beach in failing to present facts which were obvious to him in the hearing 6 years earlier. In order to instill any sense of finality in our criminal justice system, we must review current law governing habeas corpus proceedings. I suggest that the proposals set forth in S. 2543 are a sensible, rational, and necessary first step in that direction.

Mr. President, the Senator from Florida is here and I yield such time as the Senator from Florida will need. Before I do so, I say to my colleague from Florida that I have again enumerated for the Senate the proposal we have on habeas corpus in S. 2543, and I have given the example of the Beach against Blackburn case where the petitioner could have resolved the questions of law and fact in earlier proceedings but did not do so, and then alleged new facts that were known at the original hearing in Federal court after a Federal district court turned down the petition, and then the Fifth Circuit Court of Appeals ruled that another complete hearing had to be held.

So this is another example of the need for fundamental revision of the habeas corpus writ and the rights under that writ and, as the Senator from Florida well knows, as a cosponsor of this bill, of all legal matters that are bogging down the Federal court system and frustrating the State court systems and really causing a great diminution in the esteem of our criminal justice system. I would certainly place the habeas corpus abuse at the top of the list.

Mr. CHILES. Mr. President, I concur, and I thank the Senator from Georgia for his statement on that.

We estimate in Florida that up to 15 percent of the Federal judges' time is taken up in hearing habeas cases, and, of course, that is 15 percent of the time during which they could not hear other criminal cases and certainly civil cases, you just cannot get those before Federal judges because of the speedy trial law, and because of the fact that they are required to spend that time on the habeas corpus hearings.

We also have a situation in Florida where we have had cases brought 20 years after the original conviction, and in some of those cases having as many as five writs filed. In one case that I enumerated the other day there were three evidentiary hearings held, many repeating matters that had been raised before, but in each instance the Federal court had to look at that; in three instances they actually held evidentiary hearings, with nothing to say that that same defendant is not going to file further writs because there is no bar now, and under the present cases even on habeas corpus they can just continue to file and continue to file.

I join the Senator from Georgia in saying how happy I am to see the majority leader arrange for a unanimous-consent agreement on S. 2572, the bipartisan bill that the Senator from Georgia and I are cosponsors of with 54 other people, along with the chairman of the Judiciary Committee and the ranking member.

Certainly there are very meaningful things in that package: The witness protection provision, the bond provision, the forfeiture provision, making murder for hire a Federal crime, all of which are tremendously important, and, at the same time, I certainly regret, as does the Senator from Georgia, the fact that we did not get as a part of that package a reform of habeas, and that is something that is so important that it cannot be left out in any real meaningful attack that the Federal Government makes on the war on crime and drugs, and it must include a reform of habeas.

It is so important that the Chief Justice of the Supreme Court has spoken out on several occasions about the necessity of having this. Every one of our last several Attorneys General has brought attention to the fact of the antiquated law and the abuses that are now under the law, are used under the law. There is a purpose for habeas, and because of that purpose it was actually put into the Constitution, the provisions were, that we would have a use for habeas petitions.

Certainly when you see the abuses made of the petitions today, when you see that you can relitigate and revisit the same issue time after time, that you can file these writs 15 and 20 years later, and when an evidentiary hearing is held and there are not witnesses and you are not able to produce witnesses to the record, at times defendants have been able to walk on the pure technicalities as a part of any rational system of justice, then you see there is a need for reform because right now the way the system is operating it is a mockery.

So the Senator from Georgia and I intend to continue to speak out on this subject until we can have legislation considered to deal with the writ, and I certainly intend to join with him on the floor to continue to raise this issue.

Mr. NUNN. I thank the Senator from Florida.

There is an interesting historical observation. The original purpose of the writ of habeas corpus was as a petition to the judicial branch to regulate and monitor the actions of the executive branch in terms of false imprisonment.

Mr. CHILES. Right.

Mr. NUNN. And the original purpose was not to cause a review of judicial

proceedings but rather a judicial review of executive proceedings.

Now what we have is a judicial body reviewing judicial bodies reviewing judicial bodies, and it has really obscured the whole appellate process which has become a monster in our system.

Let me say that those who originated the habeas petition in the common law and our forefathers would be literally amazed to see the abuse which has taken place today and which has completely circumvented and gone far beyond any conceivable original purpose.

Mr. CHILES. I think they certainly would.

Mr. NUNN. I thank the Senator.

Mr. CHILES. Mr. President, I rise today as part of an ongoing effort to persuade the Senate to act on anticrime legislation. Getting the Senate to take up such legislation is a cause that Senator NUNN and I started working on close to 2 months ago, when we became concerned that the 97th Congress might adjourn without ever addressing the crime problem. At that time, we decided that we could no longer just sit around and hope that the Senate would get to this issue. We decided that we were going to introduce a package of crime fighting proposals, get this package onto the Senate Calendar, and then come to the Senate floor every day to speak out on crime until action was taken. A few days after we introduced our proposal, the chairman and ranking majority member of the Senate Judiciary Committee, Senator THURMOND and Senator BIDEN introduced another crime fighting package. Senator NUNN and I also sponsored this legislation, and we have continued to address the Senate on a daily basis in support of both packages.

I am pleased to think that our efforts are starting to pay off. In fact, I was delighted with the agreement that was reached, prior to the Fourth of July recess, which will allow the Senate to consider S. 2572, the Thurmond-Biden bipartisan crime bill. I would once again like to commend the distinguished majority leader for his work on this agreement. S. 2572 is an excellent package of crime fighting proposals. Taken together, these proposals will: Strengthen our laws to help make sure that those who are arrested are not able to escape justice by abusing laws designed to protect the innocent; establish penalties that will deter would-be lawbreakers; make sure that convicted criminals are not back on the street with little more than a slap on the wrist; and most importantly, help to curb the illegal drug trade, and break up organized crime rings that use violence and coercion to maintain and expand their control. I strongly endorse this bill, and I plan to do everything I can to see that it is passed into law.

There are certain reforms contained in S. 2572 which I am particularly anxious to see enacted into law. Some of these reforms address the criminal activities of organized crime and large scale drug rings. First, title 6 of S. 2572 will provide for more effective criminal forfeiture laws. Today, we have come to see that criminal forfeiture is the best way to immobilize a criminal organization. If we can penetrate the activities of a crime or drug ring, and then take away its assets—its ships, its planes, and the cash it uses to finance its operations—we will have a better opportunity to close the ring down all together. Title 6 strengthens our forfeiture laws, and makes it clear that forfeiture applies to the proceeds of criminal racketeering activities and all major drug smuggling cases. Another provision contained in S. 2572 which will be helpful in combating organized crime is the section which would bring "murder for hire" cases under Federal jurisdiction. This change will allow us to attack with greater vigilance one of the most heinous tactics of organized crime. There is also a provision in S. 2572 which makes needed changes in our currency reporting laws, changes that will help stop money laundering operations. This section is similar to a bill that I and the other members of the Permanent Subcommittee on Investigations sponsored last year. I am convinced that it will go a long way toward halting corruption in this area. Finally, I would like to voice strong support for the provision in S. 2572 which establishes improved witness protection programs. Through the mob violence hearings I took part in as a member of the Senate Permanent Subcommittee of Investigations, I received a firsthand account of the types of witness intimidation that goes on behind the scenes during certain criminal trials. Such intimidation often makes it impossible for a prosecutor to get a guilty felon convicted. The improvements in S. 2572 should help to clamp down on these situations, so that witnesses will be more willing to tell what they know.

S. 2572 also includes an important provision relating to reform in our criminal justice system. Title 1 of S. 2572 reforms our bail laws to allow the person making a bail determination to consider whether the release of an arrested person on bail would pose a danger to the community. Today, judges are unable to consider this factor; they are only able to consider whether a person is likely to show up for trial. As a result, judges have ended up setting bail for individuals who get back on the streets and commit another crime. We need to make sure that our bail laws allow us to detain those persons who are likely to commit another crime. We also need to make sure that bail does not just serve as a ticket to freedom, as it has in many drug smuggling cases. Title 1 also addreses this concern, by allowing the detention of drug traffickers with a previous record.

Another necessary change that is included in S. 2572 which I am very supportive of is the tougher penalties that it puts in place for drug trafficking. These penalties are essential to assure that those convicted of drug trafficking serve a penalty which is proportionate to their crime. It will also serve to deter would-be criminals from getting involved in drugs.

These are just some of the highlights of this package of crime fighting measures. There are other provisions of equal importance which I have not had the time to specifically mention, but which I support nonetheless. Mr. President, the American people are crying our for relief from crime. Passing this package will show that there is a deep and strong commitment here in the Senate to do something about this condition. I feel that the fact that this bill has received such broad support—a total of 54 Senators have sponsored it—indicates that the commitment already exists. But we cannot waste any more time; we have to act now to pass this legislation, so that we will be able to send it over to the House, and hopefully work with the House to assure that these reforms are enacted into law. I call on my fellow colleagues to assist me in seeing that S. 2572 gets this far.

Mr. President, there is just one further matter that I want to mention today. As I have clearly indicated, I believe that consideration of S. 2572 is a major step in the right direction. But this package is only part of the answer. I am reminding the Senate of this point because I feel that there are other important proposals which are ready to be considered, but which have been relegated to the back burner.

One particular measure which is not part of S. 2572, but which I believe deserves our attention is reform of our habeas corpus procedures. In the past few years, our Federal court system has been inundated with habeas petitions. These petitions come from persons convicted in our State courts who use this procedure to challenge their convictions time and time again. Many of these appeals are frivolous, and are filed years after the original trial. Further, a good percentage of these challenges do not even raise the claim of innocence; rather they are filed on purely technical grounds. The results of this wide open petitioning are disturbing: First, there is an extra burden on our already overloaded courts and prosecutors; second, the really legitimate appeals can get overlooked in the flood of frivolous ones; finally and

most importantly, the legitimacy of our State court system is undermined.

Earlier in this session, Senator NUNN and I introduced S. 653, a proposal to address the habeas corpus abuse problem. We were able to get the Subcommittee on Courts of the Senate Judiciary Committee to hold hearings on the bill, and I think these hearings made it clear that the flood of habeas petitions that we are seeing today is harmful to the effective functioning of our courts. Our bill was followed by an administration sponsored proposal on habeas corpus reform, S. 2216. I was very encouraged by this development, and I continued to push for consideration of such legislation. Unfortunately, although the issue of habeas corpus reform has received attention, there has been no concerted effort to bring up the actual proposals.

It was for this reason that Senator NUNN and I included habeas corpus reform in our package of anticrime bills. We still strongly feel that it belongs as a part of any effort to shape up our criminal justice system. Accordingly, we plan to continue to push for this proposal. I do not feel that my work of pushing for anticrime reform will be through until I see habeas corpus reform legislation considered before the Senate.

Mr. NUNN. Mr. President, if I have time remaining, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m. with statements therein limited to 3 minutes each.

The Senator from Kentucky.

BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

Mr. FORD. Mr. President, I am today filing an amendment to Senate Joint Resolution 58, the balanced budget and tax limitation constitutional amendment. This amendment would simply require the President of the United States to transmit to Congress a budget for the Federal Government in which total outlays are no greater than total receipts. It requires the President to do nothing more than will be required of Congress.

My intent in offering this amendment is not to dilute the proposed constitutional amendment. Indeed, I believe my amendment will strengthen the prospects for achieving a balanced budget.

As my colleagues know, Congress must authorize the spending of funds, but the initiation of appropriations is a responsibility of the President. Months before Congress even begins debate on the budget for a certain fiscal year, the various departments and agencies are at work on that budget. At the President's directive and under the supervision of the Office of Management and Budget, these Federal agencies put together highly detailed budgets, including estimates on expected needs for personnel, supplies, equipment, office space, and the like. This job is done by experienced budget examiners who usually have been long acquainted with a particular agency, and are capable of reviewing its requests with a sharp eye for accuracy, economy, and good program planning. It would be foolish of Congress not to have the opinion of these experts in the executive branch as to how a balanced budget could be achieved.

Mr. President, the Budget and Accounting Act of 1921 requires the President of the United States to submit to the Congress a proposed budget for the next fiscal year. The act also specifies some of the information to be set forth in the submission. It is hard to overstate the benefits that would flow from making it a requirement that the President's budget be balanced. It would be a significant step toward achieving a balanced budget.

Achieving a balanced budget each year will be no easy task. I submit that it might even be more difficult under the provisions of Senate Joint Resolution 58, as reported out of the Senate Judiciary Committee. It allows the President to send to Congress a budget which might include a large unrealistic and unacceptable deficit. This would only increase the heavy burden placed on the Congress. It would allow the President to say yes to every special interest group in town and then turn them loose on the Congress.

Just this year, the President submitted a budget which contained a deficit of $188 billion. Congress after many months of debate and deliberations was able to agree on a budget with a much lower deficit.

The President remains one of the most vocal proponents of a balanced budget constitutional amendment. Therefore, I am certain that he would welcome the opportunity to remain an equal partner with the Congress in the development of a budget.

It would not be responsible for us to turn over the entire responsibility for fiscal management to the legislative branch. There must continue to be significant input and direction from the executive branch in terms of fiscal needs to carry out its policies and programs.

Through my amendment we have the opportunity to remedy a major flaw in the legislation now before us.

4-H

Mr. BOSCHWITZ. Mr. President, we in Minnesota are very proud of an organization called 4-H throughout our State which not only trains young farmers but also brings attention to the importance of agriculture in our country.

Mr. President, Minnesota is a most remarkable farm State and in every major commodity is among the top eight or nine States in the Union, and in many of the commodities is the top State in the Union. That is because we run so far from north to south. In the northern part of our State we cannot grow corn or soybeans unless irrigated, but in the southern part of the State we do indeed grow corn and soybeans.

In the northern part of our State, we are the second largest sugar beet grower in the country. We are one of the largest potato growers in the country. We are the second largest sunflower seed grower in the country. We are among the largest wheat producers in the country.

Then, as we go south in our State, we also are very heavy soybean and corn producers, also cattle, and the fourth largest State in the Union, New York being third, I believe, in dairy production.

Minnesota is the most multifaceted agricultural State in the Union, so that my position on the Agriculture Committee is of great importance in protecting the interests of farmers of all degree and of all strengths.

It is particularly helpful to this Senator and the Senate as a whole to have an organization such as 4-H that not only brings to the attention of the Nation the importance and impact of agriculture, but also brings to the minds of young people the importance and wonderful life that is associated with farming.

Mr. President, the agricultural trade surplus in this country last year was $26 billion. We exported $44 billion of agricultural commodities. We imported about $16 to $17 billion. There is no item of trade that this country is involved in that is in any way close to that, and without agricultural items this country's dollar would have weakened, our imbalance of trade would have been enormous, and indeed the entire economy of our Nation would have been different.

S. 2198, THE TAXPAYER COMPLIANCE IMPROVEMENT ACT OF 1982

Mr. DANFORTH. Mr. President, I am pleased to report that the Senate Finance Committee has agreed to strike section 202 of S. 2198, the Taxpayer Compliance Improvement Act of 1982. In so doing, the committee refused to grant the Internal Revenue Service an exemption from the re-

quirements of the Paperwork Reduction Act. I applaud the committee's action, and I would like to share with my colleagues some of the reasons why I opposed section 202.

The question that this section posed was whether we in the Senate were going to maintain a serious effort to minimize the burden of Federal paperwork on the American public—or whether, after little more than a year of operation, we were going to consign the Paperwork Reduction Act of 1980 to the scrap heap.

The IRS is responsible for more than half of all the paperwork imposed by the Federal Government. It is consistently cited by the public as the most burdensome of all Federal agencies. And yet section 202 would have provided a blanket exemption for the IRS from the Paperwork Reduction Act.

That act, which I sponsored along with Senator CHILES and Senator BENTSEN, requires the IRS to show that it needs the information it seeks from the public—and that is all. If it fails to do so, OMB can reject the agency's information request.

The Office of Information and Regulatory Affairs, which administers the Paperwork Reduction Act, is still in its infancy. The act itself only took effect on April 1, 1981. But OMB estimates that 200 million hours of paperwork burden on the American public will have been eliminated by the end of this fiscal year. More specifically to the issue at hand: The Treasury Department, in reviewing its reporting requirements for the President's 1982 Information Collection Budget, targeted 39.7 million hours worth of IRS paperwork for elimination this year.

The Paperwork Reduction Act requires OMB to set a goal for reduction of the then existing paperwork burden of 15 percent by October 1, 1982, and an additional 10 percent by October 1, 1983. I make that point, Mr. President, to emphasize the difference between a goal and a mandate.

S. 2198 will not help the IRS reduce its total paperwork burden. Clearly, it will result in increased paperwork, with the aim of increasing tax revenues. I support that aim, and I support the bill. Indeed, I was an original cosponsor of the bill. But I could not support section 202; it was unnecessary and utterly contrary to attempts to reduce the Government's burden on its citizens.

The Paperwork Reduction Act will in no way inhibit the implementation of S. 2198. The paperwork burden imposed by S. 2198 will not be counted against the 25-percent paperwork reduction goal contained in the Paperwork Reduction Act. But that does not make the case for an exemption. On the contrary, OMB's review and oversight of IRS information requests will be needed more than ever in order to minimize the workload that this legislation will impose. The goal of S. 2198, after all, is not to create paperwork—the goal is to increase compliance with the tax laws; and if OMB can look at the new IRS forms and suggest ways to make them less onerous, surely we must applaud that effort.

This is not a new question, Mr. President. Coverage of the IRS was one of the most controversial issues involved in passage of the Paperwork Reduction Act. The IRS fought its inclusion nonstop, despite a Presidential decision to the contrary, and even argued for a veto of the bill. This year the fight was joined again, and again the administration supported coverage of the IRS under the act.

I have a copy of a letter from OMB Director Stockman, dated April 22, about section 202. He says:

The Administration strongly opposes this provision. According to our estimates, the Internal Revenue Service's forms and reporting requirements account for nearly half of the total reporting burden the Federal Government imposes on the public. Exempting these from the Paperwork Reduction Act would eliminate any outside review of the most important source of complaints about excessive Government paperwork. Moreover, an IRS exemption would have a significant adverse effect on the Administration's regulatory relief efforts, particularly those devoted to easing burdens on small businesses.

Much of the length and complexity of IRS forms and reporting requirements arise from the complexity of the tax law itself. Even within the context of existing law, however, major reductions are feasible without jeopardizing revenue collections.

I have a copy of a letter from Tim McNamar, Deputy Secretary of the Treasury, dated May 28, reiterating this opposition. He says:

Reducing the paperwork and regulatory burden imposed on the American public is a major objective of this Administration and one we are pursuing vigorously. In the Paperwork Reduction Act, Congress established a good program for accomplishing this objective, extending to the IRS the same statutory coverage that applies to other federal agencies. Since tax forms account for a very substantial portion of the federal reporting burden, it is essential that this coverage be maintained.

S. 2198 is primarily concerned with improving compliance with the tax laws, and we do not believe the Paperwork Reduction Act presents serious compliance issues.

I have a copy of a letter from Vice President Bush, dated June 10. He says:

I want to confirm the Administration's opposition and to emphasize how important IRS coverage is to the President's regulatory relief program. We are making good progress in reducing paperwork burden, and I am afraid that a special exemption for the IRS, which generates nearly half of all Federal paperwork, would seriously undermine our efforts and send a very bad signal to the public.

I don't think the urgent revenue situation is good reason for excusing the IRS from the paperwork reviews that apply to all other government agencies. Indeed, I wonder if less IRS paperwork might not increase taxpayer compliance. Where a balance must be struck, the best way to do it is through the careful procedures laid out in the Paperwork Reduction Act itself.

I have a letter dated May 14, signed by all 18 Members, Republican and Democrat, of the Senate Committee on Governmental Affairs. It states:

Of all agencies, we believe that the IRS, which is responsible for more than half of all federal paperwork burdens, should be subject to this Act and should be forced to make every attempt to reduce its paperwork burdens.

I have a letter dated June 22, signed by 13 members of the Senate Committee on Small Business. It says:

This Committee has long been involved in the battle to reduce the burden of Federal paperwork. During the 95th and 96th Congresses, this Committee held a series of hearings on the Impact of Federal Paperwork on Small Business. One of the predominant issues raised during these hearings, was the need to include the IRS under the Federal Reports Act (predecessor to the Paperwork Reduction Act). Testimony indicated that the IRS alone is responsible for more than half of the estimated paperwork requirements imposed on the business community.

The Committee on Small Business is joined by the small business community in its opposition to section 202 of S. 2198. We believe that an IRS exemption from the Paperwork Reduction Act would gut the law by eliminating OMB review of the most consistent source of small business paperwork complaints.

I have a letter dated June 28 from James D. "Mike" McKevitt, presenting the views of the National Federation of Independent Business and its 505,000 small and independent business owner members. He states:

The Federal Paperwork Commission and Congressional hearings have established that the single most important reason why the original paperwork clearance process established under the Federal Reports Act of 1942 (the predecessor of the Paperwork Reduction Act) failed to control the paperwork flood was IRS' exemption from that Act. Now the authors of S. 2198 propose to exempt IRS from the new clearance process, effectively gutting the Paperwork Reduction Act and guaranteeing its failure.

There is no reason to believe that the requirements of the Paperwork Reduction Act in any way jeopardize the IRS' mission to collect revenues. Unnecessarily complex or duplicative reporting requirements do, however, interfere with this mission. For example, such burdensome requirements are the direct cause of costly errors (to small business people and the government) in many areas of tax compliance by small business. In addition, such requirements actually encourage non-compliance by bewildered owners of small firms. The Paperwork Reduction Act was carefully crafted to help eliminate many of these problems by rationalizing and centralizing the management of federal paperwork requirements. To exempt the biggest and most obvious culprit from the provisions of the Act would make a mockery of the years-long effort to try to control federal paperwork.

Finally, I have the testimony of the General Accounting Office on April 14 before the Subcommittee on Federal Expenditures, Research, and Rules, about section 202.

If it is enacted—

The GAO said—

the Congress, OMB, and the public will lose accountability and oversight for about one-half of the burden of reporting to the Government. Leaving IRS subject to the act would not prevent it from levying new, needed reporting requirements. The act does not interfere with the collection of information clearly needed to carry out agency responsibilities.

Successful implementation of the Paperwork Act—not exemption from it—would seem to be what is needed for IRS to improve its administration of the tax laws through more efficient collection, processing, and use of information.

The GAO followed up on that assertion with a report prepared for the subcommittee, dated July 6. It states:

In our opinion, the Paperwork Reduction Act has not adversely affected IRS' ability to administer the tax laws. OMB's reviews of the reporting and recordkeeping requirements submitted by IRS have been completed within the statutory timeframes set by the act. IRS and OMB officials agree that OMB does not need full-time tax experts to review IRS' requirements. In addition, OMB officials told us that the burden reduction goals cannot be applied to new reporting and recordkeeping requirements in legislation, such as S. 2198. Furthermore, IRS officials advised us that no tax revenues had been lost because of the Paperwork Act. We therefore do not believe the Paperwork Act would impede IRS' ability to effectively implement the Taxpayer Compliance Improvement Act.

We believe IRS should not be exempted from any provisions of the Paperwork Act. The act provides ample flexibility for dealing with time exigent situations and does not prevent IRS from obtaining information needed for carrying out its responsibilities for collecting taxes, either under existing laws or under future tax legislation.

It has been suggested that the Office of Information and Regulatory Affairs lacks the expertise necessary to review IRS forms. But that claim betrays a fundamental misunderstanding about the function of the Office. Its responsibility is not to examine the substance of a regulation, only to review the request for information. The agency itself must justify its request. What OMB asks is: "Why is this information needed? Is this the least burdensome way of collecting it?"

Involvement by OMB in matters of substance is specifically precluded by the Act, which states that:

Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices.

The IRS might also claim that it does an adequate job of policing its regulations internally. But the General Accounting Office, in a draft report prepared for Senator BENTSEN, disputes that notion. It found that the IRS does not manage its paperwork reviews effectively: After examining just nine forms, the GAO concluded that changes in three of them would cut the paperwork burden to taxpayers by 4.5 million hours.

Mr. President, 18 months ago a new administration rode into town promising to lighten the load of the Federal Government on the American people. The Vice President was put in charge of a new task force on regulatory relief. In the Senate, just 3 months ago, we passed the Regulatory Reform Act by a vote of 94 to 0.

In considering section 202, the Senate Finance Committee had a chance to turn away from this effort, but I am happy to report that it did not. Instead, it reaffirmed the intent of Congress to have someone keeping an eye on the IRS as it writes its regulations and issues its forms, to make sure that it thinks of the public as well as itself.

I ask unanimous consent that the letters and the GAO report that I quoted be printed in full in the RECORD.

There being no objection, the letters and report were ordered to be printed in the RECORD, as follows:

JUNE 10, 1982.

Hon. ROBERT DOLE,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR BOB: I know you have received a number of letters from Administration officials opposing an exemption for the Internal Revenue Service from the Paperwork Reduction Act. I want to confirm the Administration's opposition and to emphasize how important IRS coverage is to the President's regulatory relief program. We are making good progress in reducing paperwork burden, and I am afraid that a special exemption for the IRS, which generates nearly half of all Federal paperwork, would seriously undermine our efforts and send a very bad signal to the public.

I don't think the urgent revenue situation is a good reason for excusing the IRS from the paperwork reviews that apply to all other government agencies. Indeed, I wonder if less IRS paperwork might not increase taxpayer compliance. Where a balance must be struck, the best way to do it is through the careful procedures laid out in the Paperwork Reduction Act itself. I hope you will keep these thoughts in mind as you work on the important legislation before your Committee.

Sincerely,

GEORGE BUSH.

THE DEPUTY SECRETARY
OF THE TREASURY,
Washington, D.C., May 28, 1982.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR BOB: I am writing to reiterate the Administration's strong opposition to exempting the Internal Revenue Service from the Paperwork Reduction Act of 1980. Such an exemption appears in the current draft of S. 2198, the Taxpayer Compliance Improvement Act of 1982.

Reducing the paperwork and regulatory burden imposed on the American public is a major objective of this Administration and one we are pursuing vigorously. In the Paperwork Reduction Act, Congress established a good program for accomplishing this objective, extending to the IRS the same statutory coverage that applies to other federal agencies. Since tax forms account for a very substantial portion of the federal reporting burden, it is essential that this coverage be maintained.

S. 2198 is primarily concerned with improving compliance with the tax laws, and we do not believe the Paperwork Reduction Act presents serious compliance issues. The Department of the Treasury and the Office of Management and Budget have developed a good working relationship for reviewing IRS forms. OMB understands the need for efficient and thorough collection of revenues, and IRS understands that unnecessary paperwork burdens should not be imposed by its forms and regulations. Both agencies have already agreed to important reforms that will significantly reduce IRS paperwork without jeopardizing tax collections in any way. There is certainly a point at which paperwork reduction conflicts with tax collection. Such conflicts, however, can be resolved in a reasonable manner according to the policies and procedures Congress has already established in the tax laws and the Paperwork Reduction Act.

Improving compliance with the tax laws is a fundamental commitment of the Treasury Department and, as you know, we strongly support many of the provisions of S. 2198 that will help us to do this. At the same time, the taxpayer is entitled to the minimum government imposition consistent with applicable law. I believe the American public wants us to pursue both objectives vigorously but fairly.

Sincerely,

R. T. MCNAMAR.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 22, 1982.

Hon. ROBERT J. DOLE,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR BOB: I am writing to give you and the members of your Committee the Administration's views on section 202 of S. 2198, the Taxpayer Compliance Improvement Act. The provision in question would have the effect of exempting Internal Revenue Service forms and reporting and recordkeeping requirements from review under the Paperwork Reduction Act of 1980. In testimony before your Committee on March 22, 1982, John E. Chapoton, Assistant Secretary of the Treasury for Tax Policy, asked the Committee for additional time for the Administration to formulate an explicit position on this provision.

The Administration strongly opposes this provision. According to our estimates, the Internal Revenue Service's forms and reporting requirements account for nearly half of the total reporting burden the Federal government imposes on the public. Exempting these from the Paperwork Reduction Act would eliminate any outside review of the most important source of complaints about excessive government paperwork. Morever, an IRS exemption would have a significant adverse effect on the Administration's regulatory relief efforts, particularly those devoted to easing burdens on small businesses.

Much of the length and complexity of IRS forms and reporting requirements arises from the complexity of the tax law itself. Even within the context of existing law, however, major reductions are feasible without jeopardizing revenue collections. Congress took this position in passing the Paperwork Reduction Act, which removed the IRS exemption that had existed under the Federal Reports Act of 1942. We believe the decision was a sound one and should be maintained.

Accordingly, section 202 in S. 2198 would seriously limit an important authority that is an essential part of the President's program to reduce the unnecessary regulatory and paperwork burden imposed on businesses and individuals by the Federal government. For these reasons, the Administration strongly opposes this provision and urges that it be deleted.

Sincerely,

DAVID A. STOCKMAN,
Director.

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., May 14, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As Members of the Senate Committee on Governmental Affairs, we would like to advise you of our strong opposition to section 202 of S. 2198, the Taxpayer Compliance Improvement Act of 1982 and urge that the Administration firmly and forcefully make known its position in opposition to the exemption. Section 202 contains a completely unwarranted exemption from the requirements of the Paperwork Reduction Act for Internal Revenue Services forms, regulations and recordkeeping requirements.

The Paperwork Reduction Act, which was drafted by our Committee and enacted in the last Congress, establishes a much needed mechanism to reduce the burden of Federal paperwork and reporting requirements. Of all agencies, we believe that the IRS, which is responsible for more than half of all Federal paperwork burdens, should be subject to this Act and should be forced to make every attempt to reduce its paperwork burdens. Small businesses and average citizens, according to the studies conducted by the Paperwork Commission and others, consistently sited the IRS as the most burdensome of all Federal agencies and a constant effort must be made, in our view, to minimize the paperwork costs imposed by the agency. A new report from the U.S. General Accounting Office confirms these facts and adds that merely by adopting new management procedures, the IRS could save the public 4.5 million hours of paperwork burden.

We commend the Administration for its opposition to section 202 and urge that it aggressively support the deletion of this provision when S. 2198 is considered by the Finance Committee.

Sincerely,

William V. Roth, Jr., Chairman; John C. Danforth, Member; Mack Mattingly, Member; Warren Rudman, Member; Ted Stevens, Member; Charles McC. Mathias, Jr., Member; William S. Cohen, Member; Harrison Schmitt, Member; Charles H. Percy, Member; Dave Durenberger, Member; Thomas Eagleton, Ranking Member; Lawton Chiles, Member; Sam Nunn, Member; Jim Sasser, Member; David Pryor, Member; Carl Levin, Member; Henry M. Jackson, Member; John Glenn, Member.

U.S. SENATE,
COMMITTEE ON SMALL BUSINESS,
Washington, D.C., June 22, 1982.

Hon. ROBERT DOLE,
Chairman, Senate Committee on Finance, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As Members of the Committee on Small Business, we would like to advise you of our strong opposition to section 202 of S. 2198, the Taxpayer Compliance Improvement Act of 1982, and would like to urge the Coomittee on Finance to delete that section during its full Committee consideration of the legislation. In our opinion, section 202 contains an unwarranted Internal Revenue Service (IRS) exemption from the requirements of the Paperwork Reduction Act.

We believe that passage of the Paperwork Reduction Act in December 1980 signaled a major legislative victory for the U.S. small business community. For too long, small business owners have been forced to comply with duplicative, burdensome, and in some cases, meaningless Federal forms and regulations. The Paperwork Reduction Act signaled a change from this practice by creating a much-needed and long-overdue mechanism for reducing the burden of complying with Federal paperwork and reporting requirements. Among other things, the Act requires Federal agencies to submit all of their reporting and recordkeeping requests to the Office of Management and Budget (OMB) for approval.

This Committee has long been involved in the battle to reduce the burden of Federal paperwork. During the 95th and 96th Congresses, this Committee held a series of hearings on the Impact of Federal Paperwork on Small Business. One of the predominant issues raised during these hearings, was the need to include the IRS under the Federal Reports Act (predecessors to the Paperwork Reduction Act). Testimony indicated that the IRS alone is responsible for more than half of the estimated paperwork requirements imposed on the business community.

The Committee on Small Business is joined by the small business community in its opposition to section 202 of S. 2198. We believe that an IRS exemption from the Paperwork Reduction Act would gut the law by eliminating OMB review of the most consistent source of small business paperwork complaints. Further, we believe that section 202 runs contrary to the efforts by this Administration to reduce the general regulatory requirements imposed on the small business sector. We understand that the Administration concurs with our opinion on this issue.

Again, because of the potentially adverse effect of section 202 on the small business sector of the economy, we urge the Committee on Finance to delete section 202 of S. 2198 when it considers the legislation later this month.

With best wishes, we are

Sincerely,

Lowell Weicker, Jr., Chairman; Orrin G. Hatch, Member; S. I. Hayakawa, Member; Slade Gorton, Member; Warren Rudman, Member; Alfonse M. D'Amato, Member; Sam Nunn, Ranking Member; Walter D. Huddleston, Member; Dale Bumpers, Member; Jim Sasser, Member; Carl Levin, Member; Paul E. Tsongas, Member; Alan J. Dixon, Member.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, D.C., June 28, 1982.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DANFORTH: The National Federation of Independent Business (NFIB), and its 505,000 small and independent business owner members across the nation strongly oppose Section 202 of S. 2198, the Taxpayer Compliance Improvement Act, to exempt the Internal Revenue Service from the requirements of the Paperwork Reduction Act.

In excess of 1.3 billion hours of the public's time in fiscal year 1982 will be spent complying with federal paperwork demands. IRS forms and recordkeeping requirements account for at least 45 percent of the total paperwork burden imposed by the federal government on the public. In fact, 7 of the top 20 most time consuming recordkeeping and reporting requirements are IRS'. The IRS requirements lie particularly heavily on small business owners, who, in large part, cannot afford the assistance of accountants, lawyers, and other tax professionals to insure their business tax accounts are in compliance with the voluminous IRS reporting and recordkeeping requirements. The result is that small business people must often be their own tax counsel and often forgo tax benefits because they don't understand the requirements or can't meet the reporting and recordkeeping requirements to claim benefits because of lack of resources.

The Federal Paperwork Commission and Congressional hearings have established that the single most important reason why the original paperwork clearance process established under the Federal Report Act of 1942 (the predecessor of the Paperwork Reduction Act) failed to control the paperwork flood was IRS' exemption from that Act. Now the authors of S. 2198 propose to exempt IRS from the new clearance process, effectively gutting the Paperwork Reduction Act and guaranteeing its failure.

There is no reason to believe that the requirements of the Paperwork Reduction Act in any way jeopardize the IRS' mission to collect revenues. Unnecessarily complex or duplicative reporting requirements do, however, interfere with this mission. For example, such burdensome requirements are the direct cause of costly errors (to small business people and the government) in many areas of tax compliance by small business. In addition, such requirements actually encourage non-compliance by bewildered owners of small firms. The Paperwork Reduction Act was carefully crafted to help eliminate many of these problems by rationalizing and centralizing the management of federal paperwork requirements. To exempt the biggest and most obvious culprit from the provisions of the Act would make a mockery of the years-long effort to try to control federal paperwork.

NFIB, therefore, urges you to support Senator Danforth's effort to eliminate Section 202 from S. 2198 and retain OMB's clear right of independent review and clearance of IRS paperwork

Sincerely,

JAMES D. "MIKE" MCKEVITT,
Director of Federal Legislation.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington D.C., July 6, 1982.

Subject: Impact of the Paperwork Reduction Act on the Internal Revenue Service's Ability to Administer the tax Laws (GAO/GGD-82-90).

Hon. JOHN C. DANFORTH,
Chairman, Subcommittee on Federal, Expenditures, Research and Rules, Committee on Governmental Affairs, U.S. Senate.

DEAR MR. CHAIRMAN. Your letter of June 9, 1982, expressed concern that Section 202 of the proposed Taxpayer Compliance Improvement Act of 1982 (S. 2198) would exempt the Internal Revenue Service (IRS) from key provisions of the Paperwork Reduction Act (Public Law 96-511). You requested that we analyze the impact of the Paperwork Act on IRS' ability to administer the tax laws, particularly the Taxpayer Compliance Improvement Act. You also asked that we direct our attention to any problems created for IRS either by the Paperwork Act itself or by the Office of Management and Budget's (OMB) implementation of the act.

Due to time constraints our analysis was necessarily limited in scope. We reviewed relevant provisions of the Paperwork Reduction Act, the proposed Taxpayer Compliance Improvement Act, and related materials. We interviewed OMB officials and analyzed OMB records and summary reports concerning its reviews of IRS' reporting and recordkeeping requirements under the Paperwork Act since the act became effective on April 1, 1981. We analyzed relevant IRS and Treasury Department records and interviewed key IRS and Treasury Department officials who are knowledgeable about, and involved with, the Paperwork Act and its implementation. The review was performed in accordance with GAO's current "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

In our opinion, the Paperwork Reduction Act has not adversely affected IRS' ability to administer the tax laws. OMB's reviews of the reporting and recordkeeping requirements submitted by IRS have been completed within the Statutory timeframes set by the act. IRS and OMB officials agree that OMB does not need full-time tax experts to review IRS' requirements. In addition, OMB officials told us that the burden reduction goals cannot be applied to new reporting and recordkeeping requirements in legislation, such as S. 2198. Furthermore, IRS officials advised us that no tax revenues had been lost because of the Paperwork Act. We therefore do not believe the Paperwork Act would impede IRS' ability to effectively implement the Taxpayer Compliance Improvement Act.

We believe IRS should not be exempted from any provisions of the Paperwork Act. The act is intended to benefit both the public and the Federal Government by reducing paperwork burdens and by improving agencies' effectiveness through better management of their information resources. Significantly, both IRS and Treasury officials advised us that they do not support exempting IRS from the Paperwork Reduction Act.

If such an exemption were enacted, the Congress, OBM, and the public would lose accountability and oversight for about 50 percent of the paperwork burden imposed by the Federal Government. The Paperwork Act imposes no more stringent requirements on IRS than on any other Federal agency. The act provides ample flexibility for dealing with time exigent situations and does not prevent IRS from obtaining information needed for carrying out its responsibilities for collecting taxes, either under existing laws or under future tax legislation.

During our discussions with IRS, Treasury, and OMB officials, it became apparent that differing interpretations of the Paperwork Reduction Act by OMB and Treasury have led to implementation problems. These problems resulted in a recent Department of Justice opinion regarding the act's coverage of reporting and recordkeeping requirements in existence prior to the act. This opinion appears to sharply limit OMB's review authority. We plan to address the implementation problems and the implications of Justice's opinion in a separate study, which is presently underway.

Three broad issues surfaced during our analysis which we believe may have contributed to the perception that IRS' efforts to administer the tax laws have been—or will be—hampered by the Paperwork Reduction Act. These issues include the timeliness of OMB's reviews of IRS' reporting and recordkeeping requirements, the need for tax experts at OMB to review IRS' reporting and recordkeeping requirements; and the applicability of the Paperwork Act's burden reduction goals to IRS' reporting and recordkeeping requirements.

Each of these issues is discussed below.

OMB HAS PERFORMED TIMELY REVIEWS OF IRS' REPORTING AND RECORDKEEPING REQUIREMENTS

OMB has completed its reviews of the reporting and recordkeeping requirements submitted by IRS within the time limits prescribed by the Paperwork Act. IRS officials advised us that no tax revenues had been lost because of delays in obtaining OMB approvals.

The Paperwork Act provides for a review period by OMB of up to 60 days. This period can be extended for an additional 30 days, if the OMB Director provides proper notice to the requesting agency. If no action is taken by OMB within the 60 days—or 90 days with appropriate notice—automatic approval occurs, and the agency is allowed to collect the information for up to 1 year.

If the agency head determines that an OMB decision is needed prior to the 60-day limit because it is essential to the mission of the agency and if the agency cannot comply with the clearance requirements, the agency head can request that the OMB Director approve the request in a shorter time. OMB must complete the review and approve or disapprove the proposed reporting or recordkeeping requirement within the time specified by the agency head. If OMB approves, the agency may collect information for a period of 90 days. During this period, OMB can complete its normal review and, if the requirement is needed beyond 90 days, the agency can make any necessary changes to its reporting or recordkeeping requirement and continue with subsequent collections. This is the so-called "emergency clearance procedure."

IRS officials told us that they have not used the emergency clearance procedure. They said it is not practical for IRS because tax forms generally must be available for use for at least 1 year and it would be too costly to reprint forms if a form was changed at the expiration of the 90-day approval period.

During the period April 1, 1981, through June 25, 1982, OMB records show that it had taken 651 review actions[1] on IRS' reporting and recordkeeping requirements. These actions had resulted in the approval of 509 IRS requirements with an estimated burden of over 610 million hours. The average time to complete the 651 review actions was 34 days. At the extremes, 10 actions were completed within 1 day and 3 actions took 87 days.

Basically, OMB has not denied any substantive IRS tax reporting or recordkeeping requirements. OMB disapproved 24 IRS submissions. Eleven were mandatory tax-related forms and 13 were general administrative or voluntary forms. Ten of the tax forms were subsequently approved. The remaining tax form—a regional office form—was disapproved because it duplicated a similiar approved national form.

In one case—the Generation Skipping Transfer Tax return form—OMB disapproved the form and returned it to IRS for revision. After making changes, IRS resubmitted the reporting requirement to OMB 4½ months later. It was approved within 34 days. According to IRS officials, no tax revenues were lost because this was IRS' first attempt to collect taxes under a 1976 law and taxes will be collected for the intervening years.

Significantly, the Generation Skipping Transfer Tax return form and related regulations had been under development within IRS since 1976. Therefore, the delay in obtaining OMB approval of the form was minimal when compared to the overall time elapsed since passage of the 1976 tax law.

FULL-TIME TAX EXPERTS NOT NEEDED FOR REVIEWING IRS' REPORTING AND RECORDKEEPING REQUIREMENTS

The view has been expressed that OMB needs full-time tax experts to perform competent reviews of IRS' reporting and recordkeeping requirements imposed on taxpayers. IRS officials stated they believed OMB's reviewers needed an understanding of the revenue collection process and IRS' procedures but that the OMB staff did not have to be tax experts. While some expertise may be necessary in certain situations, we do not believe tax experts are required full time because of the nature of OMB's review under the Paperwork Reduction Act.

Under the Paperwork Act, Federal agencies are responsible for designing reporting and recordkeeping requirements which will permit them to efficiently and effectively carry out their assigned responsibilities. At the same time, the agencies are responsible for (1) eliminating duplicative information collections, (2) minimizing the reporting and recordkeeping burden imposed on the public, and (3) tabulating information collected in such a manner to enhance its usefulness not only to agency personnel but also to other agencies and to the public. Therefore, the first line of responsibility is the agency's—not OMB's. Specific program expertise is thus available during the development of information requirements. OMB reviews such agency actions to assure that the act's mandates are carried out.

OMB's review of IRS'—or any agencies'—reporting and recordkeeping requirements is focused on paperwork burden issues—not on substantive questions of law or regulation. These paperwork burden issues include assessing (1) the basis for the information requirement; (2) the potential duplication of

[1] In a number of cases, OMB has taken more than one action on an individual reporting and recordkeeping requirement.

other existing information; (3) the nature of the instrument used to collect or record information in terms of clarity, readability, simplicity, etc.; (4) the frequency of collection or recording of the information in relationship to the intended uses to be made of the information; (5) the availability of agency resources to process, disseminate, and actually use the information after it is collected; and (6) the ways to limit the burden—or costs—on those who must provide the information.

While an appreciation of what a given statute or regulation requires in the way of information collection is necessary, expertise in tax law—or energy law or education law, or any particular field—is not required to carry out effective clearance reviews. To the contrary, an OMB reviewer with specific expertise in a given field could be more likely to accept unneeded complexity in the forms, instructions, or procedures associated with reporting and recordkeeping requirements.

OMB officials told us that they disagreed with the view that OMB should have full-time tax experts. They believed to do so could cause OMB to lose its objectivity. The OMB officials pointed out that they were able to obtain expert advice both from other OMB offices and from the public. Furthermore, the OMB officials said their function is basically a managerial one, not a technical one, and they do not need substantial technical expertise to perform their managerial function. They said the basic responsibility, clearly spelled out in the Paperwork Act, fell on the agency senior official to evaluate and ensure that the reporting and recordkeeping requirements developed by agency staff make sense.

OMB can—and hopefully does—provide constructive reviews of the manner in which reporting and recordkeeping requirements are implemented in terms of the structure of the form, clarity and readability of instructions, and other techniques for lessening burdens on respondents.

BURDEN REDUCTION GOALS DO NOT HAMPER NEEDED INFORMATION COLLECTIONS

The Paperwork Reduction Act required OMB to establish goals for reducing the reporting and recordkeeping burden imposed on the public. The goals are incorporated in the act to focus attention on the need to reduce that burden. They were not intended, and cannot be used, to restrict an agency from collecting information needed to fulfill an assigned responsibility.

The Paperwork Act contains goals for reducing the paperwork burden 15 percent by October 1, 1982, and an additional 10 percent reduction by October 1, 1983. The act clearly states that the percentage reductions are goals and does not mandate that the reduction objectives be achieved. In support of this position, the Senate Report 96-930 states that

"The burden reduction goal will be a useful way of focusing attention by the public and the Congress on the Office of Information and Regulatory Affairs and the activities mandated by the bill. While the goals are not binding, they are reasonable and obtainable. Continued public support and confidence in this reform effort will depend on progress made toward meeting them."

OMB officials assured us that the burden reduction goals had not been—and could not be—applied to attempt to prevent any agency from using reporting or recordkeeping requirements mandated by law. They emphasized that the burden reduction goals apply only to the burden baseline in effect in December 1980, when the Paperwork Act was signed by the President. The OMB officials also emphasized that OMB has established a policy of vigorously pursuing achievement of these goals. We believe the policy is entirely consistent with the act's objectives to minimize the reporting burden on the public and the Government's costs to collect and use the information.

OMB officials said they were in the process of reevaluating the agencies' progress in achieving the proposed burden reductions. If it is not possible to achieve the goals, the officials said they would achieve as much of a reduction as possible and explain the shortfall.

Any new reporting or recordkeeping requirements expressly mandated by statute, such as the requirements contained in S. 2198, are not subject to the goals. The reductions associated with the goals are to be made on a base of burden existing in December 1980, when the act was signed. Furthermore, even if OMB attempted to apply the goals to the new requirements of S. 2198—in effect telling IRS that it had to give up some other reporting requirements—OMB cannot prohibit IRS, or any other agency, from collecting information needed to carry out statutory responsibilities. Thus, the burden reduction goals contained in the Paperwork Act cannot be used to hamper IRS' efforts to collect revenues.

In this regard, IRS has already claimed substantial paperwork burden reductions—and projects further reductions in the coming months. Consequently, there seems no reason for an exemption from the Paperwork Act.

In summary, we found no evidence that the Paperwork Reduction Act has hampered IRS' administration of the tax laws. As noted earlier, both IRS and OMB officials agree that there have been problems in implementing the act. We are undertaking a review to assess the implications of these problems and the related Justice Department opinion on the effective implementation of the Paperwork Reduction Act.

As requested by your representative, we did not follow our normal practice of getting agency comments on this report. Also, as requested, we are providing copies of this report to the Senate Committees on Governmental Affairs, Finance, and Small Business; the House Committees on Government Operations, Ways and Means, and Small Business; and to the Joint Committee on Taxation. Copies are also being provided to the Director, Office of Management and Budget, the Secretary of the Treasury, the Commissioner of Internal Revenue, and the Attorney General.

We hope this information is useful and we will be happy to discuss it with you or your staff, if you wish.

MILTON J. SOCOLAR,
Acting Comptroller General.

BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

Mr. BRADY. Mr. President, I strongly support Senate Joint Resolution 58, providing for a constitutional amendment requiring a balanced Federal budget. The amendment imposes upon Congress the external discipline of a balanced budget requirement without simultaneously making that restraint inflexible in times of economic or national crisis. The flexibility of the amendment has been clearly explained by Senators THURMOND and HATCH, and by the report of the Committee on the Judiciary. But just as importantly, I support this constitutional amendment because I believe that any attention on or steps toward fiscal responsibility is crucial at this time.

The pressures on Congress to continue the spending policies of the last decades are at once enormous and ingrained. All too often fiscal restraint and electoral success are viewed as mutually exclusive. Elected officials have not formed this perception overnight. It has grown with the growth of Federal spending, grown as we responded to constant constituent requests for more special programs, grown as we responded to these needs and fueled greater expectations. The perception has become a habit, a habit proving injurious to our public health.

I believe that our recent experience in wrestling with the first concurrent resolution on the budget is instructive to us all. The calls for fiscal responsibility that greeted the Budget Committee's recommendations were loud and clear. While many Members disagreed with certain provisions of the budget resolution, virtually everyone viewed the projected deficit totals with horror. But what was repulsive collectively was often irresistable individually. So we had attempt after attempt to amend the budget resolution to increase funds for this and that program—15 amendments in all that would have added $30 billion to the deficit by 1985—and all the while we continued to decry a $100-billion-plus deficit. Every part of that budget has its constituency, every reduction in spending growth was met with protests from the beneficiaries, every program was viewed as very life's blood to someone, and all these pressures were brought to bear on the Congress.

Nowhere are the pressures more insistent, or persuasive, than in the fastest growing part of the budget—entitlements programs. I do not think that there is a Member of this body who does not recognize that Congress must examine these programs, which, like a huge "Pac Man," are threatening to engulf the entire budget. If we do not take some action soon, many worthwhile programs, essential to the social fabric, will face bankruptcy. But at the same time, the suggestion that we examine these programs, prune their growth, make them financially sound, was viewed as political suicide in an election year. So entitlements reform was shoved under the rug. So the deficit figures soared.

I do not face the same electoral pressures as many of my colleagues, but I understand and appreciate them. That is why a constitutional amendment is so important as a sign of our collective

intentions. I have heard the argument that this amendment is no substitute for a modicum of discipline by Congress. I believe that the argument would be more persuasive if there was evidence that Congress would exercise that discipline. I am aware that we made some agonizing decisions, went through many hours of grueling work in producing a budget resolution that was as lean as politically possible. But I regret to state to my colleagues that a deficit of $103 billion—viewed realistically by many observers as eventually soaring to between $150 to $185 billion—is hardly perceived elsewhere as an exercise in fiscal responsibility. And no amount of discussion in this Chamber is going to convince the American people that it really was one.

However, this constitutional amendment does say something real about fiscal responsibility. It says that the Federal Government will not plan to spend more than it takes in. It says that Congress must vote to raise more money if it desires to spend more. It says that there should be limits upon the amount that the Federal Government consumes from our economic pie.

I realize that some say that the amendment cannot work—that it either forecloses necessary options or invites clever evasions. I counter that argument by looking at my own State of New Jersey, a State whose population mix and diversity makes it a microcosm of our Nation. New Jersey mandates a balanced budget by constitution. Achieving that budget involves a great deal of legislative hard work. Many compromises, many tradeoffs occur during our budget debates in the legislature. But our legislators have learned how to allocate finite resources. The process works, the budget is balanced, and New Jersey remains fiscally sound and unburdened with crushing debt.

I know that this amendment is not the end of our efforts for fiscal responsibility. I know that it will do nothing to stop the huge deficits we face in the next several years. Its adoption will not send interest rates tumbling down immediately. But adopting it, as we keep a careful weather eye on the budget-busting tradition of enacting nonurgent "urgent supplemental appropriations," will send the right signals to the economy. And it is a giant step in the direction of fiscal sanity and economic health.

Finally, I urge my colleagues not to think of this amendment as a straitjacket. To be sure, it is a discipline, but like many disciplines it is also a freedom. It frees the Congress from many political pressures, and from a feeling of hopelessness about the Government's tax-and-spend cycle. It will allow us to make more rational decisions based upon the time-honored theory that we cannot spend what we do not have. To that end, the constitutional amendment can do nothing but good, and I urge its adoption.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

URGENT SUPPLEMENTAL APPROPRIATIONS, 1982

Mr. BAKER. Mr. President, I am authorized to say that the distinguished minority leader, who is necessarily absent from the floor at this moment, has indicated he has no objection to proceeding on the matter that I am about to suggest.

Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6685, making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 6685) entitled "An Act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Whitten, Mr. Boland, Mr. Natcher, Mr. Smith of Iowa, Mr. Addabbo, Mr. Long of Maryland, Mr. Yates, Mr. Roybal, Mr. Bevill, Mr. Benjamin, Mr. Fazio, Mr. Conte, Mr. McDade, Mr. Edwards of Alabama, Mr. Myers, Mr. Coughlin, Mr. Regula, and Mr. Green be the managers of the conference on the part of the House.

Mr. BAKER. Mr. President, I move that the Senate insist on its amendment and agree to the conference requested on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

The motion was agreed to and the Presiding Officer appointed Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. GARN, Mr. SCHMITT, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. MATTINGLY, Mr. SPECTER, Mr. PROXMIRE, Mr. STENNIS, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. HUDDLESTON, Mr. BURDICK, Mr. LEAHY, Mr. DECONCINI, and Mr. BUMPERS.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

NO NET COST TOBACCO PROGRAM ACT OF 1982

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m., having arrived, the Senate will now proceed to the consideration of H.R. 6590, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6590) to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price tobacco, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with amendments.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I suggest the absence of a quorum with the time to be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

A NO COST TOBACCO PROGRAM

Mr. President, in the course of the past year Senators and Members of the House of Representatives from tobacco States have engaged in a detailed and thorough process of evaluating the tobacco program. Almost a score of hearings were held in tobacco States, and every segment of what we call the tobacco family was involved in making recommendations as to how we could adjust the program in a substantive way in accord with the mandate of the House and yet retain the small family farm structure of the tobacco economy.

In the debate last year, Senators expressed concern that there might be a subsidy to tobacco farmers in the operation of the tobacco program. Some Senators noted that the opportunity for U.S. tobacco farmers to meet the challenge of the world markets was appearing to erode through a lack of price competition caused by a price support formula that resulted in U.S. leaf being overpriced and, there was criticism that too few of the allotments were in the hands of actual tobacco growers, resulting in the introduction of middlemen who benefited in too great a degree from the ability

to lease and transfer quotas they owned to farmers who did not.

Mr. President, I believe that the debate last year served a very useful purpose for all concerned. First, it established the parameters of concern that Senators who are well disposed toward farmers in general have had from year 1. Second, it caused tobacco farmers throughout the United States to realize that the Congress intends that the tobacco program be modernized and updated. Third, it established the conditions by which it is possible for those of us from tobacco States to be able to bring that kind of legislation to the Congress without fear that the entire program will be scrapped. And the livelihoods of hundreds of thousands of our people thrown into jeopardy.

Also, I believe the debate last year, in this Chamber and in the House, was something of a watershed in the understanding by Congress of two essential points about the tobacco program. First, the tobacco program has worked out to be virtually cost free over the past decade—principally because of the quota production controls which keep supply in line with demand.

Second, there is an appreciation for the fact that the tobacco program does not mitigate against those who would further the issues involved with health. I believe that we in the Congress—or at least most of us in the Congress—now appreciate how the production controls inherent in the tobacco program actually mitigate in favor of those concerned about the health issues.

Mr. President, I mention all of this simply to emphasize that a lot of water has gone under the bridge since last year, and I am glad to report to the Senate that we have made the adjustments suggested by the critics during the debate on the farm bill last year, Now where are we?

The House of Representatives has passed a bill which will make the adjustments and that measure is now before us. It would have been passed by the Senate last month, I think, save for the fact that it arrived physically in this Chamber after 5 o'clock on the afternoon before the House of Representatives went on recess. So we were given far less than 24 hours, I say to my friend from Kentucky, to try to move this bill through the Senate. Thanks to the able cooperation of Senator HUDDLESTON, and other members of the Agriculture Committee, we were able to refer the bill to the Committee on Agriculture, Nutrition, and Forestry and report it.

But then our able and distinguished friend from Missouri wanted a little more time than that, so after much discussion the deadline had passed that afternoon and it was not possible to consider any amendments. Had any amendments been approved, of course, the bill would have had to go back to the House of Representatives, and the House had gone home.

So that is why we reached the unanimous-consent agreement to have the bill considered today.

The House of Representatives, Mr. President, has passed a bill which will make the adjustments relating to the circumstances which I have earlier discussed.

I might say that there was coordination between the House tobacco States Representatives, the Senators from the tobacco States, and the staffs of the Agriculture Committees on both sides.

The bill certainly is not satisfactory to everybody. Indeed, a fair contention can be made that this is an antitobacco bill. But it does stand today as a compromise that is reasonably acceptable to all concerned. It passed the House as it moved on, without opposition, under a suspension of the rules. The fact that it passed without opposition in the House is significant because it demonstrates that this bill effectively answered the challenge presented to us last year.

The bill was sent over from the House to the Senate in the very late afternoon of June 23. As I said earlier, we reported it from the Senate Committee on Agriculture, Nutrition, and Forestry on June 24. We did that shortly after the noon hour. I might add that we performed a remarkable feat of getting a quorum, which is a difficult thing to do what with all the various committees handling important legislation. But the members of the Committee on Agriculture, cooperative as they always are, did respond to an emergency call by Senator HUDDLESTON and me and the bill was reported forthwith.

Mr. President, before I discuss in detail what this measure accomplishes, let me emphasize how important it is that the Senate act today with dispatch to approve this bill. The timing is crucial because the Fluecured marketing season will begin on July 21, and that is on a delayed basis because of that timeframe back in June with which the Senate could not cope. If the Senate does not pass this bill this week, the changes in the program to assure that there will be no losses in the operation of the program—the price support formula adjustments and the new restrictions on the leasing and holding of allotments and quota—will be delayed, some of them until the 1983 crop. I do not think any Senator wants to do that.

I might say further that it was not without difficulty, Mr. President, that we have persuaded our tobacco farmers that the changes that Congress intends be made as soon as possible. Many of our tobacco farmers would have had us put this day of reckoning off indefinitely. When you are dealing with that many people and when the issue concerns their very livelihood, you are bound, Mr. President, to have a difference of opinion. But I say proudly for all of the tobacco farmers in my State and other States that they have been willing to compromise and cooperate. I am proud of them. They understand that it is in everybody's interest under the circumstances to make the adjustments at the earliest possible time; that is to say, for the 1982 crop.

Delay would be totally unnecessary, and I do not think it is going to happen. We have Senators who do not look with favor upon the tobacco program, and who never have. But I think that they understand that it is absolutely essential to move ahead. The consequences of not doing that would be simply to continue the status quo that our most eloquent critics have discussed at some length, and a delay would serve no useful purpose for anybody. The bottom line, Mr. President, is that we must have the indulgence of the Senate to proceed with this bill that has already been passed by the House of Representatives and pass it with all deliberate speed, so that our year's work will come to fruition in time to take effect for the 1928 crop.

I say again that our farmers are ready for it, our critics, for the most part, want that to happen, and now is the time to do it.

Mr. President, the provisions of the legislation now before us are explained in a committee print which details the provisions of the bill and their rationale. This was distributed to all Senators last week.

The principal provisions, however—as well as their rationale—are as follows:

First, the bill establishes a no-loss fund in each of the tobacco associations to assure that the Commodity Credit Corporation will sustain no net losses from the price-support program. I must say that there is no other farm commodity program—and there are 13 of them all together—in which the farmers have such an arrangement to pay their own way. But, our tobacco farmers recognize that many Members of Congress feel the program ought to be operated without losses, and want that themselves.

Second, the bill provides that the price-support formula may be adjusted downward by the Secretary when he ascertains that certain grades of tobacco are not competitively priced. This is designed to assure that CCC outlays will be reduced. That is accomplished by assuring that less tobacco will go into loan stocks. Also, this will make the tobacco more competitively priced, so that U.S. farmers can sell more of our leaf in the growing world markets.

Mr. President, I would like to clarify the intent of the Committee on Agriculture, Nutrition, and Forestry with

regard to the application of the price-support changes in the bill. Some concern has been raised that the bill may not be specific enough to overcome the general prohibition that a price-support level may not be reduced once it is announced. I just want to make it absolutely clear that we intend that the price-support adjustment provisions in section 102 of the bill apply to the 1982 crop even though, as I understand it, the Secretary has already announced the support level for Flue-cured tobacco for the 1982 crop.

Third, in an effort to remove one of the more troublesome problems farmers have faced, the bill eliminates what is called fall leasing of tobacco quotas. This is designed to eliminate speculation in the leasing of tobacco quotas and makes it more desirable for a person to sell a quota or allotment they do not intend to farm themselves. And, they must sell such a quota to an actual grower. Also, this measure will serve to reduce the quota leasing rates—which should put an end to the concern so many have about what they call the fedual exploitation of tobacco farmers by those allotment holders who speculate in the leasing of quotas.

Fourth, entities which are not primarily engaged in farming, and individuals which are not possessed of sufficient tillable tobacco acreage, must sell their allotment to active producers no later than December 1, 1983, or forfeit it.

Fifth, as has already been alluded to, tobacco allotments may be sold by willing sellers to active producers. This will move the tobacco quota into the hands of farmers, serving to further reduce leasing costs, cause the program to be more farmer oriented and less allotment holder oriented. Yet, persons who are presently possessed of allotments and who want to continue leasing to active producers may continue to do so. This will assure that the "rug is not pulled" from anyone who has come to depend on their tobacco allotment for their retirement or whatever.

Sixth, the bill makes a technical change to bring established yields in line with actual production capabilities. This will substantially reduce demand for leased poundage, thereby helping to reduce leasing costs. Over the years, farmers have increased their production yields per acre and, consequently, can produce more poundage per acre than they could when the last adjustment was made. This adjustment every 5 years will serve to keep the acreage allotments in relationship to the poundage quotas, diminishing the "excess" tobacco available at harvest time. It is this "excess" tobacco that has been causing farmers to have to scurry about trying to lease in additional poundage if they had an exceptionally good crop.

In short, Mr. President, the package of changes we urge the Senate to adopt today will assure that there are no losses for the Government and the taxpayers in the operation of the tobacco program; they will assure that U.S. tobacco will become more competitive with that grown in world markets. This will not create one bit more tobacco, but will assure that U.S. farmers do not continue to lose their markets. And, the bill will substantially modify the lease and transfer and sale arrangements farmers may make, so as to move the allotments and quotas into the hands of actual producers.

I know of no opposition to achieving these goals, and the timeliness of the issue is upon us. I urge adoption of the bill.

The Committee on Agriculture, Nutrition, and Forestry made one significant amendment to H.R. 6590, as passed by the House of Representatives and several minor and technical amendments.

The committee adopted an amendment offered by the distinquished Senator from Kentucky (Mr. HUDDLESTON) to provide that, for the 1983 and subsequent crops of tobacco, the marketing of any kind of tobacco that is not eligible for price support because a producer has not agreed to make contributions to the No Net Cost Tobacco Fund or the No Net Cost Burley Tobacco Account would be subject to the same penalty as that for marketing tobacco from a farm in excess of the marketing quota for the farm. This provision will encourage contributions and assessments from all producers marketing quota tabacco and, thus, will further insure that the association funds or the Burley Account will be sufficient to cover any losses the Commodity Credit Corporation may suffer under the tobacco price support program.

The Committee on Agriculture, Nutrition, and Forestry also adopted several technical and minor amendments to H.R. 6590. These amendments would make the bill more technically sound and more closely reflect the original intent of the bill. One of the amendments deals with the periodic adjustment of the yield factor for Flue-cured acreage-poundage quotas.

Section 203 of the bill amends section 317(a) of the Agricultural Adjustment Act of 1938 to provide that for 1983 and for each 5-year interval thereafter, the Secretary shall adjust the national average yield goal to the moving national average yield. The simple average of the national yields for the past 5 years, 1977–81, is 1,989 pounds per acre. If this yield was used in lieu of the current national average yield goal of 1,854 pounds per acre in order to convert a national marketing quota to a national acreage allotment, the acreage allotment for each farm would be reduced by 6.8 percent with no change in the farm marketing quota, except for rounding.

Section 203 would also require the Secretary to adjust farm acreage allotments in each county for 1983 and for each 5-year interval thereafter to reflect increases or decreases in the moving county average yield for the past 5 years. Section 317(a)(4) of the 1938 act currently requires that each farm acreage allotment for the preceding year is to be adjusted uniformly by a national acreage factor so that the sum of all farm acreage allotments equal the national acreage allotment. Section 203 would require that each preceding year's farm acreage allotment must first be adjusted to reflect increases or decreases in the moving county average yield for the past 5 years. Thus, farms in counties with above average increases in county average yields would lose both acres of allotment and pounds of marketing quota to farms in those counties with below-average yields.

The committee amendment would provide for adjustment of farm acreage allotments in counties to reflect increases or decreases in the county yield while maintaining the same relative farm poundage quotas on farms between counties and States.

Another committee amendment would correct an error in the House bill with regard to poundage quotas for dark air-cured tobacco and for fire-cured tobacco. Section 303 of H.R. 6590 provides a procedure under which producers of dark air-cured tobacco and fire-cured tobacco could decide in a referendum whether to change from an acreage allotment program to a program under which farm marketing quotas would be established on a poundage basis.

Under section 303 the Secretary would be required to proclaim national marketing quotas for dark air-cured and fire-cured tobaccos for the two marketing years beginning October 1, 1983. The provision also provides that producers would vote in the referendum on whether they favored or opposed marketing quotas on a poundage basis for the three marketing years beginning October 1, 1983. The amendment would merely provide that the initial proclamation of marketing quotas for dark air-cured tobacco and Fire-cured tobacco would be for 3 instead of 2 years. This makes the provision consistent throughout.

Another amendment merely adds a word that was inadvertently omitted from the House bill.

Another committee amendment would continue the existing provisions of law with respect to the sale or lease of dark air-cured tobacco and Fire-cured tobacco. Specifically, the amend-

ment would delete the provision from the House bill establishing a 15,000-pound limit on the amount of dark air-cured tobacco and Fire-cured tobacco that may be leased and transferred to any farm. The amendment would merely leave the provisions of existing law applicable to the amount of dark air-cured tobacco and Fire-cured tobacco that may be leased and transferred.

Another part of the committee amendment modifies the provision relating to fall leasing of Flue-cured quota when the Secretary determines there is a disaster in a county that has reduced Flue-cured acreage by at least 10 percent. In such a case the amendment would allow allotment or quota to be leased to owners or operators in the same county or in adjoining counties in the State.

I ask unanimous consent, Mr. President, that a summary of the bill, a statement of the purpose and need for the legislation, a section-by-section analysis, the cost estimate of the Congressional Budget Office, and a letter from the Secretary of Agriculture providing the administration's position on the bill be printed immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR PROVISIONS

H.R. 6590, as reported by the Committee on Agriculture, Nutrition, and Forestry, would amend the Agricultural Act of 1949 and the Agricultural Adjustment Act of 1938 as they generally relate, respectively, to the price support program for all kinds of quota tobacco and the acreage allotment and quota program for certain kinds of tobacco.

TITLE 1—TOBACCO PRICE SUPPORT PROGRAM

No net cost tobacco fund

H.R. 6590, as it affects the tobacco price support program for the 1982 and subsequent crops—

(1) provides for the program to be carried out by the Commodity Credit Corporation (the Corporation) through producer-owned cooperative marketing associations that make price support advances to producers under loan agreements with the Corporation;

(2) requires each association to establish a separate capital account (No Net Cost Tobacco Fund) to consist of contributions made by producers of the kind of quota tobacco handled by the association and, with respect to the association handling Flue-cured tobacco, by those who, for the 1983 and subsequent crops, lease allotments or quotas to other persons. The fund is to be used exclusively to achieve the objective of the bill—the operation of the tobacco price support program at no net cost to the taxpayer, other than administrative costs common to the operation of support programs for all commodities;

(3) requires producers, as a condition of eligibility for price support, to make contributions, with respect to all quota tobacco marketed by them from a farm, to the fund of the association which makes price support advances available to them. For the 1983 and subsequent crops, producers of Burley tobacco, as a condition of price support eligibility, would have to agree to make contributions in each marketing year of any 3-year period in which marketing quotas are in effect;

(4) requires persons who lease Flue-cured tobacco allotments or quotas to other persons for the 1983 and subsequent crops to make contributions, at the same rate as producers, to the fund of the association which handles such tobacco;

(5) provides that the contributions shall be made in amounts determined by the association and approved by the Secretary, and directs that such approval may be given only if the proposed amounts of contributions will result in a fund sufficient to reimburse the Corporation for any losses that may be suffered under its loan agreements with the association;

(6) requires each association to issue capital stock or certificates or qualified per unit retain certificates to persons who contribute to the association's fund;

(7) permits an association to invest moneys in the fund and requires that earnings on investments be included in the fund;

(8) provides that any net gains from the sale of any crop of loan collateral tobacco of an association will be retained by the Corporation for (a) application against any losses it sustains on other crops of the association's loan tobacco, or (b) reducing outstanding balances on any loans made by the Corporation to the association;

(9) permits the Secretary to release to the association for use for other purposes, or in the case of Burley tobacco for distribution to members of the association, any net gains or amounts in the fund which exceed amounts the Secretary determines necessary to achieve the program's "no net cost" objective;

(10) authorizes the Secretary to terminate a loan agreement with, or make no additional funds available to, an association if the association does not comply with the requirements imposed by the bill, in which event the Secretary would make price support available through other means to producers who used the association; and

(11) provides for the disposition of net gains and moneys in the fund of any association which ceases to operate.

ADJUSTMENT OF PRICE SUPPORT LEVEL OF TOBACCO

H.R. 6590 also—

(1) authorizes the Secretary to reduce the support rate that would otherwise apply to any eligible grade of any kind of tobacco that is in excess supply, so long as the support rates for all eligible grades of a kind of tobacco average out to a level (a) that reflects not less than 65 percent of any increase in the support level for such kind of tobacco otherwise required by law, or (b) if there is no increase in the support level for such kind of tobacco, that is not less than the support level for such kind of tobacco established under existing law; and

(2) with respect only to an eligible grade of Flue-cured tobacco which the Secretary determines would otherwise have an excessive support rate, authorizes the Secretary to designate the grade as "excessively priced". With respect to any grade so designated, the Secretary is directed, with the prior approval of the association and after prior consultation with associations for other major kinds of quota tobacco, to give producers the option of marketing such grade at a special auction. If a producer elects such option, the producer's tobacco of such grade will be ineligible for price support, will not count against the producer's marketing quota, but will be deducted from any undermarketings which the producer may carry forward to use the next year. With respect only to ineligible grades of Flue-cured tobacco, a producer may, with the prior approval of the association, market such grades at the special auction, with the provisions referred to above applying with respect to marketing quotas and undermarketings. For any crop, a producer may not market, at the special auction, a quantity of tobacco in excess of 10 percent of the quota for the farm.

Penalties for marketing certain tobacco

H.R. 6590, as reported by the Committee, for the 1983 and subsequent crops of tobacco, makes the marketing of any kind of tobacco that is not eligible for price support because a producer has not agreed to make contributions to the No Net Cost Tobacco Fund or the No Net Cost Burley Tobacco Account subject to the same penalty as for marketing tobacco from a farm in excess of the marketing quota for the farm.

TITLE II—FLUE-CURED TOBACCO ACREAGE ALLOTMENT AND MARKETING QUOTA PROGRAM

Allotment and marketing quota program

H.R. 6590, as it affects the Flue-cured tobacco acreage allotment and marketing quota program—

(1) prohibits fall leasing of allotments or quotas, except in the case of natural disasters, in which event fall leases may be made to owners or operators of farms in the same county or in an adjoining county in the same State;

(2) requires that agreements for the lease of allotments or quotas be exclusively between the lessor and the lessee, or an agent who regularly represents the lessor or lessee in business transactions unrelated to tobacco, and prohibits subleasing;

(3) requires the lessor and lessee of an allotment or quota to certify that applicable requirements have been met and, if a knowingly false statement is made, makes the lessee ineligible for price support and provides for reduction of the lessor's allotment or quota;

(4) limits the total allotments for any farm, after transfer thereto of allotment by lease or sale, to 50 percent of the acreage of tillable cropland on the farm;

(5) defines "tillable cropland" as cleared land that can be planted to crops without unusual preparation;

(6) permits the sale of allotments or quotas, but only to persons who are active tobacco producers within the same county;

(7) defines "active tobacco producer" as a person who shared in the risk of producing tobacco in at least 1 of the 3 preceding years and generally provides that a person shall be considered to have shared in such risk if (a) the person's investment in the production of a crop is not less than 20 percent of the proceeds of the crop, (b) the amount of the return on investment is dependent solely on the sale price of the crop, and (c) none of such return is received before the crop is sold;

(8) requires any person who purchases an allotment or quota and fails to share in the risk of producing tobacco under such allotment or quota, to sell the allotment or quota within 18 months from July 1 of the year the crop is planted;

(9) requires any person who purchases an allotment or quota and disposes of such a quantity of tillable cropland that the acreage allotment exceeds 50 percent of the till-

able cropland on the farm to take action to eliminate the excess or it will be forfeited;

(10) requires entities such as governments, public utilities, and educational or religious institutions (but not individuals) that are not significantly involved in the management or use of land for agricultural purposes, to sell their Flue-cured tobacco allotments or quotas by December 1, 1983, or they will be forfeited;

(11) requires any person (including an entity) to sell by December 1, 1983, or have forfeited any Flue-cured tobacco allotment that exceeds 50 percent of the farm tillable cropland; and

(12) in 1983, and at 5-year intervals thereafter, requires adjustment of the national average yield goal for Flue-cured tobacco to the past 5 years' moving national average yield, adjustment of Flue-cured farm acreage allotments to the past 5 years' moving county average yield per acre based on actual yields, or if not available, other appropriate data, and adjustment of preliminary farm yields for Flue-cured tobacco farms;

Nonquota tobacco grown in quota areas

H.R. 6590 exempts, from the provision of law requiring that nonquota tobacco of any kind grown in quota areas be subject to quotas, nonquota tobacco produced in a quota area in which the total acreage allotments for quota tobacco are less than 20 acres. Producers of such nonquota tobacco would not be eligible to vote in the first referendum on such nonquota tobacco conducted after enactment of the bill.

TITLE III—MISCELLANEOUS PROVISIONS RELATING TO BURLEY AND OTHER KINDS OF TOBACCO

Marketing assessments for Burley tobacco

H.R. 6590, as it relates to the 1982 and subsequent crops of Burley tobacco—

(1) requires the Secretary, at the request of a Burley marketing association, and authorizes the Secretary, if he determines the capital fund established by an association for Burley tobacco will be inadequate to cover the Corporation's losses under loan agreements with that Burley association, to continue to make price support available through the Burley association and to establish a separate Burley account within the Corporation to consist of marketing assessments paid by producers of Burley tobacco. The Burley account would supplant the capital account established by a Burley association under title I of the bill and would be used exclusively to insure that the Corporation suffers no loss in carrying out its loan agreements with the Burley association;

(2) if a Burley account is established, requires producers of Burley tobacco, as a condition of eligibility for price support, to pay to the Corporation, with respect to all Burley tobacco marketed by them marketing assessments for deposit in the Burley account;

(3) provides that the marketing assessments shall be determined by the Secretary, and adjusted from time to time, in consultation with a Burley association. The assessments are to be in an amount sufficient to maintain a Burley account adequate to reimburse the Corporation for any losses that may be suffered under its loan agreements with the Burley association;

(4) provides for collection of the assessments from the person who acquires the Burley tobacco or from a warehouseman or agent, if marketed through a warehouse or other agent;

(5) authorizes the Secretary to suspend the payment and collection of marketing assessments if the amount in the Burley account, and net gains from the sale of Burley loan collateral tobacco, exceed the amounts necessary to achieve the no net cost purposes of the bill;

(6) provides for the disposition of net gains and moneys in the Burley account established for any Burley association that ceases to operate; and

(7) provides that net gains from the sale of any crop of loan collateral tobacco of a Burley association will be handled the same as if the association and established a capital account.

Mandatory sale of Burley tobacco quotas

H.R. 6590, as it affects the Burley tobacco marketing quota program, requires entities such as governments, public utilities, and educational or religious institutions (but not individuals) which are not significantly involved in the management or use of land for agricultural purposes, to sell their Burley tobacco marketing quotas to an active Burley tobacco producer by December 1, 1983, or forfeited them.

Poundage quotas for dark air-cured and fire-cured tobaccos

H.R. 6590 would provide for 1983, and in subsequent years as the Secretary determines there may be sufficient interest, but not more frequently than every 3 years, that producers of dark air-cured tobacco (types 35 and 36) and fire-cured tobacco (types 22 and 23), would be given the opportunity in a referendum to choose whether they favor or oppose establishment of farm marketing quotas on a poundage basis (instead of an acreage allotment basis). If more than 50 percent of those voting in the referendum favor a poundage control program, marketing quotas would be established on a poundage basis for the next 3 marketing years. Acreage would be converted to pounds on the basis of individual farm yields for the 4 highest years during 1978–1982, or the most recent 4-year period. No farm would be permitted to have an average yield in excess of 3,000 pounds for converting acreage allotments to poundage quotas. Other technical changes are made to effect these changes.

Modification of leasing of poundage quotas

H.R. 6590 increases from 15,000 to 30,000 pounds the maximum amount of Burley tobacco poundage quota that may be leased and transferred to any farm.

PURPOSE AND NEED FOR LEGISLATION

Tobacco program operation

The tobacco program is comprised of two interrelated parts, price support loans and marketing restrictions. Price support for tobacco is mandatory under the Agricultural Act of 1949. That Act authorizes the Secretary of Agriculture to prescribe, as a condition for price support eligibility, compliance by producers with certain marketing restrictions, including marketing quotas, which are authorized under the Agricultural Adjustment Act of 1938.

The Agricultural Adjustment Act of 1938 provides the Secretary with authority to regulate the production of tobacco through acreage allotments and marketing quotas. Marketing quotas specifically defined the pounds of tobacco that may be sold from the qualifying farm without penalty during a specific marketing year. For Flue-cured and Burley tobacco, the farm marketing quota is established in pounds. For other kinds of tobacco, the farm marketing quota is the actual production of tobacco on the acreage planted within the farm acreage allotment.

Marketing quotas are voted on by growers of each eligible kind of tobacco every three years. If quotas are approved by two-thirds of the producers voting in a national referendum, quotas become mandatory for all producers of that kind of tobacco wherever it is grown. The amount of the national marketing quota for each kind of eligible tobacco is announced annually.

In the most recent referendum, 98 percent of the Flue-cured tobacco producers and 99 percent of the Burley tobacco producers voted to approve marketing quotas for these kinds of tobacco for the 1980–82 crop years.

Penalties are imposed for marketings above the farm marketing quota (110 percent of the quota for Flue-cured and Burley tobacco). The current rate of penalty for any kind of tobacco is 75 percent of the average market price for the previous year. Marketings in excess of the Flue-cured and Burley quota are deducted from the quota allowed the following year.

Eligibility for allotments and/or quotas is determined by (1) either the existence of a production base traced to the 1930's or (2) the subsequent issuance of allotments or quotas by the Secretary. In the case of Flue-cured tobacco, these allotments and quotas are assigned to a particular farm and may not be sold separately from the land. However, an owner of a farm having an allotment and quota may by lease, transfer the farm's quota to another farm within the same county. The owner may also share or cash rent land and quota to a producer, allowing that producer to grow the tobacco on the owner's farm.

The Secretary's determination of the national quota for tobacco is a projection of the production needed to meet domestic and export demand and to provide for a reasonable amount of carryover stocks. The national quota plays a specific role in determining acreage allotments and marketing quotas for individual farms, as each tobacco farm, based on its historical production, is given a pro rata share of the national quota.

Price support under the Agricultural Act of 1949 assures producers of tobacco a minimum price for their tobacco. Funds to carry out the tobacco price support program are made available through the Commodity Credit Corporation (the Corporation) a corporate agency of the Federal Government within the Department of Agriculture, as is also the case for other commodity programs. Personnel are provided by the Agricultural Stabilization and Conservation Service (ASCS) through the Kansas City ASCS Management Field Office, State and county offices, and the national office in Washington, D.C., which oversees all program operations.

Currently, there are 9 kinds of tobacco for which price support is available. Flue-cured and Burley tobacco account for 63 and 29 percent, respectively—or a total of 92 percent—of all the tobacco produced in the United States and Puerto Rico, and account for 78 and 19 percent, respectively, of all tobacco price support loans made from 1974 through 1980. These and most other kinds of tobacco are marketed through auction warehouses located throughout the tobacco producing regions.

The tobacco program has never operated under a system of direct payments or loans to individual farmers, unlike other commodities which participate in the Government-operated price support programs. In the case of tobacco, price support is made available to producers through 13 producer-owned and controlled cooperative marketing

associations. As marketing agents for the producers, the associations enter into price support loan agreements annually with the Corporation. These agreements specify terms and conditions for making price support available to producers.

Producers who sell through auction markets deliver their tobacco to auction warehouses for sale. There the tobacco is weighed, displayed for sale on the auction warehouse floor, and graded by a Government inspector. Each lot is offered for sale to the highest bidder. If the high bid does not equal the price support rate for that grade, the producer may consign the tobacco to the association or may market the tobacco at a later date. For each pound of tobacco consigned to the association, the producer receives a price support advance, less a deduction to cover association overhead expenses.

Producer associations may deduct 1 cent per pound from the advance made to the producer to apply against administrative overhead expenses since the associations handle all aspects of the loan operation, including making advances to producers and handling, processing, and storing all the tobacco taken under the loan. In addition, the responsibility for the sale of tobacco taken under loan is with the producer associations, with the prices proposed by the associations and approved by the Corporation.

Each association arranges for the tobacco consigned to it by producers to be redried, packed, and stored. This tobacco serves as collateral for the price support loans made by the Corporation directly to the producer associations to cover the amounts advanced to producers and other price support related expenses of the associations. Loans mature on demand and are nonrecourse.

Tobacco collateral from each crop year pool is sold by the association over a period of years. Partial redemption of collateral is not permitted. As loan collateral is sold, the sales proceeds are remitted to the Corporation. When the entire crop year pool has been sold, if the sales proceeds exceed loan principal, interest, and charges, an overplus or net gain exists. Any net gain is returned to the association for distribution to its producer members unless other disposition is approved by the Corporation. If the proceeds from the sale of a crop year pool are less than the principal, interest, and charges, the Corporation writes off the balance.

Congressional policy on tobacco program

Section 1109 of the Agriculture and Food Act of 1981 (Public Law 97-98) expresses the intent of Congress that the tobacco price support and production adjustment program be administered in such a manner as to result in no net cost to the taxpayers other than such administrative expenses as are incidental to the implementation of any commodity program. That section also directed the Secretary of Agriculture to promulgate by January 1982 such regulations and policies to accomplish this objective as are within the Secretary's existing authority and to recommend to Congress by January 1982 any legislative changes the Secretary believes are necessary to achieve a no net cost tobacco program.

The Secretary submitted a report in January 1982 setting forth certain actions the Secretary could take administratively to significantly reduce, but not completely eliminate, the cost to taxpayers of operating the tobacco program. In addition, the Secretary recommended supplemental legislation that would (1) establish a producer marketing fee to be collected from producers marketing tobacco to be used to cover potential program losses, and (2) authorize the Secretary to adjust the price support level for the various kinds of tobacco.

H.R. 6590 to achieve no net cost program

H.R. 6590, as reported by the Committee on Agriculture, Nutrition, and Forestry, amends the Agricultural Act of 1949 and the Agricultural Adjustment Act of 1938, to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in "no net cost" to the American taxpayer, except for administrative expenses incidental to the operation of any commodity program, to limit increases in the support price for tobacco, and to make certain other necessary structural changes in the program in order to strengthen the operation of the program. The bill would thus achieve the desired objective of a "no net cost" program. The changes proposed by the Committee to these Acts are substantial and will contribute significantly to the successful operation of the program.

The primary cost of the tobacco program, excluding administrative costs, is the loss that occurs when sales proceeds from a crop of loan tobacco are insufficient to fully repay the price support loan made to the association. Since 1933, the Corporation has loaned about $5 billion to associations. For crop year pools already sold, $57 million in principal was not repaid. Of this loss, $35 million occurred 20 years ago when the 1955 and 1956 crops of oil-type seed variety Flue-cured tobacco were sold, and $5.4 million of the loss is attributable to the destruction by fire of a warehouse containing Government stocks. Unpaid interest owed the Corporation amounted to about $152.8 million, with about $120 million of this occurring before 1965.

During the most recent 10-calendar year period (1971-1980), losses of principal were about $568,000. Interest losses during the same period were about $35 million. At the end of calendar year 1981, outstanding loan principal on uncommitted stocks totaled $541 million.

If H.R. 6590 is enacted, tobacco will be the only commodity participating in the Government's price support programs to be self-supporting with the exception of administrative expenses. Tobacco already has the best overall loss record of all the major commodities over the life of the Government's price support programs. Only about .02 percent of the total price support losses for all programs can be attributed to losses in the tobacco program, with the Department of Agriculture currently expecting a 98.8 percent return on all dollars invested in the tobacco program.

Outstanding loan stocks have again been building up, particularly loan stocks of Flue-cured tobacco. At the present time, there is virtually no Burley tobacco under Government loan due to the worldwide Burley shortage.

The amount of Flue-cured tobacco loan stocks is attributed largely to the declining share of the world market captured by United States Flue-cured producers in recent years. In 1970, the United States had a 46 percent share of the world Flue-cured tobacco trade—368 million pounds out of a total of 797 million pounds. In 1980, the U.S. share represented only 29 percent of the world market—specifically 391 million of a total of 1,326 million pounds. Foreign grown Flue-cured tobacco now represents 12 percent of all Flue-cured tobacco used by domestic manufacturers.

Prior to April 1981, the Corporation charged interest rates in its price support programs that were less than the Corporation paid on its Treasury borrowings. However, in April 1981, the Corporation began charging interest rates comparable to those the Treasury charges it on its borrowings. Therefore, loans to associations are now made at the current cost of the Corporation's borrowings and another potential loss area has been eliminated from the tobacco program and other commodity programs.

The movement of the tobacco program to a "no net cost" approach is calculated to remove the .02 percent loss which can be attributed to the program.

Actions taken in H.R. 6590—particularly the provision allowing the Secretary greater flexibility with respect to setting price support levels—will make United States tobacco more competitive with foreign tobacco. However, there are still major barriers to deal with if domestic tobacco is to be made more competitive. Existing loopholes in customs regulations permit the entrance of competitive foreign leaf, which sells at a lower price than domestic leaf. Also some foreign governments currently support the production of their agricultural products in a manner that is not consistent with the U.S. philosophy regarding open trade in agriculture. Nevertheless, net exports of tobacco contributed over $2 billion toward a positive balance of trade in 1981, and continue to be a vital part of United States trade.

Producer fund for operating the tobacco price support program at no net cost

H.R. 6590 addresses the goal expressed in the Agriculture and Food Act of 1981—the achievement of a no net cost tobacco program to the American taxpayer. This is accomplished through producer contributions and assessments to a fund or account to be used to reimburse the Corporation for any net losses it may suffer under its loan agreements with producer associations in carrying out the tobacco price support program.

Under current law, there is no provision for requiring that losses suffered by the Corporation will ever be recovered. Loans are nonrecourse. Beginning with the 1982 crop, loan repayments will be applied to both principal and interest. For the 1966 through 1981 crops, loan principal was repaid first, with interest being paid with remaining funds. If proceeds from the sale of loan tobacco are inadequate to repay the loan, the Corporation bears the loss.

The bill would establish a capital account in each producer association to be known as the "No Net Cost Tobacco Fund". The fund would ensure that all price support loans, including interest and principal will be paid back in full. Beginning with the 1982 crop, the Secretary will require each producer of any kind of quota tobacco, as a condition for price support eligibility, to contribute to the fund for all tobacco marketed either through trade channels or by pledging the tobacco to an association for a price support advance. Beginning in 1983, allotment holders who lease Flue-cured allotments or quotas to others will also be required to contribute to the fund. While the rate of contribution will be established by the associations, the Secretary will approve the rate only if the Secretary finds that it will result in adequate resources to achieve the bill's "no net cost" objective. And, in addition, any net gains from the sale of loan tobacco will be retained by the Corporation for ap-

plication against any losses it may incur on loan tobacco.

At the request of an association that carries out the price support program for Burley tabacco, the Secretary would establish a special account in the Corporation and require producers who market Burley tabacco to pay assessments to this account to cover potential Corporation losses. If established, the Burley account would be in lieu of any fund established by a Burley association. The Secretary could also establish the account upon determining that the fund established by a Burley association will be inadequate to cover the Corporation's losses under loan agreements with that association. Because very little Burlely tabacco is currently going under loan, many Burley producers are concerned that the capital account established by the Burley associations may not receive funds sufficient to provide an adequate reserve against potential Corporation losses. The option given the Secretary to establish a Burley account in the Corporation is in response to this concern.

For the 1983 and subsequent crops of tobacco, H.R. 6590 makes the marketing of any kind of tobacco, that is not eligibile for price support because a producer has not agreed to make contributions or payments to the capital account of a producer association or to the Burley account in the Corporation, subject to the same penalty as for marketing tobacco from a farm in excess of the marketing quota for the farm. This will further ensure that the associations' funds or the Burley account will be sufficient to cover any looses the Corporation may suffer under the tobacco price support program.

Adjustment of price support level

Under section 106 of the Agricultural Act of 1949, the Secretary sets the price support level for tobacco based upon a formula set forth in that section. The formula for determining the price support level adjusts the 1959 support level by a 3-year average of the index of prices paid by farmers, including wage rates, interest, and taxes (parity index). The formula does not give the Secretary any discretion in adjusting the overall support levels for tobacco. The bill gives the Secretary added flexibility in setting support levels.

The bill permits the Secretary to adjust the support levels on different grades according to market conditions, so long as these levels average out to a level for any kind of tobacco that reflects not less than 65 percent of any increase in the level otherwise required by law. Thus, the Secretary could reduce by up to 35 percent any increase in the support level. On the other hand, if the support price for any crop decreases from the previous year, producers would have to absorb the full reduction.

This change will not only make U.S. tobacco more competitive with foreign tobacco, but will result in less tobacco going into loan stocks, thus reducing the Corporation's outlays and potential losses.

Special auction of "excessively priced" tobacco

The bill authorizes the Secretary, with respect to grades of eligible Flue-cured tobacco which the Secretary determines would have a support level that is excessive in light of market conditions, to furnish producers an option to market such tobacco at a special auction. The tobacco of producers who take advantage of the option would be ineligible for price support and, thus, would be marketed at the auction at whatever price the tobacco might bring. Further, ineligible grades of Flue-cured tobacco could also be marketed at the special auction. Any tobacco marketed at such auction would not be counted against the producer's marketing quota but would be deducted from any undermarketings which might otherwise be carried forward by the producer for use in the subsequent year. No producer could market at the special auction a quantity of tobacco in excess of 10 percent of the quota for the farm.

Implementation of the special auction approach for either over-priced eligible grades or for ineligible grades of tobacco would be subject to approval of the association that makes price support available to producers of Flue-cured tobacco. This provision gives the association special protection against possible competition with its own stocks of loan tobacco by low-grade or undesirable qualities of leaf. Thus, the provision not only protects existing association stocks of loan tobacco, but it also provides protection against a situation under which the marketing of low-grade tobacco at special auction could cause closely related grades to come under price support and accumulate in association inventories.

These provisions of the bill would make it possible for certain low quality domestic tobacco to compete in the marketplace with foreign leaf of comparable quality which is being imported in significant quantities. Under present law, if a producer's entire quota is taken up by higher quality tobacco, the producer may have no avenue but to throw away low-grade or ineligible leaf. Under the bill, such tobacco not only could be marketed to the benefit of growers, but could be made available at a price that would permit it to supplant imports of similar quality tobacco.

Leasing of Flue-cured tobacco allotments and quotas

The bill makes several changes in the law regarding leasing of Flue-cured tobacco allotments and quotas. All of these changes are designed to reduce leasing costs and thereby reduce the cost of producing tobacco.

A major change provided by the bill is the elimination of fall leasing, except in the case of natural disasters. The practice of fall leasing of Flue-cured allotments and quotas has been the subject of much criticism because of the opportunity for speculation it furnishes and the effect so-called "middlemen" have in the process of leasing. These factors have contributed significantly to the increase in the cost of production and their elimination will reduce those costs.

The bill also addresses the problem of "middlemen" who are involved in spring leasing. As reported, the bill requires that agreements for the leasing of Flue-cured tobacco allotments or quotas be exclusively between the lessor and lessee, or an agent who regularly represents the lessor and the lessee in business transactions unrelated to tobacco. The bill also requires the lessor and the lessee of a Flue-cured tobacco allotment or quota to certify that applicable requirements have been met and enforces this, if there is a knowing false statement, by making the lessee ineligible for price support and reducing the lessor's allotment or quota. Further, the bill limits the total Flue-cured alltoment for any farm, after transfer to that farm of allotment by either lease or sale, to 50 percent of the acreage of tillable cropland on the farm. Subleasing of allotment or quota is prohibited. All of these provisions are designed to eliminate speculation in the leasing of Flue-cured tobacco allotments and quotas, reduce production costs, and make it more desirable for a person to sell an allotment or quota such person does not intend to farm.

Sale of tobacco allotments and quotas

Several provisions of the bill address a major criticism levied against the concept of the tobacco allotment and are designed to place the allotments back on the farm of active tobacco growers. The bill specifically permits the sale of Flue-cured tobacco allotments or quotas. However, such allotments or quotas may be sold only to persons who are active tobacco producers within the same county.

Further, any person having a Flue-cured tobacco allotment that exceeds 50 percent of the tillable cropland on the person's farm must sell or forfeit the excess allotment. Sufficient tillable cropland is defined in the bill as cleared land capable of cultivation without unusual preparation. No Flue-cured allotment may exceed 50 percent of such tillable acreage. A person having an allotment that exceeds 50 percent of the farm's tillable cropland has 3 alternatives—acquire more land; sell the excess allotment to an active producer; or, upon failure to do either, forfeit the excess allotment for reallocation within the county.

Under the bill, corporations, public utilities, government bodies, and other entities will be prohibited from owning either Flue-cured allotments or quotas or Burley allotments or quotas, unless they are significantly involved in the management or use of land for agricultural purposes. Such entities will be forced to sell their allotments or quotas to active tobacco producers by December 1983 or forfeit them.

These provisions of the bill will encourage the reallocation of tobacco allotments and quotas back to those individuals who are actually engaged in farming. For the younger farmer, the provisions will provide a heretofore unavailable opportunity to participate in the farming of tobacco. The requirements of the bill are continuing. While an active Flue-cured tobacco farmer may purchase a Flue-cured allotment or quota, once such a purchase is made, the farmer either must grow it, share in the risk of growing it, sell it to an active tobacco producer, or forfeit it to be reallocated to active tobacco producers in the same county.

Particular concern has been expressed that new growers who have not previously produced tobacco have an opportunity to acquire allotments through purchase. As previously stated, the bill provides that allotments or quotas may be sold only to persons who are active tobacco producers. The intention of this limitation is to preclude the purchase of allotments or quota by persons whose purpose is to speculate in the holding or leasing of quotas without a demonstrated intention of actually producing tobacco.

Persons without any prior record of producing tobacco or sharing in the risk of producing tobacco may qualify to purchase allotments and quotas by sharing in the risk of production for 1 year before purchase or by obtaining an allotment through the new grower provisions of current law and producing tobacco on that allotment for 1 year before purchase.

Periodic adjustment of Flue-cured tobacco yields

The bill provides that in 1983, and at 5-year intervals thereafter, the Secretary of Agriculture is to adjust (1) the national average yield goal for Flue-cured tobacco to the past 5 years' moving national average

yield, (2) Flue-cured farm acreage allotments to the past 5 years' moving county average yield per acre based upon actual yields or, if not available, other appropriate data, and (3) preliminary farm yields for Flue-cured tobacco farms.

This provision recognizes that farmers are capable of producing more Flue-cured tobacco on a given acreage than they have in the past. The provision will update the acreage-poundage ratio and bring it in line with current yields.

Because of advances in agricultural research and technology, producers of Flue-cured tobacco are able to obtain larger yields on an acre of tobacco. Therefore, maintaining a constant allotment may result in growers producing on that acreage a quantity of tobacco that exceeds their marketing quotas. The bill will provide for periodic updating of yields while at the same time maintaining the same relative farm poundage quotas on farms between counties and States.

Nonquota tobacco grown in quota areas

The Food and Agriculture Act of 1981 contained a provision which with some exceptions, made any nonquota tobacco grown in a quota areas subject to marketing quotas. In the State of Pennsylvania there are allotments totaling less than 20 acres for a kind of quota tobacco. As a result, any nonquota tobacco, including Maryland (type 32) tobacco, grown in Pennsylvania is subject to the quotas applicable to the quota kind of tobacco. H.R. 6590 would add to the exemptions now appearing in the statute an additional exemption for nonquota tobacco produced in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than 20 acres. The result of the amendment would be that Pennsylvania would no longer be considered for purposes of this provision a quota area so long as that State has less than 20 acres of acreage allotments for quota tobacco. Therefore, growers of Maryland (type 32) tobacco in Pennsylvania could continue to produce such tobacco in the State free from penalty as they have done in the past.

Poundage quotas for dark air-cured tobacco and fire-cured tobacco

The bill establishes a procedure under which producers of dark air-cured tobacco and fire-cured tobacco would be given the opportunity in a referendum to choose whether they favor or oppose establishment of farm marketing quotas for such kinds of tobacco on a poundage basis instead of an acreage-poundage basis. If more than 50 percent of the producers voting in the referendum favor a poundage control program, marketing quotas would be established on a poundage basis for the next 3 marketing years. Acreage would be converted to pounds on the basis of individual farm yields for the 4 highest years during 1978–1982, or the most recent 4-year period. No farm would be permitted to have an average yield in excess of 3,000 pounds for converting acreage allotments to poundage quotas. The bill also provides a procedure whereby in subsequent years if the Secretary determines there is sufficient interest, producers of dark air-cured tobacco and fire-cured tobacco could choose whether to establish marketing quotas on a poundage basis.

Due to fluctuations in both the supply and price of dark air-cured tobacco and fire-cured tobacco that have been experienced in recent years, growers of these kinds of tobacco have expressed an interest in exploring the possibility of going to a poundage control system. Such a system could provide a more dependable supply of these tobaccos along with more stable prices. The bill provides the Secretary with authority to conduct a referendum to determine if growers do indeed wish to change from an acreage allotment system to a poundage control program in the case of dark air-cured tobacco and fire-cured tobacco.

The University of Kentucky, the Kentucky Farm Bureau, and other farm organizations have explored and discussed this possibility with the growers and have assisted in developing this provision and are supportive of this option.

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

Section 1 provides that the bill may be cited as the "No Net Cost Tobacco Program Act of 1982".

FINDINGS

Section 2 makes findings that—

(1) in order to implement the intent of Congress, as expressed in the Agriculture and Food Act of 1981, that the tobacco price support and production adjustment program be carried out at no net cost to the taxpayer, other than administrative expenses common to the operation of all price support programs, it is necessary that producers of quota tobacco share equitably in helping to eliminate losses which may be incurred in carrying out the program;

(2) producers of quota tobacco should be required, as a condition of receiving the benefits of price support for their tobacco, to contribute to a capital account to be established by each producer-owned marketing association through which price support advances are made available to producers; and

(3) the account so established should be used by the associations exclusively for the purpose of achieving a no net cost tobacco program.

TITLE I—MODIFICATIONS OF TOBACCO PRICE SUPPORT PROGRAM

Producer contributions to no net cost tobacco fund

Section 101, effective for the 1982 and subsequent crops of tobacco, amends the Agricultural Act of 1949 by adding thereto a new section 106A.

Subsection (a) of new section 106A defines certain terms as follows:

(1) the term "association" means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;

(2) the term "Corporation" means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers;

(3) the term "Fund" means the capital account to be established within each association to be known as the No Net Cost Tobacco Fund;

(4) the term "to market" means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning to tobacco to an association for a price support advance;

(5) the term "net gains" means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges; and

(6) the term "quota tobacco" means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

Subsection (b) of new section 106A provides that the Secretary of Agriculture (the Secretary) may carry out the tobacco price support program through the Corporation and shall, except as otherwise provided, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

Subsection (c) of new section 106A requires that each association establish a Fund to be comprised of amounts contributed by producer-members.

Subsection (d) of new section 106A directs the Secretary to—

(1) require—

(A) that, (i) as a condition of eligibility for price support, each producer of each kind of quota tobacco (other than Burley tobacco with respect to the 1983 and subsequent crops) agree, with respect to all of that kind of quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and (ii) as a condition of eligibility for price support for any marketing year of any 3-year period for which marketing quotas are in effect (beginning with the 1983 crop) each producer of Burley tobacco agree, not later than a date established by the Secretary preceding the beginning of the first marketing year of such 3-year period, to contribute in each of the marketing years in such period (or, in the case of a new producer or a producer succeeding another producer, any remaining marketing year in the 3-year period), with respect to all Burley quota tobacco marketed by the producer, to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

(B) that, upon the making of a contribution, (i) in the case of quota tobacco marketed other than by consignment to an association for a price support advance, the producer receive from the association capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution, and (ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, the producer receive from the association a qualified per unit retain certificate having a face amount equal to the amount of the contribution and representing an interest in the association's Fund;

(2) approve the amount of the contributions determined by the association from time to time only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

(3) for the 1983 and subsequent crops, require that each owner and operator of any farm who leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco contribute to the Fund estab-

lished by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The amount of such contribution for the quantity of tobacco of each crop represented by such lease is to be the same amount as the contribution for producers of Flue-cured tobacco of such crop. The association, upon receiving such contribution, is to issue to such owner and operator capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution;

(4) require that the Fund established by each association be kept and maintained separate from all other accounts of the association and be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the asssociation), after any net gains are applied to net losses of the Corporation;

(5) permit an association to invest the moneys in the Fund in such manner as the Secretary may approve, with earnings on such investment to become a part of the Fund;

(6) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans. Such net gains would be used for the purpose of offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or reducing the outstanding balance of any price support loan made by the Corporation to the association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes; and

(7) provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains on sales of loan tobacco exceed the amounts necessary for the designated purposes such excess (A) in the case of an association making price support available to producers of quota tobacco other than Burley tobacco, will be released to the association by the Corporation and may be devoted to other purposes by the association, and (B) in the case of an association making price support available to producers of Burley tobacco, will be released to the asociation by the Corporation and may be distributed, as determined by the association, to the producer-members of the association as a capital distribution or net gain distribution.

Subsection (e) of new section 106A provides that if any association which has entered into a loan agreement with the Corporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to comply with the above provisions, the regulations issued thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary is directed to make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by the Agricultural Act of 1949 or the Commodity Credit Corporation Charter Act.

Subsection (f) of new section 106A requires that if a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the Fund or the net gains on sales of loan tobacco are to be applied or disposed of in such manner as the Secretary may approve or prescribe, except that to the extent necessary, they are first to be applied or used for the designated purposes therefor.

Subsection (g) of new section 106A directs the Secretary to issue regulations necessary to carry out the provisions of the section.

Adjustment of price support level of tobacco

Section 102, effective for the 1982 and subsequent crops of tobacco, amends section 106 of the Agricultural Act of 1949 by adding new subsections (d) and (e).

New subsection (d) authorizes the Secretary, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, and after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers to reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco. However, the weighted average of the support rates for all eligible grades of such kind of tobacco must, after such reduction, reflect not less than (1) 65 percent of the increase in the support level for such kind of tobacco which would otherwise be established under law, if the support level therefor is higher than the support level for the preceding crop, or (2) the support level for such kind of tobacco established under law, if the support level therefor is not higher than the support level for the preceding crop.

In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary is to take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity, and stalk position of such tobacco.

New subsection (e) authorizes the Secretary, if the Secretary determines that, notwithstanding the adjustments in the support price made as provided above, the supply of any eligibile grade of Flue-cured tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will have a support rate which will likely be excessive under current market conditions, and after prior approval of the association through which price support for Flue-cured tobacco is made available to producers, and after prior consultation with any other association through which price support for any other major quota kind of tobacco is made available to producers, to designate such grade of tobacco as "excessively priced". If a grade of tobacco is so designated, the Secretary is required to provide producers the option of marketing such grade of tobacco only at a special auction to be provided for by the Secretary. If a producer elects such option, the producer's tobacco of such grade is to be ineligible for price support. With prior approval of the association, producers of ineligible grades of Flue-cured tobacco are permitted to market such grades at the special auction provided for by the Secretary. Any tobacco which is marketed at such special auction, notwithstanding any other provision of law, is not to be considered marketed for purposes of marketing or poundage quotas and penalties under the Agricultural Adjustment Act of 1938, except that a quantity of tobacco equal to the quantity marketed at such special auction is to be deducted from any undermarketings for purposes of that Act. In determining whether the support rate for any eligible grade of Flue-cured tobacco of a crop will likely be excessive, the Secretary is to take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity, and stalk position of such tobacco. No producer may market at a special auction a quantity of tobacco of any crop that exceeds 10 percent of the marketing quota for the farm.

Penalties for marketing certain tobacco

Section 103, effective for the 1983 and subsequent crops of tobacco, amends section 314 of the Agricultural Adjustment Act of 1938 to provide that the marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on the farm has not agreed to make contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Burley Tobacco Account as required by sections 106A(d)(1) and 106B(d)(1) of that Act, if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year.

TITLE II—MODIFICATION OF FLUE-CURED TOBACCO MARKETING SYSTEM

Lease and sale of Flue-cured tobacco acreage allotments and marketing quotas

Section 201(a) amends section 316(a) of the Agricultural Adjustment Act of 1938. The amendments—

(1) direct the Secretary to permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act to lease such allotment or quota if the Secretary determines that it will not impair the effective operation of the price support and quota programs;

(2) prohibit the filing of any lease of any Flue-cured tobacco allotment or quota assigned to a farm after June 15 of the crop year specified in such lease, except that the Secretary may allow a lease to be filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster—

(A) the county in which such farm is located has suffered a loss of not less than 10 percent of the acreage of Flue-cured tobacco planted for harvest in such crop year;

(B) the lessor involved has suffered a loss of not less than 10 percent of the acreage of Flue-cured tobacco planted for harvest in such crop year; and

(C) such lease will not impair the effective operation of the tobacco marketing quota or price support program.

Upon such determination, the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county or in an adjoining county within the same State for use in such county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and transfer are not to be effective until a copy of such lease and a written statement concerning the transaction are filed with and determined by the county committee of such county to be in compliance with applicable requirements;

(3) prohibit any agreement or arrangement in connection with the making of any lease with respect to any Flue-cured tobacco allotment or quota except—

(A) between the lessor and lessee; or

(B) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco;

and

(4) prohibit any sublease or other transfer of such allotment or quota by such lessee during the period of such lease.

Section 201(b) amends section 316(c) of the Agricultural Adjustment Act of 1938. The amendments—

(1) make technical revisions to accommodate the new authority to sell Flue-cured tobacco allotments and quotas; and

(2) provide that in the case of a lease and transfer of any Flue-cured tobacco allotment or quota for use with respect to any crop, such lease shall not be effective until, in addition to a copy of such lease, the lessor and lessee involved each file with the county committee a written statement certifying such compliance. If, after notice and an opportunity for a hearing, the county committee determines that the lessee knowingly made a false statement in such written statement, then the lessee is to be ineligible for price support for such crop under the Agricultural Act of 1949 with respect to the poundage of tobacco produced under such allotment or quota or, if the determination is made after the lessee received such price support, the Secretary, taking into consideration the recommendation of the county committee and the amount of such poundage, is to reduce appropriately the poundage for which the lessee may receive price support with respect to the crop first marketed after the determination is made. If, after notice and an opportunity for a hearing, the county committee determines that the lessor knowingly made a false statement in such written statement, the Flue-cured allotment or quota next established for the farm of such lessor is to be reduced by that percentage which the leased allotment or quota was of the respective Flue-cured marketing quota. Notice of any determination made by a county committee under the preceding provisions is to be mailed, as soon as practicable, to the lessee or lessor involved. If the lessee or the lessor is dissatisfied with such determination, then the lessee or the lessor may request, within 15 days after notice of the determination is so mailed, a review of the determination by a local review committee.

Section 201(c) of the bill amends section 316(e) of the Agricultural Adjustment Act of 1938. The amendments—

(1) provide that the Flue-cured tobacco acreage allotment for a farm to which an allotment is transferred by lease or sale may not exceed 50 percent of the acreage of tillable cropland on the farm; and

(2) define the term "tillable cropland" to mean cleared land that can be planted to crops without unusual cultivation or other preparation.

Section 201(d) deletes obsolete provisions from section 316 of the Agricultural Adjustment Act of 1938 and adds new subsections (g) and (h) which—

(1) require the Secretary to permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell all or any part of such allotment or quota to any person who is an active Flue-cured tobacco producer for use on another farm in the same county;

(2) define the term "active Flue-cured tobacco producer" to mean any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than 1 of the 3 years preceding the year involved;

(3) provide that a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 percent of the proceeds of the sale of such crop;

(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

Any person who owns any Flue-cured tobacco allotment or quota and leases such allotment or quota to another person for use in producing a crop is to be considered to have shared in the risk of producing such crop if, under the terms of such lease, paragraphs (B) and (C) are satisfied with regard to such owner;

(4) require that any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase; and

(B) with respect to any crop of Flue-cured tobacco planted after the date of such aquisition, fails to share in the risk of producing tobacco under such allotment or quota, sell such allotment or quota before the expiration of the 18-month period beginning on July 1 of the year in which the crop is planted, or such allotment or quota is subject to forfeiture;

(5) require that any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase; and

(B) disposes of an acreage of tillable cropland which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 percent of the tillable cropland owned by such person, must take steps, before July 1 of the year after the year of such disposal, which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceeding 50 percent of the tillable cropland owned by such person. If the person fails to take such steps, then any such excess allotment or quota is subject to forfeiture;

(6) require that if, after notice and an opportunity for a hearing, the Secretary, through the appropriate county committee, determines that any person knowingly failed to comply with the above requirements, such person shall forfeit the allotment or quota. Any allotment or quota so forfeited is to be reallocated by such county committee for use by active Flue-cured tobacco producers in the county involved; and

(7) provide that court review of any such determination shall be available in the same manner as is provided in the Agricultural Adjustment Act of 1938 for court review of determinations of local review committees.

Mandatory sale of certain Flue-cured tobacco acreage allotments and marketing quotas held before enactment

Section 202 adds to the Agricultural Adjustment Act of 1938 a new section 316A that—

(1) requires that any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of the bill—

(A) owns a farm for which a Flue-cured acreage allotment or marketing quota is established; and

(B) is not significantly involved in the management or use of land for agricultural purposes;

must sell such allotment or quota not later than December 1, 1983, or forfeit such allotment or quota;

(2) requires that any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on December 1, 1983, owns a farm for which the total acreage allotment for the production of Flue-cured tobacco exceeds 50 percent of such farm's tillable cropland shall forfeit any acreage allotment or marketing quota representing the excess;

(3) provide that if, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with the above requirement, the allotment or quota involved shall be forfeited and shall be reallocated to active Flue-cured tobacco producers in the county involved; and

(4) provides that court review of any such determination shall be available in the same manner as is provided for court review of determinations of local review committees.

Periodic adjustment of national average yield goals for Flue-cured acreage-poundage quotas

Section 203 of the bill amends section 317(a) of the Agricultural Adjustment Act of 1938 to require that in 1983, and at 5-year intervals thereafter—

(1) the national average yield goal for Flue-cured tobacco be adjusted by the Secretary to the past 5 years' moving national average yield;

(2) farm acreage allotments for Flue-cured tobacco for farms in each county be adjusted by the Secretary to reflect the increases or decreases in the past 5 years' moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county, or, if such information is not available, on such other data on yields as the Secretary deems appropriate; and

(3) preliminary farm yields for Flue-cured tobacco farms in each county be adjusted by the Secretary by the reciprocal fo the factor computed in section 317(a)(4) of the Agricultural Adjustment Act of 1938 to adjust farm acreage allotments to reflect increases or decreases in the past 5 years' moving county average yields.

Exemption of certain nonquota tobacco from quota restrictions

Section 204 of the bill amends section 320 of the Agricultural Adjustment Act of 1938, which subjects, unless exempted, nonquota tobacco of any kind which is grown in an area where marketing quotas are in effect for any kind of tobacco to such quotas. The amendment adds, to tobacco now exempt from this provision, nonquota tobacco

grown in a quota area where the total acreage allotments for quota tobacco established for farms is less than 20 acres. In this regard, the Conference Report on the Agriculture and Food Act of 1981, which also amended section 320 of the 1938 Act, stated that the conferees intend that the Secretary construe the term "area" to mean an entire State. Section 204 also provides that the producers of such nonquota tobacco are not eligible to vote in the first referendum for such nonquota tobacco conducted by the Secretary after the effective data of this provision.

Conforming amendments

Section 205 makes certain conforming amendments to section 317(f) of the Agricultural Adjustment Act of 1938 and section 703 of the Food and Agriculture Act of 1965.

Effective date

Section 206 provides that title II of the bill is to take effect on the date of enactment, but that amendments made by the title shall not apply to any lease of a Fluecured tobacco acreage allotment or marketing quota entered into before the date of enactment.

TITLE III—MISCELLANEOUS PROVISIONS RELATING TO BURLEY TOBACCO AND OTHER KINDS OF TOBACCO

Marketing assessments to no net cost Burley tobacco account

Section 301, effective for the 1982 and subsequent crops of tobacco, amends the Agricultural Act of 1949 by adding thereto a new section 106B.

Subsection (a) of new section 106B defines certain terms as follows:

(1) the term "Burley association" means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers of Burley tobacco;

(2) the term "Burley Account" means an account established by and in the Corporation for a Burley association to be known as the "No Net Cost Burley Tobacco Account";

(3) the term "to market" means to dispose of Burley tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the Burley tobacco to a Burley association for a price support advance;

(4) the term "net gains" means the amount by which total proceeds obtained from the sale by a Burley association of a crop of Burley tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the Burley association on such crop, plus interest and charges;

(5) the term "Burley tobacco" means Burley tobacco, as defined in section 301(b)(15) of the Agricultural Adjustment Act of 1938, for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers;

(6) the term "area", when used in connection with a Burley association, means the general geographical area in which farms of the producer-members of such Burley association are located, as determined by the Secretary; and

(7) the term "Corporation" shall have the meaning given to it in section 106A(a)(2) of the Agricultural Act of 1949.

Subsection (b) of new section 106B provides that the Secretary of Agriculture (Secretary) is required to, upon the request of any Burley association, and may if the Secretary determines, after consultation with such Burley association, that the accumulation of the No Net Cost Tobacco Fund for such Burley association under section 106A of the Agricultural Act of 1949 is, and is likely to remain, inadequate to reimburse the Corporation for new losses which the Corporation sustains under its loan agreement with such Burley association—

(1) continue to make price support available to Burley producers through such Burley association in accordance with loan agreements entered into between the Corporation and such Burley association; and

(2) establish and maintain in accordance with new section 106B a No Net Cost Burley Tobacco Account for such Burley association in lieu of the No New Cost Tobacco fund established within such Burley association under section 106A.

Subsection (c) of new section 106B provides that—

(1) any Burley Account established for a Burley association is to be established within the Corporation and comprised of amounts paid by producers, and

(2) upon the establishment of a Burley Account for a Burley association, any amount in the No Net Cost Tobacco Fund established within such Burley association under section 106A of the Agricultural Act of 1949 is to be applied or disposed of in such manner as the Secretary may approve or prescribe, except that such amount shall, to the extent necessary, first be applied or used for the purposes prescribed in such section.

Subsection (d) of new section 106B directs the Secretary to—

(1) if a Burley Account is established for a Burley association, require (in lieu of any contribution under section 106A(d)(1) of the Agricultural Act of 1949) that each producer of Burley tobacco whose farm is within such Burley association's area as a condition of eligibility for price support, agree, with respect to all Burley tobacco marketed by the producer from the farm, to pay to the Corporation, for deposit in such Burley association's Burley Account, marketing assessments;

(2) determine and adjust from time to time, in consultation with such Burley association, the amount of the marketing assessment which is to equal an amount which, when collected, will result in an accumulation of a Burley Account for such Burley association adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with such Burley association, based on reasonable estimates of the amounts which the Corporation will lend to such Burley association under such agreements and the proceeds which will be realized from the sales of Burley tobacco which are pledged to the Corporation by such Burley association as security for loans; and

(3) collect marketing assessments from the person who acquired the Burley tobacco involved from such producer. In such event an amount equal to such assessment may be deducted by the purchaser from the price paid to such producer in case such Burley tobacco is marketed by sale. If Burley tobacco is marketed by a producer through a warehouseman or other agent, the assessment is to be collected from the warehouseman or agent who may deduct an amount equal to such assessment from the price paid to the producer. If Burley tobacco is marketed by a producer directly to any person outside the United States, the assessment is to be collected from the producer.

Subsection (e) of new section 106B requires that amounts deposited in a Burley Account established for a Burley association be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with such Burley association will suffer, with respect to the crop involved, no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the Burley association), after any net gains from the sale of loan collateral tobacco are applied to net losses of the Corporation.

Subsection (f) of the new section 106B directs the Secretary to provide, in any loan agreement between the Corporation and a Burley association for which a Burley Account has been established, that if the Secretary determines that the amount in such Burley Account or the net gains from the sale of loan collateral tobacco exceed the amounts necessary for the purposes of the new section, then the Secretary, in consultation with such Burley association, may suspend the payment and collection of marketing assessments upon terms and conditions established by the Secretary.

Subsection (g) of new section 106B provides that, with respect to any Burley association for which a Burley Account is established, if a loan agreement between the Corportation and such Burley association is terminated, if such Burley association is dissolved or merges with another Burley association, or if such Burley Account terminates by operation of law, then amounts in such Burley Account and the net gains from the sale of loan collateral tobacco are to be applied to or disposed of in such manner as the Secretary may perscribe, except that, to the extent necessary, they are first to be applied to or used for the purposes prescribed in the new section.

Subsection (h) of new section 106B provides that the provisions of section 106A(d)(5) of the Agricultural Act of 1949 relating to net gains are to apply to any loan agreement between a Burley association and the Corporation entered into upon or after the establishment of a Burley Account for such Burley association.

Subsection (i) of new section 106B directs the Secretary to issue regulations necessary to carry out provisions of the section.

Mandatory sale of certain Burley tobacco acreage allotments and marketing quotas held before enactment

Section 302 adds to the Agricultural Adjustment Act of 1938 a new section 316B that—

(1) requires that any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of the bill—

(A) owns a farm for which a Burley tobacco acreage allotment or marketing quota is established; and

(B) is not significantly involved in the management or use of land for agricultural purposes;

must sell, not later than December 1, 1983, such allotment or quota to an active Burley tobacco producer, as defined by the Secretary, for use on another farm in the same county of forfeit such allotment of quota;

(2) provides that, if, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with the above requirements, the allotment or quota involved shall be forfeited and shall be real-

located to other active Burley tobacco producers in the county involved;

(3) provides that court review of any such determination shall be available in the same manner as is provided for court review of determinations of local review committees.

Poundage quotas for dark air-cured tobacco and for fire-cured tobacco; modification of leasing of poundage quotas for Burley tobacco

Section 303(a) amends section 301(b)(15) of the Agricultural Adjustment Act of 1938 relating to the definition of tobacco to provide that for purposes of section 319 of that Act, types 22 and 23, fire-cured tobacco shall be treated as one "kind of tobacco".

Section 303(b) amends section 319(b) of the Agricultural Adjustment Act of 1938 relating to poundage quotas for Burley tobacco to make the provisions of section 319(b) apply only to Burley tobacco.

Section 303(c) amends section 319 of the Agricultural Adjustment Act of 1938 to add a new subsection (b) that—

(1) directs the Secretary, not later than February 1, 1983, to proclaim national marketing quotas for dark air-cured tobacco and for fire-cured tobacco, types 22 and 23, for the 3 marketing years beginning October 1, 1983, and determine and announce the amount of the marketing quotas for dark air-cured and for fire-cured tobacco for the marketing year beginning October 1, 1983;

(2) requires the Secretary, within 30 days following such proclamation, to conduct a referendum of the farmers engaged in the production of the 1982 crop of dark air-cured tobacco and fire-cured tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis for such kind of tobacco for the 3 marketing years beginning October 1, 1983, in lieu of quotas on an acreage basis in effect for the 2 marketing years beginning October 1, 1983. If the Secretary determines that one-half or more of the farmers voting in the referendum approve marketing quotas on a poundage basis for such kind of tobacco, then marketing quotas will be in effect for such kind of tobacco for the 3 marketing years beginning October 1, 1983, and marketing quotas on an acreage basis will cease to be in effect for such kind of tobacco for the 2 marketing years beginning on October 1, 1983. If marketing quotas on a poundage basis are not approved for such kind of tobacco by at least one-half of the farmers voting in the referendum, then quotas on an acreage basis will be in effect for such kind of tobacco for the 2 marketing years beginning October 1, 1983;

(3) requires the Secretary, if marketing quotas on an acreage basis are in effect for dark air-cured tobacco or fire-cured tobacco, if, for a period of not less than 3 marketing years, a referendum has not been held under section 319 to determine whether producers of such kind of tobacco favor marketing quotas on a poundage basis for such kind of tobacco, and if the Secretary, after conducting public hearings in the area in which such kind of tobacco is produced, ascertains that producers and other interested persons favor marketing quotas on a poundage basis for such kind of tobacco, at the time of the next announcement of the amount of the national marketing quota, to announce national marketing quotas for the next 3 succeeding marketing years under section 319. Within 30 days of such proclamation, the Secretary is to conduct a referendum of farmers engaged in the production of the most recent crop of such kind of tobacco to determine whether they favor the establishment of marketing quotas on a poundage basis for such kind of tobacco for the next 3 succeeding marketing years. If the Secretary determines that more than one-half of the farmers voting in such referendum approve marketing quotas on a poundage basis, then quotas on that basis shall be in effect for the next 3 succeeding marketing years and the marketing quotas on an acreage or acreage poundage basis shall cease to be in effect at the beginning of such 3-year period. If marketing quotas on a poundage basis are not approved by more than one-half of the farmers voting in such referendum, then the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed; and

(4) directs the Secretary to determine and announce, not later than February 1 preceding the second and third marketing years of any 3-year period for which marketing quotas on a poundage basis are in effect for dark air-cured tobacco or fire-cured tobacco, the amount of the national marketing quota for such kind of tobacco for each of such years. If marketing quotas on a poundage basis have been made effective for such kind of tobacco, then the Secretary shall, not later than February 1 of the last of 3 consecutive marketing years for which marketing quotas are in effect for such kind of tobacco under this section, proclaim a national maketing quota for such kind of tobacco for the next 3 succeeding marketing years as provided in section 319. The Secretary is to conduct extensive hearings in the area in which such kind of tobacco is produced to ascertain whether producers favor marketing quotas on an acreage basis or on a poundage basis and shall proclaim the quota on the basis he determines most producers of such kind of tobacco favor. Within 30 days following such proclamation, the Secretary shall conduct a referendum in accordance with section 312(c) of the Act. If more than one-half of the farmers voting in such referendum oppose the national marketing quotas, then the Secretary shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco and the national marketing quota so proclaimed shall not be in effect for the next 3 succeeding marketing years. Thereafter the provisions of section 312 of the Act shall apply except that the national marketing quota and farm marketing quotas for such kind of tobacco shall be determined for such kind of tobacco as provided in section 319 of the Act.

Section 303(d) amends section 319(c) of the Agricultural Adjustment Act of 1938 relating to the method for determining the national marketing quota for Burley tobacco to make the provisions of that section apply to dark air-cured tobacco and fire-cured tobacco under a poundage program, except that the provision limiting downward adjustments of the national marketing quota to no more than 5 percent of estimated utilization and exports would not apply.

Section 303(e) amends section 319(d) of the Agricultural Adjustment Act of 1938 relating to the method for determining farm yields for Burley tobacco farms to make the provisions of that section apply to dark air-cured tobacco and fire-cured tobacco under a poundage program. In the case of dark air-cured tobacco and fire-cured tobacco, when a national marketing quota is first proclaimed under the section, the Secretary, through local committees, is to determine a farm yield for each farm for which a dark air-cured or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982. The yield would be determined by averaging the yield per acre for the 4 highest of the 5 consecutive years beginning with the 1978 crop year or by following the other methods set forth in the section, except that the farm yield established for any farm could not exceed 3,000 pounds per acre. Also when a marketing quota program for dark air cured tobacco or for fire-cured tobacco is first established under the section, farm yields with respect to those kinds of tobacco are to be adjusted proportionately so that the weighted average of such farm yields is equal the national average yield goal for dark air-cured tobacco or fire-cured tobacco, as the case may be.

Section 303(f) amends section 319(e) of the Agricultural Adjustment Act of 1938 relating to the establishment of preliminary farm marketing quotas, farm, marketing quotas for the first and subsequent years of a poundage program, and farm marketing quotas for new farms in the case of Burley tobacco to make the provisions of that section generally apply to dark air-cured tobacco and fire-cured tobacco under a poundage program. Under the bill, a preliminary farm marketing quota is to be determined for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982, by multipling the farm yield determined under subsection (d) of section 319 by the farm acreage allotment (prior to any required reduction) established for such farm for the marketing year beginning October 1, 1982.

Section 303(g) amends section 319(f) of the Agricultural Adjustment Act of 1938 relating to reduction of farm marketing quotas for filing false reports and certain other activity in the case of Burley tobacco to make the provisions apply to dark air-cured tobacco and fire-cured tobacco under a poundage program.

Section 303(h) amends section 319(g) of the Agricultural Adjustment Act of 1938 relating to lease and transfer of farm marketing quotas for Burley tobacco when a poundage program is in effect to make the provisions apply to dark air-cured tobacco and fire-cured tobacco, except that the limitation on the amount of quota that may be leased and transferred would not apply. The bill would also increase from 15,000 pounds to 30,000 pounds the amount of quota that may be leased and transferred in the case of Burley tobacco.

Section 303(i) amends section 319(i) of the Agricultural Adjustment Act of 1938 relating to penalties for the marketing of excess tobacco when a poundage program is in effect to make the provisions of that section apply to dark air-cured tobacco and fire-cured tobacco under a poundage program.

Section 303(j) amends the section heading for section 319 of the Agricultural Adjustment Act of 1938.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., June 30, 1982.

Hon. JESSE A. HELMS
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6590, the No Net Cost Tobacco Program Act of 1982.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

COST ESTIMATE, JUNE 30, 1982

1. Bill number: H.R. 6590.

2. Bill title: The No Net Cost Tobacco Program Act of 1982.

3. Bill status: As reported by the Senate Committee on Agriculture, Nutrition and Forestry, June 24, 1982.

4. Bill purpose: The bill modifies the current tobacco price support program to establish capital funds to be maintained within producer-owned cooperative marketing associations, and requires producer contributions to defray federal tobacco loan losses. Beginning with the 1983 tobacco crop, it requires contributions to the fund by those who lease certain tobacco quotas or allotments to others. The bill allows the Commodity Credit Corporation (CCC) to retain net gains from the sale of crop loan collateral tobacco to offset losses on other sales. The bill authorizes the Secretary of Agriculture to reduce increases in the support rate to 65 percent of the increases mandated by law. The bill also places certain restrictions on the sale or leasing of tobacco quotas and allotments.

5. Cost estimate: Estimated savings from this bill relative to the CBO baseline projections are shown in the following table:

[By fiscal years, in millions of dollars]

	1983	1984	1985	1986	1987
Estimated authorization level			−8	−8	−8
Estimated outlays	−5	−12	−11	−6	−10

The savings from this bill fall within budget funtion 350.

6. Basis of estimate: The fees paid into the capital funds established by the bill are assumed sufficient to offset the loses from the sale of colleteral tobacco, which are projected to be about $8 million annually. Payments from the capital funds would replace the appropriation made to reimburse CCC for net realized losses two years after they are incurred. Therefore, the $8 million reduction in annual losses reduces the necessary appropriation by $8 million in fiscal year 1985 and thereafter, and would reduce outlays by about $8 million per year beginning in 1984.

Tobacco program outlays are the result of commodity price support loan activity in each fiscal year. This bill would not alter the volume of tobacco under loan, but the dollar volume of the loan activity would be reduced in proportion to the reduction in the rate of increase in the price support rate. It is assumed the increase in the support loan would be reduced to the 65 percent minimum level and that this would decrease support loans by an estimated 3 percent, 6 percent, 7 percent, 8 percent and 9 percent in crop years 1982 through 1986, respectively. Lower tobacco loans are projected to decrease the dollar volume of new loans in fiscal years 1983 through 1987, with corresponding reductions in repayments of those loans.

7. Estimate comparison: None.

8. Previous CBO estimate: On June 18, 1982, the Congressional Budget Office prepared a cost estimate of H.R. 6590, as ordered reported by the House Committee on Agriculture, June 15, 1982. This House bill differs only slightly from the Senate-reported version, and the estimated budget impact of the two versions is the same.

9. Estimate prepared by Howard Conley (226-2860).

10. Estimate approved by C. G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 9, 1982.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for a report on H.R. 6590, as passed by the House on June 21 and amended by your Committee on June 24, a bill "To provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes."

The Administration supports the goal of a no net cost tobacco program, and we view the Congress' consideration of this measure as a positive step toward that goal. Therefore, the Department favors enactment of the bill with the following modifications: (1) the Secretary should have total discretion to adjust the price support level for all eligible kinds of tobacco; (2) the provisions concerning "excessively priced" tobacco should be eliminated; (3) the Secretary should not be required by a burley tobacco association to establish a no net cost tobacco account within the Commodity Credit Corportation; (4) the Secretary should have greater discretion to adjust the poundage quotas for fire-cured and dark air-cured tobaccos, as well as for burley tobacco for which poundage quotas have been authorized since 1971; (5) the Secretary should have additional time to determine and announce annual marketing quotas for various kinds of tobacco; (6) the Secretary needs additional authorization to properly administer the flue-cured grower designation program; and (7) additional authorization is needed to charge for tobacco market news reports.

Section 102 of the bill would authorize the Secretary, effective for the 1982 and subsequent crops of tobacco, to reduce the support rate which would otherwise be established in accordance with section 106 of the Agricultural Act of 1949 for any grade of any kind of tobacco determined by the Secretary, in consultation with the appropriate association, to be in excessive supply. The weighted average of the support rates for eligible grades of any such kind of tobacco after reduction must reflect not less than 65 percent of the increase which would otherwise be established under section 106.

Section 102 further provides that the Secretary, after prior approval of the appropriate association, may designate certain grades of flue-cured tobacco as "excessively priced." In that event, producers could elect to market such tobacco at a special auction provided by the Secretary but any such tobacco would be ineligible for price support. Such grades would not be considered marketed for the purpose of marketing quotas and penalties but a quatity of tobacco equal to the quantity marketed at the special auction would be deducted from any undermarketings. A producer could not market at the special auction more than 10 percent of the farm marketing quota. For most situations, we do not consider that the section could be equitably implemented and administered. Implementation of the section could create disorderly market conditions and cause growers to produce sizable quantities of carryover or excess quota tobacco.

The requirement in Section 102 that the Secretary obtain "prior approval" of the associations would impair the ability of the Secretary to carry out the program according to the intent of Congress. Associations, by their State charters, are required to act in the best interest of their grower members rather than the overall price support program administered by the Department of Agriculture. Therefore, we strongly oppose the inclusion of this language in the bill since it would erode the Department's authority for effectively carrying out its responsibilities.

In a report issued by the Secretary of Agriculture to Congress in accordance with the provisions of section 1109 of the Agriculture and Food Act of 1981, it was recommended that the Secretary should be provided discretionary authority to establish the levels of support for tobacco to compensate for changing economic and marketing conditions. H.R. 6590 would provide some of the discretionary authority requested by the Secretary, and would allow a downward adjustment in levels of support for some grades of tobacco. Using only "eligible grades" to compute the level of support provides the Department with additional discretion since we are presently required to consider all official grades in such computation. However, the authority to adjust the level of support as prescribed in the bill is very narrow and may not allow the Department to meet the no net cost objective specified in the 1981 Act. The support formula should provide the needed flexibility to assure the competitiveness of U.S. tobacco in export and domestic markets.

Section 301 of the bill requires that the Secretary must establish a no net cost tobacco account within the Commodity Credit Corporation for burley tobacco if requested by any burley tobacco association. The Secretary is also authorized to establish such an account if the Secretary determines, after consultation with a burley tobacco association, that the amounts which are otherwise available in a no net cost tobacco fund which is held by a burley association are inadequate to reimburse the Corporation for any net losses sustained by the Corporation under the price support program. While the Department has no objection to a residual account being established to assure that there are no net losses to the Corporation under the price support program, we are opposed to any requirement that the Secretary must establish such an account at the request of a burley accociation.

Section 303 of the bill would authorize poundage quotas for fire-cured and dark air-cured tobaccos in lieu of marketing quotas on an acreage basis. The bill provides that the Secretary may reduce the farm marketing quotas by no more than 5 percent annually. This range is too narrow to permit the Secretary to accomplish the objective of a no net cost tobacco program. In view of the wide variability of utilization of these kinds of tobacco, the Secretary needs greater flexibility to maintain supplies in line with demand.

Section 319(c) of the Agricultural Adjustment Act of 1938, which prescribes a 5 percent annual limit on the amount of any downward adjustment in the national marketing quota for burley tobacco, should be deleted. This would give the Secretary the

needed discretion to establish a national marketing quota for burley tobacco.

Sections 312, 317, and 319 of the Agricultural Adjustment Act of 1938 require that the Secretary announce the national marketing quota for flue-cured tobacco by December 1 and the quota for burley and other kinds by February 1. The Secretary should have additional time to announce the national marketing quotas for various kinds of tobaccos by changing the dates for flue-cured tobacco to December 15, for Puerto Rican filler to September 1, and for burley and other kinds to February 15. These statutory deadlines for announcing the national marketing quotas for various kinds of tobacco have resulted in the Department using incomplete data from industry sources rather than being able to use USDA crop estimates that become available just after the present decision deadlines. While marketing quotas have never been in effect for Puerto Rican tobacco, the Commonwealth's subtropical climate means that the crop is generally planted in December and January, about ten or eleven months after the February 1 statutory announcement of marketing quotas. Accordingly, we believe that this statutory deadline is unrealistic with the need to use more current statistics.

Additional authorization is needed to properly administer the flue-cured grower designation program. Proposed legislation to amend the Tobacco Inspection Act was sent to Congress on April 15, 1982, a copy of which is enclosed. The amendments would enable USDA to more effectively administer the flue-cured marketing system. While it is specifically requested for use with the flue-cured grower designation program, it would authorize similar programs for other kinds of tobacco if such programs were requested at some later date.

Specific authority is needed to charge for market news reports mailed to growers. The Department transmitted a request February 22, 1982, and a bill (S. 2209) has been introduced which would effect this change. Except to growers, the Department has begun to charge for printed tobacco market news reports, as a cost reduction measure as authorized by the Agriculture and Food Act of 1981. Copies available for growers at warehouses would not be affected.

The proposed legislation will allow support rates to be set somewhat lower than under existing legislation and, therefore, the volume of new price support loans made to producers could be lower. As a result, net expenditures for loans (loan outlays minus loan repayments) may be smaller than USDA's budget estimates indicate. Even so, under the proposed legislation, net realized losses associated with tobacco loan programs may still occur for 1982 and later crops since the Secretary will be given very limited authority to adjust support levels.

The Office of Management and Budget advises there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK,
Secretary.

Mr. HELMS. Mr. President, in a moment, I am going to yield so that we may proceed with other statements and concluding remarks by my able colleague from Kentucky (Mr. HUDDLESTON). I say again that no chairman could have a finer working partner than Senator HUDDLESTON. I might add I am so glad he is from a tobacco State, because he understands the problem.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, I yield myself such time as I may require.

Mr. President, I say to the distinguished Senator from North Carolina, chairman of the Agriculture Committee, that it has been an interesting procedure leading to this particular point with this legislation. I emphasize, as he has already suggested, that H.R. 6590, the No Net Cost Tobacco Program Act of 1982, could well be viewed as an antitobacco measure. I feel certain that this will be the only time that the Senator from North Carolina or this Senator from Kentucky and several other Members of this body will be standing before this Chamber advocating what can be considered an antitobacco bill.

As the Senator from North Carolina has indicated, we have taken seriously the mandate that was handed to us by Congress last year that this program should operate at no cost to the Government, even though it has been, without doubt, the least costly and most effective agriculture program that Congress has ever enacted.

The bill not only responds to the congressional mandate of last year, through the establishment of a producer-financed fund to offset any potential losses in the tobacco price support loan program administered by the Secretary of Agriculture, but it goes further. The legislation incorporates changes designed to get allotments held by nonfarming corporations into the hands of active producers, and to keep U.S. tobacco competitive in the world market.

The bill provides assurance to the taxpayers of the United States that they will suffer no loss from the operation of the tobacco price support program.

Tobacco producers in Kentucky, who are going to be called on to contribute to the no-cost fund, are not anxious to have their burden imposed on them. But they recognize that one of the issues used most frequently by the adversaries of the tobacco program has always been expenditures or potential expenditures by the Federal Government in the conduct of the tobacco loan program. They also recognize that, within the 40-year history of the program, net losses on tobacco loan program operations have totaled only $57 million, which is miniscule in comparison to losses incurred for every other commodity loan program, every year. Further, they know the vital and essential role of the tobacco loan program in providing price and income stability for their small and part-time farming operations.

In Kentucky, 73 percent of our farms produce tobacco. Of those farms, over 75 percent of the burley tobacco farms contain less than 50 acres. Over two-thirds of the producers grow less than 2 acres of tobacco. and, while several burley farm households receive some off-farm income, one-third receive no nonfarm income or less than $2,500 from nonfarm sources.

Only 3 of Kentucky's 120 counties are untouched by tobacco farming, auctioning, manufacturing, or the wholesaling sector of the State's tobacco industry; 1 out of every 14 jobs in the Commonwealth, either directly or indirectly, is tobacco related. And, in Kentucky, where unemployment is at record levels, the value of the tobacco crop, which had a farm value in 1981 of over $850 million, takes on added significance.

In last year's consideration of the 1981 farm bill, it became apparent that something needed to be done to eliminate even the minimal costs that have been associated with the tobacco loan program.

On October 21, 1981, the House of Representatives adopted an amendment, subsequently adopted by the Senate, that established it as the intent of the Congress that the tobacco loan program be carried out so as to result in no net cost to the taxpayers, other than such administrative expense as is incidental to the implementation of any commodity program. The amendment also stipulated that the Secretary of Agriculture should take adminstrative actions within his current authorities, and should recommend to Congress by January 1982 any legislative changes, he believed necessary and proper to achieve the objective.

Various steps were taken to eliminate Federal expenditures related to the tobacco program. Tobacco grading and inspection fees were shifted to the grower. The farmer now pays those costs—not the Government. The Secretary increased interest rates that the Commodity Credit Corporation charges the producer co-ops. Interest costs now equal the cost of money to the Government. And, the Secretary is reviewing the Department's loan repayment policy and the merits of requiring that interest on new CCC loans be paid prior to a reduction in the loan principal. Such changes will affect producers and the trade.

The legislation being considered today is a good faith effort to complete the process that was begun last year, and eliminate the costs associated with the tobacco loan program.

The measure requires that the Secretary approve the amount of the no cost fund contribution established for

each loan association. And the provision vests broad authorities in the Secretary that would permit him, if practicable, to approve a revolving participation procedure. Under such a procedure, contributions to the fund would be continued to maintain the no cost reserve and ensure the integrity of the fund at required levels. It would also permit the associations to retire certificates of contributors to the fund in the earliest years based on unused or uncommitted contributions in proportion to a producers contribution, and calls for the distribution of money in the fund should the need for the fund cease to exist.

I also wish to emphasize the fact that the bill goes beyond the no-cost mandate. It is responsive to the Secretary's request for greater flexibility to adjust loan rates, notably for grades in surplus or expected to be in surplus.

And, the bill is responsive to the criticism that allotments are now held by nonfarming corporations. The requirement that such allotments be sold to active farmers will exclude such corporations from allotment ownership and, thereby, strengthen the program.

Mr. President, it is my hope the public will come to recognize, as did Joseph Califano, the former Secretary of Health, Education, and Welfare, that the tobacco loan program is an economic program that provides stability of price and income for the thousands of small and part-time farmers of my State and 21 other tobacco producing States. As he indicated, abolition of the program, or the adoption of provisions that would produce havoc or uncertainty in the tobacco market, would not result in one less cigarette being smoked.

As this bill is considered, it should be noted that a burden is being place on the tobacco farmers of this country—a burden that is not imposed on other farmers. It is a burden they are willing to accept in return for a tobacco program that will continue to provide price support and stability in tobacco markets.

Mr. President, I an proud of the record of the Burley Tobacco Growers Cooperative in managing the burley program during its 40 years of operation. I am confident the cooperative, in consulation with the Secretary, will achieve the congressional mandate of a no net cost tobacco program. I urge my colleagues to support H.R. 6590, as reported, and give the Nation's tobacco farmers an opportunity to help themselves provide a stable and sound price support program.

Mr. President, we recognize that some provisions that are included in the committee-reported bill may not go as far as some who do not appreciate the tobacco price support program would like, but I hope that my colleagues in the Senate recognize what a tremendous step this has been: We went to the tobacco producers, meeting them in their own communities and talking to them, discussing the program and all of the ramifications of what is being proposed. We saw there a willingness to accept responsibility and costs that are not imposed on any other farmer producing any other commodity under any other Federal program in these United States.

We ought to be cognizant of that fact and recognize that enough is enough, that the contribution that the tobacco growers of this country make not only to the economy of their particular areas or States, but to the Nation, is of such significance that it is unseemly for this body to think of now seeking an extra pound of flesh by tightening the screws even tighter, by pressing a heavier burden upon the shoulders of the growers.

We have pointed out time and time again that the taxing authorities of this Nation receive three times as much for that small farmer's efforts as the farmer himself receives. Over $6 billion goes into the public treasury, only $2 billion goes to the tobacco growers.

This is not a group of American citizens that needs to be any further put upon. We ought to do what is necessary to make a no-cost program. We have all agreed to that. The farmer has agreed to that. However, to now impose further requirements that would make the program less effective and more costly to the grower seems to me to be going beyond what is prudent, what is fair and equitable for the people of the country.

I hope that we can accept the bill as it is written, give proper consideration to those amendments that will be offered, and move forward with a program that will be even more unique than the tobacco program has already been in the annals of agriculture history in this country.

I thank the chairman. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I yield myself such time as I may require.

Will the Chair state the unanimous-consent agreement as to time, just for the record?

The PRESIDING OFFICER. It is ordered that at 10:30 a.m. on Wednesday, July 14, 1982, the Senate proceed to the consideration of H.R. 6590, a bill to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes, and that debate on any amendment shall be limited to 40 minutes—except three amendments to be offered by the Senator from Missouri (Mr. EAGLETON) relative to floor sweeping, sunset of price support, and support price adjustment, respectively, on each of which there shall be 1 hour—to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motions, appeals, or points of order which are submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, that in the event the manager of the bill is in favor of such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided further, that no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, that on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from North Carolina (Mr. HELMS) and the Senator from Kentucky (Mr. HUDDLESTON), or their designees: Provided, that the said Senators, or either of them, may from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. HELMS. I thank the Chair. So the pending amendment is the committee amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, I move the adoption of the committee amendments. This had been cleared on both sides and with Senator EAGLETON.

The PRESIDING OFFICER. The question is on agreeing to the motion to the Senator from North Carolina.

Without objection, the committee amendments are agreed to en bloc.

The committee amendments considered and agreed to en bloc are as follows:

On page 13, after line 17, insert the following:

PENALTIES FOR MARKETING TOBACCO IN EXCESS OF MARKETING QUOTA AND FOR MARKETING CERTAIN TOBACCO THAT IS NOT ELIGIBLE FOR PRICE SUPPORT

SEC. 103. Effective for the 1983 and subsequent crops of tobacco, section 314 of the Agricultural Adjustment Act of 1938 is amended by amending the first sentence of subsection (a) to read as follows: "The marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on the farm has not agreed to make contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Burley Tobacco Account as required by sections 106A(d)(1) and 106B(d)(1) of that Act, if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco

for the immediately preceding marketing year.".

On page 15, line 8, strike "adjoining", and insert "the same county or in ";

On page 15, line 13, strike "adjoining";

On page 24, line 8, strike "appropriate". ", and insert "appropriate."; and ";

On page 24, after line 8, add the following:

(3) adding at the end of paragraph (6) (A) the following: "Notwithstanding the preceding provisions of this subsection, in 1983 and at five-year intervals thereafter, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in paragraph (4) of this subsection to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving country average yields."

On page 34, line 22, strike "two", and insert "three";

On page 37, line 6, after "any ", insert "such";

On page 38, line 5, after "Act", insert "shall";

On page 42, after line 8, strike through and including line 13 and insert the following:

(B) inserting "with respect to burley tobacco" after "section".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "No Net Cost Tobacco Program Act of 1982".

FINDINGS

SEC. 2. Congress finds that—

(1) in order to implement the intent of Congress, as expressed in the Agriculture and Food Act of 1981, that the tobacco price support and production adjustment program be carried out at no net cost to the taxpayer, other than administrative expenses common to the operation of all price support programs, it is necessary that producers of quota tobacco share equitably in helping to eliminate losses which may be incurred in carrying out the program;

(2) producers of quota tobacco should be required, as a condition of receiving the benefits of price support for their tobacco, to contribute to a capital account to be established by each producer-owned marketing association through which price support advances are made available to producers; and

(3) the account so establised should be used by the associations exclusively for the purpose of achieving a no net cost tobacco program.

TITLE I—MODIFICATION OF TOBACCO PRICE SUPPORT PROGRAM

PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

SEC. 101. Effective for the 1982 and subsequent crops of tobacco, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by inserting, following section 106, a new section 106A as follows:

"PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

"SEC. 106A. (a) As used in the section—

"(1) the term 'association' means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;

"(2) the term 'Corporation' means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers;

"(3) the term 'Fund' means the capital account to be established within each association, which account shall be known as the 'No Net Cost Tobacco Fund';

"(4) the term 'to market' means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

"(5) the term 'net gains' means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges; and

"(6) the term 'quota tobacco' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

"(b) The Secretary may carry out the tobacco price support program through the Corporation and shall, except as otherwise provided by this section, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

"(c) Each assosciation shall establish within the association a Fund. The Fund shall be comprised of amounts contributed by producer-members as provided in subsection (d).

"(d) The Secretary shall—

"(1) require—

"(A) that—

"(i) as a condition of eligibility for price support, each producer of each kind of quota tobacco (other than Burley quota tobacco with respect to the 1983 and subsequent crops) shall agree, with respect to all such kind of quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

"(ii) as a condition of eligibility for price support for any marketing year of any three-year period for which marketing quotas are in effect (other than the period applicable to the 1982 crop), each producer of Burley quota tobacco shall agree, not later than a date established by the Secretary preceding the beginning of the first marketing year of such three-year period (or, in the case of a producer of Burley quota tobacco on a new farm or a producer of Burley quota tobacco succeeding another producer on a farm, before the beginning of the marketing year in which such new producer or such successor producer will first market Burley quota tobacco from the farm involved), to contribute in each of the marketing years in such three-year period (or, in the case of such new producer or such successor producer, any remaining marketing year in such three-year period), with respect to all Burley quota tobacco marketed by the producer, to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

"(B) that, upon making a contribution under subparagraph (A)—

"(i) in the case of quota tobacco marketed other than by consignment to an association for a price support advance, the producer shall receive from the association capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution; and

"(ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, the producer shall receive from the association a qualified per unit retain certificate, as defined in section 1388(h) of the Internal Revenue Code, having a face amount equal to the amount of the contribution and representing an interest in the association's Fund.

The Secretary shall approve the amount of the contributions determined by an association from time to time under this paragraph only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

"(2) effective for the 1983 and subsequent crops, require that each owner and operator of any farm who, in conformity with the provisions of subtitle B, part I, of the Agricultural Adjustment Act of 1938, leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco to make contributions, for deposit into the Fund established by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The amount of such contribution for the quantity of tobacco of each crop represented by such lease shall be the same amount as the contribution for producers of Flue-cured tobacco of such crop determined and approved under paragraph (1). The Secretary shall require that such association, upon receiving such contribution, issue to such owner and operator capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution;

"(3) require that the Fund established by each association shall be kept and maintained separate from all other accounts of the association and shall be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the corporation under paragraph (5);

"(4) permit an association to invest the monies in the Fund in such manner as the Secretary may approve, and require that the interest or other earnings on such investment shall become a part of the Fund;

"(5) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that such net gains will be used for the purpose of (A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or (B) reduc-

ing the outstanding balance of any price support loan made by the Corporation to the association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes; and

"(6) provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceed the amounts necessary for the purposes specified in this section, such excess (A) in the case of an association making price support available to producers of quota tobacco other than Burley tobacco, will be released to the association by the Corporation and may be devoted to other purposes by the association, and (B) in the case of an association making price support available to producers of Burley quota tobacco, will be released to the association by the Corporation and may be distributed, as determined by the association, to the producer-members of the association as a capital distribution or net gain distribution.

"(e) If any association which has entered into a loan agreement with the Corporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to compy with the provisions of this section, the regulations issued by the Secretary thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by this Act or the Commodity Credit Corporation Charter Act.

"(f) If, under subsection (e), a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the Fund or the net gains referred to in subsection (d)(5) shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that they shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in this section.

"(g) The Secretary shall issue regulations necessary to carry out the provisions of this section.".

ADJUSTMENT OF PRICE SUPPORT LEVEL OF TOBACCO

SEC. 102. Effective for the 1982 and subsequent crops of tobacco, section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end thereof new subsections (d) and (e) as follows:

"(d) Notwithstanding the provisions of section 403, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, may reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco: *Provided*, That the weighted average of the support rates for all eligible grades of such kind of tobacco shall, after such reduction, reflect not less than (1) 65 per centum of the increase in the support level for such kind of tobacco which would otherwise be established under this section, if the support level therefor is higher than the support level for the preceding crop, or (2) the support level for such kind of tobacco established under this section, if the support level therefor is not higher than the support level for the preceding crop. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco.

"(e) If the Secretary determines that, notwithstanding the adjustments in the support price made under subsection (d), the support rate of any eligible grade of Flue-cured tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive under current market conditions, the Secretary, after prior approval of the association through which price support for Flue-cured tobacco is made available to producers and after prior consultation with any other association through which price support for any other major quota kind of tobacco is made available to producers, may designate such grade of tobacco as 'excessively priced'. If a grade of tobacco is so designated, the Secretary shall provide producers the option of marketing such grade of tobacco only at a special auction to be provided for by the Secretary. If a producer elects such option, the producer's tobacco of such grade shall be ineligible for price support. With prior approval of the association, producers of ineligible grades of Flue-cured tobacco may also market such grades at the special auction provided for by the Secretary. Any tobacco which is marketed at such special auction shall, notwithstanding any other provision of law, not be considered marketed for purposes of marketing or poundage quotas and penalties under subtitle B, part I, of the Agricultural Adjustment Act of 1938: *Provided*, That a quantity of tobacco equal to the quantity marketed at such special auction shall be deducted from any undermarketings for purposes of such subtitle. In determining whether the support rate for any eligible grade of Flue-cured tobacco of a crop will likely be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco. For purposes of this subsection, no producer may market at the special auction a quantity of tobacco of any crop in excess of 10 per centum of the farm marketing quota.".

PENALTIES FOR MARKETING TOBACCO IN EXCESS OF MARKETING QUOTA AND FOR MARKETING CERTAIN TOBACCO THAT IS NOT ELIGIBLE FOR PRICE SUPPORT

SEC. 103. Effective for the 1983 and subsequent crops of tobacco, section 314 of the Agricultural Adjustment Act of 1938 is amended by amending the first sentence of subsection (a) to read as follows: "The marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on the farm has not agreed to make contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Burley Tobacco Account as required by sections 106A(d)(1) and 106B(d)(1) of that Act, if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year.".

TITLE II—MODIFICATION OF FLUE-CURED TOBACCO MARKETING QUOTA SYSTEM

LEASE AND SALE OF FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 201. (a) Section 316(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(a)) is amended by—

(1) inserting "(1)" after "(a)";

(2) inserting "shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act and" after "program,";

(3) inserting "Flue-cured," after "Burley,";

(4) inserting a comma before "to lease";

(5) adding at the end thereof the following new paragraph:

"(2)(A) No lease of any Flue-cured tobacco allotment or quota assigned to a farm may be filed under subsection (c) of this section after June 15 of the crop year specified in such lease, except that the Secretary may allow a lease to be so filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster—

"(i) the county in which such farm is located has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest in such crop year;

"(ii) the lessor involved has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest on such farm in such crop year; and

"(iii) such lease will not impair the effective operation of the tobacco marketing quota or price support program.

If the Secretary makes such determination, then the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county or in an adjoining county within the same State for use in such county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and transfer shall not be effective until a copy of such lease and a written statement described in subsection (c) of this section are filed with and determined by the county committee of such county to be in compliance with the provisions of this section.

"(B) No agreement or arrangement may be made in connection with the making of any lease with respect to any Flue-cured tobacco allotment or quota under paragraph (1) of this subsection except—

"(i) between the lessor and lessee; or

"(ii) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco.

"(C) No sublease or other transfer of such allotment or quota may be made by such lessee during the period of such lease."; and

(6) amending the section heading for such section to read as follows:

"LEASE OR SALE OF ACREAGE ALLOTMENTS"

(b) Section 316(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(c)) is amended by—

(1) in the first sentence—

(A) inserting "or sale and transfer" after "lease and transfer"; and

(B) striking out "such lease" and inserting in lieu thereof "the lease or sale agreement, as the case may be,";

(2) striking out the second sentence and inserting in lieu thereof the following: "In the case of a lease and transfer of any Flue-cured tobacco allotment or quota for use with respect to any crop, such lease shall not be effective until, in addition to a copy of such lease, the lessor and lessee involved each file with such county committee a written statement certifying such compliance. If, after notice and an opportunity for a hearing, such county committee determines that such lessee knowingly made a false statement in such written statement, then such lessee shall be ineligible for price support for such crop under the Agricultural Act of 1949 with respect to the poundage of tobacco produced under such allotment or quota or, if such determination is made after such lessee received such price support, the Secretary, taking into consideration the recommendation of such county committee and the amount of such poundage, shall reduce appropriately the poundage for which such lessee may receive price support with respect to the crop first marketed after such determination is made. If, after notice and an opportunity for a hearing, such county committee determines that such lessor knowingly made a false statement in such written statement, then the Flue-cured allotment or quota next established for the farm of such lessor shall be reduced by that percentage which the leased allotment or quota was of the respective Flue-cured marketing quota. Notice of any determination made by a county committee under the preceding provisions shall be mailed, as soon as practicable, to the lessee or the lessor involved. If such lessee or such lessor is dissatisfied with such determination, then such lessee or such lessor may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act."; and

(3) in the third sentence (as in effect before the amendment made by paragraph (2)) by—

(A) inserting "by lease or sale" after "transferred"; and

(b) striking out "lease and".

(c) Section 316(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(e)) is amended by—

(1) inserting "(1)" after "(e)";

(2) inserting "or sale" after "lease";

(3) inserting "or, in the case of Flue-cured tobacco, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm" before the colon; and

(4) adding at the end thereof the following new paragraph:

"(2) For purposes of this section, the term 'tillable cropland' means cleared land that can be planted to crops without unusual cultivation or other preparation.".

(d) Section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended by striking out subsections (g), (h), and (i) and inserting in lieu thereof the following new subsections:

"(g)(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell all or any part of such allotment or quota to any person who is an active Flue-cured tobacco producer for use on another farm in the same county. For purposes of this section, the term 'active Flue-cured tobacco producer' means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involvled.

"(2) For purposes of this section, a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

"(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

"(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

"(C) such person may not receive any of such return before the sale of such crop.

Any person who owns any Flue-cured tobacco allotment or quotas and leases such allotment or quota to another person for use in producing a crop shall be considered to have shared in the risk of producing such crop if, under the terms of such lease, subparagraphs (B) and (C) of this paragraph are satisfied with regard to such owner.

"(h)(1) Any person who—

"(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

"(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quota in the manner specified in subsection (g)(2) of this section;

shall sell such allotment or quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

"(2) Any person who—

"(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

"(B) disposes of an acreage of tillable cropland (as defined in subsection (e)(2) of this section) which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 per centum of the tillable cropland owned by such person;

shall, before July 1 of the year after the year of such disposal, take steps which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceeding 50 per centum of the tillable cropland owned by such person. If such person fails to take such steps, then any such excess allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

"(3)(A) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with paragraph (1) or (2) of this subsection, then such person shall forfeit to the Secretary the allotment or quota specified in such paragraph. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in subsection (g)(1) of this section) in the county involved.

"(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.".

MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS HELD BEFORE ENACTMENT

SEC. 202. The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by inserting after section 316, a new section 316A, as follows:

"MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

"SEC. 316A. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of this section—

"(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under this Act; and

"(2) is not significantly involved in the managment or use of land for agricultural purposes;

shall sell such allotment or quota in accordance with section 316(g) of this Act not later than December 1, 1983, or shall forfeit such allotment or quota under the procedure specified in subsection (c).

"(b) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on December 1, 1983, owns a farm for which the total acreage allotted for the production of Flue-cured tobacco under this Act exceeds 50 per centum of such farm's tillable cropland as defined in section 316(e)(2) of this Act, shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c).

"(c)(1) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with subsection (a) or (b), then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 316(h)(3)(A) of this Act.

"(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person, within fifteen days after notice of such determination is so mailed, may request review of such determination under section 363 of this Act.".

PERIODIC ADJUSTMENT OF YIELD FACTOR FOR FLUE-CURED ACREAGE-POUNDAGE QUOTAS

SEC. 203. Section 317(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by—

(1) adding at the end of paragraph (2) the following: "Notwithstanding the preceding sentence, in 1983, and at five-year intervals thereafter, the national average yield goal for Flue-cured tobacco shall be adjusted by the Secretary to the past five years' moving national average yield.";

(2) adding at the end of paragraph (4) the following: "Notwithstanding the preceding provisions of this subsection, in 1983, and at five-year intervals thereafter, farm acreage allotments for Flue-cured tobacco for farms in each county shall be adjusted by the Secretary to reflect the increases or decreases in the past five years' moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county, or, if such information is not available, on such other data on yields as the Secretary may deem appropriate."; and

(3) adding at the end of paragraph (6)(A) the following: "Notwithstanding the preced-

ing provisions of this subsection, in 1983 and at five-year intervals thereafter, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in paragraph (4) of this subsection to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving county average yields.".

EXEMPTION OF CERTAIN NONQUOTA TOBACCO FROM QUOTA RESTRICTIONS

SEC. 204. Section 320(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314f(b)) is amended by—

(1) striking out in paragraph (3) "and" at the end thereof;

(2) striking out in paragraph (4) the period at the end thereof and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new paragraph:

"(5) tobacco when it is nonquota tobacco and produced in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than twenty acres. Notwithstanding the provisions of section 312(c) of this Act, producers of such nonquota tobacco shall not be eligible to vote in the first referendum for such nonquota tobacco conducted by the Secretary under such section after the effective date of this paragraph.".

CONFORMING AMENDMENTS

SEC. 205. (a) The fifth sentence of section 317(f)) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(f) is amended by inserting "and sold" after "leased".

(b) Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is amended by—

(1) striking out "lease and" each place it appears;

(2) striking out "lessee" each place it appears and inserting in lieu thereof "transferee";

(3) striking out "lessor" each place it appears and inserting in lieu thereof "transferor"; and

(4) striking out "leased" each place it appears and inserting in lieu thereof "transferred".

EFFECTIVE DATE

SEC. 206. (a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) The amendments made by this title shall not apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before the date of the enactment of this Act.

TITLE III—MISCELLANEOUS PROVISIONS RELATING TO BURLEY TOBACCO AND OTHER KINDS OF TOBACCO

MARKETING ASSESSMENTS TO NO NET COST BURLEY TOBACCO ACCOUNT

SEC. 301. Effective for the 1982 and subsequent crops of tobacco, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by inserting, following section 106A (as added by section 101 of this Act), a new section 106B as follows:

MARKETING ASSESSMENTS TO NO NET COST BURLEY TOBACCO ACCOUNT

"SEC. 106B. (a) As used in this section—

"(1) the term 'Burley association' means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers of Burley tobacco;

"(2) the term 'Burley Account' means an account established by and in the Corporation for a Burley association, which account shall be known as the 'No Net Cost Burley Tobacco Account';

"(3) the term 'to market' means to dispose of Burley tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the Burley tobacco to a Burley association for a price support advance;

"(4) the term 'net gains' means the amount by which total proceeds obtained from the sale by a Burley association of a crop of Burley tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the Burley association on such crop, plus interest and charges;

"(5) the term 'Burley tobacco' means Burley tobacco, as defined in section 301(b)(15) of the Agricultural Adjustment Act of 1938, for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers;

"(6) the term 'area', when used in connection with a Burley association, means the general geographical area in which farms of the producer-members of such Burley association are located, as determined by the Secretary; and

"(7) the term 'Corporation' shall have the meaning given to it in section 106A(a)(2).

"(b) Notwithstanding section 106A, the Secretary shall, upon the request of any Burley association, and may, if the Secretary determines, after consultation with such Burley association, that the accumulation of the No Net Cost Tobacco Fund for such Burley association under section 106A is, and is likely to remain, inadequate to reimburse the Corporation for net losses which the Corporation sustains under its loan agreement with such Burley association—

"(1) continue to make price support available to Burley producers through such Burley association in accordance with loan agreements entered into between the Corporation and such Burley association; and

"(2) establish and maintain in accordance with this section a No Net Cost Burley Tobacco Account for such Burley association in lieu of the No Net Cost Tobacco Fund established within such Burley association under section 106A.

"(c)(1) Any Burley Account established for a Burley association under subsection (b)(2) shall be established within the Corporation and shall be comprised of amounts paid by producers under subsection (d).

"(2) Upon the establishment of a Burley Account for a Burley association, any amount in the No Net Cost Tobacco Fund established within such Burley association under section 106A shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that such amount shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in such section.

"(d)(1) If a Burley Account is established for a Burley association under subsection (b)(2), then the Secretary shall require (in lieu of any requirement under section 106A(d)(1)) that each producer of Burley tobacco whose farm is within such Burley association's area shall, as a condition of eligibility for price support, agree, with respect to all Burley tobacco marketed by the producer from the farm, to pay to the Corporation for deposit in such Burley association's Burley Account, marketing assessments as determined under paragraph (2) and collected under paragraph (3).

"(2) For purposes of paragraph (1), the Secretary shall determine and adjust from time to time, in consultation with such Burley association, the amount of a marketing assessment which shall be imposed, as a condition of eligibility for price support, on each pound of Burley tobacco marketed by a producer from a farm within such Burley association's area. Such amount shall be equal to an amount which, when collected, will result in an accumulation of a Burley Account for such Burley association adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with such Burley association, based on reasonable estimates of the amounts which the Corporation will lend to such Burley association under such agreements and the proceeds which will be realized from the sales of Burley tobacco which are pledged to the Corporation by such Burley associations as security for loans.

"(3)(A) Except as provided in subparagraph (B), any marketing assessment to be paid by a producer under paragraph (1) shall be collected from the person who acquired the Burley tobacco involved from such producer but an amount equal to such assessment may be deducted by the purchaser from the price paid to such producer in case such Burley tobacco is marketed by sale.

"(B) If Burley tobacco is marketed by a producer through a warehouseman or other agent, then such assessment shall be collected from such warehouseman or agent who may deduct an amount equal to such assessment from the price paid to the producer. If Burley tobacco is marketed by a producer directly to any person outside the United States, such assessment shall be collected from the producer.

"(e) Amounts deposited in a Burley Account established for a Burley association shall be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with such Burley association will suffer, with respect to the crop involved, no net losses (including but not limited to, recovery of the amount of loans extended to cover the overhead costs of the Burley association), after any net gains are applied to net losses of the Corporation pursuant to subsection (h).

"(f) The Secretary shall provide, in any loan agreement between the Corporation and a Burley association for which a Burley Account has been established under subsection (b)(2), that if the Secretary determines that the amount in such Burley Account or the net gains referred to in subsection (h) exceed the amounts necessary for the purposes of this section, then the Secretary, in consultation with such Burley association, may suspend the payment and collection of marketing assessments under this section upon terms and conditions established by the Secretary.

"(g) With respect to any Burley association for which a Burley Account is established under subsection (b)(2), if a loan agreement between the Corporation and such Burley association is terminated, if such Burley association is dissolved or merges with another Burley association, or if such Burley Account terminates by operation of law, then amounts in such Burley Account and the net gains referred to in subsection (h) shall be applied to or disposed of in such manner as the Secretary

may prescribe, except that they shall, to the extent necessary, first be applied to or used for the purposes therefor prescribed in this section.

"(h) The provisions of section 106A(d)(5) relating to net gains shall apply to any loan agreement between a Burley association and the Corporation entered into upon or after the establishment of a Burley Account for such Burley association under subsection (b)(2).

"(i) The Secretary shall issue regulations necessary to carry out provisions of this section.".

MANDATORY SALE OF CERTAIN BURLEY TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS HELD BEFORE ENACTMENT

SEC. 302. (a) The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by adding after section 316A (as added by section 202 of this Act), a new section 316B, as follows:

"MANDATORY SALE OF CERTAIN BURLEY TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

"SEC. 316B. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of this section—

"(1) owns a farm for which Burley tobacco acreage allotment or marketing quota is established under this Act; and

"(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell, not later than December 1, 1983, such allotment or quota to an active Burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or shall forfeit such allotment or quota under the procedure specified in subsection (b).

"(b)(1) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with such subsection, then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated by such county committee to other active Burley tobacco producers, as defined by the Secretary, for use in such county.

"(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.".

POUNDAGE QUOTAS FOR DARK AIR-CURED TOBACCO AND FOR FIRE-CURED TOBACCO; MODIFICATION OF LEASING OF POUNDAGE QUOTAS FOR BURLEY TOBACCO

SEC. 303. (a) Section 301(b)(15) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(15)) is amended by striking out the period at the end thereof and inserting in lieu thereof ": *And Provided further.* That for purposes of section 319 of this title, types 22 and 23, fired-cured tobacco shall be treated as one 'kind of tobacco'.".

(b) Section 319(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(b)) is amended by—

(1) in the first sentence, inserting "for burley tobacco" after "in effect";

(2) in the second sentence—

(A) inserting "for burley tobacco" after "basis"; and

(B) inserting "for burley tobacco" after in effect";

(3) in the fourth sentence, striking out "such kind of " and inserting in lieu thereof "burley";

(4) in the proviso to the fifth sentence, inserting "for burley tobacco" after "determined"; and

(5) striking out the subsection designation "(b)"

(c) Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended by inserting before subsection (c) the following new subsection:

"(b) Notwithstanding any other provision of law, the Secretary shall, not later than February 1, 1983, proclaim national marketing quotas for dark air-cured tobacco and for fire-cured tobacco, types 22 and 23 (hereinafter in this section referred to as 'fire-cured tobacco') for the three marketing years beginning October 1, 1983, and determine and announce the amount of the marketing quota for dark air-cured and for fire-cured tobacco for the marketing year beginning October 1, 1983, as provided in this section. Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1982 crop of each of such kinds of tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the three marketing years beginning October 1, 1983, in lieu of quotas on an acreage basis in effect for the two marketing years beginning October 1, 1983. If the Secretary determines that one-half or more of the farmers voting in such referendum approve marketing quotas on a poundage basis for such kind of tobacco, then marketing quotas as provided in this section shall be in effect for such kind of tobacco for the three marketing years beginning October 1, 1983, and marketing quotas on an acreage basis shall cease to be in effect for such kind of tobacco for the two marketing years beginning on October 1, 1983. If marketing quotas on a poundage basis are not approved for such kind of tobacco by at least one-half of the farmers voting in such referendum, then quotas on an acreage basis shall be in effect for such kind of tobacco for the two marketing years beginning October 1, 1983.

"If marketing quotas on an acreage basis are in effect for any such kind of tobacco, if, for a period of not less than three marketing years, a referendum has not been held under this section to determine whether producers of such kind of tobacco favor marketing quotas on a poundage basis for such kind of tobacco, and if the Secretary, after conducting public hearings in the area in which such kind of tobacco is produced, ascertains that producers and other interested persons favor marketing quotas on a poundage basis for such kind of tobacco, then the Secretary shall, at the time of the next announcement of the amount of the national marketing quota, announce national marketing quotas for the next three succeeding marketing years under this section. Within thirty days of such proclamation, the Secretary shall conduct a referendum of farmers engaged in the production of the most recent crop of such kind of tobacco to determine whether they favor the establishment of marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the next three succeeding marketing years. If the Secretary determines that more than one-half of the farmers voting in such referendum approve marketing quotas on a poundage basis under this section, then quotas on that basis shall be in effect for the next three succeeding marketing years and the marketing quotas on an acreage or acreage poundage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on a poundage basis are not approved by more than one-half of the farmers voting in such referendum, then the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under this Act.

"The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect for any such kind of tobacco under this section, the amount of the national marketing quota for such kind of tobacco for each of such years. If marketing quotas on a poundage basis have been made effective for such kind of tobacco under this section, then the Secretary shall, not later than February 1 of the last of three consecutive marketing years for which marketing quotas are in effect for such kind of tobacco under this section, proclaim a national marketing quota for such kind of tobacco for the next three succeeding marketing years as provided in this section. The Secretary shall conduct extensive hearings in the area in which such kind of tobacco is produced to ascertain whether producers favor marketing quotas on a acreage basis or on a poundage basis and shall proclaim the quota on the basis he determines most producers of such kind of tobacco favor. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 312(c) of the Act. If more than one-half of the farmers voting in such referendum oppose the national marketing quotas, then the Secretary shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco and the national marketing quota so proclaimed shall not be in effect for the next three succeeding marketing years. Thereafter the provisions of section 312 of the Act shall apply: *Provided,* That the national marketing quota and farm marketing quotas for such kind of tobacco shall be determined for such kind of tobacco as provided in this section.".

(d) Section 319(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(c)) is amended by—

(1) in the first sentence—

(A) striking out "burley tobacco" and inserting in lieu thereof "any kind of tobacco for which poundage quotas may be established"; and

(B) inserting "of such kind of tobacco" after "amount" the first place it appears;

(2) in the second sentence, striking out "Any" and inserting in lieu thereof "With respect to burley tobacco, any"; and

(3) in the third sentence—

(A) inserting "for a kind of tobacco" after "in effect";

(B) inserting "with respect to such kind of tobacco" after "reserve" the first place it appears;

(C) inserting "for such kind of tobacco" after "quota" the first place it appears; and

(D) striking out "per centum of the" and inserting in lieu thereof "per centum of such".

(e) Section 319(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(d)) is amended by—

(1) in the first sentence—

(A) inserting "for a kind of tobacco" after "proclaimed";

(B) striking out "a burley tobacco acreage allotment" and inserting in lieu thereof "an acreage allotment for such kind of tobacco"; and

(C) inserting ", in the case of burley tobacco, and October 1, 1982, in the case of dark air-cured tobacco and fire-cured tobacco" after "1970"; and (2) in the second sentence—

(A) inserting ", in the case of burley tobacco and the 1978 crop year, in the case of dark air-cured tobacco and fire-cured tobacco" after "crop year";

(B) striking out "burley tobacco" the first place it appears and inserting in lieu thereof "the kind of tobacco involved";

(C) striking out "burley tobacco" in each of the second, third, fourth, and fifth places it appears and inserting in lieu thereof "such kind of tobacco"; and

(D) striking out the period at the end thereof and inserting in lieu thereof ", in the case of burley tobacco, and three thousand pounds per acre, in the case of dark air-cured tobacco and fire-cured tobacco: *And provided further*, That, when a marketing quota program for dark air-cured tobacco or for fire-cured tobacco is first established under this section, farm yields so determined with respect to dark air-cured tobacco or fire-cured tobacco, as the case may be, shall be adjusted proportionately so that the weighted average of such farm yields is equal to the national average yield goal for dark air-cured tobacco or fire-cured tobacco, as the case may be.".

(f) Section 319(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(e)) is amended by—

(1) inserting after the first sentence the following: "A preliminary farm marketing quota shall be determined for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982, by multiplying the farm yield determined under such subsection by the farm acreage allotment (prior to any such reduction) established for such farm for the marketing year beginning October 1, 1982.";

(2) in the third sentence (as in effect before the amendment made by paragraph (1)), striking out "burley tobacco marketing quotas" and inserting in lieu thereof "marketing quotas for the kind of tobacco involved"; and

(3) in the sixth sentence (as in effect before the amendment made by paragraph (1))—

(A) striking out "burley tobacco experience of the farm operator" and inserting in lieu thereof "experience of the farm operator with respect to the kind of tobacco involved"; and

(B) striking out "production of burley tobacco" each place it appears and inserting in lieu thereof "production of such kind of tobacco".

(g) The first sentence of section 319(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(f)) is amended by—

(1) inserting "for any kind of tobacco" after "in effect"; and

(2) striking out "burley tobacco" and inserting in lieu thereof "such kind of tobacco".

(h) Section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended by—

(1) inserting "for any kind of tobacco" after "in effect";

(2) striking out "burley tobacco" and inserting in lieu thereof "such kind of tobacco"; and

(3) in the third proviso—

(A) striking out "fifteen thousand pounds" and inserting in lieu thereof "thirty thousand pounds"; and

(B) inserting "with respect to burley tobacco" after "section".

(i) Section 319(i) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(i)) is amended by—

(1) in the proviso to paragraph (1), striking out "burley tobacco" and inserting in lieu thereof "the kind of tobacco involved"; and

(2) in paragraph (3), inserting "with respect to burley tobacco" after "in effect".

(j) The section heading for section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1313e) is amended to read as follows:

"FARM POUNDAGE QUOTAS FOR CERTAIN KINDS OF TOBACCO"

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HELMS. I am glad to yield to my able colleague.

Mr. GOLDWATER. Mr. President, once again we are faced with efforts that I consider a setback to the tobacco industry.

I want to make it perfectly clear that I have never smoked in my life. I nearly lost my wife because she insisted on smoking cigarettes. I have lost a lot of good friends.

I learned long ago that you cannot legislate the health or the morals of the American people. I remember prohibition. It made more drunks than any other act that was passed in the history of the country.

So, while I do not like tobacco and I do not like cigarettes I am not going to vote against an industry that is trying to make Americans realize how dumb they are in smoking.

Mr. HELMS. I thank the Senator. I really do thank the Senator.

I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I appreciate the comments of the Senator from Arizona. As usual, he leaves nothing to the imagination, and I appreciate that. [Laughter.]

Mr. President, I commend the Senator from Kentucky and the Senator from North Carolina for their efforts. There is no doubt that they have done good work.

As a member of the Committee on Agriculture and having been a member of the House and Senate committees for 20 years or more, I certainly want to add my firm support for passage, without amendment, of H.R. 6950, the No Net Cost Tobacco Program Act of 1982.

The bill before us is designed to meet the congressional mandate enacted into the 1981 farm bill which requires the tobacco price support and production adjustment program be operated so as to result in no net cost to the taxpayers. Further, it addresses the request made by the Secretary of Agriculture for additional authorities to achieve the congressional objectives.

And it is my understanding that the bill makes additional reforms to induce the movement of tobacco allotments and quotas into the hands of active farmers.

Many of us in the Congress have been concerned about what seemed to be the increasing incidence of major program benefits going to people who were not farmers. We could not continue to ignore the fact that farmers were having significant portions of their hard-earned income move into the hands of allotment owners who had no direct interest in farming. This bill rectifies that in a way that will bring tremendous improvements in the program for farmers in the years ahead.

The tobacco program needs some time to digest all of these changes, and I regard as punitive any amendments which go substantially beyond what is accomplished in this bill.

It is a good bill, and it has my support.

Mr. President, for those of us who may be from States that do not have tobacco—Kansas, for example—it is easy to stand up, and I guess next week I will stand up, and recommend a little excise tax increase on tobacco. I will do that with reluctance, I say to my colleagues from Kentucky and North Carolina. I will do it anyway—but with reluctance. [Laughter.]

So we understand what a difficult program it is.

I know it is an area that excites the media. I recall that in 1976, I was visiting Kentucky. Some may recall that I had a short appearance there with President Ford, about 9 weeks in duration. We went out to visit a tobacco farm. I recall that the first question was not about agriculture or about tobacco but whether I thought people should smoke and whether there should be tobacco subsidies. The fact is that over the years the subsidy has been so miniscule that it was pretty hard to measure. However, that was not the answer the reporter was seeking.

In any event, the Senators have made great strides, and it indicates to us who were on that long farm bill conference of last year that the Senators who have the responsibility, the Senators who have the problem, the Senators from States such as North Carolina and Kentucky, have met the challenge. I certainly hope we can adopt this bill without amendment.

I thank my colleagues.

Mr. HELMS. I thank the able Senator.

The PRESIDING OFFICER (Mr. RUDMAN). Who yields time?

Mr. HUDDLESTON. Mr. President, I yield to my colleague from Kentucky such time as he desires.

Mr. FORD. I thank my colleague.

Mr. President, I speak today in support of the general provisions of H.R. 6590, the No Net Cost Tobacco Program Act of 1982, and in opposition to the proposed amendments that would shackle the tobacco producers of America with unnecessary regulations. Since last year the tobacco industry has taken rapid, positive steps to comply with the no net cost mandate issued in the final passage of the 1981 farm bill. They have also worked diligently to answer the criticisms of the recent GAO report.

They have agreed to comply with the no net cost provision and to hold hearings to consider the possible adoption of a no cost to Government program. It would seem that if a product is being controlled in the manner the producers have voted upon themselves at no cost to the Government, that Government should divest itself of imposing unnecessary regulations that would shackle the tobacco producers of America and lead to the total collapse of the small tobacco farmer.

The amendments proposed in the guise of returning tobacco production to the active producer is merely a veiled effort to place the control of our tobacco production into the hands of those who wish to offset our national trade deficit with cheap tobacco.

Today we will hear arguments to place the tobacco program in the same category as other crops that come under congressional review each time a new farm bill is prepared. Yet, these same people have argued that tobacco is not like all other products, and should be operated at no cost to Government. I would say to my colleagues that if it is like other products then it should be treated like other products. If it is not—and the no cost to Government implies that it is not—then it should be treated as such.

Mr. President, we will also hear that the production of tobacco must be returned to active producers only. The amendments to be offered here today are designed to assure that this objective will be met. Further amendments offered will then punish this producer by tying his price support levels to Government studies that determine what price should be paid to the producer to increase our share of the world export market. This is not an incentive for the small farm producer to continue his family farm, but to encourage him to liquidate his tobacco base to larger production units. This will be the death of our small farmer in tobacco-producing States.

Mr. President, we stand today at a crossroads for our Nation's small tobacco farmer. We can either promote and encourage him so that he is economically able to continue the production of our country's necessary food and fiber because he is able to survive rough times since he has a reliable cash crop or we can eliminate him like so many other small farmers in the past.

I hope each of my colleagues can look within himself and realize that the action he takes today may well determine the continuation or demise of a dying breed of America's farmers. Each Senator must either take the responsibility or share in the glory of preserving the spirit of independent drive that has made our Nation great.

Mr. HUDDLESTON. Mr. President, I thank the distinguished Senator from Kansas for his remarks and his support. No one in the Senate today, perhaps in many years, has been more concerned with the total agriculture picture of the country than has the Senator from Kansas, and no one has more responsibility at this particular time in dealing with some of the major problems we have in this country.

The Senator alluded to the fact that it has been proposed that the excise tax on tobacco products be doubled, which is another serious problem that confronts the tobacco growers in this country. A tax increase of that nature can be expected to have some adverse effect on consumption and therefore on the salability of their product. That is another battle, to be fought on another day.

I know that the Senator from Kansas was not a strong advocate of that particular provision of the omnibus tax proposal that he will be presenting. He is, however, a member of the committee and is subject to the will of the majority of the committee, and it is part of the program that will be presented. Some of us will be trying to take it out when that day comes. Until then, we are dealing with the subject immediately at hand.

Mr. President, at this time I yield to the distinguished Senator from Missouri such time as he may desire.

Mr. EAGLETON. Mr. President, I thank my colleague.

I have a reasonably short opening statement. I will be glad to go through it now or I will be delighted to yield to the junior Senator from North Carolina if he desires to speak at this time.

Mr. HELMS. Why does the Senator not go ahead?

Mr. EAGLETON. I will go ahead.

Mr. HELMS. That will be fine.

Mr. EAGLETON. I thank the Senator.

Mr. President, first, a very brief comment on the remarks of Senator DOLE, the chairman of the Finance Committee. I think he used the word "minuscule" with respect to the tobacco program. Right now we have a half billion dollars of surplus flue-cured tobacco for which the U.S. Government is holding the bag.

I remember very vividly the statement several years ago of the then distinguished Republican minority leader of the Senate, Everett Dirksen, when he said "A billion here, a billion there and pretty soon you are talking real money."

So a half billion dollars may sound minuscule. But I know the painstaking care that the Senator from Kansas went to in trying to pull together a bill that would add up to $21 billion in new taxes for the upcoming year. He could not do it all in one fell swoop so he had to get a billion dollars here and a billion dollars there.

So what we are talking about here today with respect to tobacco is a half billion dollars, not bad for a full day's work.

Mr. President, I think it would be good to review briefly for my colleagues why we are here today discussing the tobacco price support program.

Section 1109 of the Agriculture and Food Act of 1981 stated as follows:

> It is the intent of Congress that the tobacco price support and production adjustment program be carried out in such a manner as to result in no net cost to the taxpayers other than such administrative expense as is incidental to the implementation of any commodity program.

H.R. 6590 was developed to attempt to satisfy that intent starting with the 1982 crop year.

As my colleagues know, an attempt was made to ram this legislation through Congress at an unheard of pace. Indeed, the distinguished chairman of the Senate Agriculture Committee, Senator HELMS, himself, spent a good portion of his opening remarks dealing with the rapid pace at which this bill was moving through Congress.

I think, quite frankly, had it gone through at the pace anticipated it would have won the 1982 "Chariots of Fire" award for the swiftest handling of an important piece of legislation. Or to put it another way, I think the 19th century railroad barons would have been very proud of the railroad that was being utilized in getting this very important bill through Congress without anyone having the opportunity to put it under the spotlight for inspection and comment.

Think of it, Mr. President: A bill dealing with one of the major agriculture programs, indeed, the most controversial of all the agricultural programs, went through the House of Representatives on the Consent Calendar without a peep being said or without many people knowing what was going on. It is the same way you sneak through tax benefits for Members of Congress. It is the same way you sneak through other things. So they snuck it through the House of Representatives and they were going to try to sort of sneak it through the Senate and ultimately, get it to the President's desk.

If I were a supporter of the program, then I would be enthusiastically in favor of sneak attacks. It takes a lot less effort to sneak something through

than it does to have a proposal subjected to scrutiny and debate.

There may be a time when I will want to sneak something through for my constituents in Missouri. Therefore, Mr. President, I reserve the right to sneak. But this program is too important and has too many consequences to have it go through that way. So today is the day of focused attention.

This bill was received in the Senate and referred to the Agriculture Committee on June 23. The Senate Agriculture Committee met in a hastily called session on June 24 and ordered the bill reported to the Senate with amendment but with no committee report. The Senate was then asked to take up the bill on that same June 24, just about a week after it had been first introduced in the House of Representatives.

As I stated on June 24, I am pleased that we are taking this step to meet the directive of the 1981 farm bill. That is the directive I quoted at the outset of my remarks. But I believe there are several amendments which will not be punitive to tobacco growers but which would, in my judgment, improve this legislation considerably.

To have considered the bill on June 24 would not have allowed the Senate to have the benefit of the views, for instance, of the Department of Agriculture on this legislation. As of June 24, the Department of Agriculture had no official and as we determined in our conversations with them on the 24th, they did not even have an unofficial view on this very important piece of legislation.

Now, since we have let some time intervene, we have received the views of the Secretary of Agriculture. We have examined his views and made our own examination of the bill and we now know why there was such a rush to get it through. Secretary Block has raised considerable objection to at least seven of the provisions in the bill. His biggest concern and one which we will discuss in greater detail later today is that H.R. 6590 is not sufficient to assure that the tobacco program operates at a no-net-cost level as was directed in the 1981 farm bill. The Secretary, I repeat, has seven basic objections to the bill and the biggest one goes directly to the merits and purpose of this bill. Those who espouse it say that this is a no net cost to the Government bill. Mr. President, Secretary Block is certainly not persuaded that it is a no-net-cost bill.

Finally, Mr. President, on July 1, I introduced seven amendments which I hope the distinguished floor managers have had an opportunity to review and perhaps some of which they may be now willing to accept.

So I finish my opening statement, Mr. President, and will yield to other Senators who may wish to conclude their opening statements. Then I am ready to begin with my amendments.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I yield myself such time as I may require, and it will not be much.

My friend from Missouri is always colorful as he makes his points in great eloquence.

I hope Senators will not assume that the Senator from Missouri was meaning that the tobacco program cost $500 million in any year. It cost approximately that in terms of interest subsidy over a period of the 43 years of the life of the program.

I am reminded of a story that Sam Ervin often told in connection with this; that $500 million over a period of 43 years or any number of years is a lot of money to be sure. But we could start examining the voting records of any Senator in terms of approval of massive expenditures of taxpayers' dollars and it would be an interesting disclosure.

Senator Ervin tells about two men who were daily tempted by the fruit of the vine. They enjoyed getting out their bottles in the evening, and, after they were feeling no pain, one said, "How much liquor do you drink a day?" And the other said, "I drink about a pint a day." And the first fellow said, "I spill that much every day."

So, here we are talking about a program which produces $6 billion a year in revenue, $2 billion for the Federal Government, $4 billion for States and local governments, and it figures out to be about $11 million a year in terms of interest subsidy. If we want to go back and examine all of the commodities, I think tobacco would stack up pretty good because this $11 million a year when compared to others is infinitesimal.

Mr. President, I pay my respects to one of the finest friends I have ever had in the Senate or elsewhere, Senator DOLE. Were he not chairman of the Finance Committee, he would be chairman of the Agriculture Committee.

There is no member of the Committee on Agriculture who has more expertise on more subjects relating to agriculture than Senator DOLE, and it is a pleasure to work with BOB DOLE, and I think he will agree that we work very closely together.

I was interested, Senator, to note an editorial in one of our papers downstate where the editor said:

There is no love lost between Bob Dole and Jesse Helms.

Well, if there is any lack of affection or respect between BOB DOLE and JESSE HELMS I am not aware of it, and I want him to know that I appreciate not only the kind of man he is but the service he renders under the most difficult of circumstances to this country, and I thank him for his remarks.

Mr. DOLE. Mr. President, if the Senator will yield, I appreciate the fact that we do spend a lot of money in other commodity programs. The reference I used in the tobacco program compared to the wheat program, which is fairly important to my State, and soybeans or corn or whatever as being minuscule would probably be fairly descriptive. I cannot remember the exact cost of 1976, the year I was specifically referring to, but as I recall, it was a very small amount that year. But over the years, of course, it has added up to maybe as much as the Senator from Missouri indicated.

I do not quarrel with that figure, but I think the RECORD is correct, and I would say as far as no love lost, there is no love lost because we have not lost any. We still have strong ties. Whatever was said in the paper was a mistake, but that happens sometimes. In the written press writing mistakes are made in translation, so I just believe, and I think the Senator from Missouri agrees, it is a better approach than we have had in the past.

Certainly the credit goes to Senator HUDDLESTON, Senator FORD, Senator HELMS, Senator EAST, and others who have a direct interest in these programs. After all, you are representing constituents.

I do not smoke either. I tried it a few times, and finally broke the habit. But the point is there are a lot of people in North Carolina—I know a little about North Carolina, I have some interest in North Carolina—there are more farmers, as I understand, in North Carolina than probably most any State in the Nation, and because of the very small allotment and very meager existence some eke out because of the small tobacco farms—it is easy for me to stand up and say they ought to plant something else, they ought to grow some other crop, but I would guess if we were raising as much tobacco in Kansas, I would be pleading with the Senator from North Carolina to support our program, and particularly if I can stand up and say it is no net cost, and I am certain the Senators from North Carolina and Kentucky will do that.

I very much appreciate the opportunity to respond to the Senator from Missouri.

Mr. HELMS. I thank the Senator.

Mr. President, I yield to my distinguished colleague from North Carolina such time as he may desire.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I thank the Chair.

I would like to make a few observations here on this particular matter before this Chamber. I wish, first of all, to thank Senator HUDDLESTON and Senator HELMS for the great work

they have done in getting this measure before us and putting us in a position to act upon it.

I would also like to thank and to underscore what Senator GOLDWATER has said, thank Senator DOLE, thank Senator FORD, the Senators who have already been here this morning to indicate the nature of bipartisan support this bill has.

It is not a partisan issue. It transcends political party, and we so consider it down in those parts of the country that are involved in the growing and production of tobacco.

Mr. President, to try to put this matter into perspective, last year in the farm bill it was mandated that we would return as promptly as possible with a measure to make this a no-cost program except for administrative costs. In short, if there were any loan defaults involved in this program that there would be no cost to the Government. That was a requirement, that was a mandate which the Congress imposed upon us, and we accepted that, and we responded in good faith.

Extensive hearings were held in the Flue-cured tobacco areas of the Southeast, hearings were held in the burley-producing areas in Kentucky, and a farm bill was brought up, developed, and it did do what Congress mandated that it do and, indeed, Mr. President, it went beyond that. It not only got the no-cost feature in but it also revises the price support formula in a downward position. It also begins the process of moving allotment holding into the hands of producers and getting them out of the hands of nonproducers.

This bill then not only honored the mandate of last year, it went further than that. It did it in good order, it did it promptly, and it was responsive.

If I might reply to the distinguished Senator from Missouri on the charge of possibly trying to move too fast, let me put it another way. Let us say we have not done anything. Then we would now be charged with being dilatory, and I suppose it is one of these things which no matter what you do you are going to be criticized. You are either going too fast or you are going too slow.

We tried to respond to what we felt was an urgent mandate. We did respond to it, and it went beyond that, and that is the measure currently before this Chamber.

One can always argue that we ought to go further and faster in a whole host of other areas. This does not preclude any other further action down the road on this program as well as any other farm program. But again I remind my colleagues we were asked to do a particular thing, we did do a particular thing, and we are going beyond that.

I think it raises a little bit of a problem of the good faith of the Congress if, after having done it, having come back promptly, shown our good faith, we are charged with not having gone further and faster and that we want to add ever greater burdens to what we have already done in terms of amendments to this provision.

I would note that the House of Representatives, under the control of the opposition party, responded promptly, have accepted this bill, and the tobacco program has its critics over there, but they responded to that mandate, and we are doing it, too, and we hope our colleagues will understand that is in the spirit in which we have acted.

Time is of importance to us, one, to honor the mandate; second, the tobacco markets are now trying to open. They have been delayed for a week so that Congress might act upon this measure and that the producers down in our areas would know what particular program they were operating under.

So, yes, time was important to honor the mandate and to honor the very felt needs of the tobacco producers of this country.

We feel it is a good faith response. If we cannot promptly dispose of this measure consistent with what the House has done, I will be candid about it, we are going to create economic chaos in the Southeastern part of this country, and in the State of Kentucky with the tobacco markets, and I would like to remind my colleagues that the growing of tobacco covers a wide area in this country. It not only includes in my State of North Carolina, it includes the great State of Virginia, South Carolina, Georgia, it includes north Florida, Alabama, it includes the State of Kentucky.

These are just some of the major areas, and it goes beyond that. So we are not merely talking about a provincial matter.

I would like to point out to the critics that this tobacco program goes back to the late 1930's. It was established during the era of Franklin D. Roosevelt. It was a part of the New Deal program, which was of course a program that was part of the party of the distinguished Senator from Missouri. People have acted in reliance upon this program. It has become a part of the fabric of the economy of these areas.

I simply submit that the commonsense of it is that you cannot just pull the plug on it that abruptly and dramatically. What we are doing here is adjusting and revising and reforming. I think that is the proper spirit. The beneficiaries of this program are small farmers. That was the spirit of the New Deal, that is the spirit of this current legislation, and that is what this tobacco program has been about, to give some degree of stability in terms of the marketing and the growing and the producing of tobacco to small tobacco farmers. It that were not the case, we would not be here defending it.

It is not some sort of program that benefits certain wealthy elite someplace. That totally misunderstands it. And I would ask any Senator of any party to come down to my State, and I live in the heart of it in eastern North Carolina, Pitt County, N.C., where Greenville, my hometown is, which is the heart of the Flue-cured tobacco producing areas of this country. We will take a tour there and I can show you what it means to real people in real homes on real farms. And what it means not only to them, what it means to the whole warehousing industry, what it means to the whole buying and exporting industry, and what it means to the whole manufacturing industry.

There is no need, we feel, to be defensive about it. It is a vital program, it is a vital component of the economy of our area. We are making adjustments. We are in a period of transition. We have tried to respond in good faith. And I certainly hope that our colleagues will understand what it is we are doing.

I fear today that it is somewhat fashionable to attack farming generally. Tobacco is a little bit of an Achilles heel right now. But I would remind my distinguished colleagues who come from farm producing States that if we can abuse and enact punitive amendments here on this floor today against this program, it will simply move on next to other great commodities—wheat, corn, and so forth.

The farmers in this country are in an unenviable position today because fewer and fewer of them are producing more and more. And numerically they do not have the clout in the Congress they used to have. That is unfortunate, but that is the truth of the matter.

But we are going to imperil our farm industry generally at great risk. I think where we come in with a casual, cavalier attitude and with punitive measures and begin first attacking this very small program, pretty soon we will be moving on to others.

Two final points, Mr. President, and I shall cease and desist. The people involved in this program are a very productive segment of the American economy. Tobacco is a great product in this country and it has been. It was first produced and exported in 1712 in the State of Virginia. We take pride in it. It returns over $6 billion a year in taxes in this country and it is a program that supports a very vital and productive segment of the economy. It provides a great contribution to the balance of payments in American foreign trade.

Finally, Mr. President, let me put this in a little bit of perspective in

terms of the cost involved. The only cost now involved in this program—and mind you a program that returns $6 billion a year in terms of taxes—will be $15 million in administrative costs which is merely a fraction of the general cost of administering agricultural programs. It ought to be appreciated that this $15 million could be contrasted with the nearly $12 billion a year budget in the Department of Agriculture. It might be noted to contrast, for example, to the food stamp program which began in 1965 with $35 million; today's cost is nearly $11 billion. This is not to fault the food stamp program. It is simply to put into perspective that you are talking about a very small amount of money that is vital to a very productive and creative element in the American economy.

Those of us who come from these tobacco-producing areas state our case with pride and conviction. We see no reason publicly to have to beg for what we are doing here. We feel it is an honorable profession. It is productive. It is creative. It has made its contribution. It will continue to do so.

We have been responsive to the 1981 farm bill mandate. We trust that our colleagues on both sides of the aisle will respect us for having done that and will reject these hostile amendments and allow us to put this together with what the House has done and allow us to get back into the production and the sale and the exporting and the manufacturing of a very vital product in this country. I thank you, Mr. President. I yield back to the chairman.

Mr. HELMS. Mr. President, I thank my distinguished colleague from North Carolina. From the moment he was sworn in in January of 1981 to this moment, he has been a tireless worker in the defense of the tobacco program and he has been such an immense help to all of us. I want to pay my respects to JOHN EAST and to thank him for his remarkable work. He is an extraordinary Senator.

Mr. President, I now yield such time as may be required to the distinguished majority leader and thereafter to the able President pro tempore of the Senate, Senator THURMOND.

Mr. BAKER. I thank the Senator from North Carolina. I will not be very long. I apologize to the President pro tempore for going ahead of him, but it will not take but a minute and I appreciate the opportunity to do it now.

Mr. President, I would like to express my support for H.R. 6590, the no-cost Tobacco Program Act of 1982, reported by the Senate Agriculture Committee.

The tobacco program has obviously been the focus of great debate in the Senate over the past several years. Objections have been raised that the program was a burden on the American taxpayer; actually not beneficial to the tobacco farmer; and basically sacrosanct.

I believe that H.R. 6590 essentially answers all these objections.

The bill meets three important goals for the tobacco program. First, it fulfills the obligation of the 1981 farm bill to insure that the program operates with no net cost to the Government. Second, it adjusts the price support formula to give flexibility to the Secretary of Agriculture to establish loan rates in accordance with market demands and other factors. Finally, it places restrictions on the leasing and holding of tobacco allotments by nonfarmers.

Reaching a consensus on this bill was not an easy matter. The tobacco program, like other commodity programs, is complex and must take into account the different farming and marketing demands of the various types of tobacco.

Numerous hearings were held on this bill throughout the tobacco growing region. A great deal of work, consultation, and compromise was required on the part of all tobacco growers.

As you know, Mr. President, tobacco is very important to the State of Tennessee. Frankly speaking, some of the tobacco farmers in Tennessee were not initially convinced that this bill was necessary. However, after further consideration, they are now aware of the importance of this legislation to the entire program and they support it.

I commend the chairman of the Senate Agriculture Committee, Senator HELMS, and the ranking minority member of the committee, Senator HUDDLESTON, for their efforts in reporting this bill. They, along with the tobacco farmers, have made a good faith effort to change the program.

I urge my colleagues to recognize this effort and to support the Agriculture Committee's bill.

Mr. President, I thank the Senator from North Carolina for yielding. Once again, I thank the Senator from South Carolina for letting me proceed in advance of his presentation.

Mr. HELMS. Mr. President, needless to say, I express my gratitude to the distinguished majority leader. He has been such a help every step of the way in the interest of the tobacco program. He has been fair to both sides. He has certainly been a beacon of cooperation.

If the Senator from South Carolina is ready to proceed, I will yield to him.

Mr. THURMOND. I thank the distinguished Senator from North Carolina.

Mr. President, today I am pleased to support H.R. 6590, which will effectively result in much-needed revisions of the Federal tobacco price support program.

Mr. President, it is important that we realistically examine the tobacco program in light of the many changes that have occurred in agricultural production and marketing over the years that the program has been in existence. In so doing, it is evident that some of the features of the program may have become outdated or obsolete.

I feel that the basic principles embodied in this legislation sufficiently address the need for modifications in the tobacco program. This bill will assist in our Federal budget reduction efforts. It will insure that the cost of the program is borne entirely by the growers of tobacco.

I would like to repeat that statement. This bill will insure that the cost of the program is borne entirely by the growers of tobacco.

In other words, with these changes, the tobacco price support and marketing program will be from the taxpayer's viewpoint, truly a "no-net cost" endeavor.

This bill will allow the price support formula to be substantially adjusted in order to reduce commodity credit corporation outlays to the various tobacco stabilization cooperatives for price support loans to farmers. These revisions will also make U.S. tobacco more competitive on the world market.

This is extremely important.

Among its other features, Mr. President, this legislation will eliminate fall leasing of tobacco quotas, which will reduce speculation in the leasing of these allotments. This change will encourage the holders of tobacco quotas who do not share in the risk of production to sell their allotments to those who actually intend to grow the crop. Moreover, it will call for entities such as large corporations and power companies that do not possess sufficient tillable cropland to sell their allotments by December 1, 1983.

These provisions will rectify problems and alleviate controversial program features such as the high cost of allotments held by owners not directly involved in the production of tobacco. While I am in support of these restructuring and modernization efforts, I feel that the basic framework of this program must remain intact for a very simple reason. The program works and has a proven track record of inexpensive success. The basic format has stabilized the tobacco industry by avoiding overproduction and by requiring a quality product. Most importantly, it has secured a chosen lifestyle for over 6,000 farmers in South Carolina and thousands of others throughout the Southeast, many of whom operate very small family type farms.

Mr. President, I feel that we have an excellent opportunity to make needed and reasonable changes in the tobacco program—changes that will insure its effectiveness in providing the assist-

ance and stability which the tobacco farmers need.

Mr. President, in brief summary, I want to state this, and I hope every Member of the Senate will consider these figures, which are vital to the economy of this Nation, not just to the States which grow tobacco but to the entire economy of the United States.

No. 1, the tobacco price support is not a subsidy. It is a loan which is repaid, with interest.

This program as I stated a few moments ago, will not cost the taxpayers anything. It is a program borne entirely by the growers of tobacco.

No. 2, in 1980, the Federal Government received more than $2.6 billion in excise taxes on tobacco products. State treasuries were benefited by $3.8 billion in revenues from tobacco.

No. 3, tobacco also contributed favorably to our balance of trade, netting nearly $2 billion in foreign trade in 1980. Over $2.4 billion of U.S. tobacco was exported last year, while about $487 million of foreign leaf was imported.

No. 4, failure to pass this legislation would create chaos in a farming sector where stability has prevailed. The ultimate victims would be thousands—I repeat, thousands—of small family farmers who depend on income from tobacco, or leased tobacco allotments, for a substantial portion of their livelihoods. It would reduce revenues to the Federal and State treasuries and adversely affect our trade balance.

No. 5, 276,000 families—I want to repeat that, 276,000 families—in 20 States are engaged in growing and harvesting tobacco.

This is a big industry for our Nation; it is vital to the economy of our country.

I want to repeat again that this program we are advocating today will insure that the cost of the program is borne entirely by the growers of tobacco.

Mr. President, in conclusion, I want to say that I will cast my vote in favor of this measure, and I hope that my colleagues will also support this sincere effort to improve this important agricultural program.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I yield to the Senator from Georgia.

Mr. MATTINGLY. Mr. President, I should like to express briefly my thanks for the excellent effort which has resulted in this important revision of the tobacco program. This measure will implement the mandate contained in last year's farm bill that the crop loan program result in no cost to the taxpayers of this country. It will benefit those persons who actually produce this crop which provides hundreds of thousands of jobs, which helps enormously in bringing our balance of trade more nearly into balance, and which produces billions of dollars in tax revenues for Federal and State treasuries.

Just a few points of interest:

First, direct excise taxes on tobacco raise approximately $6.6 billion each year for Federal, State, and local governments;

Second, H.R. 6590 requires farmers and landowners to contribute to a no loss fund which will indemnify Federal Government against losses due to loan program;

Third, the bill is designed to encourage the transfer of tobacco quotas into the hands of those farmers who want to actually grow the crop, and yet not work to the disadvantage of the family farm;

Fourth. This is analogous, really, to the revisions that were put forth in the 1981 peanut program included in last year's farm bill, which, in fact, ended up lowering the cost of production to the farmers and which actually ends up lowering the cost to the Federal Government and also freed up the feudal allotment quota system.

Mr. President, I am proud that the growers and farm membership organizations in my State of Georgia were in the forefront of this effort. In fact, the Georgia Farm Bureau and grower leadership have worked with me and other Senators and their staff members for many months to accomplish these revisions. I thank my Senate colleagues and the following staff members: from my staff, Cliff Humphrey; Murray Jones for Senator EAST; George Dunlap, staff director for Senator HELMS on the Agriculture Committee; Chuck Goodspeed for Senator WARNER; Tom Little for Senator HUDDLESTON; and Augie Tantillo for Senator THURMOND for their assistance in passage of this important measure. The first sales of tobacco for the 1982 crop of Flue-cured tobacco will begin in just a very short time, and I considered it essential that we bring this crop under these provisions.

Mr. President, there are some who would use this time to continue an attack against the use of tobacco products for a variety of reasons, but all under the guise of reform. I am concerned that these persons underestimate the absolute necessity of passing this measure if we are to achieve true reforms to this program without severely injuring thousands of individual family farmers and adversely impacting upon those in the service and supply industries that serve those farmers.

At this very moment, I am informed, there is tobacco spoiling on the warehouse floors and packhouses in Georgia. The market is scheduled to open on July 21—just 1 week from today. We must therefore act expeditiously in order to bring the present crop under this no net cost program.

Let me briefly add one thing * * * I believe that even if there were no tobacco program at all, and that even if we prohibited any American farmer to grow tobacco in this country that American consumers would not significantly reduce their consumption of cigarettes and tobacco products. All we would accomplish would be to pay foreign farmers for the product, rather than our own farmers.

I support the passage of H.R. 6590 and intend to oppose any amendments which are not accepted by the managers of the bill.

Mr. HOLLINGS. Mr. President, I rise to join my colleagues in calling for the passage of the "No Net Cost Tobacco Program Act of 1982." Because this legislation will impose an additional cost upon the many tobacco farmers of my State, and other States, I naturally have some reservation about it. But, on balance it does a good job of meeting the need for reform mandated by Congress last year and I feel it deserves to be enacted.

Those of us who have involved ourselves in meeting the congressional mandate have done so, in the opinion of this Senator, Mr. President, in complete good faith. The Secretary of Agriculture was required to take administrative action permitted under law to eliminate any cost to taxpayers for the tobacco price support program. If after accomplishing this administrative action cost still existed, the Secretary of Agriculture was then mandated to suggest and prepare for Congress any legislative changes necessary to carry out the broad mandate of a no-cost program. Hearings were held throughout the tobacco region of the Nation in order to come to agreement. There was an overriding atmosphere of cooperation and a willingness to make the sacrifices necessary to insure that the taxpayers of the Nation were not required to assume any responsibility for the cost of the program. That job has been done and this bill is the product of that job.

Mr. President, as it has been pointed out, this legislation has moved quickly. We have done this in order to accommodate the Secretary's interpretation that the 1982 tobacco crop is a crop which must come under the no-cost requirement. Since the 1982 crop will go to market very shortly, Mr. President, that is the primary reason to quickly act on this legislation.

I have taken the floor many times in the past, Mr. President, to answer the misconceptions that have arisen over the operation of the tobacco price support program. It is a highly beneficial program that enables hardworking individuals in a labor intensive industry to earn a living. Elimination of the program could have serious employ-

ment consequences. This is even more critical, Mr. President, in this day and time of significant unemployment nationwide and the overall crisis that our agricultural community is enduring. Tobacco production uses about 250 hours of labor per harvested acre, compared to 21 hours for cotton and 3 hours for food and feed grains. Many of those employed are seasonal workers. They have very few employment opportunities because of their low skill level, lack of proximity to urban employment opportunities, and the minimum wage requirements of off-farm work. Employment opportunities in tobacco are vital to many areas of the country.

Mr. President, termination, or crippling the program, would have a very severe impact on many small-scale farms in this Nation. Tobacco growers represent over 270,000 family farms in 20 States. In addition, the average productive tobacco acreage per farm is only 3 acres. This is an important crop, Mr. President, that enables many small farmers to make living wage. And, just as important as the income for tobacco growers is the income in the form of tax revenue that tobacco generates for State, local and the Federal Government. This amounts to the sum of over $6 billion annually. And, tobacco is very important to our balance of trade. We exported over $2.4 billion in tobacco in 1981. Tobacco ranks as our fifth leading agriculture export and makes a significant multibillion contribution to our export trade.

I mention these facts, Mr. President, because it is very important not to overlook the valuable contribution that tobacco makes to the economic well being of our Nation. Tobacco is an important crop, not just in those States where it is grown, but for the entire national economy. That is why I have often said that I wish we had a few more programs around here that worked as well. If we did perhaps we would not be facing the economic difficulty at hand. And that is why we should pass the No Net Cost Tobacco Program Act, H.R. 6590.

Let me close, Mr. President, by stating that it is my firm opinion that this bill should be passed without amendments. I think the diligent effort that has gone into its development has culminated in a bill worthy of the Senate's support. Accordingly, I urge my colleagues to join with me in passing it so we can get the bill on to the President for signature in time to meet the constraints of market opening.

And, finally, Mr. President, I am advised that there is a strong likelihood that amendments will be forthcoming. As I have just stated, I oppose them. From my knowledge of them I do not think they will add anything of value to the bill we have worked so hard to produce. My colleagues, Mr. President, will have statements to make on each of them. Let me associate myself with their remarks. There is one amendment that I am particularly opposed to, Mr. President, the one dealing with "floor sweepings," that I understand might be offered by the senior Senator from Missouri, and accordingly, I will set out some specific objections I have to this amendment.

FLOOR SWEEPING AMENDMENT

The more I hear the amendment dealing with floor sweepings discussed Mr. President, the more I am convinced that there is a basic misunderstanding about just what is meant by this term and practice within the tobacco system. Let me offer a short explanation. I feel that this will give the requisite understanding. This amendment is harmful and will undermine one of the most important aspects of the tobacco production system. I urge my colleagues to join me in rejecting it.

● Mr. SPECTER. Mr. President, I rise today in support of Congressman WALKER's amendment to H.R. 6590, the no-net cost tobacco program which is very important to Pennsylvania. This provision, which was included by the House, would amend the 1981 farm bill by exempting tobacco-growing States from quota regulations if farmers in those States are growing less than 20 acres of quota tobacco.

Shortly after the farm bill was passed, it was discovered that a minor change in the tobacco title of the bill redefined tobacco "area" to mean "State" for the purposes of the tobacco program. As a result of this provision, farmers in quota tobacco-growing States may not grow nonquota tobaccos. While Pennsylvania's growers voted against the quota system, because of one farmer in the State who is presently growing 12 acres of quota tobacco, the whole State is now considered a quota State. Because of this new provision, all States growing any amount of this particular type of tobacco are subject to quota limitation, regardless how their growers voted.

In other words, Mr. President, because of a minor change in the law and because of a very small amount of quota tobacco, many Pennsylvania nonquota farmers are being told what they are permitted to grow.

Congressman WALKER's amendment provides direct relief for Pennsylvania without affecting the programs in other States. It restores an essential element of fairness to the policies of the 1981 farm bill. I congratulate Congressman WALKER on his efforts and ask my colleagues to add their support to this provision.●

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri.

Mr. EAGLETON. Mr. President, I have just a few brief general remarks, then I shall start my amendments. I assure all of my colleagues that all of these matters will be disposed of, one way or another, by the close of business today. It is not my intent, it has never been my intent, to footdrag on this measure.

I would like to tidy up a couple of points at this time. As to the cost of this program being minuscule or something larger than that, I cite for the record one paragraph from the report of the Comptroller General of the United States dated April 23, 1982. The report is entitled "Tobacco Programs, Production Rights, and Effects on Competition."

On page 25 thereof, the Comptroller General writes:

> ASCS and CCC officials calculated that the amount of interest CCC has paid to the Treasury from the inception of the program through September 30, 1980, could total about $845 million, while CCC records indicated that it had collected $254 million in interest income, or a net loss to the Government of about $591 million. CCC's comptroller said that CCC could not attest to the figures because the interest expense was based on yearly beginning and ending average loan balances and that the interest income was based on documentation which probably was incomplete.

Now, one or two other points, Mr. President. I have been receiving some mail out of North Carolina on this program from tobacco farmers. I would like to read a few brief excerpts from these letters and place the letters in their entirety in the RECORD. First, a letter dated June 26, 1982, from a tobacco farmer in Ramseur, N.C.

> MY DEAR MR. SENATOR: I want to commend you on the work you are doing in opposing the Feudalistic Tobacco Program and forcing a three week postponement of any Senate vote on the package until further debate.
>
> The bill that the House passed on Monday puts added cash burdens upon the shoulders of the tobacco grower and endorses the system we are trying to correct.

Then he goes on to spell out in numerical order, various objections that he finds to the bill as it came out of the House of Representatives and as it is before us today.

This gentleman is named James L. Canoy, and he is a tobacco grower. In the body of the letter, it says he has grown an average 26 acres of tobacco a year for the last 6 years.

Here is a very interesting letter, dated June 29, 1982. The letterhead is Pierce Farms, Inc. It is a five or six-page letter. Let me read just one paragraph. It is signed by Mr. Robert Pierce.

> I am a large farmer, growing several hundred acres of tobacco, most of which I lease. I am 59 and well fixed financially, do not have to farm. I could retire now if I so desired but I do not wish to. I have a son, age 24, who farms with me and loves it. I preface this letter with these facts to show, one, I am thoroughly familiar with tobacco, its problems, how to produce it, its production

costs, and how to market it—since I am also a warehouseman. I am probably the largest producer in this country—750 acres of tobacco and one of the largest warehousemen—9 million pounds sold in 1981. In short I am considered by my peers to be a very successful businessman and farmer. Two. At any age however, I have only a few more years at best to farm, but I would like for the next generation to have a future in tobacco production.

This is not the case with the proposed legislation.

It does not go far enough. American tobacco quite simply has priced itself out of the market and the proposed legislation does nothing to remedy the situation.

And then he goes on with great specificity to set out his objections to the current program. The total letter is five handwritten pages long.

Finally, another letter from North Carolina, to which is attached a petition signed by 25 tobacco farmers. The cover letter is from James Beasly. He writes a cover letter, to which he has attached a resolution, signed with the names and addresses of about 25 North Carolina farmers. Here is the resolved clause from this resolution:

Resolved, That the tobacco program be abolished in its present form; to be replaced. Whereby the producer is allowed to produce sufficient quantities on an open market at a cost competitive of the world market and without the penalty of artificially high lease and transfer cost.

Mr. President, I ask unanimous consent that these three letters, one of which has a resolution attached, be printed in the RECORD in full.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

RAMSEUR, N.C.,
June 26, 1982.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

MY DEAR MR. SENATOR: I want to commend you on the work you are doing in opposing the Feudalistic Tobacco Program and forcing a three week postponement of any Senate vote on the package until further debate.

The bill that the House passed on Monday puts added cash burdens upon the shoulders of the tobacco grower and endorses the system we are trying to correct. I say "thank you" for seeing this and for speaking out in such an effective manner.

I would like to point out a few things you may or may not be aware of:

1. The Tobacco Growers Association of North Carolina, Inc. is made up (Executive Committee) almost entirely of men from the State College, North Carolina State University, faculty and alumni. This organization does not represent the tobacco grower (only a few growers even belong to this State organization.) These few men formed this organization for the purpose of pushing for the sale of allotments since they hold huge allotments. I serve on the Board of Directors and know what I am talking about. I have worked hard trying to get them to put something into their proposals for the man who grows the tobacco and to put in something to help the young man who wants to farm. This could have been a worthwhile and meaningful organization but it is not. It is using the name "Tobacco Growers" to get what they want. I recently sent Senator Hatfield a list of these men's names and the positions they hold or have held. Perhaps he could share this information with you.

2. If there appears to be no way of putting the allotments into the hands of the man who grows the tobacco or of abolishing this program, I would ask that you work towards an amendment that would allow the tobacco grower the right to grow and sell his tobacco without an allotment, price support, or penalty if he so chooses. I feel this is his constitutional right.

3. I want to point out that under the present system it is entirely possible for one man to lease up every pound of tobacco in his county. Evidently there is nothing illegal about this. The ASCS is fully aware of this practice since the farmers have been measured. The ASCS knows how much each man plants, how much he leases and how many pounds he sells. They know it to be impossible to grow as many pounds on what he plants to sell these thousands and thousands of pounds. Nothing is done about this from year to year. The honest man gets poorer and the speculators get richer. (See attached clipping on tobacco fraud. This has happened in our own neighborhood with the same results). In my county speculators have leased up huge amounts of pounds. The other farmers have had to BEG for the few pounds they did manage to lease. Most have had to cut back from one third to one half. Next year it will be even worse. Many have given up and gone out of business.

4. Another thing that fails to make any sense to me is this assessment put on tobacco sold that goes into stabilization (they say three cents per pound) when it costs around ten to fourteen cents per pound to process it and store it. Where is the rest of the money coming from. This three cents will probably wind up costing about fifteen or twenty cents to support itself.

I am willing to come to Washington, D.C. or anywhere else to testify and defend what I have said.

I am a tobacco grower and have averaged growing twenty six acres of tobacco for the last six years. I was issued an allotment of about one acre. I did not buy this allotment. It was given to me as a priviledge to grow tobacco. I do not consider it a property right but only a priviledge. No sale of this allotment should be permitted.

We, North Carolina, are only one State in these United States of America. We are all governed by the Federal Government. We all have our Constitutional rights. Any person in any State should be granted the same priviledge of this program. No person or State should be discriminated against and denied his constitutional rights.

Please let me know if I can be of any help.

Sincerely,

JAMES L. CANOY.

PIERCE FARMS, INC.,
Farmville, N.C., June 29, 1982.

DEAR SENATOR EAGLETON. On July 14th final action will be taken on the proposed tobacco bill and such action will shape the future course of tobacco legislation for the next several years. This is why I'm writing you.

I am a large farmer growing several hundred acres of tobacco most of which I lease. I am 59, well fixed financially, do not have to farm, could retire now if I so desired but do not wish to. I have a son, age 24, who farms with me and loves it. I preface this letter with these facts to show. (1) I am thoroughly familiar with tobacco, its problems, how to produce it, its production costs, how to market it—since I'm also a warehouseman. I am probably the largest producer in this country—750 acres of tobacco and one of its largest warehousemen—9 million pounds sold in 1981. In short I am considered by my peers to be a very successful business man and farmer. (2) At my age however I have only a few more years at best to farm, but I would like for the next generation to have a future in tobacco production.

This is not the case with the proposed legislation. It does not go far enough. American tobacco quite simply has priced itself out of the market and the proposed legislation does nothing to remedy the situation.

The principal cost in farming tobacco today is lease cost. In my operation—50 percent. I believe this to be true for the average producer in 1982. For the average producer owns very little of the allotment that he produces. We are the only group in the world that has this built in cost.

We need production controls in order to keep supply in line with demand and we also need a price support program since 2 or 3 larger tobacco companies could and would set the market price without it. But we do need to get the market price down. And we can do this by reducing the price supports—without by the way hurting the average producer.

Price supports set the market price. Market price determines the lease cost. Lower the price support and you lower the market price. Lower the market price and you lower the lease cost.

By lowering price supports you do two things. (1) You make America's tobacco more competitive in the world market and enhance the opportunity for the industry to grow rather than shrink as it has done for the past several years and, (2) you lower the lease cost by as much as you lower the price support since we are already paying the maximum we can pay.

The producer will still make as much since he will reduce his expenses in terms of lease cost by the amount of reduction in price supports. Lower price supports 20 cents. Reduce lease costs 20 cents. In fact he might make more. If America's tobacco is more competitive, we should be able to sell more overseas and curtail imports at home and thereby enable us to increase production, which should take some of the pressure off of demand for poundage and thus reduce still more lease cost.

The present program benefits the allotment holder and will continue to do so as long as prices are artificially kept above the world market.

Why do I turn to a Senator from Missouri for help? Because you have no axe to grind and no pressure group to answer to.

I firmly belive in what I have written. If something is not done to the price support structure, we will surely see further reductions in quotas in the near future.

Yours truly,

ROBERT PIERCE.

ANGIER, N.C.,
April 8, 1982.

Subject: N.C. producing farmers opinion on present Flue-cured tobacco program.

Senator TOM EAGLETON,
Washington, D.C.

Attached is a copy of a petition that I have without very little effort gathered from a few of my farmers "Tobacco

Farmer" neighbors in a small area around my home, in Johnston County, eastern N.C.

I feel that with a little effort on my part or anyone's part that farmers, including those my age, age 68 that own and operate—I say own and operate—not just own would sign this petition. I own 13,500 lbs of Flue-cured tobacco as do most of the farmers on this petition, own some allotment.

I feel that this petition shows and tells the true feelings of the tobacco producing farmers in our area as well as the total flue cured tobacco area.

Yours truly,

JAMES V. BEASLEY.

RESOLUTION

Whereas the tobacco support program began at a time when controls were needed to enforce supply and demand, and Whereas, the economic element today is completely different from the time the program was started; and Whereas, the lease and transfer aspect of the present tobacco program causes great hardship on the producers; and Whereas; if the present program continues the producers will likely become bankrupt which would be disruptive to the tobacco industry and to the local economy; therefore be it

Resolved, That the tobacco program be abolished in its present form; to be replaced. Whereby the producer is allowed to produce sufficient quantities on an open market at a cost competitive of the world market and without the penalty of artificially high lease and transfer cost.

James V. Beasley, D. T. Byrd, Sr., W. Gerald Stephenson, G. M. Langdon, S. L. Coats, Eugene Beasley, Donald Holland, W. C. Coats, Othell Benson, Carl Coats, Keith Langdon, Jim Langdon, Hezzie R. Byrd, Donnie G. Beasley, Eddie Barnes, Kenny Stephenson, Tommie G. Beasley, Fred T. Byrd, A. H. Stephenson, Earl R. Honeycutt, D. T. Byrd, Jr., W. Gerald Stephenson, Ben Catten, John T. Johnson, Sammy M. Stephenson.

Mr. EAGLETON. Now, Mr. President, let me move on to my first amendment.

Mr. HUDDLESTON. Will the Senator yield for comment on the letters that have been read by the distinguished Senator from Missouri?

Mr. EAGLETON. Yes, I yield.

Mr. HUDDLESTON. Let me say that I am not in the tobacco-raising business and have never myself raised an acre to tobacco. My grandparents on both sides were farmers and tobacco farmers. If I had the ability to raise 100 acres of tobacco, I would be fighting for the abolition of this program, too. That is precisely what this program is for, to keep a few people, as the gentleman who wrote the letter, who have the resources to retire at the age of 59, from raising all of the tobacco. This program has, over the 40 years it has been in existence, spread this program out; it is a democratic program, and made it available to the small farmers who can produce 1 acre, 2 acres, or 3 acres. They are by far the vast majority of the producers. Certainly those who can raise 100 acres would like this program eliminated. Then they could grow all their tobacco under contract directly with the manufacturers. But, many of the little men would be totally out of farming because they would lose the income from tobacco that is their major cash income and the only reason that they are able to remain on the farm.

It is important that the Senate understand the nature of the tobacco program. It is a program that does not contribute to the actual smoking of tobacco. It has nothing to do with the health issue. It has a great deal to do with fairness and equity and permitting the farmers in the tobacco growing areas to participate in this program. It has worked. We have met our export requirements. We have met our domestic requirements. We produce the highest quality tobacco in the world, tobacco that is in demand all over the world. The American people have benefited from it. Manufacturers have benefited from it. The growers have benefited from it. It should not be eliminated, permitting a few to benefit so much off of this unique crop that was important in the very founding of these United States.

I yield the floor, Mr. Chairman.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NO. 1923 AND 1924, AS MODIFIED

Amendment No. 1923: To permit new farmers to purchase Flue-cured tobacco allotments.

Amendment No. 1924: To allow new farmers to purchase Burley tobacco marketing quotas.

Mr. EAGLETON. Mr. President, I am going to present four amendments which I think will be agreed to and will be disposed of en bloc. I will briefly describe the four amendments. There have been some modifications, so I am going to offer them, as of now, as modified.

I send to the desk amendments 1923 and 1924 as they have been modified.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes amendments numbered 1923 and 1924, as modified, en bloc.

The amendments, as modified, are as follows:

AMENDMENT NO. 1923, AS MODIFIED

On page 19, beginning with line 14, strike out all through line 22 on page 19, and insert in lieu thereof the following:

"(g)(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell, for use on another farm in the same county, all or any part of such allotment or quota to any person who is or intends to become an active Flue-cured tobacco producer. For purposes of this section, the term 'active Flue-cured tobacco producer' means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involved, or any person who certifies to the Secretary, in such form and manner as the Secretary shall be regulation prescribe, his or her intent to become a Flue-cured tobacco producer.".

AMENDMENT NO. 1924, AS MODIFIED

On page 33, line 24, immediately before the comma, insert the following: "'or any person who intends to become an active Burley tobacco producer' ".

Mr. EAGLETON. Mr. President, these two amendments deal with the same basic problem. The legislation as presented to the Senate by the Agriculture Committee permits the sale of all Flue-cured tobacco allotments and requires the sale of Flue-cured and burley allotments where they are owned by certain nonfarmers, such as Government entities and corporations. Although I believe this does not go far enough in requiring nonfarmers to give up their allotments, I am pleased that we are at least taking this first step at this time.

My problem with what this legislation calls for is on the purchaser end of the transaction. H.R. 6590 requires that in order to be eligible to purchase a tobacco allotment, an individual must be an active tobacco producer.

Mr. President, the bill limits those eligible to purchase allotments to active Flue-cured or burley tobacco producers. The bill defines an active Flue-cured producer on page 19 of the bill as "any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than 1 of the 3 years preceding the year involved." The definition of who is an active burley tobacco producer is left to the Secretary of Agriculture.

One would assume, however, that the Secretary would utilize the guidance of the statute as it defines "active Flue-cured producer" in defining an "active burley producer" and the same limitations would apply.

Although I understand the purpose of the strict limitation on who may purchase allotments—that being to assure that producers and not speculators are the ones who buy allotments—I believe we have been a little too strict. The bill in its present form will not allow ample opportunity for new producers to get into the business.

Mr. President, many before me have spoken about the difficulties young men and women encounter in getting started in agriculture. The roadblocks that are thrown up in the path of a young person trying to get started in farming are enormous—high capital requirements, high interest rates, lack of credit availability, and on and on. Rarely does it come about that we get the opportunity to say directly to

young people that we recognize the problems they face. I am simply seeking by this amendment to prevent one more roadblock from being placed in their path. I should note for the chairman of the Agriculture Committee that a recent study by the Department of Agriculture showed that in 1979 almost 40 percent of all Flue-cured tobacco farmers were over the age of 55, while less than 20 percent were under the age of 35.

On page 13 of the Senate committee print describing H.R. 6590 and recently circulated by Senator HELMS, the committee disputed the need for this amendment by stating, first, that an individual can qualify to purchase an allotment by sharing in the risk of growing tobacco for 1 year before purchasing an allotment and, second, that an individual could take advantage of the new grower provisions of current law.

Let me address both of these issues. Under H.R. 6590, the corporations, public utilities, and other entities required to sell their allotments are required to do so by December 1, 1983. In the near future, it is likely that this will be the largest block of allotments that will become available for purchase, especially in the case of burley tobacco where no other sales are permitted.

H.R. 6590 also provides, however, that, in order to be eligible to purchase an allotment, an individual would have to have shared in the risk of producing a crop of tobacco in not less than 1 of the 3 years preceding the year in which the purchase is made. In other words, if you did not share in the risk of producing tobacco in 1982, 1981, or 1980, you would not be eligible to purchase any of the allotments that will go on the market between now and December 1, 1983.

Mr. President, I do not doubt that there are many young persons who have worked long and hard with their families or with others, who know what is required to grow tobacco, who want to start their own tobacco farming operation, but who have not yet shared in the risk of producing a crop as required in H.R. 6590. I do not believe we should slam the door on them by arbitrarily limiting who can purchase these allotments.

Under my amendment, the Secretary of Agriculture can still, by regulation, place certain requirements on those intending to become tobacco producers but who have not yet shared in the risk of producing a crop. It should be noted as well that the requirement will remain in place that a purchaser, no matter who, continue to have a financial interest in the production of tobacco, or they must sell the allotment or forfeit it. This is adequate incentive to avoid abuse of this authority.

AMENDMENT NO. 1918, AS MODIFIED

(Purpose: To require purchasers of burley tobacco marketing quotas to continue to have a financial interest in the production of burley tobacco)

Mr. EAGLETON. Mr. President, I will now proceed to another modified amendment, and I send it to the desk. This is basically amendment No. 1918, with modifications.

The PRESIDING OFFICER. The Chair inquires if the Senator would like to have action on the first two amendments.

Mr. EAGLETON. I ask unanimous consent that I be permitted to offer four amendments—I have already presented two—and that they be considered en bloc at the conclusion of my presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes amendment numbered 1918, as modified.

The amendment, as modified, is as follows:

On page 34, between lines 15 and 16, insert the following:

"(c)(1) Any person who——

"(A) acquires any Burley tobacco marketing quota by purchase under subsection (a) of this section; and

"(B) with respect to any crop of Burley tobacco planted after the date of such acquisition, fails for the five-year period immediately subsequent to the year of such acquisition to share in the risk of producing Burley tobacco under such allotment or quota in the manner specified in paragraph (2) of this subsection;

shall sell such quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such quota shall be subject to forfeiture under the procedures specified in paragraph (3) of this subsection.

"(2) For purposes of this subsection, a person shall be considered to have shared in the risk of producing a crop of Burley tobacco if——

"(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

"(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

"(C) such person may not receive any of such return before the sale of such crop.

"(3)(A) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with this subsection, then the quota specified in this subsection shall be forfeited and shall be reallocated by such county committee for use by active Burley tobacco producers or those intending to become active Burley tobacco producers, as defined by the Secretary, for use in such county.

"(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.".

On page 34, line 9, insert "or those intending to become active Burley tobacco producers" before the first comma.

Mr. EAGLETON. Mr. President, the bill before the Senate requires the sale of burley tobacco allotments owned by governmental entities, public utilities, educational institutions, or religious institutions, if those groups are not significantly involved in the management or use of land for agricultural purposes. A similar provision applies to Flue-cured tobacco. However, the Flue-cured provisions add one extra caveat—that is, that the person who purchases the allotment must remain financially involved in the production of Flue-cured tobacco or they are forced to sell their allotment. No such requirement applies to those who purchase burley allotments.

Without this same type of provision applying to those who purchase burley allotments, individuals would be able to purchase those allotments and then proceed to lease them out, no longer sharing in the risk of the farming operation. It is the intent of the managers of the bill to see to it that allotments and quotas are placed more in the hands of producers. Without my amendment, I am afraid the bill has a gaping loophole which may eventually defeat what we are trying to accomplish here.

This amendment will simply place the same requirements on those who purchase burley allotments as the bill now provides for those who purchase Flue-cured tobacco allotments—that they continue to have a financial interest in the production of tobacco.

That concludes my presentation on that amendment.

AMENDMENT NO. 1920, AS MODIFIED

(Purpose: To enable the Congress to obtain certain data necessary to enable it to carry out its legislative functions)

Mr. EAGLETON. Finally, I send an additional modified amendment to the desk. This is basically amendment No. 1920, with modifications.

The PRESIDING OFFICER. The amendment will be stated:

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an amendment numbered 1920, as modified.

The amendment is as follows:

At the end of the bill, add the following new section:

CONFIDENTIAL DATA

SEC. 304. Section 373(c) of the Agricultural Adjustment Act of 1938 is amended by adding at the end thereof the following new sentence: " 'Nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.' "

Mr. EAGLETON. Mr. President, this amendment deals with confidential data.

When the General Accounting Office was pursuing the issue of floor sweepings, at Senator HATFIELD's and my request, they encountered grave reluctance on the part of the Department of Agriculture to release certain aggregate data to them. The Department indicated that their statutes required that such data be kept confidential. GAO eventually convinced the Department, and I believe rightfully so, that the GAO should have access to all information in accordance with the oversight authorities Congress has provided the GAO.

However, because of the USDA statute, the GAO felt constrained to provide us their aggregate data only in the form of a confidential report, even though it was clear that there was no good reason to withhold such data from the public.

This amendment would simply clarify the current confidentiality statute of the Department of Agriculture to assure access to aggregate data.

I believe we have worked out some compromise language on this subject which will still maintain the confidentiality of proprietary data, business information, and data provided by any one individual. It will allow, however, complete access to aggregate data that the Congress and the public needs to review this program.

Mr. President, that concludes my presentation on that amendment. All four amendments are now before the Senate, and I yield the floor.

Mr. HELMS. Mr. President, these four amendments, as the able Senator from Missouri has indicated, have been examined by Senate HUDDLESTON and me as well as the staff. I observe that, in the main, they are technical amendments. It is my purpose to indicate in a moment that I will be willing to accept them.

Let me address myself to the first two amendments, No. 1923 and 1924 by number.

There is no objection to allowing farmers who certify that they intend to become active tobacco producers to purchase an allotment or quota. The only concern I can see is that we must be careful not to create a situation where so-called hip-pocket allotments are established, that is to say, allotments that are not attached to or run with the land.

In the case of Flue-cured tobacco the allotments have always run with the land and could not be sold separately from the land. The bill would change that, but the allotments that are sold under the bill will still attach to a farm.

Having said that, Mr. President, I anticipate that the Secretary will develop regulations to insure that a farmer who intends to become a tobacco producer and who wants to purchase an allotment or quota will have to have sufficient land to which the allotment will attach before being allowed to make such a purchase.

With that understanding, I certainly have no objection to these two amendments or, as a matter of fact, to any four of them.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by Dr. Joseph W. Pou, with reference to an analysis by Dr. Charles R. Pugh, who is the extension economist at North Carolina State University.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NORTH CAROLINA FARM TIPS

(By Dr. J. W. Pou)

An analysis by Dr. Charles R. Pugh, Extension Economist at North Carolina State University, confirms growers' contentions that the 1981 flue-cured tobacco crop was the most expensive they have ever produced.

Pugh says records on 42 tobacco farms in the state show that operating expenses and depreciation averaged $1.31 per pound of tobacco sold.

That was a rise of 12 cents per pound from the previous year when operating expenses and depreciation on 39 tobacco farms averaged $1.19 per pound of leaf produced.

The cost rise was one of the largest such increases in the past several years.

"In 1981," Pugh said, "there was about a 35 cent per pound margin between the average market price and the enumerated costs. This was an improvement over the 24.4 cents per pound margin in 1980."

Operating expenses do not include labor and management performed by the grower or any charges for his own quota, land or interest on his investment.

Data for Pugh's continuing studies of flue-cured tobacco production costs are obtained from the Tobacco Enterprise Accounts of farms enrolled in the NCSU Farm Business Records Program.

Since there is some variation in the particular farms enrolled in the program from year to year, the figures are not precisely comparable. However, the data do show the general trend in production costs for North Carolina's leading field crop.

The number of farms involved in Pugh's studies has varied from a low of 25 in 1976 to a high of 44 in 1978.

According to his analyses, total ordinary expenses depreciation per pound of flue-cured tobacco sold have increased from 74 cents in 1975 to 88 cents in 1976; 94 cents in 1977; 103.5 cents in 1978; 110 cents in 1979; 119 cents in 1980 and 131 cents in 1981.

In 1981 as compared with 1980, eight cost items showed increases, three showed decreases, and one remained unchanged.

Cost items showing the largest, increases were fertilizer, fuel and utilities, supplies including chemicals, depreciation, and rent and repairs.

On most of the farms studied for 1981-crop information, the operator rented-in tobacco quota from other farms to supplement quota already available.

Pugh said calculation of tobacco cost involved all costs directly earmarked to tobacco by the individual farmer's record, plus a pro rata share of general farm expenses based on the proportion of ordinary income derived from tobacco.

Generally, hired labor, rent, fertilizer, seed, curing fuel and many supply items were specifically identified in the Tobacco Enterprise Account. Warehouse charges also were included.

Allocations from general farm expenses usually included interest, taxes, some supplies, repairs, gas, utilities other than curing fuel, and general insurance, as well as depreciation.

In terms of cost per pound, Pugh said, the lower half of the 42 farms averaged only $1.16 for ordinary expenses and depreciation compared to almost $1.47 for the higher cost half. Most categories of expense items were less per pound on the low-cost farms.

"The average market price received for tobacco was higher on the high-cost farms, but not enough to offset the higher expenditure," Pugh said.

With lower effective quotas this year, total 1982 marketings will be down and leasing costs are higher than in 1981.

"It is important, therefore, that growers make every effort to keep costs under control during the remainder of 1982," Pugh said.

Sales of tobacco on the 42 farms in 1981 averaged 59,916 pounds, roughly equivalent to a 28-acre tobacco operation.

For the overall farm businesses, gross income averaged $173,062, with ordinary expenses of $138,370 and depreciation of $16,635. The remaining net farm income of $18,056 represents the returns to unpaid labor and management, and owner's equity in land, quota and other investment.

I yield to my distinguished colleague from Kentucky.

Mr. HUDDLESTON. I thank the distinguished Senator from North Carolina.

Mr. President, since these amendments relate mostly to the burley tobacco provisions of the bill, I think I should comment that the reason for the differences in the bill is that there are some differences in the way the programs operate and have traditionally operated in the Flue-cured tobacco-growing section and in the burley tobacco-growing section.

The intent of the amendments by the distinguished Senator from Missouri is not inconsistent with what was attempted to be worked out in the first place. However, the concern that has been raised by the Senator from North Carolina is valid.

On the purchasing of allotments, we wanted to be sure that those who made the purchases were in fact qualified under the new criteria for owning an allotment, and for that reason it was devised the way that it was.

But I agree with the Senator from North Carolina that these are acceptable amendments. I join in the motion to consider them en bloc and to accept them.

Mr. HELMS. Mr. President, may I inquire of the Chair if there is a time limitation on the amendments?

The PRESIDING OFFICER. There is a time limitation of 40 minutes equally divided.

Mr. HELMS. Mr. President, I am willing to yield back our time.

Mr. EAGLETON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, without objection, the four amendments are considered en bloc.

The question is on agreeing to the amendments en bloc of the Senator from Missouri.

The amendments (Nos. 1918, 1920, 1923, and 1924), as modified, were agreed to en bloc.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. EAGLETON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1077

Purpose: To express the sense of the Congress with respect to an immediate resumption of negotiations with the Government of the Soviet Union for an extension of the existing long-term grain sales agreement, and for other purposes

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Nebraska (Mr. EXON) for himself and Mr. BURDICK, proposes an unprinted amendment numbered 1077.

Mr. EXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, between line 2 and the matter following line 2, insert the following new section:

LONG-TERM GRAIN SALES AGREEMENT

SEC. 304. (a) The Congress finds that—

(1) talks to extend the long-term grain sales agreement between the Soviet Union and the United States were broken off in 1981 with no date set for resumption of these talks;

(2) the Government of the Soviet Union for all practical purposes has ceased to purchase United States agricultural commodities since the breaking off of negotiations;

(3) the lack of a long-term grain sales agreement may result in market instability, with the potential of disrupting the feed-livestock relationship in the United States;

(4) the lack of such an agreement may result in uncertainty among farmers as to the best planting decisions for the upcoming crop year;

(5) the lack of such an agreement has already led the Soviet Union to seek other source of supplies at the expense of the American farmer; and

(6) the lack of such an agreement means a drop in the export of agricultural commodities and continued severe difficulties with the balance of trade deficit of the United States.

(b) It is the sense of the Congress that the President should immediately resume negotiations with the Government of the Soviet Union for the purpose of reaching an agreement to extend the duration of the existing long-term grain sales agreement and to require the purchase by the Government of the Soviet Union of a minimum amount of grain annually at a level not less than the level required by the existing long-term grain sales agreement.

Mr. EXON. Mr. President, I ask unanimous consent that the Senator from Missouri (Mr. EAGLETON) be listed as a cosponsor to the amendment that I have just offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, the amendment I am offering today expresses a sense of the Congress that the President immediately resume negotiations with the Soviet Union to extend the long-term grain sales agreement specifying a minimum purchase of grain by the U.S.S.R. at not less than that specified previously. The language of this amendment is identical in substance to Senate Resolution 354 which I introduced in this body on March 31, which has been cosponsored by a bipartisan group in the Senate.

Mr. President, the Reagan administration has espoused the position that the expansion of U.S. agriculture exports is a cornerstone of the President's farm program. Secretary of Agriculture Block has said time and time again that our family farmers will be far better off in the long run if they wean themselves away from domestic subsidy programs and place their reliance on a strong and stable export market. If this is indeed the policy of the Reagan administration, then why, Mr. President, has the administration continued to refuse to begin to implement their "strong export policy" by resuming meaningful negotiations with the Soviet Union on a long-term agreement? Today's newspapers indicate administration spokesmen have resumed their drum beat against any long-term grain sales agreement with the Soviets. The result is that American farmers are again taking a financial beating. We in the Senate who represent agriculture States know of the extreme hardships currently facing our family farmers. High interest rates, poor commodity market prices, huge carryovers of grain from the 1981 harvest, and poor exports are causing the worst economic crisis since the "Great Depression." In fact, Mr. President, recent updates on the economic condition of agriculture indicate that the decline is now comparable to the 1930's when farm income hit all-time lows and land values declined. Mr. President, we must not remain idle. It is imperative that we act to alleviate the severity of the current problems on the farm.

Mr. President, many bills and resolutions have been introduced in this Senate since January proposing changes in the inferior farm bill passed last year or calling upon the President to take those emergency steps necessary, which he and the Secretary of Agriculture have the authority to do, to relieve the economic stress in the farm belt. In addition to these measures already pending, I believe it is necessary to say to our President, if, as you have told the Congress and the American farmers that you wish exports to be the most important element in your farm program, providing the long-term stability for our farmers, then it is time to resume those talks with the Soviet Union which were suspended last year.

Mr. President, I have been heartened by recent reports that Secretary of Agriculture Block is now urging the President to lift the freeze on negotiations with the Soviets for a new grain agreement and allow the American farmers to sell as much grain as possible to the U.S.S.R. Certainly by all accounts, the Soviets are again facing short domestic supplies and the time is ripe for sales of our surplus wheat and corn to make up their undersupplies.

Mr. President, the perception in rural America is that this administration does not understand the needs of agriculture. What once seemed to be a ray of hope regarding the President's emphasis on exports has apparently been mistaken. Even the call by his Agriculture Secretary seems to be falling on deaf ears.

Let us then, Mr. President, by adopting this amendment remind the President of his policy on agriculture exports and the need for a strong and stable marketplace our family farmers currently do not have but so desperately need. Further more, let us adopt this amendment and send the message to the White House that the Congress desires a resumption of the grain talks culminating in a long-term agreement with the Soviet Union.

Mr. President, it is my hope that the managers on this bill would agree with this amendment and allow it to be attached as a part of this legislation.

Mr. PRESSLER. I ask unanimous consent that I be added as a cosponsor to Mr. EXON's amendment to H.R. 6590, calling for immediate resumption of negotiation with the Soviet Union on a long-term grain agreement. I have been a strong advocate for resumption of negotiations with the Soviet Union to extend our long-term grain agreement.

It is important that negotiations with the Soviet Union on a long-term grain agreement begin immediately so an agreement can be reached before September 30, 1982, when the current agreement expires. An extension of our current agreement with a minimum purchase requirement of 15 million metric tons could boost depressed farm prices 20 percent and our entire economy would benefit.

An extension of our existing long-term grain agreement would help the United States to regain our pre-embargo share of the Soviet market. In 1979, the Soviet Union purchased 75 percent of their grain imports from the United States. That percentage decreased to 23 percent in 1981. Regaining the pre-embargo share would mean an increase of $4 to $5 billion in farm exports to the Soviet Union and substantially increased domestic farm prices while decreasing our grain surplus.

If the depressed farm sector is to be improved, we must immediately resume negotiations and work for as high a minimum grain sale level as possible.

These farm benefits could be gained at no cost to consumers or taxpayers. Consumer food prices are not increased by increased grain exports. In fact, during the 1970's, farm exports increased almost six times while the farmer's percentage of the retail price of bread and bakery products declined. Also, an increase in grain exports will reduce the cost of domestic farm programs. The cost of purchasing and storing surplus grain and outlays for many other farm programs would be dramatically reduced by increased grain exports. A long-term grain agreement would do this.

In summary, a long-term grain agreement would boost depressed farm prices without increasing consumer food prices, while cutting Government farm program costs. We must begin negotiations now.

I urge my colleagues to join me in support of this amendment.

Mr. EXON. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. HUDDLESTON. Mr. President, before yielding back, let me say that I think the distinguished Senator from Nebraska has touched upon a subject here of major importance to the country, given the situation with our grain production, the potential for sales abroad, and the necessity for increased exports; and while it is not exactly germane to the subject matter we are considering today, I have no objection to accepting the amendment.

Mr. HELMS. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. Do both sides yield back their time?

Mr. EXON. Mr. President, I yield back the remainder of my time.

Mr. HELMS. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (UP No. 1077) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EAGLETON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1919

(Purpose: To prohibit the sale of tobacco floor sweepings)

Mr. EAGLETON. Mr. President, I call up amendment No. 1919 dealing with floor sweepings.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes amendment No. 1919.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

PROHIBITION OF THE SALE OF TOBACCO FLOOR SWEEPINGS

SEC. 304. The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by adding immediately after section 314 thereof the following new section:

"SEC. 314A. (a) Effective for the 1982 and subsequent crops of tobacco, the marketing of floor sweepings is prohibited.

"(b) The marketing of any floor sweepings of any kind of tobacco shall be subject to a civil penalty of not less than 150 per centum of the average market price for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by any person found by the Secretary to be marketing such floor sweepings in violation of this section.

"(c)(1) Any person who violates the provisions of this section shall be assessed a civil penalty by the Secretary under paragraph (2) of this subsection which penalty shall not be less than that provided in subsection (b) for each such violation. Each occurrence of a violation may constitute a separate offense. In determining the amount of the penalty, the Secretary shall consider the person's history of previous violations, the appropriateness of such penalty to the size of the business of the person charged, and the gravity of the violation.

"(2) A civil penalty shall be assessed by the Secretary only after the person charged with a violation under this section has been given an opportunity for a public hearing and the Secretary has determined, by decision incorporating his findings of fact therein, that a violation did occur, and the amount of the penalty which is warranted, and incorporating, when appropriate, an order therein requiring that the penalty be paid. Any hearing under this section shall be of record and shall be subject to section 554 of title 5 of the United States Code.

"(3) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order the Secretary shall file a petition for enforcement of such order in any appropriate district court of the United States. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall forthwith be sent by registered or certified mail to the respondent and thereupon the Secretary shall certify and file in such court the record upon which such order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order and decision of the Secretary or it may remand the proceedings to the Secretary for such further action as it may direct. Subject to the direction and control of the Attorney General, as provided in section 507(b) of title 28, United States Code, attorneys appointed by the Secretary may appear for and represent him in any action to enforce an order assessing civil penalties under this paragraph.

"(d) All moneys collected pursuant to this section shall be deposited in the United States Treasury as miscellaneous receipts.

"(e) As used in this section, the term 'floor sweepings' means the scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business.".

Mr. EAGLETON. Mr. President, the amendment now before the Senate is in direct response to the findings of the General Accounting Office in their recent review of the tobacco price-support program. This issue deals with the sale of what is supposed to be trash tobacco gleaned or swept up from the warehouse floor following a tobacco auction. Although the practice of gleaning has precedent even in the Bible, the practice in this situation has gotten out of hand. In the Book of Ruth in the Old Testament, we are told the story of Naomi whose husband and son had both died at early ages. Naomi takes her daughter-in-law Ruth to Bethlehem to glean among the barley grain in the fields belonging to a wealthy farmer named Boaz. Gleaning was the practice under the law of that day, Mr. President, which gave to the poor the right to go through the grain fields and pick up the grain that had dropped to the ground and was left behind following the harvest.

The story continues that the wealthy farmer Boaz fell in love with Ruth and told his farmhands to deliberately drop grain on the ground so that Ruth could glean all the grain she needed.

The point of this story is that what is happening in today's tobacco warehouses is the antithesis of the humanitarian practice of gleaning as it occurred over 2,000 years ago. According to what the GAO had found, tobacco is being left behind on the floor of tobacco warehouses not for the love of any other person nor for the benefit of the poor farmers, but, instead, for the love of the big bucks that it puts in the warehousemen's pockets.

The sale of floor sweepings has never been authorized by the Congress. It was established by regulation years ago when it was found that often, when a lot of tobacco is delivered to a manufacturer or an exporter, the tobacco does not weigh as much as it did when it was sold at auction. The warehouseman then is only paid based on the weight of tobacco actually delivered.

The theory behind allowing the sale of floor sweepings is that the shortweights resulted from tobacco being left on the warehouse floor, and by selling what the warehouseman swept up from the floor he could make some additional profit.

According to what the GAO found, that is exactly what many warehousemen set out to do. Even though USDA limits the amount of tobacco warehousemen can sell as floor sweepings, and establishes a fine on those who exceed that limit, the GAO found that almost 26 percent of the Flue-cured tobacco warehouses and 13 percent of the burley tobacco warehouses sold over 100 percent of what they were allowed. In total, during the 1980-81 marketing year, almost 5.5 million pounds of tobacco were sold as floor sweepings by warehousemen. That is an awful lot of tobacco just left around on the warehouse floors.

The GAO also was suspicious of the prices received by warehousemen for floor sweepings. Let me quote the GAO report:

> Several State ASCS officials in North Carolina said that most floor sweepings should be tobacco that has been trampled on the auction floor, resulting in dirty, broken leaves of tobacco that would bring low sale prices. An OIG official told us that floor sweepings should consist of a wide variety of tobacco types, textures, and colors with a relatively high content of fragmented leaves and trash. He said that even after cleaning the tobacco, a warehouse normally would not be able to produce pile after pile of high-quality tobacco capable of receiving consistent grades.
>
> An official from AMS, which has responsibility for inspecting and grading tobacco, questioned whether floor sweepings could be of top quality because of the way this tobacco is collected. He said that tobacco grades vary tremendously from scrap tobacco to top grades. A tobacco manufacturer also agreed that floor sweepings normally should not be top quality tobacco. However, our review showed that most floor sweepings marketed brought prices approaching the average market price paid for producer first-sale tobacco.

The clear implication is that what is being sold is not really floor sweepings, but quality tobacco acquired by the warehousemen by other means—a clear abuse of the current program. The current system of handling floor sweepings simply invites individuals to succumb to the temptation of abusing the system.

Mr. President, my amendment simply prohibits the sale of floor sweepings and establishes a civil penalty equal to 150 percent of the previous marketing year's average price of tobacco for those caught marketing floor sweepings.

If this amendment is adopted, you can be sure that at least this abuse of the program will be ended and that warehousemen will be a little bit more careful on how they handle the tobacco in their warehouses.

One more point that should not be overlooked. By prohibiting the sale of floor sweepings by warehousemen, we are potentially opening up a market for over 5 million more pounds of tobacco to be sold by farmers. It is for the farmer that this program was set up and we should continue to do what we can to see to it that it is the farmer who benefits first from it.

I urge the adoption of my amendment.

So this amendment, in essence, is a simple pro farmer amendment. If you are truly interested in these half-acre, 1-acre, acre and a half farmers, and you want to help them in whatever economic plight they may currently be facing, then you would support this amendment because this amendment does, in fact and in truth, help the farmer.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

I was just thinking while the Senator was speaking, I grew up in the South Piedmont area of our State, and I do not recall ever having seen a stalk of tobacco when I was a boy. It was only when I went to work in Raleigh, while I was attending Wake Forest College, that I began to learn a little bit about the growing and marketing of tobacco.

It is the kind of business, Mr. President, that parallels, I understand, Einstein's theory of relativity when you try to understand it.

But through the years, dating back to long before I ran for the Senate, I learned as much as I could about the growing and marketing of tobacco, and it is easy to misunderstand it and to perceive weaknesses and flaws and defects which really do not exist.

I do not criticize my friend from Missouri for his observations, but let me see if I can put it into better perspective.

The circumstances under which tobacco is marketed at auction—and, incidentally, that is a language of its own, Mr. President—the circumstances result in a situation in which some of the tobacco, as the Senator from Missouri has said, is separated from the sheets or piles from which it originates. This is because the tobacco is picked at and inspected by large numbers of buyers as they move down the auction lane in the tobacco warehouses, and that is quite a sight to behold.

In earlier years when cigarette advertising was permitted on radio, one of the cigarettes had as its trademark the chant of the tobacco auctioneer, and most people in the land were familiar with that. But in recent years, of course, it has not been heard. But it is a loud chant. It is eternally hot and a little dusty in a tobacco warehouse, but it is the most colorful sales mechanism that I have ever seen.

Whether Senators like tobacco or not, whether they are interested or not, I wish that each Senator could experience a tobacco auction.

In any case, Mr. President, once the tobacco is sold it is moved from the sales lanes to another part of the warehouse where different sheets are stacked together according to buyer. More tobacco, additional tobacco, falls off during this physical shift of the location of the tobacco.

Then when the sheets arrive at the processing plant operated for the benefit of the purchasers, these sheets are weighed and any shortage is then charged back to the warehouseman.

Now, here is the theory behind the so-called floor-sweeping provision: To assure that the warehouseman is able to recover this loss charged to him, provision has been made to permit him to recover part of this loss through the marketing of the so-called floor sweepings. The regulations provide a certain allowance for the marketing of these floor sweepings. The allowance in Flue-cured is one-half of 1 percent of a warehouseman's total first sales at auction for the season. In burley it is lower, and the difference between burley and Flue-cured is because the burley leaves have been traditionally more tightly bound as a result of different curing practices, and so forth. This results in fewer leaves falling out of a sheet. Hence the difference to which I just alluded.

Now, the Senator from Missouri asserted that there is abuse in the floor-sweepings situation. And this is sometimes heard and I think it stems, as I understand it, from the fact that the floor-sweepings marketed by the warehousemen have brought top price and in some warehouses the amount marketed suggests that more than floor-sweepings are involved.

Now let me emphasize that these tobaccos bring consistently high prices at some warehouses because of the care warehousemen take in cleaning up this tobacco that has fallen out and in straightening out the leaves and putting it all together carefully. It looks good, and it is good.

The truth of the matter is, unless my observations over the years and information available to me are incorrect, the warehousemen do not pocket a large sum of money from all of this, but they do employ large numbers of people to do all of this picking up, sorting out, cleaning, restacking, and so forth.

Very frankly, I think it is important to bear in mind that the workers hired to do this are marginal workers and it provides employment for them. They earn what we would consider very little for their work, but they create something of value out of what otherwise would be discarded or just thrown together to be sold at very low prices

without the added value of that labor by these people.

Having said all that, I must acknowledge that there has been no thorough investigation into the question of abuse. As I said earlier, if it exists, I do not know it. If it does exist and is discovered by an investigation, then the amendment would be valid.

But I do not think there is that kind of abuse. There is only the suggestion of abuse because this tobacco, having been picked up and cleaned up and straightened out, brings the top price and then you have people who say, "Oh, oh, somebody is cleaning up on this."

The suggestion that these two factors warrant absolute prohibition of the floor-sweeping provision of the law, I think, certainly, in the absence of an investigation, is excessive and punitive. I would welcome consideration of a proposal to monitor the situation to determine for sure whether there are abuses. But I would say to my friend from Missouri—and he is my friend—a prohibition of a practice for which there is a demonstrable need and an obvious benefit is difficult for this Senator to accept.

I hope the Senator from South Carolina, whose State is affected somewhat more than mine, will comment on this situation from his point of view. Then perhaps we could discuss the matter with Senator HUDDLESTON and Senator EAGLETON, because I know Senator EAGLETON wants to be fair about this issue, and we will see what we can do to work it out.

I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, this is a rather intricate matter. I will try to explain it in words as simple as I can.

Every warehouse has a "short and long" account. This account is charged for shortage weights and credited with long weights by purchasing companies.

The tobacco warehouse operator's sales floor is where farmers bring and "floor" their tobacco for sale. Here the purchasing companies send their buyers to purchase tobacco at auction.

The warehouseman is the broker, and provides all personnel and services to bring about a transfer of ownership at auction.

The warehouseman is bonded and legally responsible to both seller and purchaser. The warehouseman never, however, owns, nor has control rights to the tobacco sold in his warehouse.

Farmers bring the tobacco to market in 8 x 8 foot, tied burlap sheets, which are untied for the auction sale.

The tobacco is in loose leaf form resulting in the inspection graders being in a state of total disarray. This inspection by graders and purchasers often causes a sizable amount of tobacco leaves to spread beyond the container sheet.

Formerly title to the tobacco was vested in the farmer. Now that title passes to the purchaser and at no point ever vests in the warehouseman, although he pays the producer and charges the purchasing company. Not infrequently, a warehouse may have hundreds of thousands of dollars so tied up.

With limited agency responsibility, warehouse firms at no point have a right to control, nor own, any tobacco for sale, or after sale, except their very own.

Now, the sale concluded, seasonable employees, hired and controlled totally by purchasers move in to attempt to get the often mingled leaves back on the container sheet, retie its corners, load, and haul the purchase to their storage room.

Remember, the warehouse is not, legally cannot, be involved in moving purchased leaves from its floors.

Not infrequently employees removing the tobacco after the sale take up tobacco belonging to another company. Such errors are corrected between companies—through the warehouseman.

At this point the warehouseman may be liable to either purchasing company and must, therefore, assist in the exchange to clear his liability.

Purchasing company's employees, in retying, reassemblying sheets to be removed from the sales floor, often "sheet" more—or less—than a farmer's "weigh-in" pounds. Thus a shortage, or overage of several pounds is created. When weighed at purchasers' storage, such variation is either charged or credited to the selling warehouse.

Not unnaturally, and historically, the warehouse excess adjustment is a loss of approximately 1 percent. For one Mullins, S.C., warehouse this is figured at about 7 million pounds.

The USDA develops policy and procedures covering this 1 billion pound auction transfer, covering producers, warehousemen, and purchasing companies.

Historically developed rules and procedures are monitored by a 37-man federally appointed Flue-Cured Tobacco Advisory Committee. This committee is composed of 20 producers, 9 warehousemen, and 8 purchasing company representatives.

Now in its 10th year, this group, appointed by the USDA, advises the Secretary on the sales process. Prudently appointed, this committee, by the Secretary's acceptance "de facto" controls the auction sales process. Throughout this committee's history it has, and does allow, warehousemen to recover up to one-half of 1 percent on misnamed "floor sweepings," as previously defined.

After all companies have removed their tobacco, it is not unusual to have a few hundred pounds left on the sales floor. The warehouseman, for reasons previously discussed, must sweep the floor for another sale. In this process the warehouse recovers some of the poundage to be charged back to him. Hence the term "floor sweepings." Who owns this tobacco? Technically, purchasing companies. They having left it, it now "belongs" to the warehouse.

This residue the warehouse turns over to a highly skilled professional "leaf man," who grades and resheets this tobacco for the following sale.

Much has been made over the excellent price such sweepings bring. Respectfully, the "leaf man's" superior knowledge, and care, presents such tobacco in a much more accpetable way than does the grower-producer, with a resulting better price.

This explanation, hopefully simplified and understandable, graphically justifies this practice and shows the complexity of the tobacco auction system.

This complexity shows why even the USDA maintains a federally appointed committee—predominately farmers—to monitor and advise them on policies and problems as they arise. Noteworthy is the fact that the Secretary invariably acts favorably on the committee's recommendations.

Thus, "floor sweepings" is just an industry term for an inescapable phase of the auction system. The true experts, the Flue-Cured Tobacco Advisory Committee, has weighed this problem, year after year, and accepts it as a basic part of the auction system.

This amendment relating to floor sweepings is not within the scope of broad policy to be legislated but is clearly an integral part of the mechanics of the auction sale of this commodity.

It is not for the U.S. Senate to intrude in this complicated process.

Authority presently exists in the USDA to appraise, adjust, and implement the actual tobacco auction system.

The Flue-Cured Tobacco Advisory Committee—20 farmers, 8 buying companies, and 9 warehousemen—very capably advise and the Secretary of Agriculture is charged with formulating policy concerning this auction process.

So, Mr. President, we see that the U.S. Department of Agriculture is looking after this situation to see that a fair system exists between the farmers, the warehousemen, and the purchasers. We think would be a mistake to try to inject the Congress into this matter where it is working satisfactorily to the producers, to the warehousemen, and to the purchasers of tobacco. For that reason, we would oppose the amendment.

Mr. HELMS. Mr. President, I yield to my colleague such time as he may require.

Mr. EAST. I thank my colleague from North Carolina.

Mr. President, I shall be concise on this.

First, the Senator from Missouri offers an interesting amendment. I would like to respond in this way to it:

First, it implies a certain inherent dishonesty on the part of warehousemen in the operations of their business in the tobacco industry.

I wish to resist that as wholeheartedly as I can. This is a very honorable profession. It is a vital component of the entire process of producing and selling tobacco. We have a number of components in this business in my State and the others involved—producers, warehousemen, buyers, exporters, manufacturers. I would like for the Record to show without equivocation these are honest men in honest professions. We make no apologies about it. I am willing to stand and defend that proposition anywhere, any time, including here on the floor of the Senate.

Now as to the particulars of this thing. We are talking about one-half of 1 percent of the sales can be—what? Can be resold. For what purpose? To reimburse buyers for tobacco that may be lost between the sales transaction on the floor and when they ultimately receive it. There is bound to be, inherent in the opposition, some loss in transporting.

It may sound a little strange that the U.S. Senate is deliberating here on such a thing as a floor sweeping amendment dealing with tobacco selling in the United States. Anyway, it is thrust upon us.

There is a legitimate reason for it. Understandably, in a warehouse with piles of tobacco, and it is a big operation, there is some loss. They sweep that up on the floor. They pick out the best parts. They are able to resell it. What do they do with it? They take that cash fund and reimburse buyers who, when they finally get the tobacco they bought on the house floor, find that it does not meet the specifications because there has been some loss in transit. It is a very reasonable provision.

One-half of 1 percent is the requirement.

The figures show last year only 85 percent of that amount was utilized.

My quarrel with the distinguished Senator from Missouri is this is punitive. He is throwing out the entire provision, that they cannot do it at all. What are you going to do with this tobacco? Burn it? Throw it away? What about the people, as has been noted, who are employed to take this, screen it out, and send it on?

It is a minor part of a very honorable and important business or industry.

If there are abuses in this, they can be taken up in the proper forum and resolved. I do not know any warehouseman in the United States in the tobacco business who would not be willing to do so.

What I am objecting to here today, Mr. President, is, first of all, on the floor of the Senate impugning their integrity, that it is rampant with abuse and, second, throwing out the entire provision simply on the alleged abuses of a few.

I ask my colleagues on both sides of the aisle whether they think this is the proper time, place, and circumstance to resolve this.

I submit these vast areas of this country, not only in the Southeast, but in the great State of Kentucky, who are involved in the tobacco business and know how important the warehouse segment is as a component of it, I am sure share my concern that we are impugning one of the great segments of the entire industry.

Mr. President, I would certainly encourage my distinguished colleagues on both sides of the aisle of oppose this amendment.

Thank you, Mr. President.

Mr. HELMS. Mr. President, I ask unanimous consent that there be a brief quorum call without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I should like to have printed in the RECORD some figures from the Comptroller General's report of April 23, 1982, that dramatically portray the floor-sweeping problem and how it has grown over the last 10 years. I ask unanimous consent that appendix II from the Comptroller General's report of April 23, 1982, entitled "Number of Tobacco Warehouses Marketing Floor Sweepings During Marketing Year 1980–81," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX II.—NUMBER OF TOBACCO WAREHOUSES MARKETING FLOOR SWEEPINGS DURING MARKETING YEAR 1980–81

[By percent of allowance marketed and by State]

Percent of allowance marketed	Number of warehouses						Percent of warehouses
	Florida	Georgia	North Carolina	South Carolina	Virginia	Total	
Flue-cured							
0					1	1	0.3
1 to 9.9		1	2			3	0.9
10 to 19.9					1	1	0.3
20 to 29.9			4		3	7	2.1
30 to 39.9			4			4	1.2
40 to 49.9			2		1	3	0.9
50 to 59.9			4	1	6	11	3.3
60 to 69.9			6	1		7	2.1
70 to 79.9			11		3	14	4.2
80 to 89.9		3	14	5	2	24	7.3
90 to 100	4	22	109	26	10	171	51.7
Over 100[1]	2	14	50	9	10	85	25.7
Total	6	40	206	42	37	331	100.0

[1] For each pound of floor sweepings marketed in excess of their allowance, warehouses pay a penalty equal to 75 percent of the average market price for the immediately preceding marketing year.

NUMBER OF TOBACCO WAREHOUSES MARKETING FLOOR SWEEPINGS DURING MARKETING YEAR 1980–81

[By percent of allowance marketed and by State]

Percent of allowance marketed	Number of warehouses								Percent of warehouses
	Indiana	Kentucky	Missouri	Ohio	Tennessee	Virginia	West Virginia	Total	
Burley									
0		26	1		31		1	59	26.9
1 to 9.9		2	1		4			7	3.2
10 to 19.9		3			1			4	1.8

NUMBER OF TOBACCO WAREHOUSES MARKETING FLOOR SWEEPINGS DURING MARKETING YEAR 1980–81—Continued

[By percent of allowance marketed and by State]

Percent of allowance marketed	Number of warehouses								Percent of warehouses
	Indiana	Kentucky	Missouri	Ohio	Tennessee	Virginia	West Virginia	Total	
20 to 29.9		2			1			3	1.4
30 to 39.9		4		1				5	2.3
40 to 49.9	2	5			3			10	4.6
50 to 59.9	1	9		1	4			15	6.8
60 to 69.9		13			4			17	7.8
70 to 79.9		6		1	4	1		12	5.5
80 to 89.9	1	18		1	2	1		23	10.5
90 to 100		25			3	7		35	16.0
Over 100 [1]		21			5	3		29	13.2
Total	4	134	2	4	62	12	1	219	100.0

[1] For each pound of floor sweepings marketed in excess of their allowance, warehouses pay a penalty equal to 75 percent of the average market price for the immediately preceding marketing year.

Mr. EAGLETON. A brief comment on that appendix, Mr. President. If one looks at the figures on appendix II, one can see that this is a problem of significant magnitude. It is not innocuous or minuscule in any respect. The figures in appendix II show the order of magnitude of the problem.

Further, Mr. President, I ask unanimous consent on the same subject matter that some additional figures I have received from the General Accounting Office, dated July 13, 1982, which is a comparison of the 1971 figures versus the 1981 figures on how warehouses are distributed by the amount of floor sweepings sold. Again, this comparison graphically shows how, over the past 10 years, this problem has grown in intensity, severity, and magnitude. I ask unanimous consent that that table of statistics be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FLOOR SWEEPINGS—GENERAL ACCOUNTING OFFICE FIGURES

Below is a comparison of 1971 and 1981 figures—how warehouses are distributed by the amount of floor sweepings sold.

Percentage	1971	1981
0–9.9	0.7	1.2
10–19.9	5.0	0.3
20–29.9	5.3	2.1
30–39.9	11.1	1.2
40–49.9	62.8	.9
50–59.9	13.1	3.3
60–69.9	.7	2.1
70–79.9	.7	4.2
80–89.9	.3	7.3
90–100	0	51.7
Over 100	.3	25.7
Total	100.0	100.0

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I think the Senator from Kentucky has something to say.

Mr. HUDDLESTON. Mr. President, I, too, have read the report from the General Accounting Office relating to the sales of floor sweepings. Obviously, there are some abuses that should be corrected. However, I think it is obvious, after the explanation of the program that we have heard today, that the elimination of the sale of floor sweepings is akin to throwing the baby out with the bath water.

We should correct those abuses to the fullest extent possible, but the sale of floor sweepings does serve a useful purpose when properly done. In some cases, particularly in the burley area where we have actually had shortages of production from time to time, that amount, although it is a very minor amount of the total production, can be very useful in helping to meet the demand for the product.

After discussing this with the distinguished Senators from North Carolina and the Senator from South Carolina, my colleague from Kentucky, and the distinguished Senator from Missouri—and the other Senator from South Carolina, as a matter of fact, has been made aware of this potential compromise—I suggest that we offer a substitute for Eagleton now pending. The substitute would reduce the amount of floor sweepings that can be sold in all tobacco areas to that now sold in the burley area—0.24 percent. I suggest that, in order further to discourage the abuses, we double the penalty, as the Senator from Missouri has suggested in his amendment, to 150 percent of the average market price as a civil penalty, rather than the current 75 percent.

Mr. EAGLETON. Mr. President, may I ask, will the Senator yield for a question?

Mr. HUDDLESTON. Yes, I yield.

Mr. EAGLETON. If we adopt the Huddleston substitute, then the allowances for both burley and Flue-cured would be at 0.24 percent, is that correct?

Mr. HUDDLESTON. That is correct, Mr. President.

Mr. EAGLETON. And what is Flue-cured under present law, Mr. President?

Mr. HUDDLESTON. It is 0.5, Mr. President.

Mr. EAGLETON. So it would be cut slightly more than half.

Mr. HUDDLESTON. That is correct, Mr. President.

Mr. HELMS. Mr. President, the Senator from Kentucky has stated the case. This substitute does represent a middle ground between the amendment of the Senator from Missouri (Mr. EAGLETON) and current law. The Senator from Missouri and the GAO have brought our attention to the possibility of abuse in the marketing of floor sweepings of tobacco, but I believe we all agree now that a total prohibition on the marketing of floor sweepings would be unnecessary and unwise.

As Senator HUDDLESTON has said, this amendment would lower the current allowance on floor sweepings that may be marketed by warehousemen to roughly a quarter percent—0.24 percent. This would cut the current allowance for Flue-cured tobacco roughly in half. As has already been indicated, this would put burley and Flue-cured on the same footing in that regard.

The amendment would also retain the penalties provided in the amendment of the Senator from Missouri for marketing floor sweepings in excess of this allowance. The penalty would be 150 percent of the average market price for the same kind of tobacco for the immediately preceding marketing year.

Mr. President, I believe that this amendment represents a reasonable compromise on this issue. It lowers the allowance on floor sweepings that may be marketed, establishes penalties high enough to discourage any excess marketing, and will give us an opportunity to monitor the situation so that if further changes are needed, they may be made at a later time.

I urge adoption of the amendment.

The PRESIDING OFFICER. The time on this amendment has expired.

Mr. THURMOND. Mr. President, I ask unanimous consent for 1 minute to explain my position.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, in view of the circumstances and the facts that have been discussed here in connection with this matter and also that it is felt this would help the growers, and will also be fair to the warehousemen, I am willing to go along with this compromise.

The PRESIDING OFFICER. All time must be yielded back before the substitute can be offered. The time of the Senator from North Carolina has

expired. Does the Senator from Missouri yield back the 18 minutes he still has?

Mr. EAGLETON. I yield back my time, Mr. President.

UP AMENDMENT NO. 1078

(Purpose: To restrict the sale of tobacco floor sweepings.)

Mr. HUDDLESTON. Mr. President, I send to the desk a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 1078 in the nature of a substitute to amendment numbered 1919.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the substitute be dispensed with since we have just explained the nature and effect of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

LIMITATION ON THE SALE OF TOBACCO FLOOR SWEEPINGS

SEC. 304. The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by adding immediately after section 314 thereof the following new section:

"SEC. 314A. (a) Effective for the 1982 and subsequent crops of tobacco, the marketing of floor sweepings of any kind of tobacco in excess of allowable floor sweepings shall be subject to a civil penalty of 150 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by any person found by the Secretary to have marketed such floor sweepings in excess of the allowable amount.

"(b) The penalty provided for in subsection (a) shall be assessed by the Secretary only after the person alleged to have marketed floor sweepings in excess of allowable floor sweepings has been given notice and an opportunity for hearing and the Secretary has determined by decision incorporating the Secretary's findings of fact that a violation did occur and the amount of the penalty.

"(c) The provisions of section 376 of this title shall apply to penalties under this section.

"(d) As used in this section—

"(1) the term 'floor sweepings' means the scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business; and

"(2) the term 'allowable floor sweepings' means the quantity of floor sweepings determined by multiplying 0.24 per centum times the total first sales of tobacco at auction for the season for the warehouse involved.".

Mr. HUDDLESTON. Mr. President, I move the adoption of the substitute.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (UP No. 1078) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri as amended.

The amendment (No. 1919) was agreed to.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1079

(Purpose: To add provisions to the bill relating to the operations of the ASC county and community committees)

Mr. ZORINSKY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY) proposes an unprinted amendment numbered 1079.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert, at the end of the bill, a new title IV, as follows:

"TITLE IV—THE ASC COUNTY AND COMMUNITY COMMITTEE SYSTEM

"SEC. 401. Congress finds that agricultural stabilization and conservation county and community committees have served, and should continue to serve, a vital function in implementing, at the local level, farm commodity, soil conservation, and related programs; and that, by assisting the U.S. Department of Agriculture to conduct such programs effectively, such committees provide substantial benefits to agriculture and the Nation. Congress further finds that the agricultural stabilization and conservation county and community committee system has developed, over the years, into a highly efficient mechanism for implementing such programs at the local level. Therefore, it is the sense of Congress that the Secretary of Agriculture should ensure that the structure and operations of the agricultural stabilization and conservation county and community committees, as heretofore developed to enable such committees to meet the responsibilities assigned them under section 8(b) of the Soil Conservation and Domestic Allotment Act, and related statutes and regulations, be preserved and strengthened.".

Mr. ZORINSKY. Mr. President, the amendment to H.R. 6590, the tobacco bill, that I am asking the Senate to support has as its purpose the reaffirmation of the integrity and worth of ASCS community and county committees.

The late Senator Allan Ellender, longtime chairman of the Senate Agriculture Committee, characterized the ASCS committee system as "the greatest demonstration on a mass scale of the application of the democratic process to an economic problem ever conducted by any government at any time."

In 1933, when the Congress and the Roosevelt administration came to the rescue of a prostrate agricultural industry, there were differences of opinion on how to carry out the programs to be authorized in the new legislation. The problem was "how a program of economic aid that would touch every farmer in the country could be administered without hordes or bureaucrats descending upon the land."

One suggestion, which was rejected, was that a county farm program administrator be appointed to be advised by a committee of farmers selected by himself.

The eventual decision was that farmers themselves should elect committees to administer the programs at the county and community levels. The system was established as a result of the Agricultural Adjustment Act of 1933 and later renewed and amended in the Soil Conservation and Domestic Allotment Act of 1936 and the Agricultural Act of 1938, and subsequent statutes.

First known as AAA committees, the farmer-elected committees later were renamed PMA committees and more recently, ASCS committees.

The committees have been utilized in administering the stabilization programs for the basic commodities, the cropland diversion, set-aside and other acreage-reduction programs, and at times in the sugar, wool, and other commodity programs.

From time to time, attempts have been made to eliminate or scale down the use of the farmer committees. In 1953, for example, it was proposed that the committees have a merely advisory function to ASCS county office managers selected by USDA in Washington. This was rejected along with limitations on the length of service of county and community committeemen.

Since 1933, the farmer-elected system has helped in the administration of commodity stabilization and price support programs totalling more than $80 billion, along with major acreage diversion and soil conservation programs.

These ASCS committees—community and county—have maintained through the years the capability to adjust to changing economic conditions and to the differing farm programs that Congress passed to meet them. They have the experience and capability to administer with fairness and equity any new farm program—such as the new tobacco program—that Congress may adopt.

Beginning with the enactment of the Agricultural Adjustment Act of 1933, the placing of responsibility for the local administration of farm programs upon farmers themselves has been a cardinal principle. These committee members—more than 100,000 in 3,000 counties—are more important than ever before. At a time when further program adjustments may be necessary to provide farmers with the prices and income needed to stay in business we have experienced leadership. Moreover, we have leaders in these committees who have firsthand information of farmer problems that may be unique to the local area in which they reside.

Mr. President, I urge the administration of President Reagan to utilize these committees to the fullest extent in the implementation of such programs as the tobacco program and all of the other traditional functions to strengthen the Nation's agriculture.

Let me repeat the quote of the late Senator Allen Ellender:

The greatest demonstration on a mass scale of the application of the democratic process to an economic problem ever conducted by any government at any time is the ASCS committee system.

Mr. President, I ask the approval of the amendment and yield back any time that was yielded to me.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HUDDLESTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, we have examined the amendment by the distinguished Senator from Nebraska. I think it is a commendable one and accurately reflects the desires of the Agriculture Committee and I think the Congress as a whole. I am willing on this side to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HUDDLESTON. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from North Carolina yield back his time?

Mr. HELMS. Yes, Mr. President.

The PRESIDING OFFICER. Does the Senator from Nebraska yield back his time?

Mr. ZORINSKY. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (UP No. 1079) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ZORINSKY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1080

(Purpose: To strike the provisions for designating grades of tobacco as "excessively priced" and providing for their sale through a special auction)

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 1080.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 5, strike out "subsections (d) and (e)" and insert in lieu thereof "subsection (d)".

On page 12, beginning on line 7, strike out "(e)" and all that follows through the first period on line 18 of page 13.

Mr. EAGLETON. Mr. President, in a letter addressed to the chairman of the Senate Agriculture Committee, Secretary Block took strong exception to a provision of the pending bill, and I will let the Secretary's own words make the case for the amendment that is now before us. I quote from the Secretary's letter:

The requirement in Section 102 that the Secretary obtain "prior approval" of the associations would impare the ability of the Secretary to carry out the program according to the intent of Congress. Associations, by their State charters, are required to act in the best interest of their grower members rather than the overall price suport program administered by the Department of Agriculture. Therefore, we strongly oppose the inclusion of this language in the bill since it would erode the Department's authority for effectively carrying out its responsibilities.

Therefore, Mr. President, my amendment would strike that provision; that is, that part of section 102, to which the Secretary has interjected his very strong objection.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator for North Carolina.

Mr. HELMS. Mr. President, this amendment, as Senator EAGLETON has said, would delete the provision in section 102 of the bill that authorizes the Secretary of Agriculture to designate certain grades of Flue-cured tobacco as "excessively priced" and allow the producers of such tobacco to sell the tobacco at a special auction without being eligible for price support.

The Secretary of Agriculture has requested that the provision be deleted from the bill.

The Secretary in his recent report on the bill states that the Department does not believe that the provisions could be equitably implemented and administered. The Department also believes that implementation of the provision could create disorderly market conditions and cause growers to produce sizable quantities of carryover or excess quota tobacco.

Mr. President, I have no strong feeling one way or the other for this provision. If the Secretary is correct concerning the impact of this provision, I believe there is some cause for concern. In view of that, I will not oppose adoption of the amendment.

I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment (UP No. 1080) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, we now get to our two major amendments and the two most controversial.

UP AMENDMENT NO. 1081

(Purpose: To authorize the Secretary of Agriculture to adjust the price support for any grade of tobacco for any crop to such a level as may be necessary to achieve a no net cost program)

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 1081.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, after "403" in line 6, insert "and subject to the last sentence of this subsection".

On page 12, after the period in line 6, insert the following: "Notwithstanding the foregoing provisions of this subsection, effective for the 1983 and subsequent crops of tobacco, price support for any grade of any such kind of tobacco may not be made available for any crop of such kind of tobacco at a level which the Secretary determines will result in any net cost to the Federal Government in the operation of the price support program for such crop of such tobacco, except that in no event shall the weighted average of the support rates for all eligible grades of such kind of tobacco be at a level less than the level as which the 1981 crop of such kind of tobacco was supported.

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Mr. EAGLETON. Mr. President, this amendment deals with the guts of the price support program as it applies to tobacco. As we have been discussing here this morning and this afternoon, the basic reason this legislation is being considered at all is that the Congress directed in the 1981 farm bill that the tobacco price support program be carried out at no net cost to the taxpayer except for incidental administrative expenses. We told the Secretary of Agriculture to report back to us by January of 1982 what would be necessary to achieve a no-net-cost program so that we could enact it and fulfill the farm bill directive.

Both the chairman and ranking minority member of the Senate Agriculture Committee who are today floor managing this bill signed the farm bill conference report without taking exception to any of the provisions therein. So I presume they endorsed the directive that the tobacco program be carried out at no net cost to the taxpayer.

In January of this year, as required, the Secretary submitted his recommendations for achieving a no-net-cost tobacco program. With his submittal, the Secretary announced two administrative actions he was taking to limit the program's cost, but at the same time he stated that administrative actions alone would be inadequate to assure a no-net-cost program. Two legislative recommendations were put forth by the Secretary. The first was that a fee be established to be collected from every producer and to be used to offset losses incurred by the Commodity Credit Corporation. The second legislative initiative necessary was to authorize the Secretary to adjust, under certain circumstances, price-support levels for various kinds of tobacco. Let me quote from the Secretary's report:

The formula for determining the price support level adjusts the 1958 support level by a 3-year average of the index of prices paid by farmers, including wage rates, interest and taxes. Over the years, this formula has increased the tobacco support price without regard to changes in production costs and prices of competing supplies. From 1971 to 1981, the support levels for each kind of tobacco increased 129 percent.

Quoting further from the Secretary's report:

Despite marketing quotas and acreage allotments which substantially limit loan activity, the current high support level means that even a modest amount of tobacco coming under loan would require considerable loan outlays. To ensure a no net cost tobacco program, the Secretary must have discretion to adjust price support levels for various kinds of tobacco.

So the authors of this legislation knew clearly what the Secretary said was necessary to truly achieve a no-net-cost program. Although they accepted the recommendation that a producer-financed fund be established, they rejected the Secretary's recommendation that he be given total discretion to establish price-support levels.

The authority given the Secretary can best be described as very narrow. The Secretary will only be allowed to adjust the price-support level on grades of tobacco which will be in excess supply, and he can only adjust the price-support level for those grades to the extent that the weighted average of the support rates for all eligible grades of that kind of tobacco will still not be less than 65 percent of the increase current law requires.

I admit that that is pretty complex but, in plain English, this means that the Secretary still must increase price-support levels at least by 65 percent of what they otherwise would increase under current law. Or, to put it a little differently, the Secretary will still be required to provide a price-support level on Flue-cured tobacco at a level about equal to 140 percent of the cost of production, excluding the cost of land and management. I must say that that is still a very, very generous level, to say the least.

The Secretary's position on this authority is clearly that it does not go far enough. Mr. President, let me quote from the letter Secretary Block sent to Senator Helms concerning H.R. 6590:

The authority to adjust the level of support as prescribed in the bill is very narrow and may not allow the Department to meet the no net cost objective specified in the 1981 Act. The support formula should provide the needed flexibility to assure the competitiveness of U.S. tobacco in export and domestic markets.

Therein is the real problem, Mr. President. As a result of the exorbitant increases that have occurred in U.S. price support levels, we are finding that our markets are slipping away from us. And with decreased demand of U.S. tobacco, the Secretary is forced to lower the amount U.S. producers can grow.

Perhaps the most cogent explanation of what has occurred that I have seen was given in testimony before one of the field hearings of the Senate Agriculture Committee, conducted by Senator HELMS and Senator HUDDLESTON. This was testimony by Dr. Hugh Kiger. He is the executive vice president of the Leaf Tobacco Exporters Association. For the information of my colleagues, before Dr. Kiger assumed his present position, he served as head of the Tobacco Division of the Foreign Agricultural Service of USDA for 14 years, so he knows what he is talking about. Since the transcript of those hearings, to my knowledge, have not yet been printed, I will take the liberty of reading part of his testimony, because, better than any words of my own, it illustrates the need for the matter contained in this amendment. Dr. Kiger stated:

The tobacco price support is based on an archaic parity formula which has little to do with the cost of producing tobacco. Under this formula, tobacco prices have escalated at such a rapid pace that U.S. tobacco has lost its competitive position in world markets. As a result, our foreign customers have begun to look elsewhere for supplies. Countries like Brazil, India, Canada, South Korea, Zimbabwe and Thailand have responded by increasing production and improving quality. In the early Sixties, the United States produced forty-one percent of world production of flue-cured tobacco. That has declined today to only twenty-two percent, and the U.S. decline occurred at a time when world production was expanding by 1.5 billion pounds. Similarly, the U.S. share of world exports of unmanufactured flue-cured tobacco has declined from about sixty percent of the world market in 1966 to twenty-eight percent in 1981. The USDA projects further declines in the period ahead if no changes are made in the program. In just the last seven years since 1973 domestic use has declined by more than 250 million pounds and exports are down by over 100 million pounds.

As disappearance (domestic use plus exports) has declined, stocks of over-priced leaf have accumulated in stabilization inventory and pressures have increased to cut domestic production. The effective flue-cured quota in 1982 will be down almost twelve percent from the 1981 level. With normal weather, U.S. marketings of flue-cured tobacco are estimated at about 940 million pounds, which is 100 million pounds less than estimated 1982 disappearance, 200 million pounds less than 1981 marketings, and nearly 500 million pounds less than 1975 marketings. Unless this program is modified so that this trend can be reversed, the U.S. could be producing only 400 to 500 million pounds by the end of this decade. It's a vicious cycle of higher support prices, reduced sales and lower production quotas. And, the big loser in this process is the grower. If the tobacco isn't produced, the rest of the industry, warehousemen, dealers, manufacturers and exporters are losers too.

The grower can't live with continued reductions in quota. As the quota is cut, farmers are forced to lease in additional pounds in order to operate at peak efficiency. If less pounds are available, as is the case in 1982, the cost of leasing quota must go up. Lease costs of forty to fifty cents per pound were commonplace in the flue-cured area last year, and these are expected to go to sixty or seventy cents a pound this year. This is money that is paid up front before the crop is even planted. In addition, as growers are forced to reduce plantings, their cost will increase as overhead (machinery, bulk barns, etc.) will have to be spread over fewer pounds. This means lower volume for processing which will also affect factory operating margins for dealer companies.

The basic problem is price. USDA statistics show that U.S. flue-cured tobacco is price supported at fifty percent above the cost of production (excluding land, management and lease costs). This compares to peanuts supported at 121 percent of cost of production, corn at 111 percent.

And I enclose in brackets, in my own words, soybeans at 102 percent.

Let me repeat those, because I think those figures get to the guts of the argument.

The USDA statistics will show that U.S. Flue-cured tobacco is supported at 50 percent above the cost of production—150 percent. Yet, for peanuts, it is 121 percent; for corn, it is 111 percent; for wheat, it is 85 percent; and for soybeans, it is 102 percent.

Tobacco is far and away the most oversupported of all the programs. Those are my words. Now back to Dr. Kiger.

And, the end is not in sight. Unless the formula is changed this year, price supports for the 1982 crop increase by another 11 percent and the more desirable export quality tobacco will be supported at more than $2.00 a pound. By 1983 the average support price of flue-cured tobacco will be almost $2.00/lb.

The quality of U.S. leaf has also declined noticeably in recent years due in part to the way price supports are operated.

Continuing with Dr. Kiger:

In 1973 about 84 percent of the U.S. flue-cured crop was composed of mature and mellow grades; in 1981, which was considered a good crop, this figure was only 42 percent. The plain fact, Mr. Chairman—

Says Dr. Kiger—

is the grower has no incentive to produce high-quality leaf when he can sell to the Pool at the support price and clear 50 percent on the deal.

The best way, and perhaps the only way, to ensure that the program is run on a cost-fee basis to the taxpayer is to modify the price support formula so that tobacco can be marketed competitively instead of stockpiled in the Pool. Such an approach would deal with the real causes of the problems—helping eliminate the surpluses rather than financing their subsequent disposal.

Specifically, the Leaf Tobacco Export Association, for whom Dr. Kiger was speaking, recommended the following three things. He said:

Specifically, the LTEA recommends:

1. Stabilization of support for the 1982 crop at the 1981 level.

2. Provide discretionary authority to the Secretary to set the support price for 1983 and subsequent crops at 115 percent to 130 percent of the cost of production, excluding land, management and lease costs.

3. Provide the Secretary authority to further adjust support prices for individual grades of tobacco which he determines to be in excess supply to encourage utilization of such tobacco domestically or for export.

So it is clear, Mr. President, that the farmer stands to lose along with the taxpayer if further change is not made in the manner in which price supports are set.

Finally, Mr. President, the amendment now before us is actually only a modest change from what the committee has proposed. At one time I contemplated going much, much further. But desiring something that is attainable rather than something that is out of pragmatic reach, I have tailored my amendment. Here is how my amendment goes: For the 1982 crop year, the one we are worrying about, the upcoming crop year, the Secretary will set the price support level in accordance with the provisions that are in the bill before us. So for the 1982 marketing year that is about to open up in a couple weeks or within the next few weeks, the price support level will be set in accordance with the Helms-Huddleston bill. However, starting with the 1983 crop year, if the Secretary determines that setting the tobacco price support level in accordance with those provisions will result in the price support program operating at a cost to the taxpayer, we would give him additional flexibility to adjust price support levels. Remember, this bill time and again is referred to as the no-net-cost bill. So, under my amendment, when the 1983 crop year comes around if Secretary Block determines that the title of this bill is not going to be honored, that there will be a net cost to the taxpayer, then we would give the Secretary additional flexibility to adjust the price support levels.

Under the amendment now before us the Secretary would be able to totally forgo any increase in the price support level in order to achieve a no-net-cost program. But very importantly, in no case would he be permitted to let the weighted average of the support rates for all grades of a kind of tobacco fall below the 1981 price support level. That would be the floor and he could not go below it.

Therefore, Mr. President, this will still allow the price support for Flue-cured tobacco to be maintained at least at about 124 percent of the cost of production in 1983. That would track fairly closely with peanuts. Peanuts is at 121 percent. Corn is at 111 percent. So it would still be well over corn. Wheat is at 85 percent. So it would be gigantically over wheat. And soybeans is 102 percent. So it would still be substantially over that.

So it would still be maintained even for the 1983 crop at least at 124 percent of the cost of production.

My amendment will not provide total discretion to the Secretary. In contacting some of my colleagues on an earlier proposal, several of them objected to giving too broad and too sweeping discretion to the Secretary.

So that is why we modified this. We do not provide total discretion to the Secretary. The amendment will at least be a little bit closer to where we ought to be to assure that we have a no-net-cost program and to assure the continued competitiveness of U.S. tobacco in the world market.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have listened with considerable interest to the discourse by the able Senator from Missouri. He based his argument mainly on observations by a distinguished citizen of my State, Dr. Hugh Kiger, who is in the exporting business——

Mr. WARNER. Mr. President, if the Senator will yield, we are not able to hear the Senator. There is some defect in the system.

The PRESIDING OFFICER. There is no volume coming out of the microphone.

Mr. HUDDLESTON. A lot of substance but no volume.

Mr. WARNER. The Senator rarely needs the microphone. He can handle it without the microphone.

Mr. HUDDLESTON. I might observe, if the Senator will yield, it is much better to have no volume and a lot of substance than a lot of volume and no substance. I think we want to hear the substance of the Senator's statement.

Mr. HELMS. I remember making a speech one time, I will say to my friend from Kentucky, and I asked the folks in the back row if they could hear me. They said, "yes, turn down the volume a little bit. We can still hear you."

Senator EAGLETON has based much of his argument on a letter and perhaps other information supplied by a distinguished citizen of North Carolina, Dr. Hugh Kiger.

Dr. Kiger is a friend of mine and I respect him. But he is in the business of exporting and importing tobacco.

I have an interest in the export and import of tobacco, of course, but my main interests are the farmers who grow tobacco.

So you can get all sorts of arguments on this question. I am reminded of the three blind men of Hindustan who confronted an elephant for the first time. One put his hands on the side of the elephant, another one felt the tusk, and another one felt the trunk.

The blind man who put his hands on the elephant's side said, "Surely, it looks like a wall." The blind man who had put his hands on the tusk said, "Surely, an elephant looks like a spear," and the blind man who had grasped the trunk said, "Oh, I know what it looks like. It looks like a snake." So you can become confused based on the kind of information you have.

Earlier today, Mr. President, I alluded to a study by a distinguished, impartial scholar in my State, Dr. Charles Pugh of North Carolina State University on this very question, and his contention is—and I believe he is correct—that the 1981 support level, being 27 cents per pound above production costs, excluding the land management quota costs and interest, and he came up with this:

The proposed support level at 65 percent of formula increase would bring the support level down to the cost of production over a period of a very few years under the present economic conditions. That is in complete variance with what Dr. Kiger said.

The real point, Mr. President, is Senator HUDDLESTON and I and other Senators have conducted hearings, and we have taken the bad news to the farmers of most, if not all, of the tobacco-growing States, and they have made sacrifices, sacrifices which will adversely affect their income because they were aware of the mandate written into this bill in the House of Representatives to make it a no-cost bill.

Also, tobacco farmers if I may say so, Mr. President, are patriotic Americans who want to do everything they can to assure an economic recovery. But all of the rhetoric about tobacco subsidies is so illusory and so misleading when you look at the actual figures. Nonetheless, the tobacco farmers, the men and women who grow tobacco, are good citizens, and they do not want to be in position of being supported by the Government because they support the Government.

Price supports for tobacco, Mr. President, are based on a formula that is particularly relevant to the tobacco economy. It would place such severe hardships on farmers if the formula were changed entirely, and that is not to say there is not room for adjustment in the present formula, and I am pleased that the provisions in this bill as it now stands, without any amendment, would do exactly that. In fact, the provisions in the bill track carefully the adjustments suggested last year by the distinguished and able Senator from Missouri.

You may recall, Mr. President, that Senator EAGLETON suggested last year that the formula be adjusted to allow the Secretary to support different grades of tobacco in such a way that it would be less than the regular support rate. Now the reduction opened to the Secretary would have been 25 percent down.

In our year's review of the tobacco program we developed a consensus among the tobacco family, and I alluded to all the elements of it earlier in my comments, a consensus was reached that we should allow the Secretary to make a 35-percent reduction in any increase in the price support level for any kind of tobacco that would otherwise be applicable. This is an average reduction, considering all of the eligible grades of a particular kind of tobacco, and it means some grades would be reduced more than 35 percent.

We come down to this point, Mr. President: All of us, both House and Senate, Republicans and Democrats, burley, Flue-cured, have spent many hours, many days, many weeks, coming up with a bill that will respond honestly and forthrightly to the mandate that was imposed by the House of Representatives last year. It is the assessment of those most knowledgeable about trade and commerce in tobacco that this adjustment incorporated in the bill as it now stands, before any amendment is considered, will serve the purpose intended by Senator EAGLETON himself, that is, to make U.S. tobacco competitive in world markets. I had been so hopeful that this would satisfy the Senator.

I would suggest to my friend from Missouri that if it does not do the job the tobacco specialists say it will, we can always come back for another look, and I say that with all sincerity.

I hope, Mr. President, that Senator EAGLETON will reconsider, think about it a little bit, and, perhaps, withdraw his amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I yield to the able and distinguished Senator from Virginia who has been so helpful throughout our effort to arrive at this piece of legislation, and I thank him for his interest.

I yield such time as he may require.

Mr. WARNER. I thank the Senator. I appreciate those sentiments of the distinguished chairman of the Committee on Agriculture.

I was hopeful of propounding a question to the distinguished Senator from Missouri. I caught him out of the corner of my eye leaving the Chamber. Does he intend to return to the floor, does the chairman know?

Until he returns to the floor, Mr. President, I will proceed with my statement at this time.

Mr. President, this legislation, H.R. 6590, amendments to the tobacco program that meet the mandate of the Congress that the tobacco program be operated at no cost to the Government.

This year the House and Senate Agriculture Committees have held 10 hearings to receive testimony about how the program could be changed to insure a no cost program and to address the problem discussed in the recent GAO report by the Comptroller General.

In my opinion, this legislation is an honest effort to meet all these concerns.

The Congress and the GAO were concerned with the cost to Government. This legislation establishes a no-loss fund in each tobacco association to insure that CCC will sustain no losses from the price support program.

The GAO is concerned that our tobacco, due to increased cost, is becoming less competitive in the world market. Mr. President, the tobacco farmer is also concerned with this problem, and this legislation provides that the price support formula may be adjusted downward by up to 35 percent of the present formula. This is for two reasons:

First, to reduce the CCC outlays in the amount of price support loans; and

Second, to help make U.S. tobacco more competitive in world trade.

The GAO was concerned about the costs of leasing allotments and the ownership of allotments by nonfarmers. The farmers were also concerned and this legislation provides that:

First. Entities such as corporations, cities, airports, public utilities and so forth, which are not possessed of sufficient tillable tobacco acreage must sell their allotment to active producers;

Second. Fall leasing of tobacco quotas shall no longer be allowed. This is designed to eliminate speculation in the leasing of quotas and make it more desirable for a person to sell quota or allotment they do not intend to farm themselves. Also it will serve to reduce leasing rates;

Third. Tobacco allotments may be sold by willing sellers to active producers. This will move tobacco quotas into the hands of farmers, serving to further reduce leasing costs; and

Fourth. Make a technical change to bring established yields in line with actual production capabilities. This will substantially reduce demand for leased poundage, thereby helping to reduce leasing costs.

Mr. President, this legislation is the result of an honest effort by the tobacco farmers to amend the program to meet the desires of this Congress. The farmers are to be congratulated for this effort, and I believe that we should give them our support and pass this bill.

This legislation will allow new farmers to become a part of the program and everyone supports this idea. But we are being asked to allow this legislation to be in effect for only 3 years.

Startup costs for the new tobacco farmer are extensive. What financial institution is going to make the loans necessary with only a 3-year guarantee? If we truly believe that new farmers should be allowed to grow tobacco, then we should reject a 3-year time limit. Let us give those new farmers a chance. We should not give with one hand and take away with the other.

This bill will answer the basic questions that were raised by the Congress last year. For the first time, we find that farmers have agreed to pay into a fund that will incur "no cost to the Federal Government" for their program.

We should defeat any amendments that will create uncertainty and unnecessary farmer concern about the future of this program.

The tobacco farmers in Virginia are small farmers and they have agreed to assume these costs. They have not asked that similar provisions be extended to other agricultural commodities. They believe that this program, which allows them to keep their heads above water and continue farming other crops, is of vital importance.

You should be aware, Mr. President, that this legislation will impose additional costs on tobacco farmers and will significantly reform the program.

This legislation deserves our support and amendments that are punitive in nature should be defeated.

Mr. President, I urge the adoption of this program without punitive amendments.

I see the Senator from Missouri has returned, and I will now respectfully ask of him the following question: If we were to accept the amendment as proposed allowing the Secretary of Agriculture to freeze these prices, would it not be possible for a Secretary to freeze them in perpetuity at the 1981 level?

Mr. EAGLETON. As the amendment is drafted, the price support could never go below the 1981 support level. There would be an absolute minimum floor beyond which the Secretary could never go.

Mr. WARNER. The question, though, is in terms of the upward movement.

Mr. EAGLETON. That assumes that he needs to get to that level in order to make this truly a no net cost program. And that is what is advertised in this bill—"no net cost."

This is the mechanism by which he could discharge his obligation under a no net cost bill.

Mr. WARNER. My second question would be, if such an authority were given to the Secretary, would it be the Senator's intention to perhaps put this same concept in effect with respect to other commodities?

Mr. EAGLETON. I think with respect to other commodities in which there was an enormous surplus question, I would take 124 percent of cost of production as a price support level. I think that is more than enough. I think it is generous in the extreme.

I read into the RECORD from Dr. Kiger's testimony what the support level was for other commodities. He said that peanuts, next to tobacco, which is the most abused was 121 percent, corn was 111 percent, wheat was 85 percent, and soybeans was 102 percent.

Mr. WARNER. But this concept, in a sense, might well be considered a pilot project that could be carried over to other commodities?

Mr. EAGLETON. I would be willing to write into this amendment a provision that would say that there shall be a price support level for no commodity known to man above 124 percent of the cost of production. I think it ought to be even lower than that, but I am trying to achieve the attainable, not necessarily the totally desirable.

Mr. WARNER. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I yield to the Senator from North Carolina.

Mr. EAST. Mr. President, I would like to comment briefly on this proposed amendment by the very able Senator from Missouri.

Again, to get back to the first principles of what this bill is about, the mandate was to create a no net cost program. And the vital component of that is the assessor's fee on growers, the producers, the farmers, if you will, the backbone of this entire industry.

Now, they are accepting this assessor's fee; other commodities are not subjected to it, one might note in passing.

This 1981 bill goes beyond that. It does itself provide for a spiraling downward of the price support formula. It gives greater discretion to the Secretary of Agriculture to do that, and the producers and the farmers, the backbone of the industry, have accepted that, too.

Now, it is important to remember, in contrasting tobacco production with other commodities, that they have production controls. This thing cannot spin out of control as it can with other commodities; very tight production control, which gives some built-in guarantees as the prevention against the no net cost problem.

I am submitting, Mr. President, that the assessor fee, plus the current downward spiral of the formula in the current bill, does meet that mandate.

What the distinguished Senator from Missouri is saying is let us push it ever further. Well, there is no end to this. I think at some point it becomes a bit punitive. It is second guessing by the amendment process on the Senate floor.

If I might indulge a bit because I come from a great State, in many ways, but the great State, we would like to think, in terms of tobacco growing, buying and selling and exporting and manufacturing. The tobacco business is a big family. You have growers, warehousemen, buyers, exporters, and manufacturers. And, as my distinguished colleague from North Carolina has pointed out, as in any family, there are differeing perspectives. They do not always agree every moment.

Our job is to try to put the whole thing together to keep this thing on a sound basis. It is frustrating. We are not complaining. It is our job, it is our responsibility, and that is what we are trying to do.

I know Dr. Kiger, who the distinguished Senator from Missouri quotes. He is an incredibly able man. And he knows his segment of the industry as well as any man I know. He knows buying and exporting. And sometimes they perceive their interest as being somewhat at odds with the growers and the producers. I understand that. in fact, often growers and producers understand their interest to be different than the buyers and the exporters and likewise with the manufacturers and likewise with the warehousemen.

Our job representing these great constituencies is to try, as reasonably as we can, to keep the whole family in balance. it is not easy. If I had a simple formula for it, I would produce it ipso facto here on the Senate floor. I do not. I can simply say I have the greatest respect for Dr. Kiger and the greatest respect for that segment of the industry.

But I am saying that, when we look at this whole operation that we are trying to put together here at this time with the economic and political realities that we face, this is the best achievable under the circumstances. As Senator HELMS, my distinguished colleague from North Carolina, has pointed out, ultimately, in this great business of tobacco growing and manufacturing and so on in this country, we come down to the small tobacco farmer who makes it click. And he has done that over the decades and he has his problems too—inflation, interest rates, escalating production costs. He has production controls. How do you think he views this? He has a little different perspective than Dr. Kiger, and understandably so.

We are trying to keep the whole house moving along in the right direction. We feel that this bill does it. We respectfully ask our colleagues to accept our judgment on this and not create distortions via this amending process.

Quite candidly no one could say. It is a judgmental thing. We have tried to do our best. We took the mandate of last year, the no-cost mandate. We are getting it out with the assessor fee and the formula down spiral, and who bears the greatest burden of that? The producer and the farmer.

At some point those of us representing this great area are going to say, "These people now are bearing a good share of it. Let's not overdo it." That is where we are right now. To be candid with you, with all due respect on the other segments of the industry, I will be back at later times and in later forums, and so will the distinguished Senators here defending this, to help other segments of this great industry in their battles before this Congress, perhaps involving who knows what. They know what it is and they know who will be out here defending their points of view and their unique problems.

So, I would simply ask our colleagues to understand that in this case a substantial new additional burden is being accepted by the tobacco grower and producer. We hope that that will be respected; that we can put this package together, we can get our tobacco markets open, we can begin the selling, the buying, the exporting once

again and the manufacturing of this great product.

I appreciate the opportunity, Mr. President, of being able to speak, and I thank the distinguished chairman of the Senate Agriculture Committee.

Mr. HELMS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. HELMS. I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, I wish to again enter into a colloquy with the distinguished Senator from Missouri. After again examining his amendment, it is not clear to me exactly what the Senator means when he uses the terms "price support" and "support rates."

When you freeze, do you freeze the formula or the dollar value?

What concerns me is if you freeze the dollar value and we have the misfortune to go into a period of inflation, the farmers would be penalized, being held at the 1981 floor.

Mr. EAGLETON. May I respond to the Senator from Virginia by saying that this is the central issue of this bill. This bill is advertised, is sold, is merchandised, is lobbied as a no-net-cost bill. If the sponsors truly mean what they say, then that is what the bill should produce. Therefore, we give a very limited authority to the Secretary of Agriculture, saying that in order to truly make it no net cost, he can work down the price support level to 124 percent of the cost of production, but in no event can he go below the 1981 price support level. All I can say to my colleague is that this amendment is a sort of put-up-or-shut-up amendment. That is what it really boils down to. Do you really, truly mean no net cost, or do you mean no net cost and then you wink two or three times?

Mr. WARNER. It is not the intention of the sponsors of this bill to in any way deceive the public. As a matter of fact, the Secretary is given the discretion to adjust the contributions to the CCC. That provides the flexibility to maintain the no cost quality.

Mr. EAGLETON. That was the point raised by the distinguished junior Senator from North Carolina on the assessments. I say, amen. If the fee does what it is intended to do and achieves no net cost, all well and good, the price support level will be set in accordance with the bill. But do you truly want no net cost or do you want to have a cosmetic bill, which is the way it is now written, which tells the whole world it is no net cost, but, unfortunately, may cost a heck of a lot in reality.

Mr. WARNER. We steadfastly maintain the no cost part of this legislation. The question I am asking of the Senator is this: Is this amendment not drawn in such a way as to remove the flexibility to maintain an equitable relationship with the farmer?

Mr. EAGLETON. I would respond just the opposite. It gives to the Secretary a modicum of discretion, not the total discretion that at one time I wanted to give to him because that frightened some of our colleagues. It gives the Secretary a very limited discretion to try to live up to the mandate of the bill: No net cost in truth, in fact, in reality. So if the sponsors of the bill truly want no net cost, they should not be worried one whit about this amendment.

If they think it is going to have some net cost, then they would have to worry a little about this amendment. That is what it boils down to.

Mr. WARNER. All I want to see is that the farmers will be protected from any inflation this country may experience in coming years. It seems to me this prohibits any protection from inflation.

Mr. EAGLETON. I respectfully disagree with my colleague.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Mr. EAGLETON. How much does the other side have?

The PRESIDING OFFICER. One minute, forty-four seconds.

Mr. EAGLETON. I suggest the absence of a quorum with the time to be charged to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I yield 3 minutes to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise in support of the amendment of the distinguished Senator from Missouri, and address myself to a little different aspect of the matter than that which has been the main thrust of his remarks. That has to do with what I consider to be the free enterprise aspects of the tobacco allotment program.

There is not any reason under the Sun why everybody should not be permitted to participate in the tobacco program and, whatever the support price might be, to participate in it. But in connection with the subject of tobacco, if you do not have an allotment, you are not permitted to do so.

In the name of everything that is right, just, fair, and decent, how can anyone who believes that the free enterprise system ought to be operable for all the people of this country defend this program and defend, at the same time, the question of whether or not some may grow tobacco and others may not?

I am realist enough to understand that the answer may be, "Well, they can grow tobacco but they just cannot participate in this portion of the program."

True enough, but without being permitted to participate in the support price program, it would be unfair competition and they would not be in a position to exist.

I think it takes a searching of the conscience. I think it takes a reevaluation of what this debate is all about, of what this program is all about.

Why should some be permitted to have so much and others not be able to have anything? I know the argument is that these are small people and they need this protection. Well, there are a lot of other people out there in the country today who are small people who would like to grow tobacco and would like to make their living doing it. Particularly at this point in our country's history, when economic conditions are so difficult, when people are looking for employment, I believe that those who stand up and fight for this program ought at the same time to be standing up and opening doors to make it possible for all to participate in the program and not just a limited few.

Mr. President, I hope before this debate is concluded to offer specific language addressed to that very issue. I believe that it moves in the right direction that we support the Eagleton amendment. I urge my colleagues to do just that.

Mr. EAGLETON. Mr. President, I think we are now getting to the close of this debate on this amendment. I shall be brief and then yield back the remainder of my time. Perhaps we shall have some concluding remarks by Senators HUDDLESTON and HELMS or others.

I appreciate the point just raised by Senator METZENBAUM of Ohio because, if, indeed, one is a true exponent of free enterprise, I do not see how one could oppose the Eagleton amendment. Is it the epitome of free enterprise that, for the one commodity grown in America that is the most dangerous to human health, the most

disastrous in terms of public health, we would support it at 150 percent of the cost of production and then crops that, because of good nutrition, can improve or extend life, we support at much lesser amounts? Peanuts—you can do with or without them, but it has always had its little special benefits. It is supported at 121 percent; corn 111 percent; wheat 85 percent; soybeans 102 percent.

So for the killer crop—and how many national Public Health Service reports have we had written on tobacco as it affects women, tobacco as it affects men, tobacco as it affects the elderly, tobacco as it affects the young? Surgeon General after Surgeon General, report after report, a bookshelf of them. Yet in the name of free enterprise, and we have some of the leading exponents of free enterprise on the floor—there are no greater exponents of free enterprise than the two Senators from North Carolina. In the name of free enterprise, we are going to support the killer crop at 150 percent of the cost of production.

Are they sincere when they tell us that they really believe in a no-net-cost program, those pious words written into this bill? No net cost. Yet they know there is going to be a net cost. That is why they fear this amendment. This amendment keeps them at their pledge, at their word. It says OK, gentlemen, you say no net cost. It will be no net cost.

But they do not want that. They want the advertisement. They want to wave the banner of no net cost, but they do not want it in reality. They want tobacco to continue to get the same egregious treatment, excessive treatment, generous treatment, that the tobacco lobby has been able to produce through the years.

This amendment gets to the heart of the bill because the rest is just a cosmetic sham especially if you say tobacco is going to be supported at 150 percent of the cost of production.

I yield back the remainder of my time.

Mr. HUDDLESTON. Mr. President, how much time do I have?

The PRESIDING OFFICER. One minute and forty-four seconds.

Mr. HUDDLESTON. Does the Senator from Missouri have any time remaining?

The PRESIDING OFFICER. He has yielded it back.

Mr. EAGLETON. If I have any, Mr. President, may I yield it to the Senator from Kentucky? May I renege and offer it without objection?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. How much time is that, Mr. President?

The PRESIDING OFFICER. That is 2 minutes 41 seconds.

Mr. HUDDLESTON. Mr. President, I regret very much that I was called from the Chamber to a very important meeting that precluded my participating more completely in this debate. Let me say a couple of things.

The bill as it is written is a no-cost bill. As has already been pointed out, the provisions in the bill assure that there will be no cost to the taxpayer regardless of what the support price might be. The support price will come down when the cost of production comes down. If Reaganomics works and we have no inflation, the support price will not go up.

The Senator from Missouri refers to tobacco as a killer crop. If tobacco is a killer crop, then so is sugar. How many people die in this country from diabetes and overuse of sweets and from obesity? So is wheat a killer crop and the bread it produces if it is misused. So is virtually every other crop that is put on the table for consumption because the abuse of any crop, any product, any foodstuff, can result in harm to one's health.

The Senator from Ohio is concerned because the little farmer is able to participate in this program. That is the essence of the program as we reported it out. It keeps the monopolies from existing, makes production available to all.

The Secretary of Agriculture says he wants more discretion. Before this week is over, there is going to be a suggestion that he be given total discretion in the milk program. He wants it in the wheat program, in the corn program. I have been in this body 10 years. Every Secretary of Agriculture has come before the Senate Agriculture Committee and asked for more discretion. That is what they all want. That is what this administration's farm bill consisted of, if you remember, discretion for the Secretary of Agriculture to set support levels at whatever figure he determines is necessary. Every Secretary has asked for it; no single Congress has given it to him. I do not believe this Congress is going to give it to him, certainly not in the broad array of other commodity programs we have and, hopefully, not in this program.

This is the amendment that asks for the pound of flesh. The American tobacco farmer had decided that he will accept the burden of the cost of his program. Now there are those who want to go further, slap him in the face. It is not enough that he has a low-cost program to start with and is now willing to assume the full burden. There are those who want to press upon his brow the thorns of additional regulation, additional cost—as a matter of fact, a program, a plan that will eliminate the program altogether.

It is not fair, not equitable, it is not in the best interest of American agriculture, it is not in the best interest of the economy of the various jurisdictions that benefit from this product.

If the Senator from Missouri and the Senator from Ohio are so concerned about the health aspects of tobacco, where is that bill to eliminate the use of tobacco? That is the approach. Why not ban it altogether? It is going to be grown if we do not. If we do not grow it in this country, they will send it in from some other country. They just want to put all the burden on, do all the harm to, the small tobacco farmers in my State of Kentucky, in North Carolina, and the 20 other States that produce this crop. Give us a bill eliminating the use of tobacco. Make it illegal, I say to the Senator from Missouri, every time he opens up his pack of cigarettes.

We tried that before in this country. It did not work too well. But if we are really serious, if we think this little program that helps the little farmer of this country is causing the deaths that he indicates, let us eliminate the product. I do not know of anybody in the body yet who has had the courage to do that.

Mr. EAGLETON. Will the Senator yield on that point?

Mr. HUDDLESTON. I shall yield if I have any time left.

Mr. EAGLETON. Mr. President, I want to make it clear I am a tobacco user. It is a curse. It is the worst curse that has been inflicted upon me that I know of. I got into it at age 17 and I have been puffing two packs of these things a day since age 17, 35 years.

I know it is going to shorten my life. I know it will probably kill me. I despair of the day I ever got addicted to this horrible mess. Thank God my children are not addicted.

I am not proud of the fact that I do smoke. I wish I has had the courage to quit a long time ago.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HUDDLESTON. Some people drive too fast and have a great passion for high-powered cars and get themselves killed, but I have not heard of an amendment on the floor to eliminate the automobile business. Do not blame the little tobacco farmer for the weakness that you may have for that particular product.

Mr. EAGLETON. Do not shed any tears for him either. You can list him along with other merchants of death.

Mr. HUDDLESTON. There are people who drink too much and eat too much, but let us put the blame where it ought to be. This is not a program that deals with that. The Director of the Office of Smoking and Health has said that this program has no effect on the question of tobacco

and health. Former Secretaries of HEW have said that. Other people who are just as concerned about the misuse of this product as is the Senator from Missouri, have upon reflection and study, come to the conclusion that it is not the production of the product that is causing the difficulty.

Mr. President, I hope that this body will take into account what will done to the price support program by the bill, take into account that the program under the bill will be a no-cost program. Just because the Secretary of Agriculture wants more discretion, as he does in every single program that we have, does not mean Congress should be willing to abdicate its responsibility and give it to him. It never has in the past. The amendment presented by the Senator from Missouri does exactly what he said it does in his opening statement. It attacks the guts of the program.

It is not an amendment designed to help improve the tobacco program, or help make the program work, or help make it cost free. It is an amendment designed to eliminate the program. We face that time and time again in the Senate, and I hope that our colleagues will respond today as they have on previous occasions.

The PRESIDING OFFICER. The time of the Senator has expired.

Several Senators addressed the Chair.

Mr. THURMOND. Mr. President, I ask unanimous consent for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has 2 minutes.

Mr. THURMOND. Mr. President, tobacco is the No. 1 money crop in my State. If anything happens to the tobacco program, I do not know what will happen to the economy in my State, especially farming. Most of these small family-type farmers make their living from tobacco.

I have already given the figures to show how from a national standpoint it would affect the economy. For my State it would almost be disastrous for the farming people.

Personally, I do not smoke. I think it is detrimental. However, a lot of people do smoke. They get relaxation from smoking. They enjoy smoking. They are going to smoke, just like a lot of people drink. When we hear a lot about the detrimental effects of tobacco, what about the detrimental effects of alcohol? Alcohol abuse breaks up homes and injures and destroys people's lives and kills more people on the highways than tobacco or anything else.

When the time comes for that finance bill increasing the tobacco tax, we are going to ask that they increase the tax on alcohol and cut some off of tobacco.

If we eliminate the support program, tobacco will be cheaper, cigarettes will be cheaper. If that happens, then there will be more cigarettes smoked. So if you want to protect the health of the people, keep this support program that keeps the price of cigarettes higher and therefore makes tobacco products less appealing to the public.

The PRESIDING OFFICER. The Senator from North Carolina has 1 minute and 44 seconds remaining.

Mr. HELMS. Mr. President, the majority leader is on his way to the floor, and he wishes to make a comment. Therefore, I ask unanimous consent that a quorum call be placed chargeable to either side.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I ask unanimous consent for 2 minutes pending the arrival of the majority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator has 2 minutes.

Mr. METZENBAUM. Mr. President, I have heard some unusual arguments, but the ones I have heard previous speakers make in connection with this subject really go to the extreme, and that is that we ought to keep up the price of tobacco so that people will smoke less. I guess if you followed that to its logical conclusion, we ought to be providing support prices for all of the drugs that people use and should not be using in order to drive their prices higher and higher.

I do not know too much about that subject except what I read in the paper. I gather the price is very high and they still continue to use them.

The facts are that if you want to get rid of tobacco—and if I understand some of the previous speakers who are prepared to talk about total elimination of the tobacco crop of this country, maybe it is a subject hearings ought to be held on and maybe it is a subject that deserves real consideration.

I do not smoke. I do not know of any particular good that comes from people smoking in this country. I think maybe an avenue has been opened for consideration. The fact is that we are not talking about whether we are going to eliminate cigarette smoking or whether we are going to continue it. What we are really talking about is the free enterprise system and the support system. The free enterprise system relates to the question of whether or not anybody and everybody has the right to go into the business of growing tobacco, and the support system relates to the question of whether or not the Government of the United States sees to it that the price is kept up at an artificial level. If we do not believe it ought to be kept at an artificial level, then we ought to support the Eagleton amendment. If we do not believe that we ought to be restraining people with respect to the allotments and want to permit those who want to grow tobacco to be given an opportunity to do so on the basis of other people in the country, then Senators should be prepared to support an amendment that I will offer at a later point this afternoon.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I ask unanimous consent for a period not to exceed 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WARNER. Mr. President, we are getting into trying to legislate morality here, and I do not wish to be at all inflammatory on the subject of alcohol, drugs, tobacco, and so forth. The distinguished Senator from Ohio talks about economics and free enterprise. Let us not delude ourselves. If we were to kill the tobacco program altogether, if we were to legislate it in such a manner as to remove it, it would be imported into the United States. We could not put an embargo on it to stop it.

I believe that what we are trying to do today is put into effect a reasonable no cost program, recognizing that it is left to the individual to make his or her own choice as to whether or not to use it. The program enables us not only to do it in an equitable manner but also to maintain quality so that we will not be deluged by imported tobacco of lesser quality.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I will not take but just a second. I have high regard for the Senator from Missouri. I understand his concern in this field. In my view, the amendment which is now pending has nothing to do really with smoking and health. I am prepared now to make a tabling motion against the amendment, unless some other Senator wishes to speak at this point. I see no Senator seeking recognition.

Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alaska (Mr. MURKOW-

SKI) and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 40, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—56

Abdnor	Exon	Matsunaga
Andrews	Ford	Mattingly
Armstrong	Goldwater	McClure
Baker	Gorton	Melcher
Baucus	Grassley	Nunn
Boren	Hart	Pressler
Boschwitz	Hawkins	Rudman
Brady	Hayakawa	Sarbanes
Burdick	Heflin	Sasser
Byrd, Harry F., Jr.	Helms	Schmitt
	Hollings	Simpson
Byrd, Robert C.	Huddleston	Stennis
Chiles	Inouye	Stevens
Cochran	Jepsen	Symms
Cranston	Johnston	Thurmond
Denton	Kennedy	Tower
Dole	Laxalt	Wallop
Domenici	Long	Warner
East	Lugar	Zorinsky

NAYS—40

Bentsen	Garn	Nickles
Biden	Hatch	Packwood
Bradley	Hatfield	Pell
Bumpers	Heinz	Percy
Cannon	Humphrey	Proxmire
Chafee	Jackson	Quayle
Cohen	Kassebaum	Randolph
D'Amato	Kasten	Riegle
Danforth	Leahy	Roth
DeConcini	Levin	Specter
Dixon	Mathias	Tsongas
Dodd	Metzenbaum	Weicker
Durenberger	Mitchell	
Eagleton	Moynihan	

NOT VOTING—4

Glenn	Pryor	Stafford
Murkowski		

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I have one more substantive amendment. However, I understand the unanimous-consent agreement was that at 3 o'clock we will go to the consideration of the nomination, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. EAGLETON. Might it be wise, Mr. President, to call up my amendment and defer debate on it until we conclude debate on the nomination?

Mr. BAKER. I thank the Senator. If the Senator will yield to me, I thank the Senator for his suggestion.

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. Senators standing in the aisles and talking will please take their seats.

NOMINATION OF JAMES G. STEARNS

Mr. BAKER. At 3 o'clock today, under the order previously entered, we will proceed to the consideration of the nomination of James Stearns in executive session. I would propose, if it is agreeable to the parties, that the Senator's amendment be made the pending business at this time, and then we will provide 4 or 5 minutes of morning business. I see several Senators who have matters they want to put in the RECORD. Then we can go on to the executive session and back on this, with that amendment pending when we return.

Mr. CRANSTON. Mr. President, I am very pleased that the Senate Agriculture Committee has brought to the Senate floor H.R. 6590, legislation to reform the tobacco program. As one who sympathizes with the view that we should not spend Federal dollars to subsidize a product which the Federal Government warns against consuming, I believe that enactment of the No Net Cost Tobacco Program Act of 1982 is indeed desirable.

As my colleagues know, last December the Congress adopted an amendment to the 1981 Farm Act requiring the tobacco program to be operated in such a way as to result in no net cost to the Government beyond the normal administrative costs associated with all commodity programs. The legislation before us today is in response to that directive.

H.R. 6590 responds to the three principal concerns I have had about the tobacco program—that it not cost taxpayers any money, that the price support levels be such that U.S. tobacco is more competitive with foreign grown tobacco, and that the allotments—if they are continued—be owned by growers.

Specifically the bill would require tobacco producers to contribute to a fund which would be used to offset losses the Commodity Credit Corporation might incur due to the tobacco price support program. The Federal Government thus would not sustain any losses from continuation of the tobacco program.

Secondly, the bill would give the Secretary of Agriculture some flexibility to lower the price support level if there is an excess of a certain grade of tobacco. I do not feel that the Secretary should have total discretion to set the price support level for any commodity, including tobacco. To date, Congress has retained this authority to set support levels for all commodities in the farm program, insuring that the farmer receives a fair return on his investment. H.R. 6590 would provide the tobacco grower at least 65 percent of the increase he otherwise would receive under existing law. The Secretary's ability to adjust the price support significantly—by as much as 35 percent—however would help reduce CCC outlays. Moreover, it would make U.S. tobacco more competitive in world markets, improving U.S. sales.

Additionally, H.R. 6590 would make important changes regarding tobacco allotments. It would require allotment owners not primarily engaged in farming and those who do not have sufficient tillable land to grow tobacco to sell their allotments by December 1, 1983, to active tobacco producers. Furthermore, H.R. 6590 would permit the sale of Flue-cured tobacco allotments by willing sellers to farmers. These changes should help move a greater number of allotments into the hands of growers, reduce leasing costs, and make the program more farmer oriented and less allotment holder oriented.

Mr. President, H.R. 6590 goes a long way in reforming the Federal tobacco program and addresses the concerns that many have had. It does this without disrupting the farm economy so vital to tobacco-growing States.

I think these changes should be implemented and tested before there is any consideration of further modifications in the tobacco program. As many of my colleagues know, tobacco grown in 1982 will not be completely marketed for a number of years. The process is a lengthy one, involving harvesting, drying, curing, further processing as well as marketing. Thus it will take several years—beyond 1985—to determine the overall success of the reforms contained in H.R. 6590. To terminate the Secretary of Agriculture's authority to adjust the price support level in 1985 could lead to turmoil in the farm sector and market instability with more tobacco going under loan in light of the uncertainty of the program's future. This could result in losses to the Commodity Credit Corporation which the farmers would be called upon to pay. I believe that it is best for the Department of Agriculture to monitor these changes in the tobacco program and report back to Congress should problems arise that warrant further legislative action.

In sum, H.R. 6590 embodies reforms important to both the tobacco grower and the American taxpayer. It has my support.

Mr. NUNN. Mr. President, I want to commend the Senator from North Carolina and the Senator from Kentucky for taking the lead in both drawing up and getting the Senate's attention on this reported tobacco bill. We have the tobacco market which is going to open in a very few days, and this legislation it is very apparent is important to us, who have an important economic stake in the tobacco industry.

Mr. President, from the first settlers of the State to the present time, tobacco has been firmly entrenched in the economy of the State of Georgia.

Georgia has 55,000 acres of tobacco under production, producing 110,500,000 pounds with a crop value of $154,217,000. The total number of jobs generated both directly and indirectly from the production of tobacco in the State has been estimated at 45,760 providing wages of $625 million.

Mr. President, I believe H.R. 6590, the No Net Cost Tobacco Program Act of 1982, is a major step forward in assuring that tobacco allotments are held by actual tobacco producers and those sharing in the risk of tobacco crop. The bill takes steps to insure that the price support program is paid for by the producer-owned marketing associations, not the U.S. Department of Agriculture and the American taxpayer. I believe these steps along with the other provisions of the bill will make U.S. tobacco again competitive in the world market.

With tobacco markets in Georgia originally scheduled to open this week, the urgency of today's acceptance of H.R. 6590 is evident. I urge my colleagues to join me in support of the No Net Cost Tobacco Program Act.

Mr. President, I would like to commend Chairman HELMS and Senator HUDDLESTON of the Senate Agriculture Committee for their diligent efforts in bringing the No Net Cost Tobacco Program Act of 1982 to the floor today. Without their hard work, this important bill would not have been possible. I have worked closely with Senators HELMS and HUDDLESTON and other tobacco State colleagues on this legislation which meets the mandate of the 1981 farm bill.

I would also like to take this opportunity to thank several agriculture leaders from Georgia who have supplied me with detailed information on the effects of H.R. 6590 on the Georgia tobacco industry and have advised me during the development of this bill. Mr. Bob Nash, president, Georgia Farm Bureau; Mr. Robert Cox, chairman, Georgia Agricultural Commodity Commission for Tobacco, as well as Mr. Frank Stickland, and other tobacco producers, warehousemen, and interested parties in Georgia, have been very helpful and willing to provide me with information and guidance.

AMENDMENT NO. 1922

(Purpose: To provide a different effective date)

Mr. EAGLETON. Mr. President, I call up my amendment numbered 1922.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an amendment numbered 1922.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, beginning with line 2, strike out all through line 5 and insert in lieu thereof the following:

SEC. 102. Effective for the 1982 through the 1985 crops of tobacco, section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end thereof new subsections (d) and (e) as follows:

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until the hour of 3 p.m. in which Senators may speak for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, as the Senate makes preparations to debate a new tax bill, I would like to take this opportunity to ask unanimous consent that a report done by the Congressional Research Service, at my request, be printed in the RECORD immediately following my remarks. I believe that my colleagues will find this report an informative compilation of data on recent changes in tax law governing railroads.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. This report explains provisions in the Economic Recovery Tax Act of 1981 pertaining to the railroad industry. Revolutionary changes in railroad depreciation procedures now provide some substantive short-term advantages for American railroads. As the upper Midwest struggles to adapt to widespread rail line abandonments and reductions in service, I would ask my colleagues to look closely at the tax breaks given to these companies. Congress has made a substantial effort to help U.S. railroads regain economic strength and maintain financial solvency. However, if the "common carrier" obligation is no longer enforced because of rail deregulation, we have a situation where advantages are awarded but no promise of service is considered.

I am also concerned about the increase in holding company operations within the rail industry. Again, on the face of it, holding company economics can be a great boon to marginal railroads. However, these economic advantages must be coupled with a responsibility to provide adequate rail service. My home State of South Dakota has suffered severe transportation losses in recent years. South Dakotans are not entirely confident that the good will of large holding companies will be sufficient to insure dependable and affordable transportation service. As Congress works on legislation affecting the Tax Code and regulatory procedures, I would ask that my colleagues remember the critical importance of continued rail service to our agricultural communities. Any legislation under consideration must serve the interests of all Americans, not just large companies with a monopoly market.

EXHIBIT 1

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., June 14, 1982.

To: Senator Larry Pressler.

Subject: Background on the impact of the Economic Recovery Tax Act on the treatment of railroad track structures.

I am providing this memorandum in response to your request for background on the impact of the Economic Recovery Tax Act of 1981 on the railroad industry. The discussion specifically deals with the tax treatment of railroad track (track structures) since these assets have been the focus of particular attention in response to changes in the 1981 Tax Act.

Under prior law capital outlays for track structures were depreciated under the Retirement-Replacement-Betterment (RRB) method of accounting. Under this approach track structure costs were not depreciated until they were replaced or retired. When replaced, the total current dollar cost of the replacement was deducted which, as a result of inflation, was more than the original historic cost of the track. If there was a physical improvement in the track or new track was put in place, the cost of the "betterment" would be capitalized and deducted later on. Since betterment costs were capitalized and deductions equaled the replacement costs incurred, costs equal to the original outlay plus any betterments remained undeducted until the track was retired.

If the tax base was economic income, the cost of physical assets would be deducted as they depreciated, with adjustments to offset distortions resulting from the impact of inflation (economic depreciation). For firms in most industies, postponing the deduction of depreciation until replacement or retirement would be unfavorable relative to the deduction of costs over the lifetime of the asset (without inflation adjustments) which was the depreciation method used before the 1981 tax act. Incurring deductions in later periods would delay the increase in after-tax income stemming from the deduction. This would be a disadvantage since a yield can be provided on this income.

The railroad industry, however, has found the RRB method, which was an acceptable cost recovery method by the IRS for railroad track, more advantageous since the enactment of the Federal Income Tax in 1913. Since 1913 railroad track outlays have primarily involved replacements. An investment involving a sizable amount of replacement was very favorably treated as a result of the increment in tax deductions stemming from the deduction of replacement costs. For a given amount of replacement, the size of the increment varied, depending on whether the track would have remained in service or been retired, if the track had not been replaced. If the track otherwise would have been retired, the original cost of the track would have been deducted anyway, decreasing the effective increment in tax benefits from replacing the track.[1]

[1] The replacement of track provides more tax benefits than track retirement since the actual replacement cost is deducted in the former case and

Expensing a large portion of the cost speeded up deductions, deferring the imposition of tax liability from the first period to the period when tax deductions would otherwise take place. Deferring tax liability is akin to an interest-free loan of the tax liability for the deferral period. Despite the expensing of replacement outlays the railroads could still take advantage of the investment credit for these costs. Certain track-related costs, such as maintenance and repair, would be immediately expensed without the use of the investment credit (with certain apparent)[2], like maintenance costs in general.

The use of the investment credit has been maintained in the new law, although no repairs will be able to use this benefit. However, there are three separate aspects to the change in the treatment of the cost recovery of track structures. (1) The cost of track that had not been deducted as of December 31, 1980, the so-called "frozen assets", is deductable over a period of from 5 to 50 years. This provision is expected to result in a substantial amount of tax benefits over the next few years. An article in the October 27, 1981 edition of the *Wall Street Journal* notes that there is approximately $8 billion of such track that can be deducted as a result of this provision.[3] (2) Within a transition period from 1981 to 1984 expenditures for laying track can be written off over a particularly short amount of time. The cost of track placed in service in 1981 was fully expensed in that year. Table 1 contains the depreciation-schedules for track placed in service in 1982, 1983 and 1984. (3) For property placed in service after 1984, the cost of the track can be written off over five-year periods. The tax changes are briefly examined below.

TABLE 1.—PERCENTAGE OF THE COST OF TRACK DEDUCTIBLE IN THE INITIAL OWNERSHIP YEARS FOR TRACK PLACED IN SERVICE FROM 1982 TO 1984

Year place in service	1982	1983	1984
Ownership year:			
1	50	33	25
2	50	45	38
3		22	25
4			12

Depreciating the cost of investment in track structures placed in service after 1984 over five years (or fewer for structures placed in service between 1981-1985) provides the benefit of deferral. Recovering the cost of track structures over five (or fewer) years is very generous since tracks last so long (i.e., they depreciate so slowly). The investment credit, however, favors short-lived assets.

The RRB approach and the new method can be compared by measuring the discounted present value of the tax benefits of an investment applying the two approaches. The present value of the tax factors for an investment in track structures (after 1985) under ACRS is approximately 50 cents per dollar of spending. The present value of the tax deduction and investment credit under RRB would be approximately 48 cents.[4] The value of the tax treatment of track structure investments in both cases is thus quite similar.

The current tax treatment of railroads also can be judged on the basis of effective tax rates on new investments in railroad track relative to effective tax rates on other investments. The effective tax rate of track structure investments is estimated to be approximately negative 15.6 percent, given the assumption of a 4 percent after-tax return (net of inflation), and a 6 percent inflation rate. Negative tax rates also apply to new investments in equipment in general. The tax rate is, however, quite low relative to investment in structures, such as buildings, which cannot apply the investment credit.

The impact of the Tax Act on effective tax rates is important, not only because it influences the after-tax returns of investments, but also because the allocation of investment spending among activities is influenced by effective tax rates. In general, it would be desirable for tax incentives to be neutral; that is, for tax incentives to provide after-tax returns on investments that maintain their relative before-tax returns. A tax based re-allocation of investment spending could be desirable, however, if track outlays provide external benefits (that is, benefits such as promoting public safety that accrue to others but are not realized in the financial return of the investor).

The 1981 tax Act does not change the tax treatment of capital outlays of most assets placed in service before 1981. Relative to the standard of maintaining the treatment of pre-1981 outlays, which would have delayed the deduction of frozen assets until retirement, it appears that deducting the pre-1981 frozen assets from 5-50 years is generous. Under the new law, much, if not most, of the costs will be deductible more quickly than they would have under prior law, which results in the deferral to tax liability. The size of the advantage for a given railroad depends on the amount of frozen assets, the amount of time the tax liability is deferred, and the railroad's tax rate. The treatment does not directly influence the relative return on new track outlays.[5] However, it can increase the after-tax income of railroads. It could be argued that this relief offsets what some would argue is a small increase in the tax treatment provided by the new law to new track outlays relative to the increase in the after-tax return on other assets. Others might argue that the treatment is inconsistent with the treatment of other assets which retain the prior treatment on pre-1981 outlays.

It is worth noting that railroads are actively "selling" tax benefits in safe-harbor lease transactions. This may, at least in part, be a result of sizable tax benefits provided in the 1981 Tax Act and the inability of some railroads to use the tax benefits fully without selling them.

APPENDIX—MEASUREMENT OF THE PRESENT VALUES OF TAX FACTORS UNDER ACRS

The present value of tax considerations under ACRS are estimated as follows:

$PV = uz + k$

where:

u = marginal tax rate

z = discounted present value of the tax deductions (adjusted for the impact of inflation), for the sum of the years digits depreciation method which approximates the method actually used

$z = 2/(r+p)T(1-1/(r+p)T(1-e^{-(r+p)}))$

where:

r = aftertax real discount rate = .04

k = the investment credit = .1

p = expected inflation rate = .06

T = tax life of the asset = 4½. Although the asset is depreciated over five years the first year is treated as a half a year for depreciation purposes.

$z = 2/(.04+.06)4.5(1-1/(.04+.06)4.5(1-e^{-(.04+.06)4.5}))=.8653$

$PV = (.46)(.8653)+.1$

$PV = .4980$

The present value of the investment credit and tax deductions for the RRB method can be measured using the following formula: [6]

$PV = u(x + (1 - x)\,e^{-rT}) + k$

where:

u = marginal tax rate = .46 (as above)

x = the proportion of the outlay that is expensed = .7467

r = aftertax real discount rate = .04

T = period between the investment outlay and the retirement of the track structure = 30 years

k = investment tax credit = .1 (as above)

$PV = .46\,(.7467 + .2533e^{-(.04)30}) + .1 = .4786$

ACRS is:

$u^* = r^* - r/r^*$

r^* = the before-tax return on the investment

$r^* = (r + d)(1 - uz - k) - d/(1 - u)$

r = after-tax real rate of return, which equals the after tax discount rate = .04.

---

the original track cost in the latter. The difference may be significant since high inflation over an extended period could have a large impact on the price of the track. Even if track was retired instead of replaced, the increment in deductions form replacement could be significant. It is conceivable that other adjustments take place as a result of technical tax considerations.

[2] The general explanation of the 1981 Tax Act notes that certain repairs that were included as replacement outlays could apply the investment credit.

[3] Enclosure E notes that the size of frozen assets is $7 billion.

[4] The present values are derived in the appendix. The estimates depend on certain assumptions which are also stated in the appendix.

[5] The deductions could lower table income and lower the marginal tax rate of the firm, however. The lowered tax rate combined with the preferential tax treatment could lower the after tax return of investment outlays. The after-tax rates would be lowered (instead of increased) since the tax benefits are so great that the effective rate on investment is negative.

[6] The analysis assumes a 4 percent real discount rate and a 6 percent expected inflation rate. It is assumed that approximately 75 percent of the cost is expensed under RRB and 25 percent is deferred for 30 years if it is retired at that point. It is further assumed that the previous track would not be retired if the replacement did not occur and would have remained in service for an indefinite period. Richard Briggs of the Association of American Railroads estimates that 25 percent of track expenditures are currently expensed maintenance, 56 percent are replacement outlays that would have been expensed under RRB but are capitalized under ACRS, the remaining 19 percent are additions that would have been capitalized under RRB, but are recovered over five years under ACRS. Of the capital outlays 75 percent would have been expensed under RRB and 25 percent would have been capitalized. The assumption of 30 years relies on the 30-year life measure applied under the depreciation method from a GAO study that examined the RRB accounting method and an alternative based on depreciation. See: U.S. General Accounting Office. Accounting Changes Needed in the Railroad Industry. Report to the Congress by the Controller General of the United States. AFMD 81-26, February 4, 1981. p. 40.

If the track will not be retired after an indefinite period, even if no replacement occurs, the present value of the tax benefits would be approximately 44.4 percent. Since this approach measures the increment in tax benefits any replacements that are made instead of a retirement of former track would have made the present value of tax benefits less than the amount calculated above (note the discussion on page 2).

d = rate of economic depreciation of the asset = .033
$r^* = (.04 + .033)(1 - .46 \times .8653 - .1) - .033/(1 - .46) = .0346$
$u^* = .0346 - .04/.0346 = -.156$

WILLIAM KWAI FONG YAP: HIS DREAM INSPIRED THE FOUNDING OF THE UNIVERSITY OF HAWAII

Mr. MATSUNAGA. Mr. President, this year marks the 75th anniversary of the founding of the University of Hawaii. In 1907, the then Territory of Hawaii began offering postsecondary courses in agriculture and the mechanical arts at the College of Hawaii. Over the past 75 years, the university has become the foremost educational institution in the Pacific area.

Innumerable education minded and dedicated individuals have over three-quarters of a century contributed to the university's growth and development, but perhaps none has played a more vital role than the late William Kwai Fong Yap. Mr. Yap, the virtually unsung and unknown "father of the University of Hawaii," was the first to envision a great Pacific educational institution in Hawaii. An admirer of Dr. Sun Yat Sen, Mr. Yap was strongly influenced by a visit to China in 1906. Upon his return to Hawaii he wrote:

> The earnestness and eagerness with which the Chinese people, young and old, were everywhere seeking the new methods of education, and their great thirst for modern knowledge, so impressed me and constantly lived in my mind, that on my return to Honolulu in the latter part of the same year, 1906, I became deeply interested in the educational problems of the Territory.

However, Mr. Yap expressed extreme disappointment in the College of Hawaii, which opened with four students and three instructors in 1907. He noted that:

> (It) had a very limited curriculum, and many young men and women whose ambitions were to become medical doctors, lawyers and teachers, or to follow other professions, could not secure here the training they wished. . . .

So in 1918, he started a campaign to broaden the curriculum of the College of Hawaii and to create a real university. Such an institution was just as important to Hawaii's future as the new seaport proposed by Hawaii's Territorial leaders, he pointed out. He succeeded in obtaining the names of 500 of Hawaii's leaders on a petition which was then submitted to the Territorial legislature. Finally, in 1919, an act of establishment of the University of Hawaii was introduced in the legislature and subsequently passed.

Since then, the University of Hawaii has undergone tremendous growth and expansion just as Mr. Yap had predicted. Today, the people of Hawaii and the Pacific Basin can receive competent professional training in a wide range of fields, including medicine, law, education, engineering, tropical agriculture, and travel industry management.

With the thought that my colleagues would find of interest the story of William Kwai Fong Yap, the father of the University of Hawaii, I ask unanimous consent that an article about his dream from the January 28, 1982, edition of the Honolulu Star-Bulletin be inserted in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Honolulu Star-Bulletin, Jan. 28, 1982]

ONE MAN'S DREAM, DRIVE SPAWNED UNIVERSITY OF HAWAII

(By June Watanabe)

There are no buildings bearing his name, no plaques to say what William Kwai Fong Yap did more than 60 years ago to deserve notable mention in the history of the University of Hawaii.

Yap did not even attend the university and, other than sending several of his children there, never had any direct connection with its operations or instruction.

Yet in 1933, when Yap was putting together a book on the establishment of the university, newspaper reports referred to him as "the father of the University of Hawaii."

Yap, you see, was recognized as the person most responsible for the transformation of the College of Hawaii, devoted to agriculture and the mechanic arts, into a full-fledged university nearly 62 years ago.

Beginning in 1918, he undertook the often frustrating and time-consuming task of canvassing the community to gain support for the change. In the end, he was able to hand the Territorial Legislature a petition with the signatures of 500 prominent leaders and rejoice as both houses unanimously passed the act establishing the University of Hawaii in 1919.

Then-Gov. Charles McCarthy signed the act into law April 30, 1919, and in September 1920 the University of Hawaii—encompassing the College of Applied Sciences and the College of Arts and Sciences—welcomed its first students.

It was bound to happen eventually.

But back in 1918, the man with the vision, the love of education and the determination to push for the change was Yap.

Ironically, Yap did not have much of a formal education, having attended only the Haleiwa Mission School from 1877 to 1879, and the Fort Street Chinese Church School from 1880 to 1886.

But his son, Eugene Tsun Choy Yap, remembers his father as being "so intelligent—above par. He believed in education. He did everything he could do."

That included working his way up through the ranks of the Bank of Hawaii, beginning as a collector and retiring in 1927, after 28 years, as the first assistant cashier of Chinese ancestry.

Ill health forced him to leave the bank, but he remained active in business affairs through his real estate and insurance firms, while continuing to devote considerable time to a range of community and church activities until his death in February 1935.

He even became involved in the cause of Sun Yat Sen, and was one of the group of young Chinese who organized a secret military company here in 1895 to aid in the Revolution in China. Eugene Yap last year was visiting the Sun Yat Sen museum in Canton and was surprised to see his father's picture among a group of six Hawaii Chinese honored for their help.

The idea for a University of Hawaii first came to Yap in 1906, when he made his first trip to China. It was a period of educational transition for the Chinese, Yap recalled in his book, "The Birth and History of the University of Hawaii," printed in both English and Chinese.

"The earnestness and eagerness with which the Chinese people, young and old, were everywhere seeking the new methods of education, and their great thirst for modern knowledge so impressed me and constantly lived in my mind, that on my return to Honolulu in the latter part of the same year, 1906, I became deeply interested in the educational problems of the Territory," Yap wrote.

It was only a year later that Hawaii began to offer educational opportunities beyond high school and the university this year celebrates the 75th anniversary of its founding as a college devoted initially to agricultural and technical pursuits.

The college opened its first year with four students and three instructors near the site of McKinley High School.

"However, this newly formed institution of higher learning had a very limited curriculum, and many young men and women whose ambitions were to become medical doctors, lawyers, and teachers, or to follow other professions, could not secure here the training they wished, and during subsequent years, groups of students from China as well as from Hawaii were sent annually for higher education to Mainland colleges and universities," Yap recalled.

Finally, in 1918, Yap decided it was time somebody pushed for Hawaii's own university.

With 11 children of his own, he knew full well the burden of many parents in sending their children away from Hawaii for their college education.

"I decided this was the right time to strike 'when the iron was hot' because many organizations in this Territory were then planning for the expansion and betterment of Honolulu in various lines, and were hoping to make this city a seaport of commercial importance," he said in the book.

But his dream was not universally embraced.

An editorial in the Feb. 19, 1919, Pacific Commercial Advertiser, for instance, said Hawaii was not yet ready for a university, especially since there were more pressing economic needs.

Besides, "isn't it better to educate all the youths of the Territory along practical lines rather than a very small number in calculus, Ovid and other branches of "higher education?" the editorial asked.

But Yap wasn't about to be deterred. He set about collecting signatures on a petition for his cause to present to the Territorial Legislature. His personal pleas for support were rebuffed by many persons, including his close friends. Many said the idea was good, but ahead of its time.

But Yap said the opposition he feared did not materialize, not the least of which because "I could see prevailing conditions from the viewpoint of the middle class . . ."

Instead, Yap's plan was heartily endorsed by others, including Wallace R. Farrington, the first chairman of the College of Hawaii's Board of Regents and later governor of the Territory, and Arthur L. Dean, then president of the college.

Yap credits Dean for working out most of the details for establishing the university.

The regents at that time said they weren't prepared to press for such a quest but that they would support the idea if it were the desire of the people of the Territory.

Finally, with the inevitable facing them, the regents designated one of their members, Arthur G. Smith, to draft an "act of establishment" that could be introduced as a bill in the Legislature. On Feb. 19, 1919. Sen. Charles E. King introduced the measure and the rest, as they say, is history.

The university today, despite its many problems, appears to have grown and expanded in the ways Yap envisioned.

"It is the writer's sincere belief that our local university will be of great assistance in solving the problems and destinies of the people in this community, and it will also stand as a beacon of enlightenment that will draw people from all the countries bordering this great Pacific Ocean to the Paradise of the Pacific to enjoy the cheerful academic environment and healthy atmosphere," he said in his book.

Eugene Yap, a retired accountant, is working on a biography of his father. The younger Yap himself was the subject of a news story when he went back to school after retirement and, at the age of 67 in 1972, was elected student body president of Honolulu Community College.

The family of William Yap has donated $50,000 to the university and is hoping the money can be used to establish a special room in his honor in Hamilton Library, Eugene Yap said.

OPPOSITION TO RESOLUTION RELATING TO GOVERNMENT PRINTING OFFICE

Mr. ZORINSKY. Mr. President, I learned recently that the Joint Committee on Printing met in executive session on May 11 and passed a resolution which seriously undermines the Public Printer's ability to manage the Government Printing Office. This resolution also appears to run contrary to the Civil Service Reform Act of 1978 and title 44 of the United States Code as well.

The resolution forbids the Public Printer to order any furloughs or reductions in force at the Government Printing Office. The restrictions are carried even further by language which requires the Public Printer to obtain committee approval before authorizing any adverse personnel actions whatsoever. This particular passage could have some very interesting implications. In the past year, 13 GPO employees have been charged with felony offenses which range from assault with intent to kill to possession of heroin. Under the restrictions imposed by this resolution, the GPO could not even remove a convicted felon from the payroll without prior approval from the Joint Committee on Printing.

It is apparent to me that the requirements of this resolution are utterly ridiculous and that they place an outrageous burden on the Public Printer's ability to operate the Government Printing Office. Section 305 of title 44 clearly states that the Public Printer "may not employ more persons than the necessities of public work require," and this most certainly implies that the Public Printer can both hire and fire at the Government Printing Office.

The resolution passed by the Joint Committee on Printing makes other unreasonable demands on the Printing Office. It further requires that the committee approve of every alteration or relocation of facilities operated by the GPO. At this time the Printing Office has 48 facilities nationwide, and it seems to me that the Public Printer should be quite capable of managing his field printing plants and procurement offices without any unnecessary intrusion by the Congress.

Mr. President, I urge my colleagues who serve on the Joint Committee on Printing to reconsider their support of this inexpedient resolution and to ask themselves whether they really want to become involved in making the day-to-day decisions which are necessary for the efficient operation of the Government Printing Office.

WE WELCOME HON. RENE LEVESQUE, PRIME MINISTER OF QUEBEC

Mr. HELMS. Mr. President, today many of us in the Senate have had the honor of visiting with the Honorable Rene Levesque, the Prime Minister of Quebec and the leader of the majority party in the National Assembly of Quebec. As Americans we sometimes take our neighbors to the north too much for granted. That is why I am delighted that Premier Levesque is visiting with us today to help us understand our mutual interests.

As chairman of the Western Hemisphere Subcommittee of the Foreign Relations Committee, I am impressed with the importance that Quebec has for the United States. We buy over $10 billion a year in products from Quebec, and we sell Quebec $7.5 billion; 33 percent of those exports to the Mid-Atlantic States, 28 percent to the Midwest, 11 percent to New England, and 9 percent to the South. Quebec supplies us with over 8 billion kilowatts of electricity a year, and has long-term contracts to supply 144 billion kilowatts.

At the same time we are investment partners. Quebec has one of the highest savings rates in the world, and much of that capital is invested in the United States. Similarly, the United States has a high rate of investment in Quebec, providing jobs for Quebeckers.

Mr. Levesque has been Prime Minister of Quebec since 1976, and just last year he and his colleagues were returned to office with even greater majorities. He is the founder of the Parti Quebecois, and has been its president since 1968. Although he is well-known as an exponent of Quebec nationalism, he has always insisted that this nationalism be exercised within a close association with Canada.

Mr. Levesque is an advocate of using private enterprise to develop the economy of Quebec, and has invited American investors to continue to participate in enlarging the private sector. He is a distinguished political leader in his country, and the holder of the French Legion of Honor. The Senator from North Carolina may not agree with all of our distinguished guest's views, but from what he has learned today there are broad areas that unite the people of Quebec and the people of the United States, not the least of which is the affection which both have for each other. We are honored indeed by his presence here today, and the opportunity for neighbors to get to know each other better.

The Western Hemisphere is a single entity, and it behooves us as citizens of the United States to work together so that the misunderstandings which often result when different cultures are thrown together can be overcome. The roots of different peoples reach back into different origins, and it is worthwhile to cherish those traditions and differences while respecting their right to exist. The people of Quebec are part of this rich diversity, the only major French-speaking on the North and South American continents. They are fortunate to have leaders of stature and distinction, and we are fortunate to have one of those leaders here today.

Mr. President, I ask unanimous consent that a short biography of Mr. Levesque be printed in the RECORD at this point.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

RENÉ LÉVESQUE, PRIME MINISTER OF QUÉBEC, PRESIDENT OF THE EXECUTIVE COUNCIL

Born in New Carlisle, in the Gaspé Peninsula, Aug. 24, 1922, Mr. René Lévesque has been Prime Minister of Québec since November 1976.

It was in Québec City that Mr. Lévesque completed classical studies begun in Gaspé. In 1944, he interrupted law studies at university to become a war correspondent. With U.S. Army forces, he covered the campaign in France, Germany and Austria.

After the war, he pursued his journalistic career with Radio Canada, first with the International Service (1946-51), then as a war correspondent in Korea (1952) and later as head of radio-TV reporting services (1952-56). From 1956 to 1959, he was host of "Point de Mire", the top-rated public affairs program on the French television network of Radio Canada.

Mr. Lévesque was first elected to the Québec Legislature in 1960 as Liberal Party member for Laurier (Montréal) and was appointed to the Cabinet by Prime Minister Jean Lesage, first as Minister of Public Works and Hydroelectric Resources (1960-

61), then as Minister of National Resources (1961–65) and, finally, as Family and Social Welfare Minister (1966).

Reelected in Laurier in 1962 and 1966, he subsequently became a co-founder of the Mouvement Souveraineté-Association and, in 1968, founded the Parti Québécois, the presidency of which he has assumed ever since.

Elected Nov. 15, 1976, as Member for Taillon, on Montréal's South Shore, he was sworn in as Prime Minister of Québec on Nov. 25 of the same year.

In November 1977, during an official visit to France, the President of the French Republic bestowed on him the title of Grand Officer of the Légion d'honneur and the Mayor of Paris honored him with the Medal of the City of Paris.

He was reelected as Member for Taillon in the general election of April 13, 1981, and once more took the oath of office as President of the Executive Council (cabinet) on April 30 last year.

Mr. Lévesque has three children, Pierre, Claude and Suzanne. He is the husband of Corinne Côté.

THE 1983 WHEAT PROGRAM

Mr. HUDDLESTON. Mr. President, the Secretary of Agriculture has today announced the provisions of the 1983 wheat program. This announcement indicates that the Secretary has finally taken some steps to address the needs of farmers facing severe economic and financial hardships.

The Secretary has announced that wheat producers, in order to be eligible for loan program benefits and target price protection, must reduce their planted acreage by 20 percent of the farm's base acreage. In addition, farmers who sign up for the acreage reduction program will receive early payment of any projected deficiency payment for the 1983 crop.

Mr. President, I commend the Secretary for his timely efforts to provide struggling farmers with badly needed cash. However, I remain concerned that the administration has chosen not to implement a paid diversion program, as many farmers and farmer organizations had hoped to see in this announcement. It is generally acknowledged that a voluntary paid acreage diversion is the most effective and simplest way to limit production in excess of domestic and export needs.

The Congressional Budget Office estimates that a paid acreage diversion could increase by about 10 percent the average prices of wheat, corn, rice, and upland cotton, over the prices of those commodities in the absence of acreage adjustments. Also, total net Federal outlays for these crops would be reduced.

A paid acreage diversion combined with the current acreage reduction program would reduce Federal outlays by $1 billion, compared to a continuation of the current program.

The Congressional Budget Office study also points out disadvantages to a continuation of the current program.

Continuation of the current acreage reduction program would do little to reduce 1983–84 ending stocks, raise prices, and improve farmers' prospects for 1984–85.

The benefits of participation in the wheat and feed grains programs (in effect for the 1982–83 crops) are not likely to attract enough farmers to reduce total acreage by more than 3 to 4 percent.

The Secretary's program includes certain incentives for farmers to voluntarily reduce planted acreage. Among these incentives is the early payment equal to one-half the estimated deficiency payments for the crop. This payment will be made at the time the farmers sign up for the program.

I remain concerned that this provision may not be sufficient incentive for farmers to reduce plantings by 20 percent. With a paid acreage diversion, farmers contract with the Government to limit plantings. Under provisions of the Secretary's program, the farmer will receive a payment which he may have to refund.

The early payment provisions are a positive step toward providing farmers some immediate relief from pressing financial needs, but a paid acreage diversion would more effectively limit wheat production, reduce carryover stocks, and strengthen farm prices and incomes.

I also note that the Secretary has not raised the wheat loan rates. The regular loan rate remains at $3.55 per bushel and wheat placed into the reserve will have a loan rate of $4 per bushel. I am concerned that these loan rates will not provide as much incentive to participate as would somewhat higher rates.

THE INSANITY DEFENSE

Mr. PERCY. Mr. President, I am seriously concerned about the implications of the recent verdict in the case of United States against Hinckley. No one questions the fact that Mr. Hinckley, armed with a deadly handgun, attempted to take the life of the President of the United States. But under existing law he has been found not guilty by reason of insanity. Under existing procedures, Hinckley may well be on the streets again in a few years—or even a few months. I think this is outrageous. The verdict undermines the confidence of Americans in the capacity of our criminal justice system to effectively deal with violent, lawless behavior. Moreover, because the insanity defense is expensive to prove, it may give well-to-do persons a chance to avoid responsibility which the less fortunate would be denied. In effect, the insanity defense is like a loophole in the law, available only to those with the resources to prove it. Congress must act swiftly to change the law: we must make sure that verdicts like the one in the Hinckley trial cannot happen again.

In reviewing alternative approaches to reforming the insanity defense, I have concluded that the State of Illinois has taken an approach that shows real leadership and foresight. I believe the approach deserves thorough consideration for possible adoption at the Federal level, and I am bringing it to the attention of the distinguished chairman of the Senate Judiciary Committee, Senator THURMOND, and those of our colleagues who have taken an interest in this most serious matter. The approach is made up of several key elements.

First, the law establishes a plea and a verdict of "guilty but mentally ill." It provides that a person who, at the time of the commission of a criminal offense, was not insane but was suffering from a mental illness, is not relieved of criminal responsibility for his conduct and may be found guilty but mentally ill. "Mental illness" in this case means a substantial disorder of thought, mood, or behavior which afflicted a person at the time of the commission of the offense and which impaired that person's judgment, but not to the extent that he is unable to appreciate the wrongfulness of his behavior or is unable to conform his conduct to the requirements of the law. Mental illness is not an affirmative defense, but an alternative plea or finding that may be accepted, under appropriate evidence, when the affirmative defense of insanity is raised or the plea of guilty but mentally ill is made.

Second, the plea of guilty but mentally ill must be based on fact. The Illinois law provides that the court shall not accept such a plea until the defendant has undergone examination by a clinical psychologist or psychiatrist and the judge has examined the psychiatric or psychological report or reports, held a hearing on the issue of the defendant's mental condition and is satisfied that there is a factual basis that the defendant was mentally ill at the time of the offense to which the plea is entered.

Third, although the affirmative defense of insantiy is retained in Illinois law, wherever it has been presented during the trial, the court must also instruct the jury on the special verdict form of "guilty but mentally ill." The jury may then, instead of returning a general verdict, return a special verdict, when it has found beyond a reasonable doubt that the defendant committed the acts charged and that the defendant was not legally insane at the time of the commission of those acts but that he was mentally ill at that time.

Fourth, Illinois law provides alternative procedures for sentencing and treatment of criminal defendants who have been found guilty but mentally ill. If the court imposes a sentence of imprisonment, a periodic inquiry is re-

quired into the nature, extent, continuance and treatment of the preson's mental illness. Although someone found guilty but mentally ill may be hospitalized for treatment, this does not mean that he has been absolved of responsibility for his acts, or liable to early return to society, once his condition has improved. Quite the contrary. When a convicted person no longer requires hospitalization he is returned to the correctional authorities to serve out the balance of his prison term. This change may be the most important of the recent innovations in the Illinois approach.

I am confident that if these features of Illinois law had been in place the Federal level at the time John Hinckley tried to kill the President, that he would have been found guilty but mentally ill. I am also sure that we would all rest easier knowing that he would be removed from society, either to a facility where his disturbed condition might be treated, or—when that treatment was concluded—to prison to serve out the balance of his term. The American people would not have been presented with this outrageous verdict. We need to be secure in the knowledge that violent individuals who pose a real and continuing danger to our society can be kept in prison when the circumstances require. Congress must act, and act swiftly, to close this terrible loophole in the law.

Mr. President, in townhall meetings that I have held throughout Illinois, my constituency has unanimously endorsed this principle and feels that it should become Federal law.

OPERATION DRIVER EXCELLENCE

Mr. PERCY. Mr. President, I have recently learned of an impressive program which seeks to heighten the safe driving skills of American teenagers. This program, Operation Driver Excellence, is sponsored by AMVETS (the American Veterans of World War II, Korea, and Vietnam) and by the Dodge Division of Chrysler Corp. Over the years, AMVETS and Dodge have developed an excellent program which stresses that careful driving alone is not always good enough, and that the development of safe driving skills is crucial to lowering the number of accidents and tragedies on our Nation's highways.

Every spring AMVETS and Dodge take their program to thousands of high schools across the land. Student eligibility rests on the successful completion of a certified high school driver education course. Students who meet the criteria participate in a three-phase local competition which includes an over-the-road test in actual highway traffic, a written test on driving laws and theory and a specially designed skills course to measure response to driving emergencies. Local winners then go on to State finals, and the State champions are awarded a weekend trip to the National Finals of Operation Driver Excellence. Top winners in the national competition are presented with excellent prizes and scholarships.

Mr. President, I am pleased that the 16th National Finals of Operation Driver Excellence was recently held in Chicago, Ill. It is only fitting that a program of this quality be concluded in a city which also strives for excellence in its many endeavors. During the weekend of May 14-16, Chicago was host to the leaders and 39 participants of this program, and a new national champion was selected after 6 hours of competition through suburban Chicago traffic and the highly complex skills course.

I congratulate 17-year-old Lewis Cain, Jr. of Worton, Md., the new national champion, as well as all who participated in this outstanding program. I would like to point out that in addition to the national finals being held in Chicago, the State of Illinois was well represented in numerous other ways. The national commander of AMVETS, Donald R. Russell, is a resident of Illinois, as is Donald Fournier, chairman of the AMVETS National Traffic Safety Commission. Edward Gamms was there to represent Illinois AMVETS, and Gary J. Hartwig of Princeton, Ill., gave a shining performance as the Illinois participant in the driving competition.

Mr. President, I am confident that all who participated in Operation Driver Excellence, whether at the local, State, or national level, have gleaned a clearer understanding of safe driving practices and techniques. Operation Driver Excellence is a most worthy project. I urge both AMVETS and the Dodge Division of Chrysler Corp. to continue their partnership in this unique program for the young drivers of our Nation, to assist them in driving safely for the many years to come.

EL SALVADOR LAND REFORM

Mr. PERCY. Mr. President, on May 20, 1982, our press carried reports that the Salvadoran legislative assembly had adopted decree 6, providing for the suspension of important parts of the land-to-the-tiller program of the Salvadoran land reform. These reports raised serious concerns within the administration and the Congress that the legislature might be taking a first step toward undercutting or impeding the land reform process in that country. Decree 6, as passed by the Salvadoran legislative assembly, affected cotton, sugar cane, livestock, and grainlands, and it seemed to be unclear with regard to the rights of beneficiaries under decree 207, which promulgated the land-to-the-tiller program on April 28, 1980.

Since May 20, representatives of the Salvadoran peasant unions, Salvador's Foreign Minister Fidel Chavez Mena, U.S. Ambassador Deane R. Hinton, and several representatives of the Salvadoran private sector have visited with me and other members of the Foreign Relations Committee as well as with other Senators, members of the House Foreign Affairs Committee and other Members of Congress to explain their view of what took place in El Salvador.

Let me summarize what they have told us:

First, as the press reported, President Magana, himself, asked the assembly for a suspension of application of decree 207 to sugar cane and cotton-producing lands in order to encourage owners to plant these cash crops. Decree 207 contains certain ambiguities that: First, appear to make it illegal to rent lands subject to 207 even if claims to title are not in process; second, appear to permit any renter to submit application for title even if that person were not a renter on April 28, 1980, the day decree 207 took effect. Because of these and other ambiguities and uncertainties, some owners have been hesitant to invest in the seeds, fertilizer, and insecticides to work their lands, feeling that by the time harvest would come, title may have been transferred to another person and the owner would lose the return on his investment. The net result of this lack of investment has been a continual decline of the Salvadoran economy.

Last year, apparently the junta, headed by Napoleon Duarte, had also sought suspension of certain aspects of decree 207 for sugar cane and cotton lands. This request was submitted again by President Magana. In each case the county's serious need for foreign exchange earnings produced by the export crops was the reason given for the requested suspension.

As we know, the legislative assembly then extended President Magana's request to cover grain and livestock lands as well when the representatives passed decree 6.

In response to Salvadoran concerns, as well as our own very clearly stated concerns, about the implications of the new decree 6, the Salvadoran Legislative Assembly has now approved a clarifying interpretation of decree 6, which, we are told, has the effect of law. The clarification includes the following points:

It assures that the rights acquired by all peasants who have received title to or provisional title to land will be respected and upheld.

It assures that existing petitions for land title will be respected and processed.

It assures that even if the campesino has not received a provisional title or has not made petition for title, if he is a renter under the terms of decree 207, his rights will be respected.

In addition, a commission is to be formed which will oversee the writing of new regulations to implement decree 207. This commission will include representatives of the peasant organizations, of the producers' organizations, of the Ministry of Defense, who will play a role in the restoration of persons evicted from lands, a representative of the Office of the President, and a representative of the Ministry of Agriculture. It is my understanding that this commission has now been formed and will begin to operate immediately.

I also understand that the National Financial Institute for Agrarian Lands (FINATA), which administers the titling process, has been instructed specifically to continue to accept applications for and to issue titles.

Foreign Minister Chavez Mena has told us that decree 207 affects about 130,000 hectares (one hectare equals 2.471 acres), or 12 percent of El Salvador's agricultural land. It also affects about 125,000 peasant families. Approximately 50,000 hectares have been allocated under the decree, and about 30,000 families have been given title or provisional title. The 1982 target is to extend this number by another 50,000 families, or up to 40 percent of the total families eligible to receive title under decree 207. The remainder of the program would be completed in 1983 and 1984. Foreign Minister Chavez Mena indicates that for practical, technical, and financial reasons this is as fast as El Salvador can move in implementing this program. Thus, he argues that the goal for 1982 is not affected by the assembly's recent action.

The U.S. Agency for International Development reported in mid-January that 34,321 petitions for title had been submitted under decree 207. Of these, 22,733 provisional titles, but no definitive titles, had been issued. I am informed that since June 1, a total of 1,724 provisional titles and 103 definitive titles have been issued by FINATA.

Mr. President, this issue is clearly one which we must follow closely. In my own public statements after May 20, I have always indicated that if the Salvadoran Government were reneging on its commitment to the land reform program, then under the fiscal year 1981 Foreign Assistance Act, signed into law by the President, I would not be able to support further assistance to that Government. However, on the other hand, if there is clear evidence that the program is being implemented, then we have commitments to support those reforms and the Government implementing them. If the clarifying amendment adopted by the assembly has the binding effect of law, and if the interpretations of the events surrounding decree 6, as given by our able Ambassador Deane R. Hinton and by the distinguished and capable Foreign Minister Fidel Chavez Mena, are correct, then a good part of our immediate concerns are assuaged. What is important is that the land reform move forward. I recall Senator KASSEBAUM's report of her conversations with the Salvadoran peasants when she questioned them on the land reform program. The peasants said over and over:

They can't go back on the land reform program. That is sacred. If they go back on the land reform program, the peasants in this country will feel they have been defrauded.

It is very important that the facts be available to Members who must make assessments of El Salvador's efforts to move ahead with the land reform program. I trust that the information I have presented to the Senate contributes to that effort.

ENROLLED BILL PRESENTED

The Secretary reported that on today, July 14, 1982, he had presented to the President of the United States the following enrolled bill:

S. 2240. An act to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3813. A communication from the Under Secretary of Agriculture for International Affairs and Commodity Programs transmitting, pursuant to law, a report on the planned programming of food assistance under PL 480 for fiscal year 1982; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3814. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a confidential report on a proposed foreign military sale to Japan; to the Committee on Armed Services.

EC-3815. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting a draft of proposed legislation to increase authorities of Armed Forces to settle claims against the United States resulting from certain operations of the armed forces; to the Committee on Armed Services.

EC-3816. A communication from the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics transmitting, pursuant to law, a report on a reuse study for the South Boston Support Activity, Boston, Mass.; to the Committee on Armed Services.

EC-3817. A communication from the Navy transmitting a register of Navy Officers on Active Duty, 14 September 1981; to the Committee on Armed Services.

EC-3818. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a proposed foreign military sale to Greece; to the Committee on Armed Services.

EC-3819. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a proposed foreign military sale to Japan; to the Committee on Armed Services.

EC-3820. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a proposed foreign military sale to Japan; to the Committee on Armed Services.

EC-3821. A communication from the President and Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on certain bank transactions with Taiwan; to the Committee on Banking, Housing, and Urban Affairs.

EC-3822. A communication from the Acting Chairman of the Interstate Commerce Commission transmitting, pursuant to law, a report on Customer Pickup of Food and Grocery Products; to the Committee on Commerce, Science, and Transportation.

EC-3823. A communication from the Under Secretary of the Interior transmitting, pursuant to law, notice of certain oil and gas lease sales under the Outer Continental Shelf Lands Act; to the Committee on Energy and Natural Resources.

EC-3824. A communication from the Under Secretary of the Interior transmitting, pursuant to law, a report on a refund of excess royalty payments to Getty Oil Company; to the Committee on Energy and Natural Resources.

EC-3825. A communication from the Administrator of the Energy Information Administration, transmitting, pursuant to law, a report on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories for January through March 1982; to the Committee on Energy and Natural Resources.

EC-3826. A communication from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to June 30, 1982; to the Committee on Foreign Relations.

EC-3827. A communication from the Secretary of State, transmitting, pursuant to law, the thirtieth report on the extent and disposition of United States contributions to international organization covering fiscal year 1981; to the Committee on Foreign Relations.

EC-3828. A communication from the Administrator of the General Services Administration, transmitting a draft of proposed legislation to amend chapter 18 of title 22, United States Code, to permit domestic dissemination of records of the United States International Communication Agency that have been accessioned into the Archives of the United States; to the Committee on Foreign Relations.

EC-3829. A communication from the Secretary of State, transmitting, pursuant to

law, a report on the review of the 1968 exchange of letters between the United States and Czechoslovakia on the reciprocal payment of social security benefits; to the Committee on Foreign Relations.

EC-3830. A communication from Assistant Attorney General (Office of Legal Policy), transmitting, pursuant to law, the annual report of the Department on activities under the Freedom of Information Act for calendar year 1981; to the Committee on the Judiciary.

EC-3831. A communication from the Commissioner of the Immigration and Naturalization Service, transmitting, pursuant to law, a report on the suspension of deportation of certain aliens under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-3832. A communication from the Administrator of the Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business.

EC-3833. A communication from the Administrator of the Small Business Administration, transmitting a draft of proposed legislation to amend the subsection 302(a) of the Small Business Investment Act of 1958; to the Committee on Small Business.

EC-3834. A communication from the Administrator of the Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act to provide for subpoena power; to the Committee on Small Business.

EC-3835. A communication from the Administrator of the Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business.

EC-3836. A communication from the Administrator of the Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COHEN, from the Committee on Governmental Affairs, with amendments:

S. 2059. A bill to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes (with supplemental views) (Rept. No. 97-496).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 418. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2133.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

George P. Shultz, of California, to be Secretary of State.

By Mr. TOWER, from the Committee on Armed Services:

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Lt. Gen. Lawrence A. Skantze, U.S. Air Force, to be reassigned in the grade of lieutenant general, Lt. Gen. Thomas H. McCullen, U.S. Air Force, to be reassigned in the grade of lieutenant general and Lt. Gen. Kelly D. Burke, U.S. Air Force (age 52), for appointment to the grade of lieutenant general on the retired list. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, in addition, in the Navy and Naval Reserve there are 1,907 permanent appointments to the grade of commander and below (list begins with Glenn D. Lattig). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of July 1, 1982, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WEICKER:

S. 2729. A bill to amend or repeal certain provisions of the Organic acts applicable to the Virgin Islands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HEINZ (for himself, Mr. CHILES, Mr. DURENBERGER, Mr. SPECTER, and Mrs. HAWKINS):

S. 2730. A bill to place a moratorium on continuing disability investigation terminations under titles II and XVI of the Social Security Act; to the Committee on Finance.

By Mr. HEINZ (for himself and Mr. DURENBERGER):

S. 2731. A bill to amend title II of the Social Security Act to provide for continued payment of disability benefits during appeal, to provide adjustment benefits and vocational training for individuals terminated from the disability program, to strengthen the reconsideration process, to provide for more uniformity in decisionmaking at all levels of adjudications, and for other purposes; to the Committee on Finance.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 2732. A bill to amend the Export-Import Bank Act of 1978 to improve the ability of the United States to meet foreign competition; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TSONGAS (for himself, Mr. PACKWOOD, Mr. KENNEDY, Mr. MATHIAS, Mr. BIDEN, Mr. ROBERT C. BYRD, Mr. SPECTER, Mr. METZENBAUM, Mr. DECONCINI, Mr. LEAHY, Mr. BAUCUS, Mr. CRANSTON, Mr. RANDOLPH, Mr. WEICKER, Mr. DODD, Mr. DURENBERGER, Mr. BRADLEY, Mrs. KASSEBAUM, Mr. GLENN, Mr. HATFIELD, Mr. MOYNIHAN, Mr. PROXMIRE, Mr. SARBANES, Mr. COHEN, Mr. HART, Mr. HEINZ, Mr. INOUYE, Mr. STAFFORD, Mr. RIEGLE, Mr. JACKSON, Mr. PERCY, Mr. HOLLINGS, Mr. CHAFEE, Mr. EAGLETON, Mr. STEVENS, Mr. DIXON, Mr. GORTON, Mr. BUMPERS, Mr. ANDREWS, Mr. BURDICK, Mr. LEVIN, Mr. SCHMITT, Mr. DANFORTH, Mr. MITCHELL, Mr. BOSCHWITZ, Mr. PELL, Mr. MATSUNAGA, Mr. MELCHER, Mr. MURKOWSKI, Mr. HAYAKAWA, and Mr. BOREN):

S.J. Res. 213. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women; to the Committee on the Judiciary.

By Mr. PERCY (for himself, Mr. TSONGAS, Mr. EAST, Mr. GORTON, and Mr. COHEN):

S.J. Res. 214. Joint resolution to authorize and request the President to designate the month of November 1982 as "National REACT Month."; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WALLOP:

S. Res. 425. Resolution to authorize the Select Committee on Ethics to provide training assistance to its professional staff; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER:

S. 2729. A bill to amend or repeal certain provisions of the Organic Acts applicable to the Virgin Islands, and for other purposes; to the Committee on Energy and Natural Resources.

AMENDMENT OF CERTAIN ACTS RELATIVE TO THE VIRGIN ISLANDS

● Mr. WEICKER. Mr. President, I send to the desk for appropriate reference legislation to amend the organic legislation for the Virgin Islands and Guam, and for other purposes. This legislation was prepared by the Department of the Interior and the Department of Justice at my request to reform the judicial systems in the Virgin Islands and Guam and to identify those provisions of Federal law contained in early organic legislation for the Virgin Islands which have been superseded by subsequent enactments but never repealed.

This request resulted from the November 3, 1981 defeat of the Fourth Constitution of the Virgin Islands, which action necessitates the retention of local government authorizations in the organic legislation of the Virgin Islands. Those local government provisions would have been repealed under title I of S. 1674 in order that the Constitution could have become fully effective as the basic law for self-government in the Virgin Islands. Title I, however, also sought to

clean up the statute books by removing various archaic or superseded provisions dating back to 1917. Title I would also have reformed the relations between the local and Federal courts. In order that we not lose these beneficial provisions, I requested the drafting service and specifically asked that the draft be sent to the local territorial governments for comment. This legislation does not represent the formal position of either the administration or the local territorial governments. I am introducing it so that formal views may be requested and considered later this session. I ask unanimous consent that the text of the legislation together with an explanation and section-by-section analysis and my letter requesting the drafting service be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2729

TITLE I

SEC. 101. In Section 3 of the Revised Organic Act of the Virgin Islands, as amended, (68 Stat. 4981; 48 U.S.C. 1561) the proviso in the next to the last paragraph is amended to read as follows:

"*Provided*, That all offenses against the laws of the United States and the laws of the Virgin Islands which are prosecuted in the district court pursuant to Section 22(a) and (c) of this Act may be had by indictment by grand jury or by information, and that all offenses against the laws of the Virgin Islands which are prosecuted in the district court pursuant to Section 22(b) of this Act or in the courts established by local law shall continue to be prosecuted by information, except such as may be required by local law to be prosecuted by indictment by grand jury."

SEC. 102. Section 21 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1611) is amended to read as follows:

"SEC. 21. (a) The judicial power of the Virgin Islands shall be vested in a court of record designated the 'District Court of the Virgin Islands' established by Congress, and in such appellate court and lower local courts as may have been or may hereafter be established by local law.

"(b) The legislature of the Virgin Islands may vest in the courts of the Virgin Islands established by local law jurisdiction over all causes in the Virgin Islands. Such jurisdiction shall be subject to the exclusive or concurrent jurisdiction conferred on the District Court of the Virgin Islands by Section 22(a) and (c) of this Act.

"(c) The rules governing the practice and procedure of the courts established by local law and those prescribing the qualifications and duties of the judges and officers thereof, oaths and bonds, and the times and places of holding court shall be governed by local law or the rules promulgated by those courts."

SEC. 103. (a) Section 22 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1612) is amended to read as follows:

"SEC. 22. (a) The District Court of the Virgin Islands shall have the jurisdiction of a district court of the United States, and, effective April 1, 1984, that of a bankruptcy court of the United States. The District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands, regardless of the degree of the offense or of the amount involved, except the laws relating to the income tax enacted by the legislature of the Virgin Islands.

"(b) In addition to the jurisdiction described in subsection (a) the District Court of the Virgin Islands shall have general original jurisdiction in all causes in the Virgin Islands the jurisdiction over which is not vested by local law in the local courts of the Virgin Islands: *Provided*, That the jurisdiction of the District Court of the Virgin Islands under this subsection shall not extend to civil actions wherein the matter in controversy does not exceed the sum or value of $500, exclusive of interest and costs; to criminal cases wherein the maximum punishment which may be imposed does not exceed a fine of $100 or imprisonment for six months, or both; and to violations of local police and executive regulations. The courts established by local law shall have jurisdiction over the civil actions, criminal cases, and violations set forth in the preceding proviso. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court established by local law for the purposes of determining the availability of indictment by grand jury or trial by jury.

"(c) The District Court of the Virgin Islands shall have concurrent jurisdiction with the courts of the Virgin Islands established by local law over those offenses against the criminal laws of the Virgin Islands, whether felonies or misdemeanors or both, which are of the same or similar character or part of, or based on, the same act or transaction or two or more acts or transactions connected together or constituting part of a common scheme or plan, if such act or transaction or acts or transactions also constitutes or constitute an offense or offenses against one or more of the statutes over which the District Court of the Virgin Islands has jurisdiction pursuant to subsections (a) and (b) of this subsection."

(b) The provisions of this section shall not result in the loss of jurisdiction of the District Court of the Virgin Islands over any complaint or proceeding pending in it on the day preceding the effective date of this amendatory Act and such complaint and proceeding may be pursued to final determination in the District Court of the Virgin Islands, the United States Court of Appeals for the Third Circuit, and the Supreme Court, notwithstanding the provisions of this amendatory Act.

SEC. 104. Section 23 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1613) is amended to read as follows:

"SEC. 23. The relations between the courts established by the Constitution or laws of the United States and the courts established by local law with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings: *Provided*, That for the first fifteen years following the establishment of the appellate court authorized by Section 21(a) of this Act, the United States Court of Appeals for the Third Circuit shall have jurisdiction of appeals from all final decisions of the highest court of the Virgin Islands from which a decision could be had in all cases involving the Constitution, treaties or laws of the United States, including this Act, or any authority exercised thereunder: *Provided further*, That the Court of Appeals for the Third Circuit shall not have jurisdiction of appeals in any cause involving only the laws enacted by the legislature of the Virgin Islands or the orders or regulations issued or actions taken by the executive branch of the government of the Virgin Islands unless the appeal involves the consistency of such laws, orders, regulations or actions with the Constitution, treaties or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the Government of the United States. The United States Court of Appeals for the Third Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this section."

SEC. 105. The Revised Organic Act of the Virgin Islands is amended by adding to it a new section 23A:

SEC. 23A. (a) Prior to the establishment of the appellate court authorized by Section 21(a) of this Act, the judgments and orders of the courts established by local law may be reviewed in the appellate division of the district court to the extent now or hereafter prescribed by the legislature: *Provided*, That the legislature may not preclude the review of a judgment or order to the extent that it involves the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officier or agency of the Government of the United States, or the conformity of any law enacted by the legislature of the Virgin Islands or of any order or regulation issued or action taken by the executive branch of the government of the Virgin Islands with the Constitution, treaties or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the United States.

"(b) The appellate division of the district court shall consist of three judges, of whom two shall constitute a quorum. The chief judge of the district court shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division shall be designated by the presiding judge from among the judges who are serving on, or are assigned to, the district court pursuant to section 24(a) of this Act: *Provided*, That only one of them shall be a judge of a court established by local law. The concurrence of two judges shall be necessary to any decision by the district court on the merits of an appeal, but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

"(c) The United States Court of Appeals for the Third Circuit shall have jurisdiction of appeals from all final decisions of the appellate division of the district court involving the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder: *Provided*, That the Court of Appeals for the Third Circuit shall not have jurisdiction of appeals in any cause involving only the laws enacted by the legislature of the Virgin Islands or the orders or regulations issued or actions taken by the executive branch of

the government of the Virgin Islands unless the appeal involves the consistency of such laws, orders, regulations or actions with the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the Government of the United States. The United States Court of Appeals for the Third Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

"(d) The provisions of subsection (c) limiting the appellate review of the Court of Appeals to decisions involving federal questions shall not apply to any appeal or other method of review from the decisions of any court established by local law pending on the effective date of this Act in the District Court of the Virgin Islands, the United States Court of Appeals for the Third Circuit, or the Supreme Court of the United States.

"(e) Upon the establishment of the appellate court provided for in Section 21(a) of this Act all appeals from the decisions of the courts of the Virgin Islands established by local law not previously taken must be taken to that appellate court. The establishment of the appellate court shall not result in the loss of jurisdiction of the appellate division of the district court over any appeal then pending in it. The rulings of the appellate division on such appeals may be reviewed in the United States Court of Appeals for the Third Circuit and in the Supreme Court notwithstanding the establishment of the appellate court."

SEC. 106. (a) Section 24(a) of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1614(a)) is amended to read as follows:

"(a) The President shall, by and with the advice and consent of the Senate, appoint two judges for the District Court of the Virgin Islands, who shall hold office for terms of 10 years and until their successors are chosen and qualified, unless sooner removed by the President for cause. The judge of the district court who is senior in continuous service and who otherwise qualifies under Section 136(a) of title 28, United States Code, shall be the chief judge of the court. The salary of a judge of the district court shall be at the rate prescribed for judges of the United States district courts. Whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the district court, the chief judge of the Third Judicial Circuit of the United States may assign a judge of a court of record of the Virgin Islands established by local law, or a circuit or district judge of the Third Judicial Circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge of the District Court of the Virgin Islands. The compensation of the judges of the district court and the administrative expenses of the court shall be paid from appropriations made for the judiciary of the United States."

(b) Section 24(b) of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1614(b)) is amended to read as follows:

"(b) Where appropriate, the provisions of part II of title 18 and of title 28, United States Code, and, notwithstanding the provisions of Rule 7(a) and of Rule 54(a) of the Federal Rules of Criminal Procedure relating to the requirement of indictment and to the prosecution of criminal offenses in the Virgin Islands by information, respectively, the rules of practice heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, and 28, United States Code, shall apply to the district court and appeals therefrom: *Provided*, That in the district court all criminal prosecutions under the laws of the United States and all criminal prosecutions under local law under Section 22(c) of this Act may be had by indictment by grand jury or by information: *Provided further*, That an offense which has been investigated by or presented to a grand jury may be prosecuted by information only by leave of court or with the consent of the defendant. All criminal prosecutions arising under local law which are tried in the district court pursuant to Section 22(b) of this Act shall continue to be had by information, except such as may be required by the local law to be prosecuted by indictment by grand jury."

SEC. 107. Section 25 of the Revised Organic Act of the Virgin Islands (68 Stat. 507; 48 U.S.C. 1615) is amended to read as follows:

"SEC. 25. The Virgin Islands consists of two judicial divisions; the Division of Saint Croix, comprising the island of Saint Croix and adjacent islands and cays, and the Division of Saint Thomas and Saint John, comprising the islands of Saint Thomas and Saint John and adjacent islands and cays. Court for the Division of Saint Croix shall be held in Christiansted, and for the Division of Saint Thomas and Saint John at Charlotte Amalie."

SEC. 108. Section 27 of the Revised Organic Act of the Virgin Islands (68 Stat. 507; 48 U.S.C. 1617) is amended by substituting the world "courts established by local law" for "inferior courts of the Virgin Islands" wherever they appear, and by deleting the last two sentences.

SEC. 109. Section 4(d) of the Organic Act of the Virgin Islands of June 22, 1936 (49 Stat. 1808, 48 U.S.C. 1405c(d)) is amended by substituting the word "legislature" for the words "legislative assembly" wherever they appear.

SEC. 110. The following provisions of the Organic Act of the Virgin Islands of June 22, 1936, as amended, are repealed: Section 2 (49 Stat. 1807; 48 U.S.C. 1405a); section 3 (49 Stat. 1807; 48 U.S.C. 1405b); section 5 (49 Stat. 1808; 48 U.S.C. 1405d); section 6 (49 Stat. 1808; 48 U.S.C. 1405e); section 7 (49 Stat. 1808; 48 U.S.C. 1405f); section 8 (49 Stat. 1809; 48 U.S.C. 1405g); section 11 (49 Stat. 1809; 48 U.S.C. 1405j); section 12 (49 Stat. 1809; 48 U.S.C. 1405k); section 13 (49 Stat. 1810; 48 U.S.C. 1405l); section 14 (49 Stat. 1810; 48 U.S.C. 1405m); section 15 (49 Stat. 1810; 48 U.S.C. 1405n); section 16 (49 Stat. 1810; 48 U.S.C. 1405o); section 17 (49 Stat. 1811; 48 U.S.C. 1405p); section 18 (49 Stat. 1811, 48 U.S.C. 1405q); section 19 (49 Stat. 1811; 48 U.S.C. 1405r); section 22 (49 Stat. 1812; 48 U.S.C. 1405u); section 23 (49 Stat. 1813; 48 U.S.C. 1405v); section 24 (49 Stat. 1813; 48 U.S.C. 1405w); section 25 (49 Stat. 1813; 48 U.S.C. 1405x); section 27 (49 Stat. 1813; 48 U.S.C. 1405z); section 28 (49 Stat. 1814; 48 U.S.C. 1406); section 29 (49 Stat. 1814; 48 U.S.C. 1406a); section 30 (49 Stat. 1814; 48 U.S.C. 1406b); section 31 (49 Stat. 1814; 48 U.S.C. 1406c); section 32 (49 Stat. 1814; 48 U.S.C. 1406d); section 33 (49 Stat. 1815; 48 U.S.C. 1406e); section 34 (49 Stat. 1815; 48 U.S.C. 1406g); and section 39 (49 Stat. 1817; 48 U.S.C. 1406k).

SEC. 111. The following statutes are repealed:

(a) Section 2 (39 Stat. 1132; 48 U.S.C. 1392) of the Act of March 3, 1917, as amended;

(b) That portion of section 1 of the Naval Service Appropriation Act, 1922, of July 12, 1921 (42 Stat. 123; 48 U.S.C. 1393), which reads: "That no person owing allegiance to any country other than the United States of America shall be eligible to hold office as a member of the colonial councils of the Virgin Islands of the United States nor to hold any public office under the government of said islands: *Provided further,*";

(c) Section 8 of the Act of July 3, 1930, (46 Stat. 948) as amended by § 1 of the Act of July 1, 1932 (47 Stat. 565; 48 U.S.C. 1399);

(d) The Act of May 20, 1932 (47 Stat. 160; 48 U.S.C. 1400);

(e) Section 2 of the Act of July 1, 1932 (47 Stat. 565; 48 U.S.C. 1392b);

(f) The Act of December 20, 1944, as amended (58 Stat. 827; 48 U.S.C. 1409 to 1409j);

(g) The Act of June 30, 1949, as amended (63 Stat. 350; 48 U.S.C. 1407 to 1407i): *Provided*, That nothing in this subsection shall affect the pension rights of former employees of the Virgin Islands Corporation;

(h) The Act of October 29, 1951 (65 Stat. 661; 48 U.S.C. 1409m through 1409o);

(i) Section 4 of the Act of August 19, 1976 (90 Stat. 1195; 48 U.S.C. 1574d).

TITLE II

SEC. 201. Section 22 of the Organic Act of Guam (64 Stat. 389; 48 U.S.C. 1424), as amended, is amended to read as follows:

"SEC. 22. (a) The judicial authority of Guam shall be vested in a court of record established by Congress, designated the "District Court of Guam," and such local court or courts as may have been or shall hereafter be established by the laws of Guam in conformity with Sec. 22A of this Act.

"(b) The District Court of Guam shall have the jurisdiction of a district court of the United States and, effective April 1, 1984, that of a bankruptcy court of the United States.

"(c) In addition to the jurisdiction described in subsection (b) the District Court of Guam shall have original jurisdiction in all other causes in Guam, jurisdiction over which has not been vested by the legislature in another court or other courts established by it. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court established by the laws of Guam for the purpose of determining the requirements of indictment by grand jury or trial by jury.

"(d) The District Court of Guam shall have the appellate jurisdiction provided for in Section 22C of this Act.

"SEC. 22A. (a) The local courts of Guam shall consist of such trial court or courts as may have been or may hereafter be established by the laws of Guam. On or after January 1, 1983, the legislature of Guam may in its discretion establish an appellate court.

"(b) The legislature may vest in the local courts jurisdiction over all causes in Guam. Such jurisdiction shall be subject to the exclusive or concurrent jurisdiction conferred on the District Court of Guam by Section 22(b) of this Act.

"(c) The practice and procedure in the local courts and the qualifications and duties of the judges thereof shall be governed by the laws of Guam and the rules of those courts.

"SEC. 22B. The relations between the courts established by the Constitution or

laws of the United States and the local courts of Guam with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings: *Provided,* That for the first fifteen years following the establishment of the appellate court authorized by Section 22A(a) of this Act, the United States Court of Appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the highest court of Guam from which a decision could be had in all cases involving the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder: *Provided further,* That the Court of Appeals shall not have jurisdiction of appeals in any cause of involving only the laws enacted by the legislature of Guam or the orders or regulations issued or actions taken by the executive branch of the government of Guam unless the appeal involves the consistency of such laws, orders, regulations or actions with the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the Government of the United States. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

"SEC. 22C. (a) Prior to the establishment of the appellate court authorized by Section 22A(a) of this Act the judgments and orders of the local courts of Guam may be reviewed in the Appellate Division of the District Court to the extent now or hereafter prescribed by local law: *Provided,* That local law may not preclude the review of a judgment or order to the extent that it involves the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the Government of the United States, or the conformity of any law enacted by the legislature of Guam or of any orders or regulations issued or actions taken by the executive branch of the government of Guam with the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the United States.

"(b) The Appellate Division of the District Court shall consist of three judges, of whom two shall constitute a quorum. The district judge shall be the presiding judge of the appellate division and shall preside there unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division shall be designated by the presiding judge from among the judges who are serving on, or are assigned to, the district court from time to time pursuant to section 24 of this Act: *Provided,* That only one of them shall be a judge of a local court of Guam. The concurrence of two judges shall be necesssary to any decision by the district court on the merits of an appeal, but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

"(c) The United States Court of Appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the appellate division involving the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder: *Provided,* That the Court of Appeals shall not have jurisdiction of appeals in any cause involving only the laws enacted by the legislature of Guam or the orders or regulations issued or actions taken by the executive branch of the government of Guam unless the appeal involves the consistency of such laws, orders, regulations or actions with the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the Government of the United States. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection. The provisions of this subsection, limiting the appellate review of the Court of Appeals to decisions involving federal questions, shall not apply to any appeal or other method of review from the decisions of the local courts of Guam pending on the effective date of this Act in the District Court of Guam, the United States Court of Appeals for the Ninth Circuit or the Supreme Court of Appeals for the Ninth Circuit or the Supreme Court of the United States.

"(d) Upon the establishment of the appellate court provided for in Section 22A(a) of this Act all appeals from the decisions of the local courts not previously taken must be taken to the appellate court. The establishment of that appellate court shall not result in the loss of jurisdiction of the appellate division of the district court over any appeal then pending in it. The rulings of the appellate division on such appeals may be reviewed in the United States Court of Appeals for the Ninth Circuit and in the Supreme Court notwithstanding the establishment of the appellate court.

"SEC. 22D. Where appropriate, the provisions of part II of title 18 and of title 28, United States Code, and, notwithstanding the provision in Rule 54(a) Federal Rules of Criminal Procedure relating to the prosecution of criminal offenses on Guam by information, the rules of practice and procedure heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18 and 28, United States Code, shall apply to the District Court of Guam and appeals therefrom; except that the terms 'attorney for the government' and 'United States attorney', as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of Guam, mean the Attorney General of Guam or such other person or persons as may be authorized by the laws of Guam to act therein."

SEC. 202. Section 24 of the Organic Act of Guam, as amended (64 Stat. 390; 48 U.S.C. 1424b), is amended, by:

(a) by substituting in the first paragraph of subsection (a) the words "for the term of ten years" for "for a term of eight years";

(b) substituting in the second paragraph of subsection (a) the words "a local court of record" for the "Island Court of Guam";

(c) substituting in subsection (b) the numbers "35" and "37" for "31" and "33", respectively; and

(d) deleting subsection (c).

SEC. 203. Section 1 of the Act of August 27, 1954 (68 Stat. 882) is amended by repealing that portion which reads:

"that no provisions of any such rules which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall be applicable to the District Court of Guam unless and until made so applicable by laws enacted by the Legislature of Guam, and except further".

TITLE III

SEC. 301. Section 1(b)(1) of the Act of November 8, 1977 (91 Stat. 1265; 48 U.S.C. § 1694(b)(1) is amended by substituting the words "for the term of ten years" for "for the term of eight years".

SEC. 302. Section 2(a) of the Act of November 8, 1977 (91 Stat. 1266; 48 U.S.C. 1694a(a)) is amended to read as follows:

"(a) The District Court for the Northern Mariana Islands shall have the jurisdiction of a district court of the United States, and, effective April 1, 1984, that of a bankruptcy court of the United States, execpt that the jurisdiction of the district court with respect to the government of the Trust Territory of the Pacific Islands or its agencies or instrumentalities shall be limited (a) to actions brought by that government or its agencies or instrumentalities, (b) to actions brought against that government or its agencies or instrumentalities based upon a commercial activity carried on by that government or its agencies or instrumentalities within the Northern Mariana Islands, and (c) to actions in which money damages are sought against that government or its agencies or instrumentalities for personal injury or death, or damage to or loss of property, occurring in the Northern Mariana Islands and caused by the tortious act or omission of that government or its agencies or instrumentalities, or of any official or employee thereof while acting within the scope of his office or employment, except any claim based upon the exercise or failure to exercise a discretionary function, regardless of whether the discretion be abused, or any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit or interference with contract rights. In any suit by or against the government of the Trust Territory or its agencies or instrumentalities permissible under this section, that government or its agencies or instrumentalities shall be entitled to such rights and privileges as are applicable to the United States when it is a party." The district court shall have no jurisdiction over actions brought against the officers or employees of that government or its agencies or instrumentalities with respect to their acts or omissions colorably related to their official duties.

SEC. 303. Section 3 of the Act of November 8, 1977 (91 Stat. 1266); 48 U.S.C. 1694b) is amended to read as follows:

"SEC. 3(a) Prior to the establishment of an appellate court for the Northern Mariana Islands the district court shall have such appellate jurisdiction over the judgments and orders of the courts established by the Constitution or laws of the Northern Mariana Islands as the Constitution and laws of the Northern Mariana Islands provide, except that such Constitution and laws may not preclude the review of a judgment or order to the extent that it involves the Constitution, treaties, or laws of the United States, including the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant), or any authority exercised thereunder by an officer or agency of the Government of the United States, or the conformity of any law enacted by the legislature of the Northern Mariana Islands or of any orders or regulations issued or actions taken by the executive

branch of the government of the Northern Mariana Islands with the Constitution, treaties, or laws of the United States, including the Covenant, or any authority exercised thereunder by an officer or agency of the United States.

"(b) Appeals to the district court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to section 1(b)(2) of this Act: *Provided*, That only one of them shall be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the district court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

"(c) The United States Court of Appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the appellate division involving the Constitution, treaties, or laws of the United States, including the Covenant, or any authority exercised thereunder: *Provided*, That the Court of Appeals for the Ninth Circuit shall not have jurisdiction of appeals in any cause involving only the Constitution and laws of the Northern Mariana Islands or the order or regulations issued or actions taken by the executive branch of the government of the Northern Mariana Islands unless the appeal involves the consistency of such laws, orders, regulations or actions with the Constitution, treaties, or laws of the United States, including the Covenant, or any authority exercised thereunder by an officer or agency of the Government of the United States. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection. The provisions of this subsection, limiting the appellate review of the Court of Appeals to decisions involving federal questions, shall not apply to any appeal or other method of review from the decisions of the local courts of Northern Mariana Islands pending on the effective date of this Act in the District Court of the Northern Mariana Islands, the United States Court of Appeals for the Ninth Circuit or the Supreme Court of the United States."

TITLE IV

SEC. 401. Sections 335, 336, and 402(e) of the Act of November 6, 1978, 92 Stat. 2680, 2682, are repealed.

SEC. 402. This Act shall become effective on the first day of the third month following its enactment.

EXPLANATION OF THE BILL AND SECTION-BY-SECTION ANALYSIS

TITLE I

Section 101

This section amends § 3 of the Revised Organic Act of the Virgin Islands of 1954 (Act), 48 U.S.C. § 1561, by authorizing the prosecution by indictment or by information of violations of the laws of the United States and of certain local offenses closely related to such violations. It is designed to face the problem presented by *United States* v. *Christian*, 660 F. 2d 892 (3rd Cir. 1981), which held that existing law precludes the impanelling of a federal grand jury for the investigation of violations of federal laws.

Section 102

This section amends § 21 of the Act, 48 U.S.C. § 1611, by authorizing the establishment of a local appellate court. It also authorizes the legislature of the Virgin Islands to vest in the local courts jurisdiction over all causes in the Virgin Islands. That jurisdiction, however, is subject to the exclusive or concurrent jurisdiction of the district court provided for in § 22(a) and (c). The procedure in the local courts is to be governed by local law.

Section 103

(a) Section 103(a) amends §§ 22 and 23 of the Act, 48 U.S.C. §§ 1612, 1613. Section 22(a) confers on the district court of the Virgin Islands the full jurisdiction of a district court of the United States and not only the federal question jurisdiction. See *Chase Manhattan Bank (n.A.)* v. *South Acres Development Co.*, 434 U.S. 236 (1978). The redraft of § 22(a) takes account (a) of the amendment of 28 U.S.C. § 1331, which has eliminated the jurisdictional amount in the federal question jurisdiction of the district courts, and (b) of the amendment of § 22(a) by §§ 336(a) and 402(e) of the Bankruptcy Reform Act of 1978, 92 Stat. 2680, 2682, which conferred on the District Court of the Virgin Islands the jurisdiction of a bankruptcy court of the United States, effective April 1, 1984. In analogy to § 31 of the Organic Act of Guam, 48 U.S.C. § 1421i(h), the district court will also have exclusive jurisdiction in all proceedings under the income tax laws applicable to the Virgin Islands, except certain ancillary laws enacted by the legislature of the Virgin Islands. This provision results from the characterization of the income tax laws of the Virgin Islands as a local territorial tax which is reviewable in the district court only by virtue of local legislation. *Dudley* v. *Commissioner of Internal Revenue*, 258 F. 2d 182 (3rd Cir. 1958).

Section 22(b) confers on the district court jurisdiction over those local causes over which jurisdiction has not been vested by local law in the local courts. In contrast to existing law (§ 24 of the Act) the district court will have concurrent jurisdiction with the local courts over the causes vested in the latter by local law only where specifically provided for by federal law, e.g. in diversity cases or in causes in which a federal question arises. Jurisdiction over petty causes, as defined in that subsection, is basically conferred on the local courts. Again, the district court has jurisdiction over those causes where specifically provided by federal law, e.g., where they involve a federal question within the meaning of 28 U.S.C. § 1331.

Section 22(c) confers on the district court concurrent jurisdiction over offenses of which the local courts have jurisdiction, if those offenses are closely related to offenses over which the district court has jurisdiction. The purpose of this provision is to obviate the need of trying in different courts separate aspects of the same offense or of closely related offenses.

(b) Section 103(b) takes account of the loss of the district courts' general concurrent jurisdiction over local causes transferred by local law to the local courts, and continues the jurisdiction of the federal courts over the local causes pending in the federal trial and appellate courts on the effective date of this Act.

Section 104

This section replaces § 23 of the Act, 48 U.S.C. § 1613. It provides generally that the relations between the local courts of the Virgin Islands and the federal courts shall be the same as the relation between the state courts and the federal courts, with exception that for the first fifteen years following the establishment of the appellate court, the decisions of the highest local court from which a decision may be had shall be reviewable in the United States Court of Appeals for the Third Circuit, rather than in the Supreme Court pursuant to 28 U.S.C. § 1257.

The transitional period of fifteen years is the same as the one provided for in § 4 of the Act of November 8, 1977, 48 U.S.C. § 1694c, relating to the Northern Mariana Islands. It is based on the consideration that, during the formative years of the new appellate court and while it establishes its institutional traditions, its decisions should be reviewed as a matter of right by a court of appeals which is familiar with the local conditions rather than on a discretionary basis by the Supreme Court.

As in the case of the relationship between federal and State courts, the review of the decisions of the appellate court is limited to federal questions to the exclusion of purely local issues, *i.e.* to appeals involving the Constitution, treaties and laws of the United States or any authority exercised thereunder. The section has been drafted (a) to obviate the contention that every act of the legislative or executive branch of a territorial government raises a federal question because all such acts derive their authority from federal law, in particular the Organic Act, and (b) to assure the reviewability in the Court of Appeals of local actions which are in conflict with the Constitution of the United States, federal statutes, including the Organic Act, and the acts of federal officials authorized by federal law. See in this context *Taisacan* v. *Camacho*, 660 F.2d 411, 413 (9th Cir. 1981) and *Camacho* v. *Civil Service Commission*, 666 F. 2d 1257, 1261–1262 (9th Cir. 1982).

Section 105

This section adds a new § 23A to the Act. It amplifies the last sentence of § 22 of the Act, 48 U.S.C. 1612, relating to the appellate jurisdiction of the district court over the decisions of the local courts. Section 23A provides that prior to the establishment of the appellate court authorized by § 21(a), the decisions of the local courts shall be reviewable in the appellate division of the district court, as provided by the local legislature. The latter, however, may not preclude appeals to the appellate division from decisions of the local courts involving federal questions.[1] The appellate division consists of three judges as on Guam and in the Northern Mariana Islands (see 48 U.S.C. §§ 1424 and 1694b, respectively). This provision responds to complaints by representatives of the Virgin Islands that at present the decisions of the local courts are reviewed by a single district judge. Following the precedent of § 3 of the Act of November 8, 1977, 48 U.S.C. § 1694b, applicable to the Northern Mariana Islands, § 23A(b) provides

[1] For the discussion of the federal question concept in a territory see the analysis of § 104, *supra*.

that no more than one judge of a court established by local law may be a judge of the appellate division. This provision was included in the 1977 Act at the insistence of Members of Congress who apparently felt that it would be undesirable to have a majority in the appellate division consist of judges who are members of the very court the decision of which was being reviewed.

In contrast to existing law only those decisions of the appellate division which involve federal questions [2] may be reviewed in the Court of Appeals for the Third Circuit. This provision is based on the consideration that the courts of appeals should not be burdened with the review of purely local issues, especially where the litigants already had been afforded one stage of appellate review.

Section 106

This section deals with the substance of § 24(a) and (b) of the Act, 48 U.S.C. 1614(a) and (b), and the last two sentences of § 25 of the Acts, 48 U.S.C. § 1615.

Section 106(a) amends § 24(a) of the Act by providing that the district judges shall be appointed for terms of ten years. Under existing law, the district judges of the territorial courts are appointed for terms of eight years. They become, however, eligible for retirement benefits only after ten years of service. 28 U.S.C. § 373. The purpose of the change is to avoid the hardship which 28 U.S.C. § 373 imposes on district judges who fail of reappointment after their first term. The redraft of § 24(a) incorporates by reference the amendment of 28 U.S.C. § 136(a), relating to the appointment of the chief judges of the district courts by § 202 of the Federal Courts Improvement Act of April 2, 1982, 96 Stat. 52.

Section 106(b) replaces § 24(b) of the Act. It expands the scope of the next to the last sentence of § 25 of the Act by extending to the Virgin Islands "where appropriate" the procedural provisions of title 18, and title 28, United States Code, and the rules of procedures adopted or promulgated pursuant to titles, 11, 18 and 28, United States Code. At present some of those procedural provisions are expressly applicable to the Virgin Islands in a haphazard manner, leaving it open whether and to what extent other provisions also apply to the Virgin Islands. It is envisaged that the only exceptions to this extension will be those provisions which are in conflict with specific legislation applicable to the Virgin Islands and those relating to judges who are appointed during good behavior.

The two provisos of § 24(b) implement the amendment of § 3 of the Act by § 101 of this legislation. They provide (a) that federal offenses, and local offenses coming within the scope of § 22(c), may be prosecuted by indictment by grand jury or by information, and (b) that once a matter has been before a grand jury it may be prosecuted by information only by leave of court or with the consent of the defendant.

Section 107

This section amends § 25 of the Act, 48 U.S.C. 1615. It generally restates the first sentence of that section. The subject matter of the second sentence relating to the sessions of the court has been omitted since it is covered by 28 U.S.C. § 139, rendered applicable to the District Court of the Virgin Islands, by § 24(b). The subject matter of the last two sentences has been transferred to § 24(b).

[2] For the discussion of the federal question concept in a territory see the analysis of § 104, *supra*.

Section 108

This section amends § 27 of the Act, 48 U.S.C. § 1617, by substituting the words "courts established by local law" used in this legislation for the term "inferior courts of the Virgin Islands" used in the Act. It also repeals the last two sentences of § 27 because they duplicate 28 U.S.C. § 546, which has been made applicable to the Virgin Islands by the amendment of § 24(b) and by the first sentence of § 27.

Section 109

This section amends § 4(d) of the Organic Act of the Virgin Islands of June 22, 1936, 48 U.S.C. 1405c(d), by substituting the current term "legislature" for "legislative assembly" used in 1936 Act.

Section 110

This section repeals those provisions of the Organic Act of the Virgin Islands of 1936 which have become obsolete or been by or replaced by subsequent legislation.

Provisions of Organic Act of 1936	Obsolete or replaced by
§ 2. 48 U.S.C. § 1405a..	Obsolete.
§ 3, 48 U.S.C. § 1405b..	Do.
§ 5, 48 U.S.C. § 1405d..	Do.
§ 6, 48 U.S.C. § 1405e..	Do.
§ 7, 48 U.S.C. § 1405f...	Do.
§ 8, 48 U.S.C. § 1405g..	Do.
§ 11, 48 U.S.C. § 1405j.	Do.
§ 12, 48 U.S.C. § 1405k.	Do.
§ 13, 48 U.S.C. § 1405l.	Do.
§ 14, 48 U.S.C. § 1405m.	Do.
§ 15, 48 U.S.C. § 1405n.	Do.
§ 16, 48 U.S.C. § 1405o.	Do.
§ 17, 48 U.S.C. § 1405p.	Replaced by § 4 of the Act, 48 U.S.C. § 1542,
§ 18, 48 U.S.C. § 1405o.	Replaced by § 8(c) of the Act, 48 U.S.C. 1574(c),
§ 19, 48 U.S.C. § 1405r.	Replaced by § 8(a) of the Act, 48 U.S.C. 1574(a),
§ 22, 48 U.S.C. § 1405u.	Obsolete.
§ 23, 48 U.S.C. § 1405v.	Do.
§ 24, 48 U.S.C. § 1405w.	Do.
§ 25, 48 U.S.C. § 1405x.	Replaced by §§ 21 to 23 of the Act, 48 U.S.C. § 1611,
§ 27, 48 U.S.C. § 1405z.	Replaced by § 25 of the Act, 48 U.S.C. § 1615,
§ 28, 48 U.S.C. § 1406..	Replaced by §§ 22, 23 of the Act, 48 U.S.C. §§ 1612, 1613,
§ 29, 48 U.S.C. § 1406a.	Replaced by 18 U.S.C. § 3241,
§ 30, 48 U.S.C. § 1406b.	Superseded by 28 U.S.C. §§ 1291, 1294(3),
§ 31, 48 U.S.C. § 1406c.	Replaced by § 26 of the Act, 48 U.S.C. § 1616,
§ 32, 48 U.S.C. § 1406d.	Replaced by § 23 of the Act, 48 U.S.C. § 1613,
§ 33, 48 U.S.C. § 1406e.	Obsolete.
§ 34, 48 U.S.C. § 1406g.	Replaced by § 3 of the Act, 48 U.S.C. § 1561,
§ 39, 48 U.S.C. § 1406k.	Replaced by § 30 of the Act, § 1544.

Section 111

This section repeals provisions of earlier legislation which have been replaced by subsequent legislation or which have become obsolete:

(a) Section 2 of the Act of March 3, 1917. This section was replaced first by § 18 of the Organic Act of 1936, 48 U.S.C. § 1405q, and is now incorporated in § 8(c) of the Act, 48 U.S.C. § 1574(c). The fiscal provisions of §§ 3, 4, and 5 of the Act of March 3, 1917, 48 U.S.C. §§ 1394, 1395, 1396, and of §§ 35, 36 of the Act, 48 U.S.C. §§ 1406h and 1406i, have not been repealed or amended, because their mutual relationship and the impact on them of § 28 (a) and (d) of the Act, 48 U.S.C. § 1642, 1642, and of General Head note 3(a) of the Tariff Schedules of the United States, 19 U.S.C. § 1202, are uncertain and will have to be resolved in separate legislation.

(b) This portion of § 1 of the Naval Appropriation Act of 1921 (48 U.S.C. § 1393) has been replaced by § 29 of the Act, 48 U.S.C. § 1543.

(c) The subject matter of Section 8 of the Act of July 1, 1930, as amended, 48 U.S.C. § 1399, is included in § 4(b) of the Organic Act of 1936, 48 U.S.C. § 1405c(b).

(d) The Act of May 20, 1932, 48 U.S.C. § 1400, will be superseded as the result of the amendment of § 22(a) of the Act, 48 U.S.C. § 1612(a), by § 103(a) of this legislation, conferring the full jurisdiction of a district court of the United States on the District Court for the Virgin Islands.

(e) Section 2 of Act of July 1, 1932, 48 U.S.C. § 1392b, same as (d).

(f) The projects authorized by the Act of December 20, 1944; as amended, 48 U.S.C. §§ 48 U.S.C. §§ 1409 to 1409j appear to have been completed.

(g) The Virgin Islands Corporation created by the Act of June 30, 1949, 48 U.S.C. §§ 1407 to 1407i, was dissolved on July 1, 1966.

(h) The agricultural research and extension service programs for the Virgin Islands, authorized by the Act of October 1, 1951, 48 U.S.C. § 1409 m through o, are now carried out under the corresponding federal statutes of general application which have been extended to the Virgin Islands by § 506 (h) and (k) of the Education Amendments of 1972, 86 Stat. 351.

(i) The grants provided for in § 4 of the Act of August 19, 1976, 90 Stat. 1195, have been expended.

TITLE II

Section 201

This section restates and amplifies § 22 of the Organic Act of Guam (Act), 48 U.S.C. § 1424.

Section 22(a) restates the first sentence of § 22(a) of the Act, 48 U.S.C. § 1424(a).

Section 22(b) deals with the first clause of the second sentence of § 22(a) of the Act, 48 U.S.C. § 1424(a). It confers on the district court of Guam the full jurisdiction of a district court of the United States and not only federal question jurisdiction. See *Chase Manhattan Bank* (N.A.) v. *South Acres Development Co.* 434 U.S. 236 (1978). Section

22(b) also takes account (a) of the amendment of 28 U.S.C. § 1331, which has eliminated the jurisdictional amount in the federal question jurisdiction of the district courts, and (b) of the amendment of § 22(a) by §§ 335(a) and 402(e) of the Bankruptcy Reform Act of 1978, which confer on the district court of Guam the jurisdiction of a bankruptcy court of the United States, effective April 1, 1984.

Section 22(c) restates the second clause of the second sentence of § 22(a) of the Act, 48 U.S.C. § 1424. It adds that where the district court retains jurisdiction over local clauses because they were not transferred by the legislature to the local courts, the district court shall be deemed to be a court established by the laws of Guam for the purposes of the requirements of indictment by grand jury or trial by jury.

Section 22(d) states that the appellate jurisdiction of the district court, now referred to in the third clause of the second sentence of § 22(a) of the Act, 48 U.S.C. § 1424, is set forth in § 22C.

Section 22A(a) restates the part of the first sentence of § 22(a) of the Act, 48 U.S.C. § 1424(a), which relates to the local courts. The section specifically authorizes the legislature of Guam to establish an appellate court on or after January 1, 1983. The subsection therefore will not have the effect of reviving the Supreme Court of Guam which was struck down by the Supreme Court of the United States in *Guam* v. *Olsen*, 431 U.S. 195 (1977).

Section 22A(b) and (c) restates the last sentence of the first paragraph of § 22(a) of the Act, 48 U.S.C. § 1424(a), relating to the power of the legislature to determine the jurisdiction and procedure in the local courts of Guam. Section 22A(b) stipulates that the jurisdiction of the local courts of Guam is subject to the exclusive or concurrent jurisdiction of the District Court of Guam under § 22(b). Section 22A(c) provides that the procedure in the local courts may also be governed by the rules established by those courts.

Section 22B deals generally with the relations between the federal courts and local courts of Guam. It corresponds to § 104, relating to the Virgin Islands, reference therefore is made to the explanation of that section.

Section 22C amplifies the second paragraph of § 22(a) of the Act, 48 U.S.C. § 1424(a). It corresponds to § 105, relating to the Virgin Islands, reference therefore is made to the explanation of that section.

Section 22D is based on and expands § 22(b) of the Act, 48 U.S.C. § 1424(b). It corresponds to § 106(b) relating to the Virgin Islands, reference therefore is made to the explanation of that subsection. Section 22D omits the provisions of § 22(b) of the Act, 48 U.S.C. § 1424(b), relating to trial by jury and prosecution by information rather than by grand jury. Those provisions have been superseded by § 10 of the Elected Governor Act of 1968, 48 U.S.C. § 1421b(u), which introduced into Guam the Fifth and Sixth Amendments to the Constitution of the United States without the reservation relating to grand juries contained in the corresponding provisions applicable to the Virgin Islands. Grand juries and petit juries therefore have been utilized in federal prosecutions on Guam for many years.

Section 202 amends § 24 of the Act, 48 U.S.C. 1424b. Section 202(a) provides for the appointment of the district judge for a term of ten rather than eight years in order to provide for retirement benefits to district judges who fail of reappointment after their first term. See the explanation of § 106(a).

Section 202(b) is self explanatory.

Section 202(c) conforms § 24(b) of the Act, 48 U.S.C. 1424b(b), to the renumbering of the chapters of title 28, United States Code, in 1966.

Section 202(d) repeals § 24(c) of the Act, 48 U.S.C. 1424b(c), which has become redundant as the result of the general applicability to Guam of title 28, United States Code by virtue of § 22D.

Section 203

The reason for this repeal is given in the last two sentences of the explanation of § 22D.

TITLE III

This Title amends the Act of November 8, 1977, 91 Stat. 1265, (Act) 48 U.S.C. §§ 1694–1694e, which establishes the federal judicial system in, and its relationship to the local courts of, the Northern Marina Islands in conformity with Article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved on March 24, 1976, 90 Stat. 263 (Covenant), 48 U.S.C. § 1681, note. In view of the policy to avoid departure from the text of the Covenant as much as possible the amendments of the Act have been held at a minimum. In particular, § 1(c) of the Act, 48 U.S.C. § 1694(c), has not been conformed to §§ 106(b) and § 22D of the Organic Act of Guam, as added by § 201 of this legislation. Similarly § 4 of the Act, 48 U.S.C. § 1694c(a) has not been amended so as to incorporate the technical definition of the federal question found e.g. in §§ 104–105(c), and §§ 22B and 22C(c) of the Organic Act of Guam added by § 201 of this legislation. It is expected nevertheless that the interpretation of the Act will be guided the ideas underlying Titles I and II of this legislation.

Section 301 amends § 1(b)(1) of the Act, 48 U.S.C. § 1694(b)(1), by providing that the district judge shall be appointed for a term of ten rather than of eight years. The purpose of this amendment is—as explained in the comments on § 106(a)—to provide for retirement benefits to a district judge who fails of reappointment after his first term.

Section 302 amends § 2(a) of the Act, 48 U.S.C. § 1694(a), in three aspects. First, it adjusts the section to the recent amendment of 28 U.S.C. § 1331 which gives the district courts federal question jurisdiction without regard of the amount in controversy. Second, it provides that, effective April 1, 1984, the court will have the jurisdiction of a bankruptcy court of the United States, as have the district courts of Guam and of the Virgin Islands.

Third, it generally limits the jurisdiction of the district court with respect to the government of the Trust Territory of the Pacific Islands to actions brought by that government and to those actions against it which may be brought against a foreign government under the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605, *i.e.* to those which are based on commercial activities carried on in the Northern Mariana Islands or on certain torts occurring there. In such actions the Trust Territory Government is entitled to such rights and privileges as are applicable to the United States where it is a party, *e.g.* venue, the statute of limitations, absence of a jury trial, counterclaims. This provision has been prompted by the decision of the appellate division of the District Court for the Northern Mariana Islands in *Sablan Construction Company* v. *Government of the Trust Territory of the Pacific Islands*, 526 F. Supp. 135 (D. N.M.I. App. Div. 1981) in which the court assumed jurisdiction in a tax case involving the Trust Territory Government. *Temengil* v. *Government of the Trust Territory of the Pacific Islands*, D.C. N. M.I. No. 81–0006, now under advisement, also involves the judicial review of governmental acts of the Trust Territory. The continued physical presence of the Trust Territory Government in the Northern Mariana Islands is an anomaly and historic accident and was not anticipated when the district court was established. Furthermore the assumption of jurisdiction over that government by the district court is in conflict with *People of Saipan* v. *United States Dept. of the Interior*, 502 F .2d 90, 95–96, 99–100 (9th Cir. 1974), *cert. denied* 420 U.S. 1003 (1975) which held, first, that the Trust Territory Government is not a federal agency and, second, that the actions of that government are not directly reviewable in the federal courts. The interests of the people of the Northern Mariana Islands are sufficiently protected by giving the district court contract and tort jurisdiction over the Trust Territory Government. The preclusion of review by the district court of the governmental activities of that government is not likely to prejudice the citizens of the Northern Mariana Islands since the Trust Territory Government has not exercised any governmental functions with respect to those Islands for six years since 1976. On the other hand, continued jurisdiction of the district court over the Trust Territory Government may result in suits being brought against it by residents of other Micronesian islands and adversely affect the detailed claims settlement arrangements provided for in the Compact with the Micronesian entities. The enactment of this provision may require the issuance of an Order by the Secretary of the Interior clarifying the jurisdiction of the High Court of the Trust Territory over the Trust Territory Government.

Section 303 deals with § 3 of the Act, 48 U.S.C. § 1694b, relating to the appellate jurisdiction of the district court for the Northern Mariana Islands.

First, § 303(a) makes it clear that the appellate division of the District Court for the Northern Mariana Islands has jurisdiction only over the appeals from the decisions of the local courts of the Northern Mariana Islands and not over those of the district court. This clarification of § 3 of the Act has been required by the decision in *Sablan* v. *Santos*, 634 F.2d 1153 (9th Cir. 1980), which held that appeals from district court decisions in local law matters are to be taken to the appellate division of the district court rather than to the Court of Appeals for the Ninth Circuit. That decision is in conflict with § 402(c) of the Covenant with the Northern Mariana Islands (48 U.S.C. § 1681 note) on which § 3 of the Act is based. The explanation of § 402(c) in the Senate Report on the Covenant specifically states "the District Court will have such appellate jurisdiction over the decisions of the *local* courts of the Northern Mariana Islands as the laws of the Northern Mariana Islands provide" [3] S.

[3] The clause such appellate jurisdiction "as the laws of the Northern Mariana Islands provide" evidently means as do the corresponding provisions on Guam and in the Virgin Islands (*cf.* 48 U.S.C. §§ 1424(a) and 1612) that the laws of the Northern Mariana Islands may restrict the right of appeal, not that a local legislature can determine the court to which the decision of a federal court may be appealed.

Rep. No. 433, 94th Cong. 1st Sess. 73 (1975) emphasis supplied. Moreover, the appellate division of the District Court for the Northern Mariana Islands has been patterned on the appellate division of the District Court of Guam. *In re Webster*, 363 F.2d 837, 839 (9th Cir. 1966), held that the appellate division of the District Court of Guam "has no jurisdiction except to hear appeals from the Island Court of Guam [*i.e.* the local court] to the District Court of Guam." Subsequent decisions of the Court of Appeals for the Ninth Circuit, *Taisacan* v. *Camacho*, 660 F.2d 411, 413 (9th Cir. 1981), and *Camacho*, v. *Civil Service Commission*, 666 F.2d 1257, 1259-62 (9th Cir. 1982), point to the problems created by *Sablan* v. *Santos, supra*, viz., (a) the difficulty of determining whether a decision is based on local or federal law (666 F.2d at 1262), (b) whether an appeal to the court of appeals lies from a decision of the appellate division in matters of local law, and (c) whether a decision of the district court in matters of federal law can be appealed directly to the court appeals. Hence, it appears imperative to clarify the point that all appeals from the decision of the district court go directly to the Court of Appeals for the Ninth Circuit.

Second, § 303(a) provides, as do §§ 105, (§ 23A(a)) and 201, (§ 22c(a)), that the local legislature cannot preclude appeals to the appellate division of the district court from the decisions of the local courts which involve a federal question. The formulation of the concept of federal question is explained in analysis of § 104.

Third, § 303(c) provides, as do §§ 105 (§ 23A(c)) and § 201 § 22c(c), that the decisions of the appellate division are reviewable in the court of appeals only to the extent that they involve a federal question. The reason for the limitation of appeals to the Court of Appeals to those which involve federal questions is given in the explanation of § 105.

TITLE IV

Section 401

This section repeals §§ 335, 336 and 402(e) of the Bankruptcy Act of 1978, because they have been incorporated in §§ 103(a), and 201.

Section 402

The section provides that the proposed legislation will become effective on the first day of the third month following its enactment. In view of the many changes in the jurisdiction of courts contained in this legislation, its effectiveness has been delayed by at least two months following its enactment.

U.S. SENATE,
COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, D.C., November 13, 1981.

Hon. JAMES G. WATT,
Secretary of the Interior,
Washington, D.C.

DEAR SECRETARY WATT: On October 21, 1981, the Committee on Energy and Natural Resources received testimony on S. 1674, legislation which in part would have reformed federal law in order to give full effect to the proposed Constitution of the Virgin Islands. The Constitution had previously been approved for submission to the voters in the Virgin Islands by Public Law 97-21. During the hearings, the Administration witnesses from the Departments of the Interior and Justice supported Title I of S. 1674 provided certain amendments were adopted.

As you are aware, on November 3, 1981, the voters in the Virgin Islands rejected the proposed Constitution. As a result, it will continue to be necessary to retain the local government provisions of the Revised Organic Act of the Virgin Islands which would have been repealed by Title I of S. 1674. Title I, however, was also drafted to repeal several provisions of federal law which had been superseded by subsequent enactments but never repealed and was also designed to reform the federal judicial provisions of the Revised Organic Act to provide an improved process for appellate review. The merits of both cleaning up the federal statutes and reforming the judicial process should be unaffected by the defeat of the Constitution.

Accordingly, I would appreciate it if you would review Title I of S. 1674 in light of the decision of the voters in the Virgin Islands and provide me with your recommendations on which provisions should be retained together with any other recommendations you may have to improve the process of local self government in the Virgin Islands. If you determine that reform of the District Court is appropriate in the Virgin Islands, I would appreciate it if you would also examine the present judicial system in Guam and make such recommendations as you feel appropriate for changes in the Organic Act of Guam. I have also written to the Attorney General for his recommendations.

If you have any questions concerning this request, I would appreciate it if you would contact Mr. Jack Gleason of my staff at 224-9096 or Mr. James Beirne, Counsel to the Committee on Energy and Natural Resources, at 224-2564. In formulating your recommendations affecting either the Virgin Islands or Guam I would hope that you would contact Governor Luis and Governor Calvo, respectively, so that the Committee will be able to consider amendments which have the full support of both the Administration and the local territorial government.

With kind regards,
Sincerely,
LOWELL P. WEICKER, Jr.,
U.S. Senator.●

By Mr. HEINZ (for himself, Mr. CHILES, Mr. DURENBERGER, Mr. SPECTER, and Mrs. HAWKINS):

S. 2730. A bill to place a moratorium on continuing disability investigation terminations under titles II and XVI of the Social Security Act; to the Committee on Finance.

By Mr. HEINZ (for himself and Mr. DURENBERGER):

S. 2731. A bill to amend title II of the Social Security Act to provide for continued payment of disability benefits during appeal, to provide adjustment benefits and vocational training for individuals terminated from the disability program, to strengthen the reconsideration process, to provide for more uniformity in decisionmaking at all levels of adjudication, and for other purposes; to the Committee of Finance.

MORATORIUM ON CONTINUING DISABILITY INVESTIGATIONS AND THE DISABILITY AMENDMENTS OF 1982

Mr. HEINZ. Mr. President, today I am introducing legislation that is urgently needed to protect more than 4 million disabled workers and their families and 2 million supplemental security income recipients from the increasingly likely possibility that they will have their disability benefits unfairly terminated. Disabled people are being removed from the rolls in large numbers, despite the fact that they may not have improved since they were originally awarded disability benefits—and, indeed may even have suffered a further deterioration in their medical condition.

To remedy this situation, I am introducing two pieces of legislation: The first imposes a temporary, partial moratorium on new disability terminations under the program of accelerated continuing disability investigations, lasting until January 1, 1983. Joining me in introducing this moratorium are Senators CHILES, DURENBERGER, SPECTER, and HAWKINS.

The second bill is a comprehensive reform of the program of continuing disability investigations, which provides needed management improvements, additional protections for beneficiaries, and provisions to ease the return to work of individuals terminated from the rolls for medical reasons. Senator DURENBERGER, I am pleased to say, joins me in cosponsoring this comprehensive legislation.

MORATORIUM BILL

The first bill would impose a temporary moratorium on the accelerated continuing disability investigation (CDI's), which were mandated by the 1980 disability amendments. In the past 15 months, more than 139,000 individuals have had their benefits terminated. I fully recognize that a moratorium of this nature, lasting until January 1, 1983, is not a full solution to the problems raised by the continuing disability investigations. To accomplish this, I am introducing a separate, comprehensive bill that would retain the important concept of a regular, periodic review of people on the disability rolls, yet still grant additional protections so that people will not be removed from the rolls improperly.

The distinguished chairman of the Senate Finance Committee has indicated his willingness to hold hearings on this matter in the very near future, at which time we will be able to evaluate the several pieces of legislation now before the Senate. But until the Senate has had the opportunity to arrive at a considered solution, we need this moratorium to insure that the wrong people are not removed from the rolls, at the price of terrible human hardship.

HOW THE MORATORIUM WOULD WORK

This temporary moratorium would last until January 1, 1983. Until that time, SSA would render no final decisions of initial cessation. Decisions on appeals of earlier cessation, however, that is, the reconsideration, adminis-

trative law judge, and appeals council decisions, would continue as normal.

There would be two important exceptions to the moratorium on initial cessations. First, it would not apply to so-called medical diaried reviews, of which there are roughly 160,000 per year. These are cases where, at the time of the original award, the individual was believed to have a high probability of medical recovery, and the individual was notified that he or she would be subject to a medical reexamination at a specified date. Under this bill, these reviews would proceed as normal.

Second, the moratorium would not apply to new cessations where the Secretary finds fraud or abuse on the part of the beneficiary, or where the individual is working and performing substantial gainful activity.

WHY A MORATORIUM

The rates at which people are being terminated from the disability rolls are extremely high, and indeed, far in excess of the projections that 20 percent of those on the rolls were expected to be found not disabled. Right now, more than 45 percent of those reexamined are being terminated on the basis of decisions rendered by the State agencies under contract with the Social Security Administration. The Social Security Administration also estimates, however, that roughly 80 to 85 percent of those terminated will appeal their decisions, and that 65 percent of those coming before the administrative law judges will have their benefits reinstated, after having undergone a long period—a year or more is not uncommon—without any benefits whatsoever, and frequently with the additional expense of paying for the services of an attorney.

Clearly, legitimately entitled individuals are having their benefits terminated, and suffering great hardship in proving their case.

A moratorium is also desirable because the high volume of continuing disability investigations has strained the decisionmaking process in my own State of Pennsylvania, and elsewhere. Nationally, the number of disability reviews has grown from 185,000 in 1980, to 351,000 in 1981, to 567,000 in 1982, and a projected 806,000 in 1983.

In the first 8 months of fiscal year 1982, the backlog of undecided appeals by SSA's administrative law judges rose by 15,000 cases to more than 143,000 cases pending as of May 31, 1982. Ninety-six percent of this backlog is composed of disability cases. Estimates are, the backlog will rise to 200,000 cases in fiscal year 1983.

The administrative strains of processing these large numbers of claims have raised serious questions about the quality of decisions being rendered. There have been numerous charges of hasty processing and inadequate consultative medical examinations purchased by State agencies from department-store style "high volume providers." Testimony by claimants, administrative law judges, and representatives of disabled people, points to case after case where severely disabled people have lost their benefits.

In the report of a task force appointed by the executive director of Pennsylvania's Office of Vocational Rehabilitation, the findings stated, and I quote,

As a result of the 1980 SSA amendments, the existing set of performance goals concerning case processing is unattainably high. Attempts by BDD (Bureau of Disability Determination) to reach these goals, along with the weekly statistical reports to SSA, contribute heavily to the frenzied pace of the adjudication process. The current paper processing and reporting requirements make it difficult to effect changes in the adjudication process.

Mr. President, this moratorium would help calm the frenzied pace of adjudication and also allow us the opportunity to spell out what congressional intent is as far as these disability reviews.

NEED TO CLARIFY CONGRESSIONAL INTENT

The 1980 amendments mandated a review of all those on the rolls not considered "permanently disabled" at least once every 3 years.

The periodic review of people on the rolls is a sound principle for managing this $18 billion program. But the real question is: Did Congress intend that people who were legitimately found to be disabled at one point should now be removed from the rolls because new standards and a tighter adjudicative climate are in force? Did Congress intend that people who were legitimately awarded benefits should lose those benefits, even if they have not improved and even if they have gotten worse?

An SSA sample study—which is the best information we have thus far on this issue of medical improvement—indicates that only 51 percent of those terminated had improved medically, and that 35 percent of those terminated had medical problems as severe, or more severe, that when they were initially awarded benefits.

The General Accounting Office in its testimony before the Subcommittee on Oversight of Government Management of the Senate Committee on Governmental Affairs recently stressed this need to clarify congressional intent:

The legislative history of the 1980 amendments clearly indicates that the Congress was concerned about the individuals who have medically improved and remain on the disability rolls. However, it is not clear what the Congress's view was toward those who have not medically improved * * * We believe the Congress should state whether cessations are appropriate for those already on the disability rolls who have not medically improved.

Mr. President, I agree with the GAO and I believe it is imperative that Congress legislate a pause in the mandatory reviews, so that the sense of the Congress on this vital issue can be clearly expressed.

Several bills have been introduced in the House and in the Senate to alleviate some of the problems of the continuing disability investigations. Some of these bills address the need for statutory language requiring medical improvement before beneficiaries can be terminated. These bills warrant a full hearing before the Senate Finance Committee, a full exposition of their financial impact and their impact on the lives of millions of present and future beneficiaries.

But, in the meantime, this moratorium will be a positive step toward a long-term solution. It would not cost anything in fiscal year 1982, and according to official estimates supplied by CBO, would reduce disability insurance budget savings by roughly $40 million in fiscal year 1983 and $65 million in fiscal year 1984. There would be no cost thereafter, with no other change in legislation, if the administration catches up with its review of the cases not examined during the moratorium.

Mr. President, I submit that this projected cost is small in relation to the substantial benefit to be derived for millions of Americans if Congress can take the time to reexamine the issue of the continuing disability examinations and make recommendations to improve the process.

COMPREHENSIVE CDI REFORM BILL

My second bill represents what I believe is a comprehensive, long-term solution to the CDI issue. This legislation retains the principle that people on the rolls need to have their disability status reexamined, at least once ever 3 years in the case of those not considered permanently disabled. But it also strives to improve the program of continuing disability investigations, in three ways: First, by providing needed management improvements; second, by giving beneficiaries better protection against improper terminations; and third, by easing the return to the labor force of those who have been legitimately terminated but may not have been employed for years.

MANAGEMENT IMPROVEMENTS

The current mandate for a 3-year review of disabled beneficiaries, though appropriate in principle, clearly requires a period of transition before the Social Security Administration and the State agencies have developed the administrative capability to process all these cases and still insure the high quality reviews that people deserve.

To facilitate such a transition, our bill allows the review of the disability status of people who were on the rolls

prior to the 1980 disability amendments at intervals to be determined by the Secretary, so as to insure adequate staffing and high quality, cost-effective disability reviews.

This additional discretion is specifically intended to give the Secretary the latitude to slow down the number of annual reviews and focus its energies on those cases that most urgently need review. This provision also purposely shifts the emphasis from the current emphasis on quantity to the desired emphasis on quality. And the flexibility it grants the Secretary to allow the Social Security Administration to manage this program, taking into consideration the varying capacity of each State agency to undertake reviews, is a necessary and desirable authority.

The bill also attempts to improve the management of the CDI process by providing for a face-to-face hearing at the first appeal level—the so-called reconsideration. Right now, the reconsideration process has been discredited as a virtual "rubber-stamp" affirmation of the original decision. Moreover, current law, by not providing for such a face-to-face hearing, allows for the disability termination to be upheld on appeal, even though the decisionmaker has never seen the individual involved. Instead, our bill mandates a face-to-face hearing at the reconsideration level, starting January 1, 1984, or sooner if State agencies so elect, and it requires that beneficiaries be notified of the seriousness of the face-to-face hearing and the right to representation. It is our belief that the individual will receive a more thorough and fair decision at the reconsideration level and also prevent the need for many individuals to proceed to the next stage of appeal—before an administrative law judge.

A third management improvement would require that the Secretary promulgate, through regulations subject to public comment, uniform standards to be followed at all levels of adjudicating disability claims. Right now, different criteria are being followed by the State agencies and by the administrative law judges, with a so-called revolving door as a result. Individuals can be denied by State agencies, appeal their cases to administrative law judges and succeed in obtaining benefits, and then have their benefits terminated by State agencies reviewing the disability status of the beneficiary. Uniform standards are absolutely essential. And public comment on the uniform standards is also essential, to make sure that the standards are in full compliance with the law and regulations.

A fourth management improvement would result from the requirement that the Administration make a quarterly report to Congress on the number of CDI's conducted, the number of initial benefit terminations, the number of appeals filed, and the number of terminations reversed upon appeal. This would provide Congress—at regular intervals—with the data which Social Security already has at its disposal and encourage congressional oversight of the CDI program.

ADDITIONAL PROTECTIONS FOR BENEFICIARIES

After reviewing the disability terminations of hundreds of individuals, I am absolutely convinced that beneficiaries need additional protection against improper terminations.

The most needed protection provided in our bill is to insure that before an individual is terminated, the Secretary must find that there has been substantial medical improvement, or else that medical and vocational evidence, not available at the time the individual was determined to be under a disability, clearly shows that the individual has the functional capacity to work on a regular and sustained basis. The Secretary must bear the burden of proof in cases where new medical and vocational evidence is involved.

This provision protects people from improper terminations, while at the same time giving the disability program the flexibility to adapt to changing medical technology and changing vocational experience.

Further, this bill would protect beneficiaries who were awarded benefits by an administrative law judge against a de facto reversal by a lower level of authority. If an individual was awarded benefits by the administrative law judge, the State agency could only terminate benefits where there is a finding of substantial medical improvement. If new medical or vocational evidence is the basis for the termination, then the case has to be referred to the Appeals Council for a decision before benefits are terminated.

The bill would further protect beneficiaries from improper terminations by requiring that, before benefits are to be terminated, the Secretary must make all reasonable efforts to obtain complete and sufficient medical evidence and medical history for the individual from the treating physician or any other health care provider.

In CDI's involving mental impairments, the bill requires that SSA make personal contact with the beneficiary to ascertain whether the individual requires assistance in complying with the instructions of the Secretary in carrying out the review. If assistance is required, or requested by the individual, the Secretary shall provide such assistance or refer the individual to a local agency or organization which can provide it.

To protect individuals against retroactive terminations of benefits, the bill codifies current SSA policy and makes the month of cessation the month in which the individual is notified that his or her disability has ceased for medical reasons.

To protect individuals who are incorrectly terminated from going long periods without benefits, the bill provides for continuation of cash and medicare benefits up to the first appeal decision where the beneficiary has had the opportunity for a face-to-face hearing. In practical terms, that means payment through the administrative law judge's decision in 1983 and through the reconsideration decision in 1984 and thereafter, when the bill mandates evidentiary face-to-face hearings at the reconsideration level. If the individual loses the appeal, cash benefits, but not medicare health benefits, would be subject to repayment.

EASING THE TRANSITION TO WORK

To ease the transition back to work for individuals who have been on the rolls for several years (at least 36 months), this bill provides that, in cases where the beneficiary is terminated for medical reasons, the individual may receive an additional 2 months of cash benefits and medicare benefits. That would mean that the individual would receive 4 months of benefits after the month he or she is notified that benefits will cease, and allow the individual more time to reenter the labor force without suffering hardship.

The time limit for applying for a reconsideration decision is also extended under this bill, from 60 to 180 days, which was formerly the filing period for reconsideration under title II of the Social Security Act. By reinstating the 180-day period for filing for reconsideration, the bill allows individuals having their benefits terminated to attempt to return to the work force. But if the work effort fails, and they find they are indeed totally disabled, they would not have exhausted their right to file for a reconsideration after only 60 days of the denial notice.

The bill also expands vocational rehabilitation benefits. It authorizes expenditures not to exceed $15 million in fiscal year 1983 and 1984 from the trust funds for individuals terminated from the rolls for medical reasons. The program would include evaluation and job placement services and would be allotted to States on the basis of the relative number of medical terminations.

Mr. President, I believe this two-part strategy to reform the program of continuing disability investigations—a short-term moratorium coupled with consideration of comprehensive reform—is urgently needed to protect beneficiaries from the harsh consequences of improper terminations.

I urge my colleagues on the Finance Committee to consider these and other proposals for reform of the disability program. The various bills introduced by myself and by other Senators cer-

tainly differ in detail. But they are unanimous in conveying the message that Congress must act immediately to end the injustice to hundreds of thousands of the most vulnerable people in this society.

I ask unanimous consent that the text of my moratorium bill and a CBO cost analysis thereof and my CDI reform legislation, together with a section-by-section analysis, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Health and Human Services shall not make any final decision of initial termination of benefits under title II or XVI of the Social Security Act on the basis of a finding that an individual who had previously been determined to be disabled is no longer disabled, if such finding is made on the basis of any continuing disability investigation carried out pursuant to section 221(i) or title XVI of the Social Security Act.

(b) Subsection (a) shall not apply in any case where such initial termination is made on the basis of a finding—

(1) that services performed or earnings derived from services demonstrate an individual's ability to enage in substantial gainful activity;

(2) of fraud; or

(3) based on a scheduled review of which such individual was notified at the time he became entitled to such benefits.

(c) Nothing in this Act shall be construed so as to prevent the Secretary from making a determination with respect to termination of benefits after completion of the reconsideration process or after a hearing, with respect to final decisions of initial termination of benefits made prior to the effective date of this Act.

(d) The provisions of this Act shall become effective five days after the date of the enactment of this Act, and shall remain in effect until January 1, 1983, or until such earlier date as the provisions of this Act are specifically repealed by law.

(e) The Secretary of Health and Human Services shall notify all individuals who have received a notice that a continuing disability investigation to which this Act applies is in progress, or who will receive such a notice during the period in which this act is in effect, and with respect to whom no final decision of initial termination has been made prior to the effective date of this Act, that no further decision will be rendered with respect to their cases during the period in which this act is in effect.

Hon. JOHN HEINZ,
Chairman, Special Committee on Aging, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter provides an estimate of the costs of halting the administration's accelerated Continuing Disability Investigations (CDI's) through January 1, 1983, as requested by your staff.

As I understand the proposal, your bill would halt all initial terminations resulting from the accelerated CDI's through January 1, 1983. This halt would have two exceptions. Currently diaried (recoverable) cases would continue to be reviewed and terminated, if necessary. Also, certain terminations based on work or fraud would continue. Based on the best evidence available at the moment, it is estimated that this provision would cost approximately $40 million in fiscal year 1983 and $65 million in 1984. The costs result from approximately 10,000 social security Title II disability recipients who would have been ultimately terminated in the absence of this legislation. There also would be a small additional cost to the SSI, HI and SMI programs. No cost after 1984 is estimated assuming that the administration would later review all cases not examined during the CDI halt. This estimate has been slightly revised from a preliminary estimate given earlier to your staff. An effective date of July 15, 1982 is assumed.

We would be pleased to provide you with additional information should you so desire.

Sincerely,

ALICE M. RIVLIN,
Director.

S. 2731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Disability Amendments of 1982".

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Sec. 1. Short title.
Sec. 2. Continued payment of disability benefits during appeal.
Sec. 3. Adjustment benefits.
Sec. 4. Cessation of disability.
Sec. 5. Disability decisions, appeals, and review.
Sec. 6. Uniform standards for disability determinations.
Sec. 7. Periodic review of disability determinations.
Sec. 8. Termination of disability benefits based on medical improvement.
Sec. 9. Medical evidence.
Sec. 10. Continuing disability investigations involving mental impairment.
Sec. 11. Payment of costs of rehabilitation services from trust funds; experiments and demonstration projects.
Sec. 12. Reports to Congress.

CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL

SEC. 2. (a) Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL

"(g)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

"(C) a timely request for reconsideration of the determination that he is not so entitled is made under section 221(d)(1),

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII), continued for an additional period beginning with the first month for which (under such determination) such benefits are no longer otherwise payable and ending with the month preceding the month in which a decision is made upon such reconsideration.

"(2) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1) pending reconsideration, and the decision upon such reconsideration affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title, but any other benefits under this Act (including benefits under title XVIII) based upon his wages and self-employment income paid during such period shall not be treated as overpayments by reason of such determination.

"(3) If any month in the additional period during which benefits are payable to an individual pursuant to an election under paragraph (1) is a month for which an adjustment benefit (of the type involved) is also payable to such individual under subsection (a)(3), the benefit which is paid to him under this title for such month shall be deemed to be an adjustment benefit under such subsection (a)(3) rather than a benefit payable pursuant to such election under paragraph (1).".

(b)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made on or after the date of the enactment of this Act.

(2) During any period prior to January 1, 1984, if the provisions of section 221(d) of the Social Security Act requiring an evidentiary hearing as a part of the reconsideration process have not been implemented with respect to any individual requesting reconsideration under such section, then the eligibility for benefits payable by reason of section 223(g) of such Act shall be extended (subject to the conditions of such section) with respect to such individual pending a decision of the Secretary rendered after such individual has been afforded opportunity for a hearing under section 221(e), rather than pending a decision rendered after reconsideration.

ADJUSTMENT BENEFITS

SEC. 3. (a) Section 223(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) In any case where—

"(i) individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability, and has been a recipient of such benefits for a period of not less than 36 consecutive months, and

"(ii) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined, on or after the date of the enactment of this paragraph and before January 1, 1985, not to be entitled to such benefits.

such individual shall be entitled (subject to subparagraph (B)) to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income, continued for an additional period of two months, beginning with the first month for which (under such determination) such benefits are no longer otherwise payable.

"(B) No benefit shall be payable to any individual (or to any other person on the basis of such individual's wages and self-employment income) under subparagraph (A) for any month in the additional period referred to in such subparagraph if—

"(i) such individual is determined by the Secretary to have engaged in substantial gainful activity in that month,

"(ii) such individual is determined by the Secretary to have engaged in fraud with respect to his entitlement to such benefits, or

"(iii) such individual (or other person) is entitled or would upon application be entitled, for such month, to a monthly benefit of any other type under this title.". (b)(1) The first sentence of section 223(a)(1) of such Act is amended by striking out "and ending with the month" and inserting in lieu thereof "and ending (subject to paragraph (3) of this subsection and to subsection (g)) with the month".

(2)(A) Subsections (b)(1), (c)(1), (d)(1), (e)(1), and (f)(1) of section 202 of such Act are each amended by striking out "and ending with the month" and inserting in lieu thereof "and ending (subject to subsections (a)(3) and (g) of section 223) with the month".

(B) Subsection (d0(6) of such section 202 is amended by striking out "shall end with the month" and inserting in lieu thereof "shall end (subject to subsections (a)(3) and (g) of section 223) with the month".

(3) Section 216(i)(2) of such Act is amended—

(A) by striking out "shall end" in subparagraph (D) and inserting in lieu thereof "shall (subject to subparagraph (H)) end"; and

(B) by adding at the end thereof the following new subparagraph:

"(H) The provisions of subsections (a)(3) and (g) of section 223 shall apply with respect to the duration of an individual's period of disability under this subsection in the same way that they apply with respect to the duration of the period for which an individual's disability insurance benefits are payable under such section 223.".

(c) Section 1631(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) In any case where—

"(i) an individual who is an aged, blind, or disabled individual solely by reason of blindness (as determined under section 1614(a)(2)) or disability (as determined under section 1614(a)(3)) has been a recipient of benefits under this title for a period of not less than 36 consecutive months, and

"(ii) the impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined, on or after the date of the enactment of this paragraph (or October 1, 1982, if later) and before January 1, 1985, not to be eligible for such benefits,

such individual shall be entitled (subject to subparagraph (B)) to have the payment of such benefits continued for an additional period of two months, beginning with the first month for which (under such determination) such benefits are no longer otherwise payable under this title or (if later) with the month in which he is initially notified in writing (by the applicable State agency or the Secretary) of such determination.

"(B) No benefit shall be payable to any individual under subparagraph (A) for any month in the additional period referred to in such subparagraph if such individual is determined by the Secretary to have engaged in substantial gainful activity in that month, or to have engaged in fraud with respect to his entitlement to such benefit.".

CESSATION OF DISABILITY

SEC. 4. (a) Section 223 (a) of the Social Security Act (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), in any case where a benefit under this section, or a child's, widow's, or widower's benefit based on disability, is terminated on the grounds that the physical or mental impairment on the basis of which such benefit was payable has ceased, did not exist, or is no longer disabling, the date upon which the disability is determined to have ceased shall be no earlier than the date upon which notification thereof is mailed to such individual.

"(B) Subparagraph (A) shall not apply in the case of any termination of benefits based upon a finding made in accordance with subsection (d)(4) that services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity, or to a termination based upon a finding of fraud.".

(b) Section 1631(a)(5) of such Act is amended by inserting "(A)" after "(1)" and by adding at the end thereof the following new subparagraph:

"(B)(i) Except as provided in clause (ii), the date on which blindness or disability shall be determined to have ceased for purposes of subparagraph (A) shall be no earlier than the date upon which notification thereof is mailed to such individual.

"(ii) Clause (i) shall not apply in the case of any termination of eligibility based upon a finding that services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity, or to a termination based on a finding of fraud.".

(c) The amendments made by this section shall apply with respect to determinations made on or after the date of the enactment of this Act.

DISABILITY DECISIONS, APPEALS, AND REVIEW

SEC. 5. (a) Section 205(b) of the Social Security Act is amended to read as follows:

"(b)(1) The Secretary is directed to make findings of fact and decisions as to the rights of any individual applying for a payment under this title.

"(2)(A) The Secretary may provide for reconsideration of such decisions (other than decisions to which subparagraph (B) applies) and shall provide for hearings in accordance with paragraph (3).

"(B) If the determinations required in the course of making any such decision include a determination relating to disability or to a period of disability and such decision is in whole or in part unfavorable to an individual applying for a payment under this title, the Secretary shall provide for reconsideration of such decision and for hearings in accordance with section 221.

"(3) Upon request by any individual applying for a payment under this title or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered (other than a decision to which paragraph (2)(B) applies), he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to any such determination must be filed within sixty days after notice of the decision is received by the individual making such request.

"(4) The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this section, section 221, and the other provisions of this title.

"(5) In the course of any hearing, investigation, or other proceeding referred to in paragraph (4), the Secretary may administer oaths and affirmations, examine witnesses, and receive evidence.

"(6) Evidence may be received at any hearing referred to in paragraph (4) even though inadmissable under rules of evidence applicable to court procedure.

"(7) Subject to the specific provisions and requirements of this Act—

"(A) any hearing held pursuant to this subsection or section or section 221(e) shall be conducted on the record and shall be subject to section 554 through 557 of title 5, United States Code, and decision made by the Secretary after such a hearing shall constitute an 'adjudication' within the meaning of section 551(7) of such title; and

"(B) the Secretary, in accordance with section 3105 of title 5, United States Code, shall appoint administrative law judges who, in any case in which authority to conduct hearings under this subsection or section 221(e) is delegated by the Secretary, shall conduct such hearings, issue decisions after such hearings, and perform such other functions and duties described in sections 554 and 557 of such title as are applicable to such hearings."

(c) (1) Section 221 of such Act is amended—

(A) by striking out the heading and inserting in lieu thereof "DISABILITY DETERMINATIONS, APPEALS, AND REVIEW";

(B) by redesignating subsection (d), (e), (f), (g), and (i) as subsections (f), (g), (h), (i), and (j), respectively; and

(C) by inserting after subsection (c) the following new subsection:

"(d)(1) Any initial decision the Secretary renders with respect to an individual's rights for a payment under this title (including a decision the Secretary renders by reason of a review under subsection (c)) in the course of which a determination relating to disability or to a period of disability is required for such payment and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion or the evidence, the Secretary's decision, and the reason or reasons upon which the decision is based. Upon request by any such individual, or by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent, who makes a showing in writing that his or her rights may be prejudiced by such a decision, he or she shall be entitled to reconsideration of such decision under this subsection. Any such request with respect to any such decision must be filed within 180 days after notice of the decision is received by the individual making such request.

"(2)(A) If a reconsideration is requested by an individual under paragraph (1) and a

showing is made by such individual that he or she may be prejudiced in such decision by a determination relating to disability or to a period of disability, such individual shall be entitled in the course of such reconsideration to a determination relating to such disability or period of disability.

"(B)(i) In the case of a reconsideration to be made by the Secretary of a decision to terminate benefits in which a determination relating to disability or to a period of disability was made by a State agency, any determination under subparagraph (A) relating to disability or to a period of disability shall be made by the State agency, notwithstanding any other provision of law, in any State that notifies the Secretary in writing that it wishes to make determinations under this subparagraph commencing with such month as the Secretary and the State agree upon, but only if (I) the Secretary has not found, under subsection (b)(1), that the State agency has subtantially failed to make determinations under this subparagraph in accordance with the applicable provisions of this section or rules issued thereunder, and (II) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make determinations under this subparagraph. If the Secretary once makes the finding described in clause (I) of the preceding sentence, or the State gives the notice referred to in clause (II) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make determinations under this subparagraph.

"(ii) Any determination made by a State agency under clause (i) shall be made in the manner prescribed for determinations under subsection (a)(2) and regulations prescribed thereunder, except that it shall be made after opportunity for an evidentiary hearing which is reasonably accessible to the claimant, and which is held by an adjudicatory unit of the State agency other than the unit that made the determination (relating to the claimant's disability or period of disability) on which the decision being reconsidered was based.

"(3) A decision by the Secretary on reconsideration under this subsection in the course of which a determination relating to disability or to a period of disability is required and which is in whole or in part unfavorable to the individual requesting the reconsideration shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, the Secretary's decision, and the reason or reasons upon which the decision is based.

"(4) The Secretary shall prescribe by regulation procedures for the reconsideration under this subsection of issues other than issues relating to disability or a period of disability.

"(5) Each individual who requests a reconsideration under paragraph (1) shall be informed, orally and in writing, before the reconsideration, of the preceding provisions of this subsection, and shall be advised that the individual may wish to retain an attorney or other representative to assist him during the reconsideration.

"(e)(1) Upon request by any individual described in subsection (d)(1) who makes a showing in writing that his or her rights may be prejudiced by a decision on reconsideration under this section, the Secretary shall give such individual and the other individuals described in subsection (d)(1) reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his finding of fact and such decision in accordance with the provisions of this title and regulations thereunder. Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request.

(2) The Secretary shall prescribe by regulation a period of time after hearing decisions under this section during which the Secretary, on his own motion or on the request of the individual requesting the hearing, may undertake a review of such decision. If such decision is not so reviewed, such decision shall be considered the final decision of the Secretary at the end of such period. If such decision is so reviewed, at the end of any such review the Secretary shall affirm, modify, or reverse the decision and such decision as so affirmed, modified, or reversed shall be considered the final decision of the Secretary. Any such review shall be governed by the requirements of this subsection.".

(2) Section 221 of such Act is further amended—

(A) in subsection (b)(1), by inserting "under subsection (a)(1) or subsection (d)" after "disability determinations" the first place it appears, and by inserting before the period the following: "or the disability determinations referred to in subsection (d)(2) (as the case may be)";

(B) in subsection (b)(2), by inserting "or under subsection (d)(2) (as the case may be)" after "subsection (a)(1)" the first place it appears, and by inserting before the period in the last sentence the following: "or the disability determinations referred to in subsection (d)(2) (as the case may be)";

(C) in subsection (b)(3)(A), by inserting "under subsection (a) or subsection (d)" after "function", and by inserting "under subsection (a) or subsection (d) (as the case may be)" after "process";

(D) in subsection (b)(3)(B), by inserting "under subsection (a) or subsection (d)" after "function", and by inserting "under subsection (a) or subsection (d) (as the case may be)" after "process";

(E) in subsection (f) (as redesignated by paragraph (1)), by inserting "(1)" before "Any", by striking out "subsection (a), (b), (c), or (g)" and inserting in lieu thereof "subsection (b)", and by adding at the end thereof the following new paragraph:

"(2) Any individual who requests a hearing under subsection (e) and who is dissatisfied with the Secretary's final decision after such hearing shall be entitled to judicial review of such decision as is provided in section 205(g).";

(F) in subsection (g) (as redesignated by paragraph (1)), by striking out "under this section" and inserting in lieu thereof "or subsection (d)(2)", by inserting "or under subsection (d)(2), as the case may be" after "under subsection (a)(1)" the second place it appears, and by striking out "subsection (f)" and inserting in lieu thereof "subsection (h)";

(G) in subsection (i) (as redesignated by paragraph (1)), by inserting "or subsection (d)(2)" after "subsection (a)(1)", by inserting "under subsection (a)(1) or subsection (d)(2)" after "disability determinations" the second place it appears, by inserting after "guidelines," the following: "in the case of disability determinations under subsection (d)(2) to which subparagraph (B) thereof does not apply,", by inserting "under subsection (a) or subsection (d)" after "disability determinations" the third place it appears, by inserting "or the determinations referred to in subsection (d) (as the case may be)" after "in subsection (a)", and by adding at the end thereof the following new sentence: "In the case of a reconsideration by the Secretary of a decision to terminate benefits, any disability determination made by the Secretary under this subsection in the course of such reconsideration shall be made after opportunity for an evidentiary hearing which is reasonably accessible to the claimant (and which is not held by the same person or persons who made the determination, relating to the claimant's disability or period of disability, on which the decision being reconsidered was based)."; and

(H) in subsection (j) (as redesignated by paragraph (1)), by adding at the end thereof the following new sentence: "An individual who makes a showing in writing that his or her rights may be prejudiced by a determination under this subsection with respect to continuing eligibility shall be entitled to a reconsideration and a hearing to the same extent and in the same manner as provided under subsection (d) and (e).".

(d) The third sentence of section 1631(c)(1) of such Act is amended by striking out "within sixty day after notice of such determination is received" and inserting in lieu thereof "within 180 days after notice of such determination is received where the matter in disagreement involves blindness (within the meaning of section 1614(a)(2)) or disability (within the meaning of section 1614(a)(3)) or within 60 days after such notice is received in any other case".

(e)(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect to requests for reconsideration of decisions by the Secretary of Health and Human Services filed after the date of the enactment of this Act.

(2) Section 221(d)(2)(B) of the Social Security Act, as amended by subsection (c) of this section, shall apply only with respect to requests (for reconsideration of decisions by the Secretary) filed—

(A) on or after January 1, 1984, or

(B) with respect to determinations (relating to disability or to periods of disability) to be made by a State agency in any State which notifies the Secretary in writing that it wishes to make determinations under such section 221(d)(2)(B) prior to January 1, 1984, on or after the first day of such month (after the month in which this Act is enacted and prior to January 1984) as may be specified in such notice.

For purposes of such section 221(d)(2)(B), each State shall initially notify the Secretary in writing that it wishes to make determinations under such section (specifying the month with which it wishes to commence making such determinations), or shall notify the Secretary in writing that it does not wish to make such determinations, no later than January 1, 1983; and any State which has not so notified the Secretary by January 1, 1983, shall be deemed for all the purposes of section 221 of the Social Security Act to have notified the Secretary in writing (as of that date) that it does not wish to make such determinations.

UNIFORM STANDARDS FOR DISABILITY DETERMINATIONS

SEC. 6. Section 221 of the Social Security Act (as amended by section 5 of this Act) is further amended by adding at the end thereof the following new subsection:

"(k) The Secretary shall provide by regulation that uniform standards shall be ap-

plied at all levels of determination, review, and adjudication in determining whether individuals are under disabilities as defined in section 216(i) or 223(d), and that such standards are in accordance with the provisions of this title and regulations thereunder. Such standards shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.".

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 7. (a) Section 221(j) of the Social Security Act (as so redesignated by section 5(c)(1) of this Act and amended by section 5(c)(2)(H) of this Act) is further amended by striking out "except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate" and inserting in lieu thereof "except that where a finding has been made that such disability is permanent, or in the case of an individual who was determined to be under a disability prior to the date of the enactment of the Social Security Disability Amendments of 1980 (June 9, 1980), such reviews shall be made only at such times, and with respect to such cases, as may be prescribed by the Secretary so as to ensure that sufficient personnel and processing time are available to conduct reviews of the highest quality and that cases are selected for review in the most cost-effective manner".

(b) The amendments made by this section shall become effective on the date of the enactment of this Act.

TERMINATION OF DISABILITY BENEFITS BASED ON MEDICAL IMPROVEMENT

SEC. 8. (a) Section 223(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) Except as provided in subparagraphs (B) and (C), no benefits under this section, and no child's, widower's, or widow's benefit based upon disability, may be terminated on the grounds that the physical or mental impairment on the basis of which such benefit was payable has ceased, did not exist, or is not longer disabling, in the case of any individual unless the Secretary finds—

"(i) that there has been a substantial medical improvement in such individual's impairment or impairments; or

"(ii) medical and vocational evidence, not available at the time such individual was determined to be under a disability, clearly shows that, despite the individual's impairment or impairments, the individual has the functional capacity to perform substantial gainful activity on a regular and sustained basis.

The Secretary shall have the burden of proof with respect to any finding made under clause (ii), and of providing such medical and vocational evidence.

"(B) In the case of an individual who was previously determined to be under a disability as the result of a determination of disability made by an administrative law judge appointed by the Secretary after a hearing, or by the Appeals Council established by the Secretary, or by a court after judicial review, no finding may be made under subparagraph (A)(ii) that such individual is no longer under a disability unless such finding is made by the Appeals Council established by the Secretary.

"(C) Subparagraphs (A) and (B) shall not apply in the case of a termination of benefits based upon a finding made in accordance with paragraph (4) that services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity.".

(b) The amendment made by this section shall apply with respect to determinations made on or after the date of the enactment of this Act.

MEDICAL EVIDENCE

SEC. 9. (a) Section 223(d) of the Social Security Act (as amended by section 8 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(8)(A) Except as provided in subparagraph (B), in order for a benefit under this section, or a child's, widow's, or widower's benefit based upon disability, to be terminated on the grounds that the physical or mental impairment on the basis of which such benefit was payable has ceased, did not exist, or is no longer disabling, the Secretary must make all reasonable efforts to obtain complete and sufficient medical evidence and medical history with respect to such individual from such individual's treating physician and any other treating health care provider, prior to making any determination that such benefits are to be terminated.

"(B) Subparagraph (A) shall not apply in the case of a termination of benefits based upon a finding made in accordance with paragraph (4) that services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity.".

(b) The amendments made by this section shall apply with respect to determinations made on or after the date of the enactment of this act.

CONTINUING DISABILITY INVESTIGATIONS INVOLVING MENTAL IMPAIRMENT

SEC. 10. (a) Section 223(d)(7) of the Social Security Act (as added by section 8 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(D) In any case in which a review is to be carried out under this title with respect to an individual described in subparagraph (A) who was previously determined to be under a disability which related to a mental impairment, the Secretary shall ascertain, through personal contact with such individual, whether such individual may require assistance in complying with the instructions of the Secretary in carrying out such review. If the Secretary determines that such assistance is required, or if such assistance is requested by the individual, the Secretary shall provide such assistance or refer such individual to a local agency or organization which can provide such assistance.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

PAYMENT OF COSTS OF REHABILITATION SERVICES FROM TRUST FUNDS; EXPERIMENTS AND DEMONSTRATION PROJECTS

SEC. 11. (a)(1) So much of section 222(d) of the Social Security Act as precedes paragraph (4) thereof is amended to read as follows:

"PAYMENT OF COSTS OF REHABILITATION SERVICES FROM TRUST FUNDS

"(d)(1)(A) For purposes of making vocational rehabilitation services more readily available to disabled individuals who are—

"(i) entitled to disability insurance benefits under section 223,

"(ii) entitled to child's insurance benefits under section 202(d) after having attained age 18 (and are under a disability),

"(iii) entitled to widow's insurance benefits under section 202(e) before attaining age 60, or

"(iv) entitled to widower's insurance benefits under section 202(f) before attaining age 60,

to the end that savings will accrue to the Trust Funds as a result of rehabilitating such individuals into substantial gainful activity, there are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to enable the Secretary to pay the State (under a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.)), or another public or private agency, organization, institution, or individual (under an agreement or contract entered into under subparagraph (D) of this paragraph), the reasonable and necessary costs of vocational rehabilitation services furnished such individuals (including services during their waiting periods) which meet the requirements of subparagraph (B). The determination that the vocational rehabilitation services meet the requirements of subparagraph (B) and the determination of the amount of costs to be paid under this program shall be made by the Commissioner of Social Security in accordance with criteria formulated by him.

"(B) Vocational rehabilitation services furnished a disabled individual described in subparagraph (A) meet the requirements of this subparagraph—

"(i) to the extent such services consist of evaluation services as determined by the Commissioner of Social Security,

"(ii) if such services result in—

"(I) his performance of substantial gainful activity which lasts for a continuous period of nine months, or

"(II) his recovery from his disabling physical or mental impairment, or

"(iii) if such individual refuses without good cause to continue to accept vocational rehabilitation services or fails to cooperate in such manner as to preclude such individual's successful rehabilitation.

"(C) Payments under this paragraph shall be made in advance (or, at the election of the recipient, by way of reimbursement), with necessary adjustments for overpayments and underpayments.

"(D) The Commissioner of Social Security may provide vocational rehabilitation services in States under regulations prescribed by the Secretary or by agreement, or contract, with other public or private agencies, organizations, institutions, or individuals. There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund such sums are are necessary for the payment of the reasonable and necessary costs of such services. The provision of such services, and the payment of costs for such services, shall be subject to the same requirements as otherwise apply under the preceding provisions of this paragraph.

"(E) The Commissioner of Social Security shall require each State and each public or private agency, organization, institution, or individual receiving payments under this paragraph to make such periodic reports to him concerning the operation of its program furnishing vocational rehabilitation services as are necessary to satisfy him that the amounts paid to such State, agency, organization, institution, or individual are used exclusively for furnishing such services in accordance with this paragraph.

"(2)(A) For purposes of making vocational evaluation and job placement services more readily available to individuals who were disabled individuals described in paragraph (1)(A) but whose entitlement to the benefits described in paragraph (1)(A) was terminated by reason of recovery from the disabling physical or mental impairment on which their disability was based or by reason of a finding that such impairment has not existed, there shall be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund not to exceed $15,000,000 for each of the fiscal years beginning on October 1, 1982, and October 1, 1983, respectively, to enable the Commissioner of the Rehabilitation Services Administration to pay to the State the costs of the reasonable and necessary costs of such services furnished such individuals by State agencies under a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973. The amount paid to each State for each year shall not exceed the amount which bears the same ratio to the total amount paid to States for such year under this paragraph as the ratio which the number of such entitlement terminations in such State in the preceding year bears to the total number of such entitlement terminations in the United States in such preceding year. Amounts remaining unpaid under this paragraph at the end of a fiscal year shall revert to the Trust Funds. The determination of the amount of costs to be paid under this paragraph shall be made by the Commissioner of the Rehabilitation Services Administration in accordance with criteria formulated by him.

"(B) Payments under this paragraph shall be made in advance (or, at the election of the recipient, by way of reimbursement), with necessary adjustments for overpayments and underpayments.

"(C) The Commissioner of the Rehabilitation Services Administration shall require each State agency receiving payments under this paragraph to make such periodic reports to him concerning the operation of its program furnishing vocational rehabilitation services as are necessary to satisfy him that amounts paid to such State, agency, organization, institution, or individual are used exclusively for furnishing such services in accordance with this paragraph.".

(2) Section 222(d) of such Act is further amended by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(3) Section 222(a) of such Act is amended—

(A) by striking out "and";

(B) by inserting before "shall" the following: "and individuals whose entitlement to such benefits is terminated by reason of recovery from the disabling physical or mental impairment on which their disability was based or by reason of a finding that such impairment has not existed (or is no longer disabling)"; and

(C) by inserting after "the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act" the following: ", or to other appropriate public or private agencies, organizations, institutions, or individuals,".

(b)(1)(A) Section 225(b) of such Act is repealed.

(B) Section 225(a) of such Act is amended—

(i) by striking out "(a)" after "Sec. 225."; and

(ii) by striking out "this subsection" each place it appears and inserting in lieu thereof "this section".

(C) Notwithstanding the preceding provisions of this paragraph, any individual who, immediately before the date of the enactment of this Act, was entitled to benefits based on disability referred to in section 225(b) of the Social Security Act (as in effect before its repeal by this subsection) by reason of participation in an approved vocational rehabilitation program referred to in such section shall continue to be so entitled in accordance with such section until the expiration of such program as if this paragraph had not been enacted.

(2)(A) Section 1615(d) of such Act is amended to read as follows:

"(d)(1) The Secretary is authorized to pay the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 for the costs incurred under such plan in the provision of vocational rehabilitation services which meet the requirements of paragraph (2) to individuals who are referred for such services pursuant to subsection (a). The determination that services meet the requirements of paragraph (2), and the determination of the amount of the costs to be paid under this paragraph, shall be made by the Commissioner of Social Security in accordance with criteria determined by him in the same manner as under section 222(d)(1)(A).

"(2) Vocational rehabilitation services provided to an individual described in subsection (a) meets the requirements of this paragraph—

"(A) to the extent such services consist of evaluation services as determined by the Commissioner of Social Security,

"(B) if such services result in—

"(i) such individual's performance of substantial gainful activity which lasts for a continuous period of nine months, or

"(ii) such individual's recovery from his disabling physical or mental impairment, or

"(C) if such individual refuses without good cause to continue to accept vocational rehabilitation services or fails to cooperate in such a manner as to preclude such individual's successful rehabilitation.

"(3) Payments under this subsection shall be made in advance (or, at the election of the State agency involved, by way of reimbursement), with necessary adjustments for overpayments and underpayments.".

(B) Section 1615 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this section, the Secretary, instead of referring individuals age 16 or over to a designated State agency for vocational rehabilitation services as otherwise required by subsection (a), may provide such services to those individuals (in such cases as he may determine) by agreement or contract with other public or private agencies, organizations, institutions, or individuals. To the extent appropriate and feasible—

"(1) vocational rehabilitation services under the preceding sentence shall be provided in the same manner, and in accordance with the same requirements and criteria, as in the case of vocational rehabilitation services provided by agreement or contract under section 222(d)(1); and

"(2) all of the preceding provisions of this section which relate to services for individuals age 16 or over who are referred to a State agency under subsection (a) shall apply with respect to services provided to individuals age 16 or over by agreement or contract under the preceding sentence, in the same way that they apply with respect to services provided pursuant to such a referral, as though the agency, organization, institution, or individual involved were the designated State agency and such individuals had been referred to it under subsection (a).".

(C)(1) Section 505(a)(1) of the Social Security Disability Amendments of 1980 (Public Law 96-265) is amended—

(A) by striking out "(A)" and "(B)" and inserting in lieu thereof "(i)" and "(ii)", respectively;

(B) by inserting "(A)" before "the relative advantages";

(C) by inserting "and" after "administered,"; and

(D) by striking out "rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation)," and inserting in lieu thereof the following: "rehabilitation); and (B) how best to use organizations organized for profit and those not so organized in providing vocational rehabilitation services to disabled beneficiaries;".

(2) Section 505(a)(2) of such amendments is amended by adding at the end thereof the following new sentence: "Not later than 18 months after the date of the enactment of the Disability Amendments of 1982, the Secretary shall develop and commence at least 10 experiments or projects referred to in clause (B) of paragraph (1), with one or more of such experiments or projects commencing in each of at least 5 States.".

(3) Section 505(a)(4) of such amendments is amended—

(A) by inserting "(A)" after "(4)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) The Secretary shall submit to the Congress no later than the end of the 18-month period referred to in the last sentence of paragraph (2) a report on the experiments and demonstration projects described in clause (B) of paragraph (1) which are commenced under this subsection together with any related data and material which he may consider appropriate.".

(d)(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and section 222(d)(1) of the Social Security Act (as amended by such subsection) shall apply (from and after such date) with respect to services rendered on or after October 1, 1981; except that in the case of services of the type described in clause (i) of section 222(d)(1)(B) of such Act (as amended by such subsection) such amendments shall apply only with respect to services rendered on or after October 1, 1982.

(2) The amendments made by subsections (b) and (c) shall take effect on the date of the enactment of this Act; except that the amendment made by subsection (b)(2) shall apply only with respect to services provided on or after October 1, 1982.

REPORT ON PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 12. Section 221(j) of the Social Security Act (as so redesignated by section 5(c)(1) of this Act) is amended by inserting "(1)" after "(j)" and by adding at the end thereof the following new paragraph:

"(2) The Secretary shall transmit to the Congress on a quarterly basis a report setting forth the number of continuing eligibility reviews carried out under paragraph (1),

the number of initial benefit termination decisions resulting from such reviews, the number of such termination decisions with respect to which reconsideration is requested under subsection (d) or a hearing is requested under subsection (e), or both, and the number of such termination decisions which are overturned at the reconsideration or hearing level.".

SECTION-BY-SECTION ANALYSIS

SECTION 2. CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL

Current law

When the Social Security Administration (SSA) determines that a DI beneficiary is no longer disabled or is otherwise ineligible, a notice is sent informing him that he has been found ineligible for benefits, and that he has 10 days in which to notify the agency whether or not he wishes to contest the decision. The agency actually provides another 5 days to recognize mailing time, thereby delaying the termination for 15 days after the date the notice is sent. If the beneficiary informs SSA that he wants to contest the decision, he is given another 10 days in which to submit new evidence to support his position that he is still eligible.

Under the SSI program the Supreme Court has declared that due process requires that an individual's benefits cannot be terminated until he is given an evidentiary face-to-face hearing.

Bill action

The bill gives the DI beneficiary the option of having cash and Medicare benefits continued up to the reconsideration decision and requires that an evidentiary hearing be afforded in cessation cases no later than January 1, 1984, or sooner if the State agencies so elect. Moreover, if between enactment and January 1, 1984, an individual has not been given an evidentiary hearing at the reconsideration level, benefits may be extended until a hearing decision is provided. As under existing law for SSI, if the individual loses the appeal, repayment of cash benefits is required. Repayment is not required of Medicare benefits.

SECTION 3. ADJUSTMENT BENEFITS

Current law

Under existing law benefits are continued for the month of cessation of disability and the next two months.

Bill action

The bill provides that benefits for individuals who have been on the rolls for at least 36 months will be continued for an additional two months beyond the provisions of the current law. The purpose of this provision is to ease the transition into the labor force for individuals who have not worked for several years.

SECTION 4. CESSATION OF DISABILITY

Current law

Any benefit payments made after the date the individual is considered to have ceased to meet the requirements for disability payments constitute overpayments subject to recoupment. In medical cessation cases, current SSA policy is to make the month of cessation the month in which the individual is notified of the termination. Benefits continue for two months beyond the month of notification.

Bill action

This provision merely codifies current SSA policy. For individuals whose benefits are terminated for medical reasons (i.e., not fraud or past earnings or services demonstrating substantial gainful activity) after the date of enactment, the date upon which the disability is determined to have ceased will not be earlier than the date upon which the beneficiary is notified of the termination decision.

SECTION 5. DISABILITY DECISIONS, APPEALS, AND REVIEW

Current law

(1) After an initial determination of ineligibility for disability benefits is made, the claimant has 60 days in which to request a review at the reconsideration level. (2) Reconsideration level review of Social Security cases are by practice conducted through a review of the case file with no face-to-face contact with the claimant. (3) Any decision by the Secretary which is wholly or partly unfavorable to the beneficiary must be accompanied by a logical and understandable statement of the reasons for that decision.

Bill action

(1) After a determination of ineligibility for disability benefits, a claimant will have 180 days in which to request a review at the reconsideration level. (2) For determinations which terminate social security disability benefits for medical reasons, a face-to-face evidentiary hearing shall be provided at the reconsideration level no later than January 1, 1984 and benefits will be continued until the reconsideration decision is made. Before the hearing, individuals shall be informed of the procedures of the hearing and shall be advised that they may wish to retain an attorney or other representative to assist them during the reconsideration. The state disability agencies may ask the Federal government to conduct these hearings. (3) The bill emphasizes the fact that the Secretary must give a logical and easily understandable explanation of any decision which is wholly or partly unfavorable to an individual.

SECTION 6. UNIFORM STANDARDS FOR DISABILITY DETERMINATIONS

Current law

Administrative law judges are required to follow the law, regulations and Social Security rulings applicable to social security cases. State agencies, in addition, follow the POMS (Program Operations Manual System). POMS are not subject to public review or comment.

Bill action

Requires the Secretary to assure that uniform standards of adjudication shall be applied at all levels in making determinations of whether individuals are under disabilities. The uniform standards would be subject to public review and comment.

SECTION 7. PERIODIC REVIEW OF DISABILITY DETERMINATIONS

Current law

Except in cases where disability has been deemed permanent, reviews of all other disability cases are conducted every three years under the continuing disability investigation program.

Bill action

The bill exempts individuals who were determined disabled before enactment of the Social Security Disability Amendments of 1980 (June 9, 1980) from being reviewed every three years. Instead, the bill authorizes the Secretary to make such reviews at the Secretary's discretion but only at such intervals that sufficient time and resources are available to conduct high-quality, cost-effective reviews.

SECTION 8. TERMINATION OF DISABILITY BENEFITS BASED ON MEDICAL IMPROVEMENT

Current law

A beneficiary may have his benefits terminated if a review shows that his current medical and vocational condition does not meet the current eligibility requirements.

Bill action

For individuals previously placed on disability by a State agency, no termination can be made without a finding of substantial medical improvement, or without new medical or vocational evidence (e.g. new technology) clearly showing the capacity to perform substantial gainful activity on a sustained basis. In this latter case, the Secretary clearly has the burden of proving the assessment.

For individuals previously placed on disability by an administrative law judge or a higher appeal authority, a state agency can only terminate the individual with a finding of substantial medical improvement. Should a state agency find new evidence which, although not showing medical improvement, might warrant termination, the case shall be referred to the appeals council for review.

SECTION 9. MEDICAL EVIDENCE

Current law

The beneficiary is responsible for obtaining medical evidence and medical history from his treating physician to be used in the review investigation. When sufficient evidence has not been collected, the state agency uses its physicians to conduct examinations and gather information. As a matter of agency policy SSA has only required gathering of evidence within the past 3 months of the review—recently changed to within the past 12 months of the review.

Bill action

The bill requires the Secretary to make all reasonable efforts to obtain complete and sufficient medical evidence and history from the beneficiary's treating physician or other provider before any termination decision can be reached.

SECTION 10. CONTINUING DISABILITY INVESTIGATIONS INVOLVING MENTAL IMPAIRMENT

Current law

There are no provisions requiring assistance in the continuing disability investigation process for mentally ill or deficient claimants.

Bill action

Requires the administration to personally contact claimants diagnosed as mentally ill or deficient to determine whether the beneficiary requires assistance in complying with the continuing disability investigation process, and to provide for such assistance if requested or required, either through the Social Security Administration or through referral to an appropriate local agency or organization.

SECTION 11. PAYMENT OF COSTS OF REHABILITATION SERVICES FROM TRUST FUNDS; EXPERIMENTS AND DEMONSTRATION PROJECTS

Current law

The Beneficiary Rehabilitation Program was eliminated by the budget reconciliation bill of last year. It was replaced with a program which allowed reimbursement to State agencies for successful rehabilitations which were defined as "nine continuous months of SGA." Private agencies could only be used if the State agencies elected not to participate.

Bill action

Beneficiary Program:

As to the program for beneficiaries on the rolls:

(1) provides for the cost of the evaluation services for beneficiaries served by the vocational rehabilitation agencies;

(2) includes in the definition of what constitutes a successful rehabilitation and therefore reimbursable (a) cases where the individual has been terminated for medical recovery which is attributable to the VR services provided (b) cases where the client refuses to continue in the program or fails to cooperate in the rehabilitation services;

(3) clarifies the law so it is clear that advances will be made to the providers of services with necessary adjustments for overpayments or underpayments in subsequent transfers of funds;

(4) modifies the law so that the Commissioner of Social Security may use private providers of vocational rehabilitation services when he deems it appropriate;

(5) repeals the provision in the 1980 amendments continuing benefits to medically recovered individuals under approved vocational rehabilitation programs;

(6) amends the authority for demonstration projects which was included in section 501 of the Disability Amendments of 1980 to require the Secretary to establish demonstration projects to explore how best to use private and other agencies in providing rehabilitation services to disabled beneficiaries. The provision would require that there be 10 projects in at least five States not later than 18 months after enactment.

Terminee Program:

The bill authorizes a program not to exceed $15 million each year for fiscal 1983 and 1984 from the trust funds for individuals terminated from the rolls for medical reasons. The program would include evaluation and job placement services and would be allotted to the States on the basis of the relative number of medical terminations. The program would be administered by the Rehabilitation Services Administration, Department of Education.

SECTION 12. REPORTS TO CONGRESS

Current law

No specific statute requires the Secretary to submit to Congress any periodic report on the continuing disability investigations.

Bill action

Requires the Secretary to submit to Congress on a quarterly basis a report on the continuing eligibility review process, including number of terminations resulting from such reviews, the number of reconsideration requests, the number of hearing requests, and the number of such termination decisions which are overturned at either level.

● Mr. DURENBERGER. Mr. President, today, I am joining my colleague, Senator HEINZ, in introducing legislation to amend the social security disability review process. What began as a reasonable effort to provide periodic reviews of disabled beneficiaries has turned into a nightmare. This problem reaches beyond the 5.1 million people actually receiving social security and SSI disability. It touches everyone who counts on social security disability as an insurance against lost earnings.

In 1980, Congress passed the social security disability amendments which mandated a review of all disability cases once every 3 years unless the disability was permanent in nature. The purpose of this review was to insure that those receiving disability benefits were still disabled.

Prior to the 1980 Bellmon amendment which provided for periodic reviews, the only disability beneficiaries subject to review were those individuals placed on a diaried review track at the start of their benefit eligibility. These individuals were aware of the review process from their first disability check so periodic evaluations presented no surprise to these folks. With passage of the 1980 amendments, virtually every disabled beneficiary became subject to review. Many of these disabled first learned that their benefits may be subject to termination when they received their notification of review.

There is nothing intrinsically wrong with periodic reviews. We cannot and should not continue payments to persons who are no longer disabled. Thus, the original intent of the Bellmon amendment should remain unchanged. What does need to be dramatically altered is the process by which we carry out this intent.

As a result of the stepped-up review process, disability beneficiaries who have experienced no improvement in their condition are being stripped from the rolls. In a social security sample study of 7,000 terminated cases, 35 percent of the individuals who lost their disability benefits still had impairments as severe as or more severe than those which originally justified their disability.

The high increase in terminations cannot be completely attributed to more stringent standards. The fact that many truly disabled individuals are being terminated can be shown through the reversal rates of the administrative law judges who view these cases on appeal. Almost 60 percent of the beneficiaries who persist through the ALJ appeal level are reinstated.

We need to insure that disabled beneficiaries receive a fair and complete review of their circumstances. The legislation we are introducing today provides many safeguards to protect the truly disabled as we seek to terminate the benefits of those no longer ill. I know that a number of my colleagues join me in wanting to find a solution to the problem of unnecessary and unfair disability terminations. I have added my name as cosponsor of Senator COHEN and Senator LEVIN's proposal in the hopes that through a wider variety of actions we can focus badly needed attention on this hardship. I encourage Senator DOLE to push for prompt resolution to this problem through hearings in the Senate Finance Committee. Through our joint concern and efforts I am certain we can correct this problem and maintain the integrity of the disability review process.●

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 2732. A bill to amend the Export-Import Bank Act Amendments of 1978 to improve the ability of the United States to meet foreign competition; to the Committee on Banking, Housing, and Urban Affairs.

FAIR TRADE FINANCE ACT OF 1982

Mr. RIEGLE. Mr. President, I am introducing today a bill that would help U.S. manufacturers remain competitive when foreign governments give their own industries an unfair advantage with predatory export credit subsidies.

These subsidies disrupt world trade. They violate solemn international trade agreements. They weaken the U.S. economy. They rob American workers of their jobs. And they must be eliminated.

Mr. President, in 1978, Congress enacted section 1912 of the Export-Import Bank Act to give the U.S. Government an effective weapon against foreign export financing subsidies. This section enables the U.S. Eximbank to provide American companies with financing at terms that match subsidized credit that is available to foreign competitors.

The bill I introduce today would strengthen section 1912. First, it would require the Secretary of the Treasury to make matching financing available to U.S. firms when noncompetitive financing has been offered by a foreign government and when such financing is a relevant factor in the sale. Current law merely authorizes the Secretary to offer such financing—and then only where the financing is likely to be a determining factor in the sale. Second, the bill would tighten the time period within which the Secretary must conduct his investigation by requiring that the investigation be commenced within 5 days and completed within 30 days of the receipt of information.

Mr. President, the need for this bill was demonstrated within the last 48 hours. Yesterday, the Secretary of the Treasury refused to use section 1912 to counter export financing subsidies that helped a Canadian firm win a major, $635 million contract to manufacture stainless steel subway cars.

The New York Metropolitan Transit Authority decided to award this contract to Bombardier, of Montreal, after the Canadian Government offered massive export subsidies to the Canadian firm. Canada has offered to finance 85 percent of Bombardier's contract with a 9.7-percent loan that has a 10-year repayment provision. These terms are in violation of international trade agreements which at the time prohibited credit subsidies below 11.25 percent and with repayment terms longer than 8.5 years. The value of those subsidies has been estimated at $230 million.

The facts are that the American bidder has more experience in building stainless steel subway cars. Moreover, Budd could have delivered those cars earlier, at a lower cost, and with twice the U.S. labor content. Thus, the Budd bid was superior except for the availability of deeply subsidized financing that was available to the Canadian corporation.

The contract MTA made with Bombardier provides that negotiations would be reopened if the Export-Import Bank were authorized by the Secretary of the Treasury to offer comparable financing by July 15, 1982, for a U.S. firm interested in producing these cars.

Donald E. DeKieffer, General Counsel for the Office of the U.S. Trade Representative, stated before the Senate Finance Committee hearing on May 28, 1982, that:

> The United States has no international legal obligations which would bar effective unilateral action to prevent injury to the U.S. subway car industry and we believe effective remedial action should be taken as soon as possible to prevent the extension of subsidized export credits.

Yesterday, however, Treasury Secretary Regan decided against the U.S. industry and refused to authorize matching Eximbank financing. He claimed that the existing law was worded in such a way that the U.S. Government could not solve the problems of Budd Co. and its workers.

I believe that the Secretary's decision was a bad one. It will hurt the U.S. economy.

It is bad economics for us to continue to let other countries steal jobs from America. The level of imported autos and other products being unfairly brought into the United States is costing hundreds of thousands of jobs—and it is a major source of the unemployment in our country today.

If the Budd Co. had been able to win the contract fairly, 3,600 U.S. jobs would have been created for 5 years—that is 18,000 person-years of employment. Budd's loss of the contract could cost the U.S. Government well over $300 million in lost revenues and increased unemployment.

Enactment of this bill would insure that such a bad decision will not be made in the future. I am pleased that my colleague from Michigan, Senator LEVIN, joins me as a cosponsor of this bill. A companion bill is being introduced today in the House by Congressman JAMES BLANCHARD of Michigan.

Mr. President, I ask unanimous consent to have the test of the bill printed in the RECORD. This is prudent and necessary legislation. I urge my colleagues to consider it fully and enact it promptly.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Trade Finance Act of 1982".

SEC. 2. Section 1912 of the Export-Import Bank Act Amendments of 1978 (12 U.S.C. 635a-3) is amended to read as follows:

"SEC. 1912. (a)(1) Within five calendar days of the receipt of information that foreign sales to the United States are being seriously offered involving foreign official export credits which breach the limits set forth in existing standstills, minutes, or practices to which the United States and other major exporting countries have agreed, the Secretary of the Treasury (hereinafter in this section referred to as the 'Secretary') shall commence an inquiry to assess the accuracy of such information. Such inquiry shall be completed within 30 calendar days.

"(2) In any case in which the Secretary conducts an inquiry under paragraph (1) and determines that foreign sales to the United States are being offered involving foreign offical export credits which breach the limits set forth in existing standstills, minutes, or practices to which the United States and other major exporting countries have agreed, the Secretary shall immediately request the withdrawal of such financing by the foreign official export credit agency involved.

"(3) If such financing is not withdrawn within 10 calendar days of the request for withdrawal and the Secretary determines that the availability of such foreign official financing is likely to be one of the relevant factors in the sale or sales, the Secretary shall authorize the Export-Import Bank of the United States to provide competing United States sellers with financing to match the financing available through such foreign offical export credit agency.

"(b) Upon receipt of authorization by the Secretary under subsection (a)(3), the Export-Import Bank of the United States shall provide financing to match the financing offered by such foreign official export credit agency. All loans, guarantees, and insurance provided under this authority shall conform to all provisions of the Export-Import Bank Act of 1945.".

By Mr. TSONGAS (for himself, Mr. PACKWOOD, Mr. KENNEDY, Mr. MATHIAS, Mr. BIDEN, Mr. ROBERT C. BYRD, Mr. SPECTER, Mr. METZENBAUM, Mr. DECONCINI, Mr. LEAHY, Mr. BAUCUS, Mr. CRANSTON, Mr. RANDOLPH, Mr. WEICKER, Mr. DODD, Mr. DURENBERGER, Mr. BRADLEY, Mrs. KASSEBAUM, Mr. GLENN, Mr. HATFIELD, Mr. MOYNIHAN, Mr. PROXMIRE, Mr. SARBANES, Mr. COHEN, Mr. HART, Mr. HEINZ, Mr. INOUYE, Mr. STAFFORD, Mr. RIEGLE, Mr. JACKSON, Mr. PERCY, Mr. HOLLINGS, Mr. CHAFEE, Mr. EAGLETON, Mr. STEVENS, Mr. DIXON, Mr. GORTON, Mr. BUMPERS, Mr. ANDREWS, Mr. BURDICK, Mr. LEVIN, Mr. SCHMITT, Mr. DANFORTH, Mr. MITCHELL, Mr. BOSCHWITZ, Mr. PELL, Mr. MATSUNAGA, Mr. MELCHER, Mr. MURKOWSKI, Mr. HAYAKAWA, and Mr. BOREN):

S.J. Res. 213. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

(The remarks of Mr. TSONGAS and other Senators on this legislation appear earlier in today's RECORD.)

By Mr. PERCY (for himself, Mr. TSONGAS, Mr. EAST, Mr. GORTON, and Mr. COHEN):

S.J. Res. 214. Joint resolution to authorize and request the President to designate the month of November 1982 as "National REACT Month"; to the Committee on the Judiciary.

NATIONAL REACT MONTH

● Mr. PERCY. Mr. President, I am today introducing a joint resolution requesting that the President of the United States designate the month of November 1982 as "National REACT Month." I am joined in this effort by my distinguished colleagues, Senators TSONGAS, EAST, GORTON, and COHEN.

REACT is an acronym for Radio Emergency Associated Citizens Teams, and the purpose of the resolution is to honor and recognize the efforts of people across the country who have volunteered as members of a REACT team. REACT, which celebrates its 20th anniversary this year, marshalls the talents of more than 25,000 Americans who, using their own CB radios, work in their local communities to insure highway safety and emergency communications. Countless lives are saved through their efforts.

The work of REACT volunteers speeds the arrival of medical or other emergency help to the scene of an accident or natural disaster. REACT also has a formal cooperative understanding with the American Red Cross and many REACT members have been trained by the Red Cross in emergency first aid techniques.

REACT International, Inc., the nonprofit coordinating body for the local groups, is headquartered in Chicago, and I am especially proud of the countless Illinoisans who participate as members of local REACT teams. By providing 24-hour monitoring of the airwaves, they have been invaluable in giving warning of tornadoes and blizzards in Illinois and in assisting law enforcement officials in bringing help quickly to the scene of accidents on Illinois highways.

Earlier this year, REACT International was honored as a recipient of the 1982 President's Volunteer Action Award in recognition of the outstanding public service of REACT's volunteer members. I can think of no better way for each of us to add our own thanks to this selfless volunteer organization than by marking its 20th anniversary year with passage of this joint resolution for "National REACT Month."

Mr. President, I ask unanimous consent that a press release on REACT's receipt of the Presidential Award, a fact sheet on REACT International, and the text of my joint resolution be printed at the conclusion of these remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 214

Whereas through REACT (radio emergency associated citizens teams), twenty-five thousand citizens participate as volunteers to provide highway safety and emergency communications using their own citizens band radios in their local community;

Whereas the cumulative effort totaling over ten million volunteer man-hours this year, handling one emergency call every twenty seconds, has resulted in the saving of many lives because of the greater speed with which medical aid reaches the scene of an accident or natural disaster;

Whereas REACT International has been honored as a recipient of the 1982 President's Volunteer Action Award; and

Whereas 1982 marks the twentieth anniversary of REACT, and special celebrations are appropriate: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the month of November 1982, as "National REACT Month" and calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities, which take notice of the significant contribution every local REACT team makes to the welfare of its local community and the Nation.

[News Release from REACT International, Inc., April 1, 1982]

REACT RECEIVES PRESIDENTIAL AWARD

REACT International has been selected as a recipient of the 1982 President's volunteer Action Award in recognition of the outstanding public service performance of REACT's volunteer members. REACT is one of only 18 individuals and organizations to be so honored out of 2300 nominations received by the screening committee. It is fitting and appropriate that this award should be received during REACT's 20th Anniversary year. Every REACT Team and every REACT member shares in this achievement. The award will be presented at a White House luncheon on April 15, 1982.

The Awards Program is sponsord jointly by VOLUNTEER: The National Center for Citizen Involvement and ACTION, the federal agency for volunteer service.

REACT International provides a structure and program to encourage organized local volunteer monitoring of the Official CB Radio Emergency Channel and to provide communications assistance in all local emergencies through the development of affiliated volunteer groups motivated and trained to respond to local community needs.

REACT is celebrating its 20th Anniversary in 1982. Its volunteer members have handled over 100,000,000 emergency messages and have participated in every major disaster. The basic element of the REACT organization is the local volunteer REACT Team. Each Team agrees to establish a goal of 24 hour monitoring of the official Citizens Band Emergency Channel. With 20-30 million CB sets installed in automobiles. CB is the only available highway communication system. REACT monitors handle a wide variety of calls. The most important being highway accidents. Time saving 2-way radio communications from the accident scene to a REACT monitor brings medical aid sooner to save lives. Even where no injuries are present, faster response means clearing the accident scene faster to avoid chain-reaction accidents. REACT monitors also provide road information and directions, summon road service and report road and weather conditions that affect highway safety.

One recent call by a CB equipped motorist reported the recent air crash from Washington's 14th Street Bridge to a REACT monitor at home in Arlington, VA, who relayed the information to the authorities. This has been verified as the first notification of this tragedy. Speedy reporting made it possible to rescue survivors from the frigid river.

Recently, REACT joined the National Voluntary Organizations Active in Disaster. Since its founding, REACT Teams have assisted the Red Cross and other local disaster relief organizations in floods, tornados, hurricanes, fires, blizzards, and other disasters. Utilizing communications capabilities, plus dedication to serve others, REACT Teams often assist in observation of phenomena (tornado spotting, flood watch, etc.) before the disaster, evacuation, surveys and delivery of relief services after the disaster.

Another major highway safety function is REACT Safety Break Time, co-sponsored by the American Trucking Associations. Under this program, REACT Teams annually serve over 1,000,000 free cups of coffee to motorists on holiday weekends. REACT members give up their own holidays so that tired motorists may stop for a "Safety Break". State police and Highway Patrols verify that this effort does save lives.

REACT Teams provide volunteer communications and crowd control assistance for a wide variety of local community events: parades (including Mardi Gras in New Orleans and the Rose Bowl in Pasedena); special events (from the Pumpkin Festival in Circleville, Ohio to the Garlic Festival in Gilroy, CA) plus state and county fairs. REACT Teams provide communications for Special Olympics, March of Dimes Walkathons, Multiple Sclerosis Bikathons, American's Marathon, Cancer Society Dance-A-Thons, Diabetes Foundation, Cerebral Palsy, Muscular Dystrophy and many other local charity fund drives.

REACT Teams are active in all 50 states, Puerto Rico, U.S. Virgin Islands and Guam. Activity is also growing in other countries where CB radio is available. While presently employing a headquarters staff of two full-time and one part-time persons, the members receive a bimonthly publication called "The REACTer"; are covered under a $500,000 General Liability insurance policy and receive training and programming assistance. All of REACT is covered by a group tax exemption under Section 501(c)(3) of the IRS Code.

REACT members come from and serve all economic, cultural, social and ethnic groups. An average of eight hours weekly is volunteered per member, using their own equipment. The result is faster accident reporting, other travelers aid, free coffee Safety-Breaks during holiday weekends, and many other local services to benefit all Americans.

REACT INTERNATIONAL, INC.—RADIO EMERGENCY ASSOCIATED CITIZENS TEAMS

1. Founded in 1962, REACT is celebrating its 20th Anniversary in 1982. REACT is an independent non-profit public service organization fully IRS approved to receive tax deductible contributions.

2. Current membership includes 1400 Teams and 25,000 dues paid members. Teams are active in all 50 U.S. States, 9 Canadian Provinces, Puerto Rico, Virgin Islands, Guam, Australia, Philippines, South Africa, United Kingdom, West Germany, and Venezuela.

3. REACT Teams agree to develop a 24-hour monitor system on Channel 9, the official emergency channel of the Citizens Band Radio Service. All operations must comply with local, state and federal regulations, particularly those governing radio operations.

4. Since 1962, REACT Teams have handled over 100 million emergency calls including more than 20 million highway accidents.

5. Through REACT Safety Break Time (co-sponsored by American Trucking Associations) REACT Teams serve over 1,000,000 cups of free coffee and other refreshments annually to holiday weekend travelers.

6. REACT members provide an average of 8 hours of volunteer service weekly.

7. Local REACT Teams provide volunteer service in behalf of highway safety, and maintain emergency communications in case of disaster. Many local community service activities are served by REACT communications including Special Olympics and March of Dimes.

8. A formal cooperative understanding exists between the American National Red Cross and REACT. Many REACT members have taken Red Cross First Aid training and provide emergency communications through their Red Cross Chapters.

9. Research on a two-year REACT program in cooperation with the Ohio State Highway Patrol has been published by the Transportation Research Board of the National Academy of Sciences. Additional presentations have been made to the Society of Automotive Engineers, Associated Public Safety Communications Officers and published by the International Association of Chiefs of Police, National Safety Council, etc.

10. REACT International has created a training program for CB emergency channel monitors under a contract awarded by the U.S. Department of Transportation, National Highway Traffic Safety Administration. Prepared for NEAR (National Emergency Aid Radio), the program includes a 34-minute film plus texts.

11. REACT members, Teams and Councils are protected under a $500,000 General Liability Insurance Policy, covering REACT activities.●

ADDITIONAL COSPONSORS

S. 1541

At the request of Mr. NICKLES, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 1541, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to consolidate and simplify the administration of the provisions of law relating to retirement income arrangements, to provide for incen-

tives for pension plan coverage and increased retirement savings, and for other purposes.

S. 1931

At the request of Mr. SCHMITT, the name of the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 1931, a bill to amend title 5, United States Code, to entitle Civil Air Patrol cadets 18 years of age and older to compensation available to Civil Air Patrol senior members in event of disability or death, and to increase the level of compensation available to both.

S. 1939

At the request of Mr. GOLDWATER, the name of the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

At the request of Mr. ROBERT C. BYRD, his name was added as a cosponsor of S. 1939, supra.

S. 1958

At the request of Mr. DOLE, the names of the Senator from Texas (Mr. BENTSEN), and the Senator from Washington (Mr. GORTON) were added as cosponsors of S. 1958, a bill to amend title XVIII of the Social Security Act to provide for coverage of hospice care under the medicare program.

At the request of Mr. KASTEN, the name of the Senator from Nebraska (Mr. EXON) was added as a cosponsor of S. 2080, a bill to amend the Federal Election Campaign Act to provide that all persons must comply with the act.

At the request of Mr. DANFORTH, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2094, a bill to amend the Trade Act of 1974 to insure reciprocal trade opportunities, and for other purposes.

At the request of Mr. COHEN, the name of the Senator from New Hampshire (Mr. RUDMAN) was added as a cosponsor of S. 2127, a bill to revise the procedures for soliciting and evaluating bids for Government contracts and awarding such contracts, and for other purposes.

At the request of Mr. THURMOND, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 2174, a bill to recognize the organization known as American Ex-Prisoners of War.

At the request of Mr. DOMENICI, the name of the Senator from South Dakota (Mr. ABDNOR) was added as a cosponsor of S. 2455, a bill to extend the targeted jobs tax credit.

At the request of Mr. CHAFEE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2541, a bill to amend section 103(b)(6) of the Internal Revenue Code of 1954 with respect to the exemption from the industrial development bond provisions for certain small issues.

At the request of Mr. MATHIAS, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 2580, a bill to establish the Christopher Columbus Quincentenary Jubilee Commission.

S. 2585

At the request of Mr. CRANSTON, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2616

At the request of Mr. RIEGLE, the names of the Senator from Michigan (Mr. LEVIN), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of S. 2616, a bill to prohibit assistance under the Urban Mass Transportation Act of 1964 for purchasers of capital equipment subsidized in violation of international agreement.

S. 2618

At the request of Mr. ZORINSKY, the name of the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 2618, a bill to limit the retirement annuity of Members of Congress and former Members of Congress.

S. 2674

At the request of Mr. COHEN, the name of the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 2674, a bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

S. 2723

At the request of Mr. RIEGLE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2723, a bill to expand the supply of strategic skills in critical occupations in which there is a shortage of workers by providing retraining for experienced displaced workers from funds available for certain defense procurement.

SENATE JOINT RESOLUTION 193

At the request of Mrs. KASSEBAUM, the name of the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of Senate Joint Resolution 193, a joint resolution designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week."

SENATE JOINT RESOLUTION 205

At the request of Mr. EAST, the name of the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of Senate Joint Resolution 205, a joint resolution to designate September 1982 as "National Sewing Month."

SENATE JOINT RESOLUTION 207

At the request of Mr. DOLE, the names of the Senator from Utah (Mr. GARN), the Senator from North Dakota (Mr. BURDICK), the Senator from Georgia (Mr. MATTINGLY), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of Senate Joint Resolution 207, a joint resolution to authorize and request the President to designate the week of August 1 through August 7, 1982, as "National Purple Heart Week."

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. GLENN, the name of the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of Senate Concurrent Resolution 89, a concurrent resolution expressing the sense of Congress that the U.S. Fire Administration should continue to make arson research and training an important and integral part of its mission and continue to support the anti-arson and fire safety efforts of States and localities in order to reduce lives and property damage lost by fire and arson.

SENATE RESOLUTION 414

At the request of Mr. PRESSLER, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of Senate Resolution 414, a resolution expressing the sense of the Senate with respect to the need to demonstrate that the United States is a reliable supplier of grain, and for other purposes.

SENATE RESOLUTION 425—RESOLUTION RELATING TO TRAINING OF CERTAIN STAFF MEMBERS

Mr. WALLOP submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 425

Resolved, That the Select Committee on Ethics (hereinafter referred to as the "Select Committee") is authorized, with the approval of the Committee on Rules and Administration, to provide assistance for members of its professional staff in obtaining specialized training, whenever the Select Committee determines that such training will aid it in the discharge of its responsibilities.

SEC. 2. (a) Assistance provided under authority of this resolution may be in the form of continuance of pay during periods of training or grants of funds to pay tuition, fees, or such other expenses of training, or both, as may be approved by the Committee on Rules and Administration.

(b) The Select Committee shall obtain from any employee receiving such assistance such agreement with respect to continued employment with the Select Committee as it may deem necessary to assure that it will receive the benefits of such employee's services upon completion of his training.

SEC. 3. The expenses of the Select Committee in providing assistance under authority of this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Select Committee.

● Mr. WALLOP. Mr. President, today I am submitting a resolution which will confer upon the Select Committee on Ethics permanent authority to provide assistance, with the approval of the Committee on Rules and Administration, to the members of its professional staff in obtaining specialized training whenever the select committee determines that such training will aid the committee in the discharge of its duties. If agreed to, this resolution would provide the Ethics Committee with authority similar to that currently held by all standing committees of the Senate.●

AMENDMENTS SUBMITTED FOR PRINTING

CONSTITUTIONAL AMENDMENT RELATIVE TO A BALANCED BUDGET

AMENDMENT NOS. 1932 THROUGH 1934

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted three amendments intended to be proposed by him to the joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

AMENDMENTS TO FEDERAL RECLAMATION LAW

AMENDMENT NO. 1935

(Ordered to be printed.)

Mr. LUGAR proposed an amendment to the bill (S. 1867) to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Agriculture Committee be authorized to meet during the session of the Senate at 10 a.m. on Thursday, July 15, to complete the food stamp markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs, of the Foreign Relations Committee, be authorized to meet during the session of the Senate at 3:30 p.m. on Thursday, July 15, to receive a secret briefing from Hon. John H. Holdridge, from the Department of State, on recent ASEAN and ANZUS ministerial meetings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate at 2 p.m. on Thursday, July 15, to hold a nonimation hearing to consider the nominations of Robert H. Phinney, of California, to be Ambassador to the Kingdom of Swaziland, and Nicholas Platt, of the District of Columbia, to be Ambassador to the Kingdom of Zambia.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

REPORT ON COMMODITY INVESTMENT FRAUD

● Mr. RUDMAN. Mr. President, after extensive hearings before the Permanent Subcommittee on Investigations on commodity investment fraud, yesterday the subcommittee filed its report on those hearings with specific findings, conclusions, and recommendations. The hearings before the subcommittee were not the only hearings on the futures industry and the Commodity Futures Trading Commission (CFTC). The Senate Committee on Agriculture, Nutrition, and Forestry also held hearings earlier this year on the Futures Trading Act of 1982. On May 6, they filed a report accompanied by Senate bill 2109, which reauthorizes the CFTC and makes several important changes in the Commodity Exchange Act. Various subcommittees in the House have also held hearings relating to the reauthorization of the CFTC.

Hearings before the Subcommittee on Investigations confirmed that the CFTC is comprised of competent individuals who endeavor to act in the best interest of the consumer and the industry. However, it is also very clear that the CFTC, mainly for budgetary reasons, is incapable of adequately preventing the enormous amount of fraud that has been developing during the past 10 years.

Futures trading developed in the United States in response to the economic need for centralized pricing and large-scale risk sharing in the agricultural market. It was intended to provide farmers with secured futures prices and the ability to transfer risks to speculators more capable of incurring losses. Unfortunately, even in the early phases of the futures trading industry, abuses in futures trading and recurrent market manipulations induced resentment and opposition to futures trading by the farming industy. Even today, many farmers consider the commodities market precarious and costly: Fewer than 10 percent of the Nation's food producers hedge with futures contracts.

As recently as 10 years ago, the futures markets were still limited almost exclusively to their role as a marketing system for agricultural products. In 1970, there were only 12.4 million futures contracts traded, and 90 percent of those were in agricultural commodities. This position has changed drastically as new nonagricultural futures contracts were authorized, first by the Agriculture Department, and now by the CFTC. The annual volume reached 101,000,000 contracts by 1981, and approximately half of the industry-wide volume was in nonagricultural commodities contracts. In fact, over 10 percent of the 1981 contracts were futures contracts on Treasury bonds.

The CFTC continues to approve highly speculative, innovative futures contracts. Two recent innovations permit exchange trading of options on futures contracts and futures trading on indexes of common stocks. It is clear that the current phase toward complex, nonagricultural financial instruments is continuing. Unfortunately, the regulatory and enforcement structure of the CFTC does not permit adequate consumer protection.

Of particular importance to the Subcommittee on Investigations is the Commodity Exchange Acts's effective preemption of State enforcement of State consumer protection and antifraud laws. The Senate Committee on Agriculture voiced this same concern in their report when they stated, "* * * [I]t has become clear that the Commission, by itself, cannot be primarily responsible for policing every enterprise operating under a 'commodity' theme." In fact, the committee included a provisions in their reauthorization bill which would permit States to use their securities laws to prevent fraudulent commodity activities. Unfortunately, the committee's provision would only permit State officials to police the commodities industry in off-exchange operations.

Our investigations and subsequent hearings revealed that numerous fraudulent operators or their firms were registered with the CFTC and frequently engaged in trading on legitimate exchanges. The Agriculture Committee's bill would continue to preempt action by State securities officials in such situations.

The arguments in favor of a uniform, comprehensive, nationwide

scheme of regulation of persons and firms operating on the exchanges are persuasive. However, given the subcommittee's findings of fraud, and the CFTC's inability to adequately police the industry, it is not wise to continue the Federal preemption of the enforcement capabilities of State officials under State antifraud statutes. Therefore, Senator ROTH and I have proposed an amendment which would grant antifraud jurisdiction to the States. The amendment does not grant regulatory powers to the States, but would simply permit State officials to protect their constituents against the increasing enhanced opportunities for fraudulent activities in the futures markets.

Senate bill 2109 will be brought before the Senate soon. Important issues will be raised which will affect the individual States. I hope every Senator will find time to consider the appropriate role for State officials in policing fraud within their borders.●

EUROPEANS DON'T NEED SOVIET GAS

● Mr. GARN. Mr. President, for many months now I have endeavored to alert Americans and Europeans to the dangers of the proposed Soviet natural gas pipeline, I have been met by one fallacious argument after another. The most prominent and most fallacious argument has been that the Europeans need Soviet natural gas in order to reduce their energy dependence.

There are two grand errors in this. First, the assertion that Soviet gas will increase European independence, and second, that the Europeans need Soviet gas. To trust in Soviet energy supplies as a means to energy independence makes about as much sense as going to a casino to win the money to pay off your gambling debts. Which leads to my second point; namely, that the Europeans would have no need for Soviet energy if they relied upon their own resources.

Mr. President, some of the world's largest deposits of natural gas are located in the North Sea, under the control of Norway, the United Kingdom, and other members of NATO. There is sufficient gas in these deposits alone to supply 25 percent of Western Europe's total energy needs, not just their needs for natural gas, but for all of their energy needs, of which gas is only one element.

This point was reemphasized once again in a recent editorial in the Wall Street Journal. As the editorial so well demonstrates, the pipeline issue has been political from the start; for there is not, nor was there ever, any reasonable economic justification for the pipeline. As I have learned from my own conversations with European officials, the main rationale for the project is to try to keep alive the spirit of détente. I echo the response of the Wall Street Journal editors:

If the Europeans want to argue with Mr. Reagan honestly, they need to start explaining how detente remains a viable policy after what's happened to Poland and Afghanistan. If they are unable to do this and still want to appease the Soviets with subsidized credits, they should at least have the decency not to complain when Mr. Reagan decides the U.S. shouldn't be a party to their blind gamble.

Mr. President, when I first became aware of this issue, back in its infant stages during the previous administration, the most common reaction to the concerns that I raised was indifference. I am heartened by the attention that the issue is now receiving, even though we are in the 11th hour.

I strongly support the export controls announced by President Reagan. They will be successful; recent studies show just how dependent the Soviets are on Western products. At the very least, the controls will be effective in slowing down the pipeline. In the meantime, perhaps we can convince our allies that the United States, which carries the bulk of NATO defense costs, also has an interest in the European allies relying on their own energy resources before looking for energy independence by turning to the power that would subdue them to the status of Poland and Czechoslovakia if it could.

Mr. President, I ask that the editorial from the Wall Street Journal entitled "Politicizing Politics" be included in the RECORD.

The article follows:

POLITICIZING POLITICS

President Reagan was wrong to stick his nose into our commercial dealings, say Europeans who can't believe his decision to stop U.S. technology from helping to build the Soviet natural gas pipeline. He's accused of "politicizing" business, defiling the sanctity of their contracts.

But hold on. Surely they know that the pipeline deal has been pure politics from the start. There is nothing commercially sound in the Europeans' claim that they need Soviet gas piped from Siberia to diversify their energy sources when they have their own huge untapped resources in the North Sea.

It is no secret that there is more natural gas there than the Soviets could pump for decades. Estimates of proven European reserves show that with a little investment—much less than the credits given to the Soviets to meet the eastern bloc's craving for hard currency—and a lot more political and economic cooperation. Europe could be self-sufficient in natural gas.

Unfortunately, Europeans have united in opposing Mr. Reagan's restriction on U.S. participation in the project, not in solving the energy shortfall themselves. Even now, all it would take for the pipeline project to lose all allure would be for the conservative governments in Norway and Britain, which have 85% of European gas reserves, to ease up on restrictive exploration, development and supply policies. Other European countries could begin to rely on local energy supplies.

European governments give several unconvincing reasons for refusing to pump their share of North Sea gas. The Norwegians (with 53%) and Dutch (10%) argue that they they need the gas where it is in the ground so that later generations can use it to pay for their massive welfare programs. What's happened to the price of oil should be proof enough that you're better off selling what you've got and using the money to create real industrial strength. Britain (32%) is just now getting around to privatizing British National Oil Corp. and ending British Gas Corp.'s nationalistic monopoly on gas production and supply, which resulted in no gas being sold to others.

Dutch economist Peter Odell estimates that if the Norwegian, British and Dutch governments allowed full development of their gas reserves, there would be enough to fill one-quarter of Europe's *total* energy demand. But exploration licenses have been granted for only a fraction of the North Sea continental shelf. Combined with high energy taxes, the result is that no one knows just how much natural gas Europe has.

Even the conservative Norwegian government has shown little evidence that it will reduce taxes or let up on production restrictions. Oil and gas account for 15% of Norway's GNP, expected to rise to 25%. Rather than joy, the Norwegians have a strange dread of these revenues. The problem is that the money is already promised for huge welfare programs, leading the head of the Bank of Norway to conclude that "our problem has been spending too much."

The real mistake was the curious lesson the Europeans drew from the Chicken Little shrieks of "energy crisis." Since the energy apocalypse was upon us, so the story went, the best policy was to keep the oil and gas in the ground. This has been done, and the oil glut is upon us. Even now Europeans have been more willing to buy from the Soviets than to sell to each other.

The lesson to draw from the pipeline deal is how far Europe will go to grasp for detente: The price tag so far is the $10 billion (for openers) in hard currency Europe will pay Russia for natural gas it could just as easily pump from its own back yard. If the Europeans want to argue with Mr. Reagan honestly, they need to start explaining how detente remains a viable policy after what's happened to Poland and Afghanistan. If they are unable to do this and still want to appease the Soviets with subsidized credits, they should at least have the decency not to complain when Mr. Reagan decides the U.S. shouldn't be a party to their blind gamble.●

THE 100TH ANNIVERSARY OF SOUTH OAKS HOSPITAL

● Mr. D'AMATO. Mr. President, I rise to recognize the 100th anniversary of the distinguished South Oaks Hospital of Amityville, Long Island, N.Y., for its service and leadership in the field of psychiatric care.

In 1881, the plans were laid for the Long Island Home, which was to treat, care, and hopefully cure the mentally ill. The plans came to life less than a year later, with the first patient admitted in January 1882.

The home originally consisted of one main building with a capacity for 100 patients. Rest, relaxation, fresh air,

good food, and pleasant activities were considered the key to successful rehabilitation. Amityville had been chosen as a conducive site with its healthful nature in the vicinity of cooling ocean breezes and beautiful countryside. These qualities were well utilized with therapy centered around many outdoor activities that included raising crops and livestock, typical of psychiatric institutions during that time.

Through the decades, the Long Island Home survived world wars, the depression, and even the construction of a major highway through its grounds, and still, the institution continued to expand. The concept of the "farm" environment as treatment was replaced as new facilities and programs evolved. In 1952, the Long Island Home was renamed South Oaks Hospital, indicating the change in treatment from a long-stay sanitarium to one of progressive psychiatric care.

Today, South Oaks is involved in a wide range of community outreach programs and inpatient and aftercare services. Broadlawn Manor Nursing Home and health-related facility and the South Oaks Foundation are just two prominent additions to the hospital over the years. Broadlawn is a nonpsychiatric home for the elderly, and the South Oaks Foundation was designed to aid those in the community with mental or nervous ailments and disorders. Many other numerous developments at South Oaks have since been made. There are annual conferences, mental health clinics, a variety of alcoholism and drug abuse treatment and rehabilitation centers, training programs for counselors, and even services for compulsive gamblers and their families. Research of the widespread and mysterious disease, alcoholism, has further been aided at South Oaks with the chartering of the Institute of Alcohol Studies by the board of regents of the New York State Education Department. The list of programs is extensive and impressive.

Because South Oaks Hospital is devoted solely to the treatment of mental illness and addictions, the available comprehensive and specialized programs have been the key factor in the successful treatment of many patients. Today, approximately 1,600 persons are admitted each year as compared to the first 107 patients in 1882.

I congratulate the board of directors, administration, and staff for their outstanding leadership and servie that entails compassion and understanding. One hundred years later this institution is still at the forefront and should be commended for its contributions to the care and treatment of mental illness.●

WATT'S PARK PROGRAM

● Mr. ARMSTRONG. Mr. President, on July 2, the Denver Post printed a very sensible editorial on Interior Secretary Watt's program for improving our national parks. Any recent visitor to our parks, and certainly anyone from a State like mine where parks are a highly valued resource will appreciate the wisdom of the Post's comments and Secretary Watt's policy. I encourage my colleagues to take a few moments to read this editorial:

[From the Denver Post, July 2, 1982]

WATT'S PARK PROGRAM

Even when Interior Secretary Jim Watt is spearheading an ambitious program of national park improvements, he can't win. The doomsday chorus of environmentalists cries from the sidelines: "You're not doing it right."

These lobbyists testified before Congress last week that Watt is "defaulting his responsibilities" in launching the first organized attempt to upgrade visitor and other facilities in the parks. Included are improvements in the West costing many millions. About $2 million is being spent to resurface Trail Ridge Road in Rocky Mountain National Park, the first time this heavily used summer roadway has been given major attention since 1951.

Ideally, what Watt's critics want is improvements and a continuation of efforts to add ever more acreage to the park system. The Carter administration added much land, but didn't have the resources to make necessary internal improvements. Watt is now focusing on the improvements.

In a time of deep recession all government budgets must be pared, and we don't see why the Park Service should be an exception. New land purchases wouldn't appear to require high priority. At a time of depressed home building, lumber mill shutdowns and low economic activity, we can't believe potential parkland is being gobbled up wholesale by private development.

So let's not get carried away. The parks' worst pressure points—too many people plus problems of health and safety—are getting attention. We can resume concern with fringe problems when the improvements are done—or when the recession is over.●

THE SENTENCING OF ANATOLY SHCHARANSKY—THE FOURTH ANNIVERSARY

● Mr. DOLE. Mr. President, as we return to this Chamber from celebrating the joyous 206th anniversary of our Nation's freedom, we must remember in grievous irony other anniversaries that mark attempts to crush the liberties we hold so dear. In other lands, where freedom is feared, brave citizens continue to struggle for human rights and simple dignity, and their efforts will not be forgotten by Americans and others who yearn to live free.

July 14, 1982, marks the fourth anniversary of the conviction of Soviet human rights activist, Anatoly Shcharansky. By now, the name of this Moscow Helsinki group member and leader of the Soviet Jewry movement is painfully familiar to us all. Painful, Mr. President, not because the mention of this name suggests an unsilenced threat to mankind and society—as the Soviet authorities would have us believe—but because it suggests the qualities of valor, determination, integrity, and concern which are personified by Mr. Shcharansky and which are necessarily targeted for silencing by the Soviet regime.

Though arrested March 15, 1977, the ordeal of Anatoly Shcharansky began much earlier in the 1970's when, due to his reputation as an activist in the Jewish emigration movement, he was repeatedly refused permission to emigrate to Israel. While these denials reflect the callousness of Soviet emigration policy, the actions of the Soviet authorities, after encouraging Mrs. Shcharansky to leave for Israel with false promises that her husband would soon follow, exhibit a maliciousness and dishonor which any civilized nation would eschew.

Following Mrs. Shcharansky's emigration on July 5, 1974, the day after her mariage, the Soviet media began a campaign vilifying Anatoly Shcharansky. The obvious denouement came on March 15, 1977, with his arrest. He spent the following 16 months in solitary confinement having no contact with his family whatsoever, whether through the mail or personal visits. He was denied his right under the Soviet law to engage a lawyer of his own choosing; indeed, the attorney he selected to defend him, Dina Kaminskaya, was not only expelled from the Soviet lawyers union but was forced to leave the Soviet Union. Anatoly Shcharansky was found guilty of treason—but really of insisting upon the rights the Soviet Union agreed to honor in the Helsinki accords—and sentenced to a total of 13 years of deprivation of liberty: The first 3 years to be spent in prison, the following 10 in a corrective labor colony.

While a sentence of 13 years deprivation of liberty makes us shake our heads in sympathy with the condemned and incredulity toward the powers that sit in judgement, we still cannot comprehend the loneliness of a man who is refused contact with friends or family for an entire year, as was again the case with Anatoly in 1981. Neither can we comprehend the physical and mental anguish of a man forced to spend 185 days out of 3 years in a punishment cell where he is kept in solitary confinement and fed once every 2 days, as was also the case during those initial 3 years in prison. No wonder human rights defenders all over the world raised such a cry of alarm and outrage when Anatoly was transferred back to prison in November 1981 for another 3 years for, of all things, refusing to acknowledge his guilt to a system that does not comprehend innocence.

OTHER HELSINKI GROUP MEMBERS REMEMBERED

Throughout the Soviet empire brave citizens have stood up to demand individual human rights. Other leading members of Soviet Helsinki groups were also sentenced in the month of July. On July 13, 1978, one day before Shcharansky's conviction, Viktoras Petkus, a leading member of the Lithuanian group to monitor soviet compliance with the Helsinkis Final Act was sentenced to 10 years at hard labor and 5 years exile for his activities in that group. One year earlier, on July 1, 1977, two founding members of the Ukraninian Helsinki monitoring group, Mykola Rudenko and Oleksy Tykky, received harsh sentences for taking on the thankless burden of monitoring human rights in Ukraine.

All of these courageous individuals continue to languish in remote places of detention, despite the persistent outcry of a world no longer tolerant of human rights abuses which result in such brutal treatment. One cannot help but wonder why men like Anatoly Shcharansky are being punished for their conviction that the commitments of the Helsinki Final Act should be taken seriously. Why, indeed, are activities by Soviet citizens to monitor their government's observance of the final act considered to be anti-Soviet? Why does the Soviet Government fear a handful of individuals who form groups to monitor compliance with an accord to which their government is a signatory? Perhaps the ideas found in the human rights provisions of the Helsinki Final Act pose a threat to an insecure leadership which is committed to maintaining strict controls over the peoples of the Soviet Union at all costs. The idea of freedom is one that will continue to exist, even in the darkest dictatorship. No matter how fragile its existence, it will prove to be a powerful challenge to those who oppose liberty.

In closing, Mr. President, I would like to repeat the words of Leonid Shcharansky, the brother of the imprisoned human rights champion. When George Fletcher, a UCLA law professor, asked what Americans could do to help Anatoly, he replied, "Only one thing. Do not forget us." My response is, we have not, and we will not.●

CLARE BOOTHE LUCE

● Mr. D'AMATO. Mr. President, I rise to recognize one of the most remarkable women of our time, Clare Boothe Luce. Mrs. Luce is familiar to many for her wide range of endeavors, that have included positions as an ambassador, editor, playwright, war correspondent, and former colleague; she was the first women elected to Congress from the State of Connecticut.

The USO of Metropolitan New York recently honored Mrs. Luce with their Woman of the Year Award. Her dedication and achievement make her worthy of this tribute.

Simple and touching, the words of Mrs. Luce's acceptance speech reflect her charm, wit, and keen insight. I would like to take this opportunity to share her closing remarks:

A truly compassionate Administration is an Administration that sees first to the security of the country. The second effort of a truly compassionate Administration is to see to the solvency of the country. Without the security of the nation, all our wealth, however great, will go down the tubes, together with our liberties and our lives. But without solvency, a country can't raise the monies necessary to defend the nation. So compassion in politics does reside in first, a secure country, and secondly, a solvent country. These are—or should be—the Siamese twin goals and objectives of any administration. But there is one other thing, the heart, the soul, the ability, of a nation, of a free nation, lies in its voluntary efforts. Its voluntary efforts are the real measure of its national will. These are things that the individual citizen can do that no Government can ever, or will ever, be able to do, or order to be done. The glory of the USO, and I use the word, glory, because the USO is now 41 years old, the glory is this spirit of volunteerism that has kept it alive, not only in war, when it is easy to keep patriotism and service to others alive, but in peace. For 41 years, the spirit of volunteerism, which has permeated the USO, has come from the rich and the poor, the young and the old, from men and women. Today some of its original leaders, its elite, are right here in this room.

And so, I thank you, as one citizen, for your great voluntary efforts. May they never wane. These are the most dangerous days the U.S. has been through since February, 1941, when the USO was first put together. Never before in our history have your efforts, your contributions, to the USO been more necessary than today.

I would like to commend Mrs. Luce for her words of wisdom and for her lasting contribution to our Nation.

Thank you, Mr. President.●

HIGH EARNINGS—LOW TAXES

● Mr. QUAYLE. Mr. President, one of the reasons that many Americans support basic tax reform and simplification of our current tax system is that under current law, some of our wealthiest taxpayers are able to avoid paying taxes althogether. Under our current system, people with the same income can pay very different levels of tax depending on their ability to make use of the many preferences and loopholes available. Obviously, this favors the wealthy who are able to employ professionals to take advantage of the tax code.

In a recent article for the Indianapolis Star of June 20, 1982, Sylvia Porter explains how many high income taxpayers can get away with paying little or no tax. I ask that her article, entitled "'High Earnings Club' Pays Little, If Any, Income Taxes Each Year," be printed in the RECORD.

The article referred to follows:

[From the Indianapolis Star, June 20, 1982]

"HIGH EARNINGS CLUB" PAYS LITTLE, IF ANY, INCOME TAXES EACH YEAR

(By Sylvia Porter)

Every year, scores of super-rich Americans earn $200,000 or more, yet pay no federal income taxes whatsoever. Hundreds more earn just as much and pay only a token amount of taxes.

How do these and other high-income tax avoiders get away with it?

I just received an advance copy of the Internal Revenue Service's latest report on high-income tax returns, and the pages of statistics paint a startling picture of tax avoidance among the wealthy.

Because of the time it takes to compile such a detailed report, the study covers taxable year 1979, but the figures are just as (or even more) relevant today. Some of the findings:

Fact: Only about one in every thousand taxpayers is eligible for membership in the IRS' unofficial "high-earnings club." To join, you must earn $200,000 or more—only 93,731 taxpayers made it in 1979. Average income for high-earners that year: An astounding $398,563 (and probably higher this year).

Fact: About 35,000 high earners—a full 40 percent of the club's membership—paid about the same portion of their earnings to the IRS as a moderately successful wage-earner or businessman earning one-fourth to one-half as much annually.

So—what sort of hanky-panky could possibly allow someone earning $398,563 in 12 months to pay little or nothing in taxes?

For starters, a high-income tax-avoider doesn't depend on a 9-to-5 salary for a living. It's almost impossible to run up a massive amount of deductions to offset a large salary. Indeed, among members of the high earners' club, the average salary was about $144,000, or only about 36 percent of all the income they earned, according to the study.

For all other taxpayers—the vast majority of Americans, who can only dream of membership in the high earners' club—wages and salaries comprise over 85 percent of total yearly earnings.

Dividends from corporations, on the other hand, hold almost limitless potential for generating tax deductions. Once upon a time, Congress decreed that sitting in an armchair reading the stock pages of the daily newspaper is just as productive an activity as running an active trade or business. (The year was 1939 and a Depression-weary nation needed investors.)

Likewise, high-income taxpayers get involved in a whole range of exotic activities such as venture partnerships and development deals that produce massive tax deductions. Some of these arrangements generate $3 or $4 in tax deductions for every dollar of investment.

Just as members of the high earners' club don't make their money the conventional way, they don't rely on the most traditional types of itemized deductions, either. For the average citizen, the following deductions have the most effect on a tax return: Home mortgage interest, state and local taxes, medical expenses. For members of the high earners' club, however, these deductions are usually much too small to reduce the taxable portion of their sky-high income.

Instead, high-income tax-avoiders resort to a number of rare credits and deductions—notably investment interest expenses, casualty losses and the foreign tax credit.

More sophisticated tax avoiders do not depend on such clearly illegal schemes to shelter their income, however. For a person involved in a trade or business, all business-related expenses are so-called "above the line" adjustments that are subtracted from gross income before arriving at adjusted gross income. This is the most common way that high earners with $200,000 or more in gross income escape membership in the high earners' club.

A personal car becomes a company car * * * A spare bedroom is transformed into an office * * * Meals, hotels and cruises become notorious "T&E" (travel and entertainment) write-offs, all in the name of business.

Dealers allegedly have been told by representatives of the parent company that they can deduct the cost of family dinners as business conferences and that the cost of dog food can be written off as part of "security expenses." The IRS has instituted a special screening program to locate and investigate independent distributors involved with this company.

Does the IRS cover this vital area of tax abuse in its latest report? Unfortunately, no. Until 1981, the IRS based its entire statistical and audit system on the concept of adjusted gross income, which, as I reported above, fails to recognize the finagling that keeps so many high earners out of the $200,000-and-up club. Only in 1981 did the IRS switch to a new system based on total positive income—TPI. This new system measures income before business-related deductions are factored in, and is better at spotting such abuses as the padded expense account than the old system.

If reports on high-income taxpayers—reports that are required to be made annually by federal law to keep tabs on cheating—are based on the TPI system in the future, there will be many times the number of members in the high earners' club as the current report reflects. Then perhaps you'll really set off the fireworks as you, the taxpayer, begin to realize what the rich are getting away with.

All of this must be brutally offensive to you, the average taxpayer, who sees the IRS taking a huge bite out of each paycheck week after week. But it is only half the story. Thousands of taxpayers earn well over the $200,000 high-earner cutoff each year but aren't included in the club because membership is restricted to those with a high adjusted gross income, that is, income that first is reduced by a number of "adjustments" rather than deductions or credits.

One can drop out of the high earners' club entirely simply by cheating.●

THE ANNOUNCED 1983 WHEAT PROGRAM IS A CRUSHING BLOW TO AGRICULTURE

● Mr. MELCHER. Mr. President, a short time ago Secretary of Agriculture John Block announced the administration's program for the 1983 wheat crop. It is a mixed bag of bad news. The Department of Agriculture will allow deficiency payments believing grain prices for 1983 crops will remain low.

The worst part of the program is that it does not do anything to raise the price of American wheat. Farmers do not want handouts from the Government; they want a fair price for what they sell.

In failing to increase the loan rate, the Secretary assures that wheat will continue to sell at levels below the cost of production. By failing to even try to renegotiate the long-term grain agreement with the Russians, the administration assures that we will continue to have limited world markets.

Most people learn from their failures. The 1982 voluntary set-aside was a failure. If 1982 grain prices do not improve, it will cause the failure of a lot of grain producers.

Instead of enticing deficiency payments the Department of Agriculture should broaden the markets available to American producers and raise the loan rates. Neither of these actions cost the taxpayers one cent out of the Treasury. It means the market price is better for grain producers and does not cause higher Federal deficits by deficiency payments from the Treasury.●

A QUINTESSENTIAL MAN OF THE LAW

● Mr. MATHIAS. Mr. President, last Saturday one of Maryland's most distinguished jurists, Judge Reuben Oppenheimer, died at the age of 84. Judge Oppenheimer was the quintessential man of the law throughout his long and brilliant career, which began following his graduation from Harvard Law School more than a half century ago.

Over the decades since then Judge Oppenheimer wrote a legal, juridical and public policy legacy in the State of Maryland, which I believe will not be exceeded in our lifetime. Even in this twilight years Judge Oppenheimer continued to contribute voluminously to the formation of public policy, to the development and implementation of standards of conduct for elected and appointed officials and through his numerous and elegantly styled writings, to the continuing education of the legal profession and the general public.

I ask that an editorial from the July 13 editions of the Baltimore Sun be printed in the RECORD.

The editorial follows:

JUDGE REUBEN OPPENHEIMER

Some 26 years ago, this newspaper had words of high praise for the newest member of the Baltimore Supreme Bench, Reuben Oppenheimer, calling him "a legal scholar of national standing, a man of judicial poise and fastidious professional sensibilities."

When Judge Oppenheimer, a decade later, became the newest member of the state's highest court, the Court of Appeals, we said "the appointment crowns one of the distinguished legal careers in contemporary Maryland."

Indeed, throughout a legal career that extended more than 60 years until this death Saturday at 84, Reuben Oppenheimer was among the state's foremost members of the bar, renowned not only for his superlative legal scholarship and lucid prose, but for his dedication to public service that extended well past the age when most men are happily enjoying retirement.

Judge Oppenheimer (everyone used the title, though he retired from the bench in 1967) did not gain appointment as a judge until he was nearing 60. Yet he already had established himself as a national expert on deportation laws and administrative laws, had been chief attorney for the state Office of Price Administration during World War II and had run the state's corrections department.

Even after his retirement from the Court of Appeals at age 70, Judge Oppenheimer continued in public service, becoming the first chairman of the state Ethics Board, a panel with little legal status that developed considerable clout because of its chairman's reputation. He continued to guide the Ethics Board until he was 81.

Within the legal community, Reuben Oppenheimer's reputation was such that when he won election for a full term to the Supreme Bench in 1956, Supreme Court Justice Felix Frankfurter took the highly unusual step of writing a letter to The Sun praising the voters' wisdom and recounting how Judge Oppenheimer had refused to conduct a political campaign for fear of mixing judgeships and politics. This was a position that Reuben Oppenheimer had advocated for decades, and continued to believe in strongly until his death. "Political indebtedness so incurred," he wrote in 1980, "is a threat to the independence of our judiciary, upon which our liberties depend." His voice will be sorely missed when that same issue is debated in this year's election campaign.●

THE NEED FOR AMENDMENT OF THE FOREIGN CORRUPT PRACTICES ACT

● Mr. CHAFEE. Mr. President, it is undisputed that the ambiguities in the Foreign Corrupt Practices Act have caused U.S. companies to lose large amounts of overseas business. For example, the Emergency Committee for American Trade surveyed its 65 member companies to document the dollar amount of business lost due to ambiguities in the act. That survey came up with a total of $2 billion in lost business. The Department of Commerce has estimated that every $1 billion in exports generates between 30,000 to 40,000 jobs in the United States. Thus, according to the ECAT survey alone, the ambiguities in the Foreign Corrupt Practices Act caused us to lose between 60,000 to 80,000 job opportunities.

Mr. President, I ask that an excerpt from the testimony of Edmund T. Pratt, Jr., chairman, Emergency Committee for American Trade before the International Monetary Policy Subcommittee of the Senate Banking Committee on July 13, 1981, be printed in the RECORD.

The excerpt follows:

[Excerpt from testimony of Edmund T. Pratt, Jr., chairman, Emergency Committee for American Trade, before the Subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs and the Subcommit-

tee on International Trade of the Finance Committee, July 13, 1981.]

THE FOREIGN CORRUPT PRACTICES ACT

American businessmen have no quarrel with the FCPA's basic purpose of providing penalties for illicit payments to foreign officials. Such payments are outside the boundaries of acceptable business conduct.

The problems posed by the FCPA are basically those addressed in S. 708. We commend Senator Chafee and his colleagues for their efforts to provide needed clarification of the Act's many ambiguities. An ECAT panel presented our views on S. 708 on May 21, 1981, at hearings on the Foreign Corrupt Practices Act of 1977 held jointly by the International Finance and Securities Subcommittees of the Senate Committee on Banking, Housing, and Urban Affairs.

In addition to indentifying the problems for ECAT members arising from the FCPA, we sought in our statement to show that the key provisions of S. 708 would respond appropriately to those problems by clarifying and simplifying the bill. We also attempted to demonstrate that with the proposed changes of S. 708, the FCPA would continue to fulfill the policies Congress wished to carry out in 1977.

The clarifications of S. 708 should be of particular help to firms proposing to enter overseas markets for the first time. I can only imagine that the ambiguities of the present FCPA statute are sufficient in themselves to discourage smaller business from attempting to develop overseas business.

ECAT's witnesses at the May 21 hearings were asked if they were able to quantify business losses attributable to the FCPA. One of them noted that the compliance costs associated with the accounting provision increased the accounting costs of his company by 25-30 percent. He also noted that the FCPA's ambiguities were such that his company refused to seek business that would have totaled around $20 million annually.

Following our ECAT appearance on May 21, we informally surveyed our members asking if they could estimate both compliance costs and sales losses resulting from refusals to seek business because of uncertainty as to whether the FCPA would be violated—uncertainties that S. 708 would correct. In light of the sensitivity of the issue, we were surprised to receive a goodly number of responses to our two questions.

Many respondents simply stated that estimates were not possible. Another group responded that compliance costs had either not been increased enough to measure or had not been raised at all since their corporate accounting systems already were more than adequate to meet the vague accounting standards of the FCPA. A number of respondents noted that their corporate standards of conduct had predated the FCPA, and that, therefore, there could be no sales losses attributable to the FCPA.

But a rather large group of respondents indicated that accounting and legal compliance costs had been increased significantly, in many cases by many millions of dollars annually.

Others noted a large start-up cost associated with complying with the FCPA's accounting requirements but also noted modest annual additional costs of administering the new controls.

A large group of companies responded that because they were uncertain whether certain business practices were prohibited by the FCPA, they refused to seek business contracts. The uncertainties are those that S. 708 would clarify. While in few cases could it be demonstrated that the FCPA ambiguities were the sole cause for losses of business, a number of companies estimated that the ambiguities of the FCPA were a factor in losses of business totaling over $2 billion.

In conducting our survey, we guaranteed that responses would be treated in absolute confidence. We believe that the results clearly demonstrate the need for enactment of S. 708. Hopefully, this will be shortly accomplished.

EXPORT TRADING COMPANIES

ECAT firmly believes that Congress and the Administration should take steps to enhance U.S. international competitiveness. Among measures we strongly support is legislation authorizing establishment of export trading companies. We appreciate the efforts of Senators Heinz, Danforth and others in securing Senate passage of S. 734. We are making a significant effort in the House for enactment of similar legislation.

EXPORT CONTROLS

ECAT recognizes and supports the need for export controls to protect U.S. national security. American business is willing to forego market opportunities where it is determined that the sale of products or of technology would clearly be detrimental to our national security. In recent years, however, we have publicly questioned the use and effectiveness of export restraints as a means of advancing desired political changes in the internal policies of other nations.

Americans who depend on the export sector are as concerned as any of our citizens about human rights in other nations, about discrimination against other Americans, about protection of the environment, about consumer safety, about curbing terrorism and about similar worthwhile goals of American policy. The export sector of our economy, however, increasingly appears to be the chosen instrument for the pursuit of these goals.●

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DURENBERGER). Without objection, it is so ordered.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will now go into executive session to proceed to the consideration of the nomination of James G. Stearns, to be a Director of the Securities Investor Protection Corporation, which the clerk will state.

SECURITIES INVESTOR PROTECTION CORPORATION

The legislative clerk read the nomination of James G. Stearns, of Nevada, to be a Director of the Securities Investor Protection Corporation.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Mr. President, I suggest the absence of a quorum, the time to be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, today we are considering the nomination of James G. Stearns to be a member, and eventually Chairman, of the Securities Investor Protection Corporation. SIPC needs a good manager. Mr. Stearns fulfills all statutory requirements for the position, he is a competent and experienced manager, and he is honest. He should be confirmed.

Mr. Stearns is qualified to be SIPC's Chairman because his background fits SIPC's needs. The Securities Investor Protection Act of 1970 provides that two of SIPC's Directors be from the general public and not be associated with a broker, or dealer, or the national securities exchanges. The Chairman is to be designated from among those two Directors from the public. Mr. Stearns meets these requirements. He is not associated with any broker or dealer. His nomination complies with the statute.

Mr. Stearns also brings to SIPC broad, valuable, general management experience. He is a proven manager with over 30 years of experience in elective and appointive office at the local, State, and Federal level, and as a private businessman.

SIPC is a Government corporation established to insure private investors against loss from the failure of brokerage firms. SIPC does not inspect, examine, or regulate brokerage firms and it only serves as a liquidation trustee in a very few small cases. SIPC is not a regulatory agency in any sense of the word.

SIPC's purpose is to protect the customers of brokerage firms who fail and thereby maintain the public confidence necessary to facilitate private investment. SIPC is kept informed by the SEC and the self-regulatory organizations of any potential problems of broker/dealers. The SEC (not SIPC) closely monitors brokers for regulatory breaches and indeed the SEC oversees SIPC as well. Annually SIPC must give a report of its operations to the SEC; the SEC must approve SIPC's rules and bylaws and can require SIPC to change any of its existing rules or bylaws; and the SEC can take SIPC to court to compel SIPC to initiate liquidation procedures.

Thus the SEC oversees SIPC closely, informs SIPC of any brokers in trouble and closely coordinates its remedial actions with SIPC in any liquidation. SIPC always consults the SEC before and during liquidations. In short, the SEC regulates and SIPC manages liquidations.

SIPC's main job, and that of the Chairman, is to oversee the liquidation process. Much as the president of a life insurance company does not need to go to 7 years of school and become an actuary to manage his company, SIPC's Chairman need not be a technician to oversee, to supervise, and to direct the technical experts on SIPC's staff, nor does he need to be a technician to exercise general business judgment in maintaining customer's confidence in our private markets.

Recently SIPC has come under attack. There have been complaints that SIPC liquidations have been too slow and costly. These complaints charge that SIPC has fared poorly in meeting its major mission of protecting brokerage customers during liquidation. What SIPC needs is an experienced manager who can serve the interests of the public investor by bringing his business judgment to bear on liquidations. James G. Stearns can fill that need.

Mr. Stearns has had a distinguished and successful career in the private sector, in politics and in public service over the past 35 years. By profession, he has been a rancher, farmer, and businessman involved in the ownership and management of large-scale ranching operations in the West. As a public servant, he has served with demonstrated capability in management at all levels of government where he has been accountable to the public in both elective and appointed offices.

All of these positions have entailed dealing in financial matters in both the private conduct of his own business affairs and in management responsibilities commensurate with being in charge of multimillion-dollar public budgets, investments, public trust funds, and revenues in the various public offices he has held. These responsibilities and accomplishments include:

In the private sector: Founding and managing a multimillion-dollar grain co-op.

At the State level: Serving as California's secretary of agriculture and services where he was responsible for 11 executive departments with an aggregate budget of $742.5 million and 13,000 employees. These 11 major State government departments contituted one-fourth of the entire California State system, including such departments as: Department of Commerce, Department of General Services, Franchise Tax Board, the public employees retirement system; and the State teachers retirement system.

At the Federal level: Mr. Stearns was confirmed last year by the Senate Energy Committee by a vote of 17 to 0 and the full Senate without objection to serve as the Director of the Department of Energy's Office of Alcohol Fuels where he managed 11 project contracts and oversaw $800 million in loan guarantee contracts.

Mr. Stearns brings this substantial and impressive financial and management experience developed over years of day-to-day decisionmaking to the position of Director and Chairman of the Securities Investor Protection Corporation (SIPC). James G. Stearns is the experienced manager that SIPC needs today, and I urge that he be confirmed.

Mr. President, I yield to the Senator from Nevada.

Mr. LAXALT. Mr. President, I thank the esteemed chairman for a few moments to speak in behalf of Mr. Stearns' nomination.

Mr. President, I would like to take this opportunity to express my complete and continued support for the nomination of James Stearns to the position of Chairman of the Securities Investor Protection Corporation. I feel privileged to be able to speak today on behalf of a man whose career during the past 35 years has consisted of distinguished service in politics, as a public servant, and as a member of the private sector.

Before I elaborate on the highlights of Jim Stearns' accomplishments and experience, let me relay to my colleagues my interpretation of the requirements one must meet in order to become a public member and, more specifically, Chairman of the Securities Investor Protection Corporation (SIPC).

As we all know, SIPC serves to protect the assets of investors held by securities firms. The Corporation is run by seven Directors; one designated by the Secretary of the Treasury, one designated by the Chairman of the Federal Reserve, and five appointed by the President. Three of these five must come from the industry and two from the general public. Further, the statutory provision of SIPC requires the President to designate a Chairman and Vice Chairman from those Directors selected from the general public.

By investigating the legislative history behind the origins of SIPC, one finds that the presiding House committee had expressed sentiments in its report—and this is back in 1970—that the "public members appointed by the President be knowledgeable in the areas of concern to SIPC." However, it is extremely important to note that these expressed sentiments were never incorporated into law. And I might also indicate, apparently, at least to my knowledge, not incorporated even in the report language on this side. Furthermore, I have a strong suspicion that the absence of these sentiments from law indicates that the full House and Senate believed it entirely possible for a nominee to be an extremely capable Chairman, while never having had prior affiliations with the industry; a nominee like Jim Stearns.

I believe that in characterizing the Board as a whole, it is important that it contain several experts. But, at the same time, given the participation of the general public in securities investing and the need to maintain a sense of confidence in the industry from the public, I believe it is equally important to appoint Directors from outside the industry.

Focusing on the position of Chairman, it is important that the nominee possess keen management skills; skills that require the nominee to draw from the varied resources of his fellow Board members and supporting staff; skills that require the nominee to be a quick study and adapt to each new and difficult task; skills that are the basic makeup of Jim Stearns.

Jim Stearns has a successful career track record enviable by most. By profession, he has been a rancher, farmer, and businessman involved in the ownership and management of large-scale investments in the West. In conjunction with being a highly successful ranching entrepreneur, he established the Newell Grain Growers Marketing Cooperative where he served as director for 10 years. That marketing cooperative had annual sales ranging between $2 and $3 million.

As a public servant, Jim Stearns demonstrated his management capabilities at the Federal, State and county levels. Perhaps, the most impressive period of his public service was during his appointment under then Governor Reagan as Secretary of the California Department of Agriculture and Services. And he served in that position with high distinction and gained the full trust and confidence of the President from the period beginning 1972 until 1975. As Secretary, he headed an agency composed of 11 executive departments with 50,000 employees and an aggregate operation budget exceeding $740 million.

Obviously, Mr. President, and I want to bring this to the attention of my colleagues, separate and aside from the technical expertise and background, if we are looking for someone with general administrative experience I would think that the position which he held in California was an exceedingly difficult one which would merit his approval.

The Department of Agriculture was and is directly responsbile for insuring the stability and soliciting further growth in California's largest industry—a multibillion dollar industry whose well-being plays a critical role

with regard to the economic health of the State.

Citing more current achievements, Jim Stearns' recent success has been as the Director of the Office of Alcohol Fuels under the Department of Energy. His mission within that office was to promote the development of the alcohol fuels industry through loan guarantees, feasibility study grants, cooperative agreements and research and development. Within his first days on the job, he was able to familiarize himself with the detailed financial, technical and legal aspects of the loan guarantee process. Because members of the Nation's leading commercial and investment banking firms were involved in the negotiation sessions, Jim had to become versed in the needs and concerns of the financial and investment community. In my opinion, Jim Stearns' performance for the Department of Energy is well represented by the fact that Secretary Edwards strongly supports Jim's nomination to the Board.

Mr. President, the accomplishments I have just described to you only scratch the surface of this man's outstanding career. His unique ability to encounter and quickly control different and difficult situations clearly demonstrates that James Stearns is the right man for this job. In my opinion, there should be no debate regarding this nomination. Therefore, I urge my colleagues to step back and take an objective look at the qualifications this man presents and the requirements of the position to which he is to fill. I am confident that once an objective review is taken, my colleagues will join me in supporting James Stearns to the position of Chairman of the Securities Investor Protection Corporation.

I yield the floor.

Mr. RIEGLE. Mr. President, I rise in opposition to the nomination of James G. Stearns to be the Chairman of the Securities Investor Protection Corporation (SIPC). On April 28 the Senate Banking Committee voted 8 to 6 on a straight party-line vote to report the nomination out of committee. I voted against the nomination in committee and continue my opposition because I feel there is no evidence in the record that Mr. Stearns has the necessary background to be an effective chairman of the SIPC. While I have no quarrel with Mr. Stearns' general managerial capabilities, I do not believe his major work experience as a rancher and as Secretary of Agriculture of California qualify him for this important position.

The Securities Investor Protection Corporation was established by the Congress in 1970 to provide safeguards against investor losses resulting from the failure of securities broker-dealers. In this role, SIPC exercises wide discretion on highly technical matters involving the orderly liquidation of failed broker-dealer firms to protect the securities markets and the general public.

I believe we are all aware that in recent years the financial services industry has undergone a number of remarkable changes. Our financial system and our economy in general are experiencing unprecedented strains and the role and scope of SIPC, as well as that of the other financial regulatory agencies seems likely to become increasingly important as the struggle to adapt to these changes continues. An important SIPC task force recently assessed the role of SIPC and addressed the question of whether the public and the capital markets would be better served by giving SIPC wider powers to assist securities firms in distress.

Clearly, the Chairman of SIPC will play a key role in guiding the agency through this crisis period, and must have a thorough working knowledge of the structure and function of the securities industry. I do not believe that Mr. Stearns adequately meets these needs and I do not feel the public interest would be effectively served by his confirmation. Therefore, I respectfully urge my colleagues to reject the nomination of James G. Stearns to be Chairman of the Securities Investor Protection Corporation.

Mr. President, I ask unanimous consent that the time remaining on this side be under the control of the Senator from Wisconsin, with the understanding that if any of the Members of this side wish to speak he will be in a position to yield time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I thank the Senator.

Mr. President, I also rise in opposition to the nomination of Mr. Stearns. I do so recognizing the strong support he has from our very able chairman, Senator GARN, and from his good friend, a delightful and very popular man, PAUL LAXALT.

Mr. President, with all due respect to Mr. Stearns' personal integrity and ability in the field of agriculture, to which Senator LAXALT just addressed himself, I urge my colleagues to vote against his confirmation.

Mr. Stearns should not be appointed to the Chairmanship of SIPC because he is not qualified for the job. He simply lacks the knowledge and experience which are necessary for the effective performance of the SIPC Chairman's duties.

SIPC is an important Federal agency that requires a knowledgeable leader. Congress established SIPC in 1970. Why? To provide safeguards against investor losses arising from the failure of securities broker-dealers, after we found we had a real problem on our hands. SIPC insures investor accounts at broker-dealer firms up to $500,000 for securities and up to $100,000 for cash held by such firms on behalf of customer investors. In the event of a securities firm's failure, SIPC's insurance provides protection for investors and liquidates the broker-dealer firm.

SIPC has had two Chairmen in its 12 years or so of existence. Both of these Chairmen were eminently qualified securities experts who devoted their entire lives to the securities industry. They knew that industry backward and forward. They both served, incidentally, as members of the Securities and Exchange Commission, a most respected agency. One of these men, Hugh Owens, also served as a State securities commissioner.

In contrast, Mr. Stearns has absolutely no background in the securities field. His major work experience as a rancher and as Secretary of Agriculture of California does not qualify him for this position. He is in over his head in this particular field.

Let me briefly review Mr. Stearns' background. He began his career in agriculture and natural resources with some 26 years of self-employed ranching. During 11 of those years, he supplemented his ranching activities by working as a duster pilot for a California flying service. In 1967, Mr. Stearns was appointed by the Governor of California—now President of the United States—to the post of director of conservation for the State of California. This was followed in 1972 by an appointment as the California State Secretary of Agriculture. From 1975 to 1980 Mr. Stearns returned to ranching. In 1981, Mr. Stearns came to Washington, appointed to the position of Director of the Office of Alcohol Fuels in the Department of Energy.

As we all know, Mr. President, this kind of professional work in the securities field should require an appropriate educational background. What is the educational background this nominee has?

His educational background includes 2 years at Oregon State College, from which he withdrew without taking a degree. He has no further academic training.

There can be no doubt that Mr. Stearns knows a good deal about raising livestock, preserving forests, and making fuel from grain. But there is nothing in either Mr. Stearns' work experience or his academic background to indicate that he knows anything at all about how to liquidate put and call options, short sales, and margin accounts. And that is the sort of knowledge that is required of the Chairman of SIPC.

I venture to say, Mr. President, there are 10,000 people in this country who are better qualified than this nominee for this particular $75,000 a year job.

It has been claimed by some of Mr. Stearns' supporters that the provisions of the Securities Investor Protection Act that govern the selection of the Chairman of SIPC discourage the Chairman from having any knowledge of or experience in the securities industry. This is a misconception. The Securities Investor Protection Act provides with the Chairman of SIPC must not have been directly associated with a specific broker or dealer during the 2 years prior to appointment. But the House Commerce Committee report of the act directs us to understand that the Chairman should be knowledgeable in the areas of concern to SIPC. Clearly, the intent of this restriction on the appointment of the Chairman is to prevent a conflict of interest, and not to require that the Chairman of SIPC be ignorant of the industry for which he must take substantial responsibility.

Why should the Chairman of SIPC be knowledgeable about the securities industry? Commonsense tells us that we would not agree to be operated on by a doctor with no experinece in surgery, nor would we pay a grocer to fix the plumbing, nor would we ask a computer programmer to draw up a will. I suggest that we would similarly not entrust the insurance of our capital investments to a specialist in agriculture. However, there are those among Mr. Stearns' supporters who claim that knowledge and experience are irrelevent and unimportant factors in the selection of the SIPC Chairman. Let me, therefore, review the reasons why this view is mistaken.

Knowledge of the securities industry is, first of all, important because the Chairman of SIPC must actively use such knowledge. The Chairman's job is not solely, or even primarily managerial. The general management of staff and resources is only a very small part of his role. SIPC is not a broad agency with general responsibilities. The SIPC staff consists of approximately thirty people housed in one suite of offices. SIPC is, in a very real sense, a crisis team, an emergency squad, whose goal is to liquidate failing securities firms while insuring the holdings of their investors. General management skills alone will not qualify the Chairman for his crucial role as an integral working partner in the day-to-day operation of SIPC.

Mr. President, most Senators have staffs the size of SIPC's staff, and in some cases quite a bit larger. We all know that managing our staffs is only a very small part of our job. Similarly, general management is a very small part of the SIPC Chairman's job.

Thus, the bulk of the Chairman's time is spent not in the management of his organization, but in interacting with the securities industry. He must continually monitor the health of ailing securities firms, and decide when it is prudent to intervene. He must exercise broad discretion in determining the appropriate course of action in liquidating a failed firm—whether, for instance, to transfer the firm's accounts in bulk to another firm, to pay cash for customers' securities, or to buy securities to replace those which have been lost. He must handle the processing of different kinds of claims, such as securities bought on margin, securities which collateralize bank loans, and securities purchased by trustees. He must oversee the interaction of SIPC and the courts. He must be thoroughly conversant with the roles of the SEC, the stock exchanges, and the self-regulatory associations of securities firms, in order to be able to cooperate effectively with them at all times.

Knowledge of the securities industry is also crucial because no one else can do the Chairman's job for him. SIPC has a very fine and experienced staff, but their responsibility is to carry out the Chairman's decisions. While the other directors on SIPC's Board are drawn from public and private organizations directly involved in the securities field, they are only expected to serve on a part-time basis. The Chairman is the only full-time member of the Board. The staffs of the SEC and the securities industry's self-regulating organizations will no doubt wish to assist, but they, too, have their own jobs to do. The SEC cannot do the job for this agency.

Those staffs certainly cannot perform that Chairman's functions for a period of months while he learns his job. Moreover, an administration which is concerned with waste and mismanagement should consider the cost to the taxpayers of paying someone $75,000 per year to learn what he should already know, while someone else does his work for him.

Finally, knowledge and experience are important in the SIPC Chairmanship because SIPC's role in the financial community is so important. SIPC is not an out-of-the-way corner of the bureaucracy where an inexperienced person's actions can have no substantial effects. SIPC fulfills three very important functions. First, it protects individual investors in the event of a firm's failure, and that constitutes the protection of literally millions of investors in this country.

Second, it prevents a chain reaction of failures by untangling relationships between a failed firm and other brokers. That can be extraordinarily complicated, and it requires knowledge, competence, and the ability to command the industry's respect.

Third, it promotes the health of the securities industry as a whole by encouraging investor confidence.

Let us not lose sight of the fact that one of the prides and joys of our free enterprise system is that we have one of the best capital markets on the face of the Earth. It is a great financial strength of this country, and SIPC's capacity to reinforce those capital markets is of the greatest importance.

Mr. President, SIPC's role seems likely to become even more critical in the future. Our slumping economy needs all the private investment it can get, and we should do everything we can to encourage people to invest in securities and thereby increase the supply of credit available to private borrowers. To do this, we must maintain a strong and efficient SIPC. In addition, the changing nature of today's financial services industry and the blurring of traditional lines between different types of financial services will require constant reassessment of the adequacy of SIPC's response to current conditions. A SIPC task force has recently submitted recommendations that would substantially broaden the agency's powers by allowing it to operate failed businesses during the process of liquidation. Whatever changes are carried out to meet the changing needs of investors, the Chairman of SIPC would need a thorough familiarity with the structure, functions, and interrelationships of the securities industry. Mr. Stearns' opponents and supporters alike acknowledge that he completely lacks this familiarity.

The Senate has traditionally allowed wide latitude to a President in selecting the people to carry out his programs, but we have, nonetheless, a constitutional obligation to see that the interest of the public is well served by those who are appointed to office. While there is no reason to question Mr. Stearns' integrity or his competence in agriculture and natural resource management, the fact remains that he does not have the professional background to qualify for a job as technical, complex, and crucial to the financial markets as the SIPC chairmanship.

JOHN DINGELL, the chairman of the House Committee on Energy and Commerce, which has jurisdiction over SIPC, recently urged caution in the nomination of the Chairman of SIPC, stating:

> As Chairman of the House Committee which has legislative and oversight jurisdiction over the Nation's securities markets, I would urge the Senate to consider this nomination carefully. Particulary at this time, SIPC needs an experienced leader at its helm. The current outlook for the state of the economy and the markets foretells a continuation of securities firm failures, especially small firms specializing in underwriting low-priced speculative stocks.

I think those words of Chairman DINGELL are very wise. They are words that I hope Members of the Senate, in acting on this nomination, will listen to.

Finally, Mr. President, I have in my hand a letter from a group of distinguished securities lawyers who wrote to me recently expressing their concern over the nomination of Mr. Stearns, I call attention to this letter because it is rare that individuals in an industry that is about to be affected by an administrator, as this industry is, write in protesting a nomination—rare because these people know that, in all likelihood, the nomination will be confirmed. This nomination is recommended by the President, and the President, of course, has rarely had any nominations rejected. Yet these individuals felt so strongly about this nomination that they took the extraordinary step of writing to indicate their very, very deep concern.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

KIRKPATRICK, LOCKHART, HILL, CHRISTOPHER & PHILLIPS,
Washington, D.C., May 12, 1982.

Hon. HOWARD H. BAKER, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAKER: I am writing on behalf of the group of securities lawyers listed in the attachment hereto. All of the attorneys are members of the Exceutive Council of the Federal Securities Law Committee of the Federal Bar Association. We are writing individually, however, and not on behalf of the Council, to express concern over the nomination of James G. Stearns to be Chairman of the Securities Investor Protection Association ("SIPC"). We have no political axe to grind and, indeed, we seldom—if ever—have felt it was necessary to express our views with respect to a Presidential nominee. We do so at this time because we believe that Mr. Stearns does not have the professional background or experience in securities law that is essential for leadership of SIPC.

As you know, SIPC is a Government instrumentality which is designed to maintain investor confidence in the securities industry by providing insurance for customer accounts in brokerage firms in the event of insolvency. It is, in a real sense, a crisis preparedness agency. Its everday operations in good times tend to be routine, but in case of an insolvency by one or more brokerage firms, it must move quickly to marshall assets, release securities and funds to customers, settle accounts of the firm, and liquidate the same. The agency has a very small professional staff. Effective functioning of SIPC requires a chariman who has a background of experience in the securities industry or in securities regulation.

Each of the past Chairmen of SIPC, without question, has possessed these qualifications and the agency has effectively fulfilled its function of protecting investors and maintaining confidence in the securities industry. Mr. Stearns, however, is a rancher and duster pilot by profession, whose public service has been largely limited to appointments in California agricultural agencies, and as the Director of the Office of Alcohol Fuels, Department of Energy. Mr. Stearns' background obviously bears no relation to the securities business, and his appointment as Chairman of SIPC would raise a grave question as to whether the agency would have the leadership necessary to perform its critical function in times of industry crises.

For these reasons we respectfully urge that you reconsider the nomination of Mr. Stearns to become Chairman of SIPC.

Sincerely yours,

RICHARD M. PHILLIPS.

Attachment.

Meyer Eisenberg, Rosenman, Colin, Freund, Lewis & Cohen, 1300 19th Street, N.W., Washington, D.C.

Solomon Freedman, Davis & Cox, 1707 H Street, N.W., Washington, D.C.

Professor Robert J. Haft, Georgetown Law Center, 600 New Jersey Avenue, N.W., Washington, D.C.

Dennis J. Lehr, Hogan & Hartson, 815 Connecticut Avenue, N.W., Washington, D.C.

Paul J. Mason, Sutherland, Asbill & Brennan, 1666 K Street, N.W., Washington, D.C.

Herbert E. Milstein, Kohn, Milstein & Cohen, 1776 K Street, N.W., Washington, D.C.

Allan S. Mostoff, Dechert, Price & Rhoads, 888 17th Street, N.W., Washington, D.C.

Fred A. Little, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C.

Harvey L. Pitt, Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue, N.W., Washington, D.C.

Irving M. Pollack, 13010 Carney Street, Wheaton, Maryland.

Dean Donald E. Schwartz, Georgetown Law Center, 600 New Jersey Avenue, N.W., Washington, D.C.

David Silver, 1775 K Street, N.W., Washington, D.C.

Wallace L. Timmeny, Kutak, Rock & Huie, 1101 Connecticut Avenue, N.W., Washington, D.C.

Stephen J. Weiss, Arent Fox, Kintner, Plotkin & Kahn, 1815 H Street, N.W., Washington, D.C.

Mr. PROXMIRE. Mr. President, for these reasons, I oppose giving consent to Mr. Stearns' nomination to be Chairman of the Securities Investor Protection Corporation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the Senator from Wisconsin made a point that Mr. Stearns has no experience in this particular area. We discussed this at great length in the Banking Committee during the hearings and during the vote to report his nomination to the floor. At no time have I ever challenged the viewpoint of the Senator from Wisconsin that Mr. Stearns did not have specific experience in this area. But I think to make the point that he is disqualified because of that really is not a real fact of life in the way we do things in this country.

I can go through all sorts of examples in the private industry where an experienced, capable, intelligent individual, who has been successful in one industry, has been hired away to become the head of an airline, as an example. He has had nothing to do with airplanes, but he is a competent, professional person and because of that background, he can learn rapidly. I just do not believe that is a valid reason for turning down a man.

I repeat briefly, Mr. Stearns has had far greater responsibility than being Chairman of SIPC.

These responsibilities and accomplishments include:

In the private sector—founding and managing a multimillion-dollar grain co-op;

At the State level—serving as California's secretary of agriculture and services where he was responsible for 11 executive departments with an aggregate budget of $742.5 million and 13,000 employees. These 11 major State government departments constituted one-fourth of the entire California State system—including such departments as department of commerce; department of general services; franchise tax board; the public employees retirement system; the State teachers retirement system.

At the Federal level Mr. Stearns was confirmed last year by the Senate Energy Committee, by a vote of 17 to 0, and the full Senate without objection to serve as the Director of the Department of Energy's Office of Alcohol Fuels, where he managed 11 project contracts and oversaw $800 million in loan guarantee contracts.

I suppose the same point could have been made last year to the Commerce Committee or the full Senate about his background for managing all of these Agencies. He did not have any direct experience in alcohol fuels, either, but he has served well and has received commendations from the Secretary of Energy for his work in that area.

I further make this point: I suppose that if we insisted on the viewpoint that, if a man has not had specific experience in one area regardless of what he has done in other areas, he is not qualified, we would decimate the ranks of the U.S. Senate, since many Senators are elected to positions of great responsibility with absolutely no background whatsoever in committees they are assigned to serve on.

I suppose I am a rarity. When I came to the Senate in January of 1975—as a matter of fact, here on the floor we have 100 percent of the entire Republican freshman class of 1975—Senator LAXALT and I were the only two that survived Watergate. So coming in with only a class of two, you can imagine how we received our committee assignments, the last two left on the list. So I was amazingly surprised to be put on the Senate Banking Committee, because my degree in college was in banking and finance. Normally when Senators are assigned committees in the Senate, it is purely on the basis of seniority, and I would have been put on the Agriculture Committee or any other committee, no

background or experience, because we choose on the basis of seniority.

I would be willing to bet that if we looked at the Senate, a majority of us who have great responsibility—just in my subcommittee of appropriations alone, $60 billion a year in its budget—we would find that a majority of our colleagues had no prior background or experience whatsoever before being assigned to these very important responsibilities in the Senate.

So the standard that the Senator from Wisconsin is applying, if applied to us in the Congress of the United States, I think would eliminate most of us from serving.

Having said that, I believe that most of my colleagues have been bright enough and capable enough on both sides of the aisle, with the trust placed in them by their constituents in their respective States, and have been the type of people with background and experience, knowledge that could quickly adapt to new situations and apply that intelligence and knowledge to a new area that they knew nothing about the day they arrived in the Senate.

I do not disagree with the Senator from Wisconsin that he does not have experience in this particular area, but I would suggest that his background indicates that he certainly can and would do a very fine job, as he has in his previous assignments in and out of government.

Mr. President, I reserve the remainder of my time. If the Senator from Wisconsin is finished, we could yield back our time and vote.

Mr. PROXMIRE. Mr. President, before I yield to the distinguished Senator from Maryland, let me just say that the issue here is not general administrative experience. This man has had some of that. But he is going to manage a big agency. He will have 30 people there, As I say, that is about the size of a typical Senate staff. We do not, however, spend very much of our time managing our staffs. The Chairman's job is one of working with the securities industry, knowing that industry, knowing how to work with it.

As a matter of fact, the House specifically cautioned us on this in their report. They said:

> Two public members of the seven member board would be appointed by the President of the United States. *It is contemplated by your Committee that these members appointed by the President would be knowledgeable in the areas of concern to SIPC,* but that such members would not be associated with the securities industry. There is obviously a strong general public interest as well as a specific investor interest in the operations of SIPC. Your Committee expects that the President would appoint individuals who would be strongly conscious of and sensitive to those interests. (Emphasis added.)

The previous chairmen of this agency, both of them, have been eminently qualified, with lifetimes spent in the securities industry. This gentleman has not had one single day. He knows nothing about it. He is a fine man, I am sure, a decent man, but a man who simply is not qualified. There are many, many people in this country who are better qualified than he is for this job.

Mr. President, I yield to the distinguished Senator from Maryland. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. PROXMIRE. I will yield 8 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the distinguished Senator from Wisconsin for yielding to me.

Mr. President, it is very important for Members of the Senate to appreciate the significant responsibilities of the Securities Investor Protection Corporation (SIPC) and the critical role of the Chairman with respect to the activities of that Corporation.

Members must stop and think about this matter because difficulties may arise in the securities area where SIPC will have to take steps in order to protect investors. There may come a day when Members of this body will regret a vote that placed into the position of SIPC Chairman a man who may be a perfectly wonderful individual but has no qualifications or abilities to be Chairman of the Securities Investor Protection Corporation.

SIPC was established in 1970 to provide safeguards against investor losses arising from the failure of securities broker-dealers. It insures investor accounts up to $500,000 for securities and $100,000 for cash held by such firms on behalf of customer investors. In the event of a failure, SIPC insurance provides protection for investors and liquidates the broker-dealer firms. The performance of these functions is designed to encourage investor confidence in the securities industry.

More specifically, SIPC seeks to provide an early warning system against difficulties at broker-dealer firms. It seeks to secure information about potential problems by consulting with the SEC, the different stock exchanges, and the National Association of Securities Dealers about firms that appear to be in financial difficulty.

SIPC also acts as a crisis team. When a broker-dealer firm becomes insolvent, or a receiver is appointed, or the firm is in violation of the SEC capitalization rules or fails to keep records to allow a determination of its financial condition, SIPC is empowered to petition a Federal court for the appointment of a trustee to liquidate the firm.

In a liquidation proceeding, SIPC can transfer the firm's accounts in bulk to another firm to continue customer transactions; it may pay customers cash for the value of their securities or buy securities in the market to replace the customers' lost securities. In sum, SIPC has wide discretion on highly technical matters, in the management of the orderly liquidation of failed firms to protect the markets and the public.

Moreover, SIPC may be called upon to play an extremely important role in the future in light of the enormous changes that are taking place among financial institutions and the enormous strains on our financial and economic systems. A SIPC task force presently is considering whether SIPC should be give wider powers to assist or merge securities firms in distress.

The importance of the Chairman of SIPC must also be underscored. The responsibilities I have just outlined for SIPC are in times of crisis of enormous importance; they involve the vital question of investor confidence and investor protection.

SIPC is run by a seven-person board of directors. One member is designated by the Secretary of the Treasury; one by the Chairman of the Federal Reserve Board; three with ties to the securities industry; and two from the general public. The Chairman must come from the general public.

It is important to note that the Chairman is the only full-time director of the seven director. He or she is the day-to-day manager of the agency.

The distinguished Senator from Wisconsin has already quoted from the House committee report accompanying the legislation establishing SIPC in which it was stated with respect to the two public members:

> It is contemplated by your committee that these members appointed by the President would be knowledgeable in the areas of concern to SIPC but that such members would not be associated with the securities industry.

SIPC is a small agency. The staff numbers only 30 people and it is their job to follow the chairman's directives. The Chairman of SIPC is the only one of the seven directors who works full time at the job. He is paid $75,000 a year. He is the day-to-day manager of this Corporation which, as I have outlined, has extensive and important responsibilities, particularly in times of crisis.

Let us now look at the records of the two past Chairmen of SIPC and contrast them with the record of the nominee before us.

Hugh Owens, the Chairman of SIPC from 1973 to 1982, was the securities administrator for the State of Oklahoma before he was appointed as a Commissioner at the SEC in the 1960's. He served as an SEC Commissioner for 10 years and the became Chairman of SIPC.

Mr. Owens was preceded by Byron Woodside, who worked in the Securities Division of the Federal Trade Commission from the early 1930's until the creation of the SEC. Thereafter he worked at the SEC until he was appointed a Commissioner in 1960 and served in that capacity until 1967.

Both of these men clearly meet the requirement that members would be appointed who are knowledgeable in the areas of concern to SIPC. They were experienced, highly competent individuals.

Mr. President, there is nothing in Mr. Stearns record, which I will include in the RECORD at the end of my remarks, that would support his appointment to a position of this consequence and this responsibility, requiring, as it does, extensive knowledge with respect to the operations of the securities industry.

I have nothing against Mr. Stearns personally, but I do have a deep concern for the quality of people who are going to be holding responsible Government positions, particularly when they may be called upon to deal with highly difficult, sensitive, and complex situations; in this instance involving the vital question of investor confidence in our markets.

This is not some run-of-the-mill operation where it does not matter what is done and whether it is done right. SIPC has to carry out significant and important responsibilities to assure investors that their investments are being protected. The range of authority which SIPC has is extensive. We simply are not facing up to our responsibilities with respect to the advise and consent function, if we place in the Office of Chairman, the day-to-day manager of this agency, at $75,000 a year, someone who does not have the qualifications for the job. Mr. President, I urge the Senate to reject this nomination.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement completed by Mr. James Stearns with respect to his nomination.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Stearns, James Gerry.

Position to which nominated: Member, SIPC.

Date of nomination: February 1, 1982.

Date of birth: Jan. 29, 1922.

Place of birth: Lapine, Oregon.

Marital status: Married.

Full name of spouse: June Elizabeth Speer.

Name and ages of children: Robert S., 32; Katherine I., 27; and Gerry M., 25.

Education: Institution, dates attended, degrees received, dates of degrees.

Lapine High School, 1936-40, Graduate, 1940.

Oregon State College, 1940-42, none.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Canby Cross Lodge AF & M, 1962.

Ben Ali Temple AONMS, 1972.

Royal Order of Jesters Ct. 119, 1974 to present.

BPOE, Klamath Falls, Oreg., 1960-67.

Employment record: List below all positions held since college, including the title or description of job, name of employment, location of work, and dates of inclusive employment.

Modoc Board of Supervisors-Alturas, CA (Elected Board Member) 1951-67.

Anderson Flying Service, Tulelake, CA (Duster Pilot) 1956-67.

Director of Conservation, State of CA (Appointed by Governor) 1967-72.

Secretary, Agriculture & Services Agency, State of CA (Appointed by Governor) 1972-75.

Director, Office of Alcohol Fuels, Dept. of Energy (Appointed by President) July 1981 to present.

Self employed rancher, entire life.

Military: Service, USAAC, Primary Flight Instructor, 1942-45.

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions.

In addition to previous page:

Member, California Klamath River Commission.

Member, California Air Resources Board.

Chairman, California Geothermal Resources Board and various others connected to above employment.

Political affiliations and activities: List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

1967-75—Member, Modoc County Republican Central Committee.

1976—Delegate, Republican National Convention, Kansas City.

Political contributions: Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify the specific amounts, dates, and names of the recipients.

To the best of my knowledge, Citizens for Reagan, 1976, about $1,000.

Qualifications: State fully your qualifications to serve in the position to which you have been named.

Over thirty years management and experience gained as a government official at the Federal, State and local level and as a self-employed businessman.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm association or organization.

No.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

I am aware of no conflicts of interest.

Civil, criminal and investigatory actions: Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

IRS audit in 1977 which resulted in a letter from the IRS stating "all returns through 1976 accepted as filed"—letter on file at the office of Molatore, Gerbert & Rusth at Tulelake, California.

Mr. PROXMIRE. Mr. President, I yield the remainder of my time to the Senator from Montana.

Mr. BAUCUS. Mr. President, how much time remains to the Senator from Wisconsin?

The PRESIDING OFFICER. Three and a half minutes.

Mr. BAUCUS. I thank the Chair.

Mr. President, in 1970, when SPIC was formed, I was an employee of the SEC. The Securities Investor Protection Corporation is a very complicated agency. It deals with a very complicated set of laws. It is a very complicated subject to which the Commission must address itself.

Senators will recall that in those years, many securities firms were going under. It was a difficult time for the securities industry and for our country.

I believe that, as a general rule, the President should have the opportunity to appoint his nominees. After all, the President is elected; and if the President is going to execute policy in an effective way, he should have the right to appoint his own nominees, people whom he trusts, people in whom he believes, people who think the way he does.

I believe there are probably only two grounds on which the Senate should not confirm a nomination. One ground is when the integrity of a nominee is held in question. That does not seem to be the case here. The second ground is when the competence of the nominee is in question—that is, when the nominee is not competent to serve. I fully understand that one does not have to be an expert in a field in order to be competent. One does not have to be a securities lawyer to serve on SIPC. One does not have to spend all of one's life in a brokerage firm to serve on SIPC.

However, I do believe that one has to have some understanding, some awareness, of the complications of the industry and the subject. I believe that, usually, a person's commonsense, a person's basic sense of life and people, is probably sufficient, given one's usual experience in life on various subjects, to carry one through, even as a nominee to a particular agency or a particular department. But because the securities law and the securities industry are so complicated,

it is clear to me that one cannot rely to a very great degree on one's commonsense. It is because primarily there is no commonsense for someone who has no experience in a very complicated field.

Therefore, Mr. President, it is with some reluctance that I oppose the nomination. I believe the President has the right to nominate, to appoint, his own people. But I also feel that one cannot take advantage, one cannot abuse the right to nominate one's own people. It is a delicate question, and one has to draw the line somewhere.

It is my view, based upon my experience in the formation of SIPC, based upon my experience with the complexities of the securities laws, that commonsense alone will not carry the nominee.

Regretfully, and even sadly, it is our duty not to confirm this nomination. I urge the Senate not to confirm the nomination.

We will have another nominee to serve this country, the securities industry, the investors, and the public more faithfully.

Mr. GARN. Mr. President, I will speak briefly and then yield back the time, so that we can vote on this nomination expeditiously.

SIPC's main job, and that of the chairman, is to oversee the liquidation process. Much as the president of a life insurance company does not need to go to 7 years of school and become an actuary to manage his company, SIPC's chairman need not be a technician to oversee, to supervise, and to direct the technical experts on SIPC's staff, and to exercise fundamental business and general judgment in maintaining customers confidence in our private markets.

Recently SIPC has come under attack. There have been complaints that SIPC liquidations have been too slow and costly. These complaints charge that SIPC has faired poorly in meeting its major mission of protecting brokerage customers during liquidation. What SIPC needs is an experienced manager who can serve the interests of the public investor by bringing his business judgment to bear on liquidations. James G. Stearns can fill that need.

Mr. GARN. Mr. President, I am prepared to yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, if any time remains, I yield it back.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is, Will the Senate advise and consent to the nomination of James G. Stearns of Nevada, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1982?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER (Mr. HATCH). Are there any other Senators in this Chamber who need to vote?

The result was announced—yeas 70, nays 26, as follows:

[Rollcall Vote No. 211 Ex.]

YEAS—70

Abdnor	Garn	McClure
Andrews	Goldwater	Nickles
Armstrong	Gorton	Nunn
Baker	Grassley	Packwood
Bentsen	Hatch	Pell
Boschwitz	Hatfield	Percy
Brady	Hawkins	Pressler
Burdick	Hayakawa	Quayle
Byrd, Harry F., Jr.	Heflin	Randolph
	Heinz	Roth
Byrd, Robert C.	Helms	Rudman
Cannon	Hollings	Schmitt
Chafee	Huddleston	Simpson
Cochran	Humphrey	Specter
Cohen	Jackson	Stennis
D'Amato	Jepsen	Stevens
Danforth	Johnston	Symms
DeConcini	Kassebaum	Thurmond
Denton	Kasten	Tower
Dixon	Laxalt	Wallop
Dole	Long	Warner
Domenici	Lugar	Weicker
Durenberger	Mathias	Zorinsky
East	Mattingly	

NAYS—26

Baucus	Exon	Metzenbaum
Biden	Ford	Mitchell
Boren	Hart	Moynihan
Bradley	Inouye	Proxmire
Bumpers	Kennedy	Riegle
Chiles	Leahy	Sarbanes
Cranston	Levin	Sasser
Dodd	Matsunaga	Tsongas
Eagleton	Melcher	

NOT VOTING—4

Glenn	Pryor
Murkowski	Stafford

So the nomination was confirmed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the nomination was confirmed and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAXALT. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume its legislative session. The Senator from Missouri is to be recognized.

NO NET COST TOBACCO PROGRAM ACT OF 1982

The Senate resumed consideration of the bill.

AMENDMENT NO. 1922

Mr. EAGLETON. Mr. President, we are now back on the tobacco bill and specifically amendment No. 1922.

The PRESIDING OFFICER. The Senator will suspend. We will have order in the Chamber. Senators will refrain from standing in the aisle and retire to the Cloak Room.

The Senator from Missouri.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the senior Senator from Oregon (Mr. HATFIELD) be added as a cosponsor of amendment 1922.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, as my colleagues well know, we have developed a tradition in the Senate that every 4 years we give long, hard, careful consideration to the basic Federal farm programs—programs that are intended to aid the family farmers of our Nation. Although there are basic, underlying, permanent authorities for all of the major commodities, we have seen fit to review the price support provisions every 4 years to assure ourselves, our Nation's farmers, and the taxpayers that these programs are accomplishing what they are intended to accomplish.

The most glaring exception to this tradition, however, this periodic review of the price support programs every 4 years—the single most glaring exception is tobacco. The tobacco program has been held out as something special and has been exempted from this careful review process. In fact, I do not even know of any hearings held here in the Nation's Capital on the tobacco program in recent memory. We have hearings every 4 years on milk, on sugar, on soybeans, on wheat, on corn, on peanuts, extensive hearings held in Washington, but, on sacred tobacco, no hearings are held in Washington. We would rather have the Huddleston-Helms road show.

Quite frankly, I do not blame the ardent supporters of the program for being reticent in having full and open discussion about it. It may be that they are afraid that all of the other commodity groups would learn that tobacco was being supported at over 150 percent of the cost of production. Once again, I remind my colleagues, as I did in the earlier debate, that this compares with peanuts supported at 121 percent of cost of production, corn at 111 percent, wheat at 85 percent,

and soybeans at 102 percent. Maybe they are afraid to stir up the tobacco producers for whom the program was intended, but who, for the most part, must pay exorbitant prices to others for the right to market their crop. The recent investigation by the General Accounting Office found that 68 percent of the allotment and quota owners in 32 counties selected for review were not active farmers. Instead, they leased or rented their production and marketing rights to producers at rates ranging from 25 cents to 90 cents a pound.

Perhaps the tobacco program proponents are afraid to confront the truth that the program has become a welfare program for allotments owners, while forcing U.S. tobacco into a less competitive position in world and domestic markets.

With the indulgence of the Senate, let me repeat a part of the quote from testimony presented by Dr. Hugh Kiger, executive vice president of the Leaf Tobacco Exporters Association.

> The tobacco price support is based on an archaic parity formula which has little to do with the cost of producing tobacco. Under this formula, tobacco prices have escalated at such a rapid pace that U.S. tobacco has lost its competitive position in world markets. As a result, our foreign customers have begun to look elsewhere for supplies. Countries like Brazil, India, Canada, South Korea, Zimbabwe and Thailand have responded by increasing production and improving quality. In the early Sixties, the United States produced forty-one percent of world production of flue-cured tobacco. That has declined today to only twenty-two percent, and the U.S. decline occurred at a time when world production was expanding by 1.5 billion pounds. Similarly, the U.S share of world exports of unmanufactured flue-cured tobacco has declined from about sixty percent of the world market in 1966 to twenty-eight percent in 1981. The USDA projects further declines in the period ahead if no changes are made in the program. In just the last seven years since 1973 domestic use has declined by more than 250 million pounds and exports are down by over 100 million pounds.

The amendment before the Senate is quite simple. It would amend the price support provisions of this bill so that they will be effective only for the 1982 through 1985 crop years. The impact of this, Mr. President, will be that the tobacco program will be made a part of the 1985 farm bill and will be subject to the same review all Federal farm programs deserve.

I should point out that the taxpayers are still going to be shelling out about $15 million to administer the price support program and almost $200 million for loans in crop year 1982 even though we enact this no net cost program. We are still going to have over one-half billion dollars of outstanding loans owed to the Government in spite of what we do here today. So I think it is quite clear that we owe it to the taxpayers of our Nation that they be assured that the program will continue to be reviewed. That is, in essence, what this amendment will accomplish.

As I said earlier, wheat, soybeans, sugar, peanuts, feed grains, cotton, dairy—all of the price support provisions for these commodities will be reviewed during the 1985 farm bill. There is absolutely no way that I can justify to the producers of these commodities, some of whom are in my State, that their programs should be reviewed while the tobacco program shall be held sacred.

With this amendment, we are simply asking that the tobacco program get the same regular review all other farm programs receive.

For the life of me, Mr. President, I cannot see how there can be any meaningful opposition to this amendment. Why should Senators from sugar States vote against this amendment and thus say that their sugar program is going to be reviewed in 1985, but not tobacco. I cannot see how Senators representing wheat States could say, "Well, I know our wheat program is going to be looked at in 1985, but not tobacco." I cannot see how Senators from peanut States could say, "Well, our peanut program is going to be looked at in 1985, but not tobacco," I cannot see how feed grain Senators could say, "Well, I know the various feed grain programs are going to be looked at in 1985, but not tobacco."

Mr. President, in the field of foreign affairs, we have what is known as the most favored nations clause. Frequently in this Chamber we debate whether Romania or Poland or Yugoslavia or some other Eastern European country should or should not be given most favored nation status.

Well, we have in the agricultural area the analogy of a most favored commodity. Truthfully, Mr. President, tobacco, for the most whacko of reasons, is the most favored commodity in America. We do for tobacco, what we refuse to do for the basic commodities that feed our Nation and feed a great portion of the world.

We say tobacco is sacrosanct. We can periodically review all the others, and we have been doing it as a matter of regularized routine for decades and decades. But we cannot apply that same rule of scrutiny, that same rule of legislative oversight, to tobacco.

How in God's name can anybody explain this to his constituents in any State—even North Carolina and Kentucky? How can they go back to North Carolina and Kentucky and defend the proposition that the Congress routinely and regularly reviews the price support mechanisms in every other basic program but we will not take another look at tobacco?

The programs proponents do not want to take another look at tobacco. They know the program is so odious, and indeed so odoriferous that a second look or a third look, or any other subsequent look, will reveal more of the self-evident shortcomings of this peculiarly popular program.

How inconsistent it is that we would review programs that go to the enhancement of the quality of life and the sustenance of life but refuse to review a program that kills people?

If you can explain that in North Carolina and Kentucky, it is better than I could do, and certainly better than my conscience would permit me to do. It is only because the tobacco lobby is what it is that you can explain it in those two States, but how can Senators from Hawaii explain it to their sugar constituents? How can the Senators from Missouri—where we have some tobacco and a great deal of corn, soybeans, and some wheat—explain to their constituents that tobacco is immune, it is sacred, it is something that is legislatively venerated in the Congress of the United States?

How can any Senator justify giving this sacred attribute to the most dangerous of the commodities with the most odoriferous of the commodity programs, with the most unjustified of the commodity programs? But it is to each in his own mind and his own way to give free expression to his or her conscience. I will keep mine in my way and each other Member of the body, of course, will keep his or hers in their own individual way. But every once in a while you have to look in a mirror. If you are male, you have to do it every morning, because there is a beard on your face you have to get rid of.

I just wonder tomorrow morning—I do not know how many Senators will vote against this amendment; I do not think any should, but perhaps a few may—I just wonder when those Senators face that mirror in the morning if it will come into their head, "Yes, I voted to give perpetual protection to tobacco." I voted to give perpetual protection to tobacco, and I do not vote that way for the other commodities."

As you are shaving away with your Gillette, you can say, "I wonder how I justified that vote." That is when you cut yourself, I guess, and switch blades, or maybe quit shaving, or perhaps you just do not let your conscience get the best of you.

So that is what this amendment is all about, Mr. President. This is equity. This says tobacco is no better and no worse than the other commodity programs. The passage of my amendment would put tobacco on a parity with the other commodities, in terms of periodic review. The defeat of my amendment says, "No, tobacco is sacred, it is unique, it has a perpetual right to its exclusive place in the legislative sun, not with good reason, not with good justification, not with a

good rationale. But that is just the way things are."

So be it.

The PRESIDING OFFICER (Mr. NICKLES). Who yields time?

The Senator from Kentucky.

Mr. HUDDLESTON. Surely, the distinguished Senator from Missouri cannot be serious in asserting that the tobacco program has not undergone scrutiny on a regular and frequent basis.

I have been in this Senate now for 10 years and we have had, every single year, a review of the tobacco program. I can detect from the attitude of the distinguished Senator from Missouri and some others in this Chamber that, at least as long as they are here, it will continue to be reviewed at least once a year.

To suggest that it has gone through this long history without substantial changes is also erroneous.

I heard this morning on a network newscast that tobacco was going to be the subject of consideration before the Senate today, and the Senator from Missouri was going to offer some amendments to a program that had not been changed in 40 years. That indicates the paucity of understanding and information about the program. The program, of course, has undergone substantial changes throughout the years, and some in fairly recent times.

I think it is obvious to everyone who has been in attendance at all during this long day, the effort is not to do anything except to attempt to eliminate the program. Previous efforts in that regard have failed.

We are now embarking on a new concept in agricultural programs in this country, a concept by which those a program is designed to help are in fact paying for it. The tobacco program will be a no cost program, after this legislation is passed.

The idea that this program should be reviewed, I think, has been carried out pretty substantially. Also, no other program is on a no-cost basis.

Considerable difficulty could arise in just the simple mechanism of trying to accomplish what the Senator from Missouri suggests ought to be accomplished.

Let us assume that his amendment were to become law and we are approaching the year 1985, when, again, the question comes up whether or not the Secretary should have the authority to adjust or to eliminate the increase in the support price. If you were one of a number of purchasers of this particular crop, you might very well figure that, if you were to go this particular season and not make your normal purchases, use up your own stock, your own supply, that would force a substantial amount of the crop, perhaps, into the loan pool. Then you could come before the Congress next year and say, "Lo and behold, the program is not working correctly, because too much tobacco has gone into the pool. There is a potential there that the tobacco may not sell at the cost, and there may be a loss." And this in spite of the fact that, if there were such a loss, it would be paid for not by the taxpayers of America, but by the producers—who, incidentally, are also taxpayers—so that there is no obligation for the Government, there is no potential loss to the Government or to the taxpayers. But it could distort the program and it could cause Congress or the Secretary of Agriculture to plead for even more of that discretion that so many here think he ought to have in tobacco but not in any of the other programs.

So there is a great deal of mischief that can come from this kind of amendment. It is simply just not accurate, as every Member of this body knows, that it will not come up as often as it does now—because we have these long sessions virtually every day, and it does come up with more regularity than, in fact, many of the other programs we have to deal with.

In addition, as I said earlier, we have a particular producer of a product in this country who is willing to assume the burden of the cost of that program—a program that has operated effectively and efficiently for the benefit of all concerned—willing to make other changes that add to his cost of doing business, add to the regulation that he has to contend with. Why, now, add additional burdens that serve no useful purpose?

I think that we have gone far enough. It may be that, after others have had an opportunity to express themselves on this particular amendment, we shall have something to offer as an alternative. But at this point, Mr. President, I yield the floor to the Senator from North Carolina.

The PRESIDING OFFICER (Mr. HATCH). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, the Senator from Kentucky is exactly right. This amendment is unnecessary and it is destructive to 45,000 farmers in my State and a total of some 276,000 farmers around the country who grow tobacco. I want to point out, Mr. President, that Senator HUDDLESTON and I, and others on the committee, readily agreed to a series of amendments offered by the Senator from Missouri. Those were substantive amendments that deserved and received consideration. I mention that because we have tried to operate in good faith on a difficult piece of legislation. This amendment borders on being frivolous—which is not to say that it might not pass. But the Senate will be making a mistake if this amendment passes. It will be making a destructive mistake and it will be making a mistake without any reason whatsoever.

Mr. President, I have remained silent here today while the smoking and health issue was raised, when Senator EAGLETON held up his package of cigarettes and said how he detested the fact that he is addicted. Well, many will sympathize with him. The point is that the Senator is not striking at smoking and health with this amendment. He is striking at the 45,000 farmers in my State and the 276,000 farmers throughout the tobacco-growing areas of America. They are his targets, not this bill.

He may not intend that, and I certainly give him the benefit of the doubt in that connection. But it is so easy, Mr. President, to stand on this floor and orate against tobacco. I do not hear oratory about alcohol or other commodities.

My friend from Missouri was very eloquent in his condemnation of the cost of the tobacco program. It costs $500 million, he said. Well, that is over 43 years and it includes the interest differential. I point out to my friend from Missouri that one commodity in his State costs the taxpayers half that much every year. I do not hear him complaining about that.

Mr. President, I say these things to my friend from Missouri with all charity and with all respect, but he is wandering afield now. I say again that Senator HUDDLESTON and I have done our best to work out our differences and allow the Senator his say. But at this point, Mr. President, what we are talking about is holding up the marketing of tobacco that was ready to be sold 2 weeks ago. I hope that the Senate will not even consider adopting this unnecessary amendment, this destructive amendment, because then the bill will have to go back to the House, it will have to go to conference and, as the Senator put it a while ago, the Lord knows how long that will take. Meantime, the wheels of marketing will stop and they will stop for nothing.

I agree with Senator HUDDLESTON, Mr. President. I am almost tempted to say I would be delighted if we could have a review of the tobacco program only once every 4 years. I succeeded a distinguished North Carolinean in the Senate, the late B. Everett Jordan, who served on the Committee on Agriculture. He was defeated in the primary in 1972 and I was elected, of course, in November of 1972.

In December of 1972, I had lunch with Senator Jordan in Raleigh, and he commented to me that the worst problem that he had in the Senate and as a member of the Senate Agriculture Committee was warding off what he called demagogic attacks on the tobacco program. He said:

It is so easy, Jesse, to get up on the floor and rail and rant about tobacco.

He said, "They never talk about how much revenue tobacco produces," which is now about $2 billion a year for the Federal Government and $4 billion for State and local governments.

Senator Jordan said:

"I would be surprised that if this kind of thing continues, the tobacco program survives 4 more years.

Well, here we are almost 10 years later, and it is still here, but we have the kind of attacks on the program to which Senator Jordan alluded at lunch that December day of 1972.

The point ought to be made, and I would hope that somewhere along the line, Mr. President, it would be understood by the media, by the people, by this Senate, that the tobacco program has nothing to do with whether people smoke. I will say to Senator EAGLETON that my children do not smoke, just as his children do not smoke. What we are talking about is a program that has worked and worked well for 43 years, and compared with all of the other commodity programs, it is infinitesimal in cost. It really is not a subsidy program. There is not one tobacco farmer who gets a check from the Federal Government.

So I will say in the form of a question just as Senator EAGLETON said in the form of a question: Why do we not level with the people on this program?

In my State of North Carolina some 45,000 family farmers produce a billion-dollar crop. Of course, I am interested in it as a provincial matter. I confess that. I am concerned about the livelihood and the survival of 45,000 farm families. I plead guilty to that.

Our State is No. 12 in terms of population but we rank No. 5, Mr. President, in terms of the number of family farms. Mr. President, if you destroy this tobacco program, the number of family farms in North Carolina and in the other tobacco-producing States will plummet.

There is the element of fairness. I do not know how I would have voted 43 years ago had this tobacco program been presented, but I do know this, that it has been in existence for those 43 years, Mr. President, and people in 22 States have had faith in their Government in this program and have invested in a program in good faith. Now what is afoot year after year, and most of the time two or three times a year, is an attempt to jerk the rug out from under those who in good faith invested in the program.

I could argue it either way on this allotment question, but there is no reasonable argument to be made in favor of this amendment because it is a purely destructive amendment which will delay the marketing process of tobacco already harvested, cured, and ready to go to market. I do hope, Mr. President, that this amendment will be defeated. This amendment in its present form will be highly destructive.

Mr. FORD. Will the distinguished Senator from North Carolina yield some time to the Senator from Kentucky?

Mr. HELMS. I will be delighted to yield to the able Senator from Kentucky.

Mr. FORD. I will not take too much time, Mr. President. I have let the eloquent chairman and my colleague, the ranking member of the Agriculture Committee, defend against amendments that appear to be so devastating to tobacco. I cannot quite understand how anyone can say that tobacco is not reviewed periodically. I have not been in this Chamber as long as the other Members that are on the floor today, but one of the first problems I faced when I came to this Chamber representing my constituents was a vote on tobacco.

Today we hear arguments to place the tobacco program in the same category as other crops that come under congressional review each time a new farm bill is prepared.

These same people have argued that tobacco is not like all other products and should be operated at no cost to the Federal Government, yet we hear now, "Let's make tobacco do the same as other products." When are they going to operate at no cost to the Federal Government? They will not; they cannot, and those who are fighting tobacco now will defend the program of the other healthful products.

I say to my colleagues that if it is like other products, then it should be treated like other products. If it is not, and the no cost to Government implies that it is not, then it should not be treated as such.

For over 43 years the tobacco program has been capitalized into the value of land, and if this amendment is passed, that capitalization will deteriorate. The value of the land will decline. We see farm foreclosure after farm foreclosure in my part of the country today, and the only crop that is helping the farmer stay in the black rather than the red is tobacco. It is a program that has worked.

I know we are ridiculed by saying this will help educate our children, this does lots of good things.

Let me say this: The average crop grown in Kentucky is 1½ acres. That is all, 1½ acres of tobacco. That is the average crop. It provides 43,000-plus jobs in my State alone. How important is it to my economy?

Yet, we stand here today willing to say to the people that are our critics that we will allow it to be at no cost to the Federal Government. We accepted amendments today that I thought the opponents were going to eat our lunch. We accepted four amendments early on, in an attempt to be right.

Kentucky is No. 2 in the payment of excise taxes in this country. We are not large. We are mostly a consuming State. We are the second largest payer of excise taxes in the country.

Here we are coming down on tobacco again. Next week or maybe before the end of this week, we want to double the tax on tobacco. When you double the tax on tobacco, you reduce consumption; and when you reduce consumption, you hurt that little farmer out there.

We saved the little farmer by defeating the other amendment, but we are going to hear some other things here this afternoon before it is over: Why does not tobacco take its fair chance?

As the distinguished Senator from North Carolina said, the tobacco farmer does not receive a direct payment from the Federal Government. All these healthful foods that are produced, that I hear about on this floor today, receive direct payments, and the taxpayers do not get that money back. It is a cost directly to the taxpayer.

Do you want us to be treated like that? Send us a direct check. That will be very helpful. That treats us like all the other agricultural products. But, no, you recover even under the present program. The Government gets back the money that is invested; and if there is a profit 2 or 3 years down the pike, the farmer gets a little check, because it is pulled out of the pool and helps that little individual.

So what are we doing here? We are saying that tobacco is different. It has to be no cost. Yet, these other products get a direct payment from the taxpayers.

If you want to talk about millions and millions of dollars that are going into the States of those who are trying to curtail the tobacco program, we have those figures.

Mr. President, I say to my colleagues that I think you have done enough, because we are now in the posture of saying to the tobacco grower, that relatively small, independent farmer, who raises an average of 1.5 acres of tobacco annually, "You are going to pay it."

There will be no cost to the Federal Government. If you want to smoke, smoke. If you do not want to smoke, do not. If you want to chew, chew. If you do not, do not. But give the economic opportunity of that small farmer and 43,000 jobs in my State and $700 million of income from this crop alone. I think we are carrying our fair share.

Mr. President, I hope my colleagues will see through this and see that we are asked to go more than halfway, to go that extra step, to go that extra mile. We have been willing to do it,

and when we accept that, they want some more. I say to you that there are no more transfusions. We cannot stand any more. I hope this amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I yield to the Senator from North Carolina.

Mr. EAST. Mr. President, I should like to comment briefly on the proposed amendment of the very able and distinguished Senator from Missouri (Mr. EAGLETON).

I think it has been made clear—and I should like to underscore it—that we are talking about small tobacco farmers who needed help back in the Depression, in the New Deal era of Franklin Delano Roosevelt. That is when this program was put into operation.

The two distinguished Senators from Kentucky have spoken about this. The ranking minority member on the Agriculture Committee has pointed out that this program has been adjusted over the years to accommodate changing circumstances. But I point out that it was designed and still remains as a fundamental program for the small tobacco farmer. It goes back to the spirit of the New Deal and the great thrust of the national Democratic Party, interestingly.

To pull the plug on this program today, after 40 years of reliance on it—and this is collateral attack on it; let us make no mistake about that—strikes at one of the great components of the Democratic Party and the New Deal coalition. We should speak candidly about it.

It has been in operation, and people have acted in reliance upon it; and to pull the plug on this program, which in effect this is trying to do, is a very radical proposal. It is not liberal or conservative. I do not know what it is. It is radical. I think it is out of step with what both national political parties should be trying to do for the farmers of this country.

The Senator speaks of the tobacco lobby, the odiferous program, the shelling out. These are sort of loaded words, and I know we all use them from time to time, but they are targeted at the small farmers, a very extensive part of this country, and I rise in defense.

If you look at the origin of this program and the changes that have taken place over the years with it, it has been an honorable effort to help small farmers who needed help back in the depression, who still, today, have enormous problems with inflation, high interest rates, and pressing production costs. Let us not take lightly their problems.

We were asked in this bill to come back with a measure to get the cost out of the program. We have honored that mandate and have done it promptly.

As the distinguished Senator from Kentucky (Mr. FORD) has noted, there is no other commodity that is required to operate at a no-cost basis. So we have done that and have honored the mandate.

The distinguished Senator from Missouri brings up what I call a collateral attack upon the program. He said, "Let us add a whole new dimension here in terms of periodic review." We are always reviewing this tobacco program. It is not a luxury here to be able to constantly defend this very honorable industry. I do not know of anything that is reviewed more in this Chamber than the tobacco business, or mentions thereof, including farming. This will not be the end of the line. There will be ample opportunity to take up other matters, whether they relate to health, taxation, labeling, or anything else.

We are not quarreling about that. We are simply saying that we have a pressing problem of getting our markets open. We have been asked to come up with a no cost program. We have done that. Our opponents have acknowledged that this is a giant step forward. The House has already done this. We ask that we can put this package together so that we can open our markets. I believe it is an eminently fair request.

I think the Senate will tend to break faith, with Congress having said, "Bring up a no cost program." We try to get it through, and we are hit from every side with a variety of things which could be taken up at appropriate times, in other forums. We have no objection to that being done, and that will be done. We are constantly defending the tobacco program here, and we do not mind doing that.

I ask only that my colleagues appreciate that we are dealing with the narrow subject of no cost. We have done it. We have respected the mandate. We ask that it be put to rest, that we put this thing together, that we get our markets open; and there will be ample time to take up all these other measures over the weeks, months, and years ahead.

Mr. President, I yield back the remainder of my time to the distinguished chairman of the committee.

The PRESIDING OFFICER. The time of the opponents to the amendment has expired.

The Senator from Missouri (Mr. EAGLETON) has 13½ minutes remaining.

● Mr. GORTON. Mr. President, I would like to take this opportunity to express some of the frustration I have felt here today in voting on amendments to the Tobacco Program Act of 1982, H.R. 6590. The tobacco program of the U.S. Government offends me both because of its hypocrisy in terms of our national health goals and because of its allotment provisions. I will not be satisfied until the allotment system is eliminated. For that reason, although the bill before us is moving in the right direction, I do not think it goes far enough.

I applaud the effort of the Senator from Missouri (Mr. EAGLETON), to try to improve the bill by way of amendments. For the most part, I think that the amendments would improve the bill. Unfortunately, however, the amendments, for that very reason, threaten the passage of the bill. And I think that it is more constructive to have the bill pass in its present form than not at all.

Having said that, however, I must add that I cannot bring myself to vote against the sunset amendment of the Senator from Missouri. We must review this entire program. I would prefer to make that review sooner rather than later, but I am willing to accept the reauthorization of the farm bill as the context for that review. I would like to assure my distinguished colleague, Senator EAGLETON, that I concur with him both in substance and direction, but that I have found it necessary to oppose some of his amendments today solely for the purpose of helping to insure some change in the program at this time.●

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, how much time is remaining on both sides on this amendment?

The PRESIDING OFFICER. The Senator from Missouri has 13 minutes and time on the other side has expired.

Mr. EAGLETON. Mr. President, I will be brief and we can go to a vote.

Mr. President, I have heard the speeches. I heard the two Senators from Kentucky, the two Senators from North Carolina, and they spoke 30 minutes worth of words. They gave it a Herculean try. I heard the words but I heard no logic. I heard no explanation of why tobacco is better.

We are not sunsetting the whole tobacco program. What we are saying is that the price support mechanisms that exist for all other commodities has to be reviewed in 1985 and we are going to review tobacco's price support provisions at the same time. I will give my pledge to my friend here, the junior Senator from Kentucky. If the Agriculture Committee will report out a bill that guarantees to soybeans, wheat, and corn 150 percent of the cost of production, as insane as that would be, then we can do away with target price mechanisms for those commodities and do away with all the checks he mentioned. I say to Chairman HELMS send that bill to OMB, the bill to support all crops in this country at 150 percent of the cost of produc-

tion. OMB will say it would be fiscal insanity.

I say this because of the statement by Senator FORD that "Tobacco farmers don't get any direct checks." Tobacco farmers are subsidized under this bill to the tune of 150 percent of the cost of production.

Second, I emphasize, the only thing that we require be reviewed every 4 years is the same thing that is required to be reviewed in all these other programs.

Just as I was not impressed in all candor with the speeches that I have just heard, let me quote from a speech that did impress me mightily because I was here on the floor of the Senate on October 11, 1978, when it was given. I heard what I thought was a great speech and let me give you an excerpt from that great speech by a very fine and able Senator. This fine and able Senator said at page S18211 October 11, 1978, when we were debating the thing called the Program Reauthorization and Evaluation Act, otherwise known as the sunset bill:

> Congress must begin to exercise the same discipline with respect to individual programs as it now does with respect to the budget as a whole. Legislation providing for periodic review and reauthorization would give Congress the opportunity to consolidate and to revise and to eliminate or add new programs through a comprehensive and systematic review of related programs in a broad functional area.

I was moved by that speech by the senior Senator from Kentucky (Mr. HUDDLESTON) speaking out with vigor and courage on behalf of periodic review. That speech was so moving and so powerful it brought tears to the eyes of the junior Senator from Kentucky (Mr. FORD). When his name was called he voted "aye." It brought tears to the eyes of the senior Senator from North Carolina (Mr. HELMS). He did not want to be left behind on this periodic review. He voted "aye." And it brought tears to the eyes of the distinguished President pro tempore of the Senate, STROM THURMOND. He voted "aye."

Indeed, practically the whole Senate in a mad stampede voted "aye" on periodic review. It was enlightened. It was intelligent. It was progressive. It was forward looking. And we all followed Senator HUDDLESTON's lead, all save one, one bright man. There were 87 ayes on periodic review of programs. Unfortunately Senator EAGLETON was one of them. Senator BUMPERS had enough courage to vote "no" on a stupid bill.

And now these same periodic review boys, HUDDLESTON, FORD, and EAST—no, I am sorry; strike that. He was not here. But if he had been here I think he would have been with Senator HELMS. All these periodic review boys were for sunset because what they wanted to sunset was those evil social programs. But, my God, let us not have periodic review of 1 acre of tobacco.

Senator HELMS says my amendment is highly destructive, that it is highly destructive to look at the price mechanism of tobacco. Why is it not just as highly destructive to look every 4 years at the other price mechanisms?

Why do we not legislate them unto perpetuity? Highly destructive. He says this is an attack by Senator EAGLETON on this program. It is in a sense, but it is more than an attack, Mr. President. This is an appeal to conscience.

I am persuaded that this body is comprised of 100 men and women of fundamental commonsense and good and decent conscience and I shall always be persuaded that is the motivation of this body.

So I say to each of my 99 colleagues, if in good conscience you can vote to give special treatment to the most indefensible of agricultural programs and can somehow reconcile that with logic, wisdom, and commonsense, so be it. If you can work that through your thought process and come out with that end result, then you are a better rationalizer than I am.

But if, however, you think there should be a modicum of consistency in what we do around here—and I reserve the right tomorrow to be inconsistent on something—but if you think there should be a modicum of consistency, and if you stand for periodic review by supporting the overall sunset bill which would require all programs periodically be brought up for review, and even if you do not want to go that far, you should at least say things ought to be consistent within one legislative field, agriculture. If you believe there ought to be some modicum of consistency, if you really believe that way, then there is no other way to vote on this amendment but in the affirmative. But each to his own choice. Each to his own rationale. Each to his own vote.

I yield back the remainder of my time.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. SPECTER). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, will the Senator yield me 2 minutes?

Mr. EAGLETON. Mr. President, I ask unanimous consent that I may retrieve some of my time and in so retrieving yield 2 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I wish to thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, there are just two points I wish to make on this particular amendment.

One is the stability question. By sunsetting this program a great deal of instability and uncertainty will be injected into the tobacco growing process. We all know that agriculture is an industry that suffers from a great deal of uncertainty anyway. Unpredictable weather conditions, coupled with swings in the economy play havoc on the family farmer who is trying to make a meager living. Why should we add another element of uncertainty that does not already exist?

I shall oppose this sunsetting amendment in an effort to preserve the stability and uniformity that exists in this program today. I think this is the best way I know to assist over 6,000 little tobacco farmers in my State, constituting 25,000 or 30,000 people who make a living out of the tobacco program. I think we should give them a program they can depend upon and not keep them in uncertainty. If the Government is going to keep reviewing this question year after year, the farmers will not know what is going to happen. They will not know how to plan. Their bankers will not know how to plan. Other creditors which they depend will not know how to plan, and it is important I think that we provide that stability.

The next point is, Mr. President, we have made a sincere effort here to revise the outdated features of this program, and we have made this a no-net cost program to the taxpayers. Let us give this bill a chance to work and give the tobacco farmers a chance to make a decent living.

In the past the tobacco program has been the most successful and the best program of all commodity programs. Now we are going even further and saying that whatever costs are incurred the tobacco grower will absorb them. In other words, the Government will incur no costs now under this legislation pending, and since there is no cost to the Government then I say why sunset it? Give that farmer the stability he needs and can count on to support his family, 6,000 little farmers in my State, 25,000 or 30,000 people dependent upon a living from these farms.

Mr. HELMS. Mr. President, the distinguished majority leader wishes to comment briefly on this amendment.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, as I did earlier, I would like to make only brief remarks. I am prepared to make a tabling motion unless some other Senators have further debate they wish to conduct. I will support the motion to table.

I have been here for 16 years now, and I have seen an effort to sunset the

tobacco program about every year I have been here, and in all fairness I have seen it improved every year. It has reached a place now where I think most of the major objections to the program have been eliminated.

It is essentially a no-cost program, and I think whatever we do here today will be watched very carefully by the Congress and by the country, and will be monitored in the future.

Mr. HUDDLESTON. Mr. President, will the Senator yield me 1 minute before making the motion?

Mr. BAKER. Yes.

Mr. HUDDLESTON. One reason is this is a different kind of approach. What we are doing is establishing a fund paid for by the growers, to be held until such time as it may have to be used to alleviate any possible debt of the Federal Government.

The growers are putting their money into this fund. They are entitled to have some kind of stability and certainty about the nature of the program and how the fund is going to be used. It is not reasonable to take a person's money which he has produced by his own labor, have to set it aside where it can earn him nothing while it is sitting there, and then have a situation where on the whim of some future Secretary of Agriculture, the identity of whom we do not know, the conditions under which that fund is operated can be radically changed.

The fact that it is a no-cost program to the Government will be a unique feature of the tobacco program, in addition to all the other unique aspects of it.

Just this one last remark: I do not believe that the statement that, if we would support other commodities, such as corn and wheat, at 150 percent of their costs, those programs, too, would be no-cost programs to the Government, is realistic.

I might suggest that there is not enough money in the world to support the kind of a program we would have if we turned wheat and corn growers in this country loose to grow what they want to grow at that kind of support rate, and I do not believe anyone would want that. Neither do I believe that wheat or corn growers would want the production controls placed upon tobacco growers.

I yield the floor.

Mr. BAKER. Mr. President, may I inquire if the Senator from Missouri or other Senators now seek recognition? If not, Mr. President, I move to table the Eagleton amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to lay on the table the amendment of the Senator from Missouri. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 49, nays 47, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—49

Abdnor	Domenici	Mattingly
Andrews	East	McClure
Armstrong	Ford	Melcher
Baker	Goldwater	Nunn
Bentsen	Grassley	Pressler
Boren	Hawkins	Rudman
Boschwitz	Hayakawa	Sarbanes
Brady	Heflin	Sasser
Burdick	Helms	Schmitt
Byrd, Harry F., Jr.	Hollings	Stafford
Byrd, Robert C.	Huddleston	Stennis
Chiles	Inouye	Stevens
Cochran	Johnston	Symms
Cranston	Kassebaum	Thurmond
Denton	Laxalt	Tower
Dole	Long	Warner
	Matsunaga	

NAYS—47

Baucus	Gorton	Moynihan
Biden	Hart	Nickles
Bradley	Hatch	Packwood
Bumpers	Hatfield	Pell
Cannon	Heinz	Percy
Chafee	Humphrey	Proxmire
Cohen	Jackson	Quayle
D'Amato	Jepsen	Randolph
Danforth	Kasten	Riegle
DeConcini	Kennedy	Roth
Dixon	Leahy	Simpson
Dodd	Levin	Specter
Durenberger	Lugar	Tsongas
Eagleton	Mathias	Wallop
Exon	Metzenbaum	Zorinsky
Garn	Mitchell	

NOT VOTING—4

Glenn	Pryor
Murkowski	Weicker

So the motion to lay on the table amendment No. 1922 was agreed to.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, may I have the attention of the Senate for a moment?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I understand there may be one other amendment to be offered by the distinguished Senator from Ohio which may or may not require extensive debate. I would like to ask the Senate to finish this bill tonight if that is the case. I think we can do that in a fairly short period of time. With that in mind, I expect we shall run a little past the 6 o'clock hour, but we should be able to finish by 6:30.

Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1082

(Purpose: To discontinue the price support program for tobacco beginning with the 1982 crop of tobacco.)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1082.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

TERMINATION OF TOBACCO PROGRAMS

Sec. . Notwithstanding any other provision of law, beginning with the 1983 crop of tobacco—

(1) no price support may be made available to any producer on any crop of tobacco; and

(2) no provision of law relating to acreage allotments, acreage-poundage quotas, marketing quotas, or marketing penalties applicable to tobacco, or any other provision of law relating to a price support program for tobacco, shall be effective with respect to any crop of tobacco.

Mr. METZENBAUM. Mr. President, this amendment could very well be described as the free enterprise amendment or the free competition amendment because in essence what it says is that we will write "finish" to the entire tobacco program.

The bill that we have on the floor at this moment does not actually address the serious problem of $640 million of Flue-cured tobacco that is now being stored, and many experts believe that that tobacco will have to be sold at "fire sale prices," possibly at the loss of million of dollars to the Federal Government. That subject is not covered in this legislation and it does not assure elimination of the tobacco subsidy as has been so eloquently debated by the Senator from Missouri in offering his amendment. But more important in my opinion is the fact that this bill does not address the fundamental inequity of the allotment system.

That allotment system was established in the 1930's, and the allotments enhance the value of the property even though a majority of the people who benefit no longer farm that property directly.

The allotments discriminate, actually discriminate against those farmers who do not own such an allotment and they are not in a position to farm tobacco.

The allotments restrict the ability of the U.S. tobacco producers to compete in the world market because the allotments artificially restrict production and price supports, and they result in being substantially above the world price for tobacco.

I believe it is time to abolish the program. There are some on the floor who talked about whether the program was right or wrong. I do not believe the program is right. I not only am addressing myself to the cost factor, I am addressing myself to the fact that people ought to be permitted to go into the tobacco growing business and not be found under any restraint. However, under the law today, if you do not have an allotment and you grow tobacco, you do not get any protection from your Government and you are discriminated against.

We do not need to grow tobacco in this country under a price support system, nor do we need to grow it under an allocation system, because the price system keeps prices artifically high and it discriminates against other farmers and would-be farmers.

It says that we will select the few who have the allotments by reason of inheritance or because they had purchased the property.

Members of the Senate, what is an allotment? A tobacco allotment grants to the holder the right to produce and market a set quantity of tobacco which is determined each year by the Department of Agriculture.

Allotments are tied to specific parcels of land. In other words, only acres of land assigned allotments are allowed to grow tobacco under the price support program. The allotments are traceable to the production base established in the 1930's when the tobacco program was first set up.

The national quota determines acreage allotments and marketing quotas for individual farms as each tobacco farm, based on its historical production, is given a pro rata share of the national quota. For the 1981 crop year, the national quota for Flue-cured tobacco was 1,112 million pounds and for burley tobacco 851 million pounds.

Members of the Senate, I believe there is a significant fact that should be brought to your attention, and that is the tobacco allotments not the farms but the allotments, have a value of over $5 billion. Why should some have this right and others not be given the same right?

The General Accounting Office made some investigations into this area, and the General Accounting Office submitted a report dated April 23, 1982, which I ask unanimous consent be inserted in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. METZENBAUM. That report stated as follows:

Rights to grow tobacco, granted through the allotment and quota system, confer benefits on recipients of these rights. Since these rights can be transferred by leasing or renting, a market for rights has developed. Leasing or renting tobacco rates reflect the market value of the rights.

They went on to say—I point this out and emphasize it—

Tobacco farmers find it difficult to buy additional farmland with an allotment or quota because such land is expensive. A professor from the University of Kentucky's Department of Agricultural Economics told GAO that the value of a farm increases $3.50 for every pound of burley tobacco quota. In the Flue-cured regions, a premium for the quota attached to the land could range from $2 to $3.50 per pound. This premium could increase the value of a farm with 8,000 pounds of quota anywhere from $16,000 to $28,000.

A North Carolina State University professor was quoted by the GAO on the basis that he had authored a report that shows that cropland in counties with Flue-cured allotments is "more expensive and was increasing in value at a faster rate than land through the State."

They pointed out that from 1974 to 1980, the value of the cropland in a tobacco county rose from $662 to $1,404 per acre or a 112-percent increase.

By comparison they pointed out that the average value of all land in the State of North Carolina increased from $551 to $885 per acre, or only a 61-percent increase.

I have heard this subject addressed on the floor of the Senate today and in yesteryear and the year before that and the year before that, and every time that the issue of tobacco has come to the floor I have heard the argument made: "This is a program that protects these poor small farmers, the poor small farmers need this help. Do not turn your back on the small farmer."

Well, the reality is that only 26 percent of the owners, according to the GAO, actually grow tobacco, only 26 percent. About one-fourth of the people who own the allotments actually grow the tobacco.

They further pointed out that about 68 percent of the owners who had been surveyed in 32 counties leased or rented their production rights to others who grew it. About 1 percent of the owners leased some and grew some of their quota, and the remaining 5 percent either allowed a relative to grow and market the quota or allowed the quota to go unused.

So what we are talking about when we are talking about this great program to protect the small farmers is the fact that only one out of every four who has the allotment is actually farming his or her own land.

Leasing was first authorized in 1961. At that time Department tobacco experts estimated that about 2 percent of the tobacco allotment and quota owners would lease the rights to others. But in 1981, GAO found about 57 percent of the quota owners in the Flue-cured tobacco-producing counties and 27 percent of the quota owners in the burley counties leased their rights to others.

Under the existing allotment system, a majority of the people who own tobacco allotments do not acutally farm the land.

According to the GAO report, April 23, 1982:

Significant changes have occurred in the tobacco program since its inception. Originally, the owners of the acreage allotments and marketing quotas were the farmers who grew the tobacco. But this is no longer the case.

They went on to say:

Only 40 percent of the farms in our review were owned by full- or part-time farmers. Retired farmers, widows of farmers, and nonfarming owners such as doctors, teachers, realtors, truck drivers, and construction workers made up the majority of the owners.

So I ask my friends in the Senate and those who are such enthusiastic advocates of this program and who urge those of us in the Senate to support this program on behalf of the poor, small farmer, where is the small farmer? He or she is only one of four who actually does the farming of the tobacco allotment.

As the GAO points out, also—and I believe this is very relevant—tobacco is becoming less competitive due to the acreage allotment and price support system.

The U.S. share of the world market for Flue-cured tobacco has declined from 46 percent in 1970 to 29 percent in 1980. What has happened as a result of that? They have increased the support prices, and they have increased the per pound income of tobacco farmers, but the total income may very well not have increased, because the quotas were reduced due to the foreign imports.

When you support the tobacco program, you are helping the foreign imports move into this country. You are not keeping them out of the country. You are driving up prices of domestic tobacco and making it possible for competition to come in and take a greater portion of the market.

As the GAO points out, the U.S. share of the world market was 46 percent in 1970. It was 29 percent as of 1980.

The price support and allotment system has priced Flue-cured tobacco out of the market. It has raised the price of U.S. tobacco, despite the fact that foreign tobacco is normally cheaper. That is why the U.S. share of the world market has declined.

Mr. President, the program needs reevaluation. It is obvious that its support continues to slide backward. It is obvious that only by reason of some

vote changes at the last moment, the last amendment failed to be adopted.

I believe seriously that those who are most dedicated to this program should not await the day when there is a majority to eliminate the program entirely. They should be realistic enough to say it is time for us to take another look. It is time to give this program a thorough reexamination. It is time to see whether we can make sense out of this program before Congress some day decides to eliminate it in its entirety.

I reserve the remainder of my time.

EXHIBIT 1

TOBACCO PROGRAM'S PRODUCTION RIGHTS AND EFFECTS ON COMPETITION

The Department of Agriculture's tobacco program, through its acreage allotment, marketing quota, and price-support provisions, is affecting the competitiveness of the U.S. tobacco industry in world and domestic markets and the income of those farmers who grow tobacco. GAO found than 68 percent of the allotment and quota owners in 32 counties selected for review were not active farmers. Instead, they leased or rented their production and marketing rights to producers at rates ranging from 25 cents to 90 cents a pound. While the United States will enjoys a highly favorable balance of trade in tobacco ($2.2 billion in 1981), the high price of U.S. tobacco and the improved quality and increased production of foreign tobacco have helped cause the U.S. share of world tobacco trade and domestic use to decline.

Insufficient markets for U.S. flue-cured tobacco have resulted in a 32.1-percent reduction in the national flue-cured tobacco quota since 1975. Reductions in individual farm quotas in turn require tobacco producers to lease or rent quotas from others to maintain existing production levels.

DIGEST

Significant changes have occurred in the Department of Agriculture's tobacco program since its inception in 1938. Most owners of tobacco production and/or marketing rights now rent or lease them to others. GAO's statistical sample in six major tobacco-producing areas and regions—four burley areas and two flue-cured regions—showed that farmers who grow tobacco, once the program's intended beneficiaries, owned only 40 percent of the farms with acreage allotments and marketing quotas. Most owners were retired farmers; widows of farmers; and nonfarming owners such as doctors, teachers, realtors, truck drivers, government employees, and construction workers.

Of the owners in the six areas and regions, about 26 percent rented and 42 percent leased their allotments and/or quotas to others who actually grew and marketed to tobacco. (In a rental situation the producer grows the tobacco on the owner's base farm. In a leasing situation the tobacco is grown on another farm in the same county.) The remaining owners either grew and marketed the tobacco themselves (26 percent), allowed a relative to grow it (4 percent), leased part and grew part (1 percent), or did not use the allotments/quotas at all (1 percent).

Prices for leases in the sampled areas and regions ranged from 25 cents to 80 cents a pound in flue-cured counties and 25 cents to 90 cents a pound in burley counties. Also, the Department estimated that 1981 share rental (owner and producer share in the sale proceeds) rates in dollar terms averaged 39 cents a pound for flue-cured tobacco and 51 cents a pound for burley tobacco.

Leasing was first authorized in 1961. At that time Department tobacco experts estimated that about 2 percent of the tobacco allotment and quota owners would lease the rights to others. In 1981 in the regions and areas GAO reviewed, about 57 percent of the quota owners in the flue-cured tobacco-producing counties and 27 percent of the quota owners in the burley counties leased their rights to others. Some factors which have led to increased leasing include the high cost to purchase land with quotas and farms that have allotments but no longer have tillable cropland.

U.S. TOBACCO IS BECOMING LESS COMPETITIVE

Although meaningful price comparisons of U.S. and foreign tobacco are difficult to make because of quality differences, the price of U.S. tobacco is by far the highest of any on the world market. For example, in 1980 the estimated average price of exported U.S. flue-cured tobacco was $2.48 a pound compared with Canada's estimated average export price of $1.61 a pound and Zimbabwe's 88 cents a pound.

The best U.S. flue-cured tobacco is generally superior in flavor, aroma, and nicotine content to tobacco grown in most other countries. However, that quality gap is closing. For example, Zimbabwe, a major competitor, sold its 1981 crop for a record price for that country. The high price was attributed to improved quality.

The high price of U.S. tobacco and the improved quality and increased quantity of foreign tobacco have helped cause the U.S. share of the world market for flue-cured tobacco to decline from 46 percent in 1970 to 29 percent in 1980. During this period U.S. use of foreign flue-cured tobacco grew from less than 2 percent to 13 percent. Nevertheless, the U.S. balance of trade in tobacco is still highly favorable—$2.2 billion in 1981.

According to the Secretary of Agriculture, the legislated price-support formula, which establishes minimum prices for U.S. tobacco, has increased the price of U.S. tobacco without regard to changes in production costs and competing countries' prices. The Secretary has asked the Congress for authority to adjust the price-support levels for various kinds of tobacco. The Secretary has stated that this authority could help make flue-cured tobacco more competitive and curtail the amounts of low-quality U.S. flue-cured tobacco coming under Government loan.

PROGRAM'S EFFECTS ON FARM INCOME

The tobacco program's high support prices—about $1.42 and $1.46 a pound for flue-cured and burley in 1980 (up from 93 cents and 96 cents in 1975)—have helped make U.S. tobacco, particularly low-quality flue-cured tobacco, less competitive in both U.S. and world markets. The lower demand has led in turn to quota reductions. For example, between 1975-81 the quota for flue-cured tobacco was reduced 478.8 million pounds, from 1,491.4 million pounds to 1,012.6 million pounds.

Therefore, while the high support prices have increased per-pound income, total income may not have increased because of the quota reductions. The impact on income would depend on how responsive tobacco purchasers were to price increases.

Also, lease and rental costs reduce the producers' net income. The prices received for leasing and renting reflect the market value of the rights. Because most tobacco growers have to lease or rent these rights, they earn less than they would if they owned the rights and grew the same amount of tobacco.

PROGRAM COSTS

The Government's costs for the program include administrative costs—an estimated $13.1 million in 1981—and losses on disposals of tobacco used as collateral on price-support loans from the Department's Commodity Credit Corporation—$57 million in loan principal has been lost since program inception in the 1930's.

More significant, however, are the Government's interest costs and losses. The Corporation has incurred large losses through interest repayment practices, initiated in 1966, which allow loan payments to be applied first to the principal amount outstanding rather than to accrued interest. This practice cost the Corporation $2 million in fiscal year 1980 alone on loans for just 3 crop years. Also, before April 1981 the Corporation made loans at below-market interest rates. The Department's estimates indicate a $591 million difference between the Corporation's interest payments to the U.S. Treasury ($845 million) and its interest income ($254 million) from inception of the program through September 1980.

On April 1, 1981, the Corporation began to charge interest rates comparable to those the U.S. Treasury charges it. However, it continues to allow loan payments to be applied first to loan principal, until liquidated, and then to accrued interest. GAO recommended in a January 1982 report (AFMD-82-40) that this practice be changed. As of April 1, 1982, the Corporation had not acted on the recommendation.

FLOOR SWEEPINGS BRING HIGH PRICES

The Department-established floor sweepings allowance enables warehouses to market, for their own profit, scraps or leaves of tobacco left on the floor after an auction sale has been completed. GAO's review at six flue-cured and six burley warehouses showed that their floor sweepings generally brought prices that approached the average market price of tobacco sold for producers. For example, flue-cured floor sweepings sale prices, which ranged from $1.41 to $1.69 a pound, were only slightly below the average market prices, which ranged from $1.60 to $1.72 a pound.

The Chairman of the Senate Appropriations Committee and the Ranking Minority Member of that Committee's Subcommittee on Agriculture, Rural Development, and Related Agencies requested the report. They asked GAO to provide certain information on the current Federal price-support program and system of acreage allotments and marketing quotas for tobacco. They also requested that GAO not take the additional time needed to obtain agency comments.

Chapter 1

Introduction

By letter dated September 29, 1981, the Chairman of the Senate Appropriations Committee and the ranking minority member of that committee's Subcommittee on Agriculture, Rural Development, and Related Agencies asked us to obtain information on certain aspects of the U.S. Department of Agriculture's (USDA's) tobacco price-support program. These were (1) who owns the tobacco allotments and quotas that are leased or rented, (2) the amount and average cost of the leased or rented al-

lotments and quotas, (3) the effects of the current price-support program on the long-term competitiveness of U.S. tobacco in the world marketplace and on farmer income, (4) the potential for averting future price-support loan program costs by authorizing the Secretary of Agriculture to adjust price-support levels for the kinds of tobacco that are not competitive on the world market, and (5) the quantity of tobacco warehouses are marketing as floor sweepings.

The Tobacco Program

The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) signaled the beginning of a large-scale Federal program to help stabilize, support, and protect farm income and prices. Its purpose was—

" * * * to assist in the marketing of agricultural commodities for domestic consumption and for export; and to regulate interstate and foreign commerce in cotton, wheat, corn, tobacco, and rice to the extent necessary to provide an orderly, adequate, and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, loans, marketing quotas, assisting farmers to obtain, insofar as practicable, parity prices for such commodites and parity of income, and assisting consumers to obtain an adequate and steady supply of such commodities at fair prices."

The act gave USDA authority to regulate production of tobacco through acreage allotments (acres planted) and marketing quotas (pounds marketed). Later, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) gave USDA's Commodity Credit Corporation (CCC) authority to provide for price stabilization and support operations through price-support loans to tobacco producer associations. The associations use the funds to make cash advances to producers unable to sell their tobacco for at least the price-support rate assigned to the individual grades of tobacco.

Price support is available for nine kinds of tobacco; however, the two primary ones, flue-cured and burley, which are the subjects of this report, account for 63 and 29 percent, respectively, of United States and Puerto Rican tobacco production for crop year 1979, and 78 and 19 percent, respectively, of the price-support loans made from 1975–80. USDA's Agricultural Stabilization and Conservation Service (ASCS) is responsible for regulating the acreage allotment, marketing quota, and price-support programs. State and county farmer-elected committees administer the programs at the local level. County office operations are supervised by a county executive director hired by the county committee.

Marketing Quotas and Acreage Allotments

The 1938 act specifies that in order for marketing quota and acreage allotment programs to be established and regulated by USDA, the programs must be approved in a referendum by a two-thirds majority of eligible voters. Marketing quotas for the 1980–82 crop years were approved by 98 percent of the flue-cured tobacco producers and 99 percent of the burley tobacco producers. In addition, flue-cured tobacco producers again agreed to an acreage allotment program.

The marketing quota specifies the pounds of tobacco that may be sold from a qualifying farm without penalty during the marketing year. The allotment specifies the maximum acreage of tobacco that may be planted on the farm during the year. A farm can market up to 10 percent more than its stated quota, but the excess is deducted from the following year's quota. Marketings above the 10-percent allowable excess are subject to a penalty charge. The charge amounts to 75 percent of the average market price for the previous year.

To be eligible for an allotment and/or quota, a farm must either have established a production base traceable to the 1930's when the tobacco program began or subsequently have been granted an allotment or quota by ASCS. Allotments and/or quotas are assigned to a particular farm and may not be sold independently of the land. An owner of a farm's allotment and/or quota may produce the farm's quota on that farm or, by use of a lease, transfer part or all of the farm's allotment and/or quota to another farm within the same county. The owner may also share or cash rent the quota to a producer, giving that producer the right to grow the tobacco on the owner's base farm.

Each year the Secretary of Agriculture determines the national marketing quota for each kind of tobacco. The national quota is a projection of the production needed to meet domestic and export demand and to provide for reasonable carryover stocks. The national quota determines acreage allotments and marketing quotas for individual farms as each tobacco farm, based on its historical production, is given a pro rata share of the national quota. For the 1981 crop year the national quota for flue-cured tobacco was 1,112 million pounds and for burley tobacco, 851 million pounds.

Price-support Program

Price-support levels are based on the concept of parity. Parity is a general or overall standard which applies to the average of the various locations, grades, qualities, and classes of the commodity as sold by all farmers. Parity prices, the most commonly used parity standard, are those prices that will give farm commodities the same purchasing power they had in a selected base period when prices received and paid by farmers were considered to be in good balance. The formula for computing parity prices is set forth in the Agricultural Adjustment Act of 1938, as amended.

Flue-cured and burley producers market their tobacco in auction warehouses. There it is weighed, identified by a warehouse sales ticket, and displayed in lots (baskets, sheets, or piles) on the auction floor. A USDA Agricultural Marketing Service (AMS) tobacco inspector grades the tobacco in each lot and marks the grade on the warehouse sales ticket. Potential buyers then bid on the lots. If the highest bid price on any lot of tobacco is not equal to or more than the grade's price-support rate, the producer may put the tobacco under loan at the price-support rate or wait and market the tobacco at a later date hoping for a higher bid price.

USDA does not directly administer the price-support program. Instead, it contracts with 13 producer cooperative associations for that purpose. Price support is extended by means of nonrecourse loans made through the associations to their members, with financing by CCC. The nonrecourse loans absolve producers from liability for any losses incurred from the sale of the tobacco by the producer associations. Net gains, if any, are distributed to the producers based on participation, whereas losses are absorbed by CCC. Since the program began, CCC has loaned about $5 billion to associations. For those crop years where the tobacco taken under loan has been sold, $57 million in principal was not recovered. As of December 1981 principal on flue-cured tobacco loans totaling $640 million were outstanding for the 1975–80 crop years.

The associations are allowed to deduct 1 cent a pound from the loan rate to cover administrative costs. The associations handle all operations related to making the loan advances to producers and receiving, processing, storing, and eventually selling the tobacco taken under loan. Over time, the associations market the tobacco under loan on the basis of prices proposed by the associations and approved by CCC. Sale proceeds are applied toward repayment of the principal first and then the interest on the loans.

Objectives, Scope, and Methodology

This report provides information on certain aspects of ASCS' flue-cured and burley tobacco programs. In response to the request, our objectives were to determine: (1) by occupation or source of income, the owners of tobacco allotments and quotas that are leased or rented, (2) the amounts and average costs of the leased or rented allotments and quotas, (3) the program's long-term effects on the competitiveness of U.S.-grown tobacco and on farmers' income, (4) the potential for averting future loan program costs by authorizing the Secretary to adjust price-support levels for the various kinds of tobacco, and (5) the amount of the tobacco that warehouses market as floor sweepings.

We conducted much of our review at ASCS headquarters in Washington, D.C.; at ASCS' State offices in Kentucky and North Carolina; and at 32 ASCS county offices in Kentucky, North Carolina, Tennessee, and Virginia.

In selecting the counties to be reviewed, we coordinated with an economist in USDA's Economic Research Service (ERS). We randomly selected 16 counties from the 2 USDA-designated agricultural regions that produced 53 percent of the flue-cured tobacco grown in the United States in crop year 1979. We also selected 16 counties from the 4 USDA-designated agricultural areas that grew 48 percent of the 1976 (based on available USDA data) domestic burley tobacco crop. The 32 counties selected for review and the amounts of tobacco produced in each in 1979 are shown in appendixes I and II.

We then randomly selected 30 farms within each county from which to obtain acreage allotment, marketing quota, and price-support information. We used appropriate weights in selecting the farms so that the information obtained from this statistically valid sample could be projected, at a 95-percent confidence level, to the six agricultural regions and areas we reviewed. The 85 counties in these regions and areas and the number of farms in each county also are shown in appendixes I and II. The maps on pages 6 and 7 show the regions, areas, and counties selected for review.

We visited 12 warehouses in the selected counties to obtain information on the amounts and sale prices of the floor sweepings marketed in the 1981–82 marketing year. We chose the individual warehouses judgmentally on the basis of the quantities—large, medium, and small—of floor sweepings they had marketed. We also obtained aggregate information from ASCS on floor sweepings activity for the 550 warehouses nationwide that market flue-cured and burley tobacco. However, because public disclosure of this aggregate information is prohibited by the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(c)), we are provid-

ing it to the requestors under separate cover.

We made the review in accordance with our "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." We reviewed applicable legislation, implementing regulations, and pertinent USDA policies and procedures. We interviewed ASCS and AMS officials in Washington and the field and obtained their views on matters discussed in this report. ASCS and ERS provided publications on the tobacco program. We also coordinated our work with USDA's Office of Inspector General (OIG), interviewed its personnel knowledgeable about the tobacco program, and reviewed its applicable audit reports. In addition, we reviewed an August 1981 report on imported tobacco by the United States International Trade Commission.

We reviewed ASCS county office files for the 1981 crop year. They showed the allotment and quota owners' names and addresses but did not contain information on the owners' primary occupations or sources of income. ASCS county office employees generally have some personal knowledge of most owners, and this was the primary basis for our categorization of owners. In those cases where the county office employees did not know the occupation of the owners, we or the county employees contacted the owners directly to obtain the information.

We interviewed officials of major tobacco manufacturing and export and import corporations. We obtained the views of producer organizations; researchers; lending institutions, including producer cooperative associations, banks, and savings and loan associations; and universities. We also interviewed warehouse owners, tobacco producers, and farm owners who lease or rent quotas.

Chapter 2

The Changing Tobacco Program

Significant changes have occurred in the tobacco program since its inception. Originally, the owners of the acreage allotments and marketing quotas were the farmers who grew the tobacco. But this is no longer the case. Many tobacco allotment and quota owners have developed alternative uses for their labor and land resources and lease or rent the allotments and quotas to others. Other factors such as the high cost of land with an allotment or quota, tobacco allotments on farms with no tillable land, and high lease and rental rates also have encouraged leasing and renting activity. In the six regions and areas we reviewed, most of the farms with tobacco production and/or marketing rights were owned by nonfarmers who did not grow tobacco but leased or rented the production and/or marketing rights to others.

The U.S. balance of trade in tobacco is still highly favorable—$2.2 billion in 1981—but foreign tobaccos are gaining larger shares of both the world and U.S. markets. The high price of U.S. tobacco and the improved quality and increased quantity of foreign tobacco have helped cause the U.S. share of flue-cured tobacco traded on the world market to decline from 46 percent in 1970 to 29 percent in 1980. During this period U.S. use of foreign flue-cured tobacco increased from less than 2 percent to 13 percent.

Tobacco producers' income is affected by the high cost of leasing or renting quotas and reductions in quotas brought about by the loss of markets for U.S. tobacco. In the counties we reviewed, producers paid from 25 cents to 90 cents a pound to acquire 1981 crop year quotas.

The price of U.S. tobacco, based on the legislated support formula, is well above that of foreign tobacco. The high price of U.S. tobacco, in turn, has resulted in the accumulation of undersirable, hard-to-sell flue-cured tobacco in CCC inventories. The Secretary of Agriculture has asked the Congress for authority to adjust the price-support levels for the various kinds of tobacco in order to limit the quantity of tobacco coming under loan. A reduction of these support levels should encourage a reduction in U.S. tobacco prices, which could make U.S. tobacco more competitive in domestic and foreign markets.

Many of the problems discussed in this report relate more to flue-cured tobacco than to burley tobacco. This is due mainly to a weak market for low-quality U.S. flue-cured tobacco and a strong demand for less abundant burley tobacco in recent years. However, the shortage of and strong demand for burley tobacco may not continue. If the situation changes, the problems also could relate to burley tobacco. For example, higher prices for burley tobacco, due to tight world supplies, already have stimulated production in Italy, Spain, Korea, and Mexico. Good weather and little disease also could increase production. (Climate, disease, and production preferences in foreign countries are some of the factors that influence the supply of and demand for tobacco but are not discussed in this report.)

Most Owners Rent or Lease Production Rights

Farmers who grow tobacco were the intended beneficiaries of the allotment and quota provisions when the program was established. Only 40 percent of the farms in our review, however, were owned by full- or part-time farmers. Retired farmers; widows of farmers; and nonfarming owners such as doctors, teachers, realtors, truck drivers, and construction workers made up the majority of the owners. Some of these people are the original allotment and quota owners or their heirs but are no longer farmers. Others have purchased these rights.

Additionally, only 26 percent of the owners in our review actually grew tobacco. About 68 percent of the owners leased or rented their production rights to others who grew it. About 1 percent of the owners leased some and grew some of their quota. The remaining 5 percent either allowed a relative to grow and market the quota or allowed the quota to go unused.

When the tobacco program was established, farms already growing tobacco were assigned nontransferable allotments or quotas and only those farms were permitted to market tobacco. By the 1960's many flue-cured and burley tobacco farms became so small that the owners of the allotments and quotas frequently found that planting tobacco was uneconomical. In 1961 (1971 for burley) the Congress authorized tobacco allotment/quota holders to transfer, by lease, all or any part of the allotments/quotas to another tobacco producer in the same county. In 1961 USDA tobacco experts estimated that such an authorization would be exercised by about 2 percent of the flue-cured tobacco growers. Since then there has been a shift from farm owners growing their own tobacco to the present situation where most farm owners do not grow tobacco.

ASCS maintains and reports statistical information on tobacco leasing activities; that is, the number of farms and the acreage and/or quota that is leased off the base farm. The agency, however, does not record and report the number of rentals; that is, the number of farms and acreage and/or quota that is cash or share rented to a producer, giving that producer the right to grow the tobacco on the owner's base farm. As a result, the agency does not know to the full extent the number of owners who do not produce tobacco.

We reviewed agency records on leasing activities, interviewed ASCS county office personnel knowledgeable about leasing and renting activities in their counties, and contacted farm owners to obtain lease and rental information on the 960 farms in our sample. The information on the sample farms disclosed that about 57 percent of the owners in the flue-cured tobacco regions and about 27 percent in the burley areas leased out their quotas. The percentage of owners that rented their quotas was the same for both types of tobacco—26 percent. However, 40 percent of the burley owners grew their quotas compared with only 12 percent of the flue-cured owners. The table on the following page identifies the amount of rental, leasing, and growing activity on the 960 sample farms in the flue-cured regions and burley areas.

On the basis of our weighted sample, we project that about 68,000 of the 83,941 farms in the two flue-cured regions reviewed and about 37,000 of the 75,302 farms in the four burley areas reviewed lease or rent their tobacco quotas. The remaining farms, approximately 20 percent in the flue-cured regions and approximately 51 percent in the burley areas, either grow the tobacco themselves, allow a relative to grow it, or do not plant tobacco at all. Additional projections on how tobacco quotas are used in the flue-cured regions and burley areas we reviewed are found in appendix III.

Categorizations of the Owners

We compiled information on the owners' occupations or primary sources of income in two ways. One provides a breakout of the owners of all 960 farms included in our sample and, as requested, the other provides a breakout of the 649 farms with quotas that were leased or rented for crop year 1981. Both breakouts indicate that only a small portion of the farms are owned by active farmers.

Our analysis of the owners of all 960 farms disclosed that 28 percent of the owners (36 percent of the burley owners and 21 percent of the flue-cured owners) were full-time farmers. Part-time farmers accounted for an additional 12 percent (20 percent of the burley owners and 3 percent of the flue-cured owners). Retired farmers and widows of farmers accounted for another 25 percent but the remaining 35 percent (46 percent for flue-cured and 25 percent for burley) were unknown or nonfarmers. The nonfarmers included doctors, teachers, realtors, tobacco warehouse operators, and government employees. A categorization of the owners of all 960 farms by occupation or source of income is presented in appendix IV.

As could be expected, active full- and part-time farmers made up an even smaller portion of the owners (20 percent) when only the 649 farms that leased or rented quotas were considered. The table on page 12 identifies the occupational categories of those farm owners.

SUMMARY OF QUOTA USE

Use of owner's quota	Flue-cured				Burley				Total			
	Number	Percent	Pounds [1]	Percent	Number	Percent	Pounds [1]	Percent	Number	Percent	Pounds [1]	Percent
Leased	272	56.7	1,325	24.7	[2] 129	26.9	294	10.8	[2] 401	41.8	1,619	20.0
Rented	124	25.8	2,555	47.6	124	25.8	1,103	40.5	248	25.8	3,658	45.2
Leased and grown	5	1.0	151	2.8	1	.2	14	.5	6	.6	165	2.0
Grown	59	12.3	1,103	20.5	194	40.4	1,226	44.9	253	26.4	2,328	28.8
Grown by relative	12	2.5	180	3.4	28	5.9	85	3.1	40	4.2	265	3.3
Not grown	8	1.7	55	1.0	4	.8	5	.2	12	1.2	60	.7
Total	480	100.0	5,368	100.0	480	100.0	2,727	100.0	960	100.0	8,096	100.0

[1] Pound in thousands.
[2] Because the marketing season was not complete at the time we finished our audit work, 27 tentative lease agreements were included based on historical lease patterns.
Note. Some figures may not add due to rounding.

CATEGORIZATION OF OWNERS WHO LEASE OR RENT QUOTAS

	Fule-cured		Burley		Combined	
	Number	Percent	Number	Percent	Number	Percent
Farmers:						
Full time	52	13.1	32	12.7	84	12.9
Part time	5	1.3	38	15.0	43	6.6
Total	57	14.4	70	27.7	127	19.5
Retired farmers	64	16.2	38	15.0	102	15.7
Windows of farmers	66	16.7	35	13.8	101	15.6
Nonfarmers:						
Corporations	3	.7	8	3.2	11	1.7
White collar	46	11.6	37	14.6	83	12.8
Blue collar	40	10.1	25	9.9	65	10.0
Retirees	19	4.8	17	6.7	36	5.6
Estates	30	7.6	3	1.2	33	5.1
Unknown	71	17.9	20	7.9	91	14.0
Total	209	52.7	110	43.5	319	49.2
Total	396	100.0	253	100.0	649	100.0

Note.—Some figures may not add due to rounding.

Prices of leased or rented quotas

The prices of leased or rented quotas varied widely. However, year-end leasing generally brought higher lease rates than leases entered into before planting. Lease rates in our sampled counties ranged from 25 cents a pound to 90 cents a pound in the burley counties. ERS has estimated that 1981 share rental rates in dollar terms averaged 39 cents a pound for flue-cured tobacco and 51 cents a pound for burley tobacco. In other cases where share renting occurred, the crop proceeds were usually evenly divided between owners and producers. The amount paid for lease or rental of a quota reduces the producer's net income.

Rights to grow tobacco, granted through the allotment and quota system, confer benefits on recipients of these rights. Since these rights can be transferred by leasing or renting, a market for rights has developed. Leasing or renting rates reflect the market value of the rights.[1] Since most tobacco growers have to lease these rights, they earn less than they would if they owned the rights and grew the same amount of tobacco.

ASCS prohibits its personnel from becoming involved in price-setting activities for leasing or renting quotas. ASCS, therefore, does not maintain information on the prices for leasing or renting quotas. In some cases producers provide this information to ASCS when notifying the agency that quotas are being transferred. However, ASCS county office employees have general knowledge of the lease and rental prices owners receive for their allotments and quotas and this was the primary basis for rental and lease cost information. Further, ERS has made projections for some rental and lease prices.

Rental costs

Rental agreements are negotiated on either a cash or share basis. When cash renting, the producer pays the owner a certain price per pound for the use of the owner's farmland and quota. Under a share rental arrangement, the owner generally furnishes the land and fertilizer while the producer supplies the labor. After the crop is marketed, both share in the sale proceeds. In our sample counties, share rental arrangements generally provided for dividing the sale proceeds evenly between owner and producer.

ERS has not developed information on cash rental rates for burley tobacco but has developed rates for flue-cured tobacco. In an October 1981 ERS report entitled "Flue-Cured Tobacco Production Costs," ERS estimated the flue-cured cash rental rate was 33 cents a pound based on data obtained in 1979. Two ERS reports entitled "Tobacco Outlook and Situation," issued in September 1981 and December 1981, estimated share rental prices in both the flue-cured and burley markets. According to the reports, the average 1981 share rental rate, stated on a dollar basis, was projected to be 51 cents a pound for burley and 39 cents a pound for flue-cured tobacco.

Lease costs

A lease agreement transferring all or part of an owner's allotment and/or quota to another farm is negotiated by the owner and the producer and is usually based on a price per pound of quota. The rates varied significantly among the counties we reviewed but were generally higher in counties with greater yields and greater concentrations of tobacco production. Year-end leasing during the 1981 marketing season generally brought higher lease rates than leases entered into before planting. This was due to a good crop yield and producers' needing quotas to market their excess tobacco.

A June 1981 ERS report entitled "Trends in Flue-Cured Tobacco Farming" contained tobacco production cost estimates based on a survey of 955 producers in the four major flue-cured tobacco regions. These regions are shown on the map on page 6. The study estimated the average lease price to be 39 cents a pound in 1979. According to the ERS economist who wrote the report lease prices varied among regions, however, ranging from 34 cents a pound in one region to 45 cents a pound in another.

We also found that lease rates varied widely—from 25 cents to 80 cents a pound—in our sample of flue-cured counties. For example, in early 1982 the Board of Commissioners for Pitt County, North Carolina, leased the county-held tobacco quota of 42,331 pounds for the 1982 crop year at lease rates ranging from 65 cents to 67 cents a pound. This compares with the 66 cents a pound the city of Rocky Mount, North Carolina, received at auction for its 19,000-pound quota. Conversely, lease rates of 30 cents to 35 cents a pound were reported on crop year 1981 lease agreements on file in the ASCS county offices for Lunenburg, Mecklenburg, and Pittsylvania counties in Virginia.

In May 1981 the North Carolina State University's Department of Economics and Business released a report entitled "County Lease Rates for Flue-Cured Tobacco: Revisited." The report pointed out that the average lease rate in North Carolina, which had ranged from about 13 cents to 17 cents a pound in 1966–69, had risen sharply from 27 cents in 1977 to 33 cents in 1978 and to 40 cents in 1979 and 1981.

The study pointed out that lease prices in recent years were well above prices a decade earlier but that inflation accounted for nearly all the increase. In 1979 lease rates amounted to 29 percent of the average sale price of flue-cured tobacco—the highest of any year. In 1980 lease rates declined to 26 percent of the average sale price.

In 1976 ERS developed lease rate estimates for the burley areas shown on the map on page 7. These ranged from 18 cents a pound to 28 cents a pound. However, the burley estimates had not been updated since then and we believe these rates are not representative of recent rates. For example, county executive directors in our sample burley counties told us of lease rates that ranged from 25 cents a pound in Owen County, Kentucky, to 90 cents a pound in Garrard County, Kentucky. Overall, rates reported on most leases executed before the 1981 marketing season were between 35 cents and 45 cents while most leases negotiated during the marketing months brought from 55 cents to 65 cents.

Leasing Activity Is Increasing

ASCS leasing information showed that from 1972 to 1980 leasing activity, in terms of number of pounds leased, had increased by 55 percent for flue-cured tobacco and 180 percent for burley tobacco. In our sampled counties during 1981, as many as 83 percent of the allotment/quota owners in one flue-cured county and 33 percent of the quota owners in one burley county leased their quotas. Some of the factors influencing this leasing activity included the high cost of land with quotas, the increasing optimal scale of tobacco farms, quota reductions, and farms that no longer have tillable cropland.

Farms with allotments/quotas are expensive and not always available for sale, requiring those farmers who want to expand their operations to lease quotas from others.

[1] The benefits of allotment and quota rights may be shared between the owner and lessor or renter of these rights. The amount shared and leasing or renting costs are negotiated by the parties involved.

Furthermore, because of quota reductions, many tobacco acreage allotments have become so small, thousands of them only a fraction of an acre, that many farm owners have found it uneconomical to grow the acreage allotted. Therefore, they either lease additional quotas to maintain a viable farm operation or choose not to grow tobacco at all and lease out their quotas. Further, allotments from farms that no longer have tillable cropland are usually leased.

An April 1977 ERS report entitled "Flue-Cured Tobacco Mechanization and Labor: Impacts of Alternative Production Levels" pointed out that, economically, a tobacco farmer would lease out an allotment whenever the inputs used to produce tobacco could be reallocated to other farm and nonfarm activities and earn an income that exceeds the income from tobacco. For some farmers, the lease-out income alone may exceed the income from growing tobacco.

ASCS records do not contain enough data to determine any trend on rental activity. Agency leasing information, however, shows that the number of lease agreements is increasing. Between 1972 and 1980 the lease and transfer of allotments and/or quotas increased substantially. Flue-cured leases rose from 323 million pounds to 500 million pounds during the period, an increase of about 55 percent. However, the most dramatic change was in the burley market. In 1972, 50 million pounds were leased. The number jumped to 140 million pounds in 1980, an increase of 180 percent.

High cost of land with quotas encourages leasing

The tobacco program tends to restrict allotment ownership while encouraging leasing. In the 1970's there was a rapid trend toward mechanized harvesting of flue-cured tobacco. Mechanized harvesting systems are most profitable on intermediate- and large-sized farms, those having tobacco allotments of 15 acres or more, or about 30,000 pounds of quota.[2] However, farms with allotments that large are rare—the average size of a flue-cured allotment is about 3 acres. An allotment and/or quota cannot be purchased without also buying the farm to which it is assigned. Therefore, acquiring enough quotas to make producing tobacco economical and profitable requires purchasing unneeded and unwanted land or leasing quotas. Also, since larger operations are more economical, larger operators derive more benefits from allotments than do smaller operators. Thus, it can be expected that larger operators may be able to outbid smaller operators and therefore the practice of leasing increases.

According to some persons we interviewed, tobacco farmers find it difficult to buy additional farmland with an allotment and/or quota because such land is expensive. A professor from the University of Kentucky's Department of Agricultural Economics told us that the value of a farm increases $3.50 for every pound of burley tobacco quota. ASCS county office employees, bankers, and county tax office personnel told us that in the flue-cured regions a premium for the quota attached to the land could range from $2.00 to $3.50 a pound. This premium could increase the value of a farm with 8,000 pounds of quota anywhere from $16,000 to $28,000.

[2] According to USDA's "Agricultural Statistics 1980," the annual yield per acre of burley tobacco for the 1971-79 period averaged 2,266 pounds. For flue-cured tobacco, the comparable figure was 1,988 pounds.

A North Carolina State University professor has authored several reports on the capitalization of tobacco allotments. His latest report, published in September 1981, entitled "Returns to Investors in Flue-Cured Tobacco Allotments, 1975-1980," developed separate estimates for the value per acre of farmland and the value per pound of tobacco allotment using data compiled by the Federal Land Bank in 11 flue-cured tobacco-growing counties in North Carolina. The data included information on the value of buildings and timber, acres of cropland, other land, and pounds of tobacco allotment per farm.

The study showed that cropland in these counties was more expensive and was increasing in value at a faster rate than land throughout the State. From 1974 to 1980 the value of cropland in a tobacco county had risen from $662 to $1,404 an acre, an increase of 112 percent, whereas the average value of all land in the State had increased from $551 to $885 an acre, an increase of only 61 percent.

Purchasing the allotment and/or quota on a specific farm requires purchasing the entire farm. Because the farm size is usually considerably larger than needed to grow the allotment and/or quota (for example, a 100-acre farm may have a 5-acre allotment), the purchaser ends up buying expensive land that is not needed for producing tobacco. However, farms with allotments and/or quotas are not always available for sale. As a result, the only alternative for those producers who cannot afford this expense but still want to expand their tobacco operation is to lease needed allotments and/or quotas.

Reduction of quota

The Agricultural Adjustment Act of 1938, as amended, authorizes the Secretary of Agriculture to adjust the national marketing quota for any kind of tobacco when he determines such action is necessary to maintain an adequate supply or effect an orderly reduction of onhand inventories. For 4 of the 7 crop years from 1975 through 1981, the national marketing quota for flue-cured tobacco was reduced because domestic supplies were considered excessive.

The national basic poundage quota for flue-cured tobacco was reduced from 1,491.4 million pounds for crop year 1975 to 1,012.6 million pounds for crop year 1981, or a total of 478.8 million pounds. This translates into a 32.1-percent reduction in the flue-cured quota since 1975. Since reductions in the national quota are proportioned among individual farms, their marketing quotas have also been reduced. Because of these quota reductions, many farmers have found it uneconomical to grow just their own quotas and they either lease quotas from others in order to maintain a viable farm operation or choose not to produce tobacco at all and lease out their quotas.

Allotments on flue-cured farms with no tillable cropland are usually leased

Some farms with allotments and quotas no longer have land suitable for growing tobacco. Since the owners still control the production and marketing rights assigned to their land, however, they have two options: either do nothing with the allotments/quotas or lease them out.

We identified 511 farms with tobacco allotments which had no tillable cropland in the 16 flue-cured counties we reviewed. On 81 of these farms the owners had chosen not to lease the allotments/quotas. The owners of the remaining 430 farms had leased out the production and marketing rights to 608,163 pounds of tobacco. Thus, in addition to the income they received from the alternative use of the land, owners also received income for leasing their quotas. Assuming a 39-cent-a-pound lease rate,[3] these owners may have received additinal income of about $237,000. If all 66 counties in the four flue-cured regions shown on page 6 have the same proportion of farms with no tillable cropland and a similar amount of leasing activity by quota owners, $978,000 may have been received by these owners.

U.S. Tobacco Becoming Less Competitive

The high price of U.S. tobacco and the improved quality of foreign tobacco have helped cause the U.S. share of flue-cured tobacco traded on the world market to decline from 46 percent to 29 percent from 1970 to 1980. During this period U.S. use of foreign flue-cured tobacco grew from less than 2 percent to 13 percent.

The price of U.S. tobacco, based on the legislated price-support formula, is much higher than prices of foreign tobaccos. While the high quality of U.S. tobacco has remained relatively constant and U.S. production levels have declined, foreign tobacco has increased in quantity and improved in quality.

Demand for U.S. tobacco declining

The United States has a large favorable tobacco trade balance. The Foreign Agricultural Service reported that in 1981 the total value of U.S. exports of tobacco and tobacco products exceeded imports by $2.2 billion. However, the U.S. portions of the world and U.S. flue-cured tobacco markets have declined considerably in the last decade. According to ASCS and industry officials, the decline in the U.S. share of these markets is caused primarily by two factors: (1) the rising price for U.S. tobacco and (2) the increasing quantity and improving quality of foreign tobacco.

ERS reports that in 1970 the United States had a 46-percent share of the world flue-cured tobaco trade—368 million of 797 million pounds. By 1980 the U.S. share had declined to 29 percent—391 million of 1,326 million pounds (1980 figures based on preliminary ERS data). Further, ASCS reports that U.S. imports of flue-cured tobacco have grown steadily, rising from about 10 million pounds in 1970 to 84 million pounds in 1980. During the same period, U.S. use of domestic flue-cured tobacco has decreased. As a consequence, foreign flue-cured tobacco, which made up less than 2 percent of use in 1970, made up 13 percent in 1980. The growth in imports, according to ASCS, is primarily due to the disparity in price between U.S. and foreign flue-cured tobacco.

In June 1981 the United States International Trade Commission held hearings to determine whether imported tobacco materially interferes with USDA's tobacco program. The Commission's report on its investigation, issued to the President in August 1981, concluded that presently and in the near future imports have not or are unlikely to reach a level to materially interfere with the U.S. tobacco program. However, the staff report on the Commission's study pointed out that in recent years the trend of U.S. tobacco exports, both in quantity and as a share of total world exports, has been

[3] This is the ERS-estimated average price for leasing flue-cured tobacco quota in 1979. (See p. 13.) Based on the information we developed, we believe the estimate is conservative.

downward. It attributed the reduction in part to the increased quantity and improved quality of foreign tobacco. It also cited as a cause the declining price competitiveness of U.S. tobacco in foreign markets due to the inflexibility of the price-support formula.

Quality of foreign tobacco improving

Officials of major U.S. and foreign cigarette manufacturers have stated that the highest quality flue-cured tobacco grown in the United States is superior to that grown in most other countries in terms of flavor, aroma, and nicotine content. This better quality tobacco currently has little difficulty attracting customers, even at high prices. However, the manufacturers state that the quality gap between U.S. and foreign tobacco is closing and that price is becoming a greater consideration. For example, Zimbabwe, a major U.S. competitor, sold its 1981 crop for a record price for that country. ERS has cited this record price as evidence of improved quality.

The staff report on the Commission's study stated that, if the demand for tobacco of similar quality to that produced in the United States is relatively insensitive to price increases, increasing competition for purchasers of lower quality tobacco coupled with rising U.S. export prices mandated by the support formula is likely to encourage further improvements in foreign tobacco quality. Thus, U.S. export markets will be increasingly threatened in the longer term.

Prices of U.S. and foreign tobacco

Although meaningful price comparisons are difficult to make because of differences in tobacco qualities, it is apparent that U.S. tobacco is the highest priced of any on the world market. In some cases the average prices received for U.S. tobacco exports were double the average prices other countries received from 1976 to 1980. Further, the support-price levels, which establish minimum prices for U.S. tobacco, exceeded the average prices of foreign tobacco exports. According to the U.S. International Trade Commission, this price differential results partially from the escalation of U.S. support prices.

Program legislation provides that price support shall be made available for each crop of any kind of tobacco for which producers have approved marketing quotas. USDA determines the support level each year in accordance with a formula in the act. USDA has no discretion to adjust the support levels for tobacco to consider world market prices as it does in establishing support levels for other commodities such as cotton and rice.

In 1960 the act was amended to adjust the support price annually from the 1959 level according to the moving average of the parity index [1] in the 3 preceding years. Under this formula, the 1980 average support price for flue-cured tobacco was 141.5 cents a pound, compared with 66.6 cents in 1970 and 93.2 cents in 1975, while burley tobacco price supports averaged 145.9 cents in 1980, compared with 68.6 cents in 1970 and 96.1 cents in 1975.

According to USDA's Foreign Agricultural Service's estimates for 1980 the average price of exported U.S. flue-cured tobacco was $2.48 a pound compared with Zimbabwe's and Canada's average export prices of 88 cents and $1.61 a pound, respectively. In the burley market, the average price of exported U.S. tobacco was $2.57 a pound in 1980 whereas Italy's and Mexico's average export prices were 98 cents and 84 cents a pound, respectively.

The following table shows the average export values of U.S. tobacco compared with those of other exporting countries as compiled by USDA's Foreign Agricultural Service.

AVERAGE EXPORT AND REEXPORT VALUE OF TOBACCO FROM SELECTED EXPORTING COUNTRIES

[Dollar amounts per pounds [1]]

Country	1976	1977	1978	1979	1980
Flue-cured:					
United States	$1.85	$2.03	$2.25	$2.35	$2.48
Brazil	.71	.79	.76	1.09	1.16
Zimbabwe	.77	.86	1.02	.83	.88
Canada	1.42	1.39	1.44	1.26	1.61
Thailand	.71	.82	.74	.89	.95
Burley:					
United States	1.82	2.06	2.06	2.34	2.57
Italy	.55	.61	.77	.78	.98
Mexico	.49	.57	.61	.68	.84
Greece	1.34	.91	1.12	1.22	1.03

[1] Converted from kilograms to pounds.

The high cost of U.S. tobacco is affecting the purchasing decisions of manufacturers. Officials of a foreign manufacturer stated that because of the high cost of U.S. tobacco they are using less of it in their products. Officials of a U.S. manufacturer told us that while the company prefers to use U.S. tobacco to help maintain the consistent flavor marketed over the years, it will buy foreign flue-cured tobacco if U.S. prices continue to rise in relation to world prices. Further, officials of a U.S. export/import tobacco company told us that the U.S. tobacco industry is affected by high prices because foreign countries are looking for other sources to supply their tobacco needs.

Program's Effects on Farm Income

The price-support and allotment/quota provisions of USDA's tobacco program may be adversely affecting farm income. High tobacco support prices have contributed to the decreased U.S. share of world exports and the increase in U.S. imports. Because of the lower demand for some U.S. flue-cured tobacco, the amount of quota that farmers can market has been reduced. Therefore, while the high prices assured under the price-support provision may have increased per-pound income, total income may not have increased because of reduced quotas resulting from lost foreign and domestic markets. This would, of course, depend on how responsive tobacco purchasers were to price increases.

The increased quantity and improved quality of less expensive foreign flue-cured tobacco is reducing the market share of U.S. flue-cured tobacco. This has caused the U.S. share of the world flue-cured market to decline. Further, the lower priced imports have displaced lower quality U.S. flue-cured tobacco. For example, foreign tobacco from lower positions on the stalk, used primarily for cigarette filler, is of satisfactory quality for that purpose. U.S. tobacco of the same quality is not competitive at the support-price levels and is usually taken under loan by CCC.

To prevent the acccumulation of excessive amounts of tobacco, the Secretary has the authority to reduce acreage allotments and marketing quotas. As the quotas are reduced, however, some farmers with marginal-sized operations find it uneconomical to grow their quotas. Also, with the declining competitiveness of domestic tobacco, other U.S. farmers ultimately could lose income because high prices will continue to reduce demand at home and abroad for U.S. tobacco, resulting in further cuts in quota.

According to the staff report of the U.S. International Trade Commission's study, U.S. export markets will be increasingly threatened in the long term as purchasers increasingly compete for less expensive, lower quality tobacco. In addition, purchasers of U.S. tobacco must agree to pay an amount at least equal to the support price. Therefore, the higher the support price and the resulting selling price in relation to the price of foreign tobacco, the less competitive U.S. tobacco will be world markets.

Secretary of Agriculture's Action To Improve the Program

The Agriculture and Food Act of 1981 (Public Law 97-98) stated the intent of the Congress that "• • • the tobacco price support and production adjustment program be carried out in such a manner as to result in no net cost to the taxpayers other than such administrative expense as is incidental to the implementation of any commodity program." The Secretary was directed to recommend to the Congress by January 1982 any legislative changes he believed were necessary to achieve this objective.

In his January 1982 report to the Congress, the Secretary acknowledged that despite marketing quotas and acreage allotments, which substantially limit loan activity, the current high support level means that even a modest amount of tobacco coming under loan would require considerable loan outlays. Therefore, the Secretary asked the Congress for legislative authority to adjust the price-support levels for the various kinds of tobacco.

The Secretary said that the legislated formula had increased the price of tobacco without regard to changes in production costs and the prices of competing countries. According to the report:

The support levels for each kind of tobacco increased 129 percent from 1971 to 1981.

Since the present formula was enacted in 1960, the U.S share of world tobacco exports has declined from 30 percent to 21 percent.

Flue-cured and burley tobacco imports have increased from a negligible amount to about 15 percent of domestic use.

Conclusions

Active tobacco farmers, once the program's intended beneficiaries, now constitute a minority of allotment and quota owners. During the past decade leasing activity by owners, which USDA originally estimated would be minimal, has increased significantly. Today, most owners do not grow tobacco but lease or rent out the production and marketing rights.

U.S. tobacco is the highest priced of any of the world market. The high prices of U.S. tobacco and the improved quality and increased production of foreign tobacco have caused the U.S. share of world tobacco exports to decline while U.S. imports of foreign tobacco have increased.

Acreage allotments, marketing quotas, and price supports contribute to the high prices for domestic tobacco. Allotments and quotas increase prices by restricting the available supply. Price supports raise prices by setting a floor price below which no farmer would sell tobacco in the open market. This floor price for U.S. tobacco is

[1] The parity index is the ratio of the general level of prices for articles and services that farmers buy for both production and family living, wages paid hired farm labor, interest on farm indebtedness secured by real estate, and taxes on farm real estate compared with the average of such prices, wages, rates, and taxes during the period January 1910 to December 1914.

above the price of foreign tobacco. Therefore, purchasers of U.S. tobacco must be willing to pay at least the support price.

Reductions in the markets for U.S. flue-cured tobacco resulted in reductions in individual farm quotas in 4 of the 7 crop years from 1975 through 1981. Therefore, although tobacco prices increased during the period, the impact on producer income because of quota reductions may not have been positive.

If the price for U.S flue-cured tobacco continues to stay above the prices for imported tobacco, imports will in all likelihood assume an even greater share of total U.S. use of flue-cured tobacco. Low-quality flue-cured tobacco has been affected by foreign competition. Authorizing the Secretary to adjust the price-support levels for the various kinds of tobacco could make U.S. flue-cured tobacco more competitive in domestic and foreign markets and help curtail the amounts of low-quality U.S. flue-cured tobacco coming under loan to CCC.

Chapter 3

Information on Program Costs

The Government incurs administrative and interest costs as well as losses in operating the tobacco program. Since the 1930's $57 million has been lost disposing of CCC loan stock tobacco. (CCC still has loans outstanding for crop years 1975–81.) Administrative costs were estimated to be $13.1 million in fiscal year 1981. More significant, however, are the large losses CCC has incurred making loans at below-market interest rates and allowing loan repayments from sale proceeds to be applied first to the principal amount outstanding rather than to accrued interest.

Program Costs

Considerable concern has been expressed about the cost the Government incurs operating the tobacco program. As a result of this concern, we obtained information on program administrative and interest costs as well as losses which have occurred from disposing of CCC loan stock tobacco.

Total administrative costs for the tobacco program cannot be determined

ASCS does not maintain records on the exact costs to administer the tobacco program but estimates the costs to be $13.1 million for fiscal year 1981. It has also estimated that such costs will be $14.6 million for fiscal year 1982 and $15.9 million for fiscal year 1983.

ASCS' cost estimates are based on the time it takes for a sample of county employees to oversee the progress of day-to-day operation. In addition to these costs, however, other administrative costs are incurred but not reported as supporting the program. These costs relate to overseeing loan activity, maintaining basic farm records, and conducting county committee elections.

CCC could incur losses on low-quality flue-cured stocks

For the crop year stocks already sold through September 30, 1981, $57 million in loan principal was not recovered, resulting in losses to CCC. The flue-cured tobacco now under CCC loan is made up mostly of less desirable grades from the 1975–80 crop years. This tobacco will have to be sold before it begins to deteriorate, however, and price discounts will likely be needed, resulting in additional CCC loan losses. USDA has taken action to help prevent the continued buildup of low-quality tobacco in CCC loan stocks.

As of December 1981 flue-cured loans outstanding for the 1975-80 crop years totaled $640 million. ASCS states that because of competition from imports, loan inventories have shifted mostly to less desirable grades which cannot be sold readily since they are relatively high priced compared with foreign tobacco of comparable quality. As it becomes necessary to sell tobacco under loan before it deteriorates, price discounts may be needed. If discounts are made, the entire loan value will not be recovered and CCC will realize losses.

USDA has taken steps to decrease the flue-cured stocks. One was reducing the national flue-cured marketing quota 4 of 7 years from 1975 through 1981, as discussed on page 16. Another is the 4-Leaf Program initiated in 1978. Under this program growers are allowed to plant up to 120 percent of the farm acreage allotment and still receive price support if they agree not to harvest the four lower leaves on each stalk. The leaves on the lower stalk (normally about one-third of a flue-cured crop) generally lack the aroma and flavor manufacturers desire. This program enables farmers to produce and market more of their poundage quota in higher value, upper stalk tobacco and less of their quota in lower stalk tobacco for which demand and prices are lower.

CCC is losing money on interest payments for tobacco program loans

In a January 11, 1982, letter report to CCC's Executive Vice President entitled "Collection and Accounting for Accrued Interest on Commodity Credit Corporation Producer Loans" (AFMD–82–40), we discussed how CCC repayment practices, initiated in 1966, understate interest costs on tobacco loans. Cash received from loan repayments is applied first to loan principal and then, after the principal liquidated, to interest receivable. This procedure is inconsistent with CCC's procedures for repaying its Treasury borrowings and with normal banking procedures.

The Treasury charges CCC interest on the daily outstanding balance owed, which includes unpaid interest on borrowings from prior periods. In contrast, the tobacco producer associations pay interest to CCC on the daily outstanding principal balances, which do not include interest from prior periods. Thus, the associations pay interest at substantially reduced amounts because their loan principal balances are more rapidly reduced as they apply sale proceeds first to loan principal, until liquidated, and then to accrued interest. As a result, a significant difference exists between the amounts of interest recorded and collected on CCC tobacco loans and the corresponding interest which CCC pays the Treasury for borrowed funds.

For example, using data for only the loans on CCC tobacco stocks from crop years 1978–80, we calculated that the present practice cost CCC almost $2 million in fiscal year 1980 alone. Had we calculated the costs for all tobacco crops under loan in all the years since 1966, the amount would have been much larger. This lost revenue benefits the tobacco producer associations in the form of reduced interest payments. In our January 11, 1982, report, we recommended that CCC bring its loan repayment practices more in line with the method it follows for its Treasury borrowings. As of April 1, 1982, CCC had not acted on the recommendation.

In addition to losing revenues through repayment practices, CCC has lost and continues to lose money on loans having lower-than-market interest rates. Since April 1981 tobacco price-support loans have been made at the same interest rates charged by the U.S. Treasury. The interest rates on these loans also are adjusted to the Treasury rate each January 1 thereafter. In December 1981 the Treasury charged CCC 14.5 percent. However, loans on tobacco from prior crop years continue to benefit from below-market interest rates ranging from 6 percent to 11.5 percent. The interest rates on these loans are fixed and were lower than the Treasury's rates at the time the loans were made. As of December 1981 interest accrued at these below-market rates on the 1975–80 flue-cured tobacco loan stocks amounted to about $243 million. However, interest charges would have been much higher had USDA periodically adjusted the interest rates as it has for loans made after April 1, 1981.

ASCS and CCC officials calculated that the amount of interest CCC has paid to the Treasury from inception of the program through September 30, 1980, could total about $845 million, while CCC records indicated that it had collected $254 million in interest income, or a net loss to the Government of about $591 million. CCC's Comptroller said that CCC could not attest to the figures because the interest expense was based on yearly beginning and ending average loan balances and the interest income was based on documentation which probably was incomplete.

CONCLUSIONS

The tobacco price-support program has incurred substantial unreported interest cost expenses. Losses estimated at $591 million have occurred and additional losses can be expected on loans that were made at below-market interest rates before April 1981. Since April 1981, tobacco price-support loans have been made at the same interest rate charged by the Treasury.

Additional losses have occurred and continue to occur because of CCC loan repayment practices, which allow sale proceeds to be applied first to loan principal and then to accrued interest. These practices, which we earlier recommended be changed, are inconsistent with CCC's procedures for repaying its Treasury borrowings and with normal banking practices.

Chapter 4

Marketing of Warehouse Floor Sweepings

The warehouse floor sweepings allowance permits warehouses to gather and resell tobacco which has fallen off already sold auctioned lots. In the warehouses we visited, most of the floor sweeping tobacco brought prices approaching the average market price producers received. ASCS, AMS, and OIG officials believe that because floor sweepings are leaves or bits of tobacco, they should not be top quality tobacco; therefore, a lower price would have been expected.

Floor Sweepings Generally Bring High Prices

The floor sweepings allowance permits some tobacco that has fallen off producer lots to be gathered from the auction floor and sold by the warehouse for its own profit. According to ASCS, AMS, and OIG officials and a tobacco manufacturer, floor sweepings tobacco should bring lower-than-average prices because it is a mixture of leaves and bits of tobacco. Our review of six flue-cured and six burley warehouses, however, showed that floor sweepings generally were sold at prices that approached the average market price of all tobacco sold.

The floor sweepings allowance

USDA regulations establish a floor sweepings allowance that enables warehouses to market tobacco scraps or leaves left on the floor after an auction sale has been completed. Thus, this tobacco, which already has been sold once by the producers to dealers and manufacturers, can be gathered from the warehouse floor and resold, possibly to the same dealers—this time for warehouse profit.

Producers deliver tobacco to the warehouses in lots that are either tied, baled, or in burlap sheets. The lots are weighed, graded, and set out on the warehouse floor for auction sale and then graded by an AMS inspector. Once the tobacco is sold, the loose leaves in the immediate vicinity are put back on the lot and it is moved to another section of the warehouse. Warehouse employees pick through any remaining tobacco and select the best leaves or bits which the warehouse then displays on the auction floor for sale as floor sweepings.

USDA limits the amount of floor sweepings that warehouses can legally market to a certain percentage of total producer sales. The size of the allowance varies by type of tobacco—0.5 percent for flue-cured and 0.24 percent for burley.

Floor Sweepings Sold at Prices Comparable to Producer Sale Prices

We reviewed floor sweepings sales for the 1981–82 marketing year at six flue-cured warehouses and six burley warehouses. We selected the warehouses on the basis of the percentage of the floor sweepings allowance they had actually marketed during the 1980 marketing year. Two had marketed a small portion; five, a moderate portion; and five, most of or more than their allowance.

Several State ASCS officials in North Carolina said that most floor sweepings should be tobacco that has been trampled on the auction floor, resulting in dirty, broken leaves of tobacco that would bring low sale prices. An OIG official told us that floor sweepings should consist of a wide variety of tobacco types, textures, and colors with a relatively high content of fragmented leaves and trash. He said that even after cleaning the tobacco, a warehouse normally would not be able to produce pile after pile of high-quality tobacco capable of receiving consistent grades.

An official from AMS, which has responsibility for inspecting and grading tobacco, questioned whether floor sweepings could be of top quality because of the way this tobacco is collected. He said that tobacco grades vary tremendously from scrap tobacco to top grades. A tobacco manufacturer also agreed that floor sweepings normally should not be top quality tobacco. However, our review showed that most floor sweepings marketed brought prices approaching the average market price paid for producer first-sale tobacco.

The prices for floor sweepings at the six flue-cured warehouses ($1.41 to $1.69 a pound) were slightly below the average market prices ($1.60 to $1.72 a pound) received by producers at those markets. However, on numerous days during the marketing year, some warehouses received prices for floor sweepings that were higher than the average prices producers received. For example, on August 13, 1981, one warehouse in Granville County, North Carolina, received $1.76 a pound for floor sweepings when the average market price that day was $1.55 a pound. On August 27, 1981, a warehouse in Durham County, North Carolina, received $1.75 a pound for floor sweepings when the average market price that day was $1.63 a pound.

The prices of the floor sweepings sold at auction at the burley warehouses we selected ranged from $1.53 to $1.80 a pound, while nonauction floor sweepings sold for 27 cents to 45 cents a pound. The prices of the auctioned floor sweepings were only slightly less than the average prices producers received, which ranged from $1.79 to $1.82 a pound.

The following table gives a general indication of the prices received for floor sweepings compared with the average market prices at the 12 warehouses we reviewed.

SUMMARY OF SELECTED 1981 WAREHOUSE FLOOR SWEEPINGS SALES

[Dollars per pound]

Warehouse	Portion of allowance marketed	Floor sweepings: Pounds marketed	Floor sweepings: Average price	Average market price
Flue-cured:				
A	Small	564	$1.44	$1.66
B	Medium	7,268	1.41	1.71
C	do.	13,556	1.45	1.64
D	Large	8,396	1.60	1.64
E	do.	40,160	1.69	1.72
F	do.	41,472	1.46	1.60
Burley:				
A	Small	1,824	[1] .30	1.82
B	Medium	3,498	1.80	1.82
C	do.	9,340	1.76	1.80
D	do.	5,918	[1] .27	1.79
E	Large	5,101	[1] .45	1.80
F	do.	3,660	1.53	1.80
G	do.	2,608	1.70	1.82

[1] Denoted a nonauction sale of floor sweepings. These are sales of scrap tobacco that contain trash such as rocks, bottles, and string.

Warehouse receipts from floor sweepings sales are profit, except for the costs incurred in gathering the tobacco and preparing it for sale. According to State ASCS officials in North Carolina, if 1 billion pounds of flue-cured tobacco are marketed for the 1981 marketing year, floor sweeping sales could amount to $8 million.

Conclusions

Some USDA officials and a tobacco manufacturer told us that they believe that low prices would have been expected for floor sweepings tobacco. Our review disclosed, however, that floor sweepings generally were sold at prices that approach average market prices.

USDA FLUE-CURED TOBACCO REGIONS SELECTED FOR REVIEW

State/county	Number of farms	Effective quota (1,000 lb)
REGION 17		
North Carolina:		
Edgecombe[1]	1,457	17,571
Franklin	2,710	15,493
Greene[1]	1,248	18,830
Harnett	3,454	22,988
Johnston[1]	5,411	35,211
Lee	1,285	5,707
Lenoir	1,934	22,930
Nash	2,895	27,153
Pitt[1]	2,456	38,937
Sampson[1]	5,072	23,815
Wake[1]	3,899	27,949
Warren	1,804	7,444
Wayne	3,067	23,453
Wilson	2,096	26,249
Total	38,788	313,730
REGION 18		
Virginia:		
Brunswick	1,708	6,747
Charlotte	1,148	4,405
Franklin	1,094	3,879

USDA FLUE-CURED TOBACCO REGIONS SELECTED FOR REVIEW—Continued

State/county	Number of farms	Effective quota (1,000 lb)
Halifax	3,673	18,795
Henry	562	1,615
Luneburg[1]	1,158	5,908
Mecklenburg[1]	2,341	12,784
Patrick	982	2,895
Pittsylvania[1]	3,879	25,644
North Carolina:		
Alamance	1,513	6,537
Caswell[1]	1,957	12,765
Durham[1]	879	4,652
Forsyth	2,156	7,536
Granville[1]	2,193	17,965
Guilford	3,280	13,198
Orange	1,085	4,793
Person[1]	1,821	13,598
Rockingham[1]	3,067	18,634
Stokes	2,972	15,814
Surry[1]	3,186	15,992
Vance[1]	1,475	10,701
Yadkin	3,024	11,251
Total	45,153	236,109
Total for regions 17 and 18	83,941	549,838

[1] Indicates counties selected for review.

USDA BURLEY TOBACCO AREAS SELECTED FOR REVIEW

State/county	Number of farms	Effective quota (1,000 lb.)
AREA 1		
Kentucky:		
Bourbon[1]	1,358	10,849
Clark	1,630	6,780
Fayette	1,481	11,484
Jessamine	1,479	6,439
Mercer[1]	1,651	6,677
Scott	1,590	9,434
Woodford[1]	1,090	9,621
Total	10,279	61,284
AREA 2		
Kentucky:		
Anderson	1,272	3,223
Bracken[1]	1,047	5,973
Carroll	602	3,440
Franklin	1,233	5,394
Gallatin	543	2,006
Grant	1,759	5,332
Harrison	1,629	8,481
Nicholas	909	5,129
Owen[1]	1,402	7,140
Pendleton	1,455	4,651
Robertson	453	2,328
Total	12,304	53,098
Area 3		
Kentucky:		
Bath[1]	1,177	5,892
Boyle	1,156	4,459
Fleming	1,691	6,944
Garrard[1]	1,455	6,815
Henry	1,489	8,634
Madison[1]	2,235	10,192
Marion	1,441	4,917
Mason	1,169	8,038
Montgomery	1,223	6,181
Nelson	1,853	4,350
Oldham	648	1,630
Shelby	2,290	10,585
Spencer[1]	891	3,844
Trimble[1]	794	3,525
Washington	1,535	6,228
Total	21,047	92,234
AREA 4		
Kentucky:		
Adair	2,563	4,310
Allen	2,041	3,280
Casey	2,643	5,433
Clinton	1,502	2,211
Cumberland[1]	1,181	2,373
Green	1,772	5,359
Lincoln	2,422	6,126
Monroe[1]	1,785	3,410
Pulaski[1]	4,076	6,178
Russell[1]	2,077	3,182
Taylor[1]	1,754	4,587
Wayne	1,941	2,935
Tennessee:		
Clay	1,082	1,391

USDA BURLEY TOBACCO AREAS SELECTED FOR REVIEW—Continued

State/county	Number of farms	Effective quota (1,000 lb.)
Jackson	1,741	2,236
Macon [1]	2,233	4,077
Pickett	859	951
Total	31,672	58,039
Total for areas 1, 2, 3, and 4	75,302	264,655

[1] Indicates counties selected for review.

PROJECTIONS OF FARMS AND QUOTA USE IN USDA AGRICULTURAL REGIONS AND AREAS SELECTED FOR REVIEW [1] [2]

Use of basic quota	Burley areas				Flue-cured regions			
	Number of farms	Percent	Pounds of basic quota (100,000)	Percent	Number of farms	Percent	Pounds of basic quota (100,000)	Percent
Farms not leasing at all:								
Renting	16,349	21.7	1,012.6	39.7	18,515	22.1	2,082.1	38.2
Relative growing	4,454	5.9	92.0	3.6	2,279	2.7	253.1	4.6
Owner growing	32,495	43.2	1,002.3	39.3	9,996	11.9	762.3	14.0
Total	53,298	70.8	2,106.9	82.6	30,790	36.7	3,097.5	56.8
Farms leasing some quota but not all: [3]								
Renting	1,276	1.7	57.3	2.3	1,655	2.0	173.8	3.2
Relative growing	222	.3	7.5	.3	183	.2	35.7	.7
Owner growing	1,240	1.6	43.8	1.7	3,867	4.6	309.8	5.7
Total	2,738	3.6	108.6	4.3	5,705	6.8	519.3	9.5
Farms leasing out all quota	19,265	25.6	336.4	13.2	47,445	56.5	1,836.5	33.7
Total	75,302	100.0	2,551.8	100.0	83,941	100.0	5,453.3	100.0

[1] Some figures may not add due to rounding.
[2] The total number of farms in the sample projection equals the actual number of farms in the selected regions and areas because the sample farms were weighted proportionally to the number of farms in the county. The total basic quota figure from our sample, on the other hand, is slightly different from the actual total basic quota because of this weighting procedure.
[3] Includes some farms that leased out an amount equal to or greater than the basic quota but still have an effective quota from a previous year's adjustment or from quotas leased in.

Mr. HELMS. Mr. President, I yield to the able Senator from Kentucky such time as he may require.

Mr. HUDDLESTON. Mr. President, the distinguished Senator from Ohio has again articulated his feelings about this program in a very effective fashion, as he has done in the past. Certainly, he has raised some questions that deserve to be answered.

While I certainly would not agree with some of the statistics that have been presented and the conclusions drawn from those statistics, I do feel that the Senate is entitled, the country is entitled, the tobacco grower is entitled, to have a greater understanding of this particular program.

I know that the Senator from North Carolina shares with me a desire to educate, to the fullest extent possible, every American about this program, because I think a lot of the assumptions that are made and a lot of the conclusions that are drawn from specific statistics give an erroneous opinion about the program.

I believe that the farmers in my State and those throughout the entire Tobacco Belt, even those who do not have an allotment, would be overwhelming in their approval of this program and in their rejection of any move that would eliminate it. The control feature to which the Senator alludes with his statistics, of course, is what makes it work.

The idea that you can open this up to everybody by eliminating this allotment system is false. It will not work that way. You cannot transfer this to everybody. Without the controls, you merely take it away from nearly everybody and deposit it in the hands of a very few.

That is my interpretation and my conclusion, but I think that we on the Agriculture Committee will be willing—the distinguished chairman of the committee is here and will respond—but we will be glad to have an indepth look at the tobacco price support program: how it works, who benefits and who does not, who might be excluded and why. All the things to which the Senator has alluded could very well be gone into with some depth in a committee hearing in Washington, and I certainly would not object to that.

I yield to the Senator from North Carolina.

(Mrs. HAWKINS assumed the chair.)

Mr. HELMS. Madam President, I absolutely agree with the distinguished ranking minority member of the committee, Mr. HUDDLESTON.

I think the goal of the Senator from Ohio is constructive, in terms of studying this program to see who is right and who is wrong.

I join Senator HUDDLESTON, of course, in assuring the Senator that such hearings will be conducted. I say to the Senator from Ohio, and for the record, that this bill, as it now stands, contains a number of provisions designed to move tobacco allotments and quotas into the hands of active tobacco producers.

As the Senator knows, today we have agreed to amendments offered by the distinguished Senator from Missouri to allow the sale of allotments and quotas to persons who intend to become active tobacco producers. Such persons would also be authorized to participate in any reallocation of allotments or quotas that might be forfeited under provisions of the bill.

I say to the Senator from Ohio that we have been as openhanded as I know how to be in making significant changes in the tobacco program, to move the allotments and quotas into the hands of true producers. We have opened up the program to new growers. While these changes are significant, they maintain the family farm-oriented nature of the tobacco program.

I do not agree with the Senator's amendment, but I understand his motivation, and I respect him for it.

Mr. METZENBAUM. I thank the Senator from North Carolina and the Senator from Kentucky.

Since the Senator from North Carolina is chairman of the committee, will he be willing to assure the Senator from Ohio that there will be hearings at a relatively early date; that at those hearings, those who have questions and concerns about the program will be permitted the opportunity to have an adequate number of witnesses present before the committee, so that the hearings might be totally balanced?

Mr. HELMS. If the Senator will modify his question so that he and I and Senator HUDDLESTON work together on the timing of it. I would not want to be locked into 30 days. I think the Senator knows me well enough to know that I will work with him. We

have so much pending right now. As soon as possible, we will do that.

Mr. METZENBAUM. Knowing the Senator from North Carolina and the Senator from Kentucy, whose word and reputation are beyond repute, I have no desire to force this issue to a vote at this time. I think the previous vote gave some indication that there is much concern in the Senate about the subject. This amendment would terminate the program totally. If we can have realistic hearings and a reevaluation of the program on a balanced basis, I am prepared to withdraw my amendment, and I do just that.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HUDDLESTON. Madam President, I believe that concludes all the amendments that have been suggested.

UP AMENDMENT NO. 1083

(Purpose: To make the provisions of section 301 of the bill (relating to the use of No Net Cost Tobacco Accounts) applicable to kinds of tobacco other than burley tobacco)

Mr. HUDDLESTON. Madam President, I have a technical amendment which I send to the desk and ask for its consideration at this time.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 1083.

Mr. HUDDLESTON. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 7, strike out "Burley".

On page 27, line 4, strike out "BURLEY ".

On page 27, line 7, strike out "of tobacco" and insert in lieu thereof "of all kinds of tobbaco except Flue-cured tobacco".

On page 27, line 11, strike out "BURLEY ".

On page 27, line 14, strike out "Burley".

On page 27, strike out line 18 and insert in lieu thereof the following: "a kind of tobacco, except that the term does not include such an association that has entered into such an agreement to make price support available to producers of Flue-cured tobacco;".

On page 27, line 19, strike out "Burley".

On page 27, line 20, strike out a "Burley" and insert in lieu thereof "an".

On page 27, line 22, strike out "Burley".

On page 27, line 24, strike out "Burley".

On page 28, line 1, strike out "Burley tobacco to a Burley" and insert in lieu thereof "tobacco to an".

On page 28, line 5, strike out "Burley" both times it appears; and insert "a kind of" immediately before "tobacco".

On page 28, line 8, strike out "Burley".

On page 28, line 10, strike out "Burley tobacco' means Burley to-" and insert in lieu thereof "tobacco' means".

On page 28, line 11, strike out "bacco" and insert in lieu thereof "any kind of tobacco except Flue-cured tobacco".

On page 28, line 16, strike out "a Burley" and insert in lieu thereof "an".

On page 28, line 18, strike out "Burley".

On page 28, line 23, strike out "Burley".

On page 28, line 24, strike out "Burley".

On page 29, line 1, strike out "Burley".

On page 29, line 4, strike out "Burley".

On page 29, line 6, strike out "Burley" both times it appears.

On page 29, line 8, strike out "Burley".

On page 29, line 10, strike out "Burley".

On page 29, line 11, strike out "Burley".

On page 29, line 12, strike out "Burley".

On page 29, line 14, strike out "Burley Account established for a Burley" and insert in lieu thereof "Account established for an".

On page 29, line 18, strike out "a Burley Account for a" and insert in lieu thereof "an Account for an".

On page 29, line 19, strike out "Burley".

On page 29, line 20, strike out "Burley".

On page 30, line 1, strike out "a Burley" both times it appears and insert in lieu thereof "an".

On page 30, line 4, strike out "Burley tobacco" and insert in lieu thereof" the kind of tobacco involved".

On page 30, line 5, strike out "Burley".

On page 30, line 6, strike out "Burley" and insert in lieu thereof "of such kind of".

On page 30, line 8, strike out "Burley" both times it appears.

On page 30, line 13, strike out "Burley".

On page 30, line 15, strike out "Burley tobacco" and insert in lieu thereof "the kind of tobacco involved".

On page 30, line 16, strike out "Burley".

On page 30, line 18, strike out "a Burley" and insert in lieu thereof "an".

On page 30, line 19, strike out "Burley".

On page 30, line 13, strike out "a" and insert in lieu thereof "the".

On page 30, line 21, strike out "Burley".

On page 30, line 23, strike out "Burley".

On page 31, line 1, strike out "Burley tobacco" and insert in lieu thereof "the kind of tobacco involved".

On page 31, line 2, strike out "Burley".

On page 31, line 6, strike out "Burley".

On page 31, line 8, strike out "Burley".

On page 31, line 10, strike out "Burley tobacco" and insert in lieu thereof "tobacco of the kind for which an Account is established".

On page 31, line 14, strike out "Burley tobacco" and insert in lieu thereof "tobacco of the kind for which an Account is established".

On page 31, line 17, strike out "a Burley" and insert in lieu thereof "an".

On page 31, line 18, strike out "a Burley" and insert in lieu thereof "an".

On page 31, line 20, strike out "Burley".

On page 31, line 23, strike out "Burley".

On page 32, line 2, strike out "a Burley" and insert in lieu thereof "an".

On page 32, line 3, strike out "a Burley" and insert in lieu thereof "an".

On page 32, line 5, strike out "Burley".

On page 32, line 7, strike out "Burley".

On page 32, line 11, strike out "Burley" and "a".

On page 32, line 12, strike out "Burley" and insert in lieu thereof "an".

On page 32, line 13, strike out "Burley".

On page 32, line 14, strike out "Burley".

On page 32, line 15, strike out "Burley association" and insert in lieu thereof "association that has entered into a loan agreement with the Corporation to make price support available to producers of the kind of tobacco involved".

On page 32, line 16, strike out "Burley".

On page 32, line 17, strike out "Burley".

On page 32, line 23, strike out "a Burley" and insert in lieu thereof "an".

On page 33, line 1, strike out "a Burley Account for such Burley" and insert in lieu thereof "an Account for such".

On page 28, line 4, strike out "a" and insert in lieu thereof "an".

Mr. HUDDLESTON. Madam President, it looks like a long amendment because it refers to a number of lines in the bill, but actually it changes just a word or two in each line. I shall state for the record what the amendment does.

Section 301 of the bill, as reported, would permit the Secretary of Agriculture to establish a no net cost tobacco account within the Commodity Credit Corporation for burley tobacco. This CCC account would be in lieu of the no net cost tobacco funds to be managed by tobacco cooperatives.

Both the CCC account—available for burley—and the co-op funds—for other kinds of tobacco—will serve the same purposes. They will be repositories for money paid by farmers to cover any net losses incurred by the Federal Government under the tobacco program.

The CCC account would be established if the burley tobacco marketing association requests it; and could be established if the Secretary determines that a burley co-op fund will be inadequate to cover the CCC net costs.

The amendment will expand the scope of section 301. Under the amendment, the programs for all other kinds of tobacco—except for Flue-cured tobacco—would become eligible for use of a CCC account, in lieu of a co-op fund, as with burley tobacco, to handle producer contributions to the no net cost program.

Madam President, I offer this explanation because the amendment is a little technical. Is has been cleared on both sides. I move its adoption.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HUDDLESTON. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 1083) was agreed to.

Mr. HELMS. Madam President, I have three quick amendments, all of a technical nature.

UP AMENDMENT NO. 1084

(Purpose: To make the mandatory sale provisions continuing.)

Mr. HELMS. Madam President, I send to the desk the first amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1084.

Mr. HELMS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, line 21, insert "or after" after "on".

On page 23, line 4, insert "or December 1 of the year after the year in which the farm is acquired, whichever is later," after "1983,".

On page 23, line 9, insert "or after" after "on".

On page 23, line 15, insert the following after the period: "In the case of any person who acquires a farm after December 1, 1983, the acreage allotment or a marketing quota representing the excess shall not be subject to forfeiture until July 1 of the year after the year of acquisition.".

On page 33, line 17, insert "or after" after "on".

On page 33, line 23, insert "or December 1 of the year after the year in which the farm is acquired, whichever is later," after "1983,".

Mr. HELMS. Madam President, the bill as it now stands contains several provisions that are designed to move tobacco allotments and quota into the hands of active tobacco growers. In the case of both burley tobacco and Flue-cured tobacco, the bill requires nonfarming entities to sell their tobacco allotments or quotas no later than December 1, 1983, or forfeit them. In the case of Flue-cured tobacco any person who owns a farm on December 1, 1983, for which the total acreage alloted for the production of Flue-cured tobacco exceeds 50 percent of the farm's tillable cropland must forfeit any allotment or quota representing the excess.

These provisions, however, do not apply to farms owned or acquired after December 1, 1983. For example, if an airport acquired farmland with a tobacco allotment or quota after December 1, 1983, there would be no requirement to sell the tobacco allotment or quota.

I believe that most people expected that these requirements would be continuing. The amendment that I have offered would provide just that.

I urge that the amendment be adopted.

Mr. HELMS. Madam President, I send a second amendment to the desk having to do with enforcement.

The PRESIDING OFFICER. Is this a second degree amendment?

Mr. HELMS. No. That is right. Maybe we better agree to the first amendment before I go to the second amendment. I am trying to comply with the request of the Senator.

Mr. METZENBAUM. Madam President, will the Senator from North Carolina be good enough to assure us these are not substantive amendments?

Mr. HELMS. They are not.

Mr. METZENBAUM. These are just technical amendments?

Mr. HELMS. Yes.

Mr. METZENBAUM. Both the first amendment and the second degree one?

Mr. HELMS. Yes. They are separate amendments, but they clarify the provisions.

Mr. METZENBAUM. All right.

Mr. HELMS. The staff found some defects in the wording of them.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HELMS. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 1084) was agreed to.

UP AMENDMENT NO. 1085

(Purpose: To provide additional enforcement provisions to enhance tobacco program integrity.)

Mr. HELMS. Madam President, I send a second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1085.

Mr. HELMS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, between lines 15 and 16, insert the following new section:

LIEN FOR PAYMENT OF PENALTY; FALSE IDENTIFICATION OF TOBACCO

SEC. 206. (a) Section 314 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314) is amended by adding a new subsection as follows:

"(c) Until the amount of the penalty provided by this section is paid, a lien on the tobacco with respect to which such penalty is incurred, and on any subsequent tobacco subject to marketing quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States for the amount of the penalty.".

(b) Section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by adding a new subsection as follows:

"(j) Notwithstanding any other provision of this section, if a producer falsely identifies tobacco as having been produced on or marketed from a farm, the quantity of tobacco so falsely identified shall be considered for purposes of establishing future farm marketing quotas, as having been produced on both the farm for which it was identified as having been produced and the farm of actual production, if known, or, as the case may be, shall be considered as actually marketed from the farm.".

On page 26, line 17, strike out "206" and insert "207".

Mr. HELMS. Madam President, this amendment has to do with the enforcement tools to enhance the integrity of the no-cost tobacco program, and it is technical in nature.

Madam President, I offer an amendment to H.R. 6590 to provide the Secretary of Agriculture with additional enforcement tools to enhance the integrity of the tobacco program. These amendments were suggested to me by the people in my State who operate the program at the grassroots level. I understand that the Department of Agriculture has no objection to the amendment.

The amendment to section 314 of the Agricultural Adjustment Act provides a more efficient mechanism for collecting marketing penalties by providing that there is a lien on the tobacco with respect to which the penalty is incurred and on any subsequent tobacco in which the person has an interest that is subject to marketing quotas. Currently, penalties are deductible only from the proceeds of tobacco going under loan. In many cases, producers assessed with a large penalty will avoid payment of the penalty by seeing that none of their tobacco goes under loan when auctioned.

The only way then to collect the penalty is through court suit which many U.S. attorneys are reluctant to bring unless the penalty is very large. Assessing a lien against the tobacco crop would provide for collection of the penalty in the same manner as in the case of peanuts.

If the amendment were adopted, the marketing card of any producer who owed a penalty would be marked so that a warehouseman subsequently selling tobacco for such producer would be aware of the lien and would remit to the Secretary the amount of the penalty from the proceeds of sale.

The amendment to section 317 of the Agricultural Adjustment Act is designed to prevent a person from benefiting from a marketing violation involving false identification of tobacco when a subsequent year's quota is determined. Currently, the regulations for Flue-cured tobacco provide for correction of farm production records when actual marketings are determined to be incorrect because of false identification. In many cases this actually gives an increase in quota to the producer who violates the act. The amendment would provide that a producer's marketings would not be corrected when he falsely identifies the production origin of tobacco.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HELMS. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 1085) was agreed to.

Mr. METZENBAUM. Madam President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1086

(Purpose: To make Technical changes.)

Mr. HELMS. Madam President, I send to the desk another unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1086.

Mr. HELMS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, line 8, strike "(a)".

On page 33, line 19, strike "acreage allotment or".

On page 33, lines 23 and 24, strike "allotment or".

On page 34, line 1, strike "allotment or".

On page 34, line 6, strike "allotment or".

On page 37, line 21, strike "or acreage poundage".

Mr. HELMS. Madam President, these are purely technical amendments.

Madam President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 1086) was agreed to.

● Mr. WARNER. Madam President, I would like an intepretation of the provision of section 102(d) relating to the reduction of price support after a determination by the Secretary that such reduction should be made. As I understand the section, the reduction is limited to 35 percent of the increase that otherwise would be called for. Is that correct?

Mr. HELMS. Yes.

Mr. WARNER. I understand that in 1981 the Secretary used all grades in determining that the weighted average equalled the mandatory level prescribed by law. Is that correct?

Mr. HELMS. I have been so informed by USDA representatives.

Mr. WARNER. I also understand that in 1981 the Secretary administratively determined that price support would not be applicable for certain grades, even though the grades were used in determining that the weighted average equalled the mandatory level. Is this your understanding?

Mr. HELMS. It is.

Mr. WARNER. Is it the intent of this legislation that a price support level be established for all grades of tobacco in 1982 and future years?

Mr. HELMS. Yes, it is.

Mr. WARNER. It is understood then that it is the intent of Congress that the word "eligible" as appears on line 17, page 11 would include all tobacco for which a grade is established.

Mr. HELMS. That is our intent.●

Mr. MITCHELL. Madam President, since entering the Senate, I have consistently opposed the tobacco subsidy program. I have held from the start the belief that the Federal Government should not play a role in the growing of a product which is responsible for 325,000 deaths in America annually. The tobacco program, unlike any other farm program, has not only resulted in substantial financial costs to the American taxpayer, but in tangible social and human costs to the entire Nation.

The purpose of the legislation before us now, H.R. 6590, the No Net Cost Tobacco Program Act of 1982, is to meet the congressional mandate provided for in the 1981 farm bill. That mandate requires that the tobacco program shall be operated at no net cost to the taxpayer beginning with the 1982 crop. The bill is an important step forward in reducing the costs of the tobacco program to the taxpayer, and represents a substantial reform in the Government's total involvement in the tobacco program.

However, there are reforms not included in this measure which would significantly improve it.

For example, there is not a provision in this bill to require the tobacco price-support program to come under review with all of the other farm programs when a new farm bill is written in 1985. The tobacco program, unlike programs for dairy, cotton, wheat, and feed grains, has enjoyed a special-exempt status that should be ended. The lack of periodic review is unjustified, and it is clear that the lack of scrutiny has led to many of the problems which exist in the program today. I am a cosponsor of an amendment to require such review of the tobacco program with other farm programs.

The bill, as proposed, authorizes the Secretary of Agriculture to reduce the support rate for any grade of tobacco determined to be in surplus. However, such reductions could not bring the weighted average support rate for all types of tobacco below 65 percent of what the rate would have been without the reduction. As the U.S. Department of Agriculture has stated, "The authority to adjust the level of support as prescribed in the bill is very narrow and may not allow the Department to meet the no net cost objective." It is clear that the authority granted to the Agriculture Secretary in the bill may not be great enough to offset rising tobacco surpluses, and that such narrow authority may result in increased Government stocks and potentially substantial costs. I will support an amendment to grant the Secretary greater authority to further insure that the tobacco program is operated at no net cost to the taxpayer.

The bill also requires tobacco producers, as a condition for holding allotments, to make payments into special accounts to offset any losses that the CCC might otherwise incur under the tobacco program. Although this will significantly decrease the cost of the tobacco program, the bill does not provide a mechanism to pay for the administrative costs of the tobacco program. These costs average approximately $15 million annually, and I believe they should not be borne by the taxpayer.

I have so far discussed some of the economic concerns I have with this bill. However, there are much wider social and human implications to the tobacco program which must be included in any discussion of the program.

The social implications of the tobacco program have been the sweeping implications of a sad and offensive paradox in our entire Federal Government policy toward tobacco. Since the public realization of the hazards associated with cigarette smoking in the 1960's, our Government has been engaged in a policy of contradiction. Since that time, our Government has encouraged and supported the production of tobacco while another hand of Government has spent millions of dollars to discourage its use. The same Government has spent than $57 million helping farmers produce tobacco, while at the same time spending more that $33 million attempting to dissuade Americans from using it.

The tobacco program has resulted in very basic, very serious human implications as well. They are the implications resulting from a Federal role in the growing of a product which is responsible for 325,000 deaths in America annually.

In February of this year, the Surgeon General released his annual report on smoking and health. Once again, the report made findings that documented an irrefutable and alarming link between smoking and disease.

The report stated that smoking will be responsible for nearly one-third of the Nation's 430,000 cancer deaths.

According to the report, of the more than 90,000 annual deaths from lung cancer, approximately 85 percent are due to cigarettes. The report said that lung cancer may soon surpass breast cancer as the No. 1 cancer killer among women.

The report cited cigarette smoking as a major cause of death from cancer of the lung, esophagus, larynx, and oral cavity.

It called smoking a contributing factor to bladder, kidney, and pancreatic cancers, and said that smokers have higher than normal death rates from cancer of the stomach and of the uterine cervix.

Each time the Surgeon General's report is published, the offensive paradox of our Government policies toward tobacco production and tobacco use becomes more evident. The argument, which has often been made by tobacco interests and by the Surgeon General, that one policy does not contradict the other, belies the wider human implications of Government tobacco subsidies.

To conclude, while the bill does not go as far as I would like in abolishing the tobacco price support program it is a significant improvement over current law. Therefore, since defeat of this bill would leave the current law intact—a result which would cost the taxpayers much more—I will reluctantly cast my vote for the bill. It is my hope that the Senate will soon return and complete the task of abolishing this program.

Mr. WARNER. Madam President, the adjustment of price support level of tobacco as outlined in section 102, makes it clear that for 1982 and subsequent years the Secretary has the authority to adjust the average level of support rate for all grades of tobacco to provide that after such adjustment the increase in support level may not be less than 65 percent of the level which might otherwise be established under this section. It is clear to me that the calculations for the 1982 crops of tobacco could be easily calculated. It is not clear how the levels of support for future years would be determined. For example, if the support level for a kind of tobacco is established at $1.75 per pound for 1982, and the 1981 support level for such kind of tobacco was $1.58 per pound, using existing law the increase would be 17 cents per pound. The Secretary could adjust the increase to 11 cents per pound, reflecting a 35-percent decrease from what otherwise would be made. Therefore, the effective support rate for 1982 would be $1.69 per pound. It is not clear, however, how the adjustment would be made for 1983. Assuming that the existing law would provide an increase for 1983 of 15 cents per pound, the Secretary would be permitted an adjustment of 5 cents or to reduce the mandated increase from 15 cents to 10 cents. Would this 10 cents then be added to the effective support for the 1982 crop or would it be subtracted from the support level otherwise determined?

Mr. HELMS. It is my understanding, and I have checked it with Members of the other body, that the increase for 1983 and future years computed on the basis of existing law, could be reduced by the Secretary by up to 35 percent and the remaining increase would then be added to the effective support level for the previous year. To do otherwise would negate what we are trying to accomplish.

Mr. SASSER. Madam President, I rise in support of the No Net Cost Tobacco Program Act, H.R. 6590, and against the weakening amendments which have been offered.

This bill represents a good faith effort on the part of supporters of the tobacco program to meet the objections of those who oppose the program. The 1981 farm bill mandated that changes be made to reduce the net cost of the program. This bill adheres to this mandate by making the program self-supporting.

The bill is the product of many hearings held throughout the tobacco-growing regions. All tobacco interests have been heard from and there is agreement on this bill as the best way to cut the cost of the tobacco program. All parties understand that it is either this bill or no program.

Loss of the program would be tragic in light of the great benefit tobacco now provides to thousands of farmers and others employed as a result of tobacco.

Tobacco contributes greatly to the economy of my home State of Tennessee. One out of every 32 Tennessee jobs, or over 3 percent, exist because of tobacco. There are jobs in every one of Tennessee's 95 counties that exist because of tobacco and Tennesseans earned almost $614 million in 1979 from these jobs.

Tobacco also is responsible for a considerable amount of tax revenue to my State. In 1979, the State's 13-cent cigarette tax alone yielded $72.5 million. Sales and corporate income taxes accounted for another $15.4 million.

Tobacco has also been a great economic contributor to the Nation as a whole. In 1979, it was responsible for 2 million jobs, $30 billion in wages and earnings, $15.5 billion in captial investment, $22 billion in taxes and $58 billion to the gross national product. This translates into 2½ cents for every dollar's worth of goods and services in the American economy.

In spite of these benefits, the program has been attacked because of its cost. In the 40-some years that the tobacco program has been in existence, the cost per year has been less than $1 million. The cumulative financial loss on the tobacco loan program represents less than 0.3 of 1 percent of the Commodity Credit Corporation's total loss on all commodity loan inventory operations since 1923.

So even though the program is a relatively low cost one, pressure has mounted to eliminate it and that pressure has been substantial. As a result this no cost bill has been drafted with the support of the industry. We have convened today to hopefully pass this bill without amendment. I urge all my colleagues to consider the program in its entirety and this bill, and all it represents, before they cast their final vote.

Madam President, I ask unanimous consent that a letter sent to me by my friend, Jim Putman, president of the Tennessee Farm Bureau Federation be inserted into the RECORD immediately following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TENNESSEE FARM BUREAU FEDERATION,
Columbia, Tenn., June 18, 1982.

Hon. JIM SASSER,
U.S. Senator,
Washington, D.C.

DEAR SENATOR SASSER: The Tennessee Farm Bureau and the tobacco farmers of Tennessee are vitally concerned about the tobacco program and its future.

Farmers have been pleased with the program as it has been in the past.

However, in view of the opposition to the program in Congress, it became necessary, in order to maintain the price support for tobacco, that we accept as a part of the program a No Net Cost to the taxpayers.

Although this is somewhat undesirable, it is preferable to losing the entire tobacco program. It was obvious the No Net Cost phase must be included if we were to have a tobacco program.

Therefore, we urge your support of the tobacco price support program which will result in a No Net Cost to taxpayers. (H.R. 6590).

We also urge your efforts in obtaining the least possible cost to the tobacco farmers of Tennessee.

Sincerely yours,

JAMES S. PUTMAN,
President.

TOBACCO AND SMALL FAMILY FARMS

Mr. WARNER. Madame President, every Senator knows how important the tobacco program is to the economic structure of the tobacco producing States. There are some 276,000 farm families whose livelihood is based in a substantial way upon tobacco, and the tobacco program assures that the small family farm is the structural mainstay of the tobacco economy.

In my State of Virginia thousands of family farmers produce a $260 million crop that provide almost 90,000 jobs in Virginia. Virginia is No. 15 in population rank in the Nation, but among the top 10, when it comes to the number of family farms.

That is why we have so often pointed out that "Tobacco is people." Without the allotments and quotas which are a fundamental part of the tobacco program, more tobacco would be produced—but by many fewer people. I know that without the tobacco program, my State would see a drastic reduction in the number of family farms. I am sure these same results will apply to the other principal tobacco producing States—North Carolina, South Carolina, Georgia, Florida, Kentucky, and Tennessee.

It is for this reason that tobacco is so much a part of the culture of the Southeast. The cash-flow from tobacco keeps a greater number of family farms economically viable—so that they can continue in the business of producing other crops—such as corn, soybeans, cotton, hogs, and poultry—which characterize so much of Southern agriculture. Because tobacco helps form the yoeman farmer culture of our region, those of us who represent tobacco States realize that its importance to our people extends beyond the statistical tables of profits and losses. That is why we are so earnest in our defense of the tobaco program: It is a defense of our culture—our essential agricultural and rural culture.

If this program is amended in a manner that destroys the program, the small family farm in many areas of the region will close forever. Those who are opposed to the use of tobacco products will find that the tobacco will be imported from other nations and they will have succeeded in destroying thousands of small farmers. Our nation's balance of payments will further worsen.

I cannot believe that this result is what they desire.

Mr. HATFIELD. Madam President, as my colleagues are aware, I have not been a friend to the tobacco industry during my tenure in the Senate, and even as we examine this "no-cost" tobacco legislation, I still find the Government's involvement in this system as unnecessary and cumbersome on the taxpayer. It is not necessary to use the Senate's time to reiterate my strong objections to the continuance of this program. I have made my point clear in past debates, but I would like to point out that until we set our spending priorities on health, education, and related programs, we should not be spending money for tobacco, even for administrative costs.

Having said this, I must tell my colleagues that I was most pleased when we were presented with this new legislation to at least reduce the impact of the tobacco price support program on the Federal budget. I was not pleased that we would be continuing the program, but, that the Agriculture Committees on both sides of Capitol Hill were willing to acknowledge the logic of our arguments of last fall and act to address some of the problems inherent in the program.

I must commend the Senator from North Carolina (Mr. HELMS) for his efforts toward making this legislation possible, and for working closely with the farming community throughout the tobacco growing region to assure equity for the grower. However, I still have concerns about the program that I would like to see addressed in subsequent hearings and legislation.

The Commodity Credit Corporation, through the Flue-Cured Stabilization Corporation, still holds huge quantities of tobacco given to CCC as repayment on past loans. There is little market for this tobacco at the price needed to meet costs, and much of it may be unmarketable in the next few years. This legislation does nothing to assist in the disposal of this tobacco. The General Accounting Office has found flawed accounting procedures in the repayment practices of CCC which allows the farmers' repayment to be placed on principal before interest, costing the taxpayers dearly, this legislation does not address this issue. I still do not believe the allotment/quota system for limiting tobacco production is the best method for achieving the program's goal. This legislation modifies this mechanism, but does not address the question of allotment renting and transfer. It speaks of leasing changes, but GAO identifies renting of allotments as the major form of transfer. There still is no regular review of the tobacco price support system, as there is for almost every other major farm commodity.

I understand that this legislation was not intended to be a full-scale review of the tobacco price support system, nor was it intended to address all of our concerns about the inequities of the program. This is an important first step in the process of changing this system, and I will not stand in its way. However, I must make it clear that this is not the end of my opposition to the program. This legislation must have an opportunity to be tested in the marketplace, and I am willing to allow this to happen.

I could go on, but at this juncture I would ask the distinguished chairman of the Senate Agriculture Committee, if he would be willing to hold hearings, both in Washington and the tobacco growing region, to address the concerns I have outlined? Also, based on those hearings, introduce legislation in the next session of Congress that would correct these faults?

Mr. HELMS. I understand precisely what the Senator is saying. I would say to him, I thoroughly agree that the implementation of these changes should be carefully monitored by the Committee on Agriculture, Nutrition, and Forestry and its counterpart in the House of Representatives. I can assure the able Senator from Oregon that it would be my purpose to endeavor to remedy any and all defects that may be obvious after hearings are held, as the Senator suggests, in the tobacco producing States and in Washington.

I thank the Senator for that support. As usual he speaks with a great deal of commonsense and I want him to know that we will keep him advised to whatever extent he wishes on information we assemble in the months ahead.

Mr. HATFIELD. I appreciate the Senator's willingness to assist in this review, and look forward to working with him on these changes.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN), the Senator from Arkansas (Mr. PRYOR), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. LONG) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 77, nays 17, as follows:

[Rollcall Vote No 213 Leg.]

YEAS—77

Abdnor	East	McClure
Andrews	Exon	Meicher
Armstrong	Ford	Mitchell
Baker	Goldwater	Nickles
Baucus	Gorton	Nunn
Bentsen	Grassley	Packwood
Boren	Hart	Pell
Boschwitz	Hatfield	Percy
Burdick	Hawkins	Pressler
Byrd, Harry F., Jr.	Hayakawa	Quayle
	Heflin	Randolph
Byrd, Robert C.	Helms	Roth
Chafee	Hollings	Rudman
Chiles	Huddleston	Sarbanes
Cochran	Inouye	Sasser
Cohen	Jepsen	Schmitt
Cranston	Johnston	Simpson
Danforth	Kassebaum	Specter
DeConcini	Kasten	Stennis
Denton	Kennedy	Stevens
Dixon	Laxalt	Symms
Dodd	Leahy	Thurmond
Dole	Levin	Tower
Domenici	Lugar	Wallop
Durenberger	Matsunaga	Warner
Eagleton	Mattingly	Zorinsky

NAYS—17

Biden	Hatch	Moynihan
Bradley	Heinz	Proxmire
Bumpers	Humphrey	Riegle
Cannon	Jackson	Stafford
D'Amato	Mathias	Tsongas
Garn	Metzenbaum	

NOT VOTING—6

Brady	Long	Pryor
Glenn	Murkowski	Weicker

So the bill (H.R. 6590), as amended, was passed.

Mr. HELMS. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. Madam President, once again I want to compliment the able and distinguished Senator from Kentucky and the ranking minority member of the Senate Committee on Agriculture, Nutrition, and Forestry for the splendid job he has done on this bill.

I also want to take this opportunity to acknowledge the role the staff has played: Carl Rose, one of my favorite North Carolinians; on the minority staff, Tom Little, Bob Franks, George Dunlop, Keith Weatherly, Phil Fraas, and dozens of others on the staff.

I also want to compliment the staffs of the individual Senators who worked on this bill.

Moreover, I want to pay my respects to the distinguished Senator from Missouri (Mr. EAGLETON) who is always a worthy adversary. I compliment him for his constructive approach; 77 to 17 is a sizable victory for a piece of legislation as controversial as this, and, needless to say, I am gratified.

Mr. THURMOND. Madam President, will the Senator yield?

Mr. HELMS. I yield.

Mr. THURMOND. Madam President, I want to take this opportunity to congratulate the able chairman of the Agriculture Committee of the Senate for the outstanding leadership he has provided concerning the tobacco program. I am sure we would not have this bill here today, we would not have passed this bill, which is so vital to protect the farmers of this Nation, if it had not been for the outstanding leadership of the able Senator from North Carolina (Mr. HELMS).

I would also like to commend the junior Senator from North Carolina (Mr. EAST) for his part in this bill. He proved to be knowledgeable about matters concerning tobacco. He has proven his dedication and loyalty to the tobacco farmers and has done an outstanding service in the consideration of this bill.

I would also like to commend the able Senator from Kentucky (Mr. HUDDLESTON) for his interest in this bill, for his knowledge of the tobacco situation, and everything that he did to promote the passage of this bill, which is so vital to the tobacco farmers in my State as well as many other States.

I am very pleased that this bill has passed by such a large vote of 77 to 17. I think it signifies that this Nation, through this Congress, realizes the importance of tobacco to the economy of this Nation as well as to many States where the farmers depend upon it for a living.

Additionally, I would like to thank my able staff member, Mr. "Gus" Tantillo for his assistance in this matter. I would also like to thank the Senate Agriculture Committee staff, directed by George Dunlop, for their tireless efforts in putting this legislation together, along with Murray Jones of Senator EAST's staff and any other staff member on the majority side who participated in this affair.

Mr. HELMS. Madam President, needless to say, I am grateful to my friend from South Carolina for his typically generous statements. No Senator has worked harder on behalf of the tobacco program than Senator THURMOND.

Also I join him in the spirit of commendation to my colleague from North Carolina (Mr. EAST).

When JOHN arrived in the Senate a year and a half ago, the first job he undertook was to explain the tobacco program to newcomers in the Senate, and he has worked constantly in that regard. I pay my respects to him.

Again I thank the Senator from South Carolina for his remarks.

Mr. EAST. Madam President, I would like to take a moment first to thank the distinguished Senator from South Carolina for his kind remarks about my activities on behalf of this bill, and I also thank my distinguished colleague from North Carolina for his comments. The invaluable contribution the two of them made to this whole effort is well known. I would like to make public note of that.

Also, I would like to underscore the great contribution of the very distinguished Senator from Kentucky, the ranking minority member of the Agriculture Committee, a man greatly respected here, who gave invaluable leadership. This is a nonpartisan issue, a bipartisan issue. That is the way it ought to be. All of us are deeply grateful to him for the great leadership he has shown.

Finally, Madam President, I would again like to thank the distinguished chairman of the Senate Agriculture Committee and the distinguished ranking minority member for the great leadership they have shown in getting this very valuable piece of legislation through. There is no issue that is more significant or important to my State than this one. I deeply appreciate the support and cooperation that all of our colleagues gave us on this very important matter.

Of course, I would also like to commend our distinguished opponent from the State of Missouri for the great quality of his opposition and very effective way in which he works and operates. He is a very tough opponent. He keeps us on our toes. I would like to commend him for his very honorable effort. Thank you, Madam President.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Madam President, I ask unanimous consent that I may be permitted to proceed in morning business for a brief period not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. STEVENS. Madam President, I ask unanimous consent that on tomorrow, July 15, there be special orders entered for the Senator from Pennsylvania (Mr. SPECTER); the Senator from Illinois (Mr. DIXON); and the Senator from Georgia (Mr. NUNN) for periods not to exceed 15 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. STEVENS. Madam President, I ask unanimous consent that, when the Senate completes is business today, it stand in recess until tomorrow morning at 9:15 a.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXTENSION OF TIME TO REPORT RESOLUTION

Mr. STEVENS. Madam President, I ask unanimous consent that the Committee on Rules and Administration have until the close of business on Friday, July 23, 1982, to report the resolution required under Senate Resolution 20.

The PRESIDING OFFICER. Without objection, it is so ordered.

SETTLEMENT OF CLAIMS UNDER THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIM ACT OF 1964

Mr. STEVENS. Madam President, I ask unanimous consent that the Senate proceed to consider Calendar No. 692, S. 1739.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 1739) to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount that the United States may pay in settlement of a claim under that act, which had been reported

from the Committee on the Judiciary with amendments, as follows:

On page 3, line 23, strike "(a)"; and

On page 4, strike line 1, through and including line 8.

So as to make the bill read:

S. 1739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds—

(1) that the United States should provide an appropriate level of protection to military personnel and civilian employees of the United States from loss, damage, or destruction of their personal property incident to their Federal service;

(2) that in 1974 the Congress, when it amended the Military Personnel and Civilian Employees' Claims Act of 1964, determined that because of inflation, as reflected in the Consumer Price Index, the proper maximum level of protection from the catastrophic loss, damage, or destruction of personal property incident to service should be raised from $10,000 to $15,000;

(3) that because of increased repair and replacement costs resulting from general inflationary factors, the $15,000 maximum level of protection found proper in 1974 no longer affords an adequate level of protection to military personnel and civilian employees from such catastrophic losses;

(4) that the Consumer Price Index (United States city average) has increased from 153.0 in October 1974 to 276.5 in August 1981 (an 80.7 per centum increase), thus requiring $27,105 today to match the October 1974 purchasing power of $15,000;

(5) that an inadequate level of protection from such catastrophic losses has a detrimental effect on the morale of all military personnel and civilian employees, whether they are the victims of such losses or are merely aware that such losses are occurring to their fellow employees and military personnel;

(6) that catastrophic losses which are inadequately compensated cause unnecessary suffering and hardship for the personnel and families who experience them; and

(7) that an appropriate increase in the level of protection is needed as a matter of fairness to all Government employees and is particularly needed as a part of congressional efforts to improve retention and morale in the Armed Forces.

Therefore, Congress declares that the maximum level of protection from the loss, damage, or destruction of personal property incident to the service of military personnel and civilian employees of the United States should be increased from $15,000 to at least $25,000.

SEC. 2. Sections 3(a)(1) and 3(b)(1) of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 241 (a)(1) and (b)(1)) are each amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

SEC. 3. (a) The amendments made by this Act shall apply only to claims arising on or after the date of enactment.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. STEVENS. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. STEVENS. Madam President, I ask unanimous consent that the Senate go into executive session to consider the nomination numbered 740 on the Executive Calendar.

There being no objection, The Senate proceeded to the consideraton of executive business.

The PRESIDING OFFICER. The nomination will be stated.

SECURITIES INVESTOR PROTECTION CORPORATION

The legislative clerk read the nomination of James W. Fuller, of California, to be a Director of the Securities Investor Protection Corporation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. STEVENS. I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Madam President, I ask unanimous consent that the Senate return to legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FEDERAL RECLAMATION LAW

Mr. STEVENS. Madam President, I thank the Senator from Idaho, the Senator from Indiana, and the Senator from Wyoming for their patience.

I ask unanimous consent that the Chair proceed with the original order.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1867, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 1867) to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert the following:

That this Act shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371), hereinafter referred to as the "Federal reclamation law."

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "district" means any individual or any legal entity established under State law which has entered into a contract or is eligible to contract with the Secretary for irrigation water.

(b) The term "full cost" means an annual rate as determined by the Secretary that shall amortize the construction costs properly allocable to irrigation facilities in service, plus all operation and maintenance deficits funded, less payments, over such periods as may be required under reclamation law or applicable contract provisions with interest on both accruing from the date of enactment on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to the date of enactment. The interest rate used pursuant to this Act shall be determined by the Secretary of the Treasury on the basis of the computed average interest rate payable by the Treasury upon its marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issuance: *Provided,* That normal operation, maintenance, and replacement charges will be collected in addition to the full cost charge.

(c) The Term "individual" means any natural person, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code (26 U.S.C. 152).

(d) The term "irrigation water" means water made available for agricultural purposes from the operation of reclamation project facilities pursuant to a contract with the Secretary.

(e) The term "landholding" means total irrigable acreage of one or more tracts of land owned or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary.

(f) The term "qualified recipient" means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits twenty-five such individuals or less.

(g) The term "limited recipient" means any legal entity established under State or Federal law benefiting more than twenty-five individuals.

(h) The term "Secretary" means the Secretary of the Interior.

SEC. 3. (a) The provisions of the Federal reclamation laws shall remain in full force and effect, except to the extent such laws are amended by, or are inconsistent with, this Act.

(b) Nothing in this Act shall repeal or amend any existing statutory exemptions from the acreage limitation of the Federal reclamation law.

ACREAGE LIMITATION

SEC. 4. (a)(1) Notwithstanding any other provisions of law to the contrary, irrigation water may be delivered to a qualified or limited recipient for use in the irrigation of a landholding of not more than two thousand and eighty acres of class I lands, or the equivalent thereof: *Provided,* That not more

than one thousand two hundred and eighty acres of such landholding may be owned by a qualified recipient and that not more than six hundred and forty acres of such landholding may be owned by a limited recipient.

(2) Lands leased for a term of one year or less for the purpose of water management and conservation in years of inadequate project water supply shall not be considered as part of a landholding solely because of having been so leased.

(b) Irrigation water may be delivered to lands leased in excess of a landholding of two thousand and eighty acres or the equivalent thereof as described in subsection (a), only if full cost as defined in subsection 2(b) of this Act is paid for such water as is assignable to those lands leased in excess of a landholding of one thousand two hundred and eighty acres in the case of a qualified recipient or lands leased in excess of a landholding of six hundred and forty acres in the case of a limited recipient: *Provided*, That "full cost" shall not be applied to excess lands under recordable contract.

(c) In determining the extent of a landholding the Secretary shall add to any landholding held directly by a qualified or limited recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that owner in proportion to that ownership.

EQUIVALENCY

SEC. 5. Wherever an acreage limitation is imposed by the Federal reclamation law, including this Act, the Secretary, upon the request of a contracting entity, shall designate lands under the applicable acreage limitation within a district classified as having class I productive potential or the equivalent thereof in other lands of lesser productive potential. Standards and criteria for determination of land classes pursuant to this authority shall take into account all factors which significantly affect the economic feasibility of irrigated agriculture, including but not limited to, soil characteristics, crop adaptability, costs of crop production, and length of growing season.

RESIDENCY NOT REQUIRED

SEC. 6. Notwithstanding any other provision of law, irrigation water made available from the operation of reclamation project facilities shall not be withheld from delivery to any project lands for the reason that the owners, lessees, or operators do not live on or near them.

RECORDABLE CONTRACTS

SEC. 7. (a)(1) Irrigation water made available in the operation of reclamation project facilities constructed after the enactment of this Act may not be delivered for use in the irrigation of lands held in excess of the acreage limitations imposed by the Federal reclamation law, including this Act, unless and until the owners thereof shall have executed a recordable contract with the Secretary.

(2) Lands held in excess of the acreage limitations imposed by the Federal reclamation law, including this Act, which on the date of enactment of this Act are or are capable or receiving delivery of irrigation water made available by the operation of existing reclamation project facilities may receive such deliveries only: (i) if the disposal of the owner's interest in such lands is required by an existing recordable contract with the Secretary, or (ii) if the owners of such lands have requested that a recordable contract be executed by the Secretary.

(b) The recordable contracts referred to in subsection (a) shall require the disposal of interests in excess lands within a reasonable time to be established by the Secretary, but shall not exceed ten years after the recordable contract is executed by the Secretary in accordance with terms and conditions required by the Federal reclamation law generally.

(c) Recordable contracts existing on the date of enactment shall be amended at the request of the landowner to conform with the acreage limitations contained in this Act: *Provided*, That the time period for disposal of excess lands specified in the existing recordable contract shall not be extended except as provided in subsection (e).

(d) All recordable contracts covering excess lands sales shall provide that a power of attorney shall vest in the Secretary to sell any excess lands not disposed of by the owners thereof within the period of time specified in the contracts. In the exercise of that power, the Secretary shall sell such lands through an impartial selection process only to qualified purchasers according to such reasonable rules and regulations as he may establish: *Provided*, That the Secretary shall recover for the owner the fair market value of the land and improvements thereon unrelated to irrigation water deliveries.

(e) The period of time for which the disposal of excess lands may have been required under recordable contracts executed under the Federal reclamation law, including this Act, are hereby, and in the future shall be, extended for the period of time in which the Secretary shall have withheld the processing or approval of the disposition of such lands, whether he may have been compelled to do so by court order or whether he may have declined to do so for other reasons.

(f) Excess lands which have been or may be disposed of in compliance with the Federal reclamation law, including this Act, shall not be considered eligible to receive irrigation water unless—

(1) they are held by nonexcess owners; and

(2) in the case of disposals made after the date of enactment of this Act, their title is burdened by a covenant prohibiting their sale, for a period of ten years after their original disposal to comply with the Federal reclamation law, including this Act, for values exceeding the sum of the value of newly added improvements and the value of the land as increased by market appreciation unrelated to the delivery of irrigation water. Upon expiration of the terms of such covenant, the title to such lands shall be freed of the burden of any limitations on subsequent sale values which might otherwise be imposed by the operation of section 432e of title 43, United States Code.

CORPS OF ENGINEERS PROJECTS

SEC. 8. (a) Notwithstanding any other provision of law to the contrary, neither the acreage limitation provisions nor the other provisions of the Federal reclamation laws, including this Act, shall be applicable to lands receiving benefits from Federal water resources projects constructed by the United States Army Corps of Engineers, unless—

(1) the project has, by Federal statute, explicitly been designated, made a part of, or integrated with a Federal reclamation project; or

(2) the Secretary, pursuant to his authority under the Federal reclamation law, has provided project works for the control or conveyance of an agricultural water supply for the lands involved.

(b) Notwithstanding any other provisions of this section to the contrary, obligations that require water users, pursuant to contracts with the Secretary, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administrative costs of a Corps of Engineers project which are allocated to conservation storage or irrigation storage shall remain in effect.

REPAYMENT OF CONSTRUCTION CHARGES

SEC. 9. (a) The acreage limitation provisions of the Federal reclamation law shall cease to apply to any part of a landholding upon completion of the repayment by any contracting entity of the amount of any construction costs required to be repaid by such contracting entity (or by a person within the district pursuant to a contract existing on the date of enactment of this Act) by the terms of any contracts with the Secretary relating to the delivery of water supplies to such part of a landholding for agricultural use: *Provided*, That where any such contract may be entered into pursuant to the authority of the Rehabilitation and Betterment Act (Act of October 7, 1949, 63 Stat. 724, as amended), the contracting entity shall have the additional option of adopting a form of repayment consistent with section 5(c)(2) of the Small Reclamation Projects Act of 1956 (Act of August 6, 1956, 70 Stat. 1044, as amended) and if such form of repayment is adopted, the acreage limitation provisions of the Federal reclamation law shall not apply solely as a result of the indebtedness under such contract.

(b) The Secretary shall provide, upon request of any owner of a landholding for which repayment has occurred, a certificate acknowledging that the landholding is free of the acreage limitation of the Federal reclamation law. Such certificate shall be in a form suitable for entry in the land records of the county in which such landholding is located. Any certificate issued prior to the date of enactment of this Act is hereby ratified.

(c) Nothing in this Act shall be construed as authorizing or permitting lump sum or accelerated repayment of construction costs, except in the case of a repayment contract which is in effect upon the date of enactment of this Act and which provides for such lump sum or accelerated repayment by an individual or district or except as provided in subsection (d) of this section.

(d) The Secretary is authorized to negotiate with such contracting entity to conform the terms of any such contract to permit lump sum or accelerated repayment if the Secretary finds that the amount of outstanding indebtedness is less than 5 per centum of the total repayment obligation associated with such contract and that a pattern of family farming has been established in the project service area.

RELIGIOUS OR CHARITABLE ORGANIZATIONS

SEC. 10. An individual religious or charitable entity or organization (including but not limited to a congregation, parish, school, ward, or chapter) which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended, and which owns, operates, or leases any lands within a district shall be treated as a person under the provision of this Act regardless of such entity or organization's affiliation with a central organization or its subjugation to a hierarchical authority of the same faith and regardless of whether or not the individual entity is the owner of record if—

(a) the agricultural produce and the proceeds of sales of such produce are directly used only for charitable purposes;

(b) said land is operated by said individual religious or charitable entity or organization (or subdivisions thereof); and

(c) no part of the net earnings of such religious or charitable entity or organization (or subdivision thereof) shall inure to the benefit of any private shareholder or individual.

EXEMPTIONS

SEC. 11. Neither the limitations and restrictions imposed by this Act nor any other provision of the Federal reclamation law shall prohibit the delivery of irrigation water—

(a) so long as the lands are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the lands served do not exceed the limits imposed by the Federal reclamation law, including this Act;

(b) when the lands served receive only a temporary, not to exceed one year, supply made possible as a result of—

(1) an unusally large water supply not otherwise storable for project purposes; or

(2) infrequent and otherwise unmanaged flood flows of short duration;

(c) when the lands are acquired by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of a mortgage, by inheritance, by devise: *Provided*, That if after acquisition, such lands are not qualified under the Federal reclamation law, including this Act, they shall be furnished temporarily with a water supply for a period not exceeding ten years from the effective date of such acquisition;

(d) to isolated tracts found by the Secretary to be economically farmable only if they are included in a larger farming operation but which may, as a result of their inclusion in that operation, cause it to exceed the acreage limitations of the Federal reclamation law, including this Act;

(e) to lands which will receive a substitute water supply and will be required by the Secretary in his contract with the district to reduce ground water pumping in equal quantity from aquifers in the project area as a condition of receiving substitute water from a Federal reclamation project.

CONTRACT REQUIRED

SEC. 12. Irrigation water temporarily made available from reclamation facilities in excess of ordinary quantities not otherwise storable for project purposes or at times when such water would not have been available without the operations of those facilities, may be used for water quality, irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use of such water, executed in accordance with the Reclamation Project Act of 1939, or other applicable provisions of the Federal reclamation laws.

VALIDATION

SEC. 13. Any non-Federal party to a repayment contract with the Secretary relating to a reclamation project may obtain validation of any provisions of such contract relating to the acreage limitation available to such party pursuant to such contract or under the Federal reclamation law by making application therefor to the Secretary in writing within three years from the date of enactment of this Act. The Secretary shall review each such application and within ninety days from the date on which he receives such application shall transmit it to the Congress together with his comments and recommendations. Unless the Congress by joint resolution disapproves the application within ninety days from the date on which it receives the Secretary's transmittal, the application shall be approved and the provisions shall be considered to be validated.

CONSENT TO SUE

SEC. 14. In addition to any other remedy available in law or equity, any party to a contract with the Secretary providing for water service or for the repayment of the construction costs of Federal reclamation project facilities used to store and deliver irrigation water may bring an action in the United States district court for the district in which the project facilities are located, and only in such district, for mandatory injunctive or other appropriate relief to adjudicate, confirm, validate, or decree the contractual right of any person or entity, including but not limited to any contracting entity, who is the beneficiary of any such contact and to reform such contract in accordance with the terms of any written representation concerning the application or interpretation of the Federal reclamation law, including this Act, or contracts made by the Secretary or his representative to such party or his predecessor in interest. Exclusive jurisdiction for such suit is hereby vested in the United States district court. In the case of a written representation, if the court finds, on the basis of the evidence submitted, that the party would not have entered into the contract but for the written representations made by the Secretary or his representative, which were relied on by those using such irrigation water, then the court shall order the Secretary to reform the contract to conform with the representations, and the contract, as reformed, shall be considered valid as of the date of the written representation.

ADMINISTRATIVE PROVISIONS

SEC. 15. (a) The Secretary may prescribe regulations and shall collect all data necessary to carry out the provisions of this Act and other provisions of the Federal reclamation law.

(b) Section 3 of the Act of July 7, 1970 (43 U.S.C. 425b) is amended by striking the phrase "for a period not to exceed twenty-five years" following the term "project water".

(c) Any nonexcess land which is acquired into excess status pursuant to involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of mortgage, inheritance, or devise, may be sold at its fair market value without regard to any other provision of this Act or to section 46 of the Act entitled "An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes," approved May 25, 1926 (43 U.S.C. 423e): *Provided*, That if the status of mortgaged land changes from nonexcess into excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process of law, by bona fide conveyance in satisfaction of the mortgage, such land may be sold at its fair market value.

(d) Beginning October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(e) The Secretary is hereby authorized and directed to amend any provision of any contract between the Secretary and another party existing upon the date of enactment of this Act which is inconsistent with the provisions of this Act but only at the request of said other party.

(f) The Act of May 26, 1926, Appointment of Commissioner of Reclamation (44 Stat. 657) is amended by adding the words "by and with the advice and consent of the Senate" after the word "President".

LEASING REQUIREMENTS

SEC. 16. (a) Notwithstanding any other provision of the Federal reclamation law, including this Act, lands which receive irrigation water may be leased only if the lease instrument is—

(1) written; and

(2) for a term not to exceed ten years, including any exercisable options: *Provided, however*, That with the prior approval of the Secretary, leases of lands for the production of perennial crops having an average life of more than ten years may be for periods of time equal to the average life of the perennial crop but in any event not to exceed twenty-five years. In addition, the Secretary shall be provided with a certificate signed by the lessee which contains a legal description of the leased land, including a statement of the number of acres leased, the term of the lease, and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land.

(b) Any lease in effect as of January 1, 1982, shall be required to comply with the provisions of this Act within ten years of enactment of this Act.

(c) Lessees holding lands in excess of the acreage limitation of this Act or of any other provisions of the Federal reclamation law under the provisions of a valid written lease effective as of January 1, 1982, shall be required to comply with the appropriate acreage limitation within ten years of enactment of this Act.

REPORTING

SEC. 17. Any contracting entity subject to the acreage limitation of the Federal reclamation law shall compile and maintain such records and information as the Secretary deems reasonably necessary to implement this Act and the Federal reclamation law. On a date set by the Secretary following the date of enactment of this Act, and annually thereafter, every such contracting entity shall provide in a form suitable to the Secretary such reports on the above matters as the Secretary may require.

Mr. WALLOP. Madam President, it is my understanding that the Senator from Idaho will ask the Senator from Wyoming to be floor manager for this bill during the course of its consideration. I therefore ask unanimous consent that the committee amendment in the nature of a substitute to S. 1867 be adopted as original text for purposes of further amendment, and it is my understanding this has been clea ed with the minority.

Mi. ROBERT C. BYRD. Madam President, the distinguished Senator is right in that statement. Mr. JACKSON is agreeable to the request, and therefore there is no objection.

The PRESIDING OFFICER. Without objection, the committee amendment is agreed to.

Mr. WALLOP. Madam President, today the Senate begins consideration

of S. 1867, the Reclamation Reform Act of 1982. As amended and reported by the Committee on Energy and Natural Resources on April 29, 1982, this bill represents the product of the extensive efforts of this and previous Congresses to reconcile current farm practices with 80 years of law and history which began with the passage of the 1902 Reclamation Act.

This bill is necessary not only because the acreage limitations in the 1902 act are, and have been, seriously outdated for some time, but also because previous administrations over the 80-year history of the program have employed conflicting interpretations of the law. Even worse, they have been lax in enforcing the relevant statutes. In general, the Bureau of Reclamation and Secretaries of the Interior have interpreted reclamation law on a case-by-case basis.

In 1977, the Carter administration proposed regulations under the reclamation law, which many believed were contrary to its intent and to irrigation interests generally. For example, the regulations proposed a residency requirement for reclamation farmers which had not been imposed since passage of the 1926 Omnibus Adjustments Act. Further, for the first time the regulations placed a limit on leasing. Such a limit had never been a requirement of the law. As a result of court action and a review of the issues initiated by the Reagan administration, the comment period on the new regulations was suspended. However, it is only due to active consideration by Congress of the legislation before us today to reform the Reclamation Act that these or similar regulations are not in effect today. It is therefore imperative that we proceed expeditiously with consideration of S. 1867, so that the Senate may move quickly to a conference with the other body, which has already passed a similar bill.

I would like to emphasize at this point that resolution of the cloud of uncertainty which hangs over the status of reclamation law is not only vital to the 17 Western reclamation States, it is also of primary importance to the Nation as a whole. In 1980, the gross value of crops from reclamation farms was about $7.4 billion. About 153,000 individual farms under the program represent approximately 25 percent of this Nation's total irrigated farmland and produced a variety of crops ranging from grains and forage crops to the fruits and vegetables found on the table of every American. Make no mistake, the decisions made and votes cast on this bill will affect consumers in every State in the Union—North, South, East, or West.

At this point, I would like to insert into the RECORD a summary of the major provisions of the bill and explanation of certain sections.

SUMMARY OF MAJOR PROVISIONS

As amended, S. 1867 addresses several major issues related to the reclamation program and in some instances would mandate significant departures from past or present practice. Major issues and related provisions of the bill are briefly described as follows:

FULL COST

Section 2 defines the full cost which will be paid by recipients of irrigation water when lands are leased in excess of the overall ownership/leasing limitation set forth in the bill. Full cost includes interest at the rate of the average outstanding United States Treasury obligations which are neither due nor callable for 15 years.

ELIGIBILITY

Section 2 establishes that a recipient of water for irrigable land (or "qualified recipient") would be an individual along with his spouse and dependents or a legal entity benefiting 25 individuals or less. A "limited recipient" would be any legal entity benefiting more than 25 individuals.

ACREAGE LIMITATION

Section 4 raises the basic ownership acreage limitation from 160 acres to 1,280 for a qualified recipient and to 640 acres for a limited recipient. An overall combined ownership and leasing acreage limitation of 2,080 acres is established for all recipients. Lands leased below the overall limitation are eligible to receive irrigation water without paying full cost. If lands are leased in excess of the overall limitation, full cost is applied to all lands leased in excess of the ownership limitations (e.g., 1,280 acres for a qualified recipient; 640 acres for a limited recipient).

EQUIVALENCY

Section 5 requires the application of the acreage equivalency concept to lands of lesser productive potential than Class I lands upon the request of a contracting entity.

RESIDENCY

Section 6 clarifies that residency is not a requirement of Federal reclamation law.

RECORDABLE CONTRACTS

Section 7 provides requirements for recordable contracts for the disposal of lands in excess of the acreage limitations and directs the sale of excess lands by impartial means for which a power of attorney has been vested in the Secretary at the time of expiration of the recordable contract.

PAYOUT

Section 9 provides that the acreage limitations imposed by Federal reclamation law will cease to apply upon repayment of construction costs owed to the Federal Government by the water users of a reclamation project. Lump-sum or accelerated payments are permitted only pursuant to existing contract provisions or after 95 percent of construction costs have been paid and a pattern of family farms has been established.

SPECIAL EXEMPTIONS

Sections 8 and 11 provide that the limitations of Federal reclamation law are not applicable to Corps of Engineers projects, except under circumstances set forth in the statute, nor to certain other special circumstances.

There have been some questions raised as to fine points of interpretation of some of the language in S. 1867. I would like to clarify these ambiguities at this point in the RECORD. There has been concern, for example, that lands which are currently ineligible to receive water under existing law would not be able to receive project water if they are otherwise eligible under the new law. This is not the case. For example, if an individual currently owns 640 acres, 480 acres of which are currently excess, that an individual would under the new law have 640 acres of eligible land which would not have to be disposed of even if currently covered by a recordable contract.

A point which needs some clarification is the treatment of commingled waters under the bill. There are a number of instances where landowners have entered in agreements with the Federal Government concerning existing privately held water rights. Some of these agreements involve the commingling of project and nonproject water and/or the conveyance of project water in nonproject facilities, or the conveyance of nonproject water in project facilities, or the exchange of nonproject water with project water. It is the intent of this bill that where contracts have been or may be entered into between the Federal Government regarding the respective rights and treatment of commingled waters, these contracts are to be respected.

Finally, in section 14 on consent to sue, it is important to clarify that the injunctive relief contemplated in this section is an important new form of relief available to all litigants to be used by the courts where appropriate, but at the same time this section is not intended to supplant or diminish the effectiveness of the McCurran Act (66 Stat. 560) or the remedies available thereunder.

Those who criticize these programs in terms of cost to the Federal Government often conveniently overlook the fact that, for roughly a $7 billion investment by the Federal Government over an 80-year period, the nationwide economic benefits have come to over $54 billion. Few, if any, other Federal programs have such a remarkable degree of success. In addition, reclamation farmers pay back, according to their ability, all costs of a reclamation project which are allocated to irrigation.

In order to preclude misstatements of facts which may arise during the debate on this legislation, I would like to provide some facts as well as dispel some of the myths we are likely to encounter during our consideration of the two major issues raised by this bill. These are farm size and the issue of Federal subsidy.

FARM SIZE

Opponents are likely to charge that this bill is overly generous to large corporations and undermines the concept of the family farm. Neither of these contentions is correct. Large corpora-

tions, if we define them as entities with more than 10 owners, farm only 3 percent of the land subject to reclamation law, according to the environmental impact statement developed by the Carter administration. That same document shows that the average acreage of farms over 960 acres is 2,140 acres, while the overall average of corporate farm—defined as having 10 or more owners—has only 557 acres. There are of course examples such as the Southern Pacific Corp. and Tenneco, which currently own thousands of acres, but these lands are under recordable contracts requiring their sale and will be disposed of in accordance with the law. The provisions of S. 1867 will allow corporations such as those I have just mentioned to own only 640 acres if they are to receive reclamation water.

Over 90 percent of the farms in excess of 960 acres are family farms owned by 10 individuals or less. For these farms S. 1867 imposes a cap of 1,280 acres of owned land. An additional 800 acres may be leased, but only under the terms of a valid written lease which reflects a fair price for the leasehold to the owner. In other words, the benefits of the Federal program must accrue in a fair proportion to the owner of the land as would be the case in a normal "arm's length" business transaction.

At this point, I think it is important to emphasize that S. 1867 provides the same ownership limitation as the bill S. 14, which passed the Senate on a vote of 47 to 23 during the previous Congress. S. 14 had an ownership limit of 1,280 acres; so does S. 1867. The only difference is that S. 1867 provides for the additional flexibility of leasing up to 800 added acres but only if done in a businesslike fashion. No sham transactions are allowed. The benefits of the Federal programs must accrue primarily to the landowner and remain as dispersed as possible. In this regard S. 1867 is an improvement over S. 14 in that it allows flexibility for the family farmer to put together a combination of owned and leased lands in order to meet the variety of economic circumstances which he might face.

FEDERAL "SUBSIDY"

Critics will undoubtedly charge that the "ability to pay" formula in existing law and to some extent in S. 1867 represents an unfair giveaway by the Federal Government. As proof of this assertion, several reports may be cited, including a March 13, 1981, report by GAO entitled "Federal Charges for Irrigation Projects Reviewed Do Not Cover Costs." What is omitted in these criticisms is, first, the history of the existing repayment formula, and second, the contravening conclusions of the reports themselves. The original 1902 Reclamation Act provided for repayment within 10 years. As the 1981 GAO report indicated, "The farmers in early reclamation projects had a difficult time meeting the annual repayment requirements * * *." Subsequent enactments by Congress attempted to deal with this problem by extending the repayment period, until in 1939, the Reclamation Projects Act set forth the concept of "ability to pay" as a consideration in repayment of project costs. That concept was a sound one, based as it was on the notion that many of the benefits of the programs were national in scope and that those costs which farmers could not bear would be repaid out of power revenues. Ths idea was that it made no sense to drive one of the principal beneficiaries of the programs out of business; that is, the farmer. But on the other hand, it was also imperative to require the farmer to pay the maximum possible while sustaining the national benefits. After a great deal of sophisticated economic analysis, the 1981 GAO report comes to this same basic conclusion:

> If WPRS water were priced high enough to recover the construction costs plus a 7.5 percent interest charge, the potential customers of irrigation water could not generate enough extra agricultural yield to pay for the additional expenses required by irrigated agriculture, the projects studied fail the pragmatic test of economic viability for the irrigation facilities. (GAO) report, March 13, 1981, p. 40.)

I hope that those of my colleagues who desired a greater return to the Federal Treasury were listening closely to my last quotation. To paraphrase: An interest rate above 7.5 percent on "full cost" associated with this program will not be paid because it fails the test of "pragmatic * * * economic viability." You can vote for a higher interest rate than that in the committee bill if you like, but it will not result in increased revenues to the Treasury. It will only result in the irrigation farmer deciding not to receive project water, which in the end will adversely affect the Nation's economy. The reclamation law as currently written and as extended with the carefully throughout limitations in S. 1867, preserves the sound policy that beneficiaries of Federal programs should be required to pay for costs to the maximum extent possible, but not at the expense of the objectives of the program itself.

Madam President, I yield to the Senator from Idaho, Mr. McCLURE.

Mr. McCLURE. I thank the Senator for yielding.

Madam President, as the Senate begins debate on S. 1867, the bill to revise and modernize the Reclamation Act of 1902, there are a few points I would like to make myself, in addition to those Senator WALLOP has mentioned, because as far as I am concerned, nothing this body has undertaken so far this year is of greater importance or significance to my own State and region in particular—but even more importantly to the Nation as a whole.

I joined the Idaho Reclamation Association in 1953—nearly 30 years ago—and one of the items on the association agenda that year was a resolution identifying the need for and advocating a revision of the 1902 Reclamation Act. I mention that fact, Mr. President, not out of nostalgia but only to illustrate that it has taken the Congress of the United States a long time to get to this point. Yet there has been general agreement for some time that the law needs to be amended. The original law is simply not adequate for or consistent with the needs and realities of modern day farming operations. It should not be necessary to point out that farming has changed so dramatically since the law was enacted in 1902 that applying the terms and contexts from that era to the present is somewhat of an exercise in sentimentality. Through a process of evolution, the old law, based as it is on an ownership limitation of 160 acres, has become in many respects unworkable, unrealistic, and arbitrary.

We are all aware that the issue came to a head when the Carter administration, influenced apparently by notions of agrarian land reform and redistribution, and threatening the reverse nearly 100 years of work in water development, issued new regulations that went far beyond what was required to enforce the 1902 act. While the Carter administration is, of course, no longer in office, uncertainty over the status of the Federal reclamation program and the onus of the new regulations still hang over the heads of thousands of Western farm families whose livelihood depends on reclamation water. In my own State alone, the status of some 92,300 acres remains in question.

My colleagues will remember that the Senate has indeed spoken on this subject once already. During the 96th Congress we passed S. 14, and while I was disappointed in some aspects of that bill as it was passed in final form, it was nevertheless a basically sound product of diligent work and hard compromise. The effort to resolve the matter in the 96th Congress died, however, when the House failed to pass legislation. I believe, though, that we can pass a better bill during this Congress and see it signed into law.

On November 18, I was joined by Senators SYMMS, ABDNOR, DOMENICI, GOLDWATER, HATCH, LAXALT, HAYAKAWA, WALLOP, and the ranking minority member of my committee, Senator JACKSON, in introducing S. 1867. Senators ARMSTRONG and DECONCINI were later added as cosponsors. It incorporated many of the same ideas included in the bill passed by the Senate in the 96th Congress, and added to them new

concepts which would serve to increase the flexibility farmers might have in managing their operations. After 2 days of hearings in Washington and in the field and a day of markup, the Energy and Natural Resources Committee reported a bill of which I am proud and one which I think the Senate can and should be proud to pass. I particularly appreciate the work of both the minority and majority committee staffs in this regard. I am also pleased to note that the House of Representatives has passed legislation this year which, although differing from the Energy and Natural Resources Committee's bill in several respects, provides a good basis for the eventual resolution of various reclamation issues during the remainder of this Congress. The many people who are depending on Congress to act responsibly as the policymaking branch of Government to settle these questions must not be disappointed again this year.

Those of my colleagues who were Members of this body during the 96th Congress will remember, I am sure, the highly charged and sometimes emotional debate during our consideration of S. 14 in September 1979. Few other issues I have seen have generated so much conflicting information, misinformation, and misunderstanding, and I hope we can avoid that situation's recurrence; but reclamation reform is indeed a very complex subject because of the great variety of circumstances and ensuing problems which exist. We have tried very hard to address these varied circumstances in a fair, equitable, and efficient manner.

Among the bill's prominent features, as my colleague from Wyoming has mentioned, it raises the acreage limitation from 160 acres per individual to 1,280 acres for a family, with the ability to lease an additional 800 acres. My original bill included a somewhat higher figure, but I am certain there are those who will attack even the 2,080 figure as being excessive. It should be remembered, though, that this acreage limit is for a family and its dependents, regardless of their number, and in today's changing economy 2,080 could soon become as uneconomic as 160 acres has become. I am most anxious that as we update the terms of the 1902 act, that we do so in a manner that will not be obsolete and outdated before the ink is dry.

Accordingly, I feel strongly that we need at least the acreage figure which appears in the bill as reported. I want to reiterate and remind my colleagues that 1,280 acres is the same ownership figure which was included in the bill which the Senate passed earlier. All we have attempted to do is to maintain the incentive for a farmer to be a little bit more successful, a little bit more productive, a little bit better than his neighbor if his personal ability and initiative is such that he can do it. So S. 1867 as reported provides for the ability to operate and irrigate up to an additional 800 acres of land on a lease basis.

Opponents of leasing contend that it provides a mechanism whereby the strawmen of huge corporate conglomerates can benefit from the reclamation program by avoiding the law. To the contrary, I have found in my own State that leasing is needed by the smaller farmer or the young man just starting out for whom capital costs in today's economy make ownership a virtual impossibility. Accordingly, I feel that it is important to provide some mechanism under which farmers can operate under lease, and I believe this bill strikes a reasonable balance on that subject.

An additional subject which is of particular interest to me is that of validation, and I am especially anxious to see the validation provision in the bill remain intact. Without this validation provision, more than three dozen irrigation district contracts in Idaho alone, for example, placed under a cloud because of Federal court decisions handed down in the 1970's, will remain in doubt.

It seems to me that it is high time questions as to whether or not the terms of contracts entered into in good faith with the Federal Government are reliable or not are answered. The validation provision provides a means by which this can be accomplished.

One other area which has caused some concern particularly to irrigators from my area is the so-called commingling issue; that is, the circumstance wherein a farmer might operate with both project and nonproject water, or might receive nonproject water in part by way of some Federal facility. Senator WALLOP has already mentioned several examples of possible circumstances which could be created regarding commingled waters, and I think his examples illustrate the difficulty of crafting language adequate to define or differentiate commingled waters or the effect commingling should or should not have in terms of the applicability of reclamation law. We have, therefore, attempted to make clear that it is only that irrigation water made available from the operation of project facilities pursuant to a contract with the Secretary of the Interior that are subject to reclamation law. If, for example, water to which an irrigator is entitled under a private water right from the flow of the stream runs through a Bureau of Reclamation dam, that should not subject his entire operation to reclamation law. And, as Senator WALLOP has already mentioned, contractual arrangements entered into regarding the treatment of so-called commingled waters should also be respected.

Madam President, I have been interested and actively involved in the area of water resource development all of my professional life, both as an elected official and as a private citizen practicing law in Payette, Idaho. I speak from direct experience about my own State of Idaho, but I also know that what applies to Idaho is true as well for all the 17 reclamation States. Much of our economy and quality of life can be attributed to the 1902 Reclamation Act, and its success. Idahoans know the benefits of the Federal reclamation program; 44 percent of Idaho's irrigated farmland is on reclamation projects, and 85 percent of its agricultural returns are from irrigated land.

Of all the irrigated farmland in the United States—27 percent—about 11.2 million acres—is capable of being served by Federal reclamation water. Even though the land receiving this water is only 1 percent of the total irrigated and nonirrigated U.S. farmland, it produces over 8 percent of the gross value of all major crops grown in the United States. In 1980, for example, that was $7.4 billion worth of crops—enough food for 39 million people.

I know that many people, including many of my colleagues are quick to categorize reclamation projects and delivery of so-called cheap water as a massive Federal subsidy. There is no one in this body who has been more concerned about Federal financial accountability than I have, and I might just note that if all our federally subsidized programs were developed with the same constraints as reclamation projects—our Federal budgetary problems would be significantly less.

Almost all reclamation projects require that water users repay those construction costs which are allocated to irrigation purposes. In most cases interest is not charged and if there exists a so-called subsidy it is for interest only, because the principal is repaid. But I think it is important to recognize that the reclamation program is the only public works type Federal program in which recipients of the benefits are required to pay anything. Those who depend on harbors and waterways, highways, and airports do not pay any of their portion of such construction costs, let alone interest thereon.

Take, for example, the Washington, D.C. Metro system. With its estimated cost of around $6.7 billion, it will receive a subsidy of some $117.2 billion over the next 50-year period. That is a subsidy of nearly $60,000 for each of the 1 million people residing in the Washington metropolitan areas, and $6 million for each of the 20,000 people who use the system daily.

During the 80-year history of the reclamation program, Congress has appropriated approximately $8.7 bil-

lion for construction of reclamation projects. Only $1.4 billion of that is available to irrigation. Of that total, about $7 billion will be repaid to the Federal Treasury—about half of that with interest. In addition to irrigation, these projects have provided municipal water for 19 million people, recreation opportunities for 67 million people, power generation of 45 billion kilowatt hours, flood control, fish and wildlife, and other benefits. Costs for purposes such as flood control, fish and wildlife and outdoor recreation are partially or wholly nonreimbursable because of the difficulty of assessing costs to a widely dispersed segment of the population.

Aside from these additional benefits, a study by the Denver Research Institute a few years ago indicated that in actual dollars, reclamation projects have generated Federal taxes of over $19.5 billion. That does not include added local and State tax revenue, nor does it consider the added economic benefits including jobs created and goods produced which has been estimated to be as high as $54 billion. Reclamation is indeed unique among the programs of the Federal Government. Rather than merely consuming resources like so many other Federal programs, for a relatively small investment these projects produce wealth for our Nation.

Water, it has been said, is the lifeblood of the West, but water projects are of life-giving benefit to the entire Nation. We are indeed in a period of severe fiscal restraint—and rightly so; but reducing or damaging our Nation's productive capacity in food and fiber will not under any circumstances improve our economic situation. Quite the contrary. I urge my colleagues from all parts of the country and from both sides of the aisle to join in support of this measure. In order to show the wide range of support for this legislation we have compiled a list of those groups who favor it, and I ask unanimous consent that the list be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

A PARTIAL LISTING OF ORGANIZATIONS ACTING WITH THE FARM/WATER ALLIANCE IN SUPPORT OF S. 1867, TO MODERNIZE THE RECLAMATION ACT OF 1902

American Agri-Women.
American Bankers Association.
American Farm Bureau Federation.
American Society of Farm Managers and Rural Appraisers.
American Textile Manufacturers Association.
Arizona Reclamation Association/Arizona Agri-business Council.
Association of California Water Agencies.
Central Nebraska Public Power and Irrigation Board.
Chamber of Commerce of the United States.
Colorado Water Congress.
Columbia Basin Development League.
Food Producers of Idaho.
Idaho Water Users Association.
Kansas Irrigation and Water Resources Association.
Montana Water Development Association.
Mortgage Bankers Association of America.
National Association of Manufacturers.
National Association of Realtors.
National Association of State Departments of Agriculture.
National Cattleman's Association.
National Cotton Council.
National Council of Farmer Cooperatives.
National Water Resources Association.
Oregon Cattleman's Association.
Oregon State Fruit Growers League.
Oregon Water Resources Congress.
Texas Water Conservation Association.
The Irrigation Association.
Upper Missouri Water Users Association.
Washington State Water Resources Association.
Water Resources Congress.
Western Growers Association.
Western States Water Council.

Mr. WALLOP. Madam President, it is my understanding that the Senator from Indiana (Mr. LUGAR) will lay down an amendment this evening so that that can become the order of business when we take up consideration of the bill tomorrow.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

UP AMENDMENT NO. 1087

(Subsequently numbered amendment No. 1935.)

(Purpose: To require repayment of construction costs and interest for irrigation facilities)

Mr. LUGAR. Madam President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. LUGAR), for himself and Mr. PROXMIRE, proposes an unprinted amendment numbered 1087.

Mr. LUGAR. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, strike out lines 5 through 20.

On page 17, line 21, strike out "(c)" and insert in lieu thereof "(b)".

One page 18, line 1, strike out "(d)" and insert in lieu thereof "(c)".

On page 18, line 5, strike out "(e)" and insert in lieu thereof "(d)".

On page 18, line 9, strike out "(f)" and insert in lieu thereof "(e)".

On page 18, line 13, strike out "(g)" and insert in lieu thereof "(f)".

On page 18, line 16, strike out "(h)" and insert in lieu thereof "(g)".

On page 19, strike out line 1 through line 5 on page 20, and insert in lieu thereof the following:

ACREAGE LIMITATION

SEC. 4. (a) OWNERSHIP.—(1) Notwithstanding any other provisions of law to the contrary, irrigation water may be delivered to—

(A) any qualified recipient for use in the irrigation of lands owned by such qualified recipient of not more than nine hundred and sixty acres; and

(B) any limited recipient for use in the irrigation of lands owned by such limited recipient of not more than six hundred and forty acres.

(2) In determining the extent of ownership, the Secretary shall add to any land owned directly by a qualified or limited recipient that portion of any land owned indirectly by such qualified or limited recipient which benefits that owner in proportion to that ownership.

(b) NEW CONTRACTS.—(1) Any repayment contract or water service contract, regardless of its duration, and any amendment, supplement, or substitution thereto, which grants supplemental or additional benefits, entered into subsequent to the date of enactment of this Act pursuant to the Federal reclamation law shall amortize with interest, the cost of construction properly allocable to irrigation facilities in service, plus all operation and maintenance deficits funded, less payments—

(A) at an annual rate limited by the recipient's ability to pay for all irrigated acreage held by a recipient up to 320 acres;

(B) at an annual rate limited by the recipient's ability to pay which is one-half the rate the Secretary determines will amortize with interest the cost of construction properly allocable to irrigation facilities in service, plus operation and maintenance deficits funded, less payments for all irrigated acreage held by a recipient greater than 320 acres up to 960 acres; and

(C) at an annual rate which the Secretary determines will amortize with interest, the cost of construction properly allocable to irrigation facilities in service, plus operation and maintenance deficits funded, less payments for all irrigated acreage held by a recipient greater than 960 acres.

over such periods as may be required under reclamation law or other applicable contract provisions.

(2) All such contracts or renegotiations shall also provide for the collection of all operation, maintenance, and replacement charges.

(3) The rates charged for repayment of construction costs under this subsection and subsection (c) shall be based on the total acreage of lands held by such recipient served with irrigated water. The recipient's total acreage shall consist of any lands held by such recipient served with irrigated water whether as the owner or as a tenant, in the aggregate, whether situated in one or more districts. After the date of enactment of this Act, any recipient receiving irrigated water shall certify the total acreage held by such recipient under such rules and regulations as the Secretary may prescribe.

(c) LEASING.—The use of irrigation water for the irrigation of leased lands in districts which do not enter into a new or amended contract under subsection (b) shall be subject to the payment of construction costs and interests as provided in subsection (b).

(d) INTEREST RATE.—The interest rate used in amortizing construction and other costs pursuant to subsection (b) and (c) shall be calculated by computing the weighted average of market yields on all new, publicly held, interest-bearing, marketable issues sold during the fiscal year preceding the fiscal year in which the expenditures are made or the date of enactment of this Act, whichever is later. The interest rate charged shall be redetermined in accordance with the formula in the preceding sentence once

every four years to reflect the interest rate during the fiscal year preceding the fiscal year in which the interest rate is redetermined. This rate shall apply to all uncollected funds.

Mr. LUGAR. Madam President, I rise today to propose an amendment to strengthen the cost recovery provisions of the committee's bill. The amendment, which I have introduced with Senator PROXMIRE affects only two provisions of the committee bill: The acreage limits at which partial and full interest costs must be paid by farmers receiving irrigated water and the way in which the "full cost" of this water is calculated. Our amendment does not alter any other provisions of the committee bill.

I believe this amendment is timely. We are currently debating a balanced budget amendment to the Constitution. As we all know, this debate arises out of our experience with 20 years of deficits in the past 21 years. As we struggle to regain some control over the Federal budget, it is important that we look critically at every aspect of Federal spending and that we eliminate every form of unjustified subsidy. No aspect of the Federal budget ought to be beyond careful scrutiny.

We must have fairness in our Federal development policies. For too long the Federal Government has cushioned the Western States against the effects of their water problems. These States are no longer destitute. It is time for fair play. Indiana and the Midwest enjoy a major advantage over our so-called Sun Belt competitors in access to a plentiful water supply. It is time that Western farmers begin to repay a larger share of the enormous costs of these Federal water development policies.

To understand the case for our specific amendment, it is necessary to examine the history of reclamation law. When Congress enacted the Reclamation Act in 1902, it wanted the program to be self-financing. Congress did not envision the enormous irrigation subsidies that have arisen for farms, regardless of size. The Interior Department's EIS found that two-thirds of the water districts studied were paying 18 percent or less of the cost of service.

A reclamation fund was established. This was to be financed initially from the sale of public lands and eventually by the repayment of construction costs over 10 years. The farmer would also pay operation and maintenance costs on an annual basis. The only subsidy was that no interest was to be paid on construction costs. But interest rates at this time in our history were low. The interest subsidy was thus seen to be modest.

The Reclamation Act provided for the delivery of this subsidized water on lands up to a maximum of 160 acres. This was interpreted as 320 acres for farmer and spouse. Although the 1902 debate centered upon the irrigation of public lands, many early projects involved the irrigation of privately owned lands. A 1914 law provided for the sale to qualified recipients of lands irrigated with Federal water in excess of the acreage limitation.

There was much concern in the 1902 congressional debate with land speculation. The 1902 act required that all subsidized water must be sold to a recipient "unless he be an actual bona fide resident on such land or occupant thereof residing in the neighborhood of such land." This residency requirement has never been seriously enforced. But it has never been repealed and it shows the intent of the reclamation program to aid the family farmer, not the large corporation.

The house floor manager, Representative Newlands of Nevada, was concerned that land speculation would take over the reclamation program from the family farmer. He declared that the "very purpose of the bill was to guard against land monopoly and to hold this land in small tracts for the people of the entire country, to give each man only the amount of land that is necessary for the support of the family."

Opponents of reasonable acreage limitations sometimes deny that the purpose of the 1902 act was to aid the family farm. This they call a "social" objective and they contend that the "real" purpose of the reclamation program was economic and commercial development.

An inspection of the 1902 debates reveal that Congress did indeed have "economic" objectives in mind. Senator J. R. Gallinger of New Hampshire argued that "I feel sure that every thoughtful New England man will agree that when the arid region of our country is reclaimed and American families and American homes are established on these lands, it will open a new market for the manufactured goods of New England." But even this reference to economics emphasizes the family and homebuilding character of the reclamation program.

President Theodore Roosevelt best captured the spirit of the Reclamation Act in his message to Congress of December 3, 1901:

> The reclamation and settlement of the arid lands will enrich every portion of our country, just as the settlement of the Ohio and Mississippi valleys brought prosperity to the Atlantic States. The increased demand for manufactured articles will stimulate industrial production . . . Our people as a whole will profit, for successful homemaking is but another name for the upbuilding of the nation.

To the extent that the purpose of the reclamation program was economic and commercial development, this was to be achieved only through the family farm. This so-called social objective was regarded as an essential means to the furtherance of the "economic" objectives discussed.

The 1902 act never did succeed in recovering repayment of construction costs without interest within 10 years. As early as 1910, Congress authorized support for the reclamation fund from the general fund of the Treasury. The 1914 law extended the repayment period to 20 years. The Omnibus Adjustment Act of 1926 extended it to 40 years and the Reclamation Project Act of 1939 authorized an additional 10-year development period before a farmer has to start repaying construction costs.

The 1939 act also established the important ability-to-pay limitation. The ability to pay principle limits the farmer's repayment obligation (even without interest) to 75 percent of the value of the increase in crop value due to the irrigation project, minus costs and a reasonable allowance for profit. Power users and municipal and industrial water users make up the difference. But they also do not pay interest when they pay part of the irrigation costs.

The 1902 act is now altered almost beyond recognition in many water districts. Administrative interpretation has allowed unlimited leasing of land. Administrative practice has approved various multiple ownership arrangements. Subsidized water is therefore delivered to many farms larger than 320 acres. There are about 1 million acres of excess lands. Almost 90 percent of the excess acres of land are in California. The average size of a federally irrigated farm in California's Westlands Water District is approximately 2,200 acres. Although 97 percent of all farms in the reclamation program are 960 acres or below, 31 percent of irrigated acreage is in excess of 960 acres.

We cannot return to the days of the 1902 act. But we must act to reduce the subsidy for all new and amended contracts. The Department of the Interior's environmental impact statement on the acreage limitation found that the average water district studied paid 16 percent of the cost of service. We must begin to recover a greater percentage of full cost and to place an equitable limit on the subsidy.

The amendment which Senator PROXMIRE and I propose strengthens the cost recovery provision of the committee's bill and produces a more equitable distribution of the subsidy to irrigators. Our amendment provides for 100 percent of full cost interest payments on acres above 960; 50 percent of full cost interest payment on acres between 321 and 960; and no interest payments on the first 320 acres. Payments on acres below 960 are limited by the farmer's ability to pay.

Our full cost interest formula is that recommended by the General Ac-

counting Office as representing the true cost of borrowing to the Federal Government. Full cost is defined as the weighted average of market yields on all publicly held, interest-bearing, marketable issues. This average is calculated for the fiscal year preceding the fiscal year in which the expenditure is made or this act is enacted, whichever is later. This full cost interest formula is applied to the repayment of construction costs only. Operation and maintenance expenditures will be collected in the same manner as under the committee's bill.

Our interest payments would be amortized, as in a home mortgage. But since the cost of borrowing the money to finance the unpaid balance of the construction cost varies as interest rates vary, this rate should be periodically recalculated. Our amendment is like a variable home mortgage. It provides for a redetermination of the interest rate every 4 years. This is the period in which the Federal debt is on the average "rolled over." Currently, our interest rate would be 14 percent. But it will decline if the cost of borrowing money to the Federal Government declines.

Our amendment will make no changes in existing contracts. These contracts between a water district and the Secretary provide for a fixed construction repayment rate or water price to amortize construction costs. They cannot be altered without posing serious legal challenges. Nor would it be fair for the Federal Government to unilaterally alter the prices charged under these contracts. Our amendment therefore applies only to new and renewed contracts or to contracts which are renegotiated in order to secure an additional benefit.

Our amendment establishes a cap on the amount of owned lands that can receive subsidized water. The cap is 960 acres for qualified recipients. They are defined as 25 individuals or less. The cap is 640 acres for limited recipients. They are defined as more than 25 individuals. This compares to a cap of 1,280 acres for qualified and 640 acres for limited recipients in the committee's bill.

I would like to emphasize that our interest payments are limited for all acres below 960 acres by the ability-to-pay limitation. If a farmer could not afford to pay more than a certain amount per acre—say $20—his payments would be limited by that $20 figure. Farmers in districts in which the ability to pay limitation amount was less than half of full cost the amounts to be charged under our amendment or for acres up to 960 acres would pay the ability-to-pay amount and not the rates to be charged under our formula.

Above 960 acres, our full cost rate would not be limited by the ability-to-pay amount. We believe that farmers should pay full cost for all acreage above 960 which is irrigated with reclamation water. This is the position recommended by Secretary Watt, who also recommended an interest rate which would currently be 13 percent instead of our $14. Thus our amendment is not substantially different in its effects from that recommended by the administration.

Our amendment will protect against receiving multiple subsidies by requiring each recipient to list his irrigated acreages westwide. He would repay construction costs and interest calculated on the basis of the total acreage westwide he owns or operates under a lease served with irrigation water from the Bureau of Reclamation.

The major difference between our amendment and the committee's bill concerns the acreage limitation on the subsidy. We begin collecting some interest payments on irrigated acreage above 320 acres. The committee does not begin to collect any interest payments until 2,080 acres.

Our amendment provides for a "sliding scale" approach. Let us take the example of a 1,280 farm irrigated with Federal water. Under our amendment, no interest would be charged on the first 320 acres of such a farm and the ability to pay limitation would be preserved. Fifty percent of full cost would be charged on the next 640 acres and the ability to pay limitation would be preserved. Only the last 20 acres would be charged at full cost.

The committee would not begin charging any interest until a farm reaches 2,080 acres. Only 400 out of 47,000 farm operators would have to pay interest under the committee's bill.

The committee's bill contains the oddity that although no interest is charged until a farm reaches 2,080 acres, interest payments begin on the first acre above 1,280 acres. This is called the "snapback" provision. Thus a 2,080-acre farm would not pay interest on any acres but a 2,081-acre farm would have to pay interest on 800 acres! The committee report does not explain the rationale for this "snapback provision." Why not simply start the payment of interest at a certain acreage figure?

What is the best point at which to begin charging interest? It should be remembered that the question here is not one of farm size, but of the proper limit to the subsidy. The tradition of the reclamation program is to limit the number of acres of land that can receive subsidized water from the Bureau of Reclamation. This is called the acreage limitation. It is not a limit on farm size. It is not even a limit on the number of acres that can be irrigated by other means. It is a limitation on the amount of subsidized water than can be received by a single farm operation.

Is 320 acres or 2,080 acres the proper point at which to begin collecting some interest payments? The 320-acre limitation is the traditional acreage limitation for a reclamation farm of farmer and spouse. It is the original Bureau of Reclamation interpretation of the 160-acre limitation, given the community property laws of many Western States. Our amendment would totally exempt the 41,000 reclamation farms of 320 acres or less from the payment of any interest. These farms represent 87 percent of all reclamation farm operations and 39 percent of all irrigated acreage. Farms which are larger than 320 acres can afford to pay some interest on construction costs. The Department of Interior's draft environmental impact statement found that in all the districts studied "320 acre farms are relatively prosperous compared to the national average." The net income of these 320 acre farms exceeds the national average net farm income in all districts. In most districts, it exceeds twice the national average net farm income. Although only 13 percent of all farms exceed this limit, 61 percent of all irrigated acreage is in farm operations above 320 acres. By charging half of full cost interest from 320 acres and full interest above 960, our amendment will substantially reduce the extent of the Federal subsidy in the irrigation program. Furthermore, the Secretary of the Interior would limit payments on acreage between 320 and 960 by the ability to pay limitation.

I do not understand why the committee begins full cost interest payments at 2,080 acres rather than at 960 acres. By doing so, the committee extends the enormous present subsidies into the future. Nine hundred and sixty acres was the limitation recommended by Secretary Watt in his testimony to both the Senate and the House. Nine hundred and sixty acres was the limit recommended by former Secretary Andrus. It is the limit in the House passed bill.

It is argued that the 160 acre limit should be raised because the costs of modern farming result in larger farms being more efficient. But there is no study that shows that any potential increases in efficiency occurs above 960 acres. I can see no reason on grounds of promoting agricultural efficiency for not beginning payment of full cost at 961 acres.

Furthermore, it should be pointed out that, contrary to the unfounded allegations of the Farm Water Alliance, the Lugar-Proxmire amendment does not amend section 5 of S. 1867 that provides for an equivalency adjustment of the acreage limitation. Thus our acreage limitations can also be adjusted upwards by multiples sometimes as great as three to four times for lands which in the judgment

of the Bureau of Reclamation are not as productive as class I lands due to particular soil conditions, length of growing season, costs of crop production, and other factors.

The Farm Water Alliance also claims that no farmer would buy water at our full cost rates. But the figures that they circulate ignore the fact that our amendment applies only to new and amended contracts. They ignore the fact that we allow for equivalency adjustments. They ignore the fact that we allow the ability to pay limitation on the first 960 acres. And they assume that we would charge a higher rate on the first 320 acres than is the case under existing law, which is not true.

Farmers in California buy water from the State of California at prices which equal or exceed the highest rate that would be charged under our amendment. What matters to the farmer is the price of water at the farm "headgate." This includes the construction costs affected by our amendment, plus operation and maintenance, distribution costs and other expenditures. Using Interior Department data, the full cost rate for construction charges under the Lugar-Proxmire amendment would be $37.80 per acre-foot in the Westlands Water District in California. Add to this the existing other expenses of approximately $12.50 per acre-foot and you arrive at a headgate price for all acreage above 960 acres of $50.30 acre-foot in that district. The present headgate price is estimated by the Bureau of Reclamation to be $18 per acre-foot in Westlands.

There are three California State water districts very similar to Westlands in soil conditions and crop patterns where the headgate price of water to the farmer in 1982 is $48.99, $61.16 and $73.95 per acre-foot.

It is true that the price of this entitlement water is blended in with surplus water in the State of California to produce a lower blended price in many instances. But our full cost water is also blended with subsidized water. And the State of California expects the price of this surplus water to rise rapidly within the next few years. Furthermore, the surplus water will soon become a very small proportion of the total water to be delivered in California State water districts. The ability of California water district farmers to blend their entitlement water with substantially cheaper surplus water is disappearing. Yet the State of California believes that farmers will be able to afford these higher prices.

If the State of California is raising its already higher prices for State water, the Bureau of Reclamation should follow suit. Too great a disparity between Federal and State prices for water in California is probably not in the best interest of the State of California. It is certainly not in the best interest of the Federal taxpayer. Why should the Federal Government continue to provide massive subsidies to California irrigators when the State of California itself refuses to do so?

The CBO estimates that the Federal Government would save as much as $32 million per year in the Westlands Water District alone under the cost recovery provisions of the Lugar-Proxmire amendment.

The other difference between our amendment and the provisions of the committee bill concerns the definition of full-cost interest. Our full-cost interest rate is that recommended by the General Accounting Office and is the weighted average of market yields on all new, publicly held, marketable issues sold during the fiscal year in which the expenditures are made or the date of enactment of this act, whichever is later. This would be 14 percent at present. Our formula is close to that recommended by Secretary Watt in his testimony to the Senate Committee. The administration's formula would result in a 13 percent interest rate. Both our formula and the administration's are much closer to the true cost of borrowing to the Federal Government than is the formula recommended by the Senate Energy Committee.

The Energy Committee's formula defines full cost "on the basis of the computed average interest rate payable by the Treasury upon its marketable public obligations which are neither due nor callable for redemption for 15 years from the date of issuance." The committee's report provides no rationale for this formula. It leads to a 9⅜ percent interest, on all projects but new projects and is not periodically recalculated to represent the true cost of borrowing to the Federal Government.

When construction expenditures are made and farmers have 40 or 50 years to repay them, the Federal Government must borrow money to finance the unpaid balance of construction costs. Nine and three-eighths percent is not the current cost of borrowing to the Federal Government to finance this unpaid balance. But because these costs of borrowing vary from year to year, the interest rate charged for repayment of construction costs on all projects should be periodically redetermined. Our interest rate formula provides for a redetermination every 4 years. The committee's formula does not include a redetermination requirement.

We do not propose our amendment out of ignorance of the value of the reclamation program to the West. We do not propose it because we fail to realize the benefits of large-scale farming. We will propose it because we believe there is no justification for the Federal taxpayer to provide virtually unlimited subsidies to farm operations that can afford to pay a greater share of the cost of irrigation water.

Water is of vital importance to the West. But long-term water supplies will be maximized if farmers undertake additional conservation measures and place greater restraint on their use of this valuable commodity. This will occur if they are obligated to repay a greater share of the true cost of water.

Madam President, I ask whether it is the intent at this time to recess with the understanding that this will be the pending business as we begin consideration of this measure tomorrow.

Mr. WALLOP. This is my hope—that the acting majority leader, Senator STEVENS, will do that for us. Then we can get the running start we all desire in the morning.

Mr. STEVENS. Madam President, that is our intention, if it is consistent with the desire of the Senator from Indiana.

Mr. LUGAR. Would I have the floor then, to make an opening argument?

Mr. STEVENS. It is my understanding that this will be the pending amendment after routine morning business tomorrow, that the Senator has controlled time on his amendment, and that he would be entitled to recognition. Is that correct?

The PRESIDING OFFICER. If the Senator so desires.

Mr. LUGAR. I ask unanimous consent that that be the case.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. The Senator does not need unanimous consent, but we are happy to grant it, that he be the first Senator recognized tomorrow when the Senate resumes consideration of this bill and his amendment.

Mr. WALLOP. May I say, on behalf of the committee, that I thank the Senator from Indiana for calling up the amendment. It does give us a running start. We have a great deal of the bill to cover tomorrow as well as a great deal of philosophical arguments.

NOMINATION OF GEORGE P. SHULTZ TO BE SECRETARY OF STATE

Mr. STEVENS. Madam President, I announce that it is the intention of the leadership to proceed to the Shultz nomination at sometime tomorrow. We are working on a time agreement. We hope we will receive consent to interrupt consideration of this bill to take up the Shultz nomination sometime around noon. I do not think the agreement has been reached as yet, but it is the general feeling that it will be the will of the Senate to proceed to the Shultz nomination tomorrow.

Mr. WALLOP. The Senator from Wyoming has no objection to such a procedure. I think it is important that we get on with it.

Mr. STEVENS. I thank the Senator from Wyoming. I am certain that the Senate will want to act as quickly as possible on the recommendation of the Foreign Relations Committee.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. STEVENS. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, the Senate, at 7:01 p.m., recessed until tomorrow, Thursday, July 15, 1982, at 9:15 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, July 14, 1982:

SECURITIES INVESTOR PROTECTION CORPORATION

James G. Stearns, of Nevada, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1982.

James W. Fuller, of California, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1983.

EXTENSIONS OF REMARKS

THE HOUSE SHOULD PASS THE ERA ONCE AGAIN

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. TRAXLER. Mr. Speaker, today I join 181 of my colleagues in reintroducing the equal rights amendment to the Constitution of the United States.

Although the passage of the equal rights amendment will not magically transform the lives of millions of women, it will make explicit for men and women alike the basic constitutional guarantees of equal protection and due process.

As we have seen during the past decade, the Supreme Court's decisions have sometime allowed State and Federal laws to discriminate against women. Some glaring examples of that discrimination include: employment, social security, education, tax law, and property rights. The Supreme Court has stated specifically that the passage of the equal rights amendment will change the way the Court views discriminatory laws. As stated in *Reed* v. *Reed* (404 U.S. 71 (1971)), passage of the equal rights amendment will make it clear that a legal right or obligation will not depend on sex, but on the particular attributes of an individual.

Just as the 14th amendment provides a basis upon which Americans can fight discrimination in the law based on race, creed, color, or national origin, the equal rights amendment will force Government to show a compelling interest for discrimination based on gender. What this boils down to is that it will be very hard for the Supreme Court to uphold legislation that arbitrarily distinguishes between men and women without a very good reason for doing do.

The President claims that he supports equal rights for women, but that he thinks an amendment to the Constitution is not the correct method for achieving that goal. However, an amendment is crucial because women should not have to depend on the attitude of a particular administration or a particular Congress to determine whether or not they will have basic human rights.

As we have seen, President Reagan has not kept his promises to end discrimination and promote equality for women. From his efforts to weaken the enforcement of affirmative action programs and laws that provide equal protection of women in employment and education under title VII of the Civil Rights Act of 1964 and title IX of the 1972 Education Act, anyone can see that without an amendment, the progressive measures of one administration can be taken away by the next.

Most Americans favor the guarantee of equal rights that an amendment would provide. According to a Harris poll take in April of this year, 63 percent of those polled favor the ERA, and when the pollster read the text of the amendment, the percentage of supporters rose to 73 percent.

Unfortunately, the struggle for the equal rights amendment has been thwarted by a vocal minority. Their success in killing the ERA does not change the minds of a majority of Americans who know that justice will ultimately prevail.

Throughout my years of public service, I have consistently supported the equal rights amendment. In 1972, the State of Michigan ratified the ERA, and as chair of the State's House Judiciary Committee, I strongly supported that measure.

In 1978, I supported extending the deadline for ratification of the amendment, and here today, I, along with 181 of my colleagues, call upon the House of Representatives to demonstrate the Nation's belief that all of its citizens should be granted equal rights under the Constitution of the United States. By passing the equal rights amendment in the House, as we have done before, we can demonstrate to the world our capacity as a body to truly reflect the opinions of a majority of Americans who cherish the principles of equality and justice.●

THE PRESIDENT'S SPEECH ON DISARMAMENT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. MICHEL. Mr. Speaker, on June 17, 1982, President Reagan addressed the United Nations General Assembly's Special Session on Disarmament. His speech is a refreshing change from most of the rhetoric that is found in the U.N. and is also fundamentally correct in its indictment of the history of the Soviet Union in the field of disarmament agreements. I was particularly glad to see the President take this opportunity to remind the world that the Soviet Union is currently in violation of "the Geneva Protocols of 1925, related rules of international law and the 1972 Biological Weapons Convention" since it is making available toxins to be used in Laos and Kampuchea and is using chemical weapons in Afghanistan. The President's call for open, accurate, and verifiable statistics and information on military matters from all nations—including the Soviet Union—is a welcome one.

Given the forum the President was given, one might have expected a speech that kept to the same glittering generalities and pious cliches that mark all such occasions. But the President really believes in peace and disarmament and is willing to tell the truth—hard as it may be—about what stands in the way. It is an excellent speech in many ways and I commend it to your attention.

At this point I wish to insert in the RECORD the text of a speech made by President Ronald Reagan to the Second United Nations General Assembly's Special Session on Disarmament, June 17, 1982:

TEXT OF THE ADDRESS BY THE PRESIDENT TO THE SECOND UNITED NATIONS GENERAL ASSEMBLY'S SPECIAL SESSION ON DISARMAMENT

NEW YORK CITY, JUNE 17, 1982

I speak today as both a citizen of the United States and of the world. I come with the heartfelt wishes of my people for peace, bearing honest proposals, and looking for genuine progress.

Dag Hammarskjold said 24 years ago this month, "We meet in a time of peace which is no peace." His words are as true today as they were then. More than 100 disputes have disturbed the peace among nations since World War II and today, the threat of nuclear disaster hangs over the lives of all our peoples. The Bible tells us there will be a time for peace, but so far this century, mankind has failed to find it.

The United Nations is dedicated to world peace and its charter clearly prohibits the international use of force. Yet the tide of belligerence continues to rise. The Charter's influence has weakened even in the 4 years since the first special session on disarmament. We must not only condemn aggression, we must enforce the dictates of our Charter and resume the struggle for peace.

The record of history is clear, citizens of the United States resort to force reluctantly and only when they must. Our foreign policy, as President Eisenhower once said, "is not difficult to state. We are for peace, first, last and always, for very simple reasons." We know that only in a peaceful atmosphere, a peace with justice, one in which we can be confident, can America prosper as we have known prosperity in the past, he said.

To those who challenge the truth of those words let me point out that at the end of World War II, we were the only undamged industrial power in the world. Our military supremacy was unquestioned. We had harnessed the atom and had the ability to unleash its destructive force anywhere in the world. In short, we could have achieved

world domination, but that was contrary to the character of our people.

Instead, we wrote a new chapter in the history of mankind. We used our power and wealth to rebuild the war-ravaged economies of the world, both East and West, including those nations who had been our enemies. We took the initiative in creating such international institutions as this United Nations, where leaders of good will could come together to build bridges for peace and prosperity.

America has no territorial ambitions, we occupy no countries and we have built no walls to lock our people in. Our commitment to self-determination, freedom and peace is the very soul of America. That commitment is as strong today as it ever was.

The United States has fought four wars in my lifetime. In each we struggled to defend freedom and democracy. We were never the aggressors. America's strength, and yes, her military power, have been a force for peace, not conquest; for democracy, not despotism; for freedom, not tyranny.

Watching, as I have, succeeding generations of American youth bleed their lives onto far-flung battlefields to protect our ideals and secure the rule of law, I have known how important it is to deter conflict. But since coming to the Presidency, the enormity of the responsibility of this office has made my commitment even deeper. I believe that responsibility is shared by all of us here today.

On our recent trip to Europe, my wife Nancy told me of a bronze statue, 22 feet high, she saw on a cliff on the coast of France. The beach at the base of that cliff is called Saint Laurent, but countless American family bibles note it as Omaha Beach. The pastoral quiet of that French countryside is in marked contrast to the bloody violence that took place there on a June day 38 years ago when the Allies stormed the Continent. At the end of just one day of battle, more than 10,500 Americans were wounded, missing or killed in what became known as the Normandy Landing.

The statue atop that cliff is called "The Spirit of American Youth Rising From the Waves." Its image of sacrifice is almost too powerful to describe.

The pain of war is still vivid in our national memory. It sends me to this special session of the United Nations eager to comply with the plea of Pope Paul VI when he spoke in this chamber nearly 17 years ago. "If you want to be brothers," His Holiness said, "let the arms fall from your hands."

We Americans yearn to let them go.

But we need more than mere words, more than empty promises, before we can proceed. We look around the world and see rampant conflict and aggression. There are many sources of this conflict—expansionist ambitions, local rivalries, the striving to obtain justice and security. We must all work to resolve such discords by peaceful means and to prevent them from escalation.

In the nuclear era, the major powers bear a special responsibility to ease these sources of conflict and to refrain from aggression. That is why we are so deeply concerned by Soviet conduct. Since World War II, the record of tyranny has included Soviet violation of the Yalta agreements leading to domination of Eastern Europe, symbolized by the Berlin wall—a grim, gray monument to repression I visited just a week ago. It includes the takeovers of Czechoslovakia, Hungary and Afghanistan; and the ruthless repression of the proud people of Poland. Soviet-sponsored guerrillas and terrorists are at work in Central and South America, in Africa, the Middle East, in the Caribbean and in Europe, violating human rights and unnerving the world with violence. Communist atrocities in Southeast Asia, Afghanistan, and elsewhere continue to shock the free world as refugees escape to tell of their horror.

The decade of so-called détente witnessed the most massive Soviet buildup of military power in history. They increased their defense spending by 40 percent while American defense spending actually declined in the same real terms. Soviet aggression and support for violence around the world have eroded the confidence needed for arms negotiations.

While we exercised unilateral restraint they forged ahead and today possess nuclear and conventional forces far in excess of an adequate deterrent capability.

Soviet oppression is not limited to the countries they invade. At the very time the Soviet Union is trying to manipulate the peace movement in the West, it is stifling a budding peace movement at home. In Moscow, banners are scuttled, buttons are snatched and demonstrators are arrested when even a few people dare to speak out about their fears.

Eleanor Roosevelt, one of our first ambassadors to this body, reminded us that the high-sounding words of tyrants stand in bleak contradiction to their deeds. "Their promises", she said, "are in deep contrast to their performances."

My countrymen learned a bitter lesson in this century: the scourge of tyranny cannot be stopped with words alone. So we have embarked on an effort to renew our strength that had fallen dangerously low. We refuse to become weaker while our potential adversaries remain committed to their imperialist adventures.

My people have sent me here today to speak for them as citizens of the world, which they truly are, for we Americans are drawn from every nationality represented in this chamber today. We understand that men and women of every race and creed can and must work together for peace. We stand ready to take the next steps down the road of cooperation through verifiable arms reduction. Agreements on arms control and disarmament can be useful in reinforcing peace; but they are not magic. We should not confuse the signing of agreements with the solving of problems. Simply collecting agreements will not bring peace. Agreements genuinely reinforce peace only when they are kept. Otherwise we are building a paper castle that will be blown away by the winds of war. Let me repeat, we need deeds, not words, to convince us of Soviet sincerity, should they choose to join us on this path.

Since the end of World War II, the United States has been the leader in serious disarmament and arms control proposals.

In 1946, in what became known as the Baruch Plan, the United States submitted a proposal for control of nuclear weapons and nuclear energy by an international authority. The Soviets rejected this plan.

In 1955, President Eisenhower made his "Open Skies" proposal, under which the United States and the Soviet Union would have exchanged blueprints of military establishments and provided for aerial reconnaissance. The Soviets rejected this plan.

In 1963, the Limited Test Ban Treaty came into force. This treaty ended nuclear weapons testing in the atmosphere, outer space, or underwater by participating nations.

In 1970, the Treaty on the Non-Proliferation of Nuclear Weapons took effect. The United States played a major role in this key effort to prevent the spread of nuclear explosives and to provide for international safeguards on civil nuclear activities. My country remains deeply committed to those objectives today, and to strengthening the non-proliferation framework. This is essential to international security.

In the early 1970's, again at U.S. urging, agreements were reached between the U.S. and the U.S.S.R. providing for ceilings on some categories of weapons. They could have been more meaningful if Soviet actions had shown restraint and commitment to stability at lower levels of force.

The United Nations designated the 1970's as the First Disarmament Decade, but good intentions were not enough. In reality, that 10-year period included an unprecedented buildup in military weapons and the flaring of aggression and use of force in almost every region of the world. We are now in the Second Disarmament Decade. The task at hand is to assure civilized behavior among nations; to unite behind an agenda for peace.

Over the past seven months, the United States has put forward a broad-based comprehensive series of proposals to reduce the risk of war. We have proposed four major points as an agenda for peace: elimination of land-based intermediate range missiles; a one-third reduction in strategic ballistic missile warheads; a substantial reduction in NATO and Warsaw Pact ground and air forces, and new safeguards to reduce the risk of accidental war.

We urge the Soviet Union today to join with us in this quest. We must act not for ourselves alone, but for all mankind.

On November 18 of last year, I announced United States objectives in arms control agreements: They must be equitable and militarily significant, they must stabilize forces at lower levels and they must be verifiable.

The United States and its allies have made specific, reasonable and equitable proposals.

In February, our negotiating team in Geneva offered the Soviet Union a draft treaty on intermediate range nuclear forces. We offered to cancel deployment of our Pershing II ballistic missiles and ground-launched cruise missiles, in exchange for Soviet elimination of their SS-20, SS-4, and SS-5 missiles. This proposal would eliminate with one stroke those systems about which both sides have expressed the greatest concern.

The United States is also looking forward to beginning negotiations on strategic arms reductions with the Soviet Union in less than two weeks. We will work hard to make these talks an opportunity for real progress in our quest for peace.

On May 9, I announced a phased approach to the reduction of strategic arms. In a first phase, the number of ballistic missile warheads on each side would be reduced to about 5,000. No more than half the remaining warheads would be on land-based missiles. All ballistic missiles would be reduced to an equal level at about one-half the current U.S. number.

In the second phase, we would reduce each side's overall destructive power to equal levels, including a mutual ceiling on ballistic missile throw-weight below the current U.S. level. We are also prepared to discuss other elements of the strategic balance.

Before I returned from Europe last week, I met in Bonn with the leaders of the North Atlantic Treaty Organization. We agreed to introduce a major new Western initiative for the Vienna negotiations on Mutual Balanced Force Reductions. Our approach calls for common collective ceilings for both NATO and the Warsaw Treaty Organization. After seven years, there would be a total of 700,000 ground forces and 900,000 ground and air force personnel combined. It also includes a package of associated measures to encourage cooperation and verify compliance.

We urge the Soviet Union and members of the Warsaw Pact to view our Western proposal as a means to reach agreement in Vienna after nine long years of inconclusive talks. We also urge them to implement the 1975 Helsinki agreement on security and cooperation in Europe.

Let me stress that for agreements to work, both sides must be able to verify compliance. The building of mutual confidence in compliance can only be achieved through greater openness. I encourage the Special Session on Disarmament to endorse the importance of these principles in arms control agreements.

I have instructed our representatives at the 40-nation Committee on Disarmament to renew emphasis on verification and compliance. Based on a U.S. proposal, a committee has been formed to examine these issues as they relate to restrictions on nuclear testing. We are also pressing the need for effective verification provisions in agreements banning chemical weapons.

The use of chemical and biological weapons has long been viewed with revulsion by civilized nations. No peacemaking institution can ignore the use of these dread weapons and still live up to its mission. The need for a truly effective and verifiable chemical weapons agreement has been highlighted by recent events. The Soviet Union and their allies are violating the Geneva Protocol of 1925, related rules of international law and the 1972 Biological Weapons Convention. There is conclusive evidence that the Soviet government has provided toxins for use in Laos and Kampuchea, and are themselves using chemical weapons against freedom fighters in Afghanistan.

We have repeatedly protested to the Soviet government, as well as the governments of Laos and Vietnam, their use of chemical and toxin weapons. We call upon them now to grant full and free access to their countries or to territories they control so that United Nations experts can conduct an effective, independent investigation to verify cessation of these horrors.

Evidence of non-compliance with existing arms control agreements underscores the need to approach negotiations of any new agreements with care.

The democracies of the West are open societies. Information on our defenses is available to our citizens, our elected officials and the world. We do not hesitate to inform potential adversaries of our military forces, and ask in return for the same information concerning theirs.

The amount and type of military spending by a country is important for the world to know, as a measure of its intentions, and the threat that country may pose to its neighbors. The Soviet Union and other closed societies go to extraordinary lengths to hide their true military spending not only from other nations, but from their own people. This practice contributes to distrust and fear about their intentions.

Today, the United States proposes an international conference on military expenditures to build on the work of this body in developing a common system for accounting and reporting. We urge the Soviet Union, in particular, to join this effort in good faith, to revise the universally discredited official figures it publishes, and to join with us in giving the world a true account of the resources we allocate to our armed forces.

Last Friday in Berlin, I said I would leave no stone unturned in the effort to reinforce peace and lessen the risk of war. It has been clear to me steps should be taken to improve mutual confidence and communication and lessen the likelihood of misinterpretation.

I have, therefore, directed the exploration of ways to increase understanding and communication between the United States and the Soviet Union in times of peace and of crisis. We will approach the Soviet Union with proposals for reciprocal exchanges in such areas as advance notification of major strategic exercises that otherwise might be misinterpreted; advance notification of ICBM launches within, as well as beyond, national boundaries; and an expanded exchange of strategic forces data.

While substantial information of U.S. activities and forces in these areas already is provided, I believe that jointly and regularly sharing information would represent a qualitative improvement in the strategic nuclear environment and would help reduce the chance of misunderstandings. I call upon the Soviet Union to join the United States in exploring these possibilities to build confidence and I ask for your support of our efforts.

One of the major items before this conference is the development of a comprehensive Program of Disarmament. We support the effort to chart a course of realistic and effective measures in the quest for peace.

I have come to this hall to call for international recommitment to the basic tenet of the United Nations Charter—that all members practice tolerance and live together in peace as good neighbors under the rule of law, forsaking armed force as a means of settling disputes between nations. America urges you to support the agenda for peace I have outlined today. We ask you to reinforce the bilateral and multilateral arms control negotiations between members of NATO and the Warsaw Pact and to rededicate yourselves to maintaining international peace and security, and removing threats to peace.

We, who have signed the U.N. Charter, have pledged to refrain from the threat or use of force against the territory or independence of any state. In these times when more and more lawless acts are going unpunished— as some members of this very body show a growing disregard for the U.N. Charter—the peace-loving nations of the world must condemn aggression and pledge again to act in a way that is worthy of the ideals we have endorsed. Let us finally make the Charter live.

In late spring, 37 years ago, representatives of 50 nations gathered on the other side of this continent, in the San Francisco Opera House. The League of Nations had crumbled and World War II still raged, but those men and nations were determined to find peace. The result was this Charter for peace that is the framework of the United Nations.

President Harry Truman spoke of the revival of an old faith—the everlasting moral force of justice prompting that United Nations Conference. Such a force remains strong in America and in other countries where speech is free and citizens have the right to gather and make their opinions known.

President Truman said, "If we should pay merely lip service to inspiring ideals, and later do violence to simple justice, we would draw down upon us the bitter wrath of generations yet unborn." Those words of Harry Truman have special meaning for us today as we live with the potential to destroy civilization.

"We must learn to live together in peace," he said. "We must build a new world—a far better world."

What a better world it would be if the guns were silent; if neighbor no longer encroached on neighbor and all peoples were free to reap the rewards of their toil and determine their own destiny and system of government—whatever their choice.

During my recent audience with His Holiness Pope John Paul II, I gave him the pledge of the American people to do everything possible for peace and arms reductions. The American people believe forging real and lasting peace to be their sacred trust.

Let us never forget that such a peace would be a terrible hoax if the world were no longer blessed with freedom and respect for human rights. The United Nations, Hammarskjold said, was born out of the cataclysms of war. It should justify the sacrifices of all those who have died for freedom and justice. "It is our duty to the past," Hammarskjold said, "and it is our duty to the future, so to serve both our nations and the world."

As both patriots of our nations and the hope of all the world, let those of us assembled here in the name of peace deepen our understandings, renew our commitment to the rule of law and take new and bolder steps to calm an uneasy world. Can any delegate here deny that in so doing he would be doing what the people—the rank and file citizenry of his country—want him to do?

Isn't it time for us to really represent the deepest most heartfelt yearnings of all our people? Let no nation abuse this common longing to be free of fear. We must not manipulate our people by playing upon their nightmares; we must serve mankind through genuine disarmament. With God's help we can secure life and freedom for generations to come.●

AGRICULTURAL RESEARCH

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 14, 1982, into the CONGRESSIONAL RECORD.

AGRICULTURAL RESEARCH

Two hundred fifty years ago, the Englishman Jonathan Swift wrote: "Who ever could make two ears of corn or two blades of grass to grow upon a spot of ground where only one grew before would . . . do more essential service to his country than the whole race of politicians put together."

Most Americans, I suspect, would cheer such a comparison because it expresses at

the same time our feelings about the importance of the farmer and our doubts about the importance of the politician. Swift's statement also highlights the importance of agricultural research. In today's world (though not in Swift's), the combined talents of the farmer, the businessman, the professor, and the politician make such research possible. In fact, the efforts of the federal government have been responsible in the main for making American agricultural research a world leader. Our national agricultural research network includes various branches of the United States Department of Agriculture (USDA), several other federal agencies, state experimental stations at land-grant universities, departments in state and private universities, and private enterprises both large and small. Research has led to a 65 percent increase in productivity on the farm during the past 30 years; it is currently a multi-billion-dollar undertaking which holds the key to boosting productivity again in the years ahead.

The principal component in our national agricultural research network is federal: it represents an investment of some $800 million per year. The federal effort is devoted primarily to basic research or long-term research—that which is absolutely critical to increased productivity yet would be unprofitable for private industry to pursue. For many years, both Presidents and Congresses have recognized how important this investment is; even in this day of budget cuts, agricultural research is one of a few non-defense items in the budget which has grown. I consider this investment to be one of the best the federal government makes; even so, it is but a fraction of what we spend doing research on defense, human health, or outer space.

To get a better idea of what is new in agricultural research, I recently toured the 7,200-acre USDA Agricultural Research Center in Beltsville, Maryland. The center is generally thought to be the best of its kind in the world. The pioneering advances made at Beltsville range from the monitoring of soil by satellite to the development of basic concepts of plant and animal breeding. General areas of research today include animal parasites, livestock production, plant growth, insect control, plant diseases, human nutrition, plant genetics, and the environmental effects of farming. The following is some of the work on the nature and growth of plants and animals being done at Beltsville and elsewhere:

Plant regulators: Advances are expected soon in plant regulators—biologically active molecules which change the basic characteristics of plants. Regulators developed by scientists selectively modify the activity of natural plant hormones and thus alter a plant's growth and quality. These regulators can increase yield per acre, increase resistance to cold, or stop growth during periods of drought. They will almost certainly make up the next major wave of agricultural chemicals.

Hydroponics: Much work has been done in hydroponics—growing plants in water instead of soil. In the controlled environment of enormous greenhouses, plants such as lettuce and tomatoes draw their essential nutrients from treated water which is circulated under them. These "vegetable factories" will enable us to produce more food in northern states. Also, their output can be huge. A greenhouse may have a lettuce yield 100 times greater than a traditional farm.

Embryo transplants: Embryo transplants will expand the reproduction of prize female animals just as artificial insemination expanded that of prize male animals. A prize milk-producing cow can now become the mother of an entire herd if her embryos are removed and then transplanted into ordinary cows for gestation. In 1981, some 25,000 calves were produced through embryo transplants, and researchers say that nearly all breeding of animals will be done this way in a few years. In addition, embryos can be frozen and then shipped throughout the world; they can also be divided by microsurgery into numerous identical embryos. The next challege is to guarantee the sex of the embryo transplanted.

Cloning: The most dramatic possibility for perpetuating the characteristics of superior animals is offered by cloning—the process of producing genetically identical organisms from a single cell of the parent organism. In this process, scientists remove the genetic component from a one-or two-celled embryo and then replace it with the nucleus of a cell from the body of an adult animal. The embryo then grows into an identical copy of the adult animal. Cloning has already been successful in frogs and fish.

Gene transfer: In the past, desirable traits were reproduced in offspring through the breeding of closely related organisms possessing those traits. Genetic engineering, however, has enabled scientists to insert the genes of one organism directly into the cells of another. This technique allows researchers to "redesign" a plant or animal, taking away harmful traits or creating beneficial ones. For example, plants can be made more resistant to disease, and animals to grow more quickly. The first agricultural products resulting from gene transfer are expected to be on the market in a few years.

Nitrogen fixation: A more difficult (but also more promising) area of genetic engineering is nitrogen fixation. Scientists are trying to isolate and transfer the genetic material which would allow plants such as corn to draw nitrogen directly from the air, as soybeans and a few other crops do. The result would be a self-fertilizing plant—and significantly reduced costs of production. Because of the number of genes involved in nitrogen fixation, however, a real breakthrough is not expected for several years.●

DEFICIT DETRIMENTAL

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. HUBBARD. Mr. Speaker, as we deal with a budget that has a deficit of over $100 billion, a constituent of mine, Loran McAfee, in Earlington, Ky., has written me a very timely letter indicating that a large deficit is very detrimental to our Government. I believe Mr. McAfee's letter is one which should be shared with my colleagues and I wish to do so at this time. The letter follows:

DEAR CARROLL: I am writing you in regard to the 1983 Proposed Budget. I believe the large deficit is very detrimental to our government, and at some time in the future could be responsible for a change in our form of Government, this is a heritage we certainly do not want to leave our children. I am in favor of closing tax loopholes, but not in raising taxes. Let's cut the so called entitlement programs to the bone, reduce Federal spending to a minimum, then if needed, reduce the defense budget.

I am very much in favor of a Constitutional Amendment to require a balanced budget from government except in wartime.

Sincerely,

LORAN MCAFEE,
EAST MAIN STREET,
Earlington, Ky.●

POLITICS IS FOR PEOPLE

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. BOLLING. Mr. Speaker, Shirley Williams, former Member of Parliament in Great Britain and a cofounder of a new British political party, has written a provocative book, "Politics is for People."

The book is exceptional and altogether a valuable source of ideas. I commend it to all my colleagues. To tempt each of you, the concluding chapter follows. Those who read it will find many similarities between our two countries and also some dissimilarities.

CONCLUSION: POLITICS IS FOR PEOPLE

Power corrupts, said Lord Acton. Yet most men and women who join political parties or who embark upon a political career do so with the intention of bettering the lives of their fellow human beings. Politics is not a dishonourable calling. In order to bring about the improvements they seek, politicians must acquire power. The temptation of politics is to seek power for itself and for the status it confers. At that point the original purpose for which power was acquired is lost or forgotten.

If politics is to be for people, then the first requirement is that the powers of government must be limited, that those in power must be accountable to the people, and that governments must be able to be changed if they forfeit popular support. Socialism without liberty is not worth having, for socialism without liberty will in time create a new and arrogant ruling class.

To enhance our liberty, information should not be restricted by the executive, unless it affects national security. In Britain, a freedom of information Act is overdue. It should be complemented by legislation to prevent unauthorized use of information about individuals. Computerization and microelectronics could threaten the privacy and ultimately the freedom of individuals unless safeguards are built into the system of official record keeping. Sweden has a permanent watchdog committee to ensure that such safeguards are maintained.

The imbalance of power between the legislature and the executive in Britain is gradually being corrected in favour of the legislature by the activities of the new Select Committees. In future, new legislation should be submitted to them in draft, before it is presented as a Bill to Parliament. If a major change is proposed, a consultative paper should be published and debated in Parliament before legislation is drafted. In these ways Parliament could ensure the element of continuity so badly needed in Britain's

jerky and mutually antipathetic succession of governments.

Central government is the pinnacle of a self-governing society, but it is only part of the governing process. So other reforms are needed to strengthen the structure of self-government at lower levels too. This is crucial if power is to be diffused throughout society and if ordinary people are to be given greater control over their own lives. Industrial democracy should be required by law, but there should be an option between a consultative committee at every level or worker representation on the company's board. If politics is for people, then workers must have the right to choose their representatives, though constituencies could be created to reflect various occupational groups. School governing bodies, hospital administration and the management of housing estates all lend themselves to participation by those affected. So do the social services, through mutual help, family grouping and the use of volunteers, especially people who have experienced and overcome the disabilities faced by those in need. If the welfare state is for people, then people must not be reduced to being seen as claimants or clients. Poverty is in the person as well as in the purse; its abolition demands the restortation of a human being's self-respect and dignity as well as meeting his or her material needs. The same is true of the treatment of elderly, ill or dying people. Sophisticated medical techniques may be part of the treatment, but they are less important to a person's peace of mind and happiness than individual care. Britain has found a humane answer to caring for elderly people in purpose-built bungalows and self-continued flats linked to common social and catering facilities and to a warden on twenty-four-hour call. Equally humane ways of caring for chronically sick or mentally handicapped people remain to be found; mutual help through artificial family groups may be one way.

Emphasis on the quality of people's lives suggests new ways of organizing industry, ways that will be encouraged by microelectronics. Industry will be able to be more decentralized; a lot of work will be done from home, or organized to suit individual timetables. Innovative small firms should flourish, given a fair wind by central and local government and adequate venture capital from public agencies and the banks. The danger, however, is that the decentralization of work could leave the old inner cities as abandoned deserts of unemployment and poverty. So the advent of the new technologies must be coupled with a fresh attack on poverty and on unemployment.

A national traineeship scheme for all school-leavers, complemented by access to advanced education for those with vocational qualifications as well as those with academic qualifications, would greatly improve young people's chances of getting a job. Some of those jobs could be created by a policy of conserving energy and raw materials though insulating the housing stock and recycling used materials. More radically, public policies should be reviewed to remove disincentives to the use of labour compared to other factors of production. Many of our institutions are subtly shaped to discourage the employment of people, as compared to capital or land or raw materials. One reason for this is that people in large numbers are difficult to manage; if there were fewer large plants there might actually be more jobs.

STEADY GROWTH

A modest steady growth rate could be attained in the industrialized countries providing that inflationary pressures could be restrained and providing also that there was sufficient demand. On the former, I have argued that inflationary pressures are partly produced by corporate power—centralized industrial and labour markets—and that a decentralization of power would weaken those pressures. That will take time; in the short run, an incomes policy is needed, and I have attempted to show how it might work. A national campaign to explain the need for an incomes policy is essential, as is a broadening of bargaining aims so that wage increases are not the sole measure of bargaining success.

Britain's economic weakness is most marked in manufacturing and, within manufacturing, in two industries, cars and textiles. There are other sources of concern, not least the mismatch between old skills and new technologies. But the country has a remarkable record of invention and innovation. It has fine broadcasting services, good software, excellent science, good though conservative universities; it still retains a strong civic sense and a remarkably uncorrupt civil service. If the political parties accepted the mixed economy as the pattern of the future and supported success in whichever sector it occurred, Britain's prospects would be transformed. The public sector would be free to borrow from commercial sources for wealth-creating activities and such borrowing would not be included within the public sector borrowing requirment. The National Enterprise Board would be able to retain its stake in successful private companies, using the return on its capital to finance new holdings elsewhere; it would be possible to launch new publicly owned companies to compete with private companies in sectors where profits are high or where the main purchasers are public authorities; pharmaceuticals is a good example. Public agencies would provide venture capital for new public sector enterprises like industrial cooperatives. A small business agency and local enterprise trusts jointly established by local authorities and industry would provide the expert advice and help many small enterprises need to get off the ground. Tax incentives would be directed rather towards investment for expansion than to investment for rationalization; new firms would be helped by a tax holiday. And if power is to be diffused, a much tougher policy towards monopolies and mergers would be needed, including within such a policy business practices that discourage small customers and small suppliers. Decentralization and participation are conducive to greater individual liberty and to fraternity because they restore to people their wholeness; they become, as I said in Chapter I, members of society in all its aspects, instead of being merely economic instruments of the production process.

But decentralization and partcipation are not necessarily conducive to equality. The experience of countries where schools are governed by representatives of the local community, as in the United States, or where works councils are elected in every factory or plant, as in Germany, is that only a minority shows any real interest. That minority is more articulate and often better educated than the unconcerned majority. So a new division is created, between the participators and those they represent or even use. Furthermore, decentralized power makes it easier for rich regions or rich localities to maintain their advantages against poor regions or localities. The ratio between the resources spent on a child in the poorest school districts of the decentralized federal US education system and the richest ones is of the order of six to one. In Britain, where education finances are funded as to 60 per cent from central government, the ratio is about 1.4 to one.

CLASS AND SEGREGATION

It is a difficult balance to get right. Redistribution of income and wealth through taxation, widened as I have suggested, must continue. Higher child benefit would help poor families whether the parents are in work or unemployed. A return to full employment would remove much potential poverty. For the very old, sheltered accommodation and friendship is at least as important as higher pensions. But at the heart of inequality are unequal opportunities and vast differences in life-styles. Both, at least in Britain, relate to class. So education and housing policies are central to the attack on inequality. I have advocated an integrated approach by the health and education services to pre-school children, so that the handicapped and disadvantaged can be positively helped. Vocational and academic courses should be combined in school and subsequently in tertiary and sixth-form colleges, and vocational qualifications should be recognized. Children should not be socially segregated; hence independent schools should be integrated within a system of maintained schools that offers parents a choice with the state system, of subjects, of coeducation or single-sex schools, of denominational or county schools, and even of schools with different approaches to rules and discipline.

Housing has been segregated as well as education, into council estates and private estates. Because most schools are neighbourhood schools, socially segregated housing becomes the foundation of socially segregated schools. A truly classless education system requires different housing policies. Providing there is an adequate stock of housing for rent, the sale of council houses helps to break down the segregated social structure. But sales of council houses should be associated with local authority infilling of sites and conversion of large old houses into flats for rent in areas of privately owned housing. The new popularity of rehabilitation may help to create a more varied pattern of residence; such a pattern could restore life to the inner cities, as is happening in parts of Glasgow and London, and also create more balanced communities in the big overspill estates constructed in the 1950s and 1960s.

A programme of radical reform in Britain or in any other country can only be achieved over a decade or more; but world time is running out faster than that. None of us dare become so absorbed in our internal problems that we neglect the dangers of the arms race or the desperation of the millions who are poor and hungry. If politics is for people, it is for these people too, whose cultures have been threatened by our technologies and whose resources have been plundered for our factories. The governments of the industrialized world could harness their own unemployed resources to the almost infinite needs of the Third World; the money to finance a new Marshall Plan could be found by diverting to it part of current arms expenditure, by using the payments surpluses of the oil producers and by a tax on gross national products as suggest-

ed in Chapter 13. Given the hope of prosperity, developing countries would begin to abandon their swords for ploughshares.

This is of course a vision, and as such will be rejected as not being practical politics. Practical politics is about ruling classes, bureaucrats, parties, lobbies, interests and advancement. It is about making people fit into the requirements of technological processes because technological processes increase the quantity of goods and services, whatever their effect for good or bad on the quality of human life. But the old politics is dying. The battle to decide what the new politics will be like is just beginning. It is possible, just possible, that it will be a politics for people.●

AN EDITORIAL VIEWPOINT

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. BEREUTER. Mr. Speaker, I would like to bring to my colleagues' attention an editorial I read in the Omaha World Herald recently. This article expresses an interesting point of view concerning the United States/Soviet "arms race."

The point of the article is simply: Can a race be termed a race when there is only one competitor? I commend the complete editorial to my colleagues' attention:

[From the Omaha World Herald, July 5, 1982]

ONE ENTRY IN ARMS RACE

We hear much talk about the "arms race" between the United States and the Soviet Union.

What arms race?

This so-called race is something like an election in the Soviet Union. There is only one entry.

The striking difference between the arms buildup in the Soviet Union and the American arsenal was pointed out dramatically in the Special Focus page of Sunday's World-Herald.

A drawing by World-Herald artist Mike Drummy and an accompanying article by Howard Silber, World-Herald military affairs editor, brought out the wide differences between Soviet and U.S. weapons production.

Some of the contrasts:

In the last 10 years, the Soviet Union has brought out four completely new intercontinental ballistic system missiles. The last U.S. long-range missile, Minuteman III, was introduced in 1970.

The FB-111 is the most recent operational addition to the Strategic Air Command's bomber force. It came on line 13 years ago. The U.S.S.R. has built 250 Backfire bombers since the 1970s—a plane comparable to the FB-111.

The United States is developing the MX missile with deployment scheduled in 1986. The Soviet Union is ready to put four new ICBMs into service at about the same time.

The Soviet Union is building a new plane that bears a startling resemblance to the U.S. B-1B bomber. It is called Black Jack.

There are other Russian advances in sea power and in other military fields.

All of this has prompted President Reagan to say flatly that there has been no strategic arms race. He's right. Based on the military comparisons, only Moscow is racing.

The "arms race" is being run under Moscow rules. And that's not good for the United States, nor for world stability.

PROPOSAL FOR NATIONAL COMMISSION ON NEUROFIBROMATOSIS

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. SILJANDER. Mr. Speaker, this afternoon I have introduced a bill to establish a National Commission on Neurofibromatosis, also known as Von Recklinhausen disease and the elephant man disease.

I am introducing this bill because of the large number of people affected by this disorder and the comparatively small amount of research going on concerning NF. To demonstrate the magnitude of this disorder to my colleagues, if your congressional district is of the average size, then at least 230 of your constituents have this disorder.

This disease usually appears in childhood, although it can appear as late as age 50. The following symptoms, which grow progressively worse are often present: Small and large pressure-sensitive tumors, on or just below the skin; severe curvature of the spine; enlargement and deformation of bones other than the spine; tumors on the auditory nerves, resulting in deafness; tumors on the optic nerve, resulting in the loss of sight in one or both eyes; tumors of the brain and spinal cord, frequently resulting in mental retardation, epilepsy, and death. In about 5 percent of these cases the tumors become cancerous.

Research has determined that half the people affected with NF inherit the disease from their parents. The remaining victims' cases are caused by a sporadic mutation of the genes. In these cases there is no past family history of the disease. Almost nothing is known about what causes this spontaneous genetic mutation. As a result, there is no cure, and no medical procedure available to physicians except for radical surgery to remove the tumors. Frequently, after surgery, the tumors grow back.

There is research going on now at the National Institute of Neurological and Communicative Disorders and Stroke, Massachusetts General Hospital, Baylor University in Texas, Children's Hospital in Philadelphia, and Mount Sinai Medical Center in New York. The coordination and funding of this research is severely lacking.

The Commission is needed to coordinate the work done so far, and to plan for the needed research in the future. As we do with all major diseases in this country we must formulate a national policy for dealing with NF. The benefits of research in this area are evident due to the scope of NF and the potential for finding a cure for cancer, epilepsy, and mental retardation—all of which are symptoms of NF. Without a doubt, neurofibromatosis is perhaps the most overlooked serious disorder of our time.

This Nation's heritage is rich with the research, innovation, and commitment necessary to cure and prevent disease. I am sure you will do all you can to help stop the suffering that faces thousands of present and future victims of NF.

I urge my colleagues to cosponsor and support my bill, and to help start the process that will make it possible for thousands of Americans to lead better, more productive, and more fulfilling lives.

I am entering the following item into the RECORD, the neurofibromatosis fact sheet:

THE NEUROFIBROMATOSIS FACT SHEET

WHAT IS NEUROFIBROMATOSIS

Neurofibromatosis is a genetic disorder of the nervous system. Characteristic signs in the adult are six or more flat, coffee-colored (café-au-lait) skin spots; multiple, usually benign tumors, called "neurofibromas" when they appear on the nerves; and sometimes curvature of the spine.

HOW COMMON IS THE DISORDER

No formal system exists for collecting statistics on neurofibromatosis, but the National Neurofibromatosis Foundation estimates that approximately 100,000 Americans, of both sexes and all national origins or races, are afflicted. This would place neurofibromatosis among the most common hereditary diseases.

WHAT ARE ITS SYMPTOMS

Symptoms usually appear in childhood or adolescence, but can occur as late as age 50. Neurofibromatosis patients may develop any one or several of the following problems:

Many small tumors (nodules) just under the skin;

Large, pressure-sensitive tumors just under the skin;

Severe curvature of the spine;

Enlargement and deformation of bones other than the spine;

Tumors on the auditory nerves, causing deafness;

Tumors on the optic nerves, causing blindness in one or both eyes;

Tumors of the brain or spinal cord.

WHAT CAUSES NEUROFIBROMATOSIS

Most cases of neurofibromatosis are inherited from one of the parents, but some result from the spontaneous change (mutation) of a gene. Once a mutation has taken place, neurofibromatosis can be passed on to succeeding generations. How the mutant gene produces neurofibromatosis is unknown.

HOW IS IT INHERITED

Neurofibromatosis is an autosomal dominant disorder. Each child of an affected parent has a 50 percent chance of inheriting the defective gene and developing neurofi-

bromatosis. Cases inherited through the mother may be more severe than cases arising from new mutation.

WHAT ARE THE EARLY SIGNS

Children with neurofibromatosis can almost always be identified shortly after birth by the appearance of light-brown spots on their skin. Physicians generally consider that any young child with three or more such "cafe-au-lait" spots, each half a centimeter or more in diameter, has neurofibromatosis. Characteristic tumors may appear on the nerves and elsewhere in the body during childhood, but usually do not develop until early adulthood.

WHAT FORMS DOES NEUROFIBROMATOSIS TAKE

Neurofibromatosis has been classified into three somewhat overlapping types: peripheral, central with bilateral acoustic neuromas, and mixed.

Peripheral neurofibromatosis

This type is characterized by six or more cafe-au-lait spots, many small tumors, and a network of larger tumors under the skin. Enlargement and deformation of bones and other parts of the body may occur. Severe left-right curvature of the spine (scoliosis) is common. Occasionally tumors may develop in the brain, cranial nerve, or spinal cord.

Central neurofibromatosis with bilateral acoustic neuromas

This type is characterized by multiple tumors on the cranial and spinal nerves, and by other lesions of the brain and spinal cord. Tumors of both auditory nerves are the hallmark, with hearing loss beginning about age 20 generally the first symptom.

Mixed neurofibromatosis

In this rare type of neurofibromatosis, both peripheral and central nerves are affected.

DO BENIGN TUMORS EVER BECOME MALIGNANT

Yes, in about 3 to 5 percent of all cases.

IS THERE ANY TREATMENT FOR NEUROFIBROMATOSIS

Not for the disorder itself, but there are treatments aimed at controlling symptoms. Bone malformation, particularly scoliosis, is treated by surgery, a back brace, or both. Auditory or optic nerve tumors can be treated by surgery, but if nerves on both sides are affected, the risks may be greater than the benefits. Painful or disfiguring skin tumors can be removed by surgery, but there is some danger that they will grow back in greater numbers. Because neurofibromatosis is inherited, new cases might be prevented through family counseling.

DO NEUROFIBROMATOSIS PATIENTS LEAD NORMAL LIVES

In most cases, symptoms are mild and patients live completely normal and productive lives. In its more severe forms, however, neurofibromatosis can be devastating and debilitating.

WHAT RESEARCH IS BEING DONE

The National Institute of Neurological and Communicative Disorders and Stroke, a part of the National Institutes of Health (NIH), is studying genetics and cell growth in neurofibromatosis patients. In 1979, a weekly clinic was begun at NIH to study patients and families with the disorder; referring physicians retain responsibility for the care and treatment of their patients. Research is also being carried on at Washington University School of Medicine in St. Louis, and at Mt. Sinai Medical Center in New York City. Much remains to be done to solve the many mysteries of neurofibromatosis, to understand its cause, and to develop means of prevention and cure.

WHERE CAN I GET MORE INFORMATION

Information for patients, families, and physicians is available from: The National NF Foundation, 70 West 40th St., 4th Floor, New York, N.Y. 10018.

The foundation was chartered by the State of New York in 1978 as a nonprofit organization. Its purposes are:

To provide neurofibromatosis patients and their families with information about the disease, and to help them find medical, social, and genetic counseling;

To act as information source for physicians and health workers on neurofibromatosis and related disorders;

To promote and support scientific research on the cause, prevention, and treatment of neurofibromatosis.

For information about the NIH Neurofibromatosis Clinic, write: Coordinator, Inter-Institute Genetics Program, Building 10, room 1D21, National Institutes of Health, Bethesda, Maryland 20205, Telephone: (301) 496-1380.

POW/MIA RECOGNITION DAY

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. PATTERSON. Mr. Speaker, last Friday, July 9, 1982, was designated POW/MIA Recognition Day. As a cosponsor of the resolution passed by Congress and signed into law by the President, I would like to join my fellow colleagues in recognizing this day, dedicated to all former American prisoners of war and those still missing, and their families. It is important that we pay tribute to our POW's and MIA's not only to reflect on the sacrifices they have made for our Nation, but also to reaffirm our commitment to make every effort to determine the fate of servicemen still unaccounted for in Southeast Asia.

During this century nearly 150,000 Americans in the Armed Forces have been taken prisoner by enemies of the United States. These American men and women often faced inhuman conditions during their internment, suffering from hunger, disease, and isolation, in addition to the ever-present threats of pain and death. Unfortunately, the extreme sacrifices of these courageous individuals were not limited to the period of their imprisonment. Many are still experiencing physical and mental disabilities, and some have been unable to obtain treatment because they are unable to prove that their problems are service related. Because of the special circumstances regarding the POW's situation, I believe that full attention should be given to their problems.

We also have a special obligation to honor the families of POW's and MIA's. The mental anguish suffered by those that still wait patiently for news of their loved ones cannot go unrecognized.

Our commitment to achieve the fullest possible accounting of some 2,500 Americans missing in action in Indochina should be one of our highest priorities. Events such as POW/MIA Recognition Day provide an opportunity to focus public attention to the current situation. We are aware that the Communist government in Vietnam, for various political reasons, has repeatedly refused to cooperate by not releasing significant amounts of information concerning MIA's. Their stubbornness has made attempts to track down missing servicemen exceedingly difficult. We must continue to pressure the Vietnamese Government to provide information that will aid our search.

Just as these courageous Americans did not give up hope during their imprisonment, we too must not give up the search for American MIA's. In addition, we must not forget the physical and psychological suffering which all POW's have endured, and should reconfirm our obligation to these brave men. POW/MIA Recognition Day is the perfect vehicle for expressing this commitment.●

NEW RULES SOUGHT ON LEARJET SAFETY

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. FROST. Mr. Speaker, I am inserting a copy of my recent letter to the Chairman of the National Transportation Safety Board into today's issue of the CONGRESSIONAL RECORD. My letter was prompted by a recent article in the New York Times, which I am also inserting for my colleagues' review.

Mr. Speaker, the article discusses a problem that all of us should be aware of, particularly during this present time of shortages of qualified air traffic controllers. The issue is air safety—not commercial jet safety, but safety in the corporate jet industry. Although the article focuses on the Learjet accident and near-accident rate, I question whether these safety problems are unique to Learjets. The safety record of commercial jet aircraft is two times better than business aviation, a situation which is at least partially explained by the difference in FAA training standards for the two sets of flightcrews. The FAA now requires commercial jet pilots to return periodically for followthrough flight training, a requirement that does not now exist for corporate crews. Additionally, more and more corporate pilots are entering the field these days with no previous combat flight experi-

ence. They are thus ill equipped to deal with the kinds of in-flight hazards that cannot be safely experienced during a training program.

For these reasons, I am urging the National Transportation Safety Board Chairman to recommend to the FAA, first, more stringent initial pilot training programs in business aviation, and second, a requirement that corporate pilots return periodically for training that includes the use of simulators. The text of my letter to the NTSB follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 13, 1982.

Hon. JAMES E. BURNETT, Jr.,
Chairman, National Transportation Safety Board, Washington, D.C.

DEAR MR. CHAIRMAN: On May 23 of this year, the New York times published an article concerning the incidence of accidents involving Learjets. The article also mentioned that the National Transportation Safety Board staff is preparing proposals which could evolve into recommendations for more extensive training requirements for the flight crews of corporate jet aircraft. I realize these proposals are only in a formative stage. However, I am writing to urge that in their final form, they include more stringent requirements for the initial corporate pilot training program and for recurrent follow-through training, including the use of simulators.

I am aware that the New York Times article focused only on the incidence of Learjet accidents and near-accidents. However, I question whether the safety problem is unique to Learjets. Probably because of decreased military combat experience, more corporate jet flight crews are coming to the job today with less turbo jet experience than in the past. And, the FAA does not now require semi-annual flight training for corporate crews as it does for commercial crews. This combination of inexperience and different training standards may account for a commercial jet safety record that is two times better than business aviation's record. By requiring business pilots to return periodically for follow-up training—and by exposing them to the simulated hazards that cannot be safely experienced in actual flight—I think we would see a marked improvement in air transportation safety.

Mr. Chairman, I am relieved to see that your staff is already exploring these possibilities. I sincerely believe a simulator training requirement should be part of your recommendations to the FAA and I hope you'll give my suggestions serious consideration.

Sincerely,

MARTIN FROST.

[From the New York Times, May 23, 1982]

NEW RULES SOUGHT ON LEARJET SAFETY—PANEL TO ASK FAA TO TOUGHEN TRAINING REQUIREMENTS FOR BUSINESS PLANE PILOTS

(By Richard Witkin)

The National Transportation Safety Board is preparing a new set of recommendations that it hopes might further reduce a disturbing incidence of fatal accidents and near accidents involving Learjet business planes.

None of the downed planes were from recent production runs in which planes have new design features specifically aimed at reducing the Learjet's vulnerability in situations like those that led to the crashes.

Safety board staff experts, who did not want to be identified by name, said they were instructed last week to draft proposals calling on the Federal Aviation Administration to toughen training requirements for Learjet pilots.

They also said they were working on proposals to reinforce past recommendations that would require high-performance corporate planes to be equipped with crash-resistant devices to record voices in the cockpit and flight data. These devices have often proved the only means by which Federal investigators have been able to reconstruct the precise sequence of events in a crash and pinpoint the cause.

TOUGHER TRAINING REQUIREMENTS

On the issue of tougher training requirements for Learjet pilots, board members have suggested several possibilities. One would require that a pilot accumulate a minimum number of hours in Learjets as a co-pilot or student.

Another possible requirement would have would-be Learjet pilots take an advanced training course, such as the one given by the manufacturer, before they could receive a Government license to fly the plane on their own. Under current rules, a pilot can receive his certificate after a Government check ride that never ventures to the very high altitudes where a pilot's skills are most crucial.

One staff member of the safety board, describing the Learjet as a plane that has many of the characteristics of a jet fighter, said: "It used to be that corporate jet pilots came mostly from the military and the airlines. But the world out there has changed, and we're now getting people who might have very little turbojet experience. They can pass a check ride with a Government examiner and never get above 15,000 feet."

The Learjet, evolved by William Lear from a design for a Swiss fighter, has been in production for 18 years. In 1967, Mr. Lear sold out to the current manufacturer, which took the name Gates Learjet. A total of 1,300 Learjets have been produced.

TROUBLE AT HIGH ALTITUDES

In the last two years, four Learjets have crashed in the United States after encountering trouble at high altitudes and plunging out of control. The most recent crash occurred earlier this month in the Atlantic Ocean off Savannah, Ga.

Two other crashes, in 1974 and 1978, were from medium altitudes. Despite the differing flight plans, both accidents bore similarities to the four later crashes, as well as to one or two incidents in which crashes nearly occurred.

Most significant, perhaps, is that all the downed planes were models that lacked the design features of the latest versions that make them much less vulnerable to such loss of control.

The sequence of events in such accidents can generally be started by a sudden encounter with clear air turbulence, a malfunctioning automatic pilot or by an inattentive pilot who allows the plane to accelerate close to or beyond the maximum speed for which the wing is designed.

The latest Learjet model, the Longhorn, is designed so that the pilot has plenty of time and ample control forces to extricate himself if he starts to get into trouble. Only 23 Longhorns have been sold so far.

A program to modify older Learjets to give them comparable safeguards is underway, but completion of the modification program is months away.

Two key improvements are slower movement of the electrically driven devices that automatically impart nose-up or nose-down forces to the elevator controls and a single switch that enables the pilot to disconnect the automatic pilot instantly in case it malfunctions and begins to maneuver the plane into a hazardous position.

The safety board members made public their renewed concern about the Learjet at a meeting in Washington last Tuesday while investigating a fatal plunge from a high altitude that occurred in Oklahoma last October.

SPECIAL REVIEW PROCESS

Two years ago, the board made an initial series of recommendations to the Federal Aviation Administration. It was reacting to a recent fatal accident that occurred on landing as well as two crashes from high altitudes. There have been at least four on landing.

Responding affirmatively, the F.A.A. set up a special team to review the process under which it initially certified the plane as airworthy. From this came a directive requiring the modifications now being made to the Learjets.

The manufacturer generally supports the Government's approach. The company thinks less-than-expert piloting is mostly to blame for the accident rate, but it acknowledges that the original design left considerable room for the improvements that were subsequently made, emphasizing that all planes go through such an evolution.

"We're not whitewashing the plane," said James R. Greenwood, senior vice president of Gates Learjet. "We've built in additional reaction time so that some of the guys who are a little slow figuring out a problem can have a little more time to cope."●

A TRIBUTE TO CONNECTICUT STATE POLICE COMMISSIONER

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. MOFFETT. Mr. Speaker, I am deeply honored today to pay tribute to the late Connecticut State Police Commissioner, Leo J. Mulcahy. On Monday, July 12, Gov. William O'Neill dedicated the Meriden State Police Complex in Meriden, Conn. to Commissioner Mulcahy, a man he described as "a fair man, a just man, a man who could listen to both sides of an argument, but a strong man who could stand up to adversity and never flinch and never shirk his duty."

Leo Mulcahy's life and good works stand as an example to all men and women who serve our Nation as law enforcement officers. He began his 41-year career with the State police as a $90-a-month road cop in 1930 and worked his way up through the ranks to become State commissioner 29 years later. In 1955, he took a leave of absense from the department to serve as civil defense director. During his first year in this new position, Connecticut

was besieged by two of the worst floods in its history. Leo Mulcahy's swift action and leadership saved numerous lives and Gov. Abraham Ribicoff recognized his heroic duty by naming him commissioner on June 15, 1959.

During his 11 years as commissioner, through the social turmoil of the 1960's, Mr. Mulcahy commanded great respect and set a standard of conduct and rigid discipline which the force will never forget. This strong, forceful, and fair-minded man brought the Connecticut State Police to national prominence during his term of office. He pioneered the unmarked-police-car approach to highway safety nearly 20 years ago and was instrumental in instituting strict speeding regulations to protect the lives and limbs of Connecticut motorists. Today, we are again trying to tighten highway traffic safety and we would do well to remember Commissioner Mulcahy's commendable work in this area.

Mr. Speaker, Leo Mulcahy's exemplary career in the State police department is a credit to Connecticut and to the Nation. He served our country with strength and determination and will always be remembered by his fellow troopers. We will miss this dedicated man, but his respect for the laws of the land lives on in those who serve on behalf of the State's public safety.●

THE LEBANON CRISIS AND AMERICAN FOREIGN POLICY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. LANTOS. Mr. Speaker, the distinguished executive director of AIPAC yesterday put the crisis in Lebanon and U.S. foreign policy in its proper perspective in his testimony before the Subcommittee on Europe and the Middle East of the Foreign Affairs Committee. I am pleased to share with my colleagues in Congress this important statement:

TESTIMONY BY THOMAS A. DINE, EXECUTIVE DIRECTOR, AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE

* * * * *

As the Subcommittee meets today, the fate of Lebanon is being decided by soldiers and diplomats. Will the sovereign nation-state called Lebanon be revived and reshaped as the result of the current conflict among Israel, the PLO and Syria? Will the terrorist PLO be disarmed and evicted from Lebanese soil, a "state within a state" removed? Will the Syrian and Israeli armies return to their own countries as quickly as possible?

But more than Lebanon is at stake. The opportunity for a broader peace in the Middle East is at stake. U.S. political and strategic interests are at stake. I believe that the American statesmanship, requiring persistent and well-directed diplomacy and perhaps defense forces as well.

LEGITIMATE SELF-DEFENSE

An understanding of the crisis in Lebanon must begin with an analysis of the situation which gave rise to military action by Israel. In 1964, the PLO was formed to bring about the destruction of Israel and to replace it with a Palestinian Arab state. The purpose was not to take over the West Bank and the Golan Heights—indeed, these did not even come under Israeli control until three years later. The purpose was not to attain a Palestinian "mini-state" in the West Bank and Gaza. Had this been the purpose, the PLO could have long ago pressed its case with Jordan and Egypt, its professed supporters, to give the new organization these territories. Rather, its purpose, as stated quite explicitly in the PLO's so-called "National Covenant", and revised in 1968, was the liquidation of Israel—"the elimination of Zionism in Palestine."

This remains the purpose today, as the so-called National Covenant has been formally reaffirmed again and again. While some PLO-apologists have played the game of "invent your own PLO" and imagined that the goals of the Covenant are no longer its "real" goals, the PLO itself has repeatedly and consistently repudiated these interpretations and stood by its written commitment to Israel's destruction. In May 1980, Yasir Arafat's Fatah organization declared in Syria that its aim was "the liberation of Palestine in its entirely, and the extermination of the Zionist entity economically, politically, militarily, culturally and idealistically."

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In 1970, the PLO, expelled from Jordan, moved its terrorist bases to Lebanon, a still weaker country whose government lacked the means to resist successfully. It is noteworthy that Syria, which professes total support for the PLO but does have a strong government, refused to let its territory be used as a base, leaving weak Lebanon with the burden.

Moving into Lebanon, the PLO captured whole villages and regions from the indigenous Lebanese population. The terrorists drove Lebanese from their homes and converted the southern portion of the country into a vast armed camp for strikes against Israel, making, among other things, arms depots out of churches, mosques, hospitals and schools.

Here, Israel faced a new problem. Particularly after the outbreak of the Lebanese civil war in 1975, brought about in no small measure by the PLO itself, there was no strong central national authority to hold accountable for the actions of the PLO. Instead, it was necessary to take actions against the terrorists themselves. This, however, was an inherently more difficult problem in the moral sense (though not in the legal one) because the PLO systematically located its facilities in the heart of civilian populations. Israeli reprisals inevitably, no matter how carefully planned and targeted, would cause some civilian casualties.

For this reason, Israel exercised considerable restraint in Lebanon, avoiding operations on the scale of those earlier employed successfully against Egypt and Jordan to end the illegal use of those countries as launching points for aggression. In Lebanon, Israel did everything conceivable to seek diplomatic solutions through the great powers, the United Nations, and such government as can be said to exist in Lebanon. When in 1978 Israel did undertake a substantial reprisal—the Litani Operation—it quickly withdrew again in favor of a U.N. peacekeeping solution. UNIFIL proved to be woefully inadequate and futile.

However, the record is now crystal clear that these diplomatic efforts were ineffective and were merely exploited by the PLO as a time to stockpile caches of Soviet-built-and-supplied tanks, artillery, rockets, rifles and other arms in preparation for still larger operations against Israel. Collective security and diplomatic efforts failing, direct Israeli action, under the self-defense provision of Article 51 of the United Nations Charter, became inevitable. As Henry Kissinger recently wrote:

"No sovereign state can tolerate indefinitely the buildup along its borders of a military force dedicated to its destruction and implementing its objectives by periodical shellings and raids." (See Appendix II, The Washington Post, June 16, 1982.)

This perception is shared by a majority of Americans. Polled between June 18-22, a clear majority of respondents in the Harris Poll agreed, by 57% to 32%, that Israel was right to move into Lebanon to destroy PLO bases there. Separate polls by the Gallup and Los Angeles Times polling organizations show similar results.

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Israeli actions on Lebanese territory are also based on the "inherent right . . . to self-defense" in accordance with Article 51 of the U.N. Charter.

Let us remember, Israel's action in Lebanon was not precipitated by the shooting of one of Israel's most respected diplomats in London last month. Nor was it a reaction to the murderous shelling of Israel's citizens in its north. Israeli diplomats have been shot by PLO terrorists before; Israeli civilians have been wounded or killed by PLO bombs, rockets and missiles before. But these incidents, as provocative as they are, were only part of a *constant, concerted* and *escalating* PLO threat of Israel's security.

* * * * *

THE PLO THREAT

Israel has found in Lebanon enough PLO weapons to equip a massive army and to supply untold numbers of terrorist cadres around the world—and many of them have already been supplied.

The list of PLO-trained-and-armed terrorist organizations reads like an international "most wanted" list: The Red Brigade, the Japanese Red Army, the Baadar-Meinhoff gang, the IRA, the Iranian Mujaheddin, the Sandinista, and other radicals from Central America, Turkey, Africa, and Asia.

* * * * *

I refer members of the Committee of the January 14, 1982, Wall Street Journal article, "Arafat Says PLO Aids Foreign Guerrilla Units." Arafat boasts of PLO terrorists serving in El Salvador, Angola and Nicaragua. "We have connections with all revolutionary movements throughout the world . . .," Arafat told the Associated Press on April 14, 1981.

A 1979 incident perhaps best illustrates the PLO role in undermining U.S. interests around the globe by promoting international terrorism. A Boeing 707 transport plane, supposedly carrying Palestinian Red Crescent medical and relief supplies destined for Central America was detained in Tunisia. Officials there discovered that the plane was carrying 50 tons of arms, ammunition and artillery pieces.

And if the PLO could not assist international terrorists by dispatching weapons, the PLO brought the terrorists to Lebanon

for training. According to news reports, the Israelis had captured terrorists from at least 15 countries, including West Germany, Italy, Turkey, Iran, Bangladesh, Pakistan, Korea, Senegal, Niger, Sudan, Saudi Arabia, Jordan, Libya, Abu Dhabi, and Algeria. At the same time, the Israelis uncovered documentation showing that PLO terrorists had trained in the Soviet Union, Hungary, China, Algeria, Pakistan, Vietnam, Bulgaria, and other countries.

* * * * *

In two ways, however, the PLO was different from conventional armies. First, the PLO consciously attacked only civilians and, secondly, the PLO used civilians as human shields to protect itself.

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Documents captured in Lebanon last month include operational PLO orders for the shelling and destruction of civilian towns and villages in northern Israel.

And the second factor that differentiates the PLO terrorist army from conventional armies is its hiding in the midst of civilian centers. Israeli troops uncovered PLO arsenals, emplacements and bases in schools, mosques, and apartment basements. According to Newsweek, June 14, Israeli soldiers in one engagement, were attacked by PLO fighters disguised as hospital patients.

Mr. Chairman, one civilian casualty is one casualty too many, especially if that casualty is an innocent child. But the inflated numbers thrown around to attack Israel, unfortunately, mean that truth is also a casualty today. According to unbiased accounts—including those of congressional and administration officials—the estimated number of civilian casualties in the Israeli operation is only one-tenth of the alleged figures. Even such harsh critics of Israel as columnists Evans and Novak concede, "In the two cities of Tyre and Sidon there is reason to take seriously the Israeli estimate of Lebanese casualties." Many of those casualties are not the result of Israeli action, but are the direct result of the PLO's positioning of emplacements within civilian areas. Even in such cases of PLO emplacements in the middle of civilian centers, press accounts report incredible Israeli accuracy in hitting the military, and only military, targets.

In Sidon, there were reports of PLO terrorists holding scores of civilians hostage. Israeli requests for the release of hostages were met with the shooting of hostages and mediators. That should not, however, shock many. After all, the PLO held all of Lebanon hostage.

* * * * *

The inflated numbers appear to be uncritically borrowed from the Palestinian Red Crescent, headed by Yasir Arafat's brother, Fathi. Representative Charles Wilson, the first Member of Congress to tour Lebanon after the Israeli military operation, was asked to comment on the PLO claim of 800,000 homeless. He responded, "It's absurd because there simply aren't that many people to begin with."

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Mr. Chairman, there can never be such a thing as a "humane" war. But the closest thing to it was fought by the Israeli army. In town after Town, Tyre, Sidon, Beirut, the Israeli army dropped leaflets urging civilians to escape before Israel's troops attacked PLO concentrations. Israeli loudspeakers warned civilians of impending attack, thus erasing any military advantage of surprise.

Israel evacuated wounded civilians in the midst of battle. Hundreds of injured civilians were given medical treatment in Israeli hospitals. Food and clothing were dispatched to Lebanon by Israeli civilians for homeless Lebanese. Lebanese mothers with small children were taken into the homes of Israeli citizens. Israeli relief efforts on behalf of the displaced or wounded have been extensive. Two days ago (July 11), President Reagan's special envoy for aid to Lebanon, Peter McPherson, congratulated the "Israeli people for their very substantial relief contributions." Earlier, on June 24, McPherson stated that the Israelis were cooperating with relief and medical efforts. Medical supplies and personnel were getting through. "As of this hour," McPherson said, "I do not have complaints or concerns from relief organizations. I think they feel there is progress."

Congressman Wilson was also asked about health care, food and water in Lebanon. He responded that he found "no problems." He continued, "The Israelis are doing a good job in that regard. . . . As far as sanitation is concerned, as far as food and water are concerned, I don't believe there is a problem."

OPPORTUNITIES FOR U.S. DIPLOMACY

New realities have been created in the Middle East—realities which may transform the 12-year tragedy of Lebanon into an opportunity for the entire Middle East and the United States. In several significant ways, the Israeli operation has aided the chances for peace and has strengthened American interests in the region.

First: Events since the June 6 operation have significantly reduced Soviet influence and power in the strategically vital Middle East and the perception of that power throughout the world. Two Soviet clients—Syria and the PLO—have been substantially diminished in stature and strength. Both now recognize that the United States, not the Soviet Union, is the key outside actor with the significant ability to influence conflicts. The Soviet Union has been relegated to a sideline role, its credibility among its allies undermined.

Second: The Israeli operation was the first test of the most advanced Soviet and American weapons systems, and resulted in the decisive setback of Soviet equipment and doctrine. In armored and air battles, Israel's forces defeated some of the most sophisticated Soviet aircraft, missile systems, and tanks—technology on the European front. Not only have the Israeli victories provided valuable intelligence on the performance of U.S. equipment in battle against Soviet equipment and on the nature of the Soviet equipment itself, but those victories have enhanced the prestige of the United States throughout the world. The Israeli operation has graphically demonstrated the superiority of American weapons systems such as the E-2C, F-15, F-16 aircraft, and AIM-9L missiles to all nations.

Third: The Israeli operation has presented the opportunity to free Lebanon from the murderous presence of the PLO. Since 1972, the PLO has clashed with Lebanese forces and taken over Lebanese army positions. By 1976, the PLO was effectively an outlaw within Lebanon. Lebanese civilians and others have been terrorized for years by the PLO. For example, since 1980, there were an estimated 40 attacks against foreign embassies and diplomatic personnel in Beirut alone. The destruction of the PLO and the Syrian forces as the dominant military forces in Lebanon present the glorious potential to reestablish a free, independent and democratic sovereign government.

The removal of the external forces provides Lebanese leaders with an unfettered opportunity to formulate plans for their own national future. The events of the past weeks have led to the constructive meetings among the leaders of the divergent Lebanese ethnic and religious factions. As Senator George Mitchell correctly pointed out, the opportunity now exists to work for and achieve—the revival and reestablishment of a truly independent and democratic Lebanon, with full control over her own territory, with full control over her duly authorized armed forces, and without the destabilizing presence of professional terrorists in her countryside and towns.

Fourth: The Israeli operation has dealt a crippling blow to international terrorism. Scores of non-Arab terrorists were captured in Lebanon. Extensive documentation of PLO training in the Soviet Union and Eastern bloc states has been gathered and provides further evidence of the link between the two. Without Lebanon as a base of operations, it will become increasingly difficult for anti-West terrorist groups to receive training, collect armaments, and operate freely.

Fifth: The new military situation facilitates new American diplomatic initiatives in the region. In the reconstruction of a free Lebanon there is a chance to provide a shield against anti-Western Arab radicalism and an opportunity to reassert U.S. commitment to the Camp David peace process. Other Arab nations, now less subject to radical Arab and PLO pressure, can be encouraged to join in the process. These are only a few of the opportunities open to the United States as a result of the Israeli operation.

The role of the United States in resolving the Lebanese crisis and rebuilding Lebanon is crucial. We support the emergency assistance approved by Congress. But this is not enough. The United States should take advantage of existing circumstances to undertake a major negotiating effort that would reestablish a genuine sovereign, independent and democratic Lebanon—free from both terrorism and foreign occupation.

The reconstruction of Lebanon will have benefits not only for the Lebanese and for Israel, but also for the strategic interests of the United States. It will help to reduce the drift toward instability in the Eastern Mediterranean, and strengthen the moderate camp within the Arab world. It may even provide new opportunities for enhanced strategic cooperation between the United States, Egypt, Israel, and Lebanon, leaving Syria and Libya as the only Soviet access points in a Mediterranean otherwise ringed by allies of the West.

But this can only come about if the United States adheres to a steady course, and resists the efforts of those who would have us depart from our history's interest and commitments in the region. A search for favor with uncooperative Arab radicals who oppose peaceful coexistence with Israel is fruitless. The alliance between the United States, democratic Israel, a reconstructed Lebanon, and a progressive Egypt is natural. A self-deceptive search for friends within the PLO, in Syria and elsewhere in the rejectionist Arab camp can only lead to disappointment. President Reagan's concept of "trustworthiness" among friends and allies, not "redirection," are the requirement at this time.

At the same time, we must reemphasize our commitment to the Camp David peace

process, and pressure Jordan and Saudi Arabia, now relieved of the PLO's veto power. Though the loss of life in Lebanon has been tragic, we are, if we choose to be, at a creative juncture in the search for peaceful coexistence in the Middle East.

When the battle is over and the "scourge of terrorism"—to use President Reagan's words to the British Parliament—has been removed, I am confident that the necessity for Israel's operation and its contribution to peace in the Middle East will be clearer to Israel's critics from whom so much is being heard today.

My hope, Mr. Chairman, is that there be a free, independent and secure Lebanon and Israel in the Middle East, leading the way to stability and security in this important region.●

HEARINGS ON CIVIL DEFENSE

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. GRAY. Mr. Speaker, as part of its oversight responsibilities of the status of emergency preparedness in the Washington metropolitan area, the District of Columbia Subcommittee on Government Operations and Metropolitan Affairs recently held hearings on the Reagan administration's civil defense plans.

The subcommittee, which I am privileged to chair, heard expert testimony from witnesses who defended the proposed program for nuclear war survival, and we heard from those who were sharply critical.

Our subcommittee, Mr. Speaker, expressed a considerable amount of concern and skepticism at the plans which have been proposed by the Federal Emergency Management Agency. Our concern focused on the practicality of those plans. It also focused on the potential of those plans to create the impression that a nuclear holocaust is survivable and winable, thereby diverting attention from the need to concentrate on nuclear disarmament.

I offer for the RECORD, Mr. Speaker, a commentary on our hearing from the June 18, 1982, Philadelphia Daily News, as well as the text of my comments at the close of the hearing:

[From the Philadelphia Daily News, June 18, 1982]

FINALLY!

The plans for nuclear war survival continue to build among the heavy thinkers in Washington. You might recall that they had gotten far enough to include massive evacuations of major cities with the Postal Service handling change-of-address cards and the Internal Revenue Service preparing to chase down the survivors.

In yesterday's Daily News, Washington reporter Susan Bennett covered hearings aimed at extending the administration's nuclear safety net to Washington itself. The plans would call for 317,000 Washingtonians to leap into their automobiles and drive in a controlled panic to presumably safe areas of Virginia—some as far as 350 miles away.

Another 274,000, those with lesser priorities, would wait for the buses. Some 1,800 buses would each make three trips to pick them all up. Presumably, whichever enemy is attacking would send its bombs via second-class mail.

All this is nuts, of course, but it doesn't pay to underestimate anybody, even if they do sound like their plans were put together in the special rubber war room at the asylum. And there was something sensible to come out of the hearings.

The acting director of the agency that would provide all those buses at least seems to have his priorities straight. He seems to know who does critical work.

"At this time," he said, "we have not identified members of Congress as 'critical workers.'"

If he extends that category to cover the executive branch, we may have something.

MR. GRAY'S COMMENTS

Listening to the testimony presented to us today, I am deply concerned that FEMA's crisis relocation plans divert the public's attention away from the real issue of nuclear armament, and create the impression that we can survive a nuclear attack.

One case in point is that proponents of the plans assume that the public's response to garden variety emergencies—such as flood, fire, or tornado—is likely to be anything comparable to its response to a nuclear threat.

But there can be no comparison, because no one can possibly equate the danger and fear of a flood or tornado with a nuclear bomb.

If, however, this plan by FEMA continues to spark greater debate and a higher level of public consciousness regarding the perils of nuclear war, then it will have accomplished a great service without ever having relocated a single person.

In terms of asking the Congress to vote for additional funds for nuclear civil defense, I am skeptical. It appears clear to me that FEMA must provide much more evidence that such funds actually will buy survivability.

In terms of the plan itself as an "escape plan," I believe we have seen here today that the plan has a variety of weaknesses—the most important being that at best it may leave us with a choice between a fast death in urban centers such as Washington, D.C. and Philadelphia, or a slow death in whatever rural areas in which we are to relocate.

SYNTHETIC FUELS CORPORATION'S BANKROLL INCREASED BY $6.2 BILLION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. CORCORAN. Mr. Speaker, on June 30, 1982, the Synthetic Fuels Corporation received $6.2 billion in additional funding authority. This funding was provided pursuant to Public Law 96-304 and brings the total funded appropriations authorized for use by the Synthetic Fuels Corporation to $16.5 billion.

How will this additional money be used? On June 18, the Synthetic Fuels Corporation announced the two projects which would become finalists for the first awards of assistance by the SFC. Those two projects are the Breckenridge coal liquefaction project in Breckenridge County, Ky., and the Hampshire coal conversion project in Gillette, Wyo. The Breckenridge project is sponsored by Ashland and Bechtel. Hampshire is a joint venture of Kaneb Service, Inc.; Koppers Co., Inc.; Metropolitan Life Insurance Co.; Northwestern Mutual Life Insurance Co. and Sohio. Sohio is not requesting SFC assistance. According to SFC Deputy Vice President Ralph Bayrer, contracts could be signed as early as August 1, committing the SFC to as much as $3 billion in financial assistance for each project.

Having so recently been through the first budget resolution, I though we should at least note the passing of these billions of dollars of funding authority. We should also note that the wisdom of these massive synfuel subsidies seems less and less apparent. The Office of Technology Assessment, in a draft of a study soon to be released, has concluded that synthetic fuels are less likely to help cut imports of crude oil than increases in automobile fuel efficiency or conservation and fuel switching. This is because $250 to $400 billion in capital investment will be needed by the year 2000 to generate U.S. synthetic fuels production of 5 million barrels per day. These economics are borne out by the Breckenridge project which has cut its proposed output capacity in half, from 50,000 barrels per day to 25,000 barrels per day while its request for financial assistance has remained the same, just under $3 billion.

For those who continue to believe that the synthetic fuels program will not cost us anything, the Congressional Budget Office disagrees. The CBO, in a study dated June 8, 1982, predicts that the Synthetic Fuels Corporation will spend $4.6 billion through the year 2001 on the projects it chooses to subsidize. In addition, administrative expenses for the SFC will total $241 million between 1981 and 1987.

We need not embrace the most expensive and least productive way to reduce oil imports. Neither should we abandon all efforts to encourage the development of synthetic fuels. Finding the proper level between these extremes will require careful consideration. We can start, however, by making sure that the Synthetic Fuels Corporation does not recommit the $1.1 billion in Defense Production Act funding authority which had been earmarked for the Tosco Colony Oil shale project. House Resolution 451, which I introduced on May 5, expresses the sense of the Congress to be that this funding authority shall not be avail-

able for use by the Synthetic Fuels Corporation.

I hope you will join with me and those Members from both parties who have already chosen to cosponsor this resolution. Your support now is important because SFC counsel is currently reviewing the formal and informal legislative history of the Energy Security Act to determine whether the SFC may claim the funding authority freed up by the collapse of the Colony project.

The $6.2 billion in funding guarantee authority that the SFC received today is more than enough to fund the development of a sensible synthetic fuels program. Indeed, given the urgent demand for credit to revitalize our basic industries, it is much more than we can afford. Remember, $6.2 billion is a new, state-of-the-art steel plant. Also, $6.2 billion is equivalent to roughly half the investment made by the firms which have made the Silicon Valley in California so successful.

This year the Federal Government will have the dubious honor of borrowing more than half the total funds available to be borrowed in the United States. The Federal Government is crowding other borrowers out of the marketplace. Programs like the synthetic fuels program are responsible and must be evaluated for what they are: Diversions of capital from private, industrial, commercial, and residential uses to Federal research and development schemes.●

CEASE THIS MADNESS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. STARK. Mr. Speaker, a good friend of mine, Rev. Lee Williamson, of Pleasanton, Calif.'s Lynnewood United Methodist Church had some very wise words for his congregation last August on the nuclear weapons freeze. As Reverend Williamson's sermon states, we are the only ones that can stop the madness of a nuclear arms buildup.

It is our duty, as free people, to show to our fellow Americans, and the world, that action can be taken to bring this buildup to a halt. Let us make our stand known. Cease this Madness.

CEASE THIS MADNESS

I would begin this morning by adding one more verse from Scripture, Isaiah 31:1, "Woe to those who go down to Egypt for help who rely on horses, who trust in a multitude of chariots, the strength of their horsemen but who don't look to the Holy One of Israel or seek help from the Lord."

Just 36 years ago today, 72,000 residents of the city of Nagasaki in Japan were killed when a single atomic bomb was detonated over that city. Three days earlier, on Aug. 6, 1945, 142,000 had been killed at Hiroshima by a similar event. But at that moment, Aug. 9, 1945, the second bomb detonation, no nation on earth possessed a single nuclear weapon. We had built three, one had been used in a test in New Mexico and the other two had been used to kill people in these two Japanese cities. Now in 36 years we have gone from zero atomic weapons to the point today where the USA has some 31,000 nuclear warheads. We are adding to that number at a rate of 3 per day. The Soviet Union has approximately 21,000 nuclear warheads. About 2 years ago the National Security Council estimated that at a minimum in a nuclear war between the U.S. and U.S.S.R. 252 million people would die. 140 million in this nation and 113 million in the Soviet Union. Now, of course we would need to add to that the tens of millions who would be injured, the medical facilities who care for them would be very very limited and probably nonexistent in a lot of cases. The fact that the industrial and economic base in both nations would be destroyed, that the physical task of taking care of that many bodies would be impossible, and the spiritual task of doing so would be devastating. You can see how far we've come in 36 years.

Woe to those who trust in a multitude of chariots and do not look to the Holy One of Israel. The major reason that the Bible has survived all these centures is that the Bible speaks to all generations. And the message we heard from the Book of Deuteronomy has never been more relevant than it is right now. The wandering Israelites were going in to claim the Promised Land, the promised land that we have to claim is tomorrow, the future. The declaration of God in that passage is a declaration more powerful today than it was for them. "I set before you this day life and death; choose life.

George Kennan is a career diplomat, he's an expert on U.S.-Soviet relations. He has spent all of his adult life in that area. Dr. Kennan advocates that the U.S.A. undertake an across-the-board 50 percent reduction in the nuclear weapons we possess despite what the Soviet Union might do. He says there are no examples in modern history of the cultivation by rival power on such a scale that did not result in an outbreak of hostility. Kennan along with others says that we need a very strong chorus of voices to say to the decision-makers of these two super powers what must be said.

For the love of God, for the love of your children, for the love of the civilization to which you belong, cease this madness! But where, do you ask, is the voice that is powerful enough to say it? Woe to those who put their trust in MX missiles and Trident submarines and forget the Creator of life. Now I'm as aware as anyone that the use of quotes or quotations from people can be pretty much like using statistics, you can do pretty much what you want with them depending on what we choose and how we use them. Even so I'd like to try a few that I've chosen.

Listen to these, "What in God's name do we do with military superiority?", Henry Kissinger, 1975. "Woe to those who place their trust in chariots.", Isaiah of Jerusalem, about 730 B.C. "Love your enemies and pray for those who persecute you.", Jesus of Nazareth, around 30 A.D. "We have grasped the mystery of the atom and have rejected the Sermon on the Mount, ours is a world of nuclear giants and ethical infants, we know more about war than we know about peace, more about killing than we know about living.", Army Chief of Staff Omar Bradley, 1948. "If possible, so far as it depends upon you, live peaceably with all.", Paul of Tarsus, about 60 A.D. "Possibly we will have sense enough to meet at the conference table with the understanding that the era of armaments has ended and the human race must conform its actions to this truth or die.", President Eisenhower, 1960. Now with such as this before us and with the horrible knowledge that we have the power to render the Soviet Union a virtual desolate crematorium, they could do the same to us, why are we not outraged, why are we not outraged?"

I found some help with that question in a recent book by Bob Brown—Robert McAfee Brown, professor of Christian ethics at Pacific School of Religion. In this book Bob Brown speaks about the gift of disturbing discoveries, and then he speaks about 5 disturbing discoveries that have discovered him. I would share three of them and the final two will follow from these. The first disturbing discovery is this, who we listen to determines what we will hear. That's simple and it seems obvious, what may not be so obvious is that we often take great pains not to listen to those who might challenge conclusions to which we have already come. "I've made up my mind", the saying goes, "don't confuse it with facts." The Jewish theologian, Martin Buber, talks about this attitude when he talks about various German people toward Adolph Hitler and Nazism in the '30s. He said a few knew what was going on and they acted courageously, many more knew what was going on and became willing accomplices. A great many, however, took special pains not to find out. They left questions unanswered, they listened only to others who assured them nothing was amiss, that any tales they heard were exaggerated, and anyway whatever happened to the Jews was for their own good. Bob Brown says we need to listen, we need to listen to the victims in El Salvador, in Chile, in South Africa, in the U.S.A., of Hiroshima, and Nagasaki. Too long have we listened to those who tell us that the way to peace is through preparation for war, too long. Too long have we opened our ears to those who, Jerehmiah chastises, saying they heal the wounds of a people lightly crying, "Shalom, shalom" when there is no shalom. Too long we have ignored the lessons of Hiroshima and Nagasaki wistfully willing ourselves to believe that nuclear weapons only represent an advance in technology of warfare, not so. They place within our control a whole new order of destructive potential.

Second disturbing discovery is this, where we stand determines what we see. Obvious again, stand on higher ground and you see farther. From where we stand in reality in life, Bob Brown suggests, probably is determined by a lot of things: by the color of ones skin, by the nationality one holds, by the degree of financial security or insecurity that we experience, whether or not our last name is Armstrong or Dublowski. When I read this I was reminded of the crowd in Jerusalem one day when they were offered a choice of giving continued life to Jesus of Nazareth or to the infamous Barrabas. Now that's a terrible kind of decision to have to make, to be sure, but I believe this crowd wanted to think that all was really well in their society and that Jesus was the immediate cause of the unrest that was going on. Well again, Bob Brown says we need to try to stand where the victims stand.

Third disturbing discovery is not quite so obvious as the first two perhaps. What we

do determines who we are. I suspect that that one flies in the face of what most of us think. I suspect that most of us think that we need to get our thinking straight and then our actions will follow, just like a bolt out of the blue or a Capt. Marvel comic book, "Shazaam". But this, Brown says, most often doesn't happen. This, Brown says, too often becomes a nifty rationalization, a way for us to rationalize the status quo which is okay, if your status is quo, but it's pretty questionable from the standpoint of the victim of the status quo. Our self-definitions are not constructed in our heads, they are forged in and through our deeds. And the payoff for this kind of thinking and acting is not a consistent theory of life but the payoff is a committed life. Such an analysis as this leads to a disturbing, not discovery but conclusion: there are no spectators, there are no spectators.

For the spectator is really saying to oppressive regimes and dictators "go ahead and torture because even though I may not cheer you on, you can bank on the fact that I will not oppose you." The spectator is really saying "go on and pile on three more nuclear warheads everyday, posture for war, and deploy the Trident submarine armed with the theoretical capacity for destroying 408, 408 cities, though I may not be cheering you on, neither will I stand in your way." Why are we not outraged? We, who surely must've heard dozens of times Jesus' stand in Nazareth and read from the Isaiah scroll, "the spirit of God is upon me to bring justice, to teach shalom" and when he had finished reading he sat down and all of the eyes in the synagogue were fixed upon him. Now, he had caught their attention for that brief moment, had created expectancy within their souls. Where's the church today? Does anyone expect anything of us?

I have here in my hand what is a very short statement which calls a halt to the nuclear arms race—a proposal for a joint U.S.-Soviet Union nuclear weapons freeze. It's 4 and one-third lines long, listen to it . . .

For two months now I have been asking this congregation to respond to that call. It has been printed in the Lynewood Line, opportunities for worship, for prayerful discussion, for information sharing, where education has been offered. The response has been minimal. Coming in September there will be more opportunities, some that may require you to make a commitment of 8 to 10 to 12 hours over 4 nights during that month. I just put it to you—who among us really wants to build another nuclear weapon? Is there anyone who would not like to see us and the Soviet Union stop? Why are we not outraged? Because of Brown's disturbing discoveries what we do becomes who we are, where we stand determines what we see, and what we listen to determines what we hear. I have found this week and today to prepare for and to preach on this topic is difficult. I think at least for two reasons, one is that what we're talking about is so immense that it's beyond our imagination. The second is—who wants to hear it anyway? Who among us wants to be reminded of the killing potential we have in our grasp? Who wants to be reminded that our nation is in the process of deploying a machine of war that theoretically can destroy 408 cities without reloading? People of the Soviet Union perhaps might have some reasonable arguments to excuse themselves: after all they live in a society where the wishes of people are secondary to the goals of the party in power. But we in this nation, in the land of freedom, do not have that luxury. "Everyone to whom much has been given, much shall be required." Another quote from Jesus of Nazareth.

Well now in my conclusion, it is simply this, that it is now time, it is now well past time, for Christians, for other people of faith, for all people of good will, to rise up to lift our voices and declare "we will walk to the ends of the earth, we will stand until the end of time, we are the voice powerful enough to say, "Cease this madness!"

May God have mercy and forgive our choices of death when life has been set before us.●

THE MANHASSET COMMUNITY DAY CENTER: SHARED RESPONSIBILITY IS THE KEY

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. LEBOUTILLIER. Mr. Speaker, on a recent Friday evening, the graduates, their fellow participants, staff, parents, and interested members of the Manhasset community, located within my congressional district, enjoyed a special graduation ceremony. The ceremony was not a typical mid-June commencement or school graduation. Rather, it was another successful graduation by participants in one of the most noteworthy and effective drug treatment programs in New York.

The Manhasset Community Day Center, operating under the auspices of the Long Island Jewish-Hillside Medical Center, has been described by Newsday as possibly being "one of the most rigorous rehabilitation programs on Long Island."

The rigor encountered by the participants is not in vain, and the success of the program is widely known and highly respected.

The Manhasset Community Day Center grapples with a national problem, and does so in a way deserving of nationwide emulation.

The program, under the able leadership of Kenneth Amann, was founded in 1970 with the active assistance of the Rev. Frank Johnson, rector of the Manhasset Christ Church. The original founding concept, which remains intact to this day, is geared toward breaking the chain of disturbed adolescent-family behavior so that a healthier, more curative environment can be constructed for both participant and family. The end result is to achieve mastery over a painful habit without undergoing the expense and trauma of residential treatment.

The incidences of recidivism are reduced due to the factor of parental support. The aim of the program is to foster understanding, and not to assign blame. A joint therapeutic plan for participant and family fosters understanding beyond the immediate drug-related problems.

The day center's treatment team consists of professional counselors, social workers, and a staff psychiatrist. The team and the participants first deal with a variety of "here and now" problematic behaviors with experience-related tools of learning. Both negative and positive behaviors are addressed in a peer-oriented milieu so that all participants can offer helpful feedback to one another.

As Mr. Amann correctly notes, the adolescent peer group is the "Holy Grail" of adolescent value systems. This process is paired with parental involvement so that graduates can draw upon on-going guidance in the years ahead from a strengthened parent/child relationship. In essence, Mr. Amann states, ". . . (We) structure behavior without relieving the parents of their responsibilities toward their child." This treatment is effective, productive, and cost effective.

The effects of concluded period of drug abuse are incalculable. This program, Mr. Amann states, "negates the 'Government-will-take-care-of-me-indefinitely' mentality and states instead that America's greatest strength lies in the form of the personal initiative of her citizens and families." Fighting a modern national problem with traditional and effective methods promises success in the war against drug abuse. The Manhasset Community Day Center adds greatly to the drive toward the abolition of drug abuse and adolescent alienation.●

NATIONAL YEAR OF DISABLED PERSONS

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. DAVIS. Mr. Speaker, I would like to recognize a single program which has influenced more than 35 million lives around the country. Most of us are not aware of the number of disabled persons that exists, but by dedicating 1982 as the National Year of Disabled Persons (NYDP), we have planted a seed to implement programs in progress and encourage new ones to develop in assisting such persons.

These programs aid in providing equality to people who have some type of disability. NYDP has given people the incentive to eliminate the past attitude of "there's nothing we can do," and challenges the abled as well as disabled to participate in fulfilling the needs of handicapped persons.

An important contribution of NYDP is the community partnership program. It is by using this successful approach that I would like to commend the following counties within the

State of Michigan: Alpena, Charlevoix, Cheboygan, Crawford, Houghton, Marquette, Menominee, Montmorency, and Ontonagon.

Emphasizing community involvement, these counties have been able to identify and solve the problems that arise within their own areas. Each individual requires different attention within their respective environment and these counties have recognized those needs.

In participating with NYDP, these communities were also able to exchange data among themselves and learn about various other programs which aided in their own program design.

The above mentioned counties have recognized the abilities of the disabled, and have realized what such people can contribute to their community and are striving to help them reach their full potential.

Although the community partnership method is practiced, these counties also have specialized in specific areas which they feel need more emphasis. For example, in Crawford County, emphasis is placed on equal opportunity advertisements and publications which teach community members how to participate effectively in NYDP programs. Provisions in public buildings are also being up-dated for disabled persons.

In Ontonagon County, local groups have become involved by sponsoring a project to obtain "talking typewriters" from England to assist persons. They are concentrating on the technological aspects of aiding the disabled within hospital units.

I cannot place enough emphasis on the importance of contributing to the NYDP goals: To recognize and fulfill the needs of disabled persons so they may lead normal life styles. I would like to congratulate these counties in my district in their efforts to obtain those goals. I believe that in recognizing those persons with disabilities, their cooperation and accomplishments have contributed to the success of NYDP in 1982.●

THE PLO MUST QUIT LEBANON

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. LANTOS. Mr. Speaker, the American Lebanese League—a nationwide organization representing the ideals of over 2 million Americans of Lebanese descent—published a significant statement from the Lebanese point of view on the role of the PLO in Lebanon. I urge my colleagues in Congress to carefully study the views of our fellow Americans of Lebanese descent on the PLO:

We speak as Lebanese Americans, profoundly concerned with the fate of family and friends in the land of our fathers.

Seven years ago, Lebanon was occupied by PLO terrorists who had been expelled from Jordan after failing to overthrow King Hussein. During those seven years they committed an orgy of atrocities and desecration against women and children, churches and gravesites.

A sweet and lovely land was ravaged. Those who dared to oppose the PLO were murdered. Homes and farms and villages were pillaged. Lebanese governmental authority was defied and ultimately destroyed.

In collusion with the Syrian occupation army, the PLO made war on the people of Lebanon. From 1975 through 1981, the toll among civilians was 100,000 killed, 250,000 wounded, countless thousand made homeless. Thirty-two thousand children were orphaned. And the world was silent.

From the safety of Beirut, the PLO became the vital center of radical activity in the Middle East, launching an international war of terrorism against the West and spearheading Soviet penetration of the region.

From refugee camps and occupied villages in southern Lebanon, they bombarded Israeli towns and farms with Soviet-suppied arms—inviting Israeli retaliation. Civilian casualties multiplied because the PLO used hospitals as command posts, schools as barracks, apartment houses as ammunition depots, churchyards as missile sites.

Today, West Beirut is being held hostage by PLO criminals who are indiscriminately shelling the population of East Beirut without cause. PLO gunmen at roadblocks are turning back Lebanese families seeking safety outside the city. The PLO would see the city go up in flames rather than leave in peace.

What right does the PLO have to decide the fate of Beirut?

Who gave them authority to insist that Lebanese civilians die with them?

When will the world understand that Lebanon will never know peace or freedom until the PLO and the Syrians depart? Israel should also withdraw—and a strong and sovereign Lebanese government will be restored.

Lebanon's people cry out in agony for an end to the terrible destruction that has been brought upon them. Now, before it is too late, we call on President Reagan and all who love peace and value human life:

The PLO must go—at once!

The terrorists must not be permitted to bring Beirut crashing down around them. They must not be allowed to jeopardize the lives of more Lebanese civilians. They must not destroy what remains of a nation and a people.

The hostage city must be freed!●

THE CASE OF DMITRI SHCHIGLIK

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. COUGHLIN. Mr. Speaker, as part of the 1982 Congressional Call to Conscience Vigil, I rise today in recognition of our continuing struggle on behalf of Soviet Jews. I wish to call to the attention of my colleagues the case of Dmitri Shchiglik.

Shchiglik is 55-years-old, and has been trying to emigrate from the Soviet Union since 1973. Permission has been denied repeatedly, however, because of the alleged secrecy of his work at the U.S.S.R. Hydro-Meteorologic Service as a diesel engineer. He never once had access to any classified materials, and had left his job with the service 8 years before applying for a visa.

From 1973 to 1978, he was harassed constantly with spot interrogations, short prison stays, and mail interruptions. All the while, he kept hoping he would learn something that would indicated when he could expect to be allowed to leave Russia.

In April 1979, Shchiglik decided that he had had enough. He simply put down his tools and refused to work. Essentially, he went on strike, until such time as the authorities would respond to his questions. Soviet authorities, however, referred his case to the police, and on July 16, 1980, he was arrested on a charge of "parasitism," and detained for questioning in Matroskaya Tishina Prison.

Between the time of his arrest and his trial, an additional charge of nonpayment of maintenance to his first wife and child was lodged against him. At his trial, Shchiglik defended himself against the parasitism charge by explaining to the judge that while it was true that he had not worked for the past 18 months, he had lived on his personal savings gathered over a period of 37 years as a member of the work force. In no way whatsoever could he be considered a parasite.

As to the second charge, Shchiglik produced documented evidence that at the time of their divorce, his first wife had signed a statement that released him from the burdens of child support. In exchange for this promise, he had given her 1,500 rubles as well as their flat and all furnishings. Additionally, he had continued to help support their son. All this evidence was ignored, however, and he was convicted on both charges and sentenced to 1 year in a labor camp.

In December 1980, his appeals exhausted, Shchiglik was sent to the labor camp. Two months later, a scheduled visit from his second wife, Rina, was canceled without explanation, and Shchiglik contracted pneumonia. After recovering, he was placed in the prison unit that housed ordinary criminals. There he encountered vicious anti-Semitism, for he was the only Jew in that housing section.

On July 20, 1981, he was released from prison, but was not allowed to return home to Moscow and live with his family. He was forced to find housing outside his beloved home city. Eventually, he found accommodations

in Strunino, 101 kilometers from Moscow, where many other former prisoners of conscience are required to live.

The plight of Dmitri Shchiglik is not unique, Indeed, it is all too common. The number of Jews allowed to leave the Soviet Union has steadily declined from 50,000 in 1979 to a mere 9,500 in 1981. The denial of basic human rights in the U.S.S.R. continues in spite of the Helsinki agreement. Mr. Speaker, I praise those whose efforts on behalf of Soviet Jews have been successful, but at the same time I stress the need to continue to focus public opinion on this vital issue.●

EDWARD MERWICK: PENNSYLVANIA BOY OF THE YEAR

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. WILLIAM J. COYNE. Mr. Speaker, while in Pittsburgh during the congressional recess, I had the opportunity to meet Edward Merwick, an outstanding young American who is the 1982 Boy of the Year for the Commonwealth of Pennsylvania Boys Club.

A resident of McKees Rocks, Pa., Edward Merwick will now compete with 50 other boys for the honor of National Boy of the Year. To earn this honor, participants in boys club activities are judged on scholastics and community service, with special attention given to the amount of time they devote to helping others and the number of hours spent doing club work.

It is easy to see why Edward Merwick, a student at Sto-Rox High School in McKees Rocks, was selected to represent Pennsylvania in this endeavor. As a member of the Torch Club, he assisted boys club staff in service projects. He also served as a volunteer on the street fair committee and as a member, for 3 years, of the Keystone Club. In 1981, he was Boy of the Year nominee.

By his actions, Edward Merwick earned the title of Pennsylvania Boy of the Year. I know that his background of activity will serve him well in the national competition.●

SPACE SHUTTLE LAUNCHING

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. NICHOLS. Mr. Speaker, on June 27, it was my pleasure to visit our Kennedy Space Center to observe the launching of our fourth Space Shuttle. To think that in less than eight short decades, American air travel has gone from the 120-foot motorized flight of the Wright Brothers to returning ships from space to be reused for future space exploration certainly highlights American technology, ingenuity, and spirit of adventure.

This was my first space launch, and for me it was an exciting and patriotic experience. To see the engines ignite and watch them strain to lift the 175,000-pound-plus payload from the Florida launch pad confirms to me what an imaginative mind can do when provided the independence to create and develop ideas.

Once lift-off was accomplished, the thousands of visitors on the base, and the tens of thousands of viewers standing on the beaches broke into excited cheers and clapping. There was a sense of pride and accomplishment by us all; for in his own way, each American has contributed to the success of this and other flights into space.

This launch was especially meaningful and important for the people of Alabama for both astronauts—Comdr. Ken Mattingly (Auburn, 1958, B.S., aeronautical engineering) and Pilot Henry Hartsfield (Auburn, 1954, B.S., physics) are graduates of Auburn University. This is the first time that we have seen an astronaut team that shares the same alma mater.

This was not just a matter of fate for Auburn University has long been recognized for its outstanding programs in engineering, physics, and other studies in the hard sciences. Auburn University is proud of the achievements of Commander Mattingly and Pilot Hartsfield and in our hearts all Auburn graduates believe that both Hartsfield and Mattingly let out a big "war eagle" as their Space Shuttle craft left the launch pad and headed toward its historic journey into space.●

BRAVE YOUNG MAN OVERCOMES MD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. SKELTON. Mr. Speaker, throughout the years this Chamber has heard many tales of those individuals who are blessed with courage and bravery. I would like to address the floor and inform my distinguished colleagues of a young man from Lee's Summit whose courage, bravery, and determination are on the same plateau as any narrative repeated in this Chamber.

This courageous young man, Kale Wilkins, enjoys playing baseball. He plays in right field for the Red Sox, a Raytown, Mo., YMCA baseball program. Kale's one ambition is to play for the Atlanta Braves. What sets him apart from the rest of his 10-year-old teammates is that Kale has muscular dystrophy.

Kale's teammates care about him. Andy Bean, a 9-year-old teammate says, "If I were the manager and had a chance to trade him for a superstar, I would not do it." Although Kale will not participate in an all-star game he still plays 100 percent. Mr. Duarte, Kale's coach says, "He plays so hard. I wish I had five of them like him."

Kale refuses to let his mother or his coach carry him off the field. After a 2-hour game, he is often so tired he cannot stand. Regardless, he does not believe he has a handicap. He believes he is just like every other child.

For those of you who are not familiar with muscular dystrophy, it is a disease which attacks 1 boy in 10,000 by progressively deteriorating the muscles. Kale has just been fitted for a wheelchair, which will probably curtail his baseball career. Now he will have to learn how to coach.

May God bless this young man, who, by his actions, has outshone most of us. I urge all Members of the House to commend and honor the valor and determination of this courageous young man.●

SUPPORT FOR REPRESENTATIVE BIAGGI'S "BAN THE KILLER BULLET" BILL

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. STARK. Mr. Speaker, I do not always agree with Columnist James J. Kilpatrick, but today's papers carried a most useful column by him, entitled "On Target: Ban the Killer Bullet."

I would like to include the article in the RECORD at this point for the use of the Members and the readers of the RECORD:

ON TARGET: BAN THE KILLER BULLET

Rep. Mario Biaggi of New York is on the right track in insisting that there ought to be a law banning "killer bullets," but he is discovering, as is so often the case, that fashioning such a law is easier said than done.

All bullets will kill, but some are more deadly than others. Biaggi's concern goes to a particular kind of armor-piercing bullet that will penetrate the body armor widely used by law enforcement officers—and by some men high in public life.

So-called bulletproof vests came into use during the gangland wars of the Prohibition era, but the garments were so heavy and cumbersome that they failed to gain widespread acceptance. Then came the invention of Kevlar, a lightweight synthetic fabric that stops most bullets at fairly close range. Over the past 10 years, the Kevlar body armor has been credited with saving the lives of 400 police officers.

As Kevlar was being developed, however, an armor-piercing bullet also was being developed. A doctor and two peace officers in Lorain, Ohio, perfected a bronze-alloy bullet, semi-pointed and they coated it with Teflon. They called it the KTW, putting together the initials of Dr. J. P. Kopsch, Dan Turcus and Don Ward.

Their intentions were good. Turcus once had been involved in a shootout. "The police bullets were just bouncing off the guy's car, while he was shooting back at us." The inventors saw a need for a bullet that would give the police an edge in such situations.

What may not have been adequately perceived was that the KTW also would go through the Kevlar vest. The most popular body armor used by police is fashioned of 18 layers of Kevlar. In ballistics tests, the KTW penetrated 72 layers and, in one test, kept going through three heavy telephone directories as well.

Kopsch and his colleagues began manufacturing their armor-piercing bullets for sale to police officers only, but, in the nature of things, it proved impossible to enforce the limitation. The KTW and other similar bullets now can be purchased from many dealers in guns and ammunition.

Given these facts, it might seem an elementary matter to draft federal legislation that would ban the manufacture, importation and sale of armor-piercing bullets. Biaggi's bill proposes such a ban. But it has run into criticism from the Justice Department. As a matter of law, defining such bullets, in conjuction with the handguns from which they would be fired, is proving a sticky proposition.

Until definitive tests can be completed, the Justice Department recommends a stopgap proposal, a law that would establish a minimum, mandatory prison sentence of five years for the use of armor-piercing handgun ammunition during the course of a federal crime of violence. The sentence would be imposed in addition to other punishment, and would not be subject to probation, suspension or parole.

While this measure would apply only in federal courts, justice would urge the states to adopt similar laws. "We see no legitimate reason for private use or possession of handgun bullets that are designed specifically for the purpose of armor penetration," Associate Attorney General Rudolph Giuliani said.

It's hard to see how even the gun lobby could disagree with that view.●

SUPPORT COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. EMERY. Mr. Speaker, today I am introducing a sense of the House resolution to express my support for the continued separate authorization for the community service employment program presently authorized under title V of the Older Americans Act of 1965.

Last year the House voted to extend the authorization for this act by a vote of 379 to 4, an overwhelming expression of support for a program that has impacted the lives of our elderly citizens in so many ways. The CSEP program is an important component of the Federal older American picture, as it provides community service jobs for low-income persons 55 years old and older. Examples of CSEP positions include school crossing guards, grounds keepers for schools, and library assistants. Besides supplementing social security and other pensions with minimum wage part-time and full-time salaries, CSEP positions give seniors a sense of pride and self-worth as they continue to be contributing members of society in their well-deserved retirement years.

The administration suggested in February to fold the CSEP in with other employment programs to produce the employment training program to replace the CETA program scheduled to terminate in September. Neither the House nor Senate committee versions of employment training proposals accepted the administration's suggestion. To protect CSEP from alterations in either the budgetary reconciliation process or future authorization changes, it is imperative that the House go on the record supporting the continuation of CSEP as it is presently authorized under title V.

Please join me in supporting this invaluable program which is presently employing over 50,000 of our older Americans by cosponsoring this resolution.●

RONALD REAGAN ON THE BENCH: ARE HIS VIEWS BEING REPRESENTED?

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, it is said that the judicial branch of Government is the most enduring branch of all. While Presidents, party control, and legislators come and go, an appointed judge, more often than not, outlasts his appointer and confirmers.

Courts play a major role as arbiters, as well as trend-setters, in our society. The function of disposing criminal cases represents only the surface in the scope of judicial involvement. The types of sentences, injunctions, orders, formulas, and rulings imposed have outcomes that profoundly shape the tenor of American life for long periods of time.

When the American people elect a new President, they are, as often as not, electing a new philosophy—or at least opting for a return to an older one after years of distortion.

President Reagan was elected because he stood for the restoration of American values that had been negated, ridiculed, and diluted, largely by liberal activist judges, from the mid-sixties up through the day of his inauguration.

A President has every right to appoint judges who exemplify his philosophy to all Federal courts. These judges should also represent the expressed sentiments of the most important players in the democratic process itself—the people.

We elect Presidents to make firm stamps on society. We want them to make changes and bring about the quality of life that we feel has been negated for years before their arrival in the White House. We want them to succeed. We do not want them to have to operate in a vacuum. The courts should work in tandem with the President, and keep him to the letter of the law. An unelected judiciary should not flout the philosophies of the majority.

The best-laid plans of Presidents and the people can be ripped asunder by judges who vary greatly from the policy directions favored by the popularly elected President.

The case of Judge-designate Steffen Graae provides a stark example of the type of judge that a President like Ronald Reagan would not ordinarily be expected to appoint. While Judge-designate Graae was nominated to sit on the District of Columbia's Superior Court, his appointment by President Reagan arouses strong questions from those of us who share the President's judicial and social views. John Lofton's insightful column of June 21 elaborates on this nomination, and clearly shows the contrast between Ronald Reagan and his appointee to the District of Columbia Superior Court. I commend Mr. Lofton's column to the attention of my colleagues:

The column follows:

[From the Washington Times, June 21, 1982]

BUT WHY NOMINATE A McGOVERNITE?

"Naaa, c'mon!"

This surprised denial is from one of those high administration officials who requests—indeed pleads—for anonymity when I ask him why President Reagan has nominated a McGovernite, Steffen W. Graae, to be an associate judge of the Superior Court of the District of Columbia. But, this is, in fact, exactly what Reagan has done.

In an interview, when I ask Graae if he voted for George McGovern, he replies, with a nervous laugh: "I'm trying to remember." I too laugh. Attempting to help refresh his recollection, as they used to say during the Watergate hearings, I ask Graae: You remember the election, don't you? Nixon versus McGovern? Are you a registered Republican? Graae say: "No, I'm a registered Democrat."

"OK," I say, "now do you remember if you voted for McGovern?"

Graae: "Well, I can but I don't know if this is relevant. It's a private matter."

Agreeing that voting certainly is a private matter, I ask Graae why he would be reluctant to say how he voted? He says: "Oh, I'm

not reluctant to say." When I press him, Graae admits: "Well, I think I probably did vote for Mr. McGovern." "Did you vote for Ronald Reagan in 1980?" Graae: "I just don't think this is relevant."

Yes, Graae says he is generally familiar with Reagan's views and philosophy. "Do you share any of these views or any of this philosophy?" Graae: "Again, I have no comment." "Why?" Graae: "Because this is not relevant or pertinent to the question here."

I ask: "Were you surprised by your nomination considering where you're coming from?"

Graae: "I was very pleased, very honored to be picked—uh, uh, I'm, you know—"

Me: "But were you surprised? Did you really expect to be nominated to a judgeship by Ronald Reagan?"

Graae: "Uhhh" (long pause)—

Me: "Well, don't feel bad. I too was at a loss for words when I heard about your nomination."

OK now, back to that high, anonymous administration official. Referring to the District of Columbia Judicial Nomination Commission, a panel established by law, my source says the administration has no real choice but to pick from the nominees recommended by this outfit. My source says almost all of "these clowns" nominated for the Superior Court and D.C. Court of Appeals by the commission are Democrats and "we're stuck with them."

"You mean you could not have rejected Graae?" I ask. My source replies: "Not really." He explains they have "no choice" when these nominees are sent forward. He says the administration has to pick from the commission's recommended nominees or in 60 days the panel will select its own nominees and send them to the relevant congressional confirmation committee.

My source says he guesses that at some point the administration could have "taken on" the commission's choices and rejected them and tried to win its fight on Capitol Hill.

He says: "We could've rejected all the names sent to us. We could have forced the commission to pick people and then fought it out on the Hill. But, this was not the time to draw the line because soon we will have our own people on the commission and we'll know who volunteered for these jobs. As it stands now, we don't know this."

My source says that indeed the administration did agonize over the question of whether the commission's recommendations should have been rejected altogether. He says: "We would have fought if we knew the nominees we rejected would be replaced by people who were better."

The 1980 Republican Party platform—which Ronald Reagan strongly endorsed both as a candidate and as president—pledges to appoint as judges men and women "who respect and reflect the values of the American people, and whose judicial philosophy is characterized by the highest regard for protecting the rights of law-abiding citizens, and is consistent with the belief in the decentralization of the federal government and efforts to return decision-making power to state and local elected officials."

In addition, the GOP platform says:

"We will work for the appointment of judges at all levels of the judiciary who respect traditional family values and the sanctity of innocent human life."

There is no evidence that Steffen Graae conforms to any of these pledges. In fact, all the available evidence indicates he does not.

That Ronald Reagan would pick a McGovernite to be a judge at any level of the judiciary shows how much trouble his administration is in.

The statement made by my source rings in my ears: "This is not the time to draw the line." But, increasingly, Reaganite conservatives are wondering: When will the president and his administration draw the line? And on what? Just why, exactly, were Reagan and his men elected? To fight about what?

"This is not the place to draw the line." It pains me to say it, but every day—in far too many ways—this assertion seems a fitting epitaph for an administration that's forgotten why it is in office.●

ODE TO HONESTY

HON. WENDELL BAILEY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. BAILEY. Mr. Speaker, last December was not the finest moment for Congress. It was during that exciting time just before Christmas that Congress got into the spirit of giving—self-giving and gave itself a backdoor pay raise in the form of a $75 deduction, with no need to substantiate the claim, for each congressional day served, whether or not we lawmakers should show up and whether or not Congress is really even in session.

This bagfull of goodies has probably brought more difficulties in trying to legislate in the last few days than any other single item I know.

I do not want to go on and denounce any one of us for being greedy, venal, conniving, inconsiderate, or unworthy of the office he holds.

I have cosponsored the Findley bill, H.R. 5343, to repeal that measure. I have voted for other measures which would accomplish the same purpose. All in all, I am sure I will get another opportunity to help set that wrong right.

But, even, if nothing else good comes out of that sad piece of legislation, one good thing has emerged. The whole issue has touched the public consciousness, and though the workings of Congress rarely inspire the Muse, may I share with my colleagues a poem from Marcellus Bosworth, the poet laureate of Osage Beach, down in Miller County, Mo.

May I add, it is time Congress sat down and rectified the wrong of last December. Let us remember the words of Isaiah 1: 18:

Come now, and let us reason together, said the Lord: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool.

I am sure Marcellus would concur with that advice.

I submit his poem, "A Jeremiad," for the RECORD:

A JEREMIAD

(By Marellus Bosworth)

Time was, the men we sent to Washington to serve
As champions of the truth and law
Were fired by inspiration and a partiotic verve
To lead our nation to her pinnacle. We saw
The world pay homage to our rightful claim
That here was found the highest, noblest aim
Achieved by any tribe in any ancient day
Who sought to show the Human Race a better way.

But now we find a slow erosion—not so slow!—
That threatens to destroy our grandest dreams
Of justice, mercy, and the faith that let us grow
To hallelujah hights of fame. It seems
That Congress plays, and pays the piper all too well
While eating at the trough of patronage—and to Hell
With our old-fashioned creed that made us swell
With patriotic pride!
O Congress! do you hear the knell
That tells the fleeting of our precious destiny—
Unless our tainted souls lay bare for all to see
The perfidy that cancers and will surely kill?

Heed now the Voice that calls to better ways,
To purer thoughts, to noble deeds, to higher praise
For those ideals which, not by might nor skill,
But by the grace of Heaven led us up achievement's hill
Where Liberty, not license, dwells and beckons still.
Time now for you, our Representatives,
To subjugate your pride and self-esteem,
The lust for power that all too often gives
The lie to campaign promises you glibly gave.
This must you do e'er Liberty becomes a dream
And Justice sleeps too soon within an early grave! ●

EXPLANATION OF MY VOTE ON THE MOTION TO OVERRIDE THE PRESIDENT'S VETO OF H.R. 6198, THE MANUFACTURING CLAUSE EXTENSION ACT

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. WORTLEY. Mr. Speaker, I voted present on the motion to override the President's veto of H.R. 6198, the Manufacturing Clause Extension Act. As one who has been actively involved as a weekly newspaper publisher and commercial printer for more than 30 years in my home county in New York, I did so to avoid the appearance of a conflict of interest.

I was disappointed that the President elected to veto this legislation.

The House demonstrated its strong support for the bill. In fact, it evoked such little controversy that it was considered under suspension of the rules where it won handily. The other body approved the bill by voice vote.

In his veto message, the President indicated that he thought the bill was protectionist and would interfer with international negotiations underway to resolve some important trade problems.

In principle free trade is a laudable goal. But free trade must be fair trade, Mr. Speaker.

The real issue that must be addressed is jobs—American jobs. American workers and industry have been on the short end of the stick as far as fair trade goes. The Department of Labor estimates that as many as 367,000 American jobs in the printing and publishing industries and in the paper and ink industries would be lost if the manufacturing clause is not extended.

Neither the industry nor the economy could afford to sustain such a devastating blow. I commend my colleagues for their willingness to do the right thing and override such an ill-considered decision.●

FURLOUGHS AT THE GPO

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. SOLOMON. Mr. Speaker, as you may be aware the Public Printer's decision to furlough the entire work force at the Government Printing Office has caused quite a stir on Capitol Hill. In recent days GPO workers have been visiting their Representatives in Congress complaining bitterly about the 6-day furlough which they view as completely unjustified. I have looked into the reasoning behind the Public Printer's decision to furlough his workers, and I would like to share with my colleagues what I have learned about the furlough and about conditions at the Government Printing Office.

Most of us are familiar with the Reagan administration's close scrutiny of executive branch publications. For all too long the public has had to bear the expense of printing publications like "How To Buy a House in Warsaw (Poland)" and "Imaginative Ways With Bathrooms." The administration's push to eliminate useless and unnecessary publications has been felt in the production department at GPO where the volume of print orders has been reduced significantly. During the first 4 months of fiscal year 1982, the production department at GPO lost $1 million a month.

To offset this loss, the Public Printer proposed a 6-day furlough for the entire work force at GPO. Five of the six furlough days were to fall on either side of 3-day holiday weekends between June and December. During the furlough period the Public Printer had intended to obtain selected, long-run agency for printing in-house. To date much of this work, such as IRS forms, has been done by commercial printers under direct deal contracts with the various agencies. With the right type of agency printing to supplement what the GPO prints in-house for Congress, the Public Printer hoped to cut his production department's losses.

Unfortunately, a Federal court ruled recently that the Public Printer could not furlough workers as long as a resolution passed by the Joint Committee on Printing on May 22, 1982, remained in effect. The resolution stated clearly that the Public Printer could not RIF, furlough, or take any adverse personnel action whatsoever without the approval of the Joint Committee on Printing. Therefore, the GPO will not be able to use a furlough to recoup the losses sustained in the production department during the first quarter of this fiscal year.

The high overhead costs at GPO are also responsible for losses in the production department. Printing in-house at GPO costs twice as much as it does to do the same job in a commercial printshop, and the reason why GPO is so expensive is because GPO workers are paid exorbitant salaries. On the average, GPO blue-collar workers are paid 22 percent more than their counterparts performing the same or similar tasks in other Federal agencies. For this reason the Public Printer has asked for a 22-percent reduction in pay for those employees represented by GPO's 13 bargaining units.

It is the Congress, specifically the Joint Committee on Printing, which sets the salaries of the blue-collar workers at the Printing Office. Although no one wishes to impose an unfair burden on any particular segment of the Federal work force, it seems to me that it is the American taxpayer who is bearing the brunt of Congress past generosity to workers at the Government Printing Office. Accordingly, I urge my colleagues who serve on the Joint Committee on Printing to take a careful look at the wage proposal now under consideration and come up with a wage settlement which takes into account the best interests of every taxpaying American.●

WORLD CONGRESS OF POETS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. STARK. Mr. Speaker, I would like to take this opportunity to pay tribute to the Sixth World Congress of Poets to be held in Madrid, Spain, in July 1982, and I would particularly like to honor three poets from my district who will be delegates. Richard and Natica Angilly and Mary Rudge will take their performance of outstanding art forms to the congress. Poet Richard Angilly has written: "let our visions awake," and Mary Rudge, of the "far rare cadence in the poet's mind"—made visible through dances of Natica Angilly.

These fine artists have enhanced our city with their talent and I wish them every success as they journey to Spain to share their gift with other poets from throughout the world.

The theme of the 1982 Sixth World Congress of Poets is "World Brotherhood and Peace Through Poetry." Richard and Natica Angilly and Mary Rudge will represent the United States in an exemplary fashion, and I salute their commitment to promote peace and harmony in the world through their art.

I know my colleagues join me in wishing the poet delegates to the Sixth World Congress of Poets an eventful exchange of culture, art, and friendship.●

BALTIC GENOCIDE DAY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. COUGHLIN. Mr. Speaker, I rise to join my distinguished colleagues in commemorating Baltic Genocide Day. I speak today for two reasons. Primarily, I wish to remember the brave resistance that the Baltic people of Latvia, Estonia, and Lithuania have given and continue to maintain under Soviet dominance. Second, I want to take the opportunity to remind this Congress of the threat posed to all freedom-loving people by the Soviet Union.

Forty-two years ago today, the Red army of the Soviet Union poured over the borders of the Baltic States of Latvia, Estonia, and Lithuania marking the beginning of four decades of tyranny and oppression. Hundreds of thousands of innocent Baltic people were imprisoned or deported and more than 500,000 died of starvation or were killed outright. In only 7 days of occupation these three former countries

lost over 10 percent of their population including most of their intelligentsia. In essence, Baltic society was decimated.

The spirit of the Baltic people, however, did not perish with their national autonomy. They continued their valiant fight for freedom, taking every opportunity to frustrate their Soviet captors. In the Baltic region, the people continue to make their culture flourish, though secretly, and American citizens of Baltic ancestry widely celebrate their rich heritage. These people merit our praise.

The Soviet annexation of Latvia, Estonia, and Lithuania was not the first act of barbarism the Russians have committed nor has it been the last. Hungary in 1956, Czechoslovakia in 1968, Afghanistan in 1979, and Poland in 1981 all leap to mind. Each time it is the same Soviet objective: the repression of freedom-loving people to the will of the Kremlin. Mr. Speaker, it is our duty to continue to condemn such actions and strive to preserve the freedom which we hold so dear.

Forty-two years ago a would-be conqueror attempted to obliterate Baltic free will. They succeeded in occupying the territory of Latvia, Estonia, and Lithuania, but failed to break the spirit of the Baltic people.●

SPEAKING UP FOR PROJECT ISABELLE

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. LEBOUTILLIER. Mr. Speaker, Project Isabelle—Brookhaven National Laboratory's star physics project—has been hit with budget reductions just at the time when its growth is at its most sensitive stage. The benefits of this project to the American and international scientific community are enormous. The larger benefits to the economy of Long Island are also large. Allowing Isabelle to be built will aid Long Island's high-technology economy as well as all of the other connected industries. Long Island needs Isabelle, and the Nation needs her as well.

In an April 27 letter to President Reagan, I stated that:

Project Isabelle is an essential high-technology project for both our nation and Long Island. If Isabelle lapses due to funding cutbacks, many of my region's individuals and businesses will be hurt . . .

However, not everyone recognizes the importance of Project Isabelle. In a June 24 editorial in the New York Times, the editorial board passed up an opportunity to urge approval of funds for an important project needed by many of their readers.

Prof. Robert K. Adair of Yale University responded to the Times' editorial. Professor Adair, Higgins professor of physics at Yale University and editor of Physical Review Letters, writes with the insight and clarity of a recognized expert in his field. I commend Professor Adair's letter to the attention of my colleagues in the hopes that his words will help in efforts to save Project Isabelle:

The letter follows:

Your editorial "The Trouble With Isabelle" (June 24), concerning the funding for the high energy physics particle accelerator now under construction at Brookhaven National Laboratory on Long Island, presents a trivialized and misleading description of the problems the Government, the Laboratory, and the community of physicists face in considering the future of Isabelle and particle physics research in the United States.

Isabelle, a very high energy proton-proton colliding beam machine, will not be unusually expensive; Isabelle is projected to cost roughly the same as the SLAC (California) accelerator complex and no more than the Fermilab (Illinois) accelerator when inflation is considered. Isabelle will be unique; no similar machine is under consideration here or in Europe and most of the research programs projected for Isabelle could not be conducted elsewhere. And Isabelle, like the present BNL accelerator (and other American accelerators) will be a national facility.

The projected dollar cost of the machine has increased beyond original estimates largely as a consequence of inflation. Such increases did result from delays caused by magnet development problems which have been solved. (Contrary to the editorial statement, Isabelle cannot use Fermilab style magnets). However, the financial problems of Isabelle follow less from these nominal overruns than from the general constraints on funding for fundamental research which led to a funding level below the government (OMB) projection made when Isabelle began.

Facing the reduced funding, the High Energy Physics Advisory Committee, mentioned in the editorial, concluded in a split vote that Isabelle construction must give way to the necessity for operating funds for existing accelerators and Isabelle construction funds were eliminated from the budget. Contrary to your editorial, the Laboratory has not asked Congress for additional funds but has asked that $10 million allocated for operation be reassigned to Isabelle construction. Such an expenditure would preserve the present investment (of about $150 million in 1982 dollars) for a possible revised and less expensive machine.

The Times suggests that American participation at the European Laboratory CERN could replace Isabelle. The CERN budget is almost equal to the whole US particle physics budget and the total western Europe expenditure is more than double US funding (and about double, per capita). The Times should consider the wisdom of supporting the transfer of fundamental research and high technology away from the US, away from the Northeast, and away from New York State.

ROBERT K. ADAIR,
New Haven, Conn.●

LISA BUFFONE HONORED FOR HEROIC ACT

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. ZEFERETTI. Mr. Speaker, on July 28, the American Automobile Association will present seven young people the highest award given to members of school safety patrols throughout the United States, the AAA School Safety Patrol Lifesaving Medal.

The seven recipients, credited with having saved a life while on duty at their school patrol posts, will be honored at special ceremonies during AAA day at the World's Fair in Knoxville, Tenn.

This year's medal recipients will join a list of 249 youths from 28 States and the District of Columbia who have been honored since the program began in 1949.

AAA has sponsored school safety patrols nationwide since 1922. Today the program includes more than 1 million children at 50,000 schools throughout the country.

One of the recipients of the 1982 award is from my district. She is Lisa Buffone, 13, of 61st Street, Brooklyn, N.Y. Lisa will be honored for her quick action and heroic act. One morning while on duty, she saved a second-grader from the path of an oncoming taxicab that had run a red light. At the same time she held back four other children who were about to cross the same intersection.

Lisa should be recognized for her exceptional judgment and courage in a dangerous traffic situation.●

INTRODUCING CONSTITUENT LETTER

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. STANGELAND. Mr. Speaker, the American people want a stronger economy. They are willing to make sacrifices, if those sacrifices are fair and across the board. America is counting on us to hold the line.

As an example of that strong feeling, I am introducing into the RECORD a letter which I feel expresses the heartfelt convictions of my constituents and all our fellow citizens.

I hope you will consider the words of Gary Kopp, who understands our deep economic problems and who lays the problem directly on the doorstep of this House.

AITKIN, MINN., *June 17, 1982.*

Congressman ARLAN STANGELAND,
Longworth House Office Building,
Washington, D.C.

DEAR MR. STANGELAND: Recent debate over budget bills has caused me a great deal of concern. The House wants to keep the 1983 deficit under $100 billion while the Senate wants to be at a deficit of $115.8 billion. Adding this to a $trillion deficit already, and what do we have? First, we have a government that is taking on a new debt at a rate faster than it can pay interest. Second, we have an even greater "hole" to attempt to work our way out of. And thirdly, we have a congress with no backbone to face up to a situation that is crippling our private sector—the people of this United States.

We do have to solve our problems together as people, and I will be the first to offer more tax dollars if I know the purpose is to preserve a solid economy for my children and their children. We have a lot of fat to cut out of our system, and you as congressman are the only ones that have the ability to make the needed cuts. I cannot do this because I am only one person. I carry no clout on the floor of Congress. Perhaps other special interests do, but irregardless of their justification I feel they are leading you as congressmen on a collision course that is leading our U.S. government toward bankruptcy.

You see, I have been in agricultural lending for almost ten years. I do understand finance enough to know that when an entity—be it government, farmer, or any other form of business, lacks enough cash flow to meet its interest expense (let alone show debt reduction) it is headed for trouble. And for you as congressmen to debate over whether a deficit of $100 billion or $115 billion is okay makes me feel very scared. Surely you will compromise somewhere in the middle. The only anology I can think of is two men deciding which form of terminal cancer they would prefer to have.

Your recent questionnaire was interesting and I hope you use it on the floor of Congress to show your fellow Congressmen that people care about this country. At a time when decreased private spending should have lowered interest rates to 5-6%, our government continues to snatch up every available savings dollar, keeping rates high. As I watch my farmers filing bankruptcy, selling out, cutting back, and worst of all the young men unable to start because I have to tell them "We are being more restrictive and so must you," I watch government take on $100 billion additional debt that it cannot pay back. This keeps our rates high.

Please explain to me why government doesn't have to be fiscally responsible, and why members of the private sector must be?

Sincerely,

GARY KOPP.●

TO AMEND THE AGRICULTURAL ACT OF 1949

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. BEDELL. Mr. Speaker, I am today introducing legislation which would require the Secretary of Agriculture to implement a paid diversion program for the 1983 crops of wheat and feed grains. This measure is made necessary, in my opinion, by the prospects for continued large grain surpluses, Depression-era prices, significant Government outlays for Federal farm programs—and the failure of the current administration to come to grips with the disaster facing agriculture.

My bill is not a bailout for agriculture. Rather, my proposal is an attempt to bring relief to the U.S. Treasury by effectively cutting production, thus boosting prices and reducing the need for Government support loans, deficiency payments, and storage expenditures. Indeed, the Congressional Budget Office has estimated that if a paid diversion program is adopted as a supplement to a voluntary acreage reduction program—as I have proposed—then Government farm program costs for the 1983 crops of wheat, feed grains, cotton, and rice would be $1 billion less than the cost of USDA conducting a set-aside program only.

It is expected that very soon the Secretary of Agriculture will announce a set-aside program for the 1983 crop of wheat that will resemble the ineffective program offered this year. Likewise, a repeat of this year's feed grain set-aside program is anticipated when the Secretary announces the 1983 program this fall.

The bill I am introducing today calls upon the Secretary to augment these set-aside programs with an offer to farmers to provide a direct payment to them for taking an additional 10 percent of their crop base out of production. By providing this additional incentive, I believe that participation in our crop reduction programs will increase, that a sufficient amount of each producer's land will be idled to assure a cutback in production and an increase in prices, and that exposure to the U.S. Treasury will be significantly decreased.

Mr. Speaker, it is imperative that the farm program announced for the 1983 crops offer a realistic and effective inducement for producers to raise less. If such meaningful steps are not taken—if the administration accepts a simple repeat of this year's dismal and costly farm program—then the threat of collapse in our rural economy that has haunted us throughout this year is certain to materialize with the approach of next spring.

Mr. Speaker, I hope that my colleagues will lend their support to this legislation, and I urge its prompt consideration.

The text of the bill follows:

H.R. 6756

A bill to amend the Agricultural Act of 1949 to require the Secretary of Agriculture to make land diversion payments for the 1983 crops of wheat and feed grains

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

WHEAT

SECTION 1. Notwithstanding section 301 of the Agriculture and Food Act of 1981 (95 Stat. 1221) and section 107B(e)(5) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(e)(5)), for purposes of the 1983 crop of wheat, such section 107B(e)(5) shall be deemed to read as follows:

"(5) The Secretary shall make land diversion payments available to producers of the 1983 crop of wheat at a rate of $2 per bushel for the yield established for the farm for the wheat acreage on the farm which is diverted. Such land diversion payments shall be made only to producers who participate in the acreage limitation program for the 1983 crop of wheat and who devote to approved conservation uses 10 per centum of the acreage base for each wheat-producing farm, in addition to any such base required to be devoted to conservation purposes under the acreage limitation program, in accordance with land diversion contracts entered into by the Secretary with such producers. The Secretary shall provide producers an opportunity to apply to participate in the land diversion program through the end of the certification period under the acreage limitation program.".

FEED GRAINS

SEC. 2. Notwithstanding section 401 of the Agriculture and Food Act of 1981 (95 Stat. 1227) and section 105B(e)(5) of the Agricultural Act of 1949 (7 U.S.C. 1444d(e)(5)), for the purposes of the 1983 crop of feed grains, such section 105B(e)(5) shall be deemed to read as follows:

"(5) The Secretary shall make land diversion payments available to producers of the 1983 crop of feed grains at a rate of $1.50 per bushel, in the case of corn, and at such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made for corn, in the case of grain sorghums, oats, and barley, for the yield of such commodities established for the farm for the acreage thereof on the farm which is diverted. Such land diversion payments shall be made only to producers who participate, with respect to any feed grain, in the acreage limitation program for the 1983 crop of feed grains and who devote to approved conservation uses 10 per centum of the acreage base for any feed grain for each feed grain-producing farm, in addition to any such base required to be devoted to conservation purposes under the acreage limitation program, in accordance with land diversion contracts entered into by the Secretary with such producers. The Secretary shall provide producers an opportunity to apply to participate in the land diversion program through the end of the certification period under the acreage limitation program.".●

FIMA FLOMENBLIT MUST BE FREED

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. LANTOS. Mr. Speaker, I am proud to be a member of the 97th Congressional Class for Soviet Jewry under the leadership of my colleagues, CHRIS SMITH and WILLIAM COYNE. This group is a manifestation of Con-

gress continuing concern for the thousands of Jews in the Soviet Union who are being denied their most basic human rights.

The number of Jews being granted permission to emigrate from the Soviet Union keeps dwindling, while the cultural genocide occurring within that country intensifies. Each individual's story is distressing and merits our involvement, but I would like to bring to my colleagues' attention the case of Fima Flomenblit.

Mr. Flomenblit, a 45-year-old single man, has been seeking permission to go to Israel since 1973. His application has been repeatedly refused on the grounds that he has no immediate relatives in Israel.

While Soviet officials often cite lack of family ties as a reason for denying a visa, it is not the crux of the issue. The crux is that a man is being prevented from living in the country of his choice and freely practicing his religion.

We, as Members of the U.S. Congress, must continue to speak out on behalf of the thousands of people in Fima Flomenblit's situation. We must demand Soviet compliance with the Final Act of the Helsinki accords. And we must constantly work to protect the freedom of individuals everywhere.●

THE PASSING OF MADAM MARIA JERITZA SEERY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. RODINO. Mr. Speaker, with the passing of Madam Maria Jeritza Seery, the world has lost one of the greatest artistic performers of this century, the United States has lost a national treasure, and I have lost a dear friend.

Madam Jeritza overwhelmed the opera world for the better part of the 20th century with her unforgettable performances, first in Vienna, then as a member of the Metropolitan Opera in New York, and finally in benefits she performed all over the world. Those of us who grew up with a deep appreciation for the tenors and sopranos of the day were captivated by Madam Jeritza's beauty, grace, and extraordinary voice. The powerful style, the tremendous sense of drama, and the personality and interpretation which she brought to her roles, distinguished her as one of the outstanding divas of all time.

She inspired the admiration and respect of numerous composers, including Giacomo Puccini, who directed Madam Jeritza in her most compelling role of Tosca, and who wrote "Turandot" for her shortly before he died; Richard Strauss, who composed "Die Frau ohne Schatten" and "Agyptische Helena" especially for her, and who made it a habit of personally conducting his operas when Madam Jeritza performed; Eric Wolfgang Korngold, who composed "Violante" and "Die Tote Stadt" in her honor; and Franz Schrecker who wrote "Die Gezlichneten" and "Das Spielwork du Prinzessin" for her.

Madam Jeritza performed over 200 different roles—she was Vienna's first "Salome"—in her career, delighting audiences in the United States and around the world. She was a woman of boundless energy, whose reservoir of good will stretched across several continents as she used her talents and her personal wealth to benefit hundreds of humanitarian causes.

Madam Jeritza was instrumental in obtaining freedom for many prisoners in Nazi concentration camps and in financially assisting many convents and churches in Communist countries. She spent 6 years, from 1948 to 1954, in Vienna singing benefits for the rebuilding of St. Stephen's Cathedral.

It is doubtful that any woman of our time has received as many honors from world leaders as Madam Jeritiza. She was honored by Pope Pius XII, Pope John XXIII, and Pope Paul VI for her dedication to worldwide charities; she was named a Lady Great Cross of the Holy Sepulcher of Jerusalem by the Roman Catholic Church; and she received high honors from the Governments of England, France, Austria, Denmark, Sweden, Belgium, and Italy, and the highest honor bestowed by the American Red Cross.

American Presidents Franklin Delano Roosevelt, Dwight Eisenhower, and Jimmy Carter also payed her tribute. President Carter, I believe, spoke for all Americans when he said in a letter to Madam Jeritza in 1979: "Your talent is matched only by your dedicated interest in the needy and the helpless."

As an American who loves opera, I have always felt fortunate that this extraordinary diva chose our country as her adopted land, leaving Austria to become a naturalized American citizen. I was even more pleased that Madam Jeritza came to live in my home city of Newark, N.J., after marrying Irving Seery in 1948. She became one of the most exciting celebrities of our city. As a woman who had a healthy love of life and love of people, her parties brought a good dose of high style and intellectual and artistic stimulation to Newark. We became neighbors as well as good friends soon after she came to Newark, and I will never forget the way she warmly embraced my family. She formed a close friendship with my wife Ann, and later became godmother to my granddaughter, Maria Teresa.

When Madam Jeritza sang her last role as Tosca, at Newark's Symphony Hall, she was in her seventies. Her talents and spirit seemed timeless. But when she died last Saturday, July 10, at the age of 94, she left us with a legacy that truly is timeless: Maria Jeritza Seery tried to live every minute of her life to the fullest, and to use her God-given abilities to help people in need. She brought song and music to people everywhere, spreading joy throughout the world.

The Nation and the world mourn the passing of this truly great lady. It is with a profound sense of loss than I extend my sympathies to her family.●

HISTORIC NEDRY FAMILY REUNION

HON. GENE CHAPPIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. CHAPPIE. Mr. Speaker, the headquarters of my district in northern California is located in the beautiful city of Chico in the north Sacramento Valley. This college town, with a metro-population of 77,000, is well known for its community activities, but once in a while an event worthy of note takes place in Chico involving private citizens. One such event will make Chico the gathering place for a family reunion this summer, bringing together for the first time, four generations of the Nedry family from all across the country, meeting to commemorate a recorded family reunion held just 100 years ago in Tiffin, Ohio, in August 1882.

Chico was chosen as a site for the event since it is central to those coming from southern California, Oregon, and Washington, and is the home of the reunion cohostesses, Mrs. Joan Nedry Morgan, daughter of the late Dr. Galen C. Nedry of Paradise, a nearby mountain community where Dr. Nedry had an apple ranch; and Beata Nedry Kamp, daughter of the late Robert L. Nedry, also of Paradise. Mrs. Morgan has worked closely with me in Butte County politics, both as president of the Republican women, and in her present capacity as chairman of the Republican Central Committee. Mrs. Kamp's father, Bob Nedry, was well known in the area for his work in Democratic politics, a campaigner for my predecessor, Bizz Johnson, and for Senator ALAN CRANSTON.

Fifty people are expected to attend a reunion banquet to be held on Saturday, July 31, at the Holiday Inn, following a day of meeting and a presentation of the family genealogy as researched by Adele Nedry Rothblatt of Chicago, Ill., and Roger D. Nedry, of Hacienda Heights, Calif. Their research over the past several years has

led them as far back as the 17th century in Scotland, when the family name was Nethery, and has provided documentation for membership in the Sons or Daughters of the American Revolution. Master of ceremonies and general chairman is Robert D. Nedry, Lieutenant Commander USN (retired), of Camarillo, Calif.

The grandparents of the generation planning the reunion, Dr. Henry Monroe Nedry and Minerva Ellen Brown Nedry, lived in Dorchester, Wis., where all 10 of the Nedry children were born. Dr. Nedry was a friend of Wisconsin's Senator Robert LaFollette, Sr., and named one of his sons after him. Dr. Nedry was the only one of this family to remain in the Midwest, while his father and brothers and sisters all moved west and settled in the Central Valley of California. All but four of his children eventually migrated to the Western States.

Following a tour of Paradise, the reunion will end with an old-fashioned Wisonsin picnic on Sunday, August 1, in Chico's beautiful Bidwell Park, the third largest municipally owned park in the country. Reunion participants will be coming to Chico from as far away as Fairfax, Va., and will include members of four generations.

Alan M. Nedry, son of Dr. Clive J. Nedry, is the vice president and Washington counsel for the Southern California Edison, representing this electric utility in Washington, D.C. Mr. Nedry resides in Alexandria, Va., and is well known to the members of the California delegation in Congress.

My best wishes for a fruitful and successful reunion go to all the generations gathering in Chico on July 31, 1982.●

THE NEED FOR A STRONG NAVY IN THE 1980's

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. RUDD. Mr. Speaker, as Great Britain learned centuries ago, an island in a sea of hostility must have a strong bridge to the outside world. That bridge for Great Britain, was a strong, almost invincible navy. Likewise, for the United States, our bridge of commerce and security will have to be our Navy.

The United States is now an island. We depend on the markets overseas to take our vast resources of grain and coal; and we depend upon markets in the developed and Third World for use of our finished products.

We are dependent upon foreign sources for 50 percent to 100 percent of many key minerals needed by industry and for national security needs. Over 90 percent of the domestic needs for such crucially vital minerals such as cobalt, chromium, and manganese are met through foreign sources. We face as potentially disastrous a situation with regard to strategic minerals as we did with the oil embargo of 1973–74.

We face a threat that can come at any time should the flow of raw materials and finished products be curtailed or blocked on the high seas. This threat can come from the disruption at the source of supply, since many areas that are rich in natural resources have unstable political environments, or they can be stopped at several "choke" points through which most trade and commerce must pass on the globe.

In many parts of the world, the societies that govern the sources of supply are under attack from within and from without. For example, central and southern Africa, the richest area of mineral concentration in the world, has been, for the past two decades, a battleground between radical, oftentimes Cuban- or Soviet-backed groups, seeking to control large areas of this mineral rich region. This type of threat is the most complicated one with which we have to deal: As Soviet and Cuban adventurism is often intertwined with legitimate indigenous movements and as the United States, in its unique political and cultural heritage cannot play its foreign policy role by the same realpolitik rules that govern the Soviets: then our ability to keep those sources of supply out of the Soviet sphere of influence is taxed to the utmost. The next most formidable threat to our international commerce is the rapid development of the "blue water" Soviet Navy, and increasing Soviet domination of strategic land and ocean areas. This concerted Soviet expansion has been calculated and is aimed at the most vulnerable and most strategic points on the globe.

In the Middle East, we have been presented with perhaps our greatest challenge. The invasion of Afghanistan in 1979 should serve to reawaken our attention to one of the dominant themes of Russian history: the need for warm water ports.

Soviet aircraft based in southern Afghanistan are 500 miles closer to the Arabian Sea than previously. The object of concern here is the Gulf of Oman, and the Straits of Hormuz. The strait is a vital "choke point" for the ships carrying close to 60 percent of the vital oil for Western Europe. About 77 ships a day pass through this strait, or 1 every 19 minutes.

In Africa, the Soviet efforts in Ethiopia, Mozambique, and Angola threaten the security of the sealanes of the Suez, the Persian Gulf, the Gulf of Aden, and more importantly, the Cape of Good Hope. The sea routes along the cape have the third highest concentration of shipping in the world and that rate is increasing.

In our own backyard, in the Caribbean, the Soviet presence has risen inexorably in the last 20 years. Despite the Kennedy/Khrushchev accord, the Port of Cienfuegos in Cuba has accepted a rapidly growing Soviet fleet, particularly submarines. It is estimated that by 1985, over 50 percent of our energy requirements will pass through the sealanes in and around Cuba.

In Asia, the Soviets inherited an excellent deepwater port in Cam Ranh Bay, which sits astride a major shipping route linking the Sea of Japan and the Indian Ocean, and it is clear that nuclear-powered attack submarines have begun to operate in that area.

Clearly, the Soviets are pursuing a global strategy aimed at severing or controlling the ties of commerce and security of the free world. Acknowledgment of this strategic pursuit necessitates a global American naval presence; and a presence whose force structure is sufficiently strong and flexible to meet any one of several varied challenges.

In the future, there will be no Pearl Harbors from which this Nation can recover to build a fleet to challenge its enemies. That fleet must be built now, in order to meet the challenge at every opportunity that it is offered. And that fleet, as described by the administration, must consist of at least 15 carrier battle groups in order to truly challenge the Soviets in a global manner. Failure to meet the Soviet challenge at sea, with a strong and flexible force structure represented by the large carrier battle group will have the result so eloquently put by Vladimir Bukovsky, a Soviet dissident who spent 12 years as a political prisoner of the Soviet Union, who said that failure to meet the Soviet challenge would mean that "from that very moment, you will gradually begin to lose your freedom, being exposed to constant and unrestrained Soviet blackmail."

As we enter debate on the force structure of our Navy, we will hear the question, "What price freedom?"

Facing the challenge from the Soviets that we do on the high seas, I would merely ask, "Can we afford not to pay the price?"●

THE FREEDOM FIGHT OF TSILIA KATS

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. ECKART. Mr. Speaker, the number of Jews exiting the U.S.S.R. has plummeted to its lowest point in a decade, signaling a disturbing change

in Soviet emigration policy. Coupled with this dramatic decrease in emigration is an increase in anti-Semitic and anti-Zionist activity. Tsilia Kats is an unfortunate victim of this tragedy.

Tsilia and her husband, Iosef, along with Tsilia's younger sister, Tanya, and her parents, Shlema and Golda Fooxman, applied to emigrate to Israel in October 1972. Shlema, Golda and Tanya were permitted to leave in 1973. Tsilia and Iosef, however, have been repeatedly refused permission, simply because Iosef served in the army. Iosef left the army in May 1971.

At the time of their first refusal, the Katses were told by Soviet officials that they would be allowed to leave five years after Iosef's discharge—that would be 1976. They are still being refused due to "regime considerations." Such continued refusal can only be viewed as a gross violation of the Katses' human rights.

The plight of Tsilia and her family is just one among many sad stories of Soviet Jews persecuted because of their religious beliefs and their desire for a life of freedom.

The task of assisting Soviet Jews to emigrate is no less important now than it was 10 years ago. Today, more than ever, we must use every avenue open to us to free the imprisoned Jews of the Soviet Union before their hopes for the future diminish into despair. If we neglect Tsilia and her fellow Russian Jews, we are neglecting the cause of freedom itself.●

NEIGHBORHOOD WATCH: COMMUNITY-BASED CRIME FIGHTING COMES OF AGE ON LONG ISLAND

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, throughout America, there has been a dramatic increase of criminal activities in many neighborhoods, resulting in a serious deterioration in the quality of community and economic life of these neighborhoods.

In the State of New York, Senator Ralph J. Marino (Nassau-Suffolk) has introduced legislation (S. 5926) that would amend executive law in relation to the financing of not-for-profit neighborhood crime prevention programs to provide for the public funding of such programs.

Senator Marino's efforts to secure financial assistance for neighborhood crime watch organizations are timely and fully warranted.

The establishment and growth of neighborhood-based community groups engaged in crime prevention activities with existing law enforcement agencies serves to combat crime and thereby to preserve healthy communities.

Examples of efforts and programs to which funding could be applied are: community patrols, block watchers, operation I.D., crime protection systems, crime prevention education, and crime followup. The control and prevention of crime requires the active involvement of citizens and organizations on the neighborhood level. Such involvement can help in several ways including: increasing community consciousness and motivation; providing law enforcement and criminal justice agencies with more precise problem identification; increasing public knowledge of how residents can protect themselves against victimization; focusing a variety of community resources on the goal of crime prevention and implementing in concert with law enforcement agencies a number of programs designed to reduce situational opportunities for the commission of crime. Attention must be focused on preventing the victimization of the elderly.

Senator Marino and the New York State Legislature are leading the way in granting well-deserved recognition to neighborhood crime-watch groups. In the best tradition of participatory democracy concerned Long Islanders are assisting local law-enforcement authorities in the fight against crime.●

A GREAT MISSOURIAN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. SKELTON. Mr. Speaker, I would like to say a few words about a great Missourian who recently passed away, Mr. Leslie V. Sturms. Leslie Sturms was a veteran of World War II who served his country with pride. He was active in many civic and community affairs and took a special interest in the Pettis County VFW Post 2591. Having once been commander of that post, he served as the commander of the entire sixth district of Missouri at the time of his death.

Leslie Sturms took great pride in America and spent his life dedicated to the service of his country. Although he will be missed by all who had the pleasure of knowing him, his work has left a lasting impression on his community and he will be remembered for all he has done for his country and the people of Missouri.●

AN END TO TERROR—A START TO PEACE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. LANTOS. Mr. Speaker, a distinguished group of Americans published a statement in Sunday's New York Times on the crisis in Lebanon. This thoughful manifesto deserves the most careful study of all us in Congress as we deliberate the proper course of U.S. foreign policy in the crucial period that lies ahead.

The statement follows:

[From the New York Times]

AN END TO TERROR—A START TO PEACE

President Reagan has spelled out the proper goals of American policy in the Lebanese crisis:

1. To restore a "central government" in Lebanon so that the Lebanese people will "have control of their own country."

2. To guarantee the northern border of Israel, so that "there would no longer be a force in Lebanon that could, when it chose, create acts of terror across the border."

3. "To get all the foreign forces—Syrians, Israelis, and the armed PLO—out of Lebanon."

Israel shares these goals.

So do the people of Lebanon, whose land was ravaged by a dozen years of PLO terrorism and seven years of Syrian military occupation.

As Americans and as Jews, we support the participation of our country in helping to achieve these objectives. America's national interest requires an end to PLO terrorism and a free and independent Lebanon as essential to a peaceful, stable Middle East.

We mourn the innocent Lebanese and Palestinians caught in the tragedy of war.

So too, we mourn the Israeli soldiers who gave their lives to defend their country against a Soviet-armed PLO force that placed tanks and rockets and artillery in refugee camps, schools, mosques, churches, residential areas.

The PLO brought tragedy to Lebanon and to Israel. Let them be gone, all of them!

WHAT PEACE REQUIRES

Once terrorism has been eliminated as a factor in the Lebanese equation, once the Palestinian Arabs are no longer subject to intimidation by the PLO, the Camp David peace process can move forward. Essential to that process is Arab recognition of Israel's rightful and legitimate place in the Middle East, and Arab willingness to make sacrifices for peace—as Israel did in returning the strategic depth, oil wells, air bases, and flourishing farms and villages it had built in the Sinai.

Essential, too, is our own country's role as full partner in the making of the peace. A rare opportunity now presents itself to end the scourge of terrorism, to help rebuild a free and sovereign Lebanon, and to urge Israel's neighbors to the peace table. In acting to achieve these goals, President Reagan will, we believe, have the support of all thoughtful Americans.

Morris B. Abram, American Jewish Committee.

Robert Abrams, Att.-Gen., N.Y.

Robert L. Adler, Chicago.

Prof. Robert Alter, U. of Calif., Berkeley.
Albert Arent, Washington.
Bernice Balter, Women's League for Conservative Judaism.
Jordan Band, Cleveland.
Prof. Eugene Bardach, University of Calif., Berkeley.
Phil Baum, American Jewish Congress.
Julius Berman, Conference of Presidents of Major American Jewish Organizations.
Irving Bernstein, New York.
Herschel Blumberg, Washington.
Kenneth J. Bialkin, Anti-Defamation League, B'nai B'rith.
Prof. Herbert Bienstock, CUNY.
Sam E. Bloch, World Fed. of Bergen-Belsen Survivors Ass'ns.
Hyman Bookbinder, American Jewish Committee.
Theodore K. Broido, Union of American Hebrew Congregations.
Charney Vladeck Bromberg, Nat. Jewish Comm. Rel. Adv. Council.
Prof. Gerald Bubis, Hebrew Union College.
Albert D. Chernin, Nat. Jewish Comm. Rel. Adv. Council.
Martin E. Citrin, Council of Jewish Federations.
Harold E. Cohen, Philadelphia.
Prof. Saul Cohen, Queens College.
Donald S. Day, Union of American Hebrew Congregations.
Leo Dunn, Boston.
Fred Ehrman, Union of Orthodox Jewish Cong's. of America.
Stuart Eizenstat, Washington.
Theodore Ellenoff, American Jewish Committee.
Rabbi Gilbert M. Epstein, Rabbinical Assembly.
Raymond Epstein, Chicago.
Paul Flacks, Zionist Org. of Amer.
Bea Forrest, Women's American ORT.
Louis J. Fox, Council of Jewish Federations.
Richard J. Fox, Philadelphia.
Abraham H. Foxman, Anti-Defamation League, B'nai B'rith.
Jac Friedgut, New Rochelle.
Benjamin Gettler, Cincinnati.
Rabbi Roland B. Gittelsohn, Assoc. of Reform Zionists of Amer.
Rabbi Joseph B. Glaser, Central Conf. of American Rabbis.
Bertram H. Gold, American Jewish Committee.
Howard Golden, Brooklyn Borough President.
Harrison J. Goldin, N.Y. City Comptroller.
Aaron Goldman, Washington.
Rabbi Arnold M. Goodman, Rabbinical Assembly.
Osias Goren, Los Angeles.
Rabbi Alfred Gottschalk, Hebrew Union College.
Nathan Gould, Women's American ORT.
Maxwell E. Greenberg, Los Angeles.
Elinor Guggenheimer, New York.
Marice Halper, Int. Council of Jewish Women.
Yehuda Hellman, Conference of Presidents of Major Amer. Jewish Org's.
Malcolm Hoenlein, N.Y. Jewish Comm. Rel. Council.
Jerold Hoffberger, Baltimore.
Aline Kaplan, Hadassah.
Irving Kessler, New York.
Rabbi Gilbert Klaperman, Rabbinical Council of America.
George Klein, N.Y. Jew. Comm. Rel. Council.
Waren B. Kohn, Boston.
Rabbi Benjamin Z. Kreitman, United Synagogue of America.
Constance S. Kreshtool, National Fed. Temple Sisterhoods.
Goldie Kweller, Women's League for Cons. Judaism.
Esther Landa, Nat. Council of Jewish Women.
Jacqueline Levine, Nat. Jewish Comm. Rel. Adv. Council.
Shirley I. Leviton, Nat. Council of Jewish Women.
Nathan Lewin, Washington.
Frieda S. Lewis, Hadassah.
Robert Lipshutz, Atlanta.
Robert Loup, Denver.
Morton L. Mandel, Cleveland.
Donald Manes, Queens Borough Pres.
Theodore R. Mann, Nat. Conf. on Soviet Jewry.
Benjamin Meed, Warsaw Ghetto Resistance Org.
Rabbi Israel Miller, Nat. Jewish Comm. Rel. Adv. Council.
Beverly Minkoff, Women's Amer. Ort.
Robert Morgenthau, Manhattan D.A.
Alfred Moses, Washington.
Emanuel Muravchik, Jewish Labor Committee.
Ivan Novick, Zionist Org. of America
Prof. Robert Nozick, Harvard.
Melvyn Parness, B'nai Zion.
Michael Pelavin, Flint, Mich.
Nathan Perlmutter, Anti-Defamation League, B'nai B'rith.
Dadie Perlov, Nat. Council of Jewish Women.
Chaim Potok, Philadelphia.
Herman Z. Quitman, B'nai Zion.
Earl Raab, San Francisco.
Richard H. Ravitch, New York.
Edward G. Rendell, D.A. Philadelphia.
Donald Robinson, Joint Distribution Committee.
Ann Robison, Nat. Council of Jewish Women.
Edward H. Rosen, Philadelphia.
Richard Rosenbaum, New York.
Leonard H. Rudolph, Pittsburgh.
Edward R. Sanders, Los Angeles.
Herman Schaalman, Central Conference of American Rabbis.
Rabbi Alexander M. Schindler, Union of American Hebrew Congregations.
Carmi Schwartz, Council of Jewish Federations
Bernard G. Segal, Philadelphia.
Irving Shapiro, Anti-Defamation League B'nai B'rith.
Arden E. Shenker, Portland, Ore.
Jerome J. Shestack, Philadelphia.
Henry Siegman, American Jewish Congress.
Rabbi Daniel J. Silver, Cleveland.
Stanley Simon, Bronx Borough Pres.
Donald S. Slaiman, Jewish Labor Committee.
Joseph Smuckler, Philadelphia.
Rabbi Ronald B. Sobel, New York.
Jack Spitzer, B'nai B'rith Int.
Howard M. Squadron, American Jewish Congress.
Andrew Stein, Manhattan Borough President.
Jacob Stein, Great Neck.
Rabbi Paul Steinberg, Hebrew Union College.
Rabbi Joseph Sternstein, Amer. Zionist Federation.
Rabbi Pinchas Stolper, Union of Orthodox Jewish Congregations of America.
Harris B. Stone, Jewish War Veterans.
Sigmund Strochlitz, U.S. Holocaust Memorial Council.
Phyllis Sutker, Pioneer Women/Na'amat.
Rabbi Marc Tannenbaum, American Jewish Committee.
Bernice S. Tennenbaum, Hadassah.
Daniel Thursz, B'nai B'rith Int.
Laurence A. Tisch, N.Y. Jewish Comm. Rel. Council.
Sidney Z. Vincent, Cleveland.
Rabbi Binyamin Walfish, Rabbinical Council of America.
Lewis H. Weinstein, Boston.
Sidney Wiener, B'nai Zion.
Dean David S. Wiesen, U. of Southern California.
Maynard Wishner, American Jewish Committee.
Marshall Wolke, United Synagogue of America.
Bennett Yanowitz, Nat. Jewish Comm. Rel. Adv. Council.
Rabbi Ira Youdovin, Association of Reform Zionists of America.
Robert M. Zweiman, Jewish War Veterans.●

GREENPOINT ITALIAN AMERICANS CELEBRATE FEAST OF ST. PAULINUS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. SOLARZ. Mr. Speaker, it is just as important to respect our heritage as it is to look toward the future. The people of Brooklyn have always been proud of their traditions and religious faith. This month we can see such a dual celebration as Our Lady of Mount Carmel Church celebrates the 94th annual feast of St. Paulinus of Nola.

To the people of Greenpoint, Brooklyn, St. Paulinus is of particular importance. Nearly 90 percent of Our Lady of Mount Carmel's parishoners are from Nola, Italy, where St. Paulinus is the patron saint. For 94 years now, they have celebrated his religious guidance and humanitarian concerns, which we see far too little of today. Through this tradition, they not only pay their respects to a great religious leader, but pass on their beliefs and customs to a younger generation. In a troubled world such as ours, it is essential that we be reminded of the important values represented by St. Paulinus. While we are not all destined to contribute so much to humanity, we should not forget to do what we can to better the world in which we live.

If ever we could learn a lesson in selflessness and philanthropy, it would be from this saint. A man of wealth and property, he disregarded family disapproval to donate his energy and fortune to work for his faith and the people. By popular demand he was ordained a priest and later made Bishop of Nola, where he ruled until his death.

I would like to take this opportunity to congratulate Father Sarnelli on the wonderful job he's done in organizing this affair and to invite my colleagues in the House to participate in this joyous celebration should they ever be

in Greenpoint during this annual event.●

DISTORTED COSTS OF BOEING CO.'S PROPOSAL TO THE DEFENSE DEPARTMENT

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. DICKS. Mr. Speaker, on June 10 of this year testimony was entered into this RECORD which severely distorted the costs of the Boeing Co.'s proposal to the Defense Department to address the critical near-term need for additional strategic cargo airlift.

Boeing has submitted a firm fixed price proposal for 747 cargo aircraft as a substitute for the DOD-recommended program of restarting the C-5 production line. As has been made clear in the proposal letters from Boeing chairman, T. A. Wilson, and stated again by Boeing senior vice president, Clyde A. Skeen, in congressional testimony on June 24, the Boeing proposal guarantees not only the acquisition cost of the 747's but guarantees not to exceed operation and support costs for 20 years.

Yet the Air Force and the Office of the Secretary of Defense persist in quoting cost estimated for the 747 program which exceed the Boeing statement of costs by over 50 percent. Clearly, DOD either refuses to understand what is included in the Boeing cost figures or deliberately distorts the cost data so as to obscure the billions of dollars in savings offered by the Boeing proposal, relative to reopening production of the C-5.

There seem to be four key areas of misunderstanding, are we appreciate this opportunity to clarify, for the record, the cost advantages of the Boeing Program.

POINT NO. 1—THE BOEING COSTS ARE ALL-INCLUSIVE

The 747 flyaway price includes the costs of all engineering changes required to deliver the aircraft in full cargo configuration and ready for the military airlift mission. The price includes all technical data and documents and includes training for flight crews and maintenance personnel. The guaranteed life cycle costs also include spares and all peculiar support equipment required to operate, maintain, load, and unload the aircraft.

Yet DOD insists on adding 14 percent to the flaway cost for "initial support" and "other Government costs." The closest we have been able to come to a definition of these two ambiguous cost categories was in a letter of June 4, 1982, from Air Force Secretary Verne Orr to the Honorable JOSEPH P. ADDABBO, in which it is stated that:

. . . this (14 percent add-on) includes funds for initial spares, peculiar support equipment, technical data, future engineering changes, and Air Force program management costs.

If the Air Force would separately identify the amount for "Air Force program management," then this would be a valid addition to the Boeing firm fixed price. All other costs in this category have already been included in the Boeing proposal and should not be added on again by the Department of Defense.

The impact of adding these inappropriate "other" acquisition costs is summarized in Table 1, giving the impression of a 14 percent escalation to 747 acquisition costs. The only justification of DOD seems to be that the same type of "other" costs apply to the C-5. The point is, the 747 offer is an "all-up" offer which already includes these cost items.

TABLE 1.—COST PER AIRCRAFT (ACQUISITION)

[In millions of fiscal year 1982 dollars]

	Boeing-guaranteed 747 costs	DOD-estimated 747 costs	Percent
Aircraft flyaway	(1) $63	$63	(2)
Initial support and "other Government costs"	(3) 4.34	13.63	(4)
Acquisition—subtotal per aircraft	67.34	76.63	+14

[1] Includes tech data and training.
[2] Firm price of $58 million in fiscal year 1981 escalated at 1.086.
[3] Spares and peculiar support equipment.
[4] Most cost items covered by DOD "initial support" and "other Government costs" included in Boeing guaranteed price. Cost of "Air Force program management" can be added to Boeing cost if separately indentifiable.

POINT NO. 2—FUEL CONSUMPTION

The 747F fuel flow was calculated by Boeing based on a logical peacetime mission profile for a MAC strategic airlifter. The 747 averages 2,865 gallons of fuel per block hour, flying 25 percent short training missions and 75 percent NATO channel cargo missions with one-way payload. This mission profile was provided to the Air Force and DOD cost analysts.

The Air Force and DOD analysts apparently did not find fault with the peacetime mission defined by Boeing. In fact they did not use a mission-oriented fuel calculation at all, but rather used various parametric estimates based, at least in part on 747 speed and weight ratios to a C-5.

Boeing was also told that the DOD estimates were based on commercial 747 experience; but this does not stand scrutiny. In order to come up with the fuel cost submitted by DOD, the 747 would have to average 3,900 gallons of fuel per hour. This is much higher than the actual fuel consumption reported to the Civil Aeronautics Board by any of the nine U.S. airlines operating 747's during 1980.

Flying Tigers, operating 747 freighters across the Pacific, reported fuel consumption of 3,500 gallons per hour. And this involved very long-range flights with an average payload of 74 tons (as compared with the overall average of 41 tons used for the 747 mission profile). With over 11 million hours of 747 experience, the Boeing Co. surely knows the fuel burn characteristics of the 747; and, as it does with each commercial 747 sale, Boeing will demonstrate the guaranteed fuel performance on aircraft delivery.

POINT NO. 3—MAINTENANCE

DOD apparently bases its maintenance estimates for the 747 on C-5 maintenance history. This is inexcusable. The C-5 has a very costly maintenance record whereas the 747 has a proven record of low-cost maintainability based on more than 500 aircraft in service.

The 747 maintenance cost is further reduced by a Boeing-guaranteed program of contract maintenance for all but flight line tasks. The Air Force has endorsed this concept, known as Contractor Logistics Support (CLS) which is presently used on virtually all military aircraft programs where the ability exists to tap into a commercial support base. The CLS concept is already used for the KC-10 (DC-10), the C-9 (DC-9), the T-43(B737) and the E-4(B747); and certainly is the logical way to realize added cost savings on a 747 program.

Because the C-5 does not have access to such a worldwide supply and support pipeline, DOD cost analysts have taken the position that the 747 must be denied the benefits of CLS in order to make a fair, evenhanded "apples to apples" cost evaluation.

Table 2 indicates the DOD distortion of Boeing 747 operation and support costs on a per-aircraft basis—plus 36 percent on fuel; plus 56 percent on operations and maintenance; total O. & S. made to appear almost 50 percent too high.

TABLE 2.—COST PER AIRCRAFT (20-YEAR OPERATION AND SUPPORT)

[millions of fiscal year 1982 dollars]

	Boeing-guaranteed 747 costs	DOD-estimated 747 costs	Percent
Fuel 1,168 hours/year	$84.3	$114.6	+36
Operation and maintenance	[1] 69.4	93.8	+56
Training	(2)	14.6	
O&S subtotal per aircraft	153.7	223.0	+45

[1] Includes 20-year ongoing training.
[2] Included in O&M.

POINT NO. 4—NUMBER OF AIRCRAFT

DOD disagrees with Boeing on the number of 747's required to equal the bulk and oversize airlift capability of 50 new C-5's. Consequently, DOD has based its cost estimates on a buy of 55 747's rather than 48.

After evaluating the equality issue Air Force Studies and Analysis (S/A) reported that they could not dispute the Boeing number of aircraft and that any differences were within the range of modeling uncertainty.

In any event, even if the 747 aircraft purchase was increased by 15 percent—even if the number of aircraft operated was increased by 17 percent—there would still be a direct savings to the taxpayers of about 4 billion 1982 dollars between the Boeing proposal and the C-5 program (with greater savings in then-year dollars).

As shown in table 3, it is only when the increased number of aircraft is multiplied by the inappropriate DOD escalations of Boeing's guaranteed acquisition and O&S costs, that the billions of dollars in savings are made to seem to disappear.

We appreciate this opportunity to set the record straight on airlift costs.

TABLE 3.—COST FOR AIRLIFT PROGRAM

[In billions of fiscal year 1982 dollars]

	Boeing proposal	DOD estimate	Percent
Buy	48	55	+15
Operate	41	48	+17
Acquisition (less Milcon)	$3.232	$4.200	
Military construction	.200	.200	(1)
20-year O&S	6.302	10.700	
Total life cycle cost	9.7	15.100	+55

[1] DOD prerogative.●

FIGHT TO COMMEMORATE JULY 4

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. FRANK. Mr. Speaker, earlier this year in a visit to a senior center in the town of Natick, I met a remarkable man named George Buchan. Mr. Buchan is a man of great determination and great patriotism. In 1955, he became distressed to learn that young people did not appreciate the significance of the Fourth of July as a symbol of our Nation's independence and history, and he began, at that time, an Independence Day celebration in Natick which has grown to be one of the most impressive in our area.

Mr. Buchan's concern for proper recognition of the Fourth of July has led him also to press for legislation properly recognizing that holiday at the national level. I was very pleased after meeting Mr. Buchan and listening to his impressive arguments on behalf of legislation to make the Fourth of July a national holiday, to submit such a resolution. I urge my colleagues to join with me in helping Mr. Buchan realize his dream and in helping our Nation take an appropriate step toward recognizing our National Independence Day.

I wish to submit here two articles from the Middlesex News which give some indication of the dedication Mr. Buchan has shown on behalf of the Fourth of July and I hope that after reading these articles and reading of Mr. Buchan's work, that my colleagues will join with me in passing this resolution.

The two articles follow:

[From the Middlesex News, July 4, 1982]

HE WANTS CELEBRATION TO BE LAW OF THE LAND

(By Sherry Sontag)

NATICK.—Although it's celebrated throughout the nation, July 4th is not a legal national holiday—not yet.

MAN WITH A MISSION

But Natick's George Buchan has been working toward that goal for more than 25 years. And he's not about to give up.

In fact, he's picking up support—at least from Congressman Barney Frank, D-Newton.

Bearing the nickname "Mr. July 4th," Buchan, 79, has worked a quarter of a century to make the Fourth of July special for Natick, founding what was to become the only recognized July 4th committee in the nation, he said.

"It's an important day in history. If not for July 4th, this country wouldn't be her. And if this country wasn't here, the other countries in the world would have a hard time. Even if they are having a hard time now, it would be worse," Buchan said.

Buchan, who lost two sons in the Korean war, said the fundamental principles of Independence Day make the United States "the greatest country in the world."

Several months ago, when visiting the Natick Senior Center, Congressman Frank was introduced to "Mr. July 4th."

Shortly after their meeting, Frank submitted a proposal to the House of Representatives suggesting the nation legally recognize its Independence Day and make Buchan's 25-year-old dream come true.

"Although July 4th is a holiday by custom, it is in fact not a statutory holiday. There is no statute in the code that says July 4th should be a national legal holiday," said Franklin Stearns, Frank's legislative agent in Washington, D.C.

Stearns said if Congress does pass the motion, the action would be largely symbolic.

"There would be no substantial behavorial change in the country, but the commemorative aspect would change. There would be a statutory law that July 4th would be our principal national legal holiday."

According to Stearns, the bill has come up before Congress, dying in committee, at least three times before, and its passage this time would take persistence.

Buchan, who has waited years and has a collection of letters written to every president since Herbert Hoover, said he is patient and looking forward to the possibility next year of new significance for the old holiday.

Buchan began the first in a long line of Natick July 4th celebrations in 1955.

A proprietor of a local convenience store, he found several of his younger patrons did not know the significance of Independence Day.

Distressed, Buchan called a group of friends together and, using the leverage of "the best cup of coffee in Natick"—his wife's contribution—and the promise of one-half gallon of ice cream toward the celebration, he extracted pledges of support for a Natick celebration.

"They tell me that after you feed somebody, you can get them to do most anything," Buchan quipped. "We went from one-half gallon of ice cream to the only nationally recognized Fourth of July celebration in the US, and I'm very proud because it started in my front room," Buchan said.

That early celebration has grown in the last 25 years to include a week-long series of events and a gala parade, complete with bands and floats. Buchan, who has more than 15 hefty scrapbooks of memorabilia, retired from the committee last year but said he is proud the drive to make Independence Day special is still going strong.

[From the Middlesex News, July 4, 1982]

MAN WITH A MISSION

Today's July 4th—a national holiday, right?

Wrong. Today is July 4th, a holiday, but not a legal one.

But if George Buchan of Natick has his way, it may at last become legal.

Buchan is a man who believes strongly in his country—and will go to any measure to see that it gets the formal respect it's due.

That's why he's personally written to every president since Hoover, and every governor in the country to enlist their help.

Strange that his patriotic sentiments haven't been shared enough to end his 25-year campaign, but, nevertheless he persists just as undaunted at 79-years-old as he was when he first undertook the cause.

This passion for the 4th isn't limited to letters of support for the national holiday. On the homefront, Buchan has been one of the moving forces behind Natick's celebration—making it one of the biggest and best in the area.

From marching bands to beauty pagents, Buchan has helped with it all.

But Buchan's efforts of enlisting others to help get formal recognition have still fallen short.

Buchan even says he got a campaign promise from then-candidate Ronald Reagan to help move things along—but to no avail.

There is one glimmer of hope this year for Buchan thanks to Congressman Barney Frank, D-Newton. Frank has submitted a proposal to the House of Representatives asking that the 4th be legally recognized.

While many concede that even if the proposal passes things won't really change in the way we celebrate the holiday, it will be a victory for Buchan.

And to think the only motive behind his actions is his love for his country.

Good luck, Mr. Fourth of July.●

MISSOURI JUDGE PASSES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. SKELTON. Mr. Speaker, I would like to take this opportunity to say a few words about a dedicated Missourian who recently passed away, Judge Wilbur F. Riesterer.

Judge Riesterer, a lifelong resident of Concordia, Mo., was elected to the Lafayette County Court in 1976 and served as the eastern district judge for 6 years. He also served as commissioner of the Concordia Special Road District for more than 25 years.

Aside from his dedication to his job which he served with distinction, Judge Riesterer was also very active in civic and community affairs. He was past commander of the Concordia Veterans of Foreign Wars having been a World War II veteran, past president of the Concordia Civic Club, elder of St. Matthew Lutheran Church in Ernestville, Mo., and member of the executive board of the Concordia Fall Festival.

Judge Riesterer will be greatly missed by all who had the pleasure of knowing him. He will, however, long be remembered by the people of Concordia for his many contributions and outstanding service to his community.●

LEBANON: EYEWITNESS REPORT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. LANTOS. Mr. Speaker, the legislative director of AIPAC, Douglas Bloomfield, recently returned from a factfinding trip to Lebanon. A report on his trip, presented to the Subcommittee on Europe and the Middle East of the Foreign Affairs Committee, details the massive arms buildup by the PLO in Lebanon. I urge my colleagues to study the statement carefully.

STATEMENT OF DOUGLAS M. BLOOMFIELD, LEGISLATIVE DIRECTOR, AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE, HOUSE FOREIGN AFFAIRS COMMITTEE, SUBCOMMITTEE ON EUROPE AND THE MIDDLE EAST, JULY 13, 1982

During my visit to Israel and Lebanon, I saw tens of thousands of captured weapons. Tanks, cannon, rockets, launchers, rifles, handguns and ammunition of every conceivable kind and size. They were predominately Soviet, but of other origins, as well. I saw dozens of crates of unopened Soviet-made Kalachnikov assault rifles shipped via Benghazi, Libya, or directly from the U.S.S.R.; they had packing instructions as well as operating directions in English. I brought back the service manual for the Soviet AKMS machine gun. I also saw hundreds of U.S.-made M-16 rifles, many of them in their original shipping cartons with labels showing they were originally sold and shipped to Saudi Arabia; they had been transferred to the PLO. There were over 1,000 new West German G-3 assault rifles, one of the best in the world. I also saw Chinese-built anti-aircraft guns and cannon, plus more arms from Vietnam, Korea and the Soviet bloc. There were even guns used by the Nazis in World War II.

Some of those anti-aircraft guns were attached to many types of vehicles, from Dodge pick-up trucks to Toyotas to Chinese trucks. Then there were the night sights, handguns, grenade launchers, RPG's and Katyusha rockets. Many of the grenade launchers were stamped in English, "Made by Fatah." Fatah is the main branch of the PLO and is Arafat's own organization. Ironically, only a relatively few pieces of the Soviet and Chinese arms had markings in Arabic; most were in English.

There was also the other equipment, like the uniforms, boots, trophies for auto mechanics, typewriters, a Bell and Howell tape recorder and a fully-equipped listening lab.

It has been estimated that the Israelis have captured enough material to equip a very large army. One Israeli officer told me, "we captured them at 5 minutes to 12. They were starting to build a huge army, with soldiers from all over the world."

Indeed, Israel reported it captured PLO soldiers from Saudi Arabia, Jordan, Libya, Iran, Korea, Pakistan, Bandladesh, Turkey, Abu Dhabi, Algeria, Sudan, and Senegal and Niger.

Weapons were found everywhere. In mosques, schools, homes, public buildings, caves and underground bunkers—even U.N. offices. At an UNRWA Vocational Training School in Sidon, Israeli troops found stores of weapons, ammunition, training materials, and audio-visual lab and the personal office of Yassir Arafat with his picture on the wall flanked by a swastika.

I spoke with many Lebanese, both Christian and Muslim, and they volunteered that they were glad to see the Palestinians gone. Many had stories to tell of their treatment and trauma under the PLO.

I saw perhaps as many as 10,000 Lebanese driving south from Beirut, returning to their homes with the car full of relatives and the family's possessions tied to the top. Many were refugees from the fighting of the previous two weeks, but thousands had been displaced by the civil war in 1976 and were finally able to go home.

One Shiite Muslim couple had seen its home destroyed six years ago by the Palestinians in the south so they were now making their home in a former PLO headquarters in Sidon. The PLO had taken over an apartment building and a hospital next door. I was told by some local residents that when the PLO came to Sidon in the 70's, it expelled all the Lebanese patients and staff of the Lebanese Red Crescent hospital and installed its own people. The apartment building next door became a headquarters and barracks. Organizational charts and posters and this picture of Lenin were still on some walls—but not the one where the new Lebanese occupant had written in Arabic "Death to Arafat. Long Live Begin." Her husband said the plumbing was not working and just before we had arrived, he had climbed up into the crawl space above the bathroom to fix the pipes. Instead of pipes, he found a large anti-aircraft gun, still in its original packing. Everywhere he looked, he said, he found ammunition of all kinds and shapes, and he wanted it hauled away as soon as possible.

I also saw the captured documents. The orders to draft children of terrorists 12 years and older for PLO duty; the tank drivers' licenses; notes on Gromyko-Arafat meetings; Soviet graduation certificates for PLO officers; shipping labels for weapons sent from U.S. plants to Saudi Arabia, and lists of courses taken by PLO terrorists in foreign countries.

But the most alarming of all were the report which shows that UNIFIL forces passed on intelligence information to the terrorists and a written agreement between the Norwegian UNIFIL batallion and the PLO over the placement of a terrorist gun position—called "The Nest"—for firing into Northern Israel.

I did not encounter the widespread destruction and havoc I had expected from the newspaper and television reports I had seen here in Washington. There were two good reasons:

One, it had not been there in the first place true, there was destruction. Bombing and shelling and fighting produce the rubble of war. But in cities like Tyre, Sidon and Damour, it was largely confined to areas adjacent to the main highway and some key crossroads. Even in those towns which had seen heavy fighting, the destruction was limited and most parts of them were untouched or suffered only minor damage.

Two, clean-up began promptly. Every street was passable. Rubble had been cleared and moved to the sides of the roads to be taken away. Reconstruction was taking place along side continuation of construction that had begun before the fighting. Life was returning to what passes for normal in that beleaguered country.

The people I saw in Lebanon—both Christians and Muslims—welcomed the Israeli operation to remove the terrorists from their country. Now they want all the foreign troops—Palestinians, Syrians, and Israelis—to leave so that they can get on with the rebuilding already underway. I urge all Members of Congress to go personally to Lebanon, as Representatives Wilson and Siljander and Senators Levin and Dodd have done, to see for yourselves the difference between the sensationalized media version and the reality of the situation in that country.

Thank you.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 15, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 16

9:30 a.m.

Finance

To hold hearings on S. 2673, providing for a Federal income tax credit for tuition.

2221 Dirksen Building

10:00 a.m.

Environment and Public Works

Environmental Pollution Subcommittee

To hold oversight hearings on the implementation of section 404 of the Clean

Water Act, relating to dredge and fill operations and the protection of wetlands.
4200 Dirksen Building

Foreign Relations
To hold hearings on the nominations of Arthur H. Davis, Jr., of Colorado, to be Ambassador to Paraguay, Robert W. Duemling, of California, to be Ambassador to the Republic of Suriname, and George W. Landau, of Maryland, to be Ambassador to Venezuela.
4221 Dirksen Building

JULY 19

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 2197, S. 2498, and S. 1298, miscellaneous tax bills.
2221 Dirksen Building

10:00 a.m.
Judiciary
To hold hearings on S. 818, S. 1558, S. 1106, and S. 2658, bills limiting the insanity defense, establishing a Federal criminal verdict of "not guilty only by reason of insanity," and establishing procedures for dealing with defendants obtaining such a verdict.
2228 Dirksen Building

Joint Economic
To resume hearings on the administration's national urban policy.
2359 Rayburn Building

10:30 a.m.
Labor and Human Resources
To hold hearings on the nomination of Gary L. Jones, of Virginia, to be Under Secretary of Education.
4232 Dirksen Building

JULY 20

9:30 a.m.
Finance
Health Subcommittee
To hold hearings to review medicare coverage for the treatment of alcohol-based disorders and alcoholism.
2221 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings to discuss proposed disaster assistance to Lebanon.
1114 Dirksen Building

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 2568, clarifying the terms of the repayment contract for the Dallas Creek water project in Colorado, and S. 2684, providing for the construction, operation, and maintenance of the Santa Margarita water project in California.
3110 Dirksen Building

Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

Joint Economic
To continue hearings on the administration's national urban policy.
2359 Rayburn Building

11:00 a.m.
Foreign Relations
Business meeting, to consider pending calendar business.
4221 Dirksen Building

2:00 p.m.
Governmental Affairs
Business meeting, to consider pending calendar business.
3302 Dirksen Building

Labor and Human Resources
To hold hearings on S. 1939, establishing a National Institute on Arthritis and Musculoskeletal Diseases, and authorizing funds for fiscal years 1983, 1984, and 1985 for its operating costs.
4232 Dirksen Building

3:00 p.m.
Select on Intelligence
Closed briefing on intelligence matters.
Room S-407, Capitol

JULY 21

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on miscellaneous tariff measures, including S. 1902, S. 2685, Section 8(c) of S. 2094, H.R. 4566, S. 11, S. 231, S. 1552, S. 1565, S. 1588, S. 1717, S. 1723, S. 1746, S. 1979, S. 2031, S. 2247, S. 2396, S. 2560, S. 2566, S. 2692, S. 2699, and S. 2705.
2221 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold oversight hearings on Federal debt collection activities.
6226 Dirksen Building

Select on Indian Affairs
To hold hearings on H.R. 3731, relating to the use of distribution of certain judgment funds awarded by the Indian Claims Commission or the U.S. Court of Claims.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building

Governmental Affairs
To hold hearings on the nomination of Peter E. Voss, of Ohio, to be a Governor of the U.S. Postal Service.
3302 Dirksen Building

Judiciary
To hold oversight hearings on Government merger enforcement policy.
2228 Dirksen Building

Select on Intelligence
Closed briefing on intelligence matters.
Room S-407, Capitol

2:00 p.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold oversight hearings on the implementation of the National Environmental Policy Act by the Council on Environmental Quality.
4200 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

Judiciary
Separation of Powers Subcommittee
To hold hearings on the treaty ratification process and separation of powers.
4232 Dirksen Building

Select on Ethics
Closed business meeting.
324 Russell Building

JULY 22

9:30 a.m.
Finance
International Trade Subcommittee
To continue hearings on miscellaneous tariff measures, including S. 1902, S. 2685, Section 8(c) of S. 2094, H.R. 4566, S. 11, S. 231, S. 1552, S. 1565, S. 1588, S. 1717, S. 1723, S. 1746, S. 1979, S. 2031, S. 2247, S. 2396, S. 2560, S. 2566, S. 2692, S. 2699, and S. 2705.
2221 Dirksen Building

Judiciary
Juvenile Justice Subcommittee
To hold hearings to explore the problems of runaway youths.
2228 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the Federal Trade Commission's authority over deceptive advertising.
235 Russell Building

Energy and Natural Resources
Energy Regulation Subcommittee
To hold hearings on S. 2500, reducing conflicts in the licensing of hydroelectric powerplants and expediting the development of and simplifying the regulation of hydroelectric powerplants.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building

Labor and Human Resources
Investigations and General Oversight Subcommittee
To hold hearings to review Federal and State expenditures for the purchase of children's vaccines.
4232 Dirksen Building

10:30 a.m.
Select on Intelligence
Closed briefing on intelligence matters.
Room S-407, Capitol

2:00 p.m.
Governmental Affairs
Federal Expenditures, Research and Rules Subcommittee
To hold hearings on S. 1882, providing for uniform Federal debarment and suspension procedures with certain contractors.
3302 Dirksen Building

JULY 27

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2634, providing for integration of handicapped persons employed in work activity centers and sheltered workshops.
4232 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on Department of Energy's management of research and development facilities.
3302 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on miscellaneous public land measures, including S. 1303, H.R. 1281, S. 1978, S. 2279, S. 1705, House Joint Resolution 207, S. 2308, Senate Joint Resolution 168, S. 1661, and Senate Joint Resolution 155.
3110 Dirksen Building

JULY 28

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on S. 2539, extending for 2 years implementing the International Sugar Agreement, 1977, and S. 2540, extending for 1 year the application of the International Coffee Agreement Act of 1980
2221 Dirksen Building

Labor and Human Resources
Labor Subcommittee
Business meeting, to mark up S. 1541, amending the Employee Retirement Income Security Act (ERISA) by simplifying both reporting and disclosure requirements, and the process for employers to provide retirement income to employees, and providing incentives for employers to provide pension benefits to employees
4232 Dirksen Building

Veterans' Affairs
To hold hearings on proposed legislation clarifying certain United State Code provisions relating to veterans' employment programs.
412 Russell Building

Select on Indian Affairs
To hold hearings on S. 2153, providing for the distribution of funds awarded the confederated tribes of the Warm Springs Indian Reservation in Oregon by the Indian Claims Commission.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To resume hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on Department of Energy's management of research and development facilities
3302 Dirksen Building

2:00 p.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To resume hearings on S. 2131, authorizing funds through fiscal year 1986 for the safe drinking water program.
4200 Dirksen Building

JULY 29

9:30 a.m.
Labor and Human Resources
Business meeting, to mark up S. 1929, establishing an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
4232 Dirksen Building

10:00 a.m.
*Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1918, establishing the Northeast-Midwest States Hydropower Financing Authority to make lower cost loans and loan guarantees for hydropower development.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building

Governmental Affairs
Congressional Operations and Oversight Subcommittee
To hold oversight hearings on proliferation of indexation.
3302 Dirksen Building

AUGUST 2

9:30 a.m.
Finance
To hold hearings on S. 2237, extending trade and tax incentives to promote economic development in the Caribbean Basin and Central American region.
2221 Dirksen Building

AUGUST 3

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold hearings on S. 2704, revising certain provisions relating to the lease and production of coal reserves.
3110 Dirksen Building

10:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold oversight hearings on the implementation of the Toxic Substances Control Act by the Environmental Protection Agency.
4200 Dirksen Building

AUGUST 4

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 1405, proposed Carl Albert Congressional Research and Studies Center Endowment Act.
4232 Dirksen Building

AUGUST 5

10:00 a.m.
Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol and drugs on individuals while driving.
4232 Dirksen Building

AUGUST 10

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

AUGUST 11

9:00 a.m.
Office of Technology Assessment
The Board, to meet on pending business items.
EF-100, Capitol

9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States, S. 2418, permitting the Twenty-nine Palms Band of Luisena Mission Indians to lease certain trust lands for 99 years, S. 1799 and H.R. 4364, bills providing for the transfer of certain land in Pima County, Ariz. to the Pascua Yaqui Indian Tribe, and the substance of H.R. 5916, providing for certain Federal lands to be held in trust for the Ramah Band of the Navajo Indian Tribe.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of the Comprehensive Environmental Response Liability and Compensation Act of 1980 (Superfund).
4200 Dirksen Building

AUGUST 12

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

Veterans' Affairs
Business meeting, to mark up S. 2378, proposed veterans' disability compensation and survivors' benefits amendments, and proposed legislation clarifying certain United States Code provisions relating to veterans' employment programs.
412 Russell Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the Student Loan Marketing Association (Sallie Mae).
4232 Dirksen Building

AUGUST 13

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

AUGUST 18

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

AUGUST 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.
4232 Dirksen Building

SEPTEMBER 21

10:30 a.m.
Veterans' Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

CANCELLATION

JULY 28

9:30 a.m.
Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings to discuss alternative means of providing legal services to the poor.
4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, July 15, 1982*

The House met at 10 a.m., and was called to order by the Speaker pro tempore (Mr. WRIGHT).

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

You have promised, O Lord, that You will be with us and walk with us through the paths of life as Your Spirit has given comfort to Your people through all the ages. We pray now that Your presence will fill our souls with the affirmation of Your love, the bounty of Your providence, and the strength of Your everlasting arms. Where our faith is weak, give us power, and where there is anxiety, give us peace that we may be faithful to You in spirit and in truth. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. CORCORAN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CORCORAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 334, nays 27, not voting 72, as follows:

[Roll No. 184]

YEAS—334

Addabbo	Bedell	Brodhead
Akaka	Beilenson	Brooks
Albosta	Benedict	Broomfield
Alexander	Benjamin	Brown (CA)
Anderson	Bennett	Brown (CO)
Annunzio	Bereuter	Broyhill
Archer	Bevill	Burgener
Ashbrook	Bingham	Burton, John
Aspin	Bliley	Burton, Phillip
Atkinson	Boland	Campbell
AuCoin	Bolling	Carman
Badham	Boner	Carney
Bafalis	Bonior	Chappell
Bailey (MO)	Bonker	Cheney
Bailey (PA)	Bouquard	Clausen
Barnard	Brinkley	Clinger
Coats	Hansen (ID)	Nelligan
Coelho	Hartnett	Nelson
Coleman	Hatcher	Nichols
Collins (IL)	Hawkins	Nowak
Collins (TX)	Heftel	O'Brien
Conable	Hendon	Oakar
Conte	Hertel	Oberstar
Conyers	Hightower	Obey
Corcoran	Hiler	Oxley
Courter	Holland	Panetta
Coyne, James	Hollenbeck	Parris
Coyne, William	Holt	Pashayan
Craig	Hopkins	Patman
Crane, Daniel	Howard	Patterson
Crane, Philip	Hoyer	Paul
D'Amours	Hughes	Pease
Daniel, R. W.	Hunter	Pepper
Dannemeyer	Hutto	Perkins
Daschle	Hyde	Petri
Daub	Ireland	Peyser
Dellums	Jeffords	Pickle
Derrick	Jenkins	Price
Derwinski	Jones (NC)	Pritchard
Dicks	Jones (OK)	Pursell
Dingell	Kastenmeier	Quillen
Donnelly	Kazen	Rahall
Dorgan	Kennelly	Railsback
Dornan	Kildee	Rangel
Dougherty	Kindness	Ratchford
Dowdy	Kogovsek	Regula
Downey	Kramer	Rhodes
Duncan	LaFalce	Rinaldo
Dunn	Lagomarsino	Ritter
Dwyer	Lantos	Roberts (KS)
Dyson	Leath	Roberts (SD)
Early	Lee	Robinson
Eckart	Lehman	Rodino
Edgar	Leland	Roe
Edwards (AL)	Lent	Rogers
Edwards (CA)	Levitas	Rose
Emery	Loeffler	Rosenthal
English	Long (LA)	Rostenkowski
Erdahl	Lott	Roth
Ertel	Lowery (CA)	Roukema
Evans (DE)	Lowry (WA)	Rousselot
Evans (GA)	Lujan	Roybal
Fary	Luken	Rudd
Fascell	Lundine	Santini
Fazio	Lungren	Sawyer
Fenwick	Madigan	Scheuer
Ferraro	Markey	Schulze
Fiedler	Marriott	Schumer
Findley	Martin (IL)	Seiberling
Fish	Martin (NC)	Sensenbrenner
Fithian	Martin (NY)	Shamansky
Flippo	Matsui	Sharp
Florio	Mattox	Shaw
Foglietta	Mavroules	Shumway
Foley	Mazzoli	Shuster
Ford (MI)	McClory	Simon
Ford (TN)	McCloskey	Skeen
Fowler	McCollum	Skelton
Frank	McCurdy	Smith (AL)
Frenzel	McDade	Smith (IA)
Frost	McDonald	Smith (NE)
Fuqua	McEwen	Smith (NJ)
Garcia	McGrath	Smith (PA)
Gaydos	McHugh	Snowe
Gephardt	McKinney	Snyder
Gibbons	Mica	Solarz
Gilman	Michel	Spence
Glickman	Mikulski	St Germain
Gore	Mineta	Stangeland
Gradison	Minish	Stanton
Gramm	Mitchell (NY)	Stark
Gray	Moakley	Staton
Green	Montgomery	Stratton
Grisham	Moore	Studds
Gunderson	Moorhead	Swift
Hagedorn	Morrison	Synar
Hall (OH)	Mottl	Tauke
Hall, Ralph	Murphy	Tauzin
Hall, Sam	Murtha	Taylor
Hamilton	Myers	Traxler
Hance	Natcher	Trible
Udall	Weiss	Wolf
Vander Jagt	White	Wortley
Vento	Whitehurst	Wright
Volkmer	Whitley	Wyden
Walgren	Whittaker	Wylie
Wampler	Whitten	Yatron
Watkins	Williams (MT)	Young (FL)
Waxman	Williams (OH)	Zablocki
Weaver	Wilson	Zeferetti
Weber (MN)	Winn	
Weber (OH)	Wirth	

NAYS—27

Butler	Gejdenson	Roemer
Clay	Goodling	Sabo
Coughlin	Gregg	Schroeder
Dickinson	Harkin	Stenholm
Dreier	Jacobs	Thomas
Emerson	Johnston	Walker
Evans (IA)	LeBoutillier	Wolpe
Fields	Miller (OH)	Yates
Forsythe	Mitchell (MD)	Young (AK)

NOT VOTING—72

Andrews	Erlenborn	Marks
Anthony	Evans (IN)	Marlenee
Applegate	Fountain	Miller (CA)
Barnes	Gingrich	Moffett
Beard	Ginn	Molinari
Bethune	Goldwater	Mollohan
Biaggi	Gonzalez	Napier
Blanchard	Guarini	Neal
Boggs	Hammerschmidt	Ottinger
Bowen	Hansen (UT)	Porter
Breaux	Heckler	Reuss
Brown (OH)	Hefner	Richmond
Byron	Hillis	Russo
Chappie	Horton	Savage
Chisholm	Hubbard	Schneider
Crockett	Huckaby	Shannon
Daniel, Dan	Jeffries	Shelby
Davis	Jones (TN)	Siljander
de la Garza	Kemp	Smith (OR)
Deckard	Latta	Solomon
DeNardis	Leach	Stokes
Dixon	Lewis	Stump
Dymally	Livingston	Washington
Edwards (OK)	Long (MD)	Young (MO)

□ 1010

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6590. An act to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 312. An act for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko.

□ 1020

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
July 14, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the telegram received from the Honorable March Fong Eu, Secretary of State, State of California, indicating that the Honorable Matthew G. Martinez is the apparent winner of the Special Election held on July 13, 1982 for the Office of Representative of the United States House of Representatives for the 30th Congressional District of California.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, JR.,
Clerk, House of Representatives.

[Telegram]

SACRAMENTO, CALIF.,
July 14, 1982.

OFFICE OF THE CLERK,
House of Representatives, Washington, D.C.:

Please be advised that the semi official canvass of the returns of the special election to fill the vacancy in the 30th Congressional District of California held on July 13, 1982 indicates that Matthew G. Martinez received more votes than any other candidate and is the apparent winner.

MARCH FONG EU,
California Secretary of State.

SWEARING IN OF THE HONORABLE MATTHEW G. MARTINEZ AS A MEMBER OF THE HOUSE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the gentleman from California, Mr. MATTHEW G. MARTINEZ, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with regard to his election.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ appeared at the bar of the House and took the oath of office.

PERMISSION FOR SUBCOMMITTEE ON SEAPOWER AND STRATEGIC AND CRITICAL MATERIALS OF COMMITTEE ON ARMED SERVICES TO SIT TODAY DURING 5-MINUTE RULE

Mr. HUTTO. Mr. Speaker, I ask unanimous consent that the Subcommittee on Seapower and Strategic and Critical Materials of the Committee on Armed Services be permitted to sit today during any proceedings under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to inquire of the gentleman whether or not this has been cleared with the minority?

Mr. HUTTO. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. HUTTO. Mr. Speaker, I cannot unequivocally say so. I believe it has. The chairman asked me to make this request, and I feel that it has been cleared.

Mr. WALKER. I am being assured that it has been.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5930, AVIATION INSURANCE PROGRAM EXTENSION

Mr. HOWARD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5930) to extend the aviation insurance program for 5 years, with a Senate amendment thereto, disagree the Senate amendment, and request a conference with the Senate thereon.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. LEVITAS. Mr. Speaker, reserving the right to object, I do so to inquire of the distinguished chairman of the committee if he could advise the House what was contained in the amendment that the Senate adopted?

I remember about a week or so ago it was somewhat controversial.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

It has to do with an amendment concerning mergers and concerning employment of airline personnel for airlines that may have gone bankrupt, and this will be a topic of the conference, and if the gentleman will be happy to yield to the distinguished chairman of the subcommittee, the gentleman from California (Mr. MINETA), I am sure he can give a full explanation.

Mr. LEVITAS. I am happy to yield to the gentleman from California (Mr. MINETA).

Mr. MINETA. I thank the gentleman for yielding.

There are two other provisions. One having to do with the release of the information on the cockpit voice recorder, and another provision dealing with the technical qualifications for membership on the National Transportation Safety Board. The first one deals with the CVR tape recorder information which is really noncontroversial but the other two are things that we would like to go to conference about.

Mr. LEVITAS. Further reserving the right to object, as I understand it, this is the war risk insurance legislation and the Senate has now added the labor protection provisions, and the so-called Allegheny-Mohawk merger standards and perhaps some other features as well.

Mr. MINETA. If the gentleman will yield further, as the gentleman will recall, under the deregulation of the Aviation Act of 1978, the provisions as they relate to labor protection provisions were taken from the CAB. What they have done is to add that back and given that authority to the CAB and extended it to 1985.

Mr. LEVITAS. Further reserving the right to object and without intending to prejudge what the conferees may do—to me one of the most controversial provisions—and there are several which are—is this provision relating to the qualifications for members of the National Transportation Safety Board. I also question the germaneness of that provision and whether it is within the scope of the conference.

I wonder if either the chairman of the committee or the subcommittee, since I believe the chairman of the subcommittee has sponsored a similar bill in the House, is it a foregone conclusion that that is what the outcome of the conference will be?

Mr. MINETA. If the gentleman will continue to yield, I, together with other members of the Aviation Subcommittee and the leadership of the Public Works and Transportation Committee sponsored a bill dealing with the technical qualifications of the NTSB. However, this is really a subject of the Senate Commerce Committee since they have jurisdiction over the confirmation of members of NTSB, and to the extent that there is any predisposition on that issue right now, I have none.

□ 1030

Mr. LEVITAS. I thank the gentleman. Further reserving the right to object, Mr. Speaker, I want to say that I have some very serious reservations about some of the provisions in this bill which are going to conference, very serious reservations. I would hope that the conferees would not simply view this as a perfunctory conference on matters which may have otherwise been at issue.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I would be happy to yield.

Mr. HOWARD. I am happy for the gentleman's statement and wish to state that the conferees would be very happy to hear from the distinguished chairman of one of our subcommittees before we go to conference, a date for which has not been set.

Mr. LEVITAS. Mr. Speaker, I will not object. I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SIMON). Is there objection to the request of the gentleman from New Jersey? The Chair hears none, and, without objection, appoints the following conferees: Messrs. HOWARD, ANDERSON, MINETA, OBERSTAR, CLAUSEN, SNYDER, and HAMMERSCHMIDT.

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may be permitted to sit today during the 5-minute rule on pending legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, I reserve the right to object to inquire of the gentleman whether or not this has been cleared with the minority.

Mr. SWIFT. Mr. Speaker, if the gentleman will yield, this has been cleared by the gentleman from North Carolina (Mr. BROYHILL), the ranking member of the committee.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WAXMAN. Mr. Speaker, reserving the right to object, I reserve the right to object for the purpose of inquiring of the gentleman from Washington whether his unanimous-consent request is related solely to the matters that are now pending in markup in the Committee on Energy and Commerce dealing with the Telecommunications Act.

Mr. SWIFT. Mr. Speaker, if the gentleman will yield, having discussed this with the gentleman and recognizing his concerns, it was so restricted.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PRESIDENT ENTRENCHES POOR AND ELDERLY

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, last week the Republican National Committee launched another phase of its campaign against the Democratic Party. In its nationwide advertisement, the message rings clear: Ronald Reagan has kept his promise. He saved the automatic adjustment for social security recipients.

Of course, we all know that, yes, during his campaign President Reagan did promise to protect social security recipients. However, once in office, the President has repeatedly recommended policies to entrench the poor and elderly in our country. Just ! year ago the President proposed drastic cuts in social security programs by eliminating the minimum benefit, penalizing early retirees, and changing eligibility requirements for disability recipients. The President called for a 3-month delay in the cost-of-living adjustment for social security recipients in 1982 during his spring budget meetings with the leadership of both Houses.

What the advertisement neglects to mention is that the administration backed away from its strong position of denying social security recipients their COLA's on time because the Democratic Members fought to preserve the scheduled adjustment. In plain terms, the Democratic Party, in keeping its promise to represent all of the people, responded to the pleas from its constituency to save the COLA for social security recipients.

It is unfortunate that the Republican Party must spend millions of dollars to convince the American public that our President is doing his job well, while on the other hand, the needy are becoming victims of unnecessary budget cuts.

CAN WE NOT AFFORD TO REMEMBER F. D. R.?

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS of Montana. Mr. Speaker, yesterday after more than a quarter century of delay the House agreed to begin construction on the Franklin Delano Roosevelt Memorial. An amendment was offered to that legislation which would have postponed construction until such time as the Federal budget is balanced. That amendment, coming on that particular legislation, was a perfect example of the differing fiscal theories and their practical effect upon our social and economic conditions. Those who hold closest to that amendment believe that a balanced budget holds the ultimate answer to our economic woes, the gold at the end of the rainbow, the magic elixir which will heal our sick economy.

I do not agree. There is no magic in a year end equalizing of debits and credits. It is a poor nation that balances its budget but has tens of thousands of its people living in hunger, millions unemployed, and thousands more ill and untreated.

It is a political hoax to mouth concern for the elderly and then cut their pensions because the budget is not balanced. It is intellectually dishonest to give political speeches extolling the virtues of education, good health, energy preparedness, strong defense, excellent transportation, and then vote against those things because the budget is not balanced.

Of course we should be moving toward a balanced budget. However, the sad irony is that with the economics of this President, and many of those who supported the amendment to the F. D. R. Memorial, we are moving dramatically away from a balanced budget. The tragic fact is that these proponents of Government by green eye shade do not know how to balance the budget. Their brand of fiscal solvency has brought us record deficits under Presidents Nixon and Ford and record deficits again under President Reagan. And as everyone knows we Democrats are not without culpability.

Yesterday's discussion of the F. D. R. Memorial legislation created quite a sight. Republicans and Democrats coming together to express their longstanding, undying love for F. D. R. Each clutching F. D. R. as an old compatriot whose political and economic theories were beyond reproach. Boll Weevils and Gypsy Moths fluttering together in a crescendo of support for that great fiscal conservative, Franklin Delano Roosevelt. Why they even found an F. D. R. quote to prove his true conservative beliefs. Roosevelt would have loved it.

The budget balancing amendment to the bill came just in time, just in time to awaken and remind us of the harsh political truth that there are many who love the poor, but cannot afford them; love a strong defense, good transportation, fine schools, but cannot afford them. And, oh how many there are who love F. D. R.—really and truly they do—but they cannot find the money for a few blocks of marble with which to honor him because the budget is not balanced.

J. PETER GRACE MUST GO

(Mr. GARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARCIA. Mr. Speaker, I find it most interesting that today we swear in a new Member from the State of California of Hispanic background, while over at the White House there is a committee being formed by the President called the Private Sector Survey on Cost Control, which will be chaired by J. Peter Grace, who not too long ago in the city of Dallas before a group of livestock organization memberts stated very clearly that the food stamp program in the United States was a "Puerto Rican" program.

As a result of his comments, 150 Members on both sides of the aisle requested the President to ask Mr. Grace to resign from this so-called watchdog spending committee.

As yet, the President is retaining J. Peter Grace.

Mr. Speaker, the President's actions are disgraceful and an insult to all Hispanics. If Mr. Grace had insulted any other ethnic or racial group in this country, he would have been dismissed long ago; but what the President has done is condone J. Peter Grace's actions and told the Hispanics of America, that Mr. Grace may act with impunity.

I would add that the Governor of Puerto Rico, for whatever personal or political reasons, has accepted Mr. Grace's qualified apology. This, despite the fact that the senate in Puerto Rico and the New York State Legislature have passed resolutions urging the President to have Mr. Grace resign.

As long as Mr. Grace is chairman of that committee, Mr. Speaker, he will in no way be effective in terms of controlling the costs of government.

□ 1040

TAX CUTS WILL REDUCE BURDEN ON ORDINARY TAXPAYER

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, the famous movie character Charlie Chan once remarked that a faulty argument is like a rowboat without a paddle. It does not go anywhere.

Well our colleagues on the other side of the aisle have been criticizing the Reagan tax cuts as favoring only the wealthy. But their argument, much like Charlie Chan's rowboat, does not go anywhere.

A new study published by the Federal Reserve Bank of Atlanta concludes that the effect of the tax cut may be to cause the rich to actually pay a bigger share of the Nation's tax bill than they did before.

I am quoting from the study:

The 1981-84 rate reductions seem likely to increase the share of tax revenues compared with those derived from taxpayers with lesser income. Far from shifting the tax burden toward the poor, the Reagan program will shift the tax burden toward the rich.

Finding their tax rate reduced, the wealthy could have a greater incentive to earn additional income and could be less inclined to shelter their earnings. Thus, the study says that taxable income could grow faster in the higher income brackets.

The study concludes that the tax cuts will not shift the tax burden from rich to poor. To the extent that the tax cuts succeed in reviving incentives to work, save, and invest, they will reduce the burden on the ordinary taxpayer.

WELCOME MARTY MARTINEZ

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, I rise to welcome my new colleague just sworn into the House of Representatives, to the greatest forum in the world on the discussion of the real issues. I do hope that he can obtain real truth here.

Sometimes it is a little hard to sort it all out, but I welcome him here where we can fully discuss the issues, right here in front of all of the American people. We will now be able to debate the issues in public forums in the new 30th District.

So I welcome my new colleague, our new freshman Member, MARTY MARTINEZ, to this wonderful forum where the two of us can truly discuss the real issues facing this country.

LEGISLATION TO EXEMPT JURY DUTY COMPENSATION FROM QUALIFICATION FOR SPOUSAL IRA

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, the Economic Recovery Tax Act of 1981 brought some desperately needed relief to the taxpayers of this country. Among its many accomplishments, the act broadened the provisions of the tax laws relating to retirement savings. It made individual retirement accounts available to all wage earners.

One part of the revised IRA laws even provides that an individual may contribute an additional amount to an IRA if his or her spouse receives no compensation. Unfortunately, the law would seem to include as a compensation any money that the spouse receives for service as a juror.

Jury duty is one of our responsibilities as citizens of this country. The small fee that jurors receive should not be considered the same as compensation for any other activity.

Today, I am introducing a bill to provide that any money received for jury duty does not prevent qualification for a spousal individual retirement account. This bill will help to close a small loophole that I do not believe was intended in the original legislation. I urge my colleagues to cosponsor this bill to help encourage community service.

TRIBUTE TO HARRY CHAPIN

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, tomorrow marks the first anniversary of the tragic passing of Harry Chapin, an extraordinarily gifted singer, songwriter, humanitarian, political activist, and organizer, who combined with these talents an unmatched compassion for the world's hungry and impoverished.

I served with Harry Chapin on the Presidential Commission on World Hunger, a factfinding and public education panel which Harry, through his uniquely personal lobbying efforts, prevailed upon the Congress and the President to create.

In the mid-1970's, Harry created World Hunger Year (WHY), an organization devoted to raising the public's awareness about hunger. He supported WHY's activities with the proceeds of hundreds of Chapin benefit concerts.

Many wondered whether WHY could sustain itself after Harry's death. In the unswerving tradition that was Harry's hallmark, WHY has persevered, and has expanded its activities to administering the World Hunger Media Awards. Well-known entertainer, Kenny Rogers and his wife, Marianne, created these awards, which they have endowed with $1 million and cite Harry Chapin as their motiviation for their involvement in the fight against hunger.

I commend Kenny and Marianne Rogers for their commitment to ending world hunger, and I know that their hunger media awards program will make a significant contribution in raising the public awareness about the hunger issue.

Harry, your dream lives on to be shared by more and more people who come to recognize the urgent need to resolve the world's critical hunger problems.

PENSION EQUITY ACT WOULD DENY COST-OF-LIVING INCREASES TO PRIVATE SECTOR PENSION PLANS

(Mr. JOHNSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON. Mr. Speaker, it has been brought to my attention that my distinguished colleague from New York has introduced a bill in this House euphemistically referred to as the Pension Equity Act of 1982.

In perusing this bill, I have discovered that this bill seeks to deny to the private sector that which we retain for ourselves, a COLA-increased pension plan, a pension plan protected from inflation.

I hope my colleagues on the Ways and Means Committee will see fit to alter this plan so as to insure that the Congress of the United States does not retain for itself that which they would deny the private sector of the economy. Otherwise this act will be far from equitable.

LEGISLATION TO EXEMPT AGRICULTURAL COMMODITIES SHIPPED IN DRY BULK CARRIERS FROM CARGO PREFERENCE RULES

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, because of the depressed condition of our agricultural industry and the need to use every available means to promote and expedite the sale of our price-depressing grain stocks, I have introduced H.R. 6752, to exempt agricultural commodities shipped in dry bulk carriers from burdensome and expensive cargo preference rules.

As ranking minority member of the Agricultural Appropriations Subcommittee, I am well aware of the effects cargo preference provisions have on Government-generated cargoes. In particular, cargoes generated by the USDA Food-for-Peace Public Law 480 program.

I have just received a letter from the Department of Agriculture informing me that the $87.1 million they had budgeted for paying the difference between U.S.-flag ship rates and world shipping rates would not be enough in 1982. USDA is now estimating that it will cost an unbelievable $106.8 million to finance the added costs of shipping title I/III, Public Law 480 grain cargoes on U.S.-flag ships.

It is important to note that title I/III of Public Law 480 is used not only for humanitarian purposes, but also as a market development tool. This $106.8 million is sorely needed to promote and finance the development of overseas markets for our products.

Farmers should not be forced to bear the burden of guaranteeing business for the U.S. merchant marine fleet, while as taxpayers they also finance U.S.-flag ship construction and operation. My legislation, H.R. 6752 would exempt agricultural commodities from this unfair export roadblock.

LET THE LIBERALS REPEAL LAWS FOR A BALANCED BUDGET IF THEY DO NOT LIKE THEM

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, a few moments ago the gentleman from Montana stood on this floor and forthrightly talked against a balanced budget. Small matter that the balanced budget is the rule of law in most States of the Union; small matter that the families of this country have to operate within balanced budgets.

The gentleman from Montana says quite clearly that he does not believe that the Federal Government should have to do the same thing. I do not agree, but he is entitled to that opinion.

Well, the point is that in the bill yesterday to which he referred, when we asked that the balanced-budget language be approved, we were asking that the law of the land be ratified, the law of the land which today stands saying that we must have a balanced budget.

I would say to the gentleman from Montana and the other people who oppose balanced budgets, why do they not forthrightly come forth and seek repeal of the law? All I am saying is, as long as the law of the land stands, we ought to obey it. If we do not want to obey the law of the land, then we should actively seek to have it repealed.

They should come forward. Let them come forward and take that issue to the American people and say that, "We liberals do not believe in balanced budgets; we want to repeal the law which requires it." Then they would be really honest.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 434

Mr. OXLEY. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of House Joint Resolution 434.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERSONAL EXPLANATION

(Mr. WAMPLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. WAMPLER. Mr. Speaker, due to a longstanding commitment to speak to the Virginia Extension Homemakers Council in Blacksburg, Va., on July 13, and because of the minimum travel time necessary to keep this engagement, it was necessary for me to miss two votes of July 13, 1982, on which the yeas and nays were recorded.

Had I been present, I would have voted "yea" on rollcall vote No. 180, on which the House voted to suspend the rules and agree to House Resolution 518, authorizing an investigation by the Committee on Standards of Official Conduct.

I would have voted "yea" on rollcall vote No. 181, to suspend the rules and pass House Joint Resolution 494, with regard to Presidential certifications on conditions in El Salvador.

PERSONAL EXPLANATION

Mr. ANDERSON. Mr. Speaker, yesterday I rose with deep regret to cast my ballot in opposition to House Joint Resolution 400—legislation authorizing the construction of the Franklin Delano Roosevelt Memorial in Washington, D.C.

Simply put, I felt that it was poor timing for us to be asked to authorize a costly memorial—however deserving the person being honored might be. As a lifelong Democrat, let me say that no one admired the efforts and achievements of President Franklin Roosevelt more so than I. It was a very difficult time for America, both at home and abroad, when F. D. R. was first elected to the Presidency. However, it was he—and he alone—who pulled this Nation together and put it back on the track of economic prosperity.

But during these times of fiscal austerity when our economy is in such a precarious position, when everyone—particularly the poor and the middle class—is being asked to make sacrifices, it just seems like the wrong time to authorize the expenditure of funds on a memorial. As you are well aware, Mr. Speaker, for the past 1½ years, the Congress, in accordance with the administration's requests has reduced funding for almost every category within the budget. Many school lunches have been eliminated; student education benefits have been reduced; medicare has been slashed; job training and youth employment programs have been curtailed; and, housing assistance, veterans disability payments, energy research, and mass transit funding have all been cut.

It seems to me that if F. D. R. was with us in this Chamber yesterday, he, too, would have found it hard to comprehend the expenditure of approximately $31 million on the construction of a memorial when many deserving Americans are being told that they can no longer receive funds for the basic necessities of life.

In conclusion, let me just say that—while I do support the idea of building a memorial in honor of our former President Franklin Roosevelt—now is not the time for the construction of such a facility.

□ 1050

AGRICULTURAL PRODUCTS SHOULD NOT BE EXEMPTED FROM REGULATIONS DEALING WITH U.S.-FLAG SHIPS

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I take the floor at this time because I just have listened to the gentlewoman from Nebraska speak about exempting agricultural products from the regulations and laws dealing with U.S.-flag ships, as she put it, so that it would cost less for those products to be shipped. We would then be making American seamen and those who work on the docks subsidize, by taking lower wages, the USDA and the agricultural community.

I would like to say that, in the first place, the maritime strength in our country should not be jeopardized by any action of that nature, plus the fact that if we are really concerned about having money to be able to ship these products under programs like Public Law 480, we should not take it out of the hides of the seamen who are working on these ships.

Instead, when we have the opportunity as we might have later this year to reverse what we have done by creating a new sugar program, which I assure the Members will provide more than enough money to pay the cost of shipping agricultural products.

URGENT SUPPLEMENTAL APPROPRIATIONS, 1982

(Mr. WHITTEN asked and was given permission to address the House for 1 minute.)

Mr. WHITTEN. Mr. Speaker, I ask for this time so that I might advise the membership as to the situation before making a unanimous-consent request.

We bring to the Members today the conference report on the urgent supplemental which we first reported out on this side on March 3. This is the third time we tried to get this accomplished. As most Members will recall—I have mentioned several times what we all know—that we have three equally important branches of Government.

What we bring the Members today has been agreed on, and we have every reason to believe that the President will sign it. My colleagues on this side and all the House conferees have signed the conference report. We are below the figure that the Senate used in this bill. We have been trying to cooperate all the way, and I think I bring to the Members today a bill which represents the final word in the working together of the legislative and the executive branches of Government.

I mention that so that when I ask unanimous consent, Members may know that all parties are in agreement. We have stayed within the lines; we have worked it out with the Senate where we retain our powers on the House side. I just wanted to say that before proceeding.

CONFERENCE REPORT ON H.R. 6685, URGENT SUPPLEMENTAL APPROPRIATIONS, 1982

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it shall be in order at any time today to consider the conference report and any amendment in disagreement on the bill (H.R. 6685) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SIMON). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. I call up the conference report on the bill, H.R. 6685.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of July 14, 1982.)

The SPEAKER pro tempore. The Clerk will report the Senate amendment.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Urgent Supplemental Appropriations Act, 1982") for the fiscal year ending September 30, 1982, and for other purposes, namely:

TITLE I

CHAPTER I

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

(TRANSFER OF FUNDS)

For an additional amount for "Program administration", $8,742,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $4,259,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $5,623,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

For an additional amount for "Health Services", $60,080,000, of which $3,500,000 shall be used to provide twelve months of transitional funding for those University Affiliated Facilities previously funded under section 502(a) of the Social Security Act or predecessor legislation (title V of the Social Security Act as in effect prior to the enactment of the Maternal and Child Health Services Block Grant), but for which termination of such funding has been announced during fiscal year 1982.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

WORK INCENTIVES

For an additional amount for "Work incentives", $57,621,000.

DEPARTMENTAL MANAGEMENT

OFFICE OF THE INSPECTOR GENERAL

(TRANSFER OF FUNDS)

From amounts appropriated for fiscal year 1982 for payments to States for Medicaid Fraud Control Units, there is transferred to the Office of Inspector General, Department of Health and Human Services, for necessary expenses, $13,941,000.

DEPARTMENT OF EDUCATION

STUDENT LOAN INSURANCE

For an additional amount under title IV, part B of the Higher Education Act, $1,300,000,000, to remain available until expended.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,650,000.

RELATED AGENCIES

ACTION

OPERATING EXPENSES, DOMESTIC PROGRAMS

For an additional amount for "Operating expenses, domestic programs", under the provisions of the Domestic Volunteer Service Act of 1973, as amended (Public Law 93-113, as amended, 42 U.S.C. section 4951 et seq.), $2,000,000.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For an additional amount for payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934 as amended, an amount which shall be available within limitations specified by said Act, for the fiscal year 1984, $24,400,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, and similar forms of entertainment for Government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity excluding from participation in, denying the benefits of, or discriminating against any person on

the basis of race, color, national origin, religion, or sex.

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $309,000.

CHAPTER II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the amount of authority provided under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982 and prior Appropriation Acts, $94,382,000 of contract authority and $4,098,640,000 of budget authority are rescinded: Provided, That any balance of authorities made available prior to enactment of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, which are, or become, available for obligation in fiscal year 1982, shall be added to and merged with the authority approved in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, and such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1982: Provided further, That $190,860,000 of contract authority and $4,098,685,000 of budget authority, shall be used for the public housing program, including $18,960,000 of contract authority for assistance in financing the development or acquisition cost of low-income housing for Indian families, $90,000,000 of contract authority for modernization of existing low-income housing projects, and $1,263,005,000 of budget authority for new construction and substantial rehabilitation as authorized by section 5(c) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c); and $870,969,000 of contract authority and $15,228,518,000 of budget authority shall be used for new construction and substantial rehabilitation and assistance to existing housing units, including amendments for units reserved in prior years, under the lower-income housing assistance program (section 8, United States Housing Act of 1937, as amended): Provided further, That of the foregoing amounts, $152,715,200 of contract authority and $3,700,000,000 of budget authority shall be for projects under section 8, United States Housing Act of 1937, as amended, the rents for which are approved pursuant to the note governing financing adjustments (46 Fed. Reg. 51903, October 23, 1981) or any published amendment thereto or successor note, except that the Secretary shall include in the determination of the fair market rental a debt service factor reflecting the lesser of (A) 14 percent or (B)(i) where the rate of interest on the permanent instrument sold to finance the project is 12 percent or less, such rate of interest or (ii) where the rate of interest on the permanent instrument sold to finance the project is more than 12 percent, one-half percent below such rate of interest but not less than 12 percent, and except that the Agreement to Enter into a Housing Assistance Payments Contract shall not be required to include a provision requiring that construction must be in progress prior to October 1, 1982: Provided further, That with respect to newly constructed and substantially rehabilitated projects under section 8, United States Housing Act of 1937, as amended, during 1982, the Secretary shall not impose a percentage or other arbitrary limitation on the cost and rent increases resulting from increased construction cost in exercising the authority to approve cost and rent increases set forth in section 8(1) of such Act: Provided further, That none of the merged amounts available for obligation in 1982 shall be subject to the provisions of section 5(c) (2) and (3) and the fourth sentence of section 5(c)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): Provided further, That no funds provided under this or any other Act shall be used to terminate a reservation of contract authority for any project under section 8 of the United States Housing Act of 1937, as amended, on account of the inability of the developer or owner of that project to obtain firm financing, unless such termination occurs no less than twenty-four months following the date of initial reservation of contract authority for such project: Provided further, That $74,375,000 of contract authority and $1,750,000,000 of budget authority provided under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, shall not become available for obligation until October 1, 1982, and $89,321,727 of the foregoing budget authority shall be for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act: Provided further, That to the extent that the amount of budget authority which is recaptured or deobligated, including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 C.F.R. part 883.207, does not equal $5,000,000,000 on June 30, 1982, the amounts deferred in the immediately preceding proviso may be used in accordance with, and in addition to, the amounts provided in the third proviso of this paragraph, except that to the extent such amounts are used, an equivalent amount of such recaptured or deobligated contract authority and budget authority, which become available on or after July 1, 1982, through September 30, 1982, if any, shall be deferred until October 1, 1982.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for Operation of Low-Income Housing Projects", $198,000,000: Provided, That of the total amount available in fiscal year 1982 for "Payments for Operation of Low-Income Housing Projects", $1,215,275,400 shall be made available pro rata solely in accordance with the Performance Funding System (as set forth in 24 C.F.R. part 890, as of February 8, 1982).

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is further reduced in fiscal year 1982 by not more than $3,340,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m), 205(k), except that for the project authorized by said section the Administrator shall allocate to the State of New York an amount equal to one-third of the total cost from the amount made available under this paragraph to the State of New York, one-third from the amount made available to the State of New Jersey, and one-third from the amounts made available to the remaining States, 206, 208, and 209, $2,400,000,000, including grants for biological treatment facilities to repair or replace small community systems but not to exceed three systems suffering operational problems outside the warranty period where the existing Environmental Protection Agency planned systems have proven to be inoperable by the local municipalities, where determined to be necessary, to remain available until expended: Provided, That of such amount, $3,965,426 in additional funds (the amount which was withheld from the State of Kansas by reason of an accounting error by the Federal Government) shall be made available to the State of Kansas: Provided further, That nothing herein shall prohibit any project specified in section 201(m) from receiving a grant under section 201(g), in compliance with all relevant procedures under title II of the Federal Water Pollution Control Act, as amended, and paid from funds allotted to the State by section 205 and appropriated by this Act: Provided further, That the Administrator, upon application by the Governor of the State of Ohio, with the approval of the Committees on Appropriations, shall before October 1, 1982, commit existing unobligated funds from the State's Wastewater Construction Grant allotments to fund the Solid Waste Energy facility in Akron, Ohio.

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, $5,000,000 shall be made available to the Department of Health and Human Services, upon enactment, and up to an additional $2,000,000 may be made available by the Administrator to the Department for the performance of specific activities in accordance with section 111(c)(4) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Management of all funds made available to the Department shall be consistent with the responsibilities of the trustee of the fund, as outlined in section 223(b) of the Act.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

Notwithstanding any other provision of this or any other Act, of the funds appropriated under the heading, "National Aeronautics and Space Administration, Research and development" in Public Law 97-101, not less than the amounts hereinafter set forth shall be made available for the purposes specified: $31,200,000 for expendable launch vehicles; $323,500,000 for physics and astronomy (including $40,000,000 for Shuttle-Spacelab payloads); $205,000,000 for planetary exploration (including $1,700,000 for the midlevel facility in Hawaii); $39,500,000 for life sciences; $328,200,000 for space applications (including $2,300,000 for the

search and rescue program, $5,000,000 for technology transfer, $6,000,000 for upper atmospheric research satellite experiments, $16,200,000 for Shuttle-Spacelab payloads, and $15,400,000 for a 30/20 gigahertz test satellite); $8,000,000 for technology utilization; $264,800,000 for aeronautical research and technology; $111,000,000 for space research and technology; and $402,100,000 for tracking and data acquisition: Provided, That of the funds available for the Space Shuttle, including space flight operations, not less than $80,000,000 shall be made available for design, development and procurement of liquid hydrogen-liquid oxygen (Centaur) upper stages for use in launching the Galileo and Solar Polar spacecraft in 1986: Provided further, That no funds may be obligated for other upper stages, including kick stages, for the Galileo and Solar Polar spacecraft after the enactment of this Act except for work performed prior to the effective date of this Act, together with liability for termination: Provided further, That no funds appropriated in this or any other Act may be obligated for a Solar Maximum repair/retrieval mission until the Secretary of the Air Force enters into an agreement with the Administrator to reimburse the National Aeronautics and Space Administration 50 per centum of the costs of such mission (exclusive of the costs attributable solely to equipment for the Solar Maximum spacecraft and to equipment capable of reuse): Provided further, That upon request by the Administrator of the National Aeronautics and Space Administration and approval by the Committees on Appropriations not to exceed $50,000,000 from the unobligated balances of funds appropriated under the heading "National Aeronautics and Space Administration, Construction of facilities" or "National Aeronautics and Space Administration, Research and program management" in Public Law 97-101 and Public Law 96-526 shall be available for the Space Shuttle, including space flight operations: Provided further, That the Administrator makes sufficient funds available to assure that a second Space Shuttle launch pad at the Kennedy Space Center, Florida, is operational by January 1, 1986.

ADMINISTRATIVE PROVISION

Limitations in section 501(40) of title V of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, are amended as follows: The limitations on the Department of Housing and Urban Development's Office of the Assistant Secretary for Legislation and Congressional Relations are increased from 26 full-time permanent positions and 27 staff years to 31 full-time permanent positions and 33.5 staff years, the limitation on the National Aeronautics and Space Administration's Office of the Comptroller is increased from 150 full-time permanent positions to 161 full-time permanent positions, the limitation on the National Aeronautics and Space Administration's Office of External Relations is increased from 120 full-time permanent positions to 125 full-time permanent positions, excluding those positions allocated for Technology Utilization activities, and the limitation on the Veterans Administration's Office of Planning and Program Evaluation is increased from $1,500,000 to $2,300,000.

CHAPTER III

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $17,500,000, to remain available until expended.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAY PROGRAM

Section 3(a) of the Federal-Aid Highway Act of 1981 is amended by striking the period at the end of the first sentence and by inserting the following: "plus, an additional amount not to exceed $19,000,000 in obligation authority to carry out section 310(d)(3) of Public Law 97-102.".

NATIONAL SCENIC AND RECREATIONAL HIGHWAY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

Any amounts previously authorized to be derived from the Highway Trust Fund for payment of obligations in carrying out the provisions of 23 U.S.C. 148 are to be transferred to and administered under the appropriation "Federal-aid highways".

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Section 303(d) of the Rail Passenger Service Act, 45 U.S.C. 543(d), is amended by changing the period at the end thereof to a semicolon and adding the following: "except that the holding securities issued by a railroad shall not be deemed to be violative of this prohibition: Provided, That the officer who holds such securities recuses himself from any decisions which bear directly on such railroad, and makes full public disclosure of such holdings.".

RELATED AGENCIES

CIVIL AERONAUTICS BOARD

PAYMENTS TO AIR CARRIERS

For an additional amount for "Payments to air carriers", $28,400,000 to remain available until expended: Provided, That $8,242,000 shall be used to liquidate obligations incurred during September 1981, to provide for subsidy payments under 49 U.S.C. 1376 and 1389: Provided further, That notwithstanding any other provision of law any funds appropriated for "Payments to air carriers" in this or any other Act which are not obligated by September 30, 1982, shall be available for obligations only for section 419 (49 U.S.C. 1389) subsidies, except for adjustments to section 406 (49 U.S.C. 1376) payments for service provided prior to September 30, 1982.

INTERSTATE COMMERCE COMMISSION

PAYMENTS FOR DIRECTED RAIL SERVICE

For an additional amount for "Payments for directed rail service", $8,000,000, to remain available until expended.

Section 120 of the Rock Island Railroad Transition and Employee Assistance Act is amended—

(1) in subsection (a)—

(A) by striking out "the Rock Island Railroad" the first place it appears and inserting in lieu thereof "any railroad subject to section 77 of the Bankruptcy Act, or subchapter IV of chapter 11 of title 11, United States Code, which has ceased to provide passenger commuter service over any line of the railroad";

(B) by striking out "2-year" and inserting in lieu thereof "3-year"; and

(C) by striking out "Rock Island Railroad" each place it appears (other than the first time it appears) and inserting in lieu thereof "railroad"; and

(2) in subsection (b), by striking out "the Rock Island Railroad" and inserting in lieu thereof "any railroad".

CHAPTER IV

DEPARTMENT OF THE TREASURY

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $81,604,000.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $23,825,000: Provided, That no funds made available by this Act or Public Law 97-161 may be used to accomplish or implement any proposed reorganization of the Bureau of Alcohol, Tobacco and Firearms or the transfer of the Bureau's functions, missions, or activities to other agencies within the Department of the Treasury in the fiscal year ending on September 30, 1982: Provided further, That no reorganization of the Bureau of Alcohol, Tobacco and Firearms or the transfer of the Bureau's functions, missions, or activities to other agencies within the Department of the Treasury subsequent to September 30, 1982, shall be accomplished or implemented without the specific, express approval of both the House and Senate Committees on Appropriations.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $14,865,000, of which $8,000,000 shall be used for salaries, expenses, equipment, and other related expenses for Operation Exodus.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $500,000.

FEDERAL BUILDINGS FUND

Notwithstanding the provision immediately following the repairs and improvements line item projects under the heading "General Services Administration, Federal buildings fund, Limitations on availability of revenue" in H.R. 4121 as passed by the House and in H.R. 4121 as reported by the Senate on September 22, 1981, funds presently available for repairs and alterations nonprospectus projects shall be used to initiate the design and related work required to begin the repairs and alterations of the U.S. Court of Appeals building, Atlanta, Georgia.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $4,006,000.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $238,000.

U.S. TAX COURT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,530,000.

CHAPTER V

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,171,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $3,500,000 to be derived by transfer from the Economic Development Revolving Fund.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $2,000,000, to remain available until expended.

RELATED AGENCIES

INTERNATIONAL COMMUNICATION AGENCY

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

Appropriations made available under this heading for fiscal year 1982 may be used for lease of real property for periods of up to twenty-five years in Africa, Asia, the Caribbean area, and Europe.

CHAPTER VI

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

For an additional amount for the "Food Stamp Program", $1,006,616,000.

CHAPTER VII

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", $40,000,000, to remain available until expended: Provided, That $18,000,000 of the funds provided shall be for flood control measures and features on the Cowlitz and Toutle Rivers in the State of Washington.

TITLE II

GENERAL PROVISIONS

SEC. 201. Any institution of higher education specifically cited in the conference report on the Education Amendments of 1980 (report numbered 96-1337) as a unique institution which the conference committee for that legislation intended to be recognized as a developing institution eligible to apply for funds under title III of the Higher Education Act of 1965, shall be treated as an eligible institution for such purpose for fiscal year 1982, notwithstanding section 322(a)(2)(A) of such Act.

SEC. 202. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 203. Notwithstanding any other provision of law, none of the funds provided for International Organizations and Programs in Public Law 97-121, the Foreign Assistance and Related Programs Appropriation Act for Fiscal Year 1982, shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the South West Africa Peoples Organization, or Cuba.

SEC. 204. No funds appropriated or otherwise made available for fiscal year 1982 shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Federal Mine Safety and Health Act of 1977 on any State or political subdivision thereof. Notwithstanding section 101(a)(3) of Public Law 97-92 or any similar or comparable provision of any other law, during fiscal year 1982 the Mine Safety and Health Administration shall have the same enforcement authorities vested in such Administration on September 30, 1981.

SEC. 205. Effective upon enactment of this Act and for the remainder of fiscal year 1982, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 206. Notwithstanding any other provision of law, the amounts appropriated for fiscal year 1982 under Public Law 97-51 (as amended by Public Law 97-85) and Public Law 97-92 (as amended by Public Law 97-161) for purposes of section 340 of the Public Health Service Act shall be available for funding grants and contracts under such section in areas that are not urbanized areas and in urbanized areas.

SEC. 207. Notwithstanding any other provision of this Act, any other Act, or section 413D of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for the fiscal year 1982 among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in the fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for that fiscal year: Provided, That the Secretary shall allocate sums to institutions in each State notwithstanding section 413D(b)(1)(B)(ii)(I) of the Higher Education Act of 1965.

SEC. 208. Notwithstanding any other provision of this Act, any other Act, or section 442 of the Higher Education Act of 1965, the Secretary shall allot the sums appropriated pursuant to section 441 of the Higher Education Act of 1965 for the fiscal year 1982 among Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the States (including the District of Columbia and the Commonwealth of Puerto Rico) so that the allotment of Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and each State (including the District of Columbia and the Commonwealth of Puerto Rico) bears the same ratio to the amount appropriated as the allotment of Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and each State (including the District of Columbia and the Commonwealth of Puerto Rico) for the fiscal year 1981 bears to the total amount appropriated pursuant to section 441 for that fiscal year: Provided, That the Secretary shall allocate sums to institutions in each jurisdiction notwithstanding the second sentence of section 446(a) of the Higher Education Act of 1965.

SEC. 209. The Secretary of Education and the Director of the National Institute of Education shall not terminate any long-term special institutional agreement (or any other grant agreement or contract which incorporates by reference such long-term special institutional agreement) which—

(1) was entered into under section 405(f) of the General Education Provisions Act, relating to laboratories and centers, and

(2) is in effect on the date of enactment of this Act,

prior to the original completion date established by such long-term special institutional agreement (or any other grant agreement or contract which incorporates by reference such long-term special institutional agreement).

SEC. 210. (a) The Secretary of Agriculture shall initiate construction on not less than fifteen new projects under the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) during fiscal year 1982.

(b) Any project proposed for construction pursuant to the Act referred to in subsection (a) and submitted to the Director of the Office of Management and Budget for review shall be deemed to be approved by the Director unless disapproved by him within ninety days after submission.

SEC. 211. (a) Subsection (a) of section 112 of the Act of December 15, 1981 (95 Stat. 1194), is amended by inserting after "in connection with a qualified issue" the following: ", except to the extent such funds are used in connection with the consideration or granting of an exemption from the application of such revenue ruling or regulation under proposed income tax regulation section 1.103-7(b)(6)(ii) or any similar statute or regulation".

(b) Subsection (d) of section 112 of the Act of December 15, 1981 (95 Stat. 1196), is amended to read as follows:

"(d) It is the sense of the Congress that after August 23, 1981, the Secretary of the Treasury or his delegate, in all cases, should enforce any revenue ruling or regulation described in paragraph (1) or (2) of subsection (a) in a manner consistent with the provisions of this section. Nothing in the preceding sentence shall prevent the Secretary of the Treasury or his delegate from granting or considering an exemption from the application of such a revenue ruling or regulation under proposed income tax regulation section 1.103-7(b)(6)(ii) or any similar statute or regulation.".

SEC. 212. Notwithstanding any provision of this or any other Act, none of the funds appropriated for the Department of Labor, Mine Safety and Health Administration, shall be used to classify a mine in the potash industry as gassy based upon air samples containing concentrations of methane gas, unless such classification standard has been adopted through formal rulemaking on or after November 5, 1981.

SEC. 213. None of the funds provided in this or any other Act shall be used to implement an apportionment and staffing plan to specifically phase down the Public Health Service Commissioned Corps.

SEC. 214. The Department of Agriculture, U.S. Forest Service, within available funds, shall expend not less than $1,000,000 for research on the cyclocrane concept of a lighter-than-air heavy lift vehicle for use in logging operations.

SEC. 215. (a) The last sentence of section 162(a) of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by inserting ", but amounts ex-

pended by such Members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of $3,000" after "home".

(b) Paragraph (4) of section 280A(f) of such Code (relating to coordination with section 162(a)(2)) is amended to read as follows:

"(4) COORDINATION WITH SECTION 162(a)(2).—Nothing in this section shall be construed to disallow any deduction allowable under section 162(a)(2) (or any deduction which meets the tests of section 162(a)(2) but is allowable under another provision of this title) by reason of the taxpayer's being away from home in the pursuit of a trade or business (other than the trade or business of renting dwelling units).".

(c) Subsection (a) of section 139 of the Act of October 1, 1981 (95 Stat. 967), is hereby repealed.

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 216. For an additional amount for National Guard Personnel, Army, such amount as is necessary to make 850 mandays available to the Kentucky Army National Guard to implement and operate the Medical Assistance to Safety and Traffic program in Kentucky through August 1, 1982, to be derived by transfer from Operations and Maintenance, Army National Guard.

SEC. 217. (a) None of the funds which are made available by this or any other Act shall be used to study, plan, or implement the termination of the operation of the Southwestern Indian Polytechnic Institute located in Albuquerque, New Mexico, in fiscal year 1982.

(b) The Secretary of the Interior shall use funds made available to the Department of the Interior under the Act of December 23, 1981 (95 Stat. 1391), to operate Southwestern Indian Polytechnic Institute through fiscal year 1982.

SEC. 218. Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981, and section 102(c) of the Federal-Aid Highway Act of 1976, the Secretary may approve the use of interstate construction funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, on projects for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System in accordance with the provisions of 23 U.S.C. 119, or for those purposes for which funds apportioned under 23 U.S.C. 104(b) (1), (2), and (6) may be expended, in a State which received no more than one-half of 1 per centum of the total apportionment under 23 U.S.C. 104(b)(5)(A) for the fiscal year ending September 30, 1983, where necessary in order to fully utilize funds apportioned under 23 U.S.C. 104(b)(5)(A) through the fiscal year ending September 30, 1982, but within the obligational limitation established by section 3 of the Federal-Aid Highway Act of 1981.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate to H.R. 6685 and concur therein with an amendment, as follows; In lieu of the matter stricken and inserted by said amendment, insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Urgent Supplemental Appropriations Act, 1982") for the fiscal year ending September 30, 1982, and for other purposes, namely:

TITLE I

CHAPTER I

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

(TRANSFER OF FUNDS)

For an additional amount for "Program administration", $8,742,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

EMPLOYMENT AND TRAINING ASSISTANCE

For an additional amount for the Summer Youth Program under part C of title IV of the Comprehensive Employment and Training Act, $45,000,000.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $4,259,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $5,623,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

For an additional amount for "Health Services", $60,080,000, of which $3,500,000 shall be used to provide twelve months of transitional funding for those University Affiliated Facilities previously funded under section 502(a) of the Social Security Act or predecessor legislation (title V of the Social Security Act as in effect prior to the enactment of the Maternal and Child Health Services Block Grant), but for which termination of such funding has been announced during fiscal year 1982.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

For an additional amount for "Health Resources", $1,000,000, which shall be available for nursing research grants.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

WORK INCENTIVES

For an additional amount for "Work incentives", $35,000,000.

DEPARTMENTAL MANAGEMENT

OFFICE OF THE INSPECTOR GENERAL

(TRANSFER OF FUNDS)

From amounts appropriated for fiscal year 1982 for payments to States for Medicaid Fraud Control Units, there is transferred to the Office of Inspector General, Department of Health and Human Services, for necessary expenses, $13,941,000.

SOCIAL SECURITY ADMINISTRATION

REFUGEE AND ENTRANT ASSISTANCE

For an additional amount for "Refugee and Entrant assistance", $20,000,000, to be available only to reimburse States which by reason of court order, State statute or regulation, or other administrative restraint could not implement the change in regulations published on March 12, 1982, for refugee assistance and domestic assistance for Cuban and Haitian entrants.

DEPARTMENT OF EDUCATION

STUDENT LOAN INSURANCE

For an additional amount under title IV, part B of the Higher Education Act, $1,300,000,000, to remain available until expended.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,650,000.

RELATED AGENCIES

ACTION

OPERATING EXPENSES, DOMESTIC PROGRAMS

For an additional amount for "Operating expenses, domestic programs", under the provisions of the Domestic Volunteer Service Act of 1973, as amended (Public Law 93-113, as amended, 42 U.S.C. section 4951 et seq.), $2,000,000.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For an additional amount for payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934 as amended, an amount which shall be available within limitations specified by said Act, for the fiscal year 1984, $24,400,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, and similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity excluding from participation in, denying the benefits of, or discriminating against any person on the basis of race, color, national origin, religion, or sex.

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $309,000.

CHAPTER II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the amount of authority provided under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982 and prior Appropriation Acts, $94,382,000 of contract authority and $4,098,640,000 of budget authority are rescinded: *Provided*, That any balances of authorities made available prior to enactment of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, which are, or become, available for obligation in fiscal

year 1982, shall be added to and merged with the authority approved in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, and such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1982: *Provided further,* That $190,860,000 of contract authority and $4,098,685,000 of budget authority, shall be used for the public housing program, including $18,960,000 of contract authority for assistance in financing the development or acquisition cost of low-income housing for Indian families, $90,000,000 of contract authority for modernization of existing low-income housing projects, and $1,263,005,000 of budget authority for new construction and substantial rehabilitation as authorized by section 5(c) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c); and $870,969,000 of contract authority and $15,228,518,000 of budget authority shall be used for new construction and substantial rehabilitation and assistance to existing housing units, including amendments for units reserved in prior years, under the lower-income housing assistance program (section 8, United States Housing Act of 1937, as amended): *Provided further,* That of the foregoing amounts, $152,715,200 of contract authority and $3,700,000,000 of budget authority shall be for projects under section 8, United States Housing Act of 1937, as amended, the rents for which are approved pursuant to the note governing financing adjustments (46 Fed. Reg. 51903, October 23, 1981) or any published amendment thereto or successor note, except that the Secretary shall include in the determination of the fair market rental a debt service factor reflecting the lesser of (A) 14 percent or (B)(i) where the rate of interest on the permanent instrument sold to finance the project is 12 percent or less, such rate of interest or (ii) where the rate of interest on the permanent instrument sold to finance the project is more than 12 percent, one-half percent below such rate of interest but not less than 12 percent, and except that the Agreement to Enter into a Housing Assistance Payments Contract shall not be required to include a provision requiring that construction must be in progress prior to October 1, 1982: *Provided further,* That with respect to newly constructed and substantially rehabilitated projects under section 8, United States Housing Act of 1937, as amended, during 1982, the Secretary shall not impose a percentage or other arbitrary limitation on the cost and rent increases resulting from increased construction cost in exercising the authority to approve cost and rent increases set forth in section 8(1) of such Act: *Provided further,* That none of the merged amounts available for obligation in 1982 shall be subject to the provisions of section 5(c) (2) and (3) and the fourth sentence of section 5(c)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): *Provided further,* That no funds provided under this or any other Act shall be used to terminate a reservation of contract authority for any project under section 8 of the United States Housing Act of 1937, as amended, on account of the inability of the developer or owner of that project to obtain firm financing, unless such termination occurs no less than twenty four months following the date of initial reservation of contract authority for such project: *Provided further,* That $74,375,000 of contract authority and $1,750,000,000 of budget authority provided under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, shall not become available for obligation until October 1, 1982, and $89,321,727 of the foregoing budget authority shall be for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act: *Provided further,* That to the extent that the amount of budget authority which is recaptured or deobligated, including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 C.F.R. part 883.207, does not equal $5,000,000,000 on June 30, 1982, the amounts deferred in the immediately preceding proviso may be used in accordance with, and in addition to, the amounts provided in the third proviso of this paragraph, except that to the extent such amounts are used, an equivalent amount of such recaptured or deobligated contract authority and budget authority, which become available on or after July 1, 1982 through September 30, 1982, if any, shall be deferred until October 1, 1982.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for Operation of Low-Income Housing Projects", $198,000,000: *Provided,* That of the total amount availale in fiscal year 1982 for "Payments for Operation of Low-Income Housing Projects", $1,215,275,400 shall be made available pro rata solely in accordance with the Performance Funding System (as set forth in 24 C.F.R. part 890, as of February 8, 1982).

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is further reduced in fiscal year 1982 by not more than $3,340,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m), 205(k), except that for the project authorized by said section the Administrator shall allocate to the State of New York an amount equal to one-third of the total cost from the amount made available under this paragraph to the State of New York, one-third from the amount made available to the State of New Jersey, and one-third from the amounts made available to the remaining States, 206, 208, and 209, $2,400,000,000, including grants for biological treatment facilities to repair or replace small community systems but not to exceed three systems suffering operational problems outside the warranty period where the existing Environmental Protection Agency planned systems have proven to be inoperable by the local municipalities, where determined to be necessary, to remain available until expended; *Provided,* That of such amount, $3,965,426 in additional funds (the amount which was withheld from the State of Kansas by reason of an accounting error by the Federal Government) shall be made available to the State of Kansas: *Provided further,* That nothing herein shall prohibit any project specified in section 201(m) from receiving a grant under section 201(g), in compliance with all relevant procedures under title II of the Federal Water Pollution Control Act, as amended, and paid from funds allotted to the State by section 205 and appropriated by this Act: *Provided further,* That the Administrator, upon application by the Governor of the State of Ohio, with the approval of the Committees on Appropriations, shall before October 1, 1982, commit existing unobligated funds from the State's Wastewater Construction Grant allotments to fund the Solid Waste Energy facility in Akron, Ohio.

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, $5,000,000 shall be made available to the Department of Health and Human Services, upon enactment, and up to an additional $2,000,000 may be made available by the Aministrator to the Department for the performance of specific activities in accordance with section 111(c)(4) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Management of all funds made available to the Department shall be consistent with the responsibilities of the trustee of the fund, as outlined in section 223(b) of the Act.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

Notwithstanding any other provision of this or any other Act, of the funds appropriated under the heading, "National Aeronautics and Space Administration, Research and development" in Public Law 97-101, not less than the amounts hereinafter set forth shall be made available for the purposes specified: $31,200,000 for expendable launch vehicles; $323,500,000 for physics and astronomy (including $40,000,000 for Shuttle-Spacelab payloads); $205,000,000 for planetary exploration (including $1,700,000 for the mid-level facility in Hawaii); $39,500,000 for life sciences; $328,200,000 for space applications (including $2,300,000 for search and rescue program, $5,000,000 for technology transfer, $6,000,000 for upper atmospheric research satellite experiments, $16,200,000 for Shuttle-Spacelab payloads, and $15,400,000 for a 30/20 gigahertz test satellite), $8,000,000 for technology utilization; $264,800,000 for aeronautical research and technology; $111,000,000 for space research and technology; and $402,100,000 for tracking and data acquisition; *Provided,* That of the funds available for the Space Shuttle, including space flight operations, not less than $80,000,000 shall be made available for design, development and procurement of liquid hydrogen-liquid oxygen (Centaur) upper stages for use in launching the Galileo and Solar Polar spacecraft in 1986: *Provided further,* That no fund may be obligated for other upper stages, including kick stages, for the Galileo and Solar Polar spacecraft after the enactment of this Act except for work performed prior to the effective date of this Act, together with liability for termination: *Provided further,* That no funds appropriated in this or any other Act may be obligated for a Solar Maximum repair/retrieval mission until the Secretary

of the Air Force enters into an agreement with the Administrator to reimburse the National Aeronautics and Space Administration 50 per centum of the costs of such mission (exclusive of the costs attributable solely to equipment for the Solar Maximum spacecraft and to equipment capable of reuse): *Provided further*, That upon request by the Administrator of the National Aeronautics and Space Administration and approval by the Committees on Appropriations not to exceed $50,000,000 from the unobligated balances of funds appropriated under the heading "National Aeronautics and Space Administration, Construction of facilities" or "National Aeronautics and Space Administration, Research and program management" in Public Law 97-101 and Public Law 96-526 shall be available for the Space Shuttle, including space flight operations: *Provided further*, That the Administrator makes sufficient funds available to assure that a second Space Shuttle launch pad at the Kennedy Space Center, Florida, is operational by January 1, 1986.

ADMINISTRATIVE PROVISION

Limitations in section 501(40) of title V of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, are amended as follows: The limitations on the Department of Housing and Urban Development's Office of the Assistant Secretary for Legislation and Congressional Relations are increased from 26 full-time permanent positions and 27 staff years to 31 full-time permanent positions and 33.5 staff years, the limitation on the National Aeronautics and Space Administration's Office of the Comptroller is increased from 150 full-time permanent positions to 161 full-time permanent positions, the limitation on the National Aeronautics and Space Administration's Office of External Relations is increased from 120 full-time permanent positions to 125 full-time permanent positions, excluding those positions allocated for Technology Utilization activities, and the limitation on the Veterans Administration's Office of Planning and Program Evaluation is increased from $1,500,000 to $2,300,000.

CHAPTER III

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $17,500,000, to remain available until expended.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAY PROGRAM

Section 3(a) of the Federal-Aid Highway Act of 1981 is amended by striking the period at the end of the first sentence and by inserting the following: "plus, an additional amount not to exceed $19,000,000 in obligation authority to carry out section 310(d)(3) of Public Law 97-102.".

For an additional amount of authority to execute contracts to replace or rehabilitate highway bridges according to Title 23, United States Code, Section 144, $19,000,000 out of the Highway Trust Fund, to remain available until expended: *Provided*, that obligations incurred under this authority shall not be subject to any law limiting obligations for Federal-Aid Highways.

Section 3(a) of the Federal-Aid Highway Act of 1981 is further amended by striking the period at the end of the first sentence and by inserting the following: "plus, an additional amount not to exceed $53,000,000 in obligation authority which the Secretary shall allocate to the States in order to increase such total obligation limitation, so that the reduction of any State's final obligation limitation is held to 15 per centum of the tentative limitation issued by the Secretary on October 1, 1981.".

NATIONAL SCENIC AND RECREATIONAL HIGHWAY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

Any amounts previously authorized to be derived from the Highway Trust Fund for payment of obligations in carrying out the provisions of 23 U.S.S. 148 are to be transferred to and administered under the appropriation "Federal-aid highways".

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Section 303(d) of the Rail Passenger Service Act, 45 U.S.C. 543(d), is amended by changing the period at the end thereof to a semicolon and adding the following: "except that the holding of securities issued by a railroad shall not be deemed to be violative of this prohibition: *Provided*, That the officer who holds such securities recuses himself from any decisions which bear directly on such railroad, and makes full public disclosure of such holdings.".

RELATED AGENCIES

CIVIL AERONAUTICS BOARD

PAYMENTS TO AIR CARRIERS

For an additional amount for "Payments to air carriers", $28,400,000 to remain available until expended: *Provided*, That $8,242,000 shall be used to liquidate obligations incurred during September 1981, to provide for subsidy payments under 49 U.S.C. 1376 and 1389: *Provided further*, That notwithstanding any other provision of law any funds appropriated for "Payments to air carriers" in this or any other Act which are not obligated by September 30, 1982, shall be available for obligations only for section 419 (49 U.S.C. 1389) subsidies, except for adjustments to section 406 (49 U.S.C. 1376) payments for service provided prior to September 30, 1982.

INTERSTATE COMMERCE COMMISSION

PAYMENTS FOR DIRECTED RAIL SERVICE

For an additional amount for "Payments for directed rail service", $8,000,000, to remain available until expended.

Section 120 of the Rock Island Railroad Transition and Employee Assistance Act is amended—

(1) in subsection (a)—

(A) by striking out "the Rock Island Railroad" the first place it appears and inserting in lieu thereof "any railroad subject to section 77 of the Bankruptcy Act, or subchapter IV of chapter 11 of title 11, United States Code, which has ceased to provide passenger commuter service over any line of the railroad";

(B) by striking out "2-year" and inserting in lieu thereof "3-year"; and

(C) by striking out "Rock Island Railroad" each place it appears (other than the first time it appears) and inserting in lieu thereof "railroad"; and

(2) in subsection (b), by striking out "the Rock Island Railroad" and inserting in lieu thereof "any railroad".

CHAPTER IV

DEPARTMENT OF THE TREASURY

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $81,604,000.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $23,825,000: *Provided*, That no funds made available by this Act or Public Law 97-161 may be used to accomplish or implement any proposed reorganization of the Bureau of Alcohol, Tobacco and Firearms or the transfer of the Bureau's functions, missions, or activities to other agencies within the Department of the Treasury in the fiscal year ending on September 30, 1982: *Provided further*, That no reorganization of the Bureau of Alcohol, Tobacco and Firearms or the transfer of the Bureau's functions, missions, or activities to other agencies within the Department of the Treasury subsequent to September 30, 1982, shall be accomplished or implemented without the specific express approval of both the House and Senate Committees on Appropriations.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $14,865,000, of which $8,000,000 shall be used for salaries, expenses, equipment, and other related expenses for Operation Exodus.

U.S. POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional amount for payment to the Postal Service Fund for revenue forgone on free and reduced rates of mail, pursuant to 39 U.S.C. 2401(c), $42,000,000: *Provided*, That notwithstanding any other provision of law, the Postal Service shall use these funds promptly to revise the adjustment to preferred rates made pursuant to section 108 of Public Law 97-92 so that all mail covered by the 16-year phasing schedule established pursuant to section 3626 of title 39, United States Code, shall benefit from step 13 on such schedule through September 30, 1982. This provision shall take effect ten days after enactment of this Act.

Effective October 1, 1982, section 1723 of the Omnibus Reconciliation Act, Public Law 97-35, is amended by striking out "(a)" before "Notwithstanding" in subsection (a) and by striking out subsection (b).

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $500,000.

FEDERAL BUILDINGS FUND

Notwithstanding the provision immediately following the repairs and improvements line item projects under the heading "General Services Administration, Federal buildings fund, Limitations on availability of revenue" in H.R. 4121 as passed by the House and in H.R. 4121 as reported by the Senate on September 22, 1981, funds presently available for repairs and alterations nonprospectus projects shall be used to initiate the design and related work required to begin the repairs and alterations of the U.S. Court of Appeals building, Atlanta, Georgia.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $4,006,000.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $238,000.

U.S. TAX COURT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,530,000.

CHAPTER V

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,171,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $3,500,000 to be derived by transfer from the Economic Development Revolving Fund.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $2,000,000, to remain available until expended.

RELATED AGENCY

INTERNATIONAL COMMUNICATION AGENCY

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

Appropriations made available under this heading for fiscal year 1982 may be used for lease of real property for periods of up to twenty-five years in Africa, Asia, the Caribbean area, and Europe.

CHAPTER VI

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

For an additional amount for "Food Stamp Program", $1,006,616,000.

CHAPTER VII

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", $40,000,000, to remain available until expended: *Provided*, That $18,000,000 of the funds provided shall be for flood control measures and features on the Cowlitz and Toutle Rivers in the State of Washington.

TITLE II

GENERAL PROVISIONS

SEC. 201. Any institution of higher education specifically cited in the conference report on the Education Amendments of 1980 (report numbered 96-1337) as a unique institution which the conference committee for that legislation intended to be recognized as a developing institution eligible to apply for funds under title III of the Higher Education Act of 1965, shall be treated as an eligible institution for such purpose for fiscal year 1982, not withstanding section 322(a)(2)(A) of such Act.

SEC. 202. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 203. Not withstanding any other provision of law, none of the funds provided for International Organizations and Programs in Public Law 97-121, the Foreign Assistance and Related Programs Appropriation Act for Fiscal Year 1982, shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the South West Africa Peoples Organization, or Cuba.

SEC. 204. No funds appropriated or otherwise made available for fiscal year 1982 shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Federal Mine Safety and Health Act of 1977 on any State or political subdivision thereof. Notwithstanding section 101(a)(3) of Public Law 97-92, or any similar or comparable provision of any other law, during fiscal year 1982 the Mine Safety and Health Administration shall have the same enforcement authorities vested in such Administration of September 30, 1981.

SEC. 205. Effective upon enactment of this Act and for the remainder of fiscal year 1982, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 206. Notwithstanding any other provision of law, the amounts appropriated for fiscal year 1982 under Pubic Law 97-51 (as amended by Public Law 97-85) and Public Law 97-92 (as amended by Public Law 97-161) for purposes of section 340 of the Public Health Service Act shall be available for funding grants and contracts under such section in areas that are not urbanized areas and in urbanized areas.

SEC. 207. Notwithstanding any other provision of this Act, any other Act, or section 413D of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for the fiscal year 1982 among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in the fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for that fiscal year: *Provided*, That the Secretary shall allocate sums to institutions in each State notwithstanding section 413D(b)(1)(B)(ii)(I) of the Higher Education Act of 1965.

SEC. 208. Notwithstanding any other provision of this Act, any other Act, or section 442 of the Higher Education Act of 1965, the Secretary shall allot the sums appropriated pursuant to section 441 of the Higher Education Act of 1965 for the fiscal year 1982 among Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the States (including the District of Columbia and the Commonwealth of Puerto Rico) so that the allotment of Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, andm each State (including the District of Columbia and the Commonwealth of Puerto Rico) bears the same ratio to the amount appropriated as the allotment of Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and each State (including the District of Columbia and the Commonwealth of Puerto Rico) for the fiscal year 1981 bears to the total amount appropriated pursuant to section 441 for that fiscal year: *Provided*, That the Secretary shall allocate sums to institutions in each jurisdiction notwithstanding the second sentence of section 446(a) of the Higher Education Act of 1965.

SEC. 209. The Secretary of Education and the Director of the National Institute of Education shall not terminate any long-term special institutional agreement (or any other grant agreement or contract which incorporates by reference such long-term special institutional agreement) which—

(1) was entered into under section 405(f) of the General Education Provisions Act, relating to laboratories and centers, and

(2) is in effect on the date of enactment of this Act, prior to the original completion date established by such long-term special institutional agreement (or any other grant agreement or contract which incorporates by reference such long-term special institutional agreement).

SEC. 210. (a) The Secretary of Agriculture shall initiate construction on not less than fifteen new projects under the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) during fiscal year 1982.

(b) Any project proposed for construction pursuant to the Act referred in subsection (a) and submitted to the Director of the Office of Management and Budget for review shall be deemed to be approved by the Director unless disapproved by him within ninety days after submission.

SEC. 211. (a) Subsection (a) of section 112 of the Act of December 15, 1981 (95 Stat. 1194), is amended by inserting after "in connection with a qualified issue" the following: ", except to the extent such funds are used in connection with the consideration of granting of an exemption from the application of such revenue ruling or regulation under proposed income tax regulation section 1.103-7(b)(6)(ii) or any similar statute or regulation.".

(b) Subsection (d) of section 112 of the Act of December 15, 1981 (95 Stat. 1196), is amended to read as follows:

"(d) It is the sense of the Congress that after August 23, 1981, the Secretary of the Treasury or his delegate, in all cases, should enforce any revenue ruling or regulation described in paragraph (1) or (2) of subsection (a) in a manner consistent with the provisions of this section. Nothing in the preceding sentence shall prevent the Secretary of the Treasury or his delegate from granting or considering an exemption from the application of such a revenue ruling or regulation under proposed income tax regulation section 1.103-7(b)(6)(ii) or any similar statute or regulation.".

SEC. 212. Notwithstanding any provision of this or any other Act, none of the funds appropriated for the Department of Labor, Mine Safety and Health Administration, shall be used to classify a mine in the

potash industry as gassy based upon air samples containing concentration of methane gas, unless such classification standard has been adopted through formal rulemaking on or after November 5, 1981.

SEC. 213. None of the funds provided in this or any other Act shall be used to implement an apportionment and staffing plan to specifically phase down the Public Health Service Commissioned Corps.

SEC. 214. The Department of Agriculture, U.S. Forest Service, within available funds, shall expend not less than $1,000,000 for research on the cyclocrane concept of a lighter-than-air heavy lift vehicle for use in logging operations.

SEC. 215. (a) The last sentence of section 162(a) of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by inserting, "but amounts expended by such Members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of $3,000" after "home".

(b) Paragraph (4) of section 280A(f) of such Code (relating to coordination with section 162(a)(2)) is amended to read as follows:

"(4) COORDINATION WITH SECTION 162 (a)(2).—Nothing in this section shall be construed to disallow any deduction allowable under section 162(a)(2) (or any deduction which meets the tests of section 162(a)(2) but is allowable under another provision of this title) by reason of the taxpayer's being away from home in the pursuit of a trade or business (other than the trade or business of renting dwelling units)."

(c) Subsection (a) of section 139 of the Act of October 1, 1981 (95 Stat. 967), is hereby repealed.

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 216. For an additional amount for National Guard Personnel, Army, such amount as is necessary to make 850 man-days available to the Kentucky Army National Guard to implement and operate the Medical Assistance to Safety and Traffic program in Kentucky through August 1, 1982, to be derived by transfer from Operations and Maintenance, Army National Guard.

SEC. 217. (a) None of the funds which are made available by this or any other Act shall be used to study, plan, or implement the termination of the operation of the Southwestern Indian Polytechnic Institute located in Albuquerque, New Mexico, in fiscal year 1982.

(b) The Secretary of the Interior shall use funds made available to the Department of the Interior under the Act of December 23, 1981 (95 Stat. 1391), to operate Southwestern Indian Polytechnic Institute through fiscal year 1982.

SEC. 218. Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981, and section 102(c) of the Federal-Aid Highway Act of 1976, the Secretary may approve the use of interstate construction funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, on projects for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System in accordance with the provisions of 23 U.S.C. 119, or for those purposes for which funds apportioned under 23 U.S.C. 104(b) (1), (2), and (6) may be expended, in a State which received no more than one-half of 1 per centum of the total apportionment under 23 U.S.C. 104(b)(5)(A) for the fiscal year ending September 30, 1983, where necessary in order to fully utilize funds apportioned under 23 U.S.C. 104(b)(5)(A) through the fiscal year ending September 30, 1982, but within the obligational limitation established by section 3 of the Federal-Aid Highway Act of 1981.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this conference report to the bill (H.R. 6685) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, and that I may include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, as I have mentioned before, we first reported an urgent supplemental appropriation bill for fiscal year 1982 from the Appropriations Committee on March 23. I do not take issue here in any way of the procedures that have been followed, because they are in line with the rules of the Congress and orderly government—for differences of opinion always exist.

WASHINGTON LIVING EXPENSES FOR MEMBERS OF CONGRESS

As the Members know, we repealed the section having to do with taxes for Members in each of the bills which were vetoed. I believe this is about the third or fourth time. The two bills which were vetoed expressed the will of Congress. However, the veto or use thereof is within the authority and obligation of the President if he felt that way. Such repeal is in the current bill. Members may recall, that before the latest recess we passed through the House what I would term a temporary bill to keep the Government in operation until July 20. In that bill, we put only the urgent items that had to be approved soon if we were to keep various activities of the Government in business. I think there are 5 more days remaining under the limitation we had.

When this bill got to the other side of the Capitol, our friends on that side saw fit, acting within what they determined was their best judgment, to change the expiration date of that bill from July 20 to that of September 30. In connection with that change in the length of the bill and its period of effectiveness, they added a number of items which I understood had been considered by the Office of Management and Budget, and they had every reason to believe it would be satisfactory in the amounts and would have the recommendation of the Budget Director to the President to be signed.

CONFERENCE ACTION

We asked for a conference on Tuesday, July 13, and had a conference with the Senate yesterday. I want to say here that I wish to congratulate and thank all House Members of the Conference Committee, particularly my colleague from Massachusetts (Mr. CONTE), the subcommittee chairmen on our side, all of whom have been very patient as we have gone through these various steps until we bring you today, a unanimous conference report. The conference with the Senate was very orderly and very good, and I know of no one for whom I have higher respect than for the chairman of the Senate Appropriations Committee, Senator HATFIELD.

But, in the items that had been approved by the Congress twice, which were vetoed, our friends on the other side had put the items that they considered the most important. Actually, when we went to the conference as representatives of the House we in turn had our obligations to stand for those items we felt were necessary, or the Members of the House felt were necessary. I do not know that this conference report suits anybody in its entirety, but as representatives of the House we went to the meeting and we have retained to the House the right to originate appropriation bills in the House. We also retained the right to prevent item veto. On the other hand, our colleagues on the other side yielded on items sufficient for us to include those things that we felt very important on this side.

So, here we have what the conferees of the House and Senate have signed. This conference report is about $14 million below the amount that the Senate had, the amount which I understand had been cleared by the Office of Management and Budget. It represents again the orderly workings of government.

I have said many times that we need to work with the executive branch, with the President. The Committee on Appropriations has tried to do that. I have pointed out numerous times that last year, when the President asked us to rescind approximately $15.1 billion, we rescinded $14.3 billion. When he asked us later to go along with a budget that cut 10 percent, we went along at that time. Then, later when he asked us to go along with a further 12-percent cut, I believe 7 percent was

agreed on by the conferees, Republicans and Democrats on the Senate side all signed, and other Republicans signed on this side. Now it appears that some recommended cuts are in areas essential to the protection of our country and its wealth, which would be transferred to other programs found to be wasteful. Be that as it may, we will deal with that later.

Here we have a conference report with full unity, signed by all conferees.

It does provide for student loans to which we are committed, EPA construction grants, which have been committed for some time, and public housing operating subsidies. We retain the Coast Guard at the Senate figure, with the understanding that all Coast Guard stations will be kept open and that they can perform their regular duties with the money here.

□ 1100

MEMBERS' TAX PROVISION

May I say again that in this bill we repeal the new automatic increase in expenses to be deducted in Members' taxes and return to the 1952 law. I voted against the changes to the 1952 law when it was added by Senate Conferees at the beginning, and at each time it came up. My colleagues, we have only 43 legislative days to complete the business of the House for the year. It is imperative that we do as we are doing here, move ahead. I ask the Members to accept this conference report, where the pending amendment, restores the origin of appropriation bills to the House. Everybody who has worked with it is in agreement as to its necessity.

May I say that in connection with the House position, we did provide $45 million for the summer youth program, $20 million for refugee assistance, $72 million for highway programs, for bridge repair and other necessary activities, $42 million for Postal Service subsidies for second and fourth class mail, $1 million for nursing grants, and $35 million for the work incentive program—and due in part to a rent supplement rescission, all within the overall limits of the Senate.

NEED FOR POSITIVE ACTION

Mr. Speaker, I am a strong believer in a balanced budget. As chairman of the Committee on Appropriations, I promoted the creation of the Budget Committee in an effort to stop back door spending and entitlements. I served on that committee trying to get it off to a good start. But I believe that we must realize that this country must continue to operate, and, that the budget be balanced at such level as will let our real wealth be protected and developed. We must give attention to looking after our own country first. At this time when billions of dollars are being spent in other countries by our Nation, at this time when we have tremendous obligations—we must look to increasing productive jobs instead of increasing costs due to unemployment, where we are already spending more than $24 billion in fiscal year 1982.

But whatever the situation may be, we have cooperated fully with the executive branch, and there is every reason to believe that this bill will be signed. So, once again our Government, with its three coequal and coordinate branches, has proved that it can work and I hope this situation will prevail in the future.

Of course we can see real problems ahead because the Budget Committee overlooked $5 billion for agriculture and I know other programs. Personally I think we will have to continue funding necessary programs that protect the real wealth of our country on which all other depends.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, and Members of the House, for the second time you will be asked to vote on a conference report on an urgent supplemental appropriations bill for fiscal 1982.

I signed the conference report, and very reluctantly, I might add. These urgent supplementals have been kicked from one political game to another for 4 months. These supplementals, and this House, have been ill-used by the budget process, the other body, and the Office of Management and Budget.

This bill, and this conference report, are another chapter in that sad process. The first urgent supplemental was killed by a $3 billion subsidy for the housing industry. Then on June 24 we sent two bills to the other body. The first bill was vetoed, and that veto was sustained by the House. The second bill was limited to essential appropriations, and could have been responsibly passed by the other body and signed into law. Instead the other body loaded the bill with their favorite programs, and received the support of the OMB in doing so.

In fact the Director of OMB has written a remarkable letter endorsing the Senate bill, opposing $350 million in unbudgeted appropriations in the House bill, and neglecting to mention that comparable unbudgeted appropriations in the Senate bill totaled $390 million.

That letter is typical of the political gamesmanship that has time and again frustrated this House delayed the enactment of essential appropriations, and furloughed innocent Federal workers who now cannot support their families.

The House position did not fare well in conference. Of $221 million which the House conferees proposed to restore, only $157 million was included in the conference agreement. Of $390 million added by the Senate, all but $22 million was included.

In my opinion, there were other House items that should have been added, and Senate items that should have been dropped, but faced with two vetoes sustained in the House, we had no bargaining position at all. We took what we could get, which was very little, and were left only with the consolation that many urgent and essential supplementals are included in the conference agreement. I can at least assure my colleagues that this bill will be signed.

Having spoken at length on the process which produced this conference agreement, let me also make clear that I support the recommendations of the conferees, and recommend that my colleagues do likewise.

The conference agreement contains many urgent and essential appropriations and provisions.

Transfers of $18.6 million to continue essential programs in the Department of Labor: $60 million for health services, and $1 million for nursing grants; $35 million for work incentives, $20 million for refugees, and a transfer of $13.9 million for the Office of the Inspector General in the Department of HHS; $45 million for summer youth employment; $1.3 billion for student loans, and $5.7 million for Pell grants; $24.4 million for the Corporation for Public Broadcasting, Housing rescissions totaling $5.5 billion, and $198 million for low-income housing projects; $2.4 billion for waste treatment construction grants; and $17.5 million for the Coast Guard, and $91 million for the Federal-aid highway program.

Mr. Speaker, I might say on the Coast Guard, that this was one of my "heartburns." We had $48 million in the House; the Senate cut it $30 million. I feel that this was wrong. This is a forgotten branch of the military services. Hopefully, we will be able to correct this in a new supplemental that will be coming up.

Mr. Speaker, the bill contains $28.4 million for the Civil Aeronautics Board for payments to air carriers, and $8 million for directed rail service.

It also contains $81.6 million for social security mailing costs, $23.8 million for the Bureau of Alcohol, Tobacco and Firearms, and $14.8 million for the Customs Service to carry on its campaign to stamp out narcotics in Florida; $4 million for the Merit Systems Protection Board, to permit the Board to process the appeals of air traffic controllers, which in some cases they have been required to do by court order, $1.5 million for the U.S. Tax Court, $3.2 million for Commerce Department salaries and expenses, $3.5 million for EDA, and $2 million for weather stations.

Mr. Speaker, this $2 million to continue the weather stations is the funds which our good friend, the gentlewoman from Nebraska (Mrs. SMITH), worked so hard for to continue her weather station in Nebraska.

The language also contains $1 billion for food stamps, and another $40 million for Mount St. Helens.

The language provisions include:

The limitation on aid to the PLO;

The previous conference language regarding the jurisdiction of MSHA and OSHA;

The limitation on loans to Poland;

The previous conference language on industrial revenue bonds; and

The Conte-Whitten amendment which reimposes the limitation of $3,000 on tax deductions for Members' living expenses doing away with the $75 credit.

Mr. Speaker, I might say that the gentleman from Florida (Mr. SHAW) was very influential and worked very hard with me to get the $20 million back in here for the refugees, for the Haitian and the Cuban refugees in Florida. I repeat that because the gentleman played a very influential part in it and deserves a great deal of credit.

Mr. Speaker, many of the items in the areas of human needs, that were omitted by the Senate in their consideration of this bill are restored, in a responsible manner, in this conference report.

There is $45 million for the CETA summer youth program. This is $18 million less than in the previous versions of this urgent supplemental, which reflects the fact that the summer is slipping away while we linger over this bill. It is the intention of this committee to help put the youth of our Nation to work this summer as much as the austere times will allow, and that is what this conference agreement does.

There is $20 million for State reimbursements for refugee program costs that they incurred through no fault of their own because of tardy Federal rulemaking. This is down $3 million from the previous versions.

And there is a commitment that our senior citizens are not forgotten. In the Labor-HHS-Education Subcommittee, we are marking up the urgent supplemental today. I will prevail upon my colleagues as will the chairman, the gentleman from Kentucky, my good friend, Mr. NATCHER to include the title V community service employment. This is a savings of $210 million.

The purpose of this $210 million was to restore forward funding for this important source of employment for our older Americans. It is not absolutely urgent; it can still be done in the next bill. But it is an important item. In the interests of achieving an end to the situation that has threatened to close down our agencies, we will do our best to make this item part of the general supplemental.

And there was a reduction in the WIN program to reflect the fact that hard times have already hit this program, because we failed to resolve this sooner. Some WIN programs have in fact had to lay off people, and so those local programs will require time to come back to full strength. The reduction in WIN from $57.6 million to $35 million is our best estimate of what can be used before the end of the year. This saves $22 million.

SAND AND GRAVEL RIDER (BACK TO MSHA)

This issue is resolved in this conference report in exactly the way it was resolved in the conference report of H.R. 5922 and exactly the way it was resolved in H.R. 6682. Both of these were approved by the House.

This general provision, as well as all the other general provisions that were previously agreed to, were included in this bill on the Senate side. The Senate version was signed off by the administration.

This provision on surface mining operations is exactly what this House has had under consideration since it decided the issue on a recorded vote. It is the House's position. It is in there. It is signed off by the administration.

CHAPTER III

As regards the Department of Transportation and Related Agencies, the conference agreement provides $17,500,000 in operating expenses for the Cost Guard—our forgotten branch of the military. This amount will be used to continue operation of the following facilities:

First, 31 search and rescue stations previously proposed for closure or reduction;

Second, the 2d District headquarters in St. Louis, Mo., and the 11th District headquarters in Long Beach, Calif.;

Third, vessel traffic systems in Berwick Bay, La.; New Orleans, La.; San Francisco, Calif.; and New York, N.Y.;

Fourth, seven vessels previously announced for decommissioning;

Fifth, air stations at Savannah, Ga.; Puerto Rico; and Los Angeles, Calif.;

Sixth, nine aircraft previously announced for retirement, substitution, or reduction;

Seventh, numerous facilities in Puerto Rico; and

Eighth, the Coast Guard Academy at the current rate of operation.

In addition, the conferees agreed on a funding level of $91,000,000 for the Federal Highway Administration's Federal-aid highway program. This level of funding will provide $53,000,000 to the following States to reinstate a hold-harmless provision which was inadvertently omitted from recent highway legislation: Indiana, Iowa, Missouri, Nevada, New Mexico, Tennessee, Wyoming, and the District of Columbia. It also provides $38,000,000 in additional contract authority for emergency bridge work.

The agreement recognizes the urgent need for funding for the Civil Aeronautics Board's payments to air carriers program. It provides a total of $28,400,000; of that amount, $8,242,000 is to be used to liquidate obligations incurred in fiscal year 1981.

For the Interstate Commerce Commission, this package contains $8,000,000 to pay the liabilities of the Federal Government that continue to accrue under the directed rail service program.

The liabilities are based upon the directed rail service performed by the Kansas City Terminal Railway Co., between September 1979 and March 1980 over the lines of the bankrupt Chicago, Rock Island, and Pacific Railroad Co.

CHAPTER VII

For the Department of Defense—Civil account, the conference agreement provides $40,000,000 for the Corps of Engineers, floor control and coastal emergencies program. This funding is urgently needed to finance flood emergency, preparation, flood fighting and rescue operations, and repair of flood control ans shore protection works. Of the $40,000,000, $18,000,000 will be targeted for flood control measure on two rivers in the State of Washington required as a result to the eruptions of Mount St. Helens in May 1980 and subsequent eruptions.

DEPARTMENT OF COMMERCE

If this urgent supplemental is not enacted, the Secretary of Commerce will be forced to furlough 1,060 full-time permanent employees, or 91 percent of the staff in the Office of the Secretary. All personnel, with the exception of the 14 Presidential appointees paid by the General Administration Account, and 100 other personnel whose functions represent minimum legal requirements would be furloughed.

The practical effects of such a widespread furlough are:

The Inspector General would cease all criminal and investigative work, jeopardizing prosecutorial work in progress and the recovery of Government funds. All audits and work related to fraud, waste, and abuse would cease with a cost to taxpayers of millions of dollars.

The General Counsel would halt all work, leaving the Department without the ability to provide counsel to departmental officials and participate in active litigation. This is particularly important in the area of countervailing duty and antidumping cases, where the interests of American industry are being protected from unfair foreign competition.

The management functions of the Department would shut down, simply

shut down. The oversight of the Department's budget execution would not be performed, giving rise to potential violations of law. Central functions performed by the Office of the Secretary for all Commerce bureaus would stop, leaving bureaus in some cases without the ability to pay bills when due, thereby losing early payment discounts and engendering potential lawsuits against the Government on the grounds of willful neglect of payment. Also lost would be the opportunity to pursue the department-wide consolidation of payroll, personnel, and administrative payments, thereby losing the opportunity to save $1.4 million in the last quarter of fiscal year 1982 alone. This would stop in its tracks a commendable effort by the Secretary of Commerce to bring some order to this perennially chaotic department.

Departmentwide liaison activities with the business community, the general public, and the Congress would be terminated.

Administrative services to protect Federal property and records would end, jeopardizing valuable assets and irreplaceable and sensitive information.

Collectively, these actions would disrupt the entire operations of many bureaus, bringing to a halt to virtually all activities in the Department of Commerce. We cannot allow this to happen. The responsible vote is in favor of this bill and in favor of the $3.1 million it contains to keep the programs of the Department of Commerce operating. It is a small amount of money, but it will have a heck of an impact if we do not approve it.

ECONOMIC DEVELOPMENT ADMINISTRATION

The conference agreement includes a transfer of $3.5 million for salaries and expenses of the Economic Development Administration to allow EDA to avoid shutting its doors completely the third week in July. A total of 470 EDA personnel responsible for the administration of programs in the field, including the management of its loan portfolio, would be furloughed at that time if this bill is not enacted. Testimony before the committee indicated an alarming rate of potential defaults, 40 percent, in EDA lending activities. This investment in the form of a transfer of existing resources is critical if this popular agency is to continue operations.

WEATHER STATIONS

An additional appropriation of $2,000,000 is provided to continue three Weather Service activities of the National Oceanic and Atmospheric Administration. Of this amount, $927,000 will enable 38 small and part-time weather stations around the country to remain open through September 30, 1982, including that famous one in Valentine, Nebr., $209,000 will extend fruit frost forecast services through the same period; and $836,000 will provide a similar extension for eight Weather Service forecast offices.

INTERNATIONAL COMMUNICATION AGENCY

The conference report also includes language allowing the International Communication Agency to secure leases of real property for up to 25 year in Africa, Asia, the Caribbean, and Europe. Such leases are authorized subject to specific language hereby included in an appropriations act. The property involved is used for Voice of America transmitting facilities. The administration supports the inclusion of this language.

FOREIGN OPERATIONS

The conference report includes a general provision which prohibits the use of funds appropriated for U.S. voluntary contributions to the United Nations to be used for the U.S. proportionate share for any programs for the Palestine Liberation Orgnization, Cuba, or the South West Africa Peoples Organization (SWAPO).

The language restricting the use of U.S. funds for the PLO is a political exercise only; no voluntary contribution programs of the United States funded any programs for the PLO in fiscal year 1981, and none is expected to do so in fiscal year 1982. Assessed contributions, which are appropriated in Commerce, Justice, State Appropriations Act, not the act cited in this language, are used for the PLO; however, U.S. assessed contributions are restricted from being used for the PLO by Public Law 96-60 and Public Law 96-68, and similar provisions which are expected to be adopted as part of the State Department authorization bill now in conference, S. 1193.

In regard to Cuba, the effect of the restriction in fiscal year 1982 is unknown; U.N. agencies are still in the process of planning their calendar year 1982 programs. In 1981, Cuba received program assistance from UNICEF, the world food program, non-safeguard programs from the International Atomic Energy Agency, and the U.N. environment program. Because of a restriction in effect under the fiscal year 1981 continuing resolution, U.S. contributions were withheld for our proportionate share for programs in Cuba and for the South West Africa Peoples Organization in the amount of approximately $500,000.

While the dollar impact of this provision in fiscal 1982 is unclear, it will probably require a renegotiation of U.S. pledges to the various U.N. agencies. The administration has no objection to this language.

The conference report also includes language requiring that the Polish People's Republic must be declared in default before payments are made by the U.S. Government for loans owed by Poland, unless the President reports monthly to Congress that such payments are in the U.S. national interest. This provision, which shall be in force through the end of fiscal year 1982, affects payments made through the Commodity Credit Corporation on loan guarantees.

MEMBERS TAX DEDUCTION

The conference report includes language, now the Whitten-Conte amendment, reinstating the 30-year-old limitation on Members' tax deductions for Washington living expenses to $3,000. It is in here. It is part of what you vote for when you vote overwhelmingly for this bill.

In one vote, you can wipe out action taken late last year in the first continuing resolution, the third continuing resolution, and the black lung bill which allowed the Internal Revenue Service to permit deductions of up to $75 a day for our living expenses while in Washington, away from our home districts.

□ 1110

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend from Illinois (Mr. MICHEL).

Mr. MICHEL. I thank the gentleman for his presentation.

I note he indicated that he was confident the President would sign this supplemental. I would agree with the gentleman that prospects for signature are very good, although I think we would want to make mention that there are still some significant increases here over what the administration requested.

There are going to be some other supplementals coming up, and if we go the same route of add-ons with no restraint, those supplementals might very well suffer the same fate as this one.

So I am happy to see that the conferees agreed to cut some $465 million from the so-called fat proposal. That is a significant move in the right direction.

As I said, I hope once and for all that we now have put this bill behind us.

I ask the gentleman if it is not true that this measure carries repeal of the tax provision with respect to Members of Congress? It is rather ironic that there is sometimes more interest in that item than in whether this bill may be busting the budget by a billion dollars or so.

Mr. CONTE. It is ironic. It does contain the $3,000 limitation on Members' living expenses. It goes back to previous law and repeals the $75 tax credit per day that Congress was allowed under the regulations established by the Internal Revenue Service.

Unfortunately it does not contain any limitation on the outside earnings of the other body. They still can go out and collect honorariums, which

many of them do, $75,000, $100,000, $125,000 a year.

That is unconscionable. I am telling this body that we are not stopping here today. We are going to continue.

Again, this gives me the opportunity to inform my Members that there is a bill in the hopper with about 195 signatures, cosponsors, offered by me, bringing that limitation to 30 percent of their earnings, which would bring it down to about $18,500 for outside earnings.

I hope that adequately answers the gentleman's question.

Mr. MICHEL. Very adequately. I appreciate the gentleman's response.

The SPEAKER pro tempore. The Chair would remind all Members of the rules we have so far as reference to the other body.

Mr. BOLAND. Mr. Speaker, the agreement we have before us today on the urgent supplemental appropriation bill, H.R. 6685, is identical to the conference agreement on H.R. 5922 with four exceptions:

The housing stimulus and Government National Mortgage Association's tandem programs have been deleted.

The assisted housing paragraph contains two minor language changes but the dollar amounts remain the same.

The estimated amount of rescinded rent supplement budget authority has been revised and that is explained in the statement of the managers.

It is my hope that this bill will be signed by the President. If he does sign this bill, I want to make clear that the legislative history established in developing the final agreement reached in the conference report accompanying H.R. 5922 is binding on H.R. 6685.

Mr. Speaker, I urge that the bill be signed by the President so that these vitally important programs can be funded as soon as possible. The agreement is not exactly what everyone wanted but I believe it is the best we can do under the circumstances. I urge the Members to vote for the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to my colleague from Alabama (Mr. FLIPPO).

Mr. FLIPPO. I thank the distinguished chairman for yielding.

I would like to raise some questions with the gentleman from Massachusetts, with regard to the language in the conference report which I believe would seriously impact NASA's Galileo and Solar Polar programs.

The language I am referring to would direct NASA to proceed with the sole source procurement of a liquid hydrogen/oxygen Centaur upper stage while terminating work on the inertial upper stage.

I understand that the administration opposes this action and may very well rescind funds related to the Centaur development. My concern is that with the signing of this bill into law, activities related to the IUS development are terminated, and the Galileo and Solar Polar programs may be left in limbo without the necessary upper stages to accomplish these important missions.

Mr. BOLAND. Will the gentleman yield?

Mr. FLIPPO. I am delighted to yield.

Mr. BOLAND. I can understand the concern of the distinguished gentleman from Alabama who does serve with distinction on the Science and Technology Committee. The two missions, the Solar Polar mission and the Galileo mission, have been of deep concern to the gentleman, as they have been of deep concern to his committee and also to the subcommittee on appropriations that deals with NASA funding.

I know that when the President signs this bill, and hopefully he will sign it, that the NASA version of the IUS does indeed drop dead. But we felt on our committee, and were joined by some of the experts who testified before us, that if Centaur was going to proceed we had to end NASA's participation in IUS for the Galileo and the Solar Polar missions. NASA could not afford to develop both upper stages. Now that Congress has spoken on this issue, I hope and trust that OMB and NASA will get on with integrating the Centaur into the Shuttle.

Let me very clear on this. It is not our intention to put in jeopardy either Galileo or the European Solar Polar mission. We do not intend to let that happen. And, frankly, there is absolutely no reason why it should happen if NASA gets on with developing Centaur now. The administration is the key here. I believe that those in the other body who believe in this approach will make every effort to see that this program moves forward as soon as possible.

Mr. FLIPPO. I thank the gentleman for his response.

I hope the gentlemen will agree that both the Galileo and Solar Polar missions are very important. I am very concerned that we do not get in a stalemate between the Congress and the administration over the upper stage issue and end up losing these important scientific missions.

Mr. BOLAND. I agree.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Speaker, I want to congratulate the conferees for a long struggle.

I reluctantly will support this supplemental appropriation, but would like to indicate that I want to congratulate the committee for restoring the $1 million for the nurses' research program. They have no major lobby. They have no power structure in this Nation. I want to congratulate the committee for putting some money back in.

I will say that generally their research has been about $5 million. This only brings it up to $3.4 million. I think they need some additional help.

But given the sign of the times and the mood and climate of Congress it is interesting to note that we see billions of dollars put into the military and the next supplemental will include military pay in it and that will probably move quite quickly through the Congress. But the important thing is this nurses' program which is vital to our health program in this Nation, without any powerful lobby, without any big PAC groups and so forth.

I want again to thank Members on both sides of the aisle and the conferees especially on the House side, the gentleman from Kentucky (Mr. NATCHER), and the gentleman from Massachusetts (Mr. CONTE), and the others who were supportive of the nurses' program by restoring $1 million to the nurses' research program.

Mr. WHITTEN. Mr. Speaker, I have one statement that I would like to make.

May I point out in view of some of the discussion that the conference report is substantially in the same amount as the action in the other body. In fact it is $14 million below the action of the other body.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Ohio, (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I just wanted to make further note of the fact that there is a provision in this bill to repeal the tax benefit for Members of Congress, which, I realize has been mentioned.

This same provision was in the two urgent supplemental appropriations bills which were previously sent to the President and vetoed. The President's veto was sustained in both instances.

I hope that this time this urgent supplemental appropriations bill will be signed into law. I understand that it will be. I hope we can get the tax benefit issue behind us once and for all.

I thank the gentleman from Mississippi (Mr. WHITTEN) and the gentleman from Massachusetts (Mr. CONTE) for their leadership in this regard.

Mr. WHITTEN. Mr. Speaker, we appreciate what the gentleman has said and wish to thank him for his statement and I wish to thank everyone for their support.

We have many different areas in this country. In the summertime in some of our larger cities the problems are somewhat different from what they are elsewhere.

So I think all things considered, based on the history of our country, that we have taken a forward step in

meeting some problems that might arise, but I would hope would not arise. I trust this will all prove beneficial.

● Mr. FRENZEL. Mr. Speaker, this is the third urgent supplemental appropriation to come before this body in final form. The first two were vetoed. The vetos were upheld.

The first two were grossly overweight. The vetos were deserved. This third one is also too fat. It, too, deserves defeat, or veto.

It is, by my calculation, about one-half a billion dollars over what the President asked for. The Senate and House have both added extra goodies to the administration's request.

First, a number of the items in this bill conflict with policies set in our continuing resolution. The funding for them is not because of surprises. There is no emergency. Our Appropriations Committee merely wants to change policy and spend more.

Second, these appropriations were requested 4½ months ago. There are now only 2½ months of the fiscal year left. Nearly two-thirds of the spending period has passed. For a number of these programs, it will require real skill to spend the full amount. Some, of course, will still require the full amount.

A supplemental appropriation is required. Nevertheless, this particular third try is more than requested, and more than necessary. It should be defeated.●

● Mr. EMERY. Mr. Speaker, I wish to point out to my colleagues today as we consider the conference report on the urgent supplemental for 1982 that this report contains no funding for the community senior employment program. When the House and Senate accepted the conference report for H.R. 5922, the so-called fat-urgent supplemental, we included $210 million for the CSEP program, bringing the total 1982 appropriation to $277.1 million, the figure authorized by the Older Americans Act of 1965. The House overwhelmingly approved the 3-year extension of the Older Americans Act last year by a 379-to-4 vote, including this $277.1 million allocation for a program which provides over 54,000 low-wage jobs for seniors across the Nation.

The CSEP program is not a welfare program. It is a program which provides minimum wage service employment for low-income seniors age 55 and older. CSEP positions provide seniors with supplemental income as well as pride in themselves as they contribute to their community in their "golden years." The administration has proposed zero funding for this important program in the next fiscal year, a proposal under consideration now in the Education and Labor Committees. Regardless of the funding of the decision by the authorizing committees for 1983, the program should receive the funding authorized for 1982 as approved in the Older Americans Act extension and H.R. 5922.●

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 389, nays 13, not voting 32, as follows:

[Roll No. 185]

YEAS—389

Addabbo	Conyers	Fountain
Akaka	Corcoran	Fowler
Albosta	Coughlin	Frank
Alexander	Courter	Frost
Anderson	Coyne, James	Garcia
Annunzio	Coyne, William	Gaydos
Anthony	Craig	Gejdenson
Applegate	D'Amours	Gephardt
Archer	Daniel, Dan	Gibbons
Ashbrook	Daniel, R. W.	Gilman
Aspin	Dannemeyer	Gingrich
Atkinson	Daschle	Glickman
AuCoin	Daub	Goldwater
Badham	Davis	Goodling
Bafalis	de la Garza	Gore
Bailey (MO)	Dellums	Gradison
Bailey (PA)	DeNardis	Gray
Barnard	Derrick	Green
Barnes	Derwinski	Gregg
Bedell	Dickinson	Guarini
Beilenson	Dicks	Gunderson
Benedict	Dingell	Hagedorn
Benjamin	Dixon	Hall (OH)
Bennett	Donnelly	Hall, Ralph
Bereuter	Dorgan	Hall, Sam
Bethune	Dornan	Hamilton
Bevill	Dougherty	Hammerschmidt
Bingham	Dowdy	Hance
Bliley	Downey	Hansen (ID)
Boggs	Dreier	Hansen (UT)
Boland	Duncan	Harkin
Bolling	Dunn	Hartnett
Boner	Dwyer	Hatcher
Bonior	Dymally	Heftel
Bonker	Dyson	Hendon
Bouquard	Early	Hertel
Bowen	Eckart	Hightower
Brinkley	Edgar	Hiler
Brodhead	Edwards (AL)	Holland
Brooks	Edwards (CA)	Hollenbeck
Broomfield	Emerson	Holt
Brown (CA)	Emery	Hopkins
Brown (CO)	English	Horton
Broyhill	Erdahl	Howard
Burgener	Erlenborn	Hoyer
Burton, John	Evans (DE)	Huckaby
Burton, Phillip	Evans (GA)	Hughes
Butler	Evans (IA)	Hunter
Byron	Fary	Hutto
Campbell	Fascell	Hyde
Carman	Fenwick	Ireland
Carney	Ferraro	Jacobs
Chappell	Fiedler	Jeffords
Cheney	Fields	Jenkins
Chisholm	Findley	Jones (NC)
Clausen	Fish	Jones (OK)
Clay	Fithian	Kastenmeier
Clinger	Flippo	Kazen
Coats	Florio	Kemp
Coleman	Foglietta	Kennelly
Collins (IL)	Foley	Kildee
Collins (TX)	Ford (MI)	Kindness
Conable	Ford (TN)	Kogovsek
Conte	Forsythe	Kramer
LaFalce	Nelligan	Shuster
Lagomarsino	Nelson	Simon
Lantos	Nichols	Skeen
Leach	Nowak	Skelton
Leath	O'Brien	Smith (AL)
LeBoutillier	Oakar	Smith (IA)
Lee	Oberstar	Smith (NE)
Lehman	Obey	Smith (NJ)
Leland	Ottinger	Smith (PA)
Lent	Oxley	Snowe
Levitas	Panetta	Snyder
Lewis	Parris	Solarz
Livingston	Pashayan	Spence
Loeffler	Patman	St Germain
Long (LA)	Patterson	Stangeland
Long (MD)	Pease	Stanton
Lott	Pepper	Stark
Lowery (CA)	Perkins	Staton
Lowry (WA)	Petri	Stenholm
Lujan	Peyser	Stokes
Luken	Pickle	Stratton
Lundine	Porter	Studds
Lungren	Price	Swift
Madigan	Pritchard	Synar
Markey	Pursell	Tauke
Marks	Quillen	Tauzin
Marlenee	Rahall	Taylor
Marriott	Railsback	Thomas
Martin (IL)	Rangel	Traxler
Martin (NC)	Ratchford	Trible
Martin (NY)	Regula	Vander Jagt
Martinez	Reuss	Vento
Matsui	Rhodes	Volkmer
Mattox	Richmond	Walgren
Mavroules	Rinaldo	Walker
Mazzoli	Ritter	Wampler
McClory	Roberts (KS)	Washington
McCloskey	Roberts (SD)	Watkins
McCollum	Robinson	Waxman
McCurdy	Rodino	Weaver
McDade	Roe	Weber (MN)
McEwen	Rogers	Weber (OH)
McGrath	Rose	Weiss
McHugh	Rosenthal	White
McKinney	Rostenkowski	Whitehurst
Mica	Roth	Whitley
Michel	Roukema	Whittaker
Mikulski	Rousselot	Whitten
Miller (OH)	Roybal	Williams (MT)
Mineta	Rudd	Williams (OH)
Minish	Sabo	Wilson
Mitchell (MD)	Santini	Winn
Mitchell (NY)	Savage	Wirth
Moakley	Sawyer	Wolf
Molinari	Scheuer	Wolpe
Montgomery	Schroeder	Wortley
Moore	Schulze	Wright
Moorhead	Schumer	Wyden
Morrison	Seiberling	Wylie
Mottl	Sensenbrenner	Yates
Murphy	Shamansky	Yatron
Murtha	Shannon	Young (AK)
Myers	Sharp	Young (FL)
Napier	Shaw	Zablocki
Natcher	Shelby	Zeferetti
Neal	Shumway	

NAYS—13

Crane, Daniel	Gramm	McDonald
Crane, Philip	Grisham	Paul
Crockett	Hawkins	Roemer
Frenzel	Jeffries	
Gonzalez	Johnston	

NOT VOTING—32

Andrews	Evans (IN)	Moffett
Beard	Fazio	Mollohan
Biaggi	Fuqua	Russo
Blanchard	Ginn	Schneider
Breaux	Heckler	Siljander
Brown (OH)	Hefner	Smith (OR)
Chappie	Hillis	Solomon
Coelho	Hubbard	Stump
Deckard	Jones (TN)	Udall
Edwards (OK)	Latta	Young (MO)
Ertel	Miller (CA)	

□ 1130

Mr. ARCHER and Mr. MARKS changed their votes from "nay" to "yea."

Mr. SAVAGE changed his vote from "present" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1140

COAST GUARD AUTHORIZATION ACT OF 1982

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 520 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 520

Resolved, That upon the adoption of this resolution it shall be in order, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5617) to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill as an original bill for the purposes of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344), clause 7, rule XVI, and clause 5, rule XXI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 5617, the House shall proceed, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of S. 2252, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 5617 as passed by the House.

The SPEAKER pro tempore. The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 520 provides for the consideration of H.R. 5617, Coast Guard authorization for fiscal year 1983 and fiscal year 1984. The Rules Committee has granted an open rule providing 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries. Further, the rule waives section 401(a) of the Congressional Budget Act against consideration of the original bill, which prohibits new spending authority for a fiscal year not provided for in advance by an appropriations act.

After general debate, House Resolution 520 makes in order an amendment in the nature of a substitute as an original bill for purposes of amendment. Additionally, the committee substitute will require a waiver of section 401(a) of the Congressional Budget Act, as in the original bill, clause 7 of rule XVI in regard to germaneness, and clause 5 of rule XXI which restricts appropriations in a legislative bill.

In section 5 on page 16, lines 13 through 17 a waiver of 401(a) is required since new contract authority is provided for which has not been limited to advance appropriations.

In section 22, page 32, line 14, through page 35, line 11, a waiver of clause 7, rule XVI is needed since the substitute bill now exceeds the intent of the introduced bill, and a waiver of clause 5, rule XXI is required since this section provides for appropriations in this an authorization measure.

An additional waiver of clause 5, rule XXI, is required for section 16, page 27, lines 3 through 5, since it also provides for appropriations.

The Senate bill will also require a waiver of 401(a), however, this in only technical.

At the conclusion of the amendment process, the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 5617, the House shall proceed to the consideration of S. 2252, waiving section 401(a) of the Congressional Budget Act, and striking out all after the enacting clause of the said Senate bill and inserting in lieu thereof the provisions of H.R. 5617 as passed by the House.

Mr. Speaker, H.R. 5617 authorizes appropriations of $2.55 billion in fiscal year 1983 and $2.759 billion in fiscal year 1984 for Coast Guard operations, acquisition, construction and improvement of navigational aids, research, and bridge alterations. In addition, the measure authorizes a Coast Guard personnel strength of 41,500 for fiscal years 1983 and 1984, establishes civil penalties in regard to bridges, and authorizes the Coast Guard to expand its use of private contributions and civilian employees in implementing the aids-to-navigation program.

Mr. Speaker, I know of no other agency or branch of the Government that has as many responsibilities and so little funding to carry out these responsibilities as the U.S. Coast Guard. The Coast Guard is mandated to carry out rescue services, serve as a military backup, enforce fisheries, immigration, and drug laws, and enforce environmental protection. All very important to the American people. Yet, when it comes to providing corresponding funds to carry out these responsibilities, Congress and the administration turn their backs.

As the chairman of the Select Committee on Narcotics Abuse and Control, I can attest to the yeoman job the Coast Guard has been doing in regard to drug interdiction.

However, drug smugglers find it increasingly easier to ply their trade due to their access to seemingly limitless funds and sophisticated equipment, in contrast to the Coast Guard's reliance on outdated equipment and insufficient numbers of personnel.

In comparing the administration's 1983 Coast Guard budget proposal with 1980 funding levels, the result over a 3-year period, would have the effect of reducing cutter hours for drug law enforcement by 30 percent, aircraft flight hours devoted to drug law enforcement by 45 percent, and military personnel by 10 percent.

Chairman JONES, Subcommittee Chairman STUDDS, and the entire Merchant Marine and Fisheries Committee should be applauded for their wisdom and foresight in augmenting the administration's budget request. Even though I do not believe this is nearly enough, it will provide a modest increase in the function of some operations while maintaining others at 1982 levels.

I urge my colleagues to support House Resolution 520, so we may proceed to the consideration of H.R. 5617, Coast Guard authorization for fiscal years 1983 and 1984.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentleman from New York has gone into detail on the provisions of the rule and the bill.

Mr. Speaker, it is easy to forget the great job that the Coast Guard does. That has been happening during the past years.

□ 1150

I am happy to see that recognition finally is being given in the form of increased appropriations for this great service.

Mr. Speaker, I have no requests for time on the rule. I urge its passage so that we can get down to the business of the bill itself.

Mr. ZEFERETTI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HARTNETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 394, nays 1, not voting 39, as follows:

[Roll No. 186]

YEAS—394

Addabbo	Corcoran	Fowler
Akaka	Coughlin	Frank
Albosta	Courter	Frenzel
Alexander	Coyne, James	Frost
Anderson	Coyne, William	Garcia
Annunzio	Craig	Gaydos
Anthony	Crane, Daniel	Gejdenson
Applegate	Crane, Philip	Gephardt
Archer	Crockett	Gibbons
Ashbrook	Daniel, Dan	Gilman
Aspin	Daniel, R. W.	Gingrich
Atkinson	Dannemeyer	Glickman
AuCoin	Daschle	Goldwater
Badham	Daub	Gonzalez
Bafalis	Davis	Goodling
Bailey (MO)	de la Garza	Gore
Bailey (PA)	Dellums	Gradison
Barnard	DeNardis	Gramm
Barnes	Derrick	Gray
Bedell	Derwinski	Green
Beilenson	Dickinson	Gregg
Benedict	Dicks	Grisham
Benjamin	Dingell	Guarini
Bennett	Dixon	Gunderson
Bereuter	Donnelly	Hagedorn
Bethune	Dorgan	Hall (OH)
Bevill	Dornan	Hall, Ralph
Bingham	Dougherty	Hall, Sam
Bliley	Dowdy	Hamilton
Boggs	Downey	Hammerschmidt
Boland	Dreier	Hance
Bolling	Duncan	Hansen (ID)
Boner	Dunn	Hansen (UT)
Bonior	Dwyer	Harkin
Bonker	Dymally	Hartnett
Bouquard	Dyson	Hatcher
Bowen	Early	Hawkins
Brinkley	Eckart	Heftel
Brodhead	Edgar	Hendon
Brooks	Edwards (AL)	Hertel
Broomfield	Edwards (CA)	Hightower
Brown (CA)	Emerson	Hiler
Brown (CO)	Emery	Hollenbeck
Broyhill	English	Holt
Burgener	Erdahl	Hopkins
Burton, John	Erlenborn	Horton
Burton, Phillip	Evans (DE)	Howard
Butler	Evans (GA)	Hoyer
Byron	Evans (IA)	Huckaby
Campbell	Fary	Hughes
Carman	Fascell	Hunter
Carney	Fenwick	Hutto
Chappell	Ferraro	Hyde
Cheney	Fiedler	Ireland
Chisholm	Fields	Jacobs
Clausen	Findley	Jeffords
Clay	Fish	Jeffries
Clinger	Fithian	Jenkins
Coats	Flippo	Johnston
Coleman	Florio	Jones (NC)
Collins (IL)	Foglietta	Jones (OK)
Collins (TX)	Foley	Kastenmeier
Conable	Ford (TN)	Kazen
Conte	Forsythe	Kemp
Conyers	Fountain	Kennelly
Kildee	Murtha	Shannon
Kindness	Myers	Sharp
Kogovsek	Napier	Shaw
Kramer	Natcher	Shelby
LaFalce	Neal	Shumway
Lagomarsino	Nelligan	Shuster
Lantos	Nelson	Simon
Leach	Nichols	Skeen
Leath	Nowak	Skelton
LeBoutillier	O'Brien	Smith (AL)
Lee	Oakar	Smith (IA)
Lehman	Oberstar	Smith (NE)
Leland	Obey	Smith (NJ)
Lent	Ottinger	Smith (PA)
Levitas	Oxley	Snowe
Lewis	Panetta	Snyder
Livingston	Parris	Solarz
Loeffler	Pashayan	Spence
Long (LA)	Patman	Stangeland
Long (MD)	Patterson	Stark
Lott	Paul	Staton
Lowery (CA)	Pease	Stenholm
Lowry (WA)	Pepper	Stokes
Lujan	Perkins	Stratton
Luken	Petri	Studds
Lundine	Peyser	Synar
Lungren	Pickle	Tauke
Madigan	Porter	Tauzin
Markey	Price	Taylor
Marks	Pritchard	Thomas
Marlenee	Pursell	Traxler
Marriott	Quillen	Trible
Martin (IL)	Rahall	Vander Jagt
Martin (NC)	Railsback	Vento
Martin (NY)	Rangel	Volkmer
Martinez	Ratchford	Walgren
Matsui	Regula	Walker
Mattox	Reuss	Wampler
Mavroules	Rhodes	Washington
Mazzoli	Richmond	Watkins
McClory	Rinaldo	Waxman
McCloskey	Ritter	Weaver
McCollum	Roberts (KS)	Weber (MN)
McCurdy	Roberts (SD)	Weber (OH)
McDade	Robinson	Weiss
McDonald	Rodino	White
McEwen	Roe	Whitehurst
McGrath	Roemer	Whitley
McHugh	Rogers	Whittaker
McKinney	Rose	Whitten
Mica	Rosenthal	Williams (OH)
Michel	Rostenkowski	Wilson
Mikulski	Roth	Winn
Miller (OH)	Roukema	Wirth
Mineta	Rousselot	Wolf
Minish	Roybal	Wolpe
Mitchell (MD)	Rudd	Wortley
Mitchell (NY)	Sabo	Wright
Moakley	Santini	Wyden
Molinari	Sawyer	Wylie
Mollohan	Scheuer	Yates
Montgomery	Schroeder	Yatron
Moore	Schulze	Young (FL)
Moorhead	Schumer	Zablocki
Morrison	Seiberling	Zeferetti
Mottl	Sensenbrenner	
Murphy	Shamansky	

NAYS—1

Savage

NOT VOTING—39

Andrews	Fazio	Russo
Beard	Ford (MI)	Schneider
Biaggi	Fuqua	Siljander
Blanchard	Ginn	Smith (OR)
Breaux	Heckler	Solomon
Brown (OH)	Hefner	St Germain
Chappie	Hillis	Stanton
Coelho	Holland	Stump
D'Amours	Hubbard	Swift
Deckard	Jones (TN)	Udall
Edwards (OK)	Latta	Williams (MT)
Ertel	Miller (CA)	Young (AK)
Evans (IN)	Moffett	Young (MO)

□ 1200

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. JONES of North Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5617) to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes.

The SPEAKER pro tempore. The question is on the motions offered by the gentleman from North Carolina (Mr. JONES).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5617, with Mr. NELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina (Mr. JONES) will be recognized for 30 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

□ 1210

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 5617 authorizes appropriations for the U.S. Coast Guard for fiscal years 1983 and 1984 and, in addition, increases the service's authorization for operating expenses for fiscal year 1982.

Specifically, the bill authorizes $1.842 billion in fiscal year 1983 and $2.026 billion in fiscal year 1984 for operating expenses; $670 million in fiscal year 1983 and $700 million in fiscal year 1984 for acquisition, construction, rebuilding, and improvements of aids to navigation, shore facilities, vessels and aircraft; $30 million in fiscal year 1983 and $33 million in fiscal year 1984 for research and development; and lastly, $12.7 million for fiscal year 1983 for the alteration or removal of bridges. No funds are authorized for bridge alteration in fiscal year 1984.

The bill also establishes an active duty personnel level of 41,500 for both fiscal years 1983 and 1984. While this is a decrease of 724 persons from the fiscal year 1982 authorized level, it is approximately 2,000 higher than the actual number of military personnel on duty at the start of the current fiscal year. In addition, the bill requires the minimum number of civilian employees within the Coast Guard to be maintained at 5,484 through the end of fiscal year 1984, and authorizes student year levels for military training.

H.R. 5617 would also make a number of other changes in existing law to streamline and improve Coast Guard operations. These provisions are listed in the whip advisory before you, and are more explicitly described in House Report 97-563.

Mr. Chairman, the Coast Guard is sometimes referred to as the "forgotten service" but forgotten by whom?

Surely not by the grateful boater who is floundering and pulled to safety by a Coast Guard patrol boat.

Nor by the foreign fisherman who is caught in a violation of our fisheries protection laws by a Coast Guard boarding officer.

Nor by the smuggler of illicit drugs whose boat loaded with marihuana is caught in the spotlight of a Coast Guard cutter on patrol.

Nor by the community whose shoreline and livelihood are protected by the speedy action of a Coast Guard oil pollution response team.

It seems the Coast Guard is only forgotten by an administration more interested in saving money than in saving lives.

In recent years, the Coast Guard has been greatly expanded from its traditional role of sea rescuer to encompass other equally dangerous yet divergent chores. As each mission was added, the service sought to carry it out in a highly professional manner. The only impediment to this goal has been the lack of proper resources. As more and more duties were heaped upon the Coast Guard, less and less money was made available to carry them out. At the end of the last fiscal year, this meant sea patrols were canceled and aircraft grounded because the funds needed to purchase fuel had already been utilized, primarily in the Coast Guard's Haitian and Cuban interdiction operations.

Not learning from this experience last year, the administration's fiscal year 1983 budget proposal for the Coast Guard was again woefully inadequate. It called for a 20-percent decrease from the 1982 appropriation and would have resulted in: A 30-percent reduction from 1980 in Coast Guard cutter hours for general law enforcement, including drug law enforcement; a 42-percent reduction in cutter hours for fishery law enforcement; a 45-percent reduction in aircraft flight hours for general law enforcement; a 37-percent reduction in aircraft flight hours for fishery law enforcement; a reduction of 3,000—or 9 percent—in Coast Guard military personnel; the immediate mothballing of 18 newly produced medium range surveillance aircraft; a 40-percent cut over 2 years in the Coast Guard's small—but highly efficient—research and development program; and, a reduction in the Coast Guard's original request for 1983 procurement funds from $670 million to $19 million, a cut of more than 97 percent.

The shortcomings of the administration's proposal were recognized by the members of the Merchant Marine Committee, who drawing on knowledge gained though a series of six oversight hearings held by our Subcommittee on Coast Guard and Navigation last year—as well as testimony received in hearings on H.R. 5617—developed the authorization bill before the House today. The passage of this legislation will allow the Coast Guard to carry on with its vital marine safety, law enforcement, environmental protection, and military readiness missions throughout the next 2 fiscal years.

I might add that the administration's "underfunding" request received an icy reception from Members on both sides of the aisle, as well as from our colleagues in the other body, who have already passed an authorization bill with substantially higher funding levels than the administration's request.

H.R. 5617 also contains a $144 million increase in the authorization for Coast Guard operating expenses for fiscal year 1982. This increase, added to the $48 million authorized last year but not appropriated, will, when received as supplemental appropriations, allow the Coast Guard to continue operations throughout the remainder of this fiscal year at a level comparable to last year.

The House has already heard the rationale for this funding—several times—during the many hours of debate on the various supplemental appropriations bills. I will, however, reiterate that these funds are urgently needed to cover a legally required military pay increase, higher fuel costs, an increase in the cost of personnel benefits, the continued Haitian interdiction program, and to eliminate the need to close or reduce operations at Coast Guard facilities across the country.

My colleagues will recall the public uproar caused by the administration's announcement of these closures, reductions, and vessel decommissionings in January of this year. Over 100 Members, of both parties, cosponsored a supplemental appropriations bill introduced by myself, and the chairman and the ranking minority member of the Subcommittee on Coast Guard and Navigation. It is these cutbacks, many of which were withdrawn by the Department of Transportation in anticipation of a supplemental, that this increase will prevent.

In closing, I would ask that we remember that the Coast Guard is not an intangible, abstract budget line. It is an organization of dedicated men and women who literally risk their lives to provide a host of services which are absolutely essential to the health, safety, economy, and environment of the United States.

Give them the tools to do their job correctly.

Support not only this legislation, but, when it comes to the floor, a supplemental appropriation for the Coast Guard.

H.R. 5617 would also make a number of other changes in existing law to streamline and improve Coast Guard operations. These provisions would:

Authorize and encourage the Coast Guard to consider the use of private contractors and the expanded use of civilian Coast Guard personnel in the performance of its aids to navigation mission;

Repeal a requirement that the Coast Guard file an annual report concerning the leasing of certain housing facilities for Coast Guard personnel;

Repeal the requirement that the Coast Guard submit a semiannual report to Congress on expenditures made under the Presidential Protection Assistance Act of 1976;

Amend several laws regulating bridge construction to limit the Department of Transportation's responsibility for approving construction plans to only those bridges over waters subject to the ebb and flow of the tide, or nontidal waters which are, or could be made, usable for navigation in interstate or foreign commerce;

Provide the Coast Guard the option of assessing civil penalties for violations of bridge statutes;

Require any classification society which has been delegated Coast Guard inspection or examination responsibilities to maintain complete files of such inspections and provide reasonable access to them to appropriate Coast Guard personnel;

Simplify required Coast Guard procedures for evaluating the manning, training, qualification, and watchkeeping standards of the certificating state of foreign vessels which transfer oil or hazardous materials in any port or place under the jurisdiction of the United States;

Repeal the requirement for an annual report on the administration of the Tank Vessel Act;

Increase the maximum limits on civil and criminal penalties under the Federal Boat Safety Act of 1971;

Require the Coast Guard to review its policies and procedures for towing and salvage of disabled vessels to minimize further the possibility of Coast Guard competition with the private sector;

Repeal the requirement that the Secretary of Transportation submit an annual report on the special pay provided Coast Guard officers holding positions of unusual responsibility of a critical nature;

Provide that a Coast Guard vice admiral's precedence on the active duty

promotion list, date of rank, grade, pay and allowances shall not be interrupted by the time period between termination of an appointment to one vice admiral position and appointment to another vice admiral position;

Repeal the authority which permits the voidance of an enlistment through the age of 20 of Coast Guard members who enlisted without written parental consent;

Allow the Commandant to provide medical and dental care to personnel otherwise entitled to that care by law or regulation;

Amend the statutes establishing the Federal Boat Safety Advisory Council, the Coast Guard Academy Advisory Committee, the Rules of the Road Advisory Council, and the Towing Safety Advisory Committee to: Require a notice of solicitation for membership in the Federal Register at least once a year; authorize advisory committees to make available to Congress any information and recommendations provided to the executive branch; make consistent certain fiscal provisions affecting the advisory committees; and apply these changes to advisory committees established administratively rather than by statute;

Require the Coast Guard to include the cause of loss of life in its marine casualty investigations and to notify the House Merchant Marine and Fisheries Committee and the Senate Commerce Committee in advance of its hearings on major marine casualties involving loss of life, as well as require the Coast Guard to provide requested information on marine casualties to these committees, if it can legally do so; and

Enable the Appropriations Committee to appropriate from the trust fund, established under the Recreational Boating Safety and Facilities Improvement Act of 1980, without a corresponding reduction in overall Department of Transportation budget authority.

Mr. Chairman, I yield 3 minutes to the gentleman form Michigan (Mr. CONYERS).

PRESIDENT URGED TO INVESTIGATE POSSIBLE ISRAELI VIOLATION OF UNITED STATES LAW

(By unanimous consent, Mr. CONYERS was allowed to speak out of order.)

Mr. CONYERS. Mr. Chairman, I thank my colleague, the gentleman from North Carolina (Mr. JONES) for yielding to me.

Mr. Chairman, let me state to my colleagues that on July 2, some 13 days ago, I sent a letter to the President of the United States with reference to the possible violation of the State of Israel with reference to the Arms Export Control Act. The letter to the President read as follows:

DEAR PRESIDENT REAGAN: I am greatly disturbed by the recent invasion of Lebanon by Israel which has claimed so many innocent lives. Israel's actions in Lebanon are unconscionable, inappropriate and illegal.

With reference to section 3(c)(2) of the Arms Export Control Act, the President is required to report promptly to the Congress upon the receipt of information that a substantial violation described in section 3 (c)(1) of the Act may have occurred. This report is preliminary and inconclusive but serves to initiate a full investigation into possible violations of the Arms Export Control Act. A finding of a violation would prohibit issuance of credits or guarantees to any recipient of U.S. arms furnished under the Act * * *.

Then I set forth the exceptions, and I concluded the letter by stating this:

In light of recently documented Israeli raids over Beirut with United States supplied F-16 fighter planes shown on televised news reports throughout the country, admission on the part of the Israeli military concerning the use of cluster bombs of U.S. manufacture and numerous allegations and reported observations of the use of other kinds of American made weapons and equipment, there appears to be sufficient information to justify a prompt report to the Congress pursuant to section 3(c)(2) of the Arms Export Control Act concerning possible violations of the use of U.S. supplied arms.

In view of the emergency in which we find ourselves, it is imperative that Congress be advised if and when such report with reference to the possibility of such violations will be forthcoming. The response of the Congress will of course be predicated upon your decision.

Sincerely,

____ ____.

Mr. Chairman, that was on July 2, 1982, and this Member is still awaiting a response from the President or anybody in the executive branch. So in case the President did not receive my first letter or in case it was misfiled or misdirected, I make this announcement now.

Mr. Chairman, I sincerely thank my colleague, the floor manager of the bill under consideration, for yielding me this time.

Mr. JONES of North Carolina. Mr. Chairman, I yield such time as he may consume to the chairman of the Subcommittee on Coast Guard and Navigation, the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Speaker, I rise in strong support of H.R. 5617, a bill whose simple purpose is to permit the U.S. Coast Guard to do its job.

Last year, our Subcommittee on Coast Guard and Navigation conducted hearings into all phases of Coast Guard operations and procedures. We found a Coast Guard both terribly over-burdened and critically underfunded. Last November, the subcommittee released an oversight report—entitled "Semi-Paratus: The United States Coast Guard, 1981"—calling for significant increases in funding, and major changes in the nature of Coast Guard responsibilities.

The goal of H.R. 5617 is to provide the Coast Guard with the resources it must have to carry out its major at-sea operational missions, including search and rescue, marine law enforcement, and military readiness. In addition, the bill would relieve the Coast Guard of statutory responsibilities which have threatened to transform it from a uniquely proud and independent military service into just another part of the bureaucracy.

H.R. 5617 reflects a broad consensus of opinion among Members of both parties on the Committee on Merchant Marine and Fisheries; it constitutes an approach to the Coast Guard which I believe has the support of the vast majority of the American people. This legislation is, however, only an authorization bill. The dollar figures we propose here will mean little if the money is not appropriated, and I have little reason to believe that full funding will, in fact, be forthcoming. As a result, I feel I must warn all Members of this House that the Coast Guard of the future may bear little resemblance to the Coast Guard of the past.

My warning about the future stems from the fact that the Reagan administration is not comfortable with the Coast Guard of the present. It has, after all, requested a Coast Guard budget for 1983 which is 20 percent below the level Congress appropriated in 1982. The administration is asking us to envision a smaller Coast Guard which it calls streamlined, but which others simply call less capable.

The administration has asked us to mortgage the Coast Guard's future through cuts in recruiting and training, a reduction in the size of the Coast Guard Academy, and cuts in the research and development program. The administration has proposed a Coast Guard: Less able to maintain aids to navigation; less able to guarantee safe operations in our ports, harbors, and waterways; less able to respond to a military emergency; less able to enforce the law; and, most tragically—and unconscionably—less able to respond in a timely manner to those who may be in danger of personal injury or death on the high seas.

I do not happen to share the administration's judgment that a less capable Coast Guard is in the best interests of the United States. But, make no mistake, the continuation of present budgetary policies will lead to a steady decline in the ability of the Coast Guard to perform the many jobs which it is constantly called upon to perform by the people of our country. Last December, when the fiscal 1982 Coast Guard authorization was called up for consideration, I warned Members that Coast Guard stations would close and vessels would be decommissioned if more money were not forthcoming. Many did not take these warnings seriously, but 1 month later, the closure of Coast Guard facilities in all parts of this country was announced,

and 1 month after that, the Department of Transportation decided that a little more money for the Coast Guard might be necessary, after all.

I simply want to suggest to Members that in considering the Coast Guard budget, they reflect for a while on the nature of their own past rhetoric. Those who warn urgently of the need for a strong national defense should recall the active participation of the Coast Guard in every war or significant military conflict in which our country has ever been engaged. Those who speak about the importance of putting a halt to the smuggling of illicit drugs should realize that the Coast Guard last year seized contraband valued at more than the entire operating budget of the service. Those who decry the entry of illegal aliens should reflect on the role which the Coast Guard has played in deterring the tragedy-prone efforts of Haitian migrants attempting to reach Florida. Those who express concern about the sanctity of human life should remember the 5,500 lives saved last year by the Coast Guard. And those who reserve their deepest emotions for the material might note that Coast Guard search and rescue operations also accounted for $2 billion worth of rescued private property.

I challenge anyone to suggest that the United States is ill served by the Coast Guard. I challenge anyone to make a credible case that the skills of Coast Guard men and women will not be in even greater demand in future years.

H.R. 5617 is designed to improve the ability of the Coast Guard to contribute to the overall national interest of the United States. It is, I believe, a sound piece of legislation containing numerous minor changes in law designed to guarantee the most effective use of those Coast Guard resources which are available. But H.R. 5617 should also be interpreted as a warning. The Coast Guard, in the past, has always been there when called; its personnel have grown steadily more skilled, more versatile, and more valuable. But the Coast Guard of today is in very deep trouble. The service simply cannot continue to function competently without additional funds. I ask, therefore, that you support H.R. 5617, but I ask also that you realize that there is currently ongoing a very major battle over the Coast Guard's future; I ask that you reflect on the past, present, and future importance of the Coast Guard to our country; and I ask that you express your support for the Coast Guard not only today, but in the even more crucial votes which may occur later this year or early in 1983.

□ 1220

Finally I would like to extend my personal thanks to the ranking minority member of the subcommittee, the gentleman from Alaska (Mr. YOUNG), and to the other members of the subcommittee on both sides of the aisle who have made it abundantly clear that notwithstanding the disagreements which I have articulated this afternoon with the administration on this issue that the future of the Coast Guard is in no sense a partisan question.

The roles, the statutory missions of the Coast Guard are missions abundantly in the national interest of the country and ought never to be viewed in a partisan context.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I certainly endorse his statement about the national interests in keeping a strong Coast Guard.

I would like to ask the gentleman, I assume, as the chairman of the full committee said, that in allocating the unfortunately limited funds that safety will come first.

I am particularly concerned since a notice was put out by the Coast Guard in my region that a number of navigational aids would be removed from Long Island Sound.

In Long Island Sound we have mostly pleasure boaters and many of those aids, if they were removed, would result in really terrible accidents.

I hope I can count on the gentleman's subcommittee and the full committee to assure that navigational aids that are important to safety will not be arbitrarily removed.

Mr. STUDDS. Let me say to the gentleman that the decision or announcement to which he makes reference is one which we saw also in other Coast Guard districts around the country, including the First District in Boston.

It stemmed from a determination by the administration that the inadequacies of the budget for the current fiscal year required a 25-percent reduction in the budget for aids to navigation.

This raises, as the gentleman accurately points out, the most serious questions of safety in regard to aids that mark channel entrances and obstructions and ledges and sand bars around the Nation.

The administration has committed itself to us with respect to the First District and the Third District in New York to which the gentleman refers, and I suspect we can get similar commitments for other districts, that in this current fiscal year any aid which has been noticed as a potential aid to be pulled from the waters for which a case can be made reasonably by those who are more familiar with the waters in question than the Office of Management and Budget that that aid will remain.

Let me also say to the gentleman that the funding levels in the bill before us for fiscal year 1983 and 1984, and the supplemental money for fiscal year 1982 would render unnecessary the kinds of incredibly shortsighted budget cuts to which the gentleman refers.

Mr. OTTINGER. I thank the gentleman for his assurance because we have a lot of speed boaters who are amateurs and they would be racking up, people would be killed if these navigational aids were removed.

I thank the gentleman very much for his assurance.

Mr. STUDDS. I thank the gentleman and yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. SNYDER).

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, my specific concerns about this bill revolve around the topics of the Coast Guard Auxiliary and the possible closing of search and rescue stations on Lake Michigan and elsewhere.

After acquainting myself with the provisions of H.R. 5617, I am convinced that this bill satisfies my interests.

The Coast Guard Auxiliary is in many ways the unsung hero of Coast Guard rescue operations. It has two parts: Airborne and seaborne. These parts are composed of volunteer sailors and flyers who, for no pay and at some cost to themselves, execute patrol sorties in support of the regular Coast Guard.

The money saved to the Federal taxpayer through this arrangement is enormous. I have heard and read many estimates of the savings factor, but I think it is entirely reasonable to say that the Federal Government saves about $10 for every $1 it spends on the Coast Guard Auxiliary.

Why? Because the auxiliaries are compensated only for the fuel they burn while on authorized Coast Guard patrols. They also receive special radio equipment which is vital for the execution of their mission, and they are given a 10-hour briefing on the specifics of their role. But by and large the auxiliaries are not a great expense, especially in view of the work they do.

More important than any money saved by the auxiliarists however, are the lives saved because of the partolling they do. By air and by sea they search for boaters in distress. They are often the first to arrive on the scene of an accident, and thus are able to give the specific location to the regu-

lar Coast Guard forces which back them up. Truly, this is a most worthy undertaking of the Federal Government.

Lake Michigan's search and rescue stations, like others throughout the Coast Guard system, provide vital aid to boaters when they are most in need. Closest to my district is the Calumet Harbor Station, which earlier this year appeared to be in jeopardy of closure. Since there is significant traffic at the southern end of Lake Michigan from both commercial and pleasure craft this caused great concern in the nearby communities.

There is no specific line item for either the auxiliarists or the individual rescue stations in the authorization bill. However, the operations and maintenance funds, from which both are sustained, is increased.

The proposed fiscal year 1983 operations and maintenance funding is $1.8 billion, which exceeds this year's level by $437.2 million. For fiscal year 1984 O. & M. is increased $200 million to $2 billion. In view of the overall restraint we must show with the budget, and the lowered rate of inflation we are currently enjoying, I believe these levels are reasonable. Since these areas of interest are dealt with adequately by the bill's language, I will vote for its passage.

Mr. SNYDER. Mr. Chairman, I rise to speak neither in ardent support of, nor opposition to, this authorization bill for the Coast Guard for fiscal years 1983 and 1984, and to indicate I do intend to vote for it.

There are particular parts of this bill, namely, those which make or recommend changes in the Coast Guard's bridge administration and aids to navigation programs, which I wholeheartedly endorse. I have no real quarrel with the other provisions.

My purpose in rising is merely to point out to my colleagues that we are probably headed for another donnybrook on this floor when fiscal year 1983 Coast Guard appropriations come up for House action. This bill authorizes Coast Guard appropriations in four budget categories which total $1.01 billion above the administration's March budget request although I understand they will accept some increases, still leaving the bill $712 million above their request. H.R. 5617 would authorize an increase of $565 million, or 27 percent, above the 1982 fiscal year authorization, not including the additional supplemental authorization sought in section 18 of this bill. Even with that extra $144 million thrown in, the increase is 15 percent.

Comparing the authorization for fiscal year 1983 to appropriations for those four budget accounts for 1982, the numbers are even more disparate: An almost 24-percent increase over the 1982 appropriations when the $300 million transfer contained in the Defense appropriations is factored in; and an almost 45-percent increase over the Coast Guard funding included in the DOT appropriations.

The Congress has just adopted a first budget resolution for fiscal year 1983 which, although it pleases practically no one, is supposed to set spending targets for the coming fiscal year. Let us take a look at the growth in budget authority for transportation, function 400, in which Coast Guard appropriations are included by comparing the budget resolution's revised 1982 figures and 1983 spending targets: An increase of $650 million, or barely over 3 percent, is budgeted for the entire transportation function. Clearly, the Appropriations Committee is going to have to exercise considerable restraint and the wisdom of Solomon in parceling out those meager increases among the competing transportation functions. I certainly do not envy them that task. With the job they have to do, no one will be particularly happy.

When we adopt this authorization bill, as I suspect we should, we are setting up the Appropriations Committee for a real whipsawing when it comes time to act on their bill for DOT appropriations. It is inconceivable that their numbers for the Coast Guard could approach those contained in this bill. We will probably see some amendments designed to increase the Coast Guard figures. Members who support this authorization bill will be pressured to vote for potentially budget-busting appropriations, and criticized as being inconsistent, uncaring, and somehow unpatriotic, if they do not. It is happened in the past and, I predict, it will happen again.

I do not relish that kind of debate, yet I am firmly convinced that it could quite easily occur. I hope that my colleagues will not be surprised when it does.

□ 1230

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5617, the Coast Guard authorization bill. As you know, this bill authorizes appropriations for the Coast Guard for fiscal years 1983 and 1984 and makes certain amendments to reduce Coast Guard duties or to reduce the demand for Coast Guard services.

In the past year, the Coast Guard has been examined extensively. The Merchant Marine and Fisheries Committee, Congressional Research Service, and the administration have all completed extensive studies. The Coast Guard has been studied over and over.

Mr. Chairman, my reaction to all of this is that we have the information before us now to make intelligent decisions regarding the future of this service. We know that those basic traditional functions promoting the safety of life and property at sea must be preserved, continued and, I might add, adequately funded. Among those functions are the all-important search and rescue, enforcement of laws and treaties, maritime safety, and national defense.

In spite of the great contribution made by the Coast Guard in the maritime area, prior funding has been inadequate to keep up with the additional responsibilities heaped on the Coast Guard or with inflation. We must take action now to correct this situation in order to preserve the Coast Guard. We can no longer ask them to do more and more with less and less. The safety of life and property and the security of our Nation require that we do so.

This is the driving force behind H.R. 5617, this year's Coast Guard authorization bill. The bill provides for expenses to operate all the facilities and units that the administration has determined should be continued, for capital improvemennts necessary to carry out its assigned missions, for research and development to improve the efficiency of the service, and for funds generally available to carry out needed alterations of certain bridges.

Also in this year's bill, we are including a number of provisions to reduce Coast Guard duties or to reduce the demand for Coast Guard services. These include: Transferring, where appropriate, functions to the private sector, revising certain penalties for violation of bridge and recreational boating laws, and making uniform or eliminating administrative burdens. In this way we should begin to cut back on some of the Coast Guard's responsibilities and permit them to devote their resources in a more efficient way to other more important duties.

In addition, the bill contains a supplemental authorization for fiscal year 1982 which will provide a level of funding to insure that the level of activity maintained by the administration will be adequately funded. Another provision revises fiscal provisions of the Federal Boat Safety Act to assure funding of safety and facility programs without a reduction in operating expense funding in the Coast Guard budget. Finally, certain amendments to improve Coast Guard personnel management are included.

As the Representative from the State of Alaska, you have heard me repeat over and over that the services of the Coast Guard are extremely valuable and essential in that region. However, I submit that they are essential to the entire maritime community and ultimately to the Nation as a whole. We in Alaska need both effective fisheries law enforcement and search and rescue coverage to protect

both the livelihood and the lives of our people. All of us need the services of the Coast Guard. Therefore, I urge you all to vote in favor of this authorization today.

Mr. Chairman, I would like to compliment the chairman of the subcommittee, the gentleman from Massachusetts (Mr. STUDDS), who has worked very, very hard on this issue. It is a bipartisan effort to try and maintain the standard of the Coast Guard, in fact improve upon it because of the responsibilities we have heaped upon them over the years.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 5617, which authorizes appropriations for the Coast Guard for fiscal years 1983 and 1984 and introduces changes in the nature of Coast Guard responsibilities.

The bill authorizes a much-needed increase in funding levels for Coast Guard operations in the next 2 fiscal years and a supplemental authorization of $144 million in fiscal year 1982. It also reduces the Coast Guard's numerous tasks by both shifting the responsibility of some of its functions to other Government agencies or the private sector which can properly handle them and eliminating others which have lost usefulness, thus alleviating the load of its overburdened schedule for a more efficient operation.

We are all aware of the crisis that erupted last February when the Coast Guard, critically overburdened and underfunded, with no apparent hope insight, engaged in a major cost-reduction program which would have crippled its activities all across the Nation, including Puerto Rico, and put in a predicament the fulfillment of its mission. We then realized the long-overdue time in which we overlooked the Coast Guard's needs and took for granted its invaluable and effective services in lifesaving, preventing drug smuggling and illegal immigration, and insuring safe boat operations of small crafts as well as cargo and passenger vessels, among others. Fortunately, only minor reductions were made given the understanding that the Congress was to give prompt attention and careful consideration to the existing needs of the Coast Guard. And we did. The record shows that we need to put more resources at the disposal of the Coast Guard to enable it to continue carrying out successfully its historic mission.

Mr. Chairman, the opportunity for us to avoid having to face a crippled Coast Guard and enhancing the possibility of a greater calamity in the seas or making our Nation, including Puerto Rico, more vulnerable to drug smuggling and entrance of illegal immigrants lies before us. We must not compromise in areas where lives and our people's security are at stake. The American people demand no less and the Congress can do no less.

I urge my colleagues to vote for the passage of this legislation.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 5617, authorizing appropriations for the U.S. Coast Guard in the amount of $2.6 billion for fiscal year 1983 and $2.8 billion for fiscal year 1984. With respect to fiscal year 1983, $670 million is authorized for Coast Guard acquisition, construction, and improvements (ACI), including nearly $266 million for vessel acquisition, renovation, and major maintenance; $196 million for aircraft and related equipment; and $209 million for expenses involving shore facilties and aids to navigation.

According to the report of the Committee on Merchant Marine and Fisheries accompanying H.R. 5617, a significant finding notes that:

> A serious imbalance now exists between the scope of Coast Guard responsibilities and the resources available to the service. This imbalance is causing a steady deterioration in the ability of the Coast Guard to carry out its missions effectively.

The report also clearly states that the Coast Guard should give its highest priority to carry out its at-sea operational missions, including search and rescue, law enforcement, and military readiness.

At a time when heroin, cocaine, marihuana, and other dangerous drugs are saturating nearly every city, town, and school in our congressional districts throughout the Nation, it is imperative that we provide our front-line law enforcement agencies with equipment, personnel, and funds for them to perform their dangerous tasks. We must elevate narcotics trafficking and drug abuse to a top national priority backed by adequate resources, including first-rate aircraft and vessels, to match the highly sophisticated, well-financed operations of the drug traffickers. We cannot on the one hand expand the Coast Guard's responsibilities while cutting back on the very resources for that service to perform effectively its mission.

In these critical times we must do more than just adopting well-intentioned resolutions proclaiming a "war" on drugs—we must carry out those well-intended resolutions by providing our front-line troops with the sufficient wherewithal to combat the drug traffickers whose deadly merchandise is causing so much misery for so many of our citizens.

Now is not the time to decommission useful Coast Guard cutters, aircraft, and other vital law enforcement equipment targeted for retirement under a penny-wise, dollar-foolish budget-trimming proposal. Under H.R. 5617, this equipment can be expected to continue in full operation while providing urgently needed funds for additional personnel and equipment.

Accordingly, Mr. Chairman, as a member of the Narcotics Select Committee that has extensively investigated and studied narcotics trafficking and drug abuse both in the United States and abroad, I urge my colleagues to support this vital legislation.

□ 1240

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. I thank the gentleman for yielding and let me first of all congratulate the chairman of the subcommittee, the gentleman from Massachusetts (Mr. STUDDS), and our ranking minority member, the gentleman from Alaska (Mr. YOUNG).

I rise in strong support of H.R. 5617, the Coast Guard authorization bill. The Coast Guard is one of the most cost effective agencies of the Federal Government. Each year, it saves more than $1½ billion of private property, which I might point out is more than its operating budget for the year. It also saves lives. Over 5,000 lives were saved last year alone, and no dollar figure can be attached to that. That is of incalcuable value.

I would like to remind my colleagues that beyond the original mission of search and rescue, the Congress itself has given the Coast Guard a number of added missions. Just to name a few. It starts with the prime responsibility, the front-line responsibility for the interdiction of drug trafficking.

That is not only a prime responsibility but an essential function to be carried out if we are going to reduce the crime rate in the United States, reduce the loss from an economic standpoint, and the loss from a human suffering standpoint, that drugs bring to so many people in the United States.

The Coast Guard also has the responsibility for enforcing our fisheries treaties, which are of prime importance to the economic well-being of our country.

It has responsibility for maintaining aids to navigation, which help to protect against damages as a result of collision. Without those aids to navigation, you would have tremendous losses.

It also has responsibility for monitoring the Outer Continental Shelf drilling and harmful ocean dumping.

This body has a responsibility to insure that the Coast Guard has the resources to carry out these all important missions.

It would be penny-wise and dollar-foolish for us not to give the Coast Guard the wherewithal, the resources,

to carry out responsibilities that are vitally important to the economic well-being of our country and to the well-being of our Nation generally.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Chairman, undoubtedly for those of us who represent coastal districts this piece of legislation, this Coast Guard authorization, is one of the most important pieces of legislation that we will consider.

For many Members who live in areas that are not so directly impacted by the ocean or ocean weather conditions or various ocean industries, maybe the Coast Guard does not appear to be a major service of major importance, but I have lived on the coast of Maine all my life. I have grown up with fishermen and I have had many opportunities to sail and fish myself. I can tell my colleagues that for those of us who live near or on the ocean, the Coast Guard is essential, because the services it provides are in fact the fine line between life and death at some points.

One of the issues that I am most concerned about is safety. The search-and-rescue network that the Coast Guard has established over the years has been responsible for saving literally thousands of lives, and it has been an unfortunate situation that those of us who have lived in Maine are not adequately serviced by the Coast Guard search-and-rescue helicopter facilities because the nearest one is so far away from our waters.

It has also been a very unpleasant duty for me from time to time to meet with the survivors, with the families, with the loved ones of fishermen and boaters who have lost their lives, and I have had to explain to them that due to budget cutbacks and due to lack of funds generally, the adequacy of search-and-rescue facilities simply does not exist.

Well, I hope that with this legislation and with a renewed commitment to the development of a truly adequate Coast Guard, in the future we may be able to extend those services and provide them not only to my district in Maine but to many other places around the country.

I would also mention that other essential services include the registration and documentation offices that are of service to fishermen and others who operate commercial vessels, drug enforcement, which was mentioned by my colleague from Delaware, and also fisheries enforcement.

Fisheries enforcement is very vital to us.

A few years ago the landmark 200-mile limit was passed by this body and signed into law. Now the Coast Guard is given the responsibility to enforce that law, to guarantee illegal fishing activity does not take place off any of the coasts of the United States, and if the Coast Guard does not have adequate manpower and equipment and vessels to do that job then illegal fishing activities will continue unabated, even though the law says it shall not.

I rise in strong support of this legislation. In a few minutes I have two amendments I will offer that will address themselves to the very vital rescue-and-search function.

I urge passage of this legislation and I hope it can be supported by the administration, the Senate, and the appropriations process as well.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Chairman, as a cosponsor of H.R. 5617, I rise in strong support of this Coast Guard authorization. My colleagues on the Coast Guard and Navigation Subcommittee and the Merchant Marine and Fisheries Committee are to be commended for their efforts to bring before us this bill authorizing $2.6 billion and $2.8 billion for the Coast Guard in fiscal years 1983 and 1984, respectively.

I believe this bill reflects our Nation's commitment to an effective Coast Guard and willingness to support its many missions on which our national security and the entire maritime community depend. Certainly we have come a long way since the January 1981 announcement of plans to close and/or reduce services at a number of Coast Guard shore and air stations, eliminate aids to navigation teams, and reduce other Coast Guard services and programs including equipment maintenance, oceanographic research, and personnel training. While some of those proposed cutbacks jeopardizing safety of life and property at sea have since been rescinded, H.R. 5617 provides a fiscal year 1982 supplemental authorization of $144 million for operating expenses to assure the Coast Guard has the support it needs to operate throughout this fiscal year at the same level it was able to maintain in 1981.

Further, if this authorization is fully funded, there should be no need to remove necessary aids to navigation for budgetary reasons. To help maintain a viable aids to navigation program in the years ahead, the Coast Guard is authorized to contract out its aids to navigation function to public or private contractors. A report is to be submitted to Congress next year on use of this contracting option and civilian Coast Guard personnel to perform aids to navigation services; this should help us reassess the entire aids to navigation program and make certain the navigation needs of the maritime community are met in the years ahead.

As a cosponsor of the Recreational Boating Safety and Facilities Improvement Act of 1980, I particularly want to note that H.R. 5617 as reported would free up excise tax money already paid by the recreational boating public into a boating trust fund for State recreational boating safety and facilities improvement programs. This program has never been funded because under existing law, it would require reductions in other Coast Guard budget categories to meet appropriations ceilings. Section 22 is designed to correct this problem by removing this boating safety program for the appropriation process, converting it from a discretionary grant to a direct spending contract authority item, similar to other transportation trust fund programs such as Federal aid for highways and airport grants.

However, because of technical requirements in the first budget resolution, the entire Coast Guard authorization for fiscal year 1983 might be jeopardized if this section is included in its present form. I would hope that situation need not arise, but if it does, I intend to press for early action to make these funds available for recreational boating safety by some other means.

While H.R. 5617 authorizes $1.01 billion above the President's budget request for fiscal year 1983, I believe this additional support is needed to maintain necessary Coast Guard services related to defense, marine safety, pollution prevention and law enforcement. Certainly the Coast Guard's at-sea operational missions should receive priority consideration and this bill reflects that concern. This authorization also reflects the intent to consider future cost savings which may be achieved either by transferring certain Coast Guard responsibilities to States, localities or the private sector or to other Federal agencies which might more appropriately carry them out. But until and unless the Coast Guard is relieved of some of its multimission role, primarily in the regulatory arena, Congress must continue to see that the need for Coast Guard services is met. I believe this authorization meets that need, and I urge its prompt passage and enactment.

● Mr. BIAGGI. Mr. Chairman, I rise in support of H.R. 5617, a bill to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984.

It is significant that this measure is the first major authorization to be brought before the House since the adoption of the first concurrent budget resolution. It is also the first Coast Guard authorization bill to be considered by the Congress following release of two important studies on the future roles and missions of the Coast Guard—conducted independently by the Department of Transportation and the Committee on Merchant Marine and Fisheries.

Each assumed a demand forecast for Coast Guard services and estimates of

Coast Guard resources needed to meet expected increased demand for those services through the year 2000. In so doing, both reports recommended certain programmatic changes and management improvements to partially offset anticipated increased resource requirements. Both, however, reaffirmed the inherent efficiency and operational flexibility afforded by the multimission character of the Coast Guard. Both confirmed the essential complementary balance of Coast Guard missions—present and future. Finally, both reports underscored the fiscal soundness in funding Coast Guard operations through general appropriations.

These are important findings. They underscore the committee's decadelong campaign to secure adequate funding for the Coast Guard to meet its expanded responsibilities in search and rescue, maritime law enforcement, marine environmental protection, and maritime safety, necessitated by the increased awareness and recognition of the military readiness role of the Coast Guard as a seapower adjunct to the Navy—filling the void left by the forward deployment of our scarce naval resources to project power and defend our vital sea lines of communication. Daily media coverage of Coast Guard drug and alien interdictions further serve as a constant reminder of the vulnerability of our coasts to seaborne threats.

The bill before us represents as clear a choice in determining the programmatic and budgetary future of the Coast Guard as one could imagine. Overall budgetary numbers graphically tell the story far better than words. The administration's original budget request would effect a net 20-percent reduction in Coast Guard funding over the fiscal year 1982 appropriations level—not allowing for supplemental appropriations. Its impact upon the service would be devastating:

It would decimate the acquisition, construction, and improvement account, earmarked for procurement of badly needed vessels, aircraft, and shore facilities.

It would perpetuate an illegal deferral of prior-year appropriations in contravention of the provisions of the Budget and Impoundment Control Act of 1974 and the fiscal year 1982 DOT Appropriations Act, in the opinion of the Comptroller General.

It would result in the permanent dismantling of the Coast Guard's research and development programs—the focus of a decade of incremental enhancement by this committee.

In sum, it represents a patent exercise in mortgaging the future of the Coast Guard, linking its long-term fortunes to resolution of the current budgetary dilemma.

The distinction between this approach and the provisions of H.R. 5617 is unmistakable. Rather than a crippling 20-percent reduction in 1982 funding levels, the bill recommends a net 20-percent increase in budget authority. This will allow for marginal improvement in Coast Guard operating capability, while continuing the necessary replacement and upgrading of the service's physical plant—and without further erosion of its vital research and development support base.

The Senate has already unanimously passed a companion measure (S. 2252), affecting an overall 10-percent increase over last year's spending levels for the service. I call upon my colleagues in the House to match the Senate's action, and raise it. In so doing, we will send the administration an unequivocal signal of our continued bipartisan resolve to rectify investment shortfalls in the past resulting in a cumulative underfunding of the Coast Guard and a serious imbalance between its mission responsibilities and available resources.●

● Mr. MICHEL. Mr. Chairman, I would like to comment briefly on the section of the bill pertaining to alteration of bridges. A total of $12.7 million is authorized for alteration of bridges, as the result of an amendment offered in committee by the gentleman from New Jersey (Mr. FORSYTHE). There is also some language in the committee report indicating that this funding is primarily intended for the Point Pleasant Bridge in New Jersey.

It is my understanding that general agreements exist in committee that this funding is not limited solely to that one project, but would also be available for other bridges which are in need of repair. We have a bridge in Peoria, the Peoria-Pekin Railroad Bridge, which is badly in need of alteration work. It was in the budget last year, funds were appropriated for this purpose, and the administration will be submitting a 1983 budget amendment providing for such funding.

In discussions we have had with the gentleman from New Jersey (Mr. FORSYTHE) as well as the other gentleman from New Jersey (Mr. HUGHES) they have indicated a willingness to making a portion of these funds available to the Peoria bridge. It is my hope that we can achieve funding for both the New Jersey bridge and the Peoria bridge through the appropriations process, and I look forward to working with the gentlemen from New Jersey in this regard. Let me also express appreciation for the generous and cooperative attitude they have displayed.●

● Mr. FORSYTHE. Mr. Chairman, I too rise in support of the Coast Guard authorization bill for fiscal years 1983 and 1984. This bill contains the Merchant Marine and Fisheries Committee's recommended funding for the operating expenses, capital improvements, research and development, and bridge alteration programs of the Coast Guard.

I would like to take a moment to specifically address the funding of the bridge alteration program. This is conducted under the authority of the Truman-Hobbs Act and is intended to correct bridge structures which are obstructing the normal course of navigation.

The funding in this bill was an amendment offered in the Coast Guard and Navigation Subcommittee and was intended to insure that funds were provided to complete the construction of the Route 88 highway bridge in Point Pleasant, N.J. This bridge is the only one that is both currently under construction and in need of further authorized and appropriate Federal funds under the Truman-Hobbs program.

Attempts to restrict this funding to a single bridge were considered inappropriate. Therefore, as the bill is drafted, the funds remain generally available for any qualifying bridge alteration project. The Point Pleasant Bridge is clearly one of these and was the impetus for getting funds authorized for this program. Thus, a strong case can be made for funding that particular bridge. However, I understand that other bridge projects are contemplated which may be eligible for Truman-Hobbs funding and this provision was in no way intended to be exclusive and prevent funds from being used for that purpose if considered appropriate.

Finally, the bill contains provisions which are designed to reduce the scope of Coast Guard responsibilities and improve the functioning and efficiency of this agency. It is obvious in these austere times that functions or dollars, or both, must be reduced if fiscal restraint is to be achieved. These cutbacks are a beginning to getting the myriad of diverse Coast Guard functions under control and are, therefore, welcome.

Thus, I urge my colleagues to support enactment of this bill.●

● Mr. HUGHES. Mr. Chairman, I rise in support of H.R. 5617, Coast Guard authorizations for fiscal years 1983 and 1984 and urge my fellow Members to vote in support of this legislation.

As my colleagues from the Merchant Marine and Fisheries Committee have already pointed out, Congress has given the Coast Guard numerous responsibilities ranging from environmental and fisheries enforcement to search and rescue, boating safety, and drug enforcement interdiction. In fact, the Coast Guard has been given far more duties than resources necessary to carry them out. The result of this imbalance—in resources and responsibility—has been a cutback in what we can expect from this can-do service.

Over the past year, the Coast Guard Subcommittee has held a series of hearings on all phases of Coast Guard operations and procedures. As a result of these investigations, the subcommittee found that the imbalance between Coast Guard resources and responsibilities is causing a steady deterioration in the ability of the Coast Guard to effectively carry out its mission.

As the Representative of New Jersey's largest coastal district, and as chairman of the Subcommittee on Crime with oversight responsibility over the Nation's drug enforcement agencies, I am particularly aware of the key roles which the Coast Guard provides in protecting life and property at sea, and in the interdiction of illegal drugs coming into this country. Both of these tasks, however, demand adequate resources in order to do the job which the Congress and the American public expect.

The primary goals of H.R. 5617 is to provide these desperately needed resources as well as to reduce the time and effort which the Coast Guard devotes to tasks which could be better done by other Government agencies or the private sector. This bill will improve the efficiency of Coast Guard operations.

In the area of drug interdiction, the Coast Guard makes a valiant effort with limited resources. But despite an excellent interdiction record, far too many illegal narcotics are coming into this country by sea. Commandant Hayes, appearing before the Coast Guard Subcommittee estimated that, in order to have a major impact upon drug trafficking at sea, we need to be interdicting somewhere between 50 and 70 percent of the traffic. Yet the current interdiction rate is estimated at only 15 percent.

At the same time in looking for ways to go further with limited resources, the Coast Guard has proposed removing a large number of buoys and other navigational aids along the east coast. In New Jersey alone, more than 225 aids to navigation have been targeted for possible removal, most of which are located along the inland waterway—perhaps the Nation's busiest and most-traveled waterway. I am greatly concerned that the removal of aids to navigation could result in creating unnecessary hazards for both recreational and commercial boaters in this area.

Since Congress established the Revenue Marine in 1789, the Coast Guard and its predecessors have played an important and fundamental role in maintaining the security of our shores and protecting the lives and property of our citizens. In order to continue to do the job, Congress must assure that the Coast Guard receives the resources it needs.

I urge my colleagues to support this most urgent measure.●

● Mr. ROE. Mr. Chairman, I rise in support of H.R. 5617, a bill to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes.

After being reported by the Committee on Merchant Marine and Fisheries, H.R. 5617 was sequentially referred to the Committee on Public Works and Transportation for the consideration of such provisions in the reported bill as fall within the jurisdiction of this committee.

These provisions include a number of amendments to statutory authorities relating to the construction, operation, and maintenance of bridges over the navigable waters of the United States.

Section 9 of the act of March 3, 1899, provided, among other things, that it is not lawful to construct a bridge or causeway over a navigable water until the consent of Congress is obtained and the plans have been approved by the Secretary of the Army.

The act of March 23, 1906, provided that whenever the authority is granted by Congress to construct a bridge over navigable waters, it shall not be constructed until the plans have been approved by the Secretary of the Army.

The General Bridge Act of 1946 granted the general consent of Congress to the construction of bridges over navigable waters subject to the approval of location and plans by the Secretary of the Army.

The functions, power, and duties of the Department of the Army relating to the location, plans, and clearances of bridges over navigable waters were generally transferred to the Department of Transportation in 1967 by the act establishing the Department of Transportation.

The provisions in the bill provide that these authorities shall not apply to any waters which are considered navigable only for historical purposes and are not subject to the ebb and flow of the tide. Our committee agrees with these amendments. The regulation of bridges will continue in order to insure that public navigation is not adversely affected. However, where a river or stream is not capable of supporting navigation either in its present condition or with reasonable improvement, there is no need for such regulation.

Mr. Chairman, I urge passage of the bill.●

● Mr. YOUNG of Florida. Mr. Chairman, I rise in support of H.R. 5617, the Coast Guard Authorization Act, because I believe it provides the necessary funding level for the Coast Guard to meet its expanded realm of responsibility and at the same time clearly reverses funding shortfalls it has experienced in recent years.

The Coast Guard is prehaps the most cost-effective and versatile agency in the Federal Government, but because of inadequate operating funds this year, it has been forced to compromise on its efficiency and effectiveness by reducing cutter hours, flight time, personnel levels, boater services and defense preparedness. While the Coast Guard has provided invaluable service to the people of my State of Florida, Coast Guard stations in the State have felt the brunt on inadequate funding just as other stations have throughout our Nation.

Still, the Coast Guard has proven to be a key to the newly created South Florida Task Force on Crime, chaired by Vice President BUSH. Although still in its first year of operation, the task force has made significant gains in controlling the overwhelming drug flow into the United States through Florida. In addition, the increase of patrol ships in the Caribbean and Gulf of Mexico has sharply reduced the illegal immigration of Cuban and Haitian refugees on the Florida coast.

These accomplishments, in addition to those duties such as life and property saving search and rescue missions which are now almost taken for granted, have been met on an ever increasingly tight budget. One can only wonder how much greater an impact the Coast Guard would have on our Nation's out-of-control drug and refugee problems if it was provided with the necessary funds to maintain an adequate personnel level, carryout desperately needed equipment maintenance and replacement, and purchase fuel to increase patrol time on the sea and in the air.

The legislation we consider today will provide a funding level of the Coast Guard which will meet its budgetary needs and will allow it to operate without the need for the service reductions it was forced to make this year.

Mr. Chairman, the Commandant of the Coast Guard should be responsible for determining how the Coast Guard can best serve our Nation, not for determining how this invaluable agency is to operate on a string budget. Passage of the authorization bill before us will allow the Coast Guard to meet its current and future responsibilities in the same outstanding manner it has demonstrated for more than 200 years.●

● Mr. NELSON. Mr. Chairman, I would like to take a few minutes today and address a serious problem that my home State, Florida, is experiencing. However, it is not a local problem, but one that is being felt throughout the entire United States. I am referring to the present inadequate funding of the U.S. Coast Guard.

Over the past several years the U.S. Coast Guard has gone unsung in its gallant efforts to clean up America's waterways and to provide adequate protection to boaters, fishermen, and

swimmers in any of a number of emergency situations within U.S. waters.

The Coast Guard has not only helped in keeping America's waterways and shoreline safe and beautiful, but it has continued to offer America the security of policing the coastline for illegal activities.

According to the recent Vice Presidental Task Force on South Florida Crime, new Customs regulations regarding ports of entry for private aircraft have caused the influx of illegal drugs by air to drop sharply. However, there is only a slight decrease in drugs still predicted to be entering the State from foreign origins. The only logical conclusion is that oceangoing vessels are responsible for taking up where the aircraft have left off.

According to the Commandant of the Coast Guard, Adm. John B. Hayes, in order to have a major impact on drug trafficking at sea, between 50 and 70 percent of that traffic needs to be intercepted. The current estimate of interdiction is now at only 15 percent.

Now, due to recent congressional actions, the funding for the needed patrol services have been cut to the point of hindering even further these much needed Coast Guard operations to control these illegal actions.

Presently, in Florida, the problems of illegal drug trafficking as well as illegal immigration are now to the point of being ridiculous. On some days, a person can almost stand along the beaches in Florida and see foreign vessels just above the horizon, waiting for the cover of darkness, so they can unload their illegal cargoes onto any of the deserted beaches.

In recent months, illegal immigrants from Cuba and Haiti have gotten so out of hand that again the Coast Guard has been asked to play cowboy and roundup all illegal immigrant vessels seeking to come to our shores and return them to their own country. With the added responsibilities being heaped upon this small fleet, funding should be increased, as provided in this authorization.

The men and women who serve in the Coast Guard are proud to be Americans. They pride themselves in actively securing and protecting this land we so greatly value. Daily, they risk their lives to provide a service that many Americans are not even aware exists.

Florida is but one example of the need to maintain a strong and reliable Coast Guard. Yet the problems that Florida is now experiencing do not remain in Florida. In every major city, illegal drugs arriving through Florida can be traced as one of the leading motives in street crime today.

We cannot sit back and close our eyes, pretending there is no problem, because it will not simply go away. Action must be taken now to increase funding for the Coast Guard so they can continue to patrol our beaches and waterways in order to deter and prevent these illegal activities. This authorization is the start we need to continue to fight back.●

● Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of those provisions of H.R. 5617 under the jurisdiction of the Committee on Public Works and Transportation.

After H.R. 5617 was reported from the Committee on Merchant Marine and Fisheries, it was sequentially referred to the Committee on Public Works and Transportation for consideration of provisions within the Committee's jurisdiction. The bill reported by the Committee on Merchant Marine and Fisheries includes amendments, contained in sections 8 and 9, to authorities related to the construction, operation, and maintenance of bridges over navigable waters. These issues are under the jurisdiction of the Committee on Public Works and Transportation.

The Subcommittee on Water Resources held a hearing with witnesses from the Department of Transportation and the Corps of Engineers to discuss these provisions. Most interest focused on section 8(a) of the bill, which eliminates certain requirements of law for bridges over waters which are navigable only for historical purposes. The provision maintains existing controls regarding bridges over waters which are actually subject to navigation.

Both the subcommittee and the full Committee on Public Works and Transportation were convinced that the changes made by the Committee on Merchant Marine and Fisheries were appropriate and, therefore, we reported H.R. 5617 without change.

Yesterday we received a letter from the U.S. Attorney General's Office raising a potential problem that was not recognized prior to completion of committee action on H.R. 5617 and that was never intended to be created. Section 9 of the bill amends several existing statutes to authorize the Secretary of Transportation to assess and collect civil penalties incurred under each statute. However, this authority does not terminate upon referral of the particular matter to the Attorney General. As such, it is feared that the provision could undermine the historical role of the Attorney General to exercise plenary responsibility over the conduct of the legal affairs of the United States. Because it is felt that this plenary authority in the Attorney General is the most efficient and effective means to conduct the representation of the United States in the courts, the Attorney General has recommended that we amend section 9 to permit the Secretary of Transportation to compromise or mitigate any civil penalty up until the time that the matter is referred to the Department of Justice for institution of legal action in the courts. At such point authority will pass to the Attorney General.

It is my understanding that an amendment will be offered this morning to reflect the Attorney General's concerns, and I support that amendment.●

● Mr. MOFFETT. Mr. Chairman, the bill we are considering today, to authorize funds for the Coast Guard for fiscal years 1983 and 1984, is very important both to the people of Connecticut, and to the people of this Nation. This legislation, which authorizes an additional $144 million for fiscal year 1982, as well as $2.55 billion for fiscal year 1983 and $2.76 billion for fiscal year 1984, will insure that the Coast Guard can continue to carry out its vital functions.

In 1981 alone, the 375 search and rescue stations and shore units across the Nation saved 6,868 lives, and assisted in saving an additional 19,424. Earlier this week, for example, the Coast Guard rescued 15 people whose boat was swept onto the rocks near the eastern entrance to Long Island Sound. Over the last 12 years, moreover, the fatality rate on our Nation's waterways has declined from 20 people per 100,000 registered boats to nearly half that amount, even though the number of people on the water has more than doubled. And we have the Coast Guard to thank for that.

A recent General Accounting Office report indicated that, since 1977, the Coast Guard has dramatically stepped up its search and rescue missions, oil pollution cleanup operations, law enforcement efforts, and other vital activities. I was deeply disturbed when the administration proposed a budget for the Coast Guard which left it woefully underfunded for carrying out these functions.

Compared to 1980, the administration's recently proposed budget for the Coast Guard would have resulted in a 30-percent decrease in cutter hours and a 45-percent decrease in aircraft flight hours for general law enforcement. Even more disturbing would be cutbacks in the Coast Guards' search and rescue capabilities and research endeavors.

The bill we are considering now would insure that the Coast Guard can carry out its functions at least at the 1980 levels. For Connecticut, this means that the research facility at Groton—which has done so much in oil spill research and other projects—can continue to operate; the cutter *Evergreen* stationed in New London will continue to operate; the Coast Guard Academy will not have to cut its enrollment; and, aids to navigation will continue to receive adequate funding.

I strongly urge my colleagues to support this bill, which is so important to

law enforcement and the safety of our coastlines.●

Mr. YOUNG of Alaska. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 5617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coast Guard Authorization Act of 1982".

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1983 and 1984 as follows:

(1) for the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction, $1,842,000,000 for fiscal year 1983 and $2,026,000,000 for fiscal year 1984.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $670,000,000 for fiscal year 1983 and $700,000,000 for fiscal year 1984.

(3) For research, development, test, and evaluation, $30,000,000 for fiscal year 1983 and $33,000,000 for fiscal year 1984, of which sufficient funds shall be made available to continue in operation a Coast Guard research and development center through the end of fiscal year 1984.

(4) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation, $12,700,000, for fiscal year 1983.

SEC. 3. For fiscal years 1983 and 1984, the Coast Guard is authorized an end-of-year strength for active duty personnel of forty-one thousand five hundred. This end-of-year strength shall not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

SEC. 4. For fiscal years 1983 and 1984, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, three thousand six hundred and sixty student-years.

(2) For flight training, one hundred and eighteen student-years.

(3) For professional training in military and civilian institutions, six hundred and fifty-five student-years.

(4) For officer acquisition, one thousand thirty-eight student-years.

SEC. 5. (a) Section 81 of title 14, United States Code, is amended by adding at the end thereof the following: "The Coast Guard may establish, maintain, and operate aids to maritime navigation under paragraph (1) of this section by contract with any person, public body, or instrumentality.".

(b) It is the sense of Congress that the establishment, maintenance, and operation of maritime aids to navigation on the inland waterways of the United States can be accomplished by civilian employees of the Coast Guard more effectively than by military members of the Coast Guard. Accordingly, Congress recommends that the Coast Guard increase significantly the ratio of civilian to military employees assigned to these tasks.

(c) Not later than one year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating—

(1) the exercise by contract of the authority of the Coast Guard under section 81 of title 14, United States Code, to establish, maintain, and operate aids to navigation, including a discussion of any problems involved in exercising such authority by contract, the reasons for exercising or failing to exercise such authority by contract in particular areas, and the feasibility of expanding the exercise of such authority by contract; and

(2) the advantages and disadvantages of increasing the ratio of civilian to military employees assigned to the establishment, maintenance, and operation of aids to navigation on the inland waterways of the United States.

SEC. 6. Subsections (e) and (f) of section 475 of title 14, United States Code, are repealed.

SEC. 7. Section 9 of the Presidential Protection Assistance Act of 1976 (90 Stat. 2476) is amended by striking out "Director, the Secretary of Defense, and the Commandant of the Coast Guard" and inserting in lieu thereof "Director and Secretary of Defense" and by striking out "Secret Service, the Department of Defense, and the Coast Guard" and inserting in lieu thereof "Secret Service and the Department of Defense".

SEC. 8. (a) Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) is amended by adding at the end thereof the following: "This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(b) Section 9 of the Act of March 3, 1899, entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" (33 U.S.C. 401) is amended by adding at the end thereof the following: "The approval required by this section of the location and plans or any modification of plans of any bridge or causeway shall not apply to any bridge or causeway over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(c) The first section of the Act of March 23, 1906, entitled "An Act to regulate the construction of bridges over navigable waters" (33 U.S.C. 491) is amended by adding at the end thereof the following: "The section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

SEC. 9. (a) Section 5 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted August 18, 1894 (33 U.S.C. 499; 28 Stat. 362), is amended—

(1) by inserting "(a)" after "Sec. 5.";

(2) by striking out "or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given," in the second sentence;

(3) by striking out "section" and inserting in lieu thereof "subsection";

(4) by striking out "any violation" and inserting in lieu thereof "any willful violation"; and

(5) by adding at the end thereof the following new subsections:

"(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of Transportation shall issue rules and regulations to implement this subsection.

"(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(b) Section 18 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted March 3, 1899 (30 Stat. 1153; 33 U.S.C. 502), is amended by inserting "(a)" after "Sec. 18.", by striking out "Secretary of War" wherever it appears and inserting in lieu thereof "Secretary of Transportation", by striking out "recommended by the Chief of Engineers", and by adding at the end thereof the following new subsections:

"(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

"(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(c) Section 5 of the Act entitled "An Act to regulate the construction of bridges over

navigable waters", enacted March 23, 1906 (33 U.S.C. 495; 34 Stat. 85), is amended—

(1) by inserting "(a)" after "SEC. 5.";

(2) by striking out "who shall fail" and inserting in lieu thereof "who shall willfully fail";

(3) by striking out "shall be deemed guilty of a violation of this Act, and any persons who shall be guilty of a violation of this Act"; and

(4) by adding at the end thereof the following new subsection:

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(d) Section 510 of the General Bridge Act of 1946 (60 Stat. 847; 33 U.S.C. 533) is amended—

(1) by inserting "(a)" after "SEC. 510.";

(2) by striking out "who fails" each place it appears and inserting in lieu thereof "who willfully fails", by striking out "who refuses" and inserting in lieu thereof "who willfully refuses", and by striking out "otherwise violates" and inserting in lieu thereof "otherwise willfully violates"; and

(3) by adding at the end thereof the following new subsection:

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

SEC. 10. The Act entitled "An Act to constitute a Bureau of Navigation in the Treasury Department", enacted July 5, 1884 (23 Stat. 118), is amended by adding at the end of section 8 (as added by section 9 of Public Law 97-136) the following new subsection:

"(d) In any case in which an inspection or examination is delegated under subsection (a) to the American Bureau of Shipping, or similar American classification society, or agent thereof, such Bureau, society, or agent, as the case may be, shall maintain within the United States complete files of all information derived from or necessarily connected with such inspection or examination for not less than two years after the vessel with respect to which the inspection or examination is made ceases to be certificated and shall permit access to such files at all reasonable times to any member of the Coast Guard designated as a marine inspector or designated in writing by the Commandant of the Coast Guard.".

SEC. 11. Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391) is amended by striking out paragraph (11) and inserting in lieu thereof the following:

"(11) PERSONNEL AND MANNING STANDARDS FOR FOREIGN VESSELS.—The Secretary shall—

"(A) periodically evaluate the manning, training, qualification, and watchkeeping standards promulgated by the certificating state of any foreign vessel which operates on or enters the navigable waters of the United States, and transfers oil or hazardous materials in any port or place under the jurisdiction of the United States; and

"(B) determine, after each evaluation made under clause (A), whether the foreign state, whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States.".

SEC. 12. Section 4417a(19) of the Revised Statutes of the United States (46 U.S.C. 391a) is repealed.

SEC. 13. (a) Section 34 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1483) is amended by striking out "$1,000" and inserting in lieu thereof "$5,000".

(b) Section 35(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1484(b) is amended by striking out "$500" and inserting in lieu thereof "$1,000".

SEC. 14. The Commandant of the Coast Guard shall review Coast Guard policies and procedures for towing and salvage of disabled vessels in order to further minimize the possibility of Coast Guard competition or interference with private towing activities or other commercial enterprise.

SEC. 15. Notwithstanding any other provision of law, the number of full-time civilian employees of the Coast Guard shall be maintained at a level not less than five thousand four hundred and eighty-four throughout fiscal years 1983 and 1984.

SEC. 16. (a)(1) Chapter 3 of title 14, United States Code, is amended by adding at the end thereof the following new section:

"§ 52. Vice admirals, continuity of grade

"The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral.".

(2) The analysis of chapter 3 of title 14, United States Code, is amended by adding the following new item after the item relating to section 51:

"52. Vice admirals, continuity of grade.".

(b)(1) Section 368 of title 14, United States Code, is repealed.

(2) The analysis of chapter 11 of title 14, United States Code, is amended by striking out:

"368. Discharge in case of underage enlistment.".

(c) Section 93 of title 14, United States Code, is amended by—

(1) striking out "and" at the end of subsection (p);

(2) striking out the period at the end of subsection (q) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new subsection:

"(r) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities.".

SEC. 17. Section 306(f) of title 37, United States Code, is amended by striking out "The Secretary of Transportation shall make a similar report for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

SEC. 18. Paragraph (1) of the first section of the Act entitled "An Act to authorize appropriations for the Coast Guard for fiscal year 1982, and for other purposes" (95 Stat. 1705; Public Law 97-136) is amended by striking out "$1,404,800,000" and inserting in lieu thereof "$1,548,800,000".

SEC. 19. (a)(1) Section 33(a) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(a)) is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.".

(2) Section 33(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(b)) is amended by adding at the end thereof the following: "The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.".

(3) Section 33(c) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(c)) is amended by striking out "when engaged in the duties of the Council" and inserting in lieu thereof "while attending meetings of the Council".

(b)(1) Section 193 of title 14, United States Code, is amended in the first sentence by inserting before the period the following: "(or, in the case of a member of the Committee who is an officer or employee of the United States, who shall receive no additional pay on account of his service on the Committee)".

(2) Section 193 of title 14, United States Code, is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Advisory Committee. The Advisory Committee is authorized to make available to Congress any information, advice, and recommendations which the Advisory Committee is authorized to give to the Secretary or the Commandant.".

(c)(1) Section 5(a) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(a)) is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.".

(2) Section 5(b) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(b)) is amended by adding at the end thereof the following: "The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.".

(3) Section 5(c) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(c)) is amended by striking out "or while otherwise engaged in the business of the Council" and by striking out ", including traveltime".

(d) The Act entitled "An Act to establish a Towing Safety Advisory Committee in the Department of Transportation" (33 U.S.C. 1231a; 94 Stat. 1521) is amended as follows:

(1) Subsection (b) of the first section is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.".

(2) Subsection (c) of the first section is amended by adding at the end thereof the

following: "The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.".

(3) Subsection (d) of the first section is amended by adding before the first sentence the following: "Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.".

(e)(1) The Secretary of the department in which the Coast Guard is operating shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on any advisory committee established administratively for the purpose of giving advice and recommendations to such Secretary or the Commandant of the Coast Guard with respect to functions of the Coast Guard.

-(2) Any advisory committee described in paragraph (1) of this subsection is authorized to make available to Congress any information, advice, and recommendations which the committee is authorized to give to the Secretary of the department in which the Coast Guard is operating or the Commandant of the Coast Guard.

(3) Members of any advisory committee described in paragraph (1) of this subsection who are not officers or employees of the United States shall serve without pay and members of any such committee who are officers or employees of the United States shall receive no additional pay on account of their service on such committee. While away from their homes or regular places of business, members of any such committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

SEC. 20. Section 4450(a) of the Revised Statutes of the United States (46 U.S.C. 239(a)) is amended in the first sentence by inserting "or to the loss of life involved in such casualty" after "of such casualty".

SEC. 21. Section 4450 of the Revised Statutes of the United States (46 U.S.C. 239) is amended—

(a) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively: and

(b) by inserting after subsection (i) the following new subsection:

"(j)(1) The Commandant of the Coast Guard shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives of any hearing involving the investigation of a major marine casualty involving loss of life under subsection (a) before such hearing occurs.

"(2) The Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives any information on major marine casualties which is requested to be submitted by either of the committees or the chairman of either of the committees if the submission of such information is not prohibited by any other statute of the United States.".

"SEC. 22. The Federal Boat Safety Act of 1971 (Public Law 92-75, 85 Stat. 213), as amended, is amended as follows:

(a) In section 25(a) following "the Secretary may" add "contract with, and";

(b) In section 26(a) following "promulgate, may" add "contract with, and";

(c) In section 26(b)(4) following the words "boating safety education program." insert the following: "His action in doing so shall be deemed a contractual obligation of the United States for payment of the proportional share of the cost of implementing that program.";

(d) In section 26(c)(2) following the words "Coastal Zone Management Act of 1972 (16 U.S.C. 1451-64)." insert the following: "His action in doing so shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing that program.";

(e) In section 26(d) following the words "funds appropriated for State recreational boating safety programs pursuant to section 30(a) of this Act." insert "Approval of those elements of a program shall be deemed a contractual obligation of the United States for payment of the proportional share of the cost of implementing State recreational boating safety programs pursuant to this Act."; and following the words "pursuant to section 30(b) of this Act." insert "Approval of those elements of a combined program shall be deemed a contractural obligation of the United States for the payment of the proportional share of the cost of implementing State recreational boating facilities improvement programs pursuant to this Act.";

(f) In the headnote to section 30, strike "of Appropriations" and insert "Contract Spending Authority";

(g) In section 30(a) following the word "programs," strike "there is authorized to be appropriated" and insert "the Secretary is authorized to expend"; and strike "such appropriations to remain available until expended," and insert "subject to such amounts as are provided in appropriations Acts for liquidation of contract authority, to remain available until expended. Any funds heretofore or hereafter authorized for any fiscal year for State recreational boating safety programs shall be deemed to have been expended if a sum equal to the total of the sums authorized for that fiscal year and previous fiscal years and including the fiscal year ending September 30, 1983, shall have been obligated. Any funds released by payment of final voucher or modification of program acceptance shall be credited to the balance of unobligated authorizations and shall be immediately available for expenditure."; and

(h) In section 30(b) following the word "programs," strike "there is authorized to be appropriated" and insert "the Secretary is authorized to expend"; and strike "such appropriations to remain available until expended." and insert "subject to such amounts as are provided in appropriations Acts for liquidation of contract authority, to remain available until expended. Any funds heretofore or hereafter authorized for any fiscal year for State recreational boating facilities improvement programs shall be deemed to have been expended if a sum equal to the total of the sums authorized for that fiscal year and previous fiscal years and including the fiscal year ending September 30, 1983, shall have been obligated. Any funds released by payment of final voucher or modification of program acceptance shall be credited to the balance of unobligated authorizations and shall be immediately available for expenditure.".

Mr. JONES of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDMENTS OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer amendments Nos. 1, 2, and 3, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. STUDDS: Page 15, line 2, strike out the period and insert in lieu thereof the following: ", and such additional amounts for each such fiscal year as may be necessary for increases in salary, pay, and other employee benefits authorized by law.".

Page 15, after line 17, add the following:

(5) For retired pay including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, such sums as may be necessary for fiscal years 1983 and 1984.

Page 25, line 10, strike out "(46 U.S.C. 391a)" and insert in lieu thereof "(46 U.S.C. 391a(19))".

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 1250

Mr. STUDDS. Mr. Chairman, these amendments are minor in substance. I do not believe they are controversial, but for the record I would like to explain them, since the reading was not concluded.

All three amendments were drafted in order to make H.R. 5617 somewhat more consistent with the Senate companion legislation, S. 2252, thereby facilitating chances for quick final approval of the bill. The three amendments are relatively minor in substance and should not be of significant controversy.

The first amendment, to page 15, would authorize the Coast Guard "such additional amounts" for 1983 and 1984 "as may be necessary for increases in salary, pay, and other employee benefits authorized by law."

The purpose of this amendment is to avoid a situation in which we have found ourselves both this year and in 1981. On each occasion, we have been forced to enact a separate supplemental authorization to accompany supplemental appropriations made available for increases in military pay. By including the language of the amendment, we will be providing automatic authorization for increased military compensation or other benefits provided by law. I want to emphasize that this amendment will not, in itself, lead to any increase in Government expenditures. Those increases will remain dependent on our action on appropriations bills, and on legislation altering the rates or terms of military pay. This amendment simply makes the language in our own authorization flexible enough to accommodate other actions which Congress may or may not take before the conclusion of the 1983 or 1984 fiscal years.

The second amendment, also to page 15, authorizes "such sums as may be necessary" for Coast Guard retired pay. Since the rates of retired pay are set by separate law, this language will not have any effect on the scope of Government obligations to retired Coast Guard personnel. The amendment is simply intended to correct an oversight and to make H.R. 5617 a somewhat more comprehensive authorization bill.

The third amendment is a purely technical amendment, to section 12 on page 25, and corrects an erroneous citation to the United States Code.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the amendments. I have no objection to the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts (Mr. STUDDS).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer amendment No. 4.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: Page 17, after line 18, add the following:

(d) Any authority to enter into contracts provided in this section shall be available only to the extent provided for in advance in an appropriations Act.

Mr. STUDDS. Mr. Chairman, this is a technical amendment which is simply designed to conform section 5 of H.R. 5617 to the requirements of section 401(a) of the Budget Act. Section 5, as it now reads, authorizes the Coast Guard to enter into contracts with the private sector for the maintenance and operation of aids to navigation. My amendment, the need for which was brought to our attention by the chairman of the Budget Committee, Mr. JONES, would make it clear that the Coast Guard is authorized under this section to enter into contracts only to the extent and during the period for which funds have been appropriated by the Congress.

Despite the fact that section 5 authorizes the Coast Guard to engage in contracting for aids to navigation, it is anticipated that this will be done as one part of the overall aids to navigation program. No separate line item in the budget for contracting carried our pursuant to section 5 will be necessary.

The amendment before us is completely consistent with the original intent of the committee; it is consistent with the policy which we would have expected the Coast Guard to adopt regardless of this amendment. The amendment does provide, however, the technical protection needed for compliance with the Budget Act, and I hope it will be adopted without controversy.

Mr. YOUNG of Alaska. Mr. Chairman, this side has no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. STUDDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer amendment No. 5.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: Page 32, beginning on line 14, strike everything through line 11 on page 35.

Mr. STUDDS. Mr. Chairman, this amendment, which is of interest I know particularly to the gentleman from Delaware (Mr. EVANS), would strike section 22. Section 22 was added to the bill during the full committee markup and it is a provision which—despite this amendment—I fully support.

The intent of section 22 was to facilitate the allocation of funds to State boating safety programs from the recreational boating safety and facilities improvement fund. In doing so, section 22 converts the grant authority which already exists in law into contract spending authority effective in fiscal year 1983. This language would essentially provide that money in the recreational boating fund be treated in the same manner as similar programs administered by the Federal Aviation Administration, and the Federal Highway Administration.

Unfortunately, the first budget resolution for fiscal year 1983 did not include an assumption that new contract spending authority of this nature would be created. In addition, the Merchant Marine and Fisheries Committee does not have the luxury of cutting other important programs in order to make $10 million or $20 million available for recreational boating safety. As a result, the procedure established by the budget resolution would likely lead to the deferred enrollment of H.R. 5617 once it has passed the House and the Senate but before it is sent on to the White House. Because I believe it is urgent that H.R. 5617 become law as quickly as possible, I am reluctantly offering this amendment to strike section 22 from the bill. It is my hope, despite this action, that we will be able to include funding for the recreational boating safety program at the time the appropriations bill is approved.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I would be happy to yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, I thank my friend, the gentleman from Massachusetts, for yielding. As the gentleman and my colleagues on the Subcommittee on Coast Guard and Navigation know, the gentleman from New York (Mr. BIAGGI) and I worked together to amend the Federal Boat Safety Act. I think our amendment made a great deal of sense. Those boating safety programs are important in saving lives and protecting property; but I do not want to do anything, of course, that would defer the enrollment here or would delay the passage of this bill, the signing of the bill into law; so I will certainly not oppose the gentleman's amendment, but I would like to have his assurances, and I think it is my understanding that he will move as expeditiously as possible in presenting our bill in another form through legislation to the Subcommittee on the Coast Guard.

Mr. STUDDS. The gentleman is correct. It is our intention to report out legislation having an identical effect at the next available opportunity later this month in a markup of the subcommittee.

Mr. EVANS of Delaware. I thank the gentleman.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the original purpose of this provision of the bill is to assure the funding of the safety and facility programs under the Fedreal Boat Safety Act. This was begun in an act passed last year which set up a trust fund derived from taxes paid by motorboat operators for their fuel. The taxes would be diverted from a more general trust fund into one specifically for use in boating-related programs. However, in implementing this the bureaucrats in the Office of Management and Budget have required a reduction in operating expenses of the Coast Guard in order to finance any program authorized by the Boating Trust Fund Act. Although funds are specifically set aside for this, the Coast Guard was forced to give up a part of its appropriations to carry out its search and rescue, law enforcement, and national defense functions in order to provide for the boating

safety and facilities program. This is just another example of budgetary restraint gone astray. It makes no sense that when specific funds are set aside for a specific purpose that an agency would have to give up its own appropriation just in the name of cutting the budget.

This amendment has been offered to correct this situation so that the Coast Guard would not have to give up its appropriations in the future. However, because this has been interpreted by the Budget Committee to be direct spending, the Budget Act requires us to allocate all such amounts in each athorization bill prior to enrolling a bill and sending it to the President for signature. Unfortunately, a provision which corrects a distortion in the budget process must be deleted so we may proceed in an orderly and timely fashion with the Coast Guard budget.

Reluctantly, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. STUDDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer the final amendment, amendment No. 6.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: Section 9(a) of H.R. 5617 is amended as follows:

On page 20, line 12, by deleting the period after the word "penalty" and inserting: "until the matter is referred to the Attorney General."

Section 9(b) of H.R. 5617 is amended as follows:

On page 21, line 17, by deleting the period after the word "penalty" and inserting: "until the matter is referred to the Attorney General.".

Section 9(c) of H.R. 5617 is amended as follows:

On page 22, line 17, by deleting the period after the word "penalty" and inserting: "until the matter is referred to the Attorney General.".

Section 9(d) of H.R. 5617 is amended as follows:

On page 23, line 17, by deleting the period after the word "penalty" and inserting: "until the matter is referred to the Attorney General.".

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, this is a technical amendment which has been requested by the Department of Justice, with the concurrence of the Department of Transportation.

The purpose of these amendments is to clarify that once a civil penalty is referred to the Attorney General for enforcement, the Attorney General has plenary authority to handle the litigation connected with the enforcement. These amendments permit the Secretary of Transportation to compromise or mitigate any civil penalty until the matter is referred to the Department of Justice for institution of legal action in the courts. At this point such authority will pass to the Attorney General. These amendments are fully consistent with the authority of the Attorney General in other civil penalty statutes.

Mr. YOUNG of Alaska. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. STUDDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOKS: Page 17, beginning on line 21, strike out all of section 7 through line 3 on page 18, and redesignate the succeeding sections (and any references thereto) accordingly.

□ 1300

Mr. BROOKS. Mr. Chairman, the amendment I am offering to H.R. 5617 would strike out section 7. That section would exempt the Coast Guard from the reporting requirements of the Presidential Protection Assistance Act.

To make clear why this exemption should not be allowed, it would be helpful to go back and look at why the reporting requirement was imposed in the first place. The Presidential Protection Assistance Act was the result of an investigation by the Government Operations Committee in the early 1970's of the expenditures the Government was making at President Nixon's private homes in Key Biscayne, Fla., and San Clemente, Calif. We discovered that these expenditures totaled $17 million, and that there was no legal authority for most of them, much less any management control over such disbursements.

In particular, the committee learned that at Key Biscayne the Coast Guard maintained a 24-hour-a-day, yearround patrol for over 4 years running up personnel costs of more than $1.9 million. At San Clemente, the Coast Guard had additional annual costs of some $90,000 per year.

One provision of the Presidential Protection Assistance Act requires agencies making expenditures for Presidential security at private residences to report to Congress semi-annually on such expenditures. The latest report submitted by the Coast Guard consisted of just five lines with one word and $1 amount per line. Mr. Chairman, not only does this suggest that the reporting requirement does not impose much of an administrative burden on the responsible agencies—it also indicates to me that the act, by bringing these expenditures out into the open and establishing accountabililty for such expenditures, is doing its job.

For these reasons, Mr. Chairman, I oppose section 7's exemption of the Coast Guard from the reporting requirement of the Presidential Protection Assistance Act, and I urge support for my amendment to strike section 7.

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the distinguished chairman of the committee.

Mr. JONES of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

This side of the aisle has examined the amendment, and we are in perfect agreement with it. We approve the amendment and have no objection whatsoever to it.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, this side has no objection to the amendment either. The hour is getting late.

Mr. BROOKS. I thank the gentleman very much.

Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BROOKS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EMERY

Mr. EMERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERY: Page 35, after line 11, add the following new section:

SEC. 23. It is the sense of the Congress that the President and the Coast Guard should give the search and rescue operations of the Coast Guard a high priority.

Mr. EMERY. Mr. Chairman, this is a very simple amendment.

Mr. Chairman, this is an amendment of a noncontroversial nature to offer today to H.R. 5617, the Coast Guard authorization bill. The amendment would merely express the sense of the Congress that the search and rescue (SAR) operations of the Coast Guard should be a top operational and budget priority. While this is a self-explanatory proposition, a little background is in order at this point.

In 1837, the Congress directed that "public vessels cruise upon the coast, in the severe portion of the season, to afford aid to distressed navigators." Thus, the Coast Guard's search and rescue mandate was established. Since then, the Coast Guard has acquired new equipment and expertise to deal with the growing SAR burden, which

now consists of about 80,000 rescues per year, with about 7,000 lives saved annually. To fulfill this mission, the world's largest SAR outfit now consists of 246 cutters, 2,100 smaller vessels, 55 planes, and 116 helicopters, with 90 new helicopters due to start delivery this year. However, the burden of the Coast Guard's other missions, drug interdiction and ELT, in particular, has drawn vital resources away from the SAR mission. With the passage of my amendment, Congress will have taken it upon itself to direct that the Coast Guard reaffirm its historic commitment to "afford aid to distressed navigators."

It is important to understand that Coast Guard resources which are pulled away for the performance of other missions, such as drug interdiction or the Cuban and Haitian refugee operations, leave critical gaps in the SAR capabilities of the Coast Guard. I am sure that every Member of this body, particularly those with coastal districts, would agree that no other agency of the Federal Government performs so many functions so effectively with such meager resources as the U.S. Coast Guard. However, it takes a little thinking to establish the necessary priorities which will make the Coast Guard's work a little more bearable. The Coast Guard is all things to all people, but it simply does not have the money to continue in this impossible role. What I am proposing with my amendment is that the search and rescue function of the Coast Guard be established as the highest priority of this service. Thus, when the choice is between saving lives, intercepting drugs, or turning back illegal refugees, the emphasis will be on saving lives. This is not to say that the other missions will be ignored, as they are very important, to be sure. However, the people of the coastal regions of this country need to know that, 24 hours a day, rain or shine, a Coast Guard vessel or aircraft will be available to preserve their lives and their businesses. This will not be the case if vessels and aircraft are diverted from, say the 1st Coast Guard District in New England to the 7th District in Florida, for the purpose of drug interdiction or refugee control. I would hope that my colleagues from Florida would agree that saving lives and property, whether in the South, the Northeast, or the Pacific Northwest, should be the primary function of the U.S. Coast Guard. This is a mandate that Congress established in 1837, and I am merely asking my colleagues to reaffirm Congress' commitment to this mandate in 1982.

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the chairman of the committee.

Mr. JONES of North Carolina. Mr. Chairman, I want to commend the gentleman for offering the amendment. This side of the aisle has no objection, and we concur in the gentleman's amendment.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman for offering this amendment. We believe it is adequate and important that the importance of the search and rescue be brought forth, and we support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. EMERY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EMERY

Mr. EMERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERY: Page 15, after line 17, insert the following new paragraph:

SEC. 24. Section 14 of the Act of December 19, 1981 (Public Law 97-136; 95 Stat. 1707), is amended by striking "and Charleston, South Carolina." and inserting in lieu thereof "Charleston, South Carolina; and Rockland, Maine.".

Mr. EMERY. Mr. Chairman, this amendment adds the city of Rockland, Maine, to the list of cities where temporary high season Coast Guard deployments will be made.

Last year, in the fiscal year 1982 Coast Guard authorization bill, the cities of Newport, Oreg., Cordova, Alaska, and Charleston, S.C., were listed as cities where the Coast Guard would deploy at least one search and rescue helicopter during the peak boating season, when the level of distress calls is the greatest.

In addition, each of the temporary deployments would be evaluated to determine whether or not a permanent deployment is justified, based on the number and character of the distress calls during the seasonal deployment.

For several years now, the Maine congressional delegation has been trying to gain approval for the funds necessary to establish a Coast Guard helicopter station on the Maine coast.

Maine had previously had the benefit of temporary deployment during peak periods; but in recent years there have been no Coast Guard helicopter deployments at all except for the helicopter that stands by to provide emergency assistance to Vice President BUSH when he is staying at his home in Kennebunkport, Maine.

I understand entirely the consideration of costs involved in the establishment of a permanent Coast Guard helicopter station. But on the other hand, I wonder if any Member of this body is prepared or has had the experience of having had to tell a grieving constituent who has lost a friend or relative in the water that help was simply too expensive to provide.

This, in fact, is the situation that I have had to face on several occasions. Let me tell you it is a very unpleasant task, indeed.

To understand Maine's plight, a little background is in order.

The closest helicopter SAR station to Maine is located on Cape Cod. It is a very well-equipped station boasting six helicopters of the H-3 and H-52 varieties, making Cape Cod one of only two Coast Guard air stations to deploy both types of helicopters.

Like all Coast Guard facilities, it is understaffed and overworked, and the men and women who work there do the best they can with what they have. Unfortunately for Maine, it takes between 1 and 2 hours for a helicopter from the Cape to reach most points on the Maine coast. For the Members who think that Maine waters might be a little chilly in the summertime, I need not add that these waters drop to lethal temperatures during the winter months. An unprotected fisherman or lobsterman is lucky to last 15 minutes, let alone 1 or 2 hours, in the water waiting for a rescue helicopter to arrive from the cape. A helicopter is simply the only way to make the difference between life and death in many search and rescue situations.

In the absence of adequate helicopter search and rescue coverage, Mainers have had to make do. The Brunswick Naval Air Station provides very limited coverage with its only UH-1N helicopter. The Maine Air National Guard provides backup assistance with its helicopters based inland at Bangor International Airport, a long distance from the coast.

The Maine fishing community, which is so well versed in the ways of the sea and the confusing geography of the coast, provides whatever assistance it can in time of emergency. However, none of these elements have or should have search and rescue as their primary responsibility.

Mainers pay their fair share of Federal taxes and fees which fund the operations of the U.S. Coast Guard, but they are paying with their lives for the inability of the Coast Guard and the unwillingness of the Congress to establish a Coast Guard helicopter search and rescue facility on the Maine coast.

My amendment would simply provide for a midcoast Maine helicopter deployment, in the city of Rockland, for the summer months. I am sure that this helicopter crew will have its hands full with the many thousands of summer boaters who flock to Maine in all manner of power and sail. I am certain that the data assembled from such a deployment will justify a permanent facility on the coast.

As an addendum, Mr. Chairman, let me add that I am not interested in taking Coast Guard helicopters from one facility in order to put them in an-

other. I am interested in proving once and for all to the Coast Guard that it is necessary, that the 2,500 miles of Maine coastline, if you should stretch it all out, is indeed a very treacherous area in the wintertime during high seas and adverse weather conditions; and the establishment of a search and rescue facility would probably be the greatest boon to the Maine fishing industry and to people who spend their time on the sea as any that I can envision.

Mr. JONES of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we fully sympathize with the purpose of the amendment and we would like to be able to support it. We do not question the need for a greater Coast Guard search and rescue capability in northern New England, but we cannot support any amendments to the bill which would establish additional Coast Guard facilities in any part of the country unless we are certain that appropriations will be available to finance such facilities.

In addition, we generally seek to avoid usurping the Coast Guard's responsibility to allocate as efficiently as possible the resources which the service does have available.

Once we begin adding language such as this to a Coast Guard authorization bill, we will never be able to put an end to it.

I doubt that there are very many Members of this body with coastal districts who lack the imagination necessary to propose the addition of a Coast Guard facility of one type or another in their part of the country and I expect in many instances they would be able to demonstrate the need for such a facility.

On a more personal note, as chairman of the Committee on Merchant Marine and Fisheries, during this attack on the Coast Guard by the administration I have lost one search and rescue station. I have been the victim of reduced aircraft at Elizabeth City Coast Guard Base, all of which I had to accept in good graces because the money, I was convinced, was simply not there.

So therefore, despite the good intentions which prompted this amendment, we must reluctantly oppose it.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this amendment adds to a list of sites that were designated in last year's Coast Guard authorization bill for the deployment of a helicopter for search and rescue. These deployments are done on a temporary basis and during the seasons when the SAR demand is at its height. This arrangement has been employed in Cordova and serves as the basis for determining the need for additional permanent resources as well as responding to the search and rescue need.

Mr. Chairman, I want to compliment the gentleman from Maine, who is very, very much aware of the problems that face his fishermen and boatmen, as well as those in other areas of the United States. Again, I want to stress that this is temporary. It is one way we can base the real true need on the search and rescue mission to be established on the coast of Maine.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I would be glad to yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I think the gentleman's statement is very appropriate, and I appreciate his support. It is a temporary deployment. I want to stress one of the problems we have had in trying to deal with this issue in Maine has been the fact that the Coast Guard has said, in my opinion rather arbitrarily, that they do not have the statistical base to justify a deployment.

□ 1310

The gentleman has had exactly the same problem in Alaska. For years, he went without any temporary deployment, and certainly without affirmative deployment at Cordova. One of the ways to determine whether in fact a full facility is justifiable is to have a temporary deployment so that the statistics can be gathered to determine who responds and whether or not it makes a difference.

I think that this is a rather direct and inexpensive way for us to prove once and for all whether or not permanent deployment of a helicopter on the Maine coast is desirable and justifiable. Certainly if the statistics should come back to indicate that no one used it or it was not necessary, I would have to take the same position as the gentleman from North Carolina, who probably did not care for the reduction of the facility in his district either. But, this is a situation that I think will be borne out by the facts, and we can take a look at the statistics of deaths and drownings and near-disasters over the last 10 years and project how many people might have survived had this facility been in existence. So, I would simply repeat, it is a temporary deployment to help to solve a very painful problem we have in Maine.

I would also repeat that it is not my interest to take helicopters or other facilities from the gentleman from Massachusetts, in whose territory the Cape Cod facility exists. In fact, I would hope that in the future we would be able to provide additional helicopters and additional service vessels, and generally more effective network for search and rescue.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to comment on the gentleman's statement. What we have to look at is determining the need, and I know the committee and the staff is looking at alternative ways of establishing search and rescue units in areas once we determine what that need is. There is a possibility, of course, of contracting out search and rescue, the possibility of States being involved, or joint venturing or granting programs, where it would not have the high overhead cost of the permanent establishment of a unit. So, I think we have to look at this, through that effort of having a temporary established helicopter we would establish what the true need is.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The gentleman from Maine knows full well with what degree of reluctance I rise in opposition to this amendment. After all, I think I am one of the few Members of the House who can understand the gentleman's accent to begin with, and we are certainly among the few Members of the House that can speak in some sophisticated detail about the fishery resources of the northwest Atlantic, and we understand a lot of things, among them being the very real need of the facility pointed out by the gentleman in offering this amendment.

There is no question, Mr. Chairman, that the facilities for search and rescue on the coast of Maine are inadequate. Unfortunately, that is true of a great many other areas of the country as well. It is also true that all of us have had to go through the kind of miserable experience cited by the gentleman from Maine in dealing with the surviving families of those lost who might well, in many instances, not have been lost had this Government been a little more understanding about the importance of the Coast Guard and adequate funding thereof.

I would point out to the Members of the Committee, however, that the Coast Guard tells us that even if they were to be directed by law to begin a facility in Maine, it would require simply not one helicopter, but probably three to operate in a really effective, around-the-clock manner. The Coast Guard, as the gentleman knows, does not have one extra helicopter, much less three, at this point.

Let me say to the gentleman that I think he knows the intensity of my feelings on this subject. I will do all I can in the future to see to it that not only in the situation of Maine itself, but of the enormous Alaska coast, which is inadequately served as well, that we are able to come up with facilities which are, in the context of the Federal budget, after all, practically unlocatable in terms of the miniscule amount of funds in question, to do the kind of things that really should not

be the cause of any debate on this floor. If we were not operating under the straightjacket under which we find ourselves because of the budget resolution, I would be fighting strongly for the gentleman's amendment and for the additional funds to make that facility possible.

As the gentleman knows, those restraints have been imposed upon ourselves by actions of this body and of the other and by the administration, and we do not have the flexibility to accommodate the request of the gentleman in the budget as it now stands. I wish that we did, and I hope the time will come when the Office of Management and Budget is not in the hands of those who would attempt allocate a dollar figure to the value of human life.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I Yield.

Mr. EMERY. Mr. Chairman, I thank the gentleman, and regardless of the fate of this particular amendment I think that debate points clearly to a much broader problem that the gentleman and I have faced at firsthand, and that I suspect many of our colleagues on the coasts have faced all across the country. I would hope that, these particular budget problems notwithstanding, in committee and in the appropriation process and through the next several years, we might be able to rekindle the sagging support for the Coast Guard, whether it is in this branch or the executive branch so that we can more clearly delineate the needs and the reasons for the Coast Guard's existence. That, of course, is going to be a big job, and I want to commend the gentleman from Massachusetts and my colleague from Alaska for the work that they have done to help to get this authorization bill, which has been an ambitious project, to try to provide the money necessary for maintaining at least the status quo, maintaining the commitment to manpower, maintaining the commitment to new vessels and equipment, providing some guideline for the operation of the Coast Guard in this and other important areas.

So, I would hope that we might make a new beginning during the next several years to provide the Coast Guard with the manpower and the services—and let us face it, the national respect—that is so well-earned among fishermen and boaters.

I thank the gentleman.

Mr. STUDDS. I thank the gentleman. Although the circumstances, as I said, have compelled me to rise in opposition to the amendment, I hope the time will come soon when those members of the committee who think all Federal spending is unpopular will realize that that is not the case. The proposition that dollars ought reasonably and humanely be expended for the acquisition of helicopters, for example, whose principal mission is the saving of human life, is an altogether defensible and enormously popular proposition.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. EMERY).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 35, after line 11, insert the following new secton:

SEC. 23. No funds appropriated or authorized under this act shall be expended in violation of section 7 of Public Law 95-435.

Mr. WALKER. Mr. Chairman, the language of this amendment is not language which should be unfamiliar to the Members of the House by this point. This language relates to the balanced budget law that this House passed some years ago, and has at least on two occasions renewed its commitment to.

I think that it is important to recognize that that is fundamental to what this gentleman stands here doing today, because in all honesty I happen to think the Coast Guard does deserve a little bit more in the way of attention than we have been giving it in this House, or the administration has been giving it. But I think it is well to point out that what we have also done in this Congress on at least three occasions, has said that we are committed to a balanced budget, and we passed a law to that extent.

What I have been doing day after day over some weeks on the House floor is pointing out, hopefully, to Members of Congress that we are indeed responsible for that law that we passed. If we do not like the law, then I would say to the Members who want to vote against that law, come out and repeal it, but I think it is disgusting that this House time and again says, "Sure, we passed a law, and sure, we go back to our districts and take credit for having that law and doing something in favor of a balanced budget, but we really don't want to comply with it."

□ 1320

Well, I am trying to say time and again that when we are authorizing money, when we are appropriating money, we should pay some attention to some of the things that we do with regard to balanced budgets, and if we are in fact going to ignore the law, then I think it ought to be somewhat painful to continue to ignore that law.

What this means really, Mr. Chairman, is that we need the constitutional amendment that is being debated in the other body because it is apparent in vote after vote on this House floor that we are not willing to do what the law says we should do.

I wonder how often we would permit this House to go on record as ignoring other laws. What if, for instance, we decided in the course of an authorization process to say that we are just going to blithely ignore the War Powers Act or something like that? Why is one law more important than other laws?

I say to my colleagues in this House that it is extremely important that we recognize that this law is on the books, and all this gentleman is attempting to do is to say that that law should not be ignored.

Let me make one other point about the action I am taking here. The amendment does not say that we are going to take money away from the Coast Guard. It does not say in any bill that we bring up to which I tried to attach this amendment that we are going to take the money away from that particular entity. What it is saying is that the money can be spent—and indeed it can be spent—but it has to be spent under the provisions of the law.

I think that is an entirely responsible position. It is one that has gotten lost in some of the arguments around here. This is not a no-spending vote. It is a no-spending vote within the context of a balanced budget.

I hope that as we consider the issue now and as we continue, as we will, I assure the Members, to consider this issue, we recognize the fact that each time we cast a vote of no on this amendment, what we are saying is that the law could be ignored because we really did not mean what we said; we are not really for a balanced budget, we just say that we are for a balanced budget.

Mr. JONES of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

We have, of course, heard the argument of the distinguished gentleman from Pennsylvania (Mr. WALKER) almost daily and sometimes twice daily in the last few days, and we are very familiar with it. It is a very valid argument. Let me say that sometimes I am tempted to vote with the gentleman—but not too much.

In this case the situation is slightly different. I am sure that we hear that said everytime a chairman gets up and says that his case is a little different than someone else's case. But this time it is entirely true, because while we implement the law, as the gentleman referred to it—and properly so—how do we explain that to those people in capsized boats who are about to drown? How are we going to explain that we are waiting to implement the law to which the gentleman referred while the illegal drugs pour in unmolested and unattacked? How are we

going to explain this to the parents and relatives of those who might be potentially lost at sea while the planes and helicopters fly around in search and rescue? How are we going to explain to them that this cannot be done because we are waiting to comply with the public law the gentleman referred to? So I say to the Members of the House and the committee that as much as I somewhat concur in the gentleman's philosophy, let us not be misled on this amendment. We voted this amendment down several times in the past few days, and truly if there is a place where the amendment deserves to be voted down, this is truly the proper place.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I want to commend the gentleman from Pennsylvania (Mr. WALKER) for his philosphy, and I believe that at the appropriate time we should vote on the balanced budget and let the people of America speak. But again, let me say that we also have to follow as a body the laws that we have charged the Coast Guard to implement without proper funding over the past 10 years.

The Coast Guard initially, when it was only involved in navigational aids and when it was only involved in search and rescue, was adequately funded, but we in our great wisdom decided to pass many laws through the committee on which I serve, and the Coast Guard was not adequately funded to fulfill its responsibilities.

We talk about balancing the budget. There is a $180 billion illegal drug traffic in the United States, a multibillion-dollar traffic that the Coast Guard has been charged to intercede and to stop. They have been charged with oil spill liability under the FWPCA, they have been charged with the inspection of vessels, and they have been charged with intercepting the refugees who are invading this country by the millions. We have not funded them adequately.

We are now trying to give the authorization to the Appropriations Committee and to this administration to properly fund an arm of this Government that has been charged with responsibilities and that we have never adequately funded. I believe the gentleman's amendment would destroy the capability of the Coast Guard of ever fulfilling those charges we have given to them.

So, Mr. Chairman, I strongly oppose this amendment and urge that we vote it down.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am tempted to support the amendment. I think the consequences of its being enacted into law would be salutary in the extreme, and I would ask the Members to contemplate the consequences of its being enacted into law, particularly those who are tempted to support a constitutional amendment to balance the budget and those who feel constrained from time to time to support these amendments offered regularly by the gentleman from Pennsylvania.

Contemplate this for example. Imagine yourself the master or the captain of a Coast Guard vessel as you are approaching full steam a sinking fishing boat. I would assume that immediately prior to the decision as to whether or not to put over a raft or to throw a life ring, a telegram would have to go to the Office of Management and Budget: "About to rescue crew. Is budget in balance?"

The answer would come back: "Regret inform you budget still imbalanced."

And then I assume a message would go the fishing vessel: "Sorry. Could you please arrange to sink at a later time when we might have the budget in balance?"

I would assume that we have all heard some expression of concern about seasonal aids to navigation. I do not know if the gentleman knows it in Pennsylvania, but in many areas of the country seasonal recreational boating aids to navigation are put into the water in the spring and pulled out in the fall. Imagine the surprise of some of the Members around here to find spring coming around and to be informed that because the budget was not yet in balance that there would be no marking whatever of any kind for their channels, for their ledges or for their sandbars.

Imagine the surprise of the Vice President of the gentleman's own party the next time he gives a speech in Miami about the importance of interdicting illicit narcotics. I guess the Coast Guard would simply have to put up a sign on its vessels and helicopters saying, "Sorry." Drug smugglers may use any of these above routes because the budget is not in balance.

And I would assume that the vessels of Haitians would come in, and perhaps Mr. Castro would open the jails of Cuba, if anybody is left in them, and the Coast Guard would simply roll out the welcome mat and say, "We would like to stop you, but unfortunately our budget is not yet balanced."

We could find a number of different ways to say this in foreign languages, to the Russian trawlers that would love to come back into the waters of the gentleman from Maine, the gentleman from Massachusetts, and the gentleman from Alaska and others, saying, "Come right ahead" in a variety of languages, "we can't stop you. Our budget is not balanced yet."

I really believe that the one thing that might put an end to the continued offering of these amendments is for us to enact one of them into law, and if I were not so worried about the consequences, I would actually support the amendment.

Under the circumstances, however, I reluctantly find myself constrained to oppose the amendment, and I urge its defeat.

Mr. WEBER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 5617, because this authorization will have significant effects on the safety of boaters—both commercial and for pleasure—on the Great Lakes and other coastal ranges of the Nation; and because I believe the Coast Guard has already demonstrated its ability to function on a lean budget and must not be penalized for its efficiency by taking further reductions.

My Ninth District of Ohio is at the western end of Lake Erie. It includes or is adjacent to the best walleye fishing to be found anywhere in North America. Sport fishing in the waters of Lake Erie has become a multimillion-dollar business to the charter boat captains, the suppliers of tackle and bait, the boatbuilders and boat dealers, and the marina operators.

Every weekend—in fact every day—during the boating season thousands of fishing craft go out from the docks and harbors along Lake Erie—and they go out and catch their limit almost without fail!

At the same time thousands of sailors race competitively or cruise at leisure on Lake Erie in their sailboats.

All of which is to lead up to the events of last winter when operations at the Bay View station on Lake Erie were threatened along with the possible closing of other stations on the Great Lakes.

Mr. Chairman, the closing down or reduction of operations on Lake Erie at a time of unprecedented increases in use of the lake would jeopardize the lives of those who use this lake—a lake fraught with danger from Lake Erie's well-known propensity for sudden storms, squalls that can turn the relatively shallow waters into a raging sea with little warning and little time in which to seek refuge. Unfortunately all who boat on Lake Erie are not as experienced or well-equipped as we would wish.

At such times we need the search and rescue capabilities of an adequately staffed and sufficiently equipped Coast Guard, to save a family in a capsized boat, or tow a boater who has run out of gas trying to make it back to shore in the face of wind and wave, or to locate the hapless sailor whose

boat has been blown far off course and may be in danger of going down.

It is not just Lake Erie. It is a similar consideration for wherever the Coast Guard is expected to carry out its mission, that requires my support for this authorization. The Coast Guard serves as an example of an agency that has done its best with the funds it has been provided. We should authorize these new funds so that the Coast Guard can continue to fulfill its role as the protector of those who use its navigable waters.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I very much share the opinion just put forth by the gentleman from Massachusetts (Mr. STUDDS), but I do think that we have a very basic issue here.

As I have looked over the record of the last several months and seen the number of times we have both discussed and voted on this issue and the dollars and the time that we have wasted, after it has been made very plain that this issue has been voted down repeatedly as many times as it has been offered, I wonder whether we are in truth doing something to help hold down the expenses of this particular budget by repeatedly bringing up this particular vote and going through all the motions and all the work that has to be done every time a vote is passed in this House.

I think the Member offering this really ought to consider that. While I guess talk is cheap and we can talk about the issue, getting votes on this issue every time, I think, really becomes counterproductive.

On the total issue, let me state that I had a very interesting discussion with a gentleman this past weekend who said to me, "You know, you fellows ought to vote for a balanced budget down there, and you ought to live by it." He said, "I would like to see one this year."

I said, "Well, so would I, but perhaps you would like to outline to me what it is that we are going to cut out of all the deficits that we have. Which programs are we going to start on? Should we start with the senior citizens and then go to the students and then go to job programs further and eliminate what is left of housing?"

□ 1330

Where are we going to get this money to have the balanced budget?

I said, "How about going to taxes and deferring this tax cut that we have got coming up?"

He said, "Well, that is the thing we elect you fellows to Congress for. You are supposed to decide where to cut all of those programs."

I said, "Well, I just do not happen to believe that a balanced budget is absolutely vital to this country because for many, many, many years we have survived very well. In fact, we have prospered with a budget that has been absolutely out of balance."

Of course, I must admit I never contemplated a budget being out of balance to the tune of $100 billion plus which seems to be the stand that this administration takes.

I am sort of surprised to see this administration, who ran on the basis of a balanced budget, just 2 months ago say that it really was not that important in the economy in our country today that we have a balanced budget this year and that the deficit really is not that important, and then just 3 or 4 weeks later the same person, who happened to be the President of the United States, comes out and supports a balanced budget.

I do not know which way the President or many of my colleagues in this House are going. But I would be very pleased to see a list, sort of a laundry list of all of the items those who are supporting this balanced budget want to cut this year.

Let us get that list out before the elections so that everybody knows what we are really talking about. At that time we can give serious consideration instead of trying to fool the public to vote on a balanced budget.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The amendment was rejected.

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MOAKLEY) having assumed the chair, Mr. NELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5617) to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes, pursuant to House Resolution 520, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STUDDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 348, nays 25, not voting 61, as follows:

[Roll No. 187]

YEAS—348

Addabbo	Daniel, R. W.	Gradison
Akaka	Daschle	Gray
Albosta	Davis	Green
Alexander	de la Garza	Gregg
Anderson	Dellums	Grisham
Andrews	DeNardis	Guarini
Annunzio	Derrick	Hall (OH)
Anthony	Derwinski	Hall, Ralph
Applegate	Dickinson	Hall, Sam
Archer	Dicks	Hamilton
Aspin	Dingell	Hammerschmidt
Atkinson	Dixon	Hance
AuCoin	Donnelly	Hansen (ID)
Bafalis	Dorgan	Harkin
Bailey (PA)	Dornan	Hartnett
Barnard	Dougherty	Hatcher
Bedell	Dowdy	Hawkins
Beilenson	Downey	Heftel
Benedict	Dreier	Hendon
Benjamin	Duncan	Hertel
Bennett	Dwyer	Hightower
Bethune	Dymally	Hollenbeck
Bevill	Dyson	Holt
Bingham	Early	Horton
Bliley	Eckart	Howard
Boggs	Edgar	Hoyer
Bolling	Edwards (AL)	Huckaby
Boner	Edwards (CA)	Hughes
Bonior	Emery	Hunter
Bonker	Erdahl	Hutto
Bouquard	Erlenborn	Hyde
Brinkley	Evans (DE)	Ireland
Brodhead	Evans (GA)	Jacobs
Brooks	Fary	Jeffries
Broomfield	Fascell	Jenkins
Brown (CA)	Fenwick	Johnston
Broyhill	Ferraro	Jones (NC)
Burgener	Fiedler	Jones (OK)
Burton, John	Fields	Kastenmeier
Burton, Phillip	Fish	Kazen
Butler	Fithian	Kemp
Byron	Flippo	Kennelly
Campbell	Florio	Kildee
Carman	Foglietta	Kindness
Carney	Foley	Kogovsek
Chappell	Ford (MI)	LaFalce
Chisholm	Ford (TN)	Lagomarsino
Clausen	Forsythe	Lantos
Clay	Fountain	Leach
Clinger	Fowler	Leath
Coats	Frank	LeBoutillier
Collins (IL)	Frost	Lee
Conte	Garcia	Lehman
Corcoran	Gaydos	Leland
Coughlin	Gejdenson	Lent
Courter	Gephardt	Levitas
Coyne, James	Gibbons	Lewis
Coyne, William	Gilman	Livingston
Crane, Daniel	Gingrich	Loeffler
Crane, Philip	Glickman	Long (LA)
Crockett	Gonzalez	Long (MD)
D'Amours	Goodling	Lowery (CA)
Daniel, Dan	Gore	Lowry (WA)

Luken	Patman	Smith (NJ)
Lundine	Patterson	Smith (PA)
Lungren	Pease	Snowe
Markey	Pepper	Snyder
Marriott	Perkins	Solarz
Martin (NC)	Peyser	Spence
Martin (NY)	Pickle	St Germain
Martinez	Porter	Stangeland
Matsui	Price	Stanton
Mattox	Pritchard	Stark
Mavroules	Pursell	Staton
Mazzoli	Quillen	Stenholm
McClory	Rahall	Stokes
McCollum	Rangel	Stratton
McCurdy	Ratchford	Studds
McDade	Regula	Swift
McDonald	Reuss	Synar
McEwen	Rhodes	Tauke
McGrath	Richmond	Tauzin
McHugh	Rinaldo	Taylor
McKinney	Ritter	Traxler
Mica	Robinson	Udall
Mikulski	Rodino	Vander Jagt
Miller (OH)	Roe	Vento
Mineta	Roemer	Walgren
Minish	Rogers	Wampler
Mitchell (MD)	Rose	Washington
Moakley	Rosenthal	Watkins
Molinari	Rostenkowski	Waxman
Mollohan	Roth	Weaver
Montgomery	Roukema	Weber (OH)
Moore	Rousselot	Weiss
Moorhead	Roybal	White
Morrison	Rudd	Whitehurst
Mottl	Sabo	Whitley
Murphy	Santini	Whittaker
Murtha	Sawyer	Whitten
Myers	Schneider	Williams (MT)
Napier	Schulze	Williams (OH)
Natcher	Schumer	Winn
Neal	Seiberling	Wirth
Nelligan	Sensenbrenner	Wolf
Nelson	Shamansky	Wolpe
Nichols	Shannon	Wortley
Nowak	Sharp	Wright
O'Brien	Shaw	Wyden
Oakar	Shelby	Wylie
Oberstar	Shumway	Yates
Obey	Shuster	Yatron
Ottinger	Simon	Young (AK)
Oxley	Skelton	Young (FL)
Panetta	Smith (AL)	Zablocki
Parris	Smith (IA)	Zeferetti

NAYS—25

Ashbrook	Dannemeyer	Martin (IL)
Badham	Daub	Paul
Bailey (MO)	Dunn	Schroeder
Bereuter	Frenzel	Smith (NE)
Brown (CO)	Gramm	Volkmer
Cheney	Hansen (UT)	Walker
Collins (TX)	Hiler	Weber (MN)
Conable	Kramer	
Craig	Lujan	

NOT VOTING—61

Barnes	Fuqua	Mitchell (NY)
Beard	Ginn	Moffett
Biaggi	Goldwater	Pashayan
Blanchard	Gunderson	Petri
Boland	Hagedorn	Railsback
Bowen	Heckler	Roberts (KS)
Breaux	Hefner	Roberts (SD)
Brown (OH)	Hillis	Russo
Chappie	Holland	Savage
Coelho	Hopkins	Scheuer
Coleman	Hubbard	Siljander
Conyers	Jeffords	Skeen
Deckard	Jones (TN)	Smith (OR)
Edwards (OK)	Latta	Solomon
Emerson	Lott	Stump
English	Madigan	Thomas
Ertel	Marks	Trible
Evans (IA)	Marlenee	Wilson
Evans (IN)	McCloskey	Young (MO)
Fazio	Michel	
Findley	Miller (CA)	

□ 1350

Mr. CRAIG changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. JONES of North Carolina. Mr. Speaker, pursuant to the provisions of House Resolution 520, I call up from the Speaker's table the Senate bill (S. 2252) to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. JONES of North Carolina moves to strike all after the enacting clause of the Senate bill, S. 2252, and to insert in lieu thereof the provisions contained in the bill, H.R. 5617 as passed, as follows:

That this Act may be cited as the "Coast Guard Authorization Act of 1982".

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1983 and 1984 as follows:

(1) For the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction, $1,842,000,000 for fiscal year 1983 and $2,026,000,000 for fiscal year 1984, and such additional amounts for each such fiscal year as may be necessary for increases in salary, pay, and other employee benefits authorized by law.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $670,000,000 for fiscal year 1983 and $700,000,000 for fiscal year 1984.

(3) For research, development, test, and evaluation, $30,000,000 for fiscal year 1983 and $33,000,000 for fiscal year 1984, of which sufficient funds shall be made available to continue in operation a Coast Guard research and development center through the end of fiscal year 1984.

(4) For the alteration or removal of bridges over navigable waters of the United States, constituing obstructions to navigation, $12,700,000, for fiscal year 1983.

(5) For retired pay including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, such sums as may be necessary for fiscal years 1983 and 1984.

SEC. 3. For fiscal years 1983 and 1984, the Coast Guard is authorized an end-of-year strength for active duty personnel of forty-one thousand five hundred. This end-of-year strength shall not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

SEC. 4. For fiscal years 1983 and 1984, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, three thousand six hundred and sixty student-years.

(2) For flight training, one hundred and eighteen student-years.

(3) For professional training in military and civilian institutions, six hundred and fifty-five student-years.

(4) For officer acquisition, one thousand thirty-eight student-years.

SEC. 5. (a) Section 81 of title 14, United States Code, is amended by adding at the end thereof the following: "The Coast Guard may establish, maintain, and operate aids to maritime navigation under paragraph (1) of this section by contract with any person, public body, or instrumentality.".

(b) It is the sense of Congress that the establishment, maintenance, and operation of maritime aids to navigation on the inland waterways of the United States can be accomplished by civilian employees of the Coast Guard more effectively than by military members of the Coast Guard. Accordingly, Congress recommends that the Coast Guard increase significantly the ratio of civilian to military employees assigned to these tasks.

(c) Not later than one year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating—

(1) the exercise by contract of the authority of the Coast Guard under section 81 of title 14, United States Code, to establish, maintain, and operate aids to navigation, including a discussion of any problems involved in exercising such authority by contract, the reasons for exercising or failing to exercise such authority by contract in particular areas, and the feasibility of expanding the exercise of such authority by contract; and

(2) the advantages and disadvantages of increasing the ratio of civilian to military employees assigned to the establishment, maintenance, and operation of aids to navigation on the inland waterways of the United States.

(d) Any authority to enter into contracts provided in this section shall be available only to the extent provided for in advance in an appropriations Act.

SEC. 6. Subsections (e) and (f) of section 475 of title 14, United States Code, are repealed.

SEC. 7. (a) Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) is amended by adding at the end thereof the following: "This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(b) Section 9 of the Act of March 3, 1899, entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" (33 U.S.C. 401) is amended by adding at the end thereof the following: "The approval required by this section of the location and plans or any modification of plans of any bridge or causeway shall not apply to any bridge or causeway over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(c) The first section of the Act of March 23, 1906, entitled "An Act to regulate the construction of bridges over navigable waters" (33 U.S.C. 491) is amended by adding at the end thereof the following:

"This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

SEC. 8. (a) Section 5 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted August 18, 1894 (33 U.S.C. 499; 28 Stat. 362), is amended—

(1) by inserting "(a)" after "SEC. 5.";

(2) by striking out "or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given," in the second sentence;

(3) by striking out "section" and inserting in lieu thereof "subsection";

(4) by striking out "any violation" and inserting in lieu thereof "any willful violation"; and

(5) by adding at the end thereof the following new subsections:

"(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of Transportation shall issue rules and regulations to implement this subsection.

"(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(b) Section 18 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted March 3, 1899 (30 Stat. 1153; 33 U.S.C. 502), is amended by inserting "(a)" after "Sec. 18.", by striking out "Secretary of War" wherever it appears and inserting in lieu thereof "Secretary of Transportation", by striking out "recommended by the Chief of Engineers", and by adding at the end thereof the following new subsections:

"(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

"(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(c) Section 5 of the Act entitled "An Act to regulate the construction of bridges over navigable waters", enacted March 23, 1906 (33 U.S.C. 495; 34 Stat. 85), is amended—

(1) by inserting "(a)" after "SEC. 5.";

(2) by striking out "who shall fail" and inserting in lieu thereof "who shall willfully fail";

(3) by striking out "shall be deemed guilty of a violation of this Act, and any persons who shall be guilty of a violation of this Act"; and

(4) by adding at the end thereof the following new subsection:

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(d) Section 510 of the General Bridge Act of 1946 (60 Stat. 847; 33 U.S.C. 533) is amended—

(1) by inserting "(a)" after "SEC. 510.";

(2) by striking out "who fails" each place it appears and inserting in lieu thereof "who willfully fails", by striking out "who refuses" and inserting in lieu thereof "who willfully refuses", and by striking out "otherwise violates" and inserting in lieu thereof "otherwise willfully violates"; and

(3) by adding at the end thereof the following new subsection:

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

SEC. 9. The Act entitled "An Act to constitute a Bureau of Navigation in the Treasury Department", enacted July 5, 1884 (23 Stat. 118), is amended by adding at the end of section 8 (as added by section 9 of Public Law 97-136) the following new subsection:

"(d) In any case in which an inspection or examination is delegated under subsection (a) to the American Bureau of Shipping, or similar American classification society, or agent thereof, such Bureau, society, or agent, as the case may be, shall maintain within the United States complete files of all information derived from or necessarily connected with such inspection or examination for not less than two years after the vessel with respect to which the inspection or examination is made ceases to be certificated and shall permit access to such files at all reasonable times to any member of the Coast Guard designated as a marine inspector or designated in writing by the Commandant of the Coast Guard.".

SEC. 10. Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) is amended by striking out paragraph (11) and inserting in lieu thereof the following:

"(11) PERSONNEL AND MANNING STANDARDS FOR FOREIGN VESSELS.—The Secretary shall—

"(A) periodically evaluate the manning, training, qualification, and watchkeeping standards promulgated by the certificating state of any foreign vessel which operates on or enters the navigable waters of the United States, and transfers oil or hazardous materials in any port or place under the jurisdiction of the United States; and

"(B) determine, after each evaluation made under clause (A), whether the foreign state, whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States.".

SEC. 11. Section 4417a(19) of the Revised Statutes of the United States (46 U.S.C. 391a(19)) is repealed.

SEC. 12. (a) Section 34 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1483) is amended by striking out "$1,000" and inserting in lieu thereof "$5,000".

(b) Section 35(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1484(b)) is amended by striking out "$500" and inserting in lieu thereof "$1,000".

SEC. 13. The Commandant of the Coast Guard shall review Coast Guard policies and procedures for towing and salvage of disabled vessels in order to further minimize the possibility of Coast Guard competition or interference with private towing activities or other commercial enterprise.

SEC. 14. Notwithstanding any other provision of law, the number of full-time civilian employees of the Coast Guard shall be maintained at a level not less than five thousand four hundred and eighty-four throughout fiscal years 1983 and 1984.

SEC. 15. (a)(1) Chapter 3 of title 14, United States Code, is amended by adding at the end thereof the following new section:

"§ 52. Vice admirals continuity of grade

"The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral.".

(2) The analysis of chapter 3 of title 14, United States Code, is amended by adding the following new item after the item relating to section 51:

"52. Vice admirals, continuity of grade.".

(b)(1) Section 368 of title 14, United States Code, is repealed.

(2) The analysis of chapter 11 of title 14, United States Code, is amended by striking out:

"368. Discharge in case of underage enlistment.".

(c) Section 93 of title 14, United States Code, is amended by—

(1) striking out "and" at the end of subsection (p);

(2) striking out the period at the end of subsection (q) and inserting in lieu thereof "; and "; and

(3) adding at the end thereof the following new subsection:

"(r) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities.".

SEC. 16. Section 306(f) of title 37, United States Code, is amended by striking out "The Secretary of Transportation shall make a similar report for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

SEC. 17. Paragraph (1) of the first section of the Act entitled "An Act to authorize appropriations for the Coast Guard for fiscal year 1982, and for other purposes" (95 Stat. 1705; Public Law 97-136) is amended by striking out "$1,404,800,000" and inserting in lieu thereof "$1,548,800,000".

SEC. 18. (a)(1) Section 33(a) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(a)) is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.".

(2) Section 33(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(b)) is amended by adding at the end thereof the following: "The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.".

(3) Section 33(c) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(c)) is amended by striking out "when engaged in the duties of the Council" and inserting in lieu thereof "while attending meetings of the Council".

(b)(1) Section 193 of title 14, United States Code, is amended in the first sentence by inserting before the period the following: "(or, in the case of a member of the Committee who is an officer or employee of the United States, who shall receive no additional pay on account of his service on the Committee)."

(2) Section 193 of title 14, United States Code, is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Advisory Committee. The Advisory Committee is authorized to make available to Congress any information, advice, and recommendations which the Advisory Committee is authorized to give to the Secretary or the Commandant.".

(c)(1) Section 5(a) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(a)) is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.".

(2) Section 5(b) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(b)) is amended by adding at the end thereof the following: "The Council is authorized to make available to Congress any information, advise, and recommendation which the Council is authorized to give to the Secretary.".

(3) Section 5(c) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(e)) is amended by striking out "or while otherwise engaged in the business of the Council" and by striking out ", including traveltime".

(d) The Act entitled "An Act to establish a Towing Safety Advisory Committee in the Department of Transportation" (33 U.S.C. 1231a; 94 Stat. 1521) is amended as follows:

(1) Subsection (b) of the first section is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.".

(2) Subsection (c) of the first section is amended by adding at the end thereof the following: "The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.".

(3) Subsection (d) of the first section is amended by adding before the first sentence the following: "Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.".

(e)(1) The Secretary of the department in which the Coast Guard is operating shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on any advisory committee established administratively for the purpose of giving advice and recommendations to such Secretary or the Commandant of the Coast Guard with respect to functions of the Coast Guard.

(2) Any advisory committee described in paragraph (1) of this subsection is authorized to make available to Congress any information, advise, and recommendations which the committee is authorized to give to the Secretary of the department in which the Coast Guard is operating or the Commandant of the Coast Guard.

(3) Members of any advisory committee described in paragraph (1) of this subsection who are not officers or employees of the United States shall serve without pay and members of any such committee who are officers or employees of the United States shall receive no additional pay on account of their service on such committee. While away from their homes or regular places of business, members of any such committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

SEC. 19. Section 4450(a) of the Revised Statutes of the United States (46 U.S.C. 239(a)) is amended in the first sentence by inserting "or to the loss of life involved in such casualty" after "of such casualty".

SEC. 20. Section 4450 of the Revised Statutes of the United States (46 U.S.C. 239) is amended—

(a) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(b) by inserting after subsection (i) the following new subsection:

"(j)(1) The Commandant of the Coast Guard shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives of any hearing involving the investigation of a major marine casualty involving loss of life under subsection (a) before such hearing occurs.

"(2) The Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives any information on major marine casualties which is requested to be submitted by either of the committees or the chairman of either of the committees if the submission of such information is not prohibited by any other statute of the United States.".

SEC. 21. It is the sense of the Congress that the President and the Coast Guard should give the search and rescue operations of the Coast Guard a high priority.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5617) was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 2252

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendment to the Senate bill, S. 2252, the Clerk be authorized to correct section numbers, cross references, and puncutation marks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO FILE REPORT IN H.R. 1799, EXPORT TRADING COMPANY ACT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs have until midnight tonight, Thursday, July 15, 1982, to file a report on the bill, H.R. 1799, the Export Trading Company Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 6530

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Com-

mittee on Agriculture have until midnight tonight to file a report on the bill, H.R. 6530.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXTENDING EXPIRATION DATE OF SECTION 252 OF ENERGY POLICY AND CONSERVATION ACT

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2651) to extend the expiration date of section 252 of the Energy Policy and Conservation Act, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BROYHILL. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the gentleman from Indiana to give the House an explanation of the purpose of this bill and why it is being brought up at this time and the need for it.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Indiana.

Mr. SHARP. I would be delighted to answer the gentleman's question. As the gentleman knows, there is agreement among all parties in the House and the administration and in the Senate that we ought to allow a temporary extension of antitrust exemptions so our companies can participate in Government activities to support our international energy efforts, and that it would be wise to have that in existence while we complete action on a major bill that is pending in conference committee at the moment as a precautionary measure in the event we should have things go wrong in the Middle East and have another oil crisis on our hands.

Mr. BROYHILL. With that explanation, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 252(j) of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking "July 1, 1982" and inserting in its place "August 1, 1982".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6030, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

Mr. FROST, from the Committee on Rules, reported the following privileged resolution (H. Res. 525, Rept. No. 97-633), which was referred to the House Calendar and ordered to be printed:

H. RES. 525

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections, and each title shall be considered as having been read. Immediately after the short title has been designated by the Clerk, it shall be in order to consider, before the consideration of any other amendments, the amendments printed in the Congressional Record of July 15, 1982 by, and if offered by, Representatives Bennett of Florida, Stratton of New York, and Dan Daniel of Virginia, and said amendments shall not be subject to amendment while pending except pro forma amendments for the purpose of debate. If said amendments are adopted, further amendments to the substitute shall be in order as if the substitute as so perfected were the original bill for the purpose of amendment under the five-minute rule. It shall be in order to consider the following amendments to said substitute and all points of order against said amendments for failure to comply with the provisions of clause 7, Rule XVI are hereby waived: (1) the amendment printed in the Congressional Record of July 15, 1982 by, and if offered by, Representative Price of Illinois; (2) the amendments printed in the Congressional Record of July 15, 1982 by, and if offered by, Representative Schroeder of Colorado; (3) the amendment printed in the Congressional Record of July 15, 1982 by, and if offered by, Representtive Brooks of Texas; (4) an amendment printed in the Congressional Record of July 15, 1982 by, and if offered by, Representative McCurdy of Oklahoma; (5) an amendment printed in the Congressional Record of July 15, 1982 by, and if offered by, Representative Hertel of Michigan; and (6) an amendment printed in the Congressional Record of July 15, 1982 by, and if offered by, Representative Solomon of New York. It shall be in order to consider an amendment in the nature of a substitute to said substitute consisting of the text of the bill H.R. 6696 by, and if offered by, Representative Dellums of California, and said amendment in the nature of a substitute, if offered, shall be debatable before the consideration of amendments thereto, for not to exceed one hour, to be equally divided and controlled by Representative Dellums and a Member opposed thereto. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 6030, the House shall proceed, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the bill S. 2248, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 6030 as passed by the House.

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 525 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution.

□ 1400

The SPEAKER pro tempore (Mr. SIMON). The question is, Will the House now consider House Resolution 525?

The question was taken; and, two-thirds having voted in favor thereof, the House agreed to consider House Resolution 525.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, I yield 30 minutes to the gentleman from Missouri (Mr. TAYLOR.), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 525 provides for the consideration of H.R. 6030, the Armed Forces procurement authorization for fiscal year 1983. It is an open rule providing for 3 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services.

The rule further provides that the committee amendment in the nature of a substitute now printed in the bill shall be considered as original text for the purpose of amendment under the 5-minute rule and that the substitute shall be considered for amendment by titles rather than by sections and that each title shall be considered as having been read.

Mr. Speaker, in order to accommodate the spending figures adopted in the first concurrent budget resolution, the Armed Services Committee will offer three amendments which will cut the total authorization level by some $3.5 billion. These amendments, which will be printed in today's CONGRESSIONAL RECORD, will be offered by Representatives BENNETT of Florida, STRATTON of New York, and DANIEL of Virginia. These amendments will be taken up before the consideration of any other amendments to H.R. 6030 and while they are pending will not be subject to amendment except pro forma amendments for the purpose of debate. If the Armed Services Committee amendments are adopted, the rule provides that the perfected substitute shall then be considered as original text and any amendments offered to the bill from that point on shall be considered as amendments to the original text. This provision of the rule was adopted in order to expedite the consideration of the defense authorization and to insure that the bill complies, as much as is possible, with the targets of the first budget resolution.

I should point out to my colleagues that while the Armed Services Committee amendments will not be subject to amendment while they are pending to H.R. 6030, if they are adopted and incorporated into the text of the bill, they will be subject to amendment when the bill is considered for amendment under the 5-minute rule.

My colleagues should also be aware that the text of the committee substitute to H.R. 6030 pertains only to fiscal year 1983 programs and that any amendments offered to the bill must pertain solely to fiscal year 1983 in order to be germane. Additionally, H.R. 6030 makes no changes in permanent law. Because the bill was structured so precisely, amendments which speak to changing permanent law would be subject to a point of order under clause 7 of rule XVI, the germaneness rule.

The Rules Committee did, however, make several amendments in order which would otherwise be ineligible for consideration because of the precise structure of the bill. The provisions of clause 7, rule XVI are waived against the consideration of the following amendments: an amendment by the distinguished chairman of the committee (Mr. PRICE), which speaks to fiscal year 1982 procurement; two amendments by Mrs. SCHROEDER of Colorado, one dealing with troop strength in Europe and one with the issue of divorced military spouses; an amendment by Mr. BROOKS of Texas, which seeks to create an independent Inspector General within the Department of Defense; an amendment by Mr. MCCURDY of Oklahoma, which would require reports from the Department of Defense to the Congress when there is a 15-percent cost growth in any major weapons system; a similar amendment by Mr. HERTEL of Michigan; and an amendment by Mr. SOLOMON of New York, which seeks to prohibit the granting of student aid to any person eligible to register for the draft who has not done so. Mr. Speaker, the amendments I have just outlined are the only amendments specifically made in order that propose to amend permanent law.

Following the consideration of all amendments to H.R. 6030, the rule also specifically makes in order an amendment in the nature of a substitute to be offered by Mr. DELLUMS of California. The Committee on Rules has specifically included the substitute to be offered by Mr. DELLUMS in the rule in order that his substitute may have 1 hour of debate to be equally controlled and divided between Mr. DELLUMS and a Member opposed to the substitute. This debate time is included in the rule in order to provide ample opportunity for an alternative national defense policy to be debated by the entire House. The Dellums substitute following debate, will be open to amendment.

The rule provides that following the conclusion of consideration of the bill for amendment, any Member may demand, in the House, a separate vote on any amendment adopted in the Committee of the Whole. The previous question shall be considered as ordered on the bill and the amendments adopted thereto without intervening motion except one motion to recommit with or without instructions.

Once the House has passed H.R. 6030, the rule provides that it shall be in order for the House to consider S. 2248, the Senate version of the fiscal year 1983 DOD authorization, and waives section 402(a) of the Congressional Budget Act against consideration of the Senate bill. Section 402(a) of the Budget Act prohibits the consideration of any bill which provides new authorization which has not been reported by May 15 preceding the beginning of the new fiscal year. The rule provides that it shall be in order in the House to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the text of H.R. 6030 as passed by the House.

This rule was reported by the Committee on Rules this morning and the House is taking it up now in order to avoid meeting tomorrow just to consider this rule.

While the rule may seem complicated, the Committee on Rules structured it in a fashion that is as fair as possible to all Members who wish to offer amendments to the Department of Defense authorization and made their wishes known to the Committee on Rules.

Mr. Speaker, H.R. 6030 authorizes $180.3 billion for all procurement, research, development, test and evaluation, and operation and maintenance for the Department of Defense and for civil defense for the fiscal year beginning October 1. The bill also authorizes the strength levels, for both active and Reserve military personnel, and the civil employees of the Department of Defense. This bill is one of the most important that we will consider in this Congress and the rule provides ample time for debate on our military posture.

Mr. Speaker, I urge adoption of the rule so that we may proceed to an orderly and complete debate on national defense.

□ 1610

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule, an open rule providing for the consideration of H.R. 6030, the Department of Defense authorization bill for fiscal year 1983.

The rule appears complicated on its face. However it does provide for consideration of a wide range of alternatives to the committee version of the bill. I want to commend the Committee on Rules for bending over backward to be fair to those who appeared before the committee asking for special consideration. We heard a number of witnesses Tuesday whose amendments posed various procedural problems in connection with this legislation. I am pleased to say that the rule before us this afternoon has without exception answered the concerns of those witnesses.

Specifically, the rule provides that the amendment in the nature of a substitute by the Committee on Armed Services will be considered as an original bill for purposes of amendment. In addition, certain committee amendments will be initially considered in order to bring the bill into conformance with the recently passed budget resolution.

In addition, the germaneness rule, clause 7 of rule 16 is waived against the consideration of certain amendments. These amendments are those by, and if offered by, Representatives PRICE, SCHROEDER, BROOKS, MCCURDY, HERTEL, and SOLOMON, and which have been printed in the CONGRESSIONAL RECORD.

A substitute offered by Representative DELLUMS of California is also permitted under this rule, and 1 hour of debate is specifically set aside to be divided between Mr. DELLUMS and a Member opposed to his substitute.

On motion to recommit with or without instructions is provided. Also, after passage of the House bill, the rule makes in order the consideration of S. 2248 and waives section 402(a) of

the budget act against the Senate bill. Section 402(a) of the budget act requires new budget authority to be reported by May 15 preceding the beginning of the fiscal year.

Mr. Speaker, this is an important piece of legislation which will receive ample debate when it comes to the floor in the near future. The rule before us is imminently fair, and was reported by the Committee on Rules without a dissenting vote. I urge its adoption.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SIMILARITY OF BALANCED BUDGET LAWS

(Without objection, Mr. WALKER was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, a little while ago when we debated the balanced budget amendment to a bill, there were a number of representations made about the effect of that amendment that I think it might be well to clarify because it is an issue which we will be voting on several occasions in the future, representations which indicate that somehow this amendment is an inapplicable kind of procedure which just does not skew with the law.

We have many States in this Union which operate under exactly the same language that we have approved in this House. Many States have a law similar to ours which requires a balanced budget. There is no need for police departments, for instance, when they are apprehending a criminal, to find out whether or not that action is in violation of the balanced budget.

In fact, what they do is, they balance the budget as a part of their regular appropriations process in each of these States. That is what would be done around here.

I think it is well that we recognize that attempts to characterize this as an unworkable kind of thing flies in the face of what happens in about 40 of the States around the Union.

NO NET COST TOBACCO PROGRAM ACT OF 1982

Mr. ROSE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6590) to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes, together with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 11, line 5, strike out "subsections (d) and (e)".

Page 12, line 6, strike out "tobacco." and insert "tobacco.".".

Page 12, strike out all after line 6 over to and including line 17 on page 13.

Page 13, after line 17, insert:

"PENALTIES FOR MARKETING TOBACCO IN EXCESS OF MARKETING QUOTA AND FOR MARKETING CERTAIN TOBACCO THAT IS NOT ELIGIBLE FOR PRICE SUPPORT

SEC. 103. Effective for the 1983 and subsequent crops of tobacco, section 314 of the Agricultural Adjustment Act of 1938 is amended by amending the first sentence of subsection (a) to read as follows: "The marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on the farm has not agreed to make contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account as required by sections 106A(d)(1) and 106B(d)(1) of that Act, if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 per centum of the averaged market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year.".

Page 15, line 7, after "in" the first time it appears, insert "the same county or in".

Page 15, line 8, strike out "adjoining".

Page 15, line 13, strike out "adjoining".

Page 18, strike out all after line 21 over to and including line 5 on page 19 and insert:

"(g)(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell, for use on another farm in the same county, all or any part of such allotment or quota to any person who is or intends to become an active Flue-cured tobacco producer. For purposes of this section, the term 'active Flue-cured tobacco producer' means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involved, or any person who certifies to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, his or her intent to become a Flue-cured tobacco producer.".

Page 22, line 6, after "on" insert "or after".

Page 22, line 13, after "1983," insert: "or December 1 of the year after the year in which the farm is acquired, whichever is later,".

Page 22, line 18, after "on" insert "or after".

Page 22, line 24, after "(c)." insert "In the case of any person who acquires a farm after December 1, 1983, the acreage allotment or marketing quota representing the excess shall not be subject to forfeiture until July 1 of the year after the year of acquisition.".

Page 23, line 22, strike out "and".

Page 24, line 8, strike out "appropriate.". and insert "appropriate. and".

Page 24, after line 8, insert:

(3) adding at the end of paragraph (6)(A) the following: "Notwithstanding the preceding provisions of this subsection, in 1983 and at five-year intervals thereafter, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in paragraph (4) of this subsection to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving county average yields.".

Page 25, after line 15, insert:

LIEN FOR PAYMENT OF PENALTY; FALSE IDENTIFICATION OF TOBACCO

SEC. 206. (a) Section 314 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314) is amended by adding a new subsection as follows:

"(c) Until the amount of the penalty provided by this section is paid, a lien on the tobacco with respect to which such penalty is incurred, and on any subsequent tobacco subject to marketing quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States for the amount of the penalty.".

(b) Section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by adding a new subsection as follows:

"(j) Notwithstanding any other provision of this section, if a producer falsely identifies tobacco as having been produced on or marketed from a farm, the quantity of tobacco so falsely identified shall be considered for purposes of establishing future farm marketing quotas, as having been produced on both the farm for which it was identified as having been produced and the farm of actual production, if known, or, as the case may be, shall be considered as actually marketed from the farm.".

(17) Page 25, line 17, strike out "206" and insert: "207".

Page 26, line 4, strike out "BURLEY".

Page 26, line 7, strike out "of tobacco" and insert "of all kinds of tobacco except Flue-cured tobacco".

Page 26, line 11, strike out "BURLEY".

Page 26, line 14, strike out "Burley".

Page 26, strike out line 18, and insert "a kind of tobacco, except that the term does not include such an association that has entered into such an agreement to make price support available to producers of Flue-cured tobacco;".

Page 26, line 19, strike out "Burley".

Page 26, line 20, strike out "a Burley" and insert: "an".

Page 26, line 22, strike out "Burley".

Page 26, line 24, strike out "Burley".

Page 27, line 1, strike out "Burley tobacco to a Burley" and insert "tobacco to an".

Page 27, line 4, strike out "a" and insert "an".

Page 27, line 5, strike out "Burley" the first time it appears.

Page 27, line 5, strike out "Burley" the second time it appears and insert "a kind of".

Page 27, line 8, strike out "Burley".

Page 27, lines 10 and 11, strike out "'Burley tobacco' means Burley tobacco" and insert "'tobacco' means any kind of tobacco except Flue-cured tobacco".

Page 27, line 16, strike out "a Burley" and insert "an".
Page 27, line 18, strike out "Burley".
Page 27, line 23, strike out "Burley".
Page 27, line 24, strike out "Burley".
Page 28, line 1, strike out "Burley".
Page 28, line 4, strike out "Burley".
Page 28, line 6, strike out "Burley" both times it appears.
Page 28, line 8, strike out "Burley".
Page 28, line 10, strike out "Burley".
Page 28, line 11, strike out "Burley".
Page 28, line 12, strike out "Burley".
Page 28, line 14, strike out "Burley Account established for a Burley" and insert "Account established for an".
Page 28, line 18, strike out "a Burley Account for a". and insert "an Account for an".
Page 28, line 19, strike out "Burley".
Page 28, line 20, strike out "Burley".
Page 29, line 1, strike out "a Burley" both times it appears and insert "an".
Page 29, line 4, strike out "Burley tobacco" and insert "the kind of tobacco involved".
Page 29, line 5, strike out "Burley".
Page 29, line 6, strike out "Burley" and insert "of such kind of ".
Page 29, line 8, strike out "Burley" both times it, appears.
Page 29, line 13, strike out "Burley".
Page 29, line 13, strike out "a" and insert: "the".
Page 29, line 15, strike out "Burley tobacco" and insert "the kind of tobacco involved".
Page 29, line 16, strike out "Burley".
Page 29, line 18, strike out "a Burley' and insert "an".
Page 29, line 19, strike out "Burley".
Page 29, line 21, strike out "Burley".
Page 29, line 23, strike out "Burley".
Page 30, line 1, strike out "Burley tobacco" and insert "the kind of tobacco involved".
Page 30, line 2, strike out "Burley".
Page 30, line 6, strike out "Burley".
Page 30, line 8, strike out "Burley".
Page 30, line 10, strike out "Burley tobacco" and insert "tobacco of the kind for which an Account is established".
Page 30, line 14. strike out "Burley tobacco" and insert "tobacco of the kind for which an Account is established".
Page 30, line 17, strike out "a Burley" and insert "an".
Page 30, line 18, strike out " a Burley" amd insert "an".
Page 30, line 20, strike out "Burley".
Page 30, line 23, strike out "Burley".
Page 31, line 2, strike out "a Burley" and insert "an".
Page 31, line 3, strike out "a Burley" and insert "an".
Page 31, line 5, strike out "Burley".
Page 31, line 7, strike out "Burley".
Page 31, line 11, strike out "Burley".
Page 31, line 11, strike out "a".
Page 31, line 12, strike out "Burley" and insert "an".
Page 31, line 13, strike out "Burley".
Page 31, line 14, strike out "Burley".
Page 31, line 15, strike out "Burley association" and insert "association that has entered into a loan agreement with the Corporation to make price support available to producers of the kind of tobacco involved".
Page 31, line 16, strike out "Burley".
Page 31, line 17, strike out "Burley".
Page 31, line 23, strike out "a Burley" and insert "an".
Page 32, line 1, strike out "a Burley Account for such Burley" and insert "an Account for such".
Page 32, line 8, strike out "(a)".
Page 32, line 17, after "on" insert "or after".
Page 32, line 19, strike out "acreage allotment or".
Page 32, line 23, after "1983," insert "or December 1, of the year after the year in which the farm is acquired, whichever is later,".
Page 32, lines 23 and 24, strike out "allotment or".
Page 32, line 24, after "producer" insert "or any person who intends to become an active Burley tobacco producer".
Page 33, line 1, strike out "allotment or".
Page 33, line 6, strike out "allotment or".
Page 33, line 9, after "ducers" insert "or those intending to become active Burley tobacco producers".
Page 33, line 15, strike out "Act,". and insert: "Act.".
Page 33, after line 15, insert:

"(c)(1) Any person who—

"(A) acquires any Burley tobacco marketing quota by purchase under subsection (a) of this section; and

"(B) with respect to any crop of Burley tobacco planted after the date of such acquisition, fails for the five-year period immediately subsequent to the year of such acquisition to share in the risk of producing Burley tobacco under such allotment or quota in the manner specified in paragraph (2) of this subsection;

shall sell such quota before the expiration of the eigthteen-month period beginning on July 1 of the year in which such crop is planted, or such quota shall be subject to forfeiture under the procedures specified in paragraph (3) of this subsection.

"(2) For purposes of this subsection, a person shall be considered to have shared in the risk of producing a crop of Burley tobacco if—

"(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

"(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

"(C) such person may not receive any of such return before the sale of such crop.

"(3)(A) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with this subsection, then the quota specified in this subsection shall be forfeited and shall be reallocated by such county committee for use by active Burley tobacco producers or those intending to become active Burley tobacco producers, as defined by the Secretary, for use in such county.

"(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.".

Page 34, line 22, strike out "two" and insert "three".
Page 36, line 21, strike out "or acreage poundage".
Page 38, line 5, after "Act" insert "shall".
Page 42, strike out lines 9 to 13, inclusive, and insert:

(B) inserting "with respect to burley tobacco" after "section".

Page 43, after line 2, insert:

CONFIDENTIAL DATA

SEC. 304. Section 373(c) of the Agricultural Adjustment Act of 1938 is amended by adding at the end thereof the following new sentence: "Nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.".

LONG-TERM GRAIN SALES AGREEMENT

Page 43, after line 2, insert:

SEC. 305. (a) The Congress finds that—

(1) talks to extend the long-term grain sales agreement between the Soviet Union and the United States were broken off in 1981 with no date set for resumption of these talks;

(2) the Government of the Soviet Union for all practical purposes has ceased to purchase United States agricultural commodities since the breaking off of negotiations;

(3) the lack of a long-term grain sales agreement may result in market instability, with the potential of disrupting the feed-livestock relationship in the United States;

(4) the lack of such an agreement may result in uncertainty among farmers as to the best planting decisions for the upcoming crop year;

(5) the lack of such an agreement has already led the Soviet Union to seek other sources of supplies at the expense of the American farmer; and

(6) the lack of such an agreement means a drop in the export of agricultural commodities and continued severe difficulties with the balance of trade deficit of the United States.

(b) It is the sense of the Congress that the President should immediately resume negotiations with the Government of the Soviet Union for the purpose of reaching an agreement to extend the duration of the existing long-term grain sales agreement and to require the purchase by the Government of the Soviet Union of a minimum amount of grain annually at a level not less than the level required by the existing long-term grain sales agreement.

Page 43, after line 2, insert:

LIMITATION ON THE SALE OF TOBACCO FLOOR SWEEPINGS

SEC. 306. The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by adding immediately after section 314 thereof the following new section:

"SEC. 314A. (a) Effective for the 1982 and subsequent crops of tobacco, the marketing of floor sweepings of any kind of tobacco in excess of allowable floor sweepings shall be subject to a civil penalty of 150 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by any person found by the Secretary to have marketed such floor sweepings in excess of the allowable amount.

"(b) The penalty provided for in subsection (a) shall be assessed by the Secretary only after the person alleged to have marketed floor sweepings in excess of allowable floor sweepings has been given notice and an opportunity for hearing and the Secretary has determined by decision incorporating the Secretary's findings of fact that a violation did occur and the amount of the penalty.

"(c) The provisions of section 376 of this title shall apply to penalties under this section.

"(d) As used in this section—

"(1) the term 'floor sweepings' means the scraps of leaves of tobacco which accumu-

late on the warehouse floor in the regular course of business; and

"(2) the term 'allowable floor sweepings' means the quantity of floor sweepings determined by multiplying 0.24 per centum times the total first sales of tobacco at auction for the season for the warehouse involved.".

Page 43, after line 2, insert:

TITLE IV—THE AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY AND COMMUNITY COMMITTEE SYSTEM

SEC. 401. Congress finds that agricultural stabilizaton and conservation county and community committees have served, and should continue to serve, a vital function in implementing, at the local level, farm commodity, soil conservation, and related programs; and that, by assisting the United States Department of Agriculture to conduct such programs effectively, such committees provide substantial benefits to agriculture and the Nation. Congress further finds that the agricultural stabilization and conservation county and community committee system has developed, over the years, into a highly efficient mechanism for implementing such programs at the local level. Therefore, it is the sense of Congress that the Secretary of Agriculture should ensure that the structure and operations of the agricultural stabilization and conservation county and community committees, as heretofore developed to enable such committees to meet the responsibilities assigned them under section 8(b) of the Soil Conservation and Domestic Allotment Act, and related statutes and regulations, be preserved and strengthened.

Mr. ROSE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The Speaker pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SHAMANSKY. Mr. Speaker, reserving the right to object, will the gentleman from North Carolina explain briefly to me the nature of the Senate amendments which he is proposing?

Mr. ROSE. Mr. Speaker, if the gentleman will yield, the amendments that were added in the Senate yesterday mainly tighten the provisions of the enforcement of this bill from what it was when it left this House. A provision was added that will put a lien on tobacco for nonpayment of penalties. An amendment was added that will make sure that any organization that is not a farm organization that acquires tobacco allotments in the future, such as corporations, will have to sell their allotments. Floor sweepings were reduced by 50 percent from their allowable level. And four amendments, two of which provided greater access for new growers of tobacco, were added, and one was added providing access for all people to any information they want about the tobacco program.

The bill is tighter than it was when it left the House.

I urge my colleagues to support it.

Mr. SHAMANSKY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. WAMPLER. Mr. Speaker, reserving the right to object, and I shall not object, the bill before us was accepted by this body on June 21, and the amendments added by the other body simply strengthen the bill—in other words, help to insure that the bill operate at no net cost to the American taxpayers.

The provisions added by the Senate committee that cause refusal by burley farmers to contribute to the no net cost fund to be considered a marketing penalty, in addition to making the farmer ineligible for price supports, almost assure participation by burley producers.

I am pleased that the provisions allowing the Commodity Credit Corporation to assume control of the burley no net cost fund if the cooperative association so requests was expanded to include the so-called minor kinds of tobacco.

These and the other changes made by the Senate appear acceptable to the tobacco farmers of Virginia and I ask my colleagues to join me in supporting this bill. It is vitally important that we accept this bill with the Senate amendments so that the Fluecured markets in the southern-most producing regions can open next week. The opening of these markets has already been delayed 2 weeks. Further delay will cause continued financial hardship for these farmers and disrupt the overall marketing schedule.

I urge my colleagues to accept this bill.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I want to thank the gentleman for yielding.

Mr. Speaker, I want to commend the members of the committee who have worked on this difficult problem. While certainly it probably is not entirely agreeable to everybody, they have done yeomen's work in a very difficult situation.

Mr. Speaker, I rise in support of the amendment and in strong support of the tobacco price support program and ask unanimous consent to revise and extend my remarks.

No one is totally satisfied with the solution we have arrived at today but I am glad that the problems have been hammered out and that we have developed a bill that we can all live with.

This has been an issue which many of us would rather have avoided but the committee has done an excellent job in fulfilling the mandate of the Congress to enact a no net cost tobacco program. And they have addressed many of the criticisms which have been targeted at this program in the past. I commend them on their fine job.

It is unfortunate that tobacco was singled out for this type of legislation but, hopefully, with the passage of this bill, we can finally bring an end to the perennial use of the tobacco price support program as the whipping boy of Congress.

The tobacco price support program has been a very successful program—one of the most successful the Federal Government has been involved with. Coming from Kentucky, I have seen it work firsthand. It means a great deal to many of my constituents. I have supported the tobacco price support program and intend to continue doing so. With the passage of this no net cost legislation, I hope we will see an end to the senseless assaults on this vital program.

Mr. WAMPLER. Mr. Speaker, I withdraw my reservation of objection.

● Mrs. SCHNEIDER. Mr. Speaker, I feel I must rise in opposition to H.R. 6590. While I appreciate the sincere effort in this bill to make the tobacco price support program self-sufficient, I believe that it does not go far enough in taking the Federal Government out of the tobacco business.

I applaud the significant strides made in this bill: The requirement that allotment holders and lessees make payments into special funds that guarantee reimbursement of Government loans; the specification that repayment must cover interest; the attempts to discourage corporations from using the Federal allotments for investment purposes. Nevertheless, the bill stops short of ending the Federal subsidy for tobacco growers by retaining the administrative costs for the program, just under $16 million, in the USDA.

In this season of fiscal austerity, where we are cutting or eliminating the smallest and most vital of Government programs to offset a multibillion deficit—$3 million here for children immunization programs, another $15 million there for hot lunches, $20 million in title XX reductions, and so forth—I find any subsidy to the tobacco industry unacceptable.

More to the point, perhaps, is the issue of whether or not the Federal Government should have any involvement with a product that so patently endangers human health. It is one of the great ironies of our time that the United States spends millions annually on cancer research, and millions more to promote the growth of tobacco.

Earlier this year, the Surgeon General came out with the most definitive indictment of tobacco to date: "Cigarette smoking is clearly identified as the chief preventable cause of death in our society and the most important public health issue of our time."

While this is surely not news to many of us, the facts cited in the report are worth repeating. Tobacco is responsible for some 340,000 deaths in the United States annually, 129,000 of these due to cancer. Heart trouble, chronic lung and respiratory diseases are the runners up. Men who smoke are twice as likely to die of cancer than nonsmokers and risk faced by females is 30 percent greater to those that smoke; 85 percent of the lung cancer mortality could have been avoided if individuals had never taken up smoking.

Smoking related health problems are not free goods either; more than $13 billion is spent annually on smoking related health care and at least another $25 billion in lost production and wages.

Mr. Speaker, let me reiterate that I am glad that the program is being restricted, but I feel that continuing to bear the administrative costs for the tobacco price support program runs counter to our common goals of free enterprise and a health population.

I regret, in addition, the hasty manner in which this bill was brought up and I hope that next time there will be an opportunity for a more deliberate debate.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina (Mr. ROSE)?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

□ 1420

GENERAL LEAVE

Mr. ROSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore (Mr. LEVITAS). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. STANGELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STANGELAND. Mr. Speaker, I ask for this time to inquire of the leadership as to the plans for the remainder of the week and the plans of the House for next week.

Mr. WRIGHT. Mr. Speaker, if the distinguished acting minority leader would yield——

Mr. STANGELAND. I would be most happy to yield.

Mr WRIGHT. Mr. Speaker, when we conclude one or two very preliminary kinds of matters here, we will have completed the business scheduled for this week. Having adopted the rule for the Defense Department authorization bill, we face no requirement to meet tomorrow. So, when we adjourn today, we will to meet at noon on Monday.

There will be bills under suspension of the rules on Monday, but no votes on those suspensions. Any votes required will be postponed until Tuesday on bills under suspension of the rules considered Monday.

The three are as follows:

H.R. 5228, implement Convention on Physical Protection of Nuclear Material;

H.R. 4623, United States Code amendments to titles 10, 14, 37, and 38;

H.R. 6258, tourism bill;

H.R. 6409, Louisiana World Exposition;

H.R. 6758, foreign defense sales; and

H. Con. Res. 310, sense of Congress re situation in Cyprus.

We will take the general debate on Monday on the Defense Department authorization bill, and hope to conclude it during the remainder of the week. We will have the general debate on Monday, and we will begin the amending process under the 5-minute rule on the Defense Department authorization bill on Tuesday. We anticipate that that will be the centerpiece for our entire week. We hope that we will be able to finish the bill Thursday evening. If we are not, we would expect to be in session Friday of next week in order that we might complete the Defense Department authorization bill.

Mr. STANGELAND. I would like to ask the gentleman a further question: There will be six bills under suspension on Monday?

Mr. WRIGHT. The gentleman is exactly correct. It is presently anticipated that we will have six bills under suspension of the rules on Monday.

On Tuesday, we will have two bills, H.R. 5380, charter for ex-prisoners of war, and H.R. S127, charter for the one National Federation of Music Clubs.

Mr. STANGELAND. I thank the majority leader for his response, and appreciate it.

ADJOURNMENT TO MONDAY, JULY 19, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, July 19, 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman form Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman form Texas?

There was no objection.

OKIES OF THE '80s

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WEISS. Mr. Speaker, it is high time that President Reagan and his new right supporters woke up to the fact that administration policies are undermining the integrity of the family and the well-being of children.

This administration has refused to deal with the blight of high unemployment. His profamily rhetoric notwithstanding, the President suggests that families who face unemployment and inadequate social services in their communities should "vote with their feet" and move elsewhere. That, indeed, is what many families have had to do. But at what cost? Many have been split up, with fathers traveling south to Houston, leaving mothers and children in homes up north that cannot be sold because of obscenely high interest rates on mortgages.

And what of the children of these families? How has the quality of their lives been affected by having unemployed parents? A recent Harris poll showed that most Americans believe that increased child abuse is due to the current state of our economy. Indeed, researchers at the University of California have shown a clear association between the rising incidence of child abuse and our soaring unemployment rate.

In point of fact, this administration's profamily stance is actually antifamily and antichildren. It is time our President acknowledged that no matter how much individual pluck and initiative an individual shows, it is no match for the overwhelming effects of the highest unemployment levels since the Great Depression of the 1930's.

Ellen Goodman wrote movingly in a recent column in the Washington Post of families who have been set adrift by high unemployment. It is appropriately entitled, "Okies of the '80s" I include it in the RECORD, as follows:

89-059 O-86-27 (Pt. 12)

[From the Washington Post]

OKIES OF THE '80's

(By Ellen Goodman)

BOSTON.—About a year ago, a man lost his job. I wouldn't ordinarily bother to tell you this. Unemployment is by now familiar to all of us. In fact, this particular man was one of hundreds who lost their jobs on a single day when a single company in Pennsylvania closed its doors. He wasn't the only one who'd worked there a quarter of a century.

What happened next wasn't unusual, either. The man joined the ranks of the new American migrants, people who leave their families in one place to find work in another. Nobody knows how many of these new migrant workers there are in the country, but you can see them, meet them, everywhere.

Some of them, the Okies of the '80s, pack up everything in the back of the car and go. Others, like this man, are the "heroes" of Reaganomics, people who "vote with their feet." Vote for Dallas over Detroit, Anchorage over Oregon, mobility over unemployment, work over home.

So I wouldn't ordinarily tell you this story. But the letter I got in the daily mail from his wife (I'll call her Anne) says more about the deep disruption of a single family by this economy than all the statistics that flow out of Washington.

In careful prose, Anne describes her husband's departure: "After wearing out a pair of shoes while beating the pavement in the area for months, [my husband] gave up looking around here and began sending resumes out of town. He was lucky, I guess. He found a job in a field that paid just about the same salary he got from the company that went under. But it's 1,000 miles away from here."

This was not a decision made lightly or handled easily. "This is a man, understand me, to whom his family—wife and three kids—is the core of his life. This is a man who actually reads report cards before signing them and who isn't ever too busy to pick up his 17-year-old daughter and pals from a late movie. This is a man who still gathers his two teen-age sons into his arms and kisses them. He went because he had no choice."

And Anne stayed, because she had no choice, either.

In another era, these two might have been described in trendy terms as a commuting marriage, their separation buffered by airline tickets and long-distance credit cards . . . money. But this is a two-job family with a house, three kids, college tuitions and, now, loneliness.

"Our house is up for sale, but so far, no one is interested. The plan is that I will join my husband when I can find a job in the city where he works. I have a job here and I love it. Will I be able to find another good job, what with all the cutbacks and economizing everywhere? Should I stay here until I find another job? Until the house is sold? Does one get used to being without one's husband after a while? Or does the loneliness just turn into depression? I *never* used to mix myself gin and tonics as soon as I got home after work when he was here."

The effects of this one decision ripple out beyond their own personal relationship. There are the kids who have lived in this house-for-sale so they could commute to college. And there is Anne's mother, "who depends on me to be here when she needs someone to talk to about a Social Security check that didn't come or a pipe that's leaking. Who will she call when I'm gone? Who will get her the 20-pound bag of birdseed from the supermarket or get her the books from the library when she's sick?

No, this isn't a sob story. It isn't even a tragedy as tragedies go in this economy. There are real horror stories from the Midwest about the rising rates of child abuse among the unemployed. There are real horror stories about people who can't find work at all. For the moment, Anne and her husband are both employed. Nobody is going hungry.

But stories about people like these—the new uprooted—say something about the state of the country. They say something about times when, once again, men and women can only support families in the "old country" by leaving them behind and moving to a "new country."

They say something about the ultimate "pro-family" policy of Reaganomics when security, community, family relationships are wiped out by unemployment. And the stories say something about why thousands of the new American migrants have to choose between those two halves of a healthy human being: work and love.

As Anne wrote, "The economy has become, to me, much more than a word that one finds sprinkled about on the pages. . . . It's a force that has disrupted my career, torn up my family, put my kids' college plans in jeopardy and taken away my home. What's happening to people because of what's happening in Washington is very real. And the hardest part, I think that no one really knows who to blame."

ELIMINATING UNFAIR REIMBURSEMENT FORMULA TO RURAL HOSPITALS

(Mr. WATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATKINS. Mr. Speaker, today I am introducing a bill to eliminate the unfair reimbursement formula to small, rural hospitals under section 223 of medicare. Joining me in introducing this piece of legislation are our colleague from Arkansas, BERYL ANTHONY; our colleague from Kansas, PAT ROBERTS; and our colleague from Montana, RON MARLENEE. Our bill would exempt small, rural hospitals from the so-called section 223 limits on medicare reimbursements for hospitals' routine acute care costs.

Small, rural hospitals constitute a critical segment of the Nation's health care delivery system. These hospitals provide millions of people essential health care services that might otherwise be unavailable to them. Yet, as essential as these hospitals are to such a large segment of our Nation's population, many of these facilities will close, reducing the availability of needed medical services in rural communities, if we do not soon give them some relief from an inequitable medicare reimbursement policy.

Present medicare policies allow for the reimbursement to hospitals of the cost of caring for a medicare patient only up to a certain level. Hospital reimbursements from medicare for routine acute care costs are limited according to the Social Security Act as amended by section 223 of the Social Security Amendments of 1972. Any actual costs incurred by a hospital that exceed the section 223 reimbursement levels must either be eaten by the hospital or passed on to private paying patients.

My home State of Oklahoma provides an example worthy of consideration—it is neither a best-case nor worst-case scenario of this problem. Of Oklahoma's 62 hospitals of 100 beds or less in rural areas, 15 hosptials (24.2 percent) exceeded their section 223 cost limits in 1979. And financial conditions are much worse today.

Medicare section 223 limits impact small, rural hosptials extremely adversely, because the limits do not take into account the unique and special characteristics of this group of hospitals. Section 223 limits assume that hospital costs are lower in rural areas than in other areas. It is also assumed that small, rural hospitals are equally able to shift nonreimbursed costs to private patients as are other hospitals. These two assumptions simply are not true.

Hospital costs are not lower in rural areas. Nonlabor items—equipment and supplies—cost far more in rural areas than in urban areas. And labor costs are frequently comparable, and sometimes higher, in rural areas as compared to urban areas.

Labor costs for rural hospitals pose a special problem, because rural hospitals must compete with hospitals in urban/suburban areas for specialty trained or skilled employees. Rural hospitals often are required to pay wages comparable to those in urban areas and simultaneously compensate professional employees for the limited career advancement potential and the lack of cultural and social opportunities found in a rural area. Such compensation takes the form of higher wages or subsidized housing.

Since the present medicare reimbursement policies assume costs are lower in rural areas than in other areas, and they actually are not, rural hospitals are presently not reimbursed for nearly as much of their actual costs as are other hospitals.

Compounding the problem of inequitable medicare reimbursement is the additional problem of compensating for those nonreimbursed costs in small, rural hospitals.

Hospitals collect the unreimbursed expense of caring for public patients from their private paying patients. Large hospitals can spread their excess costs across a relatively large clientele of private patients, but small, rural hospitals plainly do not have that luxury. Not only do small hospitals have fewer total private patients

to absorb the nonreimbursed, public patient costs, but they also have a much lower percentage of paying patients than do other hospitals.

A high percentage of elderly people live in rural areas. Therefore, many rural hospitals serve a large population of medicare patients—sometimes totaling over 80 percent of a small hospital's average daily patient load. This factor forces many small, rural hospitals into a position of dependence on medicare reimbursement for financial stability and viability.

With rural hospitals being reimbursed by medicare at unreasonably low levels and serving only a limited number of private patients, these hospitals are not able to shift all of their nonreimbursed medicare costs to paying patients. Commonsense dictates that many of those small, rural hospitals are going to be squeezed right out of existence. I don't want that to happen, and I hope that none of you do, either. It is unconscionable—it is inhuman.

Many small hospitals are the sole source of health care for an entire community. It is not in anyone's best interest to see those hospitals close and consequently deny health care to a large segment of our population, a large part of which is elderly.

Now is the time to act. An automatic exemption of rural hospitals of 100 beds or less from the section 223 limits would provide greater financial stability to these institutions, thus allowing them to continue to serve their communities. Cost savings would also accrue to fiscal intermediaries and to the Health Care Financing Administration (HCFA), since the section 223 administrative burden for these hospitals would be completely eliminated.

The costs of this exemption to the medicare program would be negligible, but the benefits would be astronomical. It would help to insure that small, rural hospitals continue to be the key health care resource for rural America.

NUCLEAR ARMS REDUCTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. BROOMFIELD) is recognized for 5 minutes.

● Mr. BROOMFIELD. Mr. Speaker, today I am introducing—along with several of my distinguished colleagues—a House joint resolution which expressed the support of Congress for the United States and the Soviet Union to engage in substantial, verifiable, equitable, and militarily significant reductions of their nuclear weapons resulting in equal and sharply reduced force levels which would contribute to peace and stability.

This resolution goes far beyond the weaker and dangerous proposals which call for a freeze at the current unstable nuclear weapons levels. It would urge both sides to negotiate a major reduction in the level of nuclear armaments that is both verifiable and equal. Moreover, my resolution fully recognizes the danger of nuclear war through miscalculation, accident, or design and calls for arms reductions, all of which are consistent with President Reagan's agenda for peace. Additionally, the resolution reaffirms, consistent with Public Law 92-448, that the United States should not enter into any arms accord which provides for force levels inferior to those of the Soviet Union.

As the leading nation of the free world, I am proud to say that this administration has clearly established our country's position in nuclear arms control. Our proposals for the strategic arms reduction talks (START) and the intermediate-range nuclear missile talks (INF) both deal with the Soviet nuclear threat to peace in a realistic and stabilizing manner. Rather than accepting the current Soviet advantage and agreeing to freeze ourselves into permanent inferiority, the administration has stated that the current level of armaments is far too high, that the question of verifiability is far too important to be carelessly glossed over, and that what the world demands is not the maintenance of a balance of terror at high force levels, but dramatic reductions of these dreadful arsenals.

As the President stated before the U.N. Special Session on Disarmament.

America has no territorial ambitions, we occupy no countries, and we have built no walls to lock our people in. Our commitment to self-determination, freedom, and peace is the very soul of America.

The President further mentioned that it is the Soviet Union that has conducted a massive buildup of its military might in the last few years. It is the Soviet Union that has repressed freedom in Czechoslovakia, Hungary, Berlin, Poland, and Afghanistan. And it is the Soviet Union today that uses internationally outlawed chemical weapons in Southeast Asia and Afghanistan in violation of its treaties and international obligations. To this end, my resolution does indeed take account of this world situation.

Because of the Soviet threat, it is vital that we seek deep reductions in the level of the Soviet Union's nuclear weapons. Only after significant reductions have been made can the world safely endorse a freeze—a freeze which I can support. Surely, none of us want a further buildup of forces, yet we must accept no less than parity with the Soviets. The Congress has an obligation to the American people to reduce the nuclear threat hanging over their heads, and it has an obligation to insure that our country's position in nuclear arms negotiations results in equal and deep reductions that can be verified beyond any shadow of a doubt.

We seek to protect our national security, to reduce the level of nuclear arms in a verifiable manner, to halt the spread of nuclear weapons to third countries, and to reduce the possibility of accidental war. My resolution points us in those directions. I urge my colleagues to read the resolution carefully and eventually adopt it as the best prospect for stabilizing the nuclear environment at substantially lower levels than exist today.●

● Mr. CARNEY. Mr. Speaker, I am pleased to join with my distinguished colleagues, Mr. BROOMFIELD and Mr. STRATTON, in offering a resolution that is realistic and consistent with our endeavors toward mutual, verifiable and stable arms control.

As has everyone in this body, I have felt the alarm in this country over nuclear weapons and the possibility of nuclear war. One hundred and eighty-two of you joined me in signing House Concurrent Resolution 297 which addresses that concern. I encourage all cosponsors of House Concurrent Resolution 297 to sponsor this new joint resolution. I believe it is a proposal that Members from both sides of the aisle and all philosophical persuasions who are sincere in their concern for world peace can support.

To have the American people and the Congress speak in one voice on this issue is crucial.

We are at a truly historic point in time. For the first time ever, we have three sets of arms negotiations underway with the Soviet Union. For the first time ever, we are offering to go one step further than limitations to call for actual reductions as well.

The most important of these are the strategic arms reduction talks (START). START, if successful, would not just put a ceiling on increases in nuclear weaponry. It would actually reduce those weapons and do so in a truly mutual and verifiable way.

The set of negotiations are the intermediate-range nuclear force (INF) talks which aim to eliminate the existing nuclear threat to Western Europe. INF would do so by allowing for the discontinuance of the planned placement of nuclear missiles in NATO countries if the Soviets remove the missiles they already have in place.

The mutual balanced force reduction (MBFR) negotiations include a reduction of NATO strength to 700,000 troops if the Soviets reduce their Warsaw Pact forces to equal levels.

Adoption of this new joint resolution would complement and enhance this work already underway. I believe this alternative resolution provides for the verifiability, mutuality, and equality in reductions that are crucial to this goal that we all share. I believe it is an approach the majority of this body

can support, and I urge my colleagues to join with us in voting for this resolution when we offer it as an amendment to House Joint Resolution 521.●

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. LEACH) is recognized for 60 minutes.

[Mr. LEACH of Iowa addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

ALL TRADING PARTNERS SHOULD HAVE EQUAL OPPORTUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 10 minutes.

● Mr. FRENZEL. Mr. Speaker, the Trade Subcommittee will begin hearings soon on various pieces of legislation generally grouped under the heading of "reciprocity." The general intent of these bills is to achieve equity and fairness of commercial opportunities, especially market access, with our major trading partners. In addition, these bills seek to expand the coverage under our trade laws and under the GATT for trade in services and high technology and for trade-related investment.

I am introducing today H.R. ——, a bill developed by Senator DANFORTH which has received approval by the Senate Finance Committee and is now awaiting floor action. It is important that this bill, along with other related bills introduced by myself and several of my colleagues on the House side, be considered by the Trade Subcommittee so that we can have the benefit of the extensive work already done in the other body.

Only one change has been made in the Danforth bill which I am introducing today. The part of section 8 relating to tariff negotiating authority for high technology products has been dropped. I strongly believe that tariff negotiating authority should not be enacted on a sectoral or product-by-product basis, but should be part of a broadly based strategy for removing nontariff and tariff barriers alike. It is within the context of these broader policy goals that the special needs of particular sectors should be considered, rather than focusing our attention on an ad hoc basis to the individual goals of each sector.

The Trade Subcommittee hearings will be the first step on the House side toward insuring the strong competitive position of our efficient firms in foreign markets, both through our own trade laws and through the principle international trade forum—the GATT. If our economy, and the economies of the world, are to regain their health and look toward future growth, we must guarantee that the rules of the game provide all trading partners equal opportunity.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BONKER) is recognized for 5 minutes.

● Mr. BONKER. Mr. Speaker, I unavoidably missed Tuesday's vote on House Resolution 518, authorizing an investigation by the Committee on Standards of Official Conduct into alleged improper conduct by Members. I wish to go on record saying that I would have voted "yes" in favor of the resolution.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EDGAR) is recognized for 5 minutes.

● Mr. EDGAR. Mr. Speaker, I was necessarily absent on June 24 when the House voted to sustain the President's veto of H.R. 5922. Due to long-standing commitments in my district, it was impossible to return to Washington on short notice for this vote. I would like to state that had I been present and voting on this issue, I would have voted to override the veto of H.R. 5922 which contained an important housing stimulus program as well as funding provisions for several critical Government functions.●

THE NO-COST, NO-SUBSIDIARY HOUSING BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WYDEN) is recognized for 10 minutes.

● Mr. WYDEN. Mr. Speaker, I am introducing a no-cost, no-subsidy housing bill today.

Below is the joint statement made by myself and my colleagues, Mr. GEPHARDT and Mr. CONABLE, when we introduced this important bill to bolster the beleaguered U.S. housing industry:

JOINT STATEMENT BY CONGRESSMAN RON WYDEN, BARBER CONABLE AND DICK GEPHARDT

We are introducing legislation today to implement a key policy recommendation made by President Reagan's Commission on Housing—to remove barriers that discourage private pension fund investments in mortgage securities.

This legislation—the Residential Mortgage Investment Act of 1982—will not cost taxpayers a cent. And, it will not subsidize homeowners at the expense of pensioners.

But it will substantially aid the beleaguered housing industry by opening up a new source of long-term capital that can be used for mortgages.

We are calling our measure, the No-Cost, No-Subsidy Housing Bill.

The most critical problem hamstringing the U.S. housing industry today is a shortage of affordable mortgage investment capital.

This shortage has resulted from crowding in capital markets, caused by enormous federal borrowing to cover spiraling budget deficits and by new realities in the financial marketplace where savers are getting higher yields while mortgage lenders are stuck with low fixed-rate home loans.

Consequently, traditional sources of mortgage dollars have dried up—except at abnormally high intrerest rates.

The introduction of new long-term capital for home loans would help tremendously. That is the conclusion of "The Report of the President's Commission on Housing," and it is a conclusion with which we agree.

The largest untapped source of long-term capital is private pension funds, which now total almost $300 billion. Add public pension funds and you have a pool of nearly $700 billion.

The problem is that rules governing private pension funds discourage—though don't prohibit—investments in mortgage securities.

The solution is to grant a "class exemption" for mortgage security investments by private pension funds.

New regulations under ERISA promulgated by the Department of Labor don't succeed in opening the door to increased pension fund investments in housing. In fact, they discourage these investments by adding more regulatory underbrush to an already tangled area—and by adding more costs. In effect, they treat mortgage securities as second-class, even inferior, investments.

We believe mortgage securities represent a solid investment opportunity. Our view is supported by a survey conducted by Salomon Brothers, which examined returns of alternative investments, including mortgage securities, from 1978–80. It concluded:

"Results show that the mortgage outperformed the three alternative investments: Corporate bonds by 15.3 percent; long Treasuries by 21.7 percent; and 10-year Treasuries by 2.4 percent."

The U.S. housing industry is in shambles amid the worst downturn it has suffered in 40 years, even though demand for housing continues strong. We feel we must find a no-cost, no-subsidy remedy to bolster the housing industry—and the dream of homeownership.

Our bill is that no-cost, no-subsidy remedy.

The complete text of the Residential Mortgage Investment Act of 1982 follows:

H.R. 6781

A bill to permit the investment by employee benefit plans in residential mortgages

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Residential Mortgage Investment Act of 1982.".

SECTION 2. DEFINITIONS.

For purposes of this Act—

(1) EMPLOYEE BENEFIT PLAN.—The term "employee benefit plan" means—

(A) Any plan, fund, or program which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, to the extent that such plan, fund, or program was established or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of in-

surance or otherwise, (1) medical, surgical or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programs, or day care centers, scholarship funds, or pre-paid legal services, or (2) any benefit described in section 302(c) of the Labor Management Relations Act of 1947 (other than pensions on retirement or death, and insurance to provide such pensions); or

(B) Any plan, fund or program which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, to the extent that by its express terms or as a result of surrounding circumstances such plan, fund, or program—

(i) provides retirement income to employees, or

(ii) results in a deferral of income by employees for periods extending to the termination of covered employment or beyond.

regardless of the method of calculating the contributions made to the plan, the method of calculating the benefits under the plan or the method of distributing benefits from the plan; or

(C) A trust described in section 401(a) of the Internal Revenue Code of 1954, as amended (hereinafter the "Code") which forms a part of a plan, or a plan described in section 403(a) or 405(a) of the Code, which trust or plan is exempt from tax under section 501(a) of the Code, an individual retirement account described in section 408(a) of the Code or an individual retirement annuity described in section 408(b) of the Code or a retirement bond described in section 409 of the Code (or a trust, plan, account, annuity, or bond which, at any time, has been determined by the Secretary of the Treasury to be such a trust, plan, account or bond).

(2) QUALIFIED MORTGAGE TRANSACTION.—The term "qualified mortgage transaction" means—

(A) The issuance of a commitment by one or more employee benefit plans or a pool to provide mortgage financing to purchasers of residential dwelling units, either by making or participating in qualified residential mortgage loans directly to purchasers or by purchasing qualified residential mortgage loans or participation interests in qualified residential mortgage loans originated by a third party,

(B) The receipt of a fee in exchange for issuing such a commitment,

(C) The actual organization or purchase of a qualified residential mortgage loan, or of a participation interest therein, pursuant to such a commitment,

(D) The direct origination or purchase, by one or more employee benefit plans or a pool, of a qualified residential mortgage loan, or of a participation interest therein, in cases other than those in which such a commitment has been issued,

(E) The sale, exchange, or transfer of a qualified residential mortgage loan, or of a participation interest therein, by an employee benefit plan or a pool, prior to maturity date of such loan, and

(F) The servicing of a qualified residential mortgage loan (or a participation interest therein) by an employee benefit plan in accordance with this Act, including (but not limited to) collecting mortgage payments, assuring that taxes and insurance premiums for the residential dwelling units are paid, and making decisions relating to, and handling, foreclosures,

(G) The purchase or sale, or commitment to purchase or sell an interest in a qualified pool consisting solely of qualified residential mortgage loans, but only if conducted in accordance with the practices customary in the residential mortgage industry, and

(H) The formation and operation by one or more employee benefit plans of a pool or pools of qualified residential mortgage loans.

(3) QUALIFIED RESIDENTIAL MORTGAGE LOAN.—The term "qualified residential mortgage loan" means any residential mortgage which, at the time of origination (or, if earlier, at the time of commitment) is a prudent investment.

(4) ARM'S-LENGTH.—The term "arm's-length" means in accordance with customary practices in the residential finance industry.

(5) POOL.—The term "pool" means an aggregation of funds or of qualified residential mortgage loans aggregated for purposes of joint investment by two or more plans, pursuant to terms and conditions customary in the residential mortgage industry.

(6) RESIDENTIAL MORTGAGE.—The term "residential mortgage" means a mortgage on a residential dwelling unit, in fee simple, or leasehold (A) under a lease for not less than 99 years which is renewable or (B) under a lease having a period of not less than 50 years to run from the date the mortgage was executed.

(7) RESIDENTIAL DWELLING UNIT.—The term "residential dwelling unit" includes (but is not limited to)—

(A) A detached house, a townhouse, manufactured housing, a condominium unit, a unit in a housing cooperative, a unit in a multi-unit subdivision (planned unit development) restricted by recorded documents which limit the use of the unit to residential purposes and provide for maintenance and facilities, or

(B) A structure consisting of two or more residential dwelling units (as defined in paragraph (A) herein).

(8) PRUDENT INVESTMENT.—The term "prudent investment" means any investment which—

(A) A prudent individual would make while discharging his duties with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an investment of a like character and with like aims,

(B) Is consistent with a diversification of investments of the plan necessary to minimize the risk of large losses, unless, under the circumstances, such diversification is clearly not prudent,

(C) Is in accordance with the documents and instruments governing the plan.

Where a qualified residential mortgage loan underlying an investment is made available to participants and beneficiaries of a plan, the investment will be prudent only if the underlying qualified residential mortgage loan is made available to all such participants and beneficiaries on a reasonably equivalent basis and is not made available to highly compensated employees, officers, or shareholders in an amount greater than the amount made available to other employees.

(9) COMMITMENT.—The term "commitment" means a contractual obligation of an employee benefit plan, or a pool, the terms and conditions of which are customary in the residential mortgage industry, to provide mortgage financing to purchasers of designated residential dwelling units.

(10) PARTICIPATION INTEREST.—The term "participation interest," in connection with a residential mortgage, means an ownership interest in such mortgage, ownership of which is held in common with one or more other persons.

(11) ORIGINATION.—The term "origination" means the process by which long-term financing is obtained for the purchasers of residential dwelling units under construction or then existing.

(12) PARTICIPANT.—The term "participant" means any employee or former employee of an employer, or any member or former member of an employee organization, who is or may become eligible to receive a benefit of any type from an employee benefit plan which covers employees of such employer or members of such organization, or whose beneficiaries may be eligible to receive any such benefit.

(13) BENEFICIARY.—The term "beneficiary" means a person designated by a participant, or by the terms of an employee benefit plan, who is or may become entitled to a benefit thereunder.

(14) PERSON.—The term "person" means an individual, partnership, joint venture, corporation, mutual company, joint stock company, trust, estate, unincorporated organization, association, or employee organization.

(15) STATE.—The term "state" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone. The term "United States" when used in the geographic sense means the States and the Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343).

SECTION 3. PERMITTED INVESTMENTS.

(a) A plan may engage in any qualified mortgage transaction involving any qualified residential mortgage loan provided transactions between all parties are at arm's-length.

(b) A plan may participate in any mortgage pool provided said pool conforms to the requirements of subsection (a) herein with regard to permitted investments.

SECTION 4. REGULATIONS.

The Secretary of the Treasury may prescribe regulations to carry out the purposes of this Act, including regulations providing for coordination of the provisions of this Act with affected provisions of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954. Until final regulations are issued, the provisions of this Act shall be interpreted in accordance with any reasonable meaning of the terms thereof.

SECTION 5. PREEMPTION.

The provisions of section 3 herein shall supersede any and all contrary provisions of State law, the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954, as such laws may be amended. No excise taxes shall be imposed under chapter 43 of subtitle D of the Internal Revenue Code of 1954, as amended, on a plan or pool that engages in a transaction described in section 3.

SECTION 6. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act.●

A CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, in this flurry of proposals requiring a balanced budget through the binding action of a constitutional amendment, I am introducing what I consider to be an improved version of the many that have been introduced thus far. This bill would not only require a balanced budget, but it would also limit the rate of increase in taxes to the actual rate of increases in personal income. In addition, this amendment would provide enforcement powers to the Congress and to the administration.

We are currently in an economic crisis which clearly demonstrates the need for a constitutional amendment to force the Government to restrain its spending. We are faced with such massive deficits that the Nation's credit markets are in a state of chronic anxiety and near panic. The signals that we have been sending are so confusing that Wall Street is in complete disarray. My proposed amendment would send a much-needed strong, clear signal to our financial markets that the Congress is serious about getting its fiscal house in order.

In this constitutional amendment, I have provided for waivers of the requirements of the amendment only in the case of a declaration of war or if two-thirds of each House agree to an emergency waiver. I would not want to hamstring our defense capabilities by not allowing a rapid buildup to deal with a military emergency. Nor should we preclude entirely, deficit spending in some other obvious, but unforeseen crisis.

In times of recession, this bill would require that if any unanticipated deficit should occur, at the end of a fiscal year, that deficit is immediately and automatically considered in the following fiscal year as an expenditure.

This proposed amendment to the Constitution would also address the question of simply raising taxes to balance the budget. The percentage rate of increase in taxes could not be greater than the percentage of increase in the Nation's personal income.

The support for a constitutional amendment is there—32 States have passed some form of a constitutional amendment that would require a balanced budget. The American people are tired of a Congress that cannot say "no" to the many special interests. This amendment would give the Congress no alternatives—they simply could not spend more than was coming in and they could not raise taxes to cover excessive Federal spending.

Mr. Speaker, at this point I would like to insert the text of my proposed constitutional amendment:

H.J. RES. 535

Joint resolution proposing an amendment to the Constitution altering Congressional budget procedures

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for such year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SEC. 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the nominal rate of increase in personal income in the last calendar year ending before such fiscal year.

"SEC. 3. Except as provided in section 4, any amount by which total outlays for any fiscal year exceeds the level of total receipts for such year shall be deemed to be an outlay in the first fiscal year beginning after such amount is determined.

"SEC. 4. The provisions of sections 1, 2, and 3, shall not apply to any fiscal year with respect to which—

"(1) a declaration of war is in effect, or

"(2) the Senate and the House of Representatives, by a two-thirds vote of those present and voting of each House, adopt a resolution to suspend the application of such section of this article.

"SEC. 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SEC. 6. This article shall be effective with respect to the budget process for the second fiscal year beginning after ratification.".

A NATIONAL DEBATE ON NEEDED: NATIONAL SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California, (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, on March 12, 1981, I introduced legislation to form a select commission to examine the issues associated with voluntary service in America. I rise today to further discuss this legislation, H.R. 2500, with my colleagues and to submit that the need for establishing this Commission is greater than ever.

The bill is a revised version of legislation (H.R. 6868) which I introduced last year, along with Congressmen MCCLOSKEY and CAVANAUGH, to establish a Presidental Commission on National Service. That bill was approved by the House Education and Labor Committee on October 2, 1980 (H. Rept. 96-1450, part 1). In addition, Senators TSONGAS and CRANSTON sponsored a similar measure last year in the Senate which passed the full Senate as an amendment to the Domestic Violence Prevention and Services Act.

I am pleased that already over 25 of my colleagues have joined me in cosponsoring this legislation. I welcome the support of all my colleagues for this important bill.

The basic purpose of the bill is to establish a Select Commission to examine the issues associated with volunteer service in America. The Commission would be comprised of 21 Members, 11 of whom would be appointed by the President, 5 of whom would be appointed by the Speaker of the House in consultation with the minority leader of the House, and 5 of whom would be appointed by the majority leader of the Senate, in consultation with the minority leader of the Senate.

The Commission would issue its final report to the President and the Congress within 15 months after its first meeting, and then the President would have 90 days to assemble the recommendations of all affected executive agencies and departments and submit an interim report to each House of the Congress, detailing the desirability, feasibility, and cost of implementing each of the Commission's recommendations.

Within 90 days after submitting his interim report, the President is required by my bill to transmit to each House of the Congress a final report containing a detailed statement on any actions taken to implement the recommendations of the Commission, together with any further recommendations for legislation or administrative actions. The Commission would cease to exist 180 days after transmitting its final report. Its termination would, therefore, coincide with the transmittal of the President's final report to the Congress.

I believe such a Commission is long overdue. It is needed to focus national attention on the need for public and private voluntary service, on opportunities which exist for such service, and on alternative service programs which may help the United States to meet a broad range on national and local needs.

Mr. Speaker, to move boldly into the eighties we must rekindle our traditional American optimism about the future. Recent years have seen the international economy ravaged by soaring energy costs. War, terrorism, and unrest have shaken the political structure of the world. There is no

doubt that the legacy of the past decade and one half of trauma and tragedy is a bruised American spirit. Yet, I refuse to accept that we Americans have lost our confidence that something can be done about providing jobs for our youth, about conserving our national resources, about protecting the environment, about rebuilding our cities, about educating our people, and about providing decent services for our older Americans and the handicapped. These are a few of the problems that worry Americans, and yet there are no answers forthcoming.

I believe part of the answer lies in rekindling the spirit and activism which settled a vast continent, which landed the first man on the Moon, which built the richest and most powerful Nation on Earth. I believe we need to foster a new activism, to resurrect a service ethic, if we are to overcome our present difficulties and we need to mobilize the vast and untapped resource of voluntary service if we are to meet the challenges which lie ahead. My legislation seeks to set that process in motion.

Mr. Speaker, at a time when the new administration and the Congress are searching for ways to pare back the size and the expense of the Federal Government, I believe it is imperative to begin to explore alternative and less expensive ways to provide important service. Voluntary service represents the most viable alternative to direct Federal spending in countless areas, and it has the added benefit of contributing directly to the education and personal development of individual volunteers.

Meaningful voluntary service can help our young people during that difficult transition from adolescence to adulthood, from dependence to making an independent contribution to society, from being passive members of society to taking an active share of responsibility in and for society. Voluntary service can instill in our people, both young and old, a sense of pride and self-esteen. It can provide very useful on-the-job training, equipping young people with marketable skills. In this latter case, the volunteer programs I envision could at least partially offset federally funded jobs programs, such as CETA.

As part of the Commission's inquiry, I believe it is necessary to address the adequacy of voluntary approaches to service and to consider the relative cost and benefits of other forms of service. As the Justice Department steps up efforts to prosecute those young men who have failed to register for military service—and as talk of resumption of the draft quickens throughout the Nation—it is all the more imperative that Congress establish this Commission. This Commission would hold hearings across the Nation, and its findings would reflect the input from Americans from every sector of society. Only the formation of this Commission can insure that America's options are never limited should there be a strong desire or immediate need ever demand drastic congressional action on the subject of insuring America's manpower needs.

My preference is to devise a program of voluntary service on a national scale which would derive its vitality from free choice. However, I also recognize that mandatory approaches to service have certain points in their favor, primarily the fact that all individuals would share an equal obligation. Therefore, I believe the Commission should examine all options for national service.

While more details are needed in order to assess the potential impact of policy changes, there are many promising ways to provide incentives for voluntary service by using more creatively existing Federal programs. We could, for example, restrict the availability of Federal educational assistance to those students who have satisfactorily completed a period of approved service. Alternatively, students who have performed approved service could receive educational grants, while those who have not served could only receive loans. Or, those who have served could be given loans at more favorable rates of interest than those who have not served. In addition, food stamps, CETA jobs, and unemployment benefits would be tied to service programs so that our people will get the message that service to the country is at least expected, if not required, by the Government.

The point in listing these examples is not to suggest that these are the answers; it is to suggest that there are innumerable alternative approaches to providing incentives and opportunities for service and that these ideas deserve very careful attention. Again, my legislation seeks to set that process in motion.

Finally, a word about youth and citizenship responsibility. Clearly, we must prevent our most precious resource, our youth from ever becoming dispirited. It is shocking that 23.1 percent of all our youth nationwide is unemployed and it is a national tragedy that over half—52 percent—of all American black teenagers are jobless. If we allow the potential strength of today's youth to lay fallow in the unsowed soil that is unemployment, we will have allowed the demoralization of an entire generation. Such a situation is unacceptable, economically, socially, politically, and morally.

In recent years, our young people seem to have turned progressively inward for satisfaction rather than outward toward making a positive contribution to society. My view is that we have not done enough as a Nation to impress on young people the idea that they have a responsibility to serve. The commission could contribute immeasurably to our country simply by raising that concept in the public mind and elevating the discussion about citizenship responsibility so that people will have an opportunity to think about the idea and to provide the Commission with their thoughts. Having a national debate on the issues of service could lay the foundation for a renaissance in American life, propelled by the voluntary contributions of our people, particularly young Americans.

A new activism must be sparked and a fresh call to voluntary national service must be sounded. An entire generation has not been asked to serve. Let us ask now.

For the convenience of my colleagues I have reprinted below the full text of my bill. I hope that my colleagues will join me in urging that Congress approve of this Commission before the final session of the 97th Congress draws to a close.

H.R. 2500

A bill to establish a select commission to examine the issues associated with voluntary service

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Select Commission on Voluntary Service Opportunities Act of 1981".

PURPOSE

SEC. 2. It is the purpose of this Act to establish a Select Commission to examine the issues associated with voluntary service and—

(1) to focus national attention on the need for voluntary service, on opportunities which exist for such service, and on alternative types of national service programs which may help the United States to meet a broad range of national and local needs;

(2) to explore and assess alternative methods for providing the people of the United States with the incentives and the opportunities to provide useful service to the community and the United States; and

(3) to provide the President, the Congress, and the people of the United States with an overview and assessment of existing opportunities for voluntary service and a series of options for alternative types of national service programs designed to help the United States deal with a number of serious challenges in the areas of youth unemployment, conservation of natural resources, protection of the environment, rebuilding the inner cities, education, providing services for older Americans and handicapped individuals, and personnel requirements in a wide variety of Federal, State, and local programs and agencies.

FINDINGS

SEC. 3. The Congress finds that—

(1) voluntary service in a variety of areas represents a vast and essentially untapped resource which can and should be utilized to meet national and local needs;

(2) greater leadership is needed on the part of the Federal Government to encour-

age the people of the United States to serve and to encourage State and local authorities to provide opportunities for meaningful service;

(3) useful public service is very important for the educational and personal development of young people;

(4) the United States faces numerous challenges which can be better met if we draw upon the creative energies of young people and other individuals through a program of national service; and

(5) a high-level commission is needed to make recommendations to the President and the Congress about the effectiveness of existing voluntary service programs and the costs and benefits of alternative types of national service programs.

ESTABLISHMENT

SEC. 4. There is established a select commission to be known as the Select Commission on Voluntary Service Opportunities (hereafter in this Act referred to as the "Commission").

DUTIES

SEC. 5. The Commission shall—

(1) identify existing voluntary service opportunities in the public and private sectors of the United States and assess the effectiveness of these opportunities in meeting national and local needs, in building a sense of commitment to the community and the United States, and in instilling in the volunteers a sense of accomplishment and pride;

(2) identify incentives which attract, or which are needed to attract, voluntary service in the public and private sectors of the United States;

(3) examine and assess the need for and the desirability, feasibility, and cost of expanding existing service opportunities and incentives and establishing any of the alternative types of national service programs;

(4) identify and examine alternative types of national service programs and assess the relative costs and benefits of such national service programs;

(5) examine the impact of potential changes in the incentives for service, and of various alternative types of national service programs, on existing institutions (including educational institutions, labor organizations, private and public service programs, and Federal youth, jobs, and training programs);

(6) assess the cost effectiveness of both alternative and existing voluntary service programs and the feasibility and desirability of incorporating these programs into a comprehensive national service program;

(7) examine the role of all individuals (regardless of age, sex, income, and education) in existing service programs and in the alternative types national service programs;

(8) identify the way in which existing service programs and alternative types of national service programs will provide young individuals and other participants with a sense of accomplishment and pride and an opportunity to contribute to the welfare of the society by responding to unmet needs of the community and the United States; and

(9) conduct meetings, hearings, and conferences in various regions and localities in the United States to gather the opinions of a wide variety of individuals, particularly young individuals and those individuals and groups most likely to be affected by any changes in existing service programs or the establishment of a program of national service.

MEMBERSHIP

SEC. 6. (a) The Commission shall be composed of twenty-one members as follows:

(1) Eleven members appointed by the President from among individuals who are broadly representative of private volunteer organizations, secondary and higher education, business, organized labor, the military, social service and civil liberty organizations, minority group and ethnic organizations, Federal, State, and local governments, and groups with a primary interest in service opportunities for youth, handicapped individuals, and older Americans, of which not less than three of the members appointed by the President shall be individuals who are not less than seventeen years of age and not more than twenty-five years of age on the date of their appointment to the Commission.

(2) Five members appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House, of which two shall be Members of the House of Representatives and one shall be an individual who is not less than seventeen years of age and not more than twenty-five years of age on the date of the individual's appointment to the Commission.

(3) Five members appointed by the majority leader of the Senate in consultation with the minority leader of the Senate, of which two shall be Senators and one shall be an individual who is not less than seventeen years of age and not more than twenty-five years of age on the date of the individual's appointment to the Commission.

(b) If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves that office, he may continue as a member of the Commission until his successor is appointed.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) Members of the Commission shall be appointed for the life of the Commission.

(e)(1) Except as provided in paragraph (2), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of the duties of the Commission.

(2) Members of the Commission who are officers or employees of the United States or Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(f) Eleven members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(g) Not later than forty-five days after the effective date of this Act, the President shall designate the Chairman of the Commission from among those individuals appointed by the President under subsection (a)(1).

(h) The first meeting of the Commission shall be held not later than sixty days after the designation of the Chairman under subsection (g). The Commission shall meet at least once each three months after its first meeting. The date and time of all meetings of the Commission shall be at the call of the Chairman or a majority of its members.

EXECUTIVE DIRECTOR AND STAFF

SEC. 7. (a) The Commission shall have an Executive Director who shall be appointed by the Chairman of the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule.

(b) Subject to such rules as may be prescribed by the Commission, the Chairman of the Commission may appoint and fix the pay, at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule, of such additional personnel as the Chairman considers appropriate.

(c) The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) Subject to such rules as may be prescribed by the Commission, the Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(e) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

POWERS

SEC. 8. (a) The Commission may, for the purpose of carrying out this Act, hold such hearings and conferences, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(g) The Commission through its Chairman may enter into any contract which the Commission deems is necessary.

REPORTS

SEC. 9. (a) The Commission may transmit to the President and to each House of the Congress such interim reports as it considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than fifteen months after the first meeting of the Commission is held pursuant to section 6(h). The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recom-

mendations for such legislation and administrative actions as it considers appropriate.

(b)(1) After the final report is transmitted to the President and each House of the Congress pursuant to subsection (a) each executive department and agency affected by the final report, as determined by the President, shall submit to the President recommendations for implementing the final report.

(2) Not later than ninety days after the final report is transmitted by the Commission to each House of the Congress pursuant to subsection (a) the President shall transmit to each House of the Congress an interim report containing a detailed statement on—

(A) the desirability, feasibility, and cost of implementing each of the Commission's recommendations, and the actions taken or planned with respect to the implementation; and

(B) recommendations with respect to any legislation proposed by the Commission and the need for any alternative or additional legislation to implement the Commission's recommendations.

(3) Not later than ninety days after the interim report is transmitted to each House of the Congress pursuant to paragraph (2) the President shall transmit to each House of the Congress a final report containing a detailed statement on any actions taken to implement the recommendations of the Commission, together with any further recommendations for legislation or administrative actions.

TERMINATION

SEC. 10. The Commission shall cease to exist one hundred and eighty days after its final report is transmitted to the President and each House of the Congress pursuant to section 9(a).

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There is authorized to be appropriated for the fiscal year ending on September 30, 1982, the sum of $3,100,000 to carry out this Act. Any sums appropriated under the authorizaton contained in this section shall remain available until expended.

EFFECTIVE DATE

SEC. 12. This Act shall take effect on October 1, 1981.

STATUS OF FISCAL YEAR 1982 CONGRESSIONAL BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

● Mr. JONES of Oklahoma. Mr. Speaker, on January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. We are herewith transmitting the status report under Senate Concurrent Resolution 92, which revised the second budget resolution for fiscal year 1982. This report reflects the revised second budget resolution of June 23, 1982, and estimates of budget authority, outlays, and revenues based on all completed action on spending measures as of the close of legislative business July 13, 1982.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1982 CONGRESSIONAL BUDGET ADOPTED IN S. CON. RES. 92

REFLECTING COMPLETED ACTION AS OF JULY 13, 1982

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	777,672	734,100	628,400
Current level	768,674	730,667	628,600
Over resolution by			200
Under resolution by	8,998	3,433	

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $8,998 million for fiscal year 1982, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 92 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $3,433 million in outlays for fiscal year 1982, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 92 to be exceeded.

REVENUES

Any measure that would result in a revenue loss that exceeds $200 million for fiscal year 1982, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in S. Con. Res. 92.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 14, 1982.

Hon. JAMES R. JONES,
Chairman, Committee on the Budget, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1982 budget (S. Con. Res. 92). This report for fiscal year 1982 is tabulated as of close of business July 13, 1982 and is based on our estimates of budget authority, outlays, and revenues using the assumptions and estimates consistent with S. Con. Res. 92.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	760,142	723,204	628,600
2. Entitlement authority and other mandatory items requiring further appropriation action	8,532	7,463	
3. Continuing resolution authority			
4. Conference agreements ratified by both Houses			
Current level	768,674	730,667	628,600
Second budget resolution, revised, S. Con. Res. 92	777,672	734,100	628,400
Current level is: Over resolution by			200
Under resolution by	8,998	3,433	

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

PARLIAMENTARIAN STATUS REPORT SUPPORTING DETAIL, FISCAL YEAR 1982 AS OF CLOSE OF BUSINESS JULY 13, 1982

[In millions of dollars]

	Budget Authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	434,081	415,775
Enacted previous session (97th Congress, 1st session)	433,290	419,316
Offsetting receipts	−112,358	−112,358
Enacted this session	5,129	470
Total, enacted	760,142	723,204
II. Entitlement authority and other mandatory items requiring further appropriation action:		
Payment to the Foreign Service retirement and disability trust fund	1	1
Offsetting receipt, Foreign Service retirement	−1	−1
Retired pay, defense	98	97
Civilian and military pay raises, defense	5,395	5,083
Grants to States for medicaid	553	553
Services to selected groups (social services)	52	52
Payment to the Foreign Service retirement and disability trust fund	5	5
Offsetting receipts, Foreign Service retirement	−5	−5
Student loan insurance	1,300	478
Payments to air carriers	20	20
Payment to civil service retirement and disability fund	303	303
Offsetting receipts, payment to civil service retirement	−303	−303
Government payment for annuitants, employees health benefits	304	304
Civilian agency pay raises	811	875
Total entitlements	8,532	7,463
III. Continuing resolution authority		
IV. Conference agreements ratified by both Houses		
Total current level as of July 13, 1982	768,674	730,667
Second budget resolution, revised, S. Con. Res. 92	777,672	734,100
Amount remaining:		
Over ceiling		
Under ceiling	8,998	3,433

Note:—Detail may not add due to rounding.●

NATIONAL CRISIS IN SCIENCE AND MATH EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. MCCURDY) is recognized for 5 minutes.

● Mr. McCURDY. Mr. Speaker, in recent years, we should all have become aware of a national crisis in science and math education. We have spent the last 3 years studying the problem. We know that there was a 77-percent decline in the number of qualified secondary school math teachers and a 65-percent drop in the number of science teachers since 1971. We know that the number of college students earning precollege math and science degrees has decreased severely.

We know that the problem is eroding our technological leadership, our national security, and our industrial innovation and productivity. We are nurturing a generation of young people who are becoming scientifically and mathematically illiterate in the technological age.

Congress must act now. The time for special studies and task forces manned by notable individuals is passed.

Today, I am introducing two bills designed to overcome America's critical shortage of qualified science and mathematics teachers. Senator GLENN is introducing identical legislation today. Soon, I will be approaching my colleagues for support on the Pre-College Mathematics and Science Teacher Assistance Act and the Math and Science Education Act.

The future of America lies in our ability to develop and apply high technology. I hope my good friends from Michigan will forgive me but our future does not hinge on the number of automobiles we produce. The United States of America is the world's technological pioneer. Yet, we do not have the science and math teachers necessary to train and prepare our young people for their roles in the increasingly complex, technological society we are creating.

Nationwide, in 1981-82, 50 percent of the math and science teachers in our high school classrooms were unqualified and were teaching with emergency certificates. In my home State of Oklahoma, we found that there has been a 64-percent drop over the last 10 years in the number of students completing mathematics teaching certificates and that 50 percent of our present science teachers are not qualified.

We have also found that morale among math and science teachers is extremely low and that one of the main causes of the teacher shortage is the salary differential with industry. Teachers can make 50 to 70 percent more working in the high technology industry. Naturally, they are leaving the classroom for higher paying jobs. The legislation we are introducing today will address the present teacher shortage and insure an adequate supply of qualified science and math teachers in the future.

The Pre-College Mathematics and Science Teacher Assistance Act amends the Higher Education Act of 1965 to establish a low-interest direct student loan program for college students who pursue careers in precollege math and science teaching. The loan program is patterned after the direct student loan program. The loan would be forgiven if, within 1 year of becoming a certified science or math teacher, the student begins teaching math or science in a public school for a number of years that at least equals the number of years for which the student received the loan. The bill does not authorize funds until fiscal year 1984; the Congressional Budget Office estimates that the program will cost $12 million in the first year.

The Math and Science Education Act amends the Internal Revenue Code to grant a 50-percent tax credit to high technology firms that hire precollege math and science teachers during the summer months. This summer employment will not only give teachers the salary boost they need, but also provide them with hands-on experience in high technology, which they can apply in the classroom to better prepare their students for future jobs. This bill also grants a tax credit to those high tech firms which allow their employees holding math and science teaching certificates to teach part time in the local school districts. This tax credit would increase the current pool of qualified science and math teachers in our schools.

I want to thank the National Council of Teachers of Math and the National Association of Secondary School Principals for their invaluable assistance in formulating this legislation. I would also like to express my appreciation to the National Science Teachers Association, the National Association of Elementary School Principals, the National Association of State Boards of Education and the American Association for College Teachers of Education for their support.

Our education system is the key to maintaining our leadership position in the world. It is a well educated populace that has enabled us to advance faster and further than any other country. But, technology and innovation will be useless without a technically skilled work force.●

CONSIDERATION OF H.R. 6030, FISCAL YEAR 1983 DEPARTMENT OF DEFENSE AUTHORIZATION ACT

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, H.R. 6030, the Defense authorization bill for fiscal year 1983, is scheduled to be called up for general debate on Monday, July 19. We hope to continue the bill next week until we finish.

H.R. 6030, as reported in April, contains authorization totaling $180.3 billion for fiscal year 1983. That figure is $3.2 billion below the amount requested by the President. In the meantime, however, the first budget resolution has been adopted, and would call for further reductions in excess of $3 billion in the authorization bill in order to conform to the intent and spirit of the resolution. We intend to take that initiative.

Therefore, under the provisions of the rule for considering H.R. 6030 on the floor, as the first order of business under the 5-minute rule in the amending process, Mr. BENNETT, chairman of the Seapower and Strategic and Critical Materials Subcommittee; Mr. STRATTON, chairman of the Procurement and Military Nuclear Systems Subcommittee; and Mr. DAN DANIEL, chairman of the Readiness Subcommittee, will offer amendments to make reductions totaling approximately $3.2 billion in the authorization categories. These amendments will not be amendable at that time. However, if adopted, under the rule they will be considered as original text for purposes of any further amendments in the normal course under the 5-minute rule.

The amendments have been submitted for publication in the CONGRESSIONAL RECORD for today. As an aid to Members of the House, I am including in my statement at this point additional explanatory material on the amendments offered by Congressmen BENNETT, STRATTON, and DAN DANIEL in order to bring H.R. 6030 in conformance with the limits set for the defense category in the first budget resolution:

EXPLANATION OF THE BENNETT AMENDMENT

The amendment would reduce authorization for the Trident submarine program by $699 million and would reduce the number of ships authorized from two to one.

The bill as reported by the committee would authorize appropriations of $2,485 million for construction of two Trident submarines, ships number ten and eleven, configured to carry the Trident I missile. On June 1, 1982, the Secretary of Defense announced that he had directed that the ninth and subsequent Trident submarines should be configured to carry the Trident II missile.

The amendment reduces the number of ships authorized from two to one and authorizes appropriations to construct the tenth Trident submarine configured to carry the Trident II missile.

EXPLANATION OF STRATTON AMENDMENTS

ARMY

Aircraft

War Reserve Spares (−$25.0 million)

Within the aircraft spares request, the Army included $50.0 million for procurement of a package of war reserve spares originally programmed for acquisition in fiscal year 1987. Since the overall Army aircraft spares request for FY 1983 was more than double that of FY 1982, the committee previously recommended deferral of $25.0 million of the $50.0 million request. This amendment would defer the entire $50.0 million—an additional $25.0 million reduction.

Support Equipment and Facilities (−$20.6 million)

AH-1 Flight Simulator (−$13.9).—The request included $41.6 million for procurement of three AH-1S flight simulators. This amendment would defer procurement of one simulator.

High Technology Test Base (−$6.7 million).—The request included funds for procurement of radios, map display and aircraft survivability equipment for experimental use by the 9th Infantry Division high technology test base. This amendment would defer procurement pending clarification of the requirement.

AH-1 Modifications (−$25.0 million).—The committee added $80.0 million to modify 22 AHIG's to the AH-1S configuration for the Air National Guard. This

amendment reduces that program by $25.0 million which will permit modification of 15 aircraft for the ANG.

Missiles

Vulcan Modifications (−$50.0 million)

The committee recommended an addition of $50.0 million to begin procurement of Vulcan product improvement kits (PIVADS) to upgrade Vulcan air defense guns for use in the Army National Guard. This amendment would defer initiation of procurement until completion of the R&D program.

Weapons and tracked combat vehicles

M577A2 (−$23.5 million)

The request included funds for procurement of 114 armored command post vehicles. This vehicle has not been procured for several years, and no future procurement is planned. This item is a marginal requirement, and the amendment would delete the entire amount requested.

M-60 Modifications (−$30.0 million)

The budget request included funds for procurement of 360 M-60A1 to A3 fire control modification kits. As a result of favorable contract negotiations, the 360 kits can be procured for $30.0 million less than the budget request.

ITV Modifications (−$81.9 million)

The budget request included $81.9 million for procurement of 311 Improved TOW Vehicle kits for retrofit onto M113 chassis. This program was planned for termination in FY 1982. The Army has its full D-Day force requirement and planned only a limited additional ITV procurement because it is a single-purpose weapon system. No future procurement is planned. The amendment would terminate procurement in FY 1982 as originally planned.

Ammunition

Copperhead (−$183.6 million)

Recent testing failures coupled with cost growth have led to an Army decision to terminate Copperhead procurement. Copperhead is not funded in FY 1984 and the Army is now considering whether to terminate the program in FY 1983 or to proceed with a reduced final buy-out program.

This amendment deletes the entire Copperhead request and terminates the program in FY 1982.

Other procurement

Secretary Weinberger proposed a reduction of $200.0 million in selected communications and electronics programs. After careful review, the amendment accepts $110.4 million of the proposed reduction, and rejects $89.6 million of the proposed reduction as inappropriate.

The amendment also reduces the tactical and support vehicle program by $18.1 million. The committee had recommended an increase of $118.1 million above the request. The amendment leaves an increase of $100.0 million.

NAVY

Aircraft

SH-60B (Seahawk) (−$96.2 million)

The committee previously reduced the SH-60B program from 48 to 30 aircraft (−$302.8 million) because the aircraft procurement schedule was incompatible with the ship stand-up schedule for the LAMPS-MK III system.

The Senate reduced the SH-60B program by $450.0 million based upon a recommendation from Secretary Weinberger. The Navy indicates that the Senate reduction would not permit procurement of the necessary helicopters and support equipment to keep deployment on schedule. An additional reduction of $96.2 million (a total reduction of $300.0 million) would maintain the deployment schedule.

F-14 (Tomcat) (−$179.1 million)

The budget request included a request for 24 F-14's. 30 were procured in FY 1982 and 30 are planned for FY 1984. The committee recommended an increase of $179.1 million to procure 6 additional F-14's (total of 30) in FY 1983. This amendment deletes the additional authorization and leaves the F-14 program at the budget request.

P-3 Modifications (−$50.4 million)

The committee recommended a $50.4 million increase to the P-3 modification line to fund an additional 36 tactical/navigation mod kits for Navy Reserve P-3A/B aircraft. This amendment would delete the $50.4 million increase and authorize the program in the budget request.

C-9B (−$24.4 million)

The budget request included $16.2 million for procurement of used DC-9 aircraft for use primarily by the Navy Reserve for intra-theater airlift. The committee bill recommended $60.6 million—an increase of $44.4 million above the request. This amendment would reduce the C-9 program by $24.4 million, leaving $36.2 million.

Procurement, Marine Corps

Ammunition (160.2).—The Marine Corps requested $135.9 million for procurement of 155mm ammunition of all types. OSD increased 155mm procurement to $396.1 million—an increase of $260.2 million. This amendment would reduce 155mm ammunition procurement by $160.2 million, leaving $235.9 million.

Communications & Electronics (−50.0).—The Marine Corps requested $126.3 million for procurement of 10 AN/TPS-59 air defense surveillance radars. No AN/TPS-59's were requested in FY 1982 or in FY 1984. The amendment reduces the program by $50.0 million, spreading the program over two years.

Engineer and Other Equipment (13.9).—The request included $30.2 million for procurement of 216 medium, full tracked, tractors. 121 were funded in FY 1982 and there are 3 in the FY 1984 request. The amendment reduces the program by 100 vehicles (−$13.9 million) and levels procurement over the 3 year period FY 1982-1984.

AIR FORCE

Aircraft

F-16 (Falcon) (−$329.5 million)

The budget requested authorization of 120 F-16 aircraft and long-lead for 120 in FY 1984. The committee bill recommends an increase of $329.5 million for procurement of 140 F-16's and long-lead for 140 in FY 1984 to provide F-16's for the Air National Guard. This amendment deletes the additional aircraft and reduces the F-16 program to the level requested in the budget.

F-15 (Eagle) ground support equipment (−$97.2 million)

The request contained $299.0 million for peculiar ground support equipment for the F-15, including test sets and avionics shop sets for all five North American Air Defense squadrons (two of which will not be activated until FY 1985-86) and seven RDF sets of equipment.

This amendment defers $97.2 million of the request.

C-130H (−$75.7 million)

The committee bill recommends $336.8 million for procurement of 16 C-130's. This amendment reduces the C-130 program from 16 to 12.

KC-135 Modifications (−$115.0 million)

Within the request for modification of Air Force aircraft ($2.6 billion), $613.7 million was requested for various C-135 aircraft modifications. Of this amount, $490.6 million was requested for the CFM-56 reengining program. This is an increase over the $234.0 million appropriated for this program last year. The need to reduce Total Obligational Authority, it is recommended that this program amount requested would buy 20 reengining kits and 80 engines. In view of the . . . be reduced by $115 million which should buy 15 reengining kits and 60 engines for fiscal year 1983. This program is scheduled to increase to $1.2 billion in fiscal year 1984 with the purchase of 60 kits and 240 engines. Tooling and nonrecurring items will be available to produce at that more efficient rate in fiscal year 1984.

Spares and Repair Parts (−$72.0 million)

The budget request contained $3,656.6 million for aircraft spares and repair parts. This amendment would apply a 2 percent undistributed reduction ($72.0 million) to this account.

E-3A (AWACS) (−$78.0 million)

The budget requested two AWACS aircraft in fiscal year 1983 and long-lead funds for one AWACS in fiscal year 1984. This amendment would defer one AWACS to fiscal year 1984 providing a two year program of 1-2 instead of 2-1.

A-7 FLIR Modifications (−$27.0 million)

The budget contained no request for A-7 FLIR (forward looking, infra-red) modifications. The committee bill recommends authorization of $76.0 million to equip two air National Guard A-7 squadrons with the FLIR for the night attack mission. This amendment would reduce the program by $27.0 million and equip one A-7 squadron with the FLIR in fiscal year 1983.

B-52 Modifications (−$33.0 million)

The fiscal year 1982 Air Force request contained $2.6 billion for modification of in-service aircraft. Of this amount, $554.6 million is for the modification of B-52 G/H aircraft. Of the amount requested for B-52 modifications, $305.3 million is requested for avionics modernization for 64 aircraft. The number of aircraft to be modified by fiscal year 1984 funds drops to 43 aircraft and this completes the program. By reducing the B-52 modification program in the amount of $33.0 million and 10 aircraft, the phase-down of this program can be smoothed out and all modifications to the 268 planned aircraft can be completed in fiscal year 1984.

Support Equipment and Facilities (−$45.4 million)

F-16 War consumables (−$25.5 million).—The budget request contained $140.8 million for procurement of war consumables (auxiliary fuel tanks, pylons, ejector racks, etc.) for the F-16. $77.9 million was appropriated in FY 1982. This amendment would reduce the request by $25.5 million in FY 1983, leaving $115.3 million.

Common Ground Equipment (−$20.0 million).—The budget request contained $332.6 million for procurement of common ground equipment. This amendment would reduce the budget request by $20.0 million.

Missiles

Minuteman Modifications (−$55.5 million)

The amendment would reduce Minuteman missile modification by $55.5 million including $35.5 million from the Minuteman extended survivable power program and $20.0 million associated with deployment of additional Minuteman III missiles.

Adjustments by item—Daniel amendment

	Reduction
Across-the-Board:	
Fuel costs reestimate	−5.2
Currency revaluation	−4.7
Recruiting/advertising	−30.1
Total	−40.0
Army:	
Reduce 4 battalions	−15.0
Cancel/delay new unit activations	−2.0
Inactivate the Army CDEC	−2.0
Total	−19.0
Navy:	
Decommission 22 ships	−248.9
Trident	−0.6
Steaming hours	−25.0
Total	−274.5
Air Force:	
Deactivate 1 active fighter wing	−40.0
Support of end strength reduction	−5.0
Total	−45.0
Defense agencies: CHAMPUS	−20.0
Total	−398.5

DOLLAR CHANGES BETWEEN H.R. 6030, AS REPORTED AND THE DANIEL AMENDMENT TO TITLE III (THE DOD O. & M. AUTHORIZATION FOR FISCAL YEAR 1983)

[In thousands of dollars]

	H.R. 6030, as reported	Daniel amendment	Change
Army:			
General purpose forces	6,123,745	6,129,145	+5,400
Intelligence and communications	911,668	911,868	+200
Central supply and maintenance	4,937,039	4,906,339	−30,700
Training, medical, and other general personnel activities	3,607,008	3,587,108	−19,900
Administration	1,039,104	1,039,204	+100
Support of other nations	123,636	123,436	−200
Total	16,742,200	16,697,100	−45,100
Navy:			
Strategic forces	1,775,812	1,775,212	−600
General purpose forces	10,872,759	10,604,659	−268,100
Intelligence and communications	930,902	930,902	0
Central supply and maintenance	5,953,966	5,942,966	−11,000
Training, medical, and other general personnel activities	1,810,558	1,806,858	−3,700
Administration	484,208	484,208	0
Support of other nations	195	195	0
Total	21,828,400	21,545,000	−283,400
Marine Corps:			
General purpose forces	862,192	864,292	+2,100
Central supply and maintenance	361,661	359,561	−2,100
Training, medical, and other general personnel activities	186,669	186,669	0
Administration	70,978	70,978	0
Total	1,481,500	1,481,500	0
Air Force:			
Strategic forces	3,085,928	3,085,928	0
General purpose forces	3,788,698	3,745,598	−43,100
Intelligence and communications	1,418,292	1,418,292	0
Airlift and sealift	1,205,813	1,205,813	0
Central supply and maintenance	5,461,658	5,458,958	−2,700
Training, medical, and other general personnel activities	1,972,682	1,968,882	−3,800
Administration	387,822	387,822	0
Support of other nations	6,807	6,807	0
Total	17,327,700	17,278,100	−49,600

DOLLAR CHANGES BETWEEN H.R. 6030, AS REPORTED AND THE DANIEL AMENDMENT TO TITLE III (THE DOD O. & M. AUTHORIZATION FOR FISCAL YEAR 1983)—Continued

[In thousands of dollars]

	H.R. 6030, as reported	Daniel amendment	Change
Defense agencies:			
General purpose forces	343,208	343,208	0
Intelligence and communications	1,903,274	1,903,274	0
Central supply and maintenance	1,378,876	1,377,576	−1,300
Training, medical, and other general personnel activities	1,718,105	1,699,005	−19,100
Administration	350,577	350,577	0
Total	5,694,040	5,673,640	−20,400
Grand total	68,308,740	67,910,240	−398,500

●

HOPE FOR PEACE SHINES THROUGH WAR CLOUDS OVER LEBANON

(Mr. ROSENTHAL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. ROSENTHAL. Mr. Speaker, the Middle East today is poised on the threshold of a new era of opportunity. The hope for broadening the peace process shines through the war clouds over Lebanon.

How the United States responds to that opportunity could well determine the future course of events. Whether we attempt to salvage the terrorist PLO by surrendering to its desperate political demands; or whether the United States stands firm and resolves to rebuild a new, independent Lebanon free of foreign troops and influence; whether the United States succumbs to the pleadings of those who purport to speak in this country for the Lebanese but are really echos of such radicals as the terrorists and their supporters in Libya, Syria, Iran, and the Communist bloc; or whether the voice of reason prevails.

These are the opportunities and challenges that face us today in Lebanon and in Washington.

On July 13, 1982, Thomas A. Dine testified before the Foreign Affairs Subcommittee on Europe and the Middle East that—

The opportunity for a broader peace in the Middle East is at stake. I believe that the Lebanon of July 1982 is a testing ground for creative American statesmanship, requiring persistent and well directed diplomacy and perhaps defense forces as well.

Mr. Dine, the executive director of the American Israel Public Affairs Committee, presented a comprehensive overview of not only the current situation in Lebanon but also the events leading up to it and the opportunities it presents for the future.

I would like at this time to insert his complete testimony in the RECORD along with the testimony of Mr. Douglas Bloomfield, AIPAC's legislative director, who has just returned from a factfinding visit to both Lebanon and Israel, and I urge all my colleagues to examine closely the substance of their remarks:

TESTIMONY BY THOMAS A. DINE

Thank you Mr. Chairman for the opportunity to testify before this distinguished Subcommittee. Appearing with me are Mr. Leonard Davis, AIPAC's Research Director, and Mr. Douglas Bloomfield, AIPAC's Legislative Director, who has just returned from a fact-finding trip both to Lebanon and Israel.

AIPAC is a domestic American lobby, concerned with American foreign policy and the advancement of U.S. interests in the Middle East, working particularly for close and consistently strong U.S.-Israel relations. On our Executive Committee sit the presidents of 38 major American Jewish organizations representing more than four-and-one-half million members throughout the United States.

As the Subcommittee meets today, the fate of Lebanon is being decided by soldiers and diplomats. Will a free and sovereign nation-state called Lebanon be revived and reshaped as a result of the current conflict among Lebanon, Israel, the PLO and Syria? Will the terrorist PLO be disarmed and evicted from Lebanese soil, a "state within a state" removed? Will the Syrian and Israeli armies return to their own countries as quickly as possible? Will the various Lebanese political groupings be willing to band together and re-form a functional political coalition that can centrally govern Lebanon as took place in the 1940s, 1950s, and 1960s?

But more than Lebanon is the issue. The opportunity for a broader settlement in the Middle East is at stake. U.S. political and strategic interests are at stake. I believe that the Lebanon of July 1982 is a testing ground for creative American statesmanship, requiring persistent and well-directed diplomacy and perhaps defense forces as well.

LEGITIMATE SELF-DEFENSE

An understanding of the crisis in Lebanon must begin with an analysis of the situation which gave rise to military action by Israel. In 1964, the PLO was formed to bring about the destruction of Israel and to replace it with a Palestinian Arab state. The purpose was not to take over the West Bank and the Golan Heights—indeed, these did not even come under Israeli control until three years later. The purpose was not to attain a Palestinian "mini-state" in the West Bank and Gaza. Had this been the purpose, the PLO could have long ago pressed its case with Jordan and Egypt, its professed supporters, to give the new organization these territories. Rather, its purpose, as stated quite explicitly in the PLO's so-called "National Covenant" was the liquidation of Israel—"the elimination of Zionism in Palestine."

This remains the purpose today, as the so-called National Covenant has been formally reaffirmed again and again. While some PLO-apologists have played the game of "invent your own PLO" and imagined that the goals of the Covenant are no longer its "real" goals, the PLO itself has repeatedly and consistently repudiated these interpretations and stood by its written commitment to Israel's destruction. In May 1980, Yasir Arafat's Fatah organization declared in Syria that its aim was "the liberation of Palestine in its entirety, and the examination of the Zionist entity economically, politically, militarily, culturally and idealistically."

In its early days, the PLO used Egypt and Gaza as the main bases of operations to achieve this goal. Israel, confronted by a rising tide of violence emanating from Egyptian territory, reminded President Nasser that under international law it is an act of war for one state to permit its territory to be used as a base for hostile operations, raids, incursions, and strikes against another. Equally, international law unambiguously provides to the victim clear means of redress. This includes, if necessary, the right of reprisal and retorsion against the state permitting its territory to be used for hostile operations. Israel employed this right of reprisal against Egypt, with the effect that terrorist operations emanating from Gaza were eventually brought to an end. Some Americans criticized the Israeli reprisals, but a clear majority saw them as justified. This was evident after Egypt ceased, as a result of the Israeli actions, to allow its territory to be used for attacks against Israel.

Having lost Egypt as a base in the late 1960s, the PLO guerrillas moved to Jordan, where they could exploit the then-existing weakness of King Hussein's government to use Jordanian territory for continued strikes to destroy the Jewish State. Once again, Israel repeatedly warned the host Arab government that providing sanctuary was an act of war. When this failed to obtain redress, Israel was forced to retaliate against PLO targets in Jordan to bring the aggression to an end. Once again, some Americans criticized the Israeli counterraids, but a majority saw them as justified. And when, in September 1970, King Hussein finally decided to crack down and expel the PLO terrorist guerrillas from his territory, Americans breathed a sigh of relief.

In the next state, the PLO, expelled from Jordan, moved its terrorist bases to Lebanon, a still weaker country whose government lacked the means to resist successfully. It is noteworthy that Syria, which professes total support for the PLO but does have a strong government, refused to let its territory be used as a base, leaving weak Lebanon with the burden.

Moving into Lebanon, the PLO captured whole villages and regions from the indigenous Lebanese population. The terrorists drove Lebanese from their homes and converted the southern portion of the country into a vast camp for strikes against Israel, making, among other things, arms depots out of churches, mosques, hospitals and schools.

Here, Israel faced a new problem. Particularly after the outbreak of the Lebanese civil war in 1975, brought about in no small measure by the PLO itself, there was no strong central national authority to hold accountable for the actions of the PLO. Instead, it was necessary to take actions against the terrorists themselves. This, however, was an inherently more difficult problem in the moral sense (though not in the legal one) because the PLO systematically located its facilities in the heart of civilian populations. Israeli reprisals inevitably, no matter how carefully planned and targeted, would cause some civilian casualties.

For this reason, Israel exercised considerable restraint in Lebanon, avoiding operations on the scale or those earlier employed successfully against Egypt and Jordan to end the illegal use of those counties as launching points for aggression. In Lebanon, Israel did everything conceivable to seek diplomatic solutions through the great powers, the United Nations, and such government as can be said to exist in Lebanon. When in 1978 Israel did undertake a substantial reprisal—the Litani Operation—it quickly withdrew again in favor of a U.N. peacekeeping solution. UNIFIL proved to be woefully inadequate and futile.

However, the record is now crystal clear that these diplomatic efforts were ineffective and were merely exploited by the PLO as a time to stockpile catches of Soviet-built-and-supplied tanks, artillery, rockets, rifles and other arms in preparation for still larger operations against Israel. Collective security and diplomatic efforts failing, direct Israeli action, under the self-defense provision of Article 51 of the United Nations Charter, became inevitable. As Henry Kissinger recently wrote:

"No sovereign state can tolerate indefinitely the buildup along its borders of a military force dedicated to its destruction and implementing its objectives by periodical shellings and raids." The Washington Post, June 16, 1982.

This perception is shared by a majority of Americans. Polled between June 18-22, a clear majority of respondents in the Harris Poll agreed, by 57% to 32%, that Israel was right to move into Lebanon to destroy PLO bases there. Separate polls by the Gallup and Los Angeles Times polling organizations show similar results. (See Appendix III)

Eminent international legal scholars have made clear that Israel's retaliatory raids and military moves into Lebanon are countenanced by international law, and constitute "legitimate self-defense" under the terms of American law.

In accord with the principles of international law and the Declaration on Principles concerning Friendly Relations and Cooperation among States adopted by the U.N. General Assembly on October 24, 1970, all member nations are duty bound not to tolerate any subversive or armed activities against other sovereign states. This declaration states:

"No state shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed toward the violent overthrow of the regime of another state, or interfere in civil strife in another state."

Juridical scholars maintain that permitting subversive activities against another state constitutes a breach of international undertaking even if those activities are exercised by private individuals. For example, Oppenheim's "International Law," edited by H. Lauterpacht, reads:

"International law imposes the duty upon every state as far as possible prevent its own subjects, and such foreign subjects as live within its territory, from committing injurious acts against other states."

The Declaration on Friendly Relations (No. 18, A/8018), official records of the 25th session of the General Assembly states:

"Every state has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another state."

Israeli actions on Lebanese territory are also based on the "inherent right . . . to self-defense" in accordance with Article 51 of the U.N. Charter.

The U.N. General Assembly document A/AC.134/L.46 of April 12, 1974 of the Special Committee on the Question of Defining Aggression, Article 3, defines "an act of aggression" as:

"The sending by or on behalf of a state of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another state of such gravity as to amount to the acts listed above or its substantial involvement therein."

The British government recently defended its military operations 8,000 miles home in the Falkland Islands, as it did in the Yemen in 1964, by proclaiming this same set of legal and moral criteria.

Let us remember, Israel's action in Lebanon was not precipitated by the shooting of one of Israel's most respected diplomats in London last month. Nor was it a reaction to the murderous shelling of Israel's citizens in its north. Israeli diplomats have been shot by PLO terrorists before; Israeli civilians have been wounded or killed by PLO bombs, rockets and missiles before. But these incidents, as provocative as they are, were only part of a constant, concerted and escalating PLO threat to Israel's security. When I testified before this committee earlier this year, I warned of the PLO military buildup, but none of us envisioned the extent of that buildup uncovered in the Israeli operation.

THE PLO THREAT

Israel has found in Lebanon enough PLO weapons to equip a massive army and to supply untold numbers of terrorist cadres around the world—and many of them have already been supplied.

The list of PLO-trained-and-armed terrorist organizations reads like an international "most wanted" list: The Red Brigade, the Japanese Red Army, the Baadar-Meinhoff gang, the IRA, the Iranian Mujaheddin, the Sandinista, and other radicals from Central America, Turkey, Africa and Asia. Appendix V of my testimony details PLO assistance to Iranian rebels, the Red Brigade, and Central American guerrillas. I refer members of the Committee to the January 14, 1982 Wall Street Journal article, "Arafat Says PLO Aids Foreign Guerrilla Units." Arafat boasts of PLO terrorists serving in El Salvador, Angola and Nicaragua. (Appendix VI) "We have connections with all revolutionary movements throughout the world . . . ," Arafat told the Associated Press on April 14, 1981.

A 1979 incident perhaps best illustrates the PLO role in undermining U.S. interests around the globe by promoting international terrorism. A Boeing 707 transport plane, supposedly carrying Palestinian Red Crescent medical and relief supplies destined for Central America was detained in Tunisia. Officials there discovered that the plane was carrying 50 tons of arms, ammunition and artillery pieces.

And if the PLO could not assist international terrorists by dispatching weapons, the PLO brought the terrorists to Lebanon for training. According to news reports, the Israelis had captured terrorists from at least 15 countries, including West Germany, Italy, Turkey, Iran, Bangladesh, Pakistan, Korea, Senegal, Niger, Sudan, Saudi Arabia, Jordan, Libya, Abu Dhabi, and Algeria. At the same time, the Israelis uncovered documentation showing that PLO terrorists had trained in the Soviet Union, Hungary, China, Algeria, Pakistan, Vietnam, Bulgaria, and other countries. (See Appendix VII, "Israelis struck at the terrorist network, too," Boston Globe)

It is now well-documented that the PLO works closely with the Soviet bloc to train and supply the international terrorist network. I can only speculate that had the Israeli operation taken place 16 or 18 months ago and a Turkish terrorist been captured before he could complete his training or ob-

tained his weapon and forged passport, the heinous attack on Pope John Paul II last May might not have occurred.

A whole host of visitors, including Members of Congress, press and Mr. Bloomfield, viewed many of the weapons captured in Lebanon—thousands of tons of ammunition, over 1,000 artillery pieces and rocket launchers, and hundreds of tanks and armored personnel carriers. This was not the arsenal of some merry band of agrarian reformers; this was the arsenal of a full-fledged terrorist army, overwhelmingly Soviet-supplied.

In two ways, however, the PLO was different from conventional armies. First, the PLO consciously attacked only civilians and, secondly, the PLO used civilians as human shields to protect itself.

Anyone who has been to the small country of Israel knows that there are many military targets to be easily found. Yet, the PLO could only find those "military targets" disguished as kibbutz nurseries, school buses, marketplaces or passenger airplanes.

Documents captured in Lebanon last month include operational PLO orders for the shelling and destruction of civilian towns and villages in northern Israel.

And the second factor that differentiates the PLO terrorist army from conventional armies is its hiding in the midst of civilian centers. Israeli troops uncovered PLO arsenals, emplacements and bases in schools, mosques, and apartment basements. According to Newsweek, June 14, Israeli soldiers in one engagement, were attacked by PLO fighters disguised as hospital patients.

Let me turn now to the issue of casualties, in particular civilian casualties. I personally deplore the bloodshed; I mourn what has taken place. One civilian casualty is one casualty too many, especially if that casualty is an innocent child.

But the inflated numbers thrown around in order to attack Israel, unfortunately, mean that truth is also a casualty in today's environment. According to unbiased accounts—including those of congressional and administration officials—the estimated number of civilian casualties in the Israeli operation is only one-tenth of the alleged figures. Even such harsh critics of Israel as Columnists Evans and Novak concede, "In the two cities of Tyre and Sidon there is reason to take seriously the Israeli estimate of Lebanese casualties." Many of those casualties are not the result of Israeli action, but are the direct result of the PLO's positioning of emplacements within civilian areas. Even in such cases of PLO emplacements in the middle of civilian centers, press accounts report incredible Israeli accuracy in hitting the military, and only military, targets.

In Sidon, there were reports of PLO terrorists holding scores of civilians hostage. Israeli requests for the release of hostages were met with the shooting of hostages and mediators. That should not, however, shock many. After all, the PLO held all of Lebanon hostage.

The head of the Red Cross delegation in Beirut, Francesco Noseda, told the Baltimore Sun on June 25 that he did not know the source of the oft-quoted figure of 10,000 killed. Noseda said he doubted its accuracy.

The inflated numbers appear to be uncritically borrowed from the Palestinian Red Crescent, headed by Yasir Arafat's brother, Fathi. Representative Charles Wilson, the first Member of Congress to tour Lebanon after the Israeli military operation, was asked to comment on the PLO claim of 800,000 homeless. He responded, "It's absurd because there simply aren't that many people to begin with."

The PLO is notorious for inflating such figures. Last spring the PLO printed a full page advertisement in the Christian Science Monitor charging that "more that 500 people had been killed in the previous month by Israeli air raids and attacks." Two weeks later, the Monitor ran a retraction which said, "The Lebanese government in Beirut estimates that about 100 persons were killed . . . Of these about 90 resulted from Syrian shelling, about 10 from Israeli attacks." (July 7, 1981)

Mr. Chairman, there can never be such a thing as a "humane" war. But the closest thing to it was fought by the Israeli army. In town after town, Tyre, Sidon, Beirut, the Israeli army dropped leaflets urging civilians to escape before Israel's troops attacked PLO concentrations. Israeli loudspeakers warned civilians of impending attack, thus erasing any military advantage of surprise.

Israel evacuated wounded civilians in the midst of battle. Hundreds of injured civilians were given medical treatment in Israeli hospitals. Food and clothing were dispatched to Lebanon by Israeli civilians for homeless Lebanese. Lebanese mothers with small children were taken into the homes of Israeli citizens. Israeli relief efforts on behalf of the displaced or wounded have been extensive. Two days ago (July 11), President Reagan's special envoy for aid to Lebanon, Peter McPherson, congratulated the "Israeli people for their very substantial relief contributions." Earlier, on June 24, McPherson stated that the Israelis were cooperating with relief and medical efforts. Medical supplies and personnel were getting through. "As of this hour," McPherson said, "I do not have complaints or concerns from relief organizations. I think they feel there is progress."

Congressman Wilson was also asked about health care, food and water in Lebanon. He responded that he found "no problems." He continued, "The Israelis are doing a good job in that regard . . . as far as sanitation is concerned, as far as food and water are concerned, I don't believe there is a problem."

OPPORTUNITIES FOR U.S. DIPLOMACY

New realities have been created in the Middle East—realities which may transform the 12-year tragedy of Lebanon into an opportunity for the entire Middle East and the United States. In several significant ways, the Israeli operation has aided the chances for peace and has strengthened American interests in the region.

First. Events since the June 6 operation have significantly reduced Soviet influence and power in the strategically vital Middle East and the perception of that power throughout the world. Two Soviet clients—Syria and the PLO—have been substantially diminished in stature and strength. Both now recognize that the United States, not the Soviet Union, is the key outside actor with the significant ability to influence conflicts. The Soviet Union has been relegated to a sideline role, its credibility among its allies undermined.

Second. The Israeli operation was the first test of the most advanced Soviet and American weapons systems, and resulted in the decisive setback of Soviet equipment and doctrine. In armored and air battles, Israel's forces defeated some of the most sophisticated Soviet aircraft, missile systems, and tanks—technology on the European front. Not only have the Israeli victories provided valuable intelligence on the performance of U.S. equipment in battle against Soviet equipment and on the nature of the Soviet equipment itself, but those victories have enhanced the prestige of the United States throughout the world. The Israeli operation has graphically demonstrated the superiority of American weapons systems such as the E-2C, F-15, F-16 aircraft, and AIM-9L missiles to all nations.

Third. The Israeli operation has presented the opportunity to free Lebanon from the murderous presence of the PLO. Since 1972, the PLO has clashed with Lebanese forces and taken over Lebanese army positions. By 1976, the PLO was effectively an outlaw government within Lebanon. Lebanese civilians and others have been terrorized for years by the PLO. Since 1980, there were an estimated 40 attacks against foreign embassies and diplomatic personnel in Beirut alone. The destruction of the PLO and the Syrian forces as the dominant military forces in Lebanon present the glorious potential to reestablish a free, independent and democratic sovereign government.

The removal of the external forces provides Lebanese leaders with an unfettered opportunity to formulate plans for their own national future. The events of the past weeks have led to the constructive meetings among the leaders of the divergent Lebanese ethnic and religious factions. As Senator George Mitchell correctly pointed out, the opportunity now exists to work for and achieve "the revival and reestablishment of a truly independent and democratic Lebanon, with full control over her own territory, with full control over her duly authorized armed forces, and without the destabilizing presence of professional terrorists in her countryside and towns."

Fourth. The Israeli operation has dealt a crippling blow to international terrorism. Scores of non-Arab terrorists were captured in Lebanon. Extensive documentation of PLO training in the Soviet Union and Eastern bloc states has been gathered and provides further evidence of the link between the two. Without Lebanon as a base of operations, it will become increasingly difficult for anti-West terrorist groups to receive training, collect armaments, and operate freely.

Fifth. The new military situation facilitates new American diplomatic initiatives in the region. In the reconstruction of a free Lebanon there is a chance to provide a shield against anti-Western Arab radicalism and an opportunity to reassert U.S. commitment to the Camp David peace process. Other Arab nations, now less subject to radical Arab and PLO pressure, can be encouraged to join in the process. These are only a few of the opportunities open to the United States as a result of the Israeli operation.

The role of the United States in resolving the Lebanese crisis and rebuilding Lebanon is crucial. We support the emergency assistance approved by Congress. But this is not enough. The United States should take advantage of existing circumstances to undertake a major negotiating effort that would reestablish a genuine sovereign, independent and democratic Lebanon—free from both terrorism and foreign occupation.

The reconstruction of Lebanon will have benefits not only for the Lebanese and for Israel, but also for the strategic interests of the United States. It will help to reduce the drift toward instability in the Eastern Mediterranean, and strengthen the moderate camp within the Arab world. It may even provide new opportunities for enhanced

strategic cooperation between the United States, Egypt, Israel, and Lebanon, leaving Syria and Libya as the only Soviet access points in a Mediterranean otherwise ringed by allies of the West.

But this can only come about if the United States adheres to a steady course, and resists the efforts of those who would have us depart from our historic interests and commitments in the region. A search for favor with uncooperative Arab radicals who oppose peaceful coexistence with Israel will be fruitless. The alliance between the United States, democratic Israel, a reconstructed Lebanon, and a progressive Egypt is natural. A self-deceptive search for friends within the PLO, in Syria and elsewhere in the rejectionist Arab camp can only lead to disappointment. President Reagan's concept of "trustworthiness" among friends and allies, not the "redirection" of others, are the requirement at this time.

At the same time, we must reemphasize our commitment to the Camp David peace process, and pressure Jordan and Saudi Arabia, now relieved of the PLO's veto power, to join the peace process. The loss of life in Lebanon has been tragic, but we are, if we choose to be, at a creative juncture in the search for peaceful coexistence in the Middle East.

When the battle is over and the "scourge of terrorism"—to use President Reagan's words to the British Parliament—has been removed, I am confident that the necessity for Israel's operation and its contribution to peace in the Middle East will be clearer to Israel's critics from whom so much is being heard today.

My hope, Mr. Chairman, is that there be a free, independent and secure Lebanon and Israel in the Middle East, leading the way to stability and security in this important region.

STATEMENT OF DOUGLAS M. BLOOMFIELD

During my visit to Israel and Lebanon, I saw tens of thousands of captured weapons. Tanks, cannon, rockets, launchers, rifles, handguns and ammunition of every conceivable kind and size. They were predominately Soviet, but of other origins, as well. I saw dozens of crates of unopened Soviet-made Kalachnikov assault rifles shipped via Benghazi, Libya, or directly from the USSR; they had packing instructions as well as operating directions in English. I brought back the service manual for the Soviet AKMS machine gun. I also saw hundreds of U.S.-made M-16 rifles, many of them in their original shipping cartons with labels showing they were originally sold and shipped to Saudi Arabia; they had been transferred to the PLO. There were over 1,000 new West German G-3 assault rifles, one of the best in the world. I also saw Chinese-built anti-aircraft guns and cannon, plus more arms from Vietnam, Korea and the Soviet bloc. There were even guns used by the Nazis in World War II.

Some of those anti-aircraft guns were attached to many types of vehicles, from Dodge pick-up trucks to Toyotas to Chinese trucks. Then there were the night sights, handguns, grenade launchers, RPG's and Katyusha rockets. Many of the grenade launchers were stamped in English, "Made by Fatah." Fatah is the main branch of the PLO and is Arafat's own organization. Ironically, only a relatively few pieces of the Soviet and Chinese arms had markings in Arabic; most were in English.

There was also the other equipment, like the uniforms, boots, trophies for auto mechanics, typewriters, a Bell and Howell tape recorder and a fully-equipped listening lab.

It has been estimated that the Israelis have captured enough material to equip a very large army. One Israeli officer told me, "We captured them at 5 minutes to 12. They were starting to build a hugh army, with soldiers from all over the world."

Indeed, Israel reported it captured PLO soldiers from Saudi Arabia, Jordan, Libya, Iran, Korea, Pakistan, Bangladesh, Turkey, Abu Dhabi, Algeria, Sudan, and Senegal and Niger.

Weapons were found everywhere. In mosques, schools, homes, public buildings, caves and underground bunkers—even U.N. offices. At an UNRWA Vocational Training School in Sidon, Israeli troops found stores of weapons, ammunition, training materials, an audiovisual lab and the personal office of Yassir Arafat with his picture on the wall flanked by a swastika.

I spoke with many Lebanese, both Christian and Muslim, and they volunteered that they were glad to see the Palestinians gone. Many had stories to tell of their treatment and trauma under the PLO.

I saw perhaps as many as 10,000 Lebanese driving south from Beirut, returning to their homes with the car full of relatives and the family's possession's tied to the top. Many were refugees from the fighting of the previous two weeks, but thousands had been displaced by civil war ir 1976 and were finally able to go home.

One Shiite Muslim couple had seen its home destroyed six years ago by Palestinians in the south so they were now making their home in a former PLO headquarters in Sidon. The PLO had taken over an apartment building and a hospital next door. I was told by some local residents that when the PLO came to Sidon in the 70s, it expelled all the Lebanese patients and staff of the Lebanese Red Crescent hospital and installed its own people. The apartment building next door became a headquarters and barracks. Organizational charts and posters and this picture of Lenin were still on some walls—but not the one where the new Lebanese occupant had written in Arabic "Death to Arafat, Long Live Begin." Her husband said the plumbing was not working and just before we had arrived, he had climbed up into the crawl space above the bathroom to fix the pipes. Instead of pipes, he found a large anti-aircraft gun, still in its original packing. Everywhere he looked, he said, he found ammunition of all kinds and shapes, and he wanted it hauled away as soon as possible.

I also saw the captured documents. The orders to draft children of terrorists 12 years and older for PLO duty; the tank drivers' licenses; notes on Gromyko-Arafat meetings; Soviet graduation certificates for PLO officers; shipping labels for weapons sent from U.S. plants to Saudi Arabia, and lists of courses taken by PLO terrorists in foreign countries.

But the most alarming of all were the report which shows that UNIFIL forces passed on intelligence information to the terrorists and a written agreement between the Norwegian UNIFIL battalion and the PLO over the placement of a terrorist gun position—called "The Nest"—for firing into Northern Israel.

I did not encounter the widespread destruction and havoc I had expected from the newspaper and television reports I had seen here in Washington. There were two good reasons:

1. It had not been there in the first place. True, there was destruction. Bombing and shelling and fighting produce the rubble of war. But in cities like Tyre, Sidon and Damour, it was largely confined to areas adjacent to the main highway and some key crossroads. Even in those towns which has seen heavy fighting, the destruction was limited and most parts of them were untouched or suffered only minor damage.

2. Clean-up began promptly. Every street was passable. Rubble has been cleared and moved to the sides of the roads to be taken away. Reconstruction was taking place along side continuation of construction that had begun befor the fighting. Life was returning to what passes for normal in that beleaguered country.

The people I saw in Lebanon—both Christians and Muslims—welcomed the Isreali operation to remove the terrorists from their country. Now they want all the foreign troops—Palestinians, Syrians, and Israelis—to leave so that they can get on with the rebuilding already underway. I urge all Members of Congress to go personally to Lebanon, as Representatives Wilson and Siljander and Senators Levin and Dodd have done, to see for yourselves the difference between the sensationalized media version and the reality of the situation in that country.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RUSSO (at the request of Mr. WRIGHT) for today and Friday, July 16, 1982, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ERDAHL) to revise and extend their remarks and include extraneous material:)

Mr. BROOMFIELD, for 5 minutes, today.

Mr. LEACH of Iowa, for 60 minutes, today.

Mr. FRENZEL, for 10 minutes, today.

(The following Members (at the request of Mr. MCCURDY) to revise and extend their remarks and include extraneous material:)

Mr. BONKER, for 5 minutes, today.

Mr. EDGAR, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. WYDEN, for 10 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. JONES of Oklahoma, for 5 minutes, today.

Mr. MCCURDY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ROSENTHAL, and to include therein extraneous material, notwith-

standing the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,904.

(The following Members (at the request of Mr. ERDAHL) and to include extraneous matter:)

Mr. FIELDS.
Mr. GINGRICH in two instances.
Mr. RUDD.
Mr. GRADISON in two instances.
Mr. HILER.
Mr. LEWIS.
Mr. DORNAN of California.
Mr. ROBERTS of South Dakota.
Mr. SOLOMON.
Mr. COLLINS of Texas in two instances.
Mr. WINN.
Mr. BEREUTER in three instances.
Mrs. HECKLER.
Mr. GREEN.
Mr. MICHEL in two instances.
Mr. LENT in two instances.
Mr. DAUB.
Mr. MCCLORY.
Mr. DREIER in two instances.
Mr. FINDLEY.
Mr. GUNDERSON.
Mr. MOORHEAD.
Mr. PAUL.
Mr. MCCOLLUM.
Mr. CONTE.
Mr. LEACH of Iowa in two instances.

(The following Members (at the request of Mr. MCCURDY) and to include extraneous matter:)

Mr. DASCHLE in five instances.
Mr. OTTINGER.
Mr. ECKART.
Mr. FAZIO in two instances.
Mr. BINGHAM.
Mrs. SCHROEDER.
Mr. BIAGGI in two instances.
Mr. SKELTON in three instances.
Mr. EDGAR in two instances.
Mr. WYDEN.
Mr. WEISS in two instances.
Mr. STOKES in three instances.
Mr. LEVITAS.
Mr. KASTENMEIER.
Mr. WAXMAN.
Mr. HOWARD.
Mr. SIMON in three instances.
Mr. SCHUMER.
Mr. DOWNEY.
Mr. WILLIAMS of Montana.
Mr. MILLER of California.
Mr. MCDONALD in five instances.
Mr. ZABLOCKI.
Mr. GEJDENSON.
Mrs. KENNELLY.
Mr. MATSUI.
Mr. GIBBONS.
Mr. MCCURDY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 312. An act for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko; to the Committee on the Judiciary.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker pro tempore.

H.R. 4935. An act to amend title 11, United States Code, to correct technical errors, and to clarify and make substantive changes, with respect to securities and commodities;

H.J. Res. 225. Joint resolution to designate the week beginning June 5, 1983, and ending June 11, 1983, as "Management Week in America"; and

H.J. Res. 444. Joint resolution to authorize and request the President to designate August 14, 1982, as "National Navaho Code Talkers Day."

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER pro tempore announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 95. Joint resolution to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes.

ADJOURNMENT

Mr. McCURDY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 28 minutes p.m.), under its previous order, the House adjourned until Monday, July 19, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4364. A letter from the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting a reuse study for the South Boston support activity (former Boston Army Base), Boston, Mass., pursuant to section 610(b) of Public Law 94-431; to the Committee on Armed Services.

4365. A letter from the Secretary of Labor, transmitting a report on the evaluation of programs and activities under the Comprehensive Employment and Training Act, pursuant to sections 313(d) and (e) and 127 Public Law 93-203, as amended; to the Committee on Education and Labor.

4366. A letter from the Deputy Assistant Secretary of Education for Legislation, transmitting proposed final regulations relating to the programs under chapters I and II of the Education, Consolidation, and Improvement Act of 1981, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4367. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Federal Food, Drug, and Cosmetic Act and related statutes, and for other purposes; to the Committee on Energy and Commerce.

4368. A letter from the General Counsel, Consumer Product Safety Commission, transmitting a proposed rule to partially revoke the safety standard for architectural glazing materials (16 CFR Part 1201); to the Committee on Energy and Commerce.

4369. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a report on political contributions made by Ambassador-designate Nicholas Platt, and by members of his family, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

4370. A letter from the Assistant Secretary for Administration, Department of Housing and Urban Affairs, transmitting a notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4371. A letter from the Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting the ocean thermal energy conversion/environmental effects assessment program plan for the years 1981-1985, pursuant to section 107(c) of Public Law 96-320; to the Committee on Merchant Marine and Fisheries.

4372. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting notice that the enactment of Public Law 96-285 establishing the Tensas River National Wildlife Refuge obviates the need for specific authorization recommended in the chief of engineer's report transmitted on August 17, 1979; to the Committee on Merchant Marine and Fisheries.

4373. A letter from the Assistant Secretary of the Army for Civil Works, transmitting a draft of proposed legislation to terminate the authorization for the Lake Brownwood Modification, Pecan Bayou, Tex., to the Committee on Public Works and Transportation.

4374. A letter from the Secretary of Defense, transmitting a report on the Defense Department's cooperation with civilian law enforcement officials, pursuant to section 378(b) of Public Law 97-86; jointly to the Committees on Armed Services and the Judiciary.

4375. A letter from the Secretary of Health and Human Services, transmitting the department's study of skilled nursing facilities (SNFs), pursuant to section 919 of Public Law 96-499; jointly, to the Committees on Energy and Commerce and Ways and Means.

4376. A letter from the Comptroller General of the United States, transmitting a report on the many uncertainties that exist by revitalizing distressed areas through enterprise zones (CED-82-78, July 15, 1982); jointly, to the committees on Government Operations, Ways and Means, and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 525. Resolution providing for the consideration of H.R. 6030, a bill to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes (Rept. No. 97-633). Referred to the House Calendar.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 6276. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to allow the issuance of revenue bonds to finance college and university programs which provide student educational loans (Rept. No. 97-634). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4568. A bill to direct the Secretary of the Interior to release on behalf of the United States certain restrictions contained in a previous conveyance of land to the city of Albuquerque, N. Mex., and for other purposes; with an amendment (Rept. No. 97-635). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6530. A bill to establish the Mount St. Helens National Volcanic Area, and for other purposes; with amendments) Rept. No. 97-636, Pt. I). Ordered to be printed.

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 1799. A bill entitled: "The Export Trading Company Act of 1981"; with amendments (Rept. No. 97-637, Pt. I). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 6530. A bill to establish the Mount St. Helens National Volcanic Area, and for other purposes; with amendments (Rept. No. 97-636, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALBOSTA:

H.R. 6767. A bill to amend the Internal Revenue Code of 1954 to provide that the provisions which increase the Federal unemployment tax in States with outstanding Federal loans will not apply to States with high rates of unemployment and large outstanding loan balances and to provide that such States will not be required to pay interest on such loans; to the Committee on Ways and Means.

By Mr. COUGHLIN:

H.R. 6768. A bill to amend title 18 to delimit the insanity defense and for other purposes; to the Committee on the Judiciary.

By Mr. JAMES K. COYNE:

H.R. 6769. A bill authorizing additional appropriations for job training programs in States suffering high unemployment; to the Committee on Education and Labor.

By Mr. DELLUMS:

H.R. 6770. A bill to confer posthumously upon Col. Charles E. Young the commission of brigadier general in the U.S. Army; to the Committee on Armed Services.

By Mr. DOWNEY:

H.R. 6771. A bill to modify Federal land acquisition and disposal policies carried out with respect to Fire Island National Seashore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DREIER:

H.R. 6772. A bill to amend the Internal Revenue Code of 1954 to allow an individual's spouse to receive the usual fee for service as a juror without losing eligibility for certain retirement savings provisions relating to nonworking spouses; to the Committee on Ways and Means.

By Mr. FRENZEL:

H.R. 6773. A bill to insure the continued expansion of reciprocal market opportunities in trade, trade in services, and investment for the United States, and for other purposes; jointly, to the Committees on Ways and Means, Banking, Finance and Urban Affairs, Energy and Commerce, Foreign Affairs, the Judiciary, and Rules.

By Mr. McCURDY:

H.R. 6774. A bill to amend the Internal Revenue Code of 1954 to allow a credit to certain employers for compensation paid to employees with precollege mathematics or science teaching certificates who are employed for the summer months by such employers or who are employees who teach a limited number of hours; to the Committee on Ways and Means.

H.R. 6775. A bill to authorize an educational assistance program which will provide low cost loans to college students who pursue mathematics and science baccalaureate degrees and enter the precollege mathematics and science teaching profession, and for other purposes; to the Committee on Education and Labor.

By Mr. MATSUI (for himself and Mr. ROUSSELOT):

H.R. 6776. A bill to amend the Tax Reform Act of 1969 with respect to the application of the excess business holdings provisions to private foundations; to the Committee on Ways and Means.

By Mr. MAVROULES:

H.R. 6777. A bill to amend section 103 (b)(6) of the Internal Revenue Code of 1954 with respect to the exemption from the industrial development bod provisions for certain small issues, and for other purposes; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 6778. A bill to amend title II of the Social Security Act to restore the provisions thereunder providing for rounding of benefits to the law as in effect immediately before the enactment of the Omnibus Budget Reconciliation Act of 1981; to the Committee on Ways and Means.By Mr. WATKINS (for himself, Mr. ANTHONY, Mr. ROBERTS of Kansas, and Mr. MARLENEE):

H.R. 6779. A bill to amend title XVIII of the Social Security Act to exempt small, rural hospitals from medicare section 223 limits; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WON PAT (for himself, Mr. DE LUGO, Mr. SUNIA, Mr. SEIBERLING, Mr. BEREUTER, and Mr. KILDEE):

H.R. 6780. A bill, the State of the Insular Areas Report Act; to the Committee on Interior and Insular Affairs.

By Mr. WYDEN (for himself, Mr. GEPHARDT, Mr. CONABLE, Mr. AUCOIN, and Mr. WEAVER):

H.R. 6781. A bill to permit the investment by employee benefit plans in residential mortgages; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. BIAGGI (for himself, and Mr. GARCIA):

H.J. Res. 536. Joint resolution designating December 11, 1982, as "Fiorello Henry La Guardia Memorial Day"; to the Committee on Post Office and Civil Service.By Mr. BIAGGI (for himself, Mr. JONES of North Carolina, Mr. HOWARD, Mr. ROE, Mr. SNYDER, Mr. MCCLOSKEY, Mr. ANDERSON, Mr. BREAUX, Mr. BOWEN, Mr. HUBBARD, Mr. FORSYTHE, Mr. PRITCHARD, Mr. BONKER, Mr. D'AMOURS, Mr. YOUNG of Alaska, Mr. LENT, Mr. OBERSTAR, Mr. HUGHES, Ms. MIKULSKI, Mr. HUTTO, Mr. EMERY, Mr. DAVIS, Mr. DONNELLY, Mr. TAUZIN, Mr. FOGLIETTA, Mr. CARNEY, Mr. DOUGHERTY, Mr. PATMAN, Mr. SUNIA, Mr. SHUMWAY, Mr. SMITH of Pennsylvania, and Mr. FIELDS):

H.J. Res. 537. Joint resolution to authorize and request the President of the United States to issue a proclamation designating the first week in October for the calendar years 1982, 1983, and 1984 as "National Port Week"; to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD (for himself, Mr. STRATTON, Mr. CARNEY, Mr. PRICE, Mr. MADIGAN, Mr. MURTHA, Mr. WINN, Mr. STENHOLM, Mr. GILMAN, Mr. CHAPPELL, Mr. EMERY, Mr. BREAUX, Mr. HYDE, Mr. DAN DANIEL, Mr. MARTIN of North Carolina, and Mr. WHITE):

H.J. Res. 538. Joint resolution to express the support of Congress for the United States and the Soviet Union to engage in substantial, verifiable, equitable, and militarily-significant reductions of their nuclear weapons resulting in equal and sharply reduced force levels which would contribute to peace and stability; to the Committee on Foreign Affairs.

By Mr. FOLEY:

H.J. Res. 539. Joint resolution to designate January 1983 as "National Snowmobiling Month"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

440. By the SPEAKER: Memorial of the Legislature of the State of California, relative to grapes; to the Committee on Agriculture.

441. Also, memorial of the Legislature of the State of California, relative to the Environmental Protection Agency; to the Committee on Public Works and Transportation.

442. Also, memorial of the Legislature of the State of California, relative to home health services; jointly, to the Committees on Energy and Commerce and Ways and Means.

443. Also, memorial of the Legislature of the State of California, relative to enterprise zones; jointly, to the Committees on Ways and Means and Banking, Finance and Urban Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 116: Mr. DIXON.
H.R. 1711: Mr. OXLEY.
H.R. 1193: Mr. WASHINGTON.
H.R. 2322: Mr. CHAPPELL.
H.R. 3626: Mr. DREIER.

H.R. 4227: Mr. TAUKE.
H.R. 4653: Mr. TAUKE.
H.R. 4657: Mr. YATES, Mr. SMITH of Iowa, Mr. CROCKETT, Mr. ERDAHL, Mr. OTTINGER, and Mr. HORTON.
H.R. 4808: Mr. WEBER of Minnesota, Mr. DUNN, Mr. GREGG, Mr. NELLIGAN, Mr. EMERSON, Mr. TRIBLE, and Mr. VANDER JAGT.
H.R. 4973: Mrs. HOLT.
H.R. 5022: Mr. BAILEY of Pennsylvania, Mr. BARNARD, Mr. BEDELL, Mr. COUGHLIN, Mr. CROCKETT, Mr. DAUB, Mr. DORGAN of North Dakota, Mr. DREIER, Mr. DUNCAN, Mr. EMERY, Mr. IRELAND, Mr. JONES of North Carolina, Mr. KILDEE, Mr. LEHMAN, Mr. LOWRY of Washington, Mr. MCDADE, Mr. MARRIOTT, Mr. MOAKLEY, Mr. NATCHER, Mr. NOWAK, Mr. OBERSTAR, Mr. ROEMER, Mr. ROTH, Mr. SKELTON, Mr. SIMON, Mr. SMITH of Pennsylvania, Mr. TRAXLER, Mr. WASHINGTON, and Mr. MAZZOLI.
H.R. 5117: Mr. CONTE.
H.R. 5242: Mr. WEBER of Minnesota and Mr. LOTT.
H.R. 5250: Mr. FORD of Michigan, Mr. ERTEL, Mr. RAHALL, Mr. STENHOLM, Mr. HALL of Ohio, Mr. FARY, Mr. FAUNTROY, Mr. DASCHLE, Mr. EVANS of Indiana, Mrs. BYRON, Mr. Dwyer, Mr. FORD of Tennessee, Mr. FRANK, Mr. BARNES, Mr. CHAPPELL, Mr. BEVILL, Mr. GONZALEZ, Mr. MICA, Mr. SUNIA, Mr. DORGAN of North Dakota, Mr. MORRISON, Mr. DICKS, Mr. WON PAT, Mr. NEAL, Mr. SHAMANSKY, Mr. ROSE, Mr. SMITH of Pennsylvania, and Mr. BINGHAM.
H.R. 5596: Mr. LANTOS.
H.R. 5713: Mr. MARKEY.
H.R. 5740: Mr. DAVIS, Mr. MAVROULES, and Mr. OBERSTAR.
H.R. 5741: Mr. LAGOMARSINO, Mr. BROYHILL, Mr. ROTH, Mr. ROEMER, Mr. LEBOUTILLIER, Mr. FRANK, Mr. WOLPE, Mr. GINGRICH, Mr. GUNDERSON, Mr. DAUB, Mr. SENSENBRENNER, and Mr. JAMES K. COYNE.
H.R. 5976: Mr. WASHINGTON, Mr. PORTER, and Mr. PARRIS.
H.R. 6099: Mr. OTTINGER, Mr. MARKEY, Mr. STARK, Mr. BEILENSON, Mr. PEPPER, Mr. FISH, Mr. EDGAR, and Mr. HUGHES.
H.R. 6135: Mr. OXLEY, Mr. WOLPE, Mr. HATCHER, and Mr. WALKER.
H.R. 6190: Mr. KEMP, Mr. PEPPER, Mr. EDWARDS of California, and Mrs. HECKLER.
H.R. 6274: Mr. FORD of Michigan, Mr. BLANCHARD, Mr. KILDEE, Mr. DAVIS, and Mr. WOLPE.
H.R. 6375: Mr. BARNARD, Mr. MCCURDY, and Mr. FAZIO.
H.R. 6483: Mr. FOGLIETTA, Mr. DENARDIS, Mr. FISH, Mr. BONER of Tennessee, and Mr. ADDABBO.
H.R. 6505: Mr. BROOKS, Mr. JAMES K. COYNE, Mr. DINGELL, Mr. FARY, Mr. FAUNTROY, Mr. MONTGOMERY, Mr. NATCHER, Mr. MITCHELL of Maryland, Mr. FISH, Mr. ZEFERETTI, Mr. ANTHONY, Mr. FAZIO, Mr. MCDADE, Mr. BRINKLEY, Mr. SUNIA, Mr. SAM B. HALL, JR., Mr. KILDEE, Mr. WEAVER, Mrs. COLLINS of Illinois, Mr. VENTO, Mr. TAYLOR, Mr. GUARINI, Mr. HERTEL, and Mr. TRAXLER.
H.R. 6542: Mr. GUARINI, Mr. WIRTH, Mr. VENTO, Mr. SWIFT, Mr. MILLER of California, Mr. BONKER, Mr. FOLEY, and Ms. MIKULSKI.
H.R. 6591: Ms. MIKULSKI and Mr. WORTLEY.
H.R. 6654: Mr. MCHUGH, Mr. RICHMOND, Mr. FISH, Mr. STOKES, Mr. SMITH of New Jersey, Mrs. HECKLER, Mr. DOUGHERTY, Mr. WILLIAMS of Montana, Mr. WAXMAN, Mr. DWYER, Mr. SYNAR, Mr. BAILEY of Pennsylvania, Mr. CORCORAN, Mr. RATCHFORD, and Mr. RANGEL.
H.R. 6688: Mr. CLAY, Mr. CORRADA, Mr. DICKS, Mr. DYMALLY, Mr. EDGAR, Mr. MITCHELL of Maryland, Mr. ROYBAL, Mr. STARK, Mr. WASHINGTON, Mr. WEAVER, and Mr. ZEFERETTI.
H.J. Res. 172: Mr. YATRON.
H.J. Res. 455: Mr. DASCHLE, Mr. DUNCAN, Mr. CROCKETT, Mr. EVANS of Georgia, Mr. MATTOX, Mr. COATS, Mr. WOLF, Mr. DE LA GARZA, Mr. DYSON, Mr. HUTTO, Mr. PARRIS, Mr. RATCHFORD, Mrs. MARTIN of Illinois, Mr. STANGELAND, Mr. SILJANDER, Mr. SNYDER, and Mr. HAMILTON.
H.J. Res. 484: Mr. SMITH of New Jersey, Mr. DERWINSKI, Mr. SHUMWAY, Mr. DANNEMEYER, Mr. LOWERY of California, Mr. HAMMERSCHMIDT, Mr. MARKEY, Mr. HATCHER, Mr. HEFNER, Mr. HOWARD, Mr. HOPKINS, Mr. HOYER, Mr. LEHMAN, Mr. WAMPLER, Mr. HUBBARD, Mr. DANIEL B. CRANE, Mr. VENTO, Mr. MITCHELL of Maryland, Mr. ANDREWS, Mr. CARNEY, Mr. DAUB, Mrs. FENWICK, Mr. HUGHES, and Mr. BENJAMIN.
H.J. Res. 486: Mrs. BOUQUARD, Mr. FLIPPO, Mr. ATKINSON, Mr. ADDABBO, Mr. ALEXANDER, Mr. BINGHAM, Mr. BRODHEAD, Mr. CONYERS, Mr. DAN DANIEL, Mr. FLORIO, Mr. FORD, Mr. KEMP, Mr. FAUNTROY, Mr. CORCORAN, Mr. BARNES, Mr. DE LA GARZA, Mr. FOLEY, Mr. RINALDO, Mr. DASCHLE, Mr. DENARDIS, Mr. DWYER, Mr. DYMALLY, Mr. BAILEY of Pennsylvania, Mr. BEARD, Mr. FOGLIETTA, Mr. BEVILL, Mr. BENJAMIN, Mr. GINGRICH, and Mr. PORTER.
H.J. Res. 507: Mr. VENTO, Mr. FIELDS, Mr. BOWEN, Mr. BREAUX, Mr. BRODHEAD, Mr. ANDERSON, Mr. DWYER, Mr. PRITCHARD, Mr. BROWN of California, Ms. MIKULSKI, Mr. D'AMOURS, and Mr. RATCHFORD.
H.J. Res. 533: Mr. RINALDO, Mr. ANDREWS, Mr. REGULA, Mr. DE LUGO, Mr. BOLAND, Mr. COURTER, Mr. HUGHES, Mr. DAVIS, and Mr. MINISH.
H. Con. Res. 139: Mr. DOUGHERTY, Mr. WINN, Mr. SMITH of Pennsylvania, Mr. HUGHES, Mr. BEVILL, Mr. FAZIO, and Mr. CLINGER.
H. Con. Res. 275: Mr. FIELDS.
H. Res. 48: Mrs. ASHBROOK.
H. Res. 376: Mr. NEAL.
H. Res. 522: Mr. MOTTL, Mr. HENDON, Mr. BEARD, Mr. DORNAN of California, Mr. FRANK, Mr. LAGOMARSINO, Mr. DENARDIS, Mr. HYDE, Mr. CORCORAN, and Mr. ROBERTS of South Dakota.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 434: Mr. OXLEY.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

515. By the SPEAKER: Petition of the District Council of the Brothers of the Christian Schools of the St. Louis District, Glencoe, Mo., relative to the nuclear arms race; to the Committee of Foreign Affairs.

516. Also, petition of the House of Representatives, Republic of Cyprus, relative to Israeli involvement in Lebanon; to the Committee of Foreign Affairs.

517. Also, petition of Suraj Kumar Ram, Jersey City, N.J., and others, relative to immigration; to the Committee on the Judiciary.

518. Also, petition of the elected officials of the village of Madison, Ohio, relative to a permanent, international nuclear weapons ban; jointly, to the Committees on Armed Services and Foreign Affairs.

519. Also, petition of the city council, Parma, Ohio, relative to a nuclear weapons ban; jointly, to the Committees on Armed Services and Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6030

By Mr. BENNETT:
—Page 4, line 7, strike out "$2,485,000,000" and insert in lieu thereof "$1,786,000,000".

By Mr. BROOKS:
—At the end of the bill add the following new section:

INSPECTOR GENERAL ACT AMENDMENTS

SEC. 902. (a)(1) Section 2(1) of the Inspector General Act of 1978 is amended by inserting "the Department of Defense," immediately before "the Department of Education,".

(2) Section 11(1) of such Act is amended by inserting "Defense," immediately before "Education,".

(3) Section 11(2) of such Act is amended by inserting "Defense (including the Departments of the Army, Navy, and Air Force)," immediately before "Education,".

(b) Section 9(a)(1) of such Act is amended by redesignating subparagraphs (C) through (M) as subparagraphs (D) through (N), respectively, and by inserting after subparagraph (B) the following new paragraph:

"(C) of the Department of Defense, the offices of the department referred to as the 'Defense Contract Audit Agency', the 'Defense Audit Service', and the 'Office of Inspector General, Defense Logistics Agency', and that portion of the office referred to as the 'Defense Investigative Service' which has responsibility for the investigation of alleged criminal violations and program abuse;".

(c) Section 8 of such Act is amended to read as follows:

"SPECIAL PROVISIONS

"SEC. 8. (a) In addition to meeting the requirements of the first sentence of section 3(a) of this Act, no individual who is member of the Armed Forces of the United States (whether in an active or reserve status) may be appointed to be the Inspector General of the Department of Defense.

"(b) The provisions of section 1385 of title 18, United States Code, shall not apply to audits and investigations conducted by, under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act.".

(d) Section 5 of such Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Nothing in this section shall be construed to authorize the public disclosure by any individual of any information which is—

"(A) specifically prohibited from disclosure by any other provision of law; or

"(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(2) Nothing in this subsection or in any other provision of this Act shall be construed to authorize or permit the withhold-

ing of information from the Congress, or from any committee or subcommittee thereof.".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"Inspector General, Department of Defense.".

By Mr. DAN DANIEL:

—Page 11, strike out line 8 and all that follows down through line 25 on page 13 and insert in lieu thereof the following:

SEC. 301 (a) ARMY.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $16,697,100,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army as follows:

(1) For general purpose forces, $6,129,145,000.

(2) For intelligence and communications, $911,868,000.

(3) For central supply and maintenance, $4,906,339,000.

(4) For training, medical, and other general personnel activities, $3,587,108,000.

(5) For administration, $1,039,204,000.

(6) For support of other nations, $123,436,000.

(b) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $21,545,000,000 for expenses, not otherwise provided for, for the operation and maintenance of the Navy and the Marine Corps as follows:

(1) For strategic forces, $1,775,212,000.

(2) For general purpose forces, $10,604,659,000.

(3) For intelligence and communications, $930,902,000.

(4) For central supply and maintenance, $5,942,966,000.

(5) For training, medical, and other general personnel activities, $1,806,858,000.

(6) For administration, $484,208,000.

(7) For support of other nations, $195,000.

(c) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $1,481,500,000 for expenses, not otherwise provided for, for the operation and maintenance of the Marine Corps as follows:

(1) For general purpose forces, $864,292,000.

(2) For central supply and maintenance, $359,561,000.

(3) For training, medical, and other general personnel activities, $186,669,000.

(4) For administration, $70,978,000.

(d) AIR FORCE.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $17,278,100,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air Force as follows:

(1) For strategic forces, $3,085,928,000.

(2) For general purpose forces, $3,745,598,000.

(3) For intelligence and communications, $1,418,292,000.

(4) For airlift and sealift, $1,205,813,000.

(5) For central supply and maintenance, $5,458,958,000.

(6) For training, medical, and other general personnel activities, $1,968,882,000.

(7) For administration, $387,822,000.

(8) For support of other nations, $6,807,000.

(e) DEFENSE AGENCIES.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $5,673,640,000 for expenses, not otherwise provided for, for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments) as follows:

(1) For general purpose forces, $343,208,000.

(2) For intelligence and communications, $1,903,274,000.

(3) For central supply and maintenance, $1,377,576,000.

(4) For training, medical, and other general personnel activities, $1,699,005,000.

(5) For administration, $350,577,000.

By Mr. HERTEL:

—At the end of the bill add the following new section:

REPORTS ON UNIT COSTS OF MAJOR DEFENSE SYSTEMS

SEC. 902. (a)(1) The program manager (as designated by the Secretary concerned) for each major defense system included in any selected acquisition report submitted to the Congress pursuant to section 811 of the Department of Defense Appropriations Authorization Act, 1976 (Public Law 94-106; 10 U.S.C. 139 note), shall submit to the Secretary concerned, as hereinafter provided in this section, a written report on the unit cost of the major defense system included in such selected acquisition report for which such manager has responsibility. The program manager shall submit such report to the Secretary concerned not more than seven days after the end of any quarter for which a selected acquisition report is required to be submitted to the Congress containing information on such defense system. The program manager shall include in each such unit cost report—

(A) the total program acquisition unit cost for such major defense system as of the last day of the quarter for which the report is being made; and

(B) in the case of a major defense system for which procurement funds are authorized for the fiscal year containing the quarter for which the unit cost report is submitted, the current procurement unit cost for such major defense system as of the last day of the quarter for which the report is being made.

(2) If at any time during any quarter for which a unit cost report is required under this section, the program manager of a major defense system referred to in paragraph (1) has reasonable cause to believe that (A) the total program acquisition unit cost, or (B) in the case of a major defense system for which procurement funds are authorized for the fiscal year containing the quarter for which such report is to be submitted, the current procurement unit cost has exceeded the applicable percentage increase specified in subsection (b), such manager shall immediately submit to the Secretary concerned a unit cost report containing the information, as of the date of such report, required by paragraph (1).

(3) The program manager shall also include in each unit cost report submitted for any major defense system pursuant to paragraph (1) or (2) any change from the schedule milestones or system performances with respect to such system reflected in the selected acquisition report used as the base for applying the applicable percentage increase specified in subsection (b) and that is known, expected, or anticipated by such manager.

(b)(1)(A) The Secretary concerned shall determine within seven days after any unit cost report has been submitted to him pursuant to subsection (a) whether the total program acquisition unit cost (including any increase for expected inflation) for any major defense system for which no procurement funds are authorized for the fiscal year containing the quarter for which the report is submitted has increased by more than 15 per centum over the total program acquisition unit cost for such system as reflected in the selected acquisition report which first included imformation on such defense system or as reflected in the selected acquisition report covering the first quarter of the fiscal year immediately preceding the fiscal year containing the quarter for which such unit cost report is submitted to the Secretary concerned, whichever selected acquisition report is later.

(B) If the Secretary concerned determines that the total program acquisition unit cost (including any increase for expected inflation) for any such major defense system has increased by more than the amount referred to in subparagraph (A), he shall notify the Congress in writing of such determination and of the increase with respect to such system within ten days after the unit cost report was submitted to him. The Secretary shall include in such notice the date on which the determination was made. Except as provided in paragraph (3), if the Secretary makes such a determination with respect to a major defense system, no additional funds may be obligated in connection with such system after the end of the thirty-day period beginning on the day on which the Secretary makes such determination.

(2)(A) The Secretary concerned shall also determine within seven days after any unit cost report has been submitted to him pursuant to subsection (a) whether—

(i) the current procurement unit cost of any major defense system for which procurement funds are authorized for the fiscal year containing the quarter for which the unit cost report is submitted has increased by more than 15 per centum over the procurement unit cost derived from the selected acquisition report which first included information on such defense system or derived from the selected acquisition report covering the first quarter of the fiscal year immediately preceding the fiscal year containing the quarter for which such unit cost report is submitted to the Secretary concerned, whichever selected acquisition report is later, or

(ii) the total program acquisition unit cost (including any increase for expected inflation) of such system has increased by more than 15 per centum over the total program acquisition unit cost for such system as reflected in the selected acquisition report which first included information on such defense system or as reflected in the selected acquisition report covering the first quarter of the fiscal year immediately preceding the fiscal year containing the quarter for which such unit cost report is submitted to the Secretary concerned, whichever selected acquisition report is later.

(B) If the Secretary concerned determines that the current procurement unit cost has increased by more than the percentage referred to in subparagraph (A)(i) or that the total program acquisition unit cost (including any increase for expected inflation) has increased by more than the percentage referred to in subparagraph (A)(ii), he shall notify the Congress in writing of such determination and of the increase with respect to such system within ten days after the unit cost report was submitted to him. The Secretary shall include in such notice the date on which such determination was made. Except as provided in paragraph (3), if the Secretary makes such a determination with

respect to a major defense system, no additional funds may be obligated in connection with such system after the end of the thirty-day period beginning on the day on which the Secretary makes such determination.

(3) The prohibition contained in paragraphs (1) and (2) on the obligation of funds shall not apply in the case of any major defense system to which such prohibition would otherwise apply if the Secretary concerned submits to the Congress, before the end of the thirty-day period referred to in paragraph (1) and (2), a written report which includes—

(A) a statement of the dollar increase in total program acquisition unit cost or procurement unit cost, in both current and constant dollars, and the percentage increase for each;

(B) a statement of the reasons for such increase in total program acquisition unit cost or procurement unit cost;

(C) the identities of the military and civilian officers responsible for program management and cost control of the major defense system;

(D) except when the cost increase is due solely to termination or cancellation of the entire program for the major defense system—

(i) the action taken and proposed to be taken to control future cost growth of such system, and

(ii) any changes made in the performance or schedule milestones of such system and the extent to which such changes have contributed to the increase in total program acquisition unit cost or procurement unit cost;

(E) the identities of the principal contractors for the major defense system; and

(F) the history of the total program acquisition unit cost of such major defense system, including all changes in such unit cost, from the date of the selected acquisition report which first included information on such defense system.

(c)(1)(A) The Secretary concerned shall also determine within seven days after any unit cost report has been submitted to him pursuant to subsection (a) whether—

(i) in the case of any such system for which procurement funds are authorized for the fiscal year in which the unit cost report is submitted, the current procurement unit cost of such system has increased by more than 25 per centum over the procurement unit cost derived from the selected acquisition report which first included the information on such defense system or derived from the selected acquisition report covering the first quarter of the fiscal year immediately preceding the fiscal year containing the quarter for which such unit cost report is submitted to the Secretary concerned, whichever selected acquisition report is later, or

(ii) the total program acquisition unit cost (including any increase for expected inflation) for a major defense system has increased by more than 25 per centum over the total program acquisition unit cost for such system as reflected in the selected acquisition report which first included the information on such defense system or as reflected in the selected acquisition report covering the first quarter of the fiscal year immediately preceding the fiscal year containing the quarter for which such unit cost report is submitted to the Secretary concerned, whichever selected acquisition report is later.

(B) If the Secretary concerned determines that the current procurement unit cost of a major defense system referred to in subparagraph (A)(i) has increased by more than the percentage referred to in such subparagraph or that the total program acquisition unit cost (including any increase for expected inflation) for a major defense system referred to in subparagraph (A)(ii) has increased by more than the percentage referred to in such subparagraph, he shall notify the Congress in writing of such determination and the increase with respect to such system within ten days after the unit cost report was submitted to him. The Secretary shall include in such notice the date on which such determination was made. Except as provided in paragraph (3), if the Secretary makes such a determination with respect to a major defense system and submits a report to the Congress with respect to such system pursuant to subsection (b)(3), no additional funds may be obligated in connection with such system after the end of the sixty-day period beginning on the day on which the Secretary makes such determination.

(2) The prohibition contained in paragraph (1) on the obligation of funds shall not apply in the case of a major defense system to which such prohibition would otherwise apply if—

(A) the cost increase was due solely to termination or cancellation of the entire program for the major defense system; or

(B) the Secretary of Defense submits to the Congress, before the end of the sixty-day period referred to in such paragraph, a written certification stating that—

(i) such system is essential to the national security;

(ii) there are no alternatives to such system which will provide equal or greater military capability at less cost;

(iii) the new estimates of the total program acquisition unit cost or procurement unit cost are reasonable; and

(iv) the management structure for such major defense system is adequate to manage and control total program acquisition unit cost or procurement unit cost.

(d) At the same time that the Secretary concerned transmits to the Congress any report under subsection (b)(3) or any certification under subsection (c)(2)(B), the Secretary concerned shall transmit a copy of such report or certification to the Comptroller General of the United States (hereafter in this section referred to as the "Comptroller General").

(e)(1) Not later than forty-five days after the date on which the Secretary concerned transmits under subsection (d) a copy of any report or certification referred to in such subsection the Comptroller General shall review and analyze such report or certification and transmit to the Committees on Armed Services of the Senate and the House of Representatives a written report on such review and analysis. Where applicable, the report by the Comptroller General shall include his opinion on—

(A) the accuracy of the cost estimate that—

(i) relate to the major defense system that is the subject of the report or certification reviewed and analyzed in the Comptroller General's report; and

(ii) were included in the selected acquisition report submitted to the Congress pursuant to section 811 of the Department of Defense Appropriation Authorization Act, 1976 (10 U.S.C. 139 note), which first included information on such major defense system or which covers the first quarter of the fiscal year immediately preceding the fiscal year containing the quarter for which such unit cost report or certification is submitted by the Secretary concerned, whichever selected acquisition report is later.

(B) the accuracy and reasonableness of the total program acquisition unit cost estimates or the procurement unit cost estimates included or referred to in the report or certification reviewed and analyzed in the report of the Comptroller General;

(C) the completeness of the reasons submitted by the Secretary concerned for the growth in the total program acquisition unit cost or the procurement unit cost of the subject major defense system;

(D) the adequacy of the actions taken and proposed to be taken by the Secretary concerned to control future cost growth of such system;

(E) the adequacy of the organization in the Department of Defense and military department to manage and control the total program acquisition unit cost and the procurement unit cost of such major defense system;

(F) the likelihood that any future increases in the total program acquisition unit cost or the procurement unit costs of such major defense system will not exceed the percentage at which notifications to the Congress are required under this section; and

(G) whether there are no alternatives to such system which will provide equal or greater military capability at less cost.

(2) Every report on a review and analysis conducted by the Comptroller General under this section shall include:

(A) his opinion and recommendations on any further steps which he determines may and should be taken to prevent future increases in unit cost for the major defense system that is the subject of such certification;

(B) his opinion on whether a violation of any statute or regulation on the expenditure of appropriated funds or on contracting procedures has occurred with respect to such major defense system.

(f) The Committees on Armed Services of the Senate and the House of Representatives shall decide whether or not to include in any report accompanying any bill or resolution authorizing funds for any major defense system with respect to which a report or certification has been transmitted under subsection (b)(3) or subsection (c)(2)(B)—

(1) summaries of such report or certification;

(2) summaries of the Comptroller General's review and analysis of such report or certification under subsection (e) of this section; and

(3) any additional analysis by the committees.

(g) Subsections (d) and (e) shall not apply in the case of any report or certification transmitted by the Secretary concerned with respect to an increase in the total program unit cost or procurement unit cost that is due solely to the termination or cancellation of the entire program for a major defense system.

(h) As used in this section:

(1) The term "total program acquisition unit cost" means, in the case of a major defense system, the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, such system, divided by (B) the number of fully configured end items to be produced for such system.

(2) The term "procurement unit cost" means, in the case of a major defense

system, the amount equal to (A) the total of all procurement funds available for such system in any fiscal year, reduced by the amount of any funds appropriated for such fiscal year for advanced procurement for such system in any year subsequent to such fiscal year and increased by any amount appropriated in years prior to such fiscal year for advanced procurement for such system in such fiscal year, divided by (B) the number of fully configured end items to be procured with such funds during such fiscal year.

(3) The term "Secretary concerned" has the same meaning as provided in section 101(8) of title 10, United States Code.

By Mr. McCURDY:

—At the end of the bill add the following new section:

IMPROVED OVERSIGHT OF COST GROWTH IN MAJOR DEFENSE ACQUISITION PROGRAMS

SEC. 902. (a)(1) Chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 139a. Major defense acquisition programs: control of cost growth

"(a) In this section:

"(1) 'Major defense acquisition program' means a Department of Defense acquisition program—

"(A) that is designated by the Secretary of Defense as a major defense acquisition program; or

"(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $1,000,000,000 (based on fiscal year 1980 constant dollars).

"(2) 'Program acquisition unit cost', with respect to a major defense acquisition program, means the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, the acquisition program, divided by (B) the number of fully-configured end items to be produced for the acquisition program.

"(3) 'Major contract', with respect to a major defense acquisition program, means (A) each prime contract under the program, and (B) each associate or Government-furnished equipment contract under the program (i) that is one of the six largest contracts under the program in dollar amount, or (ii) that, with other contracts under the program, represents at least 90 percent of the total contract cost for current contracts under the program, whichever represents the greater dollar amount.

"(b)(1)(A) The Secretary of Defense shall submit to Congress at the end of each fiscal-year quarter a report on current major defense acquisition programs. Except as provided in subparagraph (B), each such report shall include a status report on each defense acquisition program that at the end of such quarter is a major defense acquisition program. Reports under this subsection shall be known as Selected Acquisition Reports.

"(B) A status report on a major defense acquisition program need not be included in the Selected Acquisition Report for the second, third, or fourth quarter of a fiscal year if such a report was included in a previous Selected Acquisition Report for that fiscal year and there has been no change in program cost, performance, or schedule since the most recent such report.

"(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall include (A) the same information, in detailed and summarized form, as is provided in reports submitted under section 139 of this title, (B) the current program acquisition unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted, and (C) such other information as the Secretary of Defense considers appropriate. Selected Acquisition Reports for the first quarter of a fiscal year shall be known as comprehensive annual Selected Acquisition Reports.

"(3) Each Selected Acquisition Report for the second, third, and fourth quarters of a fiscal year shall include—

"(A) with respect to each major defense acquisition program that was included in the most recent comprehensive annual Selected Acquisition Report, the information described in paragraph (4); and

"(B) with respect to each major defense acquisition program that was not included in the most recent comprehensive annual Selected Acquisition Report, the information described in paragraph (2).

Selected Acquisition Reports for the second, third, and fourth quarters of a fiscal year shall be known as Quarterly Selected Acquisition Reports.

"(4) Information to be included under this paragraph in a Quarterly Selected Acquisition Report with respect to a major defense acquisition program is as follows:

"(A) The program acquisition cost.

"(B) The quantity of items to be purchased under the program.

"(C) The program acquisition unit cost.

"(D) The current procurement cost for the program.

"(E) The current procurement unit cost for the program.

"(F) The reasons for any changes in program cost, program unit cost, procurement cost, or procurement unit cost or in program schedule from the previous Selected Acquisition Report.

"(G) The major contracts under the program and the reasons for cost or schedule variances under those contracts since the last Selected Acquisition Report.

"(H) The completion status of the program (i) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (ii) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

"(I) Program highlights since the last Selected Acquisition Report.

"(5) Each comprehensive annual Selected Acquisition Report shall be submitted within 30 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each Quarterly Selected Acquisition Report shall be submitted within 30 days after the end of the fiscal-year quarter. If a preliminary report is submitted for the comprehensive annual Selected Acquisition Report in any year, the final report shall be submitted within 15 days after the submission of the preliminary report.

"(c)(1) The estimate of the program acquisition cost for a major defense acquisition program as shown in the Selected Acquisition Report in which such program is first included is the baseline program cost for the program, and the estimate of the program acquisition unit cost for that program as shown in such report is the original unit cost baseline for the program.

"(2) The estimate of the program acquisition unit cost of a major defense acquisition program in the Selected Acquisition Report in which such program is first included or in the most recent comprehensive annual Selected Acquisition Report, whichever is later, is the current unit cost baseline for that program. The most recent estimate at any time of the program acquisition unit cost of such program is the current unit cost of the program.

"(d)(1) If after the submittal of a Selected Acquisition Report establishing the current unit cost baseline for a major defense acquisition program the program manager for that program at any time finds that there is reasonable cause to believe—

"(A) that the current unit cost of the program has increased by at least 15 percent above the current unit cost baseline; or

"(B) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 15 percent above the cost of the contract as of the time the contract was made;

the program manager shall submit a report to the Secretary concerned stating such finding.

"(2) If after the submittal of the Selected Acquisition Report establishing the current unit cost baseline for a major defense acquisition program the program manager for the program has submitted a report to the Secretary under paragraph (1) with respect to that program and the program manager for that program then finds that there is reasonable cause to believe—

"(A) that the current unit cost of the program has increased by more than five percent above the current unit cost as shown in the most recent report submitted to the Secretary concerned with respect to that program under this subsection; or

"(B) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least five percent above the cost of the contract as shown in the most recent report submitted to the Secretary concerned with respect to that program under this subsection;

the program manager shall submit a report to the Secretary concerned stating such finding.

"(e)(1) When a report is submitted to the Secretary concerned under subsection (d) with respect to a defense acquisition program and the Secretary has not submitted a report to Congress under this subsection with respect to that program since the submittal of the Selected Acquisition Report establishing the current unit cost baseline for the program, the Secretary shall determine whether the current unit cost of the program has increased by 15 percent or more above the current unit cost baseline of the program. If the Secretary determines that there has been such an increase, the Secretary shall submit a report to Congress containing the information described in subsection (f).

"(2) When a report is submitted to the Secretary concerned under subsection (d) with respect to a defense acquisition program and the Secretary has previously submitted a report to Congress under paragraph (1) with respect to that program since the submittal of the Selected Acquisition

Report establishing the current unit cost baseline for the program, the Secretary shall determine whether the current unit cost of the program has increased by 5 percent or more above the current unit cost of the program as shown in the most recent report submitted to Congress under this subsection. If the Secretary determines that there has been such an increase, the Secretary shall submit a report to Congress containing the information described in subsection (f).

"(3) Reports under this subsection shall be known as Program Cost Assessment Reports. Any such report shall be submitted not later than 30 days after the date on which the Secretary concerned receives the report from the program manager that is the basis for the submittal of such report.

"(f) Each Program Cost Assessment Report under subsection (e) with respect to a major defense acquisition program shall include the following:

"(1) The name of the major defense acquisition program.

"(2) The date of the preparation of the report.

"(3) The program phase as of the date of the preparation of the report.

"(4) The baseline program cost in constant base-year dollars and in current dollars.

"(5) The current program cost in constant base-year dollars and in current dollars.

"(6) The completion status of the program (A) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (B) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

"(7) The base year.

"(8) The dates of the Selected Acquisition Reports that established the original unit cost baseline and the current unit cost baseline.

"(9) The current change and the total change, in dollars and expressed as a percentage, in the program acquisition unit cost, stated both in constant base-year dollars and in current dollars.

"(10) The quantity of end items to be acquired under the program and the current change and total change, if any, in that quantity.

"(11) The following contract performance assessment information with respect to each major contract under the program:

"(A) The name of the contractor.

"(B) The phase that the contract is in at the time of the preparation of the report.

"(C) The percentage of work under the contract that has been completed.

"(D) Any current change and the total change, in dollars and expressed as a percentage, in the contract cost.

"(E) The percentage by which the contract is currently ahead of or behind schedule.

"(F) A narrative providing a summary explanation of the most significant occurrences, including cost and schedule variances under major contracts of the program, contributing to the changes identified and a discussion of the effect these occurrences will have on future program costs and the program schedule.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"139a. Major defense acquisition programs: control of cost growth.".

(b) Section 811 of the Department of Defense Appropriation Authorization Act, 1976 (10 U.S.C. 139 note) is repealed.

(c) Section 139a of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1983, and shall apply beginning with respect to reports for the first quarter of fiscal year 1983. The repeal made by subsection (b) shall take effect on January 1, 1983.

By Mr. PRICE:

—At the end of the bill add the following new section:

WAIVER OF AUTHORIZATION REQUIREMENT FOR CERTAIN PREVIOUSLY APPROPRIATED FUNDS

SEC. 902. The provisions of section 138(a) of title 10, United States Code, requiring that funds may not be obligated or expended by the Armed Forces for certain purposes unless such funds have been specifically authorized by law shall not apply with respect to the obligation or expediture of funds appropriated for fiscal year 1982 before the date of enactment of this Act for the following purposes:

(1) Procurement of aircraft for the Army.

(2) Procurement of aircraft for the Air Force.

(3) Procurement of missiles for the Air Force.

(4) Operations and Maintenance for Defense-wide activities.

By Mrs. SCHROEDER:

—Page 19, after line 2, insert the following new section:

REDUCTION IN NUMBER OF ACTIVE DUTY MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES

SEC. 403 (a) The Congress makes the following findings:

(1) The military strength of the United States is dedicated to protecting our national security, preserving the liberties of the American people, and maintaining world peace.

(2) In order to implement these principles, the United States has maintained large contingents of active-duty military personnel on the territory of allies in Europe, Japan, and Korea.

(3) The allies of the United States in Europe, Japan, and Korea are in substantially better condition, both economically and militarily than they were when large contingents of active-duty United States military personnel were first deployed on the territory of those allies.

(4) The means and capacity of allies of the United States to provide forces to resist aggression has significantly improved since the original United States deployment.

(5) The allies of the United States have not contributed a fair and equitable share to the common defense, forcing the United States to bear a disproportionately large financial burden to meet common defense needs.

(6) Relations between Eastern Europe and Western Europe have improved since the initial deployment of United States military personnel in Europe through increased trade and other interchanges.

(7) The present policy of maintaining large contingents of United States military personnel and their dependents on the territory of our allies costs the United States tens of billions of dollars each year.

(8) Relations between host country nationals and United States military personnel and their dependents stationed abroad are often marked by unnecessary friction and animosity.

(9) The deployment of large contingents of United States military personnel on the territory of our allies detracts from the ability of our military to react to crises elsewhere in the world.

(10) The United States should pursue a new division of labor with its allies whereby the allies provide for their own territorial defense needs while the United States meets strategic and common defense needs.

(11) The level of Federal spending must be reduced in order to balance the budget and revitalize the economy.

(b)(1) Except as provided in paragraph (2), after September 30, 1986, the number of active-duty military personnel stationed in locations outside the United States and its territories and possessions may not exceed 250,000.

(2) The prohibition in paragraph (1) does not apply during any period with respect to which the President has submitted a report pursuant to section 4 of the War Powers Resolution (50 U.S.C. 1534).

—Page 25, after line 25, insert the following new title (and redesignate the succeeding title and section accordingly):

TITLE X—FORMER SPOUSES' PROTECTION

SHORT TITLE

SEC. 901. This title may be cited as the "Uniformed Services Former Spouses' Protection Act".

PAYMENTS OF RETIRED AND RETAINER PAY

SEC. 902. (a) Chapter 71 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1408. Payment of retired or retainer pay in compliance with court orders

"(a) In this section:

"(1) 'Court' means—

"(A) any court of competent jurisdiction of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(B) any court of the United States (as defined in section 451 of title 28) having competent jurisdiction; and

"(C) any court of competent jurisdiction of any foreign country with which the United States has entered into an agreement requiring the United States to honor any court order.

"(2) 'Court order' means a court's final decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such a degree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such previously issued decree), which—

"(A) is issued in accordance with the laws of the jurisdiction of that court;

"(B) provides for—

"(i) payment of child support (as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)));

"(ii) payment of alimony (as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c))); or

"(iii) division of property (including a division of community property); and

"(C) specifically provides for the payment of an amount, expressed in dollars or as a percentage of disposable retired or retainer pay, from the disposable retired or retainer pay of a member to the spouse or former spouse of that member.

For purposes of this definition, 'final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

"(3) 'Disposable retired or retainer pay' means the total monthly retired or retainer pay to which a member is entitled under the provisions of this title (other than chapter 61 of this title), title 14, section 3(a) of the Act of August 10, 1956 (70A Stat. 619; 33 U.S.C. 857a(a)), or section 221(a) of the Public Health Service Act (42 U.S.C. 213a(a)) less amounts which—

"(A) are owed by such member to the United States;

"(B) are required by law to be, and are deducted from the retired or retainer pay of such member, including fines and forfeitures ordered by courts-martial, Federal employment taxes, and amounts waived in order to receive compensation under title 5 or title 38;

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and to the extent such amounts withheld are not greater than would be authorized if such member claimed all dependents to which he was entitled;

"(D) are withheld under section 3402(i) of the Internal Revenue Code of 1954 (26 U.S.C. 3402(i)) if such member presents evidence of a tax obligation which supports such withholding;

"(E) are deducted as Government life insurance premiums (not including amounts deducted for supplemental coverage); or

"(F) are deducted because of an election under chapter 73 of this title to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired or retainer pay is being made pursuant to a court order this section.

"(4) 'Member' means a person who is or was appointed or enlisted in, or conscripted into, any of the uniformed services, and includes a former member of any of the uniformed services.

"(5) 'Secretary concerned' has the meaning given that term by section 101(5) of title 37.

"(6) 'Spouse or former spouse' means the husband or wife, or former husband or wife, or a member who, on or before the date of a court order, had been married to that member.

"(7) 'Uniformed services' has the meaning given to that term by section 101(3) of title 37.

"(b) For the purposes of this section—

"(1) service of a court order is effective if—

"(A) an appropriate agent of the Secretary concerned designated for receipt of service of court orders under regulations prescribed pursuant to subsection (h) of this section, or, if no agent has been so designated, the Secretary concerned, is personally served or is served by certified or registered mail, return receipt requested;

"(B) the court order is regular on its face; and

"(C) the court order or other documents served with the court order identify the member concerned and include the social security number of such member; and

"(2) a court order is regular on its face when the order—

"(A) is from a court of competent jurisdiction;

"(B) is legal in form; and

"(C) includes nothing on its face that provides reasonable notice that it is issued without authority of law.

"(c)(1) Subject to the limitations of this section, a court may treat disposable retired or retainer pay payable to a member for pay periods beginning on or after June 26, 1981, either as property solely of the member or as property of the member and his spouse in accordance with the law of the jurisdiction of such court.

"(2) Notwithstanding any other provision of law, this section does not create any right, title, or interest which can be sold, assigned, transferred, or otherwise disposed of (including by inheritance) by a spouse or former spouse.

"(3) This section does not authorize any court to order that a member apply for retirement or retire from the uniformed services at a particular time in order to effectuate any payment under this section.

"(d) Not later than 90 days after the effective service of a court order with respect to a member who is entitled to receive retired or retainer pay, or, in the case of a member who, on the date of the effective service of a court order with respect to such member, is not entitled to receive retired or retainer pay, not later than 90 days after such member first becomes entitled to receive retired or retainer pay, the Secretary concerned shall, subject to the limitations of this section, pay to the spouse or former spouse of the member the amount of disposable retired or retainer pay specifically provided for in the court order. Payments under this section shall not be made more frequently than once each month, and the Secretary concerned shall not be required to vary normal pay and disbursement cycles for retired or retainer pay in order to comply with such court orders. Payments from the disposable retired or retainer pay of any member pursuant to this section shall terminate in accordance with the terms of the applicable court order, but not later than the date of the death of the member or the date of the death of the spouse or former spouse to whom payments are being made, whichever occurs first.

"(e)(1) The total amount of the disposable retired or retainer pay of a member payable under subsection (d) of this section shall not exceed 50 percent of such disposable retired or retainer pay.

"(2) In the event of effective service of more than one court order which provide for payments to more than one spouse or former spouse from the disposable retired or retainer pay of one member, such pay shall be used to satisfy, subject to the limitations of paragraph (1) of this subsection, such court orders on a first-come, first-served basis. Such court orders shall be satisfied (subject to the limitations of paragraph (1) this subsection) out of that amount of disposable retired or retainer pay which remains after the satisfaction of all court orders which have been previously served.

"(3)(A) In the event of effective service of conflicting court orders under this section which assert to direct that different amounts be paid during a month to the same spouse or former spouse from the disposable retired or retainer pay of the same member, the Secretary concerned shall—

"(i) pay to that spouse the least amount of disposable retired or retainer pay directed to be paid during that month by any such conflicting court order, but not more than the amount of disposable retired or retainer pay which remains available for payment of such court orders based on when such court orders were effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4) of this subsection;

"(ii) retain an amount of disposable retired or retainer pay that is equal to the lesser of—

"(I) the difference between the largest amount of retired or retainer pay required by any conflicting court order to be paid to the spouse or former spouse and the amount payable to the spouse or former spouse under clause (i) of this subparagraph; and

"(II) the amount of disposable retired or retainer pay which remains available for payment of any conflicting court order based on when such court order was effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4) of this subsection;

"(iii) pay to that member the amount which is equal to the amount of that member's disposable retired or retainer pay (less amounts paid during such month pursuant to legal process served under section 459 of the Social Security Act (42 U.S.C. 659) and any amounts paid during such month pursuant to court orders effectively served under this section, other than such conflicting court orders) minus—

"(I) the amount of disposable retired or retainer pay paid under clause (i) of this subparagraph; and

"(II) the amount of disposable retired or retainer pay retained under clause (ii) of this subparagraph.

"(B) The Secretary concerned shall hold the amount retained under clause (ii) of subparagraph (A) until such time as that Secretary is provided with a court order which has been certified by the member and the former spouse to be valid and applicable to the retained amount. Upon being provided with such an order, the Secretary shall pay the retained amount in accordance with the order.

"(4)(A) In the event of effective service of a court order under this section and the service of legal process pursuant to section 459 of the Social Security Act (42 U.S.C. 659), both of which provide for payments during a month from the retired or retainer pay of the same member, such court orders and legal process shall be satisfied on a first-come, first-served basis. Such court orders and legal process shall be satisfied out of moneys which are subject to such orders and legal process and which remain available in accordance with the limitations of paragraph (1) and subparagraph (B) of this paragraph of this subsection during such month after the satisfaction of all court orders or legal process which have been previously served.

"(B) Notwithstanding any other provision of law, the total amount of the disposable retired or retainer pay of a member payable by the Secretary concerned under all court orders pursuant to this section and all legal processes pursuant to section 459 of the Social Security Act (42 U.S.C. 659) with respect to any member may not exceed 65 percent of the disposable retired or retainer pay payable to such member.

"(5) A court order which itself or because of previously served court orders provides for the payment of an amount of disposable retired or retainer pay which exceeds the amount of such pay available for payment because of the limit set forth in paragraph

(1) this subsection, or which, because of previously served court orders or legal process previously served under section 459 of the Social Security Act (42 U.S.C. 659), provides for payment of an amount of disposable retired or retainer pay which exceeds that amount available for payment in accordance with the limits of paragraph (1) and subparagraph (B) of paragraph (4) of this subsection, shall not be deemed to be irregular on its face solely for that reason. However, such order shall be deemed to be fully satisfied under this section by the payment to the spouse or former spouse of the amount of disposable retired or retainer pay available for such payment in accordance with the limits of paragraphs (1) and subparagraph (B) of paragraph (4) of this subsection.

"(f)(1) The United States and any officer or employee thereof shall not be liable with respect to any payment made from retired or retainer pay to any member, spouse, or former spouse pursuant to a court order that is regular on its face if such payment is made in accordance with this section and the regulations prescribed pursuant to subsection (h) of this section.

"(2) No officer or employee of the United States who, under regulations prescribed pursuant to subsection (h), has the duty to respond to interrogatories shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or because of, any disclosure of information made by him in carrying out any of his duties which directly or indirectly pertain to answering such interrogatories.

"(c) Any person receiving effective service of any court order under this section shall, as soon as possible, but not later than 30 days after the date on which effective service is made, send a written notice of such court order (together with a copy thereof) to the member affected by such court order at his last known address.

"(h) The Secretaries concerned shall prescribe uniform regulations to administer this section within the uniformed service.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1408. Payment of retired or retainer pay in compliance with court orders.".

SURVIVOR ANNUNITIES

SEC. 903. (a) Section 1447 of title 10, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(6) 'Former spouse' means the surviving former husband or wife of a person who is eligible to participate in the Plan.

"(7) 'Court' has the meaning given that term by section 1408(a)(1) of this title.

"(8) 'Court order' means a court's final decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or of a court ordered, ratified, or approved property settlement agreement incident to such previously issued decree).

"(9) 'Final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for the taking of such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided uner the laws applicable to such appeals.

"(10) 'Regular on its face' has the meaning given to that term by section 1408(b)(2) of this title.".

(b)(1) Section 1448(a) of such title is amended—

(A) in paragraph (3)(A) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,"; and

(B) in paragraph (3)(B) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,".

(2) Section 1448(b) of such title is amended to read as follows:

"(b)(1) A person who is not married and does not have a dependent child when he becomes eligible to participate in the Plan may elect to provide an annuity to a natural person with an insurable interest in that person or to provide an annuity to a former spouse.

"(2) A person who is married or has a dependent child may elect to provide an annutiy to a former spouse instead of providing an annuity to a spouse or dependent child if the election is made in order to carry out the terms of a property settlement agreement entered into with a former spouse (without regard to whether such agreement is included in or approved by a court order).

"(3) In the case of a person electing to provide an annuity under paragraph (1) or (2) of this subsection by virtue of eligibility under subsection (a)(1)(B), the election shall include a designation under subsection (e).

"(4) Any person who elects under paragraph (1) or (2) of this subsection to provide an annuity to a former spouse shall, at the time of making such election, provide the Secretary concerned with a written statement, in a form to be prescribed by that Secretary, signed by such person and the former spouse setting forth whether such election is being made pursuant to a voluntary written agreement previously entered into by such person as a part of or incident to a proceeding of divorce, dissolution, annulment, or legal separation, and if so, whether such voluntary written agreement has been incorporated in or ratified or approved by a court order.".

(c) Section 1450(a)(4) of such title is amended—

(1) by inserting "former spouse or other" before "natural person"; and

(2) by striking out "if there is no eligible beneficiary under clause (1) or clause (2)" and inserting in lieu thereof "unless the election to provide an annuity to the former spouse or other natural person has been changed as provided in subsection (f) of this section".

(d) Section 1450(f) of such title is amended to read as follows:

"(f) (1) A person who elects to provide an annuity to a person designated by him under section 1448(b) of this title may, subject to paragraph (2) of this subsection, change that election and provide an annuity to his spouse or dependent child. The Secretary of Defense shall notify the former spouse or other natural person previously designated under section 1448(b) of this title of any change of election under the first sentence of this paragraph. Any such change of election is subject to the same rules with respect to execution, revocation, and effectiveness set forth in section 1448(a)(5) of this title.

"(2) Any person who, incident to a proceeding of divorce, dissolution, annulment, or legal separation, enters into a voluntary written agreement to elect under section 1448(b) of this title to provide an annuity to a former spouse and who makes an election pursuant to such agreement may not change such election under paragraph (1) of this subsection unless—

"(A) in any case in which such agreement has been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a certified copy of a court order which is regular on its face and modifies the provisions of all previous court orders relating to the agreement to make such election so as to permit the person to change the election; and

"(ii) certifies to the Secretary concerned that the court order is valid and in effect; or

"(B) in any case in which such agreement has not been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a statement, in such form as the Secretary concerned may prescribe, signed by the former spouse and evidencing the former spouse's agreement to a change in the election under paragraph (1) of this subsection; and

"(ii) certifies to the Secretary concerned that the statement is current and in effect.

"(3) Nothing in this chapter authorizes any court to order any person to elect under section 1448(b) of this title to provide an annuity to a former spouse unless such person has voluntarily agreed in writing to make such election.".

MEDICAL BENEFITS

SEC. 904. (a) Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) for a period of 180 days following the date of a final decree of divorce, dissolution, or annulment of a marriage to a member or former member, the unremarried former spouse if, on the date of such final decree of divorce, dissolution, or annulment, that former spouse had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of service which is creditable in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay, as a result of his service in any of the uniformed services.

The Secretary concerned may extend the 180-day period described in subparagraph (F) of this paragraph with respect to any former unremarried spouse of a member or former member for such period as the Secretary considers necessary, but only for the purpose of continuing any medical treatment of the former unremarried spouse which had been provided under this chapter before the end of such 180-day period.".

(b) Section 1076(b) of such title is amended by inserting at the end thereof the following: "A dependent described in section 1072(2)(F) of this title may be given medical and dental care pursuant to clause (2) of this subsection without regard to subclause (B) of such clause.".

(c) Section 1079 of such title is amended—

(A) by striking out "and children" in the section heading and inserting in lieu thereof ", children, and certain former spouses"; and

(B) by striking out "and children" in the first sentence of subsection (a) and inserting in lieu thereof ", children, and certain former spouses (as described in section 1072 (2)(F) of this title)".

(d) The section heading of sections 1080, 1081, and 1083 of such title are each amended by striking out "and children" and inserting in lieu thereof ", children and certain former spouses".

(e) The items relating to sections 1079,1080, 1081, and 1083 in the table of sections at the beginning of chapter 55 of such title are each admended by striking out "and children" and inserting in lieu thereof ", children, and certain former spouses".

EFFECTIVE DATE AND TRANSITION

SEC. 905. (a) The amendments made by this title shall take effect on the first day of the first month which begins more than 120 days after the date of enactment.

(b) The amendment made by section 902(d) of this title shall apply only with respect to payments of retired or retainer pay payable under chapter 71 of title 10, United States Code, for periods beginning on or after the effective date of such amendments, but without regard to the date of any court order.

(c) The amendments made by section 903 of this title shall apply to persons who become eligible to participate in the Survivor Benefit Plan before, on, or after the effective date of such amendments.

(d) The amendments made by section 904 of this title shall apply in the case of any former spouse of a member or former member of the uniformed services only if the final decree of divorce, dissolution, or annulment of the marriage of the former spouse and such member or former member is dated on or after the effective date of such amendments.

(e) For the purposes of this section—

(1) the term "court order" has the same meaning as provided in section 1408(a)(2) of title 10, United States Code (as added by section 2 of this title);

(2) the term "former spouse" has the same meaning as provided in section 1408(c)(6) of such title (as added by section 2 of this title); and

(3) the term "uniformed service" has the same meaning as provided in section 1408(a)(7) of such title (as added by section 2 of this title).

By Mr. SOLOMON:

—Page 26, after line 22, add the following new section:

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

SEC. 902. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) The Director of the Selective Service System shall submit to the Secretary of Education, with respect to each individual receiving, or applying for, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), or participating in any program established, or assisted, under such title, verification of whether such individual has violated section 3 by not presenting and submitting to registration pursuant to section 3.

"(2) On the basis of the verification submitted pursuant to paragraph (1), the Secretary of Education shall make a preliminary determination on whether each individual described in paragraph (1) has complied with or violated section 3.

"(3) If the Secretary of Education preliminarily determines that any individual described in paragraph (1) has violated section 3, the Secretary of Education shall notify such individual of the preliminary determination.

"(4) Any individual notified pursuant to paragraph (3) may submit to the Secretary of Education within a period of time of not less than 30 days after receiving such notification any information with respect to the compliance or violation of section 3 by such individual.

"(5) After the period of time specified in paragraph (4) and taking into consideration any information submitted by the individual, the Secretary of Education shall make a final determination on whether each individual notified pursuant to paragraph (3) has complied with or violated section 3.

"(6)(A) Notwithstanding any other provision of law, any individual finally determined by the Secretary of Education pursuant to paragraph (5) to have violated section 3 is not eligible for, and may not receive, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and may not participate in any program established, or assisted, under such title.

"(B) The Secretary of Education shall take all possible actions to carry out subparagraph (A).".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

By Mr. STRATTON:

—Page 2, line 11, strike out "$2,612,200,000" and insert in lieu thereof "$2,541,600,000".

Page 2, line 12, strike out "$2,948,500,000" and insert in lieu thereof "$2,898,500,000".

Page 2, line 14, strike out "$4,843,100,000" and insert in lieu thereof "$4,707,700,000".

Page 2, line 15, strike out "$2,622,600,000" and insert in lieu thereof "$2,439,000,000".

Page 2, line 16, strike out "$4,638,000,000" and insert in lieu thereof "$4,509,500,000".

Page 2, line 21, strike out "$11,774,600,000" and insert in lieu thereof "$11,424,500,000".

Page 6, line 7, strike out "$2,209,000,000" and insert in lieu thereof "$1,984,900,000".

Page 6, line 13, strike out "$18,116,300,000" and insert in lieu thereof "$17,243,400,000".

Page 6, line 14, strike out "$6,388,800,000" and insert in lieu thereof "$6,333,300,000".

SENATE—*Thursday, July 15, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Our opening prayer today will be delivered by the Reverend Oliver C. Hogue, pastor, Scott Depot Christ Fellowship Church, Scott Depot, W. Va. He is sponsored by Senator ROBERT C. BYRD, the minority leader.

PRAYER

The Reverend Oliver C. Hogue, pastor, Scott Depot Christ Fellowship Church, Scott Depot, W. Va., offered the following prayer:

Let us pray.

Our Heavenly Father, we give Thee thanks this day for breathe of life to do Thy will. Help us to discern what is Thy will. And grant with that discernment the willingness to do it wholeheartedly.

We love thee, O God! Increase that love today—for Thou art worthy. And help us to know that the measure of our love for Thee is reflected in how we treat one another, not only in public, but in private. Help us to love each other so much that criticism, if necessary, can only be spoken with great difficulty.

Bless our President, the members of the Cabinet, the Supreme Court, and the House of Representatives and give to them as well as us the wisdom of Socrates, the humility of St. Francis, and the determination of Christopher Columbus.

We pray in the name of Him who exemplified all that was virtuous, even Jesus Christ our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

SPECIAL ORDERS

Mr. STEVENS. Mr. President, there are three special orders for today. I ask unanimous consent that Senators having special orders be recognized in the order of their appearance in the Chamber. I note that the Senator from Illinois is here first, and I ask the Chair to call on them in the order that they appear in the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that following the special orders and the time for the two leaders under the standing order, there be a period for the transaction of routine morning business not to extend beyond 10:30 a.m. during which Senators may speak therein for not to exceed 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECLAMATION REFORM

Mr. STEVENS. Mr. President, the Senate will resume consideration of S. 1867, Reclamation Reform Act of 1982, following the time for the leaders and the special orders. The pending amendment is the Lugar cost recovery amendment that has a 3-hour time agreement.

SHULTZ NOMINATION

We expect to work out an agreement to go into executive session to consider the nomination of George P. Shultz to be Secretary of State at some point during the day, after the vote on the Lugar amendment.

URGENT SUPPLEMENTAL APPROPRIATIONS

I think that the Senate also should be on notice that the urgent supplemental appropriations bill will be acted upon by the House of Representatives today, and we do expect it here today and intend to act on it today.

This will be a late night for the Senate as it looks now. We hope we can complete action on the reclamation bill, act on the nomination of Mr. Shultz to be Secretary of State, and act on the conference report on the urgent supplemental appropriations bill.

The majority leader will speak further on these matters at a later time. I ask unanimous consent that the remainder of our time be reserved for his use.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Senator from West Virginia is recognized.

REVEREND OLIVER C. HOGUE, VISITING CHAPLAIN

Mr. ROBERT C. BYRD. Mr. President, it is with pride that I have had the privilege of listening this morning to a prayer at the opening of the Senate by the Reverend Oliver C. Hogue, who is the chief pastor of the Scott Depot Christ Fellowship Church at Scott Depot, W. Va.

This prayer requests of the Supreme Being that all of the levels of Government—the executive, judiciary, and the legislative—be endowed with wisdom, humility, and determination to press ahead to deal with the many problems that confront our Nation today.

I recently had the opportunity to speak at Scott Depot Christ Fellowship Church. I have spoken in many churches in West Virginia over the years. I am not a minister, and I always make that fact very explicit when I begin to speak in a church. Nobody need be under the illusion that I am a Biblical scholar or that I am a minister. But I have had the privilege of speaking in hundreds of churches in West Virginia over the 36 years that I have been in politics.

Never have I enjoyed the experience of speaking in a church more than when I spoke at the Reverend Mr. Hogue's church at Scott Depot. I was impressed by the spirit of fellowship that obviously is there in that church during the meeting.

Most churches meet for an hour on Sunday morning, in addition to the Sunday school hour. But when I went to the Reverend Mr. Hogue's church he said to me, "Now, we come here to worship," and he said, "There is no time limit. We may be here 2 hours, we may be here 3 hours, because we are here not to punch a clock but we are here to worship."

So I went on to make my little address, after which he delivered his sermon. I was greatly impressed by the spiritual fellowship in that church. I was impressed by the number of young people in the church and by the enthusiasm, and the vigor, and by the intensity of their feelings when they sang.

In this church there is a great adult choir of excellently trained voices. There is a great youth choir of equally excellently trained voices. The young people very actively participate in the worship services.

So this is a church that has its roots really deep in the humanity of the

surrounding area. The future is bright because it has its future generations involved in the church, involved in its songs, and involved in its everyday workings. The pianist is absolutely excellent.

I compliment the Reverend Mr. Hogue on the work he is doing, on the leadership he is demonstrating at that church. It is a leadership that can very well be emulated by many other churches throughout the land.

I was also impressed when I walked into the church to find that there was not just one minister but I seem to recall seven. They all gathered around and I was rather overwhelmed when I found myself in the presence of seven ministers.

There is real leadership there and great spiritual fellowship, and I thoroughly enjoyed my visit to that church.

I thank the Reverend Mr. Hogue for his prayer today, for his presence here, and I am glad that the CONGRESSIONAL RECORD will carry throughout the land his prayer for all of us.

RECOGNITION OF SENATOR DIXON

The PRESIDING OFFICER (Mr. MATTINGLY). Under the previous order, the Senator from Illinois (Mr. DIXON) is recognized for not to exceed 15 minutes.

S. 2733—SPECIAL APPLICATION OF THE AT-RISK RULES IN CERTAIN LEASING SITUATIONS

Mr. DIXON. Mr. President, today I, along with my colleague Senator SAM NUNN, the ranking member of the Senate Small Business Committee, am introducing legislation to eliminate the discrimination against closely held corporations under the Treasury Department's tax leasing regulations. The current law permits such corporations to be the lessees but not the lessors, thereby discouraging a good deal of small business investment.

The safe harbor leasing rules included in the Economic Recovery Tax Act of 1981 have been the subject of considerable comment and controversy. But particularly troublesome to me is the way the Treasury's leasing regulations discriminate against small business by denying closely held corporations the right to purchase another company's investment tax credits and depreciation deductions.

The leasing status itself appears to expressly permit purchasing of tax benefits by closely held corporations (other than subchapter S corporations and personal holding companies). The Treasury Department, however, has applied the so-called at-risk rules of the Internal Revenue Code to purchasers of tax benefits, and the application of these rules effectively prevents small closely held companies from purchasing tax benefits in sale-leaseback transactions which are otherwise allowed under the leasing statute. Discrimination results because the at-risk rules impose no restrictions at all on widely held companies.

Current application of the regulations on this point constitutes a reversal of the position expressed by Mr. John Chapoton, Assistant Secretary of the Treasury for Tax Policy, in a speech to the Tax Society of New York University on October 5, 1981. In that speech, Mr. Chapoton stated the regulations would apply the at-risk rules only to the lessee or user of the equipment, and not to the lessor. Mr. Chapoton went on to say that this would be consistent with the underlying purpose of the leasing statute. However, Treasury later concluded that the language of the at-risk statute required the application of the rules to lessors, and that Treasury could not change this result without express statutory authority.

The legislation which Senator NUNN and I are introducing today would provide such statutory authority to the Treasury. It would provide for application of the at-risk rules along the lines discussed by Mr. Chapoton in his October 5 speech and in his statement before the Committee on Small Business on March 2 this year. Thus, in cases where the real owner of the equipment sells the tax benefits associated with the equipment, the at-risk rules would be applied only at the level of the user/lessee. The bill would remove the discriminatory effects which result from applying the at-risk rules at the lessor level.

Mr. President, it makes no sense to restrict the universe of eligible lessors to the larger firms in the country. When big corporations seek to buy tax benefits, they naturally look for big dollar transactions. They are not interested in the small business which wants to sell tax benefits in order to help finance a modest capital expansion program. It is, rather, the successful small businesses in a community which will be interested in buying tax benefits on a relatively small scale. The bill proposed today would insure that the at-risk rules do not close these small businesses out of the tax leasing marketplace.

It is virtually impossible to assess the revenue impact of the adoption of this proposal. The best estimates that I am aware of from Treasury or the Joint Tax Committee suggest a total revenue loss of not more than $500 million over the next 3 years. Of course, since the legislation is prospective only, and it will take some time for the beneficiaries to begin to take advantage of the opportunities, it could be expected that the revenue impact could be even less.

Again, Mr. President, this legislation establishes an equal rule for large and small businesses—a rule of fairness. It does not deviate from the current Finance Committee's "reform" efforts which we will begin debating next week; in fact, it is totally consistent with that approach.

Mr. President, this is a simple bill that corrects what Senator NUNN and I believe to be an unintended result of the legislation we passed last year. If necessary, and at the appropriate time during the debate on the Tax Equity Act, I am prepared to offer these provisions as an amendment to that bill.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 465(b) of the Internal Revenue Code of 1954 (relating to amounts considered at risk) is amended by adding at the end thereof the following new paragraph:

"(6) Special rule for certain leasing arrangements.—For purposes of this section, if—

"(A) an activity involves the leasing of section 1245 property which is qualified leased property (within the meaning of section 168(f)(8)(D)) with respect to which an election is in effect under section 168(f)(8), and

"(B) the lessee of such property (as determined under section 168(f)(8)) would, but for section 168(f)(8), be treated as the owner of such property for purposes of this title,

then the lessor (as so determined) shall be considered to be at risk with respect to such property in an amount equal to the amount the lessee is considered at risk with respect to such property (determined under this section without regard to section 168(f)(8)).".

The amendment made by subsection (a) shall apply with respect to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SAFE HARBOR LEASING AND SMALL BUSINESS

Mr. NUNN. Mr. President, I am pleased to join my good friend, and colleage on the Senate Small Business Committee, Senator DIXON, in cosponsoring this bill to insure that small businesses are statutorily permitted to participate in the safe harbor leasing program which we enacted last year as part of the Economic Recovery Tax Act.

As enacted in 1981, the safe-harbor leasing provisions of the Economic Recovery Tax Act permit owners of property who cannot use the tax benefits of ownership—such as the accelerated cost recovery system (ACRS) depreciation and the investment tax credit—to lease some of these tax benefits to taxpayers who can use them. The safe-harbor leasing provisions essentially guarantee that, for Federal tax purposes, qualifying transactions will be

treated as leases, and the lessor will be treated as the owner of the property.

Despite the debate about the process by which the leasing provisions were enacted, and the obvious overuse of the permitted transactions by certain major corporations, the leasing statute on its face appears to expressly permit most small business to purchase tax benefits from other losing companies.

Regrettably, Treasury's leasing regulations discriminate against small business by denying the closely held corporations the opportunity to take advantage of the provisions in safe harbor leasing to buy another company's unused investment tax credits and depreciation deductions as others are allowed to do.

The exclusion comes not from anything in the leasing provisions themselves, but rather through Treasury's application of the so-called at-risk rules. In a speech to the Tax Society of New York University on October 5, 1981, after the enactment of the leasing statute but before Treasury issued its regulations, Assistant Secretary of the Treasury for Tax Policy John Chapoton stated that the regulations would apply the at-risk rules only to the lessee of the equipment, not the lessor, consistent in his view then, with the underlying purpose of the leasing statute. However, Treasury later concluded that the at-risk rules had to be applied to certain lessors in the safe harbor leasing scheme, and that Treasury could not change this result in regulations without express statutory authority.

The bill I am today cosponsoring with Senator DIXON will provide Treasury with that express statutory authority.

Mr. President, we on the Senate Small Business Committee were concerned about the application of the at-risk rules to safe harbor leasing which acted to arbitrarily preclude certain businesses from participating as lessors. On March 2, 1982, under the leadership of Senator WEICKER, the chairman of the committee, and Senator D'AMATO, the chairman of the Urban and Rural Economic Development Subcommittee, our committee held a hearing on the usability of safe harbor leasing by small business. At that hearing, Assistant Secretary Chapoton responded to my questions on the Department's position on legislation such as we are introducing today.

I specifically asked Secretary Chapoton:

Senator NUNN. I understand you are saying this morning that Treasury will not oppose a carefully drafted legislative amendment repealing the application the at-risk rules to the lessor. Is that right?

Mr. CHAPOTON. That is right.

Senator NUNN. Do you have such a proposal yourself?

Mr. CHAPOTON. We have not actually drafted one, but we certainly have in mind what we would not oppose.

Senator NUNN. Will this be not opposing it or will this be an official administration endorsement?

Mr. CHAPOTON. It would be an endorsement of such a proposal. In view of the controversy of the leasing provisions, we do not feel that we should now be coming forward to broaden the leasing rules, but we are certainly not going to oppose this change.

I trust that that view will still hold for this proposal.

Mr. President, I still have serious reservations that leasing is an efficient way of addressing the pent up investment desires of the industrial sector. I have even deeper reservations that we should, or must, compensate businesses because they are unable to fully utilize all of their available tax credits and deductions. Even the most recently revised Treasury estimates of the revenue loss to the Government with the current leasing law is $41 billion cumulatively through fiscal year 1987. But if leasing is to remain, I cannot justify the continued arbitrary exclusion of a vital sector of our Nation's economy.

Mr. President, I congratulate Senator DIXON for taking the leadership of this issue, particularly at this time. I am pleased to join as a cosponsor of his bill, and to work with him and others to see that this anomoly is reversed as expeditiously as possible.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

REPORT ON TRIP TO THE SOVIET UNION

Mr. SPECTER. Mr. President, I believe it is worthwhile that I share my observations and impressions from a trip to the U.S.S.R. which was taken by my wife Joan and me from July 3 through July 12, 1982. This trip was sponsored by the Pittsburgh Community Relations Committee of the United Jewish Federation and the Greater Philadelphia Soviet Jewry Council of the Jewish Community Relations Council and dealt with, first, human rights, with particular emphasis on emigration of Jews from the U.S.S.R.; second, strategic arms reduction; and, third, criminal law enforcement, with particular emphasis on control of violent street crime.

In addition, we visited the birthplace of my father, Harry Specter, in the village of Batchkurina, located approximately 170 miles from Kiev.

In the U.S.S.R. we had the opportunity to meet with many Soviet Jews, U.S.S.R. officials, numerous Soviet citizens, U.S. Embassy officials, U.S. and Soviet journalists, and many others at various gatherings, including Ambassador Arthur Hartman's U.S. Independence Day celebration held on July 5.

ARMS CONTROL

Although the exposure was too brief for firm conclusions, I left the U.S.S.R. with the feeling of cautious optimism that the Strategic Arms Reduction Talks (START) could be successful. My sense was that the Soviets are interested in arms reduction for a number of reasons.

There were many expressions of concern over the increasing strength of the United States. The imminent deployment of the Pershing II missiles was frequently mentioned with their substantial force and travel time of 5 to 7 minutes from Western European bases to locations as far as Moscow. References were also made by the Soviets to the MX, and the cruise missiles as well as the large majority of U.S. nuclear force being deployed on bombers and submarines while the large majority of Soviet nuclear force emanates from more easily locatable land-based missile installations.

The Soviets also expressed some concern over the tough policies articulated by the Reagan administration. While it would be a mistake to conclude that the Soviets would be overly influenced by words instead of deeds or that the Soviets lacked the will or resources to match U.S. power, still the overtone was present that the U.S.S.R. was worried about what to expect next from the United States.

There seemed to be genuine concern behind the Soviet objection to the United States' refusual to match their declaration of no first-use of nuclear force. When reminded that the U.S. policy was based on the U.S.S.R.-Warsaw Pact superiority over NATO forces in conventional arms in Western Europe, Soviet officials argued that there was approximate parity or that any imbalance was not sufficient to give them the requisite superiority for a successful invasion. While the U.S. policy is totally consistent with a defensive posture, it appeared to make U.S.S.R. officials very uneasy.

Among United States and other Western observers, there has been talk that a weakened U.S.S.R. economy might provide additional Soviet motivation to withdraw resources from armaments. My own sense was that the Soviets were better dressed, their stores were better stocked, and there were many more automobiles on the road than when Joan and I toured Moscow and Leningrad in 1970.

Soviet officials scoffed at suggestions that their economy could not sustain additional weapons. My speculation is that the economic factors, although not irrelevant, do not weigh heavily with Soviet officials since they have such total control over allocation of resources in their country.

Soviet officials conceded that they do not believe the United States intends to launch a nuclear attack, but they add that such a danger could result from an escalation of some situation.

Thus, the overall feeling is that the Soviets are tough, shrewd, and resourceful, but willing to deal realistically. Their perspective appears similar to ours: Unlimited escalation of the arms race makes no sense if meaningful, bilateral, verifiable reductions are possible which do not result in the weakening of each nation's relative position.

There is an unmistakable feeling of friendship which radiates from the Russians and Ukranians we met. In addition to the large cities of Moscow and Kiev, we visited Uman (population of about 100,000), Monistrisch (about 16,000) and Batchkurina (2,240). The guides, drivers, waiters, clerks, and townspeople knew we were Americans and were very friendly. We had experienced the same feelings on our visit to the U.S.S.R. in 1970. The atmosphere was characterized by a greeting at lunch in Uman. Four men, who were identified by our guide as workers from Siberia, overheard our conversation and asked if we were Americans. When they learned we were, they wished us "peace and friendship."

Soviet officials expressed concern that contacts with U.S. officials, such as Senators and Representatives, have been reduced drastically in recent years. Notwithstanding that we must express our objections in the strongest terms to events like the Soviet invasion of Afghanistan and the declaration of martial law in Poland, such contacts are vital, in my judgment, to promoting understanding.

HUMAN RIGHTS/SOVIET JEWRY

During our visit to the U.S.S.R., the evidence was obvious of violations of human rights in the manner that the Soviet Union dealt with Soviet Jewry. Many refuseniks in Moscow and Kiev detailed practices of oppression. In Kiev especially, the refuseniks expressed fear and refused to meet except individually and in their own homes. When efforts were made to contact one refusenik, who had spent time in jail, a man believed to be a KGB agent waited outside his house and later outside his mother's house.

Soviet officials acknowledged denying Soviet Jews the right to emigrate.

Refuseniks in Moscow expressed great surprise when I told them of official concessions that many Jews were being denied visas to leave the U.S.S.R. The refuseniks said that officially the Soviet Union had previously refused even to admit that such a problem existed. Some time before, U.S.S.R. officials had reportedly denied that any such problem existed when an inquiry was made by a U.S. elected official.

In my meetings with Soviet officials, I stated that many U.S. citizens, in both private and public life, were distressed with the sharp curtailment of Jewish emigration from the U.S.S.R. Soviet officials responded that such efforts to leave the U.S.S.R. were a form of treason. They argued that Jews historically had divided loyalties and this was further evidence of treasonous conduct. Such an interpretation of treason is certainly unprecedented in light of the history of such lawful emigration from all countries for centuries and the international accords which expressly recognize such emigration.

Soviet officials also sought to justify refusals to emigrate on grounds that they were a "brain drain" which deprived the U.S.S.R. of needed talent. Such an argument is totally unsupported by the facts. I talked to many elderly refuseniks who were retired pensioners. Their departure would not constitute an assest loss but would even eliminate a Soviet Government payment. Among the refuseniks who continued to hold jobs, the pattern was uniform that they did only menial work. As a general rule, they had held prestigious jobs as scientists, engineers, mathematicians, or physicians, but were relegated to lesser jobs once they applied for visas to leave.

Further efforts were made to justify the U.S.S.R. position on the grounds that the more lenient Soviet policy had resulted only in more requests for emigration and that it was not possible to satsify all such demands. References were made to a more lenient policy in days of détente. Although not explicitly stated, it seemed apparent that the Soviet Union was not interested in granting a more liberal policy for Soviet Jewry when U.S.-U.S.S.R. relations were so strained.

In Moscow, unlike Kiev, the refuseniks were willing to meet in groups. They identified their priorities as: First, a change in the overall Soviet policy so that mass migration could be possible; second, pressure on notorious cases, especially where individuals had been imprisoned; and third, pressure on other individual cases.

In one such group meeting, Ida Milgram gave a tearful account of instructment and oppression of her son, Anatoly Shcharensky. She recounted how he had been unjustly persecuted, tortured to make him confess to a crime he did not commit, and fed dry bread and water on alternate days. She had seen him on January 4, 1982, was denied access to him in April, and was told to return after July 4, 1982, when she would next have visitation rights. After traveling 550 to 600 miles from Moscow to the prison, she had been "thrown out" without seeing him, but not before putting up a 3 hour argument.

Other refuseniks in Moscow detailed experiences of being refused exit visas for years even though separated from families. One man was separated from his wife and children. In many cases, no reason was given for the refusal. In some cases, spurious reasons were given, such as access to secret materials where there had been no such access or it occurred so long ago that the materials were no longer secret.

The refuseniks in Kiev appeared even more tense and apprehensive than their Moscow brethren, who were very anxious and uneasy in their own right. It was estimated that there were as many 7,000 refuseniks in Kiev, but that not more than 8 persons would come forward and ask for visas. In Moscow, the estimate was given that some 200,000 Jews wished to emigrate from the entire U.S.S.R.

In a long sequence of extraordinary cases with compelling circumstances, one situation is especially inhumane. In Kiev, there is a 10-year-old girl, Helena Gorodetsky, who suffers from acute leukemia. Unanswered requests have been pending for more than 14 months for permission for her to leave the U.S.S.R. for medical treatment. Her parents advised that treatment is not available in the U.S.S.R. I was shown copies of letters from British doctors who offered treatment if the child would be permitted to travel to England. The request contained the proviso that she would return. Her parents advise that no reply has been received.

I did not know of Helena Gorodetsky's situation when I spoke with Soviet officials, but I did discuss sending a list of specific cases after returning to the United States. The Soviet officials said that prospects were poor, but that consideration would be given.

In response to my questions as to what cases could be successful, I was told that reuniting families would be given weight and that a change of Soviet policy might follow a change in economic conditions when Soviet doctors, for example, would earn as much as doctors on the outside.

Notwithstanding this grim report, I believe that the situation can be improved if an intensified campaign is waged. The confirmation hearings of Alexander Haig raised the unfortunate—and, I think, inaccurate—impression that human rights would not be emphasized as much as in the past.

I was pleased to note the statement of Secretary of State-designate George P. Shultz at his confirmation hearings yesterday that it is his intention to raise the issue of Soviet Jewry with U.S.S.R. officials in furtherance of President Reagan's instructions. For people who undertake discussions with Soviet officials, the issue of "Jewish emigration is one (which) should be always put up there so that the Sovi-

ets see that we care about them and we link them to a pattern of behavior that we care about."

This policy should be carried out in the broad context of all religious persecution including the Pentecostals, whom I also visited and who have spent more than 4 years in the basement of the U.S. Embassy in Moscow.

In my judgment, we should emphasize to the Soviets on all opportunities that we consider the issue of human rights, such as emigration of Soviet Jewry, of great importance in evaluating our overall relations with them. It may be that the Geneva arms reduction talks will show positive results or some other reason will arise for the Soviets to liberalize their emigration policy.

One immediate improvement is possible: We could reopen the U.S. consulate in Kiev. Our closing of the consulate as partial retaliation for the Soviet invasion of Afghanistan was misdirected. It hurt us, not them. It has been analogized to the custom of commiting suicide on the doorstep of one's enemy as a showing of displeasure with his conduct. A consulate would enable our Embassy officials to monitor the Soviet Jewry issue as well as other matters of concern to the United States in that area.

CRIMINAL LAW ENFORCEMENT

Interviews with Soviet officials in the Ministry of Justice in Iosckw and Kiev and discussions with others suggest that there is less street crime in the U.S.S.R than in the United States and that sentences are substantially tougher. When Soviet officials were asked if they had cases of armed robbery, they stated they did, but they were relatively rare. When asked about sentencing, Soviet officials said that there would always be jail sentences for offenses such as robbery or burglary, with the length depending upon aggravating factors. In the United States, such cases frequently result in probation, even with aggravating circumstances.

The death penalty is available in the U.S.S.R. for armed robbery or for rape with extreme aggravating circumstances. Soviet officials stressed, however, that the death penalty was not frequently used.

Reference was made to one case, which had been publicized in Pravda, of the death penalty for the Deputy Minister for Fisheries who was convicted of bribery and misappropriation of governmental property on a large scale. The death penalty is administered by the firing squad, and there is no execution by hanging, the electric chair or the gas chamber.

As to the frequency of crimes of violence, the Soviet official from the Ministry of Justice in Moscow said that in 1981 there had been a 2- to 3-percent decrease. When asked about homicide specifically, he commented that they were not decreasing in Moscow. When asked about statistics on the numbers of specific crimes, he advised that such figures were not to be disclosed as a matter of governmental policy.

In discussions on whether the length of sentencing was the critical factor in deterring crimes of violence, one Soviet official quoted Lenin on the proposition that "severity" in itself was insufficient, but it had to be joined with "inevitability" in order to discourage criminal conduct.

While in Moscow, I talked to a professor from an Americn law school who told of the results of his three all-night rides in a Soviet police car in the central area of Moscow. Based on my experience as district attorney of Philadelphia, I know that a comparable tour in a Philadelphia police car would involve numerous contacts with cases of robbery, burglary, perhaps rape and an assortment of other crimes of violence. The law professor reported that there was no crime of violence encountered at any time. The only criminal incident involved the arrest of two prostitutes who were charged with having no visible means of support.

VISIT TO BATCHKURINA

We were successful in locating the village of Batchkurina, where my father, Harry Specter, was born 89 years ago today. My father emigrated to the United States in 1911, served in the American Expeditionary Force in World War I, and lived in Pennsylvania, Kansas, and Arizona, until 1964, when he died while visiting Israel.

Since efforts to locate Batchkurina on the maps were unsuccessful, we traveled 260 kilometers to the village of Monistrisch which my father had talked about as the large neighboring community. In Monistrisch, we were told that the village of Batchkurina, with a population of 2,240, was 6 kilometers away.

Once in Batchkurina we talked to the village elder, a man 81 years of age, who at first did not recall the Specter family. When I commented that the Specters were the only Jewish family in town, he then exclaimed that he did remember "Avram the Jew." His identification of my grandfather's first name was made without any prior identification of that name by me.

Batchkurina had a local bus stop with the town's name prominently displayed alongside the Russian bear from the 1980 Olympics' symbol. There were several cars on the dirt and cobblestone streets and many of the houses had television aerials. The villagers recounted the tragedy of the German invasion, which took approximately 270 lives in the town.

Our visit to the U.S.S.R. was facilitated and made very pleasant by the assistance and cooperation of the U.S. Embassy in Moscow, for which we extend our thanks to the Ambassador and his wife, Arthur and Donna Hartman; Warren and Teeni Zimmermann; Edward Hurwitz; Kent and Irene Brown; James and Ann Glenn; Steve Coffey, and Frank Tonini.

I thank the Chair.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized.

Mr. NUNN. I thank the Chair.

THE CRIME CONTROL ACT OF 1982 TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, Senator CHILES and I have taken the floor, day after day for the past month, emphasizing the continual abuse of the writ of habeas corpus. Habeas corpus abuse is particularly tragic in the sense that criminal offenders are allowed to continually evade and frustrate our criminal justice system. Again and again, criminals wait an extensive period of time after the conclusion of their trial, to attack their conviction anew via the writ of habeas corpus. A set period to obtain a writ would be a vital step toward maintaining a semblance of credibility in our criminal justice system.

Senator CHILES and I have included proposals for habeas corpus reform in S. 2543, the Crime Control Act of 1982. Unfortunately, S. 2572, the Thurmond-Biden crime package, fails to include reform in this pressing area of habeas corpus. Take, for example, the case of Jackson against Estelle. Jackson was convicted of murder in 1945. She filed her petition for writ of habeas corpus some 30 years later in 1976. The grounds for petition were as follows: First, failure of trial counsel to inform her of her right to appeal, and second, counsel's failure to request a change of venue. Both these grounds were certainly known throughout most, if not all, of the 30-year hiatus. In her petition, Jackson proffered no reason why she could not have raised these same issues earlier.

The Federal district court denied relief, in part on the theory of a "delayed" petition. I point out that we are talking about a delayed petition of some 30 years. Within this 30-year time frame, critical witnesses, including Jackson's trial counsel, could easily have died. At the least, recollection or exact memory of such long ago events always present problems of lapse of memory. Consider the tremendous task facing the State in attempting to reenact the scenario of the initial case, some 30 years ago.

Nevertheless, such crucial problems failed to convince the fifth circuit to deny the petition. The fifth circuit refused to go along with the Federal district court ruling, noting that delay alone is no bar to Federal habeas corpus relief.

Mr. President, this case clearly illustrates the need to substantially revise current habeas corpus proceedings. In a 30-year time period, it is obvious that the circumstances of the original case cannot be reconstructed. In an effort to correct this major abuse, Senator CHILES and I strongly urge a 3-year statute of limitations within which to bring a habeas corpus petition, such as that contained in S. 2543. Such sensible legislation will alleviate our Federal court dockets, already overburdened by the task of considering, time and time again, frivolous and repetitive petitions for habeas corpus.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. NUNN. Mr. President, I yield the remainder of my time to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. I thank the distinguished Senator from Georgia.

As Members of the Senate are well aware, Senator NUNN and I have been talking each day in the Senate on the subject of crime in the United States and the need for legislation to impose stronger criminal penalties and strengthen the hands of law enforcement. We have been talking about the need to redress the current situation in which the criminal element seems to have the upper hand. We think the forces of law and order should have the upper hand and we have been urging the Senate to take the necessary steps to insure that those who violate our laws, who use violence and who purvey dangerous drugs are apprehended, convicted, and given sentences commensurate with their crimes.

The Senate took a very encouraging first step in reaching a time agreement to consider a package of anticrime measures. As a sponsor of this legislative package I very much support the contents of this bill and earnestly hope that we will pass it without delay. Time is of the essence if there is to be an opportunity to secure House passage and get this measure to the President. The American people expect the Congress to meet its clear responsibility. Frankly, I would like to stop talking about anticrime legislation and get it on the statute books. Every day we fail to act, there are more needless victims of crime and more instances of criminals beating the system and ending up back on the streets.

In order to reach an agreement on S. 2572, some important provisions were not included. The nature of the legislative process is compromise and thus compromise was necessary in order to clear the way for a prompt consideration of the bipartisan crime package.

The necessity of compromise, however, does not obscure the fact that this package is not complete. There is a gaping hole and the Senator from Georgia and I are strongly of the opinion that Congress must act with dispatch to reform one aspect of the criminal justice system, namely, the abuse of Federal habeas corpus statutes.

Mr. President, I was struck by a comment made by one of my constituents the other day in response to a newspaper poll concerning efforts to curb illegal drugs. This individual observed that what we really needed to do was "something about the lawyers and the judges who are getting these people off on technicalities."

I think this one opinion is indicative of the pervasive attitude of the American public about our criminal justice system. They do not believe that it works to punish the guilty. It seems to them that there is no finality in criminal cases. It seems there is always one more court to go to, always one more appeal to file. Sometimes a person clearly guilty manages to go free. Often-times, the courts are tied up for years and the State is forced to waste valuable resources to contest motions that are frivolous at best.

The maxim "justice delayed is justice denied" is true not only with respect to protecting the rights of the innocent but equally with respect to protecting the rights of society. A system that ultimately does not serve to punish the guilty fails the notion of justice as much as a system that abridges the rights of the defendent.

Our legislation to reform the Federal habeas corpus laws has been pending in the Senate for over a year. It is time to act. We must take steps to eliminate repetitive and frivolous appeals of issues already decided in full and fair State court proceedings.

One aspect of our bill is to establish a statute of limitations in order to bring finality to criminal proceedings. Frequently, prisoners wait many years and after witnesses die bring an action seeking to set aside the judgment and sentence. If the issues were not raised and answered in the record, the State simply cannot refute the prisoner's testimony and the petitioner prevails. Such a system hardly contributes to public confidence in the judicial system.

The need for reform can be seen in a case which is pending in a Federal district court in Florida. Artis Scarborough was brought to trial in 1970 on two counts of rape. In the early stages of the trial, Scarborough's defense attorney raised the issue of whether his client was mentally competent. In response to these questions the State had Mr. Scarborough examined by two psychiatrists. Both of these psychiatrists found Scarborough fully competent to stand trial. After this determination, Scarborough entered a guilty plea and was sentenced by a State court to life imprisonment. In 1973, Scarborough filed an appeal to the State appellate court raising a number of issues, including ineffective counsel and coercion with respect to his plea. The State appellate court denied the appeal and wrote a lengthy decision outlining the basis for denial.

It was not until 6 years later, in 1979, that Scarborough filed for habeas corpus relief in Federal court. This first petition raised the same issues which had been denied in the 1973 State appellate decision. At this time, Scarborough was appointed a special attorney to handle his case; this attorney was appointed for him because the public defender in the district was already overburdened with cases. With his new attorney assisting him, Scarborough requested a voluntary dismissal of his original habeas corpus petition. He took this action so that he could file a new motion in the State court, a motion which he had never previously raised in an appeal. Scarborough claimed that during his original trial he had been incompetent due to "mental fatigue", and that therefore he should never have been allowed to plead guilty. He based this claim on the opinion of a psychiatrist with whom he had no previous relationship, who had not seen him in the 10 years prior to the time of his trial, but who was willing to attest to his insanity back in 1970.

The State court denied this motion. Then the State appellate court denied this motion, thus expiring Scarborough's State remedies.

At this point, in October of 1980, Scarborough filed his second habeas petition. This time, however, he raised the new claim that he had been incompetent at the time of his original trial. It is my understanding that this case is under review right now. This means that 12 years after the original trial, the State of Florida is still in the thick of a legal battle to prosecute a felon.

The State of Florida is now expending considerable resources to prove an issue which it considered prior to the plea in the original case. But as much as this seems a waste of time and money, the worst aspect of the case is that the delay has clearly worked in favor of the petitioner and against the State. In 1970, James Yon was the assistant state attorney handling the Scarborough case. Yon was present when the defendant entered his original plea, and he was obviously very familiar with the defendant. The State

of Florida wishes that James Yon could testify on its behalf regarding the competency of Artis Scarborough. Unfortunately, Mr. Yon has passed away. The State's case will be weaker because of this fact.

Mr. President, we must have a criminal justice system that not only provides for a fair trial but that also decides the question of guilt or innocence and metes out the appropriate punishment. Without that we do not have justice. Passage of the legislation we are proposing will help move us toward achieving this goal.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business that will not extend past 10:30 a.m. where Senators may speak for 5 minutes each.

ADDRESS BY SENATOR JEREMIAH DENTON ON NATIONAL POW/MIA RECOGNITION DAY

Mr. THURMOND. Mr. President, at the request of Congress, President Reagan designated July 9, 1982, as "National POW/MIA Recognition Day." This observance served to call to the attention of all of us, as a nation, the enormous sacrifices many of our fellow Americans have been called upon to make, either as prisoners of war, as persons categorized as "missing in action" or as grieving family members of such persons. The observance coincided with the 13th annual meeting of the National League of Families of American Prisoners and Missing in Southeast Asia, here in Washington.

One of the keynote speakers at ceremonies held at the Pentagon was our colleague, the distinguished Senator from Alabama, JEREMIAH DENTON. I have, on a number of occasions, expressed my great admiration and respect for Senator DENTON and was interested to know the specific remarks he elected to make to those in attendance at the ceremony.

Upon reading the address of Senator DENTON, I was again reminded of the ongoing debt of gratitude we owe to all of those persons who have served their country as prisoners of war or as persons missing in action.

Mr. President, when reflecting upon such persons, I cannot help but focus upon the experiences of our friend, JEREMIAH DENTON. We take heartfelt pride in the manner in which he reflects the highest ideals of this great Nation.

On July 18, 1965, Cmdr. JEREMIAH DENTON was leading a group of 28 aircraft from the USS *Independence* during an attack on enemy installations near Tanh Hoa when he was shot down and captured by local North Vietnamese troops. He remained a prisoner for over 7 years.

His courage in the face of the greatest adversity was first noted by the American public in 1966 during a press interview arranged by the North Vietnamese in Hanoi. He had been tortured both before and after the interview, and he was asked about his support of U.S. policy concerning the war.

I don't know what is happening now in Vietnam because the only news sources I have are North Vietnamese,

He replied,

but whatever the position of my Government is, I support it, and I will support it as long as I live.

During the interview, he blinked his eyes in morse code repeatedly spelling out the word "torture." It was the first confirmation that American POW's in Vietnam were being tortured.

He was frequently the senior military officer at the POW camps where he was held. Under his leadership, our POW's at those camps resisted the efforts of the captors, who used torture in an effort to make them speak out against their country. They came back with their heads held high, as true heroes.

JEREMIAH DENTON came to the attention of the public again in 1973 when he was released from prison. As spokesman for the returning POW's, he stepped from the airplane at Clark Air Force Base in the Philippines, turned to the microphones and said,

We are honored to have had the opportunity to serve our country under difficult circumstances. We are profoundly grateful to our Commander-in-Chief and to our Nation for this day.

God bless America.

A commander when he was shot down, he was promoted to the rank of captain while a prisoner. In April of 1973 he was nominated by the President for the rank of rear admiral and confirmed by the Senate. He later served as commandant of the Armed Forces Staff College.

In 1980, he was elected by the people of Alabama to represent them in the U.S. Senate. Mr. President, when JEREMIAH DENTON speaks of the courage of men fighting in a just cause, he speaks from experience. I ask unanimous consent that his remarks on the occasion of National POW/MIA Recognition Day be inserted in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY HON. JEREMIAH DENTON

Today we turn our national attention to Americans who returned, and to those who did not return, from service not only in Vietnam but also in World War II, in Korea, and in the service of their country in other situations, such as those endured by 53 Americans in Iran and By General James Dozier in Italy.

Those of us who returned as POWs from Vietnam have received perhaps too much attention. But I was inspired by the performance of most of my comrades. I am glad to see many of them here today, and I salute them.

We should be more concerned today about those who did not return from Southeast Asia. Those who did not return, especially the MIAs, have received insufficient attention. Most of them, over fifty thousand, died in the service of their country, and their names will be inscribed in marble on the other side of the great river that flows before us.

But there are another almost 2500 unaccounted for, and it is their fate that is of most immediate worry to many of you present here. For all Americans, today and every day, the emphasis should be on the MIAs, and on why they are still unaccounted for.

Of the 2,500, about 1,100 are classified as "Killed in Action, Body Not Returned," and about 1,400 are classified as "POW/MIA." I, more than most others, am sensitive to the fate of those men. But I have accepted, as others must accept, that we will probably not see most of them alive and that, unless things change, we may never learn anything further about many of them.

In my current position, I hear frequently from those directly concerned about those 2,500 Americans, and from those who believe that some, or many, or perhaps even just one, may still be alive and held against their will in Vietnam or Laos or Cambodia. There are many reports of sightings of Americans held in captivity, and our Government has devoted great effort to investigating each of those reports. But under the limitations imposed by the Communist leaders in Southeast Asia, we have been unable to confirm any of them, or to prove anything.

We simply are not sure, and we will not rest, we cannot rest, until we do know for sure that not one of our men remains prisoner in Southeast Asia, until we have an accounting for our MIAs. President Reagan said on June 30 that, as a result of evidence he has seen, he is proceeding on the assumption that at least some Americans may still be alive in Southeast Asia.

It is clear that the Communist authorities in Vietnam and in Laos know more about some of the missing men than they have chosen to disclose. We estimate that those who rule in Hanoi may have definitive information, and even remains, of as many as 400 Americans. They have been reluctant to disclose this information, in part because of a mistaken belief that it provides them with a bargaining chip to extort concessions from the American Government and the American people.

Without wishing to diffuse the focus upon POW/MIAs, I do want to establish that there are larger issues among which the plight of the POW/MIAs is included.

However difficult it may be for some of us, we need to understand that this great tragedy and our frustration stem from the absence of appropriate United States leverage:

the absence, I hope temporary, of U.S. ability, even in concert with allies, to hold barbarians responsible for uncivilized conduct toward American citizens, for violations of the Geneva Agreements of treatment of prisoners, for violations of international law, for violations of the essential principles of humanity, for naked aggression.

But I say for America, let the Southeast Asian communists understand that the American people do hold them responsible for past and continuing atrocities and aggressions. Let the Iranians understand that the American people still hold them responsible for the treatment of the hostages.

Partly misled by the media, some of our people may have become confused, and some of our politicians may have become confused, especially some in Congress. And this confusion caused the forfeiture of a just cause that had been won in Vietnam.

But now most of our people understand, President Reagan and his administration understand, and before too long, by the grace of God, enough of our Congress will come to understand that we cannot appeal to the morality of those who have no morality. We cannot rely on the good will of those who have no good will. We cannot depend on the civilized impulses of those who behave as barbarians. They do not respond to pleas or to reasoning or to negotiating from weakness. They respond only to the determination and, if necessary, the force to hold them responsible for their actions.

It is essential for all Americans, not just those here today, to understand the reality of what it takes to hold despots and terrorists responsible for their acts, to deter them from adventurism and aggression. We must understand that, if we do not have a credible capability to act against those who adopt barbaric policies in the conduct of international affairs, we will condemn ourselves to perpetuation of these ceremonies for an ever growing number of imprisoned and missing citizens, and to a growing number of victimized nations like South Vietnam and Afghanistan.

What does that credibility require?

It requires national understanding of the facts.

It requires national will and determination.

It requires the manpower and weapons for a strong and effective military,

It requires poeple who, like our founding fathers, are willing to stake their lives, their fortunes, and their scared honor to ensure that their fellow citizens, their fellow Americans, can continue to live in freedom, and to help establish freedom, justice and prosperity throughout the world.

It requires allies who meet similar requirements.

Upon these requirements depend our ability not only to safeguard our citizens against foreign seizure and abuse, but also our ability to contribute to true world peace. Correspondingly, upon these requirements depends the confidence of Americans who may be captured or seized. We who were in Hanoi felt sure that our country would not abandom us. That confidence helped keep us going, and it was a confidence that was rewarded for those of us POW's who returned.

Today, However, I fear that others who might find themselves in a similar situation would be less confident. There are too many signs of an erosion of understanding and will among those who must be willing to dedicate their lives to national service, too many signs of a loss of determination in our society as a whole. We see a refusal to register for Selective Service, and we see many in the media, academic and other elites who encourage our young people in that course. We see a growing number of people who urge us to disarm, denying the imperatives of a strong defense for fear that we might have to defend ourselves. The motives of some may be less commmendable, and too many simply do not understand the realities of the imperfect world in which we live, do not understand the responsibilities that flow from those realities.

We who were in Hanoi were and are under no misapprehension about why we were able to return home. It was not because of brilliant negotiators, brilliant though some may have been. It was not because of the morality of our captors, because their communist government was not moral. It was not because of those who gave aid and comfort to our captors, although too many did so.

It was because enough Americans wanted to support our Government's commitment to South Vietnam, and were willing to fight, sacrifice, and possibly die to save it from the horrible fate that now has befallen it, Cambodia and Laos.

We POWs who came back owe our return to them!

Our freedom was made possible by many of those whose names will be inscribed in marble on the other side of the river. It was made possible by the corporal walking point in the jungle, by the sailor manning the pumps in the engine room of a destroyer on Yankee Station, by the engineer building a bridge near Danang to move essential supplies, by the bombardier of a B-52 over Hanoi in December 1972 in a surgically precise raid that broke the spirit and will of our enemies. It was they who were not praised enough. It was made possible by the loyal wives and parents; by the loyal American workers, loyal taxpayers, who sacrificed in an effort to enable this country to keep her commitments and to hold our captors responsible for their acts. It is these same kinds of loyal, understanding Americans who made possible the defeat of Hitler, saved South Korea from communist enslavement, and in Lincoln's day sacrificed that slaves might be free.

We see today, not only in Vietnam and Cambodia and Laos, but in Afghanistan and Nicaragua and Cuba and Poland and Ethiopia and Angola, and in too many other places around the world, the consequences of such loyal Americans losing their, influence. Other sentiments than loyalty and understanding prevail, and there is a waivering of our political will and deterioration of our national determination.

For example, many in the media see their role as irreverence towards the establishment, and criticism for the sake of criticism. A rather maverick media is a healthy tradition in American, and today many in the media are knowledgeable, objective and responsible. But a few large broadcast corporations have unprecedented power that they too often abuse. Many metropolitan newspapers are now in a virtual monopoly position. There is a strong national media bias towards the left. The overall effect is to damage the ability of any administration to lead effectively.

Let us pledge, this day, that we will work to reverse the trend and make our nation aware and strong and respected once again. This is your responsibility, and mine, and that of leaders in the media, and indeed that of all Americans.

Let me say to those who served in an unpopular war that you did not do so in vain. You have no cause to feel sorry for yourselves, to be embarassed at having fought for your country's interests in a noble cause. You can and should be proud. You should not feel humiliated by those who look down upon you or mock you because they do not have the courage of your convictions.

Part of the hell of war is the making of strategic and tactical blunders. The Vietnam War had its share, and no more than its share were made by the military. The blood and the freedom of millions of Southeast Asians were lost not because of a failure in your honorable service, but because of a failure in honor or understanding of those who mocked you and a just cause.

Let me say to those whose sons, husbands, brothers, fathers, died in Vietnam that they did not die in vain. They died to preserve what is left of the necessary idealism of this country and of all civilized mankind. War is always tragic, and the death of even one brave man is cause for sorrow, but some alternatives are more hellish even than war, as Washington, Lincoln, Roosevelt, and Truman knew, and you should be proud that your men were willing to risk all for high ideals and a noble cause. Without such men, for which the sponsoring service for today's ceremony, the Marine Corps, is so famed, this nation and our freedoms will die.

Let me say to those who find this day excruciatingly poignant because a loved one is classified "POW/MIA" that, whatever his fate, he risked all that others might benefit. "Greater love hath no man. . . ."

Like my wife Jane, I fully understand that not knowing the fate of the missing is painful beyond description. I join you in your sorrow and indignation. I support you in your urgent quest. I urge you to help others to see the larger issues so that, along with even greater things, we will get the accounting for our MIAs that we must have.

Let me say to those of you who serve today, as military or civilian, in the defense of our country that we are deeply grateful for your devotion, determination, skill, and willingness to sacrifice. We are aware that upon you depend our freedom and the prospect for true peace.

We who have served, especially we who returned, are honored that you seize the opportunity to serve our country under difficult circumstances. May all our people once more come fully to deserve your service by fulfilling again the national requirements for a credible ability to protect our present and possible future POW/MIA's, to protect all our citizens, and to assist in preserving civilization itself.

May God bless you and your devotion to this One Nation, under God.

HOW OUR NUCLEAR NEGOTIATORS WORK WITH THE RUSSIANS

Mr. PROXMIRE. Mr. President, this morning's New York Times carries a revealing article about the relationship between the personalities involved in our nuclear arms negotiations with the Soviet Union at Geneva. So very much depends on the success of these talks. Can they stop the nuclear arms race? Can they set the stage for reducing these monumental nuclear arsenals that could destroy

both the United States and the Soviet Union as organized societies?

But as in all human endeavor the result will flow not from the conviction of all mankind but from what a very few persons involved in the negotiations do, how they work with each other, how their minds and their personalities cooperate and work together or clash. This article gives a new and revealing picture of competent negotiators on both sides, working together both formally and informally, facing each other across the table and frequently dining—American negotiators with Russian negotiators, or even taking an excursion on a boat together. The Americans in some cases have known the Russians with whom they negotiate well and for years.

This job is tough. It is dangerous. It is of cosmic importance. It involves immense risk and the supreme goal of world peace, but the results will be determined by a tiny handful of men working together in Switzerland. John Vinocur gives us a revealing picture of how the fate of the Earth is being decided and worked on today in Switzerland, and I ask unanimous consent tht the article by Vinocur be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 15, 1982]

ARMS TALKS ARE INFUSED WITH GENEVA'S CIVILITY

(By John Vinocur)

GENEVA.—Flame and ash: metaphors that don't work here. The Alps rise up, sharks' teeth in the distance. The lake glistens, a sapphire of a million carats. Looking out of the eighth-floor window of the offices where the Americans and Russians talk of banishing thousands of nuclear weapons, the world is so green, blue and white, so perfect, that words like fear and destruction shrivel into irrelevance in the brilliant light.

On the walls of the conference room at the American headquarters are lithographs of hockey and basketball scenes, the only visible link to striving and haste. Neutral and rich, Geneva calms and reassures. The people who talk about strategic missiles here, riding back and forth on Avenue de la Paix in black limousines, a morning at the Americans' office, an afternoon at the Russians' mission, do it as if the landscape must not be betrayed. Partly willed and partly instinctive, there is a kind of community of caution among the delegates. In John Calvin's city, they seem predestined to negotiate man's fate—or what passes as it—in quiet.

For anyone who remembers the public side of the Vietnam peace negotiations in Paris when they began more than 13 years ago, the current talks in Geneva are their antithesis. The conference center on the Avenue Kléber near the Arc de Triomphe had a continual clangor: shrill statements, accusation, counteraccusation, ill will as much real as feigned. Henry Cabot Lodge, the first chief American negotiator, did not exactly go on bateau mouche trips down the Seine with Nguyen Thi Binh of the Vietcong.

A DIFFERENT MOOD PREVAILS

But one night not so long ago, the American and Soviet delegations here got together at the Americans' invitation for an excursion on the lake, a kind of grand office outing involving two rival firms, not much different from furniture companies that know they are the only ones in business in their territory. The boat slipped by the Aga Khan's old mansion and the villa where Lord Byron practiced being world weary, then turned back, avoiding another house, a tiny place with red shutters that once served as a rather plush exile for Lenin.

The mood is such that Paul H. Nitze, the American delegation chief in the talks on intermediate-range missiles, has supper regularly with Yuli A. Kvitsinsky, his Soviet opposite number, and Mr. Kvitsinsky has invited Mr. Nitze to the ballet. The corporate feeling even extends to living quarters: some of the American staff live in an apartment-hotel, La Residence de France, where Soviet personnel are housed as well.

Edward L. Rowny, in charge of the United States negotiating team for the talks on strategic missile reductions that began last month, has known the Soviet delegation head, Viktor P. Karpov, for years. And the faces of both Mr. Nitze and Mr. Kvitsinsky (with a fur hat) appear on T-shirts that the Americans have had made up. Mr. Kvitsinsky owns one; he may even wear it.

HOW THE NEGOTIATING TAKES PLACE

The intimacy has a couple of explanations. One is the ground rules that are in effect for both the strategic and intermediate-range missile talks. Both sides have agreed to complete confidentiality, which means the negotiating teams have undertaken not to discuss progress or details publicly in any way. The result is that they are not directly burdened with polemics in the news media or public statements that would make private discussions uncomfortable, embarrassing or even impossible.

The second explanation for the intimacy is the kind of negotiating pattern that has developed through the first two Soviet-American strategic arms agreements. At the meetings, there are formal presentations from written briefs. These are complemented by direct exchanges during recesses in the sessions, which generally last between an hour and a half and four hours.

PROGRESS IS DIFFICULT TO ASSESS

In the recesses, the delegation chiefs pair off, as do the chief military advisers and other staff members. Their exchanges are orchestrated and depend to a degree on a sense of nuance and knowing the capacities for extrapolation of the person opposite. "Tell him what I mean means this, but not to directly," a delegation chief might say.

In the most favorable analysis, the familiarity saves time. Mr. Rowny knows the Soviet Defense Ministry man, Maj. Gen. V. P. Starodubov, from the earlier talks. He knows the Foreign Ministry Representative, Aleksei A. Obukhov, from the same period. Mr. Obukhov went to the University of Chicago and studied under Hans J. Morgenthau. Jack W. Mendelsohn, a member of Mr. Rowny's delegation who has known Mr. Obukhov through the earlier talks, received a graduate degree at the University of Chicago as well. The shared jargon, the communality, the lack of a need for particularly heavy posturing make things easier.

But the two teams will not finish the talks in a month or two. When they recess within a week or so, the intermediate-missile negotiators will have met more than 40 times and the strategic arms group just enough for the United States to have laid out its basic position. Progress is difficult to quantify: in the strategic talks the Soviet Union rejected the American proposition out of hand when it was first outlined by President Reagan in May. In the intermediate-range talks, involving missiles based in Europe and aimed at European targets, the Soviet Defense Minister, Marshal Dmitri F. Ustinov, has complained that the Americans were seeking to create an impasse in the talks.

PERHAPS THE TOUGHER JOB

Another version of the Nitze-Kvitsinsky talks is that they have been serious and useful and have served to clear away much of the "surrounding garbage." Yet this is essentially prelimimary to dealing with the basic issue—what happens to the approximately 300 Soviet SS-20's targeted on NATO countries and to the Pershing 2 and cruise missiles the alliance says it will deploy at the end of 1983 if the Soviet Union does not remove its missiles.

Mr. Nitze's job would appear tougher than Mr. Rowny's. While the strategic arms talks involve roughly similar numbers of missiles on both sides, Mr. Nitze has none at all to trade off. Rather, he must deal from a position of threatening deployment—which is resisted by the antinuclear movement in Western Europe—to persuade the Soviet Union to eliminate the missiles it has steadily positioned over the last five years.

Mr. Nitze also has a wider constituency than his colleague because his talks take in all the NATO countries where the American missiles are to be deployed. He must also deal within a specific time framework relating to the NATO deployment schedule.

THE EQUAL RIGHTS AMENDMENT

Mr. DODD. Mr. President, I am pleased to cosponsor the reintroduction of the equal rights amendment. I do so with the hope that the 51.4 percent majority of Americans who are female will very soon be granted a constitutional guarantee of full and equal citizenship.

The principle on which this amendment rests is simply that sex should not be a factor in determining the legal rights of women and men. Women have played as vital a role as men in shaping the course of this country's great history and past and present achievements. As such, women should receive equal opportunities under the law, at school, at work, at home, and everywhere else.

Yet, in far too many instances, American women are still not accorded the same rights as American men. The following statistics on education, employment, and social services in the United States reveal woman's unequal status all too clearly.

Although women over the past 20 years have gained entrance to universities and colleges in greater numbers than ever before, men are still the majority of full-time students. The number of women studying for advanced degrees still lags behind the numbers of men doing so. And, many

institutions of higher learning continue to discriminate against female students by withholding financial aid from women who have children, are pregnant, or are married.

Secondary and elementary school age females do not escape discrimination either. At present, only 14 percent of high school students enrolled in higher paying, career-tracked vocational programs are female, and, numerous studies have shown that primary and even preschool teachers tend to pay more attention to male pupils, asking more questions of them, and encouraging them to think and act assertively. Complimenting Jack for his analysis of the Civil War and Jill for the way she crosses her "T's" is all too common a practice in our school systems.

Regardless of degrees and diplomas earned, working women on the average earn less than their male colleagues in every job at every level. In the aggregate for every dollar paid to men, only 59 cents is paid to women. That is down from 1955 figures when women were paid 64 cents for every dollar paid to men.

The most recent Labor Department statistics reveal that in occupations ranging from cleaning and cooking to bookkeeping and computer programing, women are paid from $50 to $250 a week less than men doing the same job. The same wage discrepancy holds true for professionals, including lawyers, physicians, and engineers.

Women are also still concentrated within certain job categories. For example, although over 70 percent of all elementary and secondary schoolteachers are female, women comprise only 18 percent of all school principals. More than half of all employed women are nurses, health technicians, teachers, and secretaries, but very few are architects, judges, dentists, and scientists.

Given such unequal treatment in the labor market, it is no wonder that women are fast becoming what Michael Harrington once termed "the other America." Three of every four Americans living in poverty today are females. Of those over 65 years old, women make up a staggering 90 percent of Americans relying on the minimum social security benefit of $122 a month. Younger women in this country also make up a disproportionate number of the poor, with close to 70 percent of all food stamps and 80 percent of all AFDC payments going to households headed by women.

Unless we take action now, the future for many women in this country appears even bleaker. Demographers speak of the "feminization of poverty," predicting that by the year 2000, older women and younger women with children are expected to comprise 100 percent of the poor. Women are the fastest growing poverty group in the country, hardly a statistic to be proud of.

The majority of Americans who are female deserve better. We must act today to end discrimination in the work force so that retired women tomorrow will have pension benefits and savings to help support them.

We must act today to erase sex discrimination in our schools so that female students are not automatically tracked into jobs that pay poorly and leave no room for advancement.

The most effective and secure guarantee against sex discrimination is a constitutional guarantee.

Mr. President, 60 years ago the first woman took her seat in the U.S. Senate. Rebecca Latimer Felton was appointed in 1922 to fill out the last day of a deceased Georgia Senator's term as a gesture in support of woman's rights. Referring to the women who would follow her as Senators, Rebecca Felton promised her colleagues:

> You will get ability, you will get integrity of purpose, you will get exalted patriotism, and you will get unstinted usefulness.

Senator Felton's remarks certainly describe what women today offer this country if given equal opportunity to do so. I urge my colleagues to join me in giving women that opportunity by supporting the equal rights amendment.

BAHA'I TRAGEDY—ANOTHER REASON TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, on June 30 of this year, the Senate agreed by voice vote to pass Senate Concurrent Resolution 73. This resolution condemns the Iranian persecution of the Baha'i, a religious sect emphasizing the spiritual unity of mankind.

Currently, there are 300,000 Baha'i living in Iran. Throughout their nearly 100-year history, they have encountered a wide range of oppression and constant torment. They have been frequently and unjustifiably accused of being "enemies of Islam," which in an Islamic republic such as Iran, means enemies of the state. They have fallen victim to many unjustified pillages, mass murders, and human rights violations.

While their past experience is certainly tragic, it seems almost tolerable when compared to the current situation the Baha'i find themselves in. As Senator KENNEDY pointed out the other day, the High Court of Justice in Tehran declared that being a member of the Baha'i faith is a crime punishable by death. Under the regime of Ayatollah Khomeini, the Baha'i people face the most persistent and organized effort yet to insure not only their persecution, but their systematic annihilation.

Mr. President, on June 30, Senators DENTON, HEINZ, KENNEDY, and SARBANES addressed this problem with hope that Senate Concurrent Resolution 73 will place outside pressure on Iran and in turn help to correct the gross human rights violations against the Baha'i people. Senator HEINZ, the sponsor of this resolution, expressed further hope that "this resolution will demonstrate to Iran, and the rest of the world, our commitment to human rights and our determination that other nations protect their most fundamental freedoms."

Mr. President, the goals of this resolution are admirable and, as one of its cosponsors, I support it wholeheartedly. However, we have a much stronger and more effective mechanism at our disposal. The Genocide Convention is that mechanism. This convention makes punishable actions committed with the "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group." A U.S. Senate ratification of this treaty would constitute a solid commitment by the world's most influential Nation, to safeguard the most important human right—the right to live.

Since 1949, the Senate has had four opportunities to ratify this treaty. It is sad to think that if the Senate would have, at some time, supported this treaty, crimes such as those committed against the Baha'i might never have taken place or at least would have been addressed with some punitive action on an international scale.

In reference to the Baha'i tragedy, Senator KENNEDY remarked that "this genocide must not go unchallenged." I agree. Human lives are at stake and we can ill afford to delay any longer. I urge the Senate to take a firm step in addressing human rights violations abroad by giving its overwhelming support to the Genocide Convention.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. D'AMATO). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there any further morning business? If not, morning business is closed.

FEDERAL RECLAMATION LAW

The PRESIDING OFFICER. Under the previous order, the Senate will

now resume consideration of S. 1867, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1867) to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The pending amendment is the Lugar printed amendment 1935 on which there is a 3-hour time limitation equally divided and controlled by the Senator from Indiana (Mr. LUGAR) and the Senator from Wyoming (Mr. WALLOP). Under the previous order, the Senator from Indiana is recognized.

Mr. WALLOP. Mr. President, if the Senator from Indiana will yield, he is recognized and controls the floor. I wonder if he will yield time to Senator JACKSON, who controls the hour and a half of the minority on Senator JACKSON's time for an opening statement?

Mr. LUGAR. I am happy to yield for that purpose.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. I thank my colleague from Indiana.

Mr. President, I am pleased that the full Senate is about to consider S. 1867, the Reclamation Reform Act of 1982. The need for a modern statement of congressional policy on several aspects of the 1902 Reclamation Act has been generally recognized for some time. However, to date, Congress has been unable to agree on the nature of that policy. Many of us here today will recall the vigorous and often emotional debate during consideration of the bill which passed the Senate in September 1979. Unfortunately, the House of Representatives failed to act during the 96th Congress.

Now that the House has passed a bill, we are presented with our last clear opportunity, to act prior to the imposition of rules and regulations proposed by the Department of the Interior. If we do not take this opportunity reclamation policy will be made by the Department and the Federal courts, not by Congress. I trust that my colleagues will agree that such a result would be an unfortunate abdication of responsibility.

I support passage of S. 1867 both because it represents a satisfactory compromise of many difficult issues, and because we desperately need an end to the uncertainty that currently surrounds reclamation law. However, I must express my concern regarding the acreage limitation provision of the bill.

Those who support a large acreage limitation have argued that the new acreage limitation must reflect modern farm economic, and that the new limitation must anticipate a need for even larger farms so that Congress will not need to amend the law again in the near future. I agree with these arguments, but would add a significant countervailing consideration that appears to have escaped the proponents of a large acreage limitation.

One of the basic purposes of the reclamation program is that project benefits should be distributed as widely as practicable to existing and prospective farmers. Indeed, this policy underpins the 160-acre ownership limit contained in the 1902 act. In establishing a new acreage limitation to reflect current and anticipated farm economics, I believe it is important that we do not abandon the policy of broad distribution of benefits.

I say this not out of a blind adherence to concepts of agrarian reform but because we must be mindful that this policy is the rationale for continuing the reclamation program. In my many years in the House of Representatives and the Senate, I have actively participated in the authorization of dozens of reclamation projects. In justifying those projects, we may speak of costs and benefits, repayment, and increased agricultural production, but the essential justification for the continuation of the reclamation program is the creation of the opportunity for individual farmers to earn a living with Federal help. Future reclamation projects can be justified only if they benefit a large number of farmers; such projects cannot be justified if their principal impact is to allow large farms to become larger.

For these reasons, I share the sentiments of many of my constituents who feel that the combined limit of 2,080 acres owned or leased is too generous. I believe that the 1,280-acre limit contained in the Senate bill passed in 1979 was more than adequate. I intend to carefully consider any reasonable amendment that would lower the acreage limitation.

I reserve the remainder of my time and I thank the distinguished senior Senator from Indiana.

Mr. HATFIELD. Mr. President, I want to congratulate the sponsors of this legislation for their complete and detailed understanding of a highly complicated program and for their "consistency" in addressing controversial issues such as leasing and contract payout. Particularly, Mr. President, I want to applaud the leadership of my colleagues, Senator MCCLURE, Senator WALLOP, and Senator JACKSON. Through their efforts, the debate on this year's reclamation bill has matured significantly since the Senate last addressed the issue in 1979.

Mr. President, by this time, the history of the Federal reclamation program is well known to the Members of the Senate so I will not at this time attempt to recite that 100-year-old story. I would, however, like to insert for the record a historical synopsis prepared for floor consideration in 1979, which I find to be enlightening for the purpose of today's debate.

Within this 100-year history, Mr. President, emerges one clear responsibility of the Congress, that is, to assure the public that their financial interests in the reclamation program would be protected from abuse and monopoly, and that reclamation benefits would be preserved for the widest possible distribution to family farm operations. To this end, Mr. President, I believe S. 1867 can be improved. Specifically, the acreage allowance of 2,080 acres is to liberal and should be reduced to reflect current farm practices and historic reclamation policy which maintains farm sizes of between 640 and 1,280 acres.

Mr. President, I refer to the Department of the Interior's draft environmental statement which indicates that the average size reclamation farm in the West is 177 acres and that 97 percent of all such farms are less than 960 acres. In my State of Oregon, there are a total of 24,000 reclamation farmers, only five of which maintain operations in excess of 640 acres and only two which exceed 960 acres. Other, even larger farm operations, will be exempt under the bill as drafted because they have completed payment of their water service and repayment contracts.

Mr. President, I make my point amid this debate on the proposed Lugar amendment because, regardless of the interest payments which may or may not be levied against reclamation farmers, the fact remains that a very large majority of reclamation farmers will not be affected because their operations are below 320 or 960 acres. Only the largest of farms will be required to pay a higher rate for their water.

Mr. President, I believe that this position is entirely consistent with the history of the Federal reclamation program, which is intended to encourage small farm operations and a broad distribution of Federal reclamation benefits. I intend to support the amendment offered by my colleague from Indiana.

There being no objection, the synopsis was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 6, 1979.

A HISTORY OF FEDERAL RECLAMATION POLICY

DEAR COLLEAGUES: During the middle of the 19th century, the West was being settled by ambitious miners, cattlemen, and traders. The development of agriculture in the arid westlands was very much in question until the 1850's when members of the Morman Church demonstrated that through proper irrigation these desert lands could be cultivated.

Expansion on this beginning was limited to several small locations because of the inadequate supply of water. Reclamationists at that time had not developed adequate

techniques for water storage and delivery. In addition, agricultural developers found that farm practices in the humid areas of the Midwest and South did not apply to the arid region of the West. Congress, as well, found that the Homestead Act of 1862 established public lands policy but did little for growing farm interests in the West. Nevertheless, the passion for land heightened as men and women desired homesteads, and railroad companies and speculators envisioned profit from land investment.

With the passage of the Desert Lands Act in 1877, Congress encouraged agricultural development in the West by authorizing the sale of public lands to any person who could successfully cultivate the desert soil. The statute provided for a twenty-five cent per acre filing fee and an additional dollar per acre sale upon proof of compliance. This, the Federal Government's first major reclamation policy, was to be changed four years later after speculators and large economic interests exploited the law by buying promising parcels and selling the undeveloped land for profit.

During the 1880's and 1890's farmers and reform advocates banded together to form the Farmers Alliance which later became the Populist Party. With strong political support from the West and South, the Populist Party sought to reform federal reclamation policy and rid the country of special interest domination.

Behind Populist Movement in 1891, Congress passed the General Revision Act which attempted to eliminate abuses and encourage private development of western lands. Farmers of public land were required to submit plans and had to be residents of the state in which they were filing. Maximum acreage was lowered to 320 acres and title could not be transferred unless an eighth of the land was cultivated within three years.

The next major reform was the Carey Act of 1894, introduced by Wyoming Senator Joseph M. Carey. The Carey Act granted public lands to states which would in turn contract with private construction companies to build irrigation works. By 1902 barely 11,000 acres had been reclaimed of the one million acres which had been turned over by the Federal Government.

After thirty years it was becoming increasingly apparent that if agricultural development of the West was to succeed in the near-term, the Federal Government was going to have to become directly involved in the construction of reclamation facilities.

After 1900, federal reclamation policy became an explosive issue on the national political scene. The 56th Congress began with a number of reclamation proposals and nearly every party and interest group expressed a position on the future of reclamation policy.

Southern and midwestern Congressmen opposed reclamation on the grounds that development of large agricultural interests in the West would compete with existing farm operations in their states. Aid to western irrigators, they argued, would be unfair to farmers in other parts of the country. Supporters brought forward social and financial arguments promising the legislation would relieve population pressures, stabilize the national farm economy, assist the drought-striken Midwest and, above all, restrict the federal reclamation benefits to families, not corporations, who wanted to reclaim desert lands.

Both supporters and opponents of reclamation legislation were keenly aware of the primacy of water to the development of the West and understood the need to manage the valuable benefits which would be created by federal reclamation projects. Previous reclamation policy did not address these important concerns.

Representative Francis G. Newlands of Nevada introduced the bill which, after several modifications, passed both Houses by a wide margin and which was signed into law by President Roosevelt on June 17, 1902. The Reclamation Act of 1902 represented the culmination of efforts to conform public lands policy to the social and agricultural needs of the nation. While the benefits of reclamation water would flow primarily to western farmers, southern and midwestern representatives played an influential role in seeing that reclamation law was for the benefit of the nation as a whole and not just the seventeen western states.

As we look at the debate surrounding reclamation reform today, these same concerns are expressed. How is Congress to manage the benefits of reclamation water? How is Congress to protect the public's interest from being exploited by land speculators and abused by large agribusinesses? How is Congress to update the 1902 law to meet the agricultural, economic and social needs of today?

The period between 1902 and 1926 was marked by extreme devotion of the Bureau of Reclamation to the engineering aspects of reclamation projects. Many of the economic and social purposes of the 1902 Reclamation Law were put aside to solve the technical problems involved with delivering water. An attempt was made in 1926 to strengthen the economic and social elements when Congress passed the Omnibus Adjustment Act. Further restrictions were placed on speculators and would-be monopolists while the economic burden for small farmers was lifted by suspending $14 million worth or construction costs.

Throughout the 1940's, 1950's and 1960's, development of the West took on a new look. Industry, as well as agriculture, put further demands on the scarce water supply. Multiuse projects were built to meet the growing need for power, irrigation and industrial water supply transportation, and flood control in western states. Farmers, developers and conservationists clashed over the management and use of natural resources.

The 1960's and 1970's saw the executive branch and the courts attempt to untangle reclamation policy from the battles of these interest groups of the previous decades. Still, a vague impression of the agricultural and social purposes of the program remained despite the confusion created by various decisions. In 1961 the Department of Interior reversed itself on the question of exempting the Kings River project in California from the provisions of Reclamation Law, deciding finally that acreage limits should apply. The Ninth Circuit Court of Appeals ruled in 1969 to abrogate acreage limits in the Imperial Valley Irrigation District, but nearly contradicted itself by upholding residency requirements.

While the Congress has struggled over the issue of reclamation policy for the past 100 years, it has maintained the agrarian values upon which the reclamation program was founded. Congress has continually recognized the public's interest in reclamation law by upholding safeguards against the program's exploitation by other than the family farmers it was meant to assist.

MARK O. HATFIELD,
U.S. Senator.

AMENDMENT NO. 1935

(Purpose: To require repayment of construction costs and interest for irrigation facilities)

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise to speak for the amendment I have offered on behalf of Senator PROXMIRE and myself. It has, in capsule form, two important features: First of all, our amendment affects acreage limits at which a partial and full interest cost must be paid and second, the way in which full cost is to be calculated.

Our amendment does not alter the committee's bill with respect to ability to pay, leasing, or any other aspect of reclamation law. I want to make that point clear at the outset because, in general, the points of agreement are substantial. Our amendment only affects really the two narrow situations of acreage limits on which partial and full costs could be paid, and the way in which full costs could be calculated, the effect of the interest rate. Interest has an important bearing in this debate and, because for some time historical interest has not figured in the payments, our situation today is one in which the committee has advocated that interest be calculated beyond certain acreage limits. But it would be an interest rate which would be substantially less than the one I would argue for.

To narrow this down once again for the benefit of those Members who will be listening to the debate on the speaker phones in their offices and elsewhere, we are talking simply about the interest rate, and we are talking about the acreage at which that interest rate is applied either in half or in full.

Mr. President, at the outset of this debate let me explain why the Senator from Indiana has a concern about these issues.

Many Senators have wondered why we are involved in taking on a situation which has moved for 80 years to the great benefit of this country in general, to the specific benefit, of course, of at least 17 States that have reclamation projects.

The point of the amendment the Senator from Wisconsin and I have presented gets to the heart of the subsidy aspect of this arrangement. The subsidy is a substantial one.

Let me outline, Mr. President, for the benefit of Senators, the totality of the problem that we face. We are considering 8.5 million acres in 17 Western States. The 8.5 million is estimated by some groups as 10 and others as much as 11, but at least we have evidence that 8.5 million acres in 17 Western States are receiving subsidized water.

We believe that there are 47,000 farm operations involved in these rec-

lamation projects. We believe that 87 percent of these operations are farm operations of from 1 to 320 acres, 10 percent are of a size of 320 to 960 acres, 3 percent are of acreages over 960 acres, and 435 farm operations are greater than 1,921 acres.

So we have a census here in which clearly 87 percent, 41,000 of 47,000, are 320 acres or less. But the 13 percent of farm operations above 320 acres—that is, the other than the 87 percent—contain 61 percent of the acres that are irrigated. In short, 13 percent of the largest farms are doing 61 percent of the irrigated farming.

Three percent of the farms involved of over 960 acres contain 31 percent of the irrigated acreage. And the largest 435 farm operations above 1,921 acres contain 19 percent of all the irrigated acreage, almost a fifth. The 1902 Reclamation Act allows individual farmers to only own 160 acres of land irrigated by the Bureau of Reclamation, 320 acres for husband and wife.

As we know, for some time that has been in dispute. Part of the purpose of the legislation we are considering today is to try to resolve that dispute. Whether the 320 should apply to husband and wife and an additional 160 for each family member has been a part of the argument.

Mr. President, I will make the case this morning that however one calculates this there are 435 operations of in excess of 1,921 acres that are doing 19 percent of all the farming under this act.

Now the problem for the Senator from Indiana and others comes not from the fact that there is a subsidy involved. Clearly, a Senator may rise on the floor today and say, "He who is without sin cast the first stone with regard to the subsidy issue." We talked yesterday about tobacco and indeed the point of our deliberations was to try to bring the tobacco programs to something approximating a no-cost situation for the Treasury and for the taxpayers in general.

Last year the Senator from Indiana approached the peanut subsidy issue, and, although we were not victorious with regard to the abolition of the program, the general net effect of that debate was to reduce substantially the subsidies paid to the peanut farmers and the exclusive use of plots gained some 40 years ago by those farmers.

The Senator from Indiana, as a member of the Senate Committee on Agriculture, is interested in ways in which subsidies occur throughout our economy, much to the detriment, I believe, of American agriculture in general, clearly to the detriment of consumers and an economic allocation of capital in our society.

I rise also today from the standpoint of one who is seriously concerned, as are most Senators, about the very substantial Federal deficits that we have and an examination of how the credit crunch might be alleviated and to what extent agricultural practices historically contribute to this dilemma.

In the case of the 17 States involved in Bureau of Reclamation projects, clearly substantial agricultural production occurs. That is a benefit to the country. The distinguished Senator from Wyoming, in his opening statement, pointed out very substantial production, and that we grant. One can make the point that the dollars that have been devoted to reclamation over the years to the subsidy of water in this respect have brought back crops manyfold. But, Mr. President, the case will have to be made that it is more efficient to bring those particular crops from those particular lands.

For example, the U.S. Department of Agriculture, in response to my inquiry, told me how many acres are devoted to certain crops in the reclamation areas. The wheat crop in 1980 claimed 1 million acres of reclamation land; the corn crop, 742,000 acres; oats, 77,000; barley, 683,000; rice, 284,000; soybeans, almost 10,000 acres; other grain crops, 40,000 acres. A total, in terms of grain crops, of almost 3 million acres.

Mr. President, the Secretary of Agriculture yesterday has asked the wheat farmers in this country to reduce the number of acres that they will grow the coming year by 20 percent. There is clearly a case to be made for growing wheat on reclamation lands if, in fact, the full cost of that production is being paid by those who are growing the crops. There is a case to be made for 742,000 acres of corn, even in a time of set-asides, if, in fact, that is an efficient use of that land and the full cost of the water is being paid for by the farmers growing the corn.

It is very difficult to make a case for the value either of the wheat crop or the corn crop. If, in fact, a substantial amount of the cost is being borne by corn farmers in Indiana, for example, or elsewhere, taxpayers around the country, in essence, are picking up the tab for the water used to grow those crops.

The same case could be made, I suspect, for the cotton farmer. And, indeed, much of the land is used for the production of cotton and much of the time of the Senate Committee on Agriculture is spent trying to determine how cotton farmers might generally stay alive in the country, given the real problems of production in that area.

In short, Mr. President, if, in fact, the country has substantial shortages of the crops that are grown on these lands, then a case might be made in the total public interest, even at substantial subsidies, for obtaining enough food and fiber to keep the United States of America alive.

But, Mr. President, there are no shortages in these areas. As a matter of fact, if all of this production did not occur, it would not be missed. And I think we must say at the outset that the marginal utility of all of these crops is dubious in the national interest.

I would not argue for a moment against the right of any farmer to grow any crop that he wishes to grow, provided that he is willing to pay the cost for it.

What I do suggest is indefensible is the situation as we analyze it, in which just 16 percent of the water that is being used by farmers in these reclamation areas is paid for by those farmers; 84 percent is paid for by somebody else.

That will come as a surprise to many Senators. it will not come as a surprise to those who are involved in the reclamation area, or in what has become a very precise, almost esoteric, field of study.

Eighty-four percent is a pretty hefty subsidy any way you look at it. The reason it is large is that interest costs in this country have gone up from 1902 to the present very substantially. I think, looking at this historically and fairly, the case may have been made in 1902 that interest rates were so very low, that farmers ought to pay construction costs. Over the course of time the time for making those payments has stretched out to 40 years. It became a practice of having a development period of 10 years in which no payments were made. It was sort of a free ride to get the thing going and stretch out the rest over 40 years. But the thought was that interest costs, I suppose, were very small at that time and they were not calculated in.

Interest is, unhappily, a very important factor in American agriculture. The thing burdening Indiana farmers right now is interest rates. It happens to be a burden for small business, homeowners, for almost everybody in our society.

The Senator from Wyoming, in his thoughtful opening statement, quoted a study which indicated that at an interest rate of over 7.5 percent it would be very difficult for the average reclamation farmer to make it. In short, an interest calculation over 7.5 percent, he pointed out, might sort of do in the whole thing.

Mr. President, unhappily, interest rates in this country, short term or long term, for any businessman in any condition right now are not 7.5 percent. I think in fairness one would have to say that a situation in this country that cannot make it with an interest rate higher than 7.5 percent had best not start.

The point clearly made by the reclamation farmers is that if 7.5 percent is all they can pay at the top side, the

rest of the society ought to pick up the rest, and with the prime rate at 16.5 percent, the rest is greater than the amount being paid. The reclamation farmers are not paying 7.5 percent interest. In most cases they are not paying any interest.

The suggestion of the committee bill is that at a certain level they would begin to pay about 9 percent. The House of Representatives has come to a calculation of something like 5 percent on a different kind of base. Neither of those figures bear any relationship to the interest rates that ordinarily farmers elsewhere in the country would have to pay.

That is the point, Mr. President. The degree of subsidy.

Let me just mention that we have had some other debates recently about subsidy. The Senator from Indiana and the Senator from Wisconsin were involved not long ago in suggesting that if the homebuilding industry in this country, or, to state it another way, if young homeowners were ever going to get back into that situation, we might consider an interest-free loan of 4 percent of the interest rate. FHA rates of 15.5 for a period of 5 years might be cut to 11.5 percent, and then the person receiving that benefit would have to repay it. There was never a suggestion of forgiveness, of gift, or even of subsidy, except for the imputed interest during the period of time for the use of that money.

But if I recall correctly, Mr. President, distinguished Senators who have already spoken on this issue—and I would recall specifically the comments of my distinguished colleagues from Idaho and Wyoming—did not find favor with this degree of subsidy. As a matter of fact, they felt that it might be injurious to the overall success of President Reagan's program. Their viewpoint was shared by others.

As I admitted during the course of the debate, I am uncomfortable with the idea of subsidy. It appeared to me in that instance that the recovery of our national economy with jobs, with economic activity, with some breakout, was important, and, therefore, we tried to craft a way that if we were to be involved in subsidy we would remedy it as quickly as possible with a recap or payback feature.

I mention that bill simply because I have been involved in thoughts about subsidy. Indeed, as a family farmer in my own right on 604 acres in southwestern Marion County, Ind., I am involved in producing corn, beans, and wheat. I mention that so there will not be any desire to impute any conflict of interest here. I have some idea of what it costs to produce a bushel of corn, wheat, or soybeans. I have some idea of the degree of subsidy being given to those who are in the same field in the 17 States that are involved in the reclamation situation.

Furthermore, Mr. President, I have some general idea of how the Federal budget tilts in this direction when reclamation projects of the size and scope of the ones we have seen in the last 80 years in this country, and those we may very well see in the next decade, allocate scarce capital resources to production, which I have contended is not required in the national economy, and which clearly has capital flowing out of the Midwest and the agricultural situation there to very comparable agricultural facilities somewhere else; namely, in the 17 reclamation States.

Mr. President, this simply will not do without making any argument about it. My purpose in raising the amendment is not one to argue, as others may, whether, in fact, a farm ought to be 160 acres or 320 or 960 or 2,080, or what have you. This has been a longtime argument in many Western States. I do not enter into that argument. The amendment that I offer does not touch that issue. It says, as a matter of fact, you can own 960 acres, just as the committee suggests. And you can lease as much as you want above that provided you pay the cost, interest, and construction for the water that you are using.

I let the market and the market alone determine what is defensible and what is economical in that process. That, I think, is what ought to occur.

In order to simplify the amendment we have exempted from all of this acreage of 320 acres or less so that if there are persons who are very small and historically got going—and 87 percent of all of these farms, 41,000, are in that classification—they are not going to be touched by what we are suggesting. As a matter of fact, we move only gradually from 320 to 960 to get half of the interest cost, just half, into the measure. It is only at 960 acres that you begin to pay what anybody else in this country would pay for water. I might add that those who are using the State of California reclamation projects pay side by side with the Federal projects.

We are not dealing in a vacuum here, Mr. President. There are reclamation projects of substantial size provided by the State of California, and they are being provided at what appears to be market cost. If you are fortunate enough to be involved in a Federal project, you do not pay interest or you pay very little. As a matter of fact, I can well understand why people want to take that option.

Mr. President, the temptation is great as we get into an issue of this variety to try to solve everything at one time. This amendment does not move in that direction. It is a very narrow one. The problem of trying to argue more comprehensively is mind-boggling because the estimates, acre by acre, and printouts from the reclamation people, the Department of the Interior, USDA, and what have you, come to all sorts of different estimates given different interest rate assumptions, years of payout, years of grace, whatever else might be thrown into it. This is why we try to narrow it down to terms that each one of us as Senators can understand. They are these terms, to be repetitive:

What should be the cost of interest for water and reclamation projects in the West? My argument is that it should be the market rate of interest, that these are businesses, the same as small or large businesses anywhere else. The market rate presently is somewhat over 14 percent. It is very high. I can well understand the opposition of those who would prefer not to have to pay the market of interest.

Senators see, every day in their offices, well-meaning constituents who would prefer not to pay that rate—who, as a matter of fact, criticize us, the Federal Reserve Board, the President, the Secretary of the Treasury, and many others for high interest rates and what they have meant to our economy.

We pray, Mr. President, that the rates of interest will come down. Many other things in our country will be possible in terms of investment when that is true. But today, we are saying, if you have 960 acres or more owned or leased, you ought to pay on new contracts that start from this time forward or for amendments to reclamation contracts that provide additional benefits, that one ought to pay the full cost of interest.

Second, we are saying, Mr. President, that at least, if you are going to apply full costs, you ought to do so at some point. We are saying 960 acres. Some can say a higher or lower figure, but 960 comes into what is described by many in the reclamation area as a family-sized farm—a wife and four children—6 times 160. I seem to get to that point one way or another.

We are saying that at that stage, you have a fairly big operation and a lot of value is involved and you can pay full cost.

Below 320, we are saying, we are going to exempt you from the market rate. Some can say why; why should anybody be exempt? Well, for the sake of narrowing this issue, so it is very clear, we are saying, in fact, the whole thing started with the idea of getting many small farmers into business at 160 and this became a husband and wife situation at 320. Let us leave that alone. We will not argue with 41,000 out of 47,000 situations. We will argue about the group in between and say at least half cost on the interest.

That is where the argument lies, Mr. President. It appears to me, at least at the outset, that those arguing in favor of the status quo or in favor of the committee bill to try to tidy up a good

number of things with regard to reclamation law, have done a constructive thing as far as moving through the rocks and shoals and bringing certainty to this. But they will have to argue the economics of why this degree of subsidy, with almost 20 percent of all the reclamation lands farmed by people with 1,921 acres or more who, in the judgment of the Senator from Indiana, ought to be able to pick up the tab for what they are doing. They are fully capable, as a matter of fact, of making a determination as to whether it is worthwhile to continue and invest more or not to do so under current economic circumstances.

Mr. President, I know there are others who will want to speak on this issue. I shall be happy to yield time on the side of proponents as those who wish to have that time wish it allocated.

Before I yield the floor, I ask first whether my distinguished colleague and cosponsor of the amendment, the Senator from Wisconsin (Mr. PROXMIRE), wishes to speak at this point or will seek recognition later?

Mr. PROXMIRE. I thank my good friend from Indiana. I would like to speak as soon as I can, but I understand the Senator from Arizona and the Senator from Wyoming would like to speak, so I shall listen to them and then speak.

Mr. LUGAR. Mr. President, I reserve the remainder of my time.

Mr. WALLOP. Mr. President, I yield 4 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have found from experience on this floor that whenever the Reclamation Act is attacked, whenever farmers who have contributed to our country under the act are discussed on this floor, they are discussed by people who have never lived near a reclamation project. They have lived under riparian water rights, where they get all the water they need from Heaven.

There is a big problem in this country. In the next 20 years, we have to produce 20 percent more food. That is either coming from the land we have or it means 20 percent more acreage. Certainly the farmlands of Indiana, Wisconsin, or Michigan are not going to be contributory to that great problem. In the West, where we have lots and lots of land with no water, that is where we are going to find this new food coming from.

I oppose this amendment. It is based on erroneous assumptions.

It would apply to existing projects, contrary to the assurances of the sponsors. And, it would increase interest charges on all lands, even those under 320 acres, for farmers who go above that limit.

First, let me give an example of how some of the data used in calculating the impact of the amendment is wrong. Most repayment contracts are assessed on a per-acre basis, not a per-acre-foot basis. Yet some examples of repayment rates under the amendment have been calculated on a per-acre-foot basis and are clearly inaccurate. The sponsors of the amendment may have confused operation and maintenance costs, which are charged per acre feet, with repayment rates, which are not.

As a specific example, the amendment would greatly increase the burden on the Wellton-Mohawk district of Arizona—the only project in my State which has not been completely paid for. I want to emphasize that and point out one very important contributor, probably the first reclamation project in America, the construction of the Theodore Roosevelt Dam in 1911. That whole project has been paid back. The supplemental dams providing water have been paid for directly under bond issue by the farmers. The total cost, I would say, is abut $100 million. Last year alone, that project area produced $450 million in income taxes. I defy anybody to show me an investment on the part of the Federal Government that can match that.

When the contract on this project was signed, full repayment was put at $56 million. However, the 1981 Interior Department environmental impact statement, which is relied on by critics of the committee bill, erroneously raised the repayment cost to $63 million. The higher figure includes $7 million that is actually attributable to an entirely different project in the area benefiting Mexico, which is next door to Wellton and Mohawk. This mistake was not created by the pending amendment, but the impact of the error would be compounded by the amendment and it illustrates how so much of the information used as the premise of the amendment is totally wrong.

Next, I have said the amendment would apply new rules to many existing contracts, even though is purports to apply only to future ones. This result will occur because the amendment applies also to leased lands and to any contract which is amended.

As a practical matter, many old contracts will have to be amended. Every farmer who wants to come under the higher acreage figures of the new law will have to amend his contract as a matter of routine. Thus, the impact of the amendment is far greater than conceded by the sponsors.

If we are going to reopen old contracts so easily, we should also allow early repayment. If the sponsors of the amendment want to be fair about it, any farmer who amends his contract and thereby becomes covered by higher interest rates, should also be allowed to make accelerated payments on his individual parcels instead of being tied to the lengthy terms of the original contract.

There is another aspect of fairness I wish to raise, since the amendment will apply to amended contracts. When the existing projects were built, and the amended contracts were first signed, the interest rate was established at the time of the borrowing. No one contemplated that the interest rate would be recalculated every 4 years after the funds were borrowed, as the amendment provides. The correct and fair thing to do would be to substitute in the amendment the definition of "full cost" which is used in the House passed bill, H.R. 5539. This formula uses the 15-year weighted average at the time the funds were advanced.

And, remember, not all the project construction funds were borrowed. A portion of these projects were built with direct tax moneys. Interest should be paid only on the percentage of moneys that were actually borrowed by the Government.

In summary, Mr. President, I believe the amendment is based on wrong information and imposes one-sided burdens on farmers, without taking account of their legitimate interests and equities.

Mr. President, I hope this amendment is defeated. It is totally unfair to the people in the reclamation areas of this country. Let me remind you, Mr. President, that without these reclamation areas in this country, this country would be in bad shape.

To close, I notice figures supplied by the Senator from Indiana, where 4 percent of the wheat is grown on irrigated acreage, 1 percent of the corn, 12 percent of the barley, 1 percent of the sorghum, 1 percent of oats, 13 percent of rice. In my State we do not produce much of that. We produce cotton, and we produce cotton in competition with Egypt, and that is not an easy thing to do. So we have a small, small amount of competition, and our friends from the water-wealthy East want to deny water to the water-poor West.

I just remind you, Mr. President, that where I live we have 7 inches of rain a year, and that usually falls on one wet afternoon. So I hope that this amendment is defeated. I hope the bill which has been constructed will pass.

I thank the leader for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I thank the Senator from Arizona, and I ask at this time if a letter from Secretary Watt, in opposition to the amendment, might be distributed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE addressed the Chair.

Mr. WALLOP. I had intended at this moment to yield to the Senator from Texas, Mr. BENTSEN.

The PRESIDING OFFICER. The Senator from Texas.

RECLAMATION REFORM IS NEEDED

Mr. BENTSEN. Mr. President, I strongly support passage of S. 1867, the Reclamation Reform Act of 1982. The history of this issue and the need for legislation is well known and widely accepted. It has been widely discussed, and I have personally testified in support of changes several times. The Senate passed a reclamation reform bill in 1979, and I was an original cosponsor of that bill. Now the House has demonstrated its willingness to act on this issue by passing legislation, and we must act to avoid the steadily advancing deadline after which the outdated 1902 law will have to be enforced. The time for study is long past, and action can be postponed no longer on this issue.

Consider the case of the farmers in the El Paso County Water Improvement District No. 1. These farmers signed contracts with the Interior Department in the 1950's to repay their share of the Rio Grande project's construction costs. Each year they worked to earn money to pay their taxes, their mortgages, their water fees, their construction repayment, and they hoped they had something left over for their families to live on. Upon completion of these substantial payments, the Commissioner of the Bureau of Reclamation issued a memorandum saying that they were in compliance with the acreage limitation provisions, and they were told they were exempt from the old 160-acre limit.

Then a Federal court ruled that this document, which they had accepted in good faith from the Federal Government, was not valid. We passed legislation storing their exemption through the Senate, but it died in the House. Subsequently, Secretary of Interior Andrus, at my request, issued a determination that the El Paso district had established a pattern of family ownership and was exempted from the 160-acre limit. However, this has not been tested in court.

If this bill is not passed there is still a good possibility that these farmers will be forced to watch helplessly as the Federal Government voids what were long though to be valid contracts.

Mr. President, these are family farms, many of them going back several generations. The El Paso Valley has 80 farms which are larger than 160 acres, but 71 of these are less than 640 acres in size. They are hardly corporate giants, and are indeed rather small considering the requirements of modern agriculture.

I do not believe that there is any doubt that the 1902 act needs to be revised. The 160-acre limitation was written for an age of horsedrawn plows and homegrown food. Today's farmer uses space-age technology and buys his food in a supermarket like any other consumer. We have spent several years on this issue without achieving a resolution of the problem. This year we must compromise, we must pull together the various proposals for change, and we must enact those changes into law. Anything less will mean massive Federal intervention and disaster for thousands of farmers.

I commend the committee for their willingness to work toward a reasonable compromise and to meet the needs of various areas, including those expressed by this Senator with regard to El Paso. I believe that this bill is a workable solution to the overall problem, and it will finally establish the exemption paid for by the farmers of the El Paso Valley so long ago.

I support this bill, and I urge my colleagues to join together and pass it.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I thank the Senator from Texas for an eloquent statement and one which I think comes from somebody with an understanding of what this all means, to everyone, not only to the farmers. If we were just talking about that, maybe those in the East might see fit to sacrifice those who farm in the West, but there is one other point that has to be made. The tractors are made in Indiana and in Ohio and in a lot of other places. The goods and services, the automobiles that are purchased by the small-town merchants, and other things which agriculture supports, would dry up in the morning if agriculture in those areas dried up. I do not know if there is a computer around that can calculate the full benefit to the country in terms of revenue which these projects have brought. I thank him very much.

Mr. BENTSEN. I thank the chairman.

Farming problems are tough enough right now without further complicating them and having this kind of legislation defeated.

Mr. PROXMIRE. Mr. President, will the Senator from Indiana yield me time?

Mr. LUGAR. I am happy to yield as much time as required to the Senator from Wisconsin.

Mr. PROXMIRE. This year, and in this session, we must cut spending even for good, just and desirable programs. We face an appalling budget deficit of well over a hundred billion dollars for next year. Why the enormous deficit? Answer—spending projects such as embraced in the bill that confronts the Senate today. So, if we must cut spending on just and good programs, should we not hammer down wholly unjustified subsidies for rich landowners? That is precisely what this bill represents. This bill comes before the Senate as a reform bill, a bill to reduce the subsidy to the richest farmers in the Nation for irrigation. Does it accomplish that purpose? It weakly pretends to do so. It purports to be a bill to hold down that subsidy to farms of more modest size. But does it? No way. It permits subsidies to continue into to farms with more than 2,000 acres. Senator LUGAR and I offer a more reasonable compromise, a bill that would limit subsidies to farms with less than 960 acres. Our compromise would fully protect more than 87 percent of the farms enjoying the benefit of this Federal irrigation subsidy, but it would exclude the biggest farms enjoying far and away the biggest subsidies. I repeat: It would protect more than 87 percent. Almost 9 out of 10 of the farms enjoying the subsidies would be fully protected under the Lugar-Proxmire amendment, but it would exclude the biggest farms enjoying the biggest subsidies.

Ah. And what a subsidy. These big farms would indeed have to pay back the cost of the irrigation, but listen to the terms. They would pay back the cost over a period of 50 years—not 15 but 50 years. Talk about a stretch out. And the interest required? None. That is right: None. Not one red cent of interest. What a deal. Just think of it: In a year in which farmers in my State and all over this country pay 20 percent or more in interest when they buy a tractor or finance feed purchases, in a year when a young couple buying a home must pay 17 percent in mortgage interest, these rich farmers pay no interest at all. None. How unfair can you get? I would like to see any Senator, no matter how golden his tongue, try to explain to any group of realtors in this country, or any assembly of homebuilders or home buyers or auto workers why we should subsidize these rich farmers by handing over invaluable irrigation that massively enriches their land and their pocketbook and then permit a payback over 50 years and at no, no, no, no interest whatsoever. Why they would tear you apart. So, why should we pass a bill that gives this tremendous deal to western farmers? Well, Senator LUGAR and I are willing to compromise with an amendment that would permit most of the western farmers to benefit from this subsidy, but it would draw a line. Our amendment would bar the 3 percent richest farmers—based on the size of their land holding. It would require them to pay for their irrigation without subsidy. In doing this, we would save hundreds of millions of dollars for the taxpayer and make this bill a true improvement over present law and keep the bill in harmony with what Congress has been earnestly trying to do—hold down spending.

Now, let us take a look at the opposition to this bill. First, who opposes it? Just as a starter, virtually every conservation organization that has taken any interest in the bill comes down decisively against it: the National Wildlife Federation, the Evironmental Policy Center, the Sierra Club—you name the conservation organization. If they have taken any interest, they oppose it. They consider it not only a giveaway but also a genuine environmental menace.

This is supposed to be a farm bill benefiting farmers. Where do the farm organizations stand on it? Run down the list: The Farmers Union, opposed; The Grange, opposed; Rural America, opposed; National Land for People, opposed. And they oppose the bill for the best of reasons. This bill, as it comes before the Senate, is designed to greatly increase our farm surpluses. In the process, it will drive farm income even lower than its present depression level. For the farmers of the Midwest it is an unmitigated, absolute, total disaster. It drives their taxes up by requiring them to pay for their ruination in higher production and surpluses. And the Taxpayers Union—a consistent foe of wasteful, unnecessary spending—strongly opposes this bill, recognizing it for what it is—an unconscionable raid on the Treasury to enrich a very few wealth landholding farmers in the West. Also, the AFL-CIO recognizes the gross injustice of this bill. At a time when we are taking away programs from the poor and near poor, to provide this kind of fat subsidy for rich Western farmers, it is anathema to the AFL-CIO, which has become the conscience of this country in pleading for compassionate programs, and some degree of equity and justice in our national policies.

In the next few days, Congress will have the opportunity to become well acquainted with the arcane and complex world of reclamation.

A great deal has changed in the last 80 years. We cannot afford to use the same system to finance these projects that we used when interest rates were at 1 or 2 percent. We cannot afford to build expensive new projects which return very little to the Treasury. The age of interest-free financing is over.

When the reclamation program started, its aim was to settle the West with family farms. Now, the West is settled, and it is time to look at the rationale for the program.

Any discussion of the Reclamation Act always comes down to a question of subsidies—how much is too much.

According to a recent GAO report, of the reclamation projects surveyed, the Federal Government would be repaid less than 10 percent of its actual cost of providing water.

Even worse, according to Alice Rivlin of the CBO, the U.S. Government is expected to spend $3.8 billion on Bureau of Reclamation water projects over the next 5 years, but only $275 million will be repaid under the current system.

I repeat: The Congressional Budget Office finds that the U.S. Government will spend $3.8 billion on Bureau of Reclamation water projects and will get back $275 million. The next 5 years are absolutely crucial if we are going to get this fiscal policy under control.

If prices for just new or negotiable contracts were raised to market levels, $1 billion could be raised in the same 5 years. This figure jumps to $16 billion if there were no subsidies at all. Senator LUGAR and I do not propose to recapture all of this sum, or even a major part. However, there is no excuse to continue to subsidize the largest and most profitable farming operations which are not in need of Federal assistance.

Mr. President, the Energy Committee calls its bill "Reclamation Reform" but the name is deceptive. What does it reform? Almost nothing. In fact, it gives away the store.

The current law allows individual farmers to own up to 160 acres. This requirement has been interpreted by the Bureau to allow 320 acres for a husband and wife or 640 for a family of four. Eighty-seven percent of all farm operations irrigated by the Bureau of Reclamation are less than 320 acres and 97 percent are under 960 acres. Yet, the committee bill allows irrigation subsidies to farms of up to 2,080 acres, 13 times the base level contained in the 1902 act. This is a sky's-the-limit acreage limitation.

I repeat: 13 times. We are not talking about just an adjustment to bring it a little closer to the reality of the fact that some farms are bigger. We are doubling or tripling them. The increase is thirteenfold. Only 3 percent of reclamation farms, 1 farm out of 33, exceeds 960 acres. Yet, these farms contain 30 percent of the land in the program. Why protect them?

Even worse, this 2,080-acre figure itself is deceiving. It applies only to class I farmlands, which are the best and most productive lands included in the program. Where lands are less fertile or the growing season is shorter, the committee bill would apply a very generous formula for "equivalency" and further expand the number of acres entitled to subsidized water. The equivalency provision might double the number of acres receiving subsidies where land was poor. There is some fairness to an equivalency system—except for one hitch. No Federal reclamation district in the country is made up entirely of class I land.

This no-limit limitation goes far beyond the recommendations of the administration, far beyond the House-passed bill and far beyond what is economically tolerable. It has been criticized by groups as diverse as the AFL-CIO, National Taxpayers Union, National Grange, Environmental Policy Center, National Farmers Union, Sierra Club, the Inter Religious Task Force on U.S. Food Policy (representing 23 Protestant, Catholic and Jewish groups), National Wildlife Federation, Rural America, Center for Rural Affairs, National Rural Life Conference, Bread for the World, Network and National Land for People.

Why? Because S. 1867 would bail out the very largest and wealthiest farm operators now violating the law. The acreage limitations would be raised so high that even they would be in compliance. Do they need this help? No way.

In California, where many of these farms are located, the gross crop value is about $1,000 per acre. So a farm complying with S. 1867, eligible for subsidized water, would gross over $2 million a year. More than 80 percent of U.S. farmers gross less than $50,000 a year. So when I say that S. 1867 is welfare for the richest farmers, I am not exaggerating. I am stating the facts, and the facts are very clear. As I say, it subsidizes farms which gross $2 million a year, and 80 percent of the farms in this country gross less than $50,000 a year.

What are some of the other defects in S. 1867? The interest rate it charges above 2,080 acres is still too low and does not reflect the actual cost of borrowing by the Treasury.

There is no interest rate below 2,080 acres but above 2,080 even for the really big, big farms the interest rate is inadequate.

Our amendment raises this interest rate to a level endorsed by the GAO. We also require interest from many more farms by applying a real acreage limitation on lands receiving Bureau water. We use a sliding scale formula which limits full interest subsidies to farms under 320 acres and gives a subsidy for one-half of the interest between 320 acres and 960 acres. Farmers would have to pay the full cost of construction and interest attributable to their share of the project. For any acreage over 960, Is this fair? You bet it is. These people can afford it.

Who are some of the struggling farmers who need increased acreage to make a living? In 1979, Cecil Andrus, then Secretary of the Interior, provided Congress with a list of the 10 largest farming companies and individuals in the reclamation program.

They exist in three areas. First, the infamous Westlands Water District, second, Kings River, and third, Kern County. All three of these areas are in the San Joaquin Valley of California. Included in the list are large oil companies like Tenneco and Chevron and large conglomerates like South Lake

Farms whose stock is, in part, owned by foreign interests.

Are these poor family farmers who hardly eke out a living? Not on your life. One company, J. G. Boswell, farms almost 150,000 acres in Westlands alone. That means that because it is in California and is in the area where the land is most productive that one conglomerate grosses probably $150 million.

The average Westland farm is now over 2,000 acres. The fewer than 250 farms in the district will receive over $1 billion in subsidies under present law, and S. 1867 would not be much of an improvement.

According to the CBO, our amendment would bring in between $17 million and $33 million per year from the Westlands project alone.

Are these the family farmers the reclamation bill is supposed to serve? No way. It is time to return some sanity to the program by pushing these corporate pigs away from the trough.

But, the committee bill might have the opposite effect. By raising present acreage limitations, it might encourage further consolidation of large farms in the hands of a few people. What a contrast with the original intent of the Reclamation Act which was designed to limit subsidies by using acreage limitations and residency requirements and to encourage rural development by creating thousands of new family farms.

Is the committee's bill an improvement over existing practices? Not really. Under current law no farmers pay interest on their repayment obligation. Under the S. 1867, no, or very, few farmers will pay any interest either. They will be exempt one way or another. Yet under S. 1867 there will be the cruel illusion of reform with the reality of business as usual.

I am surprised by the vehemance of the lobbying by opponents of this amendment. They portray us as "radicals", out to destroy the West. Yet our amendment is a modest one which leaves untouched fully 87 percent of all reclamation farms and imposes less than full cost on 10 percent more. Only the top 3 percent by size of all reclamation farms would have to pay the full cost of their share of reclamation project construction costs and interest. How can that be radical? And, these 3 percent own over 30 percent of all the land irrigated by the Bureau and would be financially able to pay higher rates.

Even many of the top 3 percent might escape our scheme because we do not reopen existing contracts. Instead, our amendment applies only to new contracts. I think that was overlooked by the distinguished Senator from Texas. Our amendment applies only to new contracts or amendments where irrigators come in to renegotiate or amend old contracts in order to get additional benefits such as more water.

Another myth about our amendment concerns the way we use our sliding scale interest rate formula. Some of our opponents have claimed that we change the requirements for farms under 320 acres. We do not. Furthermore, the first 320 acres of any size farm is always exempt under our scheme, just as the next 640 acres is always subject to just one-half of our "full cost" interest rate. For example, we do not reach back with a 325 acre farm to impose the one-half full cost interest rate on all the acres under 320 acres. This would unfairly penalize these who hold just a little bit more than our acreage limitations.

More moderate still, our amendment phases in gradually, allowing farmers to plan for the time when they may have to pay higher rates.

So why are the large farm lobbyists so upset? The answer is interesting. One example should do the trick. Over the next 5 years, the only project certain to be covered by our amendment is the enormous Westlands project in California which is negotiating for additional water.

The total cost of the project is now more than $1.3 billion and yet the project is only 50 percent complete. It is likely to cost over $2 billion before it is through. But there are only about 250 farmers in Westlands. The Federal spending on each of these farms is stupendous. Why should they not have to pay more when they certainly can afford it?

According to the CBO, our amendment would raise from $17 to $33 million dollars per year from just this one project. But S. 1867 would raise much less than that amount even under the best of circumstances for the entire program.

Where is the reform? The Interior Department could do better than that by itself without S. 1867. The Bureau is currently in negotiations with Westlands to raise their rates and its new policy is to try for more revenues whenever irrigators request significant additional benefits or renewals.

If this amendment fails, maybe the taxpayers would be better off with no bill.

Our opponents have tried to scare you with tales of the thousands and thousands of poor farmers who would have to give up their irrigation water. Nothing is further from the truth.

According to the latest figures available from the Bureau, based on 1980 data, the 17 State average irrigated farm size is slightly over 100 acres. The highest State average, in Oklahoma, is only 273 acres. All other States have average farm sizes under 160 acres. Even in California, the average is just 132 acres.

Of the 1.5 million acres of excess lands identified by the various Bureau of Reclamation regional offices, by their own definition, fully 1.3 million acres are in California, with 27,000 acres in Oregon, 16,000 acres in Idaho, 27,000 in Wyoming. The rest of the States in the program have fewer than 20,000 acres each. Two States, North Dakota and Kansas, have fewer than 500 acres of excess land. Of the approximately 5,000 owners of excess lands identified by the Bureau in 1977, almost 4,000 are in California.

Another scare story says that you cannot make money with a small farm. This is just not true.

In 1978, then Secretary of Agriculture Bergland commented on Interior's proposed regulations under the 1902 act. His letter, which I will include for the RECORD, describes the Department of Agriculture's analysis of the effects of various acreage limitations on four different reclamation projects. According to DOA's analysis, a 640-acre farm in the Columbus Basin would have a net income under the proposed rules of $189,000-per-year net income. Imagine $189,000-per-year net income.

I do not know any farmer in my State who has a net income that high.

During 1976, 83 percent of the Nation's farmers grossed less than $50,000—that is grossed less than $50,000 in sales. They netted, I am sure, far less than $10,000 in income, probably $3,000 or $4,000.

While other regions may be less profitable to farm, the committee more than makes up for the difference with its very generous equivalency allowance.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a letter dated January 25, 1978, from the then Secretary of Agriculture Bergland to the Secretary of the Interior, Cecil Andrus.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., January 25, 1978.

Hon. CECIL D. ANDRUS,
Secretary of the Interior,
Washington, D.C.

DEAR CECIL: I am writing to offer you the Department of Agriculture's comments on the Department of Interior's proposed reclamation rules and regulations for acreage limitation (Federal Register, Vol. 42, No. 165, August 25, 1977).

At my request, the Economics, Statistics and Cooperatives Service (ESCS) of this Department has analyzed the potential economic impacts of the proposed rules. This study provides insight into some of the key questions surrounding the implementation of more stringent rules for the distribution of reclamation benefits. Among the questions studied are: the minimum acreage in a Federal Reclamation Project which constitutes a viable family farm in today's economy; the potential disruption of the surrounding communities; and the economic

impacts of the proposed regulations on cost of production, production patterns and product prices.

To answer these questions, the study team looked at four reclamation projects; two in California, the Imperial Irrigation District and the Westlands Water District; and two in other locations, the Columbia Basin project in Washington and the North Platte project in Nebraska and Wyoming.

In summary, and subject to the qualifications and caveats detailed in the text, the report shows that the income possibilities on a relatively small farm irrigated by subsidized reclamation water are substantial. Annual returns to management and operator labor by farm size vary among the four regions studied. All farm sizes considered in the Westlands and Columbia Basin result in annual returns exceeding median family income. In Imperial and North Platte, using current land prices, 320 acres are required to achieve annual returns equal or greater than median family income. In view of rising production costs, price variability and other risks not considered fully in the analysis, larger operating units may be necessary to provide a management and operator labor sufficient to maintain a viable farming operation over time. The other economic impacts are expected to be relatively slight under the proposed regulations. Copies of the study will be made available to you and your staff and, or course, the ESCS staff will be available to work with your staff if there is need for greater detail than the study provides.

Beyond the economic analysis, I would like to draw your attention to some related points that I feel should be resolved before the final rules are promulgated. I concur with the basic and broad objectives of the Reclamation Act of 1902 and your desire to administer that policy fully and equitably. However, though the proposed rules and regulations move in the right direction, I am concerned that under the proposed regulations it would still be possible to comply with the letter of the law, while frustrating its basic intent to use federally subsidized water to encourage the development of small family-owned farms.

One such point is the determination of the maximum size acreage which qualifies as a small family farm, and is therefore eligible for subsidized water. Under the current proposed regulations, it would be possible to acquire ownership or use of an area of land, benefitted by federal water, in excess of a size that anyone could classify as a small family farm: with 360 acres allowed a husband and wife, plus an additional 160 for each child and as much through leasing, even a typical family of four could put together an operating unit of 1,280 acres eligible for project water, and, conceivably with more children. larger units could be formed. According to USDA projections in the study, in the two areas in which pre-project land prices have been established, the Westlands Water District and the Columbia Basin, the net income generated from a 640-acre farm under the provisions of the proposed rules, would be $81,000 per year and $189,000 per year respectively. (For the Westlands calculation, projected seasonal average prices for 1977 were used. In the Columbia Basin, wheat was priced at $2.57 per bushel, and potatoes at $54 per ton.)

In 1976, 83 percent of this Nation's farmers grossed less than $40,000 in sales. I believe that this discrepancy points out the need for a more precise limit of the total benefits which will accrue to a single operating or ownership unit than is currently provided under the proposed regulations.

Furthermore, on those farms which benefit from the Reclamation Project water, the Federal subsidy is a major portion of the total income. According to the Department of Interior's estimates, the per acre subsidy available in Westlands, for example, is $1,540. If that figure is converted to an annuity for the 50 year project life, at 6½-percent interest, it would equal $118.68 per acre per year. On a 640 acre farm, then, the annual subsidy would be around $76,000. Again, in an average year, according to our study, the net income from a 640 acre farm in Westlands would be around $81,000. The magnitude of these income and subsidy calculations emphasize that this issue cannot be viewed simply from an agricultural perspective, but rather must be evaluated in the broader context of the distribution of social and economic benefits through the Reclamation Projects. (It is perhaps noteworthy that the maximum welfare payment under Aid to Families with Dependent Children for a family of four in the state of California is $5,076.)

Therefore, I recommend that we examine carefully the question of the maximum acreage eligible for subsidized water, with the intent of dispersing the benefits of the reclamation projects as widely as possible, in accordance with the purpose of the act, yet permitting the establishment of farming units of sufficient size to be economically viable both now and in the foreseeable future. This maximum should be established individually for each project, and even within projects, taking into account the different income possibilities determined by the radically different soils and growing conditions in reclamation projects.

Current levels of income among farmers on irrigated land show the inadvisibility of a single maximum acreage for eligibility. For example, in California, the average gross crop value per irrigated acre is $781. In South Dakota, the average per irrigated acre is $128, less than a third of that. Although establishing a series of maximum acreages for eligibility will be difficult and time consuming, it is key to the acceptance and the equity of efforts to enforce the Reclamation Act.

I believe also that, for reasons of administrative convenience and equity, the maximum acreages eligible for subsidized water should be established without respect to the number of persons in a family. The number of persons in a family might change for a number of reasons, and does not seem to be greatly relevant to eligibility for subsidized water. I would suggest instead that eligibility should be determined on the basis of the total amount of land owned by a single person, family partnership, or other combination thereof, with appropriate language to preclude the possibility of a person participating in more than one farm unit, and, as you have provided, in more than one water district.

A second point of the proposed regulation which concerns me is the 50-mile "neighborhood" designation. A meaningful residency requirement is essential to the fulfillment of the intent of the Reclamation Act. However, the 50-mile limit does not preclude the possibility of investors purchasing the land as an investment, with no intention of farming, and then leasing the land to bona fide farmers. The use of the public subsidy involved in reclamation projects as an investment to support income in this manner was not intended by the Act. To avoid this, it might be useful to require that purchasers of excess land actually farm the land, and live on or near it in order to be eligible for project water.

A related point is the leasing provision under the proposed rules. As you know, leasing can be an important opportunity for young people entering farming; it is also a way for the established farmer to respond to changing market conditions. Further, there are many small land-locked parcels in the Reclamation Projects which are not large enough to provide an adequate income by themselves. However, despite the advantages leasing provides, in the history of Reclamation Act administration, many of the most flagrant violations of the intent of Congress to foster small family farms have transpired through leasing and leaseback arrangements. For this reason, leasing under the new regulations should be limited so that it does not provide a vehicle for avoiding the basic purpose of the law. The language of the regulation should allow exceptions for people who retire or become disabled, and the families of deceased farmers.

A third point is the proposed lottery for distribution of excess lands. I foresee a number of problems with this approach. The conclusion of USDA analysts that the smaller farms resulting from the proposed rules are viable is based on an assumption of average or better management abilities. Should excess land be distributed by a random method which fails to consider the experience and capacities of prospective farm buyers, income could be significantly lower than those estimates.

Moreover, distribution of land should be accomplished with consideration for eligible tenants who currently farm land rented from excess landholders. There is no provision in the proposed regulations permitting these tenants to buy their farmsteads. Divestiture of land by excess landholders will effectively end the tenure of those tenants and throw their homes into the lottery as part of larger excess land packages.

I was in California recently and discussed the situation with a number of these families. They are understandably concerned. Much of this land has been rented and farmed by these families for many years, and though they do not own the property, in all other aspects it is their home. I think that it would be consistent with the spirit of the 1902 Reclamation Act to offer these small farmers the first opportunity to own the land they have worked for years.

For these reasons, I recommend that we seek an alternative to the lottery method of distributing the land. I understand that the lottery system was suggested to insure fairness and to prevent those with an "inside track" from unfairly obtaining the benefits of the redistribution. Nonetheless, I believe it is possible to develop a method which could insure fairness, and yet would take into account the experience of prospective buyers, and the human investment that current farm tenants have in particular parcels of land.

A fourth point you may wish to consider relates to the broader issues of federal water policy. As I mentioned earlier, the subsidy to those who receive water under the provisions of the Reclamation Act is very large. Under the proposed regulations, the subsidy would be twofold: the buyer of the excess land would pay "pre-project" prices which are in the range of a third to half the current market price; and in addition, the buyer would then continue to re-

ceive the water at a price much below its value as a production input.

I understand that the purpose of charging the pre-project land price is to prevent current owners from enjoying a windfall profit by excluding from their selling price the value of the subsidy provided by the public. Of course, I agree with this goal. However, I am concerned with the magnitude of the federal subsidy resulting from the combination of pre-project land prices and the cheap water it provides, and the dependence of the new farms on this subsidy.

In formulating the 1977 Farm Bill, this Administration took special care to provide an equality of benefits among farmers in various regions of the country who grow different crops. Too often farm programs have distorted market patterns and have provided substantial benefits to one set of growers, while providing relatively little to another.

The size of the subsidy available to those eligible for reclamation project water and the resulting income possible on a given acreage is much more than in other areas in the country which do not benefit from reclamation water. For example, as I mentioned before, our study shows that net income on a 640-acre farm in the Westlands would average around $81,000, in Columbia Basin $189,000. Using the same budget techniques to measure income on 640 acres in the High Plains of Texas under the typical conditions of partially irrigated farming and partial dryland farming, the results are remarkably different. On 640 acres, the net income for the same period of time was $79. A dryland wheat farmer in Nebraska last year would actually have a negative net income on 640 acres. Although I understand that these three situations are not strictly comparable, I do think that we need to look at the magnitude of the income provided by the subsidized water in comparison to farms of a comparable size in other areas of the country to gain some perspective on the equity question involved.

It seems to me that the Administration's water policy has been moving toward a system which puts increased emphasis on conservation and under which beneficiaries pay a share of the total cost more commensurate with the benefits received. One way to encourage conservation consistent with this Administration's water policies in other areas of the country, while at the same time to encourage small family farmers, would be to develop a water pricing system in which smaller farmers would pay a lower rate, with higher rates charged to larger operating units.

This pricing system would be in addition to, not in lieu of, the establishment of maximum eligibility acreages, although the reduced income possibilities which would result from the reduced subsidy would have to be considered in the acreage formula. This would permit recovery of some of the massive federal subsidy involved in these projects without endangering the viability of irrigated farming in these areas. I realize that a pricing scheme poses administrative difficulties but these may be justified if a more equitable solution to the subsidy problem can be achieved.

In summary, I would suggest that the proposed regulations be changed to reflect these considerations:

Maximum acreage size for eligibility for Federal project water be determined on a project by project basis, to allow for different soil and growing conditions;

Maximum size would be determined without reference to family size, but rather on the basis of total ownership units, whether composed of a family, an individual, a partnership, or any combination thereof;

Purchasers of excess land must operate the farm and live on or near it to be eligible for reclamation benefits. Leasing should also be limited;

An alternative to the lottery be designed for the distribution of the excess land which takes into account factors such as farming experience and tenancy;

The Department of Interior, in consultation with the Department of Agriculture, looks into the possibility of developing a pricing policy which would recoup some of the massive public subsidy in these projects, while still supporting the primary goal of the Reclamation Act to encourage the establishment of small viable family owned farms.

I appreciate the opportunity to share these comments and hope you will let me know if we can be of any further help.

Sincerely,

BOB BERGLAND.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Director of the Congressional Budget Office to me dated July 13, 1982, as well as letters of support from various public interest groups.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., July 13, 1982.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: In response to the request you made with Senator Richard G. Lugar, the Congressional Budget Office has reviewed your proposed amendments to S. 1867, a bill to amend and supplement the acreage limitation and residency provisions of the federal reclamation law, as amended and supplemented, and for other purposes.

Your proposed amendments to S. 1867, as reported by the Senate Committee on Energy and Natural Resources on April 29, 1982, affect the acreage limitations and full price calculations specified in that bill. Administrative costs associated with your bill are expected to be only slightly more than under S. 1867, and are still expected to be slightly less than under the regulations that were proposed by the Bureau of Reclamation. This is because, as in the reported bill, your proposal increases the acreage limitation, exempts many districts from this limitation, and removes the existing residency requirement.

Receipts to the federal government from the sale of reclamation water would be affected by your amendments as a result of the different acreage limitations and rate calculations specified. However, your amendments will affect only water made available due to new or amended repayment or water service contracts negotiated subsequent to enactment of this legislation. Thus, CBO anticipates that during the next five years, only receipts from the Westlands Water District will be affected by the amendments. (That is, no new water is expected to be made available for delivery during this period, and no other district will need to renegotiate contracts for water currently being delivered.)

Assuming Westlands maintains farm operations on the same area as is currently in production, and the distribution of farm operation size remains constant, CBO estimates that additional receipts to the federal government as a result of enactment of the amended version of S. 1867 would be approximately $33 million per year. If, however, farm operations in this district decrease in size as a result of the higher prices charged for water delivery to acres farmed in excess of the 320 and 960 limitations, additional annual receipts to the federal government would be less. For example, if farm sizes are adjusted so that 50 percent of the acreage currently being farmed in excess of the 960 acre limitation is transferred from large operations to smaller farms, resulting in additional operations in the 320 to 960 category, additional receipts to the federal government would be approximately $24 million per year. If a more drastic shift in farm operation size occurs, and 90 percent of the excess acreage over the 960 limit becomes eligible for the 320 to 960 acre rate, additional receipts to the federal government would be approximately $17 million per year. Because there is no way to predict how much land will be divested by large farm operations, a precise estimate of the additional receipts to the federal government that will result from your proposed amendments cannot be made at this time.

The above estimates are based on a number of assumptions, including: an unrepaid existing construction investment of about $750 per acre; a distribution service price of approximately $5.70 per acre; water delivery of about 2.25 acre-feet of water per acre; a 50-year repayment period; and a 14 percent interest rate. Should you so desire, we would be pleased to provide further details on these assumptions.

Your proposed amendments to S. 1867 contain the same "consent to sue" provision found in the Committee version of the bill. This section would expand the definition of a contract for disputes between the U.S. government and reclamation water districts, and would allow additional evidence to be introduced in litigation concerning such contracts. This provision could affect receipts to the federal government by affecting litigation currently in process regarding the price of water delivered by the Bureau of Reclamation to the Westlands Water District. If this occurs, the additional receipts discussed above might not be realized by the federal government.

Sincerely,

RAYMOND SCHEPPACH,
(For Alice M. Rivlin, Director).

SIERRA CLUB,
Washington, D.C., July 14, 1982.

DEAR SENATOR: Sierra Club opposes the Reclamation Reform Act, S. 1867, as it is now drafted. It legalizes massive subsidies to a few farmers that receive water from reclamation projects. Historically, the 1902 Reclamation Act was designed to create family farms and to settle the western states. The Reclamation Reform Act would not only allow large corporations, but foreign investors for this federal water subsidy.

S. 1867 benefits only the wealthiest 1% of farm operators and has been promoted by large California agribusiness interests. It removes the historic safeguards in Reclamation law that limits the size of the subsidy one individual can receive.

S. 1867 is seriously flawed and completely unacceptable farm policy and environmental policy. Some of your colleagues will be offering amendments today to improve S.

1867 and we solicit your support for several of these amendments.

Senators Proxmire and Lugar will offer an amendment that would significantly lower the acreage limitation from that proposed in S. 1867 but raises it from the present limitation of 160 acres to 960 acres. Their amendments will also provide a formula for real cost recovery from farms over the 960 acre limit.

Senator Moynihan (D-N.Y.) will offer an amendment that will require farmers receiving irrigation water from the Army Corps of Engineers project to pay under the same formula proposed in the Lugar-Proxmire amendment.

Senators Percy and Cohen will introduce an amendment which directs Interior Inspector General to review the recent Bureau of Reclamation audits and make recommendations on how past mismanagement practices by the Bureau can be avoided in the future.

In addition to the two amendments described above, there will be additional attempts to strengthen S. 1867 by amendments from other Senators. We urge you to support any strengthening amendments and ask that you take an active role during the floor debate to help insure this bill will not be voted into law without the interest of the small farmer and the wise use of our farm resources represented.

The amendments proposed represent only an attempt to establish sound government policy toward farm practices. Again we strongly support the above amendments and urge you to do what ever you can to reject S. 1867 as it is now written.

Sincerely,

JIM ELDER,
Washington Representative.

ENVIRONMENTAL POLICY CENTER,
Washington, D.C., June 28, 1982.

DEAR SENATOR: This week, action has been scheduled on S. 1867, a bill to amend reclamation laws governing irrigation from federal projects in the 17 Western states. The proposed legislation is an affront to good government, to sound farm policy, to wise use of resources, and to equity in dispensing subsidies. We urge you to reject this legislation because it throws away the historic safeguards in reclamation law which are designed to limit the size of the subsidy that any one individual can receive.

The Environmental Policy Center supports amendments to S. 1867 which will curtail the subsidy, protect the family farmer, and promote efficient use of water. Specifically, we favor the Lugar-Proxmire amendment to establish a three-tier system which limits the size of the subsidy according to farm size with a limit of 960 acres on land eligible for subsidized water. We support an amendment by Bumpers and Cohen to encourage water conservation, an amendment by Moynihan to check the exemption given to Army Corps projects in California, an amendment by Cohen and Percy to require the Secretary of Interior to respond in writing to the Congress about actions he is or is not taking to comply with recommendations of the Inspector General concerning irrigation projects, and an amendment by Levin to curtail the growing of surplus crops in new Bureau of Reclamation projects.

The Senate Energy and Natural Resources Committee calls this bill a "full cost" pricing bill, yet the Congressional Budget Office (CBO) estimates that a maximum of $10 to $12 million in additional revenue would be produced. In contrast to this meager amount, CBO Director Rivlin testified that "if all (reclamation) contracts could be converted to market prices immediately, this would yield roughly $16 billion." In a program which boasts annual crop production valued at over $7 billion, a bill bringing in only $10 to 12 million is no reform but a giant step backward.

S. 1867 is designed to benefit primarily California operations as the attached chart shows, because 96% of Western farms receiving Bureau water are less than the 640-acre limit now allowed for a family of four. In California the gross crop value per irrigated acre averages about $1,000, which means that farms permitted under S. 1867 to receive subsidized water will have farm incomes over $1 million gross. Such farms stand in marked contrast to better than 80% of U.S. farms whose gross income in less than $50,000 per year.

We hope that you will ask yourself the question: what do farmers in my state gross? Do farmers and taxpayers in your state want large California growers to get subsidized water to enrich themselves further while farmers elsewhere scramble to make ends meet? We urge you to reject S. 1867, for the subsidies it provides will further underwrite inefficient use of water and will not bring into the Treasury the receipts which should accrue from this productive land.

Sincerely,

PETER CARLSON.

JUNE 9, 1982.

DEAR SENATOR: At a time when the Congress and the President are making every effort to pare the budget, it would be completely inconsistent to enact legislation that will give permanent subsidies to large corporations and a few wealthy farm operators who receive water from federal irrigation projects in the West, primarily in the states of California and Arizona. Yet this is what S. 1867, a bill recently reported by the Senate Energy and Natural Resources Committee, would do.

When the Reclamation Act was first passed, the intent of Congress was to spread the benefits of federally subsidized water as widely as practical among family-sized farms. Enforcement of the law has been so carelessly handled, however, that less than three precent of all reclamation farm operators control about one-third of all reclamation land.

Under the provisions of S. 1867 even the wealthiest farm operators will be allowed to receive subsidies worth millions because the acreage limitation would be set at 2080 acres. In California where the gross crop value per acre is about $1,000, a farm this size would gross over $2 million annually. Over 80% of U.S. farmers gross less than $50,000 annually. This is tantamount to proposing a welfare payment to millionaires whose annual income exceeds $2 million.

S. 1867 not only would increase the acreage limitation dramatically, but it would eliminate the requirement that recipients of this subsidized water live on or near the land they farm. It would thus legitimize speculation by foreign owned corporations and domestic absentee investors eager to take advantage of the subsidies. Previous lax enforcement of the law by the Bureau of Reclamation has allowed European corporations and investors, a company in the Netherlands Antilles, a Japanese investment conglomerate, and other non-farm investors to qualify for reclamation subsidies intended for America's family farmers.

By permitting virtually unlimited access to subsidized water and by encouraging absentee farmland ownership, the bill not only violates the intent of reclamation law, but violates the intent of Congress contained in the 1981 Farm Bill. The Agriculture and Food Act of 1981 states, "The express intent of Congress that no (agricultural or agricultural-related) program be administered in a manner that will place the family farm operation at an unfair economic disadvantage."

S. 1867 proposes to charge the operators of the federally irrigated land "full cost" for water they use on any land they farm over 1280 acres. But because of numerous loopholes, options, and exemptions in the bill, few, if any, large land owners would be affected by the provision. "Full cost," moreover, turns out to be only a fraction of the actual cost of supplying water. The taxpayers will pick up the tab for the rest of the cost.

The Senate bill is silent on the need to promote conservation and wise use of the nation's water resources, particularly in the arid West. During 1980, the Reclamation program delivered nearly 10 trillion gallons of water. Federal Reclamation policies should encourage proper stewardship and conservation of this precious resource.

The bill does not deal fairly with all the users of federal irrigation water, it transfers money from taxpayers to a few wealthy individuals and corporations, and it ignores the necessity for preserving the efficient family farm. We urge you to support amendments which will be offered to equitably distribute Reclamation benefits and to foster family scale agriculture.

Len Rippa, Director, Congressional Affairs, National Taxpayers Union; Paul Kittlaus, Acting Chair, Interreligious Task Force on US Food Policy; Jim Elder, Washington Representative, Sierra Club; Art Simon, Executive Director, Bread For The World; Jim Miller, Assistant Legislative Director, National Grange; Brent Blackwelder Washington Representative, Environmental Policy Center; Gerg Cusack; Executive Director, National Catholic Rural Life Conference.

NATIONAL TAXPAYERS UNION
Washington, D.C., June 28, 1982.

DEAR SENATOR: I am writing to you in regard to S. 1867, the Reclamation Reform Act. This legislation if enacted in its present form, would give permanent subsidies to large corporations and a few wealthy farm operators in the form of water from federal irrigation projects in the West. The legislation would eliminate the historic safeguards in reclamation law that were designed to limit the size of the subsidy that any one individual can receive, which was intended to preserve the family farm.

Under the provisions of S. 1867, the very well-to-do farm operations primarily in the states of California and Arizona, would be allowed to receive subsidies worth millions because the acreage limitation in the Senate Energy and Natural Resources Committee reported bill would be set at 2080 acres. This is interest free, subsidized irrigation water. In California where the gross crop value per acre is over $1,000, a farm this size would gross over $2 million annually.

We are in support of the Lugar-Proxmire amendment which would provide for a sliding scale formula which limits full interest subsidy for farms under 960 acres and which would require the repayment of the full cost

of construction plus interest for their share of the project for farms over 960 acres.

We are concerned that the interest rate formula used in S. 1867 for determining the cost of borrowing to the Federal government for the building and operating of these federal water projects does not reflect the real cost of money to the Treasury. We favor instead the formula that has been developed by Lugar-Proxmire which would set rates to reflect current costs of borrowing by the Treasury.

Although portrayed by the Senate Energy Committee as a full-cost pricing bill, the Congressional Budget Office reported that at best the bill would bring an additional $10 to $12 million into the Treasury annually. CBO noted, however, that this was optimistic because there are numerous exemptions in S. 1867, and thus the legislation could end up costing the government money.

The National Taxpayers Union believes that something far more substantial is called for in the way of cost recovery from reclamation. The Bureau of Reclamation boasts that $7 billion worth of crops are produced annually from reclamation project lands. However, OMB estimates that irrigators are repaying less than $120 million. This is a serious shortfall. CBO estimates that taxpayers will spend $3.8 billion on irrigation projects of the Bureau over the next five years but only $275 million will be repaid. CBO suggests conversion to market prices for new and amended contracts would yield $1 billion. Conversion of all Bureau contracts to proceed with a bill that pretends to be full-cost but which only brings $10 to $12 million return to the Treasury on an investment of billions is not good from the standpoint of the taxpayer.

Accordingly, the National Taxpayers Union is supportive of amendments, especially the Lugar-Proxmire amendment, to curtail the subsidies provided by S. 1867.

Sincerely,

LEN RIPPA,
Director of Congressional Affairs.

INTERRELIGIOUS TASK FORCE
ON U.S. FOOD POLICY,
Washington, D.C., June 28, 1982.

DEAR SENATOR: We urge you to vote against S. 1867, the "Reclamation Reform Act of 1982," scheduled for debate this week. S. 1867 fails on at least two counts to meet the test for good public policy in the 1980s: It is unfair and it creates entitlements to open-ended subsidies for a small special interest group.

S. 1867 would:

Reverse the family farm orientation of current reclamation law, encouraging the consolidation of farm operations;

Invite speculative investment in farmland and encourage absentee ownership of farm operations; and

Provide unlimited access to taxpayer-subsidized irrigation water to several hundred of the nation's largest and most prosperous farm operations.

It is unconscionable that, in a time of depression in the farm community nationwide, the Senate would seriously consider bailing out the wealthiest section of California/Arizona agriculture which for years has circumvented the requirements of federal law while benefitting handsomely from federal largess. Such action would do more than snub America's family farmers; it would encourage and subsidize their competition. It would also violate the express intent of Congress contained in the 1981 farm bill that "no agricultural-related program be administered in a manner that will place the family farm operation at an unfair economic disadvantage."

S 1867 would also injure the 97 percent of all reclamation farm operators who are in basic compliance with current law in order to aid a small but powerful minority—the remaining 3 percent who control nearly a third of all reclamation land. The family farm pattern prevalent in most reclamation areas in the West would be threatened by consolidation and by nonfarm investment.

The implications of S 1867 extend beyond the farm community. Both the taxpayer and the consumer would pay for its munificence. While the bill proposes to charge "full cost" for water delivered in excess of 2,080 acres per farm operator per district, numerous loopholes and exemptions in the legislation guarantee that few, if any, large landowners would be affected. The definition of "full cost," moreover, contains sizeable interest and operation subsidies which would *never* be recalculated once enacted. Thus, the taxpayer would continue to foot the bill. Furthermore, by removing all the family farm "anti-trust" provisions of current law, the bill would actively promote economic concentration and higher consumer food costs.

No single or several amendments can undo the damage which would be done by the bill as reported. A number of amendments which will be offered, however, would modestly improve this measure and should be supported. In particular, an amendment sponsored by Senators William Proxmire and Richard Lugar would improve the "full cost" formula and lower the acreage level at which it applies. Senator Patrick Moynihan's amendment would eliminate a blanket exemption from law which S 1867 would grant to California's Kings River/Tulare Lake area. (A May 1982 Ninth Circuit US Court of Appeals decision held that this area benefits from a federal subsidy and that the legislative history clearly shows that Congress intended reclamation law to apply.) An amendment to restrict the growing of surplus crops in reclamation areas will be offered by Senator Carl Levin.

As of this date, however, no announced amendments would limit access to water per farm operation, close loopholes which allow landowners to make "paper sale" transfers of land while retaining effective control, or restrict absentee ownership. Thus, while the amendments named above are clearly supportable in their own right, they would not change the basic thrust of the bill. Therefore, we urge a "no" vote on final passage.

Sincerely,

PAUL KITTLAUS,
Acting Chair.

Mr. PROXMIRE. Mr. President, I thank my good friend and yield the floor.

Mr. RIEGLE. Mr. President, will the Senator from Indiana yield to the Senator from Michigan?

Mr. LUGAR. How much time will the Senator require?

Mr. RIEGLE. Two and a half minutes.

Mr. LUGAR. I am happy to yield 3 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. I thank the Senator.

Mr. President, I want to commend my colleagues from Wisconsin and Indiana for their amendment to S. 1867. At a time when family farmers in Michigan and the rest of the Midwest are struggling to make ends meet, the Federal Government should not provide huge subsidies to corporate farmers and large-scale lessors of Western farmlands.

The amendment's sponsors recognize the economic benefits produced by the reclamation program to Western producers. Nevertheless, there is no reason for the rest of the Nation's producers, who receive little or no reclamation subsidies, to provide unlimited support to farm operations that can and should pay a larger share of the cost of providing irrigation.

This amendment places no limit on the amount of land that may be owned. It does, however, place an adequate cap on the amount of land eligible for the repayment of interest, which requires the largest landholders to pay the greatest share of the interest on the costs allocated to the construction of new irrigation facilities. Finally, the Lugar-Proxmire amendment would prevent the owners of multiple tracts from receiving multiple subsidies by expressly prohibiting them from double-dipping into the pockets of taxpayers at the expense of family farmers throughout the country.

In short, this amendment seeks to restore equity and fairness to the reclamation program. It encourages increased productivity while eliminating the giveaway provisions which have characterized past reclamation efforts. I urge the Senate to adopt this amendment.

I thank the Senator for yielding.

The PRESIDING OFFICER (Mr. SYMMS). Who yields time?

Mr. WALLOP. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. I begin by expressing my regret that arguments have been delivered so far on this rather inflammatory kind of assault on western farmers, using the word "corporation" as though there were some big abuse. There are some big corporations involved in farming in the West, most of which, are under recordable contracts to get rid of them, the rest of which are family corporations of less than 10 people—a "big threat" in this world of corporate farming—and I hope we might get down to the issue and not get down to name calling and class distinction—"subsidizing" the rich western farmers.

I would like the Senator from Wisconsin to see some of the "rich" western farmers that I represent who get their water from reclamation projects. Many receive allotments and many

earn practically nothing, but stay where they are because farming is a way of life.

I rise in opposition to the amendment. The principal reason is that it appears to establish a sort of unconstitutional class distinction between farmers who own or who farm their own land and farmers who farm leased land. If we are going to get inflammatory language about class distinctions, that one is the most unfair of all. It does this by providing as to districts which do not enter into contract, water delivered to leased land is to be priced one way, and water delivered to owned land is to be priced a different and less costly way.

The amendment further appears to violate the contractual rights of landowners who have placed their land under recordable contract, and leased their land to others.

For instance, the Southern Pacific Co., which has about 80,000 acres of land under recordable contract, which it leases to family farmers, under the provisions of this amendment the water delivered to that land, that leased land, will be much more expensive by a factor of some 500 percent than it would be if Southern Pacific farmed the land itself. What kind of a good neighbor program is that to family farming?

Recordable contracts provide that farmers are eligible to receive water as a contract right, and Congress cannot abrogate rights under existing contracts.

There is a letter which I ask unanimous consent be printed in the RECORD at this point from the GAO to former Senator Gaylord Nelson.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., August 20, 1976.

Hon. GAYLORD NELSON,
Chairman, Committee on Small Business, U.S. Senate.

DEAR MR. CHAIRMAN: This is in further reference to your letter co-signed by Senator Haskell, Acting Chairman for the Westlands Hearings, regarding the Central Valley Project (CVP) and the Westlands, California, Water District (Westlands). This report concerns legal issues raised in your request. We reported on April 9, 1976, regarding the subsidy applicable to Westlands (RED 76-98), and again on June 3, 1976, "Appraisal Procedures and Solutions to Problems Involving the 160-Acre Limitation Provision of Reclamation Law" (RED 76-119) regarding certain of the questions submitted to us. This letter will respond to the remaining questions you asked us.

Beginning with the Act of June 17, 1902, 32 Stat. 388, ch. 1093, a number of laws have been enacted relating to the reclamation of lands. That Act, together with acts amendatory thereof or supplementary thereto, constitute for the purposes of your inquiry the body of Federal Reclamation Law, 43 U.S.C. § 485a(a).

Pursuant to these provisions, the water service contract dated June 5, 1963, between the United States and Westlands was entered into for a period of 40 years with a provision for renewals for successive periods not to exceed 40 years each, under terms and conditions mutually agreeable to the contracting parties. Article 3(f) of the contract provides that the right to the beneficial use of water furnished to Westlands pursuant to the terms of the contract and any renewal thereof shall not be disturbed so long as the Westlands fulfills all of its obligations under the contract and any renewals.

You ask us:

"To study the question of which rights are vested in the landowners in the district with respect to the Westlands contract. In particular, we would like to know if the rate charged for water in the water service parts of the contract are subject to change either by the Secretary of the Interior, or by Congessional action. We would also like to know if there are any means by which Congress could recover some portion of the subsidy resulting from foregone interest."

Article 6(a) of the 1963 water service contract provides for a charge for water provided under that contract which will not exceed $7.50 per acre-foot. For calendar year 1976, there are also in effect three temporary contracts, each dated November 26, 1975, between the United States and Westlands. The principal contract is for agricultural water from the San Luis Unit and provides for a charge of $7.50 per acre-foot. A second contract is for agricultural water from the Mendota Pool for which there is a charge of $3.50 per acre-foot, and the third contract is for municipal and industrial (M&I) water at $17 per acre-foot.

An amendatory contract has been proposed to replace the 1963 contract, and the 1965 water distribution and drainage collector system contract as well as any temporary contracts in effect. Since the proposed contract calls for construction of a distribution system and drainage, the contract was laid before the Congress on March 28, 1975, as required by section 8 of the so-called San Luis Act of June 3, 1960. Pub. L. No. 86-488, 74 Stat. 156. However, it has not yet been signed on behalf of the Secretary of the Interior and thus is not now in effect. The proposed contract provides for a $7.50 per acre-foot charge for agricultural water from the San Luis Unit, and a $3.50 per acre-foot charge for agricultural water from the Mendota Pool. For M&I water from the San Luis Unit there would be a $25 per acre-foot charge and for M&I water delivered from the Delta-Mendota Canal, $12.50 per acre-foot.

In response to a request addressed to the Secretary of the Interior for comments on the issues you raised, Mr. Gilbert G. Stamm, Commissioner of Reclamation, made the following statements regarding changes in the water rates:

"We are of the opinion that the charge for water when established and included in a valid binding contract between the United States and a water district is not subject to unilateral change either by the Secretary of the Interior or by congressional action. The fifth amendment to the Constitution of the United States provides that no person shall be deprived of property without due process of law, nor shall private property be taken for public use without just compensation. Contract rights against the United States are protected by this clause.

"As to the question of whether there is any means by which the Government, through congressional action, could recover some cost of the subsidy to landowners resulting from foregone interest, we do not believe that the law can be changed or amended retroactively so as to change the repayment provisions of existing contracts, but it could be revised so as to apply to future contracts."

Under 43 U.S.C. § 489h, without the necessity of congressional approval or assent, the Secretary has the authority to enter into long-term or short-term contracts to furnish water for irrigation purposes at rates, which in his judgment, will produce revenues at least sufficient to cover an appropriate share of annual operation and maintenance and fixed charges, as he deems proper, due consideration being given to that part of the cost of construction of works connected with water supply and allocated to irrigation. He is authorized to perform all necessary acts pertaining thereto.

Once the Secretary has properly entered into water service contracts (as with Westlands) which do not provide for a unilateral change in rates, they may not be increased either retroactively or prospectively without the agreement of both parties to the contract, i.e., Westlands and the Secretary. To this extent, the landowners in Westlands may be regarded as having a "vested" interest in the rates specified in the water service contracts, since neither past nor future rates may be changed without the consent of Westlands. Of course, all landowners in the Westlands Water District are subject to otherwise proper agreements (including amendment of the water rates) approved by vote of a majority of the voting interests.

In view of the foregoing, it is our opinion that water rates charged in applicable contracts may not be changed unilaterally. Therefore, the United States could not unilaterally amend the contract to increase the water rates in order to recover all or any part of the interest subsidy which was the subject of our April 9, 1976, report, B-169128, to you, nor are we aware of any other unilateral method by which the United States might recover such subsidy from landowners in Westlands.

You next ask:

"Is it legal for the Bureau to allow only the seller to contest the approved sale price?"

You also request our views on the legality of the Bureau's practice of appraising project land after the construction therefore is under way.

In order to receive project water for more than 160 acres owned, the landowner must agree to sell such excess acreage within the time set forth by the Secretary and agreed to in an appropriate contract. The owner is entitled to receive no more than the appraised price of the land without reference to project benefits, 43 U.S.C. § 423e. Under that section and Article 24 of the water service contract of June 5, 1963, excess land is to be appraised in a manner prescribed by the Secretary. At the option of the landowner, the Secretary had provided that the land may be appraised by three appraisers, one designated by Westlands, one by the Secretary, and the third by the two appraisers. The land may be reappraised at the instance of the United States or at the request of the landowner. (Similar provisions appear in the 1976 temporary agricultural water service contracts and in the proposed amendatory contract.) The Secretary has not provided, however, for either a contract provision or an established administrative procedure for a reappraisal at the request of a purchaser. Since the applicable statutory

provisions give the Secretary broad authority regarding the manner of appraisal, it does not appear that the failure to provide for the purchaser's contest of the approved sales price is a breach by the Secretary of his statutory duty.

However, since the seller and purchaser may agree, in effect, to sell and buy the land at a price to be established by the Secretary, it would seem equitable for the purchaser to be able to protest the Secretary's appraisal on a basis similar to that afforded to the seller. That is, it may be desirable to provide the purchaser with the legal authority and opportunity to challenge the determination of such appraisal on the basis, for example, that the Bureau has not properly considered all factors in evaluating the property. However, as indicated above, we cannot say that the failure of the Bureau to provide the purchaser with an opportunity to contest the approved sale price constitutes a violation of any law of which we are aware.

With respect to the legality of Bureau appraisals of excess land after a project is under way, 43 U.S.C. § 423e calls for an appraisal of the excess land:

"* * * on the basis of its actual bona fide value at the date of appraisal without reference to the *proposed* construction of the irrigation works * * *" (Emphasis added.)

This provision was enacted as section 46 of the so-called Omnibus Adjustment Act, of May 25, 1926, ch. 383, 44 Stat. 636, 43 U.S.C. § 423e. In explaining his amendment to the bill being considered, H.R. 10429 the derivative source of that Act, which was adopted as a new section 46, the Honorable Louis C. Cramton, House of Representatives, stated that:

"Section 46 deals with construction charges and other matters affecting all new projects hereafter built, in the same language as the Senate and House have recently approved in the Interior Department (appropriation) bill in connection with the Owyhee, Vale, Baker, and Sun River projects, except to omit the mandatory construction sentence." (67 Cong. Rec. 8545)

In regard to the provision of the appropriation bill referred to by Mr. Cramton, enacted as the Act of March 3, 1925, ch. 462, 43 Stat. 1141, Mr. Cramton when he introduced the subject provision as an amendment to the appropriation bill explained that:

"* * * there must be an appraisal of the land before we entered on construction. They must agree to an appraisal without reference to the construction work, and thereafter the sale price of the land should be subject to approval by the Secretary of the Interior." (66 Cong. Rec. 5043). (Emphasis supplied.)

We understand that for a period of time after the passage of the Omnibus Adjustment Act, appraisals of the value of excess land were made before the commencement of reclamation projects. Under this procedure, the value of the property in question was established without regard to project benefits. After approval of the sale price based on that appraisal, such sale would be consummated within a relatively short time thereafter. However, since then the Secretary in the contracts provided for by 43 U.S.C. § 423e has extended the period during which the excess landowner could sell his property (to 10 years in the Central Valley Project). Therefore, the Bureau considered it necessary to have an appraisal at the time of sale. For administrative reasons, the pre-project appraisal is normally foregone and an appraisal is now ordinarily conducted only upon submission for approval of a contract of sale to a non-excess owner, often many years after the start of the project. Mr. Stamm stated in his letter to us that there was no appraisal of excess land within Westlands prior to the beginning of construction of that project's facilities.

The wording of the provision in question stating that the appraisal would be without reference to the "proposed" construction, together with the above-quoted indication in the legislative history that the appraisal would be conducted before project construction, leads us to believe that in enacting section 46 the Congress anticipated that excess lands in reclamation projects would be appraised prior to the construction of such projects to determine their value without reference to the project. However, the failure to make appraisals prior to construction need not necessarily result in an improper appraisal. Appraisals conducted years after the commencement of a project may still be based on the value of the excess land without regard to project benefits.

Consequently, in view of long continued administrative practice and the changed circumstances referred to above, we do not believe that the failure to conduct appraisals prior to construction affords a substantial basis for objection to bureau price approvals.

You also ask questions about the land sale conditions. You state:

"The Bureau has approved sales in which large minimum acreages are sold as units to groups of purchases through a variety of arrangements, such as trusts, partnerships, and tenancies-in-common. We would like your independent legal opinion on whether:

"(1) The sale of land in large minimum acreages is consistent with the acreage limitation provisions of the law.

"(2) Bureau-approved group sale practices are consistent with the acreage limitation provisions.

Section 5 of the Reclamation Act of 1902, the act of June 17, 1902, ch. 1097 32 Stat. 386, as amended, provides for the use of project water for privately owned lands not in excess of 160 acres, and section 46 of the Omnibus Adjustment Act contains a similar provision.

Regarding the 1902 Act, H. Rept. No. 1468, 57th Cong., 1st Sess. 5 (1902) stated as follows:

"No measure relating to the settlement and development of the public lands has ever been so carefully guarded in the interest of the home maker and against the designs of the speculative entryman."

The Honorable Francis G. Newlands, House of Representatives, who introduced the bill which became the Reclamation Act of 1902, remarked that (35 Cong. Rec. 6734 (1902)):

* * * the very purpose of this bill is to guard against land monopoly and to hold this land in small tracts for the people of the entire country, to give to each man only the amount of land that will be necessary for the support of a family * * *."

In this regard, the Honorable Eben W. Martin, House of Representatives, stated (35 Cong. Rec. 6758 (1902)) that:

"The bill is drawn exclusively for the protection of the settler and actual home builder, and every possible safeguard is made against speculative ownership and the concentration of the lands or water privileges into large holdings * * *."

The Supreme Court in *Ivanhoe Irrig. Dist.* v. *McCraken*, 357 U.S. 275, 292 (1958 stated as follows:

"From the beginning of the Federal reclamation program in 1902, the policy as declared by the Congress has been one requiring that the benefits therefrom be made available to the largest number of people, consistent, of course, with the public good. This policy has been accomplished by limiting the quantity of land in a single ownership to which project water might be supplied * * *."

At page 297, the Court added:

"As to the claim of discrimination in the 160-acre limitation, we believe that it overlooks the purpose for which the project was designed. The project was designed to benefit people, not land. It is a reasonable classification to limit the amount of project water available to each individual in order that benefits may be distributed in accordance with the greatest good to the greatest number of individuals. The limitation insures that this enormous expenditure will not go in disproportionate share to a few individuals with large land holdings. Moreover, it prevents the use of the federal reclamation service for speculative purposes."

It thus appears that it was contemplated that the goal of making the benefits of reclamation projects available to the greatest number of people was to be achieved by the establishment of the greatest number of farms of a size (i.e., 160 acres) that would support a family. The Bureau has interpreted the limitation to permit a husband and wife to jointly own 320 acres (in a community property state 320 acres could be held in one spouse's name). In this regard we might point out that the Congress in enacting the Act of September 2, 1960, 74 Stat. 732 (43 U.S.C. § 423e (1970)) provided that where the death of a husband or a wife causes land to become excess, it would continue to be eligible to receive project water without the necessity of a recordable contract (i.e., its disposal within the prescribed period) unless the spouse remarries.

However, in addition to these sales, the Bureau currently also approves sales of excess land to groups of individuals where no purchaser's interest is in excess of 160 acres, and each purchaser has the right to partition and alienate his or her interest.

With regard to Bureau-approved sales in which large minimum acreage is sold to groups of purchasers the Commissioner of Reclamation states as follows:

"In each instance where the Bureau has approved sales of more than 160 acres of land to a group of individuals in arrangements such as partnerships, tenancies-in-common, and trusts, the arrangements have been very carefully scrutinized to assure that no purchaser was receiving an interest in more than 160 acres of land and that each participant in the arrangement had the absolute right to sell and alienate his interest and to partition it out of the arrangement. The Bureau has not knowingly or willfully approved any sales that violate Bureau standards for multiple ownerships, nor are we aware of any such violations. Prior to a Solicitor's opinion in 1965 requiring a present partitionable possessory interest in partnership land as a condition to an ownership arrangement of more than 160 acres, there were a few limited partnerships approved without inclusion of these rights. It was administratively determined that such arrangements would not be affected unless there was a change in the partnership, at which time the right to partition and alienate would be required. Although the practice of approving multiple-ownership arrangements with certain well-defined

limitations is consistent with the purposes of the 160-acre limitation, it has been even further restricted in recent cases."

It has been alleged that these groups are mechanisms by which many nonfarmers, acting as investors or speculators, seek to profit from the ownership of land whose value is substantially enhanced by project benefits. It is also alleged that these sales result in a number of large farms in which a few, large operations control the operations of extensive amounts of acreage. Also, these arrangements are said to have an adverse effect on potential family farmers since a large purchasing group often is willing to purchase equipment and improvements which may not be suitable for a small farm, resulting in reluctance on the part of excess landowners to sell to persons who wish to buy no more than 160 acres of land.

We cannot, as a matter of law, state that the Bureau's policy of sanctioning sales to multiple ownership arrangements, with appropriate safeguards as to maximum acreage limits and the right to partition or alienate each individual interest, violates the relevant statutory provision. However, it would be equally permissible under the broadly worded statutory language, to promulgate regulations limiting sales of excess lands to persons operating individual family farms should the Bureau decide to change its policy in the future with respect to excess landowners with whom it did not have a contract at the time the old policy was in effect. Those persons who have already entered into agreements with the Bureau have a contractual right to rely on the limitations—or lack of them—which were in effect at the time they entered into their agreements and the Bureau may not unilaterally alter or restrict, for policy reasons, the class of persons to whom those landowners may sell their lands. Consequently, the owner is presently free to sell his land in large minimum acreages to a group as long as no individual member of the group has an interest in excess of 160 acres.

In this regard we call your attention to section 33(a) of the proposed amendatory contract to the 1962 water service contract (as well as similar provisions in the 1976 temporary agricultural water service contracts) which provides, in pertinent part as follows:

"As used herein the term 'excess land' means that part of the irrigable land in excess of 160 acres held within the District in the beneficial ownership of any single person, whether a natural person, a corporation, or the beneficiary of a trust approved by the Contracting Officer. With respect to land held in coownership, such as tenancy in common, joint tenancy, or community property, the beneficial ownership of each coowner shall be that fraction of the total acreage held in coownership which equals the coowner's fractional interest therein."

According to the Bureau, this Article is intended to explain its policy of recognizing the holder of an undivided interest as a nonexcess landowner, based on a determination of his fractional interest, and the right to partition and alienate his interest. The effect of including a provision incorporating this view in applicable contracts would be that of "vesting" in those excess owners who might sign a recordable contract subject to this provision the contractural right to sell to any prospective purchaser who meets such criteria. That is, the incorporation of this provision in any new basic water services contract will more deeply entrench the Bureau's current policy of approving sales to multiple owner arrangements.

Accordingly, since the effect of this provision may be to discourage the development of family farms, we feel the Secretary of the Interior should carefully reconsider this provision before including it in any future temporary contracts or in the final version of the amendatory contract. A substitute provision could provide, for example, that the Secretary, in his discretion, may refuse to approve large minimum acreage sales to multiple ownership arrangements when he determines that individual family farmers are ready, willing and able to purchase the lands involved. This or any other substitute provision would, of course, only be effective with respect to those landowners signing recordable contracts subject thereto.

You also ask us to evaluate the practicality of three proposed solutions to the perceived problem:

"(1) Reinstituting the residency requirement.

"(2) Establishing a commission to assure that family farmers are given priority in the purchase of excess land.

(3) Establishing a system for purchase of the excess land by the government for resale to family farmers."

Beginning on page 20 of our report of June 3, 1976 supra, we commented on the practicality of these three proposed solutions. We indicated that the effectiveness of any solution to the problems in Westlands would be reduced if such solutions could not be made mandatory for the excess lands whose terms of sale are already provided for in existing recordable contracts. We promised to address this issue in this letter.

As we stated with respect to sales to multiple ownership arrangements, it is our view that an excess landowner who has signed a recordable contract has the right to approval of a sale to a 160-acre purchaser, or to a husband and wife for a total of 320 acres, without further additions to the basic requirements set forth in the subject recordable contract and the water service contracts incorporated by reference therein. This would include such additional requirements as a requirement that an otherwise eligible purchaser must (subject to the qualifications discussed below) reside in the area of the farm.

Accordingly, action by the Secretary or by the Congress to abridge a landowner's right under the relevant contracts would appear to involve Fifth Amendment and/or breach of contract considerations. We are, however, unable to estimate the amount of damages, if any, to which an individual landowner might be entitled if the United States were to place unilaterally any further restrictions on his right to sell his land. The damages would be contained, of course, by the fact that in no event is the landowner entitled to receive more than the appraised value of the land.

In this regard the Secretary may not decide for policy reasons that it will only approve sales to those residing on or in the neighborhood of the land, without breaching its contractual obligations. However, as you are aware, section 5 of the Reclamation Act of 1902, 43 U.S.C. § 431 (1970), provided that the purchaser of land be "* * * an actual bona fide resident of such land, or occupant thereof residing in the neighborhood of said land. * * *" It is the current view of the Bureau that the residency requirement of that section is not applicable, inasmuch as it was not restated in the Omnibus Adjustment Act, supra, and was therefore, in effect, repealed.

This interpretation is currently being litigated. As we indicated to you in our last report, the applicability of the residency requirement imposed by that section was upheld in *Yellen* v. *Hickel*, 352 F. Supp. 1300 (S.C. Cal. 1972). That decision is now being appealed in the Ninth Circuit Court of Appeals (Docket No. 73-1388). Until the matter is fully resolved in the courts, it is not clear what effect a ruling upholding the applicability of section 5 will have on existing contracts.

The second and third portions of your question ask, in effect, whether it would be desirable to enact legislation to establish a commission to assure that family farmers would be given priority in the purchase of excess land or to establish a system for purchase of the excess land by the Government for resale to family farmers.

For the reasons discussed above, such a commission could not make mandatory the proposed priority with respect to excess landowners already having contracts with the Government which do not include such a provision. Therefore, the utility of establishing the commission at this time is doubtful. The second proposal—that the Government itself purchase excess acreage from the landowners—presumably under the same appraised value limitation applicable to sales to others, with the intention of reselling to individual family farmers, appears to be a useful alternative. However, there could be no requirement that excess landowners with existing contracts sell only to the Government.

We trust that the above is responsive to your request.

Sincerely yours,

ELMER B. STAATS.

Mr. WALLOP. Without regard to the problems the Lugar amendment might cause for the large landowners, it will work a real, genuine hardship on thousands of small farmers who lease.

According to the environmental impact statement, there were about 2.3 million acres of leased land in farms under 960 acres.

Mr. McCLURE. Mr. President, will the Senator yield for one question, because I think most of us familiar with the reclamation program might well understand the term "recordable contract" as it would apply to the Southern Pacific holdings, but I think maybe many people listening would not understand that it means Southern Pacific has already signed a contract to sell their land.

Mr. WALLOP. That is correct.

Mr. McCLURE. So they will be transferred from large ownership to small family farm ownerships.

Mr. WALLOP. In the meantime, it provides a living for those small farmers who lease those lands.

Mr. McCLURE. But they are already under operation of an agreement to sell it and break up the tract.

Mr. WALLOP. Yes. If it is binding on them, they will be breaking up the other major corporations that have this recordable feature.

I thank the Senator from Idaho for those observations.

I would again state that according to the environmental impact statement there are about 2.3 million acres of leased land in farms under 960 acres, in other words, small farms. Mr. President, among the 18 districts that were studied in detail in that EIS, there were 14,361 acres of land leased in Black Canyon that alone would be affected by the Lugar amendment. This is about 158 farms.

In the east district of the Columbia Basin, there are about 200 farms with 41,000 acres that are eligible. That means about 33 percent of the farms in the Black Canyon district contain some leased land, and about 40 percent of the farms in the east district had leased land. Similar figures would be displayed in other districts throughout the reclamation area.

The effect of the Lugar amendment, therefore, is pervasive.

It must also be remembered that the present "ability-to-pay" contracts are based on a district-wide formula, and it appears on the surface that the Lugar amendment would require a determination of each individual recipient's ability to pay, rather than a determination of the ability to pay in the district. Thus, in effect, you would be subsidizing and encouraging bad farming rather than good farming. The good farmer would obviously have a greater ability to pay because he is a better operator than the bad farmer. As a result, this country would get into the bizarre habit of subsidizing those who are less than competent.

The Reclamation Project Act of 1939, specifically section 9(d), which covers repayment contracts, provides that the annual payments required under the contracts are to be determined in light of economic factors pertinent to the ability of the organization to pay, and not the individual farmer.

If a 320-acre farmer were to come under the leasing subsection of the Lugar amendment, and attempted to make a new determination, which he would certainly have to do, it is almost certain that the new ability to pay would be higher than the old one based on an individual determination. This would not be true in all cases, but it most certainly would be in some, due to the change in cropping patterns and market conditions which are beyond the control of anyone who seeks to put a seed in the field.

This amendment would also subject farmers to an automatic revision of their contract rights every 4 years, whereas, under existing contracts, they are locked in for the duration of that contract. Here, leased lands would have their water rights adjusted every 4 years, whereas the owned lands would not. This is another aspect which I would judge to be very close to unconstitutional.

Still another problem with the amendment is that leasing is the way in which most young farmers get into agriculture. To impose a discriminatory burden upon those who lease will be harmful to people trying to break into farming, trying to break into agriculture.

Furthermore, it appears that the Lugar amendment would permit large landowners to continue to own all their land and lease it out to someone else, contrary to the provisions of our bill.

Section 4(a) states that water can be delivered to a qualified recipient so long as the water is not used to irrigate more than 960 acres of the land which is owned by such qualified recipients.

A farmer could continue to own his land and lease to tenants who could be qualified recipients. This problem is created because the Lugar amendment does not use the defined term of landholding in creating an acreage cap, which is the way S. 1867 deals with the problem.

Furthermore, section 4(b) repeatedly uses the phrase "irrigated acreage" in regard to land held by a recipient. In the context of the Lugar amendment "held by a recipient" must mean held as an owner.

Senator LUGAR says that prorating is used in determining the extent of ownership. Under S. 1867, however, we require that prorating determine the extent of landholding, which includes both owned and leased land.

The result is that farmer A can continue to own unlimited acreage so long as he leases it to farmer B who could receive irrigation water.

In summary, the amendment is unwise based on both substantive and technical points, and I urge the Senate to oppose it.

Let me go through some of the arguments that have been specifically made during the course of the debate by the Senator from Indiana and the Senator from Wisconsin. It has been suggested that S. 1867 will be detrimental to consumers. I fail to see how this can take place, given the fact of transportation and its cost, given the agricultural product and the efficiency of the product, given the distribution of farm products and where they are raised in this country.

Now, let us take an example under section 4(c) where we are dealing with this differential and the pricing formula. I think I can make a case as to the unfairness of this concept that can be clearly understood by those who may be listening in their offices.

The scheme creates an unreasonable, and, as I stated earlier, potentially unconstitutional distinction between those who own and those who lease the same amount of land within the same district.

Let us have farmer A and farmer B who live in the same irrigation district. It is a district which does not need or seek a new or amended repayment or water service contract. Under section 4(b) of the Lugar-Proxmire amendment, it would, therefore, not apply to those who do not seek a new or amended contract.

Farmer A owns 600 acres of land. Under section 4(a) he is entitled to receive subsidized water on the entire 600 acres, regardless of the ability to pay, since he is below the ownership cap in section 4(a) of 960 acres.

Farmer B, however, only owns 80 acres but he farms an additional 520 acres under lease. Farmer B would receive subsidized water on his 80 acres which he owns pursuant to section 4(a) of the amendment, but he would have to pay, pursuant to section 4(c), an additional cost for irrigation on the 200 acres of leased land above the 320-acre limit if he had the ability to pay.

So, we have farmer A and farmer B with the same size operation, in the same district, under the same conditions. But, they will end up paying substantially different prices for their water. While this is clearly an undesirable result, the fact that it is a distinction, which is not rationally based, may make it unconstitutional as well.

Now, the Senator from Wisconsin and the Senator from Indiana said that the Federal budget tilts in the direction of these areas. I would just like to pose a question to those who might be inclined to accept that statement at face value. What kind of tilting is there when this is the only project, among the public works projects that the Federal Government engages itself in, that seeks to pay back at all?

What kind of payback are we going to get on this subway system out here which has consumed more Federal dollars than have all the reclamation projects in this country since the 1930's? What other project seeks any payback at all?

The payback is not only to the Government by the farmers, the payback is to the communities, the economy of this country, whose citizens buy the things that are made in Wisconsin. Automobiles are made up there, are they not? Tractors are made up there, are they not? Do you want those goods to stay east of the Mississippi?

What you will end up doing will simply make it impossible for people to farm these reclamation projects. A result perhaps not anticipated, perhaps not contemplated by the proposers of this amendment, but certain to take place.

The Senator from Indiana suggests we should use the marketplace to determine interest rates. The bill, S. 1867, uses this marketplace. It is a long-term project. Farming is a long-term project in which you mortgage

yourself to buy the farm, and long-term interest rates are what is contained in S. 1867. That is the marketplace. And I do not know anyone in agriculture who does any of this financial planning on the basis of short-term interest, other than for a crop year.

If the interest rate is going to be sliding up and down then advantages take place. I do not believe that anybody is going to be able to persuade any bank to loan money under these conditions. Thus, a farmer under the proposed program will not be able to borrow enough money simply to buy the tractors, the drills, the discs, the plows, the reepers, that would be necessary to enable him to farm.

Now the Senator from Wisconsin talked about responsible environmental organizations. These groups did not appear in front of the committee, interestingly enough. We just searched the record. Boswell is hardly one of the major environmental organizations in this country.

The fact is that there were no wholesale environmental assaults on the bill as produced. I certainly did not hear of any. But, I would ask the Senator from Idaho if he had any special contacts, other than the formal ones, that we had in the committee.

Mr. McCLURE. Will the Senator yield?

Mr. WALLOP. Yes.

Mr. McCLURE. The Senator is exactly correct. Although hearings were held—as a matter of fact, I do not believe, and my memory could serve me wrong on that, with respect to the hearings held on S. 14 that passed in the previous Congress. But certainly in the hearings that were held with respect to this bill and the development of this bill the Senator's perusal of the record is correct.

Mr. WALLOP. I thank the Senator from Idaho. It is also one thing to haul in an example, such as the Boswell Corp., and to use the statistics that appear to surround it without understanding the circumstances. The circumstances are, in this instance, that the Boswell Corp. owns the water. That is a right they acquired before the reclamation project. And if they insisted, they could have their water run through the dam and they could store it, because that California basin will store it, and farmers who live above it will not be able to get one drop of that water.

So, while you can use statistical examples, and inflame the argument, so that people without an understanding might interpret that there was some violent abuse; there is a practical side of this argument which supplies the farmers of that valley with their livelihood.

And, if it is the desire of this committee to allow a very wealthy, very successful, very productive farming corporation to store the water on their own land—and allow all that spring runoff to go down unstored—you might find that in the process of doing "what seems to be the right thing" you have put a bushel full of very productive farmers, who are dependent on the flow of that water throughout the growing season, out of business. They would be out of business because there would be no water. Here, the reality of the situation occurs not only in agriculture, but in the rest of life. And, in the rest of life, you would do incalculable harm to those who rely on water in that district.

So I think the amendment is unfair because it distorts classes of farmers. I do not believe it will reap the revenue harvest that its sponsors would wish it to. Indeed, I believe the revenue harvest our country would reap would be one of increasingly desperate moves by this Congress to try to rescue western communities—reclamation district communities—that no longer could survive if farming went with it.

I reserve the remainder of my time.

Mr. PROXMIRE. Will the Senator yield to respond to his point regarding criticism to what the Senator from Wisconsin said?

Mr. WALLOP. I will yield on the Senator's time, not mine.

I reserve the remainder of my time.

(Mrs. KASSEBAUM assumed the chair.)

Mr. PROXMIRE. Madam President, will the Senator yield?

Mr. LUGAR. I yield.

Mr. PROXMIRE. I would like to call to the attention of the Senate the fact that I have a letter from the Sierra Club which is specific, dated July 14, supporting the Lugar amendment, calling particular attention to this amendment, describing it in detail, supporting that amendment, and opposing the bill offered by the committee.

I also have a letter from the Environmental Policy Center also opposing the bill and supporting the amendment of the Senator from Indiana.

Mr. LUGAR. Madam President, I would like to respond to a couple of arguments made during this debate, commencing with what I believe are very important remarks of the distinguished Senator from Arizona.

The Senator from Arizona suggested that in the future our country might be required to produce 20 percent more food. He suggested that the production now taking place on the reclamation lands will be sorely required in the future and, therefore, it would be shortsighted to take a more narrow point of view as to the utility of using those lands and those resources.

The Senator may be correct in his projections. I have no idea of precisely how we would look toward the future and determine the need for that additional food in our country. It would appear that this country would be self-sufficient and that the problem of American agriculture has been, in fact, moving exports. Those of us involved in the Agriculture Committee are constantly pushing our Secretary of Agriculture to be more aggressive. One acre out of every three in this country may now be producing food for export. It is important that we increase our exports. But we are having very considerable difficulties in this particular year, as we have had in previous years, in moving that volume.

Therefore, I would suggest that the argument that we would need additional production is not demonstrable on the basis of our experience.

The distinguished Senator from Arizona likewise mentioned that rain comes from Heaven in the Midwest. Indeed, it does. We are grateful for 39 inches of water per year in Indiana. It has been suggested by the distinguished Senator from Arizona that maybe only 7 inches would come into his State.

I think we recognize that in this great Union of States there are vast differences in the geographical advantages and disadvantages, the natural wonders that we have.

The State of Arizona has remarkable opportunities, and this is one reason many people have been moving to that State. They are attracted by its many features and strengths.

But, Madam President, I would suggest that the advantage of nature in one respect, water, in my home State of Indiana is probably matched unfortunately by the fact that it is very cold in the winter and very humid in the summer. In short, there are all sorts of differences in this country. It sought not to be the point, it would seem to me, for reclamation policy or the degree of subsidy, to try to rectify all of these natural advantages. Rather, we ought to allow production to occur where it is most efficient—where, in fact, the water supplies are available to sustain substantial agriculture.

As the distinguished Senator from Arizona has pointed out on other occasions, there are hard choices to be made even in that State as to the use of water. He would ask at least for some understanding on the part of the State of Indiana, and we would certainly give that, but I would say that still there must be a rational reason, economically, to produce as opposed to that reason being furnished by such a very substantial subsidy.

The distinguished Senator from Wyoming has mentioned that those of us in the State of Indiana, and for that matter, other Midwestern States, are producing automobiles and agricultural machinery, and we ought to consider very carefully the implications of our arguments which might lead to less acreage in the West and thus less

demand for agricultural implement products which we produce.

I think that point is well taken. This is one total Union of States, again, and commerce flows back and forth across State lines.

But I would simply say that it is not a good argument in behalf of automobile production or of agricultural implement production in Indiana to suggest that those orders should come on the basis of 84-percent subsidization of water in the West. I think that type of reasoning builds a house of cards in which, as one subsidizes one type of activity to produce revenue, one in a secondary way is indeed subsidizing additional activity. The whole thing is built on unreality—markets, interest, use of capital.

In short, clearly there are orders placed for manufactured goods in the State of Indiana from those in the West who are using subsidized water, but I would reject that as a strong argument for maintaining that degree of subsidization.

I would suggest that it is not the intent of the Senator from Indiana or the Senator from Wisconsin, the distinguished cosponsor of this amendment, to stop agriculture in the West. Quite to the contrary, if and where and when that agriculture is sustainable in an economic way, it ought to proceed, and much will proceed. As a matter of fact, our amendment, by failure to alter the conditions for any acreage, 320 acres or less—87 percent of the farms; 41,000 of 47,000—does not touch that situation at all. The subsidy continues full force. The ability to pay continues full force. So that is hardly a windup of agriculture in the West. It is a perpetuation of 87 percent of the cases, of 41,000 operations.

As the Senator from Wisconsin has so eloquently pointed out, what we believe to be the case is that bringing all of that subsidy up to 2,080 acres, which the committee bill provides for, is generosity to a fault. We are suggesting at least the 3 percent of the larger farms in the country probably ought to pay the cost for the water they are using. We think that is not an extreme or radical argument, and it is not one for winding up agriculture in the West or for rank discrimination against any part of the country. It is a suggestion leading to equity that in minimum fairness requires that degree of reform.

Let me suggest that the point is well taken by the distinguished chairman of the committee, the Senator from Idaho, in his response to the distinguished manager of this bill, the Senator from Wyoming, that formal arguments such as the ones we are making today were not made by the Senator from Indiana or the Senator from Wisconsin at the time of the committee's hearings. I apologize, I suppose, for my failure to comprehend the totality of this subject at that time. It has taken some time to try to begin to comprehend it since then.

This is not a subject, I would say to my fellow Senators, that is easily grasped, and I suppose one approaches it very modestly to have even a tentative idea of all that is involved in reclamation finance.

This is why I have really chosen just two things to talk about and left other matters to others who are more expert in the general situation. The interest rate I think we all do understand.

The Senator from Wyoming has made the point that in thinking in an agricultural way, one must think in the long term. I think he is absolutely right.

As I admitted in my earlier testimony, I am involved in agriculture. The loans that I have attempted to secure from time to time for our farming operation, of course, have been to secure long-term money. I would only say that if I attempt to obtain long-term money for my farm right now, it is unobtainable at 5 or 9 percent.

Mr. WALLOP. Will the Senator yield on my time for a comment?

Mr. LUGAR. I will be happy to.

Mr. WALLOP. I was not referring to long-term money. There are two different rates in the market rates, one being the long-term money and the other the short-term money, which the Senator has chosen. All I am saying is that we do have a market rate which is the rate at which this Government is borrowing money. It is the more fair, more predictable, and more level of the interest rates which could be chosen. There are endless numbers that could be chosen, but that one seems to be fair as it is the one that the Government is paying. It has long-term obligations on these very projects, not short-term obligations.

Mr. LUGAR. I appreciate the calculation which has been made. Fortunately, it is a substantial improvement over the status quo. But still if the Federal Government was to go to the market today for long-term money, I would suggest that the rate that the Federal Government would have to pay would be in excess of 13 percent and probably closer to 14 for 10, 20, 30, or 40-year money.

Mr. McCLURE. Will the Senator yield for a comment?

Mr. LUGAR. I yield.

Mr. McCLURE. I thank the Senator. It seems to me that the Senator from Indiana is making one error in comparison, and it occurs repeatedly. That is that he is comparing operating costs with capital costs.

The cost of water is a capital cost. The Senator did not invest in his farm at 14-percent interest rates, nor did the Government invest in these projects at 14-percent interest rates. In spite of the fact that the Senator and other independent farmers may have bought their land at some time in the past, we are not asking that they recapitalize their farm at current interest rates. But we are even suggesting, under this bill, that the capital costs of the irrigation for that selected group of people that go above a minimum size will be capitalized at current long-term rates.

That is changing the rules of the game to a degree, but the Senator wants to go further and say, "Do not capitalize at current long-term rates, go ahead and recapitalize at current short-term rates."

That is not fair, Madam President. That is a substantial penalty to people who have been involved in a farming operation for many, many years and suddenly find themselves saddled with a new kind of rule and not even a fair rule.

Mr. LUGAR. Let me ask the Senator from Idaho, in trying to get a handle on our common definition of long-term rates, obviously, if we were to go to the market today and borrow for a 30-year period of time, that would be considered long-term borrowing. The point I was making is that we would have to pay about 14-percent interest for 30-year money.

As I understand the averaging that the Senator is doing, it is retrospectively back through several bond issues of the past and an averaging out over a 15-year period of time. Is that the period he selected?

Mr. McCLURE. Yes; the Senator is correct. There is an infinite number of ways of determining what an ordinary long-term rate is.

Again, I would say that the farmers of Indiana or the farmers of Idaho are not forced to recapitalize their investment. This is a capital cost. We are asking for some of those farmers to recapitalize that investment at a new capital cost. But we certainly do not, at that same time, say take the highest or short-term rates and apply that to your capital costs or go out of business.

There are not any farmers in Indiana who could stand that and stay in business, Madam President. I say to my friend from Indiana that he is doing the same thing to farmers in Idaho. He is asking them to accept the current high interest rates that he knows are bankrupting everybody.

I really do not believe it is the intention of the Senator from Indiana to try to bankrupt the farmers of the West in this process. At least, I hope that is not his intention.

Mr. LUGAR. The Senator is absolutely correct that that is not my intention. I am trying for a level playing field, to use an overworked expression that is so much the parlance of the banking community.

I think the Senator from Idaho has put the issue in good perspective. So all Senators will understand, the 9⅜ rate comes from taking a look at the long-term borrowing from the Treasury over the last 15 years. If one moves from this particular year back, I suppose, to 1967, or wherever the borrowings take you, then suggesting a melding of these rates is a fair interpretation of the long-term money that is involved in the project.

I think we are in agreement, in the amendment as well as the basic committee bill, that all of the changes that are going to be made have to occur within a 10-year period of time. One cannot run out a lease indefinitely. Changes occur, really, only when there are amendments, and some of the amendments might come in the form of looking for additional water.

Mr. WALLOP. Will the Senator yield?

Mr. LUGAR. Yes.

Mr. WALLOP. Again, it is important to understand what is taking place here. There are no people operating in those areas or, if there are, there are very, very few who have acquired these holdings with any other understanding but that they were in compliance with law and policy.

We are doing something now that is drastically different than custom in the Lugar amendment and seeking to impose that rather dramatically. There appears to be some new attitude in the Congress which says, "I do not care who you are or what you are farming, you will pay full cost." That is unless it is grapes. I understand they are pretty good.

That is the point I think the Senator from Idaho is trying to make. These people are not people who came in speculating that Congress would give them the better of two deals. These are people who believed that they were operating according to law and policy.

To change this as drastically as the Senator from Indiana and the Senator from Wisconsin propose would be a gross mistreatment of people who have been operating in good faith in this country.

Mr. LUGAR. I appreciate the argument, Madam President. I think the argument is narrowed, at least on the interest situation, between the committee bill and the amendment we are suggesting. It is between a rate of 9⅜ and a rate of 13 or 14 percent presently. It is arguable, as the Senators from Idaho and Wyoming have presented it, as to what fairness might dictate in this respect.

As I have admitted, I think the committee bill makes a long stride and is a substantial reform. I suppose the other argument, however, comes on the question of at what point these interest rates are applied. Our amendment suggests that at 960 acres there ought to be an application of the full rate, at least half of that between 320 and 960.

The committee bill starts this process, however one melds long-term rates, at 320 acres. That appears to us to be an excessive situation. I think others on the committee may have characterized that as clearly those outside the Congress have been in argument about size for a long time.

I would suggest that, even with those reforms—let us say, just for the sake of argument, the reforms we are presenting—the amount of subsidy is still going to be very, very great. I suppose that throughout this, each one of us will characterize our amendments as modest, moderate, or sort of halfway. But as a matter of fact, the amount of subsidy to farmers in Western reclamation States will remain enormous.

It is not the purpose of the Senator from Indiana to wreak unfairness upon any one particular group, but it is to give at least some idea as to what is a market rate of interest. It may lie somewhere in between what is the current long-term rate for interest, although that is what a farmer would have to pay generally if he wanted to start a reclamation project. The point being made historically about other thoughts as to how this would work out is clearly the point of the committee's bill, to try to bring certainty into an area where uncertainty has been rampant.

I would still argue that, all things considered, the long-term rate of interest is the one we ought to be charging and we ought to do so full-cost on 960, which is considered a family farm size, or more, and at least get half the pay on those somewhere in between.

Let me make one more point while I am on my feet. The suggestion has come up that a great deal of revenue will flow to the Federal Government from these activities and, indeed, it will. Taxes are paid upon this wheat, corn, cotton. We do not deny that. And the taxes are probably greater than the amount of money of the subsidy. The point all the way through is the marginal utility of the capital.

Capital is scarce in this country, scarce in this world. There is a burden of proof always as to whether capital is being wisely utilized for the greatest productive use of income. The point of the Senator from Indiana is that capital allocated to agriculture under situations that do not have prohibitive water costs is capital better allocated than that in paying an 84-percent subsidy. As a matter of fact, we begin to treat water not as a free good but at least five-sixths of that. It is the judgment, I think, of all Senators, that water may be in very short supply in many of our States.

In fact, it is in very short supply in some of the 17 States that we are talking about now.

It is a fact, as I indicated earlier, about the comments of the distinguished Senator from Arizona, that in his State we have a situation in which agriculture has been cut back by 10 percent so that water will be available to the city of Phoenix—a very tough choice. That sort of hard choice may be made again and again in the Western reclamation States. The choice will be between people in urban areas, agriculture, and energy interests, and there will not be water enough in all cases. The tables are going down, the aquifers are not so well filled. Whether as a matter of Federal policy we should continue to subsidize this to the tune of 84 percent is surely questionable, leaving aside any equity among taxpayers, among farmers generally throughout this country. Those are the basic issues the State must determine.

We are being asked presently to put a stamp of approval on a very long-term treaty in this whole area. Once this is put to bed, this is the way it is likely to be for some time. I suggest that all Senators need to think very carefully about the subsidies involved, about the inequities involved, about the misuse of a scarce resource, namely water, if the wrong signals are sent by the market and by public policy.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA addressed the Chair.

Mr. WALLOP. Madam President, I yield to the Senator from Idaho.

Mr. McCLURE. Madam President, I thank the Senator for yielding. I will not take too much time at this particular time, but I do want to respond to a couple of things that have been said in the debate.

Oftentimes debate is most persuasive if it becomes emotional. I think the Senator from Wisconsin has pulled out all the stops to try to touch the emotions of people who might be listening, but one of the things he failed to recognize as he was making the points with respect to the large farming operations is that the committee bill does away with whatever large farming operations might remain. As has been pointed out before, Southern Pacific is an example of a large farming operation is already being broken up under existing recordable contracts, so to raise the specter of a tremendous farming operation that various people have been critical about in the past as a thing that must be cured by the amendment being offered by the gentleman from Indiana and the Senator from Wisconsin is simply not the case. They are being broken up

under recordable contract and they would be broken up under this amendment.

Mr. PROXMIRE. Will the Senator tell me how much time it will take before they will break up?

Mr. McCLURE. They are under recordable contract and I cannot tell the Senator offhand.

Mr. PROXMIRE. They can take 5 years and after that a 10-year period.

Mr. WALLOP. Will the Senator yield just for a second to let me get some information past the barrage here. In 1968, there were 2,491 owners in the Westlands Water District; in 1980, there were 5,300, more than double, and at maturity, which is in 2 more years, there are more than 7,000 owners in this district. This process is ongoing, and it is going rather rapidly. It is something that has to be done with everybody's interests in mind.

Mr. McCLURE. I thank the Senator.

Mr. PROXMIRE. If the Senator will answer my question, the question I asked is, how much time they have. And they can take, as I understand, up to 15 years. Meanwhile, they will be getting substantial subsidies.

Mr. McCLURE. I think 10 is the correct figure at the outside. But let me also indicate that the Lugar-Proxmire amendment or the committee bill will work on those large operations in similar fashion. So it is not a question of whether they are going to be worked on. The question is how they are going to be worked on and at what acreage level will they be worked on and at what interest rate. We are not talking about whether or not those large holdings will be affected. We are talking about what is a large holding and, second, what is the interest rate at which they will be worked on.

Now, let me suggest, too, that we ought to be at least candid enough to recognize that when you talk about contracts that are renegotiated in the next 5-year period what the Senators have in mind is Westlands. The Senators are trying to write us a bill here that applies to one irrigation project and are willing to penalize every other irrigation project in the country in order to get at them.

That project is not in my State. The people that live in that project are not my constituents, but the people hurt by this amendment are the people who live on all of the rest of the reclamation lands in the Western States.

I cannot help but be both personally and somewhat emotionally involved when in order to get at one group the Senators want to hurt everybody else in the country that is affected by this bill, and that, my friends, is unfair.

Let me suggest, too, that I have heard those statistics that were used by my friend from Indiana with respect to the number of acres of land that are involved in irrigation projects and the numbers of landholders. I heard the statistics of the gentleman—Senator from Wisconsin—I did not change the term "gentleman" to "Senator" except that that is the language that is used in the Senate and I started out over in the other body where they say "gentleman," I want the Senator to understand that—with respect to how many acres are held in excess. Those statistics are totally false. I do not blame the people for using them because I know from which publications they came. But they are not accurate. They are not accurate because nobody has tracked what has actually happened from practice out there on the land because you have a combination of ownership in several different projects and leasing by several different owners in different projects, and the farming operations that aggregate as a result of that combination of ownership and leasing in several different projects is not statistically available to anyone. It has never been developed. It simply does not exist. So there is not anyone who can say that the statistics that have been used here in the debate today are accurate. I know that they are not accurate, and I know that they are not accurate in my own State because I am very, very familiar with what happens in my own State.

Let me suggest, too, as I did before that the Senator from Indiana, I know in all good faith, is making a comparison between apples and oranges when he says we want people to be on a level playing field. But we are going to go out and change the rules with respect to the people that are on reclamation by putting them on a variable interest rate mortgage.

Now, the farmers in Indiana did not sign up under variable interest rate mortgages, and we are not going to by law change it so that they have to comply. Maybe we should. Maybe we should say to the farmers in Indiana that in order to qualify for any Government program of any kind you have to have a variable interest rate mortgage on your capital debt.

I do not think the Senator from Indiana would like that. I do not think he would be here proposing that. Neither would the Senator from Idaho be proposing that, because that is not fair to the people who are involved who have fixed capital costs with respect to the development of the water that makes their land arable at all. For much of the land this is not simply a matter of giving enough water so that you have an assured water supply or a better crop every year. It is a difference between desertland and no crop or rich farmland with water and a good crop.

So we are not talking about just something that is an annual operating cost. We are talking about fixed capital costs that in many instances will very greatly exceed the value of land per acre.

How is that so? Because farmers like to take risks, I suppose, and because some of these projects are multiple-purpose projects in which the project has flood control benefits; it has power revenues; it has irrigation benefits; it has municipal-industrial water benefits; it has recreation, fish and wildlife. All these are benefits; and Congress, in looking at those project benefits, says it is worth doing this project for all those benefits. The cost-benefit ratio is better than one-to-one. We get more in benefits to society than we invest in it.

But we say to the farmers—and the farmers alone—the water users, I should say—"You will pay for your benefits." With respect to all the rest of the people who get benefits and every other benefits under that project, it is nonreimbursable. In some of the more recent reclamation projects, the revenues from the power produced from the falling water at the dam, and used to help pay for the project cost. But the project cost does not pay for the fish and wildlife benefits.

I am amazed at the environmental organizations having the nerve to come in here—the National Wildlife Federation—to come in and oppose reclamation projects on the basis that they are a windfall. Oftentimes, fish and wildlife benefits under a project are greater in value than the amount the farmers are required to pay.

We can go through that project by project, if you like. The hunters, the fishermen, the boaters, the recreationists of this country benefit from these projects and pay not one dime in special use fee to repay. Perhaps they should. That is another debate.

However, I think much of the argument we have had here today is concerned with new reclamation projects. I say to my friend from Indiana that if he is concerned about the competition of reclamation projects for other farmlands in Indiana, that is a good argument to make with respect to future reclamation projects. But let us not confuse that with this bill here today; because what the Senator from Indiana is saying, in effect, is that "because they are in competition with my people, I want to put them out of business."

I do not think that is what he wants, and I do not think that is fair, and I do not believe that is an adequate response to the problem we have. I am not trying to put the farmers of Indiana out of business. If the Senator from Indiana were to respond, if I were to do that, and say that is unfair, I suspect he would be right.

If I were to try to take some punitive action, to say that because in the past we have done something nice for Indiana, we are going to take it away because we do not like it any more, the

Senator from Indiana might become a little concerned about the impact upon his constituents.

I wish to mention, too, that the production figures that the Senator from Indiana used, derived from reclamation lands, are figures that come from all reclamation projects and not just those that are now repaying to the Federal Government, because some of them have been paid out. They are no longer obligated to the Federal Government in any way, shape, or form. They pay operation and maintenance for the project, but they do not have a contract liability any more.

I point out, also, that as we look at the comparison the Senator made with respect to the Westlands project and cost of State water as against Federal water, the Senator has been given some inaccurate information—or perhaps I should say misleading information—because if you look at the firm water cost, it is higher than the Federal cost, about $30 as against $18. But if we look at the average Federal cost as against the average cost, the Federal is $18 and the State is less than $10.

So the Senator forgot that there is a combination of two classes of water under the State project, or perhaps he was not told that, and when you look at the average of the two, the Federal project is 80 percent more expensive than the State project, under current contracts and costs.

So, I say that if we are going to look at those things in terms of their benefits and in terms of fairness, we would not be taking the punitive attitude that has been expressed in the debate.

To me, the real debate is over what is a fair interest rate and what is the size of the farm. Most of the debate has been focused on the other side, the question of whether we should have reclamation and, if we should, what size the farm should be; and, if we should, what the interest rate should be.

I am amazed at my friend from Wisconsin to have the nerve to come here and talk about subsidies, when he votes for the dairy subsidies year after year after year. What is the subsidy that is paid to the dairy farmers of Wisconsin by all the taxpayers and consumers in this country?

Mr. PROXMIRE. May I say to my good friend——

Mr. McCLURE. Sure.

Mr. PROXMIRE. The subsidies paid to the people in Wisconsin are paid to the people in Idaho.

Mr. McCLURE. Of course, they are.

Mr. PROXMIRE. And Wyoming. For everybody. We do not get one nickel of your reclamation money, none of it; neither does Indiana. You get it all, exclusively. We treat dairy farmers equally, no matter what State they are in, and the Senator knows that.

Mr. McCLURE. Of course, I do.

Mr. PROXMIRE. Furthermore, we favor a program, as the Senator knows, of self-help which would reduce production and reduce the burden on the Federal Government.

Mr. McCLURE. I understand what the Senator is saying, and what he is saying is that because reclamation is primarily in the West, he is opposed to it.

Mr. PROXMIRE. I am not opposed to it.

Mr. McCLURE. And because their industry is in Wisconsin, he is in favor of it.

Mr. PROXMIRE. We want to give it to 87 percent of the farmers, not the richest ones.

Mr. McCLURE. Let us call a spade a spade, and let us call a subsidy a subsidy, wherever it is. I happened to vote in favor of dairy subsidies, as did the Senator from Wisconsin, I did not do it because it was in Idaho or Wisconsin, and I will not vote against it because there are more in Wisconsin than in Idaho. But a subsidy is a subsidy, and the subsidy to the dairy industry is far more direct and far less supportable than is the degree of subsidy which is involved in the building of a reclamation project.

I remind the Senators that the farmers pay back the capital costs. The subsidy in the dairy industry is not paid back. It is just supposed to be a good investment for the country to keep those dairy farmers in business.

I suggest, also, that when you start talking about the average size of farms, that is also a very dangerous statistic, because you take the very large and the very small and put them together and average them up. There are various ways you can make the comparisons of the dangers of averages. The average American has one blue eye and one brown eye, and that is not a very good example of how averages can be useful to us or misleading to us in the debates we must have here with respect to what is a reclamation farm. Many of those are very, very small tracts.

As a matter of fact, around the city of Boise, Idaho, there was a reclamation project which is now largely subdivided, and many of those, under another program, the farmers housing program, are in 1- to 5-acre tracts. They are not farms, but they are still reclamation water, because they were under that system at the outset.

So when you average, you begin to get some rather ridiculous results because of the lack of an accurate comparison upon which to base it.

Madam President, I am very concerned that the people think there is a tremendous subsidy here.

The Senator from Indiana made reference earlier in his remarks about the Lugar amendment for housing in which he sought to have a $5 billion bill put in for housing to be expended between now and the first of the year. Let me tell the Senate that is more money than has been spent in the reclamation program in the history of this country. Let us get things into perspective. And that money the Senator rightly said would be repaid to the Federal Government.

That is what we are saying here. The farmers whose cost the Senator seeks to adjust by his amendment are the only ones who benefit and pay back. The Senator from Indiana indicated in his amendment on the housing bill that he thought that was the right concept.

I hope that this amendment will be rejected because it is a punitive one and one that should be discussed in terms of the farm size rather than in terms of the emotional debate that has been focused on the abuses. The abuses are being corrected by the bill itself and do not need to be addressed by the amendment.

Mr. SYMMS. Madam President, will the Senator from Idaho yield on that one point?

Mr. WALLOP. Does the junior Senator from Idaho wish to address the Senate?

Mr. SYMMS. I wish to emphasize the point that my senior Senator made and that was to put this in proper perspective, and I think the Senator from Wyoming alluded to it earlier in his remarks, that the Washington, D.C., Metro system has called for more expenditures and direct appropriations of taxpayers' dollars than all of the reclamation projects that have been built at least since 1930 and maybe ever since the program started in the United States with no payback, and yet if we go out in the West and look at valleys like the Boise Valley, the Twin Falls Valley, and other places where there is a massive opportunity for people to develop and build homes and produce, those have been paid back many, many times over. In addition to the direct payments back to the Treasury the commerce that has been done with it has been of enormous benefit to the country.

Mr. WALLOP. I say to the Senator that he raises a good point. I also say to the Senator, the point which ought to be made, is that those expenditures were made in an era before deficit spending and those are sunk costs. Now those are out. Those are not costs attributable to today's profligate waste.

I understand the Senator from Washington wishes 3 minutes. I yield 3 minutes to the Senator from Washington.

Mr. JACKSON. Madam President, the pending amendment has been debated at great length and I think the Senate has a pretty good idea of the issues. I simply wish to make one point.

This amendment will result in increased bureaucracy and administrative costs in comparison to the committee bill which is pending before the Senate.

The CBO estimate on the original amendment indicated that there would be some increase in administrative costs over the committee bill.

Madam President, the new amendment which is now pending with its new requirements to calculate a sliding scale of full costs limited by individual ability to pay will result in an extremely complex scheme for determining the price of irrigation water to be paid by the farmers.

If a district amends its contract, one scheme is applied. If they do not, another. If land is owned but not in a district which amends its contract, another. If the district does not amend, another. If land is owned but not leased, yet another formula. If leased but not owned, yet another.

Administratively this has to be a nightmare. If there were any increased revenues produced by previous versions of the amendment, I must say this latest amendment is certain to diminish or eliminate them.

I hope that the amendment will be rejected.

Mr. WALLOP. I thank the Senator from Washington for his remarks.

The Senator from California wishes how much time?

Mr. HAYAKAWA. About 3 minutes.

Mr. WALLOP. I yield 3 minutes to the Senator from California.

Mr. HAYAKAWA. Madam President, I rise to state my objection and opposition to the Lugar-Proxmire amendment. The change suggested by this amendment is unwise. It will be destructive to Western Agriculture and will have far-reaching effects, effects which I believe the proponents have overlooked.

Tuesday I received the "reclamation fact sheet" circulated by the proponents of this amendment. I am troubled by the picture it paints of tremendous subsidies going to farmers and the potential for capturing greater revenue from our reclamation projects.

Madam President, I shall discuss the notion of subsidies going to reclamation farmers. Then, I will attempt to clarify the misconception about the use and expense of water from the State water project in California. The "fact sheet" which my colleagues received stated that farmers in State water project lands were paying about $60 per acre-foot of water. The question was raised that, if farmers in State project lands can pay it, why cannot the reclamation farmers? In fact, no one in the region surrounding Westlands Water District pays $60 for all of the water they use. They do pay that much for a portion, but only a portion of their water.

Let us turn to the question of subsidies so-called. This Nation's investment in developing the water resources of the West has resulted in a net gain to the citizens and Treasury of the United States. I would like to share with the Senate statistics compiled by the Department of the Interior which will demonstrate this fact.

The estimated total cost of all reclamation project works that have been built and are currently projected to be built is $19 billion. Of this amount, 82.6 percent of the costs are reimbursable—the beneficiaries of the projects will return to the Treasury about $16 billion for water and power benefits received. The remaining 17 percent is nonreimbursable. The purposes do not allow us to identify the direct beneficiaries. We accept the fact that because the public good is served in terms of flood control, fish and wildlife management, recreation, health, safety, and navigation—that these costs are most appropriately absorbed by society as a whole.

Madam President, for the year 1980, the total amount of economic activity generated by reclamation projects was $18.89 billion. In addition, the estimated Federal tax revenue as a result of this economic activity was about $3.6 billion, and State and local tax revenue was $1.4 billion. This is about $5 billion of return to the public treasury in just 1 year.

Further, the cumulative Federal tax return from reclamation project lands is roughly $31.5 billion since the 1940's. That is $31.5 billion in tax revenue as a result of about $9 billion in expenditures for the projects. Remember, about 80 percent of that $9 billion is reimbursable—is paid for by the beneficiaries. I know of no other Federal program that has done so much for us with such a small expenditure of Federal moneys.

Subsidies to the reclamation projects are a result of the fact that taxpayers have been paying the interest on the cost of building the projects. The whole purpose of S. 1867 is to eliminate the subsidy once a farm reaches a certain size. This is a fair and reasonable approach. I strongly support the language and intent of S. 1867 and urge my colleagues to do the same.

Let us now turn to the subject of what State water project farmers in the Tulare Lake district pay for their water. This district is just south of the Westlands district. While it is true that farmers pay about $60 for some of the water they receive from the project, only 20 percent of the water they use is this "expensive" water. However, 20 percent so-called "surplus" State water which costs less than $5 an acre-foot, and 40 percent is from the Kings River to which they have a long standing right. This river water costs about $2 or $3 an acre-foot. The balance of the water they require is ground water which costs about $30 to pump.

When one figures the total water expense for farmers in the Tulare Lake district, it is comparable to the expense faced by farmers in the Westlands Water District—a Federal reclamation project. Let us not be mislead. All of the farmers in the region surrounding Westlands have water bills that are comparable to Westlands. I should also point out that reclamation water is relatively cheaper than $60 State water because the facilities, dams, and canals were constructed long ago. For example, Oroville Dam, which is the foundation of the State water project was not built until the 1960's, and the project is yet to be completed.

Let me conclude, Madam President, by urging my colleagues to reject this amendment and any other amendments designed to weaken or subvert the intent of the 1902 Reclamation Act. The changes proposed in S. 1867 are balanced, they bring the old law into step with the needs of modern agriculture and western society, but most importantly, S. 1867 preserves the spirit and purpose of the original act—an act which has been the cornerstone of developing the infrastructure upon which the Western United States has grown.

I thank the Chair.

Madam President, will the Senator yield to me?

Mr. WALLOP. I would be happy to yield to the Senator from California, but I had promised the Senator from South Dakota he could comment on the pending amendment, and then I would be happy to yield.

How much time does the Senator require?

Mr. ABDNOR. Three minutes.

Mr. WALLOP. I yield 3 minutes to the Senator from South Dakota.

Mr. ABDNOR. I thank the Senator from Wyoming for giving me this time.

Much has been said about the subsidies in the debate on this particular amendment.

I just returned, Madam President, from Europe, where I spent over a week and had a number of discussions, and one of my main interests for going was to visit several countries in the European Common Market.

I think it is very interesting to note one point we are inclined to overlook, that the people in this country in purchasing food, both the food they consume at home and while they are out eating in a restaurant, are spending only about 16.5 percent of the average take home pay of this country.

It is also interesting to note that in Europe the people pay anywhere from 24 to 28 percent and even more of their take home pay for food.

I recall last year during the debate we had here on the floor over the new tax measures that we passed, part of that program was to bring about a greater savings on the part of the American people. We were talking conceivably that we might be able to add 1, 2, or even 3 percent of our incomes to savings. Yet we see this tremendous saving that the farmers of this country are giving the people of this country through their food bill. Then we ask who is subsidizing whom?

The point is that today farmers are actually producing at less than their cost. I heard it said that we have too much in surplus. To that I would say there is certainly no surplus of food throughout the world if it was made available to other countries. The American farmers could do that on a fair basis, I am firmly convinced. But when we have to go over and compete with the subsidized markets such as we find in the European Common Market, that cuts down our export sales to other countries, and I think we had better reexamine our whole farm program in relation to the subsidies paid by foreign governments, our competitors in international agricultural markets.

If there is one point I want to make, Madam President, it is this: America needs those sales. We do not have too much farm production. All we need to do is go to work and find the markets for those products, and it will repay this country and the taxpayers of this Nation many, many times over.

It is interesting to note what happened to us when we had the grain embargo to Russia.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. ABDNOR. Madam President, if I may have 1 more minute, I would just like to make one point in relation to the market we have lost in our grain sales. Today I heard on the news the National Chamber of Commerce pleading with the administration to allow the pipeline sales to go ahead. There are plenty of reasons for looking at restrictions on exporting our technology and materials for some income producing property for Russia instead of restrictions on grain, which is a renewable product.

I think when we examine this whole subject, and if you want to talk about subsidies in relation to farm commodity prices and national food expenditures, the subsidies certainly are not a large factor in the reclamation projects we have seen in the past, and I would certainly urge that we defeat this amendment.

Madam President, it is very easy to demagog the measure before us today, but for those who are willing to take the time and effort to understand the issues involved there is little difficulty in deciding how to vote. As a cosponsor of S. 1867, I commend the Committee on Energy and Natural Resources, and particularly Chairman McCLURE and Senator JACKSON, for the care and diligence they have shown in molding the bill into final form, as it appears before us today.

The Reclamation Act of 1902 was enacted in a time when farms were, by necessity, very small. The Homestead Act of the 1860's envisioned farms of 160 acres each. The technology available to farmers at the time would not allow much larger farms, and a farm family simply could not manage a much larger acreage. While farmers flocked to their 160-acre plots, however, it soon became apparent that in the semi-arid West no family could sustain itself on an acreage of that size. For them the choice was simple: Get larger or get out. Many did get out; they simply had no choice. Those that did remain did get larger in their operations, and to try to turn back the clock to the 1860's would be to say to these industrious and hard-working farm families that they too must get out.

Now, I am sure that no one here on the floor of the Senate today will argue that we should go back to the 1860's, and those who question the acreage figures selected by the committee have a perfect right to do so. Let me say to my colleagues, though, that there is little doubt in my mind who is better qualified to determine how much acreage is required to sustain an efficient, modern-day irrigated family farming operation. The committee has given this issue long and arduous consideration, and I seriously question whether those who attack the committee's work really care much about the potential adverse impact upon the agricultural economies of the West.

I seriously doubt, too, whether they care about the commitments which were made to my State under the Pick-Sloan Missouri Basin program. Under the program South Dakota relinquished over a half-million, over the 500,000 acres, to provide flood control for downstream States. In return we were promised irrigation development to compensate for and offset the tremendous impact upon our economy of the loss of so much land inundated under flood storage reservoirs. The Federal Government has simply not kept its promise to the people of my State, however, and I strongly suspect that those who attack the committee's bill today are likely to be the very same ones who will argue that it is acceptable for the Government permanently to ignore the basic tenets of fairness to my State.

Again, we have heard much talk of subsidies in the discussion of this bill, but we must ask ourselves who is really subsidizing whom? As I said, I have just returned from discussions in Europe with officials of the Common Market, particularly France and the United Kingdom. Due to the productivity of our farmers and the ridiculously low returns they receive for their commodities, American consumers pay only about 16½ percent of their income for food. Consumers in Britain and France pay about 24 to 28 percent, or about 40 percent more than Americans do. By that measure America's farmers are subsidizing consumers far more in a year than has been spent on the entire reclamation program in its history.

It should be noted, too, that the 500,000 acres South Dakota gave up for the Corps of Engineers reservoirs on the Missouri River constitute a tremendous subsidy to the downstream States which no longer suffer devastating flooding. This subsidy is far greater than any return we can hope to gain through the reclamation program.

South Dakota is not alone in the illtreatment we have received. Indeed, we are joined by our sister State to the north in the dubious distinction of having given up a great mass of land for the benefit of other States, only to have the Federal Government delay and threaten to renege on its side of the bargain with us. Together the two Dakotas gave up over a million acres. No other State has made anything like the sacrifice the Dakotas have made for the benefit of other States; yet which two States do you suppose are at the very bottom of the list of the 17 traditional reclamation States in terms of irrigation? I ask unanimous consent that a table which demonstrates very graphically that not only are the Dakotas at the bottom of the list, we are far behind the next closest State, be printed in the RECORD. Indeed, California uses over a hundred times as much irrigation water as my State does, and 12 of the other 15 States use over 10 times as much as either of the Dakotas does:

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATED USE OF WATER IN THE UNITED STATES IN 1975

[Water withdrawal in million gallons per day]

Western reclamation	Industrial	Irrigation	Total
1. California	12,000	35,000	47,000
2. Texas	15,000	12,000	27,000
3. Idaho	2,000	15,000	17,000
4. Montana	270	11,000	11,270
5. Colorado	340	9,300	9,640
6. Nebraska	970	7,300	8,270
7. Arizona	350	7,000	7,350
8. Wyoming	350	6,800	7,150
9. Oregon	520	6,000	6,520
10. Washington	890	5,500	6,390
11. Kansas	460	5,000	5,460
12. Utah	250	3,500	3,750
13. Nevada	230	3,100	3,330
14. New Mexico	120	2,900	3,020
15. Oklahoma	650	1,200	1,850
16. North Dakota	630	160	790
17. South Dakota	35	330	365

Source: Geological Survey Circular 765 (1977).

Mr. ABDNOR. Obviously, based upon this table, the Dakotas have a very small stake in S. 1867 compared to the other 15 reclamation States. Indeed, according to the Bureau of Reclamation's December 31, 1981, Summary of Land Ownership report, there are only 53 landowners and a total of 4,244 acres receiving Federal irrigation water in my State which are not in compliance with the existing law. Nevertheless, there is no justifiable reason to persecute these 53 landowners with unrealistic and unreasonable acreage limitations. Still more importantly from the perspective of the overall interest of my State, however, is the fact that we must insist that the Federal Government live up to its outstanding commitments to us. We do not expect always to be at the bottom of the list. There remains a great potential for irrigation development in our State; we have the land and we have the water. We have the water because we sacrificed mightily to store it, and we have the right to expect that the Federal Government will honor its commitment to assist us in developing its magnificent potential for the benefit of our citizens and the Nation. We are not asking for a subsidy; we are simply asking for repayment of the debt owed us. The action of the Senate on this measure will indicate whether the Federal Government can be trusted to honor its commitments.

Again, I urge my colleagues to support the committee and enact S. 1867 without amendments which may appeal to those who are unfamiliar with the reclamation program.

Mr. BAKER. Madam President, will the Senator permit me to interrupt for a moment on my own time?

Mr. WALLOP. Yes.

Mr. BAKER. Madam President, I ask unanimous consent that the time I am about to use will not be charged against the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

Mr. BAKER. Madam President, I observe at the door a messenger from the House seeking entry.

MESSAGE FROM THE HOUSE

At 12:54 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House recedes from its disagreement to the amendment of the Senate to the bill (H.R. 6685) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, and agrees thereto, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for 5 years; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoint Mr. HOWARD, Mr. ANDERSON, Mr. MINETA, Mr. OBERSTAR, Mr. CLAUSEN, Mr. SNYDER, and Mr. HAMMERSCHMIDT as managers of the conference on the part of the House.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker pro tempore (Mr. WRIGHT) has signed the following enrolled joint resolution:

H.J. Res. 225. Joint resolution to designate the week beginning June 5, 1983, and ending June 11, 1983, as "Management Week in America."

UNANIMOUS-CONSENT AGREEMENT—URGENT SUPPLEMENTAL APPROPRIATIONS, 1982—CONFERENCE REPORT

Mr. BAKER. Madam President, if I may proceed for a moment further, this is the conference report on the urgent supplemental appropriations bill. We need to dispose of it promptly. I am advised that the agreement reached by the conferees on the part of the House and Senate is acceptable to the President of the United States and he will sign this bill if it is passed.

Madam President, I have inquired of the distinguished minority leader about a time to deal with this subject and on what terms and conditions, and I believe we have an understanding on how best to proceed, and I will state a proposed agreement now for the consideration of the distinguished acting minority leader and other Senators in respect to this and other matters.

Madam President, I ask unanimous consent that after the debate on the Lugar amendment, the Senate turn then to the consideration of the urgent supplemental appropriations conference report with the following time agreement: that there be 30 minutes to be equally divided between the chairman of the Appropriations Committee and the ranking minority member or their designees; and that after the expiration of that time or the yielding back of the time, but not prior to the hour of 2 p.m., the Senate proceed to vote on the urgent supplemental conference report.

VOTE ON THE LUGAR AMENDMENT

Madam President, I further ask unanimous consent that thereafter, and assuming that the debate on the Lugar amendment has concluded, the vote occur on or in relation to the Lugar amendment without further intervening debate, motion, appeal or point of order.

NOMINATION OF GEORGE SHULTZ

Madam President, I state further that after the disposition of the Lugar amendment, it is the intention of the leadership to ask the Senate to turn to the consideration of the nomination of George Shultz of California, to be Secretary of State. I am not now asking for a unanimous-consent agreement on that nomination nor consent to make it the pending business, but Senators should be on notice that after the disposition of the urgent supplemental and the vote on the Lugar amendment that it will be the intention of the leadership on this side to ask consent to proceed to the nomination of Mr. Shultz to be Secretary of State or in the absence of consent and, if necessary, to move to the consideration of that item in executive session.

Madam President, the effect of this request is that when the Lugar amendment debate is finished we will turn immediately to the debate on the urgent supplemental. As soon as the debate on the urgent supplemental is concluded but in no event prior to 2 p.m., the vote will occur on the urgent supplemental, and that following on after the disposition of the urgent supplemental, a vote will occur on or in relation to the Lugar amendment, and that after that it will be the intention of the leadership to ask the Senate to turn to the consideration of the Shultz nomination.

It is anticipated or it is hoped that we can finish the debate on the Shultz nomination this afternoon, and return then and continue the debate on the reclamation bill for the remainder of the day.

Mr. McCLURE. Madam President, reserving the right to object, and I do not intend to object, I think the intent would be that following on or in relation to the Lugar amendment the Senate would be on the pending legislation and it would require unanimous consent to move to the Shultz nomination or any other business.

Mr. BAKER. Almost. It certainly could be done. The answer to the Senator's question is, yes, after the disposition of the supplemental and the Lugar amendment, the business before the Senate would be the reclamation bill. But, at that time, it would be my intention to ask consent to go to the Shultz nomination or, in the absence of consent, it would be my intention to move that the Senate go into executive session for the purpose of considering the Shultz nomination, which I believe would be, under the circumstances, a nondebatable motion.

Mr. CRANSTON. Will the majority leader yield?

Mr. BAKER. Yes, I yield to the acting minority leader.

Mr. CRANSTON. Madam President, that is perfectly satisfactory on this side of the aisle.

Mr. BAKER. I am very grateful. I thank the Senator.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

FEDERAL RECLAMATION LAW

The Senate continued with the consideration of the bill.

Mr. WALLOP. Madam President, may I inquire of the Chair what the time status is?

The PRESIDING OFFICER. There are 20 minutes and 41 seconds remaining to the Senator from Wyoming; 20 minutes and 33 seconds for the Senator from Indiana.

Mr. WALLOP. I thank the Chair.

How much time does the Senator from California require?

Mr. CRANSTON. About 4 minutes.

Mr. WALLOP. I yield 4 minutes to the Senator from California.

(Mr. STAFFORD assumed the chair.)

Mr. CRANSTON. Mr. President, I feel very strongly that the pending amendment to S. 1867 should be rejected. Using a long-term average interest rate as provided in the committee bill will bring stability to farmers and economic planning and to water use. But if the interest rates fluctuate, as proposed in the pending amendment, forcing the cost of water substantially upward, the economics will make it cheaper to pay the energy cost of pumping ground water instead of using project water. That will deplete the ground water table for all other users.

We need the stability of a reasonable, long-term interest rate—a rate farmers can plan into their projected costs—and a rate that will not force families into landholding subterfuges in an effort to evade the law in order to bring their cost down.

The long-term average interest rate in the committee bill—currently projected at 9¾ percent—is far closer to the reasonable interest rate we should all be paying. No one should be paying 14 percent or higher. We should not force farmers to suffer further than they already are because of the ineptitude and the economic bad sense of the Federal Reserve Board.

Today's high interest rates, in my view, are primarily the consequence of Federal Reserve Board policies and of Reaganomics and the deficits produced by Reaganomics.

These consequences are hard on almost everybody, but farmers are perhaps suffering the direct consequences of all. Farmers are now paying out more in interest rates than they are taking in in net income. Rather obviously that cannot go on without total disaster.

How many more farmers are to be driven out of farming and off their farms by high-interest rates? Why should we contribute to this by taking a move that would increase the interest that farmers are paying?

Moreover, the pending amendment appears to set different pricing schemes for water delivered to owned land and to leased land in districts with existing contracts, providing a discriminatory burden on those who lease. Usually it is new farmers who lease farmland. The effect, then, of this pricing system which charges more for irrigation water delivered to leased land is to keep new farmers out of farming at a time when we want more people in farming for countless reasons.

For these reasons, primarily, along with others, I urge rejection of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr WALLOP. Mr. President, one of the last points that I would like to make here before summarizing, is that the Lugar-Proxmire amendment does not have the effect of increasing revenues to the Treasury, but it only institutes an absolute limit on farm size. I would suggest what we are seeking to do is to create a class of American agricultural serfs and no matter how good, no matter how competent you are, if you happen to be in a district where the only source for water is a Federal project, then you are suddenly relegated to a class of Americans which will be trapped no matter what your competence.

According to the Congressional Budget Office estimate done on their amendment, at their request, the amendment the next 5 years will not generate any additional receipts to the Federal Government except from the West's project. Further still, the CBO estimate states that, assuming the distribution of farm operations size remains constant, additional revenues of $33 million could be realized. However, this assumption necessarily includes the belief that the current size farm operations can continue while paying two to five times the price of water, as they currently do. This is grossly, totally, and absolutely unrealistic.

If, in fact, a more realistic shift in farm size occurs that would be triggered or generated by the effects of this amendment, the added receipts to the Treasury would be perhaps about $17 million, according to the Congressional Budget Office. In addition, the amendment will cause some very grave additional administrative costs because of uncertainties in the effect of the amendment. CBO states:

A precise estimate of additional receipts to the Federal Government that will result from your proposed amendment cannot be made at this time.

In short, the committee bill would generate approximately $12 million in additional receipts to the Treasury and it is highly speculative that the Lugar-Proxmire amendment could generate any more.

I would also say that there is another project which is funded by this Congress and this Government which is of principal benefit to the farmers of the Middle West, It is the Small Watershed Protection Act, which the Senator from Indiana may be familiar with. This act uses as its cost-benefit ratio, the interest figure of 3.5 percent and it reclaims lands that have excess water, by draining them. Only 50 percent of this money, is paid back to the Federal Government; and this is at a 3.5-percent interest rate.

It is all right to subsidize midwestern farmers to remove water from their lands while using a figure and a cost-benefit of 3.5 percent, but it is grossly unfair to subsidize western farmers for providing water for their lands, while using an interest rate which the Senator from Indiana suggests is somewhere around 14 percent.

I would just read the names from the projects in Indiana: Boggs Creek, Elk Creek, French Lick Creek, Kickapoo Creek, Littas Creek, Little Raccoon Creek, Little Wey Creek, Mill Creek, Prairie Creek, and Daviess Rock Creek.

There are more projects listed here, one of which, incidentally, has irrigation benefits, too. And these projects are again at 3.5 percent.

So, trying to put some perspective on it—I think the Senator from Idaho pointed out the perspective of the Lugar amendment dealing with housing—in this country we do a number of things for various regions, various industries and other reasons. This particular program, the Small Watershed Protection Act, is a good and valid concept, which results in literally millions of dollars worth of projects.

But they have a net result which is the same thing: Providing service to farmers of the country.

I think in fairness, the Senator from Indiana would not want to grossly overstate the case. The farmers from Indiana and the farmers from other parts of America do provide economic stability, do provide family stability, small community stability, and they have provided the American citizenry, whether they are from Indiana, New York, California, Idaho, or Wyoming, with, by far, the lowest cost for food per capita income in the world. The consumer does not receive a raw deal as a result of the farm programs and the agricultural programs in this country. Quite the contrary, he has the best situation in all of the world when it comes to the portion of his earnings, which he spends to eat three meals a day.

Mr. SYMMS. If the Senator will yield, I might just say that I was in the other body when that act came forward in the House Agriculture Committee. I may have to check the record, but I do believe that the Secretary of Agriculture at that time came from the State of the distinguished Senator from Indiana, Secretary Butz. The argument then was to try to have some programs where we are conserv-

ing the lands of the United States, averting watershed and wasteful erosion to some of the farmlands in this country, so that we will have a heritage to pass on to the next generation.

I think the program has worked very well. I know that it was almost a bipartisan, unanimous support that this program has received from the agricultural people from all parts of the country. I thank the Senator for bringing that up.

I hope the Senator will put some of those figures into the RECORD because I think it is very illuminating to see the millions of dollars which have been expended on that program.

Mr. WALLOP. Mr. President, I would be happy to do that. I am sorry that the Senator from Wisconsin is not here. His State has benefited substantially from this program, as has indeed the State of Michigan, whose Senator earlier opposed the committee's bill. This opposition was also expressed by the Senators from the State of New York and the State of Ohio.

Just so we keep in perspective as to what our Government does for whom and for which part of the agriculture area of this country, I ask unanimous consent that this table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Department of Agriculture Soil Conservation Service Completed Projects

	Federal cost
Indiana:	
Boggs Creek	$469,385
Elk Creek [1]	617,701
French Lick Creek	943,210
Kickapoo Creek	568,182
Lattas Creek	1,255,887
Little Raccoon Creek	393,110
Little Wey Creek	235,777
Mill Creek (Fulton City)	716,213
Prairie Creek—Daviess	2,466,884
Rock Creek (Wells)	2,808,052
Michigan:	
Catlin—Waters Reynolds-Sessio	79,868
Farm Creek—Lee Drain	67,964
Jo Drain	400,838
Little Black River	370,334
Misteguay Creek	1,461,845
Muskrat Creek	78,515
North Branch of Mill Creek	584,334
Sanborn	28,247
South Branch of Cass River	1,840,326
Wisconsin:	
Garden Valley (Rose Valley)	160,792
Knight's Creek	512,303
Lost Creek	192,544
Mill Creek	773,858
Plum Creek	1,535,007
South Nelson	120,721
Trout Run	187,452
Twin Parks	1,071,118
Alma-Mill	215,125
Bay City	172,655
Blackhawk-Kickapoo	699,014
Bogus Creek	102,859
Coon Creek	782,675
New York:	
Cowaselon	885,019
Genegantslet	165,159
Little Choconut Finch Hollow	2,645,984
Marsh Ditch	660,946
Patterson—Brixius-Grey Creek	747,527
Upper Five Mile Creek	289,066
Ohio:	
East Fork of Buck Creek	387,937
Margaret Creek	2,106,419
Marsh Run [1]	1,381,058
Upper Wabash	1,026,552
West Fork of Duck Creek	42,434,161

[1] Irrigation included.

Mr. WALLOP. Mr. President, I ask unanimous consent that the letter from the Secretary of the Interior to Senator MCCLURE be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 15, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Senators Lugar and Proxmire have offered an amendment to S. 1867 which would lower the acreage limitation at which varying levels of water pricing would be applied.

The Administration opposes enactment of this amendment.

The Lugar-Proxmire amendment would set a 320-acre limit on the land eligible for water at the present project rate. For lands over 320 acres up to 960 acres, a water rate would be applied based on the ability to pay; however, that rate would be equated to an amortization of one-half of the cost of construction with interest. For farms over 960 acres, the rate would be based on the full construction costs with interest. In addition, the amendment provides an ownership limitation of 960 acres for qualified recipients and 640 acres for limited recipients. Leased acreages would be required to comply with the pricing formula even if the district does not amend its contract.

Based on our analysis of the water costs under the Lugar-Proxmire amendment, there would be a substantial increase in costs to all farm operations above 320 acres. In eight selected districts, the project costs per acre on medium and large size farms would be approximately five times greater than the existing rate and twice the rate under S. 1867. These additional costs will seriously impact on hard pressed farm incomes.

Moreover, the amendment raises contract rights questions regarding the ability to impose higher rates on the irrigation district which chooses not to amend its contract. For all these reasons, the Administration is unable to support the amendment.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JAMES G. WATT,
Secretary.

Mr. WALLOP. I reserve the remainder of my time.

Mr. LUGAR. Mr. President, I yield myself such time as I may require.

Mr. President, I appreciate the arguments being made with respect to the small watershed projects in Indiana, Wisconsin, Michigan, and other States.

First of all, I would simply say that too frequently these debates boil down to a discussion of whose subsidies are where and how much. I presume that sometime the argument is made, therefore, that because we are all beneficiaries of subsidies in one form or another, we ought to be quiet about it and simply let sleeping dogs lie.

I have no brief today for the Small Watersheds Act and the 3.5-percent interest rate. That strikes me as too low. I would say the cost of capital in the country is substantially higher than that. As a matter of fact, I tried to argue that point fairly consistently as we have proceeded through the economic arguments in the Agriculture Committee.

During the agriculture debate last year, Senators will remember that I offered an amendment to our committee bill doing away with target prices for corn, wheat, and various other crops that are produced in Indiana in substantial amounts. That amendment failed by four votes, a fairly close vote.

In other words, Mr. President, it appears to me that if we are serious about the budget business, and clearly all Senators who have addressed this issue today are very serious indeed about this, we are all going to have to rethink the cost of capital for many projects that are going on in the country. We will have to undergo substantial reform. That will have to occur in Indiana, in Michigan, Wisconsin, and in Western States.

The purpose of rising today with this amendment is not a way of penalizing Western States, except in the respect that it is clear that Western States do not have abundant supplies of water at low cost. The case has been made that there is a Federal interest in providing water. I have not disputed that today. I have suggested, as a matter of fact, that the status quo be maintained for 87 percent of all of the reclamation farms, 41,000 out of the 47,000, a very substantial concession even if you end the subsidy argument.

Finally, we have suggested, Mr. President, that there is substantial subsidy, and it is not waived away by pointing at the Washington, D.C., subway, or at preservation of the small watersheds in Indiana. Each of those will have to stand a test of similar scrutiny.

I would suggest that a CBO estimate is that the Bureau of Reclamation will spend $3.8 billion on reclamation during the next 5 years, but the Bureau estimates that only $275 million will be repaid to the Treasury by the Bureau in that period of time.

Mr. President, just so that we do not have a misunderstanding, we are not suggesting that we are attempting to track a specific project. We are talking about the accumulated expenditure, money that will go out and money that will come in during that period of time.

Mr. WALLOP. Will the Senator let me make one point?

Mr. LUGAR. Yes.

Mr. WALLOP. While the Senator is talking about the expenditures attributable to reclamation projects, I agree that this is what is in the offing, but this is not, by any stretch of the imagination, be all attributable to agriculture.

Mr. LUGAR. The point is well taken, and I accept that idea, though I still have the problem of only $275 million coming in and $3.8 billion going out.

Mr. McCLURE. Will the Senator yield?

Mr. LUGAR. Yes.

Mr. McCLURE. If we judge the future by the past, sometimes it is helpful and sometimes more misleading. In the 80-year life of this program, Congress has appropriated $8.7 billion for the construction of reclamation projects. Of that, only $1.4 billion is available to irrigation. Of the total, about $7 billion will be repaid to the Federal Treasury, about half of it with interest. That is what the history of the program has been. So I think we have to look at the future expenditures possibly in the same context. I thank the Senator for yielding.

Mr. LUGAR. I think the point just made is well taken. I suspect the dilemma with regard to the reclamation projects, however, is that in the case of very low interest rates in the past, the amounts of money coming in in some cases do not even get up to the 16 percent of money paid by users for farm water, which I described as sort of a general average. I accept once again the philosophical and statistical problems of averaging, but I think even as one accepts that point somewhere between one-tenth and two-tenths of the money comes from those who use the services and the rest from somebody else. This is the degree of subsidy that we were looking at.

I appreciate that there is a philosophy of paying the money back and, clearly, as the Reclamation Act commenced in 1902, the thought was that interest would not be paid back. This is a new thought being introduced because interest is now a very important part of the cost. But I think we are in agreement that we are going to arrive at some interest rate during the course of this legislation, calculated on what we believe to be a fair situation of either the history or the market, and we have not yet agreed on what point it starts. That is, I suppose, the other point at issue in this particular amendment.

With that in mind, let me review, at least, my interpretation of the degree of subsidy involved.

I believe it to be the case now that a 320-acre farm receives, in the average case of reclamation water projects, about 84 percent water subsidy. That will continue to be the case. As we reiterated again and again, 41,000 of 47,000 farms are covered by that. So we have an 84-percent subsidy for those farms.

A 640-acre farm in my calculations, would receive a 67-percent subsidy—84 percent on the first 320 acres and 50 percent on the next 320 acres.

A 960-acre farm would receive a 61-percent subsidy overall—84 percent on the first 320 acres and 50 percent on the next 640 acres.

A 1,290-acre farm would receive a 46-percent subsidy—84 percent on the first 320 acres, 50 percent on the next 640 acres, and 0 percent on the last 320 acres.

A 2,080-acre farm would receive a 28-percent subsidy—84 percent on the first 320 acres, 50 percent on the next 640 acres, and 0 percent on the last 1,120 acres.

Even at the 2,080-acre farm point, to the best of our calculations, still only 72 percent would be coming in from those who are utilizing the subsidy.

Mr. President, these figures are subject to the same sorts of interpretations, recalculations, and what have you that may be attendant on almost any set of figures. The point I am attempting to make is that, for the vast number of reclamation farms, 87 percent, the 84-percent subsidy will continue. By the time we get to the 960-acre farm, even that 61-percent subsidy is still there.

Mr. President, I make this point because the point of our amendment was not a vindictive one with regard to the West or western farmers. It is at best a modest reform. It is at least an evening up of a portion of what the public commitment ought to be. The proponents of this amendment have accepted the thought that it is in the national interest to have reclamation projects and to have a considerable degree of subsidy. That has been admitted. The point at issue is the degree of subsidy, the fairness with regard to that very high degree, at least, that we allege is a part of the western situation.

Finally, there has been discussion, and it is important, not only with regard to the relative cost of water in California reclamation projects and Federal projects alongside, but as the Senator from Idaho has pointed out, much of our discussion has been aimed at the Westlands Water District, because it is a large one and has some large farms. I think his point is well taken. Our objective is not to debilitate operations in the State of Wyoming or Idaho or, for that matter, California. The Westlands situation does come up for a potential amendment or change in the next few years. This is one that many people in the field are much interested in. But for the sake of the record, the water price at the farm headgate in the Westlands Water District is presently $20 per acre-foot. The highest price charged to the Westlands Water District under our amendment resulted in a headgate price at $53.40 per acre-foot for all acreage above 960 acres.

The State of California sells water to California farmers in three nearby State water project districts very similar to the Westlands at 1982 headgate prices as high as $48.99, $61.16, $73.95 per acre-foot. California irrigators, at least in this area, have found no difficulty in purchasing water at prices which equal or exceed the highest prices that would be charged under the Lugar-Proxmire amendment. The majority of farms that would have their water prices increased by the Lugar-Proxmire amendment are located in California. Both California and Federal water districts would average full cost and cheaper water. I make that point because clearly, our argument about California prices takes into consideration the cheaper surplus State water, which is—however—running out.

The point was made by the distinguished senior Senator from California that, in the event that the irrigation projects were curtailed, the ground water might run out even more rapidly and, in fact, it might be an expensive process for all involved. I leave that to the people of California to work out as to what distance water should be transported and which water is going to be the most expensive. I simply make the point that in comparable circumstances, the California water is now very expensive. It is being purchased by people who are farming and apparently doing so with some success.

The gist of our amendment would bring the Federal projects up to some point which is roughly comparable to that.

Mr. President, I conclude this argument simply by indicating that the two issues, interest rate and at what point the meter starts running, are still the gist of the amendment and the argument that we are having. If, in fact, we were bringing to bear prices that are totally out of line with those already charged; and if, in fact, we were totally wiping away subsidy, that would be one set of issues. Those are not the issues that Senators must face in voting on this amendment. It is a modest reform. It is one that, in my judgment, affects a very, very few, all things considered, yet brings a great deal of equity into the water picture, not only in the West but generally in this country and, I think, realistically faces the fact of farming conditions in America without harm to those conditions generally and the abundant supplies that we all desire.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

I appreciate the fact that perhaps now, we are talking about what the size of the farm should be. I think the Senator from Indiana appropriately made reference to the Westlands District. I think it is appropriate to mention that the Westlands District is also going to be affected by the bill without his amendment. It is only a question of degree. The Westlands District's operation will be substantially affected by the provisions of the bill that has been reported by the committee. It is not as though it is not touched by it.

When we look at the numbers of people that are involved, and I think we ought to do that for just a moment, then according to the Bureau of Reclamation report for the 1980 operations, as well as the EIS that was filed, the Senator is correct that there are 47,000 farming operations. But there are 147,000 farm ownerships. That 147,000 farm ownerships supports a farm population of 667,000 people. It is these 667,000 people, spread through the 17 Western States, which caused concern for the Senator from Idaho—not just one district or one handful of farms, but over half a million people on 150,000 individual farm ownerships.

I hope the amendment will not be agreed to. I hope when we get to the vote, the Members of the Senate will recognize that we are making a substantial change under the committee bill. It does not need the traumatic, dramatic, violent change that I think would be imposed by the passage of the Lugar-Proxmire amendment.

I thank the Senator from Wyoming for yielding.

Mr. WALLOP. Mr. President, I thank the Senator from Idaho. I would say essentially the same thing.

For the purpose of argument here today, we have made an assumption that there is indeed a major subsidy going on. I believe, one of the subsidies which is occurring is that reclamation farmers are subsidizing the inefficiency of the Federal Government in its operation of some of these projects. The State's figures on the other hand tend to show that water can be delivered at substantially lower prices than those at which the Federal Government deliver it. So, when we get right down to it, we are talking about an interest rate and some other things, those farmers are accepting water, in many instances water which they had before the project was built, run through project construction and other things at a cost far greater to them than they had before, even in real dollars, constant dollars.

So the subsidy may well be that reclamation farmers are subsidizing the inefficiency of the Federal Government and not the reverse.

We can sit here and argue semantically all the time. The fact remains and I point it out again: this Government of ours provides services all over America. The questions are: Are the services fair?

Do they provide for a legitimate Federal purpose? I say that it is impossible for me to believe that the Senator from Indiana and the Senator from Wisconsin or any other Senator in this Chamber could begin to say that legitimate Federal purpose has not been served by the Reclamation Act.

I reserve the remainder of my time.

Mr. PROXMIRE. Will the Senator yield me just 2 minutes to summarize?

Mr. LUGAR. I am happy to.

Mr. PROXMIRE. I want to say how much I have enjoyed working with the senior Senator from Indiana on this amendment. I think he is, as usual, 100 percent right. I think what has been missed in this debate is the fact that what the Lugar amendment would do would be to preserve the complete subsidized treatment for 87 percent of the farmers. All the small farmers would be taken care of. Only those who are bigger would have to lose any of their subsidy.

Furthermore, Mr. President, those who have 960 acres would still receive 61 percent of the subsidy. That leaves only 3 percent that would have to lose more of their subsidy than 39 percent. They would still be subsidized for the other 61 percent.

Now, Mr. President, finally, I might say, in answer to the arguments that although this is one public works in which there is a payback, that the payback is really very, very small. According to the General Accounting Office, it amounts to something like 10 percent of the amount the Federal Government pays.

I do hope that the amendment passes. It is a moderate amendment. It would not put anybody out of business. It would give full consideration to the small farms and the family farms.

The PRESIDING OFFICER. Who yields time? The Senator from Indiana.

Mr. LUGAR. I yield 2 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. QUAYLE. Mr. President, I rise in strong support of my distinguished colleague from Indiana (Mr. LUGAR) and the Senator from Wisconsin (Mr. PROXMIRE) in the amendment that they have offered.

Mr. President, the issues today are quite simple. We are talking about fairness and equity. Boiled down to the core, what we are discussing today is how much longer the taxpayers are going to continue subsidizing certain privileged businesses and farms.

The supporters of S. 1867 have argued today that this bill is needed to correct some anomalies in existing law. They also argue that those in the 17 Western States fortunate enough to enjoy this benefit of subsidized water cannot stay in business if they are asked to repay the Government for this water.

Mr. President, I believe what we are talking about is the basic point of subsidy. They should not be questioning whether business can survive without a Government subsidy. They should be asking whether the Government should subsidize them in the first place. I think everybody, even the supporters of this bill, do not question the fact that the water from the Bureau of Reclamation is heavily subsidized. According to the Department of the Interior, the benefits of the Bureau of Reclamation water range from $580 to $1,750 per acre on irrigated farms. These farmers pay from 58 cents to $18 per acre-foot of water.

The people of Indianapolis, Ind., to give one simple comparison, pay $395 per acre foot of unsubsidized water. In the next 5 years, according to CBO, we will spend an additional $3.8 billion on reclamation projects in the West, but only $275 million of this will be repaid.

Mr. President, I will be the first to admit that Federal water projects have been of enormous importance in helping the West develop from a parched desert into flourishing prosperity. Westerners enjoy the cheapest electricity prices in the Nation, and western agriculture is among the most productive in the Nation. This unparalleled prosperity has been made possible to a large extent by Federal aid in developing and distributing the scarce water resources of the West.

I do not think anyone would question the proper role of the Federal Government in developing this needed infrastructure. But I for one Senator would question whether we can or even should continue to subsidize growth in one region at the expense of another, especially in times like these when prosperity is so unevenly distributed in this Nation. Per capita expenditures on Bureau of Reclamation and Corps of Engineers projects have long been weighted to the West, and to a lesser extent to the South. Even though these regions remained largely underdeveloped until well into the 20th century, they have received 75 percent of all water project expenditures since 1824. In the last 10 years this trend has continued. In 1979, for example, Indiana recieved $1.37 per person for developing water resources, Illinois received $3.28, Michigan 48 cents and Wisconsin 13 cents. By contrast, Montana received $47.37, Colora-

do $22.46, Arizona $36.74, Utah $33.96, Nevada $62.56, Oregon $67.87, Alaska $99.77, and California $9.93.

One of the effects of our reclamation expenditures has been the astounding growth in agricultural production in previously arid regions. Crops grown on lands irrigated by Bureau of Reclamation water are now worth almost $7 billion per year. I applaud this tremendous victory of man over nature and recognize the great contribution made by western agriculture to meeting the nutrition needs of an exploding world population. I must remind my colleagues, however, that we in the United States have a tremendous surplus of food which we are unable to sell on world markets. This surplus has caused the prices of foodstuffs to decline precipitously and to endanger the farm economy of the entire Nation. I ask my colleagues how we can continue to subsidize expanded production with Federal irrigation projects in time like these? As one Senator from a midwestern agricultural State, how can I tell my farm constituents that they should pay taxes to support expanded production which will keep farm prices low?

Mr. President, in an era of budget austerity, the Bureau of Reclamation has requested a 22-percent increase in budget authority for fiscal year 1983. I think the least we can ask from those who benefit from these projects is that they pay a fair and equitable share of the costs of this service.

I want to commend my colleagues from Indiana and Wisconsin for offering a fair and moderate solution to these problems. Their amendment will take us a long way toward implementing a policy of paying a fair price for Bureau of Reclamation water.

Now, Mr. President, I do not believe that this is any kind of a Draconian measure or amendment that many of the critics contend. In fact, the approach taken by Senators LUGAR and PROXMIRE would allow to continue certain amounts of subsidization for the small farmers. But I do believe that this amendment is an excellent start toward reducing subsidies and also reducing budget deficits. I hope, no matter what the outcome of this amendment is, that we will realize that there are some in other areas of the country that are not as fortunate as others, that we are serious about perhaps examining the reallocation of the total expenditure of Federal dollars where it deals with reclamation or whatever. I do not need to remind this body or to go into the way that the contributions from the Midwest or the Northeast per taxpayer dollar and per capita go to the South and the Sunbelt. I think it would get into argument, but I think that this amendment goes to the very precise point that a number of taxpayers in my area of the country and my State of Indiana are concerned about.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield 2 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. DOMENICI. Mr. President, no one has greater respect for the distinguished senior Senator from Indiana than this Senator. I guess he is tired of hearing that statement today as we get up and suggest the Senate not approve his amendment, but that is what I am going to do.

I have been hearing that we were going to have a major amendment that was going to totally change reclamation and reclamation was going to pay its own way in the country. I really thought we were going to have something innovative and different, maybe some great national reform on water projects with this amendment. I have been saying we ought to completely redo them, we ought to have new cost-sharing formulas across the country. But I come down and look at this amendment, and I am having trouble distinguishing whether it is new social policy for agriculture or whether it is a policy to recoup money. In fact, I cannot find how much money it is going to recoup. I guess it might be $33 million if everything works out just like they think, but even CBO is not sure that it will get that much money.

Having said that, I submit that the issue of the family farm and the impact of old 1902 family farm restraints and restrictions have to be fixed, and that is what this bill that the committee brought out is going to do. It does not seem to me that an amendment on the floor directed at that aspect of the bill which purports to raise money ought to get passed. Instead, we ought to look at whether or not we agree with the way we are structuring the family farm and the acreage limitation, and if we disagree with that, we ought to vote for the amendment. If we do not, we ought not to vote for it under the guise that it is some major reform which is going to recoup the money that the taxpayers allegedly, I repeat, allegedly, pay for reclamation that we do not get back.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I yield the floor and thank the Senator for yielding.

Mr. GOLDWATER. Will the Senator yield?

Mr. WALLOP. I yield to the Senator from Arizona.

Mr. GOLDWATER. I would just like to say to my two friends from Indiana—the Senator from Illinois was here—Secretary Block has a farm of 3,000 acres in Illinois, and he does not pay anything for his water. Now, that is what my old farmers out on the deserts of Arizona complain about. You have all the water you need. We do not.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. I do not suggest this because I think it is wrong and I have fought it. However, there have been those who suggest that agriculture pay for the stream pollution that comes from just that very kind of rain; that those who have heavy runoffs from their farms, in terms of pesticides, agricultural chemicals, fertilizer or others toxins pay for the pollution which they cause. I would point out that western farms are paying to clean up there streams, whereas Eastern farmers are not.

I think, all in all, this whole thing balances out. I think the Senator from New Mexico hit the nail on the head: Is it a new social reform? If it is a new social reform, call it what it is and say that you are interested in establishing a class of agricultural serfs in this country. If it is something different, then vote against this amendment. I reserve the remainder of my time.

Mr. LUGAR addressed the Chair.

Mr. PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I ask that Senator DURENBERGER be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, we have not suggested creating agricultural serfs in the country, nor have we asked for a major reform.

I am sorry to disappoint the Senator from New Mexico, whom I greatly respect, that we did not have a blockbuster but essentially we have tried throughout the day to point out a very, very modest change in subsidy is simply required by any element of fairness. It is not a change in social policy. To ask the people farming over 960 acres to pay for their water is not a radical change in social policy. The facts of life are that there are 39 inches of rainfall in Indiana and 7 inches in Arizona. That is the nature of those affairs, but, unhappily, there is very little sunshine and warmth in Indiana a very good part of the year. There is plenty in Arizona.

As the Senator from Wyoming has pointed out, these things balance out. When we get into difficulty is where we do not balance them out and, as a matter of fact, charge Federal taxpayers large subsidies.

We have admitted that we are involved in subsidy. It is a matter of degree; it is a matter of fairness. Hardly radical changes of social policy; hardly radical changes in economic policy. Clearly, our amendment

will raise money for the Federal Government and will bring about, we believe, more fairness for agriculture in this country.

Finally, I say that it is one amendment which should be offered from time to time to examine programs that have gone on for 80 years at a time, have had all sorts of accumulations that were not legislated and were compounded into a very real problem which this bill tries to solve in great respect.

It is not easy to deal with reclamation figures and statistics and philosophy, but it is important in terms of public policy that we take some time, from moment to moment, to do that, not as specialists, not as affected interests, but with regard to the whole country; and we have attempted to do that in this amendment. It is a modest sense of reform to put truth on the subject of reclamation and to let Senators make a judgment.

Mr. President, how much time remains on either side?

The PRESIDING OFFICER. The Senator from Indiana has 37 seconds, and the Senator from Wyoming has 1 minute and 33 seconds.

Mr. LUGAR. I reserve the remainder of my time, and I ask whether other Senators wish to speak as proponents of the issue, to utilize the remainder of the time.

Mr. SYMMS. Mr. President, will the Senator yield so that I may make one point in opposition?

Mr. WALLOP. I yield 30 seconds to the Senator.

Mr. SYMMS. Mr. President, earlier in the debate, Senator JACKSON made a good point about the additional administrative costs that the Lugar amendment will cause in terms of trying to do the bookkeeping, to see who has the ability to pay. There is an additional cost people will have to pay, and that will be the giving up of privacy in order for the Secretary to make the determination of who has the ability to pay and who has not.

I think that is inherent in the Lugar amendment, and it is something that should be brought out in this debate—that there will be a definite invasion of privacy; because the Secretary will have to look at the books of all the farmers in the water district to see which ones can pay and which ones cannot.

That is something that is not going to happen under the committee bill, and it will happen under the Lugar amendment. It is another good reason to vote down this amendment.

I thank the Senator for yielding.

Mr. WALLOP. Mr. President, I believe the bill strikes the delicate balance which the Senator from Indiana suggests he wants.

Again, the committee's bill is the preferable approach.

In summary, we believe the provisions of the committee reported bill strike a delicate and appropriate balance between, first, the original concept of the 1902 law and the resulting reclamation program; second, current national economic and Federal budgetary pressures; and third, maintenance of a strong Federal irrigation-based agricultural community and economy. In many respects, we have sought to weigh all of the relevant interests in a process of equity, to arrive at the reported provisions. The Lugar-Proxmire amendment would destroy that balance and as a result would seriously threaten, the practical viability of the very family farm concept it is purported to protect.

We urge opposition to the amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WALLOP. I yield myself 1 minute on the bill.

The PRESIDING OFFICER. The Chair advises the Senator that the unanimous-consent request under which the Senate is operating precludes yielding time on the bill until the supplemental appropriation has been disposed of.

Mr. LUGAR. I yield 15 seconds of my time.

Mr. WALLOP. Mr. President, the committee opposes the Lugar amendment and hopes the Senate will vote against it.

Mr. LUGAR. Mr. President, I appreciate the good spirit of the debate we have had, and I ask Senators to support our amendment.

I yield back any remaining time I have.

URGENT SUPPLEMENTAL APPROPRIATIONS, 1982—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 6685.

The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6685) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report will be printed in the House proceedings of the RECORD.)

The PRESIDING OFFICER. There will be one-half hour of debate, equally divided between Senator HATFIELD, chairman of the committee, and Senator PROXMIRE.

Who yields time?

Mr. HATFIELD. Mr. President, I again bring before this body a conference report on the urgent supplemental for fiscal year 1982. We have acted three times on this "urgent" matter: H.R. 5922, which included a $3 billion housing stimulus package and was vetoed by the President; H.R. 6682, the so-called fat bill which was identical to H.R. 5922 except for the housing stimulus package, and was also vetoed by the President; and H.R. 6685, the so-called skinny bill which was sent to us just prior to the recess, and which the Senate amended to reinstate some items of importance to both bodies.

I remind my colleagues that H.R. 6685 was not so "skinny" as it first may have appeared. I recall that it included $350 million of unbudgeted add-ons: $198 million of low-income housing operating subsidies, $150 million for Ginnie Mae, and $2 million for NOAA weather stations. It also failed to include urgent supplementals requested for the Department of Commerce and the Department of Education. Finally, it prohibited obligation of funds from most accounts in the bill beyond July 20, creating the potential for a cumbersome process of deferrals. For those reasons, and also to guard the prerogatives of the Senate and the Congress as a whole against the programmatic dictates of the administration, H.R. 6685 was amended and returned to the House.

The conferees met yesterday and reached agreement on the matter before you now. As with the product of most conferences, it represents a compromise. The Senate accepted some additional items of appropriation, and reduced others, as well as accepting an increase in a rescission. I think it is a good, sound agreement, providing funding for a number of items of importance to the people of this Nation, such as $2.4 billion for EPA wastewater construction grants; $1.3 billion for guaranteed student loans; $1,006,616,000 for the food stamp program; $2 million for NOAA weather stations across the country; $17.5 million for Coast Guard search and rescue stations; and $91 million for the Federal-aid highway program. This is necessary, useful spending, providing for the welfare of our people and the productive infrastructure of our Nation.

It should also be emphasized that this bill contains supplemental funding for salaries and expenses in a number of Federal agencies, so that planned furloughs need not occur and those that have taken place can be ended. Agencies affected include the Bureau of Labor Statistics, the Inspector General of HHS, the Merit Systems Protection Board, the Bureau of Alcohol, Tobacco and Firearms, and the U.S. Tax Court, among others.

And finally, Mr. President, this bill contains all the general provisions ap-

proved by the Senate in H.R. 6682 and its amendment to H.R. 6685. That includes the provision relating to the deductibility of Members' living expenses while away from home.

Mr. President, I commend this bill to my colleagues and urge their support. I can report that I have every confidence the bill will be signed by the President, and that I will not burden the Senate with another appropriations bill for another 3 weeks, at which time I expect we will consider the general supplemental for fiscal year 1982.

Mr. President, I would like to make a brief recitation of what happened yesterday in conference.

As the Senate remembers, when we passed the third supplemental just before recess, I brought to the floor at that time not only the oral but the written commitment from the Director of the Office of Management and Budget, Mr. Stockman, that the advice and counsel to the President would be to sign the compromise that we had worked out here on the Senate side. We met with the Appropriations Committee of the House of Representatives yesterday, and through a series of amendments that they brought to the conference we adopted approximately $156 million of program addons, including money for summer employment, refugees assistance, nurses training, $72 million for the Federal Highway System, and $42 million for the Postal Service program. In order to keep the total figure within the realm with which the administrator had agreed, we had a further rescission of $171 million in rent supplements.

We were in some ways talking about apples and oranges, but in the long-term impact on future outlays and out year budgets the rescission will have a very salutary effect of bringing down the cost of the housing programs in this Nation.

I wish to underscore this does not mean new housing or housing starts. This was rent supplements.

So we have now before us a conference report, and I am happy to report that Mr. Stockman has assured me that he will recommend to the President that the President sign this bill.

I wish to get it out of our hair. I think we have tarried too long on this subject. Even though we have had in each instance a bill which we could well defend here in the Chamber, it obviously is again an example that in our system of government, that Congress alone does not have the full authority to legislate in the field of appropriations. The President has a very important part to play in that and recognizing the separation of powers and the mixing of powers I think we now have reached a point where we can put this issue behind us.

I urge the Senate's quick adoption of this to get it down to the White House, the House of Representatives having acted on it this morning.

I again thank the ranking minority member, Senator PROXMIRE, of Wisconsin, and the able assistance of all the staff of the committee.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, H.R. 6685 as reported from conference contains seven changes in the bill as passed by the Senate on June 29. The conferees have recommended a reduction of $22,621,000 in the amount approved by the Senate for the work incentives program and have proposed an increase of $180 million in the total budget authority provided in H.R. 6685 as it initially passed the Senate for five programs.

These increases have been offset by the previously mentioned cut of $22.6 million in the work incentives program and as the chairman indicated by the rescission of an additional $171 million in rent supplement funds.

Thus we have more or less a wash with the increases proposed by the conference being offset by roughly comparable cuts. So we have more or less a wash with the increases proposed by the conference being offset by roughly comparable cuts.

Nonetheless, the bill as reported from conference provides almost $1 billion more in new budget authority than the President initially requested. A large portion of the increase—$321.8 million—is for the student loan insurance program and the administration has recognized the fact that we must provide these funds under existing law. Another substantial part of the increase, $198 million to be exact, is for public housing operating subsidies.

Lastly, the bill contains a $3,000 cap on the amount Members can deduct from their income tax returns for Washington business expenses.

I think that amendment is significant because I think it marks the first time in 50 years that Congress has knocked out a very important part of their compensation. The last time I believe was when Congress actually reduced its pay from $10,000 to $7,500, or something like that. I believe that was the figure back in the 1930's.

I think the fact that Congress has decided to make this decision now is certainly to its credit.

Mr. President, the bill as it now lies before the Senate represents a good faith effort on the part of both Houses to trim the amounts provided in the earlier vetoed urgent supplemental bills. Our distinguished colleague from Oregon, Chairman HATFIELD, has done an admirable job of working toward a compromise that will be acceptable to the White House and I hope that my colleagues can support the bill.

I have been in the Senate now 25 years, and I have worked with many committee chairmen, and I cannot remember anyone with whom I would rather work, more congenial, more helpful, fairer minded, or more intelligent and knowledgeable about the issues than the distinguished Senator from Oregon. I think he has done a first-rate job here of working toward a compromise which was extraordinarily difficult now. As we all know we have had two measures vetoed, which is most extraordinary. But I think we have every reason to expect that this bill will be signed by the President.

So at last we are on our feet.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, I am grateful for the kind remarks made by the Senator from Wisconsin. I think the Senator from Wisconsin (Mr. PROXMIRE) will agree that yesterday could have been a very difficult day for the two bodies because of the action taken by the Senate and the very strong feeling the House Members had that perhaps we had usurped or at least we had overstepped the boundary of coming up with a proposal.

I want to pay particular tribute to Chairman WHITTEN, of the House Appropriations Committee, and the ranking member of that committee, Mr. SILVIO CONTE, for their attitude. In spite of a situation which could have been acrimonious, good humor prevailed, and the sincerity of their viewpoints was eloquently stated and felt by all of us.

I want to say it is indeed not only a pleasure to be working with Senator PROXMIRE but I think we have excellent counterparts from the House of Representatives.

Since I have been on the Appropriations Committee, I think we have, in my memory at least, never had a time when we have had such expeditious handling of those conference reports and those conferences in the past that had so many long and so many hours and sometimes days.

With Chairman WHITTEN and Congressman CONTE we certainly had an excellent working relationship that I want to sustain, and I know the Senator from Wisconsin has contributed much to that good relationship.

Mr. PROXMIRE. Mr. President, will the Senator yield? I would like to say that I concur wholeheartedly in his tribute to the House people, particularly in view of the fact that they had every reason to be unhappy and disappointed. They had two bills which they enthusiastically supported, and had good reason to feel were worthy of signature by the President, vetoed by the President.

There was not any indication of bitterness. As the Senator from Oregon has indicated, they were in very good

humor and very kind under the circumstances.

But I think, having been on the committee now for many, many years and having served with many chairmen, I am sure it was in no small part because of the very fair and also very artful way the Senator from Oregon handled the situation. He ended up with a bill which would be signed by the President even though there was great pressure on the part of Members on both sides to increase it, as there always is.

He held the line and I think he deserves the lion's share of the credit.

Mr. HATFIELD. I thank the Senator.

COMMUNITY SERVICE EMPLOYMENT PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I address my remarks and questions to the distinguished manager of this urgent supplemental appropriations bill. Previously the Congress has passed and sent to the President two urgent supplemental appropriations bills, H.R. 5922 and H.R. 6682. Both of these bills contained $210,572,000 for the community service employment program for older Americans. The President subsequently vetoed both of these bills, but I note that his veto messages raise no objection to the community service employment program.

Just 2 weeks ago, on July 1, the Senate passed my resolution, Senate Resolution 340, reaffirming the Senate's strong support for this community service employment program. Yet I note the conference agreement on this urgent supplemental appropriations bill, H.R. 6685, which we are considering today does not include additional funding for the senior jobs program under title V of the Older Americans Act.

Can the distinguished manager of this urgent supplemental appropriations bill provide some assurance that this important jobs program for low-income older Americans will be funded in the regular supplemental appropriations bill?

Mr. HATFIELD. I expect that this funding will be included in the regular supplemental appropriations bill. In fact, we discussed this matter yesterday during the House/Senate conference on the urgent supplemental. The conferees appeared to be in general agreement that this funding should be included in the regular supplemental appropriations bill, by way of reassuring the Senator from West Virginia, I would like to take this opportunity to again indicate that I am an advocate of adequate funding for the title V program.

Mr. ROBERT C. BYRD. I thank the Senator from Oregon for his assurances and his support.

Mr. GARN. Mr. President. The conference agreement on chapter II of H.R. 6685—the HUD-Independent Agencies chapter—is the same as contained in the Senate-passed version with one exception. I would refer my colleagues to pages S7572 and S7573 of the June 29, 1982, CONGRESSIONAL RECORD for an explanation of some of the more important provisions of chapter II. Additional clarification can be found in House Reports 97-469 and 97-605 and Senate Report 97-402.

The only change to the Senate version concerns the rent supplement rescission. The Senate had proposed that an estimated 173,000 rent supplement units be converted to section 8 over a 5- to 6-year period. The administration had proposed converting these units over 3 years, with 60,000 conversions in fiscal year 1982, 60,000 in fiscal year 1983 and 53,000 in fiscal year 1984. The conference agreement adopted the administration's faster conversion rate thus reducing the need for additional amendment money by $171,000,000 below the Senate proposal. These additional funds, when added to the $1,579,480,000 rescission contained in the Senate version, bring the total rescission amount in H.R. 6685 to $1,750,480,000.

Mr. HATFIELD. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask that the amendment in disagreement be stated.

The PRESIDING OFFICER. The clerk will state the amendment in disagreement.

The bill clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate to the bill (H.R. 6685) entitled "An Act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other puposes", and concur therein with the following amendment:

In lieu of the matter inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Urgent Supplemental Appropriations Act, 1982") for the fiscal year ending September 30, 1982, and for other purposes, namely:

TITLE I

CHAPTER I

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

(TRANSFER OF FUNDS)

For an additional amount for "Program administration", $8,742,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

EMPLOYMENT AND TRAINING ASSISTANCE

For an additional amount for the Summer Youth Program under part C of title IV of the Comprehensive Employment and Training Act, $45,000,000.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $4,259,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $5,623,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

For an additional amount for "Health Services", $60,080,000, of which $3,500,000 shall be used to provide twelve months of transitional funding for those University Affiliated Facilities previously funded under section 502(a) of the Social Security Act or predecessor legislation (title V of the Social Security Act as in effect prior to the enactment of the Maternal and Child Health Services Block Grant), but for which termination of such funding has been announced during fiscal year 1982.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

For an additional amount for "Health Resources", $1,000,000, which shall be available for nursing research grants.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

WORK INCENTIVES

For an additional amount for "Work incentives", $35,000,000.

DEPARTMENTAL MANAGEMENT

OFFICE OF THE INSPECTOR GENERAL

(TRANSFER OF FUNDS)

From amounts appropriated for fiscal year 1982 for payments to States for Medicaid Fraud Control Units, there is transferred to the Office of Inspector General, Department of Health and Human Services, for necessary expenses, $13,941,000.

SOCIAL SECURITY ADMINISTRATION

REFUGEE AND ENTRANT ASSISTANCE

For an additional amount for "Refugee and Entrant assistance", $20,000,000, to be available only to reimburse States which by reason of court order, State statute or regulation, or other administrative restraint could not implement the change in regulations published on March 12, 1982, for refugee assistance and domestic assistance for Cuban and Haitian entrants.

DEPARTMENT OF EDUCATION

STUDENT LOAN INSURANCE

For an additional amount under title IV, part B of the Higher Education Act, $1,300,000,000, to remain available until expended.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,650,000.

RELATED AGENCIES

ACTION

OPERATING EXPENSES, DOMESTIC PROGRAMS

For an additional amount for "Operating expenses, domestic programs", under the provisions of the Domestic Volunteer Service Act of 1973, as amended (Public Law 93-113, as amended, 42 U.S.C. section 4951 et seq.), $2,000,000.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For an additional amount for payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934 as amended, an amount which shall be available within limitations specified by said Act, for the fiscal year 1984, $24,400,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, and similar forms of entertainment for Government officials or employees. *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity excluding from participation in, denying the benefits of, or discriminating against any person on the basis of race, color, national origin, religion, or sex.

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $309,000.

CHAPTER II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the amount of authority provided under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982 and prior Appropriation Acts, $94,382,000 of contract authority and $4,098,640,000 of budget authority are rescinded: *Provided*, That any balances of authorities made available prior to enactment of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, which are, or become, available for obligation in fiscal year 1982, shall be added to and merged with the authority approved in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, and such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1982: *Provided further*, That $190,860,000 of contract authority and $4,098,685,000 of budget authority, shall be used for the public housing program, including $18,960,000 of contract authority for assistance in financing the development or acquisition cost of low-income housing for Indian families, $90,000,000 of contract authority for modernization of existing low-income housing projects, and $1,263,005,000 of budget authority for new construction and substantial rehabilitation as authorized by section 5(c) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c); and $870,969,000 of contract authority and $15,228,518,000 of budget authority shall be used for new construction and substantial rehabilitation and assistance to existing housing units, including amendments for units reserved in prior years, under the lower-income housing assistance program (section 8, United States Housing Act of 1937, as amended): *Provided further*, That of the foregoing amounts, $152,715,200 of contract authority and $3,700,000,000 of budget authority shall be for projects under section 8, United States Housing Act of 1937, as amended, the rents for which are approved pursuant to the note governing financing adjustments (46 Fed. Reg. 51903, October 23, 1981) or any published amendment thereto or successor note, except that the Secretary shall include in the determination of the fair market rental a debt service factor reflecting the lesser of (A) 14 percent or (B)(i) where the rate of interest on the permanent instrument sold to finance the project is 12 percent or less, such rate of interest or (ii) where the rate of interest on the permanent instrument sold to finance the project is more than 12 percent, one-half percent below such rate of interest but not less than 12 percent, and except that the Agreement to Enter into a Housing Assistance Payments Contract shall not be required to include a provision requiring that construction must be in progress prior to October 1, 1982: *Provided further*, That with respect to newly constructed and substantially rehabilitated projects under section 8, United States Housing Act of 1937, as amended, during 1982, the Secretary shall not impose a percentage or other arbitrary limitation on the cost and rent increases resulting from increased construction cost in exercising the authority to approve cost and rent increases set forth in section 8(1) of such Act: *Provided further*, That none of the merged amounts available for obligation in 1982 shall be subject to the provisions of section 5(c) (2) and (3) and the fourth sentence of section 5(c)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): *Provided further*, That no funds provided under this or any other Act shall be used to terminate a reservation of contract authority for any project under section 8 of the United States Housing Act of 1937, as amended, on account of the inability of the developer or owner of that project to obtain firm financing, unless such termination occurs no less than twenty four months following the date of initial reservation of contract authority for such project: *Provided further*, That $74,375,000 of contract authority and $1,750,000,000 of budget authority provided under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, shall not become available for obligation until October 1, 1982, and $89,321,727 of the foregoing budget authority shall be for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States housing Act of 1937, as amended, other than section 14(f) of such Act: *Provided further*, That to the extent that the amount of budget authority which is recaptured or deobligated, including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 C.F.R. part 883.207, does not equal $5,000,000,000 on June 30, 1982, the amounts deferred in the immediately preceding proviso may be used in accordance with, and in addition to, the amounts provided in the third proviso of this paragraph, except that to the extent such amounts are used, an equivalent amount of such recaptured or deobligated contract authority and budget authority, which become available on or after July 1, 1982 through September 30, 1982, if any, shall be deferred until October 1, 1982.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for Operation of Low-Income Housing Projects", $198,000,000: *Provided*, That of the total amount available in fiscal year 1982 for "Payments for Operation of Low-Income Housing Projects", $1,215,275,400 shall be made available pro rata solely in accordance with the Performance Funding System (as set forth in 24 C.F.R. part 890, as of February 8, 1982).

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is further reduced in fiscal year 1982 by not more than $3,340,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m), 205(k), except that for the project authorized by said section the Administrator shall allocate to the State of New York an amount equal to one-third of the total cost from the amount made available under this paragraph to the State of New York, one-third from the amount made available to the State of New Jersey, and one-third from the amounts made available to the remaining States, 206, 208, and 209, $2,400,000,000, including grants for biological treatment facilities to repair or replace small community systems but not to exceed three systems suffering operational problems outside the warranty period where the existing Environmental Protection Agency planned systems have proven to be inoperable by the local municipalities, where determined to be necessary, to remain available until expended. *Provided*, That of such amount, $3,965,426 in additional funds (the amount which was withheld from the State of Kansas by reason of an accounting error by the Federal Government) shall be made available to the State of Kansas. *Provided further*, That nothing herein shall prohibit any project specified in section 201(m) from receiving a grant under section 201(g), in compliance with all relevant procedures under title II of the Federal Water Pollution Control Act, as amended, and paid from funds allotted to the State by section 205 and appropriated by this Act: *Provided further*, That the Administrator, upon application by the Governor of the State of Ohio, with the approval of the Committees on Appropriations, shall before October 1, 1982, commit existing unobligated funds from the State's Wastewater Construction Grant allotments to fund the Solid Waste Energy facility in Akron, Ohio.

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies

Appropriation Act, 1982, $5,000,000 shall be made available to the Department of Health and Human Services, upon enactment, and up to an additional $2,000,000 may be made available by the Administrator to the Department for the performance of specific activities in accordance with section 111(c)(4) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Management of all funds made available to the Department shall be consistent with the responsibilities of the trustee of the fund, as outlined in section 223(b) of the Act.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

Notwithstanding any other provision of this or any other Act, of the funds appropriated under the heading, "National Aeronautics and Space Administration, Research and development" in Public Law 97-101, not less than the amounts hereinafter set forth shall be made available for the purposes specified: $31,200,000 for expendable launch vehicles; $323,500,000 for physics and astronomy (including $40,000,000 for Shuttle-Spacelab payloads); $205,000,000 for planetary exploration (including $1,700,000 for the mid-level facility in Hawaii); $39,500,000 for life sciences; $328,200,000 for space applications (including $2,300,000 for the search and rescue program, $5,000,000 for technology transfer, $6,000,000 for upper atmospheric research satellite experiments, $16,200,000 for Shuttle-Spacelab payloads, and $15,400,000 for a 30/20 gigahertz test satellite); $8,000,000 for technology utilization; $264,800,000 for aeronautical research and technology; $111,000,000 for space research and technology; and $402,100,000 for tracking and data acquisition: *Provided*, That of the funds available for the Space Shuttle, including space flight operations, not less than $80,000,000 shall be made available for design, development and procurement of liquid hydrogen-liquid oxygen (Centaur), upper stages, for use in launching the Galileo and Solar Polar spacecraft in 1986: *Provided further*, That no funds may be obligated for other upper stages, including kick stages, for the Galileo and Solar Polar spacecraft after the enactment of this Act except for work performed prior to the effective date of this Act, together with liability for termination: *Provided further*, That no funds appropriated in this or any other Act may be obligated for a Solar Maximum repair/retrieval mission until the Secretary of the Air Force enters into an agreement with the Administrator to reimburse the National Aeronautics and Space Administration 50 per centum of the costs of such mission (exclusive of the costs attributable solely to equipment for the Solar Maximum spacecraft and to equipment capable of reuse): *Provided further*, That upon request by the Administrator of the National Aeronautics and Space Administration and approval by the Committees on Appropriations not to exceed $50,000,000 from the unobligated balances of funds appropriated under the heading "National Aeronautics and Space Administration, Construction of facilities" or "National Aeronautics and Space Administration, Research and program management" in Public Law 97-101 and Public Law 96-526 shall be available for the Space Shuttle, including space flight operations: *Provided further*, That the Administrator makes sufficient funds available to assure that a second Space Shuttle launch pad at the Kennedy Space Center, Florida, is operational by January 1, 1986.

ADMINISTRATIVE PROVISION

Limitation in section 501(40) of title V of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, are amended as follows: The limitations on the Department of Housing and Urban Development's Office of the Assistant Secretary for Legislation and Congressional Relations are increased from 26 full-time permanent positions and 27 staff years to 31 full-time permanent positions and 33.5 staff years, the limitation on the National Aeronautic and Space Administration's Office of the Comptroller is increased form 150 full-time permanent positions to 161 full-time permanent positions, the limitation on the National Aeronautics and Space Administration's Office of External Relations is increased from 120 full-time permanent positions to 125 full-time permanent positions, excluding those positions allocate for Technology Utilization activities, and the limitation on the Veterans Administration's Office of Planning and Program Evaluation is increased from $1,500,000 to $2,300,000.

CHAPTER III

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $17,500,000, to remain available until expended.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAY PROGRAM

Section 3(a) of the Federal-Aid Highway Act of 1981 is amended by striking the period at the end of the first sentence and by inserting the following: "plus, an additional amount not to exceed $19,000,000 in obligation authority to carry out section 310(d)(3) of Public Law 97-102.".

For an additional amount of authority to execute contracts to replace or rehabilitate highway bridges according to Title 23, United States Code, Section 144, $19,000,000 out of the Highway Trust Fund, to remain available until expended: *Provided*, that obligations incurred under this authority shall not be subject to any law limiting obligations for Federal-Aid Highways.

Section 3(a) of the Federal-Aid Highway Act of 1981 is further amended by striking the period at the end of the first sentence and by inserting the following; "plus, an additional amount not to exceed $53,000,000 in obligation authority which the Secretary shall allocate to the States in order to increase such total obligation limitation, so that the reduction of any State's final obligation limitation is held to 15 per centum of the tentative limitation issued by the Secretary on October 1, 1981.".

NATIONAL SCENIC AND RECREATIONAL HIGHWAY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

Any amounts previously authorized to be derived from the Highway Trust Fund for payment of obligations in carrying out the provisions of 23 U.S.C. 148 are to be transferred to and administered under the appropriation "Federal-aid highways".

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Section 303(d) of the Rail Passenger Service Act, 45 U.S.C. 543(d), is amended by changing the period at the end thereof to a semicolon and adding the following: "except that the holding of securities issued by a railroad shall not be deemed to be violative of this prohibition: *Provided*, That the officer who holds such securities recuses himself from any decisions which bear directly on such railroad, and makes full public disclosure of such holdings.".

RELATED AGENCIES

CIVIL AERONAUTICS BOARD

PAYMENTS TO AIR CARRIERS

For an additional amount for "Payments to air carriers", $28,400,000 to remain available until expended: *Provided*, That $8,242,000 shall be used to liquidate obligations incurred during September 1981 to provide for subsidy payments under 49 U.S.C. 1376 and 1389: *Provided further*, That notwithstanding any other provision of law any funds appropriated for "Payments to air carriers" in this or any other Act which are not obligated by September 30, 1982, shall be available for obligations only for section 419 (49 U.S.C. 1389) subsidies, except for adjustments to section 406 (49 U.S.C. 1376) payments for service provided prior to September 30, 1982.

INTERSTATE COMMERCE COMMISSION

PAYMENTS FOR DIRECTED RAIL SERVICE

For an additional amount for "Payments for directed rail service", $8,000,000, to remain available until expended.

Section 120 of the Rock Island Railroad Transition and Employee Assistance Act is amended—

(1) in subsection (a)—

(A) by striking out "the Rock Island Railroad" the first place it appears and inserting in lieu thereof "any railroad subject to section 77 of the Bankruptcy Act, or subchapter IV of chapter 11 of title 11, United States Code, which has ceased to provide passenger commuter service over any line of the railroad";

(B) by striking out "2-year" and inserting in lieu thereof "3-year"; and

(C) by striking out "Rock Island Railroad" each place it appears (other than the first time it appears) and inserting in lieu thereof "railroad"; and

(2) in subsection (b), by striking out "the Rock Island Railroad" and inserting in lieu thereof "any railroad".

CHAPTER IV

DEPARTMENT OF THE TREASURY

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $81,604,000.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $23,825,000: *Provided*, That no funds made available by this Act or Public Law 97-161 may be used to accomplish or implement any proposed reorganization of the Bureau of Alcohol, Tobacco and Firearms or the transfer of the Bureau's functions, missions, or activities to other agencies within the Department of the Treasury in the fiscal year ending on September 30, 1982: *Provided further*, That no reorganization of the Bureau of Alcohol, Tobacco and Firearms or the transfer of the Bureau's functions, missions, or activities to other agencies within the Department of the Treasury subsequent to September 30, 1982, shall be accomplished or implemented without the specific, express approval of

both the House and Senate Committees on Appropriations.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $14,865,000, of which $8,000,000 shall be used for salaries, expenses, equipment, and other related expenses for Operation Exodus.

U.S. POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional amount for payment to the Postal Service Fund for revenue forgone on free and reduced rates of mail, pursuant to 39 U.S.C. 2401(c), $42,000,000: *Provided*, That notwithstanding any other provision of law, the Postal Service shall use these funds promptly to revise the adjustment to preferred rates made pursuant to section 108 of Public Law 97-92 so that all mail covered by the 16-year phasing schedules established pursuant to section 3626 of title 39, United States Code, shall benefit from step 13 on such schedule through September 30, 1982. This provision shall take effect ten days after enactment of this Act.

Effective October 1, 1982, section 1723 of the Omnibus Reconciliation Act, Public Law 97-35, is amended by striking out "(a)" before "Notwithstanding" in subsection (a) and by striking out subsection (b).

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $500,000.

FEDERAL BUILDINGS FUND

Notwithstanding the provision immediately following the repairs and improvements line item projects under the heading "General Services Administration, Federal buildings fund, Limitations on availability of revenue in H.R. 4121 as passed by the House and in H.R. 4121 as reported by the Senate on September 22, 1981, funds presently available for repairs and alterations nonprospectus projects shall be used to initiate the design and related work required to begin the repairs and alterations of the U.S. Court of Appeals building, Atlanta, Georgia.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $4,006,000.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $238,000.

U.S. TAX COURT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,530,000.

CHAPTER V

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,171,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $3,500,000 to be derived by transfer from the Economic Development Revolving Fund.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $2,000,000, to remain available until expended.

RELATED AGENCY

INTERNATIONAL COMMUNICATION AGENCY

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

Appropriations made available under this heading for fiscal year 1982 may be used for lease of real property for periods of up to twenty-five years in Africa, Asia, the Caribbean area, and Europe.

CHAPTER VI

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

For an additional amount for the "Food Stamp Program", $1,006,616,000.

CHAPTER VII

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", $40,000,000, to remain available until expended: *Provided*, That $18,000,000 of the funds provided shall be for flood control measures and features on the Cowlitz and Toutle Rivers in the State of Washington.

TITLE II

GENERAL PROVISIONS

SEC. 201. Any institution of higher education specifically cited in the conference report on the Education Amendments of 1980 (report numbered 96-1337) as a unique institution which the conference committee for that legisation intended to be recognized as a developing institution eligible to apply for funds under title III of the Higher Education Act of 1965, shall be treated as an eligible institution for such purpose for fiscal year 1982, notwithstanding section 322(a)(2)(A) of such Act.

SEC. 202. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 203. Notwithstanding any other provision of law, none of the funds provided for International Organizations and Programs in Public Law 97-121, the Foreign Assistance and Related Programs Appropriations Act for Fiscal Year 1982, shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the South West Africa Peoples Organization, or Cuba.

SEC. 204. No funds appropriated or otherwise made available for fiscal year 1982 shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Federal Mine Safety and Health Act of 1977 on any State or political subdivision thereof. Notwithstanding section 101(a)(3) of Public Law 97-92 or any similar or comparable provision of any other law, during fiscal year 1982 the Mine Safety and Health Administration shall have the same enforcement authorities vested in such Administration on September 30, 1981.

SEC. 205. Effective upon enactment of this Act and for the remainder of fiscal year 1982, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 206. Notwithstanding any other provision of law, the amounts appropriated for fiscal year 1982 under Public Law 97-51 (as amended by Public Law 97-85) and Public Law 97-92 (as amended by Public Law 97-161) for purposes of section 340 of the Public Health Service Act shall be available for funding grants and contracts under such section in areas that are not urbanized areas and in urbanized areas.

SEC. 207. Notwithstanding any other provision of this Act, any other Act, or section 413D of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for fiscal year 1982 among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in the fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for that fiscal year: *Provided*, That the Secretary shall allocate sums to institutions in each State notwithstanding section 413D(b)(1)(B)(ii)(I) of the Higher Education Act of 1965.

SEC. 208. Notwithstanding any other provision of this Act, any other Act, or section 442 of the Higher Education Act of 1965, the Secretary shall allot the sums appropriated pursuant to section 441 of the Higher Education Act of 1965 for the fiscal year 1982 among Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the States (including the District of Columbia and the Commonwealth of Puerto Rico) so that the allotment of Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and each State (including the District of Columbia and the Commonwealth of Puerto Rico) bears the same ratio to the amount appropriated as the allotment of Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and each State (including the District of Columbia and the Commonwealth of Puerto Rico) for the fiscal year 1981 bears to the total amount appropriated pursuant to section 441 for that fiscal year: *Provided*, That the Secretary shall allocate sums to institutions in each jurisdiction notwithstanding the second sentence of section 446(a) of the Higher Eduction Act of 1965.

SEC. 209. The Secretary of Education and the Director of the National Institute of Education shall not terminate any long-term special institutional agreement (or any other grant agreement or contract which incorporates by reference such long-term special institutional agreement) which—

(1) was entered into under section 405(f) of the General Education Provisions Act, relating to laboratories and centers, and

(2) is in effect on the date of enactment of this Act,

prior to the original completion date established by such long-term special institutional agreement (or any other grant agreement or contract which incorporates by reference such long-term special institutional agreement).

SEC. 210. (a) The Secretary of Agriculture shall initiate construction on not less than fifteen new projects under the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) during fiscal year 1982.

(b) Any project proposed for construction pursuant to the Act referred to in subsection (a) and submitted to the Director of the Office of Management and Budget for review shall be deemed to be approved by the Director unless disapproved by him within ninety days after submission.

SEC. 211. (a) Subsection (a) of section 112 of the Act of December 15, 1981 (95 Stat. 1194), is amended by inserting after "in connection with a qualified issue" the following: ", except to the extent such funds are used in connection with the consideration or granting of an exemption from the application of such revenue ruling or regulation under proposed income tax regulation section 1.103-7(b)(6)(ii) or any similar statute or regulation".

(b) Subsection (d) of section 112 of the Act of December 15, 1981 (95 Stat. 1196), is amended to read as follows:

"(d) It is the sense of the Congress that after August 23, 1981, the Secretary of the Treasury or his delegate, in all cases, should enforce any revenue ruling or regulation described in paragraph (1) or (2) of subsection (a) in a manner consistent with the provisions of this section. Nothing in the preceding sentence shall prevent the Secretary of the Treasury or his delegate from granting or considering an exemption from the application of such a revenue ruling or regulation under proposed income tax regulation section 1.103-7(b)(6)(ii) or any similar statute or regulation.".

SEC. 212. Notwithstanding any provision of this or any other Act, none of the funds appropriated for the Department of Labor, Mine Safety and Health Administration, shall be used to classify a mine in the potash industry as gassy based upon air samples containing concentrations of methane gas, unless such classification standard has been adopted through formal rulemaking on or after November 5, 1981.

SEC. 213. None of the funds provided in this or any other Act shall be used to implement an apportionment and staffing plan to specifically phase down the Public Health Service Commissioned Corps.

SEC. 214. The Department of Agriculture, U.S. Forest Service, within available funds, shall expend not less than $1,000,000 for research on the cyclocrane concept of a lighter-than-air heavy lift vehicle for use in logging operations.

SEC. 215. (a) The last sentence of section 162(a) of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by inserting ", but amounts expended by such Members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of $3,000" after "home".

(b) Paragraph (4) of section 280A(f) of such Code (relating to coordination with section 162(a)(2)) is amended to read as follows:

"(4) COORDINATION WITH SECTION 162(A)(2).—Nothing in this section shall be construed to disallow any deduction allowable under section 162(a)(2) (or any deduction which meets the tests of section 162(a)(2) but is allowable under another provision of this title) by reason of the taxpayer's being away from home in the pursuit of a trade or business (other than the trade or business of renting dwelling units).".

(c) Subsection (a) of section of 139 of the Act of October 1, 1981 (95 Stat. 967), is hereby repealed.

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 216. For an additional amount for National Guard Personnel, Army, such amount as is necessary to make 850 man-days available to the Kentucky Army National Guard to implement and operate the Medical Assistance to Safety and Traffic program in Kentucky through August 1, 1982, to be derived by transfer from Operations and Maintenance, Army National Guard.

SEC. 217. (a) None of the funds which are made available by this or any other Act shall be used to study, plan, or implement the termination of the operation of the Southwestern Indian Polytechnic Institute located in Albuquerque, New Mexico, in fiscal year 1982.

(b) The Secretary of the Interior shall use funds made available to the Department of the Interior under the Act of December 23, 1981 (95 Stat. 1391), to operate Southwestern Indian Polytechnic Institute through fiscal year 1982.

SEC. 218. Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981, and section 102(c) of the Federal-Aid Highway Act of 1976, the Secretary may approve the use of interstate construction funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, on projects for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System in accordance with the provisions of 23 U.S.C. 119, or for those purposes for which funds apportioned under 23 U.S.C. 104(b)(1), (2), and (6) may be expended, in a State which received no more than one-half of 1 per centum of the total apportionment under 23 U.S.C. 104(b)(5)(A) for the fiscal year ending September 30, 1983, where necessary in order to fully utilize funds apportioned under 23 U.S.C. 104(b)(5)(A) through the fiscal year ending September 30, 1982, but within the obligational limitation established by section 3 of the Federal-Aid Highway Act of 1981.

Mr. HATFIELD. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADY). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I suggest we move to the rollcall.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HATFIELD. All time is yielded back.

Mr. PROXMIRE. All time is yielded back on our side.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon (Mr. HATFIELD). The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. PRYOR) is necessarily absent.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 91, nays 6, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—91

Abdnor	Exon	Melcher
Andrews	Ford	Metzenbaum
Baker	Garn	Mitchell
Baucus	Glenn	Moynihan
Bentsen	Goldwater	Nickles
Biden	Gorton	Nunn
Boren	Hart	Packwood
Boschwitz	Hatch	Pell
Bradley	Hatfield	Pressler
Brady	Hawkins	Proxmire
Bumpers	Hayakawa	Quayle
Burdick	Heflin	Randolph
Byrd, Harry F., Jr.	Heinz	Riegle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Rudman
Cannon	Inouye	Sarbanes
Chafee	Jackson	Sasser
Chiles	Jepsen	Schmitt
Cochran	Johnston	Simpson
Cohen	Kassebaum	Specter
Cranston	Kasten	Stafford
D'Amato	Kennedy	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Symms
Denton	Levin	Thurmond
Dixon	Long	Tower
Dodd	Lugar	Tsongas
Dole	Mathias	Wallop
Domenici	Matsunaga	Warner
Durenberger	Mattingly	Zorinsky
Eagleton	McClure	

NAYS—6

Armstrong	Grassley	Humphrey
East	Helms	Percy

NOT VOTING—3

Murkowski	Pryor	Weicker

So the motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I suggest that the Senate is not in order.

The PRESIDING OFFICER. The point is well taken. The Senate will be in order.

FEDERAL RECLAMATION LAW

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1867.

(The following proceedings occurred during consideration of the conference report on the urgent supplement appropriations.)

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may ask for the yeas and nays on the Lugar-Proxmire amendment. All time had been yielded back, and we are ready to vote. That will put Members on notice that we will have a rollcall vote on that matter. So I ask unanimous consent to be able to ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the Lugar-Proxmire amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

(Conclusion of earlier proceedings.)

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 1935 offered by the Senator from Indiana. The yeas and nays have been ordered.

ORDER OF PROCEDURE

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order, please? The majority leader is going to speak on the program for the rest of today and tomorrow.

The PRESIDING OFFICER. The Senate will be in order.

The majority leader.

Mr. BAKER. I thank the Chair and I thank the minority leader.

Mr. President, the vote we are about to have is on or in relation to the Lugar amendment. As soon as that vote is taken, it is the intention of the leadership on this side to ask unanimous consent to proceed to the consideration of the Shultz nomination. I may say, as I have said previously, that while I hope consent will be given to go into executive session for that purpose, if there is an objection, it will still be my intention to move to go into executive session for the purpose of considering that nomination.

I hope that we can dispose of the debate on the Shultz nomination in fairly short order, in an hour or so, get that vote this afternoon, and then return to consideration of the reclamation bill.

This is Thursday, and I anticipate that we will stay past the usual recess-adjournment time at 6 o'clock. How much later depends really on what prospects there are for finishing reclamation tonight. If we can finish it without staying to an unusually late hour, I would not object to staying and finishing reclamation. Indeed, I would like that. I do not, however, expect the Senate to remain in very late tonight. By that I mean as late as midnight.

We will be in session tomorrow, Mr. President. I do expect votes tomorrow. If we have not finished the reclamation bill, we will return to consideration of that measure and try to finish it tomorrow. If we have finished the reclamation bill, the Senate will resume consideration of the balanced budget constitutional amendment. There are a number of amendments to that resolution that I know of. I urge Senators to consider that they should offer those early, and that Friday will be a good day to get votes on amendments that Members may have and that they wish to offer to the constitutional amendment resolution.

Once again, we will be in late tonight, not all night, not as late as midnight. We will be in session tomorrow either on the reclamation bill or on the constitutional amendment. We will have votes tomorrow. I anticipate that tomorrow will be a full day but not a late day, and we will be out tomorrow before 6 o'clock.

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 1935 offered by the Senator from Indiana.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, before moving to that, will the majority leader tell us, if he knows, approximately how many amendments there are that are actually going to be considered on the reclamation bill?

Mr. BAKER. On the reclamation bill?

Mr. BUMPERS. Yes.

Mr. BAKER. I wonder if I might yield to the Senator from Wyoming, who may be able to give a better answer.

Mr. WALLOP. Mr. President, that we know of, there is one from the Senator from Arkansas that has a time agreement. There is one from the Senator from Maine. We understand the Senator from Ohio may have one, several, or many. We have not seen any of those yet. There is one possible amendment from the Senator from New York (Mr. MOYNIHAN).

Mr. METZENBAUM. Will the Senator from Wyoming yield?

Mr. WALLOP. Yes, I yield.

Mr. METZENBAUM. The Senator from Ohio has a large number of amendments that he hopes the Senate will consider as we move forward on the reclamation bill. I do want to advise the majority leader and the Senator from Arkansas that we have a number of amendments that we expect to call up in due course.

Mr. BUMPERS. Mr. President, if I may——

Mr. BAKER. Yes, I yield further to the Senator from Arkansas.

Mr. BUMPERS. My amendment is one on which there is a 4-hour time agreement to be equally divided. I wonder if anybody would have objection, once that——

Mr. WALLOP. I believe the Senator has a 2-hour time agreement to be equally divided.

Mr. BUMPERS. Is it a 2-hour time agreement? I think it is 4 hours.

The PRESIDING OFFICER. The Senator from Wyoming is correct.

Mr. BUMPERS. It is a 2-hour time agreement? OK.

I wonder if Senators would have any objection, on the knowledge that tomorrow is Arkansas Day at the World's Fair in Knoxville, Tenn., and that I will not be here tomorrow, if I be first up after the Shultz nomination?

Mr. BAKER. Mr. President, I do not have any objection to that, given the very valid reason the Senator has for wanting to be away. [Laughter.] I am afraid it would be beyond my authority to grant that request.

Mr. President, I ask unanimous consent, if the manager is agreeable, that when we resume consideration of the reclamation bill, the amendment to be offered by the Senator from Arkansas, which is a part of the unanimous-consent agreement, Order No. 599, then be the pending question before the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. ROBERT C. BYRD. Mr. President, I have one suggestion and one question.

The one suggestion would be to my colleagues that the majority leader be allowed to take up the Shultz nomination by unanimous consent for the simple reason that a motion to proceed would be undebatable and that a rollcall vote on that motion would take 15 minutes of the Senate's time needlessly. It would, of course, be any Senator's right to object and thus cause the motion to have to be made.

Second is the question, and that is: Could the distinguished majority leader state what his intentions are with respect to the tax reconciliation measure, as to when it will be called up before the Senate?

Mr. BAKER. Mr. President, I thank the minority leader. I should have included that in my listing.

Mr. President, first of all, I am very grateful for his suggestion, and I will make a unanimous-consent request then in a few moments that I may ask the Senate to proceed to the consideration of that nomination after the disposition of the Lugar amendment.

Before I do that, let me say that I anticipate, Mr. President——

Mr. ROBERT C. BYRD. Mr. President, what the majority leader is saying now is very important to all Senators. He is responding to a question as to what his intentions are as to the tax reconciliation measure.

Mr. BAKER. Mr. President, I anticipate now that we will not have finished the constitutional amendment debate by Monday next. I hope, when the Senate resumes its session on Monday, that we will have some debate on the constitutional amendment. If we have not yet finished it by sometime midafternoon on Monday, it would be my intention to ask the Senate then to proceed to the consideration of the reconciliation bill reported by the Finance Committee, that is, Monday afternoon, sometime midafternoon or a little later.

Mr. President, that, of course, is a privileged matter. There is a statutory time limitation of 20 hours of debate on the measure, and therefore I except that beginning Monday afternoon sometime we will begin debate on the tax bill, on reconciliation, have a few hours of debate on Monday, all day on Tuesday, and maybe finish the matter either on Tuesday afternoon or sometime during the day on Wednesday.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

Mr. BAKER. Mr. President, I am very grateful to the minority leader for his suggestion, and he is, of course, exactly right about the procedural status of that nomination; a motion to go into executive session for the purpose of considering the Shultz nomination would be nondebatable at this time and a rollcall, of course, would require 15 minutes. I hope Senators might not require that.

At this time, Mr. President, I ask unanimous consent that when the Senate disposes of the Lugar amendment, which is upcoming, it proceed then to go into executive session for the purpose of considering the Shultz nomination.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, reserving the right to object, may I ask my leader how long he expects the Shultz debate to last?

Mr. BAKER. Mr. President, the question of the Senator from Arizona is how long do I think the Shultz nomination will take? An hour or so, I would say to the Senator from Arizona. We cannot know exactly and we do not yet have a time agreement, but in shopping for a time agreement it looked like we are talking about an hour, 1½ or 2 hours of debate.

Mr. GOLDWATER. I thank the majority leader. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Without objection, it is so ordered.

Mr. BAKER. I thank all Senators.

FEDERAL RECLAMATION LAW

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 1935 offered by the Senator from Indiana. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. PRYOR) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 39, nays 58, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—39

Biden	Glenn	Nunn
Boschwitz	Grassley	Pell
Bradley	Hart	Percy
Bumpers	Hatfield	Proxmire
Byrd, Harry F., Jr.	Heinz	Quayle
Chafee	Jepsen	Riegle
Chiles	Kasten	Roth
Cohen	Kennedy	Rudman
Danforth	Leahy	Sarbanes
Dixon	Levin	Specter
Dodd	Lugar	Stafford
Durenberger	Metzenbaum	Tsongas
Eagleton	Mitchell	
	Moynihan	

NAYS—58

Abdnor	Ford	Mattingly
Andrews	Garn	McClure
Armstrong	Goldwater	Melcher
Baker	Gorton	Nickles
Baucus	Hatch	Packwood
Bentsen	Hawkins	Pressler
Boren	Hayakawa	Randolph
Brady	Heflin	Sasser
Burdick	Helms	Schmitt
Byrd, Robert C.	Hollings	Simpson
Cannon	Huddleston	Stennis
Cochran	Humphrey	Stevens
Cranston	Inouye	Symms
D'Amato	Jackson	Thurmond
DeConcini	Johnston	Tower
Denton	Kassebaum	Wallop
Dole	Laxalt	Warner
Domenici	Long	Zorinsky
East	Mathias	
Exon	Matsunaga	

NOT VOTING—3

Murkowski Pryor Weicker

So Mr. LUGAR's amendment (No. 1935) was rejected.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session to consider the nomination of George P. Shultz, of California, to be Secretary of State of the United States.

The Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

NOMINATION OF GEORGE P. SHULTZ TO BE SECRETARY OF STATE

The legislative clerk read the nomination of George P. Shultz, of California, to be Secretary of State.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, the Senate is being asked today to give its advice and consent to the President's nominee for Secretary of State, George P. Shultz. Mr. Shultz was reported yesterday from the Committee on Foreign Relations by the unanimous vote of 17 to 0, following 2 days of extensive and wide-ranging hearings before the committee. He is a superbly qualified and impressive person who will add significant strengths to the President's Cabinet. I urge my colleagues to give their support and approval to this nomination.

The distinguished career of Secretary Shultz is by now, I am sure, familiar to all Members of the Senate. Following his graduation from Princeton in 1942, he served during World War II in the U.S. Marine Corps, rising to the rank of major by the end of the war. He then attended graduate school at M.I.T., receiving his Ph. D. in international economics in 1949, and teaching at that institution until 1957 when he was appointed professor of Industrial Relations at the Graduate School of Business of the University of Chicago. It was at that time that I came to know George Shultz personally and began a friendship which now spans a quarter of a century. He became the dean at Chicago in 1962 and remained a citizen of Illinois until his nomination in 1968 to become Secretary of Labor in the Nixon administration. He then served successively as the first Director of the Office of Management and Budget from 1970 to 1972, and Secretary of the Treasury from 1972 until 1974.

In 1974, Secretary Shultz joined the Bechtel Corp., becoming its president a year later. For 2 years following his departure from Government, he served as a member of President Ford's Foreign Intelligence Advisory Board. He has now been with the Bechtel Corp. for 8 years.

Mr. President, it is a rare privilege to be able to recommend to my colleagues a person who is not only eminently qualified for the high office of Secretary of State, but also a personal friend whom I have admired and consulted for many years. I understand that President Reagan has also frequently turned to George Shultz for his advice and assistance on a great many matters over the years.

Secretary Shultz will now be in position to become one of the most important, if not the most important, sources of advice and policy recommendation for the President in the future. This is particularly true considering the extraordinarily complex world in which we live today. Those of us who have had the opportunity to listen to George Shultz during the 2 days of his confirmation hearings, as well as his private discussions, find that prospect tremendously reassuring in these especially troubled times.

Mr. President, we could scarcely find a more demanding time to call upon any person to assume the tremendous responsibilities of Secretary of State. Recent events in many parts of the world have had and will continue to have momentous implications for the future of peace and security. Nowhere is this more true than in the Middle East where the decisions and actions of the United States during the next few weeks and months may determine the prospects for peace for years to come.

Therefore, the committee focused much of its attention in the confirmation hearings upon Secretary Shultz' views on the situation there and the prospects for some long-term resolution of the differences which have for so long brought tragic death and destruction to that part of the world.

With his characteristic quality of going right to the heart of the matter, Secretary Shultz also directed much of his opening statement to his views on the Middle East conflict. I ask unanimous consent that the entire text of his opening statement to the Committee on Foreign Relations be printed in the RECORD at the close of my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. I also ask unanimous consent that a letter I have received and a comparable letter received by the ranking minority member of the Committee on Foreign Relations, Senator PELL, from our beloved and esteemed former colleagues, now the Ambassador to Japan, Ambassador Mansfield, be printed in the RECORD.

There being no objection, the letter were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., July 9, 1982.

Hon. CLAIBORNE PELL,
U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: Ambassador Mansfield has asked me to convey the following message to you.

"DEAR CLAIBORNE: I should like to add my full support to the nomination of George Schultz to be Secretary of State. I have known him for over twenty years as one of the nation's great economists, a man of knowledge, dedication and integrity. He is the *right man for the right job at the right time and his services are greatly needed in this time of great difficulty.* He has visited Japan and the Pacific-Asian area many times and during the last two months had lengthy and productive meetings with Prime Minister Suzuki and also meetings with other high officials and businessmen. He has the confidence and trust of the Government and people of Japan and East Asia.

MIKE MANSFIELD".

Sincerely,

ALBERT L. SELIGMANN,
Director of Japanese Affairs.

Mr. PERCY. As will be noted in this letter, Ambassador Mansfield says that George Shultz is "the right man at the right place at the right time."

This is particularly true when we consider the perplexity of the problems in the Middle East, and the opportunities now available for the first time. We have a serious indication that the Palestinians, through their spokesman, the PLO, after 35 years of resistance, may be willing to recognize the sovereign rights of Israel, to recognize it as a sovereign nation, and though there is to be certainly clarification of this from the comments and statements that we have seen, it is a gigantic step in the right direction, a step that has been long sought by Israel. This is a door that can open for other Arab nations. As President Bourguiba so wisely said in 1956, it is time for the Arab world to recognize the realities of life and, in a sense, he implied and recognized that Israel is here to stay and that Israel should be recognized as a sovereign nation.

Egypt has taken that courageous step. It has cost the life of President Sadat, but he believed and he knew he was doing the right thing for his people in Egypt, for his nation and for the region. He gave his life to that cause.

President Mubarak is carrying forward while at the same time openly, and yet with every reason to believe that it would be in the best interests of the entire region, moving to become a part again, an integral part, of the Arab world.

With this opening now of the Palestinians, with this opportunity we have, I can simply think of no one more qualified than George Shultz to assume the helm as the principal adviser to the President on foreign policy, the principal spokesman behind the President, to help implement the policy which ultimately must be and is set by the President of the United States.

I would also like to mention that during the course of the hearing various members of the committee took the opportunity to commend Mr. Shultz' predecessor, Alexander Haig. As we all know, Secretary Haig demonstrated an extraordinary degree of competence, and intellectual power during his tenure as Secretary of State.

No man could have given more energy, more perserverance to tough problems. We have only the most recent example of his persistence in attempting to avert a war over the Falkland Islands, putting his own reputation and the prestige of this country on the line. He was always insistent upon placing diplomacy first ahead of military options. For a man who had spent 37 years of his life devoted to the military service of this country, to have so consistently fought in every place in the world to achieve peace through diplomacy was a great credit to the United States of America and a great credit to Secretary Haig.

I was pleased indeed when first talking with Secretary Haig after he had resigned, when he said that no one could be a more distinguished choice for this position than George Shultz.

George Shultz testified before the committee as to the close relationship he had with Secretary Haig and about the hours they spent together talking about various problems. He indicated that there would be a smooth transition and that he had a pledge from Secretary Haig that if at any time his services can be utilized by the Secretary of State or the President, he is available.

He is a great American, he has been a fine, strong, powerful member of this administration.

After a particularly rough hearing of 44 hours, 5 days and nights, before the committee, the longest in the history of the Senate for any office to the best of my knowledge, he paid tribute to the democratic process, the constitutional powers of the Senate with respect to confirmations. His tribute at the end of such heated and controversial hearings showed the magnanimity and spirit of that man.

The process really works, and those 44 hours were not wasted. We got to know each other, and even Senators who had voted against him in committee paid tremendous tribute to him, Senators such as Senator TSONGAS, for having come close together over these past 18 months, and having fully appreciated the competence, ability, and

dedication he had. This was an example of the greatness of this country for all the world to see.

As a result of the hearings with Secretary Shultz, I saw areas of brilliance, of insight, of perception, of patience, forbearance, and love of country and love of duty, and also loyalty to a great institution from which he had come as president, Bechtel Corp.

The only time he bristled at any point was when there was any implication of anything that Bechtel had not carried out the finest traditions of American industrialism as it carried out its policies and business abroad.

In conclusion, Secretary Shultz, in addressing his comments on the Middle East, made clear his determination to see that the opportunity is not lost for movement toward a broader settlement of the issues which led to the current violence in Lebanon, including the need for the genuine security of Israel, the independence of Lebanon, and the legitimate rights of the Palestinian people.

Secretary Shultz' own deep conviction on these matters came to him as a result of a lifetime of evaluating problems, boiling them down to their essential elements and looking upon no problem as unresolvable.

Let me quote just from a statement that he made during the course of his testimony:

Today's violence should not cause us to forget that the Middle East is a land of deep spirituality where three great religions of our time were born and come together even today. Some have suggested that it was only natural, in a land of such vast, harsh and open space that men should be drawn toward the heavens and toward a larger sense of life's meaning. whatever the reasons, the force of religion in this region is as powerful today as ever, and our plans for peace will be profoundly incomplete if they ignore this reality.

Mr. President, the other principal area addressed by Secretary Shultz in his opening statement concerns the nature of our relations with the Soviet Union. Let me quote the key passage from his statement on this subject:

The past decade taught us once again an important lesson about the U.S.-Soviet relationship. In brief, it is that diminished American strength and resolve are an open invitation for Soviet expansion into areas of critical interest to the West and provide no incentive for moderation in the Soviet military buildup. Thus it is critical to the overall success of our foreign policy that we persevere in the restoration of our strength. But it is also true that the willingness to negotiate from that strength is a fundamental element of strength itself.

I feel confident that Secretary Shultz, with a deep background in economics and understanding of defense and a great practitioner of diplomacy, would recognize and agree with me that there is no credibility to a foreign policy that is not backed by strength. We must do everything we can to avoid miscalculation—sometimes by our friends and allies, many times by our adversaries—and that the underlying strength in our ability to provide and pay for a strong defense for ourselves and the free world is a strong, dynamic, growing economy. The State Department has a role in helping us build here and abroad a strong economy.

Mr. President, I ask unanimous consent that two articles by Secretary Shultz on the subject of trade and foreign policy be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PERCY. Mr. President, the new Secretary of State-designate has assured us that he intends to carry on the closest possible consultations with Congress on all major issues of foreign policy confronting the United States and to emphasize the necessity for a strong bipartisan partnership on such matters. I am confident that the Senate's approval of George Shultz today to become the 60th Secretary of State in our history will be one of the most positive and important actions we will take during the service of any of us in this body.

I think he has the great potential, not only to be one of the great Secretaries of State of our time, but of all time.

EXHIBIT 1

STATEMENT BY SECRETARY OF STATE-DESIGNATE GEORGE P. SHULTZ

Mr. Chairman, distinguished members of this Committee:

President Reagan honors me by his nomination to be the Secretary of State for the United States of America. I regard service in this post as a high privilege and a grave duty. If I am confirmed by the Senate and have the opportunity to serve, I will muster whatever energy, intelligence, and dedication I have and pour all of it into the performance of this job. I recognize and accept the responsibilities that will be placed upon me. But I say this too: I will need and I will expect help and cooperation all around; and, judging from the many assurances already extended voluntarily to me, I will get it. I look especially to members of this Committee and your counterparts in the House of Representatives. But my appeal reaches much farther, to every corner of our land and to our friends throughout the world.

President Reagan has expressed his confidence in me by making this nomination; I will strive mightily to merit that confidence. I will do so fully conscious that the conduct of our foreign policy is, in accordance with the Constitution, a Presidential duty to be performed in collaboration with the Congress. My job is to help the President formulate and execute his policies. I shall be ever faithful to that trust.

I have appeared before a Senate Committee for confirmation to a Cabinet post on two previous occasions. Thirteen years ago I was the nominee to be Secretary of Labor before the Committee on Labor and Public Welfare. Both Senators Cranston and Pell, who sit before me today, sat on that panel and voted favorably on that nomination. I was accompanied to that hearing by a friend of long standing and Senator from my then home state of Illinois, Senator Percy. His wise and informed counsel, in government and out, has always been available and most helpful to me. I deeply appreciate his assurance that I will continue to have that counsel.

The biographical material available to you shows that I brought to my government service two decades of experience in university activities, teaching and doing research and administration at the Massachusetts Institute of Technology and the University of Chicago. After serving as the Secretary of Labor, I went on to be Director of the Office of Management and Budget, and then Secretary of the Treasury. For the last eight years, I have been with Bechtel, most recently as President of Bechtel Group, Inc. Bechtel is a truly remarkable organization, astonishing in the range of its capabilities and impressive in the quality of its people, who bring integrity, intelligence, enthusiasm, and drive to their work. I feel privileged to have played a part in Bechtel's activities. During this period, I have also served part time on the faculty of Stanford University, from which I plan to be on leave in the period of my government service.

During the last few days, a number of Senators have asked me to address myself to the question of my relationship to Bechtel should I become Secretary of State. To those questions, I see only one possible answer: none. If I am confirmed, agreements already executed by me will result in my resignation from my officerships in all Bechtel entities. I will retire as an employee, retaining only vested rights to medical and insurance benefits and to assets already accumulated under Bechtel Trust and Thrift plans. I will sell, at a price determined by an established process, all my Bechtel-related investments. Although I understand that these steps leave me with no legal conflict of interest, I will, if I become Secretary of State, execute a statement removing myself from any "particular matter" involving Bechtel. In the words of my counsel, concurred in by the Office of Government Ethics, these steps "will assure your full compliance, while serving as Secretary of State, with the terms of" the Federal Conflict of Interest Laws.

* * * * *

Mr. Chairman, for those of us who have spent the better part of our lives watching America's deepening involvement in the world around us, it is easy to forget that the United States has, throughout most of its history, only episodically been concerned with foreign affairs. The world of forty or so years ago seems almost nostalgically simple in comparison to the complexities we confront today. In the decades that have passed, scores of new nations—many with frustrated aspirations—have achieved independence. The international economy is no longer managed from a few world capitals but has developed into a global network of mutually dependent partners. Extensive trade in goods and services, the international flow of critical raw materials, the emergence of new technologies, and the revolution in communications have created a world in which no nation is immune from the influence of the international economy. Forty years ago we could not even glimpse the enormous dangers of nuclear weapons or the complexities we would face today in our efforts to control them. And forty years ago few could foresee that the collapse of the old order would bring with it the spread

of increasingly sophisticated military arms to new and contending nations, so that today regional conflicts carry with them the constant threat of escalation. General Douglas MacArthur saw these broad interrelationships and put the point succinctly and eloquently in 1951: "The issues are global and so interlocked that to consider the problems of one sector, oblivious to those of another, is but to court disaster for the whole."

Today most Americans recognize that the nature and strength of our diplomacy and our strategic posture are linked to, and heavily dependent on, our performance at home. Our economy is fundamentally strong and will strengthen further as economic policies now in place and in prospect take hold. A strong and productive America makes us a strong trading partner and a resourceful ally, giving to our friends a confidence that strengthens their will to resist those who would deprive us of our freedoms.

Today most Americans are uncomfortable with the fact that we must spend so much of our substance on defense—and rightly so. Yet most Americans also recognize that we must deal with reality as we find it. And that reality, in its simplest terms, is an uncertain world in which peace and security can be assured only if we have the strength and will to preserve them. We have passed through a decade during which the Soviet Union expanded its military capability at a steady and rapid rate while we stood still. President Reagan has given us the leadership to turn that situation around. And just in time.

The past decade taught us once again an important lesson about the US-Soviet relationship. In brief, it is that diminished American strength and resolve are an open invitation for Soviet expansion into areas of critical interest to the West and provide no incentive for moderation in the Soviet military buildup. Thus it is critical to the overall success of our foreign policy that we persevere in the restoration of our strength. But it is also true that the willingness to negotiate from that strength is a fundamental element of strength itself.

The President has put forward arms control proposals in the strategic, theatre and conventional arms areas that are genuinely bold and that will, if accepted, reduce the burdens and the dangers of armaments. Let no one doubt the seriousness of our purpose. But let no one believe that we will seek agreement for its own sake, without a balanced and constructive outcome.

We recognize that an approach to the Soviet Union limited to the military dimension will not satisfy the American people. Our efforts in the area of arms reduction are inevitably linked to restraint in many dimensions of Soviet behavior. And as we enter a potentially critical period of transition in Soviet leadership, we must also make it clear that we are prepared to establish mutually beneficial and safer relationships on the basis of reciprocity.

Today most Americans recognize that a steady and coherent involvement by the United States in the affairs of the world is a necessary condition for peace and prosperity. Over and over again since the close of the Second World War, the United States has been the global power to whom others have turned for help, whether it be to assist in the process of economic development or in finding peaceful solutions to conflicts. Our help continues, as in President Reagan's Caribbean Basin Initiative, an example of America's commitment to a more prosperous world. It must be an example as well of the key role in economic development of private markets and private enterprise. As the President said in his address in Cancun:

"History demonstrates that time and again, in place after place, economic growth and human progress make their greatest strides in countries that encourage economic freedom.

Individual farmers, laborers, owners, traders and managers—they are the heart and soul of development. Trust them. Because whenever they are allowed to create and build, wherever they are given a personal stake in deciding economic policies and benefitting from their success, then societies become more dynamic, prosperous, progressive and free."

In our international endeavors, we are strengthened by a structure of alliances that is of central importance. Ours is not a hegemonic world but a diverse and pluralistic one, reflecting the complexity of the free, independent and democratic societies with which we are associated. Just as we expect others to act in partnership with us, so we must conduct ourselves as responsible partners. Friction and differences are inevitable among allies, and we can never assume complacently that they will automatically disappear. Tolerance of the needs and perspectives of others is essential. So is candid recognition of our difficulties and challenges. Above all, there has to be a commitment to the common values and interests on which the truly unique multilateral institutions of the last three and a half decades have been based. Our commitment is firm—as President Reagan made clear during his recent European trip. I am confident that the same is true of our allies.

If we are strong, we buttress our allies and friends, and leave our adversaries in no doubt about the consequences of aggression. If we provide assistance to help others to be strong, our own strength can be husbanded and brought to bear more effectively. If we are confident, we give confidence to those who seek to resolve disputes peacefully. If we are engaged, we give hope to those who would otherwise have no hope. If we live by our ideals, we can argue their merit to others with confidence and conviction.

* * * * *

Mr. Chairman, during my individual visits with members of this Committee, many expressed a strong interest in my views on problems and opportunities in the Middle East, particularly as related to the conflict between Israel and the Arabs. Responsive to this interest but even more to the importance of developments in this area, I will conclude my statement today by a brief discussion of my views.

I start with the terrible human tragedy now taking place in Lebanon. Violence on a large scale has come once again to a region whose strategic importance inevitably guarantees that any local conflict will receive global attention—with all the dangers for world peace that implies.

In late 1974 I visited Beirut, at the time a beautiful and thriving city, even then marked by the presence of Palestinian refugees. But since that Lebanon has been racked by destruction, enduring the presence of armed and assertive PLO and other forces.

Coherent life and government are impossible under those conditions and inevitably Lebanon became a state in disrepair. The Lebanese deserve a chance to govern themselves, free from the presence of the armed forces of any other country or group. The authority of the Government of Lebanon must extend to all its territory.

The agony of Lebanon is one the minds and in the hearts of us all. But in a larger sense Lebanon is but the latest chapter in a history of accumulated grief stretching back through decades of conflict. We are talking here about a part of the globe that has had little genuine peace for generations. A region with thousands of victims—Arab, Israeli and other families torn apart as a consequence of war and terror. What is going on now in Lebanon must mark the end of this cycle of terror rather than simply the latest in a continuing series of senseless and violent acts.

We cannot accept the loss of life brought home to us every day even at this great distance on our television screens; but at the same time we can, as Americans, be proud that once again it is the United States, working most prominently through President Reagan's emissary, Ambassador Phillip Habib, that is attempting to still the guns, achieve an equitable outcome, and alleviate the suffering.

Mr. Chairman, the crisis in Lebanon makes painfully and totally clear a central reality of the Middle East: the legitimate needs and problems of the Palestinian people must be addressed and resolved—urgently and in all their dimensions. Beyond the suffering of the Palestinian people lies a complex of political problems which must be addressed if the Middle East is to know peace. The Camp David Framework calls as a first step for temporary arrangements which will provide full autonomy for the Palestinians of the West Bank and Gaza. That same Framework then speaks eloquently and significantly of a solution that "must also recognize the legitimate rights of the Palestinian people."

The challenge of the negotiations in which the United States is, and during my tenure will remain, a full partner, is to transform that hope into reality. For these talks to succeed, representatives of the Palestinians themselves must participate in the negotiating process. The basis must also be found for other countries in the region, in addition to Israel and Egypt, to join in the peace process.

Our determined effort to stop the killing in Lebanon, resolve the conflict, and make the Government of Lebanon once again sovereign throughout its territory underscores the degree to which our nation has vital interests throughout the Arab world. Our friendly relations with the great majority of Arab states have served those interests and, I believe, assisted our efforts to deal with the current Lebanon crisis.

But beyond the issues of the moment, the importance to our own security of wide and ever-strengthening ties with the Arabs is manifest. It is from them that the West gets much of its oil; it is with them that we share an interest and must cooperate in resisting Soviet imperialism; it is with them, as well as Israel, that we will be able to bring peace to the Middle East. The brilliant Arab heritage of science, culture and thought has a fresh dynamism. Working together with us, our Arab friends can contribute much, not only to our bilateral interests and those of the region, but to the global future and the world economy as well. I will do all in my power to sustain these relationships and to further them.

Finally, and most important, Mr. Chairman, the Lebanese situation is intimately linked to the vital question of Israel's secu-

rity. Israel, our closest friend in the Middle East, still harbors a deep feeling of insecurity. In a region where hostility is endemic, and where so much of it is directed against Israel, the rightness of her preoccupation with matters of security cannot be disputed. Nor should anyone dispute the depth and durability of America's commitment to the security of Israel or our readiness to assure that Israel has the necessary means to defend herself. I share in this deep and enduring commitment. And more. I recognize that democratic Israel shares with us a deep commitment to the security of the West.

Beyond that, however, we owe it to Israel, in the context of our special relationship, to work with her to bring about a comprehensive peace—acceptable to all the parties involved—which is the only sure guarantee of true and durable security.

America has many often competing concerns and interests in the Middle East. It is no secret that they present us with dilemmas and difficult decisions. Yet we must, using all the wit and compassion we possess, reconcile those interests and erase those contradictions, for it is, in the last analysis, peace we are seeking to create and nurture.

Today's violence should not cause us to forget that the Middle East is a land of deep spirituality where three great religions of our time were born and come together even today. Some have suggested that it was only natural, in a land of such vast, harsh and open space that men should be drawn toward the heavens and toward a larger sense of life's meaning. Whatever the reasons, the force of religion in this region is as powerful today as ever, and our plans for peace will be profoundly incomplete if they ignore this reality.

Let me close by recalling to you President Reagan's definition of America's duty to this region:

"Our diplomacy," he said, "must be sensitive to the legitimate concerns of all in the area. Before a negotiated peace can ever hope to command the loyalty of the whole region, it must be acceptable to Israelis and Arabs alike."

Mr. Chairman, I pledge to you and this Committee that if I am confirmed as Secretary of State I will do my best to help the President carry out the task so clearly defined in his statement. We must dare to hope that, with effort and imagination, we can arrive at an agreement that will satisfy the vital security interests of Israel and the political aspirations of the Palestinians, meet the concerns of the other parties directly involved, and win the endorsement of the international community.

[APPENDIX I]

TRADE AND FOREIGN POLICY: "GIVE US THE RULES, AND WE WILL FINISH THE JOB"

(By George P. Shultz)

Except to people immediately involved, world trade can seem like a remote subject. But the strength of the U.S. as an exporter of American goods to countries throughout the world affects our lives and our standard of living in tangible and basic ways: jobs, incomes, the ability to buy needed goods and services from abroad. Record-level trade deficits—$28.4 billions for 1978 alone, following upon a deficit of over $31 billion in 1977—have focused public attention on the many economic dimensions of why this has happened and what can be done. These deficits are occurring in part, however, for reasons that have nothing to do with economics—nothing to do, either, with the competitiveness of U.S. products in terms of price or with their quality in terms of price or with their quality compared with foreign goods.

An extra element has been injected into the international trade equation in the past few years, a political dimension overlaid on commercial transactions. This political element is the advent of a vigorous flamboyantly administered initiative that uses foreign trade as a tactical instrument of foreign policy. I call this new thrust in foreign policy "lightswitch diplomacy."

There is apparently a perception in our government that individual trades can be turned on and off like a lightswitch to induce changes in the domestic and foreign policies of a host government. As a result, the position of U.S. goods in world markets is eroding, as our trading partners increasingly see evidence that we cannot be counted on as a reliable supplier. Unfortunately, the impression abroad now is that the U.S. wants foreign business but on our own terms and, as yet, we have not figured out what those terms are.

Take this chronology involving Dresser industries' $150 million contract to build a drill-bit plant in the USSR. As a way of demonstrating our protest of Soviet disregard of human rights—as evidenced in their treatment of dissidents—and to illustrate that such actions would be met by actions here, various Presidential advisers urged the President to veto the sale.

July 17: The President places all American exports of oil technology to USSR under government control in response to trials of Soviet dissidents.

August 9: The Commerce Department (reportedly with the President's blessing) approves Dresser's export license, enabling them to go ahead with the sale.

August 25: A special review panel convened at the request of the Secretary of Defense advises against the "technology transfer."

August 30: The President's senior advisers vote by a three-to-two margin to stop the deal.

September 6: The President reaffirms the decision to allow the sale.

The light goes on, the light goes off, the light flickers, the light goes on. I don't know whether it is going to stay on or not. In the meanwhile, it is hard to see that these manipulations have had any impact on the nature and operation of Soviet society. On July 21, for example, Ukrainian dissident Lev Lukyanenko was sentenced to 10 years of hard labor and five years in internal exile, and the Soviet Appellate Court turned down dissident Vladimir Slepak's appeal of his five-year exile sentence. On August 15, dissident Alexander Podrabinek was placed on trial and sentenced the following day to five years in internal exile. Western correspondents were barred from the trial. And on August 19 the Soviet Supreme Court rejected an appeal by Alexander Ginzberg of his eight-year sentence.

So there it is, lightswitch diplomacy, and to what avail? The USSR remains organized on totally different lines from our nation. They have completely different attitudes and practices toward individual rights and dissent. And they have an aggressive foreign policy that is not in line with our objectives. Personally, I do not like their system at all, but it is not as though there is any doubt that their government is totalitarian.

If lightswitch diplomacy is turning off our trading partners, what, then, is the proper relationship between trade and foreign policy? For certainly foreign economic policy and diplomatic strategy are linked. In an article about monetary policy written in 1937, the great Chicago economist Henry Simons expressed some ideas that can help guide our thinking in this area today. He emphasized the importance of organizing economic activity according to definite rules, and he deplored governmental arrangements delegating legislative powers and setting up authorities instead of rules. He warned: "An enterprise system cannot function effectively in the face of extreme uncertainty as to the action of [government] authorities. . . . We must avoid a situation where every business venture becomes largely a speculation on the future of [government] policy."

First, then, governments should provide a stable and predictable set of rules under which trade can take place on individual and corporate initiative, as free as possible from the uncertainties inherent in the ad-hoc exercise of government authority. Rules instead of authorities. Rules that we can read; rules that are predictable.

Second, traders, individual or corporate or government, must keep their bargains, and government must not place private parties in the position of breaking a bargain properly arrived at. We cannot ignore the essential importance of trust, confidence, and continuity in trading relationships or, for that matter, any other kind of relationship that has the prospect of enduring.

If our government adheres to these principles, then U.S. firms can develop and uphold their reputation as reliable suppliers, a reputation essential to their success in export markets. When our government turns away from these principles, it correspondingly undermines our competitive position abroad.

Though these guiding ideas may seem obvious, many governments, including our own, violate them in varying degrees and with considerable regularity. Still to preserve domestic and international trade, the struggle goes on to find acceptable and stable rules. That is what the General Agreement on Tariffs and Trade is about. That is what the International Monetary Fund is about. That is what much of our Constitution is about. That is why, even to those not directly affected, expropriation without just compensation is so alarming wherever it takes place in the world. That is why questions are raised about the reliability of U.S. suppliers when trade and commercial commitments are used as leverage to affect domestic practices in other countries that are disliked by authorities in this country. That is why the founding articles of the International Bank for Reconstruction and Development, the World Bank, include this prescription: "The Bank, its officers, and employees, shall not interfere in the political affairs of any member, nor shall they be influenced in decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purpose and functions [of the World Bank]."

Against this background let us look in a bit more detail at what has been happening to the position of the U.S. in world trade and the position of world trade in the U.S. The first point I would like to make, and I make it because there is such a tendency to run ourselves down, is to note that the U.S. accounts for 25 percent of the world GNP and stands as a tremendous force in the world economy. We have the largest market and a largely open one. We produce a vast

array of goods and services, and we have an awesome capacity to produce. Our people and our companies (here I speak for Bechtel and many, many others) can compete head-to-head in world markets if we have a fair chance to do so. The U.S. economy and U.S. businesses have plenty on the ball. We don't have to hang our heads.

Still, strong though our country, our companies, and our workers are, our dominant position in world trade—unrivaled for over two decades following World War II—no longer prevails. A lot of our mentality is conditioned by that former dominance. As recently as 1960 we accounted for 30 percent of the world's GNP, and our products set the standards. Today, by contrast, we have many competitors, and we supply almost no goods or services that are not now—or will not soon be—available from some other country or countries. Technology transfer is now a two-way street. We go abroad and learn, just as we expect people to learn from coming here. Although high-technology machinery and transport equipment, chemicals, agricultural products, and engineering and financial services are our areas of strength, even in these fields we face increasingly formidable competition.

At the same time, our dependence on world trade has increased sharply. Exports and imports, considered together, are equivalent to about one-fifth of our GNP, which is double what they represented a decade ago. Yet, our share of world exports has been steadily declining: exports of manufactured goods, for instance, have fallen by almost 30 percent since the late 1950s. Our appetite for imports has been voracious. These imports are not just a matter of taste and convenience. We can't just say, "Well, she doesn't need to have a handkerchief from Paris." We have come to depend on many of these imports to provide us with key commodities; oil is only the best-known example.

Under these circumstances, we can welcome the President's September 26 Statement on U.S. Export Policy, expressing his concern and his determination to "place a higher priority on exports." Our need to do so is apparent. But it is also the beginning of wisdom to recognize that these international markets are intensely competitive.

This competition has many aspects, but one aspect in particular is especially relevant when considering the effects of lightswitch diplomacy. Major sales tend to develop out of long-term relationships that precede a sale and continue after a sale's completion. These relationships reflect a considerable investment on both sides of the transaction as markets are assessed, as special needs and capabilities are identified, and as interpersonal and interinstitutional confidence develops. It takes a long time to go abroad, get yourself positioned, and learn about how to do things, there. What's more, major sales usually imply a willingness to stick with a product, to see that it operates as designed, and to continue to supply parts and service that will be needed in the future. A certain interdependence emerges that necessitates confidence in the continuing good faith of both sides.

Obviously the investment, let alone the interdependence, becomes especially risky if an outside element—such as a tactical maneuver in foreign policy—can disrupt the commercial relationship, using the interdependence that has developed as leverage on the internal affairs of the host country. If the item being supplied is truly on the critical path of a country's development, the risk becomes prohibitive. Major commercial relationships cannot be turned on and off like a lightswitch; they have to be built up and sustained over a period of time. In this process of investment a company develops what the government may regard as a bargaining chip. But if the Government then takes that bargaining chip and spends it, where does that leave the company? The company has lost out, and its commercial relationship deteriorates. Who wants to deal with an unreliable supplier, especially when you are not the only game in town?

Having made these points, let us look at the section of the President's September 26 statement entitled "Export Controls for Foreign Policy Purposes." The object of the section seems to be to insure that "export consequences" are taken "fully into account when considering the use of export controls for foreign policy purposes." But when you read this section, a quite different message is hard to miss: even in a statement designed to bolster exports, the President puts us on notice that trade is to be regarded as a hostage to foreign policy, which nowadays covers the domestic, as well as foreign, policies of other governments.

Frosting is applied to this cake with the added sentence, "Weight will be given to whether the goods in question are also available from countries other than the United States." What is the point here? Where the U.S. has some lock on the market, leverage can be used? Obviously, if we have no lock on the market, we have no leverage. But if we have a lock for some reason, temporary or not, can that leverage then be used, or at least can we threaten to use it, to achieve our foreign policy objectives? If that is what the President means, what a beautiful tool he hands to our foreign competitors who are seeking a foothold in those few markets where we are still dominant.

Now let me talk briefly about the fallout from lightswitch diplomacy. Interrelationships in an area like international trade have to be recognized. In the eyes of the rest of the world, if the United States is willing to break a contract in one area, we will be willing to break contracts in other areas as well.

Take the field of nuclear energy. There are nuclear plants all around the world that we sold on the clear and explicit guaranty that we would supply enriched uranium (the enrichment process is a government monopoly in the U.S.) to fuel those reactors. Only a few years ago the U.S. government viewed these supply contracts as a big plus in our balance of trade. I can remember, when I was director of the Office of Management and Budget, being invited to go over to the Atomic Energy Commission. James Schlesinger was the Chairman then (he had just left our group in the OMB), and he wanted us to come over to give us the word on the AEC's budget. I remember so distinctly his developing this point, and a good one: "We have all these reactors out there, and we are the source of supply for the enriched uranium. This is going to make a large and continuing contribution to our balance of trade."

Well, enriched uranium was a virtual U.S. monopoly in the noncommunist world. But the Europeans, particularly the French, are now very much on the move in this area. The Europeans have entered into the commercial enrichment of uranium in such projects as Eurodif and Coredif (nuclear enrichment plants expected to go on stream in 1979 and the late 1980s, respectively), and they are rapidly developing their capability to reprocess spent fuel and to build the fast-breeder reactor on commercial scales. As recently as 1972 the U.S. had 100 percent of the nuclear-power export market outside of the communist bloc. By 1978 the U.S. share had shrunk to 14 percent.

In any event, given the past and as-yet-present dependence on the U.S. for enriched uranium, or government's suggestion that uranium might be withheld from our trading partners—as a friendly persuader to go along with the President's policies opposing spent-fuel reprocessing the fast-breeder reactor—came as a shock. (Because of concerns about diversion of nuclear materials into weapons use, the President felt these developments should not go forward—a sharp departure from earlier government policy.) Whatever the merits of the President's view, this approach to the persuasion of others has caused widespread resentment—even disbelief—in the nuclear power community. It has been one of the important ways in which our government has placed a chill on exports in general: The suggestion that we might not be a reliable supplier of enriched uranium has penetrated deeply in international markets.

Although there has been no instance in which uranium was totally withheld, we did initially block the transfer of spent-uranium fuel (which had originally been enriched in the U.S.) to the Japanese reprocessing plant at Tikai Mura. A compromise was later reached whereby a limited amount of spent fuel (enough to supply less than half the plants capacity) was made available. But the threat to withhold enriched uranium was very widely made, and it seems to me that if we were to carry out a threat like that, it would be akin to expropriation. We would have, in effect, expropriated the gigantic investment in the nuclear power plant by denying fuel we had contracted to provide. So what we have done is to enhance the determination of other countries to *eliminate* their dependence of the United States.

As Don Cook put it in *Fortune* (October 23, 1978). "Nothing makes possession seem more attractive than denial." The threat of denial has given us the reputation of being a potentially unreliable trading partner. And, along with the President's opposition to the fast-breeder reactor and spent-fuel reprocessing (which has not curtailed their development but only our participation in it), this policy is gradually taking us out of the leadership position in world developments of nuclear power. Although the objective of his policies was to control the proliferation of nuclear weapons, the ironic result, as others proceed, is that our influence in this area—including safety of handling nuclear materials and efforts to control their diversion into weapons use—is diminishing.

Examples of lightswitch diplomacy abound in other areas as well. Allis Chalmers efforts to sell $270 million worth of U.S. equipment for a hydroelectric project in Argentina is a case in point. According to *The Wall Street Journal* (July 19, 1978). John Moore, president of the Export-Import Bank, told the chairman of Allis-Chalmers that the project qualified on economic and financial grounds for the Bank's support, but that "the Department of State has advised against issuance of a letter of interest at this time because of this human rights situation." Then, less than a month later, the State Department decided to let Allis-Chalmers proceed with its $270 million order. As reported in *The Wall Street Journal* (August 27, 1978): "State Department

officials stressed that a letter of interest is only the first stage of what can be a lengthy process to a Ex-Im Bank decision to assist in long-term financing. They said that the U.S. still can change its mind if Argentina doesn't show progress on the human rights front." The hand remains on the lightswitch.

Still another aspect of this problem was highlighted in a U.S. General Accounting Office report, issued in October 1978, concerning administrative issues and the problem of uncertainties and delay. One of the cases cited in the GAO report deals with an order for computer equipment to be used in support of a transportation system in an Eastern European country. The order was ultimately approved, but only after 736 days had elapsed since the application for an export license had been received. To many would-be purchasers, the ease with which sellers are able to receive licenses is an important aspect of the sale. Any seller who becomes tied up for two years in an export-license hassle runs the risk of being branded as a bad source of future sales.

Former Secretary of State Dean Rusk, testifying to a Senate Committee on October 11, 1978, advanced a further and compelling argument:

In almost twenty years of service in the executive branch of the government at various levels, I have participated many times in discussions about limiting certain types of exports because of national security considerations. I am convinced that we must find a way to make our thinking on such issues clear, precise, and directly related to genuine security considerations. We should not get such judgments mixed up with vague notions of approval or disapproval, nervousness about criticism which might be expected from segments of the public or of the Congress, and minor inconsequential delays or inconvenience which we might impose upon someone else. A close examination of the decisions we have made about restrictions imposed for national security considerations over the past twenty years would reveal, I suspect, that most of these decisions have had little or no consequence to our national security. The concept of scientific, technological and industrial "secrets" succumbs to the very nature of science, the availability of products from other nations, and the ability of other nations to develop for themselves what we refuse to sell.

Outside the security-related area, our basic policy should be to encourage trade without any special need for reference to government permissions. People who want to trade something should be able to develop their market and go ahead. They should not have to ask anyone's permission. In short, rules in the nonsecurity area should be kept to a minimum, be made clear and consistent, and be as free as possible from the need for interpretation by government.

What is the situation now? We have a labyrinth of rules and they are neither clear nor consistent. I will name a few areas that deserve attention. We can hope that they will get attention. He identifies them in his message and says he will do something about them:

First, there is environmental reform. The President, following the recommendation of his Council on Environmental Quality, recently issued an Executive Order that requires the preparation of an environmental impact statement by any exporter of nuclear technology or of any goods affecting natural or ecological resources deemed by the U.S. to be in need of protection. The environmental reviews must set forth how the export will affect the environment of the host country as well as self-respecting trading partners will not put up with it.

What is needed, then, is a strategy for establishing the proper relationship between trade and government policy. My suggestions would be these. First, it does seem to me quite proper and justified to designate certain products and countries for special treatment on the ground of national security. Of course, there is a plethora of definitional problems in establishing appropriate criteria, and these criteria change from time to time. But important security interests do exist that are the proper concern of our government. The critical point is that here, as elsewhere, rules are essential. Just because a product is in a security-linked area does not mean we should leave the whole thing open to the discretion of an ever-changing cast of characters who have access to the lightswitch. We should have clear rules. Almost three years ago a Defense Department task force analyzing defense-related export policy noted, "The absence of established criteria for evaluating technology transfers reinforces the cumbersome case-by-case analysis of all export applications." If there is some product we should not sell, it should be specified. The rules should be known in advance and should predominate over authorities. Ad-hoc and changeable decisions add up to chaos and an environment that frustrates fruitful commercial relationships.

We can observe that lightswitch diplomacy, as it is being used, more and more becomes a wasting asset. Increasingly, when the diplomat flicks the switch, the light will not go on. It will not go on because private firms cannot afford the cost, cannot make the investments to create the bargaining chips and then have the bargaining chips taken away. And the global commons. Once again, a hand on the lightswitch. This effort to carry environmental standards into other countries is a loser. Other countries want to handle their environmental problems their own way. They don't want our approach forced down their throats.

Next, we have Federal regulations governing trade by U.S. firms with countries that engage in economic boycotts (for example, the Arab boycott of Israel, the Nigerian boycott of South Africa). The existing laws regulating such trade are administered by different Federal agencies that have issued extensive, inconsistent, and conflicting regulations on the subject. The resulting bureaucratic maze confuses our own companies and our friends abroad, but it is relished by our competitors.

Then there is the question, What is a "bribe"? or, What is a "permitted payment for services"? The Foreign Corrupt Practices Act makes "bribery" of foreign officials a criminal offense, but it specifically permits some payments to foreign officials for "services." As yet the regulations distinguishing between the two have not been issued. It is not an easy distinction to make. But if customary and legal practices in other countries become criminal practices for U.S. citizens transacting business there, our ability to do business becomes severely strained. At a minimum, businessmen are entitled to a clear statement from our government of what actions are prohibited and criminal. Otherwise, yet another hand will be placed on the lightswitch, with decisions whether or not to prosecute used as levers to influence the complex variety of trading practices encountered around the world.

Last, we come to the area of human rights. Our government does well to hold up for ourselves and others the banner of human dignity and fair judicial procedures. But we cannot expect to change the world by trying to judge and classify other countries as good, bad or indifferent, according to our own changing set of values, and then use trade as a tool designed to alter the domestic policies of other countries. I say this in part as a practical matter. I do not think it can work for reasons I have already developed; it may even be counterproductive, as when a country responds by intensifying the "undesirable" policy to show us and the rest of the world that it will not be intimidated. But I also say, out of a sense of humility, there is real difficulty in judging what is right for other people.

I do not mean to imply that values are irrelevant in the conduct of business or that business should be amoral, oblivious to concerns about the way human beings are treated. Whatever restrictions government may place on trade with designated countries (and, in my judgment, such restrictions should be reserved for the most extreme cases, involving true pariah governments), we as businessmen and businesswomen must still have our own standards of what is right and proper, of what we are willing to do and are not willing to do, of whom we are and are not willing to associate with. We have to make up our minds to run our businesses internally in a manner that is in accord with our own standards. We do at Bechtel; these standards govern our behavior in our own country and abroad. We all have our values, and we must exercise them.

And so, to guide this complex relationship between trade and foreign policy, I urge our government: Operate insofar as possible on the basis of rules, not authorities. Avoid actions that undermine the ability of U.S. firms to be reliable suppliers. With respect to the export crisis—and I think it is a crisis—business can say to the government (paraphrasing an eloquent gentleman, Winston Churchill), "Give us the rules, and we will finish the job."

(APPENDIX II)

RISK, UNCERTAINTY, AND FOREIGN ECONOMIC POLICY

(By George P. Shultz[1])

Risk and uncertainty characterize international affiars today. Conflict, unrest, and terrorism seem almost to dominate the scene. Three of the world's most significant and creative leaders have been shot in this year alone. Trouble abounds from the Middle East, where Palestinian issues cannot be solved without talking to Palestinians; to Southeast Asia, Afghanistan, Cuba, and Poland, with their messages about life and predatory behavior under communism; and to Iran, a country of immense strategic significance, at once in chaos and at war. The list can be extended all too readily.

In the economic sphere, uncertainty about present conditions and future developments is pervasive. It is a constant of conversation in business and financial circles, conversation that dwells on a wide range of seeming exotica, from predatory interest-rate subsidies to country content, expropriation by whatever name, and the dollar, which is

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clearly too strong when it is not too weak, and surely is too volatile on the world's exchange markets. Slow growth on a world scale, interruptions or threatened interruptions of essential supplies, rapidly changing comparative advantages that challenge established and large-scale industries in developed countries—all these and more influences tend to turn countries inward. The pressures are intense to protect what is at home on the one hand and, on the other, to race for markets abroad through exports protected by government-backed subsidies, guarantees, and nonmarket pressures. There is even a suggestive irony to the very success of the Rounds of tariff reduction, as we now see emerging in their place more arbitrary and unpredictable forms of protection. It is almost as though, the taboo having been placed on tariffs, determined interest groups protect themselves in subtle and less visible ways.

These escalated levels of uncertainty take their toll. The volume of world trade, after decades of sustained growth, has been falling in real terms over the past year. Major investment decisions are postponed or demand an extraordinary rate of return to justify the assumption of risks imposed by the prospect of sudden and unpredictable action by a government. Economic development, for which political stability is a necessary if not sufficient condition, is cruelly disappointing in many countries.

In the political sphere, as the stakes attached to uncertainty rise, fear supplants resolve and can lead to an unraveling of basic alliances. Strength and resolve remain essential to the protection of interests and the extension of influence. No amount of protest or demonstration, no wish for a more benign world, can be permitted to carry the thought away from this fundamental truth. But it is as true that the ability and willingness to negotiate from that strength is an essential ingredient to strength itself.

My thesis, then, is this: uncertainty is pervasive and is producing major adverse effects on the behavior of individuals, economic units, and nations. Our problem is one of identifying central uncertainties, understanding their causes, cutting them down to size, and converting them into manageable or tolerable risk.

I address myself now to the economic dimensions of this problem. I do so conscious of difficulties and of the dangers of careless optimism but also with a conviction that problems will yield to a positive program, pursued with care, diligence, and perseverence.

As in many contests, the best defense can be a good offense. I say that in the realm of economic policy we should go on the offensive again. We should be capable of raising our aspirations by thinking on a grand scale and of maintaining momentum through careful and realistic work on particular and difficult issues. Fortunately, in the economic sphere, we have one great fact going for us: all can gain together from healthy economic development, investment, and trade. In the parlance of the day, ours is a positive, not a zero-sum game.

Our offensive should focus on long-term commitments, since it takes time for confidence to build and for the results of established policies to bear their fruit. The offensive must address the rules for trade as expressed in the GATT, the conditions for foreign investment, the stimulation of economic development in less-developed countries, and attention to the international consequences of national, especially U.S., economic policy. Can the trading nations of the noncommunist world reach a greater measure of agreement and understanding in such a wide range of related areas? If they can, they reduce the level of uncertainty in the operation of the world economy. The assurance and cohesion attained would in turn constitute the basis for increased trade and investment and for economic advance in developing and developed countries alike.

Can we aspire again to grand objectives, to put in place a Bretton Woods II, in effect a renewed International Economic Constitution? I will touch on and make proposals in each of these key areas to a Bretton Woods II: trade, investment, development, and national economic policy.

THE RULES FOR TRADE AND LIVING BY THEM

Three interrelated tasks need the eye of creative leadership now.

The first is to live with the rules for trade as they are presently constituted. This is no easy task since protectionist and nationalist pressures to violate or evade the rules are now so strong. The United States is not immune to these pressures; witness the recent encouragement of so-called voluntary quotas on the export of cars from Japan to the U.S.

But we know better (and did better more recently when the President abolished quotas on the import of shoes). So do you know better here in Britain. So do our other trading partners throughout the world. Obviously the principal burden rests on each country's ability to manage its domestic politics. Exporters and consumers have essential interests in open trade and can be rallied in its support. Mutuality of interests and GATT obligations can reinforce leadership positions. Periodic pledges of allegiance to open trading at ministerial and summit meetings help provide that reinforcement. Hard questions in the GATT setting are worth asking. In the end, however, there is no substitute for stand-up leadership.

A second task, difficult and ambitious, involves follow-through on the new codes to govern nontariff barriers to trade, as set out in the Tokyo Round.

The rules to implement these codes are in a formative stage, and case law is yet to develop. These codes cover such key problems as: dumping goods in foreign markets at prices below those in domestic markets; subsidies to exports and conditions under which duties may be imposed by the importing country to "countervail" against the subsidy; and the opening of public procurement to international competition.

In addition, action can be expected on such issues as selective safeguards against sudden surges of imports of a particular good, the multifiber agreement regulating the international flow of textiles, and other forms of so-called orderly marketing arrangements.

Hard, technical work is needed on these codes and issues. In many respects, it is a lawyers' game. Discussion can be as acrimonious as it is significant and may well strain relationships with friendly trading partners. For all these reasons, the broad economic objectives must be brought continually to the forefront. These objectives, not the technical details, are the point of the exercise. Encouragement can be taken from the recent agreement on the contentious issue of limiting interest-rate subsidies for favored exports. The job can be done.

A third task involves the extension of the GATT framework so that less-developed as well as industrialized countries are included more fully in its coverage. The Tokyo Round agreement carries the signatures of 25 countries, whereas 141 countries are members of World Bank. The exports of nonsignatory countries constitute about 35 percent of total world exports and are gaining in proportionate terms. That 35 percent in 1980 amounted to some 650 billion dollars in value.

Obviously, the special needs and problems of less-developed countries must be recognized if this effort for greater coverage is to succeed. Again, however, the prospect of mutual advantage is a legitimate and potentially strong propellant if it can be linked to the right political atmosphere.

How can we create that atmosphere? The drive, the momentum, the sense of worthwhile objectives, the deadlines of successive rounds of trade negotiations can be created again. We need another Round but with a different focus. As distinct from efforts to break new ground, the ground already taken needs consolidation, cultivation, and nourishment to clarify its contours and to make it more generally hospitable and congenial. The task: obey the rules, develop the codes, and bring in the developing countries.

AND A GATT FOR INVESTMENT

If the investment needed for economic development is to be forthcoming, the conditions for that investment must be made more clear, more predictable, and more reliable. Investment is by its nature an undertaking for the long term. The investor properly bears or deals with commercial and technical risks of a wide variety, but, if the return needed to justify action can be spared a large premium attributable to political uncertainty, the pace of investment will pick up sharply.

I therefore urge that our governments work out a code, a common base of understood and agreed-upon rules for behavior, a sort of GATT for investment. The World Bank is ideally suited to undertake such a General Agreement on Investment. The Bank has: worldwide respect for its integrity and professional ability; a membership of 141 nations spanning all stages of development, a point of special significance since agreement is needed across the board; a tradition of orientation to projects and pragmatic economic analysis; an announced readiness to work in conjunction with private capital, building on its long-term efforts in the International Finance Corporation; and an announced desire to stimulate greater flows of private capital to developing countries as a key to their economic development.

I am pleased to note that Tom Clausen, in his first address as president at the Bank's 1981 Annual Meeting, endorsed this idea and devoted a considerable portion of his address to its development.

If this important task is undertaken, those involved will have a wealth of experience and effort from which to draw. I call attention to a few items as illustrations: the investment provisions of the Treaty of Rome; work by the OECD on international investments; the World Bank's efforts to encourage arbitration of investment disputes; and privately negotiated efforts to treat in creative ways the classic issues of ownership, control, responsibilities, and distribution of revenues. The very fact that a general code for investment does not exist suggests that difficult issues are involved. The question is whether the difficulties are outweighed by the need—the need for investment and for the assurance and stimulation

that a code could bring to the investment process.

THE STIMULATION OF ECONOMIC DEVELOPMENT IN LESS-DEVELOPED COUNTRIES

Economic development in less-developed countries demands our attention because of its vital significance to the well-being of so many people, let alone to the strength of the world economy. I have already discussed key elements of the subject: trade and investment give that access to markets, to technology, to skills, and to resources that are so essential to economic development.

That is why the protectionist tide must be of special concern to developing countries. They need markets for their goods and services. That is why they should be signatories to GATT, with all the standing that membership gives to raise the alarm when others violate or evade the rules and with the discipline for their own long-run development objectives imposed by those very rules.

That is why a code for foreign investment would be especially beneficial to developing countries. Private capital brings skills and technology along with resources. If political risk can be kept under control, then more projects can be justified and the pay-out periods envisaged for them can be more consistent with the long-term interests of investor and country alike. The more private capital drawn into worthwhile projects, the more aid capital can be devoted to those aspects of development that do not lend themselves to a market approach.

I have had the opportunity and privilege of taking part in this investment process, with the projects involved covering a wide range of industries in many countries. I see a great variety of ways in which ownership, control, responsibility, and flow of funds can be arranged to suit varying aspirations and abilities. Projects can be engineered and constructed in a manner that builds national skills and professional abilities, transferring essential human technology in the process.

My own company, for example, has conducted its project work in ways that have raised the level of skill, professional competence, and managerial abilities of over 100,000 people throughout the developing world during the last five years alone. When we build a project in a developing country, we try to do it in a way that leaves behind not just a plant that will work, but people who know something about how to make it work and how to build another one, people who have skills they did not have before. I may add more than parenthetically that our own people also learn and develop in this same process. In these and many other ways, the process of foreign investment and foreign involvement in the development process can serve objectives beyond those involved in each investment taken by itself.

Access to ideas is also important. I seem to have heard the phrase recently, "the magic of the marketplace." That magic is an observation rather than an article of faith, an observation based on the experience of countries at all levels of development. Taiwan, Singapore, and Hong Kong show what the Chinese can do in a market environment. Real GNP per capita on Taiwan is about four times that in the People's Republic of China. Chile during and after communism provides a dramatic contrast: economic chaos at the end of Allende's regime, with inflation running at a 600 percent plus rate; contrasted with sustained real growth since 1975 of over 7 percent per year; with inflation now under control—down to about 12 percent. The incompetence of agriculture in the Soviet Union is demonstrated every year. The standard of living in East Germany suggests that Germans can do well under almost any circumstances, but real GNP per capita in the West is almost twice that in the East. Enterprise-based economies have come on strong and have produced goods and services on a very competitive basis. By contrast, economies modeled along socialist-communist lines have encountered no end of trouble. The message: the market works.

Beyond trade, investment, and the marketplace at home, there is room and justification for development aid. Aid starts with an open and unselfish attitude. Aid continues with the recognition that trade with and investment in developing countries is clearly of great benefit to those developed countries that provide aid. Aid money involves subsidies that can vary widely in degree and form to suit country circumstances and stages of development. Beyond substantive merit, aid can and does give fabric to a world sense of society, where people do care about each other and about the ideas of fairness and opportunity.

The spirit of generosity, important to an adequate flow of subsidized funds to less-developed countries, must be tempered: in developed countries with realistic recognition that development serves our interests and in developing countries by deep realization that success will follow the creation of wealth at home, rather than the transfer of wealth from abroad.

The air is full of discussion of the need to negotiate on all of these matters, with the many existing international organizations ready to provide setting, staff, and organizational arrangements. My own preference in this area is the World Bank, with its large and comprehensive membership, its tradition of professional analysis, and its undoubted commitment to the grand purposes of economic development.

In this area, as in the trade and investment areas, I say again: let us get on with the job, take the offensive, negotiate, but also agree and act in the interests of the human condition everywhere.

NATIONAL ECONOMIC POLICY

Foreign economic policy starts at home. The performance of each domestic economy has international consequences, large or small as the case may be. There is no room for neglect, benign or otherwise, of the relation of national economic developments to a more predictable and healthier economic order. The United States—which accounts for about one-fourth of world GNP, with major consumption and production of most important commodities and heavy involvement in international trade and investment—stands at center stage. It is appropriate in this context, then, to speak about developments in my own country.

President Reagan is leading us in the United States to a fundamental change in economic policy and, I believe, to an economic performance healthier for us at home and more in keeping with our international responsibilities. If he is successful, and I believe he will be, then: A declining rate of inflation will add strength and predictability to the value of the dollar, thereby constituting a stabilizing force in the international monetary system; movement toward market pricing of energy and more sensible regulation of the use of coal and nuclear power will mean a diminution of U.S. demands on energy sources outside the U.S.; a growing and open economy will constitute a significant market for goods and services produced elsewhere and a home for foreign investment as well; and new investment in the U.S. and associated technological advance mean that U.S. investment abroad will bring something to the party beyond financial resources.

In fact, we can already see inflation subsiding, albeit slowly and fitfully, a stronger dollar, and falling imports of oil.

The principles of Reaganomics have been so thoroughly publicized that I need not dwell on them here, especially since they bear such a strong family resemblance to the principles advocated by your indomitable and courageous prime minister. It is no accident that so many in the White House regularly wear the Adam Smith tie. The orientation of Reaganomics to the market and its aversion to subsidies are well known. Perhaps less appreciated is the reversal of the Keynesian assumption that private savings tend to outrun private investment. The classic Keynesian equation that aggregate demand is equal to private consumption plus private investment plus government spending implied that government spending could be increased as much as desired to fill the gap between private savings and private investment. But we now see that government spending has exploded in a manner at once discouraging to the private savings from which the resources for investment are drawn and commanding in credit markets, where a disproportionate amount of government borrowing crowds against the needs of private investment. With productivity lagging, investment in new ideas, new plant, and new equipment by the private sector is sorely needed. Reaganomics seeks to stimulate both private savings and private investment through reductions in tax rates and in the burden of government regulation.

Will Reaganomics work? The fat is clearly in the fire. The first round of reductions in government spending is in place and reduced tax rates are scheduled for this year and future years. Action has followed belief in the magic of the U.S. marketplace. But there is fire. High interest rates, looming deficits, and a soft economy, probably in recession, have given voice to critics in Main Street as well as Wall Street and in union headquarters. These questions must receive an affirmative answer if we are to get there from here.

Will the President be able to sustain government policy on a steady course, keyed to long-term objectives and strategic purpose? It takes time for the lagged effects of actions already initiated to work their way through the market process. The economist's lag can be the politician's nightmare. Perseverence is needed to avoid ill-advised concessions to political pressures to remedy immediate problems.

Will it be possible to maintain pressure on government spending in all its forms: direct spending, off-budget finance, and government guarantees? It may be noted that the latter two account for a larger command on credit markets than does the current federal deficit. Also, pressure on spending necessitates attention to entitlement programs, including Social Security.

Will household savings respond to the dramatic change in the incentives to save, with households now able to realize a positive real rate of return in contrast to the large negative returns in recent years?

Will the pace of investment respond to the new environment? The plans of large companies in traditional industries get wide public notice, as they should. But watch the world of small and budding enterprise, a tra-

ditional source of innovation in the United States.

As is true here in Britain, the U.S. has heavy stakes riding on the success of an economic policy based on freedom, discipline, and markets. Will it work? We can take some comfort from the fact that these policies are not, as they have been called by the Senate Majority Leader, a "river boat gamble." They are revolutionary—as revolutionary as common sense.

I have identified gross uncertainty as the source of grave risk to economic progress and called for our governments to go on the offensive in the effort to deal boldly with its causes. I call for adherence to principle, giving confidence to ourselves and our partners in the predictability of our behavior and the consistency of our purpose. I call for action based on understanding of our opportunities, our limitations, and our responsibilities; action based on a capacity for attention to detail, as well as to grand design; action based on a clear idea of our essential objective, the expansion of opportunities for human freedom and prosperity.

EXHIBIT 2

RISK, UNCERTAINTY AND FOREIGN ECONOMIC POLICY

(By the Honorable George P. Shultz)

Risk and uncertainty characterize international affairs today. Conflict, unrest, and terrorism seem almost to dominate the scene. Three of the world's most significant and creative leaders have been shot in this year alone.

Trouble abounds:

From the Middle East, where Palestinian issues cannot be solved without talking to Palestinians;

To Southeast Asia, Afghanistan, Cuba, and Poland, with their messages about life and predatory behavior under communism;

To Iran, a country of immense strategic significance, at once in chaos and at war.

The list can be extended all too readily.

In the economic sphere, uncertainty about present conditions and future developments is pervasive. It is a constant of conversation in business and financial circles, conversation that dwells on a wide range of seeming exotica, from predatory interest-rate subsidies to country content, expropriation by whatever name, and the dollar, which is clearly too strong when it is not too weak, and surely is too volatile on the world's exchange markets. Slow growth on a world scale, interruptions or threatened interruptions of essential supplies, rapidly changing comparative advantages that challenge established and large scale industries in developed countries—all these and more influences tend to turn countries inward. The pressures are intense to protect what is at home on the one hand and, on the other, to race for markets abroad through exports protected by government-backed subsidies, guarantees, and nonmarket pressures. There is even a suggestive irony to the very success of the Rounds of tariff reduction, as we now see emerging in their place more arbitrary and unpredictable forms of protection. It is almost as though, the taboo having been placed on tariffs, determined interest groups protect themselves in subtle and less visible ways.

These escalated levels of uncertainty take their toll. The volume of world trade, after decades of sustained growth, has been falling in real terms over the past year. Major investment decisions are postponed or demand an extraordinary rate of return to justify the assumption of risks imposed by the prospect of sudden and unpredictable action by a government. Economic development, for which political stability is a necessary if not sufficient condition, is cruelly disappointing in many countries.

In the political sphere, as the stakes attached to uncertainty rise, fear supplants resolve and can lead to an unraveling of basic alliances. Strength and resolve remain essential to the protection of interests and the extension of influence. No amount of protest or demonstration, no wish for a more benign world, can be permitted to carry the thought away from this fundamental truth. But it is as true that the ability and willingness to negotiate from that strength is an essential ingredient to strength itself.

My thesis, then, is this; uncertainty is pervasive and is producing major adverse effects on the behaviour of individuals, economic units, and nations. Our problem is one of identifying central uncertainties, understanding their causes, cutting them down to size, and converting them into manageable or tolerable risk.

I address myself now to the economic dimensions of this problem. I do so conscious of difficulties and of the dangers of careless optimism but also with a conviction that problems will yield to a positive program, pursued with care, diligence, and perseverance.

As in many contests, the best defense can be a good offense. I say that in the realm of economic policy we should go on the offensive again. We should be capable of raising our aspirations by thinking on a grand scale and of maintaining momentum through careful and realistic work on particular and difficult issues. Fortunately, in the economic sphere, we have one great fact going for us: all can gain together from healthy economic development, investment, and trade. In the parlance of the day, ours is a positive, not a zero-sum game.

Our offensive should focus on long-term commitments, since it takes time for confidence to build and for the results of established policies to bear their fruit. The offensive must address the rules for trade, as expressed in the GATT, the conditions for foreign investment, the stimulation of economic development in less-developed countries, and attention to the international consequences of national, especially U.S., economic policy. Can the trading nations of the non communist world reach a greater measure of agreement and understanding in such a wide range of related areas? If they can, they reduce the level of uncertainty in the operation of the world economy. The assurance and cohesion attained would in turn constitute the basis for increased trade and investment and for economic advance in developing and developed countries alike.

Can we aspire again to grand objectives, to put in place a Bretton Woods II, in effect a renewed International Economic Constitution?

I will touch on and make proposals in each of these key areas to a Bretton Woods II: trade, investment, development, and national economic policy.

THE RULES FOR TRADE AND LIVING BY THEM

Three interrelated tasks need the eye of creative leadership now.

The first is to live with the rules for trade as they are presently constituted. This is no easy task since protectionist and nationalist pressures to violate or evade the rules are now so strong. The United States is not immune from these pressures; witness the recent encouragement of so-called voluntary quotas on the export of cars from Japan to the U.S.

But we know better (and did better more recently when the President abolished quotas on the import of shoes). So do you know better here in Britain. So do our other trading partners throughout the world. Obviously the principal burden rests on each country's ability to manage its domestic politics. Exporters and consumers have essential interests in open trade and can be rallied in its support. Mutuality of interests and GATT obligations can reinforce leadership positions. Periodic pledges of allegiance to open trading at Ministerial and Summit meetings held provide that reinforcement. Hard questions in the GATT setting are worth asking. In the end, however, there is no substitute for stand-up leadership.

A second task, difficult and ambitious, involves follow-through on the new codes to govern nontariff barriers to trade, as set out in the Tokyo Round.

The rules to implement these codes are in a formative stage, and case law is yet to develop. These codes cover such key problems as:

Dumping goods in foreign markets at prices below those in domestic markets:

Subsidies to exports and conditions under which duties may be imposed by the importing country to "countervail" against the subsidy;

The opening of public procurement to international competition.

In addition, action can be expected on such issues as selective safeguards against sudden surges of imports of a particular good, the multifiber agreement regulating the international flow of textiles, and other forms of so-called orderly marketing arrangements.

Hard, technical work is needed on these codes and issues. In many respects, it is a lawyers' game. Discussion can be as acrimonious as it is significant and may well strain relationships with friendly trading partners. For all these reasons, the broad economic objectives must be brought continually to the forefront. These objectives, not the technical details, are the point of the exercise. Encouragement can be taken from the recent agreement on the contentious issue of limiting interest-rate subsidies for favoured exports. The job can be done.

A third task involves the extension of the GATT framework so that less-developed as well as industrialized countries are included more fully in its coverage. The Tokyo Round agreement carries the signature of 25 countries, whereas 141 countries are members of World Bank. The exports of nonsignatory countries constitute about 35 percent of total world exports and are gaining in proportionate terms. That 35 percent in 1980 amounted to some 650 billion dollars in value.

Obviously, the special needs and problems of less-developed countries must be recognized if this effort for greater coverage is to succeed. Again, however, the prospect of mutual advantage is a legitimate and potentially strong propellant if it can be linked to the right political atmosphere.

How can we create that atmosphere? The drive, the momentum, the sense of worthwhile objectives, the deadlines of successive rounds of trade negotiations can be created again. We need another Round but with a different focus. As distinct from efforts to break new ground, the ground already taken needs consolidation, cultivation, and nourishment to clarify its contours and to make it more generally hospitable and congenial.

The task: obey the rules, develop the codes, and bring in the developing countries.

AND A GATT FOR INVESTMENT

If the investment needed for economic development is to be forthcoming, the conditions for that investment must be made more clear, more predictable, and more reliable. Investment is by its nature an undertaking for the long term. The investor properly bears or deals with commercial and technical risks of a wide variety, but, if the return needed to justify action can be spared a large premium attributable to political uncertainty, the pace of investment will pick up sharply.

I, therefore, urge that our governments work out a code, a common base of understood and agreed-upon rules for behaviour, a sort of GATT for investment. The World Bank is ideally suited to undertake such a General Agreement on Investment.

The Bank has:

Worldwide respect for its integrity and professional ability;

A membership of 141 nations, spanning all stages of development, a point of special significance since agreement is needed across the board;

A tradition of orientation to projects and pragmatic economic analysis;

An announced readiness to work in conjunction with private captial, building on its long-time efforts in the International Finance Corporation;

An announced desire to stimulate greater flows of private capital to developing countries as a key to their economic development.

I am pleased to note that Tom Clausen, in his first address as President at the Bank's 1981 Annual Meeting, endorsed this idea and devoted a considerable portion of his address to its development.

If this important task is undertaken, those involved will have a wealth of experience and effort from which to draw. I call attention to a few items as illustrations:

The investment provisions of the Treaty of Rome;

Work by the OECD on international investments;

The World Bank's efforts to encourage arbitration of investment disputes;

Privately negotiated efforts to treat in creative ways the classic issues of ownership, control, responsibilities, and distribution of revenues.

The very fact that a general code for investment does not exist suggests that difficult issues are involved. The question is whether the difficulties are outweighed by the need—the need for investment and for the assurance and stimulation that a code could bring to the investment process.

THE STIMULATION OF ECONOMIC DEVELOPMENT IN LESS DEVELOPED COUNTRIES

Economic development in less developed countries demands our attention because of its vital significance to the well-being of so many people, let alone to the strength of the world economy. I have already discussed key elements of the subject: trade and investment give that access to markets, to technology, to skills, and to resources that are so essential to economic development.

That is why the protectionist tide must be of special concern to developing countries. They need markets for their goods and services, that is why they should be signatories to GATT, with all the standing that membership gives to raise the alarm when others violate or evade the rules and with the discipline for their own long-run development objectives imposed by those very rules.

That is why a code for foreign investment would be especially beneficial to developing countries. Private capital brings skills and technology along with resources. If political risk can be kept under contro!, then more projects can be justified and the pay-out periods envisaged for them can be more consistent with the long-term interests of investor and country alike. The more private capital drawn into worthwhile projects, the more aid capital can be devoted to those aspects of development that do not lend themselves to a market approach.

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NATIONAL ECONOMIC POLICY

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Movement toward market pricing of energy and more sensible regulation of the use of coal and nuclear power will mean a diminution of U.S. demands on energy sources outside the U.S.;

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In fact, we can already see inflation subsiding albeit slowly and fitfully, a stronger dollar, and falling imports of oil.

The principles of Reaganomics have been so thoroughly publicized that I need not dwell on them here, especially since they bear such a strong family resemblance to the principles advocated by your indomitable and courageous Prime Minister. It is no accident that so many in the White House regularly wear the Adam Smith tie. The orientation of Reaganomics to the market and its aversion to subsidies are well known. Perhaps less appreciated is the reversal of the Keynesian assumption that private savings tend to outrun private investment. The classic Keynesian equation that aggregate demand is equal to private consumption plus private investment plus government spending implied that government spending

could be increased as much as desired to fill the gap between private savings and private investment. But we now see that government spending has exploded in a manner at once discouraging to the private savings from which the resources for investment are drawn and commanding in credit markets where a disproportionate amount of government borrowing crowds against the needs of private investment. With productivity lagging, investment in new ideas, new plants, and new equipment by the private sector is sorely needed. Reaganomics seeks to stimulate both private savings and private investment through reductions in tax rates and in the burden of government regulation.

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As is true here in Britain, the U.S. has heavy stakes riding on the success of an economic policy based on freedom, discipline, and markets. Will it work? We can take some comfort from the fact that these policies are not, as they have been called by the Senate Majority Leader, a "riverboat gamble." They are revolutionary—as revolutionary as comonsense.

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Mr. PERCY. I am very happy to yield to my distinguished colleague, the ranking minority member of the Foreign Relations Committee, Senator PELL.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I am glad to join our chairman, the Senator from Illinois, in urging that the Senate give its advice and consent to the nomination of George P. Shultz to be Secretary of State. During his 2 days of testimony before the Foreign Relations Committee, Mr. Shultz demonstrated that he is a man of great intelligence, integrity, character, and good judgment.

Although the committee's hearings were considerably shorter than those held for his immediate predecessor, I wish to assure my colleagues that the committee conducted a very thorough review of all of the most important foreign policy issues that will confront the new Secretary of State. Mr. Shultz' responses convinced all of us, I believe, that although we may have differences on certain issues, here is a man who will give thoughtful consideration to every proposal. Moreover, I would like to assure Members on this side of the aisle that Mr. Shultz gave every indication that he is genuinely committed to a foreign policy based on a solid bipartisan consensus.

By education and background, Mr. Shultz is uniquely suited for this job. Sharing with him in the distinction of being what might be called a double-Princetonian, or having two Princeton degrees, having followed his career through the years as a major in the Marine Corps, in various responsible jobs in the official family of other Presidents, there is no hesitation in my mind but that he will do his job outstandingly well.

I, therefore, support this nomination in the hope, and indeed the expectation, that Mr. Shultz will display the same qualities as Secretary of State that he did as a nominee testifying before our Foreign Relations Committee.

Mr. President, in this regard, I ask unanimous consent that an excellent editorial from today's Providence Journal concerning Mr. Shultz be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE NEW BOSS AT STATE MAKES A SOLID START

George P. Shultz may not be flamboyant or productive of scintillating news copy, and this is just fine. At his confirmation hearing on Tuesday before the Senate Foreign Relations Committee, the Secretary of State-designate displayed control, moderation, confidence and a reassuring acquaintance with the broad themes (if not yet the details) of U.S. foreign policy. These all are needed attributes, and for Mr. Shultz it was an upbeat debut.

Any administration needs a seasoned hand in this critical post, someone who knows not only the main foreign policy issues but the intricate ways that government works. An effective secretary of state has to have the President's confidence and the ability to ride through crises unruffled. Despite his considerable assets. Secretary Alexander M. Haig Jr. came up short in these critical areas. Mr. Shultz, however, showed these qualities during his extensive Cabinet experience in two previous administrations, and they should be a help both to President Reagan and to the nation.

Mr. Shultz encountered close questioning on the subject of his long involvement with the Bechtel Group Inc., the big international construction conglomerate, which has close links with the Arab world. He acquitted himself more than satisfactorily, pledging to divest himself of all Bechtel-related investments. On Middle East policy generally, he struck an admirably independent and balanced position, criticizing Israel for having invaded Lebanon, but praising it as America's "closest friend" in the Middle East. And, before a forum too often prone to blink the central issue of the Palestinians' future, he stressed the importance of resolving their "legitimate needs and problems."

But these themes, while important, didn't tell the main story of the Shultz testimony. This was, essentially, that he showed a comprehensive grasp of how the world works these days—the interplay of alliances, the nervy competition between East and West, the pressures of development and Third World growth, and the relation between U.S. military and economic strength. If this appraisal was not quite of Kissingerian sweep, it reflected a man who sees the world whole, one who knows America's limits as well as its capabilities, and one attuned to the considerable uncertainties in today's restless world.

All this suggests that George Shultz will be of immense help to President Reagan for whom foreign policy is not an especially strong suit. The administration needs a confident voice to articulate the "coherent" U.S. policy aims that are so often proclaimed but seldom realized, and Mr. Shultz is equipped to take on this assignment in a commendable way.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I thank the Senator. I will not use but about 3 minutes.

Mr. President, I remember Mr. Shultz well from his previous Government service. However, I will not dwell on that. Let me make it clear also that I speak with deference to Secretary Haig. He served in a very turbulent time and served the Nation in a very fine way while he was Secretary of State and before.

But I do comment on world affairs in this respect: It is a time when we need a man in this particular office who has a background and has a lot of experience as Mr. Shultz does and whose judgment will be valuable for the American people in times of crisis. It is a time when Americans need some assurances, something to relieve their

concern. They also need assurances from this body, the rest of Congress and the Government generally.

I believe that he will be of service to the President of the United States, also, in these times, which are about as confusing with respect to world affairs as any I have seen, and I have been here in the Senate through the Korean war, the war in Vietnam and other confusing times.

We have had plenty of times when the Secretary of State was more of a nominal person—someone else was making the decisions. There was an uncertainty then, but I believe that uncertainty will not apply in Mr. Shultz' case. To me, as one Member of this body who has had no direct connection with the Department of State, but has served on the Armed Services Committee for a good deal of time, there is a combination of circumstances and policy questions that go hand-in-hand, and Mr. Shultz can do the job.

General Marshall was Secretary of State when I came here in 1947 and he was referred to frequently then as perhaps the most influential person in the Government. Mr. Truman was of course the real head of the Government, and the remark about General Marshall is not any reflection on Mr. Truman. But General Marshall was an amazing man.

I note, too, when the war in Korea started we changed the law to make General Marshall eligible for the Secretary of Defense. He was forthwith appointed as Secretary of Defense. There was power behind his decisions and great influence exerted.

So I think that Mr. Shultz will have a chance to render a very fine service in the same powerful way.

I am proud of the way the committee handled this. I am a committeeman in the Senate. I take up for them. We have to go back to giving our committees their primary role.

I have talked to several Members in making advance inquiry about this nomination. They had a very fine grasp of the facts, were able to analyze the situation mighty well and were helpful to me as well as to others, in getting a grasp and a feel for this matter of Mr. Shultz' appointment. We were almost willing yesterday afternoon to go on and confirm him before we had the official report from the committee.

I am proud to see the committee serve the Senate and the country in such a fine way on this appointment.

I do not ordinarily ever come to say this, but I did feel, as someone who has been here for several years, that I wanted to speak out and speak up with just these few words with reference to the office, with reference to the operation of the office, and to Mr. Shultz.

I have one other point, if I may mention it.

We went along for a great number of years after World War II when we felt generally that there were few people the Congress and the people of the country knew very well who were serving as Secretary of State. It was then we turned to military men, not only in this office but in others, and they have done a splendid job, as a whole. But I am pleased that we have other arenas of training for men who are capable to be brought in to fill nonmilitary positions.

This is no slur on the recent Secretary, Secretary Haig, or on military people as a whole. My point is that they are trained in different ways, they have different functions, and their spirit is different. Even though they have done well enough, we need to build up others for the office of Secretary of State. Mr. Shultz is one of these others I am talking about and I am happy to support him.

I thank the Senate for this time.

Mr. MATHIAS. Mr. President, I voted with confidence in the Foreign Relations Committee to report favorably the nomination of George Shultz to be our next Secretary of State. He is a man of great comprehension and capacity. He will bring a wealth of experience to a difficult job. The Nation is fortunate to have had him in reserve.

However, we cannot help but be deeply concerned about the extraordinarily rapid turnover in this most sensitive of all Cabinet positions.

Last September, when I met with Soviet Foreign Minister Gromyko in Moscow, I noted that he would soon be dealing with his eighth American counterpart. Now, he will sit across the table from his ninth American Secretary of State. The advantages Mr. Gromyko's continuity in office gives him in the conduct of foreign affairs are obvious.

The incessant turnover in the managers of our Nation's foreign policy is a tremendous liability to the conduct of a coherent foreign policy. The ever-changing faces at the State Department have become symbolic of a fluctuating, erratic style of management of foreign policy. Successive administrations have sacrificed continuity and consistency in the pursuit of new logos and trademarks which have too often led us into blind alleys or deadend streets.

Our friends and enemies alike watch with amazement as the highly touted tactics of one administration become objects of scorn in the next. Our changing rhetoric and shifting tactics make them think that we lack strategic direction.

In foreign policy, we are too often captives of the crisis of the moment and rarely are able to focus on the distant horizons where a successful foreign policy may be found. The awful events occurring today in Lebanon are tragic proof that our failure in recent years to press vigorously for a comprehensive Arab-Israeli settlement would inevitably come back to haunt us.

We desperately need to chart a course which is strategic in nature and in execution. It must be one around which there can not only be bipartisan support but executive-legislative cooperation. If we are to provide sane leadership in a world gone mad, others must have confidence not only that we have charted a wise course, but that we will stay on course from administration to administration. We must have a magnetic north to our foreign policy.

I am enthusiastic about the nomination of George Shultz who is an old friend, an outstanding American and one who has served his country ably in the past. We are fortunate that he is prepared to devote himself again to public service. But even George Shultz is human and his success will be limited by the limits of the institution through which he must work.

If confirmed today Mr. Shultz will take direction of American foreign policy at a particularly critical time in our Nation's history. He will have to pick up the pieces of our global reputation for strength and wisdom, squandered in the pursuit of targets of opportunity, and he will have to put those pieces back together again by devising a strategic foreign policy capable of commanding the respect and allegiance of the rest of the world.

In this great, long-overdue endeavor, he must have the bipartisan support of this committee and of the Congress of the United States.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I do not think I have ever anguished over a confirmation vote as I have over this one. George Shultz is, without a doubt, a man of great ability. His public and private service has been distinguished and honorable.

But at the same time, his arrival in the Cabinet would mean that three of the highest ranking Government officials—two of whom are critical figures in shaping American foreign policy—come from the same company. I am profoundly troubled by that prospect.

It is questionable as a matter of sound policy whether or not any one corporation, be it General Motors, A.T. & T., Exxon, or Bechtel, should have three of its former ranking officials in key policy positions in our Government.

And if the corporation—and its executives—have extensive professional and personal relationships with other countries or their leaders, as is the case with Bechtel and Mr. Shultz,

then I think the public policy question become even more disturbing.

In 999 out or 1,000 Senate confirmations, the issue should be, and rightfully is, the ability and qualifications of the individual. In this case, my concerns do not relate to the individual. This case is the exception. Instead, they involve the individual's connections with Saudi Arabia and the rest of the Arab world.

The fact is that the Bechtel-Arab world-Shultz connections are pervasive.

And I have grave doubts about whether any individual who has been president of a company which is so heavily dependent on Arab business, should head up the State Department.

My concern about Mr. Shultz could have been eased a good deal had he taken the opportunity to publicly disavow any intention of returning to work for Bechtel. But Mr. Shultz specifically refused to make such a commitment.

During his confirmation hearing, Mr. Shultz was asked by Senator BIDEN, "Are you going back to work for Bechtel"?

Mr. Shultz replied, "I have no plan to go back and I have no invitation to go back. I have given no thought to what I will do."

That is not a specific commitment not to return to work for Bechtel.

Then Senator BIDEN wondered, "if you are required to take a position in support of Israel and against Saudi Arabia, might you be reluctant to do so knowing that it may prevent your being able to assume a post at Bechtel?"

Mr. Shultz answered, "I have no such concern in my mind at all."

Unfortunately, I do have such a concern.

It is true that he has promised to recuse himself from any "particular matter" involving Bechtel and will fully comply with Federal conflict of interest laws. but that commitment, while laudable and honorable, does not solve the problem.

Federal law and Mr. Shultz's commitment really only speak to financial conflicts of interest. Frankly, neither I nor anyone else believes that Mr. Shultz's action will be affected by the pursuit of personal financial gain. He is far too honorable a man for that.

Rather, the question is more subtle. The Secretary of State is most deeply involved in broad foreign policy issues. He is not normally involved in day-to-day decisions on contracts or export licenses that may affect a particular company one way or another. The question about Mr. Shultz is whether he can objectively explore foreign policy options and make even-handed decisions in view of his long-standing ties to the Arab world.

Let me stress that I do not believe that Mr. Shultz will consciously "tilt" toward Arab interests or that he will make decisions based on what is good for Bechtel. Indeed, I believe he has every intention of approaching Middle East policy in a fair manner.

But we are creatures of our environment, our upbringing, and our past. Mr. Shultz has developed close relations with the Saudis and other Arab governments. It would be difficult, I believe for those associations not to influence his judgments. They must.

So then, it is not a matter of doubting George Shultz's integrity. I believe he will pursue policies that he genuinely believes are right.

I am simply concerned that those policies may not be in the best interests of peace in the Middle East, peace with respect to Israel and its neighbors, and the region as a whole.

I am strongly inclined to oppose this nomination for the reasons I have just outlined.

But it may well be that George Shultz will be able to do more to achieve a Middle East peace than anyone else possibly could, precisely because of the relationships he established while at Bechtel. President Nixon was probably one of the few Presidents who could have reopened U.S. ties with the Peoples Republic of China. Hopefully, George Shultz will be able to hasten peace in the Middle East.

I truly hope this is the case.

That possibility, and the unanimous vote of the Members of the Senate Foreign Relations Committee, combined with my reluctance to cast a vote which would suggest that I question Mr. Shultz's integrity, have persuaded me to vote to confirm. I cannot say that I do it with enthusiasm, nor can I say that I am certain that it is the correct vote. I sincerely hope that it is.

The Bechtel group is one of the largest engineering and construction firms in the world. In 1981, its billing totaled $11.4 billion. The company projects new contracts totaling $10.6 billion in 1982. To put that figure in perspective, only 25 industrial companies in America did more than $10 billion of business in 1981. Today, the firm is working on 111 major projects in 21 countries, each worth over $50 million and many worth more than $1 billion.

Bechtel is a privately held corporation. If it were included on a list of the largest firms in the United States, it would rank in the top 25, ahead of such giants as RCA, Kodak, and Xerox.

In the last 5 years, an increasing percentage of Bechtel contracts have come from Arab nations, so much so that Newsweek magazine recently described the firm as being "heavily committed" in Arab countries. In fact, many of the firm's recently publicly announced contracts in excess of $100 million involve Arab countries and, in particular, Saudi Arabia.

In that country alone, Bechtel has built or is building the $3 billion King Khalid International Airport, an $800 million petrochemical plant, and, most significantly, the coastal city of Jubail.

With an original contract worth $9 billion, and now estimated to have grown to at least $20 billion—with some putting its ultimate cost at $40 billion—the Jubail superproject, is the cornerstone of Saudi Arabia's $30 billion industrial development program.

Bechtel conceived the idea, sold it to the Saudis and is now managing development of nothing less than the Phoenix-like rise of a city out of desolate salt flats. Time said:

> In all the expansive sweep of civil engineering, from the Pyramids of the Nile to the construction of the Panama Canal, nothing so huge, or costly, as Jubail has ever before been attempted by anyone. * * * Jubail is, in brief, a project of moon landing proportions.

When completed, the city will serve 175,000 persons, contain berths for at least 20 tanker-size vessels, and house a $1 billion oil refinery, a $300 million petrochemical plant, a $2 billion polyethylene project, a $4 billion industrial chemical plant, a $600 million iron and steel complex and a $360 million plant to produce fertilizer pellets.

Time also reported recently that Saudi Arabia plans to spend "upwards of $100 billion more in years to come" on Jubail and related projects. It goes without saying that Bechtel, as the world's largest construction firm, will get a healthy share of this business.

But Jubail is not the only Bechtel project in Arab lands. Others include: $626 million to develop gas field in Algeria (1978); $150 million to build a liquefied petroleum gas pipeline in Algeria (1979); $400 million for two natural gas processing plants in Abu Dhabi (1977); $550 million for a gas gathering project in Abu Dhabi (1977); $33 million to prepare ground for exploration of an iron ore mine in Algeria (1978); and $466 million for a 900-megawatt powerplant in Egypt (1979).

The Bechtel-Arab World-Shultz connections are long standing.

Stephen Bechtel, Sr., son of the firm's founder and father of the current owner, was friendly with the late Saudi King Ibn Saud in the 1940's.

And as oil money poured into the coffers of the Persian Gulf nations, the firm's dependence on the region grew. A recent computer-assisted survey of major—over $100 million—Bechtel contracts that were reported by the Wall Street Journal since 1976 turned up virtually none outside of the Arab lands.

Shultz' connections with the firm extend to the early seventies. The 1974 Senate Foreign Relations Committee hearings on multinational corporations contain an internal Aramco

memo discussing a visit to the Middle East by Stephen Bechtel. The memo notes that:

John O'Connell, Bechtel executive V.P. who has been visiting Aramco with Steve Bechtel Sr. and party is member various presidential price, wage, and economic commissions and is close personal friend of Treasury Secretary Shultz with whom he will be attending inauguration on 20 January. Actually he plans spend time from Wednesday, January 17 with Shultz.

And there can be no doubt that he has developed extremely close business and personal relationships with some of the most powerful and influential leaders in the Arab World.

The New York Times recently observed:

As the company's president, Mr. Shultz brought vital contacts with officials of foreign governments, particularly the Middle East. * * *

Mr. Shultz, in fact, has publicly questioned the President's pro-Israel stand. "If I have any difference with Reagan," he said during the 1980 presidential campaign, "it's about Middle Eastern policy" as set forth then by Mr. Reagan in a speech before B'nai B'rith.

The New York Times continued:

[Shultz's] familiar face and polished manner also made him a welcome and influential standard-bearer for Bechtel in the capital cities of the Middle East.

The Times noted that Shultz has "close friendships * * * with influential Middle Eastern officials," including Shiek Ahmed Zaki Yamani, the Saudi Oil Minister and Mohammed Ali Aba al-Khail, the Saudi Minister of Finance and National Economy.

It quoted David Mizrahi, editor of the MidEast Report, an independent newsletter based in New York, as saying that these friendships were "clear assets" for Bechtel.

And Newsweek Magazine observed that:

With Shultz now joining Weinberger (Secretary of Defense Caspar Weinberger is a former Bechtel Vice President) in the Cabinet, Bechtel will have more clout in Washington. The appointment was warmly applauded by the Saudi Arabians . . . and with Shultz in the Cabinet, according to David Mizrahi, "the Saudis will feel they have a receptive ear and easy access."

In 1976, the Ford administration filed a civil antitrust action against Bechtel, charging that it had violated U.S. laws by refusing to subcontract work to American companies blacklisted by Arab Nations. According to the Government, the refusal constituted a boycott and thus had the effect of restraining trade. The suit was filed precisely because Bechtel was one of the largest and most prominent American firms dealing with the Arabs.

Bechtel denied the allegation. At the same time, the Wall Street Journal wrote:

There is speculation that former Treasury Secretary George Shultz, president of Bechtel, wanted the suit filed against his company to get a clear court ruling that would lay down rules definitely on U.S. corporate dealings with Arab countries.

In early 1977, Bechtel signed a consent agreement with the Justice Department in which the firm neither affirmed nor denied the original charges. Under the agreement, Bechtel was barred from choosing subcontractors based on a blacklist. However, if an Arab nation specifically and unilaterally selects a subcontractor using boycott principles and directs Bechtel to procure goods and services from its choice, Bechtel would be allowed to do so.

After signing the accord, Bechtel immediately said it would have no effect on its business dealings in the Arab world. It said its contracting procedure would be to "submit a list of firms of individuals we feel are qualified and acceptable to us."

The choice of which persons to choose from that list would be up to the Arab nation. Thus, Bechtel can easily comply with both American laws and the Arab boycott by submitting a list of contractors doing business with Israel, knowing full well they would not be chosen by Saudi Arabia.

Needless to say, Bechtel's business in Saudi Arabia and other Arab countries has not suffered since it signed the consent accord or since the antiboycott law was passed by Congress. It seems self-evident that Bechtel would not be getting as much Arab business as it has if it were really not complying with the boycott.

Further evidence of Bechtel's agressive pursuit of Arab business was the hiring in 1978 of Richard Helms. Helms was hired, Bechtel said, "to provide us with some consulting services relating to Iran and the Middle East."

Director of the CIA under Presidents Johnson and Nixon, Helms was the U.S. Ambassador to Iran from 1972–76. In 1977, he formed Safeer Co., a consulting firm dealing primarily with companies seeking business in Iran. In the same month that Helms' contract was disclosed, Bechtel announced that it had signed a joint venture agreement with several Iranian Government-owned companies.

Other Bechtel links with Arab governments include:

Parker Hart, former U.S. Ambassador to Saudi Arabia and Turkey, a consultant to Bechtel on the Middle East. Hart is also a member of the advisory committee of the American Arab Affairs Council. The council describes its mission as "acquainting Americans with the civilization of Islam, the Arab World, and extraordinarily productive relationships which have existed for a century and a half between the American and Arab peoples."

An indication of its policy tilt can be seen in a letter sent to this office dated June 29, 1982. The events in Lebanon, the letter said, show that "the imbalance in U.S. policy toward the antagonists should be redressed. The Middle East is an area of enormous geostrategic interest to the United States. We as Americans must shoulder the responsibility of creating or, if necessary, imposing a just and lasting peace."

A significant additional cause for concern over the Shultz nomination is that one of the Government's other top foreign policy officers is Secretary of Defense Caspar Weinberger, a former Bechtel vice president. Further, yet a third former Bechtel employee, W. Kenneth Davis, holds the powerful post of Deputy Secretary of Energy.

According to Secretary Weinberger's financial disclosure statements, he received $530,271 in compensation from Bechtel in 1980. He received stock dividends from his Bechtel holdings in excess of $200,000 and he recorded a capital gain on additional Bechtel stock totaling more than $200,000. Exact figures are not available. The amount is listed in "over $100,000" income category. In his latest disclosure, Secretary Weinberger reports receiving $93,583 from Bechtel in compensation for past services, $42,672 in lump sum distribution of pension and profit-sharing plans, and capital gains in excess of $200,000 from the sale of Bechtel stock.

In 1981, Secretary Davis, a Bechtel vice president, received $240,555 in salary from the firm. He listed dividends from Bechtel stock of between $50–$200,000. In his 1982 filing he listed a "salary bonus" from Bechtel of $115,480 and a capital gain on the sale of Bechtel stock of more than $100,000.

Mr. Davis notes that he has arranged with Bechtel for "continuation of medical and life insurance benefits as a retired officer and delayed payment of thrift and trust plans accumulated during his employment." Mr. Shultz, I might add has a similar arrangement.

Bechtel has gone out of its way to support and promote Arabs in this country and elsewhere. It has a foundation which makes $1 million a year in grants, nearly all in the $1–$2,000 range. Some of the recipients that have received more than $2,000 a year include the Middle East Research Institute at the University of Pennsylvania, the Center for Mid-Eastern Studies at Harvard and the Middle East Institute.

In 1981, an ex-British foreign service officer, Peter Mansfield, wrote a book entitled, "The New Arabians." The book was distributed in the United States by Doubleday and is widely available at retail stores around the country. "The New Arabians" is given free to new members by the National Association of Arab Americans.

The book is a highly laudatory account of Saudi modernization efforts and an extremely positive portrayal of the government and its leaders. The book's acknowledgement says:

> The idea for this book was suggested by Bechtel Power Corporation, the company which has played a key role in the extraordinary economic development of modern Arabia, and it was Bechtel which made it possible for me to write it. Beyond this the company has no responsibility for its contents.

Mr. PRESSLER. Mr. President, I commend my colleague from Ohio.

Mr. PERCY. Will the Senator from South Dakota mind if I respond to a couple of questions the Senator from Ohio raised? Is the Senator then seeking recognition?

Mr. PRESSLER. Yes, Mr. President, I am seeking recognition.

Mr. PERCY. Then I shall yield to him. First, I think it might be well to take up two of the principal points that have been raised by my distinguished colleague from Ohio.

The question is whether or not it is proper for two former executives of the same company to come into Government. I presume one could stretch the imagination and say, well, either Chuck Percy or Pete Peterson should have decided whether they would work for the U.S. Government but not both of them, since they both came from Bell & Howell. I did not see any conflict of interest in any of that. I cannot see any possible conflict of interest here. This was obviously the same administration, but we were in separate branches of Government to be sure. But if we had both gone to work for the administration in the same time, in my corporate experience, I could not possibly see, even though we were a multinational, international corporation, any conflict of interest of any kind.

People are as different when they work for the same company as they are when they work for different companies. They are different human beings. The question is whether or not they meet the standards of integrity, of knowledge, of lack of bias, et cetera, all of which questions were put by the committee over a period of many hours. The committee unanimously voted support for Mr. Shultz.

With respect to the question as to whether or not he would return to Bechtel, it was a question on which his counsel, Lloyd Cutler, former counsel to the President of the United States—a Democratic President, President Carter—advised him not to answer. To require such a commitment would be an absolutely dreadful precedent to establish. Whether Mr. Shultz returns to Bechtel is a question that should not be answered as a principle. It is hard enough—and I am shocked, really, that a former businessman who knows the disincentives for business people to give up the life they have and make the sacrifices they do to come into government, would make it even more difficult. If we establish this as a precedent for one, why would we not establish it as a precedent for everyone who comes into government?

Therefore, it was my judgment that it would not be wise for George Shultz to respond to that question. It was his counsel's judgment, and the committee unanimously did not at all insist upon an answer to that particular question. I think the consensus of the committee was that it is inappropriate.

I thank my colleague.

Mr. METZENBAUM. Mr. President, I yield to the Senator from South Dakota, if he will give me 1 second.

Mr. PRESSLER. Mr. President, I want to make a statement first. I have the floor, I believe.

The PRESIDING OFFICER. The Senator from South Dakota has the floor.

Mr. METZENBAUM. I thank my friend.

(Mr. EAST assumed the chair.)

Mr. PRESSLER. Mr. President, I should like to make a few brief remarks about this nomination.

I believe George Shultz is a man of great integrity and ability. I have been very troubled, as has my colleague from Ohio, about the Bechtel connection. I questioned Mr. Shultz extensively during the hearings. For example, I asked him on the issue of nuclear nonproliferation, on which he will have to make rulings every week in regard to regulations and sales of enriched uranium abroad—which Bechtel sells and transports—whether he would have to excuse himself from such decisions. He said he did not think he would and so forth. But it is very troubling.

More troubling, basically, is the power of international conglomerates and international banks and international business. As I said during the hearings of the Committee on Foreign Relations, there is a popular belief, rightly or wrongly, that our foreign policy is unduly influenced by large companies, by multinational corporations and conglomerates, by big banks. It is sometimes expressed through criticism of the Trilateral Commission or criticism of some of David Rockefeller's commitments or criticism of the Council on Foreign Relations. Aside from those specific charges, some of which come across as inconsistent and incomplete, there is a strong grassroots feeling that our foreign policy is overly influenced by these big companies and by financial interests that are international rather than national. So I hope that George Shultz will make every effort to listen to grassroots America in the formulation of foreign policy.

I think we in the Senate and on the Foreign Relations Committee should make extra efforts in this area.

Very frankly, I have been troubled that Mr. Shultz originally gave signals that he would favor an extension of the long-term grain deal with the Soviet Union but later gave different signals. After the meeting last Monday and the breakfast meeting of the Pentagon, State Department, and others with the President, where a basic decision was made to have perhaps a 1-year extension without going into a new, long-term agreement, Mr. Shultz' view seemed to shift back. He expressed those new views of the administration very quickly. I guess that shows he is a team player, but I hope he fights for what he believes in. Of course, he is not in the administration. We certainly cannot hold him accountable for the position being held at this hour by the Cabinet, in which I am very disappointed.

Then I came down to the question, Do I vote for or against George Shultz? As my colleague from Ohio so eloquently has said, perhaps there are some advantages to this background. Some say that only big companies can be effective internationally. The great Japanese combines and corporations and trading organizations have become vicious competitors. Perhaps we need big companies to offset them. It is an unresolved dilemma in my mind.

I shall vote for George Shultz very reluctantly because of these concerns. He was an outstanding Secretary of the Treasury and an outstanding Secretary of Labor, who got along with labor and negotiated effectively, which was unusual for a Republican of that particular administration. He was an outstanding Director of OMB. He is a man of great integrity and ability and he is the man the President wants. My criterion on Cabinet members has been, unless there is some overwhelming thing wrong with their integrity or ability, to let the President have the people of his choice. But I patiently expressed my concern in questions in the Foreign Relations Committee and every other chance I got. Not so much about Bechtel as about what the American citizen thinks about how foreign policy is formulated and the lobbying and influence that is exercised by these big companies. We cannot see all of these activities.

I was told just today, for example, of additional Government officials who worked for Bechtel, who have been in and out of Bechtel and the Government. I am told that the former Director of the REA is now an employee of Bechtel, that two or three of the top intelligence people of years past are with Bechtel.

The worldwide connections, the prominent people who are in and out of Government—if not Bechtel, then perhaps five or six other big corporations or big banks—suggest a blending

of influence to the exclusion of the common citizen. Indeed, it even suggests the lack of knowledge of the average citizen, or reporter, or Senator, perhaps. So I think that, though I am voting for this nomination, it marks the beginning of a new awareness for me. Going through this exercise on Bechtel has marked for me the beginning of a new awareness of how these big corporations permeate everything—and not just at the national level. Bechtel is very active in the States, with bonding authorities, with leading law firms, and leading citizens. None of it is dishonest that I know of; I am not saying that. But it is an enormous influence that rivals the influence of any other institution in our society.

I hope that George Shultz will bend over backward not to allow that connection to ever discredit his position.

I think that those of us who are in public life have to make special efforts to seek grassroots input. I think the State Department has to make special and genuine efforts. I just heard, for example, that the American Chamber of Commerce has come out against the administration's decision on the Soviet gas pipeline to Western Europe.

If big business makes a concerted effort over a period of time, they may essentially reverse that decision, but I doubt that the decision on the grain sales will be reversed. In the case of Poland, we shut off grain sales to Poland, but yet we paid a portion of the Polish debt, saving the big banks from default. That is an inconsistent policy, and agriculture does not have as much clout as does big business or big banks.

I know that many who study foreign policy might characterize my remarks as an isolationistic, midwestern, jingoistic approach to foreign policy, but they are not. This is what people are thinking, and I hope we become more aware of that fact.

Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I have known Mr. Shultz for a number of years. He has served five of the last six Presidents of the United States. I have been around here for 25 years, and I seem to have encountered Mr. Shultz more than just about any other public figure. It happened that his concentrations were in the economic area as were mine. I was on the Joint Economic Committee for more than 20 years, on the Appropriations Committee for more than 20 years, and the Banking Committee for 25 years. In all those capacities, I came to know Mr. Shultz. I had a chance to question him at length. I always was impressed by his intelligence, his sense of fairness, and his general ability, and also the fact that he tried to cooperate with the Congress as well as cooperate with other people in the administration. He always looks for a way to get things done with which everybody can agree and which is reasonable and in the national interest. He also has very, very strong convictions and principles on civil rights, for example, and as the Senator from South Dakota has just pointed out, he did serve with great distinction—and this was a real challenge—the Nixon administration as Secretary of Labor, because President Nixon was not exactly labor's pinafore. But they developed a great respect and admiration for George Shultz, for his good word, for his willingness to stand up for principle and for, as I say, his underlying fairness.

Having said all that, I should like to explain briefly and quickly, and then I have some questions for both Senator PERCY and Senator PELL, why I held up this nomination by asking that it not be taken up yesterday.

Mr. President, the constitutional responsibilities of the Senate should not be taken lightly. The President is given the power to nominate in article 2 of the Constitution "by and with advice and consent of the Senate." The Senate, unfortunately, has not always carried out its delegated responsibilities in this regard with thoroughness. Often inadequate investigations have led to embarrassment later or even resignations of Cabinet officials. Too many questions have gone unasked out of a lack of aggressiveness or perhaps senatorial courtesy or partisan politics.

In this case, we have a man who is, in my judgment, well-qualified, although I think those qualifications are very largely in the economic field. He obviously has no military experience. He has no direct experience in the State Department, nor in the Foreign Service, but he has an extraordinarily wide experience in economics, both in his training as an economics professor and also, of course, in a position of great influence in this Government.

Mr. President, after the events following the Bert Lance nomination, the Senate urged its committees to review nominations at greater length and depth.

My purpose here today is to urge my colleagues not to rush into a confirmation vote until the proper procedures of the confirmation process have been observed, until each Senator has the information at his or her disposal upon which to make a rational judgement.

I have no intention of holding up this nomination. From my examination of the hearing transcripts, Mr. Shultz handled himself very well, displaying the characteristics which will make a good Secretary of State. He is experienced, well qualified, as I say, for the post, which may well be the most important in all the Cabinet positions.

So, then, why did I object to the request that his nomination be taken up immediately? The answer rests in the belief that no nomination to a top policy position, and especially to Secretary of State, should be allowed to proceed in the absence of a report from the relevant committee or at a minimum the availability of the hearing transcripts for other Senators to read.

What is the purpose of having a hearing? What is the committee supposed to do? They do not act on the nomination; the Senate does. We should have a full report. We should know the position of the 17 Senators who serve on that fine committee.

I submit that if we had acted yesterday, we would not have even had the newspaper reports which this morning reported the second day of hearing, let alone the transcript. We would have been acting on inadequate information on what I think is the most important confirmation that we will make this year or probably in the next 2½ years.

Mr. President, the Foreign Relations Committee held 2 days of hearings on this nomination. They were extremely good hearings. Tough questions were asked and responded to, and I compliment Chairman PERCY, who has done a fine job as chairman of that committee, and ranking member CLAIBORNE PELL, who has also excelled, for the preparation that went into these hearings. But any committee, as I say, is a creature of the Senate. All Senators cannot be present for a hearing. Sure, we are welcome to come and ask a question or two. We should not impose ourselves on the committee.

As a longtime Member of the Senate and one who has chaired a Senate committee for years, I would resent it if a number of Senators came in and insisted on questioning the nominee at length. An occasional Senator might be welcome, but the orderly procedure is to have the committee itself make a record and then make that record available to us.

Mr. President, we are dependent on the written report of the committee for the presentation of appropriate views. In this case no report has been issued, this despite the fact that there are serious international issues facing the new Secretary which need to be addressed and explained to the Senate. Consider the range of troubling problems that face the Nation: the war in the Middle East, the Iraqi-Iranian buildup and initial battles, the issue of nonproliferation, about which Senators CRANSTON, GLENN, and PERCY have contributed so much; grain sales to the Soviet Union, the Siberian pipeline, the START negotiations, arms sales to Taiwan, arms sales worldwide, Israeli foreign aid requests. The list goes on and on. My point is that the Senate needs the benefit of the delib-

erations and conclusions of the Foreign Relations Committee as well as the views of the nominee before we vote on his confirmation.

Consider what was being asked yesterday. The Senate was being asked to vote on the nomination without a committee report, without access to the committee hearing record which had just been completed that day. No Senator outside the members of the Foreign Relations Committee would be in a position to have more than a superficial knowledge of what went on at that hearing. The purpose of a confirmation hearing is to provide information to the Senate upon which a decision can be made. That purpose was not achievable under the time restrictions placed on this vote, so I did object. I do not think my objection will change any votes on this nomination. As we know, Mr. Shultz, who will probably be confirmed overwhelmingly, maybe unanimously, will serve for 2½ years. Holding this up for 24 hours could not in any way have a serious impact on our foreign policy.

Mr. President, what I want the Senate to do is to make its confirmation process work, without delay but not without information bearing on the qualifications and experience of the nominee.

Now I would like to ask questions of the chairman and the ranking minority member on the substance of the hearings.

Mr. Chairman, is the committee aware of the magnitude of the business conducted by the Bechtel group in the Middle East, and can you give the Senate some indication of the dollar volume by country?

Mr. PERCY. The committee is aware, obviously, as is virtually everyone who follows business interests in the United States and around the world, of the extent of the business of the Bechtel Corp. It is one of the largest earners of foreign exchange of any company in America. It runs into the billions of dollars.

The committee did not inquire, because the company is a private company, as to the business breakdown by countries. We know they do an immense amount of business, for example, in the Mideast, essentially in the Arab world.

I have visited, as has the chief of staff and other members of my staff, in January, one huge industrial city being constructed under the supervision of Bechtel in Saudi Arabia—Jubbah. It is a forward-looking city of the future.

I have seen evidence of other undertakings of this corporation in this country and abroad. But we have not seen fit to break it down or to request it from them in country-by-country detail.

As a matter of fact, in issuing corporation reports myself, for over two decades, for a multinational corporation, I never, ever, listed—even for a public corporation—our sales by countries. I did not feel it was anyone else's business, and I did not see any reason to do it.

Mr. PROXMIRE. Will the chairman give us some indication of what proportion of Bechtel's business is in the Mideast?

Mr. PERCY. I do not know what proportion, but let us say it is an immense amount of business.

Mr. PROXMIRE. Billions of dollars?

Mr. PERCY. Bechtel does billions of dollars. A large amount of business is done in the Middle East. So far as we were concerned, all we needed to know was that they do an immense amount of business in that part of the world.

Mr. PROXMIRE. Does Bechtel do business with Israel?

Mr. PERCY. I do not have any knowledge that they do business with Israel. But we can certainly find an answer to that question.

I ask my distinguished colleague, inasmuch as transcripts were available last night and made available to the distinguished Senator and his staff——

Mr. PROXMIRE. They were, indeed.

Mr. PERCY. For the first day's hearings, and they were made available today. The Senator—his staff, at least—is familiar with the hearing record.

Mr. PROXMIRE. Yes, we are familiar with it.

Mr. PERCY. There is an extensive hearing record, over 500 pages of rough transcript. It could be gone through by any Senator and was made available to anyone who would have wanted it.

Also, the hearing was carried by live cable television. It was carried by radio and was reported extensively, I would say, throughout the world. The hearing was not in secret. It was held in room 1200.

Any Senator could have had staff members in there. We accommodated every Senator who wanted to ask questions, and several Senators did and attended those hearings, and we were grateful for their participation.

So it was certainly an open hearing, available to anyone who wanted to come. The full testimony was available for anyone to hear and is available to any Senator who wants to review it in full now.

Mr. PROXMIRE. As I understand the answer of the Senator, Bechtel has done a great deal of business, perhaps billions of dollars of business, in the Middle East, and whether it has done business with Israel, he is not sure.

Mr. PERCY. I am not aware of that. The question was never put. If it is a pertinent question and the Senator would like to have an answer, I will try to determine it. To the best of my knowledge, they are not doing business in Israel. I have never heard the company mentioned, when I have been in Israel, as doing business there.

Mr. PROXMIRE. Is there any reason why not? Was it because they might risk their Arab business if they had done business with Israel? Is there any basis for making a judgment on that?

Mr. PERCY. The question was never put to Mr. Shultz.

Mr. PROXMIRE. Will the Senator explain what Mr. Shultz is doing to divorce himself financially from the Bechtel group?

Mr. PERCY. We covered this question rather thoroughly. I believe it is on page 20 of the hearing record, and I should like to quote from it. George Shultz testified as follows:

During the last few days and in introducing me here, a number of Senators have asked me to address myself to the question of my relationship to Bechtel should I become Secretary of State. To those questions I see only one possible answer: none. If I am confirmed, agreements already executed by me will result in my resignation from my officerships in all Bechtel entitles. I will retire as an employee, retaining only vested rights to medical and insurance benefits and to assets already accumulated under Bechtel Trust and Thrift plans.

I will sell, at a price determined by an established process, all my Bechtel-related investments, and for the most part, that will happen immediately. There are only some that require a period of time to make an assessment of their value, but the date of the sale will be the date when you vote my confirmation if you do so. So it will all be done on that date.

Although I understand from counsel—

It is Lloyd Cutler—

that these steps leave me with no legal conflict of interest, I will, if I become Secretary of State, execute a statement removing myself from any so-called "particular matter" as defined in the law involving Bechtel. In the words of my counsel, concurred in by the Office of Government Ethics, these steps "will assure your full compliance while serving as Secretary of State with the terms of" the various Federal conflict of interest laws.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated, July 12, 1982, addressed to Mr. Shultz by Wilmer, Cutler & Pickering.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WILMER, CUTLER & PICKERING,
Washington, D.C., July 12, 1982.

Mr. GEORGE P. SHULTZ,
776 Dolores Street,
Stanford, Calif.

DEAR MR. SHULTZ: You have asked us to examine the various actions you intend to take with respect to your financial and business interests in the event you are confirmed by the United States Senate to serve as Secretary of State. Specifically, you have asked that we give our legal opinion as to whether those actions will if taken, place you in compliance with the terms of 18 U.S.C. §§ 208 and 209. Section 208 prohibits

certain acts of a government employee affecting a personal financial interest. Section 209 bars, with certain specific exceptions, the receipt by a government employee from a non-govenmental source of salary, or any contribution to or supplementation of salary, as compensation for service as a government employee.

If confirmed, we understand that you will take the following steps:

(1) Upon your confirmation as Secretary of State, you will resign from all your positions with all the Bechtel entities as of July 7, 1982, when you went on an unpaid leave of absence from those positions, and will take retirement status.

(2) You will be paid by Bechtel only such amounts as are due to you for salary and pro-rated bonus for your services through July 7, 1982 under preexisting salary arrangements and bonus plans. The amount of any such bonus will be determined in accordance with Bechtels established bonus plan and in a manner consistent with the treatment of other senior executives at Bechtel.

(3) You will resign from all your directorships in non-Bechtel business companies and nonprofit entities;

(4) You will devest, through open market sales, all your investments in non-Bechtel companies that conduct international operations;

(5) Pursuant to preexisting contract terms, including evaluation formulae, all shares you own in Bechtel Group, Inc., and Sequoia Ventures, Inc. will be repurchased by those companies. Under the same terms, shares of those two companies held in trust for your children and grandchildren will also be repurchased;

(6) Pursuant to preexisting contract terms, including evaluation formulae, all your interests in Bechtel-related oil and gas, drilling rig, and real estate limited partnership investments will be repurchased by the respective partnerships. You will also arrange to divest yourself of your interest in a non-Bechtel-related oil and gas limited partnership investment; and

(7) You will establish a qualified blind trust in conformity with the Ethics in Government Act. The trust will receive the securities you have not divested and may receive some or all of the payments due on account of the stock and limited partnership divestitures, and any bonus payable to you by Bechtel for 1981 and 1982 as described in item (2). The trustee will invest and reinvest the corpus as permitted by applicable regulations.

We understand that you will retain your vested rights under Bechtel's Thrift and Pension Plan and the rights, as a retired employee, for you and your wife to retain medical and life insurance benefits under Bechtel's insurance program. You also will retain your positon as a tenured Professor at Stanford University, on a leave of absence without compensation basis.

The steps specified in items (1), (2), (3) (4), (5) and (7) above will be taken before you are sworn in as Secretary of State. As for the disposition of your oil and gas limited partnership interests (item (6)), the contract terms concerning disposition require valuations to be made under specific procedures and at dates which may occur after the date you may be confirmed by the Senate. We understand that the valuations and payments to your blind trustee will be made as promptly as feasible and no later than six months from the date you are sworn in. We have reviewed the divestiture plan regarding these partnership interests with the Office of Government Ethics, which has given its approval to the divestiture plan.

Finally, we understand that you will enter upon the record at the Department of State a formal recusal statement in which you will indicate your intention not to participate in any particular matter involving any Bechtel company or related company and to abide by the Code of Conduct of the Department of State.

It is our opinion that the steps specified above will assure your full compliance, while serving as Secretary of State, with the terms of 18 U.S.C. § 208.

The only connections to the Bechtel companies that you will retain will be your vested rights under the Thrift and Pension Plan, your rights to medical and life insurance benefits, and, pending complete divestiture, the rights your blind trustee will hold to receive payment for certain of your limited partnership interests. The receipt of your Thrift and Pension Plan and insurance benefits is expressly exempted from 18 U.S.C. § 209 by subsection (b) of that section. With regard to sums that will be paid to your blind trustee for your limited partnership interests, it is clear that those sums, which are computed according to contract terms relating to disposition of partnership interests, do not constitute a form of payment to you as compensation for your services as an employee of the government. Therefore, in our opinion the above arrangements are wholly consistent with and not in violation of 18 U.S.C. § 209.

The Office of Government Ethics has responsibility for interpreting the Federal conflict of interest laws and regulations. We suggest that you provide a copy of this opinion letter to the Director of that Office and to the Legal Advisor to the Department of State and request from them written confirmation that they concur with the opinions stated herein.

Sincerely,

WILMER, CUTLER & PICKERING.

Mr. PROXMIRE. Does that mean there would be no deferred payments, no bonuses or compensation that would be paid after confirmation?

Mr. PERCY. What was the question?

Mr. PROXMIRE. Does this mean—that statement—that there would be no deferred payments?

Mr. PERCY. To the best of my knowedge, other than what Secretary Shultz has said—a residual value that he retains in medical insurance benefits and to assets already accumulated under the Bechtel trust and thrift plans. But I know of no deferred compensation payments that are being made to Secretary Shultz.

Mr. PROXMIRE. Does the committee have a record of the Bechtel group's business experience with regard to the transfer of nuclear technologies and materials overseas?

Mr. PERCY. The committee did not request a comprehensive list of each sale or the transfer of nuclear technologies. We did have some discussion. It is well known that they are a company that has constructed and participated in the construction of nuclear plants abroad, a program begun under President Eisenhower in the Atoms for Peace program.

These are plants for the peaceful use of nuclear energy; and, to the best of my knowledge, their competence in that field is unquestioned, of course.

Mr. PROXMIRE. Not only peaceful uses but also the uses for weapons purposes with respect to Brazil, for example. Was not that question asked by Senator CRANSTON? There was a very firm answer by the Secretary-designate, but it was not very revealing—I did not get any followup in reading the transcript—as to the position that Bechtel had taken in selling nuclear know-how which could be easily converted or was for the purpose of developing nuclear capability.

Mr. PERCY. As I understand it, Senator CRANSTON pursued this question at considerable length. Senator GLENN is also one of the most knowledgeable and experienced men in the Senate, in the nuclear field, if not in the country. They both questioned Mr. Shultz and, to the best of my knowledge, they were satisfied with his answers.

To the best of my knowledge, Bechtel has engaged only in peaceful use of nuclear energy and has helped in the construction of and constructed plants here and abroad in that field, but not for weapon purposes.

Mr. PROXMIRE. Did the committee inquire about Mr. Shultz' views on Israel's destruction of a nuclear reactor facility in Iraq?

Mr. PERCY. I do not believe there was a question that I can recall on that particular subject. We asked other witnesses about that, but his judgment was not asked. I think it did come up in George Ball's testimony this morning. He volunteered his reactions to it, but Secretary Shultz was not asked about that.

Mr. PROXMIRE. Does the committee have the views of Mr. Shultz on the decision to sell enriched uranium to India, which was narrowly approved by the Senate last year?

Mr. PERCY. I think the question came up, if I recall correctly, about his views on the Nuclear Non-Proliferation Act which did figure in the stoppage of shipments to India. But I am not positive what his answer was.

The Senator's staff has carefully gone over the transcript. I have not been able to find the time to read the transcript, having sat through the entire hearings, and cannot really recall whether there was. Maybe I could ask the staff member who has recently read that transcript whether that question was put to him in that way.

Mr. PROXMIRE. Yes, in general my staff tells me in their view of the transcript he seemed to support the sale of enriched uranium to India which is disturbing.

Mr. PERCY. I think the law provides that we obviously cannot and we have stopped the shipments of enriched uranium to India simply because they have not complied with the provisions of law, but we did honor and make two shipments that were ordered prior to the cutoff time and we had a vote here on the floor of the Senate. Every Senator was free to vote as he chose and the majority of the Senate prevailed that we should make those two shipments and honor them and then cut it off, and it has been cut off.

Mr. PROXMIRE. Mr. President, in recent months the State Department has claimed that the U.S.S.R. or its allies have used mycotoxins, a form of biological warfare, in Southeast Asia. Did the committee explore with Mr. Shultz the issue of whether or not the Soviet Union has violated the 1957 biological warfare convention?

Mr. PERCY. No, we did not. Not every Senator finished completely all of the questions. I am certain that there are thousands of questions that could have been dreamed up and asked of him.

To the best of my knowledge, he has been at no time involved in that particular issue. That is not a current issue. It is a question I have put. I went to Geneva, first of all, to put that question to the Soviet delegation. I put the question myself to the Soviet delegation. I requested our ambassador to pursue it. I have requested the Secretary of State to pursue it. I have spoken to the President about it. I feel they have violated their treaty with us.

Mr. PROXMIRE. I agree with the distinguished chairman, and that is why I had hoped that that question would be put to Mr. Shultz. I think it is not one of thousands of questions. It is a very important fundamental current question of great significance.

Mr. PERCY. I think this could have been a question that could have been put to him obviously. I think he probably knows how strongly I feel about it, how a demarche has been issued to the Soviet Union. We have requested consultation on this as is provided for by the treaty. The Soviets to date have not responded to that. I think, therefore, it is quite evident that it is not wise for us to enter into treaties with the Soviet Union unless they can be verified. There is no way to verify this particular treaty. This particular treaty says that neither country shall engage in the manufacture of biological warfare weapons. And they can only engage up to the point where they can support their research programs. When the anthrax incident occurred in the Soviet Union, and there is fairly solid evidence that it did occur and that it occurred only of a magnitude that would have called for production in violation of our treaty, we have made representatives under two different administrations without satisfaction. I think the appropriate time for us to do that would be when Secretary Shultz is confirmed as Secretary and has the power to act.

But at no time do I know that he has ever been involved in that particular issue. We had many other issues where the answer was less obvious. That answer is perfectly obvious.

I could assert to the Senator that there is no question but what, if there is a binding treaty between two countries, the Soviet Union and the United States, Secretary Shultz will pursue and follow up to see that we do everything we can to get satisfaction on this particular issue.

Mr. PROXMIRE. I think the Senator may recall that earlier this year, about 2 months ago, I got a resolution passed unanimously in the Senate which condemned the Soviet Union for this and proposed that we reopen the treaty with the Soviet Union, renegotiate it, and provide for inspection and some degree of enforcement.

This is why I raise this question. In the last 2 days I have written the State Department asking for the progress, whatever progress they have made in working with the Soviet Union on this treaty, and I am delighted to know that the distinguished chairman of the Foreign Relations Committee is pursuing this.

Let me ask: There have been persistent charges over the last year that the U.S.S.R. systematically violated the SALT I and SALT II agreements. Did the committee ask Mr. Shultz if the State Department had a position on these alleged violations and have they violated SALT I or SALT II?

Mr. PERCY. The question as to whether they have violated SALT I and II has been put by the committee to the appropriate intelligence agencies and to the Department. We have received written classified communications which the chairman of the committee and the ranking minority member would be happy to share with the distinguished Senator. They are not subject to discussion in an open forum on the floor of the Senate.

To the best of my knowledge and recollection that particular question was not put to Secretary Shultz inasmuch as his hearing was in open session. He has only had 1 week's notification from the President that he is being asked to assume this job. He has had to wind up his business affairs, get out to Washington, prepare for the hearings, and not a single member of the committee felt that that was an appropriate question to put to him. That is a question better put to the intelligence community.

Mr. PROXMIRE. I think the Senator is certainly correct that any detailed specific documented response would have to be classified. On the other hand, it would seem that a general response, if they violated or not, could be sanitized. I think that is a matter that the American public is entitled to know, if they have violated SALT I and II.

Mr. PERCY. I would be happy to share the information that we have with the distinguished Senator.

But as a matter of policy, I can speak, I think, for Mr. Shultz with confidence that if there is evidence that the Soviets have violated either one of those two treaties, both of which are verifiable according to all of the evidence we have, then he would make that information available.

Mr. PROXMIRE. I just have one additional question for the distinguished chairman before I have two or three questions for the ranking minority member.

In the view of many of us, one of the most serious mistakes our Government has made over the past few years is selling arms abroad everywhere indiscriminately to all kinds of governments, democracies, dictatorships, Communist governments, anti-Communist governments. Wherever we could make a buck by selling arms, we seem to be doing that and that has become, in my judgment, a very seriously corrupting element of our foreign policy as well as, of course, having mischievous effects abroad in spreading weapons all over the world.

Did the committee explore with Mr. Shultz his view on the arms sales policies of the United States to explore whether in his view we were selling too much or too little and how he would achieve international restraint?

Mr. PERCY. The questions were put to Mr. Shultz on specific arms sales to specific countries. There were no overall questions that I can recall as to whether we are selling too much or too little. It certainly is a subject that would be of interest to him and will be as Secretary of State, but I would not know that he would have had any contribution that would have helped in the committee's judgment as to whether or not he should be confirmed as Secretary of State.

Mr. PROXMIRE. It seems to me just a general response indicating whether or not the new Secretary of State feels we should exercise more restraint in sales of weapons abroad, especially if it comes down on the side that we should, would certainly be reassuring to a lot of Americans.

(Mr. ABDNOR assumed the chair.)

Mr. PROXMIRE. How about the arms-free zones or nuclear-free zones? You know we have one arms-free zone in the world, and that is the Antarctic, unfortunately, peace for the penguins. But we unfortunately do not have anything like that where we should have it in South America, Central America, Africa, and so forth, where we could

work with the Soviet Union and other countries and say, "Let us keep our arms out of this area and let us make sure we do everything we possibly can to prevent fueling an arms race in this area," positive action. Was anything like that put to the Secretary? Was anything elicited from him?

Mr. PERCY. No. At no time was a question put on nuclear-free zones. We got into most of the areas of the world, but we did not get into the Antarctic.

May I say, inasmuch as this is the last question, having served for 6 years with the distinguished Senator on the Banking Committee, and knowing the tenaciousness with which he asks questions of witnesses who appear before us and nominees for office who are confirmable by the Banking Committee, I still feel quite confident that I would be able to take the text of the hearings, no matter how long they may be, and most of them are not anywhere as long as Secretary Shultz' hearing and find an issue not addressed. This is a detailed hearing, and every single member, 17 members, fully participated with several rounds of questions, and the hearing was not closed until every single Senator had asked every question they wanted to ask. There was no attempt to close off any questions.

Mr. PROXMIRE. May I say that I agree wholeheartedly that it was an excellent hearing, but there was no report, no summary.

Mr. PERCY. The Senator from Illinois would say that even the Senator, with his usual persistence and tenacity, would not have been able to ask all the questions he would like to have asked, and I could pick certain areas where I could say to him, Why didn't you question him about this because this is important?

We wanted to end these hearings so that we could have a Secretary of State. We felt it important, and I feel the committee did an outstanding job.

I have served on this committee for 10 years. I think it was the best set of hearings, of questioning, that I have experienced in a long time of any witness before any committee. The committee record is exhaustive. We covered the world.

Certainly there are some areas that were not discussed. That leaves us plenty of time because the Secretary has said that any time we wish to question him further as Secretary of State, if and when he is confirmed, he will come before the committee at reasonable intervals, and appear before us, to answer any questions. But I am surprised that you have not raised the question of the genocide treaty. I expected——

Mr. PROXMIRE. I am doing that next.

Mr. PERCY. I would have anticipated that that would have come up.

Mr. PELL. Mr. President, will the Senator yield for a moment?

Mr. PERCY. I would be happy to yield.

Mr. PELL. I would like to support the chairman in what he said. There was a full and fair hearing. There was no sense of rush or pushing people along. Everybody was given the opportunity. There is naturally the desire on the part of the chairman, because there is a tough international situation, to move along as fast as we could. But there was nobody who was cut off at all. There are probably many questions that might have been asked, should have been asked, perhaps, that were not asked. But it was a full hearing. It was fuller in my recollection than the hearings we had not with respect to Secretary Haig but Secretary Haig's predecessors, Vance and Muskie. I think those hearings were certainly no longer. I would have to check this with my recollection. Perhaps they were even shorter. Also when you want to figure out all the questions in different areas you can always find some area where the question was not asked.

Mr. PROXMIRE. Mr. President, if the Senator from Rhode Island will yield, I agree wholeheartedly, there is no question, that this was a good hearing. These hearings are among the best. You could go on forever, and that would be a mistake. The hearings should have been held for a day or 2, and they were and, as I said earlier, both the chairman and the ranking member did a marvelous job of organizing it and they deserve credit.

What I regretted was that we did not have an opportunity to study the transcript. I understand the pressures of time, but it would have been better if we could have had a committee report, an opportunity to use those hearings. The purpose of the hearings is not so we can get the TV or the newspaper to cover it, but so that Senators will be informed so that we may be able to vote on the floor of the Senate and vote as informed.

Mr. PELL. If we did not have the crisis we have in West Beirut at this time I believe it would have been the normal course of events. But when you have incipient violence prevalent you want to get the Secretary of State in position quickly.

Mr. PERCY. On the question of whether or not there is a report, we looked into that yesterday, as to what the precedents of the committee were. Do we always have a report? There was no report issued by the committee on Christian Herter, on Dean Rusk. There was no report issued on Secretary Haig and former Senator Muskie.

We found in recent history, in the last 10 or 15 years, 5 instances where reports were not issued.

Mr. PROXMIRE. I am sure that is true. As I said earlier, I think my criticism is not with the current chairman and ranking member, who are doing a fine job. I think all of our committees are delinquent in not doing that. I think we neglect this in our advise and consent, tragically. I think we should issue a report on a Secretary of State, a man who is the most important individual besides the President of the United States, the most important figure in the country in determining our foreign policy, and we ought to be as fully informed as possible. It seems to me that is what a committee is about. We have reports on people, nominees for minor jobs, who have very little responsibility. But on the Secretary of State, where we really need it, where it really means something, where is it?

Mr. PERCY. Can I ask the Senator for a direct honest answer?

Mr. PROXMIRE. He gets nothing but honest answers.

Mr. PERCY. In his experiences how many Senators really have read the report issued by a committee on a nominee?

Mr. PROXMIRE. Well, I certainly would not judge whether we should——

Mr. PERCY. That is aside from the Senator from Wisconsin.

Mr. PROXMIRE. I think some Senators have taken Evelyn Wood's course in rapid reading and can read the committee reports. But, of course, our staff read them and inform us about them, and often there are parts of a report we all read in order to find out whether there is any opposition, whether there is any reluctance on the part of Members, and so forth.

At any rate, the Senator is correct. We get a lot of material we do not look at as much as we should. But I do think in this case this is so important that we should have had that excellent hearing, that really magnificent job the committee had done, in writing so that we could use it.

Let me ask the distinguished Senator from Rhode Island, Senator PELL, I understand the Senator may have had a conversation with Mr. Shultz about the Genocide Convention. Is there anything the Senator can report to us about this?

Mr. PELL. The conversations took place at public session. I raised it both days, and the Secretary on the second day, perhaps as a result of my asking the question more succinctly, indicated his support of the objectives and of the thrust of the Genocide Convention.

He said they would look into it promptly. I asked the State Department just now or a little while ago what the status was, and they said that because of the interest of the Senator from Wisconsin and others of us that it is now under "active review."

The Senator knows as well as I do what "active review" means. It does at least mean we will get a report from them. Whether they will recommend ratification remains to be seen. I would hope so.

Mr. PROXMIRE. The Senator from Rhode Island is thoroughly familiar with the fact that that treaty has been pending for 33 years.

Mr. PELL. Correct.

Mr. PROXMIRE. It has been reported from the Committee on Foreign Relations four times. It has been approved and supported by every administration up until this administration, with some enthusiasm in every case. The Senate has failed to act on this treaty and, of course, it is a treaty which I know the Senator feels so closely to because his father had a great deal to do with getting ratification by the United Nations.

At any rate, the Senator is saying that the Secretary of State assured him that he has a general approval of the substance of the treaty and that they will move it along with some——

Mr. PELL. Excuse me, general approval of the thrust of the treaty.

Mr. PROXMIRE. Thrust of the treaty.

Mr. PELL. I do not want to put words in his mouth.

Mr. PROXMIRE. They will move it along as much as they can.

Mr. PELL. No commitment to recommend ratification, to my deep regret. I commend the Senator for his efforts in this regard and will do whatever I can because he and I feel strongly on this subject because, as he pointed out, my father thought genocide should be included as a war crime.

Mr. PROXMIRE. Does the Senator have any feeling about Mr. Shultz' position about funding for the Arms Control and Disarmament Agency? As the Senator pointed out earlier, we spend far more money, six times as much money, on military bands as we spend on arms control and disarmament, something like 30 times; with as many people in the Navy Band, the Army Band, and the Marine Corps Band as there are people working on probably the most important and significant area of human survival that we have in the world.

The Arms Control and Disarmament Agency was to weigh all the technical know-how and the nuclear negotiations going on now in Geneva. Does the Senator have any feelings about Mr. Shultz' position about funding that?

Mr. PELL. The question was not raised. But also we should bear in mind that the State Department does not have a responsibility, the Secretary of State, for the preparation of the ACDA budget.

Mr. PROXMIRE. Of course, the Secretary of State would have a profound effect if he took an active interest.

Mr. PELL. He would. But the question was not raised.

Mr. PROXMIRE. Did Mr. Shultz agree to testify before any duly constituted committee of Congress?

Mr. PELL. Not specifically. He was not asked to. He was asked if he would cooperate with the Congress, specifically with the Foreign Relations Committee, and he agreed he would consult with the Foreign Relations Committee. But he did not go further than that, because he was not asked to.

Mr. PROXMIRE. It seems to me that that has been routine in the committees I have served on. We have always asked—we have done this in the last 4 or 5 years since some Cabinet members refused to testify—as a routine matter we have asked them if they would testify before any duly constituted committee of Congress if asked.

Mr. PELL. I think it is a good boilerplate question to ask all nominees. Maybe we should adopt it in our committee. But I know in the other committees that I serve on it is not boilerplate. I congratulate the Senator for asking it.

Mr. PROXMIRE. Did Mr. Shultz express himself about human rights to the degree the Senator is comfortable with? The Senator from Rhode Island has been a great champion of human rights and I know how strongly he feels about it. I wonder if his feeling is that the Secretary-designate expressed himself about this matter, which the Carter administration had pushed so hard and which the present administration has not had the same kind of zeal in advancing?

Mr. PELL. I am very glad, indeed, to say that the Secretary-designate did respond very positively. He said specifically:

> Well, I think what we think of as human rights is at the heart of what we think of when we think of America and what we stand for. We have to stand for our ideals wherever we are. That does not mean that we want to try to impose our system of government on everybody else. There is room for a lot of variety, but it does appear to me that our ideals are very important to us.

And so he completely satisfied me in that regard, that he does have a strong interest in human rights. Maybe others have a stonger interest, but there is no question in my mind but that Mr. Shultz does have properly passionate feelings in this regard.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. PERCY. I have to leave the floor for a few moments and I wanted to answer the question that was asked about the amount of business that Bechtel Corp. does in the Middle East and whether they have done business with Israel.

To the best of my knowledge, 10 percent, according to a company statement of their business, is done in the Mideast.

Mr. PROXMIRE. Ten percent.

Mr. PERCY. In the entire Middle East. Also, they have discussed with Israel, and Israeli engineers, projects in three areas: mass transit, the slurry pipeline, and desalinization. As I understand it, in each case Israel made the decision to go ahead with their own personnel and facilities.

But there was no lack of interest in sitting down, talking with Israeli engineers about such projects and exchanging views on them.

Mr. PROXMIRE. So the position, apparently, is that Bechtel has done no business with Israel, they have done 10 percent of their business in the Middle East, but they have been interested in doing business, they have been free to do it, they have offered their facilities, and they would do so if Israel decided to use them?

Mr. PERCY. They have discussed it with Israel. Nothing has consumated in a contract.

Mr. PROXMIRE. Mr. President, I thank the chairman and ranking member for their answers. I commend them once again on the excellent work of the Foreign Relations Committee in this regard. I only regret that we did not have the transcript earlier and, if possible, a report on this most important nomination.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I will submit for the RECORD a series of questions which I put to Mr. Shultz and his responses.

First, I wish to acknowledge his cooperation in promptly delivering answers to me. I appreciate that. I think that the questions and his answers touch on a number of important issues, including his view of military power of the United States and the Soviet Union, his views about "linkage" of trade and Soviet foreign policy and human rights policy and his role in the AWACS debate.

Mr. President, I ask unanimous consent that the text of those questions which I propounded to Mr. Shultz and his answers appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS

CAPABILITY OF NUCLEAR WEAPONS

Question 1. Do you believe we are inferior overall to the Soviets in capability of nuclear weaponry?

Answer. Although our nuclear deterrent remains effective today, there can be no disagreement that, in the overall strategic balance, the U.S. has experienced a long downward trend relative to the Soviet Union. In some critical areas, the USSR has advan-

tages over the U.S. that are not offset by U.S. capabilities in other areas.

As President Reagan said on March 31, the Soviets have a "definite margin of superiority, enough so there is a risk. . . ." He was referring to such concerns as the vulnerability of our ICBM force and the Soviet monopoly of intermediate-range nuclear missiles in Europe.

The President's arms control proposals are designed to achieve equality at substantially lower levels of nuclear weapons and destructive power. Our arms control approach complements the President's strategic modernization program, which is designed to correct existing deficiencies in U.S. forces and to sustain the credibility, survivability and effectiveness of our deterrent.

U.S. RESPONSE TO FIRST STRIKE

Question 2. Do you believe we could retaliate against a broad range of Soviet military and industrial targets in the event of a Soviet first strike against our land-based ICBMs, or do you believe we would be limited to an attack on Soviet cities?

Answer. One of the purposes of the "triad" concept is to provide a balanced capability to retaliate against a broad range of targets, including hardened military facilities. This mix of strategic forces (land-based and sea-based missiles and long-range bombers) has been preserved because it complicates an aggressor's ability to attack our strategic forces, provides us with maximum employment flexibility and hedges against catastrophic failure—either through technical malfunction or hostile action—of one leg of the triad.

Nevertheless, due to inherent limitations in our currently deployed forces, a successful first strike against our land-based ICBMs would greatly reduce our ability to retaliate against hardened Soviet military targets, especially on a prompt basis. However, under current circumstances, the U.S. would not be limited to a counter-attack against Soviet cities alone, as our submarine-launched missiles and bombers, some with ALCMs, would have capabilities against Soviet military targets.

In view of the increasing first-strike capabilities of Soviet forces, the Soviet investment in anti-submarine warfare, the growing capabilities of Soviet air defenses, and the Soviets' continued effort to harden and protect important assets, it is necessary for the U.S. to take prudent steps to ensure the continuing effectiveness of all elements of the U.S. strategic triad. The President's strategic modernization program is intended to do this in order to maintain and improve our ability to deter Soviet aggression. In addition, the U.S. START proposal is intended to reduce the threat to U.S. deterrent forces and enhance the stability of the strategic balance.

Question 3. If we had to pick between retaining diplomatic relations with Mainland China or Taiwan, which would you recommend to the President?

Answer. On January 1, 1979 the United States recognized the government of the People's Republic of China and acknowledged the Chinese position that there is but one China and Taiwan is part of China. Within that context we made it clear that we would maintain commercial, cultural and other unofficial relations with the people of Taiwan. On April 10, 1979, then President Carter signed into law the Taiwan Relations Act, which provided the legal basis for our unofficial relationship with the people of Taiwan.

At present, therefore, we have diplomatic relations with the People's Republic of China and unofficial relations with Taiwan. I support this policy and would recommend no change to it.

GRAIN SALES AND PIPELINE POLICY

Question 4. Do you believe it is consistent for us to sell wheat to the Soviets while urging our European allies not to build a pipeline? If so, why?

Answer. U.S. concern about the pipeline is based on the security implications of dependence on the Soviet Union for a significant amount of energy. There are no security implications in U.S.-Soviet grain trade. In addition, the sale of grain to the Soviet Union does not contribute to their technological capabilities nor does it provide them with a source of much needed hard currency, which the pipeline will. With regard to our Poland sanctions, these sanctions were not intended to be sweeping all-inclusive measures to cut off all trade. Rather the economic steps we took were a purposely measured response to the repression in Poland. Finally, a grain embargo would be sterile and ineffective without multilateral support. As the President stated, such an embargo should be used only under extreme circumstances and then only as part of a broader embargo.

LINKAGE OF UNITED STATES-SOVIET GRAIN TRADE AND HUMAN RIGHTS

Question 5. Do you believe we should seek human rights concessions, or concessions relative to Poland or Afghanistan, from the Soviets before we agree to sell them additional wheat?

Answer. Human rights concerns form an essential part of our relations with the Soviet Union involving not only issues of emigration, religious persecution, and restriction of political expression, but also Soviet instigated suppression in Poland and Soviet brutalities in Afghanistan. We are deeply concerned at Soviet suppression of basic freedoms and consider these actions a part of our major decisions on U.S.-Soviet policies.

With regard to linking grain sales to human rights in the Soviet Union or Soviet behavior in Afghanistan or Poland, an attempt at a rigid and direct linkage would severely damage the U.S. agricultural sector without succeeding in its objective. The Soviets can buy grain from other suppliers and withholding U.S. grain pending a change in Soviet human rights plicy would amount to another sterile and ineffective grain embargo.

Question 6. How do you intend to get our "friends" who violate the human rights of their citizens to stop such violations?

Answer. We oppose the violation of human rights whether they are committed by friend or foe, but our choice of tactics will be guided by the test of effectiveness. It would not serve the cause of human rights nor meet this test of effectiveness if we were to make a habit of publicly attacking states with whom we have good relations. Our preference is for use of traditional diplomacy to discuss human rights problems. We believe this approach can get results and preserve the basis for making further progress on human rights problems in these countries. We do not, however, rule out public criticism. Particularly with respect to those countries where our private approaches do not seem to be working, or are ignored, we are not reluctant to speak out forcefully and to call human rights abuses to international attention in order to mount pressure against these practices. Our forthright statements concerning the USSR and Eastern Europe at the Madrid CSCE meeting provide the best example of this kind of approach.

At the same time, we intend to work for the protection of human rights over the long term by promoting legal institutions and the forces of democracy. The exercise of individual freedoms can best be assured in democracies with free elections and by institutions which protect the rights of the individual. We will be working quietly with frindly governments to improve such things as legal systems and electoral procedures to help establish the conditions that promote the cause of freedom in the long run.

Question 7. Do you believe that Saudi Arabia has directly or indirectly supported or funded terrorist acts against Israel?

Answer. Saudi Arabia, in common with all of the Arab States, recognizes the Palestinian Liberation Organization (PLO) as the "sole representative of the Palestinian people." At the Rabat Arab Summit in 1974, the Saudis committed themselves to an annual contribution to the PLO, making it a substantial financial supporter.

At the same time, however, Saudi Arabia has publicly condemned "Terrorism in all its forms," and has persistently argued that the palestinians should reject the use of international terrorism as a policy instrument and should, instead, seek their objectives through political means including negotiations. In this context, the Saudis have, through the years, used their influence with the Palestinians to strengthen the hand of the more moderate elements within the PLO.

Question 8. Do you believe Camp David accords were a positive step towards peace in the Middle East?

Yes. Camp David lead directly to the first peace treaty between Israel and an Arab state, Egypt. This in itself was a major achievement. Camp David also provides a vehicle for resolving the Palestinian problem and establishing peace between Israel and the Palestinians, Jordan and Syria.

Question 9. How can we help get Israel's neighbors, who are still at war with her, to negotiate peace with her?

Answer. The Palestinians, Jordan and Syria ought to join in the peace process on the basis that Camp David is founded on UNSC Resolution 242 and 338, which all but the Palestinians have accepted. We understand their doubts about Camp David and their concerns that Israel is not prepared to be flexible enough to meet any of the Palestinians' aspirations. We would hope that the arrangements we will be seeking for the transitional period, a truly full autonomy, will change their perceptions and encourage them to join us.

QUESTIONS FOR SECRETARY OF STATE DESIGNATE GEORGE SHULTZ

Question 10. Describe the specific portions, if any, of the President's speech to the B'nai B'rith in 1980 in which you did not concur.

Answer. As I said in my July 13 testimony before the SFRC, "My job is to help the President formulate and execute his policies." The President and I have discussed his Mideast policy in general terms and I can assure you that I will have no difficulty in supporting his policies in this as in other areas.

Question 11. Did you, or anyone at your request, contact or attempt to contact any

U.S. Senators about the AWACs vote prior to the vote? Please describe such efforts.

Answer. I and others in my company supported the President's decision on the sale of AWACs to Saudi Arabia and we made that known to people. To be sure that it was known we had the manager of our Washington office, who is registered as a lobbyist, write to each Senator and let him know our point of view. I did not ask others in the company to contact Senators on this. I did not contact any Senators directly. So far as I know, our principal effort was that letter.

Question 12. Prior to the AWACs vote, did you have any discussions with any member of the Saudi government, ruling family or employee of Saudi government or family relative to the sale of AWACs planes and F15 enhancement package? Please describe such contacts.

Answer. Not that I can recall.

Question 13. Did you, or anyone at your request, contact any firm, company, or individual other than a U.S. Senator about the AWACs voter prior to said vote? Please describe such contacts.

Answer. We did not have an organized, systematic campaign on the AWACs sale. Obviously, as I and other officials dealt with our associates throughout the country, the AWACs subject would come up and we made no secret of our point of view. We did not, however, ask firms, companies, or individuals to twist anyone's arm nor did we go out and "contact" people specifically on AWACs. As I said, it was a topic of considerable interest. It obviously came up in a variety of discussions and we let people know that we supported the President's decision.

Question 14. Did you or your company contribute financially, or in any other way, to any organized lobbying effort directed at affecting the AWACs vote?

Answer. I have described the extent of our lobbying effort on AWACs. We had our registered lobbyist write a letter to each Senator. I am not aware of other financial support to any lobbying effort.

Question 15. Have you ever expressed, prior to your nomination, an opinion as to whether a former employee of Bechtel should serve as Secretary of State while another former employee of Bechtel is serving as Secretary of Defense?

Answer. No.

Question 16. If so, when, to whom, and what was the substance of all such statements?

Answer. N/A.

Question 17. (Levin): Do you support the anti-boycott legislation aimed at reducing the impact of the blacklisting by certain Arab countries against firms doing business with Israel?

Answer. Yes. I participated in a business roundtable group led by Irving Shapiro which developed ideas on the Export Administration Act Amendments adopted in 1977, and I think it is a reasonable law.

Question 18. Why did Bechtel appeal a judgment to which it consented which prevented it from participating in any boycott of American companies blacklisted by certain Arab nations because they do business with Israel?

Answer. Let me recount some of the events leading up to that. Sometime in late 1975 the Government entered an anti-trust suit against Bechtel accusing Bechtel of violating the anti-trust laws by including in some of its contracts language pursuant to the Arab boycott. There were some contracts with that language but I should also point out that the U.S. Corps of Engineers, the U.S. Coast and Geodetic Survey also had clauses of that kind in their contracts. At that point there was no public policy on this issue. Subsequently, President Ford did make a statement of policy and Bechtel corrected the procedures to be in accordance with that.

Bechtel fought the anti-trust suit and filed what I believe was a very powerful brief. The law firm Hogan and Hartson here in Washington prepared that brief. Subsequently Bechtel and the Government signed a consent decree and I think if you would review subsequent anti-boycott legislation you would see that the broad nature of that decree formed the basis for that legislation, that is the basic ideas that we worked out in the understood decree wound up in the law.

After the consent decree was agreed Bechtel found that the Government's interpretation of the decree had changed from what Bechtel thought it was at the time the decree was entered. Consequently, we objected to the decree because of the Government's changed interpretation. We carried through on the objection to the Supreme Court which in the end denied *certiorari*. In other words, the consent decree stood.

As I recounted yesterday, following this, Bechtel became involved through the Business Round Table with a number of Jewish organizations in working out an agreement on the boycott question and this agreement is now largely found in existing legislation.

Mr. LEVIN. Mr. President, let me just briefly read two or three of those questions and answers.

Question No. 2 is:

Do you believe we could retaliate against a broad range of Soviet military and industrial targets in the event of a Soviet first strike against our land-based ICBM's, or do you believe we would be limited to an attack on Soviet cities?

And part of his answer—and I emphasize a part of it—is:

Under current circumstances, the United States would not be limited to a counterattack against Soviet cities alone, as our submarine-launched missiles and bombers, some with ALCM's, would have capabilities against Soviet military targets.

However, under current circumstances, the United States would not be limited to a counterattack against Soviet cities alone, as our submarine-launched missiles and bombers, some with ALCM's, would have capabilities against Soviet military targets.

Question No. 11 is as follows:

Did you, or anyone at your request, contact or attempt to contact any U.S. Senators about the AWAC's vote prior to the vote? Please describe such efforts.

And his answer was:

I and others in my company supported the President's decision on the sale of AWAC's to Saudi Arabia and we made that known to people. To be sure that it was known we had the manager of our Washington office, who is registered as a lobbyist, write to each Senator and let him know our point of view. I did not ask others in the company to contact Senators on this. I did not contact any Senators directly. So far as I know, our principal effort was that letter.

Question No. 12 to Mr. Shultz that I propounded is as follows:

Prior to the AWAC's vote, did you have any discussions with any member of the Saudi Government, ruling family or employee of Saudi Government family relative to the sale of AWAC's planes and F-15 enhancement package? Please describe such contracts.

His answer was:

Not that I can recall.

Question No. 14 is as follows:

Did you or your company contribute financially, or in any other way, to any organized lobbying effort directed at affecting the AWAC's vote?

His answer was:

I have described the extent of our lobbying effort on AWAC's. We had our registered lobbyist write a letter to each Senator. I am not aware of other financial support to any lobbying effort.

Mr. President, before I proceed further, I wish to thank the chairman of the Foreign Relations Committee for helping to expedite these answers. Both he, Mr. Shultz, and the ranking minority member were very helpful in getting my questions answered.

I am troubled by having two key Cabinet officers come from one firm with massive international interests. I am trouble by some elements in Mr. Shultz's testimony. His comments about the Middle East are disturbing to me. His views on the current conflict in Lebanon, particularly its historic roots, are, in my view, incorrect. The tone and shading of his responses to the committee questions makes me fearful about a potential tilt in American policy in this region—a tilt which I think would not be in the American interest.

There are real concerns. But, equally real, is the constitutional and historic obligation of the Senate to allow the President to select individuals whose views we may not fully agree with but whose experience, intelligence, and integrity we respect.

Mr. Shultz' performance before the Foreign Relations Committee demonstrated that he is an individual who has a coherent world view, who understands the interrelationships which impact on international events, and who has a sense of the complexity of world affairs. He has demonstrated a willingness to cooperate with the Congress and an ability to be an informative and forthcoming witness.

Accordingly, I will vote for Mr. Shultz and hope that he can make a real contribution to a quest for peace in the world.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I will yield to the distinguished Senator from New York in a minute, but I would first like to comment to my distinguished colleague, Senator LEVIN, that we really deeply appreciate his interest in pursuing these areas. I did assure him that before he was called upon to vote on this nomination, he would have, in full, the answers to his questions.

The interest that the Senator has taken in the work of the Foreign Relations Committee and his consistent and steady following of our affairs closely and the thoughtful attention that he gave to these matters was a matter of inspiration to the chairman and the ranking member, I know, of the committee itself. We appreciate it very much.

Mr. LEVIN. I am deeply grateful to the Senator for his remarks.

Mr. PERCY. I yield whatever time the Senator from New York would like to take to ask any questions. Before doing that, I must say we are truly privileged to have in the U.S. Senate a man who has represented the United States and the President of the United States at the United Nations, who has done an outstanding job, whose views I do not always concur with, but whose intelligence, whose grasp of the issues, whose past representation as Ambassador of the United States, the largest democracy on Earth, are extremely important. His participation with me at any time is always welcome.

Mr. MOYNIHAN. Mr. President, the chairman makes it difficult to ask a question because of his own graciousness.

Mr. PERCY. I have never been able to curtail or derail the Senator yet.

Mr. MOYNIHAN. I would like to show how effective he has been by how brief I will be.

I think I will not reveal a confidence that the Secretary-designate would be distressed by when I say that he called on me prior to the hearings. We are friends of many years. I served in a Cabinet with him. One of the things he said is that a major priority would be to restore a bipartisanship to foreign policy, something the chairman of our committee has never waivered from.

Yesterday morning, Mr. James Reston of the New York Times devoted his column to that, and had the kindness to include in it an excerpt from an address I gave on the question of President Reagan's proposals on reducing nuclear weapons, which I have supported, which many of us on this side of the aisle have supported, and in which I said about the prospects for arms reduction that above all this had to be above party. If it divides our parties and our people, all is lost.

I would like to ask about two points.

One, has the chairman spoken to the Secretary-designate on the subject of the President's policy as we understand it of abiding by SALT II, by the terms as they are generally laid out?

Mr. PERCY. Secretary-to-be Shultz is fully supportive of the position taken by President Reagan, which I lauded at the time, because I took a diametrically opposed view. I supported the Panama Canal Treaty. I voted for it.

Mr. MOYNIHAN. The SALT treaty.

Mr. PERCY. Excuse me. SALT II. The Secretary is fully supportive of what the President has said, that so long as the Soviet Union intends to abide by it we intend to abide by it.

Mr. MOYNIHAN. I am not surprised to hear that, but I think it is important to have in the RECORD a statement on the floor of the Senate so the world can hear. The distinguished chairman does not have to comment, but he would not characterize SALT II as the equivalent of unilateral disarmament, would he?

Mr. PERCY. No, I would not. I consider it a hammered-out treaty that was, in general, in the best interests of the country. But I was greatly disappointed, as was Governor Reagan when he campaigned and forthrightly said he was greatly disappointed, that it did not go far enough. It called for no reduction of any consequence. But whatever reduction there was, if we had implemented it, 250 missiles would have been destroyed by the Soviet Union, and we would not have had to destroy a comparable number of such missiles because we were within the limits.

I think the President, in the speech that he made at Eureka College has now set a whole new course calling for a dramatic reduction, and certainly George Shultz is strongly supportive of that process and will place the highest priority on moving those talks forward to a successful conclusion.

Mr. MOYNIHAN. I agree with the chairman's characterization of the President's address at Eureka College, and I have no doubt about the chairman's response concerning Secretary Shultz.

One other brief question: Would Secretary Shultz support the continuation in place of the Panama Canal treaties? I know the distinguished chairman voted for those treaties, as did two-thirds of us, myself included. It is my understanding that in writing the President assured our distinguished colleague from Nevada, Senator CANNON, that he supports the treaties remaining as they are. He would not seek to change them, evade them, or abrogate them.

That was the position of Secretary Haig. Does the chairman believe it will be the position of Secretary Shultz when he is confirmed?

Mr. PERCY. Yes, without equivocation. Again in this case, as in the case of SALT II, even though President Reagan took a position in opposition to the Panama Canal Treaty, he was questioned by the committee as to whether the administration would carry out every provision and implement those treaties. He assured the committee and the Senate that he would do so and Secretary Shultz will back up and support the President's assertions in that regard.

Mr. MOYNIHAN. I thank the chairman. I do not ask him to respond to this question, but I assume that, in the interest of bipartisan policy, the Secretary would not lend his reputation or support to the kind of scurrilous and know-nothing advertisements we read about, hear on the radio, and see on television that, thus, Members of this body voted to give away the Panama Canal.

Mr. PERCY. I would not expect that the Secretary would ever use such rhetoric. I have never heard him use it. As I say, I have been privileged to know him a long time.

Mr. MOYNIHAN. And he will not condone it.

Mr. PERCY. I would say this because the distinguished Senator started his comments on bipartisanship and Scotty Reston's article of yesterday. I have not discussed my own position on this with Secretary Shultz. I intend to have an indepth discussion with him, other than what we did in open hearings. But I have assured him that as long as I have been on the committee, 10 years, we have tried under both Democractic and Republican Presidents, to operate this committee in a bipartisan manner. The truth of it is very seldom have we had a partisan vote. We have always split on differences, but there are Democrats and Republicans on both sides of the issues. Occasionally, it has been, but just the law of averages would mean that we would break that way sometimes.

The article that I wrote on bipartisanship, the first article I had written as chairman of the committee, laid that out. I have not had a disagreement in principle from any member of the committee from what I said in Foreign Policy magazine. I will do the best I can.

I would like to pay great tribute to not only Senator PELL for the bipartisan way in which he carries on his relationship, and every member of the minority have carried on their relationship, but also the close working relationship that our two staffs have had. Traditionally before, we only had one staff. For some reason or other a few years ago, they were made partisan staffs. But, really, it is a bipartisan staff as they work together. They serve the interests of the committee as a whole with their particular interest to given Senators, perhaps, as provided for under Senate rules. But it has been bipartisan for the most part. I pay tribute to Geryld Christianson, the minority chief of staff, who has been with the minority staff, who has been magnificent in working with us. It is a bipartisan committee in the best tradition of the U.S. Senate.

Mr. MOYNIHAN. May I say in closing I had the pleasure and profit of reading the Senator's article in For-

eign Affairs in order to be our guide in this matter.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point Mr. Reston's article in the New York Times of July 14.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Wednesday, July 14, 1982]

THE FORGOTTEN PRINCIPLE

(By James Reston)

When George Shultz appeared before the Senate Foreign Relations Committee to be confirmed as Secretary of State, one of the prinicpal advisers at his side was Lloyd Cutler, counselor at the White House under President Carter.

In general, Mr. Shultz supported President Reagan's foreign policy during the confirmation hearings, including many of its excesses and stupidities—he could scarcely have been expected to do otherwise. But the presence of Mr. Cutler tells us something about Mr. Shultz's approach to his job: namely that he recognizes that an effective United States foreign policy cannot be achieved by one party alone, or by a faction of any party, but only by cooperation among the leaders of both parties.

This has been the forgotten principle in the first half of the Reagan Administration. Unlike Eisenhower, who seldom considered politics in his foreign policy appointments, and even Richard Nixon, who appointed Nelson Rockefeller's buddy Henry Kissinger as chairman of the National Security Council and then as Secretary of State, Mr. Reagan has tended to be personal and partisan in his foreign policy appointments and judgments—probably not because he intended to be partisan, but because he just didn't think much about it.

His appointment of George Shultz is quite different, and it's too bad he didn't think about it before. Mr. Shultz has been around Washington long enough, and out of it just long enough, to know that foreign policy is too serious to be left to the foreign policy professionals, who, as the years go by, know more and more about less and less, or to the partisan politicans, who know less and less about more and more. But above all, Mr. Shultz knows that an effective foreign policy requires a consensus between the parties.

President Reagan didn't take this approach in the first half of his Administration. He blamed the Democrats for the plight of the economy and the menace of the nuclear arms race, and all our troubles in the Middle East. And lately, the Democrats have been tempted to answer in kind and make things even worse by turning his foreign policy failures to partisan advantage.

This, one gathers, is what Mr. Shultz is trying to avoid, for if the elemental struggles over the control of nuclear weapons, the Middle East and modern arms for Taiwan become partisan issues, the past will certainly dominate the future and nobody will gain except the Russians.

Senator Daniel Patrick Moynihan of New York recently warned against the dangers of turning the puzzles and tragedies of foreign policy into partisan issues, particularly on the question of controlling nuclear weapons.

"It is absolutely necessary," he said at Binghamton, N.Y., "that this issue be raised above partisan politics. If it ever divides the parties and hence the people, we shall surely fail. . . ."

Mr. Shultz obviously agrees with this. He could not be expected to denounce Mr. Reagan's policies of selling some arms to Taiwan, or oppose the President's sanctions against allies who were selling American technology to complete the Siberian gas pipeline to Europe. But his enthusiasm for using economic sanctions for political objectives seemed to be somewhat limited in his testimony before the Foreign Relations Committee.

In his appearance there, Mr. Shultz tiptoed through the political minefield. Israel was our most reliable ally, he said, but the Arab nations were important to the vital interests of the United States, etc., etc. With the help of Mr. Cutler, he demonstrated that he is a master of the mystifying clarification, and by the weekend no doubt he will be established on the seventh floor of the State Department as the 60th Secretary of State, with a spectacular view of the Potomac and all the monuments from Mr. Lee's house on the Virginia shore to the Capitol on The Hill.

The question, or so it seems here, is whether he will be able to restore, as General Marshall and Secretary Acheson and John Foster Dulles did after the last World War, a fence of nonpartisan foreign policy.

Mr. Shultz has many good comrades for such an objective. The chairmen of the Foreign Relations and International Affairs Committees in the Congress are on his side. The Republican leader in the Senate, Howard Baker of Tennessee, though he opposes President Reagan's notion of sending American marines to Lebanon, is probably the wisest politician in Washington today. And Mr. Shultz has at his disposal, without doubt, the best professional diplomatic service in the world.

But none of this will work unless he avoids a political struggle between the parties. The Democrats are spoiling for a fight against the Administration's economic and foreign policies, but we have over two years to go before the next Presidential election, and a partisan division on foreign policy between now and then could be a disaster. George Shultz is obviously conscious of this danger, and may be the hope of avoiding it.

Mr. MOYNIHAN. I thank the chairman for his distinguished patience. I know he has other matters, as always, which await him.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I, too, rise to address the issue of this nomination before the Senate at this time.

The nomination of George Shultz to be Secretary of State will be confirmed overwhelmingly by the U.S. Senate today. He is, of course, presently at work on an acting basis.

Given the sudden resignation of former Secretary Haig, it is clear that our Nation needs to fill this vital position and that step will be accomplished today by the Senate confirmation vote.

Recognizing fully then that the die is cast, and Mr. Shultz will shortly be confirmed, I nevertheless am sufficiently troubled by this nomination that I want to state publicly one reservation I feel.

This particular nomination, which is being hurried through the confirmation process in an effort to restore some semblance of order to this administration's conduct of foreign policy, is, nevertheless, establishing a unique and unfortunate precedent which I find to be adverse to the interests of our Government and the American people.

I have a profound concern about the fact that the two highest ranking Cabinet officers, the two Cabinet officers directly charged with conducting America's policy abroad, are men who come from the top executive level of a private firm whose principal activity involves extensive private commercial business with foreign governments.

Moreover, Mr. President, this private company, the Bechtel Corp., is not a publicly owned business, with the normal public disclosures concerning its activities that would be available from other multinational business organizations. Private commercial organizations enjoy a measure of secrecy with regard to their operations that prevents one from fully examining and assessing the activities of that company or its top officials.

In my mind, a President might choose two individuals from the same private company to serve in his Cabinet, but that would be unusual. Under no circumstances do I believe a President should select as Secretary of Defense and Secretary of State individuals who are drawn from the same multinational company with extensive private commercial relationships with foreign governments.

I would not directly challenge the President's judgment in having either Mr. Shultz or Mr. Weinberger at State or Defense, but I feel compelled to challenge the correctness of having both serve simultaneously in these two vital roles.

My concern is heightened by the fact that we have in President Reagan himself a person with no previous foreign policy experience, a fact which necessarily increases the operating power and influence of the Secretaries of Defense and State.

Mr. President, we are fundamentally a government of divided powers, and carefully crafted checks and balances. Even the confirmation powers of the Senate concerning administration Cabinet officers which we exercise today, are a measure of the care we have taken to avoid serious conflicts of interest and excessive power in too few hands.

The issue I am raising here does not challenge Mr. Shultz' ability or his integrity, it goes instead to an entirely different and more fundamental question.

Other concerns have been raised by many persons about the role of the Bechtel Corp. in the Middle East, and whether its own obvious tilt in commercial relationships in the region would be carried by its former executive officers into U.S. Government and foreign policy roles they might assume.

I find that both a fair and important question. The Bechtel Corp. has very strong, multibillion-dollar commercial ties with important OPEC oil-producing nations, Saudi Arabia in particular. Those business ties are so extensive in the Middle East region, and so exclusive, that Bechtel has established no commercial relationship with Israel, an important ally of long standing in the United States.

I think it always is a proper matter of concern when a private firm with its own foreign policy predisposition provides an unusually high percentage of the top foreign policy officers of the U.S. Government.

It is difficult to assess the precise degree to which Defense Secretary Weinberger's views and actions reflect a foreign policy tilt that coincides with that of the Bechtel Corp., but I have found a remarkable and disturbing similarity as its relates to the Middle East.

Secretary designate Shultz' views on the same questions are not yet as well known as Secretary Weinberger's, but Mr. Shultz' responses during his confirmation hearing, while somewhat vague, suggested to me foreign policy views on the Middle East running parallel to those of the Bechtel Corp. Only time will tell whether Secretary Shultz has views, or will take actions, sharply contrary to those of the Bechtel Corp. Perhaps he will. That test will come later.

But there is no sound reason why Mr. Shultz, Mr. Weinberger, and, most importantly, our country and our national interest should all be placed in this situation.

Mr. President, we are witnessing an unsound practice and an unfortunate precedent which is unnecessary and unwise.

Mr. HARRY F. BYRD, JR. Mr. President, I support the nomination of George Shultz to be Secretary of State. I think this is an excellent appointment by President Reagan. I worked closely with George Shultz when he was Secretary of the Treasury, when I was a member of the Senate Committee on Finance. I found him to be a man of great ability, high integrity, one with steadfastness of purpose, and one totally fair in his dealings with others. I think he will bring to the position of Secretary of State qualities that will prove important and desirable to our Government. I applaud his nomination.

I shall support his nomination with enthusiasm and I shall do what I can as a Senator to be helpful to him as he undertakes this new and difficult assignment.

Mr. KENNEDY. Mr. President, I support the confirmation of George Shultz as Secretary of State. He brings to this high office a long and distinguished record of public service. He was a valued economic consultant to both Democratic and Republican administrations before becoming Secretary of Labor, Director of the Office of Management and Budget, and Secretary of the Treasury in the 1970's. He also has an impressive background in both the academic and business worlds, including the Massachusetts Institute of Technology, Stanford University and, most recently, service as president of the Bechtel group.

When President Reagan announced his intention to nominate George Shultz as Secretary of State, I expressed my view that his nomination raised several serious issues for Senate consideration. In the past few days, the Senate Foreign Relations Committee has held hearings and Mr. Shultz has responded to a number of questions about his association with the Bechtel group and his views on various aspects of U.S. foreign policy.

Mr. Shultz has assured the Senate Foreign Relations Committee that he will be severing associations with Bechtel and will remove himself "from any particular matter" involving this multinational corporation. I welcome these assurances, but I believe that we must remain extremely watchful about potential conflicts of interest, given the presence in this administration of several persons with previous connections with Bechtel, including two Cabinet members and one subcabinet official.

Mr. Shultz has spoken of his desire for bipartisan consultation and participation in our foreign policy. I welcome this approach. Foreign policy is not the private prerogative of any one leader, nor of any one party in this country: it must reflect the best interests and concerns of all. We are an open society, and we can set no better example for the world than by encouraging open debate and participation in our foreign policy.

I believe that there is no more important foreign policy and national security challenge to our Nation than the prevention of nuclear war. I agree with Mr. Shultz that we must combine a strong defense with serious arms control to assure our national security. I applaud his support of nuclear arms reductions, but I emphatically reject his contention that a nuclear weapons freeze is "the enemy of reductions." To the contrary, a freeze is a necessary basis for preventing a new round in the nuclear arms race, which would neutralize any reductions that are ultimately negotiated. Far from being the enemy of nuclear arms reductions, the freeze is their champion. To reduce weapons, we must stop building them first. In the spirit of the bipartisanship which he advocates, I urge Mr. Shultz to reconsider the Kennedy-Hatfield resolution which provides both for a nuclear weapons freeze and major nuclear reductions. Our future, our children's future, and the world's future deserve no less and demand much.

The present situation in the Middle East is of immense concern to the United States. Lebanon remains at a crisis point, and new violence has broken out between Iran and Iraq. I am deeply concerned over the human tragedy in Lebanon, and I strongly support the reestablishment of an independent Lebanon free from all foreign forces. The United States must demonstrate strong and consistent leadership in support of peace and our strongest ally in the Middle East, Israel. By sending mixed signals in recent weeks to Jerusalem, Riyadh, and Beirut, the administration has not served the cause of peace and stability, but has contributed to increased tension and conflict.

Today, the United States has a unique opportunity to work with Israel and Arab governments in making renewed efforts for a just and lasting peace. We must insist that the security of Israel will not be sacrified, and that we will not negotiate with PLO terrorists bent on the destruction of Israel. Mr. Shultz and others in the administration must make clear that they will not tilt American policy toward the Arab States at the expense of Israel—and ultimately at the expense of peace and our own vital national interests in the region.

In other areas of the world, we also face difficult challenges. Our policy in Latin America still flounders on the administration's misguided support of military solutions in this hemisphere. I welcome Mr. Shultz' acknowledgment that not all the problems of our hemisphere are a result of Soviet machinations, for indeed the problems are rooted in the historical social and economic inequities of the region. I am pleased that he will support economic initiatives to tackle these problems. But I would strongly urge Mr. Shultz not to reject outright, as he appears to do, negotiations for a political settlement with the opposition forces in Central America.

In Africa, our policy is seriously damaged because of the Reagan rapprochement with the racist, apartheid regime in South Africa. There is an urgent need for the United States to become more sensitive and attentive to the concerns of the majority of Africa's population. This should be the year in which we achieve agreement for the full independence of Namibia.

In Asia, we must repair the damage to our relations with the People's Republic of China, and with the people on Taiwan, caused by the Reagan administration's policy. We must improve our relations with Japan and our other friends and allies, particularly in the vital areas of trade, security, and nuclear nonproliferation.

We must restore our relations with our European allies, which have been frayed most recently by simultaneous tensions over economic, East-West, and North-South relations.

And we must achieve a balanced, steady, and effective policy toward the Soviet Union—a policy which would defend our interests and increase the prospects of a just peace throughout the world.

Many of us in the Senate are concerned about the disarray in U.S. foreign policy. This administration has been in office 18 months, yet its foreign policy lacks Presidential direction, a coherent strategy, and even an effective administrative structure for dealing with the major challenges we face. The Reagan administration has failed to provide a full explanation to the Senate for the resignation of Secretary Haig, which has made the void in U.S. foreign policy leadership obvious for the whole world to see.

Contrary to President Reagan's view, it is very much the business of the American people to have not only an explanation, but the assurance that there will be serious efforts to provide steady, sure, and effective development and implementation of this Nation's policies in the future.

Mr. Shultz discussed many issues in the course of the Foreign Relations Committee hearings. I differ with him on several subjects, and I remain concerned about his views in some areas such as nuclear arms control and the Middle East. But I respect his ability and dedication and sensitivity. I support his nomination to be Secretary of State, and I look forward to working with him in the months to come.

Mr. THURMOND. Mr. President, I am pleased to rise in strong support of the confirmation of Secretary of State-designate George Shultz, whose nomination was unanimously approved yesterday by the Foreign Relations Committee.

In my opinion, President Reagan has made an excellent choice in his effort to fill the post vacated by outgoing Secretary of State Alexander Haig. In a time of global tension and turmoil, America needs a strong, confident, and experienced head of the State Department. George Shultz possesses the experience, intellect, judgment, and cool temperament to serve the Nation well in this sensitive position.

Mr. President, I am pleased to note that Dr. Shultz, who is a Princeton graduate with a Ph. D. degree from the Massachusetts Institute of Technology, is well accustomed to the Cabinet level decisionmaking process, along with the pressures associated with such a position. He served with distinction in the Nixon administration as Secretary of Labor, Secretary of the Treasury and Director of the Office of Management and Budget. As head of the Treasury Department, Dr. Shultz was exposed to and dealt capably with, the complexities of international finance.

Prior to this period of public service, Dr. Shultz distinguished himself in the academic environment at the University of Chicago. In 1957, he accepted a professorship in the industrial relations department at that institution. He was appointed dean of the graduate school of business at that same university in 1962 and held that position for 6 years. For the last several years, Dr. Shultz has had an opportunity to view public policy from the private sector in his position as a chief executive with the Bechtel Corp., a construction firm that operates worldwide. These wide-ranging experiences will assist Dr. Shultz in helping the President to formulate a wise and effective foreign policy for our Nation to follow during this troubled international period.

Mr. President, the announced intention of Secretary of State-designate Shultz to deal firmly with the Soviet Union is also a positive aspect favoring his confirmation. I believe he feels the United States cannot afford to be apathetic in dealing with Russia's subversive activities throughout the world.

Mr. President, I feel George Shultz has the confidence, the good judgment, and experience to make the difficult decisions and recommendations demanded of the Secretary of State. I believe his insight into the foreign affairs area will allow the administration to formulate a foreign policy that will enhance America's global image and improve our strategic position vis-a-vis other nations of the world.

For these reasons, it is my hope that the Senate will give Dr. Shultz a resounding vote of support in confirming him for this extremely important Cabinet position.

Mr. HATCH. Mr. President, I enthusiastically support the confirmation of George Shultz to be President Reagan's second Secretary of State, but I would not want us today to forget the accomplishments of the Reagan administration's first Secretary of State. Alexander Haig's resignation was accepted by the President with great regret. Even someone who disagreed on many issues with Secretary Haig like my colleague Senator DODD was still willing yesterday during George Shultz' confirmation hearing before the Foreign Relations Committee to remind us of Mark Antony's words after the assassination of Julius Caesar:

> The evil men do during their lives lives after them, the good is oft interred with their bones.

Senator DODD added, "So let it be with Haig."

Mr. President, I cannot agree. Al Haig deserves better than that. He has certainly not been assassinated, he is certainly not dead, nor should we inter the good he did with his bones. Rather, we should recall it here today. Secretary Haig moved ahead boldly throughout 1981 to improve our relations with the NATO allies, to manage the President's visits to Canada and Mexico, to seek new understandings with the moderate Arabs while preserving our ties with the State of Israel, to continue the Camp David process with respect to organizing a multinational force to insure the Israeli withdrawal from the Sinai by April 1982, to reassure the Chinese leadership of American interest in a relationship of strategic cooperation without abandoning our concern with Taiwan's security, to urge our Japanese allies to increase their defense capacities, to rebuild our ties with South and Central America, and to push ahead with the delicate effort to assist South Africa in managing the process to bring Namibia to its independence. Even these eight achievements do not give Al Haig the credit he is due for launching President Reagan's foreign policy strategy. I will be looking for his writing and speeches in the years ahead for guidance on the critical issues of foreign policy, much as I have come to look forward to the commentary of Henry Kissinger because of his experience as Secretary of State.

Today, my vote for George Shultz is a vote for President Reagan's choice for the next phase of his foreign policy strategy. Many key problems faced by Al Haig remain for George Shultz to address. The most important today are in the Middle East where Mr. Shultz has already generated skepticism in Israel because of his business ties. I too have been skeptical and troubled by this Israeli concern, and by the coincidence that Secretary Weinberger as well comes from the Bechtel Corp. But my faith in President Reagan is far greater than my doubts about the Bechtel Corp.'s ties with the Arab world. So today I support Mr. Shultz and wish him well in his challenges. I believe he will work closely and well with the President and his National Security Adviser. He has had vital experience as Secretary of Labor, Treasury, and Director of OMB, so he knows the value of teamwork and the value of an economist in the making of foreign policy. Frankly, Mr. President, Mr. Shultz may well be the first professional international economist to ever hold the position of Secretary of State in our country, and,

given the tone of harsh criticism in the letters of some of my constituents in Utah about our foreign aid and foreign trade policies, my view is that Mr. Shultz is becoming Secretary of State just in time.

George Shultz is a man who comes to this job with excellent credentials. In the past Mr. Schultz has held such positions as Secretary of Labor during the Nixon administration, the first director of the Office of Management and Budget, Secretary of the Treasury, and for the past 2 years, has been one of the primary advisers to President Reagan on economic affairs. Today we as a body will add yet another milestone to the career of a man who has been an achiever among achievers.

Mr. President, as I review the testimony given by Mr. Shultz before the Senate Foreign Relations Committee these past few days, I have been more and more impressed with the depth of knowledge this man brings to the No. 1 position in the State Department. With the situation now developing in the Middle East on both fronts—the Iranian and Iraqi war and the Israeli conflict in Lebanon—it is imperative that we have a man who understands the intricacies of Middle Eastern policy. George Shultz is just such a man. He has given every indication that as Secretary of State he will provide a stable leadership in guiding this Nation's foreign policy through extremely perilous times.

One of the most difficult tasks facing any formulator of foreign policy is that of intertwining the geopolitical interests of the Nation with those economic interests which influence every action. George Shultz, with his background in economic affairs, brings to the job a greater level of awareness, with these two competing spheres of influence, than any man to hold that position in recent years. His abilities were recognized by the Senate Foreign Relations Committee which reported him here to the Senate floor today by unanimous vote of 17 to 0. I am confident that the entire Senate will pass him unanimously as well.

Mr. HAYAKAWA. Mr. President, I am extremely pleased to rise in support of the nomination of George P. Shultz as Secretary of State. I know that he will fully justify the confidence the President has placed in him by this appointment.

Mr. Shultz has had not one but a number of distinguished careers. Two years after I left the University of Chicago to seek my fortune in the West, a young professor named George Shultz joined the graduate school of business at the University of Chicago. As has been typical of his success in life, 5 years later he was appointed dean. Soon thereafter, he followed me to California, and joined the Stanford University School of Business, and there he has greatly enhanced academic life in the bay area.

Mr. Shultz was not always a Californian. He was born in New York in 1920, and grew up in the Northeast. He has served with the Marines in the Pacific in World War II, entering as a private and leaving active duty 3 years later as major. His pattern, was once again, one of success.

In 1969, following a distinguished career in industrial relations, including his first ties with Stanford University, George Shultz was appointed as Secretary of Labor, but he was in too great a demand to stay there long. He served as Director of the Office of Management and Budget, and then from 1972 to 1974 as Secretary of the Treasury.

He emerged from those long, difficult years in the early seventies with a reputation for unlimited ability and unquestioned integrity. He emerged as well with a keen understanding of international affairs and personal ties with many of the world's leaders.

During the last half-dozen years, he has enhanced his international experience as a senior officer and most recently president of the Bechtel Group, Inc., of California. It is during this period of time that I had the opportunity to get to know George personally. He generously agreed to serve as chairman of my Advisory Committee on the Budget, which I established in 1978. The purpose of the committee was to provide me with advice regarding the budget, tax policy, and inflation. I shall always be grateful to him for his much needed assistance.

In December 1980, I wrote to President-elect Ronald Reagan urging him to appoint George Shultz as Secretary of State. The President declined graciously, but I am happy that a year and a half later he has acted on my advice.

Mr. President, there can be no question that America, indeed the world, needs a steady hand at the post of Secretary of State. We need not look far to see the peril of our times. The Soviets continue a massive buildup in nuclear weapons while their troops brutally repress Afghan freedom fighters. Vietnamese troops occupy Kampuchea. Polish thugs beat Polish workers. Libya spreads terrorism, and Cuba provides arms and support for radical groups in our own hemisphere. Nor need we be reminded of the unexpected and sometimes violent twists the world can take.

A new Secretary of State will face continued unrest in the South Atlantic and unabated suffering in Beirut, but we can predict the need for creative and diligent efforts to protect democracy in Central America, to ease strains in our alliances, to enhance our ties in Asia, to build peace in Southern Africa, and to bring peace and stability to the Middle East.

In short, the next Secretary of State, Mr. President, will have the capacity to do much good or, if we choose unwisely, much harm. During the confirmation hearings by the Foreign Relations Committee, George Shultz responded to our questions not only thoughtfully, from the background of an enormous storehouse of knowledge and experience, but also with humor and patient good nature. He has won the admiration of us all. Indeed, in George Shultz we have not only a scholar and a man of character; we have what promises to be an outstanding diplomat. In George Shultz, the President has chosen well.

I am deeply honored to vote in favor of this nomination.

Thank you, Mr. President.

Mr. DOLE. Mr. President, I am looking forward with great pleasure to the Senate's confirmation of President Reagan's appointment of George Shultz as Secretary of State.

Those of us who have had an opportunity to work with him during his many years of Government service in the past—especially when he served as Secretary of Labor and as Secretary of the Treasury—have been deeply impressed by his outstanding qualities of dedication, intelligence, good judgment, and good sense. Our country has already profited very substantially from the contributions he has made not only in public service but also as an energetic businessman and as a teacher.

In his new capacity as Secretary of State, George Shultz will provide a firm and consistent right hand to the President, who also has known him well for many years. I am confident that the process of formulating foreign policy, with all of its personal as well as institutional complexities, will move forward smoothly with his participation.

Beyond his substantive expertise and his wide personal appeal here at home, George Shultz has also won the confidence and the friendship of many officials in other countries, in Europe and elsewhere, with whom he will be working as Secretary of State.

This asset will, I am sure, be of special value as we work to overcome some of the many quite serious differences of view and differences of approach that have recently emerged in our relations with these countries, especially in the area of international economic and trade policy.

George's particular skill in this area—and his close personal involvement in economic policy issues on a very current basis as a result of his active participation in preparations for the most recent economic summit in Versailles in June—is one that has become increasingly important for a Secretary of State to have. Foreign economic and monetary policy matters

have become increasingly linked to the more traditional political and security aspects of our overall foreign policy, and this linkage is also growing in the foreign policies of all the countries with which we must deal. In the effort to sort out these difficult linkages and relationships, and to establish a firm and effective foreign policy that embraces all these issues. The contribution that he will make will be of the highest importance to us.

It is a difficult world, and a difficult moment, that we face today with negotiations underway on strategic arms control with the Soviet Union, with a painful conflict in the Middle East and the risk of even more widespread violence to come, with deep strains in our relationships with our allies, especially in the area of economic and trade policy. George Shultz will face as difficult a task as any Secretary of State has ever confronted, but I welcome him to his new field of endeavor and look forward to work closely with him.●

● Mr. SPECTER. Mr. President, I would like to record my reasons for supporting the President's nomination of George Shultz as Secretary of State. I attended a portion of the Senate Foreign Relations Committee's confirmation hearings this week and followed with great interest Mr. Shultz' statements on how to balance the various considerations that should be weighed in formulating U.S. foreign policy.

I have a special concern, reinforced by my recent trip to the Soviet Union, that the U.S. Government must take every opportunity to emphasize the importance of adherence to human rights principles by all governments. Religious persecution, particularly of Soviet Jews who are denied permission to emigrate, has unfortunately become an ever more serious problem.

During Mr. Haig's confirmation hearings, the impression had been created—I believed inaccurately—that human rights was no longer as significant a factor in U.S. policy. I therefore wrote to Mr. Shultz on Tuesday urging him to dispel any such misinterpretation during his own confirmation hearings. I was pleased to note that on Thursday Mr. Shultz emphasized his own and President Reagan's commitment to human rights as an important principle of U.S. foreign policy.

I would also hope—and expect—that other basic policies will be continued by Secretary Shultz: Commitment to both building U.S. military strength and to serious nuclear arms reduction negotiations, firm opposition to military adventurism, support of America's historic commitment to Israel, and close cooperation with our NATO allies.●

● Mr. QUAYLE. Mr. President, I want to express my strong support for the nomination of George P. Shultz as Secretary of State. I will vote for his confirmation with enthusiasm. The President has made an excellent choice. While I do not agree with every answer he gave during the confirmation hearings, I am completely satisfied that Mr. Shultz has the capacity to handle with great competence the very broad range of issues that he will face as Secretary of State. His expertise in matters of international trade and economics is of special importance in view of the very serious problems which exist today.

Earlier this week I returned from a visit to five of our European allies—Belgium, the Netherlands, West Germany, France, and England—and to East Germany. In discussions with representatives of the allied governments and our embassies, it became quickly apparent that the No. 1 issue today is trade and economics, symbolized most immediately by European anger and confusion over the President's decision on the natural gas pipeline. Related economic issues of European dumping of steel in the United States, U.S. grain sales to the Soviet Union, and high interest rates in the United States compound the problem. These in turn raise questions of economic warfare against the Soviet Union and its allies and of protectionist retaliation within the Western alliance.

The potential for disintegration of the alliance clearly exists. What is needed is a steady hand at the helm—someone who understands the issues, someone who is trusted by our allies, and someone who will set consistent and understandable policies. I am confident that George Schultz can meet these requirements and I was pleased in my informal discussions with European political and government personnel that they too see his nomination as a positive step in bringing coherence to U.S. policy. In West Germany, where the problems regarding the pipeline was most severe, leaders were very pleased that Chancellor Schmidt and Mr. Schultz would be seeing each other at their previously planned meeting. It was clear to me that the most urgent need on trade issues is the development of policies that our allies can understand and the clear and consistent expression of them. During my visits at various U.S. Embassies in Europe, I was given a different explanation each place I went as to why the President had made the decision on the pipeline. The reasons ranged from subsidization of credits to economic warfare to Poland. I do not know how we can expect our allies to understand and support us if we are unable to articulate clear policies and then speak with one voice.

I note that Mr. Schultz had made clear during the confirmation hearings that he sees the linkage with the Polish situation as the only reason for the pipeline decision and for other economic sanctions against the East. Whether that is necessarily the right view, I find it very encouraging that he appears to be well on the road to demonstrating that he will move quickly to eliminate the confusion that is now the byword in our international economic policies. Much depends on this. We cannot afford to have the Western alliance divided over economic issues, and especially not because of confusion over what our policies are. We need to work with our allies in developing mutually beneficial policies that will enable us to deal consistently with each other and with the East. I believe that George Shultz is the right man for the job. It will not be an easy job because the economic issues are as tough internationally as they are domestically. But I am glad that we are moving quickly to confirmation so he can get on with the difficult work ahead.●

Mr. RANDOLPH. Mr. President, the approval of the Senate, with the rollcall to begin in a few seconds, should, I believe, express the strong, very strong support of George P. Shultz to be Secretary of State for our Republic.

President Reagan, I anticipate, will have hopefully the unanimous approval of the Members of this body for this vital Cabinet post.

This perilous period in the history of our country and the world, is in truth a time of testing. Across the Earth nations and peoples are locked in bitter struggle. The force of arms is being felt 24 hours of each day.

Mr. Shultz is not so much a compromiser as he is a well-reasoned thinker. I voted for the confirmation of Mr. Shultz for both the Secretary of Labor and the Secretary of the Treasury in a previous administration.

Americans believe in responsibility as well as rights. Now is the hour to prove that we believe that peace is not to be coveted only for ourselves but for humankind everywhere.

Mr. BAKER. Mr. President, I inquire if any other Senator seeks recognition to make a statement at this time. I have a statement that I shall make while our respective cloakrooms are checking to see if there is further debate.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BAKER. Mr. President, I have known George Shultz for a long time and in several incarnations. I knew him when he was here, previously, as a member of another President's Cabinet where he served with distinction in two important positions in the Government. I have known him as a friend, as a businessman, as a distinguished American, who continued his interest in public affairs long after he left his official posts. I have a great respect for him, as does the President of the United States, and it will be no

surprise to my colleagues to know that I intend to vote for his confirmation.

As a member of the Foreign Relations Committee and of the Senate leadership, I look forward to working with Secretary Shultz in his continuing efforts and those of the President to strengthen our standing abroad and to confront and, one hopes, resolve the many challenges that we face in foreign policy. These challenges are not insignificant. I share Secretary Shultz's belief that the role of the United States in world affairs will not diminish and that we must be prepared to play that role with vision and imagination. Whether in attempting to mediate disputes among our friends or in continuing our role as the honest broker among parties in conflict, the world will look to the United States and to George Shultz to aid and assist in preserving the peace and insuring the safety of civilization for decades in the future.

As I indicated in previous statements, no foreign policy can long exist without public support, and we have no right to expect that support unless the public is fully informed.

I close, Mr. President, by saying that with all our challenges we have many promising opportunities as well. It is my opinion that as we attempt to meet the challenges and pursue the opportunities, the President could not have chosen a better steward for the conduct of foreign policy as determined by the President and the Senate and charged for its execution for the Secretary of State.

Mr. President, I know of no other Senator seeking recognition. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. DANFORTH). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the Senate advise and consent to the nomination of George P. Shultz, of California, to be Secretary of State? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. PRYOR) is necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 216 Ex.]

YEAS—97

Abdnor	Baucus	Boschwitz
Andrews	Bentsen	Bradley
Armstrong	Biden	Brady
Baker	Boren	Bumpers
Burdick	Hatch	Moynihan
Byrd, Harry F., Jr.	Hatfield	Nickles
Byrd, Robert C.	Hawkins	Nunn
Cannon	Hayakawa	Packwood
Chafee	Heflin	Pell
Chiles	Heinz	Percy
Cochran	Helms	Pressler
Cohen	Hollings	Proxmire
Cranston	Huddleston	Quayle
D'Amato	Humphrey	Randolph
Danforth	Inouye	Riegle
DeConcini	Jackson	Roth
Denton	Jepsen	Rudman
Dixon	Johnston	Sarbanes
Dodd	Kassebaum	Sasser
Dole	Kasten	Schmitt
Domenici	Kennedy	Simpson
Durenberger	Laxalt	Specter
Eagleton	Leahy	Stafford
East	Levin	Stennis
Exon	Long	Stevens
Ford	Lugar	Symms
Garn	Mathias	Thurmond
Glenn	Matsunaga	Tower
Goldwater	Mattingly	Tsongas
Gorton	McClure	Wallop
Grassley	Melcher	Warner
Hart	Metzenbaum	Zorinsky
	Mitchell	

NOT VOTING—3

Murkowski	Pryor	Weicker

So the nomination was confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL RECLAMATION LAW

The Senate continued with the consideration of S. 1867.

Mr. BAKER. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1867.

Under the previous order, the Senator from Arkansas (Mr. BUMPERS) is recognized to offer an amendment.

UP AMENDMENT NO. 1088

(Purpose: To establish competitive oil and gas leasing and modify leasing procedures for onshore Federal lands.)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes unprinted amendment numbered 1088.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

COMPETITIVE OIL AND GAS LEASING

SEC. 18. (a) Subsections (a) through (e) of section 17 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," approved February 25, 1920 (30 U.S.C. 226 (a) through (e)), are amended to read as follows and subsection 17(f) and following are relettered accordingly:

"SEC. 17. (a) The Secretary may lease onshore Federal lands for oil and gas by competitive bidding only. Competitive bidding shall be on the basis of those bidding systems set forth in section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337), which the Secretary determines would maximize competition.

"(b) At least once each quarter, the Secretary shall invite the public nomination of areas favorable for the discovery of oil or gas. Any area of the public domain that receives two or more public nominations and which the Secretary determines to be available and suitable for oil and gas leasing shall automatically be offered for lease by the Secretary at one of the next two scheduled lease sales. Any area of the public domain that receives a single nomination in two successive quarters which the Secretary determines to be available and suitable for oil and gas leasing shall automatically be offered for lease by the Secretary at one of the next two scheduled lease sales.

"(c) The Secretary shall hold competitive oil and gas lease sales in states where tract nominations are received, on a quarterly basis. Such sales shall consist of all available and suitable tracts nominated for leasing as specified in section 17(b) and any additional areas selected by the Secretary of Interior.

"(d) The Secretary shall issue a lease to the highest responsible qualified bidder for each tract offered at a lease sale.

"(e) No lease issued under this section shall be for a tract exceeding five thousand one hundred and twenty acres, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic unit.

"(f) Each lease that the Secretary issues under this section shall be for an initial period of five years and so long thereafter as oil or gas is produced in paying quantities or drilling or well reworking operations as approved by the Secretary are conducted thereon. A lessee may apply to extend the initial term for an additional period or period not to exceed a total of five years. Each extension application shall include an exploration plan for the extended term. The Secretary, in his discretion, may extend the initial term only if he finds that because of adverse technical, environmental or economic conditions which are beyond the control of the lessee, the lessee cannot adequately explore the lease during the initial five-year term or an extended term. Nothing in this subsection shall be construed as affecting existing leases.

"(g) All leases under this section shall be conditioned upon payment by the lessee of a rental or not less than $2 per acre each year of the lease. Each year's lease rental shall

be paid in advance. A minimum royalty of $4 per acre in lieu of rental shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.".

Subsection (b). Action taken by the Secretary pursuant to the bidding, nomination, and lease procedures of subsections (a), (b), and (c) of section 17 of the Act of February 25, 1920 (U.S.C. 226 (a) through (c)), shall not be considered "major Federal actions" for purposes of implementing section 102 of the National Environmental Policy Act. Nothing in this subsection shall be construed as affecting the application of section 102 of that Act to the issuance of a lease under section 17.

Subsection (c). Section 30(a) of the Act of February 25, 1920 (30 U.S.C. 187a) is amended by striking the third sentence and inserting in lieu thereof, "The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: Provided, however, That the Secretary may, in his discretion, disapprove an assignment (1) of a separate zone or deposit under any lease, (2) of less than six hundred and forty acres, or (3) containing an overriding royalty which exceeds limitations established by regulations.".

Subsection (d). This Section shall become effective one hundred and eighty days after the date of enactment of this Section, and the Secretary shall prescribe such rules and regulations, or amendments to existing rules and regulations, as may be necessary to reflect the amendments made by this Section within one hundred and eighty days after the date of enactment of this Section.

Mr. BUMPERS. Mr. President, let me just say, first off, that the United States of America owns 822 million acres of mineral rights. Of the 822 million acres owned by the United States, 374 million of it is considered good for prospective oil and gas exploration.

Mr. President, I am not from the Western part of the United States where the United States owns most of this land and you might ask why would I be interested in insisting that the United States lease all of this land on a competitive basis. I will tell you very briefly.

In 1978 I was home for the August recess and I suddenly received a call from someone who said:

"Did you know that the Bureau of Land Management has leased 33,000 acres in Fort Chaffee for $1 an acre?"

Now, Fort Chaffee is a military reservation, of about 70,000 acres, less than 2 miles from my home and I happen to know a little about the geology and the geography of the area, and Fort Chaffee is surrounded on four sides by producing gas wells.

So my first question was: How on Earth could the Bureau of Land Management lease 33,000 acres of land worth millions of dollars to the first company that walked in the door and said, "We want it and here is $1 an acre for it?"

That is precisely what happened. I am not embellishing the story.

To go back just a moment, bear in mind that until 1976 military lands could not be leased. It was prohibited by law. And in 1976 we amended the law to provide that military reservations could be leased, and thus the Fort Chaffee lease which became the first lease on a military reservation.

So I began to check and inquire how the United States was disposing of its lands that it leased for oil and gas. There are three ways to do it:

No. 1, if it is land that has never been leased before all you have to do is walk in and tender $1 an acre and say, "I want this tract of land."

No. 2, get the U.S. Geological Survey to say that this land is not over a known geological structure or what they call in the vernacular a KGS.

So I rushed out and looked up the law to see what a KGS was. It is a known geological structure. I will read it to you in a moment, Mr. President, and I defy anyone in the Senate to tell me what it means—anyone.

But Texas Oil & Gas Co., goes to the BLM and says, "We want this 33,000 acres."

BLM said: "Take this little form down to Tulsa, Okla., get the U.S. Geological Survey to sign off that it is not over a KGS and it is yours."

The representative from the Texas Oil & Gas Co., hopped on a plane, got the geological survey to sign off on it, came back the next day and signed the lease.

I was so incensed, I could not believe that resources of the U.S. Government were given away in any such way as that. So we held hearings. Senator FORD, who was then chairman of the appropriate subcommittee, held hearings in the Energy Committee, and I will come back to that in a moment. Well, that was one way to lease.

The other way is the U.S. Bureau of Land Management advertises. They say, "Would you like to bid on a tract of land? If you would, send us $75 and we will put your name in a squirrel cage, and on bingo night we will turn the squirrel cage and if your number happens to be called out, you happen to be the lucky winner, you get whatever size tract of land it is for $1 an acre."

I want you to think about the U.S. Government operating in such a way as that.

Do Senators know that the Justice Department wrote a letter to Interior in 1979 and said, "This is probably a violation of the Criminal Code of the United States?" Almost every State in the Union, 48, demand competitive bidding, and those same 48 States have a criminal code that would make this kind of dispostion of assets a criminal violation.

Well, the third way the United States leases its land is if the U.S. Geological Survey, in its infinite wisdom, says that this tract of land they want to lease is over a known geological structure, then they put it up for competitive bids. Would anybody here care to guess how much of the 115 million acres of U.S. lands under lease, would anybody care to take a guess as to how much of it has been let competitively? 1.5 million acres. Out of 115 million acres, about 1.5 million acres have been let competitively.

Those are the three ways.

Let me tell you the rest of the Chaffee story. I raised so much cain with the Secretary of the Interior about leasing 33,000 acres of land at $1 an acre, and so did some other Senators, that finally he canceled the lease, and that is now in court. Nobody knows how it is going to come out.

But let me tell you what happened a year later. At least the Interior Department was frightened enough or concerned enough that a year later they put up another 27,000 acres of land for competitive bids. We had raised so much cain about the 33,000-acre tract they said, "We don't want to go through that again. We are going to put these 24,000 acres up competitively and let people bid for it."

Would anybody care to guess what it brought? Seventeen hundred and seven dollars an acre, $43,000,500, and if it had not been for yours truly squealing like a pig under a gate it would have gone for $24,000.

There is a map, right there is a map, of Fort Chaffee. Take a look at it. See this in red? Well, let me tell you something better. You see these red dots? Those are all producing gas wells. Those red dots are now producing and have been for years.

You see this in red? It went for $1 an acre, $33,000.

See this in green? It brought $43.5 million.

How would you like to go home and explain that to your constituents that the U.S. Government is letting its resources go by lottery or whoever happens to walk in with $1 an acre?

All but four Senators in the U.S. Senate come from States that require competitive bidding on all lands they let for oil and gas leases. Would you like to have some examples of what the States are doing? Well, listen to this.

In the last 2 years the State of Idaho, the home of the chairman of the Energy Committee, let 32 tracts and averaged $6.73 an acre. One tract brought $230 an acre, one brought $115 an acre; another tract brought $45 an acre. But if Uncle Sam would have been letting that land, it would all have been bought at $1 an acre.

In Oregon, the Umatilla National Forest, 95 percent of it has been leased for $1 an acre, and all the adjacent lands around it have been brought up to $250 an acre.

In my own State of Arkansas just last fall, maybe early this year, I forget the date, maybe in June of this

year, the U.S. Government is leasing the Ouachita National Forest. How are they leasing it? To whoever walks in and throws down $1 an acre.

Well, the State of Arkansas happened to have 80 mineral acres in the national forest, and our law does not permit us to go for $1 an acre, and we had to put ours up for bid, and it brought $103 an acre. That just shows you how much smarter Arkansas is than the U.S. Government.

Mr. President, let me just call off the names of some States here. Let us take Texas. Texas leases its lands competitively, and it has been averaging $100 an acre; Montana $12 to $14 an acre; Louisiana $300 an acre; New Mexico $239 an acre; North Dakota $165 an acre. I am not going to bore you with the rest of it. I just want to point out to you that the Congressional Budget Office, in response to a letter from the ranking member of the Energy Committee, Senator JACKSON, said—and I will not read all the letter, I am going to put it in the RECORD—but here is the salient point of it:

CBO estimates that under the competitive leasing system proposed in S. 60 gross receipts would increase by approximately $1.3 billion between 1983 and 1987.

Offsetting this would be the $600 million loss in filing fees.

You understand that a lot of this land you have to put up $75 in the hopper, in the Treasury, to get your name put in the hopper. So they are estimating that would produce $600 million over that same period of time. But the States, your State and mine, do not participate in that $75. We do not get a penny of that in Arkansas. Idaho, the State of Wyoming, the State of Montana, the State of Nevada, the State of Arizona, none of them gets a dime of those filing fees. But if it were put up for competitive bids, those same States would get 50 percent of those proceeds, and CBO says those States would get $600 million in the next 5 years if we went to a competitive leasing system, and even the Federal Government would get $40 million more.

Go home and explain to your States, all of whom are in debt, cannot even begin to pay their bills, go home and explain to them how you voted against giving them $600 million over the next 5 years.

Well, Mr. President, we have a competitive leasing system, and here is the way it works. We have 250 corporations in this country, and if you read the Washington Post, you will find those ads, the Wall Street Journal, "Join the Wyoming lottery," or "Send us your money and let us bid for you."

Here is one of the ads. It is styled "How would you like to match muscle with the majors? If you want to make it as big as Exxon's just send us some money and let us put your name in the lottery."

Here is what happens. You send this company, we will say, $100. They will fill out this little thing right here with your name and address on it and send it to the BLM with $75, and put $25 in their pocket.

If your name happens to be pulled out some companies will give you $25,000 in advance, and if you have not sold that lease for more than that in 3 years you lose the money.

Mr. WALLOP. Mr. President, will the Senator yield on my time?

Mr. BUMPERS. Yes.

Mr. WALLOP. The advertisement to which the Senator refers in the Washington Post and you see in other places has nothing to do with the Federal filing system. It is Wyoming's——

Mr. BUMPERS. Let me tell the Senator something. The ads appearing in the Arkansas Gazette refer to the Wyoming lottery, but I have seen others in the Washington Post and the Wall Street Journal. You do not see them as frequently now, and the reason you do not see them now and the reason you do not hear them on radio is because the Federal Communications Commission has ruled it is a criminal violation of Federal statutes and, therefore, they cannot advertise it on radio or send it across the State lines in a newspaper.

Mr. WALLOP. Well, just so that the Senator and other Senators who may be listening and those in the audience understand what the Senator is talking about is the State of Wyoming's own lottery and not the Federal lottery. It has nothing to do with the BLM.

Mr. BUMPERS. The Senator can do whatever he wants to do with his State lands. That is just peanuts.

Mr. WALLOP. We are obliged for that permission.

Mr. BUMPERS. It is just peanuts. If Wyoming wants to give its assets away here, that is its own business. But I am here representing the State of Arkansas and I hope the rest of the United States, and I want to repeat this: The FCC has told these 250 corporations that are advertising, and most of them have sprung up since the oil embargo, they have enjoined those people from advertising on the radio or on television because they say it is a violation of the criminal laws of the United States.

And yet the United States condones what the Attorney General has said is probably a violation of the law.

Mr. President, in 1978, right after this Chaffee fiasco, we held those Chaffee hearings, and I will never forget the president of Arkansas-Louisiana Gas Co., who was protesting that. He said, "If I had a chance to bid on that land, I would have bid $500 an acre."

I said, "Surely you jest. Surely you would not have bid $500 an acre." He said, "Yes, I would."

Now, that is the same kind of land that brought $1,707 an acre.

Right after that happened, there was another thing that happened, and that was the Secretary of the Interior found out that fraud in the system was absolutely rampant. The U.S. attorney in Denver told me that he had to put some more seats in his office because he had so many plea bargainers in there.

It was estimated that 150 companies were engaged in defrauding the system, and 10 of them either were indicted or pled guilty.

Now, back in those days, all you had to put up was $10. Secretary Watt, in an effort to thwart this effort to put in an all competitive leasing system, has raised the filing fee from $10 to $35 and from $35 to $75.

Incidentally, I might say, what is sacred about $35? What is sacred about $75? Under the best face on it, it is an arbitrary figure. But he has tried to raise revenue. So the argument to be made on the floor of the U.S. Senate is that we are going to get more money if we just raise the filing fee.

Well, there is one thing that the GAO said and that is that Interior's representation to the Senate about how much money they are going to raise with that is probably way too optimistic. But the Secretary just suspended all leasing as a result of the pervasive fraud.

Some operators were putting their name in the hopper 200 times. It only cost $10. Why not? If there were only 500 names in there, you had a 40-percent chance of yours being pulled out. If there is a good, red hot tract right now, the same thing will apply today.

You have not eliminated the potential for fraud. You may have eliminated some of it just because 10 people have been sentenced or indicted.

One point I wanted to make about this known geological structure which, as I say, I defy anybody here to tell me what it means, but during the Chaffee hearings, we had the U.S. Geological Survey testify. I said, "Well, let me ask you something. Here is a gas well in this section and you have leased land in the adjoining section on a noncompetitive basis. How do you decide whether something is a known geological structure?"

He said, "Well, normally, if somebody hits gas in a section, we consider the section that adjoins it a known geological structure."

Now, you have to understand that you have hundreds and hundreds of square miles here in this gas field, but the only way you can get the USGS to say it is a known geological structure is to drill a well within a mile of a section. He said, "We have little pins and every time somebody hits gas, we move the pin over 1 mile."

Now, that is laughable. If you do not think that is laughable, ask anybody who is a geologist.

Mr. President, I do not want to take up all of the time. I have some of my colleagues here who want to speak. But I just want to say, No. 1, what the bill does.

The bill says that any time anybody wants to lease a tract of land, all he has to do is apply to the Secretary. If only one person applies for that land, the Secretary will not put that up. He will put up tracts every 3 months, every quarter. Let us assume there is a section of land of 640 acres that you want and you are the only one that wants it. He will not put that up for that quarter. But if you put your name in the pot two consecutive quarters and you are the only one interested in it, he must put it up for bid.

No. 2, if you have as many as two people demonstrate an interest in that same tract of land, he will put it up that very moment. Every 3 months they will put these tracts up for bids, and if as many as two people apply for the same tract, it must be put up for competitive bids.

Something has been said in a "Dear Colleague" from the other side about the Secretary only has to lease what is available and suitable. Well, of course, what else can he do? That is what he does right now. The Secretary has total, absolute discretion over whether to lease land or not. He is not going to lease land if there is already a lease on it. He is not going to lease it if it is next to the Old Faithful geyser. He is not going to lease it if it is in a wilderness area.

There is no fair market test. If people want to bid on land, they bid on it and they get it. There is a maximum acreage of 5,120 acres. That is not what every lease will be. And that simply says if the Secretary decides that it takes more land than just a section to be an economic unit, he can put up as much as 5,120 acres.

He can put it up in 20-acre blocks if he want to. If anybody objects to that, offer a second degree amendment to cut it down. You will not get any squawk from me. We will accept it. Right now the maximum is better than 10,000 acres on noncompetitive leasing.

The primary term under my bill is 5 years. But if you want to extend it another 5 years, you give the Secretary fairly compelling reasons to extend it and he will extend it. Right now, the time is 10 years and there is no diligence requirement. You can drill it or not drill it. One and a half percent of the leases in this country are drilled annually. One and a half percent.

No. 2, it would require a $2 annual rental payment. It would require $4 an acre in royalty once you hit gas or oil. You would have to pay at least $4 an acre per year. And it is not considered a major action so that an environmental impact statement is required. The law would remain exactly as it is now. It probably reduces the environmental impact part of it.

Mr. President, the argument is always made—made in committee and made on this floor—that you squeeze those little independent oil operators out of business. Any time you can do anything on the floor for old people or independent oil dealers, believe you me that is acid in this body.

Well, let me tell you about the independents. Of all the competitive leases that are now held in the country, 86 percent of them were won by independent oil companies. So they are doing very well in the competitive leasing business.

Second, 7 of the 10 biggest owners of Federal oil and gas land are major oil companies. What does that mean? It means the same thing applies that applies in the rest of the country. The independents go in, risk their capital, drill, and if they hit anything, they sell it to the majors. The majors are not even bidding on this land. The independents are bidding. They are getting it and they are drilling it, and then they are selling it to the majors.

We even have a bid schedule. If the Secretary decides to say, "You don't have to put up any money, just tell us how much royalty you will give us; if you want to give us half of the royalties, then you do not have to bid any dollars," that eliminates the necessity for front-end money. The independents ought to love it.

But I know that argument about the independents—the poor mom and pop operator. Well, all I want to say is the independents are getting 86 percent of those now.

Finally, I want to say that the Congressional Budget Office has said there will be no increased cost of administration if this bill is adopted. Do not make the argument about the paperwork because we cut the assignments down. You cannot assign one of these leases unless it is at least 640 acres. That is where the paperwork is taken up at both the Bureau of Land Management and the U.S. Geological Survey.

Well, if you were to go out to the ordinary businessman on the street and say, "Mr. Businessman, let me tell you how we lease U.S. lands for oil and gas exploration"—and I invite anybody to do that—see if he thinks this is really a great idea.

There are those who say they want a balanced budget. We posture around here constantly about who favors a balanced budget the most. It is almost like patriotism, who is the most patriotic. How can you stand on this floor and lament deficit spending and continue a practice which deprives the people of the United States of a fair market value for that which is theirs?

You have a lottery system. The money that the independents and the majors are paying for this land is not terribly different from what we would get out of it. The difference is the lottery winner is getting the money. Every time he gets a 1,000-acre lease, he goes out and sells it. These lottery outfits, these service corporations, will list all these people: "John Doe, Fort Lauderdale, Ark., paid $2,000 for a lease and within a month sold it for $200,000."

That is what has happened.

I do not think anybody can say that he supports a system that is as grievous and outrageous as this. I hope my colleagues will reject it and adopt this amendment, getting the U.S. business done in a businesslike way.

Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Will the Senator from Arkansas yield 5 minutes?

Mr. BUMPERS. I yield 5 minutes to the Senator from Washington.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER. Thirty-three minutes and twenty seconds.

Mr. JACKSON. Mr. President, I strongly support the Bumpers amendment on Federal oil and gas leasing. It would require that all oil and gas leases on Federal lands be awarded by competitive bidding. This will assure a fair return to the public for private development of public resources.

The amendment would also encourage diligent development by establishing a 5-year primary term for leases. Both these provisions are already established for the highly successful Outer Continental Shelf leasing program.

The existing noncompetitive leasing system has been criticized by a number of authoritative Government findings over the last 12 years.

I was a member of the Public Land Law Review Commission, a congressionally established Commission charged with a complete review of public land law, including mineral resources law, which found in its 1970 report that competitive sale requirements for federally owned minerals, especially for oil and gas, were too narrow and recommended that they be significantly increased.

In 1973, President Nixon proposed a sweeping reform of the Mineral Leasing Act of 1920, the law under which onshore Federal oil and gas is leased. This proposal called for an all-competitive oil and gas leasing system and an initial primary lease term of 5 years.

Mr. President, 12 of the 19 major producing States—Alaska, Arkansas, California, Florida, Kansas, Louisiana, Montana, Nebraska, North Dakota,

Oklahoma, South Dakota, and Texas—have all-competitive leasing systems.

On diligence, 11 States—Arizona, Arkansas, California, Florida, Kansas, Louisiana, Montana, North Dakota, Oklahoma, South Dakota, and Texas—have 5-year lease terms or required drilling within that period of time, including the top 4 producing States.

Obviously the all-competitive system works.

Mr. President, the Bumpers amendment will first, reduce bureaucracy and delay, second, promote competition, third, increase receipts to the Federal Government, and fourth, stimulate exploration for oil and gas.

Mr. President, I salute the Senator from Arkansas for his long effort in trying to bring about competitive leasing. I hope the Senate tonight will listen to his excellent and brilliant remarks here on the floor and support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I yield myself such time as I may use.

Mr. President, this is not a new argument. It has not been made any better than it has been in the past.

Let me begin by saying that it should be obvious that I oppose it because I think that it will have precisely the opposite effect on the country's revenues, than the Senator from Arkansas would suggest. That question is arguable. It has a more predictable effect on the country's ability to produce oil and gas, which would be detrimental to any hope of independence or any hope of increasing production.

Many Senators may have heard of the Overthrust Belt in my State of Wyoming that is said to go perhaps from Mexico all the way up into Canada. But the major exploration is taking place in the Overthrust Belt in Wyoming, northeastern Utah, and potentially on into Montana. Primarily it is now in Wyoming and Utah.

The fact of the matter is that had we gone to competitive bidding on all of that, they would not be there now.

Mr. President, there were over 700 dry holes dug in that country before the first discovery well. Who in their right mind is going out and competitively bid on an area that has 700 dry holes?

The other thing that the Bumpers amendment would do that is so obvious to anyone who knows anything about the business is that it would collapse bidding in the country, as they have done in the Soviet Union, around the known geological structures where there is some certainty of production, and the whole business of stepout exploration is gone, the whole entrepreneur nature of wildcatting in this country is gone.

There is no reason why anybody in their right mind would competitively bid on a piece of ground that is way away from production, knowing that is going to take place.

More importantly, when the Senator says the case will be made that this is detrimental to the independent oil producers of this country, he is dead right, and he knows he is right because that case can be made. This is a big oil company amendment. This is the hip pocket of big oil.

They have the capital resources, and they alone, to continue to hold and to bid competitively on all the producing potential of this country.

If you will, just take a look at what has happened on the Outer Continental Shelf bidding process, which this is molded after, and show me where the independents have had any successful penetration of that market. Just show me one area where they have had any major portion. Then show me one area in the Outer Continental Shelf where production has proceeded at a pace anything like the production within the continental confines of this country.

The fact is that big oil will simply get these leases and they will compete with the independents on them. They will hold them. They can go back in and reestablish them.

Mr. BUMPERS. Will the Senator yield for a question on my time?

Mr. WALLOP. I would be happy to.

Mr. BUMPERS. If that is true, how do you account for the fact that the independents get 86 percent of the leases put up for competitive bidding now?

Mr. WALLOP. Primarily because the independents have done the exploration and the leasehold building to put together the kinds of units that are economically drillable.

Mr. BUMPERS. Would that not be a reason for the majors to move in if the independents have proved it? Would that not be an incentive for the majors to move in and pay these high prices?

Mr. WALLOP. Absolutely.

Mr. BUMPERS. Well, they are not doing it, Mr. President.

Mr. WALLOP. They are not doing it for a very simple reason. The average size of these areas is 249.4 acres. The Senator's amendment would extend the maximum size to at least 5,120 acres or larger, as the Secretary determines, as a reasonable economic unit. Independents—and I think the Senator is quite right and his statistics will demonstrate this—have been historically the most active explorers and developers on the public lands. They simply could not afford to compete on tracts of the size contained in the Senator's amendment. In the Outer Continental Shelf biding procedures, I do not think the Senator can quarrel with the fact that the independents are simply aced out. They are not operating on the Outer Continental Shelf to any substantial degree.

Mr. BUMPERS. Will the Senator yield for an additional question?

Mr. WALLOP. Yes.

Mr. BUMPERS. It is estimated that somewhere between 90 and 95 percent of the bids put into the lottery are by people who would not know a gas well if they saw it. They are not bid on by independent companies—they are bid on by people in Milwaukee, in Little Rock, Louisville, or other places, for one thing: to speculate, just like a horse race. The independents do not bid.

Mr. WALLOP. Yes, they do, Mr. President. What they do not do is get them because the lottery is as honest as the Senator says. If the Senator thinks the independents are not filing on those things, he is sorely mistaken. The fact is independents file on virtually all of them, where others do not do it. Then they get to the business of putting together economic units and those are the average size of 249 acres, not 5,120.

In my State of Wyoming, where the Senator very kindly gave us permission to continue to hold our oil lottery noncompetitive leasing process—and we surely appreciate that—it simply makes——

Mr. BUMPERS. All I ask is that the Senator does not try to impose it on Arkansas.

Mr. WALLOP. I have no intention of trying to impose it on anybody. It is a system in this country and it is here.

The fact is that of all the 12 States mentioned by the Senator from Washington, Wyoming has a greater return to its public off its leasing procedure than any of those other States among the 12 major producers. Statistically, that is verifiable.

The other thing that the Senator said is that we may find some means of helping ourselves balance the budget. I think the CBO report which he mentions puts great doubt on that unless it is vastly more successful than even Alice Rivlin, with all her great experience in the oil industry, can come up with.

That is, because 50 percent of the money goes to the States; 40 percent goes to the reclamation fund; 10 percent goes to balancing the budget. Under the present system, I think we would be very hard pressed to say we could get more money with 10 percent going to the Federal Government than we would with the new system, which Secretary Watt has introduced.

The GAO prepared a report in May of 1980 prior to the time that the new leasing procedures had been established and the new leasing procedures are endlessly more sound economically than are the old ones. Even then, before these had been taking place, they noted several serious deficiencies in the amendment which the Senator

from Arkansas proposes. Let me summarize them.

One, they said the amendment will likely have a negative impact on the timely development and production of oil and gas through delays in the leasing process and the adverse impact on some incentives to development.

They said further that a fully competitive system could work a hardship on the independent oil developer because the tracts, which would be obtained through cash bidding, may be of greater interest to the majors than the present system of small leases that have to be methodically consolidated into an efficiently sized unit, and a high-per-acre bid combined with the potential of larger tracts might create financial hardships for many independent producers to meet the bonus bid competition.

I would say "might" is a very soft word. My belief is it certainly will.

The report says also that the amendment will not necessarily insure a competitive situation, or fair market value recovery. Fair market value is generally either what could be realized as a competitive market or the realization of an assessed resale and/or postsale value. The amendment does not assure that this will happen. It would allow any one qualified bidder, regardless of the amount of the bid, to be awarded the lease. There is no assurance that fair market value will be received by the Government.

Last, the GAO felt that under the amendment a great deal of land presently being leased might not be leased under a totally competitive system.

I do not doubt that the statistical figure the Senator had about the land being drilled would go down dramatically under a competitive system. The question is whether that is a benefit to the Government and the taxpayer that supports that Government because those that are not being bid still collect a rental.

The report continues that this, in conjunction with a foreseen reduction of independent involvement would adversely affect rental, royalty and bonus bids. Also, slippage in land rental receipts will occur because of the quarterly offering requirement.

It was calculated that BLM/Wyoming alone would lose $2 million a year in rental receipts, and GAO concluded that enactment of the amendment would probably cause rental losses far more severe than this example.

(Mr. JEPSEN assumed the chair.)

Mr. BUMPERS. Mr. President, will the Senator yield for just a moment?

Mr. WALLOP. On the Senator's time.

Mr. BUMPERS. I want to make the point that the GAO report he is referring to was on my amendment to Senate bill 1637, which was introduced back in the Carter administration and is not the same bill we are talking about here.

Mr. WALLOP. But it was largely on the Senator's amendment. Yes, it was. The direction of the GAO report was on the oil lease competitive concept.

Mr. BUMPERS. GAO itself conceded that not more than half the land would be in competitive bidding under S. 1637.

Mr. WALLOP. The Senator can make that point. I do not believe it is a point which can stand scrutiny, because frankly, the more you put into place the kinds of situations which have discouraged the independent from exploration in the Outer Continental Shelf, the more you will discourage that same independent from the same exploration within the boundaries of the shoreline of America.

Let me say one other thing. It is important to realize what it would take to institute this kind of situation. The country would not be able to go into that for a couple of years, because we would have to get it virtually all computerized.

Mr. BUMPERS. Let me say this to the Senator——

Mr. WALLOP. When I am finished, Mr. President, the Senator may have all the rebuttal time he would like.

It would have to be computerized. BLM itself has stated that it does not know what that would require. Wyoming is the first State in which they have sought to do this and that system is neither complete nor fully and officially functional yet. We have all the other States remaining in which to accomplish that. So, for a variety of reasons, I oppose this amendment, but primarily it is my opinion and the opinion of people who are knowledgeable in all this, despite what Alice Rivlin says about finances, that the production of oil and gas in America would go down substantially and the ability of the independent segment of that economy to compete would go down substantially, as it has in the Outer Continental Shelf.

It is undeniable that the independent is not out operating successfully in the Outer Continental Shelf and it is undeniable that that is the least successful of the drilling and exploration and leasing programs that this Government engages in.

Mr. President, the amendment Senator BUMPERS offers today to the reclamation reform bill is, by design and effect, identical to S. 60, a bill he introduced January 6, 1981, which was rejected by a vote of 11 to 8 by the Senate Energy and Natural Resources Committee last December. This amendment is totally unrelated to the issue at hand and for that reason alone should be opposed.

On the merits of the amendment, it is both the Energy and Natural Resources Committee's judgment and the administration's position that such an all competitive leasing amendment would work a travesty on present onshore Federal oil and gas leasing. I include, for the RECORD, both letters from Secretary Watt and Secretary Edwards expressing their strong opposition to the amendment and request that they be printed at the end of my statement.

I am gravely concerned that the proposal before us will radically and unnecessarily alter a system of leasing which has carefully evolved since its inception in the Mineral Lands Leasing Act of 1920, as amended. Moreover, this issue has special meaning to me, since my State of Wyoming is in the forefront in Federal oil and gas leasing.

Figures provided by the Department of the Interior for 1980 reflect that 21 percent of Federal land leased for oil and gas production was in Wyoming. Petroleum production from those Wyoming Federal leases contributed one-third of total onshore Federal petroleum lease production, and gas production from Wyoming Federal leases contributed 18 percent of the total onshore Federal lease natural gas production. Of all Federal oil and gas leases in Wyoming, 99 percent are leased noncompetitively, 85 percent being leased under the simultaneous oil and gas leasing system. Wyoming's 50-percent share for fiscal 1981 Federal oil and gas leasing production in the State totaled $228,918,217.50. So far in fiscal 1982, the State has received first quarter returns of $58,311,914.73 for Federal oil and gas production.

I believe that it is essential that we have the most competitive system possible, but at the same time it must be a system that provides the greatest incentive possible to explore for and produce oil and gas. My State could have no other interest since it is the recipient of 50 percent of all moneys acquired from Federal mineral lease production. However, the leasing system proposed by Senator BUMPERS would not provide the needed competitive and incentive balance, nor would it necessarily increase Federal and State revenues. In fact, it is the opinion of the General Accounting Office that the amendment could actually reduce production and would not necessarily result in increased revenues.

Under the leasing system now in place, Federal oil and gas leasing takes place under the authority of the Mineral Lands Leasing Act of 1920, as amended, and the Mineral Leasing Act for Acquired Lands. The 1946 amendment to the Mineral Lands Leasing Act, however, established the basic framework for the existing system and was designed to stimulate discovery of new petroleum reserves. It established both a competitive and noncompetitive leasing system which is described

concisely in the February 8, 1982, GAO report entitled, "Accelerated Onshore Oil and Gas Leasing May Not Occur as Quickly as Anticipated," which I quote:

COMPETITIVE LEASING

Land must be leased competitively to the highest bidder if it lies within the boundary of a KGS (a Known Geologic Structure). Essentially, a KGS is land with proven production; and, once a well is producing, the surrounding land is designated a KGS. Roughly 3 percent of the lands offered for lease are leased competitively—an estimated 300 leases per year. Applicable lease requirements include:

A minimum royalty of 12½ percent, up to 25 percent based on production;

A lease term of 5 years, continuing thereafter as long as there are paying quantities of oil or gas produced;

Rental of $2 per acre per year; and

A maximum lease size of 640 acres.

NONCOMPETITIVE LEASING

Non-competitive leases can be obtained through either the over-the-counter (OTC) or the simultaneous oil and gas system (SOG). None of the land leased through either system is in a KGS. The over-the-counter lease is used for lands never leased before. The SOG leases are for lands previously leased but subsequently terminated, expired, cancelled or relinquished. About 3,500 over-the-counter leases are issued each year. And out of approximately 4 million applications to the SOG there are 7,500 leases issued each year. Both of these systems account for about 97 percent of the new leases issued each year. About 80 percent of all Federal onshore production come from these leases.

Requirements for all non-competitive leases include: a filing fee of $25 (since increased to $75); a royalty of 12½ percent; a primary lease term of 10 years; rental of $1 per acre per year, becoming $2 if the land becomes a KGS (also changed); and a maximum lease size of 10,240 acres.

Shortly after the publication of this GAO report, regulations were finalized by Secretary Watt which increased the noncompetitive lease filing fees to $75 and increased rentals for simultaneously drawn noncompetitive leases to $1 per acre per year for the first 5 years and $3 per acre thereafter. I submit for the RECORD, to be included at the end of my statement, a letter to me from Secretary Watt of June 18, 1982, indicating the very positive preliminary results of that program. According to Interior estimates, this $75 filing fee will effectively reduce noncompetitive lease applications by two-thirds, while, at the same time, making the noncompetitive leasing program more profitable.

We cannot overlook the problems that the noncompetitive leasing system has had in the past, but those problems still have not been shown to be with the law itself. They have stemmed from the lack of Federal regulation, which Secretary Watt has undertaken to improve, and I believe he has made an impressive stride with the $75 filing fee.

The cure Senator BUMPERS proposes for the problems in the noncompetitive lease system is unmitigated overkill, and as others have questioned, why we are proposing to throw the baby out with the bathwater in trying to bring about correction of past regulatory abuses.

The Bumpers amendment establishes an Outer Continental Shelf style bidding system, with nominations, bidding under a structured competitive lease sale, higher rentals, larger lease tracts, and onerous restrictions on lease assignments, which in totality would establish an administrative nightmare for onshore oil and gas leasing. The major deficiencies of this proposal have not changed since it was offered by Senator BUMPERS as amendment No. 1684 to S. 1637 and adopted by the Energy and Natural Resources Committee, May 8, 1980, by an underwhelming margin of 9 to 8. Those deficiencies are reflected in the Comptroller General's report of June 2, 1980, which strongly criticized the measure, and I summarize:

The amendment will likely have a negative impact on the timely development and production of oil and gas through delays in the leasing process and the adverse impact on some incentives to development.

A fully competitive system could work a hardship on the independent oil developer because the tracts, which would be obtained through cash bidding, may be of greater interest to the majors than the present system of small leases that have to be methodically consolidated into an efficiently sized unit, and a high-per-acre bid combined with the potential of larger tracts might create financial hardships for many independent producers to meet the bonus bid competition.

The amendment will not necessarily insure a competitive situation, or fair market value recovery. Fair market value is generally either what could be realized as a competitive market or the realization of an assessed resale and/or postsale value. The amendment does not assure that this will happen. It would allow any one qualified bidder, regardless of the amount of the bid, to be awarded the lease. There is no assurance that fair market value will be received by the Government.

Lastly, the GAO felt that under the amendment a great deal of land presently being leased might not be leased under a totally competitive system. This, in conjunction with a foreseen reduction of independent involvement would adversely affect rental, royalty, and bonus bids. Also, slippage in land rental receipts will occur because of the quarterly offering requirement. It was calculated that BLM/Wyoming alone would lose $2 million a year in rental receipts, and GAO concluded that enactment of the amendment would probably cause rental losses far more severe than this example.

I do not believe anyone questions Senator BUMPERS' concern over the Fort Chaffee Military Reservation lease sale, but the Fort Chaffee situation is truly unique and provides an extremely poor example for revamping the entire oil and gas leasing system. Prior to 1976, no authority existed for oil and gas leases, either competitively or noncompetitively, of acquired lands within the boundaries of military reservations. The leases were issued by Interior under the Federal Coal Leasing Amendments Act of 1976 on a noncompetitive basis, which has not since been found irregular. Several companies who should have made it their business to know that the leasing restriction had been removed and the lands were available to lease were caught unaware. This situation clearly does not justify changing the present leasing system to an all competitive one, and as was observed in the minority views to the Energy and Natural Resources Committee report on S. 1637 of May 30, 1980:

Perhaps the only value of the Fort Chaffee episode in oil and gas leasing is in reminding the Congress that when we change the law, as in the 1976 amendments, perhaps we should take more care to evaluate the operational effect of such a change. And, having done so, maybe we should notify our constituents of the effect on them of such a statutory change.

It is critical that we view this amendment from a national energy policy perspective. In 1981, U.S. crude petroleum production totaled 3,125 million barrels, comparable to 3,146 million barrels for 1980 and 3,121 million barrels for 1979. Eighty-eight percent of all domestic oil produced in 1981 came from onshore production. Offshore production, accounting for only 12 percent, contributed 375.2 million barrels, which marked a production decline for the 10th consecutive year. The latest figures show Federal onshore oil and gas production for 1980 contributed 18 percent to total U.S. production. Clearly, onshore oil and gas leasing is an essential source of our Nation's oil and gas supply.

On the import side, crude oil imports, excluding imports for the strategic petroleum reserve, decreased in 1981 to 1,515 million barrels from the 1980 import level of 1,910 million barrels and 1979 imports of 2,355 million barrels. Over the past 4 years, reduced oil-consuming levels have enabled the United States to cut foreign oil imports by 36 percent. Conservation efforts have lowered U.S. oil consumption by 1 billion barrels since the peak year in 1978. Nonetheless, U.S. dependence on foreign imports is still disturbing.

Oil price projections for this decade have gone wild, ranging from $20 to $85 a barrel. We have been told that there is an "oil glut." Some predict the fall of OPEC, and others are warning

that we will soon face another, and even more critical, oil crisis in the eighties. An interesting example of conflicting views is seen in a comparison of the opinions of Daniel Yergin, chairman of Harvard University's International Energy Security Seminar and Dale W. Steffes, president of the Houston-based firm Planning & Forecasting Consultants. Professor Yergin has recently released a 4-year study entitled "Global Insecurity: A Strategy for Energy and Economic Renewal," which foresees oil prices spiraling to $72 per barrel by the year 2000 and estimate that the first two oil crises will cost Western industrialized nations $1.2 trillion in terms of economic growth. On the other hand, Planning & Forecasting Consultants note in their recent study that the threat of an OPEC embargo "has diminished to the point that it could be accepted with minimal harm to the economy and public well-being," and Mr. Steffes is reported in the Oil Daily of July 12, 1982, as saying that: "The United States would be self-sufficient in energy by 1984 if OPEC did a complete embargo this month," adding that "the country would survive very well in the meantime."

Personally, I believe in leaving to others the pastime of predicting our energy future. It has been my experience that he who relies on the crystal ball often ends up sitting on broken glass. However, it would certainly be unwise at this time to do anything that would or could decrease this country's oil and gas production capabilities. The proposed amendment would do that and more, and there simply is no rhyme or reason for crippling Federal oil and gas leasing. As I have said before, Senator BUMPERS' proposal would do what only the Government could possibly be credited with doing, and that is to diminish revenues to the Government and increase cost to the industry—which is not exactly where I think we ought to go.

Lastly, independent of the merits and demerits of the amendment, the reclamation reform bill is not the appropriate vehicle to drastically alter the current oil and gas leasing system. I implore this Congress to leave this issue to another day, to a less drastic proposal, and after a much closer and more educated look at the problems. As Thomas Jefferson noted back in 1816:

> If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be.

Mr. President, I ask unanimous consent that the letters I referred to be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., July 13, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: When the Senate considers S. 1867, the Reclamation Reform Act of 1982, later this week, we understand that Senator Dale Bumpers intends to offer an amendment which would substantially alter the current system of Federal on-shore oil and gas leasing. The Administration strongly opposes such an amendment because the proposed changes would be counterproductive to efforts to stimulate domestic oil and gas exploration.

Any major alteration in our present market oriented policies toward oil and gas leases could significantly alter the current dynamics and structure of participation by the major oil companies and by the independent oil producers so as to reduce, rather than enhance, competition which is a stated objective of the amendment. According to the Department of the Interior the amendment is likely to result in considerably less land under lease; delays in making Federal lands available for leasing; and consequently, reduced oil and gas production from Federal on-shore leases compared to the current system. In our judgment any benefits to be derived from the proposed amendment would be potentially offset and the amendment thus should be defeated.

The current on-shore Federal oil and gas leasing system has resulted, according to the General Accounting Office, in the production of significant amounts of domestic oil and gas; the amendment places emphasis on the recovery of "fair market value" at a time when our highest priority should be stimulation of oil and gas exploration and production from domestic sources.

Sincerely,

JAMES B. EDWARDS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 14, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that an amendment to S. 1867 may be offered by Senator Bumpers during the floor debate on the reclamation reform legislation. This amendment would establish competitive oil and gas leasing and modify leasing for onshore Federal lands.

The Administration strongly opposes the enactment of the Bumpers amendment to S. 1867.

The Bumpers amendment would establish an all-competitive leasing mechanism for onshore oil and gas leasing, similar to that set forth in the Outer Continental Shelf Lands Act. Such a system would include bidding only in structured competitive lease sales; a nomination system and schedule for quarterly lease sales; larger lease tracts; shorter lease terms; higher rental fees; and more stringent conditions on lease assignments. The amendment is similar to bills that have been introduced in previous sessions of Congress.

The oil and gas leasing system proposed in the Bumpers amendment is clearly unrelated to the subject matter of S. 1867. As such, we feel this amendment should be addressed independently of the reclamation reform legislation. Passage of reclamation reform legislation to correct serious deficiencies in existing law is badly needed by the farmers in this country. We should not jeopardize passage of that reclamation package by inclusion of an unrelated and highly controversial, amendment. We object to its inclusion as an amendment to S. 1867.

In addition, the Department opposes the Bumpers amendment on its merits because, as the GAO has similarly concluded, oil and gas acreage under lease and available for exploration would decrease and, in time, domestic production would be negatively affected. It is the position of the Department to favor competitive leasing whenever it is feasible. This is reflected in our current procedures which require competitive leasing in and around known areas of oil and gas, but encourage exploration outside these areas, in areas of no known potential, by offering leases "over-the-counter" to the first applicant, or through a simultaneous drawing system. These over-the-counter and simultaneous leasing components now account for 97 percent of all leases issued and are the backbone of the Department's program to provide easy access to millions of acres of untapped energy wealth on America's public lands. The Bumpers amendment would eliminate these important leasing programs and constrain the ability of independents and majors to explore for domestic oil and gas.

It is important to note that classification of an onshore lease as "noncompetitive" does not mean that the United States receives less revenue from the lease than if the same parcel were leased on a competitive basis. When filing fees and first year rental payments are taken into account, a non-competitive lease often generates more revenue than a comparable tract which is leased competitively.

This is particularly true, now, in view of the increased filing fees initiated by this Administration. In spite of the concern by previous Congresses and Administrations about fraud and abuse which plagued the onshore oil and gas leasing system, little was done. We are committed to the elimination of that fraud and abuse and have taken positive steps toward achievement of that goal.

In January 1982 the Department announced regulations which increased the filing fee for noncompetitive oil and gas lease applications and rental fees for leases issued by the Department. These higher fees were necessary to ensure both a reduction in casual speculation in oil and gas leases and a greater direct participation by those involved in the business of exploring for and producing oil.

Our efforts have been successful. The first five lease sales held in 1981, when the filing fees were $10 per application, produced average revenue of $8.5 million per sale. The fees were increased to $25 for the November 1981 and January 1982 sales. The average revenue generated increased to $14.5 million per sale. Following the January 1982 sale, filing fees were tripled, this time to $75 per application. Sales in March and May generated $17.1 million and $18.3 million, respectively.

At the same time there has been a dramatic increase in the amount of revenue being produced in the form of filing fees, there has been an equally significant drop in the number of filings received. In 1981, with $10 filing fees, nearly 4.5 million applications were filed. Based on the March and May sales, the Department now anticipates approximately 1.5 million filings annually. This reduction has made the entire program

more manageable, easier to monitor, and more profitable.

Moreover, a noncompetitive system permits more rapid processing of lease applications and thus insures that land is made available for exploration in a timely fashion. The nomination system provided for in the Bumpers amendment can take up to six months before land is actually leased, more than six times the current time required to acquire a lease. These delays obviously mean lost rental revenue for the United States.

In an in-depth report issued on March 14, 1980, entitled "Impact on Making the Onshore Oil and Gas Leasing System More Competitive" (EMD-80-60), the General Accounting Office (GAO) advised against enactment of legislation similar to the Bumpers amendment. The GAO's recommendation was based primarily on a finding that an all-competitive onshore leasing system could "very likely result in considerably less land under lease," cause "delays in making lands available for leasing," and result in "less incentive and opportunity for independent oil companies and others to continue their traditional role of searching out and exploring lands for prospective oil and gas."

We are concerned that the Bumpers amendment would actually reduce competition and the role of independent operators, by making it far more expensive and difficult for them to acquire leases and explore our public lands. Historically, independents have drilled more than 90 percent of all wildcat wells, discovered 75 percent of the new fields, and found more than 50 percent of all oil and natural gas reserves in this country. Reducing their role in onshore oil and gas operations could thus have a very serious impact on discoveries, production and the generation of royalty revenues.

The GAO report concluded that "the dual emphasis on offering larger tracts and encouraging bonus bidding could significantly alter the dynamics and structure of particpastion in the system in favor of the major oil companies." Independents hold a majority of current competitive leases now because the tracts are relatively small; however, they cannot affort to compete with the major companies on larger tracts.

The problem goes beyond lease acquisition. The increase in "front-end" costs provided for in the Bumpers amendment will, obviously, make an operator more cautious about making the initial investment in a lease and, in fact, may limit the ability of the small firms to make such investments.

The GAO found that the leasing mechanism established by this legislation could "actually reduce production" of oil and gas from public lands. This ultimate consequence, particularly at a time when the United States is still a significant net importer of oil, is contrary to America's economic well-being and contrary to the national security objective we all share.

In addition, the GAO report found that the all-competitive system would not necessarily result in increased revenues for the Federal Government, as claimed by the proponents of competitive bills. In fact, the GAO questioned whether the higher "front-end" receipts which would be generated by the system would "even offset lost filing fees" which are eliminated by the bill. This item presents an even greater question today in that those fees have been increased from $10 to $75 since the GAO report was issued and the report does not even consider (1) loss of revenue in the form of lost rent on lands which are unleaseable under an all-competitive system or (2) lost taxes and royalties which will result from reduced production.

Finally, we believe the primary goal of any onshore leasing program must continue to be the discovery and production of new sources of petroleum for the American consumer. Its secondary goal, of course, is the generation of revenues, which come primarily from royalties on production. By focusing on "front end" receipts, making less land available for leasing and injecting further delays in the issuance of leases, an all-competitive leasing system, like that envisioned by the Bumpers amendment, could actually frustrate these goals.

Clearly, the Bumpers amendment creates a number of serious potential problems which warrant careful study and consideration by the Congress. For these reasons, we urge that the Senate disapprove the inclusion of the Bumpers amendment to S. 1867.

The Office of Management and Budget has informed us that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JAMES G. WATT,
Secretary.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 18, 1982.

Hon. MALCOLM WALLOP,
U.S. Senate, Washington, D.C.

DEAR MALCOLM: In response to your inquiry, we have received many comments regarding our decision to raise noncompetitive oil and gas lease filing fees from $25 to $75. To date, experience indicates this decision has been very successful.

The March 1982 simultaneous oil and gas drawing is the only one completed under the $75 filing fee. A copy of the comparison of the January 1982 filing at $25 and the March 1982 drawing at $75 is enclosed. While the number of filings in March 1982 (227,779 at $75) decreased from the January 1982 (550,052 at $25), total revenue increased from $13.9 million to $17.1 million. Thus, the average revenue received per parcel increased from $12,074 to $14,404 or from about $9 per acre to $11 per acre. The number of acres leased was approximately equal.

The Department published the final rulemaking to expedite increased energy production from the public lands and keep the cost to the general public minimal without discouraging exploration and production. Our objectives were to maximize the efficiency and cost-effectiveness of both the leasing system and the industry activity leading to development, and to ensure a fair return to the Federal Government for the leases issued.

It was decided that the best and most equitable method to achieve these goals and objectives was to raise the filing fees on all noncompetitive leases, and to raise the lease rental for the second five years of leases issued under the simultaneous oil and gas leasing system. Understandably, some individuals may be discouraged from participating, however, the real intent of the fee increase is to reduce casual speculation and, ultimately, the inefficiencies and fraud it causes in the leasing system. Furthermore, reducing casual speculation will increase the likelihood that leases will be obtained directly by those capable and interested in exploring for and producing oil and gas. The cost of production will be reduced because fewer lease assignments with their overriding royalties will be necessary.

As upcoming drawings are completed and statistics become available, we will continue to keep you apprised of the cost-effectiveness of this decision. In the meantime, if we can be of assistance, please contact my office.

Sincerely,

JIM,
Secretary.

Enclosure.

SIMO FILING COMPARISONS JANUARY 1982 AT $25 PER APPLICATION AND MARCH 1982 AT $75 PER APPLICATION (APR. 15, 1982)

State	Parcels offered		Acreage		Applications received		Filing fees collected	
	January 1982	March 1982	January 1982	March 1982	January 1982	March 1982	January 1982	March 1982
Arizona	7	27	37,349	106,668	128	164	$3,200	$12,300
California	16	21	10,525	13,810	2,650	1,237	66,250	92,775
Colorado	131	56	148,615.56	106,077.84	67,007	9,509	1,675.175	713,175
Eastern States	45	65	34,236	47,768	10,603	9,779	265,075	733,425
Idaho	0	61	0	221,247	0	2,610	0	195,750
Montana	200	200	258,534	197,670	155,512	34,648	3,887,800	2,598,600
Nevada	30	29	133,964	46,583	2,779	1,814	69,475	136,050
New Mexico	99	110	193,574	87,396	15,760	38,002	394,000	2,850,150
Oregon	0	0	0	0	0	0	0	0
Utah	142	119	311,286	396,133	55,858	25,134	1,396,450	1,885,050
Wyoming [1]	482	498	422,227	399,202	246,083	[2] 104,882	6,152,075	7,866,150
Total	1,152	1,186	1,550,400	1,622,554	556,380	227,779	13,909,500	17,083,425

[1] The WY March filing was the second time in which the automated lease application form was used.
[2] Based on filing fees money received.

Mr. WARNER. Mr. President, I ask my distinguished colleague if he will yield to me.

Mr. WALLOP. I yield to the Senator from Virginia so much time as he may require.

Mr. WARNER. Mr. President, I rise in opposition to the amendment of Senator BUMPERS requiring competitive bidding for all onshore oil and gas leases.

As chairman of the Subcommittee on Energy and Mineral Resources, I have a strong interest in the administration of the onshore oil and gas leasing program. The subcommittee has continued oversight of this issue.

The original bill of Senator BUMPERS was drafted 2 years ago in response to problems which existed at that time. It is directed toward an onshore oil and gas leasing system that existed 2 years ago—not today. As a result of subcommittee recommendations, a number of administrative improvements have been made in the program and others are planned. I intend to continue diligent oversight of the Department of the Interior to make certain that progress continues.

I have three major objections to the amendment of Senator BUMPERS. First, the proposed change in the existing system would be counterproductive to our efforts to stimulate production of natural gas and petroleum on public lands.

Increasing domestic energy production must be given the highest priority. The current volatile situation throughout the Mideast is a dramatic example of the dangers we face by relying so heavily on foreign energy supplies coming from some countries with unstable governments. Our domestic energy program cannot withstand another oil embargo.

The proposed amendment would clearly deter our efforts to develop domestic energy resources by discouraging exploration. This is a risk we simply cannot afford to take.

Second, the proposed amendment would change the present system of oil and gas exploration on public lands from an applicant-initiated effort—taking a relatively short time—to a bureaucratically controlled process taking months and even years. The amendment would impose the ponderous offshore leasing process on onshore leases.

The offshore process is a nightmare, bogged down in delay.

In a 1980 report on a competitive leasing proposal identical to Senator BUMPERS' the Government Accounting Office states that such a program would, "very likely result in considerably less land under lease, and delays in making lands available for leasing." This is exactly what happened offshore.

The GAO also reported that competitive leasing could significantly alter the dynamics and structure of the industry in favor of the major oil companies and to the detriment of the independents.

In a July 14 letter to Chairman MCCLURE, Secretary of Interior Watt expressed similar views:

We are concerned that the Bumpers Amendment would actually reduce competition and the role of independent operators, by making it far more expensive and difficult for them to acquire leases and explore our public lands. Historically, independents have drilled more than 90 percent of all wildcat wells, discovered 75 percent of the new fields, and found more than 50 percent of all oil and natural gas reserves in this country. Reducing their role in onshore oil and gas operations could thus have a very serious impact on discoveries, production, and the generation of royalty revenues.

Third, some proponents of this amendment contend that by establishing an all-competitive bidding system, more revenue will flow into the U.S. Treasury.

I have a deep commitment to enhancing Federal revenues, but I am not all convinced that the Bumpers amendment will achieve that result.

Quoting again from Secretary Watt:

It is important to note that classification of an onshore lease as "noncompetitive" does not mean that the United States receives less revenue from the lease than if the same parcel were leased on a competitive basis. When filing fees and first year rental payments are taken into account, a noncompetitive lease often generates more revenue than a comparable tract which is leased competitively.

The GAO concluded that a competitive bidding system may not actually even offset losses in filing fees now obtained through noncompetitive leasing. While receipts for certain tracts may be increased, the total revenues may decrease because fewer tracts will be leased.

Both rental and filing fees have recently been increased. The filing fee jumped from $10 to $75 per application, increasing revenues significantly. The GAO determined that competitive bidding was not cost-effective when filing fees were still $10. Today the economies of a competitive system would be even less cost-effective.

I also object to the false belief that fair market value can only be recovered through a Bumpers-type proposal for competitive bidding.

Fair market value must be determined on a net, not a gross basis. The potential return to the Federal Government is not limited by front-end acquisition costs. The Government also benefits from royalties and taxes on production, and the tremendous number of jobs created by the petroleum industry in its exploratory efforts. This is a return far greater than the acquisition cost for a lease.

While these front-end receipts on certain tracts may result in more money than with a competitive system, the GAO reports a good percentage and "perhaps the majority of the lands put up competitively may not even be leaseable under a competitive approach—at least not at so-called fair market value."

Finally, Mr. President, I remind my colleagues that the administration opposes the amendment of Senator BUMPERS. In his July 14 letter to Chairman MCCLURE, Secretary of the Interior Watt states,

• • • the Department opposes the Bumpers' Amendment • • • because, as the GAO has similarly concluded, oil and gas acreage under lease and available for exploration would decrease, and, in time, domestic production would be negatively affected • • • we believe the primary goal of any onshore leasing program must continue to be the discovery and production of new sources of petroleum for the American consumer. Its secondary goal, of course, is the generation of revenues, which come primarily from royalties on production. By focusing on "front-end" receipts—making less land available for leasing and injecting further delays in the issuance of leases—an all competitive leasing system like that envisioned by the Bumpers' Amendment could actually frustrate these goals.

I strongly urge my colleagues to reject the amendment of Senator BUMPERS.

Mr. MCCLURE. Mr. President, will the Senator from Wyoming yield to the Senator from Idaho?

Mr. WALLOP. I would be pleased to yield to the Senator from Idaho as much time as he may desire.

Mr. MCCLURE. Mr. President, I thank the Senator for yielding.

Mr. President, for the Senator from Idaho, this has been a perplexing subject. Perplexing because on the face of it the case made by the Senator from Arkansas seems to be reasonable. The Senator from Idaho, who is not an expert in oil and gas leasing, is perplexed, because all the experts who know what they are talking about indicate to us that indeed the adoption of the amendment of Senator BUMPERS would be counterproductive to the goals which he states are his desires.

Mr. President, I rise in opposition to the amendment offered by the Senator from Arkansas which would totally change the manner in which we lease onshore lands for oil and gas exploration and development, and I urge my colleagues to do likewise. This amendment should be rejected for a variety of reasons. It would adversely affect domestic energy production thereby increasing our dependence on foreign energy; it would discourage "wildcat" exploration; it would create a new leasing system which may be unmanageable; it would create a system which would favor major oil companies at the expense of independent producers; it would reduce Federal income from leasing and production; and it would create a leasing system far more complex than the present system. Furthermore, this amendment

is outdated as it ignores the major leasing reforms which have been proposed and implemented by this administration. In particular, this amendment would have the following consequences:

First, the proposed amendment would adversely affect onshore oil and gas leasing—and therefore oil and gas production—at a time when our efforts to rid this Nation of its unhealthy dependence on foreign energy should instead be intensified. A recent report by the General Accounting Office on the "Impact of Making the Onshore Oil and Gas Leasing System More Competitive" noted that going to the leasing system proposed by the amendment "could very likely result in considerably less land under lease, (and could result in) delays in making lands available for leasing. * * *" Moreover, the GAO report concluded that—

Because the (existing) onshore oil and gas leasing system has resulted in production of significant amounts of oil and gas, we suggest that caution be exercised in any major revamping of the system until there is a better understanding of its impact. . . .

This is even more true now in light of the changes in the leasing system the current administration has underway. For the benefit of my colleagues, I have appended a summary of those changes which have already taken place and those which are currently in process.

The system of competitive leasing proposed by this amendment would particularly discourage wildcat oil and gas exploration. Under the existing system there are three means by which an onshore tract may be leased. If the tract is located on a known geologic structure—KGS—then by law the tract must be leased competitively. If the tract had been leased at one time, and for some reason the lessee has decided to relinquish or not to renew the lease, then the tract can be released through the simultaneous oil and gas leasing process, the so-called lottery. If, on the other hand, the tract is not on a KGS and has not been leased before then it can be leased through the noncompetitive over-the-counter method whereby any interested person filing automatically receives the lease upon application.

It is this third type of onshore leasing system which wildcat drillers depend on so heavily in order to obtain the unproven tracts that they are particularly interested in exploring. If the proposal by the Senator from Arkansas is adopted, then a wildcat driller who is interested in an unproven tract would have to write a letter to the Department of the Interior asking that the tract be offered for lease competitively. Now I ask you, what wildcatter is going to spend thousands of dollars to identify a potential wildcat prospect and then have the Department of the Interior, in effect, announce to the world that someone thinks that oil or gas is located on that particular tract? Under this proposed system, we would most likely see some drillers waiting for others to do the exploration work necessary to identify a prospective lease, and then once the tract is put up for competitive leasing they would then just piggyback on the exploration work of others and compete for the lease.

Clearly, the leasing system which would be created by the amendment offered by the Senator from Arkansas would quickly become clogged up with unwanted frivolous lease nominations, while at the same time it would create a great incentive for mischief with some drillers just waiting in the wings to, in effect, claim jump the work of others.

Another reason that this proposed amendment should be rejected is that it would create a leasing system which would work to the advantage of the major oil companies at the expense of independent producers. The GAO report concluded that the system of leasing that this proposed amendment would create would "significantly alter the dynamics and structure of participation in the system in favor of major oil companies." In this regard, I think that it is important to keep in mind that independent oil and gas producers account for 90 percent of all exploratory wells and make 80 percent of new oil and gas discoveries. Moreover, by adversely affecting independent producers this amendment would also adversely impact domestic petroleum production and increase our dependence on foreign energy sources.

Mr. President, the proponents of this amendment also claim that an all-competitive leasing system for onshore oil and gas is needed to assure a fair return to the public for the development of public lands. While I am concerned that the public receive fair value for the leasing of public resources, the proposed amendment would not, in fact, accomplish this end. By discouraging wildcat exploration the amendment would reduce the revenues collected from leasing these tracts as well as the revenues collected by the Government in the event that oil or gas is discovered. I think that it is important to keep in mind that if oil or gas is discovered on tracts that are leased through the existing noncompetitive system, the Federal Government collects a royalty of 12½ percent of the wellhead value of the petroleum produced. Furthermore, the GAO report noted that their analysis "suggests that a competitive system might not bring in a significant amount of revenue and may actually not even offset losses in filing fees now obtained through noncompetitive leasing." This conclusion by the GAO was based on the economics of a $10 filing fee which has been subsequently raised by the Department of the Interior to $75 under authority provided by the Omnibus Budget Reconciliation Act of 1981.

The proponents of this amendment also contend that one of its fundamental purposes is to simplify leasing procedures. In my opinion, the system which would be created by this amendment would have just the opposite effect. The proposed amendment would require the onshore competitive bidding process to use the eight different leasing systems established by the Outer Continental Shelf Lands Act Amendments of 1978. How anyone could go so far as to characterize this as a simplification of the existing leasing system is unclear. Furthermore, the proposed amendment would require the Secretary of the Interior to determine which of those tracts nominated for leasing by industry are suitable for leasing. The amendment does not make clear what the Secretary of the Interior would have to do in order to certify that a particular tract is in fact suitable for leasing, but keep in mind that during 1981 more than 12,000 onshore oil and gas leases were issued and that the Department expects as many as 30,000 leases to be issued during 1982. Thus, unless this suitability test is only cursory in nature, the Secretary of the Interior will be inundated with paperwork and, as a result, we would likely see the entire onshore leasing system grind to a halt under a massive paperwork burden.

The proponents of the amendments also claim that it is needed in order to reduce speculation. On this point I again want to quote from the GAO report:

Our analysis . . . indicates that some speculators—particularly small independent operators—who search out and assemble tracts for exploration by others or themselves may be making a worthwhile contribution to the development process. Penalizing their efforts would do little to increase production from public lands.

Moreover, I think that it is important to note that the Department of the Interior has taken positive steps to weed out the participation in the system by unproductive speculators; for example, over the past 2 years the filing fee for noncompetitive leases has been raised from $10 to $75 per filing. This alone should go far in eliminating many who may have taken undue advantage of the existing noncompetitive leasing system.

Mr. President, the proponents of this amendment also contend that it is needed to deal with a variety of other matters, such as promoting diligent development and the possible need to restrict lease assignments and excessive overriding royalties. The GAO report, while acknowledging the possible need to address these issues, con-

cludes that "we believe these objectives can be satisfied without a major overhaul of the entire system" as is proposed by the amendments by the Senator from Arkansas. I believe that this is good advice.

Mr. President, it is clear to me that setting up the administrative apparatus and ground rules for a new form of leasing onshore properties would take a substantial amount of time. The tempo of oil and gas development in this country has taken a serious setback from the high watermark reached in December of 1981 when 4,530 rigs were working actively. There are many reasons for this fall off, but the Nation can ill afford another lengthy delay while new process is being put in place for leasing Federal lands.

Mr. President it seems to me that the desired effect of this proposed system of leasing is to get the highest bonus. However, I believe the national interest goes beyond such a simple rule of thumb. While competitive leasing may provide a higher bonus, what this country should be interested in is royalty revenues and additional energy reserves. The independent has a much better track record for quickly drilling a prospect and the majors tend to operate in a slower more deliberate fashion. It is a well-known fact that some of the recent attempts to acquire major companies has been the result of the very large undeveloped inventories of acreage that these majors have. As said earlier, it seems the national interest is to explore as quickly as possible and this would be less likely on a timely basis under the amendment proposed by Senator BUMPERS.

It is for these reasons, Mr. President, that I oppose the amendment offered by the Senator from Arkansas and that I urge my colleagues to do likewise. This amendment was defeated in committee on December 8 of last year by a vote of 11 to 8 and I urge the Senate to do likewise today.

Mr. President, I also ask unanimous consent that a letter which Senators WALLOP, WARNER, MELCHER, FORD, and I sent to every Member of the Senate, urging the rejection of this amendment, be inserted at the end of my statement along with the attachments to the letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 12, 1982.

Re S. 1867, the Reclamation Reform Act of 1982

DEAR COLLEAGUE: When the Senate considers S. 1867, the Reclamation Reform Act of 1982, later this week, the time agreement provides for a competitive oil and gas leasing amendment to be offered by Senator Bumpers. The amendment will be identical to S. 60, which the Energy and Natural Resources Committee rejected on December 8, 1981 by a vote of 11 to 8.

In our judgement the amendment would be counter-productive to current efforts to stimulate domestic production of natural gas and petroleum from the public lands, particularly by independent oil producers.

In its March 14, 1980 report entitled "Impact of Making the Onshore Oil and Gas Leasing System More Competitive" the General Accounting Office concluded that a major alteration in the current system of Federal oil and gas leasing, such as that proposed by the amendment would:

"Very likely result in considerably less land under lease;"

Cause "delays in making lands available for leasing;"

Result in "less incentive and opportunity for independent oil companies and others to continue their traditional role of searching out and exploring lands for prospective oil and gas;"

Establish a leasing mechanism which "may actually not even offset losses in filing fees now obtained through non competitive leasing;"

"Actually reduce production" of oil and gas "by creating delays in making lands available affecting the role of independent operations."

In addition, the amendment could significantly alter the dynamics and structure of the participation of industry in the current system in favor of the major oil companies to the detriment of the independent oil companies.

Recent studies by both the GAO and the Department of the Interior found that an all competitive bidding system would not materially increase Federal revenues, and in some cases it could actually lead to their reduction.

Many of the concerns which originally motivated introduction of S. 60 have already been addressed. As a result of the Omnibus Budget Reconciliation Act of 1981 the filing fees for the non-competitive oil and gas leasing system were raised from $10 to $25 per application. Then on January 20, 1982, the Department of the Interior further increased the fee to $75 per application. Additionally, the Department has increased substantially the yearly rental for acreage leased noncompetitively. Not only have these increases in filing fees and yearly rentals substantially increased Federal revenues, they have also weeded out the so-called lease speculators.

Moreover, while we are convinced that Senator Bumper's amendment should be rejected on its merits, we also are convinced that it is inappropriate to attach this amendment to the reclamation bill which is of great importance to this Nation's farmers. As a procedural matter, the attachment of this controversial amendment would seriously impede the eventual resolution and implementation of the reclamation reform bill.

The Committee on Energy and Natural Resources has already rejected this proposal and we urge our Senate colleagues to do the same.

Attached for your information is a fact sheet on the amendment as well as copies of letters from the Secretary of the Interior and Secretary of Energy opposing this amendment.

JOHN MELCHER.
WENDELL H. FORD.
JIM MCCLURE,
Chairman, Committee on Energy and Natural Resources.

MALCOLM WALLOP
Chairman, Subcommittee on Public Lands and Reserved Water.
JOHN W. WARNER
Chairman, Subcommittee on Energy and Mineral Resources.

Provisions of Bumpers' Amendment would:

(1) Require all onshore oil and gas leasing to be competitive;

(2) Require the competitive bidding process to be the same as that for OCS tracts (i.e., subject onshore leasing to the alternative bidding system requirements of the OCS Lands Act);

(3) Allow for quarterly public nomination of tracts for leasing;

(4) Require the offering of the tract for lease if it is nominated and the Secretary of the Interior determines it to be available and suitable for leasing (note: term "suitable" not defined);

(5) Require the Secretary to issue a lease to the highest bidder, regardless of the amount bid;

(6) Limit the tract size to 5,120 acres, unless the Secretary determines that a larger tract size is necessary;

(7) Limit lease terms to five years and so long thereafter as oil or gas is produced in paying quantities (term may be extended 5 years under limited circumstances);

(8) Set a minimum rental of $2 per acre;

(9) Exempt bidding, nomination, and lease procedures from NEPA;

(10) Allow the Secretary to disapprove a lease assignment of: (1) a separate zone of deposit of any lease; (2) less than 640 acres; and (3) containing an overriding royalty which exceeds limitations established by regulations.

FACTS REGARDING THE BUMPERS COMPETITIVE LEASING AMENDMENT

Fact: Current law provides that only acreage proven by production may be leased by competitive bid. Untested acreage is leased to the first qualified applicant by lottery and over-the-counter applications (if never previously leased). According to the Department of the Interior (DOI), the government collects $100 million annually in rentals and filing fees for these untested leases. More importantly, 96 percent of the natural gas and 80 percent of the oil produced from public lands comes from noncompetitive leases, not from the proven tracts. That is, 84 percent of all onshore royalties come from these leases.

Fact: A Department of the Interior analysis conducted in 1979 and a 1980 GAO study found that, on comparable tracts, revenues under the noncompetitive system and the competitive bidding system were roughly comparable. In some cases revenues were actually higher under the noncompetitive system. GAO concluded that an all-competitive bid system "may actually not even offset losses in filing fees now obtained through the noncompetitive system." (Note that this finding was based on the $10 filing fee. Revenues from filing fees have increased since the implementation of the $75 filing fee.)

GAO reported too that while "front-end" receipts on certain tracts would undoubtedly result from any more-competitive system, GAO's analysis and DOI's both "suggested that a good—perhaps a majority—of lands put up competitively may not even be leasable under a competitive approach (at least not at so-called 'fair market value')."

Furthermore, the 1980 GAO study concluded that a massive expansion of competi-

tive bidding outside of known Geological Structures could cause less rather than more production by providing less incentive and opportunity for independent oil companies and others to continue their traditional role of searching out and exploring lands for prospective oil and gas. Less production means lower revenues from royalties and taxes.

Fact: Current law requires that certain lands be leased competitively. The Bumpers Amendment eliminates that provision and further expands discretion by providing that the DOI Secretary may lease lands he determines to be "available and suitable" for leasing. As under the existing system, which has allowed the Secretary to impose a moratorium on leasing, leasing is totally discretionary.

Current law also provides for continuous availability of noncompetitive acreage. The Bumpers Amendment makes no provision for leasing speculative lands which do not attract competitive bids but which have historically attracted most of the exploration and production on onshore public lands.

Additionally, the Bumpers Amendment expands discretion to leasing terms and procedures (royalties, acreage, pre-sale evaluations, frequency of sales, etc.). The only certainty is that what lands are leased will be leased by competitive bid.

Fact: The public is allowed to nominate tracts. However, the Secretary chooses which tracts are "available and suitable" for leasing and, again, is not required to lease any lands. Regularly scheduled sales are meaningless without leases.

Fact: The Bumpers Amendment requires tract evaluations by requiring the Secretary to determine which tracts are "available and suitable" for leasing. Tract evaluations could also be required in order to implement the OCS-type procedures required by the amendment.

Fact: Independents hold over 80 percent of the competitive federal leases today. This is because the average size of these leases is 249.6 acres. The Bumpers Amendment would expand the maximum size of a competitive lease to 5,120 acres or larger as the Secretary determines a "reasonable economic unit." Independents, who historically have been the most active explorers and developers on public lands, could not afford to compete for such large tracts. OCS-type bidding procedures have not attracted independents offshore and will similarly fail onshore. Addtionally, only the company with a geologic theory can determine what acreage comprises a "reasonable economic unit" and the theories will vary with each geologist.

Fact: Most Federal leases are subject to wilderness protection or other restrictive stipulations which prevent access roads, construction of drill pads and/or pipelines, according to two government studies. There is also a backlog of thousands of pending lease applications, some of which have stood unanswered since 1971. Thus, in many cases, it is difficult if not impossible to put a drilling unit together in less than 5 years to process access and drilling permits has increased with each new environmental protection requirement. The Bumpers Amendment does not eliminate these roadblocks.

Fact: Approximately 4,000 test wells are drilled annually on federal lands. Geologic information from those wells significantly affects surrounding drilling prospects and influences drilling deals. Government cannot anticipate the results of those wells or react fast enough to information from them. Under the existing system, available acreage is automatically posted each month, enabling companies knowledgeable about the areas to respond quickly as wildcats are drilled. The Bumpers approach cannot respond that quickly, would concentrate exploration on limited acreage and reduce wildcat drilling.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 14, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that an amendment to S. 1867 may be offered by Senator Bumpers during the floor debate on the reclamation reform legislation. This amendment would establish competitive oil and gas leasing and modify leasing for onshore Federal lands.

The Administration strongly opposes the enactment of the Bumpers amendment to S. 1867.

The Bumpers amendment would establish an all-competitive leasing mechanism for onshore oil and gas leasing, similar to that set forth in the Outer Continental Shelf Lands Act. Such a system would include bidding only in structured competitive lease sales; a nomination system and schedule for quarterly lease sales; larger lease tracts; shorter lease terms; higher rental fees; and more stringent conditions on lease assignments. The amendment is similar to bills that have been introduced in previous sessions of Congress.

The oil and gas leasing system proposed in the Bumpers amendment is clearly unrelated to the subject matter of S. 1867. As such, we feel this amendment should be addressed independently of the reclamation reform legislation. Passage of reclamation reform legislation to correct serious deficiencies in existing law is badly needed by the farmers in this country. We should not jeopardize passage of that reclamation package by inclusion of an unrelated and highly controversial, amendment. We object to its inclusion as an amendment to S. 1867.

In addition, the Department opposes the Bumpers amendment on its merits because, as the GAO has similarly concluded, oil and gas acreage under lease and available for exploration would decrease and, in time, domestic production would be negatively affected. It is the position of the Department to favor competitive leasing whenever it is feasible. This is reflected in our current procedures which require competitive leasing in and around known areas of oil and gas, but encourage exploration outside these areas, in areas of no known potential, by offering leases "over-the-counter" to the first applicant, or through a simultaneous drawing system. These over-the-counter and simultaneous leasing components now account for 97 percent of all leases issued and are the backbone of the Department's program to provide easy access to millions of acres of untapped energy wealth on America's public lands. The Bumpers Amendment would eliminate these important leasing programs and constrain the ability of independents and majors to explore for domestic oil and gas.

It is important to note that classification of an onshore lease as "noncompetitive" does not mean that the United States receives less revenue from the lease than if the same parcel were leased on a competitive basis. When filing fees and first year rental payments are taken into account, a non-competitive lease often generates more revenue than a comparable tract which is leased competitively.

This is particularly true, now, in view of the increased filing fees initiated by this Administration. In spite of the concern by previous Congresses and Administrations about fraud and abuse which plagued the onshore oil and gas leasing system, little was done. We are committed to the elimination of that fraud and abuse and have taken positive steps toward achievement of that goal.

In January 1982 the Department announced regulations which increased the filing fee for noncompetitive oil and gas lease applications and rental fees for leases issued by the Department. These higher fees were necessary to ensure both a reduction in casual speculation in oil and gas leases and a greater direct participation by those involved in the business of exploring for and producing oil.

Our efforts have been successful. The first five lease sales held in 1981, when the filing fees were $10 per application, produced average revenue of $8.5 million per sale. The fees were increased to $25 for the November 1981 and January 1982 sales. The average revenue generated increased to $14.5 million per sale. Following the January 1982 sale, filing fees were tripled, this time to $75 per application. Sales in March and May generated $17.1 million and $18.3 million, respectively.

At the same time there has been a dramatic increase in the amount of revenue being produced in the form of filing fees, there has been an equally significant drop in the number of filings received. In 1981, with $10 filing fees, nearly 4.5 million applications were filed. Based on the March and May sales, the Department now anticipates approximately 1.5 million filing annually. This reduction has made the entire program more manageable, easier to monitor, and more profitable.

Moreover, a noncompetitive system permits more rapid processing of lease applications and thus insures that land is made available for exploration in a timely fashion. The nomination system provided for in the Bumpers amendment can take up to six months before land is actually leased, more than six times the current time required to acquire a lease. These delays obviously mean lost rental revenue for the United States.

In an in-depth report issued on March 14, 1980, entitled "Impact on Making the Onshore Oil and Gas Leasing System More Competitive" (EMD-80-60), the General Accounting Office (GAO) advised against enactment of legislation similar to the Bumpers amendment. The GAO's recommendation was based primarily on a finding that an all-competitive onshore leasing system could "very likely result in considerably less land under lease," cause "delays in making lands available for leasing," and result in "less incentive and opportunity for independent oil companies and others to continue their traditional role of searching out and exploring lands for prospective oil and gas."

We are concerned that the Bumper's amendment would actually reduce competition and the role of independent operators, by making it far more expensive and difficult for them to acquire leases and explore our public lands. Historically, independents have drilled more than 90 percent of all wildcat wells, discovered 75 percent of the new fields, and found more than 50 percent of all oil and natural gas reserves in this

country. Reducing their role in onshore oil and gas operations could thus have a very serious impact on discoveries, production and the generation of royalty revenues.

The GAO report concluded that "the dual emphasis on offering larger tracts and encouraging bonus bidding could significantly alter the dynamics and structure of participation in the system in favor of the major oil companies." Independents hold a majority of current competitive leases now because the tracts are relatively small; however, they cannot afford to compete with the major companies on larger tracts.

The problem goes beyond lease acquisition. The increase in "front-end" costs provided for in the Bumpers amendment will, obviously, make an operator more cautious about making the initial investment in a lease and, in fact, may limit the ability of the small firms to make such investments.

The GAO found that the leasing mechanism established by this legislation could "actually reduce production" of oil and gas from public lands. This ultimate consequence, particularly at a time when the United States is still a significant net importer of oil, is contrary to America's economic well-being and contrary to the national security objective we all share.

In addition, the GAO report found that the all-competitive system would not necessarily result in increased revenues for the Federal Government, as claimed by the proponents of competitive bills, In fact, the GAO questioned whether the higher "front-end" receipts which would be generated by the system would "even offset lost filing fees" which are eliminated by the bill. This item presents an even greater question today in that those fees have been increased from $10 to $75 since the GAO report was issued and the report does not even consider (1) loss of revenue in the form of lost rent on lands which are unleaseable under an all-competitive system or (2) lost taxes and royalties which will result from reduced production.

Finally, we believe the primary goal of any onshore leasing program must continue to be the discovery and production of new sources of petroleum for the American consumer. Its secondary goal, of course, is the generation of revenues, which come primarily from royalties of production. By focusing on "front end" receipts, making less land available for leasing and injecting further delays in the issuance of leases, an all-competitive leasing system, like that envisioned by the Bumpers amendment, could actually frustrate these goals.

Clearly, the Bumpers amendment creates a number of serious potential problems which warrant careful study and consideration by the Congress. For these reasons, we urge that the Senate disapprove the inclusion of the Bumpers amendment to S. 1867.

The Office of Management and Budget has informed us that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. WATT,
Secretary.

THE SECRETARY OF ENERGY,
Washington, D.C., July 13, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: When the Senate considers S. 1867, the Reclamation Act of 1982, later this week, we understand that Senator Dale Bumpers intends to offer an amendment which would substantially alter the current system of Federal onshore oil and gas leasing. The Administration strongly opposes such an amendment because the proposed changes would be counterproductive to efforts to stimulate domestic oil and gas exploration.

Any major alteration in our present market oriented policies toward oil and gas leases could significantly alter the current dynamics and structure of participation by the major oil companies and by the independent oil producers so as to reduce, rather than enhance, competition which is a stated objective of the amendment. According to the Department of the Interior the amendment is likely to result in considerably less land under lease; delays in making Federal lands available for leasing; and, consequently, reduced oil and gas production from Federal on-shore leases compared to the current system. In our judgment any benefits to be derived from the proposed amendment would be potentially offset and the amendment thus should be defeated.

The current on-shore Federal oil and gas leasing system has resulted, according to the General Accounting Office, in the production of significant amounts of domestic oil and gas; the amendment places emphasis on the recovery of "fair market value" at a time when our highest priority should be stimulation of oil and gas exploration and production from domestic sources.

Sincerely,

JAMES B. EDWARDS.

FEDERAL ONSHORE OIL AND GAS LEASING [1]

THE LEASING PROCESS

There are two basic kinds of leases—competitive and noncompetitive. The leasing process is similar for both. All leasing requires a review of records, an environmental review, the receipt fo filing fees,[2] and necessary paperwork. Certain regulations apply to both types of leases. These include the following:

No person of company may hold an interest in more than 246,080 acres of public or acquired land in any one State; however, there are separate limitations for public and acquired land which means that the maximum amount of Federal land interest could be 492,160 acres. Also, leases committed to any unit or cooperative plan are not counted into the acreage limitations.

Aliens from countries without reciprocal rights, and minors may not hold leases.

Any agreement creating overriding royalties in excess of 5 percent is prohibited for oil leases if a well reaches a stripper category.

There are, however, a number of differences which should be understood. These are discussed below.

COMPETITIVE LEASING

Land must be leased competitively to the highest bidder if it lies within the boundary of a KGS. Essentially, a KGS is land with proven production; and, once a well is producing, the surrounding land is designated a KGS. Roughly 3 percent of the lands offered for lease are leased competitively—an estimated 300 leases per year. Applicable lease requirements include:

A minimum royalty of 12½ percent, up to 25 percent based on production;

A lease term of 5 years, continuing thereafter as long as there are paying quantities of oil or gas produced;

Rental of $2 per acre per year; and

A maximum lease size of 640 acres.

NONCOMPETITIVE LEASING

Noncompetitive leases can be obtained through either the over-the-counter (OTC) or the simultaneous oil and gas system (SOG). None of the land leased through either system is in a KGS. The over-the-counter lease is used for lands never leased before. The SOG leases are for lands previously leased but subsequently terminated, expired, canceled, or relinquished. About 3,500 over-the-counter leases are issued each year. And out of approximately 4 million applications to the SOG there are 7,500 leases issued each year. Both of these systems account for about 97 percent of the new leases issued each year. About 80 percent of all Federal onshore production comes from these leases.

Requirements for all noncompetitive leases include:

A filing fee of $25;[3]

A royalty of 12½ percent;

A primary lease term of 10 years;

Rental of $1 per acre per year, becoming $2 if the land becomes a KGS;[3] and

A maximum lease size of 10,240 acres.

THE SIMULTANEOUS OIL AND GAS (SOG) LEASING SYSTEM

BLM introduced the SOG leasing system (sometimes referred to as the "lottery") in 1959 to determine the "first qualified applicant" while accommodating the large number of people interested in obtaining leases. Adoption of this system eliminated altercations among those attempting to become the first filer in BLM State officers.

The SOG system accounts for over 66 percent of the leases processed each year. Since the oil embargo in 1973, this program has had substantial increases in filings. Presently the bi-monthly drawing in Wyoming, the BLM State officer with the largest volume of applications, attracts an average of over 300,000 applications.

Parcels of land which have been leased previously and which have not had a producing well on the property are posted for drawings in each State office. Any eligible person or company may file one application for each tract on the list accompanied by a filing fee. After a 15-day filing period, drawings are held for each parcel. The winners are notified and must remit the first year's rental and sign the lease forms.

A basic premise of the SOG system is that everyone who files for a drawing on an individual parcel should have an equal chance to win. Thus, BLM regulations prohibit filing more than one card per parcel.

A BLM fraud task force was instituted in November 1979 as a result of a private citizen's report to his congressman of possible fraud involving the SOG. The task force subsequently reported to the Interior Secretary that possibly as much as 80 percent of all SOG filings were made fraudulently. In response to these findings, the Secretary, on February 29, 1980, suspended the issuance of all noncompetitive oil and gas leases, and established two additional task forces to (1) investigate suspected fraud cases for possible prosecution and (2) determine what re-

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[1] Source: General Accounting Office.

[2] No filing fees for competitive leasing.

[3] On January 11, 1982, Interior sent the final rulemaking to OMB for approval of increased filing and rental fees for noncompetitive onshore oil and gas leases. The filing fee will increase to $75 for all noncompetitive leases; and for SOG leases, the rental will increase to $3 for the 6th through the 10th year.

forms were necessary to re-establish integrity in the leasing system.

A practice was uncovered whereby individuals were putting other peoples' names into the lottery. These other persons were assigning their rights to any possible lease prior to the drawings. The individuals involved were in fact getting more than *one* chance in each drawing. Other abuses were found, but this situation was the most significant finding of fraud.

An emergency rulemaking by BLM established a new system for recording title transfers to address this problem. A winner could assign a lease to another party only after a 60-day waiting period. Also, pre-numbered forms for assignments were adopted, obtainable only at BLM offices.

From the beginning of the investigation through May 1, 1980, a clearance system for new leases and assignments was established which resulted in significant delays in leasing. For example, the BLM State office in Wyoming issued only two leases of those filed in 1980. The clearance procedure created a backlog problem over and above the backlogs which predated the suspension of leasing.

PROGRAM STATISTICS

Approximately 12,000 oil and gas leases are issued by BLM each year, 97 percent noncompetitively. As of June 30, 1981, there were a total of 118,972 outstanding leases involving 114,228,018 acres.[4] (This is roughly comparable to the 117,818 outstanding leases involving 108,874,421 acres as of December 31, 1981, just prior to the Reagan administration.) Approximately 10 percent of these leases were producing as of that date. As of January 1, 1981, the total number of pending lease applications was 28,919, of which 9,745 were filed after July 1, 1980. This has increased to about 34,000 as of October 1, 1981, according to a BLM official.

According to Interior, 75 to 80 percent of the leases issued expire without drilling applications. Ninety-five percent of the lessees who apply for drilling permits do so in the last 2 years of the lease term, many in the last few months. We plan to report to the Congress at a future date on the extent industry is diligently exploring and developing the Federal lands already under lease.

During fiscal year 1980, Federal onshore leases produced 151,014,709 barrels of oil representing approximately 5 percent of total U.S. oil production, and over 1 trillion cubic feet of gas—representing approximately 5.4 percent of total U.S. gas production.

During fiscal year 1981, Federal onshore oil and gas revenues amounted to over $678 million in royalty income, rentals, and bonus bids. Filing fees for 1981 represented additional revenue of over $43 million.

Land owned by the United States

	Acres
Civil agencies:	
BLM	397,522,836
Forest Service	187,536,399
National Park Service	68,277,167
Fish and Wildlife Service	43,155,006
Water and Power Resources Service	6,615,818
All other	4,751,596
Total	707,858,822
Defense agencies:	
Air Force	8,301,994
Army	10,670,218
Navy	3,225,383
Corps of Engineers	8,234,489
Total	30,432,084
Total civil and defense agencies	[1] 738,290,906

[1] U.S. Dept. of Interior, "Public Land Statistics—1980" (data as of fiscal year 1979).

Table 2.—Land owned by the United States in Alaska

[In millions of acres]

	Acres
BLM	150.5
Fish and Wildlife Service	75.4
National Park Service	50.6
Forest Service	23.2
Military and other Federal agencies	2.6
Total	[1] 302.3

[1] BLM estimate as of Nov. 6, 1981, which has changed significantly from Interior's most recently published statistics. These figures reflect transfers of Federal land to the State and Natives.

FEDERAL OIL AND GAS LEASING

IMPROVEMENTS ALREADY IMPLEMENTED

1. Elimination of qualification checks for each lease application.—This change by the DOI eliminates paperwork requirements from the applicant. Prior to the elimination of qualification checks on February 26, 1982, excessive paperwork was required by the Government to issue a lease or to approve assignment of an existing lease. The cost to the public to comply was in the millions. The cost to the Government in terms of personnel needed to review, and the time spent reviewing these documents was also excessive.

The change also reduces the time it takes to adjudicate a lease application by at least 15 percent. Time lost by industry waiting for leases to be issued was also costly and acted as a deterrent to timely exploration and subsequent development of the area under lease.

A third benefit is the reduction in the time it takes to adjudicate lease assignments by about 75 percent. As with time lost waiting with lease applications, waiting for assignments to be approved was costly and effectively discouraged new exploration and continued development of old areas. Elimination of qualification checks prior to lease issuance or prior to approval of assignments does not eliminate the requirement that those who hold interests in Federal leases be qualified. All applicants must certify that they are qualified. To assure compliance, the DOI is establishing a system of spot checks.

2. Broad use of Categorical Exclusion Review (CFR) Prior to lease issuance.—Previous procedures required that the environmental analysis prior to lease issuance include a field examination. Experience revealed that proper planning would allow the requirements of the National Environmental Policy Act (NEPA) to be met without field examination for approximately 80 percent of lease applications.

Starting in 1981 the CER process has allowed lease issuance to proceed at a faster pace without any negative impact on the environment. When the CER reveals that additional information is required, a full scale environmental assessment is performed.

3. Automation of Simultaneous Oil and Gas (SOG) drawings.—Prior to January 1982 the SOG program required applicants to submit a separate application for each parcel.

The new system, which will extend to all offices by November 1, 1982, allows applicants to complete a single application form for all parcels under the jurisdiction of a regional (State) office. These applications are machine read and the information recorded. A computer then generates a random number that determines the winner for each parcel.

This streamlined system virtually eliminates the possibility of manipulating the drawing. It also reduces the paperwork required to submit an application and reduces government expenditures by reducing staff time required to operate the program. When conversion is fully completed all applications will be directed to a single office (BLM, Wyoming SO) rather than 11 offices.

4. Revenue Enhancement.—At the Secretary's direction the filing fee was raised from $25 to $75. The filing fee was $10 until October 1, 1981, when it was raised to $25 by the Omnibus Budget Reconciliation Act. The major impact will be on revenues generated by the Simultaneous Oil and Gas (SOG) Program. Estimated SOG revenue increases are in the range of $20–50 million.

Annual rentals for leases obtained through the SOG programs have been increased from $1 per acre to $3 per acre starting in the 6th year of the lease. While the increased revenues will not be realized until FY 1987 the increase also serves to encourage diligent oil and gas development before the increased rentals take effect.

5. Contingent Right Stipulation (CRS).—Implemented on March 5, 1982, the CRS will permit a lease to be issued with the concurrence of the lessee but defers full environmental review until such time as development is proposed through an application for permit to drill (APD). At that time, the environmental review could result in lease cancellation if it is determined that drilling would be environmentally inappropriate. Although few uses of the CRS are expected it will allow the lessee greater flexibility in putting together a drilling venture if a lease is issued.

IMPROVEMENTS IN PROCESS OF BEING IMPLEMENTED

1. Improved Coordination.—Better coordination among Bureau of Land Management, U.S. Forest Service and the Minerals Management Service in relation to processing applications for permit to drill. This increased cooperation establishes a 30-day turn around time to issue these permits so that exploration activities can be expedited. Additionally, greater *local* supervision of drilling operations allows for improved efficiency of drilling operations.

2. Automation.—The Bureau of Land Management is initiating the automation of all lands and minerals records. This will provide the public, as well as private industry, faster and more efficient access to all records. It will lead to issuing leases much faster because it will simplify recordkeeping.

3. Use of standard stipulations.—A wide variety of lease stipulations that address various environmental and social considerations are being standardized so that leases can be issued more expeditiously. Thus, industry will know what these stipulations are before making an offer to lease. About 90 percent of leases that are issued are never subjected to any exploratory work so standard stipulations save time in not having to work up site specific stipulations for all leases. Site specific stipulations can then be developed when the application for permit to drill is received.

[4] The most recent available data.

4. Develop a combined lease form.—A lease form that can be used for various segments of lands will simplify the leasing process. A multi-purpose form will replace the *five* individual lease forms presently used for noncompetitive and competitive leasing on public domain and acquired lands. This will simplify interpretation; save storage space; save printing costs; and speed up lease issuance.

5. Standardize decisions on lease applications.—The preparation of standardized, pre-printed decisions are prepared faster and allows for nation-wide uniformity in rendering decisions. Interpretation will also be simplified as the standardized decisions will be developed with clarity as a primary goal.

MAJOR 3100 REGULATION CHANGES AS PROPOSED JUNE 30, 1982

The regulations in 43 CFR Parts 3000 and 3100 have remained unchanged except for an occasional amendment since 1947. This revision is designed to make them easier to read and understand, while removing burdensome and counter-productive provisions. In addition, the proposed rulemaking:

1. Contains provisions to facilitate an oil and gas leasing program for non-North Slope Alaska as authorized by the Alaska National Interest Lands Conservations Act;

2. Excludes the acreage covered by a lease offer or an overriding royalty interest in computing total acreage charged to a lessee for Federal acreage limitation purposes;

3. Deletes the prohibition on the leasing of public domain lands within one mile of a naval or national petroleum or helium reserve;

4. Sets forth for the first time in regulation form the procedure to be followed in issuing Federal oil and gas leases for lands under the jurisdiction of a Federal agency outside the Department of the Interior;

5. Provides that only one application be selected in simultaneous oil and gas lease drawing rather than three applications;

6. Defines "reasonable diligence," which is necessary to support a petition for the reinstatement of a lease, to include the mailing of a rental payment so that it is postmarked on or before the date it is due;

7. Gives the Secretary authority to cancel overriding royalty interests for gas production which are in excess of 17½ percent when aggregated with the royalty interest retained by the United States.

8. Allows designated operators to post drilling lands;

9. Eliminates the requirement for separate State-wide Bonds for public domain and acquired lands;

10. Provides for leasing in units of National Wildlife Refuge System in Alaska, except the Arctic National Wildlife Refuge, if such leasing is not incompatible with the purposes for which the unit was established;

11. Allows fractional interests in lands to be leased to any qualified lessee;

12. Exempts lands in expired, terminated, cancelled or relinquished leases in Alaska from simultaneous oil and gas leasing procedure;

13. Establishes a permitting system for geophysical exploration in Alaska;

14. Eliminates the requirement that requests for the approval of assignments of oil and gas leases be filed with BLM within 90 days after execution.

Mr. McCLURE. In regards to the Congressional Budget Office (CBO) analysis of the revenue impact of the amendment of Senator BUMPERS, I would first like to note that a recent GAO study on the same leasing proposal concluded that "our analysis * * *, as well as a recent study by the Interior Department, suggests that a competitive system might not bring in a significant amount of revenue and may actually not even offset losses in filing fees now obtained through noncompetitive leasing." It is clear that the trouble the General Accounting Office (GAO) had in making a definitive revenue estimate is due to the inherent uncertainties surrounding such a fundamental change to the onshore oil and gas leasing system.

In making their revenue estimates, the CBO acknowledged this problem stating that "it should be noted that any estimates of the acreage leased and the bonuses received (under this proposed system) are highly uncertain"; it is my opinion, therefore, that the CBO's revenue estimates should be taken as being equally uncertain. For example, the CBO calculated that "a $5 change in the bonus payment assumption would change the estimated gross Federal receipts by $270 million over the 5 years." In other words, if the CBO bonus payment assumption is $5 too high, which I might note the CBO report acknowledged is entirely possible, then instead of resulting in a $40 million increase in Federal revenues, Senator BUMPERS' amendment would result in a $95 million reduction in current Federal revenues.

Another key assumption of the GAO analysis is that during the initial 5-year period leasing will continue at its historical level. In my opinion, this assumption is tenuous at best: the same GAO study I cited before concluded that the leasing system proposed by the amendment "could very likely result in considerably less land under lease * * *." My back-of-the-envelope calculations indicate that if the CBO leasing rate assumption is only 10 percent too high, then actual revenues will be $180 million less than CBO has estimated.

The CBO analysis also assumes that there will be no leasing moratorium during the implementation period. It is assumed that the current system will end on one day, and the new system will start up at full speed the very next day. I do not think that anyone believes that the system of onshore leasing proposed by Senator BUMPERS' amendment could be implemented very quickly. Again my back-of-the-envelope calculations indicate that if there is but a 6-month delay in implementing the new leasing system, the result would be an additional reduction of $280 million of revenues.

And it should be noted that the CBO analysis, by focusing only on revenues collected over a 5-year period, grossly miscalculates the revenue picture over the long term. It must be kept in mind that it can take anywhere from 18 months to 3 years under normal circumstance to put a tract which has been leased into actual production. It is only when production commences that the Federal and State governments begin to collect royalties from production. The current onshore leasing system provides for a 12½-percent royalty rate on oil and gas produced from noncompetitive leases, and for tracts leased competitively the existing system provides for a sliding scale royalty beginning at 12½ percent and ranging up to 25 percent based on production. Thus, the CBO analysis, by focusing only on the initial 5 years of the program, ignores the vast majority of the revenues which are collected from producing leases. Between 1920 and 1980 onshore leasing on Federal lands has generated about $4.2 billion in revenues; of this amount about $3.6 billion, or 86 percent of the total, is accounted for by royalty collections. Thus, by looking only at the short-term impact of the proposed leasing system, the CBO ignores 86 percent of the total revenue impact of modifying the leasing system.

The Department of the Interior also questions the CBO findings. Secretary Watt, in a letter to me dated July 15, states that "The conclusions reached by CBO are based upon extremely optimistic assumptions which we believe are in error. BLM projections * * * based upon more realistic assumptions * * * suggest actual revenue losses of $122 million in fiscal year 1983 and $146 million in fiscal year 1984 resulting from implementation of an all-competitive onshore oil and gas leasing program."

Moreover, Secretary Watt goes on to note in his letter that the "analysis of the Bumpers amendment must include consideration of the anticipated anti-competitive impacts of the proposed leasing program, the direct conflicts with the goal of American energy independence, and the potential adverse effect an all-competitive system would have on small, independent operators. In view of these factors," the Secretary goes on to note, "we must again express the administration's strong opposition to the Bumpers amendment to S. 1867."

Mr. President, since it is evident that this CBO analysis is faulty and cannot be counted upon for reliable revenue estimates, it should not form the basis for any of our deliberations here today.

Mr. President, I ask unanimous consent that the letter from Secretary Watt and its attachment be made part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 15, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to your request, enclosed is an analysis of the July 14, 1982, Congressional Budget Office (CBO) letter to the Honorable Henry M. Jackson regarding projected revenue from establishing an all-competitive oil and gas leasing program for onshore Federal lands. The enclosed report from the Director of the Bureau of Land Management (BLM) outlines our response in detail.

As demonstrated in BLM's report there are great variances among methodologies used to determine such revenue estimates. The conclusions reached by the CBO are based upon extremely optimistic assumptions which we believe are in error. BLM projections are based upon more realistic assumptions and suggest actual revenue losses of $122 million in FY 1983 and $146 million in FY 1984 resulting from implementation of an all-competitive onshore oil and gas leasing program.

Projected losses from the elimination of filing fees currently collected on simultaneous and over-the-counter leases account for a good deal of the difference in CBO and BLM figures. CBO based its figures on an estimated 1.5 million filings per year. Based on the March and May 1982 sales, the first sales for which the $75 filing fee was effective, this figure is probably a reasonable estimate.

However, BLM anticipates a gradual increase in the number of filings for each successive sale, reaching a level of approximately 2.5 million for fiscal year 1983 and fiscal year 1984. An increase was, in fact, realized between the March and May filing periods. This was in the context of fee increases from $10 to $75 in a period of 6 months which naturally generated some degree of resistance to such an increase. We can anticipate that such resistance will not persist. In addition, as the fraud and abuse that has plagued the onshore leasing program for so long is eliminated as a result of these increased fees, serious developers will sense greater potential for success in a more manageable program and will come back into the market.

Recognizing the great uncertainty of revenue impacts, analysis of the Bumpers amendment must include consideration of the anticipated anticompetitive impacts of the proposed leasing program, the direct conflicts with the goal of American energy independence, and the potential adverse effect an all-competitive system would have on small, independent operators. In view of these factors, we must again express the Administration's strong opposition to the Bumpers amendment to S. 1867.

Sincerely,

JAMES G. WATT,
Secretary.

Enclosure.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Washington, D.C., July 15, 1982.

Dr. ALICE RIVLIN,
Director, Congressional Budget Office, Washington, D.C.

DEAR DR. RIVLIN: This letter provides information regarding oil and gas receipt projections for fiscal years 1983 and 1984 under various leasing program assumptions as requested by Congressional Budget Officer staff. One of the questions refers to establishing a totally competitive leasing system. As the analysis below indicates, a totally competitive system will significantly reduce the amount of lands which can be leased. The difference between the lands that can be leased competitively and the more marginal or higher risk lands that can only be leased noncompetitively represents foregone drilling opportunities and foregone production. This, in turn, represents foregone Federal and State revenues in the form of taxes, rents, and royalties which would otherwise occur following fiscal year 1984.

We believe that the best approach is one that provides a mix of competitive and noncompetitive leasing as required by current law. The Bureau of Land Management (BLM) and other bureaus of the Department of the Interior are evaluating various mixes of oil and gas leasing programs to find one or more combinations that will provide improved production, increased Federal and State revenues, and support to the domestic industry in an efficient and environmentally sound manner. One aspect being evaluated is a change to the definition of known geological structures. This would increase the acreage available for competitive leasing.

Question 1. If the oil and gas leasing program were a totally competitive program, what would be the dollar change in oil and gas revenues in fiscal year 1983 and fiscal year 1984?

Answer 1. Current noncompetitive leases are issued either by Simultaneous Oil and Gas Leasing (SOG) or Over-the-Counter-Leasing (OTC). The estimated changes in fiscal year 1983 and fiscal year 1984 revenues resulting from the institution of a totally competitive oil and gas leasing system would be derived based upon the assumptions that follow. It should be noted that the net revenue change is extremely sensitive to changes in the assumptions (e.g., bonus bids, number of leases issued, etc.). The assumptions that follow represent our best estimate and include ranges in an attempt to account for their sensitivity.

General Assumptions:

1. *Starting Point.*—This analysis assumes that the totally competitive leasing program would be instituted at the beginning of FY 1983 and that only tracts which would be either offered under the SOG system or applied for under the OTC system after the beginning of FY 1983 would be affected.

2. *Lease Size.*—This analysis assumes that the maximum lease size under the competitive system, which would replace the current SOG and OTC systems, would be the same as that currently allowed under the noncompetitive system, i.e., 10,240 acres per tract.

3. *Bonuses.*—This analysis assumes that bonus bids will be equal to the amount per acre presently being paid for assignments of noncompetitive leases, the only current market measure.

4. *Rents.*—This analysis assumes that past policy of maintaining rents at a low level to encourage leasing and exploration of "wild cat" areas will be continued and that rents will be held at the current noncompetitive rate of $1/acre/year.

5. *Royalties and Taxes.*—This analysis assumes that FY 1983 and FY 1984 royalty and tax revenues will not be affected by adopting a totally competitive leasing system since significant production (and, therefore, tax and royalty revenue) cannot be expected within the first 2 years that tracts are under lease.

Assumptions Specific to Tracts Expected to be Leased Under the SOG System:

1. *Bonus.*—According to the Department of the Interior's (DOI) Final Regulatory Impact Analysis of Options to Change the Application Fees and Rental Structures of the Noncompetitive Portion of the Federal Onshore Oil and Gas Leasing Program (the Impact Analysis), January 1982, many SOG leases are assigned for average values of approximately $75 to $100 per acre. The assignment market is the only private market measure for the value of Federal noncompetitive leaseholds. However, the data used in the Impact Analysis came from 1981, a time of higher petroleum demand, lower supply, higher prices and revenues, and more exploration activity than this year, or prospectively the next 2 years. Additionally, the assignments considered in the Impact Analysis were made 3 to 24 months after the issuance of the leases. Many of the prices for such lease assignments were substantially increased by information or discovery, drilling, blocking, unitization, etc., that were unavailable at the time of lease issuance, all of which enhanced the value of the lease assigned.

To adequately act as a surrogate for competitive lease price for the next 2 years, the lease assignment price estimate in the Impact Analysis must be discounted to account for the major changes in the market conditions as well as for the time/information value added to the assignment after the lease was issued. We estimate the actual 1983–84 average assignment price will be $25 to $50 per acre at the time of leasing. We feel that this range provides a more realistic surrogate price for competitive leasing.

2. *Expected Number of SOG Tract Offerings.*—Based upon the number of SOG tracts offered so far during FY 1982, it is assumed that 7,000 new SOG parcels would be offered annually during FY 1983 and FY 1984.

3. *Lease Size.*—According to 1982 data, SOG lease size has averaged almost 1,400 acres per tract. It is assumed that SOG tracts offered during FY 1983 and FY 1984 would also average 1,400 acres per tract.

4. *Expected Number of SOG Filings.*—The proposed FY 1983 budget for BLM assumes an estimated 2.5 million SOG filings for FY 1983. According to the Impact Analysis, between 1.9 and 3.3 million SOG filings would be expected annually under the current SOG system.

5. *Percentage of SOG Tracts to be Leased Competitively.*—The DOI's Impact Analysis provides an estimate that only one-quarter (25 percent) to one-third (33 percent) of SOG tracts are actually subject to transactions in the assignment market. This analysis assumes that this range is a reasonable estimate for the percentage of SOG tracts which could be leased competitively.

Assumptions Specific to Tracts Expected to Receive Applications Under the Current OTC System:

1. *Bonus.*—Based upon the competitive leasing experience for similar tracts offered on State and Indian lands, this analysis assumes that an average of $10 per acre is a reasonable estimate for the average bonus per acre that could be expected from OTC tracts.

2. *Expected Number of OTC Applications.*—For purposes of analysis, we have assumed that 6,000 new OTC leases would be issued in 1983 and 1984.

3. *Lease Size.*—For FY 1981, the size of noncompetitive oil and gas tracts averaged approximately 2,100 acres per tract, a new

100 percent increase over the average size for 1980. This analysis assumes that an average of 2,200 acres per tract can be maintained for FY 1983 and FY 1984. Accordingly, given previous assumptions regarding the expected number of SOG offerings, SOG average tract size, and the expected number of OTC applications, this analysis assumes an average size of 2,750 acres for new OTC tracts.

4. *Percentage of OTC Tracts Expected to be Leased Competitively.*—As stated previously, this analysis assumes that one-quarter (25 percent) to one-third (33 percent) of SOG tracts would be leased competitively. It is assumed that this range is also reasonable for OTC tracts which are expected to provide an average bonus of $10 per acre.

Calculations:

Federal revenue increases for FY 1983 and FY 1984, due to the adoption of an all competitive leasing system, would result solely from bonus bids. If the actual bonus per acre received for SOG tracts approximates the low end of the assumed range, $25, and only 25 percent of SOG tracts are actually leased competitively, annual bonus receipts from SOG tracts would equal $61.25 million (7,000 leases × 25 percent × 1,400 acres/lease × $25/acre=$61,250,000). Alternatively, if the average bonus per acre reaches $50 and 33 percent of the SOG tracts are leased competitively, annual bonus receipts from SOG tracts would reach $161.7 million (7,000 leases × 33 percent × 1,400 acres/lease × $50/acre=$161,700,000). Similarly, the annual range of receipts for OTC tracts is $46.50 million (6,000 leases × 25 percent × 3,100 acres/lease × $10=$46,500,000) to $61.38 million (6,000 leases × 33 percent × 3,100 acres/leases × $10/acre=$61,380,000).

The adoption of a totally competitive leasing system would lead to losses in FY 1983 and FY 1984 of rental and filing fee revenues. If only 25 percent of the SOG tracts were leased, FY 1983 and FY 1984 rental losses, because of the 75 percent not leased, would reach $7.35 million and $14.7 million, respectively. Similarly, FY 1983 and FY 1984 OTC rental losses would reach $16.1 million and $32.2 million, respectively.

Alternatively, if 33 percent of SOG and OTC tracts were leased competitively, FY 1983 and FY 1984 rental losses would be $6.566 million and $13.13 million, respectively, for SOG tracts, and $12.596 million and $25.19 million, respectively, for OTC tracts.

Annual filing fee losses for SOG tracts would range from $206.25 million (2.75 million filings × $75 per filing) to $187.5 million (2.5 million filings × $75 per filing). Annual filing fee losses for OTC applications are approximated by $.45 million (6,000 applications × $75 per application).

These calculations are summarized in tabular form as follows:

[Millions of dollars]

Source	Fiscal year 1983	Fiscal year 1984
Bonus (SOG)	+61.25 to +161.70	+61.25 to +161.70
Bonus (OTC)	+46.50 to +61.38	+46.50 to +61.38
Rental (SOG)	−7.35 to −6.57	−14.70 to −13.13
Rental (OTC)	−16.10 to −12.596	−32.20 to −25.19
Filing fee (SOG)	−206.25 to −187.50	−206.25 to −187.50
Filing fee (OTC)	−.45	−.45
Net revenue change (SOG & OTC)	−122.40 to +15.964	−145.85 to −3.19

Question 2.—If all royalty rates for onshore and offshore production were set at 16⅔ percent, what would the dollar effect be on royalty receipts in FY 1983 and FY 1984?

A 16⅔ percent royalty is the predominant royalty for OCS leasing. However, since 1974 we have been experimenting with alternative bidding systems for more than the 20 percent statutory minimum of the acreage offered. About 20 percent of existing leases have higher contingencies than a 16⅔ percent royalty. About 60 tracts have been leased in deep-water, high-cost, high-risk, regions at a 12½ percent royalty in order to encourage leasing interest and production. These leases have been issued recently. We do not expect production and, therefore, royalties until 1988 at the earliest. If we were to change our policy and always charge a minimum of 16⅔ percent in these deep waters, or high-cost areas, for upcoming lease sales, production would not be expected until about 8 years after a particular lease sale. Based on our simulation model, a 12½ percent royalty reduces the minimum developable field size by about 14 percent in high-cost areas and improves the chances of attracting leasing interest. If we were to fix a 16⅔ percent royalty in these deep water areas, bonuses would decrease, and this may slightly reduce revenues in fiscal year 1983 and fiscal year 1984.

Onshore.—Even if all royalty rates for onshore production were set at 16⅔ percent, the net change in royalty receipts would be virtually zero in fiscal year 1983 and fiscal year 1984. Four factors account for this: First, the rate change would, in equity, apply only to leases issued after the law was enacted. Therefore, no drilling can proceed until after the lease is issued (late fiscal year 1982, early fiscal year 1983). Second, virtually no production can be expected for *at least* 2 years even on competitively leased tracts. On noncompetitively leased tracts, much more time generally elapses (5-10 years) before production, if any, is begun. Third, even when production does begin, it will probably begin first in the type of the tracts currently leased competitively. On such tracts (about 2 percent of the current total leased), the effective average rate under the sliding scale royalty system is 13.8 percent, because they are the tracts more likely to produce at all and to produce above the minimum level of 50 barrels a day. In general, this will mean that even in the third and fourth years the increase over the current per barrel royalty rate will be less than 2.9 percent on nearly all new production rather than 4.2 percent. Finally, there are indications in recent models that there would be some reduction, even in the short run, in the number of producers operating at the margin and that an increase to 16⅔ percent may produce a net change of zero in royalty receipts in the long term as well as the short term.

Sincerely,

ROBERT F. BURFORD,
Director.

Mr. McCLURE. Mr. President, rather than take the time to reiterate all of the points that have been made in the materials which I have submitted to the RECORD, let me suggest that the analysis which has been relied upon by the Senator from Arkansas, that being the analysis by the Congressional Budget Office, notes in its study that its revenue estimates are based on assumptions which CBO itself characterizes as highly uncertain.

The CBO study notes that if its bonus payment assumption is high by only $5, then rather than resulting in increased revenues to the Government, the proposed leasing system would result in an actual loss of revenue.

The recent GAO study on the same leasing proposal, which I mentioned, also concluded that the proposed leasing system might result in a loss of revenues.

A Department of the Interior analysis of the amendment of Senator BUMPERS found:

> The conclusions reached by CBO are based on extremely optimistic assumptions which we believe are in error. BLM projections . . . based on more realistic assumptions . . . suggest annual revenue losses of $122 million in fiscal year 1983 and $146 million in fiscal year 1984. . . .

Just minor changes in the CBO assumptions change radically the CBO conclusions, and I will give an example. If the CBO leasing rate assumption is 10 percent too high, then actual revenues will be $180 million less than CBO estimates.

A second example. If there is a 6-month delay in implementing the new leasing program which results in a 6-month leasing moratorium, there will be a $280 million reduction in revenues.

Finally, Mr. President, as the CBO analysis focuses only on revenues collected during the initial 5-year period, it grossly miscalculates the long-term revenue picture by as much as 86 percent.

Mr. President, it seems to me that we ought to be focusing now not upon what is received with respect to the rental but how much is received with respect to the combination of rentals and filing fees.

I do not have the figures at my fingertips, but I remember testimony before us that the dollar amount collected per acre in rentals plus the amount collected in filing fees is far in excess of the amounts which have been given by the Senator from Arkansas as receipts, because his receipts are based only upon historical rental and filing fees and ignore that the rental fee has been changed, and that the filing fee has been increased from $10 to $75. Therefore, the current per acre revenue combination of filing fee and rental fee is far higher now than it was at an earlier period.

Finally, Mr. President, the real income from minerals that are produced from Federal lands lies in the royalties collected and not in either the filing fee or in the rental fee.

It should be remembered that the one area in which there is no argument about competitive leasing lies in the known geologic structure areas. In those instances there is competitive bidding because it is not as speculative as the frontier areas which are wildcatters' areas. We want drilling in that wildcatting area and we have tried to make it easier for people to drill there

by making it less costly for them to get in.

Eighty-six percent of total revenues the Government collects from onshore oil and gas leasing comes from royalty collections which begin when the tract is put into production, which can be from 18 months to 3 years after the date of leasing. They are not—I repeat, not—principally from either the filing fee or the rental fee. They come from production royalties. If it is production we are after, then we should have a leasing system that promotes production, not inhibits it. That, I think, is the fatal error in the Bumpers amendment, as I see it, it would inhibit that kind of wildcatting in the frontier areas.

If there is an error made at Fort Chaffee, it may have been that the error springs from the definition of a known geological structure. As a matter of fact, we have taken a look or two at trying to change the definition of a known geological structure so that we would not have noncompetitive bidding in an area where it is likely that oil and gas would be found, leaving the more open filing for the frontier areas where the wildcatters alone will take the risk, based upon the highly speculative nature of whether they are going to find anything when they do drill.

If they are going to continue to explore and increase the drilling activity and increase the production—and it is production alone that brings in royalties, and royalties are 86 percent of total revenues from onshore oil and gas—then I think we should want a system that stimulates that speculation and activity. Activity which is the wildcatters' activity, the independents' activity, in the areas that are not known as being oil and gas producing areas.

For all those reasons, even though this is a perplexing matter to the Senator from Idaho, the experts have convinced this Senator that we should give the current system a try, before we decide that it is failing. And that we should take a look at the definition of "known geological structure," rather than assuming that the only fix for something like what may have happened at Fort Chaffee is to adopt an all-competitive leasing system, which I believe all the evidence indicates would inhibit the exploration and development of the so-called frontier or unknown areas.

Mr. President, I have put in the RECORD, with my statement, letters of opposition by the Secretary of Energy and the Secretary of the Interior. I suggest to my colleagues that the administration, after thorough analysis of all the alternatives, has come out in strong opposition to the amendment of the Senator from Arkansas. I hope it is not agreed to.

Mr. WALLOP. Mr. President, I reserve the remainder of my time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I mentioned a moment ago the discovery that this 33,000-acre tract in Fort Chaffee had been leased for $1 an acre. The first thing I want Senators to understand is that nobody even paid a $75 filing fee. They just walked in, put down $33,000, and got it.

The second point I want to make is that the part you see in green, which a year later they decided to let competitively, that one tract, 24,000 acres, brought more money than any other noncompetitive leasing system in the whole United States in 1979.

Here is a little excerpt from the hearing we held on this Fort Chaffee lease. The man from the U.S. Geological Service was Mr. Johnson.

Senator BUMPERS. And you are telling us that based on that map right there, you don't presume that any of that land in there is productive?

Mr. JOHNSON. The noncompetitive area, that is right, or I would have put it in known geologic structures.

Senator BUMPERS. According to the criteria to sphere of influence, you don't think any of that land would be influenced by the fact that there is gas all around it?

The only reason in the world that hasn't been leased is because it wasn't available for leasing before, and you don't think that that is even within the sphere of influence of any of that structure that has got hundreds of gas and oil wells around it?

Mr. JOHNSON. We put in adjacent sections which were not productive.

Senator BUMPERS. Every time there was a well drilled you moved over one section?

Mr. JOHNSON. Right.

That is some system. And that is the system that is being defended. That is the system about which they say, "Let's just give it a little while longer. Let's give it a try." We have been trying it since 1920.

I do not know how much land was leased last year on that first-come-first-served basis for a dollar an acre and how much actually went into the lottery. But bear in mind that when you are talking about how much revenue the United States is going to get, you are not talking about every lease being put in the lottery and all these old people in Fort Lauderdale and communities in Arizona being asked to put $75 in the pot in order to get their names put in the hopper. You are talking about a lot of tracts, probably 50 percent of the tracts, in this country going just exactly as the area we see in red, where somebody walks in and gets it for $1 an acre.

The overthrust belt runs through the States of Idaho, Wyoming, Montana. When I first came to the U.S. Senate, I did not know what the overthrust belt was. I never heard of it. I thought it was something you put around your waist.

They say this is the new Prudhoe Bay; this could be bigger than Prudhoe Bay—2 million barrels a day. Nobody has ever delineated the overthrust belt. I have seen it on maps. I do not know exactly how many acres are in it. I heard there are anywhere from 13 million to 20 million acres in it.

But the interesting thing is that here is the section that is considered the last oil frontier in the United States, and it is already 60 percent leased, and almost every acre of it went for $1 an acre. At least, an oil company got it. It was not some sharp operator who is inviting people to give him money through the mail and who puts half of it in his pocket.

If you want to adopt the bumpers amendment, and if you want to protect the independents, about whom everybody around here is so paternalistic, I say give it to them. I promise you that the administrative expense on this is probably more than we are getting out of it.

Why go through this business of asking people all over the United States who would not know a Jersey cow from a gas well to put $75 up to get their name put in the hopper and go through that folderol? They assign it to 20 different people and force some oil company later on to put together an economic unit. Just give it to them.

I would say the American people would applaud that because what we are doing is really a gambling operation. If the people in Fort Lauderdale or Milwaukee or whatever want to make it big, come to Hot Springs and the races. We will take their money. And they might hit it big there.

We love tourists. Why say they are worth a bail of cotton and twice as easy to pick.

The Senator a moment ago said this thing could not be put into effect for less than 2 years.

In 1980 when we were considering S. 1637 we asked the Congressional Research Service to do a study for us on how long would it take to put it into effect and here is the committee report on that. A Congressional Research Service study done at the request of the committee recommends several provisions for avoidance of undue delay in installing a competitive leasing system.

First, no programmatic environmental impact statement.

Second, no tract evaluation.

Third, regular scheduled sales.

Fourth, public nominations.

All four of those things are in my bill. All four of those things that are recommended in the Congressional Research Service in order to get this

thing flying immediately are in this bill.

I think one of the best Senators ever to serve in the Senate, certainly one of my two all-time favorites, was the distinguished Senator from Oklahoma, Senator Bellmon, who was an oil and gas man himself, been active in oil and gas all of his life and comes from one of the big oil and gas producing States in this country. He was the staunchest ally I had in the Senate in trying to get this system put into place.

I just simply ask how can you justify a system that leases 1.5 percent of its land competitively for $310 an acre and the other 115 million acres for $1 and acre based on some kind of an obscure, arcane definition of a known geological structure.

The Senator said a moment ago that the Outer Continental Shelf Leasing Act was not working. I wish I had the debate, I wish I had the RECORD in front of me right now on when we were debating the Outer Continental Shelf because I heard every single argument that I heard here tonight about what it was going to do to the independents. The independents could not compete, the Senator said, because the cost of Outer Continental Shelf drilling was excessive.

There are today 100 independents involved in the Outer Continental Shelf drilling, 100 of them.

It reminds me of Lucy holding the ball for Charlie Brown. We just hear it endlessly as an excuse to do nothing and to perpetuate an immoral, actually illegal system.

How well is that system working? I will tell you how well it is working. Seven and a half percent of all the oil in the United States is coming from Outer Continental Shelf wells; whereas, only 6 percent is coming from onshore. And 24 percent of all the natural gas produced in this country is coming from the Outer Continental Shelf and only 6 percent is coming onshore.

It is an indefensible, reprehensible, in fact gambling operation.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. I yield.

Mr. WALLOP. Where is the other 70 percent coming from? Twenty-four percent is produced offshore, 6 percent onshore.

Mr. BUMPERS. It is coming from private lands. I have three gas wells on my farm.

Mr. WALLOP. All right. That is another story. But that does not quite make the Senator's argument.

Mr. BUMPERS. I do not know why it does not. I am telling the Senate that 24 percent of this Nation's natural gas comes from offshore Outer Continental Shelf. About 6 percent of it comes from Federal lands. The rest of it comes from State lands and private lands. That is not too hard to figure out.

But for God's sake, look at this thing objectively. It is an outrage. It is absurd. It is indefensible.

I wish I were running this fall against someone who was defending this system.

I reserve the remainder of my time, Mr. President.

Mr. PROXMIRE. Mr. President, will the Senator yield to me?

Mr. BUMPERS. I am happy to yield to the Senator.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes.

Mr. PROXMIRE. Mr. President, I rise in support of Senator BUMPER'S amendment on competitive oil and gas leasing.

Frankly, I find it impossible to believe that any Member of this body could oppose an amendment which will bring in $700 million dollars in additional revenues in just the next 5 years alone by relying on competitive bidding.

As I said earlier on the Lugar-Proxmire amendment, at a time when we have a $100 billion deficit we cannot afford to overlook any additional source of revenues, whether from reclamation or from oil and gas leasing.

And keep in mind that of the $700 million which could be recovered, the vast majority would go to the States. How ironic, at the same time that the Reagan administration is pushing the New Federalism on the States, it denies them additional revenues which could be used for this purpose.

Under the present system, a few lucky citizens who pay a $75 filing fee have a chance to win the lottery and reap a windfall at the Federal and State government's expense.

Why should these few lucky individuals, who typically have no intention of actually drilling themselves be able to turn around and sell their good luck at exorbitant rates to the large oil companies?

Why can the oil companies not bid directly for the leases, on a competitive basis and have the proceeds go to the Federal and State governments?

Is competitive bidding not the fairest way to get every penny out of the Federal lands?

The PRESIDING OFFICER. Who desires recognition?

Mr. BUMPERS. Mr. President, I can go on for the remainder of my time. Does the Senator from Wyoming wish to use any more time?

Mr. WALLOP. Did the Senator from Montana wish to make a statement?

I will be happy to shut down. Those who have spoken to me about wanting to make comments on this side are not here. There is no reason to take the time of the Senate any longer. I will just say if they are listening on their boxes, they better come.

Mr. MELCHER. Mr. President, the points that have been raised by my good friend and colleague from Arkansas have some merit in criticism of the lottery system. In addition, the urge to go to competitive bidding on almost any proposal for leasing or selling Government assets or contracts, is almost inherent in our free enterprise system.

What is missing in this case, however, is the real need to make sure that independent oil and gas producers participate in the leasing of Federal land for oil and gas. And the need for that has been proven by the fact that most of the oil and gas discoveries in the United States have been by the independents. They are often referred to as wildcat operations in that they explore and drill in nonproducing areas. They venture into unexplored new undeveloped areas.

While I am well aware that the administration will increase the lease rental per year on Federal oil and gas leases, I would not feel that that would be satisfactory to what my colleague seeks in his amendment.

So, I do not offer that as a rebuttal to his argument. I would only caution the Senate that the system of oil and gas leases we are now using is in place. The system can be improved upon and surely the lottery system offers a lot of opportunity for criticism and should be corrected.

But the competitive leasing of Federal land for oil and gas development would mean one of two things and perhaps both:

First of all, there is a great chance that capital available to larger companies would be used to outbid smaller companies would force out many independents. The major oil companies can afford to bid high and at times sit on the leases without drilling. Second, development, I believe, of what the Senator has been talking about, the overthrust belt, would probably be delayed if the system is changed. It is a long process to find oil and gas in the overthrust belt. It is costly. Each well is costly. But the opportunity for development of that overthrust belt, I believe, is best met with continuing with the present system of leasing with some improvements in it.

I hope the Senate will seriously ponder the remarks of the proponents of this amendment. It does us well to do that, but I hope in the process of pondering them we will come down to the conclusion that it is absolutely essential that we encourage exploration, encourage development where it is practical and where they can meet the land use plans of the Federal agencies that administer these lands. Knowing that we need the resource to be developed, I believe we should leave intact

the present leasing system. I believe we can improve on it, and if so we should and we must. But I do not believe the Senator's amendment for competitive bidding will work in the public interest at this time.

I thank my friend from Wyoming for yielding me the time.

Mr. WALLOP. I thank the Senator from Montana for his remarks, his awareness and sensitivity of the nature of the issue that is here and the nature of the issue is simply production.

Mr. FORD. Mr. President, will the Senator yield me just a couple of minutes?

Mr. WALLOP. I would be happy to yield.

Mr. FORD. I thank the floor manager of the bill.

Mr. President, I have known and liked and revered the distinguished and eloquent Senator from Arkansas, Senator BUMPERS. His eloquence overshadows the facts, and because he is so eloquent it is very difficult sometimes to get under the surface of that eloquence and to really understand the facts as he is trying to present them.

While I am not of the silver tongue that he is, I hope in some way I have gotten underneath his eloquence and understood the facts of his amendment.

I am somewhat surprised, as I developed the facts and look at them, that he is supporting a piece of legislation in favor of the major oil companies. It is my belief and my understanding that if his amendment passes virtually the independents and the small operator which I must represent, because I do not represent the majors in my State, are at an end, and I have to oppose his amendment.

It is significant, I think, when you talk about how many leases have been acquired by independents, and then you look at the size of the independent land acquisition they are about 240 some odd acres. This amendment would allow over 5,000 acres. They may be able to get together and form a consortium and lease one 5,000-acre tract, but after that they are through.

Therefore, I think we are tilting toward the ability of the majors to buy, to hold, and to exclude the independent petroleum operator.

Mr. President, I ask unanimous consent that a letter sent to me by the Independent Petroleum Association of America and signed by their vice president be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA,
Washington, D.C., July 13, 1982.

Hon. WENDELL H. FORD,
United States Senate,
Washington, D.C.

DEAR SENATOR FORD: On July 14 the Senate is scheduled to consider the Reclamation Reform Bill (S. 1867). During the debate on that bill, it is our understanding that Senator Dale Bumpers will offer a nongermane amendment pertaining to oil and gas leasing. The Independent Petroleum Association of America is strongly opposed to Senator Bumpers amendment.

The Bumpers amendment would, in effect, eliminate the current noncompetitive leasing system for oil and gas leases on our nation's public lands. The noncompetitive system, for decades, has been the centerpiece of our nation's effective process of making our public lands available and, in turn, productive for oil and gas development.

The continuation of the noncompetitive system in its current form is essential to independent producers in the mountain states. The establishment of an all-competitive leasing system would put independents at a serious disadvantage to interests with large capital resources. In fact, the term "competitive leasing" is, in reality, a misnomer since, by its very nature would be anticompetitive by foreclosing the opportunity for thousands of smaller producers to participate in federal oil and gas leasing.

According to a recent General Accounting Office study, the noncompetitive leasing system with a vast multiplicity of participants has served to make sizable amounts of land available for lease, provided significant revenue for the Federal government, and has been relatively inexpensive for the government to administer. An all-competitive system would be extremely expensive to administer, would reduce the revenues to the government, would reduce the amount of land under lease, and would severely limit future domestic production of petroleum fuels.

For these reasons, we strongly urge you to oppose the Bumpers amendment to S. 1867.

Sincerely,

LLOYD N. UNSELL,
Vice President.

Mr. FORD. I thank the distinguished floor manager of the bill.

Mr. WALLOP. I thank the Senator from Kentucky.

I understand the Senator from Wyoming wishes to be heard. How much time does the Senator desire?

Mr. SIMPSON. I would not be over 8 minutes, I would take 6 or 8 minutes.

Mr. WALLOP. I yield to the Senator 6 to 8 minutes.

Mr. SIMPSON. I did not think my colleague from Wyoming would do that to me and take the low end of the scale.

Mr. WALLOP. I will be able to make more of an effort with respect to time if the Senator deems it necessary.

Mr. SIMPSON. I am on the correct side, Mr. President.

Let me just say I want to commend my friend from Wyoming, MALCOLM WALLOP, for the manner in which he has floor-managed this legislation in a most capable way, and to commend him. He and I worked together in Cheyenne in the Wyoming Legislature, and it is a distinct pleasure for me to work with him here in this extraordinary place.

Let me say that probably one of the most delightful men I have met in the time here in the U.S. Senate is DALE BUMPERS of Arkansas, a spirited friend of mine.

He will recall with great interest as we carried the water together on the so-called Bumpers amendment, which I really enjoyed. That was in regard to regulatory reform. Certainly that was one of the most significant amendments I think which has come before this body, and, oh, the water we carried together on that particular issue.

I wish I could be as supportive of this Bumpers amendment, but I can assure you that I am not because what we consider today is an important proposal which, as in the past, has been fully debated and rejected.

However, to those in this Chamber who are not from the oil-producing States it could become a very confusing issue. It may seem to some that such competition would attract the largest dollar amount to the Federal Government and would assure that the tract or parcel for drilling would go to the company with the most interest in drilling and the willingness to drill. But often just the opposite is true. It would be—in effect, a noncompetitive bidding—and would mean less dollars to the Federal Government and less wells drilled.

I know it is repetitive, and I have been listening to the debate, and there are those who do not wish to recognize this salient point but, nevertheless, it remains singularly so that the independent oilman drills the vast majority of wildcat wells in this country—and also finds the most new oil. If the independent is forced to use a sizable portion of available drilling funds to bid against the larger firms and companies for lease activity, obviously then the amount remaining for drilling is substantially reduced. This then results in fewer wells drilled and less oil discovered. This in turn translates into less money returned to the Federal Government in the form of royalties and taxes and less petroleum produced for our Nation's energy needs. Critics of the present system state that the Government does not receive a fair return on the noncompetitive lease. The allegation is refuted by the Interior Department. In the past the Federal Government has collected $100 million annually in rentals and filing fees on noncompetitive leases. In addition, the Department of Interior has recently raised the filing fee to $75, meaning even higher revenues. Rental rates for the second 5 years of a lease term were also increased.

The 1980 GAO study reports that the simultaneous leasing program is successful, and more productive than the so-called competitive leasing. It is the possibility of finding oil in major quantities that makes these independents willing to risk their time and money on Federal lands exploration.

Remove this possibility for success and you destroy the incentive to explore.

Moreover, it is the independent landmen and geologists who over the years are most actively involved in putting together a package of lease plays and the promoting frontier areas of exploration and development. They frequently spend many years and hundreds of thousands of dollars studying untested areas, buying up leases or attempting to acquire important lease tracts through the simultaneous filing system, and also making annual rental payments, all the while as they attempt to locate companies who may be interested in buying the lease or conducting exploratory drilling programs upon it. They also conduct surface geologic studies and have seismic tests conducted, in order to evaluate the prospect—none of this an easy or inexpensive undertaking.

Since the payment of bonuses or broker fees removes money from circulation that would otherwise be available for geologic and geophysical work, exploratory drilling, and production operations—it is important that lease acquisition payments bring the company some of this data and information rather than just having a lease. Thus, the argument that noncompetitive leases generally provide the Government with far less money than do competitive leases ignores a very critical element in the onshore leasing and exploration picture. What is more important is the critical role which these independent geologists and landmen play in initiating and encouraging exploration. The major companies have large land and geology staffs, and expend immense amounts of time and money assessing areas and acquiring leases. The Nation's thousands of small independent companies depend most heavily or even exclusively on these independent geologists and landmen to fulfill this same function. Certainly, I do not believe it would be the Senate's intent to make it even more difficult for America's independent producers and small businessmen to function profitably, or even simply to stay in business.

The risk-takers of this Nation should be encouraged, not discouraged. The Government must not penalize the skillful operator. Just as in the case of real estate, stocks upon the open market or new consumer products, it is the chance of making a suitable living in the energy field that encourages people to invest their time and money and fiber and faith in the development of frontier areas and new technologies.

I just do not feel we can afford to destroy those incentives or create precedents that might be applied just as illogically to other industries where we find the person in the role of the risk-taker attempting to earn a respectable return on his investment.

I, therefore, urge the defeat of the amendment.

I thank my colleague from Wyoming for yielding this time.

Mr. BUMPERS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 17 minutes and 36 seconds remaining.

Mr. BUMPERS. Mr. President, here is one of the brochures that the service corporations send out. This is the one I alluded to earlier.

Here is Mobil and Exxon in this big muscular arm here. It says:

How would you like to match muscle with the majors . . . and win big! You've got as good a chance to win a lucrative oil and gas lease as any of the majors in the U.S. government's Lease Acquisition Drawings. We're not talking about some risky wildcat drilling operation. We're talking about little-known federally-managed monthly Drawings in which the prizes are ten-year oil and gas leases that will increase dramatically in value with decontrol. And the entry is a tax-deductible filing fee.

After you win, we offer you free services that help you maximize your profits.

Now, understand this is not going out to the independents. This is not going to Mobil and Exxon. This is going to little retirees, little gray-headed women in tenny-pumps.

Energy Filing Corporation is committed to buy your lease.

You understand they are not in the drilling business, either. They say, "We will buy the lease."

Continuing quoting from the brochure:

So you have a guaranteed sale at a price stated before each Drawing. But you are not committed to sell. You may keep your lease as an investment (values have increased with the price of oil) or offer it to the highest bidder. In either case we will furnish geologic and market information free of charge to help you realize top dollar.

Now, if you win, you may be able to sell that lease that you gave $1 an acre for $200, $300. That is what the real value of the lease is, but the United States is not getting it. It is the speculators that are getting it. It is not the independents who are getting it. It is the speculators who get it.

The Governor of my State is absolutely panic-stricken about how he is going to raise money for education.

That Chaffee lease—and I thank the Senator from Idaho for helping me on that. I got a bill through here to return half of the money from that lease to the State of Arkansas because when we made military reservations eligible for leasing we forgot to return half of that money to the States as we do the other 822 million acres of mineral land the United States owns. And I thank him for that.

But let me tell you one other thing. The Interior Department says they think they can raise as much as $140 million since they have raised the filing fee to $75. But do you know how much of that is going to Idaho and Wyoming and Arkansas? Not 1 red cent, because it is a filing fee. It is not a bonus bid, it is not a rental, and it is not a royalty.

In addition to that, all the money the speculators are going to get that win those leases and sell them for 10 or a thousand times more than they paid for them, do you know how much Idaho, Wyoming, and Arkansas is going to get of that? Not 1 red cent.

If you make this a competitive bidding system—and the Congressional Budget Office did a study, just completed 2 days ago, that says there will be an additional $640 million come into the Treasury in the next 5 years as a result of the passage of the Bumpers amendment; $600 million of that will go to Idaho, Wyoming, Nevada, Virginia, Kentucky, and Arkansas. Tell your Governors and mayors and county executives that you just voted against sending them $600 million over the next 5 years. They will love you for it.

Mr. President, the Congressional Budget Office bases that on the assumption that at least one-third of the acres will sell for $60 an acre. The Senator from Idaho has suggested that may be high. Well, is it? The land which we put up now in competitive bids is bringing $310 an acre. Is it not reasonable to assume that at least one-third of the balance of the land will bring $60 an acre? That seems legitimate to me.

No one here is quarreling with the fact that the independents are the ones who wildcat and explore and find the oil and gas in this country. Not me. I know that is true.

But nobody has argued with the irrefutable fact that 86 percent of all the leases let competitively by the Bureau of Land Management is going to those independents. Nobody has denied that. Nobody has defended the definition of a known geological structure. Nobody had defended the fiasco at Fort Chaffee. Nobody has suggested that not only did that happen but it can happen again and again and again, and will.

Nobody has challenged the Attorney General's memorandum in 1979 that this is probably a violation of the criminal laws of the United States. Nobody here is defending the proposition that we ought not to give the U.S. lands away to speculators or that we ought not to give land away for $1 an acre. What everybody seems to be defending is the system under which that can happen.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I yield myself 1 minute.

I would simply say that I can understand the Senator's dismay at what

took place at Fort Chaffee. It took place under a Democratic Secretary of Interior and President. Secretary Watt has put into place a series of changes in that in which that could not happen now, using existing law. It is an administrative change, albeit, but it could not and would not happen now.

Before we change all the process and throw out the independents and the productive capability of this country with the bath water, calling that the baby, I would suggest that we think very carefully and think twice.

Mr. President, I am happy to yield to the Senator from Alaska.

Mr. STEVENS. I thank the distinguished manager of the bill.

Mr. President, I join the distinguished chairman of the Senate Energy Committee and others in opposing the amendment offered by the Senator from Arkansas. As I understand this amendment, it would establish an all-competitive leasing mechanism for onshore oil and gas leasing which would include bidding only in structured competitive lease sales; larger lease tracts; shorter lease terms; higher rental fees and other conditions. While this may sound appealing on the surface, the result would actually be counterproductive. I am convinced that this amendment would actually decrease oil and gas acreage under lease and available for exploration and ultimately, decrease domestic production.

In 1980, after an exhaustive study, the General Accounting Office advised against legislation which was similar to this amendment. At that time, the GAO concluded that such a leasing system would "very likely result in considerably less land under lease."

Mr. President, the Department of the Interior favors competitive leasing whenever it is feasible. However, the current system allows them the flexibility of encouraging exploration outside known areas of oil and gas by offering leases "over the counter" or through a simultaneous drawing system. Further, with filing fees and rental payments, a noncompetitive lease often generates more revenue that a comparable tract which is leased competitively. Just this year, the Department has increased filing fees and rental fees. This discourages casual speculation in oil and gas leases.

The process of drastic change will in itself cause damage to domestic oil and gas production. In fact, we saw an example of the chaos that can be caused when the previous administration suspended operation of the noncompetitive program more than 2 years ago. At that time, is was complete confusion. For example, in the Rockies we saw local and State offices of the BLM react differently to the guidelines resulting in processing leases under different conditions. The potential disruption of the changes mandated in this amendment could result in years, not months, of delay in issuing any leases.

This amendment would be particularly detrimental to the efforts of independent explorers who operate on relatively low capital. It is generally through these entrepreneurs that exploratory tracts are subjected to prelimination evaluation.

Mr. Douglas L. McCullough, then Deputy Director of the Energy and Minerals Division of the GAO said in testimony before the House:

> We believe it is important to recognize that the present system, while certainly having flaws and inequities pointed out in our prior work, has basically succeeded in making an important contribution to domestic oil and gas production—mainly by making a good deal of land available and continually accessible for exploration and development.

Mr. President, continued aggressive exploration for oil and gas is still crucial to this Nation. I would hope the Senate will not jeopardize this exploration by voting for such drastic and counterproductive changes.

Mr. President, the Bumpers amendment is like shooting yourself in the foot. The problem is it postulates that the great advantage to the Government and to the country is getting more money for the leasing process, which would be counterproductive in terms of increasing domestic production. This argument has been made time and time again on the floor of the U.S. Senate and in the other body concerning the Mineral Leasing Act and concerning the concept of bringing onshore the oil and gas leasing procedures. That is what I understand the Senator's amendment to mean.

While he may have some particular examples of problems that have occurred, they are isolated problems in terms of the long-term history of the United States in the Mineral Leasing Act area since 1920. Actually, the Mineral Leasing Act came about because of a situation in my State where two groups of people had gone to the North Slope to stake claims under the old mining law.

When they returned back to the State of the distinguished Senator from Washington, to Seattle, Wash., where at that time the claims were to be staked, as I understand it, they found the Congress had passed the Mineral Leasing Act because of the problem that Congress thought there would be some great advantage in the staking of claims on the North Slope.

That shows the overreaction of Congress in the past. I wonder what the history of the United States would be if the North Slope production had been discovered in 1920 instead of 1968. That is exactly what this is going to do. It is going to set back exploration onshore in a similar manner, if this amendment were to be adopted. I can think of nothing that would be more counterproductive to the concept of increasing the domestic production of oil and gas than of not having the U.S. Government make its contribution in that regard.

The particular benefit to the country is not from leasing fees but from oil and gas production. The minimum of 12.5 percent of revenues comes to the Government from production. The leasing fees are infinitesimal as compared to the revenues from production.

I really cannot understand the concept of trying to turn back the clock and trying to do away with a system that by and large has brought very favorable results, as far as the Government Treasury is concerned.

Having served with him on the subcommittee, I know the intent of the distinguished Senator from Arkansas and his great interest in this subject. But, again I have to say I have no other way of putting it than this is like shooting yourself in the foot. The Senator from Arkansas understands that. Why in the world shall we do away with a system that does in fact bring in independents, does create the incentive for exploration, with the greater return coming to the Government from the royalties which are collected from the resources on the public domain? I hope the Senate defeats overwhelmingly this amendment of the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I want to point out that if you are interested in production and the independent does not want to put up any money, the Secretary has the alternative to not ask for money but just take royalties from production.

No. 2, I invite attention to how Alaska sold its oil. It took the highest bid. Of course, Alaska sold its oil to the highest bidder. They would need a saliva test if they had not.

Let me ask the Senator from Wyoming this simple question: The Senator from Wyoming says that this cannot happen again because of new regulations. I invite the Senator from Wyoming on my time to tell me what regulations have been put in place that would keep that from happening again.

Mr. WALLOP. I just say that the new regulations that the Secretary of the Interior has applied would not permit that to happen. There is nothing to prevent him from changing it.

Mr. BUMPERS. I ask the Senator what are the regulations that the Secretary has put in place that will keep this from happening again tomorrow or the next day or the next day?

Mr. FORD. Will the Senator permit me to answer that?

Mr. BUMPERS. Absolutely.

Mr. FORD. Well, the Senator shook me out of bed in Little Rock when all

this exploded. I held hearings with the Senator and went through the whole procedure. I think I understand it very well. But at the time the Fort Chaffee sale occurred, there were no regulations, as I recall, for military reservations. If I am correct, the Senator from Arkansas and I jointly signed a letter to the Secretary of the Interior at that time asking him to hold up those leases until he could develop the regulations. I cannot count chapter and verse, but I believe they have now been put in place and put in place by the then-Secretary of the Interior, Mr. Andrus, at that time. That is the best I can remember.

Mr. BUMPERS. The recollection of the Senator insofar as it goes is absolutely accurate. But my point is the reason this fiasco occurred is not because of regulations of the Interior Department, but because of the U.S. Geological Survey's interpretation of what a known geological structure was. That has not been changed. So far as anybody I have ever talked to——

Mr. FORD. But as far as Fort Chaffee occurring again under the circumstances that it did occur, it will not, based on the regulations that have been placed on military reservations. Am I correct?

Mr. BUMPERS. All I am saying is that there is no law or regulation in place right now that will keep this from happening again. You could have a gas well 2 miles from where you wanted a tract of land and you are entitled to that tract of land for a dollar an acre.

Mr. FORD. But Chaffee only happened because it was a military reservation.

Mr. BUMPERS. No.

Mr. FORD. Yes; it did, absolutely.

Mr. BUMPERS. Let me tell the Senator, the regulations that are in place right now were changed for all BLM lands not as a result of Fort Chaffee so much, but as a result of the 150 companies they found defrauding the system. That is why the new regulations were put into place. But it has nothing to do with the definition of a known geological structure. That is the reason I defy anybody to say otherwise. That is why I say this can happen again and again.

Mr. President, I am about out of steam. I am ready to yield back the remainder of my time.

Mr. WALLOP. Did my ears deceive me?

The PRESIDING OFFICER (Mr. RUDMAN). Does the Senator from Arkansas yield back the remainder of his time?

Mr. WALLOP. Mr. President, I will be happy to yield back the remainder of my time.

Mr. BUMPERS. I yield back the remainder of my time.

UP AMENDMENT NO. 1089

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1089 to the Bumpers' amendment 1088.

At the end of the amendment proposed by Mr. BUMPERS, add the following new section:

It is the sense of the Senate that in the administration of the provisions of section 21 of the Mineral Leasing Act of 1920 (30 U.S.C. 241), the Secretary of the Interior shall lease Federal lands for oil shale by competitive bidding only. Competitive bidding shall be on the basis of those bidding systems set forth in section 8(a)(1) of the Outer Continental Shelf Act, as amended (43 U.S.C. 1337): *Provided, however,* That not more than fifty percent of the leases offered in any calendar year shall be by cash bonus bidding.

Mr. METZENBAUM. Mr. President, Federal onshore oil and gas not located on a known geological structure are not the only valuable resources that the Department of the Interior leases and leases without competitive bidding. What this amendment has to do with relates to the fact that regularly they are granting oil shale leases which are as large as 4,120 acres without a competitive bid.

There is just no reason, no logic, no basis whatsoever for the Federal Government to be offering shale oil leases without competitive bidding. Really, it goes to the basic question of what kind of a government are we? Why do we try to do business and favor some and not others?

Section 21 of the Mineral Leasing Act of 1920 permits the Secretary to lease these lands any way he chooses. For 62 years it has been that way. But for a great many of those years nobody paid any attention to shale oil. Now there is a rich potential in the area of shale oil, and it is only right, it is only appropriate, that shale oil leases be let out on the basis of competitive bidding.

Shale oil is expensive to mine. It poses significant environmental problems. However, with the 1,200-percent increase in the domestic price of crude oil during the past 10 years, oil shale has become a very, very valuable commodity.

The United States is blessed with vast amounts of the geological formation. According to the Committee on Energy and Natural Resources, Federal oil shale lands are located primarily in Colorado, Utah, and Wyoming. They contain 320 billion barrels of shale oil—320 billion barrels of shale oil. At $30 a barrel that represents a resource value of almost $10 trillion.

And yet, there are those who will stand on this floor today and argue against competitive bidding for the awarding of these leases for shale oil. That is not right. If this Nation is to receive a proper return for the use of the resources they own, then they ought to be competitively bid.

The amendment I am offering today will provide the sense of the Senate that the Secretary will do the following two things: First of all, that there will be mandated competitive bidding for all oil shale lands; second, that 50 percent of the leases offered for sale each year are to be let by methods other than noncash bonus bidding. This amendment will foster competition and allow the smaller energy companies which do not have multimillion-dollar cash reserves to be able to compete with the majors for a portion of the leases.

The fact is that the second part of the amendment was a matter that this body and its Energy Committee went up and down the road on and argued and debated extensively several years ago. That had to do with the question of cash bonus bidding. Cash bonus bidding helps those who have the most amount of cash. Cash bonus bidding means that if you have the dollars and you are the big oil companies, you are going to squeeze out all the smaller competitors.

Mr. President, this amendment is elementary. Every community in the country uses competitive bidding when it sells its land, when it leases its land, or when it buys products. But somehow, somebody got the idea a few years ago that when awarding shale oil leases, they would not be awarded on a competitive bid basis. All we are saying here is that the Senate believes that these leases should be awarded on a competitive bid basis.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I yield myself about 2 minutes.

I point out to the Senator from Ohio and the rest of the Senators who may be listening to this debate that, while this is legislation under the rules, and nobody quarrels with that sense of the Senate, there is a bill that has been out of the committee since December 11, 1981, which deals with oil shale leasing and which cannot get to the floor for action because, among other things, of a hold placed on it by the Senator from Ohio.

Mr. President, that is the appropriate place. This bill that we are talking on is a reclamation bill, if the Senator will recall. It is a reclamation bill that had the Bumpers amendment brought up by agreement because the Senator from Arkansas clearly wanted that opportunity and spoke to it, indeed, before we got to the consent agreement organizing the legislative passage of S. 1867.

For the interest of Senators, the bill that deals with this subject is S. 1484. It is a matter on the calendar. This is an inappropriate place to deal with it. I certainly hope the Senate will express its feelings in that way.

Did the Senator from Virginia wish to say something?

Mr. WARNER. Mr. President, I believe the distinguished Senator from Wyoming has made a very persuasive case. I held the hearings on the oil shale bill. I keep trying, with diligence, to move it here before the Senate as a whole.

Mr. President, the industry obviously is not flourishing in oil shale. Yet there are known deposits of petroleum there that, in some respects, are twice those in Saudi Arabia. It is difficult to comprehend why we have not been able to go forward to provide the clarity of language in the framework of the laws to enable those very few—I repeat, those very few—companies to engage in the exploration of oil shale.

Mr. President, at this time, I think we have said all we wish to on this matter. We shall await, however, the distinguished Senator from Arkansas. He indicated he might have a statement with regard to this matter.

Mr. McCLURE. Mr. President, will the Senator from Wyoming yield?

Mr. WALLOP. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, this is one of the troublesome questions. I do not mean to get into an extraneous matter here, but with all the effort we have made to move some legislation that would give the oil shale industry a chance to go forward, we have been unable to do so.

It is beyond my comprehension why people in this country try to hamstring the energy industry at a time when the Middle East is about to blow up. The Senator from Washington has expressed himself eloquently on the dangers of what is happening over there in that war between Iran and Iraq. I am referring now to the amendment of the Senator from Ohio and not primarily to the amendment of the Senator from Arkansas.

We have been trying desperately to get an oil shale industry developed in this country. We even passed a Synthetic Fuels Corporation bill, funded that corporation with $20 billion, asked people to make applications. Several applications were filed. Two were approved. One of those two has been abandoned, with a $900 million loss, even after they had been approved as a Synthetic Fuels Corporation project. Now we see an amendment that will further inhibit the progress.

Mr. President, we cannot even give enough money away to induce them to come in to do it and the Senator from Ohio wants to construct another barrier to any possibility of the development of that industry. Right now, as we are standing here, there is a war—there are two wars—going on in the Middle East, as the Senator knows. One of those may well inhibit the flow of the oil that is the absolute lifeblood of Europe, Japan, and the United States—the Western industrialized countries—and instead of trying to enhance our own production of oil, we seem to be taking additional measures to inhibit the production of energy resources in this country.

I am really concerned, as I look at the fact that the Rio Blanco project has just suspended operations because they are awaiting passage of S. 1484, and we cannot even get it up for consideration. While we are trying to get that up for consideration, we see an amendment like this, that further inhibits the development of the oil shale industry in this country.

I hope the amendment is not agreed to, Mr. President.

Mr. METZENBAUM. Mr. President, how much time do I have?

The PRESIDING OFFICER. Ten minutes and sixteen seconds remain to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, the distinguished chairman of the Committee on Energy has hit exactly the right nerve. What he is standing on the floor and saying is we need the opportunity to develop more synthetic fuel, and we cannot get it done. This administration has done more to destroy the synthetic fuel program of this country than could possibly have been imagined. I believe it has been totally irresponsible. It has not been concerned about developing shale oil or gasohol or liquefied coal. No, it has turned its back on it. The President has proudly said, "Let the private sector do it."

Mr. President, I shall tell you what the private sector is doing: They are closing down their refineries so they can drive up the price of oil and gouge the American public. But as far as doing anything at all to develop shale oil, solar energy, gasohol—wherever you turn, they slam the door shut. They gave a few projects to some of the multibillion dollar corporations. As far as the people themselves were concerned, they did nothing.

I have stood on the floor here, in the past, and I remember when anything had the term "gasohol" attached to it, it could pass faster than you could say "gee whillikers."

I remember the former distinguished chairman of the Agriculture Committee, Senator Talmadge of Georgia, came on the floor one evening, offered an amendment for $5 billion for more gasohol, and it passed easily. I supported it, and I was pleased to do so.

I remember when anything that was called solar energy went through the Congress without opposition at all.

But something happened down at the White House. When this crowd came in and took over, they suddenly concluded that solar energy was not important, that all of the other alternative energy sources are not important, and they turned their back on all of it.

Now we talk about S. 1484. Yes, indeed, I am pleased to say that I am prepared to oppose that bill anytime it comes to the floor, because it is another one of the giveaway programs that the majority of the Energy Committee has indicated they are prepared to enact, and I think it should not be enacted. I think that all of us who are concerned about the environment would be opposed to S. 1484 as well.

This amendment does nothing more than say it is the sense of the Senate that shale oil leases should be let on a competitive bid basis, and I think either Senators are for it or they are against it. I am prepared to put that issue before the Members of this Senate because I cannot believe that a majority of the Members of the Senate are saying no, we do not want competitive bidding in the award of shale oil leases.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Will the Senator yield me 60 seconds,

The PRESIDING OFFICER. The Senator from Arkansas

Mr. BUMPERS. Mr. President, let me just say that I have always supported competitive leasing. I had hoped that the Senator from Ohio would not offer this amendment on my amendment. I wanted a straight shot up or down on something that I have worked so diligently on for 3 or 4 years now, and I must say that I think that despite my commitment to competitive bidding oil shale leasing is an entirely different breed of gas. You are talking about companies that have to have billions of dollars to get into the oil shale business. I see it really as apples and oranges. I will vote for it even though it is just a sense-of-the-Senate resolution. I am strongly tempted to table it, but I do not want to appear punitive or small about it. The amendment is a sense-of-the-Senate resolution. It would not be effective, even if it were passed. By the same token, I am not suggesting that the Senator from Ohio does not have a perfect right to offer anything he wants to offer, but, as I say, I see them as two entirely different things and I just want my colleagues to know that.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Will the Senator yield 1 minute to the Senator from Idaho?

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I do not want to get into a debate with the Senator from Ohio tonight with respect to all the alternative energy sources, but let me remind the Senator from Ohio that it was this administration that approved the Great Plains coal gasification project. That one is underway. It was, in the making before this administration came into office, but it is the only coal gasification project underway today. It was approved by this administration.

Let me say also that while there may be debate about what S. 1484 does, whether it is good or bad, whether it ought to be changed or amended, there is only one way we are going to get resolution of the issue, and that is to get the bill before us on the floor of the Senate.

The Senator from Ohio has steadfastly said no, and I have to say that actions speak louder than words. If, as a matter of fact, the Senator from Ohio wants an oil shale industry in this country, then, for heaven's sake, let us get a bill to the floor that will allow us to vote on how we do it instead of simply blindly obstructing the legislative process and therefore inhibiting the opportunities even to debate the issue.

What we have here tonight is just a little part of the issue—it is an issue, a legitimate issue, but a little part of the issue—appended to another amendment that is not germane to the bill that we are debating. This is not the time or the place to debate the oil shale issue, but there is a time and place to do that, and I would welcome the opportunity to do that.

I thank the Senator for yielding.

Mr. METZENBAUM. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Ohio has approximately 7 minutes remaining.

Mr. WALLOP. Mr. President, I do not feel as though I have anything to offer to what the Senator from Arkansas, the Senator from Idaho, the Senator from Virginia, and the Senator from Wyoming have said. I think it is unfortunate that the Senator from Ohio takes the time of the Senate on the reclamation bill to do this, when an appropriate vehicle is available; clearly the arguments can be made at a time when we get that bill in front of us. But even more clearly, if it is at issue, which it apparently is because of the amendment that he has proposed, those agruments which other Senators have made about the state of the oil shale industry, about the ability of this country to get on with some kind of project, will not be served by putting yet another impediment in the path.

Mr. President, if the Senator from Ohio is willing, I am perfectly willing to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have heard the Senator from Arkansas who feels that his amendment would have an opportunity to pass, and I hope that it does. I support his amendment. I will offer this amendment at a later point tonight or tomorrow, since the amendment can be offered without being concerned about the germaneness rule.

Under those circumstances, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw the amendment. The amendment is withdrawn.

Mr. WALLOP. Mr. President, the Senator from Arkansas is not here, but I am sure that he would ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question then is on agreeing to the amendment of the Senator from Arkansas.

Mr. METZENBAUM. Mr. President, has the Senator from Arkansas yielded back all of his time?

The PRESIDING OFFICER. All time has been yielded back.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senator from Missouri (Mr. EAGLETON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Washington (Mr. JACKSON) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. PRYOR) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 39, nays 58, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—39

Biden	Heinz	Metzenbaum
Bradley	Hollings	Mitchell
Bumpers	Huddleston	Moynihan
Byrd, Harry F., Jr.	Humphrey	Nunn
	Inouye	Pell
Cannon	Jackson	Proxmire
Chiles	Kasten	Riegle
Cohen	Kennedy	Roth
Danforth	Leahy	Rudman
DeConcini	Levin	Sarbanes
Dixon	Long	Sasser
Dodd	Lugar	Tsongas
Eagleton	Mathias	
Heflin	Matsunaga	

NAYS—58

Abdnor	Exon	Nickles
Andrews	Ford	Packwood
Armstrong	Garn	Percy
Baker	Glenn	Pressler
Baucus	Goldwater	Quayle
Bentsen	Gorton	Randolph
Boren	Grassley	Schmitt
Boschwitz	Hart	Simpson
Brady	Hatch	Specter
Burdick	Hatfield	Stafford
Byrd, Robert C.	Hawkins	Stennis
Chafee	Hayakawa	Stevens
Cochran	Helms	Symms
Cranston	Jepsen	Thurmond
D'Amato	Johnston	Tower
Denton	Kassebaum	Wallop
Dole	Laxalt	Warner
Domenici	Mattingly	Zorinsky
Durenberger	McClure	
East	Melcher	

NOT VOTING—3

Murkowski	Pryor	Weicker

So Mr. BUMPERS' amendment (UP No. 1088) was rejected.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1090

Mr. CRANSTON. I send an unprinted amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The Senate is not in order. Will Senators please clear the well and the aisles.

The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) for himself and Mr. HAYAKAWA proposes an unprinted amendment numbered 1090.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 12, on page 28, line 22, following the word "for" strike the words "water quality" and the comma following the word "quality".

On page 29, line 2, strike the period following the word "laws" and insert thereafter the following ", *Provided, however,* That the Secretary shall have the authority to waive such payments for water delivered in section 11(b)(2)."

Mr. CRANSTON. Mr. President, I can explain this amendment in four sentences. It is very, very simple.

The PRESIDING OFFICER. The Senate will be in order. The Senator from California is attempting to state his amendment and the Senate is not in order. Those desiring to speak will please retire to the cloakrooms.

Mr. CRANSTON. At the present time the Bureau of Reclamation is voluntarily making releases of water from facilities of the Central Valley project in California to improve the water quality in the Sacramento-San Joaquin Delta. S. 1867 as presently draft-

ed would prohibit the Bureau from continuing this practice. My amendment would permit such releases in the future.

The PRESIDING OFFICER. Will Senators in the back of the Chamber please retire from the Chamber? We cannot hear the statements of the Senators wishing to speak on the floor.

Mr. WALLOP. Mr. President, the administration is aware of this amendment and supports the purposes and goals of it with regard to the Central Valley project and the need to improve the water quality in that area.

As far as the majority side is concerned we are perfectly willing to accept this amendment. We feel it does no harm to the basic thrust of the bill as reported.

Mr. JACKSON. Mr. President, I concur in the position just stated by the manager of the bill, and we are prepared to accept the amendment.

Mr. METZENBAUM. Mr. President, has the Senator from Ohio sufficient time to find out what this amendment is all about? Will the Senator from California, Mr. President, yield?

Mr. CRANSTON. What was the question?

Mr. METZENBAUM. The Senator from California has indicated that this has to do with the Bureau of Reclamation voluntarily making releases of water from facilities of the Central Valley project in California to improve water quality in the Sacramento-San Joaquin Delta, but the amendment would appear to go far beyond that, and I wonder if the Senator from California would be good enough to explain how that description of the amendment relates directly to the language of the amendment which reads as follows:

Provided, however, that the Secretary shall have the authority to waive such payments for water delivered in section 11(b)(2).

Is section 11(b)(2) limited only to water that is in the Central Valley project?

Mr. CRANSTON. I can easily explain that. The amendment would also add language to section 12 to clarify that the Bureau of Reclamation may release flood waters to downstream users without requiring payment for such waters. The Bureau currently has a policy of releasing flood waters to mitigate possible damage from flooding downstream. The amendment would only preserve a present practice, which is important for preventing damage to life and property.

Mr. JACKSON. Mr. President, will the Senator yield at that point? As I understand the amendment, it would apply not only to the Central Valley but in any situation where the condition described by the Senator from California might exist. It is not directed just to the Central Valley.

Mr. METZENBAUM. Mr. President, will the manager of the bill or the author of the amendment be good enough to advise what is water delivered in section 11(b)(2)? I do not have that section before me—I now have it.

Mr. CRANSTON. Water delivered pursuant to section 11(b)(2) are those delivered "when the lands served receive only a temporary, not to exceed 1-year's supply made possible as a result of an infrequent and otherwise unmanaged flood flows of short duration."

Section 11(b)(2) relates to floodwaters and the effect of my amendment is to maintain a present practice that reduces the danger of floods.

Mr. METZENBAUM. Why is it necessary to do it without cost? Why does the amendment provide that it will be done, the authority to waive such payments for water delivered under section 11(b)(2)? This amendment is a total surprise to some of us on the floor.

Mr. CRANSTON. That is the present practice. Those downstream do not necessarily want that water. But water needs to be released when there is a flood threatening.

Mr. WALLOP. Mr. President, if the Senator from California will yield, I think he has stated correctly what it is. It is the present practice. You cannot hold a flood behind a dam that cannot hold it any longer. This water is being released for the purpose of water quality maintenance primarily in the area that the Senator has described in his amendment. But it could be anywhere and not primarily for irrigation, and there is no reason to have a charge for the maintenance of water quality.

That is the purpose behind it. It is a practice that goes on now and there is no subterfuge or no behind-the-door way of delivering free water. It is for the purposes described in the Senator from California's amendment.

Mr. METZENBAUM. Would the Senator be good enough to advise as to the amount of money involved when you are talking about waiving the payment for water delivered? Are we talking about a very modest amount of money?

Mr. WALLOP. Presumably it has to be just a very modest amount of water, an unusually large amount of water not otherwise storable for project purposes or infrequent and otherwise unmanaged flood flows of short duration.

Mr. CRANSTON. I would add there is no loss of money because there is no money received for that water now. It is flood water.

Mr. METZENBAUM. I have no objection.

Mr. PROXMIRE. Mr. President, will the Senator from California yield?

Mr. CRANSTON. Yes.

Mr. PROXMIRE. Perhaps I should ask Senator WALLOP why did not the committee adopt a similar amendment if it is necessary and desirable?

Mr. WALLOP. Frankly because it had not been brought to our attention that this particular thing had been overlooked. It is practice that has been going on. The Senator from California was the one who brought it to the attention of the committee. This was never raised as an issue.

Mr. CRANSTON. It was overlooked.

Mr. PROXMIRE. Do I understand the administration supports this?

Mr. WALLOP. It does. It has accepted it and understands it is present practice and it is not any new procedure being involved or asked for or sought here.

Mr. PROXMIRE. Can the administration assure the committee there will be no revenue effect?

Mr. WALLOP. Yes; there can be no revenue effect for something which is present practice and is already going on. You cannot lose anything.

Mr. PROXMIRE. Except that, as I understand the amendment, it permits the Secretary to waive the requirement.

Mr. WALLOP. Let me tell the Senator that a dam is a funny thing. It only holds so much water. When it has more water than it can hold it flows over the top and you cannot get a charge for that. This is just trying to get management of water in stress times as described, and it is water that simply has to go down the river. Why charge for something they cannot control anyway? That is exactly what the present practice is. The Senator from California's amendment puts a criterion on it for it to be done for water quality.

Mr. PROXMIRE. Mr. President, may I ask my good friend from California, who is a very knowledgeable and astute man, why, if this is an important amendment, he did not have it printed in advance so that we could make it available? I recall a few years ago the Senator from California had an amendment and it was an innocent-looking amendment. It passed. After it passed I had all kinds of complaints from people in my State and other people with respect to it.

I have great admiration for the Senator from California, but it would be helpful to have an explanation as to why this comes in as an unprinted amendment under these circumstances.

Mr. CRANSTON. Frankly the problem was called to our attention before the recess. But since the recess I have been working on other things. I have been at the Shultz hearings, tied up for 2 days, and did not get around to printing the amendment. It is so insignificant in its impact that I did not think having the amendment printed

was a serious matter. However, it will be a serious matter for people living downstream from projects if the amendment is not adopted.

What this amendment simply does is codify the current practice that would be upset inadvertently by the bill without that being the intention of the committee or the thought of the committee.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the adoption of the amendment?

Mr. EXON. Mr. President, will the Senator from California yield for a question?

Mr. CRANSTON. Of course.

Mr. EXON. I have the highest respect for the Senator from California. I do not know nor am I able to get offhand what this is all about, but does the Senator from California assure me and the Senate that all this does is allow the Secretary to release water under flood conditions and that flood water going down could be used without charge?

Mr. CRANSTON. Yes.

Mr. EXON. Is that the amendment in a nutshell?

Mr. CRANSTON. That is the amendment in a nutshell.

Mr. EXON. Is there anything else outside the shell?

Mr. CRANSTON. I already explained the other part of the amendment which relates to water quality. The Bureau of Reclamation voluntarily releases the water from facilities in the Central Valley project to improve the water quality in the San Joaquin Delta to fight salinity and other problems of water quality.

As presently drafted, the bill would prevent that practice from continuing and my amendment simply makes it possible to carry on this longstanding practice of permitting releases for water quality at no charge.

Mr. EXON. If I understand what the Senator is explaining to me, the bill, as drafted and reported out of the committee, would not have allowed the last act that you have just described to take place, although it has been happening.

Mr. CRANSTON. Inadvertently, the bill would have prevented it from happening. The issue was not discussed in the committee. It is just the way the bill happened to work.

Mr. EXON. One last question. It could have no possible effect on additional water other than floodwater, or additional acreage being allowed to anyone in this famous valley?

Mr. CRANSTON. That is correct.

Mr. EXON. I thank my friend from California.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. CRANSTON. Yes.

Mr. METZENBAUM. As I understand it, there are really two parts to this amendment. One has to do with the release of infrequent and otherwise unmanaged floodwaters for short duration.

Mr. CRANSTON. That is correct.

Mr. METZENBAUM. And the Senator from California has explained this, but I am not sure all of us are clear on it. The other part of it would delete the words "water quality" and that would have to do with the question of whether or not the payment would be required for water used to improve water quality.

As the Senator's own statement indicates, the requirement that there be a payment contract for excess project water used for water quality purposes is not practical, since water quality improvement often benefits a large segment of the public.

My question is: How much are we talking about in dollars and cents with respect to the elimination of the water quality portion of the amendment in this bill?

Mr. CRANSTON. We are not talking about any change in revenues or in costs, since there is no charge presently for these releases. The longstanding practice is to permit water to be released for the purpose of improving water quality and preventing salinization. As you know, there is a big issue in California over salinization of the delta. It is a big issue in connection with the Peripheral Canal and a concern in Contra Costa County and elsewhere.

Mr. METZENBAUM. But what I am asking is, under the bill as it comes to the floor, it provides that for certain payments when there are——

Mr. CRANSTON. There are no such payments now.

Mr. METZENBAUM. But what would be the payments under the bill if the amendment were not to be adopted?

Mr. CRANSTON. It is impossible to identify what they would be, since you do not know who benefits and who would be required to pay. It is entirely impractical. That was not understood in the committee nor thought of when the committee was drafting this bill. It would have the effect of stopping this present practice.

Mr. JACKSON. Will the Senator yield?

Mr. METZENBAUM. Yes. I will yield, but I need some clarification. I yield to the Senator.

Mr. JACKSON. Mr. President, may I make a suggestion? Staff has been good enough to make available the explanation of the amendment in the House. We normally do not look to the House for an explanation in a matter like this, but I think it would be useful, because the amendment, I say to my friend from Ohio, is identical. The one in the House and the one offered by the Senator from California are identical.

Let me read Mr. KAZEN's explanation of it. He managed the bill in the House. It is not long. This is referring to the amendment that is identical to the one here.

The amendment would strike the words, "water quality." The requirement is impractical since water quality improvement may benefit a fairly large segment of the public and there is rarely, if ever, any single organization or group of persons who are benefited and might fairly be held liable to pay for the water released for water quality improvement purposes.

The Commissioner of Reclamation advises that the Bureau makes voluntary releases of water from the facilities of central water project in California for the purposes of providing better water quality in the Sacramento-San Juan Delta, and in the words of the amendment, if the words the amendment were to delete were to remain in the bill and become law, the Bureau would no longer be able to do this.

Also the present practice of the Bureau of Reclamation is to release floodwaters free of charge to mitigate possible damage due to flooding downstream. The amendment would preserve the existing practice which is instrumental in preventing damage to both life and property.

Mr. Chairman, the Department of the Interior supports this amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I am delighted to yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I would like to generally associate myself with the remarks of our chairman, the gentleman from Texas (Mr. KAZEN), in support of the amendment because unless it is adopted, the results of leaving the language in, according to the Bureau of Reclamation, could actually be counterproductive in terms of water quality.

Then, finally, if I understood the basic thrust of the amendment, there would be a clear division of responsibility along these lines: That if there is an economic interest in the water, the water user would pay for it, but if there is a water quality interest which is in effect a public interest, then the incremental cost associated with the water quality would be paid for by the Federal Government.

Mr. PROXMIRE. Will the Senator yield for one question on that?

Mr. CRANSTON. Yes.

Mr. PROXMIRE. Was there any objection in the House on this? Did anybody object?

Mr. JACKSON. No; it was agreed to unanimously. There was no rollcall vote. I guess it was a voice vote. I am reading right from the RECORD of May 6, 1982. It is page H1895. I think that clarifies it.

Mr. PROXMIRE. Was there anyone who spoke against it?

Mr. JACKSON. The answer is "No." The only ones involved here are the names that I read. I read the whole list and then the amendment was agreed to.

Mr. President, I ask unanimous consent that the entire transcript, starting with the offering of the amendment, which I did not read in the in-

terest of time, be printed in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

AMENDMENT OFFERED BY MR. KAZEN

Mr. KAZEN. Mr. Chairman, I offer another amendment.

The Clerk read as follows:

Amendment offered by Mr. KAZEN:

In section 205, page 17, line 6, strike the words "water quality" and the comma following the word "quality".

Line 11, strike the period following the word "laws" and insert thereafter the following ", *Provided, however,* That the Secretary shall have the authority to waive such payments for water described in section 203(c)(2)."

Mr. KAZEN. Mr. Chairman, section 205 of H.R. 5539 provides that—

Project water temporarily make available from reclamation facilities in excess of ordinary quantities not otherwise storable for project purposes or at times when such project water would not have been available without the operations of those facilities, may be used for water quality, irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use of such project water . . .

The amendment would strike the words, "water quality." The requirement is impractical since water quality improvement may benefit a fairly large segment of the public and there is rarely, if ever, any single organization or group of persons who are benefitted and might fairly be held liable to pay for the water released for water quality improvement purposes.

The Commissioner of Reclamation advises that the Bureau makes voluntary releases of water from the facilities of central water project in California for the purposes of providing better water quality in the Sacramento-San Juan Delta, and in the words of the amendment, if the words the amendment were to delete were to remain in the bill and become law, the Bureau would no longer be able to do this.

Also the present practice of the Bureau of Reclamation is to release floodwaters free of charge to mitigate possible damage due to flooding downstream. The amendment would preserve the existing practice which is instrumental in preventing damage to both life and property.

Mr. Chairman, the Department of the Interior supports this amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I am delighted to yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I would like to generally associate myself with the remarks of our chairman, the gentleman from Texas (Mr. KAZEN), in support of the amendment because unless it is adopted, the results of leaving the language in, according to the Bureau of Reclamation, could actually be counterproductive in terms of water quality.

Then, finally, if I understand the basic thrust of the amendment, there would be a clear division of responsibility along these lines: That if there is an economic interest in the water, the water user would pay for it, but if there is a water quality interest which is in effect a public interest, then the incremental cost associated with the water quality would be paid for by the Federal Government.

May I ask the gentleman, is that correct?

Mr. KAZEN. Mr. Chairman, that is correct.

Mr. CLAUSEN. Mr. Chairman, I support the amendment.

Mr. KAZEN. Mr. Chairman, I thank the gentleman from California.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. KAZEN).

The amendment was agreed to.

The PRESIDING OFFICER. Is there objection to the adoption of the amendment?

Mr. PROXMIRE. Mr. President, before we act on the amendment, if all time has expired, I suggest the absence of a quorum.

The PRESIDING OFFICER. All time has not yet expired.

Mr. CRANSTON. We can yield back time.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. I will yield back my time unless I am going to need some to debate the Senator from Wisconsin.

Mr. McCLURE. The quorum can go on the time of the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the quorum call be charged to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. (Mr. SPECTER). Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRANSTON. May we now pass the pending amendment?

The PRESIDING OFFICER. Is all time yielded back?

Mr. WALLOP. All our time is yielded back.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1090) was agreed to.

Mr. CRANSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, if I may have the attention of the Senate, I think the time has come to try to figure out where we are in terms of the remaining amendments, what is to be done today and what is to be done tomorrow. It is now 8:25. I am prepared to stay later. I do not intend to ask the Senate to stay extraordinarily late tonight, but if there is progress yet to be made this evening, I am willing to ask the Senate to remain for some further time.

Mr. President, may I inquire of the managers of the bill if they could tell me how many amendments they are aware of or how many they think we shall have to deal with.

Mr. WALLOP. Mr. President, as far as I know, there are approximately three which I have been told may come: One from the Senator from Nebraska (Mr. EXON); one from the Senator from New York (Mr. MOYNIHAN); and another one from the Senator from Wisconsin (Mr. PROXMIRE). I had understood that he may consider not offering that. Anyway, that is what I know of, approximately four.

Mr. BAKER. I thank the Senator.

Could the distinguished minority leader or someone managing for that side give me some idea of how many amendments we have to deal with in addition to those mentioned by the Senator from Wyoming?

Mr. ROBERT C. BYRD. Mr. President, I know of only those four except, as I understand it, Mr. METZENBAUM may have some. He is here and can speak for himself.

Mr. METZENBAUM. I have some.

Mr. EXON. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, Mr. President, I yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I suspect that the majority leader may wish to propound some kind of agreement for additional time limitations. I should have to reserve the right to object to that at this time. When it is convenient for those on this side of the aisle, the Senator from Nebraska will be offering what he thinks is a compromise amendemnt that he thinks has a fair chance of passage. If it does, I suggest that if the Exon amendment is accepted, perhaps we might move this thing along very rapidly. If it is not, I should think there might be—and I have heard that there could be—a number of amendments.

So I reserve the right at this time to object to any further time constraints other than those that were agreed to before the recess.

Mr. BAKER. Mr. President, it sounds to me as if the situation is sort of sticky. I do not have any idea how many "some" is, identified by the Senator from Ohio, and I do not have any idea what the prospects are for a compromise as suggested by the Senator from Nebraska.

I think, Mr. President, that the best thing to do is continue for a little

while and we shall see how we go from there.

I say once again I am not going to ask the Senate to remain unduly late this evening. We will be in session tomorrow. It appears now that we will be in session for a full day tomorrow, perhaps even late tomorrow, depending on how long it takes to try to reach a conclusion on this measure.

Mr. President, I do not know who would like to go next. I am not propounding a unanimous-consent request at this time. I am perfectly willing to try to arrange a unanimous-consent agreement, but that is easy to do when we do not have any amendments. I am perfectly willing to yield to any Senator seeking recognition right now.

I yield to the distinguished minority leader.

Mr. ROBERT C. BYRD. Mr. President, I am informed that Senator LEVIN may have an amendment also.

Mr. BAKER. I thank the distinguished Senator.

I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, did the Senator from Nebraska wish me to yield to him briefly?

Mr. EXON. No, Mr. President, I yield the floor.

UP AMENDMENT NO. 1091

(Purpose: To require repayment of construction costs and interest for irrigation facilities)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), for himself and Mr. LUGAR, proposes an unprinted amendment numbered 1091.

On page 17, strike out lines 5 through 20.

On page 17, line 21, strike out "(c)" and insert in lieu thereof "(b)".

On page 18, line 1, strike out "(d)" and insert in lieu thereof "(c)".

On page 18, line 5, strike out "(e)" and insert in lieu thereof "(d)".

On page 18, line 9, strike out "(f)" and insert in lieu thereof "(e)".

On page 16, line 13, strike out "(g)" and insert in lieu thereof "(f)".

On page 18, line 18, strike out "(h)" and insert in lieu thereof "(g)".

On page 19, strike out line 1 through line 5 on page 20, and insert in lieu thereof the following:

ACREAGE LIMITATION

SEC. 4. (a) OWNERSHIP.—(1) Notwithstanding any other provisions of law to the contrary, irrigation water may be delivered to—

(A) any qualified recipient for use in the irrigation of lands owned by such qualified recipient of not more than nine hundred and sixty acres; and

(B) any limited recipient for use in the irrigation of lands owned by such limited recipient of not more than six hundred and forty acres.

(2) In determining the extent of ownership, the Secretary shall add to any land owned directly by a qualified or limited recipient that portion of any land owned indirectly by such qualified or limited recipient which benefits that owner in proportion to that ownership.

(b) NEW CONTRACTS.—(1) Any repayment contract or water service contract, regardless of its duration, and any amendment, supplement, or substitution thereto, which grants supplemental or additional benefits, entered into subsequent to the date of enactment of this Act pursuant to the Federal reclamation law shall amortize with interest, the cost of construction properly allocable to irrigation facilities in service, plus all operation and maintenance deficits funded, less payments—

(A) at an annual rate limited by the recipient's ability to pay for all irrigated acreage held by a recipient up to 960 acres;

(B) at an annual rate which the Secretary determines will amortize with interest, the cost of construction properly allocable to irrigation facilities in service, plus operation and maintenance deficits funded, less payments for all irrigated acreage held by a recipient greater than 960 acres,

over such periods as may be required under reclamation law or other applicable contract provisions.

(2) All such contracts or renegotiations shall also provide for the collection of all operation, maintenance, and replacement charges.

(3) The rates charged for repayment of construction costs under this subsection and subsection (c) shall be based on the total acreage of lands held by such recipient served with irrigated water. The recipient's total acreage shall consist of any lands held by such recipient served with irrigated water whether as the owner or as a tenant, in the aggregate, whether situated in one or more districts. After the date of enactment of this Act, any recipient receiving irrigated water shall certify the total acreage held by such recipient under such rules and regulations as the Secretary may prescribe.

(c) LEASING.—The use of irrigation water for the irrigation of leased lands in districts which do not enter into a new or amended contract under subsection (b) shall be subject to the payment of construction costs and interest as provided in subsection (b).

(d) INTEREST RATE.—The interest rate used in amortizing construction and other costs pursuant to subsections (b) and (c) shall be calculated by computing the weighted average of market yields on all new, publicly held, interest-bearing, marketable issues sold during the fiscal year preceding the fiscal year in which the expenditures are made or the date of enactment of this Act, whichever is later. The interest rate charged shall be redetermined in accordance with the formula in the preceding sentence once every four years to reflect the interest rate during the fiscal year preceding the fiscal year in which the interest rate is redetermined. This rate shall apply to all uncollected funds.

Mr. PROXMIRE. Mr. President, this amendment is exactly the same as the Lugar-Proxmire amendment except for one important distinction. It extends the current interest subsidy to all farms with 960 acres or less, so with a full-cost formula starting at 960 acres, we eliminate the one-half interest recovery between 320 and 960 acres. The formula now only applies to the top 3 percent of all farm operations in the program.

Mr. President, I liked the Lugar-Proxmire amendment. I thought it was the very best approach to take to reducing some, not all, subsidies in the current program.

Unfortunately, although we came reasonably close, we did not win. So now I am stepping one step back.

The present amendment is truly a major compromise. In fact, it is basically the position of the Reagan adminstration.

Last December in a letter to Senator MCCLURE, Secretary Watt said:

We recommend the following concepts be incorporated in a single section: (a) Irrigation water will be delivered to a landholding of 960 acres or its equivalent at the contract rate based on ability to pay.

Well, we did that. The next recommendation made by Secretary Watts was:

(b) Irrigation water may be delivered to a landholding of unlimited size if the excess is operated under lease and full cost is paid for water delivered to such excess land.

We did that, too, in this amendment.

While the administration used slightly different language in their definition of the full-cost interest rate, I understand that their calculation works out to almost the same amount as our interest rate. Our rate is roughly 14 percent, while theirs is about 13 percent. Obviously, our rate is much closer to the administration rate than the rate found in S. 1867.

Let me read from Secretary Watt's statement before the committee. He said:

Let me now turn to the full cost/interest rate issues contained in your bill. Although we recognize that the interest rate contained in S. 1867 is higher than the interest rate contained in the House version of reclamation reform legislation, the Administration has consistently recommended an interest rate that more closely reflects the current cost to the Federal government of borrowing. The rate currently included in S. 1867 is too low in light of the fact that the cost of money to the government is currently based on relatively short term instruments. The interest rate in S. 1867 involves an interest subsidy which we cannot recommend for these larger farms. Therefore, we strongly urge the Congress to consider interest formulations to approximate the rate the government must pay for its money. The Administration's bills on deep draft port development and inland waterways contain interest rates similar to the one we recommend in our report which effectively achieves this result. Since the higher rate only applies to acreages in excess of 960 acres, if our proposal is accepted, the overwhelming majority of farms should be unaffected. And for the excess lands of larger farms, we believe it is fair to ask for a return to the Treasury of the amount it actually costs the government to finance the project.

In fact, if all of Secretary Watt's suggestions were taken, they would have yielded a bill even stronger than this amendment. The reason is the administration wisely limited equivalen-

cy to those areas with shorter growing seasons and did not use the very generous formula in S. 1867 which takes into account soil characteristics, crop adaptability, cost of crop production, and length of growing season.

Mr. President, I do not intend to repeat all the facts I presented earlier in the day and that Senator LUGAR presented so very well. I am sure my colleagues do not want to hear them again, but just a few bear repeating very quickly.

Only 5 percent of farms irrigated by the Bureau of Reclamation are over 960 acres, and yet these farms contain over 30 percent of the land in the program. Now, 960 acres is a very big farm. It is one-half square mile or 1,500 football fields, to give Senators a picture. According to the Department of Agriculture study. "A Time To Choose":

> There are no significant economies of scale over 960 acres, no extra efficiencies that could be produced by getting bigger. This is one area where bigger is not necessarily better.

According to another Department of Agriculture study, "Economies of Size in Field Crop Farming":

> As farm size increases in most field crop regions, per-unit costs decline at first and then are relatively constant. Medium-size commercial farms, that is, $41,000 to $76,000 gross income, achieve most available cost efficiencies.

The study further notes:

> Society would likely benefit little in terms of lowered real food costs from further increases in the size of these farms.

Once the farm operator has captured most of his economies of scale what excuse would there be for extending further subsidies?

Mr. President, I do hope that this amendment, which is certainly a compromise and, as I say, accepts all of the principles proposed by the administration, by Secretary Watt will pass. It does provide that only farms which exceed 960 acres, only the very large farms—in California, we found that the typical farm grossed $1,000 per acre—that gross over $1 million would have to pay any more at all.

I do hope, Mr. President, the committee would accept this amendment, but if they do not, I would hope that a majority of the Members of the Senate will support it.

Mr. President, I reserve the remainder of my time.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, there are some obvious problems with this amendment, and they are the same problems that were inherent with the other amendment, frankly. The Senator from Wisconsin talks of a landholding of 960 acres and the farmer receiving water based on his ability to pay. You still have the bureaucracy. You still have an individual judgment being placed on each farmer and the class distinction between those who farm well and those who farm badly. And those who farm well will pay more for their water than those who farm badly. That is a hell of a way to run a nation's agriculture industry, if you want my honest opinion.

Goodness sakes, what are we trying to do here, create a nation with a class of agricultural dolts who get subsidized while the good and the productive simply slide out the door or go elsewhere in the country to compete with the farmers from Wisconsin or Nebraska, or some other place? What kind of a policy is it that selects out those who are incompetent and subsidizes them? That is exactly where we would be with this amendment, and the same arguments that applied on the interest rate in the Lugar-Proxmire amendment before now apply to the Proxmire amendment. You are changing in the middle of the stream an agreement that this country has made. You are asking somebody to recapitalize a farming operation on the basis of a catastrophe that is none of his doing in the world of interest rates. We are talking about trying to get long-term stability in agricultural business. We are trying to get all these people to recognize—by "these people" I am talking about those who come from States that do not have reclamation projects—what it is. In the first place, I remake my argument that the subsidy goes the other direction. If you want to know the truth of it, State farm water projects deliver water for about half what Federal water projects do. No other segment of this economy is required to pay back public works projects. This has been a longstanding achievement of those involved in these projects that they seek to pay back. They do not pay back any of the small watershed payments except on a 3-percent and 50-percent overall recapture.

The game and fish benefits are not repaid, the municipal water benefits are not repaid, the recreation benefits are not repaid. The Senator from Wisconsin and those who support that position not only seek to subsidize a class of inferior farmers but they seek to make them pay at the cost of subsidizing the rest of America's benefits out of reclamation projects.

I ask the Senate where its sense of equity on that may be. I ask the Senate again to say where the sense of equity may be in a recapitalized new loan on an agreement that was made a long time ago, principally on projects which were built prior to the time of deficit spending.

Those should not be asked to bear the cost of the last 25 or 30 years of profligacy on the part of Congress and other Government officials.

If you are going to treat that farmer the same as a farmer in the West, you will leave this bill pretty much the way the committee has brought it out.

If you live where a reclamation project exists you have no choice in how to get your water, even though you may have owned it long before the project was built. You have no choice because the delivery facilities come from the Federal Government. They took this out when they built the project. It is not as though you can go back to being a farmer with the water you once possessed.

This Federal Government of ours is heavyhanded all the time, but there is no reason to give it overshoes to walk through all the mud and trample the farmers of reclamation projects down in the mud.

I hope the Senate will see the same folly in this amendment as it saw in the Lugar-Proxmire amendment. It does not change the concept or the principle to change the name of the prime sponsor.

Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE. Mr. President, I do not know how this could be any simpler.

The Senator from Wyoming has made an excellent statement. He is very well informed on this issue. But he did not refute my assertion that this is exactly what the administration's position is, virtually exactly. Precisely the same size. They say 960 acres. That is where they have cut it. The interest rate is the same. The excess farm is precisely the same.

Mr. President, it seems to me that this is a very reasonable compromise. In fact, as one Senator has just told me, he feels that we are giving away much too much and that we may lose some votes on that basis.

For the life of me, I cannot understand why this is not a reasonable proposal. There is no argument. It seems to me that a farm over 960 acres is not a very large farm.

The Senator from Wyoming talks about this being class legislation. The bill that comes from the committee is class legislation, also, is it not? That, after all, says that farms bigger than 2,080 get no subsidy for the amount over 2,080. They draw a line, too. It is only a question of where you draw the line. The administration says 960. We earlier said 320. Now we compromise at a figure which is at the administration level, a reasonable, moderate compromise which I hope the Senate can accept.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, will the Senator from Wyoming yield briefly to the Senator from Idaho?

Mr. WALLOP. I am happy to yield to the Senator from Idaho such time as he desires.

Mr. McCLURE. I thank the Senator.

Mr. President, I will not use much time, because most of the arguments have been made.

However, I remind my friends in the Senate that, once before, the Senate voted on reclamations bills, and this is more restrictive than that which was passed 2 years ago under S. 14.

This is a regression from where we were before, not a move forward, in terms of the acreage limitation.

I say to my friend from Wisconsin that I am a little puzzled, and I say to my friend from Nebraska, who has a somewhat similar view about the size of a farm, what are we trying to achieve as we limit the size of a farm? That is what this legislation is all about.

The committee looked at this question, had a lot of hearings, and said, "At what level do we have to draw a limit in order to reserve the benefits of a reclamation project to the family farm operation? At what point do we cross over to the point where it is massive agribusiness corporate farming that comes in to take over?"

The fact is that in my experience, in my State—I cannot speak as much for others—large corporations are not becoming involved for under 5,000 acres. Those that are involved in the size of operations we are talking about under the bill are those that are virtually family operations, where a husband and wife and the kids are involved. There are husbands and wives in the second generation farming together for a unit of land which they live on and work and which sustains their family. That is what we are trying to get at.

Is 960 acres magic? In the hearings we had in Idaho on this legislation, we had typical family farmers coming in who farm more than 960 acres.

As one man said, "I don't want the Federal Government telling me how hard I can work." Because he works very hard and his family works very hard, and they are farming more than 960 acres.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. PROXMIRE. How does the Senator feel about the fact that the administration, itself, cut this off at 960?

Mr. McCLURE. I understand that the administration made that suggestion. The Senator is correct. But the administration, in my view, was just as wrong as is the Senator from Wisconsin in looking at what is a family operation.

Mr. PROXMIRE. Would not the Senator concede that a farm, on the basis of the experience in California, that would gross $960,000 a year, close to a million dollars a year, would be a good-sized family operation? Is that not a good place to draw the line?

Mr. McCLURE. The Senator knows, I am sure, that what you would look at is not what the gross is. It is what the net is.

Mr. PROXMIRE. Of course.

Mr. McCLURE. So let us talk about the net in an operation, not the gross.

In the farming operation in which I am involved in Idaho, we spend $150,000 to $175,000 a year for chemicals and fuel. We have to gross an awful lot before we start to net anything, and I say to my friend that we have not netted anything in the last 2 or 3 years.

Mr. PROXMIRE. The Senator is correct. But I think he realizes that the overwhelming majority of farms in this country gross $100,000 a year, so $1 million, as the Reagan administration says and as Secretary Watt indicates, is a reasonable place to draw the line. We have to draw it somewhere. The Senator's own bill draws it at 2,080.

Mr. McCLURE. But rather than looking at an arbitrary gross income figure, gross receipts figure, we are trying to draw the line on what is a family farm operation—a reasonably successful one. Why should we clamp the lid down so low that we say to people, "There is a limit on your success. No matter how hard you work, no matter how much you might be able to accomplish as a family on your farm, we are going to tell you that you can't get any bigger than that. We will tell you that we're going to penalize you and change the economics to the point where you can't get any bigger"?

Mr. PROXMIRE. We do not say that. We say, "We will not give you the full subsidy on the amount over 960 acres. You can get as big as you want, but the taxpayer is not going to help you get there." He can get as big as he wants on his own.

Mr. McCLURE. Since 1902 and the beginning of the Reclamation Act, we have been talking about what is a family farm operation. When you were doing that with a horse and a walking plow, 160 acres was a lot to walk over and cultivate. But farming has changed since 1902. It is not what it was in 1902.

We are not talking about the large corporate entity moving in to take over the land. We are talking about what a reasonably well-managed family operation can do, if the farmer and his family are willing to work and they are able to put together the financial capital and the management skills to farm land.

Why should we say to that farmer, "We don't want you to be more successful than this; we are going to start limiting your success"?

The Senator from Wisconsin wants to begin to inject a different reason for limitation on the size of the farming operation, instead of the family farming concept.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I think all of us are really trying to be as fair as we can in this situation and Senator LUGAR and I propose a 320 acre limitation to begin with.

It seems to me that, while the distinguished Senator from Idaho is an outstanding expert in this area, he does as all of us do speak with some degree of, I will not say prejudice exactly, but some degree of interest as I do when I talk about dairy farming. It seems to me that under these circumstances a reasonable referee would be the administration itself. I say that as a Democrat.

Mr. McCLURE. I understand that. Let me suggest that as a Democrat, Senator Church in this Chamber managing S. 14, when he managed S. 14, said 1,280 was the appropriate upper limit.

Mr. PROXMIRE. He was also an Idaho Senator.

Mr. McCLURE. Yes, he was indeed, and let me say that as we said earlier——

Mr. PROXMIRE. I should not be partisan. I apologize for that. But I am saying someone from Idaho would have an entirely different view on something like this where they depend so heavily on irrigation as the administration which fully understands and is very sympathetic with the problems of the Western States. After all they come from the West. That is where their great support is.

Mr. McCLURE. Yes, I understand that.

Mr. PROXMIRE. But it comes up with a reasonable position.

Mr. McCLURE. We are grateful for that support as well, and I do not mean to be partisan, nor shall I be, but I remind the Senator from Wisconsin for the very reasons that he has outlined, the Senator from Idaho not only has more reason to be interested but perhaps has more reason to know what is a family farming operation. There are some families that can make it on small acreages, and indeed the Senator made reference to the fact that a couple farm organizations have suggested smaller acreages. Typically, those smaller acreages are in the ownership of people who paid for the land a long time ago and it is free and clear. They have a small amount of mechanical equipment that is adequate for the acreage they are operating, and it is free and clear. And the children are through college and they are out on their own. They do not have the same kind of financial demand for the family.

What we are trying to do in this legislation is say do not put the family farms on reclamation projects in such a straitjacket that they cannot be reasonably successful in dealing with the economics of modern farming practices that yield the kind of standard of

living that a family is entitled to any more.

This idea that there is no economy of scale beyond 960 acres must be written by a bureaucrat. It has to have been written by someone who is not out there on the land looking at it because I guarantee the Senator that there on the land looking at it because I guarantee the Senator that there are economies of scale dependent upon the size of the equipment that is owned and operated on those lands and that is why the American consumers have the kind of food bargain that they have. It is because the farmers have increased their efficiencies by economies of scale in the operation of their farms and of their farming enterprises. That is why the manufacturers in the industrial East of this country are able to sell the continually larger tractors because there are economies of scale and so certainly if you are going to try to limit a family farm for whatever reason you may wish to, do not do it artificially and do not try to hide it as to what purpose is, because certainly if you are looking at the family farm as an entity, the provisions of the committee bill are a reasonable cutoff between that which is family farming by the family that lives on, cultivates, and depends upon the farm for their income.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield the floor.

Mr. WALLOP. In the Department of Interior's environmental impact statement, which was created on the demand of this Congress, they made a table on the approximately 18 areas which they studied around about the country. In this study, they sought to determine the optimum farm size based on efficiency and they range all the way from 48 acres in Goleta to 2,582 in Farwell.

If you put the kind of limit on that which the Senator from Wisconsin wants, you may take care of a few of the bottom farms, but you will miss out virtually all the other areas—Milk River, 2,419; Moon Lake, 2,941; Grand Valley, 1,213; Farwell, 2,582; Goshen, 1,042; Black Canyon, 2,000, and so on and so on and so on.

All I am saying is that this is not too arbitrary.

The arguments the Senator from Wisconsin and the Senator from Indiana made earlier about revenues no longer exist with the amendment which the Senator brought on. No revenue effect is inconceivable to the Federal Government. So those arguments there are gone also.

I would say that the Senator still creates this same situation in the very same way in the amendment that was just defeated 38 to 58, except that it eliminates the tier between 300 and 960. That is all in the world that has happened in here, you just eliminate that one tier. It still creates the crazy difference between those who own and those who lease, penalizing those farmers who lease more than those farmers who own.

And it still creates this bizarre new ability-to-pay concept where each individual will be judged, not the district as has been traditional, and there again you take out and create this class of subsidized incompetent agriculturalist which I do not think was the intent but surely it will be the effect of the Senator's amendment.

Mr. PROXMIRE. Mr. President, I do not intend to prolong——

Mr. WALLOP. I do not yield the floor yet.

Mr. PROXMIRE. I beg the Senator's pardon.

Mr. WALLOP. And I point out to the Senator from Wisconsin, just finally, and then I will yield the floor, that the administration has written and says they oppose now all amendments and support the bill as it came from the committee.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, I do not expect to prolong this debate much longer, but I do want to sum up.

In the first place, we are not limiting the size of our farm. All we are limiting is that the subsidy that would be paid to 960 acres, which is a very, very large farm. That is 1½ square miles. That is 1,500 football fields. That is far, far bigger than any family farm would be in my State and bigger than a family farm would be in most areas. And regardless of what the distinguished Senator says about the position of the administration, this meets every single principle they gave us as far as the size is concerned, as far as access is concerned, as far as the interest rate is concerned. Although the interest rate is not precisely the same, it is very, very close to being that.

The Senator challenged my position on new economies of scale and simply gave his opinion that there were economies of scale. I believe we have to rely on the Department of Agriculture. It is under the command of the present administration and Secretary Block. The Department of Agriculture said there are no significant economies of scale over 900 acres, no extra efficiencies that could be produced by getting bigger.

They also said in another Department of Agriculture study as farm size increases in field crop regions unit costs decline at first and then are relatively constant. Medium sized commercial farms achieve most available cost efficiencies. And that is much, much smaller than this 41,000 to 76,000.

The study further notes:

> Society would likely benefit little in terms of lowered food costs from further increases in the size of these farms.

You can call them bureaucrats if you want to, but they are in this administration, and if they are bureaucrats who are incompetent, they can, of course, be discharged.

Mr. GARN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. Sure.

Mr. GARN. I just wonder, coming from a dry Western State where we have great difficulty in getting water compared to a beautiful green State like Wisconsin, some of us who are Western arid State Senators, would the Senator from Wisconsin vote to reduce the dairy farming subsidies?

Mr. PROXMIRE. I certainly would and I intend to do that, and I hope the Senator will join me. We have a self-help program which will permit dairy farmers at long last to get what they can sell at a fair price and cut by at least one-half, maybe two-thirds, the so-called subsidy or the cost of the Federal Government in acquiring surpluses. I am all for it all the way.

Mr. GARN. I hope that is correct. That would be the first time I have ever known the Senator from Wisconsin to vote to do anything to those farmers who produce milk in Wisconsin.

Mr. PROXMIRE. Well, they are all for it, they are behind it.

Mr. WALLOP. May I just point out to the Senator again, on my time, what the Senator is talking about are agricultural figures which may be accurate generically nationwide, but the environmental impact statement specifically as to these projects gives maximum farm size efficiency as I stated then, and they do not relate in any way to the figures the Senator just read.

What you can do in a place that produces a cow or four cows an acre is a whole lot different from what you can do with one that can produces a cow for 87 acres or 230 acres. The generic statistics do not work when you are talking about reclamation.

I would just point out to you—you were not on the floor when I brought out the kind of things that go on in your State, Senator, with this small watershed project in which it appears to be all right to take water off the land at a high Federal subsidy and a very attractive Federal interest rate of 3 percent, and which the Federal Government only gets about 50 percent of what it contributes paid back, if it ever does.

In your State Garden Valley project, Rose Valley, Knight's Creek, Lost Creek, Mill Creek, Plum Creek, Twin Parks, and so forth, your State benefits substantially from a program that is not unlike this except that it needs to take water off the land so your farmers can farm it in that kind of a subsidy.

Let us just play this country's equity treatment equally from one side to the other.

It is my hope that the Senator from Wisconsin and I have nothing much more to add and if the Senator is willing to yield back his time, I am willing to yield back mine.

Mr. PROXMIRE. Mr. president, I am ready to yield back my time. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. ARMSTRONG). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Has all the time been yielded back?

Mr. PROXMIRE. I yield back my time. I defer—I yield whatever time the Senator from Nebraska would wish.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

Mr. PROXMIRE. I yield back my time.

The PRESIDING OFFICER. On whose time does the Senator suggest the absence of a quorum?

Mr. EXON. On whatever time is available, Mr. President, I suggest that there is not a quorum present.

Mr. PROXMIRE. If a vote is pending a quorum call is in order, right?

The PRESIDING OFFICER. Is the majority leader seeking recognition?

Mr. BAKER. Yes, I do seek recognition, Mr. President.

Mr. President, I yield myself 1 minute. We can have a quorum call or we can go on with this vote or with the tabling motion, but what I am really concerned with is what we are going to do for the remainder of this evening.

It appears to me now we have a great deal to do and it is going to take all day tomorrow to do it, so I leave it up to the managers of the bill as to how much longer they are going to stay. But I am going to suggest after we have this vote that we consider the prospect of going out and being in all day tomorrow and consider also the possibility of being here Saturday if necessary in order to finish this measure.

Now, Mr. President, I yield the floor.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. WALLOP. Mr. President, the majority does not yield for a quorum call on its time.

The PRESIDING OFFICER. The Chair regrets to inform the Senator that a quorum call is in progress and the time is being charged against the Senator from Wisconsin.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I move to table the Proxmire amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming to lay on the table the amendment of the Senator from Wisconsin. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. MURKOWSKI), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. PRESSLER), would vote "yea."

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. PRYOR), is necessarily absent.

The PRESIDING OFFICER (Mr. ARMSTRONG). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 39, as follows:

[Roll Call Vote No. 218 Leg.]

YEAS—56

Abdnor	East	Matsunaga
Andrews	Ford	Mattingly
Armstrong	Garn	McClure
Baker	Gorton	Melcher
Baucus	Grassley	Packwood
Bentsen	Hatch	Randolph
Boren	Hawkins	Rudman
Boschwitz	Hayakawa	Sasser
Brady	Heflin	Schmitt
Burdick	Helms	Simpson
Byrd, Robert C.	Huddleston	Stafford
Cannon	Humphrey	Stennis
Cochran	Inouye	Stevens
Cranston	Jackson	Symms
D'Amato	Johnston	Thurmond
DeConcini	Kassebaum	Tower
Denton	Laxalt	Wallop
Dole	Long	Warner
Domenici	Mathias	

NAYS—39

Biden	Glenn	Nickles
Bradley	Hart	Nunn
Bumpers	Hatfield	Pell
Byrd, Harry F., Jr.	Heinz	Percy
	Hollings	Proxmire
Chafee	Jepsen	Quayle
Chiles	Kasten	Riegle
Cohen	Kennedy	Roth
Danforth	Leahy	Sarbanes
Dixon	Levin	Specter
Dodd	Lugar	Tsongas
Durenberger	Metzenbaum	Zorinsky
Eagleton	Mitchell	
Exon	Moynihan	

NOT VOTING—5

Goldwater	Pressler	Weicker
Murkowski	Pryor	

So the motion to lay on the table UP Amendment No. 1091 was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I indicated previously that the vote just concluded will be the last record vote we will have this evening.

Mr. President, I might say that I believe the distinguished Senator from Nebraska (Mr. EXON) intends to offer an amendment tonight. It is my hope that we would leave it pending, and it would be the pending question in the morning when we get back on this bill.

Is the Senator from Nebraska prepared to do that at this time?

Mr. EXON. I am ready to do that, Mr. President.

Mr. BAKER. Mr. President, before Senators leave the floor, let me say I think it is possible to finish this bill at a reasonably early hour tomorrow. I mean to say perhaps. It depends on how many amendments are offered, obviously, and how promptly they are disposed of.

I sincerely hope that we can finish this bill by 12 or 1 or 2 o'clock tomorrow afternoon. As I indicated previously, I intend to ask the Senate to remain and finish this bill tomorrow. If we cannot do that, there is the real possibility that the leadership will ask the Senate to remain in on Saturday.

The reason for that, Mr. President, is not in any way vindictive. It is simply because we have a balanced budget constitutional amendment which has been temporarily laid aside which must be dealt with; we have the reconciliation bill from the Committee on Finance which must be dealt with; and time is running out.

So, Mr. President, the time has come, as it does every year, when we have to buckle down and finish these things, so Senators should be on notice that we may be in late tomorrow if we do not finish the bill early in the day. I reiterate the hope that we shall be able to complete deliberation on this measure by 12 or 1 o'clock and be out by midafternoon.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a question?

Mr. BAKER. Yes; I yield to the Senator from Ohio.

Mr. METZENBAUM. Will the majority leader be good enough to share with the Senator from Ohio what the sense of urgency is about passing this reclamation bill? The Senator from Ohio thinks this bill came out of the committee under unusual circumstances, that it does not serve the Nation's interest well. A time agreement was entered into when the Senator

from Ohio was not present. I might have had objections to that matter but I was not present and did not express my position. It is a fact that if any Member of the Senate now feels that this legislation is not necessary and does not serve the public weal, it could offer the Senate an opportunity to consider the unlimited number of amendments that are possible under the order as it was originally introduced.

My real question is, with all the problems this Nation is facing at the moment—and they certainly are manyfold—why is the Senate spending its time on the reclamation bill except by reason of the fact that there are some Senators from some States who very much feel they want this bill? It is definitely not in the national interest.

Mr. BAKER. Mr. President, I suppose one could ask that about any bill of any group of States or Senators that have special circumstances. It is a bill that has been on a list of matters that we were going to deal with for a long time. The leadership has announced for some weeks now that at some point, this bill would be scheduled. It was scheduled in a regular and orderly way. The unanimous-consent agreement was arrived at in the usual course of affairs. I believe that all the parties were consulted in a routine way.

Mr. METZENBAUM. I am not suggesting any impropriety, Mr. President.

Mr. BAKER. The request was made in the Senate in a very open manner.

I really hope, Mr. President, that the Senator from Ohio understands that my responsibility is to manage the schedule of the Senate as best I can from this standpoint as the majority leader and not to try to make a judgment of the merits of these things. I must do that as an individual Senator.

Suffice it to say that this an important piece of legislation. The Senate has known for some time that we were going to take it up and, frankly, I do not intend to take it down.

Mr. WALLOP. Mr. President, if the majority leader will yield just for a comment, there is a sense of urgency. There is a court order requiring the United States to begin to enforce the 1902 provisions, which even the Senator from Ohio would surely admit would wreak havoc in American agriculture now. That court order exists and there is nothing we can do about it. We have delayed this matter about as long as we can do it.

Mr. BAKER. Mr. President, I think the Senator from Ohio has a long and distinguished record of careful scrutiny of measures that are often controversial. I admire that, and I admire the Senator from Ohio. He knows that, I believe. He is skillful in the extreme, especially when he is in a sometimes lonely adversarial position. But I have also observed from time to time that when the clouds are darkest, the sunlight sometimes breaks through in a near miraculous way.

So I hope that tomorrow, when the sun breaks through the clouds and comes up over the horizon, once again, we shall commune together, the Senator from Ohio and I, and we can agree on how to proceed as it respects this matter promptly and even early enough so that Senators may get on those airplanes and go to the west coast, which is a matter of great concern to Senators on both sides of the aisle.

Having said that, Mr. President, and having exhausted every word I can think of to try to get out of this situation, I shall yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, if I could interrupt the weather report, there is a ceremony for the swearing in of Secretary Shultz tomorrow morning. I expect Senators will be there. Does the leader have any time that there will not be any votes so those of us who may or may not go will have some assurance of that?

Mr. BAKER. Yes, Mr. President, I thank the Senator from Massachusetts. I do not intend to ask for a window, as we say, in which Senators will be protected as to votes. But we are coming in at 8:30, there are three special orders, there is leader time and there will be a time for morning business. So we shall not have any votes before 10:30, I suspect, just without any orders being made. I have not asked the Senate to agree that there will be no rollcall votes.

Mr. DOMENICI. Mr. President, may I ask the question—I was listening and heard the majority leader say something about the Senator from Ohio being lonely. I did not catch the next word. Could he repeat what he said?

Mr. BAKER. Mr. President, I was so awestruck by my own prose that it has left my memory.

Mr. DOMENICI. Mr. President, I shall read the RECORD.

Mr. BAKER. Mr. President, I yield the floor.

UP AMENDMENT NO. 1092

(Subsequently numbered amendment No. 1937.)

(Purpose: To reduce the ownership and leasing acreage allowances)

Mr. EXON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an unprinted amendment numbered 1092.

Mr. EXON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, strike out lines 5 through 5 on page 20 and insert in lieu thereof the following:

(b) The term "individual" means any natural person, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code (26 U.S.C. 152).

(c) The term "irrigation water" means water made available for agricultural purposes from the operation of reclamation project facilities pursuant to a contract with the Secretary.

(d) The term "landholding" means total irrigable acreage of one or more tracts of land owned or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary.

(e) The term "qualified recipient" means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits twenty-five such individuals or less.

(f) The term "limited recipient" means any legal entity established under State or Federal law benefiting more than twenty-five individuals.

(g) The term "Secretary" means the Secretary of the Interior.

SEC. 3. (a) The provisions of the Federal reclamation laws shall remain in full force and effect, except to the extent such laws are amended by, or are inconsistent with, this Act.

(b) Nothing in this Act shall repeal or amend any existing statutory exemptions from the acreage limitation of the Federal reclamation law.

ACREAGE LIMITATION

SEC. 4. (a)(1) Notwithstanding any other provisions of law to the contrary, irrigation water may be delivered to a qualified or limited recipient for use in the irrigation of a landholding of not more than nine hundred and sixty acres of class I lands, or the equivalent thereof: *Provided*, That not more than nine hundred and sixty acres of such landholding may be owned by a qualified recipient and that not more than six hundred and forty acres of such landholding may be owned by a limited recipient.

(2) Lands leased for a term of one year or less for the purpose of water management and conservation in years of inadequate project water supply shall not be considered as part of a landholding solely because of having been so leased.

(b) In determining the extent of a landholding the Secretary shall add to any landholding held directly by a qualified or limited recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that owner in proportion to that ownership.

Mr. EXON. Mr. President, I reserve the remainder of my time, as was stated by the majority leader, until after the convening of the Senate tomorrow.

Mr. BAKER. Mr. President, will the amendment of the Senator from Nebraska be the pending question tomorrow?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. May I inquire of the Senator from Nebraska if he has any

further debate to conduct this evening? I am prepared to recess the Senate if no other Senator has something to say.

Mr. EXON. I have no further debate tonight.

Mr. METZENBAUM. Mr. President, before we recess, the chairman of the Energy Committee points out to me that I was in error when I said this bill was reported out in unusual circumstances. It was another bill to which I was referring. I apologize to the Senator from Idaho and the Senator from Wyoming.

Mr. WALLOP. Mr. President, I wonder if the Senator from Nebraska would agree to a time certain, say 10:30, at which to vote upon his amendment.

Mr. BAKER. Mr. President, may I suggest that we wait until the morning?

Mr. EXON. Mr. President, I do not care at this time to enter into any more agreements. I believe—I inquire of the Chair, what is the time agreement on the Exon amendment as it now exists? One hour equally divided, is that correct?

The PRESIDING OFFICER. The Senator from Nebraska is correct.

Mr. EXON. I would prefer to remain with that schedule.

Mr. BAKER. Mr. President, I concur in that. I think it might be better to wait until morning and we can get a fresher look.

VIRGINIA HAS LOST A DISTINGUISHED FIRST LADY, A FIRST LADY OF NAVAL AVIATION

Mr. WARNER. Mr. President, last week, the Commonwealth of Virginia lost one of its most promising young citizens when Ens. Cary P. Jones died in a training accident at Corpus Christi Naval Air Station. Ensign Jones, a graduate of Stonewall Jackson High School, in Manassas, Va., was a member of the National Honor Society and of the school's team for "It's Academic," a quiz show for academically gifted students. Miss Jones was one of the first women appointed to the U.S. Naval Academy and was the third generation of her family to attend and graduate from the Academy. Her father, retired Air Force Lt. Col. David Jones, her paternal grandfather, George L. Jones, class of 1927, and her maternal grandfather, William L. Maxson, class of 1921–A, all proceeded her to Annapolis. During my service as Secretary of the Navy, the first women were appointed to the U.S. Naval Academy. Ensign Jones was an outstanding example of women's successful integration into the course at the Academy, and her desire to become an astronaut was an example of their potential for service to our country. As a member of the naval community, and as a parent, I mourn the loss of this fine young naval officer and offer my heartfelt condolences to her parents, Lt. Col. and Mrs. David Jones.

MORE FRIENDS OF RURAL HOUSING

Mr. CRANSTON. Mr. President, on June 24, 1982, Senator COCHRAN and I along with 26 other cosponsors introduced amendment No. 1906 which we plan to offer as a substitute to title V of S. 2607 when that bill is considered by the full Senate. I am pleased to report to the Senate that support for our position continues to swell. Seven other Senators have asked to be added as cosponsors to our amendment which would preserve and strengthen the existing Farmers Home Administration (FmHA) rural housing programs. Therefore, I ask unanimous consent that Senators MELCHER, NUNN, JACKSON, DODD, METZENBAUM, WEICKER, and LONG be added as cosponsors to amendment No. 1906.

Mr. President, title V of S. 2607, the proposed National Rural Housing Act, contains many worthwhile ideas that are unfortunately included in an overall plan which would wreack havoc on rural housing. Like the proponents of that legislation, I favor increasing the rehabilitation effort of the FmHA. I, too, favor targeting rural housing programs so that they benefit lower income persons to the extent possible. I also favor giving local communities increased responsibility in deciding how to meet their particular housing needs. I am not necessarily opposed to the concept of creating a block grant for rural housing. I cannot, however, condone title V because it would significantly weaken the housing delivery system to rural America.

The committee proposal would block grant funds for rural housing and also:

First, slash funding for rural housing programs by two-thirds;

Second, increase interest rates for FmHA loans to prevailing market rates;

Third, reduce the number of new homes constructed and jobs created; and

Four, impede access to crucial financial services in rural areas.

Our amendment would not only strike title V and instead authorize the existing FmHA programs at slightly less than the fiscal year 1982 funding levels, it would also make improvements in that system. Our amendment targets assistance, to the extent practicable, to applicants who are most in need. It also highlights the desirability of the FmHA to become more active in providing for home repairs and rehabilitation. Both of these provisions should increase the participation of lower income persons in the rural housing programs.

As support for our amendment continues to grow within the Senate, a coalition of interest groups concerned with the negative impact of title V is also growing. Joining the 35 of us in the Senate who support this amendment is a coalition of over 40 groups. All of us encourage other Senators and groups to examine this issue and join us in our effort to assure that rural America has adequate housing assistance and credit available to it.

I ask unanimous consent that a letter sent to me by over 40 organizations outlining their opposition to title V and support for our amendment be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 12, 1982.

DEAR SENATOR: On June 24 Senators Thad Cochran and Alan Cranston and 26 members of the Senate introduced an alternative bipartisan amendment to S. 2607, the Housing and Community Development Act of 1982. The amendment would serve to continue federal rural housing programs administered by the Farmers Home Administration at a level slightly below fiscal year 1982 appropriations and well within the ceiling established in the first budget resolution. The amendment would provide for the construction and rehabilitation of about 90,000 units and the creation of at least 130,000 jobs.

S. 2607, as reported by the Banking Committee, would repeal authority for most of FmHA's programs of subsidized housing and related activities. These would be replaced by a block grant to the states of up to $850 million. Assistance would be targeted to families with incomes below 50 percent of area median income. Funding for rural housing programs would be cut by almost two thirds and interest on rural housing loans would be increased to prevailing market rates (15–17 percent).

We do not believe that the block grant will best serve the needs of rural people, including Indians on federal trust land, living in substandard housing. Passage of the block grant will result in: the withdrawal of over $4 billion in subsidized or cost of money mortgage credit and related assistance; creation of a new state bureaucracy; severe reduction in the number of homes constructed; probable closing of many local FmHA offices; polarization of the federal rural housing resources with assistance going to those households with incomes under 50 percent of area median income and those who are able to afford loans at 15–17 percent.

Further, we do not believe that adequate time has been devoted to analyze and study the proposed rural housing program. A half day of hearings was held in Washington before the bill was introduced. Several organizations representing low income consumers and builders were denied the opportunity to testify because of lack of time. Because of this rushed process, many technical errors were uncovered after the bill was passed by the Committee.

We believe that the best interests of all rural people are served by the bipartisan substitute. We urge you to join in supporting Senators Cochran and Cranston and the improvement, rather than the abandon-

ment, of the longstanding and successful FmHA housing programs.

Sincerely,

ACORN.
American Friends Service Committee.
America Savings and Loan League.
Campaign for Community Based Economic Development.
Catholic Charities—Archdiocese of New York.
Center for Community Change.
Center for National Policy Review.
Coalition on Block Grants and Human Needs.
Cooperative League of the USA.
Council for Rural Housing and Development.
Institute for Rural Water.
Interreligious Emergency Campaign.
League of Women Voters.
Lutheran Housing Coalition.
Migrant Legal Action Program.
National Association of Community Health Centers.
National Association of Farmworker Organizations.
National Association of Home Builders.
National Board of the YWCA of the USA.
National Catholic Rural Life Conference.
National Committee Against Discrimination in Housing.
National Conference of Catholic Charities.
National Congress of American Indians.
National Congress for Community Economic Development.
National Consumer Law Center.
National Council of La Raza.
National Demonstration Water Project.
National Farmers Union.
National Hispanic Housing Coalition.
National Housing Law Project.
National League of Cities.
National Low Income Housing Coalition.
National Rural Electric Cooperative Association.
National Rural Housing Coalition.
National Sharecroppers Fund/Rural Advancement Fund.
National Tribal Chairmen's Association.
Native American Rights Fund.
Rural Coalition.
Washington Area Community Organizing Center.
Washington Office, United Presbyterian Church in the USA.
Women's Equity Action League.
U.S. Catholic Conference.

NO FEDERAL AID FOR STUDENT SCOFFLAWS

Mr. HAYAKAWA. Mr. President, last January President Reagan announced his intention to continue peacetime registration with the Selective Service—a difficult decision, but one I agree with and fully support. An adequate system, ready with a list of names to meet emergency manpower needs will be vital in the event of a national emergency. And this is what we are talking about here—a system set up only to be utilized in a national emergency. We do not have a draft and signing up for the Selective Service in no way increases an individual's chances of being drafted. All that is being asked is that every man upon reaching his 18th birthday fill out a simple form at his local post office, give his name, address, and phone number so that he can be called for service, military or nonmilitary, in the case of a national emergency.

Mr. President, President Reagan has made it very clear that he supports an All-Volunteer Force. This is what we have now, it's working, and there are not foreseeable plans to reinstitute a draft. This is what makes registering for the Selective Service so important. The success of the Selective Service System will be the crux of the entire military manpower readiness and defense of this Nation. Young men refusing to meet this obligation are saying they refuse to accept the responsibility of defending this country. They refuse to protect and support the country that offers them national parks, clean air, water, and a better environment. They refuse to support their country which gives them unemployment benefits, welfare, or food stamps when needed and in some cases when not needed. Also available are an education subsidized by local, State and Federal taxpayers, federally financed job training, and Federal guaranteed tuition loans, even through an MD degree. They refuse to serve their country in any way. I ask you, do these men deserve the benefits American taxpayers have so generously supplied? I say no.

Mr. President, last May, during consideration of the Department of Defense authorization bill, the Senate agreed to my amendment which would deny Federal education benefits to those men who fail to register with the Selective Service System. Educational aid is not a right, it is a benefit which comes with living in a free nation. Anyone unwilling to accept the duty of defending this Nation has no right to receive Federal financial aid to further their education.

An insightful article regarding my amendment appeared in the San Jose Mercury News on June 11, 1982. The author comes to the accurate conclusion that "student aid is not some sort of inalienable constitutional right." It is a privilege and with it should come the responsibility of being willing to come to the service of America should the need arise.

I ask unanimous consent that this article entitled "No Federal Aid for Student Scofflaws" be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the San Jose Mercury News, June 11, 1982]

NO FEDERAL AID FOR STUDENT SCOFFLAWS

It's something of an understatement to say that the U.S. draft registration law has been less than popular. And it's hard to argue with Stanford Universtiy Vice President Robert Rosenzweig, who decries using "educational opportunity for punitive purposes."

But as long as draft registration is law, Washington has a responsibility to enforce it. One method, which was quickly and unanimously endorsed by the U.S. Senate last month, is Sen. S. I. Hayakawa's plan to deny federal student aid to those failing to register with the Selective Service System.

While we've frequently questioned the legislative acumen of the former San Francisco State University president, Hayakawa's reasoning is persuasive this time. We fully agree that "if students want to further their education (via federally funded grants and loans) they must accept a share of the obligation."

As currently envisioned, that obligation would mean filling in one's Selective Service number on student aid applications. This information would then be verified by the U.S. Department of Education.

Stanford, and a small Quaker college in Indiana, worry about mixing educational policy and the draft. Yet the issue here is how government chooses to allocate its funds. And it doesn't make any sense for Washington to finance a student's college education when he's in violation of the law.

Of course, shutting off student aid is just one of many possible strategies to force compliance. With an estimated 550,000 men failing to register (about 7 percent nationwide), there clearly are a lot of non-students to contend with as well; trials appear inevitable.

But Hayakawa's plan is a worthwhile first step. It effectively bars a schizophrenic Washington bureaucracy from rewarding scofflaws. It also makes the simple and reasonable declaration that student aid is not some sort of inalienable constitutional right.

U.S. CHAMBER OF COMMERCE SPEAKS OUT ON TRADE SANCTIONS

Mr. PERCY. Mr. President, in June the President met with the National Security Council staff and other advisers to discuss the operation of the trade sanctions that were put in place against the Soviet Union last December.

At that meeting, the President decided to seek to apply the trade sanctions extraterritorially to U.S. subsidiaries and licensees abroad.

I have expressed to the President my strong concern over this policy and the effect it is having on the NATO alliance. I have also pointed out the costs to our own economy of this policy—costs that may be needless if the Soviets turn to other suppliers for the U.S. goods and technology banned by the sanctions.

Yesterday the U.S. Chamber of Commerce added their voice to the commentary on the sanctions. Richard Lesher, president of the chamber, wrote to the President to outline his concerns with the sanctions.

Mr. President, I ask unanimous consent that Mr. Lesher's letter to the President and a chamber of commerce press release be included in the RECORD at the close of my remarks.

Mr. Lesher states in his letter that "in building overseas markets so vital to our economic security, U.S. export performance relies heavily on both

quality and dependability. In this regard, the chamber is concerned that the new controls will only aggravate further our international reputation for commercial reliability." I commend his letter to my colleagues and I urge the President to give it careful consideration.

There being no objection, the letters were ordered to be printed in the RECORD, as follow:

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, D.C. July 14, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Chamber of Commerce of the United States has given serious attention to your decision last month to impose export controls on oil and gas equipment and technology to the Soviet Union for foreign policy reasons. Our examinations have led us to several major reactions that we wish to share with you.

We share your disappointment that there has been little evidence of positive movement to ameliorate the present situation in Poland. The Chamber supports the efforts of the Administration to bring about a rescission of martial law and a renewal of dialogue in that country. Moreover, we support your efforts to tighten controls over the export of militarily critical goods and technology to the Soviet Union and to curb the subsidization of export credits to the Soviets.

However, the Chamber of Commerce views with concern the decision to extend unilaterally U.S. export controls over oil and gas equipment and technology, including but not limited to that bound for construction on the Yamal pipeline, on an extraterritorial and retroactive basis. The unprecedented blanket prohibition over U.S. subsidiaries and affiliates and control of previously licensed U.S. technology pose serious questions concerning the present direction of U.S. international economic policy. This action has ramifications that go well beyond America's trade relations with the Soviet Union.

Over the last year and one-half, the Chamber has repeatedly cautioned the Administration with regard to both the effectiveness and the domestic economic cost of unilateral foreign policy export controls. In building overseas markets so vital to our economic security, U.S. export performance relies heavily on both quality and dependability. In this regard, the Chamber is concerned that the new controls will only aggravate further our international reputation for commercial reliability.

We know that the government regulations that have been written after your recent decision to extend controls allow a comment period until August 21, 1982. In this context, if you are intent on delaying construction on the Yamal pipeline, then we urge you to revise current regulations so that they cover only gas transmission equipment and technology, excluding pipeline construction equipment, thus minimizing the negative aspects of the decision for American business interests. The U.S. Chamber would be happy to work with the Administration during this period with this goal in mind.

Sincerely,

RICHARD L. LESHER.

U.S. CHAMBER "VIEWS WITH CONCERN" ECONOMIC SANCTIONS AGAINST SOVIET UNION IN LETTER TO PRESIDENT REAGAN

WASHINGTON, July 14.—The nation's business federation told President Reagan today that it "views with concern" the administration's export controls on oil and gas equipment and technology to the Soviet Union, because they have "ramifications that go well beyond America's trade relations with the Soviet Union."

In a letter to the President, Dr. Richard L. Lesher, president of the U.S. Chamber of Commerce, pointed out that for the past year and a half the Chamber had "repeatedly cautioned the administration about the effectiveness and domestic economic cost of unilateral foreign policy export controls."

He said the Chamber shared the President's disappointment that there has been little evidence of positive movement to ameliorate the present situation in Poland.

"The Chamber supports the efforts of the administration to bring about a rescission of martial law and a renewal of dialogue in that country," Lesher told the President. "Moreover, we support your efforts to tighten controls over the export of militarily critical goods and technology to the Soviet Union and to curb the subsidization of export credits to the Soviets."

However, he added,"The Chamber of Commerce views with concern the decision to extend unilaterally U.S. export controls over oil and gas equipment and technology, including but not limited to that bound for construction on the Yamal pipeline, on an extraterritorial and retroactive basis. The unprecedented blanket prohibition over U.S. subsidiaries and affiliates and control of previously licensed U.S. technology pose serious questions concerning the present direction of U.S. international economic policy. This action has ramificatons that go well beyond America's trade relations with the Soviet Union."

Lesher pointed out that building overseas markets is vital to America's economic security, and "U.S. export performance relies heavily on both quality and dependability. In this regard, the Chamber is concerned that the new controls will only aggravate further our international reputation for commercial reliability."

If the administration is intent on delaying construction of the Yamal pipeline, Lesher added, "we urge you to revise current regulations so that they cover only gas transmission equipment and technology, excluding pipeline construction equipment, thus minimizing the negative aspects of the decision for American business interests."

In a letter to President Reagan last Feb. 5, Lesher said that the embargo announced last December represented a profound change in policy "that could be linked to a strategy of economic warfare."

The Chamber's position is not aimed solely at the Soviet Union, but at the principle of unilateral economic sanctions for foreign policy purposes. In a March 8 letter to Lionel H. Olmer, Undersecretary of Commerce for International Trade, Chamber International Vice President Michael A. Samuels objected to "the proliferating use of economic sanctions" by the administration. In this case, he was referring to proposed imposition of controls on the import of Libyan oil and the export of goods and services to that country.

The U.S. Chamber, which represents more than 250,000 businesses, trade associations and state and local chambers of commerce, also announced that it would be willing to serve as a coordinating center for official reaction by companies affected by the administration's embargo. These reactions must be submitted to the administration prior to the expiration of the 60-day comment period on the new regulations on August 21.

RHODE ISLAND STUDENT MUSICIANS HONORED IN COMPETITION

Mr. PELL. Mr. President, the Ponaganset High School wind ensemble from Foster and Glocester, R.I., has returned home with honors from the 11th Annual International Youth and Music Festival in Vienna.

The 42-member band placed third among 14 contestants and was the only American band to finish among the finalists. When the band members returned home, it was to a crowd of 350 supporters and signs that read: "Number 3 in the World, Number 1 With Us."

I could not agree more and I would like to add my own applause for a job exceptionally well done. Every member of the band can take pride in an honor that reflects well on Rhode Island and on our country.

Special thanks are due to Nedo Pandolfi, who directed the band, and to Donald Driscoll, who spearheaded the drive to finance the band's trip. Their efforts, coupled with the skill of their musicians, brought international honor to the students from Foster and Glocester.

I should like to share an account of the competition with my colleagues. I ask unanimous consent that an article from the Providence Journal of July 13, 1982, be printed in the RECORD.

The article is entitled "Ponaganset's Musicians Return in Triumph From Competition in Vienna."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PONAGANSET'S MUSICIANS RETURN IN TRIUMPH FROM COMPETITION IN VIENNA

(By Rob Levin)

Donald Driscoll stood outside Boston's Logan Airport yesterday and upended a Sprite, his large frame arched backward in the effort.

"Ahhh, that's the first cold drink I've had in 12 days.

Others connected with the Ponaganset High School Wind Ensemble thought the same thing, apparently glad to have something they couldn't get in Vienna, where they had participated in the 11th Annual International Youth and Music Festival and could find only warm soda.

"All we did was eat rolls," said Doreen Messier, referring to a staple of the European continental breakfast.

What the band also did was place third place among 14 contestants. It was the only American band to finish among the finalists.

The 42-member Ponaganset band lost top place to a Japanese ensemble that had about 100 members, plus stand-in musicians in case some of the regulars got sick, plus a

technical crew, plus a private-school background where practice time was unlimited, plus brand new instruments, plus arrangements that pretty much told everybody the Japanese know how to do more than make cars.

"There really wasn't much of a contest there," said one student.

There was some debate, however, about the English band that beat them for second place.

According to band members and chaperones, the actual competition took place only before judges. But at a later concert where all the bands played before each other, the director of the English band, overwhelmed by the performance of the Ponaganset ensemble, came onto the stage and apologized to director Nedo Pandolfi, saying his band should have taken second place.

While the competition was the reason for being there, other events took place that made the trip worthwhile, said band members.

The sightseeing trips to castles, the concerts they gave on radio, and a party where the students from Foster and Glocester met young musicians from South Africa, Sweden, Hungary and other nations were among the benefits cited.

Now they were returning home, though, and the American bus driver had advice while negotiating the Glocester curves before pulling into the Ponaganset High School.

"I'm giving you fair warning. You had better put your windows up before we get to the school. This is for your own good."

Moments later, it became clear why. As Glocester and Foster firetruck sirens wailed over the countryside, the two-bus convoy pulled through a wall of water provided by the firefighters.

At the other side of the wall, were 350 supporters of the band flying banners and wearing signs that read: "Number 3 in the World Number 1 With Us." The applause and cheers were matched only by the tears of joy from the band members.

When Donald Driscoll, who spearheaded the drive to raise about $80,000 to finance the trip asked the crowd: "Are we proud of this band? Are we proud?" the clapping didn't stop for 50 seconds. It was followed by the same enthusiastic applause for Pandolfi, the director who has taken various ensembles to London, Toronto and Georgia for other competitions.

But Pandolfi didn't make the return trip with the band, opting instead to tour Italy with his wife in hopes of finding an ancestral home he never knew and relatives he has never met.

It may have been just as well. He cried after one of the performances in Vienna, something most of the students had never seen him do before. The reception at the high school might have caused a minor flood.

SUPPLEMENTAL FUNDING FOR THE COAST GUARD DOES NOT GO FAR ENOUGH

Mr. PELL. Mr. President, the urgent supplemental appropriations bill passed by the Senate today contains $17.5 million in emergency funding for the Coast Guard. This amount is $30 million less than the amount contained in the two earlier urgent supplemental bills which were vetoed by the President. While I voted for H.R. 6685 because of the many important programs funded by the bill. I regret the cutback in emergency funding for the Coast Guard and hope that the general supplemental now pending in the House will further address the critical budget crisis faced by the Coast Guard today.

Many of my colleagues will recall the widespread concerns of our constituents earlier this year when the Coast Guard announced drastic cutbacks in services because of a budget shortfall. These cuts included an 8 percent reduction in enlisted manpower by the end of fiscal year 1982, the decommissioning of 11 cutters, the closing of numerous search and rescue stations, and a severe reduction in aids to navigation services. After much hue and cry about the need for greater congressional attention to the budget needs of the Coast Guard, the Secretary of Transportation wisely decided that the cutbacks would be largely held in abeyance, pending congressional action on emergency appropriations for the remainder of fiscal year 1982.

Without additional action by Congress, the cuts announced by the Coast Guard last January will soon become a reality. The urgent supplemental passed by the Senate today will avert severe reductions in Coast Guard services only until about the middle of August. At that time—the height of the summer recreational boating season—the Coast Guard's ability to save lives and perform other vital tasks will be critically jeopardized.

Mr. President, there is no question that the Coast Guard's resources and manpower have been stretched to the limit and beyond. The $17.5 million contained in H.R. 6685 is not nearly enough to avert a budget shortfall that will threaten the safety of recreational boaters, commercial fishermen, and thousands of others who depend upon the Coast Guard's traditional performance of its many varied responsibilities. I urge my colleagues to act quickly in enacting the remaining supplemental appropriations that are necessary to keep the Coast Guard afloat for the remainder of this fiscal year.

THE PRESIDENT'S LAW OF THE SEA DECISION

Mr. PELL. Mr. President, on Friday, July 9, President Reagan announced that he would not sign the Law of the Sea Convention when it is opened for signature in December in Caracas, Venezuela. I must respectfully, but fundamentally disagree with the President's decision. The Law of the Sea Treaty, while imperfect in certain respects, as documents born of compromise often are, is still the best and perhaps the only long-term way of preserving and protecting America's economic and national security interests in the oceans, without resorting to armed conflict.

After years of serving as a congressional adviser on the U.S. delegation to the Third United Nations Conference on the Law of the Sea (LOS), I have come to the view that, on balance, the LOS Treaty, even in its current form, does serve the foreign policy and national security interests of the United States, although certain special interest groups may be dissatisfied with a few specific provisions of the treaty. President Reagan noted in his statement last Friday that the treaty "contains many positive and very significant accomplishments." He further admitted that "extensive parts (of the treaty) dealing with navigation and overflight and most other provisions of the convention are consistent with United States interests and * * * serve well the interests of all nations."

Despite these admissions, the President appears to have come down on the side of a few special interests in deciding not to sign the treaty. It is somewhat ironic that in the case of one prominent special interest group—the deep seabed mining industry—the option to be "in or out of the treaty," still remains open to mining companies while this option has been foreclosed to the United States. By this I mean that a company which wishes to mine under the protection afforded by the treaty may do so by simply finding, as a sponsor, a state which has become a party to the treaty.

In addition to disagreeing with the substance of the President's decision, I also think that tactically the President was in error to announce this decision almost 6 months before the treaty is to be opened for signature. I took the President at his word when he said, on January 29, that he was "committed to the multilateral process for reaching agreement on Law of the Sea." I, therefore, find it hard to understand why the President has prematurely closed the door on this multilateral process. A wiser course would have been to see whether additional improvements to the text might still be possible even at this late date. What did the President have to lose by waiting? I do not think that the President's advisers served him well in the course of his deliberations on this issue.

Those who reassured him that many of the favorable provisions in the treaty would be available to the United States, without U.S. signature, particularly those provisions which deal with navigation on the high seas, failed to give proper weight to the fact that many legal scholars view the treaty as a complex package of rights and obligations to be accorded to signatories of the treaty only. It is certainly no sure thing, for example, that coastal states adjacent to strategic

straits, will permit U.S. ships to freely transit through waters which will become their territorial seas with the extension of territorial waters jurisdiction to 12 miles as provided by the treaty. Such a privilege need only be accorded to other treaty parties. Nor does it make sense to think that the United States can pick and choose among the treaty's provisions declaring those portions which we like to be customary international law, and those which we do not, not binding upon us. Finally, the President's advisors could not have given the President a realistic assessment of the likelihood of a U.S. deep seabed mining industry without an international code which guarantees mining companies tenure over specific minesites. What U.S. company or bank will be prepared to make the billions of dollars in investments required without such protection?

I fear that those within the Reagan administration who, for ideological reasons, would find U.S. participation in any law of the sea treaty anathema used the temporary absence of a Secretary of State to rush through this decision so as to eliminate any possibility of additional improvements to the text being made which might have made U.S. signature feasible in December.

I realize that it is unlikely that the President will reassess his decision. However, I hope that George Shultz, once he has assumed his duties as Secretary of State, will personally involve himself in this issue and discuss with the President the possibility of reconsidering his decision not to sign the treaty. Or, at the very least, since the President has decided to initial the Final Act of the Conference, I hope that Mr. Shultz will use every opportunity this affords him to seek additional improvements in the treaty. Among other things, this could include U.S. participation in the Preparatory Commission during its drafting of the rules and regulations to govern deep seabed mining, in order to improve the likelihood of signature by the United States at some date in the future.

Many of those closely associated with the most recent negotiations have stressed the inherent dangers which will exist when the treaty goes forward without U.S. participation. In this regard, on July 6, 1982, an informative editorial appeared in the Providence Journal. The editorial, "U.S. Runs Risk of Isolation in Seabed Treaty Stand," outlines the views of former Deputy Chairman of the U.S. Delegation to the Law of the Sea Conference, Mr. Leigh Ratiner, which are contained in a longer article written by him in the summer 1982 issue of Foreign Affairs. This article, entitled "The Law of the Sea: Crossroads for U.S. Policy," makes a number of compelling arguments concerning the dangers of the United States remaining outside the treaty.

In addition, I call to the attention of my colleagues a New York Times editorial of July 13 which questions the wisdom of the President's decision.

I ask unanimous consent that these editorials be printed at this point in the RECORD, and I urge my colleagues to read them as well as the longer article by Mr. Ratiner.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Providence Journal, July 6, 1982]

UNITED STATES RUNS RISK OF ISOLATION IN SEABED TREATY STAND

Although the United States voted against adoption of the Law of the Sea Treaty, which was approved by an overwhelming majority of nations after nine years of negotiations, a U.S. role is not yet foreclosed.

Opponents of the treaty in this country are attempting to advance a mini-treaty among the industrialized nations, but such an effort seems doomed to failure. And if the U.S. government is not wary, it may find itself left behind in grand isolation while the rest of the world signs the treaty and reaps the benefits.

That—curiously enough—is the view of the man who was deputy chairman of the U.S. delegation to the final negotiating session of the LOS Conference last spring. Leigh Ratiner, a veteran of some previous sessions, was engaged by the Reagan administration to help in advancing its demands for changes in the draft treaty. Now that the fight is over, he has concluded that too rigid an ideological position by administration policy controllers prevented the practical bargaining necessary to a better outcome.

Mr. Ratiner is a conservative who sympathized with the objections of the Reagan administration toward the draft treaty. But he points out, in an article in the current Foreign Affairs magazine, that "the dilemma for the United States now goes far beyond the specific flaws" in the treaty. In time, all the other nations, including our allies, will sign and ratify the treaty, he says, because "they see a long-term future" in it.

Then, he says, "we will stand as the emperor without clothes—for the entire world will see that it can do amazing and stupendous things without American money, leadership or technology." American companies would have to do business under foreign flags in order to get the legal protection of the treaty.

The draft treaty provides that the countries with seabed mining companies ready to start work can and indeed must, agree on a mini-treaty to resolve overlapping claims. But they can gain gobal approval only after signing the main treaty. There is no question of leaving the Third World out of consideration. Under the treaty terms, Third World countries eventually will benefit from profits of the Seabed Authority and its own seabed mining operation.

Opponents of the treaty fear that it would become an entering wedge for the New International Economic Order that the developing nations have been seeking in which the rich nations would cede some of their wealth to the poor countries. But Mr. Ratiner's judgment is that "the costs of isolation are far higher than the costs of accepting some of the rhetoric and principles of the North-South dialogue."

He suggests that some small changes might be made by consensus at a session in September to accept final drafting of treaty language. But that would require a concerted effort by the United States and a conciliatory attitude toward the very nations it has previously irriated by its hardnosed tactics.

In any event, U.S. officials should keep the door open to eventual signing, even if they decide to boycott the signing session at Caracas in December. Otherwise, irreparable harm could be done to long-range U.S. interests.

[From the New York Times, July 13, 1982]

THAT (NOT SO) AWFUL SEA TREATY

You wouldn't know it from the headlines, but President Reagan finds real merit in the Law of the Sea Treaty he won't sign. Yes, the seabed mining provisions are distasteful, especially that business about resources being the common heritage of all mankind. But embedded in the President's rejection is the quiet and telling assertion that the sea treaty "contains many positive and very significant accomplishments."

As Mr. Reagan explained: "Those extensive parts dealing with navigation and overflight and most other provisions of the convention are consistent with United States interests and, in our view, serve well the interests of all nations. This is an important achievement and signifies the benefits of working together and effectively balancing numerous interests."

No treaty supporter would claim more for the compromises it took a decade to reach. America clearly wants those benefits, including unimpeded naval passage through 115 straits and a uniform 12-mile territorial limit. The interesting and important question now is whether the United States can have it both ways—stay out of the proposed international mining code and still reap the benefits it wants.

To a considerable degree, it probably can. Americans may be able to use their substantial diplomatic and economic power to gain bilaterally with most nations the desirable provisions that the treaty confers multilaterally. Even if not universally ratified, the treaty fixes new norms that good lawyers will cite as constituting "customary international usage," like a recognized right of way. This much can be conceded to the conservatives who insisted on rejection. What should not be conceded is their corollary proposition: that the seabed riches are there for the grabbing if the United States signs a less sweeping treaty with its Western partners. They contend that there is no need for a global sea-law bargain with the third world; the industrial countries can always form their own club to mine the seabed nodules of cobalt, manganese and other strategic minerals.

This impractical thesis is challenged by none other than Leigh Ratiner, the deputy chairman of the Reagan Administration's Law of the Sea delegation. Writing in the current Foreign Affairs, he says that no mini-treaty could give investors the secure title they require before sinking millions into the seabed. He insists that if the Administration had made a good-faith negotiating effort, it could have ameliorated the mining provisions of an otherwise ratifiable treaty.

That argument was vain, and an American diplomatic venture of four Presidents now

ends with the United States in lamentable isolation. Why? Because free-market ideologues persuaded Mr. Reagan that it was offensive and unnecessary to share the profits of seabed mining with third-world nations that have not mastered the technology. The sea was to them not the common heritage of mankind but just so much more territory, to be staked out by the strongest.

As Mr. Ratiner observes, the decision to stand apart only defers American participation to a day when "the rules of the game will already be set and our industrial competitors . . . will have gained by then major political and economic advantages." An Administration that talks loudly and often about strategic minerals has made a strategic blunder.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:23 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 95. Joint resolution to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes.

The message also announced that the House has agreed to the following resolution:

H. Res. 523. Resolution electing the Honorable Jim Wright, a Representative from the State of Texas, as Speaker pro tempore during any absence of the Speaker until no later than July 19, 1982.

At 10:53 a.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 494. Joint resolution with regard to Presidential certifications on conditions in El Salvador.

At 12:54 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House recedes from its disagreement to the amendment of the Senate to the bill (H.R. 6685) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, and agrees thereto, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for 5 years; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. HOWARD, Mr. ANDERSON, Mr. MINETA, Mr. OBERSTAR, Mr. CLAUSEN, Mr. SNYDER, and Mr. HAMMERSCHMIDT as managers of the conference on the part of the House.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker pro tempore (Mr. WRIGHT) has signed the following enrolled joint resolution:

H.J. Res. 225. Joint resolution to designate the week beginning June 5, 1983, and ending June 11, 1983, as "Management Week in America".

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

At 2:58 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker pro tempore (Mr. WRIGHT) has signed the following enrolled bill and joint resolutions:

H.R. 4935. An act to amend title 11, United States Code, to correct technical errors, and to clarify and make substantive changes, with respect to securities and commodities;

S.J. Res. 95. Joint resolution to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes; and

H.J. Res. 444. Joint resolution to authorize and request the President to designate August 14, 1982, as "National Navajo Code Talkers Day".

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by unanimous consent, and referred to the Committee on Foreign Relations:

H.J. Res. 494. Joint resolution with regard to Presidential certifications on conditions in El Salvador.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1010. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"RESOLUTION

"Whereas, 'Firescope' is an acronym meaning Firefighting Resources of Southern California Organized for Potential Emergencies, a pilot project begun in 1973 as the result of the aerospace industry and the California congressional delegation petitioning the Congress of the United States to develop a program to prevent disastrous wildland fires; and

"Whereas, Actual program implementation of the Firescope project began in 1978 with the formation and development of the Firescope Incident Command System following a five-year study by the United States Forest Service which concluded that the coordination and deployment of all firefighting personnel, equipment, and resources would prevent or alleviate the disastrous economic effects of large structural and wildland fires; and

"Whereas, It is the purpose of the Firescope project to coordinate the firefighting activities of federal, state, and local agencies before, during, and after a major fire and to deploy all firefighting resources through a computerized Fire Information Management System to ensure effective coordination of the firefighting effort; and

"Whereas, Firescope was initially funded in 1978 by the federal, state, and local governments and, although the project is not as yet completely established or 100 percent operational, its effectiveness in firefighting capability and in property saved from destruction by fire has been amply proven to date, and it is clear that without Firescope or a comparable program fire suppression costs may quadruple; and

"Whereas, Firescope is in danger of losing its federal funding of $2.4 million annually as a result of budget cuts, thus preventing the project from becoming fully in place and 100 percent functional over the next two years; and

"Whereas, If Firescope does not receive the necessary funding the project will stagnate and the State of California cannot carry the cost and develop the necessary technology by itself at this time; and

"Whereas, Failure to fully implement this project will result in increased fire losses and resulting flood damage far exceeding the costs of completely implementing the Firescope project over the next two years; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of California respectfully memorializes the President and Congress to appropriate the funds necessary to complete development and full implementation of the Firescope project; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1011. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York urging Congress to prevent the passage of any resolution providing supplies and, in particular, sophisticated military hardware to countries whose acknowledged purpose is the destruction and abolition of the State of Israel; to the Committee on Armed Services.

POM-1012. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York opposing the sale of AWACS to Saudi Arabia, the sale of sophisticated weapons to Jordan, and recognition of Iraq as being eligible for American assistance; to the Committee on Armed Services.

POM-1013. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York urging Congress to initiate an investigation on the propriety of some corporations bowing to the influence of Saudi Arabia and on the question of possible conflict of interest; to the Committee on Armed Services.

POM-1014. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York urging the Secretary of the Army to place a plaque at Arlington National Cemetery, honoring members of the U.S. Armed Forces who died in an attempt to rescue American hostages held in Iran; to the Committee on Armed Services.

POM-1015. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York opposing pending legislation in Congress to allow West Germany to regain some of the controversial works that were seized by the United States after World War II; to the Committee on Armed Services.

POM-1016. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York urging Congress to cease sales of arms to those countries who oppose the Camp David peace plan; to the Committee on Armed Services.

POM-1017. A resolution adopted by the National Conference of Black Mayors, relating to New Federalism initiatives; to the Committee on Banking, Housing, and Urban Affairs.

POM-1018. A resolution adopted by the National Conference of Black Mayors, supporting the application of Professional Football Enterprises for membership to the National Football League and minority ownership of an NFL Franchise; to the Committee on Commerce, Science, and Transportation.

POM-1019. A resolution adopted by the Western Governors' Conference urging Congress to adopt OCS receipt-sharing legislation, such as embodied in H.R. 5543 and S. 2129; to the Committee on Energy and Natural Resources.

POM-1020. A resolution adopted by the Western Governors' Conference urging the Secretary of the Interior to revise the 5-year program in accordance with the valid concern of coastal States for the balanced management of all ocean and coastal resources; to the Committee on Energy and Natural Resources.

POM-1021. A resolution adopted by the Western Governors' Conference urging Congress to appropriate CEIF repayment monies to coastal and marine-related programs; to the Committee on Energy and Natural Resources.

POM-1022. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"RESOLUTION

"Whereas, The nuclear accident that occurred at the Three Mile Island powerplant on March 28, 1979, has been found to have been caused by a combination of mechanical failure and human error; and

"Whereas, Legislation is presently being considered by Congress, S. 1606 and H.R. 5963, which would require all licensed nuclear electric utility systems across the country to share in the cleanup costs at Three Mile Island by contributing a total of 192 million dollars over a six-year period; and

"Whereas, California ratepayers who are presently faced with increasingly higher electric bills should not be expected to pay even higher charges in order to subsidize the costs of cleanup activities resulting from the Three Mile Island accident; and

"Whereas, This proposed legislation would constitute a dangerous precedent by requiring the electric utility ratepayers of the entire country to participate in a financial bailout of a private industry serving only one area; and

"Whereas, In California, as elsewhere, the inequities of this situation would be compounded by requiring only those ratepayers served by electric utilities operating nuclear plants to contribute to the cleanup of Three Mile Island; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress of the United States are respectfully memorialized to oppose the Three Mile Island bailout legislation, S. 1606 and H.R. 5963, which will be considered by Congress in the very near future; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1023. A resolution adopted by the Chamber of Deputies of the Tunisian Republic opposing Israel's invasion of Lebanon; to the Committee on Foreign Relations.

POM-1024. A resolution adopted by the National Conference of Black Mayors, supporting a joint venture with Africa Journal LTD, to further develop and implement the "Twin Cities Exchange Program"; to the Committee on Foreign Relations.

POM-1025. A resolution adopted by the National Conference of Black Mayors supporting the Twin Cities Program Development: Know Africa Fundraising Project; to the Committee on Foreign Relations.

POM-1026. A resolution adopted by the National Conference of Black Mayors urging Congress to end U.S. involvement in the nuclear arms race, and immediate resumption of disarmament negotiations between the U.S., the U.S.S.R., and other nations with nuclear capability; to the Committee on Foreign Relations.

POM-1027. A resolution adopted by the County Board of Itasca County, Minnesota, supporting a bilateral nuclear arms freeze; to the Committee on Foreign Relations.

POM-1028. A resolution adopted by the City Council of Dover, Ohio, urging Congress to halt the nuclear arms race, and declaring an emergency; to the Committee on Foreign Relations.

POM—1029. A resolution adopted by the County Board of Itasca County, Minnesota, supporting a bilateral nuclear arms freeze; to the Committee on Foreign Relations.

POM—1030. A resolution adopted by the Borough Council of the Mountain Lakes, County of Morris, New Jersey, supporting a mutual freeze with the Soviet Union on further testing, production, and deployment of nuclear weapons and of delivery systems; to the Committee on Foreign Relations.

POM—1031. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, urging Congress to withhold all financial support from UNESCO, as long as it continues its anti-democratic and anti-western attacks in violation of its mandates; to the Committee on Foreign Relations.

POM—1032. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, urging Congress to pass a resolution that it would suspend U.S. participation in the U.N. General Assembly, and withhold its contributions to the U.N. if the General Assembly illegally expelled Israel or any other democratic state; to the Committee on Foreign Relations.

POM-1033. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, urging firm support by the United States as to the right of Israel to exist; to the Committee on Foreign Relations.

POM-1034. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, urging U.S. Recognition of United Jerusalem as the Capital of Israel; to the Committee on Foreign Relations.

POM-1035. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, opposing the establishment of PLO offices in European capitols; to the Committee on Foreign Relations.

POM-1036. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, urging Congress to establish policy and legislation that will limit the amount of investment and control that a foreign entity can exercise upon an American business, real estate, and industries; to the Committee on Foreign Relations.

POM-1037. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting Israel's decision to remove the constant threat to the lives of the population living in Northern Israel; to the Committee on Foreign Relations.

POM-1038. A resolution adopted by the Pima County, Tucson, Arizona, Board of Supervisors, urging Congress to reconstruct the Southern Arizona Water Rights Settlement Act; to the Select Committee on Indian Affairs.

POM-1039. A resolution adopted by the City Council of Parma, Ohio, petitioning Congress for relief in the City's appeal to the United States Supreme Court, and declaring an emergency; to the Committee on the Judiciary.

POM-1040. A resolution adopted by the Student Government Senate of the University of South Florida urging that January 15, the birthdate of Martin Luther King, Jr. be set aside each year as a national legal holiday; to the Committee on the Judiciary.

POM-1041. A resolution adopted by the Essex County Board of Chosen Freeholders of Newark, New Jersey supporting passage of H.R. 3781 and/or S. 1701 which help the flow of information with regard to missing persons across the nation; to the Committee on the Judiciary.

POM-1042. A resolution adopted by the National Conference of Black Mayors opposing the deportation of Haitian refugees and encouraging the Reagan Administration to abandon its calloused and dual approach to granting political asylum to Haitians and other refugees of color; to the Committee on the Judiciary.

POM-1043. A resolution adopted by the National Conference of Black Mayors calling on Congress to end concerted attacks on affirmative action programs and to vigorously enforce Title VII of the Civil Rights Act of 1964 and Executive Order 11246 which ban employment discrimination based on race, sex, age, religion, or national origin; to the Committee on the Judiciary.

POM-1044. A resolution adopted by the National Conference of Black Mayors supporting the House-passed version of the Voting Rights Act Extension (H.R. 3112) with no weakening and/or gutting amendments; to the Committee on the Judiciary.

POM-1045. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting the Voting Rights Bill of 1965; to the Committee on the Judiciary.

POM-1046. A concurrent resolution adopted by the General Assembly of the State of South Carolina; to the Committee on the Judiciary:

"CALENDAR No. S. 1069

"Whereas, Representative Daniel B. Crane of Illinois and others are sponsoring a resolution in Congress (House Resolution 367) which confers national hero status upon Mr. Arland D. Williams, Jr., a resident of Atlanta and a 1957 graduate of The Citadel; and

"Whereas, Arland Williams was a passenger on the Air Florida airplane which crashed in Washington, D.C. on January 13, 1982;

"Whereas, while mired in the wreckage of the plane in the Potomac River, he five times passed a survival line suspended from a helicopter to other passengers rather than take it for himself; and

"Whereas, after repeatedly putting the safety of his fellow passengers ahead of his own, Arland Williams met his death by drowning; and

"Whereas, the members of the South Carolina General assembly certainly believe that the passage of House Resolution 367 would be a fine tribute to this extraordinary man who gave his life so that other fellow human beings might live. Now, therefore,

"*Be it resolved* by the Senate, the House of Representatives concurring:

"That the members of the General Assembly hereby memorialize Congress to pass House Resolution 367 which posthumously confers national hero status upon Mr. Arland D. Williams Jr., a 1957 graduate of The Citadel and a passenger on the Air Florida plane which crashed in Washington, D.C., who gave his life so that his fellow passengers might live.

"*Be it further resolved* that copies of this resolution be forwarded to each United States Senator from South Carolina, each Member of the House of Representatives of Congress from South Carolina, the Clerk of the Senate of the United States, and the Clerk of the House of Representatives of the United States."

POM-1047. A resolution adopted by the National Conference of Black Mayors opposing student financial aid program cutbacks and supporting continuing financial support for black colleges and universities; to the Committee on Labor and Human Resources.

POM-1048. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting enaction of the Veterans Judicial Review Act; to the Committee on Veterans' Affairs.

POM-1049. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting passage of H.R. 413, permitting burials in national cemeteries on weekends and holidays; to the Committee on Veterans' Affairs.

POM-1050. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting passage of H.R. 344, which would provide mortgage protection life insurance to those veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Veterans' Affairs.

POM-1051. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting passage of H.R. 523, waiving the one-year limitation on claims for compensation by veterans suffering from exposure to "Agent Yellow" and other phenoxy herbicides; to the Committee on Veterans' Affairs.

POM-1052. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting passage of H.R. 548, which would provide that remarriage of a surviving spouse of a veteran after age 60, shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

POM-1053. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting passage of H.R. 747, which would extend the period of Vietnam Era Veterans' eligibility for readjustment counseling and related mental health services; to the Committee on Veterans' Affairs.

POM-1054. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting passage of H.R. 1145, which would include lupus erythematosis among the chronic diseases; to the Committee on Veterans' Affairs.

POM-1055. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting passage of H.R. 238, which would guarantee that any increase in monthly social security benefits would not be mandatory to reduce the veteran's pension and compensation; to the Committee on Veterans' Affairs.

POM-1056. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting passage of H.R. 1400, which would establish new educational assistance programs for veterans and for members of the Armed Forces; to the Committee on Veterans' Affairs.

POM-1057. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting passage of H.R. 3307, which would establish a minimum number of hospital and nursing home beds in medical facilities of the Veterans Administration; to the Committee on Veterans' Affairs.

POM-1058. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting passage of H.R. 1714, which would authorize the administration of Veterans Affairs to guarantee home loans with provisions for variable payment plans; to the Committee on Veterans' Affairs.

POM-1059. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting legislation to improve and expand benefits for former military prisoners of war; to the Committee on Veterans' Affairs.

POM-1060. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting passage of H.R. 3502, which would provide for a greater coordination and sharing of the medical facilities of the Veterans Administration and the Department of Defense; to the Committee on Veterans' Affairs.

POM-1061. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting legislation to provide hospital care and medical attention to Vietnam veterans whose health problems may have resulted from exposure to the herbicide "Agent Orange"; to the Committee on Veterans' Affairs.

POM-1062. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting legislation to entitle the estate of a deceased veteran to a burial benefit of $450.00, reinstated retroactively; to the Committee on Veterans' Affairs.

POM-1063. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, opposing Veterans Administration plans to abandon free treatment to all veterans 65 years of age and over; to the Committee on Veterans' Affairs.

POM-1064. A resolution adopted by the National Conference of Black Mayors supporting the revitalization of the Electric Utility Industry; to the Committee on Energy and Natural Resources.

POM-1065. A resolution adopted by the National Conference of Black Mayors opposing private school tuition tax credits; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. Res. 426. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3467; referred to the Committee on the Budget.

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment:

S. Res. 427. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1889; referred to the Committee on the Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON (for himself and Mr. NUNN):

S. 2733. A bill to amend the Internal Revenue Code of 1954 to provide for special application of the at risk rules in certain leasing situations; to the Committee on Finance.

By Mr. HUMPHREY:

S. 2734. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with power to enjoin the distribution of forged or counterfeit drugs; to the Committee on Labor and Human Resources.

By Mr. HUMPHREY:

S. 2735. A bill to amend title 39 of the United States Code to provide that drug abuse oriented advertisements and shipments of drugs in response to drug abuse oriented advertisements shall be nonmailable matter; to the Committee on Government Affairs.

By Mr. HUMPHREY:

S. 2736. A bill to make it unlawful to manufacture, distribute, or possess with intent to distribute, a drug which is an imitation of a controlled substance or a drug which purports to act like a controlled substance; to the Committee on the Judiciary.

By Mr. GLENN (for himself, Mr. HOLLINGS, and Mr. BENTSEN):

S. 2737. A bill to authorize an educational assistance program which will provide low cost loans to college students who pursue mathematics and science baccalaureate degrees and enter the precollege mathematics and science teaching profession, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GLENN (for himself, Mr. HOLLINGS, and Mr. BENTSEN):

S. 2738. A bill to amend the Internal Revenue Code of 1954 to allow a credit to certain employers for compensation paid to employees with precollege mathematics or science teaching certificates who are employed for the summer months by such employers or who are employees who teach a limited number of hours; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. SARBANES, Mr. PELL, Mr. MATSUNAGA, Mr. RIEGLE, and Mr. BURDICK):

S. 2739. A bill to amend title II of the Social Security Act to provide that termination of disability benefits shall require that a finding be made that there has been medical improvement or that the prior decision was clearly erroneous, to provide for continuation of disability benefits through the appeals process, and for other purposes; to the Committee on Finance.

By Mr. BOREN:

S. 2740. A bill to amend the Tax Reform Act of 1969 with respect to the application of the excess business holding provisions to private foundations; to the Committee on Finance.

By Mr. HAYAKAWA (for himself and Mr. CRANSTON):

S. 2741. A bill to amend the Tax Reform Act of 1969 with respect to the application of the excess business holdings provisions to private foundations; to the Committee on Finance.

By Mrs. HAWKINS (for herself, Mr. PERCY, and Mr. COCHRAN):

S. 2742. A bill to establish the U.S. Capitol Page Board for supervision and education of congressional pages, and for other purposes; to the Committee on Rules and Administration.

By Mr. TSONGAS:

S. 2743. A bill to authorize four demonstration centers to address changes in teaching techniques, teaching materials, and educational psychology; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself, Mr. PACKWOOD, Mr. BURDICK, Mr. DENTON, Mr. LUGAR, Mr. MATSUNAGA, Mr. D'AMATO, Mr. WALLOP, Mr. DURENBERGER, Mr. HEINZ, Mr. HOLLINGS, Mr. COCHRAN, Mr. FORD, Mr. DECONCINI, Mr. CRANSTON, Mr. BUMPERS, Mr. MITCHELL, Mr. MOYNIHAN, Mr. BAUCUS, Mrs. KASSEBAUM, Mr. MELCHER, Mr. HAYAKAWA, Mr. STAFFORD, Mr. SYMMS, Mr. JEPSEN, and Mr. SASSER):

S.J. Res. 215. Joint resolution to provide that the week beginning March 6, 1983, shall be designated as "Women's History Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred or acted upon, as indicated:

By Mr. PERCY:

S. Res. 426. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3467; from the Committee on Foreign Relations; to the Committee on the Budget.

By Mr. HATCH:

S. Res. 427. Original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1889; from the Committee on Labor and Human Resources; to the Committee on the Budget.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON (for himself and Mr. NUNN):

S. 2733. A bill to amend the Internal Revenue Code of 1954 to provide for special application of the at risk rules in certain leasing situations; to the Committee on Finance.

(The remarks of Mr. DIXON and Mr. NUNN on this legislation appear earlier in today's RECORD.)

By Mr. HUMPHREY:

S. 2734. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with power to enjoin the distribution of forged or counterfeit drugs; to the Committee on Labor and Human Resources.

S. 2735. A bill to amend title 39 of the United States Code to provide that drug abuse oriented advertisements and shipments of drugs in response to drug abuse oriented advertisements shall be nonmailable matter; to the Committee on Governmental Affairs.

S. 2736. A bill to make it unlawful to manufacture, distribute, or possess with intent to distribute, a drug which is an imitation of a controlled substance or a drug which purports to act like a controlled substance; to the Committee on the Judiciary.

THE FIGHT AGAINST LOOKALIKE DRUGS

● Mr. HUMPHREY. Mr. President, today I am introducing a legislative package consisting of three bills to provide jurisdiction and a clear mandate to certain Federal agencies to assist in the fight against lookalike drugs.

Imitation controlled substances, commonly known as lookalikes, resemble or duplicate the appearance of brand name amphetamines, barbiturates and tranquilizers. They contain combinations of over the counter drugs which, in multiple doses or in combination with caffein or aspirinlike compounds, produce effects similar to the controlled substances they are designed to resemble. Thus, the pills look like controlled substances and are advertised as producing the effect of controlled substances and as the "legal way to get high."

This industry is lucrative and growing. The Drug Enforcement Administration (DEA) reports that mail order and store front wholesale distributors grew from a "mere handful" in early 1980 to more than 150 outlets in November, 1981. Production of imitation controlled substances has increased to 30 million dosage units per week. DEA has indicated that in the last 1½ years, the lookalike industry has flooded the Nation's campuses and school yards with hundreds of millions of pills. Intelligency derived from local police agencies, hospital emergency rooms and medical examiners was analyzed by DEA. Data evidenced widespread abuse among teenagers and college age youths.

As a result of increased problems associated with lookalikes, DEA compared the marketing practices of drug traffickers in contraband with the sales techniques of lookalike distributors. DEA found lookalike distributors engaged in extensive advertising campaigns promoting their products to be both safe and legal. They utilized full color brochures, magazines ads, highway billboards and even television spots to attract teenagers and young adults. DEA has concluded that the easy and immediate availability of imitation controlled substances has encouraged a climate of complete acceptance among teenagers, conditioning then to daily drug trafficking, handling and consumption of these pharmacal stimulants. As chairman of the Subcommittee on Alcoholism and Drug Abuse, the rapid expansion of this industry, both social and economic, is extremely disturbing to me.

Especially disturbing is the apparent lack of Federal jurisdiction over this industry. DEA has jurisdiction over drugs which are illegally trafficked if the drug components are scheduled in the Controlled Substances Act. Imitation controlled substances may be designed to resemble drugs which are specifically controlled but they do not contain pharmaceutical ingredients or agents governed by the Controlled Substances Act. Since DEA's jurisdiction is limited to enforcement of the Controlled Substances Act, they have no power to restrict sale and distribution of imitations which do not contain controlled substances.

The ingredients contained in lookalikes: caffein, ephedrine, phenylpropanolomine and/or acetaminophen, are commonly known as over-the-counter substances. Over-the-counter substances are regulated by the Food and Drug Administration (FDA). Whenever a new drug containing such substances is developed, the FDA regulates marketing by requiring the filing of a new drug application. This provides adequate time for FDA testing to insure new drugs are safe and effective. Lookalike manufacturers have not been rquired to make such filings since over-the-counter drugs containing the combined ingredients present in lookalikes have previously

been approved by the FDA. The major difference between the earlier drugs and lookalikes is the concentration of ingredients. Lookalikes contain significantly higher milligram dosages of the combined ingredients than any previously approved combination. The FDA is now considering whether lookalike manufacturers should be required to file new drug applications. While the FDA studies the problem, the industry continues to expand.

The FDA has exerted jurisdiction over counterfeits, the lookalikes designed to resemble specific controlled substances. The FDA seized materials and manufacturing equipment from nine manufacturers and distributors which produced and mislabeled counterfeit drugs. As a result of this enforcement action, manufacturers have become more sophisticated and are currently producing pills, tablets and capsules that do not look like controlled substances and therefore are no longer subject to legal action under the Federal Food, Drug and Cosmetic Act.

The U.S. Postal Service has also been involved in the lookalike drug enforcement effort. The Postal Service filed complaints against 39 distributors under its false representation statute and obtained false representation orders in most cases. The orders required postmasters to discontinue mail delivery to the subject distributors. The problem, however, continues. Lookalike distributors and manufacturers no longer claim their products are absolutely safe and occasionally enumerate side effects related to consumption. Since the labels no longer misrepresent the nature of the product, the Postal Service is without jurisdiction to restrain use of the mails for product distribution.

The only other Federal agency which may have jurisdiction over the advertising and distribution practices exhibited by lookalike dealers is the Federal Trade Commission. I am informed the Commission is reviewing its jurisdictional posture, but to date, has been reluctant to prosecute. Thus, the lookalike industry appears to have circumvented ordinary regulation due to the unique characteristics of this product. We are confronted with an industry promoting drug use and abuse in our youth which we have no direct ability to regulate. Although DEA has urged action to the State level and approximately 19 States have enacted some form of legislation banning manufacture and distribution of imitation controlled substances, the problem has not been sufficiently alleviated. Individual statutes differ from jurisdiction to jurisdiction and manufacturers seek new locales more favorable to their activities.

Therefore Mr. President, I urge my colleagues to support three bills which I believe will provide a national approach to a growing health and social problem. The first bill, the Imitation Controlled Substances Act of 1982 outlaws the creation, manufacture and distribution of imitation controlled substances which look like, or are represented to be controlled substances, and substances which purport to act like controlled substances, if those substances are marketed to encourage drug use or abuse for purposes of recreational mind alteration, recreational drug experimentation or any other nonmedical purpose. The act proposes to exempt placebos, research and distribution in the course of professional practice. The act imposes a misdemeanor sanction for first offenders unless distribution involves sales to minors. Intentional sales to minors would result in a felony conviction. Enactment of this legislation vests jurisdiction in the Food and Drug Administration to monitor and control the marketing practices of distributors.

Further, the U.S. Mails appear to be an essential element of the marketing and distribution chain in this industry. Mail order businesses flourish. Therefore, I propose to amend the postal statute to make drug abuse oriented advertisments and shipments in response to those advertisements, nonmailable. Enactment of this legislation would restrict advertising and distribution and enable the Postal Service to seize, detain or dispose of unlawful shipments.

The final piece of legislation I am introducing today proposes to amend the Federal Food, Drug and Cosmetic Act to provide the FDA, acting through the U.S. attorney with power to seek injunctions to restrain manufacturers of counterfeit drugs. Currently, the FDA can seize materials and equipment used to manufacture counterfeits but they are unable to restrain the manufacturer from distribution. Thus if the subject manufacturer has other warehouses stockpiled with counterfeits that are unknown to food and drug agents, the manufacturer can continue to distribute inventories until the FDA seizes it. The omission of injunctive power does not make sense and probably was a legislative oversight. The Food and Drug Administration should be empowered to restrain distribution by counterfeit manufacturers until it can be assured that future distribution by the subject manufacturer is in compliance with Federal law.

Mr. President, this legislative package is intended to supplement and clarify ongoing Federal enforcement efforts. It is designed to fill the gaps and articulate a national policy in opposition to those who would encourage our children to take drugs for fun and profit, those who would make "pill popping" a national pastime, and those who would seek to make drug trafficking a socially acceptable occupation. I strongly urge my colleagues to join me in this battle against manufacturers and distributors of imitation controlled substances.

Before closing, I would like to announce that today, I sent a letter to the Consumer Product Safety Commission urging it to exercise its jurisdiction under the Poison Prevention Packaging Act to require look-alike manufacturers to provide child resistant packaging on all containers of imitation barbiturates and tranquilizers. These imitation depressants generally contain between 100 and 300 milligrams of acetaminophen per tablet. It appears therefore, that packages containing in excess of 10 tablets would be governed by the act and require child resistant packaging. It is estimated that imitation depressants make up 20 percent of the look-alike market. I am confident the Commission will respond expeditiously to insure proper packaging to protect the youngest members of our society from ingesting harmful substances.

Mr. President, I ask unanimous consent that the text of the legislation I have introduced today be printed in the RECORD immediately following my statement.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 302 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 332(a)) is amended by striking out "paragraphs (h)-(j)" and inserting in lieu thereof "paragraphs (h) and (j)".

S. 2735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3001 of title 39, United States Code, is amended by—

(1) redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) adding after subsection (e) the following new subsection:

"(f)(1) Matter otherwise legally acceptable to the mails which is in the form of, and reasonably could be interpreted or construed as, a drug abuse oriented advertisement or a shipment of imitation controlled substances in response to a drug abuse oriented advertisement, shall be nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

"(2) For purposes of this subsection, the term—

"(A) 'drug abuse oriented advertisement' means any advertisement that encourages, directly or indirectly, the sale, purchase, distribution, use or abuse of imitation controlled substances for recreational mind alteration or recreational drug experimentation, or nonmedical purposes (an advertisement shall be presumed to have a medical purpose if it appears in a legitimate medical journal or medical trade publication adver-

tising use of a drug for a medical purpose); and

"(B) 'imitation controlled substance' means any pharmaceutical substance other than a controlled substance as defined in section 102(6) of the Controlled Substances Act (21 U.S.C 802(6)) or prescription drug, or combination of such substances, which is marketed, sold, or distributed to encourage, directly or indirectly, drug use or abuse for recreational mind alteration or recreational drug experimentation, or other nonmedical purposes and—

"(i) by representation or appearance (including color, shape, size, and markings) would lead a reasonable person to believe that the substance is a controlled substance; or

"(ii) purports to act, either alone, in multiple doses, or in combination with coffee or aspirin, like a controlled substance, either stimulant or depressent as defined in section 102(9) of the Controlled Substances Act (21 U.S.C. 802(9)).

"(3) This subsection does not apply to the use of the mails in the course of the creation, manufacture, distribution, or possession of an imitation controlled substance by a person if the imitation controlled substance is created, manufactured, distributed, or possessed for use as a placebo in the course of the professional practice of a practitioner registered under part C or in research conducted under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C 355(i)) or conducted in connection with an application filed under section 505(b) of such Act (21 U.S.C 355(b)).".

S. 2736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Imitation Controlled Substances Act of 1982".

DEFINITIONS

SEC. 2. For purposes of this Act the term—

(1) "imitation controlled substance" means any pharmaceutical substance other than a controlled substance or prescription drug, or combination of such substances, which is marketed, sold, or distributed to encourage, directly or indirectly, drug use or abuse for recreational mind alteration or recreational drug experimentation, or other nonmedical purposes; and—

(A) by representation or appearance (including color, shape, size, and markings) would lead a reasonable person to believe that the substance is a controlled substance; or

(B) purports to act, either alone, in multiple doses, or in combination with a substance or substances, like a controlled substance, either stimulant or depressant as defined in section 102 (9) of the Controlled Substances Act (21 U.S.C. 802 (9));

(2) "distribute" means the actual, constructive, or attempted transfer, delivery, or dispensing to another of an imitation controlled substance;

(3) "manufacture" means the production, preparation, propagation, compounding, or processing of an imitation controlled substance, and includes any packaging or repackaging of such substance or labeling or relabeling of its container; except that such term does not include the preparation, compounding, packaging, or labeling of an imitation controlled substance in conformity with applicable State or local law by a practitioner as an incident to his administration or dispensing of such substance in the course of his professional practice; and

(4) "controlled substance" is used as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802 (6)).

IMITATION CONTROLLED SUBSTANCES

SEC. 3. (a) (1) Except as provided in paragraph (2), it shall be unlawful for any person knowingly or intentionally to create, manufacture, distribute, or possess with intent to create, manufacture, or distribute an imitation controlled substance. Any person who violates this paragraph shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than $15,000, or both.

(2) Paragraph (1) does not apply to the creation, manufacture, distribution, or possession of an imitation controlled substance by a person if the imitation controlled substance is created, manufactured, distributed, or possessed for use as a placebo in the course of the professional practice of a practitioner registered under part C or in research conducted under section 525 (i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (i)) or conducted in connection with an application filed under section 505 (b) of such Act (21 U.S.C. 355 (b)).

(b) Any person at least 18 years of age who violates subsection (a) (1) by distributing an imitation controlled substance to a person under 18 years of age shall be sentenced to a term of imprisonment of not more than two years, fined not more than $34,000, or both.●

By Mr. GLENN (for himself, Mr. HOLLINGS, and Mr. BENTSEN):

S. 2737. A bill to authorize an educational assistance program which will provide low-cost loans to college students who pursue mathematics and science baccalaureate degrees and enter the precollege mathematics and science teaching profession, and for other purposes; to the Committee on Labor and Human Resources.

PRECOLLEGE MATHEMATICS AND SCIENCE TEACHER ASSISTANCE ACT

● Mr. GLENN. Mr. President, on behalf of myself and my distinguished colleagues, Senators HOLLINGS and BENTSEN, I rise to introduce two bills, the first of which is the Precollege Mathematics and Science Teacher Assistance Act. Mr. President, all of us are deeply concerned about the problem of decline in the quality and quantity of precollege education in the field of science and mathematics. This is a problem that could have a profound impact on our economy, our national security, and our ability to compete effectively with the other industrialized nations in the world. It is therefore a problem that affects every American.

The facts are sobering. The percentage of students taking science courses in grades 9–12 has been declining over the last two decades. The drain of science and engineering graduates into the job market at the bachelors degree level has resulted in a reduction of the supply of faculty to teach and train future students in these disciplines, and is resulting in severe shortages of qualified teachers of precollege science and mathematics. Overcrowded classrooms, insufficient funding for laboratories and computer facilities and relatively low salaries are driving some of our best professors out of the universities with a consequent decrease in the quality of baccalaureate and graduate programs.

By contrast, both Japan and the Soviet Union are producing many more engineers on a per capita basis. At the precollege level in the Soviet Union, by the time a student reaches the terminal level in compulsory education at about age 16, he or she will have had 8 years of mathematics, 3 years of physics, and 2 years of chemistry. Those students who complete the additional 2 years of the general secondary curriculum have an additional 2 years in mathematics, biology, physics, and chemistry. These Soviet upper-secondary mathematics and science courses appear to be comparable to U.S. college introductory courses. In the United States on the other hand, only half the States require at least one science course before high school graduation; five require two or more courses, and the rest mandate none. In seven States, the mandated course is physiology and in five States health and hygiene courses satisfy the science requirements. U.S. teachers receive very little continuing education in science and mathematics. Low salaries and poor working conditions have created an extreme shortage of high school teachers of science and mathematics. In the April 6, 1982, edition of the New York Times, the dean of science at the City College of New York is quoted as saying that in the State of Connecticut last year, there were no graduates produced that were equipped to teach high school science. In the State of Minnesota, only one such graduate was produced. The city of Chicago has only one certified physics teacher for every two high schools.

The much heavier emphasis on science and mathematics in the primary and secondary schools in Germany, Japan, and the Soviet Union are producing graduates who are much better prepared than graduates of American high schools to deal with technical matters and to enter the technical work force. It is not surprising then that only 6 percent of American undergraduate students major in engineering, whereas in Japan it is 20 percent, and in Germany 35 percent.

Yet, at the very time when it is becoming more and more apparent that we have a serious problem in this area, the Federal Government, instead of moving ahead with programs and support to bolster the educational system and to meet our needs, is retreating in its effort to help upgrade the quality of American science education. Funds for the Science Education Division of the National Science Foundation for fiscal year 1983 have been eliminated

except for $15 million for graduate fellowships—fellowships incidentally, which are not all that attractive because of their relatively low stipend. In response to this, the Director of NSF has disestablished the Science Education Division.

In my view, nothing short of a statutorily mandated effort by the Federal Government to deal with this problem will do. Action is needed if we are to halt the erosion of our store of human and educational resources that have made America the great Nation it is. We must make the investment and the effort to produce the technical, scientific, and engineering manpower that we are surely going to need in great numbers in the future, and we must close the widening gap between the public understanding of science and technology and the requirements of citizenship in a participatory democracy.

The area of precollege science and mathematics education is one of the most important areas on which to focus this effort.

Accordingly, Mr. President, the first of the two bills I am introducing today, the Precollege Mathematics and Science Teacher Assistance Act, provides a mechanism for alleviating the present and projected severe shortage of science and math educators. It does this in the following way:

The bill amends title IV of the Higher Education Act of 1965 by authorizing the Secretary of Education to establish, through the universities, funds for making low-interest—7 percent annually—loans to college students who pursue math or science degrees and who intend to enter the precollege mathematics and science teaching profession. Funds for this purpose will be made available to institutions taking into consideration the actual cost of attendance at that institution and the financial ability of eligible students to meet the cost of attendance. Such loans will be repayable in accordance with a prespecified schedule except that the student may have 25 percent of the total principal and associated interest canceled for each year of full-time service as a teacher of science or mathematics in an elementary or secondary school. Such service must begin within 1 year after receiving certification as a teacher or not later than 3 years after receiving a baccalaureate degree with a science or mathematics major.

Mr. President, my staff has worked very closely with the National Association of Secondary School Principals in developing this bill and I am very appreciative not only of their support, but of that of the National Science Teachers Association, the National Association of State Boards of Education, the National Council of Teachers of Mathematics, the National Association of Elementary School Principals, and the American Association of College Teachers of Education.

It is important to understand that this bill, if enacted, would not be a great burden on the U.S. Treasury. I have received an informal estimate of cost from the Congressional Budget Office which is based on an assumption that the maximum demand under the bill will be for loans for 24,000 students. Assuming the phasein of 25 percent per year from now until fiscal year 1987, the bill would require authorizations of $12 million in fiscal year 1984; $25 million in fiscal year 1985; $40 million in fiscal year 1986; and $57 million in fiscal year 1987. From fiscal year 1987 until fiscal year 1993, when all funding for the program comes to an end, authorizations will rise only slightly. Actual outlays will be much lower than these authorizations starting from $1 million in fiscal year 1984; $12 million in fiscal year 1985; $25 million in fiscal year 1986; $40 million in fiscal year 1987; $57 million in fiscal year 1988, with only slight rises from here for the remaining years of the program.

Mr. President, this is clearly an affordable bill, it addresses a need that reached critical proportions and I urge the support of my colleagues for it.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Precollege Mathematics and Science Teacher Assistance Act".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that—

(1) there is a growing shortage of mathematics and science teachers in the Nation's elementary and secondary schools;

(2) it is in the national interest to strengthen mathematics and science programs in elementary and secondary schools to meet the increasing demands on the work force for high technology jobs in the future;

(3) it is in the national interest to encourage more citizens to pursue academic and professional careers in fields of high technology;

(4) from 1971–1980 there has been a 77 per centum decline in the number of secondary school mathematics teachers being trained, and a 65 per centum decline in science teachers;

(5) nationwide in 1981–1982 50 per centum of the mathematics and science teachers in classrooms were unqualified, and were teaching with emergency certificates;

(6) teacher salaries are 50 to 70 per centum less than industry salaries, and thus mathematics and science teachers are leaving the classroom for more financially rewarding work in industry and business;

(7) industry's increasing demand for engineers and other technology-related jobs will require a greater proportion of the work force to possess a strong academic background in mathematics and science; and

(8) it is in the national security interest of the United States that the decline in mathematics and science literacy be reversed.

STUDENT LOAN PROGRAM AUTHORIZED

SEC. 3. Title IV of the Higher Education Act of 1965 is amended by redesignating part F as part C and by inserting after part E the following new part:

"PART F—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION PREPARING TO BE PRECOLLEGE MATHEMATICS AND SCIENCE TEACHERS

"PROGRAM AUTHORIZED

"SEC. 471. (a) The Secretary shall carry out a program of establishing and maintaining funds at institutions of higher education for making low-interest loans to students who—

"(1) pursue courses of study in mathematics or science, or both, in such institutions leading to a baccalaureate degree, and

"(2) intend to enter the precollege mathematics and science teaching profession.

"(b)(1) There are authorized to be appropriated such sums as may be necessary for fiscal year 1984 and for each of the five succeeding fiscal years ending prior to October 1, 1988, to carry out the provisions of this part.

"(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1988 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1988, to continue or complete courses of study.

"(c) For the purpose of this part, the term 'eligible student' means a student who meets the requirements of section 474( ).

"PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

"SEC. 472. (a) The Secretary shall make payments under this part for any fiscal year to each institution of higher education having an agreement under section 473 on the basis of estimated needs of that institution for making student loans under this part taking into consideration—

"(1) the actual cost of attendance at that institution, and

"(2) the financial ability of eligible students at that institution to meet the cost of attendance.

"(b)(1) The Secretary shall make make payments required by subsection (a) of this section in such installments as the Secretary determines—

"(A) will not result in unnecessary accumulations of capital in the student loan fund of the institution of higher education concerned,

"(B) reflects accurately the disbursement of funds for student loans under this part by the institution of higher education concerned, and

"(C) will best carry out the objectives of this part.

"(2) The initial payments for any academic year under subsection (a) shall be made not later than March 1 for the academic year following the year for which the payment is made. Subsequent installment payments in each such academic year shall be made promptly.

"(c) Any institution of higher education desiring to receive payments from the Secretary under this part shall enter into an agreement under section 473 and shall submit an application for such payments to the Secretary in accordance with the provisions of this part. The Secretary shall set dates before which such institutions must

file applications under this section. Each such application shall contain such information as is necessary to assure the validity of estimated need for loan funds.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

"SEC. 47. (a) An agreement with any institution of higher education for the payment under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

"(2) provide for the deposit in such fund of—

"(A) payments made under this part, and

"(B) any other earnings of the funds;

"(3) provide that such student loan fund shall be used only for—

"(A) loans to eligible students, in accordance with the provisions of this part,

"(B) administrative expenses, as provided in subsection (b),

"(C) distributions, if any, and

"(D) costs of litigation, and other collection costs, if any, required by the Secretary in connection with the collection of a loan from the fund or a charge assessed pursuant to regulations under section 474(c)(5);

"(4) provide that upon the beginning of the repayment period the note or evidence of obligation shall be assigned to the Secretary for collection unless the Secretary and the institution of higher education agree to a later date for such assignment; and

"(5) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Secretary and the institution.

"(b) An institution which has entered into an agreement under subsection (a) shall receive, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Each such payment, at the option of the institution, shall be made in accordance with section 489 or shall be an amount equal to $30 per academic year for each eligible student enrolled in that institution who receives a loan under this part for that year. For the purpose of the preceding sentence, the reference to part F in such section shall be deemed to refer to part F.

"TERMS OF LOANS

"SEC. 474. (a)(1) Loans from any student loan fund established pursuant to an agreement under section 473, to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

"(2) The amount of all loans for each student for each academic year made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed the actual cost of attending such an institution for that year minus the aggregate of—

"(A) any financial assistance received by the student borrower under parts A and C of this title, or any other provision of Federal law;

"(B) any scholarship, grant, and loan assistance received by the student borrower; and

"(C) the expected family contribution or in the case of an independent student the expected self-help contribution.

"(3) Determinations under paragraph (2) shall be made by the institution of higher education, in accordance with the provisions of subpart 1 of part A of this title.

"(b) A loan from a student loan fund assisted under this part may be made only to a student who—

"(1)(A) is in need of the amount of the loan to pursue a course of study at such institution to qualify as a precollege mathematics or science teacher and (B) majors in mathematics or science, or both;

"(2) is capable, in the opinion of the institution, of maintaining good standing in such course of study;

"(3) has been accepted for enrollment as an undergraduate student in such institution, or, in the case of a student already in attendance at such institution, is in good standing;

"(4) is carrying at least one-half the normal academic workload, as determined by the institution; and

"(5) enters into the agreement required by subsection (c).

In any case in which a student has been determined to be eligible for a loan under the preceding sentence, and such student thereafter fails to maintain good standing, the eligibility of such student shall be suspended, and further payments to, or on behalf of, such student shall not be made until such student regains good standing.

"(c) Each student described in subsection (b) shall enter into an agreement with the institution of higher education under which the student will—

"(1) within 1 year after receiving certification as a teacher, or not later than 3 years after the completion of the course of study for which student loans were made under this part, whichever occurs later, teach for a period of not less than the number of years equal to the number of years in which the student received student loans under this part in an elementary or secondary school in any State as a mathematics or science teacher; and

"(2) repay in accordance with paragraph (1) of subsection (d) the full amount of principal and interest of a loan made under this part in the event that the condition of clause (1) are not complied with, or repay in accordance with paragraph (1) of subsection (d) the per centum of the amount of principal and interest of the student loans which are not canceled in accordance with the schedule on the cancellation of student loans contained in section 475, as the case may be.

"(d)(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

"(A) shall be evidenced by note or other written instrument which, except as provided in section 475, provides for repayment of the principal amount of the loan, together with interest thereon, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending at a date not more than four years after such date pursuant to regulations of the Secretary, except that such period may begin earlier than nine months after such date upon the request of the borrower;

"(B) shall include provision for a graduated repayment schedule with larger payments due later in the repayment period and shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

"(C) may provide, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to him from a student loan fund assisted under this part shall be at a rate equal to not less than $90 per month, except (i) that the Secretary may, subject to such regulations, permit a borrower to pay less than $90 per month for a period of not more than one year where necessary to avoid hardship to the borrower;

"(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 7 per centum per annum, except that no interest shall accrue prior to the beginning date of repayment determined under clause (A);

"(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

"(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary; and

"(G) may, pursuant to regulations of the Secretary, provide for an assessment of a charge with respect to the loan for failure of the borrower (i) to pay all or part of an installment when it is due or (ii) to file timely and satisfactory evidence of an entitlement of the borrower to a cancellation benefit under this part.

"(2) The amount of any charge for assignment of the note or evidence or obligation shall not exceed in the case of a loan which is repayable in monthly installments $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The Secretary may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the institution not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

"(e) An agreement to make payments under this part shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

"(f) In determining, for purposes of clause (2) of subsection (c) of subsection (a) of this section, with respect to a student who is a veteran (as that term is defined in section 101(2) of title 38, United States Code), an institution shall not take into account the income and assets of his parents.

"CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

"SEC. 475. (a)(1) The per centum specified in subsection (b) of this section of the total amount of any loan made from a student loan fund assisted under this part shall be canceled for each complete year of service after the date of enactment of the Precollege Mathematics and Science Teacher Assistance Act by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be canceled under paragraph (1) for service as a full-time science or

mathematics teacher for service in an academic year in an elementary or secondary school.

"(b)(1) The per centum of a loan which shall be canceled under paragraph (1) of subsection (a) of this section in the case of service described in paragraph (2), at the rate of 26 per centum for each year of such service.

"(2) If a portion of a loan is canceled under this section for any year, the entire amount of interest of such loan which accrues for such year shall be canceled.

"(3) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

"(4) For the purposes of this section, the term 'year' where applied to service as a teacher means academic year as defined by the Secretary.".●

● Mr. HOLLINGS. Mr. President, I am pleased to join my colleagues from Ohio and Texas in sponsoring this legislation. I associate myself with the very well spoken remarks by the distinguished Senator from Ohio.

Mr. President, those of us who have worked to benefit and improve the quality of public education in this Nation are constantly confronted, as we pursue our goal, with the serious shortage of qualified math and science teachers. It is a significant problem nationwide and threatens to seriously curtail the scientific skills of the next generation. Given this Nation's strong need to regain the competitiveness that has led us to supremacy in the world, it would be disastrous, in the opinion of this Senator, if we do not respond effectively to this shortage. That's what the legislation we propose today does.

Our chief competitors in the world community recognize the necessity of training the next generation to meet the technological challenges and opportunities of the future. Japan, for instance, with only half the population of the United States, regularly turns out twice as many Ph. D. scientists as we do. And there are other examples from other nations that underline their commitment to science and the doors it unlocks for the future. Our legislation recognizes that the future scientific capacity of our Nation is created over a period of years and begins with the training students receive in the earlier grades. That's where you create the pool of talent that later emerges into the scientific leadership of the Nation. This is the central point that we try to meet with the legislation we introduce today. We must do a better job at an earlier stage of the educational process if we are going to have the requisite capacity created in our Nation to maintain the technological leadership in which we take such great pride. The Pre-College Mathematics and Science Teacher Assistance Act confronts this problem in a very straightforward manner. It presents a workable solution to the shortage problem by providing student loan forgiveness to students who graduate in math or science disciplines who teach in public schools for 4 years. This will enable the public schools to fill the vacancies that exist for talented math and science teachers.●

By Mr. GLENN (for himself, Mr. HOLLINGS, and Mr. BENTSEN):

S. 2738. A bill to amend the Internal Revenue Code of 1954 to allow a credit to certain employers for compensation paid to employees with precollege mathematics or science teaching certificates who are employed for the summer months by such employers or who are employees who teach a limited number of hours; to the Committee on Finance.

THE MATH AND SCIENCE EDUCATION ACT

● Mr. GLENN. Mr. President, the second bill I am introducing today on behalf of myself and Senators HOLLINGS and BENTSEN is the Math and Science Education Act.

Mr. President, among the reasons for the decline in the number and quality of science and mathematics teachers in our primary and secondary school systems is the low remuneration attached to this important service to our children and our community. Many science and math teachers are leaving the school system for employment in the private sector. There is difficulty in finding summer employment that would provide sufficient additional income to allow our science and math teachers to stay within the school system.

I believe, Mr. President, that private sector employers recognize the problem and would like to help their communities to improve the educational services available to their public school children. I believe also that we in Government should extend a helping hand to the private sector to encourage cooperative efforts with public school systems around the Nation to deal with educational problems.

Accordingly, Mr. President, the bill I am introducing, the Math and Science Education Act, provides for a tax credit to any firm that employs a certified full-time, precollege mathematics and science teacher for the summer as long as the employment will provide such teacher with experience in the applied use of high technology. The tax credit is available if the weekly rate of compensation paid to the employee equals or exceeds the weekly rate of the employee's teaching salary during the school year.

In addition to the aforementioned tax credit, this legislation provides for a tax credit to be available to any firm that allows a full-time employee time off, in response to a request from school district administrators for the purpose of teaching science or mathematics at a public school. The employee must be given at least 10 hours off per week—at least 5 hours of which must be spent in actual instruction in a classroom.

Mr. President, I believe the bills I am introducing today, if enacted, would go far toward alleviating the great deficiencies which we are experiencing today in precollege science and math education, and I urge the support of my colleagues for them. Both bills are strongly supported by the National Association of Secondary School Principals, the National Science Teachers Association, the National Association of State Boards of Education, the National Council of Teachers of Mathematics, the National Association of Elementary School Principals, and the American Association of College Teachers of Education.

Mr. President, I ask unanimous consent that the full text of the Math and Science Education Act be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Math and Science Education Act".

SEC. 2. PRECOLLEGE MATH AND SCIENCE TEACHERS EMPLOYMENT CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44G the following new section:

"SEC. 44H. PRECOLLEGE MATH AND SCIENCE TEACHERS EMPLOYMENT CREDIT.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 50 percent of the aggregate amount of compensation paid to precollege mathematics and science teachers by the taxpayer for summer month technology employment during the taxable year, plus

"(2) the aggregate amount of compensation paid by the taxpayer during the taxable year to employees who are precollege mathematics and science instructors.

"(b) LIMITATIONS ON COMPENSATION.—

"(1) SUMMER MONTH TECHNOLOGY EMPLOYMENT COMPENSATION.—The compensation paid to any precollege mathematics or science teacher by the taxpayer for summer month technology employment shall be taken into account under subsection (a)(1) only if the weekly rate of such compensation paid to such teacher for such taxable year equals or exceeds the weekly rate of the teaching salary of such teacher.

"(2) PRECOLLEGE MATHEMATICS AND SCIENCE INSTRUCTOR COMPENSATION.—The aggregate amount of compensation which may be taken into account under subsection (a)(2) with respect to any employee for any taxable year shall not exceed an amount equal to—

"(A) $1,000, multiplied by

"(B) the number of months of the taxable year during which such employee was a precollege mathematics and science instuctor.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(2) SPECIAL RULE FOR PASSTHROUGH OF CREDIT.—In the case of an individual who—

"(A) owns an interest in an unincorporated trade or business,

"(B) is a partner in a partnership,

"(C) is a beneficiary of an estate or trust, or

"(D) is a shareholder in an electing small business corporation (within the meaning of section 1371(b)).

the credit allowed by subsection (a) for any taxable year shall not exceed the lesser of the amount determined under paragraph (1) for the taxable year or an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allocable or apportionable to the person's interest in such trade, business, or entity.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PRECOLLEGE MATHEMATICS AND SCIENCE TEACHERS.—The term 'precollege mathematics and science teacher' means an individual who—

"(A) is a full-time member of the faculty of a public elementary or secondary school for the entire academic year of such school ending with or within the taxable year, and

"(B) teaches a course of instruction in mathematics or science or both throughout such academic year.

"(2) SUMMER MONTH TECHNOLOGY EMPLOYMENT.—The term 'summer month technology employment' means employment by the taxpayer of a precollege mathematics or science teacher which—

"(A) provides such teacher with experience in the applied use of high technology, and

"(B) provides a full-time position during the summer interval in an academic year ending with or within the taxable year of the taxpayer.

"(3) ANNUAL TEACHING SALARY.—The term 'annual teaching salary' means, with respect to any precollege mathematics and science teacher, the compensation paid to such teacher for the academic year ending with or within the taxable year by the school of which such teacher is a full-time faculty member.

"(4) PRECOLLEGE MATHEMATICS AND SCIENCE INSTRUCTORS.—The term 'precollege mathematics and science instructor' means an individual who—

"(A) is a full-time employee of the taxpayer for the entire taxable year,

"(B) has received certification as an elementary or secondary school teacher authorized to teach mathematics or science or both,

"(C) is teaching at a public elementary or secondary school for at least 10 hours per week (at least 5 hours of which must be actual instruction in a classroom) at the request of the school district administrators, and

"(D) does not receive any compensation from such school for such teaching.

"(4) ALLOCATION.—

"(A) PASSTHROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

"(B) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(5) DOUBLE BENEFIT.—Any credit allowable under this section for the taxable year with respect to any payment or compensation by the taxpayer shall be in addition to any deduction under this chapter which is allowable for such taxable year with respect to such payment.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44G the following new item:

"Sec. 44H. Precollege mathematics and science teachers employment credit.".

(2) Section 6096(b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44G" and inserting in lieu thereof "44G, and 44H".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1982.●

● Mr. HOLLINGS. Mr. President, the other approach to the legislative thrust we introduce here today, the Math and Science Education Act, is to provide tax incentives in the form of tax credits to employers who hire math and science teachers during the summer months in technology-related jobs or who make qualified employees available to public schools as instructors for math and science classes. This aspect of our approach attempts to meet the shortage right away and provide job opportunities to teachers so they can elect to remain in school systems.

This bill recognizes that industry provides substantial job opportunities for talented individuals with math and science degrees. Herein lies part of the problem. The job opportunities are so much better paying that our talented math and science professionals are drawn toward the more financially rewarding jobs in industry. This legislation recognizes that fact and provides a way in which business can join in a partnership with our schools to insure that today's students receive the training needed for tomorrow's jobs and opportunities.

It is a plan that benefits all parties and works for the common good of the Nation. And this legislation recognizes the important resource that math and science teachers are at present by enabling industry to take advantage of their availability in the nonschool year. This will enable teachers to have the opportunity of higher paying jobs and exposure to the latest techniques employed in industry. This added experience and knowledge will prove very useful to teachers and will enable them to remain current and responsive to the needs of industry and more capable to provide relative and practical instruction to students. This will certainly benefit the teacher, the student, and the business.

It is my strong belief, Mr. President, that this legislation can provide an important instrument in our effort to upgrade the quality of our public schools. It meets a fundamental and very critical need, and deserves the early and favorable consideration of this body.●

By Mr. METZENBAUM (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. SARBANES, Mr. PELL, Mr. MATSUNAGA, Mr. RIEGLE, and Mr. BURDICK):

S. 2739. A bill to amend title II of the Social Security Act to provide that termination of disability benefits shall require that a finding be made that there has been medical improvement or that the prior decision was clearly erroneous, to provide for continuation of disability benefits through the appeals process, and for other purposes; to the Committee on Finance.

REVIEW PROCESS FOR SOCIAL SECURITY DISABILITY BENEFITS

● Mr. METZENBAUM. Mr. President, today Senators MOYNIHAN, CHAFEE, SARBANES, PELL, MATSUNAGA, BURDICK, RIEGLE, and I are introducing a bill to remedy a serious flaw in the Social Security Administration's ongoing review of social security disability recipients.

In 1980, Congress adopted the Bellmon amendment requiring SSA to review the status of disabled beneficiaries at least once every 3 years. The objective—to remove persons from the rolls who are no longer disabled—is laudable. But unfortunately, in an overzealous attempt to achieve cost savings, SSA is also terminating thousands of people who are truly disabled.

As evidence, consider the following: Nationwide, SSA is terminating benefits in approximately 45 percent of all disability cases reviewed—139,000 persons have had their benefits ceased in the last 15 months. However, when these terminations are appealed and a hearing held before an administrative law judge (ALJ), fully 67 percent of the termination decisions are reversed and benefits are eventually restored. This is far more than any acceptable margin of error.

The consequences of an erroneous decision in the first instance are severe. Despite a request for a hearing on the initial determination that a person's disability has ceased, benefits

are terminated pending the hearing decision. In addition medicare coverage, which is often essential for treatment of the recipient's disabiling condition, is also lost pending the appeal.

The waiting period for an ALJ hearing decision can be as long as 1 year. Even when benefits are restored, it may be too late for those persons with no other sources of income. Mr. President, my office has been contacted by desperately ill people who are being forced to sell their homes and resort to other serious irreversible measures while waiting for their benefits to be restored. Lives are literally being destroyed as a result of this process. Several recent suicides and suicide attempts have been attributed to the loss of social security disability benefits. Further, a number of persons have actually died of their disabliny condition at the same time that SSA was finding their disability had ceased.

The problems with the present system of review are varied, ranging from inadequate notice to recipients, to a failure to consider historical medical evidence from treating physicians, to an overreliance on reports from SSA-paid consultative physicians who may spend only a few minutes with each patient.

However, in a recent investigation, GAO found that the major problem in determining continued eligibility is that different and more stringent evaluation guidelines are in effect today than at the time benefits were initially granted. Thus, GAO found that—

> Many of those losing their disability benefits have been on the SSA roll several years, still have what we would all consider to be severe impairments, and have experienced little or no medical improvement.

GAO noted that SSA's own study found that "in 35 percent of the cases, benefits were ceased even though the severity of impairments was judged to be the same or worse than when benefits were initially awarded." GAO's final recommendation is that "Congress should state whether cessations are appropriate for those already on the disability rolls who have not medically improved."

Many hundreds of disabled Ohioans have sought assistance from my office. The horror stories are too numerous to discount as isolated mistakes.

Consider, for example, the case of Mr. Russell Beard who had been receiving disability benefits for the past 8 years due to a deteriorating heart condition. In October 1981 he was notified that his case was being reviewed. During the period that SSA was considering his case, Mr. Beard was hospitalized on three different occasions. Mrs. Beard contacted the disability office to determine what new evidence she should submit and was informed that nothing the patient's doctor said would make any difference. On January 14, 1982, while he was hospitalized, Mr. Beard received the final decision that he was no longer disabled. Four days later he was dead. Mrs. Beard believes the stress associated with this potential loss of benefits contributed to his death. Incredibly, SSA was not satisfied upon notice of Mr. Beard's death. They attempted to force his widow to repay the Government for the 2 months of benefits Mr. Beard received prior to his death. It required an ALJ decision to reverse this outrageous demand.

Another case brought to my attention was that of Calvin J. Crick, a 55-year-old man who had been on total disability since 1975 when he suffered a massive heart attack. Mr. Crick received a notice that his benefits were being terminated because he was no longer disabled. Despite the report of his own physician of 12 years that a series of four heart attacks had left Mr. Crick permanently disabled and unable to resume working and despite previous test results to this effect, the State agency insisted that they would need current laboratory findings. Mr. Crick agreed to undergo a heart catheterization to prove his disability despite the warning of his physician that the operation could be life threatening. Mr. Crick felt he had no choice but to take the risk because he had to support a wife and two children. When one of my staff insisted that a medical consultant at SSA in Baltimore review this case, it was found that Mr. Crick's case file already contained more than sufficient evidence to prove his disability. Mr. Crick was saved from a life-threatening operation by the last-minute intervention on the part of his Senator. But, Mr. President, how many other lives have been seriously damaged because no one had intervened on their behalf?

These and countless other similar examples of error and insensitivity have led us to the conclusion that a legislative change in necessary. Our bill would make several major changes in the current SSA review procedure:

First, current recipients may not be terminated from the rolls unless their medical condition has improved or unless there was a clearly erroneous decision made in the first instance.

The findings of a GAO investigation support the need for this change. We do not believe that Congress intended to change the rules in the middle of the game for those persons who have been labeled as totally disabled by their government, who have been out of the work force for a number of years and who have been financially dependent upon these benefits for the same number of years. While I question the reasonableness of some of these new stringent medical criteria even for new applicants, it is completely unfair to make such changes retroactively.

Second, SSA is required to attempt to obtain medical evidence from the treating physician most familiar with the case before requiring a consultative examination at taxpayers' expense.

A physician who has been treating a patient for some years is obviously the best source of evidence as to that person's medical condition. Currently, the State disability offices rely too heavily on consultative examinations (for which SSA pays approximately $160 per exam), despite the fact that the consultative physician has no historical perspective on the patient's condition and usually sees the patients for no more than 15 minutes.

Third, disabilities not listed in SSA's regulations shall also be considered if equal in severity; combinations of impairments that are equivalent to the listing in severity shall be considered as well.

While this is currently required by regulation, GAO found the State disability examiners are often prevented from taking these factors into consideration by the present informal rules governing procedure at that level.

Fourth, benefits are continued pending the ALJ decision for those who appeal the initial termination decision.

Currently supplemental security income (SSI) recipients are entitled to a continuation of benefits pending appeal if they request it, but social security disability insurance (SSDI) recipients are not. Given that social security recipients worked and earned their right to such benefits, they are certainly entitled to equal treatment. Since many of these persons would receive the benefits retroactively, this provision will simply prevent that lengthy hiatus in which deserving beneficiaries would have to otherwise go without their disability income and medicare assistance. Those who lose their case on appeal would be required to pay back cash benefits received during the appeal process, but would not be required to repay medicare benefits.

Although we do not yet have a firm cost estimate, it is not expected that the above changes would be very costly. A preliminary cost estimate from CBO on the medical improvement requirement indicates that the cost will be in the range of $10 million for 1983, $30 million for 1984, and $50 million for 1985. In addition, another $10 million per year may be required for consultative examinations, although this may be offset by the provision in our bill requiring SSA to first attempt to obtain necessary medical evidence from the recipient's treating physician.

There should be no cost factor associated with the third provision of the bill, and the continuation of benefits pending the appeal should also not be

costly as many of these same persons are already receiving their benefits on a retroactive basis, while those who lose upon appeal will be required to pay back cash benefits received during the appeal period.

Time is of the essence in bringing about these needed legislative changes. Congress must take action to prevent further tragedies from occurring. We must not let our search for fraud and abuse result in harm to truly disabled persons who have worked and earned those benefits which they currently receive.

Mr. President, I ask unanimous consent that immediately following the conclusion of my statement there be printed the following materials: May 25, 1982, statement of GAO reporting on their investigation of SSA's continuing disability investigations; a May 28, 1982, study by William C. Copeland of the problems in the current administration of the disability reviews; and the full text of S. 2739.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF GREGORY J. AHART, DIRECTOR, HUMAN RESOURCES DIVISION

Mr. Chairman and Members of the Subcommittee, we are pleased to discuss the Social Security Administration's (SSA's) recent efforts in reexamining the continued eligibility of persons on the disability rolls. These reexaminations, begun in March 1981, are commonly referred to as Accelerated Continuing Disability Investigations or ACDIs.

Because of the concerns expressed to us by several Members of the Congress over the medical conditions of the large numbers of beneficiaries being terminated from the rolls as part of the ACDI effort, in January 1982 we began to review SSA's policies and practices for conducting these investigations. ACDIs are performed by the various State Disability Determination Services (DDSs) following guidelines and instructions provided them by SSA. We have met with State officials and examiners in California, New York, Pennsylvania, and Ohio and examined approximately 100 case folders. In addition, we met with several administrative law judges and SSA officials.

We have identified a number of issues and problems with the current ACDI process that deserve attention by the Congress and SSA. First I would like to explain briefly the evolution of events which brings us to today's conditions; secondly, present some of our observations to date about the ACDI process; and also provide some suggestions for improving the process.

BACKGROUND

In the past, SSA's primary means of identifying beneficiaries who may have medically recovered or regained the ability to work, and assessing their continuing eligibility for disability benefits, was through the "medical reexamination diary process". This process involved establishing a future medical reexamination date (diary) for beneficiaries with certain medical conditions that were believed to have a high potential for medical improvement. When the diary date matured, State agencies were to reevaluate the beneficiaries' medical condition. Investigations were also to be done when it was learned that a beneficiary had returned to work.

We reported to the Congress in March 1981 [1] that SSA had not adequately followed up on disability insurance beneficiaries to verify that they remain disabled. SSA had limited its investigations to a small percentage of beneficiaries, and even beneficiaries who met the criteria for reexamination had not always been investigated. Only about one of every five persons awarded disability was targeted for reexamination. The remainder, about 2.3 million persons, were never reexamined and would very likely remain on the rolls unless they returned to work, reached age 65 and converted over to the retirement program, or died.

Based on a nationwide sample case review conducted in 1979, SSA estimated that as many as 20 percent of the persons on the disability rolls who were never reexamined did not meet the disability criteria. SSA collected current medical evidence on about 3,000 cases and in some instances visited and interviewed beneficiaries in their homes. Using this evidence, SSA examiners and physicians determined whether or not the individuals were currently disabled. Based upon this sample, we estimated that as many as 584,000 persons were not eligible for benefits costing the Disability Trust Fund over $2 billion annually.

Congressional concern over the high degree of selectivity in designating cases for medical reexamination and other inadequacies in the review procedures led to the enactment of Section 311 of Public Law 96-265, known as the Social Security Disability Amendments of 1980. This section required that beginning January 1, 1982, SSA review the status of disabled beneficiaries whose disability has not been determined to be permanent at least once every three years. SSA officials estimated that this legislative mandate would require them to perform investigations on approximately 3 million cases over a 3-year period.

Due largely to an increased emphasis on cost-saving measures and to prepare for the massive workload anticipated in 1982, SSA began several projects aimed at improving the continuing disability process. SSA conducted several studies to help profile those beneficiaries with the highest likelihood of being found ineligible for disability benefits. Using these profiles, SSA began reexamining beneficiaries in March 1981 under the ACDI review.[2]

ACDI CASE SELECTION AND WORKLOAD

SSA selected about 368,500 cases for investigation between March 1, 1981, and March 31, 1982. The States have completed investigations and made decisions on about 189,500 cases,[3] resulting in the termination of benefits in about 85,500 or 45 percent of the cases reviewed. This is in addition to the regular investigations of about 155,000 diaried cases per year that were determined to be subject to medical improvement.

During March and April of 1981, cases selected by SSA for investigation involved younger beneficiaries (under age 50) who were initially adjudicated in 1973, 1974, and 1975—years when the quality of decisions was believed to be at its lowest.

A different selection methodology was used beginning in May 1981. Cases were selected each month based on specific profiles using such characteristics as current age, total benefit payments, date of entitlement, numbers and kinds of auxiliary beneficiaries, and age at filing. SSA believed the profile selection technique would result in a more cost-effective use of resources than reviewing random groups of cases.

ACDI TERMINATIONS—WHY THEY ARE HAPPENING

As indicated by our March 1981 report, SSA was paying disability benefits to many persons who were not eligible for the program. This has been confirmed by the ACDI efforts to date. While we cannot quantify them, the ACDI/Periodic Review is identifying beneficiaries who—

Should never have been placed on the rolls initially, or

Have medically improved, or

Have died or returned to work, and otherwise would have gone undiscovered.

However, many of those losing their disability benefits have been on the SSA rolls several years, still have what we would all consider to be severe impairments, and have experienced little or no medical improvement. This raises questions about how and why these people are being terminated, and the fairness of SSA's decisions.

We will address these questions by looking at some of the factors causing these terminations (also referred to as cessations), including:

State agency medical development practices, and

The changed adjudication process and climate.

STATE AGENCY MEDICAL DEVELOPMENT PRACTICES

Much of the criticism brought to our attention about the ACDI effort has been directed toward the State agencies, and their procedures for medically developing ACDI cases. Specifically, concern has been expressed that State agencies are—

Terminating benefits without giving individuals adequate time to present medical evidence,

Not obtaining or considering relevant information from treating physicians, and

Overrelying on purchased consultative examinations which are sometimes too brief and possibly biased.

We did find some instances of poor medical development practices, as well as some decisions that were not adequately supported. We also question the State agencies' usual practice of gathering and evaluating only evidence that is from the most recent three months. We believe, however, that medical development issues are not unique to the ACDI/Periodic Review effort, and are not the primary cause of the high number of cases being terminated.

RESULTS OF CASE REVIEW

To address the issues raised about State agency medical development practices, we reviewed 98 ACDI cases in the 4 States we

[1] "More Diligent Followup Needed to Weed Out Ineligible SSA Disability Beneficiaries," HRD-81-48, March 3, 1981.

[2] Beginning January 1, 1982, the review was referred to as the "Periodic Review" because of the legislative mandate.

[3] Another 30,000 cases have been reviewed by the States, but are considered "no decision cases" due to various reasons such as (1) being returned to the SSA district offices for further development of work related issues, (2) being sent to the wrong DDS, (3) individuals are deceased, and/or (4) having had an investigation already done in the last 12 months.

visited. Most of the cases were selected—either directly by us, or by State agency personnel monitored by us—as the State agency quality assurance units completed their technical review. This total also contained some cases (6) that had received a hearing before an administrative law judge. Our purpose in reviewing these cases was to look at the mechanics and timing of the medical development.

Forty-two of the 98 cases we reviewed, or about 43 percent, had resulted in cessations. Because of the small size of our sample, and the timing of our selection, we cannot project the results of our sample to what has happened in the ACDI/Periodic Review effort since March 1981. The table below presents some of the statistical information about the cases we reviewed.

	Cessations	Continuances	Total
Number of cases	42	56	98
Average age of beneficiary	43	45	44
Average years on disability	7	9	8
Average case processing time [1] (in days)	127	83	102
Percent of cases where claimants' physicians were contacted	69	74	71
Percent of contacts responding to DDS	90	81	85
Percent of cases with consultative exam ordered	86	54	67

[1] We counted from the date beneficiary was first contacted concerning the review (either by mail or phone) to the date the DDS physician signed the notice of decision.

The 42 cessations we reviewed averaged nearly 127 days from the time the beneficiary was first contacted about the review to the date of the DDS decision. This includes the 10 or more days allowed a beneficiary after being notified of the decision to submit any additional evidence. The shortest processing time we found for a terminated case was 34 days, the longest was 368. We found no instances where beneficiaries were terminated without being given time to develop and present their medical evidence.

We found that attending physician data is usually requested unless it is not relevant to the impairment, too old, or from a source known to be uncooperative. We found only a few instances where examiners did not request evidence from what we felt was a relevant source. While most sources did respond, we found a significant variation in quality, quantity, and objectivity in their responses.

It is difficult to evaluate to what extent attending physician data is considered in the States' decisions. Examiners complain that much of the information received from treating sources is too old to satisfy SSA's requirements, too subjective, too opinionated, and too sketchy to satisfy evidentiary requirements. Also, treating physicians often don't perform the kinds of tests required by the medical listings. Therefore, while it is clear that some portion of attending physicians' reports are not fully considered, we cannot determine the extent of this nor what impact this has on the final decision. We did see instances where attending physicians said their patients were totally disabled, yet the States discontinued benefits. However, these were invariably cases where the physicians submitted little objective evidence to support their conclusions, and hence, were of little use.

There has also been much concern expressed about the use—or overuse—of consultative examinations in connection with the ACDI/Periodic Review effort. The 1981 consultative examination purchase rate in ACDI cases varied in the four States visited. We estimate it was 62 percent in Pennsylvania, 59 percent in Ohio, 58 percent in California, and 39 percent in New York.

Examiners say ACDI's generally require consultative examinations more often than other claims because many long-term disabled people haven't been to physicians recently. Ohio, for example, ordered examinations for only 30 percent of its entire caseload, but nearly 60 percent for ACDI's. During this limited study, we did not attempt to evaluate the appropriateness of the consultative exam purchase rate, nor the quality of the exams purchased. We do, however, plan to look at these and other issues pertaining to consultative examinations in the near future.

ACDI/PERIODIC REVIEW CASES NEED SPECIAL DEVELOPMENT

One aspect of State agency medical development that we feel needs to be changed is the practice of developing these ACDI/Periodic Review cases as if they were new claims. SSA has issued no specific development guidance for these cases, but rather has instructed the State agencies to adjudicate these claims in generally the same manner as initial claims. As a result, State agencies are gathering only current evidence—generally no more than 2 or 3 months old—and using this evidence to determine if the beneficiary currently meets SSA's criteria for disability. This practice can result in incomplete information and is one of the major reasons treating sources are not contacted or their information is not considered in the decision. It also helps explain the high consultative examination purchase rate.

While the need for current evidence is obvious, we also believe there is a need for a historical medical perspective in these ACDI cases. Many of these individuals coming under review have been receiving benefits for several years. To base a decision on only the recent examination—often a purchased consultative examination—could give a false reading of that person's condition. This is especially true for those impairments subject to fluctuation or periodic remission, such as mental impairments. For example:

A 49 year old beneficiary in Pennsylvania was awarded disability insurance benefits in 1966 for schizophrenia. As part of the ACDI/Periodic Review, the State agency tentatively determined in March 1982 that his disability had ceased. This decision was based solely on a consultative examination report that found him "fairly alert and responsive with schizophrenia controlled by medication". Following a due process procedure, however, the State agency reversed its decision in April 1982 because of information submitted by the beneficiary's treating physician. This report showed a history of repeated hospitalizations since 1950, emotional swings, and withdrawn and anti-social behavior.

Another tie between the initial claims process and the ACDI/Periodic Review efforts that might need change is the processing time goal. One measure of examiner performance in both initial claims and ACDI/Periodic Review cases is the percent of cases pending over 70 calendar days. While some examiners in the 4 states visited said they felt no undue pressure to move ACDI/Periodic Review cases, others said they are constantly aware of the time goal pressures. They felt it was unrealistic to be expected to develop these ACDI cases in 70 days. ACDI cases are often more difficult to develop than initial claims, and are more time consuming since they generally require more use of consultative exams.

We plan to evaluate this issue further to determine if it is causing examiners to rush their decisions. Because these beneficiaries are already on the rolls and receiving benefits, we see little imperative to reach decisions in a specific time frame.

THE ADJUDICATION PROCESS AND CLIMATE

A more significant factor in explaining the number of ACDI/Periodic Review terminations is the way the medical evidence is evaluated to determine if eligibility for disability benefits continues. State agencies use the "sequential evaluation" process to determine if a beneficiary remains eligible. This process is a series of decisions based on medical and vocational evidence. Essentially, the State agency must determine if the beneficiary is working; if the alleged impairment is severe; if the impairment meets or equals the medical listings;[4] or, when the impairment is severe, but does not meet or equal the listings, if it prevents the beneficiary from doing his/her past work or any other work.

CHANGES IN THE EVALUATION PROCESS

SSA—after almost a decade of prompting from the Congress, GAO, and others—has made major changes in the criteria and guidance used in the disability determination process. The criteria have become more explicit in certain areas, and in some areas they have become more stringent.

During the early and mid-1970s, those close to the disability program, especially State DDS administrators, voiced the need for revised medical listings. For example, in response to a March 1976 letter from the Chairman of the Subcommittee on Social Security, House Ways and Means Committee, one State administrator wrote, "The listings are outdated, and desperately need revision." Another said:

". . . the listings are about 10 years out of date . . . for example listing 404, on myocardial infarction, is considered in error. A large majority of persons who have myocardial infarctions, and survive, do return to work. Therefore, we may be allowing claims in which return to work is more than reasonable, in light of current medical practice . . ."

The medical listings were finally revised in 1979.

There were similar complaints about the need for improved, formal guidelines on evaluating vocational factors in the sequential evaluation process. In a 1978 subcommittee report, Members of the Subcommittee on Social Security stated that they had—

". . . for years urged the promulgation of more definite regulatory guidelines which would promote uniformity in decisionmaking and provide for enhanced administrative control of the program in this area. These proposed regulations spell out through a grid mechanism the weights to be given to the nonmedical factors . . ."

The vocational grid became part of the regulations in 1978.

During the mid-1970s, SSA also began to get more explicit about what it meant by a "severe" impairment. This was conveyed in written and oral policy instructions, training programs, and case returns to State agencies from SSA's quality assurance system.

[4] Medical evidence by itself is sufficient to establish that a person is disabled where it establishes the presence of an impairment included in the "Listing of Impairments" or an impairment(s) medically equivalent to a listed impairment(s).

The result was an increase in the number of denials for "slight impairments".

All of these changes had a very definite impact on tightening up the "adjudicative climate". In response to a 1978 survey by the Subcommittee on Social Security, one State administrator said,

". . . I believe the primary reason for the recent conservative approach to disability evaluation is a direct result of the activities of the Subcommittee on Social Security, the General Accounting Office, and others involved in evaluating the effectiveness of the program. The Administration has apparently carefully considered all of the comments, inquiries, opinions, etc., and concluded that a 'tightening up' is desired. This view may be somewhat of an over simplification; but in the real world it is quite likely the root cause of the recent trends. In summary, I believe the 'adjudicative climate' has changed."

IMPACT OF CHANGES ON THE ACDI BENEFICIARIES

The changes to the sequential evaluation process and the adjudicative climate were revolutionary and were not developed to address specifically the ACDI/Periodic Review program. Because of the changes, however, many beneficiaries are being terminated. The changes in the medical listings in 1979 have affected some beneficiaries who previously qualified under the old listings, but do not meet the criteria of the revised listings. For example:

A 51 year old beneficiary in New York was awarded disability benefits in 1975 following a myocardial infarction (heart attack). At that time, the medical listings only required evidence showing that the infarction occurred, and that the claimant had chest discomfort. The revised medical listings for heart impairments now require specific exercise test results or specific readings from a resting electrocardiogram (EKG). While the beneficiary's resting EKG readings in both 1974 and 1982 show similar abnormalities and he continues to suffer from angina (chest pain), his benefits were terminated because the EKG readings do not meet the requirements of the new listings.

Similarily, beneficiaries put on disability because their condition "equaled" the listings are now being terminated because of a more narrow application of this concept. In 1975, 44 percent of all awards were based on equaling the medical listings—instances where the impairment was not specifically described in the listings, but was considered equal in severity; or the combination of impairments was medically equal to any that were listed. In 1981, only about 9 percent of all awards were based on equaling the listings. Examiners have told us that beneficiaries allowed in the past with multiple impairments are now being terminated under the ACDI/Periodic Review effort because their impairments are being evaluated independently rather than looking at the total effect of the impairments. For example:

A 50 year old beneficiary in Ohio suffered from hypertension, diabetes, and depression. Although none of these impairments met the specific listings, the claimant was awarded benefits in 1971 when their combined effect was considered. As part of the ACDI/Periodic Review, the State agency obtained evidence that contained essentially the same findings as that from 1971. However, the State agency now considered the impairments individually and terminated benefits because none met the specific listings.

The formalized vocational grid, now part of the regulations is also a factor in many terminations. In the mid-1970s many individuals whose impairments did not meet or equal the listings were allowed because of vocational factors (age, education, prior work experience)—even though there was little or no guidance available at that time on how to evaluate those factors. When re-evaluating beneficiaries previously allowed for vocational factors, State agencies now terminate benefits in many of these cases because of the vocational grid. For example, beneficiaries 49 years old or younger with severe impairments that do not meet or equal the listings cannot be found to be disabled unless they are illiterate or unable to communicate in English. Most of the beneficiaries being terminated under this review effort are age 49 or younger.

A NEW DECISION

In summary, through the ACDI/Periodic Review process, SSA is reviewing a group of beneficiaries who were awarded benefits several years ago under a more liberal, less objective evaluation process. These are generally people who were led to believe that they were being granted a lifetime disability pension. Now, with no advanced explanation from SSA about the purpose, process, or possible outcome of the Periodic Review—they are subjected to a new decision, much the same as if they were applying for disability benefits for the first time. There is no presumptive effect given to the prior findings of disability, nor to the years that these individuals have been entitled to payments.

By getting a new decision these beneficiaries have several disadvantages. The decision is made using a newer, more objective, more stringently interpreted set of evaluation guidelines; and is made in a tougher "adjudicative climate." At the same time, these decisions are subject to the same inherent weaknesses that have always plagued the SSA disability determination process—subjectivity, and medical development of questionable quality and completeness.

Subjecting everyone to a new decision, also, has a major adverse impact on the group of beneficiaries who were placed on the rolls initially through the appeals process. Because of the historical differences in adjudicative criteria between the States and the administrative law judges (ALJs), many of these beneficiaries are now being taken off the rolls after reexamination by the same State agency that found them not disabled originally. Since the State's original decision was "not disabled," a new decision by the State would generally be expected to have the same conclusion, particularly in light of the tightened disability determination criteria and adjudicative climate. Many of these individuals may be put back on after another appeal.[5] We do not know how many cases are affected by this "merry-go-round" review, but the number could be quite large.

MEDICAL IMPROVEMENT ISSUE NEEDS TO BE ADDRESSED

For the reasons discussed above, many beneficiaries whose conditions have not improved, or many even have worsened, are being told they are "no longer disabled," and are terminated from SSA's disability rolls. We believe the aspect of "no medical improvement" for a large percentage of the cessations during the last year accounts for much of the adverse publicity given the ACDI/Periodic Review process. This is not a new issue, but perhaps has been exacerbated by the large number of "non-diaried" cases by SSA during the last year.

During our limited case review, we did not attempt to quantify the number of cessations where there was no apparent medical improvement. However, a recent SSA study which formed the basis for the profiles used in the ACDI/Periodic Review, may provide some insight into this question. The study evaluated over 21,000 disability cases, and discontinued benefits in about 7,000 (33 percent). These cases were reviewed by SSA examiners and physicians for changes in the severity of the individual's impairments. Of the 7,000 cases where benefits were terminated, only 51 percent were determined to have medically improved. In 35 percent of the cases, benefits were ceased even though the severity of the impairments was judged to be the same as or worse than when benefits were initially awarded.

Under SSA's operating guides which have been followed by the States for approximately 4 years, disability is found to have ceased when current evidence shows that the individual does not meet the current definition of disability. SSA's policy states that it is not necessary to determine whether or how much the individual's condition has medically improved since the prior favorable determination.

The possible need for legislation on the medical improvement issue was addressed by a 1976 staff report of the Subcommittee on Social Security, House Committee on Ways and Means, entitled "Disability Insurance—Legislative Issue Paper." SSA's policies since 1969 on CDI terminations had been that it was necessary to have documentation supporting an improved medical condition. The staff report pointed out that—

"Revitalization of the CDI program can be carried out administratively, although if it is the subcommittee conclusion that the medical improvement requirement criteria should be altered, this may have to be done by legislation."

SSA dropped its former policy in May 1976 and until now there have been only a few court decisions on the issue. Those decisions have consistently argued for a return to some form of medical improvement.

The legislative history of the 1980 Amendments clearly indicates that the Congress was concerned about the individuals who have medically improved and remain on the disability rolls. However, it is not clear what the Congress' view was toward those who have not medically improved. Whether the Congress intended that all beneficiaries would be subjected to a "new determination," or whether it expected the earlier decisions to afford some presumptive weight, is an issue that we are still reviewing. Recent decisions in the U.S. Courts suggest that the Courts believe a degree of "administrative finality" or res judicata effect should prevail on these cases. Several class-action suits are pending which presumably will address this issue.

We believe the Congress should state whether cessations are appropriate for those already on the disability rolls who have not medically improved. There are other matters relating to the medical im-

[5] A recently completed study by SSA of over 3,600 decisions by ALJs highlighted clear differences in adjudicative criteria between the ALJ's and the States as the major reason for the high number of decisions by ALJ's to award benefits. For example, the ALJ's awarded benefits in 64 percent of the 3,600 cases, whereas SSA's Office of Assessment, using State agency criteria, would have awarded benefits in only 13 percent. The study also highlighted the significant effect of a face-to-face meeting with the claimant.

provement issue that need to be considered also, such as how to deal with those on the rolls as a result of clear erroneous initial awards, and those that, despite no medical improvement, clearly come under a changed eligibility criteria or definition. We plan to work with the Subcommittee or other Members of the Congress in developing these matters further.

We plan to continue reviewing several of the other issues discussed, and as this work progresses we will consider what actions SSA should take to improve the disability determination process and, specifically, the Periodic Review.

CURRENT ADMINISTRATION OF SOCIAL SECURITY DISABILITY PROGRAMS: RATIONAL GOALS, INADEQUATE METHODS, AND IRRATIONAL RESULTS

SUMMARY AND HIGHLIGHTS

The Social Security Administration is currently pursuing policies in the administration of its disability programs which are expected to save the Federal government about $11 billion from 1981 through 1984. The savings would be gotten by decreasing the number of persons on the rolls by almost 700,000 from the current 4.3 million.

Such savings will not be achieved, however. Indeed, Federal savings will probably be very small—between $1 billion and $3.5 billion; and those savings will only be attained at a possible cost to State and local governments of about $3 billion.

The administration method used, re-examining about 800,000 persons per year by 1984 and thereafter, attempts to find those who have recovered from their disability, or who have returned to work, or who have never had the degree of disability required—and to end payment to benefits to about half of those examined.

This administrative approach is added on to a tightening-up of allowances to persons applying for benefits for the first time, which has been underway since the late 1970's. This initiative resulted in a decline of the total population of disabled on Social Security programs since 1978 of better than 4 percent by November, 1981.

Not all the persons taken off the rolls because of the Social Security re-examination will stay off the rolls. There is an appeal ladder for persons who believe that a denial of benefits is wrong. On the average, 60 percent of all persons who appeal a denial of benefits will win a reversal in the appeals process. Since not everybody appeals, about 40 percent of those taken off the rolls would be returned to the rolls, thus reducing projected Federal savings at least by $4.4 billion, through 1984, to $6.6 billion.

Since more people will be denied benefits, more will appeal. This will result in even greater rates of increase in administrative costs than we are now seeing. Roughly, these costs will increase about 2½ times from our original 1980 estimate of $800 million to almost $2 billion by 1984. The increase over the four years is due to the re-examination policy is about $2 billion, thus reducing estimated Federal savings to about $4.5 billion. (It should be noted here that estimates based on data secured later indicate that the costs of administration in 1980 were even more expensive—about $1.1 billion, and increasing to about $2.5 billion in 1984—with an additional $1 billion more than originally estimated as the cost of the re-examination policy; these figures have not been incorporated in the larger analysis).

Because a significant proportion of the persons taken off the rolls are those who originally came out of institutions and nursing homes to live in the community, many of these can be expected to return to such facilities—at a cost to both the Federal and State governments which was higher than when they lived in the community. This will cost the Federal government another $1 billion from 1981 to 1984. At the same time, most of those taken off the rolls will still need medical care and income support—which must be now provided 100 percent by State and local governments. Using conservative methods of estimation, the State and local governments can be expected to pay an increased $3 billion from 1981 through 1984 for the persons taken off the rolls ($1.6 billion per year by 1984, with large annual increases thereafter).

The relative costs to the Federal government and the State governments are heavily affected by the percentage of persons appealing decisions to deny and the percentage of those securing reversals of that decision. If all persons who were originally allowed benefits and who were not obviously medically recovered or earning significant amounts of money—but who were, upon re-examination, denied benefits—were to appeal, about 200,000 fewer persons would be taken off the rolls.

The fiscal implications of such a difference are large. Federal savings would decline from $3.5 billion to a negative savings (a cost) of about $400 million. Costs shifted to the State governments would decline from $3.0 billion to about $1.6 billion.

The "game-theoretic" implications of current Federal policy, and the possible State reactions to it, are even more dramatic. If the States do nothing to defend themselves against the fiscal implications of the current SSA policy, there will be a $3 billion cost shift from the Federal government to the States. If they do defend themselves (through increased use of the appeals process), they will actually move the SSA policy to have an increased cost to the Federal government of $400 million, while reducing State and local governmental costs by $1.3 billion. At the same time, the net effect on the public fisc (i.e., to all governments), moves from a savings of about $500 million, if the States don't defend themselves, to a cost of $2 billion, if they do defend themselves.

Thus, the current SSA disability policy will at best provide a small savings to the public fisc only by the expedient of a massive shift of costs to the State and local governments. And, there is a high probability that the tightened administrative policy could result in no savings at all to the Federal government and an increase of $2 billion in public fisc costs.

Given the relative costs and benefits of this policy, it would seem clear that a different one should be sought, if there are to be significant savings at all.

INTRODUCTION

The purpose of this paper is not to question general congressional policy on the disability program. Rather, the interest is to see that—given the current policy—those who are "truly eligible" receive their benefits as speedily as possible; that those who are not "truly eligible" do not receive benefits initially or—if they were eligible but now are not—are identified and removed from the rolls as speedily as possible; and, finally, that the process be carried out as economically as possible. That is, the disability program should provide full equity to the disabled as efficiently as possible. If this turns out to be more expensive or less expensive than the Congress deems desirable, then the Congress may change the basic policies—but at least the Congress will be able to do that, free from the confounding effects of inconsistency, unreliability, inequity of result, over-costly administration, and lack of any base for assessing the approximate "truth" of the program's eligibility judgments.

What should be noted is the following:

The disability program is extremely large—serving about 4.3 million disabled persons at a price of about $7,500 per disabled person per year, in Federal funds, for a total of about $32.4 billion in fiscal year 1982.

The progam's eligibility function is administered in such a way that extremely variable results occur, depending upon the level of the administrative and appeals ladder at which the decision is made. The program is also extremely unreliable, with large disagreements among decision-makers both as to the proportion of allowances which should be made for any given group of cases, as well as the basis on which the allowance should be made. There is also a body of studies that indicate large numbers of switches in decision (both from allowing benefits to denial and from denial to allowance), as a function of the amount of information used to make the decision: in general, the greater the amount of information, the greater the percentage of allowances.

The program is inequitably administered, partially because of Congressional action in recent years, and partially because of internal SSA decisions. Although equal attention should be given, in any equitable program, to both kinds of errors possible under the program (Type I errors: allowing benefits to someone not really eligible; Type II errors: denying benefits to someone really eligible), the overwhelming record of the last few years is to devote law, policy and administrative resources to the control of Type I errors with no attention at all to Type II errors.

The increased emphasis on Type I error control has resulted in an increase in administrative cost (the total number of decisions needed per initial application has increased from 1.23 in 1974 to 1.51 in 1980; it will increase even more sharply in the early 1980's, due to the more intensive CDI process, to about 2.7 per initial application in 1984, thus causing administrative costs to skyrocket to about $1.8 billion per year by 1984).

So long as we do not have an ongoing tradition of longitudinal followup studies of all applicants, whether denied or allowed, whether appealed cases or not, on a sample basis, we will have no ability to test the administration of the program against one or more external criteria of the "truth" of the decision process (e.g., long-term morbidity, mortality, and job experience).

The current policy of an ever-increasingly-intensive CDI process (which proposes reviewing 800,000 current disability cases per year by 1984, with a cessation rate of 45–50 percent, resulting in a maximum saving to the Federal government of $10.9 billion over the 1980–84 period) is exacerbating an already difficult policy situation. Actual savings, after correcting for appeals results and the very large increases in administrative costs that will be required for this policy, will—at best—range from nothing to possible $6.5 billion for the period. When these estimates are further corrected by second-

order costs (e.g., some cessation cases will return to institutions, at very large increases to both Federal and State governments, as a result of going through a CDI and cessation, appeal, and return to the rolls) to the Federal government, and by the additional costs to State and local governments, it is quite possible that the total public-fisc effect of the policy will have been to raise total public costs by $2 billion per year. Establishing what the truth is here will require close cooperation between SSA, the States, and researchers.

Recommendations: There are ways to save the situation:

1. Establish a program of longitudinal studies, relating information about the administration and costs of the program to the eventual outcome of applicant, with respect to morbidity, mortality, and job history.

2. Establish a far more information-rich decision policy, and apply it to both allowance cases and denial cases; use linear discriminant functions as a way to choose those cases which are "hard" and which require more information. Within a total-cost model of the administration of the program, an increase in perhaps $400 million per year in the purchase of information would probably reduce the sum of error and administration costs of the DD system by more than $1 billion.

3. Establish a more aggressive rehabilitation policy, with the use of discriminant or similar functions to select out those with a high probability of rehabilitation. The result would be to increase the percentage of rehabilitation to 5 to 10 percent of the total load, if current disincentives are dealt with. Pilot studies of different combinations of incentives, rehabilitation investment, and selection policies, could identify a more or less cost-effective policy within about five years.

4. Use a more flexible Quality Control policy, as a way to achieve consistency in a more equitable manner, while longer-term reforms, such as those described above, are being developed.

With such approaches, we could expect a more humane and more reliable decision process, at less cost—both in dollars and lives. Without them, we are doomed to go into an ever more sour disagreement about what's being done wrong, and whose fault it is.

BACKGROUND

The Federal government, through the Social Security Administration, administers two large programs for the severely and chronically disabled. Approximately 4.3 million persons are served by these programs, at an annual (1982) income maintenance cost to the Federal government of $16.5 billion for 2.8 million disabled workers under social security (and their spouses and children under Title II of the Social Security Act) and $4.7 billion for 2.3 million disabled persons receiving supplemental security income under Title XVI of the Social Security Act. This total of $21.2 billion per year in income maintenance payments goes to a total of 4.3 million individuals and family heads (about .8 million persons are concurrent recipients of both kinds of benefits).

These persons have further large medical costs which are linked to their eligibility for each of the two programs, about $6.4 billion under Medicare and $4.8 billion under Medicaid, in Federal costs in fiscal year 1982.

Thus, about 4.3 million disabled persons and their families are receiving about $32.4 billion in Federal income maintenance and medical benefits in the current fiscal year—about $7,500 per client per year.

The average state has about 19,000 unduplicated clients per million citizens (or 22,000 when no correction is made for joint recipiency of benefits under the two programs). The rate of recipients per million population in a state is extremely variable. Mountain states tend to have fewer than 9,000 persons per million population who are officially disabled, while states in the southeast and middle south tend to have more than 25,000 per million who are officially disabled. Thus, the two Social Security programs and their related medical financing programs tend to add between $37.5 million and $245.7 million to a State's personal income per million citizens per year.

THE CONTINUING DISABILITY INVESTIGATION POLICY OF SSA AND ITS EFFECTS

In the midst of the uncertainty about the propriety and accuracy of current eligibility decision policies, the CDI policy now exacerbates the larger problems.

In March, 1981, the General Accounting Office, in responding to a request from the House Ways and Means Committee, published a study of the administration of the disability programs reconsideration process. The conclusion of the study was that the Social Security Administration was apparently not closing many cases, or not closing them quickly enough, in cases of medical recovery, recovery of the ability to return to work, or death. Congress then mandated an intensified continuing investigation (CDI) process.

In response, the Administration began a more intensive redetermination process, constantly increasing the number of cases reviewed. At the same time, the target percentages of cessations has changed, according to the recent testimony of John Svahn, Commissioner of Social Security, before Congressman Pickle's Subcommittee on Social Security (Ways and Means Committee of the House of Representatives), from a current 30-35 percent of redeterminations resulting in a cessation of benefits, to a target figure of 45 percent in the current and future years. Thus, the five-year record, from fiscal year 1980 through 1984, assuming the Administration makes its targets, looks about like the table on this page.

The effects of reaching this target would seem at first glance to be significant for the Federal budget, a savings to the Federal government of $10.9 billion over the 1980–1984 period, with the savings at a $6 billion per year rate in fiscal year 1984 and thereafter.

It is unlikely, however, that SSA will reach this target. About 40 percent of all net cessations due to the new CDI policy can be expected to return to the rolls, through the appeals process—if the Congress and the States do nothing. If the current Federal court and ALJ roles were restricted, as has been proposed by the Administration, this percentage would go down.

TABLE I.—EFFECTS OF CURRENT REDETERMINATION PROCESS POLICIES OF THE SOCIAL SECURITY ADMINISTRATION

	Number of cases reconsidered	Percent cessations	Number of expected cessations	Net cessations from new policy*		Federal savings per cessation	Annual SSA savings due to new policy (millions)
				Annual	Cumulative		
Year:							
1980	220,000	32.50	71,500	0	0	0	0
1981	400,000	32.50	130,000	59,500	59,500	$6,800	$404.6
1982	520,000	38.75	201,500	130,000	189,500	7,500	1,218.8
1983	600,000	45.00	277,000	198,500	388,000	8,250	3,201.0
1984	800,000	45.00	360,000	288,500	676,500	9,000	6,088.5
Total	2,540,000		1,033,000	676,500			10,912.9

* Net cessations from new policy equals total cessations less 71,500 cessations expected from previous policies.

If, however, these roles were not restricted, and the States were to offer social service support to all persons sent CDI notification questionnaires—so that the client's inability to complete and return a questionnaire, which is now counted as an automatic cessation, were to be eliminated as a factor—or if that factor were eliminated by Congress, by requiring assistance in completion of the questionnaire by SSA or by SSA-paid support personnel; if the States were to also supply legal representation at appeals hearings; and, if the States were to purchase additional medical evidence, where needed—or if Congress were to require SSA to pay for such evidence—the rates of reversal would rise to about 80 percent of all net cessations due to the new CDE policy.

Thus, instead of the $10.9 billion savings over the five-year period, to the Federal government, we would expect that the net savings to the Federal government would be smaller, resulting from a rapid increase of administrative costs in the 1982–1984 period once all the appeals costs are added in the central office, regional office, the State agency costs of the CDI process, and the related court costs are considered.

While the process may result in savings to the Federal government, when only the administrative costs and cessation savings are considered, there are two more levels of consideration:

The second-order costs of the CDI policy to the Federal government. One of the problems in the CDI policy is that it seems to be focussing on just the people that the States have been working with, in order to bring them out of institutions into the community, or to keep them from entering institutions. Most of these people, with much work, can be brought, rather slowly toward more productive roles—but this is very much a "creep before you walk, walk before

you run" problem. Many of these persons may work 20 or 40 hours a month, at very low or subsidized wages. Part of the whole financing package for keeping them in the community is SSI or SSDI. If that support goes, there is a high probability of moving from a $15,000 per year program in the community to a $35,000 per year program in an institution, with Federal costs for Medicaid, Medicare, and/or SSDI being as large as $20,000 per year—a "negative savings" for the Federal government. At present, there are a number of researchers attempting to follow up on the effects of these policies. However, none has been able to secure the information necessary to set up sampling frames, partly because of an evident disinclination of SSA to furnish such information.

The costs to State and local governments. If a person is disabled and unemployable, yet loses Federal benefits, someone will have to provide income maintenance and health benefits. In many States, such as New York, Pennsylvania, Ohio, Minnesota, and California, that will be the county governments and the state governments, providing nonfederally-supported income assistance and indigent care. In others, it will be the State government alone. Beyond this, there will be costs to city governments and private charity, in that the reduction in these benefits, together with reductions in State program benefits, and an increasingly tight housing market, will result in perhaps a doubling of the number of persons who will be "street people" this winter, and will require basic shelter and food, over the number experienced last winter.

Although it is difficult to make such estimates without developing a followup sample, based on Social Security's own data on cessation cases, it would appear that the current CDI policy may result in increased total costs to the public fisc—when all Federal, State, and local government costs are taken into consideration. If true, that would be a bitter irony indeed. We will examine this possibility on the following page. Detailed tables, with a listing of assumptions, are appended to this paper.

The first-order effects of the CDI policy are to cause a certain number of cessations from the rolls—each of which confers Federal savings. There are other effects, however.

Not all persons taken off the rolls stay off. Without representation, about 50 percent of all those appealing the decision will be returned to the rolls (about 40 percent of all those who were cessations). With representation (which costs about $500 per case), about 80 percent of those appealing will return to the rolls. We assume here that all of those extra, or "net", cases traceable to the new CDI policy will appeal.

As a result of that appeal process, several kinds of changes in costs occur:

Those persons who were knocked off the rolls, but then returned to the rolls after appeal are no longer Federal savings, and those savings must be deducted from the gross savings attributable to the CDI policy. In the case of the "low appeals" alternative, the $10.9 billion savings through 1984 reduces to $6.6 billion. In the "high appeals" (i.e., where cessations cases are represented in the appeals process) alternative, the Federal savings through 1984 reduce to $2.2 billion.

The increased number of cases that must be processed as a function of the CDI policy, and of the "tightened-up" initial-application policy, will increase the number of decisions per year from about 1.57 million in 1980 to about 2.74 million in 1984, assuming no State action in representing appeals; with such State action, the number of annual decisions will rise to about 2.85 million in 1984 (this assumes that annual initial applications continue to be about 1 million). This increase in decision activity has a cost: about $2.04 billion over the four-year period for the "low appeals" alternative; about $2.23 billion for the high appeals alternative. This reduces Federal savings from $6.6 or $2.2 to $4.5 or $0.0 billions.

This does not end the reductions to the Federal costs. As a result of the CDI process, a number of persons who have been knocked off the rolls will return to State institutions, nursing homes, or ICF/MRs, where they were before a deinstitutionalization initiative was used to graduate them into independent or semi-independent living. If about 10 percent of all cessations return to such programs, the average cost per person will be about $24,000 per year in 1981, with approximate 10 percent annual inflation. We assume here that the Federal government, through MA, SSI, SSDI, and Medicare costs, ends up paying about 50 percent of these costs. In the low-appeals case, these costs will be just short of $1 billion to the Federal government; in the high-appeals case, about $400 million over the four-year period, thus lowering Federal savings from $4.5 or $0.0 billions to $3.5 billion or a negative saving (a cost) of $400 million, respectively. Thus, we are now at a point where, if the States provide representation to cases off the rolls by the CDI policy, the CDI policy has a $400 million cost over having no such policy.

There is more. The costs and savings above represented only the Federal fisc. However, the CDI policy has large effects on State and local fiscs. Some of the persons return to institutions. Half of these costs are paid by the Federal government, as we have noted above. The other half are paid by State and local governments. Beyond that, as studies in New York City and elsewhere have shown, the fact that a person no longer has income support and medical care paid for by SSI, SSDI, Medicaid, and Medicare means that their costs will be paid by State and local "home relief", "General assistance", and other nonfederal assistance programs, as well as by State and county tax levies which pay for increased use of indigent and charity hospitals, public university hospitals, community mental health and retardation systems, and the like. These costs are variously estimated at 40 percent to 60 percent of the annual Federal cost levels. Subtracting the ten percent of institutional returnees, then adding the nonfederal costs of the institutional returnees to the rest of those of the SSI/SSDI/MA/Medicare rolls, results in a total cost increase over the 1981–84 period of $3.0 billion for the "low appeals" case or a $1.6 billion total cost increase for the "high appeals" case, reducing the "total public fisc" savings to $547 million under the first alternative, or an increase in cost of $2 billion for the second one.

Thus we come to a fairly bitter end of the analysis. If the CDI policy is continued, and the States do not protect themselves through legal representation and increased purchase of medical evidence, the Federal Government will save $3.5 billion over the 1981–84 period—mostly at the expense of State and local governments, who will have to pay $3 billion in increased costs. If the States do protect themselves, they will cut their net losses due to the CDI policy almost in half—to about $1.6 billion. At the same time, the total cost of dealing with SSI and SSDI will have increased about $400 million, due to the CDI policy and people's reaction to it.

This analysis, of course, does not use exact data, because such data is not available. Such data should be available—and it should be Congress' mandate to SSA that the necessary data to make decisions about the goodness of the CDI policy be provided. Given what is available in our own analysis, it is clear that the CDI policy and its potential and actual impacts should be thought through more thoroughly than is now the case.

The general accounting of savings and costs is laid out below for the two basic alternatives:

The "low appeals" alternative. This assumes that the States do nothing about protecting their citizens who are taken off the rolls through the CDI process.

The "high appeals" alternative. This assumes that the States provide legal representation and evidence purchase for all citizens taken off the rolls through the CDI process, at a cost of $416 million, 88 percent of which is incurred in 1983 and 1984.

TABLE 2.—SAVINGS AND COSTS OF THE CDI POLICY—FEDERAL, STATE, AND LOCAL GOVERNMENTS, AND TOTAL PUBLIC FISC, 1981–84, UNDER DIFFERENT TYPES OF REACTIONS BY THE STATE

[In billions of dollars]

	Appeals alternative	
	Low	High
Gross savings to Federal Government, without considering appeals process	10.912	10.912
Gross costs to Federal Government, returns to rolls through appeals process	−4.355	−8.689
Gross savings to Federal Government, after appeals process	6.557	2.223
Less administrative cost increases due to CDI expansion and initial application tightening-up	−2.036	−2.226
Subtotal	4.521	−.003
Less increased costs due to institutional returns of 10 percent of post-appeal cessations	−.984	−.394
Net Federal savings (costs)	3.537	(.397)
Less cost to States and localities, due to shift of 40 percent of costs of non-institutional group of cessation cases (includes representation costs for high appeals alternative)	−2.990	−1.610
Net savings (costs) to public Fisc	.547	(2.007)

VARIABILITY AND UNRELIABILITY IN THE DISABILITY PROGRAM

The disability program is characterized by a high degree of variability and unreliability in the eligibility judgments made. The inconsistency is not limited to any one part of the program; it is endemic.

1. Interstate and regional variations—The number of persons found officially disabled on a state-by-state basis, ranges from about 3,000 per million general population in Alaska to almost 32,000 per million in Mississippi, with the median state having approximately 18,500 persons officially disabled per million persons in the general population. Aside from this 4.5:1 state-by-state variation, there is also considerable regional variation. The Great Lakes, Plains, and Mountain states tend to have low numbers per million population, while the states of the Southeast, Middle South, and Southwest tend to have much higher rates. Part of the variation appears to be explainable by relative poverty or by the level of a state's SSI payment (degree of industrializa-

tion or type of industry profile in a state does not appear to make much difference). Most, however, is probably related to the "organizational culture" of individual state disability determination units (DDU). See appended Table 2 for the state-by-state details.

2. Inter-level variations—Once an applicant has been denied benefits, at the initial application stage, there is an appeal ladder, starting with the reconsideration stage in the State DDU, and continuing through the administrative law judge, appeal council, and Federal District Court level. There are large variations among these levels.

About 33 percent of all applications are allowed at the initial application level (1981); of those denied at the initial level, and who appeal, 15 percent are allowed at reconsideration; of those denied at reconsideration, and who appeal, about 58 percent are allowed at the administrative law judge (ALJ) level; of those denied by the ALJ, and who appeal, 13 percent are allowed or are remanded to the ALJ by the DHHS Appeals Council; and, of those cases denied at the Appeals Council level, and who appeal, 52 percent are remanded to the Appeals Council or are allowed.

Because of the high percentage of reversals of agency decisions by ALJ's, studies of reliability of decisions were requested. In the "Bellmon report", DHHS had three groups evaluate the same 3600 cases, using two different kinds of standards. The three groups: ALJs, staff of the agency's Office of Assessment (OA), and members of the DHHS Appeals Council (AC). Two standards were used: OA used the DDU standards and methods; AC and ALJs used ALJ standards and methods. The results, in terms of percent cases allowed:

TABLE 3.—PERCENT OF CASES ALLOWED, BY GROUP DECIDING AND STANDARD USED

Group deciding	Standard used	
	DDU	ALJ
ALJ	NA	64
AC	NA	48
OA	13	NA

As is clear from these data, the Office of Appeals, using Disability Unit standards (e.g., no added medical evidence in most cases; no in-person appearance by the applicant), had a far different record on allowances than either the ALJ or AC, using ALJ standards and methods—13 percent allowances versus 48 and 64 percent.

Despite the 16 percent disagreement in allowances, the AC and ALJ group agreed on 69 percent of all cases (although, for the 40 percent of cases that they agreed should be allowed, they disagreed on more than half of them as to the basis for allowing the applicant benefits). Their agreement/disagreement data are displayed in Table 4, below:

TABLE 4.—RELIABILITY/UNRELIABILITY IN THE BELLMON REPORT

[Numbers of cases]

AC decision	ALJ decision		
	Allow	Deny	Total
Allow	1,452	276	1,728
Deny	852	1,020	1,872
Total	2,304	1,296	3,600

What is important about the reliability of the decision process is the fact that the ALJs, who are usually criticized by SSA as being "over-loose" (i.e., reversing far too many denials), actually denied 16 percent of those cases (276) that the Appeals Council allowed. Indeed, even the OA group, with a total of 13 percent of the 3600 cases allowed benefits (only 467 cases), allowed benefits to 52 applicants that the ALJs had denied.

3. The effects of Information on Decisions—One reason for this large variability and unreliability in the disability decision process appears to be that it has been run, traditionally, as an "information-starved" procedure. That is, Congress and SSA have been wary of the direct and easy-to-see costs of having reasonable amounts of information—but far less wary (until recently) of the error costs which such increased information will avoid (whether the error is that of allowing benefits to an applicant who is "really" not eligible—or the opposite error of denying benefits to the person who is really eligible). There is a fair amount of evidence on the effects of differing amounts of information on the decision process.

In a 1965 study at the Kenny Rehabilitation Institute in Minneapolis, a decision was made on initial applicants by the state agency; after that, the same person was examined by a team of six professionals, which generated much new information on the applicant. The result of such information was to shift 15 percent of the initial decisions (6.8 percent of the initial allowances were denied; 8.2 percent of the initial denials were then allowed benefits).

In a more recent study, (1979) of expert examiners in ten states, Mashaw reports that the addition of a consultative exam resulted in 24 percent of all initial decisions being changed (16 percent from denied to allowed; 8 percent from allowed to denied). In the Bellmon report, the results were even more dramatic. There, one of the studies examined the effect on the ALJ's decision of in-person appearances by applicant versus a pure "document decision" and of additional medical evidence versus no additional medical evidence. The results were as follows:

TABLE 5.—EFFECT OF INFORMATION ON THE ALJ DECISION PROCESS

	ALJ allowance rate (percent)
i. No in-person appearance/no additional medical evidence	31
ii. In-person appearance/no additional medical evidence	46
iii. In-person appearance/additional medical evidence	64

Thus, in every study the effect of additional evidence was to switch 15 to 33 percent of the decisions; and, in every study, the effect of additional information was to add 1.4 to 33 percent to the percentage of applicants allowed benefits. It should be noted that the larger increases in allowances (as a function of information) in ALJ studies are consistent with the fact that most of the "easy" cases have been filtered out before they get to the ALJ. They are dealing with the "marginal" or "coin-flip" cases thus, the effect of increased information should be greater.

TABLE 4.—NUMBER OF SOCIAL SECURITY DISABLED (SSA) WORKERS AND NUMBER OF SUPPLEMENTAL SECURITY INCOME (SSI) DISABLED RECIPIENTS PER MILLION GENERAL POPULATION, BY STATE, 1979

State	General Population of State	Number of SSA disabled workers	Number of SSI disabled [1]	Number of SSA disabled workers [1]
Northeast:				
Maine	1.097	15,234	10,379	13,887
New Hampshire	.887	9,173	3,398	10,342
Vermont	.493	6,285	10,134	12,748
Massachusetts	5.769	61,345	9,114	10,634
Rhode Island	.929	14,044	9,523	15,117
Connecticut	3.115	30,690	4,927	9,852
Mid-Atlantic:				
New York	17.648	234,696	12,809	13,299
New Jersey	7.332	92,503	6,860	12,616
Pennsylvania	11.731	160,635	8,767	13,693
East North Central:				
Ohio	10.731	132,675	7,744	12,364
Indiana	5.400	61,211	4,521	11,335
Illinois	11.229	109,653	7,527	9,765
Michigan	9.207	113,918	8,053	12,373
Wisconsin	4.720	48,003	7,431	10,170
West North Central:				
Minnesota	4.060	31,758	4,583	7,822
Iowa	2.902	27,144	4,569	9,354
Missouri	4.867	66,252	8,518	13,612
North Dakota	.657	4,962	4,545	7,553
South Dakota	.689	6,288	5,589	9,126
Nebraska	1.574	13,251	4,891	8,419
Kansas	2.369	20,610	5,083	8,700
South Atlantic:				
Delaware	.584	7,248	7,342	13,226
Maryland	4.148	40,417	7,514	9,744
District of Columbia	.671	7,618	15,548	11,204
Virginia	5.177	65,889	7,633	12,727
West Virginia	1.861	38,714	14,104	20,803
North Carolina	5.571	89,380	12,856	17,612
South Carolina	2.902	49,960	14,466	17,216
Georgia	5.075	86,470	15,409	17,038
Florida	8.661	149,466	9,312	17,257
East South Central:				
Kentucky	3.490	57,281	13,603	16,413
Tennessee	4.333	72,733	15,148	16,786
Alabama	3.728	60,651	14,975	16,245
Mississippi	2.409	43,842	19,564	18,199
West South Central:				
Arkansas	2.167	44,124	15,152	20,362
Louisiana	3.978	57,571	16,939	14,472
Oklahoma	2.843	38,249	11,183	13,454
Texas	13.047	131,308	8,108	10,064
Mountain:				
Montana	.780	8,461	5,612	10,847
Idaho	.882	9,037	5,177	10,246
Wyoming	.425	2,801	2,412	6,591
Colorado	2.706	24,104	6,235	8,908
Southwest:				
New Mexico	1.241	14,574	11,413	11,744
Arizona	2.450	33,274	6,859	13,581
Utah	1.367	8,821	3,793	6,453
Nevada	.702	8,450	3,657	12,037
Pacific:				
Washington	3.926	42,365	7,631	10,791
Oregon	2.527	30,399	5,596	12,030
California	22.694	289,195	16,325	12,743
Alaska	.406	1,560	4,468	3,842
Hawaii	.915	6,911	5,304	7,553
Puerto Rico	3.480	79,401	.....	22,816

[1] Per million general population 1979.

Source: Table 118, Social Security Bulletin Annual Statistical Supplement 1980.

TABLE 5.—DISTRIBUTION OF SSI AND SSDI DISABLED PER MILLION GENERAL POPULATION, IN THE 50 STATES AND DISTRICT OF COLUMBIA, 1979 (SUMMARY)

	SSI				
	0 to 4,999	5 to 9,999	10 to 14,999	15 to 19,999	Total
SSDI:					
0 to 4,999	1	.....	.....	.....	1
5 to 9,999	7	6	.....	.....	13
10 to 14,999	3	15	5	3	26
15 to 19,999	.....	2	4	3	9
20,000 plus	.....	.....	1	1	2
Total	11	23	10	7	51

EQUITY AND INEQUITY IN THE DISABILITY PROGRAM

Given the stream of persons who apply for disability benefits under the SSI or SSDI program, and the definition of disabil-

ity, it is difficult to say how many of these are "really" eligible. Lacking some clear external criterion of the goodness of disability decisions, SSA has attempted to move, in the last several years, to what is at least a more consistent position in making eligibility decisions.

However, the way that move has been carried out has dangers. That is, SSA can have a consistent program, but one which is inequitable—and that is a current danger in the administration of the disability program.

In the administration of a program in which there is some separation of those who receive benefits and those who are denied them, the decision process should be evenhanded. This means that, when we attempt to avoid error, we treat all forms of potential error in some "fair" or equal fashion. Thus, we administer the program as much to deal with the potential Type II errors (failing to grant benefits to someone who is truly eligible) as we do to deal with Type I errors (granting benefits to someone who is not truly eligible). If we emphasize the correction of Type II errors, to the derogation of correction of Type I errors, we are properly criticized as inadequate stewards of public funds. If we take the opposite tack, emphasizing the correction of errors of allowance, but ignoring errors of denial, we are properly criticized as inadequate guardians of equity.

It is this second position which seems to more and more characterize what has been happening to the disability program over the past few years. During the mid-70's, partly as a result of the "case-finding" effects of the new SSI program, application for disability benefits increased quickly for both SSI and SSDI, then subsided considerably in the late 1970's.

At about the time that applications were beginning to decrease, Congress and the Carter Administration recognized the problem, and much pressure was put on SSA to bring the program under control.

In all of those efforts to win control over the program, however, virtually every action taken—whether ordered by the Congress or carried out internally—was aimed at controlling false allowances. Virtually nothing has been done by the Congress or SSA to control false denials: indeed those groups involved in the decision process which have responded to the problem of the person who is mistakenly denied benefits when he or she is truly eligible—the Administrative Law Judges and the Federal District Courts—seem to have come under attack for their "too liberal" treatment of persons appealing denials.

A list of some of these actions will make the point clear. A number of them come from the brilliant analysis by Professor Jerry Mashaw of Yale Law School of the administration of the program: [1]

SSA has offered and supplied "technical assistance" to those states with "poor quality" records. However, "poor" is defined here as having higher-than-average allowance percentages. These percentages then dropped "dramatically".

The new quality-control-oriented reviews of ALJ decisions are aimed only at those ALJs with the highest reversal rates, and will apparently only concentrate on reversal (denial to allowance) decisions, not on nonreversal decisions (those upholding the state agency denial) despite the evidence of the Department's Bellmon report on the "false denials" question.

SSA has systematically moved to deny help (e.g., refusing to pay for any medical or vocational evidence development not scheduled by SSA) to those appealing denials.

In 1980, Congress mandated a pre-effectuation review of 65 percent of all awards. In previous years, Baltimore had looked at a random sample or a 100 percent sample of all decisions, kicking back both denials and awards—and thus resulting in reversals of both kinds—a fairly equitable procedure. The current procedure essentially says that awards shall be reviewed, and some kicked back for eventual reversal of the decision to a denial. However, no denials shall be reviewed. This assures that many of the false denials previously caught by Baltimore will not be reversed by the State agency. One result: those false denials who are "passive", for whatever reasons, will not appeal, and will lose the benefits to which they were entitled. A second result: if false denials have a higher propensity to appeal and to feel injustice than do true denials, then we can expect to see a continuing expansion of the traffic into the administratively-expensive precincts of the appeals ladder.

In response to a 1981 GAO report which alleged that about 20 percent of all current recipients were ineligible (it should be noted here that the report has never been replicated, as a test of its usefulness; the writers of the report noted—as an after-thought—that they expected the appeals process to return at least one-half of these "ineligibles" to the rolls; and, in using the report as the justification for current continuing disability investigation—CDI-policy, SSA has always mentioned the 20 percent figure, but never discussed the "qualification"), Congress has ordered the review of one-third of "non-permanent disability" cases, and SSA has enthusiastically complied, with an expected cessation rate of 45 percent of the cases examined, in the next few years.

The result of this one-sided policy has been to reduce the award rate on initial application from 50 percent in 1975 to 33 percent in 1980; to modify the behavior of state examiners so that they tend to allow benefits only in the extremely certain cases (the percentage of awards made on the basis of the most "objective" standard, the meets-the-listing basis, has increased from 29 percent of all awards in 1975 to 58 percent in 1980—with concomitant drops in the more subjective "equals" and vocational allowances categories); and to drop the ratio of beneficiaries to covered workers under SSDI from its 1975 all-time high of 7.1 per 1,000 workers to the same rate (4.1 per 1,000) that it experienced during its all-time low in 1984.

Because of this background, it is difficult to avoid the conclusion that, while immense efforts are focussed upon controlling positive decisions, almost nothing has been done to control the negative ones. Therefore, current policy would appear to be extremely inequitable.

THE CHANGING CONFIGURATION OF ALLOWANCES FOR DISABILITY BENEFITS (SSI AND SSDI): ITS EFFECT ON ADMINISTRATIVE COSTS

When a client makes an initial application for SSI or SSDI, there are five levels of decision—an initial determination of eligibility, and four levels of appeal. The applicant may be approved or denied for benefits:

1. In the initial determination made by the Disability Determination Unit;

2. In a reconsideration procedure within the Disability Determination Unit, if there was a denial of benefits decision in the initial determination;

3. In an appeal heard by an Administrative Law Judge, a semi-independent hearing examiner for the Social Security Administration, if there was a denial in the reconsideration hearing;

4. In an appeal to the Appeals Council, if the Administrative Law Judge denied the applicant; and,

5. In the U.S. District Court, if the client was denied benefits at the Appeals Council Level.

In the 1970's, the percentage of initial applicants eventually receiving benefits changed hardly at all. Of those initially filing in calendar 1974, about 47.6 percent eventually were approved for benefits; of those initially filing in fiscal year 1980, about 47.4 percent were approved.

However, the configuration of approvals changed greatly during that time. In the early 1970's, most of the cases which were allowed, were allowed within the Disability Determination Unit (45.3 percent), with very few being allowed at the three appeal levels outside the agency (2.3 percent). By 1980, after an "administrative crackdown" at the DDU levels, which began during the Carter Administration, and continues in the Reagan Administration, the percentage of initial applications approved within the agency (at the first two levels of decision) has slipped to 37.5 percent. At the same time, the percentage of initial applications allowed at the three appeals levels outside the agency has gone from 1974's 2.3 percent to 9.9 percent—most of which come at the Administrative Law Judge level. The detailed percentages are given below in Table 6.

TABLE 6.—PERCENT OF INITIAL APPLICANTS ALLOWED, BY DECISION LEVEL, 1974 AND 1980

Decision level	Year	
	1974	1980
Initial determination	40.0	33.0
Reconsideration	5.3	4.5
Subtotal: Inside agency	45.3	37.5
Administrative law judge	2.0	9.6
Appeals council	.2	.2
U.S. district court	.1	.1
Subtotal: Outside agency	2.3	9.9
Total	47.6	47.4

This has led to controversy over whether the DDU levels are guilty of over-strict interpretation of the regulations, inadequate use of inadequate evidence, and the like, or whether the Administrative Law Judges are over-loose in their interpretations of law and regulation, not forced to deal with the same rules of evidence as the DDUs, and the like.

Regardless of what may turn out to be the final explanation, one important issue highlighted by this change in configuration (without essential change in the percentage of those finally approved for benefits) is the change in volume, and economics of disability determination.

The first effect is that, although the volume of initial applications fell, over the six-year period, from 1974 to 1980, by 200,000 (from 1.256 millions to 1.038 millions), the total number of decisions to be made on all cases was about the same, actu-

[1] Jerry L. Mashaw, "Bureaucratic Justice: Administrative Law from an Internal Perspective," unpublished manuscript.

ally increasing slightly between 1974 to 1980 (1.532 million versus 1.567 million)—implying a change from 1.23 decisions needed per initial application in 1974 to 1.51 decisions needed in 1980.

Some analysis of these data indicates that the average cost of administration per initial applicant has probably more than doubled from 1974 to 1980, partly due to inflation (about a 67 percent increase), but also partly due to the configuration change (about a 50 percent increase in constant dollars for every initial applicant, before all of those applicants' cases are finally settled), and partly due to the fact that only about 1.039 million initial application cases were processed in 1980, compared to 1.25 million cases in 1974 (a 17 percent *decrease* in volume).[2]

If the cost of administration of the DD process (counting ALJ and court costs) is currently about $800 million per year, then about 30 percent of that cost (about $240 million) is due to the change in configuration from the early 1970's to now, with very little "up-front" results (i.e., a decline in the percentage of final approvals) to show for it. There are economic hypotheses under which the approach could appear to be cost-effective (e.g., the decrease in initial applicants is due to news of tougher administration of the program in recent years, so that 200,000 or so additional persons per year on the rolls are avoided, thus saving SSA and HCFA about $800 million per year, with such savings cumulating through the years, as new cohorts of applicants are avoided).

There are other, equally reasonable hypotheses, however, which would imply that the policy is less than cost-effective (returning only about 33 cents per dollar spent). For example, we could assume that the number initially applying for benefits is not affected by administrative rigor, but is a function of the size of the underlying disability pool, much as the size of the AFDC program turned out to be very strongly a function of the underlying pool of eligibles in the population.

Currently, the truth of either kind of hypothesis is equally likely. What that implies is that there is a very inadequate knowledge base about the determinants of application for disability benefits; and that important policy decisions are being made in an environment of relative ignorance.

ON THE "TRUTH" OF ELIGIBILITY DECISIONS

The argument about whether SSA is too restrictive, too liberal, too unreliable, or too inefficient or costly in its administration of the program is not likely to be settled, given current information.

It is odd that a program which spends over $30 billion of Federal money per year (and some billions of State money), has been a program with a long history (26 years so far), and is expected to continue as a large public program into the future, knows so little about itself.

Yet, with the exception of a Congressionally-mandated study in the early 1960's, there has been no investigation of the relationship between the administration of the program and the long-term outcomes of applicants. That is, given the somewhat vague criterion of disability used by Congress, there is no immediately-available external criterion of the truth of a disability decision. Yet there are ways to develop a useful—if not completely satisfactory—standard against which the methods of the disability decision procedure can be tested.

The statutory criterion, for example, provides at least two partial standards:

Whether the person can go back to work, in any part of the national economy, and

Whether the disability is severe and chronic, likely to result in death, and/or likely to last at least a year.

Given these standards, an approach is immediately suggested: Follow up a sample of persons, both allowed and denied, over time, recording their employment, morbidity, and mortality rates. Then, relate the "predictors" used by various parts of the program (at all administrative levels), to make eligibility decisions, to those longer term outcomes, in order to test their precision and accuracy.

That is, we would hope that our SSA program is so good that the persons who are allowed benefits have *much greater* rates of morbidity and mortality than do those denied. At the same time, those denied should have *much greater* rates of employment after denial than those accepted (even with the additional rehabilitation assistance provided those allowed benefits). The employment data will not tell us everything we need to know (*not going back to work* is not necessarily the same as *not being able to go back to work*). Nevertheless, the difference will be suggestive and useful in providing feedback on how good our eligibility decisions were.

The great problem is that SSA, after 26 years, does not have such a longitudinal studies program. Yet, one of the very few studies of this sort ever done (Iversen, Copeland, Borgen, et al., *The Project 21 Report*, American Rehabilitation Foundation, Minneapolis, 1966) indicated some serious problems is the predictive power of disability decisions. In a followup of applicants, 21 to 48 months after the disability decision, several findings were published which have important implications even today, for the conduct of the SSA program:

The proportion of persons going back to work, among those granted benefits, was far greater—about 5 times greater—than the 2 percent rehabilitation figures which are traditional for the disability programs. The implication: With better selection procedures, better rehabilitation procedures, and fewer disincentives to return to significant gainful activity, about ten percent of the officially disabled could be rehabilitated.

Among those denied benefits, very, very few women return to work (only one-seventh of those 52 years or older); only 50 percent of the younger males return to work, and only 28 percent of those 52 or older return to work.

This raises the question of what is happening here, if even the best-performing group of the denied cases returns to work only 50 percent of the time. Were we missing significant groups of persons who could never really return to work, even in the early 1960's? This is an important question now: it will be an excruciatingly difficult one for the nation in the years from 2000 to 2015, when the baby boom generation enters the years of high probability of disability (more than two thirds of those in the SSI program are over the age of 50).

The distribution of employment from the Project 21 followup study is illustrated graphically in Figure I-1, appended to this section.

[Chart not printed in RECORD.]

APPENDIX

Basic Assumptions for Estimating CDI Costs and Benefits:

A. No. Cases reconsidered in CDI process, 1980-1984: 2,540,000.

B. Percent cessations: 1980—32.5 percent; 1981—32.5 percent; 1983—38.75 percent; 1984—45 percent.

C. No. Expected Cessations: 71,500; 130,000; 201,500; 277,000; 350,000.

D. Net Cessations from New CDI Policy equals total cessations less those 71,500 cessations expected from previous policies; 1980 number of 71,500 taken as an estimate of the number under old policies: 59,500; 130,000; 198,500; 288,500.

E. Federal savings per cessation taken from 1982 estimate of $7,500 ($32.4 billion estimated expenditures under SSI, SSDI, MA, and Medicare, on Federal Side, for 4.3 million disabled persons), then deflated for 1981 and inflated for 1983 and 1984 (approximately 10 percent inflation in each year): $6,800, $7,500, $8,250, $9,000.

F. Savings due to new policy—cumulative cessations times annual Federal cost, summed over each year to a gross total of $10.912 billion.

G. Returns to rolls due to appeals. Two alternatives are proposed. In the first, there is no State representation or purchase of additional medical evidence; in the second there is (at an annual cost per person of $500 in 1981, $550 in 1982, $610 in 1983, and $670 in 1984, for a total cost of $29.75 million, 71.5, 121.085, and 193.295, for a four-year total of $415.630 million). Returns to the rolls are 50 percent of net cessations due to new CDI policy for the first alternative, 80 percent in the second.

H. Administrative Costs:

1. Total Number of Decisions. We assume 1 million initial applications each year, 1981-84; appeals arising from initial decisions as 580,000 in 1981, when initial allowances rate is estimated at 32 percent; number of appeals rising at a rate of 33,000 per one-percentage point decline in appeals rate for initial applications; initial allowance rate declining to 30 percent in 1982, 28 percent in 1983, and 26 percent in 1984; number appeals rising to 646,000 in 1982, 712,000 in 1983, and 778,000 in 1984. The CDI process adds decisions—initial decisions are 400,000 in 1981, 520,000, 600,000 and 800,000 in 1984. There are two levels of numbers of appeals. If there is no representation by States, each 100 initial CDI review is expected to generate 20 appeals; if there is representation, each 100 initial CDI reviews will generate 35 appeals. This leads to the following number of expected decisions in the whole disability process:

NUMBER OF DECISIONS

[In millions]

	Low appeals alternative	High appeals alternative
1980	1.569	1.569
1981	2.075	2.115
1982	2.270	2.346
1983	2.430	2.512
1984	2.738	2.853

2. Costs of Administration. We have already pointed out, in the text of the section on composition of decisions in the SSDI/

[2] We have assumed here that a district court or an appeal panel decision costs 5 times as much as an initial application decision; an ALJ decision costs 3 times as much as an initial application decision; and a reconsideration decision costs 1.5 times as much as an initial decision. These are obviously guesses. However, if the relative-cost scale is roughly so ordered, the point on cost change is valid.

SSI disability program, that there is a "hydraulic" effect on the process. When there is a squeeze on initial applications, more appeals—at higher administrative costs—ensue from persons who believe that they are entitled to benefits and are loath to give them up.

We have incorporated that assumption—and an assumption that the initial-applications squeeze will become tighter over the next several years—in our estimate of the number of decisions to be expected. From 1974 to 1980, we assigned relative value weights to initial applications, appeals, etc., given the fact that such information is not available from SSA. From 1980 on, we assume that the mix of weighted decisions remains the same, in our estimates. We then assume that inflation declines over the period, in administrative costs, from 10 percent in 1981 to 7 in 1982, 6 percent in 1983, and 5 percent in 1984. We then calculate the annual percentage increase in number of decisions (1981 over 1980=32.3, 82 over 81=9.4, 83 over 92=7.1, and 84 over 83=12.7, for the no-representation alternative; similar calculations follow for the representation alternative).

* * * * *

Thus, the squeeze on initial applications and new CDI policy can be expected to result in a 53 to 58 percent in administrative costs over the 1981-84 period.

I. State Federal and State Only Costs.

A. Institutional Returns. We assume here that 10 percent of net cessation cases (those not returned through appeals) return to state MI or MR institutions, nursing homes, community ICF/MR's, at an average cost in each of the four years of $24,000, $26,400, $29,000, and $32,000. The low appeals cumulative number of cases per year is 3,000, 9,500, 19,500, and 34,000. The cost to the Federal government (the States incur equal amounts) is estimated, over each of the four years at $36 million, 125.4, 281.3, and 540.8 for the low appeals alternative and $14.4 million, 50.2, 113.1, and 216.0, for the high appeals alternative (cumulative cases for this alternative: 1,200, 3,800, 7,800, 13,500). The total cost for the period for the Federal government: $983.5 million for the low appeals alternative, $393.7 million for the high appeals alternative. The States incur the same costs.

B. Costs for Cases who are Cessations, but do not Return to Institutions. We assume here that the State cost is 40 percent of the Federal gross savings—or .9 × .4 × Federal gross savings—for the 90 percent of cessations remaining in the community. These costs, together with the institutional-returnee costs and, for the high-appeals alternative, representation costs, give a net cost for the States. These are laid out below:

Year	Low appeals alternative			High appeals alternative			
	State replacement of Federal costs	Costs of institutional returnees	Total	State replacement of Federal costs	Institutional costs	Replacement costs	Total
1981	78.8	36.0	114.8	29.1	14.4	29.8	73.3
1982	255.8	125.4	371.2	102.3	50.2	71.5	224.0
1983	576.2	281.3	857.5	230.5	113.1	121.1	464.7
1984	1,095.8	540.8	1,636.6	434.8	216.0	193.3	847.7
Total	2,006.6	983.5	2,990.1	800.3	393.7	415.7	1,609.7

Note.—Net cost for States of SSA squeeze and CDI policy, 1981-84, under 2 alternatives of State.

J. Comments. The total model developed here is quite conservative, but it has some problems. First, many of the assumptions are "average", when we are not sure that there will not be some biases. Second, we have not incorporated everything needed in the model. Some examples: There is a current MA cost to States, as well as an SSI cost for some States. These savings to States resulting from persons leaving the rolls are not estimated. Therefore, to States' costs resulting from Federal policies are over-estimated. Third, we have not adjusted annual estimates for the fact that most States are not yet paying for representation and purchase of additional evidence. The 1981 and 1982 estimates of cost and outcome would change, for both Federal and State governments, when that is taken into consideration. However, the effects would be rather small, relative to the effects in the 1983 and 1984 target years. Fourth, the 40 percent of Federal gross costs estimate used as an estimate of State costs is probably low. Some States are reporting estimates of about 60 percent. However, we won't know what's going on here, without much better statistical followup of all classes of applicant for—and recipient of—SSI/SSDI. For that reason, SSA should be sponsoring a group of followup studies, in order to understand what is really happening here.

S. 2739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 223(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) Except as provided in subparagraph (C), in order for a benefit under this section, or a child's, widow's, or widower's benefit based upon disability, to be terminated on the grounds that the physical or mental impairment on the basis of which such benefit was payable has ceased, did not exist, or is no longer disabling, the Secretary must determine and document that, based upon current medical evidence and such individual's medical history, there has been a medical improvement in the case of the individual's impairment of such a degree that such individual is no longer disabled under the criteria for evaluation of disability in effect at the time of such prior determination, or that the prior determination that such individual was under a disability was clearly erroneous under the criteria for evaluation of disability in effect at the time of such prior determination.

"(B) In making and documenting the determination under subparagraph (A), the Secretary shall make all reasonable efforts to obtain current medical evidence and medical history with respect to such individual from such individual's treating physician or other health care provider, prior to making any determination that a consultative medical examination is warranted.

"(C) Subparagraph (A) shall not apply in the case of a termination of benefits based upon a finding made in accordance with paragraph (4) that services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity.".

(b) Section 223(d)(2) of such Act is amended by adding at the end thereof the following new subparagraph:

"(C) Any regulations, rulings or other promulgations of the Secretary which provide criteria for determining the severity of physical or mental impairments on the basis of a listing of such impairments and the corresponding medical criteria to be applied when determining the severity of such listed impairments, shall also provide that the severity of any impairment must also be evaluated on the basis of comparability of severity in any case where the level of severity of an individual's impairment or combination of impairments may be comparable to the level of severity for the same or a similar impairment as determined under such criteria.".

(c) The amendments made by subsections (a) and (b) shall apply with respect to determinations made on or after the date of the enactment of this Act.

CONTINUATION OF DISABILITY BENEFITS DURING APPEALS PROCESS

SEC. 2. (a) Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Continuation of Benefits During Appeals Process

"(g)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability; and

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits,

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to continue to have payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII of this Act) continued until such time as the determination to terminate such benefits is affirmed by a final determination of the Secretary after a hearing pursuant to section 221(d), or if such individual does not request a hearing, until the time for requesting such a hearing has expired.

"(2)(A) Any benefits paid under this title by reason of paragraph (1) shall be considered overpayments if the decision after a hearing affirms that such individual is not entitled to such benefits, or if such individual fails to request a hearing.

"(B) Any benefits paid under this Act (including benefits under title XVIII), other than under this title, by reason of paragraph (1) shall not be considered overpayments solely on the grounds that entitlement to benefits under this title would have

ceased but for the provisions of this subsection.".

(b) The amendments made by subsection (a) shall apply with respect to determinations (that individuals are not entitled to benefits) made on or after the date of the enactment of this Act.●

By Mr. BOREN:

S. 2740. A bill to amend the Tax Reform Act of 1969 with respect to the application of the excess business holding provisions to private foundations; to the Committee on Finance.

SAND SPRINGS HOME

● Mr. BOREN. Mr. President, in Sand Springs, Okla., is a unique organization that blends the generous services of a charitable organization with the business initiatives of private enterprise. The Sand Springs Home provides care for orphans and widows, and it supports itself fully through its business holdings. A provision in the tax code, however, could force the home to lose these holdings, so today I am introducing legislation to allow the home to continue providing the same valuable services it has provided for nearly 75 years.

The Sand Springs Home was established in 1908 and has cared for a total of 800 independent children since then. The home also provides facilities in which widows can live and raise their children. Currently, there are 35 orphans at the home, with a total of 370 widows and their children. There is a waiting list of 160 widows, all with at least two children.

There can be no doubt that the home is fulfilling its charitable purposes. The founder, recognizing the value of such organizations, established a generous endowment, which has allowed the home to be completely self-supporting. The home has never sought public contributions. The assets of the home are managed by a board of trustees, who are appointed by the Oklahoma grand master of the Ancient Free and Accepted Masons. Since its formation the home has spent $20 million for its charitable services.

The assets of the Sand Springs Home include several tracts of land, investments in Government obligations, and 100 percent of the stock in several local businesses. In addition to providing the home's operating costs, these businesses give work opportunities to both the widows and the young people at the home. A provision in the Tax Act of 1969 may force the home to lose ownership of these interests.

When Congress wrote the 1969 law, a number of individuals created foundations to avoid paying estate taxes on inherited family enterprises. To stop this practice, Congress passed a provision to force all foundations to divest themselves of majority ownership in all enterprises. As a result, private foundations who show no hint of tax fraud or abuse must nevertheless divest their holdings. My legislation will exempt the Sand Springs Home from this overly broad provision.

There are several reasons the Senate should pass this legislation. First, the reasons Congress passed the divestiture requirements are not remotely similar to the circumstances surrounding the Sand Springs Home's establishment. Exemption of the home from divestiture requirements would have no effect on budget receipts through fiscal year 1987. In addition, there is precedent for this legislation, for the U.S. Senate has passed similar measures in the past.

Finally, and in my opinion most importantly, the divestiture requirement leaves the home's future uncertain. On Wednesday of last week the home's board of trustees voted to expand its services and begin providing care for many of the 160 widows on its waiting list. They obviously cannot do this if they are forced to sell their businesses.

The value of the Sand Springs Home is clear. Its service to the homeless of Sand Springs is unique. Losing its business holdings would severely limit these important services.●

By Mr. HAYAKAWA (for himself and Mr. CRANSTON):

S. 2741. A bill to amend the Tax Reform Act of 1969 with respect to the application of the excess business holdings provisions to private companies; to the Committee on Finance.

AHMANSON FOUNDATION

Mr. HAYAKAWA. Mr. President, today I am introducing legislation to amend the transitional rules under section 4943 of the Internal Revenue Code. This would provide the Ahmanson Foundation (foundation) with an extension of time within which it must dispose of stock holdings in H. F. Ahmanson & Co. (Ahmanson), the holding company of Home Savings of America, the largest savings and loan association in the United States.

As part of the Tax Reform Act of 1969, section 4943 was enacted in response to concerns about the ownership of businesses by private foundations. It requires these foundations to reduce their holdings in a corporation to specified levels at specified times. Under current law, the foundation must dispose of substantially all of its Ahmanson shares by May 25, 1984.

On March 31, 1982, the foundation held 6,527,068 shares (approximately 27.5 percent of the common stock of Ahmanson) with a value of over $70 million on the New York Stock Exchange that date. Disposition efforts mandated by the Tax Reform Act of 1969 have been severely hampered by a number of factors. Initially, the stock was not publicly traded and a substantial number of shares were subject to intervening income interests. In addition, none of the stock could be sold during protracted litigation involving the California attorney general. Also, the severely depressed state of the savings and loan industry hampered their efforts.

The rationale at which section 4943 was originally directed has not been abused by the foundation. During the last 10 years, it has granted more than $50 million to charitable, educational, scientific and cultural causes. Institutions that have received support from the foundation include museums, centers for the performing arts, universities, hospitals, and organizations providing charitable services.

Its managers have never failed to devote sufficient time to the foundation's affairs; they have never used their stock ownership to benefit Ahmanson at the expense of the foundation; their stock ownership has never produced any competitive advantage for Ahmanson; and there have been no financial transactions between the foundation and Ahmanson. Income from the foundation's Ahmanson stock has been devoted entirely to their charitable purposes and has not been reinvested in Ahmanson's business.

The bill I am introducing extends for 10 years the current disposition deadline for the foundation's Ahmanson stock and at the same time insures that the original purposes of section 4943 will be carried out. To insure that the foundation's ownership of the stock will not create an appearance of conflict of interest or diversion from the affairs of the foundation on the part of their managers, the foundation will divest itself irrevocably of the power to vote the stock of which it otherwise would have had to dispose. This mechanism will also alleviate any concern that the foundation's ownership of the stock could produce a competitive edge for Ahmanson. Furthermore, to insure that the foundation will proceed diligently with its disposition efforts, it will be required to dispose of the stock in question at the rate of 10 percent per year.

It is the opinion of several investment bankers that the extension of time is necessary to avoid sales of Ahmanson stock at significantly depressed prices which would result in a sharp decline in the market price of the stock. Therefore, since this stock represents about 15 percent of the total value of all traded savings and loan stocks, the market price of savings and loan stocks would generally decline. The repercussions on the market price of Ahmanson stock and on the stock of all savings and loan institutions would have a highly detrimental impact on the ability of savings and loans to raise sorely needed equity capital for an already ailing industry.

This legislation has no revenue impact and is designed to insure that

the legislative divestiture requirements of the law are fulfilled. The foundation is not seeking a complete exemption from the requirements, only a limited extension of the current deadline.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPLICATION OF DIVESTITURE REQUIREMENTS.

Paragraph (4) of subsection (1) of section 101 of the Tax Reform Act of 1969 is amended by adding at the end thereof the following new subparagraphs:

"(D) Subject to the provisions of subparagraph (E), the 15-year period described in section 4943(c)(4)(B)(ii) for the disposition by any private foundation of excess business holdings shall be suspended for an additional 10-year period, beginning when the 15-year period described in section 4943(c)(4)(B)(ii) would end but for this subparagraph, with respect to holdings in an insured institution (as defined in section 408(a)(1)(A) of the National Housing Act (12 U.S.C. 1730a(a)(1)(A)) and in each savings and loan holding company (as defined in section 408(a)(1)(D) of the National Housing Act (12 U.S.C. 1730a(a)(1)(D)) that owns stock of such insured institution (or that owns stock of a savings and loan holding company that owns stock of such insured institution), if, on May 26, 1969—

"(i) the private foundation and disqualified persons with respect to the private foundation (as defined in section 4946(a)(1)) together would have owned directly at least 80 percent of the voting stock of such insured institution had each such savings and loan holding company been dissolved on that date and its assets distributed to its shareholders;

"(ii) at least 80 percent of the fair market value of the assets of the private foundation was represented by its ownership of voting or nonvoting stock of such insured institution and of one or more such savings and loan holding companies; and

"(iii) the outstanding principal balance of residential loans held by such insured institution exceeded $2,000,000,000.

"(E) The suspension of the 15-year period provided in subparagraph (D) shall apply only if and for so long as—

"(i) from and after, the end of such 15-year period, the private foundation shall have irrevocably divested itself, its disqualified persons, and its related and subordinate parties (as defined in section 672(c)) of the power to vote such of its voting stock of such insured institution and of each such savings and loan holding company that, in each case, would constitute excess business holdings but for subparagraph (D); and

"(ii) by the end of each 1-year period following the end of such 15-year period, the number of shares of voting stock of such insured institution, and of each such savings and loan holding company, owned directly or indirectly by the private foundation, is not, in each case, more than (I) the number of such shares that does not constitute excess business holdings (determined without regard to subparagraph (D)), plus (II) 10 percent of the number of such shares that would have constituted excess business holdings at the end of the 15-year period but for subparagraph (D), multiplied by the number of years remaining in the additional 10-year period described in subparagraph (D).

"(F) The savings and loan holding companies described in subparagraph (D) shall be deemed to be business enterprises for purposes of chapter 42.

"(G) The divestiture of the power to vote voting stock, pursuant to subparagraph (E)(i), shall not cause the stock in question to be considered as other than voting stock held by the private foundation."

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall be effective as of May 26, 1969.

By Mrs. HAWKINS (for herself, Mr. PERCY and Mr. COCHRAN):

S. 2742. A bill to establish the U.S. Capitol Page Board for supervision and education of congressional pages, and for other purposes; to the Committee on Rules and Administration.

CAPITOL PAGE BOARD BILL

Mrs. HAWKINS. Mr. President, I am today introducing, with Senators PERCY and COCHRAN, a bill to establish the U.S. Capitol Page Board for supervision and education of congressional pages. This Board is necessary because it will, for the first time in history, bring together each of the offices responsible for overseeing the different aspects of the page program.

Recent developments on the Hill have directed attention to the lack of a cohesive program coordinating the activities of the young men and women working as congressional pages. These people come from all over the country to work for the U.S. Congress and to learn about the American political system. We, as lawmakers and responsible adults, would be remiss in our duties if we continue to allow these youngsters to be victimized by an uncoordinated congressional employment and educational program.

The Capitol Page Board that I propose would bring together the offices of the Clerk and Doorkeeper of the House of Representatives, the Secretary and Sergeant at Arms of the Senate, and the Architect of the Capitol. This Board could then develop policies and regulations which, when approved by the Senate Rules and Administration Committee and the House Administration Committee, improve the housing, education, and supervision of all congressional pages.

This bill is not a patchwork repair job, it does not legislate politically expedient decisions. Rather, this bill establishes a solid decisionmaking foundation insuring that the safety and well being of the pages will be considered in a cohesive and comprehensive manner. It also elevates the page program to a more public position which can only work in the best interests of the pages.

This measure is a companion to a bill which my colleagues in the House; Representatives ANNUNZIO and SIMON, have already introduced. H.R. 6729 has been referred to the House Administration Committee chaired by Mr. HAWKINS. I expect that action will be taken on this measure in the very near future and so it now falls upon the Senate to consider the merits and relevance of this bill and to enact it without delay.

By Mr. TSONGAS:

S. 2743. A bill to authorize four demonstration centers designed to address changes in teaching techniques, teaching materials, and educational psychology; to the Committee on Labor and Human Resources.

NATIONAL TEACHER RETRAINING DEMONSTRATION ACT OF 1982

● Mr. TSONGAS. Mr. President, today I am introducing a bill that would pinpoint and remedy some basic woes plaguing our public schools. The National Teacher Retraining Demonstration Act of 1982 would establish a pilot program for training seasoned teachers in new techniques, materials, and educational psychology.

If enacted, this bill would help in upgrading teaching proficiency and advancing computer literacy. It would also assist the Nation's teachers in responding to one of their nagging concerns, "burnout" or the slackening of professional enthusiasm and morale.

Most of the Nation's teachers are devoted and committed professionals. Theirs is a demanding and critical occupation. They are entrusted with the future of our children, and thus of our Nation. Yet there is no comprehensive program to guarantee that our teachers' skills advance in step with technological knowledge and to combat teacher burnout.

The National Teacher Retraining Demonstration Act of 1982 would authorize the Secretary of Education to establish demonstration retraining centers in key areas of the country. These centers would serve as trial balloons to test the wisdom of establishing retraining programs nationwide.

The legislation provides for a minimum of four centers. Two would specialize in elementary education and two would emphasize a secondary curriculum, including vocation education. The centers would be established, operated and maintained by private contractors through a bid process conducted by the Department of Education. The centers would be financed by a combination of Federal, State, and private funds.

The centers would offer a relaxed learning atmosphere for teachers, while affording them the opportunity to sharpen their teaching skills. The emphasis would be on computer liter-

acy and on other subjects looking toward the future.

Although many teachers are committed to their profession, some of them lack the wherewithal to respond to changes in their fields and in teaching technology. If we believe that learning is a lifelong process, then our teachers ought to have the opportunity to learn new skills in their professions.

Statistics point to a steady decline in the reasoning power of students, particularly those at the high school level. To solve this problem, our teachers must have the means to adapt to changing the social and educational conditions. The bill I am introducing today is a step in this direction.

Education is the foundation of our future. Our young people are our greatest natural resource. Our Nation's security and welfare are directly related to their education. Teacher retraining centers promise to fortify our schools for the 21st century. I urge my colleagues to support this legislation.●

By Mr. HATCH (for himself, Mr. PACKWOOD, Mr. BURDICK, Mr. DENTON, Mr. LUGAR, Mr. MATSUNAGA, Mr. D'AMATO, Mr. WALLOP, Mr. DURENBERGER, Mr. HEINZ, Mr. HOLLINGS, Mr. COCHRAN, Mr. FORD, Mr. DECONCINI, Mr. CRANSTON, Mr. BUMPERS, Mr. MITCHELL, Mr. MOYNIHAN, Mr. BAUCUS, Mrs. KASSEBAUM, Mr. MELCHER, Mr. HAYAKAWA, Mr. STAFFORD, Mr. SYMMS, Mr. JEPSEN, and Mr. SASSER):

S.J. Res. 215. A Joint resolution to provide that the week beginning March 6, 1983 shall be designated as "Women's History Week"; to the Committee on the Judiciary.

WOMEN'S HISTORY WEEK

Mr. HATCH. Mr. President, in March 1982, Utah, along with the other States of the Union, celebrated "Women's History Week." This special week, proclaimed by President Reagan to focus our Nation's attention on the role of women in our heritage, was met with a great deal of enthusiasm and support. Symposia were held, speeches were delivered, celebrations were organized, research was done, and a great deal of thought was given to the vital contributions that women have made to enhance the quality of our economic and social life. However, despite an increased awareness of the contribution of women to society, much more needs to be done to help us further recognize their contributions in all aspects of our society.

For this reason, I am pleased to reintroduce a resolution declaring the week of March 6, 1983, as "Women's History Week." Congresswoman Barbara Mikulski is sponsoring an identical resolution in the House of Representatives, and it is our hope that Congress will act upon these resolutions in an expeditious manner.

Mr. President, Utah has always been a leader in women's rights. In fact, prior to statehood, women in the Utah Territory were the first women in the United States or its territories to vote in a general election. I was particularly delighted with Utah's celebration of "Women's History Week" in 1982. The Utah State Historical Society sponsored a day, entitled "From Cottage to Market: The Professionalization of Women's Sphere," in which several outstanding Utah women were asked to speak. One of the first and largest women's organizations in the world, the Relief Society of the Church of Jesus Christ of Latter-Day Saints, also organized a week of festivities entitled "Legacy: Remember and Renewed," which corresponded with their 140th year birthday.

During this week in March 1982, over 12,000 people visited the various art exhibits, displays, lectures, and concerts which featured the work of Utah women. A television special recalling the past contributions of women and looking forward to their future achievements was produced by Utah women for broadcast in most of the United States and some English-speaking foreign countries. All of this has been done to help us to rediscover women's important role in society. This role is so fundamental that it has often been taken for granted and gone unrecognized.

I urge my colleagues to join me in sponsoring this resolution and in celebrating the primary role women have played and will continue to play in our great American heritage.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 215

Whereas American women of every race, class, and ethnic background helped found the Nation in countless recorded and unrecorded ways as servants, slaves, nurses, nuns, homemakers, industrial workers, teachers, reformers, soldiers, and pioneers;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of our Nation's life by constituting a significant portion of the labor force working in and outside of the home;

Whereas American women have played a unique role throughout our history by providing the majority of the Nation's volunteer labor force and have been particularly important in the establishment of early charitable philanthropic and cultural institutions in the country;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement, not only to secure their own right of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor union movement, and the modern civil rights movement;

Whereas despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the body of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 6, 1983 is designated as "Women's History Week", and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 894

At the request of Mr. CANNON, the name of the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 894, a bill to exempt rural electrical cooperatives from fees under the Federal Land Policy and Management Act of 1976.

S. 1450

At the request of Mr. CANNON, the name of the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 1450, a bill to provide for the continued deregulation of the Nation's airlines, and for other purposes.

S. 1451

At the request of Mr. CANNON, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 1451, a bill to amend the Internal Revenue Code of 1954 with respect to the exemption from tax of veterans' organizations.

S. 1701

At the request of Mrs. HAWKINS, the name of the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1701, a bill to amend title 28, United States Code, to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing children and other specified individuals.

S. 1782

At the request of Mr. WEICKER, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 1782, a bill to amend section 305 of the Federal Property and Administrative Services Act of 1949 pertaining to contract progress payments made by agencies of the Federal Government, providing for the elimination of retainage in certain instances, and for other purposes.

S. 2001

At the request of Mr. CRANSTON, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2001, a bill to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State and to encourage

private enterprise with special emphasis on the preservation of small business.

S. 2300

At the request of Mr. FORD, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2300, a bill to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes.

S. 2544

At the request of Mr. COHEN, the name of the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of S. 2544, a bill to provide access to trade remedies to small business, and for other purposes.

S. 2580

At the request of Mr. MATHIAS, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2580, a bill to establish the Christopher Columbus Quincentenary Jubilee Commission.

S. 2598

At the request of Mr. MCCLURE, the names of the Senator from Utah (Mr. HATCH) and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 2598, a bill to provide for the disposal of silver from the national defense stockpile through the issuance of silver coins.

S. 2648

At the request of Mr. PELL, the names of the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 2648, a bill to provide for the continuation of the National Diffusion Network.

S. 2700

At the request of Mr. CANNON, the names of the Senator from Arizona (Mr. DECONCINI), the Senator from Rhode Island (Mr. CHAFEE), the Senator from North Dakota (Mr. BURDICK), and the Senator from North Dakota (Mr. ANDREWS) were added as cosponsors of S. 2700, a bill to amend title XVI of the Social Security Act to exclude from resources burial plots and niches and certain funds set aside for burial or cremation expenses for purposes of the supplemental security income program.

S. 2702

At the request of Mr. ANDREWS, the names of the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. 2702, a bill to amend section 8(a) of the Small Business Act to treat businesses owned by Indian Tribes as socially and economically disadvantaged small business concerns.

S. 2730

At the request of Mr. HEINZ, the names of the Senator from North Dakota (Mr. BURDICK), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of S. 2730, a bill to place a moratorium on continuing disability investigation terminations under titles II and XVI of the Social Security Act.

S. 2731

At the request of Mr. HEINZ, the name of the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 2731, a bill to amend title II of the Social Security Act to provide for continued payment of disability benefits during appeal, to provide adjustment benefits and vocational training for individuals terminated from the disability program, to strengthen the reconsideration process, to provide for more uniformity in decisionmaking at all levels of adjudications, and for other purposes.

SENATE JOINT RESOLUTION 207

At the request of Mr. DOLE, the names of the Senator from New Jersey (Mr. BRADLEY), the Senator from North Carolina (Mr. HELMS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Kansas (Mrs. KASSEBAUM) were added as cosponsors of Senate Joint Resolution 207, a joint resolution to authorize and request the President to designate the week of August 1, 1982, through August 7, 1982 as "National Purple Heart Week".

SENATE JOINT RESOLUTION 208

At the request of Mr. GLENN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Joint Resolution 208, a joint resolution with regard to Presidential certifications on conditions in El Salvador.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. HOLLINGS, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of Senate Concurrent Resolution 103, a concurrent resolution to reaffirm the policy of the United States that public education is the cornerstone of our democratic system and its belief that continuing support for our public schools is essential to the realization of the social and economic goals upon which the future of our country depends.

SENATE CONCURRENT RESOLUTION 105

At the request of Mr. DODD, the names of the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maryland (Mr. SARBANES), and the Senator from New Jersey (Mr. BRADLEY) were added as cosponsors of Senate Concurrent Resolution 105, a concurrent resolution relating to the activities of the Ulster Defense Association.

SENATE RESOLUTION 279

At the request of Mr. SPECTER, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of Senate Resolution 279, a resolution to express the sense of the Senate that the Interstate Commerce Commission should not grant a petition to exempt from interstate commerce regulation export coal carried by railroads to ocean ports.

AMENDMENT NO. 1906

At the request of Mr. CRANSTON, the names of the Senator from Montana (Mr. MELCHER), the Senator from Georgia (Mr. NUNN), the Senator from Washington (Mr. JACKSON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. METZENBAUM), the Senator from Connecticut (Mr. WEICKER), and the Senator from Louisiana (Mr. LONG) were added as cosponsors of amendment No. 1906 intended to be proposed to S. 2607, an original bill to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes.

AMENDMENT NO. 1935

At the request of Mr. LUGAR, the name of the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of amendment No. 1935 proposed to S. 1867, a bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

VIOLENT CRIME AND DRUG ENFORCEMENT ACT OF 1982

AMENDMENT NO. 1936

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT (for himself and Mr. PERCY) submitted an amendment intended to be proposed by them to the bill (S. 2572) to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

PENALTIES FOR USE OF ARMOR PIERCING AMMUNITION

Mr. SCHMITT. Mr. President, when the Senate considers the Violent Crime and Drug Enforcement Act of 1982, S. 2572, I intend to offer, on behalf of Senator PERCY and myself, an amendment which would fill a gap in our Federal criminal laws. Specifically, the amendment would provide a mandatory minimum sentence of 5 years for using or carrying a handgun loaded with armor piercing ammunition during the commission of a Federal crime of violence. In addition, this amendment would prohibit a judge from suspending the sentence, imposing probation, or authorizing the sentence to be served concurrently with another sentence. Finally, a defendant

convicted under our amendment would not be eligible for parole.

I strongly believe that this amendment is necessary to counter a very real threat facing our law enforcement officers. During the past few years, significant progress has been made in the development of soft body armor. Vests, capable of providing protection against handgun ammunition, are no longer bulky and uncomfortable. Because of these improvements, more than half of all police officers now wear some kind of protective armor on a regular basis. Unfortunately, the security that these bulletproof vests give our law enforcement officers has been completely negated by the easy availability of several classes of ammunition that can pierce through these vests.

The most popular type of soft body armor worn by policemen is composed of 18 layers of a synthetic fiber marketed under the name of kevlar. In a test conducted by the Los Angeles Police Department on a .38 caliber KTW bullet at a measured velocity of 1,051 feet per second, this teflon coated bullet penetrated the front panel of the department's body armor and continued through 3½ inches of "duxseal", a substance with density similar to that of human flesh. Other projectiles have been shown to travel through protective vests when similar tests have been conducted.

Using these so-called killer bullets is not illegal, but until recently they were only available to the police. Now I understand that in some areas of the Nation, these bullets can be purchased over the counter in gun shops despite their "for police use only label."

The tactical advantage that widespread use of these destructive bullets would give criminals is significant and cannot be tolerated. I believe that this amendment would serve as a deterrent to any criminal who may consider using one of these bullets. Moreover, this amendment should provide an incentive to fatalistic police officers to wear their vests rather than leave them in the trunks of their cars.

In March, I became an original cosponsor of legislation introduced by Senator PERCY which would require the Attorney General to identify and restrict armor piercing handgun ammunition which could penetrate soft body armor when fired from a handgun with a barrel 5 inches or less in length. Tough penalties are also provided under this bill, including a mandatory sentence of from 1 to 10 years in prison.

Mr. President, Senator PERCY and I are not abandoning the legislation by offering this amendment to S. 2572. To the contrary, we are hopeful that hearings will be conducted on the bill and other similar legislation before the session ends.

In the meantime, we believe that immediate action is needed. Criminals should not have access to handgun ammunition that is designed specifically to defeat body armor. Our amendment would close a gap in Federal law and also provide some measure of protection to our beleagured law enforcement officers.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of the bill add the following:

PART P

SEC. 924. (a) Chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following: "§ 929. Use of restricted ammunition

"(a) Whoever, during and in relation to the commission of a crime of violence for which he may be prosecuted in a court of the United States, including a felony which provides for an enhanced punishment if committed by the use of a dangerous weapon or device, uses or carries any handgun loaded with armor-piercing ammunition as defined in subsection (b), shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the term of imprisonment run concurrently with any other term of imprisonment including that imposed for the felony in which the armor-piercing handgun ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole.

"(b) For purposes of this subsection—

"(1) 'handgun' means any firearm, including a pistol or revolver, originally designed to be fired by the use of a single hand;

"(2) 'armor-piercing ammunition' means ammunition which, when or if fired from any handgun used or carried in violation of subsection (a), under the test procedure of the National Institute of Law Enforcement and Criminal Justice Standard for the Ballistics Resistance of Police Body Armor promulgated December, 1978, is determined to be capable of penetrating bullet-resistant apparal or body armor meeting the requirements of Type IIA of Standard NILECJ-STD-0101.01 as formulated by the United States Department of Justice and published in December of 1978; and

"(3) 'crime of violence' means—

"(i) an offense, other than a misdemeanor that consists solely of damage to property and that does not place another person in danger of death or serious bodily injury, that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property at another; or

"(ii) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

(b) The table of sections for chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following:

"929. Use of restricted ammunition.".

RECLAMATION ACT AMENDMENTS OF 1982

AMENDMENT NO. 1937

(Ordered to be printed.)

Mr. EXON proposed an amendment to the bill (S. 1867) to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes.

SENATE RESOLUTION 426—BUDGET WAIVER ALLOWING CONSIDERATION OF H.R. 3467

Mr. PERCY, from the Committee on Foreign Relations, submitted the following original resolution, which was referred to the Committee on the Budget:

S. RES. 426

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 3467, a bill to authorize appropriations for the Arms Control and Disarmament Agency for fiscal years 1982 and 1983. Such a waiver is necessary only to allow the consideration of H.R. 3467.

A similar authorization was approved by the Committee last year and passed by the Senate on June 18, 1981, as part of S. 1193, which also includes authorization of appropriations for the Department of State, the International Communication Agency, and the Board of International Broadcasting. Conference on S. 1193 is continuing, and the conferees have agreed to treat the Arms Control and Disarmament Agency authorization as a separate item. Accordingly, on May 26, the Committee ordered favorably reported H.R. 3467, as amended.

Approval of this waiver will ensure consideration of the authorization in H.R. 3467. Failure to approve this waiver will delay such consideration to an uncertain date.

SENATE RESOLUTION 427—BUDGET WAIVER ALLOWING CONSIDERATION OF S. 1889

Mr. HATCH, from the Committee on Labor and Human Resources, submitted the following original resolution, which was referred to the Committee on the Budget:

S. RES. 427

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1889. Such waiver is necessary because S. 1889, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public

the scheduling of public hearings before the Subcommittee on Public Lands and Reserved Water. On Tuesday, July 27, beginning at 2 p.m. in room 3110 of the Dirksen Senate Office Building, the subcommittee will receive testimony on the following bills:

S. 1303, to authorize the Secretary of the Interior to exchange certain lands in Hill County, Mont.;

H.R. 1281, to provide for the conveyance of certain lands in Alaska comprising trade and trade manufacturing site A-056802 without regard to the 80-rod limitation provided by existing law;

S. 1978, to quiet title and possession with respect to a certain private land claim in Livingston Parish, La.;

S. 2279, to designate the Alben Barkley National Historic Site;

S. 1705, to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior;

House Joint Resolution 207, to require the Secretary of the Interior to place a plaque at the U.S. Marine Corps War Memorial honoring Joseph Rosenthal, photographer of the scene depicted by the memorial;

S. 2308, to direct the Secretary of Agriculture to convey certain property to the city of Show Low, Ariz.;

Senate Joint Resolution 168, to establish reciprocal entrance fees for Canadian citizens entering Glacier National Park in connection with the 50th anniversary of the Waterton-Glacier International Peace Park;

S. 1661, to authorize the Secretary of the Interior to acquire certain lands by exchange for addition to Effigy Mounds National Monument in the State of Iowa, and for other purposes; and

Senate Joint Resolution 155, redesignating the St. Croix Island National Monument in the State of Maine as the "St. Croix Island International Historic Site".

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

On Saturday, August 7, beginning at 9 a.m., the subcommittee will hold a field hearing in Boise, Idaho, to receive testimony on S. 2183, to make certain amendments to Public Law 92-195 relating to the protection of wild free-roaming horses and burros. The hearing will be held at the Boise City Hall located at 150 North Capitol Boulevard in Boise.

Those wishing to testify or who wish to submit written statements for the hearing record should contact Mr. Jim Goller, office of Senator McCLURE, 149 Borah Station, 8th and Bannock Streets, Boise, Idaho 83702, telephone 208-334-1560; or Mr. Tony Bevinetto, Subcommittee on Public Lands and Reserved Water, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510, telephone: 202-224-5161.

Witnesses should supply the subcommittee with 25 copies of their written statements 24 hours in advance of the hearing, as required by the rules of the committee. The copies should be delivered to Senator McCLURE's Boise office. Persons wishing to testify are requested to contact the offices listed above no later than close of business on August 3, so witnesses may be arranged in panels to facilitate the presentation of the testimony. The subcommittee will try to accommodate those witnesses who do not sign up in advance, but may be unable to do so at a time convenient to the witness.

ADDITIONAL STATEMENTS

THE PLIGHT OF THE ELDERLY POOR

● Mr. CHILES. Mr. President, in these difficult economic days, more and more elderly Americans are being stricken with the dread disease of poverty. The need for social services has not been at such an urgent level since the Great Depression. But these days are also tough for governments on the Federal, State, and local levels, and many social service programs have been eliminated or cut back to skeleton levels. These factors have created an increased need for voluntarism and philanthropic activities.

I have been heartened by the valuable contributions that many volunteers are making in Florida and across the country to alleviate the strains on the disadvantaged. The need for the assistance of these volunteers grows daily. I have been particularly impressed with the sense of self-sacrifice on the part of older Americans for their peers who are less fortunate. I have continually stressed to other Members of this body the importance of older Americans in our society. Older Americans are a great national resource and apply experience, knowledge, and enthusiasm in their activities. Many older persons continue working, others pursue second careers, work part time, or involve themselves in volunteer work. Today I would like to share the story of Sally Denowitch, a retired Miami resident who recently established a food drive for the needy elderly. Mrs. Denowitch started her appeal for food and contributions at her condominium complex and the drive has spread to several neighboring condominiums and community organizations. Her husband, Sylvan David Denowitch, described her efforts to me:

The elderly poor have resorted to, and are continuing to (near the end of each month, when their meager pittance of Social Security and Food Stamps are gone) eat from garbage cans or are shoplifting food from supermarkets. Does this make sense to you, sir, doesn't it arouse a sense of indignation in your breast, and don't you feel a sense of compassion and pity for these distressed souls, who, in years past, were good citizens, and who paid their taxes and contributed to the welfare and economy of their cities, states, and nation? My wife is succeeding, in her own small way, to aid and assist them. We are accepting cans of food and money—all of which go to worthy organizations.

I applaud the work of Sally Denowitch and hope her efforts serve as an example for similar projects by others. I ask to have printed in the RECORD a feature article by Pamela Noel, which appeared in the Miami Herald on May 30, 1982. It ably describes Mrs. Denowitch's efforts to help the needy elderly. I urge my colleagues to join me in wishing her continued success.

The article follows:

[From the Miami Herald, May 30, 1982]

"MITZVAH" IS HER ANSWER

WOMAN CONTINUES MOTHER'S TRADITION

(By Pamela Noel)

Sally Denowitch retired a year ago, but the hunger of others has brought her back to work.

Nearly two weeks ago, Denowitch, 68, a resident of the Royal Oaks California Club condominium, heard a radio newscast about the growing number of elderly caught shoplifting food. The news piqued her sense of fairness.

"It's a sorry situation in a country like ours [that people should go hungry]," Denowitch said. "These people have committed two sins," she added. "They've lived too long and have no money."

Denowitch funneled her outrage into a food drive for needy elderly. It has grown to involve residents of her condominium, 443 NE 195th St. and Lake Park Condominium, 900 NE 199th St.

"I started it, but I could not do it alone," she said. "I applied to the people and they have been very nice."

Wednesday, Denowitch and several friends delivered the first carload of food to the South Beach Activities Center, 25 Washington Ave., Miami Beach. Donated were canned food, fruit, vegetables, tuna fish, even a box of candy. Food was collected door to door and at Aventura Jewish Center. Some people gave money. The $103 collected was given to the Jewish Vocational Service Nutrition Project, 920 Alton Road.

Denowitch said the food drive is a stopgap measure replacing a similar effort sponsored by the Masada Chapter of Hadassah at California Club, of which she is a member.

Hadassah, a Jewish service organization, does not meet for four months during the summer, she said. During that time there usually is no food collection. But, Denowitch said, "The need for help now is greater than ever."

When Hadassah meets again, Denowitch's summer food drive will be incorporated into its regular food donations, she said.

For Denowitch, the need to give is deeply ingrained, a result of her religious training and a promise she once made.

Giving, or mitzvah, Denowitch said, is an integral part of the Jewish religion.

Give to those in need also is part of a promise Denowitch made at age 15 when her mother died.

After her mother's death, Denowitch and her family learned that her mother had secretly given half a chicken for Sabbath supper to the poor who came into the family poultry store.

"I made a promise that I would walk in her footsteps," Denowitch said, tears beginning to brim in her eyes.

As food is collected, Denowitch said, social service organizations will be sought out who can make use of the food.

The South Beach Activities Center, part of the Beach's Jewish Community Center, was the first recipient.

"There is a very definite need in this community in South Beach where people subsist on very little money," said Mimi Cooperman, program supervisor. "Sometimes we wonder how they get by on what they have."

The center, she said, does not solicit such donations but can make use of them.

"When we find someone in need, we help them." The center, she said, also provides counseling, information and referral to those in need.

Denowitch wants to get more condominiums involved.

"[People tell me], 'You can't feed all the hungry people,'" Denowitch said, "I can't say damn them either."●

OMNIBUS VICTIMS PROTECTION ACT, S. 2420

● Mr. LAXALT. Mr. President, in the last few weeks nine more of my colleagues joined Senator HEINZ and the original 39 cosponsors in supporting S. 2420, the Omnibus Victims Protection Act. This legislation will help reform the criminal justice system, so that it is more sensitive and responsive to the needs of the victims of crime. Too often, victims of crime are harmed by the criminal act itself and then again through the shabby treatment they receive at the hands of our criminal justice system. Senator HEINZ, through his introduction of S. 2420, has given the Congress the opportunity to rebalance the scales of justice.

Last September, my distinguished colleague from Pennsylvania, as chairman of the Special Committee on Aging, held hearings on crime and the elderly. Through testimony and related research, it became clear that the crime was just the beginning of a long, lonely, and unpleasant process for the victim that usually resulted in more hurt feelings and lost resources—and little justice.

Senator HEINZ has been a strong voice on behalf of all victims of crime. A recent article taken from the New York Times indicates his commitment to the victim's cause. I ask that this article by my colleague be printed in the RECORD.

The article referred to is as follows:

[From the New York Times, July 7, 1982]

ON JUSTICE TO VICTIMS

(By John Heinz)

WASHINGTON.—Crimes that terrorize take many forms, from aggravated assault to petty thievery. But one crime goes largely unnoticed. It is a crime against which there is no protection. It is committed daily across our nation. It is the painful wrongful insensitivity of the criminal justice system toward those who are the victims of crime.

We complain of a slow-to-react justice system, of overburdened courts, of punishments that fail to respond to the severity of the crime. But the most serious indictment of our criminal justice system is its inhumanity to those who deserve the highest respect and empathy for their courage and tenacity: the victims. The callousness with which the system again victimizes those who have already suffered at the hands of an assailant is tragic.

A violent crime occurs every 24 seconds in our nation. Every 6 minutes a woman is raped. Every 58 seconds someone is robbed. Every 23 minutes a life is lost to murder. And these statistics reflect only those crimes reported to the authorities. How can we urge others to come forward when we know the reception awaiting them by those officials charged with enforcing the laws that have been broken? How can we ask victims and witnesses to pore over mug shots, sit through lineups, offer testimony, relive the experience, when their trauma is entirely overlooked? In my opinion, we cannot. What we can do, however, is reform a system far out of balance.

Recently, for example, the Senate Judiciary Committee received testimony from several crime victims. A 62-year-old woman whose hip had been broken in a purse snatching told us she learned of the disposition of her case nine months after the fact. The assailant, after plea bargaining, was given probation; the victim was awarded $350 in "restitution." This woman's life savings had been exhausted to meet her $11,000 medical bill. She cannot afford to continue the therapy necessary to restore her to total ambulatory health. She has been crippled both financially and physically for life.

We also heard the testimony of a young widower and father of two children. His wife's convicted killer had been paroled from a Federal penitentiary after serving only 6 years of a 20-year sentence—in spite of psychiatric evidence of the man's homicidal tendencies and notwithstanding the fact that his one contact with a female (a prison guard) while incarcerated provoked a violent physical attack.

In the rush to begin solving a crime, a victim's humanity is lost in the paperwork. Evidence is collected, testimony is recorded, the process moves forward—but no clues are given the victim about how, why or when it works. The system bends over backward to avoid trampling on the accused's constitutional rights. He is provided with legal counsel, is advised of his rights throughout the proceedings, is given free medical care if needed while incarcerated.

The victim, meanwhile, is rarely given notice of trial dates or changes in court appearances. Potential plea bargaining, a case dismissal or a release on bail is not brought to the victim's attention. Stolen personal goods are usually retained by the courts for inordinate periods. Compensation for medical bills or personal property losses is rarely awarded—and is almost never on a par with the out-of-pocket expenses incurred. Individuals and their families are harassed and often threatened for offering evidence or testimony related to a crime either as a victim or as a witness.

Legislation is now before the Congress to rebalance the scales of justice toward these victims. Senator Paul Laxalt, Republican of Nevada, and I, along with 42 of our colleagues, have introduced the Omnibus Victims Protection Act in the Senate. Representatives Peter W. Rodino, Jr., Democrat of New Jersey, and Hamilton Fish, Jr., Republican of New York, have taken similar action in the House.

Our bill insures adequate restitution for personal financial losses. It expands the Attorney General's powers to protect victims and witnesses from the distress of threats and retaliation by assailants. It requires that judges be given victim-impact statements before making sentencing decisions. It requires that victims be kept up to date on the progress of the case. It moves toward ending the commercialization of crime by intercepting a felon's financial gain until full restitution of the victim is established. By waiving sovereign immunity and establishing a "gross negligence" cause of action, it guards against the early release or inadequate supervision of dangerous or unstable persons in Federal mental health and punitive institutions. In short, the bill says victims, too, are people.

The testimony of one of the victims still rings in my ears. "Don't confuse cold with professional," she said. "We need to examine our own feelings about crime. Because of our discomfort with the issue of crime, society tends to treat its victims as anathema. Ask then to emphasize respect."

It is distressing to think we must statutorily define the justice system's sensitivity toward people. But the needed changes are obvious—and overdue. The challenge is for Congress to act before too many others are victimized both by those who choose to break the law and by those who are charged with enforcing it.●

SUMMER JOBS

● Mr. KENNEDY. Mr. President, I am extremely pleased that Members of the House and Senate agreed to include $45 million for summer jobs in this emergency spending resolution. Since May 27, when the Senate first voted on the supplemental, I have urged that we include additional resources for the real emergency facing hundreds of thousands of young people this summer who are without jobs and without hope. The action we have taken today means there is still a chance for 45,000 young people in cities and towns across the country this summer. They will now have the chance to work and earn before returning to school in the fall.

Unemployment nationwide has reached record levels. Over 10 million Americans cannot find work. For young people, particularly those living in our inner cities, the Great Depression has become a reality. In June, unemployment for 16–19 year olds

reached almost 20 percent and one out of every two black teenagers is without work.

A recent study by the Conference of Mayors documents the crisis now facing our cities. Funding cutbacks by the Reagan administration have resulted in a loss of 126,000 jobs for teenagers. Many mayors expect these cutbacks to mean an increase in juvenile crime.

While the business community has responded in many cities with money and jobs, it cannot begin to meet the need created by budget cutbacks and rising unemployment.

The action we are taking today reaffirms the Federal Government's responsibility to give these young people a chance. I commend my colleagues, and I urge the President to act quickly to implement this important measure.●

LATIN AMERICAN VIEWS ON FALKLANDS

● Mr. GOLDWATER. Mr. President, some observers have claimed that Latin America will turn against the United States because we backed Britain in the Falkland Islands crisis. A recent essay from the Wall Street Journal by Marvin Alisky, professor of Political Science at Arizona State University, proves that the truth is quite the opposite.

From a careful review of newspapers and radio-TV newscasts, and from personal talks with civic leaders in Latin America, Professor Alisky shows that there are numerous examples of pro-British expressions and criticisms of Argentina.

Mr. President, I call his essay to the attention of other Senators and ask that it may appear in the RECORD.

The essay follows:

[From the Wall Street Journal, June 2, 1982]

LATIN REACTIONS TO THE FALKLANDS

(By Marvin Alisky)

HERMOSILLO, MEXICO.—The conventional wisdom now showing up in political columns in the U.S. holds that the United States' support for Britain in the Falklands crisis will cause Latin America to turn against the U.S. What is this monolith called "Latin America?" It is a demographic region of 370 million people, divided into 21 republics plus the independent Commonwealth nations of the Caribbean, and the autonomous former Dutch colonies.

Does the pro-U.S. government of English-speaking Jamaica, very British in its world outlook under Prime Minister Edward Seaga, have a foreign policy similar to the Marxist-line Sandinistas of Nicaragua?

Do these many nations have similar levels of political sophistication and awareness of world affairs? French-speaking Haiti, 90 percent illiterate and almost devoid of newspapers and radio-TV newscasts, lives basically in isolation as far as the Falklands fighting is concerned. Uruguay and Argentina are 92 percent literate and their people are avid newspaper readers. Honduras and Guatemala, though 70 percent illiterate absorb a daily news intake of radio headlines and newscasts stressing sports and Central American tensions. At the moment, reports on World Cup soccer overshadow any comment about the "Islas Malvinas."

Here in Hermosillo, capital of the Mexican state of Sonora, one finds a regional economy with exports to the U.S. of cattle, copper, cotton, and graphite and wheat sales for the other states of Mexico. Its citizens are indeed attuned to world affairs. Rival daily newspapers El Imparcial and El Sonorense are enjoying all-time high circulations. Two TV channels find that their world news programs from Mexico City earn the highest audience-survey rating of any of their evening programs.

How do Sonorans feel about the Falklands? I have just spent one week updating my research on state-level Mexican government in this city of 300,000 and have talked with a cross-section of civic leaders, ranging from the agency heads under the state governor to the staffers of Dr. Alicia Arellano Tapia, Hermosillo's mayor. A national election is coming up next month, and under Mexican law, no two consecutive terms are allowed in municipal or state government, so incumbent officials and their top appointees were willing to comment on Mexico's relations with Argentina, Britain and the U.S.

WHY ARGENTINA STARTED THE WAR

Antonio Calles, a prototypical state government administrator, on the Falklands: "The Organization of American States' support of Argentina is an illusion. If the fighting had begun immediately after the junta's generals seized the Malvinas, we Latin Americans could have seen the aggression more clearly. But it took the British ships almost three weeks to reach the islands. That could have been useful for diplomatic action. But instead, it misled the OAS into thinking the British would somehow not shoot the Argentine invaders off the islands.

"For three weeks we began to think of this struggle over sovereignty as a debate, a diplomatic argument. Now Argentine and British soldiers and sailors are dead. And we are angry about that. We can blame Mrs. Thatcher and even President Reagan. But we know better. General Galtieri started a war to divert attention away from inflation."

Patricio Estevez is running for federal senator from Sonora as the candidate of the Mexican Labor Party (PLM). He has no chance of winning against Jorge Diaz Serrano, candidate of the dominant Institutional Revolutionary Party (PRI) and the internationally known former director of Pemex, the government's oil-industry agency. At a rally for Mr. Estevez, a PLM spokesman denounced the "reactionary generals of warmongering Argentina. If they want to liberate people, leave the English on the Mavinas Islands alone and free the political prisoners in Buenos Aires jails." A crowd of 45 or 50, mostly leftist students, applauded vigorously.

The assistant manager of the San Alberto Hotel, in the heart of Hermosillo, said: "We Mexicans are concerned with 40% inflation this year, with unemployment problems. We couldn't care less about the Malvinas Islands. Anyone who says that will affect our relations with the United States in foolish. Treatment of our citizens who migrate without visas into the U.S., that's the issue."

Doubts about the Argentine position in the Falklands affair have surfaced elsewhere in Latin America as well. Brazil, with its 122 million citizens, a large industrial sector and the fifth largest land area on Earth, very much overshadows neighboring Argentina and has long rivaled it for the leadership of South America.

The Brazilian daily Estado de Sao Paulo has recently taken to recalling the different roles played by Brazil and Argentina during World War II. Brazil supported the Allies, sending an army to Italy to help Gen. Mark Clark defeat the Germans, and Brazilian ships patrolled the South Atlantic, freeing U.S. ships for duty in the South Pacific. From 1943 to 1945, the Argentine government became ardently pro-Axis. In its April 4 edition, a Rio de Janeiro daily, Jornal do Brazil, blasted the Argentine seizure of the Falklands as "unjustifiable aggression . . . an alarming precedent."

For weeks before the April 2 start of the Falklands crisis, Chile's prestigious daily in Santiago, El Mercurio, had been attacking Argentina editorially for refusing to accept Chilean border claims off Tierra del Fuego at the tip of South America. In an April 3 editorial, Mercurio asserted: "The government in Buenos Aires, guilty of illegitimate recourse to force ostensibly while Britain was still willing to negotiate, suggests bad faith in diplomacy on the part of Argentina."

The Santiago (Chile) news magazine Que Pasa, which has on occasion defied Chilean government censorship and is one of the few anti-establishment media in that republic, in its April 15 edition interviewed a number of Chilean experts on international affairs.

Raul Buzan, a former ambassador, stated: "The truth has been distorted in Argentina. Other nations do not yet understand the imperialism emerging in Argentina. the Argentine conquest of the Falklands is as odious a colonialism action as that of the British in the 19th Century."

BRITAIN HAS DONE WELL

Victor Santa Cruz, Chile's Ambassador to the Court of St. James's from 1958 to 1970, said: "Britain has done well not to submit to the violent occupation of territory it has administered peacefully for 150 years."

Oscar Pinochet, undersecretary of foreign affairs under President Eduardo Frei from 1964 to 1970 and a relative of current President Pinochet: "This is another occasion in which Argentina has shown how force is used against our southern islands. Today against the Falklands. Tomorrow against our Chilean islands."

Guillermo Lagos, former diplomat and now professor of international relations: "For years Argentina has aspired to be a 'power.' This aggression won't buy that status."

On May 1, the Peruvian government urged Argentina and Britain to simultaneously pledge themselves to resolve the conflict through negotiations. Lima's daily, El Comercio, editorialized that the Buenos Aires government had been in error in initiating military action.

In Quito, Ecuador, the leading daily, politically independent of the government, editorialized on April 4: "Ecuador should hope for a peaceful agreement that averts war. Argentina's actions are dangerous."

In Colombia, the Bogota daily, El Tiempo, has long been regarded as one of the 10 best newspapers in Latin America. It is the voice of the Liberal Party and reflects the thinking of millions of progressive anti-Marxist Colombians. In one editorial, Tiempo concluded: "We reject actions of war by Argen-

tina, even though we understand the exasperation of a nation which long has negotiated on this matter."

"Latin America" has many voices and many viewpoints. In spot-checking the April and May editions of various leading Latin American dailies, I found what I also encountered personally in Hermosillo, Mexico. Many Latin Americans—right, left, and center—are not especially fond of the military government in Buenos Aires, are not overwhelmingly agitated about the Falklands and are not necessarily ready to judge the United States simply in terms of our stance on the crisis. One finds them much more concerned about the trade relations, U.S. foreign aid, curtailing inflation in their own countries and getting more loans from U.S. banks.●

NUCLEAR SAFETY

● Mr. TSONGAS. Mr. President, during the current hiatus in new nuclear powerplant orders, it is worthwhile for the Nation to reassess the institutional framework that has been established to manage this technology.

Neil Proto, former General Counsel to the President's Nuclear Safety Oversight Committee, has written a very thoughtful and insightful article on the institutional problems faced by nuclear power. Mr. Proto's article, which appeared in the Hartford Courant on March 28, 1982, makes a genuine contribution to the process of reevaluation and the search for solutions.

Mr. President, I ask that the enclosed expanded version of the article as originally submitted to the Hartford Courant be printed in the RECORD.

The article follows:

NUCLEAR SAFETY: THE UNRESOLVED INSTITUTIONAL PROBLEM

(By Neil T. Proto*)

In the parting moment of their first meeting following David Lilienthal's confirmation as Chairman of the Atomic Energy Commission, President Truman turned to the new Chairman and said: "You have the most important thing there is. You must make a blessing of it or (as he pointed to a large globe in the corner of his office) we'll blow that all to smithereens." Lilienthal's task was to convert nuclear fission into electrical energy; to take a means of war, with it complex technology, developed in secrecy and capable of engendering unfathomable bogeys and transform it into a "peaceful use".

Unbeknown to the President the most fateful, and probably the least thoughtful decision concerning nulear power's future was already in the making. During his confirmation hearing Lilienthal, under considerable pressure, had assured the Senate that nuclear power plants would not be constructed and operated by a public institution comparable to the Tennessee Valley Authority. Other than insisting on a general committment to private sector development, Congress did not examine what kind of institutional arrangement would be appropriate. The implication of the Lilienthal hearings, however, was the end use—electricity—and not the sophistication of the technology would determine the institution.

Within a decade the choice of institutions was largely made. It would be the investor owned utility. It was an historically incongruous choice. Under present circumstances, that choice has much to do with the debate about power safety and the unsettled nature of nuclear power's future. It is time for a fresh look.

PLANTING THE SEED

Investor owned utilities were not involved in developing or managing nuclear technology during the war. General Electric, Westinghouse, Ebasco, and Du Pont had performed those tasks admirably.

The investor owned utility was a complex organization. Beginning in the 1930's, it was subjected to comprehensive federal and state regulation to curb organizational and financial abuses. In the Public Utility Holding Act of 1935, Congress sought to stop the harsh machinations of holding companies, interlocking directorates, and slipshod accounting and disclosure practices. When selected for the formidable task of constructing and operating nuclear power plants, the investor owned utility did not have a uniform history of management competence, the capability to understand and operate a technology as sophisticated as nuclear power or an organizational structure that engendered public confidence.

Utilities also had other responsibilities: they had to deal with the variances of supply, technology and management problems related to coal, oil, hydro and natural gas. Many entered the nuclear business with sparse resources and, for the most part, drew heavily on their fossil fuel experience in developing operational modes for nuclear power. Technological competence was retained largely by the venders (Westinghouse, General Electric), who supplied the utility with the nuclear steam supply system, and the architect/engineer (Ebasco, Becthel), who designed the remainder of the plant.

In the early years, the cost of nuclear power plants was kept artificially low. The vendors, motivated by a desire to compete with lower fossil fuel costs, constructed "turnkey" plants for a fixed price. General Electric and Westinghouse absorbed the cost overruns. Costs related to possible accidents, decommissioning, waste storage and emergency planning were not even factored into the price. It was a fiction. A utility's ability to internalize the cost of nuclear power was never tested adequately.

The most important incongruity, however, was the fact that since the turn of the century the investor owned utility was a creature of state law; it received a state granted monopoly and was regulated by Public Utility Commissions in respect to the rates it charged and the prudence of its management decisions. The practical responsibility for a utility's ability to finance federal requirements for safe construction, maintenance and operation was given to state governments.

The seed for the eventual erosion of federal control and derailment of nuclear power was planted more than 30 years ago. In an effort "to make a blessing of it", the federal government placed the fate of developing a peaceful use for nuclear power in the hands of utility management, state legislatures and public utility commissions.

Although some utilities recognized the historic incongruities and therefore approached nuclear power with deliberate caution, it was not until March 27, 1979 at Three Mile Island that the incongruities became unavoidably clear.

THREE MILE ISLAND

General Public Utilities was not financially able to withstand the accident at Three Mile Island. No serious inquiry was made about its financial capability when it received a federal permit to construct its plant. Examinations of the accident also suggested important safety decisions concerning the design of the control room and the start-up of the reactor were motivated more by decisions to save money or receive investment tax credits than by sound technical judgements.

The reactor, which cost 800 million dollars to construct, was insured for only 300 million dollars. That was all the insurance industry offered and the utility thought necessary. Congress had not even thought of it; nor, for that matter, did the banking institutions that supplied the construction money or the agencies that rated utility bonds.

Despite the accident, GPU was still obligated to provide electricity to its customers. This "replacement power", drawn from oil and coal fired plants owned by other utilities, was expensive and drained GPU's already strained financial resources. GPU also was confronted with some of the most perplexing energy and environmental problems confronting the nation: rising oil prices, changing pollution emission requirements and uncertain coal supply.

The TMI reactor was heavily contaminated with radioactive water; it continues to be a threat to the health and safety of the public. GPU could not afford to finance clean-up of the reactor and storage of the waste, estimated at one billion dollars. The federal government balked at assuming any of the financial burden.

In the final analysis, the responsibility for making the financial decisions to deal with GPU's solvency and the threat to the public health and safety fell not to the federal government but to the Pennsylvania and New Jersey Public Utility Commissions.

DRIFT AND MASTERY

We have reached an historic moment in nuclear power's evolution; a period of drift and uncertainty. Orders for new plants have declined dramatically. The safety issues identified at TMI are presumed to be solved until a technical problem arises, such as the corrosive effect of radiation on steam generators, that raises fundamental questions about the reliability of critical systems and the adequacy of federal regulation. And, although the Reagan Administration has given rhetorical support to nuclear power, it has not sought to directly confront the financial problems of nuclear utilities.

Yet for some nuclear power has not lost its promise. Dr. Alvin Weinberg, one of the founders of nuclear power, believes we are at the beginning of a "second nuclear era", involving the construction of perhaps 10 times as many reactors as we have now; and the White House Science Advisor, Dr. George Keyworth, has stated that nuclear fusion "will replace most of the sources that we presently use and rely upon for electrical energy production."

In the view of these scientists nuclear power's future is premised solely on technological innovations, not institutional changes. Such a view defies history. Wheth-

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er we will master the current drift, and whether such an enormous commitment in resources should be made to nuclear's future will depend, in part, on whether the public accepts the risks and benefits associated with the institutional arrangement responsible for protecting its health and safety.

THE INSTITUTIONAL DEBATE

Speaking as a member of the President's Commission on the Accident at TMI, Arizona Govenor Bruce Babbitt expressed concern that not every utility has the financial and technical ability to be in the nuclear business.

Beyond Governor Babbitt's concern, however, the federal government has done little to fundamentally alter the institutional arrangement that constructs and operates nuclear power plants. On the contrary, in late 1981, the Nuclear Regulatory Commission proposed that the financial qualifications of a utility seeking to construct a plant need not be considered prior to issuing a permit. Additionally, the Department of Energy has proposed a detailed design for a nuclear fusion power plant that could be "tailored to meet electric utility needs".

The discussions in the private sector and among state officials are decidedly more creative. Earlier this month Charles Dean, Jr. of TVA proposed a National Nuclear Energy Pool, to acquire control over existing and proposed nuclear plants; and Northeast Utilities' Leland Sillin, Jr. proposed a large regional power company responsible for nuclear power, with rates set exclusively on the federal level.

It is not simply a question of public v. private power companies, however, or of utility "deregulation". The real question is what kind of an institutional arrangement will bring the highest management and technological competence, financial capability and safety philosophy to the construction and operation of nuclear power plants. It could be a quasi-public institution comparable to COMSAT, one that might draw on the experience of DOE's National Laboratories and TVA; or it could be a newly created private institution that combines the technological competence and safety philosophy of a DuPont with the experience and nuclear expertise of a Westinghouse and a Duke Power Company. Most importantly, perhaps it should be an institutional arrangement responsible for nuclear power generation only. Distribution and transmission would remain the responsibility of the utility industry.

The utility industry should welcome such a fundamental debate. It has been "out front" in the nuclear controversy, yet critical portions of the architectural, engineering and construction work is actually done by others. Such a debate also would permit the states to clarify their regulatory duties; to bring their legal authority in line with their practical responsibility. The views of the insurance and financial communities on the possible structure and risk associated with such an institution would be invaluable.

"Until recently", David Lilienthal wrote just prior to his death in January 1981, "we had reason to think that we had in fact realized the great ambition, to 'make a blessing' of the atom. We were wrong." But Lilienthal did not conclude the atom's fate was sealed despite the passage of 34 years since his meeting with President Truman. Rather, he contended, it was time for a fresh look. Such a look will mean little, however, if we continue to assume that nuclear power can be handed to any seemingly responsible institution that would like to have it.●

GOVERNORS, LABOR, AND INDUSTRY SUPPORT THE EXIMBANK

● Mr. HEINZ. Mr. President, all across the country, and in all sectors of society, support is growing for the Export-Import Bank. That should not be surprising, because every State and every group of Americans is benefited by the activities of the Eximbank. And, what is more, these benefits come without the expenditure of one nickel of American tax dollars. In fact, historically, the Bank has paid in money to the Treasury.

The wide-ranging benefits of the Eximbank to the U.S. economy is perhaps no better demonstrated than by the formation earlier this year of the Coalition for Employment through Exports. Founded by the heads of both large and small businesses, labor, and various State governments, this organization has set as its goal to draw national attention to the need for a strong Export-Import Bank.

Mr. President, this need is urgent. In this time of high unemployment and unprecedented dependency on the importation of natural resources, the means for resolving these problems, namely through a strong export position, is under the greatest attack of our Nation's history. Powerful nontariff barriers to U.S. exports are being raised abroad, while our trade competitors avail themselves of billions of dollars in predatory subsidies in order to elbow American exporters out of our traditional markets.

As one measure to combat unfair trade barriers I have introduced and strongly supported legislation calling for reciprocal market access for American exporters as we provide to foreign businesses here in the United States. I am pleased to see that such legislation is moving forward.

To defend American exporters against unfair and predatory trade subsidies, I have strongly supported the Export-Import Bank. I have introduced legislation that will assist the Bank in meeting its original and ongoing mandate, namely, to give American exporters a fair chance in world markets.

Several weeks ago I had the pleasure of addressing a gathering sponsored by the Coalition for Employment through Exports. I joined with them in evaluating the important role that the Export-Import Bank must play in preserving America's export position. At that time I stated in part:

It is time for all of us to focus on the reality of the international marketplace in the 1980s. And that means the critical need for a well-funded and aggressive Eximbank. Most of all, we must recognize the linkage between competitive financing in the marketplace and the health of our strategic industries.

Mr. President, I submit for the RECORD my remarks and those of Mr. Frank Drozak, president of the Seafarers International Union of North America, to the CEE on April 29, 1982, along with remarks made at the time of the inauguration of the Coalition by Governors, and representatives of labor and business.

The remarks follow:

ADDRESS BY SENATOR H. JOHN HEINZ III

As a believer in the ExIm Bank, I support you completely in what you're trying to do. It's a unique coalition that includes the governors of three states, and representative of 13 labor unions and 38 companies with the promise of more. We need more of this kind of cooperation between government, business, and labor if we're going to solve our economic problems.

I think that this symposium today makes a fundamental point. ExIm Bank is not a big business program. It's critically important for small business contractors and for the working people of America. I think we can all take heart from the fact that in February, both the AFL-CIO Executive Council and the National Governors' Association called on the President and the Congress to strengthen ExIm Bank. I'm delighted that later on Frank Drozak, President of the Seafarers Union, will talk about the significance of ExIm Bank for American Labor. It's essential that people wake up to the fact that ExIm Bank helps everybody.

I am here today to talk about jobs. Exports mean jobs. And increased exports translate directly into increased jobs for American workers.

One of every three farm acres is planted for export. One of every seven industrial jobs depends on foreign markets for its existence.

Exports doubled in importance to our economy during the 1970s, from 4 percent to 8 percent of our GNP. Yet they failed to keep pace with the increase in imports. Our trade deficit over the past six years is a staggering $140 billion. That figure exceeds the cumulative trade deficit for the first 200 years of our Republic.

Worse still, our share of free world trade has declined by a quarter over the past decade while our competitors have been able to maintain their market shares in the face of intense new competition from the newly industrialized states of East Asia and Latin America. What that deterioration in U.S. competitiveness means in simple terms is that unemployment has been exported to our shores.

The Commerce Department currently estimates that $1 billion in exports creates approximately 30,000 jobs. If we had just broken even in the merchandise trade balance last year almost one million more Americans would have had jobs; unemployment would have gone down by 14 percent; and the budget deficit would have been cut by a third.

Creating those jobs means attacking foreign barriers to our products and services and insisting on reciprocal market access. This is the so-called reciprocity issue.

But it also means taking full advantage of market opportunities that already exist. And it is this challenge I want to talk about today.

Adlai Stevenson, my predecessor as Subcommittee Chairman, used to comment on

our tendency to shoot ourselves in the foot when it comes to export policy. Accurate as that observation is, I have always been amazed at our ability to quickly reload and keep firing! The real question, though, is if our aim is ever going to improve.

Every President since John F. Kennedy has commissioned studies on how to increase exports. And every study has made the same recommendations, over and over again—under five different Presidents—because so few of them have been implemented. Now, under the leadership of the Reagan Administration, we are finally acting.

Export trading company legislation, S. 734, has passed the Senate, and it is now beginning to move more rapidly in the House. I am optimistic it will pass the House and be signed into law in this Congress. It will create new exporters and help small ones expand by giving them access to bank capital. It will also protect exporters from uncertain antitrust enforcement. Over the long term it will change the way this nation looks at exporting and create a new class of "export experts" skilled at identifying foreign sales opportunities.

On occasion this legislation has been the victim of some exaggerated claims, and I would like to put it back in the proper perspective. Export trading companies will not solve all our export problems. It will not make every small businessman an exporter. It will not create 47 new Mitsubishis. But it will ease entry into exporting for many. It will provide access to capital for many current exporters, and it will help change our traditionally insular attitude about overseas business by helping us see new opportunities and seize them. And that, it seems to me, is enough to ask of one bill.

Amendments to the foreign Corrupt Practices Act (S. 708) have also passed the Senate. I have personally urged Congressman Tim Wirth on the House side, to move ahead, and I am hopeful he will soon have his own proposal and proceed to mark it up.

On another front, we have enacted reforms in the tax treatment of Americans working abroad, Sections 911 and 913, that will solve the problems created by the 1976 Tax Reform Act and encourage American companies to employ Americans in their overseas operations.

I submit we have made a good start—the best start in the last 20 years. If we succeed in enacting this body of legislation into law, we will have come a long way in allowing American companies to become far more aggressive—in short, to compete again in world markets.

One place where our aim has not improved, however, is the ExIm Bank. We have not seized the initiative at the OECD on eliminating subsidized financing. Last October the European community offered one-quarter of the loaf, and we declared victory, came home, and then raised our rates 2 percentage points higher than the competition.

Raising the Bank's interest rates higher and faster than everyone else is not using your leverage. It's dropping out of the race. It is unilateral disarmament in an export credit war—albeit a war we do not want and did not start. The Bank has a statutory mandate to provide competitive financing. But in the past six months it has:

Increased direct credit rates to the point where American exporters are no longer even coming to the Bank to look for support. Half way through the year only 20 percent of the Bank's FY '82 credit limit was committed and case volume was running at 50 percent of last year;

Refused to renew expiring preliminary commitments at the promised rate, thus removing the American bidder from the competition at the end of the process, after all the work has been done;

Refused to alter its terms sufficiently to match the competition, even when the match would be consistent with the international arrangement.

These are management decisions. There is also the funding story. Congress, to its credit, has consistently voted more money for the Bank than the President has requested. Despite that, the President's 1983 budget requests no more for the Bank than it did last year.

This is tantamount to unilateral economic disarmament. Since the Second World War the United States has relied upon its qualitative advantage to off-set its potential adversaries' numerical advantages in manpower and weapons. That strategy has served us well; for it has drawn upon the unparalleled strength of the American economy and American technology. In recent years, however, that lead has eroded.

You can be sure that our economic competitors have not been disarmed. In fact, they have armed themselves to the teeth. By offering cut-rate export credit, which our own ExIm Bank has been unable or unwilling to match, these countries have been able to garner export sales they would not have otherwise won. That erodes the profit base for U.S. exporters, which in turn affects their ability to devote sufficient funds to research and development. But more insidiously, that strategy has exported jobs and technology overseas.

Not being able to compete for foreign sales while based here, U.S. companies are sending more and more of their production abroad, where they can take advantage of official government export credit support. Many of these companies are at the cutting edge of sophisticated technology. It is neither in our national security interest nor our economic interest to encourage our aerospace, nuclear, machine tool, or electronics industries to relocate outside of the United States.

It is one thing to lose an export contract. It is quite another to lose an industry. Should the lack of ExIm credit force a G.E. or Westinghouse nuclear producer, or Hughes or Harris telecommunications, or Boeing or McDonnell-Douglas aerospace to relocate even a fraction of their production abroad in order to obtain financing, we lose control over those technologies. Foreign export controls are less stringent, foreign security more lax. And we lose the jobs that go with them.

This crisis needs prompt attack on two fronts—the international export credit negotiations and a stronger ExIm Bank.

The export credit mess cries out for tough action. In no trade area have we been so consistently taken advantage of; in no trade area have we such a record of frustration and broken promises; and in no trade area have we projected such an image of confusion and indecision over the years.

This is why I introduced my ExIm Bank warchest bill last year, and that is why the Banking Committee favorably reported it by a vote of 11 to 1 last summer.

The billion dollars authorized by that bill is designed to send the message to our friends in Europe and Japan that the patience of the U.S. Congress is not infinite. That their failure to negotiate in good faith is a signal of their intention to engage in a predatory export credit strategy. And that we intend to protect our exporters against such a strategy by fighting fire with fire.

I hope that the billion dollars authorized in the warchest bill will never have to be used, that our industrialized trading partners would see the logic of reaching a fair, workable agreement to end competition in officially-subsidized export credit once and for all. But we are not going to get such an agreement through unilateral disarmament in the export credit war. We do not adopt such a strategy for dealing with the Soviets on issues of nuclear weapons, why should it work any better in negotiations with the Europeans and Japanese on trade?

With respect to the Bank itself, we must also be realistic. The credit levels of the ExIm Bank are the most dramatic weapon we have in our arsenal to fight against the cut-rate and cutthroat competition we face. But those credit limits, I am sorry to say, have been severely curtailed during this Administration.

Worse than that, after modest progress in raising rates was made at the OECD export credit talks last October, the Administration proved its ability to seize defeat from the jaws of victory by raising ExIm's minimum rate even higher than the agreement—to a point 250 basis points higher than the closest competition!

It was at that time that I began drafting a bill to provide for a major restructuring of the Bank and its programs. This legislation has three points.

First, the ExIm Bank lacks sufficient independence to carry out the mandate that it has received from Congress. Repeatedly, Congress has told the Bank to be agressive in defending the American exporting community against the predatory credit practices of its competitors. The charter of the Bank "directs"—not asks, not urges—it directs the Bank to provide "guarantees, insurance, and extensions of credit at rates and on terms . . . which are competitive."

My bill would promote the independence of ExIm Bank Directors by giving them fixed, four-year staggerd terms, to replace their current status in which they serve at the pleasure of the President.

Secondly, the bill would remove the net lending outlays of the Bank from the Federal Budget.

Since 1976, the Federal Budget has treated in ExIm Bank's loans as grants, even though ExIm Bank loans are repaid, with interest, and show a remarkable history of 99.98 percent repayment. The result is a distorted view of ExIm Bank activities. The Bank is shown as a drain on the U.S. Treasury when in fact it is paying in a profit.

Finally, the bill establishes a $1 billion dollar fund to help match foreign export credit subsidies, especially in the area of medium-term financing. Medium-term credit has been in particular demand recently. It is particularly important to small business. But the Bank, with OMB prodding, has reduced its medium-term financing programs to the point where they are non-existent for most exporters and unattractive for those few that might qualify. With medium-term financing readily available to foreign firms from their credit facilities, we should do no less.

It is time for all of us to focus on the reality of the international marketplace in the 1980s. And that means the critical need for a well-funded and aggressive ExIm Bank. Most of all, we must recognize the linkage between competitive financing in the mar-

ketplace and the health of our strategic industries.

My legislation, coupled with adequate funding and success in the OECD negotiations will end our unilateral disarmament and make the ExIm Bank the institution it ought to be—a creator of exports, and through exports, jobs.

But legislation is not enough by itself. We need to create an export mentality in this country. We need to extend classic American entrepreneurship beyond our shores. And we need to educate the American people as to the central place of ExIm Bank in an exporting America.

Today we've made a beginning, and I commend Ray Garcia and many others for the steps you've made. Now it's up to all of us to figure out ways to spread the word within our own communities—whether business, labor, or government. I leave you with that charge, and I thank you all for the opportunity to play a part in an undertaking that could mean jobs and economic prosperity for America.

ADDRESS BY FRANK DROZAK, PRESIDENT, SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO

I am pleased to participate today on behalf of the Seafarers International Union with the other members of the Coalition for Employment Through Exports.

We in the Seafarers, America's principal maritime labor organization, are pleased to see the increasing labor and business support for the Coalition and its rapid growth during its short existence.

As few members of the general public realize, the maritime industry and our union have recently experienced the most radical technological changes in history. We have truly been a part of the high technology explosion.

Today, Seafarers Union members crew the most sophisticated vessels ever to sail the inland waters, the Great Lakes, and the high seas, including jumbo tankers, chemical carriers, and integrated tug/barge units.

The technological advances in our industry, and the challenge of foreign competition which at times knows few or no restrictions, have made it critical for the modern American merchant marine, both in labor and in management, to look ahead with foresight and wisdom. I submit to you that the game is being played by new rules, and rules which are changing rapidly.

This is why we in the Seafarers Union recognize the importance of the Coalition for Employment Through Exports and the Coalition's support for the Export-Import Bank.

In the American labor movement we have always supported the concept of "the greatest good for the greatest number".

I believe that the Coalition is a perfect example of this concept. It is an outstanding opportunity for labor, management, and State governments to work together for the benefit of all to meet the challenges that face us all. I think every one of us in this room would agree that hard work and this type of cooperation is not only important, it is critical to America's economy and our national well-being.

I would now like to turn to the subject of our great common interest, America's exports.

Ladies and gentlemen, no one needs to tell a seafarer how important exports are to him and his family. Only last month, I testified before the Water Resources Subcommittee of the House Public Works and Transportation Committee. On behalf of America's seafarers, I went before the Subcommittee to support a comprehensive U.S. export program in light of the recent and anticipated increase in U.S. coal exports.

When I say that our nation needs a comprehensive export program, I mean just that:

The ship channels in our ports need to be widened and deepened to accommodate today's bigger vessels.

Our on-shore port facilities need to be modernized.

We must strengthen our bilateral agreements with our major trading partners.

We need to rebuild our U.S.-flag merchant marine fleet, particularly our capability to move bulk commodities such as coal over the oceans. This is vital for our energy independence, our balance of payments, and for our national security.

We need to give our exporters and their customers access to competitive financing from our Export-Import Bank.

While some of these points may affect the maritime industry and its workers most directly, they affect us all, especially the availability of competitive export financing.

Earlier this month, the Maritime Trades Department of the AFL-CIO, of which I am president, wrote William Brock, the U.S. trade representative, to point out that America's tuna fishing-vessel construction industry is in jeopardy and losing business to foreign shipbuilders who, with substantial financing assistance from their governments, can offer export financing to ship buyers which drastically undercuts our shipbuilders.

The Maritime Trades Department specifically cited the example of Campbell Industries of San Diego, a leading domestic builder of tuna seiners, that has recently been laying off workers and expects more layoffs in the future. In the last year alone Campbell has lost out on a total of 13 contracts, 11 to Italian shipyards and two to Norwegian yards.

The Maritime Trades Department urged Trade Representative Brock to take the necessary actions to put U.S. industry on an equal financing basis with foreign competitors.

Of course, our particular interest is obvious in this situation. Without U.S. tuna seiners, and other fishing vessels, to carry our domestic and export catch there are no jobs in that sector of the maritime industry for the working men and women of our union.

The San Diego situation is a specific example of a much broader situation—one that the U.S. must meet and deal with immediately. In a recent study, the Comptroller General found that Japan and the United Kingdom provide official governmental support to 35 percent of their exports with some type of export incentives. France supplies government backing for 29 percent of its exports and Germany officially supports 12 percent of its exports. The United States supports only 6 percent of its exports, and this percentage is now even lower due to the budget cuts to the Exim Bank.

Ladies and gentlemen, as a nation we are engaged in vigorous international competition for export business with one hand tied behind our back.

Our foreign competitors use direct operating subsidies from their governments, some mix low-cost foreign aid funds with export credits, and some provide insurance against cost escalation or currency fluctuations.

We must stand firm. We cannot allow foreign governments to impair the ability of our exporters to compete effectively in world markets while we declare unilateral disarmament by cutting Exim Bank to the bone.

We will make this stand with you in the Coalition here today and in the future. We will support American jobs by helping make the public, our elected Representatives, and the Executive Branch of government aware of the need for a strong Export-Import Bank.

The Export-Import Bank is the key to providing the financing we must have to make our exports competitive in world markets. It is a proven success as an institution and it is more important today than ever before.

As the Export-Import Bank's chairman, William Draper, recently told the Congress, in Fiscal Year 1981 the Bank was directly utilized by more than 2,600 United States businesses. These businesses, and their employees, depend on the merchant marine and other modes of overseas shipping to deliver their goods overseas safely and on time. When they benefit, we benefit.

Each Export-Import Bank loan or loan guarantee benefits an extensive interconnected network of subcontractors, parts suppliers, and other businesses and their workers. These are America's "invisible exporters", who supply the components that go into the products we export. They number far greater than the 2,600 businessmen that benefitted directly from the Exim Bank's programs in Fiscal Year 1981. The Boeing Company alone was supplied by 2,992 of such "invisible exporters" in 1980.

I would like to take that concept a step further today. I submit to you that each Export-Import Bank loan or loan guarantee helps set in motion the entire export process, from the factory gate in this country to delivery and installation on many of our boats abroad.

We in the Seafarers Union fully recognize that we are squarely in the middle of the export process—we are the link between America's exporters and their customers—and we intend to be a strong and reliable link.

The world is more interdependent than ever and the maritime industry is a key reason. We in the maritime industry have never been more aware of America's role in world markets and the critical importance that our exports play at home and in those world markets.

Yet, at this critical time, the Reagan Administration is doing all it can to reduce the Export-Import Bank's ability to make loans to finance our exports. This is a policy America's seafarers cannot and will not support.

In a free market situation—a field where all players were equal—we would have no quarrel with the Administration's approach. However, despite our government's efforts to level the field and bring order and consensus to international export finance, the use of subsidies and sweeteners by foreign governments goes on day after day. We have been unable to establish a broad-based international agreement. The playing field is still uneven and it is being tilted by, and in favor of, our foreign competitors.

Thus, we in the Seafarers Union see a strong Export-Import Bank as a top priority in evening out the competition to give American companies and American workers a chance to sell abroad. To us, the Export-Import Bank means jobs—jobs in manufacturing and shipbuilding, jobs in cargo handling, and jobs in the merchant marine.

The Census Bureau has reported that each $1 billion in manufacturing exports supports over 30,800 jobs in this country. Again, according to the Bureau of the Census, Exim Bank's 1980 operations supported over 570,000 American jobs and over 11 million man-years of employment in the last three years. Nearly 4.8 million jobs were generated by U.S. manufactured products exported in 1980.

The Administration's cuts in Export-Import Bank funding could reduce America's export sales by $12 billion over the next five years and cost our nation hundreds of thousands of critically needed man-years of employment.

Our union members know how important exports are to them and their families and they want their union leadership to do everything possible to support America's exports. This is why the AFL-CIO Executive Council adopted a resolution on February 15, calling upon the President and the Congress not to cut the budget of the Export-Import Bank "until other countries cut or eliminate their subsidy programs".

We intend to fulfill their mandate by participating as a full partner with you in the Coalition for Employment Through Exports.

Thank you.

STATEMENT BY JOHN SPELLMAN, GOVERNOR OF WASHINGTON

Rarely has our nation been so vulnerable to overseas economic forces. OPEC oil drains dollars from our shores which are increasingly harder to replace through our own exports. The drastic consequences to our national economy are being matched by the adverse effects on our states. No state or territory is immune to the unemployment, reduced tax revenues and shrinking tax base which declining exports portend. In my state, which is profoundly dependent upon exports, we specialize in selling both agricultural products—wheat and wood products—and high technology—airplanes.

While the health of our agricultural business depends on diverse market factors, the health of our high tech exports depends upon our ability and our will to engage in the rough and tumble of international trade, and to match the commercial weapons of our competitors. We are failing to do this. Indeed, if the stated objectives of some in the administration prevail, we virtually will be withdrawing from the competition.

To date, a major weapon in our export arsenal has been the Export-Import Bank. Never as aggressive as our competitor's techniques, never as comprehensive as our exporters would have it, it has nevertheless provided a minimum level of assistance to our exporting industries which has paid off in today's jobs, and in creating and maintaining a technology base for tomorrow's economy.

Now, even the minimal assistance of Eximbank is threatened. A finance mechanism which costs the taxpayer nothing, and has actually turned over a billion dollars to the U.S. Treasury, is to be sharply reduced, leaving the field to the nations which are willing to invest in exports in order to achieve broader economic goals in the years ahead. These nations will welcome our leaving much of the export finance business to them. Soon the markets for big-ticket items like airplanes and energy plants would be free of American competition. The American economy will be denied the spin-offs of technology and manufacturing know-how, which have provided the impetus for so much of our industrial progress.

With the Boeing Company sitting in my own backyard, I must plead guilty to a bit of harmless chauvinism. But let me broaden that a bit. My fellow governors are increasingly aware of the importance of international trade. Their support for international trade promotion is nearly the same as the budget for similar activities by the United States Department of Commerce. Over the past four years, state trade promotions budgets have increased 400 percent; the U.S. Department of Commerce budget by only 25 percent. Today more people are employed by states in their overseas offices than work with the Foreign Commercial Services of the Department of Commerce.

My fellow governors are acutely aware of the impact a single small government agency can have on their local economies. More than 5,700 firms in all 50 states have received direct job-producing commitments from Eximbank.

And governors are conscious, too, that exports (and exports which need the EX-IM Bank) are not limited to big, multi-national businesses. Tens of thousands of small businesses regularly sub-contract with major exporters, spreading that income across the nation. In your kit you will find some details of the employment figures which directly result from export sales. In my own state, the Census Bureau attributes over 114,000 jobs directly to exports, and for each dollar of sales, we anticipate some 30 cents in state taxes. Believe me, that $133 million dollars is a figure our state government cannot live without.

It is a pleasure to stand here with leaders of labor and business and initiate this coalition to convince the members of Congress and the Administration that it is the overriding national interest to preserve the activities of the EX-IM Bank, to help develop new financing mechanisms, and to develop a strategy to get all nations to move away from financing as a competitive tool.

These are the steps which we must follow. We dare not unilaterally disarm our exporters in the middle of a financing war.

STATEMENT BY J. C. TURNER, GENERAL PRESIDENT, INTERNATIONAL UNION OF OPERATING ENGINEERS, ON BEHALF OF THE COALITION FOR EMPLOYMENT THROUGH EXPORTS AND THE EXPORT-IMPORT BANK

America's number one economic problem is unemployment. More than 9 million American men and women are actively seeking employment but are unable to find it. The current rate of 8.5 percent unemployment is close to record levels since the end of World War II, and yet even that staggering level does not measure the millions of additional Americans who are out of work but too discouraged to even look for it. Nor can statistics measure the human suffering which is now occurring.

For too long, our country has ignored the importance of exporting in creating jobs. At this time of recession, we can afford to ignore it no longer. There were 4.8 million jobs associated with the export of manufactured goods from the U.S. in 1980. One in every 7 American workers working in manufacturing plants—hundreds of thousands of them union workers—is involved in the production of manufactured goods sold abroad. A Census Bureau report issued earlier this month shows that every $1 billion in exports of U.S. manufactured goods supports more than 30,800 American jobs.

I am proud that the International Union of Operating Engineers is a founding member of the Coalition for Employment Through Exports. We will all be helping to increase U.S. exports and expand job opportunities.

One of the most important ways the Coalition and my union can help create additional jobs in our manufacturing industries is to provide the Exim Bank with additional resources.

From its level of $50.4 billion in fiscal year 1981—itself not adequate to meet the needs of U.S. exporters—the Reagan Administration has proposed funding of only $3.8 billion for the coming fiscal year. If Congress approves this reduction, it will mean thousands of lost jobs at the very time we desperately need to increase employment.

I am calling on Congress to provide at least $5.0 billion for fiscal year 1983 for Exim Bank—still less than it had two years ago. This does not threaten the budget. Exim gets no appropriated funds but only authority to borrow. Since it was created by President Roosevelt it has returned over $1 billion back to the Treasury and has traditionally made money every year.

At a time when Japan, France, and England are supporting 30 percent or more of their exports with government incentives, it is unilateral disarmament for the U.S. to be cutting back on the only vehicle we have to compete in export financing—Exim. Increasingly, it is financing which determines whether a sale abroad goes to an American company or to a foreign company. American workers can produce quality goods at a competitive price but they cannot compete with subsidized export financing from abroad without the help of Exim Bank.

My union and I will be working hard this year to help convince Congress to give more support to Exim Bank. It is an essential part of our effort to get this country out of recessions and onto a path of sustained economic growth.

Our efforts will be aided by the Resolution supporting Exim Bank funding passed recently by the full AFL-CIO Executive Council.

STATEMENT OF GORDON C. HURLBERT, PRESIDENT, POWER SYSTEMS COMPANY, WESTINGHOUSE ELECTRIC CORPORATION

The management of Westinghouse Electric Corporation believes that there is a lack of clear understanding within the Reagan Administration of the importance to our national economy of a strong Export-Import Bank. Our company enthusiastically subscribes to the goals of President Reagan's economic program, but we believe those goals can be fostered—not hindered—by an adequate lending budget and competitive lending policies for Eximbank.

Unfortunately, the new budget proposals now before Congress will probably make Eximbank less than fully effective, since the Bank would have inadequate lending authority for making any significant new loan commitments in FY 1983.

Among thousands of other products, Westinghouse supplies large steam turbine generators, nuclear steam supply systems, and other large electrical equipment to electric utilities for generating and transmitting electricity. The United States domestic market for this type of equipment is stagnant and is expected to remain so for the next few years. But there is a strong demand for this equipment overseas in the more advanced developing nations such as Brazil, South Korea, Taiwan, Spain, and other countries. Today, Westinghouse and other American manufacturers of this large,

high-technology equipment do not have a strong competitive technological advantage over manufacturers of similar products in European countries and Japan. Westinghouse has no fear, however, of being able to hold its own in free and fair competition with European and Japanese manufacturers of such products. But the foreign governments, directly or indirectly, provide low-cost export financing for customers in the developing countries at low interest rates and other lending terms which are frequently more attractive than export loans available from the United States. Commercial banks and other commercial lenders in the United States are unable to supply long-term export loans for "big ticket" industrial and utility products at competitive, fixed rates of interest with long-term repayment provisions. Thus, the only source of competitive financing available to American manufacturers is our own Government-owned Export-Import Bank.

In order for American manufacturers of this type of equipment to continue to be viable suppliers, it is essential for Eximbank to have an adequate lending budget and to have lending policies which will provide overseas customers with loans which are competitive with credit furnished directly or indirectly by the governments of France, Germany, Great Britain, Japan, and other industrialized countries.

Some members of President Reagan's administration erroneously seem to believe that Eximbank exists primarily to provide subsidized loans for the benefit of large American companies. In fact, however, only large companies can assemble the skilled engineers, highly-trained production personnel and plant facilities needed to design and manufacture large, complex equipment.

Typically, Westinghouse and other large companies subcontract a great deal of the work on large equipment orders. On a nuclear power plant, for example, our company purchases many millions of dollars of components and services from more than 1,200 suppliers, located throughout the United States. A typical billion-dollar nuclear plant order provides more than 30,000 jobs for American workers. When these people are employed, they pay federal income taxes, state income taxes, and local taxes. They buy automobiles, appliances, clothing, and other goods and necessities which typify modern living. And when they are employed, they do not draw unemployment benefits and impose other social charges on our Government.

A study by Wharton Econometrics indicates the government can expect to gain more than $9 for every one dollar of interest equalization incurred by the Export-Import Bank. The gain would come from increased tax revenues and the rest from reductions in costs associated with unemployment.

Therefore, my message today is that export loans provided by the United States Export-Import Bank are not merely beneficial to a few big companies—they are the source of vital employment to American workers and hundreds of smaller companies throughout our country. All of these workers and companies pay taxes and contribute to our national prosperity when they are employed on orders which cannot be obtained without Export-Import Bank financing. Eximbank loans are good business for the United States economy and the United States Government. An adequate budget for Eximbank is good public policy.

STATEMENT BY ROBERT L. TARNOW, CHAIRMAN AND CHIEF EXECUTIVE OFFICER OF GOULDS PUMPS, INC.

Goulds Pumps interest in export financing is as a sub-supplier and not as a direct recipient of Export-Import Bank financing or loan guarantees. We are dependent upon prime contractors, such as General Electric, Westinghouse, Bechtel, Fluor, and scores of others to export our pumps as part of their contracts with foreign buyers. All seven of the prime users of Export-Import Bank financing in fiscal 1980 are Goulds' customers.

About twelve percent of our sales are exports. In 1980 our exports amounted to $28 million and provided jobs for 400 people in our plants. About 50 percent of the revenues from our exports went to our subcontractors, who supplied us with products and services ranging from castings and electric motors to export packaging. These subcontractors are often small businesses who are dependent on Goulds for a majority of their business and the jobs for their workers. Thus the jobs that depended on our exports were greater than the 400 directly located in our plants.

It is obvious that it does not take a big company to participate in exporting but, in most cases, it takes a big company to sell major products competitively in the export market. For that reason, many small or medium-sized companies, such as Goulds, and its many suppliers, depend upon the business generated by larger firms for their livelihood.

An adequately funded Export-Import Bank is absolutely essential for the United States to remain competitive in world markets and critical to Goulds Pumps, if it is to continue to export its products. The 13 percent proposed reduction in the Bank's lending authority in fiscal year 1983, from $4.4 billion in fiscal year 1982 to $3.83 billion in fiscal year 1983, in our judgment, will further handicap our efforts to be competitive. It is hard for us, as a subcontractor, to analyze why a prime contractor should lose a particular project, but the General Accounting Office, an arm of the Congress, estimated in 1980 that a minimum of forty-four potential contracts were lost in 1978 due to non-competitive financing. Each of these lost contracts had a negative ripple effect on the U.S. economy. In the case of pumping equipment, we estimate that each dollar of sales will produce seventy percent of its original price in future repair parts, not including eventual replacement. Therefore, the lost projects due to non-competitive export financing cause not only a loss of jobs today, but a loss of employment in the future as well. Over time these lost sales erode the U.S. industrial base and weaken U.S. national security.

The cost of the Bank is minimal to the U.S. economy. It has more than paid back all of the money it borrowed from the U.S. Treasury to get it started in 1945. Except for last year it has always paid a dividend to the Treasury. It does not spend taxpayers money. It does not receive appropriations from Congress, just authority to lend funds and guarantee and insure loans, which are repaid with interest.

We feel that the Export-Import Bank is a net contributor to economic growth in the United States. Its cost of operation is balanced against the value of the jobs it creates, not only for the larger companies but for the smaller ones as well that are offered subcontracting opportunities. For this reason, Goulds has joined with other companies, with governors and with the leaders of organized labor, in the Coalition for Employment through Exports, to work for a strong and effective Export-Import Bank.

STATEMENT BY ROBERT A. GEORGINE, PRESIDENT, BUILDING AND CONSTRUCTION TRADES DEPARTMENT, AFL-CIO ON BEHALF OF THE COALITION FOR EMPLOYMENT THROUGH EXPORTS AND THE EXPORT-IMPORT BANK

I and the Building Trades have joined the new Coalition for Employment Through Exports because it is time for labor and business to join hands in a common enterprise to help pull this nation out of its recession by creating new jobs and sustaining existing ones through increased exports of goods made in the U.S.

One of the primary goals of the Coalition will be to increase funding for the Export-Import Bank. There are few programs which are as effective in creating jobs for American workers at a smaller cost. Exim has traditionally made a profit for the budget every year for the last 35 years.

Exim has already taken its share of budget cuts. From a level of $5.4 billion in direct funding in 1981, Exim has already been cut to $4.4 billion for this fiscal year. Now the Administration wants to cut it still further, to only $3.8 billion. This directly threatens American jobs at a time of near record unemployment.

Exports of goods produced by American workers to market throughout the world create jobs here. But this country is locked into an intense competition with the Japanese, French, British, and Germans for sales to these world markets. American goods made by American workers can compete in price and quality but they cannot meet the extremely favorable financing terms offered by foreign governments for their own exports, without the help of Exim Bank.

Cutting back on Exim Bank at a time when our trade competitors abroad are providing incentives for their exports, is like fighting an opponent with one hand tied behind your back.

In Fiscal Year 1980 Exim supported over $18 billion in exports. A government study found that 70 percent of these exports would not have occurred without Exim support. In 1980, Exim supported 724,000 American jobs—jobs we cannot afford to lose in these difficult times.

The cuts in Exim funding currently before the Congress could mean a cut of billions in export sales and hundreds of thousands of man-years of employment in the U.S. in the next five years.

I cannot sit back and permit a program like Exim Bank, which does not even use tax dollars and gets no appropriations, to be cut. I urge the Congress to restore Exim funding at least to $5.0 billion—last year's budget level.

America can no longer afford to turn its back on exports and on the markets of the world which our trade competitors increasingly seek to penetrate. It is time to be heard for Exim Bank so we can effectively compete—and so we can create new U.S. jobs.

I am pleased the full AFL-CIO Executive Council has recently endorsed the need for Exim funding to effectively compete with other industrialized nations which support their exports. Their voice will be in helping to make our case.●

NATIONAL RETAIL MERCHANTS ASSOCIATION ENDORSES H.R. 4961

● Mr. DOLE. Mr. President, the following statement by the National Retail Merchants Association is the latest indication of the growing support for the Senate Finance Committee's tax package. This business group, which represents 3 million workers, clearly indicates that the tax package is a fair and balanced proposal.

The Senator from Kansas is pleased to ask to have the National Retail Merchants Association's letter and press release presented in the RECORD.

The statement referred to follows:

NATIONAL RETAIL MERCHANTS ASSOCIATION,
Washington, D.C., July 14, 1982.

Hon. ROBERT DOLE,
Chairman, Senate Finance Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As the enclosed press release indicates, NRMA today endorsed enactment of H.R. 4961. We are marshalling our troops to attempt to secure that objective.

Our Chairman, Ed Gibbons, who is also Chairman of the Board of Woolworth, and I, would like to meet with you briefly next Tuesday, July 20, if you have the time, to discuss how we can be helpful to you as the bill is taken up by the full Senate and the Ways and Means Committee proceeds with its markup.

Sincerely,

VERRICK O. FRENCH,
Senior Vice President, Governmental Affairs.

Enclosure.

NATIONAL RETAIL MERCHANTS ASSOCIATION ENDORSES ENACTMENT OF H.R. 4961, FINANCE COMMITTEE TAX PACKAGE

WASHINGTON, D.C.—The National Retail Merchants Association today endorsed enactment of H.R. 4961, the tax package reported by the Senate Finance Committee on July 12.

"There are at least three good reasons for Congress to pass this bill," said Verrick O. French, NRMA Senior Vice President for Governmental Affairs. "First, the measure meets the revenue-raising requirements of the Congressional budget resolution, and would therefore help reduce intolerably large Federal deficits."

"Second, H.R. 4961 is on the whole a fair and balanced measure. It will raise retailers' taxes, but not disproportionately to the increase in taxes imposed on other industries or on other sectors of the economy. The Finance Committee appropriately rejected a corporate surtax, which would fall most heavily on those industries, like retailing, which are presently paying taxes at close to the highest statutory rates."

"Third, as a matter of sound economic policy, in order to stimulate and sustain recovery from the present recession, the Finance Committee decided not to reduce or postpone the July 1983 tax cuts for individuals, or impose any general new consumption taxes."

"The Finance Committee package is not perfect. No tax bill can be. In one area, for example—the provision for accelerated corporate tax payments—it would be helpful to enact a safe harbor provision which avoids the imposition of unwarranted penalties on firms which would be required to pay higher estimated taxes before they can accurately calculate their projected taxable income."

"That issue is insignificant, however, compared with the urgent need to pass this bill essentially in its present form. In NRMA's judgment, as a practical matter, any successful effort to strip major provisions from the measure is likely to cause the entire, carefully-constructed package to self-destruct. That would be unfortunate, because it is too late to go back to square one in the tax-writing process and expect to achieve consensus on a tax measure before Congress adjourns," Mr. French said.

NRMA is a national, non-profit trade association composed of 3,700 chain, department and specialty store companies. Member firms have current annual sales of approximately $140 billion and employ 3 million workers.●

S. 2692, A BILL TO SUSPEND CERTAIN RATES OF DUTY ON BULK VENDING PRODUCTS

● Mr. BENTSEN. Mr. President, I am pleased to join today my colleague on the International Trade Subcommittee of the Senate Finance Committee, Senator DANFORTH, in cosponsoring S. 2692, which would temporarily suspend duties on imported novelty items sold in bulk vending machines. Recently I was visited by representatives of the bulk vending industry, who explained the reasons for this legislation. Bulk vending machines are nonelectrical machines that dispense novelty items at random in supermarkets, department stores, theaters, bowling alleys, and other retail establishments. No domestic industry is presently protected by existing tariffs, according to these industry spokesmen. Most of the members of the industry are small businesses whose trade has been particularly hard hit by inflation. Since the coin slots on bulk vending machines cannot be increased above a certain size, increases in the price of items sold through the machines make it uneconomic to continue in business. The number of bulk vending machines in the United States and particularly in Texas has been declining over recent years because of this phenomenon. Under the circumstances, relief from the tariff rates, which range up to 22 percent of the imported value of the products concerned, appears appropriate.

GRAIN SALES AGREEMENT

● Mr. NICKLES. Mr. President, late yesterday 21 of my colleagues joined me in sending a letter to the President of the United States urging him to approve another long-term grain sales agreement with the Soviet Union.

Today the President and his Cabinet will discuss the future of United States-Soviet grain accord. Today he may decide whether or not to renew talks leading to a new long-term grain agreement. For the sake of American grain farmers, let us hope he does.

Mr. President, net farm income is at its lowest point in 50 years. Many project this year's net income at real figure levels unheard of since the depths of the Great Depression. Continued high interest rates are taking their toll in this capital-intensive business, and we must continue to cut Government spending to force them downward. But the farmer suffers a double curse: Continued low market price due to oversupply. In a sense, his own efficiency is his biggest enemy.

The American farmer is the most efficient producer in the world. On average, one farmer today produces enough to feed 68 other people, a number far higher than any of our competitors can claim. Today, right now, the United States is literally bulging at the seams with excess grain stocks. The 1982 wheat harvest is estimated at 2.716 billion bushels. That is 166 million bushels more than this country will use up or export this year. Couple that with carryover stocks of 1.146 billion bushels, and that spells continued depressed prices for the American farmer.

Some would advocate the Federal Government stepping in to bail out an ailing but vitally essential domestic industry. What these well-intentioned legislators and others fail to realize is that the farmers are not the only ones suffering from budgetary crunch. So is the Treasury of the United States of America. Already over $1 trillion in debt, Uncle Sam simply cannot afford such a solution to the farmers' plight.

And I do not think farmers want a bail-out. They are independent, hard-working people who want a fair market for their honest work. Therefore, Mr. President, we in the Government must strive to improve that market atmosphere so that farmers can afford to pay for their product.

This administration has made a commitment to the Nation's producers to aggressively seek new export markets and to strive to rebuild the U.S. reputation as a dependable supplier of agricultural products. Last year, this administration took a concrete step by lifting the self-defeating embargo of the previous administration. In March of this year, Mr. Reagan announced his agricultural export policy, assuring countries around the world that the United States intends to be a reliable supplier.

Now, as my colleagues and I voiced in our letter to the President, it is important that we take actions to substantiate those assurances.

Some would contend that this country, the leader of the free world, should not even be selling food to the Soviets. They would contend that we should, literally, starve our adversaries into docility.

However, I must agree with Secretary of Agriculture John R. Block that

food can be our most powerful tool for peace. In an op-ed article in the June 5, 1982, Washington Post, Secretary Block states:

If a gas pipeline from the Soviet Union, then surely a grain "pipeline" from the United States to the Soviet Union provides an advantage to the United States.

Mr. President, by selling grain to our adversaries and making them dependent on our continued supply, do not we exercise much greater leverage over them than if we simply allowed them to seek their total import needs from other sources? Food can be an important tool for peace.

Others would contend—and perhaps correctly—that a bilateral agreement with the Soviet Union is not necessary, that the U.S. portion of Soviet agricultural imports will remain steady, accord or no accord, and that agricultural trade between other countries and the United States operates well without any agreements. I believe, however, that an agreement—a long-term agreement—is needed at this point to reassure not only the Soviets but all our trading partners that barring only the most extreme circumstances, the United States will make good on its delivery of food products.

Let me point out that our three principal competing wheat export nations—Canada, Australia, and Argentina—deal with the Soviets on long-term agreement terms.

Mr. President, we must continue to strive to recover markets lost by poor policy decisions of the past administration. Did the Soviets suffer from the Carter embargo? Of course not. Although our allies "agreed" with the embargo, the facts are these: Australia tripled its grain exports to the U.S.S.R. in 1980 over 1979; Canada doubled its Soviet grain exports; and the European Common Market, which tripled its exports of total farm products to the Soviet Union in 1980, was charged by its own Parliament with undercutting the embargo effort. Argentina, which did not agree with the embargo, nearly quadrupled its 1980 grain exports, and this year likely will export every grain above its domestic needs to the Soviet Union.

The Soviets obviously did not suffer from the American grain embargo. But American farmers did.

The Soviets did not suffer from the grain embargo, and neither will they lose if the United States refuses to substantiate its declared intentions to return to reliable supplier status. We must commit ourselves to being a dependable supplier except in the most extreme circumstances. We cannot afford, the American farmer cannot afford, to remain a residual world supplier so long as we are the world's most efficient producer.

Mr. President, I concur with the administration that the martial law situation in Poland is unwarranted. However, I do not believe that punitive action against the agricultural sector of the American economy is the proper response. Likely, such a course of action would be far more devastating to the American farmer than to the Soviet Union.

With the Soviet's apparent substantial need for food imports and an American farm economy in desperate need of increased sales, it seems this Nation has much more to gain with a long-term agreement.

I ask to have printed in the RECORD my letter to the President along with the cosignees of the letter.

The letter follows:

U.S. SENATE,
Washington, D.C., July 14, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Aware that you are considering a renewal of a grain sales agreement with the Soviet Union, my colleagues and I respectfully urge you to approve another long-term accord.

It is essential that the United States continue to rebuild its reputation as a dependable supplier of agricultural products. The embargo imposed during the previous Administration had a devastating effect on this country's ability to develop and maintain overseas markets for our agricultural products.

Before the embargo, American farmers supplied 70 percent of the Soviet Union's agricultural imports; *now, we provide less than 25 percent.* We commended the Administration's action last year of lifting that self-defeating embargo, and your subsequent statements of assurance to our international trading partners which have done much to promote the perception of our reliability.

We believe it is now important that the United States take actions which will substantiate those assurances.

While we concur with the administration that the martial law situation in Poland is unwarranted, we don't believe that punitive action against the agricultural sector of the American economy is the proper response. It is likely that this course of action would be far more devastating to the American farmer than to the Soviet Union.

With the Soviet Union's apparently substantial need for food imports and an American farm economy in desperate need of increased sales, it seems this nation has much more to gain with a long-term grain agreement.

Your favorable consideration of this request would be greatly appreciated by this nation's farmers.

Sincerely,

Don Nickles, Edward Zorinsky, Roger W. Jepsen, Max Baucus, John Melcher, William L. Armstrong, S. I. Hayakawa, Steven D. Symms, Dave Durenberger, Thomas F. Eagleton, Charles E. Grassley, Rudy Boschwitz, James Abdnor, Mack Mattingly, John C. Danforth, Robert Dole, Richard G. Lugar, Malcolm Wallop, James A. McClure, Larry Pressler, Nancy Landon Kassebaum, and David L. Boren.●

S. 2061—A BILL TO CREATE AN AMERICAN CONSERVATION CORPS

● Mr. MOYNIHAN. Mr. President, on February 3 Senator MATHIAS and I introduced S. 2061, a bill to create an American Conservation Corps. This corps would address the vexing problems of youth unemployment and the deteriorating condition of our Nation's public lands by putting young people to work rehabilitating these lands. I am pleased that the House of Representatives has recognized the need for such a corps by passing H.R. 4861, a companion to our bill, by a margin of 291 to 102. The vote in the House reflected the bipartisan support that this measure enjoys, for there is now, and always has been, recognition from both parties that valuable employment experience for young people is a national need. S. 2061 currently has 13 cosponsors, and I am hopeful that the Senate will act soon on this important legislation.

Mr. President, I ask that a perceptive editorial from the July 5 Hartford Courant calling for the creation of a new youth conservation corps be printed in the RECORD.

The editorial follows:

[An editorial from the Hartford Courant, July 5, 1982]

A RETURN TO THE CORPS

Nostalgia is not alone a good reason to promote a new program, but in the case of the proposed National Conservation Corps, nostalgia works.

The program, which has been approved in the U.S. House of Representatives, and is now before a Senate committee, derives its inspiration from the enormously successful Civilian Conservation Corps of the New Deal era.

The CCC, which put to work 2½ million unemployed men, planted 17 million acres of new forests, built numerous new dams for soil conservation and completed an immense number of outdoor projects for federal and state parks. It was discontinued during World War II.

With unemployment reaching toward 10 percent—much higher among minority youths—a CCC-type program makes as much sense today as it did during the Depression. The immensely popular, recent experiment with a conservation corps in California further testifies to its usefulness.

The NCC would replace, and incorporate the best elements from, two related programs: the Youth Conservation Corps and the Young Adult Conservation Corps. Funding for both runs out this fiscal year; the YACC was probably doomed from the start because it was so closely connected with the sinking CETA jobs program.

The National Conservation Corps would hire youths aged 16 to 25 for year-round or summer jobs in national parks, forests and other public lands. Although administered by the Interior Department, it would leave a lot of authority in the hands of local and state officials. They could design projects to meet local and regional needs, ranging from urban parks to reforestation.

The program would be aimed particularly at disadvantaged youths and those from high-unemployment areas.

Although the legislation won wide, bipartisan support in the House, its fate in the Senate is uncertain. The Reagan administration opposes it.

The program would cost about $50 million for fiscal 1983 and $250 million a year through fiscal 1989. But for the price, more than 100,000 youths would be put to work annually.

If Congress and the administration want to save money, they ought to chop funding for a couple or outrageously expensive boondoggles, like the Tennessee-Tombigbee Waterway Project and the Clinch River Breeder Reactor.

For a fraction of their cost, the NCC would help meet immediate, practical needs by reducing youth unemployment and conserving public resources.

The conservation corps is a good idea whose time has come—again.●

FRED L. WINELAND

● Mr. SARBANES. Mr. President, for more than a decade Fred L. Wineland has served the citizens of Maryland with distinction as their secretary of state. His outstanding record of public achievement reflects his commitment to good government as an instrument for improving the public welfare, a record that was impressive even before he assumed office in 1971.

A leading Maryland businessman, Mr. Wineland has contributed much time and effort to civic and political activities and organizations. He has been active among the supporters of the American Legion, the Veterans of Foreign Wars, the Prince Georges Chamber of Commerce, the Prince Georges Board of Trade, the Lions Club, the Fort Washington Methodist Church, and the Fort Washington Democratic Club. In the 8 years prior to his current appointment, he demonstrated thoughtful and vigorous leadership as a member of the Maryland House of Delegates and the State Senate.

As secretary of state, Mr. Wineland has served as a liaison with the State's veterans and firemen, helping to make State government more responsive to their special needs. His versatile leadership and administrative efforts have resulted in effective accomplishments through his service on the Governor's executive council, the environmental council, the cabinet, and the State board of canvassers. He is a member and past president of the National Association of Secretaries of State, and is a member of the Maryland Rural Affairs Council.

Mr. President, Marylanders will soon be honoring Fred Wineland as he steps down as secretary of state. His friends and associates have organized a "Tribute to Fred L. Wineland" July 19 to recognize his distinguished record of public-spirited service. I ask my colleagues to join me in saluting this leading Maryland statesman.●

SUPREME COURT SWEARING-IN CEREMONY

● Mr. BRADLEY. Mr. President, I would like to congratulate members of the National Bar Association who participated in the annual group swearing-in ceremony before the U.S. Supreme Court.

This was the second year that the Women Lawyers Division of the National Bar Association sponsored this event in the Nation's highest court. The participating attorneys represented the private sector, corporate practice, State government and the law school environment.

Arnette Hubbard, Esq., the National Bar Association's first woman president, had the distinction of moving for the admission of 23 attorneys in open court on May 24.

Six of the newly initiated lawyers are from the State of New Jersey; Samuel T. Craft, Verica Marlaine Mason, Scheryl Christine Portee, Jacqueline Robin Rucker, Thomas E. Smith, Jr., and Eugene Harold Thompson. The District of Columbia hailed seven new attorneys; Martha W. Beckley, Montague Ashton Buck, Patricia Cornwell Matthews, Janice Orr, Zaida Josephine Torres, Louise Eighmie Turner, and Gail T. Wright.

Andrea Pair Bryant and Shelvin Louise M. Hall of Texas and Lawrence Randolph Bailey, Jr., and Sandra R. Durant of New York were also sworn in.

Other National Bar Association members admitted to practice before the U.S. Supreme Court were; Carolyn Yvonne Howard of Florida, Patricia Jeanne Eggleston of Illinois, Ronald Gardell Issac of Ohio, Eddie Lee Clark III of Pennsylvania, Roberta Virginia Hughes of Michigan, and Barbara Ann Laners of Washington.

Subsequent to this ceremony, five National Bar Association members were moved before the court by written notice. They include; Henry Sanders, Rose M. Sanders, and Ernestine Stubblefield Sapp from Alabama; Claudette Brooks from California and Paulette M. Caldwell of New York.

The admission of Marlaine Williams Daniels of Pennsylvania was moved by her father, Wesley S. Williams, Sr., Esq.

Welcoming the attorneys were Women Lawyers Division President Dolores Pegram Wilson, Esq., with the State of New Jersey Department of the Public Advocate, Division of Rate Counsel and Ceremony Chairperson, Lenore H. Cameron with the Department of Justice, and other NBA representatives.●

MAINE'S RICH, ROUGH DIAMOND

● Mr. COHEN. Mr. President, a recent article in the Maine Sunday Telegram profiled Robert Bahre, president of Oxford Bank & Trust, in Oxford County, Maine.

Bob has been a friend of mine for many years, and I was truly delighted that the paper decided to write about the career of this exemplary individual who has touched the lives of so many. He is a successful businessman, a lover of fine automobiles, and a strong family man.

I ask that the newspaper article about Bob be printed in the RECORD so that my colleagues might read about his fine career.

The article follows:

[From the Maine Sunday Telegram, June 27, 1982]

MAINE'S RICH, ROUGH DIAMOND

(By Bill Coldwell)

When I walked into the Oxford Bank and Trust and asked to see the president, I knew I was going to meet Robert Bahre, rough diamond and one of the most spectacular success stories of a self-made man in Maine.

As a banker, Bahre is a shock. Not many bank presidents drive to work in a jeep littered with newspapers and construction blueprints. Not many preside wearing wrinkled khaki pants held up with a battered belt and back pocket bulging with a scruffy worn wallet. Not many wear a faded sport shirt unbuttoned to reveal a weathered chest sprinkled with iron gray hair. Not too many reach behind their conference table, open up a refrigerator and offer you a cold soda in a frosted can.

And surely there's no bank president except Bahre who tells you right off that he never finished high school and that the real brains in the bank belong to young Eddie Dilworth. "He is the executive vice president and he really runs this operation."

A first-time visitor wonders if Bahre is putting him on, if Bahre is play-acting the part of the rough diamond, the poor kid who has made millions but is unchanged by new wealth.

Though he says he knows little about banking, it was Bahre and four friends who started the Oxford Bank in 1972. They opened it with $525,000 in assets. Ten years later, the assets top $37 million. The bank stands in a $2 million shopping center, developed by Bahre.

Some signs of Bahre's success in Maine simply do not jibe with the poor-uneducated-boy image he projects.

Start with his splendid, beautiful, historic home on Paris Hill. This mansion was the birthplace of Hannibal Hamlin, vice president under Abraham Lincoln. Now the Bahres live there, only the fourth family to own it.

Next, look at Bahre's taste in cars. He owns 43 of them, not counting his jeep and his green Mercedes and other family transportation. Bahre spends hugely on collecting the very finest of classic cars. Four Dusenbergs, Rolls Royces, the 1934 Packard which Carole Lombard gave to Clark Gable, a 1946 Tucker, a Thomas Flyer. He is building an enormous new "garage" to house his collection.

Bahre has made most of his money—and is still making it—hand-over fist here in Maine.

"I'm a contractor, a builder," he says. He looks like one, the kind who is at home out on the construction site, with clay on his work boots, cement on his shirt, and the roar of earth-moving equipment around

him, a hard hat on his head and blueprints under his arm. He readily admits he feels more at home running a backhoe than a bank.

"I started on a backhoe, digging septic tank holes, when I couldn't get out of seventh grade, and I liked it. My father was a farmer, raising tobacco and cows in Connecticut. I worked for him and then he gave me an acre of land, and I built a house on it and sold it. Built some more and sold 'em. Never got out of high school with a diploma. Instead, I bought land and built houses and was lucky."

Bahre first set foot in Maine in 1963, when he came to race a midget car at the old Oxford Speedway. "It was a perishing cold July 4. And the speedway was a rundown, ramshackle mess, which staged only this one race a year. When my club wanted to run a race here the next year, they wouldn't let us. So I rented the place, then bought it for a song a few months later."

Bahre recalls the broken wooden seats which were always catching fire when spectators dropped cigarettes, and the lines of people waiting to use the smelly outdoor toilets. "I decided to tear everything down, build new grandstands for 14,000 people and put on the kind of races that would draw crowds to fill those seats." Last year 17,000 watched the Oxford 250 race.

Bahre was 36 when he and his family moved to Maine about 19 years ago. "Some people think I was a big-shot builder then. Not so. I was doing a dozen houses a year."

In Maine, Bahre began to hit his stride. He began with housing projects on land he bought cheaply. Then came his first shopping center. By the 1970s the pace quickened. Today, he has developed 12 housing complexes and three shopping centers in the Oxford area. He started a factory to build mobile homes. He built industrial parks and brought new enterprises and new jobs to town.

Today, Bahre is operating the length of Maine. He is building 50 apartments for senior citizens in Presque Isle, 36 in Wells, a shopping center in Dover-Foxcroft, another in Jay and has still more development coming in Oxford. Next spring he hopes to begin building 44 condominium units overlooking the bay at Lincolnville.

Bahre, now 54, says "Maine has been very good indeed to me. I've been lucky in the people around me, and that's the secret, keeping good people. Lots of contractors keep changing subcontractors in plumbing or carpentry and such, always taking the lowest bidder to shave off a few hundred dollars. I stay with the same crews. It pays to stay with proven, good people. When you are working on a million-dollar project, with interest at 17 percent, you save a lot of grief and money by keeping good crews together."

In talking about his good luck in Maine, Bahre points to how he was able to buy the Hannibal Hamlin house. "I was eating lunch at Bean's restaurant one February day in 1971 when the owner said the Hamlin place was going up for sale. We were able to buy it and 75 acres for $75,000."

Bahre, in his quiet, gravelly voice, talks with pride about his son Gary. "He's taking over the Speedway this summer to put on a big Country Western show. The boy has booked stars—Tammy Wynette, Charlie Pride, Eddie Raven and Cheri Bonnie. He's hoping to draw 12,500 people. Set it all up himself at 19. Not bad."

Bahre was named by Gov. Longly to the Maine Guarantee Authority and recently to a second term by Gov. Brennan. "MGA gets a black eye because of its conspicuous lemons like the sugar beet plant at Easton or Evergreen Valley. But right in this Oxford area, there are 600 people working in plants started with MGA loans. Because they are successful and make their payments every month, the public doesn't hear enough about those."

When I left Bahre, I asked Oxford people what they thought about this neighbor of theirs. I found a few detractors, clearly envious of how an ordinary-seeming man from away could be so successful. But the owner of Oxford's radio station spoke for the majority when he said, "A lot of us are better off in Oxford because Bob Bahre is here. One man really can make a difference."●

AARP ENERGY POLICY STATEMENT

● Mr. PRESSLER. Mr. President, in a recent Louis Harris poll older Americans identified rising energy costs as the one problem most often faced personally.

All Americans have been affected by soaring energy costs since late 1973. The elderly, however, have been harder hit, in large part because they spend a greater proportion of their more limited income on energy.

Since October 1973, the overall cost-of-living has more than doubled—increasing by 108.1 percent.

However, home heating fuel oil has risen more than 3½ times as rapidly as the overall inflation rate. It has increased by 375.9 percent from October 1973 to April 1982. Other energy costs have also risen sharply. Residential natural gas increased by 262.4 percent and electricity by 147.3 percent during this same period. In addition, gasoline has soared by 201.1 percent during the past 8½ years.

These mounting costs have oftentimes imposed a heavier burden upon the rural aged living in Frost Belt States, especially those struggling on limited incomes.

Rising energy expenditures have caused their purchasing power to shrink more and more.

The net impact is that a retirement income crisis affects a large proportion of the rural aged today and threatens to engulf many more.

The legislative council for the American Association of Retired Persons is also deeply concerned about the impact of spiraling energy costs upon older Americans.

The legislative council has prepared a statement analyzing our serious energy problem and its effect upon the Nation's elderly.

Mr. President, I ask unanimous consent that this statement be printed in the RECORD.

The statement follows:

ENERGY POLICY

THE CURRENT SITUATION

More than eight years have passed since the Arab oil-producing nations embargoed the shipments of oil, and, more importantly, put an end to the era of cheap energy supplies. The price of OPEC oil has increased from $1.77 a barrel to over $34, or almost 20 times, with half of the increase occurring in 1979. Other non-OPEC producers have followed suit. The result has been to depress the economies of the non-oil-exporting countries and contribute to the inflation afflicting them. It has been estimated that, in the U.S., the annual rate of growth in real GNP has been cut by nearly one percent as a result of the energy price increases. During 1981 crude oil prices have been stabilized, thanks to a glut of oil on world markets—a glut that was, in turn, due in large part to the economic weakness of the U.S. and other industrial nations. This means that any revival of activity in these economies, and the probable resulting increase in oil consumption, will probably also generate renewed pressure on prices. The present stability may, therefore, be only temporary. In addition, the OPEC countries show signs of being able to limit production more effectively, and several of them will be exhausting their reserves in a few years.

Despite all this, the United States has still not developed an energy policy appropriate to its needs. These needs are: (a) to protect the nation from a repetition of the economic dislocations which might be created under future supply interruptions, and (b) to provide protection from inflationary pressures of even higher price levels which the OPEC cartel may be disposed to dictate. The nation has failed to correctly assess the strength and resilience of the cartel; it has failed to correctly assess the prospects for oil supplies both here and abroad; and it has failed to assess properly the prospects of developing alternatives to imported oil. Because of these failures, the nation is still importing almost half of its crude oil needs. The price of these supplies is negotable in only a limited way. In a nation so dependent on energy as the U.S., the excessive oil price increases have been inflationary and very damaging to the economy. Furthermore, the failure to resolve energy price and supply issues, may, in the future, further reduce the resources (GNP) the country would otherwise have available to meet its obligations with respect to the expanding elderly population.

DECONTROL OF DOMESTIC ENERGY PRICES

With respect to the decontrol of domestically produced oil and natural gas prices, the Associations see little choice but to accept this action, even though it will yield much higher prices for domestically produced fuel. That will mean, at least in the short term, the nation's having to accept and accommodate the inflationary effect these higher price levels will have. The only policy option available that could restrain the degree of inflationary consequences would be the reimposition of price controls for domestically produced oil and "new" natural gas. However, even if this were a legislatively realistic option, any relief from such inflationary pressures would be short-term and would very probably come at the expense of developing new domestic energy sources. That would tend to leave the nation at least as dependent as it is today (if not more so) on OPEC-priced foreign fuel and as vulnerable as ever to future oil embargoes, the inflationary consequences of cartel-dictated price levels, and economic and political blackmail. Moreover, since controls are very likely to discourage increased exploration, development and production of domestic fossil fuels as well as discourage

the introduction of new energy sources, the anti-inflationary gains made in the short term from such a policy would be more than offset by its long term inflationary consequences.

After having examined the options available to reduce the inflationary pressure generated by domestic and international developments with repect to energy, it is clear that the most viable one is conservation to constrict aggregate energy demand. While every effort should be made to induce such conservation, as, for example, through educational programs, tax breaks, the expansion of weatherization programs, a shift away from declining block utility rate setting to inclining block utility rate setting with lifeline provisions, and the expansion of mass transit, some form of rationing is needed for petroleum products.

It has become apparent with the passage of time that rationing through the price mechanism is the method most readily acceptable to the American public for achieving conservation and has apparently succeeded in reducing consumption. But to the extent that further rationing by price is employed, with the price increases effected through the imposition of new taxes, the revenue from such taxes should be channelled back to the public in general and the needy in particular.

The same principle should be applied to natural gas, where the now scheduled decontrol of "new" (discovered since 1977) natural gas prices by 1986 will result in very large price increases, perhaps as much as a doubling. The Associations believe that prices of natural gas must be allowed to reach their market levels, because there is no need to subsidize those consumers, including large industrial users, which can pay market prices for fuel. However, such decontrol must be accompanied by a type of windfall profits or equivalent tax, part of the proceeds of which should be devoted to compensating lower-income individuals, including low-income elderly, for what will otherwise be a heavy burden of higher home heating costs. if the rate at which new natural gas is to be decontrolled is accelerated, or if prices for "old" natural gas are decontrolled, the imposition of a windfall profits type tax will be even more essential. Indeed, in the absence of such a tax, the Associations would have to oppose any new gas decontrol acceleration or any old gas decontrol.

THE "WINDFALL PROFITS" TAX AND INCENTIVES FOR DEVELOPING NEW ENERGY RESOURCES

Since world oil price levels are set artificially by the governments belonging to the OPEC cartel, there is, strictly speaking, no "free market" in crude oil. Therefore, as a result of the decontrol of prices for domestically produced oil and gas, prices for those products will rise to the OPEC level, whatever that may be. This will, in turn, yield very large and unexpected "windfall" profits to domestic oil and gas producers—profits that bear no relationship whatsoever to the cost of exploring for, developing and producing the oil and gas that yields those profits (plus a reasonable rate of return on the investment). Consequently, it is appropriate that at least part of the windfall gain be recaptured by society through the tax mechanism. The "windfall profits" tax enacted for this purpose in 1980 resembles an exise tax. The alternative would have been an "excess profits" tax. At this juncture, the Associations would oppose efforts to eliminate the windfall profits tax, unless an excess profits tax were substituted for it. The windfall profits tax is the source of the funding for the Low Income Energy Assistance Program which provides assistance to lower income individuals and families to help them meet the rising cost of fuel and, if it is phased out, another source of revenue would have to be provided (see Income Policy for further discussion).

It is argued by some that the domestic oil and natural gas industry ought to be allowed to keep all of the profits that decontrol yields in order to provide incentives to explore for, develop and produce more domestic energy. However, sufficient incentives still exist even with the modest windfall tax. The significant amount of profits that decontrol will yield, coupled with price support programs (funded from some of the revenue that accrues from the windfall profits tax) should provide private energy producers with sufficient incentives to develop both conventional and new sources of domestic energy, like shale oil.

One domestic energy source with great potential for development is coal. Unlike oil, the U.S. has large, untapped reserves of coal, enough for many hundreds of years at any likely production rate. Also, unlike oil, the U.S. is an exporter of coal and could be a larger exporter, if port facilities were made adequate. Unfortunately, both the production and consumption of coal produce environmental problems. Also, coal is primarily used by electric utilities, and can only be converted into oil products at great cost. Private industry, encouraged and assisted by the government, should make a concerted effort to overcome the problems associated with the production and utilization of this valuable natural resource. Similar efforts should also be made with respect to the use of renewable energy sources such as solar, biomass, and wind power.

Given the inflationary pressures that will be generated, especially in the near term, as a result of the decontrol of domestic energy prices, it is obvious that, if the aggregate inflation rate is to be lowered, then actions taken to deal with the other factors contributing to that aggregate rate must be effective and strong enough to more than offset the inflation-promoting effects of energy price increases. While a consequence of this will probably be a lowering of living standards for the short term (the living standard of the elderly is being lowered in any event by inflation), there at least will be better prospects for building those living standards back up once the nation's economic house is in better order. If, however, all groups in the economy attempt to protect their current living standards at all costs, and ignore the inflation spiral and the energy situation, some groups will be successful in the short term (those with sufficient "market power") but others, like the elderly, will not. In the long run, all groups will lose in terms of living standards as the nation's economy weakens.●

ADDRESS BY EDMUND S. MUSKIE AT CENTER FOR NATIONAL POLICY DINNER

● Mr. TSONGAS. Mr. President, last night I attended a dinner in Washington sponsored by the Center for National Policy. The main speaker at the dinner was Edmund S. Muskie, the former Secretary of State and longtime member of this body, who was honored with an award for distinguished public service. Mr. Muskie's speech on U.S. foreign policy struck me as particularly timely, cogent, lively, and constructive. I would like to share his remarks with my colleagues, and ask that the speech be printed in the RECORD.

The speech follows:

AMERICA IN TODAY'S WORLD: ROME'S FUTURE MUST NOT BE HOSTAGE TO CARTHAGE'S RUIN

(By Edmund S. Muskie)

I am deeply moved and honored by this award. It is of particular significance to me in that a man I deeply admire—my predecessor as Secretary of State, Cy Vance—is Co-Chairman of the Center for National Policy. He is an all-too-rare example in our system of a public servant who resigned—on grounds of principle—from high office.

And, without that example, I could not have resigned from the Senate—on grounds of duty, I assure you—to become Secretary of State!

Be assured that in and of itself this award does not transform a politician into a statesman. If Harry Truman was right, I would have to be dead for 10 years to accomplish that.

As Secretary of State, I took great consolation from my political career. It served me well in dealing with my counterparts from parliamentary democracies. I felt little need to become a diplomat * * * and those of you who know me recognize the challenge such a transition would have been.

Yet, my chair at State did offer a new perspective on our political process, as it relates to foreign policy. Deep concern about the state of our national discussion on foreign policy issues moves me to address my remarks this evening to both our incumbent leaders and to those who aspire to incumbency.

The Nation's foreign policy machinery recently experienced a traumatic breakdown. Mark Russell may want to re-evaluate his observation: "Who would have thought, between Secretaries of State Kissinger and Haig, the one with the accent would be the one we can understand?" For I never understood Al Haig better than on the day he resigned. He cited no issue of principle, only the pervasive indictment that our highest policymakers had shifted from the careful course of "consistency, clarity and steadiness of purpose."

Succinct and all-encompassing, I could not have said it better myself. I might have been blunter: If we are not going to hell, then where the hell are we going, Mr. President?!

After reading over the weekend the talking paper Secretary-designate Haig prepared for his January 6, 1981, meeting with the President-elect, I more fully appreciated the limitations of my own power at the State Department. The Haig paper provided a novel concept of "Cabinet Government"—one department, indivisible, under God! On reflection, I have decided that I was far too modest when President Carter called. I asked only for the moon!

Many of us have resorted to looking for small signs of hope that the administration wasn't really serious after all about its foreign policy directions. Maybe the President didn't really mean it when he rejected the Law of the Sea Treaty because he thought "that when you go out on the high seas, you can do what you want." Maybe our backing away from the China policy of the past two administrations is really a wallposter rumor. Or maybe we aren't really serious about vio-

lating SALT II provisions with something called "Dense Pack."

Then the other day my worst suspicions were realized: Herbert Hoover was resurrected as the patron saint of the Commerce Department, presumably as a Republican symbol of fiscal responsibility. I began at that moment to take the President at his word on foreign policy!

To add to your anxiety, my historical research reveals that President Hoover in 1932, in Geneva, proposed a 30 percent overall reduction in offensive armaments. If I told you my real feelings about all this, there might be a run on banks tomorrow and new shovels issued for civil defense. So I won't! But don't wait until the President starts parting his hair down the middle!

Seriously though, I find little comfort or humor in Secretary Haig's confirmation of our government's ineptitude abroad. Let us be clear on one point: we don't want Ronald Reagan remembered in foreign policy the way Herbert Hoover was in domestic policy. Yet, I think Ted Sorensen is right when he argues that the Democratic party's search for new directions has focused almost entirely on domestic policy.

This is more than a personality or a party problem. Our Nation is seen too frequently by our friends—and enemies—as inconsistent, unclear and lacking in steadiness. And the unkindest cut of all: we stand accused of acting in a manner contrary to our own interests.

Rather than looking for scapegoats or making excuses, we should step back and examine the collective political process through which the attitudes of our people are formed, and on which our Nation's decisions are based. That is more difficult, but infinitely more cleansing.

I want to talk about American maturity—and American lack of maturity—in international affairs. Most of all, I want to talk about the quality of the dialogue we are carrying on among ourselves and with our global co-habitants. I am worried that we are talking around problems rather than to them, trying to put desire in place of fact, shibboleth in place of practical problem-solving.

We must begin with with faith in the wisdom of the American people. Our people have never been afraid of hard choices when the facts are put before them plainly. They do not expect to be talked down to. They are capable of sacrifice, of long-term commitment, if the necessity is explained by credible leadership. They do not want public relations "victories" for their Presidents so much as they want, for their country, competence and vision and compassion on the job. Phil Geyelin had it right the other day when he argued that what we are beginning to see as a wave of criticism of Reagan is not the "denigration of the Presidency," but the public registering its great disappointment with performance.

Thomas Jefferson said in 1820: "I know of no safe depository of the ultimate powers of the society but the people themselves, and if we think them not enlightened enough to exercise their control in a wholesome discretion, the remedy is not to take it from them but to inform their discretion."

We are at a time in our national history when maturity is to be expected. But familiar elements of immaturity are now being reflected in our political discourse. They are evident in a willingness to declare—quixotically—either our independence from, or our dominance of, the rest of the world. Neither is a viable option today, yet we waste so much energy debating the highly improbable.

Some of us may be too idealistic, some of us too cynical, or too selfish. The maturing of American foreign policy requires us to look at certain facts about ourselves and others.

Trying to see the world as it is, if I may use a homely analogy, requires a pair of bifocals. One set of lenses gives us the world in terms of our ideals, the other in terms of power. These are the lenses of idealism and realism, if you will.

We have had debates in the United States about Wilsonianism, about morality in foreign policy. There was a time not long ago when many Americans believed we had lost our moral bearing. Accusations of Realpolitik gone mad were heard widely.

The American people support the proposition that there must be a moral element, a very large moral element, in our foreign policy. If the distinction between repressive "authoritarian" and "totalitarian" regimes means something to the Reagan Administration, it is nevertheless a distinction without a difference to many.

We do believe in freedom, in democracy, we do care what happens to ordinary people, in *all* lands. We are, frankly, outraged by what happens to the common people in places like Poland, Argentina, South Africa, Afghanistan, Cambodia, and Lebanon. Any American leader—and any foreign leader—who turns his back on this reality of American foreign policy is in for a surprise . . . and a change.

Listen to Cyrus Vance: "Championing human rights is a national requirement for a nation with our heritage without this moral strength . . . it would be impossible to have anything called a 'foreign policy' at all."

Yet, the spectacles of realism have their uses, too. We live in a world of nation-states, and our duty is to defend American interests—simultaneously, one hopes, with the interests of our friends and allies. We need to be aware, looking at the world as it is, that Great Power rivalries will not go away . . . that the role of power will not soon be replaced on the international scene . . . that being strong is still a prerequisite to being free and independent.

But just as contrived perceptions about a weak America do not make America weak—even though perceptions can be dangerous—chest-beating rhetoric does not make America strong. We are never so ineffective in the eyes of the world as we are when our rhetoric exceeds our capacity to act, or goes beyond the better judgment expected of us.

What I fear most about the current Administration is that an old aphorism of Dr. Ben Jonson might come true. He said of public men: "They must create strange monsters, and then quell them . . . to make their art seem something."

It is only in putting the idealistic and the power-oriented views together that we can come to grips with the world and see our own interests more clearly. In that light, several things need to be said about some important foreign policy problems which transcend ideological fixations.

The most troublesome, most vital concern is our relationship with the Soviet Union. Yet this relationship is the most difficult to handle politically.

When we speak of our relations with the other nuclear super-power, what end do we have in mind? When the President speaks about the Soviet Union, he reminds me of the Roman Senator, Cato the Elder, who ended all his speeches with the ringing injunction, "Carthage must be destroyed!" And so it was.

But this is the nuclear age. Ending the competition by eliminating Russia will not work.

Nor can we compel their alien system to change its stripes, or to collapse, by any sudden and immense outpouring of public funds on defense spending—and by peddling arms indiscriminately. The only rational conclusion, therefore, is to carefully try to negotiate a drawdown in the balance of terror so as to avoid armed disaster.

Now, I acknowledge that the cry "Carthage must be destroyed!" sounds more like a screaming eagle than the admonition: "We must be strong enough and wise enough to keep the peace." But we have to recognize that our security is tied to that of the Soviets. We don't want our ultimate fate, and theirs, to be the same—a radioactive ash heap.

Those in the Reagan Administration—especially the President—who now conduct the START negotiations, bear an extraordinary burden before history for having been party to scuttling the SALT process. The current government will have run its course by 1984, and the American people will be entitled to ask: What have they done to build a framework that offers more substantial restraints on the arms race? It will not do to reject the fruits of years of bargaining—turning the 1980's into the "lost decade" or arms control—and to offer nothing more than a propaganda cover for an effort to "win" the next round in the race.

(On the home front, we are seeing Presidential support for a balance-the-budget constitutional amendment serve as a fig leaf for record deficits.)

Those who have caused the arms race to run free now face one test: the prompt negotiation of far-reaching limitations. They will discover soon enough that they have not re-invented the wheel. "How the West was won" is not the way to save Western civilization.

(I am encouraged by Mr. Shultz' testimony yesterday: "An approach to the Soviet Union limited to the military dimension will not satisfy the American people. We must also make it clear that we are prepared to establish mutually beneficial and safer relationships on the basis of reciprocity.")

We must also think long and hard about the policy gap that is developing within the Atlantic Alliance in regard to dealings with the Soviet Union. Historically, we have had our disagreements with the European Allies in peripheral areas—Vietnam and the Middle East come to mind. But never before have our views been so divergent when considering policy toward our principal adversary.

It was the United States, not Europe, that led the West in formalizing detente with the U.S.S.R. The Nixon Administration never intended detente as a policy of appeasement; it was never meant to be a substitute for a tough, realistic approach. It was instead a pragmatic effort to define the competition in terms acceptable to us.

True, detente was oversold to the American people. It was not a magic formula for a new generation of peace.

But detente made sense because it offered the West some leverage over Soviet conduct, provided the necessary tension was maintained between competition and cooperation. And, if we believe in the superiority of democratic systems, over time it could have

worked to undermine the rigidities of totalitarianism.

Is it the policy of the current Administration to bring about a major crisis in the Alliance simply because, to most Europeans, an easing of tensions still makes sense? Are we to judge a country's fidelity to principle on the basis of a narrow U.S. view of Western interests?

The threat to Western unity today is not, in my view, the result of nations pursuing their economic interests. Who is to say whether grain sales or energy purchases are of greater consequence?

The threat to Western unity lies in the failure to accommodate to pluralism. The threat lies in creating unrealistic standards and in seeking to enforce them by untenable means. It is the epitome of hypocrisy for an Administration which espouses the inviolability of the marketplace to seek to disrupt it in Europe.

This is not to argue that the marketplace should be the sole—or even the primary—determinant of Western interests. We cannot be so relaxed about Soviet intentions as to leave ourselves highly vulnerable to their unilateral action. It is essential that other countries recognize this as well, if they are to protect themselves against potential blackmail.

At this moment in the Middle East, we are facing serious dilemmas as we seek to protect American interests. This, too, may be the result of immaturity: The Administration's initial reluctance to accept an achievement of American policy—Camp David—apparently because it was a legacy of the other party. It stands out even now as President Carter's greatest contribution to history, and for which his country will honor him.

Valuable months were lost and the initiative slipped from our grasp. No more than casual interest was expressed in moving beyond Sinai withdrawal to autonomy talks. Without our influence, the parties reverted to their national tendencies. When the peace process stalled, it was replaced by anxiety, insecurity, and agressive behavior.

The Reagan Administration constructed a policy of "strategic consensus" on the myth that concern over Soviet influence outweighed historic regional divisions. As we have done so many times in the past, we allowed anti-Soviet preoccupations to obscure a sense of states' primary interests. And we failed to exercise leverage in behalf of our own interest: the maintenance of peace in a vital region.

One sad result is that, in the case of Israel, we hear serious public discussion for the first time about the differences between our respective national interests outweighing the similarities. But there is some wisdom to be extracted from the current tragedy.

Our relationship with Israel has rested on no firmer foundation than a moral one. We have needed no further justification. Though others, such as the vibrancy of her democracy and the influence of her strength, are also valid. Nothing can erase our moral commitment, but harm has been done. Doubts have been raised.

It behooves both our countries to work to contain our differences and to remove the doubt. Israel can do this by leaving Lebanon with all deliberate speed. And the United States can contribute by once again becoming an active partner in the peace process.

Finally, I must comment on the management of foreign policy, or the lack thereof. For the disarray we find here is also a sign of an immature approach.

The role of government is to govern. The American people—especially now that Secretary Haig is gone—have a right to know who is in charge.

I cannot recall in modern times hearing so often the excuse that the President cannot comment because he has not kept up with events while traveling in Air Force One! How many times have we seen him on the evening news caught by surprise by news from abroad? It is almost as if he is saying to us: "How was I to know, I am only playing the part of President?"

The situation reminds me of a "Peanuts" cartoon I was told about the other day. Lucy was using metaphor to explain life to Charlie Brown: "Charlie, on the great oceans are large ships that carry many passengers. On each ship there is a sundeck, and on that sundeck the passengers arrange their deck chairs. Some place them facing forwards so they can see where they are going. Some place them facing backwards so they can see where they have been. Now Charlie, on the great ship of life, which way will you face your deck chair, forwards or backwards?"

To which Charlie replied: "I can't even get mine unfolded."

I think it is time our President got his foreign policy deck chair unfolded. Even now, the President acts at times as if he is not associated with the U.S. government—let alone the head of its executive branch. It is as if he is the good spirit disembodied from the evil flesh of government. So much for the value of the experience of governing that largest state in the union!

This is serious work for serious people. I am afraid I must agree with Norman Podhoretz who recently wrote that President Reagan "has yet to address himself with an equivalent seriousness and energy to the international situation [compared to the domestic economy]."

Let that one sink in for a while. . . .

The Haig resignation reminds us that there are some old problems in foreign policy management still around. But the more serious problem for the United States is the coming to power in the White House of people who represent a discontinuity in assumptions about the nature of the postwar world and our role in it—when compared with previous administrations. The only way I know how to cope with this—and I will admit to a paradox, if not a contradiction—is more strenuous efforts at bipartisan consultation. The War Powers Act requirements provide a timely proving ground this week as the executive and legislative branches consider sending Marines into Lebanon. Can Warren Christopher's proposed "compact in foreign affairs" between the branches function in a situation where there is a clear danger of "imminent involvement in hostilities" and the President should want—not just be required—to share the decision on troop commitment with Congress? I hope so. George Shultz' experience should help the President work across the lines in a government where separate institutions share power and in which constitutional law has a central place. There are more years of experience, and collective wisdom, in Congress than can ever be assembled in a four-year administration.

President Reagan can succeed if he understands that many who did not work for his election are prepared to work for his success as President of all the people. I appeal to him, in the year of the F.D.R. centennial, to study what President Roosevelt did in 1940 in reaching out to construct a bipartisan foreign policy. Reach out now, because the going will get tougher.

As we worry about perceptions of weakness—as we fret about our vulnerabilities and focus on our deficiencies—we would do well to look at ourselves as a nation the way FDR looked upon himself as a man.

Despite his crippled condition, he stood as a confident symbol of what this land ought to be. Haynes Johnson recently wrote from Campobello:

"The FDR legacy most worth remembering involves a state of mind. . . . Millions of Americans never thought of him as crippled. Instead of becoming an object of suffering and weakness, he became the symbol of optimism and strength for a nation experiencing its gravest challenges at home and abroad."

To those here tonight who have embarked, as I have before, on the long road to the White House: have confidence in our people . . . inform their discretion . . . speak to them forthrightly about the realities. And as you campaign for our highest office, remember FDR's advice:

"The future lies with those wise political leaders who realize that the great public is more interested in government than in politics."

Thank you.●

NURSING HOME COMPLIANCE WITH HILL-BURTON REQUIREMENTS

Mr. EXON. Mr. President, recently I received a draft copy of proposed rules which would revise the Hill-Burton uncompensated care regulations. As is widely known, the present Hill-Burton regulations have been the subject of considerable controversy since their issuance in 1979. Nursing homes in particular have been greatly troubled by numerous provisions which were obviously aimed at hospitals, and which have little or no relevance to the regimen of nursing homes. The Department of Health and Human Services has responded to nursing home complaints by repeatedly assuring nursing home representatives that revisions of the regulations were under study. I have initiated similar inquiries, and have received the same response. The Department has admitted on several occasions that the regulations are inappropriate for nursing homes in several important respects, and that nursing homes should simply comply "to the best of their ability" while the Department was reviewing the matter.

Now, however, this draft revision is apparently about to be issued after 3 years of study. For those groups and individuals who have relied upon the Department's study of the issue, and have held off initiating legal action for relief, the draft rules are extremely disappointing. Despite recent newspaper reports implying that the regulations are being cut back, it clearly is not true with respect to long-term care facilities. The same assumptions and provisions which have made nursing home compliance with the present regulations virtually impossible remain

unchanged in the draft rule. The rules do nothing to alleviate the present problem of identifying persons who are eligible for Hill-Burton assistance but who are not also eligible for medicaid. Similarly, the rules do not confront the problem of identifying services that may be applied toward the uncompensated care obligation, and which are neither covered by medicaid nor considered luxury services. Other extremely important issues, such as nursing home waiting lists of 2 or more years, are ignored in this draft. Once again, the Department has chosen, for some unexplained reason, to treat all Hill-Burton facilities as though they have the exact same characteristics as hospitals. The concerns voiced by nursing homes over the past 3 years, many of which have been termed legitimate and valid by Department officials, simply were not addressed at all in these draft rules. Rather, the Department is seemingly attempting to promote cosmetic changes as a cure for the more substantial problems.

Mr. President, earlier this year I introduced S. 2465, a bill which would do what the Department had been implying for 3 years that it was going to do—that is, make the technical adjustments necessary to enable nursing homes to comply with the Hill-Burton requirements and provide the requisite uncompensated care. I introduced this bill out of some frustration over the slow pace of the Department in coming up with new Hill-Burton regulations. Now, however, the need for this bill is even more apparent, as the Department has gotten off track and apparently is content to leave the situation as muddled as before. I urge the Senate to give prompt consideration to S. 2465.

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 8:30 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the following Senators be recognized on special orders of not to exceed 15 minutes each: Senators NUNN, STAFFORD, and LEAHY.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that tomorrow, after the recognition of the two leaders under the standing order and the execution of the special orders, there be a period for the transaction of routine morning business of not more than 10 minutes in length, in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PENDING BUSINESS

Mr. BAKER. Mr. President, a parliamentary inquiry. When morning business is closed tomorrow, what will be the pending business before the Senate?

The PRESIDING OFFICER. As of the close of business tonight, the pending business at that time will be S. 1867.

RECESS UNTIL TOMORROW AT 8:30 A.M.

Mr. BAKER. Mr. President, if no other Senator seeks recognition, and I see none, and having conferred with the minority leader and agreed that we will transact no further business this evening, I move now, in accordance with the order previously entered, that the Senate stand in recess until 8:30 a.m. tomorrow.

The motion was agreed to and, at 9:38 p.m., the Senate recessed until tomorrow, Friday, July 16, 1982, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 15, 1982:

THE JUDICIARY

Antonin Scalia, of Illinois, to be U.S. circuit judge for the District of Columbia circuit, vice Roger Robb, retired.

J. Lawrence Irving, of California, to be U.S. district judge for the southern district of California, vice Edward J. Schwartz, retired.

DEPARTMENT OF JUSTICE

Frederick J. Scullin, Jr., of New York, to be U.S. attorney for the northern district of New York for the term of 4 years, vice George H. Lowe, resigned.

CONFIRMATION

Executive nomination confirmed by the Senate July 15, 1982:

DEPARTMENT OF STATE

George P. Shultz, of California, to be Secretary of State.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

FLORIO SPEECH CALLS FOR "ECONOMIC NATIONALISM"

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. EDGAR. Mr. Speaker, some have said that no alternatives to the budget proposals of the administration have been offered in the Congress. As we know, that is not the case. Each time the 1982 and 1983 budget legislation has been considered by the House, responsible alternatives have been offered.

Our colleague from New Jersey, JIM FLORIO, has been among those Members of Congress articulating a need for viable alternatives to the administration's program. While addressing the Democratic National Party Conference in Philadelphia on June 25, Congressman FLORIO assailed the current philosophy of government as the problem, and called for a new program of "Economic Nationalism."

This program would have government and industry cooperating in mobilizing the Nation's resources, both natural and human, to better compete in the international marketplace.

I commend the attention of my colleagues to JIM FLORIO's speech. A copy of his remarks as prepared for delivery follows:

"THE NEW NATIONALISM: A DEMOCRATIC ALTERNATIVE TO REAGANOMICS"

REMARKS OF CONGRESSMAN JAMES J. FLORIO

Ronald Reagan came to Washington with a self-perceived "mandate," primarily to reduce inflation and interest rates, as well as to stimulate investment and employment, all while balancing the budget. His operating principle was that government was not part of the solution, it was the problem.

By any objective standard, his policies have failed. Four million more workers are without jobs today than when he assumed office. An economic recession in effect for over 1 year, as well as high interest rates, flow directly from projected Reagan administration deficits of three-quarters of a trillion dollars. So much for the balanced budget.

In 206 years, we have accumulated a national debt of $1 trillion and in 4 years, the Reagan administration will run deficits of three-quarters of a trillion dollars.

Business investment in 1982 will be less than in 1981. So much for supplyside economics.

With hindsight, it is clear that the policies of the Reagan administration were inevitably doomed to fail. This is so because they run counter to basic standards of the American people: Commonsense, fairness, and moderation.

It violates commonsense to advocate high increases in Government expenditures for defense (to the point of spending $1.5 trillion during this administration), and to be cutting incoming revenues by $750 billion over 4 years, and not expect to have the deficits we are and will be faced with.

Budget Director David Stockman, in the famous Atlantic Monthly article, verified the now obvious conclusion that the whole Reagan economic package was based on "snap judgments" and that "none of us really understands what is going on with all these numbers."

Our people now see that Reaganomics is inequitable, and unfairness runs against the grain of America. An economic program that gives an additional $12 billion in tax breaks to oil companies, or $30 billion in tax breaks to business under the tax leasing loophole, is unfair. (For example, General Electric, which earned $2.5 billion last year, not only paid no taxes, but got a $100 million tax refund.)

That unfairness is particularly the case when those revenue giveaways and the resulting deficits are used to justify the elimination of social security benefits for 3 million senior citizens and the elimination of the school lunch program for 3 million children.

The Congressional Budget Office evaluation of the impact on our people of the administration's plan in its first year succinctly makes the case for its unfairness. American families earning $10,000 a year lost $240 in 1981 as a result of Reaganomics. The 1.2 percent of households with incomes over $80,000 a year had a net gain of $15,000.

The radical nature of the administration's overall policies take them out of the mainstream of fundamental values that moderate Americans adhere to.

Our belief that education is the key to social mobility and economic advancement is attacked by an administration that sought a 30 percent cut in education funding as one of its first proposals.

The bipartisan consensus that has evolved over years as to the importance of protecting our environment is jettisoned in the process of dismantling EPA. Environmental protection becomes environmental exploitation. Civil rights, human rights, and equal rights are matters not even on this administration's agenda.

Our belief that a free market presupposes a fair market falls on deaf ears. The Federal Trade Commission is about to be emasculated. Rather than protecting consumers, this administration is literally declaring open season on them.

One thing is clear. The radical nature of this administration's philosophy when finally perceived, as well as its unfairness and lack of commonsense, presents the Democratic Party with a great opportunity.

But, as Leo Durocher said: "You can not beat something with nothing." I am not satisfied, and Democrats should not be satisfied, to come back exclusively on the basis of Republican failures. What we advocate, our alternative affirmative program, should provide a direct counterbalance to the administration's weaknesses.

Our philosophic program should be moderate in the sense that it rejects the idea that Government should do everything, as well as rejecting the Reagan radicalism that says Government should do nothing. There is an appropriate centrist balance that is mutually beneficial for the public and private sectors.

We seek fairness and equity for our citizens based on the realization that a healthy national economy is the mechanism most required to provide prosperity and social justice.

We apply commonsense in the realization of the need for a governmental presence, and that its cooperation with the private sector is needed to provide a healthy economy. Such an economy is essential if we are to successfully compete in the international market of the future, and compete we must. If you have any doubts about this fact of economic life and commonsense, you can best verify it at any steelworkers or UAW hall.

The Reagan philosophy regarding Government as the enemy unilaterally disarms us for the economic combat required of us in the international arena. Democrats must espouse a new policy of Economic Nationalism, with Government as a catalyst for industrial and technological advancement and human resource development.

Our foreign trade competitors mobilize all their resources through public and private sector cooperation to increase their productivity and markets.

Our policy should likewise be to marshal our substantial national assets, particularly in the high technology of the future.

Public sector responsibility in such an undertaking is essential to its success. Targeted tax incentives to enhance productivity; an educational system and job training programs to provide the work force of this new era; funding for basic research and development to form the basis of technological break throughs, and a public transportation system necessary for our economic health. These are but a few of Government's responsibilities that are required for the private sector and the Nation to build the new economic nationalism.

This policy emphasizing unity stands in stark contrast to the Reagan policy of national division. The Reagan policy divides our States from our Federal Government and our regions from each other. It divides the public sector and subordinates it to the private sector. The Reagan policy redistributes wealth the wrong way, shreds the so-called safety net for the disadvantaged, and holds out no hope of new opportunity for the young or security for the old.

The national divisions that inevitably result from such a policy are crippling our capability to coordinate and make more competitive our national economic strength. Failure to reverse this policy will result in the United States becoming an economic colony of foreign interest.

We celebrate this year the 100th anniversary of the birth of Franklin Delano Roosevelt, whose philosophy about government must be given new definition if we are to survive economically in today's world. President Roosevelt rejected the current Washington view that a passive, inert government, particularly in a time of national difficulty, is acceptable.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

In Philadlephia, in 1936, FDR said: "Government can err, Presidents do make mistakes, but the immortal Dante tells us that divine justice weighs the sins of the cold-blooded and the sins of the warmhearted on different scales. Better the occasional faults of a government that lives in a spirit of charity than the consistent omissions of a government frozen in the ice of its own indifference."

Now, in 1982, what is required is a renewed national commitment to Marshal our resources, both natural and human. We must coordinate our public responsibilities and our private business capabilities to enhance our economic strength in the world today. This is the essence of economic nationalism. Such a commitment can, should, and will be the basis of the revitalization of the democratic Party and the Nation.●

ELMER W. AHMANN, SR.

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. SKELTON. Mr. Speaker, I would like to take this opportunity to inform the Members of this Chamber of a great Missourian who recently passed away, Mr. Elmer W. Ahmann, Sr.

Mr. Ahmann was a partner in the Ahmann & Son law firm in Independence, Mo., for 54 years until his retirement last year. He was also a former president of the Independence Bar Association.

Aside from his dedication to our judicial system, Elmer Ahmann took great pride in his community. He was a member of St. Luke's United Church of Christ and also belonged to the Independence and John Knox Lions Clubs.

Mr. Elmer Ahmann will be missed by his family and friends. He will, however, long be remembered for his dedication to his fellow man and his lasting contributions to the community in which he lived.●

MX INTERIM BASING AND THE WINDOW OF VULNERABILITY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. WEISS. Mr. Speaker, Congress has debated for several years whether we should continue with the MX intercontinental ballistic missile program. The House will be voting on this issue sometime in the next few weeks, as part of the Defense Department authorization bill for fiscal year 1983, H.R. 6030.

In light of this upcoming action, I want to make sure that my colleagues are aware of some statements which have recently been made by administration officials on the MX interim basing plan. That plan, calls for deploying some 40 MX missiles in currently existing Minuteman III silos, and could cost, according to Gen. James McCarthy, Special Assistant for MX, a total of $19.3 billion, in 1982 dollars, over the entire life of the project.

Some of us have questioned the wisdom of spending such sums of money for a project which, on the surface, does not increase the potential survivability of the MX force, nor does it close the so-called window of vulnerability which supporters of the MX claim makes the U.S. ICBM force susceptible for a Soviet first-strike attack sometime during the 1980's.

Now, the Air Force itself has admitted that the MX interim basing plan will do nothing to close the supposed window of vulnerability. In testimony before the House Appropriations Committee Subcommittee on Military Construction, administration witnesses made the following statements:

The reason that I did not relate interm basing to the survivability problem is that the resulting survivability will be no better than it is now. Dr. Richard DeLauer, Undersecretary of Defense for Research and Engineering.

In the interim deployment in the Minuteman silos, without additional hardening, we are not gaining anything additional. (In reply to the question: What are we gaining in protection against vulnerability? (Dr. Marvin Atkins, Director, Offensive and Space Systems, Office of the Undersecretary of Defense for Research and Engineering.)

* * * we have not said that putting them (MX missiles) in silos is the survivable basing mode. (Brig. General James McCarthy, Special Assistant for MX, Directorate of Research, Development, and Acquisition, Headquarters, U.S. Air Force.)

I think the message is clear: this House is being asked to approve a basing scheme which will not improve the survivability of the U.S. ICBM force in the slightest degree. More importantly, we are being asked to approve production of a missile for which a survivable basing scheme may never exist. The Air Force has proposed or examined more than 30 different basing schemes, and has concluded that none of those can insure that our ICBM's would survive a preemptive Soviet strike. The Pentagon is now examining dense pack, or closely spaced, basing, which may or may not prove survivable. We will not know for several months whether dense pack has even a chance of succeeding. We are being asked to authorize work on the interim silo-basing plan, and production of 40 missiles that would be based in those silos, with no assurance that we will have any place to put the remainder of the MX missiles when they are ready to be produced.

Mr. Speaker, in this year of tight budgets, when we are being asked to slash domestic programs right and left, this Congress cannot justify spending hundreds of millions of dollars on this Rube Goldberg scheme, the latest in a long-line of unsupportable MX basing plans. the DOD authorization bill calls for spending $715 million dollars for the interim basing mode, $1.14 billion for production of missiles to deploy within that system, $1.734 billion for research, development, testing, and engineering of the missile itself, and $160 million for long-term basing research. In addition, the military construction authorization bill, H.R. 6214, includes $103 million for MX-related facilities.

I urge my colleagues to eliminate at least all money designated for the interim basing system and for missiles to be based within that system unless we have before us detailed plans for a permanent, survivable MX basing system. The interim plan is a waste of the taxpayers' money, and should be rejected by this House.●

RAISIN AND CANNED FRUIT EXPORTS ARE VICTIMS OF EUROPEAN SUBSIDIES

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. FAZIO. Mr. Speaker, the U.S. raisin, canned peach, and canned pear industries have become another victim of the illegal subsidization practices of the EEC. The Community's subsidies for raisins, canned peaches, and canned pears threaten to eliminate entirely the U.S. industry's EEC export market.

The EEC innocently tells us that these subsidies do no more than compensate for the price differences between U.S. raisins and canned fruits and their EEC counterparts. The fact of the matter is that the EEC subsidies run far higher than is necessary for the intended compensatory effect. They violate the General Agreement on Tariffs and Trade (GATT) and give EEC canned fruit and raisins a significant and unfair competitive advantage over the U.S. product.

The EEC's unfair practices have caused substantial economic damage to the U.S. raisin and canned fruit industries. Exports of canned peaches to the EEC have dropped 58 percent since the subsidies were imposed, representing a $98.5 million loss. Exports of canned pears and fruit mixtures dropped 66 percent, representing a loss of almost a quarter of a million dollars. Raisin exports have fallen by approximately 40 percent, a drop that threatens to reduce substantially the income of California raisin producers. The greatest cost, however, is the human cost. Layoffs and actual plant closings have affected thousands of California cannery workers. Farm

workers have been hurt by a 13-percent shrinkage of prime fruit acreage. There is no reason why our raisin and canned fruit industries should bear the burden of the EEC's discriminatory policies.

Even if the effect of the subsidies were less harmful, we should still not tolerate the EEC's total disregard for its international commitments under GATT. Such behavior sets dangerous precedents and threatens to sabotage our efforts toward eliminating international trade barriers, efforts that have mutually benefited countries on both sides of the Atlantic.

I am happy to say that our Government has recognized the urgency of this situation and has moved to challenge the EEC subsidies through the dispute settlement procedures of GATT. We have, thus far, vigorously pursued a favorable resolution of the EEC subsidy problem, and we must continue to do so when panel hearings under the dispute settlement procedures begin. Our resolve is even more important if the delaying tactics instituted by the EEC are any indication of their attitude toward the hearings. The July 14 meeting was suddenly canceled at the EEC's insistence, and they now have requested that the hearings be put off until September. The EEC's request for postponement seems to be nothing but a bad faith effort to frustrate the due process of the GATT while the raisin and canned fruit industry's losses continue. We must impress upon the EEC our need to have the hearings held before September and our refusal to tolerate any further delays.

With a continued all-out effort, I am confident that our position will prevail in the hearings. A victory there will put the responsibility for final action, in the form of retaliatory meaures, in the hands of the President. I urge the President to act quickly and decisively when the time comes to protect the U.S. raisin and canned fruit industry from further deterioration.●

CHANGE THE INSANITY DEFENSE

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. DREIER. Mr. Speaker, the verdict in the Hinckley case shocked the conscience of this Nation. We have finally come to the realization that there is something drastically wrong with the way in which our criminal justice system deals with insanity. To try to correct the intolerable situation which now exists, I have introduced H.R. 6742 to change the insanity plea to a plea of "guilty but insane."

This bill sets forth the procedure to be followed if a defendant is believed to be mentally ill at any stage of the criminal justice process. Its primary concern is that a defendant who has been found guilty or guilty but insane and who is currently insane should be hospitalized and receive treatment and, upon his recovery, serve the remainder of his sentence in prison. A defendant whose mental illness would prevent him from understanding the nature of the charges against him would be hospitalized before being brought to trial.

This approach to criminal insanity makes far greater sense than the current law in this area. It recognizes a need to provide treatment for a mentally ill defendant while, at the same time, insuring that a person who has committed a crime is punished. I believe it is the best way of dealing with a very difficult issue, and I urge my colleagues to join me in support of this measure.●

TRIBUTE TO FIORELLO H. LA GUARDIA

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. BIAGGI. Mr. Speaker, today I am proudly introducing a resolution with my colleague from New York, Mr. GARCIA, honoring the 100th anniversary of the birth of Fiorello Henry La Guardia, a former Member of this august body and a three-term mayor of New York City.

Specifically, this resolution would designate December 11, 1982, as "Fiorello Henry La Guardia Memorial Day," and requests the President "to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities."

As one who was born and raised in the city of New York, I am especially privileged to pay this richly deserved tribute to one of the truly greats in American history. I have vivid memories from my childhood of a fiery Mayor La Guardia campaigning from atop a truck in the upper east side of New York City. Several years later, I was honored to be the letter carrier who delivered mail to the mayor and his wife, Marie, at 1274 5th Avenue in east Harlem. Later on, Mayor La Guardia provided me with yet another fond remembrance when he attended my swearing in as a New York City police officer.

To this day, I still have enjoyable chats with the mayor's wife, Marie, about our memories of the man many affectionately refer to as "the Little Flower."

Fiorello Henry La Guardia was born on December 11, 1882, in New York City to Italian parents, Achille Luigi Carlo and Irene (Coen) La Guardia. He received his early schooling in Arizona and upon graduation from high school became a newspaper correspondent for the Phoenix, Ariz., Morning Courier, and later for the St. Louis, Mo., Post-Dispatch.

In the years to follow he became a clerk and consular agent in the U.S. consulate in Hungary; an interpreter at the immigration station on Ellis Island in New York Harbor; a lawyer; and deputy attorney general for New York State.

He was first elected to Congress in 1916 and participated in the special session called by President Woodrow Wilson to declare war against Germany. Always a man of his word, Congressman La Guardia voted for war and then enlisted for military service himself, as he promised his constituents he would do. After distinguishing himself as a bombing squadron leader at the Italian front until war's end, he returned to his seat in the House, which had been reserved for him during his absence by a special act of Congress.

He left the Congress for a 2-year period in 1919 to become president of the New York Board of Aldermen, but later returned to the U.S. House of Representatives to serve for another 10 years (1923–33). His record shows that he was an outspoken opponent of prohibition and child labor legislation, and he was a leading supporter of old age pension, unemployment insurance, and strict Federal control of water power and other natural resources.

In 1933, he was elected mayor of New York City on the Fusion ticket, and he was reelected in 1937 and again in 1941, making him the first mayor of New York ever to be elected to three consecutive terms.

Among his many accomplishments as mayor were the balancing of the city budget; elimination of the considerable graft and corruption that had existed in the awarding of city contracts; construction of many new public school buildings; the establishment of low-cost housing and slum clearance programs; and improved health and sanitary conditions within the city.

He also played a major role in city beautification efforts and promoted a number of major construction projects, including the Triborough and Bronx-Whitestone Bridges, the Queens-Midtown Tunnel, and the La Guardia Airport—which bears his name.

Mr. Speaker, Fiorello La Guardia's vast energy, fiery leadership, and considerable wisdom contributed greatly to the betterment of our Nation and the city of New York. His public service career serves as a benchmark from which others are judged.

An incorruptible man, Mayor La Guardia's many accomplishments and the honesty and fairness which characterized his work continue to serve as an inspiration to all Americans, particularly those of us who share his Italian heritage.

Who would have ever thought that a young Italian American boy who caught only brief, but everlasting glimpses, of Mayor La Guardia campaigning on the streets of New York would become a Member of Congress and have this distinguished opportunity to pay tribute to such a memorable individual. It deeply gratifies me to commemorate Fiorello La Guardia's legendary life with this resolution.

At this time, Mr. Speaker, I insert a copy of the resolution's text:

H.J. RES.—

Joint resolution designating December 11, 1982, as "Fiorello Henry La Guardia Memorial Day"

Whereas December 11, 1982, is the one hundredth anniversary of the birth of Fiorello Henry La Guardia ("The Little Flower"), who served with great distinction for 12 years in the U.S. House of Representatives and for 10 years as Mayor of New York City; and

Whereas his vast energy, fiery leadership, and considerable wisdom contributed greatly to the betterment of our nation and the City of New York; and

Whereas his public service career serves as a benchmark from which others are judged; and

Whereas his many accomplishments and the honesty and fairness which characterized his work continue to serve as an inspiration to all Americans, particularly those who share his Italian heritage: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 11, 1982, is designated as "Fiorello Henry La Guardia Memorial Day" and the President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

EQUAL RIGHTS AMENDMENT

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1982

● Mr. OTTINGER. Mr. Speaker, I am pleased to have joined many of my colleagues yesterday in reintroducing the equal rights amendment.

Women have made significant and identifiable gains since laws such as the Equal Pay Act of 1963, the Civil Rights Act of 1964, and the Women's Educational Equity Act were enacted. Individual laws, however, are not far reaching enough to eliminate the systematic discrimination barring women from full economic equity. There should be a constitutionally based right of action against any discrimination based on sex just as there is for discrimination based on race.

The ERA is an economic issue for women, for men, and for the country. Current economic conditions have made the passage of the ERA even more crucial than when it was first approved by the Congress in 1972. It is a basic issue that relates directly to jobs, wages, education, pensions, social security, and all other economic factors in our society.

Ratification of the ERA is pivotal in the national effort to improve America's productivity and to reduce Federal spending by bringing women more fully into the work force.

I am proud to be an original cosponsor of the ERA bill introduced yesterday.●

WITHDRAW U.S. TROOPS OVERSEAS: DOD AMENDMENT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mrs. SCHROEDER. Mr. Speaker, a recent study published by the Institute of Foreign Policy called for the withdrawal of most U.S. ground troops from Europe and South Korea. The July 11, 1982, New York Times contained a summary of the report, which I would like to share with my colleagues.

In the March 4, 1982, CONGRESSIONAL RECORD, at E771, I inserted a brief bibliography of articles and studies on the question of U.S. ground troop commitments outside the United States.

[From the New York Times, July 11, 1982]

STUDY CALLS ON UNITED STATES TO BRING GROUND TROOPS HOME

(By Richard Halloran)

WASHINGTON, July 10.—A new study published by the Institute of Foreign Policy Analysis here advocates withdrawing most United States ground forces from Europe and South Korea and relying more on sea power to defend American interests abroad.

The study reflects a spreading sentiment in Congress to reduce American forces in Europe and Asia and to make Europeans and Asians assume responsibility for most of their own conventional defense.

That sentiment, according to Congressional officials, is expected to become stronger later this year and next year as more demands for restraint on military spending are heard in an effort to cut the Federal deficit.

"The time has come for the United States to begin withdrawing most of its ground forces from Europe and to adopt a global strategy based on sea power and the ability to project power from sea to shore," the study said.

"The Japanese, no less than the West Europeans, should be expected to assume primary responsibility for protecting themselves from the regional threats posed by the Soviet Union as well as those presented by others," it said. Japan announced Friday that it would increase its military budget by 7.34 percent for the fiscal year beginning next April 1.

The study also recommends that the United States modernize South Korean forces, then withdraw American troops.

The two-part study, "U.S. Strategy at the Crossroads," was written by Jeffrey Record, a specialist in military affairs and consultant to the Senate Armed Services Committee, and Robert J. Hanks, a retired rear admiral and a political-military analyst.

The Pentagon says that 40 to 60 percent of the military budget, which is estimated at $215 billion for 1983, is committed to the North Atlantic alliance, and that it would cost $17 billion over five years to bring the troops home.

Senator Ted Stevens, Republican of Alaska and chairman of the Appropriations Subcommittee on Defense, says that United States military commitments to the alliance will cost $133 billion in the fiscal year starting Oct. 1.

The United States has 337,300 military men and women in Europe, of whom 220,000 are Army and Marine troops. In South Korea there are 38,200 American troops, of whom 28,500 are ground troops. In both places, the rest are Air Force and Navy personnel, as are all the American forces in Japan.

In the study, Mr. Record asserts that "a revolution in America's strategic outlook and military posture is dictated by two seminal events." One, it says, is "the steady and apparently irreversible disintegration of the North Atlantic Treaty Organization as an instrument capable of mustering an adequate collective forward defense of Western Europe." The second, it says, is "the emergence of a host of new threats to vital United States security interests in Southwest Asia and in other areas outside Europe where the United States does not enjoy politically secure military access ashore."

Mr. Record says of American forces, "Their safety is being threatened as much by what our allies are not doing as by what our adversary might do."

"By almost any standard of peacetime military performance, key European allies—notably Germany and the Low Countries, where most United States forces in Europe are stationed—are failing to do their part for the common defense," he says.

Admiral Hanks, acknowledging that the conquest of Europe by the Soviet Union would be a severe political and economic blow to the United States, says, "Still, there is one solid truth from which Europeans cannot escape: For the United States, such an admittedly catastrophic development would not necessarily be fatal; for the nations of Western Europe, it most assuredly would be."●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. McDONALD. Mr. Speaker, earlier today, I cast a "nay" vote on H.R. 6687, the so-called urgent supplemental appropriations. As the legislation allows the Federal Government to spend another $5.5 billion of the money earned by the taxpayers of this Nation, I had little difficulty in opposing it. However, I did not oppose all provisions of the bill.

A provision of H.R. 6687 repeals the special tax benefits enacted last December. My position on the tax benefits has been clear: I was opposed to the legislation by which they were enacted and I have cosponsored legislation calling for their repeal. Furthermore, when given the opportunity to cast a separate vote on the issue, I have always voted for repeal and would have done so today if the provision had not been attached to a $5.5 billion spending bill.

In my 8 years as a Member of Congress, I have never voted for a salary increase or special tax consideration. In fact, I have introduced legislation that calls for a 10-percent decrease in congressional salaries for every year that the Federal budget is not balanced.

It has become the practice of this Congress to obscure sensitive salary and tax issues in unrelated bills. Such practices must cease. If we are to deal with such issues, then we should do so openly and allow our votes to reflect our positions. I, for one, simply could not justify the continuation of the tax and tax, spend and spend policies of the Federal Government based solely on the presence of the repealer provision. Therefore, while supporting the repeal of the special tax benefits, I felt compelled to vote against the bill.●

HOODWINKING AMERICA

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. FINDLEY. Mr. Speaker, a strong protest against U.S. troops in Lebanon was issued by Allan Seiler, editor of the Pike Press, a Pittsfield, Ill., weekly, on June 30. His commentary accused Israel's Prime Minister Begin of hoodwinking America.

The hoodwinking theme is appropriate. Israel had only the flimsiest pretext for invading Lebanon, as it had when it bombed the nuclear reactor at Iraq.

Text of the editorial:

ISRAEL'S BEGIN IS HOODWINKING AMERICA

America is being hoodwinked by Israel's Menachem Begin.

Consider a "Letter to the Editor" we received this week from an organization called save the Children in Westport, Conn. signed by the president of the University of Notre Dame. The letter is obviously intended for widespread publication. It asks for money to aid "the suffering children of Lebanon in their time of crisis." It tells about the plight of "thousands of homeless . . . stunned and grieving families . . . whole communities huddling on open beaches . . . scavenging for food and water . . . Beirut engulfed in fear, death and destruction . . ."

We don't deny the clear need for help nor the compassionate sincerity of the letter's appeal. But what does the letter say is the cause of all this human suffering? "The new outbreak of violence in Lebanon."

Nowhere in the letter is the true cause of the human misery identified by what it is: unadulterated armed aggression with American-made armaments presumably provided only for defensive purposes.

Why does America blindly support Israel in every United Nations resolution denouncing these actions? Why does the U.S. continue to aid Israel with $3.2 million annually in foreign aid as well as with military hardware by which they can contrive their own holocaust against the Palestinian people?

U.S. aid money to Israel amounts to almost half the total that is given to all other countries in the world. Over the years since the creation of Israel, America has given that country about $25 billion.

Even before its recent invasion of Lebanon, observers who had studied the subject reported that Israel practiced wide-spread and cruel discrimination against a large segment of people. However, the U.S. State Department chooses not to deal with Israeli violations of human rights except in a cursory, bland, and shallow manner. The U.S. overlooks Israeli violations of human rights because Israel is a "friendly" nation. The U.S. State Department accepts Israel's word that it is a democracy.

The classic rebuttal to criticism of anything pertaining to Israel is to raise a charge of "anti-semitism." We want it understood that in this case it would be totally unfounded. We are critical of a country's leadership and of an acquiescent acceptance of some of the actions of that leadership. It has nothing to do with ethnic prejudice.

When Begin spoke at a special United Nations disarmament conference 12 days ago his troops were in Lebanon. Of the 157 members of the General Assembly, 94 boycotted the Israeli's appearance.

Last Saturday the U.N. General Assembly overwhelmingly condemned Israel for refusing to withdraw its troops from Lebanon and urged the Security Council to slap punishing sanctions on the Jewish state. The resolution was adopted 127-2 with no abstentions. Only the United States and Israel opposed the resolution!

There is some evidence that at last certain nationally-syndicated newspaper columnists are beginning to be critical of the Israeli stance. This is a marked departure from the pro-Israel, anti-Arab attitude that generally characterizes television news coverage of the Middle East, accompanying commentary, and the editorial opinions of most metropolitan daily newspapers, especially those in the East.

There's some satisfaction too from a recent Associated Press-NBC News poll showing that a majority of Americans familiar with the recent fighting in the Middle East disapproves of the Israeli invasion of Lebanon.

Citizens' letters of outrage are beginning to appear in newspapers and national news magazines. American citizens are beginning to become disenchanted with U.S. impotence in influencing Israeli's malevolent foreign policy.

President Reagan openly sided with the British when Argentina was the aggressor in the Falkland Islands. He's been far less than equally forthright in any stated objection to the Israeli invasion of Lebanon.

Now, Begin is suggesting that a powerful international military force should be established in Lebanon, including troops from the United States. Let's hope Congress musters up enough courage to nip this idea in the bud! And that will not be easy in an election year.

And what about the pending sale of 75 more F-16 Hornet jet fighters to Israel?

Surely Begin must realize that he cannot continue to enjoy United States defense of the rights of the Israeli people so long as he denies the rights of the Palestinians.

Of about 3.5 million Palestinians, 1.25 million live under Israeli military occupation, in the West Bank and Gaza. Two million remain outside the historical boundaries of Palestine, with 600,000 living in Lebanon, mostly in refugee camps. They have nowhere to go.

The only long-range hope of security in the Middle East lies in a settlement of the Palestinian issue.

None of the peace proposals, by the Israelis or anyone else, deals with the fate of the Palestinians themselves, and that is the essential cause of three decades of turbulence in the Middle East.

As the Kuwaiti ambassador to the U.S. said this week in an interview with U.S. News and World Report, "No peace can be achieved without the participation of people at the center of the struggle—the Palestinians."

It's too bad the Israeli prime minister left Washington last week after being a guest at the White House without a visit to the Thomas Jefferson Memorial. He might have pondered what Jefferson called "a decent respect for the opinions of mankind."●

EUCLID, OHIO: 185 YEARS

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. ECKART. Mr. Speaker, this last Fourth of July, the city of Euclid in Ohio celebrated its 185th anniversary. The program planned for the occasion truly reflected a slice of life in this community, with youth soccer games, a surprise show by the senior citizens, and a performance by the good old Lou Sevillo Orchestra, featuring Sali Lyne. Also a part of the festivities was a tribute to Charles F. Brush, a Euclid native who pioneered the electric lamp at the turn of the century. A creative inventor who always saw opportunities for change and progress, Mr. Brush was representative of the city he grew up in. Euclid, once a small agricultural township, has grown over decades past to become the industrial city it is today.

The area is colorful with its mix of interesting ethnic diversity. It is a place where old-fashioned values and a spirit of neighborliness still prevail. The residents' appreciation for their community is only exceeded by their love for their country, which is both strong and visible. Every Fourth of July, the folks turn out for a grand celebration in Euclid's "Sparky" Di-Biaso Stadium. Then the Rocco Scotti National Anthem is sung, the Sun sets into the west end of the lake, and fireworks blaze.

I am proud to have represented this remarkable community, and I pay tribute to its 185 years of bountiful life.●

MR. JERRY BARR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. SKELTON. Mr. Speaker, I would like to take this opportunity to say a few words about a courageous Missourian who recently passed away, Mr. Jerry Barr.

Mr. Barr, a native Missourian, was auditor of Pettis County at the time of his death. Taking office in January of 1975, he was credited with first setting up the auditor's office there. Even a lengthy bout with cancer and the debilitating effects of a stroke did not prevent him from carrying out his duties and making possible the timely completion of the budget process in Pettis County.

Aside from his dedication to his job, Jerry Barr was active in community and civic affairs. His club memberships and community activities included: treasurer of Buena Vista Nursing Home, past president of the Missouri Association of County Auditors, member of the Noon Day Optimist Club, and member of the Kiwanis Club.

Mr. Barr's wife, Sue, has been appointed by Missouri's Governor, Christopher Bond, to serve the remaining 6 months of her husband's term. Having worked as an unpaid assistant with her husband in the auditor's office, I am confident that she will carry on his tradition of excellence and I wish her the very best in her new endeavor.

Jerry Barr will be greatly missed by all who had the pleasure of knowing him. His courage, determination, and love for his fellow man will continue to serve as an inspiration to the people of Pettis County.●

NATIONAL PORT WEEK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. BIAGGI. Mr. Speaker, on behalf of the Congressional Port Caucus, I introduce a house joint resolution authorizing and requesting President Reagan to proclaim the first week in October in calendar years 1982 through 1984 as National Port Week. Since 1978, Congress has recognized the major contribution of commercial ports to our international trade, economic well-being, and national security through the sponsorship of National Port Week.

The significance of ports to our economy is attested to by the fact that commercial ports annually contribute more than $66 billion in national income and $12 billion in Federal, State, and local taxes to the national economy. Ports are directly responsible for the creation of over 1 million jobs nationwide. National Port Week serves as an appropriate opportunity to focus the attention of the American public on the need to maintain our commercial ports and waterborne transportation system as vital national assets.

Ports provide the necessary infrastructure for the expanding volume of U.S. import and export trade. In the years since World War II, the value of the U.S. international trade has swelled to over $300 billion annually, accounting for almost 10 percent of our gross national product. Over 95 percent of this volume represents waterborne commerce passing through our network of 189 deep-draft commercial ports, inland river ports, and over 25,000 miles of navigable waterways. One out of every six jobs in agriculture, manufacturing, and services in America is dependent upon international seaborne trade.

Port development in the United States has occurred as a result of a 200-year-old partnership between the Federal Government and the States. This longstanding partnership and mutual commitment to economic growth and prosperity through cooperative development of the national port system is appropriately commemorated through the declaration of National Port Week.

I call upon my colleagues in the Congress to join the members of the Congressional Port Caucus in sponsoring and enacting this resolution as a reaffirmation of congressional recognition of the vital importance of our Nation's ports to the general welfare.●

FLAT TAX ACT OF 1982

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. DREIER. Mr. Speaker, the time has come for major reform of our individual income tax. Every day, support increases for the idea that all personal income should be taxed at a single rate.

I have introduced H.R. 6741, the Flat Tax Act of 1982, to attempt to make our tax system more equitable. This bill provides for a 14-percent tax on gross income of every individual. I have chosen a 14-percent rate because Treasury Department studies indicate that this rate would raise revenues approximately equal to those raised under the present system. H.R. 6741 repeals all special deductions, credits, and exclusions from income for individuals with the exception of a $2,000 deduction for personal exemptions.

The current income tax, with rates between 12 and 50 percent, was intended to ease the tax burden on poor individuals. Instead, inflation has forced more and more families into higher tax brackets, while some wealthy and upper middle income families play the tax shelter game with the result that they pay little or no income tax at all.

The so-called underground economy of cash transactions which are not reported as income continues to grow at a rate of 10 percent a year. Last year, approximately 30 billion tax dollars were lost through the underground economy.

A flat tax with its greater simplicity would promote better compliance, thereby reducing the high loss of revenue caused by the underground economy. It would also bring an end to the many loopholes which have resulted in artifical shelters. In short, I urge my colleagues to cosponsor H.R. 6741 because it would create a tax system that is free of the inequalities and fraud which prevail in the present system.●

ENTERPRISE ZONES

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. EDGAR. Mr. Speaker, Scott Reznick, public finance and economic development consultant, from Philadelphia, shared some very interesting new and creative ideas to the Subcommittee on Economic Stabilization of the House Banking Committee.

I hope the statement that follows will help the Members of Congress in its work to reshape the present economic downturn and move toward recovery.

The testimony follows:

ENTERPRISE ZONES: URBAN ECONOMIC REVITALIZATION AND SMALL BUSINESS DEVELOPMENT

(By Scott M. Reznick)

Members of Congress. Ladies and gentlemen. Good morning.

My name is Scott Reznick. I am an attorney and urban political economist. I practice in Philadelphia as a public finance and economic development consultant. Of late, I have been especially active advising state and local governments on the design and implementation of economically effective and politically feasible enterprise zone programs.

I would like to thank you for the opportunity to testify today on urban enterprise zones. More specifically, I have been asked to talk about how to use new tax tools in enterprise zones to help solve the persistent capital shortages faced by new and expand-

ing small businesses. These tax tools include:

(1) expensing, to make start-up capital more readily available to new zone businesses;

(2) a net new jobs investment tax credit, to insure that capital investment in zone plant and equipment creates new jobs;

(3) a windfall capital gains tax, to guarantee that zone businesses and their employees, rather than the current owners of zone property, are the real beneficiaries of zone business incentives;

(4) small business job training and retraining credits, or vouchers, to focus limited resources into the most effective environment for learning job skills;

(5) neighborhood assessment, to bring greater efficiency to the delivery of public services to zone businesses and residents.

In addition, I will briefly describe why state and local governments must take the lead in modernizing their own tax systems. Urban enterprise zones can well serve as a catalyst for the re-evaluation and rationalization of existing state and local tax systems and as a crucible for testing, at geographically, politically and economically limited risk, the means of their essential reform.

For reasons of both efficiency and equity, small businesses should be the primary beneficiaries of enterprise zone tax policies. The freedom of businessmen to enter the marketplace is a necessary condition of an efficient, competitive economy. Free entry eliminates monopoly pricing, enhances worker and management productivity and reduces inflation. Small businesses are also more efficiently innovative. They create twenty-four times more major scientific and technological innovations per research and development dollar than do large corporations. Yet, they account for less than five percent of our economy's R and D effort and received only three and one-half percent of the $30 billion the federal government spent on research and development in 1980. Moreover, there is no greater incentive to be productive than knowing that you are working for yourself.

Small businesses have historically provided the lion's share of America's new jobs as well as the economic opportunity of independent ownershp to the middle class. Businesses with less than 100 employees create approximately 80% of America's new jobs; firms with fewer than 20 employees account for 66%. Furthermore, since they suffer few of the inefficiencies of large bureaucracies, small businesses are also the most promising location for government supported on-the-job training and retraining efforts. Similarly, employee participation in firm ownership and management is also more likely to occur in small firms. Employee ownership enhances capital formation, saves jobs in plants which might otherwise be closed, broadens the ditribution of wealth and creates new incentives for worker productivity.

And, most importantly, to foster small businesses creation and expansion is to encourage our society's dynamic entrepreneurial spirit, that willingness to take reasonable and informed risks that made our economy great in the first place. It is that "can do attitude," not climate or culture, that separates the Sunbelt from the Frostbelt, America from Japan. To revitalize our older, distressed urban areas, we must tap that entrepreneurial moxy. Large business facilities will be important magnets for economic revitalization in distressed urban areas, but it is the daring of small businessmen that will make enterprise zones a success.

The principal problem small businessmen face today is the shortage of investment and working capital. While the cost of financing is high for everyone nowadays, our small business sector suffers from additional structural difficulties in our public/private capital markets. Among these are: the centralization of investment decisions in large financial institutions and the concomitant demise of small banks, the carriers of two-thirds of all small business debt; and the high information costs and aversion to risk that have been the unintended byproduct of fifty years of well-intentioned federal and state regulation. These structural problems contribute to our unprecedented bankruptcy rate. Private sector loans to small businesses are simply too expensive and for new businesses practically unattainable. Public financial assistance is also in jeopardy. Section 103 of the Internal Revenue Code, which exempts the receipt of interest on industrial revenue bonds from federal income taxation, must be retained, at least for enterprise zone businesses.

Enterprise zones should rely on two related forms of tax reform to stimulate economic development: tax incentives and the elimination of tax disincentives, this latter reform being principally in the province of state and local governments. Tax incentives work by lowering the relative tax burden of specific, desired private sector behavior. Tax disincentives work by identifying and eliminating tax-induced distortions of otherwise efficient private sector behavior.

Disincentives are excess tax burdens which raise no revenue for government and yet squander potentially productive private resources. Tax incentive and disincentive reform will not solve the structural difficulties in our capital markets faced by small businesses. Nor will they reduce crime or build new transportation facilities in an inner city neighborhood. These must be attacked also through expenditure and regulatory policy. But, tax incentive and disincentive reform can lower the cost of investing in an enterprise zone business or, indeed, of creating one and with it jobs, economic growth and urban rebirth. They are necessary though not sufficient economic revitalization tools. Their effectiveness will depend upon how completely they compensate zone businesses, either through direct tax savings or through efficiency gains, for both the shortcomings of the capital markets and the higher costs of doing business in a distressed urban area.

As a tool of economic developing policy, tax incentives have been accused of a variety of shortcomings:

First, they cost government money. To solve this problem, enterprise zone tax policies must be correctly and tightly targeted, geographically, and on their intended beneficiaries. Also, zone areas, by designation, will be producers of little in current revenues to be lost to government.

Second, tax incentives, at least those levied against corporate net income, tend to be useless to new business with little or no current taxable income. In the form of credits, however, tax incentives can be made marketable, refundable or can be carried forward into future tax years. They could then, with declining effectiveness, subsidize new businesses without taxable income.

Third, once enacted, tax incentives are difficult to get rid of. They develop a vocal constituency. Limiting the life of enterprise zone incentives to twenty-four years is an effective way of solving this problem.

Finally, as they proliferate, tax incentives lose their capacity to influence private sector decisions. The more incentives available, the less likely it is that any one of them can effectively accomplish its goal. The proliferation of tax incentives is a problem far broader than urban enterprise zones. It is being addressed by a spectrum of proposals to reform the income tax. One solution, curiously, may be to follow the lead of zones and enact tax incentives of only limited duration.

At the federal level, enterprise zone tax tools to benefit new and expanding small businesses should include:

Expensing.—This tax expenditure subsidy recognizes that the most common sources of start-up capital to new businesses are the personal savings of the entrepreneur, his friends and relatives and that, moreover, the range of tax incentives drawing individual savings into other, more secure forms of investment is increasing, e.g. Individual Retirement Accounts and All-Saver Certificates. By providing the start-up capital investor with an immediate deduction of up to 100 percent of the monies invested as equity or unsecured debt in a new zone business, expensing "catches up" at-risk new business investment with these and other forms of tax subsidized capital investment.

In this regard, expensing is a particularly effective subsidy. By, in effect, returning up to 50 percent of an investor's at-risk capital investment in a new zone business to the investor as an immediate tax deduction, expensing dramatically reduces the investor's risk of loss while simultaneously increasing his potential percentage yield from his investment. To limit the adverse revenue effects of expensing, the deductible percentage of the investment should be significantly less than 100 percent. An additional policy option designed to foster worker ownership would permit a 100 percent deduction when an employee invests in his own company as a shareholder or an unsecured creditor. Expensing can be a particularly effective economic revitalization tool. It should be tested in urban enterprise zones.

Net New Jobs Investment Tax Credit.—The additional investment tax credit (ITC) proposed in the Reagan Administration Enterprise Zone Plan is an effective tool for stimulating investment in new and rehabilitated plant, equipment and housing in enterprise zones. It will be of particular benefit to large, capital intensive industries. Unlike the corporate net income tax exclusion, which permits tax savings to be spent or invested anywhere, tax savings generated by the ITC have already been invested in physical facilities in the zone. Nevertheless, the ITC proposed in the Administration Plan would equally subsidize the construction of a fully-automated warehouse and the plant of a job-intensive manufacturer.

Since a primary goal of enterprise zone policy is to create new jobs, some percentage of the tax savings created for zone business by the additional ITC should be made dependent upon the number of net new jobs (or net new jobs for the disadvantaged) created by the investment. Since small businesses create the most new jobs, they would be the principal beneficiaries of this change in ITC policy. The net new jobs ITC can be made refundable, marketable or can be carried forward. Residential rehabilitation and new construction investment tax credits for both residential rental and owner-occupied property would be an appropriate complementary policy tool.

Windfall Capital Gains Tax.—To insure that the benefits of enterprise zone tax incentives reach their intended beneficiaries,

zone businesses and their employees, a windfall capital gains tax should be levied against the first sale of zone property to a zone business. The selling price of property is determined by capitalizing its future stream of income. An increase in that income stream will increase the property's present value, its selling price. Zone tax incentives increase the future income stream of zone property. Knowing this, current owners will raise their selling price and capture an unintended windfall. A windfall capital gains tax, applied to the first sale of zone property would recapture that windfall. The revenues produced should then be earmarked for expenditure in the zone. Subsequent sales of property already in the zone tax incentive system do not create windfall problems and should not be subject to the windfalls tax. They should instead receive a capital gains tax exemption as proposed in both Kemp/Garcia and the Administration Plan.

Job Training and Retraining Credits.—Both Kemp/Garcia and the Administration Plan call for extensive tax incentives to create jobs in enterprise zones. Kemp/Garcia links these credits with job training efforts. Job training and retraining are essential policy components of any enterprise zone program designed to truly benefit inner city residents. Moreover, job training generally improves worker and management productivity, the best solution to stagflation. Indeed, productivity gains are most rapidly stimulated not by new capital facilities but rather by speeding the job learning process. Education is a face-to-face process. Small firms, because they are small, can offer an environment especially conducive to on-the-job learning. They are also the sector of our economy that creates the most new jobs and therefore has large new employee training responsibilities. A refundable or marketable tax credit, appropriately targeted on firms with twenty or fewer employees, would effectively lower the cost of small firm job training and retraining. This credit could be linked with the net new jobs ITC or could be administered through a low-cost voucher system.

At the state and local level, enterprise zone tax policies would have to be individually tailored to existing tax systems, systems which tend to be diverse, pervasive and mysterious to the taxpayer. The design and mix of state and local tax instruments is too often a complex morass of conflicting laws created out of the budgetary necessities of moments long in the past. The contemporary economic consequences of these antiquated tax laws is too often unknown. For these reasons of history, state and local government economic development tax reform is now a potentially most fruitful area for policy initiatives to encourage stable, long-term economic growth, to create new jobs and new technologies and to provide adequate revenues for government. These reform efforts, for enterprise zones and generally, should focus on improving the simplicity, certainty, fairness, economy of public and private administration and neutrality of state and local taxation. Enterprises zones, as catalyst and crucible, can greatly assist in these essential reform efforts. Conversely, without state and local tax reform, enterprise zones can hardly accomplish their economic revitalization goals. Such, apparently, is the experience in England.

Some state and local taxes are particularly burdensome to new and expanding small businesses. These include taxes now levied against corporate equity and debt, gross volume or gross receipts, and real or personal property. These taxes must be paid even in years when the business has no profits. To the new businessman, they must be paid out of scarce start-up capital. Reducing or eliminating these taxes would increase the cash flow of a zone business and reduce the tax burden imposed on its investment capital.

Additional state and local enterprise zone tax policies might include: the exemption from sales taxation of sales to and from zone businesses; the full utilization by zone businesses of federal accelerated depreciation, investment and research and development tax credits against state corporate net income taxation; and the reduction of unemployment compensation and workmen's compensation payments. Expensing, the net new jobs investment tax credit, the small business job training and retraining credit and, particularly, the windfall capital gains tax may also be used effectively at the state and local levels.

Neighborhood Assessment.—Most cities will offer some form of property tax abatement as an enterprise zone tax incentive. Property tax abatement has been and should continue to be an important stimulus to building construction and rehabilitation. If, however, some of the property tax savings created by abatement were returned to the zone through a small addition to the city's property tax rate and spent on the public goods and services most desired by zone businessmen and residents, then even larger economic revitalization benefits will arise. Everyone in the zone would more closely receive the public goods and services they demand. Efficiency would be served and so would democracy. Moreover, expenditure benefits, like tax savings, add to the value of zone property and thus make it a more desirable investment.

Tax incentives are a necessary, but not sufficient, component of an enterprise zone program, especially one designed primarily to foster small business growth. Complementary regulatory and expenditure policies are also needed. Regulatory relief, particularly from the compliance and private administrative costs borne by new businesses seeking to enter the marketplace, can appreciably reduce the drain on their limited start-up capital. Providing adequate quantities of good quality public goods and services is an essential instrument of economic revitalization. Public infrastructure construction and rehabilitation, crime control and education are important expenditure-side inducements to economic development. Government must also act to create new vehicles for public/private investment risk pooling and information sharing. Finally, the targeting of enterprise zone programs into specific inner city neighborhoods creates a rare opportunity for neighborhood organizations to assume some of the taxing, spending and regulatory functions of government. Restructuring government at the neighborhood and, eventually, the regional levels. can be one of the most important advances produced by the enterprise zone concept.

Enterprise zones are neither a panacea nor are they a complete substitute for existing urban redevelopment programs. They do, however, present federal, state and local policy makers with an important opportunity to more fully examine their economic development strategies and to create and test innovative policy alternatives. We should proceed cautiously with enterprise zones, and worth reasonable expectations. But, I believe, we should proceed with vigor.●

DR. CHARLES E. KREMER

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. WEISS. Mr. Speaker, today, July 15, 1982 marks the 85th birthday of one of the most distinguished residents of my district. Through his relentless and concentrated efforts to bring to public light the illegal presence in this country of those who committed heinous crimes as Nazi war criminals, Dr. Charles E. Kremer has opened the eyes and touched the hearts of people around the world.

The genocide of 6 million Jews and 5 million others by the Nazis before and during World War II was an act of brutal injustice and inhumanity. In the wake of these horrors, Dr. Kremer has stood virtually alone in working to bring Nazi war criminals, illegally in the United States, to trial. Through his efforts he has helped maintain and strengthen justice, not only for Jews and the Romanians of his homeland, but for Americans as well.

A proclamation honoring the work of Dr. Kremer and presented by the city of New York last year aptly summarizes the value of Dr. Kremer's dedication. It says:

> Inspired by his activities, articles and books have been written and legislation has been enacted, that have created an environment, both legal and psychological, which forces hate and malice to tread more cautiously before surfacing.

On this important landmark in the life of Dr. Kremer, I extend to him congratulations on his birthday and my sincere commendation and appreciation for the courageous work he has performed.●

EL SALVADOR: HALT MILITARY AID

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mrs. KENNELLY. Mr. Speaker, 2 weeks from now, if he wishes that American military aid to El Salvador continue, President Reagan must again certify to Congress that the Salvadoran Government is improving its human rights record. Despite abundant evidence that major rights violations continue to occur with alarming frequency, and despite the lack of progress in locating and charging those responsible for the death of six Americans in El Salvador some 18 months ago, administration spokes-

men say the President will tell the American people that advances, in fact, are being made.

There is ample evidence to prove that just the opposite is true. I believe that the President cannot in good conscience certify that abuses of human rights in El Salvador have declined. Despite the election in March, the Salvadoran people continue to suffer death, torture, arbitrary arrests, and other abuses at the hands of Government-related security forces. And since the election, the Salvadoran Government has backed away from its ambitious land reform program.

Last January, the President said the Salvadoran regime was making significant progress in the effort to rein in human rights abusers. He made that certification despite reports to the contrary from Amnesty International, the American Civil Liberties Union, and the United Nations Human Rights Commission.

According to the ACLU estimate, the Salvadoran Government was responsible for 12,501 murders in 1981. The U.N.'s special representative in El Salvador estimated the number of political assassinations in that nation during the first 11 months of 1981 at 11,000. Many of them were perpetrated by right-wing "death squads" or other groups with military ties.

Last week, armed with information obtained under the Freedom of Information law, the ACLU revealed that President Reagan's January certification was backed by little more than unverified statements from the Salvadoran Government. No independent assessment of the situation was requested from American intelligence agencies.

There was a clamor in Congress to overrule President Reagan's Janauary rights certification, but no action was taken. One reason was administration assurances that conditions would improve following the March 28 Constitutent Assembly elections. A month before the election, Thomas O. Enders, Assistant Secretary of State for Inter-American Affairs, assured the Congress that the Salvadoran Government was working to control its armed forces and to arrange a political solution to the conflict.

Unfortunately, this has not been the case. Later this week, Amnesty International will release a report showing that disappeances, political murders and other abuses have not declined since the election.

The Salvadoran election strengthened the hand of right-wing forces and resulted in the naming of Roberto D'Aubuisson, a former army major suspected of links to right-wing death squads, as president of the Constitutent Assembly. And since the election, the Government has hardened its policy on dialog with its foes as evidenced by recent statements. Last week the Washington Post quoted cabinet member Francisco Jose Guerrero as saying that the election eliminated the possiblity of a negotiated settlement with leftist guerrillas.

Another area that has suffered the election is land reform. The new Assembly has suspended for 1 crop year the "Land to the Tiller" phase of El Salvador's agrarian reform plan. The future of the land reform, designed to give sharecroppers a stake in stable society by offering them the opportunity to own the land they farm, remains uncertain.

Finally, little progress has been made in bringing to justice those responsible for the brutal December 1980 massacre of four Catholic missionaries. Nearly 6 months ago, six former national guardsmen were arraigned, yet no trial date has been set. It seems likely that responsibility for this heinous crime goes well beyond those charged.

There has been even less progress in the investigation into the January 1981 slayings of two American land reform advisers. Those responsible for the disappearance of American Journalist John Sullivan also remain unfound and unpunished, as do those responsible for the disappearance of hundreds of Salvadoran citizens who have vanished under similarly suspicious circumstances.

The United States this year sent $81 million to aid the Salvadoran military. For the coming fiscal year, the President has asked the Congress to appropriate $61.3 in military aid. This assistance must be suspended as long as abuses of human rights continue unchecked.

It is time we send an unequivocal message to Salvadoran officials. We oppose the violence from all quarters and favor a negotiated settlement.

A cutoff of American military aid to El Salvador would send just such a signal. It would give moderate forces in El Salvador leverage in their effort to curb abuses by the military. It also would encourage a political solution rather than a military one by halting the massive influx of arms and supplies that fuel the struggle.

A petition drive in Connecticut, sponsored in Hartford by the Hartford Coalition on Justice in El Salvador has relayed this message to President Reagan and focused attention on the actions of the Salvadoran Government. The Congress should heed this message and halt military aid to El Salvador as called for in House Joint Resolution 426. I am a cosponsor of this measure, which had been referred to two subcommittees of the House Foreign Affairs Committee.

Meanwhile, I voted in favor of House Joint Resolution 494, which passed in the House earlier this week. This measure requires that the President consider, before making his July 28 certification, the lack of progress in the prosecution of the murderers who took the lives of four American missionaries.

If the President refuses to admit publicly the lack of progress in correcting human rights abuses in El Salvador, I believe Congress must be willing to take the initiative.●

UNRAVELING SUPPLY-SIDE ECONOMICS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. LaFALCE. Mr. Speaker, as we approach the middle of the President's first term, reviews and analyses of his economic program have entered a new phase. The promised supply-side response to his budget and tax cuts has not materialized; increasingly, people are asking what has gone wrong with the administration's program for economic recovery.

The debate is not limited to traditional critics, Democrats, and the media. Growing controversy within the administration has been reflected in the departure of six senior level economic policy advisers, including several of the most prominant supply siders. Even more noteworthy is the fact that only one of these positions has been filled. Clearly, the President's advisers are worried about our stagnant economy and alarmed at the political fallout of continued high interest rates and rising unemployment.

In the following article, Karen Arenson of the New York Times reviews the promises made when the administration's program was put into place and looks at the results a full year later. To place supply-side theory in context, she quotes a wide range of economists from both inside and outside the administration. On the crucial question of what went wrong, she looks closely at supply-side contentions that their program was derailed by the monetary policy pursued by the Federal Reserve, a policy strongly advocated by the President and his Secretary of Treasury, at least until recently. Finally, Arenson reports on the underlying mythology of the supply siders, popular expectations. A large component of the supply-side program apparently relied on renewed popular confidence in Government policies, which should, they reasoned, encourage long-term savings and investment and thus bring interest rates down. According to Paul Craig Roberts, a supply-side purist who left the administration earlier this year, "By delaying personal tax cuts and talking of raising taxes, the government conveyed its lack of confidence in its own policies," thus sabotaging its own pro-

gram. It seems more likely to me that the unwillingness of supply siders to deal with the public's real concerns about the Federal deficit, not to mention the President's own embrace of a balanced budget, doomed their efforts from the start. If there is a lesson to be learned from this year, it is that reliance on popular mythology to mask hard economic realities is a very risky business indeed.

The article follows:

OPPOSITION TO SUPPLY-SIDE ECONOMICS IS TRICKLING UP

NEW YORK.—When President Reagan signed a new tax program into law Aug. 13, it was heralded as a solution that would quickly revitalize the American economy and set the country on a new path to growth and prosperity.

"Our tax proposal will, if enacted, have an immediate impact on the economic vitality of the nation," Reagan declared in his first budget message in March 1981.

Things have not worked out that way, however. The second stage of Reagan's three-year tax cut takes effect today, and it comes amid near-record unemployment, falling corporate profits and general economic disarray. The school of thought that inspired the tax cuts—supply-side economics, which stresses slashing taxes to bolster productivity and investment—is disputed more than ever.

Critics contend that by now it is painfully clear that the promise of supply-side economics was greatly exaggerated. They say the tax cuts for individuals have failed to stimulate greater savings, the generous tax cuts for business have not spurred capital investment and rather than purging the country of its fears of inflation, the whole program has fed the economic uncertainty and kept interest rates especially high.

"It has not delivered anything it promised to deliver," said Walter Heller, a professor of economics at the University of Minnesota who was chairman of President Kennedy's Council of Economic Advisers. "That is not to say that tax cuts won't stimulate more investment," Heller said."It is just the notion that cutting the gizzards out of income taxes will produce torrents of work effort and savings—that is what is just nonsensical."

By contrast, advocates of the supply-side approach argue that their program has not yet had a fair test, and that given half a chance, it will still prove effective.

"It is unduly shortsighted to announce the demise of supply-side economics," said Rep. Jack Kemp, R-Hamburg, co-sponsor of the original individual tax cut plan, the Kemp-Roth bill. "Despite the monetary problems we have had, we now have to go further."

Paul Craig Roberts, the supply-side proponent who in January left a high Treasury Department post to become a professor at Georgetown University, added: "Everyone is dying to read supply-side economics out of existence. But the only policy that has really been tested is traditional Republican economics that says you can balance the budget with higher taxes. Everyone is trying to blame the tax cuts when we haven't effectively had any yet."

Critics readily admit that not all the tax cuts are yet in place and that monetary policy has overshadowed the effects of the tax cuts that have occurred. But they point out that the administration was calling the shots and, in fact, specifically advocated a tax cut spread over three years and a tight monetary policy.

"The opportunity they have had has not been perfect, but it never is," William Baumol, the past president of the American Economic Association and a professor at Princeton and New York universities, said of the effort. "That have had as clear a shot at what they wanted to do as ever they could have had, and the results have been predictable—even worse than could have been expected."

The supply-side theory is relatively simple: Excessive tax rates discourage work, saving and investment and thus hurt the economy. The prescription, according to Reagan's supply-side advisers, was to lower tax rates substantially to spur more work and investment.

It was not the theory that dismayed other economists as much as the projections that supply-siders made about how much the economy would respond—and how fast. The presidents supply-side advisers spoke of increasing tax dollars by cutting tax rates. The government's rosy projections showed that inflation and interest rates would plunge while investment, productivity and employment would surge.

Excited by these promises, Congress gave the president most of what he asked for and then some. He requested and received a program of accelerated depreciation for business, which sharply reduced corporate tax bills. Congress also approved a three-stage personal tax cut, although the first step was postponed from Jan. 1, 1981, to July 1, and cut in half, to 5 percent. A whole raft of other tax reductions—ranging from the "All-Saver" tax-exempt certificates to significant changes in estate and gift taxes—were also added.

Many mainstream economists expressed doubts that such a program could immediately revitalize the economy. Although they agreed that lower tax rates could have some impact, the response, they said, would be much smaller and slower than the supply-siders had contended.

"Supply-side economics was oversold from the beginning," said Lawrence Klein, a winner of the Nobel Prize in Economic Science and professor of economics at the University of Pennsylvania. "There was always a kernel of truth. But the numerical response is really too small and too slow to do what supply-side economists claimed."

While Klein and other liberal economists generally maintain that the economy cannot wait for the possible effects in 10 or 20 years, more conservative economists, such as Michael Boskin of Stanford University, an adviser to the president who describes himself as "incentive-oriented," say Americans can and must wait.

"The administration's program of cutting tax rates at the margin and trying to bring inflation down through a relatively tight monetary policy is quite sensible," Boskin said. "It is the best policy structure one can come up with to try to ensure that our standard of living will be higher on average over the next 20 years. The problem is no one wants to go through the pain." He said his main concern was that the program may be tossed out before it has a chance to work.

Indeed, the economy in the past six months has been anything but a showcase for the new program. Despite substantial tax cuts, some of which were retroactive to January 1981, the United States has suffered one of the sharpest recessions since World War II, and unemployment has risen to some of the highest levels since the Depression. While the savings rate has edged up—as it has in many recessions—capital spending plans have plummeted.

The core supply-siders, however, are still optimistic that their programs can work—when the tax cuts really take effect, they say. They argue that while the tax reductions appear to be in place, effectively they are not.

"The July tax cut coming up is really the first significant personal cut—you can't count the 1.25 percent reduction last year," Roberts said. "But," he added, "its effect has already been canceled by the Social Security tax increases and 18 months of bracket creep. Last year's inflation is greater than the tax cut. By delaying the tax cuts we have canceled them out."

Roberts calls the reduction last January in the top personal tax rate to 50 percent from 70 percent "an important change," but argues that even that could not have much impact on investment "because by the time it got here, we were in the recession, and in a recession you can't make investment decisions with a lot of confidence."

Supply-siders also contend that their program was thrown off track by an erratic monetary policy that has led to punitively high interest rates, which have overwhelmed the effect of the tax cuts. Whether to hold the supply-siders accountable for this part of economic policy is a matter of some debate.

Some say that a new monetary policy was a requisite of the original program and that the supply-siders lobbied for a change and lost, settling for just the tax cuts. Others say that the supply-siders simply counted on fiscal policy dominating the economy, and that monetary policy did not seriously concern them. Still others say that the monetary policy in place should have worked, but did not.

"They thought you could separate monetary policy and fiscal policy—while the Fed took care of inflation, the tax cuts would stimulate investment," commented James Tobin, a liberal economics professor at Yale University who won the Nobel Prize. "They appeared to be saying the two are not connected. But it was wrong when they said it, and has been proved wrong now."

"They say now that they had an unfortunate experience with the business cycle," Klein said. "But I think they caused it. It was a combination of their policies and the Fed's, and the imbalance between the two. But that was there all the time, and they knew it and said they were all working together."

"I always told them they were laying plans without any business cycle for years," Klein said. "Their response was that they were going to eradicate or smooth out the cycle. But it was the cycle that did them in. It wasn't monetarism alone. The supply-side economists bear full responsibility for the deficit figures, and when you put those up against the intentions of the Federal Reserve—which the Treasury was fully aware of and even encouraged—the bond markets reacted as they should, with very high interest rates."

Supply-siders generally accept some, but not all, of the blame.

"It is fair to say that we didn't recognize that the monetary policy would dominate," said Alan A. Reynolds, chief economist at Polyconomics, a supply-side consulting firm.

As he tells it, by the time the supply-side program was translated from theory to practice, there was an uneasy amalgamation

of monetarists and supply-siders. The idea, he said, was that supply-side economics would increase the economy's real growth, while monetary policy curbed inflation and thus reduced the economy's "nominal" growth. "But, instead," Reynolds said, "nominal GNP has slowed to zero, and we have a liquidity crisis. That was not part of the supply-side agenda, and I'm reluctant to take the rap."

Others blame the Federal Reserve for erratic management of the nation's money supply. Among such critics is Norman B. Ture, who is stepping down as the Treasury under secretary for tax and economic affairs to return to private consulting. "I said from the very first day, that no matter how successful we were in making tax revisions, spending revisions and regulatory revisions, if we didn't get a much steadier monetary policy, our efforts would be for naught."

Ture said the original predictions of fast economic growth were not "forecasts" but "projections"— "we used to call them scenarios. We said we wanted monetary policy to follow a certain course, and then the rest would fall out of it," Ture said.

"Everyone lives in hope," he added. "We had discussions with the Fed and emphasized how imperative it was to get to a much steadier, more reliable monetary growth path. The Fed never said it couldn't do it. They said, 'Amen.' To place responsibility for the terrible monetary performance on supply-side economics is just nonsense."

Some of the supply-siders have recently been lobbying hard for a gold standard—or some close substitute. But even that proposal is not unanimous. Ture, for example, says, "We don't need a gold standard. We need to have direct control of the monetary base, so the rate of growth will be slower and steadier."

But monetary policy is not the only culprit in explaining what derailed the supply-side program. Another problem, supply-siders contend, is the uncertainty surrounding the tax program—and particularly the current efforts to raise taxes to reduce the federal budget deficit.

"By delaying the personal tax cuts and talking of raising taxes, the government conveyed its lack of confidence in its own policies," Robert declared. That, he said, is on top of the general uncertainty that any change brings.

Yet another factor that apparently worked against the supply-side program was popular expectations. The supply-siders, and some others as well, had theorized that the commitment to three years of tax cuts would convince people that the economy would rebound and inflation would decline permanently. According to this scenario, more hopeful expectations would have led interest rates to fall, the economy would not have been trapped in a severe recession, and investment would have begun to pick up.

"Nobody knows what makes expectations work," Baumol remarked. "The president has been able to reach the public on many things, and I had hoped it would work in the economic arena. But it hasn't happened. Instead, I think they produced a backlash. They were what forced the Federal Reserve to be so stubborn in holding up interest rates." ●

RESOLUTION OF THE CICERO, ILL. CHAPTER OF THE LITHUANIAN AMERICAN COUNCIL, INC.

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. HYDE. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

I am pleased to share with my colleagues today a resolution passed in June by the Cicero, Ill. Chapter of the Lithuanian American Council, Inc. On various occasions through the years I have submitted for publication in the RECORD similar resolutions passed by the Cicero Chapter. I might say it is with some sadness today that I offer this one because, after the elections and due to redistricting, I will no longer be representing the great community of Cicero or this very fine and patriotic group whom I have been so privileged to represent in Congress for the last 8 years.

The United States has never recognized the forcible incorporation of the Nation of Lithuanian into the U.S.S.R. I join my many friends in the Cicero Chapter of the Lithuanian American Council, Inc. in praying for the day when we will again see a free Lithuania.

The resolution follows:

RESOLUTION

Lithuanian Americans of Cicero, Illinois, assembled June 13, 1982

To commemorate and protest the deaths by torture and massacre, and the mass deportations of Lithuanians since June 15, 1940, when Soviet Russia according to the Molotov-Ribbentropp secret agreement occupied Three independent Baltic States: Estonia, Latvia and Lithuania;

To commemorate the ruthless, inhuman deportation without any trial of more than forty thousand Lithuanians in a single night of June 14, 1941;

To commemorate the courageous Lithuanian Freedom Fighters who lived for years in forest pillboxes and lost thirty thousand lives while fighting for Lithuania's freedom against huge numbers of Soviet Russian forces;

To commemorate those who in protest of continued oppression immolated themselves, like the young college student Romas Kalanta who shouted "Freedom for Lithuania" while engulfed in flames;

Considering the above

The Assembly praises the government of the United States of America for the non-recognition of Lithuania's incorporation into the USSR, and for condemning the Soviet Russian government for its imperialistic intentions at present time in Afghanistan, Poland and Central America;

The Assembly praises Max Kampelman, chairman, and other members of the United States' delegation to the Madrid Conference for speaking out in behalf of imprisoned Lithuanian Freedom Fighters and of the Captive Nation's cause;

The Assembly supports President Ronald Reagan, officials of his administration, and legislators that stand for a militarily and economically strong America;

The Assembly urges the government of the United States to take a more aggressive role in neutralizing communist propaganda, and at the same time to improve the effectiveness of the Voice of America, Radio Liberty/Radio Free Europe;

The Assembly urges the President of the United States to eliminate the Office of Special Investigations, and requests Congress not to appropriate any more of our tax dollars for its operation, since it appears to be nothing more than an agency that is working for the interests of hostile foreign powers, and it is incriminating loyal U.S. citizens that work for free America and for the liberation of Captive Nations;

The Assembly urges the present administration to revive the strong moral values of our forefathers;

The Assembly urges the administration to stop all negotiations and all trade with Soviet Russia and its satellites until they observe the Helsinki agreements;

The Assembly requests that copies of this Resolution be forwarded to the President of the United States of America, Secretary of State, Chief of Staff of the White House, Chief Presidential Councilor, Deputy Chief of Staff, Department of Justice, United States Congressmen and Senators from our State, Chairman of the United States Commission on Security and Cooperation in Europe, Chairman of the United States Delegation to the Madrid Conference, Chairman of the Senate Foreign Relations Committee, Chairman of the House Foreign Affairs Committee, Chairman of the Joint Baltic American National Committee, and to the news media.●

FINANCIAL DISCLOSURE

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. LEACH of Iowa. Mr. Speaker, in the interest of full disclosure, I should like to note that on adjusted gross income of $173,963 in 1981, my wife and I paid $47,706 in Federal income tax and $7,391 Iowa State income tax. In December 1981, the Congress passed legislation expanding tax deductions for Members of Congress and increasing permissable outside earnings for speaking fees, et cetera. My wife and I did not take advantage of the special tax break. Nor did we accept outside remuneration other than interest and dividends on stocks, bonds, and related accounts, and salary my wife earned working for an architectural firm.●

PROTECT THE CHATTAHOOCHEE RIVER NATIONAL PARK

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. LEVITAS. Mr. Speaker, I would like to bring to the attention of my colleagues a recent announcement

made by the U.S. National Park Service that it proposes to submit a plan to Congress that will cut in half the amount of land for the Chattahoochee River National Recreation Area. The Park Service proposal calls for reducing the size of the Chattahoochee River Park from the original 6,300 acres authorized by Congress in 1978 to approximately 3,500 acres.

As the principal sponsor of the Chattahoochee River National Recreation Area bill which passed the U.S. House and Senate by overwhelming votes, I see this Park Service proposal as creating a crisis point in our efforts to preserve this precious resource. That proposal would not only severely restrict and limit the original intention that Congress had in creating this very important national park but, indeed, would spell the beginning stages of doom for the park altogether, as a national park. For an area to be designated as a national park or recreational area, it should have national significance. The proposed 3,500 acres is likely not enough to provide the type of significance that a national park ought to have. Furthermore, I believe this effort is a deliberate and calculated attempt by the Department of the Interior to undo indirectly what Congress has established.

Man is not always the most careful guardian of his scenic, natural beauty, and recreation areas, and once these assets are lost, they are lost forever. Future generations would not forgive us if we let this precious asset be lost. This beautiful urban river has potential not only as a recreational area, but also as an area for environmental studies, for nature use, and for preservation of water quality of the Chattahoochee River and in the Metropolitan Atlanta area.

The area under question consists of 14 separate park areas tied together by the river like pearls on a necklace. If the pearls on the string are lost or damaged, the quality of the string is irrevocably reduced thereby.

I want to emphasize the word "irrevocable." If we accept the proposal by the National Park Service—or any other proposal that would diminish the concept of the original plan—then we will have taken a step that once embarked on, can never be retracted. You cannot restore nature to its original state. Once it has been developed and exploited, that is a decision that can never be made again. If we cut back the park to the 3,500 acres, the areas not included will surely be developed commercially, and then lost to us forever.

The proposal would eliminate significant use on the upper part of the river, therefore forcing more and more extensive overly high density use downriver. The locations that are already heavily impacted by recreational use would become even more impacted by additional recreational use. Thus, the remaining pearls on the string would receive even greater pressure and strain than before.

I know as well as anyone does that we are in a period of serious financial constraint in this country. But the moneys that are primarily used to acquire parkland in the Chattahoochee River corridor do not come from tax dollars, but rather come from the land and water conservation fund. These proceeds are derived from leases that the Federal Government collects from the Outer Continental Shelf and from exploitation of minerals and resources in public lands. So these moneys collected by the American people for exploitation of our land are returned and put to us for the benefit of American people through the acquisition of parkland and other land for public use.

Many individuals and organizations of concerned citizens, such as the Sierra Club, the Georgia Conservancy, and the Atlanta Regional Commission, have expressed their support of the Chattahoochee Park, and are working diligently to preserve the original authorization of 6,300 acres. Therefore, I am calling on the Members of the House, as well as private organizations of concerned citizens; this is the time to evidence your concern and responsibility.

If we fail to carry out Congress mandate for the full size of the Chattahoochee Park, and allow others to change our decisions, then the initiative to save this precious area for our children and unborn generations to come will be lost forever.

There will be no second chances.●

A TRIBUTE TO GARY M. PETERSEN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. DORNAN of California. Mr. Speaker, I would like to take this opportunity to hail the lifetime work of Gary M. Petersen who has selflessly contributed to the ecological welfare of the Santa Monica and west Los Angeles area. July of 1982 marks his 10th year in serving the public.

Gary Petersen, president of Ecolo-Haul, is one of the pioneers of recycling and resource conservation in California and has earned deserved recognition nationwide and even internationally for his many personal contributions to the environment and ecological concerns.

Ecolo-Haul, which Petersen founded in 1972 as a business vehicle to continue his conservation endeavors, is the largest network of community "drop-off" and "buy-back" recycling centers in Southern California. It offers a comprehensive environmental program and serves Government and industry as well as civic, service, and charitable organizations by providing facilities, equipment, technical assistance, and administering environmental, educational, and marketing programs.

Among his many ecological activities, Petersen was the founder of the California Resource Recovery Association (CRRA), a nonprofit statewide organization comprised of industry, government, and concerned citizens who work together to establish resource recovery and recycling as a way of life in California. Among the other environmental organizations in which he is actively involved, are:

Member, State solid waste management board steering committee.

Director, California Resource Recovery Association.

Director, Los Angeles Beautiful, Inc.

Founding member of Cousteau Society.

Member of California Industry Environmental Council.

Member of Wilderness Society.

Member of Governor's Utilization Task Force.

Member of Citizens S.W. Environmental Advisory Committee, County of Los Angeles.

National Science Foundation Consultant through Committee for National Recycling Policy.

Advisory capacity to the U.S. Conference of Mayors.

Advisory capacity to the National Recycling Coalition.

Consultant to Environmental Protection Agency.

A native of Santa Monica, Calif., Petersen attended both high school and college in the west Los Angeles area. He currently resides in Pacific Palisades with his wife and daughter. Prior to entering the environmental field he was part owner, vice president, director of sales, and a disc jockey at KRCK-AM Radio in Ridgecrest, Calif.

A recipient of numerous awards and honors from city, county, and State governments, as well as civic organizations, Petersen received a recycling award from the California Committee for Resource Recovery and has also been nominated six times for the prestigious international Tyler Ecology Award. His achievements have earned him listings in: Who's Who in the West, Who's Who in Finance and Industry, Young Men in America, the International Biographical Reference, and Men of Achievement listings published in Cambridge, England, and an inclusion in "The Peter Plan," authored by Laurence Peter, author of "The Peter Principle."

He is one of those rare individuals in our society who give much of themselves and expect nothing in return. I

want to commend his efforts so that the accomplishments of such a unique community leader will not go unrecognized.●

VISTA 1999: STOP "TRICKLE DOWN" DEFENSE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. GINGRICH. Mr. Speaker, more bang for the buck was once a goal in defense planning. Lately we have replaced it with trickle down defense. The ideas in the VISTA 1999 report could put us back on the right track.

George Wilson's article in the Washington Post, reprinted below, spotlights the National Guard's contribution to this job:

The Pentagon's penchant for fancy ground warfare weapons also handicaps National Guard units that receive them as hand-me-downs from the Army, the report says. "The national defense would be better served by providing the National Guard with lower cost weapons with proven here-and-now effectiveness coupled with higher reliability, reduced maintenance problems and procuring them in sufficient numbers to provide multiple battlefield coverage."

I might add that the equipment would be easier to exercise with, making possible more training for soldiers to develop their fighting proficiency.

VISTA 1999's innovations in personnel training, combat ideas, and equipment are aimed at producing combat capable forces at reasonable cost. The media has taken note of this. I believe Congress and the Department of Defense should also.

George Wilson's article gives us a look at some of VISTA 1999's major points. I would ask you to read the article, and then take a look at the full VISTA 1999 report.

NATIONAL GUARDS JOIN CALL FOR SIMPLER WEAPONS—PENTAGON'S EXPENSIVE, FANCY HARDWARE HANDICAPS TROOPS, PANEL'S REPORT SAYS

(By George C. Wilson)

Part of the Pentagon's constituency, the Army and Air Force national guards, have added their voices to the loudening demand for simpler and cheaper weapons.

"The procurement of expensive, complex equipment to the exclusion of most other equipment has created a fundamental contradiction between what we have and what we need," a panel of guard officers complained in a recent report, "Vista 1999." The study group's mission was to figure out what the guards should have between now and 2000 and how they should be structured to back up active-duty forces.

For one thing, the report states in lamenting the trend to buy the best in weaponry, it is high time Pentagon leaders bought some inexpensive tactical warplanes to go along with the highly sophisticated F-15 fighters, which now cost about $40 million each.

"Design studies by several aerospace companies show a more lethal, more agile, more survivable fighter than the A10" antitank attack plane "can be built for under $3 million fly-away," according to the report. The A10, built by Fairchild of Hagerstown, Md., costs about $18 million.

The Pentagon's penchant for fancy ground warfare weapons also handicaps National Guard units that receive them as hand-me-downs from the Army, the report says. "The national defense would be better served by providing the National Guard with lower cost weapons with proven here-and-now effectiveness coupled with higher reliability, reduced maintenance problems and procuring them in sufficient numbers to provide multiple battlefield coverage."

This is the same sort of argument the Pentagon's congressional critics are making as they try to force the military to trade quantity for quality on some weapons, with Sen. GARY HART's (D-Colo.) campaign to force the Navy to switch to smaller aircraft carriers is one case in point.

The fear of passing ammunition to its critics may explain why the Pentagon has done little to publicize the 77-page "Vista 1999" report, described in the preface as "a long-term, no-holds-barred look at the scope size, nature and methods of operation most appropriate" for the national guards.

The panel, chaired by Maj. Gen. Francis R. Gerard of New Jersey, stressed that the nation, assuming the draft is not reinstated, must turn to the National Guard to get the troops it needs for war.

Therefore, units must be brought up to speed on the new tactics for winning by maneuver rather than relying on firepower, the report said.

Even counting active and reserve forces, today's Army "is inadequate in size and capability to execute the national strategy with reasonable assurance of success . . . in all the diverse areas of the world," the report said.

"Vista 1999" also says:

A critical need exists within the Air Force to improve tactical air support for ground forces in direct contact with the enemy.

The need for fast deployment and maneuver dictates that at least one "light, air-transportable" infantry division be formed within the National Guard.

"Several" National Guard brigades should be trained and equipped to fight in specific areas of the world, rather than receive general training.

Enough unattached National Guard brigades should be merged to establish two new divisions.●

ZABLOCKI OPPOSES COSTLY BINARY WEAPONS PRODUCTION

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. ZABLOCKI. Mr. Speaker, the House Committee on Foreign Affairs has just completed the second of two hearings on the issue of chemical weapons. On March 30, 1982, the Subcommittee on International Security and Scientific Affairs, which I chair, and the Subcommittee on Asian and Pacific Affairs held a joint hearing on the evidence of illegal chemical warfare in Asia. More recently, on July 13, 1982, the Subcommittee on International Security and Scientific Affairs undertook a comprehensive examination of the foreign policy and arms control implications of the binary chemical weapons program.

During the July 13 hearing, two former U.S. negotiators to the multilateral and bilateral chemical weapons arms control talks testified as to why our friends and allies in Europe oppose chemical weapons and reject their prepositioning on European soil. Ambassador Charles Flowerree and Ambassador James F. Leonard also urged that the Reagan administration pursue more fully the recently tabled Soviet CW treaty proposal by resuming the bilateral CW arms control discussions, which have been suspended since mid-1980.

On the basis of testimony received at this hearing, I have concluded that the proposed binary chemical weapons program will not enhance, but rather, undermines U.S. national security interests.

Binary chemical weapons production at this time could be detrimental to our relations with our friends and allies in Europe because of their opposition to chemical weapons; could seriously undermine future efforts to eliminate the threat of chemical warfare through arms control, and is a wasteful use of the American taxpayers' dollars.

It is for these reasons that I intend to offer an amendment to the fiscal year 1983 Defense authorization bill to delete funding for binary chemical weapons production.

The United States already possesses an adequate stockpile of usable nerve gas munitions which are in useable condition, have been fully tested, and can be relied upon to provide a sufficient retaliatory capability in a crisis situation. The Assistant Director of the Arms Control and Disarmament Agency under the Nixon, Ford, and Carter administrations, Rear Adm. Thomas D. Davies articulated these facts in testimony submitted for inclusion in the July 13 hearing record.

Admiral Davies also provided unique insight as to why military officials feel that poison gas is a weapon of dubious military merit. Because of Admiral Davies' special experience as both a military official and a high level official within the Arms Control and Disarmament Agency, I would like to commend to my colleagues his prepared statement, which follows:

STATEMENT OF REAR ADM. THOMAS D. DAVIES, USN (RET)

Mr. Chairman and members of the Committee, it is a pleasure to be able to share with you my thoughts on the subject of Chemical Warfare—which are based upon my experience as a Naval officer and as a participant, for many years, in negotiations on this subject—both international and within our government. I hope that you will

find these helpful in your examination of this important and difficult subject.

After 36 years of active duty in the Navy, in assignments at sea and ashore, in operational and technical areas, I retired early to accept a Presidential appointment as Assistant Director of the U.S. Arms Control and Disarmament Agency. In that position—which I held for 7 years—my responsibilities included those for the chemical warfare negotiations with the USSR.

In the operational context, many military officers feel that poison gas is a weapon of dubious merit. After its use in World War I, there have been only occasional reports of its use in special cases—usually against unprepared targets. However, it has been mostly characterized by non-use, although extensively defended against; World War II being the classic case of non-use.

The field commander with facilities to use it must consider the trade-off between using his weapons to deliver conventional explosives or poison gas. If he uses his guns or aircraft to deliver the chemicals, they cannot be delivering explosives. When he adds to this the necessity to protect his own forces against his own chemicals—a necessity which will greatly restrict their movement and speed—he will usually conclude that more conventional weapons are his best choice.

Obviously, one must take account of the possibility that the enemy will choose to use it, and so the troops must be trained and equipped for chemical defenses. Historically, some such analysis has been made by both sides—usually with the conclusion on both sides not to initiate its use, but to be prepared for its use against themselves. Certainly in World War II there were no other restraints or inhibitions—and, of course, the Nazis had substantial stocks of the then-new nerve gas.

In the offensive use area, the current plan is to replace our present very substantial stockpile of lethal chemicals with weapons utilizing the new "binary" nerve gas, which offers increased safety in storage because it is stored as two non-lethal components and only merged in the munition during delivery. Of course, the safety record of our current stockpile of munitions is excellent—so it appears that the "binary" will "improve" an already acceptable situation. It is not clear that it will ameliorate the situation as to forward deployment—which is one of the real problems of use of chemical warfare, and is not related to storage but rather to anticipated usage. Indeed the "host" of our currently deployed inventory has given indications of being uncomfortable with the stocks in their country and an attempt at change might evoke a request for total removal.

It has always seemed to me that the use of chemical weapons was an appropriate field for mutual arms control constraints. The utility of the weapon is dubious—for either side—and therefore both may well stand to gain by an effective agreement to destroy their stockpiles and facilities and thereby realistically prohibit its use. The USSR has proposed such talks in various international fora for a number of years, and toward the end of the Ford administration the United States decided to initiate talks with them. It is noteworthy that our Western allies have been among the international advocates of conducting such negotiations.

From the outset it was evident that the critical area would be verification, and this proved to be the case. Some headway in this area was made in the earlier part of the talks, but the last year (1980) was one of very little progress. It was not at all clear that the Soviets would be able to swallow a plan for realistic verification—a problem apparently stemming from their paranoia about visitors to military, technical, or industrial facilities in the USSR.

The fact is that verification presents a very real problem. Actions proposed under such a treaty would be twofold:

(a) A phased destruction of declared stockpiles—at a single location with international observers.

(b) Destruction of manufacturing facilities under international observation—to ensure that stockpiles cannot be refurbished.

The first action requires presence of international inspectors at a special destruction facility within the Soviet Union, something which the Soviets were not able to agree to. The second suffers from the same problem but additionally is complicated by the fact that there are few unique manufacturing facilities in either nation. A portion of the manufacture of nerve gas is accomplished in commerical or (in the USSR) multipurpose facilities, the destruction of which would be uneconomical and also without real significance. This leaves the plants for filling munitions as the primary target for destruction. This problem is real but I believe soluble.

Currently, there are still technical discussions in the Conference on Disarmament, but the bilateral U.S./USSR talks are dormant. At the end of the Carter administration they were left on a "don't call us, we'll call you" basis—and the Soviets have not yet received a call.

In the second Special Session on Disarmament of the U.N. General Assembly (June 1982), the Soviet Foreign Minister, Mr. Gromyko, tabled a proposal for a convention prohibiting the the development, production, and stockpiling of chemical weapons. This proposal was largely overlooked by the media which focused on other aspects of Mr. Gromyko's speech; however, I believe it is worthy of note in the context of this Committee's hearing.

The text of the proposal is not as clear as it might be, and study is required to distill from it any real changes from previous soviet positions taken during negotiations on this subject. The preponderance of provisions replicate those of the past, but there are indications of a flexibility in verification areas which have been obstacles to agreement previously.

For example, under provisions for Fact-Finding procedures, they spell out a "possibility of carrying out systematic international on-site inspections of the destruction of stocks," which "should be provided for." The language is not the way we would have written it, but in the context of the Soviet posture in the negotiations these words offer an opening which could lead to substantial progress in the area of verification.

Many of the other provisions proposed are those of their previous negotiations—sometimes rephrased into language which the U.S. had proposed. In general, I believe that this work should be viewed as positive and increasing the likelihood of an eventual convention of such characteristics and provisions that it would be in the best interests of the U.S. to adhere to it.

There is one very important item that should be undertaken earliest. The reports of the use of lethal chemicals by the Soviet Union or its client-states, in apparent violation of both the Geneva Convention of 1925 and the Biological Warfare Treaty of 1972 needs to be cleared up before going much further. The U.N. group established to look into these reports is not moving rapidly and does not seem to be responsive to the U.S. interest in their efforts. It appears that some productive approach must be initiated.

As I mentioned before, recent reported uses of chemicals seem to be restricted to use against primitive and unprepared targets. Where both sides are modern sophisticated forces, the degree of defensive preparation is such as to render the employment of chemicals unproductive. Reports from Afghanistan, Laos, and Kampuchea fit this pattern. Details, however, are difficult to rationalize and consequently there are many who find these charges of non-compliance unpersuasive. Since I have not been privy to the latest information, I cannot comment further—but I strongly believe that these must be resolved at an early date.

To summarize, I believe that a decision now to commit the U.S. to this $700-$800 million program would be of dubious merit, particularly in the light of the budgetary problems facing us. Clearly we could put the funds to more productive use. This opinion is based upon the following:

1. Chemical warfare is and has been of marginal utility in modern warfare. Its use seems limited to use against primitive peoples.

2. We already possess a very substantial stockpile with an outstanding safety record.

3. Attempting to substitute a new agent in our only deployed stocks may well cause the host country to ask for withdrawal of those currently in place.

4. The international climate now is such as to be helpful in negotiating an effective and verifiable arms control treaty with the USSR.

This concludes my statement.●

THE COURAGE OF ANTHONY J. McCALESTER

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. LEACH of Iowa. Mr. Speaker, on July 28, the American Automobile Association will present seven young people the highest award given to members of school safety patrols throughout the United States, the AAA School Safety Patrol Lifesaving Medal.

The seven recipients, credited with having saved a life while on duty at their school patrol posts, will be honored at special ceremonies during AAA Day at the World's Fair in Knoxville, Tenn.

This year's medal recipients will join a list of 249 youths from 28 States and the District of Columbia who have been honored since the program began in 1949.

The AAA has sponsored school safety patrols nationwide since 1922. Today the program includes more than 1 million children at 50,000 schools throughout the country.

One of the recipients of the 1982 award is from my district. He is Anthony J. McCalester II, of Davenport, Iowa.

Anthony will be honored for his quick thinking and heroic action. While on duty at his post, he noticed a 5-year-old suddenly rush out of the crosswalk into heavy traffic to retrieve papers he had dropped. Anthony ran into the street and pulled the child from the path of an approaching vehicle.

Anthony is to be commended for his exceptional judgment and courage in a dangerous traffic situation. Young men and women of Anthony's courage give all Americans confidence in our country's future.●

FREE YURIY SHUKEVYCH

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. HYDE. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Mr. Speaker, several weeks ago, I inserted a statement in the RECORD accompanied by a newspaper article on the plight of Yuriy Shukevych, the Ukrainian who has become known as "the eternal prisoner of Soviet jails." Tragically, Mr. Shukevych is now also blind as a result of his imprisonment.

I continue to urge my colleagues to join me in writing to Chairman Brezhnev and Ambassador Dobrynin and urge them, in the interest of human rights and improved relations between our two countries, to release Mr. Shukevych and allow him and his family to emigrate to the United States so that he may receive proper medical treatment for his blindness.

I am also pleased to offer the following statement written for Members of Congress by two former Soviet political prisoners, S. Karavansky and N. Strokata, concerning Mr. Shukevych's 30 year ordeal:

TO THE MEMBERS OF THE U.S. CONGRESS

When future historians write the book of Soviet KGB crimes, they will have to add to the long list of horrific facts the blinding of dissidents . . . Yes . . . Those who were coolly killing millions of people on the grounds of "scientific" theories can boast of this, too. News has come from beyond the barbed wires and iron bars: Yuriy Shukhevych, the eternal prisoner of Soviet jails whose crime was writing down two dozen critical words about the Soviet regime, lost 99 percent of his sight after an operation performed in a prison hospital. In effect he has been blinded. The blinding of Y. Shukhevych, who became a prisoner at the age of 14 years only because he was the son of the Ukrainian guerrilla leader, General Roman Shukhevych, is one more link in the long chain of KGB crimes against humanity and against Ukrainian people.

Yuriy Shukhevych was first arrested in 1948 when he was 14 years old. The legal commutations during the "thaw period", which were expected to release all sentenced juvenile political prisoners, did not affect Y. Shukhevych. On the contrary, in 1958, he was sentenced once again, this time for the so-called "cell's crime." This time his "crime" was his expression of critical views about Soviet reality while he was in prison. While the West was talking about the new "liberalization" of the Soviet regime, Y. Shukhevych remained in prison another 10 years.

Released in 1968, Y. Shukhevych was deported to the Caucasus to serve 5 more years of exile. While there he married and became the father of two charming children. However, the hand of the Soviet Ukrainian-hating Molokh reached him even there. In March 1972, he was arrested and sentenced for the third time. He earned the label of "very dangerous state criminal" and was again confined for having written down two dozen words.

Those who know what the incarceration of "very dangerous state criminals" in Vladimir prison means would not be surprised that after 11 years of this imprisonment a prisoner can become blind, paralyzed, or mentally ill. That penalty, 11 years confinement in Vladimir, was chosen for Shukhevych who had already served 20 years. Soviet legislation stipulates that after serving half a sentence the prisoner may be transferred from the jail to the prison camp (that means to the jail with the "weaker regime,") but even this "humanity" was not extended in Y. Shukhevych's case.

Being very well informed, KGB officers must have known about his bad health. They knew, but they waited with concealed, malicious joy for the outcome of this tragedy—the full blinding of their victim. When Y. Shukhevych became blind, the authorities told his relatives to write to the West about it. Why? Because for them, there is a certain joy in blinding a person, but there is an even greater joy for them in informing sympathizers of both General Roman Shukhevych and his son about the KGB's "achievements" in its struggle with its enemies, to affirm the unbridled autocratic power enjoyed by the KGB. At this juncture, Congress introduced a resolution, H. Con. Res. 111, which called on the President to take measures for freeing Yuri Shukhevych. Congress also introduced a resolution, H. Con. Res. 205, which called for the humane treatment of Y. Shukhevych in connection with his membership in the Ukrainian Helsinki Group.

We do not know what steps have been taken as a result of these resolutions. The blinding of Y. Shukhevych, however, requires further measures in this direction. So, we former Soviet political prisoners, call upon the United States Congress to adopt all possible measures at its disposal to free the blinded Y. Shukhevych and to guarantee him and his family the right to emigrate from the USSR to the West. In the West there are considerably more medical possibilities to return the sight lost after 30 years of imprisonment to this victim of cruelty and inhumanity.

Former Soviet political prisoners:

S. KARAVANSKY.

N. STROKATA.●

PRELUDE TO FREEDOM

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. MOORHEAD. Mr. Speaker, I would like to share with my colleagues in the House of Representatives a "Prelude to Freedom" by Aarno Davidson, the honorary Holland-American poet laureate of California.

PRELUDE TO FREEDOM

(Dedicated to the U.S.A. Bicentennial)

(By Aarno Davidson, H.L.D.)

Remember?—Monarch-carved decades ago
vassals of the Old World recoiled,
trembled and knelt before
hireling henchmen
and tyrants.

Indulgent, they stuffed greed-guarded vaults
with silver, gold and precious gems
despoiled from helpless men—
the sapient and
the stolid;

That daunted domain where manly shoulders sagged
from rifle's weight and chilblained feet,
well-trained to martial drums,
goose-stepped to "songs
of glory."

II

Remember?—Facing death men dared to dream
of shattered chains for branded "traitors"
entrenched in dungeons of fear,
torment, despair
and odium;

Rebellious, tortured minds—with flair for peace
would not, COULD NOT join battalions
eddying through storm and swamp
en route to hell's
inferno;

Compassionate hearts, from childhood taught to pulse
to rhythms of hallowed hymns and psalms,
just would not COULD NOT throb
to raw-voiced drums
of rancor.

III

Remember—when, like haunted Hamlet, roused
by ghost of intrigue, murder, sham
men pledged to avenge their kin
who fell by fire
or famine:

With blood-stained shirts and Job-bruised skins and souls
with gallant grit, courageous goals
they broke corroded chains,
escaped to shores
of freedom:

To THE New World where bird and breeze resound,
"Give me your tired, your poor yearning
to be free . . ." in verse proclaimed
on Liberty's
proud statue.

IIII

Remember?—Once beyond the "Golden Door"
they stilled their eager appetites
with bread of bounty, prepared
by men of skill
and vision.

Here they drank from freedom's fount of hope,
marveled at pioneers' "melting pot"
whose harvest was shared and weighed
on scales of merit
and justice.

With awe they bowed to robed or civil sage
of own volition, never roused
to threats of bayonet
or pointed gun
of blackguard.

V

Remember—Man's deep anguish of "holy wars"?
And while still battling for glory and gain
we lift our searching eyes
and fervent thoughts
in prayer:

O Father of mortals, let Thy grace and mercy
shield our war-spared, placid shores!
Expunge each terror-reign
free men still flee
in panic;

Help us disperse dark clouds of hate and famine
with beacons of tolerance, courage and care!
Let freedom, love and peace
embrace this land
forever!●

HEROIC ACTION

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. SKELTON. Mr. Speaker, I would like to bring to the attention of my colleagues the heroic actions of three young men from Missouri, Raymond Samson, Doug Ehrhardt, and Jeff Thompson. With no thought for their own safety, these young men risked their lives to save three children in danger of drowning.

Recently, during a period of heavy rain, a young mother was swept off the road in her car by the flooding of Salt Ford Creek in Malta Bend, Mo. She managed to get her children to temporary safety on top of the car but drowned as she tried to go for help.

Fortunately, these young men, upon hearing cries for help, found the children stranded on the car. With time of the essence, they immediately called for help and risked their own lives by swimming out to the car and staying with the children until rescue equipment arrived.

Certainly the death of this young woman is tragic. However, an even greater tragedy was averted, thanks to the swift and courageous actions of Raymond Samson, Doug Ehrhardt, and Jeff Thompson. I would ask that my colleagues join me in commending these fine young men for their heroic deeds.●

WITHDRAW U.S. TROOPS OVERSEAS: DOD AMENDMENT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mrs. SCHROEDER. Mr. Speaker, next week I intend to offer an amendment to H.R. 6030, the fiscal year 1983 defense authorization bill, requiring the President to decrease by 50 percent the number of active duty troops permanently stationed outside the United States and its territories and possessions.

Set out below are: First, the language of my amendment, and second, a Defense Department report on active duty strengths worldwide as of September 30, 1980:

AMENDMENT TO H.R. 6030, AS REPORTED OFFERD BY MRS. SCHROEDER OF COLORADO

Page 19, after line 2, insert the following new section:

REDUCTION IN NUMBER OF ACTIVE DUTY MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES

SEC. 403. (a) The Congress makes the following findings:

(1) The military strength of the United States is dedicated to protecting our national security, preserving the liberties of the American people, and maintaining world peace.

(2) In order to implement these principles, the United States has maintained large contingents of active-duty military personnel on the territory of allies in Europe, Japan, and Korea.

(3) The allies of the United States in Europe, Japan, and Korea are in substantially better condition, both economically and militarily, than they were when large contingents of active-duty United States military personnel were first deployed on the territory of those allies.

(4) The means and capacity of allies of the United States to provide forces to resist aggression has significantly improved since the original United States deployment.

(5) The allies of the United States have not contributed a fair and equitable share to the common defense, forcing the United States to bear a disproportionately large financial burden to meet common defense needs.

(6) Relations between Eastern Europe and Western Europe have improved since the initial deployment of United States military personnel in Europe through increased trade and other interchanges.

(7) The present policy of maintaining large contingents of United States military personnel and their dependents on the territory of our allies costs the United States tens of billions of dollars each year.

(8) Relations between host country nationals and United States military personnel and their dependents stationed abroad are often marked by unnecessary friction and animosity.

(9) The deployment of large contingents of United States military personnel on the territory of our allies detracts from the ability of our military to react to crises elsewhere in the world.

(10) The United States should pursue a new division of labor with its allies whereby the allies provide for their own territorial defense needs while the United States meets strategic and common defense needs.

(11) The level of Federal spending must be reduced in order to balance the budget and revitalize the economy.

(b)(1) Except as provided in paragraph (2), after September 30, 1986, the number of active-duty military personnel stationed in locations outside the United States and its territories and possessions may not exceed 250,000.

(2) The prohibition in paragraph (1) does not apply during any period with respect to which the President has submitted a report pursuant to section 4 of the War Powers Resolution (50 U.S.C. 1534).

DEPARTMENT OF DEFENSE, ACTIVE MILITARY PERSONNEL STRENGTHS BY REGIONAL AREA AND BY COUNTRY, SEPT. 30, 1980

Regional area/country	Total	Army	Air Force	Navy [1]	Marine Corps
Total worldwide	2,050,826	777,036	557,969	527,352	188,469
Ashore	1,840,046	777,036	557,969	326,027	179,014
Afloat	210,780			201,325	9,455
U.S. territory and special locations	1,562,100	519,162	445,886	443,350	153,702
Contitnental United States	1,266,125	470,871	403,234	256,997	135,023
Alaska	19,815	7,949	10,095	1,586	185
Hawaii	43,313	17,118	5,942	10,976	9,277
American Samoa	8	8			
Guam	9,053	18	3,859	4,790	386
Johnston Atoll	119	109	10		
Midway Islands	498			498	
Puerto Rico	3,707	380	43	3,135	149
U.S. miscellaneous Pacific islands	7				7
Virgin Islands of the United States	10	7	1	2	
Wake Island	7		7		
Transients	68,009	22,702	22,695	14,472	8,140
Afloat	151,429			150,894	535
Total foreign countries	488,726	257,874	112,083	84,002	34,767
Ashore	429,375	257,874	112,083	33,571	25,847
Afloat	59,351			50,431	8,920
(1) Western and Southern Europe	331,705	217,550	77,813	28,140	8,202
Austria	37	6	6	1	24
Belgium*	2,114	1,343	638	106	27
Cyprus	12	2			10

DEPARTMENT OF DEFENSE, ACTIVE MILITARY PERSONNEL STRENGTHS BY REGIONAL AREA AND BY COUNTRY, SEPT. 30, 1980—Continued

Regional area/country	Total	Army	Air Force	Navy [1]	Marine Corps
Denmark*	14	6	18	10	10
Finland	19	5	3	1	10
France*	77	18	20	7	32
Germany (Federal Republic and West Berlin)*	244,320	207,898	36,043	276	101
Greece*	4,445	1,730	2,278	422	15
Greenland*	287	.....	287	.....	.....
Iceland*	2,808	2	1,049	1,700	117
Ireland	7	2	4	.....	1
Italy*	11,903	4,045	4,115	3,488	255
Luxembourg*	6	.....	.....	.....	6
Malta	1	1	.....	.....	.....
Netherlands*	2,630	970	1,634	17	9
Norway*	645	34	116	30	465
Portugal*	1,367	63	989	305	10
Spain	8,974	30	4,973	3,792	179
Sweden	17	1	5	4	7
Switzerland	38	5	3	2	28
Turkey*	5,263	1,178	4,003	69	19
United Kingdom*	24,312	211	21,629	2,162	310
Afloat	22,313	.....	.....	15,746	6,567
*European NATO	(300,287)	(217,498)	(72,819)	(8,594)	(1,376)
(2) East Asia and Pacific	114,845	32,395	31,214	27,372	23,864
Australia	644	6	243	387	8
Burma	10	3	1	.....	6
China:					
Mainland	12	3	3	.....	6
Taiwan [2]	1	.....	1	.....	.....
Hong Kong	39	6	5	12	16
Indonesia	55	12	16	14	13
Japan (including Okinawa)	46,004	2,423	14,380	7,248	21,953
Okinawa	(13,096)	(1,288)	(9,134)	(2,674)	.....
Malaysia	15	6	2	.....	7
Nauru	2	.....	2	.....	.....
New Zealand	263	196	11	50	6
Philippines	13,387	40	7,757	4,905	685
Republic of Korea	38,780	29,647	8,770	285	78
Singapore	23	4	1	11	7
Thailand	95	49	22	10	14
Afloat	15,515	.....	.....	14,450	1,065
(3) Africa, Near East and South Asia	21,617	454	674	19,002	1,487
Afghanistan	6	.....	.....	.....	6
Bahrain	66	2	.....	64	.....
Bangladesh	7	.....	.....	.....	7
British Indian Ocean Territory	1,373	.....	.....	1,373	.....
Cameroon	6	.....	.....	.....	6
Congo	7	.....	.....	.....	7
Egypt	495	5	434	32	24
Ethiopia	8	.....	.....	.....	8
Gabon	6	.....	.....	.....	6
Ghana	11	3	.....	.....	8
India	32	3	4	5	20
Iran	21	6	3	3	9
Israel	97	40	23	7	27
Ivory Coast	10	3	.....	.....	7
Jordan	25	9	9	.....	7
Kenya	27	7	8	.....	12
Kuwait	22	14	1	1	6
Lebanon	21	2	4	.....	15
Liberia	20	6	2	5	7
Madagascar	8	.....	.....	1	7
Malawi	2	2	.....	.....	.....
Mali	6	.....	.....	.....	6
Mauritius	6	.....	.....	.....	6
Morocco	40	11	6	4	19
Nepal	11	2	.....	.....	9
Niger	6	.....	.....	.....	6
Nigeria	15	4	2	.....	9
Oman	5	3	1	.....	1
Pakistan	31	5	6	1	19
Saint Helena	1	.....	1	.....	.....
Saudi Arabia	502	284	150	56	12
Senegal	9	.....	.....	.....	9
Seychelles	4	.....	4	.....	.....
Somalia	9	3	.....	.....	6
South Africa	17	1	3	2	11
Sri Lanka	9	.....	.....	3	6
Sudan	13	2	2	.....	9
Syria	12	2	.....	.....	10
Tanzania, United Republic of	9	.....	.....	.....	9
Tunisia	29	16	1	2	10
Upper Volta	6	.....	.....	.....	6
Yemen (Sana)	20	9	5	.....	6
Zaire	22	10	5	.....	7
Zambia	6	.....	.....	.....	6
Afloat	18,559	.....	.....	17,443	1,116
(4) Western Hemisphere	16,878	6,884	2,211	6,656	1,127
Antigua	122	.....	1	121	.....
Argentina	27	3	7	6	11
Bahamas, The	47	.....	7	34	6
Barbados	6	.....	.....	.....	6
Bermuda	1,350	.....	.....	1,266	84
Bolivia	16	6	3	.....	7
Brazil	46	9	7	5	25
Canada	691	26	249	400	16
Chile	17	2	1	1	13
Colombia	30	10	3	3	14
Costa Rica	11	2	.....	.....	9
Cuba (Guantanamo)	2,150	.....	3	1,684	463
Dominican Republic	16	4	.....	4	8
Ecuador	21	4	6	2	9
El Salvador	27	7	1	.....	19
Guatemala	15	4	2	.....	9
Guyana	9	.....	.....	.....	9
Haiti	13	3	1	.....	9
Honduras	19	2	8	1	8

DEPARTMENT OF DEFENSE, ACTIVE MILITARY PERSONNEL STRENGTHS BY REGIONAL AREA AND BY COUNTRY, SEPT. 30, 1980—Continued

Regional area/country	Total	Army	Air Force	Navy [1]	Marine Corps
Mexico	29	12	3	1	13
Nicaragua	12	3	1	.....	8
Panama	9,146	6,771	1,888	325	162
Paraguay	11	2	1	1	7
Peru	26	6	8	3	9
Uruguay	14	4	1	2	7
Venezuela	30	4	10	5	11
Afloat	2,964	.....	.....	2,792	172
(5) Antarctica	76	.....	.....	76	.....
(6) Eastern Europe	178	65	24	6	83
Bulgaria	10	2	2	.....	6
Czechoslovakia	11	1	3	.....	7
Germany Democratic Republic	51	44	.....	.....	7
Hungary	11	3	1	.....	7
Poland	15	2	2	.....	11
Romania	13	3	2	.....	8
Union of Soviet Socialist Republics	48	7	8	5	28
Yugoslavia	19	3	6	1	9
(7) Undistributed	3,427	526	147	2,750	4

[1] Includes 199 Reservists serving on full-time active duty and who are charged against Selected Reserve authorizations.
[2] Under Confinement.
Note: Ashore includes temporarily shore-based.●

IDA NUDEL FORCED TO LEAVE MOSCOW

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mrs. HECKLER. Mr. Speaker, Ida Nudel, a Soviet Jewish refusenik whom I adopted some years ago, has been denied official permission to reside in Moscow because she vowed to continue her struggle to go to Israel. In March, Ida Nudel returned from her 4-year banishment in Siberia, where she was sent after being convicted of malicious hooliganism. The conviction was based on her displaying of a banner on her Moscow balcony that read, "KGB, give me my visa."

Ida Nudel has been trying to leave the Soviet Union for 11 years. During this time she has been arrested countless times, imprisoned, harassed by the authorities, beaten, starved, and kept in isolation. She is now 51 years old and has only one close relative—her sister Elena Fridman, who lives in Israel.

I have today sent a letter to Soviet Ambassador Anatoli Dobrynin, asking him to use his influence to bring Ida Nudel back to Moscow and also to approve her application to emigrate to Israel. Following is the text of my letter:

HON. ANATOLI DOBRYNIN,
Embassy of the Union of Soviet Socialist Republics, Washington, D.C.

DEAR MR. AMBASSADOR: The refusal by authorities to allow Ida Nudel to reside in Moscow prompts me to address this plea to you and your government.

Ida Nudel returned in March of this year from her four-year banishment to Siberia, where she was sent as punishment for her efforts to emigrate. She settled temporarily in Moscow, her home, and planned to reside there while renewing her attempts to join her sister in Israel. The resumption of her emigration efforts led to the denial of her residence permit.

As a signatory of the Helsinki Final Act, the Soviet Union agreed to uphold certain fundamental human rights—among them, the rights to join family members living abroad and to emigrate to a historic homeland. Ida Nudel's eleven-year struggle to join her only close relative, a sister, in Israel, the Jewish homeland, should certainly fall under the terms of this international agreement.

I respectfully urge you to intervene in this matter and permit Ida Nudel to return to Moscow. I also urge you to seek favorable treatment for her application to emigrate to Israel. I believe that your intervention and attention to the case of this courageous woman would be a step toward better understanding and cooperation between our two nations.

Sincerely,

MARGARET M. HECKLER,
Member of Congress.●

SOVIET JEWRY

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. McCOLLUM. Mr. Speaker, as a member of the 97th Congressional Class for Soviet Jewry, I feel that the situation facing many of the refuseniks in Russia should be brought to the public's attention. The fact is that the number of Jews permitted to leave the U.S.S.R. in 1981, with Israeli visas, reached the lowest point in a decade. This decline must not go unnoticed and moreover should not be condoned by the lack of response by those of us who feel it is clearly the result of unfair treatment.

The Class for Soviet Jewry has set forth to raise this issue through the sponsorship by Members of Congress of a refusenik family. My family is Mikhail and Natalia Kozanevich. Mikhail is a radio engineer who lost his job when he applied to emigrate in 1973. Since that time, the Kozanevichs have been the target of intensive KGB harassment both because of their desire to emigrate and because of Mikhail's role in the founding of a Jewish cultural club in Leningrad. The abuses that this family is subjected to include the disconnection of their phone and a continual filtering of the mail that is allowed to be delivered to them.

The recognition of the plight of these prisoners of conscience is an important element in reminding the U.S.S.R. that their emigration policies and methods of intimidation of cultural diversity will not go unnoticed by concerned Americans.●

FOOD SHORTAGE CONTINUES TO GROW IN THE U.S.S.R.

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. McDONALD. Mr. Speaker, the food shortage is really beginning to hit the U.S.S.R. Some time ago, I reported in the CONGRESSIONAL RECORD (Sept. 9, 1981, page E4070, and June 11, 1981, page E2923), that food problems exist in the U.S.S.R. A more recent report (the Daily Telegraph of London, June 9, 1982), indicates that rationing of butter and sugar is taking place in the Soviet Republic of Georgia. Whatever else happens, the indications are that the Soviets will have to continue to import wheat for the next decade. In fact, the situation is so serious that the U.S.S.R. was even thinking of abandoning its collective farm system in order to spur agriculture output. This decision was abandoned, when it was learned that President Reagan was lifting the grain embargo. Aggravating the overall picture are two factors: One, the Soviet ports are clogged with incoming wheat; and two, the Soviet rail system is physically unable

to rapidly distribute the wheat from the ports. The item from the London Daily Telegraph follows:

[From the Daily Telegraph, June 9, 1982]

BUTTER IS RATIONED IN GEORGIA

(By Nigel Wade)

The Soviet republic of Georgia has imposed rationing for butter and sugar, its first food-rationing measures since the late 1940's.

Mr. Otar Cherkezia, a Deputy Prime Minister of the republic, yesterday linked the butter rationing directly to the Soviet Union's run of poor grain harvests.

He said 800,000 urban households in Georgia now had ration cards. Various kinds of rationing of scarce food items have been enforced from time to time in other parts of the Soviet Union.

The introduction of rationing is part of a series of troubles for Georgia, where five million people live among vinyards and tea plantations stretching from the Black Sea to the Caucasus mountains.

The Prime Minister of Georgia, Mr. Zurab Bataridze, who was 53, died in a car crash on Saturday, Mr. Cherkezia told Western reporters visiting Tbilisi, the republic's capital.

Mr. Bataridze supervised Georgia's government from 1975, under the direction of the Georgian Communist party boss, Mr. Edward Shevardnadze.

JAILED OVER BRIBES

In addition, Mr. Parnaoz Ananiashvili, the republic's Minister of Finance, and his chief auditor have both received maximum 15-year prison terms for taking bribes, Mr. Chekezia, who is one of several deputy prime ministers, disclosed.

It was announced in April that the Finance Minister and his chief auditor would stand trial. The prosecution claimed the Georgian Finance Ministry was "infected with corruption."

Georgia is famous for its corruption—what President Brezhnev has called its "moral atmosphere"—but Mr. Cherkezia claimed yesterday the problem was under control.

Tbilisi residents say that Georgia's new food-rationing system is not causing them much difficulty. Butter is rationed to 600 grammes (about 21oz) a person a month and sugar to 2 kilogrammes (nearly 4½lb) a person a month.

Mr. Cherkezia, noting that Georgia produces no butter of its own, said supplies had been hit by shortages of dairy produce elsewhere in the Soviet Union.

"Bad harvests in previous years inevitably affect the situation," he said.

THREE BAD HARVESTS

The Soviet Union has had three bad grain harvests in a row, cutting livestock feed and resulting in falling dairy output.

The Communist authorities in Georgia blame the shortage of sugar on incompetence by the Georgian Trade Ministry in regulating supplies to the shops.

Mr. Cherkezia referred to "some difficulties with fresh meat," but said meat was not rationed. Improving food supplies was one of Georgia's top political priorities.

The funeral of the Georgian Premier was to be held yesterday, but it was not known when a successor was to be named.

Powerful black limousines which carry Soviet leaders are notorious for speeding.

The Communist party chief of Belorussian died when his car was in a collision with a farm vehicle in 1980.●

PROCLAMATION OF THE STATE OF MONTANA

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. WILLIAMS of Montana. Mr. Speaker, I submit the following resolution to be printed in the RECORD:

Whereas, Naseby Rhinehart, Sr., has served the University of Montana students, athletes, coaching staffs and University personnel this past 47 years; and

Whereas, this service has been given with genuine concern for quality of effort, and personal, professional growth; and

Whereas, Naseby Rhinehart has won and earned the respect of his peers, students, athletes and staff alike for his compassion, professionalism, pride in hard work and willingness to spend time with anyone who asks for it; and

Whereas, Naseby has enriched the lives and hearts of students, athletes, educators and Montanans during his service as athletic trainer at UM; and

Whereas, as a result of his labors nationwide recognition has been accorded to the University and the State of Montana; and

Whereas, all who have associated with Nase cannot forget his charming smile and infectious demeanor.

Now, therefore, I, Ted Schwinden, Governor of the State of Montana do hereby proclaim June 26, 1982, as "Naseby Rhinehart Day" in Montana in recognition of the contributions made to the people of Montana by this outstanding person.●

DOD AUTHORIZATION

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. McCURDY. Mr. Speaker, last year as I participated in the debate and review of the fiscal year 1982 Department of Defense authorization bill, I was struck by two important issues. The first issue concerns the significant cost growth which routinely plagues many of the major defense programs. The second issue is the need for improvements in the acquisition of major defense systems. Reforms are clearly needed in the defense acquisition process and this has been recognized by the Defense Department. The purpose, however, of my brief comments today is to address defense cost growth issues. My views regarding defense cost growth have been formulated, in part, as a result of my participation in extensive hearings on the defense acquisition process. Last year, as chairman of a special panel of the Procurement Military Nuclear Systems Subcommittee of the House Armed Services Committee, I spent 6 months, conducted 18 days of hearings, and received testimony from over 100 witnesses on cost growth in the defense acquisition process.

I think it is important to recognize from the start that cost growth can be divided into two areas—controllable and uncontrollable. I certainly understand that inflation is a cost growth factor which cannot be controlled by the Defense Establishment. I further agree that inflation is not unique to our defense market basket. In fact, as we all know, inflation is running rampant across a wide range of commodities which touch all of our lives. It is, however, those controllable cost growth factors such as unrealistic inflation rates, poor cost growth estimates, program stretchout, changes in weapon systems specifications, inadequate budgeting, and lack of competition, to name a few, that most concern me. These factors frequently result in unanticipated cost growth for many major, high-cost defense weapons programs.

I would certainly be the first to acknowledge that I am not the first member of this august body to express concern for unanticipated cost growth in our major weapons programs. I will most certainly not be the last. In fact, the Congress wisely passed a law in 1975—Public Law 94-106—which directed the Defense Department to routinely provide information related to the cost associated with major weapon systems. This cost reporting system is the Selected Acquisition Report (SAR) system. The SAR contains estimates of total system cost including research and development and procurement and military construction cost for major weapon systems. These cost estimates also attempt to include all economic inflation expected to occur with regard to those systems throughout the acquisition process.

The Congress amended Public Law 94-106 in 1979 to increase the dollar thresholds for reporting major weapon systems and to extend the time required for reporting. Specifically, the amendment—Public Law 96-107—requires the Department of Defense to provide selected acquisition reports on those major defense systems which are estimated to require investments in excess of $75 million for research, development, testing, and evaluation, or are estimated to require investments in excess of $300 million for procurement. The intent of Public Law 96-107 is absolutely clear. However, there remains some question as to the definition of major system. In fact, realistically, unless the Secretary of Defense has designated a system as major system, it may not be reported although the dollar thresholds are exceeded. I maintain that this cannot be allowed to continue, and the amendment which I will offer to H.R. 6030 contains a provision which would require the Secretary of Defense to provide selected acquisition reports on all defense programs which exceed $200

million in R.D.T. & E. costs or exceed $1 billion in procurement costs. This provision is clear and leaves no room for interpretation on the part of the Defense Department. The amendment also provides that the Secretary of Defense may identify any system as a major defense program, even though it may fall below the dollar thresholds.

These selected acquisition reports are currently routinely reported at the end of each calendar-year quarter. However, the Special Panel on Defense Procurement Procedures reported that the December 31 SAR's, which coincide with the President's budget submittal, are the most accurate SAR's and frequently the other quarterly SAR's do not reflect even fact-of-life changes which have occurred during the reporting period. Therefore, it is clear that the December 31 SAR should be the benchmark against which programmatic changes to include cost growth on major weapon systems should be measured throughout the year. The amendment recommends, therefore, that in addition to the comprehensive SAR which is reported as of December 31, three abbreviated quarterly SAR's will be required only when there is a change in program cost, performance or schedule for a particular major weapon program. Therefore, this provision of the amendment will reduce the paperwork burden of the Department of Defense.

The second major provision of the amendment addresses the issue of "exception reporting." Mr. Chairman, I believe that an effective reporting system should not only provide information but should also focus management attention on deserving areas. I maintain that one of the best ways of insuring that the Department of Defense focus on cost growth in major weapon programs—is to require the Department to provide reports on an exception basis—of those programs which exceed specific cost growth thresholds. In fact last year the Congress passed a 1-year provision as part of the Department of Defense Authorization Act for fiscal year 1982, commonly referred to as the Nunn amendment, which requires the Department to provide exception information concerning program and procurement unit cost growth.

Mr. Speaker, my provision will go one step further than the Nunn amendment by requiring that major defense programs be examined by the service secretaries when there is a 15-percent increase in contract cost or a 15-percent slippage in contract schedule. The occurrence of either one of these events would require the Secretary to examine the specific program and determine if the contract cost growth or slippage in the contract schedule may result in a 15-percent increase in the cost of the program.

Mr. Speaker, many of the key witnesses which appeared before this special panel indicated that in order for the Congress to receive so called prospective cost information—as opposed to retrospective cost information—on many of our major weapon systems, it would be necessary to provide a triggering mechanism such as contract cost growth.

The bottom line is that the amendment will, if implemented, provide greater visibility into weapon systems cost growth and provide further encouragement for the Defense Department to focus increased management attention on cost control cost management measures. I, therefore, encourage my colleagues to review the proposed amendment to the Department of Defense authorization bill for fiscal year 1983, H.R. 6030, and support its passage.●

THE AHMANSON FOUNDATION

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. MATSUI. Mr. Speaker, today I am introducing legislation which would amend the tax laws and provide the Ahmanson Foundation, a charitable organization, with a limited extension of the time during which it must dispose of its stockholdings in H. F. Ahmanson & Co., the holding company of Home Savings of America, the largest savings and loan association in the United States. This extension of time is necessary to permit the foundation a meaningful opportunity to dispose responsibly of the stock in order to avoid serious adverse consequences to the already troubled savings and loan industry.

Section 4943 of the Internal Revenue Code, enacted as part of the Tax Reform Act of 1969 in response to concerns about the ownership of businesses by private foundations, requires entities, such as the Ahmanson foundation, to reduce their holdings in a corporation to specified levels through a defined timetable. Under current law, the Ahmanson Foundation must dispose of substantially all its shares of H. F. Ahmanson stock by May 25, 1984.

In the opinion of expert investment bankers, the extension of time afforded the foundation in the bill is necessary to avoid sales of H. F. Ahmanson stock at significantly depressed prices which would result in an even sharper decline in the market price of that stock. Given that this stock represents about 15 percent of the total value of all traded savings and loan stocks, any further decrease in its value would produce a resulting sharp decline in the market price of savings and loan stocks generally. In fact, it is acknowledged that these effects on the market price of H. F. Ahmanson stock and the stock of all savings and loan institutions would have a highly detrimental impact on the ability of savings and loan institutions to raise sorely needed equity capital for an ailing industry.

As of March 31, 1982, the foundation held 27.5 percent of the stock of H. F. Ahmanson, with a value, based on the closing price on March 31, 1982, on the New York Stock Exchange, of over $70 million. The foundation has operated in good faith in its attempt to dispose of the stock. Unfortunately, their efforts have been hampered by the initial facts that the stock was not publicly traded and a substantial number of the shares were subject to intervening income interests, protracted litigation involving the California attorney general during which none of the stock could be sold and the severely depressed state of the savings and loan industry.

The foundation, with assets of approximately $90 million, carries out its charitable purposes by making grants to cultural, scientific, educational, and charitable organizations. Over the past 10 years, the foundation has made over 4,000 grants of more than $50 million to numerous organizations. For example, the Sacramento History Center received $10,000 from the foundation to enhance the services and programs it provides to the community. Other groups which have received financial contributions include the Los Angeles County Museum, the San Francisco Performing Arts, the YMCA, the regents of the University of California, the Nature Conservancy and B'nai Israel. Clearly, such grants to institutions of culture, education and research have enriched the lives of California residents; but, the foundation's support of these important causes could be jeopardized if they were forced to divest themselves of their stock in too hasty a fashion.

Given the foundation's profound civic contribution and sincere attempt to comply with the requirements of section 4943, it is my belief that legislation is warranted in order to remedy the difficulties it faces. My bill will extend for 10 years the current disposition deadline for the foundation's H. F. Ahmanson stock, thus affording it the possibility of an orderly disposal of that stock, thereby precluding the need to sell it at sacrificial prices and incurring serious adverse effects on the savings and loan industry. In addition, this legislation, which has no revenue impact, is designed to insure that the legislative purposes of the divestiture requirements of section 4943 are fulfilled.

To insure that the foundation's ownership of the stock will not create any appearance of conflicts of interest or

diversion from the affairs of the foundation on the part of the foundation's managers, the foundation will divest itself irrevocably of the power to vote the stock it otherwise would have to dispose of. This mechanism will also alleviate any concern that the foundation's ownership of the stock could produce a competitive advantage for H. F. Ahmanson. The foundation will proceed diligently with its disposition efforts, as it will be required to dispose of the stock in question gradually over the 10-year period, at the rate of 10 percent per year.

The application of the bill is limited to private foundations with very large holdings in the savings and loan industry, so that the extension is available only where the current deadline poses a seriously detrimental threat to this vital segment of the Nation's economy.●

JOE RICE DOCKERY, RICE PIONEER

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. BOWEN. Mr. Speaker, it is with great sadness and respect that I rise today to pay tribute to a distinguished leader and a personal friend of mine, Mr. Joe Rice Dockery.

Joe Rice Dockery will always be remembered as a man with high standards and ideals and a tremendous ability to make things happen. The people who knew him looked to him for leadership, and he always led them well.

He was born in Memphis, Tenn., and after attending Mississippi State University and Cornell University, he made his home in a small community named after his family near my own hometown of Cleveland, Miss. There, he and his wife, Keith Somerville of Cleveland, continued the operation of Dockery Farms, established by his parents, William Alfred and Hughis Rick Dockery in 1865.

From his family farm, Joe Dockery became a pioneer of the Mississippi and American rice industry. He was one of the first three rice farmers in the State of Mississippi, planting in the late 1940's. Initial annual rice production in Mississippi started at about 5,000 acres and has now grown to 350,000 acres through the leadership of agricultural leaders like Joe Rice Dockery.

Dockery was a charter member, organizer, and former president of the Mississippi Rice Growers Association and was instrumental in establishing the first rice mill in the Mississippi Delta, located in Cleveland. He also served for many years as a director of the National Rice Council, the promotional arm of the American rice industry, and served two terms as president of the council.

He was a member of both the New York and New Orleans cotton exchanges and was a key organizer and board member of the New Orleans Commodities Exchange, which was chartered last year.

Joe Rice Dockery's interests and activities were not limited to agriculture. He worked hard in politics, civic, humanitarian, religious, and philanthropic activities. He was very active in promoting the arts and education and was a board member of the Mississippi Educational Television Council and a leader in his Episcopal Church.

The State of Mississippi, the rice industry, and the Mississippi Delta have all benefited greatly from his leadership, advice, and personal friendship. The Dockery family, his wife, Keith, his daughters, Douglas, Keith, and Kay, and his seven grandchildren will I know continue the tradition distinguished service that Joe Rice Dockery of Dockery, Miss. has bequeathed to us all.●

FISHERMEN'S CONTINGENCY FUND AMENDMENTS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. LENT. Mr. Speaker, I rise in support of H.R. 3816, to improve the operation of the fishermen's contingency fund.

The fishermen's contingency fund was established by title IV of the Outer Continental Shelf Lands Act amendment (Public Law 95-372) to provide timely and equitable compensation to commercial fishermen for gear and vessel damage caused by OCS oil and gas activities. Funding is provided through an assessment levied against offshore oil and gas lessees. The idea is to assure that fishermen do not bear the economic burden of OCS oil and gas activities which may negatively affect their own commercial enterprises.

The Panama Canal/OCS Subcommittee, on which I serve as ranking minority member, held hearings on this legislation, during which serious problems in the fund's operation were brought to our attention. The bill before us is the product of our joint markup with the Subcommittee on Fisheries and Wildlife Conservation and the Environment. It includes a clarifying amendment approved by the full Merchant Marine and Fisheries Committee and the House of Representatives, as well as several technical amendments approved by the other body.

The Senate amendments further clarify the total dollar amount in the fund, the burden of proof with respect to damages caused by pipelines, and claims procedures. They also delete the survey of obstructions requirement in the House bill which has never been funded by Congress. In addition, they extend existing governing international fishery agreements.

Timely enactment will help assure this compensation program is functioning efficiently and effectively in anticipation of increased oil and gas activity on the OCS.

I commend my colleagues for their cooperation in securing timely consideration of this bill and urge passage without further delay.●

DISTORTION OF INFORMATION HURTS DOD AIRLIFT PROGRAM: WEINBERGER

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. McDONALD. Mr. Speaker, the proponents of the 747 amendment and those who wish to substitute the C-17 would have us believe that Lockheed has been directing the DOD on how to lobby the C-5. If that be the case, the Senate vote certainly is not indicative of some sinister plot.

This article, from the July 13, 1982, Aerospace Daily, explains the truth of the matter. Secretary Weinberger and Deputy Secretary Carlucci have been forced to escalate their efforts to supply the Congress correct information because of the unparalleled lobby by Boeing, McDonnell Douglas and their allies to distort the facts.

Every contractor supports the DOD with as effective a lobbying campaign they can muster on their program. A DOD contractor would be suspect if it did not lobby for the administration's program. Look at the recent lobbying campaigns for the B-1, Saudi AWACS and MX, not to speak of the Chrysler loan guarantee. If anyone is in the wrong here it is Boeing, McDonnell Douglas, their subcontractors, bankers, and customer airlines. Their combined forces have been operating a high powered lobby campaign to undermine the administration's defense objectives which will weaken our national security. Yes, Mr. Speaker, these same companies that lobby us for a strong defense when it comes to their pet programs, such as cruise missiles, F-15 fighters, CRAF, and so forth, have been actively lobbying us to degrade our military airlift capability. I find such actions reprehensible and un-American. I therefore urge that this contrived 747 amendment be rejected.

The article follows:

[From the Aerospace Daily, July 13, 1982]

DISTORTED INFORMATION HURTS DOD AIRLIFT PROGRAM: WEINBERGER

Defense Secretary Caspar Weinberger has fired back at airlift critics trying to make an issue of the Pentagon's lobbying for the purposed Lockheed C-5B airlifter, saying that their "distorted information" has made it necessary for the Defense Department to step up its efforts to inform Congress.

Weinberger heaped criticism on the critics in a July 7 letter to Rep. Norman Dicks (D-Wash.), one of those in Congress actively opposing the Pentagon's plan to build a fleet of 50 C-5Bs.

"It is actually somewhat ironic that these contractors have sought to make an issue of this Department's effort to assure that members of Congress have not been misled as to the nature of the program proposed by the Administration," the Secretary said, "inasmuch as this effort has been made necessary solely as a result of the extraordinary volume of distorted information that they themselves have disseminated on Capitol Hill in a lobbying campaign of unparalleled intensity and scope."

Deputy Defense Secretary Frank C. Carlucci, in a letter to Sen. William Proxmire (D-Wis.) also dated July 7, used equally language in denouncing C-5B critics and questioning their motives. He assured Proxmire of full DOD cooperation with a General Accounting Office investigation Proxmire requested into charges of misconduct which Carlucci said "have been generated by certain defense contractors opposed to the C-5B program."

These contractors, Carlucci said, "have consistently attempted to focus the discussion on every conceivable subject except the merits of the proposed C-5B. They have urged the Senate to reject our program and purchase Boeing 747s by emphasizing the depressed condition of the airline industry and the need for a backdoor bailout of its principal supplier of aircraft.

"More recently," Carlucci said, "these contractors have sought to make an issue of our effort to ensure that members of Congress are completely informed about the nature of our program. Our effort has been made necessary solely as a result of the extraordinary volume of distorted information that the opponents of the program have disseminated on Capitol Hill."

Weinberger told Dicks that he was not prepared to conclude that Pentagon personnel have "improperly engaged in lobbying activities."

After public disclosure of computer printouts detailing a joint Pentagon-Lockheed lobbying effort for the C-5B, Dicks fired off a letter to Weinberger on June 25 suggesting that many of these activities may be in violation of a law prohibiting use of appropriated funds to lobby Congress and Defense Department and Air Force standards of conduct.

Dicks and 10 other congressmen introduced a resolution directing Weinberger to turn over to the House all records of lobbying activities in support of the C-5B decision.

The House Armed Services Committee will hold a hearing on the resolution on Thursday and will report back to the House on its merits. Armed Services Chairman Melvin Price (D-Ill.) said yesterday that the committee would report back to the House on Monday.

The flap over lobbying only serves to underline the intensity of the campaign over the Pentagon's multi-billion dollar airlift decision.

Last month, Chairman Ted Stevens (R-Alaska) of the Senate Appropriations defense subcommittee warned that lobbying over the airlift decision was getting out of hand and threatening to jeopardize the program (Daily, June 25).

"The lobbying on this issue is getting more intense than any issue I've seen so far this year in the defense area, and my advice is to cool it because (if not), everyone's going to lose in this effort to improve airlift," he remarked at the start of a hearing in which executives of Boeing, Lockheed and McDonnell Douglas made their arguments for their competing proposals.

Weinberger told Dicks that it was his belief that the charges of possible violation of lobbying prohibitions have been generated "principally by certain defense contractors opposed to the C-5B program in the hope that a decision not to proceed with the program will result in contracts being placed with their companies."

Nevertheless, Weinberger assured Dicks that his charges that Defense Department personnel may have engaged improperly in a lobbying campaign "will receive my personal attention."

The prohibition against executive branch lobbying of Congress has proved to be a difficult one to enforce mainly because of the difficulty of distinguishing between lobbying and the responsibility of government agencies to make recommendations and answer congressional requests for information, a fact that Dicks noted in his letter to Weinberger.

Carlucci, pledging full support for the GAO investigation, said "I am personally committed to having any charges of improper conduct on the part of this department laid to rest" and sent Proxmire a copy of a July 7 memorandum to top Air Force officials ordering then to "preserve any records or documents" relating to the so-called C-5B group "for examination by the investigators."

"I share your desire for efficient management in government," Carlucci told Proxmire. "We cannot allow decisions affecting defense programs to be influenced by those whose positions are inevitably dictated by financial interests in the outcome."

The Pentagon's decision to procure the C-5B, he said, "was based on a careful analysis of our airlift needs. I am hopeful that Congress will likewise consider the C-5B solely on the basis of military requirements."●

THE UNITED STATES HAS NOTHING TO GAIN FROM INVOLVEMENT IN THE IRAN-IRAQ WAR

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. PAUL. Mr. Speaker, the invasion of Iraq by Iranian troops has brought an excellent illustration of the absurd nature of our Nation's foreign policy of intervention.

One might expect any reasonable person to be thankful that this war does not involve the United States. But our State Department officials are so accustomed to U.S. involvement in every war that they are actually bothered by the fact that we are not yet involved in this one.

The degree of our eagerness to be involved in every conflict throughout the world has reached a ludicrous climax with the Iran-Iraq war. Our State Department officials are actually mourning the fact that we do not have a side to champion. One State Department official told the New York Times that this war is, unfortunately, "one of the few conflicts where we don't have an ally or at least friend" involved.

Now, it seems to me this is a cause for celebration. But instead the State Department is busy trying to figure out a way to get us involved, so that American weapons may be used, American tax dollars used to finance the war, the lives of American boys put on the line for a cause that is not ours, and American world influence given another costly demonstration. Already the Iranians are using American weapons sold to the Shaw and now it looks like we will find a way to get weapons to Iraq.

The current situation in the Middle East provides another excellent case in point. Our policy in the Middle East is absurd: First we supply all of Israel's weapons and tacitly endorse the invasion of Lebanon, at a significant dollar cost to the American taxpayers. Then, because innocent Lebanese civilians have been injured and killed, we quickly increase a proposed $20 million foreign aid grant to Lebanon to $50 million, for humanitarian reasons. Finally, to try to help solve a problem we helped create, we offer to risk not only more American tax dollars but also the lives of American boys to rescue the PLO, an organization we have never recognized and in fact have tried for decades to destroy. When will this ever end?

The history of every recent war—from Korea to Israel's assault on Lebanon—shows a degree of involvement by the United States that far exceeds that of any other country, including the Soviet Union.

I believe the American people are tired of sacrificing themselves for the world; it never seems to help, and the cost is now prohibitive. On top of it all, we are not respected, but are generally condemned for all our meddling. One need only look back to the Iranian hostage crisis to see the sad fruits of our worldwide meddling, and what it has cost us in terms of peace and world respect.

America's foreign policy debate must be changed from a discussion of which side to support in any particular war—and, indeed, how to get our foot in the door of every new war—to a debate about the merits of interventionism versus armed neutrality.

On this question, the record of history is clear: Interventionism inevitably leads to war; armed nonintervention brings peace and freedom. Only

through neutrality with strength can we hope once again to have a foreign policy of sense and direction. And only such a policy of strict neutrality can extricate us from dangerous situations like the ones that now exist in the Middle East and Persian Gulf.

Our State Department—if it truly wants to serve the interests of our Nation and the American people—should stop devoting itself to foreign intervention and instead turn its efforts to seeking peace through armed neutrality.●

AMENDMENT TO DOD AUTHORIZATION

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. SOLOMON. Mr. Speaker, today, I am inserting an amendment in the CONGRESSIONAL RECORD which I will offer to the Department of Defense authorization bill when it reaches the floor. The amendment requires that every individual applying for assistance of the benefits provided under title IV of the Higher Education Act of 1965 must comply with registration requirements or be ineligible for student benefits. The amendment would prohibit young men who have failed to register from receiving Federal education assistance.●

SENATE—*Friday, July 16, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Our Father in Heaven, we thank Thee this morning for the common blessings of life—for eyes to see, ears to hear, hands to touch, feet to walk, lungs to breathe, and hearts to beat. We thank Thee for minds to think, for wills to choose, and for emotions to feel. We thank Thee for that incomparable computer, the brain, and for the central nervous system with its incredible capacity for instantaneous reaction and response. Truly, we are fearfully and wonderfully made.

Forgive us, gracious Lord, for the sin of presumption which takes these incalculable gifts for granted and rarely appreciates them until they are inoperative.

We thank Thee, dear Lord, for family friends, and colleagues. Help us to appreciate them and love them as we will wish we had done if we lost them. In Jesus' name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. STEVENS. I thank the Chair.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO THE PRESIDENT PRO TEMPORE, SENATOR STROM THURMOND

Mr. STEVENS. Mr. President, I feel constrained to comment on the fact that the distinguished President pro tempore of the Senate, Senator STROM THURMOND of South Carolina, is once again in the chair despite the fact that we recessed at a late hour last evening and we are commencing at a very early hour this morning. I want to take this occasion to point out to Senators that in my career in the Senate I cannot remember a President pro tempore who was as dedicated to the task of being part of the management of the Senate as my distinguished friend and colleague, the Senator from South Carolina.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, after the usual preliminary activities this morning, the Senate will resume consideration of S. 1867, the reclamation bill, following three special orders and a period of routine morning business.

It is my understanding that morning business has been limited to 10 minutes; is that correct?

The PRESIDENT pro tempore. The Senator is correct.

Mr. STEVENS. Mr. President, I estimate that we should be back on the bill no later than 9:30 a.m., and Members of the Senate should be aware of the fact that rollcall votes are expected throughout the day. It is possible, as we resume the consideration of the Exon amendment which is now pending, that we could have a vote between 10 and 10:30 a.m.

The majority leader indicated his intention last night that the Senate should finish this bill today. We hope that will be at a reasonable hour. We know that many Senators have made reservations to go west from Washington, D.C., but again Senators should be aware that, if necessary, the Senate will remain in session today until late tonight and possibly on Saturday because the intention of the leadership is to finish the reclamation bill before recessing for the weekend.

RUSSIANS IN THE PACIFIC

Mr. STEVENS. Mr. President, I have been concerned for some time about the growing Soviet naval presence in areas we have traditionally considered to be our own backyard. They are in the Caribbean Ocean on a regular basis. They are also increasing their forces in the Pacific Ocean in a way which should alarm anyone concerned about our maintaining free trade in the Eastern Pacific.

Last year, by way of example, a *Kara*-class missile cruiser from the northern port of Petropavlovsk skirted the Aleutian Islands and then went by Oregon and Hawaii. It is not unusual for Soviet reconnaissance bombers to probe Alaska's airspace to test the Alaskan Air Command's air defenses.

The July 19, 1982, issue of U.S. News & World Report has an informative and timely article on the Soviet naval and air forces in the Pacific Ocean. I urge you to read it. I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From U.S. News & World Report, July 19, 1982]

RUSSIANS IN PACIFIC—U.S. PUSHES BACK

(By Robert Kaylor)

Moscow's naval might is on the rise across the vast sweep of ocean. But American commanders are resolved to meet strength with strength.

A steady buildup of Soviet sea power confronts U.S. naval forces with an increasingly formidable task in protecting vital Western trade routes across the Pacific and Indian oceans.

From the Horn of Africa to the vulnerable sea-lanes off Japan, to the shores of the U.S. itself, a modernized Soviet Navy is plying ocean expanses that only a decade or so ago were considered virtually a private domain of America's powerful Pacific fleet.

Moscow also is buttressing Soviet naval strength by lining up land, sea and air bases and supply depots in nations near maritime choke points in Africa, the Mideast and the Far East.

Russian ships and planes now range from facilities in Ethiopia, South Yemen and Vietnam and from Soviet-held islands just off northern Japan.

There is more to the buildup than just the visible projection of Soviet sea power. Military experts say a prime objective of the Kremlin is to enable the Soviet Navy to interdict critical Western trade routes in the Indian and Pacific oceans if the need arises.

Through those waters pass one quarter of Mideast oil for the non-Communist world—10 to 12 million barrels per day—and all U.S. sea trade with Asia, now greater than that with Western Europe.

The Soviet buildup in the two oceans is a mounting worry to U.S. strategic planners and to Asian friends who rely on America's defensive umbrella. But until recently, efforts to counter the Russian fleet have been hamstrung by U.S. budget constraints and by an unwillingness of some allies to assume a greater share of the defense burden.

According to military analysts, the Soviet Pacific Fleet, based at the Soviet port of Vladivostok on the Sea of Japan, is the largest of Moscow's four geographically divided naval forces. It surpasses even the Northern Fleet, which would combat Atlantic Alliance forces in the North Atlantic.

"The Soviet buildup in the Pacific is more dramatic than at any other place in the world," says Adm. Robert L. J. Long, who commands U.S. Pacific forces from his headquarters in Honolulu. Says Long of the overall balance of naval forces in the region: "Right now, we are in a virtual standoff as far as having enough to win."

Western experts see Soviet naval power aimed at three strategic targets in the Pacific and Indian oceans:

Approaches to the Persian Gulf and adjoining Middle East waters, through which flows most of the West's oil imports from the Arab world.

The Russians have added a new naval base on Ethiopia's Dahlak Islands in the Red Sea to existing facilities at the South Yemeni port of Aden and on Socotra Island, which commands Indian Ocean approaches to the Gulf of Aden.

Japan, which depends on the Mideast for 70 percent of its oil imports.

With little military capability of its own, Japan is within easy range of Soviet bombers based near Vladivostok. Soviet Krivak-II frigates regularly sail around Japan's islands, sometimes holding target practice a few miles outside Japanese territorial waters. The Russians also are believed to have built up troop strength on the Kurile Islands, the northern islands they took from Japan at the end of World War II.

The South China Sea, where a permanent task force of a half-dozen Soviet warships operates from Vietnam's Cam Ranh Bay, one of the finest natural harbors in the world.

The base, built by the U.S. during the Vietnam War, now is a major support, communications and intelligence center for Moscow. It lies across the South China Sea from the large U.S. naval base at Subic Bay in the Philippines. The Pentagon has warned that Soviet reconnaissance flights over the Pacific theater originate from Cam Ranh Bay.

The reach of the Soviet Pacific fleet extends even to the United States. Last fall, a Kara-class missile cruiser from the North Pacific port of Petropavlovsk led a task force on a cruise that skirted the Aleutians, swung south to near the Oregon coast, then passed the Hawaiian Islands before heading for home.

American military men say Soviet nuclear-armed submarines, at least one of which operates within a few hundred miles of the U.S. West Coast, have missiles trained on American targets. Backfire bombers can fly missions as far south as the Philippines or as far east as the Aleutians. They give the Russians what one U.S. official describes as a "significant new direction in their attack capability."

GETTING THERE

Distances and obstacles involved in countering the Soviet threat often strain U.S. Navy resources to the maximum. It takes 25 days for an aircraft carrier to reach a potential battle zone near the Persian Gulf from bases on the West Coast. This means that more than half of a normal cruise of 80 to 100 days would be spent just getting to and from battle stations.

Over all, the U.S. maintains a slight numerical superiority in the number of large surface warships in the region—97 to about 80 for the Soviets. The biggest American advantage lies in its aircraft carriers, ships carrying up to 100 airplanes each and the backbone of American naval might for four decades.

Seven of the Navy's 12 flattops are kept on alert for Asian duty, even though actual deployment can mean stripping other theaters of operation or cutting back on maintenance.

But with 130 submarines, the Soviets have nearly a 2-to-1 edge in undersea craft operating in the Pacific and Indian oceans. Their surface fleet also continues to expand, with more than a dozen major combat ships added to Soviet forces over the past five years.

Last year, a new Kara-class cruiser and several destroyers joined the fleet. Also operating in the Pacific is the *Ivan Rogov*, a first-of-its-kind amphibious ship that uses hovercraft to ferry combat troops ashore.

Russian diplomats say the role of their Pacific Fleet is to protect Soviet trade routes and fishing grounds, bolster support for "liberation" movements in southern Africa and defend against American submarines.

U.S. and allied officials see more sinister motives. The Soviet goal, says one senior U.S. official, is to "outlast us throughout the theater, building to such a high level of forces that the U.S. will finally throw in the towel and not try to keep up in an area so far from home."

The fall of the pro-Western Shah of Iran in 1979 and the Soviet invasion of Afghanistan underscored the need to improve America's capability to counter the Soviet threat to the Persian Gulf region. As a result, agreements have been reached to permit U.S. use of military facilities in Egypt, Oman, Somalia and Kenya. President Reagan has earmarked about 4 billion dollars in his 1983 budget proposal for a 250,000-man Rapid Deployment Force, which could be sped to the region in an emergency.

DIEGO GARCIA

Center of U.S. activity in the Indian Ocean is the British-owned island of Diego Garcia. The V-shaped atoll encloses a lagoon that has been dredged deep enough to handle the largest aircraft carriers. The island is home to about 5,000 American military men and construction workers, plus a few British sailors.

Once used only to grow coconuts, Diego Garcia now bristles with antennas, fuel storage tanks and buildings. A 12,000-foot runway soon will be able to accommodate emergency landings for B-52 bombers flying surveillance missions over the Indian Ocean from bases in Australia. Navy antisubmarine planes regularly use the strip now.

Claims of sovereignty over Diego Garcia by the newly elected socialist government of Mauritius could pose a long-range threat to continued use of the facilities by the United States. The British, however, reject the claim and have assured Washington that it presents no problem for the future.

American commanders emphasize that the U.S. has no intention of yielding supremacy in Asian oceans to the Soviets. "We intend to maintain a permanent naval presence in the Indian Ocean for the foreseeable future because of the importance of that area for the U.S. and its allies," says Long, the Navy's Pacific commander.

Nevertheless, one big source of U.S. concern is lack of support by some allied nations for American efforts to counter the Soviets.

Under American pressure to play a more active defense role up to 1,000 miles from its shores, Japan is buying some long-range, U.S.-made patrol planes and has begun expanding air and port facilities on Iwo Jima. But a recent poll showed that 81 percent of the Japanese people oppose any increase in the nation's self-defense forces.

In the Philippines, where the U.S. Subic Bay Naval Base provides major logistical support for operations in the Indian Ocean, political opponents of President Ferdinand Marcos decry the U.S. military presence.

PRO-CON CAMPS

American analysts have divided the 30-odd countries on the shores of the Indian Ocean into what they regard as pro-U.S. and pro-Soviet camps. Those sympathetic to the Russian presence, such as India's Indira Gandhi, often voice their opposition to the Americans by calling for designation of the ocean as a "zone of peace."

The pro-American camp generally sees the need to balance the Soviet buildup. Thailand, for instance, has purchased a half-billion dollars in American arms during the past three years and permits U.S. marines to stage landing maneuvers on its beaches.

Despite lack of support by some nations, the vast distances from home ports and the large number of potential hot spots that must be covered, U.S. commanders generally are heartened by moves to improve America's military posture in the region. They say that proposed new defense spending could provide immediately greater stocks of ammunition and fuel and more warships in the future.

Admiral Long reflects that cautious optimism. While warning that results of a showdown with the Soviets might be too close to call, he says that the outlook "now is significantly brighter than it was a couple of years ago."

VINEYARDS OF THE PACIFIC NORTHWEST

Mr. STEVENS. Mr. President, in past years connoisseurs of fine wine have felt obliged to look across the Atlantic Ocean for a world-class grape for world-class wine. No longer must Americans live in "palate deprivation." Let us look to the Pacific Northwest of the United States for the perfect grape, the perfect texture, yes, the perfect wine.

Recently, the vineyards of Idaho, Washington, and Oregon have taken their places in the world of fine wine and are being recognized as world-class wine regions. Americans who appreciate the fruits of the vine no longer have to look across the sea; they merely have to look to the great Northwest.

The U.S. Senate is privileged to have among its numbers one who is a pioneer in wines of the Northwest. The distinguished Senator from Idaho, Senator SYMMS, has made the Senate aware of the fine quality wine that Idaho and the Northwestern States have to offer. Last year, he and his family were kind enough to share a glass of Idaho's famous St. Chapelle wine with the Members of the Senate. After that experience I must say that Idaho wine may soon rival Idaho potatoes with respect to recognition and appreciation.

Mr. President, New Yorker magazine of June 28, 1982, contained an article regarding vineyards in the Northwest. The article describes the winery of St. Chapelle. My good friend from Idaho has good reason to be proud.

The country and the world should know about the progress the Northwest is making in this industry. Maybe some day the Matanuska Valley in

Alaska will surprise the world with a world-class grape.

I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOOD NEWS FROM THE NORTHWEST

(By Alexis Bespaloff)

Anyone looking for something new in wine need not go beyond the borders of this country: The vineyards of Washington, Oregon, and Idaho—often referred to as the Pacific Northwest—are beginning to take their place among the premium-wine regions of the world.

Though the Northwest has less than 10,000 acres planted with traditional wine-producing grapes (California has 340,000), there are already more than 50 wineries in Washington, Oregon, and Idaho. It's hardly surprising that many people are still unfamiliar with these wines: Most wineries in the region bottled their first wines less than six years ago, and even the oldest date back only twenty years. But some of the best examples from the Northwest are starting to arrive here; there are now more than 30 wines from six wineries in general distribution in New York.

It's easy for those of us with a sketchy sense of geography to assume that the vineyards of the Pacific Northwest (some of which are actually quite a distance from the ocean) are simply an extension of those in California. Northwestern wine-makers, however, are quick to point out that their wines have more in common with those of France and Germany than with the richer, more powerful wines of California. What's more, the climatic conditions and specific varieties cultivated in Washington, Oregon, and Idaho differ from one another, so the wines of each state are best considered separately.

In January 1962, David Lett, a young man with a degree in philosophy from the University of Utah, was waiting in San Francisco to begin his first semester in dental school. One day he toured the Napa Valley, visiting Mayacamas and the old Souverain winery (now Burgess Cellars). "It was rainy," he recalls, "but it was romantic, and I decided I'd rather grow grapes than teeth."

So he took up oenology at the University of California at Davis, gradually focusing his attention on Pinot Noir. "I wanted to produce the great American Pinot Noir," he says, "and I felt that California did not have the right climate for this grape." He eventually moved to the Willamette Valley, in northern Oregon, and in 1966 planted the first wine grapes there since Prohibition. "My oenology professor tried to dissuade me," says Lett. "He told me I'd be frozen out every spring, rained out every fall, and that I'd have athlete's foot up to my knees." In 1980, at a blind tasting of French and American Chardonnays and Pinot Noirs organized in Beaune by Burgundian shipper Robert Drouhin, the 1975 Pinot Noir from Lett's winery the Eyrie Vineyards, came in second, two-tenths of a point after a 1959 Chambolle-Musigny and well ahead of a 1961 Chambertin Clos De Bèze.

Five years before Lett's first planting in the Willamette Valley, Richard Sommer, who was interested primarily in Riesling, established Hillcrest Vineyard near Roseburg, about 180 miles south of Portland; he produced his first wines in 1963. Although a few others have also established wineries near Roseburg, most Oregon vineyards are in the Willamette Valley within a 45-mile radius south and west of Portland.

In 1970, there were 7 wineries in Oregon and about 85 acres of grapes; today, there are nearly 40 wineries and more than 2,000 acres. Dick Erath, who had been a home wine-maker in California, planted vines near the Eyrie Vineyards in 1969, and later joined Cal Knudsen to set up the Knudsen Erath winery. Bill Blosser and his wife, Susan Sokol, founded the Sokol Blosser winery near Knudsen Erath; they produced their first wines in 1977, as did Joe and Pat Campbell at Elk Cove Vineyards. Bill Fuller, who had been production manager at the Louis Martini winery, in the Napa Valley, for several years, established Tualatin, in the Willamette Valley, in 1973. "I didn't want to be just another winery on winery row," he says, "and I also felt that in Oregon I could produce a light, delicate European style of wine that California wasn't making."

The short, cool growing season in Oregon favors early-ripening varieties such as Pinot Noir, Chardonnay, and White Riesling (as the Riesling of Germany is labeled in Oregon). Other varieties planted there include Gewürztraminer, Pinot Gris, Müller-Thurgau, and Muscat Ottonel, varieties found primarily in Germany and Alsace. Notably absent, except in very small quantities, are three varieties widely planted in California—Cabernet Sauvignon, Merlot, and Sauvignon Blanc.

While waiting for the Tualatin vineyards to bear, Fuller bought grapes in Washington. He was the first Oregon wine-maker to do so, and many others followed his lead. As a result, a number of Oregon wineries now produce Chardonnay, Pinot Noir, and White Riesling from Oregon grapes, and Cabernet Sauvignon, Merlot, Sauvignon Blanc, and Semillon from Washington grapes. The origin of the grapes must be clearly stated on the label, of course; in fact, Oregon has particularly strict labeling requirements. If a wine is labeled with the name of a grape, at least 90 percent of the wine must be made from that grape; the federal minimum is only 51 percent. (The sole exception is Cabernet Sauvignon, which may be blended with up to 25 percent of such Bordeaux varieties as Merlot and Cabernet Franc.) Generic names, such as Chablis and Burgundy, are not permitted in Oregon.

Many Oregon wineries are still experimenting with different grapes—Dick Erath, for example, has planted five vines each of 60 varieties—and most wine-makers are still defining their individual styles. "The Oregon wine industry is still in an experimental stage," says Bob McRitchie, wine-maker at Sokol Blosser. "We haven't settled down yet, and we shouldn't."

Oregon wines are generally lighter-bodied, more delicate, and more restrained in varietal character than those from California, but the best of them have an elegance, balance, and style that make them easy to drink. Unfortunately, the overall level of wine-making in Oregon is not yet as high as that in California, and a number of wines I tried were flawed or undistinguished. The wines I liked included three Pinot Noirs (those of the Eyrie Vineyards are not available here)—the subtle, complex Knudsen Erath 1979 ($9.50), the restrained, elegant Elk Cove 1979 Reserve ($15.49), and the well-made, balanced Sokol Blosser 1978 ($9.50). "Pinot Noir is hard to grow and hard to sell," says Bill Blosser, "but we think it's the grape that will make Oregon's reputation."

I also liked the Sokol Blosser Chardonnay 1979 ($11.30), an attractive, restrained, and nicely structured wine. The Tualatin Chardonnay 1980 ($9.69, available in July) is also appealing, with a distinctive, toasty bouquet that suggests aging in new oak. Another distinctive wine, made primarily from Washington grapes, is the rich, spicy, intense 1979 Merlot of Knudsen Erath ($7.75).

Washington has long been a major producer of Concord grapes, which are used to make juice and jelly, but there were relatively few wine grapes available in the late 1950s, when Dr. Lloyd Woodburne, a professor at the University of Washington, began to make wines "in a garage on Saturday afternoons." He persuaded a few friends to take up amateur wine-making, and they became so pleased with their results that they took bottles of their wines to the growers from whom they had been buying grapes. The growers were so impressed that they stopped selling grapes to Woodburne and began to make wine themselves. Woodburne and his friends formed Associated Vintners in 1962, planted a few acres of their own, and produced their first commercial harvest in 1967. The winery that later became Chateau Ste. Michelle also produced its first varietal wines in 1967. Of the 7,400 acres of wine grapes now planted in Washington, nearly 3,000 belong to Chateau Ste. Michelle.

Although the first wineries were located near Seattle, so that sales could be made directly to consumers, almost all the Washington vineyards are situated 200 miles southeast of Seattle, in the Yakima Valley and the adjoining Columbia Basin. This area, protected from the Pacific rains by the Cascade mountain range, was a semi-arid desert before extensive irrigation was introduced. "The only thing you could grow there was sagebrush," recalls one farmer. The area is now one of the nation's principal agricultural regions, and the vineyards established there are planted with such red varieties as Cabernet Sauvignon, Merlot, and Pinot Noir, and such whites as Chardonnay, Johannisberg Riesling, Gewürztraminer, Chenin Blanc, Semillon, and Sauvignon Blanc. The days are longer there than they are in California ("We get 15 percent more day per day," says Joel Klein, Ste. Michelle's winemaker), and the cold desert nights enable the grapes to retain their natural acidity. As a result, the grapes grown there are high both in sugar (which fermentation transforms into alcohol) and in acid, which gives the white wines a crisp, lively taste.

Chateau Ste. Michelle is the only Washington winery whose wines are widely available in New York. Although its annual production of about 225,000 cases makes it by far the biggest winery in the Northwest, many of its varietal wines are of relatively recent origin. It first planted Chardonnay in 1973, and its first Sauvignon Blanc (now labeled "Fumé Blanc") was bottled in 1977.

Attractive whites from this large, modern winery include a dry, elegant, and lively Semillon-Blanc 1981 ($5.69); a light-bodied but assertive, grassy Fumé Blanc 1980 ($7.29), with fresh acidity; a fairly dry, crisp Chenin Blanc 1980 ($6.89); a well-balanced, stylish Chardonnay 1980 ($9.39); an unusually crisp and lively Johannisberg Riesling 1981 ($6.29), whose relatively dry taste would make it a good dinner wine; and an appealing, semisweet, and distinctive Muscat Alexandria ($6.95). A dry Rosé of Cabernet 1980 ($4.95) displays the slight weediness of this variety, and a Cabernet Sauvignon 1977

($8.99) is an attractive, medium-weight wine with restrained varietal character.

Ste. Chapelle, Idaho's first winery, is situated in the Snake River Valley 35 miles west of Boise. It was named in honor of the thirteenth-century church on the Ile de La Cité, in Paris, and the unusual new winery has tall, narrow stained-glass windows that are replicas of those in Paris.

Wines were first produced in Idaho in 1976, and there are now 420 acres planted at Ste. Chapelle, primarily in Riesling and Chardonnay. "If we were in California, we would have been just another winery," says Bill Broich, a partner in the winery, "but I figure we have less competition selling Idaho wine—that is, once we persuade people we can grow grapes as well as potatoes."

Broich has a special interest in Chardonnay, and his balanced and elegant 1980 ($13.10) is a particular success that combines varietal character with subtle oak nuances. It represents a deliberate stylistic change from his previous Chardonnays, which were richer, more powerful wines, higher in alcohol and oak flavors. "One day I realized that even though my Chardonnays were winning gold medals in competition, I had trouble drinking them with dinner," Broich explains.

Ste. Chapelle's 1981 Johannisberg Riesling ($7.99) ia an appealing wine with a slightly honeyed bouquet and a taste that balances fruit and acidity. (The 1980, still around, is also excellent.) Even more impressive is another 1981 Idaho Riesling, labeled "Special Harvest" (available in late July at about $14)—more intense in flavor, yet fresh and lively despite its higher proportion of natural grape sugar.

All the wines suggested above are stocked by local distributors, but not many stores offer a wide selection. Three that do are Yorkville Wine and Liquor Corporation (1392 Third Avenue, at 79th Street, 288-6671); Manley's Liquor Store (35 Eighth Avenue, between Jane and 13th Streets, 242-3712); and Acker, Merall & Condit Company (2373 Broadway, near 86th Street, 787-1700).

I've focused primarily on wineries that market their wines here, but there are several others whose wines are worth looking for if you visit the West Coast, including Associated Vintners and Preston Wine Cellars, in Washington, and such Oregon producers as Adelsheim, Amity, the Eyrie Vineyards, Shafer, and, for its delicious fruit wines, Oak Knoll.

Mr. STEVENS. Mr. President, I reserve the remainder of our leadership time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. I ask unanimous consent that the minority leader's time be reserved for his control at any time during the day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR NUNN

The PRESIDENT pro tempore. The Senator from Georgia.

Mr. NUNN. Mr. President, is there a special order in the name of the Senator from Georgia?

The PRESIDENT pro tempore. The Senator is correct.

THE CRIME CONTROL ACT OF 1982, TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, this morning I want to continue to stress my concern over the outrageous abuse of habeas corpus petitions. As we have tried to impress upon our colleagues for some time now, Senator CHILES and I see a dire need for reform of our habeas corpus laws. Every day, our criminal justice system suffers the burden of blatant misuse of the writ of habeas corpus by convicted felons. Judges on all levels of our justice system have for years spoken of the urgent need to change our present habeas corpus laws. Criminals are being allowed to take advantage of the writ of habeas corpus as a swift and effective means to continually floodgate our criminal justice system, even after they have already received a "full and fair hearing" on the very issues of which they so vehemently complain.

Take note of the time wasted and the burdensome litigation that the case of Martin against Wainwright forced upon our criminal justice system. The defendant was convicted as a result of a robbery in 1970. He was subsequently sentenced to a term of imprisonment of 6 months to 20 years. After his conviction was affirmed on direct appeal in the State system, he filed a petition for habeas corpus in Federal district court raising the very same issues which had already been fully and fairly examined and decided in his State appeal. The Federal court denied the petition on its merits. This order was appealed to the Court of Appeals for the Fifth Circuit, which affirmed, and to the U.S. Supreme Court which denied certiorari.

Martin subsequently filed a second petition for habeas corpus in Federal court in 1975, alleging that his sentence was illegal because he was not given credit for time served (at that time, State law did not require it). In response, the State pointed out that Martin had not even attempted to exhaust State remedies on this issue, despite his previous extensive appellate litigation in the State system. He never pursued it on appeal despite doing so on other issues. By following this strategy, Martin could effectively force the Federal courts to consider on the merits each of a potential myriad of State issues in separate and time-consuming habeas corpus proceedings. After full consideration on the merits a second time, the Federal courts denied the petition because it did not state a Federal claim. The fifth circuit affirmed the denial, finding that the issue was one controlled by State law.

The perplexing problem evident here is that the court should never have been forced to consider the merits of the second petition because this issue was not even appealed in State court. The matter was not presented and fully litigated in State court, despite Martin's opportunity to do so. Habeas relief should have been barred since, had there been error, the State appellate process was the proper remedy, particularly so on a question of State law. Although the State ultimately won the case twice on the merits, it should have never been burdened by litigation of this type.

Mr. President, as I mentioned yesterday, and emphasize again, the time has come to reform our habeas corpus laws. Such reforms would help eliminate these repetitive and unnecessary petitions which daily exact such a heavy and costly toll from our criminal justice system. In the fight against crime, we can simply not afford to pay this price any longer. I again urge the Senate to promptly act to consider and adopt the proposals for habeas corpus reform in S. 2543, the Crime Control Act of 1982.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR LEAHY

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for special orders still pending be reversed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDENT pro tempore. A special order for the Senator from Vermont to speak for 15 minutes.

Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized.

Mr. LEAHY. I thank the Chair.

THE FOOD AND NUTRITION SERVICE

Mr. LEAHY. Mr. President, last month I wrote to the Secretary of Agriculture regarding what I thought was outrageous behavior on the part of the Food and Nutrition Service. I

wrote to Secretary Block because I had been in a meeting with him and President Reagan earlier at which time both he and the President had asked me and several other members of the Senate Agriculture Committee for bipartisan support in some of the difficult issues coming before our committee.

We had pledged that support, and he had also pledged bipartisan help from his Department. The Department of Agriculture or at least the Food and Nutrition Service went just the opposite. My letter is self-explanatory.

Mr. President, I ask unanimous consent to have printed in the RECORD the full letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,

Washington, D.C., June 22, 1982.

Hon. JOHN R. BLOCK,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR SECRETARY BLOCK: It is with some regret that I draw to your attention the unfortunate recent behavior by officials of the Food and Nutrition Service. As you may have heard by now, officials of the Food and Nutrition Service refused to provide information requested by staff on my behalf in regard to an upcoming food stamp markup. It is my understanding that the Administration's positions on the various issues before the Committee were provided to majority staff prior to markup but that minority staff were refused information for several weeks.

I know that you would not have tolerated this behavior, had you been aware of it. It runs directly contrary to the spirit of bipartisan cooperation expressed to me and several other Senators by the President in recent White House meetings that you attended. Failure to receive timely information from the Department certainly makes rational, informed policy decisions much more difficult for Members of Congress. I trust that you will assure that this will not happen again in the future.

Sincerely,

PATRICK J. LEAHY,
U.S. Senator.

Mr. LEAHY. Mr. President, I have not received a reply from Secretary Block about my complaints that the service was unwilling to talk with Democratic members of the Senate Agriculture Committee or myself as ranking minority member of the Nutrition Subcommittee regarding their plans and nutrition programs even though we were in the process of voting on those plans.

Therefore, I sent him another copy of the letter in case he has missed the first one. I sent that down by messenger, but I have not heard back on that yet either.

So what I will do is place these remarks and the letter in the RECORD. When the RECORD comes back on Monday I will have framed that page in a nice wooden frame with clear glass on it and I will have the framed page of the RECORD sent down by messenger. Hopefully before this administration leaves I will receive a response.

I do that because having served during three adminstrations, two Republicans and one Democratic, I have never seen partisan activity as bad as that I've complained about to Secretary Block.

HARRY CHAPIN

Mr. LEAHY. Mr. President, I rise now to discuss a personal matter. A year ago today a dedicated, good, generous, loving American was killed in a tragic automobile accident in Long Island, N.Y. Harry Chapin was not even 40 years old when he died, but he was already known as a unique entertainer, folk singer, and the preeminent balladier of our country.

He was also a friend of the hungry everywhere, a friend unmatched in this world. Harry Chapin gave daily of himself for his friends and also for the millions of hungry in our country and throughout the world.

At his death the Senate Chamber and the Chamber of the House or Representatives heard unprecedented eulogies from Member after Member extolling this man and his work. They talked of him taking his wife Sandy's dream of a Presidential Commission on World Hunger from idea to Presidential enactment. They talked of the hundreds of thousands of dollars he gave away in his personal effort to eradicate hunger.

And these eulogies were matched by news articles around the country praising Harry.

At that time I also spoke of his generosity, his talents, and his love. It was, Mr. President, the most difficult and emotional speech I have made in this Chamber, and I shall not attempt to repeat the things I said then. I will simply say that I am thankful that Harry's organization, World Hunger Year, continues his work.

Mr. President, I rise today to say that Harry Chapin is still missed and that his views and dedication are needed even more today than while he was alive. The problems of the hungry increase and his commitment becomes all too rare in both public and private life.

I rise also to say how much all the Leahy family, my wife, Marcelle, our children, Kevin, Alicia, and Mark Patrick, and I, miss our friend Harry.

Mr. President, In conclusion, I ask unanimous consent to have printed in the RECORD a eulogy I gave for Harry Chapin in New York at his memorial service.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

SENATOR PATRICK LEAHY'S EULOGY FOR HARRY CHAPIN

It is only appropriate that we do a eulogy for Harry in the form of stories. At the same time, it is kind of frightening because I have the feeling of Harry looking over my shoulder, and I know that he could do the story so much better. It is also hard to pick out which of the hundreds of Harry Chapin stories one should tell. In his songs, Harry would solve that problem the same way that Hubert Humphrey used to. Harry would just simply tell them all.

There are so many stories: Trying to get Harry to a concert at the last minute with him leaning out the window of the car explaining to the police officer that he's the star so it's okay to go straight to the door. Sitting with him after concerts discussing the problems of the world into the early hours of the morning. Him telling our six-year old son to call him Harry because all his friends call him Harry. Sitting at our home in Vermont or in Washington and realizing the enormous breadth and caring of Harry and Sandy and their family.

All of these come to mind, but I think that they all revolve in one way or another around Harry's work in bringing together a Presidential Commission on World Hunger. Harry's wonderful and loved wife, Sandy, came up with the idea of a Presidential Commission on World Hunger and gave Harry the formidable task of getting it done. All of us in Washington explained to him that the President was opposed to more Presidential commissions, that it would be impossible. There were logistical and partisan reasons and so forth and so on why it wouldn't be done. Harry said that's nice and now here's how we are going to go about getting it done. And we did. We roamed the halls of Congress—the House and the Senate—and lined up co-sponsors, passed resolutions in favor of it and finally went down to see the President about it. Harry rode down with me and one other U.S. Senator, and we arrived at the gates of the White House with Harry in the back seat and the two Senators in the front, "appropriately." Secret Service officers opened the gates ever so slightly and came out and asked who we were. The other Senator explained who he was, that he was there to see the President of the United States, I explained that I was Pat Leahy, the U.S. Senator from Vermont and was there to see the President. We were asked for identification and rather shamefacedly had to admit that we had none.

At that point the Secret Service man looked in the back seat and spotted Harry. A big smile went across his face, and he said, "Harry Chapin. Good to see you. What are you doing here?" Harry said that he was down to see the President. The Secret Service asked him if he would vouch for these two unknown in the front seat. Harry magnanimously agreed to vouch for our good conduct. The doors opened, and we were ushered in to see the President.

Even then at that meeting, after President Carter agreed to go along with the World Hunger Commission, Harry would not stop. He continued to hammer into the President the reasons for it. The President sat there trying to explain to him that he agreed, he agreed, but Harry wasn't going to let him off that easy. He wanted not only for him to agree, he wanted him to be committed. That's the difference between Harry Chapin and those who simply give lip service to a cause.

Harry sought and got commitments. And it is because of that that we are here today. Because of that and because of our love for Harry and Sandy and Jamie and John and Jason, Jenny, Josh, Steve, Tom and James and all of his family.

And we are here not just because we have lost a very dear friend, but because the hungry of the world have lost their most constant friend.

There is a Vermont eulogy which says: "The passing of a dear friend, like the falling of a great pine, leaves a vacant space against the sky."

Let us remember that vacant space and let us fill it by fulfilling his commitment.

Mr. LEAHY. Mr. President, I ask unanimous consent to have printed in the RECORD an article from Wednesday's Washington Post quoting the lyrics of "Remember When the Music" by Harry Chapin.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LYRICS

"Remember When the Music," words and music by Harry Chapin. This was one of Chapin's favorite songs, featured on his last album, "Sequel." It was also the last song sung at his memorial service following Chapin's death in a car crash one year ago Friday.

Remember when the music came from
wooden boxes strung with silver wire
And as we sang the words it would set our
minds on fire
For we believed in things and so we'd sing
Remember when the music brought us all
together to stand inside the rain
And as we joined our hands we'd meet in
the refrain
Though we had dreams to live and we had
hopes to give
Don't you remember when the music was
the best of what we dreamed of
For our children's time
As we sang we worked for we knew that
time was just a line
A gift we saved, a gift the future gave
Oh all the times I listened and all the times
I heard
All the melodies I'm missing and all the
magic words
And all those potent voices and the choices
we had then
How I'd love to find we had that kind of
choice again
Remember when the music was aglow on
the horizon of every newborn day
And as we sang the sun came up to chase
the dark away
And life was good for we knew we could
Remember when the music brought the
night across the valley
As the day went down
And as we'd hum the melody we'd be safe
inside the sound
And so we'd speak for we had dreams to
keep
I dream that something's coming and it's
not just in the wind
It's more than just tomorrow, it's more than
where we've been
It offers me a promise, it's telling me
"begin"
I know we're needing something worth be-
lieving in
Remember when the music came from
wooden boxes strung with silver wire
And as we sang the words it would set our
mind on fire
For we believed in things and so we'd sing,
and so we'd sing . . .

Mr. LEAHY. Mr. President, last, I ask unanimous consent to have printed in the RECORD an article from the Rolling Stones magazine on Harry Chapin.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HARRY CHAPIN, 1942-81

(By Dave Marsh)

Harry Chapin often described himself as a "third-rate folk singer," and judging from most of the reviews he received in these pages and elsewhere, he wasn't only kidding. Yet Harry Chapin was something more than that. For many who knew him, he was a legitimate hero, not so much for his music as for his consistent and conscientious willingness to fight the right battles, to stand up for a just cause, no matter how hopeless.

When his friends and political associates—from Marty Rogol and Bill Ayres of World Hunger Year to Ralph Nader and Representative Tom Downey—spoke of Chapin after his death in an auto accident on the Long Island Expressway July 16th, the word they all used was fearless. "It was the one quality of Harry's that I admired most," said Rogol. "Harry was never afraid. Not just physically. Where most people feared embarrassment, being laughed at or rejected, Harry just went right ahead. He just wanted to know what was right and what was the best way to accomplish it. That's real courage".

As Chapin was the first to acknowledge, such bravery isn't cool, for it lacks the necessary arm's-length distance from the world and its problems. And it was the lack of cool that gave Chapin his negative image. It always gnawed at him that he never got particularly good reviews. He made jokes about what the critics had to say: that he was preachy and didactic, a simplistic and woeful singer, a careless craftsman in the studio, emotionally overwrought onstage. I still can't see that these criticisms were wrong, but I also know they weren't entirely correct, either.

Harry Chapin's function in the music world was not to be cool. He was *supposed* to be awkward and overtly unhip; he was supposed to stand in contrast to the glibness and callousness of many of his peers. If the ungainly accents and sputtering diction of some of Chapin's songs can't kill their power, that is because more important things than simple aesthetics are at work in those tunes, and because Chapin wasn't working in a pop context of craftsmanship and cool but from the folk-music traditions of the American left.

Harry Chapin was a pure product of the Fifties world of Greenwich Village and Brooklyn Heights, Born on December 7th, 1942, he was the second son of Big Jim Chapin, a jazz drummer with Tommy Dorsey's and Woody Herman's bands. From the time they were in grammar school, Harry and younger brothers Tom and Steve performed together in various groups, Harry at first playing trumpet but later switching to guitar.

After high school, Harry studied at the Air Force Academy, from which he dropped out, then at Cornell University, where he flunked out twice. In 1964, he re-formed the family group, adding his father on drums. The Chapin Brothers played the usual rounds of Village clubs and folk-scene hangouts and recorded an album, *Chapin Music*, on the Rockland Music label. But the band broke up when Tom and Steve returned to school, and Harry soon turned his attention to film, eventually making several documentaries, including *Legendary Champions*, a boxing film that earned him an Oscar nomination in 1969.

A year later, at the height of the singer-songwriter boom, Chapin resumed his musical career. After playing the Village Gate in New York for the entire summer of '71, he was signed to Elektra Records. In 1972, he scored his first hit, "Taxi," from his debut LP, *Heads and Tales*. Ten more albums followed, yielding a handful of other hits, notably "Cats in the Cradle," "W*O*L*D," "Sniper" and last year's "Sequel," a follow-up to "Taxi."

An eclectic artist, Chapin also wrote a Broadway play, *The Night that Made America Famous*. Though the show on a multimedia musical that combined elements of theater and rock & roll with advanced film and lighting techniques—closed shortly after opening on Broadway in February 1975, it nonetheless won a pair of Tony nominations. A 1977 revue, entitled *Chapin*, was styled after Jacques Brel's *Alive and Living in Paris* and enjoyed a seven-month run at the Improvisation Theatre in Hollywood. It also played in several other cities, and, according to Chapin's manager, Ken Kragen, will now be revived. Although he never sold a spectacular number of records, Chapin toured a great deal and his concerts were always well attended; it's estimated that his benefits alone netted more than $5 million for various charities.

On July 23rd, Harry Chapin's family and friends held a memorial service for him at Grace Church in Brooklyn Heights. There was some fine singing that afternoon by such musicians as Tom and Steve Chapin, Oscar Brand, Steve Goodman, Mary Travers and Peter Yarrow, and Harry's idol, Pete Seeger. Along with family members and politicians, fans and *paparazzi*, they sang and celebrated, and some of the best singing and celebrating came during Harry's songs: "Circle," "Remember When the Music" and a new tune, "Jubilation," that may be the best thing he ever wrote.

These songs weren't Chapin's patented stories, the expended moralistic fables that earned him his reputation. But they were the tunes that struck closest to the true spirit of the man—simple folk songs appropriate to any gathering of the faithful, whether sung around a campfire or at a mass rally. And they stung my eyes, because I knew for once what they were created for, and I knew for certain that they were very good songs indeed.

If Harry Chapin was more than a third-rate folk singer, he was less than a pop star of the highest order. Even so, the immediate response to his death, in the media and among his fans, was overwhelming. It was as if he reached out and touched lives in a permanent and irrevocable way. This was true of fans (one speaker at the Brooklyn service was a railroad brakeman), of journalists (the finest eulogy to Chapin was written by former sportswriter Tony Kornheiset, a friend from Long Island, in the *Washington Post*) and, most of all, of Congressmen.

Three of the speakers at Grace Church were members of Congress. Representative Tom Downey, the young Long Island Democrat, was an obvious colleague, but Representative Ben Gilman is a more conservative, older New York Republican. Gilman

was there because, through his work with Chapin on Jimmy Carter's Presidential Commission on World Hunger, he came to cherish Harry as the best kind of American citizen. Most eloquent of all, though, was Senator Patrick Leahy of Vermont, the only Democratic Senator that state has ever elected, and a man who attributes his narrow victory in 1980 to Harry Chapin's campaign work for him. Leahy was the chief mover in the Senate effort to pass a resolution in support of the hunger commission, and because Chapin also had a vacation home in Vermont, the two had grown personally close, Leahy's eulogy was well written and moving, but what I'll always recall was what he said before he read it: "You know, I think I've shed more tears in the last few days than at any other time in my adult life."

On the floor of Congress, the reaction was very similar. No other singer—not Bing Crosby, nor Elvis Presley, nor John Lennon—has ever been so widely honored by the nation's legislators. Nine senators and thirty congressmen paid tribute to Harry Chapin on the floor, and not all of them were the kind of liberal Democrats on whose behalf Harry had campaigned so long and hard last fall. No less a conservative than Senator Robert Dole of Kansas, not exactly known for his political generosity of spirit, called Chapin "a liberal and a liberal in the best sense of the word. He possessed a spirit of generosity and optimism that carried him through his various commitments with a great sense of seriousness and purpose. . . . What he was really committed to was decency and dignity."

Harry Chapin was just the sort of man who would inspire tributes even from ideological foes. He believed deeply in all those corny virtues and ideals that the rest of us are too cynical, jaded or just plain scared to admit that we, too, cherish. "He constantly talked about reinventing America," remembered Bill Ayres, the writer and broadcaster who in 1975 founded World Hunger Year, an educational and research organization, with Chapin. "In his vision, the Constitution established a democratic process in which people were being asked not just to vote, but to be informed and involved." And Chapin acted on that belief.

Though he is best known for his activism on the hunger issue, Chapin was also a member of the Cambodia Crisis Committee and raised money for the Public Interest Research Group and Congresswatch (two Ralph Nader organizations), as well as Consumer Action Now. In addition, he campaigned on behalf of such past and present senators as Leahy, Mo Udall, Frank Church, Gary Hart and Alan Cranston. And on Long Island, where he lived with his wife, Sandy, and their five children (Jamie, Jason, Jono, Jenny and Josh), he was a member of the boards of Hofstra University, the Long Island Association, Long Island Cares (a local hunger effort), the Action Committee for Long Island (a convocation of businessmen), the Performing Arts Foundation, the Long Island Philharmonic and the Eglevsky Ballet.

Chapin focused on hunger at least partly because it touches on so many other crucial issues, from the political power of multinational corporations to basic land reform. "Harry was big on empowerment," said Ayres. "The idea of World Hunger Year isn't simply to put food in people's mouths but to help them change their lives, to get people involved in their own desire to help themselves. Harry wanted to reach both people who are hungry and people who feel left out of the political process. He did not want to motivate people through guilt; he wanted to combine a sense of awareness of responsibility with a sense of life."

Chapin's elder brother, James, summed Harry up more succinctly. "Most great men appear greater because they maneuver to diminish other people. But if Harry was a great man, and I think he was, it's because he really did feel better when everybody else felt better. He always remembered that the average person isn't you or me or even an American worker but someone living in the slums of Rio or Bombay."

Chapin worked with unique focus and effectiveness in lobbying Congress to endorse the creation of the Presidential Commission on World Hunger. He succeeded partly because so many congressmen were nonplussed by such energy and commitment from a celebrity, but also because some would have done anything to get rid of is pestering. In his eulogy, Leahy recalled a meeting with President Carter, at which the president agreed to create the commission. "Harry would not stop. He continued to hammer the reasons for it into the president. Carter sat there trying to explain that he agreed, he agreed, but Harry wasn't going to let him off that easy. He wanted not only for him to agree, he wanted him to be committed. That's the difference between Harry Chapin and those who simply give lip service to a cause."

Unfortunately, the hunger commission was ineffective. Except for Chapin. His unique combination of celebrity and commitment created a real congressional constituency for his ideals and dreams, and he was still putting together plans for hunger legislation and public-food-policy initiatives when he died.

Ralph Nader called Harry Chapin "the most effective outsider I've ever seen in this town," and that was due mostly to Harry's conviction that all his work—musical and political, atistic and charitable—should not be "event-oriented" but committed to a process in which each segment leads naturally to the next, and into which others can be enticed and pulled along. It worked at all sorts of levels from the fundraising radiothons he and Ayres staged in ten cities over the years, reaching an audience of 15 million people, to the new chapter of World Hunger Year recently created in Arizona.

The question now is what happens without Harry Chapin? At meetings, Chapin used to stress the involvement of others, not only by good-naturedly disparaging himself, but by pointing out that "if I should walk across the street and get hit by a taxi tomorrow, what's left of this organization?" It was one of his greatest hopes that other musicians would get involved in the hunger issue in the way that some have become involved in antinuclear activism, for instance. James Taylor and Gordon Lightfoot, among others, have appeared at World Hunger Year events in recent years, and in early July, just a few weeks before Chapin's death, Kenny Rogers donated more than $150,000, the entire proceeds from a show at the Capitol Center in Largo, Maryland, to the organization. But none of these performers is likely to bring a continuous and persistent focus to bear on hunger or political issues, none of them is likely to subordinate his career to the cause of feeding the world (or, as Harry surely would have corrected me, helping the world to feed itself), social justice and more perfectly ordered democratic institutions in America. Those were the causes at the center of Harry Chapin's work, which was not so much a career as a vocation. And as with all vocations, they belong to the man who hears the calling. In this regard, Chapin really is irreplaceable, and even a great many rock stars and ordinary citizens working together won't make up for what we have lost.

To continue Harry's work, and to make certain that his family's needs are met, Ken Kragen has announced the formation of the Harry Chapin Memorial Fund. The fund has been given an initial $10,000 contribution by Elektra Records, and it will be further endowed by a benefit performance on August 17th at the Nassau Coliseum in Uniondale, Long Island. Kenny Rogers, who is also managed by Kragen, will headline, and according to Kragen, rock managers Irving Azoff and Jerry Weintraub have volunteered their support.

Promoter Ron Delsener, who conceived the Nassau Coliseum show, caught the true Chapin spirit when he said, "Harry did a benefit for everybody else, now it's time for us to do one for him." And all around the country, according to Kragen, people who bought advance tickets for Chapin's late-summer concert tour are refusing to take their money back.

Chapin used to warm his friends and political associates against what he called "event psychosis"—the kind of thing he and Ayres nearly stumbled into in 1974 when they wanted to stage "another Bangla Desh concert" for the relief of victims of the Sahelia drought. One's most fervent hope at this time, then, is that all the organizing going on around the causes that Harry Chapin supported endures, that people remain committed, because Chapin was right: it is getting harder and harder to "remember when the music was the best of what we dreamed of." Harry Chapin may have been naive to think things could be that simple again, but only a real fool would deny that this dream is at the heart of what drew us all to music. This is one of those times when the line gets drawn.

Mr. LEAHY. Mr. President, that concludes my remarks about this remarkable American, but I note that I will be speaking in future days in future times while I am a Member of the Senate about Harry Chapin both as a friend but also as not just a friend but the friend of the hungry throughout the world.

I can only reiterate what I said earlier this morning. There is never a time that they needed friends more or a time that those friends seem so scarce.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COHEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF SPECIAL ORDER FOR SENATOR STAFFORD

Mr. STEVENS. Mr. President, I ask unanimous consent that the special order remaining be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for 10 minutes where Senators may speak for 2 minutes each.

Mr. STEVENS. Mr. President, I ask unanimous consent that the time for morning business be extended until the Senator from Idaho (Mr. McCLURE) terminates it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair, in his capacity as a Senator from the State of Maine, suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, on behalf of the Senator from Idaho (Mr. McCLURE) I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A LETTER TO THE HONORABLE DANIEL M. FRIEDMAN, CHIEF JUDGE OF THE UNITED STATES COURT OF CLAIMS

Mr. THURMOND. Mr. President, as my colleagues are aware, the Congress enacted a law earlier this year which combines the U.S. Court of Claims and the U.S. Court of Customs and Patent Appeals to create the U.S. Court of Appeals for the Federal Circuit. The trial jurisdiction of the Court of Claims will fall to a new article I forum known as the U.S. Claims Court. These changes take place in October of this year. I ask unanimous consent that the following letter from John Everhard, a practitioner before the Court of Claims, to the chief judge of the court, the Honorable Daniel M. Friedman, be placed in the CONGRESSIONAL RECORD. Mr. Everhard, a retired military officer, has practiced before the court for a number of years and, as evidenced by his letter to Chief Judge Friedman, has found that to be a particularly rewarding experience. His comments are a fitting tribute to all the judges and staff of the Court of Claims for their years of fine work at the court.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

KING & EVERHARD,
Washington, D.C., June 23, 1982.

Hon. DANIEL M. FRIEDMAN,
Chief Judge, U.S. Court of Claims, Washington, D.C.

DEAR CHIEF JUDGE FRIEDMAN: On the occasion of my final appearance in argument before the United States Court of Claims, I reserved the last minutes of my time to express to the panel my feelings as a member of the bar of this Court, and I would like to repeat those sentiments to you. While I may have occasion to appear before the Court of Appeals in the future, it will not be the same.

In my humble judgment, the United States Court of Claims filled a unique and special niche in our system of equal justice for all. As a practitioner before the Court, and as an officer of the Court, I found that the relationship between bench and bar—the Government counsel and private practitioner, the Judges, the trial judges and their personnel, Mr. Peartree and his staff, the librarian and her staff all worked together in harmony with a single objective—to resolve the issues involved in litigation in such a manner as to achieve justice.

In other Courts, I have seen counsel commit inexcusable impositions upon the Court; and have seen judges mistreat counsel as well. In my personal experience, this has never happened in the United States Court of Claims. I believe that you and your brothers on the bench, and all the people connected with the Court have a right to be proud of the record of this Court; for my part, the opportunity to be a part of the Court of Claims has been the crowning experience of my legal career. My contributions were insignificant, yet, rewarding to me. I look forward to practicing before the new Claims Court and the Court of Appeals. But I will never forget what it has meant to me, personally and professionally, to have been a part of the United States Court of Claims.

Sincerely,

JOHN A. EVERHARD.

CONCLUSION OF MORNING BUSINESS

Mr. WALLOP. Mr. President, what is the pending business?

The PRESIDING OFFICER. Is there further morning business? If there is no further morning business, morning business is closed.

FEDERAL RECLAMATION LAW

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, S. 1867, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1867) to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 1937

(Purpose: To reduce the ownership and leasing acreage allowances)

The PRESIDING OFFICER. The pending question is amendment No. 1937 by the Senator from Nebraska (Mr. EXON), on which there is a 1-hour time limit, to be equally divided and controlled by Senator EXON and Senator WALLOP.

Mr. EXON. Mr. President, on behalf of my colleague (Mr. ZORINSKY), I ask unanimous consent that he be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, today, the Senate is debating an important matter of public policy, the Federal reclamation policy. A threshold decision for the Senate is who shall benefit from this Federal subsidy? Let us remember, above everything else, that it is a Federal subsidy, in the opinion of this Senator a worthy one as long as it is kept within due bounds.

The Reclamation Act of 1902, the basis of the program being debated here today and yesterday, was designed to reclaim arid western land at public expense in an effort to increase our productive food base as well as provide homes for people. Since this was a publicly supported program, authors of the act hoped to limit the benefits through acreage limitation and offering the program to as many individuals as possible. Furthermore, the act was designed to discourage speculation in western lands at public expense. Representative Francis G. Newlands, of Utah, sponsor of the 1902 Reclamation Act, outlined this policy behind the program very well. He said:

> The very purpose of this bill is to guard against land monopoly and to hold this land in small tracts for people of the entire country, to give each only the amount of land that will be necessary for the support of a family.

The issue before the Senate today, Mr. President, is whether we should reaffirm or reject those original worthy goals. I submit that the reclamation policy established by Congress in 1902 is still sound policy today. In fact, it is this fundamental policy which provides the foundation and the strength of the entire reclamation program. Certainly, the reclamation program is in need of updating. To be sure, agriculture has changed over the past several years. Larger acreages are required for efficient farming operations. The Senate Energy and Natural Resources Committee bill, however, is overly generous in its expansion of the reclamation law's acreage limitations.

On this question, I believe the Senate must seriously examine whether the law's acreage limitation is being expanded to accommodate changes in family farming operation or we are changing the limitations merely to accommodate large corporate operations, which are grossly out of compliance with existing law.

I hope the Senate would not lose sight of the polestar consideration of this debate. That is providing irrigation assistance to those farmers in the arid West who cannot afford to develop the needed water to sustain an ever-increasing demand upon the agricultural sector of this Nation. Concern for the prosperity of the family farm

is not merely a romantic attachment to the past. The trend toward larger farms threatens the opportunity for owner-operated farming in rural areas. Small communities in the Western States are based upon family farm operations and those communities prosper when earnings from the neighboring land are spent on goods and services purchased in the local area. Our Nation has an important need to maintain the economic viability and values of our rural communities and the Federal irrigation program has fostered these goals.

Mr. President, narrow arguments that the Federal reclamation program must now be expanded to support large corporate farming interests certainly overlook the major policy issue at stake in this debate. The Federal reclamation program exists to provide water for farmers in an effort to sustain the opportunity for individuals and the quality of life in our communities, which has been important to this Nation's past and is even more important to its future. Such goals of the reclamation program remain steady and important today.

Mr. President, I come before the Senate today to urge my colleagues to seek only to strengthen the initial goals of the reclamation laws. We must insure that Federal irrigation assistance will continue to encourage family farm development and the viability of rural communities. Rather than change the law only to bring into compliance a very small number of large corporations who have been violating the law, the Senate must seek changes in this law to make sure that we have a viable economic unit using Federal irrigation water.

This is a Federal subsidy which must be targeted to the most needy of the reclamation farmers. In most instances, without this Federal assistance, agricultural production so important to our economic and international trade would either drop or be taken up by monopolistic agribusiness interests. We must insure that our reform of the reclamation law will be a fair distribution of this Federal subsidy. We must insure that the program does not subsidize those businesses which already have the competitive edge in terms of resources and capital.

Mr. President, as many in this body are aware, the Department of the Interior has, under a Federal court order, developed regulations to implement the requirements of the 1902 Reclamation Act. Those regulations must go into effect later this fall unless the Congress enacts changes to the reclamation law. A draft environmental impact statement was prepared prior to implementation of those regulations.

It is interesting to this Senator that the Department's EIS has demonstrated that only 2.5 percent of the Nation's reclamation farm operations are in excess of 960 acres. This remaining 2.5 percent of farm operations controls 31 percent of the land in the reclamation program. Included in this small percentage of operations in excess of 960 acres are the 435 largest operations, which control 1.6 million acres, or nearly 20 percent of the entire western land under the Federal irrigation program.

Who are the owners of some of these large operations in the program? To name a few, there is the Southern Pacific Land Co., which owns about 107,000 acres; the J. G. Boswell Co., which owns some 100,000 acres; the Slayer Land Co., which owns about 29,000 acres; Tenneco West, Inc., which owns about 64,000 acres; Chevron USA, Inc., which owns about 13,000 acres; and Getty Oil Co., which owns about 4,000 acres.

Two years ago, when this body debated this very same matter, then-Secretary of the Interior Andrus noted that, for example, the Kings River district had 10 of the largest landowners owning a total of over 200,000 acres, about 20 percent of the land served by Federal irrigation water. In Westlands Water District, the top 10 landowners own over 180,000 acres out of about 575,000 acres in that district.

I cannot support the committee's bill without amendments to bring the measure in line with the purpose and intent of the reclamaton laws.

Several approaches to the acreage limitation have been suggested. Recently, the most frequently discussed proposal would limit the availability of this Federal subsidy by placing economic disincentives in the law. The committee's bill, for example, imposes a so-called full cost concept on acreage above the limitations established in the bill. The House measure also imposes a similar, although not identical, full cost concept to excess lands in return for the delivery of Federal irrigation water.

Certainly, in these recent days, Washington has become preoccupied with finding new revenue sources. Facing the largest Federal budget deficits in history, it is tempting to turn each piece of legislation into a new source of Federal revenues. However, the Congressional Budget Office has indicated that this program will not be a moneymaker of any significance. In light of the estimated insubstantial budget impact of the committee bill, I am concerned that the important goals of the program are being lost sight of behind the thin veil of revenue gains.

I do realize that this full cost measure is an effort to provide a cost recovery aspect to the reclamation program. The administration has certainly been supportive of finding revenues in each and every possible legislative proposal in an effort to offset the $100 billion-plus deficit projected under the President's budget for this next fiscal year.

I believe, however, that the cost recovery measure in this bill is only cosmetic. It is a thin veil disguising the true nature of the committee's bill. It is being used to bait unsuspecting Members into believing that it will be fine to expand Federal irrigation assistance to profitable, corporate agribusiness interests because "they will pay for it."

Mr. President, the Congressional Budget Office has indicated that, at best, the committee's full cost proposal will provide additional annual receipts of $10 to $12 million.

In beating the politically popular full cost drum, the committee's bill diverts the attention of Members from the fact that the bill's primary purpose is to stretch the law out to cover those special interests which have been out of compliance for many years. Rather than propose that those out of compliance must meet the requirements of the law, the bill changes the law to recharacterize those special interests as now being in compliance. Rather than reject those who have flouted that law, the bill would endorse these past abuses by amending the reclamation law to accommodate those abuses.

Mr. President, irrigated agriculture continues to be the principal aspect of the reclamation program. We must not lose sight of that fact. We must not allow ourselves to be sidetracked by secondary issues.

The very heart of Federal assistance to irrigated agriculture has been the acreage limitation. Unfortunately, due to neglect and procrastination on the part of the Congress, a uniform and diligent enforcement of the law has not been made and special interests have resisted compliance with the law.

I believe that the most effective approach to limiting this Federal subsidy is to simply "cap," if you will, the eligible acreage. Under the committee's proposal, full cost recovery is practically nonexistent since the excessive expansion of the acreage limitation brings nearly all of the special interests now in noncompliance, within the law. Furthermore, those large corporate operations which are in excess of the committee's limitations can "buy" into the program by paying for construction costs with a full cost interest charge. This is no limitation at all but, rather, merely provides an economic disincentive for those unable to afford full cost. Such an approach merely suggests that the Federal irrigation assistance program is not for the family farmer but for anyone without limitation, as long as they can afford to pay.

Mr. President, the amendment which I offer to S. 1867 is designed to be a "family farm" amendment to place a cap of 960 acres on the amount

of land, owned or leased, which is eligible to receive Federal irrigation water. My proposal is plain and simple. No Federal water will be delivered at all above the 960-acre limit. Of course, this is class I land, and equivalency will provide adjustments for differences among the various Western States.

I do not believe that the acreage limitation needs to be expanded as generously as the Energy Committee's recommended 2,080 acres. The House-passed bill has set a limit of 960 acres. Two years ago former Interior Secretary Andrus supported a limit of 960 acres. This year, Secretary Watt has recommended a limit of 960 acres, although coupled with unlimited leasing. In Secretary Watt's December 10, 1981, statement to the Energy Committee he flatly indicated that "at some point a landholding can be too large to fit within the traditional farm concept," and he recommended that "a landholding above 960 acres should not be granted an unlimited Federal subsidy."

Expanding the acreage limitation beyond 960 acres exceeds the bounds of the reclamation law's initial purpose: To aid family farms which cannot afford to provide for their own irrigation system. Any changes in the 1902 act should only reflect adjustments in acreage to sustain a viable economic family farm. Anything beyond the 960 acreage limit only stretches the law to accommodate past abuses by special interests which have sought to avoid the law over the past years. Changes to the 1902 act are needed, but must strengthen the initial purposes to prevent land speculation at public expense, to distribute the benefits as widely as possible, and to encourage family-sized farms. These goals are valid yet today and worthy of support.

As recent public outcrys against the so-called safe harbor tax leasing proposals have indicated, the American public is in no mood to have the Federal Government subsidize large, profitable corporations.

This amendment is designed to maintain Federal assistance to irrigated agriculture in the 17 Western States, while targeting this program to those family-sized farm operations which truly need Federal help in sustaining viable, productive agricultural operations in these arid States. Rather than expand the reclamation law merely to bring into compliance those special interests which have fought the reclamation laws limitations over the past several years, my amendment seeks only to update the acreage limitations to make sure that we are supporting a viable economic unit consistent with the law's purpose to aid the family farm which cannot afford to pay for an irrigation program.

An acreage limitation of 960 acres of class I land, or its equivalent, is not unduly restrictive.

This limitation is adjusted for the various classes of land that would come under the act. This equivalency concept would translate into acreages which are larger than the 960 limitation for class I land to allow for differences in productive capacity, growing season, and other important factors. Average equivalency figures provide some insight into this adjustment. Considering the four classes of land that would be administered by the Secretary of the Interior under the irrigation assistance program, averages of these four classes have been worked out by the Bureau and provide some perspective on this matter.

For example, under a class I limitation of 960 acres, the actual limitation for the Pacific Northwest which includes the States of Washington, Oregon, and Idaho, would be about 1,368 acres. In the Michaud Flats project in Idaho, this would actually mean a limitation of about 1,623 acres. For the upper Colorado region which encompasses Colorado, Wyoming, and Utah, the actual limitation would be around 1,400 acres. In the upper Missouri region which includes South Dakota, North Dakota, Montana, and Wyoming, the limit would be about 1,535 acres. In the lower Missouri region which includes Kansas and my State of Nebraska, the limit would be about 1,229 acres. In California, the equivalent acreage would be around 1,265 acres. I cite these figures only to show that the 960 acre limitation proposed in my amendment is not nearly as restrictive as some would lead us all to believe.

In addition, Mr. President, my amendment would prohibit unlimited leasing.

Leasing has historically been one of the principal devices used by large landowners for avoiding the acreage limitations in the past. Although no specific provisions of the 1902 reclamation law addresses the issue of leasing, it was the intention of the law that the acreage limitation not be circumvented through this device. An acreage limitation is no limitation if unlimited leasing provides for the delivery of Federal water above and beyond the intended restrictions.

I do know, as a reclamation State Member, that leasing is an important means of entry for new farmers as well as a good way to provide some extra income to a small farmer.

It is this aspect, providing opportunity for new farmers, which the acreage limitation is aimed at providing and protecting. If we allow a monopoly on land holdings, if we permit the expansion of the acreage limitation without meaningful limits on leased lands, we effectively reduce the opportunities for new farmers.

Leasing, as I have noted, has an important role in the reclamation program, but its place must be carefully limited.

The amendment which I offer today, would permit a qualified recipient to own or lease acreage in any combination up to the 960 acre limitation. I believe that this approach provides the flexibility needed for farmers to adjust the size of their farming operations for the purpose of maintaining an economic unit that will provide the margins necessary to survive the many uncertainties in farming.

The allowance of unlimited leasing, even at full cost as the committee's bill would propose, is no limitation at all for those who can pay so-called full cost. This is a limitation however, on those small farmers who cannot afford to pay the full cost price. This disincentive, as the committee would so characterize this proposal, is only a disincentive to those whom the Reclamation Act was originally intended to benefit.

A simple cap on the total number of acres, owned and leased, which may be served with Federal reclamation water, would more clearly draw the line and express the Congress intent that this program is not unlimited, but rather, is for assisting the family farmer who cannot afford to build his own irrigation system.

Mr. President, I would hope that the Senate will support this approach. Further, I would hope that the Senate would agree that the objectives of the Federal reclamation law are still valid purposes which should be maintained. Let the Senate go on record for strengthening the law to continue irrigation assistance to the family farmer and to insure a fair distribution of this limited Federal subsidy. During the debate on this bill, the Senate will choose between encouraging self-reliant family farmers or modern feudal landlords; agricultural production or land speculation; rural communities or company towns; lifetime commitments to the land or short-term capital gains. The choice is ours.

Mr. President, I reserve the remainder of my time.

Mr. ZORINSKY. Mr. President, I support the amendment by my junior colleague from Nebraska. S. 1867 makes several important changes in the existing reclamation law. However, one of the most notable changes is the new acreage limitation. Existing law allows any individual to own up to 160 acres of land and receive project water.

There is no question that the 1902 act needs to be reformed. This is especially true concerning acreage limitation. Our country—and our agriculture—has changed dramatically since 1902. In 1902, for an individual to own up to 160 acres of land and receive

project water was a reasonable law. However, in 1982 the 160-acre limitation is outmoded. This limit is not operative in today's agricultural economy and it should be increased to provide a decent standard of living for reclamation land farmers. On that point there is general agreement among those who know and understand the agricultural economy in the reclamation States.

However, the question is "by how much should the old 160-acre limitation be changed." I believe that the combined limit of 2,080 acres owned or leased is too generous. A cap of 960 acres on the amount of land, owned or leased, which is eligible to receive Federal irrigation water is a much more reasonable and sensible approach to reclamation acreage limitation reform. The combined limit of 2,080 acres would help to destroy the Federal reclamation program which was aimed at promoting and sustaining family-size farms in the 17 Western States. The 1902 act was formulated for development of the family farm. The intent of Congress was to spread the benefits of federally subsidized water as widely as practical among family-sized farms.

In establishing a new acreage limitation to reflect current and anticipated agricultural economics, I believe it is important that we do not abandon the policy for which the basic reclamation law was enacted. The lower limit of 960 acres would be sufficient for nearly all ongoing farm operations.

The combined limit of 2,080 acres would reverse the family farm foundation of current reclamation law, and encourage the consolidation of farm operations. It would also violate the express intent of Congress contained in the 1981 farm bill that "no agricultural-related program be administered in a manner that will place the family farm operation at an unfair economic disadvantage."

Therefore, I strongly support a 960-acre limitation. Current farm practices indicate that 2,080 acres is entirely too generous. Reclamation reform must recognize modern agricultural practices without forgetting the original purposes for the Reclamation Act. The 960 acres is just and reasonable—it is a limitation that is fair for today's farmer without doing any injustice to our future agricultural needs.

Mr. EXON. Mr. President, how much time do I have remaining on my half hour?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. EXON. Three minutes remaining. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I rise in opposition, obviously, to the amendment of the Senator from Nebraska.

The Senate yesterday had an extensive and wide-ranging debate on the issue of acreage limitations in the pending reclamation reform bill. During the debate on the two Lugar-Proxmire amendments, the distinguished Senator from Nebraska, Senator EXON, indicated he would propose another formulation of acreage limitation to replace the provisions in the bill.

At the outset of the debate on his amendment, I thank him on behalf of the committee, and I am sure, on behalf of other Senators for his cooperation last evening in laying before the Senate his amendment. This is critical and it is time-sensitive legislation. The Senator knows well that there is a court order which requires that it either be changed or be implemented according to the 1902 law. I do not think any of us would care to see this country's agriculture thrust into that kind of a turmoil.

I appreciate his assistance in laying before the Senate his amendment last night to be the pending business at the early hour this morning, because it facilitates the business of getting on with the bill.

I also wish to say that the committee recognizes the very strong and continuing interest that Senator EXON has had in reclamation reform legislation. In that light I am certain his amendment is offered in a constructive spirit, and I think we all recalled his enthusiastic participation in the 2-day debate of similar legislation, S. 14, in the fall of 1979 during the last Congress.

Having made these genreal remarks regarding the Senator's participation in the debate, I am compelled to turn to the substance of his amendment in a much less complimentary way.

In fact, on the merits of that amendment I can only be extremely critical of the philosophy behind it.

The criticism is based on the comparison of the Exon amendment to the committee bill before the Senate, and also in comparison to the two amendments offered by Senators LUGAR and PROXMIRE yesterday which this Senate overwhelmingly rejected by votes of 39 to 58 and 56 to 39 on tabling.

Let me, if I may, proceed to summarize the more troubling elements of the Exon amendment, and to compare it if we will to those we rejected yesterday so overwhelmingly in the Senate. I guess the first question that arises is whether this is an economic measure or a matter of social legislation.

I think the Senator's remarks here indicate that this is no longer and can no longer be considered an economic one. It is entirely one of philosophy.

It places an absolute limit on farm sizes of 960 acres. By so doing it encourages inefficient operations. It would prohibit leasing above the cap and provide for no full cost recovery of water in any of these projects.

The bill's primary purpose as reported by the committee has been misrepresented, I think perhaps unknowingly, by the Senator from Nebraska. The primary purpose of that bill is to make family farming a viable enterprise so that people do not have to use it as supplemental income to whatever jobs they have in town.

The primary purpose of that bill is to reflect an environmental impact statement prepared under the Democratic administration which shows optimum farm size efficiencies ranging up to 2,941 acres in Moon Lake, Wash.

The primary purpose of the bill is to say to farmers on reclamation projects that you can indeed make a living as a farmer—and not as a farmer-welder, not as a farmer-clerk, not as a farmer-post office employee, not as a farmer-something else, but as a farmer, and as a family farmer. That is what we sought to achieve.

Some areas and some farmers with small families may well be able to make a living with 960 acres. There is nothing to force them into a larger acreage holding. If you have a family in the farming business and they have two or three children, sons and daughters who marry and want to go into farming as a lifetime career, under the Exon amendment that is simply not possible to do in the reclamation project. I do not think it is the Senator's desire to do that. When the kids grow up and marry, 960 acres is not going to support four families or three families or probably two families, a father and his wife, son or a daughter and her husband or his wife.

That is really what is at issue here, not some kind of punitive thing. The Senator speaks with sinister language of special interest and other things. My special interest is in seeing to it that someone who lives and farms and seeks to have his family grow in a reclamation district, as farmers elsewhere in America, is capable of conducting that life fully, wholly and completely in agriculture if that is his choice. That is simply not possible under the terms of the amendment of the Senator from Nebraska.

From the taxpayers' standpoint it provides no relief, as most other have suggested including the committee, that is necessary for the absolute subsidy if such exists in the delivery of irrigation water.

It also provides for two classes of farmers in America: Those who happen to be on farms in reclamation districts and those who happen to farm elsewhere, and those who may be lucky enough to share in some of the benefits the State of Nebraska delivers to people with its water storage projects.

I ask the Senator if the State of Nebraska has an absolute farm size cap on State water projects?

Mr. EXON. No, the State of Nebraska does not have. We do not have the excessive corporate farming operations in Nebraska and those contributing are less selfish in their approach than what appears to be under the bill.

Mr. WALLOP. With all due respect, let us talk about these corporations and these sinister groups that the Senator mentioned.

There is no district now, to the knowledge of the Senator from Wyoming, where those "in excess" landholdings, particularly the ones that the Senator talked about, Westlands, are not under recordable contracts which stipulate under that contract, that those excess lands be disposed of within 10 years. The Secretary of the Interior is given absolute power of attorney to sell those lands if they are not disposed of. What the Senator is talking about, is a threat that no longer exists. That is the problem I have. While we raise those up as a specter for the rest of the Senate to fear and to suppose, and that somehow or another, if we do not deal with them, these processes will go on under the committee bill. Under the court order and under the recordable contract, those corporations are done in their large and excessive landholding.

One of the problems, and one of the reasons why this process takes 10 years, is if they had simply disposed of those landholdings overnight those farmers who lease from them would have been out of business overnight. The large segment of the population that farms in those areas would simply have been put out of business by an unreasonable court decision or by an unreasonable administrative decision. We should strive to keep those leaseholders in farming, and get them into some kind of position where they might be able to buy those landholdings.

I might say these very corporations, of which the Senator speaks, are now under recordable contracts would have substantially completed the disposal of those lands by now had it not been for the delay caused by the court decision and the court's consideration.

So those are the specters, which are truly formidable if they are real, but they are merely specters, they are chimeras, they do not exist.

What we are talking about now are real family farmers, family corporations, and others who can exist and can survive as families farming in districts in which they grew up.

The Nebraska water deliveries reflect a rational, reasonable approach of a State whose primary industry is agriculture. It is one of the great agricultural States of the Nation. They are doing what we seek to do with these projects, simply make family farming survivable.

The editorial writers who pose as reporters for the Washington Post simply have not studied these kinds of issues in detail. One of the problems some people have—and I said it yesterday and I will say it again—is when they live in an irrigation district that has been created under the reclamation law, whose lands once possessed water, and whose title to those waters still exists, have no means of getting it except through delivery systems built by the reclamation project.

Mr. President, it is not a question of how one does it. One is captive to the good or bad management of the Federal Government in the reclamation district in which you happen to live. It is a very troublesome thing to have water, own water, and not be able to get it because of mismanagement, poor management, or inefficient management. I dare say if the Senator takes a look at the cost of water developed in State projects in Nebraska versus any reclamation projects reasonably similar in the area, he will find that his State, as does mine, delivers water substantially cheaper and more efficiently, and with a good deal more cooperation between the farmers and the water district in which they operate than do any who live in the reclamation project.

I do not accuse the folks employed by the Bureau of malfeasance or anything else. They have other obligations given to them by this Government, which is not the case generally in the State water projects.

We are still trying to do something to farmers, create an inefficient class, create a class which can only earn its living partially in agriculture, take jobs from people who might work in tractor factories, farm machinery factories, or other kinds of manufacturing outlets or business outlets in the communities near which they farm.

It ought to be our purpose, it really ought to be our purpose, to assure the economic viability of farming, if it is within the reach of a family to do it.

In that draft EIS, where they studied those 18- to 20-odd districts, some of those farms have gross sales per acre as low as $34. Some of them have it as high as $1,100 or $5,000. That happens to be wine-growing areas in California. It is what makes, according to that impact statement, a farm of optimum efficiency. The factor which the Senator from Nebraska, I believe, fortunately and prudently includes, the factor of equivalency, will not take care of this distinction as it is drawn in the draft EIS.

The committee bill seeks not to provide great bountiful things for the large corporations and agribusinesses, but to make it simply possible for those who seek to have water from a reclamation district to farm a unit of sufficient economic viability so that can indeed be their profession, their career, and something to which their family can move on.

Under the amendment to the bill which the Senator from Nebraska proposes, a family cannot get water delivery if it owns in excess of 960 acres. That simply means either a couple whose children have grown have to move off their farm to make room for their children if they seek to farm, or tell their children to move and farm somewhere else.

I doubt seriously if that is the Senator from Nebraska's real purpose but I ask him to consider if that is not in fact the effect that his amendment would have.

We seek the same thing. I know his allegiance and his dedication to family farming, which is no different from mine. It is no different from that of any Senator from an agricultural State, who can appreciate the value of family farming to this country.

It is a question of definition. The economics, as the Senator admits, have been taken out of the argument by the amendment, therefore, it becomes a social policy concerning what makes a family farm of optimum efficiency and what makes it possible for families to continue to exist in the areas in which they grew up.

That, I suggest, would be damaged irreparably by the adoption of the amendment of the Senator from Nebraska. I hope this Senate will support the committee's position which provides for full cost recovery above the acreage limitations, which provides for efficient operation, which does not provide for an absolute farm limit of 960 acres leased or owned. Those are the points which the Senator ought to keep in mind.

The very reasons we rejected the Lugar-Proxmire amendment and the Proxmire-Lugar amendment are tenfold in play with the amendment of the Senator from Nebraska. I hope this Senate rejects that amendment, given the spirit in which it is offered. I know the philosophy from which it comes, which I respect and admire. I simply do not think it achieves what the Senator hopes it would achieve.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. HUMPHREY). Who yields time?

Mr. WALLOP. Mr. President, in the absence of anybody seeking the floor, I suggest the absence of a quorum, with the time charged to both sides.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have listened with great interest to my friend and colleague from Wyoming, for whom I have great respect.

Let me see if I can put this in perspective the best I can in the 2 or 3

minutes remaining of the time in effect as of now.

First, I speak for the family-sized farmers of Nebraska. I think I speak for the family-sized farmers of the Nation in proposing this amendment. I speak specifically for the official position of the Farmers Union and the National Grange, two of the most widely respected family-sized farm organizations in these United States.

I would like to submit for the RECORD, Mr. President, from the Department of the Interior, a document, entitled "Distribution of Farm Operations." I ask unanimous consent that it be printed in the RECORD.

There being no objection, the table ordered to be printed in the RECORD, as follows:

DISTRIBUTION OF FARM OPERATIONS AND ACREAGE BY SIZE OF FARMS, WESTWIDE

Size of farm operations	Number of farm operations	Cumulative percent	Irrigable acres		Cumulative percent
			Total	Mean	
1 to 160	35,498	74.5	1,948,320	55	23.0
161 to 320	5,810	86.7	1,343,859	231	39.0
321 to 640	4,494	96.1	2,013,683	448	62.8
641 to 960	607	97.4	487,420	803	68.6
961 to 1,280	399	98.3	433,463	1,086	73.7
1,281 to 1,920	396	99.1	605,275	1,530	80.8
1,921 plus	435	100.0	1,618,630	3,721	100.0
Total	47,638		8,450,651	177	

Mr. EXON. Mr. President, what this shows is that 97.4 percent of all of the farm operations under the national reclamation project are 960 acres or less.

I would also like to say, Mr. President, in response to the family size farm pleas that we are hearing, the Department of Interior report shows that, under the 960-acre limit on the proposed rules, farmers could achieve 95 percent of maximum efficiency in all of 18 districts, that is reclamation districts, and 98 percent efficiency in farming operations in all but two of these districts.

Yes, Mr. President, it is true that the 960-acre amendment that is before us is an amendment that would allow no one to receive Federal subsidies above and beyond that. It is also true, Mr. President, that there was a 160-acre limitation when this bill was originally written and passed in 1902.

I would simply say once again that going beyond the 960-acre limit, which I happen to feel is too high, but going beyond that is a subsidy to a very few large corporate landowners that should not be a part of the bill that we are seemingly about to pass. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. I reserve the remainder of my time.

Mr. McCLURE. Mr. President, how much time does the Senator from Wyoming have remaining?

The PRESIDING OFFICER. He has 11 minutes and 57 seconds.

Mr. McCLURE. Will the Senator yield 5 minutes to me?

Mr. WALLOP. I am happy to yield 5 minutes to the Senator from Idaho.

Mr. McCLURE. Mr. President, I think the issue is clearly stated. I do not think there is any disagreement on the basis of what it is the Senator from Nebraska seeks to achieve nor what the committee has sought to achieve. There is a difference of judgment of how much is enough and at what point do you cross the line and get into that which is too much.

I wish the Senator had been able to sit with me in the hearings that we held in some of the Western States and heard the working farmers come in to testify in support of an acreage limitation larger and more flexible than that which has been asked for in the amendment offered by the distinguished Senator from Nebraska. I say to the Senator that these were not large conglomerates, these were not oil businesses, they were not Arab sheiks, and they were not wealthy Dutch landowners. These were working men and women, families that live on the land, till the land, make their livelihood from the land, and support their families from the land. They were saying that the 1902 act is archaic.

One of the things that is a little perplexing to those of us who have grown up with this sort of thing and had to live with the Government as our landlord in the West, is that the 160 acre limitation was not a limitation on farm size as much as might have been thought by some people, because that meant 160 acres per farm family member.

As a practical matter, that meant 160 acres for the husband, 160 acres for the wife, 160 acres for each of the kids, 160 acres for each of the kids' wives, and so on. So the aggregation that many people will talk about as being a violation of the 160 acre limitation was really an adaptation of the 160 acre limitation to modern farm practices.

In 1902, if a farmer wanted to get out there—and believe me it is a hard business to break the land out of the sagebrush and get started, he would not make much money. Generally, it takes about the third generation of farmers to make any money at it. The first guy gets the sagebrush ripped out, the second guy gets the ditches put in, and the third guy finally makes a go of it.

But in 1902 it was a horse and a walking plow. As agriculture modernized, as it did across the West, they began getting mechanical equipment and it meant that they could farm more land. That is one of the miracles of agricultural production in this country, is that as they mechanized they became more efficient, just as was true in the industrial revolution in other sectors of our economy. The unit cost of production went up, but the total number of units increased dramatically and, as they increased dramatically, the unit cost of production went down. And, therefore, we have had abundant, and perhaps too abundant, cheap food for the American people, the greatest bargain in the world today, because of the miracle of the efficiency of the American farmer.

Now that miracle of efficiency did not just occur on nonreclamation lands, but it did not occur exclusively off the reclamation lands either. That meant the farmers had to buy more equipment and larger equipment and as they bought those tractors that are built in the eastern industrial sectors of this country, they had to buy more land and farm more land in order to effectively utilize the machinery they were forced to buy in order to stay competitive, and farm families increased in size.

At some point, we must recognize that what we are trying to do in this legislation is get away from the building-block concept that allows an almost infinite multiplication of 160 acre units depending upon how many members of the family you can get involved, to put a real cap on the size.

So much of this has come from the other side. So much of the discussion has been that you are quick to take the lid off. Well, I say to the Senator, we are trying to put a real lid on; a lid that is meaningful and real, not the kind we have had in the past; a lid

that says that this will be for a qualified entity, a qualified recipient, the real limitation.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLURE. Will the Senator yield 1 more minute?

Mr. WALLOP. I am happy to yield 1 additional minute to the Senator.

Mr. McCLURE. How you achieve that becomes another question. Incidentally, 2 years ago the Senate in passing S. 14 adopted a 1,280 acre limitation. We elected in the committee this time to say, "All right, you can own 1,280 acres." There is unlimited leasing under the present law. There is no limit at all under present law. We put a limit on leasing and we said, "If you own any more than that, if you lease any more than that, you are going to pay the cost of the money that the Government has invested for your share of that project for irrigation."

Now that seems to me to be reasonable. But too many people who have looked at this have looked at it as if we are trying to take the lid off. But we are trying to put a realistic, livable lid on for the working men and women that work on our Nation's farms. I have had a lot of Idahoans, who came in and testified in my hearings in Boise, who said, "Please, Senator, do not let the Government tell me how hard I can work." We had people who said, "Do not let the Government limit my capacity to increase my efficiency and prosper."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. I yield 1 more minute to the Senator.

Mr. McCLURE. I have tried as best I know how throughout all of this debate to indicate that, as the Senator knows, there is a great deal of misunderstanding across the Eastern United States, perhaps, or at least in the urban centers of the country, about what farming is all about. But you know what the cost of a tractor is today. You know what the cost of equipment is today.

How does a young farmer get into this business? How does he buy the equipment that is necessary? If he is not lucky enough to be born into a farm family, how does he get started? He has to have a lot of debt. And in order to have that debt it had better be spread over several acres and it had better be allowed to be as efficient as possible or he simply is not going to make it in farming today.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. I thank the Senator for yielding.

Mr. WALLOP. Mr. President, what is the time situation?

The PRESIDING OFFICER. Four minutes and 30 seconds remain.

Mr. WALLOP. How much time remains to the Senator from Nebraska?

The PRESIDING OFFICER. Nine seconds.

Mr. WALLOP. Does the Senator from Nebraska wish to have a minute or so to summarize out of my time?

Mr. EXON. I thank my friend for his courtesy. I can summarize in 60 seconds, and if there is nothing further on that side, we are ready to go to a vote.

Mr. President, let me summarize in this fashion: It seems to me that we are talking about what makes up a family-size farm. If a family-size water-subsidized farm exceeds 1,568 acres in the State of Idaho and 1,400 acres in the State of Wyoming, then I think that is above and beyond what most of us would consider a true family-size farm operation.

I rest my case and hope that the Senate will accept the reasonable amendment I have offered.

Mr. WALLOP. Mr. President, I have a letter which I wish to read into the RECORD from the Department of the Interior, signed by the Assistant Secretary, Donald P. Hodel, dated July 15, 1982:

JULY 15, 1982.

Hon. JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that an amendment to S. 1867 may be offered by Senator Exon during the floor debate on the reclamation reform legislation. This amendment would strike the full cost provisions of the bill, as reported, and provide an acreage limitation cap at 960 acres. Above this limit, farms would not be able to receive any irrigation water under the reclamation program.

The Administration opposes the enactment of such an amendment.

We support the concept contained in S. 1867, as reported, that there should be some limitation on ownership above which water users pay full cost. The payment of full cost for excess lands will have the effect of removing the Federal subsidy associated with these lands, while still retaining the traditional farm concept. At the same time, this approach allows the farm operator the increased flexibility to expand his operation if he desires to do so.

Once an individual farm is paying for water at the full cost rate, we do not feel it is appropriate for the Federal Government to place absolute limitations on farm size. These are matters which should be left to the free market. When the Government has received full repayment, there would appear to be no justification for any further limitations.

The Office of Management and Budget as advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD P. HODEL,
Secretary.

I will make one last observation. Two-thirds of the farmers the Senator from Nebraska identifies as being under 960 acres, are farmers who require supplemental income to their existence in order to make an adequate living for their families. What we seek is to make that number change upward from two-thirds, hopefully, to 100 percent.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Nebraska yield back his time?

Mr. EXON. I think my time has expired. If not, I yield it back.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection, Mr. President.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 38 Leg.]

Baker	Humphrey	Stevens
Exon	McClure	Symms
Goldwater	Metzenbaum	Wallop

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays have been ordered and the clerk will call the roll.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Connecticut (Mr. WEICKER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. PRESSLER) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Alabama (Mr. HEFLIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 81, nays 4, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—81

Abdnor	East	Melcher
Andrews	Exon	Metzenbaum
Armstrong	Ford	Mitchell
Baker	Glenn	Moynihan
Baucus	Goldwater	Nickles
Bentsen	Gorton	Nunn
Boren	Grassley	Packwood
Bradley	Hart	Pell
Brady	Hatch	Pryor
Burdick	Hatfield	Randolph
Byrd, Harry F., Jr.	Hawkins	Riegle
	Helms	Roth
Byrd, Robert C.	Hollings	Rudman
Chafee	Huddleston	Sasser
Chiles	Humphrey	Schmitt
Cochran	Jackson	Simpson
Cohen	Jepsen	Specter
Cranston	Kassebaum	Stafford
D'Amato	Kasten	Stennis
Danforth	Kennedy	Stevens
DeConcini	Laxalt	Symms
Denton	Leahy	Tower
Dixon	Levin	Tsongas
Dodd	Long	Wallop
Dole	Lugar	Warner
Domenici	Mathias	Zorinsky
Durenberger	Mattingly	
Eagleton	McClure	

NAYS—4

Garn	Proxmire
Johnston	Quayle

NOT VOTING—15

Biden	Heflin	Percy
Boschwitz	Heinz	Pressler
Bumpers	Inouye	Sarbanes
Cannon	Matsunaga	Thurmond
Hayakawa	Murkowski	Weicker

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

VOTE ON AMENDMENT NO. 1937

The question is on agreeing to the amendment of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. EAGLETON (after having voted in the affirmative). Mr. President, on this vote I have a pair with the distinguished Senator from Nevada (Mr. CANNON). If he were present and voting, he would vote "nay." I have previously voted "aye." I withdraw my vote.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. HAYAKAWA), the Senator from Illinois (Mr. PERCY), and the Senator from South Dakota (Mr. PRESSLER) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Alabama (Mr. HEFLIN), and the Senator from Marlyand (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 22, nays 65, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—22

Bradley	Huddleston	Nunn
Burdick	Inouye	Pell
Chiles	Kennedy	Proxmire
Dixon	Leahy	Riegle
Dodd	Levin	Tsongas
Exon	Metzenbaum	Zorinsky
Hart	Mitchell	
Hollings	Moynihan	

NAYS—65

Abdnor	East	Mattingly
Andrews	Ford	McClure
Armstrong	Garn	Melcher
Baker	Glenn	Nickles
Baucus	Goldwater	Packwood
Bentsen	Gorton	Pryor
Boren	Grassley	Quayle
Brady	Hatch	Randolph
Byrd, Harry F., Jr.	Hatfield	Roth
	Hawkins	Rudman
Byrd, Robert C.	Helms	Sasser
Chafee	Humphrey	Schmitt
Cochran	Jackson	Simpson
Cohen	Jepsen	Specter
Cranston	Johnston	Stafford
D'Amato	Kassebaum	Stennis
Danforth	Kasten	Stevens
DeConcini	Laxalt	Symms
Denton	Long	Thurmond
Dole	Lugar	Tower
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Eagleton, for.

NOT VOTING—12

Biden	Hayakawa	Percy
Boschwitz	Heflin	Pressler
Bumpers	Heinz	Sarbanes
Cannon	Murkowski	Weicker

So Mr. EXON's amendment (No. 1937) was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WALLOP. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to be proposed?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I yield myself 5 minutes off the bill.

While Senators are here, I think it is important to know that we know of now only two additional substantive amendments. If Senators have other amendments, I do not mean to say that what they might offer would not be substantive; I simply say that the only amendments which now will be offered are two that Senators have been working on, one by the Senator from New York (Mr. MOYNIHAN) and one by the Senator from Michigan (Mr. LEVIN) whom I see now is on his feet.

I believe that we can dispose of the two aforementioned amendments. The Senate has been pretty expressive up to now as to what it sees contained within this bill and perhaps Senators might be able to go home for the weekend this afternoon. It all depends on the moods of others who may wish to carry the procedure on.

But the committee is quite prepared to continue debate until a final vote can be taken on the bill.

Mr. SYMMS. Mr. President, if the Senator will yield, when he says "go home," does he mean after passage of the bill?

Mr. WALLOP. Yes, I an referring to passage of the bill, I am assuming we can finish the bill within the early hours of the afternoon if the Senate is permitted to.

I also assume, from my conversations with the majority leader, that we will finish this bill before the weekend begins. So I would seriously hope we might be able to move it expeditiously.

If the Senator from Michigan is ready with his amendment, I am prepared to resume the debate.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, yesterday during the debate on the Bumpers amendment Senator BUMPERS mentioned the cost estimate prepared by the Congressional Budget Office on S. 60, establishing a competitive oil and gas leasing system within the Department of Interior. S. 60 was referred to the Energy Committee earlier this year but has not been the topic of hearings before that committee as of this time. As a result, neither the administration nor other interested groups has had the formal opportunity to air the issues involved in this bill.

The Congressional Budget Office prepares cost estimates on bills which are reported by the authorizing committees to the Senate, in which it analyzes the potential budget impact of the legislation. However, in this case, CBO prepared a cost estimate on a bill

which has not yet been reported by the committee at the request of Senator BUMPERS. As a result, the estimate is based solely on best available information to date. My staff has reviewed the cost estimate and believes that if all conditions assumed in the estimate were to occur, that the conclusions reached could result. However, I want to stress the point regarding assumptions based on best available information.

CBO notes within the cost estimate itself that:

It should be noted that any estimates of the acreage leased and the bonuses received are highly uncertain . . . For example . . . under the acreage assumptions specified, a $5 change in the bonus payment assumption would change the estimated gross Federal receipts by $270 million over the fiscal year 1983-87 period.

In addition, a recent GAO study on the same sort of competitive leasing approach contained in S. 60 concluded that "a competitive system might not bring in a significant amount of revenue and could actually not even offset losses in filing fees now obtained through noncompetitive leasing.

Mr. President, there are a number of uncertainties in trying to estimate the impact of a bill of this kind on the Federal Treasury. We do not know how the market would respond to a change in policy which has been in place since the 1920's. We do not know for sure what will occur in the oil market in the next several years which will undoubtedly have an effect on onshore leasing activity. We do not know if the assumptions regarding the number of tracts which are bid are overly optimistic. What I am saying, Mr. President, is that there are many unknown factors in just how this amendment would affect Federal receipts.

I want to reiterate that I have no criticisms as to the accuracy of the CBO cost estimate on S. 60. My purpose here is to underscore the many uncertainties involved. As I have already pointed out, CBO specifically includes a reference to these uncertainties within the cost estimate itself. These unknown factors and the fact that the proposal has not enjoyed the opportunity of examination through hearings and discussion should weigh into the consideration of this amendment.

UP AMENDMENT NO. 1093

Mr. LEVIN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 1093:

At the end of the bill add the following:

SEC. 18. Within one year of the date of enactment of this Act, the Secretary of Agriculture, with the cooperation of the Secretary of the Interior, shall transmit to the Congress a report on the production of surplus crops on acreage served by irrigation waters. The report shall include:

(1) data delineating the production of surplus crops on lands served by irrigation waters;

(2) the percentage of participation of farms served by irrigation waters in set-aside programs, by acreage, crop, and state;

(3) the feasibility and appropriateness of requiring the participation in acreage set-aside programs of farms served by irrigation waters and the costs of such a requirement; and

(4) any recommendations concerning how to coordinate national reclamation policy with agriculture policy to help alleviate recurring problems of surplus crops and low commodity prices.

Mr. LEVIN. Mr. President, this amendment is a very straightforward amendment. It basically reflects the concern that I and others in this body have that we are using federally subsidized water to produce crops which, in other programs, we are paying people not to produce, crops that we already have in surplus, and because of the concerns that I have in that area I was going to offer an amendment which would restrict——

Mr. WALLOP. Mr. President, may we have order, please?

The PRESIDING OFFICER (Mr. ANDREWS). The point is well taken. The Senate is not in order. Those Senators wishing to converse and those staff members wishing to converse please retire to the cloakrooms.

Mr. LEVIN. Mr. President, because of that concern I was intending to offer an amendment which would place some limitation on the use of federally subsidized water to produce those crops where we have other programs in which we are paying people not to produce this very same crop.

During the course of this debate I discussed this matter with the managers of the bill. There are obviously complications in setting such limits, and rather than pursuing that amendment I have instead offered this pending amendment which will require the Secretary of Agriculture, in cooperation with the Secretary of the Interior, to report to us on both the production of surplus crops on acreage which is served by federally subsidized water, and this amendment sets forth what that report will include so that we can find out to what extent we are subsidizing water to grow crops which we already have in surplus in this country, and also as part of this amendment we will be receiving recommendations as to how to coordinate national reclamation policy with agricultural policy so that we avoid the anomaly of spending money to produce crops where we already have too many of those crops, and have to try to reduce their production in other parts of the country.

I thank the manager of the bill, both the managers of the bill and the members of the committee. I understand this amendment is acceptable to them.

Mr. WALLOP. Mr. President, I want to compliment the Senator from Michigan, both for the thrust of what he is seeking to do and the cooperative manner in which he discussed it with us.

One of the great problems we have is the breadth of season in this country. Surely anybody who was going to be required to participate in a set-aside would have to know this before his planting season begins. Planting season starts much earlier in the State of Texas than it does in the State of Wyoming. Somehow or other we are going to have to find out how to do that and what the effects are.

I compliment the Senator. The House has addressed this in a more stringent fashion. I believe the Senator from Michigan's proposal is much more effective, and the majority is willing to accept it.

Mr. GOLDWATER. Mr. President, will the Senator yield? I would like to know what crops the Senator from Michigan is referring to so that I might have a better idea of where irrigated land might be contributing to the surplus.

Mr. WALLOP. I will let the Senator from Michigan explain for himself if he disagrees with me, but I believe he is talking about those crops which would be designated by the Secretary of Agriculture as "in surplus." If there was a set-aside program, then the set-aside would be participated in by those receiving federally subsidized water. But what he is talking about is a study to determine the feasibility of this and the effect of irrigated crops on surpluses and other things.

There is nothing in the amendment which the Senator seeks except direct study by the Secretary of Agriculture and the Secretary of Interior.

Mr. GOLDWATER. I did not understand it only applied to the study. I thought it was immediately applicable to lands.

Mr. WALLOP. We would have a problem had that been the case because I do not know how we can do that, and I believe we cannot even consider it until we see the results.

Mr. GOLDWATER. When you are talking about surpluses you are talking about wheat and grain and items, such as that. Where we have irrigated land we do not grow that kind of crop.

Mr. WALLOP. I again state that I compliment the Senator and I appreciate what he has done, and as far as the majority is concerned, we are quite willing to accept the amendment.

Mr. JACKSON. Mr. President, I am pleased to associate myself with the remarks of the floor manager of the bill, Mr. WALLOP.

I, too, compliment my colleague from Michigan for offering this amendment. It covers an area where there has been a lot of discussion and not too much light on the subject. I hope that out of this study we will have some better answers to the questions that have been raised.

We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 1093) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1094

Mr. JACKSON. Mr. President, I call up an amendment which is at the desk, unprinted.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 1094.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, line 23, strike "mortgage" and insert in lieu thereof the following: "debt (including, but not limited to, a mortgage, real estate contract, or deed of trust)".

On page 31, lines 6 and 7, strike "mortgage" and insert in lieu thereof the following: "a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust)".

Mr. JACKSON. This is a technical amendment to clarify the meaning of the term "mortgage," which is used at two places in the bill. It has come to my attention that farmers utilize security agreements such as real estate contracts or deeds of trust in addition to mortgages. I believe it was not the intention of the committee to treat these various security arrangements differently and therefore, I am offering this technical amendment to clarify that other mortgage-like security arrangements are to be treated in the same manner as mortgages.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

Mr. METZENBAUM. Mr. President, is it not the fact that on each amendment there is a half hour allocated for the proponents and a half hour for the opponents?

The PRESIDING OFFICER. The Senator is absolutely correct.

Mr. METZENBAUM. Has all time been yielded back?

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. The time has not been yielded back on the amendment. The Senator from Washington yielded back his time.

Mr. WALLOP. The Senator from Wyoming would merely state he is willing to accept the amendment, and to simply says that the Senator from Washington is quite correct. The committee did not intend to distinguish between these various types of contracts and mortgages. I think it is a constructive addition, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back, and the question is on agreeing to the amendment of the Senator from Washington.

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed and concluded the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 39 Leg.]

Andrews	Gorton	Mitchell
Baker	Jackson	Stennis
Cranston	Mattingly	Symms
Denton	McClure	Wallop
Goldwater	Metzenbaum	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee (Mr. BAKER) to direct the Sergeant at Arms to compel the attendance of absent Senators. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Virginia (Mr. WARNER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. PRESSLER) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Alabama (Mr. HEFLIN), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 82, nays 4, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—82

Abdnor	Ford	Melcher
Andrews	Goldwater	Metzenbaum
Armstrong	Gorton	Mitchell
Baker	Grassley	Moynihan
Baucus	Hart	Nickles
Bentsen	Hatch	Nunn
Biden	Hatfield	Packwood
Boren	Hawkins	Pell
Bradley	Helms	Pryor
Brady	Hollings	Randolph
Burdick	Huddleston	Riegle
Byrd, Robert C.	Humphrey	Roth
Chafee	Inouye	Rudman
Chiles	Jackson	Sasser
Cochran	Jepsen	Schmitt
Cohen	Johnston	Simpson
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Kennedy	Stennis
DeConcini	Laxalt	Stevens
Denton	Leahy	Symms
Dixon	Levin	Thurmond
Dole	Long	Tower
Domenici	Lugar	Tsongas
Durenberger	Mathias	Wallop
Eagleton	Matsunaga	Zorinsky
East	Mattingly	
Exon	McClure	

NAYS—4

Byrd, Harry F., Jr.	Garn	Quayle
	Proxmire	

NOT VOTING—14

Boschwitz	Hayakawa	Pressler
Bumpers	Heflin	Sarbanes
Cannon	Heinz	Warner
Dodd	Murkowski	Weicker
Glenn	Percy	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is present.

UP AMENDMENT NO. 1094

The PRESIDING OFFICER. The question is on agreeing to the Jackson amendment.

The amendment (UP No. 1094) was agreed to.

Mr. BAKER. I move to reconsider the vote.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1095

(Purpose: To apply full cost pricing on certain Corps of Engineers projects with costs allocated to irrigation and conservation storage and for other purposes)

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I yield to the Senator from Ohio for a brief statement.

Mr. METZENBAUM. Mr. President, I did not know the Senator was on the floor. The Senator may go ahead.

Mr. MOYNIHAN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1095.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, line 9, strike out the first comma and insert in lieu thereof a dash and designate the matter that follows as clause (1).

On page 24, line 14, strike out the period and insert in lieu thereof "; and".

On page 24, between lines 14 and 15, insert the following:

(2) any repayment contract entered into by the Secretary after the enactment of this Act, including any existing contract which is renewed, supplemented, or otherwise amended to grant supplemental or additional benefits shall provide for the payment of full cost as defined in subsection 2(b) for that portion of a landholding in excess of 960 acres: *Provided, however,* That operation and maintenance and contract administrative costs shall be adjusted annually.

(c) The Secretary shall submit to Congress not later than one year following the enactment of this Act a detailed plan which provides for the repayment of costs allocated to irrigation storage or conservation storage at water resources projects constructed by the Army Corps of Engineers. Such plan shall indicate for each project how the Bureau of Reclamation intends to recover the cost allocated to conservation storage and irrigation storage and shall include detailed estimates of revenue resulting from existing and probable future contracts pursuant to the changes in law made by this section.

(d) The Inspector General shall submit to Congress not later than one year following the enactment of this Act a detailed report of the actual distribution of benefits among project purposes relative to the original cost allocations for each of the projects constructed by the Army Corps of Engineers and exempted from the application of reclamation law pursuant to subsection (a) of this section. Such report shall include recommendations to the Secretary on administrative, regulatory, and/or statutory means of adjusting cost allocations for operation and maintenance to more accurately reflect the actual utilization of the project.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I can state the purpose of this amendment with brevity and, I hope, clarity. As the distinguished Presiding Officer knows, there a number of organizations in the U.S. Government which involve themselves with water projects. Of those, there are at least three. Their practices vary somewhat considerably, and have done so for the longest period of time. The initial enterprise of the Federal Government was, of course, the Bureau of Reclamation and it has as its primary purpose the reclaiming, as the title says, of the desert land of the Middle and Far Western States for purposes of agriculture use. Any schoolchild of the late 19th century, looking at a map of our country, would have seen, not very far west of the Mississippi, a brownish area on the map that would extend all the way to the Rocky Mountains, entitled "The Great American Desert."

It was, of course, the purpose of Theodore Roosevelt in proposing the Bureau of Reclamation to turn that desert green and, indeed, that has been done in one of the miracles of our Nation. This has also been the case beyond the Rocky Mountains where, with even greater fecundity, the heat traps of the valleys in eastern California have been made immensely productive.

Mr. President, it is an enormous benefit that has accrued to persons for whom public water is made available through public works. From the beginning, there has been a sense that these benefits should only apply to persons farming limited acreages and also that there should be a recovery of cost. In the most elemental sense, the benefit comes about from projects too large for any individual to undertake, but the benefit is real and paying back is normal and is equitable. There ought not to be a class of citizens especially favored by Federal expenditures as against those who must pay for those favors.

I congratulate the managers of the legislation before us. The Reclamation Reform Act of 1982 does, indeed, address itself to abuses in acreage and abuses in repayment that have begun to offend more than just a small portion of the American public.

I rise, Mr. President, for the purpose of bringing equity and consistency to the Federal water programs to the degree that the Corps of Engineers carries out water projects which provide irrigation benefits.

This amendment proposes that the same acreage limits apply and the same cost recovery processes apply.

I do this as the ranking member of the Subcommittee on Water Resources of the Committee on Environment and Public Works. It is part of the disbursal of these reponsibilities in the Government that is reflected in our committee system also.

The Bureau of Reclamation is, of course, a particular responsibility of the Committee on Energy and Natural Resources, once known as the Interior Committee, established for the purpose of making the great American desert green. It has gone on to other matters, but it has held on to its earlier water resources development function in the Bureau of Reclamation statute confined to 17 States.

The Soil Conservation Service, when I last located it, was in the Department of Agriculture and it carries out irrigation projects, too. And, finally, the first of all these enterprises is the great and honored and world famous Corps of Engineers, which has constructed from its founding in the first decade of the 19th century most of the major water projects of our country, most of the great dams of our country.

Mr. President, our purpose is simply to say that where the Corps of Engineers has developed a water resource and there are irrigation benefits and there are costs allocated by the corps—for example, 35 percent of the benefits can be ascribed to arise from the irrigation activities—that those costs should be recovered by the same acreage limits and the same repayment formula that would apply to the Bureau of Reclamation.

I bring this matter to the floor simply because the Energy Committee has jurisdiction over the Bureau. It does not have jurisdiction over the corps. Our committee does. I am on the subcommittee and ranking member of the group that actually oversees corps projects.

We have the object of equity and consistency. This is the same purpose which has animated the distinguished Senator from New Mexico, Senator DOMENICI, and I in the general water legislation we have had before this body for 3 years now.

The simple proposition is that local cost-sharing and interest rates should not vary among projects providing the same kind of benefits.

I might offer the analogy of "judge shopping," as lawyers sometimes say, trying to find a judge more likely to give a favorable verdict. We ought not to have irrigation programs available from different parts of the same Federal Government, spending moneys from the same Federal budget but with this particular program free of any cost repayment requirement—that one requiring partial cost, this one requiring full cost. The principle of equity suggests consistency.

A multipurpose project built by the Corps of Engineers which provides flood control benefits is indistinguishable as far as the flood control aspects of a project from a multipurpose project built by the Bureau of Reclamation.

If the Federal Government establishes a policy that requires local sponsors of flood control to pay 35 percent of construction costs during construction, it is only fair and equitable to apply that policy to the three Federal agencies that construct flood control projects which are, of course, the Army Corps of Engineers, the Bureau of Reclamation, and the Soil Conservation Service.

The Reclamation Reform Act raises the question of Federal pricing policy on projects providing irrigation and storage of water. This amendment simply applies the policy adopted by the Committee for Bureau of Reclamation projects to a limited number of corps projects whose original authorizing statutes required the repayment of construction costs allocated to irrigation.

I make the point that these projects are very limited in number, that the overwhelming impact of this amendment will be prospective; it has to do with future projects.

The committee bill exempts 37 corps projects from the application of reclamation law and another 20 corps projects will remain under reclamation law. Among the 37 projects exempted, a total of 20 had irrigation costs specifically allocated at the time of project authorization.

Now, the total cost of the 37 projects amounted to some 232 million nominal dollars, and many of these projects were built in the late 1940's, early 1950's. They would cost more today, of course. Of the $232 million reimbursable to the Federal Government under the existing practice of excluding any interest charge and allowing the users 40 years to pay, only $70 million has been brought under contract and only $18 million has been repaid.

Mr. President, this is not an attractive story. Contracts were provided and payment was not made or scarcely made in some cases.

Among the 11 projects in the Willamette River Basin, for example, only $2 million in repayment contracts have been signed, although $45 million was allocated to irrigation and reimbursable to the Federal Government under the statute authorizing the projects.

Of the $2 million in repayment contracts that have been signed, only $185,000 has been repaid.

Mr. President, there is a limit to the great barbecuing that is going on out there. In that Willamette Basin, there are 11 projects, $45 million in benefits, $185,000 in payments. There are harsh words for this kind of behavior, and I am not going to use them, because I believe that the committee has recognized this principle with respect to the Bureau of Reclamation. I simply ask that the same principles apply to the Corps of Engineers.

We do not want States or localities shopping around for the opportunity not to meet the clear understanding of these contracts, of an obligation to repay for benefits received, and repay in very generous terms, and in some cases a smaller group not pay at all.

Mr. President, I believe that the managers of the legislation know that this have very little retrospective impact, only in cases where there have been changes in the original contract and benefits have accrued as part of the change. This simply brings into harmony the practices of the corps with those which will now be the practices of the Bureau of Reclamation.

Section 8 of the committee bill exempts certain Corps of Engineers projects from the application of reclamation law. My amendment does not in any way alter this exemption. The committee also specified that all repayment obligations on these Corps of Engineers projects would continue to remain in effect. My amendment supports this provision. It will not impose any contractual obligations on users of corps projects which are not required under existing law.

On a number of Corps of Engineers projects along the Columbia and Missouri Rivers, private irrigators receive permits from the corps to withdraw water from the reservoirs. These users meet three conditions: The private diverter possesses valid water rights under State law, the diversion does not interfere with the operation of the project, and the same quantity of water was available before the project as after the project.

These users have no repayment obligations under existing law. My amendment will not impose any obligations on these users. My concern is only with those corps projects that have construction costs specifically allocated to irrigation. For these projects, the repayment obligation of irrigators who contract with the Bureau of Reclamation to use the project is established by the statue authorizing the project. This is the law. My amendment does not expand this obligation.

Under my amendment, if an existing contract is amended or renewed in such a way as to provide additional or supplementary benefits, and full cost is applied to land above the limit, it is my extent that the calcuation of full cost only should apply to the remaining balance on the principle of construction costs. In no way do I intend to apply full cost pricing retroactively on principle already paid by the irrigator. If an irrigation district has paid out its share of construction costs, it will not be subject to the full cost provisions unless additional project features are added.

In preparation for this debate, I wrote letters of inquiry to Secretary of Interior James G. Watt and Director of Civil Works of the Army Corps of Engineers Gen. E. R. Heiberg III. I ask unanimous consent to have printed in the RECORD a summary of the information provided to me.

The material provides, in the most specific detail, the information about the projects that would be affected and those that would not. I also ask unanimous consent to have printed in the RECORD a table from a report of the National Water Commission issued in June 1973. It very graphically shows the absolute chaos of the Federal practices with respect to cost sharing on flood protection, navigation, hydroelectric power, municipal and industrial water supply, irrigation, water quality, recreation, fish and wildlife enhancement. It is medieval in its complexity and variance, and obviously the managers of the measure would like to see some consistency, which they are right in seeking. I should simply like to bring the Corps of Engineers under the general rubrics which they establish.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL INFORMATION ON CORPS OF ENGINEERS PROJECTS EXEMPTED BY S. 1867 AND MOYNIHAN AMENDMENT

A. Exempt projects:

The Committee bill exempts 37 Corps projects from the application of reclamation law (Table I).

Another 20 Corps projects will remain under reclamation law (Table II).

Among the 37 projects, a total of 20 projects had irrigation costs specifically allocated at the time of project authorization.

B. Repayment status of exempt projects:

Total cost of the 38 projects amounted to $232 million in nominal dollars. Many of these projects were built in the late 1940s and early 1950s.

Of the $232 million reimbursable to the Federal government under the existing practice of excluding any interest charge and allowing the users 40 years to repay, only $70 million has ever been brought under contract and $18 million has been repaid.

Over $17 million of the $18 million came from payments by irrigators in the San Joaquin Valley using the Pine Flat, Success, Terminus and Isabella dams.

Among the 11 projects in the Willamette River Basin, only $2 million in repayment contracts have been signed although $45 million was allocated to irrigation and reimbursable to the Federal government under the status authorizing the projects. To date, $185,000 has been repaid.

CORPS PROJECTS EXEMPTED FROM RECLAMATION LAW UNDER S. 1867

* 1. Cottage Grove (OR)
* 2. Dorena (OR)
* 3. Fern Ridge (OR)
* 4. Blue River (OR)
* 5. Fall Creek (OR)
* 6. Detroit-Big Cliff (OR)
* 7. Lookout Point (OR)
* 8. Hills Creek (OR)
* 9. Cougar (OR)
* 10. Green Peter-Foster (OR)
* 11. Wynooche Lake (WA)
12. Lower Granite (WA)
13. Little Goose (WA)

14. Lower Monumental (WA)
15. Ice Harbor (WA)
16. Willow Creek (OR)
17. Cascadia (OR)
18. Holley (OR)
19. Gate Creek (OR)
20. John Martin (CO)
* 21. Trinidad (CO)
22. Almo (AZ)
* 23. Belton (TX)
24. Tat Momolikot (AZ)
* 25. Pine Flat (CA)
* 26. Terminus (CA)
* 27. Success (CA)
* 28. Isabella (CA)
29. Coyote Valley (CA)

MAINSTEM COLUMBIA AND MISSOURI PROJECTS

* 1. Fort Peck (MT)
* 2. Garrison (ND)
* 3. Oahe (SD)
4. Big Bend (SD)
5. Fort Randall (SD)
6. Gavins Point (SD)
7. John Day (OR)
8. McNary (OR)

CORPS PROJECTS INTEGRATED WITH RECLAMATION PROJECTS (NOT EXEMPT FROM RECLAMATION LAW UNDER S. 1867)

1. Harlan County (NE)
2. Kanopolis (KA)
3. Wilson Lake (KA)
4. Applegate (OR)
5. Ririe (ID)
6. Lost Creek (OR)
7. Lucky Peak (ID)
8. Elk Creek (OR)
9. Days Creek (OR)
10. Catherine Creek (OR)
11. Canton (OK)
12. Conchas (NM)
13. Waurika (OK)
14. Santa Rosa (AZ)
15. Black Butte (CA)
16. New Hogan (CA)
17. Buchanan (CA)
18. Folsom (CA)
19. New Melones (CA)
20. Hidden (CA)

(* Denotes projects with costs allocated to irrigation.)

DESCRIPTION OF STUDIES REQUIRED BY MOYNIHAN AMENDMENT

The amendment will require the preparation of two reports. The first requires the Secretary of Interior to set forth a plan on how reimbursable costs will be recovered on the exempt projects not yet covered under repayment contracts. This will not apply to projects where all allocable construction costs are already under contract or indeed have been paid.

The second report will be submitted to Congress by the Inspector General of the General Accounting Office. The GAO is required to examine the actual distribution of benefits from each of the 37 projects and compare such a distribution to the original allocation of costs for the project. The Inspector General is required to make recommendations to Congress on how the cost allocations should be adjusted to then update the annual operation and maintenance charges to the project's beneficiaries.

CALIFORNIA PROJECTS

The exemption of the 37 projects is traced back to the difficulties of four California projects: Pine Flat, Success, Terminus, and Isabella. The Energy Committee did not receive testimony on the other 33 exempted projects during its hearings on S. 1867.

For three years before these projects were authorized in 1944, Congress and the President debated whether the Corps of Engineers or the Bureau of Reclamation should construct and operate the projects. Some in Congress characterized the projects as essentially for flood control although they admitted the projects has substantial irrigation benefits. Others, including the Secretary of Interior Harold Ickes, believed that there were primarily irrigation projects and therefore reclamation law should apply.

By the time the projects were authorized by Congress as Corps projects, it seemed as if a compromise had been reached: the Corps would design and construct the projects and the Bureau of Reclamation would apply reclamation law and contract with the beneficiaries for the repayment of construction costs. However, the large landholders owned all water rights and therefore had no intention of surrending lands in return for use of a Federal project. Although the projects would provide substantial flood control and irrigation benefits, they were not indispensable as far as actual irrigation water supply was concerned.

The application of reclamation law has been in doubt since 1944. Litigation commenced in 1963 and is still going on. S. 1867 and the Moynihan amendment exempt the four controversial California projects from the application of acreage limitation. The Federal government has been repaid for most of its construction costs, albeit without interest:

	Amount reimbursable	Amount repaid to date	Balance due
Pine Flat	$14,260,000	$11,461,798	$2,798,702
Terminus	2,688,000	1,169,502	1,518,007
Success	1,329,000	541,277	788,008
Isabella	4,576,000	4,576,000	0

PROJECTS OUTSIDE OF THE RECLAMATION STATES

My amendment is not intended to affect any Corps of Engineers projects in the states outside the reclamation states. I insert for the RECORD a copy of the policy on repayment now followed by the Corps.

DEPARTMENT OF THE ARMY, OFFICE OF THE CHIEF OF ENGINEERS

WATER RESOURCES POLICIES AND AUTHORITIES
DIGEST OF WATER RESOURCES POLICIES

17-6. *Irrigation.*

a. *Storage.* Storage of water for irrigation on agricultural lands, whether to meet the entire needs or to supplement natural supplies, may be provided. Section 8 of the Flood Control Act of 1944 provides that Corps reservoirs may include the irrigation purpose upon the recommendation of the Secretary of the Interior in conformity with Reclamation Law. Section 8 also provides that the Secretary of the Interior may provide needed irrigation works to make use of irrigation storage. The Chief of Engineers considers that Section 8 applies only in the 17 western states to which the Reclamation Law applies.

b. *Cost Sharing.* The Corps of Engineers considers that, outside of the 17 western states, a non-Federal public entity should be required to assume one-half of the costs of reservoir capacity allocated to irrigation. This policy is analogous to the established Corps policy for reclamation by drainage. It is identical to the position adopted by the Department of Agriculture for reservoir capacity allocable to irrigation. However, the total costs of storage allocated to provisions for future irrigation and municipal water supply combined should not exceed the 30 percent of total reservoir costs stipulated in the Water Supply Act of 1958. The non-Federal entity requesting irrigation capacity as a project purpose should provide a firm expression of intent to use and pay for such storage, should obtain necessary water rights, or their equivalent, from the state, and possess legal power to contract with the Federal government. Non-Federal interests are required to assume responsibility for 100 percent of the O&M costs allocated to irrigation.

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

Hon. JAMES G. WATT,
Secretary of the Interior,
Washington, D.C.

DEAR SECRETARY WATT: Following the Memorial Day recess, the Senate will commence debate on S. 1867, the Reclamation Reform Act. As the ranking minority member of the Water Resources Subcommittee of the Committee on Environment and Public Works, I am particularly interested in Section 8 of the bill regarding the exemption of certain Corps of Engineers projects from both the acreage limitation and the repayment provision of the reclamation law.

While the concern of various witnesses and the Administration seems to be strictly with the application of the acreage limitation, the Committee bill also exempts certain Corps projects from "other provisions of the Federal reclamation laws." Nowhere in the Committee record can I find a statement estimating the loss of revenue in repayment obligations, existing or future, that may result from this total exemption from all the terms of the reclamation law to certain beneficiaries of Federally-provided irrigation water.

For example, this may include projects for which the Bureau of Reclamation has the authority under the 1944 Flood Control Act to market irrigation water but for which it has not entered into repayment contracts by the date of enactment. Moreover, Section 8(b) appears to preserve all existing contracts. However, if these contracts were to be renegotiated or otherwise amended, their status would seem uncertain at best under the terms of S. 1867. Subsection 8(a)(1) covers projects whose authorizations provide explicit statutory authority to apply reclamation law, but what might be the effect on those projects for which Congress assumed the 1944 Flood Control Act would apply?

The Corps of Engineers has provided me with some information on the projects affected by Section 8 of S. 1867, but they indicated that the Bureau would be in a better position to fill in the necessary details for most of the projects. I therefore request that the enclosed tables be completed, and in addition, that the effect of the Section 8 language on existing and future repayment obligations be explained for each project. You will note that the project list provided by the Corps does not coincide with the list included in your Department's reply to Senator Jackson's December 18, 1981 letter.

If the issues of acreage limitation and repayment obligations are to be treated separately, then some judgement must be made as to the appropriate cost of the water received by irrigation beneficiaries of Corps projects. Under the terms of S. 1867, the concept of "full cost" is introduced into reclamation law for the first time. How might

it apply to repayment of future obligations by users of Corps of Engineers projects in the absence of an acreage limitation requirement?

Given the likelihood of Senate debate on S. 1867 after the Memorial Day recess, I would hope that the information I have requested could be provided no later than June 7th. Should there be any difficulty in meeting this deadline, please inform me in advance.

Thank you for your assistance and cooperation.

Sincerely,

DANIEL PATRICK MOYNIHAN.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, D.C., June 4, 1982.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOYNIHAN: Thank you for your May 26, 1982, letter to Secretary of the Interior James G. Watt requesting information regarding the exemption from the provisions of Reclamation law that would be provided to Corps of Engineers projects by Section 8 of S. 1867 as reported by the Senate Energy and Natural Resources Committee. Your request is directed primarily to the effect of the exemption provided in this section on the existing or future repayment obligation of the irrigation water users to pay costs of Corps projects allocated to irrigation. You also request information concerning the Corps projects which would be exempt from the acreage limitation provisions of Reclamation law under S. 1867 and the application of the "full cost" principle provided in the bill to Corps projects which would be exempt from acreage limitation. You enclose a list of Corps of Engineers projects which was supplied to you by the Corps for which you request this information.

In regard to the existing and future repayment obligations for costs of Corps projects allocated to irrigation, it is our understanding and belief that Section 8(b) of S. 1867 would continue in effect the provisions of law requiring the repayment of costs of Corps of Engineers projects allocated to irrigation. While we do support the exemption of Corps of Engineers projects from the acreage limitation provisions of Reclamation law under certain circumstances, we do not believe that irrigation beneficiaries from Corps projects should be relieved of paying the irrigation costs associated with those projects. We understand that it was the intent of the Senate Energy and Natural Resources Committee in including language in its report on S. 1867, Senate Report No. 97-373, on page 12, to assure that these obligations to pay these irrigation costs continue in effect. The Senate report states as follows: "Section 8 was amended to delete a subsection which created ambiguity in the exemption for Corps of Engineers projects, and to add a clarification to continue obligations for the repayment of certain construction, operation, maintenance and administrative costs allocated to conservation or irrigation storage." Similar language is in the report of the House Interior and Insular Affairs Committee on H.R. 5539, House Report 97-458, page 20, dealing with the provision exempting Corps of Engineers projects from Reclamation law.

We construe Section 8(b) of S. 1867 to assure that the Secretary of the Interior's authority to contract with water users for irrigation water supplies from Corps of Engineers projects continues in effect and is not inhibited in any way. Obligations of water users to pay costs associated with irrigation water service from Corps projects under existing contracts would continue as would obligations of water users to pay such costs that might be assumed under future contracts. In our judgment the provisions of S. 1867 dealing with Corps of Engineers projects would not reduce the repayment that would be received by the United States from water users for costs of Corps projects allocated to irrigation or conservation storage.

We have reviewed the list of Corps of Engineers projects you submitted with your letter and have noted the status of each project insofar as the application of Reclamation law to each project under S. 1867. We have noted the status of each Corps project on the attached list under S. 1867 by a series of footnotes explaining the conditions which apply.

In regard to the application of the "full cost" principle provided in S. 1867 to Corps of Engineers projects, we believe this principle would apply to Corps projects in the same manner as it would apply to Reclamation projects. If a project is exempt from acreage limitation, there is no excess land in that project; therefore, there would be no application of "full cost" to any water deliveries. If a Corps project is exempt from acreage limitation by provisions of S. 1867, it is our view that the "full cost" pricing provisions of the bill would not be applicable to that project.

If we can provide you additional information, please let us know.

Sincerely yours,

ROBERT N. BROADBENT,
Commissioner.

TABLE I—STATUS

Project name	Authorized	Construction in progress	Project completed	Project under study	USBR status
Missouri River Division					
Fort Peck			X		(3)
Garrison			X		(3)
Oahe			X		(3)
Harlan County			X		(4)
Kanopolis			X		(4)
Big Bend [1]			X		(3)
Fort Randall [1]			X		(3)
Gavins Point [1]			X		(3)
North Pacific Division					
Days Creek		X			(4)
Cottage Grove			X		(5)
Dorena			X		(5)
Fern Ridge			X		(5)
Blue River			X		(5)
Fall Creek			X		(5)
Elk Creek [2]		X			(4)
Applegate			X		(4)
Catherine Creek		X			(4)
Ririe			X		(4)
Willow Creek		X			(5)
Lost Creek			X		(4)
Cascadia		X			(5)
John Day			X		(3)
Detroit-Big Cliff			X		(5)
Lookout Point			X		(5)
Hills Creek			X		(5)
Cougar			X		(5)
Green Peter-Foster			X		(5)
Holley		X			(5)
Gate Creek		X			(5)
McNary			X		(3)
Southwestern Division					
Canton			X		(4)
Conchas			X		(4)
John Martin			X		(5)
Waurika			X		(4)
Trinidad			X		(5)
Santa Rosa		X			(4)

TABLE I—STATUS—Continued

Project name	Authorized	Construction in progress	Project completed	Project under study	USBR status
South Pacific Division					
Black Butte			X		(4)
New Hogan			X		(4)
Buchanan			X		(4)
Hidden			X		(4)
Pine Flat			X		(5)
Terminus			X		(5)
Success			X		(5)
Isabella			X		(5)
Coyote Valley			X		(5)

[1] Accommodate water withdrawal by permit, irrigation use not allocated.
[2] Construction stopped in 1975. Current activity limited to updating and continuing design, plans, and specifications so construction can be resumed.
[3] The Department of the Interior has established the policy in respect to private irrigation diversions from Corps of Engineers reservoirs on the mainstem of the Columbia and Missouri Rivers that Reclamation law will not apply when such diverter's water supply is not dependent at any time upon the existence and operation of the Federal project facilities and the diverters would have an assured water supply for irrigation without the Federal project. A copy of this policy statement is attached. In administering this policy it is necessary to determine if the private diverter holds a valid natural-flow water right under State law, whether the quantity of water under the water right would be available for diversion without the Federal project whenever needed for irrigation, and whether the diversion interferes with the operation of the Federal project. At the present time there are no contracts in effect for diversions of water by private irrigators from Corps reservoirs on the mainstem of the Columbia and Missouri Rivers. In our opinion all existing diversions from these rivers are covered by the policy indicated above. It is our view that under S. 1867 the private irrigation diversions from these reservoirs would not be subject to the acreage limitation provisions of Federal Reclamation law.
[4] Projects authorized, under construction or in operation by the Corps of Engineers and are or will be integrated with Federal Reclamation projects. Reclamation law dealing with repayment of irrigation costs and acreage limitation apply and will continue to apply under S. 1867 when projects are intergrated with Reclamation projects.
[5] Authorized or constructed and operated by the Corps of Engineers. Projects are not and will not be integrated with Federal Reclamation projects. Under S. 1867 irrigation water deliveries from these projects will not be subject to acreage limitation. Irrigators are or will be required to contract and pay for irrigation water made available to them from the Corps projects.

[Memorandum]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 27, 1970.

To: The Secretary.
From: Assistant Secretary—Water and Power Development.
Subject: Policy declaration on private irrigation projects on Federal reservoirs.

Uncertainties in the minds of private irrigators along Federal reservoirs in both Columbia and Missouri River Dam systems have required a clear policy enunciation concerning the application of Federal Reclamation Law to the private diversion of water. To remove these uncertainties the enclosed letter has today been sent to the Governors of the ten affected States. Copies of the letters to the Governors have been sent to the affected Congressional delegations. A news story will be released on Tuesday, April 18, a copy of which is enclosed.

The letter states in essence, that when a private irrigator has a valid natural flow water right which entitles him to an assured supply of water during the entire irrigation season he is not a beneficiary of the Federal project and thus not subject to Federal Reclamation Law (i.e., primarily the 160-acre limitation).

Conversely when any part of his water supply is dependent on Federal storage project he is a beneficiary and thus subject to Federal Reclamation Law.

JAMES R. SMITH.

SALE OF WATER FOR NONPROJECT IRRIGATION PURPOSES FROM CORPS OF ENGINEER RESERVOIRS—MISSOURI RIVER BASIN

Associate Solicitor, Reclamation and Power, finds the following conclusions are required by applicable law:

1. Under state and federal law the right to the use of waters stored in mainstem reser-

voirs of the Corps of Engineers cannot be acquired without the consent of the United States unless such right was acquired prior to the construction of such reservoirs.

2. Stored water in Corps reservoirs, to the extent otherwise available, may be sold by the Secretary of the Interior for nonproject irrigation use for a charge to include a share of that part of the construction cost allocated to irrigation and the operation and maintenance charge.

3. The Federal Reclamation Laws, including the "excess land" provisions, will apply to contracts with the Secretary of the Interior for the sale of nonproject irrigation water.

Cases:

Arizona v. *California*, 373 U.S. 546. (1963).

Ashwander v. *Tennessee Valley Authority*, 297 U.S. 228 (1936).

Turner v. *Kings River Conservation District*, 360 F. 2d 184 (9th Cir. 1966).

United Stated v. *Corlach Live Stock Co.*, 339 U.S. 725 (1950).

East Side Canal & Irrigation Co. v. *United States*, 76 F. Supp. 836 (C. CI. 1948).

Van Tasel Real Estate & Live Stock Co. v. *Cheyenne*, 49 Wyo. 333, 54 P. 2d 906 (1936).

Bailey v. *Tintinger*, 45 Mont. 154, 122 Pac. 575 (1912).

Federal Land Bank v. *Morris*, 112 Mont. 445, 16 P. 2d 1007 (1941).

Opinion: 41 Op. Atty. Gen. 377 (1958).

Legislation and Reports:

Act of August 3, 1968 (Pub. L. No. 90-453).

Act of December 22, 1944 (58 Stat. 887).

Act of August 4, 1939 (53 Stat. 1187).

H. Doc. No. 163, 90th Cong., 1st Sess. (1967).

S. Doc. No. 247, H. Doc. No. 475, S. Doc, No. 191, 78th Cong., 2d Sess. (1944).

Hearings on H.R. 4485 before House Comm. on Flood Control, 78th Cong., 2d Sess. (1944).

S. Dak. Code §§ 61.0106, 61.0102 (7), 61.0121, 61.0123 (1960 Supp. Vol. I).

N. Dak. Code Ann. § 61.0403 (1960).

Mont. Code Ann. §§ 89-808 to 812 (1947).

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 27, 1970.

Hon. FRANK L. FARRAR,
Governor of South Dakota,
Pierre, S. Dak.

DEAR GOVERNOR FARRAR: As you have been previously advised, the Department has had under intensive review the question of whether the water service contract provisions of Federal reclamation law, including requirements relating to repayment charges and acreage limitation, apply to private irrigation diversions (those diversions undertaken and financed independent of Federal reclamation law) from main-stem Corps of Engineers dams and reservoirs on the Missouri River and on the Columbia River Systems. The Corps' dams and reservoirs on the main stem of the Missouri were constructed under authority of the Flood Control Act of 1944. The Columbia and Snake Rivers dams, with the exception of Bonneville, which is not affected here, were constructed under authority of the Rivers and Harbors Acts of 1945 and 1946, and the Flood Control Act of 1950.

The question concerning applicability of Federal reclamation law to water for irrigation purposes obtained from these projects by either private diversions or federally authorized and financed projects derives from Section 8 of the Flood Control Act of 1944 and the interpretation of that section by then Attorney General Rogers in his decision of December 15, 1958, concerning the Isabella and Pine Flats reservoirs on the Kern and Kings rivers, respectively, in California. Section 8 as enacted by the Congress provides that hereafter, whenever it is determined that, ". . . any dam and reservoir project operated under the direction of the Secretary of War may be utilized for irrigation purposes, the Secretary of the Interior is authorized to construct, operate, and maintain, under the provisions of the Federal reclamation laws . . ." the works he considers necessary for such purposes and that, "Dams and reservoirs operated under the direction of the Secretary of War may be utilized hereafter for irrigation purposes only in conformity with the provisions of this section, . . ."

The Attorney General has held in the decision mentioned above that construction of special irrigation works, such as a distribution system, is not a prerequisite to application of the Federal reclamation requirements. On the basis of the foregoing, we necessarily conclude that all irrigation diversions from Corps dam and reservoir projects affected by Section C of the 1944 Act must be examined and evaluated as to the applicability of Federal reclamation law.

Having reached this conclusion, it is necessary to determine the circumstances which require the application of Federal reclamation law, including payment and land limitation contracting provisions, to privately financed irrigation diversions from those Corps of Engineers' reservoirs. In this respect, it seems obvious that in any case where a private divertor's assured water supply is dependent, in whole or in part, on the existence of Federal project facilities, he must be required to enter into a water service contract with cost repayment provisions as required by Section 9(c) of the Reclamation Project Act of 1939 and be subject to the land limitation provisions of Section 5 of the Reclamation Act of 1902 and Section 46 of the Omnibus Adjustment Act of 1926.

In administering the law, therefore, it will be necessary to determine in each case of private diversion whether the quantity of water to be diverted is covered by valid natural-flow water rights derived under State or other applicable laws and regulations, and whether that quantity would in fact be available for diversion at all times needed for the irrigation of the lands upon which it is proposed to be put to beneficial use, independent of any Federal project facilities. If the finding is that the diverter's water supply is not dependent at any time during the irrigation season upon the existence or operation of Federal project facilities, and if the diversion does not interfere with the authorized purposes of the Federal project, the diverter will not be restricted, nor will he be required to enter into a contract with the Secretary of the Interior under reclamation law.

Whenever the finding is that the diverter's water supply is dependent on project facilities, the diverter will be required to enter into an appropriate contract with the Secretary of the Interior. In the latter case, the contract will treat with availabilities of water, rates of payment of an equitable portion of the construction and operation and maintenance costs of the project irrigation features, availability of and rates for irrigation pumping power, limitation on the acreage of land eligible to receive water, and other matters as required by reclamation law and policy.

In neither case will the diverter be relieved of the requirement for obtaining an appropriate permit from the Corps of Engineers for crossing reservoir right-of-way with irrigation works.

The above information has been furnished to those on the enclosed list.

Sincerely yours,

JAMES R. SMITH,
Assistant Secretary of the Interior.

INTERIOR ANNOUNCES POLICY REGARDING PRIVATE IRRIGATION FROM CORPS OF ENGINEERS PROJECTS

Only those irrigators obtaining water from Corps of Engineers reservoirs in the Missouri River Basin and Columbia River Basin systems whose supply is dependent upon existence of Federal project facilities are subject to the provisions of Federal reclamation law, the Department of the Interior has announced.

James R. Smith, Assistant Secretary of the Interior for Water and Power Development, informed the Governors of the Missouri River Basin and Pacific Northwest States of the findings resulting from an intensive legal review of the matter.

The review dealt with the question of whether the provisions of Federal reclamation law, including requirements relating to repayment charges and acreage limitation, should apply to irrigators who divert water from Corps of Engineers dams and reservoirs in the two basins and whose diversion and distribution facilities are constructed and financed independently of Federal authorization.

"It has been determined that the provisions of Federal reclamation law do not apply to a private irrigator when the water to be diverted is covered by a valid natural-flow water right under state law, and whose water supply is not dependent at any time during the irrigation season upon the existence or operation of Federal project facilities," Assistant Secretary Smith said.

"Of course, the diversion must not interfere with the authorized purpose of the Federal project.

"On the other side of the picture, whenever there is a finding that the diverter's water supply is dependent on project facilities, the diverter will be required to enter into a contract with the Secretary of the Interior as provided by reclamation law."

The requirement that a diverter obtain an appropriate right-of-way permit from the Corps of Engineers for crossing U.S. Government-owned reservoir share lands will continue to apply in all cases. The permit will contain a stipulation that its issuance does not preclude the Secretary of the Interior from requiring the diverter to enter into a water service contract.

In the course of the review conducted by the Solicitor of the Interior Department, the office of Assistant Secretary Smith, and the Bureau of Reclamation, meetings were held in Omaha, Nebraska, and Portland, Oregon, in January and February with representatives of the governors of the states in the the two basins.

MAY 4, 1982.

Gen. E. R. HEIBERG III,
Director of Civil Works, Army Corps of Engineers, Washington, D.C.

DEAR GENERAL HEIBERG: The Administration is supporting legislation moving through the House and the Senate that would substantially amend the provisions of the 1902 Reclamation Act. In both the House bill, H.R. 5539, and the Senate bill, S. 1867, a provision has been included to

exempt Corps of Engineers projects from the repayment requirements and acreage limitations of the Reclamation Act.

I would like to know more about the Corps projects affected by this proposed legislation. In particular, how much repayment revenue will be foregone, how much was the Federal investment for water storage allocated to irrigation, and how many irrigation users benefit from the project?

This information is absolutely essential to the debate on the merits of the proposed legislation. As you know, a central issue in amending the Reclamation Act is the magnitude of the Federal subsidy. I am concerned that the Corps of Engineers' projects may be exempted from repayment requirements and acreage limitation in the absence of any firm data on how much money is at stake and who may be the beneficiaries of the exemption policy.

Although the Senate Energy Committee has not filed its report on the bill, the full Senate debate on S. 1867 could proceed within weeks. Thus, I would hope that the Corps could provide this information as soon as possible but not later than May 14, 1982. To make matters more simple, I have enclosed a table suggesting the data I believe to be of value.

I thank you for your assistance and look forward to hearing from you shortly.

Sincerely,

DANIEL PATRICK MOYNIHAN.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D.C., May 18, 1982.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOYNIHAN: I am responding to your recent letter requesting information on the impact current proposed legislation amending the 1902 Reclamation Act may have on U.S. Army Corps of Engineers projects.

It is general Corps policy to apply Reclamation law to those projects in the 17 Western states which have irrigation as an authorized purpose. In those projects, the Corps generally receives from the Bureau of Reclamation (USBR) the need for and value of irrigation to be used in project formulation and justification. After the project becomes operational, the irrigation feature is normally turned over to USBR so it can market the water in accordance with its policies and procedures. For this reason, the Corps records on repayment requirements and irrigation beneficiaries are limited.

Your letter asked three specific questions which I will address as follows:

a. How much repayment revenue will be foregone? We cannot answer this question because only the USBR can ascertain what the current unrecovered irrigation revenues might be. In addition, because of the language of Section 104(c) of S. 1867, it is not at all clear which of those Corps projects including the irrigation function, might be subject to exemption from Reclamation law.

b. How much was the Federal investment for water storage allocated to irrigation? The dollar value computed from Table II for completed projects is about $290 million and the current estimated dollar value for those projects currently under construction from Table III is about $9 million. As indicated by the footnotes, however, the "total" amount is unknown.

c. How many irrigation users benefit from the project? The Corps limited information on this question is identified in Tables II and III. In order for you to get a complete answer to this question, it will be necessary for you to contract the USBR.

You also requested we provide certain specific information in tabular form. This information is attached in Tables, I, II, and III. The projects listed are those Corps projects in the 17 Western states which contain irrigation storage space or from which irrigation water is withdrawn.

I hope this information will suffice for your purpose. If I can assist you further, please let me know.

Sincerely,

E. R. HEIBERG III,
Major General, USA,
Director of Civil Works.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D.C., June 18, 1982.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOYNIHAN: This is in further reply to your letter of May 4, 1982, concerning the impact that current proposed legislation (S. 1867) amending the 1902 Reclamation Act may have on U.S. Army Corps of Engineers projects.

In my earlier letter of May 18th, because of time constraints, I was unable to provide a positive response to your question on how much repayment revenue would be foregone should the proposed bill become law. Since then, the Office of Chief Counsel has reviewed the provisions of Section 8 of S. 1867, as reported by the Senate Committee on Energy and Natural Resources on April 29, 1982, and concluded that enactment of the section would not result in the United States foregoing any intended repayment revenues for water storage allocated to irrigation anywhere in the United States. Its enactment would, moreover, simply clarify, confirm, and leave unaltered the particular circumstances of Corps project irrigation use where specific Federal statutes and commonsense dictate that reclamation law requirements should be applicable.

I have also used this time to provide more complete information on the three tables previously furnished. These revised tables, dated June 11, 1982, are inclosed.

Sincerely yours,

E. R. HEIBERG III,
Major General, USA,
Director of Civil Works.

TABLE I.—STATUS

Project name	Authorized not under construction	Construction in progress	Project: Completed	Project: Under study
Missouri River division:				
Fort Peck			X	
Garrison (L. Sakakawea).			X	
Oahe			X	
Harlan County			X	
Kanopolis			X	
Big Bend[1]			X	
Fort Randall[1]			X	
Gavins Point[1]			X	
Wilson			X	
North Pacific division:				
Days Creek	X			
Cottage Grove			X	
Dorena			X	
Fern Ridge			X	
Blue River			X	
Fall Creek			X	
Elk Creek[2]		X		
Applegate			X	
Catherine Creek	X			
Ririe			X	
Willow Creek		X		
Lost Creek			X	
Cascadia	X			
Wynoochee			X	
John Day			X	
Detroit-Big Cliff			X	
Lookout Point			X	
Hills Creek			X	
Cougar			X	
Green Peter-Foster			X	
Holley	X			
Gate Creek	X			
McNary			X	
Lower Granite			X	
Little Goose			X	
Lower Monumental			X	
Ice Harbor			X	
Lucky Peak			X	
Southwestern division:				
Canton			X	
Conchas			X	
John Martin			X	
Waurika			X	
Trinidad			X	
Belton			X	
Santa Rosa (Los Esteros).		X		
South Pacific division:				
Black Butte			X	
New Hogan			X	
Buchanan			X	
Hidden			X	
Pine Flat			X	
Terminus			X	
Success			X	
Isabella			X	
Coyote Valley (L. Mendocina).			X	
Folsom			X	
Tat Momolikot (Santa Rosa Wash).			X	
Alamo			X	
New Melones			X	

[1] Accommodate water withdrawal by permit, irrigation use not allocated.
[2] Construction stopped in 1975. Current activity limited to updating and continuing design, plans, and specifications so construction can be resumed.

TABLE II.—COMPLETED PROJECTS

Project name	Year authorized	Year completed	Total cost of project (thousands)	Total Federal cost (total cost less reimbursables) (thousands)	Acre-feet of storage reserved for irrigation: Percent	Acre-feet of storage reserved for irrigation: Total storage (J—joint, S—specific)	Percent of project cost allocated to irrigation	Approximate number of irrigation beneficiaries	Amount reimbursable under existing reclamation law (thousands)
MISSOURI RIVER DIVISION									
Fort Peck	1944	1944	$159,900	$48,602	72.0	[1] J13,649,000	21.5	USBR (1) [2]	[3] $34,185
Garrison (Lake Sakakawea)	1944	1955	294,915	86,692	73.0	[1] J17,560,000	19.9	USBR (13) [2]	[3] 58,688
Oahe	1944	1962	344,571	91,216	72.0	[1] J16,789,000	18.1	USBR (110) [2]	[3] 62,367

TABLE II.—COMPLETED PROJECTS—Continued

Project name	Year authorized	Year completed	Total cost of project (thousands)	Total Federal cost (total cost less reimbursables) (thousands)	Acre-feet of storage reserved for irrigation: Percent	Acre-feet of storage reserved for irrigation: Total storage (J—joint, S—specific)	Percent of project cost allocated to irrigation	Approximate number of irrigation beneficiaries	Amount reimbursable under existing reclamation law (thousands)
Harlan County	1941	1952	46,971	35,416	18.0	$150,000	24.6	USBR	[3] 11,555
Kanopolis	1938/44	1948	12,577	12,577	37.0	[5] $162,000	([5])	USBR	([3])
Big Bend [6]	1944	1964	107,187	3,708		0	0	(68) [2]	([7])
Fort Randall [6]	1944	1953	198,066	70,004		0	0	(67) [2]	([7])
Gavins Point [6]	1944	1955	49,231	13,504		0	0	(20) [2]	([7])
Wilson	[8] 1944	1964	20,015	20,015	29.0	J225,000	0	([9])	([7])
NORTH PACIFIC DIVISION									
Cottage Grove	1938	1942	2,460	NA		([10])	30.0	([10])	746
Dorena	1938	1949	14,305	NA		([10])	38.0	([10])	5,514
Fern Ridge	1938	1941	4,686	NA		([10])	43.0	([10])	2,014
Blue River	1938	1969	31,324	NA		([10])	27.0	([10])	8,490
Fall Creek	1938	1965	21,055	NA		([10])	40.0	([10])	8,372
Applegate	1962	1981	96,320	93,437	76.0	J65,000	2.1	124	2,063
Rinie [11]	1962	1978	38,230	32,463		USBR	15.1	Less than 100	5,767
Lost Creek	1962	1977	148,546	113,410	70.0	J315,000	1.5	Less than 100	2,179
Wynoochee	1962	1972	24,980	5,260	25.0	J14,900	2.0	0	575
John Day	1950	1968	[12] 511,000	112,075		0	0	0	0
Detroit-Big Cliff	1938	1953	66,867	21,187		([10])	7.6	([10])	5,076
Lookout Point	1938	1955	97,473	49,575		([10])	1.5	([10])	1,465
Hills Creek	1938	1962	48,973	26,931		([10])	9.4	([10])	4,593
Cougar	1950	1964	60,462	38,738		([10])	5.4	([10])	3,274
Green Peter-Foster	1950	1967	90,157	34,142		([10])	6.9	([10])	6,196
McNary	1945	1957	[12] 333,231	64,996		0	0	0	0
Lower Granite	1962	1975	[12] 341,804	76,531		0	0	0	0
Little Goose	1945	1970	[12] 63,850	2,382		0	0	0	0
Lower Monumental	1945	1968	[12] 256,618	51,744		0	0	0	0
Ice Harbor	1945	1962	[12] 38,259	1,809		0	0	0	0
Lucky Peak	1946	1961	[13] 19,080	19,080		0	0	0	0
SOUTHWESTERN DIVISION									
Canton [14]	1938	1948	10,800	7,862	16.7	S61,000	16.7	0	1,804
Conchas	1936	1939	15,800	15,800	57.0	J259,600	49.0	USBR	7,742
John Martin	1936	1948	15,200	15,200	58.0	S357,000	0	USBR	([15])
Waurika	1963	1977	67,100	25,800	6.5	S18,800	.2	USBR	134
Trinidad	1958	1977	45,000	39,000	17.5	S20,000	17.5	USBR	6,400
Belton [14]	1946	1954	18,400	16,300	36.0	S45,000	4.3	0	790
SOUTH PACIFIC DIVISION									
Black Butte	1944	1963	14,500	8,714	100.0	J150,000	39.9	USBR	5,786
New Hogan	1944	1964	15,906	10,148	100.0	J310,000	36.2	Stockton East Water District	5,758
Buchanan	1962	1975	25,258	16,140	100.0	J140,000	36.1	Chowchilla Irrigation District	9,118
Hidden	1962	1975	30,555	25,177	100.0	J85,000	17.6	Medria Irrigation District	5,378
Pine Flat	1944	1954	39,068	24,800	100.0	J1,000,000	36.5	Kings River Water Association	14,260
Terminus	1944	1962	19,060	16,372	100.0	J142,000	14.1	Kaweah Delta W. C. District	2,688
Success	1944	1961	13,993	12,664	100.0	J80,000	9.5	Lower Tule River Irrigation District.	1,329
Isabella	1944	1959	22,000	17,424	100.0	J570,000	20.8	Various	4,576
Coyote Valley (Lake Mendocino)	1950	1959	17,550	9,600	57.0	J70,000	NA	Various	NA
Folsom [16]	1944	1956	100,000	63,000	100.0	J1,000,000	NA	NA	NA
Tat Momoliket (Santa Rosa Wash)	1965	1974	10,600	NA	100.0	S19,500	NA	NA	NA
Alamo [17]	1944	1968	14,780	14,780	22.0	J230,000	NA	NA	NA

[1] Joint storage with flood control, navigation and hydropower.
[2] Number of permits granted for direct access to project.
[3] Amount not repaid by irrigation users to be paid by future power sales, repayment scheduled by USBR.
[4] Current industrial withdrawal from irrigation storage administered by USBR.
[5] Storage will be reallocated from flood control when irrigation project operable.
[6] Accommodate water withdrawal by permit, irrigation use not allocated.
[7] No reimbursement anticipated under authorized operational plan.
[8] Authorized as a USBR project. Transferred to Corps for construction in 1956 (Public Law 84–505).
[9] Studies in 1967 indicate irrigation not feasible.
[10] Irrigation storage of 1,640,000 acre-feet has been filed on for irrigation use by USBR. Because of the projects being planned and operated as a system (Willamette Basin), none of the irrigation storage is either separable or project specific and costs are not allocated on a project basis. Total number of users is estimated to be less than 200 at this time.
[11] Project turned over to USBR.
[12] Irrigation is authorized as only an "incidental" purpose. No cost is allocated to the function nor storage reserved.
[13] Provides irrigation storage during low runoff years when storage in Anderson Ranch and Arrow-rock (2 BUREC projects) would not be sufficient.
[14] Irrigation storage space under contract to municipal and industrial users until need for irrigation develops.
[15] Up to 357,000 acre-feet is used for storage of irrigation water when it is available.
[16] Project operated and maintained by BUREC upon completion of construction.
[17] Operated as part of USBR Colorado River water system.

TABLE III—PROJECTS UNDER CONSTRUCTION

Project name	Year authorized	Year to be completed	Estimated total cost of project (thousands)	Total Federal cost (total cost less reimbursea-bles) (thousands)	acre-feet of storage reserved for irrigation: Percent	acre-feet of storage reserved for irrigation: Total storage (J—joint, S—speciric)	Percent of project cost allocated to irrigation	Approximate number of irrigation beneficiaries	Amount reimbursable under existing reclamation law (thousands)
NORTH PACIFIC DIVISION									
Elk Creek[1]	1962	1985	$137,682	$108,848		0	6.0	Less than 100	$8,717
Willow Creek[2]	1965	1983	38,824	38,824		0	0	0	0
SOUTHWESTERN DIVISION									
Santa Rosa[3] (Los Esteros)	1954	1983	43,400	43,400	44.5	S200,000	44.5	USBR	0
SOUTH PACIFIC DIVISION									
New Melones[4]	1944,1962	1985	380,000	174,100	68.0	J164,000	26.0	USBR	100,200

[1] Construction stopped in 1975. Current activity limited to updating and continuing design, plans, and specifications so construction can be resumed.
[2] Project is authorized with irrigation as a purpose. When contracts for water use are negotiated, joint use storage will be available. Since all irrigation is future development, no costs have been allocated to the irrigation purpose.
[3] Transfer of storage between Sumner Lake and Santa Rosa. Local sponsor to continue repayment costs associated with Sumner Lake.
[4] Project will be transferred to BUREC upon completion of construction.

DATA ON IRRIGATION ALLOCATIONS AND REPAYMENT OF IRRIGATION COSTS FOR CORPS OF ENGINEERS PROJECTS

Listed below are Corps of Engineers projects in the 17 Western states which store water for irrigation use and the repayment status of the irrigation allocations of these projects. The projects listed were identified in the June 14, 1982, letter from the Commissioner of Reclamation to Senator Daniel Patrick Moynihan as projects which are "(c) Authorized or constructed and operated by the Corps of Engineers. Projects are not and will not be integrated with Federal Reclamation projects. Under S. 1867 irrigation water deliveries from these projects will not be subject to acreage limitation. Irrigators are or will be required to contract and pay for irrigation water made available to them from the Corps projects." In addition to those projects identified in this category in the June 4 letter to Senator Moynihan the list includes other Corps projects in the 17 Western states that fall into this category and their repayment status.

PROJECT

Cottage Grove, Dorena, Fern Ridge, Blue River, Fall Creek, Willow Creek, Cascadia,[1] Detroit-Big Cliff, Lookout Point, Hills Creek, Cougar, Green Peter-Foster, Holley,[1] Gate Creek: [1] These projects are located in the Willamette River Basin in Oregon. A portion of the Federal Costs of each is allocated to irrigation. Irrigation water deliveries are made under water service contracts with individual water users and contracting entities. Currently there are 137 contracts in effect which provide for the delivery of over 40,000 acre feet of water for irrigation purposes each year. The rate charged for water is $1.25 per acre foot. The number of contracts in effect and the water sold varies from year to year. From 1955 through May 30, 1982 a total of $189,420 had been collected for irrigation water sold from these Corps reservoirs.

John Martin: Located in the Arkansas River Basin in Colorado. There are no contracts in effect for irrigation water deliveries from this reservoir.

Trinidad: Located on the Purgatorie river in Colorado. The Bureau has contracted with the Purgatorie Water Conservacy District for repayment of total amount of the irrigation allocation for Trinidad Dam of $6.4 million over a 40-year period.

Pine Flat, Terminus, Success, Isabella: Located in Central Valley of California. Districts have contracted to repay the entire irrigation allocation of these projects either in a lump sum payment or over a 40-year repayment period. The total irrigation allocation for each project and the amount paid is as follows:

	Allocation	Paid	Balance due
Pine Flat	$14,260,000	$11,461,798	$2,798,702
Terminus	2,688,000	1,169,502	1,518,007
Success	1,329,000	541,277	788,008
Isabella	4,576,000	4,576,000	

Wynooche Lake, Lower Grunite, Little Goose, Lower Monumental, Ice Harbor, Wash.; Belton, Tex.; Tat Momolikot, Almo, Ariz.: The following Corps projects in the 17 Western states were not listed in the list submitted with Senator Moynihan's May 26, 1982, letter and consequently were not included in the tabulation in the June 4 response to Senator Moynihan. These projects are in the same category as those listed above. There are no contracts in effect for irrigation water deliveries from these Corps projects.

The Corps projects on the mainstem of the Missouri River namely Fort Peck, Garrison and Oahe, provide irrigation storage benefits. A portion of the costs of these projects is allocated to irrigation which is assigned to appropriate units. Mainstem storage costs assigned to specific Reclamation units of the Pick-Sloan Missouri Basin Program (PS-MBP) are included with the total costs of the units and are reimbursable to the United States from the water users or other projects revenues. Unassigned PS-MBP irrigation costs will be assigned to future projects when constructed and will be reimbursable to the United States over the repayment period for those units. A portion of the mainstem storage space set aside for irrigation has been contracted for by industrial water users for interim water supplies which will bring a substantial amount of revenue to the United States. Mainstem storage assignments to Reclamation units for which contracts with the United States are in effect include the following:

Garrison Diversion Unit	$19,410,000
Oahe Unit	19,357,000
Fort Clark Unit	115,000
	38,922,000

In addition an estimted $30,000,000 will be returned to the United States from sales of water from mainstem irrigation storage for industrial use.

The following Corps projects are or will be integrated with Reclamation projects and the costs allocated to irrigation for these projects are reimbursable to the United States from the water users or from other projects revenues.

Elk Creek, Willow Creek, Catherine Creek: These projects are authorized or under construction. No contracts are in effect.

Canton, Waurika, Ririe, Kanapolis: No contracts in effect for these projects which are in operation.

Applegate: In operation in 1981. There are 139 contracts in effect. Total revenue received $20,477. May be integrated with future Bureau project.

Lost Creek: In operation in 1981. There are 12 contracts in effect. Total revenues received $4,510. May be integrated with future Bureau project.

Lucky Peak: In operation since 1966. Provides supplemental supply in Boise Project area. Since 1966 $170,973 in revenues received for irrigation water.

Harlan County, Conchas, Santa Rosa, Black Butte, New Hogan, Buchanan, Hidden, Folsom, New Melones: Integrated with Reclamation projects. Cost allocated to irrigation reimbursable to the United States under contracts with water user entities or from other projects revenues.

TABLE 15–1.—MAXIMUM FEDERAL COST SHARES FOR CONSTRUCTION AGENCIES

Purpose: Agency [1]	Percentage of costs: Construction	Land, easements and rights-of-way [2]	Operation, maintenance and replacement
Flood protection:			
Bureau	100	100	100.
SCS	100	0	0.
Corps:			
Local flood protection.	100	0	0.
Large reservoir	100	100	100.
Navigation:			
Bureau	100	100	100.
Corps	100	0 [3]	100.
Recreation; small boat harbors.	50	0	100.
Hydroelectric power:			
Bureau	0 [4]	0	0.
Corps	0 [4]	0	0.
Municipal and industrial water supply:			
Bureau	0	0	0.
SCS	50	0	0.
Corps	0	0	0.
Irrigation:			
Bureau	Variable	Variable	0.
SCS	50	0	0.
Corps	Variable	Variable	0.
Water quality (low flow augmentation): Corps.	100	100	100.
Recreation: fish and wildlife enhancement:			
Bureau	50 and 100 [4]	50	0 and 100.[5]
SCS	50	50	0.
Corps	50 and 100 [4]	50	0 and 100.[5]
Drainage:			
Bureau	Variable	Variable	0.
SCS	50	0	0.
Corps	50	50	0.

[1] Authorized but not constructed and not in service.

[1] Bureau = Bureau of Reclamation, SCS = Soil Conservation Service, Corps = Army Corps of Engineers.

[2] When federal lands are involved, they are provided to the project without charge.

[3] Costs of lands, easements, and rights-of-way for navigation reservoirs are borne by the Federal Government.

[4] Hydroelectric power users may have benefited from unwarranted allocation of joint construction costs to other project purposes and from repayment arrangements with low interest rates.

[5] The 2 percentages represent the maximum Federal shares of separable and joint costs, respectively.

TABLE 15–2.—MAXIMUM FEDERAL COST SHARES FOR GRANT AGENCIES

Purpose: Type of facility: Agency	Percentages of costs [1]: Construction	Land, easements and rights-of-way	Operation, maintenance and replacement
Pollution abatement:			
Collection sewers:			
HUD	50–90	50–90	0
FHA	50	50	0
EDA	[2] 50–80	[2] 50–80	0
Treatment plants and interceptor sewers:			
EPA	75	0	0
FHA	50	50	0
EDA	[2] 50–80	[2] 50–80	0
Water supply:			
Conveyance and reservoir:			
HUD	50	50	0
FHA	50	50	0
EDA	[2] 50–80	[2] 50–80	0

[1] Cost share percentages shown in the table are taken from the respective agencies' legislative acts.

[2] EDA can pay up to 100 percent of eligible costs on a project for American Indians.

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C., July 14, 1982.

DEAR COLLEAGUE: When the Senate considers the Reclamation Reform Act (S. 1867), I intend to offer an amendment relating to Corps of Engineers projects in the reclamation states. My amendment has two purposes: first, to clarify that all repayment obligations on these projects must be met for existing and future contracts; and second, to require that the pricing policy for repayment of construction costs allocated to irri-

gation storage at Corps of Engineers projects be consistent with the policy set forth in S. 1867 for projects constructed by the Bureau of Reclamation.

The Committee did intend to require repayment obligations to remain in effect on the projects exempted by Section 8 of the bill. However, the status of future obligations was left in considerable doubt by the Committee's language. My amendment will clarify this point.

Furthermore, S. 1867 introduces the concept of "full cost" for the first time in reclamation law. Full cost is the interest charge and principle on construction cost and annual operation and maintenance costs. Under the Committee bill, full cost is applied only to lands defined to be in excess of the acreage limitation of 2080 acres.

Without the acreage limitation, there will be no excess lands utilizing storage at Corps of Engineers projects on which to apply full cost. According to a June 4, 1982 letter I received from Commissioner of the Bureau of Reclamation Robert Broadbent, "[i]f a Corps project is exempt from acreage limitation by provisions of S. 1867, it is our view that the 'full cost' pricing provisions of the bill would not be applicable to that project."

Thus, a farming operation of 10,000 acres using reservoir storage at a Corps project would continue to repay the Government without interest while an identical farming operation using a Bureau of Reclamation project would, in theory, pay full cost on water received for the portion of the landholding in excess of 2080 acres. In both cases the payments to the Federal government relate exclusively to reimbursable construction costs and associated operation and maintenance costs, as established by the authorizing statute of the project. Thus, there is no justification for a dual pricing system for identical reimbursable Federal expenditures.

Therefore, my amendment would establish a maximum acreage on Corps of Engineers projects above which full cost pricing will apply. The limit will be consistent with the limit imposed on reclamation projects. The amendment is prospective in that it will not affect existing contracts unless those contracts are renegotiated to provide additional or supplementary benefits. It will apply to all new contracts.

My amendment will not in any way reverse the exemption of projects from reclamation law granted by S. 1867 as reported by the Energy Committee. Nor will my amendment permit the government to break any contracts now in force. The amendment will not affect Corps of Engineers projects outside the 17 reclamation states.

I would be pleased to have you join me as a co-sponsor of this amendment. Should you have any questions, please do not hesitate to contact me or Debra S. Knopman of the Environment and Public Works Committee staff (x43597).

Sincerely,

DANIEL PATRICK MOYNIHAN.

Mr. MOYNIHAN. Mr. President, I reserve the remainder of my time, and I am happy to hear from the distinguished manager of the bill, my friend from Wyoming.

Mr. WALLOP. Mr. President, I appreciate what the Senator from New York is seeking to do. But, like so many issues involving water, there are problems that go beyond the surface. Indeed, much like the topic itself of which we speak, there is much that goes above, beneath, and around the surface.

What the Senator from New York says, that there are no contracts for repayments, is quite right, because they have not been able to sell any irrigation water. So, while those have been cost allocated to irrigation, there is no cost to the Government for the delivery of water. It has not been able to sell the water. At such time as there is a demand for the water, there will be a recovery contract applied. So all is not always what it seems in these things.

I wanted to say that so any Senators, who may be listening in their offices, may understand that tables are one thing and reality is quite another.

Mr. President, I oppose the amendment of the Senator from New York, with full respect for what he seeks to do.

The effect of the amendment would be to apply a de facto acreage limitation upon Corps of Engineers projects where such a limitation was never meant to be applied.

S. 1867 is clear, in those instances where costs were allocated to irrigation or conservation storage and there are contracts with the Secretary, where the costs are to be recovered. On some projects the costs were paid when the storage contracts were originally signed. Costs of operation and maintenance are also to be recovered, as is clear in section 8(b) of the committee bill. In fact, the committee specifically amended the original version of S. 1867 to insure that the Secretary's authority to contract with water users in order to recover costs is maintained.

Application of the full cost pricing to those projects might as well be like authorizing them to raise the interest rate on my mortgage which I signed 10 or 20 years ago.

Surely, the Senator from New York, in a sense of equity, would not seek to do that and would not approve it, if the banks of New York were to apply such mortgage rate differentials 10 or 20 years down the road.

The effect of this amendment is not clear. Farms which have storage rights in the Corps of Engineers reservoirs covered by the committee bill have been built on the premise that acreage limitations do not apply. They had that premise when they began. Application of full cost is simply substituting one limitation for another, and I do not think, if no limitation were intended to be applied in the first place, that in the second place it is appropriate that we do that.

The committee bill does not exempt farmers from paying an appropriate share of the costs. I restate that: The committee bill does not exempt farmers from paying an appropriate share of the costs. The committee bill, in and of itself, does not exempt Corps of Engineers projects from acreage limitations. But what the committee bill does do is clarify the law. The Congress never meant the limitations of reclamation law to apply to corps projects unless the project, by act of Congress, has been made a Federal reclamation project or the Secretary of the Interior has provided project works for the delivery of a water supply for agriculture.

It must be kept in mind, neither the Bureau of Reclamation nor the Corps of Engineers sell water. It is simply not their water to sell. They sell the service, but they do not own the water. That is a point which is very much lost on people who do not live with this.

Mr. JOHNSTON. Mr. President, I am in opposition to the Moynihan amendment. This amendment would revise section 8 of the Reclamation Reform Act to provide that users of irrigation water from a Corps of Engineers project would be subject to the acreage limitations of the act, and would be required to pay full cost for all water used to irrigate land in excess of those limitations.

Section 8 of the reclamation bill is designed to clarify the relationship between projects built by the Corps of Engineers and those built by the Bureau of Reclamation. This relationship was confused in a recent Ninth Circuit Court of Appeals decision in *United States* v. *Tulare Lake Canal Co.*, 535 F. 2d 1093 (9th Cir. 1982). That decision interpreted section 8 of the 1944 Flood Control Act to require that any flood control project or reservoir built and operated by the Corps of Engineers which has an irrigation function would be subject to Federal reclamation law.

In my judgment, the Ninth Circuit misread the intent of section 8 of the 1944 act, although that provision is not without its ambiguities. What Congress apparently tried to say in the Flood Control Act was that if the corps added new features to a project solely for purposes of irrigation, then reclamation law would apply to the lands served by those irrigation features. In Tulare Lake, however, the Ninth Circuit read section 8 to apply to all corps projects which provide irrigation functions, even if these irrigations projects are an incidental by-product of a flood control project. I believe this reading misinterprets section 8 of the Flood Control Act and ignores the distinction between flood control projects and reclamation projects.

Section 8 of the reclamation reform bill would correct the reading of the court in Tulare Lake and would clarify the distinction between flood control and reclamation projects. Essentially section 8 provides that the acreage limitation of the law does not apply to

projects constructed by the Corps of Engineers unless by express statutory language Congress has designated the project as a reclamation project, or in addition to project works constructed by the corps, the Secretary of the Interior has provided works for control or conveyance of an agricultural water supply to the lands in question.

Mr. President, I support section 8 of the reclamation bill. I believe it provides a much-needed clarification to a very rational distinction—that between irrigation projects and flood control projects. For this reason, I must oppose the Moynihan amendment.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. WALLOP. I yield.

Mr. MOYNIHAN. It is my understanding that what the corps is selling is the storage of the water.

Mr. WALLOP. The storage of the water, but they do not sell the water. The water right is not——

Mr. MOYNIHAN. But they do not own the dam.

Mr. WALLOP. True enough, but that water can be released before storage if somebody wants——

Mr. MOYNIHAN. But farmers want it stored.

Mr. WALLOP. Fine and dandy. And that cost of delivery can be contracted for. But there was never any consideration in the authorization of these corps projects that these farms would be subject to some kind of acreage limitation, in that neither the corps nor the Bureau owns the water. It simply is not theirs to sell. And it is, as the Senator from New York stated, a service. They can store and deliver water on demand, water that belongs to the farmers who have contracted for the service. A contract is an ancient right in this country.

Those costs associated with such service are being returned in accordance with the conditions that were established by Congress.

The committee bill clarifies that intent, but adoption of the amendment by the Senator from New York would put us right back where we started with a cloud of uncertainty facing the water user.

Furthermore, subsection (c) of the amendment directs the Secretary to submit to Congress a detailed plan for marketing of all water stored for irrigation purposes at Corps of Engineers reservoirs. Inasmuch as needs and demands change over time, the best that any Secretary will be able to do is inform Congress how much water is available. It takes two to sign a contract and it would be difficult to predict with certainty future water uses.

I recall that shortly after the first Arab oil embargo, grand plans were proposed for developing energy resources utilizing Missouri River mainstem water. That is up in our country, primarily in the State of Montana with which I am familiar. None of those plans have come to fruition. Yet, if the Secretary had been directed at that time to come up with a plan and projected revenues as contemplated under subsection (c), it would have painted a rosey picture indeed. It has not come to pass.

The section does not call for a study of opportunities for the recovery of costs; rather it mandates a plan for the marketing of all water stored for irrigation purposes. This is simply an impossible task. It is not achievable.

Mr. President, the Moynihan amendment would apply to all lands benefitting from Corps of Engineers projects and could lead to the imposition of new costs on people who benefit from corps projects. This amendment would attack the longstanding congressional mandate that flood control, navigation, environmental, and fish and wildlife benefits accrue to the Nation at large and not a select population which would now be targeted by the Inspector General.

The amendment invites the Inspector General to ignore the "ultimate development concept" which is so necessary to the rational development of water resources. These projects are built for the future and in fact may take 20, 40, 60 years between first construction and completion. Examples are many, such as Columbia Basin, Central Valley, Garrison, and so on. Other projects by their very nature must never end. Navigation, flood control, power production, and erosion control must continue—year in and year out.

So, in effect, to order the Inspector General to "freeze" these projects and examine the distribution of project benefits in the here and now does not and cannot reflect the real world of long-term resource development.

Subsection (d) calls for an Inspector General's report on projects exempted from acreage limitations pursuant to the committee bill with recommendations as to adjusting the original cost allocations to reflect the actual utilization of the project.

This will be an absolutely extraordinary task as it may apply to all Corps of Engineers water resource projects constructed in the United States.

I am sure the Senator does not mean for it to have such a sweeping effect, but in point of fact that is about all the corps would be doing for the next decade.

● Mr. COCHRAN. Mr. President, I am opposed to the effort of the Senator from New York to amend a critical and needed provision of this bill, the exemption for Army Corps of Engineers projects throughout the United States.

To refresh my colleagues' memories, this provision is virtually identical to the language contained in a bill, H.R. 5539, that was approved by the House in May of this year by a vote of 228 to 117. The Energy and Natural Resources Committee approved this provision along with the rest of the bill by a nearly unanimous vote of 18 to 1.

The purpose of section 8 is to clarify that merely because a flood-control dam or reservoir built and operated by the Army Corps of Engineers provides conservation storage, it is not for that reason alone subject to Federal reclamation law. Instead, reclamation law can only apply lawfully under any one of two criteria: First, explicit statutory language designates the project as a reclamation project, or second, in addition to project works constructed by the corps, the Secretary of the Interior has provided works for an agricultural water supply.

The corps exemption was put in the reclamation bill to clarify the existing law that was confused by the Ninth Circuit Court of Appeals in *United States* v. *Tulare Lake Canal Company*, 535 F.2d 1093 (9th Cir. 1976). The Tulare Lake care misread the intent of the Congress in section 8 of the Flood Control Act of 1944 by concluding that all or any corps projects having an irrigation function are, without more, subject to reclamation law. Put simply, Army Corps of Engineers projects in my State of Mississippi, and in Arkansas, Louisiana, even projects in Florida, which provide or facilitate irrigation for agricultural purposes, could be subject to the Federal reclamation law, unless this exemption is enacted. The parties to the Tulare Lake litigation brought a motion before the Ninth Circuit in the summer of 1980 to reconsider the 1976 decision on the basis of two Supreme Court decisions handed down in 1978 and 1980, U.S. against California and Bryant against Yellen.

Again, the Ninth Circuit upheld its earlier decision in a very recent opinion of May 1982. This law must be clarified once and for all by the Congress. Our distinguished colleague from California, Senator HAYAKAWA, has detailed for us the history of the efforts to apply reclamation law to corps projects in California. Now, the Ninth Circuit would apply that same law to corps projects everywhere. I urge my colleagues to study Senator HAYAKAWA's remarks in the RECORD, as well as the additional views of our distinguished colleague MALCOLM WALLOP, beginning on page 33 of the committee report, which amplify the unique problems of California corps projects.

Further evidence of the energy committee's purpose and intent in writing the corps exemption may be found on page 16 of the committee report on S. 1867. To quote the report language:

It is also the intention of the committee that this exemption does and shall apply to

all corps projects outside the 17 reclamation States. It is the general intent of this section to eliminate the shadow of applicability of the reclamation law to Corps of Engineers projects in any case in which the intent of Congress concerning such applicability is not clearly and explicitly set forth in statutory language.

In conclusion, I strongly urge my colleagues, whether they are from the North, East, South, or West, to support both the bill and most especially the committee's language in section 8. All of us who have farmers in our States who are receiving a benefit from a Corps of Engineers operated dam, reservoir, dike, canal, et cetera are facing the incredible possibility of landholdings breaking up and burdensome costs imposed, spurred on by an entirely incorrect judicial interpretation of Congress intent. We must, as responsible legislators, once and for all remove this cloud which hangs over the heads of our farmers. Section 8 of S. 1867 will remove that cloud.●

Mr. WALLOP. Mr. President, I have a letter from the corps, which I wish to read into the RECORD, at least the pertinent parts of it. This letter was sent to Chairman MCCLURE of the Senate Energy and Natural Resources Committee, and I quote:

DEAR MR. CHAIRMAN: This is to confirm the Department of Army's continued support for enactment of Section 8 of S. 1867, 97th Congress, the Reclamation Act of 1982, as reported by your committee. This is also to inform you, however, that the Department of Army is opposed to additions to Section 8 of your bill that reportedly will be considered during floor debate on the measure.

Section 8 of your bill specifies that Federal reclamation law provisions shall apply to lands receiving benefits from a Federal water resources project constructed by the Army Corps of Engineers only where the Congress has by Federal statute explicitly provided that the affected project is designated, made a part of, or integrated with a Federal reclamation project—

And I might add that there are many of those that are integrated.

or where the Secretary of Interior, pursuant to Federal reclamation law, has provided control, or conveyance facilities for an agricultural water supply for the lands involved. Section 8 of your bill also specifies that all obligations shall remain in effect that require water users, pursuant to contracts with the Secretary of Interior, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administration costs of a Corps of Engineers' project which are allocated to conservation or irrigation storage.

The Department of Army finds that Section 8 of your bill is a concise statement of the scope of coverage that Congress has consistently intended for Federal reclamation requirements at Corps of Engineers' projects. Moreover, it would not jeopardize any past or present payment requirements to the Secretary of Interior for irrigation storage at Corps' projects or any congressionally intended future payment requirements for such storage pursuant to the authorizations for the projects.

The issue of Federal reclamation law coverage at Corps of Engineers' projects has, unfortunately, become very confused in recent years. There is no need for any improvement on or additions to the necessary and eminently justified resolution of this issue that will be provided by enactment of Section 8 of S. 1867, as reported by your committee.

You have defined and preserved the repayment requirements intended by Congress for irrigation storage at Corps' projects. No additional definitions or provisions for such requirements are, therefore, necessary and might only serve to fester further confusion.

The Department of Interior has informed us that it is continuing its efforts to identify customers for water stored for irrigation purposes at Corps' projects and will be expanding its marketing of such water as demand develops or project control or conveyance facilities are provided. No legislative enactment is, therefore, necessary or advisable to expedite this effort.

The Department of Army would be pleased to respond to any congressional committee request for reports on benefits, costs, or other pertinent information on projects constructed by the Corps of Engineers. No legislative enactment is, therefore, necessary to obtain such information readily.

The Office of Management and Budget advises that there is no objection to the presentation of this letter from the standpoint of the Administration's program.

Mr. President, I ask unanimous consent that this letter be included in the RECORD, as well as the letter of the Secretary of the Interior who has written in opposition to the amendment and which states essentially the same thing.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, D.C., July 15, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is to confirm the Department of Army's continued support for enactment of Section 8 of S. 1867, 97th Congress, the Reclamation Act of 1982, as reported by your committee. This is also to inform you, however, that the Department of Army is opposed to additions to Section 8 of your bill that reportedly will be considered during floor debate on the measure.

Section 8 of your bill specifies that Federal reclamation law provisions shall apply to lands receiving benefits from a Federal water resources project constructed by the Army Corps of Engineers only where the Congress has by Federal statute explicitly provided that the affected project is designated, made a part of, or integrated with a Federal reclamation project; or where the Secretary of Interior, pursuant to Federal reclamation law, has provided control or conveyance facilities for an agricultural water supply for the lands involved. Section 8 of your bill also specifies that all obligations shall remain in effect that require water users, pursuant to contracts with the Secretary of Interior, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administration costs of a Corps of Engineers' project which are allocated to conservation or irrigation storage.

The Department of Army finds that Section 8 of your bill is a concise statement of the scope of coverage that Congress has consistently intended for Federal reclamation requirements at Corps of Engineers' projects. Moreover, it would not jeopardize any past or present payment requirements to the Secretary of Interior for irrigation storage at Corps' projects or any congressionally intended future payment requirements for such storage pursuant to the authorizations for the projects.

The issue of Federal reclamation law coverage at Corps of Engineers' projects has, unfortunately, become very confused in recent years. There is no need for any improvement on or additions to the necessary and eminently justified resolution of this issue that will be provided by enactment of Section 8 of S. 1867, as reported by your committee.

You have defined and preserved the repayment requirements intended by Congress for irrigation storage at Corps' projects. No additional definitions of provisions for such requirements are, therefore, necessary and might only serve to fester further confusion.

The Department of Interior has informed us that it is continuing its efforts to identify customers for water stored for irrigation purposes at Corps' projects and will be expanding its marketing of such water as demand develops or project control or conveyance facilities are provided. No legislative enactment is, therefore, necessary or advisable to expedite this effort.

The Department of Army would be pleased to respond to any congressional committee request for reports on benefits, costs, or other pertinent information on projects constructed by the Corps of Engineers. No legislative enactment is, therefore, necessary to obtain such information readily.

The Office of Management and Budget advises that there is no objection to the presentation of this letter from the standpoint of the Administration's program.

Sincerely,

ROBERT K. DAWSON,
Deputy.
(For William R. Gianelli, Assistant Secretary of the Army, Civil Works).

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 14, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that an amendment to S. 1867 may be offered by Senator Moynihan during the floor debate on the reclamation reform legislation. This amendment would require the application of the full cost provisions of the bill to all water deliveries from Corps projects to landholdings over 960 acres. It would also require the Secretary to provide a plan for marketing all water stored in Corps projects for irrigation purposes and a review by the Inspector General of the cost allocations for the Corps projects.

The Administration opposes the enactment of such an amendment.

We believe that the reclamation reform legislation should only apply to reclamation projects and those specific Corps projects which Congress has previously determined

to be subject to Reclamation law. Questions relating to the pricing of water received from Corps projects are more properly addressed at the time Congress considers the enabling legislation for specific projects since it may or may not be appropriate to charge full cost for water from Corps projects when such projects were built primarly for purposes other than irrigation.

The objectives of the water provisions contained in Senator Moynihan's amendment can be achieved without legislation. The Department is continuing in its efforts to identify customers for irrigation water from Corps reservoirs and will expand marketing of Corps project irrigation water as demand develops or as project conveyance features are constructed. Similarly, the data on those projects exempted from the reclamation law can be readily obtained from the administering agency without being legislatively mandated through the Inspector General's office.

For these reasons, the Administration is unable to support this amendment.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JAMES G. WATT,
Secretary.

Mr. WALLOP. Mr. President, I reserve the remainder of my time.

Mr. MOYNIHAN. Mr. President, may I ask how many minutes remain on the amendment?

The PRESIDING OFFICER (Mr. DENTON). The Senator from New York has 11 minutes 21 seconds remaining.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. I thank the Chair.

I reply in simple terms, and I hope they are not abrasive because I cannot imagine there is a Member of this body with whom I have more friendly relations than the manager of the legislation, the Senator from Wyoming.

But I would say this is the aftermath now of 5 years of involvement with water matters, a subject new to me, I quickly acknowledge, in a sense, that Federal water programs are not conspicuous in my part of the Nation save by their absence.

The city of New York, for example, is now building a $1 billion water supply tunnel without a penny from the Federal Government, with bonds, revenue bonds, sold, and not just the bonds paid but the interest.

But I say there is a constant and disturbing pattern of rhetoric associated with water projects, and that is by those who stand to benefit the most, and the rhetoric simply says, "Don't make us pay. These are national projects."

When the point is raised with regard to urban water supply projects, then we hear, "No, no, those are local projects." Indeed, as I say, the city of New York is building a $1 billion tunnel at this point, and should we not succeed for lack of support there is a real possibility of a collapse of one of the two existing tunnels, and something like a national calamity. You would be surprised if you ever saw that happen, it would close down the city of New York because of a water supply problem.

But, Mr. President, I, along with Senator DOMENICI observed in the course of my introduction to this subject two points: One is the growing abuse of water projects. I was for a brief period chairman of the Subcommittee on Water Resources, and I remember traveling in a helicopter with a Governor of a great Western State as we made our way down a magnificent chain of reservoirs and tunnels and catchment areas sparkling blue water surrounded by a seared, brown magnificent countryside, mountainous countryside.

I said this was a project of the Bureau of Reclamation which could not have done anything more elegant. Water engineering from the time of Nebuchadonis, the Persians of 3,000 years ago, has been an absorbing combination of mathematics and esthetics and the natural fundamental needs of the people. I have said many times you can live without oil, Mr. President, you can even live without love, but you cannot live without water. Indeed, my city of New York in 1910 built the first major aqueduct since the time of the fourth century of Rome, an engineering miracle.

But I said to the Governor, I asked him, "Where does all this water flow from the Bureau of Reclamation? Where does it go?" I said, "My God, it is crystal, it is glorious, it is life-giving."

He said, "Where does that water go? This goes into the swimming pools of my more affluent constituents."

Indeed, before long, our helicopter was flying over an oasis filled with the swimming pools.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I would be happy to yield.

Mr. GOLDWATER. I remember when the Senator took that trip, and I thank him for the eulogies he pays our magnigificent scenery. But the dams over which he flew and the blue water which he saw, with the exception of one dam, were all paid for by those people who have the swimming pools.

Mr. MOYNIHAN. Well, good. That is cheerful.

Mr. GOLDWATER. Very expensive.

Mr. MOYNIHAN. I make the point simply because they were paid for without interest. If we could get the Federal Government, we could be happy to pay for the third water tunnel without interest.

Mr. GOLDWATER. I might also say to the Senator these dams were built by bonds, full interest was paid to all the financial houses in New York City from whom we borrowed the money.

Mr. MOYNIHAN. I accept the Senator's statement. He knows I would do it automatically. But I make the point that this Chamber should attend and the Senators managing this legislation should attend to the fact that the great barbecue is over. There has not been a water project authorization bill enacted since 1972—one very small bit of legislation passed in 1974 and another in 1976 signed by President Ford, neither of any consequence.

Senator DOMENICI and I have tried to say that a combination of misuse of the opportunity, of environmental concerns and budget crises have brought our water programs to a halt. The Corps of Engineers is without work. Nothing is happening. We are likely as not disinvesting certainly in urban water systems. We are not keeping up. The system does not work any more. I know it is hard to hear that, but I came upon it without position one way or the other.

It made sense. It was something that Theodore Roosevelt had done. Only it is not being done now. The last administration came and went without a single water bill passing out of our committee. Our committee will continue to do that as long as it is perceived that on occasion the resources of the country are abused, which on occasion they have been. That would not be confined to this program, but this is a program where it is particularly visible.

As long as it is perceived that some have advantages others are denied and as long as it is perceived that we cannot afford it anyway, it is our view—Senator DOMENICI's and mine—that we cannot afford not to begin investing in water development. But we are not doing it. The kind of opposition to this simple amendment, which simply says, "Pay back what you contract to pay back in the future," that creates an atmosphere, that sustains and enhances a conviction in this Chamber that says, "No more water projects," and that is disastrous, that is ruinous, and those of us who care about the subject must care about reconstructing a majority in support of water programs.

We are facing in the country a set of choices, urban in some cases, rural in others, regional in some cases, most cases, which could dominate the concerns of this Government in the last decade of this century.

I have to speak to my dear friend and revered chairman of the Intelligence Committee: Am I wrong in having recently read that the State of Arizona is cracking up?

Mr. GOLDWATER. The State of Arizona is what?

Mr. MOYNIHAN. Cracking up, big crevices.

Mr. GOLDWATER. No way. There are a few cracks caused by earthquakes. There are a few places where we are so dry the water has disappeared from underneath and the land has settled a bit. But we are not worried about it. That has been happening now for probably the better part of 135 million years. In fact, that is one of the reasons why we have the Grand Canyon, the Earth just sort of gave way.

I will not argue with the Senator.

Mr. MOYNIHAN. I will argue with most people on anything, but not with the Senator on this matter.

Mr. GOLDWATER. I understand that. I just wanted to remind my friend that when New York needs help, Arizona is right there voting with you. You might need it again.

Mr. MOYNIHAN. I will write that down, and with that, I reserve the remainder of my time. I do not think I can have a more happy outcome of this debate than that remark of the Senator from Arizona.

Mr. WALLOP. Mr. President, could the Senator from Wyoming inquire as to the time remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 15 minutes, and the Senator from New York has 1½ minutes remaining.

Mr. WALLOP. Mr. President, I will not belabor this point any further. The Senator from New York says that the consistent cry for westerners is: "Don't make us pay."

We are saying not only that we will pay but that we presently are paying. We are also saying that, like other people in this country, we expect, when a contract has been made, that both parties to that contract live up to the terms of it. However, we do not believe that one who is a little more powerful than the other can later change the terms in midstream.

We are saying that municipal and industrial water supplies from these projects have always been paid back with interest. Those are contracts that are now in place. We are saying that water which is delivered for irrigation purposes is now under contract. We cannot make a contract for water we do not consume.

Then there are the problems that we have with those who seek to provide themselves with environmental benefits, navigational benefits, or flood control benefits. There is no one in this Chamber, or the other Chamber, or anywhere in the country that thinks those have to be paid for. Only farmers are singled out and required to pay these costs. I am just saying farmers are already under contract for the irrigation benefits that they receive, and if the corps has not been able to market project water that has been attainable in planning stages for irrigation purposes, that is not the fault of the people who do not use it. It is just very difficult to try to get people to understand what water is all about.

The amendment of the Senator from New York applies not only prospectively, but retrospectively. That is what I am talking about, changing the terms which people expect they have with their Government, in midstream.

I just do not think the Senate of the United States is prepared to authorize its Government to do that. I would hope that the Senate would vote against it.

If the Senator would care to have an additional minute or two from me to respond, I would be happy to yield to him. Otherwise, I am prepared to yield back the remainder of my time.

Mr. MOYNIHAN. I think I would like to respond at this point for a moment. The Senator from Ohio is not on the floor and may want to make a comment.

Mr. WALLOP. I am not prepared to yield my time to the Senator from Ohio.

Mr. MOYNIHAN. I do ask the Senator if he would agree with me that the amendment I have at the desk which is now before this body would not authorize the breaking of any contracts that now exist.

Mr. WALLOP. It virtually directs it, because by assuming full costs and a new criteria on old projects which are under contract, you are simply breaking that contract and providing de facto a limitation on it. Applying the reclamation law, as we may or may not change it in this Congress, to projects which were authorized by previous Congresses under the Corps of Engineers, with different ideas in mind, is simply changing the whole state of the game in midstream. I just do not think that is what the Senator really has in mind, and yet that is the effect.

Mr. MOYNIHAN. I do have in mind the recovery of additional costs where contracts have been amended and additional benefits provided. But that is a different matter from the original contract.

Mr. WALLOP. That is the prospective side, not the retrospective side of the amendment.

Mr. MOYNIHAN. No; this would affect the original contract only where there has been a change in the contract. I think we can only disagree on this.

I say to my friend, the atmosphere of suspicion and concern about water projects has brought our national water policy to a stalemate. Those of us who deeply are convinced of the rightness of water programs are trying to bring not just equity but the perception of equity to the matters. If we are unsuccessful, the stalemate will go on. The stalemate was there when I arrived here and I can well imagine that it might well be here when I leave.

But I come from an area blessed with enough rainfall, if not enough water tunnels and not enough new water mains.

I do not know what more to say. This is a proposal of the Corps of Engineers which would comply with the standards of the Bureau of Reclamation. If it is not to be done, it is not to be done. But you will not see many Corps of Engineers projects. They will not happen. They have not happened since before the Senator and I came to this body. By the time we came, they had stopped. They simply had to stop.

Mr. WALLOP. Mr. President, I say to the Senator from New York that the payments are made when additional benefits are provided and additional costs are repaid when those additional benefits are provided. That is the way it is now under the law and that would not be changed under the provisions of S. 1867.

I would say to the Senator that somehow or another it is a great deal more difficult to achieve the perception of equity than it is to achieve actual equity when a misunderstanding as to what is going on is clearly stated. I am not seeking an inequitable treatment or an unfair advantage for those who are under these projects. I do not believe that, if the Senator studies this, he will find that that is the case. I say that in all sincerity.

I believe that what the committee has done is to provide the means by which those costs can be recaptured without changing previously contracted arrangements.

Mr. MOYNIHAN. I might say, Mr. President, in concluding, that the Senator from Wyoming has raised important questions, and I admit to the ambiguity of many of the facts with respect to many of them.

We could have pursued the matter further when the authorization for the Buffalo Bill Dam in Cody, Wyo., came to the Senate floor. The Buffalo Bill Dam passed in the night. But the issue will appear in other forms. We will have more Buffalo Bill Dams and no appropriations for them.

Mr. President, I yield back the remainder fo my time.

Mr. WALLOP. I yield back the remainder of my time.

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 40 Leg.]

Burdick	Garn	Metzenbaum
Byrd, Harry F., Jr.	Goldwater	Moynihan
Denton	Grassley	Thurmond
Exon	Jackson	Wallop
	McClure	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. McCLURE. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Members, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. WARNER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. PRESSLER) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Alabama (Mr. HEFLIN), the Senator from Georgia (Mr. NUNN), the Senator from Michigan (Mr. RIEGLE), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER (Mr. BRADY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 78, nays 5, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—78

Abdnor	Byrd, Harry F., Jr.	D'Amato
Andrews	Byrd, Robert C.	Danforth
Armstrong	Chafee	DeConcini
Baucus	Chiles	Denton
Bentsen	Cochran	Dixon
Bradley	Cohen	Dole
Brady	Cranston	Domenici
Burdick	Eagleton	Durenberger
East	Johnston	Pell
Exon	Kassebaum	Pryor
Ford	Kasten	Randolph
Glenn	Kennedy	Roth
Goldwater	Laxalt	Rudman
Gorton	Leahy	Sasser
Grassley	Levin	Simpson
Hart	Long	Specter
Hatch	Lugar	Stafford
Hatfield	Mathias	Stennis
Hawkins	Matsunaga	Stevens
Helms	Mattingly	Symms
Hollings	McClure	Thurmond
Huddleston	Melcher	Tower
Humphrey	Metzenbaum	Tsongas
Inouye	Mitchell	Wallop
Jackson	Moynihan	Zorinsky
Jepsen	Nickles	
	Packwood	

NAYS—5

Biden	Garn	Quayle
Boren	Proxmire	

NOT VOTING—17

Baker	Heflin	Riegle
Boschwitz	Heinz	Sarbanes
Bumpers	Murkowski	Schmitt
Cannon	Nunn	Warner
Dodd	Percy	Weicker
Hayakawa	Pressler	

The motion was agreed to.

The PRESIDING OFFICER (Mr. BRADY). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

UP AMENDMENT 1095

The question is on agreeing to the amendment of the Senator from New York (Mr. MOYNIHAN).

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. EXON (after having voted in the affirmative). On this vote I have a live pair with the Senator from Nevada (Mr. CANNON). If he were present and voting, he would vote "nay." I would prefer to vote and have voted "aye," but I withdraw my vote.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. WARNER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. HAYAKAWA), and the Senator from South Dakota (Mr. PRESSLER) would each vote "nay."

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from New Mexico (Mr. SCHMITT). If present and voting, the Senator from Illinois would vote "yea" and the Senator from New Mexico would vote "nay."

Mr. CRANSTON. I announce that the Senator fom Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Alabama (Mr. HEFLIN), the Senator from Connecticut (Mr. RIEGLE), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 29, nays 55, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—29

Biden	Grassley	Moynihan
Bradley	Inouye	Nunn
Burdick	Jepsen	Pell
Chafee	Kennedy	Proxmire
Cohen	Leahy	Quayle
Cranston	Levin	Roth
D'Amato	Lugar	Specter
Dixon	Mathias	Stafford
Durenberger	Metzenbaum	Tsongas
Eagleton	Mitchell	

NAYS—55

Abdnor	Ford	Matsunaga
Andrews	Garn	Mattingly
Armstrong	Glenn	McClure
Baker	Goldwater	Melcher
Baucus	Gorton	Nickles
Bentsen	Hart	Packwood
Boren	Hatch	Pryor
Brady	Hatfield	Randolph
Byrd, Harry F., Jr.	Hawkins	Rudman
Byrd, Robert C.	Helms	Sasser
Chiles	Hollings	Simpson
Cochran	Huddleston	Stennis
Danforth	Humphrey	Stevens
DeConcini	Jackson	Symms
Denton	Johnston	Thurmond
Dole	Kassebaum	Tower
Domenici	Kasten	Wallop
East	Laxalt	Zorinsky
	Long	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Exon, for

NOT VOTING—15

Boschwitz	Heflin	Riegle
Bumpers	Heinz	Sarbanes
Cannon	Murkowski	Schmitt
Dodd	Percy	Warner
Hayakawa	Pressler	Weicker

So Mr. MOYNIHAN's amendment (UP No. 1095) was rejected.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was rejected.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. MOYNIHAN. There is a sufficient second.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. All those in favor say "aye."

Mr. METZENBAUM adddressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

The legislative clerk continued and completed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 41 Leg.]

Baker	Gorton	Moynihan
Baucus	Kasten	Nunn
Brady	Laxalt	Symms
Cranston	Mattingly	Wallop
Garn	McClure	
Goldwater	Metzenbaum	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Iowa (Mr. JEPSEN), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. WARNER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. PRESSLER) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Alabama (Mr. HEFLIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from Michigan (Mr. RIEGLE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

The PRESIDING OFFICER (Mr. GRASSLEY). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 74, nays 7, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—74

Abdnor	East	Melcher
Andrews	Exon	Metzenbaum
Armstrong	Ford	Mitchell
Baker	Glenn	Moynihan
Baucus	Goldwater	Nickles
Bentsen	Gorton	Nunn
Boren	Grassley	Packwood
Bradley	Hart	Pell
Brady	Hatch	Pryor
Burdick	Hatfield	Randolph
Byrd, Robert C.	Hawkins	Roth
Chafee	Helms	Rudman
Chiles	Hollings	Sarbanes
Cochran	Huddleston	Sasser
Cohen	Humphrey	Simpson
Cranston	Inouye	Specter
D'Amato	Jackson	Stafford
Danforth	Kasten	Stevens
DeConcini	Laxalt	Symms
Denton	Leahy	Thurmond
Dixon	Lugar	Tower
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	Mattingly	Zorinsky
Eagleton	McClure	

NAYS—7

Biden	Garn	Proxmire
Byrd, Harry F., Jr.	Johnston	Quayle
	Long	

NOT VOTING—19

Boschwitz	Jepsen	Riegle
Bumpers	Kassebaum	Schmitt
Cannon	Kennedy	Stennis
Dodd	Levin	Warner
Hayakawa	Murkowski	Weicker
Heflin	Percy	
Heinz	Pressler	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is present.

The majority leader is recognized.

Mr. BAKER. Mr. President, I yield to the Senator from New York.

Mr. MOYNIHAN. I would like to restate my request for the yeas and nays on my motion to reconsider. I was interrupted by the motion for a quorum.

Mr. BAKER. Mr. President, I am glad to yield for that purpose.

Mr. MOYNIHAN. I thank the majority leader. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

MOTION TO TABLE MOTION TO RECONSIDER

Mr. BAKER. Mr. President, I move to lay on the table the motion to reconsider, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Iowa (Mr. JEPSEN), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. WARNER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. PRESSLER) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Alabama (Mr. HEFLIN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 61, nays 24, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—61

Abdnor	Ford	Mattingly
Andrews	Garn	McClure
Armstrong	Glenn	Melcher
Baker	Goldwater	Nickles
Baucus	Gorton	Packwood
Bentsen	Grassley	Pryor
Boren	Hart	Quayle
Brady	Hatch	Randolph
Byrd, Harry F., Jr.	Hatfield	Roth
	Hawkins	Rudman
Byrd, Robert C.	Helms	Sasser
Chafee	Hollings	Simpson
Chiles	Huddleston	Stafford
Cochran	Humphrey	Stennis
D'Amato	Jackson	Stevens
Danforth	Johnston	Symms
DeConcini	Kassebaum	Thurmond
Denton	Kasten	Tower
Dole	Laxalt	Wallop
Domenici	Lugar	Zorinsky
East	Matsunaga	

NAYS—24

Biden	Exon	Mitchell
Bradley	Inouye	Moynihan
Burdick	Kennedy	Nunn
Cohen	Leahy	Pell
Cranston	Levin	Proxmire
Dixon	Long	Sarbanes
Durenberger	Mathias	Specter
Eagleton	Metzenbaum	Tsongas

NOT VOTING—15

Boschwitz	Heflin	Pressler
Bumpers	Heinz	Riegle
Cannon	Jepsen	Schmitt
Dodd	Murkowski	Warner
Hayakawa	Percy	Weicker

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. METZENBAUM and Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. STEVENS. Mr. President, will the Senator yield to me 3 or 4 minutes on the bill?

Mr. WALLOP. Mr. President, I yield to the Senator from Alaska 3 or 4 minutes on the bill.

Mr. STEVENS. Mr. President, I would like to inquire of the Senator from Ohio what is going on here. We have a time agreement. I have never seen a filibuster under a time agreement. I thought a time agreement was a gentlemen's understanding, and ladies', too. I think the Senator from Ohio would do much better at home campaigning than here on the floor. I would like to go home sometime this afternoon. Are we going to be forced into a Saturday session in order to satisfy the whim of the Senator from Ohio?

I inquire of the Senator from Ohio, what is he doing?

Mr. METZENBAUM. Mr. President, I do not have any time. If somebody would give me some time, I should be glad to answer.

Mr. STEVENS. I have 2 minutes, Mr. President. The Senator may have some of my time now.

Mr. METZENBAUM. I am particularly pleased that the Senator from Alaska is concerned about my campaign back in Ohio. I sort of thought my first responsibility was here on the floor of the Senate, so I intend to stay on the floor of the Senate to try to defeat this legislation if I possibly can.

Mr. STEVENS. Mr. President, why did the Senator from Ohio——

Mr. METZENBAUM. Will the Senator let me finish?

Mr. STEVENS. I yielded for the purpose of a response.

Mr. METZENBAUM. Will the Senator let me finish?

Mr. STEVENS. Why did the Senator from Ohio agree to the time agreement? He is on the committee, and he is bringing here items he has been chewed apart on in the committee. He lost. He did not have to agree to the time agreement, Mr. President. There is no reason for action like this. I have never seen a filibuster under a time agreement, which I consider to be a breach of the etiquette of this Senate. And I really am getting personally disturbed about being dragged in here on motions to compel my attendance under a time agreement.

Now, I think it is time the Senate got together and decided that this kind of conduct is not going to go on. We have seen all other kinds of conduct build up—postcloture filibusters, all kinds of filibusters, but I have never seen a time agreement filibuster. I think that is a breach of the etiquette and understanding of the Senate.

I hope the rest of the Senate will start expressing their point of view about the actions of the Senator from Ohio. I do not like them. They are wrong. They are burdensome on the Senate. They are costing the taxpayers money by frivolous activity.

If we had known he was going to object, then we would not have scheduled this bill. I think he has violated one of the basic rules of the Senate. The common understanding here is that no one tries to filibuster under a time agreement.

Mr. METZENBAUM. Mr. President, I ask for 5 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I ask unanimous consent for 5 minutes in order to reply to a personal attack.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Ohio is recognized.

Mr. WALLOP. Mr. President, the Senator from Wyoning inquires, this does not come off the bill, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. Mr. President, I have never felt that I had to account to anyone for my actions on the floor of the Senate except to the people of the State of Ohio and the people of this country. I do not yield to the Senator from Alaska or anyone else in conducting myself as a gentleman.

The rules of the Senate provide that every Member may operate under those rules. The time agreement provided that there would be a limit of 3 hours on the bill, a certain period of time for Senator BUMPERS on his amendment, 1 hour on every amendment, and 40 minutes on every second-degree amendment.

As a matter of fact, as of this moment I have not offered an amendment, but I have no reservations in saying that I expect to offer 1 amendment, 2 amendments, 5 amendments, 10 amendments, as many amendments as I see fit, all in accordance with the Rules of the Senate. This is bad legislation. This is legislation that should be defeated. This legislation serves only the purposes of a few wealthy farmers, and I am not worried about my reputation as a gentleman in opposing legislation of this kind. This legislation should never have been brought to the floor of the Senate.

Now, with respect to the matter of the time agreement, I was out of the city on the particular day when the time agreement was brought to the floor of the Senate. It was my understanding at that time that a number of Members of the Senate would object to any time limitation. Had I known that they were not going to as I had been previously advised, I would have advised the Senate minority leader of my position. But I had been incorrectly advised, and I hold no one at fault in that connection.

When I returned and saw what was in the time agreement, I found that it provided that it was possible to offer an unlimited number of amendments. The Senator from Ohio intends to try to make this a better piece of legislation and, if it is possible to get some of my amendments or all of my amendments adopted, then I very well may wind up voting for this legislation.

Inquiries have been made of me as to whether or not it is possible to agree upon some amendments, and I have indicated that it would be possible. But when I have indicated what amendments we would expect to include, I found that they were not acceptable to the people on the other side.

So let me be clear. I will conduct myself as a U.S. Senator in a gentlemanly fashion, and I do not need the Senator from Alaska to tell me how to conduct myself on the floor of the Senate. I intend to offer every one of my amendments that I believe are relevant, and I intend to offer every amendment that I believe I should offer. I hope that I will be successful in defeating this legislation.

Mr. BAKER. Mr. President, will the Senator yield to me for a second?

Mr. METZENBAUM. I certainly do.

Mr. BAKER. I am sure I am violating no confidence when I say I had a conversation with the Senator from Ohio a little while ago and asked what we were doing, and what we could expect. The Senator from Ohio said what I understood him to say on the floor; that is, that I am going to try to prevent this bill from passing. I am, however, not sure in my mind which one of the two objectives I heard the Senator speak of I should accept: that he is going to stop this bill, which I believe the Senator said and which he did say to me privately on the floor of the Senate earlier today, or that he is going to offer amendments to try to improve this bill.

Now, I have handed the Senator an opportunity on a silver platter to pick the right answer, and I would like to hear that from the Senator from Ohio.

If the Senator intends to try to stop this bill and he is using these amendments for that purpose, I have one situation to deal with. If there are, indeed, issues involved that can be worked out in compromise or he has amendments that should be considered by the Senate and they are relevant and germane, not technically germane, but they are reasonable to the debate of the Senate in this matter,

then I have another matter to deal with.

But what I would like to hear from the Senator from Ohio, if he is willing to favor me with a reply——

Mr. METZENBAUM. Of course.

Mr. BAKER (continuing). Is it his objective to try to prevent the Senate from acting on this bill today?

Mr. METZENBAUM. Not if I can get my amendments adopted.

Mr. BAKER. I have a daughter now who is grown, but when she was little she had a cold and we called the doctor. He came to see her, and in his very best bedside manner said, "Can I play that game with you?" And she said, "Yes, but only if you will let me win."

Is that what the Senator from Ohio is telling me?

Mr. METZENBAUM. No; I am not saying that. I have said that there have been some inquiries made of me as to whether or not I could find an area of compromise with respect to this legislation, and I have responded in the affirmative. When we sat down to indicate the area of compromise, I found that there was a negative reaction.

Now, under those circumstances, I am concerned as to whether or not I will be successful in getting my amendments adopted. Today it appears that almost every amendment, whether meritorious or not, is picking up about 29 to 35 votes. Under those circumstances I am not at all certain that I am going to be any more successful than some of the others who have been offering their amemdments. So I would say to the leader that I have not offered any amendments as of this moment except one that I took down, which was a second-degree amendment to the Bumpers amendments, and I am prepared to offer my amendment. I am prepared to debate them, and then and only then will we be able to determine whether or not an unacceptable bill will be acceptable.

Mr. BAKER. I thank the Senator for that statement.

Mr. STEVENS. Will the Senator yield?

Mr. BAKER. One minute.

I appreciate his remarks, but if, indeed, we are talking about issues instead of obstruction, if we are talking about legitimate concerns that the Senator has in terms of the amendments, surely, since every other Member of the Senate has already done so, the Senator from Ohio would be willing to identify the amendments he wishes and consider time limitations on them.

Is the Senator from Ohio willing to do that?

Mr. METZENBAUM. Not at this time.

Mr. STEVENS. Will the Senator yield to me?

Mr. BAKER. Let me finish just for a moment.

I wonder if the Senator from Ohio would consider the possibility then of sitting down with the managers on both sides for a few moments—and I am perfectly willing to provide a 15-minute recess or a prolonged quorum for that purpose—to explore the number of amendments he has, to see if some can be agreed to, to see if there is some opportunity to work out time agreements or to ascertain once and for all whether we have an effort to stop this bill or whether we have an effort to debate amendments? Is the Senator willing to do that at this time?

Mr. METZENBAUM. I would be willing to do so but the Senator from Ohio would perfer to meet in perhaps 15 or 20 minutes so that we can get all of our amendments and ideas together. I would be willing to meet, and I will send word to the majority leader at that point, if that would be all right.

Mr. BAKER. That would be entirely agreeable.

Mr. President, so that the Senator from Ohio understands, and all other Senators—and I hope that it is acceptable and agreeable to the distinguished managers of the bill on both sides—my hope is that sometime before 3 o'clock the managers and the Senator from Ohio and, of course, anyone he wishes to have with him, would meet on or off the floor and try to see where we stand, what amendments might be offered, and what amendments might be negotiated; looking to the possibility of compromise, and finally to advise the minority leader and myself that it is or is not possible to have a time agreement or establish a time certain to conclude action on this measure.

But if the Senator is agreeable to that, I am perfectly happy at this point to reserve any further rights I have or any further motions that I might make to try to hasten the disposition of this matter. I do not say that in any way to be intimidating. I have long since given up ever trying to intimidate the Senator from Ohio. But I do say it as a matter of interest.

May I also say, while I am on the floor, Mr. President, it is my intention to finish this bill, if it is possible to do that. I hope that that conference will be successful. If it is successful, I think we can finish fairly soon. If it is not successful, as I said yesterday and repeat now, we will be in late today and we will be in tomorrow in an effort to do that.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

Who yields time?

Mr. METZENBAUM. Mr. President, I seek recognition in order to offer an amendment.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

UP AMENDMENT NO. 1096

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1096. On page 20, line 19, delete all through page 20, line 24.

Mr. METZENBAUM. Mr. President, Congress decided in 1902 to help family farmers settle the semi-arid areas of the West. In doing so, Congress had the wholehearted support of President Teddy Roosevelt. Roosevelt applauded the creation of the Bureau of Reclamation. But he refused to sign the legislation until Congress included important safeguards to insure that the valuable irrigation water would not be monopolized by outside interests. These outside interests included the railroads and the banks that owned vast tracts of land in the West.

President Teddy Roosevelt stood firm, and Congress finally amended the legislation to make the family farmer, not the large corporations, the beneficiary of this subsidy. That is the origin of the 160-acre limitation and the residency requirement found in the 1902 act.

The residency requirement is found in section 5 which states that a recipient must be "an actual bona fide resident of such land or occupant thereof residing in the neighborhood of said land."

The January 20, 1909 Bureau of Reclamation interpretation of the 1902 act defined the term "in the neighborhood" to mean within 50 miles. This is consistent with the 1902 act's original intent to help the family farmer.

What it going to happen under this bill? The authors of this legislation want to eliminate entirely one of the family farmer's protections, the residency requirement.

For what? For whom? For the large corporate farmers of this country.

Section 6 of this bill totally repeals the residency requirement. In doing so it would move the reclamation program away from its original purpose——

Mr. SYMMS. Mr. President, will the Senator yield so I could answer his question?

Mr. METZENBAUM. No.

The PRESIDING OFFICER. The Senator does not yield.

The Senator from Ohio.

Mr. METZENBAUM. In doing so it would remove the reclamation program away from its original purpose in

favor of the absentee landowners such as Tenneco, Standard Oil of California, Superior Oil, and J. G. Boswell Co., all of which have been receiving millions of acres of interest-free water.

Mr. President, I can understand someone coming to the floor of the Senate or Congress and saying the family farmer needs protection. But I do not understand anyone coming to the floor of the Senate and eliminating the family farmer provision in this bill. Why? What logical basis is there for that?

My amendment is not complicated; it is simple; it is elementary. All my amendment would do is restore the language as it presently is in the law. It would restore the 50-mile residency requirement by deleting section 5 of the bill.

I am not the only one who thinks that this amendment should be supported. It is supported by the Environmental Policy Center, the American Rivers Conservation Council, Sierra Club, the National Grange, and the AFL-CIO.

Mr. President, I ask unanimous consent to have printed in the RECORD the letters from those groups.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL POLICY CENTER,
Washington, D.C., July 15, 1982.

Senator HOWARD METZENBAUM,
Russell Office Building,
Washington, D.C.

DEAR SENATOR METZENBAUM: We are writing to you in connection with two provisions of the pending legislation on reclamation law (S. 1867). We are strongly opposed to the elimination of the residency requirement contained in Section 6. This requirement is one of the cornerstones of reclamation law and is designed to insure that federally subsidized water goes to family farm operations, not to paper farmers, absentee-owners, or foreign investors. We urge you to do what you can to preserve this historic safeguard which President Theodore Roosevelt put into place with the 1902 Reclamation Act.

We are also concerned about Section 5 of the bill which relates to the Class I productive potential of agricultural lands. The concept of equivalency, as it is known, comes from the fact that land in the Rocky Mountains with higher elevation and a shortened growing season is not as productive as flat land in California's Central Valley which has a year-round growing season. It takes more that 160 acres of Rocky Mountain land to equal the growing potential of 160 acres in the Central Valley. We urge an amendment to this section making it clear that the concept of equivalency applies only in areas with fewer than 180 frost-free days. If such an amendment is not adopted, we urge that the section be stricken from the bill. The concept of equivalency would otherwise be distorted beyond all meaning to further subvert acreage limitations.

Sincerely,

BRENT BLACKWELDER,
Washington Representative.

AMERICAN RIVERS CONSERVATION COUNCIL,
Washington, D.C., July 16, 1982.

Senator HOWARD METZENBAUM,
U.S. Capitol,
Washington, D.C.

DEAR SENATOR METZENBAUM: The American Rivers Conservation Council is in strong opposition to S. 1867, a bill which would make sweeping changes in federal reclamation law and which would wipe out the two safeguards designed to protect the integrity and purpose of the program. These two safeguards are the residency requirement and the acreage limitation. We urge you to do what you can to prevent these requirements from being emasculated.

Without the residency requirement federally subsidized water could be delivered to foreign entities and paper farm operations. Lax enforcement of this requirement has allowed such abuses as having an outfit incorporated to sell false teeth by mail reaping federal subsidies.

The bill makes a number of direct and indirect attacks on the acreage limitation. In addition to raising the overall limitation and providing exemptions to a number of irrigation districts, Section 5 on Equivalency would allow additional acreage to qualify for subsidized water on the ground that it is equivalent to a much smaller acreage of Class I land. This provision appears designed to provide special benefits to California growers, unless some limitation is placed on its application. One such limitation would be to apply the concept of equivalency only in areas where the growing season is less than six months.

Sincerely,

CHRISTOPHER N. BROWN,
Conservation Director.

SIERRA CLUB,
San Francisco, Calif., July 16, 1982.

Senator HOWARD METZENBAUM,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METZENBAUM: I am very pleased that you are working to amend the Reclamation Reform Act brought to the Senate floor by the Energy and Natural Resources Committee.

The Committee bill is seriously flawed in many areas including cost recovery, residency, equivalency, and acreage limitation. It represents a tremendous subsidy to a very few large growers, especially in California.

Your efforts to add a residency provision are especially important. The original 1902 Reclamation Act was designed to settle the west and to create family farms. If the act is amended to eliminate the residency requirement the original purpose of the act will be thwarted but more important the family farm will be greatly harmed in the west and across our country. There are many pressures on the family farm these days and it is grossly unfair to add to those competition from large agri-business corporations that are heavily subsidized with nearly free water. Water that is paid for by every taxpayer and every farmer to benefit a few.

Another area that concerns us is the overly generous equivalency provision in section 5. It should be eliminated or amended to apply only in areas with short growing seasons.

We are deeply concerned with the Reclamation program because of its substantial negative effect on our natural resources. By providing water at very low prices it has the effect of creating additional demand for cheap water in areas that cannot sustain the development that water brings to those areas.

Again, we deeply appreciate your efforts to amend the Reclamation Reform Act to make it more acceptable to conservationists.

Sincerely yours,

TED E. HOFFMAN,
Chairman, Sierra Club
Water Resources Committee.

CHADRON, NEBR.

NATIONAL GRANGE,
Washington, D.C. July 13, 1982.

DEAR SENATOR:

The National Grange, respresenting nearly 450,000 members in 41 states, has carefully monitored the progress of bills to amend the Reclamation Act of 1920. The issue is a complex one deserving careful attention to a number of specific items that will have long-lasting impacts on family agriculture in America, especially in the 17 western states.

On July 14, the Senate will undertake consideration of S. 1867, sponsored by the Chairman of the Senate Energy and Natural Resources Committee, James McClure. Our membership has taken an active role in the progress of this bill to date, but we are most disappointed in its final form. A number of amendments will be offered on the floor during debate, and I would appreciate your consideration of the following points which will, most likely, be the subjects of recorded votes. In our opinion, three important changes must occur in order to strengthen the bill and to fulfill its intention to serve family agriculture.

First, the acreage limitation in S. 1867 must be significantly reduced to avoid abuse of the Federal subsidies inherent in reclamation projects. The original Act limited landholdings to 160 acres per individual, meaning each member of the family could qualify as a farmer under the Act. Thus, a family of four could own and operate 960 acres of reclamation land in additin to whatever non-reclamation land they might choose to farm. The Senate bill would raise this limit to 2,080 acres, a figure we find unjustified. In addition, S. 1867 would permit a landowner to lease any amount of reclamation land they chose. The effect of this bill is to legitimize speculation in farmland, the value of which is increased by a substantial federal subsidy.

The problem presented above can be remedied by permitting the ownership limit to be placed somewhere between 480 acres and 640 acres while placing an absolute limit on the number of acres that any farming unit can operate. We propose that a cap of 960 acres is a reasonable figure that would retain the 1902 Act's intent. Unlimited leasing of reclamation land would not be permitted, and so the benefits of the public's investments would be dispersed as widely as possible while permitting efficiently-sized family agriculture.

Second, several court decisions have been rendered over the years that apply reclamation law to certain water projects constructed by the Corps of Engineers. The most recent decision was handed down on May 17, 1982 that referred to a Corps project which S. 1867 would exempt. Of course, most of the Corps projects do not deliver irrigation benefits, and many others provide only minimal reclamation benefits, and it is not the Grange's intention to include these in acreage limitations or repayment provisions. But it is only reasonable to extend the Reclamation Act to cover those projects

where irrigation benefits were instrumental in the decision to construct the facilities.

The Grange supports the efforts of Senator Moynihan to include Corps projects with substantial irrigation benefits in the restrictions that apply to Bureau of Reclamation projects. We feel that the Moynihan amendment has been carefully constructed so as to eventually analyze the various Corps projects to determine their individual suitability. A good deal of misinformation has been circulated indicating that all Corps projects would be subject to S. 1867. Such is clearly not the case, but what is clear is this: Unless Sec. 8 of the bill is amended, a loophole will exist which the courts have attempted to eliminate.

Third, the 1902 Reclamation Act specified that beneficiaries of reclamation projects would be family farmers and not speculators or businesses interested in entering agriculture at the expense of the U.S. taxpayers. To assure that the irrigation water delivered from reclamation projects would go to those for whom it was intended, Congress specified that recipients must live on or near the land that is irrigated. For the past several decades, the Bureau of Reclamation has ignored this provision of law. As a result, some reclamation areas have grown into publicly subsidized super-farms where "paper farmers" use the landholdings for sophisticated tax shelters for income derived off the farm in cities nearby and across the country. Foreign interests also benefit from absentee landownership.

The Grange feels that in order for reclamation benefits to accrue to the recipients for whom the 1902 Act was intended, some form of recipient-operator relationship must be established. Two possible approaches should be considered. Congress could reaffirm the residency requirement contained in the Act, or a new provision could require that recipients be actively engaged in farming or farm management. Opponents of a residency clause contend that many farmers wish to live near cities where good schools and other services are located. The Grange believes that because residency was not enforced, local communities have been allowed to deteriorate. Good schools will exists if family farmers live in the vicinity of the farms. We believe that Congress has a duty to ensure that Federally financed water projects do not contribute to neighborhood decline—the intention of the 1902 Act was to build communities and local economies dependent on family agriculture.

One final consideration. The Grange believes that Congress should take steps to ensure that reclamation farmers do their fair share in reducing the supply of crops that are declared to be in surplus when those crops are grown with Federally subsidized irrigation water. A simple amendment, which we understand will be offered, would require all reclamation farmers to participate in any acreage reduction program announced by the Secretary of Agriculture. For instance: If a reclamation farmer grows wheat or cotton, and USDA determines that the supplies of both commodities are in excess of demand, reclamation farmers would be required to temporarily reduce their planted acreage of these crops on their reclamation land. These programs are currently voluntary in all parts of the country. We feel that since the Federal Government makes the growing of surplus crops possible in some areas, reclamation farmers should assume a proportionate share in reducing the supply thereby limiting Federal Budget exposure to support the price of the crops.

Please consider and support our views on this important, yet immensely complex issue. We believe that S. 1867 has serious implications for family farming in West and elsewhere. Unless the above recommended changes are incorporated into the bill, the Grange urges a no vote on final consideration in the interest of sound agricultural and reclamation policy.

Sincerely,

EDWARD ANDERSEN,
Master, National Grange.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., June 30, 1982

DEAR SENATOR:

The American Federation of Labor and Congress of Industrial Organizations urges that you vote against passage of S. 1867, amending the Reclamation Act of 1902 as amended, when it reaches the floor of the Senate.

This bill will destroy the 80-year-old federal reclamation program, with its record of fostering and sustaining the family sized farm in the 17 Western States, and its 97% record of compliance of the farmers with the acreage restriction. The sole beneficiaries would be the 3% of the landowners of federal reclamation projects, mostly in the State of California, owning 30% of the total project land, speculators, corporations and giant agribusinesses—who have continued to flout the law and now look to S. 1867 as the means of legitimizing their lawlessness.

Specifically, this legislation should be defeated because:

(1) The Reclamation Law was designed for farmers to live on family sized farms. Pending legislation would subvert this long-time and socially desirable policy by abolishing the Act's residency requirement. Thus, absentee investors and speculators will be able to acquire large tracts of land, receive the federal irrigation subsidy, and hire others to do their farming.

(2) The principle of the family farm on federal reclamation projects in the West would be destroyed by S. 1867 which would enable an owner to receive federally subsidized irrigation water for up to as much as 2,080 acres of land, and to lease as much as 1,280 additional acres. It has been argued that small farms are out of date and uneconomical. Yet, various studies, including those made by the Bank of America, the U.S. Department of Agriculture and the University of California at Davis, demonstrate that 320 acres of farmland in the Westlands Water District in California's Central Valley yield an annual income ranging from $40,000–$130,000 a year, depending on type of crops raised, soil quality, etc. Such farms rank in the highest 5 percent of annual earnings in the nation.

(3) This bill provides that when the federal government has recovered the irrigation costs to the district, the acreage limitation will no longer apply. It would end-run a 1976 decision of a federal court which declared invalid previous attempts by the Bureau of Reclamation to accomplish this administratively.

At the end of the pay-out period, most irrigation districts will have repaid only a small proportion, in the neighborhood of 20–25 percent, of the construction of the irrigation feature of the project.

Even after pay-out of this small proportion of the costs, and without interest, the federal government will continue to deliver water to the project at taxpayers' expense. Terminating acreage limitation at the end of the payout period perpetuates the federal interest-free subsidy to irrigation districts where the pattern of small farm ownership would be replaced by concentration of holdings in the hands of large corporations and agribusinesses. The fundamental aim of the Act—its benefits following to family-sized farms—would be rapidly wiped out after repayment of the irrigation costs, if S. 1867 is passed.

(4) Two million acres of land in the Kings-Kern project of the San Joaquin Valley, owned mainly by oil companies and agribusinesses, and receiving federal irrigation water, would be totally exempted from federal reclamation law. Every President up to the present one, former Secretaries of Interior, a Secretary of War, several Interior Department Solicitors and a Chief of the U.S. Corps of Army Engineers have found that federal reclamation law applies to the irrigation features of Corps projects authorized by the 1944 Flood Control Act.

A mutually agreed upon test case involving the Kings River-Tulare Lake water districts and the federal government was decided by an appelate court which found that the Reclamation Act did apply—a decision which the Supreme Court refused to review.

The two irrigation districts refused to honor their agreement to abide by the results of the litigation, and have for years conducted an all-out lobbying effort to reverse the decision of the Courts by such a bill as S. 1867.

At the time when hard times are forcing family farmers all over the nation to sell their property and leave the land, it seems inconceivable that this kind of welfare for the great corporations is being presented to the Senate in the guise of "reform."

The losers, should S. 1867 pass, will be the taxpayers and the family-sized farm on the Western reclamation project. The winners are exemplified in the following table:

Westland Water District (California) Owner:	*Acres*
J.G. Boswell	24,000
Southern Pacific	106,000
Boston Ranch	26,500
Harris Farms	18,400
Standard Oil	10,500
Kings Kern project California (Army Corps of Engineers) Owner:	*Acres*
J.G. Boswell	111,000
Tenneco West	67,000
Superior Oil	22,600
Pago-Punta	26,800
Chevron Oil	13,000
Southlake Farms	26,800
Westlake Farms	19,800
Salyer Land	29,100

Once again, we urge that you vote to reject S. 1867.

Sincerely,

RAY DENISON,
Director, Department of Legislation

Mr. METZENBAUM. Mr. President, the purpose of the amendment is clear: Either you believe in the family farmer, and if you do then vote for my amendment; if you do not believe in protecting the family farmer, then vote with the committee to eliminate the residency requirement.

If you vote to adopt this amendment the Senate will be reaffirming its commitment to the 50-mile residency requirement as originally spelled out in the 1902 act.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Is there any other Senator desiring the floor?

The Senator from Wyoming.

Mr. WALLOP. Mr. President, regretfully the Senator from Ohio, though he comes from a State with a good deal of farming, obviously knows nothing of farming. He, obviously, knows nothing of family farming. He, obviously, knows nothing of reclamation projects or law. He knows nothing of the Boswell Corp. and these giant corporations which he speaks. If he did he would know that they were under recordable contracts.

Mr. METZENBAUM. What? I cannot hear.

Mr. WALLOP. They are under recordable contracts which is a requirement to get rid of their excess lands. This would have been virtually completed had it not been for the court case that was brought.

He knows nothing of the life of a farmer. The fact that a farmer can stick his hands in a corn chopper, and that his children may be too young to carry on farming. It may be whatever livelihood he can scrape together thereafter, may be in a city 1,000 miles away. But it is a livelihood, and he saves that farm for the children which he and his wife have spawned.

I do not know what the AFL-CIO knows about farming. I suspect precious little, and I do not know what the Environmental Policy Center knows about farming. I suspect even less. And I do not know what the Sierra Club knows about farming and why they would even consider that to be an environmental issue.

It is not relevant here. What is relevant is whether or not people who have farms in their family may maintain them.

These giant corporations and this continual specter that the Senator from Ohio and others like him continue to raise are shimmerous. They do not exist. Those recordable contracts are there, and they will be out of business, and they would have been out of business by now had it not been for the court case.

So what the Senator just said is that a family, no matter what their circumstance, who owns a piece of ground and for whatever reasons is unable to be on it for a given period of time, a decade or two decades, must sell their farm. This is a preposterous interpretation of what the law of the land should be with regard to family farming. It is an abuse to the family. It is an abuse to family rights. It is an abuse of all those things which people who own land hold dear.

We can go on and debate this thing, but I suspect it is basically irrelevant. What this seeks to do is to make it impossible for people to have land in irrigation districts.

I yield to the Senator from Idaho.

Mr. SYMMS. I thank the Senator for yielding. I appreciate what he has said in answer to the rhetorical question that my good friend from Ohio raised earlier.

The reason why the residency requirement is not in this bill is precisely that when people farm out their lifetime, when they are physically unable to farm and wish to lease it, if the residency requirement is placed on it, in some instances it makes it impossible, forcing them to sell it. It hurts senior citizens who would like to move from Idaho to Arizona, to a warmer climate, for example.

Whom else does it hurt? It hurts the young farmer who is underfinanced, who comes out of the educational phase of his life trying to farm and cannot get the capital together but perhaps can get enough money to start by leasing a farm.

That is the way some of our successful farmers have started, by leasing land, to avoid the risk involved in capital. Otherwise, unless you are born into a farm, you cannot get started in farming today, in most parts of the country.

If the Senator from Ohio had time to visit my State and see what happens with respect to residency, I think he would withdraw his amendment.

His amendment hurts two classes of people: Young people, who are trying to get the upper mobility for an opportunity in agriculture, and working people, who have seen the working days of their lives and want to lease their property and go to a warmer climate.

This amendment would be discriminatory against those two groups of people, and I am sure that is not the intention of the committee.

Mr. President, since I came to Congress in 1973, I have been actively seeking a solution to the outdated and archaic provisions of the 1902 Reclamation Reform Act. This law, coupled with such landmark legislation as the earlier Homestead and Desert Land Entry Acts, played a vital role in the agricultural development of the arid Western United States. There is no issue that Idaho farmers have spoken to me about more.

It has evolved over the 80 years since its enactment into the primary water resource development program in the West, integrated into major river basins and multipurpose projects providing hydroelectric power, municipal and industrial water supply, flood control, and public recreation in addition to reclamation. The gross value of crops produced from reclamation farms approached $5 billion with aggregate economic benefits to the Nation of over $50 billion.

Nonetheless, the act has not changed to meet growing agricultural needs with increasingly less farmers. It has not changed to recognize the fact that a 160-acre farm at the turn of the century kept a family farmer busy from dawn to dusk and provided an opportunity for economic progress. Today, agricultural technology and rapidly escalating costs of production have evolved the family farm into a much larger, but less profitable venture.

The fact that the act had not changed with the times was not a problem until recently simply because the Department of the Interior largely ignored its provisions. The Federal Government instead entered into good faith contracts with reclamation farmers with little heed to the possible consequences of their actions. Unfortunately, that day of reckoning began with a number of law-suits on the act that resulted in a disastrous regulatory reversal of the historic interpretation and administration of the 1902 act by then Interior Secretary Cecil Andrus.

The controversy which I believe will be properly resolved by passage of S. 1867 is essentially a dispute between reclamation family farmers and a group of land reformers, antiagricultural, forces and so-called environmentalists. S. 1867 and its companion, H.R. 5539, which was recently passed by the House, represent remarkable bipartisan efforts to put the controversy to rest. Each reclamation State has its own individual concerns over the 1902 act, and, I suppose, if State delegations from the various States were to draft legislation to address those concerns, we would have a markedly different bill from each of them. It is a tribute to the authors of this legislation that a delicate balance of those differing interests has been reached in S. 1867. This balance has only come about after the tireless efforts of my senior colleague, Senator McCLURE, and the Senate Committee on Energy and Natural Resources. I can assure this body that few stones were left unturned in those deliberations, that S. 1867 has considered every alternative in the crafting of this legislation. Naturally, I am concerned that this delicate balance may be upset by amendments to this bill, and I urge my colleagues to carefully consider the committee's arguments for rejecting these amendments during their consideration of the bill.

We will hear many arguments on the floor today. Most of them will center around subsidies and the excess acreages operated by the giant California agribusinesses. I want to tell this body that the amendments that will be offered on the floor today will hurt family farmers. Despite the cries about agribusinesses, it is my own

State of Idaho that contains the greatest number of excess acres in this Nation, and I can assure Senators that those excess acres are not held by giant agribusinesses, but by the very family farmers that stand to lose the most if S. 1867 is not adopted.

This is not a new Federal program in its infancy—it is instead, a program that is held together by firm commitments between the Federal Government and family reclamation farmers. S. 1867 has been carefully drafted to protect those commitments and address the fiscal responsibility and the concept of full cost responsibly. The proposed amendments to this bill threaten those commitments—they change the rules of the game in the fourth quarter, and the Western agricultural community is left holding the ball.

Mr. President, in conclusion, let me just add that there is a regulatory time bomb ticking away in the Western United States. It was set on August 15, 1977, when Secretary Andrus, in response to a Federal district court order, published proposed rules and regulations governing the 1902 act. The regulations represented a radical departure from the historic application of the act, and threatened the good faith contracts of Western family farms and the very future of the reclamation program itself. S. 1867 would disarm the time bomb, and reform an outmoded statute that cries for change.

Mr. President, at this time I wish to compliment the committee for the job they have done in putting together this bill, with all the varied problems of these reclamation States. The Senator from Wyoming (Mr. WALLOP), the Senator from Idaho (Mr. MCCLURE), the Senator from Washington (Mr. JACKSON), and others have done an excellent job in crafting this bill. It should be passed.

Mr. WALLOP. Mr. President, I appreciate the remarks of the Senator from Idaho.

There is one other segment—the reclamation farmers would be badly hurt by that, and those who are hurt by the economic straits that agriculture presently finds itself in, for example, may have to go off the farm for a year or two in order to support a family and in order to get back to it.

That is as clear as I know. It is an abuse of the concept of family farming which the Senator from Ohio seeks to assert here.

I believe the Senate has already made its expression as to the committee's report. I do not recall whether the Senator from Ohio brought it up in committee, but I point out once again that the Senator was a member of that committee, and he had his shot then.

Mr. MCCLURE. Mr. President, will the Senator yield?

Mr. WALLOP. I yield.

Mr. MCCLURE. I thank the Senator for yielding.

Mr. President, it also should be noted that the Senate voted on this issue in the past. It was in S. 14, reported by the committee in the last Congress, and it was passed by this body once before. So it is not a new issue. It is not one that has not been presented and considered here before.

Mr. WALLOP. Mr. President, I appreciate what the Senator from Idaho has said.

The only new issue before us now is that we have a substantially tighter bill than S. 14, for which I think the Senator from Ohio voted.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I do not agree with the Senator from Wyoming. I am not a farmer, and I do not claim to be an expert about farming matters. I noticed that the Senator from Wyoming probably unintentionally overlooked the National Grange. That organization does speak for family farmers. I read from their letter on this subject:

> The National Grange, representing nearly 450,000 members in 41 states, has carefully monitored the progress of bills to amend the Reclamation Act of 1902. The issue is a complex one deserving careful attention to a number of specific items that will have long-lasting impacts on family agriculture in America, especially in the 17 western states.
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> On July 14, the Senate will undertake consideration of S. 1867, sponsored by the Chairman of the Senate Energy and Natural Resources Committee, James McClure. Our membership has taken an active role in the progress of this bill to date, but we are most disappointed in its final form. A number of amendments will be offered on the floor during debate, and I would appreciate your consideration of the following points which will, most likely, be the subjects of recorded votes. In our opinion, three important changes must occur in order to strengthen the bill and to fulfill its intention to serve family agriculture.

I will not read Nos. 1 and 2 at this time because they are not relevant, but the third one is relevant:

> The 1902 Reclamation Act specified that beneficiaries of reclamation projects would be family farmers and not speculators or businesses interested in entering agriculture at the expense of the U.S. taxpayers. To assure that the irrigation water delivered from reclamation projects would go to those for whom it was intended, Congress specified that recipients must live on or near the land that is irrigated. For the past several decades, the Bureau of Reclamation has ignored this provision of law. As a result, some reclamation areas have grown into publicly subsidized super-farms where "paper farmers" use the landholdings for sophisticated tax shelters for income derived off the farm in cities nearby and across the country. Foreign interests also benefit from absentee landownership.

Mr. President, this is not complicated. You are for the family farmer—and that family farmer includes living within 50 miles—or you are not; and if you are not, you are for the corporate farmer.

If it were in a previous bill, why are we talking about it? Obviously, then, it is still in the law, or we would not be taking it out of the law at the present time. I can only assume that the previous bill, whether passed by the Senate or not, did not become law, and that therefore this is still an operable law.

If you are for the family farmers, support my amendment. If you are opposed to the family farmers and believe that the corporate farmers are entitled to own and farm all the land of this country, then vote against my amendment. But it is simple. It is not a complicated amendment, and that is the reason I offered it in the first instance.

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. On the time of the manager of the bill.

Mr. WALLOP. I yield 2 minutes for the purpose of a question.

Mr. SYMMS. I should like to make the point that the Senator is talking about 50 miles. What is so magical about 50 miles? If you live within 49 miles, it is OK. If you live 51 miles away, it is not OK. The Senator is saying something that is arbitrary.

If the Senator really wants his amendment as he describes it—and I disagree—I think his amendment is totally discriminatory against senior citizens and young farmers. Young farmers are under-financed and are trying to get started in farming. Senior citizens want to keep the farm and move and lease the farm to someone else. It is totally discriminatory. I describe it differently from the way my friend from Ohio describes it.

But I would say to the Senator if he really wants to do what he is describing why not make him live on the farm? Why make it 50 miles? What is so magical about 50 miles?

Mr. METZENBAUM. Mr. President, responding to my friend from Idaho, I will say to the Senator it has been the law since 1902.

Mr. WALLOP. It has not been enforced.

Mr. METZENBAUM. It has not been enforced?

Mr. WALLOP. It has not been in the law.

Mr. METZENBAUM. It is not in the law now?

Mr. WALLOP. No, it is not.

Mr. METZENBAUM. The 50-mile provision is not directly in the law but the family farm provision is in the law, and the 50-mile interpretation was established by the Department in 1909.

Mr. SYMMS. I would just say that the 1902 act required a landowner to be a resident on a neighborhood land in order to be eligible. The act of 1926

did not contain those provisions, and it was inherent that they wanted to remove it then because they realized it would discriminate against younger farmers who wanted to get started and did not have the wealth. They did not have a wealthy capitalist in the city to get them started.

It would discriminate against the senior citizens who wanted to stay on their farms, and that is why they left it out in 1926. My good friend is trying to discriminate against the very people whom he is trying to champion, champion their cause.

Mr. METZENBAUM. I do not understand anything about the claim that this hurts the young farmer.

Mr. WALLOP. The Senator is now on his own time.

Mr. METZENBAUM. Mr. President, I have the floor.

Mr. WALLOP. The Senator has it on his own time.

Mr. METZENBAUM. On my own time.

I do not follow that argument at all. To me it seems totally logical. All we are saying is if you want to farm then live on the farm or within 50 miles. I do not have any great position of advocacy for the 50-mile interpretation, but because this it the way it been interpreted in the past, all I am doing is putting the language back into the law as it is at the present time.

Either you agree with it or you do not, but it is not complicated. It has nothing to do with senior citizens; it has nothing to do with young people. It has got nothing to do with anything other then the single question of whether you are going to have the residency in or out. If out you take care of the corporate farmers; if in you take care of the family farmer, and it is as simple as that.

How much time does the Senator from Ohio have left?

The PRESIDING OFFICER. Twenty minutes and nineteen seconds.

Mr. METZENBAUM. I reserve the remainder of my time.

Mr. WALLOP. Mr. President, I cannot speak for the Grange, and the Grange cannot probably speak for itself because the testimony they gave in what they submitted to the committee, is contrary to what the Senator from Ohio just read. They would have seen—a number of exceptions which are not in the Senator's amendment, and I just say that the Senate has talked about this long enough. If the Senator from Ohio wishes to use the remainder of his time he is more than welcome to do so.

I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, one of the difficulties we have any time an act, a law, has application in one region of the country and not in the other is that there will be widespread misunderstanding in the areas where it is not in application as to how it actually works. We will get a lot of theories about how it works but very little actual practical knowledge of how it works in the field.

The fact of the matter is that the junior Senator from Idaho is exactly correct. There are two groups of people who are disadvantaged, and that is why the amendment should not be adopted. I can cite to the Senator from Ohio the difficulty that a young farmer has in getting started, and the fact that he has to find somebody to capitalize his venture, and the person who takes title to the property may well be the person who is putting up the capital that allows the young farmer to get into farming at all, and without it he simply would not have a chance.

Second, as must be the case in Ohio—I am not as familiar with Ohio obviously as I am with Idaho—the farms have been growing in size even in Ohio, and as they grow in size they buy other land somewhere in the area around their farming operation.

If it happened to be contiguous, that is the land just across the fence, and they could buy that land to go with the land they have then indeed they can satisfy a residency requirement.

But if the land to be acquired happened to be a quarter-of-a-mile down the road or across the road where it was separated by any division of ownership of some intervening land then it would not be contiguous and that does not make any sense to me that just because there might be a 40-acre tract in between or a county road or a State highway that all of a sudden that family that wanted to buy the land that was available and was right next door to them and within the acreage limitations could not own it because they could not comply with the residency requirement.

Why is this in the bill? Because, as my colleague has said, it was in the 1902 act but it was left out of the 1926 act. There has been some confusion since that time as to whether it was an oversight, an inadvertence or repeal by implication or whether or not it was really there or not.

That is why the Senate last time, in considering this bill, had this provision in it. This provision is identical to the one that was in S. 14, which was voted on in the Senate before.

I hope the amendment will be rejected. I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DANFORTH). Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I am willing to yield back the remainder of my time on the amendment of the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Ohio (Mr. METZENBAUM). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LEVIN (after having voted in the affirmative). Mr. President, on this vote, I have a live pair with the Senator from Nevada (Mr. CANNON). If he were here, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. ABDNOR), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Iowa (Mr. JEPSEN), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from New Mexico (Mr. SCHMITT) would each vote "nay."

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Alabama (Mr. HEFLIN), the Senator from Michigan (Mr. RIEGLE), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE), would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 7, nays 75, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—7

Biden	Metzenbaum	Proxmire
Kennedy	Moynihan	
Leahy	Pell	

NAYS—75

Andrews	East	McClure
Armstrong	Exon	Melcher
Baker	Ford	Mitchell
Baucus	Garn	Nickles
Bentsen	Glenn	Nunn
Boren	Goldwater	Packwood
Bradley	Gorton	Pryor
Brady	Grassley	Quayle
Burdick	Hart	Randolph
Byrd, Harry F., Jr.	Hatch	Roth
	Hatfield	Rudman
Byrd, Robert C.	Hawkins	Sarbanes
Chafee	Helms	Sasser
Chiles	Huddleston	Simpson
Cochran	Humphrey	Specter
Cohen	Inouye	Stennis
Cranston	Jackson	Stevens
D'Amato	Johnston	Symms
Danforth	Kassebaum	Thurmond
DeConcini	Kasten	Tower
Denton	Laxalt	Tsongas
Dixon	Long	Wallop
Dole	Lugar	Warner
Domenici	Mathias	Zorinsky
Durenberger	Matsunaga	
Eagleton	Mattingly	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Levin, for

NOT VOTING—17

Abdnor	Heflin	Pressler
Boschwitz	Heinz	Riegle
Bumpers	Hollings	Schmitt
Cannon	Jepsen	Stafford
Dodd	Murkowski	Weicker
Hayakawa	Percy	

So Mr. METZENBAUM's amendment (UP No. 1096) was rejected.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, it had been my understanding that the majority leader would come down and perhaps put us into a period of recess in which the committee and the leaders on the floor might seek to see if there is any means by which the Senator from Ohio would agree to let this bill proceed. I think the previous vote gives some indication as to the mood of the Senate, and I would hope that that might not be lost on the Senator from Ohio and that we would, indeed, see if there is not some means by which we can come to agreement as to when this bill might be voted on and what amendments may be left. Perhaps we do not need a meeting. Perhaps the Senator could tell us now.

Mr. METZENBAUM. What is the Senator asking me?

Mr. WALLOP. I wonder if the Senator has any idea how many more amendments he intends to propose and if he would be willing to seek a time agreement on them. Is there any structure that the Senator would be amenable to.

Mr. METZENBAUM. The answer is "No," but I did indicate to the leader that I was prepared to sit down in an effort to find a compromise position. However, it would not matter to me, I might say to the Senator from Wyoming—I do not want to get his hopes up high—if there were one vote or two votes for the amendment; my position is that I am going to offer the amendments that I have in mind offering——

Mr. WALLOP. Could we start there? Could we see if there is a number of those——

Mr. METZENBAUM. A number of what?

Mr. WALLOP. A number of amendments that the Senator has in mind.

Mr. METZENBAUM. Let me say I do not feel under any compulsion to advise the Senator from Wyoming how many amendments I have in mind. There is no need for me to do that. On the other hand, as I said to the majority leader, I am prepared to sit down and go down line for line on some of the matters that I would find acceptable.

Now, I do want to advise the Senator from Wyoming—it should be of interest to him—that some of the positions and amendments that I am prepared to accept were those very positions that Secretary Watt—I never thought I would be calling upon him for such support on a debate on the floor of the Senate—has publicly indicated he supports.

Now, I do not know whether this will mean much to the Senator from Wyoming, and it is possible, and I think maybe even probable that the Secretary may have changed his position for one reason or another. But the fact is the reasonableness of the position of the Senator from Ohio is confirmed by the fact that many of the minimums that I would be prepared to accept are the very positions that the Secretary of the Interior has publicly indicated he supports.

Mr. WALLOP. I think the Senator is mistaken on that. We have letters in each instance of those issues, and the Senate has already spoken on them. If the Senator wishes to make the Senate jump through the same hoop more than once, obviously that is his priviledge. But when the Senate has spoken, I would hope that the Senator would find it in his heart to let the will of the Senate be worked, let the political process which the Founding Fathers designed go into play. I see the whip is here now, and I yield to him for purposes of making a request.

Mr. STEVENS. I thank the Senator from Wyoming.

Mr. President, it was my understanding and that of the majority leader that if we stood in recess for a while there might be a possiblity of reaching some accommodation that would help us get to the point of finishing this bill this evening.

Mr. WALLOP. Obviously, that would be the desire of the Senator from Wyoming, and I am certain the desire of virtually every other Senator in the room, but it remains to be seen. The Senator from Ohio said that I should not be optimistic, and I never am when it comes to dealing with the Senator from Ohio, but nonetheless I think it is worth a try on behalf of Senators who are here who have had to make new plans.

Mr. STEVENS. Mr. President, it is my understanding there is leader time that was left remaining this morning. How much time remains to the leadership under the standing order?

The PRESIDING OFFICER. There were a total of 8 minutes remaining to the leaders under the standing order.

Mr. METZENBAUM. If the majority whip will yield——

The PRESIDING OFFICER. The recess would not be counted against anyone's time under the time agreement.

Mr. STEVENS. The recess would not be charged against anyone's time.

Does the Senator from Ohio wish to inquire?

Mr. METZENBAUM. I noted in my discussions with the majority leader that after the public debate was completed we would take this matter to a vote, and that immediately after that the majority leader indicated to me that he intended to ask for a recess.

Now, my own opinion is that you cannot do it in 5 minutes, you cannot do it in 10 minutes. I have no objection to taking a period of time, if we need additional time.

Mr. STEVENS. Until 4 o'clock?

Mr. METZENBAUM. It is worthwhile trying. We can always go back to the floor and extend it if there seems to be any progress.

RECESS UNTIL 4 P.M.

Mr. STEVENS. Mr. President, so we do not use up time that could be used to see if there is the possibility of a meeting of the minds on the matter, I ask unanimous consent that the Senate stand in recess until 4 p.m.

There being no objection, the Senate, at 3:36 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CHAFEE).

RECESS FOR 30 MINUTES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate at 4 p.m. recessed until 4:30 p.m., at which time the Senate reassembled when called to order by the Presiding Officer (Mr. CHAFEE).

ORDER FOR RECESS UNTIL 9 A.M. TOMMOROW

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, there are still negotiations underway among the principals involved in this debate.

I wish I could indicate some optimism, but I cannot. I might express some remaining hope that something can be worked out that would permit us to finish this bill today, but, once again, in all candor, I cannot express such hope for that. Therefore, Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. I yield the floor, Mr. President.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, I ask unanimous consent that I be permitted to proceed as in routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE WAR POWERS ACT AS APPLICABLE TO LEBANON

Mr. EAGLETON. Mr. President, it is a likely probability that President Reagan will send American troops to Lebanon to be interposed by consent between the PLO guerrillas and the Israeli forces. On this subject, I have sent a letter to the President and would like to read it to my colleagues:

DEAR MR. PRESIDENT: On July 6th, you announced that the United States had "agreed in principle to contribute a small contingent" of United States troops to a multinational force for "temporary peacekeeping" in Beirut should an acceptable settlement of the current hostilities be reached. I am greatly disturbed that, in the wake of your announcement, reports have circulated that the Administration does not consider the introduction of troops into Lebanon under these conditions as triggering the operative language of Sec. 4(a)(1) of the War Powers Act. ("In the absence of a declaration of war, in any case in which United States Armed Forces are introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." The Act then goes on to require timely reporting to Congress).

Mr. President, the situation in Lebanon is such that the likelihood of "imminent involvement" must be acknowledged. Any deliberate attempt to downplay the gravity of the situation and the risks facing those troops to be dispatched to Lebanon would violate both the spirit and letter of the law. Further, the "law" of common sense would be violated because the whole world knows that there are inherent and inescapable risks to the introduction of any troops of any nationality, said troops to be placed between Israeli forces and P.L.O. guerrilla forces. For example, even if Mr. Arafat and Prime Minister Begin give the most thorough and well-intended of guarantees of safety, etc., there is a high probability that one or more P.L.O. die-hards will take a pot shot at American troops simply for the martyred glory of doing so.

As one of the three Senate authors (Javits, Stennis, and Eagleton) of the original Senate War Powers Act, I can speak with authority as to the intent of Congress with respect to the phrase "imminent hostilities." In 1971, I testified before the Senate Foreign Relations Committee on the meaning of those words.

"Obviously hostilities include land, air, or naval action taken by the Armed Forces of the United States against other armed forces or the civilian population of any other nation. But Senate Joint Resolution 59 is more specific. It includes the deployment of U.S. forces outside the United States under circumstances where imminent involvement in combat activities is a reasonable possibility."

There was never any doubt in my mind or that of Senator Javits or Senator Stennis as to what our intent was. We described "imminent hostilities" as hostilities which were "reasonably possible."

Mr. President, the decision to send troops to Lebanon is obviously a delicate, sensitive, and grave matter. If it be your considered judgment that American troops should be sent, I trust you will do so in total conformity with the War Powers Act and especially the operative section, Sec. 4(a)(1).

Yours very truly,

THOMAS F. EAGLETON,
U.S. Senator.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now have a brief period for the transaction of routine morning business to extend not past the hour of 4:50 in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

GERMAN RESPONSE TO NO FIRST USE OF NUCLEAR WEAPONS IN EUROPE

Mr. PROXMIRE. Mr. President, the debate over the no first use of nuclear weapons in Europe deeply involves the opinions of our allies there. When four prominent American specialists urged the United States to adhere to a no first use philosophy, the Germans reacted swiftly.

This is an important consideration, given the fact that any nuclear war in Europe undoubtedly will be fought on German soil to some extent. Thus their opinion is of paramount importance.

While the diplomatic reaction was swift, the more detailed analysis of the problems with a no first use statement has just become available from German authorities. They have found the political implications of no first use to be "profoundly disturbing." They argue that it concedes conventional military superiority to the Warsaw Pact nations and that Soviet forces would not face the prospect of a nuclear attack if they do invade. This grants the Russians a military advantage of some proportion.

Finally, the Germans also argue that if the United States distinguishes between nuclear and nonnuclear war in Europe in response to aggression there, this can only make conventional war more likely.

Mr. President, I ask unanimous consent that a Wall Street Journal article on this issue be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 9, 1982]

NO FIRST USE? GERMANS ANSWER BUNDY & CO.

(By Neil Ulman)

In the debate over nuclear weapons, no people have more reason than the Germans to fear the nuclear horror and wish it would somehow pass from them. Both NATO and Warsaw Pact forces stockpile battlefield nuclear weapons in Europe. As the Germans know only too well, any war that erupted there would be fought on their territory. Their foreign and defense policies are aimed at preventing that.

Yet they reacted with anxiety and dismay last April when four prominent Americans proposed in an article in Foreign Affairs Quarterly that the United States work toward a policy renouncing any first use of nuclear weapons in Europe. Foreign Minister Hans-Dietrich Genscher immediately reaffirmed Germany's adherence to the NATO strategy of flexible response. That strategy contemplates the use of nuclear weapons if it appeared that NATO's outnumbered forces in Europe were in danger of being overrun by a conventional Warsaw Pact attack.

A German government spokesman privately deplored the "no first use" article by McGeorge Bundy, former special assistant for national security affairs to Presidents Kennedy and Johnson; George F. Kennan, former U.S. ambassador to the Soviet Union; Robert S. McNamara, former secretary of defense, and Gerard Smith, chief U.S. SALT negotiator from 1969 to 1972. A top German foreign ministry official saw "great problems" caused by the article, and a parliamentary leader promised there would be a German response.

The Germans have now replied, Karl Kaiser, director of Germany's top foreign policy research institute; Georg Leber, Social Democratic member and vice president of the parliament (and a former defense minister); Alois Mertes, a Christian Democrat and member of the parliamentary foreign affairs committee, and Franz-Josef Schulze, a retired general and former commander of NATO's Central European forces, have all joined in another Foreign Affairs article to reject the idea of "no first use." However pacific its intent, they say, such a policy would only "make war more probable."

While they are writing in their private capacities, their article is "very close to the thinking of the German government," says Deputy Foreign Minister Peter Corterier who traveled through the U.S. last week on government business.

The thinking is worth having. More than a discussion of military strategy or arms control, it is also a telling commentary on German-American relations. It is the troubled confidence in those relations that spills over, however indirectly, in disputes over East-West trade and the Soviet gas pipeline as both Germans and Americans compulsively examine each nation's commitment to

the other. For in ways that Messrs. Bundy & Co. may not have imagined and that most Americans might initially find difficult to fathom, the Germans have found the political implications of "no first use" to be "profoundly disturbing."

"No first use" is a military loser for NATO, and that may explain why the Soviets have been suggesting it for years and why it was a highlight of Leonid Brezhnev's recent disarmament message to the United Nations.

As the German authors explain, a "no first use" pledge by NATO would concede a huge military advangage in Europe to the numerically superior Warsaw Pact. "Even in the case of a large-scale conventional attack against the entire European NATO territory, the Soviet Union could be certain that its own land would remain a sanctuary (from nuclear response) so long as it did not itself resort to nuclear weapons," the Germans write. (Elsewhere, in another Foreign Affairs article, Gen. Bernard Rogers, NATO's Supreme European commander, points out another military disadvantage of "no first use." It would give up "the tactical advantage to the defender" wherein a nuclear threat acts as "a restraint on the tactical massing of Warsaw Pact forces preparatory to an assault.")

But more immediate and profound than the military implications of "no first use" would be its political consequences, say the German authors. It would, they charge, ". . . destroy the confidence of Europeans and especially of Germans in the European-American Alliance as a community of risk and would endanger the strategic unity of the Alliance and the security of Western Europe."

Therein, of course, lies the diplomatic value to Soviet policy of "no first use." Even if no shot is ever fired "no first use" could be a wedge to drive between the U.S. and Germany.

The German authors' warning goes to the heart of the current malaise in Germany over the American commitment to the alliance. "German debate over the American nuclear commitment to defend Europe is like the Loch Ness Monster, says Germany's Mr. Corterier. "It has to come up from time to time."

Americans have consistently risked hundreds of thousands of troops and billions of dollars in this century to defend Europe, says the junior minister. What is new in the age of Soviet-American strategic nuclear parity "is that the U.S. risks its very existence for Europe." It is natural for Europeans to wonder from time to time if the U.S. really means that and to look for reassurance that it does.

In the "no first use" proposal, however, the German authors writing in Foreign Affairs saw "a withdrawal of the U.S. from its previous guarantee . . . at stake." The Germans find any such suggestion particularly difficult to deal with at a time when their government is supporting a NATO decision to deploy medium-range nuclear missiles in Germany should current Soviet-American arms control talks on these missiles fail. With NATO asking the Germans to take more risk on their soil, any suggestion that the U.S. would wiggle out of its share of risk is most unhelpful.

Finally, say the Germans, uncoupling the risk of nuclear attack from conventional attack can only make conventional war more thinkable, therefore more likely. The alternative, a buildup of conventional NATO forces to match the Warsaw Pact, would leave Germany "transformed into a large military camp for an indefinite period of time." Neither the German economy nor German society could stand that, they say. "And even if we had a conventional balance, we would still need the link with the American nuclear umbrella," says Mr. Corterier.

The arms control debate isn't simple and it isn't over. But there is instructive paradox for peace marchers in the fact that those who face the nuclear horror most starkly find only more danger in "no first use," one of the season's catchier quick fixes.

DEATH IN CAMBODIA

Mr. PROXMIRE. Mr. President, the White House News Photographers' Association is currently holding its 39th annual exhibition at the Library of Congress. The photographs in this fascinating exhibition offer glimpses of the beauty, humor, poignance, and horror of human life.

Among this collection of striking photographs is one which particularly arrests the viewer's gaze. It is a picture of a field in Cambodia. This field is strewn with human bones. It is hard to see the grass and the rocks because there are so many bones. Hundreds of skulls, thousands of ribs, hundreds of limbs lie bleaching in the sun. The field has become a sea of bones.

These were once living, breathing people, and this photograph is a tacit yet eloquent testimony to their death. For these people did not die through disease, or old age, or accident. They did not gather in this field to be struck down by lighting. They were brought to this field against their will, and in this field, they were deliberately and systematically killed.

It is clear from this photograph, and from many other reports, that the Cambodians have suffered mass slaughter of genocidal proportions. It is clear from this photograph that here is a place where people have been routinely killed, not because of their individual characteristics or actions, but because they belonged to a group that was seen by their killers as a problem or a threat. And this is the kind of atrocity that we must do everything we can to stop.

Our first step in this direction must be to ratify the International Genocide Convention. By doing so, we would signal to the endangered peoples of the world our concern for their plight. We would provide ourselves with a moral weapon with which to attack those who are responsible for horrifying violations of human rights. We might perhaps be able to prevent some instances of bloodshed.

Mr. President, I ask my colleagues to go take a look at that photograph of the Cambodian field. And then I ask them to go home and think hard about the Genocide Convention.

Thank you, Mr. President.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BAKER. Mr. President, for a change I think I may be the bearer of glad tidings. I have just returned from a meeting which is in progress among the principals to this matter, and they all advise me that they think they are making good progress; that, indeed, they may be able to resolve the issues which remain between them, and they need a little more time. They need a little time then to permit staff to draft an agreement, if they get an agreement.

I have indicated to them that I would ask unanimous consent that the Senate stand in recess until 5:30 in order to accommodate those requirements, and I now do so.

There being no objection, the Senate, at 4:47 p.m., recessed until 5:28 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENS).

ORDER OF PROCEDURE

Mr. WALLOP. Mr. President, for the interest of Senators who may be listening in their offices, after a good deal of fervent and passionate negotiations, we have reached an agreement which we will offer as a single amendment, subject, of course, to the time limitations upon it, though there is time on the bill should that be necessary. We think and hope that it is not.

As soon as that amendment is drafted, I will introduce it, and the Senator from Ohio and the Senator from Wyoming will discuss what it does. We would hope at that time to propound a unanimous-consent agreement that no further amendment be in order prior to third reading other than technical, and would hope that Senators would be prepared to respond to that request when they come over.

My suggestion is that after the amendment is offered and a general explanation of it has been given, that we then propound that request so that Senators have the opportunity to find their way over here and listen as well to the amendment as it is explained.

At that time, the Senator from Ohio and I will try to respond to any questions Senators may have. We would hope that would then be the final amendment and would hope then that we could go to final passage immediately thereafter.

Mr. METZENBAUM. Mr. President, the Senator from Wyoming has stated

the situation exactly as I understand it to be. We have reached agreement. We are now awaiting the drafting of specific language. I would hope that we could bring this matter to a conclusion in rather short order once the amendment is in final form.

I might say that I appreciate the cooperation extended by the Senator from Wyoming, the Senator from Idaho, and the Senator from Washington, the ranking minority member.

Mr. WALLOP. Mr. President, I thank the Senator from Ohio. It could obviously not have been done without the fine cooperation which was given by the Senator from Ohio to all of us in those negotiations.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HATCH). Without objection, it is so ordered.

THE ATTORNEY GENERAL, VOLUNTARY SCHOOL PRAYER, AND THE INTEGRITY OF THE CONSTITUTION

Mr. HELMS. Mr. President, as was widely publicized at the time, Attorney General Smith issued an opinion letter concerning my voluntary school prayer bill, S. 1742, on May 6, 1982. Although the letter did not explicitly assert that the bill was unconstitutional, it advanced a legal theory which might well be used to impeach the constitutionality of the bill.

As President Reagan, my colleagues in the Senate, and the Attorney General himself know, I have the highest respect for William French Smith. He is an outstanding lawyer, a fine administrator, and a dedicated public servant who has served the country and President Reagan well. Government needs people like William French Smith who are willing to sacrifice the comfort and quiet of private life for the sake of public service. And Attorney General Smith knows the sacrifice I am talking about because he has been on the receiving end of some rather sharp criticism, both personal and professional. He knows that this is one of the costs of public service.

Mr. President, it is not my purpose today to add to that kind of criticism of the Attorney General—criticism which all of us in public office receive from time to time. Rather, it is my intention to show my colleagues and the public that there is a considerable weight of legal opinion contrary to the opinion expressed in the Attorney General's May 6 letter.

Along with many others, I believe that the voluntary prayer bill is fully constitutional. The materials I place in the RECORD today demonstrate that fact. Moreover, I believe it is the duty of Congress to enact such legislation in order to preserve the integrity of the Constitution. Federal judges, in the area of school prayer and in other areas, have distorted the Constitution beyond recognition, and in so doing they have undermined the very foundation of Government and its role in American society. Congress, holding explicit constitutional power which can be used to ameliorate judicial abuses, cannot stand idly by while Federal judges plow under the traditional liberties of the American people. Too many sacrifices have been made by too many people for Congress to play dead at the hands of social engineers clothed in judges' robes. Congress under the authority of the Constitution will have the last word or else the Constitution, as we and our forebears have known it, will remain radically altered by judicial fiat without the ratification of a single constitutional amendment.

So long as I am in the Senate, Mr. President, I will do everything I can to make sure that Congress has the last word in the task of preserving the Constitution against judicial distortion. We owe this effort to our constituents and to our history as a people.

Mr. President, I ask unanimous consent that my letter of July 14, 1982, to the Attorney General and three of its five enclosures be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, the two enclosures not printed in the RECORD are as follows: First, Statement of Senator JOHN P. EAST appearing in the CONGRESSIONAL RECORD of March 17, 1982, beginning on page S2255; and second, Raoul Berger, "Congressional Contraction of Federal Jurisdiction" (1980 Wisc. L. Rev. 801).

EXHIBIT 1

U.S. SENATE,
Washington, D.C., July 14, 1982.

Hon. WILLIAM FRENCH SMITH,
Attorney General, U.S. Department of Justice, Washington, D.C.

DEAR BILL: A letter over your signature, dated May 6, was sent to Senator Thurmond regarding S. 1742, a bill withdrawing jurisdiction from the federal courts in cases involving voluntary prayers in public schools. The letter in part argues that the power of Congress under Article III, Section 2 of the Constitution to regulate the appellate jurisdiction of the Supreme Court is limited by some "core functions" test.

Although this "core functions" test is superficially intriguing, I am at a loss to find anything in the text of the Constitution, among the predecents or in constitutional history to support it. Thus, the "core functions" test strikes me as the kind of legal fiction so often used by the courts in the recent past to distort the meaning of the Constitution.

Such legal fictions share two characteristic features with this so-called "core functions" test. First, they are result-oriented to the detriment of constitutional text, purpose, and history. Second, they leave judges with a high degree of discretion in future cases because the putative constitutional test is comprised of heavily subjective elements.

For example, the "core functions" test is defined in your letter as follows:

"In determining whether a given exception would intrude upon the core functions of the Supreme Court, it is necessary to consider a number of factors, such as whether the exception covers constitutional or nonconstitutional questions, the extent to which the subject is one which by its nature requires uniformity or permits diversity among the different parts of the country, the extent to which Supreme Court review is necessary to ensure the supremacy of federal law, and whether other forums or remedies have been left in place so that the intrusion can properly be characterized as an exception."

These factors are so subjective in themselves and in their relative weights that they defy regular and predictable application by courts of law. Instead, they guarantee that the personal predilections of judges will prevail over any concrete rule of law. I cannot believe the Framers had any such intention.

On the contrary, does not the text of Article III, Section 2 support my view that it was meant as one check among others that Congress has over the Supreme Court? Congress certainly cannot make rulings in particular cases before the Court, but it can—under Article III, Section 2—deprive the Supreme Court of jurisdiction to hear particular classes of cases. This view is entirely consistent with the whole constitutional structure of checks and balances.

In support of this view I enclose the following for your consideration:

1. Letter dated May 26, 1982, from Professor Charles E. Rice of the Notre Dame Law School.

2. Article appearing in the June 1982 issue of the American Bar Association Journal by Carl A. Anderson, my former legislative assistant and now counselor to the Undersecretary at HHS.

3. Statement by Senator John P. East appearing in the Congressional Record of March 17, 1982 including additional articles by Professor Rice, Mr. Anderson, and Senator East himself and an article by C. Dickerman Williams from the National Review of February 5, 1982.

4. Undated legal memorandum of former Senator Sam J. Ervin, Jr.

5. Article appearing in the 1980 volume of the Wisconsin Law Review by Professor Raoul Berger of the Harvard Law School.

In light of these authorities I hope you will consider revising your May 6 letter to Senator Thurmond. I have great respect for you, but the theory of that letter, in my judgment, is wrong.

Kindest personal regards.

Sincerely,

JESSE HELMS.

NOTRE DAME LAW SCHOOL,
Notre Dame, Ind., May 26, 1982.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: I take the liberty of offering for your consideration a few comments on the Attorney General's letter of May 6th to Senator Thurmond concerning S. 1742 which would withdraw appellate jurisdiction from the Supreme Court in cases involving voluntary prayers in public schools.

The Attorney General concedes that Article III, Section 2, gives Congress "some power to regulate the appellate jurisdiction of the Supreme Court." (p. 2) However, the essence of his position is that "Congress may not, however, consistent with the Constitution, make 'exceptions' to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers." (p. 2) This theory is commonly traced to the suggestion by Professor Henry M. Hart, Jr., that the exceptions made by Congress to the Supreme Court's appellate jurisdiction "must not be such as will destroy the essential role of the Supreme Court in the constitutional plan." [Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 66 Harv. L. Rev. 1362, 1365 (1953)] Significantly, this theory was advanced by Professor Hart in response to the suggestion that Congress could satisfy the Exceptions Clause of Article III, Section 2, by removing all but a "residuum of jurisdiction," for example, by withdrawing jurisdiction in "everything but patent cases." [Ibid, p. 1364] Professor Hart acknowledged that the Supreme Court has never "done or said anything to suggest that it is prepared to adopt" that view, because "it has never had occasion to " since "Congress so far has never tried to destroy the Constitution." [Ibid., p. 1365]

Whatever the relevance of the "core functions" test advocated by the Attorney General, or the "essential role" test of Professor Hart might be to a wholesale withdrawal of jurisdiction in "everything but patent cases," such a test cannot properly be applied to a surgical removal of jurisdiction over a particular type of case, as provided by S. 1742 with respect to school prayer. The Attorney General's application of the "core function" theory to a limited measure such as S. 1742 is contrary to the clear language of the Exceptions Clause, the intent of the Framers and the consistent indications given by the Supreme Court itself.

The Attorney General relies upon the "lack of controversy surrounding the adoption of the Exceptions Clause" to support his theory that "nopower to intrude upon the Court's core functions was intended" by the Convention. (p.7) A more reliable indicator of the Convention's intent, however, is the opinion of Chief Justice Ellsworth in Wiscart v. D'Auchy. [3 U.S. (3 Dall.) 32. (1796)] Chief Justice Ellsworth was a member of the Convention's Committee on Detail which drafted the Exceptions Clause. Later, as a Member of Congress, he was the principal author of the Judiciary Act of 1789. In Wiscart, he interpreted very broadly Congress' power over the appellate jurisdiction of the Supreme Court: "If Congress has provided no rule to regulate our proceedings, we cannot exercise an appellate jurisdiction; and if the rule is provided, we cannot depart from it. The question, therefore, on the constitutional point of an appellate jurisdiction is simply, whether Congress has established any rule for regulating its exercise?" [3 U.S. at 326] Far from supporting any sort of "core functions" theory, Wiscart and succeeding cases established the so-called "negative pregnant" doctrine under which a specific authorization by Congress of appellate jurisdiction was construed by the Supreme Court to imply that jurisdiction was excluded in all other cases. [See the opinion of Chief Justice Marshall in U.S. v. More, 7 U.S. (3 Cranch) 159, 172 (1805)]

Ex parte McCardle [74 U.S. (7 Wall.) 506, 513-14 (1868)], of course, upheld a statute withdrawing appellate jurisdiction only in habeas corpus cases under the 1867 act. It did not involve a withdrawal of jurisdiction in all habeas corpus cases. And it is true that there is no case presenting the issue of a statute wholly withdrawing appellate jurisdiction from the Supreme Court over a class of cases such as those involving school prayer. However, there are numerous statements in Supreme Court opinions on the subject. With the sole exception of a fragmentary comment by Justice Douglas in Glidden v. Zdanok [370 U.S. 530, 605, fn. 11], which he later retracted in Flast v. Cohen [392 U.S. 83, 109 (1968)], every statement by the Supreme Court on the issue clearly supports the conclusion that S. 1742 is surely within the power of Congress; there is not one single word in any Supreme Court opinion which would establish or justify the "core functions" theory advanced by the Attorney General. Indeed, in U.S. v. Klein [80 U.S. 13 Wall.) 128 (1872)], the only case ever to strike down (on special grounds peculiar to the statute involved in that case), a statute enacted under the Exceptions Clause, the Supreme Court expressly reiterated that Congress does have the power to deny appellate jurisdiction "in a particular class of cases":

Undoubtedly the legislature has complete control over the organization and existence of that court and may confer or withhold the right to appeal from its decisions. And if this act did nothing more, it would be our duty to give it effect. If it simply denied the right of appeal in a particular class of cases, *there could be no doubt that it must be regarded as an exercise of the power of Congress to make "such exceptions from the appellate jurisdiction" as should seem to it expedient.* [80 U.S. at 145] (emphasis added)

While the Klein case was not cited in the Attorney General's letter, its clear affirmation of the broad power of Congress to remove "a particular class of cases" from the appellate jurisdiction of the Court confirms the consistent lack of support in Supreme Court opinions as well as in the history and language of the clause, for any sort of "core functions" limitation on the power of Congress under the Exceptions Clause. And even if there were such a "core functions" test, it could hardly be sound to apply it so as to invalidate the surgical removal of a precisely defined jurisdiction as proposed in S. 1742.

For various reasons, as outlined in my testimony in the Senate and House hearings on the subject, I believe that the removal of Supreme Court appellate jurisdiction in such matters as school prayer and abortion, would be desirable as a matter of policy. This letter, however, concerns only the constitutional issue raised by the Attorney General's advancement of the "core functions" theory. In my opinion, his employment of that theory as a basis for arguing that S. 1742 is beyond the power of Congress is utterly unwarranted by the language, history and Supreme Court interpretations of the Exceptions Clause.

I hope these remarks will be helpful. If there is any further information I can provide, please let me know.

Sincerely,

CHARLES E. RICE,
Professor of Law.

THE GOVERNMENT OF COURTS: THE POWER OF CONGRESS UNDER ARTICLE III

(By Carl A. Anderson)

The American Bar Association has had a consistent position with regard to proposals that Congress exercise its authority under Article III, Section 2, of the Constitution, to limit the appellate jurisdiction of the Supreme Court. The House of Delegates in 1950 approved a resolution urging an amendment to the Constitution establishing in the Supreme Court appellate jurisdiction in all cases arising under the Constitution, both as to law and fact. Since then the House of Delegates on several occasions has passed resolutions in opposition to legislation removing Supreme Court appellate jurisdiction in certain cases. There may be good reasons for the A.B.A. to continue its traditional stance of opposing legislative initiatives to implement the exceptions clause, but those reasons must be grounded in practical considerations regarding specific legislation, for the authority of the Congress to determine the Supreme Court's appellate jurisdiction is simply beyond dispute.

Article III, Section 2, of the Constitution provides that the "Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." As Prof. William Van Alstyne noted in 15 *Arizona Law Review* 229 (1973), the dependency of the Supreme Court's appellate jurisdiction on the action of Congress was acknowledged early in our constitutional history by the Court in opinions that constituted an "unwavering line" through five chief justices: Oliver Ellsowrth, John Marshall, Roger B. Taney, Salmon P. Chase, and Morrison Waite.

Most instructive on the issue of the intent of the framers of the exceptions clause is the work of Oliver Ellsworth. As a member of the Constitutional Convention's Committee on Detail, he helped draft the exceptions clause. As a member of Congress, he was the principal author of the Judiciary Act of 1789. And as chief justice, he first interpreted the exceptions clause in *Wiscart* v. *D'Auchy,* 3 Dallas 321 [1796], to affirm the broad power of Congress under it. Rejecting arguments that the Supreme Court should itself be the final arbiter of the extent of its appellate power, he wrote: "Here, then, is the ground, and the only ground, on which we can sustain an appeal. If Congress has provided no rule to regulate our proceedings, we cannot exercise an appellate jurisdiction; and if the rule is provided, we cannot depart from it."

Equally important are John Marshall's remarks in 1788 before the Virginia ratifying convention: "What is the meaning of the term 'exceptions'? Does it not mean an alteration and diminution? Congress is empowered to make exceptions to the appellate jurisdiction, as to law and fact, of the Supreme Court. These exceptions certainly go as far the legislature may think proper for the interest and liberty of the people."

Later as chief justice in *United States* v. *More,* 3 Cranch 159 (1805), Marshall af-

firmed Ellsworth's principle and made clear that the exceptions clause would permit Congress to make exceptions to the Court's appellate jurisdiction over an important class of cases based on their subject matter: "[A]n affirmative description of its [this Court's] powers must be understood as a regulation, under the Constitution, prohibiting the exercise of other powers than those described." In *More* the Court held it could not exercise appellate jurisdiction in criminal cases since Congress had failed to grant it that jurisdiction expressly.

During the intervening years the Court repeatedly recognized the authority of Congress to limit the appellate jurisdiction of the Court—*Durousseau* v. *United States*, 6 Cranch 307 (1810); *Barry* v. *Mercein*, 5 How. 103 (1847); and *Daniels* v. *Railroad Company*, 3 Wall. 250 (1865). The following observation from Daniels is illustrative: "It is for Congress to determine how far, within the limits of the capacity of this court to take, appellate jurisdiction shall be given, and when conferred, it can be exercised only to the extent and in the matter prescribed by law. In these respects it is wholly the creature of legislation."

Even Justice Joseph Story, who was repeatedly critical of congressional action under Article III, wrote in his Commentaries on the Constitution that the exceptions clause was intended "to enable Congress to regulate and restrain the appellate power, as the public interest, might from time to time, require."

It was against this backdrop that the Court first considered the constitutionality of an act of Congress specifically creating an exception to its appellate jurisdiction. Ex parte McCardle, 7 Wall. 506 (1868), involved a Mississippi newspaper editor's appeal, under an 1867 amendment to the Judiciary Act of 1789, for a writ of habeas corpus. Three days after arguments on the merit of McCardle's appeal were made before the court, Congress repealed the 1867 law, fearing that the Court's decision would declare unconstitutional the Military Reconstruction Act of 1867. More than a year later the Supreme Court announced its unanimous decision. Observing that it was "hardly possible to imagine a plainer instance of positive exception," Chief Justice Chase concluded: "We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words."

Despite the Court's decision in McCardle—and, more important, despite the fact that it was part of an unbroken judicial interpretation of Article III—some people have cast doubt on the authority of Congress under the exceptions clause. Prof. Henry M. Hart, Jr., for example, proposed in 66 Harvard Law Review 1362 (1953) that the activity of Congress under the exceptions clause "must not be such as will destroy the essential role of the Supreme Court in the constitutional plan." The basic difficulty with this essential role test was recognized by Professor Hart himself when he observed that the Supreme Court has never "done or said anything" to indicate it would adopt his view.

But there is, or ought to be, a more fundamental question: Just what is the constitutional plan to which Professor Hart adverts? His argument neglected to provide an answer, except to say that in the "scheme" of the Constitution the state courts are the "primary guarantors" of constitutional rights.

The "constitutional plan" embodied in Article III is essentially a compromise between two very different views of the role of federal judicial power. Prof. Paul Bator observed in testimony before a Senate subcommittee last year: "The essence of that compromise was an agreement that the question of access to the lower federal courts as a way of assuring the effectiveness of federal law should not be constituted as a matter of constitutional principle, but rather, should be left a matter of political and legislative judgment to be made from time to time in the light of particular circumstances."

The power of Congress to define entirely the jurisdiction of lower federal courts is well settled. Writing for the Court in *Lockerty* v. *Phillips*, 319 U.S. 182 (1943), Chief Justice Stone stated: "Article III left Congress free to establish inferior federal courts or not as it thought appropriate. It could have declined to create any such courts, leaving suitors to the remedies afforded by state courts with such appellate review by this Court as Congress might prescribe." Justice Harlan in *Glidden Company* v. *Zdanok*, 370 U.S. 530 (1962), observed: "The great constitutional compromise that resulted in agreement upon Article III, Section 1, authorized but did not obligate Congress to create inferior federal courts." More recently, in 1973, Justice White, in *Palmore* v. *United States*, 411 U.S. 389, maintained that the "decision with respect to inferior federal courts, as well as the task of defining their jurisdiction, was left to the discretion of Congress."

It is little wonder that the Supreme Court specifically upheld the power of Congress to withdraw, through the Norris-LaGuardia Act of 1932, federal court jurisdiction to issue injunctions in labor disputes. *Lauf* v. *E. G. Shinner & Company*, 303 U.S. 323 (1938). In the context of 149 years of constitutional history, it could hardly have done otherwise.

It cannot be assumed that the framers of the Constitution isolated their careful consideration and drafting of the exceptions clause from the broader issue of the role of Congress in shaping the exercise of the federal judicial power. To the contrary, the broad power of Congress to establish exceptions and regulations to the appellate jurisdiction of the Supreme Court would appear to be a necessary function related to its power respecting the establishment of inferior federal courts.

Prof. Herbert Wechsler concluded in 65 *Columbia Law Review* 1001 (1965):

"There is, to be sure, a school of thought that argues that 'exceptions' has a narrow meaning, not including cases that have constitutional dimension; or that the supremacy clause or the due process clause of the Fifth Amendment would be violated by an alteration of the jurisdiction motivated by hostility to the decisions of the Court. I see no basis for this view and think it antithetical to the plan of the Constitution for the courts—which was quite simply that the Congress would decide from time to time how far the federal judicial institution should be used within the limits of the federal judicial power: or stated differently, how far judicial jurisdiction should be left to the state courts, bound as they are by the Constitution."

Relatively recent statements by members of the Supreme Court reinforce a broad interpretation of congressional power under Article III. In *National Mutual Insurance Company* v. *Tidewater Transfer Company*, 337 U.S. 582 (1949), Justice Frankfurter, dissenting, observed that "Congress need not establish inferior courts; Congress need not grant the full scope of jurisdiction which it is empowered to vest in them; Congress need not give this Court any appellate power; it may withdraw appellate jurisdiction once conferred and it may do so even while a case is subjustice."

Also in 1949 Justice Roberts, writing in 35 *American Bar Association Journal* 1, proposed an amendment to the Constitution to vitiate the exceptions clause power of Congress, declaring, "I do not see any reason why Congress cannot, if it elects to do so, take away entirely the appellate jurisdiction of the Supreme Court of the United States over state supreme court decisions." Justice Roberts was appalled at that prospect, but he did not doubt its possibility.

In *Glidden* Justice Harlan, in an opinion joined by Justices Brennan and Stewart, affirmed *McCardle:* "Congress has consistently with that article [Article III] withdrawn the jurisdiction of this Court to proceed with a case then *subjudice, Ex parte McCardle;* its power can be no less when dealing with an inferior court." In his dissenting opinion Justice Douglas objected to this acceptance of *McCardle.* "There is a serious question," Douglas wrote, "whether the *McCardle* case would command a majority view today." While this statement is cited sometimes to cast doubt on McCardle's continued vitality, it is just as frequently overlooked that by 1968 Justice Douglas had changed his mind. In *Flast* v. *Cohen* he maintained: "As respects our appellate jurisdiction, Congress may largely fashion it as Congress desires by reason of the express provisions of Section 2, Article III. See *Ex parte McCardle. . . .*" 392 U.S. 83, 109 (1968).

The simple incantation of the phrases "supremacy clause" or "equal protection clause" should be insufficient to resolve the constitutional question of legislation enacted under the authority of the exceptions clause unless, of course, it is supposed that uniformity is the supreme constitutional mandate, in which case the matter then is settled by definition. Is the supremacy clause or equal protection of the law violated by a congressional decision to permit state supreme courts to be the courts of final appeal regarding state statutes and executive actions on a particular subject?

In this context it is instructive to consider S. 481, introduced in the 97th Congress by Jesse Helms and John East. Of all the current proposals for congressional exercise of the exceptions clause, this is by far the most formidable. An earlier version was twice passed by the Senate during the previous Congress, and congressional observers consider it likely that by one parliamentary procedure or another the legislation again will be brought to the Senate floor this year. It therefore can be considered the paradigm, for good or ill, of the exceptions process.

It provides, in part, that:

"[T]he Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any state statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a state statute, ordinance, rule or regulation, which relates to voluntary prayers in public schools and public buildings.

"For purposes of this section, the term 'voluntary prayer' shall not include any prayer composed by an official or employee of a state or local governmental agency."

S. 481 does not attempt either to "overturn" or to "freeze into the Constitution" the Supreme Court's opinion in *Engel* v. *Vitale*, 370 U.S. 421 (1962), striking down the New York State Board of Regents' prayer. Government authorized prayers would remain within the Court's purview. The Court, however, would be prohibited from extending its past holdings to strike down a state practice in which students are permitted to recite prayers they themselves had composed or selected.

Nor would S. 481 affect the power of federal courts to protect individual rights related to the free exercise of religion. Allegations of coercion could still be heard and relief from involuntary activities could still be sought in federal court. S. 481 would effect only a realignment between the federal and state governments respecting the establishment clause and then only in regard to a single issue: voluntary prayer. It can hardly be argued that uniformity of state practice concerning this issue was part of the "constitutional plan" intended by the framers of the First Amendment, especially since five of the states that ratified the Constitution had established, tax-supported churches at the time. Prof. Raoul Berger has written that this legislation "merely seeks to restore self-rule to the states with respect to school prayers—an autonomy reserved to the states from the very beginning." 1980 Wisconsin Law Review 801.

The question is not whether we approve that particular bill or others patterned after it. The issues is whether that sort of legislation would be a valid exercise of the exceptions clause. Everything indicates that it would be. Everything, that is, except the unwillingness of some people to accept any limitations on the authority of the Supreme Court.

The Court's preservators have been more protective than the Court itself. No Supreme Court decision has concluded that the language of the exceptions clause means anything less than it says—that Congress possesses plenary power to make exceptions to and regulations of the appellate jurisdiction of the Supreme Court. Nor has any decision of the Court sought to amend Article III by provisions of Section 2, Congress shall make no exceptions to the appellate jurisdiction of the Supreme Court which affects the Court's ability to enforce the equal protection of the laws, or preserve the supremacy of its own decisions, or protect its essential role in the constitutional plan."

The Court has recognized the authority of Congress in an unbroken line of opinions, of which *McCardle* was one consistent part. *McCardle* may be old, but as recently as 1962 it was found by the Court in *Glidden* still to be good law. The historical fact that this power has been infrequently used does not mean it has ceased to exist. There is no constitutional doctrine of atrophy.

Congressional power under the exceptions clause is itself an important aspect of the constitutional plan for the Supreme Court designed in Article III. When the Court acts, in the words of Prof. Wallace Mendelson, "to impose extraconstitutional policies upon the community under the guise of interpretation," the Court highlights the wisdom of the founding fathers in reserving those issues to the states. Rather than resolving difficult legislative problems, judicial intervention into abortion, busing, school prayer, as well as other subjects, has inflamed public debate and seriously altered American electoral demographics during the decades of the 1970s and 1980s.

Prof. Louis Lusky has observed that the Court's new role rests on the "assertion of the power to revise the Constitution, bypassing the cumbersome amendment procedure prescribed by Article V," and on the "repudiation of the limits on judicial review that are implicit in the orthodox doctrine of Marbury v. Madison." 6 Hastings Constitutional Law Quarterly 403 (1979). As Professor Hart suggested in his article, the question of congressional power under the exceptions clause is related to the role of the Supreme Court in the constitutional plan, and that, as Prof. Henry Abraham observed, "is not a question of judicial institutional capacity; it is rather one of judicial constitutional legitimacy."

In the February, 1982, issue of this Journal (page 159), Robert W. Meserve argues that the limitations on congressional power under the exceptions clause are so encompassing that one is left with the distinct impression that Congress may act to make only the most noncontroversial, technical amendments of the Court's jurisdiction. The article, however, fails to explain why, if this is so, the Court itself has used the broadest language in describing congressional power, or why defenders of the Court's prerogatives of no less stature than John Marshall viewed the provision as empowering Congress to diminish the jurisdiction of the Court as far as necessary to protect the "liberty of the people."

The article maintains that Congress "does not have authority . . . to deny the only remedy ultimately effective to right constitutional wrongs." Why this is so is not entirely clear. Section 5 of the 14th Amendment provides that "Congress shall have power to enforce, by appropriate legislation, the provisions of this article." Professor Berger's book, Government By Judiciary, demonstrates adeptly that the authors of the 14th Amendment were not confident of the Court's ability to enforce the amendment. As Justice Brennan maintained in United States v. Guest, 383 U.S. 745 (1966), "the primary purpose of the amendment was to augment the power of Congress, not the judiciary."

It would seem reasonable that this enforcement power would include at the very least the power to determine what is an adequate or proper federal remedy. The fact that state and federal court judges may disagree over the utility of a certain remedy in particular circumstances would appear to violate the Constitution no more than the fact that federal judges may and often do disagree over the proper remedy when considering the same set of circumstances.

United States v. Klein, 13 Wall. 128 (1871), is cited in the Meserve article to indicate "that the Court will not allow legislation to undermine the fundamental judicial protection of individual rights." This broad interpretation is accurate only in the sense that Klein stands for the proposition that the Court will not allow Congress to use the exceptions clause to alter the proceedings of the Court in favor of a particular class of parties.

In Klein the Court for the first and only time invalidated legislation enacted under the exceptions clause. Klein sought indemnification for property seized during the Civil War, in reliance on prior Supreme, Court and Court of Claims decisions that a presidential pardon would make him eligible for recovery. While the case was pending before the Court, Congress amended the Judicial Expenses Act of 1871 to provide that presidential pardons, like the one Klein had received, were not to be considered sufficient proof of loyalty to enable recovery. The act also provided that the facts recited in the pardon would be conclusive evidence of disloyalty, and at that point the jurisdiction of the court should cease, and the suit must be dimissed.

After recounting this would-be effect of the statute on a judicial proceeding, Chief Justice Chase asked, "What is this but to prescribe a rule for the decision of a cause in a particular way?" The Court struck down the statute as an impermissible invasion of the judicial process to attempt to determine the outcome of litigation in favor of a particular class of litigants. The Court said, "It seems to us that this is not an exercise of the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power."

It has been suggested that this decision somewhat contradicts or casts doubt on *McCardle*. The Court in *Klein*, however, did not see it that way. It again affirmed a broad power of Congress under the exceptions clause:

"Undoubtedly the legislature has complete control over the organization and existence of that court [the Court of Claims] and may confer or withhold the right of appeal from its decisions. And if this act did nothing more, it would be our duty to give it effect. If it simply denied the right of appeal in a particular class of cases, there could be no doubt that it must be regarded as an exercise of the power of Congress to make 'such exceptions from the appellate jurisdiction' as should seem to it expedient."

Ten years after *Klein*, the Court in The 'Francis Wright', 105 U.S. 381 (1881), upheld a congressional limitation of its jurisdiction in admiralty cases to questions of law. Chief Justice Waite wrote that "while the appellate power of this court under the Constitution extends to all cases within the judicial power of the United States, actual jurisdiction under the power is confined within such limits as Congress sees fit to prescribe. . . . What those powers shall be, and to what extent they shall be exercised, are, and always have been, proper subjects of legislative control."

The Meserve article also argues that "remedy-curtailing legislation puts unfair pressure on state judges." Because they are subject to election, state judges may be put to the "great temptation" of having to choose between their duty to enforce the Constitution and their judicial careers. If this is so, the question arises: Is it not already true today whenever state judges are called on to reach a decision that may be unpopular? This is an astounding argument. One hardly knows whether it shows less faith in the democratic process or in the state judiciaries.

In light of the clear intentions of those who framed Article III and with an eye to the unbroken chain of Supreme Court Decisions over 186 years affirming the literal meaning of that article, it is no wonder that so many members of Congress view the Court's decisions on the controversial subjects of abortion, busing, and school prayer as symptomatic of a self-articulated and overextended role for the federal judiciary. A growing number of members of Congress share Professor Wechsler's view that the plan of the Constitution is for Congress to "decide from time to time how far the federal judicial institution should be used." Hearings before the Senate Judiciary Committee during the 97th Congress on legislative restraints on the judiciary indicate that in the

minds of some senators the time for a re-examination of the proper role of the federal judiciary may be rapidly approaching.

The possibility of congressional exercise of its authority under the exceptions clause may be enhanced by the current political environment. Under the Reagan administration there has been a historic change of direction in the federal government, and not just in terms of the national budget. The relationship between Washington and the states appears to be in the process of redefinition, and the outcome is far from clear at this point.

As the Congress acts to redress the eroded administrative prerogatives of the states, the climate likely will become more favorable for re-examining the relationship between state and national judiciaries. If that happens, one can argue that the use of congressional authority under the exceptions clause would not be the best solution to problems involving the federal judiciary, but one cannot credibly contend that the authority does not exist.

In exercising this power, Congress should heed the advice of Chief Justice Marshall to provide exceptions that "go as far as the legislature may think proper for the interest and liberty of the people." In firmly establishing congressional power under the exceptions clause and in providing a solid foundation for judicial review, Marshall fully appreciated what he wrote in Marbury v. Madison: "The framers of the Constitution contemplated that instrument as a rule for the government of courts, as well as of the legislature."

(Carl A. Anderson, a former legislative assistant to Senator Helms, is now counselor to the undersecretary of the Department of Health and Human Services. Responsibility for the views expressed is that of the author and not the department.)

The Power of Congress Under the Constitution to Define, Limit, or Curtail the Appellate Jurisdiction of the Supreme Court and the Jurisdiction of Federal Courts Inferior To It

(By Sam J. Ervin, Jr., of Morganton, N.C., a Former Justice of the North Carolina Supreme Court and a former United States Senator from North Carolina)

JUDICIAL POWER

The Judicial Department of the United States is created by Article III of the Constitution. Courts are ordained to exercise judicial power alone. Indeed, they are denied all other power.

The judicial power is the power which courts exercise in hearing and determining cases or controversies before them of which they have jurisdiction.

In commenting on jurisdiction, the text writer in *Corpus Juris Secundum* (Vol. 50, page 1090) says:

The word "jurisdiction" is derived from the Latin "juris" and "dico", and means "I speak by the law. . ." The word "jurisdiction" implies a court or tribunal with judicial power to hear and determine a cause, and such tribunal cannot exist except by authority of law. Jurisdiction always emanates directly and immediately from the law; it is a power which nobody on whom the law has not conferred it can exercise.

Jurisdiction may be either original or appellate. Original jurisdiction is the power of a court to try and decide a case or controversy in the first instance; and appellate jurisdiction is the power of a superior court to review the ruling of an inferior court on the record made in the inferior court, and to affirm, reverse, or modify such ruling. A particular court may have original jurisdiction in some cases or controversies, and appellate jurisdiction in others. *20 American Jurisprudence, 2d, Courts,* section 98, page 459.

The Supreme Court made these sound observations on this subject in *Osborn v. U.S. Bank,* 9 Wheat. 738, 6 L.Ed. 204:

The judicial power, as contradistinguished from the power of the law, has no existence. Courts are mere instruments of the law, and can will nothing. When they are said to exercise discretion, it is a mere legal discretion, a discretion to be exercised in determining the course prescribed by law; and when that is discerned, the duty of the court is to follow it. Judicial power is never exercised for the purpose of giving effect to the will of the judge; always for the purpose of giving effect to the will of the legislatures; or, in other words, the will of the law.

THE CONSTITUTION MEANS WHAT IT SAYS

Although some politicians, judicial activists, and other biased individuals seek to twist awry words displeasing to them, the Constitution means what it says. In expounding this truth, Chief Justice John Marshall, America's wisest jurist of all times, said in his famous opinion in *Gibbons v. Ogden,* 9 Wheat. 1, 188, 6 L.Ed. 23:

As men whose intentions require no concealment generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they have said.

What Chief Justice Marshall said is beyond rational dispute. If they did not intend for the Constitution to mean what it says, George Washington, John Dickinson, Benjamin Franklin, Nathaniel Gorham, Alexander Hamilton, Rufus King, James Madison, Gouverneur Morris, Robert Morris, William Patterson, Charles Cotesworth Pinckney, Roger Sherman, James Wilson, and their compatriots in the Constitutional Convention of 1787 indulged in unprecedented hyprocrisy or idiocy when they drafted the Constitution and submitted it to the States for ratification or rejection.

THE POWER OF CONGRESS UNDER THE CONSTITUTION

Provisions of Articles I and III of the Constitution clearly reveal that Congress has the legislative power to define, limit, or curtail the appellate jurisdiction of the Supreme Court and the jurisdiction of the federal courts inferior to it. They are as follows:

1. Article I, Section I, declares "all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

2. Article I, Section VIII, clauses 1 and 18, prescribe "the Congress shall have the power . . . . to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof."

3. Article III, Section I, provides, in pertinent part, "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

4. Article III, Section II, clause 1, stipulates "the judicial power shall extend to all cases, in Law and Equity, arising under this Constitution, and the laws of the United States, and treaties made, or which shall be made, under their authority; . . . to all cases affecting Ambassadors, other public Ministers and Consuls; . . . to all cases of admiralty and maritime jurisdiction; . . . to controversies to which the United States shall be a Party; . . . to controversies between two or more States; . . . between a State and citizens of another State; . . . between citizens of different States; . . . between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects."

5. Article III, Section II, Clause 2, states "in all cases affecting Ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make."

As a result of dissatisfaction engendered by the decision of the Supreme Court in *Chisholm* v. *Georgia,* 2 Dall. 419, 1 L.Ed. 440, Article III, Section II, Clause 1, was altered in part by the Eleventh Amendment. This Amendment specifies "the Judicial Power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against any one of the United States by citizens of another State, or citizens or subjects of any foreign state."

Another Amendment, the Seventh, applies to the appellate jurisdiction of the Supreme Court in respect to facts determined by juries in civil cases.

It must be noted that Article III, Section II, Clause 1, does not actually confer jurisdiction on any court of the United States. On the contrary, it merely enumerates the cases or controversies in which Congress has the legislative power to confer jurisdiction upon them if it sees fit to do so.

INFERIOR FEDERAL COURTS ESTABLISHED BY CONGRESS UNDER ARTICLE III

Acting under Article III, Section I, Congress has established United States District Courts as courts of general jurisdiction to try and decide federal civil and criminal cases in the first instance, and United States Courts of Appeal to review on appeal most rulings of the District Courts.

To aid in the administration of federal criminal justice generally, Congress has created United States magistrates to try and determine petty federal criminal cases, and to conduct preliminary hearings in federal criminal cases of which the District Courts have original jurisdiction. These magistrates do not enjoy life tenure.

Acting under provisions of the Constitution other than Article III, Congress has established certain special courts of limited jurisdiction and courts for territories. These courts are not subject to the requirements of Article III. For the sake of clarity, I employ the term federal courts inferior to the Supreme Court in this statement to signify only those inferior courts created by Congress under Article III, such as the District Courts, the Courts of Appeals, and the Court of Claims.

ORIGINAL JURISDICTION OF THE SUPREME COURT

Article III, Section II, clause 2, defines in specific terms the original jurisdiction of the Supreme Court, and Congress is without

power to increase or decrease it. *Marbury v. Madison*, 1 Cranch 137, 24 L.Ed. 60; *Gordon v. United States*, 117 U.S. 697, Appx. 76 L.Ed. 347.

The Supreme Court has adjudged, however, that Congress may confer on inferior federal courts concurrent jurisdiction with the Supreme Court over cases or controversies within the original jurisdiction of the Supreme Court, subject to the review of their rulings by the Supreme Court. *Ames v. Kansas*, 111 U.S. 449, 28 L.Ed. 482, 4 S.Ct. 437; *Bors v. Preston*, 111 U.S. 252, 28 L. Ed. 419, 4 S.Ct. 407.

THE APPELLATE JURISDICTION OF THE SUPREME COURT AND THE JURISDICTION OF THE FEDERAL COURTS INFERIOR TO IT

It is otherwise with respect to the appellate jurisdiction of the Supreme court and the jurisdiction of the federal courts inferior to it. One of America's most profound constitutional scholars, Edwin S. Corwin, had this to say on this subject in the 1974 edition of his famous book the Constitution And What It Means Today (pages 167-168):

The "cases" and "controversies" here enumerated fall into two categories; first, those over which jurisdiction "depends on the character of the cause", that is to say, the law to be enforced; second, those over which jurisdiction "depends entirely on the character of the parties." (*Cohens v. Virginia*, 6 Wheat 264, 378, 5 L.Ed. 257). In both instances, however, the jurisdiction described is only potential, except as to the original jurisdiction of the Supreme Court. Thus the lower federal courts derive all their jurisdiction immediately from Acts of Congress, and the same is true of the Supreme Court as to its appellate jurisdiction.

As has been noted, Article III, Section II, Clause 2 declares in plain words that the Supreme Court has "appellate jurisdiction, both as to Law and Fact, with such exceptions, and under such regulations, as the Congress shall make."

The Supreme Court has rightly adjudged in multitudes of sound decisions that under this provision it can exercise no appellate jursdiction except in the cases or controversies prescribed by Acts of Congress.

Wiscart v. Dauchy, 3 Dall. 321, 1 L.Ed. 619; *Clarke v. Bazadone*, 1 Cranch 212, 2 L.Ed. 85; *United States v. More*, 3 Cranch 159, 2 L.Ed. 397; *Ex Parte Bollman*, 4 Cranch 75, 2 L.Ed. 554; *Durrousseau v. United States*, 6 Cranch 307, 3 L.Ed. 232; *United States v. Goodwin*, 7 Cranch 108, 3 L.Ed. 284; *United States v. Gordon*, 7 Cranch 287, 3 L.Ed. 347; *United States v. Nourse*. 6 Pet. 470, 8 L.Ed. 467; *Barry v. Mercein*, 5 How. 103, 12 L.Ed. 70; *Forsythe v. United States*, 9 How. 571, 13 L.Ed. 362; *Re Kaine*, 14 How. 103, 14 L.Ed. 345; *Ex Parte Vallandigham*, 1 Wall. 243, 17 L.Ed. 589; *Daniels v. Chicago & R. I. R. Co.*, 3 Wall. 250, 18 L.Ed. 224; *Walker v. United States*, 4 Wall. 163, 18 L.Ed. 319; *Edmonson v. Bloomphire*, 7 Wall. 306, 19 L.Ed. 91; *Ex Parte McCardle*, 7 Wall. 506, 19 L.Ed. 264; *Re Yerger*, 8 Wall. 85, 19 L.Ed. 332; *French v. Shoemaker*, 12 Wall. 86, 20 L.Ed. 270; *United States v. Klein*, 13 Wall. 128, 20 L.Ed. 519; *Merrill v. Petty*, 16 Wall. 338, 21 L.Ed. 499; *Murdock v. Memphis*, 20 Wall. 590, 22 L.Ed. 429; *Butterfield v. Usher*, 91 U.S. 246, 23 L.Ed. 318; *United States v. Young*, 94 U.S. 258, 24 L.Ed. 153; *United States v. Sanges*, 144 U.S. 310, 36 L.Ed. 445, 12 S.Ct. 609; *National Exch. Bank v. Peters*, 144 U.S. 570, 36 L.Ed. 545, 12 S.Ct. 767; *American Const. Co. v. Jacksonville, T. & K. W. R. Co.*, 148 U.S. 373, 37 L.Ed. 486, 13 S.Ct. 158; *Colorado Cent. Consol. Min. Co. v. Turck*, 150 U.S. 138, 37 L.Ed. 1030, 14 S.Ct. 35; *Maynard v. Hecht*, 151 U.S. 324, 38 L.Ed. 179, 14 S.Ct. 353; *Chapman v. United States*, 164 U.S. 436, 41 L.Ed. 504, 17 S.Ct. 76; *Montgomery Bldg. & Const. Trades Council v. Ledbetter Erection Co.*, 344 U.S. 178, 97 L.Ed. 204, 73 S.Ct. 196.

In commenting on what he calls the power of Congress over the appellate jurisdiction of the Supreme Court and the jurisdiction of the federal courts inferior to it, Edwin S. Corwin made these observations in the 1947 edition of The Constitution And What It Means Today (page 127):

Moreover, through its unlimited control over the Supreme Court's appellate jurisdiction, as well as of the total jurisdiction of the lower federal courts, Congress is in position to restrict the actual exercise of judicial review at times, and even to frustrate it altogether.

Thus in 1869 it prevented the Court from passing on the constitutionality of the Reconstruction Acts by repealing the latter's jurisdiction over a case which had already been argued and was ready for decision (*Ex Parte McCardle*, 7 Wall. 506, 19 L.Ed 264); and in the war just closed (i.e., the Second World War) it confined the right to challenge the validity of provisions of the Emergency Price Control Act and orders of the OPA under it to a single Emergency Court of Appeals and to the Supreme Court upon review of that court's judgments and orders. (U.S. Code, tit. 50, app. Sec. 924(a); *Lockerty v. Phillips*, 319 U.S. 182, 87 L.Ed. 1339, 63 S.Ct. 1019; *Yakus v. U.S.*, 321 U.S. 414, 88 L.Ed. 834, 64 S.C.t 660; *Bowles v. Willingham*, 321 U.S. 503, 88 L.Ed. 892, 64 S.Ct. 641)

When it exercises its power to establish an inferior court under Article III, Section I, Congress is empowered to specify what its jurisdiction shall be.

The Supreme Court has rightly ruled in multitudes of sound decisions that inferior federal courts, such as District Courts and Courts of Appeal, can exercise only such jurisdiction, civil or criminal, as may be conferred on them by an Act of Congress.

Rhode Island v. Massachusetts, 12 Pet. 1233, 9 L.Ed. 1233; *Levy v. Fitzpatrick*, 15 Pet. 167, 10 L.Ed. 699; *Cary v. Curtis*, 3 How. 236, 11 L.Ed. 718; *Bath County v. Amy*, 13 Wall. 244, 20 L.Ed. 539; *Grover & B. Sewing Mach. Co. v. Florence Sewing Mach. Co.*, 18 Wall. 553, 21 L.Ed. 914; *Gaines v. Fuentes*, 92 U.S. 10, 23 L.Ed. 524; *Re Pennsylvania*, 109 U.S. 174, 27 L.Ed. 894, 3 S.Ct. 84; *Ellis v. Davis*, 109 U.S. 485, 27 L.Ed. 1006, 3 S.Ct. 327; *Ex Parte Royall*, 117 U.S. 241, 29 L. Ed. 868, 6 S. Ct. 734; *Holmes* v. *Goldsmith & Co.*, 147 U.S. 150, 37 L. Ed. 118, 13 S. Ct. 288; *Gregord* v. *Van Ee*, 160 U.S. 643, 40 L. Ed. 566, 16 S. Ct. 431; *Plaquemines Tropical Fruit Co.* v. *Henderson*, 170 U.S. 511, 42 L. Ed. 1126, 18 S. Ct. 685; *Lockerty* v. *Phillips*, 319 U.S. 182, 87 L. Ed. 1339, 63 S. Ct. 1019; *Bowles* v. *Willingham*, 321 U.S. 503, 88 L. Ed. 892, 64 S. Ct. 641; *Sears, Roebuck & Co.* v. *Mackay*, 351 U.S. 427, 100 L. Ed. 1297, 76 S. Ct. 895; *South Carolina* v. *Katzenbach*, 383 U.S. 301, 15 L. Ed. 2d 769, 86 S. Ct. 803; *Palmore* v. *United States*, 411 U.S. 389, 36 L. Ed. 2d 342, 93 S. Ct. 1670; *Hagans* v. *Lavine*, 415 U.S. 528, 39 L. Ed. 2d 577, 94 S. Ct. 1372.

Even in cases where it has conferred jurisdiction on federal courts in specified cases, Congress has the power to take away such jurisdiction at any time it sees fit. *Kline* v. *Burke Constr. Co.*, 260 U.S. 226, 67 L. Ed. 226, 43 S. Ct. 79, A.L.R. 1077. It may oust federal courts of jurisdiction in pending cases. *Re Yerger*, 8 Wall. 85, 19 L. Ed. 332; *Hallowell* v. *Commons*, 239 U.S. 506, 60 L. Ed. 409, 36 S. Ct. 202.

What has been said makes these things indisputable: first, the Supreme Court's appellate jurisdiction and the jurisdiction of the federal courts inferior to it are conferred upon them by Acts of Congress; and, second, Congress cannot confer upon them jurisdiction of any cause or controversy other than those enumerated in Article III, Section II, Clause 1. *Nashville* v. *Cooper*, 6 Wall. 247, 18 L. Ed. 851; *Palmore* v. *United States*, 411 U.S. 389, 36 L. Ed. 2d 342, 93 S. Ct. 1670.

When it confers appellate jurisdiction on the Supreme Court or jurisdiction on a federal court inferior to it, Congress must give the court freedom to decide the case or controversy judicially one way or another. The power to regulate the jurisdiction of the court does not empower Congress to instruct it as to how it should decide the case or controversy.

Congress undertook to do that by a proviso it adopted on June 30, 1870. By the proviso, Congress instructed the Court of Claims to ignore the constitutional effect of presidential pardons in deciding the claims of persons who had allegedly supported the Confederacy for cotton confiscated by the federal government in Confederate States during the Civil War. The Supreme Court rightly struck down the proviso in *United States v. Klein*, 13 Wall. 128, 20 L.Ed. 519, as an unconstitutional attempt by Congress to usurp the judicial power the Constitution reposes in the courts.

EXERCISE BY CONGRESS OF ITS POWER IN TIMES PAST

Congress has never authorized federal courts to exercise all of the jurisdiction it has the power to give them under Article III, Section 2, Clause 1.

On the contrary, it has denied them jurisdiction in multitudes of instances ever since it enacted the Judiciary Act of 1789. As a rule, Congress has done this to forestall a flood of trivial litigation, or to minimize the clogging of the dockets of the federal courts.

As has been observed, however, the *McCardle Case* demonstrates it curtailed the appellate jurisdiction of the Supreme Court in 1869 to prevent it from making a decision it feared the court might render.

THE WISDOM OF THE FOUNDING FATHERS

The Constitution is the most precious instrument of government ever devised by the experience and wisdom of man. The Founding Fathers drfted and ratified it to secure to Americans the power of self rule and freedom from governmental tyranny, whether legislative, executive, or judicial.

They realized, however, that men are fallible beings, and that none of them can be safely trusted with unlimited power. To this end, they vested in the Supreme Court the power to interpret the Constitution, and thereby gave it the power to confine Congress, the President and the States to their allotted constitutional spheres.

They undertook to make Supreme Court Justices faithful to the Constitution by making it the supreme law of the land, and by requiring them as well as all other federal and state officers to be "bound by oath or affirmation to support it." (Article V, Clause 3)

The also undertook to make Supreme Court Justices independent of all things on earth except the Constitution itself by decreeing in Article III, Section 1, that "the judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which

shall not be diminished during their continuance in office."

Notwithstanding these provisions, two members of the Constitutional Convention of 1787, Elbridge Gerry, of Massachusetts, and George Mason, of Virginia, opposed ratification of the Constitution by the States because it contained no provision sufficient to compel activist Supreme Court Justices to obey their oaths or affirmations to support the Constitution or to prevent them from substituting their personal notions for constitutional precepts while pretending to interpret it.

I do not favor Congress limiting the jurisdiction of federal courts to adjudicate cases in which they have manifested their devotion to the Constitution.

I nevertheless rejoice because the Founding Fathers have reposed in Congress the power to define, limit, or curtail the appellate jurisdiction of the Supreme Court and the jurisdiction of the federal courts inferior to it.

The reason for my rejoicing is simple. I abhor judicial usurpation and deem tyranny on the bench as reprehensible as tyranny on the throne. The constitutional power of Congress to define, limit, or curtail the jurisdiction of these courts is in reality the only means embodied in the Constitution whereby activist Supreme Court Justices can be denied the autocratic power to make themselves America's supreme dictators.

Judicial activists are judges who interpret the Constitution to mean what it would have said if they instead of the Founding Fathers had written it.

The moral inhibition of their oaths or affirmations to support the Constitution has not sufficed to restrain judicial activists. Moreover, life tenure and undiminishable compensation do not render them immune to the temptation to make themselves independent of the Constitution.

Alexander Hamilton asserts in the Federalist No. 79 that Supreme Court Justices "are liable to be impeached for mal-conduct" by Congress under the Article of the Constitution "respecting impeachments", and declares in the Federalist No. 81 that "this is alone a complete security" against judicial activism.

I express no opinion respecting the validity of Hamilton's view that judicial activism constitutes an impeachable offense under Article III, Section 4 of the Constitution.

It is to be noted, however, that this possibility, if it exists, has had no deterrent effect on judicial activism. Moreover, impeachment is a cumbersome process, and cannot be made effective without the concurrence of two thirds of the members of the Senate. Article I, Section 3, Clause 6.

The constitutional power of Congress to define, limit, or curtail the appellate jurisdiction of the Supreme Court and the jurisdiction of the federal courts inferior to it is exercisable, however, by a bare majority of the Houses of Congress. Members of Congress who revere the Constitution are likely to demand that this power be exercised with frequency in the future if activist Supreme Court Justices do not stop substituting their personal notions for constitutional precepts while pretending to interpret the Constitution.

In closing, I refuse to heed Mark Twain's reputed admonition: Truth is precious. Use it sparingly.

The tragic truth is that judicial activism has run riot among Supreme Court Justices during recent years.

They have belittled the role of the States in the federal system of government ordained by the Constitution; they have ignored the fact that society and the victims of crime are as much entitled to justice as the accused, and in consequence have impaired the capacity of federal and state courts to protect the people from criminals; they have nullified basic principles of the Constitution and substituted their personal notions for them in cases having racial overtones; and they have arrogated to themselves the autocratic power to prescribe qualifications for voting in elections and to supervise such elections in defiance of provisions of the Constitution which expressly deny them and the federal government such power.

It is high time for activist Supreme Court Justices to realize that the Constitution of the United States belongs to the people of America and not to them, and that their supreme obligation to our country is to obey their oaths or affirmations to support the most precious instrument of government ever devised by human experience and wisdom.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL RECLAMATION LAW

The Senate continued with the consideration of the bill.

Mr. BAKER. Mr. President, I ask the Senator from Wyoming, the manager of the bill, if he will yield me 2 minutes.

Mr. WALLOP. I would be happy to yield to the majority leader for 2 minutes or for such time as he may require.

Mr. BAKER. I thank the Senator.

I indicated earlier I thought the Senate could bring good tidings, and indeed we have been advised that there is an agreement and that matters at issue between the parties have been resolved to their satisfaction, and I trust to that of the Senate in general.

It is my understanding that in a few moments there will be an amendment offered by the distinguished Senator from Wyoming, the manager of the bill, which incorporates a number of items that have been negotiated between the parties and which has been cleared, I believe, by the Senator from Ohio and a number of others who have been actively involved in the negotiations.

Mr. President, it is now 6:20 p.m. We spent a good part of the afternoon in active negotiations, and it would be my hope that no other amendments would be offered.

Indeed, if I could have the attention of the Senator from Ohio and the minority leader for a moment, Mr. President, if I could invite their attention, I was about to say that an awful lot of work has gone into this amendment which, I believe, is generally acceptable to all the parties, is acceptable to all the parties, as I say, and I would like to propound a unanimous-consent request that no other amendments be in order except this amendment or technical amendments which might be necessary in order to complete action by the Senate on this measure.

Knowing there may be clearance requirements the minority leader will wish to examine, I will make that suggestion now rather than that request. But could the minority leader indicate to me how he might feel on that subject?

Mr. ROBERT C. BYRD. Mr. President, if the distinguished majority leader will yield, I would ask him not to make the request right at the moment but wait until we do further checking.

Mr. BAKER. Yes, I thought that might be the case. On our side, Mr. President, Senators should be on notice that assuming the matter can be cleared on the other side as well, I intened to make that request that no other amendments will be in order except for technical amendments and the amendment that is the consensus amendment.

Mr. President, I am also advised that the parties are ready to proceed with debate on this measure, and that the amendment I believe would be subject to the general limitation of 1 hour of debate, would it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, it would appear to me that we ought to be able to finish this matter within an hour. I know many Senators have been inconvenienced, but I think the effort has been worth it.

Mr. President, I would not urge for my part a vote on the amendment itself. I think a voice vote might suffice as far as I am concerned, but I am advised by some Senators that they would like to have a rollcall vote on final passage. With that, I am prepared to yield the floor now so that we may proceed with the introduction of the amendment and debate on the measure.

I will conclude by urging at this late hour Senators to restrain themselves in debate for only that time which is absolutely necessary and their consciences require them to do at this moment.

I yield the floor.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

UP AMENDMENT NO. 1097

Mr. WALLOP. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 1097.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 13, beginning with the phrase "The interest rate used", strike all through line 20 and insert the following:

"The interest rate used pursuant to this Act shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of (1) the computed average interest rate payable by the Treasury upon its marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issuance; and (2) the weighted average of market yields on all new, publicly held, interest-bearing, marketable issues sold during the fiscal year preceding the fiscal year in which the expenditures are made or the date of enactment of this Act, whichever is later: *Provided*, That normal operation, maintenance, and replacement charges will be collected in addition to the full cost charge."

On page 19, delete lines 2 through 10 in their entirety and insert in lieu thereof the following:

"SEC. 4. (a)(1) Notwithstanding any other provisions of law to the contrary, irrigation water may be delivered to a qualified or limited recipient for use in the irrigation of a landholding of not more than one thousand two hundred and eighty acres of class I lands, or the equivalent thereof: *Provided*, That not more than six hundred and forty acres of such landholding may be owned by a limited recipient."

On page 19, line 16, delete the words "two thousand and eighty" and insert in lieu thereof the words "one thousand two hundred and eighty".

On page 21, line 24, strike the period and insert in lieu thereof the following: ", except that the aforementioned time in years shall be five years for a recordable contract entered into after the date of enactment of this Act."

On page 29, line 4, strike section 13 and insert in lieu thereof the following new section 13:

"SEC. 13. Any non-Federal party to a repayment contract with the Secretary relating to a reclamation project may apply for validation of any provisions of such contract relating to the acreage limitation available to such party pursuant to such contract or under the Federal reclamation law by making applicaion therefor to the Secretary in writing within three years from the date of enactment of this Act. The Secretary shall review each such application and shall determine whether to validate the contract provision taking into account the circumstances surrounding the execution of the contract. The Secretary shall transmit the application along with his determination to validate or not to validate such contract to the Congress within ninety days from the date he receives such application. Unless the Congress by concurrent resolution disapproves the determination of the Secretary within ninety days from the date on which it receives the Secretary's transmittal, the determination of the Secretary shall be final and binding."

On page 29, beginning at line 19, strike section 14 in its entirety and insert in lieu thereof the following new section:

"WAIVER OF SOVEREIGN IMMUNITY

"SEC. 14. Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate, or decree the contractual rights of a contracting entity and the United States regarding any contract executed pursuant to the Federal reclamation law. The United States, when a party to any suit, shall be deemed to have waived any right to plead that it is not amenable thereto by reason of its sovereignty, and shall be subject to judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances. Any suit pursuant to this section may be brought in any United States district court in the State in which the land involved is situated. The court, if it determines it appropriate based on the evidence, including written representations concerning the application of the Federal reclamation law, may reform the contract."

On page 33, add at the end the following new section:

"SEC. 18. The Secretary shall, pursuant to his authorities under otherwise existing Federal Reclamation Laws encourage the full consideration and incorporation of prudent and responsible water conservation measures in the operations of non-Federal recipients of irrigation water from Federal Reclamation projects, where such measures are shown to be economically feasible for such non-Federal recipients."

Mr. WALLOP. Mr. President, the amendment which is offered en bloc contains six elements which are identified by the paragraph numbers in the amendment. I would say this is the result of the negotiations which we had.

Paragraph No. 1 amends the interest rate in the bill. The amendment requires the use of an interest rate which would be computed as the average of the sum of the interest rate in the committee bill, which is the 15-year Federal borrowing rate, and the interest rate proposed in the Lugar-Proxmire amendment, which is the short-term 5-year Federal fund rate.

At current rates, Mr. President, this would compute to approximately 12 percent, and seems a reasonable compromise between those interest proposals which were presented earlier and the committee's position.

Paragraph 2, Mr. President, amends the acreage limitation in the bill to substitute a single limitation of 1,280 acres on ownership, and I would say this is the Hatfield amendment which was offered or proposed earlier. This is the provision that the Senator from Oregon sought as a compromise earlier in the afternoon to resolve the impasse here, and this is the basic proposal of Senator HATFIELD.

Paragraph No. 3 amends the recordable contract provision in the bill to require the disposal of excess acreage in 5 years. Mr. President, this is most important for Senators to be aware of—for contracts executed after the date of enactment of this act.

Those recordable contracts which are already in place and already underway would remain as they are recorded. We seek not to change the status quo there except for those provisions which would be made after the passage of this act.

Paragraph 4, Mr. President, amends the validation provision in the bill and, I believe, for the better. I believe the Senator from Ohio has improved and strengthened the bill with his suggestion to require that the Secretary of the Interior make an explicit determination to validate or not to validate a contract according to stated requirements, and it also provides for a modified congressional review utilizing concurrent resolution disapproval rather than joint resolution disapproval.

Paragraph 5 modifies the consent-to-sue provision in the bill to provide a review in court with the discretion to grant the reformation of a contract as a remedy for private plaintiffs in cases with the Secretary of the Interior. I might also say that the bill's language takes into consideration or asks the court to take into consideration representations that have been made regarding the application or the interpretation of Federal reclamation law by former official parties acting in behalf of the United States.

Paragraph 6 adds a new section to the bill which requires the Secretary to utilize existing authorities to insure the implementation of prudent and responsible water conservation programs in irrigation districts. This is a generally stated provision and generally stated on purpose because of the problems that were identified as we talked about changing techniques, technology, and interpretations of what might be a conservation practice within a given district or at a given time.

It recognizes the reality that the world changes, technology changes, and interpretations change. I believe that it is a responsible addressing of the issue of conservation.

Mr. President, those are the six provisions of the amendment. It is offered on behalf of those who were involved in the negotiations.

I suspect that the Senator from Ohio would perhaps like to address the issue at this moment and, at the end of that time, perhaps the majority leader would like to make his request. Perhaps he would like to do it at this moment. Is the majority leader prepared to cover the consent agreement?

Mr. BAKER. Yes, Mr. President, I am prepared on this side. May I say, if I could have the attention of Senators, that there was only one request that I had contemplated making and that was the request that, assuming that

this amendment is adopted, this consensus amendment which has been agreed to, no other amendment would then be in order except for technical amendments, in the strictest and most literal sense of that term, as they may be required to complete the consideration of this measure. I have not put that request yet, but I have discussed it with the minority leader and would like to put it.

Mr. MOYNIHAN. Will the majority leader yield for a question?

Mr. BAKER. Yes, I yield for that purpose.

Mr. MOYNIHAN. Perhaps the distinguished manager of the legislation could best answer it. I assume that the amendment concerning the conformity of the Corps of Engineers to the acreage limitations and cost recovery provisions that I offered this morning, I gather that has not been included.

Mr. WALLOP. It has not been. It, unfortunately, dies as dead as it lay when it was finished being voted upon by the Senate.

Mr. MOYNIHAN. In that case, there is much involved in this. I am not going to keep the Senate, but I must ask, if it would be possible, that there be a rollcall vote on the amendment and a rollcall vote on final passage.

Mr. BAKER. Mr. President, the Senator is entitled to that, assuming that there is a sufficient second, and I assume there would be. I wonder if the Senator would have any objection to a unanimous consent request which would not touch that subject; that is, a unanimous consent request that if this amendment is adopted, that no other amendment be in order, except for technical amendments.

Mr. MOYNIHAN. I take it, the amendment having been offered, it is possible to ask for the yeas and nays.

Mr. BAKER. I will include that in the request, that it be in order at this time to ask for the yeas and and nays.

Mr. MOYNIHAN. In that case, I have no objection.

Mr. BAKER. Mr. President, I put the request.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object and I have no intention to object, as I understand it, the majority leader's request is made on the assumption that this amendment will be enacted.

Mr. BAKER. Yes, that is included in the request.

Mr. METZENBAUM. I thank the majority leader. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, the order would include that it be in order at this time to ask for the yeas and nays on the amendment. Does the Senator wish to ask for the yeas and nays?

Mr. MOYNIHAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. I yield now to the Senator from Kentucky.

Mr. FORD. Mr. President, since the hour is getting late, and I think we all understand that this is a consensus amendment which I would be perfectly willing to accept, could we, once that amendment is passed, just have a unanimous-consent agreement that final passsage be on voice vote?

Mr. MOYNIHAN addressed the Chair.

Mr. FORD. It would just help some of us more than others.

Mr. WALLOP. If the majority leader might try a 10-minute vote on the passage of this amendement.

Mr. BAKER. Mr. President, let me do this. Let me suggest that the votes be back to back and that the first vote be 15 minutes and the second vote, if one is ordered, be 10 minutes. It does not matter on the second vote. I withdraw that request, Mr. President. I would not want a 10-minute vote after we had been in recess for a while and Senators may be scattered in other parts of the city. I withdraw the request, Mr. President.

Mr. METZENBAUM. Mr. President, I want to acknowledge openly that when I went into the session to meet with the distinguished chairman of the Energy Committee and the manager of the bill, I had some concerns of my own as to whether or not we would be able to make any meaningful headway. But I think that objectively everyone would have to agree that we have indeed made very meaningful headway, and that the amendment that is pending at the desk has made substantial changes in the legislation.

Now I am not going to say that this amendment makes this bill a great bill. It does not. But I am prepared to say that it indicates to me that the managers have been willing to attempt to compromise and have made some very significant concessions in order to cause this Senator to feel that any further debate or amendments would not be as productive as the results of these negotiations and the amendment that is presently pending before this body.

We have agreed to a very substantial amendment as a result of the negotiations. We have split the difference between the bill and the Proxmire-Lugar amendment as far as the interest rate is concerned. And as far as I am concerned, I think that is a very major change and a very gratifying one that has come into being. I would have preferred to go as far as the Lugar-Proxmire amendment but having failed in that respect I think half a loaf of bread is better than none at all.

The second one has to do with the change in the limitation of acreage. In that connection, the bill presently provides 2,080 acres. Several runs were made both by Senators PROXMIRE and LUGAR and by Senator EXON with a 960-acre limitation, and those failed. The bill, as it is pending before us at the moment, has 2,080 as the number. So I think that the compromise figure of 1,280, which is the figure that was a part of the Hatfield amendment, is an entirely satisfactory resolution of that problem.

The bill provided originally that, in the event of excess acreage, that holder who had the excess acreage would have 10 years in which to dispose of the additional acreage. We were able to resolve that, again, in a rather simple manner by splitting the difference and making it 5 years. I have the feeling that it ought to be done much earlier than 10 years and certainly maybe a year. But 5 years is a satisfactory resolution of the matter.

The fourth amendment that the Senator from Wyoming has pointed out has to do with the validation provision. I think we have rewritten that provision in a manner which makes it much more logical. It gives the Secretary the responsibility either to validate or not to validate a contract according to stated requirements and then provides that the Congress has the right to review by concurrent resolution, either approving or disapproving that determination by the Secretary.

I think the way it was previously drafted, implicitly or almost explicitly, it provided that there would always be approval by the Secretary.

The next amendment has to do with the question of the consent to sue. Frankly speaking, Mr. President, in this area, the language that was in the original bill went farther than any that I have ever before seen. It pretty much indicated the provisions that the court would have to follow in order to arrive at its conclusion and also pretty much indicated what action the court would be expected to take.

We have changed that language to the House language which is much more satisfactory and simply waives the sovereign power of the Federal Government as far as suits against it, and then goes on to provide that the court has certain jurisdiction but certainly is not instructed as to how to exercise its jurisdiction or resolve any matter before it.

Frankly, I think the language of the compromise amendment does nothing more for the court than give it the power that it already has.

The last amendment has to do with the fact that there is some new requirement now that every effort shall be made to insure the implementation of prudent and responsible water conservation programs in irrigation districts.

All of these amendments in my opinion are helpful. I think they are very meaningful. I think they are very substantive. I find that the compromise amendment is a satisfactory one and urge my colleagues to support it.

Mr. PROXMIRE. Will the Senator from Ohio yield?

Mr. METZENBAUM. I will yield for a question.

Mr. PROXMIRE. No.

Mr. METZENBAUM. Having said that, let me inquire of the chairman of the Energy Committee and the manager of the bill if the Senator from Ohio is correct in his assumption and understanding that every possible effort will be made by those two, as well as all of those who are conferees, to maintain the integrity of the amendments that were agreed to this afternoon.

Mr. McCLURE. Will the Senator yield?

Mr. METZENBAUM. I do.

Mr. McCLURE. The Senator has sat on conferences with the Senator from Idaho and knows that I do try to maintain the positions of the Senate even at times when the Senate has taken positions that I did not agree with. I will do so in this instance.

The Senator, of course, knows the other side of that, too, that the other side is a coequal body and sometimes you have to compromise.

Yes; I will go to the conference and bargain in good faith with the people who will be representing the other body.

Mr. METZENBAUM. I thank the chairman.

Mr. WALLOP. Mr. President, I offer the Senator similar assurances with similar qualifications. The process is the process, but the Senators will go with the Senate's position in mind.

Mr. METZENBAUM. I thank the Senator. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I commend my friend from Ohio. He has done a wonderful job. There is no way this could have been improved without his working as hard as he did on it.

Having said that, however, I have to say there is no way I can support this bill, 1,280 is just too much; 960 was satisfactory with the administration; 960 would have covered 97 percent of all the farms. When you go to 1,280, it means that all the other provisions, particularly the interest rate provision, do not do much good.

I want to congratulate the Senator for getting that provision up, for the consent to sue, for the validation section, which I understand was substantially improved, and the language on water conservation, which is also a sterling addition.

As I say, none of this could have been accomplished without the remarkable tenaciousness against real pressure. I am sure he did not make himself the most popular man in the Senate in doing so, but there was real pressure on my friend from Ohio.

Once again I salute him as an outstanding legislator.

Mr. METZENBAUM. I thank the Senator.

Mr. JACKSON. Mr. President, I want to start out my brief remarks first by expressing my deep appreciation to the distinguished Senator from Ohio (Mr. METZENBAUM) for his contribution to the resolution of this problem and his willingness to compromise.

Second, I want to express my appreciation to the manager of the bill, the distinguished Senator from Wyoming (Mr. WALLOP) for his patience and willingness to compromise.

The same goes for the chairman of the full committee, Senator McCLURE, who has been in the midst of the resolution of this problem from the very beginning.

May I express, too, the appreciation of all of us who try to follow the details of the legislation to the members of the majority staff: Gary Ellsworth and Russ Brown, who handled all of the details of the legislation, backed up by Chief Counsel Chuck Trabandt, and to Craig Gannett, of the minority staff.

I would like to say that this is his first assignment on a major bill. I want to express my personal appreciation for the fine job that he did in connection with the hearings, the markup, and the debate, backed up, of course, by Mike Harvey, the chief minority counsel.

I am glad now that we can come to a vote, Mr. President, so that this legislation, which is long past due, can be passed, go to conference and get a settlement as soon as possible.

Mr. BENTSEN. Will the Senator yield?

Mr. WALLOP. Mr. President, I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I would hope that other laudatory speeches can be made after the vote and by unanimous consent they can appear before the vote.

Mr. RANDOLPH. Will my colleague yield for 30 seconds?

Mr. WALLOP. I yield to the Senator from West Virginia.

Mr. RANDOLPH. A doctor heals, the lawyer pleads, the miner follows precious leads, but this or that what e'er befalls, the farmer feeds them all.

Mr. McCLURE. Will the Senator yield?

Mr. WALLOP. I yield to the Senator from Idaho.

Mr. McCLURE. I am mindful of the admonition of the Senator from Texas. I will reserve the right to present a laudatory speech following the vote. But before the vote, I think it might be important just to review for a moment how we did, indeed, finally compromise with respect to the interest rate. That is not my desire, but it is a legitimate compromise. It was the compromise that was earlier offered by the Senator from Oregon (Mr. HATFIELD) with respect to the acreage limitation. That has been included.

We did, in paragraph 3, amend the recordable contract provision with respect to the contracts that will be entered into in the future for the disposal of excess lands, to shorten the time for disposal on those future contracts. But that does not affect the current contracts.

In the fourth paragraph we subjected the validation provision to a different test, and that is by secretarial determination of the application subject to a review by the Congress by concurrent resolution in lieu of the language that we had, which I think is an improvement in the language and a strengthening of the congressional role.

With respect to section 14 of the bill, which was described, I think, adequately by the Senator from Wyoming in his opening statement of clarification, the explanation appears on page 16294. of the RECORD.

With respect to the availability of the application of this conjunctive relief contemplated, while we did not spell it out, it is certainly inherent in the powers of the Federal courts. That will be available to all litigants to be used by the courts where appropriate.

Even though we substituted language which was taken from the House bill, that sentiment and purpose is still applicable to the House language which has been here adopted and set forth in this amendment. We did not take the House language verbatim. We added on further provision to it. I want to make sure that we understand it has the same meaning and the same purpose as did the original Senate language, but is expressed in a different fashion.

Finally, the conservation provision, I think, is a modest and moderate conservation effort. It will not force uneconomic and imprudent conservation for the sake of conservation upon the user of water on Federal projects.

Mr. WALLOP. May I say to the Senator with respect to the consent provision, that applies to pending cases as well as future cases.

Mr. McCLURE. I thank the Senator.

I thank the Senator from Wyoming for the excellent job he has done in managing this bill. I will reserve further comments until after the rollcall on the amendment and final passage.

Mr. GOLDWATER. Mr. President, may we vote, please?

Mr. WALLOP. Mr. President, I am prepared to yield back the remainder of my time.

Mr. METZENBAUM. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the the Senator from South Dakota (Mr. ABDNOR), the Senator from North Dakota (Mr. ANDREWS), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from New York (Mr. D'AMATO), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Florida (Mrs. HAWKINS), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Iowa (Mr. JEPSEN), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Oklahoma (Mr. NICKLES), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. D'AMATO), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Florida (Mrs. HAWKINS), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from New Mexico (Mr. SCHMITT) would each vote "yea."

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Connecticut (Mr. DODD), the Senator from Alabama (Mr. HEFLIN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Montana (Mr. MELCHER), the Senator from Maine (Mr. MITCHELL), the Senator from Michigan (Mr. RIEGLE), the Senator from Mississippi (Mr. STENNIS), the Senator from Tennessee (Mr. SASSER), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nebraska (Mr. EXON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from North Dakota (Mr. BURDICK) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from Michigan (Mr. RIEGLE), and the Senator from Tennessee (Mr. SASSER) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 60, nays 5, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—60

Armstrong	Gorton	Nunn
Baker	Grassley	Packwood
Baucus	Hart	Pell
Bentsen	Hatfield	Proxmire
Biden	Helms	Pryor
Bradley	Huddleston	Quayle
Brady	Humphrey	Randolph
Byrd, Robert C.	Inouye	Roth
Chafee	Jackson	Rudman
Cranston	Johnston	Sarbanes
Danforth	Kasten	Simpson
DeConcini	Leahy	Specter
Denton	Levin	Stevens
Dixon	Long	Symms
Dole	Lugar	Thurmond
Domenici	Mathias	Tower
Eagleton	Matsunaga	Tsongas
East	Mattingly	Wallop
Ford	McClure	Warner
Glenn	Metzenbaum	Zorinsky

NAYS—5

Garn	Hatch	Moynihan
Goldwater	Laxalt	

NOT VOTING—35

Abdnor	D'Amato	Melcher
Andrews	Dodd	Mitchell
Boren	Durenberger	Murkowski
Boschwitz	Exon	Nickles
Bumpers	Hawkins	Percy
Burdick	Hayakawa	Pressler
Byrd, Harry F., Jr.	Heflin	Riegle
	Heinz	Sasser
Cannon	Hollings	Schmitt
Chiles	Jepsen	Stafford
Cochran	Kassebaum	Stennis
Cohen	Kennedy	Weicker

So the amendment (UP No. 1097) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I rise in opposition to the legislation before us today, the Reclamation Reform Act of 1982, S. 1867.

The original reclamation legislation of 1902 was designed to aid family farmers get started in the western regions of our country.

The reforms we are considering today bear little resemblance to that original act. In fact, it this legislation is passed intact, it will represent a financial bonanza to large corporate farming interests, some of which are major international oil companies.

I am outraged that at a time when grain, dairy, livestock, and other farmers are suffering through one of their worst years since the Great Depression, we are considering legislation which will provide corporate landowners with water subsidized by the Federal Government.

Mr. President, one provision in this so-called reform measure specifically exempts those reclamation projects constructed by the Army Corps of Engineers from the reclamation laws. the Committee on Energy and Natural Resources Report, Senate Report 97-373, on S. 1867 specifically mentions the projects on the Kings and Kern Rivers among others as exempt from the reclamation laws.

The landowners in these two areas include Superior Oil Co., Chevron USA, and Tenneco Oil Co.

While this administration has railed time and again against excessive Federal subsidization of the economy, they have remained silent on a bill that will grant huge water subsidies to oil companies.

While this administration has turned a deaf ear to the plight of farmers in the Midwest and elsewhere and turned the Farmers Home Administration (FmHA) against them in an effort to reduce delinquency rates, they have done nothing to discourage the continued irrigation of thousands of acres of corporate landholdings at taxpayers' expense.

Mr. President, this exemption provision is plain wrong.

Mr. President, S. 1867 effectively removes acreage limitations from the reclamation laws.

Ninety-six percent of all farms served by these projects are 960 acres in size or less. Yet, S. 1867 establishes an ownership limit of 1,280 acres, Combined with the unlimited leasing provisions in this bill, S. 1867 represents a de facto repeal of acreage limitations.

This reform measure does provide that all land owned and leased above 2,080 acres that is served by Federal reclamation projects must pay "full cost" for their water.

But, Mr. President, "full cost" as provided by this legislation amounts to paying an interest rate of just 9⅜ percent.

FmHA farm borrowers are paying more than 13 percent so they can plant next year's crop, FmHA home loan applicants are being told there is no money. Rural community FmHA loans are being made at the Government's cost of money—if the loans are made at all.

And oil company landholdings are benefiting from a subsidized interest rate for water, Mr. President.

The acreage limitation provisions of this reform measure must be changed.

Their well-constructed amendment will mean that those farms which can afford to pay the Government's cost of money, will pay it.

Mr. President, several other problems with this measure exist as well. The efforts of my colleagues to change this measure are laudable. We can and must have reclamation law that is fair, that is enforceable, that provides for the recovery of the Federal Government's cost from those most able to pay.

We simply cannot tolerate efforts to provide some of the largest landowners in this country with Federal subsidies at a time when the rest of Ameri-

can agriculture is reeling from low prices, high interest rates, and an administration agriculture policy that is clearly out of line with the needs of farmers.

Mr. President, S. 1867 must be changed. If not, I urge my colleagues to vote against the expanded subsidization of oil companies and other large landowners which is disguised as reform in S. 1867.

Mr. GOLDWATER. Mr. President, I support the committee reported reclamation bill. The bill will update the antiquated Reclamation Act of 1902 and it is long overdue.

We simply must conform the Reclamation Law to modern farming needs. Very few full-time farmers can make a living from 160 acres, the individual ceiling under present law and court order.

Mr. President, I think it is utter folly to tamper with current reclamation farming practices. We are blessed with the most highly developed and effective agricultural production machine the world has ever known. It not only feeds and clothes our people extremely well, but it gives our Nation enormous trade benefits, serves humanitarian purposes, and provides us with international strategic leverage.

Whatever one might argue from statistics, I am persuaded that anyone who actually visits operating farms and talks with growers in my area of the country will hear that modern farm economics dictate larger sized farms. Let us remember that when the 160-acre limitation was applied, most of the farming was done with horses or very limited mechanical machinery. Today with tractors, cottonpickers, plows, combines and other farm equipment each running into many thousands of dollars, a farmer must work enough acreage to offset his investment costs or it is not economical for him to continue farming.

The increased cost of seed, fertilizer, insecticide, and herbicide also make the margin of profit small per acre. You must have a large acreage to spread those expenses over. For example, the total investment of farms of just 500 acres exceeds half a million dollars. Annual production expenses of farms of this size can easily exceed $100,000.

When a farmer deducts his operating costs, few can make a good living on small farms. For example, a 1977 Bureau of Census study revealed that the net income of irrigated farms of less than 500 acres in Utah was $3,806.

Some of the farm income data used against the committee bill is really a composite figure that represents a total of both farm related and nonfarm income. In real life, many persons work their farms only part time and have to take a second job to get by. But if we are speaking about a farm that is supposed to provide a farmer with net income adequate to sustain a full-time business venture, I can tell you that at least 1,000 acres, and probably more, are needed in my section of the country.

Mr. President, I urge my colleagues to vote for the reclamation bill. If unrealistic limits are put on farm size, it will mean less production, less efficient farming practices and higher prices at the marketplace.

Mr. SIMPSON. Mr. President, as we move toward a conclusion of our debate on the reclamation bill, I want to commend those who have participated in the discussions about the merits of the bill and the various amendments that have been offered to it. In particular, I would note the contributions of the distinguished chairman of the Energy Committee, Senator MCCLURE. My good friend and colleague from Wyoming, Senator WALLOP, and my friend from Washington, Senator JACKSON. Their knowledge and understanding of a complex issue of vital importance to us all has resulted in an effective and meaningful level of debate.

Mr. President, I recall a time nearly 3 years ago—during my first year in this place—when we were debating similar legislation affecting the 1902 Reclamation Act. At that time I listed several factors that I thought should be kept in mind during any consideraton of the reclamation laws. Those considerations are just as relevant to the current legislation, and I would like to reiterate them.

First, the reclamation acreage limitation is an institutional creation originating from a point in history when we were attempting to establish the criteria for the entry of citizens upon vacant public lands for the purposes of populating the Western United States.

Second, if Congress is determined to press the requirement that there be an acreage limitation placed upon the eligibility of an individual farmer to receive water from a Federal reclamation project, there is a need to assess the economic realities of contemporary agricultural production. I noted 3 years ago that the American farmer has always been "market oriented," rather than "peasant minded" in the sense of a desire to be enslaved to his land in a subsistence operation for generation after generation.

Third, Western reclamation projects are most properly categorized as other public works efforts more familiar to many of our colleagues which involve flood control and navigation purposes.

Fourth, private beneficiaries of these projects have always been required to repay the full costs of construction to the Federal Treasury, whereas navigation and flood control have never before been required to make such a public accounting.

Finally, multiple-purpose reclamation projects more recently have incorporated into their future usage, recreational aspects and the enhancement of environmental values, as well as hydroelectric and municipal and industrial uses. Those costs have properly been borne by the public and assessed by a Congress responding to the true needs for such objectives and programs.

Mr. President, I submit that those considerations which I listed 3 years ago are just as valid today in the context of the present legislation. An appreciation of the historical development of the reclamation program confirms that it is constantly evolving. S. 1867 will be an important milestone in that evolution—and I strongly urge that it be passed.

(By request of Mr. WALLOP, the following statement was ordered to be printed in the RECORD:)

● Mr. HAYAKAWA. Mr. President, the Senate considers many pieces of legislation that are critical to the economy of our Nation. The bill which we consider today, S. 1867, is an example of such legislation.

S. 1867, reported out of the Senate Energy and Natural Resources Committee by a vote of 18 to 1, is the product of many hours of testimony from hearings held here and throughout the West. The compromise worked out by Senator MCCLURE's committee will benefit all farmers who farm on reclamation land in the 17 Western States.

I am particularly proud to say that my State of California, its representatives and farm organizations have played a leading role in the formulation of this bill and the legislation that was recently passed in the House. Let me point out a few statistics illustrating my State's agricultural strength. There are over 250 commercial crops grown in California, including 30 percent of all the fruits and vegetables grown in the United States. California accounts for over 90 percent of U.S. production of 12 crops: almonds, apricots, artichokes, broccoli, dates, figs, grapes, nectarines, olives, persimmons, pomegranates, and walnuts. California ranks first in production of grapes, lettuce, tomatoes, eggs, and chickens, and second in all dairy products. California is the Nation's largest producer of sugar beets and the second largest producer of barley; the third largest producer of potatoes and the fourth largest producer of rice. My State is also the second largest producer of dry beans and the second largest producer of cotton in America.

In addition, California is the third ranking State in terms of production of agricultural products for export.

Mr. President, I am proud to represent California agriculture in the U.S. Senate, and let me add that I mean all of agriculture—growers and farm workers alike. Let us not forget then

that California farms are the finest and most productive in the world.

In discussing the importance of California agriculture, let me point out the critical role that section 8 of S. 1867 will play in maintaining my State's leadership role in agricultural production, as well as its significance to corps projects throughout the United States.

Section 8 of S. 1867 exempts from acreage limitations and all other provisions of reclamation law all landholdings within the service area of Federal water projects constructed by the U.S. Army Corps of Engineers throughout the United States unless (1) the project has by statute been designated, made part of, or integrated with a Federal reclamation project or (2) unless the Secretary of Interior, pursuant to his authority under the Federal reclamation law, has provided project works for the control or conveyance of an agricultural water supply for the lands involved. Subsection (b) preserves the legal obligation of the landowner's existing contracts with the Federal Government to repay allocated construction costs, as well as their share of operations and maintenance and contract administrative costs for conservation storage. Subsection (b) in no way intends that existing contracts be renegotiated whether or not the landholdings and water districts have repayed allocated construction costs.

This exemption is particularly needed in the Kings River area of California, a unique and remarkable portion of the San Joaquin Valley consisting of 1,000,000 acres of land. Some 500,000 people live and work in that area which annually produces agricultural products having a market value of between $1 and $2 billion. That production alone amounts to substantially more than 10 percent of the agricultural production of the entire State of California.

The Kings River in California, especially, has drawn the criticism of social reformers, and even today is the subject of a lawsuit. But a review of the history of the 1944 Flood Control Act clearly reveals that reclamation law was never intended to be applied to the Kings River, or the Kern, Tule, and Kaweah Rivers.

Mr. President, let me share with you the history of the 1944 Flood Control Act in respect to reclamation and the Tulare Lake case.

The material follows:

Section 8 of the committee bill exempts without exception all projects constructed and operated by the U.S. Army Corps of Engineers under the 1944 Flood Control Act, from reclamation law.

The purpose of the corps exemption is to clarify that merely because a dam and reservoir built and operated by the corps has an irrigation function; it is not for that reason alone subject to Federal reclamation law. Instead, reclamation law can only apply lawfully under any one of two criteria: First, explicit statutory language designates the project as reclamation; or second, in addition to project works constructed by the corps, the Secretary of the Interior has provided works for an agricultural water supply.

The corps exemption was installed to clarify the existing law that was confused by the Ninth Circuit in *United States* v. *Tulare Lake Canal Company*, 535 F. 2d 1093 (9th Cir. 1976). Tulare Lake misconducted congressional intent of the Flood Control Act of 1944 and the plain statutory language of section 8 to conclude that all or any corps projects having an irrigation function are, without more, subject to reclamation law.

The 1944 Flood Control Act in generic language authorized some 90 flood control projects, all across the United States.

In so doing, Congress created a class of equals in each and every project.

Thus Tulare Lake's application of reclamation law to corps projects must obtain not only throughout the ninth circuit (California, Washington, Idaho, Oregon, Nevada, Arizona, Montana, Alaska, Hawaii, and Guam) but also must serve as highest precedent throughout the United States, a subject of a writ of mandamus privately initiated.

At present, however, Tulare Lake is a test case, and the party at bar is the landowners of the Tulare Lake Basin, a 200,000-acre land-locked flood plain into which the Kings River finally empties. Thus in particular, the Court applied reclamation law to all lands supplied with water from the Kings River, on which the corps has constructed and operates the Pine Flat Dam.

Both House and Senate Committees received detailed testimony and written submissions regarding the specially adverse impact of reclamation law's application to both the large and small landowners on the King's River.

In the last Congress, the full House committee rejected two amendments offered during markup to exclude Kings River from the corps exemption first by implicit then by explicit reference. The committee's rejection of the amendments was grounded principally on constitutional grounds, making it unnecessary to restate during markup all of the numerous factual and equitable grounds contained in the hearing record. The amendments would have violated:

First. Due process and equal protection concepts under the fifth amendment; and

Second. Article 1, section 9's prohibition against the enactment of bills of attainder.

The committee's action to keep the Kings River in the general corps exemption is discussed as follows:

I. Factual and Equitable Justification.

II. Constitutional Bar to the Exclusion of Kings River: and

III. Legislative History of Section 8 of the Flood Control Act of 1944.

The principles discussed apply not only to any attempt to exclude the Kings River from the Corps exemption, but as well as the Dern, Tule, and Kaweah Rivers, or any other selected group from the general class of projects created by the 1944 Flood Control Act.

Confronted with a general Corps exemption that does not legislatively apply to one or a few among a class of equals, it is most likely that the courts would either strike down the exceptions or strike down the general exemption itself.

1. FACTUAL AND EQUITABLE JUSTIFICATION OUTLINE

1. The 1944 House Flood Control Committee Report made clear the Kings River landowners' understanding that if the Corps built the dam, reclamation law would not apply:

"Local (Kings River) interests are so strongly in opposition to a projcet built under reclamation law that they have stated that rather than have stated that rather than have the project built by the Bureau of Reclamation they prefer no federal project at all."

2. Under the long-standing reclamation law principle of "payout", the repayment in full of allocated construction cost would cause acreage limitations to be permanently removed:

A. Kings River landowners relied in good faith on the repeated written assurances by the Interior Department (copies of which are appended) that "payout" would occur upon repayment, including the written official representations of:

The Interior Department's Secretary on November 2, 1950; March 2, 1954; and July 12, 1957.

The Commissioner of the Bureau of Reclamation on January 18, 1952 and November 9, 1952.

The Assistant Interior Secretary on May 5, 1954 and May 19, 1954.

The Interior Solicitor on August 9, 1957 and January 3, 1961.

B. The history of the Federal government's assertions of the validity of payout has been traced over half a century in a lengthy and detailed legal memorandum included in the hearing record;

C. Repayment eliminates the so-called "Federal subsidy" justifying acreage limitations under reclamation law; and

D. Twenty-two of the twenty-eight Kings River water districts have fully repaid a sum in excess of $12 million.

3. Because Kings River, like other Corps projects, has none of the fundamental reclamation characteristics, the application of reclamation law produces practical absurdities:

A. The project did not supplement nor did it add new water to the existing water supply;

B. The project did not irrigate arid or semi-arid lands, since the area was fully developed agriculturally long before the project was authorized;

C. The project did not bring additional public or private lands into irrigation;

D. The project did not add or improve any water distribution works, because an efficient and privately owned distribution system, built at a cost to private interests of almost twice the project cost, was operational before the project;

E. The landowners' water rights were perfected before the project was authorized, and are the same as the water rights under California State law which the June 16, 1980, Supreme Court landmark decision in *Bryant* v. *Yellen* (No. 79-421), the so-called Imperial Valley case, held to be so superior as to render acreage limitations inapplicable to the Imperial Valley's pure reclamation project;

F. The project was built as a flood control project but nonetheless, frequent serious flooding still occurs;

G. The project's irrigation functions are incidental; and

H. The Federal government owns no water or water rights of the Kings River.

4. The application of reclamation law in Kings River would be detrimental to all landowners, large and small;

A. Landowners owning excess acreage, the Ninth Circuit conceded in Tulare Lake, can choose not to use the storage and controlled water release services of the project, by-pass the dam, and by their so taking their water "free-flow", reclamation law will not attach;

B. If forced to choose, the large landowners will take their water "free-flow" to avoid reclamation law and the need to sell their land;

C. Without the large landowners' water to carry small landowners' water downstream during the dry months in the growing season, the small landowners will have more serious water loss through water seepage and evaporation, and, therefore, the important water conservation needs of all landowners on the Kings River will be defeated;

D. The surface water lost by small landowners because of "free-flow" will require them to undertake the expensive pumping of water from the underground supply, which is already dangerously low;

E. Because the large landowners, particularly in the Tulare Lake Basin, can store their "free-flow" water on their lands, the small landowners least able to bear the resulting financial burden will be the far more injured parties; and

F. The Water interests of Kings River's 20,000 large and small landowners are, therefore, mutually dependent, and all seek relief through the exemption.

6. The California State Legislature Joint Resolution passed in July, 1979, by a nearly unanimous combined vote of 112-2, petitioned the Congress to grant Kings River a reclamation law exemption (a copy of the full resolution is appended), the conclusion states:

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to specifically exempt the Kings River service area from the provisions of reclamation law. . . ."

II. CONSTITUTIONAL BAR TO THE EXCLUSION OF KINGS RIVER

Legislation that should exclude from the Corps exemption the Kings River, or other California Corps projects on the Kern, Kaweah or Tule Rivers, or legislation that attaches special conditions on the landowners for according them relief, while providing an unconditional and full exemption to all other similar Corps projects in other states that have an irrigation function, would be unconstitutional on its face. These would be unequal treatment of a selected member of a class of equals. Thus in a bill that should single out Kings River or the other California Corps project for special adverse treatment would violate:

(1) The Fifth Amendment guarantees of Due Process and equal protection, since such discriminatory legislative action is unreasonable, arbitrary, and capricious by its denial of equal treatment to equals; and

(2) Article I, Section 9's prohibition against the enactment of Bills of Attainder, because the exclusion in this context constitutes a legislative punishment by (a) interfering with property rights, (b) failing to further a lawful nonpunitive legislative purpose, and (c) implementing the proponents of the amendment's sole intent to punish identifiable parties.

1. Fifth Amendment Due Process and Equal Protection.—During the full Committee mark-up last Congress amendments to exclude Kings River from the Corps exemption were rejected principally on the grounds that they were unconstitutional and, therefore, unlawful. As the Supreme Court has long recognized, the guarantee of Due Process "secure(s) equality of law in the sense that it makes a required minimum of protection . . . which the legislature may not withhold." *Truax* v. *Corrigan*, 257 U.S. 312, 332, (1921). The Supreme Court has recognized that the Fifth Amendment guarantees equality to equals, in effect, equal protection. *See, Weinberger* v. *Wisenfeld*, 420 U.S. 636, 638 n. 2 (1975). Since the Flood Control Act of 1944 and subsequent flood control enactments authorized numerous Corps projects in other states with irrigation functions, including the Kings River Corps project, the law establishes a class of equals. Denial of reform to only one or a few of the projects in this class is a patent denial of equal treatment.

In *United States* v. *Tulare Lake Canal Company*, 535 F. 2d 10902 (9th Cir. 1976), the Ninth Circuit Court of Appeals held under Section 8 that all Corps projects having an irrigation function and created under the 1944 Flood Control Act are a class of equals, thereby necessitating the application of Reclamation Law to all:

"[The third sentence of Section 8] provides that *all* dams operated under the direction of the Secretary [of the Army] are to be utilized for irrigation only in conformity with the section, *i.e.*, under the reclamation laws; thus bringing under those laws dams for which no additional irrigation facilities are required," *Id.* at 1116.

The third sentence of Section 8 provides:

"Dams and reservoirs operated under the direction of the Secretary of the Army may be utilized after December 22, 1944, for irrigation purposes only in conformity with the provisions of this section, but the foregoing requirement shall not prejudice lawful uses now existing. *Provided*, That this section shall not apply to any dam or reservoir heretofore constructed in whole or in part by the Army engineers, which provide conservation storage of water for irrigation purposes." 43 U.S.C., sec. 390.

The Court's interpretation of Section 8 clearly pronounces a rule of general application, and not one applicable merely to Kings River or other California Corps projects alone.

Moreover, a significant analogy can be drawn between the discriminatory treatment of the four California Corps projects in last Congress' Senate version, S. 14, and the attempted amendment to the bill to deny Kings River equal treatment to all other Corps projects, and the legislation held unconstitutional by the Supreme Court in *Cotting* v. *Goddard*, 183 U.S. 79 (1901). In *Cotting*, the Supreme Court held that a state legislative enactment purporting to regulate a particular class of business, but in operation restricting by regulation only one company in the class, was unconstitutional as a violation of equal protection. The Court found that the legislation in question did not simply affect different companies differently in its indirect results. Nor was the classification based upon inherent differences in the character of the businesses. Rather, the legislation was unlawful as a positive and direct discrimination between persons engaged in the same class of business. *Id.* 114-15.

While congress has the power to distinguish between competing interests in legislation in order to achieve broad public policy goals, the prerogative is limited by the Due Process Clause of the Fifth Amendment. Due Process secures equal treatment for equals under law, and it requires that the means selected to achieve a lawful legislative goal must have a real and substantial relation to the constitutional object sought to be obtained, that standard is not and cannot be met here since neither the legislative goal nor the means selected are lawful. No Congressional finding of fact or statement of purpose for reforming reclamation law has been, or can be, advanced to justify singling out the small and large Kings River landowners for a denial of the relief accorded to all other similar, flood control project landowners. Rather, the evidence developed during extensive congressional hearings suggests simply the reverse. Hence, any attempt to discriminate against the Kings River landowners should constitute the unreasonable, arbitrary and capricious legislation that the courts would be required to overturn.

2. *Bill of Attainder Under Article I, Section 9.*—Legislation that excludes Kings River or other California projects from the Corps exemption by name or description constitutes legislative punishment violative of the constitutional prohibition against Bills of Attainder in Article I, Section 9: "No bill of Attainder or ex post facto law shall be passed". Over one hundred years ago the Supreme Court described a Bill of Attainder as legislative punishment without a judicial trial. *Cummings* v. *Missouri*, 71 U.S. (4 Wall.) 277, 323 (1867). More recently, the Supreme Court in 1965 defined it to mean "legislative punishment, of any form or severity, of specifically designated persons or groups". *United States* v. *Brown*, 381 U.S. 437, 447 (1965). The punishment can be civil or criminal in nature.

If the following two elements are present, the law must be struck as a violation of the Bill of Attainder clause: First, isolation of a defined individual or group; and second, imposition of a type of punishment contemplated by the clause. *Nixon* v. *General Services Administration*, 433 U.S. 425, 469 (1977). Punishment may be recognized under any one of the following three tests: (1) historical experience; (2) function; and (3) legislative motive. *Id* at 473-83.

The amendments to exclude Kings River by implicit or explicit reference satisfy the first essential element of a Bill of Attainder that the victim be clearly identified. The second essential element of punishment within the meaning of the clause, as articulated in *Nixon*, is satisfied under all three tests.

The historical experience test looks to past legislative abuses of power in the United States and England, including punitive confiscation of property by a sovereign. "A statutory enactment that imposes any of these (traditional property right) sanctions on named or indentifiable individuals would be immediately suspect". *Id.* at 173. The water rights to the Kings River were fully vested and perfected under California state law by private parties before the project was authorized. Acreage limitations, residency requirements and the anti-speculation provisions of reclamation law selectively applied constitute an unlawful interference with judicially recognized property rights in water of both large and small landowners. *See, California* v. *United States*, 438, U.S. 645, 670-673 (1978).

Under the functional test, the inquiry is "whether the law under challenge, viewed in terms of the type and severity of burdens

imposed, reasonably can be said to further nonpunitive legislative purposes." 433 U.S. at 475-76. In view of the discriminatory treatment between projects included and excluded from the Corps exemption, without a showing of factual justification on the record, this test is fully met. Moreover, the record is practically uncontradicted as to the factual and equitable justification for an exemption. The amendment's proponents stated no substantive basis in the nature of a non-punitive legislative purpose.

The motivational test "inquir[es] whether the legislative record evinces a congressional intent to punish". 433 U.S. at 478. The record clearly reflects a motivation on the part of the amendments' proponents to prevent certain large landowners in the Tulare Lake Basin from gaining any benefit from the Corps exemption remedy, in full disregard of the factual and equitable circumstances, particularly in regard to small landowners. It is tainted as retaliatory in all respects. The punitive motivation is only heightened by the representations on the hearing record on behalf of small landowners that they will be the most serious victims of the proponents' stated large landowner targets because of the Kings River's natural physical characteristics, including the water supply damage which "free flow" would cause, the resulting further reduction in the precious ground water supply and the economic unfeasibility of farming on a small scale in the Tulare Lake Basin owning to flooding.

LEGISLATIVE HISTORY OF SECTION 8 OF THE FLOOD CONTROL ACT OF 1944

The legislative history of the Flood Control Act of 1944 was repeatedly asserted by critics as grounds that Kings River should be denied reclamation law relief. The factual and equitable grounds for supporting remedial legislation for Kings River go almost wholly uncontradicted.

The critics have relied upon the fallacious reasoning of the legislative history interpretations stated by the Ninth Circuit Court of Appeals in *United States* v. *Tulare Lake Canal Company* and those advanced by the Interior Department in the course congressional hearings.

Listed below are the principal assertions of legislative purpose and intent made by the Ninth Circuit and stated therein is a brief corrective explanation.

1. *The Hill-Overton Colloquy.*—The Ninth Circuit places great reliance upon the Hill-Overton colloquy during the Senate Debate on the reference version of the Flood Control Act:

Mr. HILL. There still seems to be confusion on the part of some Senators with reference to the application of reclamation laws in regard to some of these projects.

"I heard the distinguished senior Senator from Louisiana, when the bill was under consideration, and I think he made it very clear. However, I wish to ask this question: Is it not a fact that section 8 of this bill, as agreed to in conference, makes some reclamation laws applicable to the handling of irrigation water of any of the projects, including California projects, where it is found that irrigation may be carried out? I ask the Senator in charge of the bill whether it is not a fact that the President wanted the California project in this bill constructed under the Bureau of Reclamation so that the water policies would conform to reclamation law?

"Mr. OVERTON. The Senator is correct with respect to the projects in the so-called Central Valley of California. The President wrote me and the chairman of the subcommittee in this regard. However, in view of the fact that the Senate amendment made not only the California projects but all such projects subject to irrigation laws, and in view of the fact that the House concurred in this action by agreeing to Section 8 of the Senate bill, I am sure that the President will feel that we have met the problem that he raised. Section 8 of the bill clearly places reclamation uses of water from these projects under the Secretary of the Interior and under the applicable reclamation laws. No project in this bill which may include irrigation features is exempted from the reclamation laws.

"Mr. HILL. I thank the Senator.

"Mr. OVERTON. The Senate amendment made not only the California projects, but all such projects subject to the irrigation law. In view of the fact the House concurred in that action by agreeing to Section 8 of the bill, I am sure the Senator from Alabama will feel that we have met the question which he has raised. As I stated a while ago, Section 8 of the bill clearly places reclamation uses of waters from all projects authorized in this bill under the Secretary of the Interior, and under the applicable reclamation laws." 90 Cong. Rec. 9264 (1944).

As a preliminary matter, it is necessary to point out that this colloquy was "staged', and for that reason it must be discounted. *See.* Nutting, *The Planned Colloquy—What now?*, 46 A.B.A.J. 93 (1960). The colloquy took place after the Senate had completed its consideration of Section B, and was apparently instigated by the Administration. However, even here Senator Overton remained convinced, as he was at other stages of the debates, that the Interior Department's administration of reclamation law under Section 8 was limited to "surplus water", and in this way, vested water rights would not be interfered with.

If the Hill-Overton colloquy is to be relied upon at all, it must be for the propositions that (a) Section 8 was intended to be applicable to all Corps projects authorized by the 1944 Act; and (b) that "reclamation uses", meaning "surplus water", should be subject to the reclamation law jurisdiction of the Interior Department. He did not intend that vested water rights should be impaired. By the term "surplus water" he meant water made available by the project to which there as no vested right under state law. This is the ony meaning which comports with the Members' understanding, sprinkled throughout the debates, that vested water rights would not be interfered with, a legal concept which Western State Members were plainly aware, but more importantly, of which they were very protective.

"Surplus water" was under the Interior Department's jurisdiction, as Senator Overton understood the operation of Section 8 in the Senate version:

"Of course, the Senate will understand that, insofar as irrigation is concerned, all *surplus water* which can be used for irrigation is turned over to the Department of the Interior, and the method of irrigation and the operation of the irrigation works are under the control of the Department of the Interior." 90 Cong. Rec. 8625 (italic added).

Senator Overton associated "reclamation use" with Bureau of Reclamation jurisdiction, so that projects having predominant "reclamation uses" would be built by the Bureau, and those not having dominant "reclamation uses" would be built by the Corps under the inter-agency pack resolving the Corps-Bureau rift. To the extent of "surplus water", then, a Corps project would have a "reclamation use". Consider, the above with the following statement by Senator Overton in an exchange with Senator Murray:

"In the joint report submitted as a result of a conference and agreement between the Bureau of Reclamation and the Army engineers that policy has been carried out, and the reservoirs in which the predominant interest is conservation, irrigation, and reclamation are to be under the control of the Bureau of Reclamation and the Department of the Interior. Those in which navigation and flood control predominate are to be under the control and operation of the Army engineers. I think what the President has said is fair, and that policy is the one which is being pursued." 90 Cong. Res. 8625.

"Surplus water" was defined in the course of House debates on a section related to the House version of Section 8. Congressman Whittington, Chairman of the House Flood Control Committee which reported out the Flood Control Bill, was questioned by Congressman Chenoweth:

"Mr. CHENOWETH. Will the gentleman define the word "surplus" used in Section 4 in referring to *surplus water*? In the West we have the doctrine of appropriation, for all water in a stream is appropriational. I anticipated a flood-control project where that water would be stored temporarily. *It woud not be surplus water. It is appropriated for irrigation purposes. The gentleman does not mean to interfere with any appropriated water*?

"Mr. WHITTINGTON. No. I would think that this had primary reference to reservoirs for flood control. My general judgment, in answer to the gentleman's question, is that practically all of that water is surplus, and that may be disposed of, if the reservoir is for flood control." 90 Cong. Rec. 4125 (italic added).

Congressman Chenoweth subsequently stated:

"Mr. CHENOWETH. The gentleman from Nebraska is a recognized authority on irrigation law. He comes from an irrigation State. I would like to ask a question or two in order to clear up a couple of paragraphs here. The first is in respect to Section 4 where the Secretary of War is authorized to sell *surplus water.* What is the gentleman's observation as to *surplus water?* In our area all water has been appropriated, including floodwaters. They will be temporarily captured and placed in reserve, but would not be subject to sale. They belong to the appropriators who have already complied with statutes in appropriating it.

"Mr. CURTIS. It would be my opinion that water appropriated for irrigation is not *surplus water.*" 90 Cong. Rec. 4133. (italic added).

The Senate adopted the Committee amendment of Section 8, as proposed by Senator Overton, stated by him to be word for word as recommended by Interior Secretary Ickes, 90 Cong. Rec. 8550, as provided in relevant part:

"Dams and reservoirs operated under the direction of the Secretary of War may be utilized hereafter for irrigation purposes only in conformity with the provisions of this section, but the foregoing requirement shall not prejudice lawful uses now existing." 90 Cong. Rec. 8552.

The relevant language of section 8 as enacted provides:

"Dams and reservoirs operated under the direction of the Secretary of War may be utilized hereafter for irrigation purposes

only in conformity with the provisions of this section, but the foregoing requirement shall not prejudice lawful uses now existing. Flood Control Act, ch. 665 § 8.58 Stat. 891 (1944) (current version at 43 U.S.C.A. § 390 (1979))."

The only mention of Section 8 during the Senate floor consideration of the Conference version was the staged Hill-Overton colloquy. The understanding in the Senate was clear: Corps dams and reservoirs were subject to reclamation law only as to "surplus water". If the conference version changed that, it was not brought to the Senate's attention. The Conference Report language was cloudy on the essential "surplus water" issue.

"Amendment No. 17: This amendment of the Senate replaces Section 6 of the House approved bill with certain modified language substantially as required by the Secretary of the Interior and constitutes Section 8 of the Senate approved bill. The Senate language will provide for more effective administration in relation to the various technical features of the Federal reclamation law. It establishes a procedure for the utilization of multiple-purpose projects for irrigation purposes when the Secretary of War determines upon recommendations of the Secretary of the Interior that a project operated under the direction of the Secretary of War may be utilized for irrigation purposes." H.R. Rep. No. 2051, 78th Cong. 2d Sess. 7 (1944).

The Administration's tactics were transparent. The Senate version of Section 8 was advanced, argued, and explained by Commerce Committee Chairman Overton. It was Senator Overton himself who asserted the "surplus water" argument. It was also Senator Overton who explained that the Senate version was word for word that of Interior Secretary Ickes. The Conference Committee report states that its version was substantially as requested by Secretary Ickes. This must, of course, cause the drafter's intent to be discounted. The rule stated by Sutherland, and explained more fully in part 2 below, would make reliance on the Secretary's intent impermissable.

2. *Reliance Upon the Administration's Written Correspondence.*—The Ninth Circuit placed great weight on the presumption that the Administration's interpretation and intent in drafting Section 8 was, a fortiore, adopted by the Congress. The *Tulare Lake* opinion's legislative history, 535 F.2d at 1098-1118, repeatedly cites and quotes the written correspondence to the Congress over the signatures of President Roosevelt and Interior Secretary Ickes. The Court states that these writings, in addition to those of Commissioner Bashore of the Bureau of Reclamation, were looked to to determine that acreage limitations were applicable to Kings River. *Id.* at 1099.

The Court's strong reliance on these writings was erroneous. The Administration does not make law; the Congress does. The use of extra-legislative source materials expressing the views of the draftmen has no binding legal force. As an exception to the general rule, weight can be properly attached to the drafter's views only if those views were clearly and prominently conveyed to the Congress during consideration of the bill, provided that there is reason to believe from the record that (1) the legislators' understanding of the bill was influenced by the drafter's communicated views and (2) the communication was so visible to the Members that the drafter's intent was understood in the context of the statutory language. 2A Sutherland, *Statutes and Statutory Construction* § 48.12 (4th ed. 1973). These elements were not met.

The letters regarding acreage limitations and residency requirements, or any other limitations under reclamation law, were not a matter of debate at the time the letters were introduced into the record, or read. There is no basis whatsoever to conclude that the Members were fully informed or plainly understood the reclamation implications of Section 8. The debates make clear that the Members believed that vested water rights would remain intact and unencumbered. There is totally absent any evidence that the Members believed anything other than that if reclamation law were to be applicable to a Corps dam, it would be to "surplus water" or "reclamation water" only. This is the only interpretation that comports with the repeatedly expressed concerns for the possibility which vested water rights would be interfered with and the assurances by spokesmen for the bill that they would not. See, e.g., 90 Cong. Rec. 4125, 4141, 8428, 8616-17.

Interior Secretary Ickes was intent on making a record in order to shape legislative history. If for no other reason, his views, and those of President Roosevelt, were orchestrated to undo the fatal failure of their effort over a period of years to have all projects in the San Joaquin Valley, like the Central Valley of California built and operated by the Bureau. They failed in that attempt. Senator Bailey stated of Secretary Ickes: "He is clearly a partisan in matters of this type, and I believe I am safe in saying that be is something of a crusader. The judgment of partisans and crusaders is always to be respected . . . but *they are not, by any means to be trusted.*" 90 Cong. Rec. 8316 (italic added).

3. *The Kings River Amendment.*—The *Tulare Lake* decision states that on the Senate floor a final attempt was made to bar the application of acreage limitations to the California projects authorized by the 1944 Act but that they were unsuccessful. 535 F.2d at 1108.

The Ninth Circuit is in error. There was no specific amendment offered to exempt Kings River, or the Kern, Kaweah, and Tule River projects, from the acreage limitations. The only possibly relevant amendments were those offered by Senator O'Mahoney and Senator Murray, but they are not on point.

Senator O'Mahoney offered an amendment to authorize the Secretary of the Army, the Corps, to make contracts for the use of "surplus water". 99 Cong. Rec. 8548. He also offered an amendment to Section 8 so that it "shall not apply to any dam or reservoir heretofore *or hereafter* constructed which supplements locally operated irrigation systems or other locally operated water facilities. . . ." 90 Cong. Rec. 8550. The amendments were not voted on. The amendments were referred to the Committee on Irrigation and Reclamation without objection. 90 Cong. Rec. 8850.

The other error is more apparent. It is a fact that Senator Murray offered an amendment to delete from the bill the Corps projects for the Kings, Kern, Kaweah, and Tule Rivers, not to save those projects from Section 8, but rather so that they could be "planned, designed, constructed, operated, and maintained as an integral part of the Central Valley project by the Bureau of Reclamation in accordance with established policies of the Bureau of Reclamation." 90 Cong. Rec. 8622-8623. This was a Roosevelt Administration inspired amendment and it was rejected. The Roosevelt Administration had consistently failed heretofore to have the projects for the four rivers included in the Central Valley project, a pure Bureau of Reclamation undertaking.

It is important to point out that in response to Senator Murray's defeated amendments, a victory and not a loss for Kings River, Senator Overton restated his understanding of "surplus water" in the context of Section 8:

"The able junior Senator from Montana has made considerable comment in reference to the Sacramento and San Joaquin Rivers and the Central Valley, in California. The principle to which I have just referred was carried out in respect to the projects contained in the bill which were authorized for those streams. The testimony shows, I think rather conclusively, that the projects herein authorized to be constructed by the Army engineers are some in which flood control predominates over irrigation. Of course, the Senate will understand that, insofar as irrigation is concerned, *all surplus water* which can be used for irrigation is turned over to the Department of the Interior, and the method of irrigation and the operation of the irrigation works are under the control of the Department of the Interior.

* * * * *

"Mr. President, the Assistant Chief of Engineers, as well as all the engineers who appeared before our committee, stated that they had absolutely no objections whatsoever to the irrigation and power amendments which were suggested by the Secretary of the Interior. They were similar to those suggested by the Senator from Montana, and were subsequently incorporated in the pending bill. The engineers stated that they were perfectly willing to turn over to the Department of the Interior control of the power generated for distribution, and were perfectly willing to turn over to the Bureau of Reclamation the distribution of *all surplus water* held back by the dams constructed by them, for distribution of which would come under the reclamation law, or would follow whatever method Congress might determine upon." 90 Cong. Rec. 8625 (italic added).

It deserves noting that the Supreme Court, in recently reversing the Ninth Circuit in the Imperial Valley decision, *Bryant* v. *Yellen*, No. 79-421 (S. Ct. June 16, 1980) stated that:

"[S]tatements by the opponents of a bill and failure to enact suggested amendments, although they have some weight, are not the most reliable indications of congressional intention. *Ernest & Ernest* v. *Hochfelder*, 425 U.S. 185, 204, N.24 (1976); *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 381-382, N.11 (1969). *Bryant*, Slip op. at 23."

4. *Section 8 Was Doomed At the Outset.*—Section 8 was born in several different versions, confusing technical water law terminology with the result that the inequities caused over the years now require this Congress' clarification.

Senator Bankhead, Chairman of the Committee on Irrigation and Reclamation gave a forceful warning to the serious implications of wedding reclamation law to a flood control bill through Section 8:

"If we proceed to enact legislation in this important field by this sort of method, by what might be called a rider to a flood-control program, without any hearing, without any consideration by the committee which

has complete jurisdiction on the subject, *I submit to the friends of the principle of the irrigation and reclamation laws that they are entering upon a most dangerous proceeding and one which may sooner or later lead to the wreckage of the entire reclamation program.*" 90 Cong. Rec. 8549 (emphasis added).

Senator Bankhead's prophecy was apparently correct.

5. *The Kings River Corps Project's Predominant Purpose.*—The Corps study, which laid the basis for the Kings River Project, judged flood control to be the dominant purpose of the dam. H. Doc. No. 630, 76th Cong., 3d Sess. 9 (1940). In considering authorization of Corps projects, including Kings River, the Senate floor manager for the Flood Control Act of 1944 recognized that corps projects principally protected against floods, 90 Cong. Rec. 8625. Even today, the law authorizing the construction of dams under the Flood Control Act requires that flood control purposes predominate, 33 U.S.C. §§ 701, 701a.

Discussion of the Kings River Issue.—The Ninth Circuit states that both the Administration and the Kings River's views were exhaustively considered. The debates and reports do not support that statement. There is almost total lack of discussion of acreage limitations in particular. It is also true that both sides did not exhaustively state their case. Because the Corps was to build the project, Kings River did not anticipate reclamation law problems. In addition, all the Kings River water interests had vested before 1944, so that "surplus water" uses did not pose a problem. Indeed, no Kings River spokesman was necessary nor was one needed for all other California Corps projects. The Kings, Kern, Kaweah and Tule River projects did not require a member's active lobby; the only active lobby which existed was the one confined to Administration written correspondence. In effect, the Administration's attempt to write legislative history was self-serving and without legal significance.

7. *Contrasting language.* Subsection 8 (1) excepts the Corps exemption from projects that have ". . . by Federal statute explicitly been designated, made a part of, or integrated with a Federal reclamation project. . . ."

In stark contrast to the language of Section 8 relied upon by the Ninth Circuit, is Section 203 of the Flood Control Act of 1962 (P.L. 87-874, 76 Stat. 1173), applying reclamation law to the New Melones Project constructed by the Corps under the 1944 Flood Control Act:

"The New Melones project . . . is hereby modified substantially . . . *Provided,* That upon completion of construction of the dam and powerplant by the Corps of Engineers, the *project shall become an integral part of the Central Valley project and be operated and maintained by the Secretary of the Interior pursuant to the Federal reclamation laws. . . . [Emphasis added.]*

No statutory language even coming close to this exists in respect to the Kings River, certainly not Section 8. The contrasting language of the 1944 and the 1962 Flood Control Acts clearly shows Congress's intention to apply Reclamation law in the latter, and not in the former, case.●

Mr. DECONCINI. Mr. President, I wish to pay particular thanks to the Senator from Wyoming, the Senator from Idaho, the Senator from Washington, and the Senator from Ohio for their fine work in putting this compromise together.

Mr. President, the 1920 Reclamation Act has been a tremendous investment in the natural and human resources of this country over the course of several generations. As a direct result of this investment, over 11 million acres are receiving a full or supplementary water supply. That is 11 million acres—about 25 percent of our irrigated farmlands in this country. Reclamation water is distributed to about 153,000 farms, and is the life's blood of many Americans.

In return, the gross value of crops from reclamation farms is about $7.5 billion annually. That is money that stays right here in this country—and as we are a net exporter of Agricultural products, reclamation farmland is a very positive factor in achieving a balance of trade.

And for those of us who do not own farms, we get hydroelectric power, municipal and industrial water, fish and wildlife conservation, flood control, and public recreation. The list goes on and on. Does the farmer benefit from Federal reclamation projects? Certainly—but the new wealth created by expanded agriculture and expanded production has greatly benefited the entire country.

There have been, however, a lot of changes in the world since 1902 and a lot of changes in agriculture technology. The Reclamation Reform Act of 1982, as reported by the Senate Committee on Energy and Natural Resources, and now agreed to on the floor is an important updating of the original act. The most obvious change, of course, is in the formula for determining the size of a farm eligible for project water. Under S. 1867, the size of the farm, rather than the size of the family, determines eligibility. Existing law allows any individual to own up to 160 acres of land and recieve project water. Husband and wife together could own 320 acres. A family of 4 could own 640 acres, a family of 10, 1,600 acres. S. 1867 allows a family, not an individual, ownership of 1,280 acres. The bill also imposes an overall limit on leasing, which does not exist in current law, and for the first time would require the reclamation farmer to repay construction costs with interest if the size of his farm has exceeded whatever overall acreage limitation is finally enacted.

The bill, of course, Mr. President is not perfect. Few attempts to impose limits or guidelines on complex endeavors affecting millions of people ever come close to that lofty goal. And like most major measures which make it to, and pass, the Senate floor, the bill contains many compromises—both large and small—hammered out over the years among the numerous conflicting interests. Consideration and debate here on the floor has given us additional opportunity to make changes, and pass a fair and balanced bill—conference with the House will undoubtedly result in further changes. For my own part, while supporting the bill as reported, I believe the combined total of 2,080 acres of owned and leased land was questionable. I was happy with the 1,280 acre limit we had in the 1979 bill, S. 14, and believe the compromise is a good one. I would agree with my distinguished colleagues, Senators JACKSON and HATFIELD, and many of my colleagues here on the floor that the principle intent of the reclamation program is to benefit a large number of farmers. That although we need a larger acreage limitation to accommodate current and future farm technologies and economies, it is not the intent of the program—nor is it to the benefit of the taxpayer—to subsidize large corporate landholdings.

However, Mr. President, the bill in general is balanced and fair and that is reflected in the overwhelming support given to the reported bill by the committee members and in the compromise we now have. I would like to commend and congratulate the distinguished chairman of the committee, Senator MCCLURE, the distinguished floor manager, Senator WALLOP, and Senator JACKSON the distinguished ranking minority member for their leadership and perseverance in putting this bill together, literally word by word.

I would also like to commend them on their inclusion of section 11(e) which exempts those lands which receive a substitute water supply on the condition that ground water pumping is reduced in equal quantities.

As the Senate Report 97-373 points out, this section applies to the central Arizona project which, I believe, is the only contracting entity which has a contract with the United States requiring an offsetting reduction in ground water pumping for the irrigation water received from the Federal project.

Reclamation law was designed to apply to projects that provide full or supplemental irrigation supplies on a firm or dependable basis. However, although the original use of the CAP water was envisioned to be purely agricultural, the population centers have grown and the master contract now gives M. & I. users a 100-percent priority over agriculture users in event of a shortage. As a result, the cities get a firm water supply. The Indian reservations get a firm water supply. But the farmers do not get a firm water supply. This represents a temporary water supply for Arizona farmers.

Also, as the Senate report points out, the CAP master contract requires a bucket-for-bucket substitution of ground water now being pumped in the project area. CAP neither expands nor stabilizes agriculture's supply. The

purpose of the CAP (Public Law 90-537), was not to create new water supplies—not to create new agriculture—but to reduce the pumping of ground water for agriculture already in existence. Without additional water but with the limitations and restrictions of the Reclamation Act, many, and perhaps most Arizona farmers could not afford to contract with the CAP—could not afford to stop pumping ground water—and that would be disastrous for all Arizonans.

There are a large number of Arizonans who have provided invaluable assistance to me over the last 6 years in helping me to become better acquainted with the various provisions of reclamation law and its application to Arizona projects. Although it is impossible to mention everyone, I would like to give special thanks to those who have testified before the Senate committee on S. 1867: Bob Moore of the Agri-Business Council of Arizona; Clyde Gould of the Wellton-Mohawk Irrigation and Drainage District; and Tom Choles who testified on behalf of five reclamation districts. Their expert testimony was very helpful and instrumental to the development of the bill.

I would also like to thank Rodger Ernst, one of Arizona's outstanding water experts, the same thanks to Bill Gaskin, Howard Weitz, Jim Hennis, Michael Curtis of the Arizona Municipal Power Users Association, Hank Ramon and Rich Johnson of the Central Arizona Project Association, Tom Clarks of the Central Arizona Water Conservation District, Dick and Kieth Walden of Pima Co., and Wes Steiner, the Director of the Arizona Department of Water Resources. Also special thanks to my legislative assistant Jim Magner for his outstanding work in behalf of all of Arizona.

The information and assistance they have provided has been very timely and crucial to representing Arizona's interest in this bill.

Mr. GORTON. Mr. President, because of the importance of the reclamation reform issue to the people of Washington State, I will take this opportunity to express my views on the subject. The 1902 Reclamation Act has been in need of updating and clarification for many years. Farming in the United States is a vastly different business in 1982 than it was in 1902. When laws begin to lose their relevancy to the subject-matter they were designed to deal with, they cease to be enforced. It is precisely this problem that has beset the Reclamation Act. I hope that the product of the conference between the House and the Senate will be one that will make this law once again relevant and that it can and will be enforced.

Mr. President, I am not totally satisfied with the committee bill as a final product, but I do believe that it has made significant improvements on the current law. The most obvious change is in the acreage limitation and the full cost of water provisions. While the committee's version of the acreage limitation may be too generous, it is likely to be compromised with the House. On the other hand, the amendment offered by the distinguished Senator from Indiana, Mr. LUGAR is far too restrictive, even punitive. I hope that the committee will work very closely with the House Members of the conference committee, and that a reasonable acreage limitation combined with a cap on leasing will be adopted.

I thank the members of the Energy Committee and their staffs for their diligent efforts in drafting this bill. We are all aware that the agricultural community does not speak with one voice on this subject and that the balances which must be struck are delicate ones. I particularly thank my friend Senator JACKSON for his tireless work on behalf not only of the citizens of Washington, but of all those served by the reclamation system.

Mr. President, as I have said, this bill is a fine starting point for discussions with the House. I trust that conferees will consider the reservations of their colleagues which have been expressed here today when they proceed to fashion their final product. I hope that they will proceed expeditiously. This reform is long overdue.

Mr. DOMENICI. Mr. President, what we have here today in the U.S. Senate is truly a historic moment. In consideration of S. 1867, the Reclamation Reform Act, we are proposing legislation that would modify one of the most important laws ever passed by the Congress of the United States.

That law, the 1902 Reclamation Act, was one of the keys to settling the Western United States and creating, in the past 80 years of its existence, homes and opportunities for millions of Americans.

In his first measure to Congress, President Theodore Roosevelt said:

> The forests alone cannot, however, fully regulate and conserve waters of the arid region. Great storage works are necessary to equalize the flow of streams and to save the flood waters. Their construction has been conclusively shown to be an undertaking too vast for private effort. Nor can it be best accomplished by the states acting alone.

President Roosevelt recognized that the settlement of federally reclaimed arid land as a central but separate issue which justified a Federal involvement when he said:

> The Policy of the National Government should be to aid irrigation in the several states and territories in such a manner as will enable the people in the local communities to help themselves and it will stimulate needed reforms in state laws and regulations governing irrigation.

Roosevelt said further:

> Our people as a whole will profit, for successful homemaking is but another name for the upbuilding of a nation.

I submit to this body the conclusion that this program has worked well for those local communities, for those States where these projects have been built, and for this Nation.

We have created the opportunities for millions of people and we have added to our Nation's economy and more than repaid the original cost to our Government through increased economic activity and the resultant generation of new tax revenue.

We have, through the reclamation program, truly built a nation from shore to shore.

However, time marches on and several years ago a dark shadow of uncertainty appeared over these projects. A shadow that tried to impose the agriculture methods of the 19th century on today's modern American farms.

This shadow threatened the existence of thousands of family farms in the West. I would repeat this statement. Thousands of family farms had their very existence threatened. That is why today we are considering a new Reclamation Act. That is why I am a cosponsor of this legislation. The 1902 reclamation law was a good law and it served this Nation well. But time marches on and what this legislation does is to recognize the fact that American agriculture today is not what it was 80 years ago. That, simply stated, is the purpose of this legislation. We must modernize the law.

Furthermore, this legislation represents a consensus of the views of many individuals and groups that have argued over this issue the past several years. I believe it will make a good law and I believe it will serve the taxpayers of this Nation as well as serving our consumers well.

It will remove that shadow of uncertainty and will allow our family farmers to get back to doing what they do best. It will allow them to provide America with the high quality food at a reasonable price to our consumers. It will provide this food on a year-round basis so our consumers are not faced with periodic food shortages and resulting high prices.

American today has the greatest food machine the world has ever known. This food machine was built with the blood, sweat, and tears of our American farm families who for the most part accomplished this miracle in spite of Government programs.

It seems to me that this bill is a reasonable piece of legislation that most farmers have agreed is needed. I support it and I hope my colleagues will also give it their utmost consideration and come to the realization that in spite of what they may perceive as shortcomings, it is a bill that will resolve the major issues we have dis-

cussed for several years and once and for all reassert our national commitment to family farms in America.

● Mr. BAUCUS. Mr. President I rise to express my strong support for passage of S. 1867, the Reclamation Reform Act of 1982. Reform of the 1902 Reclamation Act, which sets an acreage limit of 160 acres on Federal project water, is long overdue.

We must increase this acreage limitation to reflect the present-day agricultural climate. Agriculture has come of age in the West and is the mainstay of the economy there. The reclamation program provided for the production of $7.4 billion in crops in 1980 and provides food for over 39 million people. These figures indicate the importance of the reclamation program, not only for the Western States, but for the entire United States.

The reclamation program has played a strong role in the development of the agricultural economy in my home State of Montana. The Huntley Irrigation project has served farmers in the Yellowstone Valley since 1908. The project is one of the first constructed in the United States under the 1902 Reclamation Act.

I think we all agree that some increase in the acreage limitation is essential. In 1902, a 160-acre farm was an economically viable size. Agriculture has undergone tremendous change in the last 80 years and 160 acres is no longer an economic unit, especially in the arid Western States.

During the 96th Congress, I was a cosponsor of Senator CHURCH's legislation to upgrade the acreage limitation. The Senate passed that bill, but because of lack of action in the House, the measure did not become law. We must take action now to prevent the Secretary of Interior from writing rules and regulations based on the antiquated 1902 act.

S. 1867 contains provisions that are supported by reclamation experts in Montana. During the Senate Energy Committee hearings on the bill, a number of Montanans testified on the residency requirement, an equivalency formula, the acreage limitation on owned land and the treatment of leased land.

A workable equivalency formula is an essential feature of reclamation legislation for Montana. An adjustment should be made in the acreage limitation in areas, like Montana, where soils are poor and growing seasons short.

Repeal of the residency requirement makes sense in today's agricultural structure. Distances in Montana are vast. In many cases, irrigated farms produce winter feed for livestock ranches, and these farms are often more than 50 miles from ranch headquarters.

In addition, residency requirements would hamper the ability of families to pass land on to their children. The traditional family farm is still operating in Montana today. A residency requirement, however, would not allow family members the freedom to move away from the "home place" and maintain ownership.

From Montana's point of view, minimal leasing limitations make the most sense. I do recognize, however, that maintaining the intent of the Reclamation Act is important.

Leasing has become an integral part of the farm economy. In excess of 60 percent of all farm land in the United States in leased.

Young people trying to start farming today must be able to lease land. Beginning farmers do not have the capital to buy their own land—especially with the cost of irrigated land in Montana climbing over $1,000 per acre and interest costs exorbitantly high. Rising costs of production and low farm prices necessitate large acreages for farmers to make a go of it today.

Leasing is also necessary to enable farmers to retire and continue to receive the income and security that irrigated farms provide. Without leasing, a farmer who becomes sick or disabled would have to give up his land.

In summary, I believe that S. 1867, without amendments, addresses the concerns of Montana's reclamation farmers. We must walk a fine line between preventing abuses of the Reclamation Act by large corporate organizations and placing unreasonable restrictions on legitimate family farming operations.

I hope the Senate will approve S. 1867 and that we will reach a compromise with the House on the Reclamation Reform Act. There are provisions of the House-passed version that I favor over S. 1867. For instance, the full cost recovery rate of borrowing formula in the House appears more reasonable. I will not, however, argue the point here today. But I hope the Senate will consider this provision when trying to resolve differences in the two measures.

Let us break the stalemate that has plagued reclamation reform efforts in the past. I urge the adoption of S. 1867.●

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MOYNIHAN. May we have order, Mr. President?

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 550, H.R. 5539, which is the House-passed companion legislation for S. 1867, for the purpose of substituting the text of S. 1867 as just passed by the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5539) to amend and supplement the Federal reclamation laws, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to consideration of the bill.

The Senator from Idaho.

Mr. McCLURE. Mr. President, I ask unanimous consent that the text of H.R. 5539 be stricken after the enacting clause and that the text of S. 1867, as passed by the Senate, be inserted in lieu thereof, as an amendment in the nature of a substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BRADY (after having voted in the affirmative). Mr. President, on this vote, I have a pair with the Senator from Maine (Mr. COHEN). If he were present and voting he would vote "nay"; if I were permitted to vote, I would vote "yea". Therefore, I withhold my vote.

Mr. LEAHY (when his name was called). Mr. President, on this vote I have a pair with the distinguished senior Senator from Nevada (Mr. CANNON). If he were present and voting he would vote "yea." If I were at liberty to vote I would vote "nay." I therefore, withhold my vote.

Mr. MATHIAS (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from New Mexico (Mr. SCHMITT). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I, therefore, withdraw my vote.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. ABDNOR), the Senator from North Dakota (Mr. ANDREWS), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from New York

(Mr. D'AMATO), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Florida (Mrs. HAWKINS), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Iowa (Mr. JEPSEN), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Oklahoma (Mr. NICKLES), the Senator from Illinois (Mr. PERCY,) the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. D'AMATO), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Florida (Mrs. HAWKINS), the Senator from California (Mr. HAYAKAWA), the Senator from Oklahoma (Mr. NICKLES), the Senator from Illinois (Mr. PERCY) and the Senator from South Dakota (Mr. PRESSLER) would each vote "yea."

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Connecticut (Mr. DODD), the Senator from Nebraska (Mr. EXON), the Senator from Alabama (Mr. HEFLIN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from Maine (Mr. MITCHELL), the Senator from Michigan (Mr. RIEGLE), the Senator from Tennessee (Mr. SASSER), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Tennessee (Mr. SASSER) would each vote "yea."

On this vote, the Senator from Montana (Mr. MELCHER) is paired with the Senator from Michigan (Mr. RIEGLE). If present and voting, the Senator from Montana would vote "yea" and the Senator from Michigan would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 49, nays 13, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—49

Armstrong	Chafee	Dole
Baker	Cranston	Domenici
Baucus	Danforth	Eagleton
Bentsen	DeConcini	East
Byrd, Robert C.	Denton	Ford
Garn	Jackson	Quayle
Glenn	Johnston	Randolph
Goldwater	Laxalt	Rudman
Gorton	Long	Simpson
Grassley	Lugar	Stevens
Hart	Matsunaga	Symms
Hatch	Mattingly	Thurmond
Hatfield	McClure	Tower
Helms	Nunn	Wallop
Huddleston	Packwood	Warner
Humphrey	Pell	
Inouye	Pryor	

NAYS—13

Biden	Metzenbaum	Specter
Bradley	Moynihan	Tsongas
Dixon	Proxmire	Zorinsky
Kasten	Roth	
Levin	Sarbanes	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—3

Brady, for.
Leahy, against.
Mathias, against.

NOT VOTING—35

Abdnor	D'Amato	Melcher
Andrews	Dodd	Mitchell
Boren	Durenberger	Murkowski
Boschwitz	Exon	Nickles
Bumpers	Hawkins	Percy
Burdick	Hayakawa	Pressler
Byrd, Harry F., Jr.	Heflin	Riegle
	Heinz	Sasser
Cannon	Hollings	Schmitt
Chiles	Jepsen	Stafford
Cochran	Kassebaum	Stennis
Cohen	Kennedy	Weicker

So the bill (H.R. 5539), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 5539) entitled "An Act to amend and supplement the Federal reclamation laws, and for other purposes", do pass with the following amendment: Strike out all after the enacting clause and insert:

That this Act shall amend and supplement the Act of June 17, 1902, and acts supplementary thereto and amendatory thereof (43 U.S.C. 371), hereinafter referred to as the "Federal reclamation law."

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "district" means any individual or any legal entity established under State law which has entered into a contract or is eligible to contract with the Secretary for irrigation water.

(b) The term "full cost" means an annual rate as determined by the Secretary that shall amortize the construction costs properly allocable to irrigation facilities in service, plus all operation and maintenance deficits funded, less payments, over such periods as may be required under reclamation law or applicable contract provisions, with interest on both accruing from the date of enactment on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to the date of enactment. There interest rate used pursuant to this Act shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of (1) the computed average interest rate payable by the Treasury upon its marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issuance; and (2) the weighted average of market yields on all new, publicly held, interest-bearing, marketable issues sold during the fiscal year preceding the fiscal year in which the expenditures are made or the date of enactment of this Act, whichever is later: *Provided*, That normal operation, maintenance, and replacement charges will be collected in addition to the full cost charge.

(c) The term "individual" means any natural person, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code (26 U.S.C. 152).

(d) The term "irrigation water" means water made available for agricultural purposes from the operation of reclamation project facilities pursuant to a contract with the Secretary.

(e) The term "landholding" means total irrigable acreage of one or more tracts of land owned or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary.

(f) The term "qualified recipient" means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits twenty-five such individuals or less.

(g) The term "limited recipient" means any legal entity established under State or Federal law benefiting more than twenty-five individuals.

(h) The term "Secretary" means the Secretary of the Interior.

SEC. 3. (a) The provisions of the Federal reclamation laws shall remain in full force and effect, except to the extent such laws are amended by, or are inconsistent with, this Act.

(b) Nothing in this Act shall repeal or amend any existing statutory exemptions from the acreage limitation of the Federal reclamation law.

SEC. 4. (a)(1) Notwithstanding any other provisions of law to the contrary, irrigation water may be delivered to a qualified or limited recipient for use in the irrigation of a landholding of not more than one thousand two hundred and eighty acres of class I lands, or the equivalent thereof: *Provided*, That not more than six hundred and forty acres of such landholding may be owned by a limited recipient.

(2) Lands leased for a term of one year or less for the purpose of water management and conservation in years of inadequate project water supply shall not be considered as part of a landholding solely because of having been so leased.

(b) Irrigation water may be delivered to lands leased in excess of a landholding of one thousand two hundred and eighty acres or the equivalent thereof as described in subsection (a), only if full cost as defined in subsection 2(b) of this Act is paid for such water as is assignable to those lands leased in excess of a landholding of one thousand two hundred and eighty acres in the case of a qualified recipient or lands leased in excess of a landholding of six hundred and forty acres in the case of a limited recipient: *Provided*, That "full cost" shall not be applied to excess lands under recordable contract.

(c) In determining the extent of a landholding the Secretary shall add to any landholding held directly by a qualified or limited recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that owner in proportion to that ownership.

EQUIVALENCY

SEC. 5. Wherever an acreage limitation is imposed by the Federal reclamation law, including this Act, the Secretary, upon the request of a contracting entity, shall designate lands under the applicable acreage limitation within a district classified as having

class I productive potential or the equivalent thereof in other lands of lesser productive potential. Standards and criteria for determination of land classes pursuant to this authority shall take into account all factors which significantly affect the economic feasibility of irrigated agriculture, including but not limited to, soil characteristics, crop adaptability, costs of crop production, and length of growing season.

RESIDENCY NOT REQUIRED

SEC. 6. Notwithstanding any other provision of law, irrigation water made available from the operation of reclamation project facilities shall not be withheld from delivery to any project lands for the reason that the owners, lessees, or operators do not live on or near them.

RECORDABLE CONTRACTS

SEC. 7. (a)(1) Irrigation water made available in the operation of reclamation project facilities constructed after the enactment of this Act may not be delivered for use in the irrigation of lands held in excess of the acreage limitations imposed by the Federal reclamation law, including this Act, unless and until the owners thereof shall have executed a recordable contract with the Secretary.

(2) Lands held in excess of the acreage limitations imposed by the Federal reclamation law, including this Act, which on the date of enactment of this Act are or are capable of receiving delivery of irrigation water made available by the operation of existing reclamation project facilities may receive such deliveries only: (i) if the disposal of the owner's interest in such lands is required by an existing recordable contract with the Secretary, or (ii) if the owners of such lands have requested that a recordable contract be executed by the Secretary.

(b) The recordable contracts referred to in subsection (a) shall require the disposal of interest in excess lands within a reasonable time to be established by the Secretary, but shall not exceed ten years after the recordable contract is executed by the Secretary in accordance with terms and conditions required by the Federal reclamation law generally, except that the aforementioned time in years shall be five years for a recordable contract entered into after the date of enactment of this Act.

(c) Recordable contracts existing on the date of enactment shall be amended at the request of the landowner to conform with the acreage limitations contained in this Act: *Provided*, that the time period for disposal of excess lands specified in the existing recordable contract shall not be extended except as provided in subsection (e).

(d) All recordable contracts covering excess lands sales shall provide that a power of attorney shall vest in the Secretary to sell any excess lands not disposed of by the owners thereof within the period of time specified in the contracts. In the exercise of that power, the Secretary shall sell such lands through an impartial selection process only to qualified purchasers according to such reasonable rules and regulations as he may establish: *Provided*, That the Secretary shall recover for the owner the fair market value of the land and improvements thereon unrelated to irrigation water deliveries.

(e) The period of time for which the disposal of excess lands may have been required under recordable contracts executed under the Federal reclamation law, including this Act, are hereby, and in the future shall be, extented for the period of time in which the Secretary shall have withheld the processing or approval of the disposition of such lands, whether he may have been compelled to do so by court order or whether he may have declined to do so for other reasons.

(f) Excess lands which have been or may be disposed of in compliance with the Federal reclamation law, including this Act, shall not be considered eligible to receive irrigation water unless—

(1) they are held by nonexcess owners; and

(2) in the case of disposals made after the date of enactment of this Act, their title is burdened by a covenant prohibiting their sale, for a period of ten years after their original disposal to comply with the Federal reclamation law, including this Act, for values exceeding the sum of the value of newly added improvements and the value of the land as increased by market appreciation unrelated to the delivery of irrigation water. Upon expiration of the terms of such covenant, the title to such lands shall be freed of the burden of any limitations on subsequent sale values which might otherwise be imposed by the operation of section 432e of title 43, United States Code.

CORPS OF ENGINEERS PROJECTS

SEC. 8. (a) Notwithstanding any other provision of law to the contrary, neither the acreage limitation provisions nor the other provisions of the Federal reclamation laws, including this Act, shall be applicable to lands receiving benefits from Federal water resources projects constructed by the United States Army Corps of Engineers unless—

(1) the project has, by Federal statute, explicitly been designated, made a part of, or integrated with a Federal reclamation project; or

(2) the Secretary, pursuant to his authority under the Federal reclamation law, has provided project works for the control or conveyance of an agricultural water supply for the lands involved.

(b) Notwithstanding any other provisions of this section to the contrary, obligations that require water users, pursuant to contracts with the Secretary, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administrative costs of a Corps of Engineers project which are allocated to conservation storage or irrigation storage shall remain in effect.

REPAYMENT OF CONSTRUCTION CHARGES

SEC. 9. (a) The acreage limitation provisions of the Federal reclamation law shall cease to apply to any part of a landholding upon completion of the repayment by any contracting entity of the amount of any construction costs required to be repaid by such contracting entity (or by a person within the district pursuant to a contract existing on the date of enactment of this Act) by the terms of any contracts with the Secretary relating to the delivery of water supplies to such part of a landholding for agricultural use: *Provided*, That where any such contract may be entered into pursuant to the authority of the Rehabilitation and Betterment Act (Act of October 7, 1949, 63 Stat. 724, as amended), the contracting entity shall have the additional option of adopting a form of repayment consistent with section 5(c)(2) of the Small Reclamation Projects Act of 1956 (Act of August 6, 1956, 70 Stat. 1044, as amended) and if such form of repayment is adopted, the acreage limitation provisions of the Federal reclamation law shall not apply solely as a result of the indebtedness under such contract.

(b) The Secretary shall provide, upon request of any owner of a landholding for which repayment has occurred, a certificate acknowledging that the landholding is free of the acreage limitation of the Federal reclamation law. Such certificate shall be in a form suitable for entry in the land records of the county in which such landholding is located. Any certificate issued prior to the date of enactment of this Act is hereby ratified.

(c) Nothing in this Act shall be construed as authorizing or permitting lump sum or accelerated repayment of construction costs, except in the case of a repayment contract which is in effect upon the date of enactment of this Act and which provides for such lump sum or accelerated repayment by an individual or district or except as provided in subsection (d) of this section.

(d) The Secretary is authorized to negotiate with such contracting entity to conform the terms of any such contract to permit lump sum or accelerated repayment if the Secretary finds that the amount of outstanding indebtedness is less than 5 per centum of the total repayment obligation associated with such contract and that a pattern of family farming has been established in the project service area.

RELIGIOUS OR CHARITABLE ORGANIZATIONS

SEC. 10. An individual religious or charitable entity or organization (including but not limited to a congregation, parish, school, ward, or chapter) which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended, and which owns, operates, or leases any lands within a district shall be treated as a person under the provisions of this Act regardless of such entity or organization's affiliation with a central organization or its subjugation to a hierarchical authority of the same faith and regardless of whether or not the individual entity is the owner of record if—

(a) the agricultural produce and the proceeds of sales of such produce are directly used only for charitable purposes;

(b) said land is operated by said individual religious or charitable entity or organization (or subdivisions thereof); and

(c) no part of the net earnings of such religious or charitable entity or organization (or subdivision thereof) shall inure to the benefit of any private shareholder or individual.

EXEMPTIONS

SEC. 11. Neither the limitations and restrictions imposed by this Act nor any other provision of the Federal reclamation law shall prohibit the delivery of irrigation water—

(a) so long as the lands are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the lands served do not exceed the limits imposed by the Federal reclamation law, including this Act;

(b) when the lands served receive only a temporary, not to exceed one year, supply made possible as a result of—

(1) an unusually large water supply not otherwise storable for project purposes; or

(2) infrequent and otherwise unmanaged flood flows of short duration;

(c) when the lands are acquired by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), by inheritance, by devise: *Provided*, That if after acquisition, such lands are not qualified under the Federal

reclamation law, including this Act, they shall be furnished temporarily with a water supply for a period not exceeding ten years from the effective date of such acquisition;

(d) to isolated tracts found by the Secretary to be economically farmable only if they are included in a larger farming operation but which may, as a result of their inclusion in that operation, cause it to exceed the acreage limitations of the Federal reclamation law, including this Act;

(e) to lands which will receive a substitute water supply and will be required by the Secretary in his contract with the district to reduce ground water pumping in equal quantity from aquifers in the project area as a condition of receiving substitute water from a Federal reclamation project.

CONTRACT REQUIRED

SEC. 12. Irrigation water temporarily made available from reclamation facilities in excess of ordinary quantities not otherwise storable for project purposes or at times when such water would not have been available without the operations of those facilities, may be used for irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use of such water, executed in accordance with the Reclamation Project Act of 1939, or other applicable provisions of the Federal reclamation law: *Provided, however,* That the Secretary shall have the authority to waive such payments for water delivered in section 11(b)(2).

SEC. 13. Any non-Federal party to a repayment contract with the Secretary relating to a reclamation project may apply for validation of any provisions of such contract relating to the acreage limitation available to such party pursuant to such contract or under the Federal reclamation law by making application therefor to the Secretary in writing within three years from the date of enactment of this Act. The Secretary shall review each such application and shall determine whether to validate the contract provisions taking into account the circumstances surrounding the execution of the contract. The Secretary shall transmit the application along with his determination to validate or not to validate such contract to the Congress within ninety days from the date he receives such application. Unless the Congress by concurrent resolution disapproves the determination of the Secretary within ninety days from the date on which it receives the Secretary's transmittal, the determination of the Secretary shall be final and binding.

WAIVER OF SOVEREIGN IMMUNITY

SEC. 14. Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate, or decree the contractual rights of a contracting entity and the United States regarding any contract executed pursuant to the Federal reclamation law. The United States, when a party to any suit, shall be deemed to have waived any right to plead that it is not amenable thereto by reason of its sovereignty, and shall be subject to judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances. Any suit pursuant to this section may be brought in any United States district court in the State in which the land involved is situated. The court, if it determines its appropriate based on the evidence, including written representations concerning the application of the Federal reclamation law, may reform the contract.

ADMINISTRATIVE PROVISIONS

SEC. 15. (a) The Secretary may prescribe regulations and shall collect all data necessary to carry out the provisions of this Act and other provisions of the Federal reclamation law.

(b) Section 3 of the Act of July 7, 1970 (43 U.S.C. 425b) is amended by striking the phrase "for a period not to exceed twenty-five years" following the term "project water".

(c) Any nonexcess land which is acquired into excess status pursuant to involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), inheritance, or devise, may be sold at its fair market value without regard to any other provision of this Act or to section 46 of the Act entitled "An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes", approved May 25, 1926 (43 U.S.C. 423e): *Provided,* That if the status of mortgaged land changes from nonexcess into excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process of law, by bona fide conveyance in satisfaction of the mortgage, such land may be sold at its fair market value.

(d) Beginning October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(e) The Secretary is hereby authorized and directed to amend any provision of any contract between the Secretary and another party existing upon the date of enactment of this Act which is inconsistent with the provisions of this Act but only at the request of said other party.

(f) The Act of May 26, 1926, Appointment of Commissioner of Reclamation (44 Stat. 657) is amended by adding the words "by and with the advice and consent of the Senate" after the word "President".

LEASING REQUIREMENTS

SEC. 16. (a) Notwithstanding any other provision of the Federal reclamation law, including this Act, lands which receive irrigation water may be leased only if the lease instrument is—

(1) written; and

(2) for a term not to exceed ten years, including any exercisable options: *Provided, however,* That with the prior approval of the Secretary, leases of lands for the production of perennial crops having an average life of more than ten years may be for periods of time equal to the average life of the perennial crop but in any event not to exceed twenty-five years. In addition, the Secretary shall be provided with a certificate signed by the lessee which contains a legal description of the leased land, including a statement of the number of acres leased, the term of the lease, and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land.

(b) Any lease in effect as of January 1, 1982, shall be required to comply with the provisions of this Act within ten years of enactment of this Act.

(c) Lessees holding lands in excess of the acreage limitation of this Act or of any other provisions of the Federal reclamation law under the provisions of a valid written lease effective as of January 1, 1982, shall be required to comply with the appropriate acreage limitation within ten years of enactment of this Act.

REPORTING

SEC. 17. Any contracting entity subject to the acreage limitation of the Federal reclamation law shall compile and maintain such records and information as the Secretary deems reasonably necessary to implement this Act and the Federal reclamation law. On a date set by the Secretary following the date of enactment of this Act, and annually thereafter, every such contracting entity shall provide in a form suitable to the Secretary such reports on the above matters as the Secretary may require.

REPORT TO CONGRESS ON THE PRODUCTION OF SURPLUS CROPS ON ACREAGE SERVED BY IRRIGATION WATER

SEC. 18. Within one year of the date of enactment of this Act, the Secretary of Agriculture, with the cooperation of the Secretary of the Interior, shall transmit to the Congress a report on the production of surplus crops on acreage served by irrigation waters. The report shall inculde—

(1) data delineating the production of surplus crops on lands served by irrigation waters;

(2) the percentage of participation of farms served by irrigation waters in set-aside programs, by acreage, crop, and State;

(3) the feasibility and appropriateness of requiring the participation on acreage set-aside programs of farms served by irrigation waters and the costs of such a requirement; and

(4) any recommendations concerning how to coordinate national reclamation policy with agriculture policy to help alleviate recurring problems of surplus crops and low commodity prices.

ENCOURAGEMENT OF RESPONSIBLE WATER CONSERVATION MEASURES

SEC. 19. The Secretary shall, pursuant to his authority under otherwise existing Federal reclamation laws encourage the full consideration and incorporation of prudent and responsible water conservation measures in the operations of non-Federal recipients of irrigation water from Federal reclamation projects, where such measures are shown to be economically feasible for such non-Federal recipients.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WALLOP. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I move that the Senate insist on its amendment and request a conference with the House of Representatives on the disagreeing votes thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. HATCH) appointed Mr. McCLURE, Mr. HATFIELD, Mr. DOMENICI, Mr. WALLOP, Mr. WARNER, Mr. JACKSON, Mr. JOHNSTON, Mr. FORD, and Mr. METZENBAUM conferees on the part of the Senate.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. THURMOND. Mr. President, earlier today I missed the first vote and I wish for the record to show that

I was over in the Rayburn Building appearing before a committee over there concerning the Port of Charleston on official business.

I wish for the record to further show that if I had been present I would have voted "aye" to support the Sergeant at Arms to bring in absent Senators.

Mr. WALLOP. Mr. President, I will be very brief, but I do think it fitting and appropriate that I thank the chairman of the committee, Senator McCLURE, the ranking member, Senator JACKSON, for their help and assistance throughout the debate on this measure and for their valued help and assistance during the development of these legislative proposals both this year and in the previous Congress.

Also I want to offer my thanks to Mike Harvey, Craig Gannett of the minority staff; Gary Ellsworth, Chuck Trabandt, Russ Brown all on the Energy Committee staff who provided us with information in a timely and clear fashion; also Paul Kruse of my staff, who has provided me the first help that he has provided on a major bill, and I think he did a wonderful job.

In addition, I want to thank the administration for their support, particularly Secretary Watt and his legislative counsel, Ted Garish, who provided us just innumerable instances of good, efficient, and responsive help when the legislative situation most needed it.

With that, Mr. President, I simply want to express my gratification that at long last we have yet another attempt to resolve this issue which has been an issue in front of the country for at least a half century, and I hope maybe this time we will come to agreement with the House, and reform what has been one of the major pieces of social and agricultural and human legislation this country has ever passed, and which reform is long overdue.

I thank the Chair.

Mr. McCLURE. Mr. President, as I indicated earlier, I would save the laudatory speeches until after passage so that those Members who have found their travel plans inconvenienced all day would not be further inconvenienced.

Mr. President, I cannot pay too high a tribute to the Senator from Wyoming who has done such an excellent job managing not only a difficult bill in terms of complexity of the bill but the difficult negotiations and the difficult parliamentary situation over the last 2 days, and getting us to a point where we have indeed passed a piece of landmark legislation.

As the Senator has noted, this issue has been before the country for at least a half century. It has been before the Congress for more years than I have been here. It passed this body before, but this time I believe we are going to be successful in getting together in a conference with the other body and putting a bill before the President he can sign, and at long last bring resolution to this very difficult problem that has persisted far too long.

I, too, would like to give thanks to the ranking minority member of the committee, Senator JACKSON, who worked on this bill during the last Congress when S. 14 was passed, and to the committee members on both sides of the aisle who worked on it then and worked on it again in this Congress, and to give particular thanks to the members of the staff of the Energy Committee who have worked so long and so hard on it, both before and since.

I might particularly note that Russ Brown worked on it 2 years ago as a member of the staff of the majority, and worked on it this time as a member of the staff of the majority, although in a rather meek role in that regard.

I might also mention certain personal staff members of each of those members who serve on the committee who have been deeply involved, particularly Tom Hill of my own staff who has devoted endless hours to try to bring this to the point of understanding and to translate into legislative language the concerns of the people of Idaho who are so vitally affected by this very important legislation.

In closing, I would like to again say what I have tried to say so often before, not only as to the value of the reclamation program but the fact that the legislation reported from the committee actually is not the kind of giveaway that many people have looked at because they compare 160 acres to 2,000 acres that we had in the committee bill, and say that must be some kind of an expansion of acreage.

As a matter of fact, for the first time we have moved to put some strictures on the unlimited leasing that has been in current law ever since 1902. There has been no limitation, no restriction, and if any abuses indeed have grown up under the reclamation law, it would be in that area.

We have substituted for the building block concept of 160 acres per family member a family unit of 25 people or fewer that would have a single block of land, and I think that is a constructive effort to straighten out the legal complexities that many farm families have today as they deal with the legal realities of estate planning and corporate structure for family operations.

So all in all I think this has been a very constructive effort and one that for the Senator from Idaho is not the end of the road but certainly is a very important milestone in what has been for me a 30-year effort to see that the 160-acre limitation is revised.

Both in the private practice of law and in my service in the State legislature in Idaho and in my years of service in the other body as well as years of service in this body, it has always been a goal of mine, and it is a very great gratification to me that as chairman of this great Committee on Energy and Natural Resources we have now been able to bring it to this point, and I personally thank all of those who have been constructively involved in bringing us to this point.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering those nominations on page 3, Calendar Order Nos. 842, 843, and 844, in the Air Force, and the nominations placed on the Secretary's desk in the Navy on page 4.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the nominations be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered en bloc and confirmed en bloc are as follows:

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Lawrence A. Skantze, 060-20-8707 FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Thomas H. McMullen, 467-36-7147 FR, U.S. Air Force.

Lt. Gen. Kelly H. Burke, U.S. Air Force (age 52), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE NAVY

Navy nominations beginning Glenn Douglas Lattig, to be commander, and ending

Kenneth E Harder, to be chief warrant officer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 1, 1982.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF AVIATION INSURANCE PROGRAM

Mr. McCLURE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5930 an act to extend the aviation program for 5 years.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 5930) entitled "An act to extend the aviation insurance program for five years", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McCLURE. Mr. President, I move that the Senate insist on its amendments and agree to the conference requested by the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. HATCH) appointed Mr. PACKWOOD, Mrs. KASSEBAUM, and Mr. CANNON conferees on the part of the Senate.

AMENDMENT TO THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964

Mr. McCLURE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 4688, and I ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4688) to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that Act.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Idaho?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

BUDGET RESCISSIONS AND DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 153

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Labor and Human Resources, the Committee on Energy and Natural Resources, and the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two new proposals to rescind $63.6 million in budget authority previously provided to the Congress and one revision to an existing deferral increasing the amount deferred by $61.1 million.

The rescissions include $47.4 million previously deferred for the employment and training assistance program administered by the Department of Labor, and $16.2 million for the exploration of national petroleum reserve in Alaska account in the Department of the Interior. The deferral affects the facilities and equipment account (Airport and Airway Trust Fund) in the Department of Transportation.

The details of the rescission proposals and revised deferral are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *July 16, 1982.*

PRESIDENTIAL APPROVAL

A message from the President of the United States, reported that on June 30, 1982, he had approved and signed the following bill:

S. 1519. An act to designate certain national wildlife refuge lands.

MESSAGES FROM THE HOUSE

At 12:24 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 6590) to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to the taxpayers, to limit increases in the support price for tobacco, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 2651. An act to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

ENROLLED BILLS SIGNED

The message further announced that the Speaker pro tempore (Mr. WRIGHT) has signed the following enrolled bills:

S. 2651. An act to extend the expiration date of section 252 of the Energy Policy and Conservation Act; and

H.R. 6685. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary reported that on today, July 16, 1982, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 2651. An act to extend the expiration date of Section 252 of the Energy Policy and Conservation Act.

Senate Joint Resolution 95. Joint resolution to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

To be members of the Board of Directors of the Legal Services Corporation:

For the term expiring July 13, 1983: Harold R. Demoss, Jr., of Texas; Clarence V. McKee, of the District of Columbia; and Annie Laurie Slaughter, of Missouri.

For the term expiring July 13, 1984: Robert Sherwood Stubbs II, of Georgia; William J. Olson, of Virginia; William F. Harvey, of Indiana; Howard H. Dana, Jr., of Maine; and William L. Earl, of Florida.

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 2744. A bill for the relief of Nabil Yaldo; to the Committee on the Judiciary.

By Mr. SYMMS (for himself and Mr. McCLURE):

S. 2745. A bill to amend title 18 to limit the insanity defense; to the Committee on the Judiciary.

By Mr. SASSER:

S. 2746. A bill to reduce revenue losses resulting from the Economic Recovery Tax Act of 1981, and for other purposes; to the Committee on Finance.

By Mr. SIMPSON (for himself and Mr. CRANSTON):

S. 2747. A bill to amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration and the veterans employment programs administered by the Department of Labor, and for other purposes; to the Committee on Veterans Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS (for himself and Mr. SYMMS):

S. Res. 428. A resolution prohibiting the extension of waiver authority under section 402 of the Trade Act of 1974 with respect to Romania; to the Committee on Finance.

By Mr. THURMOND:

S. Con. Res. 112. A concurrent resolution relating to a meeting of the Interallied Confederation of Rescue Officers; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS (for himself and Mr. McCLURE):

S. 2745. A bill to amend title 18 to limit the insanity defense; to the Committee of the Judiciary.

LIMITING THE INSANITY DEFENSE

Mr. SYMMS. Mr. President, the recent verdict in the Presidential assassination attempt of John W. Hinckley has caused a national expression of outrage and dismay. Americans from all walks of life have registered their feelings of shock and disbelief concerning the decision of the jury in this case.

Because the Hinckley trial was of such national prominence and the result of the trial such a violation of justice and commonsense, it has served as a focal point for an expression of national dissatisfaction. Yet, the result of the Hinckley trial is not the root cause of dissatisfaction. The Hinckley verdict only served to coalesce a basic national feeling that something is dreadfully wrong in our country's criminal justice system of which the insanity defense is but one small part.

Americans view the result in this case as typical and representative of a system gone awry and no longer representative of the interests of a civilized society.

My constituents in Idaho express their concern over not only the need for reform in the insanity defense, but also the need for reform in the apprehension, arrest, bail, sentencing, and parole of violent criminals.

I am hopeful, Mr. President, that the Hinckley trial will serve to provide the momentum necessary to reach such needed, beneficial change in our criminal justice system.

I have been following the Senate's consideration of insanity defense reform with great interest.

There is a fundamental deficiency in the modern insanity plea. The men and women of the Hinckley jury are not to be condemned for their decision in that case. They were bound by the law and instructions given them by the trial judge. It is this system which must be changed.

The change must be more than cosmetic in nature. The change must be fundamental and substantive and I note that many of my colleagues have submitted numerous varying proposals in this regard. Each is positive and moves in the right direction, but I have yet to see one which accomplishes all we might hope for in insanity plea reform.

There are three basic approaches which are being used to correct the deficiencies of the insanity defense. The first approach is toward allowing for a new jury finding of guilty but insane or mentally ill. The second approach is to change the time or manner of consideration of the issue of insanity. The third deals with shifting the burden of proving the issue of insanity.

All of the above—and their several variations—while improvements over our present system, do not address the basic problem of insanity plea reform.

The basic problem of the insanity defense is that there is not nor can there be a knowable, workable definition of insanity. Even technical experts whose lives are devoted to the study of the mind admit that insanity is an illusive, imprecise concept.

Because of this we must adopt a system which, while providing for consideration of the issue of insanity at limited and specific times, does away with the insanity plea.

The legislation which I am introducing avoids the need to consider the entangling, imponderable concept of insanity by a group of people ill equipped for such consideration. It avoids definitions, and shifting of burdens of proof which in in any event are less than fully productive.

If the person charged with a criminal act is so mentally unstable as to be unable to stand trial, he will be handled as the law presently provides.

If the person is able to stand trial, insanity will not be a defense to a criminal charge. This allows the jury in criminal trials to consider the issue of the commission of the crime and the intent of the defendant in committing the act.

If a person is found not to have been capable of forming the required intent, he will be found not guilty. At this point if the prosecution feels that the person was unable to form intent because of a dangerous mental condition, my bill allows for a civil commitment of the individual until he is no longer a danger to himself or the community.

If the individual was found guilty of the charged criminal act he will be appropriately sentenced. If the sentencing judge determines that there is a mental condition which needs evaluation or treatment, such can be part of the sentence. Once treatment for the condition is completed, the defendant will serve the remainder of his sentence in a standard correction facility subject to parole and the normal rules of commutation.

Under my bill, the defendant still maintains all constitutional rights presently accorded him and burdens of proof remain with the prosecution. However, the criminal trial system plugging plea of "not guilty by reason of insanity" will no longer exist. People—even with mental problems—will be responsible for what they intentionally do. The burdensome "battle of the experts" is done away with. The lay jury will only consider those issues which they are best equipped to handle.

I am proud to represent a State which some time ago recognized the need to reform the insanity defense and moved to bring that positive change about. The Idaho model is in the opinion of many experts superior to all other proposals. Idaho has set

the example and I hope the Congress will follow Idaho's lead by quickly adopting similar insanity plea reform.

By Mr. SIMPSON (for himself and Mr. CRANSTON):

S. 2747. A bill to amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration and the veterans employment programs administered by the Department of Labor, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' EDUCATION AND EMPLOYMENT AMENDMENTS OF 1982

Mr. SIMPSON. Mr. President, today, I am introducing a bill, the proposed Veterans' Education and Employment Amendments of 1982.

The basic intent of this bill is to improve various aspects of the VA's educational benefits programs and of the Department of Labor's veterans' employment programs.

One of the key provisions of the bill will repeal the termination date of the current GI bill, now scheduled to expire on December 31, 1989. The military services feel the need for relief from this termination date since they feel need for relief from this termination date since they feel that some of their most valuable and well-trained careerists are now leaving the services in order to make use of their GI bill benefits by the end of 1989.

While the armed services are currently enjoying a very high rate of recruitment success, no one would desire to see the inadvertent loss of expensive-to-train midcareer personnel. Therefore, in title I of this bill, I propose to make it possible for veterans who joined the military before the "all volunteer force" was established to use their VA educational benefits at any time they may choose to do so, provided they begin school within 2 years of discharge and complete their educational program within 6 years of enrollment.

This seems to me to be as fair and equitable a solution to a thorny problem as might be devised. If this bill is enacted, careerists currently in the services will have the advantage of no longer struggling against a deadline for the use of their benefits which could threaten their career plans; however, they will have only 8 years from the date of military separation to complete their educational program while other veterans have had 10. The Department of Defense seeks this solution and has agreed to pay the expense of providing educational benefits to such veterans beginning January 1, 1990.

Preliminary estimates by the Congressional Budget Office indicate that the enactment of this bill would save the Veterans' Administration some modest sums between now and 1990. The expense the Department of Defense would incur thereafter is informally approximated at different amounts each year, but on the average of about $50 million per year for an overall practical lifetime of about 20 years.

When the cost of training a new careerist is compared to the cost of providing educational benefits to selected military retirees, the Department of Defense has concluded that the latter is preferable, on the basis of cost alone. In addition, if this bill is enacted, Mr. President, all of those who avail themselves of it will have the advantage of furthering their education as an aid to readjustment to civilian life. There is no doubt that such opportunity is beneficial for both the individual and for our society.

The second key provision of this bill contains measures which allow the department of Labor to be more effective in the delivery of employment services for the Nation's veterans. Mr. President, there is no question but that we owe a special debt to our Vietnam, disabled, and recently discharged veterans during this period of high unemployment and economic uncertainty. This strong sentiment for a national program designed to assist these individuals through employment services is evidenced by the bipartisan support received by my amendment No. 1066 to S. 2036, the Senate-passed bill which would provide employment training programs for the Nation at the time of the fast-approaching expiration of the CETA Act. That amendment seeks to establish a $13 million employment training fund, to be administered in the Department of Labor, in order to assure that veterans' employment services receive the proper national attention they deserve.

In title II of this bill which I introduce today, we improve the procedures needed by the Assistant Secretary of Labor for Veterans' Employment Services to properly perform his duties. These adjustments would correct some problems which for several years have caused the existing programs to sputter along haltingly—programs which were designed to help veterans find employment. If this bill is adopted. I am convinced that existing veterans' employment services can be smoothly meshed with the national program which S. 2036 would provide in order to produce an ultimately smooth running, highly efficient set of tools for the Department of Labor to use in the important function of providing excellent services to our veterans.

Therefore the measure I am introducing today includes the following provisions:

First, in title I of the bill, the Veterans' Administration would be given the authority to make payments for the veterans' education assistance program from an existing account. This authority is required since, beginning in December 1982, educational benefits under this program will be financed by the Department of Defense and disbursed by the Veterans' Administration.

Second, the bill would make numberous technical corrections for various education programs which need minor adjustments.

And finally, the bill would delete the December 31, 1989, termination date for the current GI bill. It would allow a military person 2 years from date of discharge to begin an educational program and 6 years from date of enrollment to use the benefits. It would provide for the Department of Defense to make the payments for the program beginning January 1, 1990.

In title II, the employment section, the bill would first provide for the administration of a Federal training program in the Department of Labor which is designed to alleviate veteran unemployment and underemployment. This new program would be established by my amendment (No. 1066) to S. 2036, the proposed "Training for Jobs Act," which passed the Senate on July 1, 1982. The program would be administered by professionals in the Veterans Employment Service who are already charged with providing other coordinated employment outreach and services legislated for veterans.

Second, the bill would call for the Department of Labor to move the responsibility for the enforcement of veterans' reemployment rights from the Office of Labor Management Services Administration to the Assistant Secretary for Veterans' Affairs. It is more logical to assume that persons dealing with veterans' employment matters on a daily basis will be more aware of enforcement needs, while persons with diverse program responsibilities may well lose sight of a veterans' specific problems.

Third, the bill would make clear (a) that State veteran's employment directors should be assigned full-time Federal clerical support; (b) that those directors must meet a 2-year residency requirement within the State for appointment to the job unless the Assistant Secretary for Veterans' Employment waives the requirement in the event that no eligible candidate is available; (c) that a State director must be appointed to each regional office established by the Assistant Secretary of Labor for Veterans' Employment; and (d) that the State director be given office space and support services by the State public employment service system.

Fourth, the bill would require that veteran employment services provided by the Department of Labor be closely coordinated with veteran outreach

programs and rehabilitation centers. Often one organization may believe that another is taking care of a particular veterans' problem; and we wish to be certain that there are no gaps in the effort to find employment for veterans.

Mr. President, this legislation will be the subject of a hearing to be conducted by the Committee on Veterans' Affairs on July 28 at 9:30 a.m. in room 412 of the Russell Senate Office Building. It will be considered at the committee's markup of education and employment legislation on August 12, 1982.

Mr. President, in order that all Senators and the general public may have a more complete understanding of the various provisions of this measure, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES

SECTION 1. (a) This Act may be cited as the "Veterans' Education and Employment Amendments of 1982."

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS REHABILITATION AND EDUCATION

USE OF POST-VIETNAM ERA VETERANS' EDUCATION ACCOUNT

SEC. 101. Section 1622 is amended by adding at the end the following new subsection:

"(e) The fund established under subsection (a) of this section may be used by the Administrator for the purpose of receiving and disbursing funds received from the Secretary of Defense for administering the education assistance program authorized by section 2141 of title 10.".

REHABILITATION PROGRAM SUBSISTENCE ALLOWANCE

SEC. 102. Section 1508 (g) is amended to read as follows:

"(g) No subsistence allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program while incarcerated in a Federal, State, or local penal institution for conviction of a felony.".

VETERANS OUTREACH SERVICES PROGRAM

SEC. 103. (a) Section 242 is amended by adding at the end the following new subsection:

"(c) The Administrator may assign veterans benefits counselors to such locations as educational institutions to provide assistance regarding benefits under this title to veterans and eligible persons and to provide outreach services under this subchapter.".

(b)(1)(A) Section 243 is repealed.

(B) Section 244 is redesignated section 243.

(C) Section 245 is redesignated section 244.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the items relating to sections 243, 244, and 245 and inserting in lieu thereof the following:

"243. Utilization of other agencies.
"244. Report to Congress.".

MODIFICATION OF 1989 TERMINATION DATE

SEC. 104(a) Section 1662 is amended—

(1) in subsection (a) by—

(A) inserting after "1955" in the first sentence of paragraph (1) a comma and "and before January 1, 1980"; and

(B) adding at the end the following new paragraph:

"(4) An eligible veteran whose last discharge or release from active duty occurs after December 31, 1979, shall not be entitled to educational assistance under this chapter after (A) the expiration of the six-year period following the date on which such veteran first begins to pursue a program of education under this chapter after such discharge or release if such date occurs no later than two years after such discharge or release from active duty, or (B) December 31, 1989, whichever is the later."; and

(2) by striking out subsection (e).

(b)(1) Chapter 34 is amended by adding at the end the following new section:

"§ 1694. Reimbursement by the Secretary of Defense

"The Secretary of Defense shall reimburse the Administrator for all amounts paid by the Administrator as educational assistance under this chapter after December 31, 1989.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1694. Reimbursement by Secretary of Defense.".

REPEAL OF 50-PERCENT RULE

SEC. 105. (a) Section 1673 is amended—

(1) by striking out "(1)" before "The";

(2) by striking our paragraph (2);

(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) by striking out clause (2) (as redesignated by clause (3) of this subsection) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

(b) Section 1723 (a) is amended—

(1) by striking out "(1)" before "The";

(2) by striking out paragraph (2);

(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) by striking out clause (2) (as redesignated by clause (3) of this section) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

ADMINISTRATIVE AND TECHNICAL AMENDMENTS

SEC. 106. (a) Section 1652(b) is amended by striking out "402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))" and inserting in lieu thereof "section 7(i) of the Small Business Act (15 U.S.C. 636(i))".

(b) Section 1682 is amended in the second sentence of subsection (e).

(1) by striking out "at" and inserting in lieu thereof "in accordance with the rate at which the training is to be pursued, but in no event at more than"; and

(2) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) The amount of the educational assistance allowance paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the cost of necessary supplies, books, and equipment, or the applicable monthly educational assistance allowance prescribed for a veteran with no dependents in subsection (a)(1) or (c)(2) of this section or section 1787(b)(1) of this title, whichever is less. Except for the payment of the educational assistance allowance for necessary supplies, books, and equipment required of similarly circumstanced nonveterans, no amount shall be payable for any course for which there is no tuition or fees.".

(c) Section 1691(c) is amended by striking out "The" and inserting in lieu thereof the following:

"Notwithstanding the exception in the first sentence of section 1673(d) of this title relating to any course offered under this subchapter, the".

(d) Section 1780(a) is amended—

(1) by inserting "or" at the end of clause (5);

(2) by striking out the semicolon and "or" at the end of clause (6); and

(3) by striking out clause (6).

(c) Section 1798 is amended to read as follows:

"(3) The Administrator shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such reports shall include—

"(A) data regarding the cumulative default experience, and the default experience during the preceding year, with respect to such loans; and

"(B) data regarding the default experience and default rate with respect to (i) loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) loans made under this section.".

TITLE II—VETERANS EMPLOYMENT

CONGRESSIONAL FINDINGS

SEC. 201. The Congress makes the following findings:

(1) There exists serious unemployment and underemployment among disabled veterans, veterans of the Vietnam era, and veterans recently separated from military service.

(2) Alleviating unemployment and underemployment among such veterans is a national responsibility.

(3) Because of the special nature of such veterans' employment and training problems and the national responsibility to meet those problems, policies and programs to address those problems need to be effectively and vigorously implemented by the Secretary of Labor through the Assistant Secretary of Labor for Veterans' Employment.

PURPOSE OF JOBS TRAINING PROGRAMS

SEC. 202. Section 2002 is amended—

(1) by inserting "and regulations" after "to this end policies"; and

(2) by inserting after "opportunities" a comma and "with priority given to the needs of disabled veterans, veterans of the Vietnam era, and veterans who have been recently separated from active duty,".

STATE AND ASSISTANT DIRECTORS FOR EMPLOYMENT

SEC. 203. (a)(1) Section 2003 is amended by striking out the section heading and all of the matter preceding clause (1) and inserting in lieu thereof the following:

"§ 2003. State and Assistant State Directors for Veterans' Employment

"(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service who shall serve as the State Director for Veterans' Employment, and shall assign full-time clerical support to each such Director. The Secretary shall also assign to each State an Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the date collected pursuant to section 2007 of this title, as are necessary to carry out effectively the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title. Preference in such appointments shall be given to veterans and other persons as defined in section 2108 of title 5 and section 2011 of this title.

"(b) Each State Director for Veterans' Employment and each Assistant State Director for Veterans' Employment assigned to serve in any State (1) shall be an eligible veteran who at the time of appointment has been a bona fide resident of the State for at least two years, or, if the Secretary, through the Assistant Secretary of Labor for Veterans' Employment, determines after a good faith search within the State that there is no eligible veteran available for appointment who meets such requirement and who is also qualified for the position, an individual who has been an Assistant State Director for Veterans' Employment in any other State, and (2) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(c) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment shall be attached to the public employment service system of the State to which such Director is assigned. Such Director shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by other Federal jobs training program grantees in the State, or directly by the State.

"(d) In cooperation with the public employment service system staff and the staffs of each such other program in the State, the State Director for Veterans' Employment for the State and the Assistant State Director for Veterans' Employment for the State shall—".

"(2) The item relating to section 2003 in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. State and Assistant State Directors for Veterans' Employment.".

(b) Clause (6) of such section is amended to read as follows:

"(6) promote the participation of veterans in Federal employment and training programs and monitor the implementation and operation of such programs to ensure that eligible veterans, disabled veterans, and veterans of the Vietnam era receive such special consideration or priority in the provision of services as is required by law or regulation;".

(c) Such section is further amended by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and adding at the end the following:

"(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

"(9) be responsible for ensuring that complaints of discrimination filed under section 2012 of this title are resolved in a timely fashion;

"(10) cooperate with employers in identifying disabled veterans who have completed or are enrolled in training under chapter 31 of this title, by working closely with appropriate Veterans' Administration officials;

"(11) cooperate with the directors of the veterans assistance offices established under section 242 of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

"(12) in the case of disabled veterans, when requested by Federal and State agencies and private employers, assist those entities in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance disabled veterans' employability.".

DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS

SEC. 204. (a) Subsection (a) of section 2003A is amended by adding at the end the following new paragraph:

"(5) Funds provided to States under this section shall be subject to the supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or regulation prescribed thereunder, that is inconsistent with the provisions of this section.".

(b) Subsection (b)(2) of such section is amended—

(1) by striking out "section 621A" and inserting in lieu thereof "section 612A"; and

(2) by inserting after the first sentence the following new sentence: "The Secretary, after consultation with the appropriate State Directors assigned under section 2003 of this title, may grant waivers of the limitation prescribed in the preceding sentence.".

(c) Subsection (c) of such section is amended—

(1) by striking out "prime sponsors under the Comprehensive Employment and Training Act" in clause (4) and inserting in lieu thereof "appropriate grantees under other Federal employment and training programs"; and

(2) by adding at the end the following:

"(8) Development of outreach programs with the Veterans' Administration's vocational rehabilitation staff, with institutions of higher learning, and with employers to assure maximum assistance to disabled veterans who have completed or are enrolled in training under chapter 31 of this title.". Section 2003A is further amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (e) as subsection (d); and

(3) by adding at the end of subsection (d), as redesignated by clause (2) of this subsection, the following new sentence: "In administering the program provided for in this section, the Assistant Secretary of Labor for Veterans' Employment shall monitor the appointment of veterans to serve as disabled veteran outreach program specialists to ensure that appointments are made in accordance with the preference requirements prescribed in subsection (a)(2) of this section.".

ESTIMATES OF FUNDS FOR ADMINISTRATION

SEC. 205. (a) Subsection (a) of section 2006 is amended—

(1) by inserting "and chapters 42 and 43 of this title" after "of this chapter" in the first sentence; and

(2) by adding after the third sentence the following new sentence: "Estimates referred to in the preceding sentence shall include amounts necessary to fund the disabled veterans' outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section."; and

(3) by adding at the end thereof the following new sentence: "The Secretary shall carry out the provisions of this subsection through the Assistant Secretary for Veterans' Employment.".

(d) Subsection (d) of such section is amended by inserting a comma and "in consultation with the Assistant Secretary of Labor for Veterans' Employment," after "Secretary of Labor".

ANNUAL REPORT TO CONGRESS

SEC. 206. Section 2007(c) is amended by adding at the end the following new sentence: "The report shall also include a report on activities carried out under section 2003A of this title.".

APPLICABILITY OF CHAPTER 42 PROGRAMS

SEC. 207. Section 2011(5) is amended by inserting a comma and "and the United States Postal Service and Postal Rate Commission" after "title 5".

REPORTS OF CONTRACTORS ON VETERANS' EMPLOYMENT EMPHASIS

SEC. 208. (a) Section 2012 is amended by adding at the end thereof the following new subsection:

"(d)(1) Each contractor with respect to which subsection (a) of this section applies shall report at least annually to the Secretary of Labor on the number of veterans of the Vietnam-era and the number of special disabled veterans in the work force of such contractor by job category and hiring location.

"(2) The Secretary of Labor shall insure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to requirements for the contractor to make other reports to the Secretary of Labor.".

(b) Within 90 days after the date of enactment of this Act, the Secretary of Labor shall prescribe regulations implementing the amendment made by subsection (a).

JURISDICTION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

SEC. 209. (a) Section 2025 is amended to read as follows:

"§ 2025. Jurisdiction; assistance in obtaining reemployment

"(a) The Secretary of Labor shall carry out the provisions of this chapter through the Assistant Secretary of Labor for Veterans' Employment.

"(b) The Secretary shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.".

(b) The item relating to section 2025 in the table of sections at the beginning of chapter 43 is amended to read as follows:

"2025. Jurisdiction; assistance in obtaining reemployment

REPEAL OF EXEMPLARY REHABILITATION CERTIFICATES PROGRAM

SEC. 210. Section 6 of Public Law 90-83 (81 Stat. 221; 29 U.S.C. 601-607) is repealed.

TITLE III—MISCELLANEOUS PROVISIONS AND EFFECTIVE DATES

SEC. 301. Section 3102 (a) is amended—

(1) by striking out "two years" and inserting in lieu thereof "one hundred and eighty days"; and

(2) by inserting a comma and "or within such longer period as the Administrator determines is reasonable in a case in which the Administrator determines that such notification was not actually received by such payee".

SEC. 302. Accept for section 208 (b), the provisions of this Act shall become effective on October 1, 1982.

ADDITIONAL COSPONSORS

S. 1182

At the request of Mr. NICKLES, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1182, a bill to amend the Longshoremen's and Harbor Workers' Compensation Act to revise the manner of computing the benefits provided under such act, to provide for certification of physicians eligible to provide medical care to workers covered by such act, to provide for an attorney to serve as the representative of the special fund established under such act, to establish a Benefits Review Board the members of which are appointed by the President, to establish an advisory committee to evaluate the manner in which the provisions of the act are carried out, and for other purposes.

S. 1939

At the request of Mr. GOLDWATER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 1958

At the request of Mr. DOLE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1958, a bill to amend title XVIII of the Social Security Act to provide for coverage of hospice care under the medicare program.

S. 2061

At the request of Mr. MOYNIHAN, the name of the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of S. 2061, a bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and for other purposes.

S. 2357

At the request of Mr. LUGAR, the names of the Senator from Missouri (Mr. DANFORTH) and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of S. 2357, a bill to prohibit export restrictions that interfere with existing contracts for the exportation of such commodities.

S. 2425

At the request of Mr. ROTH, the name of the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of S. 2425, a bill to amend the Internal Revenue Code of 1954 to clarify certain requirements which apply to mortgage subsidy bonds, to make tax-exempt bonds available for certain residential rental property, and for other purposes.

S. 2552

At the request of Mr. BIDEN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2552, a bill to protect the safety of intelligence personnel and certain other persons.

S. 2574

At the request of Mr. SYMMS, the name of the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 2574, an original bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

S. 2659

At the request of Mr. SASSER, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2659, a bill to amend the Social Security Act to provide that disability benefits may not be terminated prior to completion of the reconsideration process including an evidentiary hearing, to provide that medicare entitlement shall continue through the administrative appeal process, and to require the Secretary of Health and Human Services to make quarterly reports with respect to the results to periodic reviews of disability determinations.

S. 2674

At the request of Mr. LEVIN, the names of the Senator from Oklahoma (Mr. BOREN), the Senator from North Dakota (Mr. BURDICK), and the Senator from Michigan (Mr. REIGLE) were added as cosponsors of S. 2674, a bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

S. 2725

At the request of Mr. LEVIN, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2725, a bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process, and that periodic reviews of disability cases shall be carried out only to the extent that adequate time and personnel are available.

SENATE JOINT RESOLUTION 188

At the request of Mr. INOUYE, the names of the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Texas (Mr. BENTSEN), the Senator from Wisconsin (Mr. KASTEN), the Senator from Idaho (Mr. SYMMS), the Senator from New York (Mr. D'AMATO), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Indiana (Mr. QUAYLE), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of Senate Joint Resolution 188, a joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day."

SENATE JOINT RESOLUTION 200

At the request of Mr. GLENN, the names of the Senator from Louisiana (Mr. LONG), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of Senate Joint Resolution 200, a joint resolution to designate October 1982 as "National Car Care Month."

SENATE JOINT RESOLUTION 205

At the request of Mr. EAST, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of Senate Joint Resolution 205, a joint resolution to designate September 1982 as "National Sewing Month."

SENATE JOINT RESOLUTION 207

At the request of Mr. DOLE, the names of the Senator from Massachusetts (Mr. TSONGAS), the Senator from Arizona (Mr. DECONCINI), the Senator from Vermont (Mr. STAFFORD), the Senator from Indiana (Mr. QUAYLE), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of Senate Joint Resolution 207, a joint resolution to authorize and request the President to designate the week of August 1, 1982, through August 7, 1982, as "National Purple Heart Week."

SENATE JOINT RESOLUTION 211

At the request of Mr. DODD, the names of the Senator from South

Carolina (Mr. HOLLINGS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Indiana (Mr. LUGAR), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Connecticut (Mr. WEICKER), the Senator from New York (Mr. D'AMATO), and the Senator from Nebraska (Mr. ZORINSKY), were added as cosponsors of Senate Joint Resolution 211, a joint resolution to authorize and request the President to designate July 27, 1982, as "National Recognition Day for the Registry of Interpreters for the Deaf."

AMENDMENT NO. 1937

At the request of Mr. EXON, the name of the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of amendment No. 1937 proposed to S. 1857, a bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes.

SENATE CONCURRENT RESOLUTION 112—RESOLUTION RELATING TO A MEETING OF THE INTERALLIED CONFEDERATION OF RESERVE OFFICERS

Mr. THURMOND submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 112

That whereas the Interallied Confederation of Reserve Officers (CIOR) an association of reserve officers from twelve of the nations comprising the North Atlantic Treaty Organization, will hold its XXXVth Congress at Washington, D.C. August 8 through August 15, 1982; and

Whereas the United States, through the Department of Defense, will conduct military competitions in conjunction with and as a constituent part of such XXXVth Congress:

Now, therefore, be it resolved that the Congress of the United States extends to the Interallied Confederation of Reserve Officers a cordial welcome to the United States on the occasion of the XXXVth Congress of that organization to be held in Washington, D.C. August 8 through August 15, 1982, and commands the joint effort of the Reserve Officers Association of the United States and the Department of Defense in hosting the XXXVth Congress of that organization, and urges all departments and agencies of the Government to cooperate with and assist the Interallied Confederation of Reserve Officers in carrying out its activities and programs during the period referred to above.

Mr. THURMOND. Mr. President, I rise to call attention of the Senate to the outstanding services rendered by the Reserve Officers Association of the United States through its participation in the Interallied Confederation of Reserve Officers.

The Interallied Confederation of Reserve Officers is headquartered in Europe, and is made up of reserve officers from the various military services of those nations which are members of the North Atlantic Treaty Organization. Some 12 nations have officers who participate in this confederation and meet twice annually, once at NATO Headquarters in Brussels and once in the capital city of one of the NATO European partners.

On August 8-15, 1982, the Interallied Confederation of Reserve Officers will observe its 35th anniversary and in so doing will hold its second meeting in this country. Washington, D.C. will be the site of this session at which the officers of these various nations will visit us in the uniform of their respective countries.

The Reserve Officers Association of the United States is the host organization in 1982 and will be supported by the DOD, Department of State, and other governmental agencies.

Mr. President, this organization was founded in November of 1948 at Brussels by the Reserve Officers Associations of Belgium, France, and the Netherlands. The original membership of approximately 120,000 has grown to 330,000 today with a potential of over 1 million members. The abbreviation of the group, CIOR, derives from the original French, "Confederation Interalliee des Officiers de Reserve." The CIOR is an officially recognized adjunct of NATO and has made an outstanding contribution toward the defense of free world nations and has carried out well its objectives. Its principal objectives include, first, to contribute to the strengthening of the defense of the signatory countries of the North Atlantic Treaty; second, to establish closer relations among reserve officers of the countries of the Atlantic Alliance, in order that these officers may better know and understand each other; and, third, to support the policies of the Atlantic Alliance and to fully cooperate with this organization in carrying out its objectives.

Mr. President, I send to the desk a concurrent resolution which acknowledges the meeting of this group in August and which commends the joint effort of the Reserve Officers Association and the Department of Defense in hosting this meeting.

SENATE RESOLUTION 428—RESOLUTION RELATING TO TRADE WITH THE SOCIALIST REPUBLIC OF ROMANIA

Mr. HELMS (for himself and Mr. SYMMS) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 428

Resolved, That the Senate does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on June 2, 1982, with respect to the Socialist Republic of Romania.

Mr. HELMS. Mr. President, on June 2, the President of the United States asked Congress to renew his authority to waive the freedom of emigration requirements of the Trade Act of 1974, which would extend most-favored-nation trade status to the Socialist Republic of Romania for another year.

Mr. President, for the record I would note that the President took action under title 19, section 2432 of the United States Code. Action under this section may be disallowed by Congress by passage in one House of a resolution of disapproval. Adoption of the resolution therefore would end MFN trade status to Romania.

According to section 402 of the 1974 Trade Act, renewal of most-favored-nation trading status for Romania should depend on current emigration performance; however, the harrassment, job displacement and refusal to allow free emigration continues as before.

One such example is the case of Paul Dragu. Paul Dragu applied for emigration from Romania in 1980 after his family suffered from religious persecution. When he was given the final application for a passport, he gave customary notice at his job only to be arrested along with his wife Georgetta, and sentenced to 6 months in prison for parasitism. His wife suffered a nervous breakdown under interrogation and was placed in a psychiatric hospital. Prisoners released from the prison where Paul Dragu was held reported that Dragu had been severely beaten, and it was doubtful that he would survive.

Mr. President, there are hundreds upon hundreds of Paul Dragus—Romanian citizens—Christians and those of the Jewish faith alike—who are persecuted, denied jobs, and even imprisoned for long periods of time for "crimes" such as Bible smuggling.

I have transmitted over 200 such cases to the Romanian officials but have received no reponse.

If the Romanian Government would agree to reasonable guidelines and regulations regarding emigration procedures, then perhaps the Senate would allow MFN to be approved for another year to test compliance.

In this Senator's opinion, trade must be tied to the improvement of political circumstances, particularly those bearing on human rights. It is difficult to see the benefits of trade when those benefits are obtained from the labor of those who are not free to enjoy the ordinary rights of liberty and property.

It is not anticipated that Romania will revolutionize its entire system, restore the rights of property ownership so essential to the freedom of the individual, and throw off Communist ideology just for the sake of trade. But we can demand that Romania take steps that will lead to an improvement of the system under which the citizens of that country must live. The most

important step is the right of free emigration, without intimidation and harassment. Such a right provides an alternative to the oppressed citizen; if we cannot provide alternatives within the system we should at least provide the alternative of leaving the system.

Year after year we have renewed MFN trade status for Romania, and year after year the Romanian Government has promised to improve their emigration policies. We have kept our end of the bargain, but the Romanian Government has not. Therefore, I invite my colleagues to join in cosponsoring this resolution of disapproval regarding the extension of most-favored-nation trade status to the Socialist Republic of Romania.

Mr. RANDOLPH. Mr. President, will my colleague from North Carolina yield?

Mr. HELMS. I am delighted to yield.

Mr. RANDOLPH. The Senator spoke of those who did not keep their agreements. Of whom was he speaking?

Mr. HELMS. Particularly Romania, the Government of Romania.

Mr. RANDOLPH. Romania?

Mr. HELMS. Yes.

Mr. RANDOLPH. Would the Senator add other countries in the world who are not keeping agreements also?

Mr. HELMS. Of course, I would. But I was addressing myself to a specific request by the President of the United States with respect to Romania.

Mr. RANDOLPH. I simply wish to say that the Senator should include as well a study of those agreements and treaties that the United States has made with other countries and to see what has happened to them, including membership in the United Nations where dues are not paid but countries remain as members of the Security Council.

Mr. HELMS. The Senator is absolutely correct, and I thank him for his comment.

AMENDMENTS SUBMITTED FOR PRINTING

IMMIGRATION REFORM AND CONTROL ACT

AMENDMENT NO. 1938

(Ordered to be printed and to lie on the table.)

Mr. CHILES submitted an amendment intended to be proposed by him to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

MASS MIGRATION OF ALIENS

Mr. CHILES. Mr. President, today I am submitting an amendment to S. 2222, the Immigration Reform and Control Act of 1982, which designates the steps the Federal Government may take to stop an uncontrolled mass migration of aliens to the United States. My amendment will give the President the authority to declare an immigration emergency during which the administration will be able to use extraordinary measures to stop aliens from entering the United States illegally and to prevent U.S. residents from bringing aliens into the country.

Mr. President, I am a strong supporter of S. 2222. I believe that Senator SIMPSON has prepared an effective reform package that addresses some of the most serious failings of our immigration laws. It puts the Federal Government in a much stronger enforcement position and holds the promise of restoring order to U.S. immigration policies. However, there is a serious omission in the bill and that is the failure to prescribe what steps will be taken in the event of a mass migration.

The need for such a reform has been proven. Two years ago, my State was the point of entry of an uncontrolled influx of thousands of refugees from Cuba. In just 5 months, 125,000 had arrived requesting political asylum in the United States. Mixed among those were hardened criminals, mentally ill people, and others, who should never have been allowed to enter the United States. American citizens, anxious to rescue Cubans from the repressive Castro regime, provided the transportation for the refugees. They left with lists of relatives provided by Cuban-Americans but returned with those who Castro chose to release. Today, there are still 1,227 Cubans in the Federal penitentary in Atlanta who are being held because of the serious crimes they committed in Cuba.

The city of Miami was quickly overwhelmed by hungry, destitute refugees, while the Federal Government, uncertain of the appropriate Federal role in such a crisis, delayed taking the decisive steps necessary to control the influx. Refugees were released into the community without sponsors, food or housing. Tent cities and temporary shelter arose to accommodate them. Jackson Memorial Hospital, the county hospital in Dade County, was overrun by refugees seeking medical care.

In the early days it was the State and local governments, not the Federal Government, that provided for the refugees. The situation reached crisis proportions because neither the Immigration and Nationality Act, nor the Refugee Act, anticipate a situation in which the United States becomes a country of first asylum for large numbers of refugees. Throughout the crisis, the Federal Government was placed in a position of reacting, rather than actively controlling the situation.

The Cuban refugee crisis was quickly followed by a large influx of refugees from Haiti. At one point, as many as 3,000 Haitians were landing on Florida's beaches. Many were carrying contagious diseases which posed a public health threat to the area. The communities of south Florida, overburdened by the Cuban crisis, were strained beyond their capacity to respond. Again, the U.S. Government was unprepared for the influx. The Haitians were not resettled into the community as the Cubans had been but were placed in detention at the Krome missile site north of Miami until their cases could be reviewed by the Immigration and Naturalization Service. The population at Krome, a facility designed for 525 people quickly exceeded 1,300. The tremendous backlog of cases, the cumbersome hearing procedures, and the court decisions regarding the rights of the Haitians, greatly slowed the process for deciding the legitimacy of their asylum claims. Some of the Haitians have been in detention for 13 months with no resolution of their cases in sight. A Federal judge has just recently ordered their release.

We have seen a complete breakdown of the asylum process during the refugee crisis. Each case must be decided on a case-by-case basis and the process is subject to a lengthy appeals procedure. Although it appears that many of the refugees are economic refugees, not political refugees and do not quality for asylum in the country, so far, only 133 have been excluded. S. 2222 will make significant improvements in the asylum process so that cases can be resolved expeditiously. But I am afraid that the new system will also collapse under the pressure of thousands of cases.

We should not assume that the Cuban/Haitian refugee crisis was a unique situation that will never occur again. That crisis showed us a serious flaw in our immigration laws and I believe that we should take this opportunity to correct it. The amendment I am submitting today aims to prevent another mass migration so that refugees may be screened and processed before they arrive in the United States. Only those who appear to have a legitimate claim of persecution will be released into the community. The controls that are provided for by my amendment will help prevent the chaos that south Florida experienced from reoccuring at some point in the future.

First, the amendment would allow the President to declare an immigration emergency if a substantial number of undocumented aliens are about to embark, or have embarked, for the United States and in his judgment the procedures of the Immigration and Nationality Act, or the resources of INS would be inadequate to respond to the expected influx. Within 48 hours, the President would notify the President pro tempore of the Senate and the Speaker of the House

of his reasons for calling the emergency. As soon as practicable, an announcement of the emergency would be published in the Federal Register. The emergency would automatically end after 120 days or sooner at the request of the President. The emergency could also be extended for 120-day periods.

During the emergency, the President would have the authority to ban travel by any vessel, vehicle, or aircraft, under the control or ownership of a U.S. resident or citizen, to the country or area that is the source of the migration. He would also have the authority to close harbors, airports, or roads that could serve as a departure point to the restricted country. Anyone wishing to depart from an area that has been closed will have to prove to the appropriate authorities that he is not bound for the restricted country. Only those who have obtained written permission will be allowed to leave.

The President would have the authority to utilize any civil Federal agency or branch of the U.S. military in the enforcement of this amendment. The agency that is given authority over a closed road, airport, or harbor would be responsible for developing procedures for granting departure requests. Requests would be granted or denied within 72 hours. An individual who is denied permission to leave may appeal the decision in the U.S. district courts.

In order to enforce the travel restrictions, the President would also be able to order the interdiction of any vessel or vehicle that is owned, leased, or controlled by a U.S. citizen, or resident that is engaged in travel outside of the United States. A vessel which appears to be enroute to the restricted country would be forced to return to the United States or to another reasonable location. This authority could also be used to prevent a U.S. citizen from leasing a boat in another country to transport aliens to the United States. Anyone who violates the prohibitions of the amendment would be subject to civil and criminal penalties and their vehicle would be subject to seizure by the Federal Government.

An alien who arrives in the United States without proper documentation could be summarily excluded from entering the United States if he does not appear to have a ligitimate asylum claim. This provision could also be used to stop undocumented aliens traveling to the United States by sea before they reach U.S. territorial waters, utilizing the President's existing authority to interdict foreign vessels on the high seas. The Attorney General shall develop the procedures for deciding whether an alien shall be excluded or admitted to the United States for a hearing. The decision to exclude or admit would not be subject to judicial review.

Finally, aliens who are admitted to the United States would be held in detention at Federal facilities specified by the President until their immigration status is determined. During the course of detention, the restraints of Federal environmental laws would not apply to the detention facilities. Aliens who are ineligible for asylum in the United States would be returned to the country they came from, or an appropriate third country. Current law requires that aliens be deported to the country they came from. In both the Cuban and Haitian influxes this has proven to be impractical because the Cuban Government has refused to repatriate the refugee and many of the Haitians came from the Bahamas, not Haiti. This provision of the amendment would make our laws more flexible and thus more enforceable.

The purpose of my amendment is not to close our doors to legitimate refugees. The United States, as the epitome of a free, democratic republic, has a great responsibility to provide refuge to those fleeing persecution and repression. But we cannot accept every alien who arrives on our shores claiming persecution, simply because they are here. The legal definition of refugee is very narrow and should be reserved for those who are truly victims of persecution.

If we are going to grant asylum to refugees, we must have an efficient and equitable system for deciding who qualifies. To do less is a disservice to all those who apply, whether they are eligible or not, as well as to the people of this country.

Only case-by-case review can reveal the merits of an asylum case. Granting blanket asylum or blanket exclusion to a group of people is clearly inappropriate. But individual review is, at best, a slow and cumbersome process. It has proved to be unworkable in the face of a mass migration. We must be able to regulate the flow of refugees to avoid overwhelming the system. The amendment I am submitting today will give the administration the tools necessary to prevent a mass migration so that refugees may be screened and processed in an orderly manner, before they arrive in the United States.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the Amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1938

On page 162, between lines 10 and 11, insert the following:

TITLE IV-IMMIGRATION EMERGENCY

PROVISIONS RELATING TO ENTRY AND EXCLUSION

SEC. 401. Chapter 4 of title II of the Immigration and Nationality Act is amended by inserting at the end thereof the following new sections:

"DECLARATION OF IMMIGRATION EMERGENCY

"SEC. 240A. (a) The President may declare an immigration emergency with respect to any specifically designated foreign country or countries or geographical area or areas, if the President determines that—

"(1) a substantial number of aliens who lack documents authorizing entry into the United States appear to be ready to embark or have already embarked for the United States, and such aliens will travel from, or are likely to travel through, such foreign country or countries or such foreign geographical area or areas; and

"(2) the normal procedures of this Act or the current resources of the Service would be inadequate to respond effectively to the influx of these aliens.

"(b) Within forty-eight hours of the declaration of any immigration emergency, the President shall inform the Speaker of the House of Representatives and the President pro tempore of the Senate of the reasons prompting the declaration. The President shall cause the declaration to be published in the Federal Register as soon as practicable. The declaration shall expire 120 days after its proclamation, unless sooner terminated by the President. The President may extend the duration of the declaration for additional periods of 120 days each by following the same procedures set forth in this subsection as are provided for the making of the declaration, if, in his judgment, the conditions listed in subsection (a) continue to exist.

"EMERGENCY POWERS AND PROCEDURES

"SEC. 240B. (a) Upon the declaration of an immigration emergency under section 240A, the President may invoke the following emergency powers and procedures with respect to a country or countries or a geographical area or areas specifically designated under section 240A:

"(1) Any United States vessel, vehicle, or aircraft, or any other vessel, vehicle, or aircraft which is owned or operated by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any political subdivision thereof and which is bound directly or indirectly for such designated foreign country or foreign geographical area may be precluded from departing from the United States or may be intercepted while en route and required to return to the United States if feasible or to any other reasonable location until such time as it is feasible to return to the United States, or, if appropriate, allowed to proceed to any other reasonable location.

"(2) The arrival in the United States of any alien who lacks documents authorizing entry into the United States or who is otherwise inadmissible and is traveling, directly or indirectly, from or through such designated foreign country or foreign geographical area may be prevented by returning or requiring the return of such alien or any vessel, vehicle, or aircraft carrying any such alien to such designated country or area or to some other reasonable location.

"(3)(A) The exclusion or admission to the United States of any alien, regardless of nationality, who is traveling or has traveled to the United States, directly or indirectly, from or through such designated foreign country or foreign geographical area and who is not in possession of a visa or other entry document required for admission to the United States by statute or regulation may be determined under procedures estab-

lished by the Attorney General (whether by regulation or otherwise), and no such alien shall be presented for inquiry before a special inquiry officer unless such presentation is authorized by the Attorney General pursuant to such procedures.

"(B) Notwithstanding section 208 or any other provision of law, the Attorney General may establish by regulation or otherwise a separate procedure to consider a claim for asylum advanced by an alien whose admissibility is to be determined in accordance with this paragraph.

"(C) Any alien found inadmissible to the United States pursuant to the procedures established by the Attorney General under this paragraph shall be deported to the country from whence he came. If the attorney General determines that the alien should not or cannot practicably be removed to the country from whence the alien came, the Attorney General may deport the alien to any country described in section 243(a), without regard to the designation of the alien or the order of countries set forth in section 243(a).

"(D) Any alien admitted to the United States under this paragraph shall be admitted for such time and under such conditions as may be prescribed by the Attorney General, including the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe to insure compliance with the terms and conditions of the alien's admission.

"(E) No court shall have jurisdiction to review the determination of admissibility or nonadmissibility of, or the determination of any claim for asylum with respect to, any alien who is subject to this paragraph.

"(4)(A) Every alien who is subject to the provisions of this section shall be detained pending a final determination of admissibility or pending release on parole or pending deportation if the alien is found excludable, unless an examining officer finds that the alien is clearly and beyond a doubt entitled to be admitted to the United States. Such detention shall be in any prison or other detention facility or elsewhere, whether maintained by the Federal Government or otherwise, as the Attorney General may direct. The Attorney General may at any time transfer an alien from one place of detention to another. No alien shall be released from detention pending a final determination of admissibility or pending deportation if the alien is found excludable, except in the discretion of the Attorney General and under such conditions as the Attorney General may prescribe, including release on bond.

"(B) Any alien applying for admission from a foreign contiguous territory may, in the discretion of the Attorney General, be required to remain outside of the United States pending a final determination of admissibility.

"(C) No court shall review any decision of the Attorney General made pursuant to this paragraph to detain, to transfer, or to release an alien, except that any person so detained may obtain review, in habeas corpus proceedings, on the question of whether that person falls within the category of aliens subject to detention.

"(D) Nothing in this paragraph shall relieve a carrier or any other person of any liability, duty, or consequence pertaining to the detention of aliens which may arise under any other provision of this Act or other law.

"(5)(A) The President may exempt any source of any department, agency, or instrumentality in the executive branch from applicable environmental requirements pursuant to section 1323(a) of title 33 and sections 300j6(b), 4903, 6961, and 7418(b) of title 42, United States Code.

"(B) If the President finds, and transmits his finding to the Congress, that an exemption is necessary to respond to an immigration emergency, the President may exempt any source or action of any department, agency, or instrumentality in the executive branch which is directly and substantially related to an immigration emergency from applicable related to an immigration emergency from applicable requirements of the National Environmental Policy Act (42 U.S.C. 4331 et seq.), the Coastal Zone Management Act (46 U.S.C. 1451 et seq.), the Endangered Species Act (16 U.S.C. 1531 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Historic Preservation Act (16 U.S.C. 470 et seq.), and from the applicable requirements of any other Federal, State, or local law which is intended principally to protect or preserve the environment, wildlife, or aspects of the history or heritage of the United States.

"(C) Except with respect to matters concerning the detention of aliens, an exemption under this paragraph shall lapse upon termination of an immigration emergency. In no event shall any exemption under this paragraph be in effect more than one year. An exemption with respect to matters concerning the detention of aliens shall be in effect until terminated by the President or the expiration of one year, whichever occurs first. During the time period in which an exemption applies the President may, in his discretion, require that a source nonetheless meet certain environmental standards without thereby creating a private right of action to enforce that requirement.

"(b)(1) During the existence of the immigration emergency, the President may order the closing or sealing of any harbor, port, airport, road or any other place, structure or location which may be used as a point of departure from the United States to such designated foreign country or foreign geographical area, if the President determines such action is necessary to prevent the arrival in the United States of aliens who are inadmissible and who are traveling from or in transit through such designated country or area.

"(2) No person shall cause any vessel or aircraft to depart from or beyond or enter into a closed or sealed harbor, port, airport, road, place, structure, or location during an immigration emergency, unless written permission has been obtained for such departure before the actual departure of the vessel or aircraft.

"(3) Permission for departure from or beyond or entry into a closed or sealed harbor, port, airport, road, or any other place, structure, or location shall be given only for such vessels, vehicles, aircraft which are clearly shown not to be destined for a designated foreign country, or foreign geographical area. The agency designated by the President under subsection (c) of this section shall prescribe the procedures to be followed in requesting departure permission. In the absence of such procedures, permission may be sought from any agency directly involved in the closing or sealing of the harbor, port, airport, road, or other place, structure or location. A final decision shall be made on any request for departure permission within 72 hours of the request, unless the person seeking such permission consents to a longer period. If no action is taken on the request within the requisite period, the request for departure permission shall be deemed denied.

"(4) The district courts of the United States shall have jurisdiction to review any final decision denying permission to depart under paragraph (3) of this subsection, except that review may be obtained prior to a final administrative decision with respect to any vessel, vehicle, or aircraft if irreparable injury would occur before a final administrative decision could be obtained.

"(c) Although the President may not delegate the authority to initiate those emergency powers of this section which expressly require Presidential invocation, the President may designate one or more agencies of the Federal Government to administer the provisions of this section and of sections 240C and 240D. In carrying out these provisions, such designated agency may promulgate regulations and may request assistance from any State or local agency or from any civilian Federal agency. Notwithstanding any other provision of law or any rule or regulation, the President may direct that any component of the Armed Forces of the United States, including the Army, Navy, and Air Force, provide assistance to such designated agency. Any such agency or component of the Armed Forces of the United States may assist in the actual detention, removal, and transportation of an alien to the country to which he is being deported.

"(d) Notwithstanding any other provision of law, any agency or component of the Armed Forces of the United States which is requested or directed to render assistance or services during an immigration emergency is authorized to stop, board, make arrest of persons, inspect, and seize any vessel, vehicle, or aircraft which is subject to the provisions of this section or of section 240C or 240D.

"(e) In providing assistance under this section and sections 240B and 240D, agencies shall have the same authority as such agencies have for disaster relief under section 5149 of title 42, United States Code.

"(f) The provisions of paragraphs (3) and (4) of subsection (a) of this section shall continue to govern any aliens subject to those provisions, regardless of the termination of the immigration emergency.

"(g) The President may direct the enforcememt of subsection (a) of this section beyond the territorial limits of the United States, including on the high seas.

"(h) Nothing in this section shall relieve any carrier or any other person of any civil or criminal liability, duty, or consequence that may arise from the transportation or the bringing of any alien to the United States.

"TRAVEL RESTRICTIONS AND LICENSING

"SEC. 240C. (a) Upon the declaration of an immigration emergency under section 24A, it shall be unlawful for any person to cause any United States vessel, vehicle or aircraft, or any other vessel, vehicle or aircraft which is owned by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any political subdivision thereof, to travel or be transported to a foreign country or foreign geographical area designated under section 240A or to within such distance therefrom as the President may specify, unless prior approval has been obtained from an agency designated by the President.

"(b) Except as provided in subsection (c), the designated agency may by regulation grant prior approval, under such terms and conditions as it may require, for travel to or within a specified distance of a foreign country or geographical area designated under section 240A for certain classes or categories of vessels, vehicles, and aircraft. The owner or operator of any vessel, vehicle, or aircraft not authorized by regulation to travel to or within a specified distance of a designated country or area may apply to the designated agency for a license granting permission for one or more trips to that country or area. The designated agency shall establish by regulation the procedures governing the application for and the approval and revocation of such licenses. The designated agency may authorize officials of any other agency of the United States to accept and transmit applications for licenses to the designated agency or to grant or deny such licenses under standards established by the designated agency.

"(c) No travel to or within such distance as the President may specify from a designated foreign country or area shall be approved if it appears that such travel may result in or contribute to a violation of any statute or regulation relating to the immigration of aliens to the United States.

"PENALTIES

"SEC. 240D. (a)(1) On or after the day following publication in the Federal Register of the declaration of an immigration emergency, any vessel, vehicle, or aircraft involved in a violation of section 240B(b)(2) or section 240C(a) shall be forfeited and the owner, operator, and any person causing such vessel, vehicle, or aircraft to be involved in such violation shall be subject to a civil fine of $10,000 for each act in violation of such section, except that such vessel, vehicle, or aircraft involved in such violation may be forfeited and the owner, operator, or any other person causing such violation may be subject to a civil fine of $10,000 for each act in violation before such date if such owner, operator, or other person had actual knowledge of the declaration of an immigration emergency.

"(2) All provisions of the customs laws relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property,

"(B) the disposition of such property or the proceeds from the sale thereof,

"(C) the remission or mitigation of such forfeiture, and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures,

shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section insofar as applicable and not inconsistent with the provisions of this section, except that duties imposed on customs officers or other persons regarding the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General.

"(3) Whenever a conveyance is forfeited under this section the Attorney General may—

"(A) retain the conveyance for official use;

"(B) sell the conveyance and shall use the proceeds from any such sale to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs, with the remaining proceeds, if any, turned over to the United States Treasury;

"(C) require that the General Services Administration, or the Federal Maritime Commission if appropriate under section 484(i) of title 40, United States Code, take custody of the conveyance and remove it for disposition in accordance with law; or

"(D) dispose of the conveyance in accordance with the terms and conditions of any petition of remission or mitigation of forfeiture granted by the Attorney General.

"(4) In all suits or actions brought for the forfeiture of any conveyance seized under this section, where the conveyance is claimed by any person, the burden of proof shall lie upon such claimant if probable cause shall be first shown for the institution of such suit or action, to be judged of by the court.

"(b) On or after the day following publication in the Federal Register of the declaration of an immigration emergency, any person who knowingly engages or attempts to engage in any conduct prohibited by the terms of section 240B(b)(2) or section 240C(a) shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding $50,000 or by imprisonment for a term not exceeding five years, or both, for each prohibited act, except that the owner, operator, or any other person causing a violation of such section shall be punished by a fine not exceeding $50,000 or by imprisonment for a term not exceeding five years, or both, for each prohibited act before such date if such owner, operator, or other person had actual knowledge of the declaration of an immigration emergency.

"(c) Any alien who willfully violates a condition of his admission under section 240B shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(d) The requirements and sanctions imposed by this section shall be in addition to those set forth by other provisions of law.

"(e) Violations of any provisions of this Act committed during the immigration emergency may be investigated by the Federal Bureau of Investigation, the Service, the Coast Guard, or any component of the Department of the Treasury. Notwithstanding any other provision of law or any rule or regulation, assistance in investigating or enforcing this section may be provided, with the approval of the Attorney General, by any agency of the United States, including the Army, Navy, and Air Force, or may be provided by any State or local agency.

"DEFINITIONS

"SEC. 240E. As used in sections 240A through 240D—

"(1) the term 'agency' includes any executive department and components thereof, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

"(2) the term 'aircraft' means any airplane, helicopter, glider, balloon, blimp, or other craft or structure capable of being used as a means of transportation in the air;

"(3) the term 'vehicle' means any automobile, motorcycle, bus, truck, cart, train, or other device or structure capable of being used as a means of transportation on land;

"(4) the term 'vessel' means any ship, boat, barge, submarine, raft, or other craft or structure capable of being used as a means of transportation on, under, or immediately above the water; and

"(5) the phrase 'United States vessel, vehicle, or aircraft' include any vessel, vehicle, or aircraft documented, registered, licensed, or numbered under the laws of the United States or any political subdivision thereof.".

UNLAWFUL BRINGING OF ALIENS INTO UNITED STATES

SEC. 402. Subsection (b) of section 273 of the Immigration and Nationality Act (8 U.S.C. 1323(b)) is amended—

(1) by striking out in the first sentence "$1,000" and inserting in lieu thereof "$3,000";

(2) by striking out the last sentence; and

(3) by adding at the end thereof the following: "Such sums shall be a lien upon the vessel or aircraft involved in a violation of the provisions of subsection (a) of this section, and such vessel or aircraft may be libeled therefore in the appropriate United States court. Pending the determination of liability to the payment of such sums or while such sums remain unpaid, such vessel or aircraft may be denied clearance, or summarily seized, or both, unless a deposit is made of an amount sufficient to cover such sums or of a bond with sufficient surety to secure the payment thereof satisfactory to the Attorney General.".

INSPECTION BY IMMIGRATION OFFICERS

SEC. 403. Section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) is amended to read as follows:

"(b)(1) Unless an immigration emergency has been declared, an immigration officer shall inspect each alien who is required to have documentation seeking entry to the United States and shall make a determination on each alien's admissibility.

"(2) The decision of the immigration officer on admissibility of an alien shall be final and not subject to further agency review or to judicial review, if the immigration officer determines an alien to be an alien crewman, a stowaway under section 273(d) of this Act, or an alien who does not present documentary evidence of United States citizenship, or lawful admission for permanent residence, or a visa or other entry document, or a certificate of identity issued under section 360(b) to support a claim of admissibility.

"(3) Any alien not excluded under paragraph (2) of this subsection who does not appear to the examining immigration officer to be clearly and beyond a doubt entitled to admission shall be detained for further inquiry by a special inquiry officer under section 236.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 404. There are authorized to be appropriated to the President to carry out the purposes of sections 240A through 240E of the Immigration and Nationality Act an amount not to exceed $35,000,000. Amounts appropriated under this section are authorized to remain available until expended.

On page 162, line 11, strike out "TITLE IV" and insert in lieu thereof "TITLE V".

On page 162, line 13, strike out "Sec. 401." and insert in lieu thereof "Sec. 501.".

On page 79, in the table of contents, redesignate the item relating to title IV as title V.

On page 79, in the table of contents, redesignate the item relating to section 401 as section 501.

On page 79, in the table of contents, insert between the items relating to titles III and V, as redesignated, the following:

TITLE IV—IMMIGRATION EMERGENCY
Sec. 401. Provisions relating to entry and exclusion.
Sec. 402. Unlawful bringing of aliens into United States.
Sec. 403. Inspection by immigration officers.
Sec. 404. Authorization of appropriations.

CONSTITUTIONAL AMENDMENT ON A BALANCED BUDGET

AMENDMENT NOS. 1939 AND 1940

(Ordered to be printed and to lie on the table.)

Mr. HART submitted two amendments intended to be proposed by him to the joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will have a meeting on Wednesday, July 21, 1982, at 9 a.m., in room 301, Russell Senate Office Building. The committee will be marking up proposed regulations to implement Senate Resolution 20, providing for television and/or radio coverage of Senate proceedings.

On April 21, 1982, the Senate agreed to Senate Resolution 20, and directed the Committee on Rules and Administration to report to the Senate a resolution containing such regulations and such rules changes as are needed to implement television and/or radio coverage of proceedings of the Senate. The original deadline for the 60-day reporting period was June 20. However, on June 15, by unanimous consent, the deadline was extended to July 15. On Wednesday, July 14, the reporting deadline was further extended by unanimous consent until Friday, July 23, 1982.

In preparation for this markup, the Rules Committee held hearings on May 19 and May 25 and received testimony from Senators and interested public parties.

For further information regarding this meeting, please contact Rules Committee staff on 224-9078.

SUBCOMMITTEE ON LABOR

Mr. NICKLES. Mr. President, the Labor Subcommittee of the Labor and Human Resources Committee will hold a hearing on S. 2634, a bill to amend section 14(c)(3) of the Fair Labor Standards Act of 1938, to permit the employment of handicapped and severely handicapped individuals in common areas, to permit the employment of handicapped individuals in demonstration projects, and other purposes, on Wednesday, August 11, 1982, in room 4232 of the Dirksen Senate Office Building. The hearing will begin at 9:30 a.m. Members of the public wishing to testify should submit a written request to Senator NICKLES, Labor Subcommittee, 4230 Dirksen Senate Office Building, Washington, D.C. 20510. Staff contacts are Chuck Carroll and Charlene Abshire at 224-5546.

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will hold a meeting on the omnibus reconciliation bill for fiscal year 1983, Thursday, July 22, at 2 p.m. in 6202 Dirksen Senate Office Building.

For further information, contact Nancy Moore of the Budget Committee staff at 224-4129.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. PACKWOOD. Mr. President, the Subcommittee on Taxation and Debt Management of the Senate Finance Committee will hold a hearing at 9:30 a.m. on July 19, 1982. The following proposals will be considered:

S. 2197, introduced by Senator MATSUNAGA. S. 2197 would make permanent the provision for refund of taxes paid on the sale of fuel for use in a taxicab, and would make certain sales of fuel for use in a taxicab exempt from tax.

S. 2498, introduced by Senator MATSUNAGA. S. 2498 would provide that certain indebtedness incurred by educational organizations in acquiring or improving real property shall not be treated as acquisition indebtedness for purposes of the tax on unrelated business taxable income.

S. 1298, introduced by Senator WALLOP with Senator PACKWOOD, Senator BRADLEY, Senator BACUS, and others. S. 1298 would extend certain tax provisions to Indian tribes on the same basis as such provisions apply to States.

The purpose of this statement is to briefly explain the issues raised by these bills. This may help you chart the progress of tax legislation before the Taxation Subcommittee. It also helps assure greater public awareness of tax amendments coming before hearings.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

Mr. McCLURE. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Pollution, of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, July 16, at 10 a.m., to hold a hearing on the Clean Water Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. McCLURE. Mr. President, I ask unanimous consent that the Agriculture Committee be authorized to meet during the session of the Senate at 10:45 a.m. on Friday, July 16, to continue their reconciliation markup on food stamps and the dairy program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BILINGUAL EDUCATION—A DIFFERENT KIND OF SEGREGATION?

● Mr. HUDDLESTON. Mr. President, advocates of bilingual education in this country contend that the program is needed to give limited-English-speaking children the opportunity to fully participate in our society. They say that the program is only being used to teach these children English so that they can be mainstreamed as quickly as possible. However, the evidence indicates that bilingual education is not achieving this goal. Nowhere has this been pointed out more clearly than in a letter which I recently received from teachers at Woodrow Wilson High School in San Francisco, Calif. As the teachers state—

> If the success of a bilingual education program can be measured by the number of students moved out of it and into regular classes each year, ours is a dismal failure. Out of over 500 students of limited English proficiency (LEP students) at our school, only three have been "demitted" from the bilingual program so far this year. Furthermore, the LEP students at our school who are not in bilingual classes appear to be making much more rapid progress in English.

It is difficult to believe that only 3 students out of over 500 were able to be mainstreamed after 1 year's time in the program. As the teachers note, students in bilingual education programs are getting less time to use English than students in regular classes. More importantly, bilingual education is promoting a type of segregation which is clearly contrary to the principles on which our country is based. Many teachers in bilingual programs in the school district are not qualified and parents are discouraged from exempting their children from bilingual programs.

Interestingly, this information comes from teachers in a school in the San Francisco Unified School District. This is the same district where parents of non-English-speaking Chinese students sued because their children were being denied an equal educational opportunity. The result of this suit was the well-known Lau remedies which were supposed to correct this problem. However, almost 10 years after the Lau against Nichols decision by the Supreme Court, it appears that the progress of limited-English-speaking children has not changed.

It is obvious that changes are needed in our bilingual education programs if

we are going to have them achieve the stated goal of teaching children English. The teachers' letter has made this very clear.

Mr. President, I submit for the RECORD the letter from the Woodrow Wilson High School teachers and the enclosed appendixes.

The material follows:

WOODROW WILSON HIGH SCHOOL,
San Francisco, Calif.

Senator THOMAS HUDDLESTON,
U.S. Senate,
Washington, D.C.

DEAR SIR: If the success of a bilingual education program can be measured by the number of students moved out of it and into regular classes each year, ours is a dismal failure. Out of over 500 students of limited English proficiency (LEP students) at our school, only three have been "demitted" from the bilingual program so far this year. Furthermore, the LEP students at our school who are not in bilingual classes appear to be making much more rapid progress in English.

Because our school's classes for "newcomers" have been developed by the academic departments, rather than by a separate bilingual department, we have both ESL and bilingual classes, and most LEP students are enrolled in both kinds.[1] All LEP students take two ESL classes each semester that are offered by the English department; Language Development and Reading. These classes are available on four levels of advancement. Zero, Beginning, Intermediate, and Advanced Students are placed in appropriate level classes when they enter the school based on the results of both a written and an oral examination administered by the school district's Intake Center. Their placement is re-evaluated every six months by the classroom teachers. Students may move up as quickly as their progress in English allows. Students whose primary language constitutes a small minority, such as Cambodian, Lao Burmese, Korean, Arabic, Hindi, and Samoan, are enrolled in "Bilingual Support" classes in social studies, math, and science, as well as the ESL classes listed above. "Bilingual Support" classes are taught using ESL methods. "Bilingual Support" Typing and Foods are also available as electives for any LEP student.

LEP students whose primary language is Spanish, Cantonese, Vietnamese, or Tagalog/Ilocano must take bilingual social studies. Additionally, every effort has been made by the district Bilingual Office and our school administration to place these students in bilingual science and math by forcing the academic departments to offer as many bilingual classes as possible. This attempt has not been entirely successful as the complexity of students' needs and a lack of bilingual teachers qualified to teach advanced courses has forced compromises. A plan to schedule a Chinese bilingual Geometry-2 class was thwarted because there were not enough students to fill it. Ironically, the class would have been made up entirely of students who had passed the regular Geometry-1 class was taught in English. We do offer a large number of bilingual classes in General Math, General Science, Algebra, Geography, U.S. History, and Civics.[2] These classes are taught largely in the primary language, and students are grouped only by ethnicity, not by English proficiency, resulting in a mixture from zero through the Advanced level English speakers in one class.

While the principle of bilingual education appears sound, in practice, in our district at least, there are several serious questions to be raised about its efficacy:

(1) The students in bilingual classes get less opportunity to practice English than students in ESL classes.

(2) Bilingual classes promote blatant segregation. Students stay, for most of the day with their own ethnic group, missing the opportunity to become part of the mainstream of the life of the school. On the other hand, in ESL classes where students are grouped by English profiency, not by ethnic group, students make friends with members of other groups and learn English much faster.[3]

(3) There is little choice involved for the student or the parents. Even though parents may exempt their child from bilingual classes, this is actively discouraged by the school administration. Teacher or counselor initiated exemption from bilingual classes can only be done after an elaborate and unrealistic exit procedure.[4] This appears to result in most students remaining in bilingual classes for their entire time in school.

(4) There are serious doubts about the qualifications of some bilingual teachers. The San Francisco Unified School District Bilingual Office does its own hiring, evaluation, certification, and firing. Our school has been required to accept a certain number of teachers from that office and fit them into the schedule. Many have neither teaching experience nor regular California teaching credentials. Some speak English so poorly that it is difficult for students and adults to understand them. Unfortunately, nearly all of these teachers are currently teaching ESL or regular departmental classes as well as bilingual classes.

(5) There are so many special bilingual course offering at our school that courses for the English-fluent two thirds of the school have had to be curtailed.

RECOMMENDATIONS

If changes are made in Federal law regulating bilingual education, we recommend the following:

(a) Specific guidelines for secondary schools be included. These should consider the complexity of high school curriculum, departmental autonomy, and subject matter expertise necessary for effective teaching at that level. Current guidelines are vague and subject to widely varying interpretations usually benefiting bureaucrats rather than students.

(b) Some limit be placed on the number of years that a student can remain in bilingual classes. This will reduce taxpayer burden for special interest groups and also eliminate the possibility that a student could spend 12 years in the public schools, segregated from the other students, and never learn to speak English.

(c) The purposes of bilingual education be clarified. If the major purpose is to teach the students more effectively, actual results should be scrutinized. If its major purpose is to foster the students' heritage, it should be limited in scope, and more educationally sound methods, such as ESL, should be used to teach necessary material.

Sincerely,

BEN ADAM,
Site Coordinator, Federal Compensatory Education Program.
RUDI FALTUS,
Reading Resource Teacher, Social Studies, Title I.
ROBERT FADER,
Reading Resource Teacher, Title I.
JUDITH WIESE,
Reading Resource Teacher, Title I.
ADRIENNCE SEMTH,
Reading Resource Teacher, Social Studies, Title I.
GAIL G. DENT,
Social Studies Department Head.

COMPARISON OF LEP STUDENTS SERVED IN DIFFERENT WAYS

Limited English speaking students are placed in ESL Language Development classes varying from Zero to Advanced level. Their progress in English production, speaking and writing, is evaluated every six months by their classroom teacher, and they are either moved up to the next level or retained in the same level. Language Development classes were selected for this study because the level reflects ability to speak and understand spoken English.

GROUP I

Speakers of Hindi, Lao, Cambodian, Hmong, Korean, Arabia, Smoan, Burmese, were enrolled in only classes taught with ESL methods (Those listed in the schedules as Bilingual Support use ESL methods) and regular classes.

21 percent were retained in the same level for a second year.

GROUP II

All speakers of Spanish were in Spanish Bilingual Social Studies. Most were in Spanish Bilingual General Math and Spanish Bilingual Life Science.

29 percent were retained in the same level for a second year.

GROUP III

Some speak only Cantonese. Some speak only Vietnamese. Some speak both. Most are ethnic Chinese from Vietnam or Hong Kong. All took Chinese or Vietnamese Social Studies. Some took bilingual math and science, but not consistently in one language.

38 percent were retained in the same level for a second year.

Excerpt from schedule of classes—Spring 1982—Note number of bilingual sections in academic departments:

SOCIAL STUDIES DEPARTMENT

Sequence and teacher:	Room
Geography 1	
090 6—Heafey	306
Geography 1.8D (bilingual support)	
091 4—Tran	122
Geography 2	
092 1—Cabral	129
093 1—Morey	232
094 1—Smiell	221
095 2—Fesunoff	304
096 2—Smiell	221
097 2—Tooley	300
098 3—Cabral	129
099 3—Tooley	300
100 4—Fesunoff	304
101 4—Navarrete	330
102 6—Morey	232

[1] See Appendix—Comparison of LEP Students in Bilingual and Non-Bilingual Classes.
[2] See Appendix—Class Schedule and Explanation.
[3] See Appendix—Anecdotal evidence for ethnic integration in ESL classes.
[4] See Appendix—Bilingual Reclassification Form.

103 6—Tooley 300
104 7—Morey 232

Geography 2.8A (Chinese bilingual)

105 3—Soo 221
106 7—Soo 221

Geography 2.8B (Filipino bilingual)

107 4—Anorico 328

Geogaphy 2.8C (Spanish bilingual)

108 2—Ledon 111
109 6—Ledon 304
110 7—Ledon 304

Geography 2.8D (Bilingual support)

111 7—Tsang 330

Geography 2.8F (Vietnamese bilingual)

112 1—Tran 122
113 7—Tran 122

U.S. History 1

114 3—Warren 356

U.S. History 2

115 1—Heafey 306
116 1—Warren 356
117 2—Dent 310
118 3—Heafey 306
119 4—Heafey 306
120 6—Warren 356
121 7—Heafey 306
122 7—Warren 356

U.S. History 2.8A (Chinese bilingual)

123 4—Soo 221

U.S. History 2.8C (Spanish bilingual)

124 1—Navarrete 330
125 6—Levy 324

U.S. History 2.8D Bilingual support)

126 1—Sciutto 312

U.S. History 2.8F (Vietnamese bilingual)

127 6—Tran 122

Civics 1

128 2—Warren 356

Civics 2 (law)

129 2—Sciutto 312
130 4—Sciutto 312

Civics 2.8F (Vietnameses bilingual)

131 2—Tran 122

Civics 2 (economics)

132 1—Tooley 300
133 4—Tooley 300

Civics 2 (psychology)

134 1—Fesunoff 304
135 3—Fesunoff 304

Civics 2 (sociology)

136 3—Dent 310
137 6—Dent 310

Civics 2.8A (Chinese bilingual)

138 6—Soo 221

Civics 2.8C (Spanish bilingual)

139 3—Navarrete 330

Civics 2.8D (bilingual support)

140 1—Sciutto 312

World History 2

141 6—Curnow 316

Mathmatic Department

Fund math 1

142 6—Palpallatoc 100
143 7—Palpallatoc 100

Fund math 2

144 1—Palmer 128
145 2—Chow 110
146 3—Chow 110
147 3—Palmer 128
148 4—Muschi 108
149 6—Muschi 108
150 7—Palmer 128

Fund math 2.2

151 1—Cabaccang 130
152 2—Muschi 108
153 3—Muschi 108
154 6—Cabaccang 130
155 7—Cabaccang 130
156 7—Muschi 108

General math 1

157 1—Stiles 104
158 6—Stiles 104
159 7—Stiles 104

General math 2

160 1—Perdue 106
161 2—Cabaccang 130
162 3—Cabaccang 130
163 4—Darrington 100
164 6—Chu 134
165 7—Le 131
166 7—Chu 134

General math 2.8C (Spanish bilingual)

167 1—Ledon 110
168 3—Fettah 100
169 4—Ledon 104

General math 2.8D (bilingual support)

170 4—Chu 134
171 6—Le 131

Algebra 1-CP1

172 2—Stiles 104
173 4—Chow 110
174 6—Chow 110
175 7—Chow 110

Algebra 1.8C (Spanish billingual)

176 4—Fourie 131

Algebra 2-CP2

177 3—Perdue 106
178 4—Perdue 106
179 7—Perdue 106

Algebra 2.A (Chinese bilingual)

180 2—Chu 134

Algebra 2.8F (Vietnamese bilingual)

181 3—Le 134

Geometry 1-CP3

182 2—Perdue 106

Geometry 2-CP4

183 1—Chu 134
184 3—Stiles 104

Trigonometry CP6

185 1—Fourie 131
186 3—Fourie 131

Math analysis-CP6

187 2—Fourie 131

Computer programing 1

188 1—Darrington 100
189 7—Darrington 222

Computer programing 2

190 1—Darrington 100
191 7—Darrington 222

SCIENCE DEPARTMENT

Biology 2

238 1—Peterson 116
239 4—Turner 109
240 6—Turner 109
241 7—Peterson 116

Chemistry 2

242 4—Weinstein 127

Life science 2

243 1—Weinstein 120
244 2—Peterson 116
245 2—Turner 109
246 3—Turner 109
247 4—Morey 112
248 4—Peterson 116
249 6—Peterson 116
250 6—Tontho 114
251 6—Weinstein 120
252 7—Weinstein 120

Life Science 2.8C

Spanish bilingual

253 6—Santos 112
254 7—Santos 112

(Life science 2.8D (bilingual support)

255 1—Tontho 114
256 2—Tontho 114
257 3—Tontho 114

Phycology 2

258 3—Morey 112

Physics 2

259 3—Weinstein 120

OBSERVATIONS OF BILINGUAL AND ESL STUDENTS

The most notable and distressing feature of a bilingual program in a high school is its isolation from the rest of the school. The students are together most of the day, speaking only their native language to each other and to their bilingual teachers. There is little or no communication with other students or staff members, and little or no English is spoken. Additionally, when required to communicate in English outside the bilingual classroom, the students exhibit difficulty or even hostility. The other students in the school are suspicious of them, make fun of them, and sometimes even attack them physically.

On the other hand, students placed in ESL classes and grouped by English proficiency, not by primary language, and taught by speakers of standard English, make rapid progress, socially, as well as linguistically. Speakers of Hindi, Korean, Arabic, Lao, etc. are seen around the campus in integrated groups, speaking English. They appear to have little trouble understanding or making themselves understood. Because they are less visibly alien, they are accepted more readily by the other students.

While the proponents of bilingual education argue that non-bilingual teachers lack a proper understanding of the culture of and sympathy for foreign-born students, we have found that patently untrue. In a school where teacher morale and professional competence is high, teachers can rapidly adapt their methods for non-English speaking students. Our school had a sudden flood of newcomer students in a short period of time, necessitating basic curricular changes without changes in staff. This was met very successfully by In-service training and use of Federal monies for classroom aides. Most teachers new to ESL methods were quick to adapt and pleased at the courtesy and eagerness to learn of the foreign-born students. Bilingual education, at our school was imposed, not because of need, but because of administrative fiat.

To All Administrators, March 31, 1982, WAD No. A-264.

Subject: Bilingual Reclassification Form.

From Albert Cheng, Coordinator, Bilingual Education, 239-0161.

Action required: Notify All Staff.

In compliance with the State Law AB507 (Bilingual Education Improvement and Reform Act), the Bilingual Education Department has developed a procedure and form for reclassifying and exiting a student from a Bilingual/ESL program to an English-only program. The procedures and the Bilingual Reclassification Form (BRF) replace all previous notices and forms emitting students from the Bilingual/ESL program.

The reclassification procedure involves the following major steps;

I. INITIAL RECOMMENDATION

The request for reclassification may be initiated by the student, parent or guardian, teacher, administrator, or other responsible

certificated personnel (e.g. Resource Teacher).

II. ASSESSMENT CRITERIA

A. *Teacher Observation.*—1. Student must be tested by the teacher on the Student Oral Language Observation Matrix and must be no less than Level 4.

2. Latest report card grades for English, Math and Social Studies must be noted.

B. *Academic Achievement.*—CTBS test results must be at or above 36th percentile, in Reading, Math, and Language Arts. Please note date and level.

C. *English Oral Language Proficiency.*—The Language Assessment Scale must be used and administered at the appropriate grade level. This is to be administered at the school site. Test results must be no less than Level 4 (75–84 points).

D. *Writing Skills Assessment.*—Administer the appropriate Writing Mastery Test per grade level. Student must achieve a passing grade.

III. SIGNATURES

Signatures of the school administrator and initiator, plus either the ESL teacher or Bilingual teacher must be on the fori.

After the above, the fori is to be forwarded to the Bilingual Office as indicated for appraisal. The form will be returned to the school with the placement recommendation.

IV. PLACEMENT RECOMMENDATION

If all of the above critieria are met, the student may be recommended for placement in an English-only program. After the recommendation is made by the Bilingual Office, the form will be returned to the school to secure parental consent.

Parent Consent/Signature.—Parental consent is mandatory in accordance with State Law for exiting a LEP student. The parent also has the option to have the student remain in the Bilingual/ESL Program. A separate sheet requesting parental consent is attached and translated into various languages.

After the form has parent's signature, it is returned to the Bilingual Office for processing and computer code adjustments.

I. FOLLOWUP

Follow-up on the student's progress at the 1st and 6th months after reclassification is required. Indicate whether progress at the first month and again at six months is satisfactory. Administrator or designee must sign to indicate satisfactory progress. (If progress is unsatisfactory, student must be re-admitted into ESL and/or Bilingual Program).

II. COPIES

Retain a copy of the BRF in the student's cum folder and send a copy to: Bilingual Education Department, 300 Seneca Avenue, San Francisco, California 94112.

FRED C. LEONARD, JR.,
Associate Superintendent,
Instructional Support Services.
YVETTE DEL PRADO,
Associate Superintendent,
School Operations.

SAMPLE CONSENT LETTER

Dear Parents/Guardian: Your son/daughter———is currently enrolled in the Bilingual Education Program wherein he has received intensive English language training and classes where the native language is used to help him/her progress in the academic areas.

In reviewing your son's/daughter's grades and other test results, we believe that he/she is ready to enter an English only instructional program.

If you agree with our assessment, please check item A and sign your name. If you wish to retain him/her in the Bilingual/ESL program, please check item B and sign your name.

A. We do consent to an English only program.

Parent's/Guardian's Signature, Date.

B. We wish him/her retained in the Bilingual/ESL program.

S.F.U.S.D. BILINGUAL RECLASSIFICATION FORM (BRF)

Student's name, sex, school.

B.O. number, grade, room.

Primary language, program: Bilingual, BILP/ESL.

Initial recommendation (check one):

A. Request initiated by: Administrator, teacher, student, parent, bilingual resource teacher or other—specify.

B. Date initiated: Mo., day, year.

I. ASSESSMENT CRITERIA

a. Teacher observation:

1. Student oral language observation matrix (SOLOM must be at level 4)—Indicate level achieved, date of assessment.

2. Last report card grades: English, math, social studies.

B. Academic achievement: CTBS per grade level, date, (must be no less than 36th percentile).

C. English Oral Language Proficiency K-12 (Language Assessment Scale—LAS):

LAS Score, level, (LAS must be at level 4, i.e., 76 to 84 points) Date of Post Assessment.

D. Writing skills assessment:

Grades 1–5: Macmillan Series E Writing Mastery Test (per grade)—Pass, fail, date assessed.

Grades 6–8: McDougal, Litell Series Writing Mastery Test (per grade)—Pass, fail, date assessed.

Grades 9–12: Writing Sample—Pass, fail, date assessed.

II. SIGNATURES

Initiator, date; school administrator, date; ESL teacher, date; bilingual teacher, date.

Please send this form for approval to: Mr. Albert Cheng, Coordinator, Bilingual Department—San Miguel School, 300 Seneca Avenue, San Francisco, California 94112.

Placement Recommendation (This will be made by the Bilingual/ESL Department).

Recommended Program: retain, exit, date.

Administrator, Bilingual Program, Date.

This form will now be forwarded to the school.

Parental Consent and Signature:

Parent's Signature, Date.

Please return to Bilingual Office for processing after parental consent.

Followup: Evaluation of Student's Progress.

SATISFACTORY

1st month: Month, day, year. Yes, no, signature—Administrator or designee.

6th month: Month, day, year. Yes, no, signature—Administrator or designee.

Note.—A copy of this form must be retained in student's cum folder, and another copy sent to the Bilingual Department.●

U.S. GRAIN TRADE WITH THE SOVIET UNION

● Mr. LUGAR. Mr. President, my colleagues in the Senate have read a host of news accounts recently outlining the pros and cons of agricultural trade with the Soviet Union. The discussion of this issue has been plagued by cloudy thinking, and is in need of some clarification.

I have suggested that any proposed economic sanction be measured against two basic tests: First, would the sale in question serve to strengthen the Soviet economy or military machine, or will it simply compel the Soviet Union to use up scarce foreign exchange reserves to purchase goods which do not add to its productivity?

Second, to what extent will a sanction against the transaction hurt the U.S. economy, and will that degree of damage be justified by benefits to our foreign policy?

Mr. R. A. Lenon of the International Minerals & Chemicals Corp. has written a rebuttal to a recent editorial on this subject in Business Week magazine. This letter offers a viewpoint with regard to U.S. grain trade with the Soviet Union that I share strongly, and I ask that the text of this letter be printed in the RECORD.

The letter follows:

INTERNATIONAL MINERALS & CHEMICAL CORP.,
Northbrook, Ill., July 8, 1982.

MR. JOHN L. COBBS,
Editor, Business Week,
New York, N.Y.

DEAR MR. COBBS: Your editorial "A rough, right decision" (July 5) calls for an embargo on future grain sales to the Soviet Union. Such a step would be a major add-on to the burden already draped around the shoulders of the U.S. farmer and the domestic agricultural community generally. It is unlikely that any intended message would be heard; our allies, with their more pragmatic export policies, could be expected to smile, shrug, and go about their business, while the Soviets would turn, as before, to other readily available sources.

Much of the nearly $1 trillion investment in U.S. agriculture has been made on the premise that upwards of 40 percent of crop output would be sold into export markets. Unfortunately, this country's growth in share of international agricultural markets has come to a halt, and our use of embargoes as a political tool has contributed greatly to the problem.

Looking at the most recent one, the 1980/81 Russian grain embargo, a study by Schnittker Associates estimates that this action cost our country $11.4 billion in national output, almost 310,000 jobs, and $3.1 billion in personal income—plus several billions more in direct government costs. The ill effects still linger in product oversupply and international uncertainty as to the reliablity of the U.S. as a supplier.

We will applaud and support firm U.S. economic actions for constructive purposes, but an embargo on grain to the Soviets would be counterproductive—ineffective abroad, and severely damaging to the American farmer, struggling to survive in an already difficult economic situation.

Sincerely,

R. A. LENON.●

MORTGAGE REVENUE BOND PROGRAM MAY MOVE AGAIN

● Mr. SASSER. Mr. President, Congress enacted the Mortgage Subsidy Bond Tax Act of 1980 in order to bring about certain selected revisions in the operation of mortgage revenue bond programs throughout the country. However, because this legislation was hastily drawn and because of initial Treasury Department regulations governing implementation of the law, mortgage revenue bond programs around the country virtually ground to a halt. This was not the congressional intent of the 1980 act.

In the intervening year and a half, several pieces of legislation have been offered to current the problems brought about by the 1980 act. Also, the Treasury Department has issued new regulations which have resolved some of the problems involved in implementing the statute. These regulatory changes reflect, in some measure, the mortgage bond amendments contained in S. 1348 which I introduced in June 1981. These new Treasury regulations have made it possible for at least some States and localities to issue a comparatively small volume of mortgage bonds.

However, more needs to be done. Many States still cannot participate in the program. Other States have issued bonds but have had to provide substantial State subsidies in issuing them.

Now, the opportunity to make the remaining changes necessary for a functioning, efficient mortgage bond program is available to the Congress. This final reform package was offered by Senator ROTH in the Finance Committee and accepted as an amendment to the tax bill. It provides for a flexible arbitrage limitation of from 1⅛ percent to 1⅛ percent, depending on the size of the issue; reduces the first-time home buyer requirement from 100 percent to 80 percent of buyers, making the program more adaptable to varying local housing conditions; and sets a maximum allowable purchase price at 10 percent over median, again allowing for different regional and local patterns in market and housing stock conditions.

Because these reforms are so important to the future of the mortgage bond program, and because 40 Members of the Senate are cosponsors of S. 1348, the bill I introduced last year toward this goal, Senator ROTH and I have sent a "Dear Colleague" letter to those 40 cosponsors urging their continued support for the reform package when it comes to the floor as part of the tax bill. As we state in the letter, this may be the only opportunity Congress will have this year to make homeownership more available to even a small portion of the homebuying public.

I hope that all of our colleagues, beyond the original cosponsors, will take this opportunity and support the Roth mortgage bond language. I ask that our "Dear Colleague" letter be included in the RECORD at this point.

The letter follows:

U.S. SENATE,
Washington, D.C., July 12, 1982.

DEAR COLLEAGUE:

In view of your interest in the mortgage revenue bond program as a cosponsor of S. 1348 introduced by Senator Sasser in June of last year, your continuing support is urged for the provisions Senator Roth has included as an amendment to this year's omnibus tax bill.

As you probably know, the tax bill now carries provisions which will: permit an arbitrage limitation on a sliding scale from 1⅛ percent to 1⅛ percent; reduce the first-time homebuyer requirement from 100 percent to 80 percent of buyers; and bring the average area purchase price limitations more into line with current market and housing stock conditions. Additionally, the Roth package includes still-needed changes from S. 1348 in prohibiting the forced sale of reserves by issuers.

A key aspect of the Roth language in the tax bill—as in the Sasser bill—is that it does not create an additional cost to the Treasury. The Congressional Budget Office estimate still holds: no net revenue impact.

With no end in sight to high interest rates and the housing depression that has dragged on for 46 months, this legislation will probably be the only means available to Congress this year to enable even a small portion of the homebuying public to purchase a home. Your support for the Roth proposal during floor consideration of the tax bill will help get the mortgage bond program functioning as envisioned in S. 1348, and as it was intended to function under the Mortgage Subsidy Bond Tax Act of 1980.

Sincerely,

WILLIAM V. ROTH, JR.
JIM SASSER.

WEAPONS PROCUREMENT

● Mr. GOLDWATER. Mr. President, recently I wrote to the Secretary of Defense, Caspar Weinberger, concerning our weapons systems procurement and the problems we face in providing for an adequate national defense. I intend to provide a copy of this letter to each member of the House and Senate Armed Services Committees in an effort to generate some improvement in this process.

By also entering a copy of this letter in the RECORD, I hope to encourage management firms, the academic community, and even the defense industry at large to suggest solutions to the multitude of problems we face in defense procurement.

In my view, we have arrived at a very dangerous crossroad in our Nation's history. Unless we quickly revise some of our procurement practices, both in Congress and at the Pentagon, we run the certain risk of a dramatic decrease in our ability to defend this Nation.

Mr. President, I urge my colleagues to consider the thoughts which I provided to the Secretary of Defense and then to work together to achieve some positive solutions. I submit for the RECORD my letter to Secretary of Defense Weinberger, dated July 14, 1982.

The letter follows:

U.S. SENATE,
Washington, D.C., July 12, 1982.

Hon. CASPAR WEINBERGER,
Secretary of Defense,
Department of Defense, Washington, D.C.

DEAR CAP: First, I must tell you that I am going to insert a copy of this letter into the CONGRESSIONAL RECORD. I am going to send a copy of it to each member of the Armed Services Committees of the Senate and the House, and I am hopeful that out of this will come some kind of action that can help the armed services and our country.

For probably the last fifteen years, I have been extremely worried and concerned about the rapidly increasing cost of our armaments. It is one thing to have items that we purchase increase in cost consistent with inflation. But, when we look at the total increase of inflation, let's say from 1970 to 1982 of 102 percent, we find increases in weapons systems costs ranging from figures comparable to this to figures many times larger. I think now only the members of Congress and you, but the American people, have every right to know why these costs have been increased.

Hopefully, Cap, by putting this in the RECORD, we will find some companies or academic groups which might make some offers as to the solutions we seek. I am sending this to members of the Armed Services Committees in the hope that they can also come up with some potential solutions.

There is no easy sclution, but I think there has to be a better way. Let me give you my own personal thinking. The handling of our weapons procurement in Congress has undergone a drastic change and I now question the wisdom of this change, even though at the time I thought it might be wise. I am referring to the budget process. Formerly we sat as committees to authorize purchases for the armed services, and these authorizations would go to Appropriations for their approval. Now these authorizations go to the Budget Committee, which duplicates the Armed Services Committee's actions and they tell us yes or no and where to cut, but not why to cut. Then it has to go through the appropriations process and, in effect, the Armed Sevices Committee doesn't have a whole lot to say about what we buy and what we pay for it. It is left up to committees whose know-how in this field is not exactly adequate nor in-depth.

I would propose that the Congress decide whether or not the budget process is paying off or whether it is causing undue hardship, not just to the military, but to every branch of our government that requires appropriated funds.

The Congressional budget process is not our only problem. After the weapons systems have been chosen and the manufacturer has been granted contracts, then the factory doing the manufacturing, working with a project manager appointed by the responsible branch of our military, is supposed to watch what happens to cost, to progress and to quality.

Now, I'm not faulting our men in uniform who are assigned these jobs, but let me give you a little suggestion here. We assign men from different areas of command to the Pentagon for maybe three or four years,

during which time some of them become project managers. Just about the time they become sufficiently knowledgeable in their particular field, they are transferred to another job.

Now seriously, although I know the officers involved might not appreciate it, you should consider keeping these men in the Pentagon for the remainder of their time on active duty, allowing them to be promoted consistent with their fellow officers.

There is no doubt, Cap, that we can greatly improve the quality of management coming from the Pentagon and I imply no criticism or disrespect for the officers involved. On the other side, I think we can insist that the contractors involved work more closely with the program managers, so that we know the instant that a price may go up. We cannot afford to wait until the price has jumped 50, and in some cases 100 or more, percent with the excuse that inflation has caused the increase. We have watched too many projects go through that process, and we wind up buying equipment at extremely inflated prices. Unfortunately, I suspect these increased prices are due more to increased profit than inflation.

These charges are unpleasant to make, but I think the time has come when we have to look hard at the facts and figures, because we are not going to be able to afford the kind of military we should have. Time after time I have raised the question of whether we can afford it and whether we can make it, and too many times I get the answer, "I don't think we can afford it and there is a question about whether our industrial capacity can produce in quantity or quality."

It appears to me to be high time that we appoint a group, either through the President or through you, made up of academicians, businessmen, and military men, to look into this whole problem because, and I don't want to be repetitious, we are not gaining on the enemy, nor are we even holding our own. I believe that you must give this your immediate attention. I would like to finally feel that some group, someplace, is giving this problem of increased prices, increased costs, and decreased quality serious consideration. It has to be done or I'm afraid we are going to fall behind in the strategic balance with our potential enemy.

With respect and best wishes,

BARRY GOLDWATER.●

THE REAL ISSUES IN ABSCAM

● Mr. MOYNIHAN. Mr. President, yesterday's Washington Post includes an article by Mr. James Q. Wilson, a distinguished professor at Harvard University. In his article, which concerns the congressional inquiry into the FBI's actions in connection with Abscam, Mr. Wilson raises a number of important proposals that I believe warrant our attention. I urge my colleagues to review this article and ask that it appear in the RECORD following my remarks.

The article follows:

[From the Washington Post, July 15, 1982]

THE REAL ISSUES IN ABSCAM

(By James Q. Wilson)

If they are carried on in the spirit which created them, the congressional hearings into the conduct of the FBI during the Abscam investigation will only lower, again, the public regard for Congress and will fail to address the real issues to which Abscam should direct our attention.

During the debates on the expulsion of former Sen. Harrison Williams, Sen. John Stennis (D-Miss.) described the conduct of the FBI as a "national disgrace," and Sen. David H. Pryor (D-Ark.) said that the behavior of the bureau revealed a "total, callous disregard for the rights of citizens." Various senators and representatives demanded an investigation, not of Congress—seven of whose members had been convicted of corruption—but of the agency that detected the corruption and gathered the evidence that stood up in court.

The hope that Congress would make a more dispassionate inquiry into the affair seems forlorn in the light of recent comments, such as those of Rep. Don Edwards (D-Calif.), who thought the FBI investigation had a "totalitarian smack to it."

To judge by such remarks, too many congressmen are addressing the wrong issue. They seem to suggest that offering senators and representatives, who have willingly come to a meeting arranged for them by a bagman, money in exchange for political favors and then arresting them is an improper, outrageous, undemocratic police tactic. It is nothing of the kind. Such undercover operations are essential if law enforcement agencies are to make any serious inroads into narcotics trafficking, political corruption, white-collar crime, and other consensual offenses.

For decades the FBI was unwilling to tackle these problems; now that it has decided to do so—in no small part after being denounced by Congress, during the Watergate episode, for having failed to do this—it finds itself hauled before hostile committees demanding, in effect, an end to such methods. It took a great deal of courage for the director of the FBI and the officials of the Justice Department to proceed with these investigations after so many years during which a past director of the FBI contented himself with merely filing away reports of congressional indiscretions, or possibly using them privately in ways designed to exert influence over Congress.

The record ought to be clear as to what did not happen during Abscam. There is not a shred of evidence that there was an FBI "hit list" of congressmen who would be "targeted" for investigation. There is not a shred of evidence that political partisanship or political ideology played a part in the decision to proceed with these investigations. There is not a shred of evidence that innocent politicians were wrongfully convicted; even the one judge, William B. Bryant, who has reversed the Abscam conviction of former Rep. Richard Kelly, did not deny Kelly took the money or say that Kelly's claim that he took it only for purposes of his own "investigation" was anything but "bizarre" and "nearly farcical." No jury believed the claim that the defendants had been entrapped—that is, induced to commit a crime they would not otherwise have committed. As Judge Jon Newman of the 2nd Circuit Court of Appeals said in turning down an Abscam appeal based on the claim of entrapment, "Any member of Congress approached by agents conducting a bribery sting operation can simply say 'No.'" None did.

But there is an important issue raised by the Abscam case. It has little to do with the law on entrapment or the investigative methods employed; indeed, the investigations of the congressmen were more meticulous in those respects than are the typical undercover investigations of racketeers, fraudulent businesses and narcotics dealers. The issue has to do with the Constitution.

The framers of the Constitution created a system of separate branches exercising shared powers in order to prevent tyranny. That tyrant might be an all-powerful president or an all-powerful Congress (most of the Framers feared the latter more than the former). Whatever the source, the "great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others."

In 1787, scarcely anyone disputed the view that the separation of powers was desirable; what James Madison and his colleagues added to the notion that powers should be separate was the equipping of each branch with both the means and the motives for checking every other branch. "Ambition must be made to counteract ambition."

By relying on the "private interest of every individual" to stand "sentinel over the public rights," the Framers were embracing what the late Martin Diamond termed a "sober view of human nature." Or as Reinhold Niebuhr was to put it: man is good enough to make democracy possible and bad enough to make it necessary. But if we are to rely for freedom on private ambition generating conflict over the management of shared powers, then we are, in effect, saying that we value freedom more morality. The object of the Framers was not to create a pure government, or a pure Congress, but one that would, by reason of its internal divisions, as well as by its dependence on the public will, be unable to tyrannize over us.

By allowing a reasonable scope for the operation of private ambition, we pay a price. From 1941 to 1981, nearly 50 congressmen faced criminal charges; most were convicted. During the 95th Congress alone, 13 present or former members of Congress were indicted of convicted. Most of these convictions occurred when a law enforcement agency had the case dropped into its lap by a person with knowledge of the matter. What is distinctive about the Abscam investigation during the 96th Congress was that the FBI did not wait for a case to appear on its doorstep; rather it actively pursued leads given to it by various informants who had originally turned up during investigations having nothing to do with Congress.

One could devise methods that might well inhibit the avaricious inclinations of certain congressmen. But, I doubt one can easily do that without at the same time inhibiting the legitimate exercise of ambition and self-interest. And as ambition is inhibited, the motive power of the system of checks and balances is weakened. Government would be impossible without a modicum of honor and virtue, but our form of government might not be possible if virtue governed to the exclusion of all other considerations.

The problem for Congress is not to cripple the investigative methods of the FBI or rebuke it for having employed them against Congress, but to devise some reasonable safeguards to ensure that they cannot be employed—out of a desire for either perfect virtue or total power—to weaken the constitutional independence of Congress. Our system of government must fear both a Savonarola as well as a Machiavelli, and though neither is in power today we cannot be certain about tomorrow.

I suggest that investigations of members of Congress, especially those involving intrusive techniques that could, in either incompetent or scheming hands, lead either to entrapment or manipulation, be made subject to review in advance by the third branch of government. Before employing those techniques, the FBI would have to show a small panel of judges, in a private hearing, that it has reasonable grounds for its suspicions and that it has selected it targets on the basis of those reasonable suspicions and not on on the basis of mere rumor or political disposition. I suggest further that the Department of Justice improve those internal arrangements designed to ensure central control over such investigations so that the highest levels of the department, and not a local U.S. attorney, are supervising the employment of these techniques.

There is precedent for such a review in the requirement that a special judicial panel review FBI petitions for warrantless searches in cases involving foreign counterintelligence where the normal procedure of obtaining a warrant would be inappropriate. It is possible some investigations might be forestalled by this review; that would be the price we would pay for maintaining the separation of powers and a Congress not easily intimidated by executive power.

From the record I have seen, I believe the Abscam investigations would have passed such a judicial test. I would also venture that the likelihood of the FBI ever using Abscam-type investigations to intimidate Congress is quite remote; apart from the integrity of its present leadership, there are readily available far more effective methods of intimidation, such as planted evidence and surrilous leaks. Remote as the risk may be, it ought to be reduced while the matter is fresh in our minds.

Two final points. There may be no simple cure for another cost of Abscam—the public naming of innocent parties during trial of the cases. Informants brag and misrepresent; one apparently said he could reach, among others, former senator Jacob Javits. There was no evidence for this at all, but it came out. The problem is that such name-dropping can only be prevented by editing the tapes on which the investigations are recorded, but, if edited, such tapes would become unless as a means of verifying the compliance of the FBI with investigative guidelines. Perhaps the discovery motions of defense counsel can be restricted in their application, or some parts of the tapes could be viewed in camera by the judge, to prevent harm to the innocent.

The other point is that the separation of powers cuts both ways. Congress has an equivalent obligation to respect the independence of the executive branch and to avoid aggrandizing it. I hope that the members of Congress will see fit to criticize fellow members, as they have now criticized the FBI, wherever a congressional investigation becomes a public circus in which innocent persons are abused, unsupported allegations are made and fishing expeditions are conducted. They have not always done so.●

THE ENERGY SECURITY ACT OF 1980

● Mr. DOMENICI. Mr. President, 2 years ago Congress took a major step toward energy independence for the United States. At a time of unrest in the Middle East, skyrocketing oil prices, and domestic energy shortage, the Energy Security Act of 1980 was signed into law.

The passage of the Energy Security Act was the result of a bipartisan effort to construct a coherent, national, energy policy. It represented a major effort by the United States to free itself from dependence on foreign oil and produce at home the energy to fuel our economy and safeguard our national security.

The centerpiece of the Energy Security Act is the U.S. Synthetic Fuels Corporation, a limited life, quasi-governmental agency created to assist in the development of a commercial synthetic fuels industry. The Corporation's sole purpose is to provide the incentives needed to transform our natural abundance of coal, oil shale, and tar sands into a safe, reliable supply of energy.

Today, the Corporation is moving toward achieving the mandate set down for it by Congress. It is a tremendously difficult task requiring a delicate balancing of the technical, financial, and environmental uncertainties of synthetic fuels development against their strategic importance as an energy source.

In May of this year, the Synthetic Fuels Corporation attempted to seek out advice from businessmen, energy experts, and academicians on how best to achieve the goals set down in the Energy Security Act. It called together a 12-member synthetic fuels study panel for a one-time meeting to discuss the major issues facing the Corporation as it brings this industry to commercialization.

Mr. President, a majority of the panel's members produced a report which reaffirms the continued importance of synthetic fuels development. The majority found that the commercialization of synthetic fuels technology is a key national objective and that the Synthetic Fuels Corporation, with its full range of financial incentives, can bring us closer to realizing that objective.

Our efforts to achieve energy independence are as important today as they were 2 years ago. The Middle East remains volatile, our reserves of petroleum are being exhausted while few new ones have been discovered, and oil prices continue to be tied to the actions of the OPEC cartel. The majority of outside experts of the synthetic fuels study panel support the actions taken by Congress in 1980. They believe now, as we did then, that synthetic fuels development will bring the United States a large measure of energy security.

Mr. President, I ask that the paper of the majority group of the synthetic fuels study panel be printed in the RECORD.

The document follows:

THE GOVERNMENT'S SYNTHETIC FUELS PROGRAM: THE CURRENT CONTEXT

(This paper summarizes the discussion and consensus points of the Working Group consisting of: Charles Berg, William Hogan, Kurt Irgolic, Eric Leber, Robert McClements, Amos Meyer, Richard Wainerdi, and Malcolm Weiss. Although this summary is generally accepted by the Working Group, not all members of the Group necessarily subscribe to every statement.)

1. Because of the manifold uncertainties associated with future energy prices and future government policies relating to technical, economic, and environmental questions, the private sector cannot presently justify the significant investments necessary for synthetic fuels projects of commercial magnitude.

2. The volatility of the world energy market is vividly apparent in the recent development with the price and supply of oil.

3. National security concerns (relating to the reduction of fuels imports, economic stabilization, and other societal benefits—as well as strengthening our military defense posture) represent the pre-eminent rationale for continued development of synthetic fuels.

4. Further, the goal of developing experience in synthetic fuels technology commercialization continues to be a key national objective. Thus, there is an appropriate role for the government in synfuels promotion.

5. A primary objective of the Synthetic Fuels Corporation's (SFC) energy program should be to assist in establishing operational confidence in technologies as yet untested at commercial size (thereby helping to reduce associated technical, economic, and environmental uncertainties). It is expected that succeeding generations of plants will exhibit significant reductions in unit costs.

6. Pursuant to this objective, the SFC should—to the extent feasible—encourage a modular approach to systems engineering, design, and construction. This approach can provide a suitable base of technological information with minimum expenditures, minimum risk exposure, and minimum environmental impact. (After satisfactory demonstration of technical and economic readiness, non-federal entities could be encouraged to proceed to full-scale commercialization.)

7. In concurrence with the Board's decision supporting diversity, we recommend that the SFC conduct a project solicitation program directed at the maximum permissible (within the confines of the Energy Security Act) number of resource bases and technologies, thus providing information on and the expansion capacity for the widest range of technical options with commercial potential. This program, moreover, should be fully consistent with national energy policy goals.

8. Among the mechanisms for financial assistance to be used in pursuing these objective are: price guarantees, loan guarantees, and equity partnerships (joint ventures). A full range of financial incentives and instruments helps ensure sufficient flexibility to tailor the economic support package to the needs and constraints of the specific project. Use of a single tool for financial support may not provide an adequate stimulus for private investment. For example, price guarantees—however attractive—at times may be of limited effectiveness because the upper limit on politically acceptable prices may be inadequate to cover risks perceived by investors.

9. The management of the engineering, construction and operation of facilities should continue to be under private sector control. SFC participation should be as cooperative and mutually supportive as possible with the project concern (particularly with regard to facilitating government regulatory review and oversight processes). Further, continuity and predictability of SFC behavior would help establish industry confidence in the government's energy efforts and—specifically—credibility in the SFC's commitment to the advancement of synthetic fuels.

There are appropriate roles for the SFC that go beyond the (financial assistance) provisions set forth in Title I of the Energy Security Act; enumerated below are suggestions for such additional roles.

1. To the extent that government involvement (including that of the SFC) is indicated in the energy field, balanced consideration should be extended to the broadest array of domestic fuel resources, alternate energy technologies, conservation methodologies, and other techniques to improve productivity on a non-discriminatory basis.

2. To provide for a sustained stream of promising technological candidates for future SFC support, the Corporation should encourage through appropriate internal and interagency channels, as well as through liaison with entities in the non-federal sector, a consistent and coordinated program for research and development on synfuels (whether they are narrowly defined as in Title I of the Act or broadly defined as in the item immediately above). We find that research and development is a necessary pre-requisite for the continuing productive expenditure of the federal funds allocated to the Corporation.

3. In the past the production of synthetic fuels from biomass, coal and other fossil fuels was comparatively commonplace. However, many of the technical, operational, economic, and environmental details of these initial experiences have been lost because of inadequate record keeping. We find, therefore, that one of the purposes of the Corporation should be to facilitate the establishment and maintenance of a current, comprehensive body of information on domestic and foreign synfuels efforts. Moreover, it is incumbent upon the Corporation to identify and pursue effective means for transferring this information to the interested public. (Such means could include—but not be limited to—periodic conferences addressing the state-of-the-art, topical publications, development of a computerized data base (with remote access capabilities), and a "hot line" for pressing questions relating to synfuels characteristics (chemical, material, biological, and environmental).

A sound and accessible base of technical, environmental, and health-effects information is essential to establishing a viable synthetic fuels industry. The SFC should take the lead in providing that base—avoiding to the greatest extent possible mistakes made during the development of the commercial nuclear energy industry. A vehicle for accomplishing that objective consists of establishing one or more centers of expertise outside of the government.●

DAVID STOCKMAN AND HIGH INTEREST RATES

● Mr. SASSER. Mr. President, I know that many of my colleagues have wondered from time to time whether the Reagan administration supports the tight money and high interest rate policies of the Federal Reserve Board. For from time to time we have heard various Treasury Department officials, including Treasury Secretary Regan, express discomfort and consternation about the adverse impacts that high interest rates are having on the administration's economic program.

But I would direct my colleagues' attention to David Stockman's recent interview as reported by the July 19 issue of U.S. News & World Report. In that interview, the following question and answer appeared:

Question. Do you give Reaganomics credit for the Federal Reserve Board's tight-money policy?

Answer. We endorsed it; we urged it; we have supported it.

Mr. President, I would suggest that this exchange demonstrates beyond a shadow of a doubt the administration's backing of the Federal Reserve Board's high interest rate policies.●

EYEWITNESS IN LEBANON

● Mr. MOYNIHAN. Mr. President, it is too often the case, as Senator Hiram Johnson of California put it so well in 1917, that—

When war comes, the first casualty is truth.

This is nowhere more true today than it is in southern Lebanon. Throughout the decade-long war in Lebanon, it has frequently been difficult to ascertain from day to day just what has happened. It has been no less difficult during these last few, turbulent weeks.

One searches for reliable, firsthand accounts.

In the forthcoming number of the New Republic, dated August 2, 1982, Martin Peretz will publish his own eyewitness account. Marty Peretz, currently editor in chief and president of the New Republic was a colleague of mine on the faculty at Harvard University and remains a valued friend.

An early copy of that issue has been made available to me today. As the subject addressed by Mr. Peretz—Israel's recent action in southern Lebanon—is of the greatest importance to the Senate, I believe it to be my duty to share this article with my colleagues, and such others as may enjoy timely access to the RECORD.

Mr. President, I submit for the RECORD an article by Martin Peretz, entitled "Lebanon Eyewitness."

The material follows:

[From the New Republic, Aug. 2, 1982]

LEBANON EYEWITNESS

(By Martin Peretz)

Much of what you have read in the newspapers and newsmagazines about the war in Lebanon—and even more of what you have seen and heard on television—is simply not true. At best, the routine reportorial fare, to say nothing of editorial or columnists' commentary, has been wrenched out of context, detached from history, exaggerated, distorted. Then there are the deliberate and systematic falsifications: remarkably little of what has been alleged in various published protest statements against the Israeli action in Lebanon is fact. I know; I was there.

So too, of course, were hundreds of other journalists, most of them honest men and women, hardworking and skeptical. Indeed, if one could contrive to get one's news, only from, say, David Shipler of The New York Times, covering the Israeli side of the war lines, and from Thomas Friedman, also of the Times, working out of the PLO-held zone; perhaps with some occasional glances at David Ignatius's complex impressions in The Wall Street Journal, Eric Silver's reports in The Guardian of London, David Ottaway's dispatches in The Washington Post, and Arnold Hottinger's analyses in the Neue Zuercher Zeitung—and, in deference to the age of visual simultaneity, take in the National Public Radio broadcasts of Jim Ledderman and the telecasts of the Cable News Network and of Independent Network News, which in depth of understanding and respect for viewers' intelligence outclass the big three—then one might have a reasonably balanced view of recent events and their background.

But few of us are immune to the impact of the thirty-second TV news update, the headline that tells all but what's important, the human-interest particular that misrepresents by universalizing, the analogy that warps rather than illumines. (The most obscene of this last is the comparison of Beirut, where six thousand PLO gunmen hold a civilian population hostage to their last-ditch battle with Israel, with the Warsaw ghetto, all of whose inhabitants were marked by ascription for death by the Nazis. This likening of the Jews to the Nazis and of the PLO to the Jews is sometimes made less directly by characterizing the Israeli invasion as "genocidal" and Israeli war aims as "the final solution to the Palestinian problem." It is possible that some use these words sloppily, the way people once talked about American genocide in Vietnam—or Harlem. Others use them knowingly, which is to say, knowing well how inappropriate they are.) Mass culture makes much of our politics derivative of such superficialities: the media, fast-paced for multiple deadlines—early edition, late edition, morning news, 7 o'clock news, 11 o'clock news—are always after new, vivid images of conflict, violent if possible, even if they beg, unrequited, for explanation. Why would anyone be interested in buildings that have remained standing or in bodies that have remained whole? The standing order for the armies of the fourth estate is "good copy." Journalists have a professional interest—and it is a vocational hazard for their thinking—in broken necks and amputated limbs, the equivalent of fires and armed robberies on the local news. So we now have people who are thought and who think themselves informed, we now have editorial writers and columnists, officially certified as informed and also wise, who seem to form their political opinions from news photographs.

And why, after all, shouldn't they? Aren't pictures of human suffering in war evidence enough of the wrongness of war? But those who take their opinions from photographs or verbal evocations of war victims are not pacifists; few of the condemnations of Israel are based on pacifist principles or even on vaguely pacifistic sentiment. And few of those who condemn Israel today condemn others when their actions make for similar

photographs, or worse ones. In any case, pacifism is not politics. All wars hurt, but some wars are conducted differently from others—yes, more humanely, and to more humane purpose. This I argue—this I saw with my own eyes—is Israel's war in Lebanon. It's a war too complicated to tell about quickly, too taxing by way of historical understanding for correspondents armed with a peculiarly American mixture of ignorance, cynicism, and brashness, who jet from crisis to crisis—looking for Vietnam, and, if possible, for Watergate, too. There is one other factor: a cohort of journalists specializing in the Middle East—Jonathan Randal, William Claiborne, Edward Cody, and Jim Hoagland, all of The Washington Post, lead the pack—with a record to defend. The events in Lebanon prove them wrong, some of them deceitfully so, and they shape the facts—as they want to shape the future—to disguise the disservice they've done their readers, which is to say the disservice they've done the truth and, therefore, the foreign policy of our country as well.

About ten days into the war, The New Republic noted editorially that there had been "terrible civilian casualties . . . terrible Israeli callousness." With the specificity that the computer age requires, two numbers had by then been bruited about in the media. One widely cited report numbered the dead at 10,122; another, at 9,583. The figure that took hold in the public's imagination was a neat 10,000 fatalities, to which were added anywhere from 16,000 to 40,000 wounded, and no less than 600,000 refugees. (Another recent figure claims 700,000.) TNR had been skeptical of the statistics from the first, but, deep down, I feared that perhaps the Israelis had actually been "unforgettably bloody," as the Post would later put it, causing "widespread slaughter of civilians." I too had been on television the bombed-out buildings of Sidon.

There is no way to be pleasantly surprised as one travels north from sleepy Nahariya, on Israel's Mediterranean coast, into Lebanese territory. Waterside roads have been strafed, trees uprooted, cars damaged, roofs of the occasional shoreline houses blown out; PLO artillery pieces, carcasses of a self-defeating illusion, litter the landscape. The UNIFIL outposts—those preposterous redoubts of French, Nepalese, Fijian, and Dutch witnesses to the inability of international authority to keep the promise made to Israel after 1978 that Palestinian terrorists would not again assault its settlements—are untouched. The fighting here was fast, and, as army types aseptically put it, "light." No one says that south of Tyre many civilians, or any, were caught in harm's way.

Tyre is where the controversy about civilian casualities starts and Sidon is where it ends. The casualities of West Beirut, whose destiny the PLO holds in its hands, were never counted in the early estimates that first provoked indignation. Tyre and Sidon fell to the Israelis after forty-eight hours of heavy fighting. The cities were bombed from the air, shelled from the sea, set upon over the land. These were not, said a saddened Israeli colonel, "manicured attacks." But neither were they indiscriminate or wholesale; this was no war against a civilian population, Lebanese or Palestinian. Whomever I talked to on the streets—and there are many eager to talk, Christian and Moslem, in French or English or Arabic—pointed out that what the Israelis had targeted were invariably military targets. A friend in the States later remonstrated that this observation implicitly faults the PLO for resisting the invasion. It's not that, not that at all—but rather that the PLO resisted, as it had previously aggressed, from the midst of civilian life, and of Lebanese as well as of Palestinian civilian life. With excruciating consistency, the PLO's commanders seemed to favor for their antiaircraft batteries the courtyards of schools, for their tanks and artillery the environs of hospitals, apartment buildings, and—easiest for them and most devasting for their families—the labyrinthine alleys of the refugee camps, Rashidiye at Tyre and in Ain el-Hilwe at Sidon. The PLO was not alone in turning noncombatant areas into war zones: Jonathan Randal in the Post (June 14) gingerly admits from Aazzouniye that "there were also confused reports of Syrian soldiers being in the area of the sanitarium during the fighting." In Jezzin, more beautiful than Aspen, the reports were not confused. Dr. Naji Kannan told me that he had evacuated patients to his own home from his hospital because the Syrians had installed themselves in its confines and wouldn't leave.

On whom, according to the Geneva Convention's laws of war aiming to set inhibitions on the killing of innocents, falls the onus for civilian casualties incurred in populated areas? Had the Israelis, I asked, shelled areas from which there was no fire? No one, not even the surly young bank clerk in Tyre, suggested they had. The entrance to Sidon and the city center were devastated—and, I was told by locals, that's exactly where PLO arms and fighters were most densely concentrated. The bombed-out, skeletal evidence of a military infrastructure proved it. In this primarily Moslem locale, PLO headquarters stood directly between the Shabb hospital and Al Fatah's own infirmary. All the same, it was apparent that Israeli forces took pains not to damage such buildings, likely to hold civilians. Even in heavily hit areas, many mosques and other public institutions seemed miraculously to survive unscathed. I wondered freely, I should add, with an officer from Dover Zahal, the army's information unit. He had no itinerary beyond my curiosity.

You've seen the destroyed areas on television; you've probably not seen the vast areas adjacent to them or those five of ten minutes away. In the hills beyond Sidon and Tyre, toward the interior, the countryside has been wholly undisturbed. Here and there are shell marks; natives date them vaguely to five or six years ago. The press has systematically ignored the fact that much of the destruction, in the cities and in other locales like Damour, that it describes and portrays on television is a result of seven years of bitter fighting.

In both major coastal cities, hours before the Israeli attack, leaflets had been dropped, calling on the inhabitants to flee to the beaches, which would be guaranteed by the Israelis as open or war-free zones. That's what the cities could have been had the PLO entrenched themselves in the hills and not in the cities. In Sidon, I was told by a local merchant, the PLO firebombed a street a shops to emphasize its intent that people not leave. (Elsewhere, it was rumored, the PLO killed people who wanted to leave, but I did not hear this from a reliable source myself.) Dr. Pinhas Harris, Israel's Scottish-born deputy surgeon-general, who returned from leave at Walter Reed Hospital in Washington, D.C., to direct the medical relief effort in the south, estimated that more than 100,000 people, perhaps 150,000, took refuge on the beaches north and south of Sidon. Two weeks after the fighting, I could see that there had been a vast encampment. Israelis told me that food had run out quickly. "It is not a happy circumstance to escape to the beaches," Dr. Harris conceded, "but had more civilians heeded our warnings, listened to our importunings, the number of dead would have been infinitesimal."

What were the numbers? "Please don't tell us," Mary McGrory wrote Menachem Begin in an open letter in The Washington Post (June 20) "that the figures given by the Lebanese of 9,000 civilian dead are exaggerated." But was it not the numbers which flared tempers? Was it not the numbers which in Richard Cohen's meticulous calculus (Post, June 10) of just how little Israel had suffered from recent terrorist attacks—and not what it had prevented in the past and prevented for the future—that made its response "totally out of proportion"? People who talk about proportionality need to be scrupulous about numbers.

Numbers have always been a problem in Lebanon: there has been no census for more than a generation, lest fresh figures disrupt the political formula for denominational representation which alone allows Lebanon to be imagined as one country. The PLO will not allow UNRWA to do a count of the refugees in the camps lest allocations be reduced. As on Chicago's voting rolls, old people don't really die in the camps; their food rations go on forever. The population of Lebanon is said to be about three million; this makes the figure of 600,000 new refugees in the south transparent nonsense, since that is roughly the total number of inhabitants of the war zone, from the Mediterranean in the west to the Syrian front in the east. Even the scaled-down number of 300,000 refugees defies logic and one's eyes. A number that never seemed to change is of those in West Beirut. Although for weeks correspondents have described—and I saw—long lines of cars laden with people and belongings leaving the PLO-held sector, there always were 500,000 people left; the Israelis' guess is between 200,000 and 250,000. Finally, making the elementary point that when people leave a city its population decreases, Bernard Gwertzman (Times, July 13) estimated there were from 200,000 to 400,000 civilians left. In a sidebar to its March 1981 series on Lebanon, the Post told us that there are 400,000 resident Palestinians in the country. But on July 8, Jonathan Randal, the coauthor of last year's articles, wrote that there are 500,000. Surely it's not the birthrate. Elsewhere the number 600,000 crops up. So what's one or two hundred thousand among journalists? If no one quibbles about these big numbers, no one should quibble about a mere few thousand in the death count. Friedman in the Times tells us that the current population of Sidon is 200,000; Ottaway in the Post says it is 300,000; in the same paper, Cody says it's 200,000. Take your pick.

Given the impossibility of accurately judging the number of the living, it is not surprising that sloppiness and propaganda determine the number of the dead. In the beginning the high toll seemed to carry the cachet of international relief agencies. Maybe that's why Senator Charles Percy, not ordinarily inclined to see the best in the Israelis anyway, accepted the 10,000 figure as close to the truth. But the source was never actually the International Red Cross or any U.N. agency, though they have been widely cited. The numbers came originally

from the Palestinian Red Crescent, of which Yasir Arafat's brother is president. Some early Lebanese estimates were close to his. But the numbers from Beirut about the deaths in the south also defy logic and experience. This past winter there were airplane crashes in Washington and Boston; it took more than a week to know exactly how many were dead. But last month in Lebanon, we received and accepted precise daily figures—and not even from authorities on the spot but from Israel's enemies in besieged Beirut—and elsewhere. (The New York Times even called Professor Edward Said on Morningside Heights in New York to check casualty figures.) Chancellor Bruno Kreisky of Austria, joining the litany for the 10,000 dead, said his source was UNICEF. But in Geneva a spokeswoman for UNICEF declared, "We have not reported any casualty figures at all." A phone call to UNICEF headquarters in New York provoked a stronger denial.

This leaves the International Red Cross, which seems absolutely beside itself to deny responsibility for the casualty numbers. David Ottaway reported in the Post on June 25 that Franceso Noseda, head of the Red Cross mission in Lebanon, claimed that "we did not mention here any figure approaching 10,000." He did say that the only numbers the Red Cross had provided were the counts of 47 dead and 247 wounded in Tyre—and these figures, interestingly, are lower than those put out by Israeli authorities. In Tyre, Dr. El Khalil estimated that between 57 and 63 persons had been killed, including civilians from the refugee camps. Dr. Harris told me that Israel "doesn't estimate the dead. We count them. This is why we couldn't give numbers as readily as the people in Beirut. We had no real numbers until the fallen-in buldings were dug out. Maybe there are a few more we won't find." The Israelis didn't hazard an official number until June 22. They admit to some 250 dead in Sidon. In Nabatiye, the PLO's main base n the center, where the resistance was spotty because Palestinian regulars had run, no one really challenges the Israeli number of ten civilian dead. In a Nabatiye hospital with 60 patients, Dr. Kanon told me there was only one war-wounded, from Sidon. All of this is a far cry from the "many thousands" assumed by Stephen S. Rosenfeld in the Post on June 18.

The refugee estimates have also been brought into perspective. Many of the refugees, in fact, are those returning to their homes in the south, abandoned after the PLO usurpations since 1976. The fact is that the invasion has solved or redressed a refugee problem even as it has created or perpetuated one. (Many of the returning refugees travel by Mercedes, the national automobile. Almost all of these cars are old, almost all of them scarred from the country's long years of fratricide. They are certainly not emblems of the rich; there may be more Mercedeses than cedars in Lebanon. The resilience of the Mercedes in these demanding surroundings suggests that German-manufactured goods outlast nature's most hardy creations.)

Representatives of Oxfam and other agencies are now all over Lebanon, trying to find a way to spend the money they've raised and are still raising. Some of them have gotten into squabbles with the Israelis over bureaucratic obstacles put in the way of distributing supplies. But the truth is that there is no emergency in basic human needs: food is plentiful and cheap. An uproar in Israel and abroad quickly rectified the tendency of both Israelis and Lebanese to ignore the Palestinians' suffering; in the few areas where electricity was still out there was a shortage of flashlights; many people said there was not enough gasoline or kerosene; one farmer told me that insecticide was scarce. The hospitals are, as one medical director put it, "not especially worse off than before"; Medicins Sans Frontiéres is operating freely but without as much to do as it had expected. Jacques Windfeld of the Save the Children Federation-England observed, "I've seen many developing countries where cities look worse normally. Lebanon is a developing country, isn't it?" "The one real need is for construction supplies to help people rebuild," the supervisor of the Joint Distribution Committee's operation in Lebanon told me. "But the need is not insurmountable and it is being addressed." There is already functioning a joint task force from the Israeli Army and the frail Lebanese government to do what's needed in the warm months ahead. Most people said to have been displaced were displaced for only a few days. One indication: David Ottaway reported on June 16 that Jezzin "is said to have become a major refugee center with 200,000 now camping in and around it." When I spent a day in Jezzin a week later they were not there. I don't think Ottaway would vouch for his numbers.

What is clear is that Israel's attack was measured and careful. I was also in Lebanon after "Operation Litani" in 1978, another Israeli action that was, in my view, neither measured nor careful. A slap-dash improvisation, it did not go as far north as this recent campaign and did not embroil big cities. But many villages and towns I saw then were hit, bombed mostly, as nothing—not even the armed Palestinian center, Damour, once and for centuries a Christian town—was hit this time. The inhabitants I saw then were enraged at the indiscriminate harshness of Israel's attack. The townspeople showed no deference to the victors then, no disposition to flatter. TNR noted in 1978 that "air power and artillery were used in ways that turned civilians into targets, killing innocent people and driving thousands from their homes. . . . In some areas, the Israelis fought well indeed. . . . But mostly they used their fire power, the reflex of a modern army, in what can only be called an indiscriminate fashion. Fighting that way is neither necessary nor wise, and Israel was especially well prepared to fight differently. . . . The tactics Israel's army adopted were familiar and disheartening. And those tactics radically devalued what the army achieved."

Nothing comparable could be said about the events of recent weeks. This time, Lebanese of all persuasions and origins have expressed—I heard it myself dozens of times—gratification at their liberation from the PLO.

It is by now certain that the casualties reported out of southern Lebanon were false. "Arabs exaggerate," said an Arab friend to me coyly in Jerusalem. But we need no instruction in national character to know about Palestinian hyperbole. The front page of the The Washington Post on June 12 should have been an adequate object lesson. "Minutes before a ceasefire went into effect," Richard Homan reported, "Israeli bombers destroyed a Beirut apartment building housing the PLO's military command center. A PLO communiqué said more than 100 persons had been killed." Homan then went on to report what is probably closer to the truth: "Beirut radio put the toll at five dead." It's not hard to understand why the PLO, which attacks civilians as a strategy and as a chosen alternative to engaging armed units, is profligate with estimates of the dead caused by Israel: it's one way to try to establish a parity of immorality. On June 25, 1981, the Palestine Information Office published an advertisement in The Christian Science Monitor charging that "over 500 people in Palestinian refugee camps and Lebanese villages had been killed in the previous month by the Israeli military air raids and attacks." On July 7 the Monitor published a most unusual correction of a paid advertisement. It stated that 100, not 500, had been killed from May 25 to June 25, and "of these about 90 resulted from Syrian shelling, about 10 from Israeli attacks." The correction went on to note that, according to Lebanese sources, the total number killed since April 1 had been about 700. "The great majority of the losses resulted from shelling by Syrian forces. About 40 to 50 were the result of Israeli attacks." It is just possible, it may even be likely, that more civilians were killed in Lebanon by the Syrians alone—leaving aside the routine homicidal rampages of the various Palestinian factions and the Lebanese militias—in that virtually unnoticed fighting last spring than in this entire Israeli war, which has riveted so many influential Americans to their seats of judgment. There is a certain promiscuity with zeroes in the Arab world.

III

The relentless trolling of the PLO and its partisans about civilian casualties is directed at two audiences. With elite opinion in the West, it seems for the moment to have won a round. The other target is Israeli opinion, and, more particularly, the fighting spirit of Israel's citizen army.

Many Israeli soldiers with whom I spoke were desolated by the consequences of what they saw as their acts of necessity. They did not need the inflated casualty figures of "many thousands" to feel grief for what they had wrought. "We must be able to weep also for victims of just wars," said Yuval, a nineteen-year-old paratrooper in the elect Golani Brigade. (The Israelis ask that reporters not give last names in identifying ordinary soldiers. So here I willingly abide by the canons of their military censorship.) But Yuval went on to insist that army training establishes fastidious rules about avoiding harm to civilians in warfare. "I do not believe that we Israelis are wholly alone in the world in being so fixed on this issue. But I have no evidence that our neighbors care about it at all, and certainly not the PLO."

In English, the phrase is clumsily rendered as either the "purity of arms" or the "morality of arms." In Hebrew, the doctrine is called tohar haneshek; its origins go back to the 1930s, when, as a companion piece to havlagah or restraint, it established clear and self-denying rules of what was militarily permissible. Zionism then was an intensely ideological movement, measuring its successes againts scrupulous moral standards. The semi-official Jewish self-defense force, the Haganah, insisted on so many prohibitions on exposing unarmed Arabs to risk that, as one old veteran told me, "we took on the most terrible risks ourselves." The Haganah also got itself into an ongoing dispute with the far less meticulous and more indurated Revisionist wing of Zionism, Menachem Begin's precursors in British

Mandate Palestine. In the post-independence Israel Defense Forces, the partisans of tohar haneshek went unchallenged. "Has the sway of the doctrine atrophied," I asked Shlomo Avineri, "with the ascendancy of the Revisionist?" Avineri is one of the world's leading political theorists, a specialist on Marx who teaches at the Hebrew University, and director-general of the Foreign Ministry in the last Labor government. He is not a friend of the incumbents or their theories. (See, for example, the devastating treatment in his new book, The Making of Modern Zionism [Basic Books].) His answer was clear. "If anything, the restraints of the doctrine of tohar haneshek are more compelling now than before," he said, "The army's professionalism, which protects it, is sure. The lapses of Operation Litani have been corrected, strenuously. Moreover, precisely because the Likud is in power and the Labor opposition waiting to pounce on deviations from the army canons, there was much greater sensitivity, much more than ever before, to the fate of civilians during wartime. You know I believe in dialectics: under Begin and Sharon military instructions, the orders of war, from the bottom to the top, were much more explicit with regard to tohar haneshek. The army did the maximum." What Avineri said to me was confirmed by virtually every soldier with whom I raised the matter.

Most of the soldiers I know, like most of the Israelis I know, are people of the left, all of them critics of this government, some of them critics of this war. Udi is one of them. I've known him for three years. Last fall I flew all the way from Boston to Jerusalem for his wedding. Udi is a reservist in field intelligence in the armored corps—made up of those infernal tanks which, once hit by heat-seeking weapons, don't give anyone half a chance to survive. In civilian life, he is a young therapist in training. He takes tohar haneshek seriously; he would do so even if there were no explicit doctrine. "The most awful moment of the war was when, searching through my binoculars for the source of RPG's [rocket-propelled grenades] being hurled at our tanks, I found the faces of twelve- or thirteen-year-olds. What was I to do?" After the fighting was over, he suggested that just possibly they were somewhat older. Probably they weren't older; captured PLO recruitment documents say clearly, "those under 12 years of age will not be accepted" (The New York Times, July 11). So were these children civilian casualties? One of Udi's friends—I don't have his name in my notes—fought hand-to-hand in a refugee camp. Fire seemed to come from everywhere and could come from anywhere. Even in pursuit of terrorists, however, he wouldn't throw grenades into rooms where they might be hiding. He wouldn't understand a phrase like "generate no prisoners." Why, after all, does Israel now hold between 5,000 to 6,000 PLO prisoners from this Lebanon operation? There were six days of close combat in one of the camps. How many Israelis died there? Wouldn't fewer have died if the Israelis relied more on bombing?

Soldiers, like other Israelis, have political opinions and political differences. In contrast to most other armies, these are aired in routinely arranged seminars or bull sessions, even on the front. Such exchanges are part of army life. Professor Avineri, for example, was in Lebanon last week on a reserve assignment with the army education unit, and conducted "fully free and open" discussions with officers and ordinary soldiers on various vexing topics, including whether it would be right or wrong for Israel to move against West Beirut. "The Army doesn't fear these discussions," he told me, "even though it knows that the officers who conduct them, being mostly intelligentsia, are mostly critics of the government or actually on the left."

The only big demonstration anywhere in the Middle East against the war in Lebanon was in Tel Aviv, organized by an army officer-initiated movement called Peace Now. But, as the very dovish Israeli novelist Amos Oz reminds us in the July 11 New York Times Magazine, "Not a single member of Peace Now disobeyed the mobilization orders. . . . Some of them died in the fighting." The first night I was in Israel I met a young Peace Now reservist who had volunteered to fight even though he hadn't been called up. "My unit goes, I go."

The dissent was mostly political or strategic, not moral. It was registered in advance of the war, and also during it. No one really disagreed with the goal of removing the PLO threat in the north; but some thought the costs too high or the goal impossible to achieve. It is a strange army, needing no home-front jingoism to support it; as a lieutenant I know said, "Except for some blatherings from the Prime Minister, we heard no jingoistic slogans. It's better that way." A study done at Bar-Ilan University, released while I was in Israel, shows that, proportionally, more ex-members of the most left-wing of Israel's youth movements, the Hashomer Hatza'ir, join combat units in the army than from any other Zionist flank. Among soldiers such as these, whose political differences with the government are clearest, the greatest offense seems to have been taken at the charges of Israeli callousness or indifference to civilian casualties. "The false and hypocritical accusations coming from people who been unfeeling about our civilian deaths and who speak in behalf of the people who aim only at civilians has caused a backlash," one Labor-affiliated journalist suggested. "Wars can be fought for purposes other than survival, for political purposes. Did the British fight the Falklands war for survival?"

IV

Israel did not go to war against the PLO in Lebanon on behalf of the Lebanese people. Had it done so, its purpose might have been thought illegitimate. So if some alien rump had set up a state-within-a-state, as the PLO had done in southern Lebanon and Beirut since 1976, yet had not at all threatened Israel, there might have been laments in Jerusalem but little or no action from there.

And, of course, there are Israelis who didn't want action from Jerusalem, even if taken solely in Israel's interests. "I was one of them," said Clinton Bailey. "I was dead-set against this war." Bailey, 46, is a native of Buffalo, New York; he is now an Israeli. He is senior lecturer in Middle Eastern history at Tel Aviv University and now finds himself in Sidon, after a stint in Nabatiye, as adviser on Arab affairs to the Israeli military in southern Lebanan. He comes by this post because he is a prominent Arabist; he teaches courses on Palestinian nationalism and Bedouin culture. He's been a burr under the saddle of successive Israeli govenments, having become a tribune for the nomadic Bedouins displaced by modernization in general and, specifically, by the air bases now being completed in the Negev to replace those evacuated in the Sinai. He knows the Arabs and likes them, and not in a patronizing way. A Lebanese municipal official in Nabatiye told me that Bailey was particularly sensitive to questions of Arab dignity, "which is why he made sure that the administration of the city was quickly given over to the Lebanese. We had not really had it for six years."

That's the story I was told by Lebanese all over southern Lebanon, in the big cities and the smaller towns, by Christians and Moslems, by people of all classes and educational levels. "I had thought that the PLO had fought for a foothold in Lebanon," Bailey told me. "Not till I came here and spoke to the Lebanese themselves did I realize what the PLO had done here, that they had established a stranglehold."

That is the great untold story of the last six years. It unfolds in every encounter with a Lebanese, even from those few still sympathetic to the plight of the Palestinians. Everyone has his own grievance, his own memories. The simplest, perhaps the most existential, is that the PLO endangered everyone's lives by making southern Lebanon a target of the Israeli military. But it rarely stops with that. The PLO, it turns out, was not a guerrilla army in a friendly sea.

Khalil, a 25-year-old Moslem who had just left West Beirut, told me that his brother had been killed by a sniper shooting from a Palestinian stronghold. Jabber, slightly younger, said that his family's car had been confiscated by a PLO faction. Hussein said that his sister was constantly being accused of being an Israeli spy: "Not true; she resisted some Palestinian's advances." Ahmet said, "They got their way always by showing the pistolet; if not the pistolet, the Kalashnikov." Toufek—his brother called him Tommy—said, "This was our land and they ran it as if it were theirs." I heard similar complaints dozens of times.

Moustafa Mouein was the representative of the Lebanese Ministry of the Interior in the Nabatiye district, including 42 surrounding villages. Nabatiye, I was told, was deserted over the years by much of its populace. "I walked on mines," Mouein said. "I could not hang the Lebanese flag in my office or the picture of the president." This civil servant described the disintegration of the courts. "An injured Lebanese could get no justice from a Palestinian. The courts were courts of force." He groped for words. A more articulate, more cagey official, Ednan Ibrahim, the town's deputy mayor, arrived. "There was no normal society in the south," he said, in elegant French. "Civil society was paralyzed. There were no functioning judges, no lawyers really. If a judge pronounced a fair decree, who would execute it? The police were the Palestinian militias." It was a tale of kangaroo courts, and of vengeance. This had a wider meaning he wanted to share. "There had not been a civil war between Moslem and Christian in Lebanon. There was a war on the land of Lebanon by two exterior forces to destroy the government and make the country their own. I mean the PLO and Syrians. The PLO wanted to solve its problems on our territory."

I asked both of them whether Western journalists had asked them about life with the PLO during the previous six years. Both said no. One went further: "You couldn't talk to journalists without permission." Later, in the hallway, a minor functionary volunteered, "We were glad the journalists didn't come with their questions. We would have been afraid to tell the truth."

That the journalists didn't come with their questions is clear. (And it's not only in

southern Lebanon where they demonstrated a startling absence of curiosity. How many stories do you remember out of Lebanon about life in the Maronite and Druze areas of the north?) On four successive days in March 1981, The Washington Post ran articles, running to almost six pages, on "South Lebanon: The Forgotten War." The series, by William Claiborne and Jonathan Randal, is very tough on Major Haddad, the leader of an uneasy coalition between Shiites and Christians just north of the Israeli border, and tougher still on Israel. There is, for example, the suggestion that people left Nabatiye because of the Israelis rather than because of the PLO. "'The Palestinians and their leftist allies exercise a kind of wild and woolly control," Claiborne and Randal wrote, "but they are hemmed in by the Syrian Army, which came to Lebanon as a peacekeeping force in 1975." How fortunate for the Lebanese that the PLO was hemmed in: but was the PLO really just wild and woolly, No, not exactly. In Shiite villages, "the Palistinians misbehaved, ruined orchards and crops, and the Israelis simply raised the pain threshold." Even today Post correspondents describe the PLO occupation in benign terms. Tyre "had been run by a local PLO commander in cooperation with local residents until the Israeli invasion." Some Lebanese, of course, did cooperate with the PLO, like the Jumblatt clan. (In Lebanon, extended families are political movements.) But is "cooperation" the word the residents of Tyre used? "Sidon had been a PLO protectorate. . . ." Perhaps a broad meaning of protection is intended here. Alas, it was not the war in southern Lebanon that was forgotten, but the people. That's what Deputy Mayor Ibrahim thinks: "Lebanon wasn't considered during the last six years." And then, with his dignity suddenly turning plaintive, "There is a Lebanese people."

But it was from Beirut that the narrative of the Palestinian grievance was being written. From Beirut last week, Randal cavalierly reduced a complex historical dispute to a phrase: ". . . the Palestinians were expelled from Israel." Simple. It's also in Beirut where the PLO's dreams for redress are formulated and its heroes annointed. In the Post on July 7 Ed Cody eulogized PLO Colonel Azmeh Seghaiyer, apparently killed by the Israelis in Sidon. Azmeh "had participated in training and preparations for a number of operations against Israel including the coastal road assault of 1978 in which more than 30 Israelis were killed. . . . I always thought of him as an honorable military officer . . . you can admire a man even when he is part of deeds you cannot admire—the coastal raid, for example."

The PLO's behavior in the south does not quite fit the neat image its propagandists convey to the press. Confiscations, harassments. Young people forced into the militias, schools closed, rapes, molestations, commandeering of licenses, passports, services, offices: this was the stuff of everyday life in the web of the PLO's "state-within-a-state." A doctor in the former PLO "protectorate" of Sidon reported that the PLO regularly sacked hospitals and doctors' offices for medical supplies. "We couldn't keep our ambulances. The local population suffered." So much so that whole villages and towns were evacuated, sometimes leaving only the aged and the infirm. The Shiite village of Arnon, for example, in the far south, near Beaufort, or Rihane farther north.

I spent some time in others. Aichiye is one. It was a Maronite village of maybe 3,000 people, emptied save for 30, maybe 40, since shortly after a PLO massacre that took 75 lives. I have before me the names of comparable towns with comparable recent histories: Brih, Kaa, Jdaidet, Baalbeck, Kaddam. You've probably never heard of them. I hadn't till last month. There is a similar list of Lebanese towns shot up by the Syrians. No one pretends that the massacres were one-sided—Maronites shed the blood of Moslems, too, rivers of blood. Even Père Boulos Oneid, Aichiye's mayor-priest, admits that. But he still seemed stunned by the world's indifference, and even the Pope's, to the PLO's "rape of my native village. I am happy to be back. Ten or fifteen families return every day. Maybe with the grim lessons of the past behind us we will be able to live better with our neighbors."

It won't be easy. When—and if—the foreigners leave, the local militias, manned by lithe young toughs, smiling and polite and probably trigger happy, will still be around, armed with the hate-filled memories of old men. The Lebanese hatred of the Palestinian is something awful. The Hebrew paper Ma'ariv reported on July 9 that the motto of one xenophobic Maronite militia commands, "It is the duty of every Lebanese to kill one Palestinian." A blood-curdling Times interview on July 10 with two Christian poets left the Israeli colonel who'd accompanied correspondent Henry Kamm "so sick" that he "wanted to leave." Bailey told me, "You can't casually ask a Lebanese doctor to treat a Palestinian patient." It is a human tragedy.

But you can't begin to be able to deal with that tragedy until you look at the sources of the hatred—and the sources of the relief at the coming of the Israelis. Randal has found at least one Lebanese made happy by the war: "Dr. Labib Abu-Zahr . . . could scarcely conceal his joy. 'I'm a son of a millionaire orange grove owner. . . . Now we want to build Lebanon again with marble floors,' he said flourishing a cigar." But is it only Lebanon's vulgar rich who are relieved by the developments in their country? I met no one rich in Lebanon, and everyone I did meet was relieved that the Israelis had lifted from them the burden of the PLO. And not all that far from Damour, where wretchedness has been the fate sequentially of Christians and Palestinians, stands the glaringly plush little community of Doha. It must have been to the nicer parts of Beirut what Bel Air is to Beverly Hills, Hobe Sound to Palm Beach. Doha showed no scars of war; its elegant homes and gardens are islands of corrupt indifference. Huge crates of granite and marble wait to be put into an unfinished house. War had intruded in Doha only when an Israeli general was killed by a PLO gunman in hiding. How had Doha, so close to ravaged Damou and other scenes of heavy fighting these last six years, remained unscathed? "The residents paid high taxes to the PLO and they provided a patrol," I was told by a less protected neighbor who lived nearby. So the PLO, a revolutionary movement of the downtrodden, not only confiscated from those with little but also cosseted those with much. Rowland Evans and Robert Novak, longtime critics of Israel, wrote from Sidon in their syndicated column that for the Lebanese "surviving the PLO was another kind of hell." The PLO was "itself an occupying power," asserted the columnists. The character of PLO rule may just have been an augury of what was planned for the "secular domocratic state in Palestine." Maybe that's why those who look forward to that state weren't eager to examine the model already taking form in Lebanon.

Doubtless if the Israelis don't extricate themselves from Lebanon, they will be seen as an occupying power, as they have become in the West Bank. For now, though, the contrast between the Israelis and the PLO in southern Lebanon is vivid and welcome, a manifestation also of *lohar haneshek*. "Civilized soldiers,' a schoolteacher called them. Do the Israelis loot, I asked? Toufek's sister—we were not introduced—answered from outside the circle of men, "Not a cigarette." But even well-behaved foreign soldiers, around too long, will be seen as intruders. The West Bank is historically disputed territory. Southern Lebanon is not; there is no Palestinian claim to it whatever. So try to figure out why you've heard and seen and read so much about the Israeli occupation of the West Bank and so little about the Palestinian (and Syrian) occupations of southern Lebanon, two chunks of land roughly comparable in size and population, one on everyone's tongue, the other till last month the home of the forgotten Lebanese. Not eyeless in Gaza, but eyeless in Lebanon.

V

Who, then, is doing the censoring? Not the Jews, but the journalists think themselves the chosen people. At the Israeli Army spokesmen's headquarters in East Beirut, I heard one American reporter complain that the daily Israeli press briefing was inconveniently timed. Wars are to be fought for the benefit of the network news. A French journalist and a Japanese photographer, who'd not seen each other "since El Salvador," fell into each other's arms near Beaufort castle. "The Israelis are making it very hard," one of them said. What does "hard" mean? The networks have accused the Israeli authorities of "political censorship" because they've refused to transmit certain film over satellite. I don't recall anything like those petulant outbursts when neither the British nor the Argentines allowed camera crews on to the Falklands. Everybody meekly accepted the official handouts.

Is Israel, at war with the PLO, really morally obliged as a democracy to transmit from its satellite in Tel Aviv ABC's interview with Arafat conducted in Beirut? The Israelis have also clamped down on other newsclips offensive to the censor or merely embarassing. But this is probably the first war in history in which one side provided information services for the other. Must democracies, however, forswear engaging in psychological warfare and must they actually assist their enemies in this regard?

The uproar over Israeli censorship seems to me to be in part a projection. The press censored itself for years on Lebanon. It was not brave, but fearful—as it has been not brave but fearful at Hama in Syria or on the frontiers betwen Iraq and Iran, places where so many more were killed than in southern Lebanon.

VI

I write from the safety of the seashore. The radio reports heavy casualties in Beirut, today in both parts of the city. Again, the death of innocents. Enough have been killed; no one needs the pornography of inflated numbers. West Beirut is the biggest hijacked plane in history, its population hostage of a vanquished army that has not even been asked to surrender but only to leave foreign territory with flag and song and small arms, for elsewhere, perhaps to

those countries which have paid them all these years to operate out of poor Lebanon.

The radio also reports harsh repressive measures by Israel in the West Bank. These make a mockery of the victory in Lebanon which, with the PLO militarily defeated, makes it possible for Israel to take steps, however tentative and groping, toward a more generous peace. Israel is now itself hostage to Begin's ideological hubris, and to his will to be brutal. Tohar haneshek has run its course in the West Bank, and because of Israel's ruling politicians, not its army. The struggle in Israel, I console myself, is not over Lebanon, but over the West Bank, which is what the struggle should be about, the struggle to disgorge, the struggle to find Arab partners in a territorial compromise.

The Palestinians have always been hostage to the recalcitrance of their leaders. For sixty years a compromise was possible between the two peoples whose pasts and futures are inextricably tied to the one land of historic Palestine. But no compromise satisfied the Arab leadership—not even the tiny little statelets proposed for the Jews by the British in the 1930s, not even the partition plan of 1947. The PLO was formed, it is urgent to remember, in 1964, when the West Bank and Gaza and East Jerusalem were all still in Arab hands. Always the Palestinians were hostage to the dream of a map without Israel. That's why the leadership never really permitted the mass resettlement of refugees anywhere. Their homelessness was to fester and explode; the camps were to be the launching pad for the "the return." UNRWA, initially a humanely motivated operation, became hostage to the refusal of the Arabs to find a compromise. It is shocking, but not illogical, that an UNRWA school in Siblin should have served as a training base for PLO terrorists. When Camp David was ratified, committing the parties to negotiations for full autonomy and free elections that might eventually have developed, despite Begin's designs, into an Arab sovereignty, no West Bankers or Gazans came forward to press their case at the conference table. Some of their well-wishers never quite grasped why the Palestinian Arabs did not seize the opportunity provided by Camp David. But the Israelis understood, and rightly, that to the PLO and to those who feared it, any compromise was too compromising. And those who hinted they might want to come forward met with death at the hands of the PLO.

The Arabs of Palestine suborned their rights to the exiles in Lebanon, and the exiles chose armed struggle. The truly enormous caches of arms I saw, heavy arms, from the Soviet Union and North Korea and France and the U.S., were not being stockpiled for the social service organization which Jonathan Randal now says (Washington Post, July 8) is the real function of the PLO. All those weapons, far too many for those who would fight, held the Palestinians in thrall to the idea of some decisive defeat of the Israelis. It was the PLO which, having chosen armed struggle, inevitably provoked it, and was decisively defeated in it. Surrounded and isolated in Beirut, its fighters are hostage now to the idea of dying for Palestine. As in Sidon and Tyre, cities held hostage for six years, they don't care who dies with them, and their partisans don't really seem to care either.

Lebanon's freedom to struggle through to its own complicated destiny depends on the removal of the PLO from Lebanese soil. So, too, only the removal of the PLO from Lebanon will free the Palestinians, there and in the West Bank, from their captivity to the intoxicating and death-dealing notion of no compromise. Those are the stakes in Beirut. (Understanding this, let us put an end to this silly fetish about 25 miles and 40 kilometers. Beirut, in any case, is only 33 miles from Israel's northern border.) What happens in the next days in Beirut, then, will determine whether the Palestinians will be allowed at long last to face reality. The Israelis have won their military victory; this surely is a precondition for peace. But it is not the only precondition; there are others, political ones. Whether the present Israeli government can move to create these remains to be seen. It, too, must face reality.●

THE 1983 WHEAT PROGRAM AND SOVIET GRAIN SALES

● Mr. BAUCUS. Mr. President, on Wednesday Agriculture Secretary John Block outlined the 1983 wheat program. Many of us who represent farm States saw this as an opportunity for the Secretary to provide relief to the depressed farm economy.

But I, like many of my colleagues, was disappointed by the Secretary's program. It is not news to any of us that American farmers are facing the worst economic conditions since the Great Depression. The bumper crops of the past few years have sent prices down. Yesterday in Montana, for example, the price of wheat dropped to less than $3 a bushel.

Low prices, grain surpluses, continued high interest rates and escalating production costs have pushed many farmers in Montana and elsewhere to the brink of bankruptcy.

The administration's wheat program for next year does not, however, address these fundamental concerns. Mr. Block says farmers must take 20 percent of their acreage out of production if they want to participate in Federal farm programs.

He says that reducing production next year will help reduce the surpluses, and therefore stabilize market prices.

This program may provide a way to use up some of the grain glut. But for farmers the question is whether market prices will increase enough to compensate them for reducing their production—and therefore their income—by a fifth.

I do not know if very many farmers are ready to take such a risk.

I had hoped the Secretary would propose a paid diversion program. Several recent studies, including one done by the Congressional Budget Office and a private consulting firm, conclude that such an approach is more cost effective.

The administration's approach to farm exports seems to be equally shortsighted. Export sales are a critical part of the grain market, especially when surpluses are high. But the Reagan administration seems determined to punish farmers by putting export sales on the back burner.

After promising to lift the embargo on grain sales to the Soviet Union, the administration has given little help to struggling American farmers looking for new overseas sales.

The administration is not willing to negotiate a new long-term sales agreement with the Russians. Trade Ambassador William Brock and Secretary of State-designate George P. Shultz confirmed that, in what appears to be a continuation of the ruinous embargo policy of the Carter administration.

Making matters worse, Secretary Block's 1983 wheat program provides only a $300 million increase in the Government's loan program to promote exports. That is pitifully inadequate at a time like this.

Yesterday I joined 21 other Senators in urging President Reagan to reconsider his decision not to renegotiate a long-term agreement with the Soviets.

Farm exports are now forecast to reach $42 billion in the fiscal year that began October 1, 1981. That is 4 percent below last year's level. In the first half of 1982, U.S. farm exports fell 10 percent in value and 3 percent in volume.

The reason for the decline in farm exports is clear: The low level of export sales to the Soviet Union.

All of us—including the administration—are alarmed about the depression in the farm economy. But farmers do not need our expressions of concern. They need action. They need higher prices. They need increased export sales. They need lower interest rates.

Tragically, neither the 1983 wheat program nor the administration's position on exports to the Soviet Union hold relief for American farmers. I urge the administration to reconsider its positions.●

ANTHROPOLOGIST ALFONSO ORTIZ RECEIVES MacARTHUR FOUNDATION GRANT

● Mr. DOMENICI. Mr. President, the MacArthur Foundation recently announced their "no strings" grants which were given out to 19 persons in an attempt to create an atmosphere conducive to first-rate research and creativity. The $14 million committed by the foundation which was funded by the late John D. MacArthur, himself an innovative insurance tycoon, is the latest of a series of awards given to persons outstanding in their respective field, a sort of American Nobel Peace Prize.

One New Mexican who richly deserves this award is Alfonso Ortiz, an anthropologist from Santa Fe. Since no direct applications are accepted by the foundation and recipients of these awards are recommended and thor-

oughly screened, it is obvious that his work in anthropology is nationally known and this further funding of his research work will be valuable as it adds to our collective national knowledge.

I ask that an article listing the grant recipients be printed in the RECORD.

The article follows:

NINETEEN GIVEN "NO-STRINGS" GRANTS OF UP TO $300,000

CHICAGO.—The MacArthur Foundation yesterday announced "no-strings" attached five-year grants of up to $300,000 each to 19 people in various occupations.

The recipients are free to do whatever they want with the money, foundation president John E. Corbally said. However, the foundation hopes the money results in creative research and artistic production.

"The talent is abundant, the diversity so far is impressive and the dedication of each is clear," Corbally said.

"Through the $14 million committed to the program so far, we are providing, at least in part, an atmosphere that should be conducive to first-rate research and creativity."

The new recipients bring to 60 the number funded through the foundation established by the late insurance tycoon, John D. MacArthur.

Among the recipients announced yesterday are writers, physicists, a filmmaker, historians, an ophthalmologist and a musician.

Each will receive an annual award ranging from $31,200 to $60,000.

The foundation accepts no direct applications. Potential recipients are identified through a network of "scouts" and then screened.

New recipients, with the field of endeavor and current residence are:

Fouad Ajami, Middle East affairs, New York; Charles Bigelow, graphic design, typography, anthropology, Boston; Peter Brown, history, classics, Berkeley, Calif.; Robert Darnton, history, Princeton, N.J.; Persi Diaconis, math, statistics, Stanford, Calif.'; William Gaddis, writing, New York.

Also, Ved Mehta, writing, New York; Robert Moses, education, Cambridge, Mass.; Richard Muller, experimental physics, Berkeley, Calif.; Conlon Nancarrow, musical composition, Mexico City; Alfonso Ortiz, anthropology, Santa Fe, N.M.; Francesca Rochberg-Halton, history of science, Assyriology, South Bend, Ind.

Also, Charles Sabel, social sciences, Cambridge, Mass.; Ralph Shapey, musical composition, Chicago; Michael Silverstein, anthropology, linguistics, Chicago; Randolph Whitfield, Jr., health services, ophthalmology, Kiganjo, Kenya; Frank Wilczek, theoretical physics, Santa Barbara, Calif.; Frederick Wiseman, film, Boston, and Edward Witten, theoretical physics, Princeton, N.J.●

MONETARY POLICY

● Mr. MOYNIHAN. Mr. President, Dr. Robert Ortner, the administration's chief economist at the Commerce Department, made remarks yesterday worthy of our notice. Despite predictions from varous administration spokesmen in recent months that the economy would roar back by now, Dr. Ortner noted the most recent decline in industrial production, the 10th drop in 11 months, and identified tight monetary policy as one of the crucial factors.

"Given the present situation, with production down the way it is," Dr. Ortner said, "It would not be damaging or inappropriate if the Fed sped up money growth and brought down interest rates consciously." The current monetary growth targets—endorsed by the President and the Treasury Secretary—are keeping the economy, in Dr. Ortner's words "from getting off dead center."

At long last, reality is beginning to seep into administration thinking. I welcome Dr. Ortner's observations, which coincide closely to proposals I have been advancing for many months.

On March 31, 1982, Senators JIM SASSER and DONALD RIEGLE joined me in proposing a budget alternative based upon a basic shift in the mix of monetary and fiscal policies. I pointed out that the deficits projected under the administration's budget submission—the largest deficits in the Nation's history—were a direct consequence of basic errors in economic policy. Much of these current deficits arise from the impact of the current recession on Government revenues and from the impact of the current unprecedented interest rates on the Government's cost to service the national debt.

The current deficit crisis, in short, could not be resolved until we restore economic prosperity and get interest rates down.

There is little doubt about the central role recent monetary policy has played in bringing on this recession and sustaining the highest real interest rates in American history.

Last year, M_1—the central measure of the Nation's money supply—grew at a mere 2.3 percent annual rate. That was the tightest money policy since 1959, and the sharpest 1-year plunge in monetary growth on postwar history. When supplies of money are sharply contracted, the price to borrow these supplies—the interest rate—inevitably rises. This is simply classical supply and demand. And as these rates rise, consumer spending and business borrowing and investment inevitably decline.

The results are now obvious, even to the administration. We are experiencing the worst recession since the 1930's, with nearly 10 percent of our work force and 30 percent of our manufacturing capacity idle, and the highest number and rate of business failures since 1933.

These hardships could have been averted. In my budget alternative last March, I proposed that the Federal Reserve abandon its unprecedented tight-money policy and return to the monetary growth path originally proposed by the administration in "A New Beginning: A Program for Economic Recovery" (February 18, 1981). There, the administration proposed that "the growth rates of money and credit are steadily reduced from the 1980 levels (7.3 percent for M_1) to one-half those levels by 1986." This original policy would have meant an average 0.6 percentage-point annual decline in M_1 growth rates for the years 1981 through 1986. Under this policy, then, M_1 would have grown by about 6.6 percent in 1981—not 2.3 percent—and millions of Americans now jobless and thousands of businesses now closed be prospering today.

We proposed that the Federal Reserve make up for the precipitous shortfall in monetary growth last year by expanding money supplies for 1 year before returning to the gradual and moderate annual reductions in money growth rates proposed by the President in February 1981.

The administration's chief economist at the Commerce Department now agrees. "How do you break the logjam of the current decline, "Dr. Ortner asked. And he answered, "One day would be if (the Federal Reserve) loosened up for the next 12 months. If they did that, the economy could begin to grow without igniting inflation."

This policy shift would also conform to the directions of the Congress. Last May, I offered a resolution in the Budget Committee directing the Federal Reserve to ease its current policies and return to the President's monetary growth path. The committee chairman, Senator PETE V. DOMENICI, proposed revised language which the committee accepted without objection:

It is the sense of the Congress that if Congress acts to restore fiscal responsibility and reduces projected budget deficits in a substantial and permanent way, then the Federal Reserve Open Market Committee shall reevaluate its monetary targets in order to assure that they are fully complementary to a new and more restrained fiscal policy.

The full Senate adopted this resolution without demur, and the House of Representatives incorporated the identical language in its budget resolution.

This represents the first time in American history that the Congress has directly expressed its view to the Federal Reserve that it reevaluate its monetary policies.

And despite protestations from some in the administration and the financial press, the Federal Reserve has been listening and, in its way, responding. During the first 5 months of this year, M_1 grew at a 7.6 percent annual rate—well above the Federal Reserve's official target range for M_1 of 2.5 percent to 5.5 percent. One note of caution: Over the last 2 of those 5 months, this rate fell to 4.5 percent. And in late June, the Federal Reserve reaffirmed its intention to keep M_1 growth at a mere 3-percent annual

rate for the second-quarter months of April through June.

This is not enough. The Federal Reserve currently is reviewing its annual money growth target ranges, and will report to Congress at the end of July. I urge the Federal Reserve to revise its 1982 M_1 growth range upward, in accordance with the deep concerns which I share with the chief economist at the Commerce Department.

The Federal Reserve and the administration must abandon the dogmatic strictures of tight-money monetarism. They must permit the money supply to expand to the moderate levels required to bring down interest rates and restore this Nation's economic prosperity.●

WOMEN'S RIGHTS NATIONAL HISTORICAL PARK GRAND OPENING

● Mr. D'AMATO. Mr. Speaker, today marks the opening of America's newest national park. Throughout this weekend, the Women's Rights National Historical Park in Seneca Falls, N.Y., will celebrate its grand opening with numerous activities celebrating the birth of the women's rights movement in the United States.

The Women's Rights National Historical Park was established by Congress in 1980 to interpret the story of six sites associated with the 1848 Women's Rights Convention in Seneca Falls, which inaugurated the women's suffrage movement. The park will provide programs for the public about the 1848 convention and its significance in American history.

The story of the 1848 convention is one of courageous and principled women and the community in which they met. Seneca Falls emerged as a bustling mill and manufacturing community along the five natural falls of the Seneca River during the 1830's and 1840's. A rural farming area was transformed in just a few years to a center of milling and manufacturing. The change was revolutionary to women; for the first time women in the area could choose to work in a mill for paid wages, rather than work in the home.

Major change was occurring around Seneca Falls as well. The abolition and temperance movements attracted and created many radicals and reformers. Elizabeth Cady Stanton moved to Seneca Falls in 1847. Since her early youth, Stanton had been concerned about women's lack of equality. They are not allowed to own property. They were not allowed to vote. They were not allowed to retain guardianship or other powers over their children. Stanton was also frustrated and angered by some of the experiences of women in the abolition movement. They were at times not allowed to be delegates or to speak in public. These frustrations combined to create a resolve in Stanton that women should address their grievances.

On July 14, 1848, five reformers met at the house of Jane Hunt in Waterloo, N.Y., adjacent to Seneca Falls. Stanton, Jane Hunt, Lucretia Mott, Mary Ann McClintock, and Mary Wright decided to hold a convention to publicize their dissatisfactions. The women met the next day at the McClintock home in Waterloo and drafted the Declaration of Sentiments, which was a manifesto on women's rights.

On July 19 and 20, 1848, over 300 men and women came to the convention in the Wesleyan Chapel in Seneca Falls. It was the first convention to discuss women's rights and was the beginning of the women's rights movement in America.

Mr. President, I wish to congratulate those who have made the opening of this park possible. It is very satisfying to me to see these efforts brought to fruition. I look forward to the continued growth and development of the Women's Rights National Historical Park.●

THE 150TH ANNIVERSARY OF THE VILLAGE OF PULASKI

● Mr. D'AMATO. Mr. President, I rise to recognize the village of Pulaski located in the center of Oswego County, N.Y., that is celebrating its 150th anniversary this month.

In 1805, the six founders of Pulaski fueled with the same inspiration that had possessed their ancestors to sail on the *Mayflower's* maiden voyage to the new world, set out from their Vermont hamlet for the unbroken forests of upstate New York. These men were eventually joined by their families, and once settled, Pulaski continued to grow. It was finally on April 26, 1832, that the village received its charter.

Now 150 years later Pulaski has developed largely into an agricultural area with some manufacturing. It is a trading center for a large population located along three major highways, and in addition superbly situated for recreational enthusiasts. As a gateway to the Adirondacks and a bordering village of Lake Ontario, a variety of activities can be pursued. Pulaski takes pride in its clean air, pure water, fishing, and hunting facilities, sand beaches and winter skiing and snowmobiling.

I would like to commend this village for 150 years of development and exemplary service to its citizens. Certainly, it is an ideal community in which to work and reside. I congratulate Pulaski on this special occasion.●

U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that according to the latest U.S. Census Bureau approximations, the total population of the United States on July 1, 1982, was 231,468,943. This represents an increase of 161,013 since June 1, 1982. Since this time last year, our population has grown by an additional 2,178,852.

In 1 short month we have added enough people to our population to more than fill the city of Providence, R.I. Over the past year, our population has increased enough to fill the cities of Jacksonville, Fla.; Columbus, Ohio; St. Louis, Mo.; and Seattle, Wash.●

RAY LARKIN'S RETIREMENT—A TRIBUTE TO A LEGISLATIVE FOOT SOLDIER

Mr. ROBERT C. BYRD. Mr. President, the spotlight in the Senate is understandably focused on the Senators—those men and women elected from the 50 States and officially charged with making the legislative decisions that govern our Nation.

However, the Senate is assisted in its duties by a battalion of able men and women without whom we could not do our work efficiently and effectively. From time to time, an opportunity arises for us to pay tribute to one or another of those helpful assistants, and today presents such an opportunity.

In 1955, Mr. Ray Larkin began working for the Senate in the employment of the late Senator Harley Kilgore of Beckley, W. Va. Today, after serving in many congressional functions, Ray Larkin is retiring from his doorkeeping position, a position in which he has worked faithfully since 1970. Over the years, Mr. Larkin served in the Documents Room, the Post Office, and on the Capitol Police Force. In every role he played, Ray Larkin performed his duties well and loyally, and he made numerous friends. We shall miss Ray, but we shall not forget him.

Ray Larkin is a native of West Virginia. In World War II, he served in the U.S. Navy. Later, he attended Potomac State College in Keyser, W. Va., where he studied farming and agriculture. He plans now, I understand, to retire to his farm in Paw Paw, where he will be able to put his college studies to work more intensively.

I am sure that I speak for all of our colleagues when I wish Ray Larkin our best in the years ahead, and when I thank him for his many years of helpful assistance in making our work here easier, safer, more enjoyable, and more useful.

Mr. RANDOLPH. Mr. President, I join with my able colleague, Senator ROBERT C. BYRD, in a genuine tribute to Ray Larkin of Paw Paw, Morgan County, W. Va.

Our good friend from the Mountain State has given cheerful and helpful service in the Senate for 28 years. He was always cooperative and effective as he served thousands and thousands of people on Capitol Hill.

VITIATION OF ORDER FOR SESSION TOMORROW

Mr. McCLURE. Mr. President, a parliamentary inquiry. Do I understand that there is an order for the convening of the Senate on tomorrow?

The PRESIDING OFFICER. There is, 9 a.m.

Mr. McCLURE. Mr. President, I ask unanimous consent that that order be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY

ORDER FOR RECESS UNTIL 11 A.M. MONDAY, JULY 19, 1982

Mr. McCLURE. Mr. President, I ask unanimous consent that when the Senate recesses today it recess until the hour of 11 a.m. on Monday, July 19.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. McCLURE. Mr. President, I ask unanimous consent that, following the recognition of the two leaders under the standing order on Monday, there be a period for the transaction of routine morning business for not to exceed 15 minutes with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT NO ROLLCALL VOTES OCCUR BEFORE 4 P.M. ON MONDAY

Mr. McCLURE. Mr. President, following morning business, the pending business would be Senate Joint Resolution 58, the constitutional amendment calling for a balanced budget; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. Mr. President, I ask unanimous consent that any rollcall votes ordered on Monday prior to the hour of 4 p.m. be postponed to begin at 4 p.m. and that the votes occur in the order in which the yeas and nays were ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I might note that that excludes the final passage of the resolution.

ORDER FOR RECESS BETWEEN THE HOURS OF 12 NOON AND 2 P.M. ON MONDAY

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate stand in recess between the hours of 12 noon and 2 p.m., on Monday, July 19, 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, JULY 19, 1982, AT 11 A.M.

Mr. McCLURE. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until Monday at 11 a.m.

The motion was agreed to, and the Senate, at 7:44 p.m., recessed until Monday, July 19, 1982, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 16, 1982:

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

George R. Hoguet, of New York, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development for the term of 2 years, vice David S. King, resigned.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Charles W. Greenleaf, Jr., of Virginia, to be an Assistant Administrator of the Agency for International Development, vice Jon D. Holstine, resigned.

DEPARTMENT OF ENERGY

Oliver G. Richard III, of Louisiana, to be a member of the Federal Energy Regulatory Commission for a term expiring October 20, 1985, vice Matthew Holden, Jr., resigned.

EXECUTIVE OFFICE OF THE PRESIDENT

Nancy A. Maloley, of the District of Columbia, to be a member of the Council on Environmental Quality, vice Jane Hurt Yarn.

Ronald B. Frankum, of California, to be an Associate Director of the Office of Science and Technology Policy (new position).

CONFIRMATIONS

Executive nominations confirmed by the Senate July 16, 1982:

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, secton 601:

To be lieutenant general

Lt. Gen. Lawrence A. Skantze, xxx-xx-xx... FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Thomas H. McMullen, xxx-xx-xx... FR, U.S. Air Force.

Lt. Gen. Kelly H. Burke, U.S. Air Force, age 52, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.

IN THE NAVY

Navy nominations beginning Glenn Douglas Lattig, to be commander, and ending Kenneth E. Harder, to be Chief Warrant Officer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 1, 1982.

EXTENSIONS OF REMARKS

THE ENTERPRISE ZONE PROPOSAL

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. GRADISON. Mr. Speaker, as one of the original cosponsors of H.R. 6009, I have followed the progress of the enterprise zone proposal with particular interest. There is widespread support in this House for innovative methods to revitalize our decaying inner cities.

Because my district includes a large inner city area, I have seen firsthand the need for new approaches to aid urban areas. The direct spending policies of the past have been limited successes at best. While enterprise zones cannot perform miracles, nor can they stand alone as an urban policy, they offer a much-needed new dimension to our efforts to aid cities. The crux of that new dimension is the emphasis on private sector job creation, a focus which has been lacking from past programs and which is vital to the successful revival of any urban area.

In a recent article in the Cincinnati Herald, Samuel Pierce, Secretary of Housing and Urban Development, clearly and succinctly explains how enterprise zones will work, and how, in conjunction with certain existing Federal programs, enterprise zones can be an important catalyst for urban development. I wholeheartedly recommend this article, which is printed below, to all of my colleagues, but especially to those who have expressed reservations about enterprise zones. Secretary Pierce's description of the proposal should provide answers to many of the questions raised about this legisation.

The article follows:

[From the Cincinnati Herald, June 5, 1982]

AN AMERICAN REVOLUTION IN TROUBLED CITIES

(By Samual Pierce, Jr.)

For more than a generation, America has struggled with the problems of restoring vigor to its depressed cities and rural towns. Billions of dollars have been spent for one well-intentioned scheme after another. The results have been mixed at best, but the costs have grown intolerable.

President Reagan has recommended an experiment-based upon the idea that a "hand-up" is more helpful than a "handout"—to stimulate private sector activity in our cities. Compared to the past decades of ineffective Government grant-in-aid programs, the President's idea is revolutionary. It also offers hope that our most distressed areas can reverse their present fate, and create opportunities for thousands of disadvantaged people.

The enterprise zone program will help new businesses, primarily. It will give them a chance to get started and the opportunity to grow, providing two important ingredients to turning around a distressed area:

Create jobs within the most economically depressed areas, particularly for lower income and minority workers, and

Redevelop and revitalize these places of decay and despair.

The President's proposal for enterprise zones is a good one, and its chances for success are excellent. Many earlier attempts to solve the problems of physical decay and economic stagnation depended almost entirely on Federal grant programs. This program, to the contrary, seeks to get Government out of the way in order to stimulate both private investment and local public initiatives.

Cities will be able to coordinate this program with existing efforts now underway in distressed sections. Enterprise zones will not replace the Community Development Block Grant or Urban Development Action Grant programs, and in fact, both of these proven programs can be used as a major stimulus in a zone.

This will not be a HUD-run program. State and local governments will design and make their own contributions to enterprise zones and develop creative initiatives to help new businesses take root and grow. The role of the Department of Housing and Urban Development will be to select the best applicants to participate in the program—up to 25 per year for 3 years.

The incentives in our proposed legislation are substantial, whether the new business calls for a staff of one, or a factory force of 1,000. It allows state and local governments to balance incentives for employers, employees, entrepreneurs, and neighborhood groups, depending on local needs.

Regulatory relief can also be substantial in an enterprise zone, depending once again on local needs. State and local governments will be authorized to request relief from Federal regulatory agencies. However, no rule will be lifted which would affect civil rights protections, the public health, safety or welfare, or the minimum wage for zone workers.

A significant amount of regulatory relief will come at the State and local levels. In a number of our recent cooperative efforts with local governments, we've seen that local zoning laws, local building codes, and other local regulations can strangle economic development. In many cases, Federal deregulation will be helpful, but in most cases, state and local efforts will make the big difference in the success or failure of the enterprise zone.

I hope that each and every one of them succeed, because the areas that are eligible to become enterprise zones have had chronic problems with poverty, unemployment, population loss, and decay.

Once an area meets the basic requirements for eligibility and has been nominated for Federal approval by both the local and State governments, we at HUD will compare all the applications submitted. The process is designed to be competitive because we want to give the best proposals a chance to prove the worth of the experiment.

Applications which depend on the Federal incentives along will not compare favorably with applications that cut redtape and taxes at the state and local level, involving neighborhood groups in the program, and experiment with improving public service through a greater involvement of the private sector.

I have been asked what factors I will weigh when making my decisions, and what enterprise zone applications should contain, but I want to wait until the legislation is passed and signed by the President before I speculate. In any case, I firmly believe the creativity and innovation shown by so many state and local governments will guarantee far better proposals than any I might speculate about now.

I have said that I think there is a good chance for success with the program. Let me be clear that this is not the "be-all-and-end-all" for urban areas. There are no instant solutions for these longstanding problems. Only a recovered nation's economy and the full success of the President's overall program hold out long term, permanent solutions.

But until that time, the idea of helping the people and places in greatest need is something all of us in the Reagan Administration feel deeply that we want to do. But instead of Government spending, inner-city residents need opportunities. A job is the best social program.

This is the focus of the enterprise zone concept. The program will identify and remove Government barriers to entrepreneurs who are capable of creating jobs and economic growth. It will draw out and build upon existing talents and abilities already present in depressed areas. It will call for the kind of imagination and innovative local leadership and private initiatives needed to bring renewed hope for our ailing communities throughout the Nation.

With the cooperation of the Congress, this idea will have a chance to prove its worth.●

FOREIGN POLICY AND ARMS CONTROL IMPLICATIONS OF CHEMICAL WEAPONS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. ZABLOCKI. Mr. Speaker, this morning the Subcommittee on International Security and Scientific Affairs meets to examine the foreign policy and arms control implications of chemical weapons.

Within the next few weeks the House of Representatives will be faced with making a historic decision as to whether the United States should resume production of chemical weapons—after a 13-year moratorium on such production.

Our colleagues in the other body have already expressed their concern over the binary chemical weapons program by adopting an amendment to the fiscal year 1983 Defense authorization bill which prohibits U.S. production of chemical weapons for our allies in Europe unless those allies request U.S. chemical weapons and agree to pre-position them on their territory.

This amendment, which passed by a vote of 92-0, resulted from testimony in the other body earlier this year that the preponderance of binary artillery production would not be for U.S. forces, but for allied use.

Clearly, the views of our friends and allies in Europe—on both binary modernization and chemical weapons arms control—are of critical importance when making a decision on resumed chemical weapons production.

It is for this reason that I wrote to the President on January 7, 1982, expressing concern that a binary production decision at this time could undermine far more important and fundamental foreign policy interests—such as TNF deployment and cooperation on Poland—of the U.S. Government and the NATO alliance.

The Soviet submission last month at the United Nations of a chemical warfare arms control proposal offers a real opportunity to pursue a negotiated ban as opposed to production on new lethal chemical weapons.

The Soviet proposal contains a number of significant changes from the past, the most important of which relate to verification of a chemical weapons arms control agreement.

It is the Chair's view that the very fact that the Soviets took the initiative and tabled this proposal, and addressed the substantive issue of verification, offers the Reagan administration a unique opportunity to resume bilateral negotiations with the Soviet Union.

Let us meet the Soviets head on—resume the bilaterals—and negotiate a verifiable ban on chemical weapons, to stop this new, costly, and dangerous arms race.●

TRIBUTE TO DR. BOOKER T. ANDERSON

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. MILLER of California. Mr. Speaker, on July 21, 1982, Rev. Dr. Booker T. Anderson, Jr., will be honored by the residents of the city of Richmond for his many years of dedicated service to the civil rights struggle of all mankind.

Upon graduation from San Francisco State University, Dr. Anderson studied systematic theology in Atlanta, Ga., and later transferred to Boston University where he graduated cum laude in systematic theology.

Dr. Anderson has always been a courageous civil rights fighter. He carried the struggle to Atlanta, Selma and Montgomery, Ala. He participated with others in the march to integrate the Georgia State Legislature.

He served as director of public relations for the Western Christian Leadership Conference under the late Dr. Martin Luther King. Later, he was appointed a Ford Fellow to study urban planning, designing, strategy, and management.

Dr. Anderson served as president of the Northern California NAACP for 4 years. He served as a councilman and mayor of the city of Richmond, he was a member of the Contra Costa Civil Service Commission for 10 years, 4 of which he served as president. He was also a member of the San Francisco Housing Authority and was later appointed to the San Francisco Community College Board. Presently, he is an elected member of that board. He has been a lecturer at the University of California and the San Francisco Theological Seminary.

Dr. Anderson is married and has two sons, one enrolled at the University of California and the other at Dartmouth University.

Rev. Dr. Anderson is pastor of Jones Memorial Methodist Church in San Francisco.

I join with Dr. Anderson's many friends and admirers in recognition of his dedication and contributions to his country, his community and his fellow man.●

THE OTHER SIDE OF THE VETERANS ADMINISTRATION CONTROVERSY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. HYDE. Mr. Speaker, I am sure we have all read recent news reports regarding the controversy swirling around the head of the Administrator of the Veterans' Administration, Robert P. Nimmo. As with all things, there are always two sides to a story, but it is rare that both sides are presented.

Therefore, in an attempt to present the other side, I want to share with my colleagues an article which appeared in the June 24 issue of The Stars and Stripes—The National Tribune. The author, Gabriel P. Brinsky, is the national service and legislative director of AMVETS, and his comments are well worth everyone's attention.

THE MUCKRAKERS

(By Gabriel Brinsky)

What brings a man, financially independent, out of retirement to serve his government? A search for power . . . perhaps. A sense of dedication . . . possibly. Or maybe the sense of duty to respond to a call from his President.

Robert P. Nimmo, Administrator of Veterans Affairs, did not seek the position he holds. It sought him. Just as he did several times before as a soldier, he answered his country's call.

Whether Robert Nimmo would answer the call if it came today is questionable. In spite of being a capable and effective Administrator, he has come under severe barrages. Some criticism is warranted, much is not. His biggest problem has been his inexperience in knowing how the game is played in the nation's capital. A person in public life in Washington, D.C. does not honestly and frankly express himself. He speaks generally to express nothing, for to voice a truism could result in the vultures descending in droves.

And there is no denying that the Administrator has committed several faux pas which have antagonized the various service organizations. For this, his wrists have been slapped and they probably will be again in the future. Undoubtedly by now, the Administrator understands and accepts this.

But muckraking is something else. It has no place in our society. None should be exposed to it. And certainly a public servant of Mr. Nimmo's caliber should not be subjected to its abuse. Criticism of his public utterances is one thing. Reflecting on his integrity by slanting or concealing the facts is another.

Which brings us to the allegations concerning his remodeling of the executive offices and his use of a government vehicle.

During a past month or so, the Administrator was attacked on consecutive days on television for his extravagances in refurbishing his executive offices and his use of a chauffeured car. This was followed by press attention at appropriate, calculated intervals, with articles expounding the theme of his extravagant abuses at the expense of the veterans.

What the original fuss was all about was that Nimmo's offices were remodeled at a cost of $54 thousand. The figure is correct but the description is lacking. The inference is that it applied only to the Administrator's immediate office. In fact, the cost covered the entire executive area of the southwest wing of the tenth floor involving all of the staff offices. The expenditures for the Administrator's office alone was approximately $18 thousand.

Even to the most naive, this cost to renovate the Administrator's office, the head of the second largest agency in personnel and the third largest in appropriations, was not only reasonable but extremely modest.

But there is more. The $18 thousand would not have been spent if certain changes were not required because of the former occupant who was confined to a wheelchair. There were no carpets in certain offices and surrounding areas to facilitate the locomotion of the former Administrator. And because of his handicap, he had a special chair which he took with him.

There is no reason why the Administrator of Veterans Affairs should go without a desk or carpets on his floor. Nor is there any reason why he should be required to live with a VA motif wall covering which was damaged, faded, and dirty. Or to accept wallpaper incompatible with the furniture.

Come on! We're talking about a prominent official in our government charged with running an agency with a budget of more

than 24 billions of dollars. Even a middle level functionary is entitled to some perks such as a carpeted floor and a desk. Oh yes, and even a desk chair.

As for the shower that was installed, some funds were expended in providing different accesses to the two half baths in the executive suite. The shower and stall was standard prefabricated, a nonluxurious, unit. Surely, it is not unreasonable for the Administrator, when he needs to leave directly from his office to attend an official function to refresh himself and to avoid smelling like yesterday's clothes. If he is expected to work and to directly repair from his place of work, the least we can do is place a shower at his disposal.

Of course, a big deal was made over the former Administrator's furniture which Nimmo sent to his daughter in the Department of Commerce. Nothing was mentioned of the fact that the former Administrator's furniture was transferred to the Department of Commerce in exchange for executive furniture which they in turn would provide to the Veterans Administration. Since the GSA furnishes all furniture, who got what is really immaterial. It all belongs to the government and no costs were involved.

As for the allegations relating to the Administrator's use of a government vehicle for transportation from home to office, the Veterans Administration's Appropriation Acts do prohibit, since 1978, such use of transportation. Why the Administrator of Veterans Affairs should be singled out and denied such transportation is not clear.

We may wonder how an Administrator with an erratic schedule imposed by uncertain demands can be denied the flexibility of repairing to his residence and reacting to the demands of his responsibilities. Admittedly, remedial legislation is needed.

But apart from all this, it is questionable whether the stories released criticizing the Administrator would have achieved the same adverse impact had certain relevant information been disclosed.

Consider, for example, the fact that it was the Administrator who requested the Inspector General to look into any improprieties. It was the Administrator who requested that his office be furnished, not with new furniture available within the Agency.

It was the Administrator who voluntary gave up an airy, cheerful reception room in order that the space could be utilized for needed office space. The Deputy Administrator and his secretary are now occupying that space.

Consider, too, that the only items of furniture bought for the Administrator were the high back chair and a coffee table. Or consider that the renovation which occurred by the construction of walls was for the purpose of creating two offices where one existed before. This resulted in the addition of five valuable space-saver offices. Maximum utilization of space has never been a valid subject for criticism.

And, of course, the stories made no mention of the cost involved by prior Administrators which would make the $54 thousand expenditure a new low in the poverty level. Nothing was said that the Inspector General concluded his report with the finding that "the renovated space is compatible with the office appointment which has historically and customarily been provided to Agency officials and other top Federal executives."

I believe that Robert P. Nimmo is an effective Administrator and many are grateful for the services which he is rendering to veterans. Sure, he has made mistakes and he is a natural object for criticism. But if it is necessary to condemn him by reason of his acts, let us be fair. There should be some superficial, shallow standards of ethics even among the muckrakers.●

ADMINISTRATION NEEDS TO GET SERIOUS ON ARMS LIMITATION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. SIMON. Mr. Speaker, one of the things that concerns many of us is the question of arms reduction. After the massive movements in the streets in Europe and the United States, this administration is at least paying lipservice to it. I hope it is more. Motivation is a very difficult thing to judge, but I hope we are serious in our arms control negotiations

And like many, I yearn for strong evidence of our seriousness of purpose.

A publication called the Disarmament Times, published by the nongovernmental organizations who covered the special session on disarmament in New York, ran an article titled: "What President Reagan Could Have Told the Special Session."

What they suggest here makes eminent good sense to me.

I urge my colleagues in the House and Senate to read their suggestion.

More than that, I urge those in the White House who are involved in the decisionmaking to read this.

As one of those who was named a congressional adviser to the special session on disarmament by the President, I confess considerable concern about the general tone and attitude of the U.S. delegation. In addition to the article from the Disarmament Times, I am placing into the RECORD a letter I sent to the President. I also called my senior Senator, CHARLES PERCY, and expressed concerns.

Like many others, I want to be proud of my country and what it stands for. I am proud of my country but not always what it stands for.

Nothing President Reagan could do could secure his place in history more than if he could move us to a meaningful, verifiable arms control package.

But for that to happen this administration is going to have to exert much stronger leadership than I have seen on the issue of arms reduction up to this point.

The supplied material follows:

WHAT PRESIDENT REAGAN COULD HAVE TOLD SPECIAL SESSION

(By Disarmament Times Staff)

With the exception of a proposal for an international conference to develop a common system for accounting and reporting military expenditures, U.S. President Ronald Reagan's speech to the SSD II plenary on 17 June was a recapitulation of previously made statements on U.S. Government arms control policies.

Obviously, as Eleanor Roosevelt once pointed out in a statement Reagan quoted, "empty promises are not enough." Nevertheless, the U.S. President could have presented some new proposals that would have demonstrated that the U.S. Government is sincere in its desire to seek nuclear arms reductions.

What could Reagan have proposed? First, he could have stated that the United States was willing to join the Soviet Union in pledging to a "no first use" of nuclear weapons, *on the conditions* that the Soviet Government take immediate steps to reduce the conventional arms arsenal of the Warsaw Pact countries in Europe to bring them in balance with NATO forces. Such a proposal surely would have been greeted with loud applause in the Assembly Hall. It would have also addressed the fears the NATO allies have regarding the superiority of Warsaw Pact conventional weapons in the European theatre.

Secondly, Reagan could have challenged the Soviet Union to agree to bilateral reductions in the number of nuclear weapon tests. In recent years, the Soviet Government has conducted more such tests than the United States; offering to agree on reductions in this area would have cost the U.S. virtually nothing.

Thirdly, the U.S. could have offered unilaterally to suspend production of chemical weapons as long as negotiations on a ban on chemical weapons production are proceeding. This proposal would have been particularly timely in view of the Soviet's statement on 16 June that it is willing, for the first time, to move in the direction of allowing onsite inspection to verify the destruction of chemical weapon stockpiles and to verify that the ban on production of such weapons is being respected.

Fourthly, President Reagan's statement that the U.S. Government is "deeply committed" to a "strengthening" of the nonproliferation framework would have been viewed more seriously if the U.S. would have pledged itself to exert pressure on the countries that have refused to sign the NPT and submit all their nuclear installations to international safeguards.

Finally, in connection with the proposal that an international conference be convened to establish a common system for the reporting and accounting of military expenditures, Reagan could have gone one step further and added that, once such a system is in place, the United States would be willing to negotiate substantial reductions in military spending.

Even allowing for the fact that the U.S. is not interested in "propaganda," as David Adamson, a specialist in disarmament issues at the U.S. Mission stated at a press conference following Reagan's speech, some effort could have been made to convince the worldwide community that the U.S. is ready "to serve mankind through genuine disarmament," as President Reagan claimed.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 9, 1982.

HON. RONALD REAGAN,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am grateful to be appointed as a congressional adviser to the United States delegation to the United Nations Special Session on Disarmament.

But I am deeply concerned.

In all recorded history there have never been as many nations and national leaders gathered to concentrate their efforts on the subject of arms limitation. And never has it been more important that our ability to destroy ourselves be limited.

In that atmosphere you have rightly decided to address the United Nations. I applaud that decision. As one of the delegates to the 1978 UN Special Session on Disarmament, I regret the inattention to the first conference by your predecessor.

But the U.S. delegation to the Special Session appears to have no plans greater than avoiding embarrassment and denouncing the Soviets. The Heritage Foundation "backgrounder" on the session appears to be accurate in calling the U.S. posture "largely an exercise in damage limitation for the American delegation." If there is anything positive coming out, anything in the way of hope, anything more than anti-Soviet rhetoric, I have not detected it. I do not suggest that others in your Administration, at Geneva and elsewhere, have not been working hard on the arms control question, but the public stance at the UN is largely negative.

That concerns me for several reasons:

First, it ignores the urgency of the issue itself. This precedent-breaking meeting is gathered on our soil and we appear to have no dream or vision, no plan to use it to nudge the world toward arms control. That ill becomes us.

Second, it shows indifference to those who have serious questions about our motivation. As an official of a country close to us told me recently, "You are our good friends. But we have serious questions as to whether you really want arms control." That concern is widespread among other nations, and among many of our citizens. I am among them.

Third, there are serious reservations among some of our friends who sense that we seem more interested in reviving the Cold War than in establishing a solid peace. At the U.S. Mission to the United Nations there is now an exhibit which pits the United States against the Soviet Union; we are vividly portrayed as the heroes and the Soviets as the villains. I do not believe we need to convince others of Soviet excesses; the UN vote on Afghanistan is clear evidence of that. What is more important is to show other countries that we are serious about the issue of arms control, and the exhibit suggests to some the opposite.

There are three films shown to visitors. One, for example, is "Czechoslovakia, 1918-1968". It portrays what has happened in Czechoslovakia, and the Soviets do not look good. But does showing it contribute anything toward arms control? Or does it convince visitors that the United States is interested in reviving the Cold War? The answers seem to me fairly obvious. It is a boomerang we are tossing at the Soviets which comes back to hit us.

Fourth, agreement with the Soviets on arms control will come only after long and difficult negotiations, but that will happen only if there is at least some modest effort toward creating an atmosphere of mutual trust and respect between our two countries. If we continue with this type of propagandistic effort (accurate as it may be), and if the Soviets then show films about Vietnam, for example, and our involvement there (accurate as that might be) nothing is contributed toward creating the atmosphere that is essential for real negotiations.

It is irresponsible to have a "pie in the sky" attitude about Soviet intentions, or about what can be accomplished in arms limitation. But it is equally irresponsible to be unnecessarily confrontational.

In the 1978 United Nations session the United States missed a great opportunity. In 1982 we could be headed toward an even worse result, unless you do two things:

(1) Instruct our Mission to the United Nations and our delegation to this Special Session to follow a more constructive and positive path, and to emphasize our genuine interest in arms control.

(2) When you speak in New York next week, you may be making the most important talk of your presidency. As important as economic problems are, and other matters which you face day to day and hour to hour, next week you will be addressing the question of whether humanity can survive. You have been blessed with great skills as a communicator. This can be your finest hour and the nation's finest hour, if you seize the opportunity to present a positive program, to create a better atmosphere, and pledge your efforts to achieve significant arms control.

Unless and until these two actions take place the United States will be in the awkward situation of betraying the ideals and hopes of the American people and the hope of millions around the world who now look to our nation for leadership.

Sincerely,

PAUL SIMON,
Member of Congress.●

JUDGING ISRAEL

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. SCHUMER. Mr. Speaker, many voices have been raised in moral condemnation of Israel for her recent actions in Lebanon. I urge all who have expressed such feelings to consider carefully the points presented in the following New York Times editorial of July 1, 1982:

JUDGING ISRAEL

Israel is, or should be, morally "different" from other nations. So say the critics of its pre-emptive war against the P.L.O. in Lebanon, in which uncounted civilians have died. Because Israel was born of the world's revulsion over Hitler's genocide, the critics note, they hold it to a higher code, even in war. Some of these critics are Israelis, struggling to show how morally different they are from their Arab enemies. Are the critics right?

Their case is initially compelling because of the way the war unfolded. The Begin Government, having reneged on its promises of "full autonomy" for Palestinians in the West Bank and Gaza, lied at the start when it said it wanted only a 25-mile cordon sanitaire. Subsequently, it has probably lied about, or at least suppressed, the civilian casualties it has caused.

Throughout, it has been less than honest—certainly unwise—in confusing the P.L.O. with all Palestinian aspirations. And it has seemed obvious almost from the start that the slaughter in Lebanon was clearly disproportionate to any immediate P.L.O. threat.

But even after granting all that, there is another side. Critics of the civilian bloodshed in Lebanon now fail to remember the much-greater slaughter of civilians by which the P.L.O. and Syria took over the country. By remaining indifferent until the Israeli intervention, the world has erected a cynical double standard.

That does not excuse Israel from the obligation to relate ends to means, but it surely explains why most Israelis now scorn the opinion of mankind. If the world wishes to counsel the Israelis, let alone give them moral lectures on why they must adhere to a higher standard, then let the judging be fair:

Why is it wrong for Israel to threaten tens of thousands in west Beirut to get at a few thousand remaining P.L.O. fighters—but not wrong for those fighters to hide in civilian neighborhoods, using innocent people as hostages? As The Economist reported while criticizing Israel's assault on Sidon: "Civilians trying to escape from the camp were shot, apparently by the guerrillas. . . . Palestinian prisoners the Israelis sent in to plead for the civilians to be freed are also said to have been shot."

Why is it wrong for Israel to fight to restore a once-friendly Christian power in Lebanon—but not wrong for the P.L.O. and Syria, with Arab League sanction, brutally to have destroyed that power?

Why was it wrong for Israel to let the P.L.O. grow strong enough to make all of Lebanon its base—but not wrong for Syria, Jordan and Saudi Arabia to support that buildup on someone else's territory and at Israel's expense?

Why is it wrong, woefully wrong, for Israel to ignore the aspirations of Palestinians who lost their roots to Zionism—but not wrong for other Arab nations to exploit the dispersed refugees while refusing for decades to partition the old Palestine?

Why, in short, should Israel be held to higher standards of moral conduct when most Arab states still deny it even the lowest attributes of nationhood: safe borders and legitimacy? Why should Israelis believe that what the P.L.O. was allowed to do to Lebanon was not also its program for Israel?

Such brutal warfare required more justification than Israel has so far provided. It needs to answer some hard questions. Even a less-embattled nation would feel obliged to follow so costly a triumph with a plausible, generous program for coexistence. Nonetheless, by fair standards, if it will finally accept the responsibility of its might, Israel deserves understanding for its plight.●

HALTING POLLUTION OF OUR COASTAL WATERS

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. HOWARD. Mr. Speaker, the Marine Protection, Research, and Sanctuaries Act, commonly known as the Ocean Dumping Act, was enacted in 1972 as a result of concern over the effects of unregulated ocean dumping. The act established a policy to prohibit or strictly limit the ocean dumping of materials harmful to people or the marine environment. The 95th Congress strengthened this legislation

with my active support and established a deadline to terminate ocean dumping of harmful sewage sludge by December 31, 1981. The 96th Congress amended this law to include a ban on the dumping of harmful industrial wastes by the same date.

As my colleagues know, I have been working to help end ocean dumping along the New Jersey coastline. H.R. 6113, the Ocean Dumping Act amendments was reviewed by the Public Works Committee in June of this year. It is my hope that the entire Congress will join with me in supporting a strong Ocean Dumping Act.

The following article appeared in the June/July 1982 issue of National Wildlife. The necessity of pursuing an expeditious cleanup of our ocean is clearly evident from this article:

HOW FRAGILE IS THE OCEAN?

(By Jerry Adler)

WHILE SCIENTISTS SEARCH FOR THE ANSWER TO THAT COMPLEX QUESTION, THE NATION CONTINUES TO POLLUTE ITS COASTAL WATERS

For decades, the barges have crossed the green waters of the New York Bight, headed for the same little patch of ocean beyond the mouth of the Hudson River. They bear sewage sludge—millions of tons of it—the concentrated byproducts of the commercial, industrial and metabolic activities of ten million people, rich in heavy metals, synthetic organic compounds and intestinal pathogens. There is nothing on or below the surface to mark this spot as special; its only distinction is to be found on the map, which shows that it lies exactly 12 miles from land—just beyond the "contiguous zone" of legal jurisdiction—and equidistant from the shores of the two states that use it, New York and New Jersey. Hatches open and the barges dump their loads—quickly, for they are near major shipping lanes. Then, they head back to shore, where only recently has anyone thought to ask what happens to the sludge when it hits the water.

Only in the last few years have oceanographers observed that the patch of sea chosen as a mutual dumping site by the two states in the 1920s lies right on the Hudson River fishway, connecting deep water and estuary. At times, it is also in the path of currents that sweep the discarded poisons toward the beaches of Long Island. Unfortunately, today, scientists still do not understand the physical laws by which man's toxins disperse, dilute and settle in the ocean. "Our survival is linked directly to the sea," notes California marine scientist Sylvia Earle, "yet we know as little about much of the ocean as we do about the moon."

For that matter, it is not even certain that we humans can predict the workings of our own laws. Many Americans—apparently including many members of Congress who voted for it—believed that a 1977 amendment to the federal Ocean Dumping Act would prohibit virtually all marine disposal of sludge and other wastes after December 31, 1981. It turns out that they were mistaken; last year, a federal judge in New York indefinitely extended New York's right to use the 12-mile dump site while the alternatives are studied once again. By the time a final decision is rendered, predicts Ken Kamlet, director of the National Wildlife Federation's pollution program, "1981 will be virtually an ancient memory."

The Environmental Protection Agency (EPA), which vigorously opposed ocean dumping under the Carter Administration, has switched signals and is now refusing to appeal the judge's order. That, fears Kamlet, "is a clear signal that the ocean is once again fair game." At least two other East Coast cities have expressed interest in resuming ocean sludge dumping, instead of trucking it to expensive landfill sites. Currently, the EPA is in the process of relaxing the nation's ocean dumping regulations.

Like the air, the seas suffer from the tragedy of the commons: there is no economic incentive for we humans to protect them, because for any individual, the benefits of having a "free" dump outweigh the costs of adding to the worldwide burden of pollution—at least until that burden is so great that it poisons us all.

Given enough information about the underlying strata, a geologist can predict with fair accuracy what will happen to sewage sludge deposited on land: which layers it will penetrate and which it won't, where it will disperse and where it will collect. Beneath the deceptive surface of the ocean, there is an invisible structure as complex as any that exists underground. But with the sea, there is the added complication of constant motion.

Powerful forces layer the ocean horizontally and keep currents flowing in their channels, as if by invisible banks. Salty Mediterranean water spills out through the Strait of Gibraltar and forms giant lakes out in the middle of the Atlantic, inexplicably refusing to mix with the surrounding ocean. Particles of lead or iron at the ocean's surface are kept in suspension by gradients of temperature, density or salinity. But they don't accumulate there indefinitely, because they are eventually ingested by zooplankton and sent to the bottom mud in the form of fecal pellets. Midocean rifts, explored for the first time within the past five years, turn out to be alive with gushing hot springs that recycle the ocean's water continuously, taking some chemicals out of solution and adding others—and supporting thriving communities of sea life in self-contained food chains.

Is it any wonder—given the depths of our ignorance about the ecology of the sea—that on the crucial subject of sewage sludge, two researchers at the prestigious Woods Hole Oceanographic Institution in Cape Cod, Massachusetts, can come up with completely opposite and contradictory recommendations? John Ryther, a specialist in aquaculture, believes that the main danger from sludge is eutrophication of the bottom from its rich load of nutrients. He favors dispersing the sludge far out into the open ocean.

Ryther's colleague, Holger Jannasch, a microbiologist, recommends precisely the opposite course: diluted in the ocean, he says, the components of sludge will never reach a sufficient concentration for microbes to begin the work of decomposition. We have enough problems, Jannasch believes, without disseminating all of the intestinal viruses of New York throughout the Atlantic.

If danger threatens, we might hope that it would be signaled by the fish, which are, after all, continually sampled by the world's fishermen. But such signals are notoriously difficult to interpret. We can take pictures of anchovy schools by satellite, but overall, our baseline data on fish populations is so scanty as to be almost useless. Did the wreck of the tanker *Arrow* in the early 1979s off the Scotian shelf wipe out the herring spawning ground there? Marine biologists suspect so, but there is no way to prove it.

In the laboratory, oil deranges a wide variety of processes in almost every organism studied, but in the ocean, it has to rain dead fish before oceanographers can say for certain that an oil spill has killed anything. That is a disturbing notion to the fishermen whose livelihoods depend on the resources of Georges Bank—the 12,000-square-mile area off New England that is one of the world's most fertile commercial fisheries, and which is currently the site of increasing offshore oil exploration. A major spill at Georges Bank could be a catastrophe. What's more, Jelle Atema, a researcher at Woods Hole, has discovered an added danger from oil drilling: the sticky muds that are pumped into wells to flush out the drilling canal appear to be highly toxic to lobsters. The problem needs further study.

The plight of marine biologists has been likened to that of a naturalist who visits Minnesota in September and again in February, and then concludes that there has been a massive duck kill because he no longer sees any birds. Hundreds of square miles of the North Atlantic are regularly denuded of much of their zooplankton by quirks in the Gulf Stream. As the current meanders erratically, east of Cape Hatteras, it may make a deep loop to the south (or, more rarely, the north). If the base of a southerly loop pinches together, it forms a ring of warm Gulf Stream water circling a core of cooler water from the continental slope—a ring that may be a hundred miles wide, and that may drift off by itself for months before disintegrating in the Sargasso Sea. It carries with it all the cold-water organisms in the core, which are trapped by the warm water around them. As the ring breaks up and the core water slowly warms, the creatures die by the billions—victims of an ecological catastrophe.

In the past, we may have enormously underestimated the productive capacity of the oceans. An obscure class of photosynthetic bacteria—sometimes called picoplankton, because they contain one picogram (one trillionth of a gram) of carbon per cell—turns out to be almost omnipresent in the oceans, accounting for as much as a quarter of the sea's total biomass. Although they had been described by researchers as far back as 1965—and, in fact, had been cultured in a laboratory at Woods Hole—it was not until 1979 when a team from that institution discovered the creatures virtually filled the oceans.

Knowing so little, it was easy for us to imagine the worst. Like medieval mapmakers, we have filled the unknown void with monsters—except that ours were molecules, ugly, bristling carbon chains and rings, hydra-headed with chlorine and phosphate radicals. We could imagine them accumulating invisibly beneath the waves, parts per trillion becoming parts per billion, becoming parts per million, until the deadly threshold is crossed and the plankton, the single-celled foundation of the food chain, rebel and stop photosynthesizing. Or the culprit might be mercury, the pollutant responsible for "Minimata Disease," a hideous outbreak of posioning that struck a community of Japanese fishermen beginning in the 1950s. Mercury also was the focus of a major health scare in the United States a decade ago, during which many Americans were afraid to eat tuna.

Lead also had its prophets of doom; since man began putting it into the atmosphere (chiefly in the form of auto exhaust), the amount of lead in the oceans has increased by a factor of ten in some places, reports Clare Patterson of the California Institute of Technology. In a "cloud" of lead whose bottom boundary now extends several hundred yards below the surface, the North Atlantic registers concentrations as high as 30 to 40 parts per trillion, compared with 2 to 4 parts per trillion in the South Pacific. Patterson acknowledges that no widespread ill effects on marine life are yet apparent, but he has stopped eating oysters as a direct result of his research. He also believes that we are nearing "the borderline at which perturbations occur. We have to act now."

The monsters may well be real; it is surely too soon to tell. Almost everyone agrees that the continued accumulation of low-level synthetic organic waste in the oceans will ultimately end in disaster. But some scientists are growing less concerned about the worldwide effects of metals and naturally occurring petroleum; what impresses them is not the occurrence of Minimata Disease, but the fact that it has not manifested seriously anywhere else except in that one confined and exceptionally polluted bay. Says Derek Spencer, associate director for research at Woods Hole: "We have moved away from the view of ten years ago that the ocean is a very fragile thing."

It may be that there is room in the ocean for some of man's wastes, even within the strict requirements of the Ocean Dumping Act, which prohibits activities that "unreasonably degrade" the marine environment. Peter Anderson, head of marine and wetlands protection for the EPA's Region Two, which includes New York, gives an illustration of reasonable degradation: the dumpng of inorganic acid waste, such as ferric chloride, a byproduct of pigment production that is currently discarded off the coast of New Jersey. Seawater is a weak base, he says, so the acid is quickly neutralized. Plankton or other creatures hit directly by the acid as it comes off a barge would, of course, die, but the population quickly rebounds to fill the gap. In terms of degrading the environment, it has no more lasting impact than digging a hole in the ocean.

Nevertheless, environmentalists are alarmed, and with good reason. The long-standing EPA policy against issuing permits for ocean dumping where any feasible land-based alternatives exist may soon be altered. In drawing up new criteria for issuing dump permits, the EPA may place more emphasis on observable effects directly at the dump site, and less on hypothetical dangers to a whole ecosystem—a potentially fatal mistake when dealing with the deceptive ocean. "Some metals may be more toxic when they reach the ocean bottom than they were on the surface," says George Knauer of the Moss Landing Marine Laboratories in California. There is also concern over the possible disruptive effects of synthetic organic chemicals, such as PCBs, which may not show up for years. "Even if the oceans are very robust," notes Wayne Stobo, a fisheries expert at the Bedford Institute of Oceanography in Nova Scotia, "as you keep pumping in poisons, you'll reach a level where the oceans can't absorb them. Once you reach that crisis state, the game is obviously lost."

In deciding whether land or ocean dumping is best in a particular case, the EPA may decide to give more weight to the onshore pollution problems associated with soil and drinking water. That seems only reasonable—but it breaches an important principle: that the oceans deserve unique and totally disinterested protection. It is precisely because the sea has no one to speak for it that the federal Ocean Dumping Act was necessary in the first place.

And the law was never more necessary than today. We have done everything to the ocean except dry it up, and the lesson of history is that we would have done that, too, if there was money to be made at it. Yet in recent years, some progress has been made in protecting the seas. If we are careful and lucky, then the oceans, where all life began, may not be the place where it all ends.●

HONORING MR. LOREN M. BARNETT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. LEWIS. Mr. Speaker, on July 27 the Associated General Contractors, San Bernardino-Riverside chapter, will honor Mr. Loren M. Barnett on the occasion of his retirement from the California Department of Transportation. It is with great pleasure that I join in honoring Loren Barnett.

A native Californian and lifelong resident of Redlands, Calif., Mr. Barnett served the people of California for 41 years in the Department of Transportation and its preceding agency, the California Division of Highways.

Loren graduated as a civil engineer from the University of California in 1941. Following graduation, he began working for the division of highways in San Bernardino where he has worked until his retirement except for a 6-year term in the military.

In World War II, Loren served in the U.S. Navy from July, 1942 to May, 1946. He achieved the rank of Lieutenant Commander in the Naval Reserves. Again Loren served his country during the Korean conflict from November 1951 to November 1953.

Loren Barnett was instrumental in the construction of all major State highways in San Bernardino and Riverside Counties from 1946. He has disguised himself since 1964 as a deputy district director and assistant district engineer in district 08 of the department where he has directed the maintenance and construction activities of the district.

A leader in community activities, he has been actively involved in the civic and youth programs of his native Redlands, Calif.

Mr. Speaker, I take great pride in recognizing an outstanding public servant and community leader, Mr. Loren M. Barnett, and commend him to the House of Representatives.●

HISTORY LESSONS

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. BEREUTER. Mr. Speaker, we all want peace; no one will dispute that. But there are different ways to achieve and maintain peace. History can provide us with examples of methods that did and did not work, and recently the Sioux City, Iowa, Journal urged us to examine that history as we consider the future of the nuclear arms race.

Noting that arms control treaties have never deterred those who are determined to break them, the Journal said in an editorial entitled "History Lessons" that demands for unilateral disarmament and freezes in the West leave the Soviet Union with little incentive to bargain. The Journal then concludes that President Reagan's course of rearming while negotiating is a wise one. I have included the entire editorial in the RECORD.

[From the Sioux City Journal, June 26, 1982]

HISTORY LESSONS

History offers scant evidence for the notion that signing arms control treaties helps to keep the peace or deter aggressors. As historian Barbara Tuchman noted in a recent essay, nations bent on conquest have always found ways to evade arms limitations that constrained their ambitions.

Germany and Japan were classic examples during th 1930s. The Soviet Union behaves in a similar fashion today, cynically violating long-standing prohibitions against the use of chemical and biological weapons.

Accordingly, the arms reduction proposals put forth by the Reagan administration and reaffirmed by the president last week in his speech to the United Nations' special session on disarmament, may be doomed to failure. The Soviets may continue to reject them or, having "accepted" them, may cheat even as they are now cheating massively on the terms of the 1925 Geneva Protocol and the 1972 Biological Weapons Convention.

Even so, Reagan has good reason for pressing the Soviets hard on arms control issues. To do otherwise would be to surrender the high ground in what has become a full-blown propaganda war launched by the Soviets. Losing this war could have disastrous consequences. Among them: a further unraveling of NATO; an erosion of domestic support for rebuilding the American nuclear deterrent, and casting the Kremlin in the undeserved role of spurned peacemaker.

Then, too, there is always the possibility that resolute diplomacy backed by unquestioned military strength just might persuade the Soviets to accept and abide by a genuine arms reduction agreement. However remote that possibility, Reagan must pursue it.

He must also show he understands the growing disarmament movement in the West. If the nuclear debate in the United States becomes politically divisive, it will soon doom any chance for successful negotiations with Moscow. The Soviets will have

little incentive to bargain in good faith, much less agree to actual reductions in their nuclear arsenal, so long as Western governments are under mounting pressure to make unilateral concessions.

The tone and contents of the president's UN speech were welcome indications that he understands the need to negotiate from a position of strength with the Soviets while simultaneously reassuring at least the more thoughtful among the peace marchers in the West.

Thus, he underscored the administration's commitment to avoiding war, nuclear or conventional. But he also noted that merely signing arms control agreements that cannot be verified and are not adhered to is an exercise in building "paper castles." Exactly so.

Reagan called upon the Soviets to demonstrate their oft-proclaimed commitment to arms control and disarmament with "deeds, not words." He repeated the administration's standing offers to rid Europe of all intermediate range nuclear arsenals of both superpowers by one-third, and reduce the size of the conventional forces fielded by NATO and the Warsaw Pact.

Taken together, these proposals go far beyond those offered by any previous administration. Indeed, they far exceed the nuclear "freeze" offered by Soviet President Leonid Brezhnev and endorsed by many disarmament activists in the West.

The Soviets can prove that they too desire an end to the arms race by meeting Reagan halfway, and by permitting adequate means of verification. If they refuse, as history suggests they will, the Reagan policy of arming while negotiating will have proved an indispensable insurance policy for keeping the peace.●

WHAT OUR DEFENSE REALLY NEEDS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. SIMON. Mr. Speaker, Melvin R. Laird, the Secretary of Defense in the Nixon administration, recently had an article in the Washington Post in which he calls for serious negotiations with the Soviet Union for reductions in nuclear weapons and for greater attention to more conventional weapons.

I am placing his article in the RECORD.

[From the Washington Post, Apr. 12, 1982]

WHAT OUR DEFENSE REALLY NEEDS

(By Melvin R. Laird)

The United States must send strong, clear—and sustained—signals to the Soviet Union about our national security resolve, and that is why we need to redirect the focus on the defense budget.

If we do this, if we ensure that our nation has a realistic deterrent, we can increase strategic and conventional readiness, and avoid overwhelming "out year" expenditures that will tax congressional and public staying power.

As we face major changes in the makeup of the leadership of the Soviet Union, I am concerned about the dual problems of security in the world in which we will live and the extraordinary threat posed by nuclear weapons.

The zero nuclear policy advocated by President Reagan last fall on intermediate nuclear forces in Europe was a major start toward responsible arms control negotiations. A worldwide zero nuclear option with adequate verification should now be our goal in all arms control negotiations—the freeze-now option is dangerous.

The principal strategic needs of the United States and the West have little to do with a multiplicity of nuclear weapons systems. This is particularly true inasmuch as I am confident that our missile-firing submarines will remain invulnerable through this century. New fiber optic detective systems and other breakthroughs may make attack submarines vulnerable during this period because of the speeds they are required to travel. This is not the case with ballistic-missile-firing submarines because of their different operational requirements.

Our principal defense needs in this decade have instead to do with such requirements as the ability to keep open the sea and air links of the alliance, the ability to hold ground without resort to nuclear weapons, and the ability to project and sustain power at great distance.

The general perception of the current Defense Department and of many Americans seems different. Multiple nuclear weapons systems are accorded highest priority and are seen to be central to military strength. Nothing could be further from reality. This is a bad misconception.

The security of the United States, the Western alliance and the Free World deeply concerns me. The United States and its allies must take the lead to provide and maintain a realistic deterrent and usable military strength in the service of freedom.

In the long run, the danger of nuclear war can be averted only by serious negotiation with the Soviet Union for reductions in nuclear weapons of all kinds to zero. These weapons of mass destruction may be important for political purposes, but they are useless for military purposes. They do increase enormously the dangers of military confrontation.

Our true strategic military needs have little to do with nuclear weapons except to deter their use against us. These needs have much to do with the fact that America and its allies are a far-flung array of nations, separated by distance and by oceans. The Warsaw Pact, in contrast, dominates the heartland of Eurasia. It follows that we must be able to keep open the sea and air links that bind together the alliance, to hold ground on the borders of Europe and elsewhere, and to project and sustain power at great distance. None of these objectives requires nuclear weapons.

It is essential that we recognize and support the increased emphasis given defense in allocation of resources. But this emphasis is seriously misdirected in giving priority to nuclear weapons systems. We need instead to focus on quality people, on usable military technology, on operations and maintenance and on coherent military organization. If we are not prudent in our defense buildup, we will lay the basis for a defense let-down.●

FIRE ISLAND NATIONAL SEASHORE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. DOWNEY. Mr. Speaker, today I introduced legislation to amend the Fire Island National Seashore Act. The Fire Island National Seashore was established in 1964 to preserve and protect one of the last relatively unspoiled natural barrier islands in the Northeast for the use and enjoyment of future generations.

Fire Island is a unique resource. It is located only 50 miles from New York City and has one of the finest ocean beaches in the world. It also has magnificent dunes and spectacular maritime forests including the famous sunken Forest Preserve. Although there are bridges at either end of Fire Island, there are no roads to mar the beauties of the island. Access to most of the seashore is by ferry or footpath. Within the boundaries of the seashore are 18 scattered small heavily developed communities, primarily consisting of single-family homes and cottages and the businesses serving them and day visitors. There are about 4,500 such structures today compared with fewer them 3,000 when the seashore was established. Future growth is estimated at about 1,000 additional structures.

The act exempts private property within these communities from condemnation, with some exceptions, provided that the local authorities have in effect zoning ordinances which conform to standards promulgated by the Secretary and which are approved by him. No current local zoning ordinances have been approved by the Secretary, although three of the four zoning authorities have made the necessary amendments and the fourth one is expected to follow shortly. No new commercial use or expansion of existing ones is permitted without the approval of the Secretary of Interior. Property subject to a variance or nonconforming use loses this exemption. Since the subdivision in many communities originally was intended for modest cottages, under present zoning laws many plots are buildable only under a variance. More than one-third of the structures built since 1964 received a legal variance under New York law.

Public Law 95-625 created an ocean-front dune district to prevent any further development on the protective dune system. Owners of undeveloped property within the dune district are permitted to retain title provided the dune is kept in its natural state.

The first zoning standards were promulgated by the Secretary in 1967; the

latest revision was in September 1980. The standards contemplated low density of use to protect the environment, mostly single-family homes, and limitation of commercial uses to those serving the needs of the communities. The idea was to keep private development within bounds appropriate for a national park. Unfortunately this scheme has not been entirely successful. The high demands for vacation rentals on this most desirable island has led to the sometimes illegal conversion of single-family homes into multiple dwellings or rooming houses. Bars, discos, and hotels have been established in violation of zoning standards.

Enforcement of standards by and large has been a failure because Congress authorized condemnation as the only enforcement tool. The Secretary has no authority to obtain an injunction in Federal court. We twice have raised the authorized ceiling for land acquisitions, but annual appropriations have not been adequate. Furthermore, in these times of fiscal constraints, the National Park Service puts a low priority on using scarce land acquisition funds for enforcement. A Federal court has criticized this scheme as follows:

> In their justifiable frustration plaintiffs have sought relief from the courts but it is clear that only Congress can provide the remedy . . . nevertheless, precatory though our words must necessarily be, we cannot help but urge those with the power and authority to preserve this gem of an island to halt their procrastination and get on with the urgent business of saving this charming and fragile outpost of nature before the encroachment of haphazard development irrevocably despoil it. (*Biderman* v. *Morton*, 497 F.2d at page 1148-49).

This bill offers a way out of the dilemma. It is one which will cost the taxpayer little or nothing. It is one which avoids retiring from private use expensive property with little or no public value. It also is more flexible and respectful of private property owners.

It is important to emphasize that the broad powers the Secretary now has and the additional powers this bill would grant are intended to be used only in instances when the municipalities are unable or unwilling to enforce the zoning standards. The principle of home rule in this area is primary. The Secretary's powers are a "court of last resort."

It is intended that the Secretary shall use the powers given to him only in cases of gross violations which degrade the character of the communities or which threaten the natural resources which the Seashore was established to protect. The Seashore now has a land acquisition plan that takes into account these fine distinctions. Congress cannot take on the burden of enforcing the Secretary's zoning regulations or making judgments on individual instances. But we can provide a better and more cost-efficient mechanism than now exists.

This bill does two things: It allows the Secretary to sell acquired property with a covenant for a conforming use and to retain the proceeds for future enforcement action. It also gives the Secretary the option of applying to the U.S. district court for an injunction against the nonconforming use pending the condemnation. These are not "new" powers. What is new is the way in which they are being applied.

The "turn-around" provision, acquiring a nonconforming property and selling it for a conforming use, has been in the Lands and Waters Conservation Act. It has not been used in the Seashore because the proceeds from such sales do not go back in the Seashore but into the general fund. This bill would establish a "revolving fund" to put proceeds of the sales right back into the Seashore only for the purposes of implementing the act.

One reason the deterrent has not been effective is that the safeguards Congress has built into land acquisition procedures to protect the interests of private property owners have a built-in time delay. Where development pressures are as great as they are at Fire Island, these put the property owner who is determined to violate the standards in a "no risk" situation and the Government in a "no win" situation, which guarantees a loss to the taxpayers.

Testimony before the House Appropriations Subcommittee on Interior and Related Agencies, March 17, 1980, documented a number of recent instances in which building in violation of standards was carried on even after the Secretary had initiated use of his condemnation powers. Before the required proceedings had been completed, the Government was faced with paying fair market value for a developed or partially developed tract instead of for vacant land. The National Park Service then either backed away from the whole situation or expended hundreds of thousands of dollars needlessly.

The provision to permit the Secretary to apply for an injunction will give him the ability to act swiftly to prevent such exploitation. It does not confiscate property rights because at the end of this procedure one of two things happens: either the property owner is paid fair market value for his property, or he decides to use it in conformity with the zoning standards. If the property is acquired, this bill provides for the "turn-around" and the ability to use appropriated funds similarly for future potential violations.

This is not exactly a "free lunch" proposal. There will be some costs. But it does protect both the public interest in preserving the island and the Public Treasury. It also is more equitable for private property owners than what we now have and will allay the concerns some Fire Islanders have expressed in the past about the Seashore's acquisition and condemnation policies.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fire Island National Seashore Amendments Act of 1982".

SEC. 2. Section 2 of the Act entitled "An Act to establish the Fire Island National Seashore, and for other purposes", approved September 11, 1964 (16 U.S.C. 459e-1), is amended by adding at the end the following new subsections:

"(h)(1)(A) The Secretary shall sell any property described in subparagraph (B) of this paragraph acquired by condemnation under this Act—

"(i) to the highest bidder;

"(ii) at not less than the fair market value; and

"(iii) subject to covenants or other restrictions that will ensure that the use of such property conforms to the standards specified in regulations issued under section 3(a) of this Act which are in effect at the time of such sale and to any approved zoning ordinance or amendment thereof to which such property is subject.

"(B) The property referred to in subparagraph (A) of this paragraph is any property within the boundaries of the national seashore as delineated on the map mentioned in section 1 except—

"(i) property within the Dune District referred to in subsection (g) of this section;

"(ii) beach or waters and adjoining land within the exempt communities referred to in the first sentence of subsection (e) of this section; and

"(iii) property within the eight-mile area described in the second sentence of subsection (e) of this section.

"(2) Notwithstanding any other provision of law, all moneys received from sales under paragraph (1) of this subsection may be retained and shall be available to the Secretary, without further appropriation, only for purposes of acquiring property under this Act.

"(i)(1) Upon or after the commencement of any action for condemnation with respect to any property under this Act, the Secretary, through the Attorney General of the United States, may apply to the United States District Court for the Eastern District of New York for a temporary restraining order or injunction to prevent any use of, or construction upon, such property that—

"(A) fails, or would result in a failure of such property, to conform to the standards specified in regulations issued under section 3(a) of this Act in effect at the time such use or construction began; or

"(B) in the case of undeveloped tracts in the Dune District referred to in subsection (g) of this section, would result in such undeveloped property not being maintained in its natural state.

"(2) Any temporary restraining order or injunction issued pursuant to such an application shall terminate on the date the United States acquires title to such property or, if such proceedings are terminated without the United States acquiring title to such property, on the date of such termination.".

SEC. 3. Section 3(e) of the Act entitled "An Act to establish the Fire Island National

Seashore, and for other purposes", approved September 11, 1964 (16 U.S.C. 459e-2(e)), is amended to read as follows:

"(e) If any property, including improved property but excluding undeveloped property in the Dune District referred to in section 2(g) of this Act, with respect to which the Secretary's authority to acquire by condemnation has been suspended under this Act—

"(1) is, after the date of the enactment of the Fire Island National Seashore Amendments Act of 1982, made the subject of a variance under, or becomes for any reason an exception to, any applicable zoning ordinance approved under this section; and

"(2) such variance or exception results, or will result, in such property being used in a manner that fails to conform to any applicable standard contained in regulations of the Secretary issued pursuant to this section and in effect at the time such variance or exception took effect;

then the suspension of the Secretary's authority to acquire such property by condemnation shall automatically cease.".●

EDWINA PADGETT HONORED FOR HEROIC ACT

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. GIBBONS. Mr. Speaker, on July 28, the American Automobile Association will present seven young people the highest award given to members of school safety patrols throughout the United States, the AAA School Safety Patrol Lifesaving Medal.

The seven recipients, credited with having saved a life while on duty at their school patrol posts, will be honored at special ceremonies during AAA Day at the World's Fair in Knoxville, Tenn.

This year's medal recipients will join a list of 249 youths from 28 States and the District of Columbia who have been honored since the program began in 1949.

AAA has sponsored school safety patrols nationwide since 1922. Today the program includes more than 1 million children at 50,000 schools throughout the country.

One of the recipients of the 1982 award is from my district. She is Edwina Padgett, 10, of Tampa, Fla.

Edwina will be honored for her quick action and heroic act. In September 1981, after only 10 days on duty with the school safety patrol, she entered the street and pulled a 6-year-old from the path of an automobile that proceeded through a red light.

Edwina should be recognized for her exceptional judgment and courage in a dangerous traffic situation.●

MOUNT ST. HELENS BILL WIDELY SUPPORTED

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. BONKER. Mr. Speaker, the House of Representatives soon will consider H.R. 6530, legislation to create the Mount St. Helens National Volcanic Area.

The most important thing Congress can do for communities around Mount St. Helens is act quickly to turn the mountain into a new research, recreational, and economic base.

H.R. 6530 will establish a 115,000-acre protective area, to be managed by the Forest Service. Scientific research and traditional recreational opportunities, such as hiking, fishing, and hunting, will be given priority in management of the area.

The legislation is a carefully considered compromise, based on extensive hearings and input from the scientific community, timber interests, and conservationists.

The entire Washington State House delegation has cosponsored H.R. 6530, an impressive display of bipartisan support.

Our starting point was not an easy one. Small mills in southwest Washington and Oregon had advocated a 40,000-acre volcanic area; Gov. John Spellman, Republican, had endorsed a 113,000-acre plan; scientists offered a 155,000-acre protective area and environmentalists rallied around a 216,000-acre national monument proposal.

The compromise encompasses the top priorities of scientists and environmentalists, while preserving the timber base so important to southwest Washington and Oregon.

The work of all parties involved—forest products interests, scientists, environmentalists, and area residents—has been nothing less than admirable.

I submit letters of support for House passage of H.R. 6530 by Burlington Northern, Inc., Weyerhaeuser Co., the American Institute of Biological Sciences, the former Ecology Program Director of the National Science Foundation, Sierra Club, Wilderness Society, and Audubon Society be place in the RECORD at this point.

BURLINGTON NORTHERN INC.,
Seattle, Wash., July 9, 1982.

Hon. DON BONKER,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BONKER: I would like to take this opportunity to thank you for your efforts regarding H.R. 6530 which would establish the Mount St. Helens Volcanic Area.

Burlington Northern supports the designation of these lands as a volcanic area to preserve its unique scientific and educational value. As you know, we have already indicated our support by announcing our intent to donate certain lands around the crater and at Spirit Lake for inclusion in the proposed Volcanic Area.

Because we hold other lands within the proposed Volcanic Area, Burlington Northern also supports those provisions of the bill which provide for U.S. Forest Service acquisition of lands and interests within the Volcanic Area through a legislated exchange. We believe this provision will expedite the development of the Volcanic Area, and by consolidating ownership of these lands under the Forest Service it will provide for more effective management of the Volcanic Area.

While Burlington Northern has not taken a position with regard to specific boundaries contained in H.R. 6530, we would like to commend both you and sponsors of the Senate bill for making every effort to fairly balance the interests of those who have called for both smaller and larger boundaries. As you know, we have made a one time offer to open those lands that we will exchange into for open bidding to help offset concerns surfaced by some national forest timber purchasers.

Given the diverse and often competing interests, involved in this bill's process, it is phenomenal that you and your colleagues have developed a consensus bill in such a short period of time. In many respects this legislation goes a long way toward meeting the needs of all who have expressed interest in the proposed Volcanic Area.

Sincerely,

RICHARD M. BRESSLER,
Chairman and Chief Executive Officer.

WEYERHAEUSER CO.,
Tacoma, Wash., July 15, 1982.

Hon. DON BONKER,
Cannon HOB,
Washington, D.C.

DEAR CONGRESSMAN BONKER: Weyerhaeuser is supportive of Mount St. Helens legislation that will establish a volcanic area set aside for recreation and scientific study that also provides for flood control and protection of the downstream communities. We support Forest Service management of that area and thought the original proposal of 84,700 acres was adequate for these purposes.

As the largest private landowner in the area, one of our principal concerns has always been adequate provisions for the fair and timely exchange of our land and timber inside the proposed boundaries for U.S. Forest Service land and timber outside that boundary. We are pleased with the exchange provisions contained in House Bill 6530 and believe they reflect a fair and equitable arrangement that should be reflected in the final bill.

We believe the Washington State Congressional delegation has done an admirable job of pulling the divergent interests involved in this issue together and producing legislative proposals acceptable to all parties involved, as well as the general public.

We hope this bi-partisan spirit of compromise will enable speedy passage of House legislation on Mount St. Helens.

Regards,

J. WILKINSON,
Vice President.

AMERICAN INSTITUTE
OF BIOLOGICAL SCIENCES,
Arlington, Va., June 22, 1982.

Hon. DON BONKER,
Cannon House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE BONKER: The major eruption of Mount St. Helens in the Gifford Pinchot National Forest in southwestern Washington provides an excellent opportunity for the scientific investigation of the effects of volcanic activity. The AIBS, a consortium of 38 scientific societies in the biological sciences is extremely pleased to learn that legislation has been introduced to establish a volcanic area for scientific studies. We would like to express our support for the bill which you have introduced in the House, particularly since your proposed legislation provides for the untouched areas necessary for biological investigation.

Because of this eruption, biologists have an unusual opportunity to study a wide variety of important phenomena, including recolonization strategies, tests of island biogeography, ecological succession and physiological stress. Many studies are already in progress and we wish to emphasize the importance of biological as well as geological research in this area. Biological research projects require adequate control areas, and therefore we are pleased to see that your proposal would include land not directly and obviously affected by the volcanic eruption.

Please let me know if we can be of any assistance to you in securing support for your bill.

Sincerely yours,
ARTHUR C. GENTILE,
Executive Director.

GEORGE MASON UNIVERSITY,
Fairfax, Va., July 1, 1982.

Hon. DON BONKER,
434 Cannon House Office Building,
Washington, D.C.

DEAR SIR: This letter is written to support the establishment of a National Monument at Mount St. Helens, Washington.

For two years I served as Ecology Program Director at the National Science Foundation and during that time I had the responsibility of funding and overseeing ecological research on the mountain. It was my privilege to interact with dozens of environmental scientists throughout the Pacific Northwest and to tour the volcanic site on two occasions, both on the ground and by helicopter. Because this major eruption and its devastation to nearly 200 square miles of pristine forests provided a once-in-a-lifetime opportunity for unique research, NSF and other agencies, federal and state, have quite properly supported millions of dollars of research projects. It cannot be stated too many times that the Mount St. Helens eruption in May 1980 continues to provide an exceptional opportunity for biological and ecological research—natural recovery of major forest ecosystems, effects of volcanic ash and debris on wildlife, potential devastations of insects and the like.

The ecological research projects on Mount St. Helens have necessarily embraced large experimental areas. For these projects to be meaningful to the scientific community, they require equally large control areas, namely unaffected contiguous forests at different levels, slopes, climates, and the like.

I, therefore, wholeheartedly support the concept of a National Volcanic Monument for research and your compromise bill to include at least 115,000 acres in the Monument.

Sincerely yours,
DAVID W. JOHNSTON,
Professor of Biology.

SIERRA CLUB,
Washington, D.C., July 9, 1982.

Hon. DON BONKER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BONKER: We have reviewed the legislation which you have introduced to designate Mount St. Helens as a National Volcanic Area, H.R. 6530.

We believe it takes the proper approach by protecting the geologic and ecological features of the area in a comprehensive manner. Its requirements that the U.S. Forest Service manage the volcanic area primarily for natural succession is a key provision to insuring that the volcano remains a living laboratory for future generations of citizens and scientists. The bill includes important provisions insuring recreational and visitor access. For these reasons we support the passage of H.R. 6530.

Your bill represents a method of protection of many of the key areas surrounding the volcanic cone itself. While we are disappointed other areas of scientific and technological importance were not included, we urge you to seek passage of this bill through the House of Representatives.

We wish to thank you for your leadership role you have taken on this issue and hope to work with you in the future in protecting this national treasure.

Sincerely,
TIM MAHONEY,
Washington Representative.

THE WILDERNESS SOCIETY,
Washington, D.C., June 25, 1982.

Hon. DON BONKER,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE BONKER: I would like to express The Wilderness Society's strong support for H.R. 6530, a bill to establish a 115,000-acre protective area around Mount St. Helens.

Although we originally testified in favor of, and would like to have seen a 216,000-acre area around this unique resource protected (H.R. 5787), we feel that H.R. 6530 has struck an acceptable balance. Some important areas will not receive the level of protection we would prefer. The 115,000-acre proposal does go quite far, however, in protecting areas of foremost importance for scientific research, watershed protection, fish, wildlife and recreation which were excluded from the original protective area proposed by the U.S. Forest Service.

We appreciate and commend your continued diligence and hard work on this measure and look forward to the passage of H.R. 6530.

Sincerely yours,
CHARLES M. CLUSEN,
Conservation Director.

NATIONAL AUDUBON SOCIETY,
Washington, D.C., July 9, 1982.

Hon. DON BONKER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BONKER: The National Audubon Society strongly supports H.R. 6530, to create a 115,000 acre Mount St. Helens National Volcanic Area. We commend you and your colleagues in the Washington delegation for cosponsoring this legislation and assisting it through the legislative process.

While the area enclosed by the boundaries of H.R. 6530 do omit some specific areas of scientific importance that we had sought to incorporate within it, nevertheless, the legislation does give full and adequate protection to the most important and valuable places from a scientific and recreational standpoint. If the legislation passes in this form, the whole American people will be able for years to come to study and enjoy an area unique in our country, an area which includes superlative stands of remaining untouched virgin forests of giant trees as well as the awesome displays of the power of volcanism, an area which protects habitat for rare and endangered species of wildlife as well as spectacular examples of mud flow and blow down so important to students of geology.

We will certainly do everything in our power to work with you to assure the passage of H.R. 6530 in its present form, without amendments, and hope to persuade the Senate to recede to the House's version of this important legislation. If the legislation passes, it will be a great credit not only to our state, but a benefit to the entire nation. Many thanks again to you and your colleagues for your outstanding efforts to give to the American people a beautiful and spectacular piece of our American earth, safe forever.

Sincerely,
BROCK EVANS,
Vice President for National Issues.●

THE ROLE OF THE PRIVATE SECTOR

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. GREEN. Mr. Speaker, I would like to bring to the attention of my colleagues an article which was written by my constituent, Gerald Schwartz, and which appeared in the June issue of the newsletter of the Public Relations Society of America. Like many of us in the Congress who are concerned about the continuation of vital social service, health, research, and arts programs, Mr. Schwartz poses the question of how far corporations can go in "picking up the slack" left by the reduction in funds available from the Federal Government, and with the role which corporations might play in the future. This article points to some new partnerships which I thought might be of interest to my colleagues.

The article follows:

CORPORATE PROFITS AND THE PUBLIC INTEREST

(By Gerald S. Schwartz)

Few will argue that corporate America is under increasing pressure to pick up the slack made evident by Federal cutbacks in social, cultural and educational programs.

How far corporate America is expected to go is the underlying question. And what is the fine line between the fictional society depicted in "Atlas Shrugged," by Ayn Rand, in which each produced according to ability

and each was provided for according to need—and the emerging industrial society of the 1920s in which the public could be damned?

In 1980, American corporations gave away about $2.7 billion out of $550 billion profits. That amounts to a little more than one half percent for the arts, charities, education, religion, and various social programs. The tax laws have allowed corporations to donate up to five percent of pre-tax profits and deduct the amount. But according to the Council of Financial Education, only one-third of nearly 1.5 million companies make any philanthropic contributions.

The Conference Board recently released a survey showing that many corporations are reluctant to increase their contributions to social, cultural and educational programs. The survey raised a good question: What is corporate America's role in the '80s—a decade brought to reality by overspending of previous years?

One executive, who asked for anonymity, was far from enthusiastic. "We didn't start these programs and we shouldn't be responsible for their continuation if Federal money is not available."

Other corporations have made news with their contributions to philanthropic projects. Some months ago, Merrill Lynch, Pierce, Fenner & Smith announced it was contributing $300,000 to the Metropolitan Opera—the first time in 99 years that the Met had obtained corporate support for its annual spring tour.

Yale University recently signed a $1.1 million contract with Celanese Corporation to conduct research on enzymes. Yale gets the patents and salaries for four doctoral students. It joins Harvard, MIT, Stanford, and other institutions that are doing industry-subsidized research where, in many cases, both the corporation and the institution benefit.

This year, the government is increasing tax deductions to ten percent. The doubling is supposed to be an incentive from the government to corporations in the hope that business will help close the gap created by the Administration's cutbacks.

Other tax laws have been changed that will affect the relationship between business and society. These include corporate deductions for child care which could have the same dramatic impact on the work culture that similar post-World War II changes in tax laws governing employee health benefits and retirement benefits had.

It seems that society is indeed straddling the fine line between defining corporate profits and the public interest. The 1980s remain wide open for answering these difficult questions.●

EDITORIAL OPINION: FLAT RATE TAX

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. BEREUTER. Mr. Speaker, I would like to share with my colleagues an opinion expressed by the Lincoln Journal concerning the flat-rate tax proposals. As expressed in the article, the idea of a simpler tax system is certainly attractive; yet, we should be certain to explore the many facts of each proposal before making any decision.

I am a cosponsor of H.R. 5868, a bill which directs the Secretary of the Treasury to conduct a study regarding the replacement of the current individual and corporate income taxes with such a flat-rate structure.

I request permission that the editorial be reprinted in the RECORD.

A FLAT-RATE TAX? MAYBE

[From the Lincoln Journal]

At their recent midterm conference in Philadelphia, organizational Democrats supported the snowballing idea of junking the present individual Federal Income Tax Code and replacing it with a flat-rate national income tax. This is an approach that's been pushed by certain tax theorists for years.

In this enterprise, liberal Democrats have curious companions, indeed. Several of the more celebrated banner wavers of the political Far Right are keen on the flat-rate income tax, too. Bill Bradley and Jesse Helms, arm in arm? Wow!

Even President Reagan Tuesday conceded a flat-rate income tax looks "very tempting" to him.

Already, Nebraska's congressional delegation is starting to receive letters from constituents casting opinion ballots for the radical change.

The first sampling suggests many see the reform as a simple, effective answer to what has been a very complicated problem—the horrendously formidable Federal Income Tax Code.

Yet that very rationale encourages caution. There always are simple answers to perplexing, mosaic-streak issues. They also almost always turn out to be either wrong or aggravating.

The flat-rate tax proposals floated by different groups are not quite such simple devices as applying a single percentage tax rate to all income. Almost instantly come calls for qualifications, conditions, exceptions, et cetera.

By way of illustration, the flat-rate plan which the Democrats in Philadelphia liked would continue to exempt the lowest income from any tax liability and, according to "Congressional Quarterly", would not do away with the "more popular" tax deductions, such as the tax write-off for home mortgage interest (Jimmy Carter broke one of his lances on that rock.)

Democrats also tilt toward adding a surtax which would be progressive for the higher incomed. But a flat-rate tax designed by hard-shell fiscal conservatives certainly would be without any surtax feature. Better the existing loopholes.

This Nation's great institutions and activities which depend upon tax-exempt gifts—churches, schools, hospitals, foundations, etc.—could be expected to oppose ending of exemptions which pump their vital fluids.

That, however, could be creatively accommodated, by the way a flat-rate tax is structured. One approach could be an extra tax for any person who fails to give 5 percent of his or her income annually to charity, or the other way around, a tax credit for one who can prove his or her charity.

Enthusiasm for the flat-rate tax springs from the frightful difficulty inherent in the current tax code. It's just too complicated. A system so forbiddingly difficult erodes taxpayer confidence.

More, it fosters tax evasion and tax avoidance. It stimulates business mergers which make little economic sense and almost none at all socially. It fertilizes the tax shelter, draining away millions from the productive sector to the unproductive.

Those are some of the larger considerations which sprinkle appeal on the flat-rate tax idea just now, as well as a few of the considerations which make congressional adoption problematical.

The Journal concludes with an opinion that basic models of different flat-rate tax proposals should be developed for public inspection. There ought to be projections made on how the shift would affect the national economy as well as individuals at current different income brackets.

The idea of an easier-to-comprehend tax system, with comparable equity, is automatically attractive. How it might work warrants exploration. Surely there's nothing to be lost by browsing.●

EPA AND NOAA MINORITY VIEWS

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. WINN. Mr. Speaker, the legislative reports for the EPA and NOAA annual authorizations, H.R. 6323 and H.R. 6324, were filed with minority views. However, because of time constraints they were signed only by myself and my colleague, Mr. CARNEY. Following is a list of those members of the committee who support these views. For the benefit of my colleagues I am also including the minority views themselves.

EPA views—Messrs. GOLDWATER, WALKER, FORSYTHE, SENSENBRENNER, SKEEN, DUNN, and LOWERY.

NOAA views—Messrs. GOLDWATER, FISH, WALKER, FORSYTHE, SENSENBRENNER, SKEEN, and LOWERY.

MINORITY VIEWS—ENVIRONMENTAL PROTECTION AGENCY AUTHORIZATION BILL

The Minority members of the Science and Technology Committee find it necessary to oppose the Committee's authorization bill for the Environmental Protection Agency due to the 5 percent increased level of funding, the request for a two year authorization, and particularly the highly restrictive language included in sections 2(d)(3) and the entire section 6 of the bill amending the Science Advisory Board (SAB).

The Environmental Protection Agency has enjoyed bipartisan support in the Congress since its inception under a Republican administration. That same bipartisan concern and support for environmental protection exists in this Congress today. However, the Democrats' approach to the current fiscal reality varies quite drastically from ours. In an era of fiscal restraints, it is much easier for opponents of the Administration to arbitrarily establish budget levels at unrealistically higher figures than the Administration requests rather than try to develop budgets within current economic constraints. Under such a scenario, the Majority, by setting higher levels, implies that bigger is better. The Minority, on the other hand, contends that more dollars in the EPA R&D budget does not equate directly to more useful products, to more effective

environmental regulations, or even to a safer environment for Americans.

This Committee has continually scrutinized the EPA R&D program and has witnessed in the past that increased funding has often not produced higher quality research. To respond, once more, by substantially increasing funding brings forth a question as to the merits of such a business-as-usual attitude.

Despite our desire to remain within the Administration's budget request of $215.9 million, the need to protect programs which this Committee has repeatedly expressed concern over led us to offer an alternative EPA budget of $222.9 million.

We take great issue with the increase of $24 million proposed by the Majority in Energy Research. The President's proposal for energy control technology reflects the philosophy that the private sector can be expected to undertake final development and commercialization of control equipment. This major market has been created by the issuance of air quality standards. EPA will continue to evaluate the reliability and effectiveness of control technologies. The proposed addition of $9.0 million by the Majority perpetuates a belief that the government is more qualified than private industry to conduct these developments. The Minority does not support this thesis.

We also disagree with the increases this bill calls for in the energy monitoring research program. The Agency's budget consolidates such research into the non-energy programs at an estimated budget of $31 million. Finally, EPA's proposed reduction in energy ecological effects research is based on the successful completion of significant research in mining and reclamation and offshore oil and gas drilling. Therefore, we find the increases proposed by the Majority to be unnecessary and inappropriate.

The Minority wishes to express strenuous objection to the language contained in this legislation which represents a totally unwarranted attempt by the Majority to improperly limit the authority of the Administrator to transfer and to efficiently manage the agency. This attempt at micromanagement by the Committee Majority could remove essential management authority and flexibility from the Administrator and will inevitably result in less effective management, reduce efficiency, and substantially increase paperwork. Such heavy handed attempts to impose ridiculous and unnecessary constraints merely because members of the Majority do not approve of the current Administrator's management style must be rejected.

Finally, Section 6 of the bill which amends the enabling statute under which the Science Advisory Board was created, is both unnecessary and redundant to provisions contained in this Committee's authorization bill of 1978 in which specific guidelines were provided for establishment of the SAB.

In conclusion, the Minority continues to support the bipartisan efforts to maintain a sound environmental program and supports the Administration's efforts to restore economic stability to our nation.

The preceding views are signed only by the Ranking Republican of the Full Committee and Subcommittee because of the time constraints imposed by the Committee on filing the legislative report. Rule XI, cl. 2 of the House rules specifies that three legislative days will be provided for this purpose. The Committee-imposed deadline was 12 hours after bill passage. In an attempt to meet that deadline, we have decided not to route these views for the signatures of other members who are certain to support this position.

MINORITY VIEWS—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION BILL

The Minority Members of the Science and Technology Committee reluctantly find it necessary to oppose the Committee bill, as amended, due to the request for a two year authorization imposing a 6 percent increase in spending for fiscal year 1984, the reinstatement of a second polar orbiter the additional paperwork and reporting requirements in sections 203 and 204, and for the establishment of a new Great Lakes Office clearly ignoring existing programs and offices within NOAA which could achieve the same goal.

Despite our differences, however, there is much agreement on both sides of the aisle on the vast majority of the research and development programs of NOAA. Specific areas of agreement include marine ecosystem research and analysis, the importance and necessity for a strong ocean pollution and ocean dumping research program, basic atmospheric and climatic research, and the weather service functions of NOAA. The alternative budget, offered by the Minority, supported these programs which the Majority and Minority agree on and did so at a level of increased yet reasonable funding.

The Majority's amendment to the bill displays an attempt to reduce a previous unacceptable funding level, yet the Minority still regards the level proposed as too high. We regard our alternative budget, at a level of $16.5M above the NOAA request, to be a much more realistic approach to current fiscal realities. It is clear to us, and the American public, that this nation is struggling in its emergence from severe and deep economic troubles that have plagued us since the 1930's. Increased federal spending, at a level suggested by the Majority, would be counterproductive to the efforts to restore vitality and sustained growth to the economy.

The changes made in the Administration's budget by the Minority affect four line items. First, an addition of $8,833,000 was made for three directorates: (1) $5.5 million for ocean dumping research; (2) $2.8 million for the reinstatement of the Great Lakes Environmental Research Laboratory; and (3) $.5 million for a NOAA/EPA joint cross-media sewage sludge study. Secondly, an addition of $6,000,000 was made for Weather Services/Supporting Research to provide for the continued procurement of NEXRAD, to restore $1 million to the Space Environmental Laboratory, to reinstate the Agricultural Weather Service Program Fruit Frost Forecast Program, and Fire Weather Program, and finally, $2.0 million for the reinstatement of 45 weather stations. Thirdly, the increases in Atmospheric Research totalled $1,750,000 to be applied to the First Global Atmospheric Research Program ($.5 million), the World Climate Research Program ($.5 million), and $.75 million for basic research in other severe storms program under the Weather Modification category. The final and fourth line item change was a request for an increase of $120,000 in user fees for the Environmental Data and Information Services.

It is not an easy task to make cuts in the National Atmospheric and Oceanic Administration; the Minority is unanimous in its support for NOAA's mandate. What the Minority Members wish to emphasize is the overriding importance of supporting the Administration's funding levels as a means to national recovery through fiscal responsibility.

The preceding views are signed only by the Ranking Republican of the Full Committee and Subcommittee because of the time constraints imposed by the Committee on filing the legislative report. Rule XI, cl. 2 of the House rules specifies that three legislative days will be provided for this purpose. The Committee-imposed deadline was 12 hours after bill passage. In an attempt to meet that deadline, we have decided not to route these views for the signatures of other members who are certain to support this position.

LARRY WINN, JR.
WILLIAM CARNEY.●

DO SANCTIONS DETER AGGRESSION?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. MICHEL. Mr. Speaker, it has been said that true power is shown not in striking hard or in striking often but in striking accurately. Nowhere is this more true than in the case of trying to deter aggressive behavior on the part of the Soviet Union through the use of selective unilateral sanctions.

There is a considerable body of evidence that such a move, no matter how deeply it is rooted in the motivations and rhetoric of principled anti-Soviet policy, just may not work. And if it does not work, it not only misses the target—it actually hurts the United States.

Recently, on July 14, 1982, the Wall Street Journal published three articles, all of which offer evidence that sanctions do not work. At this point I wish to place in the record these articles: "U.S. Effort to Block Soviet Gas Pipeline Recalls Failed Embargo of 20 Years Ago"; "Can Economic Sanctions Deter Aggression?"; and "Norway's Gas Reserves and the Soviet Pipeline."

CAN ECONOMIC SANCTIONS DETER AGGRESSION?

(By Adam Meyerson)

Are economic sanctions against the Soviet Union a useful instrument of foreign policy? That question is the subject of growing debate within the Western alliance, particularly now that President Reagan has decided to try to block European licensees of U.S. companies from exporting technology for the Siberian gas pipeline.

A historical study on "Economic Sanctions," just published by Harvard University's Center for International Affairs, may help sort out some of the issues. The author, Robin Renwick, was head of the Rhodesia Department in the British Foreign Office from 1978 to 1980, and is therefore familiar with the most sustained and systematic international effort to apply economic sanctions for a political purpose—the British and United Nations sanctions

against Rhodesia from 1965 to 1979. His book focuses on the Rhodesian sanctions and on the League of Nations sanctions against Italy in 1935-36, and looks briefly at the U.S. embargo against Cuba under Fidel Castro, economic warfare against the Germans in World Wars I and II and the cutoff of U.S. strategic exports to Japan half a year before Pearl Harbor.

Mr. Renwick concludes that economic penalties alone haven't been effective in deterring aggression or fundamentally changing the political conduct of states. The decisions by 50 members of the League of Nations to cut off all imports from Italy, and to ban arms shipments to Italy as well as all credits and loans to the Italian government, did not stop Mussolini's army from conquering Ethiopia. The U.S. embargo against Castro cut off the traditional market for three-quarters of Cuba's exports, and denied spare parts for most of the island's plant and equipment, but it did not reverse Castro's expropriation policy or his efforts to export revolution in Latin America. It was a debilitating civil war in the late 1970s, not sanctions, that brought negotiations for majority rule to Rhodesia.

But Mr. Renwick argues that economic sanctions can inflict economic damage on the target country. Over the eight-month course of the League of Nations sanctions, the value of Italy's exports fell by 35% and the resulting foreign-exchange constraints forced Italy to do without nonessential imports; in addition, the lira was devalued by 40%. From 1965 to 1968 Rhodesia's tobacco farmers—the core of political support for Ian Smith's white-rule regime—lost two-thirds of their income; sugar growers were similarly hit. In 1966, Rhodesia's exports and imports each dropped by about a third; and throughout the 14-year sanctions period, the country was unable to attract much foreign investment or gain access to the world's major capital markets.

In neither the Italian nor the Rhodesian case, however, was the economic damage severe. Mr. Renwick asserts that the average Italian hardly noticed the effects of sanctions, particularly not by comparison with the Depression, from which Italy was then emerging. He estimates that in 1966, Rhodesia's national income declined at most by 5 percent. From 1966 to 1974, moreover, Rhodesia's gross domestic product rose in real terms by 6 percent per year, one of the world's highest growth rates. The end of this growth in the mid-1970s was due more to war and high oil prices than to sanctions.

In both examples, sanctions were partially undemined by offical and unofficial noncomplicance. The U.S., Germany, Austria, Switzerland and Hungary refused to join the sanctions against Italy, South Africa, Portugal and its African colonies and the United States which from 1971 to 1977 allowed the import of Rhodesian chrome—on the grounds that the only other source was the Soviet Union—didn't go along with the Rhodesia sanctions. Through unofficial circumvention, moreover, Mr. Renwick asserts that Rhodesian products found their way to the Soviet Union, Eastern Europe and virtually all OECD countries.

Sanctions are often conceived as a "bloodless substitue for war." but Mr. Renwick suggests it is impossible to make sanctions effective without being prepared to use military power. Mussolini reportedly told Hitler that he would have been unable to conquer Ethiopia if the League of Nations had embargoed oil shipments to Italy. The French, however, were afraid an oil embargo might drive Italy into an alliance with Germany, and the British feared it might lead to a war.

Mr. Renwick also suggests that sanctions are a double-edged sword. He argues that the sharp reduction in Rhodesian trade hurt Zambia and Mozambique more than it hurt Rhodesia. The Britain, froze all Rhodesian sterling assets in Britain, but the Rhodesians retaliated by defaulting on payment of their considerably larger sterling debts, and also by blocking remittances on investment income.

Mr. Renwick does not directly address such issues as credit subsidies or technology transfers, except to say that bans on the supply of arms or high technology "are easier to operate than attempts at wider economic embargoes." He argues that sanctions may serve useful propaganda purposes in mobilizing world opinion and that they can modestly "weaken the country to which they are applied." But, he cautions, "more claims should not be made for a sanctions policy."

Norway's Gas Reserves and the Soviet Pipeline

(By Per Egil Hegge)

An innocuous sentence in President Reagan's press conference June 30 didn't make it into most American papers, but it did create a stir in Norway. Answering a question about possible additional steps to force America's European allies to go along with the embargo to block export of pipeline equipment to the Soviet Union, the president said:

"We offered to help them (the allies) with a source of energy closer to home, Norway and the Netherlands, and gas fields that apparently have a potential that could meet their needs. We weren't able to get that agreement."

It so happened that a fair number of prominent Norwegian parliamentarians were in the U.S. at the time, attending the U.N. session on disarmament, and watched Mr. Reagan on television. While not exactly screaming bloody murder, they were terse and rather sharp in their comments. The former prime minister, Mrs. Gro Harlem Brundtland, now leader of the opposition, criticized Mr. Reagan for implying something in the nature of jurisdiction by the United States over the energy reserves of two sovereign nations—Norway and the Netherlands.

Public criticism in Norway was even stronger in some quarters, with the left wing complaining that the president had openly attacked or reprimanded the Norwegians for lack of solidarity and will to cooperate. The American Embassy in Oslo pointed out that nothing of the kind could or should be read into the statement, and said that the President was referring to exchanges of views that had been going on among the allies since the industrialized countries summit meeting in Ottawa last July.

But even the political leaders in the Norwegian department of oil and energy said they were somewhat surprised at the president's words. They pointed out that during the exchanges, which they describe as swaps of information rather than of views, they have emphasized that the gas reserves under the North Sea and the Norwegian Sea off Arctic Norway cannot be developed before the start of the 1990s at the earliest.

This, according to the Norwegians, is due to several factors: First, exploration has hardly begun; second, building transportation facilities, whether in the form of LNG terminals or pipelines, possibly from Northern Norway through Sweden and on to the continent, is time-consuming, and third, there are the very important political considerations with regard to Norway's national economy.

When Norway found itself obliged to develop an oil policy just over a decade ago, the overriding aim was to go slow so that only a measured amount of money would be pumped into the economy of a nation of four million people. Also, it was decided that Norway's geographic population pattern should be preserved.

To Americans, used to economic expansion on the fast track and to geographic mobility, this may seem to be going against nature. But Norway's three northernmost counties cover an area the size of Belgium, the Netherlands and Denmark combined, and they have less than 400,000 people. (The three European countries have more than 20 million.) And the northernmost county, Finnmark, with 80,000 people, has a 122-mile common border with the Soviet Union.

Keeping the population in these areas is extremely important in terms of national security, as Norway's defenses are based on calling up local reserves in an emergency. And as for going against nature: A winter in Arctic Norway is an unforgettable experience—and a very long one, too.

Americans tend to blame the Norwegians for an unduly virginal attitude to the oil bonanza. At the time of the energy crisis in 1974, one American in Oslo remarked: "You are the funniest people I know. The world is screaming for oil, and you have it. And you walk around wringing your hands, complaining about the problems it will bring you, and wishing that it would somehow go away."

The basis for President Reagan's words at his press conference seems to be a study by a consulting firm in Geneva, commissioned by the U.S. Department of Defense and presented on March 24. The study, titled "Alternative Strategies to Gas in Western Europe," deals in great detail with known and probable gas reserves under the North Sea and the Norwegian Sea. Its policy recommendations, from which the U.S. government has publicly dissociated itself, include attempts at exerting pressure on Norway and the Netherlands to get them to accelerate the development of their gas fields, to make this gas a viable and attractive alternative to imported gas from the Soviet Union via the Siberian-Western European pipeline currently in the works.

In the study, Norway's energy policy is described as "intensely nationalistic," even compared to other Scandinavian countries. For the reasons mentioned above, it is hard to fault that description, and for the same reasons, Mr. Reagan's use of the words "we offered to help" was perceived by many Norwegians as especially grating.

The latest exchange of views on this subject between the U.S. and Norway took place in Oslo June 21 and 22, when Richard Perle, assistant secretary of defense for international security policy, met with the minister for oil and energy, Vidkun Hveding, and the minister's deputy, Hans-Henrik Ramm.

In several interviews in Norway, Mr. Perle pointed out that for the Norwegians to proceed at their leisurely pace might expose them to two risks:

There may be no market for their gas when it does come on line in the 1990s be-

cause of the downward projections for gas demand, and the Soviets might manipulate their price so as to squeeze the Norwegians out of the market even if there is one. His answer to the objection that the Soviets will be able to market their gas in Western Europe long before the Norwegians anyway, even if the Norwegians were to give up their policy of deliberately slow development, runs as follows: The Soviet pipeline, originally planned to start deliveries in late 1984, will be considerably delayed because of the American embargo and because of endemic Soviet administrative problems. And then we are talking about the late 1980s, maybe even the early 1990s.

While both Norwegian and American officials deny that any kind of pressure has been brought to bear, the difference of opinion goes to the core of the present dispute between the U.S. and Western Europe: What strategy should the countries of the Western Alliance follow in their dealings with the Soviet Union?

Here, the Norwegian conservative government, while less critical of the U.S. than its Labor predecessor, is sticking to a policy very close to that of the West German Social Democratic leader, Helmut Schmidt. It's a more realistic version of the original Nixon-Kissinger detente concept: Economic cooperation with the Soviets is mutually beneficial and contributes to stability—and may even bring some political spinoffs. But it is not a case of Great Expectations so much as the thin hope that something might turn up, and, despite the differences, of sticking with Our Mutual Friend. Who happens to be Mr. Reagan—even when he chooses his words with less than immaculate care.

U.S. Effort To Block Soviet Gas Pipeline Recalls Failed Embargo of 20 Years Ago

(By Steve Murson)

"Trade denial has come to be an important symbol of our cold war resolve and purpose, and of our moral disapproval of the U.S.S.R.," wrote a presidential aide.

These words weren't written about the Reagan administration embargo of natural-gas pipeline equipment to the Soviet Union in the aftermath of the military crackdown in Poland. They were written 19 years ago by John F. Kennedy aide Walt Whitman Rostow about an almost identical U.S. embargo of equipment for a Soviet oil pipeline in the aftermath of the Cuban missile crisis.

All but forgotten in the U.S., the pipe embargo of 1962-1963 remains a sore point for West Germans eager for trade with the Soviet Union. Western experts on Soviet trade argue the Reagan administration could learn much from the pipeline battle 20 years ago. They also say the outcome of the current fight (if the Reagan administration persists) will probably be the same: some construction delay, but ultimately completion of the project, a political victory for the Soviets and a setback for the unity of the Western alliance.

The American embargo two decades ago remains freshest for the West Germans, who were the only ones to go along with U.S. efforts then. "The Germans keep coming back to this (earlier incident)," says Angela Stent, Georgetown University professor and author of "From Embargo to Ostpolitik," and book about West German-Soviet relations. "They were the only country to go along with the (1980) Olympic boycott as well. They aren't going to be in the position again of forfeiting business while their competitors and allies go ahead."

The U.S. decision to embargo large-diameter steel pipes to the U.S.S.R. in 1962 was a response to growing European trade with Russia and to concern about increasing Russian oil exports, according to Miss Stent.

Soviet plans at the time called for an increase in oil exports to the West to more than a million barrels a day, from a 1960 level of 486,000 barrles a day. Even the increased level was just 4 percent of world oil sales. About 40 percent of the Soviet oil exports went to Italy, Japan and West Germany.

AN EARLIER CONTRACT

West Germany was attracted to the pipeline project as much for prospective steel exports to stop the slide in steel prices as for oil availability. On Oct. 5, 1962, three major Ruhr steel companies signed contracts to supply the U.S.S.R. with $28 million of 40-inch diameter steel pipe.

American officials cried out against the plans. "Economic warfare is especially well adapted to their (Soviet) aims of world-wide conquest," concluded Sen. Kenneth Keating's subcommittee after hearings on Soviet oil. "They are using oil to buy valuable machinery and know-how from the West. They have even succeeded in exchanging oil for the pipelines, valves and tankers. . . . If these tactics continue to succeed, there is danger that Western countries will become increasingly dependent on Soviet oil supplies for vital defense as well as industrial activities."

Oil companies also denounced the project. They charged that the Soviet Union was dumping oil, selling it to Germany at a price of $1.71 a barrel, well below world market prices of $2.56 a barrel, according to Miss Stent.

Unable to muster complete allied support for a formal Western embargo, the U.S. obtained an informal North Atlantic Treaty Organization resolution opposing the pipeline. Highly sensitive to U.S. pressure, the West German government agreed to comply with the resolution and barred the three steel companies from fulfilling their contracts. In the domestic political uproar that followed, the ruling West German coalition was brought to the brink of collapse after it used the heavy-handed tactic of walking out of a meeting of the Bundestag, thus depriving the parliamentary body of a quorum and of the chance to vote down the proposed sanctions.

The three German companies slashed their operations in the wake of the sanctions. The Soviet Union sued the firms. And West German-Soviet trade dropped sharply.

OTHER ALLIES WENT AHEAD

Other allies weren't so easily deterred. The British deemed the NATO resolution non-binding and continued to supply large-diameter pipe to the Russians. The Italians interpreted the resolution as not applying retroactively and fulfilled existing contracts. Japan and Sweden also continued to supply the Soviet Union.

The embargo stimulated increased Soviet production of large-diameter pipes, albeit at the expense of other Soviet industrial goods. The Soviet pipe was also somewhat inferior in quality to Western pipe. In 1961 the U.S.S.R. produced no 40-inch diameter pipe; by 1965 it was producing 600,000 tons a year.

Soviet leader Nikita S. Khrushchev ridiculed the American embargo. "Anything one pleases can be regarded as strategic material, even a button, because it can be sewn onto a soldier's pants. A soldier won't wear pants without buttons, since otherwise he would have to hold them up with his hands. And then what can he do with his weapon? But if buttons really had such great importance and we couldn't find any substitute for them, then I am sure that our soldiers would even learn to keep their pants up with their teeth, so that their hands would be free to hold weapons."

In the end the pipeline was finished, though slightly late. Soviet oil exports increased as planned. Miss Stent concludes in her book that "the chief result was a general irritation both in East-West relations and in relations between the United States and its allies."

"It's obviously comparable," she says. Like the Soviet oil pipeline, the current Soviet natural-gas pipeline will contribute relatively small amounts of Europe's total energy needs. The U.S. is again hinging its embargo effort on one crucial item—compressors—instead of large pipe, and trying to enforce the embargo on European firms retroactively.

EUROPE MORE OUTSPOKEN TODAY

One important difference today is that Europe is more galvanized in its opposition to the U.S. efforts. "The Germans don't play the same role, but America is showing its allies that it doesn't like East-West trade policy," says Miss Stent. "The Russians are reacting in the exact same way: Their national virility is being salted. It is inducing them to develop their own capacity."

Another difference today is that some U.S. officials and conservative commentators are focusing their criticism on the credit arrangements through which the Soviet Union is financing the pipeline. They say that some Western governments are subsidizing credit that Moscow wouldn't be able to raise on a free market. Such credit, they say, will indirectly help the Soviets build other segments of their economy or military. Proponents of the pipeline project reply, however, that the Soviet Union will, in effect, pay for those credit subsidies through lower gas prices.

Miss Stent plays down U.S. arguments of potential security threats posed by energy dependence on the Soviet Union. "Some of that dependence already exists. Besides there are other areas, such as Berlin, where the Soviet Union can put pressure on without sacrificing earnings." Furthermore, she adds, "it is in the security interests of Europeans to diversify sources of supply. The Soviet Union is as attractive as Libya or Algeria."

"Yes, the embargo will hurt them," argues John Hardt, Library of Congress analyst, about the Soviet Union. "The pipeline, like the one in 1962, will be more costly, take more time, be of less quality. But the Soviet Union will offset the efficiencies it would have gained by making different priorities."

"We've created new opportunities for the Soviets," says Ed Hewitt, Soviet Union expert at the Brookings Institution. "They'd like to come out with some diplomatic coup, an agreement with Europe directly contrary to the wishes of the U.S. government. If they can come off with a visible, highly publicized agreement (to replace embargoed U.S. equipment), that would be worth something to them."●

TO HELP A BOY

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. DASCHLE. Mr. Speaker, the July 11, 1982, issue of Parade, a Sunday supplement news magazine, contained an article entitled "To Help a Boy," describing the work done by the Sky Ranch in Buffalo, S. Dak. The Sky Ranch, in the 20 years it has been in operation, has served as a model of what caring, innovative people can do to protect and preserve our most important natural resource, our young people. I request permission that the article be reprinted in its entirety, and I urge my colleagues to read it, and take its message to heart. It is nice to know that there are still people who care, and, more importantly, have the ability and determination to do something about the troubled youth of this country.

TO HELP A BOY

Sioux warriors once taught their children to grow strong on the high plains of the Dakotas. The landscape has changed little since the days of Sitting Bull, and children still learn to survive in the bleak terrain. But today the children come from far away, and for a special purpose. They are delinquents who have been sent to Sky Ranch in Buffalo, S.D.

To probation officers and social workers, the Spartan regimen of the Harding County ranch offers the possibility of motivating boys labeled "incorrigible." To the boys, aged 10 to 18, the ranch offers an opportunity not only to straighten out their lives but also to prove themselves—to test their courage and ability by flying an airplane.

"It takes a great deal of responsibility to solo out a plane, to take it up and bring it down safely," says Father Dale Kutil, the Catholic priest who runs Sky Ranch. "That's a happy young man when he does that."

Chances are that when a boy arrives at the ranch, he is far from a happy young man. Sky Ranch takes in boys who have been in trouble with their school or with the law. A panel of four at the ranch, including a clinical psychologist, chooses the boys. And during the 20 years since it was founded, Sky Ranch has taken boys from every state except Hawaii.

When Thomas Economus arrived at the ranch in 1970, he was 13 years old and already a street-tough kid from Chicago with a record of truancy at school and run-ins with the police.

"I was a regular rotten hell-raiser," recalls Economus, now 25. "They took me off the street and gave me a second chance. I left a very, very bad environment and got a new start."

The program at Sky ranch has always been keyed to earning privileges, by doing well at school and by good conduct. The ultimate privilege is flying a plane, and for a boy to get the opportunity, he must prove himself through a series of merit classifications, from Thunderbird to Skyhawk to Falcon to Eagle. "Not all the boys want to fly—and they don't have to—but we encourage it," Father Kutil says.

Thomas Economus did not choose to fly, but his brother, David, did. David, who spent four years at Sky Ranch, recalls the first time he was handed the flight controls: "I was up with the flight instructor, and he says, 'Take over.' And I say, 'What?' And he repeats his order, 'Take over.' I was really scared, but I did it."

David Economus, now 23, says flying was crucial to his therapy, "Flying did something for you. If I was back home, I might he sitting in jail, and here I was flying," he says. "I had a bad temper when I was a kid. Now I can control it. Learning the controls of an airplane shows you. If I can fly a plane, I can do just about anything."

David and Thomas Economus are Sky Ranch success stories. David graduated from high school in South Dakota and returned to Chicago, where he now works as a boiler engineer in a hospital. Thomas graduated from college and worked at an advertising agency in Chicago after he left Sky Ranch. He recently moved to Washington, D.C., as a salesman for a book publishing company.

Thomas recalls that when he left the ranch, he was a completely different person. "Sky Ranch taught me how to respect people, how to love people and how to adjust to living in society," he observes.

Father Kutil says the ranch keeps track of graduates and has achieved a high rate of success. "The boys who come here have low self-esteem," he says. "We give them an image of self-worth here. We teach them to give respect and to get respect."

The ranch offers almost one-to-one contact between the staff and the boys. Up to 40 boys stay at the ranch at any one time, and the staff usually numbers 36. The school at the ranch is accredited for special education, but it cannot give a diploma. However, the ranch operates a halfway house in Sturgis, 100 miles away, which has a high school nearby.

On the grounds of the 300-acre ranch are a hangar, an airfield and two small planes. Its 12 buildings include the school and a rodeo arena. And among the staff of teachers and counselors is a flight instructor to shepherd the student pilots.

Flying was a necessity for the priest who founded Sky Ranch. Father Don Murray's parish included six churches scattered over 300 miles around Buffalo. Murray would say mass seven times each Sunday, flying from one church to the next. This feat earned him the nickname "The Flying Parde."

The growth of Sky Ranch from one small dormitory to its current size would not have been possible without an unusual partnership between Father Murray and the liquor industry. During the last 20 years, the industry—through the nonprofit Sky Ranch Foundation—has contributed more than $4 million to buy land, maintain the ranch and keep it growing. Last year, the Miller Brewing Co., placed canisters in more than 35,000 taverns around the country, with all proceeds going to the ranch.

Father Murray was killed in a plane crash in October 1975. One boy from Sky Ranch, a passenger, also was killed; two other boys survived the accident. One survivor was David Economus, who says he walked out of the plane seconds after it crashed.

Father Kutil, who took over for Father Murray, is unable to fly because of medical problems, but the ranch still offers boys the chance to take control of a plane—and their lives.●

YELLOW RAIN

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. GINGRICH. Mr. Speaker, I would like to draw the following article to my colleagues' attention:

[From the Wall Street Journal, June 17, 1982]

A PATHOLOGIST'S ANALYSIS OF YELLOW RAIN

(By Bernard M. Wagner, M.D.)

As a result of reports received since 1975, the State Department has concluded that "lethal chemical agents" have been used by Communist forces in Afghanistan and Laos. Further, the State Department notes that the Russians possess such agents and were responsible for their use in Vietnam as well as using them themselves in Afghanistan. The central question concerns the nature of the evidence.

In clinical medicine, decision making frequently depends on "soft" evidence. Population studies, anecdotal reports, deviations from normal, morbidity and mortality statistics and careful evaluation of clinical data all play a role in defining the presence of disease in a community. We teach medical students and resident physicians that the correct diagnosis of a viral infection is either isolation of the virus or demonstrating the host response to the virus. Yet, in practical terms, the diagnosis and treatment of most viral infections proceed without this kind of information.

USED AGAINST PRO-U.S. TRIBES

Population field studies began with the reports by the Hmong tribes of Laos. The tribesmen participated in support of the U.S. against Communist forces in the mountains of central and northern Laos. Hmong refugees streaming into Thailand told of "poison rains" usually yellow but also red, green and blue. The clinical symptoms usually included skin irritation, dizziness, nausea, hematemesis (bloody vomiting) and melena (bloody stools). Individual cases reported a variety of other symptoms, some quite bizarre. However, the Hmong people have multiple dietary and nutritional deficiencies which may modify their response to external poisons. Also, the toxic materials could have been variable in their composition.

The U.S. Government in mid-1981 began to test samples from Southeast Asia for the presence of toxins. In August 1981, high levels and combinations of tricothecene toxins were detected in samples of foliage from a village in Cambodia. The sample was from a village that had been attacked by aircraft exploding containers of the brightly colored toxins in the air. Exposed natives developed toxic symptoms and many reportedly died. Samples obtained in the following months from other villages under attack both in Cambodia and in Laos yielded similar results. Finally, blood samples from victims of a chemical attack revealed tricothecene toxins.

On March 22, 1982, Special Report No. 82, titled "Chemical Warfare in Southeast Asia and Afghanistan." was delivered to Congress by Secretary of State Alexander Haig Jr. This detailed document provided the evidence to establish the fact that chemical toxins, derived from fungi, were used as a form of biological warfare. Tricothecenes

are potent, lethal toxins produced by molds growing on a variety of grains. Known as mycotoxins, they have been a health problem for humans and animals in many parts of the world.

The accumulated data, after careful review and scientific scrutiny, lead to one conclusion: Chemical and biological warfare is being conducted by the Soviet Union in Southeast Asia and Afghanistan. What does the civilized world do next?

We need an intensive research effort on the mechanisms of toxicity produced by tricothecenes. This effort must be guided by the assumption: "What if American troops and civilians were exposed to these toxins?" One could take the position that this is a problem for the United Nations or NATO or some other multinational organization. After all, it's not happening to us. This may not be true.

Since February 1981, the U.S. Department of Health and Human Services' Center for Disease Control has been notified of 38 cases of sudden death among Southeast Asian refugees in various parts of the U.S. The highest number of cases was in California. All these sudden deaths were investigated by medical examiners or coroners. Certain common features emerged from the clinical and postmortem studies.

All except one of these refugees were men and all apparently died during sleep. The majority of the deaths, 87%, occurred in Hmong natives from Laos. Available information indicated that they had been in the U.S. from five days to 52 months (average six months) before death. The families of 34 refugees who died were interviewed and this information added to the medical reports.

In this group, 29 deaths were witnessed and occurred between 9:30 p.m. and 7:00 a.m.; 28 persons appeared to be asleep and one was just falling asleep. All were apparently in good health and none had complained of symptoms before going to bed. Witnesses were alerted by unusual respiratory sounds or by a brief groan. All victims were unresponsive when discovered. Paramedical personnel documented ventricular fibrillation in two cases but were unable to resuscitate them.

To date, the results of autopsies and routine toxicology studies have not identified a cause of death in 30 of the 36 cases reviewed by pathologists. A review of nocturnal deaths in young males (20-39 years of age) in an age-matched American population and a statistical analysis of death rates in Laos was done. The estimated rate of sudden, unexpected, nocturnal death among Laotian men ages 25-44 is equal to the sum of the rates of the four major causes of death among U.S. males of the same ages.

Detailed study of all data available suggests that the refugee deaths in the U.S. constitute a distinct syndrome. The syndrome may be defined as follows: Sudden, unexpected deaths without antecedent symptoms occurring during sleep at night in Laotian males who were either from areas where toxin attacks had taken place or who could reasonably be assumed to have passed through such areas in their flight from Southeast Asia.

Given our limited knowledge concerning the effects of tricothecenes in humans, we cannot exclude the possibility that the deaths were indeed related to toxin exposure. Those natives caught in the yellow-rain attacks inhaled the toxins, absorbed them through the skin and probably ingested them as contaminants.

There is serious scientific speculation concerning the potential cardiac toxicity of tricothecene when ingested in small amounts over long periods. The direct effect of those toxins and certain of their metabolities directly on heart muscle is already established. It may be necessary to revise some of our current thinking in cardiology as it concerns primary heart muscle disease. Known as cardiomyopathy, there is one type referred to as "beer-drinkers' cardiomyopathy" and thought to be associated with cobalt toxicity. As the toxic actions of mycotoxins become better understood, it now seems possible that "beer-drinkers' cardiomyopathy" may have resulted from contamination with tricothecene toxins.

Mycotoxins are soluble in fats and may be released slowly in the body from "fat depots." There are highly sensitive analytical methods available for the detection of these toxins in body fluids and extracts of tissues. We need to apply sophisticated techniques to microscopic tissue sections in attempting to elucidate the puzzling syndrome of sudden death experienced by the Hmong refugees in the U.S.

ACHIEVING GOAL WITHOUT NUKES

It is clear that the world-wide scientific community must intensify its research efforts concerning the enormous hazard to mankind posed by these lethal toxins.

The threat of limited, controlled, biological warfare is, at least for me, on a scale with nuclear war. With toxins having both acute and delayed effects, an aggressor can achieve his ends without the problems posed by nuclear blasts. Besides, toxins can be delivered in an insidious, almost undetectable manner defying even late recognition of the act. I am convinced that, until proven otherwise, the syndrome described is related to biological warfare.

The current outcry by civilized peoples against nuclear weapons with a demand that they be outlawed must also extend to chemical/biological warfare. Our government, along with all other nations, must find a way to pressure the Soviet Union and its clients into halting this activity. Until then, prudence dictates that we formulate policies to safeguard populations at risk.

(Dr. Wagner is director of laboratories at Overlook Hospital, Summit, N.J., clinical professor of pathology at Columbia University College of physicians and Surgeons and president of the U.S.-Canadian division of the International Academy of Pathology.)●

H.R. 6738: CWIP IN UTILITY RATE BASE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. COLLINS of Texas. Mr. Speaker, I introduced legislation yesterday that would amend section 111(d) of the Public Utility Regulatory Policies Act (PURPA) to require State public utility commissions to consider the advisability of including construction work in progress (CWIP) in the rate base of electric utilities. The financial crisis facing the electric utility industry is of such severity that public attention needs to be focused on regulatory and legislative actions that could benefit ratepayers by stabilizing utilities' financial health. I am convinced through inclusion of CWIP in the rate base, the vicious circle can be broken where high risk creates low earnings quality that leads to power companies paying the highest interest rates which hurts ratepayers.

AFUDC AND CWIP

To understand the CWIP issue, a brief review of relevant utility regulatory policy is necessary. Traditionally, it has been assumed that ratepayers should not pay for a utility plant until it becomes used and useful—that is, until the plant actually provides service. Accordingly, utility commissions have allowed construction costs into the utility rate base only when a plant begins service. Prior to the online date, construction costs, and debt service on funds borrowed to finance construction are usually credited to the company's assets in an account referred to as allowance for funds used during construction (AFUDC), which is a paper asset only. No revenue is earned on these assets until PUC's (or FERC) allow them in the rate base when the plant commences service.

Because of falling utility bond ratings, long construction lead times, and the high cost of capital, significant support has been found for allowing utilities to include a portion of the costs of construction in rate base, referred to as construction work in progress (CWIP). CWIP in rate base allows utilities to increase their internally generated cash, thus reducing their demand for expensive capital in the market, which in turn benefits ratepayers. The ability of utilities to finance their construction through methods other than expensive borrowed funds increases the likelihood that companies will make needed investment to maintain reliability and that customer rates will be lower.

CURRENT FERC POLICLY

There are two kinds of utility rate bases: That devoted to FERC-regulated service and that devoted to intrastate service that is regulated by State utility commissions. The policy of the Federal Power Commission, FERC's predecessor, prior to 1976 was to admit no CWIP in the FERC-regulated rate base. In 1976, three conditions were specified by the Commission under which CWIP might be granted: First, construction of pollution control facilities; second, conversion from oil or gas to another fuel; and, third, severe financial distress which might be alleviated through admission of CWIP to the rate base.

The General Accounting Office (GAO) criticized the Commission's CWIP policy as being "vague and general" in a 1980 report. (See "Construction Work In Progress Needs Improved Regulatory Response for Utilities and Consumers." Comptroller General of the United States, Washington, D.C., June 23, 1980, EMD-80-

75.) In response to this criticism, the Commission issued a notice of proposed rulemaking during the summer of 1981 that would reform and clarify FERC's criteria for allowing CWIP in rate base. Under the proposed rule, a utility must have a BBB or lower Standard & Poor's bond rating or a BAA or lower rating from Moody's. Further, a company must show that its CWIP to be used in FERC-regulated services and currently excluded from the rate base is in excess of 40 percent of its FERC-regulated rate base. If both criteria are satisfied, the company could include an amount of FERC-regulated CWIP in its rate base so as to reduce the amount excluded to 40 percent of the FERC-regulated rate base.

States vary in their allowance of CWIP in rate base; 15 States allow no CWIP under any conditions in 1980, compared to 21 in 1978. More State PUC's will doubtless allow some CWIP as the utility financial crisis worsens. States admit CWIP under differing circumstances. For example, Florida, Illinois, Iowa, New Jersey, Nevada, Oklahoma, and Washington allow CWIP based on the facts and circumstances of each case. The District of Columbia allows CWIP for pollution control only. Of course, PUC's usually admit only a portion of CWIP, usually an amount much less than requested by the applying utility. The Texas PUC allows CWIP, but makes a determination about the amount at each application, depending on the facts of the case.

NEED FOR CWIP IN RATE BASE

Utility regulatory policy shoud seek to stabilize utilities' financial condition such that companies can finance construction programs that will provide a reliable power supply at the lowest possible cost to ratepayers. One of the most expensive ways to finance construction today is to borrow money in the capital markets. Utilities, already in poor financial shape, must pay the highest rates for borrowed money. Thus, there is a vicious circle wherein low utility earnings quality requires utilities to pay the highest interest rates for borrowed money which in turn causes stock prices to fall, often below book; this leads to bonds being downgraded with the end result that the combination of low prices and quality discourages investment.

Unless broken, this cycle will repeat until the utility industry is so financially shaken that FERC Chairman C. M. "Mike" Butler's warning that utilities could be eventually nationalized begins to seem more threatening. Including CWIP in rate base could help break this downward financial spiral by helping utilities become less dependent on external financing in the capital markets. This is particularly crucial as utilities are forecast to have to invest over $100 billion in plant and equipment by 1985. Rates do not offer much hope of relief. From 1970 to 1980, the price of electricity rose less than 4 percent annually in real terms. This compares to 9 to 16 percent annual price increases for natural gas, coal, and oil prices. In their present financial condition, utilities' ability to raise enough capital and ratepayers to afford it is highly questionable. CWIP is an excellent source of internal capital generation to be used to finance essential construction programs.

Mr. Charles Benore, of Paine Webber Mitchell Hutchins, suggests several tests of financial integrity against which the financial health electric utility industry can be judged. Mr. Benore suggests that a financially sound company generates cash flow to construction of at least 50 percent. In 1981, utilities were only at 34 percent. He suggests the common equity ratio should be at least 40 percent. The utility industry was only at 37 percent between 1976 and 1980. Benore says profitability should be at least 18 percent. Utility profitability, as measured by return on average common stock equity, was 12.6 percent in 1981 and only 11.3 percent for the period from 1976 to 1980. This compares to the 1981 inflation rate of 10.3 percent. Finally, Benore suggests the pretax earnings to debt interest coverage of a healthy company should be at least four times. The industry could manage only a 2.5 ratio in 1981. In short, the electric utility industry flunked all the tests that measure financial health.

According to a Congressional Research Service study prepared at the request of the Energy Conservation and Power Subcommittee, "the heart of the rationale for inclusion of CWIP in the rate base" is the need to rescue utilities from being condemned to pay high interest rates to finance construciton. (See "Construction Work In Progress in Electric Base Rate," Committee Print 97-FF, Energy and Commerce Committee, June 1982.) Internal cash generation for construction through CWIP is critical in this regard.

Another strong argument documenting the need for CWIP in rate base is that, according to FERC Chairman Butler, "* * * current utility regulation discourages them (utilities) from making capital expenditures that would ultimately result in lower costs and, therefore, lower prices to consumers." (See testimony before Energy Conservation and Power Subcommittee, April 23, 1982.) Utilities must be able to earn at least their cost of capital, which is not happening under current regulation. As Butler pointed out in his April 23 testimony, investments in even cost-effective plants such as coal-fired generation "have too often become, for existing utility investors, exercises in assured losses." This unattractiveness of investment which prejudices utilities against necessary current construction may adversely affect the cost of producing electricity by 1990. (See Energy Information Administration, "Impact of Financial Constraints On the Electric Utility Industry, 1981.") CWIP in rate base would alleviate some of this investment disincentive which may impact future power cost and reliability.

Utility regulation should not create a bias for or against capital investment. There is a strong case to be made that inclusion of CWIP in rate base will aid utilities to avoid unnecessary investment. Chairman Mike Butler spoke to this issue in the April 23, 1982 hearing of our Energy Committee.

On the consumption side, inclusion of CWIP in rate base may provide price signals that permit utilities to form a more accurate assessment of their long run demand curves and thus help them to avoid unneeded investment. This possibility arises from three basic facts. First, utilities must make plant investment decisions long before the plant will begin to produce electricity. Second, the price of electricity will be significantly higher when a plant comes on line than at the time the investment decision is made. This is true not only because of the general effect of inflation but also because the widespread use of historic costs in utility rate regulation means that the price being paid for electricity today probably does not equal even the current cost of additional supply, much less its cost in the future. Third, the difference between present and future prices is increased by the exclusion of CWIP from rate base, because its exclusion both makes current prices lower and future prices higher. It seems to me that two conclusions may follow from these propositions. The first is that utilities face an inescapably difficult problem as they seek to decide whether investment in additional capacity is justified, since they can only observe current demand while the need for additional capacity depends on the future demand that will exist in the face of higher prices. The second possible conclusion is that the danger of investing in unneeded future capacity might be reduced if CWIP were included in rate base.

PURPA AMENDMENT

Congress should not take sides on hotly contested regulatory issues such as CWIP in the rate base. To establish a tacit Federal presumption against CWIP would remove the flexibility of FERC to formulate a policy that could be applied with discretion to different cases and shifting economic conditions. Congress is not equipped to become involved in the nuts and bolts of utility regulation.

My legislation, H.R. 6738, would amend section 111(d) of PURPA to require State utility commissions to consider the appropriateness of including CWIP in the rate base of their jurisdictional utilities. State PUC's know their utilities' regulatory situations best and should have discretion with regard to CWIP. At the Federal level, the FERC should proceed in a deliberate fashion in its CWIP rulemaking.

The rationale for amending PURPA is that the need for CWIP in rate base is so important that PUC's should give it serious consideration in generic hearings. PUC's should provide the public with a complete explanation of their decision whether or not to include CWIP in rate base.

PURPA, among other things, requires State PUC's to consider the adoption of various ratemaking standards and make public their reasons for agreeing or failing to adopt them. These standards include declining block rates, time-of-day rates, lifeline rates, load-management techniques, cost of service, and interruptible rates, among others. As these standards are designed to benefit the ratepayer, so the consideration of the adoption of CWIP in rate base is a standard the adoption of which could present significant ratepayer benefits. Ultimately, however, the decision should be left to the regulators on a case-by-case basis.

The financial crisis of electric utilities requires immediate legislative and regulatory responses that benefit both the industry and ratepayers. I hope serious thought will be given to the issue of including construction work in progress in rate base. A copy of H.R. 6738 is provided below:

H.R. 6738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111(d) of the Public Utility Regulatory Policies Act of 1978 is amended by adding the following new paragraph at the end thereof:

"(7) CONSTRUCTION WORK IN PROGRESS.—The cost of construction work in progress shall be included in the rate base for the purposes of establishing electric utility rates.".

(b)(1) Section 112(b) is amended by striking out "Not" in each place it appears in paragraphs (1) and (2) and substituting "Except as provided in paragraph (3), not".

(2) Section 112(b) is amended by adding the following new paragraph at the end thereof:

"(3) In applying paragraphs (1) and (2) in the case of the standard established under paragraph (7) of section 111(d), the date of the enactment of this paragraph shall be substituted for the date of the enactment of this Act.".●

LEBANON

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. BEREUTER. Mr. Speaker, the recent events in Lebanon, no matter what we may think of them, have if nothing else created a new political landscape in the Middle East. This new situation creates both new opportunities and new dangers for the United States.

Philip Geyelin recently noted in a column appearing in the Washington Post that the opportunity has arisen for a fresh round of negotiations on the future of the Palestinians but that to be successful such negotiations will require new initiatives on all sides, including the United States. I have had excerpts from that column included in the RECORD.

The article follows:

BUT WHAT LIES AHEAD?

According to the you-have-to-break-eggs-to-make-an-omelet school of thought, as practiced by Israel and applauded by the likes of Irving Kristol, the solution to the Palestine problem is simple. First you crack the PLO wide open, pulverizing Lebanon in passing. Then you somehow herd the hapless, stateless, widely scattered, former Palestinian Arabs in the general direction of the Hashemite Kingdom of Jordan.

What's urgently needed is a fresh start at the beginning of the road: renewed negotiations on some variation of Camp David's experiment with "full autonomy" on the West Bank.

In this, the Arab moderates, even the Europeans, can help. But first you need Egypt. President Hosni Mubarak has promising ideas about how to exploit the "new condition" of the PLO by promoting a political Palestinian government-in-exile in Cairo composed of "moderates" prepared for reciprocal recognition and negotiation with Israel. You also need an Israel whose West Bank policy and performance convey a readiness to reciprocate and negotiate.

But for that you need an American administration strong enough to stand up to Israel. Only then can the United States hope to restore the influence it will need on the Arab side—the leverage lost in the smoke and thunder of American-supplied weapons in Lebanon—to make the most of "new" conditions in the Middle East.

"PAY AS YOU GO" VERSUS BALANCED BUDGET AMENDMENT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. MILLER of California. Mr. Speaker, a large number of the Members of the House has voted in favor of a sound, workable program to balance the Federal budget by 1985—the "pay as you go" budget alternative which I offered. It is of considerable interest to note that 80 percent of the Democratic Members of this body who voted that day voted for the "pay as you go" balanced budget plan, which according to the Congressional Budget Office would result in a $27.5 billion surplus by 1985.

By comparison, the Congress passed, with the full blessings of the administration, a budget which will add a quarter trillion dollars to the debt in only 3 years, and that will result in a $60 billion deficit even in 1985.

We continue to hear that a balanced budget amendment is the only way to end reliance on the deficit. The fact is that were a balanced budget amendment in the Constitution today, we would simply be in violation of the Constitution.

The proposed amendment is an expression of the viewpoint we all feel: we should reduce the deficit and balance the budget. But the amendment provides absolutely no idea how to achieve that goal. It sets out no program or process. As a result, the amendment is really just a symbol.

We need more than symbols to end reliance on the deficit, high interest rates, and economic stagnation. The "pay as you go" plan, as those who supported it recognized, provided a workable and equitable method for actually achieving a balanced budget: hold spending to current levels, and require offsetting, equivalent savings or new revenues to pay for all new spending.

Let us subject all new spending to this same process, and let us find out just what this Congress really is committed to support.

Let us stop trying to deceive the American people by marching around in lock step, singing a chorus of "Balance the Budget" while continuing to vote for reckless spending and endless reliance on the deficit. I am willing to submit the programs I support to that test. So were 80 percent of the Democrats. Unfortunately, over 98 percent of the Republicans in the House who voted on the balanced budget "pay as you go" plan failed the test and voted instead for big deficits.

So, I would caution voters to be very skeptical of those Members who vote for the goal of a balanced budget in the form of an amendment, but who voted against the "pay as you go" means of achieving it. A balanced budget amendment without "pay as you go" budget-making is meaningless; with a "pay as you go" budget, a constitutional amendment is totally unnecessary.

The Oakland Tribune, one of the leading newspapers in California, editorialized on this subject earlier this week. I would like to share that editorial with my colleagues.

A BUDGET NOSTRUM

If words could balance budgets, the federal government would have no fiscal problems. Not since the days of Herbert Hoover has Washington seen a president so quick as Ronald Reagan to denounce the evils of deficit spending.

But when it comes to the federal budget, words are useful mostly as disguises. Had balancing the budget been as simple as railing against deficits, the deed would already have been done. Alas, none of the president's stern denunciations of federal red ink have kept him from becoming the champion deficit maker of American history, with deficits of $100 billion-plus for this year and next.

Nor would the words of the balanced-budget amendment to the Constitution, now being debated in the Senate, have saved the

president from himself. This amendment, warmly embraced yesterday by Reagan, would require Congress to adopt a balanced budget each fiscal year, except in wartime or when three-fifths of Congress votes for a deficit.

The president submitted a budget this year with a projected $121 billion deficit not because he loves deficits—all evidence points to the contrary—but because he hates taxes more.

His budget could have been balanced, but only at the cost of jettisoning his tax cuts, his plan to build up the military and his promise to protect the Social Security benefits of current pensioners. A balanced-budget amendment would have changed nothing, because no government looking out for the good of the country would have drastically raised taxes in the middle of a painful recession. This year three-fifths of Congress would have voted for a deficit.

Had the amendment been in effect this year, though, a budget compromise would have been much more difficult to achieve.

Under the amendment, a shifting minority of 41 percent of the members of Congress would have been in a position to sabotage any budget worked out by the majority. The Democrats in the Senate could have blocked the third year of the tax cut. The opponents of the president's Pentagon spending could have held the budget hostage until he agreed to cut back. Control over government would have shifted from the majority elected by the people to minority veto groups. It is not a good way to run a government.

Railing against federal deficits is politically popular, but not as popular as deficits themselves. Managing the economy through federal fiscal policies has proved an effective way of smoothing out the worst bumps in the business cycle. Neither Democrats nor Republicans will give up the tactic, nor should they.

Unfortunately, Congress has not always over the past decade, had the discipline to match deficits in tough times with surpluses or balanced budgets in good years. Thus the impetus for the balanced budget amendment.

More discipline in the budget process is necessary. An approach something like the "pay-as-you-go" budget process suggested by Rep. George Miller, D-Contra Costa, which would require Congress to match each increase in spending with new tax revenue or commensurate cuts in other programs, would be useful. But putting the budget process into a constitutional amendment that tampers with majority rule in Congress is the wrong way to go.●

CARRIER PROCUREMENT: A BOLD PROPOSAL

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. RUDD. Mr. Speaker, it is evident that if we are to retain the freedoms that we cherish: that if we are to remain free politically, and economically, that a strong Navy is a must. However, while no budgetary problems should dictate national security policy, we must take into account our financial well-being as we build the Navy that we need. To that end, the administration has come up with a bold proposal to satisfy our national security needs in a timely and efficient manner, and at the same time, reduce the pressures on the budget coming from the Department of Defense.

To protect our interests around the globe, and to counter the growing encirclement of our trade and freedom by the Soviet Union, the Navy, in its mission profile, has decided that a 15-battle group Navy is essential to our national security needs. These battle groups would be centered on the large-deck nuclear-powered aircraft carrier. The normal method of acquisition is beginning of construction of one carrier and then procurement of the next near the end of the construction of the first. In an imaginative effort to combine urgent and badly needed shipbuilding with cost savings, the Navy has proposed that the next two carriers built, be built concurrently, thus giving this country additional naval strength many months in advance of earlier planning and at a lower cost. In addition to bringing the new carriers CVN72 and CVN73 in at an earlier date, this bold procurement plan will allow for earlier delivery of the CVN71, already under construction.

Studies indicate that concurrent procurement of the next two line carriers will result in a savings of over $754 million, as opposed to the traditional method of procurement. These savings can be broken down into four specific areas: one, reduced startup costs, $100 million; two, enhanced productivity, $100 million; three, multiple purchases of material, $250 million; and four, reduced escalation, $304 million.

The reduced escalation costs are the most significant. They are the most significant in any weapons systems purchase.

The mostly significant feature of this bold procurement proposal, however, that the Navy estimates that by procuring the carriers at the same time, there will be bonus in having both the CVN72 and CVN73 delivered for operations 22 months before the regular procurement schedule would permit. In addition, the Navy, and the shipyard that would do the construction have indicated that concurrent procurement would enable the already authorized CVN71, to be delivered 14 months ahead of schedule. This means that the United States would receive the operating capacity amounting to 5 years between the three ships that it would not have had under the normal procurement procedure. Even more importantly, this two-ship procurement will have a neglible effect on the fiscal year 1983 deficit as outlay difference between one- and two-ship procurement for the first year is only $25 million.

Clearly, the Nation can use an additional 5 years of operations out of our badly needed fleet in the tryng years to come. Even more importantly, this Nation needs to see this bold budgetary planning in these days of fiscal constraint. The procurement plan for CVN72 and CVN73 is not only the less expensive, and more efficient way to bring back the needed power to our naval forces, it is the right thing to do.

I urge all my colleagues to look at the plain sense of the need to initiate this bold procurement plan.●

POLITICS AS USUAL

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. GRADISON. Mr. Speaker, social security is at the brink of bankruptcy. How could Congress have allowed a financial crisis to come so close? Unfortunately, the answer is "politics as usual."

Last September, politics derailed a strong bipartisan bill to finance the system that the House Ways and Means Social Security Subcommittee had been working on for over 6 months and that was near completion. It now seems unlikely that the 97th Congress will even address the issue. Thus, this Congress rightfully will be viewed as irresponsible with regard to our country's largest social program.

Despite this evidence that politics has prevented responsible congressional action, our political parties are again playing with the fiery issue of social security. And once again it is the beneficiaries that will be harmed the most.

The political fire was lit in 1969 when social security was first included in the unified Federal budget. In the 1970's, consecutive deficits in social security which created the need for reform of the system coincided with large budget deficits and the desire to cut back general revenue spending. Because social security was part of the budget, confusion over the need to reform the system and the need to balance the overall budget resulted. Consequently, proposed changes to slow the rate of growth in social security benefits have been portrayed as cuts "to balance the budget on the backs of the elderly." Politics have forced these unfortunate public perceptions that have kept reform from moving forward.

Taking social security offbudget would eliminate much of the basis for political maneuvering. For this reason, support for moving if offbudget has been growing ever since it was placed in the budget. The 1971 Social Security Commission endorsed this proposal, as have four former Social Security Administration Commissioners, including Robert Ball, and two former Secre-

taries of HEW, including Wilbur Cohen. President Carter's National Commission on Social Security and, in particular, Bob Myers, one of the architects of the social security system, recommeded separation in 1981. Richard Schweiker, Secretary of HHS, stated in Ways and Means testimony that he personally likes the idea. A majority of the members of President Reagan's National Commission on Social Security Reform, which must report by December 31, 1982, support separation.

Last October, I introduced a bill to separate the social security trust funds from the Federal budget. In June, I reintroduced a technically amended version, House Joint Resolution 499, which now has over 80 cosponsors from both parties.

Separation will strengthen the budgeting of general revenues by ending the distortion of the deficit that occurs when the independently financed social security trust funds are incuded in the budget. Moreover, separation will save the independent social security system from ill-conceived cuts designed to balance the budget. Perhaps most importantly, separation may dampen the politics enough to allow a responsible reform of the system to be made.●

PERSONAL EXPLANATION

HON. CLINT ROBERTS

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. ROBERTS of South Dakota. Mr. Speaker, official business in my congressional district prevented me from being on the floor for votes on July 13 and 14. Had I been here, I would have voted as follows:

On July 13: Rollcall No. 177, yea; rollcall No. 178, nay; rollcall No. 179, nay; rollcall No. 180, yea; rollcall No. 181, yea.

On July 14: Rollcall No. 182, yea; rollcall No. 183, nay.●

MAINTAIN WIDE COMPETITION FOR GSA CONTRACTS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. GINGRICH. Mr. Speaker, a home-State friend of mine, Mr. Eliott Barrow, has been manufacturing metal office furniture since 1956. Most of his production has been sold to the General Services Administration and to the U.S. Postal Service.

Now Congress is considering a proposal called the Uniform Federal Procurement System. Legislation pushed by the administration creates a statutory preference for the use of commercial products to meet the Government's needs.

That change would mean that Mr. Barrow's small business, because it sells much more to Government than to commercial sources, would lose the right to bid for GSA and other Government contracts. A company like Mr. Barrow's, even if it might be the lowest priced supplier of Government office furniture, would be shut out because its products are not generally diverse or numerous enough to grab a share of the commercial market.

This possible policy change should be scrutinized very carefully. Would it discourage full and free competition, while centralizing the sources of Government furniture? Would it penalize small businesses who have specialized in designing goods for the Government because it was the only way to compete against bigger companies who sell large amounts to both public and private sectors?

What follows is the testimony of Mr. Barrow's lawyer, Mr. Lee Henkel, before the Government Affairs Committee of the other body on June 29. It makes a very good case for opposing any legislated change in GSA's present policy of seeking widespread competitive bids.

The testimony follows:

Mr. Chairman and Members of the Committee:

I am Lee H. Henkel, Jr. of the law firm of Henkel, Hackett, Edge & Fleming, P.C. of Atlanta, Georgia. I am here today on behalf of our client, Jebco, Inc. (Jebco), a contract manufacturer of metal office furniture located in Warrenton, Georgia. I am accompanied by Mr. J. Eliott Barrow, owner of Jebco, and by my partner, Stanley H. Hackett.

Jebco manufactures metal office furniture, principally for sale to the United States Government (GSA), and postal storage and handling equipment (mailboxes, etc.) for the U.S. Postal Service (USPS). Through the years, Jebco has also made sales to the military. Jebco makes some commercial sales each year, but such sales are negligible in terms of its total sales volume.

Jebco does not manufacture a full line of metal office furniture on an on-going basis. However, on a contract basis, Jebco has manufactured double and single pedestal office desks; clerical and secretarial desks; card file cabinets; map and plan filing cabinets; tables and stands; costumers; various filing cabinets; mail boxes; USPS workroom furniture; lockers; wardrobes; and a variety of other office furniture. Jebco's present capitalization is approximately $2,500,000. Its sales volume has ranged from $5,000,000 to $8,000,000 in recent years. Jebco's present capitalization is insufficient to permit ongoing production of the broad line of furniture to achieve and maintain viable commercial sales.

Jebco normally employs 200-250 people; employment has been as high as 350 in recent years. Jebco's minority employment normally averages 70 percent. For the last several years, Jebco's employment has been reduced considerably. The reduced employment has been attributable directly to the curtailment in GSA purchases of metal office furniture which has existed for the last several years. Only recently, GSA once again began buying furniture and Jebco was fortunate to be low bidder on several contracts. However, if Jebco is precluded from bidding on future GSA purchases, it will be unable to operate. Jebco's sales to the U.S. Postal Service are insufficient, standing alone, to sustain operations over the long term.

With that background, I would like to turn to the proposed Uniform Federal Procurement System (UFPS).

From Jebco's standpoint, the most significant change in the proposal is the creation of a new, statutory preference for "the use of commercial products to meet the government's needs." Commercial products are not specifically defined in the legislation most recently proposed by the Administration. However, earlier draft legislation defined commercial products as ". . . property or services which are regularly sold or made available to the public at established catalogue or market prices."

Implementation of this commercial items preference will discourage competition in the metal office furniture industry. Office furniture is unique in that desks, credenzas, file cabinets and other furniture in an office typically must be the same color and style and be otherwise compatible. Commercial buyers rarely buy one type of metal office furniture which does not match others. As a result, to be viable in the commercial market place, a producer must offer a fairly complete line of metal office furniture at all times. This requires capitalization and a sales volume much greater than Jebco has, or realistically could hope to have. In the past, the Federal Government has achieved desired coordination through specification. Jebco has been able to compete and to bid and produce particular items to specification. Under the commercial items preference, the Federal Government would still achieve coordination through specification, although the new specifications may be less detailed than in the past. Jebco has no objection to commercial specifications or functional specifications per se. Jebco could manufacture quality products which would meet these specifications at a competitive price. However, Jebco and similarly situated producers, in effect, would be precluded from bidding under the proposed statutory commercial items preference, regardless of their ability to produce pursuant to the new specifications.

The commercial items preference appears to be based on the presumption that if an item is offered in the commercial market place it is "good". Conversely, if an item is not offered in the commercial market place it is "bad". However, all that is really being done with the preference is that one set of specifications (i.e., commercial industry specifications) is being substituted for another set (i.e., GSA or DoD specifications). Furthermore, the only specific assurance of quality is a representation by a bidder that the product it proposes to supply is the same grade as supplied in the commercial market place. Jebco can make the equally valid representation that the product it would propose to supply to the Government in the same grade as that supplied by others to the Government and in the commercial market. The bottom line on quality is the same in both cases—the Government is looking to the integrity of the manufacturer and its ability and willingness to repair or replace products which may be defective.

The proposed statutory preference for commercial products effectively would exclude a large body of current suppliers from competing in the future for government business. Again I refer to contract manufacturers, such as Jebco, who typically bid to supply volume purchases pursuant to some type of specification and who do not maintain a full inventory for sale to the general public on an ongoing basis at established prices.

A contract manufacturer invariably can beat a commercial manufacturer on price for a specified product, with quality and other relevant factors defined by specification. The new statutory preference, in excluding such contract manufacturers from even bidding for government business, is blatently anticompetitive. Please understand that in practical effect, a statutory preference in favor of one type of product will operate as a statutory exclusion of others.

However, to deal with this obvious objection, the proposed UFPS would simply redefine competition from the "full and free" standard, which has been the federal standard in one form or another since the early 1800s, to the "efficient and effective" standard. The proposal makes clear that this new standard of competition could be satisfied by going to as few as two producers.

A traditional response to competition is to reduce prices; the response articulated in the proposal is to redefine certain competitors out of the system. We find that quite disturbing, and sincerely pray that this Subcommittee—and this Congress—will not go along with such a blatent grab for the public dollar.

However, when S. 2127 is considered together with Executive Order 12352—which has already been promulgated—the effect is very close to the statutory preclusion contained in the proposed UFPS. Executive Order 12352 provides in part that the Government shall "establish criteria for enhancing effective competition..." and that these criteria shall include such actions as "...expanding the purchase of available commercial goods and services." We already know that there is a certain amount of Orwellian "double-speak" here. "Effective competition" clearly means something less than "full and free" competition. When we have statutorily permissable limited competition as contained in S. 2127, and an Executive Order that requires the expanded purchase of commercial items, then it is not too difficult to conclude that manufacturers such as Jebco will find themselves excluded from the system.

All we ask, Mr. Chairman, is that under whatever system is ultimately designed, we have the right to compete. We are extremely concerned that efforts are underway to deny us this right. We resent it, we will resist it, and we sincerely hope this Congress will resist it.

That concludes my formal statement. We would be delighted to respond to any questions the Committee may have.

Thank you.●

ROBERT E. HULL, A DISTINGUISHED HOOSIER

HON. JOHN HILER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. HILER. Mr. Speaker, many of us here in Congress frequently speak of those who have made special imprints on our lives, or inspired not only us but hundreds of fellow Americans whose lives also have been touched by the character, leadership, and wisdom of those close to us.

Mr. Speaker, such a man passed away earlier this year. His name was Robert E. Hull, a close family friend, respected community leader, and outstanding achiever in the foundry industry.

Mr. Hull typified the greatness that inspired the successful growth of our Nation years before him. He advocated the virtues of free enterprise, not only in words, but in deeds. He cofounded Kingsbury Castings, Inc., a ductile iron foundry, serving as vice president until his retirement in 1980. He was involved in the experimentation that led to the development of that new metal. He was also one of the early foundrymen who worked on the development of the highly successful Meehanite process.

Mr. Hull's leadership did not stop there. He was active in the American Foundryman's Society for 45 years, holding numerous postions of responsibility. He also served as a member of the National Foundry Association and Cast Metals Federation of Indiana.

Mr. Speaker, Mr. Hull is deeply missed by those of us who were fortunate enough to have known him, and will long be remembered for his service to his community, his State, and his Nation.●

WHY VIETCONG FLEE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. DORNAN of California. Mr. Speaker, during the Vietnam war, there was a great hue and outcry among protestors that the "struggle", as they referred to it, was simply one of national liberation—liberation, that is, from the corrupt officials of the pro-American Diem regime. Many in the media hammered away incessantly that those in the north merely sought to reunite the oppressed people of the south so that there would once again be a single, united, and prosperous Vietnam. Once the "imperialistic" Americans were defeated and driven out—so the propaganda went—all would be well.

But all is not well. A recent article that appeared in the July 11 issue of Parade magazine entitled "Why Vietcong Flee," based upon firsthand revelations from former high-ranking Vietcong officials, strongly confirms what many of us have been arguing all along—that the situation in Vietnam is infinitely worse now under totalitarian communism than it ever was under Presidents Diem or Thieu. The conquering armies from the north were quick to banish the National Liberation Front flag of the Vietcong. They confiscated the best houses, the richest plantations, and the luxuries of the black market. Thousands of Vietnamese have been sent to prisons or "reeducation camps", 500,000 are being exported to Siberian labor camps—many to work on the Soviet pipeline—and nearly a million Vietnamese have fled by boat. As Truong Nhu Tang, a founder of south Vietnam's National Liberation Front and later its minister of justice, candidly admitted: "The living situation in the South has never been as bad as it is now. The Hanoi Communist Party has concentrated power into a small caste of corrupt and incompetent bureaucrats and brutal security forces. Current repression is far worse than during Thieu's regime, and there is nothing to eat. Hanoi blames these problems on the Americans or the Chinese, but the real cause is themselves."

Mr. Speaker, at this time I would like to submit this excellent eye-opening article for the RECORD.

WHY VIET CONG FLEE

(By Al Santoli)

Nguyen Tuong Lai, the former Viet Cong national chief of intelligence, guided his wife and children across the rickety bamboo catwork suspended above the mudflats surrounding the boat dock on Vietnam's tropical coast of Rach Gia. Using the stealth he had learned as a Viet Cong surviving jungle wars for 21 years, he kept the movement of their shadows camouflaged within the moonlit walls of the pier.

Quietly, after lifting the last of his children onto the boat, he untied the small craft, which slowly drifted out to Sea. Eighteen people—grandparents, adults and children—huddled. All on board kept a nervous watch for the Soviet-made PT boats of the Vietnamese navy. Capture would mean years of prison labor or death. Worse, in these waters prowled pirates who preyed upon defenseless refugees, looting valuables killing the men, carrying off the women and children as slaves. Two old grandmothers prayed aloud for safety. Lai wondered whether they'd make it. It was autumn, 1979.)

Since the Americans left their country in 1975, nearly a million Vietnamese have fled by boat; an estimated half of them have died at sea. Parade has found that a surprisingly high number—thousands, according to refugee leaders—were Viet Cong and Communist Party members. These unusual and rarely noted refugees have resettled in Thailand, Hong Kong, Malaysia, Switzerland, Paris and even Boston and San Jose, Cal. What follows is the result of interviews

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with high-level Viet Cong and Communist leaders we believe representative of those who have escaped. They made the following assertions about conditions in Vietnam today and the actions of the Communist government since its takeover in 1975:

Thousands of citizens—including many former Viet Cong—have been imprisoned, sent to "reeducation camps" or executed. In addition, 500,000 Vietnamese are being exported to Siberian labor camps by agreement with the Soviets.

Large amounts of Vietnam-grown rice, rubber and other raw materials are shipped to the Soviet Union, while the Vietnamese at home go hungry and the economy deteriorates.

Religious freedom has been restricted greatly, with church and temple properties confiscated or desecrated.

U.S. pilots were seen doing hard labor in North Vietnam several months after Hanoi said it had freed all POWs. These men are still there.

The once-questioned "domino theory" seems to be proving out. The Vietnamese Communists plan, after conquering Cambodia and Laos, to "liberate" Thailand.

Nguyen Tuong Lai's family and friends were lucky. After nearly a week at sea in their small boat, they arrived at a refugee camp on Bidong Island, Malaysia. Lai was given a job helping to question other former Communist soldiers and political cadre members, who continue to arrive in the Bidong camp. For two years, the family waited to emigrate. Today, in a small town in the mountains of Switzerland, Lai is learning the local language and how to drive a car.

He had been a soldier all his life. At 14, he joined the Viet Minh to fight the French in the swamps of his native Mekong Delta. After the defeat of the French at Dienbienphu, Lai was assigned to organize resistance units in the delta. By 1959, he had elite membership in the Vietnamese Communist Party. He commanded Viet Cong units in early battles and, having proven his valor, was sent to military academies in the Soviet Union and Hanoi, then home to lead a commando regiment against U.S. forces.

Lai is a huge man who stood head and shoulders above the troops in whom he had to instill fearless obedience—their work was among the most daring and bloody in the war. During the 1968 Tet Offensive, in which the Viet Cong was decimated, his troops led a suicide attack on the Bien Hoa airfield.

Lai was assigned to National Liberation Front (Viet Cong) headquarters in the hotly contested region near Cambodia and was named chief of Viet Cong intelligence and counterintelligence. For years, he lived beneath the jungles, coming out only to oversee guerrilla operations in the Saigon area until the war ended.

"After the liberation in 1975," Lai recalls, "after 12 years of fighting, I believed that peace had finally come and the new life would begin." But after North Vietnamese regiments marched into Saigon, the Communist Central Committee in Hanoi ordered Viet Cong units disbanded. The National Liberation Front flag, usually displayed in public places alongside the flag of North Vietnam, was banished by party officials and forcefully removed by the army. Revolutionary leaders like Lai were demoted and integrated into "The People's Army." The Viet Cong did not understand the attitude of the Northern Communists. Lai remembers their disillusionment: "We contributed so much during the war, and suddenly we don't have any responsibility and are not trusted by the party."

Like most Viet Cong leaders, Lai had relatives who had been officials in the defeated Southern regime. "After years of fighting," he says, "I reestablished close contact with my relatives. I had brothers, and my sister's husband, who fought in the ARVN [South Vietnamese Army], and my uncle, a landowner. I developed good relationships with them. But at party self-criticism sessions, cadre members from the North condemned Southern cadres like myself for associating with our 'capitalist' family members."

Though given a reduction in rank, Lai was named head of security and counterintelligence in southwest Vietnam. There, he found himself participating in the formation of a police state. Every citizen was suspected of being a counterrevolutionary who had to be watched or sent to prison or one of the "reeducation camps," which actually were forced-labor compounds. Among the thousands sent away were many former revolutionaries, imprisoned because they had opposed the severity of the Northern Communists and the Soviet presence in Vietnam.

Lai's disenchantment increased when he was made commander of the reeducation camp at Long Tan and ordered to draw up a stricter national surveillance policy. But what finally drove him to leave his country were the invasions of Cambodia and Laos.

"I am not afraid to die or sacrifice for my country," Lai says, "but I was against the mission in Cambodia. As a party member, I was obliged to obey orders. But many Southern members questioned the reasons and merits for going into Cambodia. Many of us felt it was because of Cambodia's alliance with China and our own party's obedience to Soviet dictates. After 21 years of war, another battle was beginning. I felt it would not be good for the reconstruction of Vietnam. So, even though I was unsure how my former enemies in the West would accept me, I decided to leave."

Truong Nhu Tang was another who emerged from Viet Cong jungle headquarters in 1975 as the last U.S. helicopters flew out of Saigon. Today, at age 59, he lives in Paris, writing his memoirs while his wife works as a pharmacist to help make ends meet. Small, white-haired, conservatively dressed, soft-spoken—Tang hardly seems the dedicated former revolutionary leader in a vicious civil war.

Yet this French-educated sugar industry executive from one of South Vietnam's most respected families was one of 60 nationalists who formed the National Liberation Front in December 1960 in a rural plantation near Bien Hoa. His revolutionary identity discovered, he was imprisoned by the South Vietnamese government and traded to the Viet Cong in 1968 for three American colonels.

He joined the Viet Cong command in the jungle. During the war, he says, his unit was "usually within 300 meters of U.S. troops, observing their movements." He adds: "Even helicopters flying at tree level couldn't spot our positions. We had at least five hours' warning on every B-52 raid. After the bombing, U.S. intelligence would say they had killed 500 Viet Cong in the area. But we had moved out before the bombers came."

Appointed justice minister of the Provisional Revolutionary Government, Tang conducted psychological warfare—which included both friendly and deadly persuasion—in the villages.

He also helped develop the NLF's "Ten-Point Plan for National Reconciliation," which was approved by Hanoi's Communist leaders and became the centerpiece of the 1973 Paris Peace Agreement. It called for a coalition government in Vietnam, free and democratic elections and no foreign interference in government affairs.

When the war ended, Tang recalls, North Vietnamese political officials went South with the conquering army. They fought among themselves, sometimes at gunpoint, to confiscate the best houses, richest plantations and luxuries of the black market—while refugees fled the country by the thousands. The economy deteriorated rapidly because of inadequate industrial planning by the Soviet-trained Northern cadre, Tang says.

"The living situation in the South has never been as bad as it is now," says Tang. "The Hanoi Communist Party has concentrated power into a small caste of corrupt and incompetent bureaucrats and brutal security forces. Current repression is far worse than during [President Nguyen Van] Thieu's regime [1967-75], and there is nothing to eat. Hanoi blames these problems on the Americans or the Chinese, but the real cause is themselves.

"For example, the damage caused by American defoliation during the war has been exaggerated to give an alibi for the catastrophic agricultural situation. But the real reason is that the farmers have adopted a form of passive resistance and protest toward the government." Farmers refused to join government cooperatives based on the Soviet model, Tang says, because of unfair compensation for their work and broken promises by the Communists, who had agreed to grant the peasants ownership of their land.

Much of the rice grown in Vietnam today, Tang notes, is shipped to the Soviet Union or goes to the army to continue the unpopular wars in Cambodia and Laos. Meanwhile, the people at home starve.

"We were betrayed by the Hanoi regime," Tang says, "because they immediately brought the Russians into the South, and today they are everywhere in Vietnam." To help pay its debts to the Soviet Union, the Vietnamese government recently agreed to export 500,000 "guest workers" for Siberian slave labor, Tang says. He estimates that most of these slaves came from the reeducation camps and jails for political prisoners.

Tang knew that his authority as justice minister of the revolutionary government was illusory. He had assembled a staff of legal experts, but those not approved of by the Northern cadre were sent to reeducation camps.

The policy of "reeducation" increased Tang's disaffection. Shortly after the liberation, he advised his brother, who had been a medical doctor in the ARVN, to report voluntarily to what Hanoi officials promised would be a 10-day camp. After a month, when his brother had not returned, Tang asked top government officials why nobody had been released. He recalls telling them: "This violates the reconciliation that we promised the people. Now we are strong, we have all the power in our hands. Why do we have to act as conquerors?" They gave him no answers, he says.

Tang recalls the frustration: "People would stop me on the street and demand to know what I was doing about their friends and relatives whose property was being seized, who were disappearing in reeducation camps or were forced to move to 'new

economic zones.' I felt helpless. There was nothing I could do."

In protest, Tang resigned as justice minister. The government—to save face, he says—resettled him on a lush farm complete with servants and guards and offered him the ceremonial post of vice minister of food.

He says he could not accept the deal for long, and on a rainswept August night in 1979, Tang and his wife joined 62 others in a wooden boat and braved winds, waves, navy patrols and pirates. One week later, their weathered vessel was washed ashore somewhere on the Indonesian coast.

In San Jose, Cal., Nguyen Cong Hoan and other members of the Vietnamese community there have transformed an old house into a Buddhist temple. Though he works as an electronics technician and his children spend Saturday mornings watching cartoons on TV, he seems preoccupied with his wartime days in the Buddhist peace movement, when he helped lead the opposition to the Saigon government.

"The Buddhist movement, like other opposition groups in Vietnam, was tired of the long war and only wanted peace." Hoan explains. "The U.S. had supported governments that were corrupt and had no contact with the common villagers. Our main objective was to get rid of Thieu. Many people joined the NLF only because they felt that anything would be better than Thieu. NLF propaganda promised a just unification of our society, and the Communists promised peace, justice, democracy, independence and a better life. On paper, the NLF was a coalition of many groups. We did not realize that, in reality, only one group controlled—the Communist Party."

Shortly after the "liberation," Hoan says, the Communists cracked down on all religious groups. Most prominent antiwar leaders were imprisoned, church and temple properties confiscated, pagodas and churches desecrated and the laity was prevented from going to religious services. A few temples—run, Hoan says, "by puppets of the Communists"—were allowed to remain for cosmetic purposes.

After the fall of Saigon, Hoan returned to his home in South Vietnam to teach school. He was informed that within the first days of the "liberation," 700 people were executed in his province and thousands imprisoned.

According to former intelligence chief Lai, "people's courts" were staged in public throughout the country. All tried were sentenced to death, but Communist Party policy was to kill them in secret places so the international media would not pick up the story and local populations would not be repulsed by the spectacle. Another former government official estimates that 200,000 executions took place.

In 1975, the Communist made Hoan a "legislator" in the National Assembly of the Socialist Republic of Vietnam. But, like other Southerners appointed to the assembly in Ho Chi Minh City, he was never allowed to speak or act on anything substantial, as the assembly was controlled by a dozen party members from North Vietnam. As assemblyman, Hoan took two trips to North Vietnam, where he had access to information on national objectives and government policies.

Hoan says the Vietnamese do not want to stop fighting after the conquest of Laos and Cambodia. "During the first session of the National Assembly in Hanoi," he recalls, "Tran Quynh, assistant to party secretary Le Duan, told me: 'The liberation of Thailand will be next. It is a historical necessity and a responsibility of the Vietnamese Communist Party.' At the same session, we were given a document titled 'Vietnam-Southeast Asia,' expressing the party's drive for domination." Hoan decided to leave Vietnam, he says, to tell the outside world about conditions in his country.

Nguyen Duc Yen fled by boat from Hanoi to Hong Kong in 1979, after 20 years of membership in the Vietnamese Communist Party. During the war, he served as a propaganda minister in the prime minister's office and the Foreign Press Relations Bureau.

Today, Yen, an impeccably dressed man in his mid-40s, works as a reporter for a rural village newspaper in Switzerland, where he and his family live in the foothills of the Alps.

His job during the war was to translate Soviet propaganda and doctrine into Vietnamese. Few Westerners realize, he says, that most of the information and assertions from Hanoi at that time originated in the Soviet Union and East Germany.

As propaganda minister, Yen divided his time between Hanoi and Moscow. "In Eastern Europe and the Soviet Union," he says, "I saw the kind of poverty and misery that Marxism has caused everywhere. After the war, I saw the same thing happening in my country. To speak out against this meant prison or death, which happened to many party members, even veterans of the French war."

In June 1973, Yen says, he saw 30 or 40 American pilots still held as POWs in the highlands of North Vietnam. It was two months after the North Vietnamese government said it had released all POWs, and to this day, adds Yen, these men have not been released. "The district chief of that region told me the party's central committee in Hanoi had sent these prisoners to his region for him to take care of," says Yen. "The men were doing hard labor." Today, the fate of these Americans is still in Hanoi's hands.

Yen says that Hanoi will try to use these prisoners as bargaining chips to reestablish diplomatic relations with the U.S.—which, he says, "would be a grave mistake." He emphasizes, "It would only help them to make war with other countries and further oppress the Vietnamese people. The aid would be used to buy weapons and supply the army to invade the rest of Southeast Asia. In addition, the Soviets would like to use the Vietnamese to divide the U.S. and China."

According to Nguyen Tuong Lai, resistance to the government is increasing in Vietnam—passive resistance by civilians and organized armed resistance by former Viet Cong and ARVN members and tribespeople. In 1977, Lia says, the resistance forces blew up a major fuel storage facility at Long Binh—something the Viet Cong could never accomplish during the war. Yen adds that the resistance has been largely hidden by the government.

"My job in Hanoi was to prepare people for visits by Western media," Yen says. "When Western delegations come to visit Hanoi or other cities, the people are prepared ahead of time as to how they should act and what they should say. Even on the streets, the reality is quite different from what a journalist will be shown. The secret police are everywhere. A journalist will be taken to see only trusted party members, who will say what the party has told them to say and nothing more. When Westerners see a Vietnamese smile, they do not realize that it is a form of social dignity, not a reflection of that person's inner feelings. If a journalist reports that the Vietnamese are happy, he does not know anything about Vietnam."

(Nguyen Tuong Lai, the former Viet Cong intelligence chief who now lives in the Swiss mountains, concludes our interview: "I would like to contribute the rest of my life to the reconstruction of Vietnam into a free democratic country." It is spring, 1982.)

ENTERPRISE ZONES: COMMUNITY INVOLVEMENT AND VENTURE CAPITAL ARE VITAL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 15, 1982

● Mr. KEMP. Mr. Speaker, on July 13 I had the opportunity to testify about how enterprise zones can increase community involvement and bring venture capital to America's inner cities. I would like to share this testimony with my colleagues.

TESTIMONY OF HON. JACK KEMP, REPUBLICAN OF NEW YORK, ON THE ENTERPRISE ZONE TAX ACT BEFORE THE SUBCOMMITTEE ON ECONOMIC STABILIZATION OF THE COMMITTEE ON HOUSING, BANKING, AND URBAN AFFAIRS, JULY 13, 1982

Mr. Chairman and Members of the committee, I want to thank you for giving me this opportunity to testify on behalf of the Enterprise Zone Tax Act.

Let me also say how pleased I am that these hearings will focus on two of the issues most crucial to the success of enterprise zones: community involvement and venture capital. These two issues have been repeatedly raised in my own discussions with community leaders in my Congressional District, particularly the Black Leadership Forum, and the Enterprise Zone Task Force. I understand that today you are taking testimony on the role of the community; however, I'd like to take the liberty to discuss both this and potential sources of venture capital in my testimony this morning.

The notion of community lies at the heart of enterprise zones. Not that this is always popular! Enterprise zone supporters are often accused of "confusing" people and places, of refusing to accept that urban redevelopment is really very different from helping inner city residents find new jobs and opportunities.

In fact, I think this so-called "confusion" is one of enterprise zones' greatest strengths. My good friend and colleague Representative Robert Garcia sums this up very movingly when he describes the South Bronx of his childhood. It was a true community, a place where people worked and lived, shopped and spent their leisure time. Yet today in areas like the inner city Buffalo or the South Bronx, money flows in from outside and escapes back out again. Very little economic activity is being generated within.

This economic stagnation produces more than just the outward signs of urban decay—the derelict streets and burnt shells of buildings. It drastically limits the opportunities of people who live there. Many of these individuals, like each new wave of immigrants that arrived in America's cities,

came seeking opportunity. As innovation and economic growth has dried up in these cities, so has their chance to get on that crucial bottom rung of the ladder to economic success.

It's just not enough to say that many of these individuals can pick up and move somewhere else. With the disintegration of communities comes the abandonment of valuable intrastructure, and far worse the abandonment of the very poorest Americans to areas where there is no longer any tangible opportunity and therefore no incentive to preserve and invest the human capital which all of us possess.

This is why I have been so deeply disappointed by the British approach to enterprise zones. Instead of trying to revitalize communities, the British government chose to take enterprise zones outside of communities altogether. By creating zones in abandoned areas, and concentrating incentives on investment and construction, rather than job creation and training, the British approach runs completely contrary to our bill.

Because American enterprise zone supporters view cities—and indeed towns and rural areas as well—as far more than just places with an arbitrary collection of people, we have included strong protections for community involvement in the legislation. "Involvement in the (zone) program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area" is listed as a central element in an enterprise zone "contract." In addition, preference in selecting zones will be given not only to those zones with the greatest community involvement, but also to those where there is a "strong likelihood that zone residents . . . will receive jobs in the zone."

We can't just impose urban programs from Washington, without any regard to the wishes and needs of people living in urban communities. The tragic aftermath of many urban renewal projects attests to the disaster this can bring.

But ignoring community concerns is not only cruel; it is stupid as well. In recent years, even as inner city communities were being written off as hopeless, small self-help groups sprung up to rehabilitate homes, plant gardens, train youth, and inspire new hope in their neighborhoods. In Philadelphia one neighborhood family concerned about their child's future took on a supposedly insoluble youth gang problem and started to solve it—with the help of the gangs themselves. All across the country neighborhood "crime watch" progams have made streets safer and brought communities together.

My own community of Buffalo has witnessed impressive successes by individuals and groups who have been unwilling to concede defeat for our city. The Linwood-Oxford Association has rehabilitated homes and combated juvenile crime. My good friend Donald Lee's Planning Assistance Consultants, Inc., has helped minority and neighborhood entrepreneurs start up and expand. The Urban League under Leroy Cole's leadership has provided job training, while the NAACP under Dan Acker has fought hard against discrimination and for economic justice and opportunity. One reason I believe enterprise zones will work well in Western New York is that I know how much ability, energy, and commitment these groups and individuals will bring to making them work.

Our colleague Bill Gray, of Philadelphia, has made another important point about the community's role in enterprise zones. In a speech before a Seminar on Enterprise Zones held in Philadelphia on March 27 he made the following observation:

"A strong local business community—representative of the residents of that community—is critical to the stabilization of any neighborhood. Local owners have a stake in the community, and therefore provide positive role models for others. They also are acutely sensitive to the needs and characteristics of their neighborhoods—a sensitivity which would be difficult for owners who reside elsewhere."

I have been focusing on what community groups and local leaders can bring to enterprise zones. At this point, however, I usually get a question back—a very fair question. "What's in it for us, the community group?"

One blunt answer is that it can give these groups clout with the local, state, and federal government. I have always argued that enterprise zones cannot be a substitute for other programs, and that instead they should be seen as an additional urban policy tool. By encouraging state and local governments to use some of their resources (including federal resources) in the very poorest communities, enterprise zones should help community groups in these areas gain new commitments for help. I know that many of these groups have felt in recent years that their areas were overlooked as city governments sought more politically rewarding downtown development projects. Enterprise zones could help redress the balance.

Enterprise zones also bring opportunity for community groups to work directly with private enterprise for their mutual gain. To consider just one possible scenario, the Enterprise Zone Tax Act provides an unprecedentedly large tax credit for hiring disadvantaged workers—50% of wages without a cap for 3 years, followed by 40%, 30%, 20%, and 10% in the subsequent four years. A business hiring a qualified worker at $10,000 a year and employing him or her for seven years would reap a $25,000 tax benefit—and that's leaving out the likely increase in productivity and salary as the worker gains experience. The business, then, has a substantial financial interest in hiring qualified workers; but it has to identify those workers and find those who are or can be trained to do the job.

My friend Rev. Leon Sullivan, head of Opportunities Industrialization Centers, Inc. has told me that his and other community-based groups would have a chance to step in here. They can find and train disadvantaged workers, a job they've been accomplishing for many years. And if this can be done at a fraction of the tax benefit, then both the community group and the private sector business will benefit.

Yes, comes the next question, but where will the private business get the capital to start up an enterprise zone business?

I recognize that the availability of venture capital has become the greatest concern of those analyzing enterprise zones—friends as well as critics. I have come to agree that enterprise zone legislation needs an additional "venture capital" provision. Before discussing just what such a provision could be, however, I would like to review some basic facts about venture capital.

Recent studies of venture capital in cities (most notably Michael Kieschnick's "Venture capital and Urban Development," 1979) have revealed some surprising information. Federal business assistance programs account for at most 3% of new business capital—that is, capital for newly forming firms. Banks provide less than 10%. More than 85% of all new businesses start without using any outside debt or equity at all.

What this suggests, it seems to me, is that any significant venture capital program must seek out the greatest potential source of capital: the private savings of individuals. UDAG and SBA loans together will provide a little over $1 billion in new capital this year—and most of this will not be venture capital. At the same time Americans have almost $200 billion invested in money market funds. if we could capture just one-half of one-percent of this for our inner cities we would have drastically increased the venture capital available for investment in these areas.

Aside from sheer quantity, there is another advantage to creating new incentives for private capital rather than trying to create a new public capital program. The big job creators, especially for cities and for disadvantaged workers, are small businesses. Yet even as they are creating virtually 100% of the net new jobs in America's older cities, these small businesses are notoriously difficult to help with direct government assistance.

Most entrepreneurs are hard to identify, and many avoid direct government assistance because they fear encouraging interference as well. What's more, almost 4 out of 5 small businesses fail in their first year. Even if government officials were willing to forego largescale, immediately rewarding projects for risky small ventures, how would they justify even a statistically successful failure rate, like 50%? The government can't take those kind of risks with the taxpayer's money. Only the individual taxpayer can.

Finally, I think we need to recognize that while up-front incentives are important, they aren't all that is important. Only the most optimistic—and unrealistic—entrepreneur is looking for immediate profits. Most new small businesses don't make money for their first five years, when they beat the odds and survive at all. Entrepreneurs must by nature and circumstance be seeking a long-run balance between initial risks and ultimate rewards. The risks are higher in enterprise zones . . . but then, so are the after-tax rewards. The reduction in taxes on investment and employment, and the elimination of capital gains taxes, will also come into the calculus when an individual is deciding whether or not to risk his or her savings on a venture in an enterprise zone.

What I conclude from these venture capital "facts of life" is that any new enterprise zone venture capital proposal should seek to attract private investors to put money into enterprise zones. This taps the greatest potential source of capital for the inner cities. It avoids the problem of government trying to select likely winners and losers. And it allows the market ultimately to award winners and losers without putting all taxpayers at risk.

There are a number of suggestions about how this could best be accomplished. The original Kemp-Garcia legislation contained refundable credits, and exempted interest income on loans to enterprise zone firms from taxation. Another promising proposal, which I understand will be discussed at some length before the committee tomorrow, is "equity expensing."

Under this proposal investors would be able to deduct immediately (up to some limit) the cost of purchasing enterprise zone stock or debentures. By offering an immediate tax advantage it would help attract up-

front capital, and significantly improve its rate of return.

I have had the opportunity to discuss this idea with several groups and individuals, including our colleague Charlie Rangel, a leading member of the Ways and Means Committee, and Malcolm Corrin, President and Chief Executive Officer of the Interracial Council for Business Opportunity. While there are still important questions remaining about how such a provision would be designed, certain advantages have become apparent:

1. It dramatically improves the rate of return on venture capital, thus providing an incentive for risk-taking investment in enterprise zones. For an investment held five years, and then sold at a gain, the expensing proposal increases the discounted rate of return by over 70%.

2. It provides an important capital source for small firms. By limiting eligible stock and debentures to those of smaller firms, this proposal could target benefits to the businesses which create the most jobs, yet have the least access to traditional sources of capital.

3. It would offer community development corporations, MESBICs, and other community-based organizations a tool with which to seek private capital. With the "expensing" incentive these groups could bring together potential enterprise zone entrepreneurs, especially minority entrepreneurs, with investors seeking a greater rate of return on their capital.

I am inserting some questions and answers about equity expensing prepared by Paul Prude, of Paul Pryde Associates, in the record at this time.

ENTERPRISE STOCK AND DEBENTURES—QUESTIONS AND ANSWERS

1. *How will this provision help firms located in enterprise zones?*

New companies generally obtain most of their start-up capital from the entrepreneur's friends, family members and business associates. Unfortunately, firms located in distressed areas designated as enterprise zones may find it difficult to secure financing from individual investors who have other, more attractive options. Our proposal is designed to overcome this problem by providing tax relief to people who purchase enterprise stock or debentures.

2. *How would it work?*

In simple terms, any individual who purchased enterprise stock or debentures (a long-term unsecured loan) would be entitled to a Federal tax deduction equalling the amount of the investment. For example, a person who put $10,000 into a qualified zone company would be able to claim a $10,000 deduction on his or her Federal tax return for that year. If the taxpayer were in the 50% bracket, the deduction would reduce taxes owed for that year by 50% of the $10,000, or $5,000. The deduction essentially allows the investor to get up to half of his or her investment back almost immediately in the form of tax savings. This should be a strong incentive to invest in zone firms.

3. *Won't this proposal encourage people to make investments with no real economic value just to get a tax break?*

Not really. Again, the proposed tax incentive would only give the taxpayer up to one half of the money invested back in the form of Federal tax savings. Most of the return of and on the investor's capital would have to come from principal and interest payments, dividends or from the subsequent sale of the investment. In other words, the investment will only pay off if the firm succeeds.

4. *Would there be any restrictions on the types of firms which could issue enterprise stock and debentures?*

Small firms—defined as those with a net worth of $5 million or less—which obtain at least 50% of their income from other than passive sources (e.g., rents, royalties, and interest payments) would be entitled to issue enterprise stock or debentures. Real estate trusts, investment companies, and other firms in the business of lending or investing money would not be able to use this form of financing.

5. *Won't this proposal encourage tax-conscious people to make investments at the end of one year and sell them the next?*

Under our proposal, there would be a minimum holding period for enterprise stock and debentures of three years. Taxpayers who sold their stock or debentures during the holding period would have the proceeds taxed as ordinary income. Thus, the investor who bought stock in one year and sold it the next would have to pay back, perhaps with interest, all or part of the previous tax savings.

6. *What about people who purchase enterprise stock and debentures from the original investor? Would they also be entitled to the deduction?*

No. Only the original purchaser of enterprise stock or debentures will be entitled to the deduction. Once the investment is sold to a second owner, it would lose its special tax status.

7. *What about firms which are already in business and need money to expand?*

Any firm meeting the definition of "qualified zone small business" would be entitled to issue enterprise stock and debentures.

8. *Will corporations be able to get the deduction by investing in subsidiaries or other firms located in enterprise zones?*

No. The incentive is available to individuals only.

9. *Given the high failure rate of new and small firms, won't this proposal simply make it easy for people to lose money?*

Some investors will undoubtedly lose money. However, the incentive is aimed principally at people in high tax brackets who can afford the risk. In addition, our proposal would permit the formation of professionally managed investment partnerships to assess and make risky investments on behalf of individual investors. For example, MESBICs and SBICs might form subsidiaries to develop and manage such investment pools.

10. *Won't this provision cost the Treasury a lot of money?*

No. Treasury losses attributable to the investment deduction will be more than offset by corporate taxes paid by subsequently profitable firms. According to our estimates, about 90 percent of the firms issuing enterprise stock or debentures would have to fail before the Treasury would face a long-term revenue loss.

Ever since Bob Garcia and I first introduced an enterprise zone bill in the summer of 1980, we have emphasized that we want suggestions—and that we will listen to them. I welcome these hearings, and look forward to learning from the committee and the witnesses just how we can reach our mutual goal of encouraging strong community participation in enterprise zones, and enticing venture capital into some of America's poorest communities.●

HOUSE OF REPRESENTATIVES—*Monday, July 19, 1982*

The House met at 12 o'clock noon, and was called to order by the Speaker pro tempore (Mr. WRIGHT).

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Your love, O Lord, fills us each morning with the gift of another day and Your Spirit sustains us always. Teach us to use the moments given us, redeeming the time, that our efforts may contribute to building lives that are filled with joy, health, and peace. Encourage, we pray, all people whose mission is to uphold the sanctity of life and who dedicate themselves toward understanding between peoples and concord among the nations. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4688. An act to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that Act.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5539. An act to amend and supplement the Federal reclamation laws, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5539) entitled "An act to amend and supplement the Federal reclamation laws, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MCCLURE, Mr. HATFIELD, Mr. DOMENICI, Mr. WALLOP, Mr. WARNER, Mr. JACKSON, Mr. JOHNSTON, Mr. FORD, and Mr. METZENBAUM to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5930) entitled "An act to extend the aviation insurance program for 5 years," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PACKWOOD, Mrs. KASSEBAUM, and Mr. CANNON to be the conferees on the part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
July 19, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, the Clerk received at 4:58 p.m. on Thursday, July 15, 1982, the following message from the Secretary of the Senate: That the Senate agree to the House amendment to the Senate amendment to H.R. 6685.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bills on Friday, July 16, 1982:

H.R. 6685. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes; and

S. 2651. An act to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

July 19, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, I have the honor to transmit a sealed envelope from The White House, received in the Clerk's Office at 10:20 a.m. on Friday, July 16, 1982 and said to contain a message from the President wherein he transmits the fifteenth special message for FY '82 under the Impoundment and Control Act of 1974.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

TWO NEW PROPOSALS TO RESCIND BUDGET AUTHORITY AND ONE REVISION TO AN EXISTING DEFERRAL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-210)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of Friday, July 16, 1982, page 16652.)

CONSENT CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

DECLARING THAT THE UNITED STATES HOLDS CERTAIN LANDS IN TRUST FOR THE WASHOE TRIBE OF NEVADA AND CALIFORNIA AND TO TRANSFER CERTAIN OTHER LANDS TO ADMINISTRATION OF U.S. FOREST SERVICE

The Clerk called the bill (H.R. 5081) to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service.

There being no objection, the Clerk read the bill, as follows:

H.R. 5081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to the provisions of subsection (b), all right, title, and interest of the United States in the following lands (including all improvements thereon and appurtenances thereto, particularly all water rights appurtenant thereto which are presently administered by the Bureau of Indian Affairs of the Department of the Interior) are hereby declared to be held by the United States in trust for the benefit and use of the Washoe Tribe of Nevada and California and are hereby declared to be part of the Washoe Indian Reservation:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 1: Lot 2 northeast quarter, lot 3; 84.90 acres.

Section 3: West half lot 1 west half lot 2, northeast quarter, east half lot 1, east half lot 2, northwest quarter; 157.14 acres.

Section 14: East half southwest quarter, southwest quarter northeast quarter, southeast quarter northwest quarter excluding any portion lying west of Jack's Valley Road as it presently exists; 160.00 acres.

Section 22: South half north half; 160.00 acres.

Section 23: South half, south half northwest quarter, northeast quarter northwest quarter; 440.00 acres.

Section 24: South half south half; 160.00 acres.

Section 25: North half, east half southeast quarter, northeast quarter southwest quarter; 520.00 acres.

Section 36: West half, north half northeast quarter, southwest quarter northeast quarter, south half southeast quarter, northwest quarter southeast quarter; 560.00 acres.

Total acreage: 2,242.04 acres more or less.

Township 14 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 5: The parcel located in the northwest quarter of the northeast quarter is described as beginning at station numbered 1 at the northwest corner of the northeast quarter of the northeast quarter:

thence west 5.11 chains to station numbered 2 a point in the middle of the road leading to Carson;

thence along the middle of said road south 26 degrees 5 minutes west—.51 chains to station numbered 3;

thence south 47 degrees 30 minutes east 5.58 chains to station numbered 4;

thence south 42 degrees 30 minutes west 2.51 chains to station numbered 5;

thence south 64 degrees 30 minutes east 6.66 chains to station numbered 6 a point on the line of the west side of the northeast quarter of the northeast quarter of section five;

thence north 15.27 chains to place of beginning, exclusive of the square half acre adjoining the road at the north end of said tract; the parcel located in the northeast quarter of the northeast quarter is described as beginning at the northwest corner of said tract;

thence south 1,277.4 feet to the southwest corner of said tract;

thence east on the south line of said tract 1,184.2 feet;

thence north 508.6 feet to a point on the west line of the right-of-way of the proposed extension of the Virginia and Truckee Railway;

thence north 22 degrees 15 minutes west along the line of said right of way 824.7 feet to a point on the north line of said tract;

thence west along said line 879 feet to place of beginning.

And tract of land described as beginning at a point which lies 25.11 chains west of the northeast corner of section five which point is identical with point numbered 2 in the deed of the H. F. Dangberg Land and Live Stock Company to the United States of America:

thence south 26 degrees 05 minutes west, 2.2361 chains;

thence south 63 degrees 55 minutes east, 2.2361 chains;

thence north 26 degrees 05 minutes east, 2.2361 chains;

thence north 63 degrees 55 minutes west, 2.2361 chains to the point of beginning.

And the northwest quarter of the northeast quarter except a parcel described as beginning at station numbered 1 a post at the northwest corner of the northeast quarter of the northeast quarter and running:

thence west 5.11 chains to station numbered 2 a post in the middle of the road leading to Carson;

thence along the middle of said road south 26 degrees 5 minutes west 7.51 chains to station numbered 3 a post in the middle of the road;

thence south 47 degrees 30 minutes east 5.58 chains across the road and along the fence on the north side of Penrod's Corral to station numbered 4 a post at the corner of said fence;

thence south 42 degrees 30 minutes west 2.51 chains along the fence on the east side of Penrod's Corall to station numbered 5 a post at the corner of the fence;

thence south 64 degrees 30 minutes east 6.66 chains along the fence to station numbered 6 a post in the line of the fence and in the line of the west side of the northeast quarter of the northeast quarter;

thence north 15.27 chains to the place of beginning; excepting the following parcels:

(1) land lying north of Clear Creek and west of the old V and T Railroad right-of-way in northeast quarter northeast quarter;

(2) land lying north of Clear Creek contained in northwest quarter northeast quarter.

Total acreage: 68.01 acres more or less.

Section 6: Lots 1, 2; 144.13 acres.

Section 18: West half northeast quarter, southeast quarter northeast quarter, northwest quarter southeast quarter; 160.00 acres more or less.

Section 19: South half lot 2 northwest quarter, lot 2 southwest quarter; 98.36 acres more or less.

Township 15 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 32: The east half of the southeast quarter and the southwest quarter of the southeast quarter except the following tract of land located in the southwest quarter of the southeast quarter described as beginning at the southwest corner of the south half of the southeast quarter and running:

thence east along the township line between township 14 and 15, 14 chains and 95 links to the middle of the road on what is known as Penrod's Lane;

thence along the middle of said road north 24 degrees 50 minutes east, 14 chains and 28 links;

thence north 57 degrees west along the line of fence on the south side of the road leading to Carson 12 chains and 86 links to the intersection of the north boundary line of said tract of land;

thence west along said line 10 chains to the northwest corner of said tract;

thence south 20 chains to the point of beginning, of section 32 in township 15 north of range 20 east and two parcels of land lying within the northwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo meridian in Ormsby County, Nevada.

Parcel numbered 1 is south of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, the corner being also the southwest corner of the missionary lot, said point of beginning and further described as bearing north 52 degrees 43 minutes west, a distance of 2,198.00 feet from the southeast corner of section 32:

thence north 89 degrees 50 minutes west, a distance of 900.00 feet to the southwest corner of the parcel, said corner being also the southeast corner of the above described subdivision;

thence north 0 degrees 04 seconds east, a distance of 1,102.00 feet to a point at the northwest corner of the parcel and the southerly side of the highway 100-foot right-of-way line;

thence south 51 degrees 32 minutes east, along the southerly side of the highway right-of-way line a distance of 1,600.28 feet to a point at the intersection of the highway right-of-way line and the northerly property line of the missionary lot;

thence north 55 degrees 24 minutes west along the northerly property line of said lot a distance of 430.00 feet to a point;

thence south 0 degrees 04 minutes west, along the west boundary of said lot a distance of 354.40 feet to the point of beginning; said parcel numbered 1 containing 15.51 acres, more or less, except a parcel of land containing 4.00 acres, more or less, which was conveyed to the United States of America by Henry Ross and wife by deed dated January 31, 1889, described as "four acres off the south side of the northwest quarter southeast quarter of section 32, township 15 north, range 20 east" or as described in the correction deed from Emanuel Penrod to Henry Ross and wife dated May 21, 1889, as "Four acres off of the south side of the northwest quarter southeast quarter of section 32, township 15 north, range 20 east, and being all of that piece and parcel of land lying in said quarter quarter southwest of the road, leading from Penrod's Lane to Carson City, Nevada".

Parcel numbered 2 is north of the highway leading from the Stewart Indian School to the Minden-Carson City highway and is described as beginning at a point at the southeast corner of the parcel, said corner being on the northerly side of the highway 100-foot right-of-way line and the east side of the above described subdivision, said point of beginning being further described as bearing north 41 degrees 18 minutes west, a distance of 2,010 feet from the southeast corner of section 32:

thence north 51 degrees 32 minutes west, along the northerly side of the highway right-of-way line a distance of 1,690.00 feet to a point;

thence north 0 degrees 04 minutes east, a distance of 35.80 feet to the northwest corner of the parcel, said corner being also the northwest corner of the above described subdivision;

thence south 89 degrees 50 minutes east, along the subdivision line a distance of 1,239.50 feet to the northeast corner of the parcel and the west right-of-way line of the Virginia and Truckee Railroad;

thence south 0 degrees 04 minutes west, along the railroad right-of-way line a distance of 44.50 feet to a point;

thence from a tangent whose bearing is the last described course curving to the left with a radius of 1,196.28 feet through an angle of 21 degrees 15 minutes 40 seconds a distance of 443.90 feet to a point on the railroad right-of-way line and the east side of the subdivision;

thence south 0 degrees 04 minutes west, along the east side of the subdivision a distance of 655.70 feet to the point of beginning.

And the south half of the southwest quarter and a parcel of land in the southwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo meridian in Ormsby County, Nevada, said parcel described as beginning at the southwest corner of the south half of the southeast quarter and running thence east along the township line between townships 14 and 15 north 14.95 chains to the middle of the road on which is known as Penrod's Lane:

thence along the middle of said road north 24 degrees 50 minutes east 14.28 chains;

thence north 57 degrees west along the line fence on the south side of the road leading to Carson 12.85 chains to the intersection of the north boundary line of said tract of land;

thence west along said line 10 chains to the northwest corner of said tract;

thence 20 chains to the place of beginning.

And, the parcel of land in the northwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo meridian in Ormsby County, Nevada, described as four acres off the southside of the northwest quarter of the southeast quarter and further described as being all land lying southwest of the road leading from Penrod's Lane to Carson City, containing 4.00 acres, more or less; excepting the following parcels:

(1) land lying west of the V and T Railroad right-of-way contained in the southeast quarter;

(2) southwest quarter southeast quarter;

(3) land lying north of Clear Creek in the southeast quarter southwest quarter.

Total acreage 127.51 acres more or less.

(b) Nothing in this section shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right (including any water right with respect to the Carson River as decreed by order of the United States District Court of the State of Nevada on October 28, 1980, in the matter of the determination of the relative rights in and to the waters of the Carson River and its tributaries in Douglas County, Nevada), or other legal right or legal interest which such person or entity may have in land described in subsection (a).

(c) The lands which are declared to be held in trust and part of the Washoe Indian Reservation under subsection (a) shall be used primarily for agricultural purposes.

(d) Section 164 of the Act of July 14, 1955 (69 Stat. 322, 42 U.S.C. 7474), as amended, shall be applied without regard to the provisions of this section

SEC. 2. On or before the expiration of one hundred and eighty days from the date of enactment of this Act the Bureau of Indian Affairs shall transfer the administration of the following lands to the United States Forest Service:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 21: Southeast quarter northeast quarter; 40 acres.

Section 28: Northeast quarter northeast quarter; 40 acres.

Total acreage: 80.00 acres more or less.

With the following committee amendment:

Strike all after the enacting clause and insert:

That (a) subject to the provisions of subsection (b), all right, title, and interest of the United States in the following lands (including all improvements thereon and appurtenances thereto, particularly all water rights appurtenant thereto which are presently administered by the Bureau of Indian Affairs of the Department of the Interior) are hereby declared to be held by the United States in trust for the benefit and use of the Washoe Tribe of Nevada and California and are hereby declared to be part of the Washoe Indian Reservation:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 1: Lot 2 northeast quarter, lot 3; 84.90 acres.

Section 3: West half lot 1 west half lot 2, northeast quarter, east half lot 1, east half lot 2, northwest quarter; 157.14 acres.

Section 14: East half southwest quarter, southwest quarter northeast quarter, southeast quarter northwest quarter excluding any portion lying west of Jack's Valley Road as it presently exists; 160.00 acres.

Section 22: South half north half; 160.00 acres.

Section 23: South half, south half northwest quarter, northeast quarter northwest quarter; 440.00 acres.

Section 24: South half south half; 160.00 acres.

Section 25: North half, east half southeast quarter, northeast quarter southwest quarter; 520.00 acres.

Section 36: West half, north half northeast quarter, southwest quarter northeast quarter, south half southeast quarter, northwest quarter southeast quarter; 560.00 acres.

Total acreage: 2,242.04 acres more or less.

Township 14 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 5: The north half of the northeast quarter lying west of the V and T right-of-way and south of Clear Creek; and the east half of lot 2 in the northwest quarter.

Total acreage: 108.01 acres more or less.

Section 6: Lots 1 and 2; 144.13 acres.

Section 18: West half northeast quarter, southeast quarter northeast quarter, northwest quarter southeast quarter; 160.00 acres more or less.

Section 19: South half lot 2 northwest quarter, lot 2 southwest quarter; 98.36 acres more or less.

Township 15 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 32: The east half of the southeast quarter and the southwest quarter of the southeast quarter; and two parcels of land lying within the northwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo Meridian in Ormsby County, Nevada. Parcel numbered 1 is south of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, the corner being also the southwest corner of the missionary lot, said point of beginning and further described as bearing north 52 degrees 43 minutes west, a distance of 2,198.00 feet from the southeast corner of section 32:

thence north 89 degrees 50 minutes west, a distance of 900.00 feet to the southwest corner of the parcel, said corner being also the southwest corner of the above described subdivision;

thence north 0 degrees 04 seconds east, a distance of 1,102.00 feet to a point at the northwest corner of the parcel and the southerly side of the highway 100-foot right-of-way line;

thence south 51 degrees 32 minutes east, along the southerly side of the highway right-of-way line a distance of 1,600.28 feet to a point at the intersection of the highway right-of-way line and the northerly property line of the missionary lot;

thence north 55 degrees 24 minutes west along the northerly property line of said lot a distance of 430.00 feet to a point;

thence south 0 degrees 04 minutes west, along the west boundary of said lot a distance of 354.40 feet to the point of beginning; said parcel numbered 1 containing 15.51 acres more or less.

Parcel numbered 2 is north of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, said corner being on the northerly side of the highway 100-foot right-of-way line and the east side of the above described subdivision, said point of beginning being further described as bearing north 41 degrees 18 minutes west, a distance of 2,010 feet from the southeast corner of section 32:

thence north 51 degrees 32 minutes west, along the northerly side of the highway right-of-way line a distance of 1,690.00 feet to a point;

thence north 0 degrees 04 minutes east, a distance of 35.80 feet to the northwest corner of the parcel, said corner being also the northwest corner of the above described subdivision;

thence south 89 degrees 50 minutes east, along the subdivision line a distance of 1,239.50 feet to the northeast corner of the parcel and the west right-of-way line of the Virginia and Truckee Railroad;

thence south 0 degrees 04 minutes west, along the railroad right-of-way line a distance of 44.50 feet to a point;

thence from a tangent whose bearing is the last described course curving to the left with a radius of 1,196.28 feet through an angle of 21 degrees 15 minutes 40 seconds a distance of 443.90 feet to a point on the railroad right-of-way line and the east side of the subdivision;

thence south 0 degrees 04 minutes west, along the east side of the subdivision a distance of 655.70 feet to the point of beginning.

And the south half of the southwest quarter excepting the following parcels:

(1) land lying west of the V and T Railroad right-of-way contained in the southwest quarter southeast quarter; and

(2) southwest quarter southeast quarter.

Total acreage 165.54 acres more or less.

(b) Nothing in this section shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right (including any water right with respect to the Carson River as decreed by order of the United States District Court of the State of Nevada on October 28, 1980, in the matter of the determination of the relative rights in and to the waters of the Carson River and its tributaries in Douglas County, Nevada), or other legal right or legal interest which such person or entity may have in land described in subsection (a).

(c) The lands which are declared to be held in trust and part of the Washoe Indian Reservation under subsection (a) shall be used primarily for agricultural purposes.

(d) Section 164 of the Act of July 14, 1955 (69 Stat. 322; 42 U.S.C. 7474), as amended, shall be applied without regard to the provisions of this section.

SEC. 2. On or before the expiration of one hundred and eighty days from the date of enactment of this Act the Bureau of Indian Affairs shall transfer to the Forest Service, United States Department of Agriculture, the following lands which shall become national forest system lands subject to all laws, rules, and regulations applicable to the national forest system:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 21: Southeast quarter northeast quarter; 40 acres.

Section 28: Northeast quarter northeast quarter; 40 acres.

Total acreage: 80.00 acres more or less.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING EXCHANGE OF CERTAIN INTERESTS IN CERTAIN LAND HELD BY THE NAVAJO TRIBE AND BUREAU OF LAND MANAGEMENT

The Clerk called the bill (H.R. 3589) to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 3589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to the approval of the Secretary of the Interior—

(1) the Navajo Tribe may exchange all of its interests in the following described lands:

Township 8 north, range 12 west, New Mexico principal meridian: sections 1; 3; 11; 13; 23; 25; 27, south half; 29, south half; 31; 33; and 35.

Township 8 north, range 11 west, New Mexico principal meridian: sections 11; 13; 15; 21, three-quarters; 23; 25; 27; 29; 31; 33; and 35.

Township 7 north, range 12 west, New Mexico principal meridian: sections 1; 3; 5; 7; 9; 11; 15; 17; 19, south half, northeast quarter, south half northwest quarter, northeast quarter northwest quarter; 21, north half; 23; 25; 27; 31; 33; and 35.

Township 7 north, range 11 west, New Mexico principal meridian: sections 1; 3, west half; 5; 7; 9; 11; 13; 15; 17; 19; 21; 23; 25; 27; 29; 31; 33; and 35.

Township 6 north, range 12 west, New Mexico principal meridian: sections 1, east half; 3; 5; 7; 9; 11; 13, west half; 15; 17; 19; 21; 23; 25; 27; 29; 31; and 33.

Township 7 north, range 5 west, New Mexico principal meridian: sections 1; 3; 5; 7; 9; 11; 13; 15; 17; 19; 21; 23; 25; 27; 29; 31; 33; and 35.

Township 6 north, range 5 west, New Mexico principal meridian: sections 1; 3; 5; 7; 9; 13; 17; 19; 23; 25; 29; and 31.

Township 6 north, range 4 west, New Mexico principal meridian: section 1; 3; 5; 7; 9; 11; 13; 15; 17; 19; 21; 23; 25; 27; 29; 31; 33; and 35.

Township 6 north, range 3 west, New Mexico principal meridian: sections 1; 3; 5; 7; 9; 19; 27; and 31.

Township 7 north, range 3 west, New Mexico principal meridian: sections 35.

(2) for land held by the Bureau of Land Management and described as follows:

Township 18 north, range 3 west, New Mexico principal meridian: sections 4, lots 3, 4 and south half northwest quarter; section 5, southwest quarter; section 7, east half; section 8, north half, north half southwest quarter, north half southwest quarter southwest quarter, southwest quarter southwest quarter southwest quarter and east half southeast quarter, southwest quarter southwest quarter; section 16, northeast quarter and southwest quarter; section 18 lots 3, 4, east half southwest quarter and southeast quarter; section 20, southwest quarter; and section 21, northwest quarter.

Township 17 north, range 4 west, New Mexico principal meridian: section 2, south half; section 3, southwest quarter; section 5, lots 3, 4 and south half northwest quarter; section 7, southeast quarter; section 11, northwest quarter; section 18, southeast quarter; section 19, northeast quarter; and section 20, west half.

Township 18 north, range 4 west, New Mexico principal meridian: section 7, lots 1, 2, east half northwest quarter and southeast quarter; section 15, northwest quarter; section 18, east half northeast quarter, north half northwest quarter northeast quarter, southwest quarter northwest quarter northeast quarter, west half southeast quarter northwest quarter northeast half, southwest quarter northeast quarter; section 19, southeast quarter; section 20, northeast quarter; section 27, north half; section 29, north half; and section 35, southeast quarter.

Township 19 north, range 4 west, New Mexico principal meridian: section 20, northeast quarter; section 21, northwest quarter; section 23, southwest quarter; section 24, southwest quarter; section 25, southeast quarter; section 26, northwest quarter; section 27, southwest quarter; section 28, northwest quarter and southeast quarter; section 31, lots 3, 4, and east half southwest quarter; and section 34, southwest quarter.

Township 20 north, range 4 west, New Mexico principal meridian: section 6, lots 1, 2, south half northeast quarter and southeast quarter; section 8, northwest quarter and southeast quarter; section 18, north half northeast quarter, southwest quarter northeast quarter, north half southeast quarter northeast quarter, west half southwest quarter southeast quarter northeast quarter north half southeast quarter southeast quarter northeast quarter and southeast quarter; section 19, lots 1, 2 and east half northwest quarter; section 27, southwest quarter; section 28, northeast quarter, and section 34, east half.

Township 17 north, range 5 west, New Mexico principal meridian: section 4, southeast quarter; section 6, lots 1, 2 and south half northeast quarter; section 24, southwest quarter.

Township 18 north, range 5 west, New Mexico principal meridian: section 1, lots 1, 2 and south half northeast quarter; section 3, lots 3, 4, south half northwest quarter and south half; section 10, southeast quarter; section 12, northeast quarter; section 15, southeast quarter; and section 22, northeast quarter.

Township 19 north, range 5 west, New Mexico principal meridian: section 11, southeast quarter; section 14, northeast quarter; section 20, northeast quarter; section 21, northwest quarter; section 22, southeast quarter; section 25, southwest quarter; section northwest quarter; section 28, west half and southeast quarter; and section 34, northwest quarter.

Township 20 north, range 5 west, New Mexico principal meridian: section 4, southwest quarter; section 8, northeast quarter and southwest quarter; section 10, southeast quarter; section 14, southeast quarter; and section 15, north half southwest quarter, southwest quarter southeast quarter, north half southeast quarter southeast quarter, north half south half southeast quarter southeast quarter.

Township 21 north, range 5 west, New Mexico principal meridian: section 2, lots 1 to 4 inclusive south half north half and southeast quarter; section 3, lots 1 to 4 inclusive south half north half and southwest quarter; section 4, lots 3, 4, south half northwest quarter and south half; section 5, lots 3, 4, and south quarter northwest quarter; section 6, lots 1, 2, and south half northeast quarter; section 7, lots 1 to 4 inclusive, east half and east half west half; section 8, northwest quarter; section 16, east half and section 21, east half.

Township 17 north, range 6 west, New Mexico principal meridian: section 15, east half and southwest quarter; section 16, southeast quarter; section 21, northeast quarter; section 22, northwest quarter; section 23, northeast quarter; section 25, southeast quarter; section 28, southeast quarter; and section 33, northeast quarter.

Township 18 north, range 6 west, New Mexico principal meridian: section 20 northeast quarter; and section 26, northeast quarter.

Township 20 north, range 6 west, New Mexico principal meridian: section 4, southwest quarter and section 15, northeast quarter.

Township 21 north, range 6 west, New Mexico principal meridian: section 5, lots 1 to 4 inclusive and south half north half; section 6, lots 6, 7 and east half southwest quarter; section 24, west half and section 31, lots 3, 4 and east half southwest quarter.

Township 22 north, range 6 west, New Mexico principal meridian: section 4, southeast quarter; section 5, southwest quarter; section 6, lots 6, 7, and east half southwest quarter; section 7, lots 3, 4, and east half southwest quarter; section 8, north half and southeast quarter; section 9, north half and southwest quarter; section 10, northwest quarter; section 15, southeast quarter; section 22, northeast quarter northeast quarter; section 23, east half; section 24, northwest quarter; section 25, west half; section 26, east half and southwest quarter; section 29, east half; section 32, northeast quarter and south half; section 34, northeast quarter; section 35, east half and section 36, north half and southeast quarter.

Township 18 north, range 7 west, New Mexico principal meridian: section 14, southwest quarter and section 16, northeast quarter.

Township 19 north, range 7 west, New Mexico principal meridian: section 1, south half; section 6, lots 1, 2, and south half northeast quarter; section 7, lots 3, 4, and east half southwest quarter; section 8, northwest quarter; and section 12, lots 1, 2, and west half northeast quarter.

Township 21 north, range 7 west, New Mexico principal meridian: section 1, south half; section 2, lots 1, 2, and south half northeast quarter; section 10, northeast quarter; section 11, east half; section 14, southeast quarter; section 18, southeast quarter; section 22, southeast quarter; section 28, west half and section 36, southwest quarter.

Township 22 north, range 7 west, New Mexico principal meridian: section 7, lots 1, 2, northeast quarter and east half northwest quarter; section 10, northeast quarter; section 13, southwest quarter; section 24, southeast quarter; section 25, southeast quarter; section 26, southwest quarter; and section 34, southeast quarter.

Township 23 north, range 7 west, New Mexico principal meridian: section 6, lots 3 to 7 inclusive, southeast quarter northwest quarter, east half southwest quarter and southeast quarter; section 7, northeast quarter; and section 35, northeast quarter.

Township 24 north, range 7 west, New Mexico principal meridian: section 30, lots 3, 4, and east half southwest quarter.

Township 20 north, range 8 west, New Mexico principal meridian: section 10, southeast quarter.

Township 21 north, range 8 west, New Mexico principal meridian: section 13, northwest quarter and section 14, southeast quarter.

Township 22 north, range 8 west, New Mexico principal meridian: section 5, southwest quarter; section 6, lots 3 to 5 inclusive and southeast quarter northwest quarter; section 7, lots 3, 4, and east half southwest quarter; section 9, southwest quarter; section 17, north half, southeast quarter; section 18, lots 3, 4, east half southwest quarter and southeast quarter; section 21, northwest quarter; and section 32, southeast quarter.

Township 23 north, range 8 west, New Mexico principal meridian: section 1, southwest quarter, section 2, lots 3, 4, and south half northwest quarter; section 17, east half; section 21, northeast quarter; section 22, southeast quarter; section 23, southwest quarter; section 26, northwest quarter; section 27, north half; section 30, lots 1 to 4 inclusive, east half west half and northeast quarter; section 31, southeast quarter; and section 34, southwest quarter.

Township 24 north, range 8 west, New Mexico principal meridian: section 6, lot 6 northeast quarter southwest quarter; section 7, lots 3, 4, and east half southwest quarter; section 19, northeast quarter; section 21, east half; section 29, northwest quarter; and section 35, southeast quarter.

Township 25 north, range 8 west, New Mexico principal meridian: section 4, southwest quarter; and section 6, lots 8 to 11 inclusive.

Township 22 north, range 9 west, New Mexico principal meridian: section 3, lots 1 to 4 inclusive and south half north half; section 9, northeast quarter; section 13, southwest quarter; and section 14, southwest quarter.

Township 23 north, range 9 west, New Mexico principal meridian: section 1, southeast quarter; section 15, northwest quarter; section 27, northeast quarter; section 34, southwest quarter, and section 35, southeast quarter.

Township 24 north, range 9 west, New Mexico principal meridian: section 3, lots 3, 4, south half northwest quarter and southwest quarter; section 4, lots 1, 2, south half northeast quarter and southeast quarter; section 9, southwest quarter; section 14, west half; section 15, northeast quarter; section 22, east half; section 23, northwest quarter; section 25, northwest quarter; section 26, southeast quarter; and section 27, northwest quarter.

Township 25 north, range 9 west, New Mexico principal meridian: section 7, north half southeast quarter and southwest quarter southeast quarter; section 8, northwest quarter; section 10, northwest quarter; section 13, north half; section 18, lots 1 to 4 inclusive, northeast quarter and east half west half; section 23, northwest quarter; and section 33, southeast quarter.

Township 27 north, range 9 west, New Mexico principal meridian: section 11, north half; and section 15, northeast quarter.

Township 28 north, range 9 west, New Mexico principal meridian: section 24, northeast quarter and section 36, northwest quarter.

Township 22 north, range 10 west, New Mexico principal meridian: section 16, north half and southwest quarter.

Township 23 north, range 10 west, New Mexico principal meridian: section 6, lots 3, 4, 5, and southeast quarter northwest quarter; section 8, south half; section 10, east half; section 11, northwest quarter; section 13, northeast quarter; section 24, southeast quarter; and section 27, northeast quarter.

Townhsip 24 north, range 10 west, New Mexico principal meridian: section 4, southwest quarter; section 8, southeast quarter; section 10, east half; section 11, southeast quarter; section 17, northeast quarter; section 18, northeast quarter; section 21, southwest quarter; section 23, southwest quarter; section 30, southwest quarter; section 33, southeast quarter; and section 36, northwest quarter.

Township 25 north, range 10 west, New Mexico principal meridian: section 5, southeast quarter; section 6, lots 1, 2, and south half northeast quarter; section 7, northeast quarter; section 10, southwest quarter; section 14, northwest quarter; section 25, northwest quarter; section 29, west half; section 34, northwest quarter; and section 35, northeast quarter.

Township 15 north, range 11 west, New Mexico principal meridian: section 6, lots 3 to 5 inclusive, southeast quarter northwest quarter and southeast quarter; section 8, northwest quarter; and section 26, southeast quarter.

Township 16 north, range 11 west, New Mexico principal meridian: section 14, southwest quarter and section 22, northeast quarter; and southwest quarter.

Township 23 north, range 11 west, New Mexico principal meridian: section 14, east half northeast quarter.

Township 24 north, range 11 west, New Mexico principal meridian: section 7, southeast quarter; section 14, southeast quarter; section 15, southeast quarter; section 24, east half; and section 26, north half.

Township 25 north, range 11 west, New Mexico principal meridian: section 1, lots 3, 4, and south half northwest quarter; section 2, lots 1, 2, and southwest quarter northeast quarter; section 7, lots 1, 2, northeast quarter and east half northwest quarter; section 8, northwest quarter; section 9, southwest quarter; section 11, southeast quarter; section 14, southeast quarter; section 19, lots 1, 2, and east half northwest quarter; section 20, west half; section 30, east half, section 31, lots 1 to 4 inclusive, northeast quarter and east half west half; section 32, southeast quarter and section 34, northwest quarter.

Township 26 north, range 11 west, New Mexico principal meridian: section 23, southwest quarter and section 25, southeast quarter.

Township 28 north, range 11 west, New Mexico principal meridian: section 8, lots 3, 4, and south half southwest quarter.

Township 13 north, range 12 west, New Mexico principal meridian: section 10, southwest quarter; section 14, northwest quarter and southeast quarter; section 22, northwest quarter; and section 24, northwest quarter.

Township 15 north, range 12 west, New Mexico principal meridian: section 36, southeast quarter

Township 16 north, range 12 west, New Mexico principal meridian: section 8, northeast quarter; and section 26, southeast quarter.

Township 18 north, range 12 west, New Mexico principal meridian: section 20, north half and southwest quarter.

Township 25 north, range 12 west, New Mexico principal meridian: section 12, south half; section 13, northwest quarter and south half; section 14, southeast quarter; section 23, northeast quarter; section 25, southeast quarter; section 26, southeast quarter; section 28, northwest quarter; section 34, northwest quarter; section 35, west half; and section 36, southwest quarter.

Township 14 north, range 13 west, New Mexico principal meridian: section 20, northwest quarter, east half southeast quarter and south half southwest quarter southeast quarter.

Township 19 north, range 13 west, New Mexico principal meridian: section 18, northeast quarter.

Township 23 north, range 13 west, New Mexico principal meridian: section 3, southeast quarter; section 13, southeast quarter; and section 28, southwest quarter.

Township 28 north, range 13 west, New Mexico principal meridian: section 76, 1 to 5 inclusive.

Township 29 north, range 13 west, New Mexico principal meridian: section 19, southeast quarter; and section 28, east half southwest quarter southwest quarter and west half southeast quarter southwest quarter.

Township 14 north, range 14 west, New Mexico principal meridian: section 14, northeast quarter.

Township 16 north, range 14 west, New Mexico principal meridian: section 20, south half.

Township 15 north, range 15 west, New Mexico principal meridian: section 2, lots 1 to 4 inclusive, and south half north half.

Township 16 north, range 15 west, New Mexico principle meridian: section 8, northeast quarter and north half south half; section 14, southeast quarter; section 22, north half southwest quarter, southwest quarter southwest quarter, north half southeast quarter southwest quarter, southwest quarter southeast quarter southwest quarter and southeast quarter; and section 25, southeast quarter.

Township 16 north, range 16 west, New Mexico principal meridian: section 18, lot 1, northeast quarter northwest quarter and southeast section 20, north half; section 26, southwest quarter; and section 28, northeast quarter.

Township 14 north, range 17 west, New Mexico principal meridian: section 30, northeast quarter.

Township 15 north, range 17 west, New Mexico principal meridian: section 6, lots 1 to 5 inclusive, southeast quarter northwest quarter and south half northeast quarter; and section 28, northeast quarter.

Township 16 north, range 17 west, New Mexico principal meridian: section 14, northeast quarter.

Township 14 north, range 18 west, New Mexico principal meridian: section 4, southeast quarter; section 24, southwest quarter; section 26, east half; and section 32, south half.

Township 13 north, range 19 west, New Mexico principal meridian: section 8, northwest quarter and section 12, south half.

Township 14 north, range 19 west, New Mexico principal meridian: section 8, north half and section 26, northwest quarter.

Township 15 north, range 19 west, New Mexico principal meridian: section 18, lots 1, 2, and east half northwest quarter.

Township 11 north, range 20 west, New Mexico principal meridian: section 2, lots 1 to 4 inclusive, south half north half and north half southeast quarter.

Township 12 north, range 20 west, New Mexico principal meridian: section 26, south half.

Township 15 north, range 20 west, New Mexico principal meridian: section 12, east half, section 16 southeast quarter southeast quarter; section 18, lots 3, 4, and east half southwest quarter; section 19, lots 3, 4, and east half southwest quarter; section 20, east half; section 22, southwest quarter; and section 26, northwest quarter.

Township 16 north, range 21 west, New Mexico principal meridian: section 10, lots 5 to 8 inclusive.

Township 21 north, range 6 west, New Mexico principal meridian: section 5, lots 5 and 6.

Township 25 north, range 12 west, New Mexico principal meridian: section 11, northeast half.

Township 20 north, range 8 west, New Mexico principal meridian: section 11, southwest half.

Township 29 north, range 13 west, New Mexico principal meridian: section 28, west half northeast half southwest half.

SEC. 2. The land acquired by the Navajo Tribe in this exchange shall be held in trust by the United States for the Navajo Tribe.

SEC. 3. Where lands which are subject to reserved mineral and other interests in third parties are accepted by the Secretary of the Interior in trust for the benefit of the Navajo Nation or for addition to the Navajo Reservation, nothing in this Act, nor any exercise by the Secretary of the powers it confers, shall adversely affect the rights of such third parties to have access to and to develop such reserved interests: *Provided*, That the exercise of such rights shall not be subject to the control of the Navajo Nation or the Bureau of Indian Affairs to any greater extent than was permissible under existing law at the date of acceptance by the Secretary: *Provided further*, That the Secretary shall not accept any lands in trust for the benefit of the Navajo Nation or for addition to the Navajo Reservation that would block access to any adjacent private, State, or Federal lands unless the Navajo Nation agrees that it will grant its consent to an easement across its lands in order to provide access.

With the following committee amendment:

Strike all after the enacting clause and insert:

(1) the Navajo Tribe may convey to the United States any or all of its surface interests in lands located within the following New Mexico principal meridian townships:

Township 8 north, range 12 west;
Township 8 north, range 11 west;
Township 7 north; range 12 west;
Township 7 north; range 11 west;
Township 6 north; range 12 west;
Township 7 north; range 5 west;
Township 6 north; range 5 west;
Township 6 north; range 4 west;
Township 6 north; range 3 west; and
Township 7 north, range 3 west;

(2) for surface interests in land of equal value held by the Bureau of Land Management and such land to be selected from the list of land as follows: Land withdrawn for exchange by Public Land Order 5721, published in the Federal Register, May 2, 1980, pages 29295–29297, except the following described land:

Township 23 north, range 13 west, New Mexico principal meridian: section 3, southeast quarter; section 13, southeast quarter; and section 28 southwest quarter;

Township 16 north, range 10 west, New Mexico principal meridian: section 6, southeast quarter; and section 18, northeast quarter; and

Township 22 north, range 10 west, New Mexico principal meridian: section 16, north half and southwest quarter;

(3) if the appraised values of the lands proposed for exchange are not equal, the values shall be equalized by the payment of money to the grantor or the Secretary as the circumstances require so long as the payment does not exceed 25 per centum of the lands or interests transferred out of Federal ownership.

SEC. 2. The land acquired by the Navajo Tribe in this exchange shall be held in trust by the United States for the Navajo Tribe.

SEC. 3. (a) Where lands which are subject to reserved mineral and other interests in third parties are accepted by the Secretary of the Interior in trust for the benefit of the Navajo Tribe, nothing in this Act, nor any exercise by the Secretary of the power it confers, shall adversely affect the rights of such third parties to have access to and to develop such reserved interest. The acceptance of such lands in trust shall not affect any valid existing rights of access to adjoining other nearby lands. The exercise of such rights shall not be subject to the control of the Navajo Tribe or the Bureau of Indian Affairs to any greater extent than was permissible under existing law at the date of acceptance by the Secretary.

(b) The lands transferred to the Navajo Tribe pursuant to this Act shall be subject to such rights-of-way as the Secretary of the Interior may now or hereafter consider necessary to provide access to adjoining or nearby Federal lands. The Secretary shall consult with the Navajo Tribe as to the location and scope of any such right-of-way.

The committee amendment was agreed to.

● Mr. SKEEN. Mr. Speaker, the legislation before us represents the culmination of a noteworthy agreement between several agencies and a tribal government which resolves a complex land management problem.

The problem which is addressed by this bill is unique to the State of New Mexico. Landownership in the northwestern region of the State is intermingled, often called "checkerboard." This designation reflects the pattern of small parcel ownership by private, State, Federal, and Indian trust land. Prudent land management policies are often frustrated by this complex ownership pattern. In addition to the checkerboarding problem is the existence of unauthorized Indian occupancy on public lands which are managed by the Bureau of Land Management.

The Indian occupancy issue is a widespread problem and can be traced back to the early part of this century when portions of the public lands were temporarily withdrawn for use by the Navajo Tribe by Executive order. The authorized use by the Navajos was terminated in stages and the land was returned to the public domain on paper, however, the use of these lands by individual Navajos did not end.

The Navajos had lived and grazed their livestock in this region for over 400 years. Some of the people built their homes and put up corrals and fencing as was needed for their livestock operations. Because of the confusing landownership pattern and missing survey markers, the extent of the trespass problem was not fully appreciated. Only in 1974, when the Bureau of Land Management inventoried the area during the planning process, was the unauthorized occupancy actually verified.

The response to this situation was both creative and compelling as an example of cooperation between agencies of the Federal Government and the Navajo Tribe. In an effort to avoid relocation of the Indians occupying public domain land, the Bureau of Indian Affairs, the Bureau of Land Management and the Navajo Tribe agreed to cooperate in an exchange of land. In 1977 the Navajo Tribe purchased approximately 80,000 acres of privately owned land in an area which possesses significant natural interest: The El Malpais region of New Mexico. This land, which had been identified by the BLM as appropriate to their land management goals, is to be exchanged for 57,000 acres of public land on which about 1,000 Navajos now live as unauthorized occupants. All parties have agreed on the land appraisals which indicate an exchange of equal value. The agreement enhances the BLM multiple use management program, consolidates a portion of the checkerboard ownership pattern, and eliminates disruption and relocation of the Indian families occupying public domain land.

This exchange does not require legislative action. Such an exchange is fully authorized under section 206 of the Federal Land Policy and Management Act of 1976. However, legislation is necessary to authorize the Secretary of the Interior to accept and hold the lands in trust for the Navajo tribe—a step which the Tribe feels is vital in order to regularize and conform to existing tribal land status.

Therefore the legislation before the Senate is the linchpin of the land exchange agreement. It provides the Secretary of the Interior to accept title to the exchanged lands on behalf of the Navajo Tribe to be held in trust. Subsurface rights to the land to be held in trust will be reserved to the Federal Government. This is consistent with the land acquired by the Navajo Tribe

for the exchange: Only surface rights of the previously private land were acquired. Existing mineral rights and existing easements and rights-of-way are protected in this legislation. Access to Federal lands adjacent to the land to be held in trust is guaranteed by the bill, and limited cash equalization of the land values is provided. No change in the official boundary of the Navajo Reservation is contemplated in this legislation and no additional powers are conferred on either the Secretary of the Interior of the Navajo Tribe except to allow the single-purpose transfer of land title into trust status.

I would like to again remark on the praiseworthy effort by all parties involved in this difficult situation. I would also like to thank my colleague, the distinguished chairman of the Select Committee on Indian Affairs, and his staff for the support which this measure has received, and for his understanding of the issues involved. I urge the adoption of this measure.●

● Mr. LUJAN. Mr. Speaker, I rise in support of H.R. 3589. For myself, my colleague from New Mexico, Mr. SKEEN, and for the Navajo Tribe, I am very pleased that this bill is before the House today.

This legislation would permit the Navajo Tribe to exchange some 80,000 acres of fee lands south and east of Grants, N. Mex., for approximately 57,000 acres of BLM lands in northwestern New Mexico east of the Navajo reservation.

The bill is needed to permit the Secretary of the Interior to take into trust status the lands exchanged to the tribe. Most of these lands are contiguous to existing parcels of tribal trust land in a heavily checkerboarded area.

The land exchange is a result of negotiations that began in 1974, when BLM completed land surveys in eastern New Mexico that found several hundred Navajos living on public lands without authorization. BLM and the tribe agreed that land exchanges were the only way to avoid requiring relocation of Navajos living on BLM lands where many have lived for generations.

Pending resolution of this situation, about 1,000 Navajos living on BLM land cannot improve their homes or initiate any community or economic development. More than 95 percent of these people's homes do not have running water or electricity, but the Federal Government cannot under existing law approve rights-of-way for electrical or water systems. H.R. 3589 would lift a cloud of uncertainty from over these people's lands and lives and permit them to plan and develop the homes and community facilities essential to a healthy and productive future.

I would note for the record that the bill before us contains a minor drafting error which, since the bill cannot be amended on the consent calendar, will be corrected in the Senate. Section 3(b) now provides that lands transferred to the Navajo Tribe shall be subject to such rights-of-way as the Secretary of the Interior may consider necessary to provide access to adjoining or nearby Federal lands. The Secretary must, of course, consult with the tribe about such rights-of-way. However, because there are also privately owned lands adjacent to, or near the lands to be exchanged, it was the intention of the sponsors of legislation that these third parties be assured of their right to obtain access to their lands from the Secretary. Accordingly, the word "Federal" should be stricken from section 3(b).

Mr. Chairman, I know of no reason why the House should not pass H.R. 3589. It is supported by all affected parties, including the administration, and it does not cost the taxpayers any money. Most importantly, it will clear away a major obstacle that currently prevents over 1,000 Navajo Indians from making significant improvements in their living conditions. Accordingly, I urge the House to approve H.R. 3589 without delay.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INTRODUCING BILL CONVEYING INTEREST IN LAND, TO ROOSEVELT MEMORIAL CHURCH, PINE MOUNTAIN VALLEY, GA.

(Mr. BRINKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRINKLEY. Mr. Speaker, today I have introduced a bill which would convey to the Roosevelt Memorial Church in Pine Mountain Valley, Ga. whatever interest, if any, the United States has in the title to a small strip of land in Harris County, Ga.

The story behind this legislation is interwoven with the recent history of our country, and it may be of interest to some of our colleagues.

The Georgia Pine Mountain Valley Rural Community Corp. was established by the Roosevelt administration as part of the "New Deal." Its purpose was to provide a cooperative of services to the people who lived in this area, which was a favorite of President Roosevelt and the home of his beautiful "Little White House."

In 1945, however, the Georgia Pine Mountain Valley Rural Community Corp. was liquidated and the land which it had acquired was offered for sale to the people who lived on it, with financing provided by the Farmers Home Administration.

The opened streets which were on this land were deeded to Harris County. However, there were a few unopened streets, such as the seventenths of an acre tract which is the subject of this measure, which were unintentionally omitted from that conveyance, Therefore, the land in question has remained in limbo since the time when the corporation was liquidated.

Today, on either side of that unopened and forgotten street, there stands the cemetery of the Roosevelt Memorial Church. The church wants to have the cloud on its title to that portion of its cemetery removed, and that is the purpose of the present effort.

THE PROPOSED BALANCED BUDGET AMENDMENT

(Mr. SHANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHANNON. Mr. Speaker, today the President is making one of his rare appearances on Capitol Hill, to address a rally in support of a balanced budget amendment.

This President who makes declarations in the noonday sun is the same President who is giving us the biggest budget deficit in this Nation's history.

The American people are not stupid.

They know that the two key words in today's performance are not "balanced budget."

The two key words are "election year."

The administration says they have a plan for ending deficits. Where has this plan been so far?

We should have a balanced budget. That is something everybody can agree on.

But you do not get a balanced budget by introducing a phony constitutional amendment.

You do not get a balanced budget by ripping the heart out of social security.

Instead of making grand pronouncements, why does not this administration come up with a real fiscal policy.

What we need, Mr. President, are fewer rallies and election year speeches. What we need is more cooperation from you in working with leaders of both parties. That is the way to solve the economic problems facing this country.

THE LONG-TERM TRADE AGREEMENT WITH THE SOVIET UNION

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, the Reagan administration has again struck at the heart of the farm econo-

my. Last week, the administration announced that it will not seek a new long-term trade agreement with the Soviet Union because of the continuation of martial law in Poland.

Mr. Speaker, I believe we should use all diplomatic means available to help the Polish people in their fight for freedom, but I wonder if the farmers of this country must bear such a burden. American farm income is at its lowest adjusted level since the Great Depression. Beyond that, the worldwide recession has led to less demand for our grain on the world market.

Mr. Speaker, it is projected that the Soviet grain harvest will fall far short of their domestic needs. Since the lifting of the last embargo, we have not recovered the once lucrative market in the Soviet Union, but a negotiated long-term agreement would help reestablish this necessary market for our surplus grain.

Mr. Speaker, our farmers are facing a disaster. Grain carryover is at record high levels, while cash prices are low. The new set-aside program announced last week could help but too few farmers can afford to leave a fifth of their land idle without a diversion payment. One of the few bright spots for our farmers has been the sale of grain overseas, but now exports are expected to level off or fall during the next few years. We must take advantage of every market available, including the Soviet Union.

So, Mr. Speaker, I am writing to the President and Secretary of State Shultz urging reconsideration of this decision and that we begin serious negotiations with the Soviet Union for a new 5-year grain agreement with minimum purchase requirements.

ISRAEL'S USE OF CBU'S IN LEBANON

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, the United States has now received a communication from Israel that Israel has used U.S.-supplied cluster bomb units in Lebanon. Israel did not supply this information until 1 full month after the initial U.S. inquiry to Israel regarding its use of CBU's in Lebanon.

Since there has been great interest in this issue, I would invite my colleagues to review the classified 1976 United States-Israeli agreeement and the 1978 Israeli reassurances which define the terms under which Israel is to use U.S.-supplied CBU's or Israeli-made CBU's under U.S. license. It is beyond me why these documents must be classified but they are in the Foreign Affairs Committee safe. The contents of these documents have not always been accurately described in the U.S. media.

The 1978 reassurances which reiterate the terms of the 1976 agreement were necessary because Israel violated the 1976 agreement when it used CBU's in Lebanon during its 1978 Litani invasion. CBU's are inaccurate and indiscriminate antipersonnel weapons. These characteristics, the delayed explosion of some of the multitude of pods that are widely scattered, and the horror of their effect on the human body necessitated a special agreement governing their use beyond the regular 1952 United States-Israeli agreement that applies to all U.S. arms transfers to Israel.

From reading the 1976 CBU agreement and the 1978 reassurances, it is clear that:

First, any Israeli use of CBU's in Lebanon during these recent hostilities would constitute a clear violation of the 1976 agreement and 1978 reassurances;

Second, such a violation is the second violation in recent years which is an indication that Israel does not intend to abide by its 1976 agreement with the United States. It is important to remember that, according to then Defense Minister Weizman, the 1978 Israeli use of CBU's in Lebanon was the result of a lack of knowledge of the existence of the 1976 agreement. This was to have been rectified by the 1978 reassurances from Israel and new procedures for Israel's use of CBU's to avoid a repetition of such misuse in the future.

Although many have called for greater United States-Israeli consultation on Israeli use of U.S. arms to avoid the horror of future "Lebanons," it is disturbing to note that even when full consultation has occurred and clear-cut agreements and reassurances have been drawn up, Israel flaunts U.S. law and misuses U.S. military equipment. I personally believe that the United States must make very sharp and effective response to Israel's use of U.S.-supplied CBU's in Lebanon.

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ANOTHER CHANCE FOR A BALANCED BUDGET

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, just a few moments ago two of the Democratic colleagues, one from the State of Arkansas and one from the State of Massachusetts, made reference to the fact that there will be a rally this morning on the subject of a proposed amendment to our Constitution to mandate a balanced budget, and they made some comments about some inconsistencies somewhere.

About a month ago here in the House we had an opportunity in this body to vote for a balanced budget, and unless my memory does not serve me correctly, both of these esteemed colleagues voted against the adoption by this House of a balanced budget. The vote was 182 to 225.

Some of us believe we could have done it then. Some of us believe we can do it now. Why was it not done? Because my esteemed Democratic liberal colleagues over here by their vote say they will not do it. What else can a President of the United States do when he deals with the fact that the liberal Democrats control the House of Representatives and he is a Republican President. He has to present a budget that has a chance of flying and that is why he presented the budget that he did.

But if we want to balance the budget in this House, we can do it by resurrecting Rousselot. I just saw our distinguished colleague here a few minutes ago. Those who now yearn for the opportunity of voting for a balanced budget can once again have the opportunity of doing so.

THE BALANCED BUDGET CONSTITUTION AMENDMENT

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, today, of course, the President of the United States will dramatize the subject of a proposed constitutional amendment to balance the Federal budget. This is an issue which has been languishing in our House Judiciary Committee for all of the months since the 97th Congress convened.

I have addressed a communication to the chairman of the committee, the gentleman from New Jersey (Mr. RODINO), urging him to schedule a markup session so that we might send to the floor of the House such a proposed constitutional amendment. I think if the House Judiciary Committee is discharged from its responsibilities and its authority to handle this issue in committee and to have charge of the debate of that issue on the floor of the House, we will be diminishing and we will be depriving ourselves of authorities which we have traditionally had with respect to constitutional amendments.

The balanced budget constitutional amendment is going to pass; it is going to be adopted by this House; it is going to be ratified by the States; but I think we should do it in the orderly way, and that is for the House Judiciary Committee to have charge of it.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Would the gentleman from Illinois state that the Judiciary Committee is probably the biggest mausoleum presently in Washington?

Mr. McCLORY. I do not want to categorize the committee. I just want to point out that on this issue it has bottled up a proposal which deserves to be debated fully here on the floor of the House.

THE PRESIDENT MUST BLOCK EXPORT OF NUCLEAR TECHNOLOGY TO ARGENTINA

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, I could hardly believe it when I read in this morning's paper that the administration has approved a license for exporting to Argentina technology and equipment that will enable that country to complete a facility which will enable it to produce weapons grade plutonium.

From statements by high officials in Argentina, there can be no doubt of their intention to proceed with the development of nuclear weapons. If there were any doubt as to the danger of having such capability in the hands of this Nazi-like military dictatorship, the recent Falklands crisis should have dispelled it. It does not take much imagination to see how that crisis would have gone if the Argentines were already in the possession of nuclear weapons. A nuclear war would have been the likely result.

With this background, one would have thought the administration would have been moving heaven and earth to prevent Argentina from acquiring any technology that could move it in the direction of becoming a nuclear power. Perhaps it is still not too late, but the direction will have to come from the President himself. One can only hope that he has become somewhat more sophisticated since his days on the campaign trail, when he was reported to have remarked that nuclear nonproliferation was "none of our business."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRINKLEY). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 20, 1982.

IMPLEMENTING THE CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIAL

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5228) to amend title 18 of the United States Code to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Convention on the Physical Protection of Nuclear Material Implementation Act of 1982".

IMPLEMENTATION OF CONVENTION AND PROHIBITION OF RELATED OFFENSES

SEC. 2. (a) Chapter 39 of title 18 of the United States Code is amended by inserting after the table of sections at the beginning of such chapter the following new section:

"§ 831. Prohibited transactions involving nuclear materials

"(a) Whoever, if one of the circumstances described in subsection (c) of this section occurs—

"(1) without lawful authority, intentionally receives, possesses, uses, transfers, alters, disposes of, or disperses any nuclear material and—

"(A) thereby causes the death of or serious bodily injury to any person or substantial damage to property; or

"(B) knows that cirumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property;

"(2) with intent to deprive another of nuclear material, knowingly—

"(A) takes and carries away nuclear material of another without authority;

"(B) makes an unauthorized use, disposition, or transfer, of nuclear material belonging to another; or

"(C) uses fraud and thereby obtains nuclear material belonging to another;

"(3) knowingly—

"(A) uses force; or

"(B) threatens or places another in fear that any person other than the actor will imminently be subject to bodily injury;

and thereby takes nuclear material belonging to another from the person or presence of any other;

"(4) intentionally intimidates any person and thereby obtains nuclear material belonging to another;

"(5) with intent to compel any person, international organization, or governmental entity to do or refrain from doing any act, knowingly threatens to engage in conduct described in paragraph (2)(A) or (3) of this subsection;

"(6) knowingly threatens to use nuclear material to cause death or serious bodily injury to any person or substantial damage to property under circumstances in which the threat may reasonably be understood as an expression of serious purposes;

"(7) with intent to commit an offense described under paragraph (1), (2), (3), or (4) of this subsection engages in conduct which constitutes a substantial step toward the commission of such offense; or

"(8) knowingly agrees with one or more other persons, all the parties to the agreement having intent that an offense under paragraph (1), (2), (3), or (4) of this subsection be committed, to engage in the conduct that is required for the intended offense, if any of the persons so agreeing intentionally engages in any conduct in furtherance of such offense;

shall be punished as provided in subsection (b) of this section.

"(b) The punishment for an offense under—

"(1) paragraphs (1) through (7) of subsection (a) of this section is—

"(A) a fine of not more than $250,000; and

"(B) imprisonment—

"(i) for any term of years or for life if, while committing an offense under paragraph (1) or (3) of subsection (a) of this section, the offender, under circumstances manifesting extreme indifference to the life of an individual, knowingly engages in any conduct and thereby recklessly causes the death of or serious bodily injury to any person; and

"(ii) for not more than 20 years in any other case; and

"(2) paragraph (8) of subsection (a) of this section is that provided for an offense under section 371 of this title.

"(c) The circumstances referred to in subsection (a) of this section are that—

"(1) the offense is committed in the United States or the special maritime and territorial jurisdiction of the United States, or the special aircraft jurisdiction of the United States (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301));

"(2) the defendant is a national of the United States, as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101);

"(3) at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and after the conduct required for the offense occurs the defendant is found in the United States, even if the conduct required for the offense occurs outside the United States; or

"(4) the conduct required for the offense occurs with respect to the carriage of a consignment of nuclear material for peaceful purposes by any means of transportation intended to go beyond the territory of the state where the shipment originates beginning with the departure from a facility of the shipper in that state and ending with the arrival at a facility of the receiver within the state of ultimate destination and either of such states is the United States.

"(d) The Attorney General may request assistance from the Secretary of Defense under chapter 18 of title 10 in the enforcement of this section and the Secretary of Defense may provide such assistance in accordance with chapter 18 of title 10, except that the Secretary of Defense may provide such assistance through any Department of Defense personnel.

"(e)(1) The Attorney General may also request assistance from the Secretary of Defense under this subsection in the enforcement of this section. Notwithstanding section 1385 of this title, the Secretary of Defense may, in accordance with other applicable law, provide such assistance to the Attorney General if——

"(A) an emergency situation exists (as jointly determined by the Attorney General and the Secretary of Defense in their discretion); and

"(B) the provision of such assistance will not adversely affect the military prepared-

ness of the United States (as determined by the Secretary of Defense in such Secretary's discretion).

"(3) As used in this subsection, the term 'emergency situation' means a circumstance—

"(A) that poses a serious threat to the interests of the United States; and

"(B) in which—

"(i) enforcement of the law would be seriously impaired if the assistance were not provided; and

"(ii) civilian law enforcement personnel are not capable of enforcing the law.

"(4) Assistance under this section may include—

"(A) use of personnel of the Department of Defense to arrest persons and conduct searches and seizures with respect to violations of this section; and

"(B) such other activity as is incidental to the enforcement of this section, or to the protection of persons or property from conduct that violates this section.

"(5) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

"(6) The Attorney General may delegate the Attorney General's function under this subsection only to a Deputy, Associate, or Assistant Attorney General.

"(f) As used in this section—

"(1) the term 'nuclear material' means material containing any—

"(A) plutonium with an isotopic concentration not in excess of 80 percent plutonium 238;

"(B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

"(C) uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

"(D) uranium 233;

"(2) the term 'international organization' means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs:

"(3) the term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) extreme physical pain;

"(C) protracted and obvious disfigurement; or

"(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(4) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of a function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary.".

(b) The table of sections for chapter 39 of title 18 of the United States Code is amended by striking out the items relating to sections 831 through 835 and inserting in lieu thereof the following:

"831. Prohibited transactions involving nuclear materials.".

AMENDMENT TO DEFINITION OF INTERNATIONAL ORGANIZATIONS USED IN DEFINING OFFENSES AGAINST INTERNATIONALLY PROTECTED PERSONS

SEC. 3. Section 1116(b)(5) of title 18 of the United States Code is amended by inserting before the period the following: "or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. HUGHES) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. SAWYER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5228 is a bill to implement the Convention on the Physical Protection of Nuclear Material. The Convention was a U.S. initiative, proposed by the Secretary of State in 1974, and called for by the U.S. Congress in the Nuclear Non-Proliferation Act of 1978. The purpose of the Convention is to establish general levels of physical security to be provided by the parties to the Convention during the international shipment and during domestic use, storage, and transport, of nuclear material, and to establish appropriate responses to serious offenses involving nuclear material.

Last July, the Senate voted to approve ratification of the Convention by a vote of 98 to 0, but before the United States can fully carry out its obligations as a signator to the Convention, both Houses of Congress must enact legislation to implement its provisions.

H.R. 5228 does just that. As required by the Convention, it amends title 18 of the United States Code to prohibit and punish certain serious offenses involving the security of nuclear material, such as those offenses commonly described as robbery, embezzlement, and fraud, and the demanding of nuclear material by threat, force, or other intimidation. H.R. 5228 punishes most of these offenses by 20 years in prison, a $250,000 fine, or both. However, in certain instances when death or serious bodily injury results, the defendant can be sentenced to any term of years or to life in prison.

As the Convention also requires, H.R. 5228 establishes jurisdiction over these offenses under certain specified circumstances. The Convention's provisions guarantee that violators will find no safe haven in any of the party States: they will either be prosecuted or extradited to a nation that will prosecute.

Finally, the bill provides that in certain situations, the military and Department of Defense personnel generally, may lend their expertise to protecting the security of nuclear material and to enforcing the provisions of this bill.

There is bipartisan support for this bill. Implementing legislation was first submitted by the Carter adiministration in 1980. Because it was introduced late in the legislative session, it was not acted upon. The Reagan administration resubmitted the legislation in 1981, and it has been introduced in the House by Mr. RODINO, Mr. MCCLORY and myself, and a similar bill has been introduced by Senators MATHIAS and PERCY in the Senate.

The security of nuclear materials is one of the most serious problems facing all nations today. There have already been a number of threats to use such materials. The motivations behind such threats have varied, but the result could be the same: the releasing of readioactive materials that could kill enormous numbers of people and destroy large areas of land. We must not let this happen. It is far too easy for unauthorized people to obtain nuclear material and to manufacture nuclear weapons. A summer intern in my office demonstrated exactly that when he was a physics major in college. What he learned in college was sufficient to enable him to construct a nuclear weapon. He did not actually do so, of course, but the technology is easily available. The material must not be. We must take immediate steps to implement this Convention and to prevent unauthorized people from obtaining nuclear material.

I urge you to vote to suspend the rules and pass H.R. 5228.

Mr. Speaker, I reserve the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join the gentleman from New Jersey, the chairman of the subcommittee on which I am the ranking Republican, in urging support for H.R. 5228, which is a bipartisan effort to create in Federal law criminal penalties for the diversion or theft of nuclear material, particularly concerning those materials that may be used for making of weapons for terrorist purposes.

The need for such legislation it was recognized a full decade ago by Henry Kissinger when he urged the General Assembly of the U.N. to enact a proposal to safeguard nuclear materials.

In 1978 the Congress passed the Nuclear Non-Proliferation Act, which called on the United States to negotiate with other nations to establish international procedures to be followed in the event of diversion, theft or sabotage of nuclear materials.

To that end, a Convention was negotiated, to which the Senate unanimously consented last year. It is pursuant to that Convention that H.R. 5228 is proposed. It complies with our obligations under that Convention to criminalize the diversion, sabotage or theft of nuclear materials.

The original bill proposed by the administration would have made these offenses subject to a maximum penalty of 20 years imprisonment. The chairman of the subcommittee and I both agreed that in those cases where death might result, this was not sufficient. We have amended the bill to its present form which provides up to life imprisonment where death or serious bodily injury may result from certain offenses.

I would have thought that these kinds of offenses perhaps warranted the death penalty, if anything did. But, because we are under a treaty obligation to pass this bill to fulfill our convention obligations, and because of the obvious problems which arise when we inject that penalty, politically and morally, for many Members of this body, it would have posed a problem which we do not think warrants holding up this bill.

□ 1230

Furthermore, we have literally hundreds and hundreds of people occupying death rows all over the country. Up to now, the courts do not seem to have had the courage to actually carry out these sentences. To hold up this bill to include a death penalty, which might never be carried out, seemed to us to be unwise. We feel that life imprisonment is an adequate penalty. Until such time as the courts show that they are capable of seeing that the death penalty is carried out, we might reconsider that question in connection with this bill. Right now the only opposition to this bill I am aware of are those people who want the death penalty included.

It has not been included for the very reason that we feel it would pose an obstacle to the quick passage of this bill and, at the moment, at least, serve no useful purpose, since, to date, the courts have evidenced a disinclination or disability to see that penalty executed.

I urge support of H.R. 5228.

Mr. HUGHES. Mr. Speaker, I have no requests for time.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we are all in agreement on the need to implement the Convention on the Physical Protection of Nuclear Material and do so promptly.

The question is whether H.R. 5228 is a sufficient bill to do that.

Mr. Speaker, I think it should become a point of embarrassment to this body that so many bills come from the Committee on the Judiciary only under suspension of the rules, only under circumstances in which amendments are not available to debate on the floor of this body.

I think it is understandable that a bill such as this should reach the floor with perhaps a great degree of bipartisan support. That is fine, but I regret that I am compelled after considerable contemplation to oppose H.R. 5228 which attempts to achieve the goal of implementing our convention obligation.

The bill is unfortunately so complicated and vague that it may ultimately defeat the ultimate purpose behind its enactment.

Regrettably, the limited debate time under suspension of the rules affords us inadequate opportunity for detailed accounting of the problems presented by the bill. They are numerous and fundamental.

As a new member of the Subcommittee on Crime, I was not present at the creation of this bill, but I commend the subcommittee leadership on both sides of the aisle for their efforts in attempting to translate the spirit of the convention into the letter of the American criminal law.

The subcommittee's effort, in many, many respects, certainly has been an improvement over the bill proposed by the administration and introduced by the chairman of the Judiciary Committee. Part of that improvement effort involved the application of selective conventions from the omnibus Criminal Code reform effort, which has been going on in the Congress for so long and which so far in this Congress has been thwarted by the Democratic leadership of the Judiciary Committee.

As a strong proponent of omnibus Criminal Code revision, I share the enthusiasm of the bill's drafters for the improved organization and clarification that the Criminal Code conventions would facilitate. Unquestionably, H.R. 5228 makes a good faith effort to implement those conventions. Unfortunately, in doing so, the bill merely highlights the urgent, and I think unquestionable, need for omnibus criminal law reform. The piecemeal attempt to revise the code made in this bill is fraught with danger for the prosecution and the defense alike.

Mr. Speaker, time constraints permit me to touch upon only the most disturbing deficiencies in the bill. For instance, no criminal state of mind is required in this bill with respect to a defendant's possession of nuclear material "without unlawful authority." No state of mind accompanying that circumstance is called for in this legislation. This could result in punishment for mere accidental activity, even though our real goal, and I believe the goal of the convention, was to punish more deliberate conduct.

The most serious defect in the bill was added by the committee in an effort to include in H.R. 5228 more appropriate penalties. While the committee's good intentions in attempting to impose life imprisonment in the most egregious cases are commendable, those intentions are unfortunately misplaced in a morass of confusing, duplicative, and messy drafting.

Life imprisonment may only be imposed for the most dangerous offenses in the bill where the Government proves three states of mind on the part of the defendant in addition to those that must be shown in connection with the underlying offense. In order for a penalty to be applied, three additional states of mind have to be proven, and perhaps another evidentiary hearing or portion of the initial evidentiary hearing must be committed to that purpose.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Ohio for yielding.

Now, as I understand this legislation, if the prosecution decides that it wants to seek a life term under the bill, then the prosecution has to have three additional elements placed before the jury's consideration: First, that the accused person knowingly engaged in the conduct.

Second, that he recklessly caused death or serious bodily injury.

Third, that he acted under circumstances manifesting extreme indifference to the life of an individual.

Mr. KINDNESS. The gentleman is correct, except that it is not clear whether those are jury questions or questions for the judge to determine in a separate evidentiary hearing following conviction.

Mr. SENSENBRENNER. I appreciate the gentleman's clarification.

If, however, the prosecution decides that it does not wish to seek affirmative determinations on each of these three questions, then what is the maximum penalty that someone, for example, who blows up New York City with an atomic warhead can receive?

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. SAWYER. Mr. Speaker, I yield 3 additional minutes to the gentleman.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield further?

Mr. KINDNESS. I yield to the gentleman.

It would in that case be a 20-year limit.

Mr. SENSENBRENNER. If the gentleman will yield further, how soon

would that individual be eligible for parole?

Mr. KINDNESS. With or without the enactment of Criminal Code reform?

Mr. SENSENBRENNER. Without.

Mr. KINDNESS. In 6⅔ years, on the average.

Mr. SENSENBRENNER. I appreciate the gentleman explaining this to the body to show that the opposition to this bill is not exclusively on the death penalty issue, although I will talk about that later. The fact that the drafting of the bill to even get a life imprisonment penalty imposed is fraught with legalese and mumbo-jumbo, similar to that which resulted very tragically, I believe, in the Hinckley verdict that came down from the jury here in the District of Columbia in the not too distant past.

I thank the gentleman for his elucidation.

Mr. KINDNESS. I thank the gentleman for his contribution to the debate.

I would also like to quickly point out that what is involved here is an attempt to use the language from one or more versions of the Criminal Code effort that are not enacted and do not really make sense in the context of today's criminal law. This would leave great gaping holes for the courts to decide what state of mind or what criminal intent was required. Because of such vagueness, it very possibly could be held that the law was too vague for a criminal statute and we might not be able to obtain a conviction under the law.

I think that result would be much worse than not implementing anything to comply with our obligations under the convention if that result were to finally occur.

Clarity in the criminal law accrues both to the benefit of the defendant and the prosecution and is mandated by the Constitution. Our good intentions in attempting to pass legislation promptly here and to fulfill our treaty obligations simply cannot excuse poor law.

I urge the leadership to bring this bill back to the floor in the very near future under an open rule so that we can correct these defects, but today I must urge that the bill ought not to pass under suspension of the rules without amendment.

I would hope that our colleagues would have the opportunity to realize between now and the time the vote is taken tomorrow that what we have before us is a bill which needs improvement to meet in good faith our obligations under the convention.

Mr. HUGHES. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, it seems to me that the arguments of my colleague from Ohio fall into two major categories. If I understand my colleague correctly, he would not pass any legislation modifying the criminal statutes until the criminal code is passed out of the committee.

I will yield to my colleague in a minute because I did refer to my colleague's argument; but if I understand that to be the gentleman's argument, that is kind of foolhardy, because we all know that the crimial code is dead and if we do not enact this legislation, we will not have adequate legislation on the books to enable our Justice Department to deal with those instances where nuclear material is used for extortion and other purposes.

Now I yield to the gentleman.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding.

I would like to clarify that point. That is not my intended argument, but rather, I think a different set of standards has to be applied in drafting criminal legislation today as compared to at some future time when the criminal code effort has been successful.

No; I do not think we ought to wait for that at all. This bill was drafted back when there were high hopes for criminal codification and those have not materialized. It has not been changed substantially enough to make it fit with present day law. That is the problem.

Mr. HUGHES. I thank my colleague.

I wondered, because I know my colleague knows that the criminal code probably is not going anywhere this year, unfortunately.

The second argument, as I understand it, likewise I have some question about, because the Justice Department supports the legislation. They have reviewed it carefully, as has the State Department, and we do not think there is any question about the intent.

The SPEAKER pro tempore. The time of the gentleman from New Jersey has expired.

Mr. HUGHES. Mr. Speaker, I yield myself 2 additional minutes.

The gentleman would suggest in a colloquy with the gentleman from Wisconsin that it is unclear whether the judge would make a finding or whether or not it would be a jury question as to the question of intent.

I am at a loss to understand that, I say to my colleague from Ohio, because we are talking about elements of the offense that the jury has to find and that is rather clear in the legislation.

I believe that the report language is very clear that we do intend that the same state of mind applies to circumstances and result as well as conduct. What we have done is we have in essence provided the usual and conventional language dealing with these kinds of circumstances. I do not think the gentleman from Ohio would want to punish a defendant who does not knowingly engage in conduct. Where in addition a defendant realizes the risks to human life involved and recklessly ignores them, under circumstances manifesting extreme indifference to life, and death or serious bodily injury results, the defendant can be punished by life in prison. So I do not think that there is any substance to the argument.

I also find it rather interesting that my colleague from Wisconsin would suggest that there is something wrong with the language, when my colleague, the gentleman from Wisconsin (Mr. SENSENBRENNER) in fact offered an amendment that carried essentially the same language in his own amendment. It required the same kinds of findings by the court in the death penalty amendment offered by my colleague from Wisconsin.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I would be happy to yield.

Mr. KINDNESS. I thank the gentleman for yielding.

I think the problem that was described wherein it is not clear whether the judge makes the determination or the jury makes the determination arises from the fact that these three states of mind are incorporated in the penalty section in subsection (b), the punishment for an offense under certain paragraphs is thus and such.

The SPEAKER pro tempore. The time of the gentleman from New Jersey has again expired.

Mr. HUGHES. Mr. Speaker, I yield myself 4 additional minutes.

I say to my colleague, that is not unusual. What is so unusual about including that standard in the penalty section?

Mr. KINDNESS. Well, that is what has to be determined by the court, as I understand it, and not ordinarily by the jury.

□ 1245

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Michigan.

Mr. SAWYER. I thank the gentleman from New Jersey for yielding.

As the gentleman knows, even under the bank robbery statute it is 20 years if it is done without a gun, 25 years maximum with a gun. That is obviously left to the jury to determine whether it is done with a gun or not, even though it deals with the penalties.

Many statutes are that way.

Mr. HUGHES. Of course. That is the case often not just with weapons but with other aggravating circumstances; whether a defendant is a career criminal is also included in the penalty sections. Yet a jury must find in many States that indeed the defendant does have a record of convictions.

The questions of whether the defendant, "under circumstances manifesting extreme indifference to the life of an individual, knowingly engages in any conduct and thereby recklessly causes the death of or serious bodily injury to any person" are elements of the offense. They are questions of fact, for the jury to decide.

Mr. KINDNESS. Mr. Speaker, will the gentleman from New Jersey yield?

Mr. HUGHES. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

Those are questions of fact, rather than states of mind. It is the inclusion of states of mind in the penalty section that causes quite a bit of confusion.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Mr. Speaker, I am inclined to agree with the gentleman from New Jersey that this is a jury question rather than a question that the court would decide in a postconviction evidentiary hearing.

However, because the different states of mind are contained in the penalty section, that means that the prosecutor must make a determination before he brings the case to trial whether he wants to prove the additional three elements of the offense in order to obtain a life term, or whether he does not want to do it in order to obtain a mazimum penalty of 20 years with eligibility for parole earlier on.

I think there is an unusual drafting problem that the gentleman from Ohio and I are trying to bring out, not related to whether somebody is armed when he commits a bank robbery or not because of how the penalty operates. For that reason, I think it is inappropriate to bring this piece of legislation up under suspension of the rules where we take it or leave it, as the Judiciary Committee has come out with it, rather than having amendments on the floor.

Mr. HUGHES. I do not know where my colleague comes up with the argument that it is a hindrance that the prosecutor or the U.S. attorney has to make a decision about whether to try to prove that the defendant had the state of mind needed to permit the imposition of a life sentence. Prosecutors are faced with that kind of decision all the time.

The prosecution can decide that once the prosecution starts putting the case in. I never had any difficulties making that decision.

My colleague from Michigan is a former district attorney. I am sure he was confronted with the same type of statutes in his State as we were in New Jersey. We never found that was any kind of logistical or practical problem.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Michigan.

Mr. SAWYER. Further, obviously you charge the maximum you think that the proof will support. If the proof does not, anything that is lesser included can be brought in by the jury and they are so instructed.

So if you charge first-degree murder and your proof only developed to where the jury is satisfied you proved second-degree murder or manslaughter, those are lesser included offenses and they bring in that verdict even though you have charged first degree.

Mr. HUGHES. Precisely. If there is no proof, the court will dismiss.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in reluctant, but strong opposition to H.R. 5228. Although I too believe that criminal legislation is needed to deal with the increasingly likely prospect of nuclear terrorism, this bill is a dangerously inadequate attempt to address that need. If this body passes H.R. 5228 in its present form, we have created only an illusion of effective action and any incentive to pass truly workable legislation will be removed.

Our objections to H.R. 5228 are primarily two. First, the penalties provided for certain egregious activities are woefully deficient, particularly when compared with penalties enacted by Congress for analogous offenses in the past. Second, H.R. 5228 contains countless drafting problems which will stymie the efforts of prosecutors to put nuclear terrorists behind bars. If H.R. 5228 had been considered under an open rule with more generous time for careful deliberation, this body would have had the opportunity to apply its collective wisdom to these defects through the amendment process. The only way that we can make these imperative changes is to defeat the bill today and bring it back to the floor under an open rule so that we can remedy these dangerous defects.

The main problem with H.R. 5228 involves its penalties. The history of the penalty structure in the bill is a shocking one. As originally introduced and reported by the subcommittee, the maximum penalty for any offense under the bill, including the slaughter of thousands with a nuclear device, was 20 years imprisonment. With parole, of course, an offender could have been released in less than 10 years. If my colleagues think that the prospect of parole in a case like this is virtually nil, I commend to their attention the fact that setting a parole date for Sirhan Sirhan has been seriously debated recently.

The 20-year maximum continues in H.R. 5228 with one change. If the prosecution can prove a convoluted chain of circumstances and states of mind on the part of the defendant, a maximum term of life imprisonment may be imposed in cases where death or serious bodily injury has been the outcome. Unfortunately, the Tower of Babel of elements of proof will inevitably tumble upon the prosecution in a rubble of confusion. I assure my colleagues that the elements of the insanity defense, which proved hopelessly confusing and frustrating to the jury in the Hinkley case, pale by comparison to the elements of proof required in this bill.

At a minimum, the life imprisonment penalties in this bill must be improved. In addition, as many of my colleagues on the committee agreed, H.R. 5228 ought to be considered under an open rule to permit this body to add the death penalty for certain offenses. I am appalled by the suggestion that the death penalty should not be considered in connection with a bill penalizing the activities of cold-blooded, calculating nuclear terrorists because it would be too controversial. If that were our standard, this body would be even more paralyzed by inaction than it already is.

Current Federal Criminal Code provisions are replete with the alternate penalty of capital punishment where death results in the commission of the offense. In 1974, when, pursuant to another international convention, this body voted to create strong criminal offenses to deal with airline hijacking, it determined that that offense should be punishable by death under certain circumstances because of the grave danger to hundreds of innocent citizens that such activity presents. If H.R. 5228 passes in its present form, this body will have determined that nuclear terrorist activities, which could result in almost unimaginable death and destruction, are deserving of lesser punishment. This is a preposterous result.

My colleagues have been told that the administration strongly supports H.R. 5228, and this is certainly true. However, let me emphasize to my colleagues that the administration does not oppose the drafting improvements advocated by the gentleman from Ohio (Mr. KINDNESS) and myself. Neither does the adminstration oppose the death penalty amendment. The President himself strongly endorsed capital punishment last year and the administration has strongly supported death penalty provisions in the other body which are substantially the same as those I offered in committee when this bill was considered. Above all, the administration does not oppose consideration of this bill under an open rule. We are all, therefore, in agreement on

the need to proceed with dispatch to fashion the best possible bill.

Mr. Speaker, the gentleman from Ohio, Mr. Ashbrook, whom we sorely miss on days like today, spent a good part of his legislative career in the fight against terrorist activities of all sorts. As a member of the subcommittee, it was he who raised the issue of inadequate penalties in connection with this bill. As an unyielding defender of the open rule and the unfettered marketplace of ideas in this body, he would, I believe, if he were here today, strongly urge my colleagues to consider this bill under circumstances more conducive to resolving the sensitive issues which surround it. In that same spirit, I urge my colleagues to vote against suspending the rules in this instance and to vote against H.R. 5228 in its present form. I realize that this will be a difficult vote for my colleagues, but I believe that it is the responsible way to proceed, lest we pass a bill that could be called the Prosecutor's Nightmare Act of 1982.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore (Mr. MOAKLEY). The gentleman from New Jersey is recognized. The gentleman has 9 minutes remaining.

Mr. HUGHES. Mr. Speaker, as my colleague from Michigan indicated in his opening statement, if we want a bill, if we want legislation that will fulfill this void that presently exists, Members will vote for the legislation.

If we do not want legislation, Members will vote against the legislation, because that will effectively kill the bill.

I happen to support the death penalty in selected instances, as my colleague indicated, that is, my colleague from Michigan. This is one instance where I would impose the death penalty where death ensued as a result of this type of a violation involving nuclear material. But we have conducted no hearings on the death penalty. The death penalty issue did not come up before our subcommittee. Indeed, the one thing that the ranking minority member and I agreed upon was to upgrade the penalties because we felt that the legislation that was offered did not have suitable penalties for those isntances where grievous bodily harm or death ensued as a result of nuclear materials.

It was not until we moved the bill out of subcommittee—because we were anixous to move the bill and to enact something in the law this year—it was not until after we moved it out of subcommittee that we agreed upon the present life imprisonment sanctions in the legislation.

Now, at the full committee, my colleague from Wisconsin had an opportunity to offer his death penalty amendment. I made it clear to my colleague from Michigan that it was a fairly noncontroversial bill that we spent a great deal of time on, and that I was going to move it under suspension of the rules so we could get it over to the other body so that we would have legislation this year, because we have a blind spot.

We do not have adequate tools right now on the books to deal with this type of offense.

Now, my colleague from Wisconsin offered an amendment at the time of the full committee markup that would in fact set what he considered to be reasonable standards for imposing the death penalty. If we had indeed adopted my colleague's amendment, it would have in essence been unconstitutional because just on July 2 the Enmund against Florida decision came down, as my colleague well knows, rendering a portion of my colleague's amendment unconstitutional because, as my colleague knows, he had as one section of his amendment a standard which would impose a death penalty upon those who acted in a way where they knew or reasonably should have known would have created a grave risk of death to any person. That the Supreme Court knocked down 2 weeks ago.

We should not embark upon amending, using the death penalty standard in committee without hearings, without bringing constitutional lawyers in before the committee, without exhausting the various nuances and ramifications of our own death penalty statute.

We have pending right now before the Supreme Court a number of petitions for certification. They get into a number of areas that are troublesome to constitutional scholars on both sides of the issue. For us to impose the death penalty in that fashion without hearings is not the way to legislate and that is in essence what my colleague wants to do.

My colleague wants to open it up so he can offer his death penalty statute or amendment. I say to my colleague that he would have to go back to the drafting board at this point and try to avoid all the pitfalls, not knowing what course the Supreme Court is going to chart in these cases now coming before the Supreme Court.

I have heard my colleague say often on this floor and in committee how careful we have got to be in these areas that are so sensitive constitutionally.

So I say to my colleagues, if they want legislation, if they want to plug the blind spot that exists presently in the law, then they will vote for this legislation under the Suspension Calendar.

If they do not want legislation, if they want to let it go for another year or so and not have it covered, they will support my colleague's approach and defeat it under the Suspension Calendar.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman has consumed 5 minutes.

Mr. SAWYER. Mr. Speaker, I yield myself 2 additional minutes.

I just want to say that we have had a lot of red herrings raised here. We have had the arguments made that there are several states of mind which have to be proven, and that states of mind are not questions of fact. I always believed that they were. I understood states of mind are always a question of fact given to the jury along with the other facts of the case.

I hear of prosecutors having problems, and specifically having to elect which remedy or which penalty they are going to seek. Of course, anyone familiar with prosecutions knows that this is not a problem. It boils down to purely and simply the question of the death penalty versus life imprisonment.

We all know that up until now, the death penalty and its execution have almost been a joke. The 2 or 3 people who have been executed in the last 10 or 15 years have been those who demanded to be executed and refused to allow anyone to appeal on their behalf. We have backed up the death rows to the point where there are hundreds of people now occupying death rows that the courts find they are unable to execute.

This is not an argument against the death penalty. I merely suggest that we should not impair our ability to pass a bill promptly which the administration very strongly wants, just to get a death penalty in it. It is now a rather useless gesture.

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I would say that to combat any inference that the administration does not want this bill, I can assure the Members as the ranking Republican on the subcommittee that I have been constantly lobbied by both the State Department and the Justice Department to move this bill. I can also assure the Members that this bill could not have been moved to the floor from the full committee had the death penalty been included in it, and even if it had, it would have encountered problems on the floor. It could not have gotten through the Judiciary Committee without a discharge petition if had it included the death penalty.

So, if we want a bill, as the chairman of the subcommittee stated, it must be this bill we have before us with life imprisonment. At some future date, if the death penalty becomes practicable and executable and its parameters better defined, we could certainly

amend these provisions to include that.

● Mr. McCLORY. Mr. Speaker, I am pleased to join the chairman and the ranking minority member of the Subcommittee on Crime, as well as the administration, in strong support of H.R. 5228, a bill which would implement the vitally important Convention on the Physical Protection of Nuclear Material. It is imperative that this body promptly enact legislation which will punish the criminal misuse of nuclear materials, which can wreck lasting damage and misery on the innocent populace.

The urgent need for legislation of this sort is abundantly clear. As testimony before the Subcommittee on Crime demonstrates, criminal activity associated with nuclear material is an ever-increasing phenomenon. To date, the incidents have involved, for the most part, threats to inflict irreversible and frightening damage with such materials. Although we have been fortunate so far that these threats have been groundless, the danger posed by the threat alone, particularly in densely populated areas, is substantial. The panic generated by a threat of nuclear attack could be devastating. Such threats should be punished severely, as they are in H.R. 5228.

In addition to the threats which have been made on several of our major cities, there have been some minor incidents involving disappearances of materials and thefts accompanied by attempted extortion. Again, while we can pause in prayerful thanks that the damage was not greater, we cannot ignore the specter of less fortunate outcomes in the future. For this reason, this body must deal firmly with nuclear terrorist activities, as we did in the last decade with respect to airplane hijackings.

I am aware of the concerns of some of my colleagues about certain drafting technicalities and the severity of the penalties. This, I concede, is not a perfect bill, but it is certainly one which deserves our support. The Justice and State Departments, which are responsible for the prosecution of offenses under this bill and its effects on our relations with foreign governments, have given this bill their unqualified support. I urge my colleagues to demonstrate a similar willingness to address the problem of nuclear terrorism by voting in favor of the bill.

Mr. Speaker, I also share the frustrations of my colleagues over the unwillingness of the leadership of the Judiciary Committee to consider the death penalty issue which arose in connection with this bill on its merits. I commend the chairman and the ranking minority member of the subcommittee for their steadfastness in moving this bill forward despite their own personal views that the death penalty issue ought to be thoroughly considered and voted on by this body. Regrettably, this is one of many important crime-related issues—including my omnibus crime bill, H.R. 6497, which enjoys substantial bipartisan support—that our committee leadership is unwilling to trust to the collective wisdom of this body. Unlike that leadership, I cannot in good conscience permit this important legislation to die on this point. It has been a year now since the other body approved the Convention. We should not delay its implementation a moment longer.●

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the bill, H.R. 5228, as amended.

The question was taken.

Mr. KINDNESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDING TITLES 10, 14, 37, AND 38, UNITED STATES CODE

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4623) to amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code, as amended.

The Clerk read as follows:

H.R. 4623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENTS TO TITLE 10

SECTION 1. Title 10, United States Code, is amended as follows:

(1) Section 133 is amended by adding at the end thereof the following:

"(e) When there is a letter of offer to sell or a proposal to transfer defense articles that are valued at $25,000,000 or more from the inventories of a regular component of the armed forces or from current production, the Secretary shall submit a report to Congress stating—

"(1) the impact of the sale or transfer on the current readiness of the armed forces;

"(2) the adequacy of reimbursements to cover, at the time of replenishment of United States inventories, the replacement costs of those items sold or transferred; and

"(3) for each article to be sold—

"(A) the initial issue quantity requirement for the armed forces for that article;

"(B) the percentage of that requirement already delivered to the armed forces or contracted for at the time of the report;

"(C) the timetable for meeting that requirement absent the proposed sale; and

"(D) the timetable for meeting that requirement if the sale is approved.

"(f) After consulting with the Secretary of State, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives before February 1 of each year a written report on—

"(1) the foreign policy and military force structure for the next fiscal year;

"(2) the relationship of that policy and structure to each other; and

"(3) the justification for the policy and structure.".

(2)(A) Chapter 4 is amended by inserting the following after section 133:

"§ 133a. Secretary of Defense: annual report on North Atlantic Treaty Organization readiness

"(a) The Secretary of Defense shall assess and make findings each year related to the readiness status of the military forces of the North Atlantic Treaty Organization. The Secretary shall submit a report of the assessment and findings to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives on the same date that the President submits the Budget to Congress.

"(b) The report under subsection (a) shall include the assessment and findings of the Secretary related to—

"(1) deficiencies in the readiness of the North Atlantic Treaty Organization (including an analysis of deficiencies in each member of the Organization) related to—

"(A) war reserve stocks;

"(B) command, control, and communications systems (including the susceptibility of those systems to degradation by potential overt activities of the Warsaw Pact);

"(C) electronic warfare capabilities;

"(D) chemical warfare capabilities;

"(E) air defense capabilities (including ground and air systems and the integration of ground systems with air systems);

"(F) armor and anti-armor capabilities;

"(G) firepower capabilities;

"(H) forward deployed units and the proximity of those units to assigned general defensive positions;

"(I) the availability of ammunition;

"(J) the availability, responsiveness, and overall effectiveness of reserve forces;

"(K) airlift capabilities to meet reinforcement and resupply requirements;

"(L) the ability to protect, cross-service, and stage air assaults from allied airfields;

"(M) the maritime force capabilities (including sealift, minelaying, and minesweeping capabilities);

"(N) logistical support arrangements (including the availability of ports, airfields, transportation, and host nation support);

"(O) training (including the availability of the facilities and equipment needed to conduct realistic operational exercises); and

"(P) the compatibility of operational doctrine and procedures among military forces of the member nations;

"(2) planned corrections in the identified readiness deficiencies of the United States with respect to the Organization and that part of the Budget submitted to Congress

by the President on the date the report is submitted that is allocated for the corrections; and

"(3) commitments made by other members of the Organization to correct their own readiness deficiencies (including deficiencies in the items listed in paragraph (1)) and an identification of particular improvements to be made in readiness by weapons system, program, or activity.".

(B) The analysis of chapter 4 is amended by inserting the following item immediately below item 133:

"133a. Secretary of Defense: annual report on North Atlantic Treaty Organization readiness.".

(3) Section 135 is amended by adding at the end thereof the following:

"(d) Funds may be appropriated for the armed forces for use as an emergency fund for research, development, test, and evaluation, or related procurement or production, only if the appropriation of the funds is authorized by law enacted after June 30, 1966.".

(4) Section 138(c) is amended by adding at the end thereof the following:

"(5) The Secretary of Defense shall use the least costly form of manpower consistent with military requirements and other needs of the Department. In developing the annual manpower authorization requests to Congress and in carrying out manpower policies, the Secretary shall—

"(A) consider particularly the advantages of converting from one form of manpower (military, civilian, or private contract) to another for the performance of a specified job; and

"(B) include in each manpower requirements report submitted under paragraph (3) a complete justification for converting from one form of manpower to another.".

(5) Section 139 is amended by adding at the end thereof the following:

"(e) The Secretary of Defense shall submit to Congress each quarter written selected acquisition reports for those major defense systems estimated to require total cumulative financing for research, development, test, and evaluation of more than $75,000,000 or a cumulative production investment of more than $300,000,000. The report for the quarter ending December 31 of a fiscal year shall be submitted within 20 days after the President submits the Budget to Congress for the following fiscal year. The reports for the other 3 quarters shall be submitted within 30 days after the end of the quarter. However, if the Secretary submits a preliminary report for a quarter, the final report for that quarter shall be submitted within 15 days after the submission of the preliminary report. Each report submitted under this subsection shall include information that is as detailed and summarized as required by subsection (c).

"(f)(1) In this subsection, 'total program acquisition unit cost' means the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, a major defense system, divided by (B) the number of fully configured end items to be produced for the system.

"(2) Each report required to be submitted under subsection (e) shall include the history of the total program acquisition unit cost of each major defense system from the date on which funds were first authorized to be appropriated for the system.".

(6) Section 268 is amended—

(A) in subsection (b), by striking out "Reserve components defined in section 261 of this title" and substituting "reserve components", and by striking out "United States Code,"; and

(B) in subsection (c)(2), by striking out "Reserve" and substituting "reserve".

(7) Section 511(b) is amended by striking out "(50 U.S.C. App. 451-473)" and substituting "(50 U.S.C. App. 451 et seq.)".

(8) Section 624(d)(4) is amended by striking out "the subsection" and substituting "this subsection".

(9) Section 673b(h) is amended by inserting "(50 U.S.C. 1541 et seq.)" after "the War Powers Resolution".

(10) Section 716(a) is amended by striking out the comma after "policies".

(11) Section 867 is amended—

(A) in subsection (d), by striking out "board of review" and substituting "Court of Military Review"; and

(B) in subsection (g), by striking out "Secretary of the Treasury" and substituting "Secretary of Transportation".

(12)(A) Chapter 55 is amended by adding at the end thereof the following:

"§ 1090. Identifying and treating drug and alcohol dependence

"(a) The Secretary of Defense shall prescribe regulations, implement procedures using each practical and available method, and provide necessary facilities to—

"(1) identify, treat, and rehabilitate members of the armed forces who are dependent on drugs or alcohol; and

"(2) identify each person examined at an armed forces examining and entrance station who is dependent on drugs or alcohol.

"(b) Each person identified under subsection (a)(2) as dependent on drugs or alcohol shall be—

"(1) denied entrance into the armed forces; and

"(2) referred to a civilian treatment facility.".

(B) The analysis of chapter 55 is amended by adding at the end thereof the following item:

"1090. Identifying and treating drug and alcohol dependence.".

(13) The catchline for section 1164 is amended by striking out "officers;" and substituting "officers:".

(14) Section 1405 is amended—

(A) by inserting ", 3992 (formula B)" after "3991 (formula B)";

(B) by striking out "or" the first time it appears; and

(C) by inserting ", or 8992 (formula B)" after "8991 (formula B)".

(15)(A) Sections 1581 and 1582 are repealed.

(B) The analysis of chapter 81 is amended by striking out items 1581 and 1582.

(16)(A) Sections 1583, 1584, and 1586 (d) and (e)(1) are amended by striking out "compensation" and substituting "pay".

(B) The catchline for section 1583 is amended by striking out "compensation" and substituting "pay".

(C) Item 1583 in the analysis of chapter 81 is amended to read as follows:

"1583. Employment of certain persons without pay.".

(17) Section 2203 is amended by adding at the end thereof the following new sentence: "The budget for the Department of Defense submitted to Congress for each fiscal year shall include data projecting the effect of the appropriations requested for materiel readiness requirements.".

(18) Section 2208(h) is amended by adding the following sentence after the 2d sentence: "However, supplies available in inventories financed by working capital funds established under this section may be sold to contractors for use in performing contracts with the Department of Defense.".

(19) Section 2303 is amended by adding at the end thereof the following:

"(d) Funds appropriated for use by the armed forces are available to acquire a multipassenger motor vehicle (bus) only if the vehicle is manufactured in the United States. However, the Secretary of Defense may prescribe regulations authorizing the acquisition of a multipassenger motor vehicle (bus) not manufactured in the United States, but only to ensure that compliance with this subsection will not result in an uneconomical procurement action or adversely affect the national interest.".

(20) Section 2304 is amended—

(A) in the first sentence of subsection (a), by inserting after "formal advertising" the following: ", and shall be awarded on a competitive bid basis to the lowest responsible bidder,";

(B) in subsection (f)(1), by striking out "Healy" and substituting "Healey"; and

(C) by adding at the end thereof the following:

"(i)(1) The Secretary shall require each prime contractor receiving contract awards of at least $500,000 from the Department of Defense to file a report with the Secretary at the end of the year identifying—

"(A) the amount of Department work (in dollars) that the contractor had performed by a subcontractor during the year; and

"(B) the State in which each subcontractor performed the work subcontracted to it.

"(2) The Secretary shall submit to Congress each year a report identifying, on a State-by-State basis, the total amount of Department money paid to subcontractors by the prime contractor described in paragraph (1) during the year for which the report is submitted.".

(21)(A) Chapter 137 is amended by adding at the end thereof the following:

"§ 2316. Disclosure of identity of contractor

"The Secretary of Defense may disclose the identity or location of a person awarded a contract by the Department of Defense to any individual, including a Member of Congress, only after the Secretary makes a public announcement identifying the contractor. When the identity of a contractor is to be made public, the Secretary shall announce publicly that the contract has been awarded and the identity of the contractor.".

(B) The analysis of chapter 137 is amended by inserting the following item immediately below item 2314:

"2316. Disclosure of identity of contractor.".

(22)(A) Chapter 141 is amended by adding at the end thereof the following:

"§ 2395. Employees or former employees of defense contractors: reports

"(a) In this section:

"(1) 'Contract' means a contract awarded by negotiation (including the net amount of modifications to, and the exercise of options under, the contract) that involves at least $10,000.

"(2) 'Defense contractor' means a person that provides services, supplies, or both (including construction) to the Department of Defense under a contract directly with the Department.

"(3) 'Served', when used with 'otherwise', includes the representation of a defense contractor—

"(A) at a hearing, trial, appeal, or other action in which the United States was a

party and that involved services, supplies, or both (including construction) that were provided to, or to be provided to, the Department by the contractor; and

"(B) in a transaction with the Department that involved services, supplies, or both (including construction) that were provided to, or to be provided to, the Department by the contractor.

"(b)(1) This subsection applies to—

"(A) a former or retired officer of the Army, Navy, Air Force, or Marine Corps who (i) has at least 10 years of active service, and (ii) held for any period during that service a grade above captain or, if the Navy, above lieutenant; and

"(B) a former civilian official or employee (including a consultant or part-time employee) of the Department of Defense whose pay rate (at any time during the 3-year period before the end of the last service of the person with the Department) was at least equal to the minimum rate at the time for GS-13.

"(2) A person to whom this subsection applies who (A) was employed by, or served as a consultant or otherwise to, a defense contractor at any time during a fiscal year at an annual pay rate of at least $15,000 and the contractor was awarded contracts by the Department during that fiscal year that total at least $10,000,000, and (B) within the 3-year period before the beginning of that fiscal year served on active duty or performed civilian service for the Department, shall file a report with the Secretary of Defense (before February 16 of the next succeeding fiscal year) in the way prescribed by the Secretary.

"(3) The report shall contain the following information:

"(A) The name and address of the person reporting.

"(B) The name and address of the defense contractor that employed the person or for whom the person served as a consultant or otherwise.

"(C) The title of the position of the person when serving the defense contractor.

"(D) A brief description of the duties and work performed by the person for the defense contractor.

"(E) The military grade of the person while on active duty or the gross pay rate while performing civilian service for the Department.

"(F) A brief description of the duties and the work performed by the person while on active duty or performing civilian service for the Department during the 3-year period before that duty or service ended.

"(G) The date the active duty or civilian service by the person for the Department ended and the date the service with the defense contractor began and, if applicable, ended.

"(H) Other pertinent information the Secretary requires.

"(c)(1) A person who (A) holds civilian office or employment (including employment as a consultant or part-time employee) in the Department at any time during a fiscal year at a pay rate at least equal to the minimum rate for GS-13, and (B) within the 3-year period before the effective date of employment with the Department was employed by, or served as a consultant or otherwise to, a defense contractor at any time during a fiscal year at an annual pay rate of at least $15,000 and the contractor was awarded contracts by the Department during that fiscal year that total at least $10,000,000, shall file a report with the Secretary in the way and at the time prescribed by the Secretary.

"(2) The report shall contain the following information:

"(A) The name and address of the person reporting.

"(B) The title of the position of the person with the Department.

"(C) A brief description of the duties with the Department.

"(D) The name and address of the defense contractor that employed the person or for whom the person served as a consultant or otherwise.

"(E) The title of the position of the person when serving the defense contractor.

"(F) A brief description of the duties and the work performed by the person for the defense contractor.

"(G) The date the service of the person with the defense contractor ended and the date the service with the Department began.

"(H) Other pertinent information the Secretary requires.

"(d) The Secretary shall maintain a file containing the information filed under this section. The file may be inspected by members of the public at any time during regular work hours.

"(e) Before April 1 of each year, the Secretary shall report to Congress the names of persons who have filed reports for the preceding fiscal year under this section. The names shall be listed, by groups, under the names of the appropriate defense contractors. The Secretary may include for each name appropriate additional information.

"(f) A person not complying with the filing requirements of this section shall be fined not more than $1,000, or imprisoned not more than 6 months, or both.

"§ 2396. Procurement of gasohol as motor vehicle fuel

"To the maximum extent feasible and consistent with overall defense needs and vehicle management practices prescribed by the Secretary of Defense, the Secretary shall make contracts, by competitive bid and subject to appropriations, to purchase domestically produced alcohol or alcohol-gasoline blends containing at least 10 percent domestically produced alcohol for use in motor vehicles owned or operated by the Department of Defense.

"§ 2397. Availability of appropriations to reimburse a contractor for the cost of commercial insurance

"None of the funds appropriated to the Department of Defense is available for obligation to reimburse a contractor for the cost of commercial insurance (except insurance normally maintained by the contractor in connection with generally conducting business) that protects against costs of the contractor for correction of the contractor's own defects in materials or workmanship that—

"(1) are incident to the normal course of construction; and

"(2) are not a fortuitous or casualty loss.".

(B) The analysis for chapter 141 is amended by adding at the end thereof the following items:

"2395. Employees or former employees of defense contractors: reports.

"2396. Procurement of gasohol as motor vehicle fuel.

"2397. Availability of appropriations to reimburse a contractor for the cost of commercial insurance.".

(23)(A) Chapter 145 is amended by adding at the end thereof the following:

"§ 2457. Standardization of equipment with North Atlantic Treaty Organization members

"(a) It is the policy of the United States to standardize equipment, including weapons systems, ammunition, and fuel, procured for the use of the armed forces of the United States stationed in Europe under the North Atlantic Treaty or at least to make that equipment interoperable with equipment of other members of the North Atlantic Treaty Organization. To carry out this policy, the Secretary of Defense shall—

"(1) assess the costs and possible loss of nonnuclear combat effectiveness of the military forces of the members of the Organization caused by the failure of the members to standardize equipment;

"(2) maintain a list of actions to be taken, including an evaluation of the priority and effect of the action, to standardize equipment that may improve the overall nonnuclear defense capability of the Organization or save resources for the Organization; and

"(3) initiate and carry out, to the maximum extent feasible, procurement procedures to acquire standardized or interoperable equipment, considering the cost, function, quality, and availability of the equipment.

"(b) Progress in realizing the objectives of standardization and interoperability would be enhanced by expanded inter-Allied procurement of arms and equipment within the North Atlantic Treaty Organization. Expanded inter-Allied procurement would be made easier by greater reliance on licensing and coproduction cooperative agreements among the signatories of the North Atlantic Treaty. If constructed to preserve the efficiencies associated with economies of scale, the agreements could minimize potential economic hardship to parties to the agreements and increase the survivability, in time of war, of the North Atlantic Alliance's armaments production base by dispersing manufacturing facilities. In conjunction with other members of the Organization and to the maximum extent feasible, the Secretary shall—

"(1) identify areas in which those cooperative agreements may be made with members of the Alliance; and

"(2) negotiate those agreements.

"(c) Before February 1 of each year, the Secretary shall submit a report to Congress that includes—

"(1) each specific assessment and evaluation made and the results of each assessment and evaluation, and the results achieved with the members of the Organization, under subsections (a) (1) and (2) and (b);

"(2) procurement action initiated on each new major system not complying with the policy of subsection (a);

"(3) procurement action initiated on each new major system that is not standardized or interoperable with equipment of other members of the Organization, including a description of the system chosen and the reason for choosing that system;

"(4) identifying each program of research and development for the Armed Forces of the United States stationed in Europe that—

"(A) supports, conforms, or both, to common Organization requirements of developing weapon systems for use by the Organization, including a common definition of the military threat to the Organization;

"(B) proceeds toward joint doctrine and planning; and

"(C) carries out the policy of subsections (a) and (b);

"(5) action of the Alliance toward common Organization requirements if none exist; and

"(6) efforts to establish a regular procedure and mechanism in the Organization to determine common military requirements.

"(d) If the Secretary decides that procurement of equipment manufactured outside the United States is necessary to carry out the policy of subsection (a), the Secretary may determine under section 2 of title III of the Act of March 3, 1933 (41 U.S.C. 10a), that acquiring equipment manufactured in the United States is inconsistent with the public interest.

"(e) The Secretary shall submit the results of each assessment and evaluation made under subsection (a) (1) and (2) to the appropriate North Atlantic Treaty Organization body to become an integral part of the overall Organization review of force goals and development of force plans.".

(B) The analysis of chapter 145 is amended by inserting the following item immediately below item 2456:

"2457. Standardization of equipment with North Atlantic Treaty Organization members.".

(24) Section 2667(b)(4) is amended by striking out "section 321" and all that follows through "(40 U.S.C. 303b)" and substituting "section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)".

(25) Section 3036(d) is amended to read as follows:

"(d) Each officer named in subsection (a) shall perform duties prescribed by the Secretary of the Army and by law. Under the supervision of the Secretary, the Chief of Engineers may accept orders to provide services to another department, agency, or instrumentality of the United States and may provide any part of those services by contract.".

(26) Section 3075(b)(2) is amended by inserting a comma after "professors".

(27) Section 3992 is amended to read as follows:

"§ 3992. Recomputation of retired pay to reflect advancement on retired list

"An enlisted member of the Army who is advanced on the retired list under section 3964 of this title is entitled to recompute his retired pay under formula A of this section, and a warrant officer of the Army so advanced is entitled to recompute his retired pay under formula B of this section.

Column 1	Column 2	Column 3	Column 4
Formula			
For a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) after September 7, 1980, take the monthly retired pay base as computed under section 1407(c). For all others, take—.	Multiply by.....	Add.....	Subtract.
A			
Monthly basic pay or base and longevity pay, as the case may be,[1] of grade to which member is advanced on retired list.	2½% of years of service credited to him under section 3925 of this title.[2]	.....	Excess over 75% of pay upon which computation is based.
B			
Monthly basic pay or base and longevity pay, as the case may be,[1] of grade to which member is advanced on retired list.	2½% of years of service credited to him under section 1405 of this title.[2].	.....	Excess over 75% of pay upon which computation is based.

[1] Compute at rate applicable on date of retirement.

[2] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.".

(28) Section 4656 is amended by striking out ", and at least one of which is designated by the Civil Aeronautics Authority for the training of Negro air pilots".

(29)(A) Section 4772 is repealed.

(B) The analysis of chapter 449 is amended by striking out item 4772.

(30) Section 6954(f) is amended by striking out "Effective beginning with the nominations for appointment to the Academy in the calendar year 1964, the" and substituting "The".

(31) Section 7087(a) is amended by striking out "Civil Service Commission" and substituting "Director of the Office of Personnel Management".

(32) Section 7218(b) is repealed.

(33) Section 7299 is amended by striking out "Healy" and substituting "Healey".

(34)(A) Chapter 633 is amended by inserting the following after section 7299:

"§ 7299a. Construction of combatant and escort vessels and assignment of vessel projects

"(a) The distribution of assignments and contracts for the construction of combatant vessels and escort vessels is subject to the Act of March 27, 1934 (ch. 95, 48 Stat. 503), requiring that the first and each succeeding alternate vessel be constructed in a Navy yard. However, the President may direct that a vessel be constructed in a Navy or private yard if the requirement of this subsection is inconsistent with the public interest.

"(b) The assignment of naval vessel conversion, alteration, and repair projects shall be based on economic and military considerations and may not be restricted by a requirement that certain parts of naval shipwork be assigned to a particular type of shipyard or geographical area or by a similar requirement.".

(B) The analysis of chapter 633 is amended by inserting the following item immediately below item 7299:

"7299a. Construction of combatant and escort vessels and assignment of vessel projects.".

(35)(A) Chapter 633 is amended by adding at the end thereof the following:

"§ 7309. Policy in constructing combatant vessels

"(a) The policy of the United States is to modernize the combatant forces of the Navy through the construction of advanced, versatile, survivable, and cost-effective combatant vessels in sufficient numbers and having sufficient combat effectiveness to defend the United States against attack and to carry out other missions that may be assigned to the Navy by law. To carry out this policy, the Navy should develop plans and programs for the construction and deployment of weapons systems, including naval aviation platforms, that are more survivable, less costly, and more effective than those in the Navy on October 20, 1978.

"(b) The President shall include in each request made to Congress for authorization of a vessel for the combatant forces (including an aircraft carrier)—

"(1) the conclusions of the President related to the survivability, cost-effectiveness, and combat effectiveness of the vessel requested;

"(2) a recommendation whether the vessel should be nuclear or conventionally powered; and

"(3) the reasons for the conclusions and recommendations.".

(B) The analysis of chapter 633 is amended by adding at the end thereof the following item:

"7309. Policy in constructing combatant vessels.".

(36)(A) Sections 7391–7394 are repealed.

(B) The analysis of chapter 639 is amended by striking out items 7391–7394.

(C) Subtitle A is amended by inserting at the end of chapter 165 the following:

"CHAPTER 167—DEFENSE MAPPING AGENCY

"Sec.
"2791. Establishment and duties.
"2792. Maps, charts, and books.
"2793. Pilot charts.
"2794. Prices of maps, charts, and navigational publications.

"§ 2791. Establishment and duties

"The Defense Mapping Agency is an agency of the Department of Defense. The Defense Mapping Agency shall improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of Defense, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels of the United States and of navigators generally.

"§ 2792. Maps, charts, and books

"The Secretary of Defense may—

"(1) have the Defense Mapping Agency prepare maps, charts, and nautical books required in navigation and have those materials published and furnished to navigators; and

"(2) buy the plates and copyrights of existing maps, charts, books on navigation, and sailing directions and instructions.

"§ 2793. Pilot charts

"(a) There shall be conspicuously printed on pilot charts prepared in the Defense Mapping Agency the following: 'Prepared from data furnished by the Defense Mapping Agency of the Department of Defense and by the Department of Commerce, and published at the Defense Mapping Agency under the authority of the Secretary of Defense'.

"(b) The Secretary of Commerce shall furnish to the Defense Mapping Agency, as quickly as possible, all meteorological information received by the Secretary that is necessary for, and of the character used in, preparing pilot charts.

"§ 2794. Prices of maps, charts, and navigational publications

"All maps, charts, and other publications offered for sale by the Defense Mapping Agency shall be sold at prices and under regulations that may be prescribed by the Secretary of Defense.".

(D) The analysis of subtitle A is amended by adding at the end thereof the following item:

"167. Defense Mapping Agency..... 2791".

(E) The analysis of part IV of subtitle A is amended by adding at the end thereof the following item:

"167. Defense Mapping Agency..... 2791".

(F) The chapter heading for chapter 639 is amended by striking out "NAVAL OCEANOGRAPHIC OFFICE AND".

(G) Item 639 in the analysis of subtitle C is amended to read as follows:

"639. United States Naval Observatory..... 7395".

(H) Item 639 in the analysis of part IV of subtitle C is amended to read as follows:

"639. United States Naval Observatory..... 7395".

(37) Section 8992 is amended to read as follows:

"§ 8992. Recomputation of retired pay to reflect advancement on retired list

"An enlisted member of the Air Force who is advanced on the retired list under section 8964 of this title is entitled to recompute his retired pay under formula A of this section, and a warrant officer of the Air Force so advanced is entitled to recompute his retired pay under formula B of this section.

Column 1	Column 2	Column 3	Column 4
Formula			
For a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) after September 7, 1980, take the monthly retired pay base as computed under section 1407(e). For all others, take—.	Multiply by.....	Add.....	Subtract.
A			
Monthly basic pay or base and longevity pay, as the case may be,[1] of grade to which member is advanced on retired list.	2½% of years of service credited to him under section 8925 of this title.[2]	.....	Excess over 75% of pay upon which computation is based.
B			
Monthly basic pay or base and longevity pay, as the case may be,[1] of grade to which member is advanced on retired list.	2½% of years of service credited to him under section 1405 of this title.[2]	.....	Excess over 75% of pay upon which computation is based.

[1] Compute at rate applicable on date of retirement.
[2] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.".

(38) Section 9656 is amended by striking out ", and at least one of which is designated by the Civil Aeronautics Authority for the training of Negro air pilots".

AMENDMENTS TO TITLE 14

SEC. 2. Title 14, United States Code, is amended as follows:

(1) Section 46(a) is amended by striking out "commandant" and substituting "Commandant".

(2) The last sentence of section 47(a) is amended by striking out "an" and substituting "a".

(3) Section 82 is amended by striking out "(ch. 20 of title 49)" and "sections 7392 and 7394 of title 10" and substituting "(49 U.S.C. 1301 et seq.)" and "chapter 167 of title 10", respectively.

(4) Sections 92(d), 93(h), and 641(a) are amended by striking out ", as amended," and substituting "(40 U.S.C. 471 et seq.)".

(5) Section 147 is amended by striking out "Admministration" and substituting "Administration".

(6)(A) Chapter 7 is amended by inserting the following after section 147:

"§ 147a. Department of Health and Human Services

"(a) The Commandant may assist the Secretary of Health and Human Services in providing medical emergency helicopter transportation services to civilians. The Commandant may prescribe conditions, including reimbursement, under which resources may be provided under this section. The following specific limitations apply to assistance provided under this section:

"(1) Assistance may be provided only in areas where Coast Guard units able to provide the assistance are regularly assigned. Coast Guard units may not be transferred from one area to another to provide the assistance.

"(2) Assistance may be provided only to the extent it does not interfere with the performance of the Coast Guard mission.

"(3) Providing assistance may not cause an increase in amounts required for the operation of the Coast Guard.

"(b) An individual (or the estate of that individual) who is authorized by the Coast Guard to provide a service under a program established under subsection (a) and who is acting within the scope of that individual's duties is not liable for injury to, or loss of, property or personal injury or death that may be caused incident to providing the service.".

(B) The analysis of chapter 7 is amended by inserting the following item immediately below item 147:

"147a. Department of Health and Human Services.".

(7)(A) Item 186 in the analysis of chapter 9 is amended to read as follows:

"186. Civilian teaching staff.".

(B) Item 195 in the analysis of chapter 9 is amended to read as follows:

"195. Admission of foreign nationals for instruction; restrictions; conditions.".

(8) Section 182(b) is amended by striking out "United States Code,".

(9) Sections 283(b) and 362 are amended by striking out "of this chapter" and substituting "of this title".

(10) Sections 322(d), 323(c), and 327 are amended by inserting "of this title" immediately after each reference to "section 321" and "section 322 or 323".

(11) Sections 371(b), 432(g), 433(g), and 475(b) are amended by striking out "per centum" and substituting "percent".

(12) Section 423(b) is amended by striking out "on or after the date of enactment of the Department of Defense Authorization Act, 1981" and substituting "after September 7, 1980".

(13) Section 432(f) is amended by striking out "the civil service classification laws and titles II and III of the Federal Employees Pay Act of 1945 as amended" and substituting "chapter 51, subchapter III of chapter 53, and sections 5542-5546 of title 5".

(14) Sections 433(f) and 434 are amended by striking out "sections 691, 693, 698, 707, 709-715, 716-719, 720-725, 727-729, 730, 731, and 733 of title 5" and substituting "subchapter III of chapter 83 of title 5".

(15)(A) Section 473 is repealed.

(B) The analysis of chapter 13 is amended by striking out item 473.

(16) Section 512 is amended by striking out ", United States Code," and ", United States Code".

(17) The analysis of chapter 17 is amended by striking out item 645.

(18) Section 634(b) is amended—

(A) in the first sentence, by striking out "United States Commissioners or"; and

(B) by striking out the 2d sentence.

(19)(A) Section 659 is repealed.

(B) The analysis of chapter 17 is amended by striking out item 659.

(20)(A) Chapter 17 is amended by adding at the end thereof the following:

"§ 661. Authorization of appropriations for personnel

"(a) For each fiscal year, Congress shall authorize the end strength for active duty personnel of the Coast Guard as of the end of that fiscal year. Amounts may be appropriated for a fiscal year to or for the use of active duty personnel of the Coast Guard only if the end strength for active duty personnel for that fiscal year has been authorized by law.

"(b)(1) Congress shall authorize the average military training student loads for the Coast Guard for each fiscal year. That authorization is required for student loads for the following individual training categories:

"(A) recruit and specialized training.

"(B) flight training.

"(C) professional training in military and civilian institutions.

"(D) officer acquisition training.

"(2) Amounts may be appropriated for a fiscal year for use in training military personnel of the Coast Guard in the categories referred to in paragraph (1) only if the average student loads for the Coast Guard for that fiscal year have been authorized by law.

"§ 662. Requirement for prior authorization of appropriations

"Amounts may be appropriated to or for the use of the Coast Guard for the following matters only if the amounts have been authorized by law enacted after December 31, 1976:

"(1) for operating and maintaining the Coast Guard.

"(2) for acquiring, constructing, establishing, maintaining, and operating aids to navigation, shore or offshore establishments, vessels, or aircraft, including equipment related to the aids, establishments, vessels, or aircraft.

"(3) for altering obstructive bridges.

"(4) for research, development, tests, or evaluation related to a matter referred to in clauses (1)-(3).

"§ 663. Submission of plans to Congress

"The President shall submit to Congress with each budget request for the Coast Guard the current copy of the Coast Guard's Capital Investment Plan, Cutter Plan, Aviation Plan, and Shore Facilities Plan.".

(B) The analysis of chapter 17 is amended by adding at the end thereof the following items:

"661. Authorization of appropriations for personnel.

"662. Requirement for prior authorization of appropriations.

"663. Submission of plans to Congress.".

(21) Section 707(e) is amended—

(A) in clause (1), by striking out "per centum" wherever it appears and substituting "percent"; and

(B) in clause (1)(A), by inserting "(42 U.S.C. 401 et seq.)" after "Social Security Act".

(22) Item 733 in the analysis of chapter 21 is amended to read as follows:

"733. Recommendation for promotion of an officer previously removed from an active status.".

AMENDMENTS TO TITLE 37

SEC. 3. Title 37, United States Code, is amended as follows:

(1) Section 312a(c) is amended—

(A) by striking out "308(c)" and substituting "308(a)"; and

(B) by striking out the last sentence.

(2) Section 406 is amended by adding at the end thereof the following:

"(j) Appropriations available to the Department of Defense to carry out subsection (b) of this section are available to pay a monetary allowance to a member when the member participates in a program in which baggage and household effects of the member are transported by a privately owned or rental vehicle under regulations of the Secretary of the military department concerned. The allowance is not limited to reimbursement for actual expenses and may be paid in advance of the transportation of the baggage and household effects. However, the amount of the allowance shall provide a savings to the United States when the total cost of the transportation is compared with the cost that would be incurred under subsection (b) of this section.".

(3) Section 707 is amended—

(A) by inserting "(a)" before "The Secretary"; and

(B) by adding at the end thereof the following:

"(b) The United States is not liable for loss or damage suffered by a person as a result of an error made by an officer or employee of the United States in carrying out the allotment program under subsection (a) of this section.".

(4)(A) Chapter 15 is amended by inserting the following after section 801:

"§ 801a. Employment by foreign government

"(a) In this section—

"(1) 'Secretary concerned' means—

"(A) the Secretary of the Army, with respect to retired members of the Army and members of the Army Reserve;

"(B) the Secretary of the Navy, with respect to retired members of the Navy and the Marine Corps, members of the Navy and Marine Corps Reserves, and retired members of the Coast Guard and members of the Coast Guard Reserve when the Coast Guard is operating as a service in the Navy;

"(C) the Secretary of the Air Force, with respect to retired members of the Air Force and members of the Air Force Reserve;

"(D) the Secretary of Transportation, with respect to retired members of the Coast Guard and members of the Coast Guard Reserve when the Coast Guard is not operating as a service in the Navy;

"(E) the Secretary of Commerce, with respect to retired members of the Commissioned Corps of the National Oceanic and Atmospheric Administration; and

"(F) the Secretary of Health and Human Services, with respect to retired members of the Commissioned Regular Corps of the Public Health Service and members of the Commissioned Reserve Corps of the Public Health Service; and

"(2) 'uniformed services' means the armed forces, the Commissioned Regular and Reserve Corps of the Public Health Service, and the Commissioned Corps of the National Oceanic and Atmospheric Administration.

"(b) Subject to subsection (c) of this section, Congress consents to the following individuals accepting civil employment (and compensation for it) for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

"(1) retired members of the uniformed services.

"(2) members of a reserve component of the armed forces.

"(3) members of the Commissioned Reserve Corps of the Public Health Service.

"(c) An individual described in subsection (b) of this section may accept employment or compensation described in subsection (b) only if the Secretary concerned and the Secretary of State approve the employment.".

(B) The analysis of chapter 15 is amended by inserting the following item immediately below item 801:

"801a. Employment by foreign government.".

AMENDMENTS TO TITLE 38

SEC. 4. Title 38, United States Code, is amended as follows:

(1) The analysis of title 38 is amended—

(A) by amending item 31 to read as follows:

"31. Training and Rehabilitation for Veterans with Service-Connected Disabilities ..... 1500";

(B) by amending item 34 to read as follows:

"34. Veterans' Educational Assistance ..... 1651"; and

(C) by inserting the following item immediately below item 81:

"82. Assistance in Establishing New State Medical Schools; Grants to Affiliated Medical Schools; Assistance to Health Manpower Training Institutions..... 5070".

(2) Section 101(4) is amended by striking out "within two years after the veteran's death or the date of enactment of this sentence" and substituting "before August 26, 1961, or within two years after the veteran's death".

(3) Section 106 is amended—

(A) in subsection (a)(2), by striking out "the Federal Employees' Compensation Act" and substituting "subchapter I of chapter 81 of title 5"; and

(B) in subsection (e), by striking out "the Act of June 27, 1944 (58 Stat. 387-391), as a person described in section 2(1) of such Act" and substituting "title 5 as a preference eligible described in section 2108(3)(C) of title 5".

(4) Section 107(a)(2) is amended by striking out "the Missing Persons Act" and substituting "chapter 10 of title 37".

(5) Section 111(e)(4) is amended by striking out ", and not later than sixty days after the effective date of this subsection, and thereafter" and substituting "and".

(6) Section 230(b) is amended by striking out "Phillipines" and substituting "Philippines".

(7) Section 243(a)(3)(E) is amended by striking out ", as amended" and substituting "(20 U.S.C. 1070e-1)".

(8) Section 246 is amended—

(A) by striking out "per centum" wherever it appears and substituting "percent";

(B) by striking out "Commissioner of Education, Department of Health, Education, and Welfare" and "Commissioner of Education" wherever they appear and substituting "Secretary of Education";

(C) in subsection (b)(1)(B), by inserting "(20 U.S.C. 1070e)" after "the Higher Education Act of 1965";

(D) in subsection (c)(1)(A), by inserting "(20 U.S.C. 1070e(c)(1))" after "the Higher Education Act of 1965"; and

(E) in subsection (f)—

(i) by inserting "(20 U.S.C. 1001 et seq.)" after "the Higher Education Act of 1965"; and

(ii) by striking out "the Commissioner shall" and substituting "the Secretary shall".

(9) The analysis of chapter 11 is amended by inserting the following item immediately below item 360:

"361. Payment of disability compensation in disability severance cases.".

(10) Section 415 is amended—

(A) in subsection (f)(1)(D), by striking out "subchapter II of chapter 7 of title 42" and substituting "title II of the Social Security Act (42 U.S.C. 401 et seq.)"; and

(B) in subsection (f)(1)(G), by striking out "per centum" and substituting "percent".

(11) Sections 416 and 417 are amended by striking out "the Federal Employees' Compensation Act" wherever it appears and substituting "subchapter I of chapter 81 of title 5".

(12) Section 422(a) is amended by striking out "section 402 of title 42" and substituting "section 202 of the Social Security Act (42 U.S.C. 402)".

(13) Section 503(a)(10)(A) is amended by inserting "(26 U.S.C. 6012(a))" after "the Internal Revenue Code of 1954".

(14) Item 560 in the analysis of chapter 15 is amended to read as follows:

"560. Medal of Honor Roll; persons eligible.".

(15) Item 624 in the analysis of chapter 17 is amended to read as follows:

"624. Hospital care, medical services, and nursing home care abroad.".

(16) Section 602 is amended by striking out "or February 1, 1957, in the case of a veteran of the Korean conflict, or before the expiration of two years following termination of the Vietnam era" and substituting "before February 1, 1957, in the case of a veteran of the Korean conflict, or before May 8, 1977,".

(17) Section 612 is amended—

(A) in subsection (a), by inserting "of this section" after "subsection (b)";

(B) in subsection (a), insert ")" before the period at the end of the 2d sentence;

(C) in subsection (f)(2), by striking out "per centum" and substituting "percent";

(D) in subsection (h), by inserting "of this title" after "chapter 11"; and

(E) in subsection (i), by striking out "Not later than ninety days after the effective date of this subsection, the" and substituting "The".

(18) Section 617 is amended by striking out "subsections 314(*l*)-(p) (or the comparable rates provided pursuant to section 334) of this title" and substituting "section 314(*l*)-(p) of this title (or the comparable rates provided pursuant to section 334 of this title)".

(19) Section 620 is amended—

(A) in subsection (a), by striking out "per centum" wherever it appears and substituting "percent"; and

(B) in subsection (c)—

(i) by inserting "(41 U.S.C. 351(b)(1))" after "the Service Contract Act of 1965"; and

(ii) by striking out ", as amended," and substituting "(29 U.S.C. 206(b))".

(20) The catchline for section 624 is amended by striking out "Hospital care and medical services abroad" and substituting "Hospital care, medical services, and nursing home care abroad".

(21) Section 704(e) is amended by striking out "On and after the effective date of this subsection" and substituting "After June 30, 1972,".

(22) Section 707(c) is amended by striking out "within six calendar months after the effective date of this subsection" and substituting "before February 1, 1973".

(23) Section 712(d) is amended by striking out "the date of enactment of this subsection" and substituting "June 8, 1960".

(24) Section 718(a) and (b) is amended by striking out "on or after the date of enactment of this sentence" and substituting "after July 26, 1962" and "after July 26, 1962,", respectively.

(25) Section 725 is amended—

(A) by striking out "per centum" wherever it appears and substituting "percent"; and

(B) in subsection (a), by striking out "within one year after the effective date of this section" and substituting "before May 2, 1966".

(26) Sections 743 and 744 are amended by striking out "per centum" wherever it appears and substituting "percent".

(27) Section 748 is amended by striking out "permium" and substituting "premium".

(28) Section 760(b) is amended by striking out "per centum" and substituting "percent".

(29) Section 766(a) is amended by striking out "per centum" and substituting "percent".

(30) Section 768(a)(5) is amended by striking out "this amendment" and substituting "the amendment made by section 5(a) of the Veterans' Insurance Act of 1974 (Public Law 93-289, 88 Stat. 166)".

(31) Section 770(g) is amended by inserting "(26 U.S.C. 6331 et seq.)" after "the Internal Revenue Code of 1954".

(32) Section 784 is amended—

(A) in subsection (b), by striking out "said claim: *Provided*, That in any case in which" and substituting "the claim. However, if"; and

(B) in subsection (c), by striking out "district: *Provided*, That" and "herein" and substituting "district. However," and "in this section", respectively.

(33) Section 802(a) is amended by striking out "per centum" wherever it appears and substituting "percent".

(34) Section 1003(c) is amended by striking out "Act" and substituting "chapter".

(35) The analysis of part III is amended—

(A) by amending item 31 to read as follows:

"31. Training and Rehabilitation for Veterans with Service-Connected Disabilities ..... 1500";

(B) by amending item 34 to read as follows:

"34. Veterans' Educational Assistance ..... 1651".

(36) Item 1625 in the analysis of chapter 32 is amended to read as follows:

"1625. Discharge or release under conditions which would bar the use of benefits.".

(37) The text of section 1642 is amended to read as follows:

"The Administrator and the Secretary shall submit a joint report each year to the Committees on Veterans' Affairs of the Senate and House of Representatives detailing the operations of the program provided for in this chapter during the preceding year. The report shall be submitted by January 15 of each year.".

(38) Section 1652(b) is amended by striking out "402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))" and substituting "section 7(i)(1) of the Small Business Act (15 U.S.C. 636(i)(1))".

(39) Section 1662 is amended—

(A) in subsection (a)(2)(B), by striking out "the expiration of two years after the date of enactment of this paragraph" and substituting "November 23, 1979,"; and

(B) in subsection (c)—

(i) by striking out "the date for which an educational assistance allowance is first payable under this chapter" and substituting "June 1, 1966"; and

(ii) by striking out "the date of enactment of this sentence" wherever it appears and substituting "August 31, 1967," and "August 31, 1967", respectively.

(40) Section 1673(d) is amended by striking out "per centum" wherever it appears and substituting "percent".

(41) Section 1682A(b)(8) is amended by striking out "within five years after the date of enactment of this section" and substituting "before November 24, 1982".

(42) Section 1685(a) is amended by inserting "(29 U.S.C. 206(a))" after "the Fair Labor Standards Act of 1938" the first time it appears.

(43) Section 1691 is amended—

(A) in subsection (a), by inserting "of this title" after "section 1671"; and

(B) in subsection (b)(2), by inserting "of this title" after "section 1682(a)".

(44) Section 1712 is amended—

(A) in subsection (a), by inserting "of this title" after "section 1701(a)(1)(A)" and by inserting ":" after "last occurs";

(B) in subsection (b), by striking out "of this chapter" and substituting "of this title"; and

(C) in subsection (e), by striking out "the date of enactment of this subsection" and substituting "December 24, 1970".

(45) Section 1720 is amended—

(A) in subsection (a), by inserting "of this title" after "section 1701(a)(1)(A)"; and

(B) in subsection (b), by striking out "of this chapter" and substituting "of this title".

(46) Section 1763 is amended by striking out "of this chapter" and substituting "of this title".

(47) Section 1765(a) is amended by inserting "of this title" after "section 1766".

(48) Item 1780 in the analysis of chapter 36 is amended to read as follows:

"1780. Payment of educational assistance or subsistence allowances.".

(49) Section 1770(b) is amended by striking out "the date of enactment of this chapter" and "section 1778" and substituting "March 3, 1966" and "section 1779", respectively.

(50) Section 1772 is amended—

(A) by inserting "of this title" after "34 and 35" wherever it appears; and

(B) in subsection (c)(1), by striking out "section 50a of title 29" and substituting "section 2 of the Act of August 16, 1937 (popularly known as the 'National Apprenticeship Act') (29 U.S.C. 50a),".

(51) Sections 1773 and 1774(a) are amended by inserting "of this title" after "34 and 35" wherever it appears.

(52) Section 1780 is amended—

(A) in subsection (a), by striking out "1504" and substituting "1508";

(B) in subsection (a)(5), by striking out "the 6 months" and substituting "than 6 months"; and

(C) in subsection (a)(A)-(C), by inserting "of this subsection" after "clause (2)" wherever it appears.

(53) Section 1781 is amended by striking out "the Government Employees' Training Act" and substituting "chapter 41 of title 5".

(54) Section 1783(a) is amended by inserting "of this title" after "34 or 35".

(55) Section 1784(c) is amended by striking out "per centum" and substituting "percent".

(56) Section 1786(c) is amended by striking out "per centum" wherever it appears and substituting "percent".

(57) Section 1787(a) is amended—

(A) by striking out "section 50a of title 29" and substituting "section 2 of the Act of August 16, 1937 (popularly known as the 'National Apprenticeship Act') (29 U.S.C. 50a)"; and

(B) by inserting "of this title" after "34 and 35".

(58) Section 1788(a)(6) is amended by inserting "of this subsection" after "or (4)".

(59) Section 1790 is amended—

(A) in subsection (a), by striking out "after the effective date of section 1780 of this title" and "or 35, of" and substituting "after October 24, 1972" and "or 35 of", respectively; and

(B) in subsection (b), by striking out "35," and substituting "35 of this title,".

(60) Section 1798(b)(2)(B)(iii) is amended by striking out ", as amended" and substituting "(20 U.S.C. 1070 et seq.)".

(61) Sections 1799(e), 1802(f), and 1803(a)(1) are amended by striking out "per centum" wherever it appears and substituting "percent".

(62) Section 1801(b)(3) is amended by striking out "spouse shall be deemed" and "spouse is no longer listed" and substituting "member shall be deemed" and "member is no longer listed", respectively.

(63) Section 1803 is amended—

(A) in subsection (a)(2), by striking out "prior to the date of enactment of the Veterans' Housing Act of 1970" and substituting "before October 23, 1970,";

(B) in subsection (c)(1), by inserting "(12 U.S.C. 1709(b))" after "the National Housing Act"; and

(C) in subsection (d)(3), by striking out "the effective date of this amendment" and substituting "June 6, 1969".

(64) Section 1804(e) is amended—

(A) by inserting "(12 U.S.C. 1749aa et seq.)" after "the National Housing Act"; and

(B) by striking out "the date of the enactment of the Housing and Urban Development Act of 1965" and substituting "August 10, 1965".

(65) Section 1811 is amended—

(A) in subsection (c)(2), by striking out "sections 1000-1029 of title 7 or under sections 1471-1483 of title 42" and substituting "title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.)";

(B) in subsection (d)(2)(B), by striking out "the date of the enactment of the Veterans' Housing Benefits Act of 1978" and substituting "October 18, 1978,"; and

(C) in subsection (j), by striking out "per centum" wherever it appears and substituting "percent".

(66) Sections 1818(b) and 1819(*l*) are amended by striking out "the date of enactment of the Veterans' Housing Act of 1970" and substituting "October 23, 1970," and "October 23, 1970", respectively.

(67) Section 1820(f) is amended by inserting "(42 U.S.C. 5121 et seq.)" after "the Disaster Relief Act of 1974".

(68) Section 1823(b) is amended by striking out "the date of enactment of this sentence" and substituting "February 29, 1964".

(69) Section 1904(b) is amended—

(A) by striking out "Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare" and substituting "Health and Human Services and the Secretary of Education"; and

(B) by striking out "section 3(b) of the Rehabilitation Act of 1973 (Public Law 93-112; 87 Stat. 357) (relating to the development and support, and the stimulation of the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems), and section 204(b)(2) of such Act" and substituting "section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2))".

(70) Section 2003 is amended by striking out "chapter 51 of" and substituting "chapter 51 and".

(71) Section 2022(a) is amended by striking out "section 2024" and substituting "2024 of this title".

(72) Section 2023 is amended—

(A) by striking out "United States Civil Service Commission" and "Commission" (except when referring to the Postal Rate Commission) wherever they appear and substituting "Director of the Office of Personnel Management" and "Director", respectively;

(B) in subsection (a), by striking out "whenever it finds" and substituting "when the Director finds";

(C) in subsection (a)(2), by striking out the period and substituting a semicolon; and

(D) in subsections (b) and (c), by inserting "of this title" after "section 2021(a)".

(73) Section 3020(a) is amended by striking out "Post Office Department" and substituting "United States Postal Service".

(74) Section 3101(c) is amended by inserting "of this section" after "subsection (a)" and by striking out "(relating to seizure of property for collection of taxes)" and substituting "(26 U.S.C. 6331 et seq.)".

(75) Section 3103(e)(2)(B) is amended by striking out "within one year after the date of enactment of this paragraph", "on or prior to the date of enactment of this paragraph", and "such enactment date" and substituting "before October 9, 1978,", "before October 9, 1977,", and "October 8, 1977", respectively.

(76) Section 3112 is amended—

(A) in subsections (a) and (b)(1), by inserting "(42 U.S.C. 401 et seq.)" after "title II of the Social Security Act" the first time it appears in each subsection;

(B) by inserting "(42 U.S.C. 415(i))" after "section 215(i) of such Act" wherever it appears;

(C) in subsection (b)(1), by striking out "section 415 of such title" and substituting "section 415 of this title"; and

(D) in subsection (c)(1), by inserting "(42 U.S.C. 415(i)(2)(D))" after "section 215(i)(2)(D) of the Social Security Act".

(77) Section 3202(d) is amended by striking out "the date of enactment of this sentence" and substituting "August 7, 1959,".

(78) Section 3504(a) is amended by striking out "be guilty" and substituting "to be guilty".

(79)(A) Section 3505(a) is amended by striking out "the date of enactment of this section" and substituting "September 1, 1959,".

(B) Section 3505(b) is amended to read as follows:

"(b) The offenses referred to in subsection (a) of this section are those offenses for which punishment is prescribed in—

"(1) sections 894, 904, and 906 of title 10 (articles 94, 104, and 106 of the Uniform Code of Military Justice);

"(2) sections 792, 793, 794, 798, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105 of title 18;

"(3) sections 222, 223, 224, 225, and 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2272, 2273, 2274, 2275, and 2276); and

"(4) section 4 of the Internal Security Act of 1950 (50 U.S.C. 783).".

(80)(A) Section 4101(c)(2) is amended—

(i) by striking out "Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare" and substituting "Health and Human Services and the Secretary of Education"; and

(ii) by striking out "section 3(b) of the Rehabilitation Act of 1973 (Public Law 93-112; 87 Stat. 357) (relating to the development and support, and the stimulation of the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems), section 202(b)(2) of such Act (relating to the establishment and support of Rehabilitation Engineering Research Centers), and section 405 of such Act (relating to the secretarial responsibilities for planning, analysis, promoting utilization of scientific advances, and information clearinghouse activities)" and substituting "section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2)) (relating to the establishment and support of Rehabilitation Engineering Research Centers)".

(B) Section 4101(d) is repealed.

(81) Section 4105(c) is amended by striking out "the effective date of this subsection" and substituting "January 1, 1978,".

(82) Section 4107(e) is amended by striking out "per centum" wherever it appears and substituting "percent".

(83) Section 4108(a)(6) is amended by striking out "the effective date of this subsection" wherever it appears and substituting "September 1, 1973".

(84) Section 4109(a) is amended by inserting "subchapter III of" before "chapter".

(85) Section 4114 is amended—

(A) in subsection (b)(3)(C), by inserting "(26 U.S.C. 3101 et seq.)" after "the Internal Revenue Code of 1954"; and

(B) in subsection (f), by striking out "the effective date of this subsection" and substituting "January 1, 1978,".

(86)(A) The last sentence of section 4118(a)(3) is amended to read as follows: "Not later than one year after making any such recruitment and retention determination and each year thereafter, the Chief Medical Director shall make a redetermination in accordance with those regulations.".

(B) Section 4118(e)(4) is amended—

(i) in clause (A), by striking out "on or before the effective date of this section", "the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975", and "the effective date of this section" and substituting "before October 13, 1975,", "October 22, 1975,", and "October 12, 1975", respectively;

(ii) in clause (B), by striking out "the effective date of this section" and "the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975" and substituting "October 12, 1975," and "October 22, 1975,", respectively; and

(iii) in clause (C), by striking out "the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975" and substituting "October 22, 1975".

(87) Section 4134(a) is amended—

(A) by striking out "Health, Education, and Welfare" and substituting "Health and Human Services"; and

(B) by striking out "the Director of the Office of Drug Abuse Policy (or any other successor authority)" and substituting "the President (or the delegate of the President)".

(88) Section 4202 is amended—

(A) in clause (5), by striking out "without regard to" and all that follows through the semicolon and substituting "without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5. Those employees are subject to the provisions of title 5 relating to a preference eligible described in section 2108(3) of title 5, subchapter I of chapter 81 of title 5, and subchapter III of chapter 83 of title 5;"; and

(B) in clause (11), by striking out "sections 521 and 543 of title 5" and substituting "section 1 of the Act of January 31, 1925 (7 U.S.C. 2217), and section 1 (1st proviso under heading 'OFFICE OF THE SECRETARY') of the Act of May 11, 1922 (7 U.S.C. 2240)".

(89) Section 4206 is amended by striking out "sections 841-869 of title 31," and substituting "the Government Corporation Control Act (31 U.S.C. 841 et seq.),".

(90) Section 4208 is amended by striking out "herein provided" and substituting "provided in this chapter".

(91)(A) Section 5022(a) is amended by striking out "section 321" and all that follows through "(40 U.S.C. 303b)" and substituting "section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)".

(B) Section 5022(c) is amended by inserting "(41 U.S.C. 254)" after "section 304 of that Act".

(92) Sections 5035(a)(1), (4), (b)(2), (d)(1), and 5036 are amended by striking out "per centum" wherever it appears and substituting "percent".

(93) Section 5056 is amended by inserting "(42 U.S.C. 300t et seq.)" after "part F of title XVI of the Public Health Service Act".

(94)(A) Section 5070(a) is amended—

(i) by striking out "Health, Education, and Welfare" and substituting "Health and Human Services"; and

(ii) by striking out "section 309 and" and inserting "(42 U.S.C. 292 et seq.)" after "the Public Health Service Act".

(B) Section 5070(e) is amended—

(i) in the first sentence, by striking out "including equipment therein)" and substituting "(including equipment therein)"; and

(ii) in the last sentence, by striking out "section 321" and all that follows through "(40 U.S.C. 303b)" and substituting "section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)".

(95)(A) The following sections are amended by striking out "Health, Education, and Welfare" wherever it appears and substituting "Health and Human Services":

101(25)(E), 422(a) and (b), 612(j), 616, 774, 2014(c), 3001(a), 3005, 5053(d)(1), and 5056.

(B) Section 5073(b)(1)(D) is amended by striking out "Commissioner of Education of the Department of Health, Education, and Welfare" and substituting "Secretary of Education".

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 5. (a) Sections 1-4 of this Act restate, without substantive change, laws enacted before December 2, 1981, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after December 1, 1981, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1-4 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1-4 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1-4 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

SEC. 6. (a) The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

SCHEDULE OF LAWS REPEALED

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large Volume	Page
1965:				
June 11	89-37	202, 303, 305	79	128
Oct. 27	89-298	219	79	1089
1966: Nov. 2	89-718	8(a)	80	1117
1967:				
Mar. 16	90-5	304	81	6
Dec. 8	90-179	11	81	549
1968: Sept. 20	90-500	404	82	851
1969: Nov. 19	91-121	410	83	210
1970: Oct. 7	91-441	507	84	913
1971: Sept. 28	92-129	501	85	361
1974:				
May 24	93-289	11(b)	88	173
Aug. 5	93-365	302(c), 502	88	402, 404
1975: Oct. 7	94-106	811-814	89	539
1976:				
Feb. 9	94-212	747	90	176
Apr. 21	94-273	4(4), 5(6), 14	90	377, 378
July 14	94-361	802, 803	90	930
Sept. 10	94-406	5, 6	90	1236
1977:				
July 1	95-61	8	91	260
July 30	95-79	812 (last sentence), 814.	91	336, 337
Aug. 17	95-105	509(a)-(c)	91	859
Sept. 21	95-111	836	91	906
1978: Oct. 20	95-485	810(a), (b)	92	1623
1979:				
Nov. 9	96-107	808, 809, 815	93	814, 815, 817
Dec. 21	96-154	767	93	1163
1980: Oct. 3	96-376	12	94	1511
1981:				
June 5	97-12	100 (last par. under heading "General Provisions").	95	29
Dec. 1	97-86	917(e)	95	1141

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HUGHES) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. SAWYER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4623, as amended, amends titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the code. The bill is necessary to reflect changes in those titles by laws which did not specifically amend those titles. H.R. 4623, as amended, makes no change in the substance of existing law except to correct an inadvertent error in the codification of title 10 in 1956 relating to retirement pay of warrant officers advanced on the retired list.

Besides the committee amendments, there are additional amendments made to the bill that are merely technical in nature and are included to reflect passage of the Military Construction Codification Act (Public Law 97-214), enacted July 12, 1982.

The bill was prepared for the House Judiciary Committee by the Office of the Law Revision Counsel under its authority under section 285(b) of title 2, United States Code.

Mr. Speaker, I have no requests for time.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting the enactment of H.R. 4623, as amended. As the distinguished gentleman from New Jersey (Mr. HUGHES) has stated, the bill was prepared by the Office of Law Revision Counsel of the House of Representatives to correct some errors in prior legislation.

● Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 4623 as it relates to proposed changes in title 38, United States Code a codification of laws in the field of veterans' benefits coming within the jurisdiction of the Committee on Veterans' Affairs.

H.R. 4623 proposes to change a number of provisions of title 38 which have not been specifically amended by the laws passed by preceding congresses during the last several years. The proposed changes are technical in nature and, if enacted, would not change or alter existing veterans' programs.

I commend the distinguished gentleman from New Jersey (Mr. HUGHES) and the very able chairman of the Judiciary Committee, the gentleman from New Jersey (Mr. RODINO), for bringing this bill to the floor. I am also most grateful to the staff of the Office of the Law Revision Counsel for their assistance and cooperation in working with members of the staff of the Committee on Veterans' Affairs regarding the amendments to title 38.●

Mr. SAWYER. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the bill, H.R. 4623, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsidered was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

INTERNATIONAL TRAVEL ACT AUTHORIZATION FOR 1983

Mr. FLORIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6258) to authorize funds for

fiscal year 1983 for carrying out the International Travel Act of 1961.

The Clerk read as follows:

H.R. 6258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 304 of the International Travel Act of 1961 is amended by inserting ", and an amount not to exceed $10,000,000 for the fiscal year ending September 30, 1983" before the period.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. FLORIO) will be recognized for 20 minutes, and the gentleman from California (Mr. DANNEMEYER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a simple reauthorization for the U.S. Travel and Tourism Administration. The USTTA replaced the U.S. Travel Service last session as a result of legislation sponsored by Mr. LENT and myself.

In hearings before our subcommittee this spring, the Department of Commerce submitted its first marketing plan as required by the 1981 act. The plan is supposed to set out a detailed program for implementing the marketing and promotional responsibilities of the USTTA and provide the Congress with guidance for determining the level of funding and personnel needed to carry out the program.

The marketing plan submitted by the Department showed that it would take 10 million, at a minimum, to carry out the promotional activities which the law requires the USTTA to undertake and the committee adopted that figure in this authorization.

We expect that this small investment in tourism will reap substantial benefits to the U.S. economy.

At a time when our Nation is suffering from a serious recession, increases in tourism to the United States will create jobs and help with the balance of payments. I hope my colleagues will join me in this authorization request from USTTA.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in this year, 1982, we appropriated $7.6 million for this activity. In 1981, we actually spent $7.959 million. I rise this afternoon in opposition to the legislation in the form it is now before the House because it authorizes expenditures of some $10 million for 1983. Now, that will represent an increase in authorization of better than 25 percent in just 1 year.

This Member from California represents a district from southern California in which tourism is an essential part of the economic activity of the district. It includes Disneyland U.S.A. I can tell the Members that the people who come there and see that facility and run it are fully aware of the impact of tourism in this country. But, I can say to my colleagues that we do not need the involvement of the Federal Government to the extent that this proposed authorization suggests in order to properly serve this particular activity.

The administration has asked an authorization level of $5 million for 1983. That is the level that I think this House should adopt. The $10 million is considerably excessive, particularly when we reflect that the deficit for the next fiscal year is estimated at over $100 billion. This is one area of Federal spending that to me more properly could be served by activities in the private sector rather than expanding Federal spending.

For these reasons, I am asking the House to reject this proposed authorization bill, bring it up on the floor where we can offer an amendment to reduce the proposed authorization to the amount that the administration has requested, specifically $5 million.

Mr. FLORIO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I indicated that this bill was passed out of subcommittee unanimously and passed by voice vote without audible opposition in the full committee. It is supported by the ranking member of the subcommittee.

● Mr. BADHAM. Mr. Speaker, I rise in support of H.R. 6258 which provides the fiscal year 1983 authorization of the International Travel Act.

As vice chairman of the House Travel and Tourism Caucus, I know of the years of study and work that went into the passage of the National Tourism Policy Act last year. Now it is necessary for Congress to provide the means for the agency charged with carrying out the mandates of that act to do so.

One of the primary provisions of the act required the U.S. Travel and Tourism Administration to develop a workable marketing plan for increasing the number of visitors to the United States. The agency met that requirement by producing that report for Congress in March. In order for the USTTA to carry out the plan, it needs to know its authorization level early enough to proceed with the appropriate level of spending as outlined in its plan.

The United States has an opportunity to take advantage of our great natural attractions in order to entice more people to visit our country and I feel the USTTA can maximize those advantages given the proper amount of support from Congress.

In the past, travel and tourism efforts by the Federal Government have been woeful. I believe we are about to turn that around as a direct result of the legislation we passed last year. The potential is indeed great because tourism is now one of the top three private employers in 35 States. In my State of California, $22 billion was spent in 1980 on travel and tourism. Of most significance is the rate of growth of employment in the industry which in 1980 was double the average for all nonagricultural parts of the American economy.

With the high levels of unemployment in many sectors of the economy it seems only prudent to encourage growth where the potential for increasing jobs is great—and travel and tourism has demonstrated over the years that it serves to create a large number of entry-level jobs.

Travel and tourism also accounts for a significant amount of revenue for State and local governments which are looking for additional funds. Recent data show that the increase in collections from travel-related industries exceeds the increase in revenues from other industries.

In sum, I urge you to support H.R. 6258 so that the U.S. Travel and Tourism Administration can take advantage of the potential for increasing foreign visitors to the United States. The resulting revenues will be good for creating needed jobs and will assist State and local governments who are looking for additional revenues. We have a great product to sell in the United States. We need to tell people about it.●

● Mrs. SNOWE. Mr. Speaker, for years, tourism was the third largest industry in the United States; yet, in spite of the obvious importance of tourism to our Nation's economy, until last year we had no comprehensive plan for a Federal approach to promote that industry's health. H.R. 6258 recognizes the importance of our tourism industry, and provides the funds needed to carry on the activities of the U.S. Travel and Tourism Administration. These funds are money well spent.

In 1981, tourism broke new records and became our Nation's second largest industry. The industry employs 4.6 million people nationwide and provides $140 billion in wages and salaries. Last year, tourism generated $18 billion in Federal, State, and local taxes. That is no small contribution as Congress seeks to reduce the Federal deficit.

At a time when many of our country's industries are faced with financial hardship, tourism is actually a growth industry. In fact, the travel industry consistently outperforms the rest of the economy in creating new jobs. In the last two decades, more than 10 percent of the 39 million new jobs created were in the travel industry. More importantly, in 1980, the

travel industry actually contributed 35 percent of the new jobs created in our economy.

Those statistics translate to impressive figures for my own State of Maine. In 1980 alone, over $1 billion was spent on travel-related services. Tourism is Maine's largest industry, employing 37,000 people in the State. A thriving industry means jobs for the people of Maine, and across the Nation.

For these reasons, I was pleased to support the National Tourism Policy Act in 1981. Today I am happy to support H.R. 6258, which will authorize $10 million for the U.S. Travel and Tourism Administration to continue its efforts to promote the continued growth of one of our Nation's most important industries.●

● Mrs. SCHROEDER. Mr. Speaker, I rise in opposition to H.R. 6258, the International Travel Act authorization. I voted against the authorization last year, when the level was $8.6 million. Now the hotel and casino lobby is back in force again this year with a request for a $10 million handout. This is a 16-percent increase over last year's largess.

I am delighted to see that Mr. Reagan opposes this entirely unnecessary authorization. I would be even more delighted if he had opposed it last year when the real battle was fought over continuing, indeed enlarging, the U.S. Travel and Tourism Administration. But last year, Reagan's OMB Director, David Stockman, came charging to the rescue of the National Tourism Policy Act with a letter of endorsement just days before the House was scheduled to vote.

A dozen or so Members, myself included, later wrote to Mr. Reagan, requesting that he veto the bill. Mr. Reagan ignored our request. He had other fish to fry. Now, today, he is at our side opposing the fiscal year 1983 authorization. I welcome his addition to our ranks.●

● Mr. SANTINI. Mr. Speaker, I rise in support of H.R. 6258, International Travel Act authorizations for 1983.

After years of study and seemingly endless sessions of debate, Congress enacted the National Tourism Policy Act last year. That landmark legislation established the U.S. Travel and Tourism Administration and set out a policy for maximizing the inflow of tourists to this Nation. It also established an important interagency council which is designed to coordinate the disparate tourism activities of the different Federal agencies. This council should serve to prevent policies from being adopted which are potentially injurious to the travel and tourism industry without the agencies involved considering their impact on this vital segment of the economy.

Now the USTTA is up for its first authorization following its creation last October. It is essential for us to provide the $10 million in the authorization so that the USTTA can carry out the mandatory provisions of existing law. The administration's recommended authorization level is too low to even permit the USTTA to meet its legal requirements.

The passage of the National Tourism Policy Act was the top priority of the travel and tourism caucus which I have the honor of chairing. The continued funding of this agency is critical in its second year, to make the goal of increasing international travel receipts a reality.

This Nation is the most beautiful on Earth, with an abundance of attractions both natural and created by energetic Americans. We have vibrant cities, gorgeous seashores, wonderful entertainment, and a diverse, friendly people. The United States should be encouraging more foreign tourists to come to our shores and share what we have to offer.

During the past few years the effort made by the U.S. Government to persuade people to visit America has actually declined at a time when competition for the foreign visitor has increased. The U.S. share of the international tourism market has remained fairly constant despite phenomenal growth in the number of people traveling in the world today. The number of international arrivals has gone from about 70 million in 1960 to about 275 million in 1980. Yet the U.S. share of that market has not improved. We need to do a better job selling America.

I believe Congress made the right step when it enacted the National Tourism Policy Act last year. The U.S. Travel and Tourism Administration has submitted a marketing plan to improve the American performance in the international tourism marketplace which is a blueprint for what needs to be done. Now we need to give the USTTA the opportunity to put that plan into practice by passing this 1983 authorization. On behalf of myself and the Congressional Travel and Tourism Caucus I urge you to support H.R. 6258.●

● Mr. CORRADA. Mr. Speaker, I rise in strong support of H.R. 6258, International Travel Act authorization of 1983. This bill authorizes $10 million for fiscal year 1983 to carry out the provisions of the National Tourism Policy Act. That act established the U.S. Travel and Tourism Administration and directs it to promote travel to the United States.

Although the United States would appear to be an ideal vacation spot for foreigners, with our diverse climates and spectacular attractions, we share in only 11 percent of the world total tourism receipts which exceed $106 billion. It is clear that tourism represents a growth industry with great potential for our Nation. In these economically difficult times, the tourism industry represents a solid glimmer of hope to provide jobs to the millions of unemployed throughout the Nation. The promotion job to be carried out by the USTTA will be a catalyst to the greater economic development in this important area.

I urge my colleagues to vote in favor of the enactment of H.R. 6258.●

● Mr. BONER of Tennessee. Mr. Speaker, I want to go on record in strong support of the fiscal year 1983 authorization of the U.S. Travel and Tourism Administration. Those of us most interested in a healthy tourism industry with all that means for jobs, the dollar, and our State and local governments, long remember the battles which have been fought over the Federal role in attracting foreign visitors to our shores. Last year I was joined by 320 of my colleagues in voting to support the establishment of a strong national policy for tourism. Now we must reaffirm that commitment so that the USTTA can get on with the job.

Tourism and travel are growth industries which our Government should be encouraging through an organized, aggressive program of promotion. I believe the agency we have charged with the responsibility of increasing the U.S. share of the international market is doing a good job given its very modest budget. Now is the time to assure the USTTA that it will be able to carry on its important work in 1983 and beyond.

As I outlined in testimony before the Subcommittee on Commerce, Transportation and Tourism last March, I believe we have a great opportunity in this country to increase our receipts from international visitors dramatically because of a number of events now going on or planned in the near future. Now is the time to be letting foreign tourists know of the many alternatives available to them in this great Nation. Let me cite some of these opportunities:

First, a World's Fair is now open in Knoxville;

Second, a new attraction is about to open in Florida under the Disney banner called EPCOT;

Third, Los Angeles will host the Olympics in 1984;

Fourth, New Orleans will host a World's Fair event in that same year.

Given the tremendous opportunities before us, I am hopeful that we will give the USTTA the means to convince tourists to come to the United States. We know of the wonders we have to offer on both coasts, our islands, and in the heartland. We know of the attractions of the big cities and the small towns of America. Now is the time to let the rest of the world

know. Please join me in voting for H.R. 6258.●

● Mr. LENT. Mr. Speaker, I rise today in support of H.R. 6258, the International Travel Act authorization for 1983. This measure authorizes $10 million for the U.S. Travel and Tourism Administration to carry out its responsibilities under the International Travel Act of 1961 and the National Tourism Policy Act of 1981.

Last year the Committee on Energy and Commerce reported the first major tourism legislation since 1961. That measure, the National Tourism Policy Act of 1981, was then passed overwhelmingly by this House. The purpose of the 1981 law was to establish the framework for a more aggressive tourism promotion program in the United States. It did that by replacing the old U.S. Travel Service with the U.S. Travel and Tourism Administration. This new Administration is to develop a yearly marketing plan setting forth detailed marketing objectives and estimates of the funding and personnel necessary to reach the goal of an increased U.S. share in the world tourism market.

The problem faced by the USTTA this year is the same as that confronting other Federal programs—an insufficiency of operating funds to carry out its statutory responsibilities. While I am sympathetic to the financial plight of the USTTA, I feel that it must do its share to conserve scarce Federal dollars, particularly in light of major cutbacks in our environmental and social welfare programs.

So while I will go on record today supporting H.R. 6258, I must add that I expect the USTTA to come forward at the earliest possible time with responsible and reasonable private sector methods for funding our national tourism objectives.

Private, alternate sources of funding is a concept which Congressman GARY LEE and I raised both in subcommittee and full committee tourism reauthorization deliberations this year. During these meetings we made it clear that dramatic increases in Federal funding of tourism programs is simply inappropriate given the severe cutbacks in other, extremely worthy Federal programs. Our committee reports on H.R. 6258 incorporates Congressman LEE's and my thinking on this issue. That report directs the USTTA to report its findings on alternate sources of funding to the Energy and Commerce Committee within 6 weeks of transmittal to the Congress of the President's recommended budget for fiscal 1984. Hopefully these new sources can be tapped in time to assist with 1984 tourism program funding.

Thank you.●

● Mr. ROTH. Mr. Speaker, the interests of the Nation in a sound, coordinated national tourism policy demand that adequate funding be given the U.S. Travel and Tourism Administration in the coming fiscal year. For consolidation of government policies that affect an industry which is projected to be America's largest by the year 2000, $10 million is a small price to pay.

In the State of Wisconsin alone, the tourism industry generated $6.2 billion in sales, collected $160 million in State sales taxes and employed over 240,000 people in 1981. These statistics demonstrate tourism's vital importance to Wisconsin and the small business community.

Tourism accounts for more than 6 percent of the gross national product. Nationwide, tourism employs over 6.5 million Americans. It is vital to the national interest that the agency which was created to coordinate and improve Government policies affecting tourism be funded appropriate to the tremendous task with which it was entrusted.

In a time of economic uncertainty, a strong tourism industry must be a top priority. As an employer, as a revenue producer, tourism has served this country well.

While other nations have historically devoted a portion of their Federal budgets to the promotion of tourism, the United States has lagged behind in the realization that what is good for travel and tourism is good for America.

When Congress passed the National Tourism Policy Act late last year, it took a giant step forward in according tourism its rightful place in the national economic scenario. Now, we must again affirm our commitment to a healthy tourism by approving adequate funding to carry out the mandates of the National Tourism Policy Act.

I urge my collegues to again demonstrate their resolve that the U.S. tourism industry—99 percent of which are small businesses—will see Congress intent fulfilled in a vital U.S. Travel and Tourism Administration.●

● Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 6258, authorizing $10 million for the U.S. Tourism and Travel Administration in the Department of Commerce for fiscal year 1983.

Tourism and travel is an important segment of our Nation's economy and can readily be stimulated to take an even greater role by the modest expenditures proposed in this legislation. Tourism is a growing industry, and the USTTA, with its organizational abilities and vigorous promotion, has been responsible for much of the recent progress in this direction.

The funds authorized to be appropriated by this legislation will allow the USTTA to continue its work to increase foreign travel to the United States and to fulfill its other responsibilities under the International Travel Act of 1961 and the National Tourism Act of 1981.

The Hudson Valley and Catskill regions of New York, which I am privileged to represent in the House, are major American tourist destinations. The foreign tourists who come to the United States through the efforts of the USTTA not only benefit my region but many other regions of the Nation and the economy as a whole. In addition, the efforts of the USTTA to coordinate tourism are important to maintaining the high level of domestic tourist traffic in the Hudson Valley and Catskill region.

The funds provided in this bill are a wise investment. They can be expected to be returned to the Treasury many times over because of the increased tax revenues which will be generated by a strong, thriving travel industry.

Accordingly, Mr. Speaker, I urge my colleagues to approve this important legislation.●

Mr. DANNEMEYER. Mr. Speaker, I yield back the balance of my time.

Mr. FLORIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO) that the House suspend the rules and pass the bill, H.R. 6258.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FOREIGN DEFENSE SALES

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6758) to authorize the sale of defense articles, defense services, and unclassified defense service publications to U.S. companies for incorporation into end items to be sold to friendly foreign countries.

The Clerk read as follows:

H.R. 6758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asssembled, That (a) subject to the conditions specified in subsection (b) of this section, the Secretary of Defense may, on a negotiated contract basis, under cash terms (1) sell defense articles, defense services, and unclassified defense service publications at not less than their estimated replacement cost (or actual cost in the case of services), or (2) procure or manufacture and sell defense articles, defense services, and unclassified defense service publications at not less than their contract or manufacturing cost to the United States Government, to any United States company for incorporation into end items (and for concurrent or follow-on support) to be sold by such company on a direct commercial

basis to a friendly foreign country or international organization pursuant to an export license or approval under section 38 of the Arms Export Control Act. The amount of reimbursement received from such sales shall be credited to the current applicable appropriation, fund, or account of the selling agency of the United States Government.

(b) Defense articles, defense services, and unclassified defense services publications may be sold, procured and sold, or manufactured and sold, pursuant to subsection (a) of this section only if (1) the end item to which the articles, services, or publications apply is to be procured for the armed forces of a friendly foreign country or international organization, (2) the articles, services, or publications would be supplied to the prime contractor as government-furnished equipment or materials if the end item were being procured for the use of the United States Armed Forces, and (3) the articles, services, or publications are available only from United States Government sources or are not available to the prime contractor directly from United States commercial sources at such times as may be required to meet the prime contractor's delivery schedule.

(c) For the purpose of this section the terms "defense articles" and "defense services" mean defense articles and defense services as defined in the Arms Export Control Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. GOODLING) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6758. This bill is a noncontroversial piece of legislation. Its only purpose is to authorize the President to sell or procure and manufacture for sale defense articles, defense services, and unclassified defense service publications to U.S. commerical firms.

Mr. Speaker, when we had the Foreign Assistance Act, this provision was in that act and received the unanimous vote of the Committee on Foreign Affairs, and was included and approved by this body. However, since the legislation is not apparently going to be completed it is very vital that we take this section of that legislation as a separate piece of legislation, which has been introduced by the gentleman from Pennsylvania (Mr. GOODLING).

The items that the provisions in the bill would permit to be sold to U.S. commercial firms from Government-owned facilities would be subsequently incorporated into defense articles for licensed commercial arms sales to friendly foreign countries and international organizations.

This legislation is not designed to stimulate or significantly increase commercial arms sales. Nor is it intended to lead to drawdowns of U.S. stocks that would result in a significant adverse impact in U.S. force readiness. Commercial arms sales will still be subject to an export license and congressional review procedures.

As I said, Mr. Speaker, this is a noncontroversial piece of legislation, and therefore I can testify that H.R. 6758 has received unanimous support. I urge its overwhelming approval.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on Wednesday, May 5, the House Foreign Affairs Committee passed a provision contained in the Foreign Assistance Act during markup of the bill which would allow for the direct sale of parts and equipment manufactured at Government-owned and operated facilities to commercial defense plants. The provision is a section known as Government furnished equipment or materials.

Presently, these Government-owned and operated facilities cannot support commercial defense plants on a direct basis. This causes higher administrative costs, and makes the coordination of efforts between Government and non-Government plants to be cumbersome. In some cases, the present method of doing business means the loss of contracts to U.S. facilities, and ultimately, is costing Americans jobs.

It now appears that the Foreign Assistance Act may be stalled for some time. Because I believe that this steamlining provision would make it infinitely easier for our Government defense facilities and commercial plants to work together for the benefit of American security interests, for the benefit of American workers. I believe it is important to approve this language in separate legislation so that we can remedy this situation without further delay.

I respectfully urge my colleagues to give this bill their support.

□ 1315

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. ZABLOCKI. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I want to express my appreciation to the chairman of the committee for yielding me this time, and I want to join with him and with the gentleman from Pennsylvania (Mr. GOODLING) in support of this legislation.

In fact, this provision is something that the people at the Watervliet Arsenal, which is one of the major Government owned and operated arsenals in our inventory today, have frequently spoken to me about in pointing out the importance of legislation of this kind.

This bill would, as has already been indicated, make it possible to do what is not legally possible at the present time to do, and that is to allow Government arsenals to deal directly with private companies rather than having to go through all of the redtape that currently prevails, particularly when foreign governments are involved, as in the case of foreign military sales. Under current procedures these prospective purchasers must deal first with a number of echelons in the Pentagon and go through other complex arrangements. Yet the fact of the matter is that ultimately those prospective customers end up dealing with the Government arsenals at Rock Island and at Watervliet, and elsewhere.

By permitting private companies to deal directly with Government arsenals, we can cut back on the redtape which the current administration has been seeking to eliminate in the Pentagon. Indeed I am advised that if this change could be carried out, the chances are, as the gentleman from Pennsylvania has already indicated, that there will be increased employment and increased opportunities for letting these arsenals, which in peacetime generally do not always run at full capacity, to operate more efficiently and more effectively.

Mr. Speaker, I must commend the gentleman from Pennsylvania (Mr. GOODLING) for his diligence in this regard. It seemed to me that this was probably something that would be very difficult to get enacted, but with the wise leadership of the chairman of the Committee on Foreign Affairs, and the initiative of the gentleman from Pennsylvania, it is here before us. I think it deserves to be passed, and I certainly support it very wholeheartedly.

● Mr. RAILSBACK. Mr. Speaker, I would like to commend my colleague from Pennsylvania (Mr. GOODLING) for his work on behalf of H.R. 6758, legislation which would streamline the existing cumbersome process by which our Government authorizes the sale of defense articles used in military equipment sold to friendly foreign countries.

This important bill was unanimously reported by the Foreign Affairs Committee for full House consideration. By reducing cumbersome redtape, the bill would not only insure necessary Government control over the sale of military equipment by private contractors to foreign governments, but it would also reduce administrative cost to our Government, bolster our national defense by maintaining the fa-

cilities and skills of workers involved in our country's defense production, and benefit U.S. companies providing jobs to workers engaged in military production.

According to existing restrictions, the Rock Island Arsenal of my district, the sole U.S. manufacturer of gun mounts used in howitzers, and Watervliet Arsenal of New York, a maker of cannon assemblies, cannot supply U.S. manufacturers of howitzers on a direct basis. Instead, administrative lead time of up to 6 months is incurred by the manufacturer who must have foreign governments go through Foreign Military Sales and designate the contractor as their agent and recipient of arsenal made gun mounts and cannon assemblies.

As a result, delivery schedules are lengthened, as is the delivery of equipment to foreign governments. If this situation is left unresolved, U.S. jobs could be lost and friendly foreign governments may turn to Russia or France for their purchases.

The question of our country's control over sales to foreign countries is addressed in this legislation by a provision that allows export licenses, issued through the State Department and approved by the Defense Department, to be revoked at any time if it was felt sales to certain countries would harm national security.

I ask my colleagues to join me in support of H.R. 6758. I thank you Mr. Speaker.●

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI), that the House suspend the rules and pass the bill, H.R. 6758.

The question was taken; and (two-thirds having voted thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS RE SITUATION ON CYPRUS

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and to agree to the concurrent resolution (H. Con. Res. 310) expressing the sense of Congress that the President should consider and undertake certain efforts to help promote a settlement of the Cyprus conflict, as amended.

The Clerk read as follows:

H. CON. RES. 310

Whereas negotiations held under the auspices of the United Nations have unfortunately not yet been able to resolve the Cyprus dispute and have failed to obtain the withdrawal of foreign troops from Cyprus;

Whereas there is a significant refugee and displaced persons problems on Cyprus;

Whereas failure to resolve the Cyprus conflict weakens the southern flank of the North Atlantic Treaty Organization by creating tensions between Greece and Turkey; and

Whereas the continued presence of foreign troops and the failure to reach a settlement on Cyprus denies the Cypriot people the right of self-determination: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should—

(1) consider appointing a high level official of recognized international stature to be the President's personal representtive in seeking a solution to the Cyprus conflict;

(2) call upon the Government of Turkey to take further steps to withdraw its forces from Cyprus in order to facilitate the withdrawal of all foreign forces from Cyprus, noting that the continued presence of foreign troops on Cyprus can weaken the North Atlantic Treaty Organization's southern flank, can cause ill will toward Turkey throughout the North Atlantic Treaty Organization alliance, and can undermine Turkish attempts to improve its political and economic relations with other Western nations; and

(3) diligently pursue every appropriate avenue to continue to support the United Nations efforts through intercommunal talks to seek a prompt resolution of this conflict, including the withdrawal of all foreign troops from Cyprus.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. HAMILTON) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. HAMILTON).

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to speak in support of House Concurrent Resolution 310, a resolution expressing the sense of Congress that the President should consider and undertake certain efforts to help promote a settlement of the Cyprus conflict.

I would like to commend the gentleman from Pennsylvania (Mr. YATRON) and the gentleman from Michigan (Mr. BROOMFIELD) for their willingness to modify the original version of the resolution so that it could be moved to the floor with the support of the overwhelming majority of members of the Committee on Foreign Affairs.

Mr. Speaker, House Concurrent Resolution 310 accomplishes several things. First, the resolution expresses dissatisfaction with the rate of progress on a Cyprus settlement. For nearly 8 years, the United States has been involved in efforts to promote a settlement of this conflict. While we are told that some progress has occurred in the intercommunal talks being held under United Nations auspices, that progress has been insufficient on the critical territorial and constitutional issues which continue to divide the communities on the island.

Second, the resolution suggests that a solution to the Cyprus dispute deserves more attention than it has been getting from the United Nations, the United States and sometimes the parties directly involved. The appointment of high-level representatives to deal with the issue could help focus more attention on the problem.

Third, the resolution indicates that Congress is concerned about the consequences of a delay for the promotion and protection of U.S. interests in the eastern Mediterranean and for the vitality of NATO and for the well being of the Cypriot people.

Fourth, the resolution recognizes that one step, but not the only one by any means, that would help promote a settlement would be the withdrawal of foreign troops from the island.

Thus, Mr. Speaker, House Concurrent Resolution 310 promotes several actions. It seeks: To encourage all parties to take further steps to promote a settlement; to spur the United Nations to press ahead with its diplomatic efforts; and to urge the President to give higher priority to seeking a settlement of this dispute.

The United States clearly needs to encourage all parties to the conflict to exert their best efforts toward a settlement. Some steps have been taken. More steps are needed. For example, while it is true that Turkey may have withdrawn over 20,000 troops from the island, 20,000 remain and their removal as well as the removal of several thousand Greek troops on the island, are essential to a resolution of the dispute. The further withdrawal of substantial numbers of troops by Turkey or the unconditional opening up of Famagusta to its Greek inhabitants are the types of steps which could promote substantial progress toward a settlement. The Greek Cypriots need also to take further steps in the intercommunal talks to insure the legitimate rights of the Turkish Cypriots in a united Cyprus.

Mr. Speaker, no useful purpose is served by assessing blame. We need to look to the future, not the past. We need to focus on achieving substantial progress toward a settlement of the dispute which will include the withdrawal of all foreign troops from the island. I hope that in the coming months further progress in the intercommunal talks will occur. That should be our goal and that should be a high priority on our agenda in the eastern Mediterranean.

Mr. Speaker, I would like to yield to my colleagues who are sponsoring this concurrent resolution, and I yield first to the chairman of the committee, the

gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of House Concurrent Resolution 310, expressing the sense of Congress that the President should consider and undertake certain efforts to help promote a settlement of the Cyprus conflict, as amended.

At the outset, I would like to commend the principal sponsors of the original resolution, the ranking minority member of the committee, Mr. BROOMFIELD and Mr. YATRON, for their cosponsorship of this resolution.

I also wish to commend the distinguished chairman of the Subcommittee on Europe and the Middle East, Mr. HAMILTON and Mr. FINDLEY, the ranking minority member of the subcommittee, for their contribution in drafting the committee amendment to the resolution, which we are considering today.

Mr. Speaker, this timely resolution takes note of the long-standing negotiations to solve the Cyprus conflict and urges the President to appoint a high level representative to seek a permanent solution to that conflict. The resolution also calls on Turkey to withdraw forces from Cyprus so that the withdrawal of all foreign troops from Cyprus may be facilitated. The resolution further urges the United States to continue its support for the United Nations intercommunal talks to seek a prompt settlement on Cyprus.

Mr. Speaker, the resolution of the conflict on Cyprus is crucial to maintaining the strength of the southern flank of the North Atlantic Alliance and I, therefore, urge the unanimous support of this resolution by the full House.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tomorrow will be the eighth anniversary of the invasion of Cyprus by Turkish troops.

Because of our concern over this long-standing conflict, recently Congressman YATRON and I introduced House Concurrent Resolution 310, expressing the sense of Congress that the President should consider and undertake certain efforts to help promote a settlement.

At this time I would like to pay tribute to the gentleman from Pennsylvania (Mr. YATRON), for his dedication and commitment to resolving the Cyprus conflict. Also, I want to express my appreciation to the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Foreign Affairs Committee, and to the gentleman from Indiana (Mr. HAMILTON), for their cooperation in making it possible for this resolution to come to the floor today.

The resolution we have before us urges the President to appoint a high level official of recognized international stature to be the President's personal representative is seeking a solution to the Cyprus conflict. The designation of such a person, is vitally important to ending the problem.

The resolution also calls upon the Government of Turkey to withdraw its forces from Cyprus. Continued occupation not only makes a settlement impossible, but undercuts Turkey's own broader political and economic interests in Europe and North America. The third element of the resolution urges the United Nations to pursue every appropriate avenue to obtain a prompt solution to the conflict.

To fully understand the importance of passing this resolution, let me relate the dimensions of the tragedy. In the 8 years of Turkish occupation of Cyprus, families are still separated from one another and over 200,000 refugees have been forced from their homes and villages. Approximately 40 percent of the island is under Turkish Government control, thereby depriving the native Cypriots of self-determination. Not only has this occupation imposed a political hardship on the people of Cyprus, it has imposed a heavy economic, social, and cultural burden as well. Clearly, from a humanitarian perspective, U.S. concern is legitimately raised by the Turkish failure to agree to a settlement. From a strategic perspective, the United States also has legitimate concerns. At the very time that the Soviet Union is enhancing its power in the Mediterranean, NATO's southern flank is weakened by the Greek-Turkish clash over Cyprus. Not only do our southern flank partners disagree over military control and tactics in this region, but U.S. bases in the area are threatened with removal unless the conflict in Cyprus is resolved. In short, our entire defense posture in southern Europe and the Middle East is in jeopardy.

By endorsing this resolution, the Congress will be sending a clear signal to Turkey that the continued occupation of Cyprus is not acceptable, and that the rights of the people of Cyprus must be restored. I urge my colleagues to adopt this resolution as it furthers not only the interests of the Cypriot people, but those of the United States as well.

Mr. STRATTON. Mr. Speaker, will the gentleman yield to me?

Mr. BROOMFIELD. I am happy to yield briefly to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I understand the purpose of the concurrent resolution that the gentleman is supporting, and I think it is obvious in what the gentleman from Michigan (Mr. BROOMFIELD) has said about the need for restoring the status quo ante on Cyprus and getting the southern flank of NATO protected.

□ 1330

What disturbs me a little bit, however, about this resolution is that it seems to be directed against just one side in this particular conflict. Seven or eight years ago the House of Representatives took very severe legislative action singling out one side in that conflict and I think the gentleman from Michigan (Mr. BROOMFIELD) is well aware of what the ultimate impact of that rather hasty decision was.

If I understand the gentleman from Indiana (Mr. HAMILTON), there are also Greek troops on Cyprus. It would seem to me that it might be wiser if we were not to pin the blame—the gentleman from Indiana says this does not pin the blame on anybody—but the terms "Turkish troops" and "Turkish forces" feature not only prominently in the preamble but also feature prominently in the resolving clauses.

For that reason it seems to me that we may be aggravating a situation that the gentleman from Michigan would like to heal. It would seem to me that this resolution could be drawn more felicitously so that we do not pin the blame on either side.

I think, as the gentleman from Michigan (Mr. BROOMFIELD) well knows, and certainly the members of the Armed Services Committee know, the leadership of the North Atlantic alliance and particularly the American representatives and the Supreme Commander himself have been profoundly disturbed about the problems, in Turkey resulting from its economy, especially the collapse of its military forces and the obsolescence of its military equipment that resulted from the action which this Congress took some years ago.

In fact, we have even persuaded the West German Government and other NATO governments to provide substantial loans to Turkey so that they could rebuild their military establishment, in view of the very important role which Turkey, because of its geography, plays in the NATO alliance.

It seems to me that it would be unwise for us to pass any resolution, however well intentioned, that might revive this whole thing again and put the Turkish military situation back where it was before.

We have to remember that they are on the flank of the Soviet Union. We have to remember, as the gentleman has already indicated, that we have finally reinstituted those very important U.S.-intelligence-collecting stations which were in Turkey before the embargo went on.

I would hope that perhaps the gentleman might be able to reassure me on those points because as I read the

resolution, although the words of the gentleman from Indiana are very soothing, it looks to me as though this is "leaning just a little bit toward Tilly," as the story has it.

Mr. HAMILTON. Mr. Speaker, will the gentleman yield for a moment?

Mr. BROOMFIELD. I am happy to yield to the gentleman.

Mr. HAMILTON. I believe the gentleman from New York (Mr. STRATTON) is reading the House concurrent resolution that was originally introduced. He is not reading from the resolution we are considering.

Mr. STRATTON. I received the whip notice and the appropriate legislation, but not being a member of the Foreign Affairs Committee maybe I missed something.

Mr. HAMILTON. I think the gentleman from New York makes several good points. If he will read this resolution, although it does call for the Government of Turkey to take further steps to withdraw troops, the gentleman will notice that the thrust of the resolution is to ask that all foreign troops be removed from the island.

I think this is a much better balance in this resolution. It is the more evenhanded, as amended, than it was originally.

Mr. STRATTON. If this piece of paper given to me represents the resolution I would have no objection to it and I am glad the gentleman from Indiana has anticipated my objections. I am happy to join with the gentleman.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I am happy to yield to the gentleman.

Mr. DERWINSKI. To further clarify this point, I think it is accurate to say this language has been carefully checked and in fact compromised, if I may use that term objectively. It was carefully drawn in order to clear the committee and not to raise the concerns the gentleman from New York just expressed.

I think we all recognize that Turkey geographically is a key NATO ally. But what we want most is utmost cooperation between Greece and Turkey. Until we solve this Cyprus problem there will be a delicate tension between Greece and Turkey that does not serve NATO well. This resolution is, of course, toothless. It is gratutious advice to the President, but it does not reflect the reality; which is, that progress on solving the Cyprus problem of the occupation of the Turks, is long overdue.

So, urging progress and the progress has to come with Turkish initiative, is merely a wise observation from the Congress.

Mr. BROOMFIELD. I thank the gentleman for his contribution and reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. YATRON), one of the chief cosponsors of the resolution.

Mr. YATRON. Mr. Speaker, first I would like to commend the gentleman from Michigan (Mr. BROOMFIELD) for his outstanding leadership in seeking to resolve the conflict on Cyprus. I would also like to thank the subcommittee chairman, the gentleman from Indiana (Mr. HAMILTON) and the chairman of the full committee the gentleman from Wisconsin (Mr. ZABLOCKI), and other Members who have worked very closely on this.

Mr. Speaker, this is a bipartisan resolution which can be supported by our colleagues from both sides of the aisle.

The recommendations in this resolution are directed toward expediting a peaceful settlement to the 8-year dispute in Cyprus by calling on the President to appoint a personal representative to seek a solution to this conflict which has left approximately 200,000 Cypriots as refugees in their own homeland since 1974. By achieving an equitable settlement to the Cyprus conflict entailing the total withdrawal of all Turkish troops from this wartorn, island nation, American security interests within NATO would be considerably strengthened and our influence with our European allies greatly enhanced.

Turkey's illegal aggression and occupation of Cyprus has been maintained with the use of U.S.-supplied NATO arms. This very fact leaves the United States with the responsibility to press for a peaceful settlement to this 8-year tragedy. It is an obligation to assist a friend, Cyprus which has suprisingly remained close to the United States throughout this unfortunate ordeal.

Mr. Speaker, negotiations between Greek and Turkish Cypriots held under the auspices of the United Nations have failed to obtain the withdrawal of Turkish troops from Cyprus. As long as Turkish occupation forces remain, the human rights of the Cypriot people will be abused further and any proposal to expedite a just and lasting solution will be contingent on the approval of the Turkish Government. This is clearly an injustice of international dimensions which warrants an international solution.

Mr. Speaker, we must face reality, the United Nations has and will continue to be an ineffective instrument in resolving the conflict in Cyprus unless the United States takes an active role in peace negotiations. A personal representative appointed by the President would place pressure on the Turkish Government to make some meaningful concessions which they have refused to make under the current U.N.-sponsored intercommunal talks.

Mr. Speaker, Turkey's military occupation of Cyprus has aggravated tensions throughout the NATO alliance, a peaceful settlement to this dispute would enhance our bargaining position in military base negotiations with Greece and send a strong message to our European allies that the United States is committed to implementing policies which reflect our common strategic and humanitarian interests.

Mr. Speaker, I strongly urge my colleagues to support this resolution.

Mr. HAMILTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, other speakers this afternoon have related the tragic statistics of Cyprus. I think that it would be useful to review what has happened over the last 8 years. It almost seems as if the only time the foreign policy establishment wants to be bothered with this problem is when they are prodded by the Congress. They have, therefore, sought to allay congressional concerns by a combination of false assurances and a stream of excuses. I hope we have learned from this process and will no longer unquestionally believe such assurances and recognize that it is always possible to invent new excuses when one is not truly committed to an action.

I think it would be useful to review what has happened in the last 8 years. In 1974, Turkey occupied 40 percent of Cyprus using weapons which had been furnished by the United States. The Congress decided that the use of American weapons in such a fashion violated American law governing the use of such weapons and imposed an arms embargo on Turkey. Two administrations felt that the law was inconvenient and, in essence, asked us to ignore the law. Throughout that period, the Turkish Government remained intransigent. The Carter administration used that very intransigence to convince the Congress to lift the embargo in 1974. They argued that as long as Turkey felt offended we could not reasonably expect them to make concessions. Furthermore, they gave assurances that there would be progress if the embargo were to be lifted. Many Members of Congress voted to lift the embargo out of the best of motives. They genuinely desired an acceptable solution to the problem. If lifting the embargo would help, they were willing to take that step. The assurances proved to be ephermeral, however. The Congress did add a requirement that progress toward a solution be certified every 60 days. The administration dutifully complied and found progress had been made during each reporting period. It was an exercise in illusion. Both sides knew that there was no meaningful progress.

The administration then discovered that political instability within Turkey precluded any progress despite the termination of the embargo. They point-

ed out that neither Prime Minister Demirel nor Prime Minister Ecevit could command a parliamentary majority if they tried to make concessions, and the administration counseled patience. As we all know, the parliamentary impasse was abruptly ended, and the new government can no longer use the lack of a parliamentary majority as an excuse. Despite this, we still have not seen a realistic proposal.

The present administration has put Cyprus on the back burner. There have been many other international problems which have demanded immediate attention, but I do not think that the situation on Cyprus should be ignored. This resolution expresses the sense of the Congress that benign neglect cannot solve the problem. The animosity can only grow and make a solution problematic. How many children live with the day-to-day knowledge that they have no real home because somebody on the other side continues to occupy their homes? What can we expect when this generation matures? I do not think that they will be moderate. The resolution emphasizes that the President should give a higher priority to gaining a solution. The passage of time can only make the problem more difficult.

Finally, I think there is a moral imperative for the passage of this resolution. We cannot condone, even implicitly, the occupation of a sovereign nation by the troops of another country. We have a responsibility to speak out against such a tragedy. That responsibility is not diminished by the fact that the offending country is an ally. It is hypocritical to establish a double standard under which we condemn the actions to totalitarian regimes but condone or excuse the same actions if they are taken by friends. I would point out that the Government of Cyprus does not constitute even the remotest threat to Turkey, and there is no good reason for the continuation of the occupation. We have a responsibility to keep the issue of Cyprus before the consciences of the world. We must emphasize that de facto partition of the island will never be an acceptable solution.

I strongly urge my colleagues to support this resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I listened to the comments made by the gentleman from New York (Mr. STRATTON) and certainly I agree with the thrust of those comments, had we had before us today the original language of the resoluton.

But, as the gentleman from Indiana mentioned, this has been substantially altered to deal with the criticisms that have been I think quite properly raised.

This resolution, of course, will be passed by this Chamber. I just hope that people reading the RECORD will not assume from that the views of this body are entirely pro-Greek Cypriot and anti-Turkish Cypriot. That would be far from the truth.

In fact, there are many of us who have seen fit to applaud the Government of Turkey for initiatives it has been attempting to bring about a resolution of the situation on Cyprus.

A number of proposals have been made that the intercommunal talks be undertaken. It is my understanding the Government of Turkey and the Turkish Cypriots have fully supported these initiatives and the response from the other side has not been altogether supportive.

So the record is mixed.

I think one of the important things we should leave on the record of this proceeding of this today is that there are two sides to the issue and that Turkey has been making an effort over the years to protect the interests of people of Turkish origin living on Cyprus just as Greece has taken an interest in the advancement of the interests of the Greek population on Cyprus.

It is well for us, as the ex officio leader of NATO, to take a balanced, fair-minded attitude toward the resolution of this conflict.

What will come out of it, who can say. It has been dragging on a for number of years. But we have some larger interests to protect as a Nation and one of these is cordial relations with both Turkey and Greece within NATO.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. Speaker, I would like to point out that the present Secretary General of the U.N., Mr. Perez de Cuellar, was a special U.N. representative on Cyprus from 1975 to 1977. He knows the area well.

Hopefully there could be some progress at the U.N. However, I have not seen it yet. But there is a glimmer of hope, at least.

I would like to remind the Members we were told that when the military government took over in Turkey that maybe they would be strong enough to make some concessions on Cyprus that the previous elected minority governments, torn by political dispute, could not make. That has not happened yet.

I would also like to point out that the concessions, when they come, have to come from the Turks. The Greeks have nothing left to concede. They have been driven off a major portion of their island. So it is the Turks that have to make the political, economic, and diplomatic concessions.

I think this whole emphasis shows that the Congress has not forgotten Cyprus even though it is on the back burner of the news today.

I think I would be remiss, Mr. Speaker, if I did not note the fine, delicate hand of the chief of staff of the committee, Dr. Brady, in the final diplomacy that went into producing this resolution.

One more point that I would like to make, Mr. Speaker, is that despite fears to the contrary, the Papandreou government in Greece is behaving in a responsible manner with respect to the United States. In view of Greece's importance to NATO, that is a wholesome development and a positive turn of events that can only be sustained if the United States prevails upon Turkey to end its occupation of Cyprus and concur in Greece's Aegean military responsibility for NATO as it had before the 1974 invasion of Cyprus. It must be borne in mind that Greece is the key element in NATO's southeastern flank which cannot exist without Greece.

I wish to reemphasize that attention to the Cyrpus issue is too, too, long overdue.

● Mrs. SNOWE. Mr. Speaker, as a cosponsor, I rise in strong support of House Concurrent Resolution 310, introduced by my colleagues Mr. BROOMFIELD and Mr. YATRON. Among other things, this resolution would urge the President to appoint a high level official to be his personal representative to the Cyprus negotiations, call for the removal of Turkish troops from the island, and petition the United Nations to seek a prompt resolution to the conflict. After 8 years this is the least we can do.

Regrettably, tomorrow marks the dubious achievement of the eighth anniversary of the Turkish invasion of Cyprus. By now we all know that at that time, more than one-third of the Cypriot population, 200,000 people, were driven from their homes, deprived of all their possessions, and reduced to the status of refugees. More than 2,000 people, including 8 American citizens, have been missing since then. The Turks seized, and still hold, 40 percent of the land mass of Cyprus, representing 70 percent of the economic wealth of the country. To insure their stranglehold on this land, most of the Turkish invasion force remains on the island—over 25,000 troops. These troops are a clear symbol of the Turkish intransigence that has dominated the glacially slow negotiation process.

Perhaps we should not expect much from a Turkish dictatorship that has arrested close to 60,000 people since the coup of September 1980; has tried 46,721 people for acts of terrorism, and 2,000 people for union activities; and

has killed at least 15 people via torture.

But in the diplomatic world of signal sending, the Turkish Government might take note of recent actions of the House Foreign Affairs Committee, and act accordingly. The administration requested, and the committee approved, an increase in assistance for Turkey of $116 million, or 16.5 percent. This means that Turkey is scheduled for $819 million in total assistance for fiscal year 1983. I contend that we should see some form of progress in the Cyprus talks in return for this assistance. In return for these millions of dollars, Turkey must get off the dime in Cyprus. We have waited too long for some sign of progress.

While we have waited for Turkey to act reasonably, United States and ally concern about the southeastern flank of NATO has increased. Recent events in Iraq and Iran show such concern is not ill-founded. The Turkish troops on Cyprus need a compass. They should go east, to their border that abuts the Soviet Union, Iran, Iraq, and Syria. That is where they are needed.

What is not needed is continued Turkish stalling. I hope the President will appoint a personal representative to the negotiations, and we might see some movement in the talks. I urge the adoption of the resolution.●

● Mr. BEREUTER. Mr. Speaker, I wish to commend the gentleman from Illinois (Mr. FINDLEY) for his remarks and associate myself with his comments on House Concurrent Resolution 310.●

● Mr. BOLAND. Mr. Speaker, as my colleagues know, July 20 marks the eighth anniversary of the invasion of Cyprus by Turkey. The invasion resulted not only in the displacement of thousands of Greek Cypriots, but has severely strained relations between two of our NATO allies and thereby weakened NATO's southern flank.

The United Nations has attempted to negotiate a resolution to the dispute between Greece and Turkey over Cyprus. These negotiations have not as yet been successful, and their immediate goal of effecting the withdrawal of Turkish troops from the island has not as yet been reached. I believe that it is appropriate that the United States reaffirm its commitment to a peaceful resolution of the conflict in Cyprus. House Concurrent Resolution 310, a measure which I was pleased to cosponsor, will provide that reaffirmation.

Mr. Speaker, House Concurrent Resolution 310 urges that the President appoint a high level representative to seek a permanent solution to the Cyprus dispute. The appointment of such a representative would signal the importance which the United States places on resolving the Cyprus matter, but would in no way denigrate the United Nations intercommunal talks, which would continue to a hopefully prompt conclusion. I believe that these combined efforts might very well produce the result we seek—a negotiated settlement that would allow for the withdrawal of all foreign troops so that the people of Cyprus might live in peace. That result is in the interest of the parties most directly involved in this dispute, and it is clearly in the interest of the United States and the other members of the NATO alliance. I urge that the Members of the House give overwhelming support to House Concurrent Resolution 310.●

● Mr. SANTINI. Mr. Speaker, I rise in strong support of House Concurrent Resolution 310 which represents a constructive initiative in the pacific settlement of the Cyprus problem. Eight years have passed since the Turkish invasion of Cyprus, yet thousands of people remain homeless; many living as prisoners and refugees in their own homeland.

The United States must finally press hard for an end to this conflict. Feuding among neighbors threatens Western unity. NATO must find it within itself to mend its own fences or face a continual erosion of the Atlantic alliance that has served all its members so well for over 30 years.

In the interest of world peace and Western security, I urge Turkey to concur with United Nations Resolution 3213, and remove all Turkish troops and colonists from Cyprus. If the U.N. fails to successfully negotiate a removal of the Turkish Army out of Cyprus, NATO must, in the end, take the responsibility to insure the speedy and peaceful termination of hostilities between Greece and Turkey. Only then will more than 200,000 Greek Cypriots be free to return home.●

● Mr. FITHIAN. Mr. Speaker, 8 years ago this month, Turkish Armed Forces invaded Cyprus and took control of a substantial portion of the island. Since that time, extensive talks have been held under the auspices of the United States to encourage Turkey to withdraw its troops from Cyprus, facilitate the establishment of a free and independent government on Cyprus, and allow refugees to return to their homes.

When Congress agreed to lift the remaining partial embargo against Turkey in 1978, it was with the expectation that this action would encourage a settlement of the conflict. However, 5 years later, the situation on Cyprus remains substantially unchanged.

Talks between the Greek-Cypriot and Turkish-Cypriot communities, which resumed in August 1980, have not succeeded in resolving the conflict on Cyprus. The Turkish troops have not been removed. A free and independent Cypriot Government has not been established. Tens of thousands of refugees remain in need of adequate housing.

Since it took office almost 2 years ago, the Reagan administration has done little more than wring its hands in dismay at the situation in Cyprus. Moreover, the administration succeeded early in offending Greece by proposing a change in the traditional ratio of military aid to Turkey and Greece in its request for foreign assistance during fiscal year 1982, despite the fact that no progress had been made on the issue of removing Turkish troops from Cyprus.

However, pious expressions of hope that a settlement will be reached, if they are not coupled with positive action, will not bring about an actual settlement to the conflict on Cyprus. House Concurrent Resolution 310 asks the President to appoint a high-level official to represent the United States in the search for a solution to the situation on Cyprus. It also asks the President to call upon the Government of Turkey to take further steps to withdraw its forces from Cyprus.

Both Greece and Turkey are vital to NATO's southern flank. It is in the interest of all the parties in the region to work toward an equitable settlement of the situation on Cyprus. The chances of achieving such a settlement would undoubtedly increase if the President would put pressure on Turkey to settle the dispute.

On September 26, 1980, candidate Ronald Reagan released a statement on the situation on Cyprus, in which he said:

> The tragic situation in Cyprus has lasted 6 years. It must not continue. The foreign military forces on that island should be substantially reduced, and the Cypriot refugees, be they Greek or Turkish, should be permitted to return to their homes and land.

The tragic situation in Cyprus has now lasted 8 years. House Concurrent Resolution 310 asks the President to get serious about working for a settlement of the situation in Cyprus. The time has come for the President to keep his campaign promise. I urge you to encourage the President to act by supporting House Concurrent Resolution 310.●

● Mr. BIAGGI. Mr. Speaker, I take to the well today to remind my colleagues here that we are marking the eighth anniversary of the illegal and vicious occupation of the island of Cyprus by the Government of Turkey. In 1974, more than one-third of the population—200,000 people—were driven from their homes, deprived of their possessions and reduced to the status of refugees in their own land. More than 2,000 of them, including 8 Americans, remain missing today.

What made this crime especially heinous was the fact that the invasion—which seized 40 percent of the land

and 70 percent of its wealth—was conducted with American weapons. I joined with many of my colleagues here in leading the fight to embargo arms to Turkey. Sadly, this embargo was lifted in August 1978 but little, if any, substantial progress has been made since that time.

While the United Nations, under the direction of Special Ambassador Gobbi, has sought to mitigate the human suffering and bring an end to the occupation—the travesty continues and Turkey remains on the island even though Turkish Cypriots comprise only 18 percent of the total population. Clearly, the efforts of the U.N. will have little effect if they are not supported by other freedom-loving nations—such as the United States.

The installment of our new Secretary of State provides a fresh opportunity to renew our concern in bringing an end to this tragic situation. We hope his concerns echo our own here today for Cyprus. Greek Americans here and all those who thirst for freedom and democracy for all peoples of the world anxiously await the day when those principles we cherish are returned to the beleaguered people of Cyprus.●

● Mr. GILMAN. Mr. Speaker, I wish to thank the distinguished gentleman from Michigan, Mr. BROOMFIELD, and the distinguished gentleman from Pennsylvania, Mr. YATRON, for their leadership in calling for a special order on the 8-year-old crisis in Cyprus. I hope that this special order and the passage of House Concurrent Resolution 310, of which I was a cosponsor, will help expedite a peaceful settlement of the Cyprus conflict. Today is the eighth anniversary of the Turkish occupation of that Mediterranean nation. While Greek Cypriots make up 80 percent of the population of Cyprus, the Turkish Army has continued its hold on 40 percent of the island. The occupation has forced 200,000 Greek Cypriots to live as refugees in their own homeland. For humanitarian reasons, we would be concerned if 200,000 innocent civilians in any state were displaced from their homes. However, we are particularly disturbed by the fact that Turkish troops occupied Cyprus in 1974 with U.S.-supplied NATO arms.

In addition to the humanitarian issues at stake in Cyprus, the status quo threatens the strategic interest of the United States. The dispute between our allies, Greece and Turkey, weakens the NATO alliance, thereby serving the interests of the Soviet Union. We must be especially alert to opportunities which may arise for the Soviets in the Middle East today, due to the instability generated by the recent Iranian invasion of Iraq.

Unfortunately, the U.N.-sponsored intercommunal negotiations between the Greek and Turkish Cypriots have been unsuccessful in arriving at a solution to the crisis in Cyprus. When the United States lifted the arms embargo against Turkey in 1978, we expected Turkey to do its part toward resolving the conflict by withdrawing its troops from the island. The Government of Turkey has not been forthcoming in this regard, and we are no closer to a solution to the problem than we were 4 years ago. When the Foreign Affairs Committee recently considered increasing U.S. military aid to Turkey for fiscal year 1983, I therefore cast a decisive vote against the increase.

For all of the above reasons, I strongly support today's special order and House Concurrent Resolution 310, which expresses the sense of Congress that the President should consider appointing a personal representative to help solve the Cyprus problem. This resolution also calls upon Turkey to work toward the goal of withdrawing its forces, and supports the U.N. special representative presiding over the intercommunal talks. I join my colleagues in our sincere expectations that both of these measures will help restore the Cypriots' right to self-determination and to improve the relationship between our two allies on NATO's southern flank.●

□ 1345

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. HAMILTON) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 310, as amended.

The question was taken.

Mr. YATRON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROVIDING FOR PARTICIPATION OF THE UNITED STATES IN THE 1984 LOUISIANA WORLD EXPOSITION

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6409) to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes, as amended.

The Clerk read as follows:

H.R. 6409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with the Act entitled "An Act to provide for Federal Government recognition of and participation in international expositions proposed to be held in the United States, and for other purposes," approved May 27, 1970 (22 U.S.C. 2801 et seq.), the President is authorized to provide for United States participation in an international exposition to be known as the 1984 Louisiana World Exposition (hereinafter in this Act referred to as the "Exposition"), to be held in New Orleans, Louisiana. The purposes of the Exposition are—

(1) to offer the citizens of the world a greater understanding and appreciation of rivers and fresh water as a basis of life, providing food, transportation, energy, generating related industry and commercial activity, and serving as a source of aesthetic gratification, social interchange, and inspiration for the arts;

(2) to create an awareness of the need to conserve and protect the world's fresh water resources from the hazards of increasing demands, diminishing supplies, pollution, and ecological disruption; and

(3) to stimulate international trade, encourage tourist travel in and to the United States, and promote cultural exchanges.

SEC. 2. (a) The President, through the Secretary of Commerce (hereinafter in this Act referred to as the "Secretary") and the other officials designated in this Act, is authorized to carry out in the most effective manner the proposal for United States participation in the Exposition, transmitted by the President to the Congress pursuant to section 3 of Public Law 91-269 (22 U.S.C. 2803), and to fulfill the obligations of the Federal Government under the Convention Relating to International Expositions, done at Paris, France, on November 22, 1928, as amended, and entered into by the United States at Paris on April 30, 1968 (hereinafter in this Act referred to as the "Convention"), and under the General Rules for the 1984 Louisiana World Exposition, as approved by the Bureau of International Expositions.

(b)(1) The President is authorized to appoint, by and with the advice and consent of the Senate, a Commissioner General of the United States Government for the 1984 Louisiana World Exposition, who shall be in the Department of Commerce and who shall be the senior Federal official for the Exposition. The Commissioner General shall have such duties and exercise such responsibilities as may be prescribed by the Secretary and as may be necessary and appropriate to fulfill the obligations of the United States Government under the Convention and the General Rules for the 1984 Louisiana World Exposition.

(2) The Commissioner General shall be compensated at a rate not greater than the minimum rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) The Secretary of State may assign for duty with the Exposition not more than two career members of the Foreign Service who have the rank of ambassador, and who are not otherwise assigned, to assist the Commissioner General in performing the functions of the Commissioner General in foreign countries and in carrying out the diplomatic responsibilities of the United States as the host Government of the Exposition. The travel and other necessary expenses authorized by law which are incurred by any individual or individuals assigned under this subsection in carrying out the responsibilities of that assignment shall be paid from funds appropriated to carry out this Act. The assignment of any individual or individuals under this subsection shall terminate at the close of the Exposition or on such other date as may be agreed upon by the Secretary of State and the Secretary.

(d) Any functions which the Commissioner General or any individual or individuals assigned under subsection (c) of this section perform in a foreign country shall be performed in consultation with the Chief of the United States diplomatic mission in that country, and the Commissioner General or such individual or individuals shall keep the Secretary of State fully and currently informed with respect to all those functions so performed.

(e) The Secretary shall designate a Commissioner General of Section for United States participation in the Exposition (as provided in the proposal referred to in subsection (a) of this section), who shall be in the Department of Commerce and who shall perform such duties in carrying out this Act as may be delegated or assigned by the Secretary, including serving as director to the United States pavilion.

SEC. 3. To such extent or in such amounts as are provided in appropriation Acts, the Secretary is authorized to—

(1) lease such buildings and other structures or space therein (including commercial space for administrative purposes) and any land appurtenant thereto, and to make such improvements and renovations in such buildings or other structures as may be appropriate for United States participation in the Exposition;

(2) incur such other expenses as may be necessary to carry out the purposes of this Act, including—

(A) expenditures for the design, development, construction, installation, rental, purchase, or other acquisition of exhibits and materials and equipment for exhibits, and for the actual display, dismantling, and disposition of exhibits; and

(B) expenditures for transportation, insurance, safekeeping and storage, maintenance and operation, printing, purchase of reference books, newspapers, and periodicals, and publicity; and

(3) enter into such contracts and agreements as may be necessary to provide for United States participation in the Exposition.

SEC. 4. The Secretary is authorized to obtain the services of consultants and experts as authorized by section 3109 of title 5, United States Code, to the extent the Secretary considers it necessary to carry out the provisions of this Act. Persons so appointed shall be compensated at rates not to exceed the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule. To such extent or in such amounts as are provided in appropriation Acts, persons so appointed shall be reimbursed for travel and other necessary expenses incurred, including a per diem allowance, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service.

SEC. 5. (a) Notwithstanding section 3679(b) of the Revised Statutes of the United States (31 U.S.C. 665(b)) and section 3111 of title 5, United States Code, the Secretary is authorized to recruit, train, and accept the voluntary services of individuals in carrying out those functions, services, or activities in and related to United States participation in the Exposition.

(b) To such extent or in such amounts as are provided in appropriations Acts, the Secretary is autorized to provide in appropriations Acts, the Secretary is authorized to provide for incidental expenses of individuals providing voluntary services described in subsection (a), including transportation, uniforms, lodging, and subsistence expenses.

(c)(1) Except as provided in paragraphs (2) and (3) of this subsection, an individual providing voluntary service described in subsection (a) shall not be deemed to be a Federal employee and shall not be subject to those provisions of law relating to Federal employment, including privisions relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) For purposes of section 1346(b) and chapter 171 of title 28, United States Code, an individual providing voluntary service described in subsection (a) shall be deemed to be an employee of the government.

(3) An individual providing voluntary service described in subsection (a) shall be deemed to be an "employee" for purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries. For purposes of that subchapter, such an individual shall be deemed to be receiving monthly pay at the minimum rate of GS-2 of the General Schedule.

SEC. 6. (a) To such extent or in such amounts as are provided in appropriations Acts, the Secretary is authorized—

(1) notwithstanding the requirements of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), to purchase for resale and to sell at fair market value books, brochures, recordings, souvenirs, and other items in conformity with the theme of the Exposition and comemorative of United States participation in the Exposition, and to charge an amount sufficient to realize a reasonably profit on the sale of those items; and

(2) to enter into contracts and leases, including cooperative arrangements and concessions agreements, with respect to the sale of the items described in paragraph (1).

The proceeds from the sale of the items described in paragraph (1) shall be credited to the appropriation for United States participation in the Exposition and, to the extent provided in advance in appropriation Acts, such credited amounts may be used for such participation. To the extent that such proceeds exceed the amounts necessary to provide for such participation, they shall be covered into the Treasury as miscellaneous receipts.

(b) The Secretary is authorized to provide, without charge, aid and assistance to visitors to the United States pavilion in emergencies.

SEC. 7. The Secretary shall take all reasonable measures to facilitate the participation in the Exposition of the governments of other countries and their nationals, to assure adherence to the protocols of the Bureau of International Expositions, and to cooperate with the Louisiana World Exposition, Incorporated in its efforts and the efforts of the Federal Government to organize, develop, and administer the Exposition successfully.

SEC. 8. The Secretary shall encourage private individuals, firms, associations, agencies, and other groups to participate to the maximum extent feasible in carrying out the purposes of this Act and to make contributions of funds, property, use of property, and services to be used in carrying out this Act. The Secretary is authorized to accept such contributions.

SEC. 9. The head of each department, agency, or instrumentality of the Federal Government is authorized—

(1) to cooperate with the Secretary with respect to carrying out this Act; and

(2) to make available to the Secretary from time to time, on a reimbursable or nonreimbursable basis, such personnel as may be necessary to assist the Secretary in carrying out this Act.

SEC. 10. Within one year after the date of the official close of the Exposition, the Secretary shall transmit to the Congress a report on the activities of the Federal Government under this Act, including a detailed statement of expenditures made under this Act. Upon transmittal of such report to the Congress, all appointments made under this Act shall terminate, except that the Secretary may extend any such appointment for such additional period of time as the Secretary considers necessary to carry out the purposes of this Act. The preceding sentence shall not apply to assignments made under section 2(c) of this act.

SEC. 11. After the close of the Exposition, all Federal property acquired to carry out this Act shall be disposed of in the discretion of the Secretary, upon such terms and conditions as the Secretary considers appropriate, in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 and other applicable Federal laws relating to the disposition of excess and surplus property.

SEC. 12. The functions authorized by this Act may be performed without regard to the requirements, prohibitions, and limitations of the following laws:

(1) Section 3109(b) of title 5, United States Code, to the extent that section limits procurement of temporary services to 1 year.

(2) Section 5(a) of the Act of July 16, 1914 (31 U.S.C. 638a(a)), as amended by section 16(a) of the Administrative Expenses Act of 1946, to the extent that section pertains to hiring automobiles.

(3) Section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)).

(4) Section 305(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255(c)), and section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), if the Secretary determines that it is impracticable to obtain adequate security in a particular case and that there is a compelling need to make an advance payment in that case.

(5) Section 322 of the Act of June 20, 1932 (40 U.S.C. 278a), if the Secretary determines that waiver of that section would be in the best interests of the Federal Government.

(6) Section 2 of the Act of March 3, 1933 (popularly known as the "Buy American Act"; 41 U.S.C. 10a).

(7) Section 501 of title 44, United States Code.

(8) Section 3702 of title 44, United States Code.

(9) Section 3703 of title 44, United States Code.

SEC. 13. The Secretary may issue such regulations as the Secretary considers necessary to carry out this Act.

SEC. 14. (a) There is authorized to be appropriated $10,000,000 to carry out the purposes of this Act.

(b) Amounts appropriated under this section are authorized to remain available until expended.

SEC. 15. This Act shall take effect upon its enactment, except that section 2(b)(2) and the second sentence of section 4 shall become effective on October 1, 1982.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6409 authorizes Federal participation in the 1984 Louisiana World Exposition.

I would like to commend the gentleman from New York (Mr. BINGHAM) and his ranking Republican, Mr. LAGOMARSINO, for moving the bill expeditiously through the Subcommittee on International Economic Policy and Trade, and I would like to thank the Louisiana delegation, particularly the gentlelady from New Orleans, LINDY BOGGS, for their cooperation.

The theme of the 1984 fair is "The World of Rivers * * * Fresh Water as a Source of Life." New Orleans, at the mouth of the great Mississippi River, could not be a more fitting site for the fair.

Briefly, this bill authorizes $10 million to finance the furnishing and operation of the U.S. pavilion at the fair, and authorizes the appointment of a U.S. Commissioner General for the fair.

The principal innovations made by this legislation are: The promoters of the fair, rather than the Federal Government, will construct the U.S. pavilion; the U.S. government will be authorized to accept voluntary services to assist the Government's participation in the fair; the U.S. Government will be permitted to sell items for profit (which will be used to fund U.S. participation); and two senior Foreign Service officers may be assigned to the office of the Commissioner General of the fair.

Mr. Speaker, I urge the Members to support this most worthy endeavor and I wish Louisiana and its congressional delegation the greatest success in carrying out the 1984 exposition.

Mr. Speaker, I yield such time as he may require to the gentleman from New York (Mr. BINGHAM).

Mr. Speaker, I am glad to join with other members of the Committee on Foreign Affairs in recommending and endorsing this legislation, H.R. 6409, to authorize U.S. participation in the proposed 1984 World Exposition in New Orleans devoted to the "World of Rivers . . . Fresh Water as a Source of Life." I want to commend the work of our colleague, the gentlewoman from New Orleans, Mrs. BOGGS, for her careful work on this legislation, and for her role in the local movement that has brought this international exposition to the attention of the Congress and achieved its recognition internationally by the Bureau of International Expositions. I am confident it is going to be an exciting and educational event in which participation of the U.S. Government in the form of a major exhibit and pavilion is most worth while.

The Subcommittee on International Economic Policy and Trade, which I have the honor to chair, took more than a perfunctory look at this legislation. We took a very careful look, particularly in light of the $10 million the bill would authorize at a time of extraordinary budget constraints. The subcommittee staff visited the fair site, examined the plans in considerable detail, as well as the local financing and support. The subcommittee held a hearing at which various government witnesses were heard, as well as officials of Louisiana World Exposition, Inc., organizers of the fair.

The subcommittee was satisfied after its examination that this fair has every chance of success, that it will be well managed, and that it merits U.S. participation. We concluded, as well, that the $10 million requested for U.S. participation is the minimum that could reasonably be provided for that purpose. It is much less than we have authorized for U.S. participation in previous world exhibitions of this kind, so I think it is consistent with our current efforts to control Federal spending. The $10 million in the bill is, of course, approved and requested by the administration, and contained in the President's budget.

Mr. Speaker, we have been particularly impressed with the extent of local financial and other commitment to this event. Local corporations have guaranteed loans of over $50 million. Those funds are presently being used to prepare the fair site along the Mississippi wharfs in the center of New Orleans. In addition, the State of Louisiana is building a huge, 15-acre permanent exhibition hall at a total cost of more than $100 million. That huge structure, which will be the centerpiece of the fair, is more than half completed. Best of all, local funds are being used to construct the U.S. pavilion. No Federal funds will be used for that purpose. For the first time in the recent history of world expositions, so far as I am aware, the United States will not have to undertake the expense of building its own pavilion. It will lease its pavilion for a nominal sum from the organizers of the fair. That is one of the major factors in keeping the cost of this exposition, and this bill, down to a minimum.

Mr. Speaker, I would just note that, by coincidence, the 1980's have been declared by the U.N. the "Decade on International Drinking Water Supply and Sanitation." This theme parallels very closely the theme of the 1984 Louisiana Exposition—freshwater as a source of life. Certainly the need to develop and preserve sources of freshwater is one of the major health needs and problems in the world, and one well worth the close attention of the world community. I hope and trust that the organizers of the fair will take special efforts to include attention to the freshwater problems of the less developed nations of the world in the activities and exhibitions at this world fair by drawing upon the U.N.'s materials and other sources.

Mr. Speaker, I am confident that the 1984 Expo in New Orleans will be one of the most memorable in our history, one that millions of American families will want to attend, and I commend this legislation authorizing U.S. participation to the House and urge its passage.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as she may require to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Speaker, I rise in full support and with a feeling of great gratitude to the chairman and to the ranking minority member of the full committee and to the chairman and the ranking minority member and all of the members of the subcommittee, who have been very gracious to the Louisiana delegation and to all of the witnesses, the Government witnesses and the local witnesses and the fair witnesses, who have appeared before both the subcommittee and the full committee.

The subcommittee has been especially generous to this Member in allowing her to participate in the hearings in such a fulsome extent, and I wish to thank them very much for this. I am also very grateful to the Department of Commerce and to the Department

of State, as well as to the full committee and the subcommittee, in their expeditious handling of this legislation. I am very grateful, as well, to the chairman of the Budget Committee and all of the members of the Budget Committee for expeditiously granting us a budget waiver.

Mr. Speaker, the fair in New Orleans is going to be a great and glorious tribute to the United States of America. I am very, very pleased to know that the Congress is willing to recognize this fact and to vote for the participation of the U.S. Government.

We will have a U.S. pavilion, which, even though it will be a temporary structure, will be an ornament to the United States and to its exhibitions, and we will indeed make the preparations that will encourage the growth of tourism and the growth of productivity and will indeed, under certain estimates, return $93 million to the Treasury of the United States in added taxes and fees. So that I know that the fair is going to benefit all of us, not just the State of Louisiana and the city of New Orleans. I would like to tell you that my colleague from New Orleans (Mr. LIVINGSTON) has been present in every phase of planning for the fair, and it is most unfortunate that he is on a plane not yet arrived in Washington today so that he could be here on the floor with me to thank all of the Members for their participation and for this very splendid outcome of their participation, that of recommending the bill to the House of Representatives.

I hope very much that all of the Members will see fit to allow us to go forward with U.S. participation in what promises to be a great and wonderful exposition.

I know that Louisiana is ready for the world, Mr. Speaker. I hope the world is ready for Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I rise in strong support of H.R. 6409. Together with the gentlewoman from Louisiana, I am privileged to represent the city of New Orleans, and I am proud that the Bureau of International Expositions in Paris has approved New Orleans to be the host to the countries and people of the world when they come to the United States for this international exposition.

I would like to commend the chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin, and also the ranking minority member of the committee, the gentleman from Michigan, for their expeditious and informed treatment of this legislation. The same is true of the chairman of the Subcommittee on International Economic Policy and Trade, the gentleman from New York, and the subcommittee's ranking minority member, the gentleman from California. It was a pleasure for me, as an original cosponsor of this bill, to testify before them, and I appreciate their courtesy.

Mr. Speaker, I join with my colleague, the gentlewoman from Louisiana, and congratulate her on her tremendous work on this project, which will be of great benefit to the State of Louisiana and the entire country. As President Reagan noted in his proclamation of March 4, 1982:

> With its many splendid opportunities for cultural and technological exchange, the Louisiana World Exposition has the full and enthusiastic support of the United States Government.

In addition to the administration's support, Mr. Speaker, the governments of the State of Louisiana and the city of New Orleans, as well as the private sector across the United States, are fully behind this project. They recognize, as I know my colleagues here will, that the 1984 World Exposition will not only boost our domestic economy, but also make a vital contribution to international cooperation.

I would like to emphasize that in funding the Expo, we are highlighting the role of the private sector, as well as that of State and local government. Together, they have raised about $55 million to date. In contrast, my colleagues, this bill to provide for U.S. participation at the Expo calls for an authorization of only $10 million. This funding for Federal participation compares favorably with the $24 million contribution to the current Knoxville Fair, which, as you know, has been a big success thus far. I am proud that we have made a much lower request for what will be, I am sure, an equally successful event.

By passing this legislation, we will be making a sound investment. I would remind my colleagues that the Department of Commerce has carefully studied this legislation and has testified before the Congress that the exposition will create needed jobs, spur economic development, and promote international trade and tourism. They noted also that in addition to the estimated $15 million that will be brought into the United States as a result of foreign participation in the Expo, our own citizens are expected to postpone foreign travel, thus providing a positive benefit from dollars remaining in this country when they would otherwise be spent abroad.

Finally, Mr. Speaker, I am proud to be associated with this legislation for reasons other than the dollars and cents benefits to which I have just referred, as important as they are. This bill will allow the U.S. Government to participate in an international exposition, which itself will be a unique forum for business and government representatives of over 20 countries to exchange ideas and view new technologies that have been developed in the field of water conservation. This will give our citizens an opportunity not only to see what is being done to preserve our vital national resource, fresh water, but also to come together with people from throughout the world in peace and harmony.

Surely these are things that we can all support, and I urge adoption of H.R. 6409, which will make them possible.

Thank you Mr. Speaker.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6409, a bill to provide for U.S. participation in the 1984 Louisiana World's Fair.

On March 4 of this year, President Reagan issued a proclamation recognizing the full and enthusiastic support of the U.S. Government for the 1984 World's Fair, and he directed the Secretary of State to extend invitations to interested foreign countries to participate.

The theme of the Louisiana World Exposition is "The World of Rivers—Fresh Water as a Source of Life." Our Government supports this event as a way of encouraging the further development of world knowledge about the benefits of efficient use of our global water resources.

H.R. 6409 provides for U.S. participation in the World's Fair with an authorization of $10 million to cover the costs of leasing the space for the U.S. pavilion as well as the costs for the exhibit and display materials. The other provisions of the bill allow for the orderly administration of U.S. participation by providing certain waivers of law to facilitate fulfillment of U.S. obligations for the fair.

The progress being made in planning for the fair and U.S. participation in it led me to believe it will be one of the most successful world expositions in recent memory. I want to take this opportunity to commend the fair officials for their energetic accomplishments thus far and to wish them every success as they prepare for 1984.

I urge my colleagues to give their full support to H.R. 6409 for the 1984 Louisiana World's Fair.

Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. MOORE).

Mr. Speaker, I rise in full support of H.R. 6409 as a means to provide participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans from May 12 through November 11, 1984. The theme of the exposition is "The World of Rivers—Fresh Water as a Source of Life."

We believe that this is the first time a State has hosted a World's Fair. Even though my district is not in New Orleans, I eagerly support this event

as do all my constituents and Louisianians in general.

The Sixth District will play an important role in the fair, as a host for the fair's potential 11 million guests. The Sixth District will serve as the "Gateway to New Orleans" for any traveler coming from the North or the West. These visitors will have the opportunity to visit plantations along River Road in the Feliciana parishes; the capital city of Baton Rouge, which is also the new home of the U.S.S. Kidd Naval War Memorial; as well as the parishes of Livingston, Tangipahoa, and Washington, each with delights of their own, including the largest alligator in captivity and the "strawberry capital." The Sixth District has lodgings and camping facilities, restaurants with gourmet delicacies, and two main highways leading to New Orleans: Interstate 10 and Interstate 55.

Louisiana has developed an innovative way to finance the U.S. pavilion. The U.S. Government will authorize only $10 million, whereas in the past its obligation equaled anywhere from $20 to $40 million.

The World's Fair is building and leasing the pavilion for the U.S. exhibition with the help of the State of Louisiana and private business. The United States will have no further responsibility for the pavilion once the fair is over.

This will be a wonderful opportunity for visitors from all over the world to not only experience the delights of a World's Fair, but to discover the uniqueness of Louisiana, a State whose livelihood has resolved around its natural resource of water from the very beginning.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and pass the bill, H.R. 6409, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ESTABLISHING THE MOUNT ST. HELENS NATIONAL VOLCANIC AREA

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress finds that—

(1) Mount St. Helens is a resource of international significance, with inestimable scientific value, and vast potential educational and recreational benefits;

(2) the resource includes, but is not limited to, the geologic features of the lateral blast and avalanche of the 1980 eruption; recent and prehistoric lava, mud, and pyroclastic flows; tephra deposits, lava caves, batholiths, intrusive plugs and other igneous features; lakes and river courses; ecologic features such as old growth forests, meadow, riparian and alpine communities; ecologic responses to geologic processes; and cultural resources from prehistoric, historic, and recent time; and

(3) for the benefit and enjoyment of present and future generations of the American people a comprehensive area surrounding Mount St. Helens, which contains both unique ecologic and geologic features, communities and landforms, and those which, by contrast, are characteristic of the region, should be preserved.

ESTABLISHMENT OF NATIONAL VOLCANIC AREA

SEC. 2. (a) In furtherance of the purposes of this Act, certain lands within and adjacent to the Gifford Pinchot National Forest in the State of Washington, which comprise approximately one hundred and fifteen thousand acres, as generally depicted on a map entitled "Mount St. Helens National Volcanic Area, June 1, 1982", are hereby designated as the Mount St. Helens National Volcanic Area (hereafter in this Act referred to as the "volcanic area").

(b)(1) Not later than six months after the date of enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall file a map and a legal description of the volcanic area established under subsection (a) with the Committee on Energy and Natural resources of the United States Senate and the Committees on Agriculture and on Interior and Insular Affairs of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act. Such map and description shall be on file and available for public inspection in the office of the Forest Supervisor, Gifford Pinchot National Forest, and in the office of the Chief of the Forest Service, Department of Agriculture.

(2) The Secretary may correct clerical and typographical errors in the legal description referred to in paragraph (1), and the Secretary may, from time to time, make minor revisions of the boundary of the volcanic area, but no boundary revision may exceed three hundred and twenty acres for any single contiguous area. Such a minor boundary revision may be made by the Secretary only after publication of notice of the proposed revision in the Federal Register and after submission of notice thereof to the committees referred to in paragraph (1). Such notice shall be published and submitted at least sixty days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

EXTENSION OF NATIONAL FOREST BOUNDARY

SEC. 3. (a) The exterior boundary of the Gifford Pinchot National Forest is hereby extended to include all lands and waters within the boundaries of the volcanic area. Lands and interests therein acquired pursuant to section 4 shall become national forest system lands.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-4 through 4601-11), the boundary of the Gifford Pinchot National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1965.

ACQUISITION

SEC. 4. (a) The Secretary shall acquire all lands and interests in lands within the boundaries of the volcanic area by donation, exchange, or purchase with donated or appropriated funds except as provided in subsection (c). Any lands owned by the State of Washington or any political subdivision thereof may be acquired only by exchange. Those mining claims in the Green River-Polar Star area shall not be acquired without the consent of the owner.

(b) In recognition of the rapidly deteriorating nature of much of the timber in the volcanic area, any timber acquired pursuant to this section shall be valued for purposes of any acquisition under subsection (a) at an amount not less than the fair market value of such timber on July 1, 1982.

(c)(1) Notwithstanding any other provision of law, the Secretary shall exchange lands and interests in lands in accordance with the provisions of this subsection. With respect to the lands and interests in lands referred to in paragraphs (2) and (3), the Secretary may exercise the authorities of subsection (a) only to the extent necessary to acquire any lands or interests in land which are not aquired pursuant to the provisions of this subsection.

(2)(A) If Burlington Northern Incorporated offers to the United States the following described lands and interests therein, except mineral and geothermal interests, the Secretary shall accept such lands and interests therein (for the purposes of the Act, the term "Burlington Northern Incorporated" shall include any subsidiary of that corporation):

	Acres
Township 7 North, Range 6 East:	
Section 1: Lots 1, 2, and 3, south half northeast quarter, and north half southeast quarter	310.11
Township 8 North, Range 5 East:	
Section 21: All	640.00
Section 23: All	640.00
Section 25: All	640.00
Section 27: All	640.00
Section 29: All	640.00
Section 31: All fractional	623.52
Section 33: All	640.00
Section 35: All	640.00
Township 8 North, Range 6 East:	
Section 5: All fractional	480.44
Section 7: All fractional	637.58
Section 9: All	640.00
Section 15: West half	320.00
Section 17: All	640.00
Section 19: All fractional	631.76
Section 21: All	640.00

Section 27: West half 320.00
Section 29: All 640.00
Section 31: All fractional 630.44
Section 33: All 640.00
Township 9 North, Range 5 East:
Section 25: All 640.00
Township 9 North, Range 6 East:
Section 5: Lot 1, southeast quarter northesat quarter, and southeast quarter 240.41
Section 9: All 640.00
Section 17: All 640.00
Section 21: All 640.00
Section 29: All 640.00
Section 31: All fractional 639.52
Section 33: All 640.00

(b) Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Burlington Northern Incorporated all right, title, and interest of the United States to the following described national forest system lands and interests therein, except mineral and geothermal interests:

Township 7 North, Range 6 East:	Acres
Section 4: All fractional	680.88
Section 6: All fractional	670.04
Section 10: All	640.00
Section 22: All	640.00

(3)(A) If the Weyerhaeuser Company offers to the United States the following described lands and interests in lands, the Secretary shall accept such lands and interests:

(i) Lands and interests therein—

Township 9 North, Range 3 East:	Acres
Section 1: South half	320.00
Township 7 North, Range 4 East:	
Section 25: Northwest quarter northwest quarter	40.00
Township 8 North, Range 4 East:	
Section 2: All fractional does not include minerals)	494.28
Township 9 North, Range 4 East:	
Section 1: All fractional	658.52
Section 3: South half northeast quarter, and south half (does not include minerals on 80 acres)	400.00
Section 4 Lots 2 and 3, south half north, and south	560.30
Section 5: South half northeast quarter, and south half (does not include minerals)	400.00
Section 6: Lot 7, southeast quarter, southwest quarter, and south half southeast quarter)	155.38
Section 7: All fractional (does not include minerals)	623.44
Section 8: All	640.00
Section 9: (does not include mineral on acres	640.00
Section 11 All	640.00
Section 13: All	640.00
Section 15: East half east half	160.00
Section 16: North half northwest quarter	80.00
Section 17: North half northwest quarter	80.00
Section 22: A portion of east half and east half west half	271.±
Section 23: All	640.00
Section 24: All	640.00
Section 25: All	640.00
Section 26: North half, southeast quarter, and a portion of the southwest quarter	572.±
Section 27: A portion of the northeast quarter	66.±
Section 35: A portion of the northeast quarter	105.±
Township 10 North, Range 4 East:	
Section 25: Southeast quarter	160.00
Township 9 North, Range 5 East:	
Section 5: All fractional	640.32
Section 6: fractional	679.52
Section 7: Lots 1 and 2, northeast quarter, and east half northwest quarter	340.57
Section 8: North half	320.00
Section 17: All	640.00
Section 19: All fractional	694.72
Township 10 North, Range 5 East:	
Section 5: A portion of the east half northeast quarter northwest quarter and east half	233.±
Section 17: Northeast quarter northeast quarter, and a portion of the northeast quarter and east half southeast quarter	145.±
Section 19: A portion of the south half southeast quarter	20.±
Section 20: A portion of the south half half	60.±
Section 21: East half, east half northwest quarter, northwest quarter northwest quarter, northeast quarter southwest quarter, and a portion of the southwest quarter northwest quarter, northwest quarter southwest quarter	523.±
Section 29: All	640.00
Section 30: Northeast quarter, south half, and a portion of the east half northwest quarter	550.±
Section 31: All fractional	688.55
Section 32: All	640.00
Section 33: North half	320.00
Township 11 North, Range 5 East:	
Section 32: Lots 1 and 2 (does not include minerals)	16.43

(ii) Mineral and geothermal interest—

Township 8 North, Range 5 East:	
Section 32:	100.±
Township 10 North, Range 5 East:	
Section 9:	160.00
Section 11:	65.00

(B) Upon acceptance of title by the United States to such lands and interests, the Secretary shall convey to Weyerhaeuser Company all right, title, and interest of the United States to the following described national forest system lands and interests in lands:

(i) Lands and interests therein—

Township 10 North, Range 5 East:	Acres
Section 6: Mineral survey	193.96
Section 7: Mineral survey	12.65
Township 11 North, Range 5 East:	
Section 28: Mineral survey	24.89
Section 29: Portion of mineral survey 837	5.20
Township 8 North, Range 4 East:	
Section 29: All (does not include minerals)	640.00
Section 30: All fractional	604.07
Section 32: All fractional	702.99
Township 13 North, Range 3 East:	
Section 6: All fractional	652.25
Township 4 North, Range 3 East:	
Section 10: All	640.00
Section 16: All	640.00
Section 20: All	640.00

(ii) Mineral and geothermal interests—

Township 3 North, Range 4 East:	Acres
Section 2	319.05
Section 22	40.00
Township 20 North, Range 17 East:	
Section 26	320.00
Township 20 North, Range 19 East:	
Section 8	160.00
Township 21 North, Range 17 East:	
Section 13	80.00
Township 21 North, Range 16 East:	
Section 14	320.00
Township 22 North, Range 16 East:	
Section 27	320.00
Section 33	640.00
Township 15 North, Range 4 East:	
Section 32	320.00
Township 27 North, Range 11 East:	
Section 21	320.00
Township 14 North, Range 2 East:	
Section 24	640.00
Township 14 North, Range 3 East:	
Section 4	596.48
Section 8	640.00
Section 12	106.39
Township 7 North, Range 4 East:	
Section 4	39.73
Section 6	233.13
Township 8 North, Range 3 East:	
Section 10	480.00
Section 14	640.00
Section 16	627.36
Section 20	80.00
Section 22	560.00
Section 24	645.90
Section 26	480.00
Section 28	505.68
Section 30	120.00
Section 32	640.00
Section 34	80.00
Section 36	640.00
Township 8 North, Range 4 East:	
Section 6	457.86

(4) Except as provided in paragraph (7), the instruments of conveyance respecting the lands and interests exchanged under this subsection may contain such reservations as may be agreed upon by the Secretary and the Weyerhaeuser Company or the Secretary and Burlington Northern Incorporated, as the case may be. The provisions of subsection (a) shall apply to the acquisition by the Secretary of any mineral or geothermal interests owned by Burlington Northern Incorporated.

(5) It is the sense of the Congress that the transactions necessary to effect the conveyances of title to lands referred to in this subsection should be completed within ninety days after the date of enactment of this Act. In the case of mineral and geothermal rights, the necessary transactions shall be completed within one year after such enactment. The rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed.

(6) The Secretary shall certify in writing that to his satisfaction, at the time of conveyance, there has been no reduction in the values of the lands or interests therein caused by a direct action on the part of the current landowner below that which formed the basis for the exchanges provided for in this section. If the Secretary finds that a reduction in the value of the lands or interests therein has occurred caused by direct action on the part of the current landowner, the Secretary shall not carry out the exchange for those lands or interests so affected under this subsection, and acquisition of those lands and interests shall be undertaken by the Secretary in accordance with the provisions of subsection (a).

(7) The provisions of this subsection (except for the provisions of paragraph (6)) do not authorize the exercise by the Secretary of the power of eminent domain, and any exchange of the lands or interests in lands carried out under this subsection shall be pursuant to a voluntary agreement entered into between the Secretary and Burlington Northern Incorporated, or the Weyerhaeuser Company, as the case may be, with the full consent of each of the parties to such agreement. No prior contractual obligation of Burlington Northern Incorporated or of the Weyerhaeuser Company

which may be affected by such exchange shall be assumed by, or otherwise transferred to, the United States in connection with such exchange.

(d) Any terms, conditions, or obligations imposed by the Act of July 2, 1864 (13 Stat. 365), as amended, that apply to lands and interests in lands exchanged under this Act by Burlington Northern Incorporated shall apply in equivalent manner to lands and interests in lands obtained by Burlington Northern Incorporated under this Act.

ADMINISTRATION

SEC. 5. (a) The Secretary shall administer the volcanic area as a separate unit within the boundary of the Gifford Pinchot National Forest, in accordance with the appropriate laws pertaining to the national forest system, and in accordance with the provisions of this Act.

(b) The Secretary shall manage the volcanic area to protect the geologic, ecologic, and cultural resources found there in as natural a state as possible, allowing primarily natural geologic forces and ecological succession to continue unimpeded, except that—

(1) The Secretary may take action to control fire, insects diseases, and other agents that might (A) endanger irreplaceable features within the volcanic area or (B) cause substantial damage to significant resources adjacent to the volcanic area, and

(2) in the case of any emergency which may threaten human life or property, the Secretary, acting through authorized personnel of the Forest Service, may take any action which such personnel deem necessary for the protection of human life or property.

Any action taken under paragraph (1) shall be the minimum necessary to prevent or reduce the unacceptable endangerment or damage, and any such action (other than emergency action to control fire) shall be based on a written finding of need. Such finding shall be based on an assessment of alternative courses of action.

(c) The Secretary shall permit the full use of the volcanic area for legitimate scientific study and research, except that the Secretary may impose such restrictions as may be necessary to protect public health and safety and to prevent undue modification of the natural conditions of the volcanic area.

(d) Nothing in this Act shall be construed to prohibit reasonable use of motorized equipment in the volcanic area, including aircraft landings, to: (1) provide emergency medical and rescue services (including those provided by State and local governments), or (2) place and service scientific equipment or provide access for research purposes.

(e)(1) The Secretary shall provide for recreational use of the volcanic area, except that the Secretary may impose such restrictions on any visitation within the volcanic area as the Secretary deems necessary for the protection of public health and safety, the resources of the volcanic area, and scientific research activities within the volcanic area. The Secretary shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the provisions of this Act, and may assist adjacent affected local governmental agencies in the development of related interpretive programs.

(2) Roads or other developed facilities within the volcanic area should be located generally in areas which were developed prior to the 1980 eruption. Roads no longer needed for proper administration of the volcanic area shall be obliterated by man-made actions or by allowing natural forces to occur.

(3) National Forest System roads within the vocanic area shall not be used for commercial forestry activities, except when the Secretary determines—

(A) that such use is necessary for activities carried out in connection with timber salvage contracts awarded by the Forest Service prior to the date of enactment of this Act; or

(B) on a case-by-case basis after notice and opportunity for public hearing, that such use is necessary for commercial forestry activities carried out on lands adjacent to the volcanic area and on non-Federal lands in the volcanic area, that there is no reasonable alternative route available, and that such activities (i) will not impair the resources described in section 1, and (ii) will be consistent with the provisions of this Act.

(f) Subject to valid existing rights, all lands and waters within the volcanic area are hereby withdrawn from disposition under the public land laws, from location, entry, and patent under the United States mining laws, from the operation of the United States mineral leasing laws, and from the operation of the Geothermal Steam Act of 1970. Any mining activity carried out pursuant to valid existing rights shall be conducted in such manner as will maintain the water quality in existence in the affected area immediately prior to the commencement of such activity.

(g) Except for timber salvage contracts awarded by the Forest Service before the date of enactment of this Act and except as provided for in subsection (b), no commercial timber harvest or water resource developments shall be allowed on Federal lands within the volcanic area.

(h) The Secretary shall permit hunting and fishing on lands and waters within the volcanic area in accordance with applicable Federal and State law, except that the Secretary may designate zones within the volcanic area where, and establish periods when, no hunting or fishing shall be permitted for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment. Except in emergencies, any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(i) Within three years after the date of enactment of this Act, the Secretary shall submit to the committees referred to in section 2(b), a detailed and comprehensive management plan for the volcanic area. The initial volcanic area management plan may be expressed as an amendment to the October 1981 Mount Saint Helens land management plan. Subsequent volcanic area plans shall be integrated with and periodically revised as a component of the Gifford Pinchot Land management planning process. The plan shall include but not be limited to:

(1) measures for the preservation of the natural geologic and ecologic processes and integrity of the resources;

(2) indications of types, locations, and general intensities of development and access routes associated with the public understanding, use and enjoyment of the area, including anticipated timetables and costs;

(3) identification and implementation plans for visitor carrying capacities of the area; and

(4) indications of any potential modifications of the external boundaries of the area, and the reasons therefor.

SCIENTIFIC ADVISORY BOARD

SEC. 6. (a) There is hereby established the Mount Saint Helens Scientific Advisory Board (hereinafter referred to as the "Board"). The Secretary shall consult with and seek the advice and recommendations of the Board with respect to—

(1) the measures needed to protect and manage the natural and scientific values of the volcanic area; and

(2) the administration of the volcanic area with respect to policies, programs, and activities which are specifically intended to retain the natural ecologic and geologic processes and integrity of the volcanic area.

The Board may make recommendations to the Secretary in regard to new research opportunities which may exist within the volcanic area designed to gain scientific information for future interpretation and enjoyment by visitors to the volcanic area. No recommendation by the Board shall be binding upon the Secretary.

(b) The Board shall be composed of nine members, who shall be individuals with recognized professional standing in appropriate scientific disciplines, as follows:

(1) three members appointed by the Secretary (one of whom shall be a professional employee of the Forest Service);

(2) two members appointed by the Secretary of the Interior (one of whom shall be a professional employee of the United States Geological Survey);

(3) two members appointed by the Governor of the State of Washington from among professional employees of the State of Washington (one of whom shall be from the Department of Fisheries and one of whom shall be from the Department of Game); and

(4) two members appointed by the Chairman of the National Science Foundation.

(c) Each member shall be appointed to serve for a term of three years, except that one of the initial appointees of each appointing official shall serve an initial term of four years, one of the initial appointees of each appointing official shall serve an initial term of two years, and one of the initial appointees of the Secretary shall serve an initial term of one year.

(d) The members of the Board shall be appointed within ninety days of enactment of this Act. The members of the Board shall, at their first meeting, elect a chairman.

(e) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to potential and ongoing research programs within the volcanic area.

(f) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the chairman, the expenses reasonably incurred by the Board and its members in carrying out their responsibilities under this Act.

(g) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(h) The Board shall terminate ten years from the date of its first meeting.

EXPENDITURE OF CERTAIN REVENUES FROM GIFFORD PINCHOT NATIONAL FOREST BY SKAMANIA COUNTY, WASHINGTON

SEC. 7. (a) Notwithstanding the provisions of the last paragraph under the heading "Forest Saervice" of the Act of May 23, 1908

(16 U.S.C. 500), and of section 13 of the Act of March 1, 1911 (16 U.S.C. 500), of the amount which is paid under such provisions to the State of Washington with respect to Gifford Pinchot National Forest, to be expended for the benefit of Skamania County—

(1) not less than fifty percent shall be expended for the benefit of the public schools of Skamania County, as Skamania County may specify, and

(2) the remainder shall be expended for the benefit of public roads and other public purposes of Skamania County, as Skamania County may specify.

(b) Subsection (a) shall not apply to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (a) at the end of any fiscal year ending before the date of the enactment of this Act.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated for fiscal years commencing after September 30, 1983, such sums as may be necessary to carry out the provisions of this Act.

COMPLIANCE WITH BUDGET ACT

SEC. 9. Any provision of this Act which authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1983.

The SPEAKER pro tempore. Is a second demanded?

Mr. MORRISON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. WEAVER) will be recognized for 20 minutes, and the gentleman from Washington (Mr. MORRISON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at 8 a.m. on the morning of May 18, 1980, Mount St. Helens, a long-dormant volcano in southwestern Washington State, erupted with tremendous force, a force so powerful that over 235 square miles of national forest, State and private timber and recreational lands were devastated. I have personally visited the area, walked through this devastation, and it is indeed awesome. Sixty people were killed in the explosion, which also destroyed or blew down 3 billion board feet of timber and exacted a heavy toll on fish and wildlife and their habitats.

But despite its destructive impact, the eruption of Mount St. Helens offers new, unique opportunities for scientific research, for education, and for recreation. The area around Mount St. Helens is a scientific and natural wonderland, full of glimpes of what our Earth truly is and what it came from. These all must be explored and observed. This bill will help us do that. It has great value for our forests, wildlife, and agricultural management.

The legislation establishes a 115,000-acre national volcanic area around Mount St. Helens that will enable scientists to explore the unique ecological and geological features created by the blast. It will also preserve this valuable educational and recreational resource for present and future generations of Americans.

Four proposals to establish a volcanic area or monument around Mount St. Helens, ranging in size from 85,000 to 216,000 acres, were jointly referred and considered by the Agriculture and Interior Committees. In the interest of time, and to promote the orderly salvage of several million board feet of rapidly deteriorating timber, joint hearings were held in Washington, D.C., and Vancouver, Wash. The committees received extremely valuable testimony from Forest Service and Geological Survey officials, the State of Washington, national and local conservation groups, and representatives of Weyerhaeuser and Burlington Northern, the two major private forest landholders within the proposed volcanic area.

H.R. 6530 is a compromise bill encompassing the best features of the various proposals. It is the result of many long hours of cooperation, negotiation, and careful evaluation of the wealth of testimony offered during the extensive hearings. My colleagues from the State of Washington, DON BONKER and SID MORRISON, did an outstanding job with this bill. Despite their differing opinions on how best to establish and administer the volcanic area, they resolved those differences in a productive and statesmanlike fashion. It is clear that we would not be considering this bill here today were it not for the fine work of these two Members of Congress.

I would also like to commend the other Members of the Washington delegation, Mr. FOLEY, Mr. DICKS, Mr. LOWRY of Washington, Mr. SWIFT, and Mr. PRITCHARD, for their diligent efforts on behalf of this legislation.

Finally, I want to congratulate the chairman of the Public Lands and National Parks Subcommittee, Mr. SEIBERLING, for the valuable contributions he made in guiding this bill through the Interior Committee.

H.R. 6530 establishes a 115,000-acre national volcanic area and directs the Secretary to acquire all non-Federal lands and interests in lands within the volcanic area by donation, exchange, or purchase—by exchange only in the case of lands of the State of Washington.

□ 1400

To the extent that any such acquisition is made by purchase, the Forest Service would use previously appropriated funds. It fixes the date of the evaluation for the timber to be acquired as July 1, 1982. In order to expedite the exchange of the major portion of the privately held lands and interests within the volcanic area, the bill describes explicitly the lands and interests to be exchanged voluntarily and on an equal value basis by the United States and Weyerhaeuser Co. and Burlington Northern, Inc.

The bill requires the Secretary to manage the area primarily to protect the unique resources and to provide for scientific research and recreation use, including hunting and fishing. It establishes a scientific advisory board to advise the Secretary regarding management actions and policies needed to protect and enhance the natural and scientific values of the volcanic area.

The bill also provides greater flexibility to Skamania County, Wash., where the volcanic area is located, with respect to the use it may put its share of certain revenues from the Gifford Pinchot Natural Forest.

I urge my colleagues to adopt this vital and important legislation this afternoon.

Mr. Speaker, I now yield such time as he may consume to the comanager, the chairman of the Public Lands Subcommittee of the Committee on Interior and Insular Affairs, the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the gentleman for yielding.

I think the gentleman from Oregon has covered many of the main points of this very excellent legislation. Let me just say, by way of preface, that the testimony that we had from members of the scientific community about the importance of this as a scientific event and a scientific observation opportunity was most impressive.

If I may summarize several hours of testimony by scientific representatives. This is the most important geological event that has occurred in North America since it was settled by Europeans.

It gives us an opportunity which we did not have in places like Alaska when Mount Katmai erupted earlier this century because of the fact that this eruption took place in a temperate zone where there are all kinds of vegetation of the kinds you do not find in more northern climes and it gives us an opportunity to see nature at work and evolutionary processes at work, and it is truly one of the most amazing and splendid opportunities that the scientific world has had to make this kind of laboratory, or to use this kind of natural laboratory for scientific observation.

We have had testimony that indicates that it may well be that certain evolutionary processes, including the evolution of new forms of micro-organisms, is taking place in some of the lakes that were in the area, and were devastated by the eruption, that is going on right before our eyes. New

forms of life never before observed. And we also had phenomenon such as the fact that the timber that was not blown down but was in areas that were near the eruption, has already shown a much higher rate of growth than timber farther removed where there is not a lot of volcanic ash.

The effects of this as to the future potential for accelerating the growth of timber and other vegetation is very, very great indeed.

So I just cannot emphasize enough the importance of having this as a scientific laboratory and, second, the scientists stress the importance of having it in a state where it is not disrupted and not altered by extensive activities by man, such as new roads, and new logging, and that sort of thing. Because if that takes place in the areas that are more uniquely affected by the eruption, then we will not have the scientific value that we can otherwise have.

I believe that the bill, after a great deal of work by all concerned, strikes a very effective and reasonable compromise between the several proposals made ranging from the 84,700-acre proposal of the Forest Service to a 140,000-acre area proposed by the scientists and 216,000-acre area proposed by the environmental community.

It is my understanding that most of the groups, including the major timber companies who own land in the area, now support this bill. The bill provides for expedited exchange of lands between the U.S. Forest Service and the major landowners, Weyerhaeuser Co. and Burlington Northern Inc., and I might say that in return those companies have agreed to make an effort to make sure that adequate timber is made available for some of the smaller timber operators in the area.

Management language is included to provide directions to the Forest Service that the area is to be managed primarily for scientific and recreational purposes. The bill also provides for a management plan to be submitted to the committee within 3 years as an amendment to the exisiting Forest Service plan for the area. It is intended that this and subsequent plan updates will be integrated with the Gifford Pinchot forest land-management plan, but will be a separate part of chapter of the forest plan and will clearly relate to the volcanic area as a separate management unit of the forest. In addition, a scientific advisory commission is established to assist the Forest Service in drawing rules and regulations governing the management of the area for optimum research potential. This language will also encourage general recreation use of the area subject to the protection of public health and safety and protection of the resources themselves.

Mr. Speaker, H.R. 6530 is the product of the legislative process at its best. The bill as reported by the Committee on Agriculture is the version before us but a substantially identical bill was reported by the Committee on Interior and Insular Affairs, and I might say that took place by exceptionally good liaison and cooperation between the two committees in advance of the markups so that we were able to coordinate the work before the bills finally came before the full committees.

The bill is cosponsored and supported by the entire delegation of the State of Washington. I would particularly like to pay tribute, however, to our colleague from Washington (Mr. BONKER), whose dedication, leadership, effectiveness and relentless energy on behalf of this legislation has been instrumental in helping bring about this remarkable achievement.

We are also so greatly indebted to our colleague, the gentleman from Oregon (Mr. JIM WEAVER), chairman of the Subcommittee on Forests, Family Farms and Energy, of the Committee on Agriculture, for his leadership and cooperation in working toward mutually supported compromise legislation to the many problems this bill presented. And I think I should also express my thanks to our colleague, the gentleman from Washington (Mr. FOLEY) for his leadership as well as his expert advice and counsel on this bill, and thanks and commendation are certainly due all of our colleagues from Washington, especially the gentleman from Washington, Mr. SID MORRISON, who has the largest slice of this in his district, for his contribution to this finely tuned legislation.

We would not be here today if it had not been for the dedication of many outstanding people outside of Congress who have spent years fighting for the protection of Mount St. Helens. To Susan Saul of Longview, Wash.; Lu Moore of Castle Rock, Wash.; and Charles Raines of Seattle, Wash.; as well as Brock Evans of the Audubon Society and Tim Mahoney of the Sierra Club, I give a special thank you.

I would also like to cite the excellent cooperation from the Weyerhaeuser Co., represented by Mr. Hans Carstenson, and Ms. Robin Carpenter of Burlington Northern Inc. And finally I would like to commend the very excellent staff work done by both committee staffs, Greg Skillman, Richard Fritz, Robert Bor, and Robert Lowerre of the Agriculture Committee, and Dale Crane and Clay Peters of the Interior Committee, and also a special thanks to Nancy Parkes from the staff of the gentleman from Washington (Mr. BONKER).

Mr. Speaker, I urge all of my colleagues to support this excellent legislation.

Mr. MORRISON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the southwestern corner of the Fourth Congressional District of Washington State stands Mount St. Helens, one of the jewels of the Cascades, until May 18, 1980, with an explosive eruption, which injected into the air 1 ton of material for every man, woman, and child on the face of this Earth and took down with it 3½ billion board feet of precious Northwest timber and turned the landscape into a moonscape. I hope that America gradually, as safety allows it, gets to view this moonscape as did many of us from the Washington and Oregon delegations, along with the gentleman from Ohio (Mr. SEIBERLING), who has also visited that particular area.

I want to take this opportunity to thank very much the subcommittees particularly who worked with this, the gentleman from Oregon (Mr. WEAVER); the gentleman from Ohio (Mr. SEIBERLING), and I do feel that through the hearing process that the information that was gathered at that time, through the leadership of the committee chairmen I have just mentioned, there was a responsiveness, a responsiveness particularly to the scientific community, so that we do allow this marvel of our times to be thoroughly researched and to the environmental community because they pointed out many areas that were important to them.

The Washington State delegation did get together, and I have in front of the Chamber a map which shows some additions that we made to the recommendations of the U.S. Forest Service, and I would be glad to describe those for anybody who has specific questions.

Most of all, to my colleague, the gentleman from Washington, Mr. DON BONKER. Actually most of the devastated area, the area included in this natural volcanic area, is in my congressional district. Much of the devastation ends up being in the district of the gentleman from Washington (Mr. BONKER). His leadership in this is to be commended. In fact, if anybody worked to get us all together, the gentleman from Washington (Mr. BONKER) deserves that praise. We still have some differences of opinion and we trust these will be worked out with the other body as we go to conference.

I am pleased to announce that the Forest Service, who did not like the additions that we are adding here, has moved from a position of opposition to just this morning a position that they do not support the proposal.

I smile and say that that is a movement in the right direction and, given a little more time, I believe they too will see the logic of the compromise

which we bring here to the floor of this House.

The most important point is that timing is vital and very significant. The timber is down in this area. There are 30,000 acres of private land and about 4,000 acres of land belonging to the State of Washington. They need a decision as to what we intend to do with this area. The Forest Service has generously worked very hard to come up with specific exchange language so that once this bill is passed, the exchange can be consummated very, very quickly and a major amount of timber that is in the salvage zone can be saved for the use of all Americans.

I will not go through the bill since it has been adequately described by the preceding speakers.

Mr. Speaker, I would like to again say thank you to all those who have worked on this bill, and commend for consideration to the Members of this House H.R. 6530, as a compromise on the Mount St. Helens volcanic area that is worthy of the support of everyone.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. PRITCHARD).

Mr. Speaker, I rise in support of this legislation and commend it to my colleagues.

Mount St. Helens has demonstrated to this country nature at its most beautiful and nature at its most threatening. Prior to the eruption, I climbed Mount St. Helens and recall that the mountain and its adjacent landscape was one of the finest sights I have ever seen anywhere on this Earth.

The landscape was dramatically altered on May 18, 1980. And the consequences of that cataclysmic event have been enormous, for not only those who live near the mountain, but for all the inhabitants of the State of Washington.

While other legislation and other Federal actions have addressed the consequences to life and property, the purpose of this legislation is to set a course for the future management of the lands adjacent to Mount St. Helens. Such a plan is by its nature controversial. Both committees of the House responsible for this legislation and the entire Washington congressional delegation recognized this fact and sought out the widest possible spectrum of opinion on the future disposition of these lands prior to drafting legislation. The product of this effort is H.R. 6530 and it is, indeed, a commendable result.

The bill attempts to achieve a number of diverse goals: Recreation; tourism; scientific study; timber management; and wildlife protection and the adjudication of private property rights. Naturally all interested parties do not agree on all aspects of the plan embodied in H.R. 6530, but it is a plan which is supported by more people than any other management plan put forward throughout this long process. H.R. 6530 resolves many of the outstanding issues which we are frankly running out of time to resolve.

I urge the adoption of this bill.

Mr. WEAVER. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. BONKER).

Mr. Speaker, first, I would like to acknowledge the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Oregon (Mr. WEAVER) for their commitment and cooperation to expedite action on this bill. Both have been extremely sensitive to the economic as well as the environmental and scientific concerns, and I think it is a real testimony to how committees can work together among various interests to bring legislation like this before the House. Frankly, there is no way that we could have come this far had it not been for their cooperation and the excellent staff work that has gone into the drafting of this bill.

□ 1415

I would also like to pay tribute to my colleagues in the State delegation, particularly Congressman FOLEY, the majority whip; and Congressman SID MORRISON, for their leadership and support. There is absolutely no way that the bill would have come this far without this splendid example of bipartisan cooperation. Each contributed to reconciling the many differences that went into the legislative proposals that were considered.

Congressman MORRISON and I jointly represent this vast area. We have had to deal with problems left by the devastation, with the economic hardships that have resulted from the May, 1980 legislation. We have also worked closely with the various timber, environmental, and scientific groups that have a stake in this legislation.

Finally, I would like to acknowledge the Mount St. Helens Protective Association, a local organization that has been in existence for some time, long before the eruption, particularly Susan Saul of Longview, Lu Moore of Castle Rock, and Noel McRae of Kelso. All of them have been instrumental in working with national environmental associations to fashion this bill.

Mr. Speaker, the 1980 eruption brought instant devastation to the once pristine and productive area around Mount St. Helens, and frankly stated, dealt a severe economic blow to the Northwest. But there is a bright spot and future hope. Mount St. Helens is no longer one mountain among many in the vast Cascade Range. It is now a national treasure and one that is internationally recognized. The mountain offers unique scientific opportunities and unlimited tourism fascination.

In short, Mount St. Helens holds a new and promising future for southwest Washington. Enactment of H.R. 6530 will provide economic diversification that is so desperately needed in what has traditionally been a timber-based economy. That will represent thousands of new jobs to be created as the result of the Mount St. Helens designation. Tourism and related industries already represent the third largest job source in the State of Washington and with estimates now ranging between 1 million and 2 million tourists per year, I think we can all look forward to added economic benefits to the area.

Many traditional activities, such as hunting and fishing, will continue under current game and management laws.

Mr. Speaker, there are, of course, other benefits of national significance. The bill is critical for geologic, scientific, and biological research. I, along with the various chairmen and their staffs, worked long and hard with the scientific community to identify critical areas to be included in the legislation.

The legislation also deals effectively with special problems with respect to the private owners, notably Weyerhaeuser and Burlington Northern, that have extensive land holdings within the region and have experienced economic hardship as a result of the 1980 eruption.

This legislation, as has been noted, will provide effectively for land exchanges to expedite the Forest Service and private owner negotiations concerning those lands.

This will involve minimal Federal outlays or authorizations because all of these land exchanges will be consumated on a value for value basis.

Finally, H.R. 6530 is a strong priority for both local and national environmental groups. I would like to commend those groups who worked effectively with committee staffs to come up with H.R. 6530.

Mr. Speaker, this has not been an easy bill to reconcile, given the vast differences that exist among the groups. Each offered their own legislative proposal. We had five major proposals before the various committees, ranging from 40,000 acres sponsored by the small mills, up to 216,000 acres by environmental groups. We were able to fashion this compromise because of the cooperation of all the groups.

The SPEAKER pro tempore. The time of the gentleman from Washington has expired.

Mr. MORRISON. Mr. Speaker, I yield 2 additional minutes to the gentleman from Washington.

Mr. BONKER. All the various groups worked cooperatively with the committee to bring about this legislation. I want to take this opportunity to thank them one and all. Without their support and cooperation, we could not have brought the bill to the floor today.

It is no easy chore to reconcile all the differences that exist between the timber industry and environmental groups. It covered the full span of the economic and political spectrum, but we were able to achieve this compromise because everybody wanted to see the bill pass.

Mr. Speaker, as it has been noted, the Senate is about to take up a similar bill, somewhat lower acreage involved; but I do not think we will have any difficulty reconciling those differences in conference.

I hope that the President will accept the important national as well as regional values that are associated with the bill and sign it into law. With his affirmative action, Mount St. Helens will be a nationally designated Volcanic Area.

Mr. WEAVER. Mr. Speaker, again I want to commend and congratulate the gentleman from Washington (Mr. BONKER) and the gentleman from Washington (Mr. MORRISON) for their excellent work.

The leadership of the gentleman from Washington (Mr. BONKER) I know spurred me on to help create this scientific and natural wonderland, the most important event perhaps if not natural phenomenon that we have had in this century.

I would like to recognize another member of the Washington delegation who played a very important role.

Mr. Speaker, I yield the remaining 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. Speaker, I rise in support of this important legislation. I want to compliment my colleagues, Congressman BONKER from our State and Congressman MORRISON from our State, who have done a tremendous job in fashioning this legislation and working out the difficult compromises that go into legislation of this type.

I also want to thank Congressman WEAVER and Congressman SEIBERLING, who as usual have worked cooperatively with the delegation from Washington State on an issue of very significant importance to the people of our area.

I also want to commend those companies and people from public interest groups who were interested in this legislation. It really has been an outstanding job.

Mr. Speaker, I rise today to join with my colleagues from Washington State to urge this House to pass H.R. 6530, the Mount St. Helens National Volcanic Area Act.

This legislation will establish a valuable 115,000-acre protective area for scientific research and recreation. It will also bring badly needed new jobs and economic diversification to the communities near Mount St. Helens.

This bill represents a compromise between small timber operators, scientists, environmentalists, and local officals and interested groups and has the support of the entire Washington State delegation.

It will continue to allow hunting and fishing in the site area and insures that the U.S. Forest Service can take actions to prevent fires, insect infestation, disease, and downstream flooding.

Additionally, to lower the cost to the Federal Government of creating this area, 30,000 private acres would be acquired through land exchanges with the Weyerhaeuser Co. and Burlington Northern, Inc., and others who own land in the affected area.

At this time, similar legislation is pending in the Senate and it is expected that the other body will expeditiously approve that legislation.

H.R. 6530 is the result of hard work by our State's delegation and interested parties. I believe it will give the American people and scientists the very unique opportunity to study and benefit from the Mount St. Helens eruption, and will also provide our Nation's citizens the opportunity to enjoy the devastated lands around the mountain.

For these reasons among others, I urge this House to support this bill.

Mr. Speaker, I submit herewith a letter dated July 15, 1982, signed by members of the Washington delegation and circulated among our colleagues.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 15, 1982.

DEAR COLLEAGUE: The House soon will consider H.R. 6530, legislation to establish the Mount St. Helens National Volcanic Area. We strongly urge your support.

This designation will turn the mountain into a new economic, scientific and recreational base, bringing new jobs and economic diversification to the hard-hit communities surrounding Mount St. Helens. Most of the property involved already is part of the Gifford Pinchot National Forest.

H.R. 6530 will establish a 115,000-acre protective area for scientific research, recreation, and other purposes. The area will be managed by the Forest Service under the direction of the Department of Agriculture. The Senate soon will act on similar legislation to establish a 105,000-acre area.

The entire Washington State Delegation has cosponsored H.R. 6530, which has been passed, on voice vote, by the Agriculture and Interior Committees.

Our starting point was not an easy one: Small timber operators in the Northwest endorsed a 40,000-acre set-aside; the Forest Service proposed an 85,000-acre area which did not provide for acquisition of all privately held lands; Gov. John Spellman proposed a 113,000-acre area; scientists endorsed a 155,000-acre area; and environmentalists proposed a 216,000-acre national monument.

The compromise legislation, we believe, encompasses the top priorities of scientists throughout the United States and will well serve recreational needs. To aid the Forest Service in management decisions, the legislation establishes a non-salaried scientific advisory board.

Many of the traditional activities in the area will continue. Hunting and fishing, for example, will be unrestricted unless there is a danger to human life from the volcano.

The legislation also ensures that the Forest Service can take action to prevent emergency situations such as fire, insect infestation, disease and downstream flooding.

To lower the cost to the federal government of creating the area, the 30,000 private acres envisioned in the Volcanic Area would be acquired primarily through land exchange. Weyerhaeuser Co. and Burlington Northern, Inc., the major landholders in the area, would receive an exchange within 90 days based on value-for-value negotiations already worked out by the Forest Service.

National designation and special management of this area will prove a boon to the Southwest Washington economy by offering permanent, new jobs. Already, tourism is the third largest source of jobs in Washington State, and is growing during otherwise troubled economic times.

Most importantly, this designation will give the American people the unique opportunity to study, learn from and enjoy the devastated lands around Mount St. Helens as the area brings forth new life.

Thank you for your support.

Don Bonker, Norm Dicks, Sid Morrison, Joel Pritchard, Mike Lowry, and Tom Foley, Members of Congress.

● Mr. FOLEY. Mr. Speaker, I fully support H.R. 6530, legislation to create the Mount St. Helens National Volcanic Area.

This bill, of which DON BONKER is the prime sponsor, is a compromise which will preserve lands for scientific and recreational use while protecting timber interests.

The Washington State delegation has worked long and hard to consider the interests of scientists, timber operators, and environmentalists alike; and I would like to commend both DON BONKER and SID MORRISON, who represent the communities surrounding the volcano, for their contribution to resolving this issue.

Timber is a mainstay of the economy of the Pacific Northwest. H.R. 6530 will make sure that Weyerhaeuser Co. and Burlington Northern, Inc., are fairly compensated for their holdings within the volcanic area. The legislation establishes value-for-value land exchanges already approved by the Forest Service to be transacted within 90 days of enactment. This will insure that we do not witness a delay of months or years in completing these exchanges. Consolidation of Federal and private lands in the checkerboard ownership of the Gifford Pinchot National Forest will provide better management for all timber interests, large and small.

The legislation also will result in new Washington State jobs, as visitors

from throughout the Nation and world come to see Mount St. Helens and the lands surrounding it.

In my view, H.R. 6530 strikes a reasonable balance between the 216,000-acre volcanic area originally proposed by environmental interests and the 40,000-acre area endorsed by some timber companies. Moreover, the compromise recognizes the top priorities of scientific and environmental groups.

The Senate will soon consider a similar bill; and I urge speedy resolution of this issue for all interests concerned.●

● Mr. BEREUTER. Mr. Speaker, I rise in strong support of this bill, H.R. 6530, which designates the Mount St. Helens National Volcanic Area in the State of Washington.

The display of nature's forces which occurred here, beginning in early 1980 and with the great initial eruption in May of that year, has resulted in a scene of great national, if not international, significance.

The case could easily be made that this area should be made a unit of our national park system. It certainly qualifies quite clearly, and the management prescription of this bill is closely compatible with that practiced by the National Park Service, but the political considerations of the time work against such a designation.

Nevertheless, I am most pleased with the preservation orientation of this bill. The natural resources within the boundary will essentially be managed by the Forest Service in such manner as to preserve the natural and geological resources in their natural state, and to allow the natural and geological forces and ecological succession to continue unimpeded by human intervention.

The past and continuing activities of nature here are providing a superlative opportunity for scientific research, and it was in no small part the strong advocacy of the scientific community which caused this bill to be so preservation-oriented. Not only will research be able to continue on prospective new volcanic activity, but much can be learned about the ecological recovery processes of plant and animal life with the passage of time.

A very interesting, though perhaps tragic, part of the story here involves the cultural resources—those artifacts of man which remain within the area predating the eruption. These are to be preserved and will become a major part of the human story to be told here.

The Forest Service is to develop a management plan for the area which, among other elements, is to include the identification of and implementation plans for visitor-carrying capacities for the area. The Forest Service has been a pioneer in research on this subject, and I would hope it will bring to bear the considerable expertise of its own best personnel to develop this part of the plan.

The bill also most wisely provides for the appointment of a scientific advisory board to advise on the development of both management and research policies, programs, and actions which will perpetuate the preservation and advance the understanding of the area. This board was created to help assure that management is thoroughly sensitive to preserving the scientific integrity of the area. One item which may become an issue is the restocking of waters with fish, since a worthy objective of the Act is to preserve the natural scientific integrity of the area.

The reinstitution of a fishery resource must, therefore, be addressed with great care and sensitivity. Moreover, human manipulation of the natural environment for any wildlife management purpose would appear to be contradictory to the objectives of this act.

Mr. Speaker, I commend the committees of both Interior and Insular Affairs, and Agriculture, and the members of the Washington delegation, for developing such a fine piece of legislation. The public and future generations of Americans will benefit greatly from the implementation of this bill.

I would also like to point out that the first bill to be introduced in Congress to preserve the scene after the May 1980 eruption of Mount St. Helens was sponsored by the previous and now retired ranking minority member of the Interior Subcommittee having jurisdiction over such matters, our former colleague from Kansas, Hon. Keith Sebelius. I know personally of his interest in seeing the site of Mount St. Helens eruption adequately preserved and available to the American public.

Mr. Speaker, I strongly endorse this bill, and urge all of my colleagues to vote for its adoption.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill, H.R. 6530, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to establish the Mount St. Helens National Volcanic Area, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6030, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 1½ hours, and the gentleman from Alabama (Mr. DICKINSON) will be recognized for 1½ hours.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, by direction of the Committee on Armed Services, I bring to the floor of the House today H.R. 6030, the Department of Defense Authorization Act for fiscal year 1983. This bill would authorize appropriations for procurement, research, development, test and evaluation (R.D.T. & E.), and operation and maintenance (O. & M.) for the Department of Defense and for civil defense. The bill also would prescribe personnel strengths for both Active and Reserve military personnel, and for civilian employees of the Defense Department. However, it does not contain dollar authorizations for these personnel categories.

H.R. 6030, as reported by the Armed Services Committee in April, would authorize appropriations totaling $180.3 billion for fiscal year 1983. This is $3.2 billion below the amount requested by the President. However, as provided in the rule, amendments to reduce this

authorization by an additional $3.2 billion will be offered by the leaders of three of the subcommittees that considered portions of the bill providing for dollar authorizations.

These amendments will be offered in order to bring the authorization bill in conformance with the levels contemplated for national defense in the budget resolution. At the point where these amendments are approved, therefore, the dollar authorizations of the legislation would be generally consistent with the budget authority level for national defense contemplated in the budget resolution.

It should be clearly understood that there is no legal requirement for such conformity. The budget resolution applies only to spending legislation and not to authorization legislation such as H.R. 6030—an interpretation that has been consistently adhered to by the Budget Committee. Because an authorization bill provides only authorization to provide spending authority (and because spending authority is provided subsequently by an appropriation bill), there is no requirement for the authorization bill to be at the level of the budget resolution.

However, because of the extraordinary economic situation facing the country and the position of the House as expressed in the budget resolution, the leadership of the committee believed it desirable to present to the House a bill that is generally consistent with the spirit and the target levels of the budget resolution.

METHOD OF CALCULATING REDUCTIONS

In passing the budget resolution, the Congress called for reductions totaling close to $9.8 billion in budget authority from the request for the National Defense Function (050). All but a small part of the 050 function is money for the various programs of the Department of Defense.

Of the total amount requested for the National Defense Function, somewhat more than 70 percent is in categories subject to annual authorization. The great bulk of that 70 percent is in the present bill, H.R. 6030. Additional authorization legislation will be considered later for military construction and for military applications of nuclear energy, under programs administered by the Department of Energy.

The committee leadership, therefore, believes that consistency with the spirit of the budget resolution can be achieved by making approximately 70 percent of the proposed reductions in the area subject to authorization. This would call for total authorization reductions of approximately $7 billion.

This bill, as ordered reported by the committee on April 1, 1982, is $3.2 billion below the amount requested by the President. That, of course, was prior to adoption of the budget resolution.

In addition, the committee has recommended a reduction of $300 million in reporting the military construction authorization bill, H.R. 6214. Thus, to date reductions have been made totaling about $3.5 billion in the area of authorization, and further reductions totaling approximately $3.5 billion are required in the authorization area.

It has been determined that the bulk of this reduction, something over $3 billion, should come from further cuts in the bill presently before the House. Therefore, amendments to the applicable portions of the bill will be offered by chairmen of the subcommittees as the first order of business under the rule when the bill is open to amendments.

Amendments will be offered by Mr. BENNETT from the Seapower and Strategic and Critical Materials Subcommittee, Mr. STRATTON from the Procurement and Military Nuclear Systems Subcommittee, and Mr. DANIEL from the Readiness Subcommittee.

These amendments, in each case, were arrived at and agreed to in consultation with the ranking minority member of the subcommittees and were discussed at a full committee meeting last week.

I want to stress that once these amendments are approved, the level of authorization provided in H.R. 6030 will be generally consistent with the budget resolution as enacted.

FURTHER REDUCTIONS NECESSARY TO MAINTAIN CONFORMANCE WITH THE BUDGET RESOLUTION

After this authorization bill is passed, the committee will consider any further reductions necessary in the Military Construction Act and in the authorization act for the military application of nuclear energy to insure that fiscal year 1983 authorizations for the overall defense function remain consistent with the budget resolution. Of course, many other steps in the legislative process for the approval of defense spending for fiscal year 1983 also remain.

NONAUTHORIZATION REDUCTIONS

Let me say further, of the remaining approximately $2.8 billion in reductions contemplated in areas that are not subject to annual authorization, $2.1 billion has already been identified. This includes savings of $1.9 billion assumed in the budget resolution from the provision for a 4-percent pay cap on active duty and retired pay. Adjustments that the committee has identified in this bill in the personnel and compensation accounts involve further savings of $200 million. Of the remaining $700 million in savings to be provided, these could be made during the appropriation process in nonauthorization categories, with virtually all in personnel related areas. Mr. NICHOLS of our committee, the chairman of the Military Personnel and Compensation Subcommittee, is prepared to discuss and identify areas of potential reductions.

The bill would provide, subject to the approval of the conforming amendments, the following authorization levels by major category:

Procurement: $86.7 billion, $2.9 billion below the amount requested by the President.

Research, Development, Test and Evaluation: $22.3 billion, $2.0 billion below the amount requested.

Operation and Maintenance (O. & M.): $67.9 billion, $1.5 billion below the amount requested.

Civil Defense: $252.3 million, the amount requested by the administration.

In addition, the committee has rejected a separate request for a supplemental authorization for fiscal year 1982 of $1.4 billion. The committee reviewed this request in its hearings and incorporated a few items for authorization in fiscal year 1983, rejecting most of the others.

When this fiscal year 1982 request is included, the net committee reduction below the total authorization requested by the administration for the Department of Defense is $7.8 billion.

NEED FOR THE BILL

The major thrust of the bill is to continue a buildup started in 1980 in strategic and conventional strength of U.S. Armed Forces. The bill gives highest priority to strategic modernization, expansion of naval forces and improved readiness of existing forces, particularly the Rapid Deployment Force (RDF).

Mr. Chairman, I am aware that we are in a difficult budgetary environment; and defense, like all other areas, must be scrutinized with particular care. I would caution the House, however, that defense programs should be judged according to the actual national security requirements of the Nation and the threats it might face and not by some arbitrary standard of what is required for nondefense programs.

After the end of World War II, America enjoyed a nuclear monopoly, and, as a result, an extended period of military advantage. Unfortunately for the Nation, nuclear weapons became an artificial prop with which the United States sustained its military superiority at a relatively low cost. With the advent of the Vietnam conflict and the national preoccupation with Southeast Asia, the United States allowed its investment in strategic and conventional defense forces to wane. During this period, however, the Soviet Union maintained a national commitment to military modernization across the full spectrum of its armed forces with the ultimate goal of military superiority. These Soviet efforts exceed even the most radical estimates of where they were going and when they would stop.

We, in the Congress, have received highly explicit intelligence agency presentations of the strategic balance. They help us to analyze the defense requirements of the Nation. It is all too tempting to accept exaggerated tales of the Soviet threat to justify a higher defense budget. But it is my belief that the evidence presented to both Houses of Congress is clearly credible and painfully sobering.

There is nothing hypothetical about the malignant character of the growth in the Soviet Union's military capability. The rates of Soviet production for aircraft, armor, ships, and missiles of all types far exceed those required to meet defensive requirements. The threat that faces us is real. We believe that H.R. 6030 is necessary if we are to avoid falling into a state of military inferiority with the Soviets and their surrogates.

COMMITTEE ACTION

A tremendous amount of effort went into the consideration of the legislation presented here today. I want to thank the members of the committee for their many hours of hard work.

I wish to express my appreciation to the ranking member of the committee, the gentleman from Alabama, Mr. DICKINSON, for his support and cooperation. Our committee has always considered defense to be a nonpartisan issue and with Mr. DICKINSON's support, we have maintained that tradition.

I want to thank particularly our subcommittee chairmen and ranking members for their dedication in holding the 105 hearings that were necessary to thoroughly consider the various and complex aspects of the request. H.R. 6030 was reported by a vote of 39 to 3.

An examination of the committee report, which has been available to the Members, will show that the committee changes are even more significant than the substantial net reductions indicate. Let me preview some of the major revisions.

PROCUREMENT

In the area of procurement, for example, the committee originally made reductions in over 55 programs, but it recommended additions to other programs. It should be understood that $1.2 billion in additions by the committee was specifically provided for strengthening the National Guard and Reserve Forces that the committee felt had been neglected in the budget priorities of the Pentagon.

The committee made the following changes in aircraft procurement:

Army aircraft: Added $67.6 million for the AH-1S Cobra/TOW Helicopter; added $11 million for 6 additional C-12D Huron utility aircraft; and deleted $85.6 million for procurement and $61.7 million in advance procurement for the UH-60A Black Hawk helicopter.

Navy aircraft: Added $178.2 million for procurement of 6 additional AV-8B Harriers, along with long lead funds for 12 more; approved $2.44 billion for procurement of 84 F-18's and $283.7 million for advance procurement for 96 more; and deleted $203.8 million for 18 SH-60B helicopters.

Air Force aircraft: Added $329.5 million for procurement of 20 additional F-16's, as well as long lead for 20 more; and deleted $217.4 million for procurement and $163.3 million for advanced procurement for the F-15.

However, some of these additions will be deleted in the Stratton amendment because of the necessity to bring the bill into conformity with the Budget Resolution.

B-1B BOMBER

The committee approved the request for $4 billion for procurement of the B-1B bomber. This program will eventually lead to the required replacement of our current force of B-52's and modernize the air breathing leg of our strategic triad.

C-5B AIRLIFT AIRCRAFT

A great deal of controversy surrounded the C-5B aircraft program, and the committee conducted special hearings to determine the airlift requirements of our combat forces. The committee believes that the airlift shortage must be alleviated as soon as practicable and recommends approval of $860 million for the initial procurement of a total buy of 50 C-5B airlift aircraft under a firm fixed price contract, composed of $700 million for procurement, $100 million for advance procurement for 10 aircraft, and $60 million for spare parts.

I can assure my colleagues that this issue will be thoroughly aired during this debate.

MX MISSILE

The committee approved $882 million requested for the initial procurement of MX missiles but deferred $282.2 million of the $564.4 million requested for MX interim basing. The committee also made decreases related to other MX program elements totaling $50.7 million.

The committee approved without change the $621.5 million requested for 440 air launched cruise missiles and the $490.3 million requested for 120 ground launched cruise missiles.

SHIPBUILDING

The committee approved the President's request for full funding of two nuclear-powered aircraft carriers. The committee believes these carriers are essential to maintain the existing force level of 13 carrier battle groups. By providing full funding now, the ships will be delivered nearly 2 years earlier at a cost savings of three-quarters of a billion dollars.

The following changes were recommended in the administration's budget request: $24.3 million for long lead procurement for an AGOS-SWATH ship was deleted, and $40 million was added to the request for FFG-7 class guided missile frigates with the stipulation that the funds are to be used solely for installation of an x-band phased array radar to improve the performance of the missile fire control system.

The committee approved without change the following ships requested by the President: $1.443 billion for two SSN-688 nuclear-powered attack submarines; $417.4 million for reactivation of the battleship *Iowa* and long lead for reactivation of the battleship *Missouri*; $322.6 million for four TAKRX fast logistic ship conversions; and $300 million for one TAHX hospital ship.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION (R.D.T. & E.)

The committee approved $22.5 billion for research, development, test and evaluation, a net reduction of $2 billion or 8 percent of the request.

The committee reduced by $150 million the administration's $2.75 billion request to support continued research, development, test and evaluation for the MX missile. The committee action in this regard recommends deletion of all authorization for the research of a continuous patrol aircraft launching mode for the MX missile. In a related decision, the committee recommended a $467.6 million reduction in the administration's ballistic missile defense systems technology program. This action came as a direct result of the administration's failure to select a basing mode for the MX missile and the committee's reluctance to accelerate a low-altitude defense system for a yet-to-be-defined basing mode.

The committee recommended reorientation of the high energy laser program, calling for the Department of Defense to shift program emphasis from long wavelength chemical lasers to short wavelength high energy laser development.

Other major actions include: The termination of the Army's $75.8 million helicopter improvement program (AHIP) due to rising program costs, and the addition of $117 million to continue the development and deployment of the 5-inch semiactive laser guided projectile together with the seafire electro-optical fire control system in support of the Marine amphibious assault mission.

The committee fully supported the Air Force request to continue a competitive approach, based on reliability and durability considerations, for future fighter engine procurement. The committee agreed to provide $119 million to develop improvements to the F-100 engine, the engine currently in use in the F-15 and F-16 aircraft, and $54 million for continued develop-

ment of the F-101 derivative fighter engine.

OPERATION AND MAINTENANCE (O. & M.)

In the O. & M. account, the area that has the most immediate effect on the readiness of the Armed Forces, the committe's recommended authorization provides for real growth of only about 3 percent. Although recommending a net reduction of approximately $1.5 billion (including the proposed amendment by Mr. DANIEL), the committee has made additions in key areas that have the most direct impact on readiness, such as additional steaming days for fleet training. Additionally, the committee recommended increased investment in priority readiness enhancements for the National Guard and Reserve which would expand available ground and tactical air forces.

The committee took the following actions: Recommended reductions of over $600 million to effect economies and efficiencies in a variety of O. & M. accounts; saved $33.5 million through a moratorium on contracting out; increased real property maintenance by $295.2 million; and added to quality-of-life programs by $70 million.

PERSONNEL

The committee's reductions regarding military personnel would effect savings of nearly $200 million. The committee reduced the Active Force end strength requested by 5,000 for the Navy and by 4,300 for the Air Force. The active strength recommended would remain, however, 30,500 above the fiscal year 1982 authorization.

Reserve strengths reflect the budget submission with one exception: the Coast Guard Selected Reserve was increased by 1,300 to 12,000.

Consistent with previous congressional action on quality controls for new enlistees, the committee continued for an additional year the requirement that the Army recruit a minimum of 65-percent high school graduates among male recruits in fiscal year 1983.

Language approved by the committee directs the Secretary of Defense to charge reasonable prevailing rates for meals in the Pentagon's executive messes based upon a survey of comparable eating facilities in the area.

The committee approved an increase of 14,560 to the administration's request for civilian personnel. This results from the addition of 17,000 personnel spaces previoulsy withdrawn from the administration's budget for functions programed for future conversion to contracting out. Because the budget includes funding for these 17,000 positions, whether performed by Federal civilian employees or by private contractors, this action involves no additional cost.

The committee made offsetting reductions in civilian strength: 1,440 for the Army and Navy, and 1,000 for Defense Agencies.

Reflecting growing concern that many functions presently performed by Federal employees are being converted to private contracts without adequate consideration or readiness and long-term cost implications, the committee recommended actions that have the effect of placing a 1-year moratorium on contracting out.

THE DEFENSE BUDGET

The authorization recommendation presented to you today continues the effort, begun in 1980, to provide real growth in the defense program after years of underfunding. The decline in real spending on our defense took place in a decade when our potential enemy was substantially increasing the size and capability of his forces and this ability to project power throughout the world. In most categories of defense hardware, we have a lesser number of systems than the Soviets. In capability, their systems, both strategic and conventional, are comparable with ours and, in some cases, superior. With regard to an area of extraordinary importance, the Secretary of Defense recently confirmed that the accuracy of Soviet intercontinental ballistic missiles now exceeds that of the U.S. missiles.

As we have told you in past years, only a sustained period of real growth in defense spending would provide the necessary enhancement of our forces to prevent a position of clear U.S. inferiority to the Soviets at the end of the present decade.

The Director of the Congressional Budget Office, Dr. Alice M. Rivlin, in testimony before our committee, noted that the planned annual real growth in defense spending requested for the next 5 years (approximately 7 percent) would neither boost the defense budget to an unprecedented level nor be necessarily inflationary. Even with the annual growth proposed by the administration's defense budget, defense spending as a percentage of the gross national product (GNP) would increase from slightly over 6 percent currently to a level of 7 percent in fiscal year 1987, Dr. Rivlin said. She noted that in every year from 1955 to 1962, defense spending exceeded 8 percent of GNP—and that was a period when we had clear military superiority over the Soviets.

In other words, defense spending will not have an inflationary impact on the economy. Dr. Rivlin emphasized that defense spending at this authorization level would not be inflationary in and of itself due to the sizable margin of idle capacity in the economy, in general, and in the defense industry, in particular.

SUMMARY

Mr. Chairman, this bill is broad in scope, is complex and, together with its accompanying appropriation, will ultimately lead to large expenditures. It is, however, a piece of legislation that must be passed if we are to continue to provide for a strong national defense. I believe H.R. 6030 represents a well-tuned balance between needs and resources, and I ask the House to support the bill.

□ 1430

The CHAIRMAN. The gentleman from Illinois (Mr. PRICE) has consumed 5 minutes.

Mr. DICKINSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is no question about it: These are extraordinary times and they require extraordinary measures. In the fiscal year 1983 Department of Defense authorization bill before the House today, the Armed Services Committee has attempted to meet the dual challenge of protecting our national defense interests while conforming to the cuts in Defense spending mandated by the budget resolution.

This bill will continue the process of strengthening our defense forces begun last year. The bill is large—as reported it provides authorization of $180.3 billion, $3.2 billion below the President's request of $183.5 billion. The total is significantly larger than last year because we are recommending long overdue modernization and readiness programs and because, for the first time, the committee is recommending authorization of appropriations for the categories of ammunition and other procurement.

As the chairman previously indicated, as a result of the passage of the first concurrent budget resolution for fiscal year 1983, we will recommend additional reductions in the authorization provided in H.R. 6030 to achieve a level consistent with that resolution. These reductions will be accomplished through amendments that will be offered by the subcommittee chairmen. This subsequent modification has been developed and agreed to by the subcommittee chairmen and the ranking Republican members of our subcommittees.

When these conforming amendments are adopted, the bill will provide the following authorization levels by major category:

Procurement: $86.7 billion, $2.9 billion below the amount requested by the President;

Research, development, test and evaluation: $22.3 billion, $2 billion below the amount requested;

Operation and maintenance (O. & M.): $67.9 billion, $1.5 billion below the amount requested; and

Civil defense: $252.3 million, the amount requested by the administration. Notwithstanding our concerns about the budget and the magnitude

of the deficit facing us, we must not lose sight of the dimensions of the threat to the security of the United States and the remainder of the free world posed by the Soviet Union and its satellites and surrogates around the globe. To finance their growing adventurism, the Soviets are devoting massive resources to the task, allocating an average of 12-14 percent of their gross national product to the military, more than twice the allocation of the United States. Further, in recent years we have dramatically reduced the portion of the Federal budget devoted to defense.

In my view, we have responded poorly to the Soviet military buildup. To cite just one illustration, by the late 1970's we had cut our strategic spending—in constant dollars—to one-third the level maintained for many years prior to the early 1960's. By contrast, the Soviets have tripled their strategic spending since the early 1960's.

I would urge my colleagues to keep in mind that we still have the 25-year-old B-52 in service. We have not fielded a new ICBM in 10 years. Our Navy, until recently, has continued to decline in the number of ships deployed and the equipment in our army is badly in need of modernization.

Before I discuss the particulars of the bill, let me say a few words about our concern over the Guard and Reserve Forces. Again this year the administration underfunded the modernization and readiness improvements of these forces. Under the total force policy enunciated in 1970, the Guard and Reserve are integrated into the combat operations of the Active Forces and, in fact, represent a significant portion of U.S. combat forces. As such, they must be properly equipped and trained. Consequently, the committee recommends significant additions for the Guard and Reserve.

I now want to detail some of the specifics of the bill. Let me start with research and development where we have reordered a number of priorities and have recommended reductions of nearly $2 billion to the $24 billion request.

In helicopter development programs that spanned the Army, Navy, and Marine Corps, we recommended reducions totaling $87 million. In reviewing these services' plans for rotary wing development, we found that a comprehensive departmentwide plan does not exist. The developments are bogged down in a morass of conflicting requirements and possibly duplicative efforts. Until a coherent plan is constructed by the Department of Defense, we will continue to oppose these systems.

In the laser development area, we recommend redirection of the long wave efforts to emphasize short wavelength laser technology and techniques. The committee strongly feels that optical pointing and tracking development should continue. To this end, we deleted $121 million from existing programs and added $52 million for the new direction.

Because of the urgent need for accurate naval gunfire, articulated by the present and former Commandants of the Marine Corps, the committee recommended additional authorization of $117 million for the joint Army/Navy laser guided projectile program and the seafire fire control system. Previously, the Congress has specified in Public Law 95-79 that the guided projectile be deployed by January 1980. However, the Navy, without notifying the Congress, terminated the program in December 1981. The committee recommends a general reduction of $117 million to the fiscal year 1983 Navy R. & D. request to accommodate the guided projectile and seafire programs.

There are some other features of this bill that deserve special attention. As you recall, last year we included a provision in our bill to permit authorization for multiyear procurement. We were—and remain—convinced that multiyear procurement, if properly focused, can offer significant savings in weapons acquisition. The Department of Defense requested multiyear procurement for the UH-60 helicopter and the F-16 fighter. We approved those requests. However, there were other multiyear procurement requests—primarily Navy—that were supported by too little documentation or that yielded insignificant savings. We refused those requests. We will continue to encourage service use of multiyear procurement but only when it makes sense.

With respect to some of the major programs, we authorized $4 billion for procurement of the first increment of seven B-1B aircraft to replace the aging B-51 fleet—the airbreathing leg of our strategic forces. These funds support the second year of production of the B-1B.

The committee recommends deletion of $333 million of the Department's procurement request of $1.497 billion for the MX missile system. This action would defer procurement of spares and defer some work related solely to the temporary basing of the MX in silos but would permit work that is common to both interim and long-term basing modes to proceed.

The committee strongly supports continuation of the research and development of the MX missile and recommends authorization of $2.6 billion for this purpose—a reduction of $150 million. There is no doubt in our minds that our land-based missile forces must be modernized by the MX system with a survivable basing mode. The MX will offer increased accuracy, greater hard target kill capability, and effective deterrence against the Soviet ICBM's that are now capable of destroying our minuteman missiles in a first attack.

To improve our airlift capability, we recommend authorization of $860 million for procurement of the new C-5 aircaft. We are convinced that the C-5, now a mature and proven design, offers the capability and capacity that our forces require.

Overall, in procurement, the recommendation, with the reductions proposed by Mr. STRATTON and Mrs. HOLT, and Mr. BENNETT and Mr. SPENCE, is $2.9 billion less than the President's request of $89.6 billion.

Because of concerns over the readiness of our forces, we recommend actions that have the effect of placing a 1-year moratorium on contracting out various functions in the Department of Defense. In addition, we added $2 million to the request for additional efforts directed toward controlling the illegal flow of military-related technology to the Eastern bloc countries. This is an extremely important effort as some of the news accounts have recently detailed.

These are highlights of this bill. It is complex and deserves thorough discussion and debate.

The bipartisan leadership of the committee has, as the chairman and I have previously indicated, agreed to offer further reductions to this bill as originally reported in April in order to conform the overall levels of authorization to the defense function totals in the budget resolution. The reductions were arrived at through joint consultation and by taking into account relative priorities among the authorization categories. This was not an easy task because we strongly believe that the authorizations recommended in the reported bill are the minimally acceptable levels needed in order to insure a return to an adequate defense capability within an acceptable time and using resources efficiently. But the budget resolution has established a lower target, and the proposed amendments would make H.R. 6030 consistent with that target.

The committee has acted responsibly and, in its best judgment after hundreds of hours of hearings, has set priorities for the allocation of scarce defense resources—tailoring those priorities to the will of the Congress as incorporated in the budget resolution. I would urge my colleagues to resist further cuts to H.R. 6030. The Soviet threat is real and everpresent: The stakes in the decisions we make this week are high.

British Air Marshall Sir John Slessor put it succinctly: "It is customary in democratic countries to deplore expenditure on armaments as conflicting with the requirements of social service. There is a tendency to forget that the most important social service a

government can do for its people is to keep them alive and free."

So in summary, Mr. Chairman, let me say that we already cut about $3 billion in anticipation of the budget. Following that, we went back, after the budget resolution was passed, we went back to committee, and the various subcommittees, and we made an additional cut of approximately $3 billion. This puts us more than $6 billion under the original request.

We have conformed to the will of the House. We have done so surgically, not with a meat-ax approach. We have done it in consultation with the Department of Defense.

We made the cuts where we felt we could best afford to make them with the least harm to our Defense establishment. We have done the will of the House. We reduced according to what the House said the budget should be and, as painful as it was to some of us in certain areas, we did so in good faith. Having done so, we would ask our colleagues in the House to accept the cuts that we have made and then join with us in resisting any further cuts to the bill because we think it is too low already.

With that, Mr. Chairman, I would ask all of my colleagues to get behind the members of this committee and to do what we feel the President and the people of this country want, to come forth with a good, solid defense budget which is in the best interests of the people of this country.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Alabama (Mr. DICKINSON) has consumed 13 minutes.

Mr. PRICE. Mr. Chairman, I yield 10 minutes to the gentleman from Florida (Mr. BENNETT).

□ 1445

Mr. BENNETT. Mr. Chairman, as Mr. PRICE indicated in his statement I will offer an amendment to reduce the authorization for the Navy shipbuilding program by $699 million. I am offering an amendment to make a reduction because the budget resolution adopted by the House mandates a reduction of nearly $10 billion in defense. The contents of the amendment represents the judgment of the members of the Seapower Subcommittee as to the best way to make a reduction. I will explain the amendment more fully when it is offered. For now let me just say that it will reduce the authorization for the Trident submarine program from the two submarines requested by the President and contained in the bill as reported by the committee to one.

In the remaining portion of my statement I will be describing the shipbuilding program authorized by H.R. 6030, assuming that the amendment is adopted.

The shipbuilding program recommended for fiscal year 1983 includes 17 new construction vessels, the reactivation of one battleship, a service life extension of one aircraft carrier, acquisition and conversion of one hospital ship and conversion of four fast logistic ships. In all, the recommendation is for a total of 24 ships and an authorization of $18,228.4 million. The recommendation is more than twice the authorization enacted last year, $8,795.9 million, and represents a decrease of $419.9 million from the President's budget request for fiscal year 1983.

The Congress, in Public Law 97-114—Department of Defense Appropriation Act, 1982—endorsed a larger and stronger Navy and established a goal of a fleet of about 600 ships by the end of the century. The committee recommendation represents the minimum level of shipbuilding necessary to attain that goal.

I want to remind my colleagues why we need to expand the Navy. Today the Navy cannot meet all of the demands placed upon it. U.S. interests in the Atlantic, Pacific, Mediterranean, and more recently the Indian Ocean, have dictated the deployment of naval forces in each of these areas. When the normal cycle of operations are taken into account, during peacetime only about one third of the fleet will be deployed at any time. This cycle of operation is driven by the necessity of providing an opportunity for major maintenance and repair of ships, the subsequent need for training after a shipyard period, and perhaps most critical of all, the requirement for crew leave and rest. In this regard it is significant to note that we are demanding much more of our Navy men and women. They are spending more time deployed now than at the peak of the Vietnam war. In the short run we have compensated for the lack of ships by using those that we have more intensively. But even with this expedient, we have not been able to maintain our desired deployment of two carrier battle groups in the Mediterranean, two carrier battle groups in the Western Pacific and one to two carrier battle groups in the Indian Ocean.

If the United States were to become involved in armed conflict in the near future, naval forces would almost certainly be even more severely strained.

The United States is a maritime nation—we are dependent upon the free use of the seas to carry the oil and minerals we need to fuel our economy and our factories and to maintain trade with our friends and allies around the world. Perhaps the best example of our dependence upon the free use of the oceans is for the transport of oil—oil from the Middle East, but also oil from the North Slope of Alaska. In recent months the United States has been importing about one-third of its oil, or about 5 million barrels out of our daily consumption of 15 million barrels. We are still a long way from being self-sufficient in oil and will continue to depend upon imports—carried to the United States in ships—to make up the difference. In the event of war, the supply of oil would become even more critical. Today, peacetime consumption of petroleum by the military is estimated to be 2 to 3 percent of total domestic use. By way of example, during WW II military consumption was just under 2 percent in 1941, just prior to U.S. entry into the war, and grew to 33 percent by 1945. All during WW II the United States was a net exporter of oil. As a result, this rapid growth of military consumption could be accommodated through conservation, rationing, and increased domestic production. It is unlikely that these means would be sufficient in the future if we are cutoff from foreign sources of supply.

There are numerous other nonfuel minerals for which we are critically dependent upon foreign sources of supply. Included in this category are cobalt, titanium, chromium, platinum group metals, and about 20 other materials for which the United States is more than 50 percent dependent upon imports. The principal source—in some cases the only source—for these minerals is Africa. Without these materials we would not be able to build many military items. For example, the turbine section of a modern military jet engine like the F100 engine used in the F-15 and F-16 uses more than 900 pounds of cobalt. But some of these materials are also used as catalysts to increase the usable product available from our oil refineries, and without these, supplies of petroleum products would be even more critical.

The Navy has described the composition of the "600-ship Navy" as including 15 aircraft carriers and 4 battleships as the principal battle group vessels; 137 battle group escorts, including Aegis cruisers, DD-963 class destroyers, nuclear-powered cruisers, and a yet-to-be-built class of guided missile destroyers (DDG-51); 101 frigates for protection and escort of cargo vessels and amphibious forces; 100 nuclear-powered attack submarines; 75 amphibious ships capable of landing a 1½ division Marine force over an unprepared beach; 31 mine warfare ships to keep harbors and sea lanes clear of mines and permit vital cargo to move; and 129 support and replenishment ships to allow the Navy to operate around the world. In addition, the Navy will include nuclear-powered submarines carrying Poseidon or Trident ballistic missiles as a part of the triad of strategic forces.

A recent study conducted by the Congressional Budget Office, "Building a 600-Ship Navy: Costs, Timing

and Alternative Approaches," found that attainment of the Navy's force goals by the mid-1990's—a fleet of about 600 ships with the types of ships described by the Navy as being necessary to fulfill the missions assigned to it—would require shipbuilding budgets averaging about $21 billion per year (in constant 1983 dollars) for each of the next 10 years. Lower shipbuilding budgets would, of course, delay the attainment of the Navy force goals. The fiscal year 1983 shipbuilding authorization recommended by the committee represents the minimum effort necessary at this time to begin moving toward a building rate to achieve the Navy goal of about 600 ships. Authorizations of this size, if continued in the upcoming years, could permit the attainment of Navy force goals by the end of the century.

During hearings on the fiscal year 1983 defense authorization bill, the committee received testimony that the Navy could grow to a size of 600 ships by 1990. However, this force would fall short of Navy force objectives in a number of regards. For example, it would not include 15 large deck carriers, it would not include sufficient numbers of fully capable escort ships and it would be short of the amphibious and support ships necessary to carry 1½ marine divisions.

For more than a decade U.S. naval forces have declined. The shipbuilding program recommended by the committee is a step in an ongoing effort to rebuild a Navy second to none.

The recommended new construction program includes two nuclear-powered aircraft carriers to replace the last two World War II vintage aircraft carriers still operating as frontline battle group forces. The *Midway* and *Coral Sea* will reach what is usually considered to be end of service life, about 45 years, by the end of the decade. Accordingly, both the carriers in the 1983 shipbuilding program are necessary to maintain the 13 existing carrier battle groups. Authorization of two carriers this year will not significantly increase outlays, as compared to a more conventional funding plan, and offers the potential of significant cost savings—estimated to be in the range of three-quarters of a billion dollars.

The authorization for the Trident ballistic missile carrying submarine will be reduced to one submarine assuming that the amendment I will offer is adopted. Authorization of this submarine is consistent with the substantial progress made by the Navy and Electric Boat in the past year. A Navy force of 41 ballistic missile submarines was deployed between 1960 and 1967. Early models of these boats have been retired or are no longer carrying ballistic missiles and all 41 submarines will have reached the end of their service life in the 1990's. A continuing Trident submarine construction program is essential to permit an orderly program for the replacement of existing submarines.

While long range force goals would require a minimum construction program of three SSN-688 nuclear-powered attack submarines each year, fiscal constraints resulted in authorization of construction of only two SSN-688 submarines and long lead funds for the construction of three submarines next year.

The committee recommended approval of three Aegis cruisers. These ships will significantly add to the offensive strike capability of the carrier battle groups with which they will operate and provide the battle group with protection from missile and aircraft attack.

As part of the continuing program to improve the equipment available to the reserve components, the Navy has announced that it plans to transfer 12 FFG-7 class guided missile frigates to the Reserves. As a result, additional construction of these vessels will be required to maintain desired force levels. The committee has recommended that two frigates, with an improved combat system, be included in the fiscal year 1983 shipbuilding program.

The committee has also recommended authorization of one landing ship dock (LSD-41) and long lead funds for a new class of air capable amphibious ships (LHD-1) for the Navy's amphibious forces. These ships represent another step toward increasing the Navy's amphibious capabilities to be able to carry three marine amphibious brigades.

The committee also recommends construction of four mine countermeasures ships, the second of a new class of fleet oilers, and an oceangoing salvage ship.

In summary, let me just reiterate that a strong Navy is essential for the maintenance of the national security of the United States. It is essential to protect U.S. interests around the world, but perhaps more important, it is necessary to maintain a viable and productive economy at home.

Mr. DICKINSON. Mr. Chairman, I yield 10 minutes to the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Chairman, I would like to elaborate on what Chairman BENNETT has just said.

As the ranking minority member of the Subcommittee on Seapower, I feel an obligation to focus your attention on the vital importance of a sustained momentum in the U.S. Navy shipbuilding program.

In December 1979, following the invasion of Afghanistan, the strategic and tactical importance of U.S. naval forces captured the national interest. Two aircraft carrier task forces were ordered to the Indian Ocean. There was a shift of U.S. naval forces worldwide. A sense of anxiety existed in the Congress concerning military options available to the United States. Inevitably—as would be expected of a great maritime power—the initial course of action primarily involved U.S. naval forces and maritime pre-positioning of ships. Congressional approval of the fiscal year 1981 shipbuilding budget passed with near unanimity.

The fiscal year 1981 House Armed Services Committee report on defense authorization contained these words:

> Events of recent months serve to dramatize the plight of U.S. naval forces. The Navy is struggling with the task of doing too much with too little. Tours are overextended. Sea areas of the world vital to U.S. interests go unprotected. The mix of ships is unbalanced. There are not enough high mix ships such as aircraft carriers, cruisers and submarines. It is a simple mathematical exercise to observe that force levels of carriers, cruisers, destroyers, and amphibious, mine warfare and auxiliary ships start downward trends in the 1980's, and to observe that the proposed shipbuilding budgets are not sufficient to reverse this downhill slide. A steady, progressive naval shipbuilding program must be undertaken to safeguard U.S. naval capabilities. A surge shipbuilding program to make up deficits is simply not affordable in peacetime.

A positive trend developed in the fiscal year 1982 shipbuilding program. The House Armed Services Committee report contained words of cautious optimism:

> For a number of years the Committee on Armed Services has warned that the shipbuilding program has been inadequate to meet the long term needs of the Navy and that the rate of ship construction has to be increased if the Navy is going to have sufficient numbers of combat and support ships to meet its worldwide commitments. The committee, therefore, is pleased to endorse the trend evident in the shipbuilding request for fiscal year 1982, and the committee believes that it can be the beginning of a program to provide the number and type of ships required in the future. The committee would note that the events of the recent past have only served to emphasize the worldwide responsibilities of U.S. Naval power and that the present direction of U.S. foreign policy would indicate that the Navy must be prepared to operate in three oceans for the foreseeable future.

In December of last year, the Congress approved the sense-of-the-Congress amendment in section 782 of the 1982 Defense Appropriation Act. In addition to enunciating the distinctly flexible roles and missions of the Navy, the amendment states that—

> In order to conduct the numerous and growing missions of the modern American Navy, a goal of naval inventory of approximately 600 active ships of various types by the end of the century at the latest, is highly desirable . . .

The Chief of Naval Operations, Admiral Hayward, described the amendment as—

> One of the most encouraging things that I can recall in the past 3 years.

In testimony before the House Armed Services Committee, the Secre-

tary of the Navy dramatically observed that the Soviet Union today possesses the world's largest modern navy as measured by total ships. He noted the shifting naval balance; the fact that the Soviet Union had the momentum in naval shipbuilding, outproducing the United States 2 to 1 in major combatants, 5 to 1 in submarines, and 29 to 1 in other naval construction.

In the 14 years prior to the first Trident submarine launch in November 1981, the Soviet Navy placed, in service, 70 ballistic missile submarines. We built 1 and they built 70 new SSBN's in 14 years.

The clamor to cut defense spending seems to ignore the reason why the majority of the American people voted to increase our military posture. What has changed in a year's time to decrease the threat?

The growth of Soviet naval warfighting capabilities has been enormous.

The Soviets will soon launch a fourth aircraft carrier. There is strong evidence to indicate that the Soviets have begun construction of a nuclear-powered, 50,000 to 70,000 ton aircraft carrier, catapult equipped to launch high performance aircraft.

The Soviets now have two *Kirov* class, nuclear-powered cruisers, and more are likely to follow. These 28,000-ton warships, the largest nonaviation warship built by any nation since World War II, are literally bristling with weapons.

The Soviets are also building another new guided missile cruiser called Black-Com I. This ship is about 12,000 tons, half the size of the *Kirov* yet larger than any cruiser being built for the U.S. Navy.

The Soviets continue to increase their naval inventory with two new destroyer-class ships; the *Sovremennyy* and *Udaloy* guided missile destroyers.

The Soviet submarine fleet has expanded at a rapid rate. The 25,000 ton *Typhoon*, a new nuclear-powered ballistic missile submarine, larger than the U.S. Trident submarine, completed sea trials in 1981. The *Oscar* class, a specially designed cruise missile submarine, carries 24 long-range SSN-19 cruise missiles, capable of hitting targets more than 240 nautical miles away. The United States does not have a submarine dedicated to cruise missile operations such as the *Oscar*.

Last year the Soviets added another *Alfa* class, high speed, deep-diving titanium hulled, nuclear-powered attack submarine to those already operational in the northern fleet—faster and deeper.

The preponderance of Soviet shipbuilding is toward large-size surface combatants and large, extremely versatile nuclear-powered submarines. Ships such as these have enormous firepower and builtin survivability and sustainability for far-reaching, blue ocean operations. We ignore this potential threat to our freedom of the seas at our own peril.

Secretary Lehman states clearly what is needed for international stability: the United States must reacquire a clear maritime superiority. He said:

> We must be capable—and be seen as capable—of keeping our access secure to areas of our vital interest.

He further stated that—

> This is not a debatable strategy. It is a national objective—a security imperative.

Like hand and glove, the need to strengthen U.S. naval forces is inextricably related to the availability of strategic materials vital to the U.S. economy. You should be aware, that today the United States is almost entirely dependent on overseas procurement for most of at least 20 strategic materials. For example, we are 90 percent import dependent on chromium needed for jet engines, gun barrels, and petroleum refining equipment; 90 percent import dependent on cobalt needed for turbines, high strength alloys, and ammunition cores; 100 percent import dependent on columbium needed for rockets and missiles, capacitors, and transistor circuits. These are but a few examples of minerals essential to our defense industry.

Some journals reporting on strategic materials have observed that the United States and the U.S.S.R. are on a collision course over access to critical materials because the U.S.S.R. has begun importing strategic materials from the same source of supply traditionally used by the West. The notion that the U.S.S.R. is practically self-sufficient in mineral resources is said to be not factual. If this be the case, building a Navy capable of safeguarding our access to strategic resources takes on even greater significance.

So as we focus the debate on the fiscal year 1983 shipbuilding budget request, we must not lose sight of the ultimate objective to assure naval superiority. We must stand firm on that.

The innovations in the shipbuilding plan for the next 5 years are a reversal of the negative trends of the past. We are being asked to place high value ships up front—to fund the nucleus of battle-group ships: the carriers and cruisers. In the past we were always promised these essential ships for the future, and the promises hardly ever materialized.

The current Navy 5-year plan for 133 new construction ships and 16 ships proposed for conversion, reactivation, or service life extension, is structured to save approximately $9 billion associated with economies of construction and managerial efficiencies.

For example, multiship carrier procurement is estimated to save about $750 million through reduced escalation costs, economic quantity orders for material, reduced duplication of startup and setup costs, and improved manpower utilization and productivity. Each ship is planned to be delivered 22 months sooner than if it were procured separately.

As a practical matter, there is no alternative to building sophisticated, robust, survivable, combat-worthy, major surface fleet combatants to endure the hostile environment of the high seas. Such first-rate combatant ships are expensive. However, the expense is relatively cheap in comparison to the immeasurable cost of defeat rather than victory. Surely, among the many lessons to be learned from the Falkland Islands is one that supports the proposition that first-rate combatant ships and their weapons systems are relatively cheap compared to the high costs of defeat in combat.

In a purely economic sense, shipbuilding is good for the economy.

Lest the bonus effect of shipbuilding dollars may have escaped the notice of some Members, let me give you an example of how aircraft carrier dollars are spread throughout the economy, nationwide.

Even though the carriers are built in Newport News, Va., the regional distribution of procurement dollars is rather well-distributed geographically throughout the United States. For example, approximately 35 percent of new carrier subcontracted material outlays goes to the Northeast, about 31 percent to the North Central States, about 22 percent to the South and about 12 percent to the Far West.

Furthermore, it is estimated that each dollar that goes into the shipbuilding industry has a multiplier effect of generating at least an additional dollar throughout the private sector. The Department of Defense economic impact model system for fiscal year 1983 shows that the shipbuilding and conversion, Navy (SCN) and operation and maintenance, Navy (O. & M.N.) accounts have projected investment at about $5.5 billion which, with industrial multipliers applied, is expected to generate an additional $5.6 billion in the private sector in 1 year. This money goes to supporting shipbuilding industries such as mining, steel mills, and foundries; to shipbuilding-supporting products such as fabricated metals and alloys, pipes and valves, and semiconductors; to shipbuilding-required equipments such as engines, motors, fans, and pumps; to associated shipbuilding oil and energy requirements such as petroleum, natural gas, and electricity; and to shipbuilding-supporting services such as freight, transportation, communications, and associated local businesses.

Last fiscal year, for example, the Navy exceeded its small business and small disadvantaged business goals by a significant margin. Over $4.1 billion

in goods and services were procured from small business enterprises. The Navy exceeded its small business procurement goals by about 110 percent and the small business set-aside goals by over 50 percent.

So clearly, from the standpoint of economics, the dollars spent on Navy shipbuilding has positive effects on the economy.

In closing I am reminded of a statement made by Secretary of the Navy John Lehman in reply to a question asked by a member of the Armed Services Committee. The question essentially was, "If you had to cut naval shipbuilding, what would your priorities be?" Secretary Lehman essentially answered, "I cannot answer that question unless you tell me which of its 40 treaty commitments the United States wishes to abrogate."

I think that sums up the reality of the responsibility that has been given to the U.S. Navy and American seapower. Either we meet our seapower commitments to the free world or we shall surely pay the penalty of our shortsightedness.

□ 1500

Mr. Chairman, I would like to say in closing that we are really just beginning on a path we should have embarked on many years ago. We have let the size of our Navy fall in numbers to unacceptable limits. We have to start and we have to start now on the long path back to naval superiority in this world if we are to continue as a free nation and survive in a very hostile world.

Mr. PRICE. Mr. Chairman, I yield 9 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, less than a year ago, there was a consensus througout the land that America's defenses had been allowed, by a succession of administrations and Congresses, to atrophy to the danger point. The Reagan administration and this Congress were given a mandate by the American people to revitalize our national defenses—to redress the military balance between us and those who would do us harm. And for a brief period last year, defense was the in thing. Television and print journalists assaulted us day and night with horror stories about the deterioration of our military might. Journalists never before known for their prodefense sentiments suddenly revealed themselves as closet hawks and vied for the honor of exposing the most shocking example of military dry rot.

Then, as suddenly as it began, defense ceased to be a pop-cult phenomenon. The neohawks of the summer of 1981 retreated to their closets and cloakrooms. The popcultists went on to a new fad. And the media rediscovered the joys of ridiculing military modernization efforts and deprecating the threat. The doctors who diagnosed all manner of ills in our defense establishment a scant year ago now pronounce the patient not only recovered from starvation, but suffering from obesity.

All of this inconstancy, this search for scapegoats for economic problems, this rising mood of political panic could be reviewed with amusement by a dispassionate observer except for one thing. The Soviet Union keeps building its war machine at a steady, deliberate relentless pace while our political pendulum swings.

It is not scare tactics to point out that our clear-cut advantage over the Soviet Union in strategic and theater nucelar capabilities is gone and the balance is tilting now against us significantly. It is not scare tactics to point out that the Soviet advantage in conventional forces has widened even as they moved to catch up and pass us in strategic capabilities. Nor is it scare tactics to note the emergence of a global Soviet Navy capable of challenging us on the high seas. These are just plain facts.

And these facts exist independently of the whims of the Congress. The threat is no less severe because we are in an economic recession. The Soviets do not reduce their tank production when our unemployment rises. They do not build fewer SS-20's if our interest rates go up. And they do not threaten to withdraw their forward-deployed forces in Eastern Europe because their allies are not contributing as much as the Soviets want to the military capabilities of the Warsaw Pact.

The Soviet Union is a patient adversary with a long range view and the will to persist. We must recognize that, accept it, and tailor our response accordingly.

It is being said that defense programs are being funded at the expense of social programs in this budget. Personally, I think such a conclusion comes from a very selective and short-term interpretation of the facts. It is true that over the last 2 years defense spending has grown more rapidly than other sectors of the Federal budget. But the picture changes dramatically if one takes a longer view. Twenty years ago defense spending represented 45 percent of all Federal expenditures. Ten years ago, it was 30 percent. Today it is 29 percent and the picture changes even more dramatically when you recognize that defense is purely a Federal function. Social programs are not. Taking into account all public spending: 20 years ago defense's share was 30 percent; today it is 19 percent.

Clearly, we have a budget crisis on our hands this year. And it is going to take all our imagination and energy to solve the problem. but I do not believe we can do that responsibly in an atmosphere of emotionalism, snap judgments, and simplistic analyses.

The Committee on Armed Services was mindful of budget pressures as it conducted its review of the fiscal year 1983 defense request, and I think there was great sensitivity to the need to cut out the "nice to haves"; to terminate the marginal programs, to defer ambitious expansion programs of questionable affordability over the long run; and, in general, to subject the budget to much tougher scrutiny than the committee has done in the past.

But the committee was also mindful of its responsibility to balance these short-term fiscal objectives against long-term national security imperatives—and to take into account the cumulative impact of a decade of benign or not so benign neglect.

In procurement, the investment area of the budget, it was tempting to take a short-term view; to look at the $89.6 billion request—a $24 billion increase over fiscal year 1982—and to argue that some lesser rate of real growth would suffice. And such an argument would have been credible had we been paying our bills all along. But throughout the decade of the 1970's there was, in fact, a real decrease in the investment accounts of the defense budget. Had we been providing even a modest 3-percent annual real growth in defense procurement during the period when housing and energy and social program costs were tripling, we would have been spending, on the average, $8 billion more per year on the modernization of our Armed Forces. Unfortunately, for over a decade, we took on new obligations while defaulting on our most important obligation.

Is it any wonder, then, that the bill is now coming due with interest?

Mr. BENNETT has already spoken in defense of the naval shipbuilding program which comprises $18.9 billion of the $89.4 billion procurement recommendation proposed by the committee. That program represents nearly half of the increase over last year and, as he so eloquently pointed out, it reverses a decade-long trend which has placed the Nation's security interests around the globe in peril.

Of the $89.6 billion request, $67.5 billion fell within the jurisdiction of the Procurement Subcommittee which I have the honor to chair. The subcommittee held exhaustive hearings which were supplemented by full committee hearings and intelligence briefings. H.R. 6030 reflects an unusual degree of committee changes. Altogether, the bill as reported recommends reductions in 56 procurement programs totaling $2.359 billion and additions to 40 programs totaling $2.227 billion—a net reduction of

$132.4 million to the overall procurement request of the administration.

Subsequent to committee action on H.R. 6030, the Congress adopted the first concurrent budget resolution calling for a reduction of almost $10 billion in the defense function. Tomorrow, I and other subcommittee chairmen and the ranking minority members will offer a series of bipartisan amendments to reduce H.R. 6030 by $3.2 billion in order to bring this legislation into conformity with the budget resolution.

Among the more controversial issues the committee dealt with was the MX missile program. We believe that support of this program is consistent with the best interests of U.S. national security and that any further delay in the MX program would send the wrong signal to the Soviet Union and to the rest of the world about our commitment to the rebuilding of our defensive capabilities. However, the committee recommends reductions of $282.2 million in the funds requested for interim basing work and $50.7 million in missile spares. This recommendation would authorize $1,141.9 million for procurement of the missile and reentry vehicle, and for work common to any interim basing mode.

One of the major initiatives originally recommended by the committee is a $1.2 billion package for modernization of our National Guard and Reserve Forces. Under the total force concept, the Guard and Reserve no longer play a backup role. These units are an integral part of our military force almost from day one and they must be equipped to perform the missions assigned them. Unfortunately they are not. The committee found that too many of these units are still equipped with hand-me-down, Korean War vintage equipment that preclude their being an effective force. The package originally recommended by the committee starts the Guard and Reserve forces down the long road to readiness. Unfortunately, some elements of this package will have to be deleted in my amendment tomorrow.

Mr. Chairman, in closing, let me say one final word, a word about cost. I think we are all staggered by the cost of modern weapons systems and our basic instinct is to conclude that somebody is ripping off the Government and the taxpayers. And that instinct is fired every time we read an article about cost overruns in defense programs. No one is harder on Defense Department witnesses and contractors than I am during the hearings. But I do think there is a modicum of demagoguery in some of our public indictments of the defense industry. To begin with, only the Defense Department makes program estimates 8 to 10 years in advance and then hears the realities of inflation, changes in the program scope, labor negotiations, and social legislation describes as cost overruns. The average social security check has tripled over the last decade, medicare cost projections from the early 1970's are now recognized as naive but no one describes these realities as cost overruns. Housing costs have tripled over the decade, the auto industry has apparently priced itself out of the markets and interest rates have soared almost beyond belief. But no one accuses the home builders, the auto industry or the bankers of being ripoff artists. Why then do we single out defense contractors for such unfair judgments?

The fact is that modern weapons are expensive but they are not disproportionately so. And they are not goldplated. Technology is not a luxury on the battlefield; it is a necessity when you have to fight outnumbered and win. So we must pay the overdue bill. The committee has done its best to delete the least urgent items in the request, and to correct the most serious of the omissions. I think the bill is worthy of the support of the House and I urge its adoption.

□ 1510

Mr. WHITEHURST. Mr. Chairman, I yield 5 minutes to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Chairman, I would first like to extend my appreciation to our chairman (Mr. PRICE) and the ranking minority member (Mr. DICKINSON) for their excellent leadership in preparing this bill, H.R. 6030.

The chairman of the Subcommittee on Procurement and Military Nuclear Systems (Mr. STRATTON) also deserves special recognition for guiding the efforts of the subcommittee in addressing and resolving many difficult procurement issues. I would like to thank our staff. They work long and hard to research the very complex issues involved in defense.

Mr. Chairman, I generally tend to describe myself as an optimist, but frankly it is very difficult to be optimistic as one examines the political and military unrest which threatens to virtually engulf the world. I certainly do not have to tell you about the direct Soviet aggression in Afghanistan, about aggression by Soviet proxies in Africa, about the communistic repression of the courageous Polish people, about the conflict in the Middle East, or about the communistic inspired political and military unrest in Central America.

I am sure my colleagues would agree that these are clearly times that test the will of our great Nation and the commitment of this august body to maintain peace through strength.

As you know, I have always been a staunch supporter of a strong national defense policy. The current chaotic and dangerous conditions have caused me to strengthen my resolve even more. If this country is to deter potential adversaries from engaging in actions which, by their very nature, could threaten our security, and freedom, we must in my judgment have an unshakable commitment to maintaining a military defense posture which is second to none. Today, unfortunately it is questionable whether we have maintained such a defense posture.

In past years we have discussed the qualitative advantages the United States has enjoyed over the Soviets because our weapons were more sophisticated and accurate and, thus, could outperform comparable Soviet weapon systems. Today, however, indications are that the Soviets are closing the technology gap and are currently producing strategic and tactical weapons which are in many cases comparable in accuracy to those produced by the United States. Additionally, the Soviets continue to produce more weapon systems than the United States and, thus, the quantitative gap continues to widen. For example, during last year alone, the Warsaw Pact added approximately 2,000 main battle tanks—T64/T72—to its inventory while the Allied Command Europe fielded fewer than one-third that number.

We are clearly slipping behind and must run just that much harder to stay even. I believe that the bill before you—H.R. 6030—is a major step in that direction.

As was mentioned by the chairman, Mr. PRICE, H.R. 6030 contains recommendations which reflect a better than $3 billion reduction to the Defense Department's fiscal year 1983 budget request. Further, in order to comply with the Budget Act, the committee has identified additional reductions to be offered as amendments to this bill—H.R. 6030. One should, however, not be deceived by these reductions, and erroneously interpret them as an indication of the committee's lack of commitment to improving our national defense. I would suggest, rather, that the bill reflects the results of a comprehensive and exhaustive review of Defense Department programs by the committee and a trimming of those programs which did not appear to be prudent investments. For those programs which represent prudent investments and are of sufficient priority, the committee has recommended an authorization of $89.42 billion for procurement.

The committee's actions were guided by a desire—which I am sure is shared by the Members of this body—to provide reliable and effective weapon systems to our troops as quickly as possible. This includes weapon systems for both our Active and Reserve Forces.

RESERVE IMPROVEMENT

Most of you know that I have long been a very strong proponent of equipping our Reserve components with the

weapons necessary to fully comply with the total force concept. As you know, the total force concept places a very heavy reliance on the wholesale integration of combat and support forces from our Reserve components into the Active Duty components. For example, in order to support a full mobilization strategy for wartime deployment, Army Reserve components would have to provide 42 percent of the Army's total manpower requirements, and Air Force Reserves would provide 21 percent of Air Force manpower requirements.

Clearly, given our heavy reliance on Reserve units, it is incumbent upon the Congress and the Defense Department to provide the necessary equipment for these units to accomplish their mission. Unfortunately, in the past the Defense Department has not fully recognized the urgency of equipping our Reserve components with modern weapon systems. In fact, recent testimony received from National Guard and Reserve witnesses highlighted the many major equipment deficiencies that have been allowed to persist in our National Guard and Reserve units. For example, the committee was informed that Army National Guard components had major equipment shortages totaling almost $4 billion while Air National Guard units are short approximately $9 billion worth of major equipment.

This bill, therefore, recommends some equipment improvements for National Guard and Reserve components totaling $1.2 billion. These improvements will provide needed force modernization in the areas of airlift, tactical fighters, ground support aircraft, tactical and support vehicles, attack helicopters, communications, and air defense.

Force modernization for our Reserve components is necessary if we are to provide the muscle to what is currently just a concept—the total force concept. H.R. 6030 represents the committee's commitment to helping develop that muscle and, thus, providing a viable and credible Reserve capability.

It is noteworthy that as a result of the committee's comprehensive review of the Department's fiscal year 1983 budget request, it was possible to fund the recommended equipment improvements for National Guard and Reserve components through offsets in other programs.

The bottom line is that H.R. 6030 not only recommends an authorization for the Active Forces which is lean and executable but also recommends needed equipment improvements for our Reserve Forces.

ARMY HIGHLIGHTS

With regard to the Active Army Forces, H.R. 6030 recommends procurement authorizations totaling $17.664 billion. This includes $2.612 billion for aircraft, $2.948 billion for missiles, and $4.843 billion for tracked vehicles and other weapons.

Regarding Army aircraft, H.R. 6030 is $133.7 million below the President's request. The majority of this reduction was possible because of the committee's recent action in approving a multiyear procurement proposal for the Army's Black Hawk helicopter program. As you may recall, last year the committee recommended and the Congress passed legislation that gave the Defense Department statutory authority to engage in multiyear contracting. I believe that the reduction in estimated program cost for the Black Hawk helicopter is illustrative of how effective legislation can reduce the taxpayer's burden, improve the Defense Department's acquisition process, and most importantly provide the needed weapon systems to our troops as early as possible.

The budget request as identified in H.R. 6030 for the Army's missile program contains $518.9 million to support the second year of production of the Pershing II surface-to-surface missile system. The committee recommends that we proceed with all deliberate speed in procuring and fielding the Pershing II missile. As you know, the Pershing II is central to our theater nuclear arsenal, and will help to provide a deterrence against the Soviet's SS-20 missile.

While I am, of course, aware that the deployment of the Pershing II missile system has recently come under heavy fire, I firmly believe the committee's recommendation to proceed with production is a necessary step in order to counter the current Soviet threat and to keep our arms control options open.

AMMUNITION AND OTHER PROCUREMENT

The fiscal year 1982 Department of Defense Authorization Act required that the Armed Services Committee authorize ammunition and other procurement items which had previously not been authorized. Therefore, to support ammunition and other procurement programs in fiscal year 1983, H.R. 6030 contains $18.427 billion for such items as ammunition for tanks, artillery, and small arms, and procurement of trucks, communications equipment, and tractors.

The limited time available for general debate makes it impossible to cover all the procurement line items included in H.R. 6030. I would, however, like to quickly highlight several other major programs.

NAVY AND MARINE CORPS HIGHLIGHTS

In H.R. 6030, the committee's major recommendations for Navy and Marine Corps programs other than ships include $2.443 billion for 84 F-18 attack aircraft, $255.6 million for 24 AV-8B Harrier attack aircraft, $255.6 million to support airlift improvements with 11 CH-53E Super Stallions, and $327.8 million for Marine Corps tracked combat vehicles.

These recommendations clearly highlight the committee's strong belief that naval force projection and a rapid response capability are necessary to deter potential adversaries from committing acts of aggression against this country or our allies.

AIR FORCE HIGHLIGHTS

H.R. 6030 reflects the committee's longstanding commitment to providing adequate airlift capability and improving our tactical aircraft forces. the President's request contained $860 million for the initial procurement of the C-5B Galaxy airlift aircraft. This request, which the committee supports, addresses a significant shortage in intertheater military airlift.

Although the President's request contained no funds for tactical airlift improvements in H.R. 6030, the committee recommends $323.8 million for the procurement of 16 C-130H aircraft to correct serious airlift deficiencies in the National Guard. This modest increase will provide significant improvements in the Guard's capability to support logistical operations for Active and Reserve Forces.

In the past the Air Force has indicated that in order to satisfy its tactical fighter requirements production of the less expensive, although less capable, F-16 aircraft should be increased to augment the more experienced and capable F-15 aircraft. This is referred to as the high-low mix concept with the F-15 at the high end of the mix and the F-16 at the low end of the mix.

The committee strongly supports the high-low mix concept, and we believe the mix could be improved by producing more F-16's and stabilizing F-15 production. Therefore, H.R. 6030 recommends the authorization of $1.976 billion for 140 F-16's in fiscal year 1983—$240.6 million above the President's request—while also recommending a reduction of 12 F-15's—$217.4 million below the President's request.

As I indicated earlier, the committee has complied with the spirit and intent of the recently passed budget resolution and will recommend committee amendments to this bill—H.R. 6030—which will further reduce defense authorizations for fiscal year 1983. I can assure you that arriving at the reductions necessary to comply with the budget resolutions which will be discussed later was a difficult task because I truly believe that the bill before you is lean and contains only those programs which are absolutely necessary to provide for a strong national defense.

In summary, Mr. Chairman, I believe that we are on the right track to correcting many of our equipment deficiencies. I certainly realize during

this period of tight budget constraints it requires some sacrificing to continue on this track. However, in all honesty, we have no alternatives because the safety and security of this Nation are at stake.

I strongly encourage my colleagues to support H.R. 6030.

Mr. PRICE. Mr. Chairman, I yield 8 minutes to the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Chairman, I am pleased to report on the personnel titles in H.R. 6030, as amended. Titles IV through VII deal with active duty, Reserve, and civilian personnel strengths in the Department of Defense, as well as the military training student loads.

Before I address the specific recommendations of the committee, I would like to briefly describe the framework in which we worked. It seemed likely that cuts would be imposed on the Defense budget, and we in the committee felt we should be the ones to determine where these cuts should fall.

As the Members of the House know, the President originally proposed an 8-percent pay raise for military personnel this year. This pay raise or some increase is critically important if we are to meet our manpower goals next year and in the following years.

As you recall, we just achieved comparability as a result of last year's 14.3-percent pay increase. Of that increase, 5.3 percent represented the last installment on the catchup raise. Three pay caps in the past were among the principal causes of the manpower problems we experienced in fiscal years 1979 and 1980. Many experienced personnel were lost and untold costs were incurred to train new personnel. Quality dropped dramatically and the management of the force will suffer for several years to come as a result. Over $2 billion in additional pay increases were necessary in the last 2 years to rectify the problems caused by the pay caps.

If we cut the prescribed pay raise too far this year, the first year after things have settled down, the manpower problems that plagued us in the past will return.

Within this perspective, the committee decided we should trade off some cuts now—of our selection in lower priority areas—and hold tight for a reasonable pay increase. To this end, the committee is recommending some reductions in proposed end strengths for fiscal year 1983.

We made an honest attempt to derive savings in areas of lower priority than pay. It is the committee's judgment that while the full increases in personnel levels the department has requested are important, they have considerably lower priority than the pay raise itself.

In title IV—Active Forces—the committee recommends end strengths for the Active Forces for fiscal year 1983 as follows:

Army	783,800
Navy	564,200
Marine Corps	194,600
Air Force	595,700

The strength proposed is 30,500 above that currently authorized. The committee recommends decreases to the President's request in the Navy and the Air Force totaling 9,300. The increases approved are principally in the Navy and the Air Force also, and relate to new ships and air squadrons entering the force in fiscal year 1983.

The committee recommends a reduction of 5,000 in end strength for the Navy. This cut is to come out of the transients account containing a proposed increase of 6,200 for fiscal year 1983. Increasing the transients account permits Navy managers to have more individuals in a travel status than has been the case in previous years, for example, or to have shorter vacancies—or even overlap—in units between the time one individual departs and his replacement arrives for reassignment. However, even with the recommended reduction, the transient account will increase.

The committee recommends a reduction of 4,300 in the Air Force end strength. Retention in the Air Force is already better than the budget anticipated, and therefore, fewer individuals are needed in training. Some of the other spaces reduced would only be used in wartime, and reserves can fill this function.

Although no reduction is recommended in Army end strength, the committee determined that the President's budget contained approximately $80 million in permanent change of station accounts that were over estimated and thus in excess of that required. Rather than reducing end strength, the committee supports reducing the appropriation amounts to recognize the correct costs.

No change was made to the Marine Corps request.

In addition, the committee is recommending that the Secretary of Defense be provided authority through fiscal year 1983 to exceed the active duty end strength ceiling by up to one-half percent where necessary to assist in managing the force more efficiently. Currently, the civilian end strength may be exceeded by up to 2 percent.

The committee also recommends continuation through fiscal year 1983 of the quality control on the percentage of Army male recruits who must be high school graduates.

The committee recommends two items for inclusion in the report. The first directs the Secretary of Defense to charge reasonable prevailing rates for meals in the Pentagon's executive messes based on a survey of comparable eating facilities in the area. Second, the committee supports reductions in operation and maintenance funds for recruiting and advertising, recognizing that real growth in this account is unnecessary when recruiting is going so well.

In title V—Reserve Forces—the committee recommends only one change from the President's request. An increase of 1,300 for the Coast Guard Reserve is proposed to bring this component closer to its required strength and to maintain the level established last year. The Coast Guard indicates this can be done with no additional funds.

The committee recommendations for all components are contained in the bill as reported:

Army National Guard	407,400
Army Reserve	258,700
Naval Reserve	105,500
Marine Corps Reserve	38,300
Air National Guard	101,100
Air Force Reserve	66,000
Coast Guard Reserve	12,000

Overall selected reserve strength would increase by 62,300 above that authorized for fiscal year 1982. The increase reflects improved recruiting in the Reserve program.

For full-time support personnel for the Reserves, the committee recommends no change to the President's request.

Army National Guard	14,419
Army Reserve	8,251
Naval Reserve	12,038
Marine Corps Reserve	678
Air National Guard	5,158
Air Force Reserve	479

The committee also included language in the report directing the Secretary of Defense to report on the feasibility of using Reserve Forces for future force structure increases requiring additional active duty manpower.

In title VI—civilian personnel—the committee has recommended an increase of 14,560 in the ceiling requested for civilian personnel. The President requested 1,035,500.

The committee believes that the contracting out program has gotten out of hand. The increase in civilian end strength results from the committee's recommendation to add 17,000 additional personnel to the ceiling. Adding spaces for this purpose adds no additional cost to the budget because funds are included in the budget to do the work whether by Federal civilian personnel or private contractors. This figure reflects the number of spaces withdrawn from the budget for functions now performed by civilian personnel that the Department of Defense anticipates could be performed by civilian contractor personnel if studies to be conducted prove such action to be feasible. Anticipating reductions in this manner was specifically directed to be stopped in last year's conference report on the fiscal year 1982 defense authorization bill.

The committee recommends the deletion of all funding for studies of contracting out in fiscal year 1983. The additional civilian spaces are needed in order to accommodate this direction. Essentially the committee recommends a 1-year moratorium on contracting out in the Department of Defense until the Congress can pass permanent legislation redefining the framework for this program. The strength proposed also includes deletion of 440 spaces in the Army and Navy for new administrators for the contracting out program.

A reduction of 1,000 civilians is recommended for the Army. In reviewing information the committee received regarding the use of additional civilians provided last year to offset borrowed military manpower, it discovered the justification provided may not have been accurate. If the Army can rejustify its needs for civilians for this purpose, it is the committee's intent that the Secretary of Defense would use his authority to exceed the ceiling in order to provide the Army with an additional 1,000 civilians.

The committee also recommends that the 3,000 civilian spaces at Navy commissaries, withdrawn from the budget for proposed conversion to contract, be retained in-house.

The committee further recommends a reduction of 1,000 civilians out of the 1,400 increase proposed for the defense agencies. These agencies have experienced considerable growth at the same time most of the services are experiencing reductions.

In addition, the committee recommends language in the report clarifying that it is the intent of Congress and the Department of Defense to convert current civilian technicians only on a voluntary basis to a military status in the full-time manning program.

Title VII contains military training student loads. The committee recommends no change to the President's request.

Army	78,311
Navy	66,930
Marine Corps	20,435
Air Force	48,769
Army National Guard	18,052
Army Reserve	14,579
Naval Reserve	1,000
Marine Corps Reserve	2,971
Air National Guard	2,328
Air Force Reserve	1,351
Total	254,726

Mr. Chairman, I urge approval of the bill.

□ 1520

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from New York.

Mr. MITCHELL of New York. Mr. Chairman, over the past few years, we have learned an important lesson—a lesson for which we have paid no small price. There is no question about it; people in the services are extremely important. Without a well-trained, highly motivated force, the newest, most sophisticated weaponry is of limited value.

Two years ago, press reports of Navy ships unable to go to sea because of manning deficiencies riveted national attention on the manpower problems plaguing the military services. Only slightly more than half of Army recruits were high school graduates. On the retention side, competition from more lucrative jobs in the civilian sector was luring away the most highly trained midgrade personnel—both officer and enlisted. One alarmed service official characterized the loss of skilled people to private industry a "hemorrhage of talent."

Congress responded swiftly and forcefully by enacting a series of compensation initiatives in 1980 and 1981. The results—the improvements—have been dramatic. In fiscal year 1981, the Army recruited 80 percent high school graduates, 26 percentage points higher than the previous year. Retention rates for both first termers and the career force are now setting records.

While we can perhaps pat ourselves on the back for Congress role in this turnaround, we would be ill-advised to be complacent. The record of success is still extraordinarily fragile and could all too easily be shattered.

The Armed Services Committee is fully cognizant of the fact that this is going to be a year of difficult budget choices. We felt it was incumbent upon us to set priorities for the limited resources available and have attempted to do so in the bill before you today. Obviously, the committee would have preferred to make no revisions in the President's budget request in the manpower area. But, this is a time for realism.

In achieving savings, the committee is convinced that some cuts in the personnel arena are more destructive to troop morale than others and, as a result, has opted to restrict the force structure growth proposed by the administration. I want to advise my colleagues that we have made additional reductions in the personnel accounts in the military pay bill as reported to the House. This legislation should be on the floor in the near future. It should be emphasized that the committee feels cuts in the pay raise itself as the least desirable alternative. Under the terms of the budget resolution, the pay raise is limited to 4 percent, rather than 8 percent requested in the President's budget.

The President's budget proposed to increase active duty end strength by 39,800 above the current authorization, principally in the Navy and Air Force. The committee reduced the President's request by 9,300, approximately one-fourth of the growth originally recommended.

For the Navy, much of the additional strength requested is directly associated with the increase in ships and squadrons both in the near term and over the next decade. For fiscal year 1983, the administration's budget includes a net increase of 21 ships in the fleet. Among the new ships are 10 frigates, 4 attack submarines, 1 battleship, 1 cruiser, 1 destroyer, 1 destroyer tender, and 1 oiler. The delivery of the carrier *Carl Vinson* will require the addition of the first two attack squadrons for the 13th Air Wing. Additional manpower will be needed for one LAMPS III—antisub warfare—squadron, two CH-53E helicopter squadrons, and the newest Trident.

In reviewing the Navy request, the committee determined that the transients account—those individuals in a travel status—was programed to grow by an additional 6,200 for fiscal year 1983. In today's budgetary environment, the committee felt the justification for this level of growth was questionable and, therefore, reduced the Navy's recommended strength level by 5,000.

For fiscal year 1983, the Air Force requested an increase of 19,200 above current authorization. A number of force structure changes account for the increase: The acquisition of 5 KC-10 aircraft, the deployment of the air launched cruise missile—ALCM—the basing of the ground launched cruise missile—GLCM—the introduction of the TR-1 and compass call weapons systems, the addition of 4 F-16 tactical fighter squadrons, and an increase in the number of E-3A airborne warning and control systems—AWACS—aircraft to 26. This growth in force structure is partially offset by the phasedown of the B-52D bomber and the Titan missile.

Air Force retention rates thus far in fiscal year 1982 are even better than anticipated. Improved retention translates into fewer individuals needed in training and, thus, into a smaller increase in end strength. The committee, therefore, reduced some of the spaces requested by the Air Force for training, as well as a number of spaces used only in wartime that reserves can fill easily and at less cost during peacetime. Overall, the reduction in Air Force active duty end strength totals 4,300.

The substantial growth requested for the Selected Reserve is indeed good news. Although serious problems persist, particularly in the Army components, the Selected Reserve has made great strides forward since the low point reached in the late 1970's. The bulk of the increase is programed where needed most: 14,600 new spaces for the Army National Guard and 23,400 new spaces for the Army Re-

serve. Some force structure growth is included—1,300 spaces for the Army Guard and 5,400 spaces for the Army Reserve—but the primary focus is concentrated on filling in existing units, with particular emphasis on critical skills. With nearly one-half of the total Army's combat power and two-thirds of its combat support, service structure, and wartime medical capability in the Guard and Reserve, beefing up unit manning is critical to the Army's ability to mobilize and deploy.

As I stated we hated to make any cuts, but with limited funds and huge deficits it was necessary.

I urge the Members of the House to approve the Armed Services Committee's recommended personnel levels for fiscal year 1983. Cuts in end strength, while they may be painful, have a far less onerous impact on readiness than cuts in pay. As I stated earlier, we have recommended further revisions to the President's budget as a part of the omnibus military pay bill. It is urgent that Congress insure that the personnel reductions made are the least disruptive to morale. To do otherwise will cost us dearly in the future.

Mr. NICHOLS. Mr. Chairman. I thank the gentleman for his comments.

Mr. WHITEHURST. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.).

Mr. ROBERT W. DANIEL JR. Mr. Chairman, I rise to lend my support to the committee's actions on the fiscal year 1983 defense authorization bill. I would like to take the few minutes that have been yielded to me to talk about the administration's strategic force modernization program. In my view, this program is one of the most important aspects of this piece of legislation.

I am sure that during the course of the debate on this bill and on its companion appropriations bill, there will be considerable discussion and debate on the MX missile program, the B-1B bomber program, the Trident submarine and missile programs, the ballistic missile defense program and the Cruise missile program. While I think it is important that the merits of these individual programs be debated, I believe it is equally important that the programs be viewed as being elements of a comprehensive plan to modernize our strategic nuclear forces.

In the way of a brief review, I would like to take a few minutes to summarize the basic elements of the administration's strategic modernization program. In announcing the program on October 2, 1981, President Reagan stated that its objective was to improve the capability of U.S. Strategic Forces so as to regain and then maintain a strategic balance with the Soviet Union. The President's proposed program is made up of five mutually reinforcing elements, each of which is to be made as survivable as possible.

Three of the five elements of the program involve our strategic triad of nuclear forces; that is, the air breathing leg—bombers and cruise missiles—the land-based leg—intercontinental ballistic missiles—and the sea-based leg—submarines and sea-launched ballistic missiles.

Specifically, the President proposes that the air-breathing leg be modernized by going forward with the immediate production of the B-1B bomber, continuing the development of an advanced technology bomber and the deployment of large numbers of long-range cruise missiles.

The sea-based leg is to be strengthened by the continued deployment of Trident submarines armed with Trident I missiles. Eventually, the Trident submarine will be equipped with a longer range, more accurate Trident II or D-5 missile.

The President proposes to upgrade the land-based leg of the triad composed of Minuteman II and Minuteman III ICBM's, by deploying 40 MX missiles in existing ICBM silos and aggressively continuing the research and development of other options for future basing of the MX missile.

The fourth element of the strategic modernization program consists of proposed upgrades to the Strategic Command, control, communications and intelligence (C^3I) system. In proposing this element, the President indicated that it was of the highest priority and that it was imperative that a network of survivable, enduring, and reconstitutable communications and warning systems be deployed at the earliest possible date.

The fifth and final element of the program addresses the strategic defensive forces including ballistic missile defense and continental air defense. The administration's request includes several initiatives designed to improve our continental air defense system as well as to accelerate our ballistic missile defense efforts.

While the committee did not totally agree with every detail of the proposed strategic modernization program, I believe the committee strongly endorses the comprehensive approach the administration has taken in recommending an integrated program for strengthening our strategic deterrent.

In closing, I want to once again stress the importance of focusing on the overall program as the merits of the various elements contained in the program are debated and discussed. No single element stands alone. Each has its strengths and weaknesses. Taken together, however, all five elements are mutually reinforcing. In my view, this program forms the basis of a very capable modern strategic deterrent that will serve our country well.

□ 1530

Mr. PRICE. Mr. Chairman, I yield 8 minutes to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Chairman, I rise in reluctant support of H.R. 6030 and I say reluctant because I have a strong feeling that we reduced the budget proposal beyond feeling that we reduced the budget proposal beyond the level of adequacy. These cuts have been made on the basis of affordability and it is this Member's judgment that a military budget should be based on one factor—the threat. The cost of peace is never as high as the cost of war, therefore our objective must be deterrence.

My primary interest, Mr. Chairman, is in preparedness. My remarks therefore will be directed at title III, the readiness title. We have many problems, however our most serious readiness deficiency is strategic airlift. Our sophisticated weapons will count for little unless we can deliver them along with personnel to the right place in a timely fashion.

The fundamental issue facing us today is the very serious and basic question of national defense—how do we fill the significant gap in our strategic airlift capability?

The problem is defined in the congressionally mandated mobility study (CMMS). It involves the ability of the Air Force to deliver an appropriate mix of men and equipment to a foreign location where American interests are threatened. This kind of force, the Rapid Deployment Force, if you will, must have the equipment it needs to succeed in battle. This equipment would include such major combat systems as missile launchers and helicopters, tanks and mobile artillery, and communications systems. Much of this equipment is generally called outsize, to distinguish it from ordinary combat cargo.

The congressionally mandated mobility study looked at various scenarios in which the United States might be involved, including the NATO area, the Middle East, and the Persian Gulf. In four such scenarios, CMMS found large gaps in our ability to move outsize cargo by air in the 15-day period associated with an emergency requirement.

After studying the alternatives, the Defense Department concluded that reactivating the C-5 production line was the most effective method of meeting the requirement. The President has proposed acquiring 50 C-5B transports. The military leadership has endorsed the decision unanimously. After further study, the House Armed Services Committee also recommends it for approval.

The only controversy has arisen from the Senate-initiated proposal to substitute the purchase of Boeing 747

airliners for the C-5B order recommended by the administration. There is no disagreement on the need to bolster strategic airlift. We simply must decide whether the C-5B or the 747 is the way to do it. To make this decision we must look at the two aircraft.

The C-5 is a proven airplane for the mission. For 12 years it has carried any piece of equipment the ground forces require. It can land on runways as short as 3,000 feet and can operate from rough surfaces—a necessary flexibility in combat support. Since the C-5 is built low to the ground, equipment can rapidly roll on and off, minimizing time in the combat zone. Its cargo hold is big enough to carry major combat systems without taking them apart. The equipment is ready to fight as soon as it arrives.

The C-5 can be refueled in flight, permitting it to fly anywhere in the world with a full load. Finally, there are no new training or maintenance burdens associated with expanding the fleet.

Now let us look at the 747. It was developed as a commercial airliner and has been successful in that role, but it has several serious deficiencies for the new military mission suddenly thrust upon it. The 747 cannot carry outsized combat equipment the troops need in the battlefield except with disassembly. It requires reinforced concrete runways several thousand feet longer than the C-5 does. Its cabin floor is 16 feet off the ground, necessitating special equipment to load and unload the combat systems. Special gear must be positioned in advance wherever the 747 is to operate. And wherever that is, it must be in range of the 747 involved. None of them have aerial refueling capability.

It seems clear that on the merits the C-5 is the clear choice for the military mission. So why are we debating the issue?

It is because the proponents of the Boeing plan have raised questions of economy and timing. It is claimed that buying 747's would be cheaper. That's true if you just look at initial purchase price. But the Air Force has analyzed the total costs of both aircraft over a 20-year period and it turned out that there is less than $1 billion difference between the 747 and the C-5—less than $50 million a year. Those members concerned about near-term deficits should know that the 747 would cost $2 billion more during the next 3 fiscal years.

What brings the 747 close to the C-5 is cost in training, maintenance, and operating expense. Purchase of airliners will result in a hurrah's nest of a fleet. There will be differing navigation, communication, and other systems. Some will have Rolls Royce engines; others will have various Pratt & Whitney powerplants. Some of this can be standardized in the modification process, but much cannot. This means not only extra maintenance and training costs but restrictions on the use of 747's with different ranges and other characteristics and will require different crews.

It has been argued that careful management of existing C-5's will permit use of the 747 in less demanding roles. But we have the Civil Reserve Air Fleet, which includes most of the 747's proposed for Government purchase, and 44 KC-10's recommended by the administration to handle those less demanding roles. Fighting a war or meeting emergency challenges is not like the delicate scheduling of a freight line. The Air Force needs the flexibility of a fleet of aircraft that can handle multiple missions and can be meshed into an integrated force to meet whatever challenges occurs anywhere in the world. The C-5 fits that role. The 747 does not.

It also has been argued that the 747 would be available much earlier and, further, that additional C-5's in the inventory would delay development of the C-17, now in the design stage. First, the C-5B would begin coming in service in 1985. That is largely because, while it takes time to reconstitute the production line, the C-5 can go directly into use. The 747, after modification, would require time for training and the establishment of a maintenance system. As for the C-17, it is intended to replace the existing C-130 and C-141 fleet and would be expected to operate parallel to the larger C-5 well into the next century.

Mr. DICKS. Mr. Chairman, will the gentleman yield on that point?

Mr. DAN DANIEL. Of course, I will yield any time.

Mr. DICKS. Well, I am sure the gentleman who is one of the distinguished leaders in readiness is aware of the fact that the C-17 is both an intertheater airlifter and an intratheater airlifter on outsize equipment.

Mr. DAN DANIEL. The gentleman is correct.

Mr. DICKS. The advanced medium STOL, AMST, with the YC-14 and YC-15 competition of a few years ago, was an intratheater outsize airlifter, but that is not the case with the C-17. The C-17 has the intertheater capability as well.

Mr. DAN DANIEL. I appreciate the gentleman's statement.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. PRICE. Mr. Chairman, I yield 1 additional minute to the gentleman from Virginia.

Mr. DAN DANIEL. Proposal of the 747 has created some diversonary issues that really do not relate to the decision we must make today. They involve help for the financially distressed Boeing Co. and the airlines. Actually, there are only five airlines with surplus 747's, so there would be relatively narrow benefits there. Two-thirds of the Government funds would go directly to Boeing, and perhaps some of the airline money would find its way there also in the form of purchases of Boeing airliners more practical than the 747 in today's air travel market.

We acknowledge the plight of some elements of the aerospace industry. We recognize the concern of Members whose constituents are affected by that plight. But we must not—we cannot—sacrifice strategic airlift capability to these interests. That capability goes to the heart of readiness.

There should be only one issue, and that issue is strategic airlift and how to repair a critical inadequacy. We must avoid being beguiled by fancy computer models that can prove almost anything if cleverly designed. It has been the clear testimony of every military professional that the C-5B is the right solution for the problem. This is the way to make sure our troops have the equipment they need in the right place at the right time. We are dealing with matters of national interest that will determine success or failure around the globe. We also are dealing with the welfare—the lives—of the men we ask to go out and defend our interests in far places.

This is no time to be looking to diversionary issues. It is gratifying to report that the gentleman from Washington, Mr. Dicks, agrees with this conclusion. We must concentrate on the central military mission. We must make a decision based on what is best for that purpose. The House Armed Services Committee has studied that matter carefully and urges you to support the administration's request for 50 additional C-5's to fill the gap in strategic airlift. General Eisenhower has said that unpreparedness is well nigh as immoral as war itself. Without the addition of these proven aircraft, we are unprepared.

Mr. Chairman, title III of the bill before you recommends authorization of $68.3 billion for Department of Defense operation and maintenance (O. & M.) activities in fiscal year 1983. This figure is $1.1 billion below the President's request and provides 3 percent real growth above the fiscal year 1982 appropriation.

In addition, I will offer an amendment to title III, cosponsored by Mr. WHITEHURST, to reduce the fiscal year 1983 O. & M. authorization an additional $398.5 million. Combined with earlier action by the Armed Services Committee, the Daniel-Whitehurst amendment will result in an overall decrease of $1.5 billion below the President's request. While this amendment represents a fair and proportional reduction in O. & M. as part of a balanced approach to bring H.R. 6030 in line with the budget resolution en-

acted by Congress. We will offer it reluctantly.

The committee recommendations in title III can be summed up in three words—readiness, economy, and continuity. They provide the minimum resources needed to address critical readiness requirements and sustain the positive momentum generated by Congress over the past 2 years.

In fact, Congress increased emphasis on O. & M. funding and readiness represents a major success story underscoring the value of effective legislative oversight.

Every service witness testifying before the Readiness Subcommittee this year applauded the existence of a vigorous new constituency for O. & M. in Congress. Aside from increasing the visibilty of those accounts during the budget process, these witnesses cited numerous instances where recent congressional intervention resulted in significant readiness enhancements and quality of life improvements. And these improvements are real. They have been documented and confirmed by visits to the field and a subcommittee survey of readiness and O. & M. issues in Europe.

For example, compared to a year ago, the quality and quantity of training has increased. Soldiers and marines are spending more time in the field participating in more realistic exercises. Army, Navy, and Air Force aircrews will fly 255,000 additional flying hours in fiscal year 1982 to increase their combat proficiency.

Other readiness indicators tell the same story. Backlogs in ship overhauls, aircraft reworks, and depot maintenance is projected to decline by 43 percent. The growth in the size of the backlog of real property maintenance has been reversed for the first time in recent memory. And the National Guard and Reserve combat readiness is being significantly enhanced through increased funding for training and unit equipment.

Committee recommendations in title III would continue these improvements in fiscal year 1983, substantially increasing the readiness of our forces.

Major committee readiness initiatives include: $295 million to further reduce the backlog of real property maintenance and repair and to perform priority minor construction projects; $70 million for additional morale, welfare and recreation measures and improved quality of life programs for sailors aboard ship or soldiers, airmen, and marines stationed at remote locations overseas; $30 million for priority readiness enhancements for the National Guard and the Reserves; and $100 million for increased steaming days for more fleet training.

In short, the committee is recommending only increases that are readiness related or that are consistent with Congress emphasis on improving the quality of life of service personnel and their families.

Matching this emphasis on readiness, however, is concern about the gravity of current economic problems. After an indepth review of the defense O. & M. request, the committee was able to identify substantial efficiencies and economies.

Major reductions include: $628 million based on a recalculation of fuel prices and currency exchange rates to reflect more current data; $290 million for depot maintenance work that is not executable in fiscal year 1983, or can be deferred without impacting readiness; $100 million that could not be expended for Army modernization due to a severe workload/work force imbalance; $40 million that could not be expended in fiscal year 1983 for the conversion and charter of vessels carrying prepositioned equipment; and $180 million in personnel-related adjustments involving end-strength reductions and cuts in recruiting and advertising activities.

In addition the Daniel-Whitehurst amendment to title III will involve the following additional major reductions: $337.9 million associated with force structure reductions or delayed unit activations and $30.1 million in recruiting and advertising that has been identified by the Secretary of Defense in recent testimony before Congress.

But the committee's efforts to promote efficiencies and economies are not confined to the items contained in this bill.

For example, the Readiness Subcommittee initiated an investigation into inventory losses at Navy supply centers because it was concerned that inadequate inventory management procedures were directly impairing the readiness of U.S. Naval Forces and wasting taxpayer dollars. As a result of this investigation and its own internal audits, the Navy has initiated a series of actions to improve the accuracy of inventory records at naval supply centers. In addition to taking more complete inventories, a plan of action is being developed to identify and correct inventory system and management deficiencies. These actions could result in potential savings amounting to the hundreds of millions of dollars, not to mention a naval supply system more responsive to fleet readiness requirements.

And this is but the first of a series of investigations by the Readiness Subcommittee to ferret out waste, fraud, and abuse in the Department of Defense to promote the more efficient use of taxpayer dollars.

However, the committee rejects actions that result in false economies within the defense budget. By "false economies" I mean actions justified on the basis of efficiency where the savings are suspect, performance is lowered, or involves the degradation of readiness and mobilization capabilities.

Contracting out of commercial activities stands convicted on all three counts. Testimony received by the committee indicates that cost comparisons are weighted to favor contractor over in-house performance. Moreover, most of the savings attributed to contracting out are based on estimates yet to be validated.

Examples of unsatisfactory contractor performance and the difficulty of corrective action under OMB Circular A-76 procedures provided in testimony and correspondence are numerous and well documented.

Finally, it has become apparent that readiness and mobilization issues are secondary considerations in the administration's headlong effort to expand the pace and scope of contracting out in the Department of Defense. Despite strong concern expressed by the Armed Services Committee and the Congress, recent information suggests that these considerations would be given even less weight in the future.

The Armed Services Committee simply cannot endorse a practice of doubtful cost effectiveness, that lowers performance and impairs readiness. At the same time, however, we recognize that contracting out can be a legitimate and cost-effective management tool if it is carefully and reasonably employed. Accordingly, the committee recommends a 1-year moratorium on contracting out to permit Congress and the administration to thoroughly explore ways to improving contracting out procedures.

In line with this moratorium, the committee recommends a $33.5 million reduction in O. & M., related to the cost of studies that would not have to be performed. Furthermore the committee recommends authorizing the $567.6 million requested for the anticipated salaries of contractor personnel and the functions they would perform only after notification to Congress that direct-hire ceilings have been raised to accommodate this workload. This authorization would then be applied only toward increased salaries and functions related to the increased number of Federal civilian employees.

Another example of false economy is the Navy initiative to transfer commissary employees from direct hire to nonappropriated fund status. The Navy's supporting analysis failed to take into consideration the impact on the nonappropriated fund wage structure—which is required by law. At the committee's request, Deputy Secretary of Defense Carlucci has directed that implementation of the Navy proposal not go forward until its impact has been fully analyzed. Because such a study would not be forthcoming before August, the committee directs

that the Navy continue to operate the commissaries as before.

As the Members are well aware, I have never taken a backseat to anyone when it comes to saving money or increasing efficiency. But I cannot support an initiative in the name of economy that is likely to seriously impair commissary operations. I am unalterably opposed to transferring "savings" onto the backs of service personnel and their families in increased cost or inferior service.

I would like to close with a word of warning. There has been a great deal of talk about cutting defense outlays to reduce the budget deficit. And the temptation to use an account with a fast spendout rate like O. & M. as the source for additional reductions is understandable. But I would strongly caution against any further decreases in O. & M., other than we will propose later, without a thorough and comprehensive review of the entire defense request that carefully balanced total resources and mission requirements. Unless we carefully review the tradeoffs between procurement, force structure, and operation and maintenance in making such reductions, three things are likely to happen.

We would unintentionally and disproportionately degrade readiness.

We would be guilty of the worst of all possible "false economies."

And we would risk undoing much of the good work Congress has done through its increased emphasis on O. & M. over the past 2 years.

I think the Members will agree with me—that is too great a price to pay for near-term savings.

I urge your support for H.R. 6030.

Mr. SPENCE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HUNTER).

Mr. GINN. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Georgia.

Mr. GINN. Mr. Chairman, I rise to speak in support of a very critical provision in H.R. 6030; namely, the procurement of new strategic airlift capability for our Armed Forces. It is significant to note that we have not authorized a major new procurement of such capability for almost 20 years.

I commend the Department of Defense and the administration for recognizing the importance of airlift, for recognizing the inadequacies of our current airlift capabilities, and for recommending to the Congress a program that will take the first important step toward rectifying our airlift deficiencies as soon as practicable.

I commend the Armed Services Committee for its thorough review of the proposed airlift program and for the inclusion of this program in the Defense authorization bill.

I rise to ask all of my colleagues to join with me in supporting this provision of the bill as a matter crucial to America's vital interests.

It is more true today than ever before that our country's vital interests cannot be confined within our national borders. Those interests are truly worldwide. Our own well-being as a nation, our economic health, our standard of living depend on events in countries all over the globe. Our ability to influence events outside of our borders, our ability to carry out our stated national policies, depends in large part on the adequacy of our strategic airlift capability.

For the past several years the major focus of the Defense program in this country has been on nuclear-capable weapon systems: the B-1, the MX, the stealth bomber, the Trident missile and submarine. The readiness and capability of our conventional forces have been given less attention and emphasis.

But we cannot afford to give short shrift to our conventional military forces. If American vital interests are threatened by conventional aggression anywhere in the world, we must be able to respond, and to prevail conventionally. It is absolutely unacceptable to come to a point at which our only meaningly response to conventional aggression would be a nuclear response.

Adequate airlift capability is a key element in, and a barometer of, the readiness of our conventional forces. Airlift provides us with the means to project our conventional military forces—especially ground forces, with tanks, trucks, howitzers, and other heavy equipment—anywhere in the world at a moment's notice.

It is obviously impractical and economically infeasible for us to preposition troops and equipment at all the places they might be needed in the world. Sealift—even the most rapid sealift—is too slow. Adequate airlift capability is what we must count on to get our conventional forces where they are needed "firstest with the mostest."

As an example of the importance of military airlift, I would cite the stated policy that an attack on the oil fields of the Middle East would be considered an attack on the vital interests of the United States and would be treated accordingly.

The Rapid Deployment Force was created largely to inject some realism into this policy. In the RDF we have 3⅓ Army divisions and 1 to 2 Marine Amphibious Forces comprising all together about 200,000 ground troops that require tanks, trucks, artillery pieces, and other heavy equipment to perform their missions. But the RDF is not based in the oil fields of the Middle East.

Quite the contrary, a large portion of the RDF is based in the continental United States. The RDF is totally useless without military airlift to project its troops and equipment wherever they need to go, whenever they need to get there. The strategic aircraft that we depend on to expand the reach of our forces is the C-141 and the C-5. Unfortunately, we do not have nearly enough of either of these aircraft.

The congressionally mandated mobility study, a 1-year analysis conducted by the Defense Department, looked at four representative scenarios of deployment: a NATO scenario, a Persian Gulf scenario, a Southwest Asian scenario, and a combination of the NATO and Persian Gulf scenarios. The results of the study were very unsettling. In none of the four representatives scenarios did we have sufficient airlift to deliver the required forces to the combat area within the prescribed time period.

The mobility study indicated that within our total airlift shortfall our most serious airlift deficiency lay in our requirement to airlift outsize military equipment; that is, tanks, helicopters, self-propelled artillery pieces, and armored personnel carriers.

The military airlift program contained in H.R. 6030 consists of 50 C-5B aircraft and 44 KC-10 aircraft. These aircraft, taken together, constitute a balanced package aimed at reducing our airlift shortfall in the most efficient and cost-effective manner possible. The C-5B's will reduce our most serious deficiency—the shortfall in outsize airlift capability. The KC-10's will reduce our oversize and bulk cargo shortfalls.

In structuring this airlift package, the Air Force and the Defense Department looked at every possible candidate aircraft, and studied the problem from every possible angle.

I commend them for a job will done.

The Armed Services Committee took nothing for granted in its thorough study of this issue. The committee scrutinized every assumption, looked again at every candidate aircraft, heard every argument on every side, and ultimately corroborated the Department's conclusion: 50 C-5B's and 44 KC-10's are the best aircraft to do the job at the best price.

I commend the committee for its work.

I understand there will be an amendment offered to H.R. 6030 that would strike the C-5B's from this carefully structured airlift package and would, in effect, substitute Boeing 747 commercial aircraft instead.

To accept this amendment would be a mistake of the greatest magnitude. The Boeing 747 commercial aircraft is clearly unsuited for performing the demanding and specialized military airlift mission for which the C-5 was expressly designed. The 747 simply

cannot carry outsize military equipment. No one claims that it can.

I will not go further at this time in comparing these very different aircraft, but in the debate on the amendment itself, you will hear all the arguments on both sides.

To my mind, the C-5 clearly wins on the merits of this issue, but I want to leave you with one final important point that you should bear in mind during the coming debate.

It is very likely that approval of the "747 amendment" will result in our Armed Forces receiving no new strategic airlift capability. The 747 is so unsuitable to the role it will be asked to play, and its capability of carrying troops and smaller-than-outsize cargo can be secured so much cheaper through the Civilian Reserve Air Fleet program, that in all likelihood no new or used airlift aircraft will be bought. Our serious airlift deficiencies will remain the same or, more likely, worsen.

We cannot allow this to happen. I urge you to join with me in approving the airlift program recommended by the Air Force, the Department of Defense, the President, and the Armed Services Committee.

Mr. HUNTER. Mr. Chairman, it is with a great deal of pleasure that I rise in support of H.R. 6030, the fiscal year 1983 Department of Defense authorization bill, and I would like to thank my colleagues for the commitment they made to a strong national defense.

I would like to begin by commending our distinguished chairman, Mr. PRICE, and our ranking minority member, Mr. DICKINSON, for the leadership they provided in preparing H.R. 6030.

Mr. Chairman, this marks the second year that I have sat here in these Chambers and listened to debates over defense spending by my learned colleagues. But even as we debate whether to spend more money on the M-1 tank, the B-1 bomber, the Trident submarine, the F-18 fighter, the MX missile program, the Perishing II missile system, and other important programs, our principal adversary—the Soviet Union—continues to invest more and more of its resources in defense. For example, over the last 5 years the Soviet Union's military investments have exceeded those of the United States by 80 to 90 percent.

This persistently high rate of investment has clearly contributed to an asymmetry in the size of the Soviet military arsenal vis-a-vis that of the United States. Further, Soviet investments in military technology have eaten away at the relative technology lead that the United States has for so long enjoyed. In fact, the Soviet Union may have even captured the lead in some technology areas.

Their major defense investments have enabled the Soviets to exert ever-increasing influence throughout the world, thus placing extreme pressures on many free world countries. In fact, it seems to me that the Soviets game plan calls for a full court press against free world nations.

I believe that in order to break this full court press, it is necessary to continue to increase our defense investments. H.R. 6030, in my judgment, represents a step in that direction.

I would suggest that as we increase our defense investments there are two basic but essential principles which should guide the acquisition of major weapon systems. The first is whether there is a bona fide requirement for a particular weapon system; second, whether the acquisition strategy for that system is designed to give the taxpayer the biggest buy for the buck. I am sure that you will agree that while reasonable men may disagree as to the requirement for a particular weapon system, there should be unanimity on the issue of acquiring that system in the most cost-effective manner.

Along with several of my colleagues on the Subcommittee on Procurement and Military Nuclear Systems, I spent last summer, fall, and a portion of the winter reviewing defense procurement procedures, including cost management and control. During that review, we focused on those factors that impact on the cost of major weapon systems. The factors include the methods used to estimate the cost of major weapon systems, assumptions concerning inflation rates, changes in design specifications, program stability, and production efficiencies.

Regarding production efficiencies, the committee has in the past argued very forcefully for procuring major weapon systems at efficient production rates and for the use of joint service programs to acquire common weapon systems. Congressional approval of multiyear contracting and the use by the Defense Department of joint service programs have directly contributed to more economic production rates for several weapon systems. The programs outlined in H.R. 6030, which have multiyear contracts—such as the UH-60A Black Hawk helicopter and the F-16 fighter aircraft programs—and those joint service programs—such as the joint Air Force/Navy medium range air-to-surface missile (MRASM) program—are clearly better buys for the taxpayer.

I know that there are those among you who would argue for reductions to the Defense authorization bill. But I would remind you that H.R. 6030 is over $3 billion below the Defense Department's authorization request and has been stated the committee will offer a series of amendments to H.R. 6030 to further reduce Defense authorization. Clearly, any additional reductions will result in many of the procurement efficiencies—such as multiyear contracting and economic production rates—being reduced or eliminated. This would ultimately increase the cost of many programs. I urge my colleagues not to submit to the current pressures to cut into the muscle of our vital programs.

Mr. Chairman, I believe that H.R. 6030, although not perfect, is a good bill. It will allow us to continue those necessary force modernization programs on which we placed a down payment last year.

I urge all Members to support H.R. 6030.

Mr. PRICE. Mr. Chairman, I yield 7 minutes to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, as chairman of the Military Facilities and Installation Subcommittee, we have in our subcommittee jurisdiction over civil defense. Our subcommittee has recommended $252 million for civil defense for the fiscal year, which is included under title VIII in this year's DOD authorization bill. The recommendation is consistent with the administration's request.

Before I begin my prepared remarks, I should like to refer briefly to the DSG fact sheet under date of July 16, 1982. As you know, the DSG fact sheet is objective; it is accurate; but there is one error in the field of the civil defense that I should like to point out to my colleagues because it is of supreme importance on the issue of civil defense.

There are shown arguments for amendments which will be made to reduce civil defense and there are shown arguments against the amendments to keep the level at the $252 million. Under the arguments for the amendment it goes in some detail, but against the amendment it says:

> The Soviets have spent a great deal of money on their civil defense system and as a result could survive a nuclear war better than could the United States.

That is true. Then it continues:

> They apparently believe that a nuclear war is winnable—

Referring to the Soviet Union, and in my judgment this is not what we as proponents of our bill are saying at all, for it has been said in the Soviet press translated and distributed by the Directorate of Soviet Affairs Air Force Intelligence Service as follows, quoting Leonid Brezhnev:

> As Leonid Brezhnev pointed out in his reply to a Pravda correspondent on 21 October 1981, "Anyone who starts a nuclear war in the hope of winning it has thereby decided to commit suicide. Whatever strength the attacker may have and whatever method of starting a nuclear war he may choose, he will not achieve his aims. Retaliation is unavoidable. That is our essential point of view."

That, ladies and gentlemen, is from the standpoint of our adversary, the Soviet Union.

□ 1550

So neither is it the premise of this great country nor that of our adversaries that civil defense goes in tandem with the philosophy that any nuclear war is winnable. That is not our premise and that is not the premise of those who oppose our efforts.

Consistent with the efforts of our adversaries, however, we should have a backup or insurance system in tandem with a dual-use system that also, by the way, deals with natural disasters. This is what our committee did, and it merits your support.

Mr. Chairman, the committee has recommended $252.34 million for civil defense for fiscal year 1983. The recommendation is consistent with the administration's request.

The committee's action is based upon the judgment that the present civil defense system is sadly lacking and that if this country intends to be serious about civil defense it is necessary to provide adequate support for an enhanced program. The authorization of $252.34 represents the first year of a 7-year effort to upgrade the U.S. civil defense program. At present, the civil defense system is little more than a hollow shell. For us to have an adequate program within a realistic period of time a significant funding level is required for fiscal year 1983.

The committee's recommendation represents the beginning of an ambitious effort to improve U.S. civil defense capabilities which eventually could protect 80 percent of our risk population from nuclear attack. The recommendation is in concert with the administration's recent announcement to undertake a 7-year program capable of relocating to safety up to two-thirds of the American public in case of imminent threat of a nuclear war. When compared to the overall defense budget, the $252.34 million recommended for civil defense is a small amount but perhaps holds the greatest potential for saving American lives.

It signals to potential enemies that besides our determination to enhance the U.S. strategic retaliatory defense, we are intent on protecting our populace as much as possible against any nuclear first strike—a combination that should reduce the risk that the United States could be coerced in a nuclear crisis.

Questions may be raised about the wisdom and efficacy of the committee's action, particularly in light of our severe budgetary problems. It is appropriate, therefore, to explain to the House the basis of our action.

As one who has supported the administration in its efforts to come to grips with mounting Federal deficits, I am especially sensitive to the issue of Federal spending and national priorities.

National defense is clearly a high priority and a proper function of the Federal Government. Civil defense is a part of the national defense effort. Its purpose is to protect our citizens to the maximum extent possible from the ravages of nuclear war. It also prepares us to deal with the hazards of natural disasters.

My statement about nuclear attack protection should not be construed as though I am suggesting or embracing the idea that any war is desirable or that any nuclear war is winnable. In the latter circumstances, everyone on Earth would suffer devastating consequences—whether death, disease, or starvation. However, because we live in the nuclear age we must be prepared to take whatever modest course of action is available for protecting our people even if effective only in less catastrophic situations: nuclear blackmail, conventional war, natural disaster, or limited or accidental nuclear attack.

Civil defense is complementary of our strategic offensive capability. Our nuclear deterrent forces are clearly the preeminent bases for maintaining equilibrium and nuclear stability. Civil defense is but a small part of our strategic posture. It is an insurance policy that, in circumstances short of a full-scale strategic exchange, may save lives that would otherwise be lost.

We can debate endlessly about the nature of any nuclear exchange that may occur—whether it would be a limited exchange or one that is full scale in scope. The point remains that we have an obligation to provide whatever protection we can for our people.

Today, we cannot say that we have met that obligation. We have been limping along for years. Now the administration has made a decision to upgrade our civil defense program. We should support that effort.

In doing so, the question may be asked—well, what are we buying for our money? Simply stated, we are attempting to buy as much protection as we can for our people from nuclear danger. We are also buying the capability to prepare for and respond to national disasters.

This dual use aspect of civil defense cannot be overstated. Many of our congressional districts have experienced the ravages of floods, hurricanes, and other natural disasters. In many cases, the local and State civil defense agencies have been there to respond. With the enhanced program, they will be better prepared and equipped to deal with these disasters.

With the expanded program, their capabilities can be improved—both from a preparedness standpoint as well as from the ability to respond. Through their work with natural disasters, the civil defense system is tested and exercised. We should, therefore, continue to support improvements for the system. These improvements mean that State and local officials will be better prepared also to meet their severest test of dealing with nuclear disasters.

The bedrock of the civil defense program is crisis relocation planning. It is the most cost-effective alternative to a massive shelter program that would cost over $100 billion. Obviously, we cannot afford such a program. At the same time, we cannot afford to continue to ignore the problem of civil defense as we have for many years.

Crisis relocation requires careful and extensive planning. Simply to dismiss it on the basis that it will not work or to stretch it out will only result in added costs to complete the job. It would be far more costly in the long run to delay the program. The important point is that it can be used both for nuclear attack planning as well as evacuation planning for natural disasters.

The Three Mile Island accident, for example, underscored the importance of having adequate plans to evacuate people. At the time of the accident little or no planning had been accomplished. Fortunately, time did permit the development of rapidly devised plans, although ultimately a planned evacuation was not undertaken. Obviously, in many cases, we would not have the luxury of such time or the option of not evacuating on a planned basis.

Critics suggest that civil defense is a cruel hoax. They indicate that it offers very little protection for the American people. Little is better than none and that is the alternative. At least, with the administration's proposed program we will provide the most cost-effective protection that is available. Natural disaster needs, standing alone, merit the authorization of these funds.

By implementing the proposed program, we are not advocating that nuclear war is winnable. We are not attempting to lull the American people into a false sense of security. We are suggesting, however, that we should prepare to the fullest extent possible to mitigate man's greatest tragedy—nuclear war.

At the same time, as I mentioned previously, we are buying dual protection. Civil defense is a dual-use program. It affords us the opportunity to prepare for and respond to natural disasters as well as to prepare for nuclear attack. We are essentially obtaining two programs for the price of one. We are using the same resources for two different but related purposes: the protection of the American people from disaster, whether it be natural or attack-related.

Therefore, Mr. Chairman, in my judgment the committee's recommendation represents a prudent investment, and I strongly urge my colleagues to support the $252.34 million authorization for civil defense.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I would just like to compliment the gentleman in the well and the gentleman who will succeed him for their long, tireless, effective efforts in the area of military construction and civil defense.

I think the amounts reflected in this year's authorization are needed.

As the gentleman commented, this has to do with disasters also. As I have urged on the committee before, I think it is only right that we do this.

Mr. BRINKLEY. I thank the gentleman.

The CHAIRMAN pro tempore. (Mr. BAILEY of Pennsylvania). The time of the gentleman from Georgia (Mr. BRINKLEY) has expired.

Mr. DICKINSON. Mr. Chairman, I yield 8 minutes to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Chairman, I wish to speak in support of President Reagan's program for civil defense.

The $252 million in authorization represents, as our good chairman said, the first year of a 7-year comprehensive program for civil defense. This is the first time since John F. Kennedy was President that we have had any President recommend a comprehensive program for civil defense.

I would urge all my colleagues to vote tomorrow during the amendment procedure against any amendments that would weaken President Reagan's program.

In my estimation, the case for an improved civil defense program is clear. One of the common principles in providing for defense is to be as strong as your potential adversary if you want to have peace.

I think everyone in this Congress wishes that condition to be with us forever.

We are told that we must maintain the strategic balance if we want peace. We have to keep the nuclear scales balanced. We are told also by our leaders that we enjoy something called rough equivalence in weaponry. That is we have about the same destructive capability as the Soviet Union.

But, if they have a good civil defense program that can protect their people from our weapons, but we cannot protect our people from their weapons, it is as if they have, relatively speaking, far more weapons and makes a mockery of the strategic balance.

It gives a great advantage to the Soviet Union in any sort of confrontation, whether it be in Afghanistan, in the Horn of Africa, or at the bargaining table.

No one knows just how superior their system is to ours. No one denies it is superior to ours; but if they perceive that their system is better than ours it gives them a great advantage in any sort of confrontation, even though it is not greatly superior in fact.

It is a big plus for them. We know that, by quantifying the situation, that they are trying 10 times harder than we are. We have about 10,000 people involved in civil defense full time; they have about 100,000 full-time people in civil defense. We spend roughly $100 million on civil defense; they spend over $1 billion on civil defense each year.

When it comes to casualties, then we have the large numbers. We are told by our experts if there were an all-out nuclear war and both sides fired everything they had, in our present state of preparedness we would lose 150 million Americans to their 15 million Soviet citizens.

So, if we want peace, Mr. Chairman, we have to maintain that nuclear balance.

We have two choices—actually we have three choices: One choice is to surrender, say it is all hopeless, we cannot do anything about it, and just wave the white flag.

The second choice is to develop more expensive, more sophisticated weapons, to kill more of their people.

The third choice is to protect our people with a civil defense program. This third choice is the most humane and least expensive way to balance the nuclear scales.

I would like to refer to this chart that explains some of the options in civil defense. This chart was part of an interagency report prepared for President Carter a few years ago. He wanted to know what chance for survivability there was for the American people in the event of nuclear war. The best people we had in an interagency study came up with these statistics. The agencies involved were all the relevant ones pertaining to civil defense and defense generally.

The vertical scale refers to the percent of survivability. The horizontal scale refers to the options we have.

For example, in option A, and incidentally someone is going to recommend this option tomorrow—that we do not spend anything for civil defense—if there was an all-out nuclear war, this is what would happen. Twenty percent of our people would survive.

So under option A, no expenditure, no plan, 20 percent survive. Option B is where we are now. We spend about $100 million a year on civil defense. In an all-out nuclear war, approximately 30 percent of our people would survive.

Now, the program recommended by the study is D or D prime. It was recommended to President Carter as being doable because of costs and advisable because of survivability.

In the D plan, which is what President Reagan's program pretty much is—it is a little more sophisticated, a little more expensive, and has several enhancements—but it is pretty much the D-prime program. About 85 percent of the Americans would survive in an all-out nuclear war.

□ 1600

So, from where we are now at $100 million a year, we spend $3 billion more over the next 7 years, which is what President Reagan requests. We can go from 30-percent survivability to 85-percent survivability. We can save more than half of our American people by just having the program that President Carter and President Reagan recommended.

Some people suggest that this is a lot of money to spend, $3 billion more and it is a huge sum, but I would suggest to them that this year's defense budget, just 1 year alone, approaches $300 billion. So, this 7-year expenditure of $3 billion is like one-tenth of 1 percent of what we are going to spend in just 1 year to destroy people.

Let us look at some of the arguments against civil defense. Some people say it would be viewed as an escalation if America suddenly had a program to protect its people. That is utter nonsense, because what we are doing is copying what the Soviets did 10 years ago. We are just playing catchup; we are getting even, so they could not possibly view it as an escalation.

Other people point to rush hour traffic in any large city and say, "We have a hard time getting our people out of the city during rush hour. How could we possibly evacuate so many people in time of crisis?"

That is a problem that is shared by the Soviet Union. They have the same type of program. We have a better highway system. We have more vehicles. If they can get their people out, we can do it far better. The nuclear scales remain balanced.

Others suggest that nuclear war would be over in minutes and that there would not be time to have a civil defense program in place. Ladies and gentleman, that is the least probable scenario. The Soviets would suffer identical losses to ours if they could not put their civil defense program in place and get their poeple out of their cities, so that is not going to happen. Their losses would rival ours at 150 million people.

Other people say that it costs too much. How much is a human life worth? It does not cost too much at all. As I stated earlier the 7-year cost represents about 1/10 of 1 percent of our defense budget.

People look at any individual plan and say, "The plan is imperfect, we are not going to be able to work this plan." I say that if it is imperfect it is because Congress does not give the people in civil defense enough money to do a good job. It is like cirticizing a car that will not run because you do not put gas in it. You have got to fund the program if you want to have it work properly.

There is a group called physicians for social responsibility who, I am sure, have the best of intentions, but who omit the Soviets totally from their planning, from their thinking. They tend to operate in a vacuum. They have the old mutual assured destruction—MAD—philosophy which many of our warlords held for many years and maybe still do. It is that there is no possible way anyone can survive a nuclear war, so we should not even try. We hold each others populations hostage.

They are preaching surrender. They are asking would you rather be red or dead? They have no prescription for survival. They tell us that nuclear war is hell, and I cannot imagine anyone who would argue with that. They tell us also that we should not have one. Well, we should not, of course, but they offer no solution. What would they recommend, I wonder, if Soviet citizens began leaving their cities? Probably, "Take two aspirin, go to bed, call me in the morning."

The idea behind civil defense is a totally acceptable procedure. It is to get people away from where the danger is. It is what we use for any crisis situation. In a flood situation we get people away, or a hurricane; or a fire, or in Beirut people are trying to get away from where the attack is going on. If there was a bomb scare in this building we would evacuate the building. If there was a bomb threat in the Senate buildings or the House buildings we would evacuate them. It just makes good sense to get people away from where the danger is. If Washington is a danger area, why not move the people out? I just cannot understand why it is so difficult to grasp such a simple concept. Civil defense is simply an orderly way to remove people from the danger area.

Those who want to stay can. We are not demanding that they get out, but I would take this civil defense option for life. I think most people would want that option.

I would also like to say that civil defense is completely compatible with the nuclear freeze concept. We would all rather do away with nuclear weapons, but it certainly is not going to happen tomorrow. In the meantime, let us buy some insurance. Let us balance the scales. Let us prevent nuclear war by being as strong as our potential adversary. Let us develop as good a civil defense system for Americans as the Soviets have for their citizens.

I do not know the makeup of the people in this Chamber as far as hawks or doves are concerned, but this is one defense measure that anyone can support. It is not destructive. It is peaceful, it is inexpensive, it is preventive, it is protective. It is long overdue.

Mr. Chairman, I urge support of the funding of $250 million for the civil defense program.

Mr. PRICE. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MAVROULES).

Mr. MAVROULES. Mr. Chairman, as a member of the Armed Services Committee, and in particular as a member of its Procurement Subcommittee, I welcome this opportunity to share with my colleagues a few perspectives on this fiscal year 1983 Department of Defense authorization bill.

First, I would like to express to the gentleman from New York, the chairman of the Procurement Subcommittee, my appreciation and thanks for the fairness he has demonstrated as we proceeded with this authorization and our military posture hearings. Second, I should also express my praise to the gentlelady from Maryland, the subcommittee's ranking minority representative. The debates in the subcommittee were often heated, and filled with emotion and spirit. But they were always fair.

In this fiscal year 1983 Defense authorization, there are several much needed initiatives which will enhance our conventional capability, and as a consequence, relieve aspects of the conventional imbalance which now exists.

Let me share a few examples with you.

While controversial, the Army's new attack helicopter promises to give our troops in Europe more flexibility and greater survivability. As the Under Secretary of the Army told the Procurement Subcommittee on March 26, "The Army must have a modern attack helicopter. Without it, the ground forces are in serious jeopardy."

When you realize that our ground forces are comprised of 18-, 19-, and 20-year-old soldiers, you come to realize just how important conventional capability is. Their survival depends upon the equipment available to them. That is why I support programs like the Apache, and the improvement they bring to our conventional capability.

Additionally, this authorization provides funding for 84 F-18 aircraft for fiscal year 1983. This number of aircraft represents a more efficient production rate for the F-18, promises to lower unit costs, and accelerates the delivery of aircraft to the Marine Corps and Navy. The first operational wing of F-18's is now deployed by the Marine Corps. Reports from the pilots are extremely positive. It appears that the F-18 is an aviator's dream.

There is one area which will be the subject of considerable debate, when the procurement section, title I of this authorization is open to amendment.

Two other members of the Procurement Subcommittee will join me in offering an amendment to strike and defer funding for the production of the MX missile. While our amendment strikes the procurement request for MX $1.14 billion, it does not affect the $2.6 billion which has been requested for MX research and development.

As we will explain during debate, the purpose of the amendment is simple, to demand commonsense and practicality in the obligation of limited national defense resources.

Until the President makes his decision on long-term MX basing, we must defer funding on the missile production. A deferral will provide an opportunity to put missile production and basing in synchronization.

The amendment is very similar to the one approved by the Senate Armed Services Committee, and adopted by the Senate in their consideration of this authorization request.

I urge the Members to become involved and participate in the debate on the MX amendment.

I thank the Chairman for yielding, and would also like to express my thanks to him and the gentleman from Alabama (Mr. DICKINSON), for their conduct of the full Committee, and their fairness.

□ 1610

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. If I have time, I would be glad to yield to the gentleman.

Mr. STRATTON. Mr. Chairman, the gentleman said that he does not support the MX missile, that he felt it should not be developed unless and until there is a decision on where to base it.

Would the gentleman refuse to put Band-Aids in his——

The CHAIRMAN pro tempore (Mr. BAILEY of Pennsylvania). The time of the gentleman from Massachusetts (Mr. MAVROULES) has expired.

Mr. STRATTON. Mr. Chairman, may I ask, would the gentleman from Illinois (Mr. PRICE) yield 1 more minute to the gentleman from Massachusetts?

Mr. PRICE. Mr. Chairman, I yield 1 additional minute to the gentleman from Massachusetts (Mr. MAVROULES).

Mr. MAVROULES. Reluctantly, Mr. Chairman, I will take the other minute. I would prefer to debate this matter tomorrow, but I will answer the gentleman briefly.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, I just wondered whether the gentleman, for example, adopts the same policy in his household? Would the gentleman hesitate to buy Band-Aids to put into his medicine closet until he knows exactly what part of the body the Band-Aid is going to put on?

Mr. MAVROULES. Mr. Chairman, I hope the gentleman will give me a chance to respond. We only have 1 minute. The point is, of course, that when I offer the amendment tomorrow, I will articulate my own position at that time. We are not going to be able to discuss this in 20 seconds.

Mr. STRATTON. Mr. Chairman, I look forward to that with anticipation.

Mr. MAVROULES. I look forward to it also.

Mr. STRATTON. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. MAVROULES).

Mr. DICKINSON. Mr. Chairman, I yield 6 minutes to the gentleman from New Jersey (Mr. COURTER).

Mr. COURTER. Mr. Chairman, as a member of the House Armed Services Committee I would like to first commend the chairman of the committee, Mr. PRICE, and the ranking minority member, Mr. DICKINSON, as well as all the subcommittee chairmen, ranking members, and the able professional staff, headed by John Ford, for their extraordinary hard work in reporting this highly important piece of legislation, which directly affects our national security.

Mr. Chairman, there can be no doubt that we live in a dangerous world, where we certainly do not and cannot control all events. The current turmoil in two areas of the Middle East demonstrates our need to possess and maintain armed forces capable of defending ourselves, our allies, and other vital interests that we have, and to assist in maintaining world peace. Our forces, Active and Reserve, must be well trained, adequately paid, and supplied with the finest weapons and support systems in order for them to accomplish their missions. Additionally, every effort must be made to see that waste, fraud, and other abuses be eliminated from defense spending, so as to maintain public support for our national security efforts. I believe that H.R. 6030 responds to these needs. In today's global environment we have no realistic alternative. It should be remembered that it was president Franklin D. Roosevelt who called upon America to become the world's "arsenal for democracy" when international tyranny threatened western democracies a generation ago. We have taken on this role very relugtantly, but out of necessity, like it not, we are the free world's defense umbrella. I feel that we must, within our capabilities and limits, maintain this "arsenal for democracy" that President Roosevelt realized that we needed. We will, of course, continue to insist that our allies and friends provide their fair share in our common defense.

However, the reality remains that we are the only Nation in the free world with the capability to dissuade the other global superpower from aggressive actions, and check its influence. By our passage of this crucial legislation, without major modifications, we will be sending a global message to friend and foe, that the American people, through its Congress, while always preferring diplomacy, still stands ready to provide the means for our Nation to meet any national security emergency.

Our Congress has the almost unique opportunity to assert its influence and authority with regard to our defense budget and national security policies. I hope that during this debate we will use our constitutional powers wisely, and with great care. Let us bear in mind, and not lose track of the fact, that our most important national interests, peace, and global security are directly involved.

Finally, there are three separate issues relating to this bill that I would like to briefly address.

First, the Armed Services Committee of the House cut $3 billion from the 1983 defense authorization bill, prior to coming to the House floor. The full committee is prepared to offer additional amendments cutting authorizations by an additional $3.1 billion, from the areas of shipbuilding, procurement, and operations and maintenance accounts. I believe that our committee has gone "the extra mile" to bring defense spending down, and into line with the first budget resolution, while retaining the programs, pay, and equipment needed by our Armed Forces.

Second, I am pleased that the Department of Defense has indicated that it wants and needs to work closer with our Nation's universities and colleges. A recent report by the Defense Science Board addressed the needs and problems associated with the relationships between the Pentagon and our universities. Since the Defense Department is reliant upon our colleges for basic research and defense scientists, DOD has included additional funds in the 1983 budget to assist universities in upgrading their labs, and providing additional scholarships for promising defense scientists. Our country is now reliant on foreign students who supply 60 percent of our engineering manpower market. We simply cannot rely upon foreign nationals, who may or may not remain here, to provided the bulk of our key defense scientists in the future. I applaud the Defense Department for its recent efforts to help our universities be more responsive to our national security needs. It is essential that the Department of Defense and the universities maintain a healthy relationship if our country's national security goals are to be met.

Finally, I would like to note that our committee has recommended that $2 million be authorized so that the Department of Defense can strengthen its role in protecting the transfer of sensitive American technology through a new defense program entititled "Technology Transfer Control Initiatives." The committee believes that it is urgent that DOD intensify its efforts to control the loss of sensitive technology by having sufficient personnel and operating funds to carry out its significant statutory responsibilities under the Export Administration Act and the Arms Control Act. This program will help establish interagency guidelines in controlling the loss of critical technology, with defense applications, to a potential adversary. This program, which will be under the Assistant Secretary of Defense for International Security Policy, will establish sound policy.

To insure compliance by public and private American entities, and to work with our friends and allies to strengthen controls over sensitive technology, a small office has already been established, and is currently working with NATO defense ministries and the International Coordinating Committee (COCOM) on the technology transfer problem. I highly support this important initiative to deny real and potential adversaries critical and sensitive technology that may be used against us. It is certainly in our interest to deny defense-related information to certain foreign governments, and not do their research and development for them, at no cost to them.

Mr. PRICE. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, in the few moments that I have I would like to first thank my distinguished colleague, the gentleman from Illinois (Mr. PRICE), the chairman of the committee. While he and I rarely agree on the substantive issues that come before the committee, the gentleman has always treated the gentleman from California with the utmost of fairness, and I appreciate that very much. I appreciate the fact that the gentleman from Illinois was very supportive of the opportunity for this gentleman to offer a substitute for the committee print.

I would second, like to thank the chairman of the Rules Committee and the members of the Rules Committee for making in order the substitute, H.R. 6696, as a substitute for the committee print. This provides an opportunity over tomorrow and the next several days to discuss and to debate the critical issues of our time.

I think that we have a profound obligation, Mr. Chairman, to debate these questions openly, clearly, and with wisdom, with conviction, with integrity, and with courage for several reasons. First, millions of the American people are literally frightened to death that we are moving in lock step toward a nuclear holocaust; therefore, we should substantively discuss the question of the risk of nuclear war.

Second, Mr. Chairman, the whole notion of war is something that frightens and disturbs millions of the American people. Therefore, we should debate and discuss these military budgets within the framework of the question of what is an appropriate, efficient, and proper national security policy.

Finally, Mr. Chairman, because we are concerned about dollars, it would seem to me that we ought to discuss these military budgets in terms of their impact on the overall budget and their impact on the overall economy.

Mr. Chairman, I hope we, as Members of this body, rise to the occasion with the best that is within us and debate these issues intelligently. It is my hope that the American press will focus upon these issues, and it is my hope that millions of Americans will focus on these issues. This will probably be the most significant and most important debate we will engage in during the remainder of this year.

Mr. Chairman, it is my hope that we will focus our attention on these critical issues. Millions of the American people want to know where we are. War is being raged all over the world. The question is, what is America's role?

□ 1620

The military budget says to the American people what we perceive as our role in the world, the nature of the world, the nature of the risk to America and how much we are prepared to spend in that world.

These are issues that have to be debated and discussed.

In summary, I would like to thank my colleagues again for providing an opportunity for me to offer a substitute to the committee print. We will vigorously debate and discuss these issues over the next several days.

I yield back the balance of my time.

Mr. PRICE. Mr. Chairman, I yield 6 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, I rise in support of H.R. 6030. I would like to cover two matters in the bill. I would like to talk about the C-5B and the All-Volunteer military force.

I support the C-5B.

Mr. Chairman, I would like to read a letter that I received from the Secretary of the Air Force on the question of the C-5 versus the B-747. The letter is to me from the Secretary of the Air Force.

It says:

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 10, 1982.

Hon. G. V. MONTGOMERY,
House of Representatives, Washington, D.C.

DEAR MR. MONTGOMERY: Thank you for your letter to the Secretary of the Air Force regarding the "Dear Colleague" letter from the Honorable Norman D. Dicks. The following are points which we feel are important in the Air Force's position on the B747/C-5 question. These subjects were raised by Mr. Dicks in his "Dear Colleague" letter, attachment 1.

ALLEGATION

Is there really a $6 billion difference in life cycle costs between a B747 program and a C-5B program?

FACTS

The $6 billion difference is achieved by comparing a Boeing life cycle cost calculation for 48 B747s to an Air Force life cycle cost calculation for 50 C-5Bs.

The Boeing calculation is not done on the same basis as the C-5B calculation.

Boeing uses a 25 percent lower fuel cost than the Air Force believes the 747 would realize in Air Force service.

Boeing assumes 48 B747's would be equivalent to 50 C-5B's in the CMMS scenarios. Even with the Boeing assumptions concerning use of the C-5's and B747's, the best the B747 can do is a ratio of 55 B747's to 50 C-5B's.

Boeing does not include the other program costs associated with introducing and maintaining the B747 in the Air Force inventory.

Boeing assumes that the Air Force would choose to let civilian contractors maintain the B747's even though they would be used in areas of major conflict as postulated by the CMMS scenario.

The Air Force cost analysis improvement group has conducted a strict "apples-to-apples" 20 year life cycle cost comparison of 55 B747's and 50 C-5B's and has arrived at a difference of less than $1 billion in fiscal year 1982 dollars. We calculate that 50 C-5B's and 58 B747's are equal in life cycle cost. However, the C-5 force, would be up to 25 percent more effective.

ALLEGATION

Doesn't the B747 provide the needed capability up to 3 years sooner than the C-5B?

FACTS

The Boeing claim of earlier availability is solely based on the difference in the two proposed delivery schedules (38 months for C-5B and 12 months for the B747).

The Air Force estimates that the difference is approximately one year when the requisite time to complete commercial widebodies is considered and the time to bring a new system into operational usefulness is taken into account.

This will require development of technical manuals and acquisition of support equipment, the establishment of a training squadron (6 airplanes) and an operational squadron (6 airplanes). In other words, 12 B747's would need to be delivered before there will be additional operationally useful capability. One additional C-5, on the other hand, will be immediately useful in that it will be added to an existing C-5 squadron.

Even that one year earlier availability assumes that the required higher rate of outlays needed for the faster B747 schedule (approximately $2 billion more for the B747 in fiscal year 1983 through budget year 1985) would be acceptable under today's budgetary pressures.

ALLEGATION

Doesn't the B747 provide the same capability as the C-5B when you use the present C-5A's in the most efficient way?

FACTS

In every scenario of the CMMS, the B747 alternative provides less combat power during the first 20 days of the contingency.

Use of the B747 alternative causes disconnects between delivery of the troops, their supplies, and their outsize firepower equipment.

In every war, the one thing that is certain is that requirements will fluctuate. The B747 alternative greatly restricts the flexibility of the airlift force to respond to changes in the scenario demands.

ALLEGATION

Why does the Department of Defense disagree with the Congressional Budget Office? "The Department of Defense has not adequately answered many questions asked by congressional committees of the C-5 proposal. However, based on information supplied to date, the existing fleet of 77 C-5's is sufficient to meet the requirements for intertheatre air delivery of outsized equipment for scenarios of the congressionally mandated mobility study. CBO agrees with this analysis."

FACTS

CBO does not agree with this analysis. See CBO letter of June 7, 1982, attachment 2.

ALLEGATION

Isn't the C-5 required primarily to airlift tanks?

FACTS

Only a minimal number of tanks would be airlifted under any CMMS scenario. The C-5 requirement is not driven by the need to airlift tanks, nor is this an efficient way to move tanks.

ALLEGATION

Hasn't the B747 demonstrated its military utility in Air Force Team Spirit exercises?

FACTS

B747's are only used to move bulk cargo and small jeep-like vehicles in exercises.

ALLEGATION

Does not the C-5 have a long list of cost and performance problems?

FACTS

Not really. The C-5 development was a new technology, high risk program developed under a procurement procedure wherein production articles were fix priced before they had been developed. This procurement approach has not been used since.

The C-5 wing problem was also a product of the unique procurement approach. The C-5 has performed in an outstanding manner in every crisis including Vietnam.

ALLEGATION

Doesn't the Pentagon admit that the purchase of 50 C-5's would provide only an interim response?

FACTS

No. In Secretary Weinberger's letter of June 5, 1982, to the Speaker, he emphasizes that the C-5 acquisition is not an "interim" program, rather, he says: "It is the key first step in a long range program to provide our general purpose forces with sufficient airlift to meet their combat mobility requirements.

The C-5B's, along with the rewinged C-5A's, will be the mainstay of our strategic airlift force well into the 21st century.

ALLEGATION

Used B747's would increase our airlift capability in the shortest possible time.

FACTS

All B747's which are U.S.-flag carriers are already available in national crisis.

Those which are passenger aircraft could be used to transport resupply and munitions as soon as they complete their troop carrying missions by floor loading them as El Al Airlines did in the Yom Kippur war.

A mod, a stronger floor, a bigger door and faster on-loan time costs $35 million per airplane.

A modified B747 can carry a heavier payload than a floor loaded one due to floor strength; however, this increase is not significant in comparison to the modification cost for resupply missions.

For deployment missions, some modified aircraft would be useful; however, a strong Civil Reserve air fleet modification program can provide this airlift at one seventh the cost of Air Force ownership of B747's.

ALLEGATION

Doesn't a decision to buy B747's help the C-17 program?

FACTS

The B747 will do nothing to alleviate the current and pressing need for outsize airlift capability.

The C-17 program is phased as a methodical long-term development effort which will be available as a replacement aircraft for C-130A's and C-141's in the 1990's.

Accelerating the C-17 to help address the growing outsize shortfall caused by canceling the C-5B would introduce increased technical risk in the C-17 and therefore increased potential for cost overrun.

ALLEGATION

Won't adoption of the Boeing proposal primarily help the airline industry?

FACTS

It would help those airlines from which the surplus aircraft were bought and improve their competitive position relative to the other airlines. For this reason the airline industry is divided on this issue.

Most of all it would help the Boeing Co. as described in recent Forbes, New York Times, and Wall Street Journal articles.

ALLEGATION

Isn't it true that representatives of all the services have testifed that they prefer the C-17 over the C-5?

FACT

Representatives of all the services, including the chairman designate of the JCS, have repeatedly stated that there is an urgent need to buy the C-5 now. See the attached statement of the Secretary of the Army on this subject (attachment 3).

Your personal interest and support in this vital issue is appreciated. If we may be of further assistance, do not hesitate to ask.

Sincerely,

GUY L. HECKER, Jr.,
Major General, USAF, Director, Legislative Liaison.

Attachments.

This is a very concise and authoritative response from the Air Force on the superiority of the C-5 capability to transport rapidly our troops and water material to remote areas of the world.

As I say, the letter is from the Chief of the Air Force.

Mr. Chairman, I would like to spend my last few minutes talking about the all-volunteer system.

Forty-three percent of this bill we are now considering will go to personnel, 43 percent, but we will spend most of our time talking about weapons and the procurement of these weapons.

Let me say that most of the military leaders in this country say that the all-volunteer system is working. They say that because they are now reaching their strength levels.

I say there are many problems in the all-volunteer system and we should take a few minutes and analyze these problems.

Two prestigious military think tank groups also expressed only recently their concern about the all-volunteer system. The Brookings Institute and the Atlantic Council of the United States basically said in the 1980's whether we like it or not we are going to have to go to a limited draft or a full draft because the all-volunteer military system is just not working that well.

These are very distinguished Americans who helped write this report of the Atlantic Council, General Goodpaster, former NATO commander, and Mr. Lloyd Elliott, who is the president of the George Washington University.

In this report they said that the education of the recruits that have come into the Army, their standard tests have been very, very low. In 1979 and 1980 it was very serious. In 1981 and 1982, because of the economic situation, no jobs available in the civilian market, these educational qualifications have improved some.

We are not getting, the report says, a cross-section of middle-class young Americans to serve in the all-volunteer system. The report said we needed new incentives such as a GI education bill that is now pending before the House of Representatives. The report was very supportive of some type of new GI education bill

Both of these reports from the Brookings Institute and from the Atlantic Council said it is an absolute necessity that we continue peacetime registration.

Also they pointed out that the Individual Ready Reserve is a disaster. This is where we have individuals who are supposed to be in the Individual Ready Reserve and if we need these persons we call them up. There are very few to call up who could help in mobilization.

The Brookings Institute says that the Army is heavy with enlistments of minorities. If we do have to move in a conventional combat, 50 percent of the casualties in the early days of the war will be sustained by minorities; well over 50 percent of the casualties will be in that group. That is not fair. That is not the proportion that we have of Americans in this country.

As pointed out by the Brookings Institute, we are still not getting a cross-section of Americans. We have the real poor and the minorities who will take the casualties, and that is just not right.

One of the bright spots, though, in our military is the tremendous improvements being made in the National Guard and Reserve units. This has been brought about by this Congress giving the National Guard and the Reserve incentives and good equipment. They have improved greatly, and the Congress certainly had a lot to do with it.

I commend the gentleman from New York (Mr. STRATTON), the gentlewoman from Maryland (Mrs. HOLT), and the gentleman from Alabama (Mr. NICHOLS), and the gentleman from New York (Mr. MITCHELL) who helped in there and for seeing that these authorizations were provided.

This is a good buy for the taxpayers in having a National Guard or a Reserve unit. The personnel costs are half as much to keep a National Guard unit trained as with the regular forces.

Let me point out in closing that H.R. 1400, the GI education bill, will certainly help the National Guard and the Reserve. There is no question about it, the Israelis have the greatest reserve forces in the world today. We should get our National Guard and Reserve up to those standards, and this educational bill will do it.

I thank the gentleman.

Mr. DICKINSON. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. PRITCHARD).

□ 1630

Mr. PRITCHARD. Mr. Chairman, I know tomorrow we will be getting into the details of the so-called 747/C-5 argument, and today I am not going to spend a lot of time rebutting some of the charges that have been made.

I would like to set out what I think are the four major issues in the Air Force debate.

First, cost. The Boeing proposal for 48 747's, using the existing planes, would cost $3.2 billion. The DOD proposal for the 50 C-5's would cost $8.8 billion. Thus, the savings under the 747 alternative is $5.6 billion. And Boeing guarantees the cost.

Second, the airlift requirement. The congressionally mandated mobility study concluded that of the 233,000 ton airlift shortfall, only 34,883 tons, 15 percent of the shortfall, was in the cargo that would not fit in the 747. Thus, the most logical cost-effective way to remedy the shortfall would be to devote the existing fleet of the 77 C-5's, when rewinged, to carry the outside loads and acquire the cheaper 747's to move the remaining equipment. Such a solution provides bal-

anced deployment and maintains unit integrity.

Third, the military utility of the 747. Military aircraft are built for very specific tasks. Commercial aircraft, by the nature of their work, must be flexible. The 747 has been used as a commercial passenger transport and as a freighter for 14 years. It also has been used to transport a very unique piece of equipment, the Space Shuttle. The 747 flies into every country in the world. There is a worldwide parts and service network, something which should not be overlooked, given the fact that we cannot necessarily choose where to do battle. One thing is for sure, there is not a worldwide parts and service network for the C-5.

The 747 can fly to the Middle East without refueling. The C-5 would have to be refueled in flight or stop along the way. The 500 747's currently operating worldwide are some of the most reliable planes ever built. They run night and day because the airlines demand an airplane which is both reliable and efficient to operate.

Neither the 747 nor the C-5 is going to land on dirt fields adjacent to combat. Instead, they would land at large strips which could be used as staging areas to assemble troops, material, and equipment. The 747 can land at almost as many places as the C-5 and, under the vast majority of scenarios, the military would not land a C-5 on a field that could not accommodate a 747. One of the reasons is that troops are going to be carried by the 747.

Although Lockheed has made the C-5's almost ground level cargo door the star of newspaper and magazine ads, the fact is that under tests conducted by the Military Airlift Command (MAC) it was demonstrated that both planes have essentially the same ground time for loading, unloading, maintenance and refueling. Remember, these planes go back and forth, back and forth. it is not one flight into the edge of combat, where people come out the mouth of that plane with their guns blazing. Thus, the C-5, with its fancy door, does not have a great advantage over ground time.

The DOD decision to acquire the C-5 is perplexing, given the fact that the CMMS concluded that there was a short-term airlift deficiency. The bulk of the C-5 order would not be completed until fiscal years 1988 and 1989, after the rewinging job is finished. Thus, the DOD plan does nothing to relieve our airlift deficiency in the short term. All of the 48 747's could be delivered by the end of fiscal year 1986, 3 years sooner than the C-5's. Without the 747, the Rapid Deployment Force will be neither rapid nor deployable until the end of the decade. That will certainly comfort the Russians.

Finally, Mr. Chairman, let me conclude my remarks with one final observation. There is some credibility at stake in this airlift debate. It is not Boeing's, it is not Lockheed's, and it is not the Defense Department's. It is ours. Yours and mine. This amendment represents an unprecedented offer by a major military contractor—a guaranteed price on each plane, no matter if we buy 1 or 100, a guaranteed operation and service price for the life of the plane, a package that will meet the Defense Department's stated requirements.

In my 10 years in this body, I have never seen such an opportunity. We can prove to the American people that our defense needs can be met in a cost-effective manner, and we can protect the American people's wallets from being emptied by a seemingly endless stream of cost overruns. Here is a company which is willing to put its money where its mouth is. We ought not to let this opportunity slip by.

Mr. PRICE. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. BOLAND).

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, if the commercial airlift amendment fails, Lockheed ought to pay its advertising agency a sizable bonus because they will have succeeded in selling a plane to Congress and the American people on the strength of a feature which some of the Pentagon's top brass readily admit will rarely, if ever, be used. That is like selling the Volkswagen "Bug" primarily on the fact it will float.

Of course, I am referring to the newspaper and magazine ads showing tanks rolling off the C-5. It does conjure up visions of a Hollywood war flick—the C-5 landing on a dirt airstrip and the celebrated M-1 tank, less its bulldozer and fuel truck, barreling out the nose of the plane with guns firing.

There is only one problem. That is not how it is going to happen.

Air Force Gen. Kelly Burke:

People generally almost always think of tanks when you say outsized, but normally that's not a big thing to move by air. It's a very inefficient way to move tanks.

Gen. P. X. Kelly of the Marine Corps, former Commander of the RDF, before the Defense Subcommittee of the House Appropriations Committee:

I believe that there has always been some misconceptions relating to the relationship of a tank with strategic airlift. In my view, using a C-5 aircraft for the intertheater airlift of one main battle tank is uneconomical and should be the exception rather than the rule.

So do I, General Kelly, so do I. And the reason is very simple: It doesn't make any sense. We have literally thousands of tanks prepositioned in Europe today. I guarantee you they did not get there by air. Even if you devoted 150 airlifters solely to moving tanks, you probably could not land enough tanks to fight a war. The Defense Department knows this. That is why they have dedicated only 144 M-1 tanks to the RDF. Given the fact that the C-5 can carry only two of these tanks at a time—right now, they can not carry any tanks until they get new wings—simple arithmetic tells you that the 77 C-5's we already have could move these tanks.

What we really should be concerned about moving with the RDF are not tanks, but rather, antitank equipment. The kind of gear that can go on a soldier's back or is mounted on the back of a truck. And, lo and behold, antitank equipment is not outsized. It can fit in a 747 and several other military transports.

This whole fixation on tanks is yet another example of how convoluted the entire airlift issue has become. We contend, and the congressionally mandated mobility study states that tanks are not going to be airlifted. In fact, very little combat equipment is going to be airlifted. Of all the equipment that will move with the RDF, only 6 percent of it will be airlifted. Six percent. And over 80 percent of the entire airlifted tonnage will be bulk and oversize cargo—that is cargo which fits on the 747.

If you are really into moving tanks by air, if that is the real issue, then we should do something else. Instead of buying a VW because it will float—we should buy a boat. If our real purpose here is to fly tanks, your plane is the C-17, because moving tanks is one of the main things the C-17 is designed to do.

So, while I do not want to put anyone out of work on Madison Avenue, I do not think we in Congress should be making our defense decisions based on sexy ads. We are not buying toothpaste or perfume or the latest Atari war game.

The facts are that the 747 will do the job we need done, $6 billion cheaper and 3 years sooner. Get that on line and then let us move ahead with the C-17.

Mr. LOWRY of Washington. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Chairman, I am here to speak on behalf of the Rhodes amendment, which would save $450 million in budget authority for fiscal year 1983 and more than $6 billion in total savings. This amendment would require the Defense Department to procure commercial widebody aircraft instead

of C-5 aircraft for military airlift purposes.

Seldom do we have such a good opportunity to achieve significant cost savings; yet this amendment would also result in completed delivery of these aircraft 3 years earlier than would be the case for the C-5's. The widebody aircraft are better able than the C-5's to move oversize and bulk material. These items make up a large majority of the goods that would need to be transported in a crisis. For these reasons, I am convinced that the adoption of this amendment is in the best interests of our national security.

Mr. BOLAND. Mr. Chairman, I would like to bring to the attention of my colleagues a section of H.R. 6030 which I consider to be unnecessary and ill-advised. I refer to section 108 which prohibits the expenditure of funds on DOD's 9 millimeter handgun standardization program. The section prohibits not only handgun procurement but also the carrying out of "any activity concerned with evaluating the feasibility or desirability of purchasing a 9-millimeter handgun for the Armed Forces."

I believe that section 108 is unacceptable for two reasons. First, insofar as it relates to procurement, the section brings a halt to an important handgun replacement and standardization program which has been carefully developed by DOD over the past several years. Second, the section ties the hands of the agency charged with the responsibility of insuring the safety and effectiveness of our service men. The section does this by prohibiting DOD from even considering whether a need exists to continue its planned handgun procurement.

The need for a new standardized handgun using NATO compatible ammunition has been clearly established. There are currently 25 different kinds of handguns in service with the Armed Forces. The Committee on Appropriations was asked in 1978 to provide funds for 120 kinds of sidearm ammunition. The U.S. sidearm inventory is plagued by persistent problems to parts supply. This situation is further complicated by the advanced age and poor condition of most of our handgun inventory. The newest of the current .45 caliber semiautomatic pistols were purchased in 1945. The practical difficulties and high costs associated with maintaining these handguns, along with the need to standardize among the services and to achieve NATO compatibility have led the Department of Defense to the inescapable conclusion that new 9 millimeter handguns should be procured.

In June 1981, the Army, acting as executive agent for all service branches, solicited proposals for a new 9-millimeter handgun. Proposals and test weapons were received from four manufacturers. The Army proceeded with testing and evaluation of the four submissions. In February 1982, the Army cancelled the selection process because it claims none of the submitted weapons met the joint service operational requirement which had been established. The failure of all of the weapons to satisfy the JSOR has been attributed to a variety of factors including defects in the test procedures and unrealistic elements of the JSOR. The Army is presently engaged in developing an updated acquisition strategy focusing on those factors which led to the failure of the recent selection process. DOD has further reaffirmed its interest in the 9 millimeter handgun program in its reply to GAO's March 1982 report on the subject.

In light of these facts, I believe it would be unwise to prohibit DOD from continuing its evaluation of the need for a new handgun. I note that the other body has not included a provision like section 108 in its version of this legislation. I hope that the conference committee on H.R. 6030 will delete section 108 and allow DOD to continue to fulfill its responsibility in this area. It should be kept in mind that procurement of handguns will be subject to specific authorizations and appropriations. The deletion of section 108 will serve only to insure that DOD has the flexibility it needs in order to correctly make complex decisions affecting the national defense.

Mr. PRICE. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, the C-5B is the Air Force's chosen military airlifter. The Secretary of Defense, the Deputy Secretary of Defense, Chiefs of Staff of the Army, Navy, Air Force, and Commandant of the Marine Corps, as well as the operational commanders and troops themselves, have all been unanimous in pinpointing the salient facts. These facts are:

First, the C-5B is needed. The current inventory of 77 C-5B's is insufficient to meet this Nation's outsize airlift requirements.

Second, the C-5B saves $2 billion in outlays. The purchase of alternative aircraft will require greater near-term expenditures totaling $2 billion more during fiscal years 1983-85 than the President's C-5B program.

Third, buying the alternative affords no real savings. An inadequate system in the U.S. Armed Forces is not a bargain at any price. Furthermore, the projected 20-year life cycle cost difference between the C-5B and the alternative is less than $1 billion, a minimum difference since the alternative cannot provide any of the needed outsize capability in the opinion of all military experts.

We, in the Congress, are acutely aware of the difficulties facing some of the domestic airlines and aerospace companies. While we are sympathetic, we believe our first obligation is to provide for the proper defense of the United States. We cannot support any political or commercially expedient alternative at the expense of our national security.

Mr. Chairman, my distinguished colleagues on the House Armed Services Committee have thoroughly evaluated the airlift issue and decided that the C-5B is essential to do the required military tasks. We urge the support of the C-5B program.

□ 1640

Mr. DICKINSON. Mr. Chairman, I have no further requests for time and I reserve the balance of my time.

Mr. PRICE. Mr. Chairman, I have no additional requests for time and I yield back the balance of my time.

Mr. DICKINSON. Mr. Chairman, let me take 1 minute before yielding back the balance of my time and say that I would like to pay a sincere compliment to our chairman who worked very hard to bring us to this point, and to all of the members of the subcommittee who have gotten together and gone back to the drawing boards to come up with the reductions that have been offered here today, and I think that the bill that has been presented and will be presented this week is a good workable fair way to go about enhancing the defense capabilities of this country. I think it is a good bill and I think that the debate that will ensue this week will be meaningful and I would certainly urge all of the Members to come and spend as much time as possible on the floor rather then having us who are already familiar with the bill speaking to each other. It is a very substantive issue that will be debated here. It needs to be heard by the Members and I would certainly urge that the Members be here.

Mr. Chairman, I yield back the balance of my time.

● Mr. FRENZEL, Mr. Chairman, this week, during debate on the defense authorization bill, we will debate a Buy America amendment which is unnecessarily restrictive, and contrary to our GATT obligations.

The Hillis amendment which requires that purchases exceeding $50,000 of DOD administrative motor vehicles used outside the United States or Canada must be manufactured in the United States or a host country. This is similar to language defeated in the conference committee of the DOD appropriations bill of fiscal year 1982. The amendment violates GATT law and could result in some unnecessarily high expenditures for the military. A letter from Ambassador Bill Brock, our U.S. Trade Representative, which explains his specific

concerns with this amendment, follows:

THE U.S. TRADE REPRESENTATIVE,
Washington, June 11, 1982.

Hon. BILL FRENZEL,
House of Representatives,
Washington, D.C.

DEAR BILL: I want to express my concern with a proposed amendment to the Department of Defense fiscal year 1983 authorization and appropriation bills that would require the Secretaries of military departments to award contracts or agreements for the purchase of administrative motor vehicles for use outside of the United States to manufacturers from the United States or host countries. The Office of the U.S. Trade Representative oppose passage of this amendment.

As you know, the administration is deeply concerned with the difficulties of our automotive industry and is working with the industry to remedy its problems. However, we are concerned that this amendment, as drafted, could have serious adverse effects on U.S. trade interests.

As part of the package of trade agreements resulting from the Tokyo Round of Multilateral Trade Negotiations, the United States was able to achieve a long sought goal of opening foreign government procurement markets to U.S. exports. The Government Procurement Code, which entered into force January 1, 1981, opened up well over $25 billion in new export opportunities to U.S. firms.

We are concerned with the amendment because it would violate U.S. obligations under the Government Procurement Code. The Code, which was approved by Congress in the Trade Agreement Act of 1979, requires us to grant nondiscriminatory treatment to products of other signatory countries for Code-covered procurement. Were the United States to restrict procurement of administrative motor vehicles to United States and host government suppliers, we would be discriminating against other Code signatories, and thereby violating the Code. In addition to constituting a breach of our international obligations, this amendment could have serious negative effects on U.S. trade interests because we would be subject to retaliation by other signatories to the Code. Such retaliation would take the form of limitations on our exports to foreign government procurement markets—most likely in areas where the United States has the greatest export potential.

The timing of this amendment makes it particularly unfortunate. We are currently working towards negotiations to expand the scope of the Code. Through these negotiations we hope to expand the Code to cover a number of foreign government agencies which are major purchasers of goods for which we have a substantial export potential such as telecommunications, power generating, and transportation equipment. If we were to violate the Code, as the proposed amendment would require, it would have a serious adverse effect on our chances of success. Countries will not wish to enter into new obligations with us if we do not respect our existing obligations.

In light of these concerns, I hope that this harmful amendment will be deleted from the legislation.

Very truly yours,

WILLIAM E. BROCK.●

● Mrs. BYRON. Mr. Chairman, this authorization bill is 70 percent of the total defense budget request. But only half of this bill specifically funds the procurement of equipment necessary for us and our allies to defend against an agressor.

Yet, there is a great concern over waste in the Defense Department and reforming the procurement process so we can buy the right weapons at the right price.

A recent Congressional Budget Office study of the December 31, 1981, Selected Acquisition Report (SAR) was most enlightening. This SAR corresponds to the President's budget proposal for fiscal year 1983.

The December 1981 SAR indicated that the largest quarterly increase ever reported was contained in this report. Yet, 66 percent of the increase was the result of "additional planned procurement quantities associated with the expansion of defense programs." And, the addition of the B–1B bomber program accounted for 19 percent of the increase. These two categories comprise a full 85 percent of the increases, increases due to the buying of more of what we need for our defense. I might also add that this figure also represents a $10 billion reduction or termination in programs.

For the remaining 15 percent, the cost increase was attributed to engineering, inflation estimating, schedule, economic support, or other changes in programs.

What I find most important in this report is the recognition that SAR's need to be revised. They need to be expanded from their historical reference. Prospective reporting with other reforms are necessary. This is the same finding the Armed Services Committee Special Panel on Defense Procurement Procedures found. Our panel's chairman, Mr. MCCURDY, is offering an amendment designed to meet many of the findings of our panel's report and that of the CBO special study. I urge your careful review of this amendment for the betterment of defense reporting requirements and the assist these changes will have in our ability to control cost growth in defense programs.

The fact remains that we must buy the equipment that will meet the challenge posed by that of the Soviet Union. And the fact remains that the Soviet Union spends about twice as much on equipment procurement as the United States. We must provide our forces with the equipment to neutralize existing and expected Soviet capabilities.

But, if we are to meet the requirements of our defense, then we must attempt to merge two difficult tasks, increasing the number of weapons while maintaining a qualitative edge. It is the technology we incorporate into our systems that gives us an edge in performance, the opportunity for maximizing equipment reliability, and over a period of time decrease the cost of equipment.

If technology can offer our Military Establishment the flexibility to respond to quantitative threats and to better allocate defense dollars, then so will it dramatically effect our adversary's programs.

I would like to turn for a moment to the subject of the transfer of technology inherent in East-West trade. The term "trade" by its very nature implies the exchange by each side of something it has for something it needs. The Soviet Union and the Warsaw Pact need Western technology, from truck manufacturing to computers. Each time a technically sophisticated piece of hardware is exported to the pact, the East benefits by not having to allocate its scarce resources to produce that device. Instead, it can allocate more capital and technical talent to manufacturing the military machinery that threatens our security. But this is an indirect effect. All too often, an American piece of hardware, or the technology embodied in a nonmilitary device, is used by the Eastern bloc directly to improve their military capabilities. This diversion of an American device or technology, exported as a nonmilitary item, to a military use in the Soviet bloc must be stopped. Since the time of Czar Peter the Great, Russia has traded with the express purpose of importing Western technology, not goods, to improve their economic and military status. The Soviet Navy preserves as a monument the small boat from which Peter built the impressive 18th century Russian Navy, a navy built with Western technology. The Soviets have never forgotten the value of importing the technology necessary to attain military and economic power.

The West, in both the civilian and military sectors, enjoys a substantial technology lead. That lead has been financed by both public and private sector research and development funds. To preserve the value of those dollars already spent to establish our security, we in the West must insure that the very minimum amount of our technology is used even tangentially to aid the Soviet and Warsaw Pact military machine.

Toward this goal, the Authorization Act includes a new program entitled "Technology Transfer Control Initiatives." These initiatives call for DOD to improve the review of proposed civilian and military exports on a case-by-case basis. Further, DOD will be called upon to develop policy guidelines to insure compliance with existing regulations, and will generally be strengthening the control of sensitive technology.

With respect to our NATO involvement, the initiatives look toward monitoring sensitive technology and Soviet capability for the purpose of develop-

ing a NATO policy on technology transfer.

In regard to our Western trading partners, DOD will be lending their technical expertise to strengthen the function of COCOM and to promote the involvement of other governments in closely reviewing technical exports. DOD will be called upon to expand COCOM control through multilateral arrangements, linked to the ongoing defense cooperation agreements with neutral, nonalined and friendly nations.

Concisely then, I speak strongly in favor of measures to control the flow of technology to the Soviets and Warsaw Pact. In addition to this initiative in the DOD Authorization Act, my office is looking closely at the specific language of the Export Administration Act to see what measures can be taken to strengthen the DOD presence in controlling technology transfer.

Much work and effort has gone into this defense authorization bill for fiscal year 1983. This next week will be important for the continuation of the progress that we made last year. This week will be important for the progress that we must make in the years to come so that we can provide our troops with the right capability to meet our national security requirements.●

● Mr. TRIBLE. Mr. Chairman, today we began debate on the fiscal year 1983 defense authorization bill. This measure, includes a recommendation for two *Nimitz*-class aircraft carriers.

The critical need for these two carriers is clear. Our global commitments have stretched our Navy to the breaking point. We must have a Navy capable of fulfilling our commitments and protecting our interests around the world.

This need has been underscored by the recent Naval engagements in the South Atlantic. The British Task Force—with two small carriers—lacked the planes to maintain control of the air and had no airborne "over-the-horizon" radar capability. It was this deficiency—not the vulnerability of surface ships—which caused the heavy British losses. By contrast, one *Nimitz*-class carrier has more than twice as many aircraft as the two British carriers combined. A *Nimitz*-class carrier can maintain control of the air, providing both fleet defense and devastating attack capability.

It is the responsibility of the Congress to rebuild the U.S. Navy, and to do so for the lowest possible cost. Authorizing two *Nimitz*-class carriers in fiscal year 1983 will accomplish both of these goals. This multiship authorization will result in $754 million in long-term savings to the Navy when compared to the traditional procurement policy, and will result in the delivery of each of these ships 22 months earlier than under the traditional approach.

Sea Power magazine recently published an excellent and thorough article dealing with the urgent need for these two *Nimitz*-class carriers. I urge my colleagues to read this article, and to support the effort to rebuild the U.S. Navy.

The text of the article follows:

I: A COMMONSENSE RATIONALE

(By Vincent C. Thomas, Jr.)

(Vincent C. Thomas, Jr., retired as executive director of the Navy League in April. This is the first of a number of articles he will be writing for Sea Power on naval and maritime subjects.)

Before the year is out, Congress will have to make a difficult decision which will not only have considerable impact on the U.S. defense posture and the nation's economic well-being, but which also might lead to the long-term rebuilding of the ailing U.S. defense industrial base.

To be more specific, the House and Senate can in their collective wisdom either:

(1) Support an imaginative Navy proposal calling for the funding in the same (fiscal year 1983) budget of two nuclear-powered aircraft carriers (CVNs), thus saving the taxpayers nearly a billion dollars—while putting both ships to sea nearly two years earlier than if they were procured on a one-at-a-time basis; or

(2) Succumb to numerous political pressures to reduce the CVN program as one way to reduce the anticipated overall FY 1983 federal budget deficit—even though the alleged "savings" would be only a pittance, and would in turn cause, irrevocably, loss of the aforementioned real savings in both time and money.

What makes the decision so difficult for members of Congress, particularly in an election year when the economy is stagnant and unemployment at a post-Great Depression high, is the amount of money that must be *obligated*—not *spent* in FY'83, but *obligated*—$6.795 billion. No question: That's a lot of dollars, even though the Navy proposal appears to be an eminently sound business proposition the financial premises of which are supported by the spending watchdog of Congress, the General Accounting Office (GAO).

NEEDED: FIFTEEN CBGS

But why the two carriers in the first place? The Navy now has 12 to serve as the cornerstones for 12 carrier battle groups (CBGs), and a 13th will join the fleet in late 1982 when USS *Vinson* (CVN-70), commissioned earlier this year, completes her shakedown cruise and the required shipyard work that must follow. Why two more?

Chief of Naval Operations Admiral Thomas B. Hayward, who retires at the end of this month after giving the nation and the Navy four years of strong and articulate leadership, provides a thoughtful response to that question which is worth quoting at length:

"The responsibility of the U.S. Navy is global. If the Navy only had to worry about the Western Hemisphere, the Caribbean, the Panama Canal, defending Alaska, we'd have a different kind of Navy. But we have a Navy that is built around a very fundamental strategy that for the most part is bipartisan. that has a global responsibility, that says we are the leaders of the free world and that we must be responsible in carrying out that leadership. . . . When you add up the naval responsibilities, you have to take into account all the major ocean areas of the world—the Caribbean, the North Atlantic, the Norwegian Sea, the Mediterranean, the South Atlantic, the Indian Ocean, the South Pacific, the South China Sea, the Northwest Pacific. You cannot put together a military strategy in which naval forces carry out their proper role and come up with a force structure less than 15 carrier battle groups. . . .

"I didn't say that was adequate! That's the minimum for any professional naval officer to say: 'Mr. President, you might have enough. I still don't have enough to be everywhere I ought to be simultaneously to be able to apply the pressure in a variety of places where you want to, but I probably have enough so that with a reasonable degree of risk I can take on one area at a time and try to control it and have something left.' That's where the 15 comes from." . . .

For force planning purposes, it might be noted, the rough rule of thumb is two carriers in the States for each one deployed overseas. U.S. national commitments are generally interpreted to require one or two carriers in the Mediterranean and/or Eastern Atlantic at all times, and a minimum of two carriers in the Western Pacific as well as, since the beginning of the crisis in Iran, at least one carrier in the Indian Ocean.

With 15 carriers in the inventory, therefore, five will usually be overseas at any given time—or in transit to or from overseas assignment. Two or three of the carriers in the States will be in the yard or otherwise off the line for extended periods of time, two or three others will be assigned to fleet training operations—in the waters off Roosevelt Roads, Puerto Rico, for example, or in Guantanamo Bay, Cuba. The others will be in port for routine maintenance and to give the ship's manpower and machinery time to recuperate from what, even in peacetime, has in recent years been far too hectic a tempo of operations. In that context, it is obvious, the addition of just two more ships can make a profound difference in capability.

Even with 15 CBGs, however, the Navy will be stretched woefully thin. The Pacific Ocean encompasses 64,186,300 square miles, the Atlantic 33,420,000 square miles, and the Indian Ocean 28,350,500 square miles. To properly patrol those vast oceanic expanses with just a handful of ships is a formidable task.

For comparison: The land area of Europe is 4,017,000 square miles, or less than one-sixteenth the water area of the Pacific Ocean—but no one would seriously suggest that NATO try to defend Europe with just two or three airfields.

WORRISOME POSSIBILITIES

The rationale for 15 carrier battle groups is supported by a respected leader from another administration, the Under Secretary of the Navy under President Carter, R. James Woolsey, who had his own share of formulating U.S. responses to various global emergencies while serving in the Pentagon. Says Woolsey: "I think that the chance of having to fight in two or three areas of the world at the same time is sufficiently great that the world would be a safer place with 14 to 15 battle groups rather than with 12 to 13. Because with 14 to 15 you are beginning to think you *might* be able to fight in three oceans to some extent, and in two reasonably well. With 12, you are talking about

fighting in just two, and that's a worrisome thing."

The man who had to be convinced that rebuilding the Navy's active fleet to a 15-CBG capability is a necessary goal, President Reagan, obviously agrees. So do many leaders of Congress. So the question now becomes, "How should that goal be attained?"

John F. Lehman, Jr., Mr. Reagan's forceful and hard-charging Secretary of the Navy, began, soon after taking office last year, to zero in on ways and means of attaining the 15-carrier goal more rapidly and more cheaply. Had it followed historical precedent, the Navy would have gone at the task by asking for one carrier at a time; not since World War II has there been more than one carrier sought in a single defense budget. The "routine" procedure, therefore, would have been to ask for money for long-lead-time components—nuclear reactors for the propulsion system, for example—for the 14th carrier in the FY '83 budget, and full funding for it in FY '84. The 15th carrier then would be funded in FY '85 and FY '86.

Under that traditional form of funding and construction, the building of CVN-72 would commence some time in late 1984 or early 1985, with delivery in October 1991. CVN-73 construction would begin approximately two years after the start of construction on CVN-72, with delivery in October 1993. Under the new approach the start of construction for CVN-72 would be February 1983, with delivery in December 1989. Construction of CVN-73 would begin in February 1985, with delivery two years after completion of CVN-72.

NEW MANAGERS, NEW CHALLENGES

What happened is this: Lehman and his supporting cast—with an articulate and unusually knowledgeable Assistant Secretary for Shipbuilding, George Sawyer, in the van—began asking, soon after taking office, if there might not be ways to speed up the overall construction process and save money, too. Once their own calculations provided some evidence that achievement of that twin goal might indeed be possible, they asked Newport News Shipbuilding, the shipyard that has built more carriers (23) than any other in the world—and the *only* U.S. yard now qualified to construct a nuclear-powered carrier—to try its hand at ascertaining how best to achieve the cost and time savings desired.

Newport News Shipbuilding, a Tenneco subsidiary which only four years ago had finally settled a bitter, acrimonious, years-long dispute with the Navy over what the lawyers termed "claims for equitable adjustment," is, like the Navy itself, under relatively new management. Now at the helm is Edward J. Campbell, not a professional shipbuilder per se but a top-level management executive who came up through the ranks with Tenneco. When Campbell first came aboard he had to contend with not only the still simmering memories of the long claims battle with the Navy, but also with a facility that had realized only 2% pre-tax earnings and only 3.1% return on its net assets (dead last among Tenneco's 11 units) and with the threat of a labor strike—that started three weeks after he arrived, and lasted 80 days. It was not an easy way to begin!

Since January 1979, however, when Campbell assumed his new responsibilities, he has: (1) more than tripled the yard's pre-tax income; (2) seen return on assets climb to 18%; (3) overseen both a rise in employment (to 25,000) and, at the same time, a long-sought stabilization of the work force; and (4) delivered to the Navy, early and under cost, both the Vinson and other nuclear ships.

Earlier this year, in fact, Newport News Shipbuilding enjoyed a modern-day "first" in Navy shipbuilding: delivery on the same day of two major combatants—Vinson and the nuclear-powered (Los Angeles-class) attack submarine Atlanta (SSN-712). That spectacular event signaled, perhaps better than any financial data, the yard's turnaround and its readiness to undertake the challenge posed by the Navy request to both cut costs and deliver ships earlier.

Discussing the yard's response to that challenge, Campbell observes: "In building the previous Nimitz-class carriers, we found there was potential for a steady improvement in our ability to shorten the time it took from keel laying to delivery. Part of this was the result of improvement in the learning curve, part in establishing good lines of material supplies, and other factors. It seemed to us that if this phenomenon could be harnessed in a planned program covering several ships, major savings could be realized. . . .

"We believe the multiple [CVN] program is very viable," he continued. "We can get these needed ships to the fleet 22 months sooner than with traditional methods. More importantly, we believe it is vital if the nation is to be able to afford the Navy it needs; we cannot waste dollars, or time, that could otherwise be saved."

COMFORT IN NUMBERS

Developing credible data about what could be saved in both dollars and time, however, was no mere overnight chore. More than a year was needed before numbers were computed that the Navy was comfortable with, and their attainment required some remarkably extensive checking on the availability, with specific delivery times postulated, of mind-boggling volumes of needed materials. Sawyer says that "several thousand" items of government-furnished equipment, or GFE (approximately 30% of all the materials, including the nuclear reactors, used in constructing a carrier are provided by the government), were checked on several times; Campbell says that the yard itself communicated with every significant supplier of all the important items of contractor-furnished equipment.

Almost 2,000 subcontractors are involved in providing contractor-furnished materials for a carrier; nearly 250 of the subcontracts are in the $100,000-or-above price range. Among the foremost CVN subcontractors are: U.S. Steel and Bethlehem Steel, for steel; Westinghouse, for generators; General Electric, for main-propulsion turbines and gears; General Motors, for diesels for emergency propulsion; Worthington Pump, for various types and numbers of pumps; and Delaval Corporation, for condensers and heat-exchangers.

The magnitude of the task of obtaining the necessary materials for construction of a nuclear carrier is perhaps best illustrated by a look at some of the cold, hard figures of requirements for the Theodore Roosevelt (CVN-71), now being built, and CVNs 72 and 73. Approximately 176,400 tons of structural steel will be needed for the three hulls, as well as: three million pounds of aluminum; nine million pounds of weld metal; more than 2,640 miles of electrical cable; and more than three billion electronic tubes, transistors, and diodes. Many of the more complicated items needed, moreover, require five to six years for their manufacture, testing, and delivery.

RISK AND PAYOFF

Also being cranked into the calculations (of both shipyard and Navy) was a positive factor resulting from a "calculated risk" decision Tenneco made a decade ago that, although based on economic considerations having to do more with the commercial sector, is now paying handsome dividends for the Navy—and for the American taxpayer. In the early 1970s, when every measure of global fuel consumption indicated that more and different sources of energy would be urgently needed by the beginning of the 1980s, Tenneco gambled that the consumption of natural gas would vastly increase as more sources of supply become available, and that, in turn, many highly specialized ships would be required to transport it. Accordingly, the shipyard set forth to greatly expand its construction capacity so that it could respond to the anticipated demand for such ships. Among other things, the company:

Created an entire new 155-acre section with landfill.

Built a 1,613-foot drydock, largest in the Western Hemisphere.

Acquired a giant overhead crane with a lift capacity of 900 tons—also the largest in the hemisphere.

Added extensively to its covered fabricating area, so that larger hull sections could be assembled under cover before being lifted into drydocks for final assembly.

The yard built five ships—three LNG (liquefied natural gas) carriers and two ULCCs (ultra-large crude carriers)—in its new facilities. Then the prime LNG supplier, Algeria, raised the price of its product. That action, combined with the subsequent worldwide drop in consumption of petroleum products in general, caused the demand for energy transporters, particularly LNG carriers, to dry up immediately; in fact, none of the five ships built at the new facility is in active service today.

So, after plowing $250 million into expansion and then having no more demand for the type of ships it had anticipated building, Newport News decided to use its valuable new assets for another purpose. In Campbell's words: "As we began to understand the Navy's operational needs for a larger carrier fleet, it became quite apparent that our North Yard, with its steel production facility and dry dock, would be ideal for the Nimitz-class ships. Because we believed in the viability of the multi-ship project and the likelihood that it would fly, we decided to make major additional investments to support carrier production in those new facilities. Some of that investment went into installing additional heavy-lift capabilities, large material handling equipment, advanced welding equipment especially designed for Navy work, and a major commitment to one of the most efficient computerized systems in any manufacturing facility in the United States." . . .

HUGE SAVINGS IN COST AND TIME

With the new assets cranked into the multi-year procurement equation, the Navy concluded that $754 million could be saved by going the two-ship route. Expected savings are broken down into four specific areas: (1) reduced start-up costs, $100 million; (2) enhanced productivity, $100 million; (3) multiple purchases of material, $250 million; and (4) reduced escalation, $304 million. The latter savings, of course, represents less money paid to construction workers simply because work would not be strung out over such a long period of time,

thus avoiding some of the inevitable escalation clauses in labor contracts.

The Navy also concluded that, by beginning construction earlier, CVN-72 and CVN-73 both could be delivered 22 months earlier, and that an added bonus—the delivery of CVN-71, the Theodore Roosevelt, 14 months earlier—also could result. The yard already had concluded on its own that its enhanced capabilities and the heartening ahead-of-schedule delivery of the Vinson would permit the Theodore Roosevelt to be delivered five months early; further calculations indicated that the multi-year approach would make possible another nine-month savings of construction time on CVN-71.

In fact, the yard had at one time estimated that a 28-month savings in time could have been realized with the multi-CVN approach if funds for ordering long-lead items had been included in the FY 1982 defense budget so that authorization for such purchases could have been given earlier this year. Unfortunately, the almost final cut in the FY '82 budget chopped $150 million intended for CVN contractor-furnished materials. Not cut, fortunately, was $475 million earmarked for government-furnished materials; had those funds been cut the Navy would have serious trouble authenticating the present two-CVN proposal.

Having determined what could be saved, the Navy and the shipyard both sought to ascertain what the program would do to, or for, the national economy—an important political consideration at times of high unemployment and high budget deficits. The Navy's analysis projects the spending of almost $4.5 billion with subcontractors, with 296,000 jobs being involved. Newport News estimates that 43 states would get major contracts for the materials and systems and subsystems required. Estimated dollar allocations include nearly $1 billion for Ohio, over $800 million for Pennsylvania, over $400 million for New York, and nearly $200 million for Oregon.

A DANGEROUS SWAP

That funding profile is key to the current budget debate in Congress. If the multi-year program is approved and funded, it will cost only $25 million more in outlays in FY 1983 than if only one ship approved, so would have virtually no impact on the anticipated $100 billion-plus deficit. But cutting back on the program would virtually erase both the time and dollar savings—swapping $1 billion in future savings for a paltry $25 million reduction in present outlays—and would, not incidentally, seriously jeopardize the Navy's capability to carry out its worldwide commitments.

Armed with those persuasive budget figures—and having adopted the kind of businesslike approach to force modernization and expansion that Congress has been after the services for years to utilize—the Navy has been using with great effectiveness three of the most eloquent and forthright proponents of its cause ever to testify before Congress—Lehman, Hayward, and Sawyer. Sawyer, serving as point man, has gone to the Hill numerous times to argue the Navy's case, and his pragmatic approach—as reflected by his insistence that the Navy would stick with the basic Nimitz-class design for all three CVNs and not inundate the shipyard with costly and time-consuming change orders—has been well received. In short, the Navy has done its homework well this time around.

An unwelcome and in all respects distressing complication developed, however, with the Argentine seizure of the Falkland Islands and the ensuing sinking of the Argentine cruiser General Belgrano and several British ships, including the destroyer Sheffield, first RN ship ever lost to missile attack.

Immediately, the chorus of opponents of large-deck carriers in general, and the two-carrier program in particular, sang out dire warnings of CVN vulnerability, and Newsweek gave them an opportunity for a field day with a 14 May cover story asking, "Are Big Ships Doomed?" (The question is not inappropriate. It should be asked—and it has been asked, repeately, in Navy circles. The answer has always been, and is still, "No." But development of the rationale, and of the empirical data to prove the case, would take many volumes of expert testimony, and even then there would be some residual doubt. No ship is 100% safe. But ships at sea are less vulnerable than land targets, and big ships are less vulnerable than small ships.). . .

Hayward elaborates considerably on the theme [of technology] and uses it to bolster the Navy's case for the more costly, more complex, but much more capable "high mix" ships allocated the lion's share of the shipbuilding budget: "The guided missile today is a formidable problem. But we are not turning our backs to understanding how formidable it is; that's why our ships cost as much as they cost, because we are designing them to deal with that problem. Those who want us to have small, cheap ships want us to have ships that cannot deal with that problem. Cruise missiles, once fired, must be dealt with through sophisticated weapons systems. One either gets after the terminal guidance systems on the missile and makes it think the target is elsewhere, so it will miss the target, or one has to shoot that missile down. Neither one of those things comes easy or comes cheap. But both [of those technological problems] are soluble, and we have solutions at hand. . . .

"If the Exocet [the type of missile which sunk the Sheffield] struck the side of a Nimitz-class carrier," the CNO observes, "it would make a hole, but the ship has been designed to take that kind of impact and to disperse that kind of energy very rapidly, to prevent outbreak of fire, to be able to control the damage quickly, and get on with doing the job. The smaller the carrier, the more likely the damage will be large and the possibility of it being harder to control. . . .

"The larger you build it," he summarizes, "the better you are going to make it, and the more missiles it is going to take to do it damage. You have more capability for keeping that missile from being fired in the first place by destroying the platform, whether it be a surface ship or an airplane. You don't let it get within range of your own forces; you destroy it before it can accomplish its mission of firing.

AMENDMENTS AND PITFALLS

Members of the Senate gave strong evidence on 14 May that they believe in the Navy's argument for two CVNs and think the proponents of smaller carriers have not made their case. Two amendments to the fiscal year 1983 defense authorization bill proposed by Hart—one to delete one of the two large carriers from the budget, and the other to substitute two 40,000-ton carriers for one of the larger ships—were decisively defeated. The Senate then went on to approve the authorization bill in toto by a lopsided 84-8 vote. . . .

But, what happens in the political arena, there are three aspects of the current CVN debate which augur well for the future:

(1) An atmosphere has been created that has made possible honest consideration by Congress of a radically different approach to ship procurement. Asked if this could have happened during the last administration, Woolsey replied: "We understood the importance of multi-year contracting but never could push that as far as the current administration has. I must say I take my hat off to them because I think it is an important reform and that [Deputy Secretary of Defense] Frank Carlucci has done a fine job in trying to make it a more widely used tool in government. But it really was beyond our wildest dreams that somebody might put two carriers even in a five-year plan."

(2) The Navy has explored the multi-year, two-CVN concept thoroughly and in great depth, has done its homework very carefully, and has set forth a plan of action that it is determined to live with no matter what external pressures there might be. An excellent example of such determination is the decision to stick with the Nimitz design and not change this or that feature of that ship. One senior officer laughingly describes Sawyer as having "gone into orbit" when it was casually suggested to him that a new kind of radar "obviously" would be installed in the proposed new carriers. Sawyer was unyielding on his philosophy of "no major changes"—which is one of the big reasons the Navy's figures could be challenged, checked, and rechecked, and still survive on Capital Hill. (The shipyard's reaction to Sawyer's position is one of great relief, since change orders have over the years, and regardless of the kinds of ships under construction, been the biggest single cause of friction between the Navy and the builder.)

(3) Compared to the situation four years ago, when the claims issue threatened to wreck for many years to come the previously amicable working relationship between the Navy and the private shipbuilding industry, the attitude of Newport News and its leadership reflects a 180° change. Then, the claims issue—eventually resolved through the herculean efforts of former Nary Secretary Edward Hidalgo (see April issue of Sea Power)—was at its ugliest, fingers were being pointed on both sides, and the media were having a field day castigating, with considerable justification, both the Navy and yards for inefficiency and waste. It mattered not what tremendous accomplishments there had been by the yard in its 84-year history of building Navy ships; the public received from the media an image of a wasteful, inefficient, uncaring conglomerate out to take advantage of poor Navy performance—and, in the process, take the taxpayer for all it could. Today, Newport News can point with pride at its achievements in: (1) building both submarines and carriers; and (2) building them at considerable savings to the taxpayers. . . .

The fate of the two CVNs is now up to Congress. Fortunately, the more knowledgeable members of both House and Senate are taking the initiative in pleading the commonsense particulars of the two-CVN approach.

In a letter to their colleagues in the Senate in April, Senator John Tower (R-Texas), chairman of the Senate Armed Services Committee, and 10 others pointed out that in 1979, "When Congress last decided to authorize procurement of a nuclear-powered carrier, a few of our colleagues suggested that the carrier is too vulnerable for

today's sophisticated Soviet threat and that perhaps we should procure 'light carriers.' . . . The overwhelming majority of us [72-20] rejected this rather simplistic argument then, and the facts are no different today. We asked then, as we should now, 'Compared to what is the aircraft carrier vulnerable?' "

And Representative Charles Bennett (D-Fla.), long-time chairman of the Sea Power Subcommittee of the House Armed Services Committee, after hearing an extensive briefing on last year's naval exercise Ocean Venture '81, the largest ever held, said, "I am convinced that large-deck nuclear-powered aircraft carriers are still the best choice for the U.S. Navy."

One can only hope that the other members of Congress concur wholeheartedly. If they do not, much more could be lost than just the money and the time involved in the building of two formidable, and much needed, new ships. A decision to reduce the program for the sake of relatively minuscule "savings" and to ignore what could be gained, economically and militarily, by courageously going ahead would demonstrate once more that, when it comes to ensuring its own security, and in turn that of the free world, the United States is far more likely to succumb to domestic political pressures than to be resolute in defense matters. And that would be a message that could greatly encourage aggressors large and small.●

● Mr. SHAW. Mr. Chairman, I am opposed to the 1-year moratorium placed on contracting out for goods and services by the Department of Defense which is contained in H.R. 6030.

Government agencies have successfully relied on the private sector to provide a wide range of goods and services. Time after time, studies show that dollars are saved by allowing companies to compete to provide services at the lowest possible price. A moratorium on this activity foolishly ignores the tremendous capabilities of the private sector.

As a former mayor of the city of Fort Lauderdale, I can say that contracting out some of the necessary support services, to private companies, saved the city untold dollars. Local companies in my State worked with the city to provide maintenance services in our parks, and solid waste disposal for the area. We were able to hire capable individuals to provide services that they specialize in, without having to put them on the city payroll for the entire year. It is simply good business sense to rely on free enterprise and competition to provide goods and services in the most cost-effective manner.

At a time when we are attempting to control runaway Government spending, it seems to me to be inconsistent to end a cost saving program. The hidden costs of a moratorium on contracting out must be uncovered and understood. The additional cost of this move will be passed on to future generations to absorb in the form of pensions which are paid to all Government employees upon their retirement.

The amount of money saved by the Government in contracting out can not be overlooked. Dr. Lawrence Korb, Assistant Secretary of Defense, testified before the House Appropriations Committee and spoke of the savings incurred by DOD through the contracting out for support services. DOD has conducted about 400 bidding competitions in the past 3 years. About 60 percent according to Dr. Korb, were won by private firms, saving the Federal Government about $70 million a year. As a result of these activities, DOD is saving $14 million annually. The real winner is the taxpayer.●

● Mr. BEDELL. Mr. Chairman, during House consideration of H.R. 6030, the Defense Department Authorization Act of 1983, I intend to offer an amendment which will hold the $417.4 million for the battleship reactivation program in abeyance until sea trials on the already completed U.S.S. *New Jersey* are concluded and the Secretary of the Navy has certified Congress that this weapons system is fully capable of meeting all its mission requirements.

I am sure we all share a commitment to a U.S. defense posture second to no other power. At the same time, however, we share a responsibility to the people to make sure any weapons system we choose to deploy is worth the tax dollars expended on its procurement.

The battleship reactivation program is fraught with serious questions concerning the battleships' ultimate ability to withstand an enemy attack, as well as simultaneously carry out their multipurpose mission requirements.

Although I recognize the battleship as perhaps the toughest ship in the world, I question the wisdom of our decision to reactivate ships that were quite vulnerable to torpedo and direct bombing attacks in World War II. And while I truly appreciate the battleship's extraordinary ability to provide firesupport for missions envisioned for the Rapid Deployment Force, I wonder if our national security interests would be better served through building several smaller ships equipped with large guns instead of reactivating three battleships at a cost of approximately $500 million per ship.

I am also extremely concerned about persistent reports that would indicate a battleship's inability to meet fully with its mission requirements as a result of the problems posed by "big gun" compatibility with sensitive missile and electronic countermeasure technologies.

It is my understanding that since 1959, when the United States first deployed missile ships, a command problem has existed. Simply stated, a ship's captain must choose between firing his guns—in which case recoil effects are reported to cause breakdowns in electronics vital to missile command, as well as shipboard radars, communications, and countermeasure devices; or, silencing his guns—in which case missiles, radars, and countermeasure equipment will function normally.

Obviously, these problems must be addressed before Congress authorizes any additional moneys for battleship reactivation. For these reasons, I am offering this amendment and I urge you to support its passage.

Mr. Chairman, the text of my amendment follows:

AMENDMENT TO H.R. 6030, AS REPORTED OFFERED BY MR. BEDELL OF IOWA

Page 8, after line 12, insert the following new section:

LIMITATION ON FUNDS FOR BATTLESHIP REACTIVATION

SEC. 109. None of the funds appropriated pursuant to the authorizations of appropriations in section 102 may be obligated or expended in connection with the battleship reactivation program until sea trials of the U.S.S. *New Jersey* (BB-62) have been completed and the Secretary of the Navy has certified to Congress that, based upon those sea trials, the ship operates in accordance with Navy specifications and is fully capable of performing its missions.

● Mr. LOTT. Mr. Chairman, I rise in support of H.R. 6030. In particular, I share the concerns of the committee and of the administration regarding the present severe shortfall in military airlift capabilities. Our current inventory of 77 C-5's is, in terms of numbers, insufficient to meet the Nation's requirements for airlifting outsized combat equipment to emergency situations around the world.

The decision of the administration to request funds for additional transport aircraft to fill a major gap in strategic airlift is a decision which is crucial to our national security interests. In fact, the President recently outlined the critical importance of this decision in a letter to me, which I would commend to the attention of my colleagues.

THE WHITE HOUSE,
Washington, July 16, 1982.

Hon. TRENT LOTT,
Minority Whip, House of Representatives, Washington, D.C.

DEAR TRENT: One of my primary goals in restoring our defenses is to improve our capability to deploy forces rapidly to defend United States interests. Our airlift program as outlined in the fiscal year 1983 Budget will reduce the critical mobility shortfall.

The Congressionally Mandated Mobility Study (CMMS) recommended we increase our air cargo capability by about 25 million ton-miles per day, including at least 10 million ton-miles per day in "outsize" cargo capacity to accommodate critical combat equipment that will not fit on any existing aircraft except the C-5. It is of paramount importance that, when needed, outsize equipment arrive in a timely manner and in a usable configuration. Reassembly of critical components at a forward staging area, as required using commercial aircraft, would limit our combat capability. Moreover, pro-

curing commercial carriers would also require the expenditure of additional funds for modifications that would still not yield the needed outsize cargo capability.

Our proposed airlift program currently before the Congress includes four related components. First, we intend to buy 50 additional C-5 aircraft to reduce quickly the critical shortfall in outsize capacity. Second, we will increase our air refueling/cargo capability by procurement of 44 KC-10 aircraft. third, we will expand the Civil Reserve Air Fleet Enhancement Program, under which domestically owned carriers can be used in time of need. Finally, we plan to use available fiscal year 1981 funds in the C-X program to continue research and development on the C-17, thereby preserving the option of developing the C-17 for procurement in the late 1980's to provide outsize capability and be a potential replacement for C-130 and C-141 aircraft. We believe this combination of actions is required to develop the aircraft capability we urgently require.

In summary, I hope you will agree that the Department of Defense should not be required to substitute commercial aircraft that do not meet our needs. There are no savings if what we buy will not do the job that needs to be done. Therefore, I urge you to reject the commercial aircraft proposal and support our airlift budget as submitted.

Sincerely,

RONALD REAGAN.●

● Mrs. SCHROEDER. Mr. Chairman, I rise in opposition to H.R. 6030 and to inform my colleagues of two amendments I intend to offer. In Rules Committee, Chairman BOLLING talked of the defense authorization process as being like two eels fighting in a barrel of lard. As we go through this process, the fact we must keep in mind is that the lard is our tax dollars.

The bill before us authorizes the Defense Department to spend nearly $180 billion next year, or roughly $350,000 every minute of next year, day and night, Christmas, New Year's, Veterans Day. This bill does not contain money for military construction and family housing. That adds another $7.5 billion. It does not contain money for nuclear weapons. It does not contain money for selective service registration. So, the funding stream we are contemplating is really a surging river. I doubt that all this money can be spent wisely, effectively, or soundly.

Since the passage of the first concurrent resolution on the budget, the Armed Services Committee has been forced to reduce the authorization provided by about $3 billion or 1.7 percent. The interesting part about this process is the documentation which the committee has published about the cuts made. While the original committee report made it sound like every item of funding was essential and of the highest priority, the documentation on the cuts makes it clear that there are numerous questionable items in the bill. The original bill contains funding for two Trident submarines. Now, the committee argues that one is better policy. Initially, the committee approved, without change, the Army's request for support equipment and facilities for aircraft. Now, we find out that the funding for high technology test base should be deferred "pending clarification of the request." On page 50 of the committee report, we find that the M577A2 command post vehicle should be funded at the requested level. Now, in the justification for the Stratton amendment, we learn that this vehicle has not been procured for several years, and no future procurement is planned. This item is a marginal requirement, and the amendment would delete the entire amount requested. We also learn that the cost of the M-60 has been reduced as a result of favorable contract negotiations. We learn that Copperhead ammunition has failed in recent tests. I could go on and on. I support these cuts. The point is that, while the committee has told us that expenditure after expenditure is essential, when they have to cut $3 billion they can easily find waste, fraud, and abuse. What I want to know is how much of the remaining $177 billion can be eliminated as wasteful or unnecessary. Not surprisingly, the committee is not saying.

The "Iron Triangle" is alive and well in the defense area. The Armed Services Committee supports what the Pentagon wants. The Pentagon supports the contractors. The contractors support the committee. Besides providing a strong mutual support network, this arrangement seeks to insure that information about waste, fraud, and abuse is kept within the triangle.

Those of us who want some fiscal integrity in defense spending are left doing the best we can. I proposed an alternative defense budget in February. My budget would cut $30 billion from budget authority and $13.4 billion from outlays for defense. My colleague, Mr. DELLUMS, held special hearings on the defense budget. As a result of extensive testimony from some of the most prominent defense experts in the country, Representative DELLUMS has put together his own alternative defense budget which eliminates waste, fraud, and abuse, such as the useless B-1 bomber. I will support the Dellums budget and hope that we can engage in a meaningful debate on defense priorities during its consideration.

There is a small number of us on the Armed Services Committee who believe that a stronger defense does not come from blindly throwing money at the Pentagon. We of the fiscal integrity caucus on the Armed Services Committee, will be speaking up on many of the 60 or so amendments likely to come up this week.

Now, however, I want to explain two amendments I will be offering to this bill. I will offer an amendment to halve the number of troops we have stationed abroad over the next 4 years. Currently, we have around 490,000 troops abroad. My amendment says that the maximum number of troops which can be stationed abroad on or after October 1, 1986, is 250,000. There are a variety of good reasons for taking this step.

First, most of our troops are in Europe. These troops were first deployed there in the wake of World War II. Things have changed radically since that time. The hot spots in the world are now in the energy-rich Persian Gulf and not along the Iron Curtain. We should rebalance our forces to provide mobile, ready powers where we are likely to need them, not static forces tied down only in Europe.

Second, our European allies and Japan have not paid their fair share of our common defense needs. While we have been living up to our commitments to increase defense spending by 3 percent in real terms, Germany, the Netherlands, and others have not. It is not fair to the American taxpayer to be abused in this way.

Third, it would be far more economically efficient for us to provide materiel to our allies and have them provide the troops to defend their own homelands. A new division of labor between us and our allies is needed. To quote Leornard Sullivan, Jr., from Armed Forces Journal of October 1981:

> The retention of American active forces—primarily to reinforce NATO, instead of equipping existing European reserve forces to accomplish the same mission, must be the most flagrant instance of waste, fraud, and free loading in alliance security efforts.

Fourth, the lives of our soldiers and their dependents abroad is a hard and unpleasant one. Due to unfortunate behavior both by our service members and host country nationals, frictions develop which are not healthy of bilateral relations. In Germany, where half of our troops stationed abroad are located, there are weekly incidents which do not contribute to good relations.

I am offering this troop withdrawal amendment to spur a debate on the subject and to communicate to our allies the intensity and breath of feeling on this subject. I urge my colleagues to join the discussion of this subject.

I will also offer an amendment, along with my colleagues Mr. HANCE of Texas and Mr. WHITEHURST of Virginia, to provide some economic protection for spouses of members of the uniformed services. Currently, the Federal Government is obliged to honor State court property settlements in allocating civil service retirement annuities, Foreign Service annuities, and CIA annuities. Military pensions are not subject to State court orders because of the Supreme Court

decision of McCarty against McCarty, issued a year ago. It is time to bring the military retirement system in line with other Federal and private pension systems. Military spouses contribute a great deal to the strength of our fighting forces and endure burdens and hardships from rotation policies and from being stationed abroad. The military pension system, which is noncontributory and paid for entirely out of taxpayer's dollars, should offer some consideration of the spouse.

The amendment I will offer is essentially the same as the Jepsen bill reported unanimously by the Armed Services Committee in the other body. Although there have been hearings in the House Armed Services Committee, no action has been forthcoming. It is time to force a record vote on the floor on this issue; we have waited too long for our committee to act.

The amendment is long, yet straightforward. It adds a new title 9 to the bill. Section 901 states the title as the "Uniformed Services Former Spouses' Protection Act." Section 902 provides that retired and retainer pay should be paid in accordance with court orders. However, no more than 50 percent of the disposable pay of a retired service person can be allocated to a former spouse. Further, the concept of disposable retired pay means that taxes, health benefits, life insurance, and repayments to the Government come off the top, before the 50 percent is calculated. Section 903 allows military people to assign their survivors benefits to former spouses, but does not permit a court to order the assignment of survivors benefits. Section 904 permits the continuation of medical treatment under military health plans for preexisting conditions to spouses of over 20 years who are not remarried. This is meant to cover the limited situation of a divorce after a long marriage where the spouse has a serious disease and is unable to buy private health insurance. Section 905 contains the effective date which is 120 days after enactment. This effective date avoids any Budget Act problems.

These provisions are quite moderate. In both the Foreign Service and the CIA retirement systems, we provided pro rata shares for former spouses. We have not done so in this amendment. In both, we allow courts to order survivors benefits. In this, we specifically prohibit courts from doing so. In civil service, Foreign Service, and CIA we allow courts to allocate retirement benefits based on equity and principles of family law, without any ceiling. Here, we placed a 50-percent ceiling on and define disposable retired pay in such a way so that a large portion of the individual's pension cannot be touched. I would like to go further, but for the moment, this is the amendment being offered.

I urge my colleagues to review both of my amendments and support them.●

● Mr. HILLIS. Mr. Chairman, I rise in support of H.R. 6030, the Department of Defense Authorization Act of 1983. Like everyone else, I am concerned about the budget crisis. I am stunned by the prospect of a $100 billion deficit and by the sluggishness of our economy. But I am also stunned by what I have seen and heard in intelligence briefings this year about the relentless growth of Soviet military capabilities. And I see no way to trade off between these twin dilemmas.

I know there is a strong temptation to think that we can shave a little out of defense without really cutting muscle in order to reduce the deficit or to redress the most severe impacts of budgetary cuts in other areas. We all want to believe that because no one wants to be the bearer of bad news during an election year. Unfortunately, we have gone to this particular well too often. Every year until last year, we "shaved a little out of defense"—not enough to hurt, we thought, just the fat—just the "waste, fraud, and abuse" to borrow last year's catch phrase. But how we did it is instructive.

In the case of the Army, we did it by deferring a decade of modernization. The end result is that today's Army is equipped, largely with the same weapons systems with which it fought the Vietnam war—M-60 tanks, introduced in 1962; M-113 armored personnel carriers in 1960; Cobra helicopters in 1965; Chaparral air defense missiles in 1969; and the Hawk missiles in 1960.

The Army tried for a decade to field a new tank before Congress canceled the XM-803 program in 1971 because it supposedly cost too much. Now we hear the same kind of arguments about the M-1. The Army tried for a decade to field a follow-on to the Cobra attack helicopter before Congress killed the Cheyenne program in 1973 because it supposedly cost too much. Now we hear the same kind of arguments about the AH-64.

The Army has been trying for 20 years to develop and field the Patriot air defense system to replace the Hawk and Nike Hercules that were fielded before some of you in this Chamber were even born. And now we hear that it costs too much.

Well, maybe we were fiscally responsible in some of those past actions, I do not know. All I know is that wars, in the final analysis are not won in the air or at sea. They are won by troops on the ground. And this will be particularly true if our enemy is a Eurasian land power.

And today, we have an Army superbly equipped to refight the Korean war but sorely pressed to contend with the modern army possessed by the Sovet Union.

I wish modern weapons systems did not cost as much as they do. But if you think American systems are expensive, I suggest you price out the new German Leopard II tank or the European Tornado multirole combat aircraft. The fact of the matter is that equipping a modern army is expensive. For more than a decade, we avoided facing up to this fact by canceling Army modernization programs every time they became ready for procurement. We can do that again if we feel comfortable with an obsolescent army in a volatile world.

But if we do not—then I submit that it is time for us to stop looking for a solution on the cheap, it is time to stop taking cheap shots at superb combat systems like the M-1 tank; the Bradley fighting vehicle and the Apache attack helicopter; it is time for us to stop speculating that the Congress knows more about war-fighting doctrine than the professionals.

In short, it is time to stop reforming and start rearming the Army. Mr. Chairman, I urge the adoption of H.R. 6030.●

● Mr. EVANS of Delaware. Mr. Chairman, much has surrounded the issue of selecting an effective aircraft for our military transport requirements. The controversy has centered on the merits of the C-5B aircraft, versus refitted commercial 747's.

The Air Force, and both the House and Senate Armed Services Committees, have recommended procurement of the C-5B in the best interests of our national security.

I would also like to point out to my colleagues that the C-5B will create over 400,000 man-years of new employment. Already built 747's will not create any new jobs.

The Senate approved an amendment that deleted funding for C-5B's during their consideration of the fiscal year 1983 Defense authorizations bill. A recent article in Forbes magazine touches on some of the highlights of the Senate action. I ask that the article appear at this point in the RECORD.

WHAT'S GOOD FOR BOEING

(By Jerry Flint)

Senator Dole of Kansas was amusingly straightforward in explaining why he wanted to order the Air Force to buy Boeing 747s instead of new Lockheed C-5s. "I lean very heavily in the direction of the 747, because if there were modifications, those modifications would be done in Wichita," he told his fellow senators in debate.

Senator Stevens of Alaska does not like either plane, but he voted for Boeing's 747 and to kill Lockheed's C-5 because that might open the door to the proposed plane he likes, an all-new transport called the C-17, which would mean $10 billion-plus in contracts for McDonnell Douglas.

Senator Goldwater of Arizona was having a problem with telling the Air Force to buy a cargo hauler—used 747s—that "you cannot get anything into." Senator Nunn of Georgia—the C-5 would be built in Marietta

and add 4,000 to 5,000 jobs—reminded his colleagues that they wouldn't substitute International Harvester combines for M-1 tanks because Harvester was in trouble.

No matter: Senator Henry Jackson of Washington, home base for the Boeing Co., which hasn't had any new domestic orders for 747s in recent years and is seeing cancellation for its newer 757s and 767s, had the votes.

The Senate—disregarding its own Armed Services Committee, President Reagan, the Department of Defense, the Air Force, the Army and the Marines—voted, in effect, to buy 50 or so used Boeing 747s for the military. But that vote a couple of weeks ago is only the beginning of what will be the year's most hotly disputed military decision, bigger than the debate over the MX missile or the B-1 bomber or the big-versus-small carrier fight. It will be fought again in the House of Representatives, in House-Senate conference committee, again in votes for appropriating money.

The problem seemed simple. With the possible need to fight in the Middle East to protect the oil flow, and for fast reinforcement for the Army in Europe, the military wanted more giant transports that could carry tanks, artillery and helicopters, and come in on less than perfect runways. McDonnell Douglas won the competition for a new transport with a design for a plane to be called the C-17. But Congress didn't see that much improvement over the C-5 and balked at the projected $10 billion-plus price tag. Early this year the Defense Department switched plans and proposed instead that Lockheed's old C-5 production line be activated and that 50 more of the giants be built to augment 77 on hand. Those 50 transports would cost $8.1 billion, or $100 million each in 1980 dollars.

But the cost overruns on the original C-5 order were a major scandal. The original price estimate was $28 million each; they came in at $62 million. Worse, the wings aren't lasting as long as expected; the planes are being rewinged at $20 million each, or $1.6 billion. The refitted C-5's will work, but the idea of buying more from Lockheed isn't popular in Congress.

In March, Boeing proposed that new (at $58 million each) or used 747s be bought instead. Figuring $35 million for a used plane (although prices are down as low as $18 million now) and $12 million for rebuilding, Senator Jackson claimed a saving of $6 billion.

The 747 can fly farther and faster than the C-5, but needs better runways and cannot carry the biggest battle equipment like the M-60 or new M-1 tanks, the 155mm self-propelled howitzer, the new infantry fighting vehicle, helicopters or the division air defense gun. There is no easy unloading for roll-off delivery; in fact, special unloading equipment is needed for the side doors high off the ground. Deputy Defense Secretary Frank Carlucci says you might have to fly in a C-5 with unloading equipment for the 747 before you could land the 747s. "It's very difficult to see that we could buy them [the 747s] and use them," says Carlucci.

So why did the Boeing plane win the Senate vote? Credit Senator Jackson's prestige, the fact that he is up for reelection, the fact that Braniff collapsed (buying used 747s would pump cash to surviving airlines, it was argued) and the fact that Boeing rounded up a formidable phalanx of lobbying interests. Bankers holding paper on 747s joined up. Boeing subcontractors with a stake in the new 747 and 767 jets were on the job, because the sale of old 747s would create cash to buy new planes. They were joined by supporters of McDonnell Douglas' C-17, which the Air Force still would like to buy. Lockheed and Georgia's Senator Nunn and the Air Force realized too late how well Jackson had been rounding up supporters. The result was an order to buy used civilian planes for the next war.

But stay tuned: The continuing battle over giant transports is likely to be so fierce that the real decision may be postponed for another year. The Russians may not wait, Middle East combatants may not wait, but the patience of American voters with such goings on seems infinite.●

● Mr. GLICKMAN. Mr. Chairman, earlier today, the President appeared on the Capitol steps to urge the passage of a constitutional amendment to balance the budget. Congress may well follow his advice and approve such an amendment and send it to the States for ratification.

Such an amendment makes it more incumbent than ever on us to look for meaningful cuts in the budget. Today, we have that opportunity.

An amendment will be offered to the defense authorization that will save a total of $6 billion. The amendment would substitute 747's or other wide bodies for C-5's to meet our airlift shortfall.

Six billion dollars is the type of meaningful cut that has to be made if we are going to successfully balance the budget.

And, the advantage of the amendment is that it does not undermine our national security in any way whatsoever. In fact, it enhances our defense policy by insuring that the most appropriate aircraft is used to meet our airlift needs.

I want to discuss the military utility of the 747 to assure my colleagues that it can, indeed, suitably fulfill the defense requirement.

Claims that 747's and other wide-bodied aircraft have no military utility are simply unfounded. The Air Force war plans assume that up to one-half of the airlift used in a national emergency is in the Civil Reserve Air Fleet (CRAF), comprised of 747's and DC-10's. Utility of wide-bodied aircraft as military airlift was documented during the the 1978 Military Air Command (MAC) project on the demonstration/verification loading of U.S. Army and U.S. Air Force equipment on DC-10 and 747 Civil Reserve Air Fleet aircraft.

More recently, the military utility of the 747 was illustrated during the Air Force Team Spirit Exercise in 1981 in which two Flying Tiger 747 freighters loaded with military cargo flew to Korea.

Further, the 747's can enhance the military mission through equal or superior performance over the C-5.

The 747 can fly to the Middle East without refueling. The C-5 would have to be refueled in flight or stop along the way.

The 500 747's currently operating worldwide are some of the most reliable planes ever built. The C-5 has the highest operation and maintenance costs of all the aircraft operated by the Defense Department.

The loading/unloading times of the 747 and the C-5 do not differ significantly as illustrated by Military Airlift Command tests. It was demonstrated that both planes have essentially the same ground time for loading, unloading, maintenance, and refueling. The equipment used to load the 747 is available at every major airport around the world and would be carried in the lower cargo hold of a 747 on the first flight to a troublespot.

Finally, I would like to discuss the questions about the requirement to land cargo planes close to the front lines. Despite claims to the contrary, neither the 747 nor the C-5 is going to land on dirt fields adjacent to combat sites. Instead, they would land at a large strip which could be used as a staging area to assemble troops, materiel, and equipment. The fact of the matter is that the Air Force would not land a C-5 on a field which could not accommodate a 747.

To say that the 747 has no military utility in the face of demonstrable evidence to the contrary is simply not a fair assessment of this versatile aircraft.

I urge my colleagues to look at the Rhodes amendment closely and to give it their support. It will show that you recognize legitimate defense needs and that you agree that defense expenditures should be designed to wisely use limited funds.●

● Mr. DANNEMEYER. Mr. Chairman, H.R. 6030, the Defense Authorization Act for fiscal year 1983, is presently before the House for consideration. One of the issues raised by the legislation is the matter of the contracting out of various services from the Federal Government to private sector firms. The committee report of the Committee on Armed Services recommends a 1-year moratorium on contracting out by the Department of Defense. The bill also weakens the ability of the Department to contract out by deleting funds for the performance of cost-comparison studies and by deleting personnel slots in the area of contracting out administrators.

I am concerned about these provisions in the bill and committee report for several reasons. As a member of the Post Office and Civil Service Committee, I am troubled by the fact that the bill would increase civil service manpower levels by 17,000 to account for the performance of commercial activities by Government instead of by private firms. I am also interested in this issue because of the clear need for the Government to pursue budgetary cost savings.

The committee report and the bill's provisions as noted above would directly suspend the implementation of national procurement policy in one of the largest departments of the Federal establishment, the Department of Defense. The Office of Management and Budget has estimated that the implementation of its contracting out policy, OMB Circular A-76, would save $1 billion annually.

I am advised that a study of the experience of the Army with contracting out supports the cost-savings claim. Of 66 conversions from Government activity to private sector firms in fiscal years 1979-81, the Government's estimated cost would have been $618 million while the contractors cost was only $305.6 million. This resulted in a cost savings of $312.4 million.

From an administrative standpoint, contracting out provides flexibility to Federal managers and competition in the services to be provided. All of this is not to say that contracting out is appropriate in each and every instance or that we should give a blank check to those private firms which have extensive Federal contracts. Contracting out should be implemented in an effective, efficient, and prudent manner. In pursuit of this objective we should seek to make any corrections that might be required in contracting out procedures, not placing an implicit moratorium on the entire process. Such a moratorium buys time, but at tremendous cost.

In short, we should be reducing the Federal civilian work force, not increasing it.

We should be saving actual dollars, not forgoing opportunities for potential savings.

We should be encouraging competition, especially with the help of smaller businesses, not stiffling it by granting a monopoly to Government agencies in the provision of basic commercial goods and services.

I urge my colleagues to reject any attempts to amend H.R. 6030 to codify the committee report language on contracting out. Mr. Chairman, I also would ask that the summary report on the Army experience be printed in the RECORD along with a recent New York Times article on the Pentagon's contracting out plans.

Summary—Functions converted from in-house to contractor performance, fiscal years 1979/1980/1981

Total conversions studied	66
Total dollars (millions) (Government estimate)	$618.0
Total dollars (millions), contractor	$305.6
Total savings to Government (millions)	$312.4
Average percent saving	51

U.S. ARMY FUNCTIONS CONVERTED FROM IN-HOUSE TO CONTRACTOR PERFORMANCE, FISCAL YEARS 1979/1980/1981

Function(s)	Department/agency	In-house cost estimate	Contractors bid price	Name of contractor
Installation support	DA St. Louis area support center	19,385,219	6,656,778	RCA Service Corp.
Installation support	Selfridge Air National Guard Base, Mich	31,375,444	7,467,174	Serv-Air, Inc.
Installation support	Sacramento Army Depot, Calif	24,821,079	13,562,505	Pan American World Services.
Installation support	National Training Center	49,088,146	35,456,319	Boeing Services, International.
Total installation mission and functions	Hawthorne Army Ammunition Plant (HAAP), Hawthorne, Nev	112,457,626	57,426,396	Day and Zimmerman, Inc.
Motor vehicle maintenance and operations	Corpus Christi Army Depot, Tex	2,545,954	751,728	Lear Siegler, Inc.
Motor vehicle maintenance and operations	U.S. Military Academy, West Point, N.Y	19,400,873	9,247,575	Talley Services.
Motor vehicle maintenance	Fort Shafter, Ill	6,994,070	4,874,460	Smith Engineering Services.
Motor vehicle maintenance	Fort Leavenworth, Kans	4,884,752	4,635,804	Lewis Management (SBA).
Motor vehicle maintenance	Aberdeen Proving Ground, Md	10,930,545	4,012,347	Bendix Field Engineering Corp.
Motor vehicle maintenance	Pine Bluff Arsenal, Ark	2,694,610	1,146,600	Yates Management Services, Inc.
Motor vehicle maintenance	Fort Hood, Tex	3,861,199	2,042,505	TECOM, Inc.
Motor vehicle maintenance	Fort Monmouth, N.J	2,835,799	1,174,298	Serv-Air, Inc.
Base operations support and DFAE housing services	Fort Gordon, Ga	123,114,282	50,738,629	Pan American World Services.
Packing and crating of household goods	Fort Leavenworth, Kans	848,518	608,314	Studdard Transfer & Storage, Co.
Avionics	Fort Huachuca, Ariz	683,958	325,711	Hawthorne Aviation.
Aircraft maintenance	Fort Hood, Kans	12,548,504	2,825,512	Dynalectron Corporation.
Aircraft maintenance	Fort Riley, Kans	5,250,084	4,268,757	Doss Aviation.
Aircraft fueling	Fort Hood, Tex	1,387,743	706,404	TECOM, Inc.

[From the New York Times, July 19, 1982]

U.S. MILITARY TOLD TO USE MORE OUTSIDE CONTRACTORS

WASHINGTON, July 18.—The Defense Department has ordered the military services to move as many uniformed men and women as possible out of jobs that civilians can do and, in turn, to shift as many civilian jobs as possible to outside contractors.

Pentagon officials said the military services had been instructed to scrutinize nearly all work done by civilians on their payrolls with the objective of switching about half those functions to outside contractors by the end of 1987.

The military services have also been directed to consider "lateral entry," a procedure by which skilled civilians could be enlisted as sergeants or petty officers without having to rise through the ranks as they do now.

The policy of using more contractors has been supported by business groups, including the United States Chamber of Commerce, on the ground that competition can cut costs 25 to 50 percent. Business groups also assert, as do officials of the Reagan Administration, that contracting for services is more flexible because it allows the Government to expand or shrink operations as necessary.

But Congress, urged by organizations representing civilian employees of the Defense Department, has been reluctant to back the new policy. The Senate has passed a bill that prohibits contractors from furnishing security guards or fire fighters. The House Armed Services Committee has proposed a one-year moratorium on contracts for services in a bill scheduled to come up for a vote on the floor this week.

Lawrence J. Korb, an Assistant Secretary of Defense, has urged the House to reject the moratorium. He said in recent testimony: "The Department of Defense's basic policy is to rely on the private sector for the goods and services it needs to carry out its mission. Free enterprise and competition are the most effective way to insure that these goods and services are produced economically and efficiently."

Mr. Korb said that military readiness, as determined by the Army, Navy and Air Force, was the first priority. "Only when they are satisfied that contracting out would not hurt military capabilities do we proceed with free enterprise competition," he said.

The Defense Department currently employs slightly more than one million civilians. They work in research and development, medical care, procurement and supply, base operations, logistics support, depot maintenance and administration. About 65 percent are white-collar workers and 35 percent are blue-collar. About a third are women and a fourth from minority groups.

To switch any of their work to an outside contractor, Mr. Korb said, the government seeks bids from private companies. At the same time, he said, "our own in-house work force determines the most efficient and cost-effective way they can do the job."

"The in-house bid then competes with the private sector," he said. "Essentially, the low bidder wins."

Mr. Korb told the Congress that the Pentagon had conducted 400 competitions in the last three years, with 60 percent won by private companies at a saving of $70 million a year. But preparation for the competition, he said, also forced the Government workers to find an additional $14 million in annual savings.

STUDY OF CIVILIAN JOBS

At Fort Gordon, Ga., conversion to a contractor for maintenance, transport, supply and other services called for payments of $24.5 million a year, a $6 million saving; freed 450 military people to go back to soldering, and added 200 jobs to the local economy.

The order to expand that conversion program came in the five-year plan called Defense Guidance, which sets out basic programs for the armed forces for the fiscal year 1984, which begins Oct. 1, 1983, through the fiscal year 1988, which ends Sept. 30 that year.

The guidance directs the military services to study the work done by more than 90 percent of their civilian employees for possible conversion to contracts. "It is estimated that through 1987, about 50 percent of the activities studied will result in cost-effective conversions to contract," the document says.

The planning document directs the services to "seek expansion of the available man power supply by considering alternative sources such as lateral entry for people already having skills or technical training and by continuing efforts to increase the role of women."

The document says, "Since active-duty manpower is a scarce and expensive resource, the services must ensure that the highest priority use of military personnel will be to increase the readiness of combat units and deployable support units."

At the same time, it says: "Continued downward pressure on Department of Defense civilian manpower levels will make it imperative that we minimize our need for Department of Defense civilians and pursue aggressively labor-saving productivity improvements, all cost-effective contracting out, and other opportunities to reduce our demands for Department of Defense civilians without degrading military capabilities."●

The CHAIRMAN pro tempore. Pursuant to the rule, the committee amendments in the nature of a substitute recommended by the Committee on Armed Services now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment. Each title shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Authorization Act, 1983".

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BOLAND) having assumed the chair, Mr. BAILEY of Pennsylvania, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION OF INQUIRY DIRECTING THE SECRETARY OF DEFENSE TO FURNISH INFORMATION TO THE HOUSE RELATING TO PROCUREMENT OF C-5B AIRCRAFT

Mr. PRICE, from the Committee on Armed Services, submitted a privileged report (Rept. No. 97-641) on the resolution (H. Res. 512) directing the Secretary of Defense to furnish certain information to the House of Representatives relating to procurement of the C-5B aircraft, which was referred to the House Calendar and ordered to be printed.

WHO HAS BEEN FISCALLY RESPONSIBILE IN FORMULATING BUDGET AND ECONOMIC POLICIES?

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, the old Ronald Reagan, who promised to balance the budget by 1984, is coming to Capitol Hill today. Absent from the space of today's balance-the-budget-amendment extravaganza is the President, Ronald Reagan, whose budget and economic policies are giving us this year the highest deficit in the Nation's history and whose policies will give us, next year, the second highest budget deficit in history.

At more than $100 billion, these 1982 and 1983 deficits will be nearly double the 1981 deficit.

Back with us today on Capitol Hill, cloaked in the garments of a balanced budget is the Ronald Reagan who convinced the American people that Democratic Presidents and Congresses were at the root of our Nation's economic troubles. But gone is President Reagan whose policies have led our Nation into the harshest recession since the Hoover Great Depression, and who has given us 17 months of interest rates over 15.5 percent, the longest such period on record.

It seems clear to me that today is the appropriate time to spread on the record some questions and answers history gives us, to who has been fiscally responsible in formulating budget and economic policies in response to the needs our people have identified.

I would like to share with you some of the data my study of our economic record has brought to light. Mr. Speaker, one single act is worth a thousand words.

Which Presidents served during the longest period of economic prosperity and private sector business and industrial job growth our Nation has known?

The time was 1961 to 1969. The Presidents were John Kennedy and Lyndon Johnson. The economic growth period ended with the first Richard Nixon economic recession which began December, 1969.

Which Presidents served during the longest economic recessions since World War II?

Presidents Richard Nixon, Gerald Ford and Ronald Reagan.

Which President has presided over the most economic recessions since World War II?

President Eisenhower. There were three economic recessions during his eight years in office?

How many economic recessions have there been since World War II?

There have been eight recessions—six under Republican Presidents and two under Democrats.

What organization makes the official determinations of when economic recessions began and ended?

The National Bureau of Economic Research, a private, non-profit, non-partisan organization. Its designations are accepted by the private and governmental sectors.

Which President proposed and got enacted into law the last federal budget to end in a surplus?

President Lyndon Johnson.

Which President proposed the budget which generated the highest deficit in the history of the Nation?

President Reagan. The year is 1982. The U.S. Treasury Department estimates that the deficit will be $100.5 billion. This would be nearly double the 1981 deficit.

Which President proposed a budget that, if Congress had approved it would have resulted in a total deficit greater than the total deficit of all other Presidents—Democrat and Republican—in the past 50 years?

President Reagan. The budget was submitted to Congress on February 8, 1982. President Reagan told the Nation in a televised speech that the proposals would result in a four-year cumulative deficit of $740 billion. The total deficit under all other presidents in the past half century was $622.9 billion for the combined 48 years they served.

Which President since World War II has twice proposed that less money be appropriated than was appropriated the year before?

President Jimmy Carter.

How many years since 1943 has Congress appropriated more money than the President requested?

One year—1976. The year 1981 can be counted *only* if you consider proposals made by President Reagan seven months *after* he spent his first budget to Congress and *after* the House had completed the majority of its work on appropriations.

Under which President since World War II has the Nation's unemployment rate gone higher than the 9.5 percent it reached in May, 1982 under President Ronald Reagan?

None.

Under which President did the annual prime interest rate reach 10 percent for the first time in more than 55 years?

The year was 1974. The Presidents were Richard Nixon and Gerald Ford.

Data sources: The Budget of the United States Government, Fiscal Year 1983; The Economic Report of the President, February, 1982; The U.S. Department of Labor; The U.S. Department of the Treasury; The Library of Congress; and the Committee on Appropriations of the U.S. House of Representatives.

NEW FEDERALISM FALTERS ON FOOD STAMPS

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, on July 1, 1982, the administration took its first steps toward the New Federalism and then tripped.

The food stamp program for the Commonwealth of Puerto Rico has tripped up the administration and if this stumbling block is not remedied, the whole concept of New Federalism block grants could fall flat on its face.

Last year the food stamp program was block granted to Puerto Rico. This block-grant concept has been hailed the basic premise of New Federalism but I cannot support the blueprint designed by Puerto Rico as the prototype for the 50 States.

Puerto Rico decided—and the administration approved—the issuance of cash instead of food coupons. Within this plan there simply are no assurances that this money will be spent on food. This is a perversion of the so-called New Federalism.

By approving this cash-out concept, the administration is virtually washing its hands of responsibility over millions of dollars worth of taxpayers' money. The administration appears to be more concerned with form rather than substance. Simply turning over the administration of a Federal program to a State or territory is not New Federalism. That is passing the buck—and in this case, literally passing millions of bucks.

Reports from Puerto Rico—after the first "food stamp checks" were issued on July 1, 1982—are mixed. The Puerto Rico Government Development Bank estimates that 95 percent of these checks are cashed in grocery stores. However, they cannot provide any assurances this money was spent on food in those stores.

Other reports indicate that grocery store personnel, food stamp participants and social service employees believe that nutritional standards will suffer because money previously spent on food will be spent on liquor and other nonessential items.

One of the original precepts of the food stamp program was to insure that children from low-income families received adequate nutrition at home. Moving to a cashout system makes achieving this goal tenuous. Many residents of Puerto Rico are angry with the new proposal, "people are going to squander the money easier than with coupons," said one resident.

I do not want to see the food stamp program turned into an income transfer program in Puerto Rico—or any other place.

The fact that we do have serious abuses in the food stamp program is no reason to give up on its basic premise—that of providing food assistance to needy individuals. Cashing out the food stamp program in Puerto Rico could mean opening the door to a giveaway program of unprecedented proportion.

It should not be assumed that this is a parochial, unique issue to Puerto Rico. Indeed, cashing out of a Federal food stamp program could become a reality in each of the 50 States if the block grant concept is extended to them.

In fact, the Agriculture Committee in the other body adopted an amendment that will allow any State that chooses to operate their own nutritional assistance block grant. States would be able, if this amendment becomes law, to send out checks to low-income families. The food stamp program could then disappear in each of the 50 States. Congress would have no assurance that many people authorized for food assistance—over $11 billion this year—is spent on food. I cannot support a block grant concept that would allow cash to be issued under the guise of food assistance.

Many argue that by cashing out the program, we can get rid of fraud and abuse in food stamps. Such an argument is specious. These people would have us close our eyes to a real problem, and then, because they no longer see it—proudly announce it is gone. We will not eradicate fraud in the food stamp program through cashout. What we will do is remove the ability to find out where the fraud exists. There will be no audit trails, no possibility of finding out who is abusing the program.

Have we given up on the battle on fraud in the food stamp program so easily? Do we want to turn the program over to hardened criminals? Do we want to give up any assurances that the poor can receive food assistance? Surely not. Cashing out the food stamp program in Puerto Rico may be the first step toward cashing out the entire program, and this could only be the beginning. If the old tune "Anything Goes" is being hummed in the White House as it considers other New Federalism ideas, we can certainly see other programs turning into cash giveaways. For example, if extended to the school lunch program, children would be directly given money to purchase their lunches in the hope that some of it would actually end up in the school cafeteria to pay for their meals.

Cashing out the food stamp program is not a new idea; it has been debated in the Halls of Congress for years. What is surprising is that this administration would carry out the liberal philosophy offered by others in the past under the guise of States rights. Whatever happens to the concept of New Federalism Congress must not give up on the goals and purposes for which programs are established. Policy decisions on program goals must not be blurred because of the type of delivery system used. Certainly this is the converse of the recent past where many program goals were lost in the shuffle because of faulty administration of the program. Closer scrutiny by the White House of what happens to these block granted programs once they are given to the States would insure that the New Federalism truly will be an improvement over the Old Federalism.

MEGA-MEDIA—LIKE MAKING LOVE TO A SKUNK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 30 minutes.

● Mr. HANSEN of Idaho. Mr. Speaker, I have been playing "Me and my Shadow" for months with two people who pretend they are from the Wall Street Journal.

I say pretend because I am not certain who they are really with. One told me on June 2, any article he wrote on our interview beneath the dignity of the Wall Street Journal, he could get printed with those who do publish rubbish. The other, who now claims to work for the Wall Street Journal, paid me a visit some months ago as a representative of the New York Times in the process of job-hopping.

Now, if they are for real, why should two mighty warriors from one of the Nation's media giants be putting lots of time and a big expense account into a rural Congressman of the minority party 2,500 miles from the big-buck capital of the international financial world they serve?

I am impressed, Mr. Speaker, and so are many of my associates who have been getting so much glamourous mega-media attention—lengthy visits and repeated calls. Unfortunately, however, we are beginning to feel somewhat like the forest animal about making love to a skunk. "The experience is interesting, but I have had about all the togetherness I can stand."

My story is frightfully dull. I have no Chappaquiddick. I have no Austin TV station. I have no burglary record at Watergate. I have no FBI/"Arab" greenbacks. I have no involvement with pages. And the strongest drug I use is an occasional Pepsi-Cola.

Once long ago I did have a problem typical among thousands of candidates at the time, a late political report with a technical error, which created a noisy overreaction among the political opposition that was later identified as a "railroad job."

Mr. Speaker, I was forced to replace all amateur technical help in business,

personal, and campaign areas with professional accountants and lawyers to reduce my vulnerability to dirty-trick politics. Nevertheless, my political opposition continued to trigger investigations against me year after year. The FBI, the FEC, the IRS, time after time gave us a clean bill of health.

The illegal acts were committed by my enemies. During the past 8 years, they have illegally gotten into my credit reports, my tax records, my private bank accounts, and my wife's personal business dealings.

Sixteen months ago I reported a huge blackmail scheme to the Justice Department, a $440,000 extortion demand against Nelson Bunker Hunt including threats against me and my wife and suggesting that many lives were at stake in some kind of illegal U.S.-based foreign military operation. Had this been an extortion attempt against international money club members such as David Rockefeller or Armand Hammer, I can visualize the big headlines in the Wall Street Journal. But, of course, there were no headlines and no articles on the mega-buck mega-media—not for months. The interest level for pursuing a story seemed to surge greatly when the journalistic bounty hunters, with their pipelines to the establishment politicians in the Justice Department, started picking up twisted leaks suggesting an investigation was in process on me instead of for me.

The blackmailer's letter made a charge about my doing special favors for Bunker Hunt for helping my wife on a commodity market transaction which was so absurd I had no hesitation in giving it to the Justice Department to review in its investigation of the extortionist. There is no such connection and the Justice Department has had over 1 year to make certain of this while looking for the blackmailer.

So why should I care about what the Wall Street Journal may think? I really do not, except for the skunk-loving syndrome. I am being loved to death. I have dealt with many professionals in the media through the years, people like Jon Randall of the Washington Post and Tom Fenton of CBS when in Iran. I have received both fair and harsh treatment by different people in the media, but I have seen few who come on so hard that you finally have to quit talking to them out of total frustration. That has been the problem with the Keystone Cops of the Wall Street Journal.

They looked at my House financial reports and made such preposterous assumptions that they cannot be dealt with, and then they run clear to Idaho asking bankers to break the law to assure them that because I have the normal banking practices of any citizen, and because I sit on the House Banking Committee, I am not doing special favors for banks and they are doing none for me. If they would stop spinning their wheels long enough, someone could show them that the financial disclosure statements make no such suggestion and do little except provide controversy. These reports are so bad that a person never owing over $15,001 during a given year could be considered from the report as owing somewhere between $180,000 and $600,000.

Then these gold dust twins grab up all the old reports they can find at the Federal Elections Commission and in 6-year-old newspaper morgues and bother the dickens out of people in an attempt to find out from speculation how much money my wife raised during a private direct mail effort to recover from a debt heaped on us by the illegal acts of our political enemies.

They asked everyone but us whether we paid taxes. If they had just thought to completely read their own clipping file, they would have found that we have had tax audits with resultant refunds for overpayment during years when all this was in full bloom in the press for the IRS and everyone else to read.

Then these great gumshoes make a big discovery—that I have signed direct mail for different cause projects. Indeed, I have, just like any other Congressman concerned about helping his people and the Nation. I have signed millions of letters and served on boards for many groups—all of them out front on what they are doing, and many highly publicized—except perhaps with these "historians" of the Wall Street Journal who must have been reading earlier history when this news was current.

Mr. Speaker, I proudly raised $200,000 for the American Conservative Union and other groups to finance Bill Barlow's win in the U.S. Supreme Court against illegal OSHA inspections.

Last summer I helped finance a Federal court victory in Idaho to stop the illegal entrapment of Idaho farmers by agents of the U.S. Immigration Service involving the employment of illegal aliens.

I raised money to fight the giveaway of the Panama Canal including the cost of bringing a simulated truckload of gold bricks from Idaho to illustrate the multibillion dollar ripoff of the American people.

I paid my wife's way for us to go to Bolivia to get an innocent Idaho citizen and many other Americans out of prison after months of being held without trial on unfounded charges.

I paid for my wife's trip to Taiwan when I led the first congressional friendship delegation in those critical days to restore confidence after our Government broke diplomatic relations with our old friends for no reason except to cement ties with the Red Chinese.

I paid for my own trips to Tehran to see the American hostages and open the doors for their peaceful return at a time when war seemed inevitable and their safe return was greatly in doubt. A Congressman walking the streets of Tehran may well have prevented the bloodshed of putting American GIs on those same streets.

I helped form and lead lawsuits to prevent the International Women's Year from illegal use of Federal agency funds to overturn the controversial extension of time for approval of the equal rights amendment. The second effort was successful in U.S. district court.

The big new project which has apparently excited the Sam Spades of the Wall Street Journal is the Association of Concerned Taxpayers (ACT). Yes indeed, I have launched a great campaign to stop the scandalous abuse of taxpayers by the Internal Revenue Service and get a fair and simple flat rate tax to replace the corrupt and failing progressive tax which Americans are now saddled with. The project has received some assistance from people who also feel the need for tax reform and we have launched a highly successful direct mail campaign to get the grassroots of the Nation united on this popular project.

I continue to sign mail for certain groups to help the national security in the Caribbean or wherever American interests are involved and to stop OSHA and other agency abuses in addition to the current IRS effort. But, in each effort, particularly involving the IRS with its reputation for retaliation and harassment, the names of those who help launch the projects are protected and will continue to be as provided by privacy provisions of law. I have made no money, nor will I ever make money, from these projects.

For my bloodhound friends from the Wall Street Journal, however, I can answer the question they are loosely tossing around. No. Nelson Bunker Hunt, or any member of the Hunt family, have had no hand in, nor did they give a dime to ACT in anyway—or, to the best of my knowledge, to any other project in which I have played an active part.

Now let us talk about Connie Hansen for a moment. This lovely lady is my wife, but she is also my administrative assistant doing a $50,000 a year job without pay. In the 8 years she has served, beginning in 1975, she has given the taxpayers some $400,000 in services.

Hopefully, Mr. Speaker, this has answered all those busy questions being asked of everyone but us by the inquisitors of the Wall Street Journal.

Now, if these men of the media really want news instead of a star

chamber exercise, there is news. The blackmailer has turned himself in and will be sentenced later this month. It might also be a more interesting story to find why the Department of Justice did not find the extortionist and why he found them, and why you can conduct a blackmail for a half-million dollars, involve a public official and his wife, threaten to start some kind of war and get off with something like a traffic ticket.

What it comes down to is an ethical standard called good faith. We are saddled with a disclosure law which privately almost every elected official condemns and which is driving good men out of Congress and keeping others from coming in. It is a spinoff from the Watergate mess for which the press was in no small part responsible. Disclosure would not make a crook honest and it would not change the habits of honesty of the rest of us.

We obey that law and the result is pressure to exceed those requirements and reveal more and more by the very same press which pushed for that law in the first place. Let me offer a litmus test to the new breed of reporters who seem to know no moral code. As a condition for the access and the accommodations which they now enjoy here in the Capitol, how would they respond to a financial disclosure law for all members of the media who cover political events. Most Members will concede off the record that the media has more influence on American politics than we do, and they are not elected by anyone.

In addition, as a matter of principle, it is somewhat ludicrous to observe certain press people worrying about what favors a Congressman might do for some particular person or special interest group when the press itself gets so many conveniences and favors on Capitol Hill without question. I do not believe Bunker Hunt has a special pass to the press gallery or a parking permit on the Capitol Grounds and those privileges enjoyed by employees of the Wall Street Journal are more than Bunker Hunt has ever gotten from me.

Mr. Speaker, in politics we need the media. If we need the sword in Government, certainly we must have the pen which is deemed even mightier. But just as one can live by the sword and presumably by the pen, so too can one also die by the sword and by the pen. It all depends on the use and the abuse by which they are applied.

No one wants to feed himself to the alligators or to a press which plunders the truth. So, Mr. Speaker, my message is simple and basic. It is time to draw the line. Until certain elements of the media act with recognizable responsibility, they will have no automatic access to my office.●

LITTON'S INGALLS DIVISION LEADS U.S. SHIPYARDS IN NAVY SHIP DELIVERIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, Litton Industries' Ingalls Shipbuilding Division in Pascagoula, Miss., has been a leader for many years in the production of combat ships for the U.S. Navy.

The fine record of this organization and the outstanding work performed by the thousands of Mississippi workers associated with Ingalls is a credit to the State of Mississippi and to this Nation.

I am proud to make note of their accomplishments and to share them with my colleagues.

LITTON'S INGALLS DIVISION LEADS U.S. SHIPYARDS IN NAVY SHIP DELIVERIES

Since the mid/1970s Litton Industries' Ingalls Shipbuilding Division in Pascagoula, Miss., has delivered 39 combat ships to the U.S. Navy—more than twice the number delivered from any other shipyard in the country.

In 1970 Ingalls began building Navy ships in a new 600-acre shipyard that it designed and built to specifically apply the advantages of modular construction in building Navy warships. The capability of this facility, the only new shipyard built in this country since World War II, was added to Ingalls' existing shipyard in Pascagoula, which has been building ships since 1938. Together, Ingalls comprises a total of 800 acres, providing the Navy with the largest land area resource of any shipyard in the U.S.

Using the modular construction techniques which Ingalls perfected, the shipyard began delivering Navy ships from the new facility in 1975. In less than five years, the shipyard delivered 35 warships, fully 60 percent of all the combat ships delivered to the Navy by all shipyards in the country during that time.

These sophisticated ships, designed and built by Ingalls, included 30 Spruance class destroyers, the most effective antisubmarine ships ever built, and five LHA general purpose amphibious assault ships. the LHAs, at 40,000 tons, are outranked in size only by the Navy's modern aircraft carriers, and the battleships. Additional ships delivered by Ingalls since 1980 include four Kidd class guided missile destroyers, the most capable air defense ships of their kind in the Navy inventory. Currently Ingalls has new construction contracts for an additional Spruance class destroyer and six of the new Aegis-equipped guided missile cruisers.

Ticonderoga, the first of the Aegis cruisers, is scheduled to be delivered to the Navy later this year. Ingalls will deliver this first-of-the-class capital ship well ahead of the original delivery date set when the ship contract was awarded four years ago. The Aegis program is the most important surface shipbuilding project in the Navy today.

In 1980 Ingalls reentered the market for the regular overhaul of sophisticated Navy combat ships, and since has established records for quality and early delivery. From September 1980 to August 1981 Ingalls overhauled the Navy's oldest destroyer, U.S.S. *Forrest Sherman* (DD 931), and completed the work in the record time of 44 weeks. The average time for overhaul of ships of the *Forrest Sherman* class is 57 weeks.

The installation of a vertical launch system aboard the Navy's missile test ship, U.S.S. *Norton Sound* (AVM 1), was completed at 25 percent below projected cost.

And in May 1982, Ingalls completed the regular overhaul of a Spruance class destroyer, U.S.S. *Arthur W. Radford* (DD 968), in 34 weeks, five weeks ahead of the scheduled delivery date. Ingalls has won the contract to overhaul four additional destroyers of the Spruance class.●

WELCOME TO ARCHBISHOP JOSEPH LOUIS BERNARDIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise to welcome Archbishop Joseph Louis Bernardin on his appointment to the Archdiocese of Chicago by Pope John Paul II. As the Congressman for the 11th District, where many of his church members live, I feel that we are most fortunate to have this prelate of exceptional ability and compassion soon to be serving as a spiritual leader in our city.

Archbishop Bernardin will be the first Italian American to head the Catholic archdiocese in my home city of Chicago, and in fact, he is the first Italo American to head any archdiocese in the United States. He is the son of Italian immigrants to the United States. His parents, Guiseppe and Maria Simione Bernardin, immigrated from Primiero, Italy, to Charleston, S.C.

Archbishop Bernardin was born April 2, 1928, in Columbia, S.C., where his father was working as a stone mason at the time. His father died when the archbishop was 6 years old, and he and his brother were raised by their mother.

Bernardin attended the University of South Carolina, and St. Mary's College in Kentucky. He attended St. Mary's Seminary in Baltimore, Md., received a master's degree in education from Catholic University, and was ordained a priest in Columbia, S.C., in 1952.

He served as a priest of the Charleston, S.C., Catholic diocese from 1952 to 1966, serving as assistant pastor and, subsequently, as the vice chancellor and chancellor of the diocese. In March 1966 Pope Paul VI appointed Bernardin auxiliary bishop to Archbishop Paul Hallahan, the archbishop of Atlanta, Ga., and he served from 1966 to 1968 as the auxiliary bishop of Atlanta and rector of the Cathedral of Christ the King. From 1968 to 1972, he served as the general secretary to the National Conference of Catholic Bishops and in 1972 was appointed as Archbishop of Cincinnati, Ohio. In 1974 he was elected president of the National Conference of Catholic Bish-

ops and served in that capacity until 1977.

In all of his capacities, Archbishop Bernardin has demonstrated the confidence of his church and its leadership, particularly in his capacity as general secretary, and subsequently, president of the National Conference of Catholic Bishops. He is, without question, one of the most of influential and important members of the Catholic hierarchy in the United States and his appointment as Archbishop of Chicago demonstrates to the people of Chicago the importance of the leadership role that he will plan in the coming years.

Archbishop Bernardin has been given, over the last 10 years, innumerable important assignments and has carried them out with enormous ability, integrity and dedication. He is currently heading a special committee of Catholic bishops on the question of nuclear arms policy and has been chosen over the past 10 years by bishops in the United States to represent them at the synods of bishops in Rome.

His extensive experience in national and global church affairs, has prepared him well for the challenging task of leading the largest archdiocese in the Nation. An editorial in the July 12, 1982, edition of the Chicago Tribune stated:

As leader of this diocese and no doubt a future member of the College of Cardinals, Archbishop Bernardin is taking on an immense responsibility for his church. He seems to be the right man for it.

Mr. Speaker, on behalf of the Villa Scalabrini Development Fund, for which I have had the honor to serve as chairman for the last 15 years, I welcome Archbishop Bernardin to Chicago, and assure him that I shall continue to work with Catholic Charities, as Villa Scalabrini is under the auspices of Catholic Charities, as well as other projects of the Archdiocese of Chicago, toward the betterment of our community and all of its people.●

MODIFYING THE INSANITY DEFENSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, the verdict in the Hinckley case has shaken the public's faith in the American criminal justice system. Regardless of the eventual disposition of this case, the people of this Nation will be left with the feeling that if one is rich enough to hire a sufficient number of psychiatrists, one can shoot the President and get away with it.

It is in this manner that the insanity defense has an impact far beyond the infrequent acquittals that result from the defense and has fostered disrespect for the criminal justice system. Yet it is respect—the belief that punishment will be sure and just—upon which the deterrent value of our sytem depends.

Despite these concerns, however, I believe it would be a mistake to abandon the insanity defense, as many of the proposals before this body would, explicitly or implicitly, attempt. Fundamental to the Anglo-American criminal justice system is the principle that, except for certain regulatory offenses, we punish only those who are morally blameworthy. The current insanity defense is a simple statement of that principle: We do no believe that those who are psychologically unable to appreciate the wrongfulness of particular conduct, or to control conduct, can be held morally responsible. To abandon the insanity defense could easily be the first step toward a radical and dangerous separation of punishment and responsibility in the operation of criminal justice.

I am therefore today introducing legislation that would address the deficiencies of the current insanity defense without abandoning the principles that justify its existence. This bill would, first, modify the definition and proof of the Federal insanity defense. The American Law Institute—ALI—test, in use in the vast majority of Federal circuits, is a modernization of the traditional McNaghten and volitional tests. The ALI definitions, however, use some vague terms, such as "substantial capacity." This legislation would remove such vagueness from the definition. It would also include a modification of a proposal by ALI to preclude so-called antisocial personalities—sociopaths, psychopaths—from invoking the defense.

The legislation would also require that a defendant prove insanity by a preponderance of the evidence. There is no constitutional or historical necessity for requiring that the prosecution, once it has proved both the mental and physical elements of a crime, disprove a defendant's claim of insanity beyond a reasonable doubt. This problem, more than any, seems to have been the source of concern following the Hinckley acquittal.

Second, the legislation would prohibit an expert witness, such as a psychiatrist, from offering an opinion at trial about whether the defendant was insane. From the law's standpoint, insanity is a question of fact, to be resolved by applying legal definitions. The law's definition of insanity is derived from moral principles. Although the law requires existence of a mental disorder, that disorder alone is not sufficient to establish the defense. As far as the law is concerned, insanity is not a psychiatric diagnosis.

Third, the legislation would, for the first time, establish a Federal commitment procedure. The Federal Government and the American public have a clear interest in providing treatment for persons acquitted by reason of insanity in Federal court. The current situation, whereby the only possible treatment is through State civil commitment procedures, constitutes an abdication of Federal Government responsibility. Under the proposed procedure, a defendant acquitted of a violent felony by reason of insanity would be presumed fit for commitment. Commitment and treatment would be under the control of the court.

Finally, the bill would reform Federal procedures for dealing with those incompetent to stand trial, modernizing those procedures and bringing them in accord with constitutional law.

A summary of my legislation follows:

Section 1 of the bill modifies the insanity defense used in Federal courts by adding new section 16 to title 18 of the United States Code.

Subsection (a) of new section 16 would establish a uniform definition of the insanity defense for Federal courts. The majority of Federal courts currently use the American Law Institute test, providing a defense of insanity when the defendant "lacked substantial capacity to appreciate" the wrongfulness of conduct or to conform the conduct to the requirements of the law. The legislation would remove the ambiguity of this language and narrow it somewhat by requiring for the defense that a defendant "did not understand" the wrongfulness of the conduct or "was incapable of conforming the conduct.

Subsection (b) of new section 16 would require the defendant to prove insanity by a preponderance of the evidence. Current law requires the government to prove sanity beyond a reasonable doubt.

Subsection (c) of new section 16 would preclude the so-called "anti-social personality" (psychopath, sociopath) from claiming the insanity defense.

Subsection (d) of new section 16 would abrogate any other definition of the insanity defense currently used in Federal courts.

Subsection (e) of new section 16 would establish three possible verdicts for a case in which insanity has been raised as a defense: "guilty", "not guilty", and "not guilty only by reason of insanity".

Section 2 of the bill amends the Federal Rules of Evidence to preclude expert witnesses (e.g., psychiatrists) from offering opinions as to the ultimate question of whether the defendant understood the wrongfulness of the conduct or was able to conform that conduct to the requirements of the law.

Section 3 of the bill revises Federal procedures for dealing with persons who are mentally incompetent to stand trial. Some of the provisions are necessary to comport with recent court decisions. Chapter 313 of title 18, United States Code, is amended as follows:

Section 4241 would provide for a screening examination whenever any party alleges incompetence to stand trial. The court could also order a screening examination on its own motion.

Section 4242 would provide for a more complete mental examination regarding competence if the screening examination suggests that the defendant is incompetent.

A defendant may demand a hearing on the need for a more complete examination if the court initially decides against such further examination. The examination would be conducted on an in-patient basis only if the defendant is dangerous, already in custody, or likely to flee, or if in-patient testing is necessary. A report on the test must be filed, and the contents of the report are specified. Statements made by the defendant during the examination are not usable against the defendant in criminal proceedings.

Section 4243 would provide for a hearing on the issue of competence. Provision is made for additional examination by a mental health examiner of the defendant's choice if so requested. If, after the hearing, the court determines that the defendant is incompetent, then there is a hearing on the likelihood of the defendant's recovery and appropriate treatment. The defendant must be ordered to be treated unless treatment has already exceeded 240 days, or there is no substantial probability of recovery. In such a case, non-serious charges are dismissed. The court is also given the discretion to dismiss charges rather than order treatment when the seriousness of the charges or the likelihood of conviction would not justify the oppressiveness of the particular treatment required.

Section 4244 would provide for treatment following an order under section 4243. The court must specify the facility for treatment, which may be in-patient only when the defendant is dangerous, likely to flee, or otherwise in custody, or when in-patient treatment is necessary. The Secretary of Health and Human Services is required to issue regulations ensuring that controversial treatment techniques such as psychosurgery, electric shock, and psychotropic drugs be used only after the informed consent of the patient, or of the patient's guardian and the court. The section also provides for the resolution of certain issues while the defendant remains incompetent, and for trial while defendant is receiving medication.

Section 4245 would provide for the transfer to State authority (1) of persons who have received the maximum treatment for incompetence to stand trial, have not recovered, and are appropriate for civil commitment, and (2) of convicted persons whose prison terms are about to expire and who appear dangerous due to a mental disease or defect.

Section 4246 would restate current law regarding the Board of Examiners.

Section 4247 would restate current law regarding incompetence undisclosed at trial.

Section 4248 would provide for transfer of a prisoner to a mental institution upon a showing by clear and convincing evidence that the prisoner is in need of treatment.

Section 4249 provides definitions of terms used in chapter 313.

Section 4 of the bill establishes Federal commitment procedures for persons found not guilty only by reason of insanity. Current Federal law has no procedures for dealing with such persons. A new chapter 310 would be added to title 18 of the United States Code as follows:

Section 4171 would provide for mandatory examination of persons found not guilty only by reason of insanity of violent felonies, and discretionary examination of all other persons found not guilty only by reason of insanity.

Section 4172 would provide for conducting the examination, which would be in-patient only when the defendant was dangerous, likely to flee, or otherwise in custody, or where in-patient testing was necessary. The contents of the report, and the time limitations upon the examinations are specified.

Section 4173 would provide for a hearing on the defendant's dangerousness following a report under section 4172, or following a report on the defendant's treatment under section 4174. (A defendant may request an additional examination by an examiner of his or her choice.) Following the hearing, the court must order the defendant committed or recommitted for treatment if it finds by a preponderance of the evidence that the defendant presents a substantial probability of danger to any person (including the defendant) or to property. A defendant found not guilty only by reason of insanity of a violent felony is presumed dangerous, and the defendant must prove nondangerousness by a preponderance in order to avoid commitment. In the event, however, that the treating facility (following treatment) finds that the defendant is no longer a danger, then continued treatment is ordered only if the court finds dangerousness by clear and convincing evidence.

Section 4174 would provide for treatment of a person found not guilty only by reason of insantiy. The court must specify the facility at which treatment is to occur. A report on the person's condition must be made to the court each year, or whenever it appears that the person no longer presents a danger. The section also requires the Secretary of Health and Human Services to provide regulations to ensure that controversial treatment techniques (such as psychosurgery) be used only after informed consent.

Section 4175 would provide general provisions for chapter 310.●

AIRLIFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BRINKLEY) is recognized for 10 minutes.

Mr. BRINKLEY. Mr. Speaker, having been restricted in the general debate on the Defense authorization bill, I take this more easy time to refer to a supremely important subject, which to me is the subject of airlift, and for the record I wish to establish a few facts and point to a few opinions from our military and other experts.

The Air Force is close to my heart because I served in the Air Force for 5 years of my life during the Korean era, enlisting in the State of Georgia, training in Texas and Oklahoma. They were good years and I have fond memories and pleasant vibrations of those Air Force years. Even then we were entrusted with a great commitment, which was the defense of our country, and I believe, Mr. Speaker, that that commitment continues and I think, as the oceans shrink and as distances become more close, that airlift is more important than ever, and I do not think, Mr. Speaker, that we should ever return to fortress America, but I believe that it is well within our power to return to homebase America if our airlift is on target and if we are able to move with expeditious strength and credibility around the world.

We have seen the NATO chapter in which I served in the post-World War II years, and we have shown it to be and to serve a valuable function, and we have seen it now come into competition, as it were, for resources for the rapid deployment forces, as our national interest shifts into the Persian Gulf area and, therefore, airlift is even more critical today than it ever has been during my lifetime.

□ 1650

Mr. Speaker, for the Record, I think it is important this afternoon to review the genesis of this airlift issue. The Soviet threat is growing at an alarming rate, and we must be able to project our military forces anywhere in the world on a moment's notice, whether in the Indian Ocean, the rapid deployment force in the Persian Gulf or the NATO alliance. That is the job of military airlift, and at present we are far short of the capability we need.

For 10 years now we have debated the airlift programs, as we are here today, with the end result being the cancellation or delay of the airlift initiative. We cannot continue doing this.

The Department of Defense, the Joint Chiefs of Staff, and the Air Force have stated the need. The "Congressionally Mandated Mobility Study" analyzed all elements of mobility, including pre-positioning, sealift, and airlift. The airlift requirements are clear and in the shortfall and in outsize aircraft very apparent.

Our military and civilian defense leaders know we must do something now, and after careful evaluation of all options, they concluded that the best near-term solution is the procurement of 50 additional C-5's, 44 KC-10's, and an enhanced civil reserve air fleet program.

Their testimony fully supports this package, and I should like to include for the RECORD a number of letters written by our top military experts which illustrate how strongly they believe in this airlift package.

Let me quote a few short points from a number of these letters.

First, Secretary of Defense Caspar Weinberger told Speaker O'NEILL in a communication dated June 4, 1982:

> There is immediate need for additional outsize airlift capability. The quickest way to gain this capability is through the program proposed in this year's budget. Failure to fund the C-5B dangerously delays resolution of this critical need. Again, I would like to stress that the need to begin the C-5B program is urgent. Further delay is redressing our outsize airlift needs cripples our ability to project forces in this last half of this decade and beyond.

That is the end of the quotation from Secretary of Defense Weinberger.

Defense Deputy Secretary of Defense Frank Carlucci, in a letter to

Senator JOHN TOWER, dated May 13, 1982, said:

I want to state unequivocally that we do not need, nor should we be obliged to procure, excess commercial aircraft which could not carry outsize cargo and would be poorly suited for oversized equipment.

On June 4, 1982, Verne Orr, Secretary of the Air Force, wrote to Congressman MELVIN PRICE, chairman of the Armed Services Committee and stated:

In reflecting on the current discussions in your committee and elsewhere on the Hill regarding our airlift needs, it is somewhat surprising to find that serious consideration is being given to substituting B747's for the C-5s we have proposed. . . . The C-5 is a military aircraft specifically designed for a military mission. . . . I solicit your help and support for this vital program during the FY-83 defense authorization and apprpriation deliberations.

Army Secretary John O. Marsh, Jr., stated in a letter to Congressman MELVIN PRICE on June 9, 1982:

I am writing to emphasize the Army's strong support for the C-5 aircraft. The Army needs the C-5 to accommodate our outsized and extremely heavy military cargo and weapons systems. The Chief of Staff, General Meyer, has stressed in testimony and in letters to other members of Congress the need for additional aircraft capable of moving outsized cargo in both inter-theater and intra-theater operations. The C-5 was specifically designed for this purpose and is the only aircraft in being that can give us this capability. The inability to transport rapidly our troops and war materiel to remote areas important to our national interests could make the difference between winning and losing an overseas confrontation.

Mr. DICKS. Mr. Speaker, will the gentleman yield on that point?

Mr. BRINKLEY. Yes.

Mr. DICKS. I have a great regard for my colleague, the gentleman from Georgia. I think one of the things we really have to think about as we address this airlift issue is the question of intratheater outsize capability. The C-5 does not have the same capability as the C-17. In fact, as I understand it, it will only be used in an emergency situation for intertheater capability, in other words, moving equipment from a port up to a battlefield because it does not have the austere field capability that the C-17 has.

In fact, one of the reasons General Meyer came down so hard in favor of the C-17 last year was because of the direct deliverability issue and the intertheater issue.

I think on both those points, the C-5 is lacking. That is why some of us are concerned that if we do go ahead with the C-5, we are going to block the development of the C-17, which is clearly a more capable outsize airlifter.

I would like the gentleman's comment on that.

Mr. BRINKLEY. Well, recalling the gentleman's testimony and the points at variance before our committee, there was some strong distinction between the 747 and the C-5 as to operations in an austere environment; however, the better figures, in my judgment, do favor the C-5 vis-a-vis the 747.

With reference to the C-17 which the gentleman specifically addresses at this point, he is absolutely right. On paper, it is an outstanding airplane and, hopefully, it will not be circumvented at all because, as the gentleman might recall, there is testimony that that is to be the second increment of airlift which is being contemplated right now by the U.S. Air Force.

Mr. DICKS. But the question I have, and I think this is the real issue here: Why build the C-5 at all? Why not just go ahead with the C-17, which gives you the intertheater capability plus your intratheater capability and is a less expensive airplane than the C-15?

That is why last year when General Heyser testified before all our committees, he recommended a combination of C-17's and wide-bodied aircraft, in this case the KC-10's, because that package is less expensive for the American taxpayer than going back to the C-5, which is 1960's technology.

The only issue is when can you get it. The president and chairman of the board of McDonnell Douglas said, "If you give us this increased spending profile that you are going to give for the C-5, we can have an IOC, initial operating capability date of 1987, which is nearly the date in which you will get the first C-5."

By the way, as the gentleman knows, you will not get all 50 of those C-5's until 1990, which I think raises a question about whether it really is a near-term option or not.

What I do not understand is how could they reverse the joint decision of the Army and the Air Force that the C-17 is superior. All of a sudden on January 8, Secretary Carlucci reverses that and says that we are going to go with 50 C-5's, an unsolicited proposal from Lockheed. I do not understand how he could make this reversal.

What he says is, "We have found an additional $3.7 billion over the next 5 years."

But is it not true—and I will give the gentleman some of my time to respond to this—that we just had to cut $10 billion out of the Defense authorizations and that amendments are going to be offered by the gentleman's committee to scale back the defense bill this year? Where did this magical amount of money come from?

Mr. BRINKLEY. It is true that the defense budget is being drawn into the overall budget, which is House of Representatives approved and, of course, Defense does absorb some. Even so, we have adequate defense funding and we have examined the budget and we are making drawdowns in all of the areas that we represent here today.

Concerning the decision on the C-5, of course, the gentleman is very familiar with the fact that the decision is made with the heads of the Defense Department, but that decision is supported right down the line.

Mr. DICKS. But they reversed the recommendation.

Mr. BRINKLEY. I only have a couple of paragraphs further. Then I am going to submit for the RECORD letters which again point to the fact that the military services themselves say really in examining how we can fill our needs and do our job, we need this airplane, the C-5, because in their judgment it is the short-term option.

It is, I say to my friend, a proven commodity. The C-17, as attractive as it is, has not yet been proven and the gentleman knows that; so the issue today between the C-5's and the B-747's, that issue is clearly on the side of the C-5B.

The SPEAKER pro tempore. The time of the gentleman from Georgia has expired.

(Mr. BRINKLEY asked and was given permission to revise and extend his remarks.)

□ 1700

AIRLIFT ENHANCEMENT OPTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. DICKS) is recognized for 30 minutes.

Mr. DICKS. Mr. Speaker, out of a spirit of comity and good will, I will yield to my distinguished colleague from Georgia (Mr. BRINLKEY).

Mr. BRINKLEY. Mr. Speaker, I certainly thank the gentleman.

I compliment the gentleman on his appearance before the House Armed Services Committee as a witness and for the perspective, the dimension that he brings to this debate. He is very well respected in this House.

If the gentleman will yield for a minute, I would appreciate it.

Mr. DICKS. Mr. Speaker, I yield to the gentleman, of course.

Mr. BRINKLEY. In conclusion of my statement, Mr. Speaker, the inability to transport rapidly our troops and war materiel to remote areas important to our national interests could make the difference between winning and losing an overseas confrontation.

In short, Mr. Speaker, the time for action is now. All of the options now being discussed have been examined in great detail over and over again. The decision of our military leaders to procure additional C-5B's is the correct one. It has been presented and supported by all of our best military and civilian defense experts. The statements and recommendations of these men who are charged with the responsibility to defend our country have

been scrutinized intensely and endorsed by appropriate congressional committees.

I urge that we support their recommendations and proceed now with the acquisition of the C-5B, as recommended by the Armed Services Committee.

Mr. Speaker, I ask unanimous consent to include at this point in the RECORD letters from various people.

The SPEAKER pro tempore. Without objection, it is so ordered.

The letters follow:

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., June 4, 1982.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reflecting on the current discussions in your committee and elsewhere on the Hill regarding our airlift needs, it is somewhat surprising to find that serious consideration is being given to substituting B747s for the C-5s we have proposed. In these discussions, the critical need for additional airlift is not challenged. Rather, the B747 is proffered as a "bargain basement" alternative to save money. The substitution of the B747 for the C-5 is defended primarily on the grounds that the Air Force could move all the outsized cargo (which represents 44-55% of the airlift requirements of a typical Army armored division) if only MAC were to exercise tighter discipline in the scheduling of its existing C-5s.

With regard to cost, confusion has arisen because the contractor's estimate of B747 acquisition and 20 year operating costs is different from, and less than, the estimate by the Air Force. Essentially, the Air Force has calculated the costs of the B747 to reflect the manner in which we would employ the aircraft in support of Army and Marine Corps requirements in peacetime and to provide a net capability as close to that of 50 C-5s as possible. The details of these comparisons in FY82 dollars is shown on the attachment. You will note that, over twenty years of ownership, the B747 would be only $1 billion, or 6%, cheaper than the C-5.

The basic fallacy in the allegation that better management would preclude the need for more C-5s is an erroneous assumption that outsize requirements are, or could be, evenly distributed over the deployment period. Implicit in this assumption is a second premise that a deployment is satisfactory if all outsize equipment/cargo arrives by the end of the deployment period. Both assumptions are false. What is true is that required delivery dates will not be met by either program for either outsize or "other" cargo. On the other hand, the C-5 program not only comes closer to satisfying the required unit closure dates, but it also assures that the total requirements of a unit, both outsize and other, arrive together. The net result is that, on the average, the additional C-5 capability would give the Army and Marine Corps 16 percent more brigade combat days under CMMS Scenario I (SW Asia) or 35 percent more brigade combat days under CMMS Scenario IV (SW Asia and NATO) than would the comparative B747 capability.

The C-5 is a military aircraft specifically designed for a military mission. In addition to its outsize capability, it is easy to load without special equipment, can be refueled in flight, and is airdrop capable. The drive-on, drive-off loading feature minimizes the time required on the ground in a hostile environment. The C-5 does not require any special disassembly by the Army to make its equipment fit.

The B747 is a fine airplane for the purpose intended. There are currently 31 B747 freighters and 5 B747 convertibles available to us in the CRAF program. In addition, there are 113 passenger B747s available to us in CRAF, of which 26 have available precut plywood floor kits. Plywood floors could be placed in the others on short notice at minimal cost. The best way to obtain B747 cargo capability, therefore, would be to modify all or part of the 113 CRAF B747s to fully capable cargo (convertible) aircraft with strengthened floor and cargo door. The cost of this modification, and the increased airline operating costs associated with obtaining 55 additional cargo B747s would be about one-half of the acquisition cost of having the Air Force buy 55 B747s for MAC. Even more significantly, the 20 year life cycle cost of 55 additional CRAF cargo B747s would be less than one-seventh of the 20 year total ownership costs were the Air Force to buy and operate 55 B747s in peacetime.

I hope this letter has been helpful in sharpening the focus on the key issues as relates to whether the C-5 or the B747, is the better airlifter to support military deployments. I solicit your help and support for this vital program during the fiscal year 1983 defense authorization and appropriation deliberations.

Sincerely,

VERNE ORR,
Secretary of the Air Force.

LIFE CYCLE COST COMPARISON

[Fiscal year 1982; in billions of dollars]

	B747 (Boeing Co.)	B747 (Air Force)	C-5B (Air Force)
Unsolicited proposal—48 aircraft:			
Acquisition cost	3.3	[1] 3.8	6.4
Operating and support costs	6.5	[2] 9.3	9.6
20-year life cycle cost	9.8	[1, 2] 13.1	16.0
Additional aircraft (+7) to provide equivalent capability:			
Acquisition cost		[3] .6	
Operating and support costs		[3] 1.4	
20-year life cycle cost		[3] 2.0	
Total 20-year life cycle cost	9.8	15.1	16.0

[1] In addition to the price quoted in Boeing's unsolicited proposal, this includes funds for initial spares, peculiar support equipment, technical data, future engineering changes and AF program management costs.

[2] This estimate differs from Boeing's estimate in two key areas: Boeing projects the average peacetime fuel consumption to be 25 percent less than the Air Force estimate; and, Boeing projects lower spares and depot maintenance costs associated with a contractor logistics support concept rather than the organic support concept historically used by MAC. (Note: If dependence on contractor logistics support is assumed for the B747, then similar support concept should be postulated for the C-5B. This would lower C-5B operating and support costs proportionately.)

[3] The Air Force does not agree that 48 is the number of B747s required in lieu of 50 C-5Bs. Even when using Boeing assumptions (with which the Air Force and Army do not fully agree) about helicopter disassembly, acceptable loading clearances, and C-5 allowable cabin loads, the Air Force estimates that 55 B747s are required to provide comparable force closure capability.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., June 14, 1982.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Today, our nation faces a critical shortage of airlift aircraft capable of projecting combat forces and their combat equipment to overseas theaters. To meet our national commitment and secure our overseas interests, we must immediately begin procuring aircraft capable of transporting outsize equipment for our forces.

I look forward to the opportunity to emphasize the nation's urgent need for airlift and to describe our program to your committee tomorrow.

The recent Senate vote on the airlift program places not only the C-5 aircraft, but our future mobility program, in jeopardy. Our national security policy demands a viable mobility program. Therefore, to meet this critical requirement, I request your energetic support of the C-5 acquisition at the level requested in our FY 83 budget.

Sincerely,

LEW ALLEN, JR.,
General, USAF, Chief of Staff.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., June 14, 1982.

Hon. WILLIAM L. DICKINSON,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN DICKINSON: There continues to be a good deal of discussion regarding the proposed acquisition of 50 C-5B aircraft and 44 additional KC-10 aircraft. I wish to assure you that the President's budget proposal was formulated based on extensive evaluation by the Air Force. We have considered a wide range of alternative programs to meet the important and urgent need for additional airlift which is capable of transporting the critical combat equipment of the Army and Marines.

We are convinced that the proposed program is the correct program and deserves your support. The Boeing proposals for purchase of 747 aircraft have not changed our view. These commercial aircraft are the mainstay of our wartime Civil Reserve Augmentation Fleet (CRAF) for both passenger and less bulky cargo lift.

We believe that the most cost effective program is to continue and perhaps enhance the CRAF and to add to our organic capability the unique military capabilities so badly needed. I urge your support of the President's program.

Sincerely,

LEW ALLEN, JR.,
General, USAF, Chief of Staff.

SECRETARY OF THE ARMY,
Washington, D.C., June 9, 1982.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to emphasize the Army's strong support for the C-5 aircraft. The Army needs the C-5 to accommodate our outsized and extremely heavy military cargo and weapons systems.

The Chief of Staff, General Meyer, has stressed in testimony and in letters to other members of Congress the need for additional aircraft capable of moving outsized cargo in both inter-theater and intra-theater operations. The C-5 was specifically designed for this purpose and is the only aircraft in being that can give us this capability.

The inability to transport rapidly our troops and war material to remote areas important to our national interests could make the difference between winning and losing an overseas confrontation. The C-5 program will not solve the whole problem, but it will be a major step in the right direction.

I would appreciate your help and support for this program during the FY 83 authorization and appropriation deliberations.

Sincerely,

JOHN O. MARSH, Jr.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., May 13, 1982.

Hon. JOHN G. TOWER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: My letter of 31 March 1982 to you summarized our thoughts on the importance of military airlift in support of our national strategy for a capability to deploy rapidly military forces where needed in contingencies.

Our decision to augment the present capabilities of our strategic airlift forces, by procurement of 50 new C-5B outsize cargo aircraft, and 44 additional KC-10 cargo/tanker aircraft was made to reduce a critical shortfall in military airlift capability. This shortfall has been identified in the Congressionally Mandated Mobility Study (CMMS). The DoD decision was made after examination of numerous alternatives, such as proposed procurement of lower-cost commerical wide body cargo aircraft in lieu of C-5s. A reexamination of data from the CMMS has confirmed the validity of its conclusion that the shortfall of *outsize* cargo capability is our most immediate problem. This shortfall is at least ten million ton-miles per day.

If we are to achieve a credible capability to rapidly deploy our military forces, we need to reduce this shortfall. We have studied this carefully. Our decision to buy C-5B aircraft and additional KC-10s is in the best interest of national defense. I want to state unequivocally that we do not need, nor should we be obliged to procure, excess commercial aircraft which could not carry outsize cargo and would be poorly suited for oversize equipment.

I solicit your support of our airlift initiatives. We need your help in seeing that these vital programs reach fruition.

Sincerely,

FRANK C. CARLUCCI.

THE SECRETARY OF DEFENSE,
Washington, D.C., June 4, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: I am disturbed by the Senate action on the department's funding requests for the C-5B program. There is an immediate need for additional outsize airlift capability. The quickest way to gain this capability is through the program proposed in this year's budget. Failure to fund the C-5B dangerously delays resolution of this critical need.

I have heard C-5B acquisition referred to as an interim measure. It is not an interim program: it is the key first step in a long range program to provide our general purpose forces with sufficient airlift to meet their combat mobility requirements. The C-5Bs, along with the rewinged C-5As, will be the mainstay of our strategic airlift force well into the 21st century.

It is true that all our airlift needs are not outsize in nature. Non-outsize capability is both useful and necessary; however, that type of capability is also needed in the commercial sector. To the extent that we can access that capability in an emergency and at the same time avoid peacetime operating costs, we are obligated to do so. Ideally, the Department of Defense would own and operate only the type of airlift asset which it cannot obtain from the commercial sector through the CRAF program.

I believe there are some misunderstandings concerning the nature and purpose of the C-17 program. The C-17 is not a competitor for the C-5B to meet our immediate need for outsize capability. It is part of our long-term plans which necessarily include gaining some outsize intratheater capability and replacing the C-141 and some C-130 aircraft beginning in the 1990s. The initial phase of the C-17 program explores technology which will benefit any follow-on airlifter. This low level development work will point toward a full-scale development decision in the latter half of this decade, which would make operational deliveries possible in the early 1990s.

Again, I would like to stress that the need to begin the C-5B program is urgent. Further delay in redressing our outsize airlift needs cripples our ability to project forces in the last half of this decade and beyond. Your support of our airlift program is vital.

Sincerely,

CASPAR WEINBERGER.

Mr. DICKS. I thank the gentleman. I want to say that the gentleman has approached this issue in a spirit of fair and equitable debate, and I appreciate that. I think that is the way we should decide these issues. I compliment him for being a gentleman and a distinguished Member of this body.

Mr. BRINKLEY. I thank the gentleman.

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for yielding.

Because of the gentleman's position on the Defense Subcommittee Appropriations and the expertise that he has developed there, I would like to discuss with him one aspect of this whole debate that has, it seems to me, been most puzzling.

I really have the feeling that Lockheed, if the amendment that we are offering fails, they should really pay their advertising agency a sizable bonus for having sold the Congress and the American public and the C-5 on the basis of its ability to carry tanks. It seems to me from everything I have heard, and I would appreciate it if the gentleman could verify this, that is not on the military plans to transport tanks, through airlift. Is that correct?

Mr. DICKS. Mr. Speaker, that is absolutely correct. In fact, today when we look at our deployment capability, between 90 and 94 percent of the cargo is going to go by sea or be prepositioned. Most of your tanks will be pre-positioned. In fact, the Rapid Deployment Force, according to the congressionally mandated mobility study, only has 144 tanks dedicated to it. That is a big part of our argument. If we wanted to move these tanks by airplanes, we could do it in one sortie of 77 C-5's. We could take all 144 in one trip. But in the CMMS they do not postulate carrying tanks by airplanes.

They, in fact, will sealift them or preposition them, so this whole argument about the carrying of tanks is really a red herring.

Mr. SWIFT. If the gentleman will yield further, what you are saying is, all these wonderful newspaper ads and full-page magazine ads that show the tanks rolling off the C-5's, which conjures up in all of our minds, I think, a John Wayne movie, the tank comes roaring out minus, I might add, its bulldozer and fuel tanks, but guns blazing on the edge of battle, is really good advertising but not accurate.

Mr. DICKS. Very effective advertising.

Strategic airlift will have the 747, the C-5, or the C-141; those planes all going to a rear area on a hard-surfaced runway to land and unload. You are not going to take a $182 million airplane, which is what the C-5 will cost in then-year dollars, up to the forward edge of the battlefield unless it is a very severe emergency, because one mortar shell could take the plane out; plus the C-5 has very limited intratheater capability and very limited ability for direct deliverability.

That is why the Army and the Air Force said: "We do not want C-5's" just less than 9 months ago; "We want the C-17, which gives us direct deliverability and intra-theater capability.

Mr. SWIFT. So the old advertising line that you "sell the sizzle, not the steak," applies here. They are selling something very dramatic and I think a scene we would all probably like to see in a war movie somewhere, but it is not true. It is a little like selling the Volkswagen bus on the basis that it will float. It would float; but that isn't what you buy it for. If you want to do that, you buy a boat, or in this case if you want to carry guns around, you buy a C-17.

Mr. DICKS. Or you do it with the SL-7's or your pre-positioned ships. The point is, most of what we send out there to support the Rapid Deployment Force is going to go by ship or be pre-positioned. Only 6 percent is going to go by airlift.

The question then is: Why do we want to take the most expensive option, which is the C-5, to carry bulk and oversized equipment? Eighty-five percent of what the Rapid Deployment Force has to move is going to be bulk or oversized equipment. Why do you want to spend $182 million to buy a plane that will carry tanks and infantry fighting vehicles and helicopters when you already have 77 to do that? And by the way, the CMMS postulates there would be 32 747 equivalents added to the CRAF force. They are not there.

Today the real shortfall in airlift is more in bulk and oversized than it is in the outsize.

Mr. SWIFT. If the gentleman will yield further, if I could make this one last point, I do not want to put anybody out or work on Madison Avenue, but I do not think Congress should be making decisions about our defense on the basis of sexy ads.

We are not buying toothpaste or perfume or Atari war games. This is a serious business, and the facts as I understand them from you are the 747's will do the job we need done $6 billion cheaper and 3 years sooner.

Mr. DICKS. Actually, it is $7.9 billion and 3 years sooner.

Let me make one point. I want to point this out.

This is what we call the selected acquisition report. Just last year the cost of the 47 major weapons systems that we are procuring jumped from $318 billion up to $455 billion. That is an incredible increase of $137 billion. And the reason is because every time we look at one of these weapons systems, we try to buy the one that is the most expensive and the most complex, and that drives up the unit cost.

Nobody ever sits down and adds up the total cost. We face an affordability crisis today in defense. We simply cannot afford all of these weapons systems. So if we follow the Pentagon we are going to stretch them out and buy them at inefficient and ineffective rates. What worries me is, here we have a chance, once, to buy something off the shelf, that already exists, that has tremendous military utility, and unless we adopt our amendment we are not going to do it. We are going to go to the most expensive option, which is the C-5, and we simply cannot afford it.

We are going to bankrupt this country if we do not get control over defense spending. This is obviously a chance to do that.

Here you have a corporation that has had the courage to challenge the Pentagon. Do you think if this amendment is defeated tomorrow that any other corporation in America will ever challenge the Pentagon again; will ever come in again with their proposal on an existing system that might be cheaper or less expensive if the Pentagon does not want it?

I think the answer is clearly no.

This took a lot of guts. It broke conventional wisdom to come in and say to the Congress: "Hey, guys, do you want to save $7.9 billion for the taxpayers and get the planes 3 years earlier?"

I will admit to my friend from Washington they have changed our numbers. But they are so slick. They have changed our numbers in terms of how many planes; they have changed the numbers in terms of operation and maintenance; they have changed the numbers of the time it will take to get the planes.

But when you look at the proposal that was made, it is solid. It has been accepted by the people of the lower echelons of the Air Force as accurate. It is just the political operatives at the top who are saluting, supporting the Secretary, the Deputy Secretary's decision, and they have done this before on the B-1 and the ATB last year. The Air Force general that gave us faulty information then is the same Air Force general that is providing the information this year. They will do whatever they have to do to sell this weapons system to this Congress. It is an outrage, in my judgment.

Mr. Speaker, I yield to the gentleman from Georgia.

Mr. BRINKLEY. Before the gentleman from Washington leaves, because this is with reference to that: What about the helicopters? What about the helicopters?

Mr. DICKS. That is why we have the C-5's to carry these helicopters, and they can do it. If you dedicate our C-5's to carrying outsize equipment and then buy the other planes to carry the bulk and oversized gear, you can do it. We may need more outsize capability. But in my judgment, going back and reopening that C-5 line at a cost which is incredible to the American taxpayers is not the way to get future outsize requirements.

□ 1710

We need a plane to replace the C-130's and the C-141's. That is the C-17. The plane that was recommended by the Air Force and the Army last year was the C-17. I do not know how we got back to the C-5, particularly with the record it has had. The gentleman from Georgia knows that the Congress had to pay $1.5 billion to rewing the C-5 because of the deficiencies in the wing originally. He also knows it takes 76 hours of maintenance for every hour of flight, the highest of any plane we have. It will cost the American taxpayer, over 20 years, twice as much to maintain and operate the C-5 as the C-17. The plane is less expensive. Why would anybody want to buy a less capable plane than the C-5 to handle the outsize requirements?

Mr. BRINKLEY. Mr. Chairman, let me answer that. The answer to that is the fact that we believe it will save lives in a hostile environment. We believe that the C-5 has the capacity to get in and get out. The tanks might not come off blazing, but the helicopters will come off flyable.

Mr. DICKS. They can come off the C-17, too, my friend.

Mr. BRINKLEY. Speaking of costs, how do we measure lives? How do we measure the military capacity?

Mr. DICKS. We can get the C-17 in the same timeframe as the C-5. We are not going to get the first C-5 until 1986—1986. The chairman of the board of McDonnell Douglas said that we can get the C-17 in the same timeframe, so why buy a less capable plane that does not meet the 10 elements of the mission-elements-needs statement? That is what I do not understand. Why do we want to go back to a 1960's technology?

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentleman.

Mr. GLICKMAN. Mr. Speaker, I would just like to make three points. One, I say to my colleague from Washington State who has taken the lead, earlier today the President of the United States was out on the west front of this Capitol arguing for the passage of a constitutional amendment to balance the budget. I might mention that he had the benefit of military bands there, which I am sure came out of the Defense Department budget. But Congress may well follow his advice and pass the amendment, but such an amendment makes even more important what the gentleman is talking about today. The gentleman mentioned before that the Rhodes-Dicks amendment will save approximately $6 to $7 billion in both procurement costs and operational costs, and I am sure the gentleman is going to explain the two different items there.

Mr. DICKS. Since the gentleman has raised it, let me present the numbers. According to the guaranteed Boeing proposal, we can acquire the planes for $3.7 billion and operate them for a period of 20 years for $8.9 billion, for a total cost of $12.6 billion versus a total cost of $20.5 billion for the C-5. That is life-cycle cost for a difference of $7.9 billion at a time when we have to cut back on defense spending and we have got to lower the deficit to get interest rates down.

Mr. GLICKMAN. I guess the gentleman's point is that you can cut back on defense spending and have an airplane which will do not only what the Air Force wants in their C-5, but will even do it well. It can fly to the Middle East without refueling. The C-5 cannot do that.

The 747's currently in operation are some of the most reliable planes ever built. This old red herring about loading and unloading, perhaps the gentleman will want to talk about that issue, because in my judgment, based upon Military Airlift Command tests, the 747 and C-5 do not differ significantly at all with regard to loading and unloading.

Mr. DICKS. The time on the ground for a 747 and C-5 is 3.3 hours, according to MAC documents. It is exactly the same timeframe. The strategic air mission is conducted, as the gentleman knows, in the large, established secure airfields that are compatible with the

747, the KC-10, the C-141, and the C-5. This is not a mission in a short dirt field. The 747's can carry oversize load capability more efficiently that any other airplane in the world. It carries more cargo farther and faster. The Air Force already owns equipment for loading and unloading the 747 and DC-10. They have 75 units and they are buying 30 more. Ground time, loading and unloading, and servicing, as I mentioned, are essentially equal. There is an existing worldwide support system for the 747.

Mr. GLICKMAN. I would like to make one comment. I have been in this business for 6 years. I have never seen an issue in which quality of aircraft and saving money combine better than in this particular issue in support of the gentleman's amendment. I am again amazed and wondering what President Eisenhower had in his mind when he talked about the military-industrial complex during the 1950's. Obviously, he had this kind of issue in mind.

The gentleman is providing us with that kind of independence we need along with many organizations like the National Taxpayers Union, to give the public more for their money at much, cheaper cost—billions and billions of dollars.

I do not see how we can ask for more than that. I urge support for the gentleman's amendment.

Mr. DICKS. I thank the gentleman.

Mr. Speaker, all of us are painfully aware of the serious budget challenges we face. The difficulties in reaching agreement on a first concurrent budget resolution and the urgent supplemental are just the two most recent examples.

Spending for national defense is, of necessity, central to any budget strategy. We simply can not grant every wish of every general. The President, when he submitted his budget this year, called for $1.6 trillion to be spent in the coming 5 years in the defense area. But, we now realize that this plan is overambitious, and in fact, in the judgment of many on both sides of the aisle, the unprecedented rate of peacetime spending growth would not reap the benefits it should.

Even the so-called Latta budget which finally was approved, provides for $10 billion in budget authority and outlay reductions in defense for fiscal year 1983, and a total budget authority cut of $44 billion over the next 3 years, based on CBO economic projections.

The pressures on the budget are not going to magically go away after this year. In fact, they could well get worse before they get better. I, for one, feel the Latta figures represent a minimum level of reductions in defense spending plans, and the ultimate requirement could well be far larger.

These budget pressures threaten to collide head on with continued and rapid growth in the cost of defense programs. A review of the Department of Defense December 31, 1981, selected acquisition report conducted in may by the Congressional Budget Office reveals total cost increases of $150.1 billion based on cost overruns and plans for increased quantities. The total SAR program for 47 systems totals $454 billion. And you can rest assured that we will see further cost growth as time goes on.

Our job then is to avoid a collision between budget constraints and defense plans. We can only accomplish this by making every effort to meet the real requirements at the least possible cost.

The first requirement in this effort is a coherent national strategy, and the role the military must play in fulfilling it. We can not develop an effective fighting force through bureaucratic infighting for scarce resources. Unfortunately, I do not believe we have a realistic strategy that matches resources with demands, and there are many in the military who agree with this assessment.

I want to take this opportunity to commend the gentleman from Texas, (Mr. WHITE), for the time and attention he has given to this issue. His Investigations Subcommittee held extensive hearings on the ways reform of the Joint Chiefs of Staff and other elements of our national security planning structure can improve strategy development.

I look forward to the subcommittee's recommendations in this area.

Until we have a better appreciation of our strategy, and the way to meet it within budget limitations, we must be careful to avoid long-term commitments to multibillion programs that may not be appropriate or the cost effective means to the end we desire.

In addition, we need to better understand the true relationship between the weapon systems we buy, and how they would be applied in real world situations.

Nowhere are the problems of resource and strategy match more evident than with mobility planning; prepositioning, sealift, and airlift. Department of Defense witnesses testified before the Defense Appropriations Subcommittee that between 90 to 94 percent of all tonnage to be moved in a deployment of the Rapid Deployment Force would be prepositioned, or go by sea.

This is as it should be, when one considers that a single ship can deliver ammunition equal to 400 C-141 sorties, and that the 13 prepositioning ships we have today have capacity equal to 100 airlift sorties a day for 28 consecutive days.

Despite the fact that airlift represents less than 10 percent of our total mobility mix, we are going to spend 68 percent of all mobility funding on airlift, only 13 percent on sealift, and 19 percent on prepositioning according to Pentagon plans.

And even though outsize airlift requirements represent about 2 percent of total tonnage to be moved, we will spend over half of mobility funding to meet that need, if we procure the C-5.

Granted airlift is, by its nature, disproportionately expensive. And granted it provides increased flexibility and speed. But one has to question whether these factors justify the overwhelming slant in spending toward airlift. Airlift is important for delivering critically needed consumables and in some emergencies, but in no way is it the backbone of sustaining a major force halfway around the world.

If we are really serious about protecting our interests in Southwest Asia, we need to put greater priority on negotiations to secure prepositioning in the region, we need to foster more cooperative military relationships with our friends in the area, and we must improve both our intelligence gathering and assessment capabilities.

For the rapid deployment concept to work, we will have to begin deployment before the attack is already launched. An airstrike from Iraq, Iran, or even the Soviet Union, could wipe out the Saudi oilfields long before the first C-5 could arrive if we did not begin until after the attack was launched.

What did the Pentagon do instead? It made a sudden decision to procure 50 C-5 aircraft, despite the fact that DOD witnesses had testified before Congress for years that this was not the right approach and that the C-X/C-17 was the real answer to our future airlift requirements.

This decision was made despite the fact that the Department does not plan to submit its long term airlift acquisition plan until the fiscal year 1984 hearings process. We are being asked to commit to $9 billion in acquisition costs, according to Air Force budget documents, and even greater operations and support budget, without the benefit of any long-term airlift plan. I find this incredible. In fact, we are being asked to commit $5.6 billion before the first airplane is delivered, sometime in 1985. This is directly contrary to the necessity to avoid questionable and long-term commitments before the budget situation is solidified.

Reportedly the decision was based on a sudden realization that we must immediately improve our airlift forces. This realization was not the result of any comprehensive study, and in any event the 50 C-5's will not be delivered and in operation until 1990, not much of an immediate improvement.

In order to address this sudden immediate need, an additional $3.7 billion was allocated to airlift in the next 5 years. I asked the Air Force what other programs were reduced in order to make this money available. Their response was that they could not be identified.

Well, the House Armed Services Committee has in fact identified them, through the reductions that will be included in the Stratton amendment. That amendment reduces Air Force aircraft procurement by $872 million, almost exactly the $860 million request for the C-5.

What are these programs that are sacrificed for the C-5?

A reduction of 20 F-16's needed to replace 18-year-old F-4's in the Guard and Reserve.

F-15 ground support equipment totaling $97 million.

A reduction of 4 C-130H intratheater airlifters.

A $115 million reduction in the KC-135 reengining program, 25 percent of the budget request. This program will save money through increased capacity and improved fuel efficiency, and can allow a 10- to 25-percent improvement in the existing C-5 fleet by increasing tanker capabilities.

An across-the-board $72 million reduction is spare and repair parts.

One of the two AWACS surveillance aircraft requested.

Forward looking infrared pods for A-7's to allow them to effectively perform the night fighting mission they were assigned in 1979.

For B-52 modifications, $33 million.

In support equipment and facilities, $45.5 million.

The list for fiscal year 1984 will be even longer if we procure the C-5, since the anticipated funding request for that year is $2.2 billion. Thus we must make a decision, is the C-5 more important than all these systems I have mentioned, and all the other programs that will have to be cut in the future to make room for this, the most expensive aircraft ever built.

Most important for airlift, is what programs may never be funded in order to make room for the C-5. I refer specifically to the C-17. This is the aircraft that all military leaders have testified is their ultimate requirement. It meets all the mission element needs identified for the C-X according to General Vessey, while the C-5 meets only two.

Already, the C-5 decision has reduced C-17 funding in the 5-year plan from $7 billion, compared to $9 billion for the C-5, to under $100 million. There is not 1 cent for this important program in the fiscal year 1983 request.

During airlift hearings before the Defense Appropriations Subcommittee last month, I asked Secretary Carlucci if in fact we were delaying the C-17 program. He denied it at that time, but interestingly, the edited version of the hearing transcript changes his "no" to a "yes." Obviously, a funding reduction of the magnitude I mentioned has to delay the program. What the Air Force saw a 1988 initial operating capability, has now become 1991.

And this revised IOC is dependent on major funding beyond the 5-year plan. I frankly doubt whether we will ever see that funding if the C-5 line is reopened. Because there will be every effort to buy more than just the 50 we are now talking about. The Department admits that our overall airlift shortfall for both outsize and oversize would require far more than 50 C-5's if that is the route we go. And just imagine the lobbying pressure to keep the line open and the jobs in place.

Much is made of the unanimity of support for the C-5 decision among the services. There certainly has been an attempt to impose upon the military the C-5 as an article of faith, but there is ample evidence to the contrary.

I would like to include in the RECORD a briefing given to Mr. Carlucci by Secretary of the Air Force Vernon Orr in January, outlining the reasons the Air Force supported the C-17 and found the C-5 to be less than the optimum solution.

James R. Ambrose, Under Secretary of the Army, in a letter to Under Secretary of Defense DeLauer on February 19 notes, that "The decision was made in spite of the recommendation of the Secretary of the Air Force supported by the Army to the contrary." I would also like to include this letter in the RECORD.

The letter follows:

DEPARTMENT OF THE ARMY,
OFFICE OF THE UNDER SECRETARY,
Washington, D.C., February 19, 1982.

Memorandum for Hon. Richard D. DeLauer, Under Secretary of Defense for Research and Engineering.

Subject: Airlift enhancement.

DICK: I doubt that you have seen this. I thought OSD had made the decision. The decision was made in spite of the recommendation of the Secretary of the Air Force supported by the Army to the contrary. Surely you do not expect support for this decision to consist of anything beyond agreeing:

1. OSD has the right to decide.

2. The decision, to which we were not a party, evidently was made in favor of near term long haul air lift which, of course, is an urgent need.

3. Intra-theater requirements, which are also urgent, remain to be satisfied.

Keel's representation about the C-17 is appalling after the Air Force representations to you and Carlucci. It is one more illustration of the likely and unreasonable fate of adequate airlift in the hands of an Air Force which has its hands full with MX, B7, ATM, satellites, etc.

I continue to believe, and, indeed, with increasing strength that the deployment situation for ground forces will not be straightened out until control of its destiny is given to the using service. To abdicate it in this way to such obvious and long enduring prioritization at the bottom of the list is perpetuating a scandalous situation.

N.B. Much the same comments can be made about close air support.

JAMES R. AMBROSE,
Under Secretary of the Army.

Finally, an April memorandum from Military Airlift Command Headquarters, Scott Air Force Base, entitled user assessment of the B-747 concludes:

Either the C-5B or the B-747 can effectively help reduce the intertheater shortfall at the small increment of airlife proposed. This cargo is additive to the existing loads delivered to main ports and further increases the requirement for forward movement within theater. Therefore, our long term commitment must be to acquire the C-17 which will provide additional outsize, oversize, and bulk capability for intratheater as well as intertheater airlift.

Mr. Speaker, I will be joining Congressman RHODES and many other colleagues in introducing an amendment to delete the funding requested for the C-5 when the bill becomes open for that purpose.

We will apply some of that savings to acquiring wide bodied commercial aircraft. Such a move can save at least $6 billion over the life of the program, provide improvements in airlift 3 years sooner, address the very real shortfall in oversize and bulk cargo capability, and provide aircraft that have proven their military utility in the 1973 Middle East war and repeated military exercises.

We will of course be laying out the case for this approach in much greater detail at that time. But I want to make one point here that is especially relevant to the need for budget flexibility.

The offer for wide bodied commercial aircraft is on an individual aircraft basis. We are not committed to buying 50 with the first dollar we spend. We can buy less or we could buy more, depending on the need, and available funding. If we face a particularly tight budget year, we can defer the program without major cost increases, because there is an ongoing production line for these aircraft. This is not the case for the C-5. If we opt to buy less than the offered 50, costs will shoot through the ceiling, and we could well be looking at a figure of $200 million per airplane before we know it.

So not only will this option be ultimately less expensive, it will provide us the critical budget flexibiity that we need. We have a unique chance to acquire very capable aircraft at a low cost for near term airlift improvements. Let us not overcommit ourselves at a time of long range budget uncertainty and when we do not have a long-term airlift acquisition plan. Let us not mortgage the defense budget to the C-5.

SECRETARY OF AIR FORCE VERNE ORR BRIEFING TO UNDER SECRETARY FRANK CARLUCCI, JANUARY 8, 1982

PURPOSE

Review mobility requirement and shortfall.

Evaluate military utility and cost effectiveness of potential aircraft candidates.

Recommend an airlift program.

FUNDING

Airlift clearly inadequate.

Dollars available more important: Limited airlift funding ($5 billion fiscal year 1981 dollars), drives one answer.

Programmed airlift funding ($15 billion fiscal year 1981 dollars): Drives another answer.

MOBILITY STUDIES

150 studies.

17 major studies in last 7 years.

All reveal shortfall of airlift.

Most recent—CMMS (1981): Recommendation: 20m-ton-miles per day above 1986 baseline.

MOBILITY DRIVERS

Numbers of theaters of war: NATO—SWA—both, war widening may increase need, and balance of airlift/sealift/prepositioning required.

Speed: Warning time and early decision.

POMCUS: Only 94 percent when complete; to prevent destruction, need immediate airlift—personnel/6 percent of equipment (helicopters, air defense artillery, radars, guided missiles, etc.); if POMCUS is not filled or some is destroyed, airlift needs increase.

Army and marine equipment: Outsize growing.

AIRLIFT FORCE MIX COMPARISON (MAJOR AIRFIELD TO MAJOR AIRFIELD) (DIRECT DELIVERY NOT CONSIDERED)

[Fiscal year 1981 dollars in billions]

Aircraft mixes	173 C-17	134 C-17, 40 KC-10	134 C-17, 32 B-747	137 C-5	110 C-5, 40 KC-10	110 C-5, 32 B-747
Initial operating capability	1988	1988, 1984	1988, 1985	1987	1987, 1984	1987, 1985
Near-term costs (83–85)	2.5	3.4	3.4	2.5	3.4	3.4
Delta to BES (83–85)	+.2	+1.1	+1.1	+.2	+1.1	+1.1
Acquisition cost	17.9–15.8	17.6–15.8	17.7–15.9	15.4–14.3	15.3–14.3	15.4–14.4
20-year life cycle cost	41.8–39.7	40.8–39.0	41.9–40.1	44.5–41.2	43.4–40.5	44.4–41.6

Note.—C–5 costs do not include engineering change order or management reserve at a minimum of 5 percent—approximately $1 billion.

COST CONCLUSIONS ALL SIX OPTIONS

Near-term costs show some advantage to single purchase.

All other costs: delta to BES, acquisition cost, life cycle costs, and not sufficiently different to influence decision.

LIMITED FUNDS

Lockheed firm price: $4.2B+adds=$4.9B (1980 $) ($7.9B TY $).

Buys 44 aircraft (PAA).

Far less airlift than needed.

Does nothing for aging C-130S and C-141S.

C-5N is 1960's design: favorable price assumes few modifications.

CONTRACTUAL ARRANGEMENT COMPARISON

Advantages

C-17

Firm fixed price incentive fee for full scale development and initial production lot.

Full cost and schedule visibility.

Fully warranted reliability and maintainability parameters at the system level.

Fully warranted engine specifics including SFC decay rate.

Contract ready for execution.

C-5N

Firm fixed price for first 50.

Disadvantages

C-17

Budgetary pricing for aircraft orders beyond initial option.

C-5N

Limited cost and schedule visibility (Lockheed pricing presently based on none).

Tentative aircraft performance specifications less demanding than original C-5A specifications.

No enforceable reliability or maintainability warrantees.

Negotiations required to establish contract.

MISSION CAPABILITY FACTORS

	C-5A	C-5N	C-17
Mission capable rate (percent)	60.1	65.8	82–5
Maintenance down time/sortie (hours)	14.5	12.4	5.7
Maintenance manhours/flying hour (hours)	75.6	49.5	18.6

Note.—C–17 has: Half as many flight control surfaces and actuators; half as many tires and ¼ the landing gear actuators; ¼ as many doors, ramp toes, ramps, and support jacks; ¼ as many actuators and limit switches; 1/10 as many steps to rig cargo doors; and 1/15 the time required to open and close doors (no kneeling).

MAINTENANCE MANHOURS PER FLYING HOURS

Is it realistic?

	Hours
C-130	23.7
C-141	25.1
C-5	75.6
C-17	18.6

Modern aircraft designs reduce maintenance: Remove and replace, reduced programmed depot maintenance, simplified systems, and greatly increased component reliability.

	Hours
F-4	32.5
F-16	18.3
A-10	10.5
E-3A	19.6

LONG TERM

If programmed funds for airlift are available: C-17 is by far best answer.

Adds intertheater and intratheater capability: Airdrop/lapes, austere airfield, and combat offload.

More versatility on all bases including main operating bases.

Provides option to replace C-141's and some C-130's.

THE USER'S OPINION

Chief of Staff, U.S. Army: "I believe that it is vital for the Air Force and Army to stand firm on the C-X (C-17) so we can get an airlift aircraft that meets our wartime requirements."—GENERAL MEYER.

CINC Readiness Command: "The C-17 is the only aircraft that has been proposed that addresses our total airlift shortfall, the movement of outsize and oversize combat equipment directly to an airfield where it can be quickly brought to bear on the enemy without transshipment."—GENERAL STARRY.

CINC USAFE: "We need an airlifter that can operate routinely into our colocated operating bases during intensive fighter operations. The narrow taxiways, small ramps, and off-pavement obstructions dictate the C-17 as that aircraft."—GENERAL GABRIEL.

RDJTF Commander: "It seems clear that the C-X (C-17) could make the decisive difference in a southwest asian conflict. Without the strategic and tactical flexibility this aircraft can provide our tast is monumental."—LT. GEN. KINGSTON.

LONG TERM RECOMMENDATION

Purchase 134 C-17S (PAA) and IOC 1988.

SHORT TERM

CRAF Enhancement, KC-10, and B-747.

CRAF ENHANCEMENT PROGRAM

Strengthens floor—enlarges door: Permits bulk and oversize, facilitates loading and unloading, and outsize very limited.

Basically an insurance policy: CRAF III activated only in national emergency.

Bid approximately $23–25M per aircraft: Based on 16 aircraft order.

Require 16 aircraft order—$400M to justify commencing.

Twelve of 16 aircraft offered are DC-10-10S—least capable.

Contract for aircraft covers operation for 16 years but carrier may: Withdraw in first 8 years and refund portion of mod and operating costs, and withdraw in second 8 years and refund remaining share of operating costs.

CRAF ENHANCEMENT

Advantages

No operating crews, maintenance, O. & S. cost until needed.

Assures availability of enhanced aircraft in national emergency.

Reduces organic cargo capacity required during peacetime.

Disadvantages

Acquisition and operating cost is almost one-half of acquiring a new aircraft.

Offers no utility unless, national emergency (craft III).

Aircraft may be withdrawn prior to contract term.

KC-10 MIX FACTORS

Near-term availability.

Side door opening: Bulk—oversize capability.

Price: Favorable contract $55M (fiscal year 1981 dollars).

May be used as tanker or dual-use tanker/cargo.

Industrial base.

Longer legs/more cargo than CRAF DC-10-10.

Requires operating and support costs.

B-747 MIX FACTORS

Near-term availability.

Nose and side opening: Bulk-oversize capability.

Price: Depressed market, aircraft and spares $72M (fiscal year 1981 dollars).

Semi-kneeling capability possible: At additional cost.

SHORT-TERM RECOMMENDATION

Purchase 40 KC-10's (PAA).

Reject current CRAF enhancement program.

AIRLIFT RECOMMENDED PROGRAM

Mix of long-term and short-term capability.

Procure 134 C-17's.

Procure 40 KC-10's.

Pursue additional CRAF enhancement: New aircraft modifications.

□ 1720

Mr. PRITCHARD. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I am happy to yield to my distinguished friend from Washington.

Mr. PRITCHARD. I want to say to the gentleman I think there is a real problem we have as Members of Congress when decisions are made that come out of the committee and are supported by the Defense Establishment. It is a real problem for the average Member to stand up and say "Gee, there is something wrong here. I don't like it."

But how does he do this when committee chairmen get up, or Members get up, and read that the Secretary of Defense, the Assistant Secretary of Defense, the heads of the Army, the Air Force, the whole number of gentlemen who have these responsibilities, all of a sudden send remarks up in glowing praise of a particular decision?

Then that individual Member says, "Well, you know, how am I able to make a decision when we are in the field of national security?"

I guess I would have to ask the gentleman how does that average Member, how does he stand up, when obviously there is not one person in the Defense Department that is going to give any counter decisions or opinions once they have made that decision down there in the Pentagon?

Mr. DICKS. I think it is exceedingly difficult because you get the administration making decisions. They overruled the Army and the Air Force.

The Army and the Air Force recommended the C-17 and using the KC-10. That was their package, that was their recommendation. It was presented to the administration on January 8.

So I think, in light of the fact that many honorable Americans serving in the Defense Department and in MAC are leaking out information to us because they are appalled, shocked, and stunned by this kind of a political decision and therefore want us to know what they really recommended to the political leadership of the Pentagon, that we have to go back then and look at the record.

When you find the record is that the Army and the Air Force were in lockstep recommending the C-17, go back and look at the record last year when they testified before the Armed Services Committee that the C-17 and existing wide bodies together was the right answer to the near-term and long-term requirement, then you have to say to yourself: "Why did they change their mind?"

I think in this case when the Air Force has flip-flopped as many times as they have, saluting, saluting, and following political directions, then you have to be suspicious, and I think the Member then, because they have a constitutional responsibility for the national defense of this country to raise the armies and the navies and air forces, they have to delve in and look at it closely.

I think in this case when you delve in and look at it, the more you look at it the more incredible this decision is.

Why do we want to spend more money than is necessary to get two good quality planes, 747's and C-17's? It is the right mix. This is what the professional leadership recommended.

So I think in this instance when we have the professionals recommending one thing last year when they were making a national defense judgment not supporting a political decision by Mr. Carlucci, then I think we are in a position to take that evidence that they prepared last year and present it to this Congress.

Plus I think we ought to encourage contractors to come in with unsolicited proposals if they think they have a better and a less expensive way to do that job.

What I really worry about is the chilling effect of this turndown and the political intimidation that went into the threats that were made against the subcontractors of the Boeing Co., in this instance, not to get involved at the same time that the Defense Department and the Air Force were staging and managing this incredible lobbying effort to sell the C-5B to Congress.

The manipulation, the collusion, the meetings over in the offices of the Pentagon to plan this strategy I think do not speak well for this system.

That is why we have pressed this question of a resolution of inquiry trying to get an investigation by the Armed Services Committee, which they have pledged to conduct, of how these contractors and defense officials get together to sell products to Congress, not based on the merits but based on political decisions reached in the Pentagon.

That is what we are faced with.

Mr. PRITCHARD. I thank the gentleman because I think the average Congressman has a very difficult job here to make that decision and he has to vote after it has been made at the Pentagon.

□ 1730

And we have to be very careful in this country or we are going to truthfully never get these decisions questioned. And those who question those decisions are sort of pushed out. If somebody said, "Well, Congressman, if just one person from the military had testified on your side, I would feel better."

Mr. DICKS. They all did last year.

Mr. PRITCHARD. And I had to say to him, "What would happen if that person had testified, who is down in the ranks of the military, what would happen to him?" And, you know, he would not be considered a team player, and his career would be hampered and hurt.

So I think we are dealing with a process here which is very important, and we cannot afford to just rubber stamp decisions that are made, nor can we have a process that in effect, as the gentleman says, puts a chill on any defense contractor coming in with a new idea, an idea that saves money, and says, "Here, we have got a new idea." And if they feel that they are going to be hurt and penalized later because they stood up with a new idea, we are hurting this country very seriously.

I want to commend the gentleman for his work in this area and, as I say, we will be at it tomorrow when we get into the issues.

Mr. DICKS. I appreciate the participation of the gentleman from Washington in this colloquy. I think it is a very challenging issue. Airlift is vitally important to this country. I will tell the gentleman from Washington that I am just as concerned about those young men, those soldiers, who are going to have to go over with the Rapid Deployment Force and defend our country. And when I go back and look at what the military leadership said less than 6 or 7 months ago, I can assure the gentleman that the very best people in our Defense Department, when not saluting, when asked what they really thought, said that a combination of existing wide bodies and the C-17 gave us the right mix for our airlift program. I will tell the gentleman this—and I have said it before—if this Government fell tomorrow, the MAC people would be in trying to reverse the decision on the C-5. The people out there who are responsible know that it is going to jeopardize the chances of getting the C-17. We were going to spend several billion dollars on it, and now we are spending nothing on it. But tomorrow will give us a chance to present this case to the House.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from North Carolina (Mr. NEAL) is recognized for 30 minutes.

● Mr. NEAL. Mr. Speaker, I am notifying the House today of the U.S. Export-Import Bank's proposal to extend a direct credit of $201,481,150 to the Taiwan Power Co. (Taipower).

The loan will help Taipower, owned primarily by the Taiwan Government, purchase equipment from U.S. companies for two new coal-fired powerplants to be built on the southwest coast of Taiwan.

The power projects are expected to cost $815.7 million, of which nearly $310 million will go to the General Electric Co. and to Babcock and Wilcox for U.S.-manufactured equipment, provided the Eximbank loan is approved.

This Eximbank financing notification was referred to me as chairman of the Banking Committee's Subcommittee on International Trade, Investment and Monetary Policy. Under section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, the Eximbank must notify Congress of proposed loans or financial guarantees, or combinations thereof, of $100 million or more. Unless the Congress determines otherwise, the Eximbank may give final approval to the transaction after 25 days of continuous session of the Congress after notification.

I am submitting for the RECORD material from the Eximbank providing details on the proposed transaction. I would welcome any comments or questions from my colleagues regarding the Taipower loan. The material follows:

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., July 2, 1982.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, House Banking Committee, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Eximbank has submitted a statement to the Speaker of the House of Representatives and the President of the Senate in accordance with the provisions of Section 2(b)(3)(i) of the Export-Import Bank Act of 1945. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

NANCY S. PIGMAN,
Congressional Relations Officer.

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., July 1, 1982.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room, H-209, U.S. Capitol, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the House of Representatives with respect to the following transaction involving U.S. exports to Taiwan.

A. DESCRIPTION OF TRANSACTION.

1. *Purpose.*—Eximbank is prepared to authorize a credit of $201,481,150 to Taiwan Power Company (Taipower) to assist Taipower in the purchase from United States suppliers of turbine generating equipment, steam boiler equipment, related equipment and services for use in the construction of two coal-fired 550 MW thermal power plants located at Hsinta on the southwestern coast of Taiwan.

Taipower has signed purchase contracts with the General Electric Company for the generating equipment and with Babcock and Wilcox for the boiler equipment; such awards are contingent on the availability of acceptable Eximbank financing. The U.S. suppliers have cited competition from the United Kingdom, France, Japan, Sweden, Switzerland, and Canada.

The total project cost of the plants is $815,775,000 of which the total cost of the U.S. goods and services is estimated to be $309,971,000. Taipower will obtain loans from local banks and government agencies for the local cost of the project, and will also provide its own funds for the project.

2. *Identity of the Parties.*—Taipower, organized in 1946, is a corporation 95 percent owned by the governing authorities on Taiwan and its political subdivisions. It has the sole responsibility for the supply of electricity throughout the island of Taiwan. Taipower is one of the largest users of Eximbank's programs for its U.S. purchases and has maintained an excellent credit relationship with Eximbank. The Eximbank credit will be made through a U.S. commercial bank or through the American Institute in Taiwan, to the Coordination Council for North American Affairs on behalf of Taipower.

The Coordination Council for North American Affairs acting on behalf of the governing authorities on Taiwan will unconditionally guarantee payment of Taipower's indebtedness under the Eximbank credit.

3. *Nature and Use of the Goods and Services.*—The goods to be exported from the United States include two coal-fired boilers, steam turbine generators and related auxiliary equipment. The U.S. originated services consist of design engineering and ocean freight charges on U.S. flag vessels. Approximately 2 to 7 percent of the generators will be fabricated in Taiwan and that portion will not be eligible for Eximbank financing.

The U.S. goods and services will be used in two 550 MW thermal power plants, located on the southwestern cost of Taiwan, designated as units three and four. The plants will supply approximately 6.6 percent of Taiwan's electricity needs. The plant will burn coal to be supplied from the United States, Canada, Australia or South Africa. Eximbank provided financing in August, 1977 for the purchase of U.S. goods and services for the construction of units one and two.

B. EXPLANATION OF EXIMBANK FINANCING.

1. *Reasons.*—The Eximbank direct credit of $201,481,150 will facilitate the export of $309,971,000 of United States goods and services.

Eximbank perceives no adverse impact on the United States economy from the export of these goods and services. This tranaction will have a favorable impact on employment for substantial numbers of United States workers, as well as on the United States balance of trade. None of the goods to be exported is in short supply in the United States. In addition after the two plants are completed, there will be a large requirement for coal imports to operate the plants and Taipower has traditionally obtained much of its coal needs from the United States.

The domestic market for conventional power equipment has been well below productive capacity of the United States. Foreign orders, therefore, have become a vital portion of United States thermal power equipment manufacturers' business and enable those manufacturers to retain specialized engineering and technical staffs and production work forces. G.E. has informed us that the equipment it would be supplying would provide 5,550 man years of work at its facilities in Schenectady, New York (unemployment rate 7.7 percent as of February, 1982), Charleston, South Carolina (unemployment rate 9.2 percent), Portland, Maine (6.5 percent unemployment rate) and Merrimac, New Hampshire (7.9 percent unemployment rate). Babcock and Wilcox estimates that 5,667 man years of work will be required to manufacture the boiler equipment at its facilities located in Barberton, Ohio (11.4 percent unemployment rate as of February 1982), Canton, Ohio (12.7 percent unemployment rate), West Point, Mississippi (7.6 percent unemployment rate), Paris, Texas (8.0 percent unemployment rate), Wilmington, North Carolina (10.7 percent) unemployment rate) and Beaver Falls, Pennsylvania (9.0 percent unemployment rate). Gibbs and Hill will provide 397 man years of engineering consultant services. In addition, subcontractors located through out the United States would be supplying equipment.

In this transaction, there is a total term of 14 years consisting of a 4-year construction period and a ten-year repayment period. Private financing, which is only available on a shorter repayment term, is inadequate to meet the total financial requirements of this project and the Eximbank direct credit is necessary in order to generate sufficient financing for the U.S. sales.

The United States suppliers have won the orders subject to Eximbank financing against intense competition from suppliers in the United Kingdom, France, Japan, Sweden, Switzerland and Canada.

2. *The Financing Plan.*—The total cost of United States goods and services to be purchased by Taipower will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$46,495,650	15
Private fiancing (without an Eximbank guarantee)	61,994,200	20
Eximbank credit	201,481,150	65
Total	309,971,000	100

(a) Eximbank Charges. The Eximbank credit will bear interest at the rate of 12.00 percent per annum, payable semiannually. There will be a commitment fee of 0.5 percent per annum charged on the undisbursed portion of the Eximbank credit and a credit application fee of 2 percent of the amount of the Eximbank credit.

(b) Repayment Terms. Indebtedness incurred by Taipower under the Private Financing and the Eximbank credit will be repaid in two schedules of 20 equal semiannual installments of principal each beginning November 30, 1985 and November 30, 1986 (six months after the estimated start-up of each unit). The lenders of the Private Financing will be repaid from the earlier installments and Eximbank will be repaid

from the later installments of each schedule.

Attached is additional information on Eximbank activity in and economic data on Taiwan.

Sincerely,

WILLIAM H. DRAPER III.

Eximbank exposure in Taiwan as of May 31, 1982

	Thousands
Direct loans	$1,771,197
CFF loans	5,059
Financial guarantees	300,279
Bank guarantees and other	14
Insurance:	
Medium term	7,522
Short term	9,302
Total exposure	2,093,374

REPAYMENT EXPERIENCE

Payment of principal, interest and fees due on Eximbank loans to Taiwan borrowers have always been prompt.

TAIWAN'S KEY ECONOMIC INDICATORS [1]

Exchange rate at respective prevailing rates [2]	1979	1980	1980/79 percent	1981 estimate
Income, investment, production, employment:				
GNP at current prices	32,346	40,022	23.73	46,283
GNP at constant 1976 prices	26,138	27,862	6.66	28,722
Per capita GNP, current prices (U.S. dollars)	1,869	2,269	21.40	2,576
Medium family income (U.S. dollars)	4,573	5,734	25.39	6,665
Fixed investment	9,250	12,524	35.39	13,800
Foreign investment approvals	329	466	41.64	390
Indices (1976—100):				
Industrial production	152.5	164.3	11.74	173.0
Agricultural production	107.5	106.4	−1.02	102.1
Industrial wage	163.48	195.41	19.53	229.4
Labor productivity	136.1	147.2	8.16	159.5
Labor force (1,000 persons)	6,507	6,630	1.89	6,749
Unemployment rate (percent)	1.28	1.23	NA	1.50
Money and prices:				
Money supply	7,069	8,482	19.99	9,244
Secured loan rate, ceiling within 1 year (percent)	14.50	16.20	11.72	18.00
Indices (1976—100):				
GNP deflator	123.75	143.64	16.07	161.20
Wholesale prices (December)	129.59	154.59	19.30	160.77
Consumer prices (December)	130.39	159.34	22.20	175.27
Balance of trade and payments:				
Balance of payments (basic)	724	241	200.41	1,850
Balance of trade	1,329	77	−94.21	1,655
Exports, FOB	16,103	19,811	23.03	23,164
U.S. share	5,652	6,761	19.62	8,277
Imports, CIF	14,774	19,733	33.57	21,511
U.S. share	3,381	4,673	38.21	4,837

[1] All values in millions of U.S. dollars unless otherwise indicated.
[2] 1 U.S. dollar equals NT$36 in 1979 and 1980, and NT$36.90 in 1981.

Note: Value of Major Imports from United States in 1980: Machinery, 864; chemicals, 620; electronic/electrical goods, 521; transportation equipment, 294; soybeans, 292; cotton, 229; maize, 352; wheat, 153.

Source: American Institute in Taiwan.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PRITCHARD) to revise and extend their remarks and include extraneous material:)

Mrs. HECKLER, for 60 minutes, on July 20.

Mr. COLEMAN, for 5 minutes, today.

Mr. HANSEN of Idaho, for 30 minutes, today.

Mr. DERWINSKI, for 60 minutes, on July 21.

(The following Members (at the request of Mr. SWIFT) to revise and extend their remarks and include extraneous material:)

Mr. MONTGOMERY, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. BRINKLEY, for 10 minutes, today.

Mr. DICKS, for 30 minutes, today.

Mr. NEAL, for 30 minutes, today.

Mr. YATRON, for 60 minutes, on July 20.

Mrs. KENNELLY, for 60 minutes, on July 20.

Mr. LEVITAS, for 60 minutes, on July 20.

Mr. LEVITAS, for 60 minutes, on July 21.

Mr. STRATTON, for 60 minutes, on July 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LIVINGSTON, on H.R. 6409 following Mrs. BOGGS in the House today.

(The following Members (at the request of Mr. PRITCHARD) and to include extraneous matter:)

Mr. DAUB.

Mr. HILER.

Mr. GINGRICH in two instances.

Mr. HYDE in 10 instances.

Mr. DORNAN of California.

Mrs. HECKLER.

Mr. RUDD.

Mr. SENSENBRENNER.

Mr. SCHULZE.

Mr. BADHAM.

Mr. LEACH of Iowa.

Mr. ROTH.

Mr. GUNDERSON.

Mr. DERWINSKI in two instances.

Mr. CONTE.

Mr. FINDLEY.

Mr. EVANS of Delaware.

(The following Members (at the request of Mr. SWIFT) and to include extraneous matter:)

Mr. NICHOLS.

Mr. KASTENMEIER.

Mr. WON PAT.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. MONTGOMERY.

Mr. SOLARZ.

Mr. DE LA GARZA in 10 instances.

Mr. LANTOS.

Mr. MINETA.

Mr. CORRADA.

Mr. FOLEY.

Mrs. SCHROEDER.

Mr. SANTINI.

Mr. FOUNTAIN.

Mr. SYNAR.

Mr. HOYER.

Mr. ROSENTHAL.

Mr. BEDELL.

Mr. MCDONALD in five instances.

Mr. BARNARD.

Mr. JONES of Oklahoma.

Mrs. BYRON.

SENATE ENROLLED BILL SIGNED

The SPEAKER pro tempore announced his signature to an enrolled bill of the Senate of the following title:

S. 2651. An act to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

ENROLLED BILLS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker pro tempore:

H.R. 4688. An act to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that act;

H.R. 6590. An act to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes; and

H.R. 6685. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following title:

H.R. 4935. An act to amend title 11, United States Code, to correct technical errors, and to clarify and make substantive changes, with respect to securities and commodities;

H.R. 6685. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes;

H.J. Res. 225. An act to designate the week beginning June 5, 1983, and ending June 11, 1983, as "Management Week in America"; and

H.J. Res. 444. An act to authorize and request the President to designate August 14, 1982, as "National Navaho Code Talkers Day."

ADJOURNMENT

Mr. DICKS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 32 minutes p.m.), the House adjourned until to-

morrow, Tuesday, July 20, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4377. A letter from the Assistant Administrator for Pesticides and Toxic Substances, U.S. Environmental Protection Agency, transmitting a proposed final rule classifying certain active ingredients used in antimicrobial pesticides as inert ingredients, pursuant to section 25(a)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act of 1954, as amended; to the Committee on Agriculture.

4378. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to Tunisia (Transmittal No. 82-72), pursuant to section 813 of Public Law 94-106, as amended; to the Committee on Armed Services.

4379. A communication from the President of the United States, transmitting proposed supplemental appropriations for the fiscal year 1982 for international disaster assistance (H. Doc. No. 97-211); to the Committee on Appropriations and ordered to be printed.

4380. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-211, "District of Columbia Soil and Water Conservation Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4381. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-212, "Proceedings Regarding Intrafamily Offenses Amendment Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4382. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-213, "Anti-Drunk Driving Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4383. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-214, "Abandoned or Unauthorized Vehicle Removal and District of Columbia Public Assistance Act Amendment Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4384. A letter from the Secretary of Education, transmitting the findings of a short-term study of postsecondary education in the U.S. territories, pursuant to section 1204(b) of the Higher Education Act of 1980, as amended; to the Committee on Education and Labor.

4385. A letter from the Secretary of Health and Human Services, transmitting a report on State compliance with the medicaid utilization control requirements, for the quarter ending March 31, 1982, pursuant to section 1903(g)(6) of the Social Security Act, as amended; to the Committee on Energy and Commerce.

4386. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Air Force's proposed lease of defense articles to the Government of Denmark, pursuant to section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4387. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Air Force's proposed lease of defense articles to the Government of Belgium, pursuant to section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4388. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Air Force's proposed lease of defense articles to the Government of Switzerland, pursuant to section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4389. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Air Force's proposed lease of defense articles to the Government of the Netherlands, pursuant to section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4390. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense articles and services to Tunisia (Transmittal No. 82-72), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4391. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report that the Defense Department has provided certain defense articles, services, and training to El Salvador under the authority of Presidential Determination 82-5, pursuant to section 506(b)(2) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4392. A letter from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4393. A letter from the benefits manager, Farm Credit Banks of Texas, transmitting a report for the plan year ended December 31, 1981, for the credit banks of Texas pension plan, pursuant to Public Law 95-595; to the Committee on Government Operations.

4394. A letter from the Librarian of Congress, transmitting the annual report of the Library of Congress, including the Copyright Office, for fiscal year 1981, together with the annual report of the Library of Congress Trust Fund Board, pursuant to section 1 of the act of February 19, 1897, and section 7 of the act of March 3, 1925; to the Committee on House Administration.

4395. A letter from the Attorney General, transmitting the third report on steps taken by the Department of Justice to comply with the intent of Congress that section 1073 of title 18 of the United States Code apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable State felony statutes, pursuant to section 10(b) of the Parental Kidnaping Prevention Act of 1980; to the Committee on the Judiciary.

4396. A letter from the Assistant Secretary of the Army for Civil Works, transmitting a Corps of Engineers report on the Metropolitan Anchorage urban study, Alaska, in response to a resolution of the Committee on Public Works and Transportation of the House of Representatives, adopted October 10, 1974; to the Committee on Public Works and Transportation.

4397. A letter from the Assistant Secretary of the Army for Civil Works, transmitting A Corps of Engineers report on the Little Rock metropolitan area urban study, Arkansas, in response to resolution of the Committee on Public Works and Transportation of the House of Representatives adopted April 11, 1974; to the Committee on Public Works and Transportation.

4398. A letter from the Secretary of Energy, transmitting a study of U.S. arctic research policy and the possible roles of the Naval Arctic Research Laboratory, pursuant to section 1007(e) of Public Law 96-487; jointly, to the Committees on Armed Services, Interior and Insular Affairs, Merchant Marine and Fisheries, and Science and Technology.

4399. A letter from the Administrator, Environmental Protection Agency, transmitting a copy of the revised national oil and hazardous substances contingency plan, pursuant to section 305(a) of Public Law 96-510; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

4400. A letter from the Joint Chairmen, Interagency Task Force on Acid Precipitation, transmitting the final national acid precipitation assessment plan, which provides a 10-year research program, pursuant to section 704(c) (1) and (3) of Public Law 96-294; jointly, to the Committees on Energy and Commerce and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the referral on June 17, 1982, the following report was filed on July 16, 1982]

Mr. STRATTON: Committee on Armed Services. H.R. 3809. A bill to provide for repositories for the disposal of high-level radioactive waste, transuranic waste, and spent nuclear fuel, to amend provisions of the Atomic Energy Act of 1954 relating to low-level waste, to modify the Price-Anderson provisions of the Atomic Energy Act of 1954 and certain other provisions pertaining to facility licensing and safety, and for other purposes; with amendment(s) (Rept. No. 97-491, Pt. II). Ordered to be printed.

[Submitted July 19, 1982]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6542. A bill to withdraw certain lands from mineral leasing, and for other purposes; with an amendment (Rept. No. 97-638). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 6409. A bill to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes; with an amendment (Rept. No. 97-639). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on Foreign Affairs. House Joint Resolution 521. Joint resolution calling for a mutual and verifiable freeze on and reductions in nuclear weapons and for approval of the SALT II agreement (Rept. No. 97-640). Referred to the House Calendar.

Mr. PRICE: Committee on Armed Services. House Resolution 512. Resolution di-

recting the Secretary of Defense to furnish certain information to the House of Representatives relating to procurement of the C-5B aircraft (Adverse Rept. No. 97-641). Referred to the House Calendar.

Mr. FUQUA: Committee on Science and Technology. Report on allocation of budget totals for fiscal year 1983 (Rept. No. 97-642). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. APPLEGATE (for himself, Mr. WYLIE, Mr. MONTGOMERY, Mr. HAMMERSCHMIDT, Mr. LEATH of Texas, Mr. MURPHY, Mr. SMITH of Alabama, Mr. SMITH of Oregon, Mr. NAPIER, Mr. SILJANDER, Mr. EDWARDS of California, Mrs. HECKLER, Mr. MOTTL, Mr. HILLIS, Mr. SAM B. HALL, JR., Mr. SAWYER, Mr. BRINKLEY, Mr. SOLOMON, Mr. EDGAR, Mr. MCEWEN, Mr. BONER of Tennessee, Mr. SMITH of New Jersey, Mr. SHELBY, Mr. DASCHLE, Mr. STUMP, Mr. DOWDY, Mr. WON PAT, Mr. HEFNER, and Mr. SMITH of Pennsylvania):

H.R. 6782. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CONYERS:

H.R. 6783. A bill to modify the insanity defense in the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. FINDLEY:

H.R. 6784. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. FORD of Michigan:

H.R. 6785. A bill to reduce budget authority and outlays under certain civil service programs pursuant to the first concurrent resolution on the budget—fiscal year 1983; to the Committee on Post Office and Civil Service.

By Mr. HOWARD (for himself, Mr. FARY, and Mr. STANGELAND) (by request):

H.R. 6786. A bill to amend Public Law 96-432 relating to the U.S. Capitol Grounds to authorize additional funds for the acquisition of certain property for addition to the U.S. Capitol Grounds; to the Committee on Public Works and Transportation.

By Mr. MCEWEN:

H.R. 6787. A bill to authorize construction of a flood control project on the Scioto River at Chillicothe, Ohio; to the Committee on Public Works and Transportation.

By Mr. MONTGOMERY (for himself, Mr. HAMMERSCHMIDT, Mr. EDGAR, Mrs. HECKLER, and Mr. DASCHLE):

H.R. 6788. A bill to amend title 38, United States Code, to clarify the period for which an employer is required to grant an employee who is a member of the National Guard or Reserve a leave of absence in order to allow the employee to perform required active duty for training; to the Committee on Veterans' Affairs.

By Mr. OBERSTAR:

H.R. 6789. A bill to exempt rural electrical cooperatives from fees under the Federal Land Policy and Management Act of 1976; to the Committee on Interior and Insular Affairs.

By Mr. SPENCE:

H.R. 6790. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for the cost of medically necessary custodial care provided to elderly individuals; to the Committee on Ways and Means.

By Mr. NEAL:

H.J. Res. 540. Joint resolution proposing an amendment to the Constitution relating to equal rights for men and women; to the Committee on the Judiciary.

By Mr. DOUGHERTY (for himself, Mr. DONNELLY, Mr. ANNUNZIO, Mr. LEE, Mr. CORCORAN, Mr. ADDABBO, Mr. LEBOUTILLIER, Mr. LOWERY of California, Mr. FISH, Mr. FLORIO, Mr. WOLPE, Mr. SMITH of New Jersey, Mr. BAILEY of Pennsylvania, Mrs. HECKLER, Mr. DORNAN of California, Mr. DERWINSKI, Mr. HUGHES, Mr. MARKEY, Mr. CARNEY, Mr. MCHUGH, Mr. FARY, Mr. BIAGGI, Mr. MOLINARI, Mr. MOFFETT, Mr. WORTLEY, Mr. BARNES, Mr. MCDONALD, Mr. FITHIAN, Mr. BADHAM, Mr. HORTON, Mr. EDGAR, Mr. STRATTON, and Mrs. FENWICK):

H. Res. 526. Resolution concerning the support and recognition of the Baltic Governments of Estonia, Latvia, and Lithuania by the United States; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRINKLEY:

H.R. 6791. A bill to direct the Secretary of Agriculture to convey certain land to the Roosevelt Memorial Church in Pine Mountain Valley, Ga.; to the Committee on Agriculture.

By Mr. MCCLORY:

H.R. 6792. A bill for the relief of Chilewich, Inc., and the Bluebird Corp.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 808: Mr. BURGENER, Mr. PHILLIP BURTON, Mr. BAFALIS, Mr. MADIGAN, Mr. EDWARDS of California, Ms. FIEDLER, Mr. WALKER, Mr. SKEEN, Mr. FINDLEY, Mr. SCHUMER, and Mr. WOLF.

H.R. 1799: Mr. BEREUTER, Mr. MCKINNEY, Mr. SWIFT, Mr. LELAND, Mr. O'BRIEN, Mrs. FENWICK, Mr. SAWYER, and Mr. WEAVER.

H.R. 3117: Mr. RODINO.

H.R. 3225: Mr. FARY.

H.R. 4147: Mr. PRITCHARD, Mr. BONKER, and Mr. MICA.

H.R. 4833: Mr. PASHAYAN.

H.R. 5278: Mr. HAGEDORN and Mr. BONER of Tennessee.

H.R. 5395: Mr. WEAVER, Mr. PARRIS, Mr. RUSSO, Mrs. SMITH of Nebraska, Mr. SMITH of Alabama, Mr. MCEWEN, and Mr. LIVINGSTON.

H.R. 5555: Mrs. KENNELLY and Mr. MARTINEZ.

H.R. 5583: Mr. LOWERY of California.

H.R. 5636: Mr. OTTINGER, Mr. YOUNG OF ALASKA, Mr. SIMON, and Mrs. BOUQUARD.

H.R. 5664: Mr. FAZIO, Mr. WAXMAN, Mr. DE LUGO, Mr. WYDEN, Mr. MURPHY, Mr. KOGOVSEK, Mr. SIMON, Mr. DIXON, Mr. WEISS, and Mr. RANGEL.

H.R. 5818: Mr. BRODHEAD, Mrs. HECKLER, Mr. LOWRY of Washington, Mr. MORRISON, Mr. OTTINGER, and Mr. SYNAR.

H.R. 5862: Mr. SMITH of Alabama.

H.R. 6045: Mr. COLEMAN, Mr. OTTINGER, Mrs. SNOWE, Mr. TAUZIN, Mr. MCCOLLUM, and Mr. DANIEL B. CRANE.

H.R. 6291: Mr. OTTINGER, Mr. BLANCHARD, and Mr. SOLARZ.

H.R. 6336: Ms. OAKAR.

H.R. 6347: Mr. GUARINI, Mr. ADDABBO, Mr. GARCIA, Mr. MURPHY, Mr. MOAKLEY, and Mr. RINALDO.

H.R. 6391: Mrs. COLLINS of Illinois, Mr. MCDADE, Mr. DOWNEY, and Mrs. HECKLER.

H.R. 6514: Mr. JOHNSTON.

H.R. 6529: Mr. ROEMER, Mr. ROBERTS of South Dakota, Mr. LONG of Maryland, and Mr. HAGEDORN.

H.R. 6542: Mr. ROSE.

H.R. 6636: Mr. FORSYTHE, Mr. HUGHES, and Mr. BADHAM.

H.R. 6660: Mr. BONKER, Mr. SUNIA, Mr. MATSUI, Mr. GINGRICH, Mr. FISH, Mr. DUNCAN, and Mr. PRITCHARD.

H.J. Res. 172: Mr. ANTHONY and Mr. PRITCHARD.

H.J. Res. 417: Mrs. ROUKEMA, Mr. RINALDO, Mr. PANETTA, Mr. BINGHAM, Mr. MOTTL, Mr. WYDEN, Mr. DANIEL B. CRANE, Mr. DYSON, Mr. BIAGGI, and Mr. GEJDENSON.

H.J. Res. 478: Mr. ROE, Mr. HORTON, Mr. BARNES, Mr. MCCLORY, Mr. FORD of Michigan, Mr. FORD of Tennessee, Mr. WORTLEY, Mr. JACOBS, Mr. LEE, Mr. WINN, Mr. FAUNTROY, Mr. KEMP, Mr. WYDEN, Mr. SHUMWAY, Mr. HATCHER, Mr. DAUB, Mr. MOLLOHAN, Mr. FRENZEL, Mr. DINGELL, Mr. HENDON, Mr. EMERY, Mr. QUILLEN, Mr. MADIGAN, Mr. SUNIA, Mr. FOLEY, Mr. MOTTL, Mr. FAZIO, Mr. BEILENSEN, Mr. ST GERMAIN, Mr. BLANCHARD, Mr. MARRIOTT, Mr. RAHALL, Mr. SIMON, Mr. MCKINNEY, Ms. OAKAR, Mr. WILLIAMS of Ohio, Mr. FORSYTHE, Mr. JAMES K. COYNE, Mr. MATSUI, Mr. MCEWEN, Mrs. HOLT, Mr. IRELAND, Mrs. BOGGS, Mr. GRADISON, Mr. HUGHES, Mr. NICHOLS, and Mr. HEFNER.

H.J. Res. 492: Mr. MATSUI, Mr. DASCHLE, Mr. FORD of Tennessee, Mr. WON PAT, Mr. SUNIA, Mrs. KENNELLY, Mr. ROE, Mr. SCHEUER, Mr. FORSYTHE, Mr. NEAL, Mr. BINGHAM, Mr. BEARD, Mr. MOLINARI, Mr. HEFNER, Mr. BEVILL, Mr. LEE, Mr. CAMPBELL, Mr. KEMP, Mr. HOLLENBECK, Mr. EVANS of Georgia, Mr. DUNCAN, Mr. FISH, Mr. HORTON, Mr. LENT, Mr. LELAND, Mrs. HOLT, Mr. VENTO, Mrs. CHISHOLM, Mr. WOLF, Mr. ANDERSON, Mr. DE LA GARZA, and Mr. PANETTA.

H.J. Res. 516: Mr. RANGEL and Mr. TAUZIN.

H.J. Res. 521: Mr. WRIGHT, Mr. DOWNEY, Mr. LOWRY of Washington, Mr. PHILLIP BURTON, Mr. ROSTENKOWSKI, Mrs. KENNELLY, Mr. PRICE, Mr. OBEY, Mr. MARKEY, Mr. FINDLEY, Mr. BEDELL, Mr. WIRTH, Mr. MOFFETT, Mr. RATCHFORD, Mr. PEPPER, Mr. FOWLER, Mr. AKAKA, Mr. LEHMAN, Mr. YATES, Mr. LONG of Louisana, Mr. BOLAND, Mr. MAVROULES, Mr. MOAKLEY, Ms. MIKULSKI, Mr. MITCHELL of Maryland, Mr. ALBOSTA, Mr. BLANCHARD, Mr. BONIOR of Michigan, Mr. BRODHEAD, Mr. FORD of Michigan, Mr. OBERSTAR, Mr. SABO, Mr. VENTO, Mr. UDALL, Mr. MCKINNEY, Mr. TRAXLER, Mr. KILDEE,

Mr. BEILENSON, Mr. EDWARDS of California, Mr. MCCLOSKEY, Mr. PATTERSON, Mr. KOGOVSEK, Mr. STARK, Mr. BENNETT, Mr. SIMON, Mr. FORD of Tennessee, Mr. ROYBAL, Mr. ADDABBO, Ms. FERRARO, Mr. BIAGGI, Mr. SCHEUER, Mr. RICHMOND, Mr. GREEN, Mr. WEISS, Mr. DE LUGO, Mr. BROWN of Colorado, Mrs. SCHROEDER, Mr. RUSSO, Mr. NEAL, Mr. JACOBS, Mr. MAZZOLI, Mr. CONTE, Mrs. CHISHOLM, Mr. KASTENMEIER, Mr. DELLUMS, Mr. HOLLENBECK, Mr. ANTHONY, Mr. WEAVER, Mr. ST GERMAIN, Mr. FOGLIETTA, Mr. GRAY, Mr. EDGAR, Mr. WILLIAMS of Montana, Mr. ZEFERETTI, Mr. SCHUMER, Mr. OTTINGER, Mr. DORGAN, Mr. DWYER, Mr. ANNUNZIO, Mrs. SCHNEIDER, Mr. HOYER, Mr. YOUNG of Missouri, Mr. RAHALL, Mr. FORSYTHE, Mr. RODINO, Mr. PERKINS, Mr. REUSS, Mr. MCHUGH, Mr. DASCHLE, Mr. GUARINI, Mr. PEYSER, Mr. LAFALCE, Mr. FLORIO, Mr. WALGREN, Mr. GARCIA, Mr. BROWN of California, Mr. MINETA, Mr. WYDEN, Mr. HARKIN, Mr. SHANNON, Mr. SEIBERLING, Mr. HOWARD, Mr. ROE, Mr. NOWAK, Mr. WAXMAN, Mrs. HECKLER, Mr. ANDERSON, Mr. EVANS of Indiana, Mr. MILLER of California, Mr. RANGEL, Mr. BOLLING, Mr. CLAY, Mr. WILLIAM J. COYNE, Mr. ALEXANDER, Mr. STOKES, Mr. HALL of Ohio, Mr. MINISH, Mr. MOLLOHAN, Mr. FOLEY, Mr. PEASE, Mr. FAUNTROY, Ms. OAKAR, Mr. GLICKMAN, Mr. CONYERS, Mr. FRANK, Mr. SWIFT, Mrs. BOGGS, Mr. SYNAR, Mr. GUNDERSON, Mr. JAMES K. COYNE, Mr. COUGHLIN, Mr. SMITH of Iowa, Mr. JOHN L. BURTON, Mr. DICKS, Mr. LUNDINE, Mr. DENARDIS, Mr. DIXON, Mr. HUGHES, Mr. AUCOIN, Mr. MATSUI, Mr. SHARP, Mr. FAZIO, Mr. PANETTA, Mr. WASHINGTON, Mr. FITHIAN, Mr. MARKS, Mr. GOODLING, Mr. BOWEN, Mr. FARY, Mr. ERTEL, Mr. BENJAMIN, Mr. LELAND, Mr. SAVAGE, Mr. EVANS of Iowa, Mr. EARLY, Mrs. COLLINS of Illinois, Mr. BONER of Tennessee, Mr. TAUKE, Mr. CLINGER, Mr. COELHO, Mr. HAWKINS, Mr. MARTINEZ, and Mr. VOLKMER.

H. Con. Res. 255: Mr. ADDABBO, Mr. BARNARD, Mr. SENSENBRENNER, Mr. CHAPPELL, Mr. FRANK, Mr. ASPIN, Mr. MOFFETT, and Mr. WYDEN.

H. Con. Res. 310: Mr. HALL of Ohio and Mr. BEILENSON.

H. Con. Res. 368: Mrs. HECKLER and Mr. RATCHFORD.

H. Res. 409: Mr. HEFTEL and Mr. NELLIGAN.

H. Res. 497: Mr. WEISS, Mr. FLORIO, Mr. DUNCAN, Mr. CORRADA, Mr. FORD of Michigan, Mr. DYMALLY, Mr. SEIBERLING, Mr. OTTINGER, Mr. MITCHELL of Maryland, Mr. FISH, Mr. CONYERS, Mr. PEYSER, Mr. GUARINI, Mr. WASHINGTON, Mr. DWYER, Mr. DIXON, Mr. STOKES, Mr. LOWRY of Washington, Mr. VENTO, and Mrs. COLLINS of Illinois.

H. Res. 513: Mr. HYDE, Mr. FRANK, Mr. EDGAR, Mr. MINETA, Mrs. FENWICK, and Mr. GREEN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

520. By the SPEAKER: Petition of the council of the city of New York, N.Y., relative to H.R. 5669, amendments to the Clean Air Act; to the Committee on Energy and Commerce.

521. Also, petition of the Penn Central Conference, United Church of Christ, Harrisburg, Pa., relative to world peace; jointly, to the Committees on Armed Services and Foreign Affairs.

522. Also, petition of the city council, Brooklyn, Ohio, relative to international weapons ban; jointly, to the Committees on Armed Services and Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6030

By Mr. BADHAM:

(Substitute for the amendment offered by Mr. DICKS of Washington.)

—Page 6, line 13, strike out "$17,243,400,000" and insert in lieu thereof "$16,383,400,000".

Page 8, after line 12, insert the following new section:

PROHIBITION OF FUNDS FOR CERTAIN AIRLIFT AIRCRAFT

SEC. 109. None of the funds appropriated pursuant to an authorization of appropriations in section 103 shall be available for purchase of new strategic airlift aircraft for the Air Force other than KC-10 aircraft.

By Mr. DOUGHERTY:

—At the end of the bill and the following new section:

PROHIBITION ON DEFENSE PURCHASES FROM JAPAN IN EXCESS OF $10,000

SEC. 902. During fiscal year 1983, no officer or employee of the Department of Defense may enter into a contract for the purchase of any items from Japan or a Japanese company if the contract amount is in excess of $10,000.

—At the end of the bill add the following new section:

PROHIBITION ON HOMEPORTING UNITED STATES NAVAL VESSELS IN JAPAN

SEC. 902. Effective at the end of the 180-day period beginning on the date of the enactment of this Act, no United States naval vessel may be assigned to a homeport in Japan.

—At end of the bill add the following new section:

SELECTION OF CHIEFS OF CHAPLAINS

SEC. 902. The Secretary of Defense shall ensure that under the procedures used for selection of the Chief of Chaplains of the Army, Navy, and Air Force chaplains of the Jewish faith are considered for selection along with chaplains of other faiths.

—At the end of the bill, add the following new sections:

DESIGNATION OF ESTONIA, LATVIA, AND LITHUANIA ON DEFENSE MAPS

SEC. 902. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be used to prepare, produce or purchase any map showing the Union of Soviet Socialist Republics that does not—

(1) show the geographic boundaries of Estonia, Latvia, and Lithuania and designate those areas by those names;

(2) include the designation "Soviet Occupied" in parenthesis under each of those names; and

(3) include in close proximity to the area of the Baltic countries the following statement: "The United States Government does not recognize the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union".

By Mr. GEJDENSON:

—At the end of the bill add the following new section:

PROHIBITION REGARDING CONTRACTS FOR THE PERFORMANCE OF FIREFIGHTING AND SECURITY FUNCTIONS

SEC. . None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended to enter into any contract for the performance of firefighting functions or security functions at any military installation or facility, except when such funds are for the express purpose of providing for the renewal of contracts in effect on the date of enactment of this Act.

By Mr. GINGRICH:

—At the end of the bill, add the following new section:

REPORT ON VISTA 1999 TASK FORCE REPORT

SEC. 902. (a) The Secretary of Defense shall conduct a full and complete study and evaluation of the recent report and recommendations by the Chairman of the VISTA 1999 task force entitled "Vista 1999, A Long-Range Look at the Future of the Army and Air National Guard". Such study and evaluation shall include but not be limited to the following:

(1) A detailed evaluation of the study's findings, conclusions, and recommendations.

(2) The views of the Chief of the National Guard Bureau on the "Vista 1999" study.

(3) Any plans and recommendations for implementation of the contents of the "Vista 1999" study.

(b) This report shall be provided to the Committees on Armed Services of the House of Representatives and Senate no later than February 1, 1983.

—Page 11, after line 5, add the following new Section:

105-MILLIMETER TANK CANNON AND AMMUNITION IMPROVEMENT PROGRAM

SEC. 205. The Secretary of the Army is authorized during fiscal year 1983 to initiate a development program for (1) product improvements to the M-68 105-millimeter cannon and breech and the XM-833 kinetic energy 105-millimeter round for that cannon, and (2) necessary system integration work on the M-1 and M-60 tanks to accommodate such product improvements. Of the amount authorized in section 201 for the Army, not more than $19,600,000 is available for such program.

—At the end of the bill add the following new section:

STUDY OF READINESS OF RESERVE COMPONENTS

SEC. 902. (a) It is the sense of Congress that the reserve components of the Armed Forces should have a coequal status in their relationship with the active components and that the resources necessary to provide for the national security should be apportioned in a manner that accurately reflects the vital importance of the reserve components to the national defense posture of the United States and that will ensure the readiness of the reserve components to perform their assigned tasks and missions.

(b) The Secretary of Defense shall therefore conduct a study of the current and prospective readiness of the reserve components of the Armed Forces and the current and projected apportionment of resources between the active and reserve components. The Secretary shall submit a report to Congress on such study not later than six months after the date of the enactment of this Act. Such report shall include the Secretary's evaluation of—

(1) the readiness of the reserve components to perform their assigned tasks and missions; and

(2) what organizational, regulatory, or statutory changes, if any, are necessary to ensure the current and prospective readiness of the reserve components to perform their assigned tasks and missions.

By Mr. HILLIS:

—At the end of the bill, add the following new section:

RESTRICTION ON PURCHASE OF FOREIGN-MADE MOTOR VEHICLES

SEC. 902. During fiscal year 1983, the Secretary of a military department may award a contract or agreement for the purchase of administrative motor vehicles that are to be used outside the United States or Canada only to the lowest responsible bidder from the United States or the host nation. This section does not apply to contracts or agreements for an amount less than $50,000.

By Mr. KAZEN:

—At the end of the bill add the following new section:

PRIOR NOTIFICATION TO CONGRESS ON FOREIGN SOLE SOURCE PROCUREMENTS

Subject to the provisions of Chapter 138 of title 10, United States Code (relating to North Atlantic Treaty Organization mutual support), none of the funds authorized to be appropriated in this Act may be used to enter into a prime contract for the purchase of a major article of equipment essential to the national defense from a manufacturer outside the United States that makes the United States dependent on that manufacturer as a sole source, unless the Secretary of Defense shall have notified the Committees on Armed Services and Appropriations of the House and Senate, in writing, and thirty days shall have elapsed from the date of receipt of such notification.

By Mr. STRATTON:

—On page 26, after line 22, insert

SEC. 902. (a) The Secretary of Defense should conduct a test program during fiscal year 1983 in accordance with this subsection to test the effect of exempting certain contracts of the Department of Defense from the provisions of section 2892 of title 10, United States Code and paying a price differential under such contracts for the purpose of relieving economic dislocations. Under such test program, the Secretary of Defense may exempt from the provisions of such section any contract (other than a contract for the purchase of fuel) made by the Defense Logistics Agency during fiscal year 1983 if the contract is to be awarded to an individual or firm located in a Labor Surplus Area, as defined and identified by the Department of Labor, and if the Secretary determines—

(1) that the awarding of such contract will not adversely affect the national security of the United States;

(2) that there is a reasonable expectation that bids will be received from a sufficient number of responsible bidders so that the award of such contract will be made at reasonable cost to the United States;

(3) that the price differential to be paid under such contract will not exceed 3 percent; and

(4) the value of such contract, when added to the cumulative value of all other contracts awarded under the test program, will not exceed $5,000,000,000.

(b) Not later than April 15, 1983, the President shall submit a report to Congress on the implementation and results to that date of the test program authorized by subsection (a). The report shall include as assessment of the costs and benefits of the test program.

H.R. 6214

By Mr. DOUGHERTY:

—Page 5, strike out line 6.

Page 30, strike out line 22.

—Page 43, line 9, strike out "$320,090,000" and insert in lieu thereof "$269,690,000".

Page 43, line 15, strike out "$2,025,073,000" and insert in lieu thereof "$2,974,673,000".

Page 43, line 24, strike out "$498,288,000" and insert in lieu thereof "$376,588,000".

Page 44, line 2, strike out "$2,604,314,000" and insert in lieu thereof "$2,482,614,000".

SENATE—*Monday, July 19, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

O God, Thou art my God, I seek Thee, my soul thirsts for Thee; my flesh faints for Thee, as in a dry and weary land where no water is.—Psalm 63: 1.

As a heart longs for flowing streams, so longs my soul for Thee, O God. My soul thirsts for God, for the living God.—Psalm 42: 1.

Help us to comprehend, Gracious God, that we have hunger and thirst for Thee that nothing else can satisfy—that when we forsake Thee, however we may surfeit ourselves with substitutes, our souls starve.

Help us to comprehend the fact that authentic humanness depends upon a close relationship with Thee, that we are most complete as persons when we worship Thee, serve Thee, love Thee.

Forgive us for the subtle idolatry which exchanges the true God for the seductive gods of power, prestige, position, prosperity, or pleasure. Teach us that we find ourselves, know ourselves, by coming to Thee, acknowledging Thee, submitting to Thee. We ask this in the name of the perfect man, Jesus, whose perfection was in His unbroken relationship with Thee. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

HE IS NOT DEAD

Mr. BAKER. Mr. President, this week's poem, "He Is Not Dead," was written by James Whitcomb Riley, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

HE IS NOT DEAD

I cannot say, and I will not say
That he is dead. He is just away.
With a cheery smile, and a wave of the hand,
He has wandered into an unknown land
And left us dreaming how very fair
It needs must be, since he lingers there.
And you—oh, you, who the wildest yearn
For an old-time step, and the glad return,
Think of him faring on, as dear
In the love of There as the love of Here.
Think of him still as the same. I say,
He is not dead—he is just away.

JAMES WHITCOMB RILEY.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I believe there is already provision for a time to transact routine morning business to follow the recognition of the two leaders under the standing order, is there not?

The PRESIDENT pro tempore. The leader is correct.

Mr. BAKER. Are there any special orders for this morning?

The PRESIDENT pro tempore. There are no special orders today.

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order and after the closing of morning business, the Senate will resume consideration of Senate Joint Resolution 58. The Senate, under the order previously entered, will recess at 12 noon until 2 p.m. today. No votes are expected before 4 p.m.

After the Senate resumes its session at 2 p.m., it is anticipated that we shall continue with the debate on Senate Joint Resolution 58, the balanced budget amendment, for sometime. At or close to 4 p.m. this afternoon, it is the intention of the leadership to ask the Senate to commence the debate on the tax bill, so-called, obedient to the reconciliation instruction included in the budget resolution adopted. I hope that the Senate can engage in meaningful debate, certainly in opening statements today, and do so in order to permit the Senate to recess at its normal time for Monday, which will be approximately 6 p.m.

Tomorrow, the Senate will resume consideration of the tax bill and continue that debate throughout the day. I anticipate, however, that the Senate, once again, will stand in recess from 12 until 2 p.m. in order to accommodate the requirements of Senators on both sides of the aisle for our caucuses of an official nature.

Mr. President, Tuesday is not anticipated to be a late day nor to extend much past the hour of 6 p.m., the normal time for recess or adjournment. I expect that it will probably be necessary to continue the debate on the reconciliation bill—that is to say, the tax bill—on Wednesday as well, but I hope that the debate can be concluded on Wednesday and a final vote will occur during that day.

There is a statutory time limitation on this bill, since it is a reconciliation measure, related to a reconciliation instruction. That limitation is 20 hours, as Members know. So it appears practical and attainable that we can conclude the debate on the reconciliation bill sometime during the day Wednesday. At the conclusion of that bill and except for routine matters that may be cleared for action by unanimous consent on both sides, it is anticipated that the Senate will resume directly the consideration of the balanced budget amendment. It is hoped that we can finish debate on the balanced budget amendment this week. If we cannot, we shall continue it next week.

Thursday, of course, is the regularly scheduled late evening for the Senate and, based on the debate so far on the constitutional amendment, I expect that Senators should assume that we shall be in reasonably late on Thursday evening. A Friday session will be necessary unless debate and disposition of Senate Joint Resolution 58 has been concluded prior to that time.

Mr. President, I have no further need for my time under the standing order. I am prepared to yield the remainder of it to the minority leader if he has use for it.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader for his courteous gesture. I do not think I shall have need for additional time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. WARNER). The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as the Senator from Wisconsin may require from the time allotted to me under the order.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. I thank the minority leader.

HOW WOULD THE UNITED STATES SURVIVE A NUCLEAR WAR?

Mr. PROXMIRE. Mr. President, few Americans have taken a hard, long, realistic look at the consequences of a full-scale nuclear war. With the arms race continuing apace and the nuclear freeze movement developing strong momentum, we in Congress who will be called upon to make some hard decisions on how best to avoid a nuclear war should take a clear, unblinking look at the significance of such a catastrophe.

In March of 1982, Esquire magazine carried an article written by Ed Zuckerman. Zuckerman has been researching nuclear war preparedness as an Alicia Patterson fellow, and he is writing a book on the subject.

Zuckerman's article combines a felicity of expression with a subtle humor and a solid knowledge of what he is talking about. In the next few days, I intend to put into the RECORD excerpts from that article.

First, Zuckerman deals with some of the simple, rudimentary ways our Government would try to function in the hours immediately following a nuclear attack. Considering the immensity of the problems of a prostrate country writhing in a monumental agony, the plans for dealing with the mass death and pain seem pitiful, trivial, and steeped in graveyard humor.

Here is how Zuckerman begins his answer to the question, "How would the United States survive a nuclear war?"

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the first part of the Zuckerman article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW WOULD THE U.S. SURVIVE A NUCLEAR WAR?—DON'T WORRY. OUR PEOPLE ARE WORKING ON THE PROBLEM RIGHT NOW

(By Ed Zuckerman)

Following a nuclear attack on the United States, the U.S. Postal Service plans to distribute Emergency Change of Address Cards. "This postage-free card," the Postal Service's emergency-planning manual explains, "would be used by displaced survivors of an attack to notify the Postal Service of their emergency mailing addresses." The manual gives several examples of completed cards. One sample, for a (Mr.) William Thomas Butler, gives a "preemergency" address of Upton Street in Washington, D.C., and says that he can now be reached at Box 21, Leesburg, Virginia. But the sample card filled out for (Miss) Mabel Jane Butler tells a sadder story. Her preemergency address, like Butler's, was on Upton Street in Washington; her present address, however, reads: "Deceased, Mortuary #10, Falls Church, Virginia 22040."

It is possible that the pain of a Mabel Jane Butler in her last hours, or of any victim of a nuclear attack, will be eased by a stockpile of opium reserved by the government for use on just such an occasion. The National Defense Stockpile of Strategic and Critical Materials includes sixty-one items, ranging from aluminum to opium to zinc. The stockpile goal for each item is the amount that would be needed by the United States during a three-year conventional war or the amount that would be needed during a nuclear war, whichever quantity is greater. "Only in the case of opium did the nuclear-war goal [75,000 pounds] exceed the conventional-war goal [70,000 pounds]," the director of the Federal Preparedness Agency told a congressional committee in 1976. In 1980, the opium requirement was refigured and the goal was raised to 130,000 pounds; 71,000 pounds are currently on hand.

Of course, the warehouses in which the drug is stored may not withstand a nuclear attack, but surviving federal officials will be able to check that situation out quickly. Over the past two decades, the new Federal Emergency Management Agency (FEMA) and its predecessors have compiled computerized data on almost two million American factories, military installations, population centers, farms, dams, caves, banks, television stations, and other facilities "deemed important enough to consider in evaluating the effects of a nuclear attack on the U.S." Every facility is listed in the computer system by its latitude and longitude or, failing that, by its Zip Code, and is assigned a "vulnerability factor," based on its type of construction. During a nuclear attack, information on incoming weapons will be fed into FEMA computers, housed deep underground in Maryland and Virginia. They will then stand ready to receive questions via a streamlined computer program called React, which has been designed, according to the "React User's Guide," "to meet the need for quick response to queries from top level decision makers concerning the probable transattack status of high interest resources."

In other words, while the bombs are still falling, a federal health official with access to a computer terminal and a working telephone line will be able to type out the question: How many strategic and critical stockpile storage facilities in region 1 are undamaged with no fire? And receive an answer. Such an official will also be able to inquire about hospitals and drug manufacturers. If he can bear to look, he can also call up the casualty estimates for his home town.

WHY DOES AMERICA FEAR THE GENOCIDE CONVENTION?

Mr. PROXMIRE. Mr. President, why have we not ratified the Genocide Convention? I pose the same question that the world has been wondering for over three decades. We may seek a good answer, but we will find instead that the blame falls upon the groundless fears of treaty opponents. Why has so noble a declaration attracted such resistance?

The opponents fear that the treaty will override the Constitution, yet the American Bar Association has no such fear. The opponents fear that the treaty will permit Americans to be tried abroad where their rights will be violated, yet the American Civil Liberties Union has no such fear. The opponents fear that the treaty gives the United Nations control over our citizens or laws, yet the Defense and Justice Departments have no such fear. All of these responsible authorities have closely examined this treaty, and they have found nothing to fear. All have urged ratification, as have most nations and all American Presidents since Truman.

Those who oppose the treaty are isolated not only in the world but also here in this country. They advance arguments that have been overturned years ago by experts from the legal community. They raise questions that have already been answered by treaty proponents. They express worries that should have been put to rest. So I ask again, what is this Senate waiting for? Why has a treaty so benevolent stirred such concern among some of my colleagues?

If opponents are not reassured by the 33-year history of the treaty, are not comforted by the testimony of lawyers and scholars, then I do not know what will satisfy the treaty's detractors. I can only hope that these opponents are a minority small enough to allow the rest of us to endorse the Genocide Convention. This treaty is too harmless to provoke obstruction, yet it is too important to warrant further delay. Each passing year is another betrayal of our proud tradition as champion of human rights.

Please do not let the few who fear the treaty fetter the many who are unafraid; do not let America lag any further behind the world community on this life-and-death issue; do not let us dawdle any longer, for we have procrastinated much too long as it is. Please let us bring this treaty before the Senate for a vote on its merits; let us give this document the chance it deserves; let us finally throw our powerful support behind the Genocide Convention.

I thank the distinguished minority leader.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT REAGAN URGES CONGRESS TO ACT TO PROTECT INNOCENT HUMAN LIFE

Mr. HELMS. Mr. President, the National Right to Life Committee held its annual convention in Cherry Hill, N.J., this past weekend. The National Right to Life Committee and its State and local affiliates throughout the country have made a tremendous contribution to alerting the public to the evils of legalized abortion. This

scourge, which now allows the destruction of approximately 1.5 million unborn children annually, must be eliminated from our land, and with the continued efforts of groups such as the National Right to Life Committee, legal protection for the unborn will be restored.

President Reagan sent an inspiring message by way of video tape to the National Right to Life Convention. Today, I want to call my colleagues' attention to this Presidential statement. Among other things, the President said:

[Unborn children] deserve to have their right to life fully protected by law. The time has come for Congress to face the national tragedy of abortion—to fully discuss and debate on the House and Senate floors and heartbreaking dimensions of this tragedy.

Needless to say, I agree with the President and hope for our part here in the Senate we will take up the abortion issue in the immediate future.

Let us heed the President's counsel when he said to those at Cherry Hill:

This administration does not and will not have separate agendas—one for economic matters, one for the so-called "social" issues. Our concern is to make America healthy: economically, morally, in every way. Abortion is an inescapable national dilemma. It is a problem that cannot wait; it must be confronted.

I ask my colleagues: Can you think of a more important issue than the protection of innocent human life? Regardless of all the arguments for abortion—and I have heard them all—there is no greater moral issue than this one. We become a part of what we condone—and if America, as a nation, continues to condone the deliberate slaughter of millions of helpless unborn babies, then one day we will be asked to condone the destruction of anyone, of any age, who happens to be inconvenient to have around. We can already see this ominous trend in the increasing legal and medical approval given to the deliberate withholding of food and ordinary medical care from handicapped newborns.

Mr. President, I ask unanimous consent that the full text of the President's statement given to the National Right to Life Convention at Cherry Hill, N.J., last weekend be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS OF PRESIDENT REAGAN TO THE NATIONAL RIGHT TO LIFE COMMITTEE CONVENTION

Last year there were more than 1½ million abortions in America. This is an assault on the sacredness of human life.

No one in America is more sensitive to this enormous tragedy and no one in America has done more to put a stop to it than those of you attending this Right to Life Convention. It is you who have attempted to protect the helpless and speak for the unborn; you have carried the burden and fought the good fight. For this, God will bless you; and for this, millions of Americans, myself included, Thank you.

But, now, as Congress approaches the three-quarter mark in its current session, you deserve much more than thanks or mere verbal support. And certainly the hundreds of thousands, and perhaps millions, of unborn children who face extinction this year deserve much more than words; they deserve to have their right to life fully protected by law. The time has come for Congress to face the national tragedy of abortion—to fully discuss and debate on the House and Senate floors the heartbreaking dimensions of this tragedy.

Those of you who supported pro-life candidates in the 1980 election—and those of us who, as candidates, actively spoke out against abortion—cannot be accused of being irresponsible or overly zealous in our pursuit of human life legislation. We have been patient and realistic. Last year, we understood that past national policies had headed our country well down the road to economic disaster. We knew we had to deal with this momentous problem; we did so with urgency and effectiveness. I know that many of you supported and worked hard for this administration's program for economic recovery.

But, as I said a few months after taking office—and in the midst of our attempts to change our economic policy—this administration does not and will not have separate agendas—one for economic matters, one for the so-called "social" issues. Our concern is to make America healthy: Economically, morally, in every way. Abortion is an inescapable national dilemma. It is a problem that cannot wait; it must be confronted.

The abortion tragedy is, after all, one of the greatest moral—and potentially one of the most divisive—issues to ever face this country. As history shows in the case of other such great issues, attempting to ignore them only causes a deeper disarray in our national life and increases the potential for disunity and disruption.

The Supreme Court's ruling that legalized abortion will continue to have a profound and painful impact on our Nation until it is properly addressed by the people through their elected representatives. Only the other day, a Federal judge in Connecticut reopened the whole legal debate on this matter when he ruled that a fetus had civil rights including the right to sue an alleged attacker. Recently, a report by the Senate Judiciary Committee emphasized the far-reaching impact of the abortion tragedy by concluding that the effect of the U.S. Supreme Court decisions has been to legalize abortion right up until the moment of birth.

A few months ago, in my own State of California, a garage was discovered containing the bodies of 17,000 abortion victims—many of them late-term. The pictures I have seen are heartrending and clearly show abortion is an assault on human life.

And only a few months ago, many of us read of a child in Bloomington, Ind., permitted by the courts to die only because he was handicapped.

As George Will would write in an emotional but carefully reasoned—and I might add unforgettable—essay, the freedom to do away with inconvenient life is now being extended, just as those of us who are part of the right to life movement predicted, beyond fetal life to entirely new categories of life.

That is why the House and Senate must deal with the abortion issue. Major human life measures, such as Senator HELM's human life bill, Senator HATCH's human life federalism amendment and Senator HATFIELD's abortion funding restriction bill, deserve full consideration by the Senate this session. Believe me, in all of this, I share your sense of urgency.

You know, it has always puzzled me that those who favor abortion will argue that because a child is not old enough or perfect enough or wanted enough that it is an act of kindness to deny him or her the chance of life.

C. S. Lewis once wrote that "love is something more stern and splendid than mere kindness." This is a critical insight into the present debate over abortion and it is something of what I meant when I wrote to George Will about his column on that child in Bloomington—a column in which George mentioned his own handicapped son, Jonathan.

"Jonathan is indeed fortunate," I wrote, "that God has chosen the Wills for his parents; and, as I see from your column, the Wills are even more fortunate that God has given them Jonathan."

This is the heart of the matter. The world is not ours to superintend—nor is innocent life ours to dispense with or terminate. Those decisions belong to another—another to whom suffering in our world is fully comprehensible and who counts our resignation in these matters to our credit. It is His guidance we seek now and in all of our future efforts.

Obviously, the days ahead will be important ones in the struggle for human life legislation, and what you do during the next few days will be vital to the success of our efforts in this great cause. I want you to know that you have my wholehearted support and my fervent prayers for your success. Have a good convention and God bless you.

SCHOOL PRAYER

Mr. HELMS. Mr. President, the opponents of voluntary prayer in our Nation's public schools have resorted to the oldest of debate dodges, the creation of strawmen. That strawman, of course, is the nemesis of mandatory prayer. But while the thousands upon thousands of letters that have crossed my desk have not contained a single incidence of anyone being forced to pray prior to the Supreme Court's antiprayer rulings, I have received a number of letters from students denied this fundamental right.

For the benefit of my colleagues, whom I trust shall have the opportunity to vote to restore this basic right to American schoolchildren in this session, I ask that the enlightening letter I received from Charles L. Begley, Jr., of Winston-Salem, N.C., be printed in the RECORD at the conclusion of my remarks. Mr. Begley is the vice president of the Agapé Club at R. J. Reynolds High School in Winston-Salem and, in my judgment, America would be much better off if we had a lot more Charles Begley's and if we allowed them to pray for God's blessings on our Nation in their classrooms.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WINSTON-SALEM, N.C., *July 10, 1982.*

SENATOR JESSIE HELMS: I am a senior high school student at R. J. Reynolds High School here in Winston-Salem. I am in support of placing voluntary prayer back into the schools. I am asking you to also be in support of voluntary prayer in schools.

I am vice-president of the "Agapé Club" at Reynolds High School. This club, however, no longer exists as an official club at Reynolds High School because of the ruling for voluntary prayer to be taken out of the schools. The club still operates with many of the junior members that it had during the school year. This club could once again be a part of R. J. Reynolds High School with your vote. So please vote yes for placing voluntary prayer back into the schools. Thank you.

Sincerely,

CHARLES L. BEGLEY, Jr.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 15 minutes. Statements therein will be limited to 5 minutes each.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CONNERS OF THE SHENANDOAH VALLEY

Mr. HARRY F. BYRD, JR. Mr. President, I should like to take a moment to call to the attention of Members of the Senate that today a young Virginian started serving as a summer page.

This young man, Robert J. Conner III, is the son of Robert J. Conner, Jr., of Strasburg, Va., who was appointed a page in 1949 by my father, Harry F. Byrd, Sr., who served in this body and who was Governor. Mr. Conner served this body and his Government with dedication for almost 17 years.

I am proud to have known both of these fine Virginians—the Conners of the Shenandoah Valley.

THE BALANCED BUDGET RESOLUTION

Mr. BENTSEN. Mr. President, the unhappy economic experience of the past 18 months demonstrates beyond any doubt that economic policy frequently bears no relation to economic reality.

The policy was to balance the budget by 1984. The reality is record budget deficits of more than $300 billion through 1985. The policy was quick and dramatic recovery, but the reality is deepening recession. The policy was jobs, but the reality is record unemployment—more than 10 million Americans without work. The policy was lower interest rates, but the reality is continued high interest that has brought depression to vital economic sectors like housing and automobiles. The policy was increased investment for increased productivity, but the reality, lower levels of investment and diminished competitiveness.

Mr. President, the American economy can no longer afford that kind of gap between promise and performance. Last year we cut taxes dramatically and provided important new incentives for private sector savings and investment. Today all these incentives are being wiped out and overrun by a budget deficit of massive, unprecedented proportions that was certainly not part of the administration's economic assumptions last year.

Hopefully, the bitter disappointments of the recent past have taught us an important lesson about fiscal responsibility. By now it should be apparent to one and all that a balanced budget is a prerequisite for economic growth, stability, and prosperity in the decade of the eighties. America simply cannot go along year after year piling massive deficits one upon the other.

It was just last year, Mr. President, that this body approved an increase in the national debt to $1 trillion. That was a sorry day for America, and I remember very clearly the wringing of hands and gnashing of teeth that took place on this floor. Let us remember, however, that it took a depression, several major wars, a series of recessions, and almost two generations for our national debt to reach the $1 trillion mark. Yet just last month the Senate approved a budget that provides for a 3 year, $300 billion increase in that debt. That works out to a 10-percent increase in the debt every year, and that is a formula that can only spell disaster for the American economy.

Some economists still maintain that there is nothing special, nothing sacred about a balanced budget. I disagree. A balanced budget is an important symbol of fiscal responsibility, a clear signal that America is prepared to put its economic house in order. These days psychology plays an important role in economics. The financial and credit markets—Wall Street and Main Street—are looking for hard evidence that we are prepared to meet our responsbilities and live within our means.

When the Congress approves a 3 year, $300 billion deficit we are sending the wrong signal. We are sending an economic mayday to the markets, and we help undermine confidence in the future of our free enterprise system.

Just consider for a moment the implications of that increased deficit. What does it mean in terms of interest rates and pressure on the credit markets? It means that the Government will have to go hat in hand to the markets and borrow $11 billion every month just to service the debt. It means Government will be forced to borrow almost every hard-earned dollar saved by individuals over the next 3 years just to help finance the national debt.

Some of us around here have been working hard for many years to encourage savings and provide investment capital that can be recycled through the economy to create private sector jobs, modernize plant and equipment, and increase productivity. But now those savings would not be put to economically productive use. They will simply be siphoned off by the Government and poured down the sump hole of debt service.

The American economy is being saddled with a crushing, choking debt burden, and that is why we need exceptional measures to demand and enforce the discipline of a balanced budget. We have been living beyond our means for more than a decade; in recent years our debt has been growing geometrically while our economy is stagnating. That is a lethal combination, Mr. President, and calls for an exceptional response on our part.

I do not pretend that a constitutional amendment requiring a balanced budget and linking future spending increases to real growth in GNP will provide some sort of magical cure for what ails the American economy. If we have learned anything in recent years, it is that there are no easy cures.

But a balanced budget amendment will provide clear and enduring evidence of our determination to hew the line of fiscal responsibility. It will provide important reassurances to credit and financial markets buffeted by years of inflation, recession, and deficit spending. In time the amendment will help enforce spending discipline and relieve government borrowing pressure, freeing new sources of capital for productive private sector investment.

Mr. President, I do not come easily or quickly to any proposal to amend the U.S. Constitution. This is serious business, but we are in a serious situation. I would urge my colleagues to

join me in an open, nonpartisan effort to enshrine the notion of "pay as you go" in the American Constitution. Many years ago we adopted a balanced budget amendment in the Texas constitution. We have not seen a deficit since, and that has been important to our economic success. I think we need that same sense of discipline on the national level, the sooner the better.

Mr. President, I yield to the distinguished Senator from Utah.

Mr. HATCH. Mr. President, I wish to personally express my congratulations to the distinguished Senator from Texas and thank him for the excellent statement he has made.

He has cited many of the problems that beset this country and he has done so in an articulate and, I think, very persuasive way.

He is a leader in the effort to try to amend the Constitution so that we can eliminate at last the spending bias which has been dominating Congress and both political parties for each of the last 50 years, and certainly in an intense fashion over the last 20 years; so that we can eliminate the bias which allows automatic hidden tax increases that, through inflation and bracket creep, push people into higher tax brackets; and so that we can eliminate the bias which allows us to borrow against the credit of this country to the point where, as he has so eloquently described, we now are paying so much in interest each year that we are undermining the real growth potential of this country as we pay interest upon the more than $1 trillion national debt.

I think the distinguished Senator from Texas has done a marvelous job of outlining this. Of course, I have been an admirer of his in many respects since he took the leadership of the Joint Economic Committee. In that position, he did an outstanding job a number of years ago in trying to achieve greater productivity and growth in the economy as contrasted to the stagnation of the economy through which we have been recently going.

So I personally express my appreciation for his remarks this morning.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. HATCH. I am happy to yield.

Mr. BENTSEN. Mr. President, I thank the Senator for his very generous comments. I know of the enduring and continuing interest that he has had in this constitutional amendment and the leadership he has shown in it, and I am certainly most appreciative of that. He is generous with his remarks.

Mr. HATCH. I thank the Senator.

The Senator from Texas, and the Senator from Utah, and others, are trying to do what we can in getting this written into the Constitution.

ECONOMIC CONSIDERATIONS AND A BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. HATCH. Mr. President, the focus of Senate Joint Resolution 58 is really twofold from an economic point of view: First, it seeks to eliminate the persistent habit of the Congress to deficit spend. Second, it will act to limit the growth of Government which has caused a burden to the economy leading to slower economic growth, lower productivity, and an overall reduction in the Nation's economic potential.

As I have pointed out many times in the past, until the last few decades the history of Federal budget policy has been an attempt to balance the budget whenever possible. Balancing the budget was perceived to be an important element of sound fiscal policy. Then came the New Deal, and with it the legitimatizing of deficit spending by the Federal Government. The excuse used at that time was that Government spending was needed to provide the seed for economic expansion. We were advised that additional Government spending was needed, temporarily at least, to set the economy straight.

As Prof. Milton Friedman has pointed out, when these attempts to stimulate economic expansion through deficit spending failed, the additional Government spending was justified in the name of combating "secular stagnation." By this phrase the pop theorists of the age implied that opportunities for natural economic expansion were limited and that Government spending was needed to provide the stimulus for economic growth. While this expansion in Government did take place, it failed to provide the economic stimulus so desperately sought by the policymakers of the day.

More recently the excuse for Government expansion has been the need to stabilize the economy through Government expenditures. More Government spending accompanied by large deficits was promoted in the name of stimulating demand. This approach was buttressed by the Keynesian theory that flaws in the macroeconomic mechanics produced situations in which demand had to be artificially stimulated by the Government if the economy were to recover. In a one-sided extension of Keynesian theory, the neo-Keynesian philosophers and their policymaking allies came to rely on Government deficit spending as the primary tool to provide necessary demand in the economy. Regrettably the deficit produced under this demand management regime almost always seemed to be produced by increased spending.

Regrettably after several decades of experience with demand management and "stimulative" deficits, we have learned that we have stimulated very little except the growth in Government, and certainly have not expanded demand with the use of fiscal policy. The truth is that new debt which is not accommodated by the Federal Reserve is not stimulative. That part of the debt which is not monetized must come from the capital markets, and this represents a reduction in those resources available to the more productive private sector or other levels of Government. This Government borrowing amounts to another form of taxation of the economy, caused by the absorption of already limited resources by the Federal Government. As the Federal Government increases its demand for funds in capital markets, interest rates rise in response, and others who compete for these funds have to forego capital investments. Thus, resources are no longer available to consumers, industry, or the housing market. This "crowding out" means a reduction in demand in the private sector; therefore, there is no stimulation created by deficits per se.

The mistake made by those who seek to stimulate demand is that the savings aspect of personal or corporate finance is overlooked. This approach to macroeconomic policy ignores the need to encourage savings and investment. The result is that the neo-Keynesian policy provides a one-sided and, therefore, inaccurate view of the way the economy works. As Prof. David Meiselman has recently pointed out:

> . . . Rigorous research and repeated real-world experiments and experience have demonstrated again and again that the central elements of the Keynesian analysis are simply wrong. . . .

Professor Meiselman also points out that there are in fact real influences of fiscal policy—on resource allocation, income distribution, interest rates, and so forth. But the variable which Keynesian policy seeks to influence; namely, the business cycle, is not effected by the neo-Keynesian policies.

The effect of the misguided attempts to stabilize the economy by deficit spending, usually in the form of increased expenditures unmatched by tax revenues, has been a negative effect on economic efficiency, incenties, and productivity. It is these long-run negative impacts that are the real results of fiscal attempts to effect economic activity in the short run.

Unfortunately recent years have seen Federal fiscal policy influenced by the use of econometric models which have assumed a need for this fiscal activism in the form of deficit spending, usually in the form of increased expenditures beyond available revenues. We should be careful to note, however, that this feature of the standard econometric models is an as-

sumption, as opposed to an economic fact supported by a vigorous econometric evidence.

Let me provide an example of the results generated by the use of models incorporating such unfounded assumptions. The criticism has been made that a study done by the Council of Economic Advisers in 1979 showed that if the Federal budget had been balanced during the 1974–75 recession, real GNP would have decreased by 12 percent and unemployment would have been at the 12 percent level. This particular study was done with an econometric model which is well known for its dependence on deficits to achieve stimulated growth in the economy. I think it is inappropriate to rely on such Keynesian models which have been discredited by more balanced economic theories.

Perhaps the greatest oversight in the management of Federal fiscal policy has been the failure to look at the quality of Federal programs, the workability of the concepts implicit in these programs, and a prioritized ordering of Federal expenditures within specific limits. Rather than continually expanding the number of scope of programs in the Federal catalog, the resources of the Congress and the administration would be better utilized comparing the effectiveness of individual programs and then working through the difficult process of choosing those that are deemed effective and eliminating those which do not serve the purposes to which they were originally dedicated.

Let me point out in addition that the burden of Federal spending on the economy cannot be measured only by the volume of this spending, but also by the quality of the programs that this Federal expenditure supports. An effective approach to fiscal management requires that Government programs not compete with but rather complement the more efficient private sector, and that they be free of waste, fraud, and abuse.

Let me speak for a few minutes about one of the secondary but nonetheless related effects of the deficit spending which has accumulated over the years. This effect is the tendency by the Federal Government to monetize the Federal deficit, that is to print money, as a method of responding to the large Federal deficits. The growth of the money supply is an important issue that we need to address in the context of requiring a balanced budget, because Federal monetary policy is the one variable which does have a real impact on the economy, at least in the short run. As I have said in other places, a great deal of the dissatisfaction which we view the present economic situation is due to inappropriate manipulation of the monetary aggregates.

Most of the economic crises that this Nation has faced have been the result of poor monetary policy. Even during the Great Depression as in other periods of high unemployment, the contraction of the economy was produced by mismanagement of the money supply. In the United States the agency responsible for monetary policy is the Federal Reserve System. In the case of the Great Depression, as Professor Friedman has noted, the Fed managed to "convert what otherwise would have been a moderate contraction into a major catastrophe." While the economic disaster of the 1930's was in large part precipitated by the failure of the Fed to maintain a sufficiently large money supply, and the current problems of inflation and recession are the result of too large a growth in the money supply, the common thread running through these events is the shortrun economic disaster and exaggerated amplification of the business cycle due to poor monetary policy. In recent years the chief cause of the exaggeration of the inflation-recession cycle has been the loose monetary growth policies of the Federal Reserve. In part these policies have been encouraged by the deficits generated annually by Congress.

Since 1979, however, the Fed has slowed the growth of the money supply somewhat and inflation has slowed as a result. The remaining problem of the erratic growth of the money supply has yet to be addressed adequately by the Fed. Over a period of months the Fed will hold growth to a very low level, perhaps close to zero, and then increase the growth rate to double digits for several more months. All this erratic movement leads to uncertainty in financial markets, which in turn leads to the inclusion of a risk premium in interest rates, even in the short run.

The current economic situation reflects the impact of many of these factors. Several years of excessive monetary growth—when M_1, a reliable indicator of monetary policy, has often grown at rates of 8 percent or more for any one year—have produced price level inflation which has disrupted our financial markets and produced economic contraction. As I indicated, this excessive growth has been slowed somewhat with positive effects on the rate of inflation. Nevertheless, the continually erratic nature of the current monetary growth rate leaves a nagging doubt in the financial markets as to whether the Fed will pursue a more moderate growth rate in the future.

An international comparison will help to provide a basis for understanding why this erratic growth rate is particularly bad in the United States. The importance of market confidence in the Fed's meeting its lower growth targets is demonstrated by looking at the success of Germany, Switzerland, and Japan in reaching their lower growth goals despite erratic growth rates in the short run. Interest rates in these countries continue to be lower than in the United States. If the Fed had a good record in meeting its targets over the years, then the current erratic behavior of monetary growth would not have the unsettling effect that has helped to produce the current high interest rates. In short, the markets in the United States continue to reflect inflationary expectations.

At the same time this Nation is now paying the piper for the excessive monetary growth in the form of higher unemployment rates. While there are, of course, many real variables external to Federal policy which affect the business cycle and thus unemployment rates, it is difficult to dismiss the relationship between inflation and the level of the gross national product. Statistical evidence supports the relationship—inflation in 1 year leads to a reduction in the GNP in the next.

With this background of economic theory and empirical support for that theory, the value of a balanced budget constitutional amendment becomes clear. The Federal Government has grown in size and in burden on our economy through a series of rationalizations dating back some 40 years. The stability of the business cycle has been the latest excuse for promoting big government, but this reasoning does not stand up against the facts.

It would be better for the Nation, for its economy, and for its people if true stability were promoted by means of a balanced budget and a stable monetary growth rate. The efforts of this body would be well invested in reviewing what can be done to promote long-run economic growth and stability in the economy by bringing discipline to Federal spending. Unfortunately, in recent years too many of the analyses of our economic situation have depended on the assumption, and it is just an assumption, that by focusing on our current economic situation that we would have the ability to act with precision and timeliness to make fiscal or monetary adjustments to fine-tune the economy. Unfortunately the statistical record does not demonstrate that the Federal Government can react accurately or quickly enough to realistically perform this type of fine-tuning. While we talk here about the specific details of our present economic situation and discuss the details of how it should be addressed, the economic environment changes, and by the time that any detailed policy which we might enact is effective it turns out to be impacting on some new economic environment, perhaps in a counterproductive fashion.

The foregoing discussion really leads to one very relevant conclusion for the purposes of this debate on a constitutional amendment to balance the budget and for the purpose of analyzing our current economic situation. If the current economic situation is the result of faulty policy, it has been the efforts during the last 20 years to fine-tune the economy, with the result that there has been no effective policy—except in the negative sense that we have generated massive expansion of the Government, high price level inflation, and resulting recession more severe than would have otherwise evolved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, Senate Joint Resolution 58, which the clerk will state.

The legislative clerk read as follows:

A joint resolution (S. J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

The Senate resumed consideration of Senate Joint Resolution 58.

Mr. HATCH. Mr. President, I express my personal appreciation and admiration to a number of Senators of both parties who have played and continue to play a significant role in this particular balanced budget amendment fight.

On the Democratic side, I remember back when Senator DECONCINI was majority member of the Constitutional Subcommittee. We developed Senate Joint Resolution 126 and, under his leadership, passed it out of the subcommittee for the first time in history in 1979.

Then we went to the full committee and we lost 9 to 8, lacking just 1 vote. Senator DECONCINI was the leader of that fight, and he has continued to maintain that leadership as we have fought for Senate Joint Resolution 58. I think both he and I, and certainly the lead sponsor of the resolution, Senator THURMOND, who has been fighting for a constitutional amendment for 28 years, feel it may actually be a superior amendment to Senate Joint Resolution 126.

Let me briefly mention a few more of my colleagues on the other side of the aisle who have played a major role in this effort.

Senator HEFLIN has done a tremendous job working with all concerned to help to bring about this amendment to the Constitution. His help means a great deal because he comes as the chief justice of the Alabama Supreme Court. His knowledge of constitutional law had great influence in deliberations on this matter.

Senator ZORINSKY of Nebraska, of course, has taken up, since he has been here, for a balanced budget, and for a balanced budget constitutional amendment. We are pleased he is willing to stand with us as we fight this battle at this time.

I look at JOHN MELCHER, the Senator from Montana, and all the work he has done. He has worked long and hard to effect and bring about this balanced budget amendment. Senator BOREN, along with Senators LUGAR and ARMSTRONG, formed the Balanced Budget Caucus here in the Senate several years ago. In many respects, the caucus was largely responsible for bringing this issue to this body at this time and at this place.

Senator EXON, of Nebraska has played an active role in this matter as has Senator HUDDLESTON of Kentucky who has taken a firm stand in support of this consensus amendment.

Senator PRYOR, Senator BURDICK and Senator CANNON are others who have been active supporters.

Senator JOHNSTON and his senior colleague, Senator LONG, are long-time advocates of a balanced budget.

Senator NUNN along with Senator HEINZ worked hard on a key earlier version of a tax limitation amendment.

Senator PROXMIRE, from day one, has stood for a balanced budget amendment, has argued articulately and eloquently on the floor for it, and, I believe, will play an important role in this effort. Senators STENNIS and SASSER are other Senate leaders on the Democratic side.

I feel that these Democrats are standing up at a time in this country's history when it is important that they do that.

On the Republican side, of course, Senator THURMOND is the leader of this battle. He has fought continually for a balanced budget amendment for 28 years, and was one of the first to raise this issue along with Senator Harry Byrd, Sr. Time after time, they raised this issue and, time after time, they were not given the opportunity of bringing it to the floor of the Senate. This is the first time in the history of this country, that this issue has ever been brought to the floor of the U.S. Senate in this manner.

There are many others I would like to praise, but I did want to mention these people this morning because they have all had the guts to stand up for this amendment today—despite what I am sure have sometimes been difficult pressures.

I personally believe in a life hereafter and I believe some of those who founded this great Nation and who helped to formulate the Constitution of the United States, are watching the effort here on the floor with a great deal of interest. Although they did not write a balanced budget into the Constitution, it was presumed that this Nation always would try to balance its budget, that it would live within its means, that revenues always would equal outlays, and that the country would be managed in a fiscally responsible manner. A listing of some of their thoughts is contained in my opening statement.

The polls indicate that between 70 and 80 percent of the people in this country want a balanced budget amendment to the Constitution. They realize that the spending bias under our present system allowing Members of Congress to rely upon inflation and automatic tax bracket creep to impose tax increases, without anybody having to stand up and vote in the Congress, is a bad thing.

They also realize that we have been borrowing against the credit of this country for almost 50 years, now to a point where we were almost $1 trillion in debt. The interest on that national debt will approximate $130 billion next year, making it almost impossible for many businesses, small and large, throughout our country, to invest and grow. They are unable to obtain financing, loans, and the necessary moneys at reasonable rates of interest to be able to remain in business, let alone expand their businesses and create more jobs.

It is urgent that we do something about this. It is critical that we resolve these problems. It is absolutely necessary that we overcome the present spending biases in our political system.

I might repeat that this particular amendment to the Constitution does not make specific economic value judgments. Those will still have to be made by the Congress of the United States. Instead, the present bias in favor of spending and automatic tax increases will be overcome in favor of balancing the budget and living within our means.

Congress still will able to make day-to-day economic decisions. The difference is it will have to stand up and vote in doing so. If Congress wants to borrow against the credit of this country and deficit spend, Congress can do that; but it is going to have to stand up and vote to do that.

If Congress wants to increase taxes, it can do it; but it is going to have to stand up and vote to do that. It would no longer be able to rely upon hidden tax increases for which nobody votes, yet with which everybody in Congress seems to be happy. The growth of the Federal Government has been built through these hidden, obfuscated tax

increases—a process uncontemplated by the Founding Fathers.

Mr. President, I notice the distinguished Senator from Vermont is in the Chamber and he would like to take the floor. So, I will yield the floor at this time.

The PRESIDING OFFICER. The Senator from Vermont.

STUDY SHOWS REAGAN ADMINISTRATION ASKS $30 BILLION INCREASE IN NONDEFENSE SPENDING

Mr. LEAHY. Mr. President, I thank my distinguished colleague from Utah for his courtesy. I will try to be brief.

Mr. President, in a few moments, on the steps of the Capitol, the Marine Band, appropriately at taxpayers' expense, will play and a large spontaneous demonstration will take place, the tickets for which were printed up and distributed last week. A number of people, also at the taxpayers' expense, will be able to take off from work to hear the President of the United States attack the Congress as big spenders.

He will talk about a proposed constitutional amendment, but I really suspect he will not mention the fact that the constitutional amendment does not require him, as President, to submit a balanced budget. In fact, the budget submitted by President Reagan has carried the biggest deficits in our Nation's history and, following his proposals—his proposal—will double the national debt in 5 years.

It took a little over 200 years to get to where the national debt is today. President Reagan proposes a budget that would double it in 5 years.

I am releasing a study today that makes it very clear why the constitutional amendment gives this loophole to President Reagan, which I call the "Reagan loophole." The study will show that it would be too embarrassing for the President if the President were required to submit a balanced budget.

Mr. President, behind the smokescreen of the constitutional amendment to balance the budget, President Reagan has asked for over $30 billion in increases in over 300 appropriation accounts in 1983. Now, these are in the nondefense discretionary accounts. I do not want anybody to think this is just in the defense budget.

But the President, while talking about a balanced budget, in line item after line item in our study, has asked for $30 billion in extra expenditures for 300 accounts.

While he stressed that the most important principle of his economic program is that "all members of society except the truly needy * * * be asked to contribute to * * * spending control," he has requested billions in additional spending for powerful bureaucrats, favored agencies, and subsidy programs supported by powerful interest groups.

His message is very clear: If you work in the White House, if you are a powerful bureaucrat, if you are a well-heeled special interest group, your budget has gone up.

But, if you rely on the Federal Government for health care, for job safety or for job training at a time of the greatest recession I have seen in my lifetime, or for nutrition or environmental protection, your budget is cut.

Although the administration has called for cutting waste and promised more efficient management, 10 of the 11 accounts of the Office of the President received increases of 13 percent.

The office budgets of the Secretaries of Treasury, Agriculture, Interior, Transportation, and the Administrator of the Federal Railroad Administration have increased by $46 million alone, just their offices.

At the same time, funds for job safety, elderly employment, child nutrition, and health care have been cut.

Funding for mine safety has been cut by $10 million. The community service employment program for older Americans is abolished, cutting all $66 million. Child welfare funding is cut by $85 million.

The study I requested is a computer comparison of each appropriations account in which President Reagan has asked Congress for increases in his 1983 budget above the 1982 levels. As I said, the individual increases total over $30 billion in over 300 different accounts.

I am profoundly disturbed by the fundamental unfairness that becomes evident when the pattern of President Reagan's budget increases is examined. The budgets of agencies and programs favored by powerful economic interests have increased by huge amounts at the same time human needs, environmental and consumer protection programs are cut in the name of fiscal austerity.

For example:

Funds for western water projects built by the Bureau of Reclamation are increased by $173 million (22 percent), but funds for the acquisition of new parklands are cut by $44 billion (42 percent), and the Environmental Protection Agency's budget is cut $125 million (11 percent).

Funds for the special milk program for needy children are eliminated, saving $28 million, while funding for administrative and operating expenses for the Federal crop insurance program will increase by 150 percent at a cost of $176 million.

Funds for the administration of the Department of Commerce, whose general mandate is to promote business and trade, have increased by $3.2 million (10 percent), while funds for the Federal Trade Commission, which protects consumers and businesses from unfair trade practices, are cut $7 million (10 percent).

Funds for the food safety and inspection services were cut $3.3 million (1 percent), while funding to promote marketing of agricultural products increased by $8 million (34 percent).

Funds for salaries and expenses of the Department of State increased by $130 million (14 percent), but funding for low-income energy assistance is cut by $575 million.

Funds for managing the Department of the Interior have increased $3.9 million (9 percent), but funding for abandoned mine cleanup are cut $4.4 million (3 percent).

Funds used to inventory public land minerals so they can be leased to developers are increased by $18 million (5 percent), but funding for the urban recreation programs are down $7.6 million (100 percent).

Overall, the President's 1983 budget produced a net saving of $20 billion, in spite of $30 billion in increases.

Although I oppose some increases and support others, I am struck by the large size—$30 billion—of the increase sought by the President and the unfairness which is clear from comparing which accounts were cut and which were increased.

Mr. President, I mention this because we need more than public relations, we need more than the Marine Band playing, we need more than $100,000 or so of free time given to Federal employees to listen to the President and cheer him. We need more than hundreds of thousands of Federal tax dollars spent to ballyhoo this constitutional amendment.

All we need is for the President of the United States to do what he said he would when he took office and simply submit a balanced budget. Instead, the President asks for $1.5 trillion in defense spending and $750 million in tax cuts and then says, "We will borrow the money. We will borrow the money to pay for it." Whatever happened to the old pay-as-you-go days?

I am not sure that many Americans are going to be fooled by the public relations job put on at their expense on the west front of the Capitol today. They are well aware of the fact that it is the President's budget that has given us these huge deficits. After all, when a budget was passed by the Congress last year, and, it was off something like one-half of 1 percent of what the President wanted, he vetoed it. It cost us a few million dollars for that, tens of millions of dollars, as we went through, again, a public relations exercise of closing down the Government and starting it back up. But he got it exactly the way he wanted it.

It has been President Reagan's budget deficits that have been so unmanageable. No constitutional amendment is going to make that go away, certainly not something that will not

be ratified for 9 or 10 years from now, and certainly not this one which does not even mandate the President to provide a balanced budget.

So, Mr. President, I hope everybody will look at this study that I have completed. I certainly found it amazing. I had taken some of the things coming out of the White House at face value when they talked about their cuts. Little did I know that those cuts, instead, were increases in 300 accounts, increases of $30 billion.

It is probably just as well that we have an austerity administration down there. Lord knows what it would be like if we had some of those big-spending liberals like Lyndon Johnson who gave us a balanced budget, or if we were to be back in the days of Jimmy Carter, whose budget would have become, had it been followed by the Reagan administration, a balanced budget by next year.

Mr. President, I see the hour of 12 o'clock approaches. I would not want to deprive the distinguished Presiding Officer or any of our colleagues of the opportunity to be out on the west front in this typical Washington weather. Certainly I would not want to hold up the other people who are paid by the Senate to be here, to be paying them instead to be out for the fanfare, so I yield the floor.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. The Chair wishes to advise the Senate that those desiring to attend the function on the steps of the west front of the Capitol will assemble in the Chamber between the hour of 12:20 and 12:35 so that they can depart in a body at 12:35.

Under the previous order, if there be no further business, the Senate will now stand in recess until the hour of 2 p.m.

Thereupon, the Senate, at 11:59 a.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mrs. KASSEBAUM).

REMARKS OF THE PRESIDENT OF THE UNITED STATES ON THE CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

Mr. THURMOND. Madam President, I ask unanimous consent to place in the RECORD an address made by the President of the United States today on the constitutional amendment to balance the budget.

I want to take this opportunity to commend President Reagan for so strongly backing the passage of this constitutional amendment. The address he made today was on an historic occasion. His address, I think, is the finest I have ever heard on this subject. I was extremely pleased and honored that he came to the Capitol to deliver this address. I hope every Member of this body will read that address, and I hope people throughout the Nation will read it. I am confident that if they do it will have a great effect and will assist in crystallizing public opinion in favor of this constitutional amendment to balance the budget.

I only want to say that today, when the constitutional amendment will be considered, the national debt has now surpassed $1 trillion, and the interest on that debt is over $100 billion a year. The budget has been balanced only one time in the last 21 years, twice in the last 25 years.

The Congress has shown a lack of restraint to balance the budget statutorily. I can appreciate some of the influences here, the pressures that are brought on the Members of the Senate and the House by special groups and others. Almost every group that has an interest in an appropriation, contacts the Members of the Senate and the House urging their support. So many Members feel they should acquiesce to the demands of the members of the public who advocate these matters, and they do acquiesce. That is the reason we are in the situation we are in today.

In view of the fact that the Congress has not shown restraint to balance the budget statutorily, I feel it is more necessary than ever that we pass this constitutional amendment to mandate a balanced budget. That is the only way, in my judgment, we will keep the budget balanced consistently for any length of time and bring about sustained economic growth.

We may balance it for a year occasionally, just occasionally, but what has happended in the last 21 years is significant. The budget has only been balanced one time in 21 years. No individual could stay in business who handled his affairs that way. No corporation could continue to operate which handled its business in such a way. And neither can a government continue to stay in existence that continually operates with unbalanced budgets.

I was so pleased that the President came here today and delivered that magnificent address. That is the reason I want it printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF THE PRESIDENT AT THE KICKOFF RALLY FOR THE BALANCED BUDGET AMENDMENT ON THE STEPS OF THE U.S. CAPITOL

The PRESIDENT. Thank you very much. My fellow citizens, today we come together on historic grounds to write a new chapter in the American Revolution. We represent men and women of different faiths, backgrounds, and political parties from every region of our country—people live on Mainstreet, U.S.A., and they're saying, "We love this land and we will not give up our American dream." But for too long, their voices have been ignored. But no army on earth can stop an idea whose time has come and our time is now. We don't come as a special interest group pleading for personal gain. We're messengers of a united people demanding constitutional change. "Crisis" is a much abused word today. But can we deny that we face a crisis?

Thomas Jefferson warned, "The public debt is the greatest of dangers to be feared." He believed that it was wrong and immoral for one generation to forever burden the generations yet to come. His philosophy prevailed for the first 150 years of our history. President Coolidge said, "There is no dignity quite so impressive and no independence so important as living within your means." But then without quite knowing how it happened, we began surrendering to a siren song that was called "the new economics." Budgets became chronically unbalanced. Inflation, we were told, was good for us—necessary to prosperity. And the growing debt was no problem, we were told. We owed it to ourselves. So, we have only balanced the budget once in the last 22 years.

The national debt more than doubled in just the last 10. It was ready to break the trillion dollar barrier when we took office. The debt pro-rates out to $18,000 for each and every family in the United States. Borrowing to finance the annual interest on that debt which is greater than the entire national budget just 22 years ago, more than $100 billion, crowds out investment and keeps interest rates too high.

I've said before on occasion that balancing the budget is like protecting your virtue. You just have to learn to say no.

Since 1960, federal spending has increased nearly 700 percent. That's much faster than our ability to pay for it.

This spending was excused in the name of fairness and compassion. But it turned out that fairness and compassion also meant local governments losing control of their communities, working people, small business and pensioners being hit by record interest rates, inflation and taxation. And that golden era of growth that we once knew in this land gradually slipped from our grasp.

Let's quit kidding ourselves, pretending government could spend like there is no tomorrow and not hurt anyone has ended up punishing everyone and the needy most of all.

While we were doing all this, did we forget the function of government is not to confer happiness upon us. The Declaration of Independence does not say, "life, liberty and happiness." It says, "life, liberty and the pursuit of happiness." There are some things that are left to us to do.

Now, these are not Republican or Democratic principles. They're American principles, as important today as they were 200 years ago, when our ancestors were fighting a revolution so that we could be free to work out happiness for ourselves.

Families stand at the center of society. They're the vanguards of America's future. Yet, how can families and family values flourish when big government, with its power to tax, inflate and regulate, has absorbed their wealth, usurped their rights and too often crushed their spirit.

This nation's greatest transfer program is not welfare. It's the annual turnover of you and your neighbor's income to Uncle Sam.

Runaway government threatens our economic survival, our most cherished institutions and the very preservation of freedom itself.

The people have had it. The people are saying. "Enough."

You know, our administration has the strange idea that you all weren't born just to help government grow fatter. As a matter of fact, we promise to make a new beginning, to build together a brighter future filled with opportunity and hope. Together with a bipartisan coalition, we've cut the growth of federal spending nearly in half. Imagine how much worse this expected deficit would be if we had permitted spending to keep shooting up at its 1980 rate of 17 percent per year.

Another of our ideas was a reform that I am mighty proud of, an historic program of incentives for savings and investment with a 25 percent personal tax rate reduction for every American who pays taxes. Now some critics complain, your tax cut is too big, that it costs government too much. Well, this may be a shock to them, but that money is not the government's to begin with. It belongs to you, the people who earn it, and it is about time you were allowed to keep a bigger share of your own earnings.

You know the plain truth is, our tax cut actually does little more than offset the biggest tax increases in our history passed by many of these same complainers back in 1977. We didn't get that trillion-dollar debt because you are not taxed enough. We got that debt because government has spent too much.

Maybe some of you are old enough to remember a gentleman named Will Rogers. Will Rogers once said, "I see a great deal of talk from Washington about lowering the taxes. I hope they get them lowered down enough so people can afford to pay them." Well, that is what preserving the third year of the tax cut and indexing are all about. Eliminate them and low and middle income earners lose nearly 40 percent of their entire tax reduction. We can close loopholes, we can broaden the tax base—the tax bill approved by the Senate Finance Committee meets these objections—and I urge its enactment. It is only by reducing tax rates and slowing price increases that Americans can finally have more money to spend, save, and help the economy grow. Our program is doing that, but it has been on the books less than a year. We must and we will get America moving again but not by taxing the American people into the poor house.

We have only begun to wean ourselves from the long misery of overtaxing, overspending, and the great myth that our national nanny always knows best. We should go further in reducing tax rates and making the whole system fair and simple for everyone, but before we can do that we must correct and control a budget system that has run amok. Time and again the good sense of the people is trampled by powerful special interests lobbying to spend and spend and spend.

The Congress passed legislation in 1978 requiring the budget to be in balance by Fiscal Year 1981, but just like Rodney Dangerfield, that legislation didn't get no respect. This year the budget resolution was not passed in time to comply with the law. It seems to me that Americans are saying, "No more ifs, ands, buts or maybes. We want an amendment to the United States Constitution making balanced budgets the law of this land and we want it now."

Now, of course, we have to recognize all balanced budgets aren't created equal. The crucial question is how do we balance the budget?

I don't think you want us to balance the budget by weaseling out of the first decent tax program since John Kennedy's tax cut nearly 20 years ago, nor would you have us do it by compromising defenses and placing our country's security in peril. There is a better way. Balance the budget by bringing to heel a Federal establishment which has taken too much power from the States, too much liberty with the Constitution, and too much money from the people.

There are now two resolutions pending; one in the House and one in the Senate which enjoys strong support and which would lead to a constitutional amendment requiring a balanced budget. They would require the Congress to adopt a balanced statement of taxes and spending each year. The growth in tax revenues could not exceed the prior year's growth in national income. This would be a limitation against reaching a balanced budget by simply sending the tax payers a bill for whatever the deficit might be.

The Congress would have to make tough choices to control so-called "uncontrollables." And believe me, that's what this skeptical country is waiting to see.

The public could see who's hiding behind the rhetoric of balanced budgets. At the same time, they are unwilling to make the cuts in spending to bring them about.

Now this doesn't mean as some contend that the Congress would be bound by a fiscal strait jacket never able to plan a deficit. It could do so by going on record with a 60 percent vote of the full membership of both houses. This would be an important discipline.

Once approved by the Congress, the amendment will have to be ratified by three-fourths of the states. It would then take effect for the second fiscal year beginning after its ratification. But ratification itself will produce an immediate impact. From that moment on the watchword to Washington will be "start shaping up or you may be shipping out."

Now, ratification should not be difficult. Thirty-one states have already undertaken a separate initiative in favor of an amendment. And surveys show four out of five Americans want a constitutional check on red ink spending. My mail reflects this strong support. Republicans and Democrats alike are ready for a goal line stand against big spending even if that means pruning some popular programs.

People understand that making this government live within its means will ultimately do more to bring down interest rates and put our unemployed back to work than anything else we could do. Balancing the Federal budget will also bring lasting benefits to state and local governments. Once the federal government can no longer pre-empt state and local revenues, then those governments closest to the people can better fulfill their mission envisioned by the Founding Fathers—they can become the true laboratories of democracy in the United States.

I am honored that leaders of the drive for passage of the Constitutional Amendment in the Congress—Senate Majority Leader Howard Baker, Senators Thurmond, Hatch, Helms and DeConcini, and Representatives Michel, Conable and Jenkins, together with so many of their colleagues are with us here today. These members of the Congress are supportive of this Amendment. They have worked hard to help us get spending under control. Now, the Senate is ready to take another step forward and pass this historic Amendment.

I am encouraged by the spirit of solidarity of the 65 responsible Democrats in the House and 17 in the Senate who are cosponsoring this Amendment. They know this is no partisan issue. It is the people's crusade and today we urge the Congress—let their will be carried out.

You know, now there are some say that it is dangerous to push for dramatic reform in a period of crisis. I believe it's more dangerous not to. We may always have a crisis of one kind or another. We may not always have another opportunity.

Others insist that a Constitution should not embody economic theory. I've got news for them—a wise and frugal government which does not take from the mouth of labor the bread it has earned is not economic theory. The integrity to stand for sound money, an end to deficit spending and eventual retirement of the national debt is not economic theory.

Those principles are the very heart of a tried and proven system—our system, the system which created the greatest outpouring of wealth, in all history and distributed that wealth more widely among the people than anywhere else in the world. It's a pity that some seem to have forgotten that.

Then there are elitists who resent Americans like yourselves getting involved in the serious business of changing the Constitution. But our Constitution was not written to protect the government from its people. It was written to protect the people from their government. I've told on several occasions, you know, there are a lot of constitutions in the world, haven't read all of them but have read a lot of them, and what is the great difference that makes ours so unique? In most all of those other constitutions, it says, we, the government, permit the people the following things—they can do this or that. Ours says: "We, the people, permit the government to do the following things, and no others."

George Washington told us, in his Farewell Address—"The basis of our political system is the right of the people to make and to alter their constitutions of government." It has been said that nothing will ruin a country if the people, themselves, undertake its safety; and nothing can save it if they leave that safety in any hands but their own.

Fellow citizens, isn't it time to put the safety of our beloved country back into your hands where it belongs? Isn't it time to mobilize the great American lobby and make government understand its job is to wipe out deficits and not let deficits wipe us out?

The price of freedom may be high. But never so costly as the loss of freedom. This is our moment to make our stand, to renew our revolution—the real revolution. We are a nation under God. Freedom is not granted to us by government. It is ours by divine right.

Our purpose is to provide, within a system of laws, the ultimate in dignity and individual opportunity to every American, without exception. Let us accept our responsibilities. Let history record that, when America needed us most, we didn't cut and run.

Leave here today strengthened by renewed faith and determination that we will do whatever it takes to make this government, once again, the faithful servant of the American people.

Thank you very much, and God bless you all. Thank you. Thank all of you.

BALANCED BUDGET—THE TAX LIMITATION CONSTITUTIONAL AMENDMENT

The Senate continued with the consideration of Senate Joint Resolution 58.

AMENDMENT NO. 1931

Mr. HATCH. Madam President, at the request of the distinguished Senator from Maryland, through the majority leader's office, I ask unanimous consent that the Mathias amendment numbered 1931 to Senate Joint Resolution 58 be postponed until such time as the Senator chooses to proceed to the amendment, when no other amendments are pending. This has been cleared with the minority leader as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I have now served nearly 22 years in this body, and for virtually all of those years the problem which we are now seeking to solve has been growing. During that time, we in the Congress, acting with the most honorable and humane intentions, have created a series of spending programs which were doomed from the outset to grow beyond our ability to finance without incurring huge Federal deficits.

I am referring to the entitlement programs, Mr. President, the programs which are designed to provide reasonable standards of living and education and housing to those Americans who are genuinely unable to provide for themselves. Included among these is the provision for supplemental income to retired persons. These are the very programs which prove to the world and to ourselves that we are a caring people.

The problem, however, is with the way in which the enacting legislation was drafted, and the way in which implementing regulations were promulgated and applied. It makes no sense to try to place the blame any more specifically, Mr. President; suffice it to say that the end result has been a series of programs, the rate of growth of which, and the beneficiaries of which, bear little resemblance to what I believe was the original congressional intent.

We have indexed many of these programs by tying them to price indexes which may or may not bear any relationship to the actual costs of living of the beneficiaries. Further, this has led to rates of increase in benefits which, in many cases, outstripped the rate at which the salaries of working men and women were increasing. Surely the Congress never anticipated this situation. No, Mr. President, we abdicated our responsibility to manage the growth in benefits by linking that growth to values over which we had no control.

Further, the Congress failed to adequately define the criteria for qualification for these programs. Rather than establishing strict standards of need, and requiring as much self-help as possible, we spoke in generalities, and permitted the bureaucracy to decide who is entitled to these benefits. We must remember that the bureaucracy is not accountable to the electorate, and has a quite natural tendency to want to increase its influence by bringing more beneficiaries into these programs. Once again, the failure of Congress to make the hard decisions has led to expensive mistakes. Worse, because we failed in the past years to limit the application of these programs to only those in greatest need, we have endangered the solvency of all these programs, thereby jeopardizing the prospects of those who have no choice but to rely upon our assistance.

Finally, Mr. President, we fully removed ourselves from the chain of responsibility by taking many of these programs outside the normal budget process. We made them entitlements, benefits to which qualified persons were entitled, regardless of the budget implications. This, too, was a mistake.

Now we must squarely face the problem. We have not controlled spending. We refuse to vote to even slow the growth in programs which were never intended to grow automatically. We find ourselves faced with the choice of taking almost 25 percent of national income in Federal taxes or enduring overwhelming budget deficits. The correct option of restrained spending seems not to be available without outside pressure.

For that reason, Mr. President, and reluctantly, I agreed to cosponsor Senate Joint Resolution 58, and I shall vote for its passage. It would be far better if Congress could act responsibly without the need for a constitutional amendment, but in my 22 years of experience, I have come to recognize the fact that far too often the majority yields to a transitory concern rather than adhering to sound fiscal policy.

THE BENEFITS OF A BALANCED BUDGET

Mr. ABDNOR. Mr. President, I join my colleagues who have expressed their endorsement of Senate Joint Resolution 58.

Prior to my public service in Washington, I served in the South Dakota State Legislature for 12 years and as lieutenant governor for an additional 2. I was chairman of the Joint Appropriations Committee for 10 of those years. By State law we were required to operate with a balanced budget. This requirement was by no means a burdensome constraint; instead it worked well in assuring very responsible spending. Avoiding a dependence on costly credit resulted in effective fiscal management.

In my 10 years in Congress, I have supported efforts to promote fiscal responsibility and it is my hope that this resolution passes overwhelmingly. However, all Members of Congress must realize that passage of this resolution alone does not assure automatic attainment of its goals.

Achieving fiscal responsibility requires, in addition to simply supporting this resolution, a firm commitment toward sound fiscal management from all 535 Members. In other words, a balanced budget will be achieved with unswerving conviction and discipline.

During the past several decades, poor fiscal planning has resulted in undesirable economic consequences. Financial markets in particular have been affected by uncertainty of heavy debt requirements from ever-increasing Federal Government debt. This diversion of money resources to the public sector, which limits private access to loanable funds and significantly contributes to high interest rates, has caused tremendous hardship on businesses and individuals. Business and personal investment have thus been greatly inhibited, which in turn inhibits not only economic growth but also the improvement of America's standard of living.

If the budget were balanced, the resulting reduction of the Government's reliance on credit would allow large and small businesses, as well as individuals, easier access to financial services. More money would be available for small business ventures, mortgages, automobiles, college educations, research, and development, and other investments which result in increased productivity.

It is clear that the current budget process is in need of some reform. It also is apparent that the public is concerned about Federal spending and is willing to use constitutional means to change the system. A September 1981 Gallup poll showed 67 percent of the American public in favor of this constitutional amendment. With such strong public support, it is no surprise that extraordinary support exists on Capitol Hill for this amendment.

My fear, which I hope is unfounded, is that this unusual bipartisan support represents only a superficial political response without the discipline and commitment necessary for a successful reduction of deficits. Now is the time for a dedicated, meaningful campaign against budget deficits, and not for the empty promises and meaningless rhetoric. I cannot stress enough the serious dedication to reforming the budget process that this resolution implies, and I challenge all Members to devote the necessary effort and determination to achieve the goals of this resolution.

I commend the Senator from South Carolina (Senator THURMOND) for his leadership on this measure and heartily support my fellow cosponsors in

their efforts to win approval. With fiscal responsibility restored, the well-being of all Americans can be enhanced.

Mr. HATCH. Madam President, we are prepared to go forward with amendments throughout this day. Before we do, I would like to clarify a few of the issues which have arisen repeatedly that I think may need some clarification. There are a number of questions continually raised. Let me offer brief responses and further suggest to my colleagues that they review the thorough committee report.

WHAT WOULD BE MEANT BY NATIONAL INCOME?

As used in the proposed amendment, "national income" is a generic term of the annual output of the economy. The Congress may choose to rely on any one of several measures of economic performance, including gross national product, net national product, national income, personal income, and so forth. What would be important is that this economic indicator be used consistently from year to year, or that some transition period accompany the substitution of one indicator for another.

It should be noted that the absolute levels of the national income measure chosen are not an issue in the proposed amendment, only the rate of growth in the indicator. Among the several measures the Congress might choose, the rates of growth are almost identical.

HOW WOULD SENATE JOINT RESOLUTION 58 BE ENFORCED?

The proposed amendment would be enforced primarily through the political processes. As one witness has observed of the amendment, "it would increase the flow of economic information in the political marketplace." Rather than voters having to wade through hundreds of votes cast by their Senators and Representatives each year in order to determine their views on spending and taxing, they would be able to analyze only a small number of key votes.

Further, Members of Congress would be more directly accountable for their decisions since they would neither be able to defer the costs of new spending programs—through deficit financing—nor totally avoid responsibility for imposing these costs—through automatic tax increases.

In addition, Senate Joint Resolution 58 would draw a balance so that Federal courts would be in a position to review only the most serious and unambiguous violations of the amendment but not in a position to review basic day-to-day fiscal decisions better left to Congress and the Executive.

Finally, it would be expected that Members of Congress themselves and the executive branch would seek to abide by the text and the spirit of the amendment, a part of the supreme law of the land. Congress and the President would have the right, the responsibility, and the capacity for developing those detailed procedures and/or mechanisms appropriate to and conducive to enforcing and implementing the various provisions of the proposed amendment, especially the last sentence of section I: Guidelines for developing these procedures would be part of the legislative history of the proposed amendment.

WOULD THE VAGUENESS OF TERMS RESULT IN COURTS BEING MORE DEEPLY INVOLVED IN ECONOMIC POLICY

First, the meaning of such terms is dealt with extensively in the "detailed analysis" of the proposed amendment contained in the report of Senate Judiciary Committee on Senate Joint Resolution 58. This analysis would become part of the legislative history and would control interpretation of the amendment when it is ratified by the States.

Second, Congress would have full power "to make all laws which shall be necessary and proper for carrying into execution" the terms of the proposed amendment, just as it has with other relevant provisions of the Constitution, under article I, section 8.

Third, should a dispute arise before the courts relative to the proposed amendment, any decision only would establish the parameters within which Congress could act. Congress still would retain full control over all aspects of national policy, including economic policy.

COULD CONGRESS AVOID THE RESTRAINTS OF SENATE JOINT RESOLUTION 58 BY SPENDING "OFF-BUDGET"?

No, the proposed amendment would make no distinction between "on-budget" and "off-budget" spending. The term "outlay" is defined in section 5 to include both sorts of expenditures.

COULD CONGRESS AVOID THE RESTRAINTS OF SENATE JOINT RESOLUTION 58 BY GUARANTEEING LOANS?

Temporarily, since loan guarantees do not represent outlays in the year in which the loans are guaranteed, the proposed amendment would not preclude Congress from authorizing such agreements. However, to the extent that a guaranteed loan is defaulted by the borrower, the outlays would come, under the terms of the amendment, in the year of the default.

Irresponsibility in extension of loan guarantees by a prior Congress could face a successor Congress with painful budgetary choices—just as under current law. It would be those irresponsibilities that a successor Congress should face explicitly, rather than the current practice of automatically shifting the burden to the private sector.

Nothing in the proposed amendment would prevent Congress from adopting constructive procedures for dealing with this aspect of spending. If anything, the amendment itself could be constructive in inducing the Congress to adopt long-overdue guidelines and procedures for the Federal "credit budget."

WOULD NOT SENATE JOINT RESOLUTION 58 SPUR CREATIVE ACCOUNTING SCHEMES TO CIRCUMVENT ITS PROVISIONS, THUS FURTHER WEAKENING THE CONGRESSIONAL BUDGET PROCESS?

No, the "legislative history" of the amendment would make clear that all sources of revenue and expenditure are covered by its provisions, including both those "on-budget" and those "off-budget." In fact, the amendment would strengthen the budget process by ending those practices of Congress which now facilitate fiscal irresponsibility.

It would be expected that Congress and the Executive would seek to abide by the text and the spirit of the amendment, a part of the supreme law of the land.

WOULD SENATE JOINT RESOLUTION 58 PRECLUDE CONGRESS FROM BEING RESPONSIVE TO ECONOMIC CONDITIONS?

No, while the proposed amendment would establish fiscal presumptions or norms of balanced budgets and stable levels of outlays and receipts, these norms could be overcome by qualified majorities of Congress.

If the slightly higher majorities for overcoming these norms could not be obtained, there would be reason to question whether or not a consensus existed that violating one or both of these norms was the best response to changing economic conditions.

In addition, Congress would be free to revise its initial statement at any time during the fiscal year. During times of recession, deficits would be tolerated that arose because actual levels of receipts fell below levels planned in the initial or any revised statement.

Madam President, I yield the floor.

AMENDMENT NO. 1933

(Purpose: To require the President to submit a balanced budget for each fiscal year to the Congress)

Mr. FORD. Madam President, I call up printed amendment 1933.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an amendment numbered 1933.

Mr. FORD. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, between lines 12 and 13, insert the following:

"SECTION 1. Prior to each fiscal year, the President shall transmit to the Congress a budget for the United States Government

for that fiscal year in which total outlays are no greater than total receipts.".

On page 3, line 13, strike out "SECTION 1. Prior" and insert "SECTION 2. After receiving the budget required by section 1 of this article, and prior".

On page 3, line 24, strike out "2" and insert "3".

On page 4, line 6, strike out "3" and insert "4".

On page 4, line 9, strike out "4" and insert "5".

On page 4, line 13, strike out "5" and insert "6".

Mr. FORD. Madam President, there has been a great deal of interest displayed in the constitutional amendment for a balanced Federal budget. There is one flaw in this amendment, as I see it. I do not think any of us is opposed to balancing the Federal budget. I do not think our constituents are opposed to balancing the Federal budget. In fact, they are anxious to see Congress balance the Federal budget.

Regardless of whether or not one agrees with the idea of a constitutional amendment requiring a balanced budget, there is still a lot of room for improvement in the proposal, in my opinion, now before the Senate. Even some of my colleagues who are supporters of the measure plan to offer amendments before the measure is brought to a final vote.

One of the most serious flaws with this resolution in its present form is that it calls for Congress—and only Congress—to devise a balanced Federal budget on an annual basis.

Let me repeat that, Madam President: One of the most serious flaws with this resolution in its present form is that it calls for Congress—and only Congress—to devise a balanced Federal budget on an annual basis.

Nowhere is the same requirement imposed on the President—not just the current President, but any President—and I am compelled to challenge this.

Even though Congress authorizes and appropriates funds for the operation of Government, the initiation of spending requests is now, and always has been, a responsibility of the President.

The Budget and Accounting Act of 1921 requires the President to submit to Congress a proposed budget for the next fiscal year. This act also spells out some of the information to be set forth in this submission.

Months before Congress ever begins debate on the budget for a certain fiscal year, the various departments and agencies are at work on that budget. At the President's directive and under supervision of the Office of Management and Budget, these Federal agencies assemble highly detailed budgets, including estimates of expected needs for personnel, supplies, equipment, office space, and the like.

This job is done by experienced budget examiners who usually have been long acquainted with a particular agency and are capable of reviewing its request with a sharp eye for accuracy, economy, and good program planning. It would be risky of Congress not to have the benefit of these experts in the executive branch as to how a balanced budget could best be achieved.

Under our system of government, there must be significant input and direction from the executive branch in terms of exactly what its needs are to carry out its policies and programs. It is also a key link in our system of governmental checks and balances that must not be casually discarded.

For the cause of a balanced budget to be best served, the executive branch must be required to exercise the same amount of fiscal responsibility and restraint as Congress.

There is always the possibility that a President, if not bound by the same parameters as Congress, could submit a budget which included a large and totally unacceptable deficit. If that happened—and it is not farfetched to believe that it could—it would be next to impossible for Congress to comply with a balanced budget constitutional mandate.

One only needs to remember that just this year President Reagan asked Congress to accept a budget that contained a $188-billion deficit. Only after months of debate and deliberation was Congress able to reduce the projected deficit by nearly half. Our job might have been much more palatable and we might have come much nearer to a balanced budget if the original administration deficit had not been so high.

The amendment I am offering to the proposed constitutional amendment would require the President to transmit to Congress a budget where the total outlays are no greater than the total receipts. This amendment represents an important and vital change if the proposed amendment is to be taken seriously.

My purpose is not to dilute the proposed constitutional amendment. In fact, my change will strengthen the prospects for achieving a balanced budget if the constitutional amendment is eventually passed and ratified.

The President is one of the most vocal promoters of a balanced budget constitutional amendment. I would certainly hope he will welcome the opportunity for future holders of that office to remain an equal partner with Congress in the development of a budget.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who seeks time? The question is on the amendment——

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. The majority member handling this constitutional amendment is not here today, I understand. I am informed he is out of town. We are trying to locate another member from the majority side who can come here during this consideration.

In the meantime, Madam President, I ask unanimous consent to place in the RECORD a statement sent out by Senator TED STEVENS, the majority whip, under date of July 8, 1982, that gives helpful information on the consideration of the constitutional amendment.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CONSIDERATION OF A CONSTITUTIONAL AMENDMENT

Mr. STEVENS. Unless superseded by a unanimous consent agreement, the normal rules and procedures of the Senate shall apply to the consideration of a constitutional amendment. Among other things, this means the following:

(1) The provisions of Rule XXII relating to precedence of motions and cloture apply. Usual rules concerning debate and recognition of Senators are in force. Notwithstanding the fact that final passage requires two-thirds of those present and voting, cloture requires 60 affirmative votes.

(2) Amendments offered require only a simple majority vote.

(3) The joint resolution cannot contain both statutory and constitutional changes; therefore, an amendment proposing such a mix would not be in order. An amendment in the nature of a substitute to strike the constitutional amendment and replace it with statutory language would be in order and would require a majority vote.

(4) As indicated earlier, final passage requires a two-thirds vote of those present and voting.

(5) If a Senate passed joint resolution concerning a constitutional amendment is amended by the House of Representatives, it takes a two-thirds vote of the Senate to concur in the House amendment.

(6) Adoption of a Conference Report concerning a constitutional amendment requires a two-thirds vote.

Mr. THURMOND. Madam President, I should also like to say that this constitutional amendment has been on the calendar a long time, and Members of the Senate have had an opportunity to study it. I introduced this constitutional amendment on March 27, 1981, and since then many other Senators have joined. We now have 60 cosponsors, making a total of 61 Senators who are now coauthors of this amendment. It was reported from the Committee on the Judiciary on May 19, 1981, so you can see that this amendment has been available for study and consideration for more than a year.

The amendment, Madam President, really has two parts. The first part provides that the Congress will not be allowed to approve a budget with an expected deficit unless (a) both the House and the Senate approve the

budget by three-fifths vote or (b) in the event of war.

The second part of the amendment provides that Federal tax increases could not be larger than the increase in the Nation's total output of goods and services, GNP, during the previous year.

So, Madam President, the amendment is not a complicated amendment. It is an amendment that I think can be readily understood by all who read it, but we feel that it will get the results that we intend for it.

Now, several Senators have amendments, and we would like for them to come to the floor as soon as possible so we can take up these amendments.

With regard to the amendment that has been offered by the distinguished Senator from Kentucky, I might say that if the President does not submit a balanced budget, he will lose all ability to influence his budget, since under the constitutional amendment, Senate Joint Resolution 58, only Congress will be able to decide budget matters.

We feel that this amendment is not needed. We feel that the amendment is clear and speaks for itself, and that the President will provide the budget as he usually does. There is nothing here to prohibit him from doing so. For that reason we move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to table the amendment.

Mr. THURMOND. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Madam President, what is the parliamentary procedure now? Do I have the floor?

The PRESIDING OFFICER. There is a motion to table pending. It is not debatable. There has not been a sufficient second.

Mr. FORD. So the motion to table is pending?

The PRESIDING OFFICER. It is.

Mr. FORD. Can I speak to it or is there——

The PRESIDING OFFICER. The motion is not debatable.

Mr. FORD. I am disappointed that the Senator is going to move to table my amendment.

Mr. THURMOND. Madam President, I will be pleased to agree to the Senator speaking, if he wishes to speak on the amendment.

I withdraw the motion temporarily if he would like to speak further.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. FORD. Madam President, I thought we would have at least a moment or two to discuss it. I guess the train is already racked up and the engineer has his cap and bandanna on. There is something about that that just does not go down well with me.

I feel if we are going to say that Congress must balance the budget, we ought to get something from the Oval Office similar to a balanced budget. What we have received is a budget from the Oval Office that has a $188-billion deficit. If we cannot get better cooperation under the present circumstances then I think the cooperation must be inserted in the Constitution itself.

It seems ironic to me that those of us that must shoulder this responsibility should not have such cooperation.

I understand why the Senator wanted to move to table my amendment so quickly, but there was not anybody here to give a second. There was not a sufficient second to get a vote on it. It seems to me that if the train is ready to roll, it is perfectly all right to do that. However, if you want to railroad this constitutional amendment through, you may drop a lump of coal off on this one. If some corrections are not made in this amendment you are not going to get the number of votes that are needed to get it passed.

Would the distinguished Senator from South Carolina be willing to answer some questions for the Senator from Kentucky?

Mr. THURMOND. I will be glad to.

Mr. FORD. If the balanced budget is approved by the number of States required to amend the Constitution, how would the indebtedness of the Federal Government be paid off?

Mr. THURMOND. Madam President, this amendment provides—any constitutional amendment provides—that two-thirds of both parties would have to propose the amendment; three-fourths of the States would have to ratify it. It provides that this can be done by the States within a 7-year period. This provides that after it has been submitted to the States and ratified by the States, a 2-year lapse takes place before it will take effect. During those 2 years, Congress is put on notice that the Constitution does mandate a balanced budget; and, therefore, Congress and the President will have to submit balanced budgets.

Mr. FORD. The President would not have to submit a balanced budget under the amendment.

Mr. THURMOND. It is implicit under my amendment that the President would.

Mr. FORD. I do not think it is a requirement under this constitutional amendment.

Mr. THURMOND. Under section 1, it says that Congress and the President shall insure that actual outlays do not exceed the outlays in such statement. We think it is implicit in there. We think the President should submit a balanced budget, and we favor that; and we do not believe anything further is necessary.

Mr. FORD. What the Senator from South Carolina is saying is that the President, under Senate Joint Resolution 58, in its present form, is not required to submit a balanced budget and could leave it to the Members of Congress to take the heat which goes with specific budget cuts and voting against spending increases for some popular programs. Am I correct?

Mr. THURMOND. We think it is implicit in here that the President will submit a balanced budget. We think that is what he should do and will have to do under this amendment.

Mr. FORD. That is leaving it to chance.

Mr. THURMOND. I do not think so.

Mr. FORD. The Senator is saying that the President really does not have to submit a balanced budget. The Senator thinks he should do it and believes he will do it, but nothing in the amendments requires him do it.

Mr. THURMOND. It says Congress and the President shall insure it. What other powers does the President have? He has only two main powers; one is to recommend legislation; the other is to veto legislation. Therefore, if he has to insure it, he will have to submit a balanced budget.

Mr. FORD. He does not have to submit a balanced budget. He insures it when he signs the legislation Congress sends to him. He has to agree to it if it is balanced.

It appears to me that with all the expertise the President has and all the agencies and bureaus budget experts, he should have the integral working ability to submit a balanced budget. He should submit a balanced budget based on these experts' recommendation of what is needed that year.

I ask this of the Senator: If we have a balanced budget from here on, how do we pay off the indebtedness?

Mr. THURMOND. I am hoping that spending will be so reduced that public opinion will rise up and say, "No more." In other words, stop this big spending. The budget has been balanced only once in the last 21 years, and Congress has not had the restraint to balance it. Therefore, I think we have to pass a constitutional amendment to mandate it. That is the only way I see it can be done.

Mr. FORD. I might point out that the Budget Committee of the House, in 24 of the last 28 years, has sent a budget to the House floor that was less than that requested by a President.

Mr. THURMOND. I do not think that is correct.

Mr. FORD. It is pretty close, and I will give the Senator the figures. The Budget Committee submitted to the House floor budgets that were under the budget submitted to Congress by the Presidents of the United States during those periods.

Mr. THURMOND. I think that during those periods, there were Presidents who did not submit a balanced budget and were at fault, I agree with the Senator that the President should have a part in it, and we think this so provides.

Mr. BRADLEY. Madam President, will the Senator yield for a question?

Mr. FORD. I yield.

Mr. BRADLEY. I did not hear the distinguished Senator from South Carolina give an answer to the question of the Senator from Kentucky. The question was this: How would the Senator from South Carolina propose, after a constitutional amendment as envisioned in this resolution, if it passed—how would the Senator from South Carolina envision that the national indebtedness be paid off?

From time to time, we do pass debt limit extensions, and we are in debt now, as a country, over $1 trillion. If we pass a constitutional amendment that says receipts shall be balanced by expenditures, and vice versa, how do we pay off that debt?

Was that the question asked by the Senator from Kentucky? I should like to know if the Senator can answer it.

Mr. THURMOND. Madam President, in response, I simply say that expenditures have to be less than the receipts. I hope Congress will see fit to make the expenditures considerably less, so that there will be enough funds to make a payment on the debt. That is a matter Congress would have to decide.

I think they should make a payment every year on this debt, but I do not look forward to making a payment until we first balance the budget. Once we do that, I believe the payment should be made each year on this debt.

In our military construction bill this year, we had a provision that land that was not needed could be sold and the proceeds would be applied to the debt. We have made that step so far, and I am anxious to see other steps as time goes by.

Mr. BRADLEY. I thank the Senator. I think that does answer the question that was posed by the Senator from Kentucky, who wanted to know how we would pay off the national debt.

As I understand the Senator from South Carolina, he said that each year we would have a surplus that would be applied to the national debt. He also implied that we would sell off public lands in order to get the revenues necessary to pay off this national debt.

I am sure that the Senator from Idaho, the Senator from Montana, and other Senators from States with great amounts of public land will be interested in that proposal, as I am sure all of us are.

I thank the Senator from Kentucky for yielding.

Mr. FORD. Madam President, I would like to ask the Senator from South Carolina one additional question. I know what he is about to do. The Senator from North Carolina is in the Chamber. The locomotive is ready. The engineer has his cap on, his bandanna is around his neck, and we are ready to go down the track.

What happens to the States under a balanced budget? What does the Senator see coming down the path legislatively concerning the States and the Federal moneys that are now budgeted for State aid?

Mr. THURMOND. In response, Madam President, I simply say that Congress, under this provision, is merely mandated not to spend more than is taken in. Of the funds that are available, Congress will determine what funds will go for any program in the States or for any other purpose. Congress makes that decision.

Mr. FORD. I understand Congress makes that decision and that is as good an answer, I guess, as I could get. But I say to the distinguished Senator from South Carolina something is going to happen to the States after the balanced budget amendment is adopted.

The Senator from South Carolina has been a Governor. He has been there. He understands it probably as well if not better than anyone in the Chamber. When we cut off aid that is going to the States, the States will either have to do one of two things: They must either reduce their expenditures or raise their taxes horrendously. That is exactly what I see going on all across the country.

Communities are raising taxes. Taxes are also being increased in the States. Thirty-some odd legislatures voted to increase taxes this past year. Yet we are cutting back on aid to State and localities. Think of the shock that is coming.

What does the distinguished Senator from South Carolina see in the future concerning the help the Federal Government might be giving to the States. Or is State aid going to be eliminated from the Federal budget in the future?

Mr. THURMOND. Madam President, in response I simply say that that is a matter for each State. In other words, Congress has been spending more than it has been taking in and has only balanced the budget one time in the last 21 years. We cannot keep on like we are going. I think the States may have to reduce their spending some also. But that is a matter for the States.

Why should the Federal Government assume obligations that primarily belong to the States?

Mr. FORD. Are the States then going to be given the taxing authority the Federal Government now has? Are we going to reduce our taxes and say, "You pick that up at the local level or the State level we are getting out of that business"?

Mr. THURMOND. President Reagan is trying. He calls it a "New Federalism." He is trying to work with the Governors and mayors now, telling them: "You take certain fields of activities and be responsible for financing them. The Federal Government will take other fields of activities and be responsible for financing that."

In that way, then, the States will know exactly what they are responsible for and the Federal Government will know exactly what it is responsible for.

I think this has been needed for a long, long time.

Mr. FORD. Madam President, I ask the distinguished Senator from South Carolina whether the President has not shifted gears on us in recent days? He now has a new, new federalism on the block.

Mr. THURMOND. It is being worked on continuously until they reach some agreement, I am sure.

Mr. FORD. Madam President, I ask the distinguished Senator from South Carolina: Did the President propose that food stamps and aid for dependent children be in the hands of the States? I do not believe he has changed his mind on that point. Second, the Federal Government will continue to take care of medicaid. Does not the dispensing of food stamps and the dispensing for aid for dependent children trigger medicaid?

Mr. THURMOND. I think President Reagan has in mind maybe that the States could regulate some of these programs better and supervise them better and save a lot of money and prevent such corruption and dishonesty that has existed in the past. It is amazing how much corruption has been in the food stamp program and other programs, and I think he feels the States might be able to administer those in a way that would be helpful.

Mr. FORD. I believe the States dispense and administer the food stamp program now and I believe they are dispensing the aid for dependent children now.

Mr. THURMOND. They are. The Federal Government has provided the funds and the food stamps, and the States have been distributing them. But the States will be more careful how they distribute it once they are liable and responsible for it.

Mr. HELMS. Madam President, will the Senator yield?

Mr. THURMOND. I yield.

Mr. HELMS. Madam President, I might add that one of the problems with the food stamp program has been the regulations, the guidelines drawn up in Washington, D.C. and insisted upon by the food and nutrition service bureaucracy.

I think the President is exactly right. The States certainly know best how to handle this kind of thing, and I say to the Senator that many, many representatives of the States have been before us saying that personally they would rather administer the food stamp program.

Mr. FORD. Madam President, will the Senator from North Carolina yield for another question?

Mr. HELMS. Certainly. The Senator has the floor. I do not.

Mr. FORD. Is it true that the dispensing of food stamps and dispensing of aid for dependent children trigger the coverage under medicaid?

Mr. HELMS. I do not think that is correct. I do not know that either one of them triggers the other. They are interrelated in terms of their implementation which is what I think the Senator is saying.

But if I might inject, with the Senator's permission, the point of all of this is these so-called entitlement programs have been overrunning beyond all reason in terms of costs.

What the President, the Senator from North Carolina, and others have been insisting on is that we cut them down to size and limit them to the truly needy. That has drawn a great many hoots and jeers from those who believe in just letting programs mushroom, grow, continue, and expand. But the truth is that the string has run out on Federal spending, and some discipline must be imposed, and that is the purpose of this constitutional amendment.

Mr. FORD. I say to my distinguished friend from North Carolina that I understand what he is saying and I understand it very well.

Mr. HELMS. I know he does.

Mr. FORD. But what I am referring to is if the States have that jurisdiction. Every time people are put on food stamps, every time people are given aid for dependent children, they are then eligible for medicaid, as I understand it. I would not allow someone else to trigger my expenses is what I am saying. I have consistently voted against increasing the debt ceiling. However some of my friends in this Chamber have changed their minds over the years and have started voting for increasing the debt ceiling. But I have not changed under a President of my party, or this President.

What I am trying to say is that we are shifting expenses to the States under this amendment that are going to be horrendous. They are going to be harsh. And no one is thinking about it. All they are thinking about is big headlines in the paper "We are going to balance the Federal budget." That is not the way it should be done.

We have a few years to get ready. However, there is not one iota of thought of what is going to happen in the States. We do not know they are going to handle this new increase of responsibility. I see it as a copout. I see it as a copout that we are transferring the Federal indebtedness to the States. That is what I see it as.

Mr. HELMS. How does the Senator propose to balance the budget?

Mr. THURMOND. Madam President, this provides 7 years for ratification. It may not take that long. I do not think it will. Then it provides after it is ratified a 2-year period in which the States and the Federal Government will certainly look at this matter and say "Now we have to take action in the next 2 years." The spending has to stop at the Federal level and I think in many cases it has to stop at the State level. The State and local governments have increased tremendously also.

But here at the Federal level we cannot keep on like we are going. The budget has been balanced only once in 21 years and twice in 25 years. We have to take steps to stop this.

If the Senator is speaking about payments, the total outlays for benefit payments for fiscal year 1983, according to the Congressional Budget Office, will be $365.9 billion. Only $40 billion represent benefit payments to individuals made through State and local governments.

I think that is rather significant, pertaining to the question the Senator asks.

Mr. FORD. I am for a balanced budget; I am not opposed to balancing the Federal budget.

Mr. THURMOND. I think the Senator is, and I think he will vote with us when it comes up.

Mr. FORD. The only thing I want is for the President to share the responsibility. I think the President, with all his expertise, with all his background, with all his help, should submit a balanced budget.

Mr. THURMOND. I thoroughly agree with that.

Mr. FORD. Why will the Senator not let me have my amendment?

Mr. HATCH. Madam President, will the Senator yield?

Mr. THURMOND. I thoroughly agree with that, but this amendment takes care of it, just as I stated. In section 1 it provides:

> The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

That means responsibility on both. I contemplate that the President will have to submit a balanced budget and that he would veto any budget that is not balanced.

Mr. FORD. What is wrong with just putting it in there saying that he shall?

Mr. THURMOND. I think it is in there now when they both have to insure it.

Mr. FORD. I wish to have the wording changed then to my wording that specificly requires him to submit a balanced budget.

Mr. THURMOND. If we start rewriting this thing, there would be no end to it. We think it is in here now and it is not needed. If I did not think so, I would certainly favor adding something to make it clear, but we think it is clear now.

Mr. FORD. The only thing I am asking the Senator to do is just take the language that makes it clearer.

The Senator said a while ago the President should submit a balanced budget and he thinks he will, but there is nothing in there that requires him to do it.

Mr. THURMOND. It says he shall insure it.

Mr. FORD. All he has to do is sign it. All he would have to do is sign it.

Mr. THURMOND. The President submits a balanced budget every year and has done it every year the Senator from Kentucky has been here and every year the Senator from Kentucky has not been here and Presidents will continue to do it after the Senator from Kentucky is gone. That is natural. They always submit a budget, and it is not always balanced.

Mr. FORD. That is right.

Mr. THURMOND. But under this they will have to be balanced.

Mr. FORD. We balance it.

Mr. THURMOND. No.

Mr. FORD. Congress balances it. That is what it says.

Mr. THURMOND. If Congress submits a budget, though, that is above the income in my judgment President Reagan if he is there will veto it or any other President would have the obligation to veto it.

Mr. FORD. That is absolutely right, and I say to the distinguished Senator, since this President is so committed to fiscal discipline and that that commitment to fiscal discipline is so well established, I feel he would welcome the opportunity to live up to the commitment he has made to the American people.

Mr. THURMOND. I am sure he will.

Mr. FORD. All right. A first step in that direction would be for him to submit a balanced budget to Congress.

Mr. THURMOND. That is right.

Mr. FORD. All right.

Mr. THURMOND. If he is still President after this constitutional amendment is passed and 2 years have elapsed, he will have to do it.

Mr. FORD. We may well need his leadership, and I hope we can get it, for a balanced budget.

Mr. THURMOND. I think he will still be there for 4 more years after his present term expires.

Mr. FORD. What about 6 years from now?

Mr. THURMOND. He will not be here by then, but then we hope to

have the amendment passed, and whoever is President will be bound by it.

Mr. FORD. You have 7 years to pass it and 2 years to implement it, 9 years.

Mr. THURMOND. That puts everybody on notice.

Mr. FORD. I would hope so. But I will say to the Senator——

Mr. THURMOND. Senator, if you do not get started on this you will never get it. I know the able Senator was Governor of the great State of Kentucky——

Mr. FORD. Commonwealth.

Mr. THURMOND. And operated on balanced budgets.

Mr. FORD. That is right. It dates back to 1894. We have been doing it for almost 100 years. The Congress of the United States has not, and you have to turn it around.

Mr. THURMOND. Exactly, and that is what I want you to help us do.

Mr. FORD. I have been willing to do it but that is what I am asking you to let me help you, but you do not let me help you.

Mr. THURMOND. Oh, yes.

Mr. FORD. All you want is a little amendment.

Mr. BRADLEY. Madam President, will the Senator yield for another question?

Mr. HATCH. I want to say to the distinguished Senator from Kentucky that I support the objectives of his amendment. There is no question that they are consistent with the Nation's welfare, once this amendment—assuming this amendment—becomes effective, having passed the Senate, passed the House, and been ratified by three-quarters of the States.

I think the power of this amendment and the reason it has so much bipartisan support is not only because we are putting politics aside, not only because good Democrats have helped us write it and helped us push it, but also because it does not enshrine these economic judgments into the constitution. The amendment would leave these judgments up to Congress and the President.

From my perspective, every President, once this amendment becomes effective, would want to submit a balanced budget for each and every fiscal year.

On the other hand, there may come occasions when the President, coupled with the Congress, may not be able to submit a balanced budget.

I think the reason this amendment would make a lot of difference is because it is, No. 1, honest. It does not tell Congress what it has to do, or what it can or cannot do. It just says that, if you are going to do it, you are going to have to stand up and vote. If you want a debt suspension or if you want to increase taxes resulting in increased costs of the Federal Government, you must vote to do it explicitly. It does not say you cannot do these things. It just takes away the bias in favor of these things.

Mr. FORD. Madam President, will the Senator yield?

Mr. HATCH. If I can just finish this point. The amendment does not say that you cannot submit an unbalanced budget, if that is the honest thing to do. It is implicit within this amendment, without adding any more language to it, that the President submit balanced budget proposals to the Congress.

The proponents of the measure are arguing against adding language because the more language we add, the more difficult it is going to be to get this matter through the House of Representatives. We hate to add something that is already implicit within the Constitution itself and within this amendment itself.

Mr. FORD. Senator, let me just say this to you—can you hear me?

Mr. HATCH. Yes.

Mr. FORD. It would make it extremely difficult for Congress to vote a balanced budget if the President of the United States did not submit a balanced budget. You know that, I know that, 98 others in this Chamber know that. I think if you have the pressure valve, as we do in this amendment, a three-fifths vote, war, the President submitting a deficit budget could give us reasons for that.

I read in the paper this morning where the administration is saying that it is a farce—a spokesman for the administration, and I will get the paper, an article from the Associated Press, says the balanced budget is a farce, that you cannot balance the budget, we will not have a balanced budget, it is going to be words, just going to be words.

Well, I do not want that onus placed on me and me alone. We need the leadership of the Oval Office. If we are going to be mandated to be honest, as you say, why can we not mandate the President of the United States to be honest, with two exceptions?

Mr. HATCH. Madam President, will the Senator yield? That is exactly what it does. It has a concomitant mandate for the President equal to that for us. We can overrule that mandate only by standing up and voting.

Mr. FORD. We are required to vote.

Mr. HATCH. We can overrule by vetoing his submission. He can do it through rescissions and deferrals and, perhaps, through other methods the President presently has. No powers he has had in the past would be taken away by this amendment. Neither would the President receive new powers.

What he would have under the amendment is ultimate flexibility. What the Senator's amendment does is provide more inflexibility. The President, by necessity, will want to submit a balanced budget. If he honestly cannot, as during an extreme depression or recession, he may have to submit an unbalanced budget. We would have the right to say we are for it or to reject it.

Mr. FORD. It just appears to me that we ought to give the President the same right to send us an unbalanced budget or deficit budget for the same reasons we have, otherwise we will never get a balanced budget.

Mr. BRADLEY. Madam President, will the Senator yield at that point?

Mr. FORD. I yield.

Mr. BRADLEY. I would like to ask the Senator from Utah the question that has puzzled me since this amendment hit this floor, and that is the question of how Congress may deficit-spend, and the amendment says you have to have a 60-percent vote before you are allowed to deficit-spend.

I wonder what the amendment says about the situation that I found last year in one of the programs I have been most intimately identified with since I have been here, the strategic petroleum reserve, when we found out that there were not sufficient dollars in the budget to buy the oil and put it into reserve, and it was because of parliamentary problems and because of inability to transfer from defense to energy to buy the oil for the reserve, at which point I thought we would not be purchasing oil.

But instead I was told by my colleagues, "Yes, we can. We simply put it in an off-budget category and purchase the oil out of the borrowings of the Federal Government."

As I understand the Senator's amendment, the definition of receipts says, "Shall include all receipts of the United States except those derived from borrowing."

So it is possible to deficit-spend by getting a 60-percent vote of the Senate, but also be by simply spending things off-budget and spending the dollars out of Federal borrowings.

Mr. HATCH. I share the Senator's concern about what happened last year, and I voted against that.

The key word here is "outlays," because anything the Federal Government spends, except to pay off the debt, is embraced within the term "outlays" in the amendment. So, in spite of what some of our colleagues have felt is the case, outlays includes off-budget spending.

You would not be able to purchase oil reserves with debt under the amendment except straight up as part of the overall budget outlay problem. And there is no way that that could occur without a vote on it. In this case, it would have to be either a three-fifths vote, if we wanted to deficit spend in order to purchase that oil, or we would have to have a constitutional majority in order to raise taxes to pay for it, or we would have to reduce

spending elsewhere to do it. One way or the other, we would have to stand up, vote, and be counted. Last year we did move to off-budget spending in that category and there was not the concomitant standing up and voting, such as we would have under the amendment.

I might also add that "outlays" is intended to include, according to page 5 of our committee report:

All disbursements from the Treasury of the United States, either directly or indirectly through Federal or quasi-Federal agencies created under the authority of acts of Congress, and either "on-budget" or "off-budget". With certain notable exceptions, outlays are those withdrawals subject to Article I, section 9 which provides that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law". Glossary defines "outlays" in the following manner,

My good friend from California indicated that we could go to off-budget spending. This would not be true, not under this amendment. So you would have to stand up and either vote for more deficit spending or you would have to stand up and vote to increase taxes to pay for it. But you could no longer include it in what we call off-budget spending—spending which, in 1980, approached $21 billion and which this year will be somewhere around $14 billion or $15 billion. This still is way too high, if you count the interest of the taxpayers.

Mr. BRADLEY. If you cannot pay for outlays with borrowing and outlays and receipts must be in balance, for what purpose can one expend the dollars that we obtain for borrowing?

Mr. HATCH. You could spend them for any purpose the Congress determines for outlay purposes; any of them. But if you do, it is going to be covered by the statement.

Mr. BRADLEY. So that you can borrow; you can still borrow?

Mr. HATCH. Sure.

Mr. BRADLEY. To pay for the strategic petroleum reserve?

Mr. HATCH. You can borrow to pay for anything, as long as the total of outlays are no greater than receipts plus the specified deficit approved by three-fifths of the Congress.

Mr. BRADLEY. Let us put outlays over here. We have outlays X, Y, and Z, whatever amount you want. Over here, we have the receipts which is defined as everything except borrowing. That comes down to, let us say, 90 percent of what one outlays for. Then you would simply borrow the other 10 percent.

Mr. HATCH. If you do that, you are going to have to vote with a three-fifths votes. If you borrow beyond the balanced budget limits of the Constitution, it will take a three-fifths vote to do that.

Mr. BRADLEY. So you need a three-fifths vote to borrow up to the level outlays, is that right?

Mr. HATCH. No. If you take the receipt and then the outlays and your outlays exceed receipts, then it will take a three-fifths vote to approve the difference.

Mr. BRADLEY. My question then is: What do you use borrowing for? If it takes a three-fifths vote to borrow the difference between outlays and receipts, my question is: What can you use borrowing for? Why do you not just include borrowing in receipts?

Mr. HATCH. I think maybe the Senator is misconstruing what the amendment says. It says, under section 5:

Total receipts shall include all receipts of the United States except those derived from borrowing.

Mr. BRADLEY. Right.

Mr. HATCH. Borrowings would not be considered a receipt. In other words, you are categorizing that as part of the receipts. It is not part of the receipts. Section 5 continues:

And total outlays shall include all outlays of the United States except those for repayment of debt principal.

In other words, the outlays would have to be less than or equal to the receipts, not including any borrowing or debt repayments the Federal Government makes.

Mr. BRADLEY. OK. Let me state the initial question again. If receipts have to equal outlays, then what do we possibly want borrowing authority for? What will be spending the dollars that we borrow on if outlays equal receipts?

Mr. HATCH. If outlays equal receipts, we would not be borrowing. Right now we are borrowing to pay the interest on the national debt.

Mr. BRADLEY. So we can borrow to pay the interest on the national debt?

Mr. HATCH. Not without a three-fifths vote, if this amendment becomes effective.

Mr. BRADLEY. You need a three-fifths vote?

Mr. HATCH. If you are going to borrow against the credit of the country and that borrowing amounts to deficit spending, it will take a three-fifths vote to do so. You can borrow, but you are going to have to stand up and vote for it. That is what the amendment says.

If you want to increase revenues or receipts through increased taxation, you are going to have to have a constitutional majority on this floor, 51 Senators must stand up and vote for it.

Mr. BRADLEY. So that if total receipts, which are taxes—income, excise, whatever—do not equal total outlays, we then will have to approve, every time the Treasury rolls over its debt, we will have to have a three-fifths vote every 6 months or 3 months that the Treasury rolls over its debt?

Mr. HATCH. No. Since receipts do not include borrowings and outlays do not include repayments of the debt, "rolling over" the debt would not be subject to votes under either section 1 or 2 of the amendment. After all, debt rollover merely is a process of repaying an existing debt with new borrowing.

Nevertheless, if you want new deficit spending, you will have to have a three-fifths vote. Or you have the option, under this amendment, of looking into the spending programs of the Government for cuts that you can make to balance the budget.

You see, that is what is wrong with the system we have now. When I first came on the Budget Committee, we never looked at the receipts, as defined here, or revenues as we called them then. We never looked at those first to determine what are the total revenues that the Federal Government was going to have so we could match outlays against those revenues. We never did that.

We always came up with what we wanted to spend, which was always significantly more than the receipts that were to come in.

Now we would have basically this option. If the receipts are not enough to pay for the outlays we would like to make, then we are going to have a three-fifths vote to make them enough—in other words, to borrow to make them enough—or we are going to have to find the cuts that would have to be made, or we are going to have to have a constitutional majority stand up and say: "Increase taxes to pay for those additional revenues we need."

Mr. BRADLEY. We have a trillion dollar national debt. You are going to roll over—you are not going to pay that off within the next year or two, even if you sell off Idaho and Montana and all the public lands. You are still going to have that debt.

Mr. HATCH. That is true.

Mr. BRADLEY. You are going to have to pay interest on that debt. Now, you pay interest when you borrow from the private market. Are you saying, in order to roll over that trillion dollar national debt, we have to get a three-fifths vote before we are going to be able to pay interest to finance that borrowing?

Mr. HATCH. I am saying that you can borrow without a three-fifths vote to repay the debt.

Mr. BRADLEY. What is interest? Is that not spending?

Mr. HATCH. Let me finish the definition. Repayment of debt is not a shortfall in receipts. Anything else would require a three-fifths vote.

Mr. BRADLEY. Well, I thank the Senator. This is really not cleared up. I hope we will have a chance to discuss it at some greater length, because I think it is fairly fundamental that we do not want to get into a situation where we find we have solved a problem by passing a balanced budget

amendment only to find that we cannot roll over our national debt that we have accumulated over a 20- or 30-year period. I do not think the Senator from Utah wants that, I do not think the proponents of the amendment want it, the people who are in the middle, or the opponents of the amendment want that.

Mr. HATCH. Let me continue the point. That principal is excluded from the three-fifths requirement. You can pay off the debt principal.

Mr. BRADLEY. Where does it say that?

(Mr. GORTON assumed the chair.)

Mr. HATCH. Well, section 5 says:

Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

So debt principal is excluded. So you can borrow, with a three-fifths vote, for any purpose.

Mr. BRADLEY. But you cannot pay interest on it?

Mr. HATCH. Except outlays. Interest is not repayment of debt principal.

Mr. BRADLEY. Interest is repayment of debt principal.

Mr. HATCH. No; I am saying any outlays that are used for repayment of debt principal would not be subject to a three-fifths vote.

Mr. BRADLEY. But if you are rolling over your national debt and you have to pay interest to roll it over, then you have to have a three-fifths vote?

Mr. HATCH. If you are unwilling to pay the interest through the receipts that come to the Federal Government, yes.

Mr. BRADLEY. Mr. President, I do believe this needs further explanation.

Mr. CRANSTON. Will the Senator yield?

Mr. FORD. I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I rise for two purposes: To support the amendment of the Senator from Kentucky, and to oppose the pending amendment to the Constitution.

The amendment of the Senator from Kentucky seems to me to be overwhelmingly sensible. Why should we not require the President of the United States to submit to the Congress a balanced budget for our consideration? The unbalanced budgets that have plagued us for so many years are a result of both congressional and Presidential actions. Any constitutional amendment dealing with the subject should certainly involve the President at the outset as well as the Congress. It is the budget submitted by the current President, Ronald Reagan, that has resulted in the huge, unprecedented, history-making deficits that we now confront in our country.

As to Senate Joint Resolution 58, it is a resolution proposing an amendment to the Constitution altering Federal budget procedures. Senate Joint Resolution 58 is popularly known as the constitutional amendment for a balanced budget. It is worth noting, however, that the formal title of the resolution is far less pretentious. It merely proposes to alter Federal budget procedures.

The formal title also is a more accurate representation of what the proposed amendment actually would do, that is, alter Federal budget procedures. That in itself is strange because there are not any Federal budget procedures established in the Constitution that need altering by constitutional amendment.

Why Federal budget procedures need to be altered by a constitutional amendment is a question to which I have yet to find or hear a persuasive answer.

Any rational legislative body determining a need to alter statutory budget procedures would proceed directly through normal legislation to alter its budget procedures. Clearly, this makes sense as a proper, effective way to proceed.

But instead of following a rational and logical course of legislative action, the Senate has before it a proposed amendment to the Constitution altering budget procedures in ways which are dangerous, impractical, and ultimately, meaningless.

The resolution is a dangerous threat to our Constitution because first, it undermines traditional separation of powers; second, it undermines rule by majority in Congress; third, it enmeshes foreign policy in economic policy; and fourth, it undermines a very basic, fundamental understanding of our Founding Fathers that precise economic and fiscal rules for the U.S. Government would not be incorporated into the Constitution of the United States.

The resolution is impractical because, first it assumes that economic forecasts are accurate and economic measurements are exact; second, it assumes the independent Federal Reserve Board will provide a monetary policy which will accommodate the economic assumptions of the budget; third, it leaves to the winds of chance the failure or success of congressional efforts to meet the resolution's proposed constitutional mandate to balance the budget and to limit taxes; and fourth, it assumes that future Congresses will resolve debates about spending and taxing far more easily than recent experience suggests is possible.

The resolution is meaningless because it fails to assure a balanced budget and it is unenforceable.

I am convinced the vast majority of both parties in Congress would like nothing better than to adopt a balanced budget. I certainly would like to do so. The problem is that if we were to raise taxes and cut spending today to achieve a balanced budget, we would emasculate our national defense and wreck our economy with a ravaging depression.

Ronald Reagan's performance should once and for all have convinced the American people that balancing the budget is not as easy as he made it sound in all those banquet speeches. Ronald Reagan had his chance for a quick budget balancing act and he failed even more dramatically than Jimmy Carter failed.

The fact is that it is going to take time to bring our economy around to where it can thrive and prosper when Government revenues and outlays are equal.

And passing a constitutional amendment requiring a balanced budget is not going to help much. It will be nice to frame and hang on the wall to look at but it will not make the problem go away. It would take at least 4 years for the amendment to be ratified—probably longer—and it may never be ratified even if passed.

We must move toward balancing the budget as swiftly as we can, and we must make it unmistakably clear that we are going to achieve a balanced budget. But it is far more important to get our economy back on its feet. And we can and must achieve that much sooner than the time it would take to complete action on a constitutional amendment. Balancing the budget is only one of the steps we must take to straighten out our economy.

I have stated that this proposed amendment undermines traditional separation of powers. If my colleagues will turn to section 1 of the resolution, there I will read the fourth sentence of that section which states:

The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

The first observation to make about this sentence is that it stands alone without any qualifications or limitations whatsoever. It is an open-ended, unchecked new source of constitutional power. It is there for any President to grasp and use, without check, to take over practical control of Congress power to spend.

Many of my colleagues will recall that we wrote and enacted the Congressional Impoundment and Budget Control Act of 1974 in response to President Nixon's assertion that he had the constitutional authority to impound appropriated funds.

Now we are turning completely around to give to future Presidents the exact constitutional power we denied existed in the Office of President nearly a decade ago.

The mandatory words "shall ensure" by their very forcefulness authorize virtually any action conceivable to

bring actual outlays down to authorized levels.

Regardless of any other arguments, the amendment would create imperial powers in the Presidency which would radically change our system of government. The amendment would make Richard Nixon's dream come true by giving the President authority to cut out funding for any program he does not like without any approval by Congress.

The amendment says:

> The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

But who controls actual outlays—in other words, spending? The President, the executive branch—not Congress. Congress appropriates money to be spent but it does not do the spending, the President does.

Under the amendment, he has the authority to cut actual outlays. And where will he turn? Obviously, to programs he does not like. The Reagan administration has tried to weaken a great number of Federal programs—among them the Environmental Protection Administration and the Coast Guard. If the amendment, as drafted, were part of the Constitution, President Reagan would have the authority to cutoff the EPA and the Coast Guard with no money at all to close their doors completely.

A Democratic President might choose to kill some other program. It is not a question of which programs you like or dislike, the question is whether any President—Democrat or Republican—should have this kind of unlimited power under our constitutional form of government.

There are many ways to act to limit outlays. For example, the President could, under this sentence, impound appropriated funds. He could unilaterally withhold cost-of-living allowances for social security recipients and Federal retirees. He could deny pay increases to Federal employees. He could overturn the judgment of Congress to build weapons systems necessary for the national defense by withholding funds for specific defense programs.

As long as he could hold 41 percent of the Members of one House of Congress on his side he could operate with total impunity do whatever he wishes to do in the name of reducing outlays.

It is possible to foresee a perverse situation in which the President's party would deliberately support unrealistically low expenditure levels in the budget in order to allow him to use extraordinary constitutional powers to control and direct virtually all discretionary spending.

There is absolutely no requirement in the sentence that the President and the Congress act in concert, under checks and balances, as required elsewhere in the Constitution.

The committee report is not helpful in understanding how the powers potentially available to the President and to Congress are limited.

The provision, the report explains, "Is intended to impose upon Congress and the President a mandate to monitor the flow of actual outlays in relation to stated outlays and to take steps as are necessary to prevent the total eventual outlays from exceeding the total of stated outlays."

It further states:

> There is no intention to alter the division and separation of powers now characteristic of the relationship between the Congress and the President.

The disclaimer of any intention to alter the relationship between the President and Congress simply is wishful thinking. The disclaimer does not negate the earlier statement in the report that the Congress and the President are mandated "to take such steps as are necesary."

The committee report also attempts to argue that this provision confers no new authority on the President.

However, the report is very explicit in saying that the President "is expected" to exercise any authority available to him.

The report attempts to qualify the powers implicit in the fourth sentence of section 1 by limiting "authority" to that "presently available to him."

With all due respect to my colleagues on the Judiciary Committee, I do not think this bit of wishful thinking will do.

The language of the amendment is plain; if ratified, it will be part of the Constitution and hence will stand equal with any other source of power granted to the President. Presidents in the past have grasped at any straw in the Constitution to justify their actions, and Presidents will do likewise in the future.

The fourth sentence of section 1 is a very dangerous straw to leave lying on the ground. It will be used, and it will be used in ways completely unforseeable to any of us here on the floor of the Senate today.

Mr. President, some of my colleagues may offer an amendment to this section to assure that the President cannot act without authorization from Congress through appropriate legislation.

Such an amendment would be a very constructive step, but I do not think it completely covers the total risks inherent in the fourth sentence of section 1 of the resolution.

The sentence obviously empowers Congress to enact legislation giving the President a line item veto over spending and tax measures, something now prohibited by article I, section 7, of the Constitution.

Because I disagree with giving the President a line item veto, I am prepared to offer an amendment to section 1 to prohibit Congress from using the language of section 1 to empower the President to circumvent the present veto provisions contained in article I, section 7 of the U.S. Constitution. That provisions of the Constitution requires the President to veto an entire bill, not merely withhold approval of items with which he disagrees.

AN INVITATION TO JUDICIAL REVIEW ON THE BUDGET

The resolution opens judicial review of all actions taken to carry out the mandate of the resolution. Courts could rule on the constitutionality of a budget. Congress could find itself subject to an injunction of a Federal court directing that certain fallacious economic assumptions in the congressionally adopted "balanced statement of outlays and receipts" be revised and the statement accordingly revised.

What is to prevent an angry Member of the Senate or the House from filing suit against the budget on such grounds? Or citizens?

Ordinarily, past experience suggests such suits would not succeed.

In present budget practice, it is a legislative judgment as to what actually will be the level of expenditures and level of receipts.

But Senate Joint Resolution 58 goes beyond mere legislative judgment: the resolution calls for actual, real results.

A court could very well hear evidence on the question of whether the economic assumptions on which Congress based its legislative judgment could possibly achieve the actual results mandated in the Constitution by Senate Joint Resolution 58. Since the constitutional standard must be "actual" results, the traditional deference of the courts to the judgment of Congress must not be assumed.

The parliamentary consequence of a court ruling that a budget statement believed to be in balance actually was out of balance would be very substantial.

A President who attempted to impound funds under his fourth-sentence powers might well find that some citizens group could challenge him in court on the ground that the conditions precedent to his exercise of his powers under section 1 did not exist, that the budget actually was in balance based on an analysis under court-found economic assumptions.

I raise the possibilities of judicial review of the budget process simply to illustrate another way Senate Joint Resolution 58 erodes and weakens the separation of powers and invites future trouble.

It can be argued that the so-called supermajority required to adopt a budget in deficit may very well be necessary under today's sharply and widely divergent views of spending and taxing priorities in Congress. But we

should examine very carefully whether a three-fifths majority to approve a deficit budget should be permanently embedded in the Constitution.

As I have noted, this provision would enable a President who can command only 41 percent of the votes in one House of Congress to exercise a very heavy voice in affairs.

His powers to actually control spending and to veto would centralize more power in the Presidency than now exists. It would alter the balance between Congress and the President presently provided in the Constitution.

The three-fifths rule is going to place a great deal of pressure upon administration budgetmakers and congressional budgetmakers to use fallacious economic assumptions in order to produce a statement of receipts and outlays which will be in balance, at least on paper.

Later in the fiscal year when the actual deficit becomes apparent, Congress will be asked to ratify the resulting deficits via the three-fifths vote rule.

Faced with an end-of-the-year, "all-or-nothing" vote, what will futures Congesses be likely to do? If the past is guide to the future, it is likely the future Congress will be forced to approve the deficit in lieu of raising taxes or cutting spending.

The proponents of the amendment argue that attaining the three-fifths majority will be difficult. Yes, such a vote will be difficult. But it is more likely to be corrupting of the entire legislative and budgeting process in Congress.

A dangerous and critical political impasse and governmental paralysis may result. What happens then? The amendment is silent on this point.

The committee report concedes that the Congress and the President are not compelled to act.

There is no requirement in the amendment that the budget actually be in balance.

So what do we have here?

It appears as if we will have a constitutional provision which can ultimately be safely ignored. Because, in politics as in the law, "impossibility" is a valid defense.

Past experience clearly exhibits a dismal record of nonaccomplishment in budget and fiscal matters.

The basic process of voting on paper budget resolutions has distracted Congress from other very important matters vital to our future safety and well-being.

Perpetuation of our frustrations into the future through a constitutional amendment will not benefit future generations of Americans.

The resolution indirectly will drastically limit the ability of the United States to respond quickly and effectively to any serious international crisis short of war.

Under the proposed amendment, a balanced budget is the constitutional law of the land except when war is declared. This establishes a constitutional link between conduct of foreign policy and the constraints of economic policy.

Many efforts by the United States abroad are controversial at home; peacekeeping forces, patrols, responses to emergencies require expenditures that may be impossible under the resolution.

Do we really want a constitutionally imposed fiscal restraint on our foreign initiatives? The Senate and the people should be clear about what we are doing here if we adopt the resolution before us.

It seems to me to be utterly ridiculous to have one exception in this amendment and to have that exception state that if we declare war, we can have a deficit.

Well, we may want to spend more for national defense purposes that could create a deficit without having to declare war on the Soviet Union or some other perceived adversary.

Senate Joint Resolution 58 assumes that economic forecasts are accurate and economic measurements are exact. Economic assumptions are major factors in determining whether a budget statement is balanced.

The assumptions could prove wrong. The administration did not expect inflation to fall so quickly this year until, unexpectedly, it skyrocketed upwards last month.

The administration did not expect interest rates to remain so persistently high. Such failures of predictability in the economy translate into unpredictability of receipts and outlays.

The effects of incorrect economic assumptions can be enormous.

The resolution ties Federal revenues to national income. During inflationary times Government revenues rise faster than incomes. This basic economic fact would violate the balanced budget amendment.

If unemployment increases 1 percent, that creates a deficit of about $30 billion. If there is a $100 billion shortfall in gross national product, that produces a deficit of about $40 billion.

These are matters beyond the control of Congress and beyond the capacity of predictability.

There is more involved than economic forecasting of the future.

Equally difficult is economic measurement of the past.

The resolution would limit tax increases to previous year's increases in national income.

There are several measurements of national income, but the resolution does not specify which measurement shall be used.

The term "national income" is left undefined.

Measurements of earlier GNP are subject to numerous retroactive readjustments.

Congress will not have actual national income data available when constructing the budget—only estimated national income.

The resolution requires Congress to adopt a statement of anticipated future receipts based on estimated changes in past national income which is undefined.

"National Income" is a statistical concept often revised and redefined.

It is an approximation, an indicator, rather than a fact to be inscribed in the Constitution.

Statistics are meant to serve decisionmaking, not to replace it.

It is foolish, beyond redemption, to enshrine in the Constitution of the United States the most dismal and consistently disappointing feature of economics—the voodoo art of economic prediction.

Mr. President, this amendment if adopted and ratified, will turn out to be a sham.

The amendment permits deficit financing without any requirement that Congress approve deficit financing—notwithstanding the claims of the cosponsors.

Their own committee report refutes them.

The committee report states on page 43:

> . . . actual receipts may fall below planned receipts without requiring congressional or executive action as, for example, when an unanticipated recession caused revenues to decline below expectations during the course of a fiscal year.

That committee report language, Mr. President, is a loophole large enough to accommodate even President Reagan's record-busting budget deficits.

What we have here is a constitutional provision which teaches us this lesson: the answer to any problem simply is never, never, never, under any circumstances, anticipate it.

Could there be a more irresponsible amendment imaginable in the Constitution?

Does the Senate really want to enshrine in the Constitution an excuse for failing to anticipate problems?

Do we want to reward with a constitutional excuse the irresponsible, wildly optimistic economic assumptions built into the Reagan budget proposals?

Senate Joint Resolution 58 answers resoundingly—yes, we do.

That reason alone is ample justification to reject this amendment for what it is, a sham. The amendment will not end deficits.

There is no requirement that Congress obtain necessary revenues to meet "unanticipated" shortfalls which

result from inept, and perhaps fraudulent, economic forecasts.

If "balanced budget" means anything to people the phrase means no more deficits.

Senate Joint Resolution 58 excuses deficits for the worst possible reasons: ineptitude and incompetence.

Planned deficits under the resolution will require three-fifths majority, while deficits due to sloppy planning and wishful thinking are excused.

Mr. President, I ask, what great principle of Government is served by such a result?

Other constitutional amendments protect the rights of individuals, extend the right to vote or deal with government structure.

The only exception was the misguided prohibition amendment.

The balanced budget amendment is like the prohibition amendment because neither amendment states fundamental principles which bind us together as a nation; neither amendment safeguards individual rights; both amendments reflect transitory concerns rather than enduring principles.

The Constitution properly deals with allotment of powers, not rules for economic guesswork.

The action we are being asked to take is unwise. The proposed amendment is unwise. It is unwise to adopt a constitutional mandate whose fulfillment depends upon the future state of the economy considerably removed from the time when Congress approves appropriations and tax laws.

It is unwise to adopt a constitutional mandate whose fulfillment will be affected greatly by events and circumstances that cannot be controlled or foreseen.

It is unwise to adopt a constitutional amendment which gives open ended, unsolicited, new sources of constitutional authority to the executive and to the legislative branch and invites meddling by the judiciary.

It is unwise to adopt a constitutional promise, the terms of which can be conveniently and easily changed by executive or legislative fiat to suit the political exigencies of the moment.

It is unwise to bind the hands of future generations of Americans with a cumbersome and regressive economic constraint needlessly built into the Constitution.

Whatever must be done to alter Federal budget procedures to meet today's requirements and circumstances can be done through prompt and effective statutory enactments by Congress.

Mr. President, I suppose it is incumbent upon me to say at this point that I favor a balanced budget. My opposition to this constitutional amendment does not indicate on my part any lack of recognition to achieve a balanced budget, but I believe we can achieve it more swiftly with better priorities and with more commonsense by action in the Congress together with the President than by seeking to adopt this constitutional amendment, which I suspect will not be adopted and which in any case will take far more time than it will take us if we behave wisely and sensibly to move toward a balanced budget, to make plain we are going to balance the budget and to take whatever steps are necessary to get interest rates down to stop bankruptcies, to stop foreclosures, to reduce unemployment, and to reduce and end the havoc that is being created by the present course of our economy.

Mr. President, I and others will offer various amendments in an effort to improve the pending constitutional amendment in the event that it is to be passed.

I do not accept that it is inevitable, as many assume, that this constitutional amendment will be adopted. I know that there are cosponsors, but I gather that only 57 of them, if that many, are unshakable in their determination that this is a wise move. There are a number of Senators on both sides of the aisle, liberals, moderates, conservatives, whatever, who are presently indicating support for this amendment who really know that it is not the most sensible way for us to go.

I have confidence that as we develop the case against this amendment, as we make statements clarifying its true nature, as we offer amendments to highlight weaknesses in the pending constitutional amendment, our chances of either revising it to the point where it is no longer so obnoxious or bettering our chances of defeating it will be greatly enhanced.

I propose, with my principal partner, the Senator from New York (Mr. MOYNIHAN) also to offer a substitute amendment, which I now send to the desk, although I do not ask for its immediate consideration. This substitute will offer an alternative to the pending amendment and seeks to deal with its most fundamental faults.

I offer that substitute with reluctance. I think it would be better if there were not a constitutional amendment relating to a balanced budget. But if there is to be one, let it be a sound one, which protects social security, which protects veterans benefits, and which takes other steps to insure that we will not paralyze our Government and that we need not declare war in order to spend what need be spent on national defense.

Mr. President, even if the constitutional amendment should pass the Senate—which I by no means concede—there is no certainty that it will pass the House. Beyond that, I am more and more convinced that the States will be having second thoughts, that the States will decide it may not make as much sense as if originally appeared to many State legislators to proceed with the constitutional amendment to require a balanced budget.

What do the States see happening? They must anticipate that the first casualty would be revenue sharing. They must anticipate that other casualties would be other programs that help the States carry their burdens. They must also anticipate that with President Reagan in the White House, there will be a constant effort to shift responsibilities to States, without shifting to the States the capacity moneywise to assume those responsibilities. Thus, I believe that increasingly it will appear to State legislators that this constitutional amendment would create great, great difficulties for them.

I think it will become apparent to the Governors of States in increasing numbers and to citizens of States concerned about State problems.

So let us not assume that this constitutional amendment is on any certain track to adoption. Frankly, I doubt that it is.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Kentucky sat down. He does not have the floor. But I am willing for him to have it. He is going to yield to me, anyhow.

Mr. President, we are all in favor of a balanced budget. In 1980, I implored President Carter to send up to the Hill his top officials—the Secretary of the Treasury, the Director of the Office of Management and Budget, the Economic Adviser—and that we work together, with the leadership in the House and the leadership in the Senate, to come up with a balanced budget.

We had 8 days of meetings in the room just off the Chamber to my right, commonly referred to as the Lyndon B. Johnson Room and those 8 days of meetings included a Saturday and Sunday, and we hammered out a balanced budget.

The first concurrent resolution was passed in 1980, in the month of June, and provided for a balanced budget. However, it is one thing to provide for a balanced budget in a resolution, but it is quite another thing to conclude the year with a balanced budget. The President and Congress, in that instance, felt that they shared the responsibility of developing a balanced budget.

Mr. President, I think this is a realistic way to view the matter. If we are going to have a balanced budget, it is a matter in which the President and Congress share responsibility in bringing it about.

After all, the budget process begins months in advance of the submission of the budget to Congress by the President. The budget cycle begins perhaps 18 months in advance, with the various field offices throughout the United States looking over their programs, perhaps having hearings, conducting studies, and then submitting to the regional offices, and then to the agencies in Washington, their proposals for the budget for the year which is a year and a half down the road.

Those agencies in Washington then go over the proposals that have come in to them from the regions, from the field operations throughout the United States, and those agencies here then revise, if they see fit, those proposals that have come in from the field offices.

Then the agencies go to the various departments of which they are a part, and they present their requests. The departments have an opportunity to go over the proposals and to revise them. Then the departments go to the Office of Management and Budget and make their pitches there.

The Office of Management and Budget goes over the matter, and there may be additional hearings, and it may go back and forth, time and time again, between the departments and the Office of Management and Budget, and it is submitted to the President.

Then it may be kicked back to the Office of Management and Budget, and then parts of it may be kicked back to this department or to that department; and those departments may have an opportunity to be heard in appealing to the President.

So that whole cycle of the budget process begins 18 months in advance of the final year in question. It all begins in the executive branch. It is perfectly obvious that the President has a vital part, working through his executive branch, working through his departments, working through his Cabinet officers and, below them, the sub-Cabinet officials and, below them, the regional officials and, below them, the field operations, the various local operations of the agencies involved.

This is a long, complicated, time-consuming, labor-intensive process. It does not begin the day before the budget is submitted to Congress by the President. It is months in the making.

All of this is to say that the President, through his departments, through his agencies, through the executive branch, has a vital part in the formulation of and the submission of the budget to Congress. The budget is submitted to Congress by the President.

This President, during his campaign, said that he had an economic plan by which the budget would be balanced by fiscal year 1983, if not by 1982. We were then told that there would be a $45 billion deficit for 1982, $23 billion for 1983, and a balanced budget for 1984—a zero deficit.

Then, the President backed away, when he saw that the budget could not be balanced in fiscal year 1984.

Mr. HEFLIN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Not just yet. If I may complete my thoughts then I will be happy to yield.

Mr. HEFLIN. It is for a question.

Mr. ROBERT C. BYRD. Just recently, for example, we passed a budget resolution which provides for $104 billion deficit in fiscal year 1983, a combined total of $248 billion in deficits for the next 3 years, a public debt amounting to $1.3 trillion in 1983, $1.4 trillion in 1984, and $1.5 trillion in 1985. I voted against that resolution—for several reasons, one being that it called for $98 billion in new taxes.

So after the President saw that he could not indeed bring about and he could not hope to achieve a balanced budget in fiscal year 1983, he submitted a budget which called for $91.5 billion in deficits. He later revised that upward to $101.9 billion.

So what we have, in short, is the submission to this Congress by this President of the highest budget deficits in the history of this country. The highest deficit to occur to date was under the Ford administration. It was a $66 billion deficit.

Now we have the highest deficits for the next 3 years that the country will have ever faced and that will make the budget deficit of $66 billion which occurred under President Ford pale in comparison.

So now we find the President urging Congress to adopt a constitutional amendment to balance the budget. That is all well and good. I may or I may not vote for that constitutional amendment, depending upon the contents of the amendment. I wish to see the budget balanced. But we must not escape the fact that we need to balance the budget now, not years away, and that a constitutional amendment requires the ratification by three-fourths of the States, which may take 3 years, 5 years, or 7 years, and that does not do the country any good today. We need to balance the budget now.

So I say that the President, in shifting the focus to the need for a constitutional amendment, should not distract us from the immediate need to balance the budget this year or next year. The country cannot wait years.

The passage of a constitutional amendment is not going to bring interest rates down because we are talking about something in the distant future, something that will go beyond even the term of President Reagan, perhaps even if he were elected for a second term.

The massive deficits that confront this country are making Wall Street and the investors of this country tremble. They are uncertain. They are unsure. They know that when the Federal Government goes out into the marketplace to borrow, it is going to have to compete with the private sector for the limited amount of credit that there is in the savings pool. And this year we are told that the Federal Government will be out there borrowing 75 percent of the net new savings pool, give or take a little bit. So the talk of passage of a constitutional amendment may for a moment divert the attention of the American people away from the administration's immediate problem which is here and with us now, but let us not lose sight of the fact that the problem is here and now and that the present President promised that by 1984 his economic plan would result in a balanced budget. He first promised it by 1983 if not by 1982. Then it became 1984. Then, of course, it was obvious that it was not going to be balanced even then.

So while it is all very well and good that we discuss a constitutional amendment here today—as I say I may very well vote for a constitutional amendment—I wish to see an effective constitutional amendment, one that would effectively bring the budget of the United States into balance. But even with that laudable goal in mind we must not take our eyes off the fact that we need to balance the budget now not a decade away. This President promised to balance the budget now, first in 1983 if not 1982, and then by 1984.

Yet he sends to Congress the biggest deficits that the country has ever seen. We are confronted with historic, monumental, colossal deficits that will make the deficits under President Ford of $66 billion pale by comparison.

So I say that the President shares this responsibility. He shares it with Congress and Congress shares it with him.

I think there has been enough passing the buck. Let us just admit that we both share in this responsibility and it seems to me if we are going to have a constitutional amendment to balance the budget it should be made indubitably clear in that constitutional amendment that the President has the responsibility of submitting to Congress a balanced budget.

Congress does not have the tools and Congress does not have the facilities to go out here and have the field operations of the various executive agencies conduct studies, conduct the hearings, and mediate between agencies and the departments and the departments and OMB and the OMB and the President. Congress does not have those facilities and those tools. All of

those tools and those facilities are in the hands of the executive branch.

And as I say that cycle begins 9 months prior to the submission of the budget for a given fiscal year by the President.

So let us not have any of this business that it is the responsibility of Congress to balance the budget and stop there. It is the dual responsibility of Congress and the President to balance the budget, if it can be balanced.

We are simply attempting to ignore a fact if we do not recognize that that budget cycle begins in the executive branch and begins 18 months in advance of a fiscal year at the very field levels, at the local levels, down at the grassroots. That is where it begins, and it is in the executive branch, not the congressional branch, where the grassroots field operations begin that process.

So, if we are going to talk about a balanced budget, then let us start where it should start—at the beginning, at the local level and the field operations and up through the executive agencies and up through departments and up through the Office of Management and Budget, and so on, and then let the President bear the responsibility of submitting to Congress a balanced budget.

If after having done all that, if there have to be changes, if the budget cannot be balanced, then let us share that responsibility.

So I say that the distinguished Senator from Kentucky is eminently correct and has acted appropriately in highlighting this issue in the context of the amendment that he has offered.

There must be a willingness on the part of the President, not just to travel to the other end of the avenue and stand on the steps of the Capitol on this Hill. There must also be a willingness on the part of the President to share this responsibility from its incipiency. He sets the pace. The budget process traditionally begins with submission of the budget to Congress by the President, but it begins long before that, 9 months prior to the submission of that printed document which comes up here and is brought in this door and turned over to the committees. It begins 9 months before that, and within the executive branch.

The President sets the pace. He leads the way. Some say that the process set forth in this amendment is implicit in the constitutional amendment. Why not make it explicit? It is implicit that the President is the Commander in Chief, but it is also explicit that he is the Commander in Chief.

So I support the pending amendment by the distinguished Senator from Kentucky. I hope that it will be voted up or down and that there will not be a tabling motion.

This is not to say that any Senator does not have the right to move to table. I have talked with the distinguished majority leader and with the distinguished Senator from South Carolina (Mr. THURMOND) in the interest of having an up or down vote. I know it is perfectly agreeable with the majority leader, and I have an impression it is agreeable with the Senator from South Carolina (Mr. THURMOND) but I would not want to make a definite statement to that end because I cannot presume to be absolutely sure about that. But I would hope we would have an up-or-down vote on the amendment. I think it is a good amendment, and I compliment the Senator from Kentucky for proposing it, and I hope it will be adopted.

Mr. LEAHY. Mr. President, I wonder if I might ask the distinguished Senator from Kentucky a couple of questions about his amendment?

Mr. FORD. The Senator from Kentucky, Mr. President, would be delighted to attempt to answer the questions of the distinguished Senator from Vermont.

Mr. LEAHY. Mr. President, am I correct in understanding the Senator from Kentucky's amendment will require that the President submit a balanced budget?

Mr. FORD. The Senator from Vermont is correct. My amendment says that, "Prior to each fiscal year the President shall transmit to the Congress a budget of the U.S. Government for the fiscal year in which total outlays are no greater than the total receipts."

Mr. LEAHY. I thank the Senator from Kentucky. I think that makes a great deal of sense.

If you look at the committee version, Mr. President, it does not require that, the President submit a balanced budget. Under the committee version the President could say "yes" to every single special interest group he wants to no matter what they come in for, whatever amount of money they ask, and say, "Fine, it is great with me," and toss it in the pot and send it up to Congress. He does not have to say "no." The President might then end up with having it both ways.

I would mention just for the Senator from Kentucky's interest, and I do agree with his amendment, that I have a study here, a computer printout which shows, that in the 1983 budget the President has asked for $30 billion in increases. I am not even talking about defense increases now, I am talking about nondefense items. He is asking for increases of $30 billion in over 300 separate accounts. This is the same President who is excoriating the Congress for increasing spending, not even counting his defense spending. He is asking for that $30 billion in increases on top of the nearly $90 billion in deficits that exist because of his faulty economic predictions.

Quite frankly, Mr. President, I think this constitutional amendment does to economic theory what the Tonkin Gulf resolution did to ending the war in Vietnam. It is a fig leaf, it is a smokescreen, and it just does not work.

If we are going to have something that really works, we must require the President to submit a balanced budget.

I would have liked, as the distinguished minority leader, my friend from West Virginia, said, I would have liked to have been able to rely on the President's own statement that he was going to send up a balanced budget. The President said he had a secret plan, during his campaign, to balance the budget. And I recall prior to being in the Senate another President with a secret plan, 4-year plan, to end the war in Vietnam, and then the plan got revised again as he ran for reelection.

But—perhaps, that is what President Reagan is doing now, he is running for reelection, and the secret plan will not evolve until 1985, but I think most of us would like to see it now.

I commend the Senator from Kentucky on his amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Kentucky yield to me so that I may make a correction?

Mr. FORD. I would be delighted.

Mr. ROBERT C. BYRD. The 18-month cycle I spoke of a moment ago begins prior to the beginning of the fiscal year affected, and not prior to the submission of the budget. The cycle begins about 9 months prior to the submission of the budget by the President which, in turn, is about 9 months prior to the beginning of the fiscal year in question.

I thank the Senator.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. EAST). The Senator from Kentucky.

Mr. FORD. Mr. President, there has been a lot of talk this afternoon, and I go back to the statements by the distinguished chairman of the Judiciary Committee, the distinguished Senator from South Carolina, that the constitutional amendment does not mandate the President to submit a balanced budget. However, the Senator says that he would expect him to do so. Well, there are 22 States, Mr. President, I believe that are required by State constitution to have a balanced budget. I happen to come from one of those States, a commonwealth, where they are required to operate under a balanced budget. We also have a requirement that the Governor submit a balanced budget. So there is nothing unusual or untested about submitting a balanced budget.

In fact, in Kentucky it is a biennial budget. You have to submit a budget based on a 2-year projection, but you submit a budget based on 2 fiscal years

and a budget within each fiscal year for 2 years.

I have been proposing that here in this Chamber—in fact, I have an amendment at the desk that will hopefully be attached to the constitutional amendment, saying that we will have a 2-year budget.

Let me say to you, Mr. President, why I think the 2-year budget which I have proposed is important. We are beginning to cut gradually but steadily many of the Federal programs. That weighs heavily on each of our States that has been involved in carrying out Federal programs. If we are going to continue to cut education and other valuable programs across the board, why not give the States some lead time? Why not let our States and our counties and other local communities know what they can expect over a 2-year period? That would allow them to spend their dollars better. How would you like to be down there in one of the States, how would you like to be Governor operating under a budget on a 15-day continuing resolution? He does not know how to plan. Then we have another continuing resolution which says 45 days, another one 90 days, and now we are on a continuing resolution until September 30. We cannot even get a long-term budget so that our States can plan with some certainty.

Why not ask the President to submit a balanced budget with his views and estimates, just as the distinguished minority leader said? The Executive starts a lot earlier than we do. They have more people, more expertise, more time to work on a budget. Yet we are saying to them, "If we do not pass my amendment they do not have to submit a balanced budget," and we do. If not, we have to vote by a three-fifths vote to offset or to have a deficit budget.

I think we need the leadership, I think we need the help and support of the President of the United States in tackling this balanced budget.

This year we were sent a budget that was approximately $188 billion out of sync. If this constitutional amendment were on the books we would have to cut $188 billion, and whom would we cut and from what would we cut?

Mr. President, I intend to ask and request the distinguished floor leader that we get an up-or-down vote on my amendment and, hopefully, that will be granted.

Mr. President, I yield to the distinguished Senator from Arkansas (Mr. BUMPERS).

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I rise to support the amendment of the Senator from Kentucky for a very simple reason, it makes eminently good sense.

But, I would like to ask my colleagues what is sacred about the amendment as it is presently written? I could remember not very long ago when there were 20 different amendments floating around the Congress to balance the Federal budget. The reason there were 20 different ones was that there were 20 different ideas on what the amendment ought to say.

Balancing the Federal budget ought to be the legitimate, overwhelming goal of every Member of the U.S. Senate. Of course, the reason it has not been done in the past is because Congress has not been able to discipline itself and because Members of this body and Members of the House have divergent views on Federal programs.

Some people never saw a defense budget too big to swallow and some never saw a defense budget small enought to accept. Some people never saw a social program that they could force themselves to vote against and many others never saw a social program that they could stomach. So you have 100 Members of this body and 435 Members in the House who never can seem to get their interests to coincide and mesh to the point that we can announce to the American people that we have suddenly broken out in a spate of responsibility and produced a balanced budget.

If the intent of the proponents of this amendment is to say, "We will not accept any amendment," then a goal which is laudable and a concept which I strongly support may not receive my vote on final passage.

I know the majority party in this body, if they just want to exercise the discipline on their side will defeat every amendment.

But I want everybody to know that we are tinkering with the document that to me is right next to the Holy Bible, and that is the Constitution of the United States. People of this great Nation, in their infinite wisdom, have seen fit to only tinker with the Constitution 26 times, and then only after extensive debate.

I do not believe we have many Jeffersons and Madisons and Franklins in the U.S. Senate today, but I do think we have some very sensible, thoughtful, concerned people here, who want a balanced budget. But they do not want a balanced budget that is adopted for purely political or ideological purposes. And, they want a balanced budget amendment that makes sense and will make some sense to the American people.

When the debate on the original Constitution was going on, Thomas Jefferson did not say, "You are either going to adopt it the way I want it or we are not going to have a Constitution."

Go back and read the Federalist papers. Study the debate on how the Bill of Rights was adopted. Study those lengthy, brilliant debates on freedom of speech, freedom of religion, freedom of the press, and unlawful searches and seizure.

Mr. HATCH. Will the Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. HATCH. I would like to point out to the Senator that this effort has taken 5½ years. We have worked with countless Members of the Congress. We have kept the process open and have worked with every Member of the Senate who expressed interest. We have sifted through 45 different amendments or more to the Constitution on the issue of the balanced budget. And we have explored one proposed amendment to Senate Joint Resolution 58 after another, some quite meritorious.

Mr. BUMPERS. Do I have the Senator's commitment that he will vote for some of those?

Mr. HATCH. Let me finish, if I may. I have no doubt that there may be some very exemplary amendments brought forth during this debate.

Senator CHILES and Senator DOMENICI have come up with a series of amendments that they feel are correcting amendments. We are doing everything we can to see if there is some way we can reach an accommodation. We are hopeful we can do that.

But, the amendment advanced by the distinguished Senator from Kentucky basically says that the President, regardless of what the facts are, under all circumstances, bar none, without exception, has to submit a balanced budget. That presumes even though he cannot, even though the facts require otherwise, even though the country may need to have a deficit.

Now the amendment sounds good on the surface, but if you start to examine it, this amendment would impose upon the President of the United States the requirement to submit a balanced budget no matter what the situation is. That is not the way the Constitution should operate. That is not the way the President should have to operate. If, in fact, he honestly has to submit a budget, because of economic difficulties, that is less than a balanced budget, he ought to be able to do that.

The distinguished Senator from Kentucky, whom I admire, says, "Well, if he has to do that, then he ought to give the reasons why he is doing that." That is right. Well, I think he will under the present language. In other words, it is implicit within this balanced budget amendment that the President is going to do everything he can to submit a balanced budget.

And, incidentally there is nothing in the Constitution that requires the President to submit any kind of a budget.

Mr. BUMPERS. But he does.

Mr. HATCH. I agree.

Mr. BUMPERS. I have been here 7½ years, and the President has submitted a budget every year since I have been here. So what is wrong with putting in this amendment that he will submit a balanced budget each year?

Mr. HATCH. I agree that he does. And I do not think it is bad that he does. I think it is good that he does. But what is wrong is locking him into presenting a balanced budget even though he cannot. In other words, he has to be dishonest to submit a balanced budget even though he realistically cannot.

Mr. BUMPERS. Why not have the President dishonest? You are asking the Congress to be dishonest under your rationale. Why should the President not lead the pack in being dishonest?

Mr. HATCH. What we are saying is, "You can do whatever you want to do in the way of fiscal policy, Congress. You can either balance the budget or you can increase deficit spending, or you can increase taxes. But, by gosh, you are going to have to stand up honestly and vote to do it. And if you increase deficit spending, you have to have a three-fifths vote to do it. If you want to increase taxes, you have to have a constitutional majority of the whole body."

Mr. BUMPERS. Section 1 begins:

> Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are not greater than the total receipts.

Mr. HATCH. That is correct.

Mr. BUMPERS. Now if that is not calling for a balanced budget, I do not know what it is. It goes ahead to say that Congress may amend that statement, but under your theory and under your logic Congress has got to adopt a balanced budget even though it is a gigantic lie. Under your amendment it is all right for Congress to adopt an unrealistic budget, but you do not want your President to do it.

Mr. HATCH. If the Senator will yield, that is not true. Congress does not have to "lie." Congress does not have to submit a balanced statement of receipts and outlays. Congress may submit an unbalanced budget, but if it does it is going to have to vote to do so. That is the difference.

The President ought to have an equal right to do that if he wants to. I cannot imagine him, if he submits an unbalanced budget, not stating the reasons why, when this amendment is on the books. Not only have we as Members of Congress taken an oath to uphold the Constitution, but so has the President of the United States. The Ford amendment would lock the President in to have to submit a balanced budget even if he cannot do it honestly.

Mr. BUMPERS. Why can the President not do it and Congress can?

Mr. HATCH. I do not understand the question.

Mr. BUMPERS. What is the logic? You say what this amendment would do would be to force the President to submit a balanced budget when he cannot. Now if he wants to submit a balanced budget under the terms of the amendment of the Senator from Kentucky, he can say, "I am complying with the Constitution by submitting a balanced budget, but I don't believe that this is in the best interest of the country. I am going to ask Congress to make some exceptions here." That is fine with me. But what you are saying is if the President cannot, because of some extraordinary circumstances that exist at that time, either in outlays or receipts, we should not put the burden on him of submitting us a balanced budget. But, in the first sentence of section 1 you are perfectly willing to put that kind of an onus on Congress. I do not understand that reasoning.

Mr. HATCH. If the Senator will yield, we are not saying that he has to submit a balanced budget, but it is implied that he does. It is implied that he will. It is implied that he will work for a balanced budget. But it is also implied, if he honestly cannot, that he submit what best he can.

Senate Joint Resolution 58 states that Congress, shall "adopt a statement of receipts and outlays for that year in which total outlays are not greater than total receipts." It proceeds, however, to say that Congress may "amend such statement provided that revised outlays are no greater than revised receipts" whenever three-fifths choose to do so.

Mr. BUMPERS. I do not know, maybe I am not tuned in. Let me go through it again. As I understood the Senator a moment ago, he said that it was unfair to put the onus on the President on submitting a balanced budget to Congress when he could not. First of all, let us explore that for a moment. You tell me the circumstances that you envision that would prohibit the President from submitting a balanced budget to the U.S. Congress.

Mr. HATCH. War, recession, severe depression, any number of circumstances.

Mr. BUMPERS. In that same recession, same depression, same war, would that prohibit the Congress from not adopting a balanced budget?

Mr. HATCH. That is correct.

Mr. BUMPERS. Why put the onus on us saying that we have to tell the people a lie?

Mr. HATCH. Because, under article 1 of the Constitution, the Congress has that responsibility. We are the people who have to appropriate from the public Treasury.

Mr. BUMPERS. But why have this proposition that he is going to give the people a balanced budget? He ran on that platform. That was the whole thing. He did not say, "Congress will give you a balanced budget." He said, "I will give you a balanced budget."

Mr. HATCH. I think he understands that it emerges from the Congress.

Mr. BUMPERS. Later in section 1 of your amendment, you put the onus on him and the Congress both. The last sentence states that—

> The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

You are putting the onus on the President after the fact. Why not let him come in on the front end and be a partner with the Congress and try to achieve a balanced budget?

Mr. HATCH. Well, I think he will, as a matter of fact. I think that is implied in the amendment and I do not see how anybody could not see that.

Mr. BUMPERS. Let us put it into the amendment and get this show over with.

Mr. HATCH. If Congress has a balanced budget requirement and the President submits something other than a balanced budget, unless he can make out a good case, there would be difficulty for him. Senate Joint Resolution 58 provides flexibility for Congress; the Ford amendment would not provide comparable flexibility for the Executive.

Mr. BUMPERS. He should be honest and Congress should not? Is that the rationale?

Mr. HATCH. Of course not. But let us not overlook, however, the fact that it has been Congress that, for 22 of the last 23 years, has failed to balance the budget; we are the ones who legislate these bills, and who appropriate the moneys. We are the ones who have been borrowing against the credit of the economy of our country. We are the ones who have allowed automatic tax increases through inflation. We are the people who have done it.

Article I, section 9 of the Constitution states:

> No money shall be drawn from the Treasury, but in consequence of appropriations made by law—

Laws made by Congress. That is not something that the President is charged with. That is Congress responsibility.

Mr. BUMPERS. Would you favor striking the reference to the President on line 21 to say, "Congress shall ensure that the actual outlays shall not exceed the actual outlays set forth in such statement"?

Mr. HATCH. No. The President has a legitimate role in this process.

Mr. BUMPERS. Why are you trying to take that role away from him?

Mr. HATCH. We are not trying to take it away. He has a right to operate within that role. The President has a right to veto. He has a right to do a va-

riety of things. There are all sorts of things the President can do under present law and under the Constitution.

Mr. BUMPERS. OMB is part of the executive branch. Would you agree with that?

Mr. HATCH. Yes.

Mr. BUMPERS. And OMB is working on budgets 2 years down the pike right now in order to submit them to the President.

Mr. HATCH. I hope they are.

Mr. BUMPERS. I hope they are, too. Let me ask something else. With all the resources the President of the United States has at his disposal, including OMB, to tell him what outlays ought to be, and giving him the revenue projections; with all those resources and without a requirement for the President formally, every year, just by a tradition and precedent coming over here and submitting a budget to us every year, why should he not continue doing that? You are not going to take that away from him, are you?

Mr. HATCH. No; I think he should submit a budget, but an honest budget. If you lock into the Constitution that he has to submit a balanced budget bar, no circumstance, you are requiring the President to submit, on occasion a dishonest budget. That is clear.

Mr. BUMPERS. You mentioned a while ago that no money shall be spent except by appropriations from the Congress. Would you agree with me that there is also written language in there that says exactly the same thing, that no money shall be appropriated, which has been appropriated by the Congress, vetoed by the President, and not overridden by two-thirds of the Members of the Congress? Do you agree with that?

Mr. HATCH. I think so.

Mr. BUMPERS. That is true, is it not?

Mr. HATCH. That is why we want to keep the President involved, because he does have that responsibility.

Mr. BUMPERS. Do you think the whole thing tilts a little in his favor because he has the veto power?

Mr. HATCH. I think that certainly is important authority.

Mr. BUMPERS. You do not think the President gets enough with the veto power over expenditures by this body?

Mr. HATCH. That is the way the system works. We have the right to override. If we do not have the two-thirds vote, we cannot override.

Mr. BUMPERS. Just a minute, Senator.

Under section 1 of this proposed resolution, you say the President and the Congress shall insure that outlays do not exceed the outlays of the statement. If it requires a simple majority to raise taxes, a 60-percent vote to amend that so that we have a deficit, but a two-thirds vote to appropriate money for anything the President does not want, do you not think the President has the upper hand under this?

Mr. HATCH. Let me say this: First of all, it is not merely a simple majority to raise taxes; it is a constitutional majority. Fifty-one Senators, for example, would have to vote to raise taxes.

Mr. BUMPERS. Forget that, that is not really related here. I am talking about appropriations.

Mr. HATCH. That provision is basically an enforcement mechanism. This would obligate the President to exercise whatever powers of which he is possessed in behalf of the objective established in section 1—the reconciliation of actual and planned outlays.

Mr. BUMPERS. He is the leader of this country. He is the one to whom we look for a balanced budget. He is the one whom the people of the country expect to keep his promises, he is the one accountable for those promises and he is the one who has submitted this budget.

I think the timing is rather sad. It reminds me of someone saying, "Stop me before I kill again." Here he is, submitting a budget that is a half trillion dollars in deficit, and then sending a constitutional amendment over here to say, "Stop me, I am out of control."

Mr. HATCH. In this budget process, the President has the right to veto as well as other rights.

It has not been the President of the United States who has brought about our present deficit level. He could not even move without the Congress of the United States. We—the Congress—have done it to this country for 45 of the last 51 years. In fact, during the last 15 years, we have tripled the national debt. That is without Ronald Reagan. It is also without Jimmy Carter or Gerald Ford or Richard Nixon. We are responsible for it. This amendment recognizes that we are responsible for it, that we can clean up our house and do what is right. What we are going to do is get rid of the basic spending bias in favor of a bias of balancing the budget.

That is what we are trying to do in this amendment. If we clutter up the amendment with language that is already implicitly there, it would be harmful to this amendment.

I am not against all amendments, but we cannot write it like a statute.

We spent 5½ years coming up with this amendment. It is a consensus amendment. We have listened to people all over this body—all over the Senate, all over the House, all over the country—and come up with this amendment. We have both Republicans and Democrats who have led this effort. It is a consensus amendment.

Mr. DOMENICI. Will the Senator yield for an observation?

Mr. BUMPERS. I believe I have the floor.

Mr. DOMENICI. Will the Senator yield?

Mr. BUMPERS. Yes; I yield.

Mr. DOMENICI. Let me suggest, on the issue of whether or not the President of the United States should submit a balanced budget that we have the responsibility to have a balanced budget unless we have had the emergency such as is stated in this Constitution or unless 60 Senators want to vote to the contrary. That, in and of itself, should be reason enough not to adopt the suggested language. Unless you then are going to say, he shall submit it unless—unless you do not have the emergency that is prescribed. How are you going to get the President's input for a situation which might justify the 60-percent vote for a deficit by saying he shall submit a balanced budget anyway?

I do not know that I agree with the Senator's use of the words "honest" or "dishonest." That appears to me to be irrelevant. The issue is that, from time to time in the history of the United States, a President might submit one that is not in balance.

Why? Because we are at war. That is prescribed right here. Or he might be saying, "This is the year I want 60 of you to vote for an unbalanced budget and I tell you why. In the document I just sent you, I explain it."

Aside from that, Mr. President, the Congress is going to prescribe by legislation how this balanced-budget constitutional amendment is implemented. The Senator knows that, right now, we tell our President what kind of budget to submit. We tell him when to submit it. We tell him when to do a midyear review and tell us about it. I think we are going to do that also if and when this constitutional amendment process is created.

We may very well choose to say to him by legislation, "Mr. President, you are going to send your budgets up here and this is what they are going to look like."

He is going to have to do that. There is no need to say he must send a balanced budget up. First of all, we are going to have to qualify it and say, "Unless in your good judgment, Mr. President, you don't think we ought to have a balanced budget because you are going to ask Congress to have one this year." What do you want to write that for in your Constitution? That is as implicit as the 60 votes required to overturn it.

Mr. BUMPERS. Mr. President, I have listened very patiently to my friends. In 1979, on March 27, when the poor Democrats were in the majority, there was an amendment offered in the U.S. Senate. And the Senator

from New Mexico and the Senator from Utah and the Senator from South Carolina and the Senator from North Carolina and the Senator from Virginia and the Senator from Kentucky and yours truly all voted for it. Here is what that amendment said:

If a budget which is transmitted from the President to the Congress under section 201 of the Budget and Accounting Act would, if adopted, result in a deficit in fiscal year 1981 or in fiscal year 1982, the President shall also transmit alternate budget proposals which, if adopted, would not result in a deficit.

It goes on in section 3(c) to say:

Alternate budget proposals for a fiscal year transmitted under this subsection shall include a clear and understandable explanation of specific differences between the budget and his alternative budget proposals.

Now, why was that such a great idea to 79 Senators in 1979, including every Senator who sits on the floor right now, and now it is not a good idea? Will the Senator explain that?

Mr. DOMENICI. It is very simple, Senator. That was a statute, not a constitutional amendment.

Mr. BUMPERS. Well, we have had statute after statute here that called for a balanced budget, too, that called on a President to submit a balanced budget. Now you have decided this has to be embodied in the organic law of this country, but somehow, you can leave out one of the partners who has always been included before, namely, the President of the United States. Why is that?

Mr. DOMENICI. I do not think we are leaving him out. Let me say to the Senator, so he will know, that language was adopted as part of the debt limit bill and the President of the United States complied with it. If the Senator thinks that a mandate that he submit a balanced budget is going to be so important, President Carter sent the budget up and it has his best judgment, which was about 596 pages. Then it has his alternative that that statute required, and you could hardly find it. It was in the appendix and said "alternate budget balanced."

So he put his numbers down, which the statute said, and it did not amount to much.

Mr. BUMPERS. It might not amount to much in the future, but why eliminate the principle? I thought we had three branches of the Government and the two the country depends on to lead it are the President and the Congress. If we overstep our bounds, we depend on the courts to tell the Congress and the President they have overstepped their bounds under the Constitution.

Why not put it in there? I am not seriously saying that I want to put the amendment that the Senator and I both voted for in 1979 into this constitutional resolution. All I am saying is, if it was good then, why is it not good now? Why should not the President be a partner in this?

How many members are there on the Committee on the Judiciary?

Mr. HATCH. There are 18 members, Mr. President.

Mr. BUMPERS. There are 100 Members of the U.S. Senate. That means 82 of us did not participate in those deliberations.

Mr. HATCH. That is not true, Mr. President. There were many more Senators who did. There were some 30 additional Members in the Balanced Budget Caucus alone, who participated. Every Senator was invited to this.

Mr. BUMPERS. Does that mean that all the rest of us who did not, 50 or 60, are cut off?

Mr. HATCH. If they are good amendments, they have to be considered. There is no question about that.

Mr. BUMPERS. We are here to offer amendments and to correct and improve on laws submitted to this body by Members, are we not? We need to have these amendments seriously considered.

Mr. HATCH. They will be, as will all amendments, so long as the Senator from Utah has any influence. Let me stress that we have certainly not failed to consider all suggestions to this date; there have been a wide variety of Senators and Representatives who have been involved in these negotiations and in the development of this consensus amendment.

The distinguished Congressman from New York and the distinguished Congressman from Georgia, BARBER CONABLE and ED JENKINS, our House leaders have indicated to me, since we have worked so hard on this development and since it is going to be difficult to get this through if we amend it too much, that we ought to try and deter amendments as much as we can, even though they admit that there may well be some good amendments which may arise. I believe there may be some good amendments. The question, however, is: Are we going to have a balanced budget amendment to the Constitution come out of the Congress this year or not? According to our House leaders, if we amend this very much, we are not going to have a balanced budget amendment come out this year.

Now, this is a historic opportunity. This is the first time in the history of this country that a balanced budget amendment, which is supported by 70 to 80 percent of the people in this country, has come to the floor of either body for serious consideration. If we pass it on this floor, which may or may not happen, I believe it will pass on the floor of the House of Representatives if it is not amended with every amendment that is proposed here througout the debate, some of which may be meritorious and some of which may not be.

We have come up with what we believe is a consensus amendment. We believe it has wide bipartisan support. We believe it is a good amendment, a simple amendment. We know that it does not write economics into the Constitution but allows the Congress to make the choices that Congress has to be able to make, but it does remove the present spending bias in the political system.

That is why we are trying to get this matter through, and that is why we are asking for cooperation from Members of the Senate in understanding the dilemma.

I might also add that we know that there are a number of Senators, quite frankly, in this body, who will never vote for a balanced budget amendment, no matter what we do, who have no desire to vote for a balanced budget amendment, who want to continue the process as it is, and who will try to amend for the purpose of causing it to be more difficult to pass in the House.

We have that. The Senator knows that. Even if the House can accept the Senate amendments, we have to go to 50 States for ratification and must receive three-quarters ratification in order for this amendment to become part of the Constitution.

Those are not insurmountable burdens but they are difficult ones; we do not want to disrupt the consensus that has taken so long to build, with so much effort, and so much work on the part of everybody concerned. That is one reason why we are reluctant to accept amendments to this particular resolution.

Mr. FORD. Mr. President, will the distinguished Senator from Arkansas allow me to ask a question?

Mr. BUMPERS. I yield to the Senator from Kentucky for the purpose of asking a question of the Senator from Utah.

Mr. FORD. I thank my distinguished friend.

Mr. President, I ask the distinguished Senator from Utah, are you going to accept the amendment to Senate Joint Resolution 58, the balanced budget constitutional amendment, as requested by the administration where in section 3 it says that in case of war it is too stringent and they want Congress to waive the provisions of the article for any fiscal year once a declaration of war is in effect or there is an unforeseen, imminent threat to national security? Is the Senator going to amend the resolution to comply with the administration's request?

Mr. HATCH. I cannot speak for the distinguished Senator from South Carolina but——

Mr. FORD. The Senator is speaking for the majority now.

Mr. HATCH. If I have my way the answer would be "no"; we will not accept it. The answer is no.

Mr. FORD. The Senator is going to vote against it.

Mr. HATCH. I have told the administration that. I said, "We do not want your amendment up here on the floor because this is a consensus amendment. It is bipartisan. We are proud to stand with our Democratic colleagues. Neither side deserves more credit on this matter than the other. We want to pass it as a bipartisan amendment and we are not going to accept it if we have it my way." I may not have my way of course.

Mr. FORD. Some imminent threat to national security is too loose; you want to tighten it. I thank the distinguished Senator for yielding.

Mr. HATCH. In my opinion that is a loophole.

May I add one other comment that I think might clarify the discussion?

We are particularly loath to take amendments that really do not add anything substantively to this amendment; they clutter it up with words that literally do not add one thing to this amendment. The amendment of the distinguished Senator from Kentucky does not add a thing as far as I am concerned.

Mr. BUMPERS. Does the Senator know whether or not he is going to vote for any amendment that is offered to this amendment?

Mr. HATCH. I cannot say as I stand here that I will not vote for any, but as of right now, unless we can put the Domenici-Chiles proposals together in language that will be compatible to this amendment—and we are working to try and do that to accommodate these Senators—I probably will not vote for any amendments even though I think some of the amendments may be positive.

Mr. BUMPERS. The Senator would not vote for an amendment that he thought was very good?

Mr. HATCH. No. The reason, however, that I might be reluctant to do so is that this is a consensus, bipartisan amendment which I think is sound as it currently stands and will pass not only this body but the House of Representatives and the 38 requisite States.

Mr. BUMPERS. Would not an amendment passed by 51 Senators be a good bipartisan, consensus amendment? If the Senator received some bipartisan support on this side, if we had 30 Republicans and 21 Democrats vote for an amendment, would that not be a good consensus, bipartisan amendment and would not the Senator feel rather bound to accept it?

Mr. HATCH. Let me say this: I will personally keep an open mind to all good amendments. I do not determine whether they pass or whether they do not. All I can say is that I would prefer to keep the amendment basically intact because I think it is a sound amendment.

Mr. BUMPERS. I ask the Senator——

Mr. HATCH. This particular amendment is the issue now. I cannot support it because it specifically is not a good amendment; I think I have explained adequately here today why I do not think it is a good amendment.

Whether I have been persuasive or not is another matter; I do not, however, feel it is a good amendment. I feel it would clutter up Senate Joint Resolution 58 in a way that will not be helpful to the amendment either in passing the Senate or in passing the House, and certainly not in getting 38 States to ratify. That is the reason I am against this amendment.

I am concerned about the administration amendment for the same reason that I am concerned about the Ford amendment. I think it is superfluous, and since it is superfluous there is no reason to vote for it.

Mr. BUMPERS. I am not trying to derail the constitutional amendment. I do not know yet how I am going to vote on final passage. The way I vote on final passage is going to depend to some extent on what happens during the debate and what, if any, amendments are adopted. The Senator has said categorically, and I think rather presumptuously, that this is a bad amendment. It is a bad amendment to the Senator from Utah. But, I was appalled when I read this amendment and found out that the President of the United States was missing from getting the opportunity to participate.

I could not believe that the President of the United States bears none of the political onus, none of the economic onus. It is up to the U.S. Congress to stand up and be counted if you want this budget to be in deficit, not the President of the United States. I am not even saying he should stand up and be counted. I am saying that he should be a partner in this whole process.

He submits a budget to us right now, and I see no reason why, in the future, he would not continue to do it.

If you are going to ask 60 Members of the U.S. Senate to put their political lives on the line by saying we are going to vote for a budget that is not in balance, why should the President not bear some responsibility?

I am not suggesting that any of this is political, but I will say this: Keep in mind that Ronald Reagan is not going to be President forever. But why should you and I have to stand up in time of war or anything else——

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BUMPERS. That is not a good example.

Let us assume that we have a 9.5-percent unemployment rate. Let us assume that we have 12 million people in this country out of work. Let us assume that the business community of the United States is operating at 70 percent of its capacity. Let us assume that corporate profits for the first quarter of this year are down 17 percent and will be down 20 percent for the second quarter.

Let us assume, further, that we have no possibility of improving that and bringing interest rates down without creating some jobs for people and trying to stimulate this economy. Let us assume we have that situation, which is exactly what we have today.

This amendment says that 60 Senators must stand up and say to the American people, "We want an unbalanced budget because we don't want this kind of human misery in the United States." And the President sits over in the White House and takes none of the onus, none of the responsibility.

If you are not going to have the President submit a budget here that is in balance, why have the line in there saying that Congress and the President will see to it that the amendment is complied with? Why have him in there at all? Let us just forget that branch of Government.

Mr. HATCH. Mr. President, if the Senator will yield, I suggest that had this amendment been in place 20 years ago, things would be much different today.

Under this amendment, I repeat once more, the President does have coequal responsibility with Congress. The amendment says:

> The Congress and the President shall insure that actual outlays do not exceed the outlays set forth in such statement.

Congress, however, continues to have primary authority in the spending and taxing processes.

There is no question that the President of the United States will have a very real, tangible, and serious responsibility under this amendment as written.

Mr. BUMPERS. We all talk about coffee shop banter. You and I sit in the coffee shops when we go back to our hometowns and discuss the issues of the day.

How many times have you ever heard anybody in the coffee shops say, "The last time we had a balanced budget was the 87th Congress; the 88th and the 89th were probably the most irresponsible?" You would look at somebody like that as though they just fell out of a tree.

You say, "Why, the last balanced budget we had, Lyndon Johnson gave us. The biggest deficit we have ever had until 1981 was by Gerald Ford."

You do not say it was the 92d Congress that gave us that big deficit; that the 87th Congress was the last one to give us a balanced budget. Of course, you do not. You say it was Carter and Ford and Reagan.

This is just nonsense. I have to say, in all candor, to myself and to my colleagues that there is a political element in rejecting an amendment that makes eminent good sense.

I suspect that the present occupant of the White House will be long gone before the first budget is ever submitted under this proposed amendment.

I want to close by saying what I said when I began: You are dealing with a sacred document. Future generations, my children and my yet unborn grandchildren will have to suffer the consequences or enjoy the fruits of what we do here. So, let us look at these amendments very carefully.

I think that the amendment of the Senator from Kentucky makes eminent good sense. If I were the President of the United States, I might not want it if I were having a difficult time seeing past our own election and seeing past our own myopic interests at any given moment. But, I believe I am enough of a constitutional scholar to admit that the President of the United States, who is the leader of this country, should assume at least some of the responsibility for the onus we are being asked to assume in this matter.

I should like to vote for this amendment. I agree that Congress is having a very difficult time disciplining itself. But, if we are here just to talk for a couple of weeks, so that we can adopt this amendment word for word, exactly as it came from the Judiciary Committee, I am going to have an extremely difficult time supporting it.

Mr. FORD. Mr. President, I understand that we will probably have a privileged motion made by the majority leader shortly to proceed to the tax bill, and I am perfectly willing to let this amendment be the pending amendment then. I do not know how much longer we want to stay on this particular amendment. I am willing to chat a while longer.

I yield to the majority leader.

Mr. BAKER. Mr. President, the Senator from Kentucky is correct. In a few moments—I cannot do it at this moment—I intend to ask that the Senate proceed to the consideration of the bill reported by the Finance Committee, dealing with the reconciliation instructions on the Budget Act. Assuming that the Senate agrees to that—and I hope it will—we will be on the so-called tax bill. It will be my intention to ask the Senate to proceed to the consideration of that measure today, from now until 6 or a little after. That may give Senators long enough to make their opening statements and to dispose of some other preliminaries, and then we will go out until tomorrow.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I expect that we will be on the so-called tax bill all day tomorrow and Wednesday. If we are lucky, we might finish it Wednesday. If we do not, we will finish it Thursday. After that, it will be my intention to return to the constitutional amendment on the balanced budget.

Will that occur automatically, then, as the pending business, and will the Ford amendment occur as the pending question after the tax bill is disposed of?

The PRESIDING OFFICER. It will.

Mr. BAKER. And no further provision needs to be made in order to assure that?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, the answer to the question by the Senator from Kentucky, I assume, is that when we return to the balanced budget debate, his amendment will be the pending amendment.

Mr. FORD. I thank the majority leader.

I say to the majority leader that I would be willing to vote tonight on my amendment if we could have an up-and-down vote, rather than have a tabling motion.

Mr. BAKER. I think we might arrange an up-and-down vote, rather than having a tabling motion, but I cannot give the Senator that assurance at this time.

I understand that the Senator from New Mexico wishes a minute or so before we go off this measure, and I believe the Senator from Utah also wishes to speak.

Mr. President, I urge that within 5 or 10 minutes, I may have an opportunity to seek recognition again, in order for the Senate to proceed to the consideration of the reconciliation compliance bill.

I yield the floor.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I made a rather detailed statement in the Chamber the day the constitutional amendment was called up, overviewing my thoughts on it, and I outlined five clarifying amendments that I thought were needed.

Subsequently and consistent with the discussion that I had that day in the Chamber, I have decided to drop two of the amendments that I outlined last week.

One of the amendments I do not intend to pursue would have deleted the words "of the whole number" in both sections 1 and 2.

I have decided now that the slightly greater difficulty the present language may sometimes cause in getting constitutional approval of budget statements is not such a serious problem that I will seek to amend the language.

Mr. President, in my earlier speech I indicated I was offering that one merely to point up that we already have supermajority voting requirements in the Constitution. In fact, we have one place where a two-thirds vote is necessary to override a Presidential veto.

The Senate rules on filibuster and cloture for years had a two-thirds requirement. We changed the cloture to require 60 votes, which is three-fifths of the whole here in the Senate.

The only thing I regret is that some have said that my proposal to change it away from three-fifths of the whole was trying to make it easy.

I just indicate that never in the history of the Senate for as long as we had the two-thirds voting on requirement cloture was cloture ever accomplished by a vote of 60. Therefore, a vote of 60 was easier than the two-thirds as a matter of precedent for the entire history of the cloture rule. But nonetheless, that does not appear to me to be a terribly important matter as long as we understand. So I will not pursue my proposal to strike the words "of the whole number."

Likewise, I will not pursue the amendment that I discussed last week which would have added the words "or national emergency" to the war waiver provision in section 3 of the amendment. While I had some indication that the administration wanted some additional langauge, and I thought some necessary, I have been persuaded that there is reasonable likelihood that we will be able to get the votes needed to establish Federal fiscal policies that are responsive to national emergencies other than war without providing for an additional waiver.

I honestly believe we will not operate in a vacuum and that we will alter our fiscal policies when we have emergencies of the type that are short of war. I have been persuaded that Congress will supply the requisite votes to get that done.

The other three clarifying amendments that I have discussed last week have received a great deal of discussion and I am pleased that numerous Senators have indicated support for these amendments.

The distinguished chairman of the Judiciary Committee, Senator THUR-

MOND, and the distinguished chairman of the subcommittee, who has managed this issue for all these months, Senator HATCH, have agreed to these three amendments.

Senator CHILES, Senator DOLE, Senator DECONCINI, the distinguished junior Senator from Washington, Senator GORTON, and a number of others have all reviewed these amendments and discussed them with me and have made suggestions as to how we might improve them.

Tomorrow or whenever we come back to this amendment, I will offer three amendments. They will be cosponsored by a number of Senators. Senator CHILES will serve as a principal cosponsor on the other side. Many others have helped develop them. I am not going to introduce them as specific amendments today. However, I am going to introduce into the RECORD the constitutional amendment which is pending before the Senate and I have inserted the language that would be the Domenici amendment in that constitutional amendment. That will mean Senators can see what the three Domenici amendments will look like and prepare to either join with me or prepare to debate them.

I intend to move with as much dispatch as possible after the Ford amendment, which is pending. I will send the three amendments around in a dear colleague letter indicating the present cosponsors and indicating to other Senators that I intend to offer them as soon as possible pursuant to the parliamentary process.

My three amendments are along the lines that I expressed my most serious concern about in my speech last week. The first is to make sure that we are not giving the President any additional powers or taking any away. My second amendment points out that we have a grave responsibility to pass enabling legislation to implement the constitutional amendment. We have provided for that both in language up front and then we have put some specific language in the amendment. This will be clear to everyone who is interested when they review what I am inserting in the RECORD.

Likewise, there was need, in my opinion, to clarify the language with reference to the immediate past calendar or fiscal year from whence we would calculate the growth in United States base productivity, and we have agreed on some flexibility. We have still kept it rather rigid, and I think we have come up with a good compromise.

Mr. President, at this time, I ask unanimous consent that there be printed in the RECORD a copy of the constitutional amendment as it would read after incorporation of the revised amendments I will offer.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE JOINT RESOLUTION 58—WITH CHANGES TO BE PROPOSED BY SENATORS DOMENICI, CHILES AND OTHERS

(Deletions in brackets, additions in Roman)

Note:

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for the year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are not greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall, pursuant to legislation or through exercise of their powers under the first and second articles, *ensure the actual outlays do not exceed the outlays set forth in such statement.*

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the [last calendar year ending] year or years ending not less than six months nor more than twelve months *before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.*

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 5. The Congress shall enforce and implement this article by appropriate legislation.

"SECTION [5]. 6. This article shall take effect for the second fiscal year beginning after its ratification.".

Mr. DOMENICI. Mr. President, in addition to amending the constitutional amendment itself, Senator CHILES and I and others of our colleagues believe it is necessary to include in the resolution accompanying the constitutional amendment a strong statement of congressional intent regarding the content of necessary implementing legislation. The text of the resolved clause we will introduce in this regard is as follows:

Resolved further, that legislation to implement this article shall include, but not be limited to, procedures for the development and adoption of the statement required by section 1, the relationship between the statement and the overall procedures for development and adoption of the Federal budget, procedures for calculating the maximum increase in total receipts pursuant to section 2, definitions and methods to implement section 3, and definitions of terms and accounting procedures.

Mr. FORD. Mr. President, will the distinguished Senator from New Mexico yield for a question?

Mr. DOMENICI. I was going to yield to Senator HATCH. If he has objection I will yield to the Senator from Kentucky.

Mr. HATCH. I have no objection.

Mr. DOMENICI. I am pleased to yield.

Mr. FORD. The Senator from New Mexico said the previous fiscal year, GNP, and so forth.

Mr. DOMENICI. Yes.

Mr. FORD. That he wants to give it some flexibility instead of being so rigid. Does the Senator want it to be more rigid and have not as much flexibility? I did not quite understand.

Mr. DOMENICI. The language that I will use instead of the words "last calendar year ending" will be as follows: "year or years ending not less than 6 months nor more than 12 months".

Mr. FORD. Year or years?

Mr. DOMENICI. Ending not less than 6 months nor more than 12.

Mr. FORD. Would that be a fiscal year or calendar year, whichever one the Senator wants to use?

Mr. DOMENICI. I think that is correct. I think that will be subject to the definition that Congress prescribes in the enabling legislation.

Mr. FORD. That is very good.

That will be part of the debate on my amendment when it comes up. I thank the Senator.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from New Mexico for the efforts he has made to try and get these matters resolved from a budgetary standpoint. He has worked long and hard. I think the others have as well. Certainly, Senator CHILES played a huge role in this as did Senator THURMOND, Senator GORTON, Senator DECONCINI, and others.

I personally feel if we are going to be able to take those amendments, at least I hope so, we will bring that up. The Senator is bringing it up on Thursday, and we will proceed at that time.

But I wish to express my appreciation to the distinguished Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to thank the distinguished Senator from Utah for those words. We will also work to get as many cosponsors as we can and, hopefully, we can adopt these three amendments, and I can say to the distinguished Senator (Mr. HATCH) and the chairman of the full committee that with these amendments I would be heartily in support of the constitutional amendment. The clarifying language will serve us all well, and I thank him for assisting me.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. BAKER. Mr. President, as I indicated earlier, I am prepared to ask the Senate to proceed to the consider-

ation of the bill from the Committee on Finance to comply with the reconciliation instruction included in the budget resolution.

Mr. President, I ask the Chair now to lay before the Senate H.R. 4961.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H.R. 4961) which had been reported from the Committee on Finance, with amendments.

Mr. BAKER. Mr. President, as I recall the statute there is a time limitation on this measure, is there not?

The PRESIDING OFFICER. Twenty hours equally divided.

Mr. BAKER. Mr. President, as I recall as well the time for debate is controlled by the majority and minority leaders or their designees, is that not correct?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, I designate the distinguished Senator, the Chairman of the Finance Committee, the Senator from Kansas, to manage the time on this side.

FIRST COMMITTEE AMENDMENT

The first committee amendment is as follows:

On page 2, strike line 1, through and including page 31, line 2, and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Equity and Fiscal Responsibility Act of 1982".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendment of 1954 Code.

TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS

SUBTITLE A—MEDICARE

Sec. 101. One month delay in entitlement to medicare benefits.
Sec. 102. Medicare payments secondary for older workers covered under group health plans.
Sec. 103. Five percent copayment for home health services.
Sec. 104. Reimbursement for inpatient radiology and pathology services.
Sec. 105. Indexing of part B deductible to consumer price index.
Sec. 106. Limitation on physician fee economic index.
Sec. 107. Elimination of inpatient routine nursing salary cost differential.
Sec. 108. Reimbursement of provider-based physicians.
Sec. 109. Part B premiums as constant percentage of costs.
Sec. 110. Medicare reimbursement to hospitals.
Sec. 111. Elimination of private room subsidy.
Sec. 112. Single reimbursement limit for skilled nursing facilities.
Sec. 113. Single reimbursement limit for home health agencies.
Sec. 114. Elimination of duplicate payments for outpatient services.
Sec. 115. Audit and medical claims review.
Sec. 116. Temporary delay in periodic interim payments.
Sec. 117. Reimbursement of assistants at surgery.
Sec. 118. Judicial review of decision by the Provider Reimbursement Review Board.
Sec. 119. Prohibition of payment for ineffective drugs.
Sec. 120. Medicare payments to competitive medical plans.
Sec. 121. Technical corrections from Omnibus Budget Reconciliation Act of 1981.

SUBTITLE B—MEDICAID

Sec. 131. Copayments by medicaid recipients.
Sec. 132. Elimination of Federal matching for medicare part B buy-in.
Sec. 133. Modifications in lien provisions.
Sec. 134. Limitation on Federal financial participation in erroneous medical assistance expenditures.
Sec. 135. Optional medicaid coverage for individuals who would have qualified for AFDC but for amendments to the earned income disregard and related provisions.
Sec. 136. Technical corrections from Omnibus Budget Reconciliation Act of 1981.

SUBTITLE C—UTILIZATION AND QUALITY CONTROL PEER REVIEW

Sec. 141. Short title of subtitle.
Sec. 142. Requirement for Secretary to enter into contracts.
Sec. 143. Establishment of utilization and quality control peer review program.
Sec. 144. Facilitation of private review.
Sec. 145. Waiver of liability provision.
Sec. 146. Medicaid provisions.
Sec. 147. Demonstration projects for competitive bidding.
Sec. 148. Technical amendments.
Sec. 149. Effective date.
Sec. 150. Maintenance of current level of PSRO agreements.

SUBTITLE D—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 151. Rounding of eligibility and benefit amounts.
Sec. 152. Effective date of application; proration of first month's AFDC benefit.
Sec. 153. Absence from home solely by reason of military service.
Sec. 154. Sanction for termination or reduction of employment.
Sec. 155. Mandatory employment search.
Sec. 156. Inclusion and exclusion of specified individuals' needs and income.
Sec. 157. Repeal of emergency assistance program.
Sec. 158. Proration of standard amount for shelter and utilities.
Sec. 159. Limitation on Federal financial participation in erroneous assistance expenditures.
Sec. 160. Households headed by minor parents.
Sec. 161. Exclusion from income of certain State payments.
Sec. 162. Extension of time for States to establish a work incentive demonstration program.

SUBTITLE E—CHILD SUPPORT ENFORCEMENT

Sec. 171. Fee for services to non-AFDC families.
Sec. 172. Allotments from pay for child and spousal support owed by members of the uniformed services on active duty.
Sec. 173. Reimbursement of State agency in initial month of ineligibility for AFDC.

SUBTITLE F—SUPPLEMENTAL SECURITY INCOME

Sec. 181. Proration of initial SSI benefit payment.
Sec. 182. Rounding of SSI eligibility and benefit amounts.
Sec. 183. Coordination of SSI and OASDI cost-of-living adjustments.
Sec. 184. Phaseout of hold harmless protection.
Sec. 185. Recovery of SSI overpayments.

SUBTITLE G—UNEMPLOYMENT COMPENSATION

Sec. 191. Rounding of benefit amounts.

TITLE II—REVENUE MEASURES

SUBTITLE A—PROVISIONS RELATING TO INDIVIDUALS

Sec. 201. Alternative minimum tax on taxpayers other than corporations.
Sec. 202. Limitation on deduction for medical and dental expenses and casualty losses.
Sec. 203. Mortgage Subsidy Bonds.

SUBTITLE B—PROVISIONS PRIMARILY RELATING TO BUSINESS

PART I—REDUCTION IN CERTAIN DEDUCTIONS AND CREDITS

Sec. 206. 15 percent reduction in certain corporate preference items.
Sec. 207. Amendments to investment credit.
Sec. 208. Repeal of 1985 and 1986 increases in accelerated cost recovery deductions.
Sec. 209. Section 189 made applicable to certain corporations for nonresidential real property.

PART II—LEASING

Sec. 211. Limitations and additional requirements on leases under the accelerated cost recovery system.
Sec. 212. Repeal of leasing; special rules for leases with economic substance.
Sec. 213. Motor vehicle operating leases.

PART III—FOREIGN TAX

Sec. 216. Foreign tax credit for taxes on oil and gas income.
Sec. 217. Current taxation of foreign oil nonextraction income of controlled foreign corporations.
Sec. 218. Possession tax credit; income tax liability incurred to the Virgin Islands.

PART IV—TAX EXEMPT OBLIGATIONS

Sec. 221. Modification of exemption for small issues.
Sec. 222. Public approval and information reporting requirements applicable to private activity bonds.
Sec. 223. Cost recovery for certain property financed with tax-exempt bonds.
Sec. 224. Miscellaneous.

PART V—MERGERS AND ACQUISITIONS

SUBPART A—CHANGES IN TAX TREATMENT OF PARTIAL LIQUIDATIONS AND OF CERTAIN DISTRIBUTIONS OF APPRECIATED PROPERTY

Sec. 226. Partial liquidations.
Sec. 227. Distribution of appreciated property in redemption of stock.

SUBPART B—CERTAIN STOCK PURCHASES TREATED AS ASSET PURCHASES

Sec. 229. Certain stock purchases treated as asset purchases.

PART VI—METHODS OF ACCOUNTING

Sec. 231. Modification of regulations on the completed contract method of accounting.
Sec. 232. Annual accrual method of accounting extended to certain partnerships.

PART VII—ORIGINAL ISSUE DISCOUNT

Sec. 236. Original issue discount taken into account on basis of constant interest rate.
Sec. 237. Tax treatment of stripped bonds.

PART VIII—OTHER BUSINESS PROVISIONS

Sec. 241. Targeted jobs tax credit.
Sec. 242. Accelerated payment of income tax by corporations.
Sec. 243. Repeal of exclusion for dividend reinvestment in stock in public utilities.

SUBTITLE C—PENSIONS

PART I—CONTRIBUTION AND LOAN LIMITS

Sec. 246. Lower contribution and benefit limits for certain annuities, etc.
Sec. 247. Increases in amount of self-employed retirement plan deduction from $15,000 to $30,000; cost-of-living adjustments.
Sec. 248. Loans from qualified plans aggregating $10,000 or more treated as distributions.

PART II—MISCELLANEOUS

Sec. 251. Church plans.
Sec. 252. Deferred compensation plans for State judges.
Sec. 253. Profit-sharing plan contributions on behalf of disabled.
Sec. 254. Exemption for trusts which include governmental plans.

SUBTITLE D—TAX OF LIFE INSURANCE COMPANIES AND ANNUITIES

PART I—COINSURANCE ARRANGEMENTS

SUBPART A—MODIFIED COINSURANCE CONTRACTS

Sec. 256. Repeal of optional treatment of policies reinsured under modified coinsurance contracts.
Sec. 257. Special accounting rules relating to repeal of section 820.

SUBPART B—OTHER REINSURANCE AGREEMENTS

Sec. 258. Denial of interest deduction on indebtedness incurred in connection with reinsurance agreements.
Sec. 259. Allocation of income, etc. in the case of other reinsurance contracts.

PART II—3-YEAR TEMPORARY PROVISIONS RELATING TO TAXATION OF LIFE INSURANCE COMPANIES

Sec. 261. Increase in amount of dividend deduction allowed; pension plan reserves.
Sec. 262. Computation of amount of life insurance reserves.
Sec. 263. Modification of menge formula.
Sec. 264. Consolidated returns to be computed on a bottom line basis.
Sec. 265. Effective date; special rules applicable to transactions before effective date.

PART III—EXCESS INTEREST; AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS; FLEXIBLE PREMIUM CONTRACTS

Sec. 266. Allowance of deduction for excess interest.
Sec. 267. Treatment of amounts received under annuity contracts before annuity starting date.
Sec. 268. Flexible premium contracts.

PART IV—UNDERPAYMENTS OF ESTIMATED TAX FOR 1982

Sec. 269. Underpayments of estimated tax for 1982.

SUBTITLE E—EMPLOYMENT TAXES

PART I—IN GENERAL

Sec. 271. Alternative standards for determining for purposes of employment taxes whether individuals are not employees.
Sec. 272. Simplified procedure for determining amount of employment taxes.
Sec. 273. Petition to tax court and deficiency procedures made applicable to certain employment taxes.
Sec. 274. Participation in home-health care program not treated as employment.

PART II—FEDERAL UNEMPLOYMENT TAX

Sec. 275. Federal unemployment tax.

PART III—MEDICARE COVERAGE

Sec. 276. Medicare coverage for all Federal employees.

SUBTITLE F—EXCISE TAXES

PART I—AIRPORT AND AIRWAY

Sec. 281. Tax on fuel used in noncommercial aviation.
Sec. 282. Tax on transportation by air.
Sec. 283. Extension of airport and airway trust fund.

PART II—COMMUNICATIONS SERVICES

Sec. 284. Extension of excise tax on communications services.

PART III—CIGARETTES

Sec. 285. Increase in tax on cigarettes.

PART IV—RECREATIONAL EQUIPMENT

Sec. 286. Tax on sale of sport fishing equipment and certain recreational boats and boating equipment.

PART V—TAPS ADJUSTMENT ELIMINATED

Sec. 287. Elimination of the TAPS adjustment.

SUBTITLE G—MISCELLANEOUS

Sec. 291. Two-year extension of exclusion from gross income of national research service awards.
Sec. 292. Exemption from the excess business holding provisions for private foundations owning certain hotel business enterprises and certain independent local newspaper businesses.
Sec. 293. New Jersey general revenue sharing allocation.
Sec. 294. Illegal payments to Government officials or employees.
Sec. 295. Investment yield on United States savings bonds.
Sec. 296. Study of alternative income tax systems.
Sec. 297. Study of monetary policy.
Sec. 298. Jefferson County Mental Health Center.

TITLE III—TAXPAYER COMPLIANCE

SUBTITLE A—WITHHOLDING ON INTEREST AND DIVIDENDS; HOLDING PERIOD FOR CAPITAL ASSETS

PART I—WITHHOLDING ON INTEREST AND DIVIDENDS

Sec. 301. Withholding on interest and dividends.
Sec. 302. Regulations.
Sec. 303. Returns regarding payments of dividends and payments of intent.
Sec. 304. Returns regarding payments of patronage dividends.
Sec. 305. Credits against tax.
Sec. 306. Denial of deduction for certain taxes.
Sec. 307. Penalties.
Sec. 308. Conforming and clerical amendments.
Sec. 309. Effective dates; special rules.

PART II—HOLDING PERIOD FOR CAPITAL ASSETS

Sec. 310. Decrease in holding period required for long-term capital gain or loss treatment.

SUBTITLE B—IMPROVED INFORMATION REPORTING

PART I—EXPANDED REPORTING

Sec. 311. Reporting of interest.
Sec. 312. Obligations required to be registered.
Sec. 313. Returns of brokers.
Sec. 314. Information reporting requirements for payments of remuneration for services and direct sales.
Sec. 315. State and local income tax refunds.
Sec. 316. Employer reporting with respect to tips.

PART II—PROVISIONS TO IMPROVE REPORTING GENERALLY

Sec. 321. Increased penalties for failure to file information returns.
Sec. 322. Increase in civil penalty on failure to supply identifying numbers.
Sec. 323. Extension of withholding to certain payments where identifying number not furnished or inaccurate.
Sec. 324. Minimum penalty for extended failure to file.
Sec. 325. Information returns.

SUBTITLE C—ABUSIVE TAX SHELTERS, ETC.; SUBSTANTIAL UNDERPAYMENTS; FALSE DOCUMENTS; FRIVOLOUS RETURNS

PART I—ABUSIVE TAX SHELTERS, ETC.

Sec. 331. Penalty for promoting abusive tax shelters, etc.
Sec. 332. Action to enjoin promoters of abusive tax shelters, etc.
Sec. 333. Procedural rules applicable to penalties under sections 6700, 6701, and 6702.

PART II—SUBSTANTIAL UNDERPAYMENT; FALSE DOCUMENTS; FRIVOLOUS RETURNS

Sec. 341. Penalty for substantial understatement.
Sec. 342. Penalties for documents understating tax liability.
Sec. 343. Penalty for frivolous returns.
Sec. 344. Relief from criminal penalty for failure to file estimated tax where taxpayer falls within statutory exceptions.

PART III—ADMINISTRATIVE SUMMONS

Sec. 351. Special procedures for third-party summonses.
Sec. 352. Duty of third-party recordkeeper.

Sec. 353. Limitation on use of administrative summons.

PART IV—WITHHOLDING ON PENSIONS AND OTHER RETIREMENT INCOME

Sec. 361. Withholding on pensions, annuities, and certain other deferred income.
Sec. 362. Partial rollovers of IRA distributions permitted.

PART V—TRANSACTIONS OUTSIDE THE UNITED STATES OR INVOLVING FOREIGN PERSONS

Sec. 371. Withholding of tax on dispositions of United States real property interests by certain foreign persons required.
Sec. 372. Jurisdiction of court and enforcement of summons in case of persons residing outside the United States.
Sec. 373. Penalty for failure to furnish information with respect to certain foreign corporations.
Sec. 374. Returns with respect to foreign personal holding companies.
Sec. 375. Authority to delay date for filing certain returns relating to foreign corporations and foreign trusts.
Sec. 376. Technical amendment relating to penalty under section 905(c).

PART VI—MODIFICATION OF INTEREST PROVISIONS

Sec. 381. Interest compounded daily.
Sec. 382. Determination of rate of interest to be made semiannually.
Sec. 383. Restrictions on payment of interest for certain periods.

PART VII—OTHER PROVISIONS

Sec. 391. Disallowance of deductions relating to narcotics trafficking.
Sec. 392. Sense of Congress with respect to providing of additional funds to Internal Revenue Service.
Sec. 393. Report on forms.

TITLE IV—AIRPORT AND AIRWAY SYSTEM DEVELOPMENT

Sec. 401. Declaration of policy.
Sec. 402. Definitions.
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Sec. 430. Equal aeronautical access.
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Sec. 432. Security screening in foreign air commerce.
Sec. 433. Safety certification of airports.
Sec. 434. State taxation.
Sec. 435. Part-time operation of flight service stations.
Sec. 436. Congressional committees.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in titles II and III an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS

SUBTITLE A—MEDICARE

ONE-MONTH DELAY IN ENTITLEMENT TO MEDICARE BENEFITS

SEC. 101. (a) Section 226 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h)(1) For purposes of subsection (a)(1), an individual shall be deemed to have attained age 65 on the first day of the month following the month in which he actually attains such age; except that, if such individual was entitled to hospital insurance benefits for the month preceding the month in which he actually attains age 65, he shall be deemed to have attained age 65 on the first day of the month in which he actually attains such age.

"(2) For purposes of subsection (b)(1), an individual shall be deemed to have attained age 65 on the first day of the month in which he actually attains such age.".

(b) Section 1836 of such Act is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a)(2), an individual shall be deemed to have attained age 65 on the first day of the month following the month in which he actually attains such age.".

(c) The amendments made by this section shall apply to individuals attaining age sixty-five after August 1982.

MEDICARE PAYMENTS SECONDARY FOR OLDER WORKERS COVERED UNDER GROUP HEALTH PLANS

SEC. 102. (a) Section 11 of the Age Discrimination in Employment Act of 1967 is amended by adding at the end thereof the following new subsection:

"(j)(1) For purposes of this section, any employer must provide that any employee aged 65 through 69 shall be entitled to coverage under any group health plan offered to such employees under the same conditions as any employee under age 65.

"(2) For purposes of paragraph (1), the term 'group health plan' has the meaning given to such term in section 162(i)(2) of the Internal Revenue Code of 1954.".

(b) Section 1862(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3)(A)(i) Payment under this title may not be made, except as provided in clause (ii), with respect to any item or service furnished during the period described in clause (iii) to an individual (or to the spouse of such individual) who is employed at the time such item or service is furnished to the extent that payment with respect to expenses for such item or service has been made, or can reasonably be expected to be made, under a group health plan (as defined in clause (iv)) under which such individual is covered by reason of such employment.

"(ii) Any payment under this title with respect to any item or service during the period described in clause (iii) shall be conditioned on reimbursement to the appropriate trust fund established by this title when notice or other information is received that payment for such item or service has been made under a group health plan. The Secretary may waive the provisions of this clause in the case of an individual claim if he determines that the probability of recovery or amount involved in such claim does not warrant the pursuing of the claim.

"(iii) The provisions of clauses (i) and (ii) shall apply to an individual only for the period beginning with the month in which such individual becomes entitled to benefits under this title and ending with the month in which such individual attains the age of 70.

"(iv) For purposes of this paragraph, the term 'group health plan' has the meaning given to such term in section 162(i)(2) of the Internal Revenue Code of 1954.

"(B) Where payment for an item or service under a group health plan is less than the amount of the charge for such item or service, payment may be made under this title (without regard to deductibles and coinsurance under this title) for the remainder of such charge, but such payment under this title may not exceed—

"(i) in the case of an item or service the reasonable cost (or other cost-related portion) of which would be payable under this title, the reasonable cost (or other cost-related portion) of such item or service;

"(ii) in the case of an item or service for which payment is authorized under this title on a basis not related to cost, the greater of—

"(I) the amount which would be payable under the group health plan (without regard to deductibles and coinsurance under such plan), or

"(II) the reasonable charge or other amount which would be payable under this title (without regard to deductibles and coinsurance under this title); and

"(iii) in the case of an item or service payment for which is authorized under section 226A, the limit specified in paragraph (2)(D).".

(c) The amendments made by this section shall become effective on January 1, 1983, and the amendment made by subsection (b) shall apply with respect to items and services furnished on or after such date.

FIVE PERCENT COPAYMENT FOR HOME HEALTH SERVICES

SEC. 103. (a)(1) Section 1813(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4) The amount payable for home health services furnished to an individual during any visit shall be reduced by the home health copayment amount for the calendar year in which such visit occurs.".

(2) Section 1813 of such Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary shall, between July 1 and October 1 of 1982, and of each year thereafter, determine and promulgate the home health copayment amount which shall be applicable for purposes of subsection (a)(4) and section 1833(a)(2)(A) in the case of any home health visit during the succeeding calendar year.

"(2) The home health copayment amount applicable for any year shall be an amount equal to 5 percent of the amount estimated by the Secretary to be the national average reasonable cost of a home health care visit during such year (rounded to the nearest whole dollar amount, with any multiple of $0.50 which is not a full dollar amount being rounded to the nearest higher full dollar amount).".

(b) Section 1833(a)(2)(A) is amended to read as follows:

"(A) with respect to home health services and to items and services described in section 1861(s)(10)—

"(i) the lesser of—

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services, or

"(ii) if such services are furnished by a public provider of services free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2),

less (in the case of home health services) for each visit the home health copayment amount promulgated under section 1813(c) and applicable for the calendar year in which such services were furnished;".

(c) The amendments made by this section shall be effective with respect to home health services furnished on or after January 1, 1983.

REIMBURSEMENT FOR INPATIENT RADIOLOGY AND PATHOLOGY SERVICES

SEC. 104. (a) Section 1833(a)(1) of the Social Security Act is amended—

(1) by striking out clause (B) and inserting in lieu thereof the following: "(B) with respect to items and services described in section 1861(s)(10), the amounts paid shall be 100 percent of the reasonable charges for such items and services,";

(2) by inserting "and" at the end of clause (F); and

(3) by striking out clause (H).

(b) Section 1833(b)(1) of such Act is amended to read as follows: "(1) such total amount shall not include expenses incurred for items and services described in section 1861(s)(10),".

(c) The amendments made by this section shall apply with respect to items and services furnished on or after October 1, 1982.

INDEXING OF PART B DEDUCTIBLE TO CONSUMER PRICE INDEX

SEC. 105. (a) The matter in the first sentence of section 1833(b) of the Social Security Act preceding clause (1) is amended by striking out "of $75" and inserting in lieu thereof "equal to $75 multiplied by the ratio of the Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics for the July immediately preceding such year to that index for July, 1981, rounded to the nearest full dollar amount (with any multiple of $0.50 which is not a full dollar amount being rounded to the nearest higher full dollar amount)".

(b) Section 1833(b) of such Act is further amended by adding at the end thereof the following new sentence: "The Secretary shall determine and promulgate the amount of the deductible for each year prior to October 1 of the preceding year.".

(c) The amendments made by this section shall apply with respect to the part B deductible for calendar years after 1982.

LIMITATION ON PHYSICIAN FEE ECONOMIC INDEX

SEC. 106. (a) Section 1842(b) of the Social Security Act is amended by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively and by inserting after paragraph (3) the following new paragraph:

"(4)(A) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services, the Secretary shall not set any level higher than—

"(i) the same level as was set for the period ending June 30, 1982 in the case of that portion of the period ending June 30, 1983 which occurs after September 30, 1982; and

"(ii) 105 percent of the level as was set for the portion of the period ending June 30, 1983 referred to in clause (i) in the case of the period ending June 30, 1984.

"(B) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services for periods beginning after June 30, 1984, the Secretary shall treat the levels as set under subparagraph (A) as having fully provided for economic changes which would have been taken into account but for the limitations contained in subparagraph (A).".

(b) The amendments made by this section shall be effective with respect to items and services furnished on or after October 1, 1982.

ELIMINATION OF INPATIENT ROUTINE NURSING SALARY COST DIFFERENTIAL

SEC. 107. (a) Section 1861(v)(1)(J) of the Social Security Act is amended to read as follows:

"(J) Such regulations may not provide for any inpatient routine nursing salary cost differential as a reimbursable cost for hospitals or skilled nursing facilities.".

(b) The amendment made by this section shall be effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any reduction in payments under title XVIII of the Social Security Act to a hospital or skilled nursing facility resulting from such amendment shall be imposed only in proportion to the part of the period which occurs after September 30, 1982.

REIMBURSEMENT OF PROVIDER-BASED PHYSICIANS

SEC. 108. (a) Section 1886 of the Social Security Act (as added by section 110) of this Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary shall by regulation determine criteria for distinguishing those services (including inpatient and outpatient services) rendered in hospitals or skilled nursing facilities—

"(A) which constitute professional medical services which are personally rendered for an individual patient, which require performance by a physician in person and which contribute to the diagnosis or treatment of an individual patient, and which may be reimbursed as physicians' services under part B, and

"(B) which constitute professional medical services which are rendered for the general benefit to patients in the hospital or skilled nursing facility and which may be reimbursed only on a reasonable cost basis.

"(2)(A) For purposes of cost reimbursement, the Secretary shall recognize as a reasonable cost of a hospital or skilled nursing facility only that portion of the costs attributable to services rendered by a physician in such hospital or facility which are services described in paragraph (1)(B), apportioned on the basis of the amount of time actually spent by such physician rendering such services.

"(B) In determining the amount of the payments which may be made with respect to services described in paragraph (1)(B), after apportioning costs as required by subparagraph (A), the Secretary may not recognize as reasonable (in the efficient delivery of health services) such portion of the provider's costs for such services to the extent that such costs exceed the reasonable compensation equivalent for such services. The reasonable compensation equivalent for any service shall be established by the Secretary in regulations, and shall be based upon reasonable annual compensation levels for a full-time equivalent practice in the particular medical specialty involved, or on such other basis as the Secretary may approve for this purpose.

"(C) The Secretary may, upon a showing by a provider that it is unable to recruit or maintain an adequate number of physicians for the facility on account of the reimbursement limits established under this subsection, grant exceptions to such reimbursement limits as may be necessary to allow such provider to provide a compensation level sufficient to provide adequate physician services in such facility.".

(b) Section 1861(v)(1)(E) of such Act (as amended by section 112 of this Act) is amended by adding at the end thereof the following clause:

"(iii) Payment under this title with respect to physicians' services provided in a skilled nursing facility shall be subject to the provisions relating to provider-based physicians contained in section 1886(c).".

(c) The amendments made by this section shall become effective on October 1, 1982, and shall be effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any reduction in payments under title XVIII of the Social Security Act to a hospital or skilled nursing facility resulting from such amendment shall be imposed only in proportion to the part of the period which occurs after September 30, 1982.

PART B PREMIUM AS CONSTANT PERCENTAGE OF COSTS

SEC. 109. (a) Section 1839 of the Social Security Act is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a)(1) The Secretary shall, during December of 1982 and of each year thereafter, determine and promulgate the monthly premium applicable for the individuals enrolled under this part for the 12-month period commencing July 1 in the succeeding year. The monthly premium for all enrollees (without regard to age) shall be equal to the actuarial rate amount for enrollees age 65 and over specified in paragraph (2).

"(2) The Secretary shall, during December of 1982 and of each year thereafter, determine the monthly actuarial rate for enrollees age 65 and over which shall be applicable for the 12-month period commencing July 1 in the succeeding year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such 12-month period with respect to those enrollees age 65 and over will equal 25 percent of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services provided to enrollees age 65 and over and related administrative costs incurred in such 12-month period. In calculating the monthly actuarial rate, the Secretary shall

include an appropriate amount for a contingency margin.

"(3) Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (2) and the derivation of the dollar amounts specified in such paragraph.

"(4) The Secretary shall also, during December of 1982 and of each year thereafter, determine the monthly actuarial rate for disabled enrollees under age 65 for informational purposes. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such 12-month period with respect to disabled enrollees under age 65 will equal 25 percent of the total of the benefits and administrative costs which he estimates will be incurred in the Federal Supplementary Medical Insurance Trust Fund for such 12-month period with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.".

(b) Subsections (d), (e), and (f) of section 1839 of such Act are redesignated as subsections (b), (c), and (d), respectively.

(c)(1) Section 1839(b) of such Act (as so redesignated) is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (a)".

(2) Section 1839(d) of such Act (as so redesignated) is amended by striking out "purposes of subsection (c)" and inserting in lieu thereof "purposes of subsection (b)".

(3) Section 1818(c) of such Act is amended by striking out "subsection (c) of section 1839" and inserting in lieu thereof "subsection (a) of section 1839".

(4) Section 1843(d)(1) of such Act is amended by striking out "without any increase under subsection (c) thereof" and inserting in lieu thereof "without any increase under subsection (b) thereof".

(5) Section 1844(a)(1)(A)(i) of such Act is amended to read as follows:

"(i) one-twelfth of the amount of the benefits and related administrative costs per enrollee age 65 and over which the Secretary estimates will be payable from such Trust Fund during the 12-month period in which such month occurs (as determined under section 1839(a)(2)), minus the dollar amount of the premium per enrollee for such month, to".

(6) Section 1844(a)(1)(B)(i) of such Act is amended to read as follows:

"(i) one-twelfth of the amount of the benefits and related administrative costs per enrollee under age 65 which the Secretary estimates will be payable from such Trust Fund during the 12-month period in which such month occurs (as determined under section 1839(a)(4)), minus the dollar amount of the premium per enrollee for such month, to".

(7) Section 1876(a)(4) of such Act (as amended by section 120 of this Act) is amended—

(A) in the matter preceding subparagraph (A), by striking out "200 percent of";

(B) in subparagraph (A), by striking out clause (ii) and inserting in lieu thereof "(ii) one-twelfth of the amount of the benefits and related administrative costs per enrollee age 65 and over which the Secretary estimates will be payable from such Trust Fund during the 12-month period in which such month occurs (as determined under section 1839(a)(2)),"; and

(C) in subparagraph (B), by striking out clause (ii) and inserting in lieu thereof "(ii) one-twelfth of the amount of the benefits and related administrative costs per enrollee under age 65 which the Secretary estimates will be payable from such Trust Fund during the 12-month period in which such month occurs (as determined under section 1839(a)(4)).".

(d)(1) The amendments made by this section shall be effective with respect to premiums paid on or after October 1, 1982.

(2) The Secretary shall promulgate the premium amount applicable for months after September 1982 and prior to July 1983 as soon as possible after the date of the enactment of this Act.

MEDICARE REIMBURSEMENT TO HOSPITALS

SEC. 110. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"REIMBURSEMENT TO HOSPITALS

"SEC. 1886. (a)(1)(A) The Secretary, in determining the amount of the payments that may be made under this title with respect to operating costs of inpatient hospital services for any cost accounting period, including all routine operating costs, ancillary service operating costs, and special care unit operating costs, shall not recognize as reasonable (in the efficient delivery of health services) costs for the provision of such services by a hospital to the extent such costs exceed 110 percent of the average of such costs, determined on a per admission or per discharge basis (as determined by the Secretary), for all hospitals in the same grouping as such hospital for comparable time periods.

"(B) For purposes of subparagraph (A) the Secretary shall establish case mix indexes for all hospitals, and shall set limits for each hospital based upon the general mix of types of medical cases with respect to which such hospital provides services.

"(C) The limitation established under subparagraph (A) for any hospital shall in no event be lower (on a per admission or per discharge basis) than the allowable operating costs (on a per admission or per discharge basis) recognized under this title for such hospital for such hospital's last cost accounting period prior to the first full cost accounting period for which this section is in effect.

"(2) The Secretary may provide for exemptions, exceptions, and adjustments to the limitation established under paragraph (1)(A) as he deems appropriate, including those which he deems necessary to take into account the special needs of sole community hospitals, new hospitals, risk basis competitive medical plans, hospitals which provide atypical services or essential community services, and hospitals which incur additional costs in treating low-income patients.

"(3) The provisions of this subsection shall not apply with respect to any hospital which is located in a rural area and has less than 50 beds.

"(b)(1) In addition to the limitation established under subsection (a), the Secretary, in determining the amount of the payments that may be made under this title with respect to operating costs of inpatient hospital services for any 12-month cost accounting period, including all routine operating costs, ancillary service operating costs, and special care unit operating costs, shall not recognize as reasonable (in the efficient delivery of health services) costs for the provision of such services by a hospital to the extent such costs, determined on a per admission or per discharge basis, exceed the limitation ceiling established under this subsection for such hospital, determined on a per admission or per discharge basis (as determined by the Secretary), for the preceding 12-month cost accounting period (or, in the case of the first 12-month cost accounting period for which this subsection is in effect, exceed the allowable operating costs recognized under this title for such hospital for the preceding 12-month cost accounting period), increased by the applicable percentage determined by the Secretary under paragraph (2) for such cost accounting period; except that during the first two 12-month cost accounting periods in which this subsection is in effect with respect to such hospital, payments may be made with respect to 25 percent of such excess (if otherwise allowable under this title).

"(2) The applicable percentage increase for any 12-month cost accounting period shall be equal to 2 percent plus the percentage by which the cost of the mix of goods and services (including personnel costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such hospital services, for such cost accounting period exceeds the cost of such mix of goods and services for the preceding 12-month cost accounting period.

"(3) The Secretary shall provide for exemptions, exceptions, and adjustments to the limitation established under paragraph (1) as he deems appropriate in cases where events beyond the hospital's control or extraordinary circumstances, including significant changes in the case mix of such hospital, create a distortion in the increase in costs for a cost accounting period (including any distortion in the costs for the base period against which such increase is measured).

"(4) In the case of any hospital having any cost accounting period of other than a 12-month period, the Secretary shall determine the 12-month period which shall be used for purposes of this subsection.".

(b) The provisions of subsection (b) of section 1886 of the Social Security Act shall cease to apply with respect to a hospital upon the expiration of the third cost accounting year beginning after September 30, 1982, or at such earlier time as a prospective reimbursement system for hospitals is enacted into law and is in effect with respect to such hospital.

(c) The Secretary of Health and Human Services shall develop, in consultation with the Senate Committee on Finance and the Committee on Ways and Means of the House of Representatives, proposals for legislation which would provide that hospitals, skilled nursing facilities, and, to the extent feasible, other providers, would be reimbursed under title XVIII of the Social Security Act on a prospective basis. The Secretary shall report such proposals to such committees within five months after the date of the enactment of this Act.

(d)(1) Section 1861(v)(1)(L) of such Act is amended by striking out clause (i) thereof and by striking out "(ii)".

(2) Section 1861(v)(1) of such Act is amended by adding at the end thereof the following new subparagraph:

"(M) For further limitations on reasonable cost, see section 1886.".

(e) The amendments made by this section shall be effective with respect to cost reporting periods beginning on or after October 1, 1982.

ELIMINATION OF PRIVATE ROOM SUBSIDY

SEC. 111. (a) The Secretary of Health and Human Services shall, pursuant to section 1861(v)(2) of the Social Security Act, enforce the limitation provided under such section in determining the amount of the payments that may be made under title XVIII of such Act to a hospital or skilled nursing facility, and shall not allow as a reasonable cost the estimated amount by which the costs incurred by such facility for nonmedically necessary private accommodations for medicare beneficiaries exceeds the costs which would have been incurred by such facility for semiprivate accommodations.

(b) This section shall be effective with respect to cost reporting periods beginning on or after October 1, 1982.

SINGLE REIMBURSEMENT LIMIT FOR SKILLED NURSING FACILITIES

SEC. 112. Section 1861(v)(1) of the Social Security Act is amended—

(1) in subparagraph (E), by striking out "; except that" and all that follows and inserting in lieu thereof a period;

(2) in subparagraph (E), by striking out "(E)" and inserting in lieu thereof "(ii)"; and

(3) by inserting after subparagraph (D) the following:

"(E)(i) Such regulations shall provide that any determination of reasonable cost with respect to services provided by hospital-based skilled nursing facilities shall be made on the basis of a single standard based on the reasonableness of costs incurred by free standing skilled nursing facilities.".

(b) The amendment made by this section shall be effective with respect to cost reporting periods beginning on or after October 1, 1982.

SINGLE REIMBURSEMENT LIMIT FOR HOME HEALTH AGENCIES

SEC. 113. (a) Section 1861(v)(1)(L)(ii) of the Social Security Act is amended by inserting "free standing" after "costs per visit for".

(b) The amendment made by this section shall be effective with respect to cost reporting periods beginning on or after the date of the enactment of this Act.

ELIMINATION OF DUPLICATE OVERHEAD PAYMENTS FOR OUTPATIENT SERVICES

SEC. 114. (a) Section 1861(v)(1)(K) of the Social Security Act is amended by inserting after the second sentence the following: "Such limitations shall take into account, in determining the amount to be reimbursed to physicians utilizing such outpatient facilities, the extent to which overhead costs associated with such services have been included in determining the reasonable cost or charge of the facility, and the amount to be reimbursed to such physicians shall be adjusted accordingly.".

(b) The last sentence of section 1842(b)(3) is amended by inserting after "1861(v)(1)(K)" the following: ", and in establishing the reasonable charge for such services, the Secretary may limit such reasonable charge to a percentage of the amount of the reasonable charge for similar services furnished in a physician's office, taking into account the extent to which overhead costs associated with such outpatient services have been included in the reasonable cost or charge of the facility".

(c) The amendment made by this section shall be effective with respect to services furnished on or after the date of the enactment of this Act.

AUDIT AND MEDICAL CLAIMS REVIEW

SEC. 115. In addition to any funds otherwise appropriated under any other provision of law, there are authorized to be appropriated, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Fund in such proportions as the Secretary of Health and Human Services determines to be appropriate, an additional $45,000,000 for each of the fiscal years 1983, 1984, and 1985 for payments to intermediaries and carriers under agreements entered into under sections 1816 and 1842 of the Social Security Act to be used exclusively for the purpose of carrying out audits and reviews of medical necessity, consistent with the provisions of sections 1816 and 1842 of such Act. For purposes of any provision of law, including any appropriation Act, the amounts authorized under this section shall be available in the same manner as funds are available under title XVIII of the Social Security Act for payment for services for which individuals are entitled to have payment made under such title.

TEMPORARY DELAY IN PERIODIC INTERIM PAYMENTS

SEC. 116. Notwithstanding section 1815(a) of the Social Security Act, in the case of a hospital which is paid periodic interim payments under such section, the Secretary of Health and Human Services shall provide that—

(1) with respect to the last twenty-one days for which such payments would otherwise be made during fiscal year 1983, such payments shall be deferred until fiscal year 1984; and

(2) with respect to the last twenty-one days for which such payments would otherwise be made during fiscal year 1984, such payments shall be deferred until fiscal year 1985.

REIMBURSEMENT OF ASSISTANTS AT SURGERY

SEC. 117. (a) Section 1842(b)(7) (as so redesignated by section 106 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) In the case of physicians' services furnished to a patient in a hospital with a teaching program approved as specified in section 1861(b)(6) but which does not meet the conditions described in section 1861(b)(7), no payment shall be made under this part for services of assistants at surgery with respect to a surgical procedure if such hospital has a training program relating to the medical specialty required for such surgical procedure and a qualified individual is available on the staff of such hospital to provide such services; except that payment may be made under this part for such services, to the extent that such payment is otherwise allowed under this paragraph, if such services—

"(I) are required due to exceptional medical circumstances (as determined by the Secretary),

"(II) are performed by team physicians needed to perform complex medical procedures (as determined by the Secretary), or

"(III) constitute concurrent medical care relating to a medical condition which requires the presence of, and active care by, a physician of another specialty during surgery.

"(ii) For purposes of this subparagraph, the term 'assistant at surgery' means a physician who actively assists the physician in charge of a case in performing a surgical procedure.

"(iii) The Secretary shall determine appropriate methods of reimbursement of assistants at surgery where such services are reimbursable under this part.".

(b) The amendment made by this section shall be effective with respect to services performed on or after October 1, 1982.

JUDICIAL REVIEW OF DECISION BY THE PROVIDER REIMBURSEMENT REVIEW BOARD

SEC. 118. (a) The last sentence of section 1878(f)(1) of the Social Security Act is amended by inserting "(or, in an action brought jointly by several providers, the judicial district in which is located the provider which is the principal party bringing the action, as determined by the Secretary)" after "the judicial district in which the provider is located".

(b) The amendment made by this section shall be effective with respect to actions brought on or after the date of the enactment of this Act.

PROHIBITION OF PAYMENT FOR INEFFECTIVE DRUGS

SEC. 119. (a) Effective October 1, 1982, section 131 of Public Law 97-92 is repealed, and the provisions of such section, and of section 210 of the Departments of Labor, Health and Human Services, and Education and related agencies Appropriation Act, 1982 (H.R. 4560), as passed by the House of Representatives on October 6, 1981, and of section 209 of such Act as reported by the Senate Committee on Appropriations on November 9, 1981, shall not apply to any funds appropriated for fiscal year 1983 or any succeeding fiscal year.

(b) No provision of law limiting the use of funds for purposes of enforcing or implementing section 1862(c) or section 1903(i)(5) of the Social Security Act, section 2103 of the Omnibus Budget Reconciliation Act of 1981, or any rule or regulation issued pursuant to any such section (including any provision contained in, or incorporated by reference into, any appropriation Act or resolution making continuing appropriations) shall apply to any period after September 30, 1982, unless such provision of law is enacted after the date of the enactment of this Act and specifically states that such provision is to supersede this section.

MEDICARE PAYMENTS TO COMPETITIVE MEDICAL PLANS

SEC. 120. (a) Section 1876 of the Social Security Act is amended to read as follows:

"PAYMENTS TO COMPETITIVE MEDICAL PLANS

"SEC. 1876. (a)(1) The Secretary shall annually determine a per capita rate of payment for each class of individuals entitled to benefits under parts A and B who are enrolled under this section with a competitive medical plan with which he has entered into a risk-sharing contract under subsection (g), and shall annually determine a per capita rate of payment for each class of individuals entitled to benefits under part B alone who are enrolled under this section with such a competitive medical plan. The Secretary shall define appropriate classes of members, based on age, sex, and disability status, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence. The rate for each class shall be equal to 95 percent of the average per capita cost for that class. Each month the Secretary shall pay each such plan (other than a plan with which he has entered into a reasonable cost reimbursement contract under subsection (h)) the appropriate rate, in advance, for

each individual enrolled under this section with the plan, or such lesser amount as the plan requests. Those payments shall be instead of the amounts which would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the plan to individuals enrolled under this section with the plan, or enrolled other than under this section with the plan but eligible to enroll under this section with the plan. The amount of such payment may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(2) With respect to any competitive medical plan which has entered into a reasonable cost reimbursement contract with the Secretary pursuant to subsection (h), payments shall be made to such plan in accordance with subsection (h) rather than under paragraph (1).

"(3)(A) For purposes of this section, the term 'average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data in a geographic area served by a competitive medical plan or in a similar area) would be payable in any contract year for services covered under parts A and B, or part B only, and types of expenses otherwise reimbursable under parts A and B, or part B only (including administrative costs incurred by organizations described in sections 1816 and 1842), if the services were to be furnished by other than a competitive medical plan.

"(B) For purposes of this section, the term 'adjusted average per capita cost' means the average per capita cost adjusted for the various classes of individuals (in accordance with paragraph (1)) to assure actuarial equivalence.

"(4) The payment to a competitive medical plan under this subsection for individuals enrolled under this section with the plan and entitled to benefits under part A and enrolled under part B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the plan for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

"(A) the product of (i) the number of such members for the month who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(1), and

"(B) the product of (i) the number of such members for the month who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(4).

The remainder of that payment shall be paid by the former trust fund.

"(5) If an individual is enrolled under this section with a competitive medical plan having a contract under this section, neither the individual nor any other person or entity (except for the competitive medical plan) shall be entitled to receive payments from the Secretary under this title for services furnished to the individual, except as otherwise provided in subsection (h) in the case of a plan which has entered into a cost reimbursement contract.

"(b)(1) For purposes of this section, the term 'competitive medical plan' means a public or private entity, organized under the laws of any State, which—

"(A) is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act);

"(B) is licensed as a health maintenance organization in the State in which it operates; or

"(C) meets the requirements of paragraph (2).

"(2) An entity meets the requirements of this paragraph if such entity—

"(A) provides to enrolled members at least the following health care services: physicians' services performed by physicians (as defined in section 1861(r)(1)), inpatient hospital services, laboratory, X-ray, and emergency services, and out of area coverage;

"(B) is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member;

"(C) provides physicians' services primarily (i) directly through physicians who are either employees or partners of such entity, or (ii) through contracts with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis);

"(D) assumes full financial risk (except for deductibles, coinsurance, and copayments) on a prospective basis for the provision of the health care services listed in subparagraph (A), except that such entity may obtain insurance or make other arrangements—

"(i) for the cost of providing to any enrolled member health care services listed in subparagraph (A) the aggregate value of which exceeds $5,000 in any year,

"(ii) for the cost of health care service listed in subparagraph (A) provided to its enrolled members other than through the entity because medical necessity required their provision before they could be secured through the entity,

"(iii) for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(iv) with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions; and

"(E) has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

"(3) Each competitive medical plan must provide at least the following basic health services, through providers and other persons who meet the requirements of this title for providing such services, to members enrolled under this section:

"(A) the services listed under parts A and B or this title which are available to individuals residing in the geographic area served by the plan for individuals entitled to benefits under part A and enrolled under part B; and

"(B) the services listed under part B that are available to individuals residing in the geographic area served by the plan for individuals enrolled under part B only.

"(4)(A) Each competitive medical plan must have an open enrollment period, for the enrollment of individuals under this section, of at least 30 days duration every year, and must provide that at any time during which enrollments are accepted, the plan will accept up to the limits of its capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (c) in the order in which they apply for enrollment, unless to do so would result in failure to meet the requirements of subsection (f) or would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by the plan.

"(B) An individual may enroll under this section with a competitive medical plan in such manner as may be prescribed in regulations, and may terminate his enrollment with the plan as of the beginning of the first calendar month following a full calendar month after he has requested termination.

"(C) Each competitive medical plan must provide assurances to the Secretary that it will not expel or refuse to re-enroll any such individual because of the individual's health status or requirements for health care services, and will notify each such individual of such fact at the time of the individual's enrollment.

"(5) Each competitive medical plan must provide that any individual enrolled in such plan under this section shall be reimbursed by the plan for his expenses in securing health services, which he would be entitled to receive through the plan, which he receives other than through the plan, if the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and it was not reasonable given the circumstances to obtain the services through the plan.

"(6)(A) Each competitive medical plan must provide meaningful procedures for hearing and resolving grievances between the plan (including any entity or individual through which the plan provides health care services) and any individual member of such plan.

"(B) Any individual enrolled with a competitive medical plan under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the competitive medical plan a party. If the amount in controversy is $1,000 or more, the individual or competitive medical plan shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the competitive medical plan shall be entitled to be parties to that judicial review.

"(7)(A) Each competitive medical plan must have a program that defines procedures for—

"(i) review of medical care by physicians and other health care professionals;

"(ii) identification of clinical and administrative problems; and

"(iii) followup procedures to rectify any such problems.

"(B) Each competitive medical plan must provide adequate assurance to the Secretary

that the program described in subparagraph (A)—

"(i) has been implemented and that where evidence of any such problem is found, recommended followup action is being taken; and

"(ii) is implemented on an ongoing basis.

"(8) Notwithstanding the requirement of paragraph (2)(A) that a competitive medical plan provide inpatient hospital services, an entity shall qualify as a competitive medical plan for purposes of this section if such entity had contracted with a single State agency administering a State plan approved under title XIX, for the provision of services other than inpatient hospital services, to individuals eligible for such services under such State plan, on a prepaid risk basis prior to 1970.

"(c) Subject to the provisions of subsection (b)(4), every individual entitled to benefits under part A and enrolled under part B or enrolled under part B only (other than an individual medically determined to have end-stage renal disease) shall be eligible to enroll under this section with any competitive medical plan with which the Secretary has entered into a contract under this section and which serves the geographic area in which the individual resides.

"(d) The portion of a competitive medical plan's premium rate and the actuarial value of its other charges for individuals enrolled under this section with the plan and entitled to benefits under parts A and B, and the portion of its premium rate and the actuarial value of its other charges for individuals enrolled under this section with the plan and entitled to benefits under part B only, for services covered under parts A and B, or part B only, respectively, may not exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the plan (or, if the Secretary finds that adequate data is not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with a competitive medical plan) and entitled to benefits under parts A and B, or part B only, respectively, if they were not members of a competitive medical plan.

"(e) Notwithstanding any other provision of law, a competitive medical plan may, in the case of the provision of services to an individual enrolled in accordance with this section for an illness or injury for which the member is entitled to benefits under a workman's compensation law or plan of the United States or any State, or under an automobile or liability insurance policy or plan, including a self-insured plan, or under no fault insurance, charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law, plan, or policy—

"(1) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(2) such member to the extent that such member has been paid under such law, plan, or policy for such services.

"(f)(1) Except as provided in paragraph (2), each competitive medical plan with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(2) The Secretary may modify or waive the requirement imposed by paragraph (1) only (A) if the Secretary determines that (i) special circumstances warrant such modification or waiver, and (ii) the plan has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX, and (B) on the condition that the plan will not have, for the duration of such contract, an enrolled membership of which one-half or more are individuals entitled to benefits under part A or enrolled under part B.

"(g)(1) The Secretary may enter into a risk-sharing contract with any competitive medical plan, as defined in subsection (b)(1), which has at least 1,000 members.

"(2)(A) Each risk-sharing contract under this subsection shall provide that, if the adjusted community rate for services under parts A and B (as reduced for the actuarial value of the coinsurance and deductibles under those parts), for individuals enrolled under this section with the plan and entitled to benefits under those parts, or if the adjusted community rate for services under part B (as reduced for the actuarial value of the coinsurance and deductibles under that part), for individuals enrolled under this section with the plan and entitled to benefits under that part only, is less than the weighted average per capita payment to be made under subsection (a) at the beginning of an annual period for individuals who will be enrolled during the contract year under this section with the plan and entitled to benefits under parts A and B, or part B only, respectively, the competitive medical plan shall apply the difference between that average per capita payment and that adjusted community rate (as so reduced) or its equivalent in value to one or more of the following purposes:

"(i) the provision of additional benefits or services to each enrollee under parts A and B or part B only;

"(ii) reduction in premiums, deductibles, or copayments for such enrollees; or

"(iii) rebates or dividends to such enrollees.

"(B) If the competitive medical plan determines that additional benefits are to be provided as allowed under subparagraph (A)(i), such benefits shall be selected, by a group consisting of individuals enrolled under this section with such plan, from among feasible alternatives presented to such group by the plan as determined by the board of that plan. The manner in which such group of enrolled individuals shall be chosen shall be provided for in the contract.

"(C) For purposes of this section, the term 'adjusted community rate' for a service or services means, at the election of a competitive medical plan, either—

"(i) the rate of payment for that service or services which the Secretary annually determines based on a submission by the competitive medical plan, would apply to an individual enrolled in accordance with this section with a competitive medical plan if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to an individual enrolled in accordance with this section with the competitive medical plan, as the Secretary annually estimates is attributable to that service,

but adjusted for differences between the utilization characteristics of the individuals enrolled with the competitive medical plan under this section and the utilization characteristics of the other members of the plan (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals in other competitive medical plans, or individuals in the area, in the State, or in the United States, eligible to enroll under this section with a competitive medical plan and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(h)(1) If the Secretary is not satisfied that a competitive medical plan has the capacity to bear the risk of potential losses under a risk-sharing contract under this section, or if the competitive medical plan so elects, or if the plan has less than 1,000 members, the Secretary may enter into a contract with such plan pursuant to which such plan is reimbursed on the basis of its reasonable cost (as defined in section 1861(v)) in the manner prescribed in paragraph (3).

"(2) Such contract under this subsection may, at the option of such plan, provide that the Secretary (A) will reimburse hospitals, skilled nursing facilities, and other providers for the reasonable cost (as determined under section 1861(v)) of services furnished to individuals enrolled with such organization pursuant to subsection (c), and (B) will deduct the amount of such reimbursement from payment which would otherwise be made to such plan. If such plan pays a hospital or skilled nursing facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1861(v)) unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the plan.

"(3) Payments made to a plan with a cost basis contract under this subsection shall be subject to suitable retroactive corrective adjustment at the end of each contract year so as to assure that such plan is paid for the reasonable cost actually incurred (excluding any part of incurred cost found to be unnecessary in the efficient delivery of health services) for the types of expenses otherwise reimbursable under this title for providing services covered under this title to individuals described in subsection (a)(1).

"(4) Any contract with a competitive medical plan under this subsection shall provide that the Secretary shall require, at such time following the expiration of each accounting period of the plan (and in such form and in such detail) as he may prescribe—

"(A) that the plan report to him in an independently certified financial statement its per capital incurred cost based on the types of components of expenses otherwise reimbursable under this title for providing services described in subsection (a)(1), including, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this section and other individuals enrolled with such plan;

"(B) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

"(C) that in any case in which a plan is related to another plan by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such plan may not include costs for the types of expense otherwise reimbursable under this title, in excess of those

which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the plan by related plans and owners) issued by the Secretary in accordance with section 1861(v); and

"(D) that in any case in which compensation is paid by a plan substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

"(i)(1) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the competitive medical plan involved as he may provide in regulations), if he finds that the plan (i) has failed substantially to carry out the contract, (ii) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or (iii) no longer substantially meets the applicable conditions of subsection (b).

"(2) The effective date of any contract executed pursuant to this section shall be specified in the contract.

"(3) Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have the right to inspect and evaluate the facilities of such competitive medical plan when there is reasonable evidence of some need for such inspection; and

"(ii) shall have the right to audit and inspect any books and records of the competitive medical plan that pertain (I) to the ability of the plan to bear the risk of potential financial losses, or (II) to services performed or determinations of amounts payable under the contract;

"(B) shall require the plan to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the plan;

"(C) shall require the plan to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act; and

"(D) shall contain such other terms and conditions not inconsistent with this section as the Secretary and competitive medical plan may find necessary and appropriate.

"(4) The Secretary shall establish minimum standards to ensure that a competitive medical plan that has entered into a contract with the Secretary under this subsection will provide clear and sufficient information on a regular basis to individuals eligible to enroll under this section with the plan about the plan and to provide for the enrollment of such individuals with the plan.

"(5) The Secretary may not enter into contract with a competitive medical plan under this section if a former risk contract with that plan under this section was terminated at the request of the plan within the preceding 5-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(6) The authority vested in the Secretary by this section may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.".

(b) Section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by inserting "and" after the semicolon in subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) services furnished pursuant to a contract under section 1876 to a member of a competitive medical plan by a physician assistant or by a nurse practitioner (as defined in subsection (aa)(3)) and such services and supplies furnished as an incident to his service to such a member as would otherwise be covered under this part if furnished by a physician or as an incident to a physician's service;".

(c)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply with respect to services furnished on or after the initial effective date (as defined in paragraph (4)), except that such amendment shall not apply—

(A) with respect to services furnished by a competitive medical plan to any individual who is enrolled with that plan under an existing cost contract (as defined in paragraph (3)(A)) and entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act at the time the plan first enters into a new risk contract (as defined in paragraph (3)(D)) unless—

(i) the individual requests at any time that the amendment apply, or

(ii) the Secretary determines at any time that the amendment should apply to all members of the plan because of administrative costs or other administrative burdens involved and so informs in advance each affected member of the plan;

(B) with respect to services furnished by a competitive medical plan during the five-year period beginning on the date of the enactment of this Act, if—

(i) the plan has an existing risk contract (as defined in paragraph (3)(B)) on the date of the enactment of this Act, or

(ii) on the date of the enactment of this Act the plan was furnishing services pursuant to an existing demonstration project (as defined in paragraph (3)(C)), such demonstration project is concluded before the date the amendment would otherwise apply, and before such date the plan enters into an existing risk contract,

unless the plan requests that the amendment apply earlier; or

(C) with respect to services furnished by a competitive medical plan during the period of an existing demonstration project if, on the date of the enactment of this Act, the plan was furnishing services pursuant to the project and if the project concludes after the date the amendment would otherwise apply.

(2)(A) In the case of a competitive medical plan which has in effect an existing cost contract (as defined in paragraph (3)(A)) on the date of the enactment of this Act or a new cost contract after such date, the plan may receive payment under a new risk contract with respect to a current, nonrisk medicare enrollee (as defined in subparagraph (C)(i)) or a pre-medicare enrollee (as defined in subparagraph (C)(ii)) only to the extent that the plan enrolls, for each such enrollee, three new medicare enrollees (as defined in subparagraph (C)(iii). The selection of those current nonrisk medicare enrollees or pre-medicare enrollees with respect to whom payment may be so received under a new risk contract shall be made in a nonbiased manner.

(B) Subparagraph (A) shall not be construed to prevent a competitive medical plan from providing for enrollment, on a basis described in subsection (a)(5) of section 1876 of the Social Security Act (as amended by this Act), of current, nonrisk medicare enrollees and pre-medicare enrollees and from providing such enrollees with some or all of the additional benefits described in section 1876(g)(2)(A) of the Social Security Act (as amended by this Act), but (except as provided in subparagraph (A))—

(i) payment to the plan with respect to such enrollees shall only be made in accordance with the terms of a new cost contract, and

(ii) no payment may be made under section 1876 of such Act with respect to such enrollees for any such additional benefits.

Individuals enrolled with the plan under this subparagraph shall be considered to be individuals enrolled with the plan for the purpose of meeting the requirement of section 1876(g)(2)(A) of the Social Security Act (as amended by this Act).

(C) For purposes of this paragraph and with respect to a competitive medical plan:

(i) The term "current, nonrisk medicare enrollee" means an individual who on the date of the enactment of this Act—

(I) is enrolled with that plan under an existing cost contract, and

(II) is entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act.

(ii) The term "pre-medicare enrollee" means an individual who is enrolled with the plan at the time the individual becomes entitled to benefits under part A, or to enroll under part B, of title XVIII of the Social Security Act.

(iii) The term "new medicare enrollee" means an individual who—

(I) is enrolled with the plan after the date the plan first enters into a new risk contract,

(II) at the time of such enrollment is entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act, and

(III) was not enrolled with the plan at the time the individual became entitled to benefits under part A, or to enroll in part B, of such title.

(3) For purposes of this subsection:

(A) The term "existing cost contract" means a contract which is entered into under section 1876 of the Social Security Act, as in effect before the date of the enactment of this Act, or reimbursement on a reasonable cost basis under section 1833(a)(1)(A) of such Act, and which is not an existing risk contract or an existing demonstration project.

(B) The term "existing risk contract" means a contract entered into under section 1876(i)(2)(A) of the Social Security Act, as in effect before the date of the enactment of this Act.

(C) The term "existing demonstration project" means a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972, relating to the provision of services for which payment may be made under title XVIII of the Social Security Act.

(D) The term "new risk contract" means a contract (other than a new cost contract)

entered into under section 1876 of the Social Security Act, as amended by this Act.

(E) The term "new cost contract" means a contract entered into under section 1833(a)(1) of the Social Security Act or under section 1876(h) of such Act, as amended by this Act.

(4) As used in paragraph (1), the term "initial effective date" means—

(A) the first day of the thirteenth month which begins after the date of the enactment of this Act, or

(B) the first day of the first month after the month in which the Secretary of Health and Human Services notifies the Committee on Finance of the Senate and the Committees on Ways and Means and on Energy and Commerce of the House of Representatives that he is reasonably certain that the methodology to make appropriate adjustments (referred to in paragraphs (1) and (3) of section 1876(a) of the Social Security Act, as amended by this Act) has been developed and can be implemented to assure actuarial equivalence in the estimation of adjusted average per capita costs under that section, whichever is later.

TECHNICAL CORRECTIONS FROM OMNIBUS RECONCILIATION ACT OF 1981

SEC. 121. (a)(1) Section 1861 (cc)(1) of the Social Security Act is amended, in the matter following subparagraph (H), by striking out "outpatient" and inserting in lieu thereof "inpatient".

(2) The second sentence of section 1862(b) of such Act is amended by striking out "or plan".

(3) Section 1862(b)(2)(A) of such Act is amended by striking out "section 162(h)(2)" and inserting in lieu thereof "section 162(i)(2)".

(4) The first sentence of section 1862(b)(2)(B) of such Act is amended by inserting "furnished" before "to an individual".

(5) Section 1866(b) of such Act is amended by striking out "(and in the case of a skilled nursing facility, prior to the end of the term specified in subsection (a)(1))" in the matter preceding paragraph (1).

(6) The second subsection (c) of section 1884 of such Act is redesignated as subsection (d).

(b) Section 162 of the Internal Revenue Code of 1954 is amended—

(1) by redesignating the second subsection (i) (relating to cross reference) as subsection (j);

(2) by redesignating the first subsection (i) (relating to State legislators' travel expenses) as subsection (h); and

(3) by redesignating the subsection (h) (relating to group health plans) as subsection (i).

(c) Section 2203 (f)(3) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "August 1982" and inserting in lieu thereof "August 1981".

(d)(1) Any amendment to the Omnibus Budget Reconciliation Act of 1981 made by this section shall be effective as if it had been originally included in the provision of the Omnibus Budget Reconciliation Act of 1981 to which such amendment relates.

(2) Except as otherwise provided in this section, any amendment to the Social Security Act or the Internal Revenue Code of 1954 made by this section shall be effective as if it had been originally included as a part of that provision of the Social Security Act or Internal Revenue Code of 1954 to which it relates, as such provision of such Act or Code was amended by the Omnibus Budget Reconciliaton Act of 1981.

SUBTITLE B—MEDICAID

COPAYMENTS BY MEDICAID RECIPIENTS

SEC. 131. (a) Section 1902(a)(14)(A) of the Social Security Act is amended to read as follows:

"(A) in the case of individuals described in paragraph (10)(A) who are eligible under the plan—

"(i) no enrollment fee, premium, or similar charge will be imposed under the plan,

"(ii) no deduction, cost sharing or similar charge will be imposed under the plan with respect to services included under paragraphs (1) through (5), (7), and (17) of section 1905(a) which are furnished to—

"(I) children under 18,

"(II) pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy, or

"(III) any individual who is an inpatient in a hospital, skilled nursing facility, nursing home, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income,

"(iii) any deduction, cost sharing, or similar charge imposed under the plan with respect to other such individuals or other care and services will be nominal in amount (as determined by the Secretary, taking into account the level of cash assistance provided in such State), and

"(iv) at the option of the State, no deduction, cost sharing, or similar charge will be imposed under the plan with respect to any services which are—

"(I) furnished to children under 18,

"(II) furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy,

"(III) furnished to any such individual who is an inpatient in a hospital, skilled nursing facility, nursing home, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income, or

"(IV) furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled;".

(b) Section 1902(a)(14)(B) of such Act is amended—

(1) by striking out the matter which precedes clause (i) and inserting in lieu thereof the following:

"(B) with respect to individuals other than those described in paragraph (10)(A) who are eligible under the plan—";

(2) by striking out "and" at the end of clause (i);

(3) by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof ", and"; and

(4) by adding at the end thereof the following new clause:

"(iii) at the option of the State, no deduction, cost sharing, or similar charge will be imposed under the plan with respect to any services which are—

"(I) furnished to children under 18,

"(II) furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy,

"(III) furnished to any such individual who is an inpatient in a hospital, skilled nursing facility, nursing home, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income, or

"(IV) furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled; and".

(c) Section 1902(a)(14) of such Act is amended—

(1) by striking out "effective January 1, 1973,"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) no provider participating under the State plan may deny emergency care or urgently needed services to an individual eligible for such care or services under the plan on account of such individual's inability to pay a deduction, cost sharing, or similar charge, in advance;".

(d) Section 1902(a)(10) of such Act is amended in the matter following subparagraph (D)—

(1) by striking out "and" before "(III)"; and

(2) by inserting before the semicolon at the end thereof the following: "and (IV) the imposition of a deductible, cost sharing, or similar charge for any item or service furnished to an individual not eligible for the exemption under paragraph (14)(A)(ii) or (iv) or (14)(B)(iii) shall not require the imposition of a deductible, cost sharing, or similar charge for the same item or service furnished to an individual who is eligible for such exemption".

(e) The amendments made by this section shall become effective on the date of the enactment of this Act.

ELIMINATION OF FEDERAL MATCHING FOR MEDICARE PART B BUY-IN

SEC. 132. (a) Section 1903(a)(1) of the Social Security Act is amended by striking out "(including expenditures for premiums" and all that follows and inserting in lieu thereof the following: "(including expenditures for insurance premiums (other than premiums under part B of title XVIII) for medical or any other type of remedial care or the cost thereof, for individuals eligible for medical assistance under the plan, except for individuals eligible to enroll under part B of title XVIII who are not so enrolled); plus".

(b) The amendment made by this section shall be effective with respect to premiums for periods after September 1982.

MODIFICATIONS IN LIEN PROVISIONS

SEC. 133. (a) Section 1902(a)(18) of the Social Security Act is amended to read as follows:

"(18) provide—

"(A) that no lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf under the plan, except—

"(i) pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual, or

"(ii) in the case of an individual who is an inpatient in a skilled nursing facility or other medical institution and who fails to make a showing required by the State that he reasonably expects to be discharged from the medical institution and to return home;

"(B) that a lien imposed with respect to an individual pursuant to subparagraph (A)(ii) shall dissolve upon that individual's dis-

charge from the medical institution and return home; and

"(C) that there shall be no adjustment or recovery of any medical assistance correctly paid on behalf of such individual under the plan, except—

"(i) in the case of an individual described in subparagraph (A)(ii), from his estate or upon sale of the property subject to a lien imposed on account of medical assistance paid on behalf of such individual, and

"(ii) in the case of any other individual who was 65 years of age or older when he received such assistance, from his estate,

and then only after the death of his surviving spouse, if any, and only at a time when he has no surviving child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614;".

(b) Section 1902(j)(2) is amended by inserting "(A)" after "(2)" and by adding at the end thereof the following new subparagraph:

"(B)(i) In the case of any individual who is an inpatient in a skilled nursing facility or other medical institution and who, at any time during or after the 24-month period immediately prior to admission to such institution, disposed of a home for less than fair market value, the State plan may (subject to clause (ii)) provide either—

"(I) that all such individuals shall be ineligible for medical assistance for a period bearing a reasonable relationship to the uncompensated value of the home, or

"(II) that all such individuals shall be ineligible for medical assistance for a period of at least 24 months, and (at State option) that all such individuals disposing of a home whose value exceeds the maximum amount payable under the State plan as medical assistance for 24 months of care in a skilled nursing facility shall be ineligible for a longer period which bears a reasonable relationship to the uncompensated value of the home.

"(ii) An individual shall not be ineligible for medical assistance by reason of clause (i) if—

"(I) a satisfactory showing is made to the State (in accordance with any regulations which may be promulgated by the Secretary) that the individual can reasonably be expected to be discharged from the institution and to return to that home,

"(II) title to such home was transferred to the individual's spouse or child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614,

"(III) a satisfactory showing is made to the State (in accordance with any regulations which may be promulgated by the Secretary) that the individual intended to dispose of the home either at fair market value, or for other valuable consideration, or

"(IV) if the State determines that denial of eligibility would work an undue hardship.".

(c) The amendment made by this section shall become effective on the date of the enactment of this Act.

LIMITATION ON FEDERAL FINANCIAL PARTICIPATION IN ERRONEOUS MEDICAL ASSISTANCE EXPENDITURES

SEC. 134. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(u)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State's erroneous excess payments for medical assistance (as defined in subparagraph (D)) to its total expenditures for medical assistance under the State plan approved under this title exceeds 0.03, for the period consisting of the third and fourth quarters of fiscal year 1983, or for any full fiscal year thereafter, then the Secretary shall make no payment for such period or fiscal year with respect to so much of such erroneous excess payments as exceeds such allowable error rate of 0.03.

"(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a period or fiscal year despite a good faith effort by such State.

"(C) In estimating the amount to be paid to a State under subsection (d), the Secretary shall take into consideration the limitation on Federal financial participation imposed by subparagraph (A) and shall reduce the estimate he makes under subsection (d)(1), for purposes of payment to the State under subsection (d)(3), in light of any expected erroneous excess payments for medical assistance (estimated in accordance with such criteria, including sampling procedures, as he may prescribe and subject to subsequent adjustment, if necessary, under subsection (d)(2)).

"(D) For purposes of this subsection (i) the term 'erroneous excess payments for medical assistance' means the total of (I) payments with respect to ineligible individuals and families, and (II) overpayments (by reason of error in determining the amount of expenditures for medical care required of an individual or family as a condition of eligibility) on behalf of eligible individuals and families, and (ii) there shall be excluded, in determining both erroneous excess payments for medical assistance and total expenditures for medical assistance, payments with respect to any individual whose eligibility therefor was determined exclusively by the Secretary under an agreement pursuant to section 1634 and such other classes of individuals as the Secretary may by regulation prescribe whose eligibility was determined in part under such an agreement.

"(2) The State agency administering the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made (or expected, with respect to future periods specified by the Secretary) in connection with its administration of such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

"(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

"(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State's error rates for a fiscal year, the amount that would otherwise be payable to such State under this title for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

"(4) This subsection shall not apply with respect to Puerto Rico, Guam, the Virgin Islands, or the Northern Mariana Islands.".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

(c) No provision of law limiting Federal financial participation with respect to erroneous payments made by States under a State plan approved under title XIX of the Social Security Act (including any provision contained in, or incorporated by reference into, any appropriation Act or resolution making continuing appropriations), other than the limitations contained in section 1903 of such Act, shall be effective with respect to payments to States under such section 1903 for quarters beginning on or after October 1, 1982, unless such provision of law is enacted after the date of the date of the enactment of this Act and expressly provides that such limitation is in addition to or in lieu of the limitations contained in section 1903 of the Social Security Act.

OPTIONAL MEDICAID COVERAGE FOR INDIVIDUALS WHO WOULD HAVE QUALIFIED FOR AFDC BUT FOR AMENDMENTS TO THE EARNED INCOME DISREGARD AND RELATED PROVISIONS

SEC. 135. (a) Section 1902(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) A State may treat, for purposes of the State's plan approved under this title, as an individual receiving aid or assistance under the plan of the State approved under part A of title IV, an individual who would be eligible for such aid or assistance under such plan but for any or all of the limitations or requirements described in subparagraph (B), if the individual meets such alternative requirements as the State may provide for under subparagraph (C).

"(B) The limitations and requirements referred to in subparagraph (A) are as follows:

"(i) The limitation to $75 in any month in section 402(a)(8)(A)(ii) on the total amount of the disregard from earned income for work expenses.

"(ii) The limitation to $160 in any month in section 402(a)(8)(A)(iii) on the total amount of the disregard from earned income for certain child care (and other care) expenses.

"(iii) The fact that the earned income disregard contained in section 402(a)(8)(A)(iv) is only computed after the disregards described in clauses (ii) and (iii) of section 402(a)(8)(A) are taken.

"(iv) The limitation in section 402(a)(8)(B)(ii) to 4 months on the period for which the disregard described in section 402(a)(8)(A)(iv) can be taken and to 12 consecutive months on the length of the additional minimum period which must expire before such disregard can be taken again.

"(v) The provisions of sections 402(d)(1) and 402(a)(17) as they require an earned income advance amount (under section 3507(a) of the Internal Revenue Code of 1954) or a refund of Federal income tax by reason of the earned income tax credit (under section 43 of the Internal Revenue Code of 1954) to be considered as income for any month other than the month in which the amount or refund is actually received.

"(vi) The limitation to 150 percent of the State's need standard under section

402(a)(18) on the total income that families may have and still be eligible for aid under part A of title IV.

"(C) With respect to the alternative requirements referred to in subparagraph (A), in lieu of the limitation or requirement referred to in—

"(i) clause (i) of subparagraph (B), the State may provide for a dollar limitation on the disregard in section 402(a)(8)(A)(ii) equal to an amount greater than $75;

"(ii) clause (ii) of subparagraph (B), the State may provide for a dollar limitation on the disregard in section 402(a)(8)(A)(iii) equal to an amount greater than $160;

"(iii) clause (iii) of subparagraph (B), the State may provide that the earned income disregard contained in section 402(a)(8)(A)(iv) may be computed before the disregards described in clauses (ii) and (iii) of section 402(a)(8)(A) are taken;

"(iv) clause (iv) of subparagraph (B), the State may provide that the disregard described in section 402(a)(8)(A)(iv) shall not apply after a period (specified by the State) of longer than the 4 months described in section 402(a)(8)(B)(ii) or may again apply after the expiration of an additional period (specified by the State) of less than the 12 consecutive months described in section 402(a)(8)(B)(ii)(II);

"(v) clause (v) of subparagraph (B), the State may provide that receipt of a refund of Federal income tax by reason of the earned income tax credit may result in ineligibility for a period (specified by the State) of less than that provided under section 402(a)(17); and

"(vi) clause (vi) of subparagraph (B), the State may substitute a percentage (greater than 150 percent) for the percent specified in section 402(a)(18).

Nothing in this paragraph shall be construed as requiring a State to provide for any alternative requirement described in this subparagraph.".

(b) The amendment made by this section shall be effective with respect to calendar quarters beginning after the date of the enactment of this Act.

TECHNICAL CORRECTIONS FROM OMNIBUS BUDGET RECONCILIATION ACT OF 1981

SEC. 136. (a)(1) Section 2161(b) of the Ominbus Budget Reconciliation Act of 1981 is amended by striking out "Section 1902" and inserting in lieu thereof "Section 1903".

(2) Paragraphs (1) and (2) of section 2161(c) of such Act are each amended by striking out "section 1902" and inserting in lieu thereof in each instance "section 1903".

(3) Section 2171(a)(3) of such Act is amended by striking out "by striking out paragraph (C)" and inserting in lieu thereof "by striking out '(C) if medical assistance' and all that follows through the semicolon preceding 'except that' ".

(4) Section 2181(b) of such Act is amended by inserting before the period at the end thereof the following: ", except that, in the case of a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order to incorporate the provisions required to be included by this section into such State plan, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to include the provisions required to be included in such State plan by subsection (a)(2) of this section before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act, but the requirements previously set forth in paragraphs (1) through (3) of section 403(g) of the Social Security Act (prior to its repeal by this section) shall apply under title XIX of such Act to such State on and after October 1, 1981, whether or not the provisions required to be included by this section in the State plan under title XIX have been incorporated into such State plan".

(5) Section 2193(c)(3)(B) of such Act is amended by striking out "or X' " and inserting in lieu thereof "or XIX' ".

(b)(1) Section 501(b)(1)(D) of the Social Security Act is amended by striking out "title IV" and inserting in lieu thereof "title VI".

(2) Section 501(b)(2) of such Act is amended by striking out "section 624 of the Economic Opportunity Act of 1964" and inserting in lieu thereof "section 673(2) of the Omnibus Budget Reconciliation Act of 1981".

(3) Section 505(2)(B) of such Act is amended by striking out "502(b)(1)" and inserting in lieu thereof "501(b)(1)".

(4) Section 505(2)(D) of such Act is amended by striking out "the State imposes any charges" and inserting in lieu thereof "any charges are imposed".

(5) Section 1134(4) of such Act is amended by striking out "scale" and inserting in lieu thereof "sale".

(6) The heading of title XVI of such Act as such title applies in the case of Puerto Rico, Guam, and the Virgin Islands is amended by striking out ", OR FOR SUCH AID FOR THE AGED".

(7) Section 1902(a)(10)(A) of such Act is amended to read as follows:

"(A) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a), to—

"(i) all individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including pregnant women deemed by the State to be receiving such aid as authorized in section 406(g) and individuals considered by the State to be receiving such aid as authorized under section 414(g)), or with respect to whom supplemental security income benefits are being paid under title XVI; and

"(ii) at the option of the State, to any group or groups of individuals described in section 1905(a) (or, in the case of individuals described in section 1905(a)(i), to any reasonable categories of such individuals) who are not individuals described in clause (i) of this subparagraph but—

"(I) who meet the income and resources requirements of the appropriate State plan described in clause (i) or the supplemental security income program (as the case may be),

"(II) who would meet the income and resources requirements of the appropriate State plan described in clause (i) if child care costs were paid from earnings,

"(III) who would be eligible to receive aid under the appropriate State plan described in clause (i) if coverage under such plan was as broad as allowed under Federal law,

"(IV) with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, aid or assistance under the appropriate State plan described in clause (i), supplemental security income benefits under title XVI, or a State supplementary payment;

"(V) who are in a medical institution, who meet the resource requirements of the appropriate State plan described in clause (i) or the supplemental security income program, and whose income does not exceed a separate income standard established by the State which is consistent with the limit established under section 1903(f)(4)(C), or

"(VI) who would be eligible under the State plan under this title if they were in a medical institution, with respect to whom there has been a determination that but for the provision of home or community-based services described in section 1915(c) they would require the level of care provided in a hospital, skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan, and who will receive home or community-based services pursuant to a waiver granted by the Secretary under section 1915(c);".

(8) Section 1902(a)(10)(C)(i) of such Act is amended—

(A) by striking out "and (II)" and inserting in lieu thereof ", (II)"; and

(B) by inserting before the semicolon at the end thereof ", and (III) the single standard to be employed in determining income and resource eligibility for all such groups, and the methodology to be employed in determining such eligibility, which shall be the same methodology which would be employed under the supplemental security income program in the case of groups consisting of aged, blind, or disabled individuals in a State in which such program is in effect, and which shall be the same methodology which would be employed under the appropriate State plan (described in subparagraph (A)(i)) to which such group is most closely categorically related in the case of other groups".

(9) Section 1902(a)(10)(C)(ii)(I) of such Act is amended by striking out "described in section 1905(a)(i)" and inserting in lieu thereof "under the age of 18 who (but for income and resources) would be eligible for medical assistance as an individual described in subparagraph (A)(i)".

(10) Section 1902(b) of such Act is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(11) Section 1903(g)(1) of such Act is amended by inserting "or which is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act)" after "as defined in section 1876".

(12) Section 1903(g)(1)(A) of such Act is amended by striking out "intermediate care facility services described in section 1905(d)" and inserting in lieu thereof "intermediate care facility services provided in an institution for the mentally retarded".

(13) Section 1903(k) of such Act is amended by striking out "section 1876" and inserting in lieu thereof "subsection (m) of this section".

(14) Section 1903(m)(2)(A) of such Act is amended—

(A) by striking out "and" before "(II)" in clause (iv) and inserting in lieu thereof "or"; and

(B) by striking out "unforseen" in clause (vii) and inserting in lieu thereof "unforeseen".

(15) Section 1903(s) of such Act is amended—

(A) in paragraph (1)(A), by striking out "made before fiscal year 1981" and inserting in lieu thereof "made before fiscal year 1982";

(B) in paragraph (1)(A), by striking out "without regard to payments under subsection (t) and" and inserting in lieu thereof "without regard to payments under subsections (a)(6) and (t), without regard to pay-

ments for claims relating to expenditures made for medical assistance for services received through a facility of the Indian Health Service, and";

(C) in paragraph (1)(C), by inserting "a program in operation under" before "a plan approved under this title";

(D) in paragraph (3)(D)—

(i) by striking out "determines that" and inserting in lieu thereof "must determine that";

(ii) by striking out "most recent calendar year" and inserting in lieu thereof "most recent year (which shall consist of a 12-month period determined by the Secretary for this purpose)";

(iii) by striking out "2 or 3 calendar year period" and inserting in lieu thereof "2- or 3-year period"; and

(iv) by striking out "calendar" each place it appears;

(E) in paragraph (4)(B), by inserting "and paragraph (3)(D)" after "subparagraph (A)"; and

(F) in paragraph (5)(A)(i), by inserting "(including amounts saved, to the extent such amounts can be documented to the satisfaction of the Secretary, by reason of the suspension or termination of a provider or other person for fraud or abuse, but only during the period of such suspension or termination or, if shorter, the 1-year period beginning on the date of such termination or suspension)" after "recovered or diverted".

(16) Section 1903(t) of such Act (as added by section 2161(b) of the Omnibus Budget Reconciliation Act of 1981 as amended by subsection (a) of this section) is amended—

(A) in paragraphs (1)(A) and (2)(A), by striking out "other than interest paid under subsection (d)(5)" each place it appears and inserting in lieu thereof in each instance "other than payments under subsection (a)(6), interest paid under subsection (d)(5), and payments for claims relating to expenditures made for medical assistance for services received through a facility of the Indian Health Service";

(B) in paragraph (1)(B), by striking out "between September 1982 and September 1983" and inserting in lieu thereof "for the 12-month period ending on September 30, 1983";

(C) in paragraph (1)(C), by striking out "between September 1982 and September 1984" and inserting in lieu thereof "for the 24-month period ending on September 30, 1984";

(D) in subparagraphs (B) and (C) of paragraph (1), by striking out "consumer price index for all urban consumers (published by the Bureau of Labor Statistics)" each place it appears and inserting in lieu thereof in each instance "Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics"; and

(E) by amending paragraph (3) to read as follows:

"(3) Only for the purpose of computing under this subsection the Federal share of expenditures for a State for fiscal years 1982, 1983, and 1984 (in the case of the payment which may be made for the first quarter of fiscal years 1983, 1984, and 1985, respectively), the Federal medical assistance percentage for fiscal years 1982, 1983, and 1984 shall be the Federal medical assistance percentage for States in effect for fiscal year 1981, disregarding any change in such percentage after fiscal year 1981.".

(17) Section 1905(a)(i) of such Act is amended by striking out "or any reasonable category of such individuals,".

(18) Section 1905(a) of such Act is amended by striking out "or" at the end of clause (vi), inserting "or" at the end of clause (vii), and inserting after clause (vii) the following:

"(viii) pregnant women,".

(19) Section 1915(b)(1) of such Act is amended—

(A) by inserting "primary care" before "case-management system"; and

(B) by striking out "primary care services" and inserting in lieu thereof "medical care services".

(20) Section 1915(c)(1) of such Act is amended by inserting "payment for part or all of the cost of" after "may include as 'medical assistance' under such plan".

(21) Section 1915(c)(2)(B) of such Act is amended to read as follows:

"(B) the State will provide, with respect to individuals who—

"(i) are entitled to medical assistance for skilled nursing facility or intermediate care facility services under the State plan,

"(ii) may require such services, and

"(iii) may be eligible for such home or community-based care under such waiver,

for an evaluation of the need for such services;".

(22) Section 1915(c)(3) of such Act is amended—

(A) by striking out "subsection (a)(1)" and inserting in lieu thereof "section 1902(a)(1)"; and

(B) by striking out "subsection (a)(10) of section 1902" and inserting in lieu thereof "section 1902(a)(10)".

(23) Section 1915(c)(4) of such Act is amended by striking out "this section" and inserting in lieu thereof "this subsection".

(24) Section 1915(f) of such Act is amended by inserting "approval of" before "a proposed State plan".

(25) Subsection (a) of section 1128A of such Act is amended by striking out all that precedes "shall be subject" and inserting in lieu thereof the following:

"(a) Any person (including an organization, agency, or other entity) that—

"(1) presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (h)(1)), a claim (as defined in subsection (h)(2)) that the Secretary determines is for a medical or other item or service—

"(A) that the person knows or has reason to know was not provided as claimed, or

"(B) payment for which may not be made under the program under which such claim was made, pursuant to a determination by the Secretary under section 1128, 1160(b), or 1862(d), or pursuant to a determination by the Secretary under section 1866(b)(2) with respect to which the Secretary has initiated termination proceedings; or

"(2) presents or causes to be presented to any person a request for payment which is in violation of the terms of (A) an assignment under section 1842(b)(3)(B)(ii), or (B) an agreement with a State agency not to charge a person for an item or service in excess of the amount permitted to be charged,".

(26) Section 1903(s)(5)(B) of such Act is amended by inserting "or quarters" after "carried forward to the following quarter".

(c)(1) Section 914(b)(2)(A) of the Omnibus Reconciliation Act of 1980 is amended by striking out "medical assistance" and all that follows and inserting in lieu thereof "cost reporting periods, beginning on or after April 1, 1981, of an entity providing services under a State plan approved under title XIX of the Social Security Act.".

(2) Section 914(c)(2) of the Omnibus Reconciliation Act of 1980 is amended by striking out "services provided" and all that follows and inserting in lieu thereof "cost reporting periods, beginning on or after April 1, 1981, of an entity providing services under a State plan approved under title V of the Social Security Act.".

(d)(1) Any amendment to the Omnibus Budget Reconciliation Act of 1981 made by this section shall be effective as if it had been originally included in the provision of the Omnibus Budget Reconciliation Act of 1981 to which such amendment relates.

(2) Except as otherwise provided in this section, any amendment to the Social Security Act made by this section shall be effective as if it had been originally included as a part of that provision of the Social Security Act to which it relates, as such provision of the Social Security Act was amended by the Omnibus Budget Reconciliation Act of 1981.

(e) Section 1902(a) of the Social Security Act is amended in the matter following paragraph (44) by inserting ", (26)" after "(9)(A)".

SUBTITLE C—UTILIZATION AND QUALITY CONTROL PEER REVIEW

SHORT TITLE OF SUBTITLE

SEC. 141. This subtitle may be cited as the "Peer Review Improvement Act of 1982".

REQUIREMENT FOR SECRETARY TO ENTER INTO CONTRACTS

SEC. 142. Section 1862 of the Social Security Act is amended—

(1) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (c), (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a) the following new subsection:

(b) The Secretary shall, in making the determinations under paragraphs (1) and (9) of subsection (a), and for the purposes of promoting the effective, efficient, and economical delivery of health care services, and of promoting the quality of services of the type for which payment may be made under this title, enter into contracts with utilization and quality control peer review organizations pursuant to part B of title XI of this Act.".

ESTABLISHMENT OF UTILIZATION AND QUALITY CONTROL PEER REVIEW PROGRAM

SEC. 143. Part B of title XI of the Social Security Act is amended to read as follows:

"PART B—PEER REVIEW OF THE UTILIZATION AND QUALITY OF HEALTH CARE SERVICES

"PURPOSE

"SEC. 1151. The purpose of this part is to establish the contracting process which the Secretary must follow pursuant to the requirements of section 1862(b) of this Act, including the definition of the utilization and quality control peer review organizations with which the Secretary may contract, the functions such peer review organizations are to perform, the method of reimbursement for performance of such functions, the confidentiality of medical records, and related administrative matters to facilitate the carrying out of the purposes of this part.

"DEFINITION OF UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATION; OTHER DEFINITIONS

"SEC. 1152. (a) The term 'utilization and quality control peer review organization' means an entity which—

"(1)(A) is composed of a substantial number of the licensed doctors of medicine and osteopathy engaged in the practice of medicine or surgery in the area and who are representative of the practicing physicians in the area, designated by the Secretary under section 1153, with respect to which the entity shall perform services under this part, or (B) has available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in such area to assure that adequate peer review of the services provided by the various medical specialties and subspecialties can be assured; and

"(2) is able, in the judgment of the Secretary, to perform review functions required under section 1154 and to perform quality review studies as defined in subsection (b).

"(b) The term 'quality review study' means a review of the pattern of quality of care in an area of medical practice where actual performance is measured against objective criteria which define acceptable and adequate practice.

"CONTRACTS WITH UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATIONS

"SEC. 1153. (a)(1) The Secretary shall establish throughout the United States geographic areas with respect to which contracts under this part will be made. In establishing such areas, the Secretary shall use the same areas as established under section 1152 of this Act as in effect immediately prior to the date of the enactment of the Peer Review Improvement Act of 1982, but subject to the provisions of paragraph (2).

"(2) As soon as practicable after the date of the enactment of the Peer Review Improvement Act of 1982, the Secretary shall consolidate such geographic areas, taking into account the following criteria:

"(A) Each State shall generally be designated as a geographic area for purposes of paragraph (1).

"(B) The Secretary shall establish local or regional areas rather than State areas only where the volume of review activity or other relevant factors (as determined by the Secretary) warrant such an establishment, and the Secretary determines that review activity can be carried out with equal or greater efficiency by establishing such local or regional areas. In applying this subparagraph the Secretary shall take into account the number of hospital admissions within each State for which payment may be made under title XVIII or a State plan approved under title XIX, with any State having fewer than 180,000 such admissions annually being established as a single statewide area, and no local or regional area being established which has fewer than 60,000 total hospital admissions (including public and private pay patients) under review annually, unless the Secretary determines that other relevant factors warrant otherwise.

"(C) No local or regional area shall be designated which is not a self-contained medical service area, having a full spectrum of services, including medical specialists' services.

"(b)(1) The Secretary shall enter into a contract with a utilization and quality control peer review organization for each area established under subsection (a) if a qualified organization is available in such area and is willing to enter into such a contract. If more than one such qualified organization is available, priority shall be given to any such organization which is described in section 1152(a)(1)(A).

"(2) If the Secretary determines that there is no organization available for an area which meets the requirements of section 1152(a)(1), the Secretary may enter into a contract for that area with any other organization which the Secretary determines is capable of carrying out the functions described in section 1154, and for purposes of this part (other than section 1152(a)) such an organization shall be considered to be a utilization and quality control peer review organization.

"(3)(A) During the first 12 months in which the Secretary is entering into contracts under this section, the Secretary shall not enter into a contract under this part with any entity which is or is affiliated with—

"(i) an entity which directly or indirectly makes payments to any practitioner or provider whose health care services are reviewed by such entity or would be reviewed by such entity if it entered into a contract with the Secretary under this part; or

"(ii) a health care facility or association of such facilities within the area served by such entity or which would be served by such entity if it entered into a contract with the Secretary under this part.

"(B) If, after the expiration of the 12-month period referred to in subparagraph (A), the Secretary determines that there is no other entity available for an area with which the Secretary can enter into a contract under this part, the Secretary may then enter into a contract under this part with an entity described in subparagraph (A) for such area if such entity otherwise meets the requirements of this part.

"(c) Each contract under this section shall provide that—

"(1) the organization shall perform the functions set forth in section 1154(a);

"(2) the contract shall be for an initial term of two years and shall be renewable on a biennial basis thereafter;

"(3) the Secretary shall have the right to evaluate the quality and effectiveness of the organization in carrying out the functions specified in the contract;

"(4) the organization may terminate the contract upon 90 days notice to the Secretary;

"(5) the Secretary may terminate the contract upon 90 days notice to the organization if the Secretary determines that—

"(A) the organization does not substantially meet the requirements of section 1152(a), but this subparagraph shall not apply with respect to the requirements of section 1152(a)(1) in the case of an organization which entered into such contract under the provisions of subsection (a)(2) of this section; or

"(B) the organization has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part, but only after such organization has had an opportunity to submit data and have such data reviewed by the panel established under subsection (d);

"(6) the Secretary shall include in the contract negotiated objectives against which the organization's performance will be judged, and negotiated specifications for use of regional norms, or modifications thereof based on national norms, for performing review functions under the contract; and

"(7) payments shall be made to the organization in the same manner as payments are made to organizations under sections 1816 and 1842.

"(d)(1) Prior to making any termination under subsection (c)(5)(B), the Secretary must provide the organization with an opportunity to provide data, interpretations of data, and other information pertinent to its performance under the contract. Such data and other information shall be reviewed in a timely manner by a panel appointed by the Secretary, and the panel shall submit a report of its findings to the Secretary in a timely manner. The Secretary shall make a copy of the report available to the organization.

"(2) The Secretary may accept or not accept the findings of the panel. After the panel has submitted a report with respect to an organization, the Secretary may, with the concurrence of the organization, amend the contract to modify the scope of the functions to be carried out by the organization, or in any other manner. The Secretary may terminate a contract under the authority of subsection (c)(5)(C) upon 90 days notice after the panel has submitted a report, or earlier if the organization so agrees.

"(3) A panel appointed by the Secretary under this subsection shall consist of not more than five individuals, each of whom shall be a member of a utilization and quality control peer review organization having a contract with the Secretary under this part. While serving on such panel individuals shall be paid at a per diem rate not to exceed the current per diem equivalent at the time that service on the panel is rendered for grade GS-18 under section 5332 of title 5, United States Code. Appointments shall be made without regard to title 5, United States Code, and the provisions of section 14 of the Federal Advisory Committee Act shall not apply to the panel.

"(e) Contracting authority of the Secretary under this section may be carried out without regard to any provision of law relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the purposes of this part. The Secretary may use different contracting methods with respect to different geographical areas.

"(f) Any determination by the Secretary to terminate a contract under this section shall not be subject to judicial review.

"FUNCTIONS OF PEER REVIEW ORGANIZATIONS

"SEC. 1154. (a) Any utilization and quality control peer review organization entering into a contract with the Secretary under this part must perform the following functions:

"(1) The organization shall review some or all of the professional activities in the area, subject to the terms of the contract, of physicians and other health care practitioners and institutional and noninstitutional providers of health care services in the provision of health care services and items for which payment may be made (in whole or in part) under title XVIII for the purpose of determining whether—

"(A) such services and items are or were reasonable and medically necessary;

"(B) the quality of such services meets professionally recognized standards of health care; and

"(C) in case such services and items are proposed to be provided in a hospital or other health care facility on an inpatient basis, such services and items could, consistent with the provision of appropriate medical care, be effectively provided more economically on an outpatient basis or in an inpatient health care facility of a different type.

"(2) The organization shall determine, on the basis of the review carried out under paragraph (1), whether payment shall be made for services under title XVIII. Such determination shall constitute the conclusive determination on those issues for purposes of payment under title XVIII, except that payment may be made if—

"(A) such payment is allowed by reason of section 1879;

"(B) in the case of inpatient hospital services or posthospital extended care services, the peer review organization determines that additional time is required in order to arrange for postdischarge care, but payment may be continued under this subparagraph for not more than two days, but only in the case where the provider of such services did not know and could not reasonably have been expected to know (as determined under section 1879) that payment would not otherwise be made for such services under title XVIII prior to notification by the organization under paragraph (3);

"(C) such determination is changed as the result of any hearing or review of the determination under section 1155; or

"(D) such payment is authorized under section 1861(v)(1)(G).

"(3) Whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such practitioner or provider, such patient, and the agency or organization responsible for the payment of claims under this Act. In the case of practitioners and providers of services, the organization shall provide an opportunity for discussion and review of the determination.

"(4) The organization shall, after consultation with the Secretary, determine the types and kinds of cases (whether by type of health care or diagnosis involved, or whether in terms of other relevant criteria relating to the provision of health care services) with respect to which such organization will, in order to most effectively carry out the purposes of this part, exercise review authority under the contract. The organization shall notify the Secretary periodically with respect to such determinations.

"(5) The organization shall consult with nurses and other professional health care practitioners (other than physicians described in section 1861(r)(1)) and with representatives of institutional and noninstitutional providers of health care services, with respect to the organization's responsibility for the review under paragraph (1) of the professional activities of such practitioners and providers.

"(6) The organization shall, consistent with the provisions of its contract under this part, apply professionally developed norms of care, diagnosis, and treatment based upon typical patterns of practice within the geographic area served by the organization as principal points of evaluation and review, taking into consideration national norms where appropriate. Such norms with respect to treatment for particular illnesses or health conditions shall include—

"(A) the types and extent of the health care services which, taking into account differing, but acceptable, modes of treatment and methods of organizing and delivering care, are considered within the range of appropriate diagnosis and treatment of such illness or health condition, consistent with professionally recognized and accepted patterns of care; and

"(B) the type of health care facility which is considered, consistent with such standards, to be the type in which health care services which are medically appropriate for such illness or condition can most economically be provided.

"(7) The organization, to the extent necessary and appropriate to the performance of the contract, shall—

"(A) make arrangements to utilize the services of persons who are practitioners of, or specialists in, the various areas of medicine (including dentistry), or other types of health care, which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their profession within the area served by such organization;

"(B) undertake such professional inquiries either before or after, or both before and after, the provision of services with respect to which such organization has a responsibility for review which in the judgment of such organization will facilitate its activities;

"(C) examine the pertinent records of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under paragraph (1); and

"(D) inspect the facilities in which care is rendered or services are provided (which are located in such area) of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under paragraph (1).

"(8) The organization shall perform such duties and functions and assume such responsibilities and comply with such other requirements as may be required by this part or under regulations of the Secretary promulgated to carry out the provisions of this part.

"(9) The organization shall collect such information relevant to its functions, and keep and maintain such records, in such form as the Secretary may require to carry out the purposes of this part, and shall permit access to and use of any such information and records as the Secretary may require for such purposes, subject to the provisions of section 1160.

"(10) The organization shall coordinate activities, including information exchanges, which are consistent with economical and efficient operation of programs among appropriate public and private agencies or organizations including—

"(A) agencies under contract pursuant to sections 1816 and 1842 of this Act;

"(B) other peer review organizations having contracts under this part; and

"(C) other public or private review organizations as may be appropriate.

"(11) The organization shall make available its facilities and resources for contracting with private and public entities paying for health care in its area for review, as feasible and appropriate, of services reimbursed by such entities.

"(b)(1) No physician shall be permitted to review—

"(A) health care services provided to a patient if he was directly responsible for providing such services; or

"(B) health care services provided in or by an institution, organization, or agency, if he or any member of his family has, directly or indirectly, a significant financial interest in such institution, organization, or agency.

"(2) For purposes of this subsection, a physician's family includes only his spouse (other than a spouse who is legally separated from him under a decree of divorce or separate maintenance), children (including legally adopted children), grandchildren, parents, and grandparents.

"(c) No utilization and quality control peer review organization shall utilize the services of any individual who is not a duly licensed doctor of medicine, osteopathy, or dentistry to make final determinations of denial decisions in accordance with its duties and functions under this part with respect to the professional conduct of any other duly licensed doctor of medicine, osteopathy, or dentistry, or any act performed by any duly licensed doctor of medicine, osteopathy, or dentistry in the exercise of his profession.

"RIGHT TO HEARING AND JUDICIAL REVIEW

"SEC. 1155. Any beneficiary who is entitled to benefits under title XVIII, and any practitioner or provider, who is dissatisfied with a determination made by a contracting peer review organization in conducting its review responsibilities under this part, shall be entitled to a reconsideration of such determination by the reviewing organization. Where the reconsideration is adverse to the beneficiary and where the matter in controversy is $200 or more, such beneficiary shall be entitled to a hearing by the Secretary (to the same extent as is provided in section 205(b)), and, where the amount in controversy is $2,000 or more, to judicial review of the Secretary's final decision.

"OBLIGATIONS OF HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES; SANCTIONS AND PENALTIES; HEARINGS AND REVIEW

"SEC. 1156. (a) It shall be the obligation of any health care practitioner and any other person (including a hospital or other health care facility, organization, or agency) who provides health care services for which payment may be made (in whole or in part) under title XVIII, to assure, to the extent of his authority that services or items ordered or provided by such practitioner or person to beneficiaries and recipients under such title—

"(1) will be provided economically and only when, and to the extent, medically necessary;

"(2) will be of a quality which meets professionally recognized standards of health care; and

"(3) will be supported by evidence of medical necessity and quality in such form and fashion and at such time as may reasonably be required by a reviewing peer review organization in the exercise of its duties and responsibilities.

"(b)(1) If after reasonable notice and opportunity for discussion with the practitioner or person concerned, any organization having a contract with the Secretary under this part determines that such practitioner or person has—

"(A) failed in a substantial number of cases substantially to comply with any obligation imposed on him under subsection (a), or

"(B) grossly and flagrantly violated any such obligation in one or more instances,

such organization shall submit a report and recommendations to the Secretary. If the Secretary agrees with such determination, and determines that such practitioner or person, in providing health care services over which such organization has review responsibility and for which payment (in whole or in part) may be made under title XVIII, has demonstrated an unwillingness or a lack of ability substantially to comply

with such obligations, the Secretary (in addition to any other sanction provided under law) may exclude (permanently or for such period as the Secretary may prescribe) such practitioner or person from eligibility to provide such services on a reimbursable basis. If the Secretary fails to act upon the recommendations submitted to him by such organization within 120 days after such submission, such practitioner or person shall be excluded from eligibility to provide services on a reimbursable basis until such time as the Secretary determines otherwise.

"(2) A determination made by the Secretary under this subsection shall be effective at such time and upon such reasonable notice to the public and to the practitioner or person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of institutional health care services such determination shall be effective in the manner provided in title XVIII with respect to terminations of provider agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

"(3) In lieu of the sanction authorized by paragraph (1), the Secretary may require that (as a condition to the continued eligibility of such practitioner or person to provide such health care services on a reimbursable basis) such practitioner or person pays to the United States, in case such acts or conduct involved the provision or ordering by such practitioner or person of health care services which were medically improper or unnecessary, an amount not in excess of the actual or estimated cost of the medically improper or unnecessary services so provided. Such amount may be deducted from any sums owing by the United States (or any instrumentality thereof) to the practitioner or person from whom such amount is claimed.

"(4) Any practitioner or person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

"(c) It shall be the duty of each utilization and quality control peer review organization to use such authority or influence it may possess as a professional organization, and to enlist the support of any other professional or governmental organization having influence or authority over health care practitioners and any other person (including a hospital or other health care facility, organization, or agency) providing health care services in the area served by such review organization, in assuring that each practitioner or person (referred to in subsection (a)) providing health care services in such area shall comply with all obligations imposed on him under subsection (a).

"LIMITATION ON LIABILITY

"SEC. 1157. (a) Notwithstanding any other provision of law, no person providing information to any organization having a contract with the Secretary under this part shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) unless—

"(1) such information is unrelated to the performance of the contract of such organization; or

"(2) such information is false and the person providing it knew, or had reason to believe, that such information was false.

"(b) No person who is employed by, or who has a fiduciary relationship with, any such organization or who furnishes professional services to such organization, shall be held by reason of the performance by him of any duty, function, or activity required or authorized pursuant to this part or to a valid contract entered into under this part, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) provided he has exercised due care.

"(c) No doctor of medicine or osteopathy and no provider (including directors, trustees, employees, or officials thereof) of health care services shall be civilly liable to any person under any law of the United States or of any State (or political subdivision thereof) on account of any action taken by him in compliance with or reliance upon professionally developed norms of care and treatment applied by an organization under contract pursuant to section 1153 operating in the area where such doctor of medicine or osteopathy or provider took such action; but only if—

"(1) he takes such action in the exercise of his profession as a doctor of medicine or osteopathy or in the exercise of his functions as a provider of health care services; and

"(2) he exercised due care in all professional conduct taken or directed by him and reasonably related to, and resulting from, the actions taken in compliance with or reliance upon such professionally accepted norms of care and treatment.

"(d) The Secretary shall make payment to an organization under contract with him pursuant to this part, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member, or employee related to the performance of any duty or function under such contract by such organization, member, or employee.

"APPLICATION OF THIS PART TO CERTAIN STATE PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

"SEC. 1158. (a) A State plan approved under any title of this Act, under which health care services are paid for in whole or in part with Federal funds, may provide that the functions specified in section 1154 may be performed in an area by contract with a utilization and quality control peer review organization that has entered into a contract with the Secretary in accordance with the provisions of section 1862(b).

"(b) In the event a State enters into a contract in accordance with subsection (a), the Federal share of the expenditures made to the contracting organization for its costs in the performance of its functions under the State plan shall be 75 percent (as provided in section 1903(a)(3)(C)).

"AUTHORIZATION FOR USE OF CERTAIN FUNDS TO ADMINISTER THE PROVISIONS OF THIS PART

"SEC. 1159. Expenses incurred in the administration of the contracts described in section 1862(b) shall be payable from—

"(1) funds in the Federal Hospital Insurance Trust Fund; and

"(2) funds in the Federal Supplementary Medical Insurance Trust Fund,

in such amounts from each of such Trust Funds as the Secretary shall deem to be fair and equitable after taking into consideration the expenses attributable to the administration of this part with respect to each of such programs. The Secretary shall make such transfers of moneys between such Trust Funds as may be appropriate to settle accounts between them in cases where expenses properly payable from one such Trust Fund have been paid from the other such Trust Fund.

"PROHIBITION AGAINST DISCLOSURE OF INFORMATION

"SEC. 1160. (a) An organization, in carrying out its functions under a contract entered into under this part, shall not be a Federal agency for purposes of the provisions of the Freedom of Information Act. Any data or information acquired by any such organization in the exercise of its duties and functions shall be held in confidence and shall not be disclosed to any person except—

"(1) to the extent that may be necessary to carry out the purposes of this part,

"(2) in such cases and under such circumstances as the Secretary shall by regulations provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care, or

"(3) in accordance with subsection (b).

"(b) An organization having a contract with the Secretary under this part shall provide in accordance with procedures and safeguards established by the Secretary, data and information—

"(1) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by the peer review organization to such agencies at the request of such agencies; and

"(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such organization, and shall be in the form of aggregate statistical data (without explicitly identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such organization.

The penalty provided in subsection (c) shall not apply to the disclosure of any information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such information) of any such information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the information.

"(c) It shall be unlawful for any person to disclose any such information described in subsection (a) other than for the purposes provided in subsections (a) and (b), and any

person violating the provisions of this section shall, upon conviction, be fined not more than $1,000, and imprisoned for not more than 6 months, or both, and shall be required to pay the costs of prosecution.

"(d) No patient record in the possession of an organization having a contract with the Secretary under this part shall be subject to subpena or discovery proceedings in a civil action.

"ANNUAL REPORTS

"SEC. 1161. The Secretary shall submit to the Congress not later than April 1 of each year, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

"(1) the number, status, and service areas of all utilization and quality control peer review organizations participating in the program;

"(2) the number of health care institutions and practitioners whose services are subject to review by such organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

"(3) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

"(4) the total costs incurred under titles XVIII and XIX of this Act in the implementation and operation of all procedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality; and

"(5) descriptions of the criteria upon which decisions are made, and the selection and relative weights of such criteria.

"EXEMPTIONS OF CHRISTIAN SCIENCE SANATORIUMS

"SEC. 1162. The provisions of this part shall not apply with respect to a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE UTILIZATION AND QUALITY CONTROL PEER REVIEW PROGRAM

"SEC. 1163. For purposes of applying this part to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.".

FACILITATION OF PRIVATE REVIEW

SEC. 144. Section 1866(a)(1) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraphs (A), (B), and (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) to release data with respect to patients of such provider upon request to an organization having a contract with the Secretary under part B of title XI as may be necessary (i) to allow such organization to carry out its functions under such contract, or (ii) to allow such organization to carry out similar review functions under any contract the organization may have with a private or public agency paying for health care in the same area with respect to patients who authorize release of such data for such purposes.".

WAIVER OF LIABILITY PROVISION

SEC. 145. Section 1879(a) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any provider or other person furnishing items or services for which payment may not be made by reason of section 1862(a)(1) or (9) shall be deemed to have knowledge that payment cannot be made for such items or services if the claim relating to such items or services involves a case, provider or other person furnishing services, procedure, or test, with respect to which such provider or other person has been notified by the Secretary (including notification by a utilization and quality control peer review organization) that a pattern of inappropriate utilization has occurred in the past, and such provider or other person has been allowed a reasonable time to correct such inappropriate utilization.".

MEDICAID PROVISIONS

SEC. 146. (a) Section 1902(d) of the Social Security Act is amended—

(1) by striking out "a Professional Standards Review Organization designated, conditionally or otherwise," and inserting in lieu thereof "a utilization and quality control peer review organization having a contract with the Secretary"; and

(2) by striking out "such Organization (or Organizations)" each place it appears and inserting in lieu thereof in each instance "such organization (or organizations)".

(b) Section 1903(a)(3)(C) of such Act is amended by striking out "Professional Standards Review Organization" and inserting in lieu thereof "utilization and quality control peer review organization".

DEMONSTRATION PROJECTS FOR COMPETITIVE BIDDING

SEC. 147. Section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (J) the following new subparagraph:

"(K) to determine whether the use of competitive bidding in the awarding of contracts under part B of title XI would be an efficient and effective method of furthering the purposes of that part.".

TECHNICAL AMENDMENTS

SEC. 148. (a) Section 1862(d)(1)(C) of such Act is amended by striking out ", on the basis of reports transmitted to him in accordance with section 1157 of this Act (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this title)," and inserting in lieu thereof "on the basis of information acquired by the Secretary in the administration of this title".

(b) Sections 1815(b), 1861(v)(1)(G), and 1861(w)(2) of such Act are each amended by striking out "Professional Standards Review Organization" and inserting in lieu thereof in each instance "quality control and peer review organization".

(c) Section 1832(a)(2)(F)(ii) of such Act is amended by striking out "Professional Standards Review Organization (designated, conditionally or otherwise," and inserting in lieu thereof "quality control and peer review organization (having a contract with the Secretary".

(d) Section 1833(i) of such Act is amended by striking out "the National Professional Standards Review Council and".

(e) Section 1879(e) of such Act is amended by striking out "professional standards review organization" and inserting in lieu thereof "quality control and peer review organization".

EFFECTIVE DATE

SEC. 149. The amendments made by this part shall be effective with respect to contracts entered into or renewed on or after the date of the enactment of this Act.

MAINTENANCE OF CURRENT LEVEL OF PSRO AGREEMENTS

SEC. 150. Prior to the date on which final regulations are in effect implementing the amendments made by this part, the Secretary of Health and Human Services may not reduce the number of agreements in effect under part B of title XI of the Social Security Act below the number of such agreements in effect on the earlier of the date of the enactment of this Act or September 30, 1982.

SUBTITLE D—AID TO FAMILIES WITH DEPENDENT CHILDREN

ROUNDING OF ELIGIBILITY AND BENEFIT AMOUNTS

SEC. 151. (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (32);

(2) by striking out the period at the end of paragraph (33) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(34) provide that both the standard of need applied to a family and the amount of aid determined to be payable, when not a whole dollar amount, shall be rounded to the next lower whole dollar amount.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

EFFECTIVE DATE OF APPLICATION; PRORATION OF FIRST MONTH'S AFDC BENEFIT

SEC. 152. (a) Section 402(a)(10) of the Social Security Act is amended—

(1) by striking out "provide, effective July 1, 1951, that all individuals" and inserting in lieu thereof "provide—

"(A) that all individuals";

(2) by adding "and" at the end thereof; and

(3) by adding at the end thereof the following new subparagraph:

"(B) that an application for aid under the plan will be effective no earlier than the date such application is filed with the State agency or local agency responsible for the administration of the State plan, and the amount payable for the month in which the application becomes effective, if such application becomes effective after the first day of such month, shall bear the same ratio to the amount payable if the application had been effective on the first day of such month as the number of days in the month including and following the effective date of the application bears to the total number of days in such month;".

(b) The amendments made by this section shall become effective on the date of the enactment of this Act.

ABSENCE FROM HOME SOLELY BY REASON OF UNIFORMED SERVICE

SEC. 153. (a) Section 406(a)(1) of the Social Security Act is amended by inserting "(other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States)" after "continued absence from the home".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

SANCTION FOR TERMINATION OR REDUCTION OF EMPLOYMENT

SEC. 154. (a) Section 402(a)(19) of the Social Security Act is amended by inserting after subparagraph (D) the following new subparagraph:

"(E) that if (and for such period as is prescribed in regulations of the Secretary) an individual (other than a child to whom paragraph (8)(A)(i) applies or an individual referred to in clause (i), (ii), (iv), (v), or (vi) of subparagraph (A) of this paragraph) is found by the State agency to have, within such prior period as the Secretary may prescribe, refused a bona fide offer of employment in which he is able to engage, or to have terminated his employment (or reduced the number of hours per month of such employment), without good cause, such individual's needs shall not be taken into account in making the determination under paragraph (7), and—

"(i) if such individual is the caretaker relative of the dependent child, aid for such child in the form of payments of the type described in section 406(b)(2) (but without regard to clauses (A) through (E) thereof) or section 408 or part E will be made, and

"(ii) if such individual is the parent who has been designated as the principal earner, for purposes of section 407, aid will be denied to all members of the family;".

(b) Section 402(a)(19)(F)(i) of such Act is amended by striking out "section 408" and inserting in lieu thereof "section 408 or part E".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

MANDATORY EMPLOYMENT SEARCH

SEC. 155. (a) Section 402(a) of the Social Security Act (as amended by section 151 of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (33);

(2) by striking out the period at the end of paragraph (34) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(35) provide—

"(A) that as a condition of eligibility for aid under the State plan of any individual claiming aid under the plan who is required to register pursuant to paragraph (19)(A) (or who would be required to register under paragraph (19)(A) but for clause (iii) thereof) or of any family, in the case of an individual who is (or would be) designated as the principal earner for purposes of section 407, such individual will be required to participate in a program of employment search beginning at the time he applies for such aid (or an application including his need is filed) and continuing after such application becomes effective, at such time or times each year as the State agency may prescribe, but not to exceed eight weeks (after such application becomes effective) in total in each year;

"(B) that, in the case of a recipient who fails to comply with the requirements of this paragraph, the provisions of paragraph (19)(F) will be applied in the same manner as if the recipient had made a refusal of the type which would cause the provisions of such paragraph (19)(F) to be applied; and

"(C) methods to assure that the requirements of this paragraph are being met;".

(b) Section 409(b)(3) of such Act is amended—

(1) in the first sentence—

(A) by inserting ", the program of employment search required under section 402(a)(35)," after "pursuant to this section",

(B) by striking out "both such programs" and inserting in lieu thereof "more than one such program", and

(C) by striking out "in the other" and inserting in lieu thereof "in another"; and

(2) in the second sentence, by striking out "both such programs" and inserting in lieu thereof "more than one such program".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

INCLUSION AND EXCLUSION OF SPECIFIED INDIVIDUALS' NEEDS AND INCOME

SEC. 156. (a) Section 402(a)(24) of the Social Security Act is amended to read as follows:

"(24) provide—

"(A) that, except as provided in subparagraphs (B) and (C), in making the determination under paragraph (7) and applying paragraph (8), the State agency shall include, unless otherwise prescribed by or pursuant to this part—

"(i) the natural or adoptive parent or parents of a dependent child for whom aid is claimed under the plan (if such parent or parents are living with the dependent child), which parent or parents shall be designated as caretaker relative or relatives of the child,

"(ii) the relative with whom the dependent child is living (when the child's natural or adoptive parent is not in the home), but only if such relative claims aid for himself as well as the child, and

"(iii) all siblings of the dependent child who are under the age limit selected by the State pursuant to section 406(a)(2) and are living with such dependent child (other than an individual receiving benefits under title XVI or a sibling who is a stepbrother or stepsister whose natural parent is such child's stepparent to whom subparagraph (C) applies);

"(B) that, except as provided in subparagraph (C), in making the determination under paragraph (7) and applying paragraph (8), the State agency shall not include, unless otherwise prescribed by or pursuant to this part—

"(i) if the youngest dependent child in the family is age 16 or over, the caretaker relative to whom paragraph (19)(A) is (or would, but for clause (iii) or (vii) thereof, be) applicable,

"(ii) the caretaker relative (who is not the natural or adoptive parent of the dependent child) if that relative is not claiming aid for himself, and

"(iii) any individual receiving benefits under title XVI;

"(C)(i) that, subject to clause (ii) and section 415(e)(2), in considering the income of the dependent child for purposes of making the determination under paragraph (7), the State agency shall include (in the case of an individual whose income is not included for purposes of paragraph (8) with respect to such dependent child) the income of any individual, not receiving benefits under title XVI, who is—

"(I) the natural or adoptive parent of such child and to whom subparagraph (B)(i) applies,

"(II) the parent (whose income is not otherwise included under paragraph (7) by reason of any provision of this part other than this subparagraph) of a caretaker relative claiming aid for himself as well as the child, if such caretaker relative is under the age limit selected by the State pursuant to section 406(a)(2), but only if such parent is living with the dependent child,

"(III) the stepparent (whose income is not otherwise included under paragraph (7) by reason of any provision of this part other than this subparagraph) of the dependent child living with such child,

"(IV) any person living with the dependent child and the child's natural or adoptive parent who is not related to such child or parent or to any other individual living with such child and parent, or

"(V) an individual, living with such child, whose needs may not be included for purposes of paragraph (7) solely by reason of the provisions of paragraph (33) or of section 415; and

"(ii) that, for purposes of clause (i), the State agency shall exclude so much of the income of such individual (other than an individual whose needs are excluded in making the determination under paragraph (7) by reason of his failure to comply with a requirement of this part, but including an individual to whom section 415 applies) as equals the sum of—

"(I) the first $75 of the total of such individual's earned income for such month (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in fulltime employment or not employed throughout the month),

"(II) the State's standard of need under such plan for a family of the same composition as the individual and those other persons living with the dependent child and claimed by such individual as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making the determination under paragraph (7),

"(III) amounts paid by the individual to persons not living with him but claimed by him as dependents for purposes of determining his Federal personal income tax liability, and

"(IV) payments by such individual of alimony or child support with respect to persons not living with him; and

"(D) that payment of aid under this part will be made to the parent of the caretaker relative referred to in subparagraph (C)(i)(II) if such parent is living with such dependent child, unless the State agency determines that the health and safety of such caretaker relative or such dependent child would be seriously jeopardized if payment of such aid is made to such parent;".

(b) Section 402(a)(7) of such Act is amended by striking out "or (31)" and inserting in lieu thereof "or (24)".

(c) Section 402(a)(31) of such Act is repealed.

(d) The amendments made by this section shall become effective on the date of the enactment of this Act.

REPEAL OF EMERGENCY ASSISTANCE PROGRAM

SEC. 157. (a) Section 403(a) of the Social Security Act is amended by striking out "under section 409 or 414; and" at the end of paragraph (3) and all that follows through the end of paragraph (5) and inserting in lieu thereof "under section 409 or 414.".

(b) Subsection (e) of section 406 of such Act is repealed.

(c) The amendment and repeal made by this section shall become effective on October 1, 1982.

PRORATION OF STANDARD AMOUNT FOR SHELTER AND UTILITIES

SEC. 158. (a) Section 412 of the Social Security Act is amended to read as follows:

"PRORATING SHELTER ALLOWANCE OF AFDC FAMILY LIVING WITH ANOTHER HOUSEHOLD

"SEC. 412. A State plan for aid and services to needy families with children may provide that, in determining the need of any dependent child or relative claiming aid, who is living with other individuals (not claiming aid together with such child or relative) as a household (as defined, for purposes of this section, by the Secretary), the amount included in the standard of need, and the payment standard, applied to such child and relative for shelter, utilities, and similar needs may be prorated on a reasonable basis, in such manner and under such circumstances as the State may determine to be appropriate. For purposes of any method of proration utilized by a State under this section, there shall not be included as a member of a household an individual receiving benefits under title XVI in any month to whom the one-third reduction prescribed by section 1612(a)(2)(A)(i) is applied.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

LIMITATION ON FEDERAL FINANCIAL PARTICIPATION IN ERRONEOUS ASSISTANCE EXPENDITURES

SEC. 159. (a) Section 403(i) of the Social Security Act is amended to read as follows:

"(i)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State's erroneous excess payments (as defined in subparagraph (D)) to its total payments under the State plan approved under this part exceeds—

"(i) 0.04 for the period consisting of the third and fourth quarters of fiscal year 1983; or

"(ii) 0.03 for any full fiscal year thereafter, then the Secretary shall make no payment for such period or fiscal year with respect to so much of the erroneous excess payments (as so defined) as exceeds the allowable error rate for such period or fiscal year.

"(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a period or fiscal year despite a good faith effort by such State.

"(C) In estimating the amount to be paid to a State under subsection (b), the Secretary shall take into consideration the limitation on Federal financial participation imposed by subparagraph (A) and shall reduce the estimate he makes under subsection (b)(1), and certifies to the Secretary of the Treasury for payment under subsection (b)(3), in light of any expected erroneous excess payments (estimated in accordance with such criteria, including sampling procedures, as he may prescribe and subject to subsequent adjustment, if necessary, under subsection (b)(2)).

"(D) For purposes of this subsection, the term 'erroneous excess payments' means the total of (i) payments to ineligible families, and (ii) overpayments to eligible families.

"(2) The State agency administering the plan approved under this part shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made (or expected, with respect to future periods specified by the Secretary) in connection with its administration of such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

"(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

"(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State's error rates for a fiscal year, the amount that would otherwise be payable to such State under this part for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

"(4) This subsection shall not apply with respect to Puerto Rico, Guam, or the Virgin Islands.".

(b) Section 403(a) of such Act is amended by striking out "In the case of calendar quarters beginning after September 30, 1977, and prior to April 1, 1978, the amount to be paid to each State (as determined under the preceding provisions of this subsection or section 1118, as the case may be) shall be increased in accordance with the provisions of subsection (i) of this section.".

(c) Section 403(j) of such Act is amended by striking out "If the dollar error rate of aid furnished by a State" and inserting in lieu thereof "In the case of Puerto Rico, Guam, or the Virgin Islands, if the dollar error rate of aid furnished by any such State".

(d)(1) The amendments made by subsections (a) and (b) shall become effective on April 1, 1983.

(2) The inapplicability of section 403(j) of the Social Security Act to States other than Puerto Rico, Guam, and the Virgin Islands by reason of the amendment made by subsection (c) shall be effective with respect to six-month periods beginning after April 1983.

(e)(1) The regulations in effect for fiscal year 1982 with respect to erroneous payments made by States under a State plan approved under part A of title IV of the Social Security Act (45 CFR 205.42) shall remain in effect with respect to erroneous payments made by States during the first two quarters of fiscal year 1983, but shall be applied on the basis of a six-month period.

(2) No provision of law limiting Federal financial participation with respect to erroneous payments made by States under a State plan approved under part A of title IV of the Social Security Act (including any provision contained in, or incorporated by reference into, any appropriation Act or resolution making continuing appropriations), other than the limitations contained in section 403 of such Act, shall be effective with respect to erroneous payments made by States on or after April 1, 1983, unless such provision of law is enacted after the date of the date of the enactment of this Act and expressly provides that such limitation is in addition to or in lieu of the limitations contained in section 403 of the Social Security Act.

HOUSEHOLDS HEADED BY MINOR PARENTS

SEC. 160. (a) Section 402(a) of the Social Security Act (as amended by section 155 of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (34);

(2) by striking out the period at the end of paragraph (35) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(36) provide that any individual who is under the age limit selected by the State pursuant to section 406(a)(2) and is not married, and who has a dependent child in his or her care (or is pregnant and is eligible for aid under the State plan), may receive aid under the plan for such individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent or legal guardian of such individual as such parent's or guardian's own home; except that the preceding provisions of this paragraph shall not apply in the case where—

"(A) such individual was married at the time of (or at any time prior to) the birth of such child;

"(B) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

"(C) the State agency determines that the health and safety of such individual or such dependent child would be seriously jeopardized if such individual and such dependent child lived in the same residence with such individual's own parent or legal guardian; or

"(D) such individual lived apart from his or her own parent or legal guardian for a period of at least one year prior to the birth of any such dependent child.".

(b) The amendments made by this section shall become effective on the date of the enactment of this Act.

EXCLUSION FROM INCOME OF CERTAIN STATE PAYMENTS

SEC. 161. (a) The last sentence of section 403(a) of the Social Security Act is amended by inserting before the period at the end thereof the following: ", but any such amount (if determined to have been paid by the State in recognition of the current or anticipated needs of a family, other than with respect to the first or first and second months of eligibility) shall not be considered income within the meaning of section 402(a)(13) for the purposes of determining the amount of aid in the succeeding months".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

EXTENSION OF TIME FOR STATES TO ESTABLISH A WORK INCENTIVE DEMONSTRATION PROGRAM

SEC. 162. (a) Section 445(b)(1) of the Social Security Act is amended by striking out "Not later than sixty days following the date of the enactment of this section" and inserting in lieu thereof "Not later than June 30, 1984".

(b) Section 445(b)(1)(B) of such Act is amended by inserting before the semicolon at the end thereof the following: ", but subject to waiver of such criteria as provided under section 1115".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

Subtitle E—Child Support Enforcement

FEE FOR SERVICES TO NON-AFDC FAMILIES

SEC. 171. (a) Section 454(6) of the Social Security Act is amended—

(1) in clause (A), by inserting "including, at the option of the State, support collection services for the spouse (or former spouse) with whom the absent parent's child is living (but only if a support obligation has been established with respect to such spouse)," after "with the State,";

(2) in clause (B), by striking out "services under the State plan (other than collection of support)" and inserting in lieu thereof "such services"; and

(3) by amending clause (C) to read as follows: "(C) any costs in excess of the fee so imposed may be collected—

"(i) from the parent who owes the child or spousal support obligation involved, or

"(ii) at the option of the State, from the individual to whom such services are made available, but only if such State has in effect a procedure whereby all persons in such State having authority to order child or spousal support are informed that such costs are to be collected from the individual to whom such services were made available;".

(b)(1) Section 454 of such Act is further amended—

(A) by adding "and" after the semicolon at the end of paragraph (18);

(B) by striking out paragraph (19); and

(C) by redesignating paragraph (20) as paragraph (19).

(2) Section 2333(c) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "Section 453(a) of such Act is amended" and inserting in lieu thereof "Section 455(a) of such Act is amended".

(3) Section 303(e)(2)(A)(iii)(II) of such Act is amended by striking out "454(20)(B)(i)" and inserting in lieu thereof "454(19)(B)(i)".

(c) The amendments made by this section shall be effective on and after August 13, 1981.

ALLOTMENTS FROM PAY FOR CHILD AND SPOUSAL SUPPORT OWED BY MEMBERS OF THE UNIFORMED SERVICES ON ACTIVE DUTY

SEC. 172. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ALLOTMENTS FROM PAY FOR CHILD AND SPOUSAL SUPPORT OWED BY MEMBERS OF THE UNIFORMED SERVICES ON ACTIVE DUTY

"SEC. 465. (a) In any case in which child, or child and spousal, support payments are owed by a member of one of the uniformed services (as defined in section 101(3) of title 37, United States Code) on active duty, such member shall be required to make allotments from his pay and allowances (under chapter 13 of title 37, United States Code) as payment of such support when he has failed to make periodic payments under a support order, that meets the criteria specified in section 303(b)(1)(A) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)(1)(A)), in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person (as defined in subsection (b)) to the designated official in the appropriate uniformed service. Such notice shall also specify the person to whom the allotment is payable. The amount of the allotment shall be the amount necessary to comply with the order (which, if the order so provides, may include arrearages as well as amounts for current support), except that the amount of the allotment, together with any other amounts withheld for support from the wages of the member, as a percentage of his pay from the uniformed service, shall not exceed the limits prescribed in sections 303(b) and (c) of the Consumer Credit Protection Act (15 U.S.C. 1673(b) and (c)). An allotment under this subsection shall be adjusted or discontinued upon notice from an authorized person.

"(b) For purposes of this section the term 'authorized person' means—

"(1) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority under such plan to seek to recover any amounts owed as child or child and spousal support (including, when authorized under the State plan, any official of a political subdivision); and

"(2) the court which has authority to issue an order against the member for the support and maintenance of a child, or any agent of such court.

"(c) The Secretary of Defense, in the case of the Army, Navy, Air Force, and Marine Corps, and the Secretary concerned (as defined in section 101(5) of title 37, United States Code) in the case of each of the other uniformed services, shall each issue regulations applicable to allotments to be made under this section, designating the officials to whom notice of failure to make support payments, or to discontinue or adjust an allotment, should be given, prescribing the form and content of the notice that will, in turn, be given to the affected member, and specifying any other rules, necessary for such Secretary to implement this section.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

REIMBURSEMENT OF STATE AGENCY IN INITIAL MONTH OF INELIGIBILITY FOR AFDC

SEC. 173. (a) Section 454(5) of the Social Security Act is amended by inserting "following the first month" after "for any month".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

Subtitle F—Supplemental Security Income

PRORATION OF INITIAL SSI BENEFIT PAYMENT

SEC. 181. (a) Section 1611(c) of the Social Security Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) The amount of such benefit for the month in which an application for benefits becomes effective (or, if the Secretary so determines, for such month and the following month) and for any month immediately following a month of ineligibility for such benefits (or, if the Secretary so determines, such month and the following month) shall—

"(A) be determined on the basis of the income of the individual and the eligible spouse, if any, of such individual and other relevant circumstances in such month; and

"(B) in the case of the month in which an application becomes effective or the first month following a period of ineligibility, if such application becomes effective, or eligibility is restored, after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if such application had become effective, or eligibility had been restored, on the first day of such month as the number of days in such month including and following the effective date of such application or restoration of eligibility bears to the total number of days in such month.

"(3) For purposes of this subsection, an application of an individual for benefits under this title shall be effective on the later of—

"(A) the date such application is filed, or

"(B) the date such individual first becomes eligible for such benefits with respect to such application.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

ROUNDING OF SSI ELIGIBILITY AND BENEFIT AMOUNTS

SEC. 182. (a) Section 1617 of the Social Security Act is amended to read as follows:

"COST-OF-LIVING ADJUSTMENTS IN BENEFITS

"SEC. 1617. (a) Whenever benefit amounts under title II are increased by any percentage effective with any month as a result of a determination made under section 215(i)—

"(1) each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), and (b)(2) of section 1611, and subsection (a)(1)(A) of section 211 of Public Law 93-66, as specified in such subsections or as previously increased under this section, shall be increased by the amount (if any) by which—

"(A) the amount which would have been in effect for such month under such subsection but for the rounding of such amount pursuant to paragraph (2), exceeds

"(B) the amount in effect for such month under such subsection; and

"(2) the amount obtained under paragraph (1) with respect to each subsection shall be further increased by the same percentage by which benefit amounts under title II are increased for such month (and rounded, when not a multiple of $12, to the next lower multiple of $12), effective with respect to benefits for months after such month.

"(b) The new dollar amounts to be in effect under section 1611 of this title and under section 211 of Public Law 93-66 by reason of this section shall be published in the Federal Register together with, and at the same time as, the material required by section 215(i)(2)(D) to be published therein by reason of such determination.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

COORDINATION OF SSI AND OASDI COST-OF-LIVING ADJUSTMENTS

SEC. 183. (a) Section 1611(c) of the Social Security Act (as amended by section 181 of this Act) is further amended—

(1) in paragraph (1) by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2), (3), and (4)";

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) For purposes of this subsection, an increase in the benefit amount payable under title II (pursuant to a determination made under section 215(i)) to an individual receiving benefits under this title shall be included in the income used to determine the benefit under this title of such individual for any month which is—

"(A) the first month in which the benefit amount payable to such individual under this title is increased pursuant to section 1617 as a result of such determination, or

"(B) at the election of the Secretary, the month immediately following such month.

"(4)(A) If the Secretary determines that reliable information is currently available with respect to the income and other circumstances of an individual for a month (including information with respect to a class of which such individual is a member and information with respect to scheduled cost-of-living adjustments under other benefit programs), the benefit amount of such individual under this title for such month may be determined on the basis of such information.

"(B) The Secretary shall prescribe by regulation the circumstances in which information with respect to an event may be taken into account pursuant to subparagraph (A)

in determining benefit amounts under this title.".

(b)(1) Section 1611(c)(3) of the Social Security Act (as amended by this section) shall apply with respect to benefits payable for months beginning on or after the date which is 60 days after the date of the enactment of this Act.

(2) Section 1611(c)(4) of the Social Security Act (as amended by this section) shall become effective on the date of the enactment of this Act.

PHASE OUT OF HOLD HARMLESS PROTECTION

SEC. 184. (a) Section 401 of the Social Security Amendments of 1972 (Public Law 92-603; 42 U.S.C. 1382e (note)) is amended by adding at the end thereof the following new subsection:

"(d)(1) In addition to the amount payable to the Secretary by a State for a fiscal year under subsection (a), a State shall pay the applicable percentage of an amount equal to the amount (if any) by which—

"(A) the amount which would be payable to the Secretary by such State for such fiscal year if the part of the benefits payable under title XVI of the Social Security Act but not taken into account under subparagraph (B) of subsection (a)(2) by reason of the exclusion contained in the third sentence of subsection (a)(2) were taken into account under such subparagraph with respect to such State for such fiscal year, exceeds

"(B) the amount payable to the Secretary by a State for such fiscal year under subsection (a).

"(2) For purposes of this subsection, the term 'applicable percentage' means—

"(A) 60 percent with respect to fiscal year 1983,

"(B) 80 percent with respect to fiscal year 1984, and

"(C) 100 percent with respect to each fiscal year after fiscal year 1984.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

RECOVERY OF SSI OVERPAYMENTS

SEC. 185. (a) Section 1631(b)(1) of the Social Security Act is amended—

(1) by inserting "under this title, or under an agreement under section 1616(b) of this title or section 212 of Public Law 93-66" after "has been paid";

(2) by striking out "payments to such individual" and inserting in lieu thereof "benefits payable to such individual under this title, title II of this Act, or part B of title IV of the Federal Mine Safety and Health Act of 1977"; and

(3) by inserting after the first sentence the following new sentence: "In the case of payment of more than the correct amount under this title, or under an agreement under section 1616(b) of this title or section 212 of Public Law 93-66, with respect to an individual, an amount equal to the amount by which a benefit payable to such individual under title II of this Act or part B of title IV of the Federal Mine Safety and Health Act of 1977 is reduced pursuant to this paragraph shall be transferred from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the account in the general fund from which benefits are paid under part B of title IV of the Federal Mine Safety and Health Act of 1977, whichever is appropriate, to the account in the general fund of the Treasury from which such overpayment was made.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

SUBTITLE G—UNEMPLOYMENT COMPENSATION

ROUNDING OF BENEFIT AMOUNTS

SEC. 191. (a) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out "or" at the end of clause (B), and by inserting before the period at the end thereof the following: ", or (D) paid to an individual with respect to a week of unemployment to the extent that such amount exceeds the amount of such compensation which would be paid to such individual if such State had a benefit structure which provided that the amount of compensation otherwise payable to any individual for any week shall be rounded (if not a full dollar amount) to the nearest lower full dollar amount".

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning on or after October 1, 1983.

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to provide for rounding down of unemployment compensation amounts, the amendment made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning after the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

TITLE II—REVENUE MEASURES

SUBTITLE A—PROVISIONS RELATING TO INDIVIDUALS

SEC. 201. ALTERNATIVE MINIMUM TAX ON TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Section 55 (relating to alternative minimum tax for taxpayers other than corporations) is amended to read as follows:

"SEC. 55. ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

"(a) TAX IMPOSED.—In the case of a taxpayer other than a corporation, if—

"(1) an amount equal to the sum of—

"(A) 10 percent of so much of the alternative minimum taxable income as exceeds the exemption amount but does not exceed the exemption amount plus $20,000, and

"(B) 20 percent of so much of the alternative minimum taxable income as exceeds the exemption amount plus $20,000, exceeds

"(2) the regular tax for the taxable year, then there is imposed (in addition to any other tax imposed by this subtitle) a tax equal to the amount of such excess.

"(b) ALTERNATIVE MINIMUM TAXABLE INCOME.—For purposes of this title, the term 'alternative minimum taxable income' means the adjusted gross income (determined without regard to the deduction allowed by section 172) of the taxpayer for the taxable year—

"(1) reduced by the sum of—

"(A) the alternative tax net operating loss deduction, plus

"(B) the alternative tax itemized deductions, plus

"(C) any amount included in income under section 667, and

"(2) increased by the amount of items of tax preference.

"(c) CREDITS.—

"(1) IN GENERAL.—For purposes of determining any credit allowable under subpart A of part IV of this chapter (other than the foreign tax credit allowed under section 33(a))—

"(A) the tax imposed by this section shall not be treated as a tax imposed by this chapter, and

"(B) the amount of the foreign tax credit allowed by section 33 shall be determined without regard to this section.

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

"(A) DETERMINATION OF FOREIGN TAX CREDIT.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under subpart A of part III of subchapter N (section 901 and following).

"(B) SECTION 904(a) LIMITATION.—For purposes of the determination provided by subparagraph (A), the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by subsection (a) against which such credit is taken and the regular tax as—

"(i) the taxpayer's alternative minimum taxable income from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(ii) his entire alternative minimum taxable income.

For such purpose, the amount of the limitation of section 904(a) shall not exceed the tax imposed by subsection (a).

"(C) DEFINITION OF ALTERNATIVE MINIMUM TAXABLE INCOME FROM SOURCES WITHOUT THE UNITED STATES.—For purposes of subparagraph (B), the term 'alternative minimum taxable income from sources without the United States' means the items of gross income from sources without the United States adjusted as provided in paragraphs (1) and (2) of subsection (b) (taking into account in such adjustment only items described in such subparagraphs which are properly attributable to items of gross income from sources without the United States).

"(D) SPECIAL RULE FOR APPLYING SECTION 904(c).—In determining the amount of foreign taxes paid or accrued during the taxable year which may be deemed to be paid or accrued in a preceding or succeeding taxable year under section 904(c)—

"(i) the limitation of section 904(a) shall be increased by the amount of the limitation determined under subparagraph (B), and

"(ii) any increase under paragraph (2)(A) shall be taken into account.

"(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—

"(A) IN GENERAL.—In the case of any taxable year in which a tax is imposed by this section, for purposes of determining the amount of any carryback or carryover of any applicable credit to any other taxable year, the amount of the applicable credit limitation for such taxable year shall be deemed to be—

"(i) the amount of the applicable credit allowable for such taxable year (determined without regard to this paragraph), reduced (but not below zero) by,

"(ii) the amount of the tax imposed by this section for the taxable year, reduced by—

"(I) the amount of the credit allowable under section 33(a), and

"(II) the amount of such tax taken into account under this clause with respect to any applicable credit having a lower number or letter designation.

"(B) APPLICABLE CREDITS, ETC.—For purposes of this paragraph—

"(i) APPLICABLE CREDIT.—The term 'applicable credit' means any credit allowable under section 38, 40, 44B, 44C, 44E, or 44F.

"(ii) APPLICABLE CREDIT LIMITATION.—The term 'applicable credit limitation' means, with respect to any applicable credit, the limitations under section 46(a)(3), 53(b), 44C(b)(1), 44E(e)(1), 44F(g)(1), or 50A(a)(2), whichever is appropriate.

"(d) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION DEFINED.—

"(1) IN GENERAL.—The term 'alternative tax net operating loss deduction' means the net operating loss deduction allowable for the taxable year under section 172, except that in determining the amount of such deduction—

"(A) in the case of taxable years beginning after December 31, 1982, section 172(b)(2) shall be applied by substituting 'alternative minimum taxable income' for 'taxable income' each place it appears, and

"(B) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2).

"(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

"(A) POST-1982 LOSS YEARS.—In the case of a loss year beginning after December 31, 1982, the net operating loss for such year under section 172(c) shall—

"(i) be reduced by the amount of the items of tax preference arising in such year, and

"(ii) be computed by taking into account only itemized deductions which are alternative tax itemized deductions for the taxable year and which are otherwise described in section 172(c).

"(B) PRE-1983 YEARS.—In the case of loss years beginning before January 1, 1983, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1982, for purposes of subparagraph (A), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1982.

"(e) ALTERNATIVE TAX ITEMIZED DEDUCTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'alternative tax itemized deductions' means an amount equal to the sum of any amount allowable as a deduction for the taxable year under—

"(A) section 165(c)(3) (relating to casualty and theft losses),

"(B) section 170 (relating to charitable deductions),

"(C) section 213 (relating to medical deductions),

"(D) this chapter for qualified interest, or

"(E) section 691(c) (relating to deduction for estate tax).

"(2) AMOUNTS WHICH MAY BE CARRIED OVER.—No amount shall be taken into account under paragraph (1) to the extent such amount may be carried to another taxable year.

"(3) QUALIFIED INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified interest' means the sum of—

"(i) any qualified housing interest, and

"(ii) any amount allowed as a deduction for interest (other than qualified housing interest) to the extent such amount does not exceed the qualified net investment income of the taxpayer for the taxable year.

"(B) CERTAIN NONDEDUCTIBLE INTEREST TAKEN INTO ACCOUNT.—Any interest on indebtedness incurred or continued to carry any obligation, share, deposit, or investment the interest on which is an item of preference under paragraph (1) or (13) of section 57(a) shall be treated, for purposes of subparagraph (A)(ii), as interest with respect to which a deduction is allowed.

"(4) QUALIFIED HOUSING INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(i) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year, or

"(ii) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid.

"(B) QUALIFIED DWELLING.—The term 'qualified dwelling' means any—

"(i) house,

"(ii) apartment,

"(iii) condominium, or

"(iv) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

"(C) SPECIAL RULE FOR INDEBTEDNESS INCURRED BEFORE JULY 1, 1982.—The term 'qualified housing interest' includes interest paid or accrued on indebtedness which—

"(i) was incurred before July 1, 1982, and

"(ii) is secured by property which, at the time such indebtedness was incurred, was—

"(I) a qualified dwelling, or

"(II) the principal residence (within the meaning of section 1034) of the taxpayer.

"(5) QUALIFIED NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified net investment income' means the excess of—

"(i) qualified investment income, over

"(ii) qualified investment expenses.

"(B) QUALIFIED INVESTMENT INCOME.—The term 'qualified investment income' means the sum of—

"(i) investment income (within the meaning of section 163(d)(3)(B) other than clause (ii) thereof),

"(ii) any net capital gain attributable to the disposition of property held for investment, and

"(iii) the amount of items of tax preference described in paragraphs (1) and (13) of section 57(a).

"(C) QUALIFIED INVESTMENT EXPENSES.—The term 'qualified investment expenses' means investment expenses (within the meaning of section 163(d)(3)(C)), other than expenses—

"(i) not used in determining adjusted gross income, or

"(ii) which are items of tax preference.

"(6) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, the alternative tax itemized deductions for any taxable year includes the deductions allowable under sections 642(c), 651(a), and 661(a).

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

"(7) LIMITATIONS ON CASUALTY AND MEDICAL DEDUCTIONS.—For purposes of subparagraphs (A) and (C) of paragraph (1), there shall not be taken into account an amount equal to the excess (if any) of—

"(A) the amounts which would be allowable as deductions described in such subparagraphs if such amounts were limited to expenditures and losses in excess of 10 percent of adjusted gross income, over

"(B) the amounts so allowable as deductions (determined without regard to this paragraph).

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) EXEMPTION AMOUNT.—The term 'exemption amount' means—

"(A) $40,000 in the case of—

"(i) a husband and wife who make a single return jointly under section 6013, or

"(ii) a surviving spouse (as defined in section 2(a)), and

"(B) $30,000 in the case of an individual who is not—

"(i) a married individual (as defined in section 143), or

"(ii) a surviving spouse (as so defined).

"(2) REGULAR TAX.—The term 'regular tax' means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 72(m)(5)(B), 402(e), 408(f), 409(c), and 667(b)) reduced by the sum of the credits allowable under subpart A of part IV of this subchapter (other than under sections 31, 39, and 43). For purposes of this paragraph, the amount of the credits allowable under such subpart shall be determined without regard to this section.".

(b) ITEMS OF TAX PREFERENCE.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) EXCLUSION OF INTEREST AND DIVIDENDS.—Any amount excluded from gross income for the taxable year under section 116 or 128.",

(B) by striking out paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

"(5) MINING EXPLORATION AND DEVELOPMENT COSTS.—With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

"(A) the deductions for development and mining exploration expenditures described in sections 616 and 617 allowable under this chapter for the taxable year, over

"(B) the amount which would have been allowed if such expenditures had been capitalized and amortized ratably over the 120-month period beginning with the month in which the first such expenditures were made.

"(6) CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURES.—An amount equal to the excess of—

"(A) the amount allowable as a deduction under section 173 or 174 for the taxable year, over

"(B) the amount which would have been allowable for the taxable year if the circulation expenditures described in section 173 or the research and experimental expenditures described in section 174 had been capitalized and amortized over a 120-month period.", and

(C) by adding at the end thereof the following new paragraph:

"(13) INTEREST ON TAX-EXEMPT OBLIGATIONS ACQUIRED AFTER DECEMBER 31, 1982.—In the case of any obligation—

"(A) issued after December 31, 1982, and

"(B) the interest on which is exempt from tax,

the amount of interest which is exempt from tax for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) The next to last sentence of section 57(a) is amended by striking out "(3), (11), and (12)" and inserting in lieu thereof "(1), (3), (5), (6), (11), (12)(A), (13), and (14)".

(B) Section 57(a) is amended by striking out the last sentence.

(C) Section 265(2) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the term 'taxes imposed by this title' shall not include any tax imposed by section 55.

(c) CONFORMING AMENDMENTS.—

(1) Section 56 (relating to imposition of tax) is amended—

(A) by striking out "person" each place it appears and inserting in lieu thereof "corporation",

(B) by striking out "one-half of (or in the case of a corporation, an amount equal to)" in subsection (c),

(C) by striking out "sections 72(m)(5)(B), 402(e), 408(f), 531, and 541" in subsection (c) and inserting in lieu thereof "sections 531 and 541", and

(D) by striking out "31, 39, 43, and 44G" in subsection (c) and inserting in lieu thereof "39 and 44G".

(2) Section 58 (relating to rules for application of this part) is amended—

(A) by striking out the first sentence of subsection (a),

(B) in subsection (c)—

(i) by inserting "and" at the end of paragraph (1), and

(ii) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(C) in subsection (g)—

(i) by striking out "paragraphs (6) and" in paragraph (1) and inserting in lieu thereof "paragraph",

(ii) by striking out so much of paragraph (2) as precedes the last two sentences thereof and inserting in lieu thereof the following:

"(2) CAPITAL GAINS.—For purposes of section 56, the items of tax preference set forth in section 57(a)(9) which are attributable to sources within any foreign country or possession of the United States shall not be taken into account if preferential treatment is not accorded gain from the sale or exchange of capital assets (or property treated as capital assets).".

(3) Section 5(a)(4) is amended by striking out "sections 55 and 56" and inserting in lieu thereof "section 55".

(4) Section 511(d)(2) is amended by striking out "and section 56 (as the case may be)".

(5) Sections 6015(d)(1), 6362(b)(2)(A), and 6654(g)(1) are each amended by striking out "or 56".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) SPECIAL RULE FOR PRE-1983 SECTION 56(b) TAX DEFERRALS.—The amendments made by subsection (c)(1) of this section to section 56(b) of the Internal Revenue Code of 1954 shall not apply to any net operating loss carryover for any taxable year beginning before January 1, 1983, which is attributable to any excess described in section 56(b)(1)(B) of such Code for such taxable year.

SEC. 202. LIMITATION ON DEDUCTION FOR MEDICAL AND DENTAL EXPENSES AND CASUALTY LOSSES.

(a) ADJUSTED GROSS INCOME LIMITATION ON MEDICAL AND DENTAL EXPENSES INCREASED FROM 3 PERCENT TO 10 PERCENT.—Subsection (a) of section 213 (relating to medical, dental, etc., expenses) is amended by striking out "3 percent" and inserting in lieu thereof "10 percent".

(b) CASUALTY LOSSES ALLOWED ONLY TO THE EXTENT THEY EXCEED 10 PERCENT OF ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—Section 165 (relating to losses of individuals) is amended—

(A) by redesignating subsection (i) as subsection (j), and

(B) by inserting after subsection (h) the following new subsection:

"(i) CASUALTY AND THEFT LOSSES.—

"(1) GENERAL RULE.—Any loss of an individual described in subsection (c)(3) shall be allowed for any taxable year only to the extent that—

"(A) the amount of loss to such individual arising from each casualty, or from each theft, exceeds $100, and

"(B) the aggregate amount of all such losses sustained by such individual during the taxable year after application of subparagraph (A) exceeds 10 percent of the adjusted gross income of the individual.

"(2) SPECIAL RULES.—

"(A) For purposes of the $100 and 10 percent limitations described in paragraph (1), a husband and wife making a joint return under section 6013 for the taxable year shall be treated as one individual.

"(B) No loss described in subsection (c)(3) shall be allowed if, at the time of filing the return, such loss has been claimed for estate tax purposes in the estate tax return.".

(2) CONFORMING AMENDMENT.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended—

(A) by inserting "except as provided in subsection (i)," before "losses" the first place it appears in paragraph (3) thereof, and

(B) by striking out the last three sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 203. MORTGAGE SUBSIDY BONDS.

(a) INCREASE IN AMOUNT OF MORTGAGE INTEREST LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 103A(i)(2) (relating to effective rate of mortgage interest) is amended by striking out "1 percentage point" and inserting in lieu thereof "the applicable percentage points".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 103A(i) is amended—

(i) by adding at the end thereof the following new subparagraph:

"(D) APPLICABLE PERCENTAGE POINTS.—For purposes of this subsection, the term 'applicable percentage points' means, with respect to any issue, 1.0625 percentage points increased (but not in excess of 1.125 percentage points) by 0.01 percentage points for each $10,000,000 by which $100,000,001 exceeds the aggregate authorized face amount of such issue."; and

(ii) by striking out the caption and inserting in lieu thereof the following:

"(2) LIMITATION ON EFFECTIVE RATE OF MORTGAGE INTEREST.—".

(B) Subparagraph (C) of section 103A(i)(4) of such Code is amended—

(i) by striking out "1 percentage point" in clause (ii) and inserting in lieu thereof "the applicable percentage points", and

(ii) by striking out "1 percentage point" in the caption and inserting in lieu thereof "percentage points".

(b) DISPOSITION OF NONMORTGAGE INVESTMENT IN CASE OF LOSS.—Paragraph (3) of section 103A(i) (relating to nonmortgage investment requirements) is amended by adding at the end thereof the following new subparagraph:

"(D) NO DISPOSITION IN CASE OF LOSS.—This paragraph shall not require the sale or disposition of any investment if such sale or disposition would result in a loss which exceeds the amount which would be paid or credited to the mortgagors under paragraph (4)(A) (but for such sale or disposition) at the time of such sale or disposition.".

(c) REQUIREMENT THAT MORTGAGORS BE FIRST TIME HOMEBUYERS.—Subsection (e) of section 103A (relating to 3-year requirement) is amended to read as follows:

"(e) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if 80 percent of the lendable proceeds of such issue are used to finance the residences of mortgagors who had no present ownership interest in their principal residences during the 3-year period ending on the date their mortgage is executed.

"(2) EXCEPTIONS.—For purposes of paragraph (1), the proceeds of an issue which are used—

"(A) to provide financing with respect to targeted area residences,

"(B) to provide qualified home improvement loans, and

"(C) to provide qualified rehabilitation loans,

shall not be taken into account.

"(3) MORTGAGORS INTEREST IN RESIDENCE BEING FINANCED.—For purposes of paragraph (1), a mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account in determining whether such mortgagor has a present ownership interest in his principal residence.".

(d) INCREASE IN MAXIMUM PURCHASE PRICE.—Subsection (f) of section 103A (relating to purchase price requirement) is amended—

(1) by striking out "90 percent" each place it appears and inserting in lieu thereof "110 percent", and

(2) by striking out "110 percent" in paragraph (5) and inserting in lieu thereof "120 percent".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(2) FIRST TIME HOMEBUYER REQUIREMENT.—The amendments made by subsection (c) shall also apply to obligations issued after April 24, 1979, and before the date of the enactment of this Act but only to the extent that the proceeds of such obligations are not committed as of the date of the enactment of this Act.

SUBTITLE B—PROVISIONS PRIMARILY RELATING TO BUSINESS

PART I—REDUCTION IN CERTAIN DEDUCTIONS AND CREDITS

SEC. 206. 15 PERCENT REDUCTION IN CERTAIN CORPORATE PREFERENCE ITEMS.

(a) IN GENERAL.—Subchapter B of chapter 1 (relating to computation of taxable income) is amended by adding at the end thereof the following new part:

"PART XI—SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS

"Sec. 291. Special rules relating to corporate preference items.

"SEC. 291. SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.

"(a) 15-PERCENT REDUCTION IN CERTAIN PREFERENCE ITEMS, ETC.—For purposes of this subtitle, in the case of an applicable corporation—

"(1) SECTION 1250 CAPITAL GAIN TREATMENT.—In the case of section 1250 property which is disposed of during the taxable year, 15 percent of the excess (if any) of—

"(A) the amount which would be treated as ordinary income if such property was section 1245 property or section 1245 recovery property, over

"(B) the amount treated as ordinary income under section 1250,

shall be treated as gain which is ordinary income.

"(2) REDUCTION IN PERCENTAGE DEPLETION.—For purposes of section 613, the percentages under section 613(b) with respect to iron ore and coal (including lignite) shall be reduced by 15 percent.

"(3) CERTAIN FINANCIAL INSTITUTION PREFERENCE ITEMS.—The amount allowable as a deduction under this chapter (determined without regard to this section) with respect to any financial institution preference item shall be reduced by 15 percent.

"(4) CERTAIN DEFERRED DISC INCOME.—If an applicable corporation is a shareholder of a DISC, in the case of taxable years beginning after December 31, 1982, section 995(b)(1)(F)(i) shall be applied with respect to such corporation by substituting '57.5 percent' for 'one-half'.

"(5) AMORTIZATION OF POLLUTION CONTROL FACILITIES.—If an election is made under section 169 with respect to any certified pollution control facility, the amortizable basis of such facility for purposes of such section shall be reduced by 15 percent.

"(b) SPECIAL RULES FOR TREATMENT OF INTANGIBLE DRILLING COSTS AND MINERAL EXPLORATION AND DEVELOPMENT COSTS.—For purposes of this subtitle, in the case of an applicable corporation—

"(1) IN GENERAL.—The amount allowable as a deduction for any taxable year (determined without regard to this section)—

"(A) under section 263(c) in the case of an integrated oil company, or

"(B) under section 616 or 617,

shall be reduced by 15 percent.

"(2) IN GENERAL.—In the case of any amount which is not allowable as a deduction under section 263(c), 616, or 617 for any taxable year by reason of paragraph (1) (after application of paragraph (5))—

"(A) the applicable percentage of the amount not so allowable as a deduction shall be allowable as a deduction for the taxable year in which the property is placed in service and each of the 4 succeeding taxable years, and

"(B) the taxpayer, for purposes of determining the amount of the credit allowable under section 38 for the taxable year, shall be treated as having made a qualified investment (within the meaning of subsections (c) and (d) of section 46) for the taxable year in which the property is placed in service equal to the amount not so allowable as a deduction.

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage determined in accordance with the following table:

"Taxable Year:	Applicable Percentage:
1	15
2	22
3	21
4	21
5	21.

"(4) DISPOSITIONS.—

"(A) OIL, GAS, AND GEOTHERMAL PROPERTY.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section)—

"(i) any deduction under paragraph (2)(A) with respect to intangible drilling and development costs under section 263(c) which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c), and

"(ii) in the case of any credit allowable under section 38 by reason of paragraph (2)(A) which is allocable to such property, such disposition shall, for purposes of section 47, be treated as a disposition of section 38 recovery property which is not 3-year property.

"(B) APPLICATION OF SECTION 617(d).—In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this section), any amount allowable as a deduction under paragraph (2)(A) which is allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a).

"(C) INVESTMENT CREDIT RECAPTURE FOR PROPERTY OTHER THAN OIL, GAS, OR GEOTHERMAL PROPERTY.—Under regulations prescribed by the Secretary, rules similar to the rules of subparagraph (A)(ii) shall apply to the disposition of any property to which subparagraph (A)(ii) does not apply and with respect to which a credit is allowable under section 38 by reason of paragraph (2)(A).

"(5) ELECTION TO HAVE THIS SUBSECTION APPLY TO CERTAIN INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—

"(A) INTEGRATED OIL COMPANIES.—An integrated oil company may elect to have the provisions of this paragraph apply to any portion of any deduction allowable under section 263(c) to which paragraph (1) does not apply.

"(B) INDIVIDUALS WHO ARE NOT LIMITED PARTNERS.—

"(i) IN GENERAL.—An individual may elect to have this subsection apply to any portion of any amount allowable as a deduction under section 263(c).

"(ii) NO ELECTION FOR DEDUCTION ALLOCABLE TO INTEREST IN LIMITED PARTNERSHIP.—An individual may not make an election under clause (i) with respect to any deduction which is allocable to such individual's interest as a limited partner in a limited partnership.

"(C) ELECTIONS.—

"(i) IN GENERAL.—An election under this paragraph shall—

"(I) be made separately with respect to each taxable year,

"(II) be made at such time and in such manner as the Secretary may prescribe, and

"(III) apply with respect to all oil, gas, and geothermal properties of the taxpayer.

"(ii) PARTNERS.—In the case of a partnership, any election under this paragraph shall be made separately by each partner with respect to the partner's allocable share of the deduction allowable under section 263(c).

"(D) INTEGRATED OIL COMPANY DEFINED.—For purposes of this paragraph, the term 'integrated oil company' means, with respect to any taxable year, any producer (within the meaning of section 4996(a)(1)) of crude oil other than an independent producer (within the meaning of section 4992(b)).

"(c) SPECIAL RULES RELATING TO POLLUTION CONTROL FACILITIES.—For purposes of this subtitle—

"(1) ACCELERATED COST RECOVERY DEDUCTION.—For purposes of subclause (I) of section 168(d)(1)(A)(ii), a taxpayer shall not be treated as electing the amortization deduction under section 169 with respect to that portion of the basis not taken into account under section 169 by reason of subsection (a)(5).

"(2) 1250 RECAPTURE.—Subsection (a)(1) shall not apply to any section 1250 property which is part of a certified pollution control facility (within the meaning of section 169(d)(1)) with respect to which an election under section 169 was made.

"(d) DEFINITIONS.—For purposes of this section—

"(1) FINANCIAL INSTITUTION PREFERENCE ITEM.—The term 'financial institution preference item' includes the following:

"(A) EXCESS RESERVES FOR LOSSES ON BAD DEBTS OF FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies, that portion of the amount allowable as a deduction for the taxable year for a reasonable addition to a reserve for bad debts to the extent such amount exceeds the amount which would have been allowable had such institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

"(B) INTEREST ON DEBT TO CARRY TAX-EXEMPT OBLIGATIONS ACQUIRED AFTER DECEMBER 31, 1982.—

"(i) IN GENERAL.—In the case of a financial institution to which section 585 or 593 applies, the amount of interest on indebtedness incurred or continued to purchase or carry obligations acquired after December 31, 1982, the interest on which is exempt from taxes for the taxable year, to the extent that a deduction is allowable with respect to such interest for such taxable year.

"(ii) DETERMINATION OF INTEREST ALLOCABLE TO INDEBTEDNESS ON TAX-EXEMPT OBLIGATIONS.—Unless the taxpayer (under regulations prescribed by the Secretary) establishes otherwise, the amount determined under clause (i) shall be an amount which bears the same ratio to the aggregate amount allowable to the taxpayer as a deduction for interest for the taxable year as—

"(I) the taxpayer's average adjusted basis (within the meaning of section 1016) of obligations described in clause (i), bears to

"(II) such average adjusted basis for all assets of the taxpayer.

"(2) APPLICABLE CORPORATION.—For purposes of this section, the term 'applicable corporation' means any corporation other than an electing small business corporation (as defined in section 1371(b)).

"(3) SECTION 1245 AND 1250 PROPERTY.—The terms 'section 1245 property', 'section 1245 recovery property', and 'section 1250 property' have the meanings given such terms by sections 1245(a)(3), 1245(a)(5), and 1250(c), respectively.".

(b) COORDINATION WITH MINIMUM TAX.—

(1) IN GENERAL.—Section 57(b) (relating to adjusted itemized deductions) is amended to read as follows:

"(b) APPLICATION WITH SECTION 291.—

"(1) IN GENERAL.—In the case of any item of tax preference of an applicable corporation described in—

"(A) paragraph (4) or (7) of subsection (a), or

"(B) paragraph (8) of subsection (a) (but only to the extent such item is allocable to a deduction for depletion for iron ore and coal (including lignite)),

only 71.6 percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference.

"(2) CERTAIN CAPITAL GAINS.—In determining the net capital gain of any applicable corporation for purposes of paragraph (9)(B) of subsection (a), there shall be taken into account only 71.6 percent of any gain from the sale or exchange of section 1250 property which is equal to 85 percent of the excess determined under section 291(a)(1) with respect to such property.

"(3) APPLICABLE CORPORATION DEFINED.—For purposes of this subsection, the term 'applicable corporation' has the meaning given such term by section 291(d)(2)".

(2) TECHNICAL AMENDMENT.—Clause (i) of section 57(a)(11)(B) (relating to excess intangible drilling costs) is amended by striking out "this chapter" and inserting in lieu thereof "section 263(c)".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 263 (relating to intangible drilling and development costs) is amended by adding at the end thereof the following new sentence: "This subsection shall not apply with respect to any costs to which any deduction and credit is allowed under section 291.".

(2) The table of parts for subchapter B of chapter 1 is amended by adding at the end thereof the following:

"Part XI. Special rules relating to corporate preference items.

"Sec. 291. Special rules relating to corporate preference items.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) 1250 GAIN.—Section 291(a)(1) of the Internal Revenue Code of 1954 shall apply to sales or other dispositions after December 31, 1982, in taxable years ending after such date.

(3) POLLUTION CONTROL FACILITIES.—Section 291(a)(5) of such Code shall apply to property placed in service after December 31, 1982, in taxable years ending after such date.

(4) DRILLING AND MINING COSTS.—Section 291(b) of such Code shall apply to expenditures after December 31, 1982, in taxable years ending after such date.

(5) MINIMUM TAX.—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1982, with respect to items of tax preference described in section 57(b) of such Code to which section 291 of such Code applies.

SEC. 207. AMENDMENTS TO INVESTMENT CREDIT.

(a) BASIS ADJUSTMENT TO REFLECT INVESTMENT TAX CREDIT.—

(1) IN GENERAL.—Section 48 (relating to definitions and special rules involving section 38 property) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) BASIS ADJUSTMENT TO SECTION 38 PROPERTY.—

"(1) IN GENERAL.—For purposes of this subtitle, if a credit is determined under section 46(a)(2) with respect to section 38 property, the basis of such property shall be reduced by 50 percent of the amount of the credit so determined.

"(2) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any section 38 property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to 50 percent of such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under section 47.

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATED BUILDINGS.—In the case of any credit determined under section 46(a)(2) for any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, paragraphs (1) and (2) shall be applied without regard to the phrase '50 percent of'.".

(2) ALLOWANCE OF DEDUCTION FOR CERTAIN UNUSED INVESTMENT CREDITS.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 196. DEDUCTION FOR CERTAIN UNUSED INVESTMENT CREDITS.

"(a) ALLOWANCE OF DEDUCTIONS.—If—

"(1) the amount of the credit determined under section 46(a)(2) for any taxable year exceeds the limitation provided by section 46(a)(3) for such taxable year, and

"(2) the amount of such excess has not, after the application of section 46(b), been allowed to the taxpayer as a credit under section 38 for any taxable year,

then an amount equal to 50 percent of the amount of such excess not so allowed as a credit shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year in which such excess could under section 46(b) have been allowed as a credit.

"(b) TAXPAYERS DYING OR CEASING TO EXIST.—If a taxpayer dies or ceases to exist prior to the first taxable year following the last taxable year in which the excess described in subsection (a) could under section 46(b) have been allowed as a credit, the amount described in subsection (a), or the proper portion thereof, shall, under regulations prescribed by the Secretary, be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs.

"(c) SPECIAL RULE FOR QUALIFIED REHABILITATED BUILDINGS.—In the case of any credit to which section 48(q)(3) applies, paragraph (1) shall be applied without regard to the phrase '50 percent of'.".

(3) BASIS ADJUSTMENT NOT TAKEN INTO ACCOUNT FOR PURPOSES OF EARNINGS AND PROFITS.—Section 312(k) (relating to effect of depreciation on earnings and profits) is amended by adding at the end thereof the following new paragraph:

"(5) BASIS ADJUSTMENT NOT TAKEN INTO ACCOUNT.—In computing the earnings and profits of a corporation for any taxable year, the allowance for depreciation (and amortization, if any) shall be computed without regard to any basis adjustment under section 48(q).".

(4) CONFORMING AMENDMENTS.—

(A) Section 48(g) (relating to special rules for qualified rehabilitated buildings) is amended by striking out paragraph (5).

(B) Paragraph (24) of section 1016(a) (relating to adjustments to basis) is amended by striking out "section 48(g)(5)" and inserting in lieu thereof "section 48(q)".

(C) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 196. Deduction for certain unused investment credit.".

(b) INVESTMENT CREDIT LIMITED TO 85 PERCENT OF TAX LIABILITY INSTEAD OF 90 PERCENT.—The table contained in subparagraph (B) of section 46(a)(3) (relating to limitation based on amount of tax) is amended by striking out "90" and inserting in lieu thereof "85".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to periods after December 31, 1982, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1982.

SEC. 208. REPEAL OF 1985 AND 1986 INCREASES IN ACCELERATED COST RECOVERY DEDUCTIONS.

(a) IN GENERAL.—Paragraph (1) of section 168(b) (relating to amount of accelerated cost recovery deduction) is amended—

(1) by striking out "tables" and inserting in lieu thereof "table";

(2) by striking out:

"(A) FOR PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1980, AND BEFORE JANUARY 1, 1985.—"; and

(3) by striking out subparagraphs (B) and (C).

(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 168(e) (relating to property excluded from application of section) is amended—

(1) by striking out subparagraph (H); and

(2) by striking out "1986" in the heading thereof and inserting in lieu thereof "1981".

SEC. 209. SECTION 189 MADE APPLICABLE TO CERTAIN CORPORATIONS FOR NONRESIDENTIAL REAL PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 189 is amended to read as follows:

"(a) CAPITALIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES.—Except as otherwise provided in this section or in section 266 (relating to carrying charges), no deduction shall be allowed for real property construction period interest and taxes.".

(b) EXCLUSION OF CERTAIN PROPERTY.—Subsection (d) of section 189 (relating to certain property excluded) is amended—

(1) by striking out "or" at the end of paragraph (1),

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) residential real property (other than low income housing) acquired, constructed, or carried by a corporation other than an electing small business corporation (within the meaning of section 1371(b)), a personal holding company (within the meaning of section 542), or a foreign personal holding company (within the meaning of section 552), or".

(c) ALLOCATION OF INTEREST.—Paragraph (1) of section 189(e) (relating to construction period interest and taxes) is amended by adding at the end thereof the following sentence: "The Secretary shall prescribe regulations which provide for the allocation of

interest to real property under construction.".

(d) CONFORMING AMENDMENT.—Paragraph (1) of section 189(e) (relating to construction period interest and taxes) is amended—

(1) by striking out "construction period interest and taxes" and inserting in lieu thereof "real property construction period interest and taxes", and

(2) by striking out the caption thereof and inserting in lieu thereof:

"(1) REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.—".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982, with respect to construction which commences after such date.

SUBTITLE B—LEASING

SEC. 211. LIMITATIONS AND ADDITIONAL REQUIREMENTS ON LEASES UNDER THE ACCELERATED COST RECOVERY SYSTEM.

(a) LIMITATIONS ON LEASES UNDER THE ACCELERATED COST RECOVERY SYSTEM.—

(1) IN GENERAL.—Section 168 (relating to the accelerated cost recovery system) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) LIMITATIONS RELATING TO LEASES OF QUALIFIED LEASED PROPERTY.—For purposes of this subtitle, in the case of elected qualified leased property, the following limitations shall apply:

"(1) LESSOR MAY NOT REDUCE TAX LIABILITY BY MORE THAN 50 PERCENT.—

"(A) IN GENERAL.—The aggregate amount allowable as deductions or credits for any taxable year which are allocable to all elected qualified leased property with respect to which the taxpayer is the lessor may not reduce the liability for tax of the taxpayer for such taxable year by more than 50 percent.

"(B) CARRYOVER OF AMOUNTS NOT ALLOWABLE AS DEDUCTIONS OR CREDITS.—Any amount not allowable as a deduction or credit under subparagraph (A)—

"(i) may be carried over to any subsequent taxable year, and

"(ii) shall be treated as a deduction or credit allocable to elected qualified leased property in such subsequent taxable year.

"(C) ALLOCATION AMONG DEDUCTIONS AND CREDITS.—The Secretary shall prescribe regulations for determining the amount—

"(i) of any deduction or credit allocable to elected qualified leased property for any taxable year to which subparagraph (A) applies, and

"(ii) any carryover of any such deduction or credit under subparagraph (B) to any subsequent taxable year.

"(D) LIABILITY FOR TAX DEFINED.—For purposes of this subparagraph—

"(i) IN GENERAL.—Except as provided in this subparagraph, the term 'liability for tax' means the tax imposed by this chapter, reduced by the sum of the credits allowable under subpart A of part IV.

"(ii) CERTAIN ITEMS NOT TAKEN INTO ACCOUNT IN DETERMINING LIABILITY FOR TAX.—For purposes of clause (i), liability for tax shall be computed without regard to any of the following items which are properly allocable to elected qualified leased property with respect to which the taxpayer is the lessor:

"(I) Any deduction or credit allowable under this chapter (other than any deduction for interest).

"(II) Any rental income received by the taxpayer from any lessee of such property.

"(III) Any interest allowable as a deduction under this chapter on indebtedness of the taxpayer (or any related person within the meaning of subsection (e)(4)(D)) which is paid or incurred to the lessee of such property (or any person so related to the lessee).

"(iii) CERTAIN TAXES NOT INCLUDED.—The term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a) (other than the tax imposed by section 56).

"(2) METHOD OF COST RECOVERY.—The deduction allowable under subsection (a) with respect to any qualified leased property shall be determined by using the straight-line method (with a half-year convention and without regard to salvage value) and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is: (Years)
3-year property	5
5-year property	8
10-year property	15

"(3) INVESTMENT CREDIT ALLOWED ONLY OVER 3-YEAR PERIOD.—In the case of any credit which would otherwise be allowable under section 38 with respect to any elected qualified leased property for any taxable year (determined without regard to this paragraph)—

"(A) only 50 percent of the amount of such credit shall be allowable in such taxable year, and

"(B) 25 percent of such amount shall be allowable in each of the succeeding 2 taxable years.

"(4) NO CARRYBACKS OF CREDIT OR NET OPERATING LOSS ALLOCABLE TO ELECTED QUALIFIED LEASED PROPERTY.—

"(A) CREDIT CARRYBACKS.—In determining the amount of any credit allowable under subpart A of part IV of subchapter A of this chapter which may be carried back to any preceding taxable year—

"(i) the liability for tax for the taxable year from which any such credit is to be carried shall be reduced first by any credit not properly allocable to elected qualified leased property, and

"(ii) no credit which is properly allocable to elected qualified leased property shall be taken into account in determining the amount of any credit which may be carried back.

"(B) NET OPERATING LOSS CARRYBACKS.—The net operating loss carryback provided in section 172(b) for any taxable year shall be reduced by that portion of the amount of such carryback which is properly allocable to the items described in paragraph (1)(D)(ii) with respect to all elected qualified leased property with respect to which the taxpayer is the lessor.

"(5) LIMITATION ON DEDUCTION FOR INTEREST PAID BY THE LESSOR TO THE LESSEE.—In the case of interest described in paragraph (1)(D)(ii)(III), the amount allowable as a deduction for any taxable year with respect to such interest shall not exceed the amount which would have been computed if the annual rate of interest on which such interest was computed were equal to the greater of—

"(A) the excess (if any) of—

"(i) the annual rate of interest in effect under section 6621 at the time the agreement with respect to which such interest was incurred was entered into, over

"(ii) 5 percent, or

"(B) 8 percent.

"(6) COMPUTATION OF TAXABLE INCOME OF LESSEE FOR PURPOSES OF PERCENTAGE DEPLETION.—

"(A) IN GENERAL.—For purposes of section 613 or 613A, the taxable income of any taxpayer who is a lessee of any elected qualified leased property shall be computed as if the taxpayer was the owner of such property, except that the amount of the deduction under subsection (a) of this section shall be determined after application of paragraph (2) of this subsection.

"(B) COORDINATION WITH CRUDE OIL WINDFALL PROFIT TAX.—Section 4988(b)(3)(A) shall be applied without regard to subparagraph (A).

"(7) COMPUTATION OF FOREIGN TAX CREDIT OF LESSEE.—The amount of the credit allowable under section 33(a) with respect to any taxpayer who is a lessee of elected qualified leased property shall be computed as if the taxpayer were the owner of such property, except that the amount of the deduction allowable under subsection (a) of this section shall be determined after application of paragraph (2) of this subsection.

"(8) TRANSITIONAL RULE FOR APPLICATION OF PARAGRAPH (1) TO CERTAIN TRANSACTIONS.—In the case of any deduction or credit with respect to any qualified leased property—

"(A) which was placed in service before July 2, 1982, and with respect to which an agreement to which subsection (f)(8) applies was entered into before July 2, 1982, or

"(B) which is placed in service before July 1, 1983, and

"(i) with respect to which a binding contract to acquire or construct such property was entered into by the lessee after June 25, 1981, and before February 20, 1982, or

"(ii) which is acquired by the lessee, or with respect to which construction was commenced by or for the lessee, after June 25, 1981, and before February 20, 1982,

paragraph (1) shall not operate to disallow any such deduction or credit for the taxable year for which such deduction or credit would otherwise be allowable but deductions and credits with respect to such property shall be taken into account first in determining whether any deduction or credit is allowable under paragraph (1) with respect to any other elected qualified leased property.

"(9) ELECTED QUALIFIED LEASED PROPERTY.—For purposes of this section, the term 'elected qualified leased property' means qualified leased property with respect to which an election under section 168(f)(8) is in effect.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 168(f)(8) (relating to special rules for leases) is amended by inserting "except as provided in subsection (i)," before "for purposes of this subtitle".

(b) ADDITIONAL REQUIREMENTS TO QUALIFY AS LEASE FOR PURPOSES OF ACCELERATED COST RECOVERY.—

(1) RELATED PERSONS MAY NOT QUALIFY AS LESSORS.—Subclause (I) of section 168(f)(8)(B)(i) (relating to qualified lessors) is amended by inserting "which is not a related person with respect to the lessee" before the comma at the end thereof.

(2) MAXIMUM LEASE TERM REDUCED FROM 150 PERCENT OF PRESENT CLASS LIFE TO 100 PERCENT.—Clause (iii) of section 168(f)(8)(B) (relating to term of lease) is amended to read as follows:

"(iii) the term of the lease (including any extensions) does not exceed—

"(I) the present class life of the property, or

"(II) if the property has no present class life, the period equal to 1 year plus the re-

covery period determined with respect to such property under subsection (i)(2).".

(3) DEFINITION OF QUALIFIED LEASED PROPERTY.—Subparagraph (D) of section 168(f)(8) (defining qualified leased property) is amended to read as follows:

"(D) QUALIFIED LEASED PROPERTY DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'qualified leased property' means recovery property—

"(I) which is new section 38 property of the lessor, which is leased within 3 months after such property was placed in service, and which, if acquired by the lessee, would have been new section 38 property of the lessee, or

"(II) which was new section 38 property of the lessee, which is leased within 3 months after such property is placed in service by the lessee, and with respect to which the adjusted basis of the lessor does not exceed the adjusted basis of the lessee at the time of the lease.

"(ii) ONLY APPLICABLE PERCENTAGE OF LESSEE'S LEASED PROPERTY MAY BE TREATED AS QUALIFIED.—That percentage of the cost basis of all applicable elected qualified leased property of any taxpayer for any calendar year (determined without regard to this clause) which is equal to the excess of the percentage determined by dividing—

"(I) the cost basis of such property, by

"(II) the sum of the amount determined under subclause (I) plus the cost basis of all new section 38 property of the lessee placed in service during such calendar year which is not applicable elected qualified leased property,

over the applicable percentage shall not be treated as qualified leased property.

"(iii) ALLOCATION OF DISQUALIFIED BASIS.—The percentage of cost basis not treated as qualified leased property under clause (ii) shall be allocated among all applicable elected qualified leased property for such calendar year (determined without regard to clause (ii)) in reverse order to when the agreement described in subparagraph (A) with respect to such property was entered into.

"(iv) CERTAIN PROPERTY MAY NOT BE TREATED AS QUALIFIED LEASED PROPERTY.—The term 'qualified leased property' shall not include recovery property—

"(I) which is a qualified rehabilitated building (within the meaning of section 48(g)(1)),

"(II) which is public utility property (within the meaning of section 167(l)(3)(A)),

"(III) which is property with respect to which a credit or deduction is allowable by reason of section 291(b), or

"(IV) with respect to which the lessee of the property (other than property described in clause (v) under the agreement described in subparagraph (A) is a nonqualified tax-exempt organization.

"(v) QUALIFIED MASS COMMUTING VEHICLES INCLUDED.—The term 'qualified leased property' includes recovery property which is a qualified mass commuting vehicle (as defined in section 103(b)(9)) which is financed in whole or in part by obligations the interest on which is excludable under section 103(a).

"(vi) DEFINITION; SPECIAL RULES.—For purposes of this subparagraph—

"(I) APPLICABLE ELECTED QUALIFIED LEASED PROPERTY.—The term 'applicable elected qualified leased property' means any elected qualified leased property which is placed in service during any calendar year and with respect to which the taxpayer is the lessee.

"(II) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 45 percent in the case of calendar years 1982 and 1983 and 40 percent in calendar years 1984 and 1985.

"(III) NEW SECTION 38 PROPERTY.—The term 'new section 38 property' has the meaning given such term by section 48(b).

"(IV) PROPERTY PLACED IN SERVICE.—For purposes of this title (other than this subparagraph), any property described in clause (i) to which subparagraph (A) applies shall be deemed originally placed in service not earlier than the date such property is used under the lease.".

(4) DEFINITIONS AND SPECIAL RULES.—Paragraph (8) of section 168(f) (relating to special rules for leases) is amended by redesignating subparagraph (H) as subparagraph (J) and by inserting after subparagraph (G) the following new subparagraphs:

"(H) DEFINITIONS.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person is related to another person if both persons are members of the same affiliated group (within the meaning of subsection (a) of section 1504 and determined without regard to subsection (b) of section 1504).

"(ii) NONQUALIFIED TAX-EXEMPT ORGANIZATION.—The term 'nonqualified tax-exempt organization' means, with respect to any agreement to which subparagraph (A) applies, any organization (or predecessor organization which was engaged in substantially similar activities) which was exempt from taxation under this title at any time during the 5-year period ending on the date such agreement was entered into.

"(I) TRANSITIONAL RULES FOR CERTAIN TRANSACTIONS.—Clause (ii) of subparagraph (D) shall not apply to any applicable elected qualified leased property described in subparagraph (A) or (B) of subsection (i)(8), but such property shall be taken into account first in determining under such clause that portion of the applicable elected qualified leased property which is not treated as qualified leased property.".

(c) CERTAIN LEASES BEFORE OCTOBER 20, 1981, TREATED AS QUALIFIED LEASES.—Nothing in paragraph (8) of section 168(f) of the Internal Revenue Code of 1954, or in any regulations prescribed thereunder, shall be treated as making such paragraph inapplicable to any agreement entered into before October 20, 1981, solely because under such agreement 1 party to such agreement is entitled to the credit allowable under section 38 of such Code with respect to property and another party to such agreement is entitled to the deduction allowable under section 168 of such Code with respect to such property.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by subsections (a) and (b) of this subsection shall apply to agreements entered into after July 1, 1982, or to property placed in service after July 1, 1982.

(2) TRANSITIONAL RULE FOR CERTAIN TRANSACTIONS.—The amendments made by subsections (a) and (b) shall not apply to qualified leased property placed in service before July 1, 1983, if—

(A) with respect to such property a binding contract to acquire or construct such property was entered into by the lessee after June 25, 1981, and before February 20, 1982, or

(B) such property was acquired by the lessee, or construction of such property was commenced by or for the lessee, after June 25, 1981, and before February 20, 1982.

(3) SPECIAL RULE FOR ANTIAVOIDANCE PROVISIONS.—The provisions of paragraph (6) of section 168(i) of such Code (as added by subsection (a)(1)) and the amendment made by subsection (b)(1), shall apply to agreements entered into after February 19, 1982, in taxable years ending after such date.

(4) SPECIAL RULE FOR MASS COMMUTING VEHICLES.—The amendments made by this section (other than section 168(i) (1) and (8) of such Code, as added by subsection (a)(1)) shall not apply to qualified leased property described in section 168(f)(8)(D)(v) of such Code (as in effect after the amendments made by this section) placed in service before January 1, 1988, pursuant to a binding contract or commitment entered into before April 1, 1983.

SEC. 212. REPEAL OF LEASING; SPECIAL RULE FOR LEASES WITH ECONOMIC SUBSTANCE.

(a) SPECIAL RULE FOR LEASES WITH ECONOMIC SUBSTANCE.—Section 168(f) (relating to special rules for leases) is amended by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively, and by inserting after paragraph (8) the following new paragraph:

"(9) SPECIAL RULE FOR LEASES WITH ECONOMIC SUBSTANCE.—For purposes of this title, in the case of any agreement with respect to any property, the fact that the person treated as the lessee under such agreement has the right to purchase the property at a fixed price which is not less than 10 percent of the original cost of the property to the person treated as the lessor under such agreement shall not be taken into account in determining whether such agreement is a lease.".

(b) REPEAL OF CERTAIN SPECIAL LEASING PROVISIONS.—Section 168(f), as amended by subsection (a), is amended by striking out paragraph (8) and by redesignating paragraphs (9), (10), (11), and (12) as paragraphs (8), (9), (10), and (11), respectively.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 168(f) (relating to short taxable years) is amended by striking out the fourth sentence thereof.

(2) Subsection (i) of section 168 (relating to limitations and additional requirements with respect to leases) is repealed.

(3) Subsection (a) of section 1245 (relating to gain from disposition of certain depreciable property) is amended by striking out paragraph (6).

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply to agreements entered into after December 31, 1984.

(2) SUBSECTIONS (b) AND (c).—Except as provided in paragraph (3), the amendments made by subsections (b) and (c) shall apply to property placed in service after September 30, 1985.

(3) SPECIAL RULE FOR MASS COMMUTING VEHICLES.—In the case of qualified leased property described in section 168(f)(8)(D)(v) of such Code (as in effect after the amendments made by section 211), the amendments made by this section shall not apply to property placed in service before January 1, 1988, pursuant to a binding contract or commitment entered into before April 1, 1983.

SEC. 213. MOTOR VEHICLE OPERATING LEASES.

(a) IN GENERAL.—In the case of any qualified motor vehicle agreement, the fact that such agreement contains a terminal rental adjustment clause shall not be taken into account in determining whether such agreement is a lease.

(b) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED MOTOR VEHICLE AGREEMENT.—The term "qualified motor vehicle agreement" means any agreement with respect to a motor vehicle (including a trailer)—

(A) which was entered into before—

(i) the enactment of any law, or

(ii) the publication by the Secretary of the Treasury or his delegate of any rule or regulation,

which provides that any agreement with a terminal rental adjustment clause is not a lease,

(B) with respect to which the lessor under the agreement—

(i) is personally liable for the repayment of, or

(ii) has pledged property (but only to the extent of the net fair market value of the lessor's interest in such property), other than property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement, as security for,

all amounts borrowed to finance the acquisition of property subject to the agreement, and

(C) with respect to which the lessee under the agreement uses the property subject to the agreement in a trade or business or for the production of income.

(2) TERMINAL RENTAL ADJUSTMENT CLAUSE.—The term "terminal rental adjustment clause" means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

PART III—FOREIGN TAX

SEC. 216. FOREIGN TAX CREDIT FOR TAXES ON OIL AND GAS INCOME.

(a) REPEAL OF FOREIGN OIL AND GAS EXTRACTION PER COUNTRY LOSS LIMITATION; RECHARACTERIZATION.—Paragraph (4) of section 907(c) (relating to certain losses) is amended to read as follows:

"(4) RECHARACTERIZATION OF FOREIGN OIL AND GAS EXTRACTION INCOME.—

"(A) IN GENERAL.—That portion of the income of the taxpayer for the taxable year which (but for this paragraph) would be treated as foreign oil and gas extraction income shall be treated as income other than foreign oil and gas extraction income to the extent of the excess of—

"(i) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, over

"(ii) the amount of such loss taken into account under this paragraph for any preceding taxable year.

"(B) FOREIGN OIL EXTRACTION LOSS.—The term 'foreign oil extraction loss' means the amount by which the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil and gas extraction income for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

"(i) any net operating loss deduction allowable for such year under section 172(a), and

"(ii) any—

"(I) foreign expropriation loss for such year, as defined in section 172(h), or

"(II) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.".

(b) FOREIGN OIL NONEXTRACTION INCOME.—Subsection (c) of section 907 (relating to foreign income definitions and special rules) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) FOREIGN OIL NONEXTRACTION INCOME.—The term 'foreign oil nonextraction income' means the taxable income derived from sources outside the United States and its possessions from—

"(A) the processing of minerals extracted (by the taxpayer or by any other person) from oil or gas wells into their primary products,

"(B) the transportation of such minerals or primary products,

"(C) the distribution or sale of such minerals or primary products,

"(D) the disposition of assets used by the taxpayer in the trade or business described in subparagraph (A), (B), or (C), or

"(E) the performance of any other related service by a person engaged in an activity described in paragraph (1).

For purposes of subparagraph (E), a person shall be treated as engaged in an activity if another person who is related to such person (within the meaning of section 168(e)(4)(D)) is so engaged.

(c) REPEAL OF SEPARATE APPLICATION OF SECTION 904; FOREIGN TAXES ON FOREIGN OIL NONEXTRACTION INCOME.—Section 907 (relating to special rules in case of foreign oil and gas income) is amended by striking out subsection (b) and inserting in lieu thereof the following new subsection:

"(b) FOREIGN TAXES ON FOREIGN OIL NONEXTRACTION INCOME.—For purposes of this subtitle, in the case of taxes paid or accrued to any foreign country with respect to foreign oil nonextraction income, the term 'income, war profits, and excess profits taxes' does not include any amount paid or accrued after December 31, 1982, to the extent that the Secretary determines that the foreign law imposing such amount of tax is structured, or in fact operates, so that the amount of tax imposed with respect to foreign oil nonextraction income will generally be materially greater, over a reasonable period of time, than the amount generally imposed on income that is neither foreign oil nonextraction income nor foreign oil and gas extraction income. In computing the amount not treated as tax under this section, such amount shall be treated as a deduction under the foreign law.".

(d) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS; TRANSITIONAL RULES.—

(1) TRANSITIONAL RULES.—Subsection (e) of section 907 (relating to transitional rules) is amended to read as follows:

"(e) TRANSITIONAL RULES.—

"(1) TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1983.—For purposes of determining the amount of taxes paid or accrued in any taxable year beginning before January 1, 1983 (hereinafter in this subsection referred to as the 'excess credit year'), which under section 904(c) are deemed paid or accrued in a taxable year beginning after December 31, 1982—

"(A) the amendments made by section 216 of the Tax Equity and Fiscal Responsibility Act of 1982 shall be deemed to have been in effect for such excess credit year and for all taxable years thereafter, and

"(B) section 907(b) and section 907(f) (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) shall be deemed to be in effect for such excess credit year and for all taxable years thereafter.

"(2) TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1982.—

"(A) LIMITATIONS ON AMOUNT OF CARRYBACKS.—The amount of taxes paid or accrued in a taxable year beginning after December 31, 1982, which may be carried back and deemed paid or accrued under section 904(c) in a taxable year beginning before such date may not exceed the amount that would have been allowable had—

"(i) paragraph (4) of section 904(f), and

"(ii) section 907 (other than section 907(c)(4)), as in effect before enactment of the Tax Equity and Fiscal Responsibility Act of 1982,

been in effect in the year the carryback arose.

"(B) MAXIMUM AMOUNT OF CARRYBACK OF OIL AND GAS EXTRACTION TAXES.—In the case of any taxable year beginning after December 31, 1982, the amount of the carryback of any oil and gas extraction taxes may not exceed 2 percent of foreign oil and gas extraction income for the taxable year in which the carryback arose.".

(2) CARRYBACKS AND CARRYOVERS.—Subsection (f) of section 907 (relating to carryback and carryover of disallowed credit) is amended to read as follows:

"(f) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—

"(1) IN GENERAL.—If the amount of the oil and gas extraction taxes paid or accrued during any taxable year exceeds the limitation in subsection (a) for such year, those taxes may be deemed paid or accrued under subsection (a) in the second preceding taxable year, the first preceding taxable year, and in the first, second, third, fourth, or fifth succeeding taxable year, in that order. The terms 'second preceding taxable year' and 'first preceding taxable year' shall not include a taxable year beginning before January 1, 1983.

"(2) LIMITATION.—The amount of the unused oil and gas extraction taxes which under paragraph (1) may be deemed paid or accrued in any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (a) for such taxable year exceeds the sum of—

"(A) the oil and gas extraction taxes paid or accrued during such taxable year, plus

"(B) the amounts of the oil and gas extraction taxes which by reason of this subsection are deemed paid or accrued in such taxable year and are attributable to taxable years preceding the unused credit year.".

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 907(c) (relating to dividends, interest, partnership distributions, etc.) is amended—

(A) by striking out "foreign oil related" each place it appears and inserting in lieu thereof "foreign oil nonextraction", and

(B) by striking out "foreign oil-related" and inserting in lieu thereof "foreign oil nonextraction".

(2) Subsection (f) of section 904 (relating to recapture of overall foreign loss) is amended by striking out paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5).

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 217. CURRENT TAXATION OF FOREIGN OIL NONEXTRACTION INCOME OF CONTROLLED FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking out "and" at the end of paragraph (3), by striking out

the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(5) the foreign base company oil nonextraction income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5)).".

(b) SPECIAL RULES.—

(1) DEDUCTIONS.—Paragraph (5) of section 954(b) is amended by striking out "and the foreign base company shipping income" and inserting in lieu thereof ", the foreign base company shipping income, and the foreign base company oil nonextraction income".

(2) PREEMPTION OF FOREIGN BASE COMPANY OIL NONEXTRACTION INCOME.—Subsection (b) of section 954 is amended by adding at the end thereof the following new paragraph:

"(8) PREEMPTION OF FOREIGN BASE COMPANY OIL NONEXTRACTION INCOME.—Income of a corporation which is foreign base company oil nonextraction income shall not be considered foreign base company income of such corporation under paragraph (1), (2), or (3) of subsection (a).".

(c) DEFINITION OF FOREIGN BASE COMPANY OIL NONEXTRACTION INCOME.—Section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new subsection:

"(h) FOREIGN BASE COMPANY OIL NONEXTRACTION INCOME.—For purposes of this section, the term 'foreign base company oil nonextraction income' means foreign oil nonextraction income (within the meaning of section 907(c)(2)) other than income derived from sources within a foreign country in connection with—

"(1) oil or gas which was extracted from an oil or gas well located in such foreign country, or

"(2) oil, gas, or a primary product of oil or gas which is sold by the foreign corporation or a related person for use or consumption within such country.".

(d) EXCEPTION FOR CERTAIN FOREIGN CORPORATIONS NOT TO APPLY.—Paragraph (4) of section 954(b) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to foreign base company oil nonextraction income described in subsection (a)(5).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1982, and to taxable years of United States shareholders in which, or with which, such taxable years of foreign corporations end.

SEC. 218. POSSESSION TAX CREDIT; INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS.

(a) POSSESSION TAX CREDIT.—

(1) ACTIVE TRADE OR BUSINESS REQUIREMENT.—Paragraph (2) of section 936(a) (relating to conditions which must be satisfied) is amended—

(A) by striking out "50 percent" in subparagraph (B) and inserting in lieu thereof "90 percent", and

(B) by adding at the end thereof the following new subparagraph:

"(C) TRANSITIONAL RULE.—In applying subparagraph (B) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, the following percentage shall be substituted for "90 percent":

"For taxable years beginning in calendar year:	The percentage is:
1983	65
1984	80.".

(2) INCOME ATTRIBUTABLE TO CERTAIN INTANGIBLE PROPERTY.—Section 936 (relating to Puerto Rico and possession tax credit) is amended by adding at the end thereof the following new subsection:

"(h) TAX TREATMENT OF INTANGIBLE PROPERTY INCOME.—

"(1) IN GENERAL.—

"(A) INCOME ATTRIBUTABLE TO SHAREHOLDERS.—The intangible property income of a corporation electing the application of this section for any taxable year shall be included on a pro rata basis in the gross income of all shareholders of such electing corporation at the close of the taxable year of such electing corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such electing corporation ends.

"(B) EXCLUSION FROM THE INCOME OF AN ELECTING CORPORATION.—Any intangible property income of a corporation electing the application of this section which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be excluded from the gross income of such corporation.

"(2) FOREIGN SHAREHOLDERS; SHAREHOLDERS NOT SUBJECT TO TAX.—

"(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to—

"(i) any shareholder who is not a United States person, and

"(ii) any shareholder who is not subject to tax under this title on intangible property income which would be allocated to such shareholder (but for this subparagraph).

"(B) TREATMENT OF NONALLOCATED INTANGIBLE PROPERTY INCOME.—For purposes of this subtitle, intangible property income of a corporation electing the application of this section which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A)—

"(i) shall be treated as income from sources within the United States, and

"(ii) shall not be taken into account under subsection (a)(2).

"(3) INTANGIBLE PROPERTY INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'intangible property income' means the gross income of a corporation attributable to any intangible property other than intangible property which—

"(i) was developed solely by such corporation in a possession, or

"(ii) acquired by such corporation from a person who was not related to such corporation (or to any person related to such corporation) at the time of, or in connection with, such acquisition.

"(B) INTANGIBLE PROPERTY.—The term 'intangible property' means any—

"(i) patent, invention, formula, process, design, pattern, or know-how;

"(ii) copyright, literary, musical, or artistic composition;

"(iii) trademark, trade name, or brand name;

"(iv) franchise, license, or contract;

"(v) method, program, system, procedure, campaign, survey, study, forecast, estimate, customer list, or technical data; or

"(vi) any similar item,

which has substantial value independent of the services of any individual.

"(C) EXCLUSION OF REASONABLE PROFIT.—The term 'intangible property income' shall not include any portion of the income from the sale, exchange or other disposition of any product by a corporation electing the application of this section which is determined by the Secretary to be a reasonable profit on the direct and indirect costs incurred by such electing corporation which are attributable to such income.

"(D) RELATED PERSON.—

"(i) IN GENERAL.—A person (hereinafter referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are members of the same controlled group of corporations.

"(ii) SPECIAL RULES.—For purposes of clause (i)—

"(I) section 267(b) and section 707(b)(1) shall be applied by substituting '10 percent' for '50 percent', and

"(II) section 267(b)(3) shall be applied without regard to whether a person was a personal holding company or a foreign personal holding company.

"(E) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 10 percent' shall be substituted for 'at least 80 percent' and 'more than 50 percent' each place either appears in section 1563(a), and

"(ii) the determination shall be made without regard to subsections (a)(4), (b)(2), and (e)(3)(C) of section 1563.

"(4) DISTRIBUTIONS TO MEET QUALIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—If the Secretary determines that a corporation does not satisfy a condition specified in subparagraph (A) or (B) of subsection (a)(2) for any taxable year by reason of the exclusion from gross income under paragraph (1)(B), such corporation shall nevertheless be treated as satisfying such condition for such year if it makes a pro rata distribution of property after the close of such taxable year to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to—

"(i) if the condition of subsection (a)(2)(A) is not satisfied, that portion of the gross income for the period described in subsection (a)(2)(A)—

"(I) which was not derived from sources within a possession, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the condition of subsection (a)(2)(A),

"(ii) if the condition of subsection (a)(2)(B) is not satisfied, that portion of the gross income for such period—

"(I) which was not derived from the active conduct of a trade or business within a possession, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the conditions of subsection (a)(2)(B), or

"(iii) if neither of such conditions is satisfied, that portion of the gross income which exceeds the amount of gross income for such period which would enable such corporation to satisfy the conditions of subparagraphs (A) and (B) of subsection (a)(2).

"(B) EFFECTIVELY CONNECTED INCOME.—In the case of a shareholder who is a nonresi-

dent alien individual or a foreign corporation, trust, or estate, any distribution described in subparagraph (A) shall be treated as income which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

"(C) DISTRIBUTION DENIED IN CASE OF FRAUD OR WILLFUL NEGLECT.—Subparagraph (A) shall not apply to a corporation if the determination of the Secretary described in subparagraph (A) contains a finding that the failure of such corporation to satisfy the conditions in subsection (a)(2) was due in whole or in part to fraud with intent to evade tax or willful neglect on the part of such corporation.".

(b) INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS.—Section 934 (relating to limitation on reduction in income tax liability incurred to the Virgin Islands) is amended—

(1) by striking out "50 percent" in subsection (b)(2) and inserting in lieu thereof "90 percent", and

(2) by adding at the end thereof the following new subsections:

"(e) TAX TREATMENT OF INTANGIBLE PROPERTY INCOME OF CERTAIN DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—

"(A) INCOME ATTRIBUTABLE TO SHAREHOLDER.—The intangible property income (within the meaning of section 936(h)(3)) for any taxable year of any domestic corporation which is described in subsection (b) and which is an inhabitant of the Virgin Islands (within the meaning of section 28(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1642)), shall be included on a pro rata basis in the gross income of all shareholders of such corporation at the close of the taxable year of such corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such corporation ends.

"(B) EXCLUSION FROM THE INCOME OF THE CORPORATION.—Any intangible property income of a corporation described in subparagraph (A) which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be excluded from the gross income of such corporation.

"(2) FOREIGN SHAREHOLDERS; SHAREHOLDERS NOT SUBJECT TO TAX; INHABITANTS OF THE VIRGIN ISLANDS.—

"(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to—

"(i) any shareholder who is not a United States person,

"(ii) any shareholder who is not subject to tax under this title on intangible property income which would be allocated to such shareholder (but for this subparagraph), and

"(iii) any shareholder who is an inhabitant of the Virgin Islands.

"(B) TREATMENT OF NONALLOCATED INTANGIBLE PROPERTY INCOME.—For purposes of this subtitle, intangible property income of a corporation described in paragraph (1)(A) which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A)—

"(i) shall be treated as income from sources within the United States, and

"(ii) shall not be taken into account for purposes of determining whether the conditions specified in paragraph (1) or (2) of subsection (b) are satisfied.

"(3) DISTRIBUTION TO MEET QUALIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—If the Secretary determines that a corporation does not satisfy a condition specified in paragraph (1) or (2) of subsection (b) for any taxable year by reason of the exclusion from gross income under paragraph (1)(B), such corporation shall nevertheless be treated as satisfying such condition for such year if it makes a pro rata distribution of property after the close of such taxable year to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to—

"(i) if the condition of subsection (b)(1) is not satisfied, that portion of the gross income for the period described in subsection (b)(1)—

"(I) which was not derived from sources within the Virgin Islands, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the condition of subsection (b)(1),

"(ii) if the condition of subsection (b)(2) is not satisfied, that portion of the aggregate gross income for such period—

"(I) which was not derived from the active conduct of a trade or business within the Virgin Islands, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the conditions of subsection (b)(2), or

"(iii) if neither of such conditions is satisfied, that portion of the gross income which exceeds the amount of gross income for such period which would enable such corporation to satisfy the conditions of paragraphs (1) and (2) of subsection (b).

"(B) EFFECTIVELY CONNECTED INCOME.—In the case of a shareholder who is a nonresident alien individual, an inhabitant of the Virgin Islands, or a foreign corporation, trust, or estate, any distribution described in subparagraph (A) shall be treated as income which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

"(C) DISTRIBUTION DENIED IN CASE OF FRAUD OR WILLFUL NEGLECT.—Subparagraph (A) shall not apply to a corporation if the determination of the Secretary described in subparagraph (A) contains a finding that the failure of such corporation to satisfy the conditions in subsection (b) was due in whole or in part to fraud with intent to evade tax or willful neglect on the part of such corporation.

"(f) TRANSITIONAL RULE.—In applying subsection (b)(2) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, the following percentage shall be substituted for "90 percent":

"For taxable years beginning in calendar year:	The percentage is:
1983	65
1984	80.".

(c) DENIAL OF DIVIDEND RECEIVED DEDUCTION IN CASE OF A DISTRIBUTION TO MEET QUALIFICATION REQUIREMENTS.—Section 246 (relating to rules applying to deduction for dividends received) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN DISTRIBUTIONS TO SATISFY REQUIREMENTS.—No deduction shall be allowed under section 243(a) with respect to a dividend received pursuant to a distribution described in section 936(h)(4) or 934(e)(3).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1982.

PART IV—TAX-EXEMPT OBLIGATIONS

SEC. 221. MODIFICATION OF EXEMPTION FOR SMALL ISSUES.

(a) COMPOSITE ISSUES.—Paragraph (6) of section 103(b) (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraphs:

"(K) LIMITATIONS ON TREATMENT OF OBLIGATIONS AS PART OF THE SAME ISSUE.—For purposes of this paragraph, separate lots of obligations which (but for this subparagraph) would be treated as part of the same issue shall be treated as separate issues unless the proceeds of such lots are to be used with respect to facilities—

"(i) which are located in more than 1 State, or

"(ii) which have, or will have, as the same principal user the same person or related persons.

"(L) FRANCHISES.—For purposes of subparagraph (K), a person shall be considered a principal user of a facility if such person—

"(i) guarantees, arranges, participates in, or assists with the issuance (or pays any portion of the cost of issuance) of any obligation the proceeds of which are to be used to finance or refinance such facility, and

"(ii) provides any property, or any franchise, trademark, or trade name (within the meaning of section 1253), which is to be used in connection with such facility.".

(b) SMALL ISSUE EXEMPTION NOT ALLOWED WHERE OBLIGATIONS ISSUED AS PART OF ISSUE EXEMPT FROM TAX OTHER THAN AS A SMALL ISSUE.—Paragraph (6) of section 103(b), as amended by subsection (a), is amended by adding at the end thereof the following new subparagraph:

"(M) PARAGRAPH NOT TO APPLY IF OBLIGATIONS ISSUED WITH CERTAIN OTHER TAX-EXEMPT OBLIGATIONS.—This paragraph shall not apply to any obligation which is issued as part of an issue (other than an issue to which subparagraph (D) applies) if the interest on any other obligation which is part of such issue is excluded from gross income under any provision of law other than this paragraph.".

(c) TERMINATION OF SMALL ISSUE EXEMPTION AFTER 1985.—Paragraph (6) of section 103(b), as amended by subsections (a) and (b), is amended by adding at the end thereof the following new subparagraph:

"(N) PARAGRAPH NOT TO APPLY TO OBLIGATIONS ISSUED AFTER DECEMBER 31, 1985.—This paragraph shall not apply to any obligation issued after December 31, 1985 (including any obligation issued to refund an obligation issued prior to such date).".

(d) EXCLUSION OF CERTAIN RESEARCH EXPENDITURES FROM THE LIMITATION ON CERTAIN INDUSTRIAL DEVELOPMENT BONDS.—Subparagraph (F) of section 103(b)(6) (relating to exclusion of certain capital expenditures) is amended—

(1) by striking out "or" at the end of clause (ii),

(2) by adding "or" at the end of clause (iii), and

(3) by adding at the end thereof the following new clause:

"(iv) described in clause (i) or (ii) of section 44F(b)(2)(A) for which a deduction was allowed under section 174(a),".

(e) EFFECTIVE DATES.—

(1) COMPOSITE ISSUES; SMALL ISSUE EXEMPTION.—The amendments made by subsections

(a) and (b) shall apply to obligations issued after the date of enactment of this Act.

(2) TERMINATION.—The amendment made by subsection (c) shall take effect on the date of enactment of this Act.

(3) RESEARCH EXPENDITURES.—The amendment made by subsection (d) shall apply with respect to expenditures made after the date of enactment of this Act.

SEC. 222. PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS APPLICABLE TO PRIVATE ACTIVITY BONDS.

(a) PUBLIC APPROVAL.—Section 103 (relating to interest on certain governmental obligations), as amended by section 312(b) of this Act, is further amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) PUBLIC APPROVAL FOR INDUSTRIAL DEVELOPMENT BONDS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), an industrial development bond shall be treated as an obligation not described in subsection (a) unless the requirements of paragraph (2) of this subsection are satisfied.

"(2) PUBLIC APPROVAL REQUIREMENT.—

"(A) IN GENERAL.—An obligation shall satisfy the requirements of this paragraph if such obligation is issued as a part of an issue which has been approved—

"(i) after a public hearing following reasonable public notice, by the applicable elected representative of—

"(I) the governmental unit by or on behalf of which the obligation is issued, and

"(II) each governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the proceeds of such issue, is located (except that if more than 1 governmental unit within a State has jurisdiction over the entire area in which such facility is located, only 1 such unit need approve such issue), or

"(ii) by a voter referendum of each of the governmental units described in clause (i).

"(B) SPECIAL RULES FOR APPROVAL OF FACILITY.—If there has been public approval under subparagraph (A) of the plan of financing a facility, such approval shall constitute approval under subparagraph (A) for any issue—

"(i) which is issued within 3 years of the date of issue of the approved issue, and

"(ii) all or substantially all of the proceeds of which are to be used to finance such facility.

"(C) REFUNDING OBLIGATIONS.—No approval under subparagraph (A) shall be necessary with respect to any obligation which is issued to refund an obligation approved under subparagraph (A) (or treated as approved under subparagraph (B)) unless the maturity date of such obligation is later than the maturity date of the obligation to be refunded.

"(D) APPLICABLE ELECTED REPRESENTATIVE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable elected representative' means with respect to any governmental unit—

"(I) an elected legislative body, or

"(II) the chief elected executive officer or any other elected official designated for purposes of this paragraph by such officer or by State law.

"(ii) NO APPLICABLE ELECTED REPRESENTATIVE.—If (but for this clause) a governmental unit has no applicable elected representative, the applicable elected representative for purposes of clause (i) shall be the applicable elected representative of the governmental unit—

"(I) which is the next higher governmental unit with such a representative, and

"(II) from which the authority of the governmental unit with no such representative is derived.".

(b) INFORMATION REPORTING.—Section 103, as amended by subsection (a), is further amended by redesignating subsection (l) as subsection (m) and by adding at the end thereof the following new subsection:

"(l) INFORMATION REPORTING REQUIREMENTS FOR CERTAIN BONDS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), any industrial development bond (within the meaning of subsection (b)(2)) or any obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly—

"(A) to finance loans to individuals which are used for tuition and related expenses (within the meaning of section 117(c)(2)), or

"(B) by an organization described in section 501(c)(3) which is exempt from taxation solely by reason of section 501(a),

shall be treated as an obligation not described in paragraph (1) or (2) of subsection (a) unless such bond satisfies the requirements of paragraph (2).

"(2) INFORMATION REPORTING REQUIREMENT.—An obligation satisfies the requirement of this paragraph if the issuer submits to the Secretary, not later than the 15th day of the 2d calendar month after the close of the calendar quarter in which the obligation is issued, a statement concerning the issue of which the obligation is a part which contains—

"(A) the name and address of the issuer,

"(B) the date of issue, the amount of lendable proceeds of the issue, and the stated interest rate, term and face amount of each obligation which is part of the issue,

"(C) the name of the applicable elected representative who approved the issue, or a description of the voter referendum by which the issue was approved, if any,

"(D) the name, address, and employer identification number of each initial substantial user (and any related person) of any facilities provided with the proceeds of the issue, and

"(E) a description of any property to be financed from the proceeds of the issue.

"(3) EXTENSION OF TIME.—The Secretary may grant an extention of time for the filing of any statement required under paragraph (2) if there is reasonable cause for the failure to file in a timely fashion such statement.".

(c) EFFECTIVE DATES.—

(1) PUBLIC APPROVAL.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1982, other than obligations issued solely to refund any obligation which—

(A) was issued prior to July 1, 1982,

(B) has not previously been refunded at any time after June 30, 1982, and

(C) has a maturity which does not exceed 3 years.

(2) INFORMATION REPORTING.—The amendment made by subsection (b) shall apply to obligations issued after December 31, 1982 (including any obligation issued to refund an obligation issued prior to such date).

SEC. 223. COST RECOVERY FOR CERTAIN PROPERTY FINANCED WITH TAX EXEMPT BONDS.

(a) COST RECOVERY METHOD.—Subsection (f) of section 168 (relating to special rules for the accelerated cost recovery system) is amended by adding at the end thereof the following new paragraph:

"(12) LIMITATIONS ON PROPERTY FINANCED WITH TAX-EXEMPT BONDS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, to the extent that any property is financed by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest of which is exempt under section 103(a), the deduction allowed under subsection (a) (and any deduction allowable in lieu of the deduction allowable under subsection (a)) for any taxable year with respect to such property shall be determined under subparagraph (B).

"(B) RECOVERY METHOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), the amount of the deduction allowed with respect to property described in subparagraph (A) shall be determined by using the straight-line method (with a half-year convention and without regard to salvage value) and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	5 years.
5-year property	8 years.
10-year property	15 years.
15-year public utility property	22 years.

"(ii) 15-YEAR REAL PROPERTY.—In the case of 15-year real property, the amount of the deduction allowed shall be determined by using the straight-line method (determined on the basis of the number of months in the year in which such property was in service and without regard to salvage value) and a recovery period of—

"(I) 15 years in the case of 15-year real property which is residential rental property (within the meaning of section 167(j)(2)(B)), and

"(II) 25 years in the case of any other 15-year real property.

"(C) EXCEPTIONS.—Paragraph (A) shall not apply to any recovery property which is placed in service—

"(i) in connection with projects for residential rental property financed by the proceeds of obligations described under section 103(b)(4)(A),

"(ii) in connection with a solid waste disposal facility—

"(I) which provides solid waste disposal for the residents of a governmental unit, and

"(II) with respect to which substantially all of the solid waste processed is collected from the general public,

"(iii) as an air or water pollution control facility which is—

"(I) installed in connection with an existing facility, or

"(II) installed in connection with the conversion of an existing facility which uses oil or natural gas (or any product of oil or natural gas) as a primary fuel to a facility which uses coal as a primary fuel, or

"(iv) in connection with a facility with respect to which an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974.

"(D) EXISTING FACILITY.—For purposes of this paragraph, the term 'existing facility' means a plant or property in operation before July 1, 1982.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property placed in service after December 31, 1982, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after June 30, 1982.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this section shall not apply with respect to facilities—

(i) the construction, reconstruction, or rehabilitation of which began prior to July 1, 1982, or

(ii) with respect to which a binding agreement to incur significant expenditures was entered into prior to July 1, 1982.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1982 which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued prior to July 1, 1982, the amendments made by this section shall only apply with respect to the basis in such property which has not been recovered prior to the date such refunding obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities with respect to which significant expenditures are made prior to January 1, 1983, the amendments made by this section shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued prior to July 1, 1982.

SEC. 224. MISCELLANEOUS.

(a) EXEMPT OBLIGATIONS FOR LOCAL DISTRICT HEATING AND COOLING FACILITIES.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(1) by striking out "or" at the end of subparagraph (H),

(2) by striking out the period at the end of subparagraph (I), and inserting in lieu thereof ", or", and

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) local district heating or cooling facilities.".

(b) DISTRICT HEATING OR COOLING FACILITIES DEFINED.—Subsection (b) of section 103 is amended by adding at the end thereof the following new paragraph:

"(11) LOCAL DISTRICT HEATING OR COOLING FACILITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'local district heating or cooling facility' means property used as an integral part of a local district heating or cooling system.

"(B) LOCAL DISTRICT HEATING OR COOLING SYSTEM.—

"(i) IN GENERAL.—The term 'local district heating or cooling system' means any local system consisting of a pipeline or network (which may be connected to a heating or cooling source) providing hot water, chilled water, or steam to 2 or more users for—

"(I) residential, commercial, or industrial heating or cooling, or

"(II) process steam.

"(ii) LOCAL SYSTEM.—For purposes of this subparagraph, a local system includes facilities furnishing heating and cooling to an area consisting of a city and one contiguous county.".

(c) FACILITIES FOR THE LOCAL FURNISHING OF GAS.—Paragraph (4) of section 103(b) is amended by striking out "electric energy from" in the last sentence and inserting in lieu thereof "electric energy or gas from".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of enactment of this Act.

PART V—MERGERS AND ACQUISITIONS

Subpart A—Changes in Tax Treatment of Partial Liquidations and of Certain Distributions of Appreciated Property

SEC. 226. PARTIAL LIQUIDATIONS.

(a) SECTION 331 (WHICH PROVIDES CAPITAL GAIN OR LOSS TREATMENT FOR SHAREHOLDERS IN LIQUIDATIONS) LIMITED TO COMPLETE LIQUIDATIONS.—Subsection (a) of section 331 (relating to gain or loss to shareholders in corporate liquidations) is amended to read as follows:

"(a) DISTRIBUTIONS IN COMPLETE LIQUIDATION TREATED AS EXCHANGES.—Amounts received by a shareholder in a distribution in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock.".

(b) SECTION 336 (WHICH PROVIDES NONRECOGNITION OF GAIN AND LOSS ON DISTRIBUTIONS BY LIQUIDATING CORPORATION) LIMITED TO COMPLETE LIQUIDATIONS.—Subsection (a) of section 336 (relating to distributions of property in liquidation) is amended by striking out "partial or complete liquidation" and inserting in lieu thereof "complete liquidation".

(c) CERTAIN DISTRIBUTIONS TO NONCORPORATE SHAREHOLDERS WHICH QUALIFY AS PARTIAL LIQUIDATIONS UNDER EXISTING LAW TREATED AS REDEMPTIONS.—Section 302 (relating to distributions in redemption of stock) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) REDEMPTIONS FROM NONCORPORATE SHAREHOLDERS WHICH ARE ATTRIBUTABLE TO TERMINATION OR DISTRIBUTION OF BUSINESS.—

"(1) IN GENERAL.—For purposes of this section, a redemption of stock held by a shareholder who is not a corporation shall be treated as not essentially equivalent to a dividend if the requirements of subparagraphs (A) and (B) of this paragraph are met:

"(A) The redemption is attributable to the distributing corporation's ceasing to conduct, or consists of the assets of, a qualified trade or business.

"(B) Immediately after the redemption the distributing corporation is actively engaged in the conduct of a qualified trade or business.

"(2) QUALIFIED TRADE OR BUSINESS.—For purposes of paragraph (1), the term 'qualified trade or business' means any trade or business which—

"(A) was actively conducted throughout the 5-year period ending on the date of the redemption, and

"(B) was not acquired by the corporation within such period in a transaction in which gain or loss was recognized in whole or in part.

"(3) REDEMPTION MAY BE PRO RATA.—Whether or not a redemption meets the requirements of subparagraphs (A) and (B) of paragraph (1) shall be determined without regard to whether or not the redemption is pro rata with respect to all of the shareholders of the corporation.".

(d) DEFINITION AND SPECIAL RULE.—Section 346 (defining partial liquidation) is amended to read as follows:

"SEC. 346. DEFINITION AND SPECIAL RULE.

"(a) COMPLETE LIQUIDATION.—For purposes of this subchapter, a distribution shall be treated as an incomplete liquidation of a corporation if the distribution is one of a series of distributions in redemption of all of the stock of the corporation pursuant to a plan.

"(b) TRANSACTIONS WHICH MIGHT REACH SAME RESULT AS PARTIAL LIQUIDATIONS.—The Secretary shall prescribe such regulations as may be necessary to ensure that the purposes of subsections (a) and (b) of section 101 of the Revenue Enhancement Act of 1982 (which repeal the special tax treatment for partial liquidations) may not be circumvented through the use of section 355, 351, 337, or any other provision of law or regulations (including the consolidated return regulations).".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking out "partial or complete liquidation" and inserting in lieu thereof "complete liquidation":

(A) Paragraph (2) of section 306(b) (relating to exceptions).

(B) Subsection (b) of section 331 (relating to nonapplication of section 301).

(C) Subsection (a) of section 334 (relating to basis of property received in liquidations).

(D) Paragraph (1) of section 336(b) (relating to distributions of LIFO inventory).

(E) Paragraph (2) of section 341(a) (relating to collapsible corporations).

(2)(A) The heading and table of sections for subpart D of part II of subchapter C of chapter 1 is amended to read as follows:

"Subpart D—Definition and Special Rule

"Sec. 346. Definition and special rule.".

(B) The table of subparts for such part II is amended by adding the item relating to subpart D to read as follows:

"Subpart D.—Definition and special rule.".

(f) EFFECTIVE DATES.—The amendments made by this section shall apply to distributions after August 31, 1982, except that such amendments shall not apply to distributions after such date pursuant to a plan of liquidation adopted before October 1, 1982, by a corporation a majority of the shares of which were acquired pursuant to—

(1) a tender offer outstanding on July 1, 1982, or

(2) a binding contract entered into before such date.

SEC. 227. DISTRIBUTION OR APPRECIATED PROPERTY IN REDEMPTION OF STOCK

(a) REPEAL OF CERTAIN EXCEPTIONS TO RECOGNITION OF GAIN.—Paragraph (2) of section 311(d) (relating to recognition of gain on distribution of appreciated property in redemption of stock) is amended by striking out subparagraphs (A), (B), (C), and (G).

(b) CONFORMING AMEMDMENTS.—Paragraph (2) of section 311(d) is amended—

(1) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (A), (B), and (C), respectively,

(2) by adding "and" at the end of subparagraph (B) (as so redesignated), and

(3) by striking out "; and" at the end of subparagraph (C) (as so redesignated) and inserting in lieu thereof a period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after August 31, 1982.

Subpart B—Certain Stock Purchases Treated As Asset Purchases

SEC. 229. CERTAIN STOCK PURCHASES TREATED AS ASSET PURCHASES.

(a) GENERAL RULE.—Section 38 (relating to effects on earnings and profits) is amended to read as follows:

"SEC. 338. CERTAIN STOCK PURCHASES TREATED AS ASSET ACQUISITIONS.

"(a) GENERAL RULE.—For purposes of this title, if a purchasing corporation makes an election under this section (or is treated under subsection (d) as having made such an election), then in the case of any qualified stock purchase, the target corporation—

"(1) shall be treated as having sold all of its assets on the acquisition date in a single transaction to which section 337 applies, and

"(2) immediately after such sale, shall be treated as a new corporation which purchased all of the assets referred to in paragraph (1).

"(b) PRICE AT WHICH DEEMED SALE MADE.—For purposes of subsection (a), the assets of the target corporation shall be treated as sold (and purchased) at an amount equal to—

"(1) the basis of the purchasing corporation's stock in the target corporation on whichever of the following days such basis is greater—

"(A) the acquisition date, or

"(B) the last day of the 12-month acquisition period,

"(2) properly adjusted under regulations prescribed by the Secretary for liabilities of the target corporation and other relevant items.

Such amount shall be allocated among the assets of the target corporation under regulations prescribed by the Secretary.

"(c) PURCHASING CORPORATION; TARGET CORPORATION; QUALIFIED STOCK PURCHASE.—For purposes of this section—

"(1) PURCHASING CORPORATION.—The term 'purchasing corporation' means any corporation which makes a qualified stock purchase of stock of another corporation.

"(2) TARGET CORPORATION.—The term 'target corporation' means any corporation the stock of which is acquired by another corporation in a qualified stock purchase.

"(3) QUALIFIED STOCK PURCHASE.—The term 'qualified stock purchase' means any transaction or series of transactions in which stock of 1 corporation possessing—

"(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, and

"(B) at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends),

is acquired by another corporation by purchase during the 12-month acquisition period.

"(d) DEEMED ELECTION WHERE PURCHASING CORPORATION ACQUIRES ASSET OF TARGET CORPORATION.—

"(1) IN GENERAL.—A purchasing corporation shall be treated as having made an election under this section with respect to any target corporation if, at any time during the consistency period, it acquires any asset of the target corporation (or a target affiliate).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any acquisition by the purchasing corporation if—

"(A) such acquisition is pursuant to a sale by the target corporation (or the target affiliate) in the ordinary course of its trade or business, or

"(B) the basis of the property acquired is determined (in whole or in part) by reference to the adjusted basis of such property in the hands of the person from whom acquired.

"(3) ANTI-AVOIDANCE RULE.—Whenever necessary to carry out the purposes of this subsection and subsection (e), the Secretary may treat stock acquisitions which are pursuant to a plan and which meet the 80-percent requirements of subparagraphs (A) and (B) of subsection (c)(3) as qualified stock purchases.

"(e) CONSISTENCY REQUIRED FOR ALL STOCK ACQUISITIONS FROM SAME AFFILIATED GROUP.—If a purchasing corporation makes qualified stock purchases with respect to the target corporation and 1 or more target affiliates during any consistency period, then (except as otherwise provided in subsection (d))—

"(1) any election under this section with respect to the first such purchase shall apply to each other such purchase, and

"(2) no election may be made under this section with respect to the second or subsequent such purchase if such an election was not made with respect to the first such purchase.

"(f) ELECTION.—

"(1) WHEN MADE.—Except as otherwise provided in regulations, an election under this section shall be made not later than 75 days after the acquisition date.

"(2) MANNER.—An election by the purchasing corporation under this section shall be made in such manner as the Secretary shall by regulations prescribe.

"(3) ELECTION IRREVOCABLE.—An election by a purchasing corporation under this section, once made, shall be irrevocable.

"(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) 12-MONTH ACQUISITION PERIOD.—The term '12-month acquisition period' means the 12-month period beginning with the date of the first acquisition by purchase of stock included in a qualified stock purchase.

"(2) ACQUISITION DATE.—The term 'acquisition date' means, with respect to any corporation, the first day on which there is a qualified stock purchase with respect to the stock of such corporation.

"(3) PURCHASE.—

"(A) IN GENERAL.—The term 'purchase' means any acquisition of stock, but only if—

"(i) the basis of the stock in the hands of the purchasing corporation is not determined—

"(I) in whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom acquired, or

"(II) under section 1014(a) (relating to property acquired from a decedent),

"(ii) the stock is not acquired in an exchange to which section 351 applies, and

"(iii) the stock is not acquired from a person the ownership of whose stock would, under section 318(a) (other than paragraph (4) thereof), be attributed to the person acquiring such stock.

"(B) DEEMED PURCHASE OF STOCK OF SUBSIDIARIES.—If stock in a corporation is acquired by purchase (within the meaning of subparagraph (A)) and, as a result of such acquisition, the corporation making such purchase is treated (by reason of section 318(a)) as owning stock in a third corporation, the corporation making such purchase shall be treated as having purchased such stock in such third corporation. The corporation making such purchase shall be treated as purchasing stock in the third corporation by reason of the preceding sentence on the first day on which the purchasing corporation is considered under section 318(a) as owning such stock.

"(4) CONSISTENCY PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'consistency period' means the period consisting of—

"(i) the 1-year period before the beginning of the 12-month acquisition period for the target corporation,

"(ii) such acquisition period (up to and including the acquisition date), and

"(iii) the 1-year period beginning on the day after the acquisition date.

"(B) EXTENSION WHERE THERE IS PLAN.—The period referred to in subparagraph (A) shall also include any period during which the Secretary determines there was in effect a plan to make a qualified stock purchase plus 1 or more other qualified stock purchases (or asset acquisitions described in subsection (d)) with respect to the target corporation or any target affiliate.

"(5) AFFILIATED GROUP.—The term 'affiliated group' has the meaning given to such term by section 1504(a) (determined without regard to the exceptions contained in section 1504(b)).

"(6) TARGET AFFILIATE.—A corporation shall be treated as a target affiliate of the target corporation if each of such corporations was, at any time during so much of the consistency period as ends on the acquisition date of the target corporation, a member of an affiliated group which had the same common parent.

"(7) ACQUISITIONS BY PURCHASING CORPORATION INCLUDE ACQUISITIONS BY CORPORATIONS AFFILIATED WITH PURCHASING CORPORATION.—Except as otherwise provided in regulations, an acquisition of stock or assets by any member of an affiliated group which includes a purchasing corporation shall be treated as made by the purchasing corporation.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to ensure that the purposes of this section to require consistency of treatment of stock and asset purchases with respect to a target corporation and its target affiliates (whether by treating all of them as stock purchases or as asset purchases) may not be circumvented through the use of any provision of law or regulations (including the consolidated return regulations).".

(b) REPEAL OF SECTION 334(b)(2).—Subsection (b) of section 334 (relating to limitation of subsidiary) is amended to read as follows:

"(b) LIQUIDATION OF SUBSIDIARY.—

"(1) DISTRIBUTION IN COMPLETE LIQUIDATION.—If property is received by a corporation in a distribution in a complete liquidation to which section 332(a) applies, the basis of the property in the hands of the distributee shall be the same as it would be in the hands of the transferor.

"(2) TRANSFERS TO WHICH SECTION 332(C) APPLIES.—If property is received by a corporation in a transfer to which section 332(c) applies, the basis of the property in the hands of the transferee shall be the same as it would be in the hands of the transferor.

"(3) DISTRIBUTEE DEFINED.—For purposes of this subsection, the term 'distributee' means only the corporation which meets the 80-percent stock ownership requirements specified in section 332(b).".

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (E) of section 168(e)(4) (relating to liquidation of subsidiary, etc.) is amended by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of a deemed liquidation under section 338.".

(2) Clause (i) of section 168(f)(10)(B) is amended by striking out "section 334(b)(2)" and inserting in lieu thereof "section 334(b)(2) or 338".

(3) Paragraph (3) of section 312(e) (relating to special rule for partial liquidation and certain redemptions) is amended—

(A) by striking out "in partial liquidation (whether before, on, or after June 22, 1954)"; and

(B) by striking out "PARTIAL LIQUIDATIONS AND" in the heading thereof.

(4) Paragraph (4) of section 318(b) is amended to read as follows:

"(4) section 338(c)(3)(B) (relating to purchase of stock from subsidiaries, etc.);".

(5) Paragraph (2) of section 336(b) is amended by striking out "334(b)(1)" each place it appears and inserting in lieu thereof "334(b)".

(6) Paragraph (2) of section 337(c) (relating to liquidations to which section 332 applies) is amended to read as follows:

"(2) LIQUIDATIONS TO WHICH SECTION 332 APPLIES.—In the case of any sale or exchange following the adoption of a plan of complete liquidation, if section 332 applies with respect to such liquidation, this section shall not apply.".

(7) Paragraph (1) of section 381(a) is amended by striking out ", except in the case in which the basis of the assets distributed is determined under section 334(b)(2)".

(8) Subparagraph (B) of section 617(h)(2) is amended by inserting "338," after "334(b),".

(9) The table of sections for subpart B of part II of subchapter C of chapter 1 is amended by striking out the item relating to section 338 and inserting in lieu thereof the following:

"Sec. 338. Certain stock purchases treated as asset acquisitions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any target corporation (within the meaning of section 338 of the Internal Revenue Code of 1954 as added by this section) with respect to which the acquisition date (within the meaning of such section) occurs after August 31, 1982.

PART VI—METHODS OF ACCOUNTING

SEC. 231. MODIFICATION OF REGULATIONS ON THE COMPLETED CONTRACT METHOD OF ACCOUNTING.

(a) IN GENERAL.—The Secretary of the Treasury shall modify Income Tax Regulation section 1.451-3 with respect to the completed contract method of accounting to—

(1) clarify the time at which a contract is to be considered completed,

(2) clarify when—

(A) one agreement will be treated as more than one contract, and

(B) two or more agreements will be treated as one contract, and

(3) properly allocate all costs which directly benefit, or are incurred by reason of, the extended period long-term contract.

(b) EXTENDED PERIOD LONG-TERM CONTRACTS DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term "extended period long-term contract" means any long-term contract (within the meaning of Income Tax Regulation 1.451-3) which the taxpayer estimates (at the time such contract is entered into) will not be completed within the 2-year period beginning on the contract commencement date of such contract.

(2) CERTAIN CONSTRUCTION CONTRACTS.—

(A) IN GENERAL.—The term "extended period long-term contracts" does not include any construction contract entered into by a taxpayer—

(i) who estimates (at the time such contract is entered into) that such contract will be completed within the 3-year period beginning on the contract commencement date of such contract, or

(ii) whose average annual gross receipts over the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $25 million.

(B) DETERMINATION OF TAXPAYER'S GROSS RECEIPTS.—For purposes of subparagraph (A), the gross receipts of—

(i) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)), and

(ii) all members of any controlled group of corporations of which the taxpayer is a member,

for the 3 taxable years of such persons preceding the taxable year in which the contract described in subparagraph (A) is entered into shall be included in the gross receipts of the taxpayer for the period described in subparagraph (A). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

(C) CONTROLLED GROUP OF CORPORATIONS.—The term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(i) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(3) CONSTRUCTION CONTRACT.—The term "construction contract" means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, improvements to real property.

(4) CONTRACT COMMENCEMENT DATE.—The term "contract commencement date" means, with respect to any contract, the first date on which any costs (other than bidding expenses) allocable to such contract are incurred.

(b) EFFECTIVE DATES; SPECIAL RULES.—

(1) IN GENERAL.—The modifications to Income Tax Regulation 1.451-3 which are required to be made under paragraphs (1) and (2) of subsection (a) shall apply with respect to taxable years ending after December 31, 1982.

(2) COST ALLOCATION.—

(A) IN GENERAL.—Any modification to Income Tax Regulation 1.451-3 made under subsection (a)(3) which requires additional costs to be allocated to a contract shall apply only to the applicable percentage of such additional costs incurred in taxable years beginning after December 31, 1982, with respect to contracts entered into after such date.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"If the taxable year begins in calendar year:	The applicable percentage is:
1983	33⅓
1984	66⅔
1985 or thereafter	100.".

(3) SPECIAL RULE.—Any contract of a taxpayer which would (but for this paragraph) be treated as having been completed prior to the first taxable year of such taxpayer ending after December 31, 1982, by reason of any modification in Income Tax Regulation 1.451-3 made under subsection (a), shall be treated as having been completed on the first day of such taxable year.

SEC. 232. ANNUAL ACCRUAL METHOD OF ACCOUNTING EXTENDED TO CERTAIN PARTNERSHIPS.

(a) IN GENERAL.—Section 447(g) of the Internal Revenue Code of 1954 (relating to certain annual accrual accounting methods) is amended—

(1) by inserting "or qualified partnership" after "corporation" each place it appears in paragraph (1),

(2) by amending paragraph (3) to read as follows:

"(3) CERTAIN NONRECOGNITION TRANSFERS.—For purposes of this subsection, if—

"(A) a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, or

"(B) a qualified partnership acquired substantially all the assets of a qualified farming trade or business from one of its partners in a transaction to which section 721 applies,

the transferee corporation or qualified partnership shall be deemed to have computed its taxable income on an annual accrual method of accounting during the period for which the transferor corporation or partnership computed its taxable income from such trade or business on an annual accrual method.", and

(3) by adding at the end thereof the following new paragraph:

"(4) QUALIFIED PARTNERSHIP DEFINED.—For purposes of this subsection—

"(A) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means a partnership which is engaged in a qualified trade or business and each of the partners of which is a corporation other than—

"(i) an electing small business corporation (within the meaning of section 1371(b)), or

"(ii) a personal holding company (within the meaning of section 542(a)).

"(B) QUALIFIED FARMING TRADE OR BUSINESS.—The term 'qualified farming trade or business' means the trade or business of farming sugar cane.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

PART VII—ORIGINAL ISSUE DISCOUNT

SEC. 236. ORIGINAL ISSUE DISCOUNT TAKEN INTO ACCOUNT ON BASIS OF CONSTANT INTEREST RATE.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1232 the following new section:

"SEC. 1232A. ORIGINAL ISSUE DISCOUNT.

"(a) ORIGINAL ISSUE DISCOUNT ON CORPORATE BONDS ISSUED AFTER MAY 3, 1982, INCLUDED IN INCOME ON BASIS OF CONSTANT INTEREST RATE.—

"(1) GENERAL RULE.—Except as otherwise provided in paragraph (6), there shall be included in the gross income of the holder of any bond having an original issue discount issued by a corporation after May 3, 1982 (and which is a capital asset in the hands of the holder), an amount equal to the sum of the daily portions of the original issue discount for each day during the taxable year on which such holder held such bond.

"(2) DETERMINATION OF DAILY PORTIONS.—For purposes of paragraph (1), the daily portion of the original issue discount on any bond shall be determined by allocating to each day in any bond period its ratable portion of the increase during such bond period in the adjusted issue price of the bond. For purposes of the preceding sentence, the increase in the adjusted issue price for any bond period shall be an amount equal to the excess (if any) of—

"(A) the product of—

"(i) the adjusted issue price of the bond at the beginning of such bond period, and

"(ii) the yield to maturity (determined on the basis of compounding at the close of each bond period), over

"(B) the sum of the amounts payable as interest on such bond during such bond period.

"(3) ADJUSTED ISSUE PRICE.—For purposes of this subsection, the adjusted issue price of any bond at the beginning of any bond period is the sum of—

"(A) the issue price of such bond, plus

"(B) the adjustments under this subsection to such issue price for all periods before the first day of such bond period.

"(4) BOND PERIOD.—Except as otherwise provided in regulations prescribed by the Secretary, the term 'bond period' means a 1-year period (or the shorter period to maturity) beginning on the day in the calendar year which corresponds to the date of original issue of the bond.

"(5) REDUCTION IN CASE OF CERTAIN SUBSEQUENT HOLDERS.—For purposes of this subsection, in the case of any purchase of a bond to which this subsection applies after its original issue, the daily portion shall not include an amount (determined at the time of purchase) equal to the excess (if any) of—

"(A) the cost of such bond incurred by the purchaser, over

"(B) the issue price of such bond, increased by the sum of the daily portions for such bond for all days before the date of purchase (computed without regard to this paragraph),

divided by the number of days beginning on the date of such purchase and ending on the day before the stated maturity date.

"(6) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, or other circumstances, the inclusion under paragraph (1) for the taxable year does not accurately reflect the income of the holder, the proper amount of income shall be included for such taxable year (and appropriate adjustments shall be made in the amounts included for subsequent taxable years).

"(b) INCLUSION IN INCOME OF ORIGINAL ISSUE DISCOUNT ON NONCORPORATE BONDS ISSUED AFTER JUNE 9, 1982.—

"(1) INCLUSION IN INCOME.—For purposes of this subtitle, in the case of any bond which is issued by a person (other than a corporation or a natural person) or by any government or political subdivision thereof after June 9, 1982, there shall be included in the gross income of the holder such holder's share of any original issue discount determined under subsection (a) as if such bond had been issued by a corporation.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) STATE AND LOCAL TAX-EXEMPTS.—Any obligation the interest on which is not includible in gross income under section 103.

"(B) SHORT-TERM GOVERNMENT OBLIGATIONS.—Any short-term Government obligation (within the meaning of section 1232(a)(3)).

"(C) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

"(c) RATABLE INCLUSION RETAINED FOR CORPORATE BONDS ISSUED BEFORE MAY 4, 1982.—

"(1) GENERAL RULE.—There shall be included in the gross income of the holder of any bond issued by a corporation after May 27, 1969, and before May 4, 1982 (and which is a capital asset in the hands of the holder)—

"(A) the ratable monthly portion of original issue discount, multiplied by

"(B) the number of complete months (plus any fractional part of a month determined under paragraph (3)) such holder held such bond during the taxable year.

"(2) Determination of ratable monthly portion.—Except as provided in paragraph (4), the ratable monthly portion of original issue discount shall equal—

"(A) the original issue discount, divided by

"(B) the number of complete months from the date of original issue to the stated maturity date of the bond.

"(3) MONTH DEFINED.—For purposes of this subsection, a complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day). In any case where a bond is acquired on any day other than a day determined under the preceding sentence, the ratable monthly portion of original issue discount for the complete month (or partial month) in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete (or partial) month each held the bond.

"(4) REDUCTION IN CASE OF CERTAIN SUBSEQUENT HOLDERS.—For purposes of this subsection, the ratable monthly portion of original issue discount shall not include an amount, determined at the time of any purchase after the original issue of the bond, equal to the excess of—

"(A) the cost of such bond incurred by the holder, over

"(B) the issue price of such bond, increased by the portion of original discount previously includible in the gross income of any holder (computed without regard to this paragraph),

divided by the number of complete months (plus any fractional part of a month) from the date of such purchase to the stated maturity date of such bond.

"(d) DEFINITIONS AND SPECIAL RULES.—

"(1) BOND INCLUDES OTHER EVIDENCES OF INDEBTEDNESS.—For purposes of this section, the term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) PURCHASE DEFINED.—For purposes of this section, the term 'purchase' means any acquisition of a bond, but only if the basis of the bond is not determined in whole or in part by reference to the adjusted basis of such bond in the hands of the person from whom acquired, or under section 1014(a) (relating to property acquired from a decedent).

"(3) ORIGINAL ISSUE DISCOUNT, ETC.—For purposes of this section, the terms 'original issue discount', 'issue price', and 'date of original issue' shall have the respective meanings given to such terms by section 1232(b).

"(4) EXCEPTIONS.—This section shall not apply to any holder—

"(A) who has purchased the bond at a premium, or

"(B) which is a life insurance company to which section 818(b) applies.

"(5) BASIS ADJUSTMENTS.—The basis of any bond in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to this section.".

(b) DEDUCTION DETERMINED ON BASIS OF CONSTANT INTEREST RATE.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ORIGINAL ISSUE DISCOUNT.—

"(1) IN GENERAL.—In the case of any bond issued after May 3, 1982, by an issuer (other than a natural person), the portion of the original issue discount with respect to such bond which is allowable as a deduction to the issuer for any taxable year shall be equal to the aggregate daily portions of the original issue discount for days during such taxable year.

"(2) SPECIAL RULE FOR NONCORPORATE ISSUERS.—In the case of any bond issued by any issuer other than a corporation, paragraph (1) shall be applied by substituting 'June 9, 1982' for 'May 3, 1982'.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(A) BOND.—The term 'bond' has the meaning given to such term by section 1232A(d)(1).

"(B) DAILY PORTIONS.—The daily portion of the original issue discount for any day shall be determined under section 1232A(a) (without regard to paragraph (5) thereof and without regard to the second sentence of section 1232(b)(1)).".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 1232(a)(2) is amended—

(A) by striking out "by a corporation after May 27, 1969" and inserting in lieu thereof "by a corporation after May 27, 1969, or by a government or political subdivision thereof after June 9, 1982",

(B) by striking out "as provided in paragraph (3)(B)" and inserting in lieu thereof "without regard to subsection (a)(5) or (c)(4) of section 1232A (or the corresponding provisions of prior law)", and

(C) by striking out the subparagraph heading and inserting in lieu thereof the following:

"(A) CORPORATE BONDS ISSUED AFTER MAY 27, 1969, AND GOVERNMENT BONDS ISSUED AFTER JUNE 9, 1982.—".

(2) Subparagraph (B) of section 1232(a)(2) is amended—

(A) by striking out "by a government or political subdivision thereof after December 31, 1954" and inserting in lieu thereof "by a government or political subdivision thereof after December 31, 1954, and on or before June 9, 1982,", and

(B) by striking out "GOVERNMENT BONDS" in the subparagraph heading and inserting in lieu thereof "GOVERNMENT BONDS ISSUED ON OR BEFORE JUNE 19, 1982".

(3) Subparagraph (D) of section 1232(a)(2) is amended by striking out "This section" and inserting in lieu thereof "This section and sections 1232A and 1232B".

(4) Subsection (a) of section 1232 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(d) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 1232 the following:

"Sec. 1232A. Original issue discount.".

(e) TRANSITIONAL RULE.—For purposes of the amendments made by this section—

(1) any evidence of indebtedness issued by a corporation pursuant to a written commitment which was binding on May 3, 1982, and at all times thereafter shall be treated as issued on May 3, 1982, and

(2) any evidence of indebtedness issued by an issuer which is not a corporation pursuant to a written commitment which was binding on June 9, 1982, and at all times thereafter shall be treated as issued on June 9, 1982.

SEC. 237. TAX TREATMENT OF STRIPPED BONDS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1232A the following new section:

"SEC. 1232B. TAX TREATMENT OF STRIPPED BONDS.

"(a) INCLUSION IN INCOME AS IF BOND AND COUPONS WERE ORIGINAL ISSUE DISCOUNT BONDS.—If any person purchases after June 9, 1982, a stripped bond or a stripped coupon, then such bond or coupon while held by such purchaser (or by any other person whose basis is determined by reference to the basis in the hands of such purchaser) shall be treated for purposes of section 1232A(a) as a bond originally issued by a corporation on the purchase date and having an original issue discount equal to the excess (if any) of—

"(1) the stated redemption price at maturity (or, in the case of a coupon, the amount payable on the due date of such coupon), over

"(2) such bond's or coupon's ratable share of the purchase price.

For purposes of paragraph (2), ratable shares shall be determined on the basis of their respective fair market values on the date of purchase.

"(b) TAX TREATMENT OF PERSON STRIPPING BOND.—For purposes of this subtitle, if any person strips 1 or more coupons from a bond and disposes of the bond or such coupon—

"(1) such person shall include in gross income an amount equal to the interest accrued on such bond prior to the time that such coupon or bond was disposed of,

"(2) the basis of the bond and coupons shall be increased by the amount described in paragraph (1),

"(3) the basis of the bond and coupons immediately before the disposition (as adjusted pursuant to paragraph (2)) shall be allocated among the items retained by such person and the items disposed of by such person on the basis of their respective fair market values, and

"(4) for purposes of subsection (a), such person shall be treated as having purchased on the date of such disposition each such item which he retains for an amount equal to the basis allocated to such item under paragraph (3).

A rule similar to the rule of paragraph (4) shall apply in the case of any person whose basis in any bond or coupon is determined by reference to the basis of the person described in the preceding sentence.

"(c) RETENTION OF EXISTING LAW FOR STRIPPED BONDS PURCHASED BEFORE JUNE 10, 1982.—If a bond issued at any time with interest coupons—

"(1) is purchased after August 16, 1954, and before January 1, 1958, and the purchaser does not receive all the coupons which first become payable more than 12 months after the date of the purchase, or

"(2) is purchased after December 31, 1957, and before June 10, 1982, and the purchaser does not receive all the coupons which first become payable after the date of the purchase,

then the gain on the sale or other disposition of such bond by such purchaser (or by a person whose basis is determined by reference to the basis in the hands of such purchaser) shall be considered as ordinary income to the extent that the fair market value (determined as of the time of the purchase) of the bond with coupons attached exceeds the purchase price. If this subsection and section 1232(a)(2)(A) apply with respect to gain realized on the sale or exchange of any evidence of indebtedness, then section 1232(a)(2)(A) shall apply with respect to that part of the gain to which this subsection does not apply.

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—In the case of any obligation the interest on which is not includible in gross income under section 103—

"(1) subsections (a) and (b) (2) shall not apply, and

"(2) subsection (c) shall be applied without regard to the requirement that the bond be purchased before June 10, 1982.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) STRIPPED BOND.—The term 'stripped bond' means a bond issued at any time with interest coupons where there is a separation in ownership between the bond and any coupon which has not yet become payable.

"(3) STRIPPED COUPON.—The term 'stripped coupon' means any coupon relating to a stripped bond.

"(4) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' has the meaning given such term by the third sentence of section 1232(b)(1).

"(5) COUPON.—The term 'coupon' includes any right to receive interest on a bond (whether or not evidenced by a coupon).".

(b) CONFORMING AMENDMENT.—Section 1232 is amended by striking out subsections (c) and (d).

(c) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 1232A the following:

"Sec. 1232B. Tax treatment of stripped bonds.".

PART VIII—OTHER BUSINESS PROVISIONS

SEC. 241. TARGETED JOBS TAX CREDIT.

(a) THREE YEAR EXTENSION.—Paragraph (3) of section 51(c) (relating to termination of credit for employment of certain new employees) is amended by striking out "1982" and inserting in lieu thereof "1985".

(b) QUALIFIED SUMMER YOUTH EMPLOYEE.—Subsection (d) (defining section 51 members of targeted groups) is amended—

(1) by striking out "or" at the end of subparagraph (H),

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof ", or",

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) a qualified summer youth employee.",

(4) by redesignating paragraphs (12), (13), (14), and (15) as paragraphs (13), (14), (15), and (16), respectively, and

(5) by inserting after paragraph (11) the following new paragraph:

"(12) QUALIFIED SUMMER YOUTH EMPLOYEE.—

"(A) IN GENERAL.—The term 'qualified summer youth employee' means an individual—

"(i) who performs services for the employer between May 1 and September 15,

"(ii) who has attained age 16 but not 18 on the hiring date (as defined in paragraph (13)),

"(iii) who has not been an employee of the employer during any previous period, and

"(iv) who is a member of an economically disadvantaged family (as determined under paragraph (11)).

"(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

"(i) subsection (a)(1) shall be applied by substituting '85 percent' for '50 percent',

"(ii) subsection (b)(2) shall be applied by substituting 'any 90-day period between May 1 and September 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and

"(iii) subsection (b)(4) shall be applied by substituting '$3,000' for '$6,000'.".

(c) COOPERATIVE EDUCATION STUDENTS.—Paragraph (8) of section 51(d) is amended—

(1) by inserting "and" at the end of subparagraph (A)(ii),

(2) by striking out ", and" at the end of subparagraph (A)(iii) and inserting in lieu thereof a period,

(3) by striking out subparagraph (A)(iv), and

(4) by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred with respect to any youth participating in a qualified cooperative education program—

"(i) subsection (a)(1) shall be applied by substituting '30 percent' for '50 percent',

"(ii) subsection (a)(2) shall be applied by substituting '15 percent' for '25 percent', and

"(iii) subsection (b)(4) shall be applied by substituting '$3,000' for '$6,000'.".

(d) VOUCHER OR SCRIP PAYMENTS TO GENERAL RECIPIENTS IN QUALIFIED GENERAL ASSISTANCE PROGRAMS.—Subclause (II) of section 51(d)(6)(B)(i) (defining qualified general assistance programs) is amended by inserting before the comma the following: "or voucher or scrip".

(e) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "fiscal year 1982" and inserting in lieu thereof "fiscal years 1983, 1984, and 1985".

(f) EFFECTIVE DATE.—

(1) The amendments made by subsections (b) and (d) shall apply to amounts paid or incurred after July 1, 1982, to individuals beginning work for the employer after such date.

(2) The amendment made by subsection (c) shall apply to amounts paid or incurred after August 31, 1982, to individuals beginning work for the employer after such date.

SEC. 242. ACCELERATED PAYMENT OF INCOME TAX BY CORPORATIONS.

(a) INCREASE IN AMOUNT OF ESTIMATED TAX REQUIRED TO BE PAID.—

(1) IN GENERAL.—Paragraph (1) of section 6655(b) (relating to amount of underpayment) is amended by striking out "80" each place it appears and inserting in lieu thereof "90".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 6655(d) (relating to exception to imposition of additional tax) is amended by striking out "80" and inserting in lieu thereof "90".

(b) ELIMINATION OF ELECTION WITH RESPECT TO PAYMENT OF UNPAID TAXES.—

(1) IN GENERAL.—Section 6152 (relating to installment payments of tax) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"(a) PRIVILEGE TO ELECT TO MAKE FOUR INSTALLMENT PAYMENTS.—A decedent's estate subject to the tax imposed by chapter 1 may elect to pay such tax in four equal installments.

"(b) DATES PRESCRIBED FOR PAYMENT OF FOUR INSTALLMENTS.—In any case (other than payment of estimated income tax) in which the tax may be paid in four installments, the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on or before 3 months, the third installment on or before 6 months, and the fourth installment on or before 9 months, after such date.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 832(e) is amended by striking out ", as if no election to make installment payments under section 6152 is made".

(B) Subsection (b) of section 6081 is amended by striking out "or the first installment thereof required under section 6152".

(C) Section 6164 is amended—

(i) by striking out the last sentence of subsection (c) and inserting in lieu thereof the following new sentence: "If an extension of time under this section relates to only a part of the tax, the time for payment of the remainder shall be the date on which payment would have been required if such remainder had been the tax."; and

(ii) by striking out paragraph (2) of subsection (g) and inserting in lieu thereof the following new paragraph:

"(2) the time for payment of such amount shall be considered to be the date on which payment would have been required if there had been no extension with respect to such amount.".

(c) ESTIMATED TAX WITH RESPECT TO LARGE CORPORATIONS.—

(1) MINIMUM PERCENTAGE WITH RESPECT TO LARGE CORPORATIONS.—Subparagraph (B) of section 6655(h)(1) (relating to transition rule with respect to minimum percentage of current year tax to be paid by large corporations) is amended by striking out "1984" and inserting in lieu thereof "1986".

(2) APPLICABLE PERCENTAGE FOR LARGE CORPORATIONS.—Subparagraph (C) of section 6655(h)(1) (relating to applicable percentage with respect to large corporations) is amended to read as follows:

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (B), the applicable percentage shall be determined in accordance with the following table:

"If the taxable year begins in:	The applicable percentage is:
1982	65
1983	75
1984	80
1985	85.".

(d) AMOUNT OF ADDITION TO TAX.—Subsection (a) of section 6655 (relating to addition to tax) is amended to read as follows:

"(a) ADDITION TO TAX.—In the case of any underpayment of estimated tax by a corporation, except as provided in subsection (d), there shall be added to the tax under chapter 1 for the taxable year—

"(1) an amount determined at an annual rate established under section 6621 upon that portion of the amount of underpayment which would, if added to the amount (if any) paid by such corporation on the installment under section 6154 with respect to which such underpayment is determined, produce an amount equal to 80 percent of the tax shown on the return of such corporation for the taxable year, or, if no return was filed, 80 percent of the tax imposed on such corporation under chapter 1 for the taxable year, and

"(2) an amount determined at a rate equal to one-half of the annual rate established under section 6621 upon the remainder of such underpayment.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 243. REPEAL OF EXCLUSION FOR DIVIDEND REINVESTMENT IN STOCK IN PUBLIC UTILITIES.

(a) REPEAL OF SECTION 305(e).—Section 305 (relating to distribution of stock and stock rights) is amended by striking out subsection (e) and redesignating subsection (f) as subsection (e).

(b) AMENDMENT OF SECTION 305(d).—Paragraph (1) of section 305 (d) (defining stock) is amended by striking out "this section (other than subsection (e))" and inserting in lieu thereof "this section".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1982, in taxable years ending after such date.

SUBTITLE C—PENSIONS

PART I—CONTRIBUTION AND LOAN LIMITS

SEC. 246. LOWER CONTRIBUTION AND BENEFIT LIMITS FOR CERTAIN ANNUITIES, ETC.

(a) LIMIT ON ANNUAL DEFINED BENEFIT LOWERED FROM $136,425 TO $90,000; LIMIT ON ANNUAL DEFINED CONTRIBUTION LOWERED FROM $45,475 TO $30,000.—

(1) DEFINED BENEFIT PLANS.—Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plan) is amended by striking out "$75,000" and inserting in lieu thereof "$90,000".

(2) DEFINED CONTRIBUTION PLANS.—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plan) is amended by striking out "$25,000" and inserting in lieu thereof "$30,000".

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 415(b)(2) is amended by striking out "$75,000" each place it appears and inserting in lieu thereof "$90,000".

(B) The last sentence of paragraph (7) of section 415(b) is amended—

(i) by striking out "$37,500" and inserting in lieu thereof "$45,000", and

(ii) by striking out "$75,000" and inserting in lieu thereof "$90,000".

(b) COST-OF-LIVING ADJUSTMENTS.—

(1) ADJUSTMENT TO REFLECT ADJUSTMENTS MADE IN SOCIAL SECURITY BENEFIT PAYMENTS RATHER THAN PRIMARY INSURANCE AMOUNTS.—Paragraph (1) of section 415(d) (relating to cost-of-living adjustments) is amended by striking out "primary insurance amounts" and inserting in lieu thereof "benefit amounts".

(2) FREEZE ON COST-OF-LIVING ADJUSTMENTS BEFORE JANUARY 1, 1986.—

(A) IN GENERAL.—Subsection (d) of section 415 is amended by adding at the end thereof the following new paragraph:

"(3) FREEZE ON ADJUSTMENT TO DEFINED CONTRIBUTION AND BENEFIT LIMITS.—The Secretary shall not make any adjustment under subparagraph (A) or (B) of paragraph (1) with respect to any year beginning after December 31, 1982, and before January 1, 1986.".

(B) CHANGE IN BASE PERIOD TO REFLECT CHANGE IN LIMITS AND FREEZE.—Paragraph (2) of section 415(d) (relating to base periods) is amended by striking out "1974" and inserting in lieu thereof "1984".

(3) CONFORMING AMENDMENTS TO DECREASE IN LIMITS.—Paragraph (1) of section 415(d) is amended—

(A) by striking out "$75,000" in subparagraph (A) and inserting in lieu thereof "$90,000", and

(B) by striking out "$25,000" in subparagraph (B) and inserting in lieu thereof "$30,000".

(c) LOWER LIMITS WHERE INDIVIDUAL IS COVERED BY BOTH DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN.—

(1) SUM OF DEFINED BENEFIT PLAN FRACTION AND DEFINED CONTRIBUTION PLAN FRACTION CANNOT EXCEED 1.25 (INSTEAD OF 1.4).—Paragraph (1) of section 415(e) (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is amended by striking out "1.4" and inserting in lieu thereof "1.25".

(2) DEFINED BENEFIT AND CONTRIBUTION PLAN FRACTIONS.—

(A) DEFINED BENEFIT PLAN FRACTION.—Subparagraph (B) of section 415(e)(2) (defining defined benefit plan fraction) is amended to read as follows:

"(B) the denominator of which is the lesser of—

"(i) the dollar limitation in effect under subsection (b)(1)(A) for such year, or

"(ii) the product of—

"(I) 1.12, multiplied by

"(II) the amount which may be taken into account under subsection (b)(1)(B) with respect to such individual under the plan for such year.".

(B) DEFINED CONTRIBUTION PLAN FRACTION.—Subparagraph (B) of section 415(e)(3) (defining defined contribution plan fraction) is amended to read as follows:

"(B) the denominator of which is the sum of the lesser of the following amounts determined for such year and for each prior year of service with the employer:

"(i) the dollar limitation in effect under subsection (c)(1)(A) for such year (determined without regard to subsection (c)(6)), or

"(ii) the product of—

"(I) 1.12, multiplied by—

"(II) the amount which may be taken into account under subsection (c)(1)(B) (or subsection (c) (7) or (8), if applicable) with respect to such individual under such plan for such year.".

(d) TRANSITION RULES FOR DEFINED CONTRIBUTION FRACTION.—Paragraph (4) of section 415(e) (relating to special transition rules for defined contribution fraction) is amended to read as follows:

"(4) SPECIAL TRANSITION RULE FOR DEFINED CONTRIBUTION FRACTION.—

"(A) IN GENERAL.—At the election of the plan administrator with respect to each participant, in applying paragraph (3) with respect to any years ending after December 31, 1982, the amount taken into account under paragraph (3)(B) for all years ending before January 1, 1983, shall be an amount equal to the product of—

"(i) the amount determined under paragraph (3)(B) (as in effect for the year ending in 1981) for the year ending in 1981, multiplied by

"(ii) the transition fraction.

"(B) TRANSITION FRACTION.—The term 'transition fraction' means a fraction—

"(i) the numerator of which is the lesser of—

"(I) $41,500, or

"(II) 1.12 multiplied by 25 percent of the compensation of the participant for the year ending in 1981, and

"(ii) the denominator of which is the lesser of—

"(I) $41,500, or

"(II) 25 percent of the compensation of the participant for the year ending in 1981.".

(e) ACTUARIAL ADJUSTMENTS.—

(1) ACTUARIAL ADJUSTMENTS FOR EARLY RETIREMENT MADE BY REFERENCE TO AGE 62 (INSTEAD OF 55).—Subparagraph (C) of section 415(b)(2) (relating to adjustments where benefit begins before age 55) is amended by striking out "55" each place it appears and inserting in lieu thereof "62".

(2) INTEREST ASSUMPTION.—Paragraph (2) of section 415(b) (defining annual benefit) is amended by adding at the end thereof the following new subparagraph:

"(D) INTEREST ASSUMPTION IN MAKING CERTAIN ADJUSTMENTS MAY NOT BE LESS THAN 5 PERCENT.—The interest rate assumption used in adjusting any benefit under subparagraph (B) or (C) shall not be less than 5 percent.".

(f) LIMITATIONS ON DEDUCTIBILITY OF CONTRIBUTIONS.—Section 404 (relating to contributions of an employer to an employee's trust, etc.) is amended by adding at the end thereof the following new subsection:

"(j) SPECIAL RULES RELATING TO APPLICATION WITH SECTION 415.—

"(1) NO DEDUCTION IN EXCESS OF SECTION 415 LIMITATION.—In computing the amount of any deduction allowable under paragraph (1), (2), (3), (4), or (7) of subsection (a) for any year—

"(A) in the case of a defined benefit plan, there shall not be taken into account any benefits for any year in excess of any limitation on such benefits under section 415 for such year, over

"(B) in the case of a defined contribution plan, the amount of any contributions otherwise taken into account shall be reduced by any annual additions in excess of the limitation under section 415 for such year.

"(2) NO ADVANCE FUNDING OF COST-OF-LIVING ADJUSTMENTS.—For purposes of clause (i), (ii) or (iii) of subsection (a)(1)(A), and in computing the full funding limitation, there shall not be taken into account any adjustments under section 415(d)(1) for any year before the year for which such adjustment first takes effect.".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—

(A) NEW PLANS.—In the case of any plan which is not in existence on July 1, 1982, the amendments made by this section shall apply to years ending after July 1, 1982.

(B) EXISTING PLANS.—

(i) In the case of any plan which is in existence on July 1, 1982, the amendments made by this section shall apply to years beginning after December 31, 1982.

(ii) PLAN REQUIREMENTS.—A plan shall not be treated as not meeting the requirements of section 401(a)(16) of the Internal Revenue Code of 1954 for any year beginning before January 1, 1984, merely because such plan provides for benefit or contribution limits which are in excess of the limitations under section 415 of such Code, as amended by this section. The preceding sentence shall not apply to any plan which provides such limits in excess of the limitation under section 415 of such Code before such amendments.

(2) AMENDMENTS RELATED TO COST-OF-LIVING ADJUSTMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to adjustments for years beginning after December 31, 1982.

(B) ADJUSTMENT PROCEDURES.—The amendment made by subsection (b)(1) and (b)(2)(B) shall apply to adjustments for years beginning after December 31, 1985.

(3) TRANSITION RULE WHERE THE SUM OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLAN FRACTIONS EXCEEDS 1.25.—

(A) IN GENERAL.—In the case of an individual who on July 1, 1982, was a participant in a defined benefit plan and a defined contribution plan maintained by the same employer, if the sum of the defined benefit plan fraction and defined contribution plan fraction under section 415(e) of such Code with respect to such plans exceeds 1.25 for the first year beginning after December 31, 1982, then, if the requirements of subparagraph (B) are met, such plan shall be treated as meeting the requirements of section 415(e)(1) of such Code for such year and any succeeding year for which such sum exceeds 1.25.

(B) REQUIREMENTS WHICH MUST BE MET.—Subparagraph (A) shall not apply to any individual unless—

(i) the requirements of section 415 of such Code were met with respect to such individual for each year ending before January 1, 1983, and

(ii) there are no—

(I) employer contributions, forfeitures, or voluntary nondeductible contributions allocated to such individual, or

(II) accruals for such individual under the defined benefit plan,

for the first year beginning after December 31, 1982, or any succeeding year for which such sum exceeds 1.25.

(4) RIGHT TO HIGHER ACCRUED DEFINED BENEFIT PRESERVED.—

(A) IN GENERAL.—In the case of an individual who is a participant before January 1, 1983, in a defined benefit plan which is in existence on July 1, 1982, and with respect to which the requirements of section 415 of such Code have been met for all years, if such individual's current accrued benefit under such plan exceeds the limitation of subsection (b) of section 415 of the Internal Revenue Code of 1954 (as amended by this section), then (in the case of such plan) for purposes of subsections (b) and (e) of such section, the limitation of such subsection (b) with respect to such individual shall be equal to such current accrued benefit.

(B) CURRENT ACCRUED BENEFIT DEFINED.—

(i) IN GENERAL.—For purposes of this paragraph, the term "current accrued benefit" means the individual's accrued benefit (at the close of the last year beginning before January 1, 1983) when expressed as an annual benefit (within the meaning of section 415(b)(2) of such Code as in effect before the amendments made by this Act).

(ii) SPECIAL RULE.—For purposes of determining the amount of any individual's current accrued benefit—

(I) no change in the terms and conditions of the plan after July 1, 1982, and

(II) no cost-of-living adjustment occurring after July 1, 1982,

shall be taken into account.

SEC. 247. INCREASES IN AMOUNT OF SELF-EMPLOYED RETIREMENT PLAN DEDUCTION FROM $15,000 TO $30,000; COST-OF-LIVING ADJUSTMENTS.

(a) INCREASE IN DEDUCTION.—Subsection (e) of section 404 (relating to special limitation for self-employed individuals) is amended by striking out "$15,000" in paragraphs (1) and (2) and inserting in lieu thereof "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED; COST-OF-LIVING ADJUSTMENTS.—Subsection (e) of section 404 is amended by adding at the end thereof the following new paragraph:

"(5) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable amount' means—

"(i) $20,000 for taxable years beginning in 1983,

"(ii) $25,000 for taxable years beginning in 1984, and

"(iii) $30,000 for taxable years beginning after December 31, 1984.

"(B) COST-OF-LIVING ADJUSTMENTS.—

"(i) IN GENERAL.—Each time the Secretary makes an adjustment under section 415(d)(1)(B), he shall adjust the $30,000 amount under clause (iii) of subparagraph (A) in the same manner.

"(ii) EFFECT OF ADJUSTMENT.—The adjusted amount under subparagraph (A) shall be the applicable amount for taxable years beginning in the calendar year for which the adjustment is made.".

(c) CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking out "$15,000" each place it appears and inserting in lieu thereof "the applicable amount (within the meaning of section 404(e)(5))":

(A) Subparagraph (A) of section 219(b)(2).

(B) Subsection (e) of section 401.

(C) Subsections (d)(5) and (j) of section 408.

(D) Subparagraph (B) of section 1379(b)(1).

(2) Subparagraph (C) of section 219(b)(2) is amended by striking out "$15,000" and inserting in lieu thereof "applicable".

(3) Section 401(j) is amended—

(A) by striking out "$100,000" in paragraph (2)(A) and inserting in lieu thereof "the applicable amount", and

(B) by adding at the end of paragraph (5) the following new subparagraph:

"(D) APPLICABLE AMOUNT.—

"(i) IN GENERAL.—The term 'applicable amount' means—

"(I) $133,000 for years beginning in 1983,

"(II) $167,000 for years beginning in 1984, and

"(III) $200,000 for years beginning after December 31, 1984.

"(ii) COST-OF-LIVING ADJUSTMENT.—Each time the Secretary makes an adjustment under section 415(d)(1)(A), he shall adjust the $200,000 amount in subclause (III) of clause (i) in the same manner.

(d) EFFECTIVE DATES.—

(1) INCREASE IN LIMITATIONS.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1982.

(2) SECTION 401(j) AMENDMENTS.—The amendments made by subsection (c)(3) shall apply to years beginning after December 31, 1982.

SEC. 248. LOANS FROM QUALIFIED PLANS AGGREGATING $10,000 OR MORE TREATED AS DISTRIBUTIONS.

(a) GENERAL RULE.—Section 72 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) CERTAIN LOANS, ETC., TREATED AS DISTRIBUTIONS.—

"(1) TREATMENT AS DISTRIBUTIONS.—For purposes of this section, in the case of any applicable loan transaction of any employee if, on the date of such transaction, the sum of—

"(A) the amount of such applicable loan transaction, plus

"(B) the outstanding balance of all other applicable loan transactions of such employee,

exceeds $10,000, then such excess (or if less, the amount determined under subparagraph (A)) shall be treated as having been received by such employee as a distribution under such plan in the taxable year in which such applicable loan transaction was entered into.

"(2) APPLICABLE LOAN TRANSACTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable loan transaction' means—

"(i) the receipt of a loan directly or indirectly from a qualified employer plan,

"(ii) the assignment (or agreement to assign) or pledging (or agreement to pledge) any portion of—

"(I) an employee's interest in a qualified employer plan, or

"(II) the value of any contract purchased under a qualified employer plan.

"(B) CERTAIN TRANSACTIONS NOT INCLUDED.—The term 'applicable loan transaction' shall not include any transaction to which paragraph (4) or (8) of subsection (m) or paragraph (3) of subsection (o) applies.

"(3) QUALIFIED EMPLOYER PLAN.—For purposes of this subsection, the term 'qualified employer plan' has the meaning given to such term by section 219(e)(3) (without regard to subparagraph (D)).

"(4) SPECIAL RULE FOR LOANS FROM INSURANCE COMPANIES.—Any amount received as a loan under a contract purchased under a qualified employer plan and issued by an insurance company shall be treated as a loan under such plan.

"(5) EMPLOYEE TO FURNISH EMPLOYER PLAN CERTAIN INFORMATION.—Each employee shall, at such time and manner as the Secretary may prescribe, furnish the qualified employer plan with such information as the Secretary may prescribe, including information with respect to the repayment of any amount involving a transaction to which this subsection applies and with respect to which any amount was included in income.".

(b) REPORTING REQUIREMENTS.—Section 6047 (relating to information concerning certain trusts and annuity and bond purchase plans) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) REPORTS BY QUALIFIED EMPLOYER PLANS WITH RESPECT TO LOAN TRANSACTIONS.—

"(1) IN GENERAL.—Each qualified employer plan shall, at such time and manner as the Secretary may by forms or regulations require, submit to such persons as the Secretary may prescribe the following information with respect to any calendar year:

"(A) The outstanding balance (if any) of an applicable loan transaction of a participant as of the beginning of the year.

"(B) The amount of any applicable loan transaction (if any) entered into by a participant during the calendar year.

"(C) The name, address, and taxpayer identification number of any such participant.

"(D) Any other information the Secretary may prescribe.

"(2) DEFINITIONS.—The terms 'qualified employer plan' and 'applicable loan transaction' have the same meaning as when used in section 72(p).".

(c) CONFORMING AMENDMENTS.—Paragraphs (4) and (8) of section 72(m) (relating to special rules applicable to employee annuities and distributions under employer plans) are each amended by inserting ", for purposes of this section," after "shall be treated" each place it appears.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to loans, assignments, and pledges made after July 1, 1982. For purposes of the preceding sentence, any loan which is renegotiated, extended, renewed, or revised after such date shall be treated as a loan made after such date.

(2) REPORTS.—The amendments made by subsection (b) shall apply with respect to calendar years beginning after December 31, 1982.

PART II—MISCELLANEOUS

SEC. 251. CHURCH PLANS.

(a) EXCLUSION ALLOWANCE.—

(1) ELECTION TO HAVE SECTION 415 RULES APPLY.—Subparagraph (B) of section 403(b)(2) (relating to exclusion allowance) is amended by striking out "(under section 415)" and inserting in lieu thereof "(under section 415 without regard to section 415(c)(8))".

(2) YEARS OF SERVICE.—Section 403(b)(2) is amended by adding at the end thereof the following new subparagraphs:

"(C) NUMBER OF YEARS OF SERVICE FOR DULY ORDAINED, COMMISSIONED, OR LICENSED MINISTERS OR LAY EMPLOYEES.—For purposes of this subsection and section 415(c)(4)(A)—

"(i) all years of service by—

"(I) a duly ordained, commissioned, or licensed minister of a church, or

"(II) a lay person as an employee of a church, a convention or association of churches, or an organization described in section 414(e)(3)(B)(ii),

shall be considered as years of service for 1 employer, and

"(ii) all amounts contributed for annuity contracts by each such church (or convention or association of churches) or such organization during such years for such minister or lay person shall be considered to have been contributed by 1 employer.

For purposes of the preceding sentence, the terms 'church' and 'convention or association of churches' have the same meaning as when used in section 414(e).

"(D) ALTERNATIVE EXCLUSION ALLOWANCE.—

"(i) IN GENERAL.—In the case of any individual described in subparagraph (C), the amount determined under subparagraph (A) shall not be less than the lesser of—

"(I) $3,000, or

"(II) the includible compensation of such individual.

"(ii) SUBPARAGRAPH NOT TO APPLY TO INDIVIDUALS WITH ADJUSTED GROSS INCOME OVER $17,000.—This subparagraph shall not apply with respect to any taxable year to any individual whose adjusted gross income for such taxable year (determined separately and without regard to any community property laws) exceeds $17,000.

"(iii) SPECIAL RULE FOR FOREIGN MISSIONARIES.—In the case of an individual described in subparagraph (C)(i)(I) performing services in a foreign country, there shall be included as includible compensation for any year under clause (ii)(II) any amount contributed during such year by a church (or convention or association of churches) for an annuity contract with respect to such individual.".

(b) RETIREMENT INCOME ACCOUNTS PROVIDED BY CHURCHES, ETC.—Section 403(b) is amended by adding at the end thereof the following new paragraph:

"(9) RETIREMENT INCOME ACCOUNTS PROVIDED BY CHURCHES, ETC.—

"(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title—

"(i) a retirement income account shall be treated as an annuity contract described in this subsection, and

"(ii) amounts paid by an employer described in paragraph (1)(A) to a retirement income account shall be treated as amounts contributed by the employer for an annuity contract for the employee on whose behalf such account is maintained.

"(B) RETIREMENT INCOME ACCOUNT.—For purposes of this paragraph, the term 'retirement income account' means a program established or maintained by a church, a convention or association of churches, or an organization described in section 414(e)(3)(A), to provide benefits for an employee described in paragraph (1) or his beneficiaries.".

(c) CONTRIBUTION LIMITATIONS.—

(1) APPLICATION OF SECTION 415(C)(4) TO CHURCH PLANS.—Paragraph (4) of section 415(c) (relating to special election for section 403(b) contracts) is amended—

(A) by striking out "or a home health service agency" each place it appears and inserting in lieu thereof "a home health service agency, or a church, convention or association of churches, or an organization described in section 414(e)(3)(B)(ii)",

(B) by inserting "(as determined for purposes of section 403(b)(2))" after "service for the employer" in subparagraph (A),

(C) by adding at the end of subparagraph (D) the following new clause:

"(iv) For purposes of this paragraph, the terms 'church' and 'convention or association of churches' have the same meaning as when used in section 414(e).", and

(D) by striking out "and home health agencies" in the heading and inserting in lieu thereof ", home health agencies, and certain churches, etc.".

(2) TOTAL ANNUAL ADDITIONS.—Section 415(c) (relating to limitation on defined contribution plan) is amended by adding at the end thereof the following paragraph:

"(8) CERTAIN CONTRIBUTIONS BY CHURCH PLANS NOT TREATED AS EXCEEDING LIMITS.—

"(A) ALTERNATIVE EXCLUSION ALLOWANCE.—Any contribution or addition with respect to any participant, when expressed as an annual addition, which is allocable to the application of section 403(b)(2)(D) to such participant for such year, shall be treated as not exceeding the limitations of paragraph (1).

"(B) CONTRIBUTIONS NOT IN EXCESS OF $40,000 ($10,000 PER YEAR).—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection, at the election of a participant who is an employee of a church, a convention or association of churches, or an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of $10,000.

"(ii) $40,000 AGGREGATE LIMITATION.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed $40,000.

"(iii) NO ELECTION IF PARAGRAPH (4)(A) ELECTION MADE.—No election may be made under this subparagraph for any year if an election is made under paragraph (4)(A) for such year.

"(C) ANNUAL ADDITION.—For purposes of this paragraph, the term 'annual addition' has the meaning given such term by paragraph (2).".

(d) CORRECTION PERIOD FOR CHURCH PLANS.—A church plan (within the meaning of section 414(e) of the Internal Revenue Code of 1954) shall not be treated as not meeting the requirements of section 401 or 403 of such Code if—

(1) by reason of any change in any law, regulation, ruling, or otherwise such plan is required to be amended to meet such requirements, and

(2) such plan is so amended at the next earliest church convention or such other time as the Secretary of the Treasury or his delegate may prescribe.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) RETIREMENT INCOME ACCOUNTS.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1974.

(3) SECTION 415 AMENDMENTS.—The amendments made by subsection (c) shall apply to years beginning after December 31, 1981.

(4) CORRECTION PERIOD.—The amendment made by subsection (d) shall take effect on July 1, 1982.

(5) EXCLUSION ALLOWANCE.—The provisions of section 403(b)(2)(D) of the Internal Revenue Code of 1954 shall apply to taxable years beginning after December 31, 1982.

SEC. 252. DEFERRED COMPENSATION PLANS FOR STATE JUDGES.

(a) IN GENERAL.—Paragraph (2) of section 457(e) (relating to tax treatment of participants where plan or arrangement of State is not eligible) is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(F) a qualified State judicial plan.".

(b) QUALIFIED STATE JUDICIAL PLAN DEFINED.—Paragraph (3) of section 457(e) is amended by adding at the end thereof the following new subparagraph:

"(C) QUALIFIED STATE JUDICIAL PLAN.—The term 'qualified State judicial plan' means any retirement plan of a State for the exclusive benefit of judges or their beneficiaries if—

"(i) such plan has been continuously in existence since December 31, 1978,

"(ii) under such plan, all judges eligible to benefit under the plan—

"(I) are required to participate, and

"(II) are required to contribute the same fixed percentage of their basic or regular rate of compensation as judge,

"(iii) under such plan, no judge has an option as to contributions or benefits the exercise of which would affect the amount of includible compensation,

"(iv) the retirement payments of a judge under the plan are a percentage of the compensation of judges of that State holding similar positions, and

"(v) the plan during any year does not pay benefits with respect to any participant which exceed the limitations of section 415(b).

Paragraph (1) of subsection (d) shall not apply for purposes of this subparagraph.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 253. PROFIT-SHARING PLAN CONTRIBUTIONS ON BEHALF OF DISABLED.

(a) IN GENERAL.—Paragraph (3) of section 415(c) (defining participant's compensation) is amended to read as follows:

(3) PARTICIPANT'S COMPENSATION.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'participant's compensation' means the compensation of the participant from the employer for the year.

"(B) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—In the case of an employee within the meaning of section 401(c)(1), subparagraph (A) shall be applied by substituting 'the participant's earned income (within the meaning of section 401(c)(2) but determined without regard to any exclusion under section 911)' for 'compensation of the participant from the employer'.

"(C) SPECIAL RULES FOR PERMANENT AND TOTAL DISABILITY.—In the case of a participant—

"(i) who is permanently and totally disabled (as defined in section 105(d)(4)),

"(ii) who is not an officer, owner, or highly compensated, and

"(iii) with respect to whom the employer elects, at such time and in such manner as the Secretary may prescribe, to have this subparagraph apply,

the term 'participant's compensation' means the compensation the participant would have received for the year if the participant was paid at the rate of compensation paid immediately before becoming permanently and totally disabled. This subparagraph shall only apply if contributions made with respect to such participant are nonforfeitable when made.".

(b) DEDUCTIBILITY.—Subparagraph (B) of section 404(a)(3) (relating to limits on deductible contributions to stock bonus and profit-sharing trusts) is amended by adding at the end thereof the following: "The term 'compensation otherwise paid or accrued during the taxable year to all employees' shall include any amount with respect to which an election under section 415(c)(3)(C) is in effect, but only to the extent that any contribution with respect to such amount is nonforfeitable.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 254. EXEMPTION FOR TRUSTS WHICH INCLUDE GOVERNMENTAL PLANS.

(a) IN GENERAL.—Section 401(a) (relating to requirements of qualification for qualified pension, profit-sharing, and stock bonus plans) is amended by inserting immediately after paragraph (23) the following new paragraph:

"(24) Any trust described in section 408(e)(6), or any trust all of the assets of which are assets of trusts so described, which otherwise meets the requirements of this section shall not be treated as not meeting such requirements on account of the participation or inclusion in such trust of a trust which is part of a governmental plan (within the meaning of section 415(d)) which is, or is treated as, a trust described in subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1981.

Subtitle D—Taxation of Life Insurance Companies and Annuities

PART I—COINSURANCE ARRANGEMENTS

Subpart A—Modified Coinsurance Contracts

SEC. 256. REPEAL OF OPTIONAL TREATMENT OF POLICIES REINSURED UNDER MODIFIED COINSURANCE CONTRACTS.

(a) REPEAL OF SECTION 820.—Section 820 (relating to optional treatment of policies reinsured under modified coinsurance contracts) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 811 (relating to dividends to policyholders) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR DIVIDENDS TO POLICYHOLDERS UNDER REINSURANCE AGREEMENTS.—If, under the terms of a reinsurance agreement, the reinsurer is obligated to reimburse the reinsured for dividends to policyholders on the policies reinsured, the reinsurer (and not the reinsured) shall be treated as having paid dividends to policyholders with respect to the policies reinsured in an amount equal to the amount of such dividends—

"(1) which were paid by the reinsured, and

"(2) with respect to which the reinsurer reimbursed the reinsured under the terms of the reinsurance agreement.

The amount determined under the preceding sentence shall be properly adjusted to reflect the adjustments under subsection (b)(1).".

(2) The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by striking out the item relating to section 820.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) RULES APPLICABLE TO TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1982.—

(A) IN GENERAL.—In the case of any taxable year beginning before January 1, 1982—

(i) any determination as to whether any contract met the requirements of subsection (b) of section 820 of the Internal Revenue Code of 1954 (as in effect before its repeal by this section) shall be made solely by reference to the terms of the contract, and

(ii) the treatment of such contract under subsection (c) of such section 820 shall be made in accordance with the regulations under such section which were in effect on December 31, 1981.

(B) PARAGRAPH NOT TO APPLY IF FRAUD INVOLVED.—The provisions of subparagraph (A) shall not apply with respect to any deficiency which the Secretary of the Treasury or his delegate establishes was due to fraud with intent to evade tax.

SEC. 257. SPECIAL ACCOUNTING RULES RELATING TO REPEAL OF SECTION 820.

(a) IN GENERAL.—For purposes of subchapter L of chapter 1 of the Internal Revenue Code of 1954, the provisions of this section shall apply to any contract—

(1) which was in effect on December 31, 1981, and

(2) to which section 820(a)(1) of such Code (as in effect before its repeal by section 256(a)) applied.

(b) TREATMENT OF RESERVES AND ASSETS.—Except as provided in subsections (c) and (d), the reserves on the contract described in subsection (a) and the assets in relation to such reserves shall—

(1) as of the beginning of taxable year 1982, be treated as the reserves and assets of the reinsurer (and not the reinsured), and

(2) as of the end of taxable year 1982, be treated as the reserves and assets of the reinsured (and not the reinsurer).

(c) ALLOCATION OF CERTAIN SECTION 820(c) ITEMS.—Any amount described in paragraphs (1), (2), (4), and (5) of section 820(c) of such Code (as so in effect) with respect to any contract described in subsection (a) shall, beginning with taxable year 1982, be taken into account by the reinsured (and not by the reinsurer).

(d) AMOUNTS TREATED AS RETURNED UNDER THE CONTRACT.—

(1) IN GENERAL.—For taxable year 1982—

(A) in the case of the reinsurer, there shall be allowed as a deduction for ordinary and necessary business expenses under section 809(d)(11) of such Code an amount equal to the termination amount (and such amount shall not otherwise be taken into account in determining gain or loss from operations under section 809 of such Code), and

(B) in the case of the reinsured, the gross amount under section 809(c)(3) of such Code shall be increased by the termination amount.

(2) ADJUSTMENT FOR RESERVES OF REINSURED.—For purposes of subsections (a) and (b) of section 810, the amount taken into account as of the close of taxable year 1982 by the reinsured shall be reduced for such taxable year (but not for purposes of determining such amount at the beginning of the next succeeding taxable year) by the excess (if any) of—

(A) the reserves on the contract as of January 1, 1982 (determined under the reinsured's method of computing reserves for tax purposes), over

(B) the termination amount.

(3) TERMINATION AMOUNT.—For purposes of this subsection, the term "termination amount" means the amount, determined under regulations prescribed by the Secretary of the Treasury or his delegate, the reinsurer would have returned to the reinsured upon termination of the contract if the contract had been terminated as of January 1, 1982.

(e) 3-YEAR INSTALLMENT PAYMENT OF TAXES OWED BY REINSURER RESULTING FROM REPEAL OF SECTION 820.—

(1) IN GENERAL.—That portion of any tax imposed under chapter 1 of such Code (reduced by the sum of the credits allowable under subpart A of part IV of such chapter) on a reinsurer for taxable year 1982 which is attributable to the excess (if any) of—

(A) any decrease in reserves for such taxable year by reason of subsection (b), over

(B) the amount allowable as a deduction for such taxable year by reason of subsection (d)(1)(A),

may, at the election of the reinsurer, be paid in 3 equal annual installments.

(2) TIME FOR PAYMENTS.—

(A) IN GENERAL.—The 3 installments under paragraph (1) shall be paid on March 15 of 1983, 1984, and 1985.

(B) FIRST INSTALLMENT MAY BE MADE IN 2 PAYMENTS.—The reinsurer may elect to pay one-half of the installment due March 15, 1983, on June 15, 1983.

(3) ACCELERATION OF PAYMENTS.—If—

(A) an election is made under paragraph (1), and

(B) before the tax attributable to such excess is paid in full any installment under this section is not paid on or before the date fixed by this section for its payment,

then the extension of time for payment of tax provided in this subsection shall cease to apply, and any portion of the tax payable in installments shall be paid on notice and demand from the Secretary of the Treasury or his delegate.

(4) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under paragraph (1) and a deficiency attributable to the excess has been assessed, the deficiency shall be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid on notice and demand from the Secretary of the Treasury or his delegate. This paragraph shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(5) BOND MAY BE REQUIRED.—If an election is made under this section, section 6165 of the Internal Revenue Code of 1954 shall apply as though the Secretary of the Treasury or his delegate were extending the time for payment of the tax.

(6) EXTENSION OF PERIOD OF LIMITATIONS.—The running of any period of limitations for the collection of the tax with respect to which an election is made under paragraph (1) shall be suspended for the period during which there are any unpaid installments of such tax.

(7) INTEREST ON INSTALLMENTS.—Rules similar to the rules of section 6601(b)(2) of such Code (without regard to the last sentence thereof) shall apply with respect to any tax for which an election is made under paragraph (1).

(f) TAXABLE YEAR 1982.—For purposes of this section, the term "taxable year 1982" means, with respect to any taxpayer, the first taxable year of the taxpayer beginning after December 31, 1981.

Subpart B—Other Reinsurance Agreements

SEC. 258. DENIAL OF INTEREST DEDUCTION ON INDEBTEDNESS INCURRED IN CONNECTION WITH REINSURANCE AGREEMENTS.

Section 805(e) (relating to interest paid) is amended by adding at the end thereof the following new sentence: "For purposes of this subpart, the interest paid for any taxable year shall not include any interest paid or accrued after December 31, 1981, by a ceding company (or its affiliates) to any person in connection with a coinsurance contract (other than interest on account of delay in making periodic settlements of income and expense items under the terms of the contract).".

SEC. 259. ALLOCATION OF INCOME, ETC. IN THE CASE OF OTHER REINSURANCE CONTRACTS.

(a) IN GENERAL.—Section 818 (relating to accounting provisions) is amended by adding at the end thereof the following new subsection:

"(g) ALLOCATION IN CASE OF COINSURANCE CONTRACT INVOLVING TAX AVOIDANCE OR EVASION.—In the case of 2 or more related persons (within the meaning of section 1239(b)) who are parties to a coinsurance contract, the Secretary may—

"(1) allocate between or among such persons income (whether investment income, premium, or otherwise), deductions, assets, reserves, credits, and other items related to such contract, or

"(2) recharacterize any such items,

if he determines that such allocation or recharacterization is necessary to reflect the proper source and character of the taxable income (or any item described in paragraph (1) relating to such taxable income) of each such person.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts entered into after the date of the enactment of this Act.

PART II—3-YEAR TEMPORARY PROVISIONS RELATING TO TAXATION OF LIFE INSURANCE COMPANIES

SEC. 261. INCREASE IN AMOUNT OF DIVIDEND DEDUCTION ALLOWED; PENSION PLAN RESERVES.

(a) INCREASE IN LIMITATION.—Section 809(f) (relating to limitation on certain deductions) is amended to read as follows:

"(f) LIMITATION ON CERTAIN DEDUCTIONS.—

"(1) IN GENERAL.—The amount of the deductions under paragraphs (3), (5), and (6) of subsection (d) shall not exceed the greater of—

"(A) $1,000,000, plus the amount (if any) by which—

"(i) the gain from operations for the taxable year (computed without regard to such deductions), exceeds

"(ii) the taxable investment income for the taxable year, or

"(B) the amount determined under paragraph (2).

"(2) ALTERNATIVE LIMITATION.—The amount determined under this paragraph for any taxable year shall be equal to the sum of—

"(A) that portion of the deduction under subsection (d)(3) which is allocable to any contract described in section 805(d), and

"(B) an amount equal to the sum of—

"(i) so much of the base amount as does not exceed $1,000,000, plus

"(ii) in the case of—

"(I) a mutual life insurance company, 77.5 percent of the base amount, or

"(II) a stock life insurance company, 85 percent of the base amount.

"(3) REDUCTION IN $1,000,000 AMOUNT FOR LARGE INSURERS.—If the sum of the deductions under paragraphs (3), (5), and (6) of subsection (d) exceeds $4,000,000, then each of the $1,000,000 amounts in paragraphs (1) and (2) shall be reduced (but not below zero) by the amount which bears the same ratio to $1,000,000 as—

"(A) the amount of such excess bears to,

"(B) $4,000,000.

"(4) BASE AMOUNT.—For purposes of paragraph (2)(B), the term 'base amount' means the excess of—

"(A) the amount of the deductions under paragraphs (3) and (5) of subsection (d) for the taxable year, over

"(B) the amount determined under paragraph (2)(A) for such taxable year.

"(5) APPLICATION OF LIMITATION.—The limitation provided by paragraph (1) shall apply first to the amount of the deduction under subsection (d)(3), then to the amount of the

deduction under subsection (d)(5), and finally to the amount of the deduction under subsection (d)(6).".

(b) $1,000,000 LIMITATION TO BE APPORTIONED AMONG MEMBERS OF SAME CONTROLLED GROUP.—Section 1561(a) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma and "and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) one $1,000,000 amount (adjusted as provided in section 809(f)(3)) for purposes of computing the limitation under paragraph (1) or (2) of section 809(f).".

SEC. 262. COMPUTATION OF AMOUNT OF LIFE INSURANCE RESERVES.

(a) REDUCTION FROM $21 PER $1,000 TO $19 PER $1,000 IN DETERMINING APPROXIMATE REVALUATION OF CERTAIN RESERVES COMPUTED ON PRELIMINARY TERM BASIS.—

(1) IN GENERAL.—Subparagraph (A) of section 818(c)(2) (relating to approximate revaluation of reserves computed on preliminary term basis) is amended—

(A) by striking out "$21" and inserting in lieu thereof "$19", and

(B) by striking out "2.1 percent" and inserting in lieu thereof "1.9 percent".

(2) TAXPAYER ALLOWED TO ELECT OUT OF APPROXIMATE REVALUATION.—The last sentence of section 818(c) (relating to life insurance reserves computed on preliminary term basis) is amended—

(A) by inserting "or in effect for a taxable year beginning in 1981" after "1958" the first place it appears, and

(B) by inserting "or 1981, whichever is applicable" after "1958" the second place it appears.

(b) RESERVES ON CONTRACTS ON WHICH CERTAIN INTEREST IS GUARANTEED BEYOND THE END OF THE TAXABLE YEAR.—Section 818 (relating to accounting provisions), as amended by section 259(a), is amended by adding at the end thereof the following new subsection:

"(h) METHOD OF COMPUTING RESERVES ON CONTRACT WHERE INTEREST IS GUARANTEED BEYOND END OF TAXABLE YEAR.—For purposes of this part (other than section 801), interest payable under any contract which is computed at a rate which—

"(1) is in excess of the lowest rates which are assumed under such contract for any period in calculating the reserves under section 810(c) for the contract under which such interest is payable, and

"(2) is guaranteed beyond the end of the taxable year on which the reserves are being computed,

shall be taken into account in computing the reserves with respect to such contract as if such interest were guaranteed only up to the end of the taxable year.".

SEC. 263. MODIFICATION OF MENGE FORMULA.

Subparagraph (B) of section 805(c)(1) (defining adjusted life insurance reserves rate) is amended to read as follows:

"(B) 0.9 raised to the power of n where n is the number (positive or negative) determined by subtracting—

"(i) 100 times the average rate of interest assumed by the taxpayer in calculating such reserves, from

"(ii) 100 times the adjusted reserves rate.".

SEC. 264. CONSOLIDATED RETURNS TO BE COMPUTED ON A BOTTOM LINE BASIS.

Subsection (f) of section 818 (relating to computation on consolidated returns of policyholders' share of investment yield) is amended to read as follows:

"(f) SPECIAL RULES FOR CONSOLIDATED RETURN COMPUTATIONS.—For purposes of this part, in the case of a life insurance company filing or required to file a consolidated return under section 1501 for a taxable year, the following rules shall apply:

"(1) POLICYHOLDERS' SHARE OF INVESTMENT YIELD.—The computation of the policyholders' share of investment yield under subparts B and C (including all determinations and computations incident thereto) shall be made as if such company were not filing a consolidated return.

"(2) LIFE INSURANCE COMPANY TAXABLE INCOME.—

"(A) IN GENERAL.—The amount of the consolidated life insurance company taxable income under paragraphs (1) and (2) of section 802(b) shall be determined by taking into account the life insurance company taxable income (including any case where deductions exceed income) of each life insurance company which is a member of the group (as computed separately under such paragraphs).

"(B) CERTAIN AMOUNTS COMPUTED SEPARATELY.—For purposes of subparagraph (A), the determination of a life insurance company's taxable investment income and gain or loss from operations (after applying the limitation provided by section 809(f)) shall be made without regard to the taxable investment income or gain or loss from operations of any other such company.

"(3) CONSOLIDATED NET CAPITAL GAIN.—If there is a consolidated net capital gain, then the partial tax referred to in section 802(a)(2)(A) shall be computed on—

"(A) the consolidated life insurance company taxable income, reduced (but not below the sum of the amounts determined under section 802(b)(3)) by

"(B) the amount of such consolidated net capital gain.".

SEC. 265. EFFECTIVE DATE; SPECIAL RULES APPLICABLE TO TRANSACTIONS BEFORE EFFECTIVE DATE.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this part shall apply to taxable years beginning after December 31, 1981, and before January 1, 1985.

(2) APPROXIMATE REVALUATION FOR PRELIMINARY TERM RESERVES.—The amendments made by section 262(a) shall apply to taxable years beginning after December 31, 1981, and before January 1, 1985, but only with respect to reserves established under contracts entered into after March 31, 1982.

(3) RESERVES ON CONTRACTS WHERE INTEREST GUARANTEED FOR EXTENDED PERIODS.—The amendment made by section 262(b) shall apply to reserves computed for taxable years beginning after December 31, 1981, and before January 1, 1985, with respect to guarantees made after July 1, 1982, and before January 1, 1985.

(b) SPECIAL RULES FOR CERTAIN TRANSACTIONS IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1982.—

(1) CERTAIN INTEREST AND PREMIUMS.—

(A) IN GENERAL.—In the case of any taxable year beginning before January 1, 1982, if a taxpayer, on his return of tax for such taxable year, treated—

(i) any amount described in subparagraph (B) as an amount which was not a dividend to policyholders (within the meaning of section 811 of the Internal Revenue Code of 1954), or

(ii) any amount described in subparagraph (C) as not described in section 809(c)(1),

then such amounts shall be so treated for purposes of the Internal Revenue Code of 1954.

(B) CERTAIN INTEREST.—An amount is described in this subparagraph if such amount is in the nature of interest accrued for the taxable year on an insurance or annuity contract pursuant to—

(i) an interest rate guaranteed or fixed before the period of payment of such amount begins, or

(ii) any other method (fixed before such period begins) the terms of which during the period are beyond the control and are independent of the experience of the company, whether or not the interest rate or other method was guaranteed or fixed for any specified period of time.

(C) AMOUNTS NOT TREATED AS PREMIUMS.—An amount is described in this subparagraph if such amount represents the difference between—

(i) the amount of premiums received or mortality charges made under rates fixed in advance of the premium or mortality charge due date, and

(ii) the maximum premium or mortality charge which could be charged under the terms of the insurance or annuity contract.

(D) NO INFERENCE.—The provisions of this paragraph shall constitute no inference with respect to the treatment of any item in taxable years beginning after December 31, 1981.

(2) CONSOLIDATED RETURNS.—The provisions of section 818(f) of such Code, as amended by section 264, shall apply to any taxable year beginning before January 1, 1982, if the taxpayer filed a consolidated return before July 1, 1982 for such taxable year under section 1501 of such Code which, on such date (determined without regard to any amended return filed after June 30, 1982), was consistent with the provisions of section 818(f) of such Code, as so amended.

(3) TAXABLE YEARS WHERE PERIOD OF LIMITATION HAS RUN.—This subsection shall not apply to any taxable year with respect to which the statute of limitations for filing a claim for credit or refund has expired under any provision of law or by operation of law.

PART III—EXCESS INTEREST; AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS; FLEXIBLE PREMIUM CONTRACTS

SEC. 266. ALLOWANCE OF DEDUCTION FOR EXCESS INTEREST.

(a) IN GENERAL.—Subsection (e) of section 805 (defining interest paid) is amended by adding at the end thereof the following new paragraph:

"(5) QUALIFIED GUARANTEED INTEREST.—Qualified guaranteed interest (within the meaning of subsection (g))".

(b) QUALIFIED GUARANTEED INTEREST DEFINED.—Section 805 (relating to policy and other contract liability requirements) is amended by adding at the end thereof the following new subsection:

"(f) QUALIFIED GUARANTEED INTEREST AND QUALIFIED CONTRACTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified guaranteed interest' means any amount in the nature of interest for the taxable year on qualified contracts, but only if such amount is determined pursuant to—

"(A) a stated rate of interest which is guaranteed—

"(i) before the beginning of the period for which the interest accrues, and

"(ii) for a period of not less than 12 months, or

"(B) a rate of interest which—

"(i) meets the requirements of clauses (i) and (ii) of subparagraph (A), and

"(ii) is determined under a formula or other method the terms of which—

"(I) during the period referred to in subparagraph (A)(ii) may not be changed by the taxpayer, and

"(II) are independent of the experience of the taxpayer.

"(2) QUALIFIED CONTRACT.—The term 'qualified contract' means any annuity contract (other than any contract described in subsection (d)) which—

"(A) involves (at the time the qualified interest is credited under the contract) life contingencies,

"(B) provides no right under State law for the policyholder to participate in the divisible surplus of the taxpayer, and

"(C) provides that the taxpayer may from time to time credit amounts in the nature of interest in excess of amounts computed on the basis of any rate or rates guaranteed in the contract at the time it was entered into.".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 805(c)(1) (defining adjusted life insurance reserves) is amended by inserting "or reserves on any qualified contract" after "pension plan reserves".

(2) Paragraph (2) of section 809(a) (defining required interest) is amended—

(A) by inserting "the amount of qualified guaranteed interest (within the meaning of section 805(g)(1)) and" after "the sum of"; and

(B) by adding at the end thereof the following new sentence:

"For purposes of subparagraphs (A) and (B), reserves on qualified contracts (within the meaning of section 805(g)(2)) shall not be taken into account.".

(3) Paragraph (1) of section 809(e) (relating to modification of interest deduction) is amended by inserting "qualified guaranteed interest (within the meaning of section 805(g)(1) or" after "allowed for".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) GUARANTEES FOR LESS THAN 12 MONTHS.—A contract entered into before January 1, 1983, shall not be treated as not meeting the requirements of section 805(f)(1)(A)(ii) of the Internal Revenue Code of 1954 (as added by subsection (b)) if it meets such requirements on January 1, 1983.

SEC. 267. TREATMENT OF AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS BEFORE ANNUITY STARTING DATE.

(a) IN GENERAL.—Subsection (e) of section 72 (relating to amounts not received as annuities) is amended to read as follows:

"(e) AMOUNTS NOT RECEIVED AS ANNUITIES.—

"(1) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection shall apply to any amount which—

"(i) is received under an annuity, endowment, or life insurance contract, and

"(ii) is not received as an annuity,

if no provision of this subtitle (other than this subsection) applies with respect to such amount.

"(B) DIVIDENDS.—For purposes of this section, any amount received which is in the nature of a dividend or similar distribution shall be treated as an amount not received as an annuity.

"(2) GENERAL RULE.—Any amount to which this subsection applies—

"(A) if received on or after the annuity starting date, shall be included in gross income, or

"(B) if received before the annuity starting date—

"(i) shall be included in gross income to the extent allocable to income on the contract, and

"(ii) shall not be included in gross income to the extent allocable to the investment in the contract.

"(3) ALLOCATION OF AMOUNTS TO INCOME AND INVESTMENT.—For purposes of paragraph (2)(B)—

"(A) ALLOCATION TO INCOME.—Any amount to which this subsection applies shall be treated as allocable to income on the contract to the extent that such amount does not exceed the excess (if any) of—

"(i) the surrender value of the contract as of the close of the policy year in which the amount is received, over

"(ii) the investment in the contract as of such date.

"(B) ALLOCATION TO INVESTMENT.—Any amount to which this subsection applies shall be treated as allocable to investment in the contract to the extent that such amount is not allocated to income under subparagraph (A).

"(4) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B)—

"(A) LOANS TREATED AS DISTRIBUTIONS.—If, during any taxable year, an individual—

"(i) receives (directly or indirectly) any amount as a loan under any contract to which this subsection applies, or

"(ii) assigns or pledges (or agrees to assign or pledge) any portion of the value of any such contract,

such amount or portion shall be treated as received under the contract as an amount not received as an annuity.

"(B) ONLY NET WITHDRAWALS TAKEN INTO ACCOUNT.—Withdrawals during any policy year shall be taken into account only to the extent that they exceed the premiums paid after such withdrawals during such year.

"(5) RETENTION OF EXISTING RULES IN CERTAIN CASES.—

"(A) IN GENERAL.—In any case to which this paragraph applies—

"(i) paragraphs (2)(B) and (4)(A) shall not apply, and

"(ii) if paragraph (2)(A) does not apply, the amount shall be included in gross income, but only to the extent it exceeds the investment in the contract.

"(B) EXISTING CONTRACTS.—This paragraph shall apply to contracts entered into before July 2, 1982. Any amount allocable to investment in the contract after July 1, 1982, shall be treated as from a contract entered into after such date.

"(C) CERTAIN LIFE INSURANCE CONTRACTS.—This paragraph shall not apply to any amount not received as an annuity which is received under a life insurance contract, except to the extent prescribed by the Secretary by regulations.

"(D) CONTRACTS UNDER QUALIFIED PLANS.—This paragraph shall apply to any amount received—

"(i) from a trust described in section 401(a) which is exempt from tax under section 501(a),

"(ii) from a contract—

"(I) purchased by a trust described in clause (i),

"(II) purchased as part of a plan described in section 403(a), or

"(III) described in section 403(b), or

"(iii) from an individual retirement account or an individual retirement annuity.

"(E) FULL REFUNDS, SURRENDERS, REDEMPTIONS, AND MATURITIES.—This paragraph shall apply to—

"(i) any amount received, whether in a single sum or otherwise, under a contract in full discharge of the obligation under the contract which is in the nature of a refund of the consideration paid for the contract, and

"(ii) any amount received under a contract on its complete surrender, redemption, or maturity.

In the case of any amount to which the preceding sentence applies, the rule of paragraph (2)(A) shall not apply.

"(6) INVESTMENT IN THE CONTRACT.—For purposes of this subsection, the investment in the contract as of any date is—

"(A) the aggregate amount of premiums or other consideration paid for the contract before such date, minus

"(B) the aggregate amount received under the contract before such date, to the extent that such amount was excludible from gross income under this subtitle or prior income tax laws.".

(b) 10-PERCENT PENALTY FOR CERTAIN PREMATURE DISTRIBUTIONS.—

(1) IN GENERAL.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (q) as subsection (r) and by adding after subsection (p) the following new subsection:

"(q) 10-PERCENT PENALTY FOR PREMATURE DISTRIBUTIONS FROM ANNUITY CONTRACTS.—

"(1) IMPOSITION OF PENALTY.—

"(A) IN GENERAL.—If any taxpayer receives any amount under an annuity contract, the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount includible in gross income which is properly allocable to any investment in the annuity contract made during the 10-year period ending on the date such amount was received by the taxpayer.

"(B) ALLOCATION ON LAST-IN, FIRST-OUT BASIS.—For purposes of subparagraph (A), the amount includible in gross income shall be allocated to the most recent investment in the contract with respect to which amounts have not been previously fully allocated under this paragraph.

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—This subsection shall not apply to any distribution—

"(A) made on or after the date on which the taxpayer attains age 59½,

"(B) made to a beneficiary (or to the estate of an annuitant) on or after the death of an annuitant,

"(C) attributable to the taxpayer's becoming disabled within the meaning of subsection (m)(7),

"(D) which is one of a series of substantially equal periodic payments made for the life of a taxpayer or over a period extending for at least 120 months after the annuity starting date, or

"(E) from a plan, contract, account, or annuity described in subsection (e)(5)(D).

"(3) EXISTING CONTRACTS.—This paragraph shall apply to contracts entered into before July 2, 1982. Any amount allocable to investment in the contract after July 1, 1982, shall be treated as from a contract entered into after such date.".

(2) CONFORMING AMENDMENTS.—

(A) Each of the following provisions are amended by inserting "section 72(q)(1) (relating to 10-percent tax on premature distributions under annuity contracts)," after "owner-employees)":

(i) Section 46(a)(4),

(ii) Section 50A(a)(3),

(iii) Section 53(a),

(iv) Section 901(a).

(B) Subparagraph (A) of section 1302(a)(2) is amended by inserting "or (q)(1)" after "section 72(m)(5)".

(C) Paragraph (1) of section 1304(e) is amended—

(i) by inserting "or section 72(q)(1) (relating to 10-percent tax on premature distributions under annuity contracts)" after "owner-employees)", and

(ii) by inserting "or (q)(1)" after "Section 72(m)(5)" in the heading thereof.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after December 31, 1982.

SEC. 268. FLEXIBLE PREMIUM CONTRACTS.

(a) IN GENERAL.—Section 101 (relating to exclusion from gross income for certain death benefits) is amended by adding at the end thereof the following new subsection:

"(f) PROCEEDS OF FLEXIBLE PREMIUM CONTRACTS PAYABLE BY REASON OF DEATH.—

"(1) IN GENERAL.—Any amount paid by reason of the death of the insured under a flexible premium life insurance contract shall be excluded from gross income only if—

"(A) the sum of the premiums paid under such contract does not exceed the guideline premium limitation as of any time, and

"(B) any amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) as of the end of the contract year is not less than the applicable percentage of the cash value of such contract as of the end of each contract year.

"(2) GUIDELINE PREMIUM LIMITATION.—For purposes of this subsection—

"(A) GUIDELINE PREMIUM LIMITATION.—The term 'guideline premium limitation' means, as of any date, the greater of—

"(i) the guideline single premium, or

"(ii) the sum of the guideline level premiums to such date.

"(B) GUIDELINE SINGLE PREMIUM.—

"(i) IN GENERAL.—The term 'guideline single premium' means the premium at issue with respect to future benefits under the contract (without regard to any qualified additional benefit) at the time of a determination under subparagraph (A) and which is based on—

"(I) the mortality and other charges guaranteed under the contract, and

"(II) interest at the greater of an annual effective rate of 6 percent or the rate or rates guaranteed under the contract.

"(C) GUIDELINE LEVEL PREMIUM.—The term 'guideline level premium' means the level annual amount, payable over the longest period permitted under the contract (but ending not less than 20 years from date of issue and not later than age 95, if earlier), computed on the same basis as the guideline single premium, except that subparagraph (B)(i)(II) shall be applied by substituting '4 percent' for '6 percent'.

"(D) COMPUTATIONAL RULES.—In computing the guideline single premium or guideline level premium under subparagraph (B) or (C)—

"(i) the excess of the amount payable by reason of the death of the insured over the cash value of the contract shall be deemed to be not greater than such excess at the time the contract was entered into,

"(ii) the maturity date shall be the latest maturity date permitted under the contract, but not less than 20 years after the date of issue or (if earlier) age 95, and

"(iii) the amount of any endowment benefit (or sum of endowment benefits) shall be deemed not to exceed the least amount payable by reason of the death of the insured at any time under the contract.

"(3) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FLEXIBLE PREMIUM LIFE INSURANCE CONTRACT.—The terms 'flexible premium life insurance contract' and 'contract' mean a life insurance contract (including any qualified additional benefits) which provides for the payment of one or more premiums which are not fixed by the insurer as to timing or amount. Such terms do not include any contract providing any annuity benefits other than as a settlement option.

"(B) PREMIUMS PAID.—The term 'premiums paid' means the premiums paid under the contract less any amounts (other than amounts includible in gross income) to which section 72(e) applies. If any portion of a premium paid during a contract year is returned by the insurance company (with interest) within 30 days after the end of such year—

"(i) the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract as of the end of such year, and

"(ii) notwithstanding the provisions of section 72(e), the amount of any interest so returned shall be includible in the gross income of the recipient.

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"(i) 140 percent in the case of an insured with an attained age at the beginning of the contract year of 40 or less, and

"(ii) in the case of an insured with an attained age of more than 40 as of the beginning of the contract year, 140 percent reduced (but not below 105 percent) by one percent for each year in excess of 40.

"(D) CASH VALUE.—The cash value of any contract shall be determined without regard to any deduction for any surrender charge or policy loan.

"(E) QUALIFIED ADDITIONAL BENEFITS.—The term 'qualified additional benefits' means any—

"(i) guaranteed insurability,

"(ii) accidental death benefit,

"(iii) family term coverage, or

"(iv) waiver of premium.

"(F) PREMIUM PAYMENTS NOT DISQUALIFYING CONTRACT.—The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation as of the end of a contract year shall be disregarded for purposes of paragraph (1)(A) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract without cash value on or before such date.

"(G) CORRECTION OF ERRORS.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(i) the requirement described in paragraph (1)(A) for any contract year was not satisfied due to reasonable error, and

"(ii) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirement.".

"(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 101(a) (relating to proceeds of life insurance contracts payable by reason of death) is amended by striking out "and in subsection (d)" and inserting in lieu thereof ", subsection (d), and subsection (f)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.— The amendments made by this section shall apply to contracts entered into before January 1, 1985.

(2) SPECIAL RULE FOR CONTRACTS ENTERED INTO BEFORE OCTOBER 1, 1982.—Any contract entered into before October 1, 1982, which meets the requirements of section 101(f) of the Internal Revenue Code of 1954 on the date which is 1 year after the date of the enactment of this Act shall be treated as meeting the requirements of such section for any taxable year ending after the date of the enactment of this Act and before January 1, 1985.

PART IV—UNDERPAYMENTS OF ESTIMATED TAX FOR 1982

SEC. 269. UNDERPAYMENTS OF ESTIMATED TAX FOR 1982.

No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) for any period before September 15, 1982, with respect to any underpayment of estimated tax by a taxpayer with respect to any tax imposed by section 802(a), to the extent that such underpayment was created or increased by any provisions of this subtitle.

SUBTITLE E—EMPLOYMENT TAXES

PART I—IN GENERAL

SEC. 271. ALTERNATIVE STANDARDS FOR DETERMINING FOR PURPOSES OF EMPLOYMENT TAXES WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

(a) IN GENERAL.—Chapter 25 (relating to general provisions relating to the employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3508. ALTERNATIVE STANDARDS FOR DETERMINING FOR PURPOSES OF EMPLOYMENT TAXES WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subtitle, solely for purposes of this subtitle (other than chapter 22) and chapter 2, if all of the requirements of subsection (b) are met with respect to service performed by any individual—

"(1) such service shall be treated as being performed by an individual who is not an employee, and

"(2) the service-recipient shall not be treated as an employer with respect to such service.

"(b) REQUIREMENTS.—The requirements referred to in subsection (a) are as follows:

"(1) CONTROL OF HOURS WORKED.—The individual controls the aggregate number of hours worked and substantially all of the scheduling of the hours worked.

"(2) PLACE OF BUSINESS.—

"(A) IN GENERAL.—No principal place of business of the individual (if any) with respect to the service is provided by the service-recipient unless the individual pays such service-recipient rental which, under the facts and circumstances, is a fair rental.

"(B) SPECIAL RULE FOR DETERMINING PRINCIPAL PLACE OF BUSINESS.—For purposes of subparagraph (A), no place of business which is provided an individual by a service-recipient with respect to any service shall be treated as a principal place of business of such individual with respect to the service if substantially all of the service performed by the individual for the service-recipient is per-

formed away from such place of business and any other place of business provided by the service-recipient.

"(3) INVESTMENT OR INCOME FLUCTUATION.—

"(A) IN GENERAL.—The individual—

"(i) has an investment in tangible assets used by the individual in connection with the performance of the service, but only if—

"(I) such assets are of significant value in the performance of the service, and

"(II) such investment is a substantial economic investment in light of the nature and amount of the remuneration received for the service, or

"(ii) risks income fluctuations because substantially all of the remuneration (whether or not paid in cash) for the performance of the service is directly related to sales or other output rather than to the number of hours worked.

"(B) CERTAIN VEHICLES NOT TAKEN INTO ACCOUNT.—An investment by an individual in any vehicle which is used primarily to transport the individual (and any tools, samples, or similar items) shall not be taken into account for purposes of subparagraph (A)(i).

"(4) WRITTEN CONTRACT AND NOTICE OF TAX RESPONSIBILITIES.—

"(A) WRITTEN CONTRACT.—The individual performs the service pursuant to a written contract between the individual and the service-recipient—

"(i) which was entered into before the performance of the service, and

"(ii) which provides that the individual will not be treated as an employee with respect to such service—

"(I) for purposes of income tax withholding, and unless otherwise provided by subsection (c)(2), the Federal Insurance Contributions Act, the Social Security Act, and the Federal Unemployment Tax Act, and

"(II) for purposes of the employee benefit provisions specified in subsection (e)(2).

"(B) NOTICE OF TAX RESPONSIBILITIES.—The individual is given written notice (in such contract or at the time such contract is executed) which is designed to ensure that the individual understands his responsibilities with respect to the payment of Federal self-employment and income taxes.

"(5) FILING OF REQUIRED RETURNS.—The service-recipient meets the requirements of section 6041A or 6051 (whichever is applicable) in respect of such service at the times prescribed therefor (including extensions thereof) unless the failure to meet such requirements is due to reasonable cause and not to willful neglect.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) SERVICE-RECIPIENT.—For purposes of this section, the term 'service-recipient' means the person for whom the service is performed.

"(2) SECTION NOT TO APPLY TO CERTAIN INDIVIDUALS.—For purposes of chapters 2, 21, and 23, this section shall not apply to an individual described in paragraph (3) of section 3121(d) (relating to certain agent-drivers, commission-drivers, full-time life insurance salesmen, homeworkers, and traveling or city salesmen). For purposes of the preceding sentence, the determination of whether an individual is described in such paragraph (3) shall be made—

"(A) without regard to whether or not such individual is also described in paragraph (1) or (2) of section 3121(d); and

"(B) for purposes of chapter 23, without regard to subparagraphs (B) and (C) thereof.

"(3) SPECIAL RULE FOR CONTRACTS ENTERED INTO BEFORE JANUARY 1, 1983.—With respect to written contracts entered into before January 1, 1983, subsection (b)(4)(A) shall be deemed to be satisfied if—

"(A) such written contract clearly indicates that the individual is not an employee (either by specifying that the individual is an independent contractor or otherwise), and

"(B) the notice described in subsection (b)(4)(B) is provided before February 1, 1983.

"(4) SPECIAL RULE FOR DETERMINING CONTROL OF SCHEDULING OF THE HOURS TO BE WORKED.—For purposes of subsection (b)(1), an individual shall not be treated as not controlling any scheduling of hours worked merely because such individual's control is limited as a result of—

"(A) Government regulatory requirements,

"(B) operating procedures and specifications the service-recipient is required by contract to comply with (other than a contract with such individual),

"(C) the coordination of the performance of the service with the performance of other services but only if such coordination is done by a person other than the service-recipient or a related person, or

"(D) the control of access to any premises by the service-recipient but only if such individual controls the scheduling of hours during the period during which such access is granted.

"(d) NO INFERENCE WHERE STANDARDS ARE NOT MET.—If not all of the requirements of subsection (b) are met with respect to any service—

"(1) nothing in this section shall be construed to imply that the service is performed by an employee or that the service-recipient is an employer, and

"(2) any determination of such an issue shall be made—

"(A) as if this section had not been enacted; and

"(B) under the usual common law rules applicable in determining the employer-employee relationship.

"(e) RELATIONSHIP TO OTHER PROVISIONS OF LAW.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the fact that all of the requirements of subsection (b) are met with respect to service performed by an individual—

"(A) shall not be construed to imply that, for purposes of any provision of law other than chapters 2, 21, 23, and 24, the service is not performed by an employee or the service-recipient is not an employer, and

"(B) any determination of such an issue shall be made as if this section had not been enacted.

"(2) INDIVIDUAL NOT ENTITLED TO EXCLUSION FOR CERTAIN BENEFITS.—If all of the requirements of subsection (b) are met with respect to service performed by an individual, such individual shall not be treated as an employee for purposes of applying the provisions of—

"(A) section 79 (relating to group-term life insurance purchased for employees),

"(B) section 101(b) (relating to employees' death benefits),

"(C) sections 104, 105, and 106 (relating to accident and health insurance or accident and health plans),

"(D) section 120 (relating to group legal service plans),

"(E) section 127 (relating to educational assistance programs),

"(F) section 129 (relating to dependent care assistance programs), and

"(G) so much of subtitle A as relates to contributions to or under, or distributions under, a stock bonus, pension, profit sharing, or annuity plan, or by a trust forming part of such a plan.

This paragraph shall not apply to any individual described in subsection (c)(2) to the extent that such provisions are made applicable to such individual under this title (without regard to this paragraph). Subparagraph (G) shall not apply to individuals treated as employees under section 401(c)(1) (relating to self-employed individuals).".

(b) AMENDMENT OF SOCIAL SECURITY ACT.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Alternative Standards for Determining Whether Individuals Are Not Employees

"(p) Notwithstanding any other provision of this title, the rules of section 3508 of the Internal Revenue Code of 1954 shall apply and any reference in such section to chapter 2 or 21 of such Code shall be deemed to include a reference to this title.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3508. Alternative standards for determining for purposes of employment taxes whether individuals are not employees.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to service performed after December 31, 1982.

(2) EXCLUSIONS FROM GROSS INCOME.—The provisions of section 3508(e)(2) of such Code, as so added, shall apply to amounts paid after December 31, 1982.

(3) EXTENSION OF PROVISIONS RELATING TO EMPLOYMENT STATUS FOR EMPLOYMENT TAXES.—

(A) IN GENERAL.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before July 1, 1982) is amended—

(i) by striking out "July 1, 1982" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1983", and

(ii) by striking out "JULY 1, 1982" in the subsection heading and inserting in lieu thereof "JANUARY 1, 1983".

(B) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "July 1, 1982" and inserting in lieu thereof "January 1, 1983".

(C) PROSPECTIVE REGULATIONS.—Nothing in section 530 of the Revenue Act of 1978 shall be construed to prohibit the issuance of regulations to implement the amendments made by this section.

PART II—ASSESSMENT, COLLECTION, AND REFUND OF EMPLOYMENT TAXES IN CASES INVOLVING DISPUTES AS TO WHETHER INDIVIDUALS ARE EMPLOYEES

SEC. 272. SIMPLIFIED PROCEDURE FOR DETERMINING AMOUNT OF EMPLOYMENT TAXES.

(a) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes), as amended by section 271, is amended by adding at the end thereof the following new section:

"SEC. 3509. DETERMINATION OF EMPLOYER'S LIABILITY FOR CERTAIN EMPLOYMENT TAXES.

"(a) IN GENERAL.—If any employer fails to deduct and withhold any tax under chapter 24 or subchapter A of chapter 21 with respect to any employee by reason of treating such employee as not being an employee for purposes of such chapter or subchapter, the amount of the employer's liability for—

"(1) WITHHOLDING TAXES.—Tax under chapter 24 for such year with respect to such employee shall be determined as if the amount required to be deducted and withheld were equal to 1.5 percent of the wages (as defined in section 3401) paid to such employee.

"(2) EMPLOYEE SOCIAL SECURITY TAX.—Taxes under subchapter A of chapter 21 with respect to such employee shall be determined as if the taxes imposed under such subchapter were 20 percent of the amount imposed under such subchapter without regard to this subparagraph.

"(b) EMPLOYER'S LIABILITY INCREASED WHERE EMPLOYER DISREGARDS REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—In the case of an employer who fails to meet the applicable requirements of section 6041(a), 6041A, or 6051 with respect to any employee, unless such failure is due to reasonable cause and not willful neglect, subsection (a) shall be applied with respect to such employee—

"(A) by substituting '3 percent' for '1.5 percent' in paragraph (1); and

"(B) by substituting '40 percent' for '20 percent' in paragraph (2).

"(2) APPLICABLE REQUIREMENTS.—For purposes of paragraph (1), the term 'applicable requirements' means the requirements described in paragraph (1) which would be applicable consistent with the employer's treatment of the employee as not being an employee for purposes of chapter 24 or subchapter A of chapter 21.

"(c) SECTION NOT TO APPLY IN CASES OF INTENTIONAL DISREGARD.—This section shall not apply to the determination of the employer's liability for tax under chapter 24 or subchapter A of chapter 21 if such liability is due to the employer's intentional disregard of the requirement to deduct and withhold such tax.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DETERMINATION OF LIABILITY.—If the amount of any liability for tax is determined under this section—

"(A) the employee's liability for tax shall not be affected by the assessment or collection of the tax so determined,

"(B) the employer shall not be entitled to recover from the employee any tax so determined, and

"(C) sections 3402(d) and section 6521 shall not apply.

"(2) SECTION NOT TO APPLY WHERE EMPLOYER DEDUCTS WAGE BUT NOT SOCIAL SECURITY TAXES.— This section shall not apply to any employer with respect to any wages if—

"(A) the employer deducted and withheld any amount of the tax imposed by chapter 24 on such wages, but

"(B) failed to deduct and withhold the amount of the tax imposed by subchapter A of chapter 21 with respect to such wages.

"(3) SECTION NOT TO APPLY TO CERTAIN STATUTORY EMPLOYEES.—This section shall not apply to any tax under subchapter A of chapter 21 with respect to an individual described in subsection (d)(3) of section 3121 (without regard to whether such individual is described in paragraph (1) or (2) of such subsection).".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3509. Determination of employer's liability for certain employment taxes.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply to any assessment made before January 1, 1983.

SEC. 273. PETITION TO TAX COURT AND DEFICIENCY PROCEDURES MADE APPLICABLE TO CERTAIN EMPLOYMENT TAXES.

(a) DEFINITION OF DEFICIENCY.—Section 6211(a) (relating to definition of a deficiency) is amended—

(1) by striking out "and excise taxes imposed by chapters 41, 42, 43, and 44" and inserting in lieu thereof, "excise taxes imposed by chapters 41, 42, 43, and 44, and employment taxes imposed by subtitle C on account of a reclassification of an individual who had been treated as not being an employee by a taxpayer," and

(2) by striking out "subtitle A or B" and inserting in lieu thereof "subtitle A, B, or C on account of a reclassification of an individual who had been treated as not being an employee by a taxpayer,".

(b) FURTHER DEFICIENCY LETTERS RESTRICTED IF PETITION FILED WITH TAX COURT.—Section 6212(c)(1) (relating to further deficiency letters restricted) is amended by inserting "of employment tax imposed by subtitle C on account of a reclassification of an individual who had been treated as not being an employee by a taxpayer," after "of estate tax in respect of the taxable estate of the same decedent,".

(c) TECHNICAL CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 6161(b) (relating to the amount determined as deficiency when granting an extension of time) is amended—

(A) by inserting "21, 22, 23, 24, 25" after "chapter 1, 12,"; and

(B) by inserting "21, 22, 23, 24, 25" after "1," the second place it appears.

(2) Section 6201(d) (relating to deficiency proceedings) is amended by striking out "and certain excise taxes," and inserting in lieu thereof "and certain employment and excise taxes."

(3) Section 6211(b)(2) (defining rebate) is amended by striking out "subtitle A or B" and inserting in lieu thereof "subtitle A, B, or C,".

(4) Section 6212(a) (relating to notice of deficiency) is amended by striking out "subtitle A or B" and inserting in lieu thereof "subtitle A, B, or C on account of a reclassification of an individual who had been treated as not being an employee by a taxpayer,".

(5) Section 6212(b)(1) (relating to address for notice of deficiency) is amended—

(A) by striking out in the heading thereof "INCOME AND GIFT TAXES" and inserting in lieu thereof, "INCOME, GIFT, AND EMPLOYMENT TAXES," and

(B) by inserting "chapter 21, chapter 22, chapter 23, chapter 24, chapter 25," after "chapter 12," each place it appears.

(6) Section 6213(a) (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by striking out "subtitle A or B" and inserting in lieu thereof "subtitle A, B, or C on account of a reclassification of an individual who had been treated as not being an employee by a taxpayer".

(7) Section 6213(f)(1) (relating to return) is amended by striking out "subtitle A or B" and inserting in lieu thereof "subtitle A, B, or C".

(8) Section 6213(f)(2)(E) (relating to mathematical or clerical error) is amended by striking out "subtitle A or B" and inserting in lieu thereof "subtitle A, B, or C".

(9) Section 6214(d) (relating to final decisions of Tax Court) is amended by striking out "subtitles A or B" and inserting in lieu thereof "subtitles A, B, or C,".

(10) Section 6503(a)(1) (relating to issuance of statutory notice of deficiency) is amended by striking out "and certain excise taxes" and inserting in lieu thereof ", and certain excise and employment taxes."

(11) Section 6512(a) (relating to effect of petition to Tax Court) is amended—

(A) by inserting "employment taxes imposed by subtitle C" after "income, estate, gift," and

(B) by inserting "of employment taxes imposed by subtitle C for the same calendar quarter" after "of estate tax in respect of the taxable estate of the same decedent,".

(12) Section 6512(b)(1) (relating to jurisdiction to determine overpayment determined by Tax Court) is amended by inserting "of employment taxes imposed by subtitle C for the same calendar quarter" after "of estate tax in respect of the same taxable estate of the same decedent,".

(13) Section 6601(c) (relating to suspension of interest in certain cases) is amended—

(A) by inserting "EMPLOYMENT," after "INCOME, ESTATE, GIFT," in the heading thereof, and

(B) by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(14) Section 6653(c)(1) (relating to definition of underpayment) is amended—

(A) by striking out in the heading thereof "AND CERTAIN EXCISE TAXES" and inserting in lieu thereof "AND CERTAIN EMPLOYMENT AND EXCISE TAXES", and

(B) by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(15) Section 6660(b) (relating to procedure for assessing certain additions to tax) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(16) Section 6676(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(17) Section 6677(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(18) Section 6679(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(19) Section 6682(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(20) Section 6687(b) (relating to deficiency procedures not to apply) is amended by inserting "employment" after "income, estate, gift,".

(21) Section 6693(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(22) Section 6696(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(23) Section 6697(c) (relating to certain deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(24) Section 6698(d) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(25) Section 7422(e) (relating to stay of proceeding in civil actions for refund) is amended—

(A) by inserting "employment taxes imposed by subtitle C," after "income tax, estate tax, gift tax," the first time it appears, and

(B) by striking out "or gift tax" and by inserting in lieu thereof "gift tax, or employment tax".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes imposed under subtitle C of the Internal Revenue Code of 1954 with respect to services performed after December 31, 1982.

SEC. 274. PARTICIPATION IN HOME-HEALTH CARE PROGRAM NOT TREATED AS EMPLOYMENT.

(a) IN GENERAL.—Section 3121(b) (defining employment) is amended—

(1) by striking out "or" at the end of paragraph (19),

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new paragraph:

"(21) service performed by an individual under a program operated by a State—

"(A) which provides for cash grants—

"(i) which are made to elderly, disabled, and other needy individuals to acquire services described in section 966(d) of the Omnibus Reconciliation Act of 1980, and

"(ii) which may not be in excess of an amount (determined on a monthly basis) equal to 20 times the State's maximum daily allowable nursing home reimbursement rate under title XIX of the Social Security Act,

"(B) which provides that individuals receiving cash grants may not have monthly incomes (not including amounts necessary to pay reasonably anticipated unreimbursed medical expenses) in excess of 250 percent of the monthly supplemental security income payment standard under title XVI of the Social Security Act,

"(C) which provides that individuals performing services under the program must be hired and supervised by the recipient of the grant, except that State or local employees may provide insubstantial services, and

"(D) under which the State requires the individual receiving the cash grant to notify the individual providing the services of such individual's Federal tax responsibilities.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1402(c)(2) (defining trade or business) is amended by striking out "and" at the end of subparagraph (E), by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof ", and", and by adding after subparagraph (F) the following new subparagraph:

"(G) service described in section 3121(b)(21), unless the State elects under section 218(v) of the Social Security Act to treat the individuals providing the services as employees of the State for purposes of its voluntary agreement;".

(2) Section 3401(a) (defining wages for purposes of withholding) is amended by striking out "or" at the end of paragraph (18) and by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding after paragraph (19) the following new paragraph:

"(20) for service described in section 3121(b)(21)."

(3) Section 3306(c) (defining employment for purposes of the unemployment tax) is amended by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(20) service described in section 3121(b)(21).".

(4) Section 210(a) of the Social Security Act is amended by striking out "or" at the end of paragraph (19), by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or", and by adding after paragraph (20) the following new paragraph:

"(21) service performed by an individual under a program operated by a State—

"(A) which provides for cash grants—

"(i) which are made to elderly, disabled, and other needy individuals to acquire services described in section 966(d) of the Omnibus Reconciliation Act of 1980, and

"(ii) which may not be in excess of an amount (determined on a monthly basis) equal to 20 times the State's maximum daily allowable nursing home reimbursement rate under title XIX of this Act,

"(B) which provides that individuals receiving cash grants may not have monthly income (not including amounts necessary to pay reasonably anticipated unreimbursed medical expenses) in excess of 250 percent of the monthly supplemental security income payment standard under title XVI of this Act,

"(C) which provides that individuals performing services under the program must be hired and supervised by the recipient of the grant, except that State or local employees may provide insubstantial services, and

"(D) under which the State requires the individual receiving the cash grant to notify the individual providing the services of such individual's Federal tax responsibilities.".

(5) Section 211(c)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (E), by striking out the semicolon at the end of subparagraph (F), and inserting in lieu thereof ", and" and by adding after subparagraph (F) the following new paragraph:

"(G) service described in section 210(a)(21), unless the State has elected under section 218(v) of this Act to treat the individuals providing such service as employees of the State for purpose of its voluntary agreement;".

(6) Section 218 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"INCLUSION OF CERTAIN PROVIDERS OF HOME HEALTH SERVICES

"(v) A State having an agreement with the Secretary under this section may elect to treat individuals described in section 218(a)(21) as employees of the State for purposes of such agreement.".

(c) EFFECTIVE DATE.—The amendments made by this Act shall apply to services performed after December 31, 1982.

PART II—FEDERAL UNEMPLOYMENT TAX

SEC. 275. FEDERAL UNEMPLOYMENT TAX.

(a) INCREASES IN WAGE BASE AND TAX RATE EFFECTIVE IN 1983.—

(1) Section 3301(1) is amended by striking out "3.4" and inserting in lieu thereof "3.5".

(2) Section 3306(b)(1) is amended by striking out "$6,000" each place it appears and inserting in lieu thereof in each instance "$7,000".

(3) Section 6157(b) is amended by striking out "0.7" and inserting in lieu thereof "0.8".

(4) Section 901(c)(3)(C) of the Social Security Act is amended—

(A) by striking out "0.7" and inserting in lieu thereof "0.8"; and

(B) by striking out "3.4" and inserting in lieu thereof "3.5".

(5) The amendments made by this subsection shall be effective with respect to calendar years after 1982.

(b) INCREASES IN TAX RATE AND EMPLOYER CREDIT EFFECTIVE IN 1985.—

(1) Section 3301(1) is amended by striking out "3.5" and inserting in lieu thereof "6.2".

(2) Section 3301(2) is amended by striking out "3.2" and inserting in lieu thereof "6.0".

(3) Section 3302(b) is amended by striking out "2.7" and inserting in lieu thereof "5.4".

(4) Section 3302(c)(1) is amended by striking out "shall not exceed 90 percent of the tax against which such credits are allowable" and inserting in lieu thereof "for a taxable year shall not exceed 5.4 percent of the total wages (as defined in section 3306(b)) paid by him during the taxable year with respect to employment (as defined in section 3306(c)).".

(5) Section 3302(c)(2)(A)(i) is amended by striking out "10 percent of the tax imposed by section 3301 with respect to the wages" and inserting in lieu thereof "0.3 percent of the wages".

(6) Section 3302(c)(2)(A)(ii) is amended by striking out "10 percent, for each such succeeding taxable year, of the tax imposed by section 3301 with respect to the wages" and inserting in lieu thereof "0.3 percent, for each such succeeding taxable year, of the wages".

(7) Section 3302(c)(3) is amended by striking out "15 percent of the tax imposed with respect to wages" and inserting in lieu thereof "0.45 percent of the wages".

(8) Paragraph (1) of section 3302(d) is repealed.

(9) Section 6157(b) is amended by striking out "0.5 percent" each place it appears and inserting in lieu thereof in each instance "0.6 percent".

(10) Section 901(c)(3)(C) of the Social Security Act is amended to read as follows:

"(C) Each estimate of net receipts under this paragraph shall be based upon (i) a tax rate of 0.6 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 6.0 percent, and (ii) a tax rate of 0.8 percent in the case of any calendar year for which the rate of tax under such section is 6.2 percent.".

(11) The amendments made by this subsection shall be effective with respect to calendar years after 1984.

PART III—MEDICARE COVERAGE

SEC. 276. MEDICARE COVERAGE FOR ALL FEDERAL EMPLOYEES.

(a) IMPOSITION OF TAX.—

(1) TAX ON EMPLOYERS AND EMPLOYEES.—Sections 3101(b) and 3111(b) (relating to rate of tax) are each amended by inserting "or with respect to medicare qualified Feder-

al employment (as defined in section 3121(u))" after "employment (as defined in section 3121(b))".

(2) EMPLOYMENT TO WHICH TAX APPLIES.—Section 3121 (relating to definition of employment) is amended by adding at the end thereof the following new subsection:

"(u) MEDICARE QUALIFIED FEDERAL EMPLOYMENT.—For purposes of sections 3101(b) and 3111(b), the term 'medicare qualified Federal employment' means any service—

"(1) which is performed after December 31, 1982, by an 'employee' of the United States as defined in section 8901(1) of title 5, United States Code (other than an individual employed by the government of the District of Columbia) or by an officer or employee of the Postal Service; and

"(2) which would constitute 'employment' as defined in subsection (b) of this section but for the application of the provisions of paragraph (6) of such subsection.".

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(1) ENTITLEMENT FOR INDIVIDUALS AGE 65 OR OVER.—Section 226(a)(2) of the Social Security Act is amended—

(A) by inserting "(A)" after "(2)";

(B) by striking out "or is a qualified railroad retirement beneficiary," at the end of subparagraph (A); and

(C) by inserting after subparagraph (A) the following new subparagraphs:

"(B) is a qualified railroad retirement beneficiary, or

"(C) would meet the requirements of subparagraph (A) if quarters of coverage (as determined under section 213(e)) for medicare qualified Federal employment (as defined in section 3121(u) of the Internal Revenue Code of 1954) were treated as quarters of coverage under section 213(a) for purposes of this title,".

(2) ENTITLEMENT FOR DISABLED INDIVIDUALS.—Section 226(b)(2) of the Social Security Act is amended—

(A) by striking out "or" at the end of clause (A);

(B) by redesignating clauses (A) and (B) as subparagraphs (A) and (B);

(C) by adding "or" at the end of subparagraph (B); and

(D) by inserting after subparagraph (B) the following new subparagraph:

"(C) would meet the requirements of subparagraph (A) if quarters of coverage (as determined under section 213(e)) for medicare qualified Federal employment (as defined in section 3121(u) of the Internal Revenue Code of 1954) were treated as quarters of coverage under section 213(a) for purposes of this title,".

(3) CONFORMING AMENDMENT.—Section 1811 of the Social Security Act is amended by inserting "(or would be eligible for such benefits if certain Federal employment were covered employment under such title)" after "title II of this Act" each place it appears.

(c) COVERAGE UNDER MEDICARE PROGRAM FOR END STAGE RENAL DISEASE.—Section 226A(a)(1) of the Social Security Act is amended to read as follows:

"(1)(A) is fully or currently insured (as such terms are defined in section 214), or would be fully or currently insured if (i) his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, was included within the meaning of the term 'employment' for purposes of this title, and (ii) quarters of coverage (as determined under section 213(e)) for medicare qualified Federal employment (as defined in section 3121(u) of the Internal Revenue Code of 1954) were treated as quarters of coverage under section 213(a) for purposes of this title;

"(B)(i) is entitled to monthly insurance benefits under this title, (ii) is entitled to an annuity under the Railroad Retirement Act of 1974, or (iii) would be entitled to a monthly insurance benefit under this title if quarters of coverage (as determined under section 213(e)) for medicare qualified Federal employment (as defined in section 3121(u) of the Internal Revenue Code of 1954) were treated as quarters of coverage under section 213(a) for purposes of this title; or

"(C) is the spouse or dependent child (as defined in regulations) of an individual described in subparagraph (A) or subparagraph (B);".

(d) DETERMINATION OF QUARTERS OF COVERAGE.—Section 213 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"SPECIAL RULE FOR QUARTERS OF MEDICARE QUALIFIED FEDERAL EMPLOYMENT

"(e) For purposes of determining entitlement to hospital insurance benefits under sections 226 and 226A for any individual having medicare qualified Federal employment, such individual shall be deemed to have four quarters of coverage for each calendar year in which he had any such medicare qualified Federal employment, less any quarters of coverage he otherwise has earned for such calendar year under subsection (a).".

(e) TRANSITIONAL PROVISIONS.—

(1) QUARTERS OF COVERAGE.—

(A) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, any individual who attains age 56 before January 1983 and performs services during January 1983 which constitute medicare qualified Federal employment (as defined in section 3121(u) of the Internal Revenue Code of 1954) shall be treated as having, with respect to the period ending December 31, 1982, in addition to any quarters of coverage actually earned by such individual during such period under section 213(a) of the Social Security Act, an additional number of quarters of coverage which is equal to 28 minus—

(i) the number obtained by—

(I) subtracting from 65 the age of such individual on December 31, 1982, and

(II) multiplying by 3 the remainder obtained under subclause (I); and

(ii) a number equal to the number of calendar quarters during such period for which such individual met the requirements of section 213(a) which would coincide with a quarter of coverage which such individual would be treated as having under this paragraph (but for this clause) if the quarters of coverage which such individual would be treated as having under this paragraph (but for this clause) were allocated four quarters to a year, beginning with the last quarter in 1982 and proceeding backward in time until all such quarters are allocated.

(B) ALLOCATION OF QUARTERS.—The quarters of coverage which an individual is treated as having under this paragraph shall be allocated one quarter of coverage to each calendar quarter for which such individual does not meet the requirements of section 213(a), beginning with the last quarter in 1982 and proceeding backward in time until all such quarters of coverage are allocated.

(2) ELIGIBILITY OF OTHER PERSONS.—Any individual who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act by reason of the application of paragraph (1) of this subsection, shall be deemed to be entitled to an old-age benefit under section 202 of such Act, or a disability benefit under section 223 of such Act, for purposes of determining eligibility for such hospital insurance benefits for any other person. In applying this paragraph, any such other person who would be entitled to a monthly benefit under section 202 of such Act if such individual (to whom paragraph (1) applies) were entitled to such old-age or disability benefit, shall be deemed to be entitled to such monthly benefit, but only for purposes of determining such person's eligibility for hospital insurance benefits.

(f) APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

(1) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of subsection (e) of this section,

(2) the additional administrative expenses resulting or expected to result therefrom, and

(3) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if subsection (e) of this section had not been enacted.

(g) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) of this section shall be effective with respect to wages paid or received in calendar years after calendar year 1982.

(2) The amendments made by this section, other than the amendments made by subsection (a), shall become effective on January 1, 1983.

SUBTITLE F—EXCISE TAXES

PART I—AIRPORT AND AIRWAY

SEC. 281. TAX ON FUEL USED IN NONCOMMERCIAL AVIATION.

(a) IMPOSITION OF TAX.—

(1) GASOLINE FUELS.—Paragraph (3) of subsection 4041(c) (relating to rate of tax) is amended by striking out "3 cents" and inserting in lieu thereof "8 cents".

(2) NONGASOLINE FUELS.—Paragraph (1) of subsection 4041(c) (relating to tax on fuel used in noncommercial aviation) is amended by striking out "7 cents" and inserting in lieu thereof "14 cents".

(3) CONFORMING AMENDMENT.—Section 4041(c) is amended by striking out paragraph 5.

(b) CERTAIN HELICOPTERS.—

(1) EXEMPTION.—Section 4041 (relating to tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(l) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for the purpose of—

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, natural resources, or

"(2) the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to title IV of the Tax

Equity and Fiscal Responsibility Act of 1982 during such use.".

(2) REFUND OF TAX.—Subsection (d) of section 6427 (relating to fuels not used for taxable purposes) is amended—

(A) by inserting "or is used in a helicopter for a purpose described in section 4041(l)," after "section 4041(h)(2)(C),"; and

(B) by inserting "or in Certain Helicopters" after "Museums" in the caption thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 1, 1982.

SEC. 282. TAX ON TRANSPORTATION BY AIR.

(a) TRANSPORTATION OF PERSONS.—Section 4261 (relating to imposition of tax) is amended by striking out subsection (e).

(b) TRANSPORTATION OF PROPERTY.—Section 4271 (relating to imposition of tax) is amended by striking out subsection (d).".

(c) REPEAL OF CERTAIN TERMINATED TAXES.—

(1) IN GENERAL.—Subchapter E of chapter 36 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) The table of subchapters for chapter 36 is amended by striking out the item relating to subchapter E.

(B) Section 4281 (relating to small aircraft on nonestablished lines) is amended—

(i) by striking out "(as defined in section 4492(b))", and

(ii) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'maximum certificated takeoff weight' means the maximum such weight contained in the type certificate or airworthiness certificate."

(C) Subsection (a) of section 6156 is amended by striking out "or 4491".

(D) Paragraph (2) of section 6156(e) is amended by striking out "in the case of the tax imposed by section 4481".

(E) The section heading for section 6156 is amended by striking out "AND CIVIL AIRCRAFT".

(F) The table of sections for subchapter A of chapter 62 is amended by striking out "and civil aircraft" in the item relating to section 6156.

(G) Section 6426 is hereby repealed.

(H) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6426.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to amounts paid after August 31, 1982, for transportation after such date.

SEC. 283. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.

(a) GENERAL RULE.—Subchapter A of chapter 98 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Airport and Airway Trust Fund', consisting of such amounts as may be appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Airport and Airway Trust Fund—

"(1) amounts equivalent to the taxes received in the Treasury after August 31, 1982, under subsections (c) and (d) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

"(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, under section 4081, with respect to gasoline used in aircraft; and

"(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of the types used on aircraft.

"(c) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Airport and Airway Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (d) of this section.

"(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

"(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures to meet those obligations of the United States—

"(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 (as such Acts were in effect on the date of enactment of the Fiscal Year 1981 Airport Development Authorization Act) or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of title IV of the Tax Equity and Fiscal Responsibility Act of 1982;

"(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.), which are attributable to planning, research and development, construction, or operation and maintenance of—

"(i) air traffic control,

"(ii) air navigation,

"(iii) communications, or

"(iv) supporting services,

for the airway system; or

"(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

"(2) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after August 31, 1982, in respect of fuel used in aircraft, under section 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes), or 6427 (relating to fuels not used for taxable purposes).

"(3) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN SECTION 39 CREDITS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 with respect to fuel used after August 31, 1982. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.".

(b) REPEAL OF SECTION 208 OF THE AIRPORT AND AIRWAY REVENUE ACT OF 1970.—Section 208 of the Airport and Airway Revenue Act of 1970 is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 98 is amended to read as follows:

"Sec. 9501. Black Lung Disability Trust Fund.

"Sec. 9502. Airport and Airway Trust Fund.".

(2) The section heading for section 9501 (relating to establishment of Black Lung Disability Trust Fund) is amended to read as follows:

"SEC. 9501. BLACK LUNG DISABILITY TRUST FUND.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on September 1, 1982.

(2) SAVINGS PROVISIONS.—The Airport and Airway Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970. Any reference in any law to the Airport and Airway Trust Fund established by such section 208 shall be deemed to include a reference to the Airport and Airway Trust Fund established by the amendments made by this section.

PART II—COMMUNICATIONS SERVICES

SEC. 284. EXTENSION OF EXCISE TAX ON COMMUNICATIONS SERVICES.

(a) IN GENERAL.—Section 4251 (relating to imposition of tax on communications services) is amended by striking out subsections (a) and (b) and inserting the following new subsections:

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—There is hereby imposed on amounts paid for communications services a tax equal to the applicable percentage of amounts so paid.

"(2) PAYMENT OF TAX.—The tax imposed by this section shall be paid by the person paying for such services.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) COMMUNICATIONS SERVICES.—The term 'communications services' means—

"(A) local telephone service;

"(B) toll telephone service; and

"(C) teletypewriter exchange service.

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"With respect to amounts paid pursuant to bills first rendered—		The percentage is—
During 1983	72	.....
During 1984 or 1985	73	..
During 1986 or thereafter		2.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to amounts paid for communications services pursuant to bills first rendered after December 31, 1982.

PART III—CIGARETTES

SEC. 285. INCREASE IN TAX ON CIGARETTES.

(a) RATE OF TAX.—Subsection (b) of section 5701 (relating to rate of tax on cigarettes) is amended—

(1) by striking out "$4" in paragraph (1) and inserting in lieu thereof "$8"; and

(2) by striking out "$8.40" in paragraph (2) and inserting in lieu thereof "$16.80".

(b) FLOOR STOCKS.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before January 1, 1983, and held on such date for sale by a person other than a retailer, there shall be imposed the following taxes:

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $4 per thousand;

(B) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $8.40 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on January 1, 1983, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1954 and shall be payable with respect to cigarettes held on January 1, 1983 in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on January 1, 1983.

(3) CIGARETTE.—For purposes of this subsection, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to cigarettes removed after December 31, 1982.

PART IV—RECREATIONAL EQUIPMENT

SEC. 286. TAX ON SALE OF SPORT FISHING EQUIPMENT AND CERTAIN RECREATIONAL BOATS AND BOATING EQUIPMENT.

(a) IN GENERAL.—Subsection (a) of section 4161 (relating to the imposition of tax on the sale of certain articles) is amended to read as follows:

"(a) SPORT FISHING EQUIPMENT AND CERTAIN RECREATIONAL BOATS AND BOATING EQUIPMENT.—

"(1) SPORT FISHING EQUIPMENT.—There is hereby imposed upon the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equivalent to 10 percent of the price for which so sold.

"(2) RECREATIONAL BOATS AND BOATING EQUIPMENT.—There is hereby imposed upon the sale of recreational boats and boating equipment by the manufacturer, producer, or importer a tax equivalent to 3 percent of the price for which so sold.".

(b) DEFINITIONS.—Part 1 of subchapter D of chapter 32 (relating to excise tax on sporting goods) is amended by adding at the end thereof the following new section:

"SEC. 4162. DEFINITIONS.

"For purposes of this part—

"(1) SPORT FISHING EQUIPMENT.—The term 'sport fishing equipment' means—

"(A) fishing reels fabricated rods and poles (and component parts);

"(B) organic, synthetic, and metallic lines;

"(C) fishing spears and underwater spear guns;

"(D) items of terminal tackle including leaders, artificial lures, baits and flies, fishhooks, bobbers, sinkers, snaps, drayles, swivels, underwater riggers, and underwater spreaders;

"(E) fishing supplies and accessories including fish stringers, creels, bags and baskets designed to hold fish, portable bait containers, landing nets, hoops, and gaff hooks;

"(F) fishhook disgorgers, scalers, rodholders, line and fly dressing, fly tying materials, preserved packaged bait;

"(G) tip-ups, tilts, ice augers (both manual and power), ice spuds, ice skimmers, manufactured ice houses, and ice windshields; and

"(H) other similar items designed for use in recreational fishing.

"(2) RECREATIONAL BOATS AND BOATING EQUIPMENT.—

"(A) IN GENERAL.—The term 'recreational boats and boating equipment' means—

"(i) boats, including component parts sold in connection therewith (other than outboard motors), 20 feet or less in length—

"(I) with a configuration designed for recreational fishing, or

"(II) with a capacity label that limits the outboard motor rating to 50 horsepower or less;

"(ii) portable fish finders (including both thermometers and depth finders), outriggers, down riggers, rod belts, fishing chairs, and fishing harnesses; and

"(iii) equipment sold or used in connection with recreational fishing boats.

"(B) EXCEPTIONS.—The term 'recreational boats and boating equipment' shall not include—

"(i) sailboats, kayaks, hydroplanes, and double-ended canoes, and

"(ii) boats used chiefly for commercial purposes other than commercial purposes related to recreational fishing.".

(c) CLERICAL AMENDMENT.—The table of sections for part 1 of subchapter D of chapter 32 is amended by adding at the end thereof the following new item:

"Sec. 4162. Definitions.".

(d) TIME FOR PAYMENT OF TAX.—Section 6302 (relating to mode or time of collecting tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TIME FOR PAYMENT OF MANUFACTURERS EXCISE TAX ON SPORT FISHING EQUIPMENT AND CERTAIN RECREATIONAL BOATS AND BOATING EQUIPMENT.—The tax imposed by section 4161(a) (relating to manufacturers excise tax on sport fishing equipment and certain recreational boats and boating equipment) shall be due and payable—

"(1) in the case of articles sold during the quarter ending December 31, on March 31,

"(2) in the case of articles sold during the quarter ending March 31, on June 30,

"(3) in the case of articles sold during the quarter ending June 30, on September 24, and

"(4) in the case of articles sold during the quarter ending September 30, at such time as the Secretary may by regulations prescribe.".

(e) DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—The first sentence of section 3 of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes", approved August 9, 1950 (16 U.S.C. 777b) is amended to read as follows: "To carry out the provisions of this Act, there is authorized to be appropriated an amount equal to the revenue received in the Treasury of the United States during any fiscal year from (1) the tax imposed by section 4161 of the Internal Revenue Code of 1954 on sport fishing equipment, and recreational boats and boating equipment; and (2) the aggregate amount of import duties on fishing tackle under subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) and on yachts and pleasure craft under subpart D of part 6 of schedule 6 of such Schedules (other than on boats designed primarily for recreational fishing).".

(f) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (c) of this section shall apply with respect to articles sold by the manufacturer, producer, or importer thereof beginning with the next succeeding quarter of the fiscal year following the date of the enactment of this Act.

(2) The amendment made by subsection (d) of this section shall apply to articles sold on or after October 1, 1982.

(3) The amendment made by subsection (e) of this section shall take effect October 1, 1982.

PART V—TAPS ADJUSTMENT REPEALED

SEC. 287. ELIMINATION OF THE TAPS ADJUSTMENT.

(a) IN GENERAL.—Subsection (d) of section 4996 (relating to Alaskan oil from Sadlerochit reservoir) is amended to read as follows:

"(d) ALASKAN OIL FROM SADLEROCHIT RESERVOIR.—For purposes of this chapter—

"(1) REMOVAL PRICE DETERMINED ON MONTHLY BASIS.—The removal price of Sadlerochit oil removed during any calendar month shall be the average of the producer's removal prices for such month.

"(2) SADLEROCHIT OIL DEFINED.—The term 'Sadlerochit oil' means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oilfield.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to oil removed after December 31, 1982.

Subtitle G—Miscellaneous

SEC. 291. TWO-YEAR EXTENSION OF EXCLUSION FROM GROSS INCOME OF NATIONAL RESEARCH SERVICE AWARDS.

Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to exclusion from gross income for national research service awards) is amended by striking out "1981" and inserting in lieu thereof "1983".

SEC. 292. EXEMPTION FROM THE EXCESS BUSINESS HOLDING PROVISIONS FOR PRIVATE FOUNDATIONS OWNING CERTAIN HOTEL BUSINESS ENTERPRISES AND CERTAIN INDEPENDENT LOCAL NEWSPAPER BUSINESSES.

Section 101(l)(4) of the Tax Reform Act of 1969 is amended by adding at the end thereof the following new subparagraph:

"(D)(i) The divestiture requirements of section 4943 of the Internal Revenue Code of 1954 shall not apply to the stock of a corporation held by any private foundation if the foundation and the corporation meet the following conditions:

"(I) On May 26, 1969, the private foundation owned 100 percent of the voting stock in the corporation and substantially all the assets of the corporation were used in operating a hotel business enterprise.

"(II) The stock described in subclause (I) was acquired by the foundation solely by gift, devise, or bequest before December 31, 1966.

"(III) Neither the donor of such stock nor any member of his family (within the meaning of section 4946(d) of such Code) is a manager of such foundation (as defined in section 4946(b) of such Code) on or after December 31, 1956.

"(IV) On May 26, 1969, and at all times thereafter—

"(aa) the hotel business enterprise described in subclause (I) is of substantially

the same character as the enterprise which was conducted by the corporation on the date of the last gift, devise, or bequest of such stock of such corporation by any donor or member of his family, and

"(bb) substantially all the assets of the corporation are used in operating such hotel business enterprise.

For purposes of this subparagraph, a hotel business enterprise owned by a private foundation through a holding company all the voting stock of which is owned directly by the foundation on the dates designated by this subparagraph shall be treated as being owned directly by the foundation for these purposes. This subparagraph shall apply to the private foundation only if the foundation does not acquire any stock or other interest in any business enterprise on or after May 26, 1969, which would otherwise constitute excess business holdings under section 4943 of such Code.

"(ii) The divestiture requirements of section 4943 of the Internal Revenue Code of 1954 shall not apply to the stock of a corporation held by any private foundation if the foundation and the corporation meet the following conditions:

"(I) On May 26, 1969, the private foundation owned 100 percent of the voting stock in the corporation and substantially all the assets of the corporation were used in operating an independent local newspaper business.

"(II) The stock described in subclause (I) was acquired by the foundation before December 31, 1965.

"(III) The private foundation was organized prior to 1938.

"(IV) On May 26, 1969, and at all times thereafter—

"(aa) the independent local newspaper business described in subclause (I) is of substantially the same character as the enterprise which was conducted by the corporation on the date the stock of such corporation was acquired by the private foundation, and

"(bb) substantially all the assets of the corporation are used in operating such independent local newspaper business.

For purposes of this subparagraph, an independent local newspaper business owned by a private foundation through a holding company all the voting stock of which is owned directly by the foundation on the dates designated by this subparagraph shall be treated as being owned directly by the foundation for these purposes. This subparagraph shall apply to the private foundation only if the foundation does not acquire any stock or other interest in any business enterprise on or after May 26, 1969, which would otherwise constitute excess business holdings under section 4943 of such Code.

"(iii) For purposes of clause (ii)—

"(I) the term 'independent local newspaper business' means a business enterprise which publishes an independent local newspaper and which has none of its outstanding equity interests traded in an established securities market;

"(II) the term 'independent local newspaper' means a newspaper publication which is not one of a chain of newspaper publications and which has all of its publishing offices (containing its principal editorial, reportorial, circulation, and business staff) in a single city, community, or metropolitan area, or after December 31, 1978, within one State; and

"(III) the term 'chain of newspaper publications' means two or more newspaper publications which—

"(aa) are not published in a single city, community or metropolitan area, or after December 31, 1978, within one State, and

"(bb) are controlled, directly or indirectly, by the same person or persons.".

SEC. 293. NEW JERSEY GENERAL REVENUE SHARING ALLOCATION.

(a) IN GENERAL.—Subsection (e) of section 109 of the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1228) (defining general tax effort factor) is amended by inserting at the end thereof the following new paragraph:

"(3) NEW JERSEY FRANCHISE AND GROSS RECEIPTS TAXES.—

"(A) The New Jersey Franchise and Gross Receipts Taxes (N.J. Rev. Stat. 54:30A-18.1) transferred to a unit of local government within the State in the years beginning January 1 of 1980, 1981, and 1982 shall be deemed to be an adjusted tax of such units for purposes of paragraph (2)(A)(i).

"(B) The provisions of subparagraph (A) shall be given effect for quarterly payments made for quarters beginning after December 31, 1982, only if the Governor of the State of New Jersey notifies the Secretary that, prior to January 1, 1983, the State amended the New Jersey Franchise and Gross Receipts Taxes statute to provide for collection and retention of such taxes by units of local government for years beginning as of January 1, 1983.

"(C) Notwithstanding the limitation in subparagraph (B), the provisions of subparagaph (A) shall be given effect with respect to the quarterly payment to be made for the quarter beginning October 1, 1982.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective after September 30, 1982.

SEC. 294. ILLEGAL PAYMENTS TO GOVERNMENT OFFICIALS OR EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 162(c) of the Internal Revenue Code of 1954 (relating to illegal payments to Government officials or employees) is amended—

(1) by striking out "the laws of the United States if such laws were applicable to such payment and to such official or employee" and inserting in lieu thereof "the Foreign Corrupt Practices Act of 1977", and

(2) by striking out "(or would be unlawful under the laws of the United States)" and inserting in lieu thereof "(or would be unlawful under the Foreign Corrupt Practices Act of 1977)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of enactment of this Act.

SEC. 295. INVESTMENT YIELD ON UNITED STATES SAVINGS BONDS.

(a) DETERMINATION BY SECRETARY.—

(1) Subsection (b) of section 22 of the Second Liberty Bond Act (31 U.S.C. 757c) is amended—

(A) by amending paragraph (3) to read as follows:

"(3) The Secretary of the Treasury, with the approval of the President, may fix the investment yield on any United States savings bond. The Secretary of the Treasury, with the approval of the President, may provide for increases and decreases in the investment yield on any outstanding United States savings bond; except that the investment yield on any bond for the period held may not be decreased below the minimum yield for such period guaranteed at the time of its issuance.";

(B) by striking out "the Secretary of the Treasury may prescribe: Provided" and all that follows down through the end of the second sentence of paragraph (1) of such subsection and inserting in lieu thereof "the Secretary of the Treasury may prescribe.";

(C) by striking out "and shall be expressed in terms of their maturity value" in the third sentence of paragraph (1) of such subsection; and

(D) by striking out "higher rates which are consistent" and inserting in lieu thereof "rates which are consistent" in subparagraph (B) of paragraph (2) of such subsection.

(2) The second sentence of section 22A(b)(1) of such Act is amended by striking out "the Secretary of the Treasury may prescribe" and all that follows down through the end thereof and inserting in lieu thereof "the Secretary of the Treasury may prescribe.".

(b) TRANSITIONAL RULE.—In the case of any savings bond issued before the 30th day after the date of enactment of this Act, for purposes of sections 22 and 22A of such Act, the minimum yield guaranteed for the period held shall be the scheduled investment yield for such period as in effect on such 30th day.

(c) LIMIT ON OUTSTANDING BONDS.—Effective on the date of the enactment of this Act, the last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$70,000,000,000" and inserting in lieu thereof "$110,000,000,000".

SEC. 296. STUDY OF ALTERNATIVE INCOME TAX SYSTEMS.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study covering the advisability of—

(1) replacing only the Federal individual income tax, or

(2) replacing both the Federal individual income tax and the Federal corporate income tax,

with an alternative tax system.

(b) CONTENTS OF STUDY.—Such study shall take into account the administrative complexity of the existing Federal income tax system and address the ramifications of replacing that system with an alternative tax system. Such study shall focus on (but not be limited to) the following factors:

(1) protecting the economically disadvantaged,

(2) increasing economic efficiency in both the private and public sectors of the economy,

(3) reducing paperwork and auditing requirements, reducing taxpayer fraud and evasion, and expediting resolution of tax disputes between taxpayers and the Federal Government,

(4) increasing economic incentives for capital formation and productivity,

(5) removing economic disincentives to employment,

(6) excluding certain items, such as social security benefits, from gross income,

(7) equalizing the tax burden on taxpayers with equal ability to pay taxes, and

(8) achieving the appropriate burden of taxes for each income class of taxpayers.

Such study shall also identify the strengths and potential weaknesses of an alternative tax system and propose possible solutions for any such potential weakness.

(c) ALTERNATIVE TAX SYSTEM.—For purposes of this section, the term "alternative tax system" means a system based on—

(1) a simplified income tax based on gross income;

(2) a consumption tax;

(3) a consumption-based tax; or

(4) the broadening of the base and lowering of the rates of the current income tax.

(d) REPORTING DATE.—The report of the study required by subsection (a) shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than six months after the date of the enactment of this Act.

SEC. 297. STUDY OF MONETARY POLICY.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of the effects on capital markets of substituting for the measures of the growth of the money supply—

(1) a measure for the growth of debt as the long-term target of monetary policy, and

(2) a measure of total liquid assets as an interim target of monetary policy.

(b) CONTENTS OF STUDY ON GROWTH OF DEBT.—The study with respect to a measure of the growth of debt as the long-term target of monetary policy shall—

(1) assess the feasibility of using the debt proxy as the target of such policy; and

(2) assess and compare the effect of using the debt proxy versus the money supply, as currently defined, on:

(A) the level and stability of rates of interest on capital;

(B) the pressures placed by volatile interest rates on financial institutions to offset volatile rates by passing on the rate risk entirely to customers through variable interest rate obligations and spread banking;

(C) the risk that increased use of variable rates and spread banking, which free financial institutions from interest rate risks, will lead to a deterioration of the quality of credit and the erosion of the prudent fiduciary behavior of financial institutions as a means of disciplining decisions in capital markets;

(D) the pressures, including those from high and volatile interest rates, to greater concentration of financial institutions through mergers and consolidations;

(E) the slope of the yield curve, the frequency of its slope swings, the duration of its positive slopes, and the sharpness of its negative slopes, and the impact of the yield curve slope conditions on credit maturities available to business;

(F) the ability of capital markets to reliquify credit during periods of business contraction and early business recoveries;

(G) financial innovation producing changes in the nature of money by eroding the distinction between money and credit, and the drive to financial innovation as a means of escaping the confines of regulation framed by conventional definitions of money;

(H) the ability of monetary policy to adjust rapidly to accelerated financial innovation; and

(I) the ability of monetary policy to achieve a closer association between monetary targeting and the Gross National Product.

(c) DEFINITIONS.—For purposes of subsection (b)—

(1) the term "debt proxy" used as a measure of the growth of debt means the sum of credit market instruments, deposits, and currency held by private, domestic, nonfinancial investors; and

(2) the term "spread banking" means the creation by financial institutions of a liability structure that maintains a constant rate of spread to assets.

(d) REPORTING DATE.—The report of the study required by subsection (a) shall be submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than six months after the date of the enactment of this Act.

SEC. 298. JEFFERSON COUNTY MENTAL HEALTH CENTER.

(a) IN GENERAL.—The Secretary is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Jefferson County Mental Health Center, Incorporated, of Lakewood, Colorado, the sum of $50,000 in full settlement of all claims of the center against the United States for repayment of amounts the center erroneously refunded to its employees for social security contributions in the period after December 31, 1971, and prior to May 14, 1975, pursuant to instructions by the Internal Revenue Service.

(b) LIMITATION.—No part of the amount appropriated in subsection (a) in excess of 10 per centum shall be paid, delivered to, or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof be fined any sum not exceeding $1,000.

TITLE III—TAXPAYER COMPLIANCE

SUBTITLE A—WITHHOLDING ON INTEREST AND DIVIDENDS; HOLDING PERIOD FOR CAPITAL ASSETS

PART I—WITHHOLDING ON INTEREST AND DIVIDENDS

SEC. 301. WITHHOLDING ON INTEREST AND DIVIDENDS.

(a) IN GENERAL.—Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER B—WITHHOLDING FROM INTEREST AND DIVIDENDS

"Sec. 3451. Income tax collected at source on interest, dividends, and patronage dividends.

"Sec. 3452. Exemptions from withholding.

"Sec. 3453. Definitions.

"Sec. 3454. Administrative provisions.

"SEC. 3451. INCOME TAX COLLECTED AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this subchapter, a withholding agent shall deduct and withhold on each payment of interest, dividends, or patronage dividends, a tax equal to 10 percent of the amount of the payment.

"(b) SPECIAL RULES.—

"(1) TIME AND MANNER OF WITHHOLDING.—Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, the tax imposed by this section shall be deducted and withheld by the withholding agent at the time any interest, dividends, or patronage dividends are paid or credited to the payee.

"(2) ORIGINAL ISSUE DISCOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the tax imposed by this section shall apply to the amount of original issue discount on any obligation which is includible in the gross income of the holder during the calendar year.

"(B) TRANSFERRED OBLIGATIONS.—

"(i) IN GENERAL.—In the case of original issue discount on any obligation which has been transferred from the original holder, the tax imposed by this section shall apply to such original issue discount as if any subsequent holder were the original holder.

"(ii) SPECIAL RULE FOR SHORT-TERM OBLIGATIONS.—Clause (i) shall not apply in the case of original issue discount on any obligation with a fixed maturity date not exceeding 1 year from the date of issue which has been transferred from the original holder if the subsequent holder establishes the date on which, and the purchase price at which, he acquired such obligation (subject to such regulations as the Secretary may prescribe).

"(C) LIMITATION ON AMOUNT DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The amount of tax imposed by this section on the amount of original issue discount on any obligation which is required to be deducted and withheld under subsection (a) in any calendar year shall not exceed the amount of cash payments made with respect to such obligation during such calendar year.

"(ii) AUTHORITY OF SECRETARY TO ELIMINATE LIMITATION IN CERTAIN CASES.—If the Secretary determines by regulations that a type of obligation is frequently used to avoid Federal taxation, clause (i) shall not apply with respect to any amount of original issue discount on any obligation of such type which is issued more than 30 days after the first date on which such regulations are published in the Federal Register.

"(D) ORIGINAL ISSUE DISCOUNT DEFINED.—For purposes of this paragraph, the term 'original issue discount' has the meaning given such term by section 1232(b)(1).

"(2) CORPORATE TRUSTEES.—Any corporate trustee receiving any payment of interest, dividends, or patronage dividends shall deduct and withhold the tax provided by this section in the same manner as if such corporate trustee were a withholding agent making such payment.

"(3) PAYEE UNKNOWN.—If a withholding agent is unable to determine the person to whom any payment of interest, dividends, or patronage dividends is payable or creditable, the tax under this section shall be deducted and withheld at the time deduction and withholding would be required under subsection (b)(1) if the payee were known.

"(4) AMOUNT OF DIVIDEND UNKNOWN.—If the withholding agent is unable to determine the portion of a distribution which is a dividend, the tax under this section shall be computed on the gross amount of the distribution.

"SEC. 3452. EXEMPTIONS FROM WITHHOLDING.

"(a) IN GENERAL.—Section 3451 shall not apply with respect to any—

"(1) payment to an exempt individual,

"(2) payment to an exempt recipient,

"(3) qualified consumer cooperative payment,

"(4) small savings bond interest payment, or

"(5) minimal interest payment.

"(b) EXEMPT INDIVIDUALS.—

"(1) IN GENERAL.—For purposes of this section, the term 'exempt individual' means any individual—

"(A) who is described in paragraph (2), and

"(B) with respect to whom an exemption certificate is in effect.

"(2) CERTAIN INDIVIDUALS.—An individual described in this paragraph is an individual—

"(A) who incurred no liability for income tax imposed under subtitle A for his preceding taxable year,

"(B) who—

"(i) is 65 years of age or older, and

"(ii) incurred a liability of not more than $1,500 ($2,500 in the case of a joint return under section 6013) for such income tax for his preceding taxable year.

"(3) SPECIAL RULE FOR MARRIED PERSONS.—A husband and wife shall each be treated as satisfying the requirements of paragraph (2)(B)(i) if—

"(A) either spouse is 65 years of age or older, and

"(B) such husband and wife made a joint return under section 6013 for the preceding taxable year.

"(c) EXEMPT RECIPIENTS.—

"(1) IN GENERAL.—For purposes of this section, the term 'exempt recipient' means any person described in paragraph (2)—

"(A) with respect to whom an exemption certificate is in effect, or

"(B) who is described in regulations prescribed by the Secretary which permit exemption from withholding without certification.

"(2) CERTAIN PERSONS.—A person is described in this paragraph if such person is—

"(A) a corporation,

"(B) an organization exempt from taxation under section 501(a) other than a farmers' cooperative organization described in section 521,

"(C) the United States or a State,

"(D) a foreign government or international organization,

"(E) a foreign central bank of issue,

"(F) a dealer in securities or commodities required to register as such under the laws of the United States or a State,

"(G) a real estate investment trust (as defined in section 856),

"(H) an entity registered at all times during the taxable year under the Investment Company Act of 1940, as amended,

"(I) a common trust fund (as defined in section 584(a)), and

"(J) a nominee or custodian (except as otherwise provided in regulations).

"(d) QUALIFIED CONSUMER COOPERATIVE PAYMENT.—For purposes of this section, the term 'qualified consumer cooperative payment' means any payment by a cooperative which is exempt from reporting requirements under section 6044(a) by reason of section 6044(c).

"(e) SMALL SAVINGS BOND INTEREST PAYMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'small savings bond interest payment' means any interest payment on any—

"(A) series E or EE obligation of the United States, or

"(B) other similar obligation that may be issued by the United States which the Secretary, by regulations, exempts from the tax imposed by section 3451,

which does not exceed $10.

"(2) MULTIPLE REDEMPTIONS.—The term 'small savings bond interest payment' shall not include any payment made in redemption of 2 or more obligations described in paragraph (1) if the aggregate amount of such redemption exceeds $10.

"(f) MINIMAL PAYMENTS.—

"(1) IN GENERAL.—For purposes of this section, the term 'minimal payment' means any payment of interest made for any period by a payor who has made an election under paragraph (2) (which is in effect at the time of such payment) in an amount which would not exceed $10 if determined on an annual basis.

"(2) ELECTION.—

"(A) IN GENERAL.—Any person may elect the application of this subsection with respect to all payments of a similar type made by such person.

"(B) EFFECTIVENESS.—An election made by a person under this paragraph shall remain in effect until revoked by such person.

"(C) TIME AND MANNER.—Any election or revocation of an election made under this paragraph shall be made at such time and in such manner as the Secretary shall prescribe by regulations.

"(g) EXEMPTION CERTIFICATES.—

"(1) IN GENERAL.—

"(A) DELIVERY.—An exempt recipient or exempt individual may deliver an exemption certificate to a withholding agent at any time. Such certificate shall be in such form and contain such information as the Secretary shall prescribe.

"(B) REVOCATION.—Any person who ceases to be an exempt recipient or exempt individual shall within 10 days thereafter revoke all exemption certificates previously filed by such person if such person may thereafter receive interest, dividends or patronage dividends from the person with whom such certificate was filed.

"(2) EFFECTIVENESS OF CERTIFICATES.—Except as provided in regulations prescribed by the Secretary, exemption certificates shall be effective until revoked.

"(h) REGULATIONS.—The Secretary shall prescribe regulations providing—

"(1) the circumstances under which payments to exempt recipients (defined in section 3452(c) of such Code) shall not be subject to the requirement of deducting and withholding under subchapter B of chapter 24 of such Code in the absence of an exemption certificate,

"(2) the day on which a filed exemption certificate shall be considered effective, and

"(3) the circumstances under which a withholding agent shall treat an exemption certificate as having ceased to be effective, where the Secretary has determined that the person described therein is not an exempt recipient or exempt individual.

"SEC. 3453. DEFINITIONS.

"For purposes of this subchapter—

"(1) INTEREST.—

"(A) IN GENERAL.—The term 'interest' has the meaning given such term by section 6049(b)(1).

"(B) EXCEPTIONS.—The term 'interest' does not include—

"(i) interest on any obligations described in section 103(a) (relating to interest on certain governmental obligations) regardless of the date of issue,

"(ii) any amount described in section 6049(b)(1)(G),

"(iii) any amount paid on a depository institution tax-exempt certificate (as defined in section 128(c)(1) (as in effect for tax years beginning prior to December 31, 1984)), or

"(iv) any amount which is subject to withholding under subchapter A of chapter 3 by the person paying such amount,

"(v) any amount which would be subject to withholding under subchapter A of chapter 3 by the person paying such amount but for the fact that—

"(I) such amount is attributable to income from sources outside the United States, or

"(II) the payor thereof is excepted from the application of section 1441(a) by reason of section 1441(c) or a tax treaty, or

"(vi) any amount paid by a foreign corporation or partnership not engaged in trade or business within the United States and composed in whole or in part of nonresident aliens.

"(2) DIVIDEND.—

"(A) IN GENERAL.—The term 'dividend' has the meaning given such term by section 6042(b)(1).

"(B) SUBCHAPTER S DISTRIBUTIONS.— The term 'dividend' includes any distribution described in section 1375(f) (relating to distributions after the close of the taxable year by electing small business corporations).

"(C) EXCEPTIONS.—For purposes of this subchapter, the term 'dividend' does not include—

"(i) any amount paid as a distribution of stock described in section 305(e)(2)(A) (relating to reinvestment of dividends in stock of public utilities),

"(ii) any amount which is treated as a taxable dividend by reason of the provisions of section 302 (relating to redemptions of stock), 306 (relating to dispositions of certain stock), 356 (relating to receipt of additional consideration in connection with certain reorganizations), or 1081(e)(2) (relating to certain distributions pursuant to order of the Securities and Exchange Commission),

"(iii) any amount described in clause (iv), (v), or (vi) of paragraph (1)(B),

"(iv) any amount which is a capital gain dividend distributed by—

"(I) a regulated investment company (as defined in section 852(b)(3)(C)), or

"(II) a real estate investment trust (as defined in section 857(b)(3)(C)),

"(v) any amount which is an exempt-interest dividend of a regulated investment company (as defined in section 852(b)(5)(A)),

"(vi) any amount paid or treated as paid by a regulated investment company during a year if, under regulations prescribed by the Secretary, it is anticipated that at least 95 percent of the dividends paid or treated as paid during such year (not including capital gain distributions) are exempt-interest dividends, or

"(vii) any amount described in section 1373 (relating to undistributed taxable income of electing small business corporations).

"(3) PATRONAGE DIVIDENDS.—

"(A) IN GENERAL.—The term 'patronage dividend' means—

"(i) the amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notices of allocation (as defined in section 1388(c)), or other property (except nonqualified written notices of allocation as defined in section 1388(d)),

"(ii) any amount, described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions), which is paid in money, qualified written notices of allocation, or other property (except nonqualified written notices of allocation) by an organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax), and

"(iii) any amount paid in money or other property (except written notices of allocation) in redemption of nonqualified written notices of allocation attributable to any source described in clause (i) or (ii).

"(B) EXCEPTIONS.—For purposes of this subchapter, the term 'patronage dividend' does not include any amount described in clause (iv), (v), or (vi) of paragraph (1)(B).

"(C) SPECIAL RULES.—In determining the amount of any patronage dividend—

"(i) property (other than a written notice of allocation) shall be taken into account at its fair market value, and

"(ii) a qualified written notice of allocation shall be taken into account at its stated dollar amount.

"(4) WITHHOLDING AGENT.—The term 'withholding agent' means, with respect to any payment of interest, dividends, or patronage dividends—

"(A) the payor of such payment,

"(B) the corporate trustee of a trust which is the payee, or

"(C) a custodian for, or nominee of, the payee (other than a custodian or nominee who is not described in section 3452(c)(2)(J)).

"(5) PERSON.—The term 'person' has the meaning given such term by section 6049(d)(1).

"(6) STATE.—The term 'State' includes a State, the District of Columbia, a possession of the United States, any political subdivision of any of the foregoing, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"(7) FOREIGN GOVERNMENT.—The term 'foreign government' includes a foreign government, a political subdivision of a foreign government, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"(8) UNITED STATES.—The term 'United States' includes the United States and any wholly owned agency or instrumentality thereof.

"(9) INTERNATIONAL ORGANIZATION.—The term 'international organization' includes an international organization and any wholly owned agency or instrumentality thereof.

"(10) NONRESIDENT ALIEN.—The term 'nonresident alien individual' includes an alien resident of Puerto Rico.

"SEC. 3454. ADMINISTRATIVE PROVISIONS.

"(a) RETURN AND PAYMENT BY GOVERNMENTAL UNITS.—If the withholding agent is a governmental unit, or an agency or instrumentality thereof, the return of the tax deducted and withheld under this subchapter shall be made by the officer or employee of such governmental unit having control of the payment of the amount subject to withholding or by any officer or employee appropriately designated to make such withholding.

"(b) ANNUAL WITHHOLDING BY FINANCIAL INSTITUTIONS.—Under regulations prescribed by the Secretary, a financial institution described in subparagraph (B) or (C) of section 6049(b)(1) may elect to defer deduction and withholding of the tax imposed by section 3451 during any calendar year on interest paid on savings accounts, interest-bearing checking accounts, and similar accounts until a date that is not later than the last day of such year.

"(c) TAX PAID BY RECIPIENT.—If a withholding agent, in violation of the provisions of this subchapter, fails to deduct and withhold the tax imposed under section 3451, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the withholding agent; but this subsection shall in no case relieve the withholding agent from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.".

SEC. 302. REGULATIONS.

The Secretary of the Treasury shall prescribe regulations providing—

(1) TAX-EXEMPT DIVIDENDS.—The extent to which section 3451(a) of the Internal Revenue Code of 1954 shall not apply to a distribution, if the portion of the distribution which is not a dividend may reasonably be estimated.

(2) ANNUAL WITHHOLDING BY FINANCIAL INSTITUTIONS.—The manner in which an election shall be made under section 3454(b) of such Code, and making such an election conditional on agreement by the person making the election that—

(A) the balance of any account subject to such election shall not at any time be less than an amount equal to the tax under section 3451 of such Code which would have been deducted and withheld as of such time if such election were not in effect, and

(B) if an account subject to such election is closed prior to the date on which the tax under section 3451 of such Code would be deducted and withheld as a result of such an election, the tax shall be deducted and withheld prior to the time of closing such account.

(3) WITHHOLDING FROM ALTERNATIVE SOURCE.—The circumstances under which the tax under section 3451 of such Code may be paid from an account or source other than the payment which gives rise to the liability for tax.

(4) DOUBLE WITHHOLDING.—An exemption to any withholding agent from the requirement of deducting and withholding under section 3451(a) the tax imposed by section 3451 on any payment of interest, dividends, or patronage dividends if—

(A) such tax has been withheld by any other person, and

(B) such withholding agent provides the Secretary with such information as the Secretary may require concerning such payment.

(5) DELAY IN MAKING DEPOSITS.—The time for making deposits under section 6302 of such Code of the tax imposed by section 3451 of such Code which is deducted and withheld by any withholding agent to take into account the costs to such withholding agent of instituting a withholding system in order to comply with subchapter (B) of chapter 24 of such Code.

SEC. 303. RETURNS REGARDING PAYMENTS OF DIVIDENDS AND PAYMENTS OF INTEREST.

(a) DIVIDENDS.—

(1) IN GENERAL.—Paragraph (1) of subsection 6042(a) (relating to returns regarding payments of dividends) is amended—

(A) by striking out "or" at the end of subparagraph (A),

(B) by inserting "or," at the end of subparagraph (B),

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) who deducts and withholds tax under section 3451 on any payment of dividends.",

(D) by striking out the period at the end thereof, and

(E) by inserting the following at the end thereof ", and, in the case of a payment upon which tax is deducted and withheld, the amount of tax withheld.".

(2) STATEMENTS.—Section 6042(c) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(A) by striking out "and" at the end of paragraph (1),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and",

(C) by inserting after paragraph (2) the following paragraph:

"(3) the amount of tax deducted and withheld under section 3451.", and

(D) by inserting "subparagraph (A) or (B), as the case may be, of" after "made under" in the last sentence thereof.

(3) DUPLICATES.—Section 6042 is amended by adding at the end thereof the following new subsection:

"(e) FILING OF INFORMATION RETURNS.—A duplicate of any statement made pursuant to subsection (c) and in accordance with regulations prescribed by the Secretary that is required to set forth information regarding tax deducted and withheld under section 3451 shall, when required by such regulations, be filed with the Secretary.".

(b) INTEREST.—Section 6049 (relating to returns regarding payments of interest) is amended by adding at the end thereof the following new subsection:

"(e) FILING OF INFORMATION RETURNS.—A duplicate of any statement made pursuant to subsection (e) hereof and in accordance with regulations prescribed by the Secretary that is required to set forth information regarding tax deducted and withheld under section 3451 shall, when required by such regulations, be filed with the Secretary.".

SEC. 304. RETURNS REGARDING PAYMENTS OF PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Paragraph (1) of subsection 6044(a) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this section, every cooperative to which part I of subchapter T of chapter 1 applies which—

"(A) makes payments described in subsection (b) aggregating $10 or more to any person during any calendar year, or

"(B) deducts and withholds any tax under section 3451,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments, the name and address of the person to whom paid and the amount of tax deducted and withheld.".

(b) AMOUNTS SUBJECT TO REPORTING.—Paragraph (1) of subsection 6044(b) (relating to amounts subject to reporting) is amended by striking out "under subsection (a)", and by inserting "under subsection (a)(1)(A)".

(c) STATEMENTS.—Subsection 6044(e) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(1) by striking out "and" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2), and inserting ", and" in lieu thereof,

(3) by inserting after paragraph (3) the following paragraph:

"(4) the amount of tax withheld under section 3451.", and

(4) by striking out "subsection (a)(1)" in the last sentence thereof and inserting in lieu thereof "subsection (a)(1)(A)".

(d) DUPLICATES.—Section 6044 is amended by adding at the end thereof the following new subsection:

"(f) FILING OF INFORMATION RETURNS.—A duplicate of any statement made pursuant to subsection (e) hereof and in accordance with regulations prescribed by the Secretary that is required to set forth information regarding tax deducted and withheld under section 3451 shall, when required by such regulations, be filed with the Secretary.".

SEC. 305. CREDITS AGAINST TAX.

(a) IN GENERAL.—Section 31 (relating to tax withheld on wages) is amended by adding at the end thereof the following new subsection:

"(c) WITHHOLDING FROM INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—

"(1) IN GENERAL.—The amount of tax deducted and withheld under section 3451 as tax on interest, dividends, and patronage dividends shall be allowed to the recipient

thereof as a credit against the tax imposed by this subtitle.

"(2) YEAR OF CREDIT.—The amount so deducted and withheld during any calendar year shall be allowed as a credit for the taxable year beginning in such calendar year. If more than one taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

"(3) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF SUBCHAPTER S CORPORATIONS.—The amount so deducted and withheld with respect to a distribution by an electing small business corporation (within the meaning of section 1371(B)) which is treated as a distribution of such corporation's undistributed taxable income for the preceding year under section 1375(f)(1) shall be allowed as a credit for the taxable year of the recipient beginning in the calendar year in which the preceding year of the corporation ends.".

(b) ESTATES AND TRUSTS.—Section 642(a) (relating to special rules for credits and deductions in the case of estates and trusts) is amended by adding at the end thereof the following new paragraph:

"(3) TAX WITHHELD AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—In any case where tax under subchapter B of chapter 24 is deducted and withheld on any amounts received by an estate or trust, for purposes of any credit or refund provided in section 31(c), such tax shall, in accordance with regulations prescribed by the Secretary, be considered as having been deducted and withheld from each beneficiary in an amount which, when added to the amounts paid, credited, or required to be distributed to him, equals the amounts which would have been paid, credited, or required to be distributed to him in the absence of subchapter B of chapter 24. Any tax under subchapter B of chapter 24 which is deducted and withheld on amounts received by the estate or trust shall be considered as withheld from such estate or trust to the extent it is not considered as withheld from a beneficiary under the provisions of the preceding sentence.".

SEC. 306. DENIAL OF DEDUCTION FOR CERTAIN TAXES.

(a) NO DEDUCTION FOR TAX WITHHELD AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—Paragraph (1) of section 275(a) (relating to denial of deduction for certain taxes) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(3) by inserting after subparagraph (C) the following subparagraph:

"(D) the tax withheld at source on interest, dividends, and patronage dividends under section 3451.".

(b) NO DEDUCTION OF TAXES WITHHELD ON INTEREST AND DIVIDENDS IN DETERMINING TAXABLE INCOME.—Subsection (b) of section 3502 (relating to the nondeductibility of taxes in computing taxable income) is amended—

(1) by striking out "under chapter 24" and inserting in lieu thereof "under subchapter A of chapter 24", and

(2) by adding at the end thereof the following new subsection:

"(c) The tax deducted and withheld under subchapter B of chapter 24 shall not be allowed as a deduction in computing taxable income under subtitle A either to the person deducting and withholding the tax or to the recipient of the amounts subject to withholding upon such payment.".

SEC. 307. PENALTIES.

(a) CIVIL PENALTY.—Paragraph (1) of section 6682(a) (relating to false information with respect to withholding) is amended by inserting "or section 3452(f)(1)(A)" after "section 3402".

(b) CRIMINAL PENALTY.—Section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information) is amended—

(1) by striking out "Any individual" and inserting in lieu thereof "(a) WITHHOLDING ON WAGES.—Any individual", and

(2) by adding at the end thereof the following new subsection:

"(b) WITHHOLDING OF INTEREST AND DIVIDENDS.—Any person who—

"(1) willfully files an exemption certificate with any withholding agent under section 3452(f)(1)(A), on which the certification is known by him to be fraudulent or to be false as to any material matter, or—

"(2) is required to revoke an exemption certificate under subsection (f)(1)(B) of section 3452 and willfully fails to revoke such certificate in the manner and at the time required pursuant to subsection (b)(1)(B), or the regulations prescribed thereunder,

shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than $500, or imprisoned not more than 1 year, or both.".

SEC. 308. CONFORMING AND CLERICAL AMENDMENTS.

(a) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 274(e) (relating to disallowance of certain entertainment, etc., expenses) is amended by inserting "subchapter A of" before "chapter 24".

(2) Paragraph (4) of section 3507(d) (relating to advance payment of earned income credit) is amended by inserting "subchapter A of" before "chapter 24".

(3) Subparagraph (B) of section 6013(g)(1) (relating to joint returns of income tax by husband and wife) is amended by striking out "(relating to wage withholding)" and by inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages".

(4) Subsection (h) of section 6013 is amended by striking out "(relating to wage withholding)" and inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages".

(5) Subsection (j) of section 6015 (relating to declaration of estimated income tax by individuals) is amended by inserting "interest, dividends, patronage dividends, or" before "wages, as defined".

(6) Subparagraph (A) of section 6051(f)(1) (relating to receipts for employees) is amended by inserting "subchapter A of" before "chapter 24".

(7) Subsection (c) of section 6072 (relating to time for filing income tax returns) is amended by inserting ", interest, dividends, or patronage dividends" before "are subject to withholding under chapter 24".

(8) Paragraph (2) of section 6365(c)(2) (relating to definitions and special rules) is amended by inserting ", interest, dividends, and patronage dividends" before "paid on or after such date".

(9) Subsection (b) of section 6401 (relating to amounts treated as overpayments) is amended by inserting ", interest, dividends, and patronage dividends" after "tax withheld on wages".

(10) Subsection (a)(1) of section 6413 (relating to special credit and refund rules applicable to certain employment taxes) is amended by striking out "or 3402 is paid with respect to any payment of remuneration," and inserting in lieu thereof "3402 or 3451 is paid with respect to any payment of remuneration, interest, dividends, or other amounts,".

(11) Subsection 6413(b) of such section is amended—

(A) by striking from the heading of such subsection the words "OF CERTAIN EMPLOYMENT TAXES", and

(B) by striking out "or 3402 is paid or deducted with respect to any payment of remuneration" and inserting in lieu thereof "3402 or 3451 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amount".

(12) The heading for such section is amended to read as follows:

"SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN TAXES UNDER SUBTITLE C.".

(13) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6413 and inserting in lieu thereof the following:

"Sec. 6413. Special rules applicable to certain taxes under subtitle C.".

(14) Subsections (e)(1) and (g)(3) of section 6654 (relating to failure by individuals to pay estimated income tax) are amended by inserting ", interest, dividends, and patronage dividends" after "tax withheld at source on wages".

(15) The last sentence of section 7215(b) (relating to offenses with respect to collected taxes) is amended to read as follows: "For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages or amounts subject to withholding under subchapter B of chapter 24 (whether or not created by the payment of such wages or amounts) shall not be considered to be circumstances beyond the control of a person.".

(16) Subsection (d) of section 7654 (relating to coordination of United States and Guam individual income taxes) is amended by inserting "subchapter A of" before "chapter 24".

(17) Section 7701(a)(16) (defining the term "withholding agent") is amended by striking out "or 1461" and inserting in lieu thereof "1461 or 3451".

(b) CLERICAL AMENDMENTS.—

(1) The heading of subtitle C is amended to read as follows:

"SUBTITLE C—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE".

(2) The table of subtitles for the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle C and inserting in lieu thereof the following:

"SUBTITLE C. Employment taxes and collection of income tax at source.".

(3) Section 31 (relating to tax withheld on wages) is amended by striking out the heading and inserting the following in lieu thereof:

"SEC. 31. TAX WITHHELD ON WAGES, INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.".

(4) The table of sections of subpart A of part IV of subchapter A of chapter 1 is amended by revising the item relating to section 31 to read as follows:

"Sec. 31. Tax withheld on wages, interest, dividends, and patronage dividends.".

(5) Chapter 24 is amended by striking out the heading and inserting in lieu thereof the following:

"CHAPTER 24—COLLECTION OF INCOME TAX AT SOURCE

"SUBCHAPTER A. Withholding from wages.

"SUBCHAPTER B. Withholding from interest and dividends.

"SUBCHAPTER A—WITHHOLDING FROM WAGES".

(6) The table of chapters of subtitle C is amended by striking out the item relating to chapters 24 and 25 and inserting in lieu thereof:

"CHAPTER 24. Collection of income tax at source on wages, interest, dividends, and patronage dividends.

"CHAPTER 25. General provisions relating to employment taxes and collection of income taxes at source.".

(7) The heading for chapter 25 is amended to read as follows:

"CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES AND COLLECTION OF INCOME TAXES AT SOURCE".

SEC. 309. EFFECTIVE DATES; SPECIAL RULES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to payments of interest, dividends, and patronage dividends made after December 31, 1982.

(b) DELAY IN APPLICATION TO SMALL FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall prescribe regulations which delay the application of some or all of the provisions of subchapter B of chapter 24 of such Code to institutions described in subparagraph (B) or (C) of section 6049(b)(1) of such Code which are small financial institutions until such time as such institutions are able to comply with the requirements of such provisions.

(2) ELECTION.—Under regulations prescribed by the Secretary of the Treasury, any small financial institution may elect to have all of the provisions of subchapter B of chapter 24 of such Code apply to such institution. Any election under this paragraph shall be irrevocable.

(c) TEMPORARY RULE FOR ADMINISTERING CORPORATION EXEMPTION.—Until such time as any regulation is prescribed by the Secretary of the Treasury under subchapter B of chapter 24 of such Code, any person whose name includes the term "corporation", "incorporated", or any other term commonly used to indicate corporate organization shall be treated as a corporation for purposes of such subchapter.

PART II—HOLDING PERIOD FOR CAPITAL ASSETS

SEC. 310. DECREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN OR LOSS TREATMENT.

(a) IN GENERAL.—Paragraphs (1), (2), (3), and (4) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) CONFORMING AMENDMENTS.—The following provisions are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 422A(a) (relating to incentive stock options).

(6) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(7) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).

(8) Paragraph (2) of section 582(c) (relating to capital gains of banks).

(9) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(10) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(11) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(12) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(13) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).

(14) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(15) Subparagraph (B) of paragraph (3), and paragraph (7), of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(16) Paragraph (11) of section 1223 (relating to holding period of property).

(17) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(18) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(19) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

(20) Paragraph (1) of section 1234(b) (relating to special rule for gain or lapse of an option granted as part of a straddle).

(21) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(22) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(23) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(24) Subsection (b), and subparagraph (C) of subsection (g)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(25) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

(c) ADDITIONAL CONFORMING AMENDMENT.—Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "1 year" in subsection (a) and inserting in lieu thereof "6 months before the beginning of such year", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after June 30, 1982.

SUBTITLE B—IMPROVED INFORMATION REPORTING

PART I—EXPANDED REPORTING

SEC. 311. REPORTING OF INTEREST.

(a) GENERAL RULE.—Section 6049 (relating to returns regarding payments of interest) is amended to read as follows:

"SEC. 6049. RETURNS REGARDING PAYMENTS OF INTEREST.

"(a) REQUIREMENT OF REPORTING.—Every person—

"(1) who makes payments of interest (as defined in subsection (b)) aggregating $10 or more to any other person during any calendar year,

"(2) who receives payments of interest (as so defined) as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the interest so received, or

"(3) who is required under subchapter B of chapter 24 to deduct and withhold tax on the payment of any interest,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and tax deducted and withheld and the name and address of the person to whom paid or from whom withheld.

"(b) INTEREST DEFINED.—

"(1) GENERAL RULE.—For purposes of subsection (a), the term 'interest' means—

"(A) interest on any obligation—

"(i) issued in registered form, or

"(ii) of a type offered to the public,

other than any obligation with a maturity (at issue) of not more than 1 year which is held by a corporation,

"(B) interest on deposits with persons carrying on the banking business,

"(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

"(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

"(E) interest on deposits with brokers (as defined in section 6045 (c)),

"(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts,

"(G) to the extent provided in regulations prescribed by the Secretary, any other interest (which is not described in paragraph (2)).

"(2) EXCEPTIONS.—For purposes of subsection (a), the term 'interest' does not include—

"(A) interest on any obligation issued by a natural person,

"(B) interest on obligations described in section 103(a) (relating to interest on certain governmental obligations) which are issued before January 1, 1983,

"(C) except as otherwise provided in regulations, any amount paid—

"(i) to a State or local government (or agency or instrumentality thereof),

"(ii) to any organization exempt from tax under subtitle A,

"(iii) to a corporation, or

"(iv) to a nonresident alien,

"(D) to the extent provided in regulations prescribed by the Secretary, any amount paid by or to a foreign governmental unit or any agency or instrumentality thereof, an

international organization, a foreign central bank of issue, a foreign corporation, or a partnership not engaged in trade or business in the United States and composed in whole of nonresident aliens, and

"(E) any amount on which the person making payment is required to deduct and withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions).

"(3) PAYMENTS BY UNITED STATES NOMINEES OF UNITED STATES PERSON.—If a United States person—

"(A) collects interest (or otherwise acts as a middleman between the payor and payee) from a foreign person described in paragraph (2)(D) for a second person who is a United States person, or

"(B) makes payments of such interest to such second United States person,

the Secretary may not, under the regulations prescribed under paragraph (2)(D), exclude such payment from the requirements of subsection (a) with respect to such second United States person.

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—

"(1) IN GENERAL.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(A) the name and address of the person making such return,

"(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person as shown on such return, and

"(C) the aggregate amount of tax deducted and withheld with respect to such person under subchapter B of chapter 24.

"(2) STATEMENT MUST BE FURNISHED ON OR BEFORE JANUARY 31.—The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(3) NO STATEMENT REQUIRED WHERE INTEREST IS LESS THAN $10.—No statement with respect to payments of interest to any person shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person shown on the return made with respect to paragraph (1) or (2), as the case may be, of subsection (a) is less than $10.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PERSON.—The term 'person' includes any governmental unit and any agency or instrumentality thereof and any international organization.

"(2) OBLIGATION.—The term 'obligation' includes bonds, debentures, notes, certificates, and other evidences of indebtedness.

"(3) PAYMENTS BY GOVERNMENTAL UNITS.—In the case of payments made by any governmental unit or any agency or instrumentality thereof, the officer or employee having control of the payment of interest (or the person appropriately designated for purposes of this section) shall make the returns and statements required by this section.

"(4) FINANCIAL INSTITUTIONS, BROKERS, ETC., COLLECTING INTEREST MAY BE SUBSTITUTED FOR PAYOR.—To the extent and in the manner provided by regulations, in the case of any obligation—

"(A) a financial institution, broker, or other person specified in such regulations which collects interest on such obligation for the payee (or otherwise acts as a middleman between the payor and the payee) shall comply with the requirements of subsections (a) and (c), and

"(B) no other person shall be required to comply with the requirements of subsections (a) and (c) with respect to any interest on such obligation for which reporting is required pursuant to subparagraph (A).

"(5) INTEREST ON CERTAIN OBLIGATIONS MAY BE TREATED ON A TRANSACTIONAL BASIS.—

"(A) IN GENERAL.—To the extent and in the manner provided in regulations, this section shall apply with respect to any person described in paragraph (4)(A), or to any Federal agency in the case of savings obligations, on a transactional basis rather than on an annual aggregation basis.

"(B) SEPARATE RETURNS AND STATEMENTS.—If subparagraph (A) applies to interest on any obligation, the return under subsection (a) and the statement furnished under subsection (c) with respect to such transaction may be made separately, but any such statement shall be furnished to the payee at such time as the Secretary may prescribe by regulations but not later than January 31 of the next calendar year.

"(C) STATEMENT TO PAYEE REQUIRED IN CASE OF TRANSACTIONS INVOLVING $10 OR MORE.—In the case of any transaction to which this paragraph applies which involves the payment of $10 or more of interest, a statement of the transaction may be provided to the payee of such interest in lieu of the statement required under subsection (c). Such statement shall be provided during January of the year following the year in which such payment is made.

"(6) TREATMENT OF ORIGINAL ISSUE DISCOUNT.—

"(A) IN GENERAL.—Original issue discount on any obligation shall be reported—

"(i) as if paid at the time it is includible in gross income under section 1232A (except that for such purpose the amount reportable with respect to any subsequent holder shall be determined as if he were the original holder), and

"(ii) if section 1232A does not apply to the obligation, at maturity (or, if earlier, on redemption).

In the case of any obligation not in registered form issued before January 1, 1983, clause (ii) and not clause (i) shall apply.

"(B) ORIGINAL ISSUE DISCOUNT.—For purposes of this paragraph, the term 'original issue discount' has the meaning given to such term by section 1232(b)(1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid after December 31, 1982.

SEC. 312. OBLIGATIONS REQUIRED TO BE REGISTERED.

(a) UNITED STATES OBLIGATIONS.—The Second Liberty Bond Act is amended by adding at the end thereof the following new section:

"SEC. 28. (a) Every registration-required obligation of the United States (or of any agency or instrumentality thereof) shall be in registered form.

"(b) For purposes of this section—

"(1) Except as provided in paragraph (2), the term 'registration-required obligation' means any obligation other than an obligation which—

"(A) is not of a type offered to the public, or

"(B) has a maturity (at issue) of not more than 1 year.

"(2) The term 'registration-required obligation' shall not include any obligation if—

"(A) interest on such obligation is payable only outside the United States,

"(B) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

"(C) under the terms of the obligation, no principal or interest may be paid to any United States person.

"(c)(1) For purposes of subsection (a), a book entry obligation shall be treated as in registered form if the right to principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary of the Treasury.

"(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purpose of subsection (a) where there is a nominee or chain of nominees.".

(b) OTHER OBLIGATIONS.—

(1) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any registration-required obligation unless the obligation is in registered form.

"(2) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' means any obligation other than an obligation which—

"(A) is not of a type offered to the public,

"(B) has a maturity (at issue) of not more than 1 year, or

"(C) is described in section 163(e)(2)(B).

"(3) SPECIAL RULES.—

"(A) BOOK ENTRIES PERMITTED.—For purposes of paragraph (1), a book entry obligation shall be treated as in registered form if the right to the principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary.

"(B) NOMINEES.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of paragraph (1) where there is a nominee or chain of nominees.".

(2) DENIAL OF DEDUCTION FOR INTEREST IF OBLIGATION NOT IN REGISTERED FORM.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) DENIAL OF DEDUCTION FOR INTEREST ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for interest on any registration-required obligation unless such obligation is in registered form.

"(2) REGISTRATION-REQUIRED OBLIGATION.—For purposes of this section—

"(A) IN GENERAL.—The term 'registration-required obligation' means any obligation (including any obligation issued by a governmental entity) other than an obligation which—

"(i) is issued by a natural person,

"(ii) is not of a type offered to the public,

"(iii) has a maturity (at issue) of not more than 1 year, or

"(iv) is described in subparagraph (B).

"(B) CERTAIN OBLIGATIONS NOT INCLUDED.—An obligation is described in this subparagraph if—

"(i) interest on such obligation is payable only outside the United States,

"(ii) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

"(iii) under the terms of the obligation, no principal or interest may be paid to any United States person.

"(C) AUTHORITY TO INCLUDE OTHER OBLIGATIONS.—Clauses (ii) and (iii) of subparagraph (A) shall not apply to any type of obligations which the Secretary has determined by regulations to be used frequently in evading Federal taxes.

"(3) BOOK ENTRIES PERMITTED, ETC.—For purposes of this subsection, rules similar to the rules of section 103(j)(3) shall apply.".

(3) DENIAL OF EARNINGS AND PROFITS ADJUSTMENT FOR INTEREST ON REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—Section 312 (relating to earnings and profits) is amended by adding at the end thereof the following new subsection:

"(m) NO ADJUSTMENT FOR INTEREST PAID ON CERTAIN REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—The earnings and profits of any corporation shall not be decreased by any interest with respect to which a deduction is not allowable by reason of section 163(e).".

(4) EXCISE TAX ON ISSUERS OF REGISTRATION-REQUIRED OBLIGATIONS WHICH ARE NOT IN REGISTERED FORM.—

(A) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding after chapter 38 the following new chapter:

"CHAPTER 39—REGISTRATION-REQUIRED OBLIGATIONS

"Sec. 4701. Tax on issuer of registration-required obligation not in registered form.

"SEC. 4701. TAX ON ISSUER OF REGISTRATION-REQUIRED OBLIGATION NOT IN REGISTERED FORM.

"(a) IMPOSITION OF TAX.—In the case of any person who issues a registration-required obligation which is not in registered form, there is hereby imposed on such person on the issuance of such obligation a tax in an amount equal to the product of—

"(1) 1 percent of the principal amount of such obligation, multiplied by

"(2) the number of calendar years (or portions thereof) during the period beginning on the date of issuance of such obligation and ending on the date of maturity.

"(b) DEFINITIONS.—For purposes of this section—

"(1) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the same meaning as when used in section 163(c), except that such term shall not include any obligation required to be registered under section 103(j).

"(2) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(e).".

(B) CONFORMING AMENDMENT.—The table of chapters for subtitle D is amended by inserting after chapter 38 the following:

"CHAPTER 39. Registration-required obligations.".

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 103(b)(4) (relating to certain exempt activities) is amended by striking out "if each obligation issued pursuant to the issue is in registered form and".

(2)(A) Paragraph (1) of section 103(h) (relating to certain obligations must be in registered form and not guaranteed or subsidized under an energy program) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(B) The subsection heading for subsection (h) of section 103 is amended by striking out "MUST BE IN REGISTERED FORM AND NOT" and inserting in lieu thereof "MUST NOT BE".

(3)(A) Subsection (j) of section 103A (relating to other requirements) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Subparagraph (B) of section 103A(c)(2) (defining qualified mortgage issue) is amended by striking out "and (f) and paragraphs (2) and (3) of subsection (j)" and inserting in lieu thereof "(f), and (j)".

(C) Subparagraph (C) of section 103A(c)(2) is amended by striking out ", and paragraph (1) of subsection (j)".

(D) Subparagraph (C) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "subsection (j)(2)" and inserting in lieu thereof "subsection (j)(1)".

(4) Subparagraph (A) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "in registered form".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1982.

SEC. 313. RETURNS OF BROKERS.

(a) GENERAL RULE.—

(1) RETURNS.—Section 6045 (relating to returns of brokers) is amended to read as follows:

"SEC. 6045. RETURNS OF BROKERS.

"(a) GENERAL RULE.—Every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

"(b) STATEMENTS TO BE FURNISHED TO CUSTOMERS.—Every person making a return under subsection (a) shall furnish to each customer whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the information shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(c) DEFINITIONS.—For purposes of this section—

"(1) BROKER.—The term 'broker' includes—

"(A) a dealer,

"(B) a barter exchange, and

"(C) any other person who (for a consideration) regularly acts as a middleman with respect to property or services.

"(2) CUSTOMER.—The term 'customer' means any person for whom the broker has transacted any business.

"(3) BARTER EXCHANGE.—The term 'barter exchange' means any organization of members providing property or services who jointly contract to trade or barter such property or services.".

(2) PENALTY.—Paragraph (1) of section 6678 (relating to penalty for failure to furnish certain statements) is amended—

(A) by inserting "6045(b)," after "6044(e),", and

(B) by inserting "6045(a)," after "6044(a)(1),".

(b) BARTER EXCHANGE TREATED AS THIRD-PARTY RECORDKEEPER.—Paragraph (3) of section 7609(a) (defining third-party recordkeeper) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(G) any barter exchange (as defined in section 6045(c)(3)).".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, except that—

(A) regulations relating to reporting by commodities and securities brokers shall be issued under section 6045 of the Internal Revenue Code of 1954 (as amended by this Act) within 6 months after the date of the enactment of this Act, and

(B) such regulations shall not apply to transactions occurring before January 1, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to summonses served after December 31, 1982.

SEC. 314. INFORMATION REPORTING REQUIREMENTS FOR PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.

(a) GENERAL RULE.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6041 the following new section:

"SEC. 6041A. RETURNS REGARDING PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.

"(a) RETURNS REGARDING REMUNERATION FOR SERVICES.—If—

"(1) any service-recipient engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any person for services performed by such person, and

"(2) the aggregate of such remuneration paid to such person during such calendar year is $600 or more,

then the service-recipient shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the recipient of such payments. For purposes of the preceding sentence, the term 'service-recipient' means the person for whom the service is performed.

"(b) DIRECT SALES OF $5,000 OR MORE.—

"(1) IN GENERAL.—If—

"(A) any person engaged in a trade or business in the course of such trade or business during any calendar year sells consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, and

"(B) the aggregate amount of the sales to such buyer during such calendar year is $5,000 or more,

then such person shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the ag-

gregate amount of such sales and the name and address of the buyer to whom such sales are made.

"(2) ELECTION NOT TO HAVE SUBSECTION APPLY.—

"(A) IN GENERAL.—Any person may elect, in such form and manner and at such time as the Secretary may prescribe by regulations, not to have this subsection apply with respect to returns required to be filed for any calendar year.

"(B) EFFECT OF ELECTION.—If any person makes an election under subparagraph (A) for any calendar year—

"(i) subsection (a) shall be applied with respect to such person for such calendar year by substituting '$250' for '$600', and

"(ii) the requirements of subsection (g) shall apply with respect to such person.

"(3) DEFINITIONS.—For purposes of paragraph (1)—

"(A) BUY-SELL BASIS.—A transaction is on a buy-sell basis if the buyer performing the services is entitled to retain part or all of the difference between the price at which the buyer purchases the product and the price at which the buyer sells the product as part or all of the buyer's remuneration for the services, and

"(B) DEPOSIT-COMMISSION BASIS.—A transaction is on a deposit-commission basis if the buyer performing the services is entitled to retain part or all of a purchase deposit paid by the consumer in connection with the transaction as part or all of the buyer's remuneration for the services.

"(c) CERTAIN SERVICES NOT INCLUDED.—No return shall be required under subsection (a) or (b) if a statement with respect to the services is required to be furnished under section 6051, 6052, or 6053.

"(d) APPLICATIONS TO GOVERNMENTAL UNITS.—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of any payment by a governmental entity or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return under this section shall be made by the officer or employee having control of the payment or appropriately designated for the purpose of making such return.

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every person required to make a return under subsection (a) or (b) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments (or sales) to the person required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(f) RECIPIENT TO FURNISH NAME, ADDRESS, AND IDENTIFICATION NUMBER; INCLUSION ON RETURN.—

"(1) FURNISHING OF INFORMATION.—Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations.

"(2) INCLUSION ON RETURN.—The person to whom an identification number is furnished under paragraph (1) shall include such number on any return which such person is required to file under this section and to which such identification number relates.

"(g) RETURNS OF DIRECT SELLERS WHO ELECT NOT TO HAVE SUBSECTION (b) APPLY.—

"(1) RETURNS.—If any person elects not to have subsection (b) apply with respect to any calendar year, such person shall make a return, according to the forms or regulations prescribed by the Secretary, with respect to each buyer with respect to whom such person had aggregate sales described in subsection (b)(1) of $250 or more during the calendar year. Such return shall set forth the name and address of such buyer.

"(2) STATEMENTS TO BE FURNISHED TO PERSON WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every person making a return under paragraph (1) shall furnish, not later than January 31 of the year following the year for which such return is made, to each person whose name is set forth in the return a written statement showing the name and address of the person making such return.".

(b) PENALTIES.—

(1) IN GENERAL.—Subchapter A of chapter 68 (relating to additions to tax and additional amounts) is amended by redesignating section 6660 as section 6661 and by inserting after section 6659 the following new section:

"SEC. 6660. ADDITIONAL AMOUNTS WITH RESPECT TO RETURNS REQUIRED BY SECTION 6041A.

"(a) FAILURE TO FILE AND INCORRECT FILINGS.—In the case of each failure—

"(1) to make the return required by subsection (a) or (b) of section 6041A, or to furnish the statement required by section 6041A(e), with respect to any person on the date prescribed therefor (determined with regard to any extension of time for filing), or

"(2) to include on any return or statement described in paragraph (1) the entire amount required to be included,

there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) with respect to each such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, by the person failing to make such return, to furnish such statement, or to include such amount, the amount determined under subsection (b).

"(b) DETERMINATION OF AMOUNT.—

"(1) IN GENERAL.—The amount determined under this paragraph shall be equal to the product of—

"(A) 1 percent for each month (or portion thereof) during which the failure continues (but not in excess of 5 percent), multiplied by

"(B) the amount required to be included in the return or statement involved in such failure which was not included in such return or statement.

"(2) SPECIAL RULES FOR INTENTIONAL OR RECKLESS DISREGARD OF THE LAW.—In the case of any failure described in subsection (a) (but which is not described in paragraph (3)) which is due to the intentional or reckless disregard of the law, paragraph (1)(A) shall be applied by substituting '2 percent' for '1 percent' and '10 percent' for '5 percent'.

"(3) SPECIAL RULES FOR DIRECT SELLERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a failure involving—

"(i) a return under section 6041A(b), or

"(ii) a statement under section 6041A(e) relating to such return,

which is not due to the intentional or reckless disregard of the law, paragraph (1)(A) shall be applied by substituting '1/5 of 1 percent' for '1 percent' and '1 percent' for '5 percent'.

"(B) INTENTIONAL OR RECKLESS DISREGARD OF LAW.—In the case of a failure described in subparagraph (A) which is due to intentional or reckless disregard of the law, paragraph (1)(A) shall be applied by substituting '⅖ of 1 percent' for '1 percent' and '2 percent' for '5 percent'.

"(4) MINIMUM PENALTY FOR FAILURE TO MAKE RETURN OR STATEMENT.—The amount of any penalty determined under this section with respect to any failure described in subsection (a)(1) shall not be less than $50.".

(2) STATEMENTS.—Section 6678(1) (relating to failure to furnish certain statements) is amended—

(A) by inserting "6041A(g)(2)," after "6041(d),", and

(B) by inserting "6041A(g)(1)," after "6041(a),".

(3) STATUTE OF LIMITATIONS.—Section 6501(c) (relating to exceptions on limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(8) FAILURE TO FILE OR FURNISH CERTAIN INFORMATION RETURNS.—Except as provided in paragraphs (1), (2), and (4), in the case of a failure to file or furnish a return or statement described in section 6041A, the tax under section 6660 may not be assessed, or a proceeding in court for the collection of such tax may not be begun without assessment, more than 6 years after the last date for filing such return or statement (determined with regard to any extension of time for filing).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to payments made after December 31, 1982.

(2) DIRECT SALES.—The provisions of section 6041A(b) of the Internal Revenue Code of 1954 (as added by section 3), and the amendments made by subsection (b)(2), shall apply to sales described in such section 6041A(b) made after December 31, 1983.

SEC. 315. STATE AND LOCAL INCOME TAX REFUNDS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050E. STATE AND LOCAL INCOME TAX REFUNDS.

"(a) REQUIREMENT OF REPORTING.—Every person who, with respect to any individual, during any calendar year makes payments of refunds of State or local income taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more shall make a return according to forms or regulations prescribed by the Secretary setting forth the aggregate amount of such payments, credits, or offsets, and the name and address of the individual with respect to whom such payment, credit, or offset was made.

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name of the State or political subdivision thereof, and

"(2) the aggregate amount shown on the return of refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was made.

"(c) PERSON DEFINED.—For purposes of this section, the term 'person' means the officer or employee having control of the payment of the refunds (or the allowance of the credits or offsets) or the person appropriately designated for purposes of this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050E. State and local income tax refunds.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of refunds, and credits and offsets made, after December 31, 1982.

SEC. 316. EMPLOYER REPORTING WITH RESPECT TO TIPS.

(a) IN GENERAL.—Section 6053 (relating to reporting of tips) is amended by adding at the end thereof the following new subsection:

"(c) REPORTING REQUIREMENTS RELATING TO CERTAIN LARGE FOOD OR BEVERAGE ESTABLISHMENTS.—

"(1) REPORT TO SECRETARY.—In the case of a large food or beverage establishment, each employer shall report to the Secretary, at such time and manner as the Secretary may prescribe by regulation, the following information with respect to each calendar year:

"(A) The gross receipts of such establishment from the provision of food and beverages (other than gross receipts from carryout sales).

"(B) The amount of charge receipts (other than from carryout sales).

"(C) The aggregate amount of charged tips shown on such charge receipts.

"(D) The employee allocations of 7 percent of the gross receipts described in subparagraph (A).

"(2) FURNISHING OF STATEMENT TO EMPLOYEES.—Each employer described in paragraph (1) shall furnish, in such manner as the Secretary may prescribe by regulations, to each employee of the large food or beverage establishment a written statement for each calendar year showing the following information:

"(A) The name and address of such employer.

"(B) The name of the employee.

"(C) The excess (if any) of—

"(i) the aggregate employee allocation of 7 percent of the gross receipts described in paragraph (1)(A) applicable to such employee, over

"(ii) the amount reported by the employee to the employer under subsection (a).

Any statement under this paragraph shall be furnished to the employee during January of the calendar year following the calendar year for which such statement is made.

"(3) EMPLOYEE ALLOCATION OF 7 PERCENT OF GROSS RECEIPTS.—For purposes of paragraphs (1)(D) and (2)(C)(i), 7 percent of the gross receipts of a large food or beverage establishment for each payroll period shall be allocated as tips for purposes of the requirements of this subsection to each employee performing services during such period who customarily receives tip income on the basis of—

"(A) an agreement between the employer and the employees, or

"(B) in the absence of an agreement under subparagraph (A), in the manner determined by such employer in good faith.

"(4) LARGE FOOD OR BEVERAGE ESTABLISHMENT.—For purposes of this subsection, the term 'large food or beverage establishment' means any trade or business (or portion thereof)—

"(A) which provides food or beverages,

"(B) with respect to which the tipping of employees serving food or beverages by customers is customary, and

"(C) which normally employed more than 10 employees on a typical business day during the preceding calendar year.

For purposes of subparagraph (C), rules similar to the rules of subsections (a) and (b) of section 52 shall apply under regulations prescribed by the Secretary.

"(5) APPLICATION TO NEW BUSINESSES.—The Secretary shall prescribe regulations for the application of this subsection to new businesses.".

(b) PENALTY FOR FAILURE TO FURNISH STATEMENT.—Subparagraph (D) of section 6678(3) is amended by striking out "section 5053(b)" and inserting in lieu thereof "subsection (b) or (c) of section 6053(c).".

(c) CONFORMING AMENDMENT.—The last sentence of section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended by inserting ", records necessary to comply with section 6053 (c)," after "charge receipts".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 1982.

PART II—PROVISIONS TO IMPROVE REPORTING GENERALLY

SEC. 321. INCREASED PENALTIES FOR FAILURE TO FILE INFORMATION RETURNS.

(a) IN GENERAL.—Subsection (a) of section 6652 (relating to failure to file certain information returns, etc.) is amended to read as follows:

"(a) RETURNS RELATING TO INFORMATION AT SOURCE, PAYMENTS OF DIVIDENDS, ETC., AND CERTAIN TRANSFERS OF STOCK.—

"(1) IN GENERAL.—In the case of each failure—

"(A) to file a statement of the amount of payments to another person required by—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends aggregating $10 or more),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends aggregating $10 or more),

"(iv) section 6049(a)(1) (relating to payments of interest aggregating $10 or more),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

"(vi) section 6051(d) (relating to information returns with respect to income tax withheld), or

"(B) to make a return required by—

"(i) section 6041A(g) (relating to returns of direct sellers),

"(ii) section 6045 (relating to returns of brokers),

"(iii) section 6052(a) (relating to reporting payment of wages in the form of group term life insurance), or

"(iv) section 6053(c)(1) (relating to reporting with respect to certain tips),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax), by the person failing to file a statement referred to in subparagraph (A) or failing to make a return referred to in subparagraph (B), $50 for each such failure, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $50,000.

"(2) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which paragraph (1) applies are due to intentional disregard of the filing requirement, then with respect to such failures—

"(A) the penalty imposed under paragraph (1) shall not be less than an amount equal to—

"(i) in the case of a return not described in clause (ii) and (iii), 10 percent of the aggregate amount of the items required to be reported,

"(ii) in the case of a return required to be filed by section 6045, 5 percent of the gross proceeds required to be reported, and

"(iii) in the case of a return required to be filed by section 6041(g), $100 for each such failure, and

"(B) the $50,000 limitation under paragraph (1) shall not apply.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns the due date for the filing of which (without regard to extensions) is after December 31, 1982.

SEC. 322. INCREASE IN CIVIL PENALTY ON FAILURE TO SUPPLY IDENTIFYING NUMBERS.

(a) IN GENERAL.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended to read as follows:

"(a) CIVIL PENALTIES.—

"(1) IN GENERAL.—If any person who is required by regulations prescribed under section 6109—

"(A) to include his taxpayer identification number in any return, statement, or other document,

"(B) to furnish his taxpayer identification number to another person, or

"(C) to include in any return, statement, or other document made with respect to another person the taxpayer identification number of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of $50 for each such failure, except that the total amount imposed on such person for all such failures during any calendar year shall not exceed $50,000.

"(2) PENALTY FOR INTENTIONAL DISREGARD.—If 1 or more failures to which paragraph (1)(C) applies are due to intentional disregard of the inclusion requirement, then paragraph (1) shall be applied with respect to such failures—

"(A) by substituting '$100' for '$50', and

"(B) without regard to the $50,000 limitation.

"(3) TAXPAYER IDENTIFICATION NUMBER DEFINED.—The term 'taxpayer identification number' means the identifying number assigned to a person under section 6109.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns the due date for the filing of which (without regard to extensions) is after December 31, 1982.

SEC. 323. EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.

(a) IN GENERAL.—Section 3402 (relating to withholding at source) is amended by adding at the end thereof the following new subsection:

"(s) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.—

"(1) IN GENERAL.—If, in the case of any backup withholding payment—

"(A) the payee fails to furnish his taxpayer identification number to the payor, or

"(B) the Secretary notifies the payor that the number furnished by the payee is incorrect,

then the payor shall deduct and withhold from such payment a tax equal to 15 percent of such payment.

"(2) PERIOD FOR WHICH WITHHOLDING IS IN EFFECT.—

"(A) FAILURE TO FURNISH NUMBER.—In the case of any failure described in subparagraph (A) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made during the period during which the taxpayer identification number has not been furnished.

"(B) NOTIFICATION OF INCORRECT NUMBER.—In any case where there is a notification described in subparagraph (B) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made—

"(i) after the close of the 7th day after the day on which the payor was so notified, and

"(ii) before the payee furnishes another taxpayer identification number.

"(C) 7-DAY GRACE PERIODS.—

"(i) AFTER CORRECTION.—Unless the payor otherwise elects, paragraph (1) shall also apply to any backup withholding payment made after the close of the period described in subparagraph (A) or (B) (as the case may be) and before the 8th day after the close of such period.

"(ii) AFTER NOTIFICATION.—If the payor so elects, paragraph (1) shall also apply to any backup withholding payment made during the 7-day period described in clause (i) of subparagraph (B).

"(3) BACKUP WITHHOLDING PAYMENTS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'backup withholding payment' means any payment of a kind required to be shown on a return required under—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6041A(a) (relating to returns regarding payments to nonemployees),

"(iii) section 6042(a) (relating to payments of dividends),

"(iv) section 6044 (relating to returns regarding patronage dividends) but only to the extent of payments of money,

"(v) section 6045 (relating to returns of brokers),

"(vi) section 6049(a) (relating to payments of interest), or

"(vii) section 6050A (relating to reporting requirements of certain fishing boat operators), but only to the extent of payments of the proceeds of the catch.

"(B) SPECIAL RULE.—For purposes of this subsection, the determination of whether any payment is of a kind required to be shown on a return described in subparagraph (A) shall be made without regard to any minimum amount which must be paid before a return is required.

"(4) PAYMENTS MUST AGGREGATE $600 BEFORE WITHHOLDING REQUIRED FROM PAYMENTS DESCRIBED IN SECTION 6041(a) OR 6041A.—In the case of any payment which is of a kind required to be shown on a return required under section 6041(a) or 6041A(a) and which is made during any calendar year, no amount shall be deducted and withheld with respect to such payment unless—

"(A) the aggregate amount of such payment and all previous such payments to the payee involved during such calendar year equals or exceeds $600,

"(B) the payor was required under section 6041(a) or 6041A(a) to file a return for the preceding calendar year with respect to payments to the payee involved, or

"(C) during the preceding calendar year the payor made backup withholding payments to the payee with respect to which amounts were required to be deducted and withheld under paragraph (1).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) OBVIOUSLY INCORRECT NUMBER.—A payee shall be treated as failing to furnish his taxpayer identification number if the number furnished—

"(i) is sequential or contains digits which are all the same number, or

"(ii) does not contain the proper number of digits.

"(B) PAYEE FURNISHES 2 INCORRECT NUMBERS.—If the payee furnishes a payor 2 incorrect numbers, the payor shall, after receiving notice of the second incorrect number, treat the payee as not having furnished another taxpayer identification number under paragraph (2)(B)(ii) until the day on which the payor receives notification from the Secretary that a correct taxpayer identification number has been furnished.

"(C) EXCEPTION FOR PAYMENTS TO CERTAIN PAYEES.—Paragraph (1) shall not apply to any payment made to—

"(i) the United States or any agency or instrumentality thereof,

"(ii) any State or political subdivision thereof,

"(iii) an organization which is exempt from taxation under section 501, or

"(iv) any foreign government or international organization.

"(D) TAXPAYER IDENTIFICATION NUMBER.—The term 'taxpayer identification number' means the identifying number assigned to a person under section 6109.

"(E) AMOUNTS FOR WHICH WITHHOLDING OTHERWISE REQUIRED.—No tax shall be deducted or withheld under this subsection with respect to any amount for which withholding is otherwise required by this title.

"(F) EXEMPTION WHILE WAITING FOR NUMBER.—The Secretary shall prescribe regulations for exemptions from the tax imposed by paragraph (1) during periods during which a person is waiting for receipt of a taxpayer identification number.

"(G) NOMINEES.—In the case of a backup withholding payment described in clause (i) or (v) of paragraph (3)(A) to a nominee, in the manner provided in regulations, both the nominee and the ultimate payee shall be treated as the payee.

"(H) REQUIREMENT OF NOTICE TO PAYEE.—Whenever the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect, the Secretary shall at the same time furnish a copy of such notice to the payor, and the payor shall promptly furnish such copy to the payee.

"(I) REQUIREMENT OF NOTICE TO SECRETARY.—If the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect and such payee subsequently furnishes another taxpayer identification number to the payor, the payor shall promptly notify the Secretary of the other taxpayer identification number so furnished.

"(J) COORDINATION WITH OTHER SECTIONS.—For purposes of this chapter (other than subsection (n) of this section), and so much of subtitle F (other than section 7205) as relates to this chapter, payments which are subject to withholding under this subsection shall be treated as if they were wages paid by an employer to an employee.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made after December 31, 1983.

SEC. 324. MINIMUM PENALTY FOR EXTENDED FAILURE TO FILE.

(a) IN GENERAL.—Subsection (a) of section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new sentence: "In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than $100.".

(b) CONFORMING AMENDMENTS.—Section 6651(c)(1) (relating to additions under more than one paragraph) is amended—

(1) by inserting "(but not below $100 in any case in which the last sentence of subsection (a) applies)" after "reduced" in subparagraph (A), and

(2) by inserting "(determined without regard to the last sentence of such subsection)" after "paragraph (1) of subsection (a)" in subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.

SEC. 325. INFORMATION RETURNS.

Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC TAPE, ETC.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary. In prescribing such regulations, the Secretary shall take into account (among other relevant factors) the ability of the taxpayer to comply at a reasonable cost with such a filing requirement.".

SUBTITLE C—ABUSIVE TAX SHELTERS, ETC.; SUBSTANTIAL UNDERPAYMENTS; FALSE DOCUMENTS; FRIVOLOUS RETURNS

PART I—ABUSIVE TAX SHELTERS, ETC.

SEC. 331. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6700. PROMOTING ABUSIVE TAX SHELTERS, ETC.

"(a) IMPOSITION OF PENALTY.—Any person who—

"(1)(A) organizes (or assists in the organization of)—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement, or

"(B) participates in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

"(2) makes or furnishes (in connection with such organization or sale)—

"(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows is false or fraudulent as to any material matter, or

"(B) a gross valuation overstatement as to any material matter,

shall pay a penalty equal to the greater of $1,000 or 10 percent of the gross income derived or to be derived by such person from such activity.

"(b) RULES RELATING TO PENALTY FOR GROSS VALUATION OVERSTATEMENTS.—

"(1) GROSS VALUATION OVERSTATEMENT DEFINED.—For purposes of this section, the term 'gross valuation overstatement' means any statement as to the value of any property or services if—

"(A) the value so stated exceeds 400 percent of the amount determined to be the correct valuation, and

"(B) the value of such property or services is directly related to the amount of any deduction or credit allowable under chapter 1 to any participant.

"(2) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the penalty provided by subsection (a) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that such valuation was made in good faith.

"(c) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6700. Promoting abusive tax shelters, etc.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 332. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7408 as section 7409 and by inserting after section 7407 the following new section:

"SEC. 7408. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.) may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in conduct subject to penalty under section 6700. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.), and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under section 6700.

"(c) CITIZENS AND RESIDENTS OUTSIDE THE UNITED STATES.—If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident shall be treated for purposes of this section as residing in the District of Columbia.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 7408. Action to enjoin promoters of abusive tax shelters, etc.

"Sec. 7409. Cross references.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 333. PROCEDURAL RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6703. RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702.

"(a) BURDEN OF PROOF.—In any proceeding involving the issue of whether or not any person is liable for a penalty under section 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by sections 6700, 6701, and 6702.

"(c) EXTENSION OF PERIOD OF COLLECTION WHERE PERSON PAYS 15 PERCENT OF PENALTY.—

"(1) IN GENERAL.—If, within 30 days after the day on which notice and demand of any penalty under section 6700, 6701, or 6702 is made against any person, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

"(2) PERSON MUST BRING SUIT IN DISTRICT COURT TO DETERMINE HIS LIABILITY FOR PENALTY.—If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under section 6700, 6701, or 6702 is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the person fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

"(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6703. Rules applicable to penalties under sections 6700, 6701, and 6702.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

PART II—SUBSTANTIAL UNDERPAYMENT; FALSE DOCUMENTS; FRIVOLOUS RETURNS

SEC. 341. PENALTY FOR SUBSTANTIAL UNDERSTATEMENT.

(a) IN GENERAL.—Subchapter A of chapter 68 (relating to additions to tax and additional amounts) is amended by redesignating section 6661 as section 6662 and by inserting after section 6660 the following new section:

"SEC. 6661. SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

"(a) ADDITION TO TAX.—If there is a substantial understatement of income tax for any taxable year, there shall be added to the tax an amount equal to 10 percent of the amount of any underpayment attributable to such understatement.

"(b) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that there was a reasonable basis for the understatement (or part thereof) and that the taxpayer acted in good faith.

"(c) DEFINITION AND SPECIAL RULE.—

"(1) SUBSTANTIAL UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year, and

"(ii) $5,000.

For purposes of the preceding sentence, the term 'tax liability' means the amount of the tax imposed by subtitle A.

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting '$10,000' for '$5,000'.

"(2) UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'understatement' means the excess of—

"(i) the amount of the tax required to be shown on the return for the taxable year, over

"(ii) the amount of the tax so imposed which is shown on the return.

"(B) REDUCTION FOR UNDERSTATEMENT DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

"(i) the treatment of any item by the taxpayer on the return if the taxpayer establishes that such treatment was more likely than not to be the proper treatment, or

"(ii) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

"(C) DISCLOSURE NOT SUFFICIENT IN CASES INVOLVING ABUSIVE TAX SHELTERS.—Subparagraph (B)(ii) shall not apply to any item with respect to—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

"(3) COORDINATION WITH PENALTY IMPOSED BY SECTION 6659.—For purposes of determining the amount of the addition to tax assessed under subsection (a), there shall not be taken into account that portion of the substantial understatement which is allocable to any valuation overstatement (within the meaning of section 6659(c)(1) without regard to the phrase '150 percent of').".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6661. Substantial understatement of liability.

"Sec. 6662. Applicable rules.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date (determined without regard to extension) for filing of which is after December 31, 1982.

SEC. 342. PENALTIES FOR DOCUMENTS UNDERSTATING TAX LIABILITY.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6700 the following new section:

"SEC. 6701. PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY.

"(a) IMPOSITION OF PENALTY.—Any person—

"(1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document in connection with any matter arising under the internal revenue laws,

"(2) who knows that such portion will be used in connection with any material matter arising under the internal revenue laws, and

"(3) who knows that such portion (if so used) will result in an understatement of the liability of tax for another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty imposed by subsection (a) shall be $1,000.

"(2) CORPORATIONS.—If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) shall be $5,000.

"(3) ONLY 1 PENALTY PER PERSON PER PERIOD.—If any person is subject to a penalty under subsection (a) with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under subsection (a) with respect to any other document relating to such taxpayer for such taxable period (or event).

"(c) ACTIVITIES OF SUBORDINATES.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'procures' includes—

"(A) ordering (or otherwise causing) a subordinate to do an act, and

"(B) knowing of, and not attempting to prevent, participation by a subordinate in an act.

"(2) SUBORDINATE.—For purposes of paragraph (1), the term 'subordinate' means any other person (whether or not a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

"(d) TAXPAYER NOT REQUIRED TO HAVE KNOWLEDGE.—Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

"(e) CERTAIN ACTIONS NOT TREATED AS AID OR ASSISTANCE.—For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document.

"(f) PENALTY IN ADDITION TO OTHER PENALTIES.—

"(1) IN GENERAL.—Except as provided by paragraph (2), the penalty imposed by this section shall be in addition to any other penalty provided by law.

"(2) COORDINATION WITH RETURN PREPARER PENALTIES.—No penalty shall be assessed under subsection (a) on any person with respect to any document for which a penalty may be assessed on such person under subsection (a) or (b) of section 6694.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6700 the following new item:

"Sec. 6701. Penalties for aiding and abetting understatement of tax liability.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and prepayment forum, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

SEC. 343. PENALTY FOR FRIVOLOUS RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6701 the following new section:

"SEC. 6702. FRIVOLOUS INCOME TAX RETURN.

"(a) CIVIL PENALTY.—If—

"(1) any individual files what purports to be a return of the tax imposed by subtitle A but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1) is due to—

"(A) a position which is frivolous, or

"(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws,

then such individual shall pay a penalty of $500.

"(b) INADVERTENT MATHEMATICAL AND CLERICAL ERRORS.—Subsection (a) shall not apply to mathematical or clerical error described in subparagraph (A) or (B) of section 6213(g) which is inadvertent.

"(c) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6701 the following new item:

"Sec. 6702. Frivolous income tax return.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to documents filed after the date of the enactment of this Act.

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and prepayment forum, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

SEC. 344. RELIEF FROM CRIMINAL PENALTY FOR FAILURE TO FILE ESTIMATED TAX WHERE TAXPAYER FALLS WITHIN STATUTORY EXCEPTIONS.

Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by adding at the end thereof the following new sentence: "In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if, by reason of section 6654(d) or 6655(d), there is no addition to tax under section 6654 or 6655 with respect to such failure.".

PART III—ADMINISTRATIVE SUMMONS

SEC. 351. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.

(a) PROCEEDING TO QUASH.—Paragraph (2) of section 7609(b) (relating to right to intervene; right to stay compliance) is amended to read as follows:

"(2) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

"(B) REQUIREMENT OF NOTICE TO PERSON SUMMONED AND TO SECRETARY.—If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A) such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

"(C) INTERVENTION; ETC.—Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in

any proceeding under subparagraph (A). Such person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding).".

(b) RESTRICTION ON EXAMINATION.—Subsection (d) of section 7609 (relating to restriction on examination of records) is amended to read as follows:

"(d) RESTRICTION ON EXAMINATION OF RECORDS.—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

"(1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2), or

"(2) where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met, except in accordance with an order of the court having jurisdiction of such proceeding.".

(c) JURISDICTION.—Subsection (h) of section 7609 (relating to jurisdiction of district court) is amended to read as follows:

"(h) JURISDICTION OF DISTRICT COURT; ETC.—

"(1) JURISDICTION.—The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g). An order denying the petition shall be deemed a final order which may be appealed.

"(2) SPECIAL RULE FOR PROCEEDINGS UNDER SUBSECTIONS (f) AND (g).—The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

"(3) PRIORITY.—Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, takes precedence on the docket over all other cases and shall be assigned for hearing and decided at the earliest practicable date.".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 7609(a) is amended—

(A) by striking out "14th day" and inserting in lieu thereof "23rd day", and

(B) by striking out the last sentence and inserting in lieu thereof the following: "Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons.".

(2) The subsection heading for subsection (b) of section 7609 is amended to read as follows:

"(b) RIGHT TO INTERVENE; RIGHT TO PROCEEDING TO QUASH.—".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses served after December 31, 1982.

SEC. 352. DUTY OF THIRD-PARTY RECORDKEEPER.

(a) GENERAL RULE.—Section 7609 (relating to special procedures for third-party summonses) is amended by adding at the end thereof the following new subsection:

"(i) DUTY OF THIRD-PARTY RECORDKEEPER.—

"(1) RECORDKEEPER MUST ASSEMBLE RECORDS AND BE PREPARED TO PRODUCE RECORDS.—On receipt of a summons described in subsection (c), the third-party recordkeeper shall proceed to assemble the records requested, or such portion thereof as the Secretary may prescribe, and shall be prepared to produce the records pursuant to the summons on the day on which the records are to be examined.

"(2) SECRETARY MAY GIVE RECORDKEEPER CERTIFICATE.—The Secretary may issue a certificate to the third-party recordkeeper that the period prescribed for beginning a proceeding to quash a summons has expired and that no such proceeding began within such period.

"(3) PROTECTION FOR RECORDKEEPER WHO DISCLOSES.—Any third-party recordkeeper, or agent or employee thereof, making a disclosure of records pursuant to this section in good-faith reliance on the certificate of the Secretary or an order of a court requiring production of records shall not be liable to any customer or other person for such disclosure.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses served after December 31, 1982.

SEC. 353. LIMITATION ON USE OF ADMINISTRATIVE SUMMONS.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses) is amended by striking out "For the purpose" and inserting in lieu thereof "(a) AUTHORITY TO SUMMON, ETC.—For the purpose" and by adding at the end thereof the following new subsections:

"(b) PURPOSE MAY INCLUDE INQUIRY INTO OFFENSE.—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

"(c) NO ADMINISTRATIVE SUMMONS WHEN THERE IS JUSTICE DEPARTMENT REFERRAL.—

"(1) LIMITATION OF AUTHORITY.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

"(2) JUSTICE DEPARTMENT REFERRAL IN EFFECT.—For purposes of this subsection—

"(A) IN GENERAL.—A Justice Department referral is in effect with respect to any person if—

"(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

"(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

"(B) TERMINATION.—A Justice Department referral shall cease to be in effect with respect to a person when—

"(i) the Attorney General notifies the Secretary, in writing, that—

"(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

"(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

"(III) he will discontinue such a grand jury investigation,

"(ii) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

"(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

"(3) TAXABLE YEARS, ETC., TREATED SEPARATELY.—For purposes of this subsection, each taxable period (or, if there is no taxable period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the day after the date of the enactment of this Act.

PART IV—WITHHOLDING ON PENSIONS AND OTHER RETIREMENT INCOME

SEC. 361. WITHHOLDING ON PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.

(a) IN GENERAL.—Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new section:

"SEC. 3405. SPECIAL RULES FOR PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.

"(a) PENSIONS, ANNUITIES, ETC.—

"(1) WITHHOLDING AS IF PAYMENT WERE WAGES.—The payor of any periodic payment (as defined in subsection (d)(2)) shall withhold from such payment the amount which would be required to be withheld from such payment if such payment were a payment of wages by an employer to an employee for the appropriate payroll period.

"(2) ELECTION OF NO WITHHOLDING.—An individual may elect with respect to each calendar year to have paragraph (1) not apply with respect to periodic payments made to such individual. Such an election shall remain in effect for such calendar year unless revoked earlier.

"(3) WHEN ELECTION TAKES EFFECT.—Any election under this subsection (and any revocation of such an election) shall take effect as provided by subsection (f)(3) of section 3402 for withholding exemption certificates.

"(4) AMOUNT WITHHELD WHERE NO WITHHOLDING EXEMPTION CERTIFICATE IN EFFECT.—In the case of any payment with respect to which a withholding exemption certificate is not in effect, the amount withheld under paragraph (1) shall be determined by treating the payee as a married individual claiming 2 withholding exemptions.

"(b) NONPERIODIC DISTRIBUTION.—

"(1) WITHHOLDING.—The payor of any nonperiodic distribution (as defined in subsection (d)(3)) shall withhold from such distribution the amount determined under paragraph (2).

"(2) AMOUNT OF WITHHOLDING.—

"(A) DISTRIBUTIONS WHICH ARE NOT QUALIFIED TOTAL DISTRIBUTIONS.—In the case of any nonperiodic distribution which is not a qualified total distribution, the amount withheld under paragraph (1) shall be the amount determined by multiplying such distribution by 10 percent.

"(B) QUALIFIED TOTAL DISTRIBUTIONS.—In the case of any nonperiodic distribution which is a qualified total distribution, the amount withheld under paragraph (1) shall be determined under tables (or other computational procedures) prescribed by the Secretary which are based on the amount of tax which would be imposed on such distribution under section 402(e) if the recipient elected to treat such distribution as a lump-sum distribution (within the meaning of section 402(e)(4)(A)).

"(C) SPECIAL RULE FOR DISTRIBUTIONS BY REASONS OF DEATH.—In the case of any distribution described in subparagraph (B) from or under any plan or contract described in section 401(a), 403(a), or 403(b) which is made by reason of a participant's death, the Secretary, in prescribing tables or procedures under paragraph (1), shall take into account the exclusion from gross income provided by section 101(b) (whether or not allowable).

"(3) ELECTION OF NO WITHHOLDING.—

"(A) NONTOTAL DISTRIBUTION.—An individual may elect not to have paragraph (1) apply with respect to any nonperiodic distribution which is not a qualified total distribution.

"(B) QUALIFIED TOTAL DISTRIBUTIONS.—An individual may elect not to have paragraph (1) apply with respect to any portion of a nonperiodic distribution which is a qualified total distribution only if such portion will not be includible in gross income by reason of a rollover described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), or 405(d)(3).

"(C) SCOPE OF ELECTION.—An election under subparagraph (A) or (B)—

"(i) except as provided in clause (ii), shall be on a distribution-by-distribution basis, or

"(ii) to the extent provided in regulations, may apply to subsequent nonperiodic distributions made by the payor to the payee under the same arrangement during the same calendar year.

"(c) LIABILITY FOR WITHHOLDING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the payor of a designated distribution (as defined in subsection (d)(1)) shall withhold, and be liable for, payment of the tax required to be withheld under this section.

"(2) PLAN ADMINISTRATOR LIABLE IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of any plan to which this paragraph applies, paragraph (1) shall not apply and the plan administrator shall withhold, and be liable for, payment of the tax unless the plan administrator—

"(i) directs the payor to withhold such tax, and

"(ii) provides the payor with such information as the Secretary may require by regulations.

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph applies to any plan described in, or which at any time has been determined to be described in—

"(i) section 401(a),

"(ii) section 403(a), or

"(iii) section 301(d) of the Tax Reduction Act of 1975.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DESIGNATED DISTRIBUTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'designated distribution' means any distribution or payment from or under—

"(i) an employer deferred compensation plan,

"(ii) an individual retirement plan (as defined in section 7701(a)(37)), or

"(iii) a commercial annuity.

"(B) EXCEPTIONS.—The term 'designated distribution' shall not include—

"(i) any amount which is wages without regard to this section, and

"(ii) the portion of a distribution or payment which it is reasonable to believe is not includible in gross income.

"(2) PERIODIC PAYMENT.—The term 'periodic payment' means a designated distribution which is an annuity or similar periodic payment.

"(3) NONPERIODIC DISTRIBUTION.—The term 'nonperiodic distribution' means any designated distribution which is not a periodic payment.

"(4) QUALIFIED TOTAL DISTRIBUTION.—

"(A) IN GENERAL.—The term 'qualified total distribution' means any distribution which—

"(i) is a designated distribution,

"(ii) it is reasonable to believe is made within 1 taxable year of the recipient,

"(iii) is made under a plan described in section 401(a), or 403(a), and

"(iv) consists of the balance to the credit of the employee under such plan.

"(B) SPECIAL RULE FOR ACCUMULATED DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—For purposes of subparagraph (A), accumulated deductible employee contributions (within the meaning of section 72(o)(5)(B)) shall be treated separately in determining if there has been a qualified total distribution.

"(5) EMPLOYER DEFERRED COMPENSATION PLAN.—The term 'employer deferred compensation plan' means any pension, annuity, profit-sharing, or stock bonus plan or other plan deferring the receipt of compensation.

"(6) COMMERCIAL ANNUITY.—The term 'commercial annuity' means an annuity, endowment, or life insurance contract issued by an insurance company licensed to do business under the laws of any State.

"(7) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given such term by section 414(g).

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than employer securities of the employer corporation (within the meaning of section 402(a)(3))) received in the distribution.

"(9) SEPARATE ARRANGEMENTS TO BE TREATED SEPARATELY.—If the payor has more than 1 arrangement under which designated distributions may be made to any individual, each such arrangement shall be treated separately.

"(10) TIME AND MANNER OF ELECTION.—

"(A) IN GENERAL.—Any election and any revocation under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(B) PAYOR REQUIRED TO NOTIFY PAYEE OF RIGHTS TO ELECT.—

"(i) PERIODIC PAYMENTS.—The payor of any periodic payment—

"(I) shall transmit to the payee notice of the right to make an election under subsection (a) not earlier than 6 months before the date it is anticipated that he will make the first of such payments and not later than 2 months before such date, and

"(II) shall transmit to payees, during the 3-month period ending October 31 of each calendar year, notice of their rights to make, renew, or revoke elections under subsection (a).

"(ii) NONPERIODIC DISTRIBUTIONS.—The payor of any nonperiodic distribution shall transmit to the payee notice of the right to make any election provided in subsection (b) at the time of the distribution (or at such earlier time as may be provided in regulations).

"(iii) NOTICE.—Any notice transmitted pursuant to this subparagraph shall be in such form and contain such information as the Secretary shall prescribe.

"(11) WITHHOLDING INCLUDES DEDUCTION.—The terms 'withholding', 'withhold', and 'withheld' include 'deducting', 'deduct', and 'deducted'.

"(e) WITHHOLDING TO BE TREATED AS WAGE WITHHOLDING UNDER SECTION 3402 FOR OTHER PURPOSES.—For purposes of this chapter (and so much of subtitle F as relates to this chapter)—

"(1) any designated distribution (whether or not an election under this section applies to such distribution) shall be treated as if it were wages paid by an employer to an employee with respect to which there has been withholding under section 3402, and

"(2) in the case of any designated distribution not subject to withholding under this section by reason of an election under this section, the amount withheld shall be treated as zero.".

(b) FILING OF REPORTS.—Section 6047 (relating to information concerning certain trusts and annuity and bond purchase plans) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) REPORTS BY EMPLOYERS, PLAN ADMINISTRATORS, ETC.—

"(1) IN GENERAL.—The Secretary shall by forms or regulations require that—

"(A) the employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, a plan from which designated distributions (as defined in section 3405(d)(1)) may be made, and

"(B) any person issuing any contract under which designated distributions (as so defined) may be made,

make returns and reports regarding such plan (or contract) to the Secretary, to the participants and beneficiaries of such plan (or contract), and to such other persons as the Secretary may by regulations prescribe.

"(2) FORM, ETC., OF REPORTS.—Such reports shall be in such form, made at such time, and contain such information as the Secretary may prescribe by forms or regulations.".

(c) PENALTY FOR FAILURE TO KEEP RECORDS NECESSARY TO COMPLY WITH REPORTING REQUIREMENTS OF SECTION 6047(e).—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6704. FAILURE TO KEEP RECORDS NECESSARY TO MEET REPORTING REQUIREMENTS UNDER SECTION 6047(e).

"(a) LIABILITY FOR PENALTY.—Any person who—

"(1) has a duty to report or may have a duty to report any information under section 6047(e), and

"(2) fails to keep such records as may be required by regulations prescribed under section 6047(e) for the purpose of providing the necessary data base for either current reporting or future reporting,

shall pay a penalty for each calendar year for which there is any failure to keep such records.

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—The penalty of any person for any calendar year shall be $50, multiplied by the number of individuals with respect to whom such failure occurs in such year.

"(2) MAXIMUM AMOUNT.—The penalty under this section of any person for any calendar year shall not exceed $50,000.

"(c) EXCEPTIONS.—

"(1) REASONABLE CAUSE.—No penalty shall be imposed by this section on any person for

any failure which is shown to be due to reasonable cause and not to willful neglect.

"(2) INABILITY TO CORRECT PREVIOUS FAILURE.—No penalty shall be imposed by this section on any failure by a person if such failure is attributable to a prior failure which has been penalized under this section and with respect to which the person has made all reasonable efforts to correct the failure.

"(3) PRE-1983 FAILURES.—No penalty shall be imposed by this section on any person for any failure which is attributable to a failure occurring before January 1, 1983, if the person has made all reasonable efforts to correct such pre-1983 failure.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6704. Failure to keep records necessary to meet reporting requirements under section 6047(e)."

(d) COORDINATION WITH VOLUNTARY WITHHOLDING ON CERTAIN PAYMENTS OTHER THAN WAGES.—Subsection (o) of section 3402 (relating to extension of withholding to certain payments other than wages) is amended by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH WITHHOLDING ON DESIGNATED DISTRIBUTIONS UNDER SECTION 3405.—This subsection shall not apply to any amount which is a designated distribution (within the meaning of section 3405(d)(1)).".

(e) EFFECTIVE DATES.—

(1) AMENDMENT MADE BY SUBSECTIONS (a) AND (d).—Except as provided in paragraph (4), the amendment made by subsections (a) and (d) shall apply to payments or other distributions made after December 31, 1982.

(2) AMENDMENTS MADE BY SUBSECTION (b).—Except as provided in paragraph (4), the amendments made by subsection (b) shall take effect on january 1, 1983.

(3) AMENDMENTS MADE BY SUBSECTION (c).—The amendments made by subsection (c) shall take effect on January 1, 1985.

(4) PERIODIC PAYMENTS BEGINNING BEFORE JANUARY 1, 1983.—For purposes of section 3405(a) of the Internal Revenue Code of 1954, in the case of periodic payments beginning before January 1, 1983, the first periodic payment after December 31, 1982, shall be treated as the first such periodic payment.

SEC. 362. PARTIAL ROLLOVERS OF IRA DISTRIBUTIONS PERMITTED.

(a) GENERAL RULE.—

(1) Paragraph (3) of section 408(d) is amended by adding at the end thereof the following new subparagraph:

"(C) PARTIAL ROLLOVERS PERMITTED.—

"(i) IN GENERAL.—If any amount paid or distributed out of an individual retirement account or individual retirement annuity would meet the requirements of subparagraph (A) but for the fact that the entire amount was not paid into an eligible plan as required by clause (i), (ii), or (iii) of subparagraph (A), such amount shall be treated as meeting the requirements of subparagraph (A) to the extent it is paid into an eligible plan referred to in such clause not later than the 60th day referred to in such clause.

"(ii) ELIGIBLE PLAN.—For purposes of clause (i), the term 'eligible plan' means any account, annuity, bond, contract, or plan referred to in subparagraph (A)."

(2) Paragraph (3) of section 409(b) is amended by adding at the end thereof the following new subparagraph:

"(D) PARTIAL ROLLOVERS PERMITTED.—Rules similar to the rules of section 408(d)(3)(C) shall apply for purposes of subparagraph (C)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to distributions made after December 31, 1982, in taxable years ending after such date.

PART V—TRANSACTIONS OUTSIDE THE UNITED STATES OR INVOLVING FOREIGN PERSONS

SEC. 371. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS BY CERTAIN FOREIGN PERSONS REQUIRED.

(a) WITHHOLDING OF TAX.—

(1) IN GENERAL.—Subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 1444. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any acquisition of a United States real property interest (as defined in section 897(c)) from a foreign person, the transferee, any transferee's agent, or any settlement officer shall be required to deduct and withhold a tax equal to whichever of the following is the smallest:

"(1)(A) in the case of a corporate transferor, 28 percent of the amount realized on the disposition, or (B) in the case of a transferor who is an individual, partnership, estate, or trust, 20 percent of the amount realized on the disposition,

"(2) the portion of the transferee's consideration (as defined in subsection (h)(4)) which is at any time within the withholding agent's custody or control, or

"(3) if there is a transferor's maximum tax liability (as defined in subsection (h)(5)), the amount of such liability.

"(b) TRANSFEREE OR SETTLEMENT OFFICER MUST KNOW OR HAVE NOTICE THAT TRANSFEROR WAS A FOREIGN PERSON.—

"(1) IN GENERAL.—The transferee, any transferee's agent, or any settlement officer shall not be required to deduct and withhold a tax under subsection (a) with respect to any acquisition unless the transferee, transferee's agent, or the settlement officer—

"(A) knows that the transferor is a foreign person, or

"(B) has received a notice provided for in subsection (c).

"(2) TIME FOR APPLYING PARAGRAPH (1).—Paragraph (1) shall be applied immediately before each payment of the consideration with respect to the acquisition of the United States real property interest.

"(c) REQUIREMENTS TO FURNISH NOTICE.—

"(1) TRANSFEROR MUST FURNISH NOTICE TO TRANSFEREE AND TO SETTLEMENT OFFICER.—If the transferor is a foreign person, he shall so notify the transferee, any agent of the transferee, and any settlement officer at such time or times and in such manner as may be prescribed by regulations.

"(2) TRANSFEROR'S AGENT.—

"(A) IN GENERAL.—

"(i) TRANSFEROR'S AGENT TO FURNISH NOTICE.—If any transferor's agent has at any time before the time specified in subsection (b)(2) reason to believe that the transferor may be a foreign person, he shall so notify the transferee, any transferee's agent, and any settlement officer at such time or times and in such manner as may be prescribed by regulations.

"(ii) REQUIREMENT OF REASONABLE INQUIRY.—For purposes of this subsection, a transferor's agent who fails to make reasonable inquiry into whether the transferor is a foreign person shall be treated as having reason to believe that the transferor may be a foreign person.

"(iii) TRANSFEROR'S AGENT MAY RELY IN GOOD FAITH ON TRANSFEROR'S WRITTEN STATEMENT.—A transferor's agent will not be treated as having reason to believe that a transferor may be a foreign person if the transferor's agent relies in good faith on a written statement of the transferor (or, in the case of a transferor's agent retained by another agent of the transferor, a written statement by such other transferor's agent) that the transferor is a United States person.

"(B) ONLY 1 NOTICE TO EACH PERSON.—Under regulations, the requirements of paragraph (1) and of subparagraph (A) of this paragraph shall be treated as met with respect to the transferee, any transferee's agent, and any settlement officer if at least 1 notice which meets the requirements of paragraph (1) or such subparagraph (A) is furnished to such transferee, transferee's agent, and settlement officer.

"(C) TRANSFEROR'S AGENT.—Except as provided in subparagraph (D), for purposes of this subsection, the term 'transferor's agent' means any person who represents the transferor (or another agent of the transferor)—

"(i) in any negotiation with the transferee or any transferee's agent relating to the transaction, or

"(ii) in settling the transaction.

A person will be considered to represent the transferor (or another agent of the transferor) if such person retains another person to represent the transferor (or such other agent) in any negotiations with the transferee or transferee's agent relating to the transaction or in settling the transaction.

"(D) SETTLEMENT OFFICER NOT TREATED AS TRANSFEROR'S AGENT.—For purposes of this paragraph, a person shall not be treated as a transferor's agent with respect to any transaction merely because such person performs 1 or more of the following acts:

"(i) the receipt and the disbursement of any portion of the consideration for the transaction, or

"(ii) the recording of any document in connection with the transaction.

"(3) FAILURE TO FURNISH NOTICE.—

"(A) DUTY TO WITHHOLD.—If any transferor's agent—

"(i) is required by paragraph (2) to furnish notice, but

"(ii) fails to notify the transferee and the transferee's agent and the settlement officer at such time or times and in such manner as may be prescribed by regulations,

such agent shall have the same duty to deduct and withhold (with respect to the transferee's consideration within the transferor's agent's custody and control) that the transferee would have if the transferor's agent had complied with paragraph (2).

"(B) TREATMENT OF COMPENSATION.—In any case to which subparagraph (A) applies, the transferee's consideration shall be treated as including the compensation received by the transferor's agent in connection with the transaction.

"(d) EXEMPTIONS.—

"(1) IN GENERAL.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a transaction if paragraph (2), (3), or (4) applies to the transaction.

"(2) TRANSFEROR FURNISHES QUALIFYING STATEMENT.—

"(A) IN GENERAL.—This paragraph applies to the transaction if the transferor (at such

time, in such manner, and subject to such terms and conditions as the Secretary may by regulations prescribe) furnishes a qualifying statement to the person who (but for this paragraph) would be required to withhold.

"(B) QUALIFYING STATEMENT.—For purposes of subparagraph (A), the term 'qualifying statement' means a statement by the Secretary that—

"(i) the transferor either—

"(I) has reached agreement with the Secretary for the payment of any tax imposed by section 871(b)(1) or 882(a)(1) or any gain recognized by the transferor on the disposition of the United States real property interest, or

"(II) is exempt from any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by the transferor on the disposition of United States real property interest, and

"(ii) the transferor has satisfied any transferor's unsatisfied withholding liability or has provided adequate security to cover such liability.

"(3) PRINCIPAL RESIDENCE WHERE AMOUNT REALIZED IS NOT MORE THAN $200,000.—This paragraph applies to the transaction if—

"(A) the amount realized by the transferor does not exceed $200,000, and

"(B) the property is acquired by the transferee for use as his principal residence.

"(4) STOCK TRANSFERRED ON ESTABLISHED SECURITIES MARKET.—This paragraph applies to a disposition of stock in a corporation if the transaction takes place on an established United States securities market.

"(e) ADJUSTMENTS IN AMOUNT REQUIRED TO BE WITHHELD.—

"(1) CANNOT EXCEED TRANSFEROR'S MAXIMUM TAX LIABILITY.—

"(A) REQUEST.—At the request of the transferor or of any withholding agent, the Secretary shall establish, with respect to any disposition, the transferor's maximum tax liability.

"(B) LIMIT ON WITHHOLDING REQUIREMENT.—The amount required to be withheld under subsection (a) with respect to any disposition shall not exceed the amount (if any) established with respect to such disposition under subparagraph (A).

"(2) AUTHORITY OF SECRETARY TO PRESCRIBE REDUCED AMOUNT.—At the request of the transferor or of any withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by this section or section 871(b)(1) or 882(a)(1).

"(3) PROCEDURAL RULES.—

"(A) REGULATIONS.—Requests for—

"(i) qualifying statements under subsection (d)(2),

"(ii) determinations of transferor's maximum tax liability under paragraph (1) of this subsection, and

"(iii) reductions under paragraph (2) of this subsection in the amount required to be withheld,

shall be made at the time and manner, and shall include such information, as the Secretary shall prescribe in regulations.

"(B) REQUESTS TO BE HANDLED WITHIN 30 DAYS.—The Secretary shall take action with respect to any request described in subparagraph (A) within 30 days after the Secretary receives the request.

"(f) RULES RELATING TO CERTAIN PARTNERSHIPS, TRUSTS, AND ESTATES.—Pursuant to such terms and conditions as may be provided by regulations, a domestic partnership, the trustee of a domestic trust, or the executor of a domestic estate shall be required under subsection (a) to deduct and withhold tax from amounts of which such partnership, trustee, or executor has custody which are—

"(1) attributable to the disposition of a United States real property interest (as defined in section 897(c)(1)), and

"(2) either—

"(A) includible in the distributive share of a partner of the partnership who is a nonresident alien individual or a foreign corporation, partnership, trust, or estate;

"(B) includible in the income of a beneficiary of the trust or estate who is a nonresident alien individual or a foreign corporation, partnership, trust, or estate; or

"(C) includible in the income of a nonresident alien individual, foreign corporation, partnership, trust, or estate under the provisions of section 671.

"(g) WITHHOLDING TO BE REQUIRED FOR DISTRIBUTIONS BY FOREIGN CORPORATIONS IN THE CASE OF CERTAIN OTHER TRANSACTIONS.—Except as otherwise provided in this section, in the case of any transaction involving a United States real property interest on which gain is recognized under section 897 (d) or (e), a corporation shall be required to deduct and withhold under subsection (a) a tax equal to 28 percent of an amount equal to the fair market value of such interest (as of the time of the transaction) reduced by its adjusted basis.

"(h) DEFINITIONS.—For purposes of this section—

"(1) TRANSFEROR.—The term 'transferor' means the person disposing of the United States real property interest.

"(2) TRANSFEREE.—The term 'transferee' means the person acquiring the United States real property interest.

"(3) SETTLEMENT OFFICER.—The term 'settlement officer' means the person who, in connection with the settlement, receives and disburses any portion of the consideration for the transaction.

"(4) TRANSFEREE'S CONSIDERATION.—

"(A) IN GENERAL.—The term 'transferee's consideration' means the cash and the fair market value of the other property which is consideration in connection with the transaction.

"(B) INDEBTEDNESS.—Except to the extent provided in regulations, if—

"(i) the transferee assumes indebtedness of the transferor or indebtedness to which the property is subject, or the transferee acquires the property subject to an indebtedness, and

"(ii) such indebtedness was incurred within 2 years of the transaction,

then, for purposes of applying subsection (a)(2) with respect to the transferee, the transferee's consideration shall include the amount of such indebtedness and the amount of such indebtedness shall be deemed to be within the withholding agent's custody or control.

"(5) TRANSFEROR'S MAXIMUM TAX LIABILITY.—The term 'transferor's maximum tax liability' means, with respect to the disposition of any interest, the maximum amount which the Secretary determines the transferor could owe—

"(A) as tax under section 871(b)(1) or 882(a)(1) by reason of such disposition, plus

"(B) the transferor's unsatisfied withholding liability with respect to such interest.

"(6) TRANSFEROR'S UNSATISFIED WITHHOLDING LIABILITY.—The term 'transferor's unsatisfied withholding liability' means the withholding obligation imposed under this section on the transferor's acquisition of the United States real property interest or on the acquisition of a predecessor interest, to the extent such obligation has not been satisfied.".

(2) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 3 is amended by adding at the end thereof the following new item:

"Sec. 1444. Withholding of tax on dispositions of United States real property interests.".

(b) DISCRETION TO CURTAIL REPORTING WHERE WITHHOLDING REQUIRED.—Subsection (e)(2) of section 6039C (relating to returns with respect to United States real property interests) is amended to read as follows:

"(2) RETURNS, ETC.—

"(A) GENERAL RULE.—All returns, statements, and information required to be made or furnished under this section shall be made or furnished at such time and in such manner as the Secretary shall by regulations prescribe.

"(B) CASES IN WHICH WITHHOLDING IS REQUIRED.—Except when required by the Secretary, the returns, statements, and information otherwise required to be made or furnished under this section shall not be required if a transferee, a transferee's agent, or any other person is required under section 1444 to deduct and withhold tax on the acquisition of the property.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any payment of consideration with respect to the acquisition of a United States real property interest made more than 30 days after the date of the enactment of this Act.

SEC. 372. JURISDICTION OF COURT AND ENFORCEMENT OF SUMMONS IN CASE OF PERSONS RESIDING OUTSIDE THE UNITED STATES.

(a) GENERAL RULE.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(38) PERSONS RESIDING OUTSIDE UNITED STATES.—If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to—

"(A) jurisdiction of courts, or

"(B) enforcement of summons.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the day after the date of the enactment of this Act.

SEC. 373. PENALTY FOR FAILURE TO FURNISH INFORMATION WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 6038 (relating to information with respect to certain foreign corporations) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) DOLLAR PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If any person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign corporation required under paragraph (1) of subsection (a), such person shall pay a penalty of $1,000 for each annual accounting period with respect to which such failure exists.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of $1,000 for each 30-day period (or fraction thereof) during which such failure continues with respect to any annual accounting period after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $25,000.".

(b) COORDINATION WITH EXISTING REDUCTION IN FOREIGN TAX CREDIT.—Subsection (c) of section 6038 (as redesignated by subsection (a)) is amended—

(1) by inserting "and subsection (b)" after "subsection" in paragraph (3)(B), and

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) COORDINATION WITH SUBSECTION (b).—The amount of the reduction which (but for this paragraph) would be made under paragraph (1) with respect to any annual accounting period shall be reduced by the amount of the penalty imposed by subsection (b) with respect to such period.".

(c) TECHNICAL AMENDMENTS.—

(1) The subsection heading of subsection (c) of section 6038 (as redesignated by subsection (a)) is amended to read as follows:

"(c) PENALTY OF REDUCING FOREIGN TAX CREDIT.—".

(2) Paragraph (1) of section 6038(a) is amended by striking out "within the meaning of subsection (d)(1)" and inserting in lieu thereof "within the meaning of subsection (e)(1)".

(3) The last sentence of paragraph (1) of section 6038(c) (as redesignated by subsection (a)) is amended by inserting "of such failure" after "notice".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information for annual accounting periods ending after the date of the enactment of this Act.

SEC. 374. RETURNS WITH RESPECT TO FOREIGN PERSONAL HOLDING COMPANIES.

(a) GENERAL RULE.—Section 6035 (relating to returns of officers, directors, and shareholders of foreign personal holding companies) is amended to read as follows:

"SEC. 6035. RETURNS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF FOREIGN PERSONAL HOLDING COMPANIES.

"(a) GENERAL RULE.—Each United States citizen or resident who is an officer, director, or 10-percent shareholder of a corporation which was a foreign personal holding company (as defined in section 552) for any taxable year shall file a return with respect to such taxable year setting forth—

"(1) the shareholder information required by subsection (b),

"(2) the income information required by subsection (c), and

"(3) such other information with respect to such corporation as the Secretary shall by forms or regulations prescribe as necessary for carrying out the purposes of this title.

"(b) SHAREHOLDER INFORMATION.—The shareholder information required by this subsection with respect to any taxable year shall be—

"(1) the name and address of each person who at any time during such taxable year held any share in the corporation,

"(2) a description of each class of shares and the total number of shares of such class outstanding at the close of the taxable year,

"(3) the number of shares of each class held by each person, and

"(4) any changes in the holdings of shares during the taxable year.

For purposes of paragraphs (1), (3), and (4), the term 'share' includes any security convertible into a share in the corporation and any option granted by the corporation with respect to any share in the corporation.

"(c) INCOME INFORMATION.—The income information required by this subsection for any taxable year shall be the gross income, deductions, credits, taxable income, and undistributed foreign personal holding company income of the corporation for the taxable year.

"(d) TIME AND MANNER FOR FURNISHING INFORMATION.—The information required under subsection (a) shall be furnished at such time and in such manner as the Secretary shall by forms and regulations prescribe.

"(e) DEFINITION AND SPECIAL RULES.—

"(1) 10-PERCENT SHAREHOLDER.—For purposes of this section, the term '10-percent shareholder' means any individual who owns directly or indirectly (within the meaning of section 554) 10 percent or more in value of the outstanding stock of a foreign corporation.

"(2) TIME FOR MAKING DETERMINATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of whether any person is an officer, director, or 10-percent shareholder with respect to any foreign corporation shall be made as of the date on which the return is required to be filed.

"(B) SPECIAL RULE.—If after the application of subparagraph (A) no person is required to file a return under subsection (a) with respect to any foreign corporation for any taxable year, the determination of whether any person is an officer, director, or 10-percent shareholder with respect to such foreign corporation shall be made on the last day of such taxable year on which there was such a person who was a United States citizen or resident.

"(3) 2 OR MORE PERSONS REQUIRED TO FURNISH INFORMATION WITH RESPECT TO SAME FOREIGN CORPORATION.—If, but for this paragraph, 2 or more persons would be required to furnish information under subsection (a) with respect to the same foreign corporation for the same taxable year, the Secretary may by regulations provide that such information shall be required only from 1 person.".

(b) APPLICATION OF PENALTY.—

(1) Subsection (a) of section 6679 is amended by striking out "section 6046" and inserting in lieu thereof "section 6035 or 6046".

(2) The section heading for section 6679 is amended to read as follows:

"SEC. 6679. FAILURE TO FILE RETURNS OR SUPPLY INFORMATION UNDER SECTION 6035 OR 6046.".

(3) The item relating to section 6679 in the table of sections for subchapter B of chapter 68 is amended to read as follows:

"Sec. 6679. Failure to file returns or supply information under section 6035 or 6046.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act.

SEC. 375. AUTHORITY TO DELAY DATE FOR FILING CERTAIN RETURNS RELATING TO FOREIGN CORPORATIONS AND FOREIGN TRUSTS.

(a) FOREIGN CORPORATIONS.—Subsection (d) of section 6046 (relating to time for filing returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended by inserting before the period at the end thereof the following: "(or on or before such later day as the Secretary may by regulations prescribe)".

(b) FOREIGN TRUSTS.—Subsection (a) of section 6048 (relating to returns as to certain foreign trusts) is amended by inserting "(or on or before such later day as the Secretary may by regulations prescribe)" after "the 90th day".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 376. TECHNICAL AMENDMENT RELATING TO PENALTY UNDER SECTION 905(c).

(a) GENERAL RULE.—Subsection (c) of section 905 (relating to adjustments on payment of accrued taxes) is amended by striking out the last sentence.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall have the same effect as if the last sentence of section 905(c) had never been enacted.

PART VI—MODIFICATION OF INTEREST PROVISIONS

SEC. 381. INTEREST COMPOUNDED DAILY.

(a) IN GENERAL.—Subchapter C of chapter 67 (relating to determination of rate of interest) is amended by adding at the end thereof the following new section:

"SEC. 6622. INTEREST COMPOUNDED DAILY.

"In computing the amount of any interest required to be paid under this title or section 2411(a) of title 28, United States Code, by the Secretary or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6601(e) (relating to applicable rules) is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) The table of sections for subchapter C of chapter 67 is amended by inserting after section 6621 the following new item:

"Sec. 6622. Interest compounded daily.".

(3)(A) The heading for subchapter C of chapter 67 is amended by inserting "; Compounding of Interest" after "Rate".

(B) The item relating to subchapter C in the table of subchapters for chapter 67 is amended by inserting "; compounding of interest" after "rate".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing after December 31, 1982.

SEC. 382. DETERMINATION OF RATE OF INTEREST TO BE MADE SEMIANNUALLY.

(a) IN GENERAL.—Subsection (b) of section 6621 (relating to determination of rate of interest) is amended to read as follows:

"(b) ADJUSTMENT OF INTEREST RATE.—

"(1) ESTABLISHMENT OF ADJUSTED RATE.—If the adjusted prime rate charged by banks (rounded to the nearest full percent)—

"(A) during the 6-month period ending on September 30 of any calendar year, or

"(B) during the 6-month period ending on March 31 of any calendar year,

differs from the interest rate in effect under this section on either such date, respectively, then the Secretary shall establish, within 15 days after the close of the applicable 6-month period, an adjusted rate of interest equal to such adjusted prime rate.

"(2) EFFECTIVE DATE OF ADJUSTMENT.—Any adjusted rate of interest established under paragraph (1) shall become effective—

"(A) on January 1 of the succeeding year in the case of an adjustment attributable to paragraph (1)(A), and

"(B) on July 1 of the same year in the case of an adjustment attributable to paragraph (1)(B).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adjustments taking effect after December 31, 1982.

SEC. 383. RESTRICTIONS ON PAYMENT OF INTEREST FOR CERTAIN PERIODS.

(a) INTEREST WITH RESPECT TO DELINQUENT RETURNS.—Section 6611(b) (relating to period for which interest on refunds is paid) is amended by adding at the end thereof the following new paragraph:

"(3) LATE RETURNS.—Notwithstanding paragraph (1) or (2), in the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed.".

(b) NO INTEREST IF RETURN NOT IN PROCESSIBLE FORM.—Section 6611 (relating to interest on overpayments) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

"(i) NO INTEREST UNTIL RETURN IN PROCESSIBLE FORM.—

"(1) For purposes of subsections (b)(3), (e), and (h), a return shall not be treated as filed until it is filed in processible form.

"(2) For purposes of paragraph (1), a return is in a processible form if—

"(A) such return is filed on a permitted form, and

"(B) such return contains—

"(i) the taxpayer's name, address, and identifying number and the required signatures, and

"(ii) sufficient required information (whether on the return or on required attachments) to permit the mathematical verification of tax liability shown on the return.".

(c) NO INTEREST ON REFUNDS CAUSED BY CERTAIN CARRYBACKS UNTIL CLAIMS FILED BY TAXPAYER.—

(1) NET OPERATING LOSS AND CAPITAL LOSS CARRYBACKS.—

(A) Paragraph (1) of section 6611(f) (relating to refund of income tax caused by carryback or adjustment for certain unused deductions) is amended by striking out "prior to the close of the taxable year in which such net operating loss or net capital loss arises" and inserting in lieu thereof "before the refund notification date".

(B) Paragraph (2) of section 6611(f) is amended by striking out "the close of" each place it appears and inserting in lieu thereof "the refund notification date for".

(C) Subsection (f) of section 6611 is amended by adding at the end thereof the following new paragraph:

"(4) REFUND NOTIFICATION DATE.—For purposes of this subsection, the term 'refund notification date' means the date on which—

"(A) an application under section 6411, or

"(B) a claim for credit or refund,

is filed with respect to the overpayment described in paragraph (1) or (2) for any taxable year.".

(2) UNDERPAYMENTS.—

(A) Paragraph (1) of section 6601(d) (relating to income tax reduced by carryback for adjustment for certain unused deductions) is amended by striking out "the last day of the taxable year in which the net operating loss or net capital loss arises" and inserting in lieu thereof "the refund notification date".

(B) Subparagraph (A) of section 6601(d)(2) is amended by striking out "the last day of" each place it appears and inserting in lieu thereof "any refund notification date with respect to".

(C) Subsection (d) of section 6601 is amended by adding at the end thereof the following new paragraph:

"(4) REFUND NOTIFICATION DATE.—The term 'refund notification date' means the date on which—

"(A) an application under section 6411, or

"(B) a claim for credit or refund,

is filed with respect to any increase described in paragraph (1) or (2).".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to returns filed after the 30th day after the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to payments of interest made after the 30th day after the date of the enactment of this Act with respect to interest accruing after the 30th day after the date of the enactment of this Act.

PART VII—OTHER PROVISIONS

SEC. 391. DISALLOWANCE OF DEDUCTIONS RELATING TO NARCOTICS TRAFFICKING.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280E. EXPENDITURES IN CONNECTION WITH THE ILLEGAL SALE OF DRUGS.

"No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted.".

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280E. Expenditures in connection with the illegal sale of drugs.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 392. SENSE OF CONGRESS WITH RESPECT TO PROVIDING OF ADDITIONAL FUNDS TO INTERNAL REVENUE SERVICE.

It is the sense of the Congress that there be appropriated for the use of the Internal Revenue Service to provide additional staff—

(1) for fiscal year 1983, the amounts proposed in the President's budget for fiscal year 1983, and

(2) for fiscal years 1984 and 1985, such amounts in excess of the amount requested for such purpose in the President's proposed budgets for such fiscal years as may be necessary to provide sufficient improved enforcement to increase revenues by $1 billion in fiscal year 1984 and $2 billion in fiscal year 1985.

SEC. 393. REPORT ON FORMS.

Not later than June 30, 1983, the Secretary of the Treasury or his delegate shall study and report to the Congress methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the returns of tax imposed by chapter 1.

Mr. DOLE. Mr. President, on behalf of the Committee on Finance, I send a modification to the committee amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified. The clerk will report the modification.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes a modification to the first committee amendment.

On page 204, line 17, strike out "10 percent" and insert in lieu thereof "7 percent".

On page 204, lines 19 and 20, strike out "10 percent" and insert in lieu thereof "7 percent".

On page 204, between lines 20 and 21, insert the following new subsection:

(b) INSURANCE PREMIUM ALLOWANCE ON MEDICAL AND DENTAL EXPENSES REDUCED FROM $150 to $100.—Paragraph (2) of section 213(a) (relating to medical, dental, etc., expenses) is amended by striking out "$150" and inserting in lieu thereof "$100".

On page 204, line 21, strike out "(b)" and insert in lieu thereof "(c)".

On page 206, line 10, strike out "(c)" and insert in lieu thereof "(d)".

On page 225, line 24, strike out the end period and insert in lieu thereof the following: ", except that such amendments shall not apply to any section 38 property (other than property to which section 48(g) applies or property described in section 167(l)(3)(A)) which—

(A) is constructed, reconstructed, erected, or acquired pursuant to a contract which was entered into after June 25, 1981, and was, on January 1, 1982, and at all times thereafter, binding on the taxpayer,

(B) is placed in service after December 31, 1982, and before January 1, 1984, and

(C) with respect to which an election under section 168(f)(8)(A) of such Code is not in effect at any time.".

On page 238, beginning with line 19, strike out all through page 239, line 12, and insert in lieu thereof the following:

"(ii) ONLY APPLICABLE PERCENTAGE OF THE LESSEE'S PROPERTY MAY BE TREATED AS QUALIFIED.—The cost basis of all elected qualified leased property (determined without regard to this clause)—

"(I) which is placed in service during any calendar year, and

"(II) with respect to which the taxpayer is a lessee,

Shall not exceed an amount equal to the applicable percentage of the cost basis of the taxpayer's qualified base property placed in service during such calendar year.

On page 239, line 14, strike "percentage of".

On page 239, lines 16 and 17, strike "among all applicable", and insert "to".

On page 241, between lines 2 and 3, insert the following:

"(vi) QUALIFIED BASE PROPERTY.—For purposes of this subparagraph, the term 'qualified base property' means property placed in service during any calendar year which—

"(I) is new section 38 property of the taxpayer,

"(II) is elected qualified leased property (not described in subclause (I)) with respect to which the taxpayer is the lessee, and

"(III) is designated leased property (other than property described in subclause (I) or (II)) with respect to which the taxpayer is the lessee.

Any designated leased property taken into account by any lessee under the preceding sentence shall not be taken into account by the lessor in determining the lessor's qualified base property. The lessor shall provide the lessee with such information with respect to the cost basis of such property as is necessary to carry out the purposes of this clause.

"(vii) DEFINITION OF DESIGNATED LEASED PROPERTY.—For purposes of this subparagraph, the term 'designated leased property' means property—

"(I) which is new section 38 property,

"(II) which is subject to a lease with respect to which the lessor of the property is treated (without regard to this paragraph) as the owner of the property for Federal tax purposes,

"(III) with respect to which the term of the lease to which such property is subject is more than 50 percent of the present class life of such property, and

"(IV) which the lessee designates on his return as designated leased property.

On page 241, line 3, strike out "(vi)" and insert in lieu thereof "(viii)".

On page 241, strike out lines 5 through 12.

On page 241, line 13, strike out "(II)" and insert in lieu thereof "(I)".

On page 241, line 18, strike out "(III)" and insert in lieu thereof "(II)".

On page 241, line 22, strike out "(IV)" and insert in lieu thereof "(III)".

On page 243, strike out lines 3 through 11, and insert in lieu thereof the following:

"(I) TRANSITIONAL RULES FOR CERTAIN TRANSACTIONS.—

"(i) IN GENERAL.—Except as provided in clause (ii), clause (ii) of subparagraph (D) shall not apply to any elected qualified leased property described in subparagraph (A) or (B) of subsection (i)(8).

"(ii) SPECIAL RULES FOR 1982.—For purposes of subparagraph (D)(ii)—

"(I) DETERMINATION OF QUALIFIED BASE PROPERTY.—Property described in clause (i) shall be taken into account in determining the qualified base property of the taxpayer for 1982.

"(II) REDUCTION IN QUALIFIED LEASED PROPERTY.—The cost basis of property which may be treated as qualified leased property under subparagraph (D)(ii) for 1982 (determined without regard to this subparagraph) shall be reduced by the cost basis of the property described in clause (i).

On page 245, between lines 5 and 6, insert the following:

(5) UNDERPAYMENTS OF TAX FOR 1982.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) for any period before October 15, 1982, with respect to any underpayment of estimated tax by a taxpayer with respect to any tax imposed by chapter 1 of such Code, to the extent that such underpayment was created or increased by any provision of this section.

On page 246, strike out lines 15 through 18, and insert in lieu thereof the following:

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (3), the amendments made by subsection (a) shall apply to agreements entered into after December 31, 1984.

(B) SPECIAL RULE FOR FARM PROPERTY AGGREGATING $150,000 OR LESS.—

(i) IN GENERAL.—The amendments made by subsection (a) shall also apply to any agreement entered into after July 1, 1982, and before January 1, 1985, if the property subject to such agreement is section 38 property which is used for farming purposes (within the meaning of section 2032A(e)(5)).

(ii) $150,000 LIMITATION.—The provisions of clause (1) shall not apply to any agreement if the sum of—

(I) the cost basis of the property subject to the agreement, plus

(II) the cost basis of any property subject to an agreement to which this subparagraph previously applied, which was entered into during the same calendar year, and with respect to which the lessee was the lessee of the agreement described in subclause (I) (or any related person within the meaning of section 168(e)(4)(D)),

exceeds $150,000.

On page 289, beginning with line 8, strike out all through page 290, line 12, and insert in lieu thereof the following:

"(e) REDEMPTIONS FROM NONCORPORATE SHAREHOLDERS WHICH ARE TREATED AS PARTIAL LIQUIDATIONS.—For purposes of this section, a redemption of stock held by a shareholder who is not a corporation shall be treated as not essentially equivalent to a divided if such redemption is pursuant to a plan of partial liquidation but only if the distributions under such plan occur within the taxable year in which the plan is adopted or within the succeeding taxable year.".

On page 291, strike out lines 9 and 10.

On page 291, line 11, strike out "(B)" and insert in lieu thereof "(A)".

On page 291, line 13, strike out "(C)" and insert in lieu thereof "(B)".

On page 291, line 15, strike out "(D)" and insert in lieu thereof "(C)".

On page 291, line 17, strike out "(E)" and insert in lieu thereof "(D)".

On page 292, before line 4, insert the following:

(3) Section 306(b)(2) is amended by inserting "or section 302(e)" before "applies".

On page 292, beginning with line 15, strike out all through page 293, line 5, and insert the following:

(a) AMENDMENTS TO CERTAIN EXCEPTIONS TO RECOGNITION OF GAIN.—

(1) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 311(D)(2) (relating to recognition of gain on distribution of appreciated property in redemption of stock) are amended to read as follows:

"(A) a distribution to a corporation (unless section 302(a) applies with respect to such distribution);

"(B) a distribution of stock or an obligation—

"(i) of a corporation—

"(I) which is engaged in at least one trade or business,

"(II) which has not received property constituting a substantial part of its assets from the distributing corporation, in a transaction to which section 351 applied or as a contribution to capital within the 5-year period ending on the date of the distribution, and

"(III) at least 50 percent in value of the outstanding stock of which is distributed by the distributing corporation with respect to qualified stock, and

"(ii) which is made with respect to qualified stock;

"(C) a distribution described in section 302(e) made with respect to qualified stock;".

(2) SPECIAL RULES AND DEFINITIONS RELATING TO DISTRIBUTION INVOLVING A QUALIFIED STOCK.—Section 311(d) (relating to appreciated property with respect to redemption of stock) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES RELATING TO QUALIFIED STOCK.—For purposes of this subsection—

"(A) CERTAIN DISTRIBUTIONS.—A distribution of stock or an obligation of a corporation shall not be treated as described in paragraph (2)(B) if such distribution would not qualify as a distribution described in section 302(e) if the assets (rather than the stock) of such corporation had been distributed by the corporation distributing such stock. For purposes of the preceding sentence, the assets of the corporation whose stock is distributed shall be treated as having been held directly by the corporation distributing such stock during the period during which such distributing corporation owned at least 50 percent in value of the outstanding stock of such other corporation.

"(B) QUALIFIED STOCK DEFINED.—

"(i) IN GENERAL.—The term 'qualified stock' means stock held by a person (other than a corporation) who at all times during the lesser of—

"(I) the 5-year period ending on the date of distribution, or

"(II) the period during which the distributing corporation was in existence.

held at least 10 percent in value of the outstanding stock of the distributing corporation.

"(ii) DETERMINATION OF STOCK HELD.—Section 318 shall apply in determining ownership of stock under clause (i), except that in applying section 318(a)(1), the term 'family' includes any individual described in section 267(c)(4) and any spouse of any such individual.".

(3) CONFORMING AMENDMENT.—Section 311(d)(2) is amended—

(A) by inserting "and" at the end of subparagraph (E),

(B) by striking out the semicolon and "and" at the end of subparagraph (f) and inserting lieu thereof a period, and

(C) by striking out subparagraph (G).

On page 303, line 24, strike out the end period and insert in lieu thereof the following: ", except that in the case of any acquisition before September 1, 1982, if on August 31, 1982, a plan of liquidation could be adopted under section 334(b)(2) with respect to such acquistion (but had not been adopted) the acquiring corporation may, not later than November 15, 1982, elect to have the provisions of section 338 of such Code apply to such acquisition.".

On page 330, beginning with line 12, strike out all through the matter preceding line 3 on page 331.

On page 331, line 3, strike out "(d)" and insert in lieu thereof "(c)".

On page 332, line 1, strike out "(e)" and insert in lieu thereof "(d)".

On page 400, line 19, strike out "September" and insert in lieu thereof "December".

On page 472, line 19, strike out "no liability" and insert in lieu thereof "liability of not more than $600 ($1,000 in the case of a joint return under section 6013)".

Mr. BAKER. Mr. President, will the Senator from Kansas yield to me for one moment?

Mr. DOLE. I would be delighted to yield.

Mr. BAKER. I thank the Senator.

Mr. President, for the information of Senators it is my expectation that now that the matter is before the Senate, modification has been accomplished, and I anticipate that opening statements will be made, it is not my expectation that there will be any record votes this evening.

I hope we can conclude these preliminary steps and ask the Senate to recess this evening at 6 o'clock or a little after. The Senate will convene at 10 o'clock tomorrow, and I would anticipate we would be back on this measure at approximately 10:30.

Mr. PACKWOOD. Mr. President, could I ask the majority leader a question? Is it the Senator's intention to quit about 6 o'clock, and we will come back and resume and still be on the opening statements of the Senator from Kansas and the Senator from Louisiana on the first 2 hours of the bill, which is the first amendment?

Mr. BAKER. I cannot say that I assume that is the case.

Mr. LONG. I would assume, Mr. President, that the amendment by the Senator from Kansas at the desk is a modification of the bill and it has been so modified.

The PRESIDING OFFICER. The Senator is correct.

Mr. LONG. Without addressing the amendment.

Mr. BAKER. No action was required by the Senate. It was done as a matter of right by the chairman of the committee, as authorized.

The PRESIDING OFFICER. The Senate is addressing the first committee amendment, which is 2 hours.

Mr. PACKWOOD. May I ask the chairman of the committee and the distinguished minority member, I understand we are on the first amendment, and is it their expectation that they will take about that time between now and 6 o'clock and, perhaps, continue talking briefly at 10 o'clock in the morning?

Mr. DOLE. I hope we can do that. I do not see much reason to stay beyond 6 o'clock this evening unless the Senator from Louisiana wishes to. So I would say, yes, we will have about an hour remaining tomorrow.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, let me just explain briefly the modification to the committee amendment so that those who have an interest in the modification will know what it means.

I might say, first of all, that this modification has been discussed with the distinguished Senator from Louisiana (Mr. LONG), and it has been discussed with Senator BYRD, Senator BRADLEY, and the Republican members of the committee. It does have the support of the requisite number of Senators to make it a committee amendment, and let me just quickly go through the provisions.

The first would be a change in safe harbor leasing limitation on lessees.

I would just say at the outset there was some disagreement after our Finance Committee session and after approving the bill on what should be included in the changes made in safe harbor leasing.

It was the distinct understanding of the Senator from Minnesota (Mr. DURENBERGER) that it should be one way, and it was my understanding it should be another way, so we have attempted to resolve that misunderstanding, and the modification does that.

The amendment revises the provision of the Senate Finance Committee bill—sec. 211(b) (3)—that imposes a 45-percent limitation—40 percent in 1984 and 1985—on the amount of a lessee's property that may be leased under the safe harbor rules. Under the amendment, the amount of the lessee's total property taken into account in making this determination would include, in addition to property owned by the lessee, property that is leased by the lessee from another person pursuant to a leveraged leased—for example, a lease that would qualify for lease treatment without regard to the safe harbor rules. The leveraged lease must be longer than 50 percent of the ADR midpoint life of the property. The amendment also would make technical changes to this lessee cap to correct errors made in the Senate Finance Committee bill.

The second provision of the modification relates to the medical expense deductions, section 202 of the bill.

The provision in the bill increasing the floor for deductible medical expenses to 10 percent of adjusted gross income would be modified by first, reducing the floor to 7 percent, and second, reducing to $100 the rule under present law allowing one-half of medical insurance premiums up to $150 a year to be deducted without regard to the percentage floor.

I might say that the change, the first change, would lose about $800 million in revenue; the change in medical deductions would lose about $700 million in revenue.

A third change would be an exemption from withholding on interest and dividends, section 301: An exemption from withholding would be provided for single taxpayers whose tax liability for the prior year was less than $600 and married taxpayers whose tax liability for the prior year was less than $1,000. That is to make certain that there will be no withholding from one who paid less tax than that in the prior year. That change is about $100 million loss in revenue.

The next change involves ITC basis adjustments: The provision of the bill relating to reduction in basis for the investment tax credit would not apply to equipment—other than public utility property and property subject to a safe harbor lease—placed in service before July 1, 1984, which was acquired pursuant to a contract that was entered into after August 13, 1981—date of enactment of the 1981 Act—and that was binding on July 1, 1982, and at all times thereafter. Now that is about a $200 million revenue change.

Then to make certain that we stay within our target set forth by the budget resolution passed by this committee, we make the necessary changes to, in effect, pay for the changes just alluded to.

ACCELERATED CORPORATE INCOME TAX PAYMENTS (SEC. 242 OF THE BILL)

The requirement that large corporations must be 90 percent current in their estimated tax payments would be effective in 1984, rather than 1986 as under the Finance Committee bill.

That would make a net change of $1.1 billion.

ESTIMATED TAX PENALTIES (SEC. 269 OF THE BILL)

Estimated tax penalties for period before December 15, 1982, for unpayments attributable to changes made by the life insurance provision and the leasing provision would be waived. That would mean essentially that would fall in 1983 and that, along with the provision in the leasing where the money would be collected in 1983, would add about $700 million.

Finally, after hearings on mergers and acquisitions, a bill which had been heard in the House and supported by the Treasury, we have agreed to a change under which the provision would be modified to provide that present law partial liquidation rules would generally continue to apply to corporate distributions to long-term individual shareholders—other than portfolio investors. The new rules relating to treatment of a transaction as a stock purchase or asset purchase may be elected even though the stock was acquired prior to September 1, 1982, where the transaction would otherwise qualify under the new rules and no distribution was made before September 1, 1982. This is pursuant to a request of a number of Senators, that we make certain in the mergers and acquisitions that they do not have an adverse impact on so-called mom and pop operations. That is a revenue loss of about $100 million in 1984.

That, then, in essence is a brief explanation, and I will include a longer explanation later with reference to the modification.

Mr. President, I yield myself 15 minutes under the bill for my opening statement.

The PRESIDING OFFICER. The Senator is so recognized.

Mr. DOLE. Mr. President, I would just say, because I was here for part of the debate on the balanced budget amendment, that now we are dealing with the real thing. We are really talking about trying to balance the budget and trying to reduce deficits and bring down interest rates with this package. And I know that there has been a lot of rhetoric, and I have been doing my best on the balanced budget amendment to supply some of the rhetoric, but I must say that this is the real test for the Congress. I am pleased that the President mentioned as much on the Capitol steps today in his remarks about the balanced budget amendment.

I can also say the President called me about 4 o'clock today to wish us well as we proceed on what he considers to be the cornerstone at this point of the effort to get some handle on deficits and some handle on interest rates. So I just consider this to be the most important thing we have done for a long time in the Senate.

It, in effect, is the first response to the Senate budget resolution passed by this committee. And I might say, since the Senate Budget Committee chairman is on the floor, it was largely because of his leadership that that was accomplished. But I think the Senator from New Mexico and others would agree in that case we were talking about numbers, and they were very important numbers. The process must continue and the process will continue and will be strengthened if the Senate, hopefully in a bipartisan way, will be able to adopt not only the revenue increases but the spending reductions that are in the so-called committee amendment of H.R. 4961, which is a fair sized piece of legislation; 700-some pages of very complicated tax increases and revenue increases and spending reductions.

There is no doubt about it, the legislation before us has already generated some controversy. It is not clear why that is so since this bill is a direct and necessary result of our adoption of the first budget resolution for fiscal year 1983. That budget resolution received strong support in the Senate, so I have every expectation that the Senate will follow through on the budget and give equally strong support for the Tax Equity and Fiscal Responsibility Act.

This is a good bill and a fair bill. Contrary to some reports, this is not just a tax bill. It is a reconciliation bill, containing program and policy changes on both the spending and tax sides of the ledger. In each case our committee has made every effort to choose modifications in law that make good policy sense and allocate costs and burdens in an equitable manner, as well as reduce the deficit. As everyone knows, this is not always an easy task. In a few instances I have, on behalf of the committee, made modifications to clarify our intent and, I believe, make certain that there is no unintended impact on the average citizen of modest means.

Mr. President, last week other committees also undertook the task of meeting reconciliation targets, and I think at this point probably most have been completed. I know that the majority leader and the chairman of the Budget Committee, Senator DOMENICI, feel that it is absolutely essential that we do everything possible to meet our reconciliation instructions and to adhere to the schedule set forth in the budget resolution. I agree with them. Congress generally has a poor record on controlling the budget. We have a big job to do in persuading the public and the financial markets that we are dead serious this time around, and we cannot afford any slippage. That is why I hope and expect that the Senate will resist any efforts to delay action on this bill or modify it in a significant way. If the consensus in support of this package unravels, I am afraid that our chance to take real action on the deficit this year will slip away very rapidly, not only on this legislation, but probably every other thing under the reconciliation procedure.

THEORY OF THE BILL

Before going into some of the specific provisions of the bill, I would like to set out for the Members the basic rationale behind the decisions our committee made, the results of which are incorporated in this legislation. Our top priority, of course, was to reduce the deficit in compliance with our reconciliation instruction. But we believe that there are good ways and bad ways to reduce the deficit. I hope that the Senate will agree that our way is the right way.

In reducing spending, the Finance Committee sought to improve administration of programs and focus assistance more precisely on those who are most in need. This means that we have emphasized changes regarding providers of services—and practitioners, in the health area—as well as beneficiaries. There has been an explicit effort to avoid unwarranted cuts in programs that aid low-income Americans.

Similarly, confronted with the need to raise revenues, our committee sought to emphasize eliminating or cutting back unjustified preferences in the Tax Code, and improving compliance to insure that everyone pays a fair share of tax. These are all goals worth pursuing even in the absence of a mandate to reduce the deficit.

In fact, I think most of the changes should have been made whether we have a budget deficit or budget surplus. Thirty percent of what we have done is tax compliance. I see no reason why we should ask anyone to pay taxes if someone else is not paying any tax at all. That is the way we addressed the process and that is why we believe we have a pretty good product—not perfect, but a pretty good product. These are the kinds of changes that make the most sense when the pressure is on to reexamine all aspects of the budget and bring down interest rates to insure a stable recovery.

Altogether, the changes in this bill would result in budget savings of about $17.5 billion over the next 3 fiscal years, and revenue increases of about $99 billion over the same period.

At this point, I would like to summarize for the Members the provisions of the Tax Equity and Fiscal Responsibility Act of 1982.

The PRESIDING OFFICER. The Senator has consumed 15 minutes.

Mr. DOLE. I yield myself an additional 10 minutes.

MEDICARE PROVISIONS

First, on the spending side, under the medicare provisions, we delay initial eligibility date for medicare entitlement. The initial eligibility date would be delayed from the first day of the month in which the individual turns 65 to the first day of the following month.

Modify coverage of the working aged: Employers would be required to offer employees aged 65 through 69 the same health benefit plan offered to younger workers and medicare would be secondary payor to these plans.

Require minimal copayments on home health services under medicare: Home health services would be subject to copayments equal to 5 percent of the average reasonable cost per visit.

Reimburse inpatient radiology and pathology services at 80 percent of reasonable charges: The special 100 percent reimbursement rate for inpatient radiology and pathology services would be eliminated. Such services would be paid for on the same basis as other physicians' services.

Index part B deductible to the Consumer Price Index (CPI): The part B deductible would be indexed to the CPI beginning in 1983. As a result the deductible is estimated to be $80 in 1983, $86 in 1984, and $92 in 1985.

Provide for no increase in physician fee economic index: No increase would be allowed in the economic index for fiscal year 1983 and only a 5-percent increase will be permitted in fiscal year 1984.

And I would say, just picking that one out, we believe there is justification for that. We believe the physicians of America will accept that. We asked Federal workers and others to take less in pay increases or no pay increase at all and I think we would find most physicians supporting that proposal.

Repeal routine nursing salary cost differential: The differential factor paid to hospitals and skilled nursing facilities for inpatient routine nursing salary costs would be eliminated.

Payments for services of provider-based physicians: The Secretary of HHS would be directed to prescribe regulations which would distinguish between the services of hospital-based physicians which are covered under medicare on a reasonable cost basis and those which are reimbursable on the basis of reasonable charges; and establish standards of reasonableness to be applied in each case.

Hold part B premium constant as a percentage of program costs: The part B premium paid by enrollees in the supplementary medical insurance program would be set and maintained at 25 percent of part B program costs.

Limit medicare reimbursement to hospitals: This is one of the big savers on the spending side. The current limits on medicare reimbursement to hospitals; that is, the section 223 limits, would be extended and modified to include ancillary operating costs and special care unit operating costs; annual increases in the overall operating costs per case would be limited for a period of not more than 3 years; and the Secretary of HHS would be directed to develop methods under which hospitals, skilled nursing facilities, and other providers could be paid on a prospective basis.

Require certain medicare regulations: The Secretary of HHS would be required to issue regulations to: First, eliminate the private room subsidy for hospitals; second, establish single reimbursement limits for skilled nursing facility and home health agency services; and third, eliminate duplicate overhead payments for outpatient services.

Audit and medical claim review: The medicare contracting budget for fiscal years 1983, 1984, and 1985 would be supplemented by $45 million in each year to be spent specifically for audit and medical review activities.

Temporarily delay the periodic interim payment (PIP): Periodic interim payments to hospitals for the latter part of September 1983 would be delayed until October 1983. There would be a similar deferral of PIP payments from September to October of 1984.

Assistants at surgery: Reimbursement for assistants at surgery in hospitals where a training program exists in that specialty would be prohibited, except in the case of exceptional circumstances.

Judicial district in which providers may obtain judicial review: Federal judicial review of an adverse decision of the Provider Reimbursement Review Board involving actions brought jointly by several providers of medicare services could be conducted by the U.S. district court for the district where the principal party for the group is located.

Ineffective drug provision: Payments under medicare part B and under medicaid for ineffective drugs would be prohibited.

Medicare payments to HMO's: Current requirements for contracting with health maintenance organizations (HMO's) would be modified by authorizing prospective reimbursement under risk-sharing contracts with competitive medical plans (CMP's) at a rate equal to 95 percent of the adjusted average per capita cost (AAPCC).

Technical corrections to Omnibus Budget Reconciliation Act of 1981.

I might say that we are in the process now of making some minor adjustments in some of those areas that we hope might be supported by everyone in the Senate.

MEDICAID PROVISIONS

Allow nominal medicaid copayments: The prohibition against nominal copayments for mandatory services to categorically eligible medicaid recipients would be repealed except in the case of certain inpatient hospital and ambulatory services for children and pregnant women and for services provided to inpatients in medical institutions who are required to spend, except for a personal needs allowance, all their income for medical expenses.

Eliminate matching for medicare part B buy-in: Federal matching for part B premium payments for medicaid recipients would be eliminated.

Modify lien provision: States would be permitted under certain circumstances to attach the real property of medicaid recipients who are permanently institutionalized in nursing homes or other long-term care medical institutions.

We did make certain changes in that so that nobody in the immediate family dependent upon that person would be affected.

Reduce medicaid error rates: States would be required to reduce their medicaid error rates to 3 percent.

We believe this is a change that should be made. We do it pretty much in the food stamp program, where the error rate averages about 10 percent. Rather than punish the beneficiaries of the program, we ought to have tighter administration. That is pretty much the thrust of this, though the administration suggested a zero error rate. We do not think that is practical or feasible and does not make a great deal of sense. We thought 3 percent was reasonable.

Continuation of medicaid eligibility: States would be allowed the option of continuing medicaid coverage for certain working families who were made ineligible for AFDC as a result of certain provisions of the 1981 Reconciliation Act.

TECHNICAL CORRECTIONS TO OMNIBUS BUDGET RECONCILIATION ACT—UTILIZATION AND QUALITY CONTROL PEER REVIEW

Contract for utilization and quality control peer review: The professional standards review organizations (PSRO) program, would be repealed. The secretary would be required to enter into contracts with peer reveiw organizations for an initial period of 2 years, renewable biannually, for the purpose of promoting effective, efficient, and economical delivery of health care under medicare.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) PROVISIONS

Rounding of eligibility and benefit amounts: States would be required to round both their need standards and actual monthly benefit amounts to the next lower whole dollar.

Proration of first month's benefit: States would be required to pay benefits no earlier than the date an application is filed. Therefore the AFDC benefit would be prorated from the date of application.

Eliminate uniformed services as basis for AFDC eligibility: Absence from the home solely because of uniformed services would be excluded as a basis for AFDC eligibility.

Refusal to work: Sanctions would be imposed on individuals who refuse to work, reduce hours of employment, or terminate employment, without good cause.

Mandatory job search: Individuals applying for AFDC benefits would be required to participate in job search while the application is pending. Continued job search would be required, after the application becomes effective, for not more than a total of 8 weeks each year.

Inclusion and exclusion of specified individuals' needs and income: The Federal statute would define those individuals whose needs and incomes must be included or excluded from the AFDC filing unit: First, the employable parent's benefit would end when the youngest child reaches age 16; second, all children would be included in the filing unit, except SSI disabled children and stepbrothers and stepsisters; and third, the income of unrelated persons living in the AFDC household would be counted as available to the AFDC family.

Repeal of emergency assistance program: The emergency assistance program would be repealed.

I must say I think we were sensitive to the needs of low-income Americans and we addressed that concern in this section. I do not believe that anybody who fully understands the medicaid program or the AFDC program will have much quarrel with what we did in the Senate Finance Committee.

Proration for shelter and utilities: States would be allowed to prorate the portion of the AFDC grant for shelter

and utilities for AFDC families living in households with other individuals.

Reduction of Federal match for payment errors: The allowable error rate for AFDC would be 4 percent in fiscal year 1983, 3 percent in fiscal year 1984, and 3 percent in fiscal year 1985.

Households headed by minor parents: To receive AFDC benefits, a minor parent and her child would have to reside in the home of the minor parent's own parent or guardian.

Exclusion from income of certain State payments: States would be allowed to exclude from calculations of AFDC benefit amounts any payments made solely from State funds that are designed to compensate for lost income in the period before the new benefit amount can be calculated and paid.

Extension of time for States to establish a work incentive demonstration program: States would be allowed 2 additional years in which to exercise their option to operate a WIN demonstration program, as provided in the 1981 Reconciliation Act.

CHILD SUPPORT ENFORCEMENT PROVISIONS

Fee for services to non-AFDC families: The law in effect prior to Public Law 97-35 would be restored which allows States to charge a reasonable fee for a non-AFDC collection and retain from the amount collected an amount equal to administrative costs not covered by the fee. As a State option, authority would be retained for States to collect from the parent who owes child or spousal support an amount to cover administrative costs, in addition to the child support payment.

Allotments from pay for child and spousal support owed by members of the uniformed services on active duty: Allotments would be required from the pay and allowances of any member of the uniformed services, on active duty when he fails to make child—or child and spousal—support payments.

Reimbursement of State agency in initial month of ineligibility for AFDC: States would be permitted to reimburse themselves for AFDC that would have already been paid for months before the support was collected and known to make the family ineligible. Thus, the family would not receive double payment for the same month, both in the form of AFDC and through receipt of the support collection.

SUPPLEMENTAL SECURITY INCOME PROVISIONS

Prorate first month's benefit based upon date of application: The first month's SSI benefit would be prorated from the date of application or the date of eligibility, whichever is later.

Round SSI eligibility and benefit amounts: SSI monthly benefit and income eligibility amounts would be rounded to the next lower dollar. Rounding would take place after the cost-of-living adjustment had been made.

Coordination of SSI and OASDI cost-of-living adjustments: The SSI and social security (OASDI) benefit increase would be coordinated so that at the time the cost-of-living adjustment is made, the recipient's SSI benefit would be based on his or her social security payment in the same month. Also, whenever the Secretary judges there to be reliable information on the recipient's income or resources in a given month, the SSI benefit in that month would be based on that information.

Phase out "hold harmless" protection: Federal hold harmless payments would continue to be phased out, being reduced to 40 percent of what they would otherwise be in 1983, to 20 percent in 1984, with no hold harmless payments made in 1985 and future years.

Recovery of SSI overpayments: The Secretary would be authorized to collect SSI overpayments from the benefits payable under other programs administered by the Social Security Administration—black lung and OASDI benefits.

UNEMPLOYMENT COMPENSATION PROVISIONS

Round unemployment benefits to next lowest dollar: The Federal 50-percent matching share of extended unemployment benefits would not be available on that part of extended unemployment benefit payments which result from a failure on the part of the State to have a benefit structure in which benefits are rounded down to the next lower dollar.

I might suggest that there was a story just this morning, which will be referred to later in the debate, on the front page of the New York Times on how many States are in trouble because of difficulty with the unemployment funds.

SUMMARY OF REVENUE PROVISIONS

The revenue provisions of the bill fall into four major categories. First, there are provisions to broaden the individual income tax base, mainly for upper income people. These account for $8 billion of the $99 billion raised by the bill between 1983 and 1985. Second, there are a series of provisions designed to improve tax compliance. These are expected to raise $29 billion. Third, the bill includes a number of changes to business taxation to broaden the tax base and reduce or eliminate obsolete incentives. These account for $42 billion. Finally, there are increases in several excise taxes and user fees which account for $20 billion.

I will break those down further because I do not want to mislead anybody, when I refer to the $20 billion I am talking about the increase on cigarettes, a very minimal increase on the telephone tax, and for Federal employees on medicare who will pay the medicare tax, and then, of course, there is the user fee as far as airports and airways are concerned, which will be discussed at greater length tomorrow. It is in effect, a user fee and we find the industry fairly well in agreement that that provision is reasonable.

The individual income tax changes consist of: First, strengthening the minimum tax to insure that high-income people must pay some tax; second, raising the floor under the medical deduction from 3 percent of income to 10 percent of income, and imposing a similar floor under the casualty loss deduction; and third, limits tax deductions for pension plans of high-income people. I have just offered a committee amendment lowering the medical floor because, on reflection, the 10-percent floor appears to be too onerous a burden on people with high medical expenses.

That has been changed to 7 percent, according to the modification.

The compliance provisions include several improvements to the information reporting system and to existing penalty provisions, along with a restructuring of voluntary withholding on pensions. They also include 10-percent withholding on dividends and interest. Most of our trading partners use withholding on dividends and interest, and the Internal Revenue Service deems it essential for tax enforcement. The bill exempts persons for whom withholding would be a burden. I will go into that in greater detail tomorrow.

The bill's primary source of revenues is the business sector. It scales back tax preferences which are counterproductive or which can no longer be justified in this time of budget stringency. The safe-harbor leasing provisions are scaled back and repealed after 1985. The benefits of the accelerated cost recovery system are scaled back so that they no longer exceed the benefits of deducting the cost of an asset the year it is placed in service. The tax treatment of life insurance is revised. A series of tax preferences are scaled back 15 percent across the board. Tax incentives for mergers and acquisitions are reduced. The tax treatment of multinational oil companies and companies operating in U.S. possessions is modified to eliminate abuses. The completed contract method of accounting for long-term contracts is revised, and corporations are required to capitalize interest and taxes paid during the construction period of a building. Corporate tax payments are accelerated. Tax advantages for discount bonds are eliminated. The cumulative impact of these changes is a significant reform of business taxation.

Finally, the bill increases a number of taxes that serve as user charges—the taxes that, until 1980, financed the Airport and Airway Trust Fund. The

unemployment insurance tax is increased to avoid a drain of general revenues to cover unemployment benefits. Federal employees are subjected to the medicare tax. In addition, the bill increases the telephone and tobacco excise taxes.

The theme of these revenues changes is to meet the revenue targets of the budget resolution in ways that spread the burden of financing Government more equitably and more evenly. I am confident that we have achieved this goal.

I would just say as an aside that there has been a great effort and a long effort—this is not something done in one or two or three or four meetings of the Senate Finance Committee—there has been an ongoing process for the past 4 or 5 months. For a period of about 5 weeks there were seven Members of Congress, Democrats and Republicans, who met with representatives of the White House and the Treasury to try to figure out some way to solve this budget problem. There we talked about tax increases. At one time, there was a belief that the President might agree to $122 billion in tax increases. But we could not reach any agreement, so that effort never came to fruition.

I would say to those who are looking for surprises that there are no surprises. The areas that are touched in this bill have been under discussion for a period of 4 or 5 months, and maybe longer.

THE IMPORTANCE OF SUBSTANTIVE ACTION

Mr. President, I realize that there are many provisions to this bill, and that there is some complexity involved with a number of them. We have done our best to educate Members and staff over the past several weeks as to the contents of the legislation, and I believe we have been successful. Of course, we stand prepared to answer any question or clarify any matter that may still be of concern.

But we have to remember that it is the detailed, substantive program changes contained in this bill which can make all the difference in terms of real deficit reduction and significant impact on financial markets. Until now we have talked a lot about the deficit and agreed to a budget plan that can reduce the deficit. This bill, however, presents our first opportunity this year to actually cut the deficit through direct legislative action. Furthermore, our bill contains over 30 percent of the total deficit reduction over the next 3 years called for by the budget resolution. If we fail here, it is likely that the budget game—and the chance to have an impact on the deficit—will be over for this year. If we succeed, as I believe we must, we can prove the sincerity and determination behind Congress statement of a commitment to reduce the deficit.

Somebody asked me if I knew everything that is in that bill. I probably do not. There are 700-some pages. It is hard enough to lift, let alone fully understand. But there has been an effort by the Joint Committee and by the Finance Committee staff to make certain that any member who had a problem had that problem quickly addressed.

This is a detailed and substantive program, and there are a number of changes. Until now, we have just talked about the deficit. We have talked about a balanced budget. We have talked about a constitutional amendment. This, as I said at the outset, is the real thing to address the immediate problem. Whether or not we have the courage to do the real thing will be determined in the next 2 or 3 or 4 days on the Senate floor.

EMPHASIS STILL ON SPENDING

Mr. President, I have said that this is not just a revenue raising bill. It is also a spending reduction bill, and it has to be considered in the context of the budget mandate to all committees of the Senate to reduce spending in their respective areas. The new revenues raised under this bill account for only about 26 percent of the total of $378 billion in deficit reduction called for by the budget resolution: Most of that deficit reduction comes from controlling authorizations and appropriations and from the favorable economic consequences that we expect will flow from firm congressional action to make these changes. It will be a long, tough battle to adhere to these budget totals, complete the reconciliation process, and follow through in the appropriations process. But we will never get there at all unless we take the first step. The first step toward getting spending under control is to approve the legislation now before us.

WHY WE NEED REVENUES

It should be made clear at the outset that our proposals to raise revenue are in no way a contradiction of last year's tax cut. To the contrary, they preserve last year's tax cut: A fact acknowledged, with appreciation, by President Reagan in his statements of support for this bill. Furthermore, these tax changes are the second phase of a necessary reckoning in tax policy that began last year, and the first step toward a simplified and more equitable tax system.

Mr. President, I want to keep making clear, because there has been so much focus on the revenue aspects of this bill, that this is also a spending reduction bill. The Finance Committee, under the mandate of the Senate, met and achieved its targets on that side.

Some of my colleagues, some of my Republican colleagues, some of the pure supply siders—though there are not as many as there were—would say, "Why are you raising revenues? Why raise revenues in a recession?" I would remind them that the effective date of nearly every provision is next January. Plus, as I said earlier, I do not know what choice we had. But we still believe that about 74 percent of the deficit reduction under budget resolution will come from the spending side, not from the revenue side. As I said, these tax changes are before us in an open-and-above-board procedure. We have abandoned the unjust deceptive practice of allowing tax rates to rise from inflation while the income tax base was eroded by the proliferation of special preferences, deductions, and credits. We have halted the steady rise in the tax burden that would have brought us to a level of 24 percent of GNP by 1987. Under present law, revenues would be 18 percent of GNP by 1987, and with this bill they would increase to 19.4 percent of GNP in that year. This is a modest increase: We would all rather have them at a lower level, but in conjunction with major spending reductions to confront an unprecedent deficit problem, this does not seem an unreasonable change in the tax burden. The Reagan administration planned for a receipts level of 18.7 percent of GNP by 1987.

Mr. President, I also point out to Members that, as our committee report indicates, these revenue increases are modest compared with last year's tax reductions over the same period. ERTA cut taxes by $88 billion in 1983, $140 billion in 1984, and $190 billion in 1985. By comparison, the present bill would raise revenues by $20.9 billion in 1983, $36 billion in 1984, and $41.4 billion in 1985. That is not a drastic offset relative to the tax cut, even without taking into account the significant 10-percent rate reduction and business tax relief that are already in effect this year.

It is also important to remember where we are raising the revenues: As President Reagan pointed out in a letter addressed to me, dated July 17, more than three-fourths of the increased revenues come from improved compliance and measures to broaden the tax base. About 85 percent come from provisions that will not affect the tax burden of the average taxpayer. In fact, this bill is a major assault on the problem of "special tax relief at the expense of the general" which has become increasingly troublesome in recent years. The bill can help eliminate much taxpayer resentment over the perceived unfairness of our tax system by cutting back on tax shelters that benefit the wealthy, who can afford sophisticated tax planning. We cannot forget that high tax rates are easy for the well-to-do to avoid, and that they are perpetuated by the profusion of special tax breaks. This legislation gives us a chance to break that cycle of higher rates and special privi-

lege, with the goal of bringing down rates and simplifying the system in the years ahead. I hope that other advocates of a simpler and fairer tax will join in this effort to begin broadening the tax base so that we can facilitate lower tax rates and easier compliance.

I have heard some say this is a tax on the little people. It is true that we are going to raise the telephone tax that has been around since 1941, has been as high as 10 percent. It is now 1 percent, we raise it to 2 percent in 1983, to 3 percent in 1984, and 1985, then back to 2 percent in 1986.

The tax on a telephone bill in Virginia, for a $24 or $25 bill, the State and local tax is $3.50 or thereabouts. The Federal tax is about 23 cents. So on a $20 phone bill, this will add 20 cents a month.

Some feel you cannot tax cigarettes, that hurts the little man. Again, I did not necessarily want the excise tax on cigarettes. It is hard to raise $100 billion over 3 years. But even there, if you smoke 200 packs a year, that is $16. It seems to me that is not an unreasonable amount of money. There are some studies that indicate that that change itself might—might—discourage teenagers from taking up the habit, because cost is a factor.

THE PROBLEM OF ACCOUNTABILITY

Finally, Mr. President, let me try to put the action of the Finance Committee on this bill in the context of the budget problem and where the budget process is headed. Last week we began debate on Senate Joint Resolution 58, a proposed constitutional amendment to reform our fiscal policymaking procedures in the interest of greater restraint, and clearer accountability to the American people for our decisions. I am, as I said in debate on Senate Joint Resolution 58, a strong and enthusiastic advocate of this constitutional change, and of the particular amendment that is before the Senate. This is a discipline we very much need, as is demonstrated by the triple-digit deficits we are now confronting. The point of this constitutional amendment is to change procedures so that we make specific choices on the level of revenues, on outlays, and on whether a deficit is appropriate. Then we will be obliged to make choices and tradeoffs among competing claims on the budget.

Mr. President, it seems to me that this is precisely what we are going about today. We are trying to set a revenue level openly and honestly, without the deception of bracket creep. We are doing the same on outlays and on the level of spending in different program areas. These are the explicit choices we would be making under Senate Joint Resolution 58 if, as I hope and expect, it becomes part of the Constitution. I urge Members to vote for this constitutional change. I also urge them to vote for our reconciliation bill, because it is the exact kind of open-and-above-board legislating we ought to do, and which we would be required to do under Senate Joint Resolution 58. You cannot responsibly vote for the one measure and not the other. Both are directed to the same problem and deal with it in the same way: By increasing our accountability and requiring that we make explicit choices. The difference is that our tax and spending bill is directed to the immediate, and acute, deficit problem. Senate Joint Resolution 58 is directed to the long-term problem. But clearly we need both.

As I said today and have said before, we have all talked about that, but this is the real test. This is the litmus test. It seems to me that if we are concerned about a balanced budget, then we ought to be concerned about this measure before us. If we are concerned about the budget process, we ought to be concerned about the measure before us.

Mr. President, I hope we will follow through on these measures and swiftly complete the reconciliation process. That is the only guarantee of long-term economic stability. I also hope that, as we proceed, we will continue to make honest and open decisions consistent with our budget mandate. We cannot begin resorting to devices such as counting revenue increases as spending cuts or taking credit for regulatory changes that are not the result of our actions. I know this is a difficult process—no one knows it better than the members of the Finance Committee—but we do have a responsibility to meet. I say this because there have been some signs of slippage along these lines on the House side. Our two tax-writing committees have a good working relationship, and I trust that will always be so. But we cannot evade the fact that our goal under the budget resolution is to reach a conference agreement that meets the budget totals on spending and revenues. If too many devices for avoiding making real savings are used, our chances of reaching a conference agreement are considerably diminished. These are matters that can be worked out, and I expect that they will be.

Mr. President, I urge prompt approval of H.R. 4961.

I am advised that the House Ways and Means Committee will start a markup almost immediately. They have already indicated in their markup that they will have the same provision on taxes on Federal employees for medicare, the same commuter tax. We believe you will find that they will adopt many other provisions that have been talked about in the past several months and finally adopted by the Senate Finance Committee.

So, as we begin debate on this important matter, I first want to thank the members of the staff on both sides, the Joint Tax Committee, those in the Treasury who have been working with us over the past several months, and certainly, members of the committee on both sides.

The vote was 11 to 9, an indication to some that the committee is split, strictly a partisan vote. It seemed to me that in this year, if we could not achieve consensus among the 11 Republicans, it was not particularly fair to ask the Democrats to bail us out, so we were able to do that. I hope we have not left any scars on what we considered to be a good working relationship.

Mr. GRASSLEY. Will the Senator yield to me for just a minute?

Mr. DOLE. Certainly, Mr. President.

Mr. GRASSLEY. Mr. President, I do not think any member of the Finance Committee, including myself, found spending reductions a pleasant or an easy task. These are not easy times to be an elected official, because our mandate from the American people, as well as this Nation's economic crisis, force us to do two unpleasant things at the same time—raise taxes and cut spending.

Many groups have had, and will have, serious disagreements with some of the actions taken in this bill by the Finance Committee. Nevertheless, I believe that, given the current economic and political climate, the spending reductions contained in this bill are not unreasonable. A number of administration proposals that would have been particularly onerous have been left out or modified. For example, the committee rejected an administration proposal to cut expenditures to provide needed services to needy, elderly, and handicapped individuals by $500 million; instead, these services will be funded at the same level as they were last year. The committee also rejected or modified a number of proposals that would have made it more difficult for States to administer programs. For example, the committee did not accept administration proposals to reduce Federal reimbursement for State administration of AFDC and medicaid by 5 percent. Workfare will remain an option with the States, rather than being mandated by the Federal Government.

The committee also rejected an administration proposal to eventually require the States to maintain zero error rates in their AFDC and medicaid programs. Instead, States will be expected to reduce their error rates to 3 percent. Rather than requiring States to prorate shelter and utilities for AFDC families living with others, States will have the option of prorating benefits in any way they see fit. States will also be allowed broader authority to experiment with copayments for medicaid services.

The committee accepted a number of proposals that will improve equity in the treatment of applicants and recipients and streamline program management. Under the bill submitted by the Finance Committee, military service will no longer exempt parents from supporting their children. Recipients will not be allowed to quit work or reduce their hours of work in order to remain eligible for AFDC payments. People living together as a family and children with separate income will be expected to contribute to the support of the family.

In order to make life a little easier for State administrators of these programs, States will be allowed to place liens on the homes of permanent nursing home residents supported by medicaid if doing so will not impose a hardship on the recipients or their families. Coordinating SSI with social security cost-of-living adjustments and allowing recovery of SSI overpayments from other benefit programs will improve the integrity of the SSI program at minimal cost to recipients and States. Rounding payment standards and benefit amounts in AFDC and SSI to the lower whole dollar will be administratively simple to do and could reduce computation errors at a minimal reduction to recipients. Prorating the first month's AFDC and SSI benefits will simply prohibit States from paying a full month's benefit when application is made after the first of the month.

I might also say that I found the benefit changes to recipients that I enumerated above to be positive in that they imply that families, and people living together as families, ought to be responsible for one another. I do not think the Federal Government should encourage people to think that it will step in and perform duties and roles that should be performed by family members.

Mr. President, the committee also adopted a number of provisions to restrain the growth in medicare expenditures, which have been increasing much faster than the rate of inflation over the past few years and are projected to continue to grow as rapidly in future years if nothing is done. Reducing medicare expenditures is necessary not only from the standpoint of prudent fiscal policy, but also because the medicare trust fund is expected to run into serious financial difficulties by the end of this decade. By reducing medicare expenditures now, before the crisis, we will, hopefully, avoid a situation similar to the one we are now facing in the social security retirement program. In making changes in medicare, the committee tried to make them in such a way that the direct impact on individual recipients is minimized.

By far the largest medicare item is the limit on hospital reimbursement. I have already alluded to the rapid increase in medicare program expenditures. It should also be noted that hospital costs make up about 70 percent of medicare program costs. Significant restraint in medicare expenditures cannot be achieved without reducing payments to hospitals.

I did not support hospital costs without reservation, however. It is obvious that it does not get at any of the underlying causes of hospital cost increases. I would have preferred to have considered prospective reimbursement and health care competition proposals to a much greater extent than circumstances allowed. Unfortunately, the economic situation does not permit us the luxury of careful deliberation of such proposals this year.

With regard to prospective reimbursement, I believe the Finance Committee is moving in that direction. Senator DURENBERGER has already begun to hold hearings on the matter in his Subcommittee on Health. The hospital cost limits in this bill will terminate as soon as a prospective reimbursement plan becomes operational.

Finally, I should point out that the committee did try to mitigate the impact of the hospital cost limit. For example, the section 223 limit was raised from 108 percent to 110 percent of the average routine cost per case. In addition, rural hospitals with less than 50 beds will be exempt from section 223 limits.

While I think that H.R. 4961 is a good bill, I do have reservations with certain provisions. On the spending side, the provision to require employers to extend regular health insurance benefits to older workers might act as a disincentive to hire or retain older workers by raising the cost to employers. I do not believe we should place obstacles in the way of people who want to continue working past retirement age. For one thing, for some people being able to continue to work and contribute constructively to society is important to their own mental and spiritual well-being. For another, given social security's serious long-term financial difficulties, we should probably be encouraging people to remain in the work force as long as they can. I was able to support this provision only because the committee adopted a provision to exempt businesses with 25 or fewer employees. That modification should substantially mitigate the impact of the proposal on elderly employment; nevertheless, if it does prove to substantially reduce elderly employment, I will take steps to make further modifications or repeal it entirely.

Mr. President, I also agreed to the provision to extend medicare coverage to Federal employees with reluctance. I would prefer to either make the Federal health benefit program the primary payor for persons with dual eligibility, or allow employees to elect either medicare coverage or coverage under the Federal plan, but not both. Unfortunately, the former proposal was rejected by the Senate last year, and the latter would present insurmountable administrative difficulties. Since 60 to 80 percent of Federal employees are eligible for medicare, and since Federal employees contribute much less toward the cost of their coverage than workers in the private sector, I supported the provision contained in this bill as a last resort.

Mr. President, I have said that raising taxes and cutting expenditures all in one piece of legislation are probably two of the most unpleasant things that we in this body must do. But, as a member of the Committee on Finance, I want to compliment the chairman of the committee (Mr. DOLE) for his leadership in this area. As I look back now 3 or 4 months, I remember wondering whether we would ever get to the point where we would be debating legislation that would both cut expenditures and increase taxes to some extent.

It is only because of the leadership of Senator DOLE that we are debating this bill today. I want to express my personal compliments to him, and I hope that in the process of reflecting on his accomplishment during the next few days, Members will personally compliment him for his leadership. What he and Senator DOMENICI have had to do—in Senator DOMENICI's case on the budget—has been an almost impossible task. Both of them have been very successful. I express my appreciation to Senator DOLE.

Mr. DOLE. Mr. President, I thank my distinguished colleague.

I yield the floor.

Mr. LONG. Mr. President, I ask unanimous consent that the time of the minority leader be assigned to the senior Senator from Louisiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. LONG. Mr. President, I ask that this statement be charged against my time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, the tax increase provisions of the pending bill represent the largest tax increase ever recommended in a single piece of legislation by the Committee on Finance. The bill as reported would impose nearly one hundred billion dollars in new taxes over the next 3 years.

We are operating under the Budget Act reconciliation rules which limit total debate to 20 hours. You might say that on the average, we are allowing the Senate a total of only 12 minutes to consider each billion dollars of increased taxes the bill would impose

on American taxpayers over the next 3 years. Of course, the Finance Committee considered the bill as well—but that consideration was even more abbreviated. The bill was reported after a total of 16 hours of committee consideration—less than 10 minutes per billion dollars of new taxes over the next 3 years.

The degree of consideration of a measure cannot be precisely measured in minutes per billion dollars. But we can make a judgment on how fairly the people affected by a major bill have been treated. Have the taxpayers who will be burdened with the new taxes had an opportunity to learn what Congress proposes to do to them? Have they had a chance to make their views known? Have their concerns been considered? Or have these major tax decisions been made in such haste as to bypass the ordinary protections afforded the American people by the deliberative legislative process?

The answer to these questions is that the people affected by this bill have not been treated fairly.

The President proposed some of the provisions in the reported bill, or different provisions concerning the same subject matter, in late January, with details becoming available 1 month later. Senators DOLE and GRASSLEY announced their proposals relating to taxpayer compliance on March 5 and introduced a bill on this subject shortly thereafter. However, descriptions of most of the remaining provisions were first printed, some only in outline form, in a staff pamphlet which was issued June 15—just 2 weeks before the day the committee began and ended its deliberations on the tax increase provisions.

The Republican members of the committee made the decisions on the provisions to be included in the bill within a few days in closed meetings. The decisions made in these closed meetings did not become public until 9 a.m. on July 1, as the committee opened its meeting on the tax increase provisions. The bill was ordered reported 16 hours later, after the committee met almost continually during the morning, afternoon, and evening.

This means that taxpayers affected by the various proposals described in the staff pamphlet generally had only 2 weeks to make their views heard by committee members before the committee acted to increase their taxes.

It means that taxpayers affected by provisions crafted in the closed meetings held by Republican committee members had no time to make their views known because action on the tax increase provisions began and ended on the very long day of July 1.

It means that whether a committee member voted for or against a particular tax increase provision, in most cases he made that decision without having all the information he would need to understand the impact of that decision on his constituents and on taxpayers in other States.

The way in which this bill has been handled is in sharp contrast to the way in which the Committee on Finance and the U.S. Senate have dealt with major tax increase legislation in the past. Comparing this procedure with past tax bills clearly shows that this package of tax increases is not only the biggest in our country's history but also one of the most hastily assembled and inadequately considered.

The most recent major tax increase bill acted on by the Finance Committee and the Senate was the Crude Oil Windfall Profit Tax Act which became law in 1980. Six days of public hearings were held on that bill in July 1979. This was followed by 19 days of markup sessions in committee in September and October. Senate floor action on the bill took 21 days in November and December of that year.

In 1977, Congress enacted a major increase in payroll taxes to finance the social security system. The Finance Committee held 7 days of hearings on that legislation in June and July of 1977. Committee consideration of this legislation took place over a 3-month period with the committee meeting on the bill on 8 separate days. Senate floor consideration took the better part of a week, from November 1 through November 4.

The major tax reform legislation enacted in 1976 involved more than 20 days of hearings, followed by 23 markup sessions in committee. Floor consideration of this bill took place on 24 separate days over a period of nearly 2 months.

Another major tax reform bill was enacted in 1969 after more than 20 days of Finance Committee public hearings from early September to early October 1969 with committee deliberation on the bill taking place throughout the rest of October. The Senate then debated the bill on 14 different days in November and December of 1969.

Every piece of legislation has its own particular characteristics. Some bills are longer than others. Some are more complicated than others. Some are more controversial, some are more urgent. And these differences will be reflected in the amount of time devoted to hearings, markup sessions, and floor consideration. But the Senate has a right to expect the Finance Committee to recommend legislation which reflects an adequate consideration of its content and consequences. I do not believe the Finance Committee has met that obligation in this bill. No complex major tax bill has ever been rushed through with only 1 day of committee consideration and 20 hours of floor debate.

As evidence of the short time spent on consideration of the tax-increase provisions, the chairman of the committee has taken the unusual step of filing his own additional views in which he expresses his concern about two provisions in the bill where he feels the committee may have gone too far: the cutback in the medical expense deduction and the provision requiring withholding on interest and dividends. In fact he has now modified the bill to reflect these and other concerns.

Mr. President, important matters of tax policy are usually also important matters of social policy. When we provide tax incentives, we are attempting to influence taxpayers to engage in conduct that will make a favorable impact on American society.

When we change those tax incentives, we affect social policy as well. I am concerned that in the short time the Finance Committee and the Senate are devoting to this tax increase bill, we are looking only at its tax consequences and not its social consequences.

For example, we are looking at the taxes that banks or individuals will have to pay as a result of owning municipal bonds, but we are not paying attention to the higher interest rates municipalities will have to pay on their general obligations in the future.

As another example, we are looking at the revenues we will collect by withholding on bank interest, but we are not paying attenton to the burden we are placing on elderly and low-income taxpayers by requiring them to file for exemptions so that taxes they do not own will not be withheld, nor are we paying attention to the crushing administrative burden we are placing on banks and the other thrift institutions and what actions they will take as a consequence of this burden.

This brings me to another point, Mr. President. The tax provisions in the bill have been justified on the grounds that they tax certain wealthy individuals and corporations who do not pay their fair share of the tax burden. In fact, however, a number of the provisions of the bill will actually fall most heavily on lower- and middle-income taxpayers. In some cases, the impact on such taxpayers will be very direct. In other cases, that impact is disguised but will nonetheless ultimately bear down most heavily on taxpayers in the lower- to middle-income range.

The tax system does not exist in a vacuum. A tax may be initially imposed on a corporation, but that corporation will try to pass that new tax on to someone else. Certain types of taxes are more likely than others to be passed on from the theoretical taxpayer to the true bearer of the ultimate burden.

Here are some examples of provisions in the bill that will have a major impact on lower and middle-income individuals.

The bill includes a substantial increase in employment taxes for the unemployment compensation program. Over the next 3 years, this provision will impose about $6.6 billion of new payroll taxes. In theory, the unemployment tax is paid by businesses. In practice, however, it is a wage cost which will be passed along in a variety of ways. To some extent, it will be passed along to consumers in the form of higher prices. To some extent it will be passed along to workers in the form of lower wages than they would otherwise receive. For small, labor-intensive businesses it may have a very direct impact on whether the firm can survive economically or whether it can afford to hire additional workers—and in either case, the payroll tax increase is felt in terms of jobs which are lost or not created.

To the extent that increased unemployment taxes are reflected in wage restraint or job loss, the impact is likely to be felt most heavily on lower income workers and on businesses which are already in poor health. The Federal unemployment tax applies only to the first $7,000 of wages. This means that the relative impact of a tax increase is much more severe in industries with low average wages than in industries with high average wages. In addition, much of the $6.6 billion in increased taxes under this proposal is imposed under experience-rated State tax structures. In the long run, experience rating is a desirable method of allocating unemployment program costs. The immediate impact, however, is likely to be a shifting of the bulk of the new tax burden under the bill onto those employers who are laying off workers, those who are already in difficulty because of the recession. Also, since such employers are likely to have little or no profitability, they are unable to benefit from the deductibility of these taxes as business expenses. All of these factors will tend to aggravate the tendency of this tax to result in wage restraint and job loss for lower income workers.

It may be that the unemployment compensation program will require additional financing and that an increase in unemployment taxes will be needed to meet that program's requirements. But that should be determined on the basis of a careful study of that program. Any tax increase should be clearly related to the program's needs and should take into account the impact of the tax itself on the economy. This is a trust fund program, and its taxes should not be increased to simply help out the budgetary situation. The unemployment tax increase provisions in this bill, however, are simply there to raise Federal revenues for budgetary purposes. To my knowledge, the committee did not review the needs of the various unemployment accounts funded by this tax. The bill does not even address the question of which accounts will benefit from the new revenues but simply allows the old allocation formulas to have whatever impact they may have, formulas which were developed years ago in the light of a different tax rate structure.

The cutback in the medical expense deduction is another case in point. The bill as reported would have allowed taxpayers to deduct medical expenses only to the extent that they constitute more than 10 percent of the taxpayer's income—compared with a 3-percent threshold under present law. This provision was estimated to impose over $6 billion in new taxes over the next 3 years. The provision has been modified to reduce the 10-percent threshold to 7 percent. But in either case, a substantial part of this new tax burden will fall on lower- and middle-income taxpayers. Forty percent of the existing medical care deduction is claimed by taxpayers with incomes below $30,000, and three-fourths of the total claimed is by taxpayers with incomes below $50,000.

Clearly, this is a tax increase aimed directly at lower- and middle-income taxpayers. Moreover, it is a tax which falls most heavily on those who are already beset with the burden of heavy medical expenses. Averages are very deceiving when applied to a provision of this type which is designed specifically to benefit those with high medical expenses. A family in the $20,000 income class faced with a catastrophic illness could lose an $800 deduction as a result of this change. The impact of this provision on such a family could be far more severe than its impact on a family with much higher income which is better able to cope with a major medical expense.

I will vote against it.

Another area of concern relates to interest from State and local government bonds. The bill would increase both individual and corporate tax payments by establishing minimum tax rules which effectively tax a part of the interest paid on State and local government bonds. Under existing Supreme Court precedents, taxation of State and local bond interest would be unconstitutional. Nevertheless, the bill would impose the new minimum taxes on this interest, raising serious constitutional questions that were never explored by the committee in hearings or otherwise.

Imposing new minimum taxes on purchasers of State and local bonds is a case in which the incidence of the tax differs significantly from the incidence of the burden. The tax imposed falls immediately on corporate investors and on higher income individuals.

But it is not realistic to believe that making State and local government bonds subject to taxation will have no other effect beyond raising the taxes paid by high-income taxpayers. It appears those bonds a less attractive investment. The taxpayers who will pay more in Federal taxes will insist upon more interest if they are to invest in the bonds which support the operations of State and local governments. They will effectively pass much of their higher tax burden on to State and local governments.

According to a study by the Municipal Finance Officers Association, interest costs will rise up to 1½ percentage points if this provision becomes law. And who suffers if the costs to State and local governments are increased? According to a 1977 Tax Foundation analysis of the burden of general taxes, State and local taxes bear much more heavily on low-income families than Federal taxes. At income levels below $10,000, this study shows that taxpayers paid a greater percentage of their total income in such taxes to State and local governments than to the Federal Government. This is not surprising. State and local governments generally tend to rely more heavily on forms of taxation which are fairly regressive and burden lower- and middle-income taxpayers more than they burden higher-income taxpayers. A 1981 review of State and local tax systems by the Advisory Commission on Governmental Relations rated the overall tax structure as progressive in only six States. And this situation is likely to continue or become more pronounced as States seek new revenues to compensate for the reductions being made in the Federal budget. For example, a report by the National Conference on State legislatures shows that 29 States have recently increased regressive-type taxes such as sales taxes and taxes on items such as tobacco and gasoline. By the time the increased Federal taxes have been passed through as an increase in State and local taxes, it is the lower- and middle-income taxpayers who will pay the bulk of it.

In another area, the bill would impose the medicare part of the social security tax on Federal employees. Whatever the merits of covering or not covering Federal employees under social security, this provision establishes a new tax burden which will fall most heavily on lower- and middle-income families. The structure of the tax itself insures this, since no tax is imposed on income above a level of $32,400. Most Federal workers earn far less than this and will face a new tax equal to 1.3 percent of their total gross income. The bulk of the $2.3 billion in taxes imposed by this provision over the next 3 years will be paid by employees earning less than $25,000.

Roughly one-third of the Federal general schedule work force are in jobs which pay $15,000 or less. This is not a tax which these workers can pass along to the consumer.

The question of social security coverage for Federal workers will have to be faced by Congress sooner of later. However, this provision does not face up to that very complicated and difficult question. It simply levies a part of the social security tax on Federal workers. Some of these workers will get medicare coverage that they otherwise would have been denied. Others will get nothing since they have already earned medicare coverage. Still others will never have the opportunity to get medicare coverage unless they stay in Federal employment until they reach age 65. The bill does not address the questions of coordination between the current health benefits program and medicare.

The provision is in this bill not because of the merits or equities involved but simply because it generates revenues. It is another case of the social security system being modified for the sole purpose of making the budget look better, and the ones who will primarily bear the cost of doing so are lower- and middle-income persons.

I will vote against it.

Other tax increases whose burden would be borne by low- and middle-income persons are those higher excise taxes that would be imposed on telephones and cigarettes. Over the next 3 years, the bill will impose higher excise taxes on telephone service and cigarettes totaling over $7 billion. These kinds of taxes tend to have their heaviest impact on lower income taxpayers. A middle-income individual who smokes cigarettes will pay the same amount of tax as a higher income individual, but it will represent a larger percentage of his income. State and local governments already heavily utilize regressive taxes of this type. For example, cigarette taxes are imposed by all States in amounts ranging up to 40 cents per package. Increases in this tax were enacted in 6 States in the past year. If the Federal Government is going to increase its use of these taxes, it can only shift the overall tax structure of this Nation in such a way as to make the low- and middle-income individual feel he is being asked to bear a higher share of the burden at all levels of government.

I will vote against it.

Mr. President, these tax provisions need much more careful scrutiny than they have been given up to now. The bill should be defeated. The Finance Committee will then be able to start over, and this time we will be able to fashion a bill that makes more sense both from the standpoint of tax policy and social policy.

Before closing, Mr. President, I should like to address the bill's spending cut provisions. As reported, the bill will reduce spending in various Finance Committee programs by some $17 billion over the next 3 years.

There is a continuing need to eliminate unnecessary Federal expenditures so as to reduce the Federal deficit, which is contributing to the present distress of the economy. At the same time, I believe spending cuts must be achieved in ways which are not damaging to needy and aged people and which do not undermine the proper operation of Federal programs. I was disturbed for these reasons by some of the proposals originally submitted by the administration. For example, some of these proposals would have sharply reduced funding for programs to assure that child support is collected for deserted children and for programs to help get people off of welfare and into jobs.

The Finance Committee bill did eliminate these suggestions as well as many other objectionable proposals that were under consideration, and it still achieves substantial savings. Although I cannot support the bill as a whole because of its tax aspects, I think the spending reduction provisions probably represent the best we could do in the short time available.

But I hope that in the longer run, greater savings can be achieved by changing some of the basic elements of programs. For example, in the medicare area, the bill includes a long list of changes, many of which will simply shift costs from the Federal Government to some other payer. Perhaps if we can take the time to carefully review that program as a whole, we can find ways to actually reduce the rate of growth in the cost of medical care for the aged. Similarly, I think the welfare program as a whole can be restructured to make work more attractive and to provide strong incentives for more efficient State administration.

Though I voted for the spending cuts in committee, I feel that the tax increase provisions greatly outweigh them in importance. For this reason, I urge that the bill be defeated.

Mr. DOMENICI. Mr. President, at the cutset of Senate consideration of this bill, I want to summarize briefly the legal context from which this bill emerged and also to make a few comments on the contents of the bill.

This is a bill reported pursuant to reconcilation instructions contained in the first concurrent budget resolution for fiscal year 1983 (S. Con. Res. 92). This bill has been reported directly to the Senate by the Senate Finance Committee, consistent with the provisions of section 310(c) of the Congressional Budget Act of 1974. Let me quote subsection 310(c) for the information of the Senate:

(c) RECONCILIATION PROCESS.—If a concurrent resolution is agreed to . . . containing directions to one or more committees to determine and recommend changes in laws, bills, or resolutions, and—

(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House a reconciliation bill or reconciliation resolution, or both, containing such recommendations;

Senate Concurrent Resolution 92 gave reconciliation instructions to eight Senate committees. Seven of those committees were instructed to report to the Budget Committee by July 20. The Senate Finance Committee, on the other hand, was instructed to report both revenue changes and spending reductions to the Senate by July 12. This means that the Senate will this year consider two reconciliation bills, H.R. 4961, reported by the Finance Committee, and a consolidated reconciliation bill containing the recommendations of seven other Senate committees and reported by the Senate Budget Committee.

Under subsection 310(e) of the Congressional Budget Act of 1974, debate on this bill is subject to a time limit of 20 hours, including debate on all amendments, motions, and appeals. Proposed amendments to this bill are subject to the provisions of subsection 305(b) of the Budget Act, including the time limitation of 2 hours on any amendment in the first degree and 1 hour on any amendment in the second degree, with the time to be equally divided on amendments. Amendments to this bill are also subject to the germaneness rules stated in subsection 305(b).

I now want to turn to some comments on the substance of this bill. First, I commend Senator DOLE, the chairman of the Finance Committee, and other members of the committee who produced this bill. This bill proposes policy changes that many would say could not possibly emerge from a Senate Committee in an election year with all the controversies that are swirling about Federal policies and the state of the economy. The Finance Committee has done an outstanding job in bringing out a bill that is responsive to the reconciliation instruction contained in the first budget resolution. I believe the recommendations of this bill are also responsive to the needs of our economy and to the opinion of the American people that Congress should not simply sit here in this election year and let our economic problems worsen, but should take significant policy action to alleviate those problems.

This bill proposes reductions in Federal deficits of over $25 billion in fiscal year 1983 and nearly $120 billion over the the 3-year period from fiscal year 1983 through fiscal year 1985. Moreover, it accomplishes these changes in ways that will minimize the impact on

low- and middle-income people, and improve the basic equity in our spending programs and our revenues laws.

Mr. President, I ask unanimous consent that an explanatory note, prepared by the Senate Budget Committee staff with the assistance of the Congressional Budget Office, be printed in the RECORD at the conclusion of my remarks. This note compares in some detail the spending reductions and revenue increases provided for in this bill with the reconciliation instructions contained in the first budget resolution for fiscal year 1983.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. Mr. President, let me turn now to the spending side of the bill and comment briefly on the Finance Committee recommendations. The bill will save over $19 billion in spending over the 1983-85 period. It exceeds the first budget resolution reconciliation spending target by more than $3 billion.

Entitlement programs are the key to budget control. Entitlements represent $451 billion in the fiscal year 1983 budget just adopted—about 61 percent of the total budget. This bill provides for over $4 billion in entitlement savings in fiscal year 1983 and more than $17 billion over the fiscal 1983-85 period. This bill provides the Senate with the opportunity to show its resolve about achieving the spending reductions provided for in the first budget resolution for fiscal year 1982. This bill tackles difficult issues in many entitlements. The Finance Committee has made recommendations which will help control budget growth while improving the fiscal condition of programs themselves.

The Finance Committee bill begins the task of restoring fiscal soundness to the medicare program, the hospital insurance portion of which is actuarially in worse shape than social security. The proposal of the Finance Committee will establish a reimbursement method for hospitals under medicare that will provide, for the first time, an incentive to reduce the growth of hospital costs. Even with the savings proposed by the committee, medicare will still grow at 13 percent per year during the 1983-85 period.

The Finance Committee's provisions on medicaid will permit the program to grow at over 9 percent per year. Approximately one-half of the savings are achieved by increasing flexibility for the States in administering medicaid and will result in savings for both States and the Federal Government. Changes in medicaid match for the purchase of medicare medical insurance and the reduction in error rates are appropriate measures to tighten the administration of this program.

H.R. 4961 presents a set of income security proposals which would achieve significant savings in AFDC, SSI, child support enforcement, and unemployment insurance without damaging the effectiveness of these programs or creating severe hardships for recipients. Indeed, the bill contains several provisions which would have negligible effect on beneficiaries, yet save large sums of money; proposals which would help move public assistance recipients from dependency on welfare to independence in a job; and proposals which would make it easier for States to require fathers to help pay for bringing up their children instead of shifting the responsibility to the taxpayer.

Let me turn now to the revenue side of this bill. Here again, the Finance Committee has done fine work. This bill moves the Nation toward a fairer and simpler tax system. It is, in fact, an unprecedented step in that direction. This bill will recover $99 billion in Federal revenues during fiscal years 1983 through 1985, from the repeal of tax loopholes and from improved enforcement of existing laws. It exceeds the first budget resolution reconciliation revenue target by nearly $1 billion.

There is more real tax reform in this bill than in any other bill Congress has had before it—at least in the past decade. If you add the tax reform portions of the 1969 and 1976 acts, excluding the repeal of the investment tax credit which was reinstated in 1971, you will find that the first 3 years of increased revenue under the combination of those bills amounted to $16.5 billion in 1982 dollars. This Finance Committee bill provides 526 percent more tax reform than did those two bills which were much heralded as reform measures at the time.

Moreover, this bill preserves last year's tax breaks for the average taxpayer. Instead, it asks big business and those who have taken special advantage of the system to bear their fair share of the cost of Government. Tax breaks from the sale of corporate tax benefits will be cut in half by this bill and so will the billion-dollar credit for American pharmaceutical companies in Puerto Rico. This bill takes away tax havens for multinational oil companies and reduces corporate tax preferences by 15 percent.

It is important to remind everyone that even though this bill raises a 3-year total of $99 billion in revenues, the budget resolution approved by Congress cuts spending by $280 billion over that 3 years. Getting outlays under control is still our top priority. We are making revenue increases to improve the Tax Code and to help reduce the deficit, but our emphasis must always be on outlay control.

Mr. President, the Finance Committee has presented and excellent bill. The full Senate should approve it overwhelmingly and should reject all amendments which would weaken or water down the courageous work of the Finance Committee.

EXHIBIT 1

REVENUE INCREASES AND SPENDING REDUCTIONS IN H.R. 4961 COMPARED TO THE RECONCILIATION INSTRUCTIONS TO THE SENATE FINANCE COMMITTEE

EXPLANATORY NOTE

The purpose of this table is to compare H.R. 4961 as reported by the Senate Finance Committee on July 12, 1982 with the reconciliation instructions to the Finance Committee contained in the First Budget Resolution for FY 1983 (S. Con. Res. 92).

All numbers in this table have been prepared by the Congressional Budget Office based on the bill as reported.

Revenue increases and spending reductions are stated in terms of changes from the baseline estimates used in developing the First Budget Resolution. The reconciliation instructions were constructed in the same manner.

This table does not include the "by-product" effects of the Finance Committee's recommendations for changes in revenues and spending because such "by-products," although they affect the First Budget Resolution totals, were excluded in calculating the reconciliation instructions. Some examples of these "by-products" are (1) increases in budget authority for medicare due to greater interest earnings because of the recommended savings in benefit payments; (2) increases in budget authority and outlays for medicaid and food stamps due to the savings being recommended in medicare, AFDC, and SSI; (3) increases in budget authority for the unemployment trust fund that result from the recommended FUTA tax increases; and (4) increases or decreases in budget authority and outlays that result from the federal employees medicare tax.

Many of these "by-product" amounts were assumed in the First Budget Resolution totals even though they did not enter the reconciliation instruction calculations.

Recommended authorization levels in H.R. 4961 are not included in this table because the authorization amounts were not included in the reconciliation instructions. Moreover, these amounts are not binding on the Appropriations Committee which will determine the actual levels of spending at a later date.

Direct spending increases recommended in H.R. 4961 (in addition to the "by-product" amounts discussed above) are not included in this table because they equal the amounts assumed in the First Budget Resolution. If such direct spending amounts in the bill had exceeded the First Budget Resolution assumptions, the excess amount would have been netted against the savings reported in the bill.

REVENUE AND SPENDING TOTALS

[In millions of dollars]

	Fiscal year—			Total fiscal year
	1983	1984	1985	1983-85
Revenues				
Individual income tax provisions	+240	+2,984	+3,261	+6,485
Business tax provisions	+5,927	+12,755	+18,162	+36,844
Compliance provisions	+6,698	+7,056	+8,646	+22,400
Pension provisions	+211	+588	+673	+1,472
Life insurance and annuities	+1,487	+1,510	+2,183	+5,180
Employment tax provisions	+1,814	+3,104	+3,869	+8,787
Excise tax provisions	+2,509	+3,847	+4,734	+11,090
Miscellaneous provisions	−38	−37	−34	−109

REVENUE AND SPENDING TOTALS—Continued

[In millions of dollars]

	Fiscal year—			Total fiscal year 1983–85
	1983	1984	1985	
Revenue gain from additional IRS enforcement	+2,100	+2,400	+2,400	+6,900
Total revenue increase in H.R. 4961	+20,948	+34,207	+43,894	+99,049
Reconciliation revenue instruction	+20,900	+36,000	+41,400	+98,300
Spending				
Medicaid:				
Budget authority	−446	−638	−786	−1,870
Outlays	−588	−638	−786	−2,012
Medicare:				
Budget authority	−409	−658	−1,036	−2,103
Outlays	−3,020	−4,599	−5,760	−13,379
AFDC:				
Budget authority	−450	−534	−449	−1,433
Outlays	−450	−534	−449	−1,433
SSI:				
Budget authority	−137	−148	−168	−453
Outlays	−137	−148	−168	−453
Child support enforcement:				
Budget authority	−22	−29	−25	−76
Outlays	−22	−29	−25	−76
Unemployment insurance:				
Budget authority				
Outlays		−10	−19	−29
Savings bonds/debt management:				
Budget authority	−329	−691	−858	−1,878
Outlays	−329	−691	−858	−1,878
Total spending reduction in H.R. 4961:				
Budget authority	−1,793	−2,698	−3,322	−7,813
Outlays	−4,546	−6,649	−8,065	−19,260
Reconciliation spending instruction:				
Budget authority	−1,106	−1,444	−1,740	−4,290
Outlays	−4,429	−5,564	−5,976	−15,969
Total deficit reduction:				
H.R. 4961	−25,494	−40,856	−51,959	−118,309
Reconciliation instruction	−25,329	−41,564	−47,376	−114,269

Mr. DOLE. Mr. President, I know of no further request for time this evening.

I only wish to say one thing, and I hope we can address maybe some of the concerns that the Senator from Louisiana has expressed.

I am reminded in 1980 when we considered the reconciliation bill we did it in 1 day without hearings. In fact, I think we extended the telephone tax at that time.

I do not see any reason to go into that. I think we do the best we can in our committee. We were faced in this case, I might say, with a somewhat unusual recess deadline, and I found most Members felt they would wish to conclude and not have to comeback after the recess or stay during that recess week.

But I can assure the Senator from Louisiana that we will do our best to make certain that we maintain our working relationship, and I do not think anything has happened to jeopardize that.

But I also underscore that it is very difficult to put together a package to raise $100 billion over a 3-year period, or even $98.3 billion. I guess there might be other provisions that maybe have more merit than some in the bill.

Some have suggested we should have an energy tax. In fact, we had an energy tax in the Republican Caucus at one time, but the president said no, he did not want an energy tax. So that was removed.

Some say there should have been a tax on liquor. That was suggested, but there was not adequate support for that. That again would be a tax on the little man, I assume, so maybe it is just as well we did not put that tax increase in the proposal.

It is the hope of the Senator from Kansas that we might proceed unless there is some disagreement with the spending provisions which come first in the bill and then move on to the revenue side and hopefully finish the bill possibly on Wednesday, although I think Senator BAKER assured both Senator LONG and me we would not have any late nights, not tonight and not tomorrow night and hopefully not Wednesday night. We do have, as I understand, most of the week.

So I thank my colleague from Louisiana.

As far as I know the Senator from Colorado wishes to be recognized, and following that, I guess there is no other request.

Are there requests on the Senator's side?

Mr. LONG. Not at the moment.

Mr. DOLE. I am happy to yield the floor.

Mr. ARMSTRONG. Mr. President, I appreciate the Senator from Kansas for yielding. I shall be quite brief.

For most of the year, cynics who have observed the budget process have predicted failure for efforts to cut spending, curtail growth of entitlements and raise revenue. They observed repeatedly that this was an election year and the task set before us a difficult one politically.

The prevailing wisdom has been that the Senate Finance Committee—with six Senators up for reelection—could not vote to reduce entitlements or raise $100 billion in revenue for the next 3 years as required by the most recent budget resolution. Over and over again, it was predicted that when push comes to shove, the Finance Committee would either not report a bill, or worse, recommend repeal of the third year of President Reagan's 25-percent tax reduction program.

Well, the cynics were wrong. Under the skillful leadership of Chairman BOB DOLE, the Finance Committee has fulfilled its mandate under the budget resolution by recommending a bill which:

Reduced spending in the aid to families with dependent children, supplemental security income, medicare and medicaid entitlement programs by $18 billion in the next 3 years.

Achieved entitlement savings by reasonable structural changes in programs and not by meat ax, callous wholesale reductions in benefits or eligibility. For example, the committee reduced Federal subsidies for administrative errors, required benefits to be paid on the date of eligibility and not before, made uniform reimbursement schedules for all medicare service providers, ended AFDC benefits for those who refuse to work or reject a bona fide job offer, and other similar reforms.

Meets the budget resolution revenue targets without repealing, delaying or modifying the third year personal income tax cut or otherwise undermining the basic principles of the historic supply-side tax reductions enacted last year.

Closes a loophole that permitted some defense contractors to pay little or no taxes on record earnings.

Closes another loophole used by the insurance industry to escape taxation, and at the same time modernized antiquated tax laws governing the industry.

Partially ends another loophole in which business received double tax benefits for new equipment purchases.

Authorizes the taxes and finances the spending necessary to update the Nation's airports and airways.

Increases taxpayer compliance at a time when $40 billion in Federal revenue remains uncollected because of tax evasion.

Makes critically needed reforms of overly generous provisions permitting corporations to "sell" unused tax benefits.

Scales back provisions permitting some corporations to defer tax payments for as long as 10 years.

Provides guidelines for financing of "private purposes" with industrial development bonds—whose sheer volume in recent years threatens the ability of State and local governments to raise the money necessary to build critically needed roads, sewers and schools.

Does not raise energy taxes.

As a member of the committee I am pleased and in fact I note with pride that within 8 days after the adoption of the budget resolution the Finance Committee did in fact fulfill its mandate by recommending for action of the Senate the legislation which we now consider.

Mr. President, in my view the bill which we have before us is far from perfect. It is in many ways distasteful to me. In fact any time we start raising taxes it just cuts across the grain as far as I am concerned.

Nonetheless, in the form it was reported by the Finance Committee I intend to support it and I do so because of the larger consideration of the spending reductions, the overall budgetary situation, and the need for the Finance Committee, the Senate, and ultimately Congress to show that it can cope with the overwhelming economic difficulties which plague our Nation at the present time.

It is in that spirit and not with any sense of pleasure in having to recom-

mend either reductions in the rate of increase of entitlement programs or tax measures that I intend to support this legislation.

On the whole, the bill is a worthy response to the reconciliation instruction of the Congress contained in the recent budget resolution. Putting together such a comprehensive and important legislative proposal in a very brief time, less than 2 weeks following adoption of the budget resolution, is a tribute to the extraordinarily strong and patient leadership of Senator DOLE. I also want to express my admiration and appreciation to the committee staff whose faithfulness, painstaking attention to detail and expertise are truly commendable.

At the same time, however, I want to explain that the only reason that I am personally willing to support the tax provisions of this bill is in consideration of the spending reductions it contains and other spending restraints mandated by the budget resolution. The Nation's drastic economic problems, caused by two decades of gross fiscal irresponsibility, urgently require reduction of Federal budget deficits at the earliest possible time and a balanced budget within the near future. Although, I personally feel that the budget resolution does not go far enough toward deficit reduction, it offers the best available prospect for achieving fiscal integrity and, thereby, restoring the Nation's economic health. Under the circumstances, I feel obligated to support certain parts of the budget "package" which would otherwise be anathema. I therefore intend to support the bill recommended by the Finance Committee.

But there is at least one serious omission in the legislation as reported by the committee and other provisions which I feel should be changed.

CAPITAL GAINS INDEXING

By a vote of 11-9, the committee declined to adopt my amendment to provide for indexing the capital gains tax. Had the committee approved this amendment it would have taken the first step necessary to end the current inflation tax imposed on capital.

Under current law, a capital gains tax is applied on a portion of the increased value of an asset at its sale. While assets held for several years usually increase in value, the increase is largely because of inflation. In other words, the capital gains tax now imposed is not a tax on real gain, but on inflation gain.

My amendment removes the inflation tax by adjusting the basis of certain assets for inflation, using the GNP deflator. The inflation adjustments is the percent of increase in inflation, as measured by the GNP deflator, from the time of purchase of the asset, or enactment of this legislation, and the time it is sold. As a result, the capital gains tax will only apply to real gain, and not inflation gain.

To reduce complexity, the amendment applies only the corporate stock and real personal property that has been sold or exchanged, and does not apply for purposes of determining depreciation, cost depletion or amortization. Debt is completely excluded from the inflation adjustment. The inflation adjustment can be used to index assets for determining corporate earnings and profits.

This amendment is identical to legislation overwhelmingly adopted by the House of Representatives in the 95th Congress. Despite the amendment's popularity and common sense, it was not considered by the Senate.

This amendment corrects a serious impairment in capital formation so necessary to get our economy moving again. The National Bureau of Economic Research reported that in 1973 alone $4 billion in capital gains transactions occurred and were, subject to a capital gains tax of $1.1 billion. Had these assets been adjusted for inflation, there would not be any gain—in fact, the capital losses would have exceeded $1 billion. In other words, the current capital gains tax prevents the sale and exchange of property, and the subsequent freeing of capital for other investments. We have so rigged the Tax Code that capital is unfairly taxed.

Since this amendment is critically needed, the Senate Finance Committee and the Senate will have another opportunity to consider the merits of this legislation.

SAFE HARBOR LEASING

To the uninitiated, safe harbor leasing—new to the American vocabulary—may invoke visions of a rented yacht anchored restfully on placid waters.

Far from it. Safe harbor leasing is far and away the most stormy tax issue of the day. Originating from last year's tax cut law, safe harbor leasing refers to provisions removing all previous restraints on corporate equipment leasing transactions. It permits cash-starved corporations to sell their unused tax credits to other firms needing tax deductions to reduce their tax liability. The stakes are incredibly high—safe harbor leasing could affect as much as $150 billion in new plant and equipment purchases over the next 6 years, and $30 billion in Federal revenue.

Without safe harbor, some firms will cancel huge equipment purchases, and others may be forced into bankruptcy. But retaining safe harbor will certainly disadvantage some firms—possibly also to the point of bankruptcy.

With so much at stake, the battle lines were drawn soon after Congress enacted safe harbor a year ago. The pitched battle is between those who believe safe harbor is the only lifeline keeping the auto, steel, airline and other economically distressed industries in business and those who argue that safe harbor is nothing more than corporate food stamps.

The battle came to a head last week during Finance Committee action on the Tax Equity and Fiscal Responsibility Act of 1982. The result is a compromise which eliminates the most objectionable features of safe harbor leasing.

But the reform does not repeal safe harbor outright and therefore falls short of what should be done. Like many in Congress, I share the conclusion of Dr. Alan Greenspan, once Chairman of the President's Council on Economic Advisors, that this leasing "is the equivalent of food stamps for undernourished corporations."

Safe harbor leasing should be repealed. Safe harbor——

Has been significantly abused.

Subsidizes unprofitable investments.

Discriminates against small businesses, and startup businesses relying on used equipment.

Will only be expended in horrendous ways unless curtailed now.

Distorts the neutrality of tax laws.

Diverts investment toward depreciable assets, and away from such vitally necessary investments as new and patentable technology, research, and energy exploration.

Promises to be a huge budget buster in later years.

Is an inefficient use of capital.

Undermines taxpayer confidence in the fairness and equity of the tax system.

Undermines more promising and efficient efforts to assist American business—large and small—to prosper, flourish, and remain profitable.

To understand fully why safe harbor leasing merits repeal requires a review of past and present tax policy and theory, as well as grasping the future consequences of safe harbor leasing. Equally important is the transformation in public opinion about private enterprise, and how safe harbor undermines the currently healthy American attitude toward profitable businesses.

Private business is now basking in new found public popularity. Americans now believe in the necessity of capital formation, thrift, productivity, and profit. This is reflected in public opinion polls, skyrocketing enrollment in college business schools, and union wage concessions that improve the bottom line.

It has not always been that way. The 1970's saw public attitudes about successful enterprises sour. "Capitalistic pigs," "price gougers" and "obscene profits" were the popular catch words. An antibusiness attitude emerged in the Nation and was reflected in Congress. Americans elected policymakers advocation wage, price and credit con-

trols, punitive tax rates, heavy government regulation of business, enforced corporate social responsibility, Government job creation programs, and other nonsensical endeavors.

This antibusiness attitude—and its attendant laws, regulations and judicial findings—took its toll. Government regulation eroded profitability * * * to the point where just one company, Chrysler Corp.—one of the companies who now look to safe harbor leases to generate desperately needed cash—spends $160 million monthly in regulation compliance. Profits as a percent of the gross national product nosedived 50 percent in a decade. Key indicators of the Nation's economic vitality faltered. Plant modernization was deferred, productivity slipped, patented technology declined, the stock market stagnated, bankruptcies proliferated while taxes and inflation eroded company profits and worker paychecks.

But the public opinion began to change when the antibusiness policies led to the inevitable result of fewer jobs, inability to compete against foreign firms and a decline in modernization and productivity. A new appreciation for the business world began to emerge. Belatedly, Congress realized that new economic policies were needed to get business moving again.

President Reagan reflected this conviction, and last year persuaded Congress to enact his economic recovery tax program. It cut individual and business taxes across the board and provided economic incentives for new plant and equipment purchases.

But that plan as amended by Congress went too far. By enacting safe harbor leasing Congress sanctioned a near panic effort to assist, at almost any cost, large businesses regardless of their profitability. Just as the congressional pendulum once swung too far against the interests of business, it now swings too far in the direction of bailing out big business. A backlash is in the works and could undermine the healthy new respect for enterprise, ingenuity, and profit underscored by such headlines as "Attempt To Cut Poor Firms Taxes Allow Rich Ones To Pay No Taxes" and "The Great Business Giveway" and "New Tax Game the Big Guys Play."

Headlines, like appearance, are often deceiving. Corporate America does not consist of wholesale tax evaders. But like any other taxpayer, corporations have the right, even the duty, to do all they legally can to minimize their tax liability.

That is exactly what large American businesses are doing with safe harbor leasing. They are exploiting—in ways not contemplated by Congress—overly generous and misguided leasing provisions.

In essence, safe harbor is a tax benefit transfer mechanism, pure and simple. Safe harbor allows corporations to sell their unused tax credits to other firms that need tax deductions to reduce their corporate tax liability. Safe harbor leasing is a true bonanza for big business. Consider the following:

General Electric used safe harbor leases so effectively that it received a tax refund of $150 million—even though it had income of $1.65 billion. GE strongly supports repeal of safe harbor, saying it simply cannot be justified.

Amoco, Inc. bought $417 million in safe harbor leases, and cut its taxes substantially while reducing wildcat exploration 20 percent because of a tax-induced capital shortage.

Occidental Petroleum had total earnings of $710 million, but paid no taxes in part because safe harbor leases preserved foreign tax credits it had received for oil payments made in part to Libya.

The New York Transit Authority—even though tax exempt—used safe harbor leasing last year because of a special exemption written into law. The leases were used to buy foreign manufactured subway cars. The middlemen received a tidy profit—$1 million on the total $15 million transaction.

These are the horror stories showing the consequences of safe harbor leasing. But these are only part of the story. Safe harbor is big business. Since August, $17.4 billion in equipment has been leased under the new rules, and the transfer of unused tax benefits reduced Federal revenue by $4 billion. By 1987, the total revenue loss could easily exceed $30 billion on leases worth $150 billion.

I want to stress that I do not criticize these companies or any others which have taken advantage of the safe harbor leasing provisions. They are perfectly justified in doing so. Every taxpayer is required to fully comply with provisions of law which are to the taxpayer's disadvantage and has, in my opinion, a corresponding right to fully utilize Tax Code sections. What I do criticize is the law itself.

But political perception, horror stories, and sheer volume alone are not enough to justify repeal of safe harbor leasing. What is safe harbor leasing, how does it work and can the tax principle it represents be justified?

BACKGROUND ON THE LAW PRIOR TO SAFE HARBOR LEASING

Only taxpaying property owners can claim depreciation deductions and investment credits. Companies that pay no taxes may not claim these tax benefits.

As a result, nontaxable companies rent equipment from taxable companies that can benefit from tax deductions and credits. This produces lower taxes for the company owning the property, and lower rental fees for the company leasing the equipment. Equipment leasing is a major means of providing equipment users with capital equipment. In 1981 alone, $40 billion in capital equipment was leased.

But there is a potential tax abuse in these leasing arrangements, and it depends on whether a particular arrangement is actually a lease, or merely a case of the nominal owner just financing the equipment that is used and essentially owned by the company paying no taxes. If the IRS determines that the arrangement is truly a lease, then the lessee can deduct the rental payments as a business deduction, and the lessor can deduct the depreciation and claim investment tax credits. If the arrangement is merely a financing transaction and the lessee is the true owner of the property, then only he can deduct the depreciation and claim investment tax credits.

The determination of a lease often is done on a case-by-case basis relying on three past IRS rulings. Essentially, five requirements must be met that insure the lessor has an equity investment in the lease, will profit from the lease independent of the tax benefits, and that the lessee does have a direct financial investment interest in the leased property.

REASONS FOR CHANGE

Under the old law, corporations losing money and, therefore, paying no taxes, could not fully benefit from depreciation deductions. These unused deductions only added to existing operating losses.

The new tax law changed depreciation schedules by permitting firms faster tax writeoffs—known as accelerated depreciation, or ACRS—of equipment purchases. The new ACRS schedule benefits profitable firms by reducing their taxes and, thus, increases working capital for more business expansion. At the same time, however, ACRS does not help unprofitable or marginally profitable firms which cannot take advantage of accelerated depreciation. To help such firms, Congress enacted safe harbor leasing.

SAFE HARBOR LEASING

In tax theory, a safe harbor means that a tax benefit will be granted without challenge if the taxpayer applying for the benefit meets specified requirements. This taxpayer has sailed into a "safe harbor."

Last year's tax bill provided a safe harbor for determining whether a transaction was a lease or a financing arrangement. To qualify for the safe harbor, five easily satisified conditions had to be met. The conditions are so loose that virtually any leasing transaction qualifies as a lease—regardless of who owned what property for what purpose under what terms. For

example, the new law permits a lessor to receive the tax benefits associated with equipment ownership even though he may not in fact actually own the equipment.

The bottom line is this: Safe harbor repeals what had been a fundamental principle of tax law. Formerly the substance of a transaction rather than its form determined Federal income tax treatment. It also used to be a basic rule of tax law that a transaction must serve some general business purpose aside from merely reducing taxes. Because leasing is a transferability provision, many of the transactions will have no business purpose other than tax reduction. In other words, safe harbor permits a corporation unable to use its tax deductions and credits to sell them to a corporation that can—even though property never changes hands and no new business investment occurs.

Consider the following hypothetical example: Seller Corporation cannot use the tax benefits associated with a $10 million equipment purchase. It sells the tax benefits—ACRS deductions and investment tax credits—to Buyer Corporation for $2 million cash plus a 9-year note for $8 million. Buyer Corporation then leases the equipment back to Seller Corporation with lease payments equal to the note payments. Thus, no cash changes hands after the initial transaction. After 9 years, Seller Corporation purchases the equipment for as little as $1. The Seller Corporation retains titled ownership to the equipment—so all that really changes hands is tax benefits for up-front cash.

In this example, who got what? Buyer Corporation received a $1 million investment tax credit and a 5-year writeoff of the equipment under ACRS. Seller Corporation gets $10 million in equipment for $8 million. The reduction in equipment cost is actually provided by the U.S. Treasury—and ultimately the American taxpayer, yet no actual new business investment actually occurred.

The question comes down to this: Should other taxpaying Americans—who earn an average of $19,000—have his tax money foot the tax bill to help some large corporation reduce its tax liability through a paper transaction of absolutely no economic substance?

In my judgment, the answer is—no!

This is not idle or abstract tax theory. Safe harbor adversely affects real-world business decisions.

The classic example of this exists in the airline industry. Some airlines seek to use cash made available through safe-harbor leasing to help buy new fuel-efficient, modern, quiet, safer planes. Undoubtedly these equipment purchases will create new jobs in airplane manufacturing companies, and make the industry more competitive. But other airline companies point out that the industry is already plagued by excess seat capacity, and the last thing it needs is more planes. These firms also rely on used planes that do not qualify for safe harbor leases. So, in essence, with enactment of safe harbor leasing, Congress has said it favors one company over another in this economically distressed industry—and that it favors large business over smaller, newer firms.

That should not be Government's role.

Safe harbor leasing advocates argue that leasing is the principal means by which ACRS benefits are distributed evenhandedly and efficiently between profitable and unprofitable companies, that safe harbor is not a radical new departure from the old law, that the press has distorted the impact of safe harbor leasing and that safe harbor does not prop up inefficient companies.

These and other arguments simply do not hold water, in my opinion. Here is why safe harbor leasing should be repealed.

SAFE HARBOR HAS BEEN ABUSED

The cases cited earlier—GE, Amoco, Occidental Petroleum, and others—reflect the significant potential for abuse of safe harbor.

SAFE HARBOR LEASING SUBSIDIZES UNPROFITABLE INVESTMENTS

Dr. Alan Greenspan equates leasing with food stamps for undernourished corporations. The reality is even harsher than that because leasing causes corporations to misallocate their resources for purely tax-induced reasons.

Even worse, leasing permits a corporation that pays no tax to receive the cash value of its investment tax credits and depreciation deductions.

Incredible though it may seem, six corporate supporters of safe harbor leasing testified before the House Ways and Means Committee that they would rather see leasing maintained than the corporate income tax repealed?

SAFE HARBOR SKEWS INVESTMENT TOWARD DEPRECIABLE ASSETS

Safe harbor does not apply either to intangible drilling costs or other intangible assets. Therefore, leasing makes investment in plant and equipment more attractive than drilling for oil, or investment in research and development.

SAFE HARBOR DISTORTS THE NEUTRALITY OF THE TAX LAW

The goal of tax policy is to equalize the cost of capital for all businesses. Yet leasing permits nontaxable companies to sell their tax benefits, and pay a far lower effective tax rate than their taxable competitors.

SAFE HARBOR LEASING IS UNAVAILABLE TO SMALL BUSINESSES

To quote Mike McKevitt of the National Federation of Independent Business:

Just as with many of our nation's well intentioned social welfare programs, this big business welfare program is too expensive, and in fact, counterproductive. Take this money (from safe harbor) * * * and reduce the deficit * * *

SAFE HARBOR LEASING DISTORTS PROFITS

Because cash received in safe harbor leases is treated as gain, a shareholder will be misled as to corporate profitability from operations. In fact, some lease brokers report that the only reason some major transactions are being done is to provide a kick to earnings.

SAFE HARBOR LEASING WILL BE EXPANDED IF NOT REPEALED

Because leasing violates so many fundamental tax principles, it will be impossible to limit its application. For example, efforts are already underway in Congress to extend safe harbor leasing to tax-exempt institutions, municipal fire departments and to cover intangible drilling costs.

SAFE HARBOR LEASING UNDERMINES PUBLIC CONFIDENCE IN THE TAX SYSTEM

To quote the Joint Tax Committee's "Analysis of Safe Harbor Leasing": "A fundamental principle of U.S. tax policy has been that the tax system should be structured so as to appear to be as fair as possible. Studies show that voluntary compliance with the tax laws declines rapidly to the extent people believe the tax system to be inequitable * * * In the months after its enactment, the safe harbor leasing provisions appear to have been the subject of widespread public perceptions of unfairness, perceptions which could be injurious to a tax system based on voluntary compliance."

SAFE HARBOR REPEALS FUNDAMENTAL PRINCIPLES OF TAX LAW

A safe harbor lease does not have to have any economic substance as a lease. It is a paper transaction * * * a mere transfer of benefits. It used to be that a lease had to show a positive cash flow as well as profit, and the lessor had to actually own the equipment as well as have a minimum investment in the property. Safe harbor leasing repealed these sensible rules.

For all of these reasons and more, Congress should repeal safe harbor leasing.

ACQUISITIONS AND MERGERS

The oft-repeated rule that those who do not remember the past are condemned to repeat it should be kept in mind as Congress considers the acquisitions and mergers (A-M) provisions contained in this bill.

The A-M provisions seek to reform abuses that have led to tax-induced corporate acquisitions and mergers. There has been a flurry of news stories in recent days about the Mobil-Esmark and United States Steel-Marathon mergers which were in part brought about by astute manipulation of current tax law. But the provisions

contained in this bill that seek to correct these abuses may be so broad and far reaching that they may adversely affect every corporate acquisition, merger or liquidation, no matter how legitimate. There has been little serious study of these provisions, and their impact on business decisionmaking is simply not known. The Senate has not yet held hearings on this legislation, and in fact this bill was introduced for only 2 days before the Senate Finance Committee included it in this tax bill.

This rush to judgment calls to mind the carryover basis controversy of 1976. In similar circumstances, Congress that year was working on a major revision of tax law. Included in the final bill was a provision on which there had been no hearings, and precious little debate. This provision was the so-called carryover basis rule—a new and controversial method for calculating the basis of inherited property.

After Congress enacted the carryover basis provision, a storm of controversy arose. Lawyers everywhere claimed this was the most unfair and unworkable provision ever enacted in the tax law. What followed was the first in a series of laws that changed the effective date for implementing carryover basis. Finally, in 1979 Congress concluded what tax lawyers knew in 1976—the carryover basis should be repealed.

Congress should not make the same mistake twice, but I regret it may do so in the current acquisitions and mergers provisions in this legislation. To quote Jack Nolan, chairman of the Tax Section of the American Bar Association:

> This bill would make major changes in the tax treatment of corporate liquidations, corporate acquisitions of stock or assets, and carryovers in corporate acquisition transactions; such changes are designed primarily to deal with some specific corporate acquisition techniques that have come to light. In doing so the bill would affect a broad range of corporate transactions that extends far beyond these specific problems. There is considerable doubt whether such far-reaching changes are justified or advisable; they could impose severe hardships on smaller, closely-held corporations.
>
> It may well be that the specific problems at which this bill is aimed could be resolved by less Draconian changes, while reserving for more thorough but accelerated study, the deeper issues presented.
>
> These questions are matters as to which the views and experience of the practicing bar are particularly needed. The solutions would benefit greatly from careful, dynamic interaction between the Congressional tax staffs, the Treasury Department, and the practicing bar acting through its institutions such as the Section of Taxation of the American Bar Association. Accordingly, I urge you to hold further hearings after the tax bar had had more opportunity to consider the issues and formulate its views. I assure you that, if such an opportunity is given, the tax bar will respond in timely and objective fashion.

These concerns were echoed by Gilbert Bloom of Peat, Marwick and Mitchell:

> This bill would make the most profound changes in Subchapter C of the Internal Revenue Code in 28 years and would overturn principles established in the 1930's. Therefore, these proposed changes warrant very careful study and analysis. However, since there has been only a ten-day period from the availability of this Bill until written comments were due, my comments today can only be broad preliminary observations.

Since the Finance Committee approved this section of the bill, it has been told that the new provisions could lead to double taxation of appreciated property used to redeem stock in a partial liquidation, and that in some cases there could even be a triple tax if the liquidating business used LIFO accounting and is thereby subject to LIFO reserve recapture rules. Particularly affected will be closely held, family-owned business.

Until the full effects and consequences of this legislation are known and considered, Congress should proceed with the utmost caution.

Mr. President, I also pay tribute to the leadership of the chairman of the Finance Committee for the way he has put this bill together. The chairman knows that I disapprove of certain provisions of this bill and I intend to try to amend it here in the Chamber.

The chairman knows that my nose is out of joint about certain of the procedural methods under which this measure comes to us. But nonetheless, having watched a lot of chairmen bring a lot of bills to the Chamber under all kinds of different circumstances of the 10 years I have been privileged to serve in Congress, I must say that his accomplishment in getting a majority of the members of the Finance Committee to agree to this bill in the timetable he has shown a degree of legislative perspicacity, management, and statesmanship that is rare. In fact, in my experience and observation it has never been excelled.

Mr. President, I wish to ask a question of the chairman of the Committee on Finance, if he will engage me for just a moment to ask a question or two.

My question, which may take him by surprise, is this: Is it the intention of the chairman that the Internal Revenue Service and the Tax Court and other courts take guidance as to the intention of Congress from the committee report which accompanies this bill?

Mr. DOLE. I would certainly hope so, plus not only the committee report but hopefully in the debate on certain compliance provisions that we will probably have lengthy discussions on the next few days.

Mr. ARMSTRONG. Mr. President, will the Senator tell me whether or not he wrote the committee report?

Mr. DOLE. Did I write the committee report?

Mr. ARMSTRONG. Yes.

Mr. DOLE. No; the Senator from Kansas did not write the committee report.

Mr. ARMSTRONG. Did any Senator write the committee report?

Mr. DOLE. I have to check.

Mr. ARMSTRONG. Does the Senator know of any Senator who wrote the committee report?

Mr. DOLE. I might be able to identify one, but I would have to search. I was here all during the time it was written, I might say, and worked carefully with the staff as they worked. As I recall, during the July 4 recess week there were about five different working groups of staff from both parties, the joint committee, and the Treasury working on different provisions.

Mr. ARMSTRONG. Mr. President, has the Senator from Kansas, the chairman of the Finance Committee, read the committee report in its entirety?

Mr. DOLE. I am working on it. It is not a bestseller, but I am working on it.

Mr. ARMSTRONG. Mr. President, did members of the Finance Committee vote on the committee report?

Mr. DOLE. No.

Mr. ARMSTRONG. Mr. President, the reason I raise the issue is not perhaps apparent on the surface, and let me just state it: I would be hopeful that the Internal Revenue Service, the Tax Court, and others would not be too much influenced by the contents of this committee report. The report itself is not considered by the Committee on Finance. It was not subject to amendment by the Committee on Finance. It is not subject to amendment now by the Senate.

I became aware recently of the practice which I think honestly is a most injudicious practice in which some courts have in fact relied upon committee report language as if it were a statute.

I only wish the record to reflect that this is not statutory language. It is not before us. If there were matter within this report which was disagreed to by the Senator from Colorado or even by a majority of all Senators, there would be no way for us to change the report. I could not offer an amendment tonight to amend the committee report.

I only wish to put that in the RECORD. I am not leaning in any particular direction. It is not my purpose at this moment to remonstrate about any particular language in the committee report. But for any jurist, administrator, bureaucrat, tax practitioner, or others who might chance upon the written record of this proceeding, let me just make the point that this is not the law, it was not voted on, it is not subject to amend-

ment, and we should discipline ourselves to the task of expressing congressional intent in the statute.

Having made that point I do not wish to belabor it, but I might just add this footnote: I expect to make the same point with respect to other committee reports as they come down the pike and at some stage I may implement a scheme which I have long had in mind which is to offer language to a bill—I do not intend to do it on this particular bill—to simply endorse or reject specifically the language of committee reports.

What I find is that so often these committee reports are treated not only as if they were a statute, but as if they were something better than statutes, as if they somehow superseded statutory enactment and particularly in the case of tax law I think that is a very dangerous practice.

So on this quiet and otherwise uneventful evening, I thought I would make that point.

Mr. President, in conclusion, let me just say that tomorrow or the next day I expect to offer some amendments to the bill which are mentioned in my prepared statement, with the exception of one amendment to section 125 which I did not refer to in my prepared statement but which I am concerned about under what circumstances taxpayers might be subject to paying penalty. It is my belief that we should be very cautious about assessing penalties for taxpayers who proceed in good faith, and I understand that the chairman of the subcommittee which has jurisdiction over this matter within the Finance Committee is at this very hour working on an amendment. I hope that he will have an amendment. If not, perhaps I will be able to offer one.

My concern is primarily that we do not want to inadvertently make the tax practitioners, the lawyers and CPA's, the agents of the IRS or in any way disturb the existing client-professional relationship which exists or upset the balance which now exists between the IRS and tax practitioners and taxpayers.

The IRS really has the upper hand in a great many ways, and I do not think it would be the desire of the Senate to go further or to further strengthen the hand of the IRS in procedural ways.

So I would just invite the attention of Members to section 125. I do not propose an amendment at this time. The way it is presently written, as I understand it, a penalty could be assessed under certain circumstances and be forgiven only if, first, the taxpayers disclosed the areas which later proved to be questionable, a requirement which, in the judgment of most tax practitioners, is not practicable, or if on balance it was more likely than not that the taxpayer could prevail with respect to the disputed point of tax treatment.

This is far too difficult a test, in my judgment. It literally means you have to litigate these things, and then if the taxpayer is unsuccessful he has not only to pay the disputed tax and interest that has accrued in the meantime, but he also must pay a penalty.

I think that goes, in fact, too far. The present law, as I understand it, provides that the taxpayer discharges his responsibility of good faith by hiring a certified public accountant or a tax attorney. That seems to me to be a reasonable provision, particularly in view of the fact that the Tax Code is so complex that it is virtually impossible for practitioners to understand, let alone for the average taxpayer to understand. So that may be the subject of an amendment tomorrow or the next day.

In one way or another I hope we will be able to work something out so that we do not create an untenable situation.

Mr. President, I again thank the Senator from Kansas for yielding.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I want to thank my distinguished colleague from Colorado. There is a meeting going on at this hour, as indicated, with the subcommittee chairman, Senator GRASSLEY, and I hope they can make some resolution.

I can only say so far as the committee report, everything that was said in the Senate Finance Committee is recorded. In fact, I listened to some of the recordings trying to figure out what we really meant myself. So we had that information along with the documents provided at the time and statements made by members who were offering amendments. So we tried to base the report on information that was solid. That does not mean there may not be cases where there were some misunderstandings of interpretation, which the Senator from Kansas indicated earlier was the reason in the principal area today that we modified one of the safe-harbor leasing provisions because the distinguished Senator from Minnesota had a very different recollection of what we did than the Senator from Kansas had, and the record was not clear.

So I would only say if, in fact, someone has taken literary license, that is one thing. But we hope the report is based on fact and on what did occur at the time. I yield the floor.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas. Who yields time?

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate now turn to a period for the transaction of routine morning business for not to exceed 10 minutes with Senators to be recognized therein for not to exceed 3 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

EXTENSION OF TIME TO REPORT S. 2608

Mr. TOWER. Mr. President, pursuant to the unanimous-consent agreement of July 1, 1982, I ask unanimous consent that the Banking Committee have until July 26, 1982, to report out S. 2608.

The PRESIDING OFFICER. Without objection, so ordered.

NOMINATION OF JAMES L. MALONE

Mr. CRANSTON. Mr. President, tomorrow the Senate Foreign Relations Committee is scheduled to vote on the nomination of James L. Malone as Ambassador at Large for the Law of the Sea.

On May 21 of last year I joined with four other colleagues on the Foreign Relations Committee to vote against the nomination of James Malone to the key State Department policymaking post on nuclear export control and law of the sea, Assistant Secretary for Oceans, International Environment and Scientific Affairs—OES.

I voted against Mr. Malone last year because I doubted his sensitivity to the importance of vigorous nuclear nonproliferation efforts to our national security. And Mr. Malone's authorship of a Reagan transition team report calling for the removal of nuclear export restraints on sales to clients of his—clients upon whose payroll he remained at the time he authored the transition team report—demonstrated to me a gross insensitivity to conflict of interest concerns. The fact is that it took months of protracted discussions with committee members before his nomination to OES was approved to get a clear agreement that Mr. Malone would not be involved in issues involving former clients.

Fourteen months later Mr. Malone's name comes before the Foreign Relations Committee again for confirmation as an Ambassador. I will vote against this nomination. And I feel strongly that every member of the

committee—Democrat and Republican—should as well.

We should vote against Mr. Malone, first of all, because he clearly and directly violated his written agreement with the Foreign Relations Committee. Under questioning from committee investigators and Senators, it has been revealed that Mr. Malone—after his confirmation as Assistant Secretary—intervened extensively with State Department officials and the President of the Export-Import Bank to secure low-interest loans for his former client, Taiwan Power Co.

Second, we should vote against Mr. Malone because he made undeniably misleading statements to the chairman of this committee on May 13 of this year when Senator PERCY questioned Mr. Malone if he had asked senior State Department officials:

Whether or not it was proper for you to make the contacts that you did about Taiwan Power.

Malone responded:

Yes . . . I certainly discussed this with Secretary Kennedy.

This testimony was not true, as Mr. Malone subsequently conceded in a letter to Chairman PERCY, dated May 21 of this year.

Finally, we should vote against Mr. Malone because his performance in his two key areas of responsibility has been so unsatisfactory as not to merit reward by confirmation as Ambassador. Nuclear nonproliferation policy has been inconsistent and ineffective under Mr. Malone's lead. The State Department has retreated from long-held bipartisan policies on export control and Mr. Malone's stewardship has been so unsteady that numerous other individuals in the Department have come to handle pieces of what should by statute be primarily his responsibilities in this area as Assistant Secretary of State for OES. Finally, in regard to Mr. Malone's handling of the law of the sea treaty review—regardless of how one feels about the merits of this treaty—it is clear that under the stewardship of Mr. Malone, the review of the U.S. position on the treaty suffered. More than $200,000 had to be paid out for outside consultants to pick up the ball dropped by Mr. Malone. A draft report by the State Department's own Office of the Inspector General, recently obtained by Senate investigators, severely criticizes Malone's performance noting that he "lacked both the time and the expertise required to direct the [law of the sea treaty review] operation and therefore outside help was summoned." The State Department internal review concluded that "the slowness in reaching a decision—on the LOS review—until January 1982 did not leave time for adequate diplomatic preparation by the time the LOS conference was reconvened in March . . . it was clear by early March that there was insufficient preparation to serve our policy interests." The Inspector General's internal report concluded "State's role within the LOS review process has been impeded by bizarre personnel management compounded by uncertain leadership."

Mr. President, the Reagan administration has been urged by Senators on both sides of the aisle to withdraw the Malone nomination and to appoint an official with responsibility in the vital area of nuclear proliferation who will bring greater competence and creativity to this post. I hope this will take place. But if the Malone nomination is not withdrawn, I urge my colleagues to defeat it resoundingly.

MESSAGES FROM THE HOUSE

At 3:09 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2252. An act to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker pro tempore has signed the following enrolled bills:

H.R. 4688. An act to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that act; and

H.R. 6590. An act to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1785. A bill to increase the penalties for violations of the Taft-Hartley Act, to prohibit persons, upon their convictions of certain crimes, from holding offices in or certain positions related to labor organizations amd employee benefit plans, and to clarify certain responsibilities of the Department of Labor (Rept. No. 97-497).

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute, and an amendment to the title:

S. 1182. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to revise the manner of computing the benefits provided under such act, to provide for certification of physicians eligible to provide medical care to workers covered by such act, to provide for an attorney to serve as the representative of the special fund established under such act, to establish a Benefits Review Board the members of which are appointed by the President, to establish an advisory committee to evaluate the manner in which the provisions of the act are carried out, and for other purposes (Rept. No. 97-498).

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1889. A bill to establish the U.S. Academy of Peace, and for other purposes (with additional and minority views) (Rept. No. 97-499).

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S.J. Res. 208. Joint resolution with regard to Presidential certifications on conditions in El Salvador (Rept. No. 97-500).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. TOWER, from the Committee on Armed Services:

Maj. Gen. James A. Abrahamson, U.S. Air Force, to be lieutenant general, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President.

By Mr. HATCH, from the Committee on Labor and Human Resources:

Kay McMurray, of Idaho, to be Federal Mediation and Conciliation Director.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Elizabeth Flores Burkhart, of Texas, to be a member of the National Credit Union Administration for the remainder of the term expiring April 10, 1985.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PERCY (by request):

S. 2748. A bill to amend chapter 18 of title 22, United States Code, to permit domestic dissemination of records of the United States International Communication Agency that have been accessioned into the Archives of the United States; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PROXMIRE (for himself and Mr. DECONCINI):

S. Res. 429. Resolution calling for the return of unallotted, Hart Building construction contingency funds to the Treasury

of the United States, and for other purposes; to the Committee on Rules and Administration.

By Mr. SYMMS (for himself, Mr. PRYOR, Mr. BURDICK, Mr. DECONCINI, Mr. D'AMATO and Mr. HEFLIN):

S. Con. Res. 113. Concurrent resolution recognizing and saluting the Benevolent and Protective Order of the Elks for its leadership in volunteerism in the United States; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (by request):

S. 2748. A bill to amend chapter 18 of title 22, United States Code, to permit domestic dissemination of records of the U.S. International Communication Agency that have been accessioned into the Archives of the United States; to the Committee on Foreign Relations.

DOMESTIC DISSEMINATION OF U.S. INTERNATIONAL COMMUNICATION AGENCY RECORDS

● Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to permit domestic dissemination of records of the U.S. International Communication Agency that have been accessioned into the Archives of the United States.

This legislation has been requested by the General Services Administration and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a letter from the Administrator of the General Services Administration to the President of the Senate dated June 28, 1982.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1461 of title 22, United States Code, is amended:

(1) by adding the following two sentences at the end: "Such information is not subject to this prohibition on dissemination after it has been accessioned into the National Archives of the United States. It shall be made available for study or reproduction in accordance with rules and regulations of the National Archives and Records Service."

GENERAL SERVICES ADMINISTRATION,
Washington, D.C. June 28, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

Dear Mr. President: Transmitted herewith for referral to the appropriate committee is a draft bill prepared by the General Services Administration "To amend chapter 18, title 22, United States Code, to permit domestic dissemination of records of the United States International Communication Agency that have been accessioned into the Archives of the United States.

The National Archives and Records Service has accessioned over 7,500 cubic feet of United States International Communication Agency (USICA) photographs, motion pictures, and television and radio programs dating from the early 1940's that have been determined to have continuing historical value. Currently, these important historical records, created and preserved at great cost to the American taxpayer, cannot be disseminated in this country. The proposed bill will permit the dissemination of such materials in accordance with rules and regulations of the National Archives and Records Service, which protect against inappropriate access and copyright infringement. Dissemination will be permitted only after it has been determined that the materials no longer serve the purpose for which they were created and can be transferred to the legal custody of the National Archives and Records Service.

The proposed amendment will not alter the prohibition on domestic dissemination of such materials by the Department of State or the USICA. It will permit domestic dissemination of materials only after they have outlived their intended purpose. Thus, it will not conflict with the Congressional intention to prevent any potential misuse of materials that were created for distribution abroad.

The Office of Management and Budget has advised that from the standpoint of the Administration's program, there is no objection to the submission of the proposed legislation to Congress.

Sincerely,

GERALD P. CARMEN,
Administrator.●

ADDITIONAL COSPONSORS

S. 1698

At the request of Mr. DENTON, The names of the Senator from Montana (Mr. BAUCUS), the Senator from Washington (Mr. GORTON), and the Senator from Colorado (Mr. HART) were added as cosponsors of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

S. 1782

At the request of Mr. WEICKER, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of 1782, a bill to amend section 305 of the Federal Property and Administrative Services Act of 1949 pertaining to contract progress made by agencies of the Federal Government, providing for the elimination of retainage in certain instances, and for other purposes.

S. 2061

At the request of Mr. MOYNIHAN, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 2061, a bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and for other purposes.

S. 2239

At the request of Mr. BENTSEN, his name was withdrawn as a cosponsor of S. 2239, a bill to ban leghold traps.

S. 2541

At the request of Mr. CHAFEE, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Alabama (Mr. HEFLIN), and the Senator from South Carolina (Mr. THURMOND), were added as cosponsors of S. 2541, a bill to amend section 103(b)(6) of the Internal Revenue Code of 1954 with respect to the exemption from the industrial development bond provisions for certain small issues.

SENATE JOINT RESOLUTION 58

At the request of Mr. THURMOND, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of the joint resolution (S.J. Res. 58), joint resolution proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

SENATE JOINT RESOLUTION 207

At the request of Mr. DOLE, the Senator from New York (Mr. D'AMATO,) the Senator from Tennessee (Mr. SASSER), the Senator from Arkansas (Mr. PRYOR), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from California (Mr. CRANSTON) were added as cosponsors of Senate Joint Resolution 207, joint resolution to authorize and request the President to designate the week of August 1, 1982 through August 7, 1982, as "National Purple Heart Week."

SENATE JOINT RESOLUTION 209

At the request of Mr. LEVIN, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Senate Joint Resolution 209, joint resolution designating the week beginning September 5, 1982 as "National Adult Day Care Center Week."

SENATE CONCURRENT RESOLUTION 113—COMMENDING THE BENEVOLENT AND PROTECTIVE ORDER OF ELKS

Mr. SYMMS (for himself, Mr. PRYOR, Mr. BURDICK, Mr. DECONCINI, Mr. D'AMATO, and Mr. HEFLIN) submitted the following concurrent resolution, which was referred to the Committee on the Judiciary:

S. CON. RES. 113

Whereas the 2,250 Local Groups of the Benevolent and Protective Order of Elks in all 50 of the United States have donated substantial time and money to needy individuals and charitable organizations; and

Whereas the service programs of the Benevolent and Protective Order of Elks have rallied the 1,650,000 members of Elk lodges around, and have served as an example to all Americans concerning, a program of private initiative to support programs which have formerly relied on government funding: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes and salutes the Benevolent and

Protective Order of Elks for its leadership role in a program of private initiative to support needy individuals and charitable organizations which have formerly relied on government support.

Mr. SYMMS. Mr. President, today I am submitting a resolution commending the Benevolent and Protective Order of Elks for its leadership role in a program of private initiative to support needy individuals and charitable organizations which have formerly relied on Government support.

From its inception in 1868, the Benevolent and Protective Order of Elks has assisted community service and charitable organizations across the Nation. Such groups as the Salvation Army and the Red Cross have benefited for years from the active support of Elks members on a national and local basis.

Today the Elks have 2,250 local lodges serving more than 1.6 million Elks members in all 50 States and the District of Columbia. Through the efforts of its members, the Elks contributed $20 million in 1980 alone to support cerebral palsy research, veterans hospitals, care for retarded children and to provide wheelchairs, recreational facilities, and other aids to the handicapped.

In addition, America's youth benefits from numerous programs offered by the Elks. Lodges and individual members sponsor more than 1,000 Boy Scout troops and 3,000 Little League teams, as well as boys' clubs and Campfire Girls. Scholarships are awarded to 500 outstanding high school students across the Nation each year. The Elks also sponsor an annual free throw shooting contest for boys and girls from ages 3-13. In the past 10 years, this contest has provided some spirited competition as well as a chance for the participants to develop new friendships with children from different parts of the country.

Mr. President, I urge the Senate to adopt this resolution. We have a responsibility as national leaders to commend those groups or individuals whose efforts set an example of voluntarism which we would encourage all Americans to follow. In my estimation, the Benevolent and Protective Order of Elks has set just such an example.

Mr. President, I am joined by my colleagues, Senators PRYOR, BURDICK, DECONCINI, D'AMATO, and HEFLIN in sponsoring this resolution.

SENATE RESOLUTION 429—CALLING FOR THE RETURN OF UNALLOTTED HART BUILDING CONSTRUCTION CONTINGENCY FUNDS TO THE TREASURY

Mr. PROXMIRE (for himself and Mr. DECONCINI) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 429

Whereas the Senate finds and declares that the Architect of the Capitol has determined that certain unallotted, construction, contingency funds have been identified and become available to complete unfinished portions and aspects of the Hart Senate Office Building during construction of that building;

Whereas on or about Friday, March 19, 1982, the Senate Office Building commission voted to direct the Architect of the Capitol to use such unallotted, construction, contingency funds to start or complete projects in the Hart Senate Office Building which were previously deleted from the construction plan for that building by the Commission following passage of the Second Supplemental Appropriations Act, 1978 (P.L. 95-355);

Whereas there was no notification to the full Senate of the action by the Senate Office Building Commission and the Architect of the Capitol to proceed with these projects; and

Whereas the obligation or expenditure of such unallotted, construction, contingency funds for such projects was not approved by the full Senate: Now, therefore, be it

Resolved, That, (1) notwithstanding the directive of the Senate Office Building Commission on or about March 19, 1982, the Architect of the Capitol shall (a) cease any obligation of unallotted, construction, contingency funds for any project or activity approved by the Senate Office Building Commission on or about March 19, 1982, and (b) return to the Treasury any unallotted, construction, contingency funds not obligated or committed before the day on which the Senate passes this resolution.

(2) Within 10 days after the Senate passes this resolution, the Architect of the Capitol shall report to the Senate on the status of all unallotted, construction, contingency fund reserves established or identified during the construction of the Hart Senate Office Building and on any plan for the obligation or commitment of such funds for projects or activities approved by the Senate Office Building Commission on or about March 19, 1982.

(3) Notwithstanding any other provision of law, the Architect of the Capitol shall transmit to the Senate Office Building Commission and the Senate any plan to obligate or commit unallotted, construction, contingency funds for, or to reprogram funds from planned Hart Senate Office Building construction activities to, projects and activities to complete unfinished portions and aspects of the Hart Senate Office Building or new projects and activities in the construction of such building. Notwithstanding any other provision of law, funds may not be obligated, committed, or reprogramed for any such plan, project, or activity unless such plan, project, or activity is approved by the Senate Office Building Commission and the Senate.

(4) Within 30 days after the Senate passes this resolution, the Comptroller General of the United States shall review and audit the status of the unallotted, construction, contingency funds and report to the Senate with respect to the results of such review.

Mr. PROXMIRE. Mr. President, on March 19, 1982, the Senate Office Building Commission, by a vote of 4 to 1, authorized the Architect of the Capitol to spend as much as $4.2 million in projected Hart Senate Office Building "unallotted, construction, contingency funds" to start or complete a number of new or partially completed projects in the new Hart Building—projects that had previously been deleted by this same Commission in 1979. Among these projects now cleared for construction by the Architect and the Commission are $736,400 for a third Senate gymnasium, $1,182,000 for a new multimedia hearing room, and $694,000 to make more auxiliary office space available for Senate staffs. This latest effort by the Architect and the Commission to gold-plate the Hart Senate Office Building with a new gym, a new hearing room, and other nonessential projects is just one more sad commentary on the Senate's insatiable appetite to feather its own nest at taxpayers' expense.

Therefore, Mr. President, today I am introducing for myself and Senator DECONCINI, a resolution that would halt any further obligation or commitment of these unallotted, construction, contingency funds for any of the projects authorized for "starts" by the Commission back in March. My resolution would also direct the Architect of the Capitol to return any unobligated or uncommitted construction contingency funds to the Treasury and to prepare for the Senate a full report on the status of any unallotted contingency funds identified to date in the construction of the Hart Building. Finally, the resolution calls for the General Accounting Office to audit the contingency reserves of the Hart Senate Office Building project and report back to the Senate within 30 days from enactment of this legislation.

Mr. President, as you may recall, back in 1978, after failing to kill the Hart Building project outright, I collaborated with former Senate Appropriations Committee Chairman Warren Magnuson to impose a $137 million ceiling on the cost of the Hart Building, in the wake of GAO estimates that the cost of the building could hit $230 million if left unchecked. Then, in 1979, in order to keep the cost of this ill-advised building under this ceiling, the Senate Office Building Commission agreed to delete a number of low-priority projects, including all of the projects now being given the green light. Despite this action, the Senate Office Building Commission, with an assist from the Architect, gave the Architect the go-ahead to spend so-called unallotted contingency funds to begin or complete these same projects. If, in fact, these unallotted contingency funds are now determined to be savings, then they should be returned to the Treasury—not spent on projects that the Commission has already identified as nonessential to the successful completion of the Hart Building. I should hasten to note that even the

Chairman of the Senate Office Building Commission, Senator STAFFORD, voted against this directive to start or complete these projects.

Mr. President, it is not my intention to resurrect all of the arguments against the Hart Senate Office Building. My opposition to its completion dates back to 1972 when its cost was estimated to be about $47 million. Now, 10 years and nearly $100 million later, we are on the eve of completion of the Hart Building and there is no turning back. The Architect of the Capitol deserves great credit for apparently being able to bring the Hart Building to completion at $4 to $5 million below its appropriation ceiling of $137 million. It is a rarity indeed when any construction project comes in under budget. But rather than acknowledge these fine savings and announce their return to the Treasury, what did the Architect and the Senate Office Building Commission do? Did they meet and agree that these identified savings should be turned back to the Treasury? Did they announce to the American taxpayers that the Senate of the United States was going to save them $4 to $5 million of their hard-earned tax dollars and turn it back in? Did they even have the courtesy to inform the chairman and ranking minority member of the legislative branch, which oversees the funding for the legislative branch, of these savings and ask their views on the disposition of these surplus funds? No way. They merely scheduled a meeting, announced that these funds were suddenly available and, without any debate in the Senate, authorized the expenditure of these funds on projects that the Commission agreed 3 years ago were not needed.

Mr. President, I challenge my colleagues in the Senate to tell this Senator, or more importantly, the taxpayers of this country why some of these projects cannot be forever postponed into the future. Here is the list of projects that have been given the green light by the Commission:

1. Automatic smoke control system	$250,000
2. Data communication cables	200,000
3. Energy management system	160,000
4. Auxiliary office space for staff.	694,000
5. Carpeting for this auxiliary office space	227,000
6. Demountable partitions for work areas	345,000
7. Central heating facility with press space	1,182,000
8. Physical fitness facility for Senators (includes: $269,000 for materials; $403,000 for labor; $35,000 for contingencies; and $38,400 for administrative expenses)	736,000
9. Vertical blinds	167,700
10. Central wing first floor offices	181,000
11. Security stations	72,700
Total	4,217,000

Of these amounts, I am informed that $350,000 has already been committed or obligated to start these projects.

Mr. President, at a time when President Reagan is vetoeing appropriations for important payback programs to help the depressed housing industry, for aid to the poor, and for postal subsidies for our veterans, charities, and churches, how can the Senate condone this cavalier approach to its own expenditures? How can we expect the taxpayers of this country to make devastating sacrifices in the face of more budget cuts, while we can not say "no" to spending more and more on frivolous, nonessential projects under our own roof, particularly another gymnasium, when we already have two, underutilized, workout rooms available?

Mr. President, I hope that the Senate will act quickly on my resolution in the weeks ahead and send a signal to the taxpayers that we can make real savings in our own backyard, return those savings to the Treasury, and help reduce the deficit.

AMENDMENTS SUBMITTED FOR PRINTING

CONSTITUTIONAL AMENDMENT ON A BALANCED BUDGET

AMENDMENT NO. 1941

(Ordered to be printed and to lie on the table.)

Mr. DIXON submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

AMENDMENT NOS. 1942 AND 1943

(Ordered to be printed and to lie on the table.)

Mr. HEFLIN submitted two amendments intended to be proposed by him to the joint resolution Senate Joint Resolution 58, supra.

AMENDMENT NO. 1944

(Ordered to be printed and to lie on the table.)

Mr. MATSUNAGA submitted an amendment intended to be proposed by him to the joint resolution Senate Joint Resolution 58, supra.

AMENDMENT NO. 1945

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them to the joint resolution, Senate Joint Resolution 58, supra.

MISCELLANEOUS TAX ACT OF 1982

AMENDMENT NO. 1946

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted an amendment intended to be proposed by him to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

● Mr. JOHNSTON. Mr. President, when the Senate turns to consideration of H.R. 4961, the senior Senator from New York and I intend to offer two amendments to section 218 concerning the possessions tax credit. The first amendment we will offer concerns the treatment of passive income and is a fair compromise. The Finance Committee bill slashes from 50 percent to 10 percent of gross income the amount of passive (investment) income permitted to be received by a corporation without disqualifying it from treatment as a possession corporation. Under current law, possessions corporations may, to a certain extent, make investments in Puerto Rico which produce passive income which is generally subject only to Puerto Rico tax. The committee's report reveals its perception that the amount of these investments provides capital in excess of that needed in the island and that funds are flowing out of Puerto Rico through the banking system. However, the perception of the committee is based on outdated economic statistics collected before substantial regulatory changes by the Treasury Department of Puerto Rico designed to insure that 936 deposits in the local banking system are used to finance the local economy were implemented in February 1982. The immediate effects of the new system have been as follows:

APPLICATION IN PUERTO RICO OF 936 FUNDS BY KEY FINANCIAL INTERMEDIARIES UNDER NEW REGULATORY SYSTEM [1]

[In millions of dollars]

	February 1982	May 1982
Investment and loans to Government of Puerto Rico	1,505.2	1,797.1
Commercial loans	2,925.5	3,690.3
Eligible consumer loans	206.1	238.5
Mortgage loans	1,195.5	1,147.0
Real estate investment	108.2	98.8
Other	603.7	804.6
Total	6,544.2	7,776.3

[1] New regulatory system promulgated Dec. 17, 1982, and effective Feb. 1, 1982.

Our amendment would reduce the amount of 936 funds reinvested in the local banking system to 35 percent of gross income, which would not have the catastrophic effect on the financial system which would be caused by the committee's drastic cut in the passive income limit. At the same time, by reducing the amount of passive income which would be protected from tax by the possession credit and by

forcing more 936 funds into taxable reinvestments, our amendment would generate significant revenues.

The second amendment we will offer concerns the allocation of intangibles. The report of the Senate Finance Committee indicates the committee's concern about certain practices under section 936 by corporations which transfer intangibles (patents, copyrights, trademarks, and so forth) tax free to subsidiaries in Puerto Rico which in turn use those intangibles to generate income protected from U.S. tax by the section 936 credit. Under the Finance Committee bill, such income attributable to intangibles generally would be shifted away from the 936 corporation to its U.S. shareholders who would be taxed on their pro rata shares of such income.

The severe solution proposed in the committee bill would destroy the incentive for industry to locate in Puerto Rico. The use of intangibles is essential to many of the manufacturing operations in Puerto Rico, especially those in the high-technology industries which presently provide over 60,000 jobs requiring highly skilled labor and management in 500 production units.

The second amendment we will propose addresses this concern of the committee by limiting the amount of income attributable to intangibles which qualifies for the possession credit, but in a way which would preserve the effect of Puerto Rico's tax incentives which have stimulated the development of the island's economy.

Our amendment would do this by providing two alternatives. One would limit the taxable income protected by the possession credit which is derived by a 936 corporation from a product—including the use of intangibles—to 50 percent of the combined profit of the 936 corporation and its U.S. affiliates from the product produced in whole or in part in Puerto Rico. The second alternative would allocate to the 936 corporation no income attributable to an intangible unless it has been developed by the 936 corporation or acquired from an unrelated third party—as under the committee bill—or unless it is acquired from an affiliate at an arm's length price. The proposal sets forth rules for determining what portion of the research and experimental expenditures of the possession's corporation and its affiliates will be considered to be an arm's length price. Under the proposal, taxable income protected by the possession credit would be the greater of the two alternatives.

By allowing the transfer of intangibles only when the possessions corporation pays adequate compensation, the proposal addresses the concerns of the committee. However, unlike the Finance Committee bill, the proposed amendment would allow Puerto Rico to maintain the incentive for industry to locate there by providing a reasonable solution to the intangible problem and ending the uncertainty which has made potential investors reluctant to establish operations on the island. The shift in income from Puerto Rico to the mainland which would result from the cost sharing and royalty payments and profit allocations would be heightened by the increased economic activity in Puerto Rico produced by the incentive, and substantial real U.S. revenue increases would result.

I am today submitting the second amendment for printing and will submit the first one as soon as the draft is completed.

These are very serious issues for Puerto Rico, Mr. President, and have serious consequences for Puerto Rico's troubled economy. With an unemployment rate over twice that of the mainland (23 percent) and no real growth last year, Puerto Rico's situation is particularly precarious and deserves special attention.

I hope all Senators will give careful consideration to the amendments we are proposing and will give serious thought to the potential economic and political impact which precipitous action on this controversial matter could have.●

IMMIGRATION REFORM AND CONTROL ACT OF 1982

AMENDMENTS NOS. 1947 THROUGH 1957

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted 11 amendments intended to be proposed by him to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

● Mr. KENNEDY. Mr. President, the Senate may soon consider S. 2222, the "Immigration Reform and Control Act of 1982." This bill represents a major effort—in which I have joined—to achieve long overdue reform of our Nation's immigration laws.

Despite every effort to fashion a consensus on this legislation, I was forced to vote against the bill in the Judiciary Committee because of the serious reservations I have about it in its present form.

I sought to address these concerns through a series of amendments I offered over a 2-month period during the subcommittee's and the full committee's consideration of the bill. I intend to pursue these amendments when the bill comes to the Senate floor.

I do so, Mr. President, in the spirit of trying to strengthen the bill and to help assure its passage—to accomplish the genuine reforms that the Select Commission on Immigration and Refugee Policy has recommended, and to support the goals which have guided the efforts of my distinguished colleague and chairman of the Immigration and Refugee Policy Subcommittee, Senator SIMPSON.

In filing minority views to the report accompanying S. 2222, I made clear the areas of my concern—concerns which I also know from the subcommittee's hearings, from the Select Commission's proceedings, and from the mail that I have received, are also concerns of many Americans. I indicated then, as I do now, that I am prepared to offer a number of amendments on the floor to address these issues and I hope the Senate will consider them favorably.

For the record, Mr. President, I would like to submit the following amendments to S. 2222, as reported, and ask unanimous consent that the text and a brief explanation of each be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

I. PRESIDENTIAL CERTIFICATION ON EMPLOYER SANCTIONS

The following three amendments relate to the implementation of employer sanctions under S. 2222, and to authorize steps to assure that employer sanctions does not lead to a pattern of discrimination against American workers.

1. The first amendment requires that within three years the President must monitor the implementation of employer sanctions and certify in writing to Congress that they have not resulted in a pattern of discrimination. If he cannot make that certification, the employer sanctions provisions are terminated unless Congress takes remedial action.

2. The second amendment authorizes additional appropriations to enforce certain labor and civil rights laws during the implementation of employer sanctions.

3. The third amendment requires the General Accounting Office to undertake a review of the implementation of employer sanctions each year. The Civil Rights Commission is also authorized to investigate allegations of discrimination under employer sanctions.

AMENDMENT NO. 1947

On page 90, between lines 2 and 3, insert the following:

(d) The amendments made by this section shall terminate, and the provisions of the Farm Labor Contractor Registration Act of 1963 amended by subsection (c) which were in effect on the day before the date of enactment of this section shall apply, three years after the date of the enactment of this section, unless 90 days before the close of such three-year period the President prepares and transmits to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a comprehensive report certifying that the provisions contained in the amendment made by subsection (a) have been carried out satisfactorily and have not resulted in a pattern of discrimination against United States citizens or other eligible workers seeking employment.

AMENDMENT NO. 1948

On page 90, between lines 2 and 3, insert the following:

(d)(1) There are authorized to be appropriated, in addition to such sums as may be available for such purposes, such sums as may be necessary to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standards Administration of the Department and to the Equal Employment Opportunity Commission for its enforcement activities in connection with the enforcement of section 274A of the Immigration and Nationality Act.

(2) The Secretary of Labor shall establish a Task Force to monitor the implementation of the amendments made by this section and to review and investigate any discriminatory complaints registered during its implementation.

AMENDMENT NO. 1949

On page 90, between lines 2 and 3, insert the following:

(d)(1) Beginning one year after the date of enactment of this section, and at intervals of one year thereafter, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate a report describing results of a comprehensive review of the implementation and enforcement of the provisions contained in the amendment made by subsection (a) during the preceding 12-month period for the purpose of determining if—

(A) such provisions have been carried out satisfactorily;

(B) a pattern of discrimination has resulted against United States citizens or eligible workers seeking employment; and

(C) an unnecessary regulatory burden has been created for employers hiring such workers.

Such committees shall hold public hearings on the contents of each such report and shall submit their findings and recommendations for remedial action, if necessary, to their respective Houses of Congress not later than 90 days after the date of receipt of any such report.

(2) The Commission on Civil Rights shall investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to employment by reason of their color, race, religion, sex, age, handicap, or national origin. Such writing shall set forth the facts upon which such belief or beliefs are based.

(3) There are authorized to be appropriated, in addition to such sums as may be available for such purposes, such sums as may be necessary to carry out the provisions of this subsection.

II. RESTORING THE CURRENT PREFERENCE SYSTEM

The following three amendments attempt to restore important features of the current family reunion preference categories.

1. The first allows immediate relatives of United States citizens to be admitted outside a numerical ceiling, with an appropriate reduction in the ceiling established in the bill to conform to the existing ceiling.

2. The second amendment restores the current second preference category for spouses and unmarried sons and daughters of permanent resident aliens.

3. The third amendment reestablishes the current fifth preference, but limits it to unmarried brothers and sisters of United States citizens.

AMENDMENT NO. 1950

On page 121, line 25, strike out "350,000" and insert in lieu thereof "185,000".

On page 122, beginning on line 1, with "(i)", strike out all through "residence," on line 5.

On page 122, line 6, strike out "(ii)" and insert in lieu thereof "(i)".

On page 122, line 8, strike out "such".

On page 122, line 9, stike out "(iii)" and insert in lieu thereof "(ii)".

On page 122, line 11, strike out "(iv)" and insert in lieu thereof "(iii)".

On page 124, lines 12 and 13, strike out "immediate relatives specified in section 201 (b),".

On page 124, line 15, strike out "such".

On page 130, lines 19 and 20, strike out, "immediate relatives specified in section 201(b),".

AMENDMENT NO. 1951

On page 125, strike out lines 3 through 14, and insert in lieu thereof the following:

"(2) Spouses and unmarried sons and daughters of permanent resident aliens.—Qualified immigrants who are the spouses, unmarried sons, or unmarried daughters of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 65 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (1).".

AMENDMENT NO. 1952

Beginning on page 126 with line 22, strike out all through line 6 of page 127 and insert in lieu thereof the following:

"(4) Unmarried brothers and sisters of citizens.—Qualified immigrants who are the unmarried brothers or sisters of citizens of the United States, if such citizens are at least twenty-one years of age, shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the clauses specified in paragraphs (1) through (3).

III. ASYLUM ADJUDICATION

The following two amendments relate to the asylum adjudication provisions in the bill. The first provides for judicial review of class actions alleging a pattern or practice of discrimination in the asylum process; and the second permits asylum applications to be closed to the public for the protection of the applicant, if he desires such protection.

AMENDMENT NO. 1953

On page 104, line 7, insert "or (C)" after "subparagraph (B)".

On page 104, line 17, strike out "under the Constitution".

On page 105, line 2, strike out the quotation marks and the second period.

On page 105, between lines 2 and 3, insert the following:

"(C) The district courts of the United States shall have jurisdiction to hear class actions which are brought against the United States Immigration Board or immigration judges in accordance with rule 23 of the Federal Rules of Civil procedures and which allege a pattern or practice of discrimination in carrying out section 208 or the procedure established pursuant to section 208. In such a class action the complaint shall set forth the facts pertaining to such pattern or practice and shall request such relief, including an application for a preliminary or permanent injunction, restraining order, or other order against the Board or immigration judges, as the case may be.".

AMENDMENT NO. 1954

On page 107, line 16, strike out "open" and insert in lieu thereof "closed".

On page 107, line 17, strike out "closed" and insert in lieu thereof "open".

IV. H-2 TEMPORARY WORKER PROGRAM

The following amendment simply strikes out the new statutory language contained in S. 2222 relating to the H-2 temporary foreign worker authorization, leaving instead existing law and regulations.

AMENDMENT NO. 1955

On page 79, in the table of contents, strike out the item relating to section 211.

On page 79, in the table of contents, redesignate the items relating to section 212 and 213 as items relating to sections 211 and 212, respectively.

On page 120, line 23, strike out "212(b)" and insert in lieu thereof "211(b)".

Beginning on page 140 with line 13, strike out all through line 21 of page 146.

On page 146, line 23, strike out "SEC. 212." and insert in lieu thereof "SEC. 211.".

On page 147, line 22, strike out "SEC. 213." and insert in lieu thereof "SEC. 212.".

On page 154, line 7, strike out "211(b)" and insert in lieu thereof "212(b)".

On page 165, line 10, strike out "213(a)" and insert in lieu thereof "212(b)".

V. FOREIGN STUDENT ADJUSTMENTS AND ADMISSION OF CERTAIN PROFESSIONALS

The following amendment seeks to clarify existing provisions of the admission to the United States of certain professions under the new independent immigrant category (formerly, the third and sixth preference), and to continue to permit foreign students of exceptional merit and ability to adjust their immigration status.

AMENDMENT NO. 1956

On page 127, beginning with the quotation marks on line 11, strike out all through "United States." on line 24 and insert in lieu thereof the following:

"(1) Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability.—Qualified immigrants who are members of the professions holding advanced degrees, or who because of their exceptional ability in the sciences or arts, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States, shall be allocated visas.

On page 128, strike out lines 7 through 12 and insert in lieu thereof the following:

"(2) Aliens as professionals, managers, or executives.—Qualified immigrants who are members of the professions, including highly skilled researchers required by educational and research institutions, or who are managers or executives, who will substantially benefit prospectively the national economy or the welfare of the United States, and whose services as professionals, managers, or executives are sought by an employer in the United States, shall be allocated visas in a number not to exceed such numerical limitation, less the number required for paragraph (1) of this section.

On page 134, line 7, insert after "qualified workers" the following: "(or equally qualified workers who are members of the teaching profession, who have exceptional ability

in the sciences or arts, or who have doctoral degrees and are seeking to enter the United States to be employed as researchers at colleges, universities, or other nonprofit educational or research institutions)".

On page 147, line 3, insert immediately after "admission" the following: "(except where such person has obtained a waiver by the Attorney General pursuant to section 245 (c))".

On page 147, beginning with "(other than" on line 9, strike out all through the first period on line 14 and insert in lieu thereof the following: "who was admitted to the United States classified as a nonimmigrant under subparagraph (F) or (M) of section 101(a)(15) or who was so classified after admission, except that the provisions of this section shall be applicable to such an alien upon waiver by the Attorney General of the two-year residence requirement of section 212(e) if (A) such alien possesses skills in short supply in the United States at the place where such alien is to perform such skills, including employment as a teacher in a college, university, school, or other institution of learning, (B) such alien has a bona fide offer of employment in the United States, and (C) certification has been made with respect to such alien pursuant to section 212(a)(14).".

VI. CLARIFICATION OF EXCLUSION PROVISIONS

The following amendment assures that a United States citizen or permanent resident alien will not be summarily excluded without a hearing.

AMENDMENT NO. 1957

On page 95, line 14, strike out "have any" and insert in lieu thereof "claim to be a citizen or lawful permanent resident of the United States or have any other".●

MISCELLANEOUS TAX ACT OF 1982

AMENDMENT NO. 1958

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. TOWER. Mr. President, I ask unanimous consent that the Intelligence Committee be authorized to meet for a closed briefing on Intelligence matters, during the session of the Senate at 3 p.m. on Tuesday, July 20.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the Intelligence Committee be authorized to meet during the session of the Senate at 10 a.m. on Wednesday, July 21, to receive a closed briefing on Intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the Intelligence Committee be authorized to meet during the session of the Senate at 10:30 a.m. on Thursday, July 22, to receive a closed briefing on Intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. TOWER. Mr. President, I ask unanimous consent that the Labor and Human Resources Committee be authorized to meet during the session of the Senate at 2 p.m. on Tuesday, July 20, to consider S. 1939, a bill to establish a National Institute on Arthritis and Musculoskeletal diseases.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on Energy of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, July 21, at 9:30 a.m., to hold an oversight hearing on the Federal Government's failure to collect defaulted loans from its own employees.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate at 1:30 p.m. on Thursday, July 22, to hold a hearing on Subsidized Export Credits in the Domestic Market.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. TOWER. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet during the session of the Senate at 2 p.m. on Tuesday, July 20, to hold a business meeting to consider budget reconciliation proposals.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorize to meet during the session of the Senate at 2 p.m. on Wednesday, July 21, to hold a nomination hearing to consider the nomination of Peter E. Voss, of Ohio, to be a member of the Board of Governors of the U.S. Postal Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE ADMINISTRATION'S NON-PROLIFERATION POLICY FARCE

● Mr. HART. Mr. President, in three major policy decisions, disclosed during our last congressional recess, the administration pushed to new extremes its willingness to become a major supplier of technologies—which could increase the spread of nuclear terror worldwide.

First, it was reported the Department of Energy had recommended to the President, in a Cabinet Council paper, that the Federal Government subsidize the purchase and operation of the commercial spent fuel reprocessing plant—a plutonium factory—at Barnwell, S.C.

By starting us down the road to international commerce in weapons-usable plutonium, Federal promotion of commercial spent fuel reprocessing will increase the risk that nuclear weapons will spread to countries not now possessing them and eventually to terrorist groups. Moreover, the recommendation violates economic common sense, as well as the administration's policy of allowing the free market to allocate energy resources.

Unfortunately, the Cabinet Council paper recommending Federal subsidization of commercial reprocessing reads more like a chamber of commerce brochure than a balanced, analytical decision memorandum. It hardly discusses the negative aspects—and there are many—of this proposal at all. Consequently, it does not give the President a sound, objective basis for making his decision.

So the President can weigh all the relevant factors before reaching his decision, Congressman OTTINGER and I have written him a letter explaining our objections to the recommendation. I ask unanimous consent that the text of this letter appear at the conclusion of my remarks.

I also ask unanimous consent that the following items appear:

An article in the Washington Post on this issue;

A draft of the Cabinet Council paper on nuclear fuel reprocessing and the Barnwell plant; and

An analysis of the Cabinet Council paper by Dr. Warren Donnelly of the Congressional Research Service.

The second policy decision is equally disturbing. The Department of Energy, in a decision it concealed from both the Congress and the American people, approved the export of laser technology for separating uranium and plutonium isotopes. Because it purifies civilian plutonium to weapons grade, this technology could enable the recipient country to use its civilian spent reactor fuel to build nuclear

weapons. Such a step, however, would breach the historic barrier between "atoms for peace" and "atoms for war" and make a mockery of the Nonproliferation Treaty. The Senate last spring rejected this option for this country, 88 to 9.

Laser isotope separation (LIS) technology can also be used to enrich uranium for reactor fuel at a fraction of the cost of current enrichment processes. As a result, the first country to use LIS technology on a production scale likely will gain a strong competitive advantage in the world market for uranium fuel. The United States currently has a significant lead in the development of LIS technology. Yet, the Department apparently would squander that lead by promoting, through these exports, the development of the same technology by France and West Germany. In the process, we would give up the chance to become once again perhaps the sole supplier of uranium fuel. The administration repeatedly has said it wants precisely this type of commercial leverage to secure its nonproliferation goals—but now it has given away one of the best levers. Moreover, we may lose a rare opportunity to increase the demand for U.S. uranium—which undoubtedly would have first claim for enrichment in any new U.S. LIS facility—and to restore the health of the domestic uranium industry.

I also find it ironic that this administration cites achievements by the French in developing breeder reactor technology to justify massive funding for our breeder reactor program. Yet, it is willing to export to France and other countries the one nuclear technology where we have a significant lead in research and development.

Congressman OTTINGER and I, last May, introduced a bill (S. 2505) that anticipated—and seeks to prevent—this type of export. It casts in legislative language the consistent past policy of the United States not to export sensitive nuclear technology, including LIS technology, to any country. I urge Congress to give this bill prompt and careful consideration. I ask unanimous consent that a Washington Post article on this issue appear at the conclusion of my remarks.

As the third part of its nonproliferation policy, the Department of Energy apparently has invited Japanese and West German firms to participate in a "demonstration" of safeguards technology at the Barnwell, S.C., commercial reprocessing plant. The decision is ill-advised for two reasons. First, it may constitute, under the Nuclear Nonproliferation Act of 1978, an improper export of sensitive nuclear technology. I have requested the American Law Division of the Congressional Research Service to examine the legality of this decision.

Second, even though many experts, including those at the Nuclear Regulatory Commission, have expressed serious concerns about the adequacy of safeguards for reprocessing and the use of separated plutonium, this demonstration will tend to legitimize commercial reprocessing and encourage other countries to begin or expand activities in this area.

Mr. President, while Congress was on recess, the administration wrote a policy script that risks the further spread of nuclear weapons around the world. I hope the Congress will now examine the implications of these decisions and rewrite that script to reverse policies that may ultimately close the curtain on civilization as we know it.

The material follows:

[From the Washington Post, June 29, 1982]

WHITE HOUSE WEIGHS REVIVAL OF SOUTH CAROLINA NUCLEAR FUEL PLANT

(By Milton R. Benjamin)

The White House is considering a recommendation that it revive and underwrite a commercial nuclear fuel reprocessing plant in South Carolina that President Carter blocked because it would produce large amounts of plutonium, a material which can be used not just as a fuel but to make nuclear bombs.

The recommendation, sure to become an issue among those in and out of Congress who are anxious about the proliferation of nuclear weapons, has been made by the Department of Energy to the President's Cabinet Council on Natural Resources.

It affects a half-completed reprocessing plant in Barnwell, S.C., owned by Allied General Services Inc., a consortium made up of Allied Chemical Corp., Gulf Oil Corp. and Royal Dutch Shell. Energy Secretary James B. Edwards, who is from South Carolina, has long favored support for the plant. Under the new proposal, the government would first undertake to buy the plutonium the plant produced, thus guaranteeing it a market for its product. In addition, the government would then promise to buy out further investors in the plant if government policy turned against reprocessing in the future.

The administration, under the proposal, would also commit itself to attempt to provide "an improved regulatory and licensing environment" to facilitate completion and operation of Barnwell.

About $400 million is being sought from additional investors. One interested firm is said to be the Bechtel Group Inc., of which Secretary of State-designate George P. Shultz is president and Defense Secretary Caspar W. Weinberger a former officer.

A White House decision on the new proposal is expected in late July. A copy of the recommendation has been obtained by The Washington Post.

The Barnwell plant is designed to separate plutonium from the spent fuel elements of nuclear power plants. About $250 million had been spent on it when Carter ordered the "indefinite deferral" of commercial reprocessing in this country in 1977.

Carter argued that use of reprocessed plutonium to refuel atomic power plants would not be economically competitive with slightly enriched uranium, and that the spread of reprocessing technology to Third World countries would increase the global availability of plutonium that could readily be used to fabricate nuclear weapons.

President Reagan, however, has repeatedly declared since his inauguration that he favors development of a commerical reprocessing industry in the United States. While he rejected an earlier recommendation from Edwards that the government buy the plant, the president instructed the Energy Department to "develop further recommendations for my further review on how to create a more favorable climate for private reprocessing efforts."

The result is the proposal that has gone to the White House that would provide government protection for private investors in Barnwell against "future policy changes" and which would have the government assure a "near-term demand for services."

"Completion of the Barnwell Nuclear Fuel Plant represents the only practical means of achieving a domestic reprocessing capability within the next 10 years," the report says. "The stated plans of the present owners to abandon the facility, and the current interests of potential domestic and foreign investors in maintaining the facility, require urgent efforts by governments and industry if the Barnwell plant is to be operated as a private venture."

The government protection for investors in the plant, sources said would not apply to the original consortium.

The Energy Department said one possible investor that had indicated an interest in "investing in and utilizing the services of" the plant was a West German industry. "It is the Department of Energy view that such participation is highly desirable," the report to the White House said.

The Energy Department, in its recommendation to the White House, says it would propose to work with the State Department and private industry to "facilitate foreign involvement" in Barnwell to the extent its domestic investors desire it.

While the report mentions the possible use of plutonium reprocessed at Barnwell to produce new fuel for the nation's 75 nuclear power plants, the Energy Department makes it clear the primary argument for Barnwell is the need for plutonium to start the proposed Clinch River fast breeder reactor in Tennessee.

The Clinch River breeder, which would produce more plutonium fuel than it uses, was also placed on hold by Carter in 1977, but it too has been revived by the Reagan administration.

The Energy Department, in its proposal to the White House, said it would negotiate with Barnwell's owners to purchase "quantities of plutonium sufficient to sustain the U.S. breeder development program" and to permit experimentation with the use of plutonium as fuel in conventional nuclear power plants.

James Buckham, president of the consortium that operates Barnwell, said the government would need about half the output of the reprocessing plant "for the rest of the century for the breeder program that has been outlined."

The Energy Department says the government would purchase plutonium at a negotiated price that would be "competitive with or less than the costs to obtain plutonium by alternative means." The only present alternative source of plutonium in this country is the military nuclear weapons program.

"That is very, very expensive plutonium," Buckham said.

U.S. SENATE,
Washington, D.C., July 7, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As you know, the Secretary of Energy has recommended, through the Cabinet Council on Natural Resources, that the Federal government subsidize the purchase and operation of the Barnwell, S.C., Nuclear Fuel Plant. This plant is designed to extract plutonium from commercial spent reactor fuel through a technology known as reprocessing.

The Secretary's recommendation would require the Federal government to:

(1) Guarantee a market by agreeing to purchase plutonium produced by the plant; and

(2) Agree to "buy out" the private investors in the plant if, in the future, U.S. policy should once again prohibit commercial reprocessing.

We strongly oppose the Secretary's recommendation and urge you to reject it for several reasons.

First and most important, taking this action would seriously undercut U.S. efforts to halt the spread of nuclear weapons worldwide. As you know, plutonium is more than a potential alternative to uranium as a nuclear power reactor fuel—it is the raw material for building nuclear weapons.

The Secretary's recommendation would legitimize the highly dangerous practice of spent fuel reprocessing and plutonium fuel use in civilian nuclear power programs around the world. Both the Ford and Carter Administrations prudently refused to take this step; they clearly recognized that the growing availability of this weapons-usable material would increase the risk that nuclear weapons will spread to countries not now possessing them and, eventually, to terrorists. Federal subsidies for commercial reprocessing would move the world significantly closer to international trade in plutonium, and to nuclear blackmail and perhaps nuclear annihilation as well.

Second, the recommendation contradicts your Administration's stated policy of allowing the marketplace to allocate domestic energy resources. The subsidies, in the form of guaranteed government purchases of plutonium, could amount to more than $3 billion within a few years. Moreover, the agreement would subject the Federal government to unprecedented long term liabilities and obligations. As you have noted in the past, Federal subsidies of specific energy technologies tend to distort the operation of the free market. Federal commitments to guarantee a market for plutonium or to buy out private investors in reprocessing represent precisely that type of market-distorting subsidy.

Third, many studies show that spent fuel reprocessing will not become commercially viable until well into the next century, if at all. In its early days, this nation's civilian nuclear power program contemplated the use of reprocessing and plutonium fuel to extend the life of supposedly scarce uranium reserves. New uranium discoveries and reduced demands for nuclear power, however, have made uranium anything but scarce. Indeed, uranium reserves are so large and demand is so low that the domestic uranium industry has plunged into a serious depression. The price of uranium has dropped from $60 per pound in the mid-1970s to slightly more than $20 per pound. Because they cannot profitably mine uranium at that price, many domestic uranium companies have closed their operations, and nearly 10,000 miners have lost their jobs. The use of plutonium from reprocessing would depress the market even further.

At the same time, the price of uranium would have to increase eight-fold to make economically attractive commercial reprocessing and the use of plutonium as an alternative reactor fuel. It makes no economic sense for the Federal government to subsidize a commercial reprocessing venture, which will not reduce our dependence on foreign energy sources, while the domestic uranium industry is collapsing.

Moreover, we can achieve the alleged benefits of reprocessing—a 30 percent savings in uranium use—far more economically, more reliably, more simply and without grave proliferation risks. For example, the nuclear industry and the Department of Energy are developing technologies to enable conventional reactors to burn uranium fuel up to 40 percent more efficiently. Additional technological improvements to increase uranium fuel efficiency could further extend the life of world uranium reserves and make the use of plutonium fuel even more economically unattractive.

Fourth, the Secretary recommended that the Administration "facilitate foreign involvement"—particularly by a West German Company—in the private consortium planning to buy the Barnwell plant. Several years ago, West Germany cancelled plans to build a similar commercial reprocessing plant at Gorleben because it was uneconomic and aroused serious domestic opposition. Should the United States permit West German firms to participate in the Barnwell venture, we will, in effect, allow West Germany to do in this country what it refused to do at home—reprocess its spent fuel.

The West Germans are interested in the Barnwell plant not primarily for economic reasons but because a West German law prohibits the further development of nuclear power until a plan for disposing of spent fuel is developed. In Barnwell, the West Germans have found such a plan. The spent fuel West Germany ships here for reprocessing, however, will carry with it all the adverse environmental impacts and health and safety risks that nation is unwilling to accept itself. The United States should not suffer the adverse consequences of West Germany's energy program.

Fifth, many experts consider the Barnwell plant poorly designed and likely to prove a technological failure. Federal support of the plant could result in a major and needless embarrassment to the United States.

Finally, the Federal government cannot conceivably use all the plutonium it buys from Barnwell. There are only three possible uses:

At a huge economic penalty, the plutonium could be recycled as mixed-oxide fuel in the nation's 72 operating reactors. Given the current depressed prices for low-enriched uranium fuel and competition from coal-fired plants, however, no utility would inflict higher electricity prices on its customers by using this far more expensive fuel.

The plutonium could be used to build nuclear weapons. Such a policy, however, would eliminate the historic barrier between "atoms for peace" and "atoms for war" and make a mockery of the Nonproliferation Treaty. The Senate has already voted 88-9 to prohibit the use of plutonium from civilian spent fuel in nuclear weapons, and the Congress likely will enact this prohibition by the end of the year. In addition, the plant would produce plutonium for thousands of nuclear warheads, far in excess of any established military needs.

The plutonium could be used to fuel the Clinch River Breeder Reactor. This, presumably, is the primary intent of the Department of Energy. However, the breeder reactor could use only a fraction of the plant's annual production, and Congress may deauthorize the project this year. In that case, the Federal government will own a highly contaminated plant and a pile of plutonium it will have to store and guard. Because plutonium must be maintained under closely controlled physical conditions and strict security, annual storage costs for a year's output of plutonium could exceed $30 million—equaling the value, as a fuel, of that plutonium in about 10 years.

Mr. President, because of the absolute lack of economic justification for this venture, the potential drain on the Federal budget of the proposed subsidy, and the risk to our future and our children's future that would flow from the increased availability of weapons-usable plutonium, we strongly urge you to reject all proposals for direct or indirect Federal support for commercial reprocessing in the United States.

Sincerely,

RICHARD L. OTTINGER.
GARY HART.

CABINET COUNCIL PAPER ON NUCLEAR FUEL REPROCESSING AND THE BARNWELL PLANT

INTRODUCTION

On March 20, 1981, the President directed the Secretary of Energy to consult with industry, identify regulatory barriers to commercial reprocessing, and develop recommendations on how to improve the climate for private reprocessing efforts. Nuclear fuel reprocessing was also discussed in the President's statement on nuclear weapons nonproliferation of July 16, 1981, and the nuclear policy statement of October 8, 1981. More recently, in his April 28, 1982 statement on nuclear waste management legislation, the President reaffirmed his desire to encourage private sector reprocessing in order to provide access to significant remaining fuel value for future generations as well as significantly reduce the volume of high level waste.

Some elements of the nuclear industry have attempted to respond to the Administration's desires, but have made it clear that additional Government actions are needed in the immediate future if industry is to move forward. This paper explains why additional actions are urgently needed and provides recommendations on appropriate next steps by the Administration that should allow a private sector initiative to develop.

THE CONCEPT OF NUCLEAR FUEL REPROCESSSING

Nuclear fuel gradually loses its ability to sustain the fission chain reaction necessary for power generation, and, after several years, it is considered "spent" and removed from the reactor core. Its inability to contribute longer to power generation results from the depletion, or "burnup," of most of the original uranium-235 content and by the buildup of waste fission products within the fuel which hamper the chain reaction.

When spent fuel is discharged from the reactor, approximately 96 percent of it by weight is reusable (94.4 percent is fertile uranium-238 and 1.4 percent is unused fissible uranium-235 and built-up plutonium). The remaining 4 percent is the "waste" portion of the spent fuel consisting primarily of

fission products, which are responsible for over 80 percent of the heat and radiation emanating from 10-year old fuel. Physically, spent fuel looks very much like fresh fuel, but it has become highly radioactive and must be stored in a safe manner until it can be transported to a reprocessing plant, another storage facility, or possibly to an underground repository for permanent disposal.

Reprocessing is a chemical process for removing the wastes from the spent fuel and salvaging the reusable uranium and plutonium. The process begins by dissolving the fuel in an acid solution which is subsequently treated to partition the dissolved plutonium, uranium, and waste products into three separate streams. The solutions containing the dissolved plutonium, uranium, and nuclear wastes are then independently treated to purify them and convert them into a desired solid form that can be stored, transported, reused in power reactors, or disposed of.

Historically, spent fuel reprocessing was viewed as an integral step in the nuclear fuel cycle which was required to recover unused uranium and plutonium and to facilitate the disposal of nuclear wastes. Use of the recovered uranium and plutonium in conventional nuclear power reactors would increase their fuel use efficiency by 30 to 40 percent. Through reprocessing and the use of the breeder reactor, the amount of energy generated from a given quantity of uranium will increase almost 70 times beyond that generated in a conventional reactor with no uranium and plutonium recovery.

To illustrate this point, it may be noted that about 8000 metric tons of spent fuel from U.S. power reactors are now being stored at reactor sites. This fuel has already generated approximately 1.9 trillion kilowatt-hours of electricity (the average U.S. household uses about 9000 kilowatt-hours annually). If reprocessed and reused in conventional reactors, this fuel would generate about 30–40 percent more electricity, or between .6 and .8 trillion additional kilowatt-hours. If reprocessed and used in conjunction with the breeder reactor, the existing inventory of spent fuel would produce about 70 times more electricity, or about 130 trillion kilowatt-hours.

To put this in perspective, the existing spent fuel inventory, if reprocessed and used in breeder reactors, would produce more than 50 times the total U.S. electrical power generation in 1981.

HISTORY OF U.S. REPROCESSING EFFORTS

Three commercial reprocessing ventures were initiated in the United States with Federal Government encouragement over the past 2 decades, but all three ventures failed.

The first plant, located at West Valley, New York, operated for about 5 years, but operations were discontinued as new Government safety regulations were promulgated which required a major capital investment for compliance.

The second plant, constructed in Morris, Illinois, was never operated with radioactive spent fuel feed since "cold" tests disclosed significant process and equipment deficiencies. It is now in use to store spent fuel for its customers.

The third plant is the existing facility at Barnwell, South Carolina, that was never completed because of changes in basic Federal policies regarding reprocessing. Specifically, concerns that the international spread of reprocessing technology could facilitate nuclear weapons proliferation gained popular support in the mid-1970's. Just prior to the 1976 elections, President Ford responded to these concerns by concluding that ". . . we should pursue reprocessing and recycling in the future only if they are found to be consistent with our international objectives." This was followed in 1977 by President Carter's indefinite deferral of U.S. nuclear fuel reprocessing and the subsequent termination of Barnwell construction and licensing proceedings. The Barnwell owners, left with a facility costing nearly $300 million and no means of realizing a return on this investment, agreed to use the facility for testing new, advanced safeguards systems and other research before dismantling the plant to obtain a tax write-off and minimize their losses.

Since 1977, it has become clear that other countries intend to proceed with reprocessing regardless of its fate in the United States, indicating that the unilateral U.S. prohibition of domestic reprocessing did little to advance our nonproliferation objectives relative to other countries. Other countries, not having indigenous uranium resources and not capable of economically justifying an indigenous enrichment capability, continue to view their spent fuel as a valuable commodity and are seeking reprocessing services to realize this value.

It should also be noted that the situation in the U.S. has changed somewhat since 1977 in that nuclear electric generation is not projected to grow as fast as was projected earlier. To the extent these projections affect the demand and prices for uranium ore and uranium enrichment services, they also affect when a large number of reprocessing plants would be justified by enriched uranium prices alone. Nonetheless, it remains clear that as our installed nuclear power capacity increases, better uranium utilization, through breeder reactors and possibly mixed-oxide recycle in light water reactors, will require reprocessing. In any event, there are sufficient incentivies to justify moving forward with at least one plant (e.g., the Barnwell Plant) in the near-term for reasons which are discussed in a later section of this paper.

President Reagan removed the ban on October 8, 1981, and took the position that reprocessing should be a private sector responsibility. While initial industry reactions to this position where highly negative, some elements of private industry have responded in a more positive manner during recent months. These more recent responses have shown that additional Government actions are required that recognize that nuclear fuel reprocessing has become a politically sensitive nuclear technology with unique business and economic risks which are strongly affected by uncertain and changing Government policies and regulations. Until these policies and regulations are clarified and reasonable stability assured, a private sector commercial reprocessing initiative cannot be expected.

BARRIERS TO COMMERCIAL REPROCESSING

The Federal Government is currently responsibile for licensing of nuclear fuel reprocessing plants; for regulating nuclear materials transportation; for determining the allowable uses, hence value, of the recovered plutonium and uranium; for uranium enrichment pricing; and for determining the costs and schedule for disposal of the high level wastes from reprocessing. The Federal Government will also determine the costs and schedule for the only other alternative to reprocessing spent reactor fuel, namely, the direct disposal of this fuel in a Federal repository. Further, State and local governments play a large role in the regulation of nuclear materials transportation and issues associated with public acceptance.

The fundamental regulatory structure for nuclear power endeavors is not likely to change, and no changes in the basic structure are being proposed by the Department of Energy. It is clear, however, that regulatory barriers to reprocessing can and must be reduced and stabilized at a level acceptable to industry before renewed interest in private reprocessing ventures can be expected.

More specifically, barriers to purely private reprocessing efforts exist which can be summarized in three categories:

1. Regulatory barriers to commercial reprocessing exist because of uncertainties in the time and costs required to license a reprocessing plant in today's environment. The uncertainties apply to the partially completed Barnwell plant in South Carolina as well as to any new plants which might be contemplated.

2. An equally important barrier results from industrial concerns that future changes in Government policy could again prohibit or make uneconomic commercial reprocessing as was the case under previous Administrations.

3. Finally, barriers exist because of unique economic uncertainties associated with the near-term markets for reprocessing services, the value of recovered products, and the costs of waste disposal. It should be noted that uncertainties regarding the costs and schedule for waste disposal should be significantly reduced or removed through passage of the pending waste management legislation.

These barriers preclude a positive and definitive economic analysis that private industry would traditionally consider as a prerequisite to investing in a long-term, capital-intensive venture such as reprocessing.

INCENTIVES FOR REPROCESSING

Nevertheless, there are national incentives for proceeding with nuclear fuel processing which can be summarized as follows:

1. Reprocessing recovers the large amounts of residual energy value (plutonium and uranium) in spent nuclear fuel and can extend the use of known uranium resources from several decades to several centuries when used in the breeder reactor. By preserving the relatively inexpensive uranium reserves that currently exist, the world's nuclear nations' energy supply can be enhanced. Prior to commercial deployment of the breeder, recycle of plutonium in light water reactors will be economic and desirable assuming that sufficient quantities of plutonium are available and that uranium and enrichment costs increase in the future.

2. Reprocessing results in a high level waste form preferred for disposal. It allows for the separation of fission product wastes from the spent fuel and their incorporation into a uniform and well-characterized solid form especially engineered to assure these wastes will remain immobilized in a deep underground disposal environment for hundreds to thousands of years.

3. If a commitment to a U.S. reprocessing program is made soon, it can contribute to international weapons nonproliferation efforts, a U.S. reprocessing venture would be implemented in a way that demonstrates advanced safeguards systems and influences both the institutions and the technology used by foreign countries. U.S. leadership in

reprocessing plant designs, particularly safeguards features, can have a positive influence on reprocessing plant design efforts in other countries. In addition, a U.S. reprocessing capability that would reprocess foreign fuels could provide a more economic alternative than small indigenous reprocessing facilities in foreign countries which do not have a sufficient number of nuclear powerplants to justify commercial scale reprocessing plants. The United States must be in a position of leadership and participation if we are to have a major influence in international nonproliferation efforts and keep to a minimum the number of small reprocessing plants that could be developed internationally and pose a proliferation risk.

4. LWR fuel reprocessing is a precursor to development of the breeder reactor fuel cycle and will be required to supply plutonium for the first commercial breeder reactor. The substantial amounts of plutonium needed by the U.S. breeder development and demonstration programs over the next several decades could be supplied through domestic reprocessing. There are no other domestic civilian sources for this plutonium, and the quantities necessary will likely not be available from the defense program.

5. Reprocessing will provide an alternative to continued storage of spent fuel at some nuclear powerplants and avoid many of the problems and costs associated with additional storage capacity. If near-term relief is not provided by a reprocessing plant, either the Government or private industry will need to provide additional costly facilities.

6. Reprocessing can significantly aid in the international marketing of U.S. light water reactors provided foreign fuels can be reprocessed in the United States. To the extent that other countries offer such services, their reactor suppliers are in a stronger marketing position than the U.S. reactor vendors.

A MAJOR ADDITIONAL CONSIDERATION—FOREIGN PARTICIPATION

An element of industry within at least one foreign country, the Federal Republic of Germany, has indicated an interest in investing in and utilizing the services of the partially completed Barnwell Nuclear Fuel Reprocessing Plant in South Carolina. It is the DOE view that such participation is highly desirable to:

1. Re-establish U.S leadership in international nuclear power programs and thereby strengthen U.S. influence in nuclear weapons nonproliferation matters.

2. Strengthen U.S. credibility as a reliable supplier of peaceful nuclear technologies and thereby assist U.S. industry in the marketing of U.S. light water reactors abroad.

3. Facilitate financing of domestic reprocessing operations.

STATUS OF THE BARNWELL PLANT—THE NEED FOR IMMEDIATE ACTIONS

The United States presently has 79 power reactors with a combined electrical generating capacity of about 60 million kilowatts. These reactors generate almost 300 billion kilowatt-hours per year and produce wholesale revenues of around $9 billion. At the same time, these plants discharge about 1500 metric tons of spent fuel each year, which is equivalent to the design capacity of the Barnwell Nuclear Fuels Plant in South Carolina. The Barnwell plant represents the only near-term possibility for moving forward with commercial reprocessing and the production of solidified high level wastes suitable for ultimate disposal in a geologic repository.

However, the present owners of the Barnwell plant have stated their intention to abandon the plant at the end of fiscal year 1982 unless new owners can be found or continued Government funding is provided for research and development at the facility. Further, the Congress is divided over the need to provide additional Government funding for Barnwell, and fiscal year 1983 funds may not be allowed even though they have been requested by the Administration.

Under the Carter Administration, it was proposed that the Barnwell plant be purchased by the Government and used solely as a large "Away From Reactor" storage facility for spent nuclear fuel. The State of South Carolina has opposed this concept on the basis that the fuel might be retained there indefinitely, making South Carolina a "dumping ground" for nuclear materials and wastes. On the other hand, a number of the South Carolina political leaders have indicated they would favor completion and operation of the Barnwell plant in recognition of the local and National benefits that would result.

At the present time, political controversy continues regarding the possible uses of the Barnwell plant. Thus, any proposal to complete the plant for reprocessing spent fuel will have to recognize these concerns and clearly demonstrate the state and local economic and social benefits which will result from completion and operation of the plant.

Completion of the Barnwell Nuclear Fuel Plant represents the only practical means of achieving a domestic reprocessing capability within the next 10 years assuming conditions acceptable to the State can be met. The stated plans of the present owners to abandon the facility, and the current interests of potential domestic and foreign investors in maintaining the facility, require urgent efforts by Government and industry if the Barnwell plant is to be operated as a private venture.

OPTIONS FOR RENEWED U.S. EFFORTS IN NUCLEAR FUEL REPROCESSING

Given the present conditions, it is the judgement of the Department of Energy and many, if not all, elements of the nuclear industry that private industy will not attempt to move forward with Barnwell or any other commercial reprocessing ventures without additional Government actions. During the past year, several options have been considered which would require varying degrees of Government action or involvement.

These options may be defined as follows in order of increasing Government involvement:

Option 1—"Classical" Commercial Venture—Requires no additional Government actions; assumes reprocessing will proceed when market forces dictate and Government policies are viewed as stable.

Option 2—"Government Facilitated" Commercial Venture—Requires limited additional Government actions to protect against future policy changes and assure a limited near term demand for services.

Option 3—"Comsat" Type Organization—Requires legislation to authorize private sector monopoly and define market.

Option 4—U.S. "Nuclear Fuel Corporation"—Requires legislation to establish mixed Government/private corporation; probably requires some Government financing.

Option 5—"U.S. "Nuclear Fuel Authority"—Requires legislation to establish total Government responsibility and Organization.

These options, along with a brief policy analysis of each, are presented in Table 1.

In considering the above options, it should be noted that the option designated "Classical" Commercial Venture is not likely to succeed for reasons stated previously and in Table 1. Moving to the other end of the spectrum, some responsible elements of the private sector felt strongly in early 1981 that a totally Government-funded and -operated U.S. "Nuclear Fuel Authority" was necessary. To the President's credit, and for that matter to industry's credit, some industry positions have changed and appear to represent sincere attempts to move toward either the "Government Facilitated" Commercial Venture or the U.S. "Nuclear Fuel Corporation" options.

Thus industry has been responding to the President's policy and momentum toward a shared goal has been established. Industry now awaits a Government response to its initiatives, and given the needs for a domestic reprocessing capability, it is appropriate that the Government provide this response. The Department proposes the next steps described below.

NEXT STEPS

1. The Government should decide to pursue the "Government Facilitated" Commercial Venture option whereby it would take limited actions described below to assist private sector reprocessing. At least one respected element of industry has stated publicly that it is confident this approach will succeed.

2. The President, recognizing that certain Government actions are required before private ventures can be seriously contemplated, should commit the Administration to assisting in the development of a domestic reprocessing capability by working with industry to develop the best means to proceed.

3. DOE should undertake the following limited actions on the behalf of the Administration to facilitate a private sector initiative:

DOE will offer to negotiate acceptable means to protect investors in fuel reprocessing plants against changes in Government policy which could again prohibit commercial reprocessing. Such protection would include only changes in Government policy, and would not include normal business risks or the risk of technical failure.

DOE will work with the Nuclear Regulatory Commission to provide an improved regulatory and licensing environment for reprocessing plants, while maintaining adequate protection of public health and safety.

As has been proposed in a previous DOE paper, DOE will begin negotiations with industry regarding Government purchase of quantities of plutonium sufficient to sustain the U.S. breeder development program and to facilitate limited utility mixed-oxide recycle investigations. These Government purchases would be undertaken with the realistic assumption that a plutonium price can be negotiated that would be competitive with or less than the costs to obtain plutonium by alternative means. In addition, it should be possible for the Government to recover its plutonium acquisition costs by selling or leasing the plutonium to utilities that will use it in a revenue producing demonstration breeder reactor or a conventional reactor used for mixed-oxide fuel recycle investigations.

DOE will negotiate acceptable and unambiguous terms for accepting wastes from reprocessing plants in a manner that is con-

sistent with legislation recently approved by the Senate and which will remove the uncertainties in cost and schedule for transferring such wastes to the Federal Government for final disposal.

DOE will work with the Department of State and industry to facilitate foreign involvement in a domestic reprocessing venture to the extent that such involvement is desired by potential domestic investors and is consistent with U.S. nonproliferation objectives.

DOE will participate, to the extent desired and appropriate, in discussions between potential investors in the Barnwell plant and any potentially affected State, local or Tribal Governments.

SUMMARY AND RECOMMENDATION TO CABINET COUNCIL

The establishment of a U.S. reprocessing capability for commercial nuclear fuels is a key requirement for development of an advanced nuclear economy. It serves both domestic and foreign policy objectives. Cabinet Council and Presidential approval to proceed with the proposed actions contained in this paper is therefore requested. A more detailed report to the President on the subject of commercial fuel reprocessing has been prepared by DOE to support this position.

TABLE 1.—OPTIONS FOR NUCLEAR FUEL REPROCESSING

Option	"Classical" commercial venture	"Government facilitated" commercial venture	"Comsat" type organization	U.S. Nuclear Fuel Corporation	U.S. Nuclear Fuel Authority
Requirements	1. Free market conditions Normal business risks Markets for Pu and U Reasonable regulatory environment Waste management commitments 2. Market demand for services 3. Willing investors	1. Improved licensing environment 2. Indemnification against Government policy changes via contractual arrangements, limited loan guarantees, legislation, or some other means 3. Government decision on Pu disposition 4. Criteria for Government acceptance of waste 5. Government policy to promote foreign participation 6. Market demand for services 7. Willing investors	1. Legislation to establish organization 2. Market demand for services 3. Willing investors	1. Legislation to establish mixed Government/private corporation 2. Some utility financing 3. Government guarantees for principal and interest on bonds and loans obtained from commercial money markets 4. Government loans 5. Possibly congressional appropriations 6. Market demand for services	1. Legislation to establish Federal authority. 2. Funding by loan or sale of securities. 3. Government guarantees for principal and interest on bonds and loans obtained from commercial money markets. 4. Government loans. 5. Possibly congressional appropriations. 6. Market demand for services.
Policy analysis	1. Fully supports administration philosophy 2. However, not feasible for fuel reprocessing due to Government involvement and controls (sensitive technology)	1. Supports Administration objective of achieving commercial reprocessing 2. Supported by some elements of private industry 3. Some required Government actions will be controversial and difficult	1. Would be "private sector" corporation 2. Requires legislation to authorize monopoly and define market (controversial and difficult)	1. Initial increased Government responsibilities run counter to Administration policies 2. Requires legislation to establish organization, provide Government authorities, guarantees, and funding, and require utility investment (controversial and difficult) 3. Being promoted by some elements of the utility industry	1. Maximum Government involvement; contrary to Administration policies. 2. Requires legislation to provide total Government controls and funding (controversial and difficult). 3. Could be funded by utility fees.

LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 9, 1982.

To: House Committee on Energy and Commerce, Subcommittee on Energy Conservation and Power.

From: Warren H. Donnnelly, senior specialist.

Subject: Analysis of Cabinet Council's Paper on Nuclear Fuel Reprocessing and the Barnwell Plant: A critique.

I. OVERALL COMMENTS

Responding to your request, I have made the following analysis of the draft Cabinet Council paper on reprocessing dated May 18, 1982. The draft appears to be basis of bringing a policy recommendation to the cabinet. Presumably it should contain all the information necessary for consideration at this level. However, the paper consists mainly of general statements with little hard information and details. In my opinion, the information it contains is inadequate for a top level decision on a national policy of this import.

The report does not inform the Council on the possible financial commitments of the government that would flow from the proposed policy. Nor does it discuss the implication of the policy recommendation for the future domestic and world use of plutonium as a nuclear fuel and the implication of that use for the possible further spread of nuclear weapons.

II. DETAILED COMMENTS

P. 1, par. 2. The "urgent need" referred to is not explained.

P. 2, par. 2. The paper notes that use of uranium and plutonium recovered by reprocessing in conventional nuclear reactors would increase fuel use efficiency by 30 to 40 percent. However, a comparable improvement is expected by many from modification of existing reactors and their fuel to provide extended fuel burnup. Yet the paper makes no mention of this alternative.

While the paper emphasizes the energy from by-product plutonium, it gives no information on comparative costs of power generation with recycled plutonium and with conventional low-level uranium. Some comparative price information would be useful, expressed in dollars per million BTU supplied by the two fuels.

P. 2, bottom. Concerning Barnwell, the paper does not mention the reasons for the NRC change in regulation which would require the addition of a conversion facility of Barnwell to convert plutonium nitrate into plutonium oxide. Nor does the paper mention the sustained funding for safeguards research and development of Barnwell during President Carter's administration, which has kept the project alive.

P. 3, par. 2. Is interesting that the paper does not mention reprocessing plants in France, United Kingdom, India, and—soon—Argentina.

P. 3, par. 3. The paper summarizes various responses in general terms. No commercial data or details are given. The reader does not know where the crossover point for costs would occur for conventional fuel and for recycled plutonium as a function of uranium prices, enrichment fees, reprocessing charges, and extra costs of plutonium fuel fabrication.

P. 3, par. 4. The paper mentions but gives no information about a "highly negative" reaction of industry. Some analyses of these reactions logically could be included.

P. 3, bottom. The paper does not mention the need to get NRC approval to use plutonium as a fuel in specific power plants.

Pp. 4–5. The paper addresses "barriers to commercial reprocessing". A better term would be "regulatory conditions for commercial reprocessing". The word "barriers" sometimes implies something arbitrary or needless which stands in the way of progress. Plutonium clearly is a hazardous substance and regulations to assure its safe use are not to be dismissed as "barriers".

P. 4, par. 2. The statement that regulatory barriers "can and must be reduced and stabilized at a level acceptable to industry" does not inform the Council what industry would accept and whether the independent NRC might agree. Also the paper makes no case that the present regulatory requirements are arbitrary or excessively severe. If regulations are to be changed, the Council should have an idea of how they would be changed.

P. 4, middle.

Category 1. The paper over simplifies the regulatory situation by implying arbitrary or needless requirements which can be readily removed. Also it does not address the fundamental matter of regulation of recovered plutonium both to assure the public health and safety and to prevent the further spread of nuclear weapons. While the paper mentions costs of licensing, it's silent upon overall costs of reprocessing, so that the reader does not know how important regulatory costs are for total costs.

Category 2. The possibility that future changes in governmental policy can be to the disadvantage of a commercial technology is not unique to nuclear power. The paper does not indicate why nuclear power should get special treatment.

Category 3. The statement is vague. It implies that private investment decisions would be strongly influenced by the "near-term" market for reprocessing, but does not mention long-term considerations. It optimistically notes that uncertainties about waste disposal should be significantly reduced or removed by waste management legislation which is still pending before Congress.

Nothing is said about potential commercial competition from the French, the British, and, in the future, the Japanese. Again, there is no mention of the comparative economics of conventional nuclear fuels and of plutonium.

P. 5. The paper gives six incentives for reprocessing for which comments follow:

Incentive 1. A quibble. Reprocessing does not recover energy, it recovers nuclear material which, in principle, can be used to produce energy.

The paper gives no indication of how fast commercial breeders would have to be built to preserve inexpensive uranium for other countries. It also provides no basis for its implied favorable estimate of the economics of plutonium recycle.

Incentive 2. Preferred by whom?

Incentive 3. If reprocessing is to become a commercial venture for the benefit of investors, who will be expected to pay for the upgraded safeguards both domestic and international—that would be required for the commercial use of plutonium?

The paper implies Barnwell was designed with safeguards in mind. It does not say however, whether Barnwell's plans were sent to the IAEA for comment during the design stage, whether comments were received, and to what extent IAEA suggestions were adopted.

The concluding sentence implies that private operation of Barnwell would help minimize the number of small reprocessing plants around the world. This logically implies charge less than foreign reprocessors. How valid is this implied assumption?

Incentive 4. Some plutonium for the breeder project could be supplied from the weapons works; some from decommissioning nuclears weapons, if the START talks are productive; or some could be brought from the British or the French.

Incentive 5. The paper assumes that costs of commercial reprocessing and government high-level waste disposal together are less than costs of indefinite storage of spent fuel.

Incentive 6. Here again the paper implies a private plant could compete with the prices offered by the French, the British, and, in the future, the Japanese. The Council is not given the basis for this key assumption.

P. 6, top. While foreign participants would help in private financing, the paper is silent on the access of foreign investors to the Barnwell reprocessing technology. Also, it is not clear how investment by West-Germany or others in Barnwell would reestablish U.S. leadership.

P. 6, middle. Here again the paper does not mention congressional funding of safeguards research and development at Barnwell during the Carter administration.

The paper informs the Council of local political considerations affecting the future of Barnwell but is silent on the opposition from some parts of the American public to the commercial production and use of plutonium.

P. 8. middle. Concerning the steps proposed to the Cabinet Council, some comments follow:

Concerning step three, the paper implies DOE has authorization now to take the proposed step. There is no identification of DOE authority to negotiate "acceptable means to protect investors . . . against changes" in government policy. For example, could DOE indemnify the owners of Barnwell against future NRC regulatory changes that might be to its disadvantage?

Concerning the proposal that DOE work with the NRC to improve the regulatory environment for reprocessing, a reading of Section 126 of the Atomic Energy Act, as added Section 304 of the NNPA, would strongly suggest that the Secretary of State should be involved because it is the latter who advises the Commission whether a proposed nuclear export is "inimical to the common defense and security". Put another way, what is the authority of DOE to advise NRC on the effects of commercial plutonium on national security and non-proliferation policy?

The paper refers to an unidentified DOE paper about DOE negotiation with industry to buy commercial plutonium. There is no indication of whether or not this second paper has been sent to the cabinet council or whether it will accompany this paper.

There is no information on how much plutonium DOE would be authorized or funded to buy. The paper implies the negotiated price would be competitive with or less than alternative sources. Does this mean DOE expects Barnwell to underprice the United Kingdom, France, and Japan? Or is the criteria for comparison solely the cost of weapons grade plutonium?

P. 9, par. 1. The statement on DOE negotiation is vague.

P. 9, par. 2. What incentives can DOE offer to attract foreign involvement in domestic reprocessing?

P. 9, final par. The summary treats reprocessing in vacuum and does not show its relation to prospects for domestic and world commercial use of plutonium. The summary says that establishment of U.S. reprocessing is a "key requirement" for advanced nuclear economy. However, the paper's analysis does not make this case.

The summary recommendation gives no indication of financial limits upon DOE commitments.

III. A COMPARISON OF OPTIONS

The draft paper identifies "requirement" for five options. Table 1 summarizes these. Examination of it leads to the question of why improved licensing, indemnification, government decisions on plutonium disposal, government criteria for acceptance of waste, and policy to promote foreign participation all are listed for the favored alternative, but are not mentioned for the other four? Does this imply they have no bearing at all on the other alternatives?

TABLE I.—DISTRIBUTION OF REQUIREMENTS LISTED IN DRAFT CABINET COUNCIL PAPER ON NUCLEAR FUEL REPROCESSING AND THE BARNWELL PLANT—MAY 18, 1982

Requirement	Classical commercial	Government facilitated venture	Comsat type	Nuclear Fuel Corporation	Nuclear fuel authorization
Freemarket conditions	X				
Market demand for services	X	X	X	X	X
Willing investors	X	X	X		
Improved licensing		X			
Indemnification against Government policy changes		X			
Government decision on Pu disposition		X			
Government criteria for acceptance of wasted (radioactive)		X			
Government policy to promote foreign participation		X			
Legislation to establish			X	X	X
Some utility financing				X	
Government guarantees for bonds and loans				X	X
Government loans				X	X
Government appropriations				X	X
Funding by loan or sale of securities					X

U.S. EYES JAPANESE-GERMAN PLUTONIUM TEST

(By Milton R. Benjamin)

The Reagan administration is considering a proposal to let Japan and West Germany finance and participate in a full-scale test of a nuclear fuel reprocessing plant in South Carolina capable of producing weapons-usable plutonium, the Energy Department confirmed yesterday.

The proposed "cold test" of the Barnwell reprocessing plant—which would begin in late September and run for about 10 days—would not involve any fission products, but would demonstrate how safeguards at the plant would function if it were turning out plutonium that could be used in the manufacture of nuclear bombs.

The plant's owner, Allied General Services Inc.—a consortium made up of Allied Chemical Corp., Gulf Oil Corp., and Royal Dutch Shell—also has been soliciting British and French involvement in a test of its idle $300 million facility.

Only Japan and West Germany expressed sufficient interest in putting up money for the $1.5 million test, however. They are included in Allied General's application to DOE for permission to let foreign scientists and engineers observe a demonstration involving a "sensitive nuclear technology" that the United States has previously not shared with other countries.

The reprocessing plant, which needs an estimated $400 million in related facilities to go into full operation, has been in limbo since 1977 when President Carter, concerned about the risk of nuclear proliferation, ordered an "indefinite deferral" of commercial reprocessing in this country.

The Reagan administration has been seeking to revive the plant, however, and DOE recently prepared for the White House a recommendation that the government underwrite that plant by agreeing to purchase its output of plutonium and by promising to buy out investors if U.S. policy changes again in the future.

The proposal, however, has run into stiff opposition in Congress, and a Congressional Research Service study sent to the House Energy and Commerce Committee yesterday sharply criticized the recommendation for not fully addressing the implications of "domestic and world use of plutonium as a nuclear fuel" in terms of "the possible future spread of nuclear weapons."

The information contained in the proposal "is inadequate for a top-level decision on a national policy, of this import," the CRS study said. The study also notes the administration plan envisions foreign investment in Barnell—most likely by West Germany—

and criticizes the fact that the DOE report "is silent on the access of foreign investors to the Barnwell reprocessing technology."

Rep. Richard L. Ottinger (D-N.Y.), chairman of a House energy subcommittee and sponsor of a bill that would toughen the 1978 Nuclear Non-Proliferation Act, raised the question of protecting sensitive nuclear technology yesterday and called for an investigation of whether foreign participation in tests at Barnwell would "circumvent the Atomic Energy Act.

"These tests may well transfer sensitive reprocessing and safeguards information not now available to Japan and West Germany," Ottinger said. "This is yet another example of the Reagan administration's willingness to jeopardize our security by allowing the spread of dangerous nuclear technology for the benefit of a few special interests."

Ottinger said he was sending a letter to Energy Secretary James B. Edwards inquiring about the Barnwell proposal, which congressional sources said has been circulating in classified form for several days. A DOE spokesman confirmed yesterday that such a request was under consideration but said no recommendation had yet gone to Edwards, who under the Atomic Energy Act must grant specific approval.

Dr. James Buckham, president of Allied General, said yesterday the consortium that owns Barnwell expected government approval of foreign participation in the safeguards test "shortly."

Buckham said, however, it now appeared that more likely only the Japanese would put up the financing and participate in the demonstration. He said that to proceed with the test in September, Allied would need a commitment from the Japanese by the end of the month.

"The reason the Japanese are interested is they are initiating the design of a large reprocessing plant like Barnwell, and if they are going to have a safeguards system like the one we use, it would be much better to fit it in at the beginning of the design rather than much later," Buckham said.

Buckham said permitting the Japanese to observe the safeguards system at Barnwell would not enable them "to acquire any technology they don't already have in reprocessing" as a result of operating a small reprocessing plant at Tokaimura. A number of U.S. nonproliferation experts, however, disagree and suggest that a Japanese scientific and engineering team could probably learn everything there was to know about Barnwell through watching it operate for 10 days.

ADMINISTRATION HAS SECRETLY APPROVED EXPORT OF NUCLEAR-RELATED LASERS

(By Milton R. Benjamin)

The Reagan Administration has secretly approved the export to West Germany and France of special lasers for research that could make it simpler and far cheaper to produce highly enriched uranium and supergrade plutonium suitable for nuclear bombs.

The so-called tunable diode lasers, produced by Laser Analytics Inc., were sold to the French and German governments for research in laser isotope separation, a sophisticated process that is also the object of an intensive development program at the Energy Department's Lawrence Livermore and Los Alamos National Laboratories.

The decision to permit export of the lasers for such research, which had to be approved by Energy Sectretary James D. Edwards under terms of the Atomic Energy Act, was classified by the Energy Department on grounds that to disclose it might compromise the competitive position of the American manufacturer.

Energy Department officials yesterday, however, confirmed that the exports had been authorized, but said they did not think the lasers would significantly speed either the French or German programs to develop the isotope separation process.

But the approval of the export of technology specifically earmarked for this kind of research would at a minimum appear to be a further departure by the Reagan administration from the longtime U.S. nonproliferation policy of not helping foreign countries develop sensitive nuclear technologies.

The encouragement of foreign laser isotope separation research also is certain to cause concern in Congress, which has strenuously objected to the potential use of this technology even in this country to upgrade plutonium from civilian nuclear fuel reprocessing plants and make it more suitable for use in nuclear weapons.

While the administration spent $47 million in the past year on laser isotope separation research aimed at upgrading plutonium in military programs, Congress is on the verge of enacting legislation that would bar use of commercial nuclear materials for nuclear weapons purposes. A bill containing this prohibition is in conference.

Yet another concern that has been expressed by some members of Congress is that exports of this kind might undercut the apparent American lead in developing a new technology that would significantly cut the cost of enriching uranium to fuel nuclear power plants.

The United States, once the sole supplier of low-enrichment uranium for use as fuel in nuclear power plants around the world, has seen its share of what is currently about an $8 billion annual world market reduced to 35 percent in recent years.

The Energy Department in April signed an eight-year $300 million contract for "large-scale" engineering development and a demonstration of the laser isotope separation process for enriching uranium at the Lawrence Livermore facility. But those advocating a stronger nonproliferation stance by the administration worry more about the use of this technology of upgrade plutonium.

This concern first surfaced last fall, when the Energy Deparment disclosed that it would have difficulty producing sufficient plutonium in its military reactors to build the 14,000 new nuclear warheads President Reagan has proposed adding to the U.S. military stockpile.

As a result, the administration said it was investigating the possibility of applying the laser enrichment process to the upgrading of the enormous quantities of plutonium that have been produced by America's 75 operating civilian nuclear power plants. This proposal ran into immediate opposition in Congress, where Sen. Gary Hart (D-Colo.) introduced the amendment that would bar such use.

What concerns Hart and other members of Congress is that any move by the United States or other countries to use the spent fuel from commercial power plants as the raw material for nuclear bombs breaks down a barrier that until now has existed between atoms for peace and atoms for war.

Technically, the plutonium that emerges from a nuclear reactor, once it is separated from the rest of the spent fuel at a reprocessing plant, is suitable in that form for fabrication into a nuclear weapon. But while the Defense Department has tested a nuclear bomb made up of such materials, experts regard a weapon made from this type of plutonium as unreliable.

The reason is that the plutonium that emerges from a nuclear reactor contains both the plutonium-239 isotope, which is ideal for weapons, and the plutonium-240 isotope, which interferes with the fission process.

To make weapons-grade plutonium, the Energy Department extracts the fuel from its military production reactors after it has been in only a short time, and only 3 percent of this super-grade plutonium consists of the isotope 240.

The fuel that comes out of most commercial power stations, having been left in longer, averages at least 12 percent isotope 240. Any plutonium containing more than 6 percent isotope 240 is regarded as less than desirable for weapons use.●

DEATH OF PAUL R. BOUCHER, INSPECTOR GENERAL OF THE SMALL BUSINESS ADMINISTRATION

● Mr. WEICKER. Mr. President, it was with a deep sense of shock and sorrow that I returned this week to learn of the tragic death of Paul R. Boucher, Inspector General of the Small Business Administration. I know it is a tremendous loss for his family, for his friends, and for the agency he served so well.

As chairman of the Senate Committee on Small Business, I feel the loss especially deeply, for it was my good fortune to work with Mr. Boucher for the past 3 years. Paul Boucher was, quite simply, one of the finest men—certainly one of the finest public servants—this city has known. As the first person to hold the post of Inspector General at the SBA, he consistently distinguished himself by his sense of dedication and professionalism. He was hard working, forthright, and most importantly, he cared deeply about his work, the agency, and the small business constituency he served.

The Inspector General's job is not always an easy one. Almost adversarial by its nature, the office requires its occupant to work for his employer by working against him. That is, performing internal investigations, checking and rechecking policy decisions and their execution, and reviewing each and every program for faults, flaws, or, as in some cases which Mr. Boucher was involved in, outright fraud. As you might imagine, the person who carries out these tasks is not likely to win any popularity contests.

That Mr. Boucher performed this often-difficult job is not so unusual. That is, after all, what he was appointed to do. But the fact that he performed it and still managed to retain, and in some cases, gain, the respect and affection of his coworkers and associates is worthy of note. In fact, last year, Mr. Boucher was rated by a nine-

member executive review board as the top senior executive within the SBA.

If the Inspector General's job is a tough one generally, it is especially tough at the SBA, which has been plagued over the years by poor management and a steadily growing list of programmatic problems.

It has been my goal as chairman of the Senate Small Business Committee to clean up the SBA, to root out the waste and abuse and to make it a more tightly run, more effective agency. Well, let me say, Mr. President, that we could not have had a better working partner in that regard than Paul Boucher. Throughout seven investigative hearings already in this Congress, Mr. Boucher impressed me, and I know he impressed the other members of this committee, with his total cooperation and his readiness and willingness to work together with us to get to the bottom of problems at the SBA.

Paul Boucher was first appointed to the post of SBA Inspector General in June of 1979, when his nomination by then-President Carter received the unanimous approval of the Senate. In January of last year, following President Reagan's inauguration, he was removed from office along with all of the other Inspectors General. Shortly thereafter, however, he was renominated by the President, making him one of only six Inspectors General to be returned to their posts by this administration. He was unanimously confirmed by the Small Business Committee on June 2, 1981, and on June 19, 1981, he was again confirmed by the full Senate.

Prior to 1979, Mr. Boucher served as a special agent and as the counsel to the Director of the Naval Investigative Service in Washington, D.C. In 1972, he joined the Criminal Division of the Department of Justice as a trial attorney, and later, was named the Deputy Chief of a section of more than 30 attorneys. While at the Department of Justice, Mr. Boucher distinguished himself when requested by two successive Attorneys General to manage the efforts of task forces of attorneys assigned to investigate violations of Federal laws by the CIA, NSA, FBI, and other U.S. intelligence and law enforcement organizations.

In the 3 years Mr. Boucher served at the SBA, he conducted investigations and audits which resulted in the recovery of well over $10 million. Reforms he initiated in agency programs prevented the loss of additional taxpayer dollars.

Despite these sizable accomplishments, the thing Paul Boucher claimed to be proudest of in his work at the SBA was the creation of the Inspector General's advisory council. The council was formed because of his belief that SBA's professionals in the field would know best what problems existed in agency operations, and would have the most practical solutions for solving those problems. Last year, the advisory council, under Boucher's leadership, issued a major report identifying problems in SBA's disaster lending programs and recommending solutions to those problems.

This innovative council, characteristic of the creativity and enthusiasm Mr. Boucher brought to all facets of his office, provided a means whereby agency employees could get involved in trying to correct problems within the agency without fear of reprisal. At the same time, it addressed the tendency toward lethargy and cynicism that often pervades Government offices by giving employees a voice in the agency and the decisionmaking process.

Did it work? The answer is a resounding "yes." Our committee held a hearing, based on some of the findings in that report, which resulted in a major debt collection effort on the part of the administration. And, President Reagan, on hearing of the work of the council, commended each member personally by letter.

Clearly, Mr. President, Paul Boucher was no ordinary bureaucrat. His death, at age 40, leaves us all a little poorer. Certainly he will be missed by those of us who knew him and worked with him and held him in such high regard.

To his widow and to his two children, I offer my deepest sympathy and condolences. We are all lucky to have known such a man.●

PAUL R. BOUCHER

● Mr. HAYAKAWA. The Fourth of July is a day of great celebration for all Americans commemorating freedom from intolerable authority. Unfortunately, for one family it will no longer be a day of celebration.

It was on that day this year that a fine American, Paul R. Boucher, was killed in a freak accident caused by a runaway gas-propelled model airplane. Mr. Boucher was interested in flight and was a member of a local model airplane club, the scene of the accident that took his life. He was 40 years of age.

His wife Ginette and his young children Eric and Nicole knew him as a loving husband and father. The U.S. Navy counted him among its loyal members where he rose to the rank of commander. The Small Business Administration knew him as its Inspector General, a post carrying tremendous responsibility and requiring intelligence and complete integrity. He filled these qualifications in every way. As a member of the Senate Small Business Committee, I know of Paul Boucher's reputation and the respect and regard in which he was held by his colleagues.

The role of inspector general is one that requires tact, courage, and devotion to the high principles that must be the guide for all Government employees. Mr. Boucher served as the Small Business Administration's first and only Inspector General. President Carter appointed him to this position originally and President Reagan reappointed him, attesting to the record he had made on the job. His previous Government service served him well in carrying out the duties of the Office of Inspector General, and there is no doubt that this young man would have continued to climb even higher, in or out of Government service.

We mourn the untimely death of a dedicated public servant. He left a sterling legacy to his two young children that they will carry with them all their lives. The love he displayed for his wife will help to sustain her through the difficult days ahead. I send to all of them my deepest sympathy in their great loss.●

BIRTHDAYS BEHIND BARS

● Mr. DOLE. Mr. President, under far less pleasant circumstances than we, in the United States, celebrated the birth of our Nation's freedom on July 4, human rights activist Aleksandr Lavut celebrated that same day his 53d birthday in a prison camp far from his native Moscow in the Khabarovsky region of Soviet Siberia. Aleksandr Lavut was a member of the action group for the defense of human rights in the U.S.S.R., founded in 1969 and dedicated to opposing political oppression against any segment of Soviet society. From its very inception, the group was subjected to repression by the Soviet Government, which, as we are all aware, allows its citizens the right only to protest alleged violations of human rights in the West.

Of the 15 original members of the action group, 8 were exiled from their native land, 5 of these having first served out prison terms. Others were imprisoned or given internal exile. Two recanted under KGB pressure. By 1980, only Aleksandr Lavut was left at liberty. In addition, he had further incurred the displeasure of the authorities by joining the committee for the defense of another human rights activist, Tatyana Velikanova.

Alexsandr Lavut was arrested in his Moscow apartment on April 29, 1980, and charged with the all-too-familiar article from the Soviet Code 190-1: "Dissemination of false information, slandering the Soviet social and political system." In December 1980, Lavut was tried in Moscow, found guilty, and given the maximum applicable sentence of 3 years incarceration in a corrective labor camp. It is inspiring to mention the courageous efforts of 11 of Lavut's coworkers at the Central Geophysical Expedition where he worked, who sent a statement in

Lavut's defense to the public prosecutor's office. For their efforts, they were harassed by the police authorities and called in for questioning.

July 7 marked the 52d birthday of the Ukrainian human rights activist, attorney, and Helsinki Group member, Ivan Kandyba. Mr. Kandyba is currently serving his second 15-year term meted out by the Soviet courts for his human rights activity and his struggle for Ukrainian national rights. A veteran of the Red Army during World War II, Mr. Kandyba and his fellow countryman, Lev Lukyanenko, were sentenced in 1960 to 15 years in prison for having proposed a referendum on the secession of Ukraine from the Soviet Union, a proposal entirely legal according to the Soviet Constitution. Having served his sentence in full, Ivan Kandyba was released in 1976, at which time he helped found the Ukrainian Helsinki Group. Subjected to constant harassment and employment discrimination by the authorities, he applied to emigrate from the Soviet Union. In March 1981, He was arrested in Lvov and charged under Article 62 of the Ukrainian criminal code, "conducting anti-Soviet propaganda and agitation." The outcome of the trial was a foregone conclusion and Ivan Kandyba, whose only crime was his love for his native Ukraine, was once more doomed to a long term in the Gulag.

On July 19, another Ukrainian patriot and human rights activist, Mykola Matusevych, will celebrate his birthday in a Soviet prison. It is instructive to note here that Mykola Matusevych's first difficulty with the authorities occurred when he was arrested and jailed for 15 days for singing Christmas carols in public. Under these circumstances, it is not surprising that his active participation in the Ukrainian Helsinki Group and his defense of political prisoners should have gained for him the enmity of the Soviet state. Matusevych is now in the infamous Chistopol Prison serving a 7-year term to be followed by 5 years internal exile. His wife, Olga, who also joined the Ukrainian Helsinki Group, was sentenced to 3 years corrective labor for her support of her husband's work and her own activity on behalf of human rights in Ukraine.

These, Mr. President, are only three of hundreds of Soviet prisoners of conscience being held hehind bars in the Soviet Empire for activities that we here in the free world take for granted, such as the right to protest government decisions, to practice one's religion freely, the right to emigrate. In this month, when we Americans celebrate the 206th anniversary of our Nation's founding and the freedom that we have enjoyed since that date, it behooves us to remember the fate of Soviet prisoners of conscience and the millions of Soviet citizens whose hopes for genuine freedom in Russia and throughout the Soviet Empire were dashed when the Bolsheviks seized power in 1917.●

MICHIGAN SUPPORTS EXIM

● Mr. HEINZ. Mr. President, for many years, the Export-Import Bank, along with international trade in general, has remained beyond the knowledge and understanding of most Americans. Because of this obscurity, many mistaken notions have developed with regard to the Bank and the importance of exports to our economy.

Fortunately, this situation is changing. More and more Americans are coming to realize that their jobs, and the health of our economy overall, are dependent upon a strong export position. At the same time more people are learning how the Export-Import Bank is in the front lines of our defense against unfair practices by America's trade competitors; for it is only a strong and aggressive Export-Import Bank that can prevent the French, Japanese, and others from benefiting from cutthroat export financing. I believe that American exports, when given a fair chance at straight competition, will be successful in winning sales. Each sale translates into American jobs and profits to be invested in research and development.

Mr. President, one example of this growing awareness of the vital importance of the Export-Import Bank is a resolution from the Michigan State Senate recently communicated to this body. I submit for the RECORD the text of the resolution, in support of the Export-Import Bank.

The resolution follows:

MICHIGAN STATE SENATE CONCURRENT RESOLUTION No. 790

A concurrent resolution memorializing the Congress of the United States to promote and foster the Export-Import Bank.

Whereas, Exports represent a most important contribution to the economic well-being of our nation, state, and local communities; and

Whereas, More than seven percent of all jobs in Michigan are involved in the manufacture of products which are sold abroad; and

Whereas, The current world situation is one in which free trade is limited and more and more sales are going to heavily subsidized foreign competitors which operate in not-for-profit economies; and

Whereas, The lack of an aggressive U.S. export policy, especially in the area of financing, is creating a disadvantage for U.S. manufacturers who can no longer rely on product quality and superior productivity to sell their products abroad; and

Whereas, it is extremely unlikely that the United States can negotiate for enforceable international agreements to create free trade without an aggressive export policy; and

Whereas, The Export-Import Bank is the only defensive tool available to large capital goods exporters and their thousands of suppliers to meet foreign subsidized financing; and

Whereas, The Export-Import Bank is a profit-making agency which has returned more than $1 billion to the federal treasury and retained $2 billion more in earnings since it was capitalized in 1945; and

Whereas, Financing exports is an appropriate investment for this country in which returns from tax receipts and reduction in necessary unemployment benefits far outweigh the short-term necessity of lending money at below-market rates; and

Whereas, An Export-Import Bank policy, which is willing to match or better foreign subsidized financing, will assist in establishing a strong exports policy; and

Whereas, The failure to properly support the sale of exports may have grievous long-term effects; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the members of the Michigan Legislature hereby memorialize the Congress of the United States to promote and foster the Export-Import Bank; and be it further

Resolved, That copies of this resolution be transmitted to the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, and the members of the Michigan Congressional delegation.

Pursuant to rule 3.6, the concurrent resolution was referred to the Committee on Senate Administration and Rules.

Senator Corbin was named a co-sponsor of the concurrent resolution.●

THE GOVERNMENT PRINTING OFFICE

● Mr. ARMSTRONG. Mr. President, an article in the July 12 issue of U.S. News & World Report hits the nail on the head in discussing the issues surrounding the Government Printing Office. A great deal has been printed recently about GPO employees being paid 22 percent more than their counterparts in other Federal agencies, about waste and overemployment at GPO, about the actions on the part of Public Printer Danford L. Sawyer to control this abuse, and about the difficulty he has encountered along the way.

The arguments are summarized very well here, and I commend the article to the attention of my colleagues.

The article follows:

WHEN A FEDERAL FAT-TRIMMER WIELDS HIS KNIFE

A Reagan appointee who expected to bring business efficiency to government is discovering it is far easier to spot public waste than to correct it.

Former businessman Danford L. Sawyer, Jr., is hitting one roadblock after another in trying to curb the "extraordinary waste" he says permeates the 670-million-dollar-a-year Government Printing Office, which he has headed for a year.

Some 1,000 angry GPO workers marched on the Capitol on June 29 to protest, among other things, Public Printer Sawyer's attempt to bring down their wages.

That same day Sawyer was called before the House District of Columbia Committee for a tongue-lashing from members opposed to his idea to save money by closing down GPO for six days. GPO's 6,200 employees on July 2 won a court order blocking the plan.

Sawyer also is under orders from the congressional Joint Committee on Printing, which oversees the agency, not to proceed with another proposal to close 23 of GPO's 27 bookstores.

"I don't want to sound like a revolutionary, but if the American taxpayers knew the kind of screwing they were getting in this operation, they'd all pick up a rifle and march on this place," the blunt-talking, former Florida advertising man and publisher told a columnist.

Sawyer's chief target is the agency's "scandalous" labor costs. GPO craft and industrial workers are paid an average 22 percent more than those in comparable jobs in government and the private sector, Sawyer says. As a result, a typical printing job done by the GPO costs about twice as much as a private printer charges for the same work.

What's more, Sawyer contends that GPO is saddled with too many employes, antiquated equipment "dating back to William Randolph Hearst" and management policies that would make a private-sector executive cringe.

Comments Representative Eugene Johnston (R-N.C.), who formerly ran a printing company: "If GPO were a private printing establishment, it would have collapsed long ago."

The GPO was established by Congress in 1860. Now the largest agency within the legislative branch, it publishes the daily Congressional Record, hearing transcripts and reports as well as other documents. It operates from a revolving fund established by Congress and is required to charge other agencies and the public for its products. The agency is projected to run 5 million dollars in the red this year.

Not all of Sawyer's cost-cutting measures have been thwarted.

In the past year, hiring has been frozen, overtime pay cut sharply and a request is pending to offer "early out" retirement to senior workers. Over all, attrition has reduced GPO's payroll by 400—far short of the 1,700 Sawyer wants to cut within three years.

GPO also has begun farming out more printing to private firms. It has canceled plans for a new 268.8-million-dollar plant and tightened purchasing procedures. Thousands of slow-moving GPO publications have been scrapped, including Culture of Sugar Cane for Sugar Production in the Mississippi Delta, which sold two copies in 1981.

During recent contract bargaining, Sawyer shocked unions with a final offer of a 22 percent pay cut over two years to bring salaries in line with those at other federal agencies.

Employees in 22 GPO unions around the country heatedly dispute Sawyer's figures. "Antiworker propaganda," says William J. Boarman, president of the Columbia Typographical Union, whose own figures show GPO wages comparable to those in similar union jobs elsewhere. The unions are asking an average 20 percent wage increase.

Meanwhile, GPO employes are working without a contract while Congress, the final arbiter in such disputes, waits for the recommendations of a fact finder.

What finally brought Sawyer's costcutting rampage to a halt—at least temporarily—was his plan to lay off all GPO employes for six days.

That was too much for the Joint Committee on Printing. The committee prizes its record of maintaining harmony between unions and the public printer. When the unions complained, the panel quickly passed a resolution forbidding Sawyer to impose any "furloughs, reductions in force or other adverse personnel actions." Says Staff Director Thomas J. Kleis: "The basic issue is who's in charge."

Is it legal? Sawyer, questioning the legality of the committee's action, vowed to go ahead with the furlough plan. "The real economic impact of this is that [employes] are not going to be able to go to Pizza Hut on Friday night," he says. "They're all screaming like pigs. It's absurd."

The unions averted the layoffs, at least for now, with their federal court victory. Sawyer says an appeal is being considered.

Although relations are strained between Sawyer and members of the printing committee, he has become a hero to others in Congress. Supporters in both houses are pushing resolutions endorsing his efforts and calling for legislation to strengthen his hand. "Either we want to control government spending or we don't," asserts Senator William Armstrong (R-Colo.), a Sawyer backer. ●

THE PRESIDENT AND THE SECRETARY OF STATE

● Mr. KENNEDY. Mr. President, I wish to bring to the attention of my colleagues a very thoughtful article by former Secretary of State Dean Rusk, "At the Pleasure of the President," which appeared in the Sunday Outlook section of the Washington Post. In this article, Secretary Rusk draws on his experience under Presidents Kennedy and Johnson to offer wise advice on the challenges and responsibilities of the Secretary of State. Secretary Shultz would do well to study this advice carefully—with its appropriate emphasis on a strong and effective working relationship with the President, the Congress, and other governments.

I welcome particularly three points that are too often overlooked in this Capital which has become all too focused on conflicts of personality in the field of foreign policy and national security. The first is the need to put the national interest first: "Guerrilla war among those at the top of the government is simply too dangerous in this kind of world in which we live." The second is the need to work with our allies, not to impose unilaterally our viewpoints on them: "Our friends in Europe are allies—not satellites." The third is the enormous value of the Foreign Service of the United States, too often downgraded or ignored: Ours is a "professional diplomatic service that is second to none in ability, experience, dedication and—when needed—sheer gallantry."

Mr. President, I commend Secretary Rusk's intelligent words to the Senate and this administration, and I request that it be printed in the CONGRESSIONAL RECORD.

The material follows:

[From the Washington Post, July 18, 1982]

AT THE PLEASURE OF THE PRESIDENT

(By Dean Rusk)

George Shultz becomes our 60th secretary of state under our 40th president; a little arithmetic suggests that being secretary of state is a hazardous occupation.

Shultz' nomination has been warmly received, and we must all wish him success. We are all in the same canoe and will come through turbulent waters or go down together. President Kennedy once remarked that domestic issues can only lose elections, but foreign policy issues can kill us all.

Since the changing of the guard at the Department of State has occurred in the midst of considerable speculation about tensions and procedures at the top of the administration, it might be well to recall certain simplicities, at least as seen by the senior member of the trade union of former secretaries of state.

We should begin with the often forgotten first sentence of Article 2 of the Constitution: "The Executive power shall be vested in a president of the United States of America." This sentence should be framed and hung on the wall of the White House mess; there is only one president in the White House. A secretary of state serves at the pleasure of the president; his resignation is implicitly always on the president's desk. The president, in turn, must give thought to the arrangements that make it possible for a secretary of state to carry out his heavy responsibilities and to remain willing to carry the burdens of that office.

As George Shultz takes up his duties, he will find a five-foot shelf of statutory law organizing his department and setting many policies that he is obliged to pursue. Many of these statutes delegate specific responsibilities to the secretary of state, although it is generally understood that a secretary exercises these statutory responsibilities under the general direction of the president. There will be times when a secretary will have to tell the president that certain things simply cannot be done under existing laws and appropriations. Presidents usually take seriously their own constitutional duty to see that the law be faithfully executed.

The secretary of state must spend a great deal of time in ensuring that our complicated constitutional system functions smoothly in the conduct of our relations with foreign nations. Chief Justice Earl Warren reminded some of us shortly before his death that, if each branch of our federal government were to pursue its own constitutional prerogative to the end of the trail, our system simply could not function: it would freeze up like an engine without oil. The secretary must, therefore, give a great deal of time to his relations with Congress. This means frequent appearances before committees and subcommittees, and he will find that almost literally every committee of Congress gets into the formulation in one way or another. He must keep in regular touch with congressional leaders. He must see that high priority is given in his department to congressional inquiry, whether by mail or by telephone. He must take the lead in promoting legislation, obtaining appropriations, or getting the approval of the Senate for treaties that are of interest to his department. Unhappily, he must also try to discourage Congress from indulging in foolish pranks that affect our foreign relations.

Fortunately, the secretary is backed up by a professional diplomatic service that is second to none in ability, experience, dedica-

tion and—when needed—sheer gallantry. It seems to be fashionable for new boys surrounding a new president to approach the foreign service with a mixture of suspicion and derision. After all, the foreign service does not share their view that the world was created at the last presidential election or that a world of more than 160 nations will somehow be very different because we elected one man rather than another as president. These cheap shots, which are typical of almost every new administration, diminish as a new president and secretary of state come to appreciate the extraordinary capacities of our professional diplomats.

A new secretary of state soon discovers the sheer mass of our communications with other governments. On any working day approximately 3,000 cables, all bearing the signature of the secretary, will go out of the Department of State to our posts and governments all over the world. Of these, the secretary himself may see eight to ten and the president may see one or two before they are dispatched. The remainder are taken care of by hundreds of officers who must necessarily have the authority to proceed with the day's work. It is the secretary's job to see that these professional officers understand the policies that a president and a secretary wish them to follow. Of the more than 2 million cables that went out of the department under my name during the 1960s, I can recall only four or five that had to be called back and rewritten because the authors had missed the point of policy that the president or I expected them to follow—an extraordinary professional performance by colleagues.

The secretary of state is the one who holds press conferences at home and abroad; it is he and our ambassadors, to whom he furnishes guidance, who are our principal spokesmen with other governments; he must see that the interests and attitudes of other departments and agencies of our own government are taken fully into account; he is responsible for seeing to it that our delegations to international conferences, about a dozen on every working day somewhere in the world, are assembled and provided with credentials and instructions with regard to U.S. policy. More than any other person in government, the secretary of state shares the awesome constitutional and public responsibilities of the president in foreign affairs and must be recognized at home and abroad as one who has the full confidence of the president.

It needs to be said very simply that members of the White House staff do not and cannot share these responsibilities. Their job is to assist the president, not to substitute for him. It is one thing for a member of the White House staff to transmit to a Cabinet officer an instruction from the president; it is quite another thing for such a staff officer to try to issue his own directives to major departments of government. If the president himself is not speaking, it is the secretary of state himself who, by statute, long-established custom and common sense, must speak for the United States in matters of foreign policy. If a president tries to inject White House staff into the chain of command with respect to the Cabinet departments, he is asking for a lot of trouble.

At the risk of seeming self-serving, I would suggest that one can search the news media of the 1960s and find a minimum amount of gossip about feuds among those at the top levels of government. Secretary of Defense Robert McNamara, national security adviser McGeorge Bundy (later Walt Rostow) and I spent a great deal of time talking things over with each other, in discussions that were infused with the thought that we were all trying to serve the same president.

We were fully aware of the fact that honest men and women can have honest differences of view about complex problems that arise in a tumultuous and contradictory world. We did not translate those differences of view into consideration of personal prestige, competition or the protection of one's own pad, or consideration of personal ambition. Guerrilla war among those at the top of the government is simply too dangerous in the kind of world in which we live. If a president finds anyone in his administration who is going around town plunging knives into the backs of his colleagues, that person should be fired immediately. Such activity becomes readily known because, among other things, reporters do not protect their sources nearly as much as they pretend.

Any new administration must make the sometimes difficult transition from campaign rhetoric to the responsibilities of office in the real world. Political campaigns and party platforms exist in the world of opinion; their primary purpose is to solicit votes. The generalities of campaign oratory and party platforms simply do not deal with real problems in the real world, which have dozens and dozens of secondary and tertiary questions surrounding them. Those who carry public responsibilities live in the world of decisions—a vastly different world from the world of opinion.

A case in point has to do with the administration's attitude toward the contemplated gas pipeline from the Soviet Union to Western Europe. The point is not really whether such a pipeline is right; opinions may differ on that, and it is entirely appropriate for the administration to make its concerns known to our friends in Europe. However, no one has appointed our president and secretary of defense to be the den mothers of Western Europe. Their leaders are grown men and women, many with far more experience in world affairs than our own leaders, who are entirely capable of assessing their national interests and the requirements of their national security. It is destructive to North Atlantic relationships for us to try to reach out and impose our own law and policy upon American-owned subsidiaries that are organized under the laws and policies of their host countries in Europe. Our friends in Europe are allies—not satellites.

It was encouraging to hear Shultz underline the importance of continuity in foreign policy and his determination to seek a broad-based, bipartisan approach toward the rest of the world. The United States is too large, powerful, rich and influential to dart about like a hummingbird to sniff at each alluring blossom; we must be reasonably predictable by friends and adversaries alike, or we ourselves can inject disarray into an already troubled planet. Unanimity is not possible, but a broad consensus is there for those who are willing to participate in building it.

FOREIGN CORRUPT PRACTICES ACT

Mr. CHAFEE. Mr. President, one of the most serious effects that the ambiguities of the Foreign Corrupt Practices Act has had on U.S. exports is in the area of exports by small to medium size companies. The lack of clarity in the act has discouraged many small firms from doing business overseas. We cannot afford to have small businesses be discouraged from competing in overseas markets if we want to achieve and maintain a healthy trade balance. It is therefore imperative that we enact legislation before the end of this Congress that eliminates the ambiguities in the Foreign Corrupt Practices Act. S. 708, the Business Accounting and Foreign Trade Simplification Act, which passed the Senate last November and is awaiting action in the House, would accomplish that result. I urge my colleagues in the House to act on that bill in the near future.

Mr. President, I ask that the testimony of Shaw Mudge, a small businessman from Connecticut, on S. 708, given before the Senate Banking Committee on May 21, 1981 be inserted in the RECORD.

The testimony follows:

STATEMENT OF SHAW MUDGE, PRESIDENT, SHAW MUDGE & CO., STAMFORD, CONN.

Mr. MUDGE. Mr. Chairman, Senator Chafee, my name is Shaw Mudge, president of Shaw Mudge & Co., in Stamford, Conn.

We are a small business that manufacturers fragrances which are used in cosmetics, and household and personal products. We have 44 employees, and our sales are $7 million, of which 10 percent are exports.

While this is a small number, our exports are growing by multiples every year. Before passage of the Foreign Corrupt Practices Act in 1977, we anticipated a greater penetration of African and Asian markets.

I am also president of three smaller companies: Habitant Trading Co., Stamford, a manufacturer of chemical specialties, with 20 percent of sales in international trade; Pineo Point Fisheries in Harrington, Maine, east of Sorrento with 24-percent foreign sales; and 11-month-old Columbia Air Services in Groton, Conn. We are an FAA-accredited airplane repair company that now services 5 percent of its airplanes for foreign customers.

I am one small businessman who utilizes the latest technology to create products and services that are needed in select markets of the world. I am just one of many thousands of America's small business people who are ambitious, hard working, and eager to expand America's economy.

I appreciate being invited to testify before your committee today. The FCPA is having a significant impact on small businesses. We cannot use our limited capital to employ legal and financial FCPA specialists. We cannot absorb losses resulting from years of negotiating, followed by production and possible shipment, only to find that a foreign national requires "grease," grease that may slide us, the owner or his family, into an American jail for 5 years.

ADDITIONAL CLARIFICATION NEEDED FOR S. 708

I am here today representing my small companies, NSB, National Small Business Association, and SBANE, Smaller Business Association of New England. We are in favor of S. 708, although we believe it needs additional clarification.

But first, we want to express our appreciation to Senator Chafee and to the support-

ers of the Business Accounting and Foreign Trade Simplification Act for acknowledging small business' role in international trade.

Today only 1 percent of U.S. companies account for 80 percent of the Nation's exports. But at least 20,000 small companies that are not exporting now could easily sell their products overseas.

Small producers offer unique characteristics for international trade. We produce a great variety of products, often of exceptionally high quality. We can penetrate small markets and profit from them in ways that large companies find difficult. Small businesses are flexible in meeting foreign customers' requirements. And small business can adapt more quickly to fluctuating market conditions.

In addition, as small business expands into world markets, helping to balance America's trade deficit, small business will continue to be America's job creators at home.

As you know, small business is the job-creating aspect of our society. And I think that for every—all of the testimony really, we'd be wise to dwell on that part, too, as well as the bookkeeping aspects.

Two sections of S. 708 are especially helpful to small business. The first is the part of section 4 which replaces "Reason to Know" with language that makes U.S. companies liable if they corruptly pay a bribe. Section 4 allows me to actively trade in foreign countries through local companies in which I have less than a majority share. I will no longer be expected to impose America's cultural values on nationals in their own countries whose trading practices, in some cases, existed before 1776.

Section 4 also will permit business people to trade with emerging countries like our neighbor Mexico, whose new wealth has spurred the growth of Mexicanization. Today, no foreign country can own more than 49 percent of any company doing business in Mexico. How can an American business take full responsibility for a company in which it has minority control?

Another clarification offered by BPRA that will be helpful to small business is the beginning steps toward a definition of "facilitating payments." But we need more direction if we are to be competitive in world markets. For instance, is the very common practice of either overinvoicing or underinvoicing permissible? There is no additional payment.

Another example is from my own painful experience. Shaw Mudge & Co., employed an aggressive agent in the area of the world that has traditional colonial relationships. An opportunity arose where a state-owned company in the former colony needed an equally good but less costly product—one that could be made from synthetics rather than from expensive natural products. Our small company's expertise is in developing new formulations utilizing the latest technology confirmed by empirical perfumers.

Of course, there are foreign firms who also have the expertise and enthusiasm as well as the production and delivery capabilities.

Two years went by, Shaw Mudge & Co. spent $120,000 in normal negotiating expenses, travel between the countries, development of formulations and arranging trading terms.

We beat out the competitors. The contract was ready to be signed. Then the manager of the State-owned plant demanded additional money to be deposited in a third country's bank. "That's what we're getting now," he told us. Is that a facilitating payment? Is it local custom? Please tell me. Because we lost 2 years and $120,000. Small business people are risk takers, but not when jail is one of the risks.

I'll give one last example, this one from the construction industry. Contracts are signed, work has begun, the building is nearing completion except for the installation of an elevator. Now the local official wants an additional payment so the building can be completed. Is that a facilitating payment? Or must the buidling be abandoned?

Small business and the entire international trade sector of American business awaits further clarification of a cumbersome law that has become a disincentive to trade.

Thank you, again, for allowing me to testify.

Senator D'AMATO. Thank you very much, Mr. Mudge.

THE PROPOSED SIBERIAN NATURAL GAS PIPELINE

● Mr. ARMSTRONG. Mr. President, Mr. Cord Meyer, a former high-ranking officer of the Central Intelligence Agency, now a syndicated columnist, wrote an excellent column recently explaining why President Reagan's decision to cut off completely the flow of U.S. technology to the proposed Siberian natural gas pipeline is strategically and morally the proper thing to do. I urge all of my colleagues to read Mr. Meyer's column carefully.

The article follows:

[From the New Orleans Times-Picayune, June 30, 1982]

PIPELINE EMBARGO WILL BENEFIT POLAND AND U.S.

(By Cord Meyer)

WASHINGTON.—President Ronald Reagan's decision to cut completely the flow of all American technology to the Siberian pipeline has been variously described as a meaningless anti-Soviet gesture to please his right-wing constituents and as a destructive attack on the economies of our NATO allies.

In fact, it is meant to be neither. Reagan officials make a convincing case that this far-reaching decision to cancel all deliveries to Russia of U.S.-owned or-licensed gas and oil technology and equipment is a carefully calculated move to bring pressure to bear on Soviet behavior in Poland and to buy time for Europeans to reconsider the wisdom of the pipeline deal.

In spite of wishful Soviet claims that this embargo would have little effect, it is now generally conceded that by denying to the Russians the General Electric rotors necessary to pump the gas, the pipeline's construction will be delayed two years and its cost vastly increased. There is just no quickly available substitute for these unique components.

By his Dec. 29 declaration of sanctions in connection with Poland, Reagan prohibited the sale to Russian of GE rotors produced in this country. The effect of his June 18 decision is to also prohibit the only European company licensed by GE to make these rotors, the French firm of Alsthom-Atlantique, from exporting these components to Russia. Although the French have threatened to ignore this prohibition, Reagan officials state, "We are confident we have the legal means to enforce this decision."

If the French and German governments had been willing at Versailles to accept Reagan's request for an end of subsidized credit to the Soviets, this confrontation might have been avoided. Instead, they made only vague promises and, interpreting Reagan's silence as acquiescence, they boasted afterward of their intention to expand their trade with Russia by continuing to grant subsidized credits.

Publicly committed to taking "further steps" if his initial modest sanctions did not improve conditions in Poland, Reagan was therefore left with no alternative but to impose his across-the-board oil-technology embargo as the only effective way of bringing additional pressure on the Russians to release Polish prisoners, begin a dialogue with Solidarity and end martial law.

Representatives of the underground Solidarity organization that today thrives in Poland report to the West that this strengthened American embargo is "intensely" appreciated by most Poles. In its absence, they could see only a quickening accommodation of Western Europe to the fact of oppression in Poland combined with a competitive scramble for Eastern trade opportunities. The pipeline delay will force Europeans again to focus on the plight of the Poles and will postpone the time when Russians will be able to pay for Western goods with their gas profits.

In the minds of responsible Polish resistance leaders, there is another crucial advantage to the American ability to impose a sanction on Russia with real bite to it. On the improved chance that Russia will respond with real concessions, they now have an argument to restrain the rising demands for bloody confrontation from Poland's hungry and embittered youth. The visible proof that the West still cares can encourage moderation on both sides in Poland and add weight to the warnings against Soviet armed intervention.

Recognizing that the United States should have moved forcefully years ago to cooperate with the Europeans in developing new energy sources, Reagan officials genuinely regret having to disrupt the elaborate plans of the European allies. But they point out that a clear advantage of the delay will be to allow time for the development of the huge gas fields discovered in the Norwegian sector of the North Sea.

As long as the Siberian pipeline was proceeding on schedule, there was little incentive to develop this more expensive Norwegian gas, which would have been a glut on the market. But now the Norwegians are becoming actively interested, and investment funds may be available that would otherwise have been committed to the Siberian project.

Depending on how this North Sea development is structured, there would be opportunity here for the Germans and French to recover some of the jobs and profits they would lose in reducing their commitments to the Siberian project. Certainly, cooperation between allies is a far better solution than a scheme that would give the Soviets a windfall profit of $8 billion a year to spend on military-related high technology.

As Reagan officials anxiously survey the European scene for some sign their motives are understood, they are hoping that one of West Germany's most respected newspapers, the Frankfurter Allgemeine Zeitung, spoke for a majority when it recently stated, "Reagan has merely reinforced an existing embargo. So why this excitement? Reagan's step is a political affirmation of will. It is designed to show the Soviet Union that imperialist policy claims an economic price."●

COMMENDING MR. RONALD MAHER

● Mr. SPECTER. Mr. President, the year 1982 has been designated as the National Year of the Disabled. Such a proclamation serves not only to stimulate medical research on disabilities but also to enhance community awareness of the needs of the handicapped. With the the support of the Government and all interested citizens, new paths of prevention are today being explored.

One year ago, a gentleman from Pennsylvania began blazing his own trail. Mr. Ronald Maher is afflicted with dyslexia, a partial loss of the ability to read aloud what is written and contextually understood. Because of his invisible handicap, Mr. Maher has never been able to properly spell names to telephone operators, thus limiting his access to directory assistance. His suggestions to ameliorate this communication problem have led to the implementation of a service training program which includes an explanation of dyslexia; a review of the directory assistance operation practice followed when a customer calls who is unable to spell a name; and a role-play exercise consisting of six practice calls. This training program has been received by the 215 area code directory assistance operators and all area and toll managers.

For their successful efforts to educate the telecommunications industry about this reading impairment, I commend Mr. Maher and the Bell Telephone Co. of Pennsylvania. We are proud of both private citizens and the business community which have accepted the responsibility of serving the special needs of the handicapped.●

CONCLUSION OF MORNING BUSINESS

Mr. TOWER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY

ORDER FOR THE RECOGNITION OF SENATOR NUNN

Mr. TOWER. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order, the Senator from Georgia (Mr. NUNN) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR ROUTINE MORNING BUSINESS

Mr. TOWER. Mr. President, I ask unanimous consent that following the recognition of the Senator from Georgia, the Senate proceed to the consideration of routine morning business for a period not to exceed 10 minutes with Senators being recognized for not to exceed 3 minutes therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF H.R. 4961, AT 10:30 A.M.

Mr. TOWER. Mr. President, I ask unanimous consent that at 10:30 a.m. the Senate resume consideration of H.R. 4961, the tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS BETWEEN THE HOURS OF 12 NOON AND 2 P.M.

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate stand in recess between the hours of 12 noon and 2 p.m. tomorrow, Tuesday, July 20.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. TOWER. Mr. President, I ask unanimous consent, pursuant to the previous order, that the Senate stand in recess until 10 a.m. on Tuesday, July 20.

There being no objection, at 6:30 p.m., the Senate recessed until Tuesday, July 20, 1982, at 10 a.m.

EXTENSIONS OF REMARKS

CONGRESSIONAL PAGES: THEIR WORK AND SCHOOLING

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. McCLORY. Mr. Speaker, 16 years ago, before some of today's congressional pages were born, a former colleague from Illinois, Bill Springer, who was at that time ranking on the House Commerce and District Committees, thoroughly researched the operation of the congressional page system and presented his findings as Chapter 11 of the book, "We Propose: A Modern Congress: Selected Proposals by the House Republican Task Force on Congressional Reform" Published in 1966 by McGraw-Hill, 338 pages.

Although some changes have been made in the congressional page system since that time, for example lifting the discrimination against girls, and with the understanding that certain numbers, such as salary figures and the like, have necessarily changed over that period of years, I ask permission to quote below substantial portions of the Springer chapter for the edification of my colleagues in the 97th Congress and for others who have some interest in the history of the congressional page system.

I ask the reader to keep in mind that this chapter was written in 1966, and I would like for Members of the 97th Congress who were not in the House at that time to know that our House Republican Task Force on Congressional Reform fought very hard 16 years ago for reform of the page system.

CONGRESSIONAL PAGES: THEIR WORK AND SCHOOLING

(By WILLIAM L. SPRINGER, M.C.)

Imagine in this year of 1966 an employer who—

Hires 14- and 15-year-old boys.

Brings them from distant homes to a big city.

Limits their schooling to three hours a day.

Makes them work a minimum of eight, and occasionally 12 or even 14 hours a day.

And leaves them unsupervised the rest of the time, free to sleep where they can find a room, eat what they please, and study whenever they can find the time; free also, should they desire, to roam a crime-infested metropolis.

Impossible, you say, in this age of child labor laws? Perhaps in the 19th century London that Charles Dickens wrote about, but not in modern Washington?

Unfortunately, it is not at all impossible when the employer is the Congress of the United States and the employees are pages of the Senate and House of Representatives.

It's true that the average congressional page bears scant resemblance to Dicken's Oliver Twist. Oliver was very poor. By comparison our pages are well-heeled members of the affluent society.

Nevertheless, despite its generosity as a paymaster, Congress is a hard taskmaster. It makes demands on these boys that federal law and the laws of most states wouldn't countenance from a private employer.

Most pages work from 10 a.m. to 5 p.m. Monday through Friday and from 9 a.m. until noon on Saturday. When a session lasts until past 5 o'clock, the pages stay until the House adjourns. The House Select Committee on the Education and Welfare of Congressional Pages, created by the 88th Congress, found that pages average 40 or more hours of work a week. Senate pages work longer hours than House pages because of the more numerous night sessions.

The pages' school day begins at 6:30 a.m. and for most of them is over at 9:45. Most pages have classes in four subjects. a Few have a fifth classroom period which lasts until 10:30. Classes are held in makeshift quarters on the third floor of the Library of Congress. There is a 15-minute break at 8 o'clock each morning, presumably for breakfast. It has been noted, however, that for many of the boys it is more a coke-and-candy break than anything else.

The Federal Fair Labor Standards Act prohibits the employment of 14- and 15-year-old children for more than three hours on a school day, for more than 18 hours during any school week, and for night work after 7 p.m.

These limitations on child labor imposed on employers engaged in interstate commerce do not apply to Congress. But surely Congress has a moral obligation to maintain standards at least as high as those it prescribed for private industry almost 30 years ago.

As part of its study, the Select Committee on the Welfare and Education of Congressional Pages (88th Congress, 2nd Sess.) put this question to the U.S. Department of Labor's Bureau of Labor Standards: In how many states would it be legal for boys of 14 and 15 to go to school in the morning, and then work eight hours a day in general employment? The Bureau's reply [indicated that] . . . it is doubtful that a private employer could get by in any State with the kind of work-study program which has been required of our 14- and 15-year-old pages.

Although the action by the House Administration Committee and the Democratic Patronage Committee in restricting page appointments to upper classmen and insisting that they meet satisfactory scholastic standards are important steps in the right direction, they fall considerably short of meeting some of the Select Committee's most telling objections to the present system.

The Select Committee made two alternative proposals. One was based on retention of high school pages, the other on a program for college students. If we are to continue employing high-school-age youngsters, the Select Committee said they should be selected on a nondiscriminatory basis without regard to race, religion, or sex; that no page may be appointed for longer than one calendar year or for a shorter time than one semester, and that consideration be given to increasing the number of pages so that each page could be given a longer classroom schedule and a shorter work assignment.

While there is no indication of any religious discrimination in the selection of pages, questions have been raised in the matters of race and sex. During the Select Committee's hearings, one of the Republican members, Congressman William S. Broomfield of Michigan, noted that no Negro had ever been employed as a page in either the House or Senate. "Is there any restriction to prohibit Negroes from serving as Capitol pages in the Congress?" he asked the Doorkeeper of the House of Representatives, William M. Miller, under whose supervision the House pages work.

"To the best of my knowledge, no sir, but none has been sent to our office," Mr. Miller replied.

I find it exceedingly strange that throughout all the years that the majority party has been in power in both Houses of Congress, years that have seen the enactment of epochal civil rights legislation supported by both parties, it was not until 1965 that the first Negro page was appointed. Appropriately, he came from Abraham Lincoln's home town, Springfield, Illinois, and was sponsored by Congressman Paul Findley, a Republican.

It should be emphasized here that the appointment of pages and other House employees is the prerogative of the majority party, which currently allows the minority to select six of the 50 pages serving the House. The six Republican pages are assigned to telephone duty in the GOP cloakroom. This duty involves answering congressional office calls for information about Floor activities, also relaying and taking of messages for House members. It is considered responsible work requiring more mature judgment than the errand-running and other chores given most pages. Telephone duty is assigned only to 16- to 17-year-old boys, so as a practical matter the Republican pages in recent years have all been in that age group. Except for the telephone pages, all other pages assigned to the Republican side of the House floor are selected by Democrats. If the fairer method of apportioning pages in ratio to a party's relative strength were used, Republicans would be entitled to name 16 or 17 of the pages serving the present House.

Another inconsistency between congressional preaching and congressional practice is the limitation of page appointments to youths of the male sex. Our passage of the Civil Rights Act of 1964, strictly forbidding discriminatory hiring practices based on sex, presaged a feminine invasion of many a hitherto male employment preserve. But not the page corps. As a father of three daughters, I can testify that young ladies are perfectly capable of running errands, taking telepone messages, and performing the various other activities expected of pages. Enrollment of girls in the Page School would cause no complications, the principal, Mr. Henry De Keyser, told the Select Committee. "In fact," he added, "I'm

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

sure some of the boys would be delighted." The new regulations regarding the appointment of pages do not mention sex. However, one rule reads: "All pages are required to wear a dark blue suit (long trousers), white shirt, black tie, black socks and black shoes." That doesn't sound as if the hiring of any girls is contemplated.

For the first time the new regulations prescribe a minimum period for which a page may be appointed—30 days. We understand that some objections have been made to even this. It appears that some Congressmen have been in the habit of making appointments for as little as one week. Of the 98 boys enrolled in the Capitol Page School in 1963–64, 27 were there for less than a semester, 19 of whom served for 30 days.

"We have had, on the whole, unsatisfactory work at school from these 30-day pages," Principal De Keyser told the Committee. "Some of them . . . we never see. They do not bother to register at all. Most of them," he added, "look on this month's appointment as a glorified vacation." Since 30 days is hardly enough time for a boy to learn his way around the Capitol, the short-term pages also are of little use to their employers. Their supervisors testified that it takes most boys 90 to 120 days to adjust to the system.

I also regret that the new rules disregard the Select Committee's recommendation against employing any page for more than a year. During my 15 years in Congress I have become acquainted with many pages. The vast majority are boys of excellent character and habits. I believe, however, that the boy who tries to make a career out of being a page is making a mistake. Some career pages stay around long enough to learn too many angles. Bobby Baker served the Senate continuously from his arrival in 1942 as a 14-year-old page from Pickens, South Carolina, until his resignation 21 years later from his $19,612 a year post as secretary of the Senate Majority and chief figure in what is probably history's worst "conflict of interest" case involving a congressional employee.

The serious public implications of Baker's use of his privileged position to build a personal fortune overshadow the personal tragedy. That Baker betrayed the Senate's trust can hardly be questioned. But we must be concerned also with the extent to which the congressional page system contributed to Bobby Baker's delinquency. . . .

Since 1947 the Page School has been operated by the District of Columbia Board of Education although no regular public school funds are used. Congress provides money for the Page School as part of the annual appropriation for the Legislative Branch. The budget for the 1965–66 school year was $85,712. Assuming a normal enrollment at any one time of 75–80 students, this amounts to more than $1,000 per student compared with a $700 per pupil expenditure in District of Columbia high schools.

For many years before the D.C. school board took charge a private school for pages was conducted in the basement of the old Senate Office Building. The boys paid tuition fees. Pages have been employed as far back as the first Congress in 1789. They were called runners then. During the 27th Congress (1841–43) a Select Committee was appointed to ascertain whether the House was employing more boys "than the public good required." The problem then, according to the Committee's report, was that a Congressman whose sympathies were aroused by a destitute orphan would importune the Doorkeeper to put him on the payroll. The Committee recommended a definite limit on the number of pages. As a result of its inquiry the number was reduced from 12 to 8 and pages' pay was raised from $1.50 to $2 a day.

I have set down here my thoughts about the pages' long working hours, their short classroom schedules, and the pattern of discrimination that surrounds the present system. I am convinced that many, probably a majority, of my colleagues share most of these views. About another problem there is a unanimity of concern but a diversity of proposed solutions. It has been best defined by an evaluation committee of the Middle Atlantic States Association of Colleges and Secondary Schools in reporting on a study of the Capitol Page School in March, 1964. The committee's report contained this statement:

"It seems inconceivable to the members of this committee, all but one of whom are parents, that a 14- or 15-year-old boy should be turned loose in a large metropolis to find his own room, make his own arrangements for eating well-balanced and nourishing meals, engaged in healthy and moral activities, and watch over his own physical and moral well-being It is one thing for a page to live at home or in the home of his sponsor, where he can be a part of normal family living so necessary at this stage of growth. It is something else again to give these youngsters the great opportunity to be of direct service to their Government and at the same time deprive them of the basic protections to which they are entitled at this stage of their development. The Washington of today is a different city from that of 20 years ago."

To meet this problem, it has been proposed that Congress build a combination school and residence for pages on Capitol Hill. In the 88th Congress, committees of both the House and Senate reported bills authorizing up to $1½ million for such a purpose. That figure was based on estimates made a few years ago. The actual construction cost now undoubtedly would be much higher. If provision is made for coeducational facilities, the construction expense and the salaries of those who would be needed to supervise the pages would boost the cost still more. And we would still have the problem of high school students working longer hours than children of that age should work.

Instead, I strongly favor replacing our high-school-age pages with college students. I hope that this is one of the reforms that the Joint Committee on the Organization of the Congress will recommend this year.

At the same time, every taint of discrimination—whether based on sex, race, or politics—should be removed from the program. Selection of pages should be made by a nonpartisan committee of educators through a national competitive examination.

Such a program would have these advantages over the present system:

1. Congress no longer would be in a position of condoning its own use of child labor while condemning it for everyone else.

2. Mature college students would not require after-hours supervision.

3. There would be no need to build a costly school and residence.

4. The experience of being a page should prove more valuable to college students, particularly those majoring in government.

5. Meritorious students from all parts of the country can be helped to finance their college costs.

Congress already hires many college students in such capacities as elevator operators, policemen, folding room employees, and staff aides to individual Members and committees. They generally work set hours and sign up at Washington area colleges for day or night classes as their work schedules allow.

Converting our present page system into one involving college students does, of course, present some problems because of the long and uncertain working hours and early morning classes of our high-school pages. But these problems are not insuperable. One possible solution is to appoint more pages so that each will have a shorter work assignment. Another possibility is to limit page service to one year, which the student could consider in the nature of a sabbatical leave from classroom routine. He would be free to take any courses he could fit into his work schedule. But the emphasis would be on making his service to Congress in itself a valuable part of his educational experience. Following his page sabbatical he would be expected to resume his college course leading to a degree. This plan would, in my judgment, particularly appeal to political science majors as well as to those preparing for careers in other fields closely related to government and politics.

I mention these ideas for planning an educational program for college-age pages merely to show that it would be possible. Undoubtedly there are many other and better programs that could be developed once the basic decision is made to replace our high-school pages with college students. I am sure Congress would receive complete cooperation from all institutions of higher learning in the Washington area as well as from political scientists throughout the country in working out a satisfactory program.●

THE BETTER MILITARY CARGO PLANE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. McDONALD. Mr. Speaker, this week we will vote on the defense authorization bill, H.R. 6030. The most contentious issue will be the decision to substitute the 747 commercial airliner for the proved C–5 to remedy the military outsize cargo shortfall. This article from the Detroit, Mich., News suggests that we "would be wise to oppose the Senate action."

[From the Detroit News, June 25, 1982]

THE BETTER MILITARY CARGO PLANE

Members of the House Armed Service Committee are umpiring a nasty little dustup between Lockheed and Boeing over the type of plane the Air Force will buy for hauling heavy cargo. The exercise is instructive because it shows how wrong weapons are sometimes bought.

The Air Force now has 77 C–5As, built by Lockheed in Marietta, Ga. This type is an enormous kite with a high wing, a floor near the ground, and both front and rear doors. Air Force crews know how to fly and fix it, and already have a stock of spare parts.

C–5A clearances allow for hauling "outsize" cargo, including a pair of main battle tanks, or three helicopters, or 10 Pershing missiles with tow and launch vehicles.

The recession is hurting Boeing, and its management thought the Air Force could be conned into buying used 747 airliners, instead of 50 new C-5Bs. Idle 747s would be absorbed—to the great relief of the struggling airlines—and Boeing would keep some people at work refitting them at $12 million apiece.

The issue became a test of wills between two powerful Democrats, Sen. Sam Nunn of Georgia (Lockheed's home state), and Sen. Henry Jackson of Washington (Boeing territory).

There was a blur of numbers, all of which were affected by some strange inflation calculations. Boeing says used airplanes could save the Defense Department $6 billion, while the Pentagon says the difference would be $1 billion during the planes' life cycle.

Sen. Jackson won a startling victory for used Boeings, and his bill is now before the House.

The Boeing deal would be a great mistake. The 747 is a fine civilian airplane, but it lacks air refueling capability, can't carry outsize items like tanks, doesn't have fast roll-on and roll-off capability, and can't land on anything but long, paved, airport runways.

The C-5B is designed to do a military job, while the 747 is great for tourist charters and package freight. The House would be wise to oppose the Senate action.●

INTERNATIONAL TOURISM NEEDS STIMULUS

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mrs. HECKLER. Mr. Speaker, as a member of the Steering Committee of the Congressional Travel and Tourism Caucus and as representative of a congressional district in which tourism contributes significant revenue, I support H.R. 6258.

This measure would authorize $10 million for fiscal 1983 for the U.S. Travel and Tourism Administration. This agency was established under the landmark National Tourism Policy Act of 1981, which provided for this country to have its first comprehensive travel and tourism administration and policy.

As a proponent of that act, I believe that it is essential that the USTTA be able to carry out its international marketing programs, such as development of trade and preparation of brochures and displays.

Mr. Speaker, realizing that the $10 million funding level for this measure is somewhat controversial, I believe that it is necessary that the USTTA have sufficient funding from the onset to develop its programs, in order to increase international trade and tourism. Whereas world tourism is growing rapidly, the U.S. share last year remained static, at slightly under 11 percent. It has been static since 1979.

A stimulus is needed, after which funds can be raised from the private sector for maintaining existing and developing new activities. Application of a fee on international travelers and development by USTTA of a separate mechanism for raising and disbursing funds are alternatives to be explored.

In the interim, Mr. Speaker, this measure should be enacted, at the specified funding level, to stimulate international trade and tourism activities.●

ON ETHIOPIA AND SOMALIA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. DORNAN of California. Mr. Speaker, for several days reports have been reaching us about the invasion of Somali territory by Ethiopian forces backed by Soviet and Cuban advisers. They have already occupied two border towns in Somalia and are poised for further advance.

This is the first Soviet countermove to the events in Lebanon, a desperate attempt to use their Ethiopian proxies to gain advantage in the vital Horn of Africa region. A fall of Somalia into Communist hands, whether occupied by Ethiopia or its ally, the Sali National Salvation Front, which is thoroughly pro-Soviet and Marxist, would gravely endanger the security of our RDF and its access to the region. It would also complete the Soviet domination of the Red Sea and Indian Ocean bottleneck giving a strategic advantage to the Soviet naval and air forces over the entry to the Gulf States and so threaten Saudi Arabia's and Oman's security.

I call upon my colleagues to express their sense of outrage at this newest Moscow and Havana-inspired aggression in Africa. I also call on the administration to take emergency action in regard to the delivery of military equipment to the Somali armed forces to enable them to resist the invasion. In addition, I call upon the administration to report this outrageous act of aggression to the United Nations Security Council for discussion. We cannot do less for our valiant Somali allies.

At this time, I would like to submit for the RECORD the press conference remarks of His Excellency M. Nur, Ambassador of Somalia, given on July 13, 1982, as well as the July 15 news story from the Washington Post.

PRESS CONFERENCE

Ladies and Gentlemen, thank you for accepting the invitation to come to this briefing regarding recent events in my country.

The Ethiopian forces supported by Soviet experts, Cuban & East Germany pilots carried out recently two massive air and land attacks on two regions 40 kms inside Somalia.

On 30th of June at 13:30 p.m. local time Ethiopian forces attacked Balanballe village on Galgudud Region. This attack was repulsed.

On 9th, 10th and 11th of July Ethiopian forces again carried out mass air and ground attacks with tanks & heavy artillery at Abudwaq District of Galudud Region and Goldogob District of Mudug Region. At the same time the Ethiopian forces carried out an aerial raid at Galkayo the Regional Capital of Mudug, as a result of which one Ethiopian Mig 23 was downed by the Somali forces.

It is not the first time that the Ethiopian forces carried out these kinds of attacks but from 1978/82 the Ethiopian regime supported and abated by the Warsaw Pact carried out 96 air raids using 176 planes inside Somalia, thus posing a constant threat to the sovereignty and territorial integrity of the Somali Democratic Republic, through regular aerial raids, ground attacks and all forms of sabotages causing great damages and destruction to the life and property of the Somali people in general and the civilian population in particular.

The immediate intentions & long term objectives & goals of these massive air & ground attacks by the Ethiopian Marxist-Leninist Regime is, to legitimize the aims of the tripartite Agreement of the unholy alliance between Libya, Ethiopia and South Yemen, to create instability and tension in the Horn, concentrate on defeating Somalia and her alliance Militarily and Politically at all cost, and to pave the way for the eventual Russian control of the Horn and the adjacent lands and sea lanes.

We call upon all peace loving Countries to condemn these naked aggressive and call upon the unholy alliance to detest from these wanton aggression.

[From the Washington Post, July 15, 1982]

60 INVADERS FROM ETHIOPIA KILLED, RADIO SOMALIA SAYS

NAIROBI, KENYA, July 14—Somalia said today its forces had killed 60 Ethiopian troops who were attacking a Somali border town and that an Ethiopian air raid on a regional capital had been repulsed.

Radio Somalia said Ethiopia had launched fresh attacks on two border communities, and Western diplomatic sources said a largely Ethiopian invasion force appeared to control one.

New fighting erupted yesterday at Ballanbale in the central Mudug region of Somalia, according to the radio report. The diplomatic sources, contacted today in the Somali capital of Mogadishu by telephone, said they had independent proof that the town was under the control of forces from Ethiopia.

The sources said they had similar evidence that the force of up to 9,000 Ethiopian troops with a small contingent of Somali dissidents also controlled the town of Galdogob in the same area.

The broadcast, monitored here, made no mention of Galdogob, which the Somali Democratic Salvation Front, fighting to overthrow President Mohamed Siad Barre, says it has captured.

It said 60 Ethiopians were killed, many wounded and two tanks and two artillery carriers destroyed in the Ballanbale fighting and said Somalia had three dead and 12 wounded.

Ethiopian Mig fighters attacked the regional capital of Galcia today but were repulsed, the broadcast said. During the weekend the Somali Defense Ministry said it had shot down one Mig in the same area.

The Ethiopian Foreign Ministry denied last night that its troops were involved in the conflict and said it was the work of guerrillas and other groups fighting the Siad Barre government.

Kenyan President Daniel Arap Moi, current chairman of the Organization of African Unity, appealed to both states tonight to stop the fighting "in the interests of African unity and brotherhood."

Moi, who is due to relinquish the OAU leadership at a summit in Tripoli, Libya, next month, said "the prevailing situation in the Horn of Africa, if not restrained, could plunge the whole region into a war full of disastrous consequences," the official Kenyan News Agency reported.

Somalia and Ethiopia, enemies for many years, support guerrilla groups operating in each other's territory. The current fighting is taking place near the Ogaden desert of southeast Ethiopia over which the two countries waged war in 1977 and 1978. Ethiopia won that conflict.●

RENEWED EFFORT TO PASS ERA

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. COURTER. Mr. Speaker, on July 14, I joined over 200 of my colleagues in cosponsoring the equal rights amendment to the Constitution of the United States. I am hopeful that both the House of Representatives and the Senate will once again demonstrate the Nation's belief that all of its citizens should be granted equal rights.

Although advances have been made in eliminating discrimination against women since the ERA was first proposed in 1923, women must still depend on the attitude of a particular Congress or a particular administration to determine whether or not they have the guarantee of equal protection and due process. Laws which Congress has enacted to further woman's equality can be repealed at any time without the constitutional guarantee of the ERA. For this reason, it is imperative that we amend our Constitution to include an affirmation of the principle of equal rights for all citizens, regardless of sex.

The 14th amendment provides a basis upon which Americans can fight discrimination in local, State, or Federal law based on race, creed, color, or national origin. The equal rights amendment will guarantee that our Constitution expressly prohibits discrimination based on gender. With the passage of the equal rights amendment, it will be difficult for the Supreme Court to uphold legislation that arbitrarily distinguishes between men and women without a concrete reason for doing so.

Americans favor the guarantee of equal rights that an amendment would provide. According to a Harris poll taken in April of this year, 63 percent of those polled favor the ERA, and when the pollster read the text of the amendment, the percentage of supporters rose to 73 percent.

The ERA is an economic issue for women. Current economic conditions have made its passage even more crucial than it was when it was first approved by Congress in 1972. It is a basic issue that relates directly to women's jobs, wages, education, pensions, social security, and homemakers' status.

My own State of New Jersey was in the forefront of ratification of the ERA in the past, and I am sure that the New Jersey Legislature stands ready to ratify the amendment again. I look forward to the timely passage of this amendment in Congress so that this basic protection of rights for all women in America may be insured.●

SHORTSIGHTED EFFORTS DO NOT SOLVE LONG-TERM PROBLEMS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. GINGRICH. Mr. Speaker, I am concerned about our approach to solving the problems of poverty. It often seems that we pour money into a problem initially and are disappointed when we do not have instant results. A constituent, Garnett S. Huguley, participated in the Appalachian volunteer program during the summer of 1965. The goal of this VISTA program was certainly laudable—to help the impoverished in Appalachia—but the program ended without achieving its stated purpose. I would like to share Mr. Huguley's remarks with my colleagues so that we will all be more aware of mistakes to avoid in the future:

My comments are in reference to an anti-poverty program, which was part of President Lyndon B. Johnson's Great Society of the sixties.

The specific program name was the Appalachian Volunteer. I personally worked as a volunteer in this program, in Harlan County, Ky., in the summer of 1965. This was a division of VISTA Volunteer. The program was a summer program involving about 2,000 workers. The overall goal of the program was to aid the people of the area in raising themselves above the poverty level.

The scope of the program was too short to accomplish the goal. The money spent in this program could have been better utilized in a long-term program, one which should have raised the quality of education for the children of the Appalachian area. That type of program would have had a much greater impact in accomplishing the program goals.

Improved education for the children would cause greater upward mobility than any other type of program.

Poverty cannot be eradicated in a short period. In order to have impact a generation must be upgraded.

So programs must be precisely designed to be far-reaching and target such areas as education.●

THE ACE PROGRAM

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. DAUB. Mr. Speaker, there is an Air Force program called ACE, for accelerated copilot enrichment, which deserves the attention of Congress. This program provides copilots the opportunity to enhance their basic flying skills, confidence, and maturity. The benefits derived by copilots and the cost savings resulting from the program cannot be overstated.

This program broadens the experience base of copilots and increases their flying time at a greatly reduced cost by substituting T-37/T-38 flying hours for those in the copilots' primary mission craft. Analyses of copilot performance have been made by the 1st Combat Evaluation Group, the strategic Air Command's organization responsible for flying units' safety and standardization/evaluation programs.

The analyses show a direct correlation between a copilot's ACE participation and marked improvement in formal inflight evaluations. The basic operational goal is for each copilot to fly approximately 75 hours per year. The copilots enter the ACE program within 6 months after becoming mission ready in their primary aircraft and continue until they begin upgrade training for aircraft commander. This gives them approximately 200 hours of low cost, highly productive flying time during their tenure in ACE. This time can be credited toward the minimum total flying hours required to upgrade to aircraft commander, so SAC in essence saves that preparation time in the primary mission aircraft. This results in about 8 months acceleration in normal upgrade eligibility, which enables the Air Force to gain mission ready aircraft commanders in less time at lower cost.

Mr. Speaker, I would like to go on record in support of this program which is representative of cost saving initiatives taken by the Department of Defense.●

CHUCK CRIPE, AN OUTSTANDING PUBLIC SERVANT

HON. JOHN HILER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. HILER. Mr. Speaker, most of us from time to time have read or heard the horror stories about abusive, in-

competant Federal employees. While there are many examples of such abuse, we often fail to recognize those employees who are not only highly productive and efficient, but pillars of the community.

Such a gentleman, Mr. Speaker, is Charles Cripe Jr. of Walkerton, Ind. Mr. Cripe, who turned 77 last May, retired from the U.S. Postal Service in 1971 after more than 51 years of service.

Mr. Cripe began his distinguished career with the Postal Service on September 1, 1919, when he was only 14 years of age. He was among those who delivered the first social security retirement checks; among the first to deliver the draft notices that sent young men to fight the Nazis in World War II.

Aside from being a part of history, Mr. Cripe also is known for his friendly, efficient demeanor. Always courteous and helpful, he was the epitome of the neighborhood postman.

Mr. Cripe also has been a tremendous asset to his community. He served 45 years as chief of the Walkerton Volunteer Fire Department. After snowstorms, Mr. Cripe has been found with this trusty snow plow, clearing sidewalks for the elderly of his neighborhood.

He has been honored in many ways by Walkerton and neighboring communities for his kindness, thoughtfulness, always-pleasant disposition, and warm, gentle spirit. He was named Citizen of the Year by the Walkerton Chamber of Commerce. He also has served as a parade marshal.

Persons such as Mr. Cripe do not exist just in old movies or television shows. They indeed are real, serving their community of whatever size in nearly every corner of this great Nation. The people of Walkerton dearly love Mr. Cripe, and his thoughtfulness, wisdom, and charity serve as an example not only to me, but to the hundreds of families who live in Walkerton and surrounding areas.

Mr. Cripe never has asked for any compensation and never has expected to be honored for, as we say in Indiana, "just being neighborly." However, Mr. Speaker, I feel we should recognize the efforts of those who have served their Nation and community with selfless dedication. Mr. Cripe is one such outstanding individual.●

THE NAVAL DEFENSE ROLE OF LONG-RANGE BOMBERS

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. SYNAR. Mr. Speaker, during our consideration of H.R. 6030, the Department of Defense Authorization Act of 1983, I intend to offer an amendment directing the Secretary of Defense to study the viability of using long-range manned bombers in a naval defense role. A copy of that amendment is included at the end of this statement.

One of the primary responsibilities of our naval aircraft carrier battle groups is to defend vital shipping lanes against hostile forces. I have become increasingly convinced that that role might be better, and less expensively, accomplished by the use of long-range manned bombers equipped with antiship missiles. It is my contention that a fleet of such bombers, properly equipped, would be less vulnerable than large fleets of surface vessels; would be just as effective in an antiship role as carrier battle groups; and could be procured quicker and at far less expense than additional carriers.

There are, of course, many other roles for carrier battle groups besides defense of sealanes. And I am not suggesting that bombers be used in lieu of carriers in all cases. But the fact is that we are being asked to buy two additional nuclear carrier groups at a cost of some $27 billion over the next 6 years—this in addition to the 13 carrier groups we currently own. If these new carriers are to be used to defend vital sealanes such as the Iceland-Greenland-United Kingdom gap, as Secretary of the Navy Lehman has suggested, perhaps more consideration should be given to the manned bomber alternative. If they are to be used to project U.S. power in international trouble spots, or if there is a real need for additional carrier air strike capability, then we should quickly add these additional carriers. My concern is that these questions have not been satisfactorily answered by the Navy and that we therefore may be purchasing these additional battle groups without sufficient analysis of less expensive alternatives.

My amendment simply directs the Secretary of Defense to study the feasibility of using bombers in lieu of carrier battle groups in a sealane defense role and to report his findings to the authorizing and appropriating committees of the Congress by March 1, 1983. It is my hope that the Secretary will be able to analyze this alternative approach objectively, without regard to the traditional interservice rivalries and turf fights that have historically plagued defense debates of this kind. I would also hope that the Secretary will bear in mind that the Soviets have assigned 70 of their Backfire bombers to just this naval defense role.

My amendment, which will be offered as section 902 of H.R. 6030, is as follows:

Page 26, after line 22, add the following new section:

REPORT ON THE USE OF LONG-RANGE MANNED BOMBERS

SEC. 902. Not later than March 1, 1983, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of both the Senate and the House of Representatives a report containing an analysis of using long-ranged manned bombers equipped with air-launched antiship missiles to defend vital, strategic shipping lanes (including the United Kingdom, Greenland, Iceland Gap) as an alternative to using air-craft carriers and air-craft carrier groups to defend such shipping lanes.●

CARPENTERS UNION PRESIDENT KONYHA SUPPORTS PEACE IN MIDDLE EAST

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. LANTOS. Mr. Speaker, at a recent event in Cleveland, President William Konyha of the United Brotherhood of Carpenters and Joiners presented a thoughtful analysis of the current situation in the Middle East. Bill Konyha is one of the leading labor leaders in America, and I commend his speech to my colleagues:

ADDRESS BY PRESIDENT WILLIAM KONYHA

We in the Carpenters Brotherhood take great pride in our continuing and unwavering support of the State of Israel.

Our two nations share a belief in a way of life that is open, free, pluralistic and democratic.

Israel, Bonds symbolize, of course, our friendship and belief in the State of Israel. But they are more than just a token of esteem; Israel Bonds make sense as an investment. The money invested in these bonds provides dollar credits for Israel that buy machinery, equipment, raw materials and finished goods—and these important items are purchased right here in the United States.

So, even as we are helping Israel, we are creating jobs for American workers.

There is, there has been, there must continue to be, this "special relationship" between the people of America and the people of Israel. I don't have to remind this audience how much we have in common in our two democracies.

But, equally important, we must not forget the differences.

Here in this great city of Cleveland we look out upon a lake and, just about 50 miles north is the shoreline of our great and friendly neighbor to the north. We Americans tend too much to take that border for granted.

We Americans never need worry, not for a single instant, that artillery has been placed on the other side of that lake and aimed in our direction. We never need fear that we will be the victims of rocket attacks from emplacements on the north shore of the lake. We know that our good neighbor to the north will not tolerate the presence of guerrillas and terrorists who will strike by night or by day at our homes, schools, kindergartens, buses or factories. We live on a peaceful, friendly, secure border.

How different we might feel if Canada represented the insecurity and potential

danger that lurks for Israel on its borders with Syria and Jordan and the former PLO sectors of Lebanon!

If that were our problem, we might better understand how much Israel values the Camp David Agreement, negotiated with Egypt under that pre-eminent world leader, the late Anwar Sadat.

Sadat had the wisdom, the courage, the faith to know that a peaceful border between Egypt and Israel could serve as the essential foundation for security, and economic progress, and social advance, in each of the two countries.

It seems to me that this month more than ever, we Americans can take special pride in our nation's role in promoting the Camp David agreement. Because Camp David was a major step toward peace, it infuriated the terrorists and the hate-mongers and the Communist totalitarians.

During these last few weeks, we have seen the military forces of Israel respond at last to assassination and build-ups of tanks and rockets, and across-the-border artillery attacks on Israel communities.

Because its borders with Lebanon were neither peaceful nor secure, military action became the only alternative, in the eyes of those charged with the defense of Israel's security. Sitting on the shores of this peaceful border with Canada, we in America are not in a very good position to fault their decision about protecting their border areas.

What we can hope for, in Lebanon and throughout the Middle East, is a future in which peace at long last is given a chance to work.

Israel has demonstrated, time and again, that it wants to live in peace with its neighbors. Only the one country, Egypt, has so far met the Israelis half way—and there peace prevails.

We hope, we pray that in wisdom and dignity, the Lebanese, the Palestinians, the Syrians, the Jordanians, and all the other Arab states will recognize that peace for the region is not only possible but attainable.

How many times, oh Lord, must Israel demonstrate that while it is prepared to fight for its security and its existence, the people of Israel are even more prepared and more eager to live with their neighbors in peace and in harmony?

Perhaps the sad events in Lebanon, in which so many on both sides lost their lives, will mark a turning point . . . the opening of a new chapter in which human cooperation rather than hate and terror will be the dominant mood of the people of the Middle East.

Our honor guests here tonight have symbolized in their own lives this belief in the benefits of human cooperation. And, in their support of Israel and its economy, they have shown their dedication to democracy and peace.

Let us hope that in the days ahead, we will be able to rejoice, with them, in the future security of the democratic way of life in Israel.

Let us hope we may see a lifting of the clouds of hate and warfare that have so long hovered over the Eastern Mediterranean and threatened the fabric of peace throughout the world.

As a Carpenter and a trade unionist, I know the future can always be better?

Thank you.●

A SCENARIO OF REALITY: C-5 OR 747

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. McDONALD. Mr. Speaker, one noble American once observed that, "history is memory and memory guides the present." In these moments of heated debate on the merits of what is best for the defense of the United States, as well its offensive capability, that quote applies.

With that in mind, my colleagues should glance at the example set in the Southeast Asia war. In the heat of combat, the workhorse of the Vietnam war became the C-130 Hercules, as well as the Caribou. The larger capacity aircraft was the C-141. What should be noted with regard to all three of these aircraft, is that all were configured in the same manner. No matter where they landed, there was no need in emergency situations for specialized off-loading equipment, and this was due to that similarity of configuration. Such configuration increased combat capability as well as saved money for the American taxpayer.

Then along came the increased capability of the C-5 with the same configuration proved in combat. Now, we should take into consideration a situation similar to Vietnam. In some corner of the world, the message is received that advanced friendly forces have suffered the loss of both fuel and ammunition from guerrilla suicide demolition teams. The need arises for direct support, not only to replenish supplies, but to render enough firepower to assist those advanced friendly forces.

Barely in the nick of time, a flight of C-5's are dispatched to a rear echelon airfield within perhaps a dozen miles of the advanced friendly forces. There is no loading equipment available. The first C-5 lands with helicopter gunships abroad with ground combat troops and aircrew members for the gunships. It is not too long thereafter that a perimeter is secured in the landing areas. Helicopter gunships have provided the necessary firepower to sustain the safety of advanced friendly troops. Air-to-air refueled C-130's are performing the necessary resupply drops. Tanks on board other C-5's are providing the necessary firepower to advancing infantry that eventually turns the tide. The battle is won and U.S. interests are met in a far corner of the world.

To some of my colleagues, this might seem to be a remote scenario. However, if one remembers what happened after the 1968 "Tet" offensive by North Vietnamese and Viet Cong, with months of supplies being destroyed as well as fuel storage areas, then that scenario is not a remote possibility.

I ask my/colleagues to bear all this in mind as the future combat capability worldwide of the United States is concerned. I think that a vote of conscience with all matters being weighed in the realm of reality and not hysteria, that the United States will best be served by supporting the much needed: C-5●

THE TRAGEDY OF CYPRUS: 8 YEARS LATER

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. ROSENTHAL. Mr. Speaker, 8 years ago, Turkey invaded the island of Cyprus illegally and without any justification. Today, we are no closer to achieving any semblance of equity or justice for the Republic of Cyprus than we were on the day the Turkish Army stormed its shores. The dead on both sides, the hundreds of thousands left homeless and the profound decline in health care and education, all are memorials to the folly of the invasion.

I am personally saddened at the lack of U.S. efforts to change these tragic conditions. While 40 percent of Cyprus continues under the occupation of Turkish troops, the U.N.-sponsored intercommunal negotiations drag on without any movement. The United States has done nothing to press for more positive talks, even though 200,000 Cypriots remain displaced and homeless in their own land, living victims of the Turkish siege. Our response is only to propose increased military aid to the Turkish regime for the next fiscal year.

We must ask ourselves some compelling questions. What interests can we possibly be promoting by keeping open the floodgates of military aid to Turkey? What signal do we send to the rest of the world as we sit back and watch 2 years of negotiations produce nothing more than ambiguous rhetoric without making any attempts to exercise our influence to face the withdrawal of Turkey's troops from Cyprus?

Today we are expressing our concern and demonstrating our support for a free Cyprus. Free of Turkish troops. And free from the catastrophes that remain from the invasion.

The United States ought to promote reconciliation among all of the interested parties to the Cyprus invasion. The immediate end to the Turkish occupation of Cyprus would promote such a rapproachement and permit them to draw closer together and work to insure prosperity and peace in the

eastern Mediterranean. I hope we will see a redoubling of these efforts in the months ahead.●

THE ERA IS ALIVE AND WELL

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. MARKEY. Mr. Speaker, with the reintroduction last week of the equal rights amendment, Congress set the stage for the continuation of the most important civil rights battle in recent American history. I am proud to play a role in this battle by cosponsoring the ERA.

With the reintroduction of the ERA, we are announcing to the country that the equal rights movement has not been defeated. We will continue fighting for the basic human right to equality. And our fight will not stop until the equal rights amendment is finally adopted.

The ERA goes to the heart of American ideals. It is about civil rights; it is about personal and professional opportunity; it is about economics and prosperity; and most importantly, it is about justice. This is an issue whose time has come. And it is a subject which will come back to haunt Federal and State legislators until it is finally made a part of our Nation's Constitution.

A quote by Susan B. Anthony, one of the greatest women's rights activists of all time, summarizes the meaning of an equal rights amendment. It reads:

Men—their rights and nothing more. Women—their rights and nothing less.●

MISSISSIPPI RIVER PRESERVATION

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. SENSENBRENNER. Mr. Speaker, seldom is there an issue on which representatives of environmental, farm, business, and recreation groups all agree. However, in Wisconsin, these very interests are in agreement on the need for a balanced approach to the future management and utilization of the Upper Mississippi River system. Their agreement has culminated in the introduction of H.R. 5459 by my distinguished colleague, Mr. GUNDERSON.

Mr. GUNDERSON's legislation, which I have been pleased to cosponsor, embodies a responsible package of measures for balancing the commercial, environmental, and recreational uses of the river with the increasing need to preserve its delicate ecosystems. It is the product of serious and sincere negotiations between all the groups affected and interested.

Mr. Speaker, the development of the Upper Mississippi River has caused considerable controversy focusing on how to provide for multiple use of the river. There are demands for more shipping traffic, protection of local ecosystems, sedimentation control, rehabilitation of depleted fish and wildlife resources, and many others. There have been several totally different, and sometimes conflicting, interests involved in planning for the river's future.

I would like to commend Mr. GUNDERSON for his leadership on the issue of preserving the Upper Mississippi River, and especially as it would be carried out under H.R. 5459. Forging the present alliance behind the bill was an accomplishment in itself, but to carry the ball in Washington to get it on the books is even more commendable.

I am confident Mr. GUNDERSON will voice the specifics of the case for preserving the Upper Mississippi River system in a capable manner, so at this point, I simply wish to strongly endorse H.R. 5459 and urge my colleagues to follow its lead by adopting its wise approach to preserving one of the most valuable water resources in America.

Thank you.●

A TRIBUTE TO ROBERT EDGAR CODDING

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. HOYER. Mr. Speaker, I rise today to pay tribute to a man who for more than 16 years has devoted his time and energies to improving the quality of life for all citizens of Prince Georges County, Md.

Robert Edgar Codding has served as a founding member of the Prince Georges Park and Recreation Advisory Board, twice as its chairman. Now Bob Codding is retiring from that post. His many associates and friends, and I include myself in that number, will be honoring Bob for his long and meritorius service on Wednesday, July 21, 1982.

It was Bob Codding's foresightedness and broad vision of the recreational needs of tomorrow which help laid the foundation some 16 years ago for what has become an impressive and extensive park and recreation system in our county. His constant and active involvement on the park and recreation board enabled him to guide and nurture those programs which now rival the very best in the Nation.

Bob Codding's interest in parks and recreation propelled him into active participation in the National Recreation and Parks Association and the Prince Georges County Federation of Park and Recreation Councils where he was able to promote broad community support for the park and recreation concept.

Most of us remember Bob as the recreator, the man of parks, yet he excelled in his profession as well. As a senior financial economist with the Washington Metropolitan Area Transit Authority, he participated in the birth and growth of one of our Nation's finest subway systems. And if his profession and his hours serving the recreation field were not encompassing enough, Bob donated his service for the past 9 years as treasurer of Meals on Wheels in Oxon Hill, Md.

Mr. Speaker, Robert Codding through his years of caring and his unstinting dedication and hard work has left a legacy to the people of Prince Georges County. It is a legacy of open space and beautiful greenery which all citizens enjoy. He has left a legacy of recreational programs which touch every Prince Georges resident in a most positive way. I know my colleagues here in the House of Representatives today join me in giving fitting recognition to Robert Codding who retires now from an active career committed to the betterment of his neighbors. We wish for him a full, happy, and certainly well-deserved retirement.●

PERSONAL EXPLANATION

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. GUNDERSON. Mr. Speaker, during rollcall vote 187 on H.R. 5627, the Coast Guard Authorizations bill for fiscal year 1983 and fiscal year 1984, I was at a meeting at the White House called by the President and, therefore, unavoidably absent. Had I been present, I would have voted "yes."●

A BALANCED BUDGET—THE PEOPLE SPEAK

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. ROTH. Mr. Speaker, House Joint Resolution 350 to require Government outlays to balance with Government revenues is an effort to make the Federal Government operate within its means. Certainly a goal deserving and receiving our attention today.

Unpredictable timing of actual expenditures; and the variability associated with commitments; are all reasons why a budget may become unbalanced. These unpredictable occurrences may be the very nature of the America free market economy. But when these very same economic sectors are at stable and constant rates, unpredictability wanes.

Instead this becomes a self-fulfilling prophesy. When Government's role in the free society is minimal, each and every sector of the market is allowed to act freely. Resources will be distributed efficiently according to a free market choice. When this happens, entrepreneurs are inspired to improve, create, maximize and progress. Thus a stable economy grows.

By forcing Government to balance its budget, the people are creating the atmosphere for such a viable economy to happen. Approval of House Joint Resolution 350 would strongly demonstrate a long-term congressional commitment for increased Federal fiscal responsibility—by the Government to the people, just as our Constitution states.●

H.R. 5617, COAST GUARD REAUTHORIZATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. AuCOIN. Mr. Speaker, I would like to commend the distinguished chairman of the Merchant Marine and Fisheries Committee, Mr. JONES, and also my friend and Coast Guard Subcommittee chairman Mr. STUDDS for their fine work in bringing to the floor the Coast Guard authorization for 1983 and 1984, a most critical piece of legislation. This is an excellent bill and has my strong support.

The Coast Guard's service to this country cannot and should not be underestimated by any of us. It is this country's first line of national defense, patrols our waters, enforces our fisheries agreements, searches and responds to water pollution disasters, maintains safe channels of navigation, prevents enormous quantities of drugs from reaching the streets of our cities, and most important of all, saves the lives of those who depend on the resources of the sea for their very livelihoods.

Last year alone, our dedicated personnel in the Coast Guard saved 5,500 lives. They seized contraband valued at more than the Coast Guard's entire operating budget. And they rescued private property valued at $2 billion.

It has always been the stepchild of an overbearing and bloated military budget and yet has managed to provide these services with outdated equipment and inadequate funding for years. We have taken most of its missions for granted. We cannot afford to do so any more.

Simply put, it is severely overburdened at the same time it is severely underfunded, and its services have been stretched to the breaking point by recent budget cuts.

A 1980 Coast Guard report to the Department of Transportation found that: "As a result of additional tasking in recent years, without comparable additional resources being provided, it appears that the Coast Guard has reached a depletion stage." And I repeat, a depletion stage. It goes on to point out that, "Adequate maintenance has not been performed, personnel are undertrained for required tasks, people are required to work excessive overtime, and large numbers of experienced personnel are leaving the Coast Guard. As a result, some ships are not able to provide their programed number of dates at sea."

This report came before last year's budget and subsequent performance reductions. After we approved initial budget cuts, the President decided Congress had to cut another 12 percent off all agencies except Defense, including the Coast Guard. Under threat of veto, we cut another $48 million while being told it would not significantly impact the Coast Guard's capability.

Two months later Department of Transportation Secretary Lewis announced that due to shortfalls, the Coast Guard would have to decommission 11 cutters, close 15 search and rescue stations, reduce operations at 16 or more stations, close 3 air stations, reduce the size of 8 others, close 2 district offices, eliminate 18 aids to navigation teams, and more. Now I do not know about the rest of my colleagues, but I call that a fairly significant impact.

Since then, and after testimony from Admiral Hayes that the Coast Guard required at least $192 million in supplemental funds, we have given the President two opportunities to sign a supplemental appropriations bill to prevent some of these cutbacks. And today we send the President yet another compromise bill which includes $17 million needed to stop the Coast Guard from going into default. I hope, and I pray, for the sake of the people who depend on the Coast Guard's responsiveness, that the President signs it.

They have been operating under a patch, fix, and repair mode for too long and it is time we backed up our rhetoric with the wherewithal for the Coast Guard to do what we tell it to.

The average Coast Guard cutter is 27 years old while the average Navy ship is only 14 years old. Over the last 10 years, the number of cutters has declined from 339 to 246. Search and rescue missions have become steadily less successful in saving property and lives. Recently the Coast Guard shutdown all marine environmental patrols, 90 percent of its Pacific area drug enforcement; 20 percent of its Pacific fisheries enforcement; and 60 percent of its Atlantic fisheries enforcement because it could not afford to buy fuel.

And it is not only an equipment shortage they are suffering from, there is a frightening morale shortage.

Last spring, in a hearing before the Appropriations Transportation Subcommittee on which I sit, Admiral Hayes cited one of the Guard's success stories as being increased professionalism and esprit de corps within the personnel ranks of the Coast Guard.

Well my experience and findings in recent visits to stations on the coast of Oregon from Astoria to Coos Bay is somewhat different. The people who are on the line every day, doing the job, saving lives, rescuing ships, are tired. These people say that the long hours they work, and the outmoded, ineffective, outdated equipment they have to work with combined are such that they do not intend to stay with the Coast Guard. They are frustrated and exhausted, bitter, and they are going to leave.

The chief of the Coos Bay motor lifeboat station where they handle an average of 600 rescue calls each year with fewer than 40 crew has a people problem. His officers work 120 hours a week in summertime for low pay with no overtime allowance. According to Chief Russell, it takes 1½ to 2 years to train someone to handle heavy weather conditions. Last spring he said, "I had two heavy-weather experts who could handle any conditions you threw at them. They are no longer in the Coast Guard. They cannot afford the Coast Guard."

Off the coast of Oregon, dedicated personnel are out all night every other night and weekend. If they are not out on the water, they are on call. Some units work 12 days out of 14. And these are people who deal with some of the most hazardous surf conditions anywhere.

In the last 3 months of 1981 off the coasts of Oregon and Washington, the Coast Guard logged 202 search and rescue cases and 25 deaths compared to 267 operations and 14 deaths during the same period of 1980. A recent graduate study on the hazards of Northwest fishing found that the average death rate for Northwest fishermen is 12.2 per 10,000 fishermen per year—twice the rate for miners or fire fighters, often considered the most dangerous occupations.

This administration declared a war on drugs and promised total commitment to southern Florida in providing increased Coast Guard cutters and patrols. But it did so, not by increased

overall resources, but by proposing to shift equipment and personnel from one region of the country to another, in effect robbing Peter to pay Paul. I strongly support increased efforts off the coast of southern Florida—but certainly not at the expense of decreasing life-saving search and rescue efforts off the coast of Oregon.

What disturbs me the most about the irresponsible budget cuts this Congress was forced to adopt last December under the threat of a veto by the President, and by the series of revised cuts we were presented with last year, and now by the 1983 requests, is this fantasy that all of these cuts can take place and we will not substantially affect real responsibilities and service.

My friend and colleague, subcommittee Chairman GERRY STUDDS has pointed out that if the administration's 1983 budget proposal were adopted, compared to 1980, there would be a 42-percent decrease in cutter hours for fisheries enforcement and a 30-percent drop in drug interdiction. This, at a time when the drug interdiction rate of 15 percent does not even come close to what Admiral Hayes himself estimated was necessary to have an impact upon drug trafficking at sea.

I have no doubt that some semblance of a skeleton will be left to stumble along—we are not wiping the Coast Guard off the face of the Earth. But to suggest, as this administration consistently does, that we are going to somehow allow the Coast Guard to fulfill its traditional challenges in a "streamlined" manner suggests something that is patently false. It can not be done.

One example: I learned from the Coast Guard that if we adopted the administration's proposed 1983 budget that the Coast Guard could not afford to operate 18 brandnew medium-range surveillance Falcon jets which are being delivered this year. Instead the plan was to warehouse them somewhere. The taxpayers of this country paid $162 million for these new jets designed to save lives and property at sea. They are three times faster than current planes in use, they can fly farther, stay at the scene longer, and carry more people. And they were ordered to replace a plane that tends to lose its wings after 11,000 miles of flight.

Frankly, if things keep up this way, the administration is going to succeed at drydocking the Coast Guard while showing an appalling lack of compassion for fishermen and their families. I again commend the members of the Merchant Marine and Fisheries Committee for putting together an excellent piece of legislation which addresses both the fiscal needs of the Coast Guard, and the need to make budget cuts where we can.●

HONORING THE STATE DECLARATION OF "BERKSHIRE WEEK"

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. CONTE. Mr. Speaker, today I am pleased to inform you that July 20-27 has been proclaimed "Berkshire Week" by the Commonwealth of Massachusetts. This week will highlight the quality of life in the Berkshires.

I am especially pleased about this week as it honors my home. For those of you who are not familiar with this beautiful part of the country, let me tell you a little about it.

Berkshire County is known for many things: Its beautiful, green mountains and the camping and skiing which takes place there. The fishing, especially for trout is unparalleled in the clear lakes, such as my favorite, Onota.

It is no coincidence that Mount Greylock, at 3,491 feet above sea level, the highest point in the State, is located in Berkshire County. From the top of the mountain, the view is fantastic. It is from this point where the beauty of the Berkshires can truly be appreciated. While taking in the view, there is a certain pride felt when I think that is home.

Not only is this area a haven for sportsmen like myself, those interested in culture will also enjoy a visit here. The Shakespeare Festival is in full swing at The Mount, the home of Edith Wharton, as is the Williamstown Theatre Festival in Williamstown. For dancers, there is the Jacob's Pillow Dance Co., where dancers come from far and near to entertain and study. Musicians will be pleased to find Tanglewood, the "Wolf Trap" of western Massachusetts and the summer home of the Boston Symphony.

People in the Berkshires come from different backgrounds and heritages. One example of this is the Hancock Shaker Village. In this quiet and breathtaking village, the lifestyle and religion of the Shaker people continue to flourish.

A little bit of Berkshire County can be seen here in Washington. Daniel Chester French, a former resident of Stockbridge, was the sculptor of the seated statue of Lincoln found in the Lincoln Memorial. This man's talent is a suggestion of the diversity and flavor of the Berkshires.

Berkshire County has always been a trend setter. The Hoosac Tunnel, one of the first railroad tunnels, is found in North Adams. This engineering feat, started in 1851, runs for 5 miles under Hoosac Mountain and was used continuously from its completion in 1857 until it became a historic landmark several years ago.

"Berkshireites" have made contributions to society in many ways. Herman Melville's "Moby Dick" was written at Arrowhead, Melville's home in Pittsfield. William Cullen Bryant, a poet of the early 20th century, wrote many of his works at home in Cummington, while Susan B. Anthony, a pioneer suffragette, was born and raised in Adams.

Berkshire County has proven to be a considerable influence on the economy, though it is little known. Crane Paper Co., in Dalton, produces the paper used in making money by the Treasury Department. Now I ask you, where would we be without Berkshire County?

I have yet to mention one aspect of the Berkshires which sets it apart from other areas and that is the people who live there. There is something special about them which makes me look forward to my visits to the first district. I wish these people an enjoyable week and assure them that I will be thinking of them over the upcoming week. Although I am fond of the District of Columbia area, I must agree, "There is no place like home."●

THE DEFENSE AUTHORIZATION BILL SHOULD NOT BE A BOEING BAILOUT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. GINGRICH. Mr. Speaker, Boeing is facing hard times. Their 747 airliner has become a glut on the market. Now they see a defense airlift contract as just the boost their ledger sheet needed.

Boeing has 14 new and used 747's in its inventory. This situation has been recently worsened by TransAmerica Airlines canceling two 747's and Mexicana Airlines canceling six 747's. Boeing's bread-and-butter production is down because of general economic conditions and competition from Airbus Industrie of Europe.

Boeing is experiencing a loss of more than $1 billion annually. This is certainly unfortunate, but additional Federal financial support for our No. 1 exporter should not be the goal of the defense authorization bill.

The 747 airliner cannot meet military requirements. The defense bill should not become a back-door bailout of Boeing.

Here is an article from the July 13, 1982 Washington Post. Written by John Newhouse, the article clearly shows why Boeing is trying to undermine the Department of Defense's airlift program and foist a useless airliner on our military.

The article follows:

[From the Washington Post, July 13, 1982]

THE CASE FOR HELPING BOEING COMPETE

(By John Newhouse)

The Post reported recently that the Boeing Company's chairman, Thornton A. Wilson, had asked the administration to engage in "forceful trade retaliation" against his chief competitor, Airbus Industrie—an Anglo-French-German consortium which makes the Airbus. He seems to have proposed a series of far-reaching steps; for example, countries receiving American military aid would have to buy American in selecting their commercial aircraft. The administration's response to Boeing's audacious initiative is unclear and may not have developed. (The administration is already stretching the tolerance of its European allies by trying to wage economic warfare against the Soviet Union.)

The Post's story must have surprised many readers; people have grown accustomed to reading about Boeing's successes—not its problems—in the airliner business. In recent years, these successes have all but crowded out Boeing's domestic competition and given the company a hold on more than half of the world market for airliners. However, roughly two-thirds of that market now lies outside the United States, Boeing's natural domain. The American airline industry is weak and becoming weaker. Many of this country's major airlines can't afford to buy new equipment, even though they need it; and some of the carriers that do place orders insist that Boeing help with the financing (and never mind that Boeing is probably spending about $1 billion more annually now than it is taking in). Boeing also confronts a cancellation of some orders for its new airplanes—the 757 and the 767—and postponement of other orders.

The healthy and fastest-growing markets for new airliners lie in Asia, especially Southeast Asia. And in these markets, Airbus Industrie has strongly outperformed Boeing. The strategy of this multinational company, which is largely financed and controlled by the governments, has been to sew up airlines along the Trans-Asian silk route, an area stretching from East Asia westward to Europe. Boeing's new airplanes have been nearly shut out of this huge market by the Europeans, who have swept most of the Middle East and sold their Airbus—the natural rival of Boeing's new airplanes—to Air-India, Korean Airlines, Malaysian Airlines, Pakistan International, Philippine Airlines, Singapore Airlines and Thai Airways International. Farther south, Garuda Indonesian and Trans-Australia have also bought Airbuses. Airbus Industrie has made inroads in Africa and on South American turf that once belonged to Boeing. Bernard Lathiere, the president and chief executive of Airbus Industrie, said to me not long ago, "The biggest share of the wide-body market now belongs to us." He could be right. In 1979 and again in 1981, his company sold more wide-bodied airplanes than Boeing.

Boeing's problem is serious, its roots somewhat obscured by the company's strength and widely publicized successes at home. The problem is partly self-induced. One of Boeing's new airplanes—the 757—is too big. The capacity of this long, narrow-bodied airplane is about 185 to 190 seats, almost that of the wide-bodies 767, which seats just over 200 and is very like a new version of the Airbus. But what the airlines need most is a fully modern replacement for the smaller 727, the great success story of the jet era. The 727 has made more money for more airlines than any other airplane. Nearly three-fourths of all scheduled flights worldwide are of less than two hours' duration and less than 1,000 miles in length. The average flight within the United States is about 700 miles. The 727 is perfectly suited to this kind of route. But it is now obsolete, in part because it consumes too much fuel. The 757 was supposed to replace it. But instead of building a wholly new and similarly sized airplane. Boeing created one that isn't fully modern—it carries over some features of earlier Boeing airplanes—and is significantly larger than the 727. The airlines wanted and expected a brand new 150-seat airplane. Instead, they are being offered two larger airplanes, neither of which ideally meets what for most of them is the principal need. There are few more wasteful pursuits than operating half-filled, oversized airliners.

In selling the rather longer-range and more expensive 767, Boeing is saddled with difficulties over which it has had little, if any, control. One of these is American foreign policy; another the inconstancy and sometimes unworldly nature of our export policies. In the spring of 1980, three airlines in the Middle East—Kuwait Airways, Saudi Arabian Airlines and Middle East Airlines—were on the verge of buying new airliners. The candidates were Boeing's 767 and the A310, Europe's new Airbus. In March of that year the French president, Valery Giscard d'Estaing, visited Kuwait, Saudi Arabia, and four other Arab states.

Everywhere he went, Giscard told audiences what they wished most to hear: the rights of the Palestinian people, he said, had to be assured, and Israel should withdraw from the occupied Arab territories. This initiative, which almost surely was unrelated to the aircraft competition, turned the tide in the Middle East against Boeing. Several weeks later, France and the other members of the European Community formally adopted a position on these issues foreshadowed by Giscard's declarations. Boeing, although curiously unaware of it, was no longer able to compete on equal terms in the Middle East against the Europeans. Then as now, American policy was judged by the Arabs to be weighted in Israel's favor.

Boeing's immediate and perhaps less unmanageable difficulty concerns export policy. The Export-Import Bank and counterpart agencies in Western Europe routinely finance the larger part of the cost of airliners purchased by foreign airlines. The interest on the loans is usually well beneath market rates, and only foreign airlines qualify. However, this administration has been trying to cut back the Export-Import Bank's budget. The Reagan people seem to feel that the bank's function of providing low-interest loans to promote sales of American products abroad amounts to government interference with the flow of free-market forces. And like some others before them they wonder why the government should provide this sort of help to companies that sell products abroad and not help those that don't. It seems discriminatory, and in a sense it is. But in Europe and Japan export policy, no less than foreign policy generally, is based on national self-interest.

Other governments wonder at and are intrigued by America's ambivalence toward its Export-Import Bank. The policy changes from one administration to another. Boeing is this country's No. 1 exporter, the commercial airplane our leading industrial export. Moreover, no other commercial product embodies as much high technology as modern airliners. For these reasons, Boeing would seem to be a national asset; its operations have an obvious impact on the economy.

However three-fourths of the company's earnings lie in the sales of its airliners; and because two-thirds of its market is outside the United States, Boeing's dependence on the Export-Import Bank probably exceeds that of any other company. It will not be able to compete on even terms against foreign competition unless the scale of the Export-Import Bank's operations is allowed to match that of European counterparts.

The risks and costs of making and selling airliners are enormous, possibly exceeding those of any other industry. Boeing seems to be the only American aircraft maker that is still able and willing to accept those risks. It has literally bet the company at various times in creating its family of airliners. Boeing guessed wrong on the 757—at least in my opinion—but it has guessed right more often than not.

Most if what Boeing's chairman just proposed to the administration should and presumably will be ignored. But one of his suggestions—that the government allow the Export-Import Bank to do more, instead of less, in financing aircraft sales—deserves support. It is hard to see how this administration can sensibly do less. And it or some successor administration may eventually have to do more if we are to avoid seeing another national asset—the commercial airplane industry—whittled down, just as other prize industrial assets have been depleted by foreign competition.●

AMERICAN CONSERVATION CORPS: AN INVESTMENT IN THE FUTURE

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. SEIBERLING. Mr. Speaker, on June 9, 1982, the House of Representatives passed, by an overwhelming bipartisan majority, a bill, H.R. 4861, to create an American Conservation Corps (ACC). To many of us this came as no great surprise because the concept is based on the successful operating experience of predecessor programs: the Civilian Conservation Corps, the Youth Conservation Corps (YCC), and the Young Adult Conservation Corps (YACC).

As the Senate prepares to consider this measure, I would like to address some of the criticism that was directed at previous youth conservation work programs during our consideration of the bill—criticism which I believe was misleading and which did not take into account the substantial changes in the new legislation.

At the outset it should be noted that the proposed ACC has benefited from input and guidance from people who have worked with youth conservation programs for more than a decade, including Federal and State youth conservation program staff who gave us

many insights, as well as factual data. Where there were problems with the previous programs, we tried to remedy them; where there were successes, we tried to build on them. That we succeed is measured by the wide support the legislation has received both in the Congress and throughout the country.

SERVING THE DISADVANTAGED

The proposed ACC, and its predecessors, YCC and YACC, were criticized for not being targeted exlusively to disadvantaged youth. Targeting determines who is eligible for a program; it does not determine or guarantee a good program. Indeed testimony before the subcommittee cited research which concluded that programs designed exclusively for minority and disadvantaged groups do not work well. In contrast, research on YCC shows convincingly that enrollees increased their social skills by working and learning with people from different ethnic and economic backgrounds, and that this was true for disadvantaged and less disadvantaged youth as well. This breaking down of barriers between groups is a desirable social outcome, consistent with decades of effort directed at a more integrated national society. The new ACC program would give preference to selection of minorities and disadvantaged young people, but not totally preclude other youth interested in working for conservation and natural resources.

Even setting aside social considerations, the fact is that well over half of the participants in the previous programs were from families earning less than $15,000 a year and over a third were from families earning less than $10,000 a year. Under the provisions of H.R. 4861 requiring that special consideration be given to disadvantaged youth, the percentages will undoubtedly be higher; yet the door will still be open to allow youth from a wide variety of backgrounds to have the opportunity to work together.

QUALITY OF WORK

Critics have also made the unsubstantiated claim that enrollees do only marginal work. That was not mandated for YCC and YACC, and recorded data show they did not perform that way. Habitat protection, reforestation and timberland improvement, restoration of recreational facilities and commercial fisheries, research on endangered species, and public resource maintenance are not marginal in value or work content. When enrollees did less skilled types of work, regular agency staff were released for projects requiring high skills.

Indeed, the enrollees were not supposed to replace other workers, but rather do the work that was needed and which would otherwise not be accomplished. The youth projects reflected the full range of work required to carry out the missions of land management agencies. If those agencies had their regular staff do the same work, or contracted for it, they would have had to pay two to three times as much. In fact the programs were considered so valuable to the agencies, that they committed supplies and regular staff time of their own in support of YCC and YACC. They were thus able to stretch their limited funds and personnel beyond that which would otherwise be available. Instead of being criticized for doing this, they should have been congratulated.

COST EFFECTIVENESS

Furthermore, the cost effectiveness, as well as the quality, of the two programs was documented at our subcommittee hearings. Agency representatives from the Departments of Interior and Agriculture testified that, for each dollar spent in the YCC program $1.04 was returned in the value of the work, averaged nationwide. For YACC the average return was $1.20. In individual cases the value of the work reached over $7 per dollar expended.

YACC in particular was criticized for being too expensive compared to other youth programs. The criticism does not compare the type and quality of the programs, and there were no cost benefit estimates given for the other programs. The average YACC enrollee stayed in the program for 3 to 4 months. Thus, while the average cost of about $10,500 for one enrollee for an entire year might seem high, the cost per each enrollee served was a third to a fourth of that. Moreover, about 65 percent of YACC program costs were enrollee wages. About a fourth of those wages were returned to the Federal Government in the form of income taxes and contributions to the social security system. Staff and enrollee wages, as well as purchases of supplies and equipment also made a contribution to local economies and tax systems.

LONG-TERM BENEFITS

There are, moreover, future benefits of these programs that the critics have ignored, long-term values for renewable resources as well as for the youth themselves. For example, the Chairman of the Board of Directors of the Tennessee Valley Authority, in a letter to the subcommittee, noted that, as a result of TVA's use of the Civilian Conservation Corps in the 1930's, trees that were planted by the CCC "provided the resources base for a still-growing, multibillion-dollar forest industry that today employs some 60,000 Valley citizens."

In recent years, the TVA has also used the YACC program. Over 5,000 Valley young people were provided employment and on-the-job training from 1977 to April 1982. In a news release announcing the closure of the program, TVA noted that these young workers were "responsible for more than $17 million in needed conservation and resource development projects and provided $1.50 worth of work for every $1 of investment. Projects have included strip mine reclamation, historic building restoration, energy conservation projects, urban park development, State park maintenance, and hiking trail construction."

The future value of renewable resource projects conducted under the ACC would, in fact, make a positive economic contribution at a time when resources, worldwide, are under enormous pressure. This is documented in the Global 2000 Report submitted to the President in 1980.

YACC was also said to have for a poor placement record. To the contrary, the Department of Interior's own data shows that 70 percent of the enrollees who left the program, did so for positive reasons such as finding another job, returning to school, or entering the military. Some of the placements were in regular positions with the land management agencies. These high positive outcomes applied to minority enrolles as well. Again, the criticism ignores the facts.

Critics of YACC should also note an evaluation of YACC conducted by the Office of Policy, Evaluation, and Research of the U.S. Department of Labor. While it flagged some potential administrative problems, it found the work being done useful, and enrollees and staff were satisfied with the program. The positive view of both YCC and YACC is also supported in mail and testimony before our subcommittee, received from former enrollees, their parents, and program managers as well.

IMPROVEMENTS IN THE BILL

Taken together, the criticisms of youth conservation programs are not well founded, and they are contradicted by hard evidence. The proposed ACC has benefited from the experience of YCC and YACC.

H.R. 4861 was an outgrowth of oversight hearings held last year by the Interior Committee's Subcommittee on Public Lands and National Parks, which I chair, and by the Government Operations' Subcommittee on Environment, Energy, and Natural Resources, chaired by Mr. MOFFETT. The bill—which Mr. MOFFETT and I orginally introduced with Mr. CONTE, Mr. ROYBAL, and Mr. BEREUTER—gained over 100 cosponsors and passed the House by a 3-to-1 vote—291 to 102. A companion bill, S. 2061, has been introduced by Senators MOYNIHAN and MATHIAS, and both bills have been referred to the Senate Committee on Energy and Natural Resources.

The bill, as passed by the House, would consolidate and improve previous youth conservation work programs. Following are a few highlights of the improvements made in the legislation, compared to previous programs; the bill:

Provides special consideration for disadvantaged youth;

Increases State share of funds (from 30 percent to 35 percent);

Provides role for local governments in State programs (including 10 percent of State's share of funding);

Specifies funding for Indian tribes (5 percent of appropriations);

Allows volunteers to be used to supplement programs;

Offers training, skills certification and placement services for youth enrollees;

Requires evaluation of program activities and benefits;

Restricts agencies from using the program to displace existing workers or contractors, and provides appeals mechanism for Federal workers;

Focuses Federal administration in the Secretary of the Interior, in cooperation with the Secretaries of Agriculture and Labor;

Drives funding from some of the otherwise untapped revenues from Federal leasing and permitting activities (subject to annual appropriations); and

Encourages participation from the private sector.

Implementation of the ACC at the earliest possible time would be a wise and prudent investment in the future. Consideration of the measure comes at a time when youth unemployment is at record levels, when public lands and facilities face increased pressure from visitor use, and when serious environmental and resource problems are not getting the attention they deserve. Potential benefits of the program far outweigh its costs.

In summary, the American Conservation Corps is an investment in the future, both for our Nation's lands and for our Nation's youth.●

IN SUPPORT OF THE COMMUNITY SERVICE EMPLOYMENT PROGRAM

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. MARKEY. Mr. Speaker, last year both the House and Senate voted overwhelmingly to extend continuation of the Older American Act of 1965 for 3 more years. The 379 to 4 passage of this amendment reflects the strong bipartisan support this program enjoys. One of the most vital programs authorized by title V is the community service employment program.

In January of this year, I, along with my Massachusetts colleague Representative SILVIO O. CONTE, wrote a letter to President Reagan to protest the potential elimination of this program which employs more than 54,000 lower income Americans 65 years of age or older, in various community service programs.

The CSEP positions not only allow older Americans to supplement their incomes, but they provide senior citizens with a sense of pride, dignity, and self-worth as they continue to be contributing members of society. Through their work, elderly citizens are able to develop new skills, or employ skills they already have which currently lay dorment, and once again take an active part in their community.

The cost effectiveness of this program can be witnessed in every service the seniors provide. In 1978, a study showed that for every $1 invested, $1.15 was saved. Eighty-six percent of those participating in the program would be receiving some sort of welfare assistance if they were not working—in addition, cities and towns realize an increase in their community services.

In the Reagan administration budget proposal for 1983, the termination of the title V program was suggested—it would fold the program into the employment training block grant which would replace the Comprehensive Employment and Training Act programs. Both the House and the Senate employment committees rejected this proposal soundly; however, a definite commitment of the House in opposition to this suggestion is needed. I urge my colleagues to support this invaluable program by cosponsoring House Concurrent Resolution 278 as introduced by my colleague, Representative LEON PANETTA of California.●

THOSE DESERT HILLS

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. SANTINI. Mr. Speaker, many persons perceive the Western States of this great Union as not too much more than desert wastelands. Just the opposite is true. Our West is full of life, beauty, and courage. Nevada, in particular, through a rugged State, provides many opportunities for a peaceful moment of meditation.

The poet laureate of Nevada, Mrs. Mildred Breedlove, is famous for her sensitive portrayal of Nevada in her poems. Mrs. Breedlove has written two wonderful tomes on Nevada that will be treasured for all history. It is my pleasure to share with you a selection of poems from Mrs. Breedlove's works.

THOSE DESERT HILLS

(By Mildred Breedlove)

(From Those Desert Hills and Other Poems)

Those barren desert hills are mauve at dawn;
They change before your very eyes to blue;
And then before the morning half is through,
They put their pink and orchid mantles on.
By noon their purple flounces taunt a sky
So pale it fades to white above their lines—
Let other mountains clothe themselves with pines,
The desert wears a rainbow for a tie.
A thousand shades lie in their color-chart;
They show by turns as minutes come and go . . .
In all the world they have no counterpart,
And winter does not hide them under snow.
Be on your guard, those hills will steal your heart—
I only meant to pass them . . . so I know.

SOLILOQUY

How blind is he
Who cannot see
Magnificence in desert hills,
Nor find expressed
In places west,
The peace each desert scene instills.
How deaf is he
Whose symphony
Is alien to a desert night,
Where silence has
The cadences
Of lute and lyre and larks in flight.
How lame is he
Whose feet, though free,
Have never trod the desert waste—
Or, having trod,
Walked not with God
On hills the King of Color traced.
How blest is he
Who fits the key
Of life into this wide expanse—
Who looks upon
A desert dawn,
And knows it, not a happenstance.

NEVADA CENTENNIAL

(From Portrait of Nevada)

Of late, Nevada wears a party dress;
And Glamour is the topic of the day—
Her neon glows across the wilderness,
And people come from everywhere to play.
The "Entertainment Center of the World"—
Where Summer spends the winter, gay and free—
However long the desert sands have swirled,
The past is but a page of history.
With our regattas, races, tournaments,
And sports long foreign to the "Desert West",
Our sun and sand have gained an eminence
That early settlers never could have guessed,
Our Painted Hills have come into their own—
A million airflight passengers may see
A constant change of color tint and tone
That blends in themes of unreality.●

FIRST MIGRANT STUDENTS GRADUATE

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. KASTENMEIER. Mr. Speaker, on June 5, 1982, two young women graduated from Madison East High School in my district. While such an achievement is always praiseworthy, in this case these young women, Norma Diaz and Sara Villareal, are the first two migrant students to graduate from Madison East since the Madison School District began the migrant program in 1965. I would like to commend

both Norma and Sara for their fine academic achievements and for providing a positive role model for other migrant students. I would like to insert two articles from the May 10 edition of the Wisconsin State Journal, "Diploma Isn't Out of Migrants' Reach" and "Being Accepted Isn't Always Easy" which tell the girls' story.

DIPLOMA ISN'T OUT OF MIGRANTS' REACH

(By Connie Villec)

She shakes her head and says she doesn't want one, but Norma Diaz's father insists.

He is going to buy her a class ring when she graduates this spring from Madison East High School.

"A high school diploma is very important," Abel Diaz tells his three daughters as they sit around the kitchen table one night. "I don't want you kids to be treated like I am. I want you to be better, a lot better."

Diaz knows the value of a high school diploma, partly because he doesn't have one, and in fact, never attended school.

He is a former migrant worker who, although born and raised in the United States, didn't learn English until he was an adult.

Norma Diaz is one of 13 Wisconsin migrant students who will be graduating from high school this spring, according to the state Department of Public Instruction.

Two of the others are also graduating from Madison high schools:

This is the first time since the Madison School District began its migrant program in 1965 that migrant students have graduated from the city's high schools, according to Tomas Gomez, learning coordinator and teacher for the program.

The program's current $51,000 budget comes entirely from federal Title 1 money.

This year, about 90 children from migrant families are enrolled in Madison public schools. Most are from "settled out" families who have left the migrant stream and either have permanment jobs or are looking for them.

Gomez estimates that by the end of the school year in a few weeks, 20 of those children will already have left Madison. That touches upon one of the big reasons migrant students often don't do well in school and graduation is a rarity.

"They move so much that they fall behind," Gomez said. "The teachers don't know where to begin. Kids may be in seventh grade, but they're doing third-grade work."

He said one child has been in six school districts and two Madison schools during the past year.

Most of the migrants are of Spanish origin who, as children, first spoke Calo—Mexican-Spanish—before they learned English.

That also causes problems, Gomez said.

"Some of the children start learning English at home or in school before their Spanish is really strong," he said. "They should first learn to read in Spanish before transferring their basic skills to English."

Few migrant parents have more than a third-grade education, and often are not able to teach their children at home, he said.

And because most migrant families are low-income, there isn't money for toys or supplies that could aid learning.

So when a 5-year-old migrant child is screened for kindergarten, Gomez said, the child may not know how to count, read, cut with scissors and do other things normally expected of a kindergartener.

"For this reason, there is the danger that migrant children might be placed in special education," Gomez said. "It happens."

What the district's migrant program does is offer extra help in reading, other language arts and math. Instruction is given in school or after school.

All migrant children are tested in the fall in reading, writing and math, and are given an oral exam of their English skills.

Constant communication and support are other key elements of the program—and part of the reason some Madison migrant students are graduating this spring, Gomez said.

He said the graduations of Norma Diaz and Sara Villarreal from East and Librada Rodriquez from Madison West High School are important to the migrant community.

"Education is important to migrant parents, but they feel they don't have a chance," Gomez said. "These girls are providing role models to other migrant families who think it's impossible to graduate."

BEING ACCEPTED ISN'T ALWAYS EASY

Officially, Sara Vilarreal, 18, is a senior at Madison East High School, an A and B student who has just won an academic progress award from the Madison Downtown Rotary Club.

Unofficially, she is the one who takes the time to greet new students at East, especially those who come from different countries.

Sara, whose deceased parents were migrant workers, came to Madison from Texas more than a year ago, and remembers too well what it's like to be the new kid at school.

"Until recently, people didn't talk to me," she said, "Sometimes they wouldn't even answer."

She shrugs and smiles, trying to understand why being Hispanic and speaking English with a slight Spanish accent should alienate her from others.

Sara's empathy with those who are atypical has given her a reputation, and she says a teacher of hers now will say, "We've got a new student, so look out for her."

One of her friends is a handicapped girl in a wheelchair. "She was crying because she had no friends, so I took her for a ride around the school."

Despite the difficulty she's had getting used to a new high school, Sara said she thinks school is fun. This fall, she plans to attend Madison Area Technical College to study nursing.

"I've wanted to be a nurse since I was small," she said. "I guess I want to carry that dream out."

One of her classmates is Norma Diaz, who also comes from an Hispanic migrant family and will be graduating from East in June.

Norma, 19, originally from Texas, has lived in Madison since 1978. She is on the East girls' track team, and is vice president of the school's human-relations club.

She said she feels accepted at the school.

"I've enjoyed going to East and have had a lot of support from my teachers and counselors," she said.

Sara and Norma are among 21 migrant students or graduates in the state who will be honored by the State Parent Advisory Council for Migrant Education at a meeting Wednesday.●

AIR FORCE WIFE HAS GOOD THINGS TO SAY ABOUT DUTY TOUR ON ISLAND OF GUAM

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. WON PAT. Mr. Speaker, as a member of the Armed Services Committee, you can imagine my pleasure when I was presented with an article entitled, "Guam—Is it really the best kept secret in the Air Force?" written by Dee Beck, an Air Force wife, for the combined Army, Navy, and Air Force Times Magazine (July 5, 1982).

Her article was most objective but had a rational tilt toward the positive when it came to endorsing her family's 2-year tour of duty at Andersen AFB, Guam. If articles like this could get more exposure throughout the Air Force and Navy, we would have no trouble signing up personnel for an extended tour.

Author Beck describes the inconveniences of tropical living along with the benefits and does a marvelous job of extolling our climate, sunsets, local customs, fiestas, shopping guides, scenery, recreational activities, and, above all, our pristine lagoons.

The article is a bit long for reprinting here but I would like to submit, for the RECORD Mrs. Beck's capsulization of the military presence on Guam.

[From the Army, Navy, and Air Force Times Magazine, July 5, 1982]

THE MILITARY IN GUAM

(By Dee Beck)

Guam is a strategically important island. As part of the United States, there is no "host country" to protest the repair of nuclear submarines carrying ballistic missiles or heavy bombers carrying nuclear bombs. Politically sensitive missions can be flown from this small territory to project the image of U.S. power throughout the Pacific.

The 40,000 acres of military facilities—more than a quarter of the island—are not contiguous but are spread throughout the island. Here are the major facilities:

Andersen Air Force Base is the only Strategic Air Command base in the Pacific. In fact, as the home of the 43rd Strategic Wing, it is the only base outside the continental United States housing SAC's huge B-52s.

Other aircraft include the WC-130 "Typoon Chasers" of the 54th Weather Reconnaissance Squadron and the Pacific Tanker Task Force KC-135 air refueling tankers that come from all Stateside bases on month-long TDYs. It is also the stopping point for Military Airlift Command C-141s and C-5s.

There are about 3700 active duty and 4600 dependents assigned to Andersen. Most military people and their families used to arrive in Guam at Andersen, situated in the northeast corner of the island. However, most people now come by nonmilitary aircraft arriving at the civilian airport at Agana.

Naval Facility is in the northwest corner of the island at Ritidian Point and is a self-

contained unit doing oceanographic research.

Naval Communication Area Master Stations is on the coast just south of Ritidian Point and controls communications for the Western Pacific and the Indian Ocean. More than 1400 Navy personnel are assigned there.

Naval Air Station at Brewer Field (NAS Agana) shares the runway with the Agana International Airport in the central portion of the island. Reconnaissance aircraft from VQ-1 (EA-3B and E-P3) and VQ-3 (EC-130Q) are active through the Western Pacific as are the antisubmarine P-3Bs.

Naval Regional Medical Center, next door to the governor's mansion, is a 350-bed hospital, which, along with its four branch clinics and the Andersen AFB clinic, provides medical facilities for the military people and retired military on Guam. It also provides emergency airlift and rescue medical assistance to local civilians and citizens of the trust territories.

The Commander of the U.S. Naval Forces Marianas is at home on Nimitz Hill overlooking scenic Apra Harbor and Piti Bay, midway on the west coast. The Joint Typhoon Warning Center is a tenant there.

Guam Naval Station at Apra Harbor traces its history to 1898. Its Naval Supply Depot, Marine Barracks, Naval Construction Regiment, Ship Repair Facility, Public Works Center and submarine tender USS Proteus ensure its continued importance. It is known as "Big Navy" to most military residents because the main exchange and commissary facilities are there. The majority of the 500 Navy people in Guam are here.

The Naval Magazine is a major ammunition storage point for contingency plans in the Western Pacific. It occupies 8800 acres in the isolated south-central section of the island.

How did the U.S. establish such a presence on Guam? From the time the U.S. acquired the island in 1898 (following the Spanish-American War) until World War II, the Department of the Navy was responsible for the government. Guam was bombed within hours of Pearl Harbor and was occupied for 2½ years.

It was a difficult time for the local people, who retreated into the jungle when they could or were forced to work for the conquerors and learn Japanese language and customs. In 1944, 18,500 Japanese battled against 54,891 American soldiers. Almost 11,000 Japanese died in the 21-day battle and another 7,000 went into hiding before finally being captured or killed (the last straggler was discovered in 1972). In August 1945, there were 24,000 Guamanians and almost 200,000 U.S. military men in Guam—more than double the current populations.

Throughout the war, the local people remained committed to America, and the biggest celebration every year is the 21-day period in July marking the liberation of Guam and culminating with Liberation Day.

After the war, the Department of Navy again controlled the government, with the admiral also serving as governor. In 1950, Guam became an unincorporated territory of the United States. The people became U.S. citizens who could elect their own legislature; the civilian governor was still appointed. The people did not elect their own governor until 1970, when they also elected their first non-voting representative to the U.S. Congress. They still cannot vote for the President of the United States.

Until 1962, access to Guam was controlled by the Navy's security regulations. Businessmen and visitors had to have Navy permission to visit. This did much to minimize independent local growth.

The military is still the base of the economy, with tourism the second most important industry. The government of Guam and the U.S. government are the major employers in the civilian community.

Guam is now under the jurisdiction of the Interior Department.●

THE SHAPE OF THE MODERN NAVY

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. RUDD. Mr. Speaker, one of the key issues that will be debated in our discussion of H.R. 6030, the Department of Defense authorization bill, will be the necessity of the proposed concurrent procurement of CVN-72 and CVN-73. At issue here is the need for these carriers, and the need for having both carriers constructed at the same time. I will address the former issue today. You will hear many arguments today about the so-called obsolescence of the large *Nimitz* class carrier due to a variety of factors including the development of effective antiship missiles and the need to rein in the defense budget. The latter argument represents specious reasoning, because after all, the defense of this country cannot be reduced to a dollar-and-cents equation: An effective defense must be constructed according to the needs of our defense mission and not in some tradeoff for social welfare spending. So, in my mind, the crucial argument centers on the mission capability of the large carrier.

Just what is the mission of the U.S. Navy? Clearly, in light of the global strategy the Soviet Union is pursuing to cut through the links of economic and political interdependence of the free world through its "Blue Ocean Navy" and political adventurism in the vital "choke points" of the globe, it is the mission of the U.S. Navy to keep secure and clear the vital sealanes on which we depend so heavily for security and commerce; and to provide the presence of American power to counter the threat of Soviet adventurism in many lands around the globe. This mission profile requires a strong, yet flexible fleet structure able to meet forcefully, the full scale of Soviet threats both on land and sea, especially in sealane countries in the Persian Gulf, the Indian Ocean, the Arabian Sea.

The fleet force structure that best meets the requirements of that mission profile is the large carrier battle group. This force structure is the most flexible, survivable, and most effective force structure with which to meet the Soviet threat. The centerpiece of this force structure is the large-deck carrier, and in the case of this debate, the *Nimitz* class nuclear-powered carrier.

We will hear many arguments that the days of the big carrier are numbered because the missile threat has rendered the carrier vulnerable. Nothing could be farther from the truth. The large carrier, because of the way it is constructed and the punch that it can carry in its air wing, is infinitely more survivable than any smaller carrier configuration. The *Nimitz* class carrier has a greater war-fighting capability and survivability than any other ship—it has 90 percent more aviation fuel capacity, 50 percent more ordnance capacity than a conventional carrier, it is fueled for 13 or more years, which obviates any logistical refueling problems which can be hazardous in a high-threat area. The *Nimitz* class carrier is capable of carrying a larger and more varied air wing than the conventional carrier and thus can more effectively counter any threat to the battle group. This fact is most evident in the recent battle in the Falklands during which the Harrier type carriers were ineffective in controlling the air in the battle over the Falklands. In addition, the Harrier air wing's effectiveness in its mission: Ground support was reduced due to the need of that carrier to stay behind its group radar picket and out of range of the Argentine Air Force. In contrast, had a large deck carrier been present at the Falklands, it would have been able to deploy a defensive air and subsurface net extending 450 miles. That certainly would have changed the face of that conflict. And, had a large deck been present at the Falklands, it would have required the same or fewer support ships because it cannot carry the same quantity of varied mission offensive and defensive air wings, requires the same number or more support ships in its battle group.

In the day of the missile threat, only the large deck carrier can carry the sufficient air wing to provide the necessary coverage and strike capability to survive that high-threat environment. Only a large deck carrier, with 2,000 watertight compartments and several redundant systems for fire control and damage control can operate in this high-threat environment and still survive, and retain war-fighting capability.

Critics of the large deck will argue that the smaller deck presents a smaller target to today's sophisticated weaponry. Certainly, no one can argue that a 40,000- or 50,000-ton ship is smaller than a 90,000-ton one, but it boggles the imagination to think that in terms of the target acquisition methods used by modern weapons such as radar signature and infrared signature, that the so-called small carrier is less fat a target and therefore, less vulnerable. Clearly, smallness, in

this case is more a hostage to semantics, than a legitimate factor in comparing vulnerability. The smallness argument would have us build carriers that carry less air power, less survivable hull capability, all in the mistaken notion that a 40,000 ton ship is less easy to target than a 90,000 ton one.

Clearly, the capabilities of the *Nimitz* class carrier far outweigh the smaller carrier's abilities. The issue of vulnerability is the crucial issue here, and one, that I feel was most aptly underscored by the battle in the Falklands. That battle tells us that no ship can ever again operate in a low threat environment. Those days are gone. What must be done is design ships and forces that can meet and survive the missile threat: And at the same time, retain the punch that is needed to perform its mission. Clearly, the *Nimitz* class carrier as the centerpiece of a 15-battle group Navy is the ship that we need.●

THE ROLE OF SMALL BUSINESSES

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. BADHAM. Mr. Speaker, no single group of businesses are more vital to the financial well-being of the United States than small business in these 50 States, yet no single group has had to work harder to stay in business during these difficult times.

It is time, I believe, to take a hard look at small business and what it does for our country and keep our priorities in proper order so that we do not lose sight of the importance of all segments of our economy.

Let me remind this body that a whopping 99.8 percent of the businesses of the country have fewer than 500 employees and therefore are classified as small. These firms employ 47 percent of the nongovernment labor force and produce 38 percent of the country's private domestic product.

Thus it is easy to see that small businesses and the people who operate them have a most important role in the American economy today, as they have had throughout the history of the United States.

The individual entrepreneur, the family business, and the private operator have set the pattern for the greatness of this country and, indeed, continue to show the way for all the world to see. Yet a larger number of small businesses are contributing to a declining share of the gross national product; bankruptcies and business failures have risen almost 30 percent in the last 2 years; inflation has taken it toll; and high interest rates have hurt the ability of small businesses to borrow necessary funds.

It is our responsibility, then, to see to it that the factors which have contributed to the unhealthy business climate of the country be changed so that all segments of our society can continue to produce and prosper.

The small businessman wishes to be relieved of the excesses of government just as does every individual in this country. This means that unnecessary paperwork, regulations, burdensome work requirements, punitive taxation, and other factors which hinder a vital sector of our Nation's economy must be lightened.

In summary I should like to point out that small businesses are the backbone of the entire business world, performing an important role for the country. But, even more, these businesses grow to become the successful big businesses of tomorrow.

So it is with this in mind that I remind my colleagues in Government, who mold the laws of our land, that we must keep the role of small business in mind as we go about our responsibilities of shaping the future course of our country.●

PHILLIPS PRESIDENT ADVISES GET INVOLVED

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. JONES of Oklahoma. Mr. Speaker, recently, I had the opportunity to read a most timely and incisive commencement address given by C. J. Silas, president and chief operating officer of Phillips Petroleum Co.

Mr. Silas spoke to the graduates of Georgia Tech and his advice was for them to get involved in the political process. For those of us who have benefited from a college education, no higher responsibility exists than to give of ourselves to the political decisions of our Nation. I commend Mr. Silas' commencement speech to your reading.

His speech follows:

It's a pleasure for me to be here today. I'm honored by the invitation to be a part of your graduation ceremonies.

Through the years I've known that something kept drawing me back here to Georgia Tech over and over again. For a long time I thought it was the atmosphere of scientific inquiry, the endless quest for knowledge, and the spirit of good fellowship. But a recent trip down North Avenue convinced me that what really keeps me coming back are those chili dogs at the Varsity.

But in spite of my many visits here, this is my first graduation ceremony.

I got my diploma by mail down at Fort McClellan, Alabama. Needless to say several of us held a little celebration to mark the occasion, I'm sure some of you are planning something similar.

When I graduated from this university in 1953, nearly 30 years ago, I certainly never anticipated that I would be coming back to deliver the commencement address. My mind was on more immediate concerns. Some of these concerns were serious like my new job with Phillips and my orders to go into the Army, and some weren't so serious, like parties and playing basketball.

And I doubt that things have changed all that much. You all probably have much the same mixture of concerns on your minds.

You don't have to worry about going off to war as we did back in 1953, but you do face an array of economic challenges that my graduating class didn't have to confront. We're in the midst of a recession, unemployment is high and interest rates are incredible, higher than ever before which makes it tough to buy a house or a car.

Problems are always with us.

What is different today, I think, is the attitude of many people, young and old, toward the problems we face.

It seems to me a more hopeful attitude existed 30 years ago.

Today we see more and more people lowering their sights, scaling back their hopes.

We see more and more people "tuned out", withdrawn into areas of narrow competition and self-interest or into the fantasy worlds of television, romantic novels, and Pac Man.

Public opinion polls tell us that many young people today have a pessimistic outlook on the future. They believe they may never surpass the economic success of their parents.

From what I've seen and heard, this is not the typical response of Georgia Tech graduates.

You're highly motivated.

You're ambitious.

You're optimistic about the future.

You're not likely to "tune out."

But I hope you're willing to do even more.

Dr. Pettit asked me here today to deliver some advice based on my accumulated years of training and experience. When you reach a certain age, I guess, you're expected to have "words of wisdom" to pass along.

Well, I'm probably not the wisest guy you'll ever meet, but here's my advice in a nutshell:

Become politicians.

Not politicians in the narrow, cartoon sense, not back-slapping, conniving, unprincipled opportunists.

But politicians in the original and true sense of the word—involved in the affairs of your community—involved in improving the relationships between people in our society, and dedicated to working out reasonable solutions to the problems we all face.

Some of you may have heard this phrase attributed to Edmund Burke:

"The only thing necessary for the triumph of evil is for good men to do nothing."

We seem to have reached the point in this country where many good men and women are doing nothing.

They aren't voting.

They aren't attending city council meetings or school board meetings.

They aren't keeping up on what's going on in Congress or the State legislature.

Many people have never met their elected representatives at the Federal, State or local level. Worse, yet, many don't even know their names.

I'm certainly aware of the many reasons why this situation exists. They affect all of us.

We're all busy with our own lives. We've got jobs, families, activities and interests of all kinds. The demands on our time seem to

increase every day. It seems impossible to squeeze in more.

In addition, we're more mobile than we've ever been before. We change jobs, move to new communities. There seems to be less reason to get involved.

Then there's the impression that we don't count. That we can't make a difference. It seems like things go on pretty much as usual whether or not we vote or write a letter or show up at a meeting.

And finally, there's the unsavory reputation politics has acquired. We're all familiar with Watergate and Abscam. And in my present home State of Oklahoma dozens of county commissioners have been convicted of being on the take for years. Who wants to be associated with people like that?

These are all good reasons not to become involved in politics.

But like in everything else, we can always find good reasons not to do something we don't want to do.

Yet we often hope someone else will get things done for us. You may remember the nursery story about the little red hen. She couldn't get any one to help her plant her wheat, harvest the crop or grind the grain. Too many of us, I'm afraid, are like all the barnyard friends of that little red hen. We like to show up to eat the bread after it's been baked. And then, some of us will even complain about how it tastes.

Our success as a nation over the past 200 years has resulted from the willingness of ordinary people to get involved. They were there when the seeds were planted. They lent a hand to harvest the crop and they helped in the kitchen to bake the bread.

In recent years there have been suggestions that society has become too complex to be managed by the people and that government by some sort of an elite group would be superior. We've seen more so-called professional legislators with larger and larger staffs. And we've seen a tremendous growth in the invisible branch of government—the bureaucracy.

That's a trend that, in my opinion, must be reversed.

And all of you can help.

After graduation today, you'll be scattering out across this Nation and into many other parts of the world. Georgia Tech graduates are located in every State of the Union and more and more foreign countries.

You'll be starting jobs, working hard, getting settled in new surroundings, and maybe even starting families. I understand some people still do that.

Whatever your plans, I urge you to make it one of your priorities to stay involved, to participate in the wider world around you. Stay informed, make your views known, and vote.

Those of you remaining in Georgia have an opportunity to participate in the effort to maintain the strength and quality of this university. It will take the involvement of many, many people to achieve recognition of Georgia Tech's unique programs and need for special funding considerations from the State.

But be involved wherever you live.

There is a lot of talk these days about "quality of life". Surveys have shown that quality of life, which has to be defined individually, is more important to many people than how much money they make or what kind of job responsibilities they may have.

Surely this is a strong reason for involvement in community affairs. Crime, traffic conditions, the quality of schools, the number of parks and recreational facilities, the condition of the environment, all of these things contribute to the quality of life. And all are influenced by people.

It may seem futile to make an effort to improve a community you know you'll be leaving in time. Yet each of us benefits every day from the efforts of others who are no longer around.

As Martin Luther King once said, "Even if I knew the world was going to end tomorrow, I would still plant a tree today."

You can make a difference.

Regardless of whether you ever actually run for office or hold an official position in some organization, you can have an influence on what's going on around you by participating and helping to solve problems.

And the kind of participation I'm suggesting goes beyond national, State, or local politics. It includes participation in your own neighborhoods and your own working environments.

It may sound funny at first to think about being a politician in your own neighborhood. But, again, we're not talking about the cartoon politician. We're talking about getting to know your neighbors, getting involved in neighborhood activities, helping to improve relationships, and helping to solve problems.

For the last four years or so, Georgia Tech has been your neighborhood. You've made new friends and developed new interests and associations. These new relationships can be a tremendous resource to you throughout your lives. I know they have been to me. If you can keep your ties to these people strong through the Alumni Association or in more informal ways, you'll benefit more and more from them as the years go by.

Some of these ties may even extend into your new work environment. An office or a company really resembles a neighborhood in many respects. And participation, involvement and problem-solving are very badly needed.

I happen to work for a large corporation, I deal with dozens of people every day even when I don't leave the office. But regardless of the job you have, you'll find that you're involved in personal interactions all the time.

It's been my experience that very often what people accomplish depends not so much on their technical skills and abilities, but on how well they get along with others.

I can tell you as a practical matter that when we evaluate people in our company we look for people skills as well as technical skills. And people skills aren't often developed by people who build shells around themselves. Instead they're acquired by people who make the effort to meet and understand and work together with other people.

William Allen White, the Kansas newspaper editor once said, "Reason has never yet failed mankind."

We need to reason more together today.

Vital activities of our Nation have been virtually paralyzed by the emergency of powerful special interest groups which consider it a virtue never to give an inch.

Whether it involves the development of energy resources or agreement on a Federal budget, the general welfare of our society requires conciliation and compromise.

And that's what politics are all about. In fact, that's what civilization is all about.

You have the opportunity beginning now to expand your horizons. Don't lower your sights. Be politicians. Be involved with people.

I'm confident you will.●

FOURTH OF JULY ADDRESS BY AMBASSADOR JEANE KIRKPATRICK

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. CORRADA. Mr. Speaker, the Fourth of July we in Puerto Rico were privileged to have our Ambassador before the United Nations, Jeane Kirkpatrick, as the principal speaker during the celebrations held in San Juan. In her address, Ambassador Kirkpatrick emphasized the commitment to democracy shared by the people of Puerto Rico with their fellow Americans in the rest of the United States. She said:

It is a relationship based on our respect for the intrinsic human rights of freedom and justice for all people, rights that are denied to the majority of the people of the world. Our Nation is great because we recognize and reaffirm the diversity that exists within our people; a diversity which allows our Nation to be more tolerant of the difference among us and become a stronger nation because of the many hard-working immigrants that came to our shores.

Ambassador Kirkpatrick particularly emphasized that:

Americans have never regarded diversity and pluralism as incompatible with unity and commonality of purpose.

In Puerto Rico we are proud of our heritage and language as an integral part of the heritage and culture of our entire Nation.

I commend Ambassador Kirkpatrick's address and urge my colleagues to read it.

The address follows:

FOURTH OF JULY ADDRESS BY AMBASSADOR JEANE KIRKPATRICK

The Governor of Puerto Rico, the Honorable Carlos Romero-Barcelo, and Mrs. Romero-Barcelo; the Washington Resident Commissioner, the Honorable Baltasar Corrada Del Rio, and Mrs. de Corrada; the former Governor of Puerto Rico, the Honorable Luis A. Ferre, and Mrs. Ferre; the Consul General of Peru and Member of the Consular Body, Mr. Decano, the Honorable Bolivar Patino Arco and Mrs. Patino Arca; Honorable Members of the Consul General of Puerto Rico; Honorable Members of the Executive, Legislative and Judicial Branches; the Mayor of the Capital, the Honorable Hernan Padilla and Mrs. Padilla; Honorable Officials of the Federal Government; the Mayors of all the islands who are accompanying us on this day; the Most Excellent Ecclesiastical Representatives; the Official Representatives of the Armed Forces; Distinguished Members of the News Media; Fellow Citizens of all Puerto Rico, who are observing and listening to all these ceremonies from within their homes; all friends:

On this date over two centuries ago, the American Colonies began the end of the colonial era by declaring their independence

from Great Britain. Since then, Americans have regularly celebrated the birth of the United States of America at ceremonies much like this one. On such occasions our citizens have rejoiced in celebrating the American Revolution for one simple reason—the Revolution brought to them the bounty of unparalleled economic well-being accompanied by unsurpassed political stability and individual liberty.

We have enjoyed these benefits for so long that we tend to take them for granted, as if they were the natural order of things. If this were true, the world would be much different than what we know it to be. History shows, instead, that most people, most of the time, have had to endure untold sufferings: Poverty and hunger, compounded by rapacious governments and ruthless despotisms. Mankind's condition was—and, unfortunately, still remains in too much of today's world—one in which the individual's life could only be described as "poor, solitary, nasty, brutish, and short." The American Revolution started a series of events destined to change this depressing pattern. Thus, it is fitting that we gather here today to commemorate the Revolution and, because the setting and the occasion so suggest, that we also relate it to the Puerto Rican experience.

Let me begin with Puerto Rico. I am deeply honored and very pleased to be here today. My relationship with Puerto Rico goes back many years, at least to the time of my undergraduate studies when my Puerto Rican roommate awoke in me an abiding curiosity about Puerto Rico. Since then I have attentively followed your development, and over the years I have had the good fortune of enjoying your hospitality on several occasions. These visits, spread over a period of years, reveal one thing with startling clarity. While gradual and steady economic growth may be imperceptible to those who are too closely involved in it, the periodically returning visitor easily discerns the truly impressive magnitude of this growth. I could, of course, cite statistics on growth rates, per capita income, literacy rates, infant mortality, and all those other indicators of development that we social scientists delight in compiling in order to demonstrate Puerto Rican progress over the last decades. But in this case statistics are unnecessary. The evidence is too visible, too strong, and too palpable to need exactitude in measurement. It compels even the most skeptical observer to acknowledge Puerto Rico's dramatic progress over the last decades. Not only is there no doubt that the present generation of Puerto Ricans is better off than past ones, but, I would add, that this also holds true when you compare their standards to living with that of most of their contemporaries elsewhere in the world. During the past year and a half, I have had the opportunity to travel extensively in Asia, Africa, and Latin America, seldom seeing comparable achievements. These Puerto Rican achievements call for recognition and elicit our admiration.

There are those, of course, who may wish to argue that Puerto Rico's leading position on any scale of development is an artificial one exclusively the result of the transfer of Federal funds. That conclusion, however, is contrary to all available evidence. Unfortunately, the world is full of examples of nations which have received millions upon millions of dollars in external assistance with little or no discernible effect on their development. I could even mention some that have gone backward despite generous financial assistance. Money, therefore, is not sufficient either to start or to maintain economic development. If it were, many more countries would today be fully developed. The undeniable progress of Puerto Rico, therefore, is not merely the result of an infusion of dollars. It is, rather, the result of the skillful governance of successive Puerto Rican administrations and, ultimately, of the work, capacity, and aspirations of the Puerto Rican people—they, too, have to be recognized.

Nobody would argue that there is no room for improvement or that the aspirations of the Puerto Rican people have been fully met. In Puerto Rico, as elsewhere, there will always be room for improvement. This irreducible gap between aspirations and achievement is a constant source of dissatisfaction and legitimate criticism. Both dissatisfaction and criticism are to be welcomed as a spur to get on with the business of progress. But they should not blind us to very real accomplishments or prevent a legitimate sense of pride with the progress achieved so far.

In many ways Puerto Rico's story resembles that of the United States and of all the other peoples of this hemisphere. All of us have roots on other continents. Most all of us had forebearers who came to the Americas in search of greater opportunity, greater freedom and well-being, in search, too, of adventure. This whole hemisphere is filled with people who believe in the possibility of progress, in the possibility of shaping their own lives and destinies. We are all immigrants, all socially and geographically mobile, all restless, freedom seeking modern men and women.

The Americas, then, are not only a geographical location but a dream and an adventure of people willing to risk unknown hardships to escape known deprivations and frustrations.

The adventure has by no means ended. The search for new opportunities in the world continues. High speed communication and transportation link us ever closer together, entangling us even more closely in each other's dangers and responsibilities. Puerto Rico's distinctive historical experience binds her into two traditions, in even more complex ways than the polyglot populations of the Americas make all our traditions hetergenous.

Doubtless, Puerto Rico's bicultural tradition creates some problems—but also unique possibilities. Puerto Rico's recent and successful experience with economic and educational development give her a unique role in the Caribbean and the hemisphere and today, Jamaica, Dominica, and neighboring people look to Puerto Rico for help and advice more relevant to their problems than the experience of older industrialized communities.

Puerto Rico's experience in building democratic institutions is also relevant and exemplory for other nations seeking the benefits of democracy. Of the 157 member nations of the United Nations only a minority fully respect the human rights of their citizens. Democracy and human rights, like economic development, cannot be imposed from the outside but must emanate from within a people. The paucity of democratic regimes is evidence of how difficult it is to have governments "of the people, by the people, and for the people." Yet Puerto Rico is a democracy and as such a member of a very select group. But that is not all. Its economic growth has been achieved within a framework of democracy and individual freedom. As a showcase of democracy, Puerto Rico has demonstrated that despotism, tyranny, and the violation of human rights are not the price we must pay for sustained economic growth. On the contrary, Puerto Rico's economic development has gone hand in hand with a vigorous democratic political process. The consent of the governed, freedom of expression, party competition, regular elections, individual freedom, and governmental responsiveness to the desires of the citizens have all been scrupulously maintained. In sharp contrast to most of the world, including some of its neighbors that provide neither bread nor liberty to their people, Puerto Rico has simultaneously improved the economic well-being of its people and preserved their freedoms.

It is thoughts such as these that lead me to believe that today we should celebrate more than the 206th anniversary of the American Declaration of Independence. For clearly the Puerto Rican achievement of economic growth, democratic government, and individual freedom gives us another valid reason for celebration. So, today, we should celebrate our shared commitment to common principles and our respective successes which have flowed from these principles. Further reflection on these principles might prove instructive.

The American revolution was not merely a political revolution. Besides being effective practictioners of revolutionary politics, our Founding Fathers were also revolutionary thinkers. In other words, the American Revolution was a revolution in political practices premised on a revolution in political thinking. This intellectual revolution focused on the central question of the best and most desirable manner of organizing the political system of the new Nation. Up to the time of the Declaration of Independence it was commonly assumed that large, heterogeneous, and populous nations necessarily required despotic governments. On the other hand, the fragile and delicate fabric of democracy could only survive in small, relatively homogeneous societies. But the Founding Fathers turned this preconception on its head. They argued that democracy in general, and individual liberty in particular, flourished best in diverse, pluralistic societies. It was this principle that not only guided but also served as the foundation of the American process of nation building. We should remember that originally the very name of our country—the United States of America—had a literal meaning. That is, it was the union of a heterogeneous collection of States with different customs, religions, and interests. From the beginning, therefore, it has been clear that Americans have never regarded diversity and pluralism as incompatible with unity and commonality of purpose. This belief has remained the very heart and strength of our Union and is enshrined in our motto—E pluribus unum.

As the American process of nation building continued westward new States having their own peculiar characteristics and idiosyncrasies were successfully incorporated into the Union. And we should note that these States joined the Union while preserving their individual identities. The Union did not mean the smothering of all diversities because the principle of a federal union allowed for the retention of local or regional traditions, habits and religious preferences. Even today despite decades of the relentlessly homogenizing impact of the mass media, one still finds local, State and region-

al differences between New Yorkers and Californians, between southerners and midwesterners, and it still makes perfectly good sense to differentiate between, for instance, hoosiers and cajuns. Americans relish these differences and take pride in both their own local identification and in their American citizenship. If the past is our guide to the future, then there are solid grounds to expect the preservation of distinct cultural identities within the Federal Union.

With the completion of the westward expansion the process paused momentarily as the 48 contiguous States were incorporated. Then it seemed as if the purely arbitrary geographical barrier of the California coastline was hemming in the Federal principle that had worked so admirably from the beginning of the Republic. But the subsequent incorporation of Hawaii and Alaska clearly demonstrated the principle's continuing vitality even in the unprecedented cases of noncontiguous territories. As a student of politics I cannot imagine that a principle that repeatedly proved its adaptability and resiliency only works in a westward direction. Commonsense alone suggests that it can just as well operate in all directions.

There is, finally, another great principle which also nurtured the growth of the American Nation—the principle of consent. In a world full of governments which, at worst, justified their authority on nothing more than naked force, or, at best, on the divine rights of kings, it was a bold idea to claim—as our Declaration of Independence did—that governments "derive their just powers from the consent of the governed." Furthermore, in a world that was accustomed to see the enlargement of national boundaries on the basis of conquest and the ruthless domination of the newly conquered territories it was certainly a revolutionary idea to admit new States to the Union on the basis of equality. These two ideas not only fostered individual liberty and governmental responsiveness but also insured that the process of incorporation into the Union was done on the basis of mutual benefit and reflecting popular desires.

Like all other recent American Presidents, President Reagan is on record affirming that the people of Puerto Rico should decide their own future. You are, no doubt, aware that he has also said he favors statehood for Puerto Rico. Certainly, both sides could benefit from this Union and our cultures would be mutually enriched. No one doubts for a moment that the decision is for Puerto Ricans to make. Only the people of Puerto Rico can and should decide the future of Puerto Rico. I, like you, have an enduring faith in the democratic process. Puerto Rico with its vigorous political process, its well organized political parties and the political freedoms it enjoys is quite capable of making its own decision. You should be assured that, regardless of the nature of this decision of the people of Puerto Rico as expressed through its own democratic process, it will be respected. Our mutual respect and friendship and our common commitment to liberty, to the consent of the people and to democratic values demand nothing less.

Thank you.●

A BITTER CLASH OVER AIRLIFTERS

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. BARNARD. Mr. Speaker, high-ranking Pentagon officials are calling the 747 commercial airliner "an aircraft we don't want and don't need." P. X. Kelley, Assistant Commandant, U.S. Marine Corps, has testified that it would take six times longer to deploy the 101st Airborne in 747's than in C-5B's.

Why are we even considering excess 747 airliners to fulfill our rapid deployment force requirements?

Because Boeing has orchestrated a powerful lobby to distort the facts and confuse House Members. Boeing is facing $5 billion in commercial airplane sales cancellations. This is unfortunate indeed, but Boeing should not be bailed out at the cost of our national defense. The 747 airliner cannot do the job for speedy and efficient national defense. Only the C-5 can do so.

Mr. Speaker, this Business Week article, "A Bitter Clash Over Airlifters," points out why Boeing is so desperate to sell the taxpayer an airplane our defense forces cannot use.

The article follows:

[From Business Week, July 12, 1982]

A BITTER CLASH OVER AIRLIFTERS

Six months of jockeying between the Pentagon and Congress over what to buy as a long-range ferry aircraft for the Rapid Development Force (RDF) has erupted into one of the roughest procurement battles Washington has seen in years. Defense Dept. officials claim that Congress is playing politics with what must be a military decision. Congress is split into warring camps, and the aerospace industry is in turmoil.

Boeing, Lockheed, and McDonnell Douglas—the companies fighting for the airplane contract—all need the work. But the company most desperate for it is Boeing Co., whose profits plummeted 38%, to only $188.5 million in the second half of 1981, as the market for commercial widebody jets collapsed. The Defense Dept. on Jan. 25 selected Lockheed Corp. to build the new transport plane, called an airlifter. But Boeing defied the Pentagon and persuaded the Senate to overturn its decision. This so infuriated Deputy Defense Secretary Frank C. Carlucci that he has threatened punitive action against Boeing.

A DIRE NEED

The result is that there may be no new airlifter at all. "The economic and political ramifications of this fight run so deep that I'm beginning to doubt whether we'll ever be able to sort them out," declares one Defense official.

The only point on which all combatants agree is that the U.S. is in dire need of more long-range air transports. The capacity of its existing fleet of 70 Lockheed C-5s and 234 Lockheed C-141s falls far short of the Pentagon's minimum requirements for many military contingencies, including that of ferrying 86,000 RDF troops plus their equipment and supplies to the Persian Gulf while deploying enough other transport aircraft to support a war in Europe. But the consensus shatters over how to correct the shortfall.

The battling started early this year when Carlucci ordered the Air Force to scrap a plan to buy, for $15 billion, 150 new-generation, high-technology air lifters that could operate from unpaved airstrips near potential Persian Gulf battlefronts. The Air Force selected McDonnell Douglas Corp. as the winner over both Lockheed and Boeing in the design competition for such an aircraft. But instead of proceeding with the plane, called the C-17, Carlucci decided that the Air Force should buy 50 modernized Lockheed C-5B airlifters and 44 McDonnell Douglas KC-10 tankers, the latter a military version of the DC-10, which can double as a cargo aircraft. The cost would be $11 billion, $4 billion less than C-17s, he argued, and the Pentagon would get delivery three years sooner. In making his decision, Carlucci rejected a Boeing proposal to provide widebody 747 jets for military airlift duty.

Carlucci's order was a reprieve for Lockheed, which had just announced that it would have to halt production of its L-1011 widebody jet in 1983. McDonnell Douglas was not so happy. Orders for its DC-10 jumbo jet also had dropped to next to nothing, and the promise of a Pentagon purchase of the KC-10 would have kept that production line running. But in the long run, the company would have made more money producing C-17s.

Boeing, pinched for cash and facing cancellation of some $5 billion in orders for its 747s and newer 757 and 767 airliners, was outraged. Analysts figured it would have to borrow $1.7 billion at a high interest cost if it could not find new business quickly. One way to generate it was to persuade Congress to countermand the Pentagon—and Boeing decided to try just that.

USED 747'S

It proposed that 48 newly manufactured 747s be substituted for the Lockheed C-5Bs, or alternatively that more money could be saved by buying 50 used 747s from the airlines and by contracting with Boeing to modify them for military airlift work. In contrast to the $98 million that each new Lockheed C-5B would cost, Boeing maintained that the Pentagon would have to pay only $58 million for a new 747 or $44 million for a used 747, with about $32 million of that going to the airlines and the rest to Boeing for modification.

The Senate found the Boeing proposal too sweet to pass up. In mid-May it voted against its own Armed Services Committee recommendation to fund the C-5 procurement plan and told the Pentagon to order wide bodied jets instead. Henry M. Jackson (D-Wash.), a veteran of 42 years in Congress, led the fight for Boeing, claiming that high unemployment in his home state—in part induced by layoffs at Boeing—would jeopardize his reelection in November. "Jackson won because he called in every political IOU he'd ever collected," complains one pro-Lockheed Senate staffer.

But there were other reasons for Boeing's coup. Jackson claimed not only that its proposal would save taxpayers $6 billion but also that "the airlines would get a much-needed shot in the arm" by being able to sell used 747s. Meanwhile, other anti-Lockheed Senators, led by William Proxmire (D-Wis.), hammered at the C-5's history of cost overruns and at the weakness of its wings, a fault that the Pentagon is now paying Lock-

heed $1.6 billion to correct. Thus, plus the reminder that the government had "bailed out" Lockheed with a loan guarantee in 1971, infuriated both that company and the Pentagon—but proved persuasive. Now Lockheed and Pentagon officials are claiming that the Boeing proposal amounts to a financial bailout of both Boeing and the airlines.

The action will swing next to the House of Representatives. When the fiscal 1983 military authorization bill comes up for a vote there in mid-July, Representative Norman D. Dicks (D-Wash.) will move, as Jackson did in the Senate, to strike C-5 funding and substitute money for the 747s. Having been surprised once, however, the Pentagon and Lockheed are barraging House members with anti-747 messages and claims, such as one by Air Force Secretary Verne Orr, that Boeing has understated the cost of buying and operating the fleet of 747s by as much as $5.3 billion.

Boeing's big guns have an answer to that. "The Pentagon has increased Boeing's firmly committed cost [of its 747 proposal] by 40% for reasons not known to Boeing," Chairman Thornton A. Wilson charged in a stinging letter to the House Armed Services Committee.

Amid the din, the comparative characteristics of the aircraft are being lost. "You'd think the debate was about a corporate welfare program, not an airlifter program," complains one Air Force general. Yet the planes' characteristics "are of greatest military importance." Calling the 747 "an aircraft we don't want and don't need," Carlucci agrees that because it is not roomy enough to carry tanks, helicopters, or howitzers, "it would do absolutely nothing to solve our main airlift requirement, which is much more capacity for outsized military equipment." Moreover, loading and unloading the 747, he claims, takes too much time and demands large equipment. The C-5, by comparison, has flexible landing gear that permits it to "kneel" to ground level for quick loading and unloading.

"Both of those points are specious," says a Boeing official. If the Pentagon adds enough 747s to its airlift fleet, he claims, it can devote existing C-5s to carrying outsized equipment, satisfying all its requirements. Moreover, 747 loading devices are positioned worldwide to handle commercial cargo and could be transported quickly to military destinations. In addition, the 747s can fly to the Persian Gulf from the East Coast of the U.S. without refueling. By contrast, the C-5 must be refueled in the air. Boeing says this offsets the C-5's ability to operate off shorter runways.

Such claims and counterclaims have left fence-straddling members of the House thoroughly confused. "There's going to be a lot of gut-feel, get-it-over-with voting on this one," predicts a House military affairs staffer. Calling the airlifter fight "one of the fiercest we've ever been in," Lockheed Chairman Roy A. Anderson says he fears the Boeing challenge has evoked "so much emotionalism that the nation may wind up with no airlifter at all."

MC DONNELL'S STRATEGY

That is a distinct possibility. Even if the House and Senate agree to authorize money for a new airlifter this summer, the Appropriations Committees of both Houses may force the Pentagon to cast out both the C-5B and the 747 and revive McDonnell Douglas' C-17 program.

McDonnell Douglas is quietly encouraging such an action. Although it is backing Boeing's cause on the Hill, observers say this stand is aimed at producing a stalemate in the battle between Congress and the Pentagon. Carlucci, who recognizes the tactic, warns that it could backfire on McDonnell Douglas. "We feel very strongly about this issue," he asserts. "If Congress makes us take 747s instead of C-5Bs, we would have to recommend to the President that he reject the entire package, including the [McDonnell Douglas] KC-10s."●

PASSAGE OF H.R. 5081 TRANSFER OF THE STEWART INDIAN RANCH

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. SANTINI. Mr. Speaker, it is with great pride that I note the successful passage of my bill H.R. 5081 today to transfer about 3,000 acres of ranch land to the Washoe Tribe of Nevada and California. It is a tribute to the time and energies expended by the tribe that the bill passed today without a single dissenting vote. After meeting with the Washoe Tribe and hearing the very strong case they made in support of transferring this ranch land in western Nevada to them, I introduced the bill in 1981. This spring, the House Interior held hearings on the legislation and reported it out favorably. The last remaining hurdle is full Senate approval and I feel sure we will have that as well in the very near future.

By way of background, Mr. Speaker and my fellow colleagues, the Stewart Indian lands are located south of Carson City, Nev., and have been used since the 1890's to support the nearby school's ranch and farm operations. These lands are located within the aboriginal territory of the Washoe Indians. Just as Nevada's Indian heritage represents a unique aspect of our past, I believe it is very much a part of Nevada's future.

It was with heavy hearts that concerned Nevadans witnessed the closing of the Stewart Indian campus in 1980. Since the campus itself closed, the Washoe Tribe has leased the Stewart Ranch lands and effectively managed them for ranching uses, making major improvements. The Washoe Tribe will be an excellent guardian of the Stewart Ranch lands and H.R. 5081 will allow the tribe to achieve its fullest potential in agricultural development.

Mr. Speaker, transfer of the Stewart Ranch lands is economically and historically important to the Washoe Tribe and to the entire State of Nevada. I thank you for the support of the House in passing this legislation. It is, indeed, unfortunate that the Department of Interior did not lend its support to this endeavor. I am afraid DOI's failure to support the land transfer to the Washoe Tribe is only the tip of the "Privatization" iceberg and I will take this opportunity to call upon the administration to rethink its policies in this area. We must not fill the Federal Treasury at the expense of local governments and Indian tribes.

Thank you.●

AMERICA'S "PROBLEM CHILD" IN CARIBBEAN, PUERTO RICO IN DESPERATE NEED FOR HELP

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. SCHULZE. Mr. Speaker, Mr. Speaker, as Puerto Rico marks its 30th year as an American Commonwealth, the island's destiny has never been more of a question mark—or a potentially dangerous dilemma for Washington.

These are the opening words, Mr. Speaker, of a very disturbing article in the current July 19, 1982, issue of U.S. News & World Report—an article which makes it clear that the political and economic stability of the Commonwealth of Puerto Rico are today hanging in the balance. At risk with them are the major stragetic, political, and economic interests of the United States in the Caribbean.

I am concerned, however, that this troubling fact is not fully recognized, and to foster greater appreciation of the complex social and economic problems confronting us all, I submit for the consideration of my colleagues the text of the U.S. News & World Report commentary, "Once Again, Puerto Rico Is a Problem Child."

The article states the dangers in clear language:

Islanders today are unsure whether to press for closer ties to the United States or stick with what some denounce as second-class citizenship.

At the same time, Puerto Rico's once robust economy is sagging badly.

For Washington, the concern is that any instability could trigger a new wave of terrorist violence and present a tempting target for Fidel Castro. The Cuban dictator already is believed to be giving training and arms to nationalist Puerto Rican terrorists who operate here as the Macheteros and in the United States as the FALN.

Also causing worry is the prospect of another mass migration of Puerto Ricans to mainland where unemployment is at a post-World War II high. Already, nearly a million have fled to the U.S., leaving 3.3 million on an island about two thirds the size of Connecticut. By some estimates, joblessness affects more than 1 in 3.

Mr. Speaker, social unrest in Puerto Rico is increasing. Radical terrorism is rising. Rioting shut down the island's university for 6 weeks during a student strike, and homeless squatters on

public land, in an exchange of gunfire with police attempting to evict them, killed one officer. Terrorists shot down four U.S. Navy men in San Juan's tourist district, bombed powerlines in the city's hotel and residential areas, and blew up nine jet fighters of the Puerto Rico Air National Guard.

Until Operation Bootstrap was launched in 1948, Mr. Speaker, Puerto Rico was a poorhouse of the Caribbean and a symbol to Latin America of "Yankee colonialism." Then conditions began improving markedly. Health programs wiped out malaria and other tropical diseases, illiteracy began to disappear, and a program of Puerto Rico and U.S. tax incentives—combined with competitively priced labor—touched off an economic boom unrivaled in the Caribbean and Latin America.

U.S. News & World Report estimates that Puerto Rico's industrialization program since Operation Bootstrap's inception has paid off with 500,000 new jobs, generating exports to the U.S. mainland of more than $5 billion a year.

But now Puerto Rico's economy is souring, with devastating unemployment the result. A major reason, as stated in this troubling article: There are increasing signs that U.S. business is growing wary of investing in Puerto Rico.

"The economy grew less than 1 percent during 1981, and prospects are similarly grim this year," said U.S. News & World Report.

"Real investment has been falling at the rate of 5 percent a year."

I am pleased to report, Mr. Speaker, that the Reagan administration is resisting an ill-conceived proposal by the Senate Finance Committee, in the pending tax and spending reconciliation bill, to substantially repeal the Operation Bootstrap tax incentive program under section 936 of the Internal Revenue Code.

Secretary of the Treasury Donald Regan, in a July 12 letter to our friend and colleague, Congressman DAN ROSTENKOWSKI, chairman of the House Ways and Means Committee, stated that the administration has reservations about certain proposals in the Senate Finance Committee's package, "particularly the proposed limitation on the possessions credit * * *."

I could not be more pleased with the administration's strong stand on this critical issue, which is of such strategic, economic and political importance to Puerto Rico and its people, to the entire United States, and to the Caribbean Basin and Latin America.

I hope for the support of all Members of the House in the Reagan administration's effort to protect the economy of Puerto Rico and help it get moving again toward economic recovery and political and social stability.

The text of the U.S. News & World Report article follows:

[From the U.S. News & World Report, July 19, 1982]

ONCE AGAIN, PUERTO RICO IS A PROBLEM CHILD

SAN JUAN.—As Puerto Rico marks its 30th year as an American commonwealth, the island's destiny has never been more of a question mark—or a potentially dangerous dilemma for Washington.

Islanders today are unsure whether to press for closer ties to the United States or stick with what some denounce as second-class citizenship. At the same time, Puerto Rico's once robust economy is sagging badly.

For Washington, the concern is that any instability could trigger a new wave of terrorist violence and present a tempting target for Fidel Castro. The Cuban dictator already is believed to be giving training and arms to nationalist Puerto Rican terrorists who operate here as the Macheteros and in the United States as the FALN.

Also causing worry is the prospect of another mass migration of Puerto Ricans to a mainland where unemployment is at a post-World War II high. Already, nearly a million have fled to the U.S. leaving 3.3 million on an island about two thirds the size of Connecticut. By some estimates, joblessness affects more than 1 in 3.

Some analysts are predicting that a small leftist independence movement almost certainly will find fresh support if a new statehood campaign fizzles as others have in the past.

While separatists are given faint chance of ever winning control of the government, they could end up with enough power on a closely divided island to keep statehood at bay forever.

It is an explosive issue that begs to be settled once and for all. If not, this island of luxury hotels, cruise ships and extreme poverty could be plunged into a period of political turmoil, especially if the economy continues to unravel.

"It is despair and sense of hopelessness that lead people to form guerrilla armies and to riot in the street," warns Governor Carlos Romero-Barceló. A statehood plebiscite is promised if his New Progressive Party wins a majority in the 1984 elections.

The success of any statehood drive, however, is in doubt. Results of the last general election, a contest dominated by talk of the island's future status, showed voters evenly split on the issue. Romero, an ardent advocate of statehood, won re-election by the thinnest of margins.

But whatever happens, Puerto Rico is unlikely to settle much longer for things as they are. Even backers of continued commonwealth status—in which islanders, although U.S. citizens, cannot vote in national elections—are clamoring for more autonomy. Among other things, they want veto power over federal law affecting the island.

THE PEARL

The buttoned-down, mostly mainland-educated executives behind desks in the capital's high-rise banking district talk of statehood as the answer for mounting problems. Less convinced are the poor in San Juan's teeming Barrio Tokyo and a slum known ironically as "the Pearl," sad places where joblessness and despair are epidemic.

"Statehood, commonwealth—I am tired of all that talk by politicians with big offices and fancy cars," says Carlos Ramirez, 33, an unemployed laborer. He sat staring at the ocean as his two children scavenged coconuts near the Pearl, a jumble of dilapidated houses in the shadow of historic Old San Juan. "Those things are nothing to me. You get me a better life, and then you talk to me. My future is very dark."

Troubling signs of social unrest have been cropping up here. Rioting broke out at the University of Puerto Rico last fall during a violent student strike that shut down the school for six weeks. And last May, a Police officer was killed in a shoot-out with squatters barricaded inside a shantytown built by 300 homeless persons on government property in the town of Rio Grande.

Terrorism, too, has entered a new and more violent phase. Nationalist gunmen struck last May in the heart of San Juan's tourist district, killing a U.S. Navy sailor and wounding three more.

Last year, terrorist bombs destroyed nine jet fighters at the Puerto Rico National Guard Air Base at Isla Verde, while others knocked out power to 20,000 customers in San Juan's luxury-hotel and residential areas.

Beneath the rising concern over developments here: An awareness of Puerto Rico's growing economic and strategic value to the U.S., its landlord since 1898. Big U.S. military bases on the island, plus one a Guantanamo in Cuba, keep America a dominant Caribbean military presence at a time of stepped-up Soviet naval activity in the region. Puerto Rico is also home to subsidiaries of more than 300 major U.S.-based companies, whose profits exceed 3 billion dollars a year.

AN EMBARRASSMENT

Until the 1950s, it was the poorhouse of the Caribbean, an embarrassment to the U.S. and a symbol of colonialism to Latin America. Disease and poverty, all but ignored by Washington, were so rampant that 800,000 persons fled to New York and other big cities. Today more than 2 million citizens of Puerto Rican descent live on the mainland.

With approval of a massive program of federal aid in 1948 and arrival of commonwealth status in 1952, conditions began improving markedly on all fronts. Eradication of malaria and other tropical diseases has extended life expectancy. Illiteracy, too, has been largely eliminated.

A combination of tax breaks and cheap labor—a minimum wage was imposed only recently—touched off an economic boom that rivaled Japan's. Per capita income, while low by mainland standards, is still the highest in all of Latin America. Efforts by Romero and others to industrialize the island have paid off with a half-million new factory jobs and a highly developed economy that has become the envy of the Caribbean. Exports to the mainland presently top 5 billion dollars a year.

But for all Puerto Rico's successes, this is no earthly paradise. The economy has begun to sour, and times are much leaner than on the mainland.

Although Puerto Ricans pay no federal income taxes, medicaid, cash food benefits and other federal transfer payments equal 30 percent of their gross product. With more than half the population dependent on food benefits, which formerly were distributed in the form of food stamps, federal aid to the island exceeds 2.6 billion dollars a year.

And while government figures put the unemployment rate at around 22 percent, other sources peg it at 35 percent and climb-

ing rapidly. Adding to the problem are the growing numbers of Haitians, Jamaicans and other job-hungry aliens who slip in each year.

In villages and towns all across south-eastern Puerto Rico these days, groups of able-bodied men can be found idling away in plazas and taverns. Etched on their faces is the look of hopelessness.

No work is to be had there, even in the sugar-cane fields. The government is phasing out a once thriving sugar industry because it can no longer compete with cheaper sugar from Asia and the rest of the Caribbean.

Efforts to make Puerto Rico a textiles and oil-refining center have sputtered, as have attempts to turn it into a finisher of rough goods produced elsewhere in the Caribbean. The tourism industry, never fully developed, is also suffering, and some big hotels are going broke.

Even more alarming to officials are signs that U.S. business is growing wary of investing here. The economy grew less than 1 percent during 1981, and prospects are similarly grim this year. Real investment has been falling at the rate of 5 percent a year.

Mainland businessmen are hanging back for two reasons: Tight money, and fears that the Reagan administration, in its quest for new revenue sources, will slash tax breaks now worth a billion dollars a year to industry here. Some investors also note that Puerto Rico's days as a tax haven will be numbered if statehood becomes a reality.

San Juan blames the Reagan administration adding to the island's present economic plight in other ways, too. Federal-budget cuts, for instance, cost it 25,000 public-service jobs, wiping out a year's worth of gains in the private sector.

And a new Reagan scheme for spurring Caribbean development through incentives for other islands is seen by some as a potential blow to Puerto Rico's own economy.

From a business standpoint, this island has the added problem of a federal minimum wage that makes labor costs higher than those of Haiti and other Caribbean competitors for U.S. business dollars.

HOW MANY MORE WILL GO?

With economic times steadily worsening, many Puerto Ricans are doing now what millions of others have done before—they are leaving. During boom times, the island recorded for the first time in many years no net loss in population due to out-migration. Departures for the mainland were balanced by returns.

But that could be changing. The island's resident federal commissioner, Baltasar Corrada del Rio, warns that unless relief is forthcoming "there will be great pressure on thousands, possibly hundreds of thousands, of Puerto Ricans to migrate to the U.S. mainland."

Each day at San Juan's hectic airport, the young can be seen bidding tearful farewells to friends and parents as they set out for a new life in the United States.

"I love Puerto Rico and want to stay," said Carlos Lopez, 22. "I do not want to go to a strange place, where it will be cold and people mad at me. But I cannot earn what I need for my wife and child. It will be hard, but maybe not so hard as here."●

NON-COMMISSIONED OFFICERS ASSOCIATION LEGISLATIVE GOALS

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. NICHOLS. Mr. Speaker, during the Non-Commissioned Officers Association's annual convention, the organization adopted seven legislative goals for 1982 and 1983.

I believe that this effort on the part of the association is commendable and informative. Since we will be debating the defense authorization bill next week, I am pleased to include in the RECORD a copy of the NCOA's legislative goals. It is an important statement on where Congress should be taking the Nation in terms of national defense issues.

NON-COMMISSIONED OFFICERS ASSOCIATION OF THE USA LEGISLATIVE GOALS, 1982-83

PREAMBLE

In its 22nd year of service to the Nation and its ever-increasing membership of non-commissioned and petty officers of the U.S. Armed Forces, the Non-Commissioned Officers Association of the United States of America (NCOA) renews its pledge to use its full resources in keeping America strong, advocating peace through strength, and providing for the well-being of the men and women who now serve or have served in the Nation's military services as noncommissioned and petty officers.

As we review the past, there has occurred little change down through the years since the Association prepared its 1975 legislative goals. The goals, based on the then existing national and international situation, sought to improve the Nation's defense posture, urged Congress to revise its discriminate laws weighted against military enlisted personnel, opposed reductions in military retirement benefits, urged improvements in the quality-of-life for active, reserve and guard personnel and their dependents, and petitioned the President of the United States and Congress to provide adequate benefits to the Nation's veterans and their dependents and survivors.

Today's problems are almost identical to those that were included in the Preamble of the NCOA 1975 Legislative Goals. They stated that the U.S. continues to be affected by:

1. "Detente" agreements with the Soviet Union that still have no viable substance; arms control and mutual force reductions that are not effectively materializing; the Soviets' preoccupation in building its forces to a superior level of strength; and growing Soviet influence in oil-rich Arab nations,

2. The "Middle East" exigencies; the questionable status of alliances with some NATO countries; . . . and unstable political and economical problems in Central and South America,

3. The energy shortage, inflation and recession,

4. The increasing pressure to reduce the defense budget; the threat of becoming a second-rate power; the cuts in active duty military, reserve and guard forces; . . . and the refusal of Congress to repeal, revoke, or change existing laws that flagrantly discriminate against military enlisted members, and

5. The impairment of the Nation's internal and international security elements; the increased liberal views voiced by many elected and appointed officials; and the need for strong, dedicated and active leadership in (all branches) of the federal government.

In 1981, there appeared to be hope in the new Reagan Administration philosophy that many of the problems would be solved. With Congressional support, the Administration vowed to increase the defense budget, bring down inflation, cure recession, improve the quality-of-life for members of the armed forces, overcome liberalism, and provide strong leadership to guide the Nation into the new decade.

By early 1982, the resolve slowly began to break into political, economical, and social fragments. The defense budget is under attack, inflation and recession are still with us, improvements in quality-of-life programs for military personnel are to be set back in the name of fiscal restraints, liberalism is making new inroads, and positive leadership seems to have vanished much more rapidly than it appeared.

It is, therefore, more important today than ever before that the members of the Association join together in "Strength in Unity" so that our Nation will enjoy peace and prosperity through the strength of our armed forces.

DEFENSE

The United States appears to be strategically-equivalent to the Soviet Union. Both have sufficient nuclear power to destroy most of the earth's inhabitants. True, the Soviets continue to improve their strategic capability and have more launchers and newer missiles. However, the U.S. armed forces continues to enjoy a technological advantage. The U.S. must have a strong strategic policy supported by adequate weapons and delivery systems.

However, the real disparity, and it is a most significant one, is in the conventional forces. The United States, even counting the manpower and weapons of its NATO partners, is greatly outnumbered in men, tanks, antitank weapons, artillery and multiple rocket launchers, antiaircraft artillery, interceptor aircraft, surface-to-air missiles, general puprose submarines, and mine warfare ships. Additionally, the Soviets have trained and equipped their soldiers to defend themselves against chemical and biological attacks. American service members receive little if any training in this type of defensive combat.

NCOA believes that the United States needs to set its defense priority to adequately arming and equipping its conventional forces. Since it is fiscally improbable that the U.S. can match the Soviets in numerical strength, it must concentrate its efforts on providing weapons and equipment that are technologically superior to those of the Soviets.

Currently, U.S./NATO conventional forces in Europe are hard-pressed to defend themselves against a superior Soviet/Warsaw Pact onslaught. Reinforcements from the U.S., or other areas where American troops are stationed, would not be able to arrive in time, or with adequate weapons and equipment, to relieve or assist their comrades-in-arms.

Mobilization of reservists and guardsmen would not be effective due to the lack of equipment and weapons now available for their use, the time delay in getting them to

a port of embarkation, the acute shortage of transportation which probably will be committed to the use of the regular forces, and the administrative and operational nightmares that would accompany the mobilization order.

NATO forces may assist in defending against the attack, but the superiority of the Soviet/Pact conventional forces would be too great for them to hope to win or hold off the aggressors by use of delaying tactics. Air superiority would be a major factor in who controls the battle grounds. Even here the nod must go to the Pact. Despite the numerical superiority of NATO offensive aircraft, the Pact has more interceptors and a much greater antiaircraft artillery capability. NATO pilots and aircraft crews would experience extreme difficulty in getting their planes through the Pact's defensive cordon.

Meanwhile, the U.S. and its NATO partners must maintain control of the sea and air lanes to and from Europe. The U.S./NATO Navies must possess superiority on the seas and in the air. Whether it can do so with its current inventory of ships and planes is doubtful if the U.S. Navy, concurrently, must keep part of its force in other areas of the world.

Therefore, NCOA resolves to memorialize the Commander-in-Chief and Congress to commit the United States to an aggressive, first-priority program of equipping and arming U.S. soldiers, sailors, marines, airmen and coast guardsmen—regular, reserve and guard—and providing adequate logistical support so that they may be prepared to meet any given mission.

PAY AND ALLOWANCES

Some time ago, and for a period of four-to-five years thereafter, NCOA warned Congress that the United States was facing major losses of qualified and experienced Noncommissioned and Petty Officers of the Armed Forces. It urged Congress to act expediently to deter the anticipated exodus. Regretably, Congress reacted too late and by 1980 the military services were alarmingly short of career enlisted personel who recruited, trained and led the bulk of military manpower—those in the junior enlisted grades.

It was only upon the public announcements of the then Chief of Naval Operations and the current Army Chief of Staff, that their Services were suffering serious manpower readiness deficiencies, that Congress concerned itself with the situation. The increases in pay and allowances that were provided in late 1980 and again in 1981, stopped the flow of experienced manpower—but it was too late.

Today, the Association finds a false euphoria among many governmental officials relative to the current military manpower picture. Recruiting is excellent and retention is running at a better-than-expected rate. However, it will be some years before the Armed Forces are able to overcome their shortages of skilled and experienced NCOs and Petty Officers. The Army and Navy, particularly, are short tens of thousands of these middle-grade and senior enlisted personnel. Though their ranks may be filled through accelerated promotions, the ability, skills and experience is not there, and only time—if we have it—will heal the wound that now exists.

Many senior Defense and military officials boast that everything appears to be working well. In a sense this is true, but only if Congress continues to improve the quality-of-life for the men and women who volunteer to serve in the Nation's military services. If these servicemembers, particularly NCOs and Petty Officers, find that Congress will cut back in FY 1983 on improvements and equipment, which appears to be the case, and the civilian economy takes a turn for the better, they will begin another exodus that could be more damaging than the last one.

There is new hope among servicemembers. It is essential that Congress continues the momentum of 1980 and 1981 or else the Nation shall find itself unable to meet the military manpower challenges of tomorrow.

Therefore, NCOA resolves to memorialize the Commander-in-Chief and Congress to continue to provide adequate and comparable compensation to the men and women of the active, reserve and guard components of the U.S. armed forces.

RECRUITING

With the high accession rates now enjoyed by the military services, Congress is prone to curtail appropriations for the recruiting services. In late 1982, if we are to believe the Administration's forecast, the economy will have an up-swing from its current recession.

When this occurs, and NCOA derives its knowledge from experience, more and more young men and women will choose not to enlist in the armed forces, regardless of the pay, bonuses, and allowances offered by the military services. Then too, there will be fewer and fewer young people in the job market that are available for recruiters to contact and, possibly, enlist in the armed forces.

NCOA believes it is not only a necessity for Congress to fully fund the recruiting and advertising requests of the military services, but to take a hard look at the sacrifices many of their recruiters must make to successfully fulfill recruiting missions.

There are tens of thousands of military personnel assigned to recruiting and independent-type duties far removed from military installations. Though they are in receipt of extra-allowances, the payments are not equal to the losses suffered by not having access to military medical care, commissaries, exchanges, and morale, welfare, and recreational (MWR) facilities.

For too long Congress has ignored these people offering only bits here and there to improve their way of life. It should be recognized that these servicemembers experience greater challenges; financially, physically and mentally; than those who serve on most military installations.

Therefore, NCOA resolves to memorialize the Commander-in-Chief and Congress to adequately fund U.S. armed forces recruiting and advertising requests; provide additional allowances to military personnel assigned to independent-type duties, and provide 100 percent coverage under CHAMPUS for their dependents.

BENEFITS

There is talk of reducing other Operations and Maintenance (O&M) functions that maintain the quality-of-life programs for servicemembers. NCOA is in hope that it is nothing more than conjecture and Congress does not take such proposals under serious consideration. Any reductions in commissary funds, medical benefits, travel and transportation or other subsidies will not be lightly taken by the men and women in uniform.

Frankly, the perception that Congress, again, is using military personnel programs to reduce expenditures is having a serious affect on morale. It is important that Congress pay particular attention to the ailment. If festered by actual cuts across-the-board without consideration of the ramifications involved, servicemembers are going to "vote with their feet." NCOA states unequivocally that the Nation can ill afford further losses of qualified and experienced military personnel.

Therefore, NCOA resolves to memorialize the Commander-in-Chief and Congress to fully fund the benefits currently available to military personnel pursuant to federal law and regulations, and to support appropriations to provide a CHAMPUS Dental Program for dependents of active duty personnel of the U.S. Armed Forces.

MILITARY RETIRED PAY

The Association has joined 13 other private military organizations expressing disapproval of the proposal to reduce the annual adjustments to military retired pay. The group, known as the Council of Military Organizations (COMO), represents more than one and a half million active, retired, reserve and guard members of the U.S. armed forces and their families.

Additionally, NCOA believes that the vast majority of military retirees were not recipients of the higher rates of pay provided in today's all volunteer force. Many, about two-thirds of the retired component, were enlisted. Their pay while on active duty for 20, 30, or more years was always at or near the poverty level. They made great financial sacrifices in the service of their country while many of their fellow citizens reaped higher salaries in the civilian job market. However great their sacrifices, they were always promised an adequate compensatory reward in retirement.

Many of them participated in combat in one, two or three wars. They served so that this Nation would remain a democracy in which everyone had the opportunity to improve themselves. They served while others sought greater rewards in the civilian sector.

It is inconceivable that anyone would now attempt to place these dedicated men and women in an all-encompassing-group of federally sponsored retirees, then call upon them again to make more sacrifices for their country. The Association submits that military retirees already have done their part. They have contributed more than their share. Let's not ask them to do more until all others have shouldered their part of the Nation's burden.

Therefore, NCOA resolves to memorialize the Commander-in-Chief and Congress to keep its moral obligation to retired military personnel, as now provided in law, and oppose any move to legislate the division of retired military pay.

GUARD AND RESERVE

The guard and reserve components, hereinafter referred to as "reserve units," are an integral part of the Total Force concept. Without them, the United States cannot hope to fulfill its military commitments or those it has with its allies. Their readiness depends upon having sufficient manpower, being properly trained and adequately equipped, and having the ability to rapidly mobilize and deploy.

Reserve units compose 42 percent of the Army's total strength, 33 percent of the Marine Corps', 24 percent of the Coast Guard's, 21 percent of the Air Force's, and 14 percent of the Navy's. Yet, most of the units are critically limited in overall readiness due to shortages of equipment and

manpower. Only the Air Force Reserve units are succeeding in having sufficient personnel and the necessary equipment to meet their readiness goals.

Skill matching continues to be a problem in the Marine Corps Reserve, Air National Guard, Air Force Reserve, and Coast Guard Reserve, while training remains a challenge to readiness in some Naval Reserve units and in the Air National Guard.

Recently, the Reserve Force Policy Board reported that the seriousness of readiness elements was most apparent in the lack of equipment. Training was second, followed by skill match and strength limitations. It noted that training proficiency is dependent on having equipment on which to train in order to perfect individual skills and competence through hands-on experience.

In view of the critical factors limiting the ability of reserve units to be ready to mobilize and deploy, including the lack of air and sea transportation, it is incumbent on the Association to lend its full support to the guard and reserve.

Therefore, NCOA resolves to memorialize the Commander-in-Chief and Congress to give priority to correcting the deficiencies currently restraining reserve units from being at the ready, and to support necessary manpower incentives to recruit and retain qualified personnel who are committed to reserve service with the U.S. armed forces.

HOUSING

In recent years, military housing policies, both in law and regulation, have either changed priorities in assignment of family units to military personnel or continue to be applied inequitably by grade.

Priority of assignments to family housing has shifted to junior enlisted personnel ignoring the contributions made by noncommissioned and petty officers whose qualifications and experience are of greater need in sustaining the active forces. Years of service and positions of leadership should be considered in making these assignments.

Household weight allowances are currently set by grade with the junior officers entitled to higher limits than those of senior noncommissioned and petty officers. Most senior noncommissioned and petty officers have been married for longer periods than junior officers and have larger families.

Therefore, NCOA resolves to memorialize the Commander-in-Chief and Congress to reestablish priority in assignment of military family housing to noncommissioned and petty officers above junior enlisted personnel and to revise current household weight allowances to more accurately reflect the need for transporting the household goods of senior noncommissioned and petty officers of the U.S. armed forces.

EPILOGUE

These are hard times. There are demands to balance the budget or reduce projected deficits in the proposed defense budget. However, the Nation must not permit the defense posture of its armed forces to lag further behind that of the Soviets'. Experienced manpower and well-equipped forces with weapons that are superior to those of the Soviet Union is the only way the United States can meet its defense commitments and be prepared to protect its world-wide interests.

The Nation has demanded an all-volunteer force rather than have its youth subjected to universal military service. So be it, but the Nation's tax payers must be prepared to pay the high costs involved. The AVF cannot continue to be a success without the firm commitment of the Nation's citizens and Congress. And, both must be willing to provide the military with adequate equipment under any and all circumstances. To do otherwise is not only breaking faith with those who serve in the armed forces, but placing our Nation under greater threat from world-wide Soviet intervention or aggression.

Further, the Nation must be willing to fulfill the promises to the men and women who serve or have served in its armed forces. It cannot ignore the pleas of its veterans who fought and served to keep this Nation the greatest country the world has ever known. It cannot survive without the dedication and commitment of those who now serve or will serve in the U.S. armed forces.

All branches of government; executive, legislative, and judicial; must understand that the existence of this Nation, the freedom of its people, the pursuit of happiness and prosperity, and the liberties its citizens have enjoyed, now enjoy, and will enjoy, depended or will depend on the protection provided by the men and women who have served or will serve in its armed forces.

Therefore, NCOA resolves that its full resources will be used to: educate the citizens of the United States in the need for a strong defense posture; to improve the quality-of-life for the men and women serving in the U.S. armed forces; to insure that all veterans receive their just rewards for service to the Nation; to work for congressional legislation that assures fair and equitable treatment in law for enlisted personnel of the U.S. armed forces; and to oppose any program or policy proposed by the federal government that will be detrimental to the well-being of the military and veterans communities.

(Adopted by the General Membership Assembly in Annual Convention, July 3, 1982.)●

A TRIBUTE TO MR. NIMEI AKAMATSU

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today in honor of a man who, while not an American citizen, has made great contributions to California and its communities during the past 20 years and more. I speak today in tribute to Mr. Nimei Akamatsu, who retires this summer as president of the Sumitomo Bank of California. He is returning to Japan to assume a high administrative position with the parent bank in Tokyo. However, he leaves behind a tremendous legacy of service to all Californians.

Nimei Akamatsu has been with Sumitomo Bank for over 30 years and was first assigned to Sumitomo in California in 1959. In 1962 and 1963, he was assistant manager of the Sumitomo branch in San Jose where I came to know Mr. Akamatsu very well. For the last 10 years he has held senior positions with the bank in both San Francisco and Los Angeles.

While his career as a professional banker has been distinguished, I am also impressed by the effort he has expended in contributing to the welfare of California. Because of Mr. Akamatsu, the Sumitomo bank's name has become synonymous with activities related to culture, education, health, and the revitalization of our neighborhoods.

In the San Francisco Bay area, the bank, under Mr. Akamatsu's direction, was a major contributor to the building fund for San Francisco's new Performing Arts Center. He has also served as cohost for the Bay Area UNICEF Chapter's reception and as a fund raiser for local adoption programs benefiting children who are difficult to place.

Mr. Akamatsu has also fostered international understanding between residents of the bay area and Japan. He has been a member of Mayor Diane Feinstein's San Francisco-Osaka Sister City Committee and was helpful in setting up a concert in San Francisco by the Osaka Symphony Orchestra. Mr. Akamatsu has also been a leading member of the Japanese Committee to Save the Cable Cars and helped raise a substantial sum of money for that project.

In Los Angeles, Mr. Akamatsu was instrumental in having the bank pledge $100,000 toward development of the Japanese cultural and community center in Little Tokyo. The bank has also supported other projects to revitalize that community, and has made loans for personal and business purposes in this and other moderate income areas.

At the statewide level, Mr. Akamatsu has engaged in a variety of activities including service with the California-Japan Economic Advisory Council and with the Advisory Group for Monetary Control Acts established by the Federal Reserve Bank of San Francisco.

Not content to be involved only in professional banking activities statewide, Mr. Akamatsu has supported other worthy causes, such as Children's Dental Health Month sponsored by the California Dental Association. Under his leadership the bank has also made contributions toward scholarships for California college students.

Mr. Speaker, Nimei Akamatsu has made a great name for himself and for Sumitomo Bank by virtue of his commitment to all Californians during the last 20 years and more. He has set a mark in the relations between Americans and Japanese which few could equal. I ask you and all the Members of this House to join me in paying tribute to him on the occasion of his promotion and return to Japan.●

DR. FEULNER ON DISARMAMENT

HON. EDWARD J. DERWINSKI
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. DERWINSKI. Mr. Speaker, I would like to take this opportunity to direct the Members' attention to the distinguished public service of the Honorable Edwin J. Feulner, Jr., President of the Heritage Foundation. Dr. Feulner was appointed by the President to serve as one of the five U.S. Representatives to the United Nations Second Special Session on Disarmament. Dr. Feulner representing the United States, addressed the closing plenary session last Saturday, July 10. I insert his speech in the RECORD which highlights major foreign policy relating to the arms race. Following his address is the Associated Press wrap-up on the session:

STATEMENT BY HON. EDWIN J. FEULNER, JR., PRESIDENT, THE HERITAGE FOUNDATION

Mr. President: Let me express to you the admiration of my delegation for the way you have presided over our deliberations, and through you to express our sincere and deeply felt appreciation to Ambassador Adeniji who guided the work of this conference with sensitivity, dedication, and most of all wisdom.

My delegation has been an active participant in these vital discussions. We believe that the words that come out of this Session should be considered soberly—and not merely as another rhetorical exchange. It was because of our commitment to this Session that President Reagan addresses this body on June 17; that our delegation was composed of Senators and Congressmen from both political parties and representatives from other sections of American life. It was because we wanted to reach an enduring consensus on the these critical questions of war and peace, that we—along with many other delegations—labored long into the night.

Sadly, we were unable to achieve that full consensus we all so ardently hoped for. But we shall continue to work in this forum as well as others in search of the goal of lasting peace.

As we look back over these past weeks, we must look at both our successes and failures and carefully consider the tasks that lie ahead. But first we must review the lessons of the past.

In 1978 the First Special Session produced a Final Document which embodied many of the aspirations of the world community. But why have we not at this Session been able to come to a consensus on the implementation of that Document?

Let's look at the historical record. Shortly after the First Special Session, one major power violated the most fundamental principles of the UN Charter, and invaded its nonalined neighbor. They continue to occupy that hapless country. A war of agression continues in Southeast Asia; other regional conflicts rage unabated; subversion is being exported to Central America, Africa, and other areas; and the quest for freedom is still suppressed in Eastern Europe. In short, the world increasingly lives in fear. Small wonder, then, that the implementation of the lofty goals of the Final Document has remained a distant and illusive dream.

Given their transgressions against the most sacred tenets of the UN Charter since the First Special Session, it is not surprising that some nations argued against language recounting the history of the past four years.

But we must now look to the future. The major project before this conference was, as President Reagan noted, "To chart a course of realistic and effective measures in the quest for peace"— a Comprehensive Program of Disarmament. Progress was made, but the task remains unfinished. We have all reaffirmed the validity of the Final Document and pledged ourselves to renewed efforts toward disarmament. Let me restate that pledge today for the United States.

The United States is proud of its record in disarmament. President Reagan has outlined a clear program to deal with the most pressing and dangerous problems. We have called for real and militarily significant arms reductions, particularly in the field of nuclear weapons. We have called for a one-third reduction in strategic ballistic missile warheads, the elimination of all land-based intermediate range missiles, and new safeguards to eliminate the risk of accidental war. Moreover, just two days ago, the United States and its allies introduced a comprehensive draft treaty in the Mutual and Balanced Force Reduction Talks in Vienna. This proposal calls for a substantial reduction of ground forces on both sides and the implementation of a package of associated confidence-building and verification measures. In all these negotiations, we have offered neither unverifiable measures nor meaningless rhetoric, but rather concrete proposals for major reductions in the arms and armed forces of the United States and the Soviet Union.

Make no mistake. We are not satisfied with the current international situation and intend to do our part for peace and stability on this small planet.

Mr. President, at this Special Session on Disarmament, we have been considering the most important issue facing mankind—how to prevent war. Or, to put it in a more positive sense, how to establish a secure peace. Regrettably, there is no magic formula or instant panacea to attain that peace we all so fervently desire; it cannot be mandated by committees or by resolutions.

We have heard, again today, the reiteration of the Soviet "no-first-use" of nuclear weapons pledge. Our policy goes far beyond this pledge. The Soviet representative attempted to denigrate the NATO policy. But he cannot. As the leaders of NATO declared at their recent Summit, "None of our weapons will ever be used except in response to an attack." This is our pledge and our policy.

But we believe there is a better way, and we will continue to seek it as we have done at this Session.

During the past weeks we have offered concrete proposals and initiatives on a wide range of issues.

We are dedicated to a real World Disarmament Campaign. We believe that the open and universal availability of information of disarmament matters is vital. Excessive secrecy can only create mistrust and misunderstanding among the peoples of this world; such secrecy is a true enemy of peaceful relations among nations. The United States, as an open society, publicly makes available vast amounts of information on the momentous issues of war and peace.

We have no illusions as to the serious obstacles which have frustrated the objective of a free flow of information in the past. We are all well aware that while hundreds of thousands demonstrated openly and peacefully for disarmament in the streets of New York and other cities of the world, 7 people who dared unfurl a banner calling for "Bread, Life, and Disarmament," were arrested in Moscow. It is a sad commentary that to some societies these words are considered "anti-state" when used domestically, but are considered "state policy" when used internationally.

In the spirit of open discussion President Reagan has offered President Brezhnev the opportunity to address the American people on our TV on the vital questions of peace and disarmament for a chance to address the Soviet people. In this Session, we have offered specific proposals for similar multilateral discussions and regional seminars throughout the world. We believe that an informed world public is the best guarantee for peace and understanding among nations.

In addition to our proposals regarding the World Disarmament Campaign we have offered other concrete initiatives at this Session. During the past several years, disturbing reports have reached the outside world that toxins and other lethal chemical weapons are being used in conflicts against people in remote regions of the world. Unfortunately, the borders of these regions remain sealed to the world community. We have therefore urged that the General Assembly call on the Soviet Government, as well as the Governments of Laos and Vietnam, to grant full and free access to areas where chemical attacks have been reported so that the UN Group of Experts can conduct an impartial investigation.

We have also called for the convening of an International Conference on Military Expenditures. Such a conference would build on past UN efforts calling for universal adherence to a common reporting and accounting system on military expenditures. The frightening reality of vastly increased military budgets has been documented by recognized centers for disarmament throughout the world. Yet for the past ten years, one superpower has provided a manifestly ridiculous figure for its military budget to the world community. This universally discredited figure underscores the need for an International Conference on Military Expenditures.

As we conclude our work of this Second Special Session on Disarmament, I am again struck by the awesome task before us. Never have so few been responsible for the fate of so many. Let us not forget nor shirk this responsibility as we continue our search for a true and lasting peace.

Thank you, Mr. President.

UN SESSION WINDS UP IN FAILURE

(By O. C. Doelling)

UNITED NATIONS.—The U.N. General Assembly wound down its second special session on disarmament Saturday, a session that failed to produce a comprehensive plan for ending the worldwide arms race.

The final meeting became a platform for the kind of East-West debate which some delegates blamed for the failure of the session to produce a more substantive disarmament program.

"Washington prefers to continue to escalate the arms race," said Soviet Ambassador Oleg Troyanovsky.

"The United States is proud of its record on disarmament," said American representa-

tive Edwin Feulner Jr., who attacked the Soviets for its intervention in Afghanistan, the Vietnamese occupation of Cambodia, subversion in Central America, and the suppression of freedom in Eastern Europe.

The final product of the five-week session was a document that expressed the members' "profound preoccupation over the danger of war, in particular nuclear war, the prevention of which remains the most acute and urgent task of the present day."

The assembly also stressed "the need for strengthening the central role of the United Nations in the field of disarmament" and recommended consideration of enlargement of the 40-member Geneva Disarmament Commission "consistent with the need to enhance its effectiveness."

Disarmament advocates at the session had hoped to win consensus approval for a more sweeping document containing a disarmament timetable, starting with a nuclear test ban and concluding with elimination of nuclear and conventional weapons.

But in a climate of East-West tension, the unwieldy, 157-member assembly could agree on practically nothing. The United States and the Soviets continued to do their serious arms control negotiations in private, bilateral talks in Geneva.

Expressing the frustration of many delegates, Swedish Undersecretary of State Inga Thorsson, chairman of her country's delegation, said it was "regrettable that most of the leading powers, and especially the superpowers, again have not shown themselves prepared to make use of United Nations as an instrument for genuine disarmament efforts.

"This is a fact which the overwhelming majority of countries deplore today. The leading military powers will themselves deplore it tomorrow," she said.

"We must admit the session has not been a success," Assembly President Ismat T. Kittani of Iraq told the final meeting.

The reason, he said, was "the sad state of the world in which we live." The session coincided with wars in the Falkland Islands, Lebanon and in Kittani's native Iraq.

Troyanovsky said the United States and its NATO allies came to the session "virtually empty-handed." The Soviet Union, by contrast, had pledged at the session not to be the first to use nuclear weapons, Troyanovsky recalled.

Feulner, president of the conservative Heritage Foundation of Washington, D.C., countered the Soviet statement by reminding the assembly that President Reagan had made a number of disarmament proposals, calling among other things, for a one-third reduction in nuclear warheads on strategic missiles and for an international conference on military expenditures.

"The United States is proud of its record in disarmament," he said. "No country is more actively pursuing progress in this field."

Feulner noted that since the first special session on disarmament four years ago, the Soviet Union had intervened in Afghanistan, Soviet-backed Vietnamese troops occupied Cambodia and "subversion is being exported to Central America, Africa, and other areas, and the quest for freedom is still suppressed in Eastern Europe."

He indicated that the United States had wanted its charges against the Soviets included in the draft of any comprehensive statement, which the Soviets opposed.

Feulner said that in view of Soviet bloc "transgressions" it was "not surprising that some nations argued against language recounting the history of the past four years."

While hundreds of thousands of anti-nuclear protesters demonstrated freely in New York and other cities in the world, Feulner recalled, seven disarmament demonstrators were arrested in Moscow.●

THE GREAT DECISIONS PROGRAM

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. ZABLOCKI. Mr. Speaker, for a number of years I have expressed a strong interest in and support for the great decisions program of the Foreign Policy Association. Now in its 28th year, the great decisions program provides a nonpartisan, balanced presentation on eight important issues relating to international affairs to over 150,000 participants. Designed for self-study or small group participation, great decisions is the Nation's oldest and most popular citizen education program in international affairs.

Mr. Speaker, because of the importance of the great decisions program and its interest to our colleagues since every one of our States is represented among its participants, I wish to share with you and our colleagues the results of this year's great decisions balloting, which follows:

GREAT DECISIONS BALLOTING

TOPIC 1: AMERICA'S DEFENSE: WHAT PRICE SECURITY?

For the first time since the question was asked in 1978, the proportion of Americans participating in the Foreign Policy Association's Great Decisions program who described U.S. foreign policy during the past year as "too weak" declined sharply. Whereas the percentage of those who said they considered the foreign policy stance of the U.S. government "too weak" rose from 44 percent in 1978 to 65 percent in 1980 and 69 percent in 1981, only 33 percent endorsed this alternative in 1982, after the first full year of the Reagan Administration. In contrast, the proportion describing U.S. foreign policy as "too tough" rose from 5 percent in 1981 to 29 percent in 1982. The remainder—38 percent—described U.S. foreign policy as "about right," a far larger percentage than in any of the three preceding years in which this question was asked. Significantly enough, however, a large number of respondents—some 17 percent—did not select any of the three options offered. Additional analyses indicate that these nonrespondents were more likely to take a "dovish" position on the remaining issues on the ballot and to reject the terms in which the question was framed, instead describing U.S. foreign policy during the past year as "too inconsistent."

While the figures above indicate a substantial gain in approval for the Administration's general foreign policy stance, two Reagan military policies appear to be in trouble. On defense spending, only 16 percent of the respondents thought the U.S. should spend as much over the next five years as President Reagan had asked for in his original request; 32 percent thought the U.S. should spend more than in the past but less than the President asked for; and 21 percent wanted to spend less than in the past. And on arms control, only 26 percent agreed with the Administration that the U.S. should concentrate on an arms buildup before entering new arms control negotiations; 63 percent favored abiding by the terms of SALT II as long as the Soviets do and resuming arms control negotiations.

On the question of a return to the military draft, only 48 percent of Great Decisions respondents were in favor; 52 percent were opposed. The results were similar to those in a July 1981 Gallup poll which indicated 48 percent supported a return to the draft, down from 58 percent a year earlier.

TOPIC 2: WESTERN EUROPE AND THE U.S.: FRICTIONS AMONG FRIENDS

By a small margin, participants in the Great Decisions discussion program who returned their ballots favored a somewhat reduced role for NATO in U.S. foreign policy considerations. Some 42 percent advocated seeking expanded cooperation with NATO, whereas 48 percent argued for cooperating with NATO when interests coincided but accepting the fact that this will not always be the case.

So far as military relations with NATO are concerned, a slim majority (52 percent) favored continuing the policy of strengthening NATO's defenses, but a sizable minority (30 percent) advocated threatening to withdraw U.S. forces from Europe unless European members of NATO are prepared to contribute more substantially to their own defense. Almost one fifth of those responding to these questions favored neither of these options, however, writing in a variety of other proposals instead.

With respect to a specific policy option under consideration at the time the discussion groups were held—namely, deploying 572 new U.S. nuclear weapons in Europe—respondents were clearly divided: 47 percent advocated proceeding with deployment and entering into arms negotiations with the Soviet Union, whereas 39 percent voted in favor of abandoning the missile plan because of the substantial opposition which has arisen to it in Europe. Again, a sizable minority (15 percent) agreed with neither of the offered alternatives, writing in a variety of other policy proposals instead.

TOPIC 3: CENTRAL AMERICA: FIRE IN THE "FRONT YARD"?

Overwhelmingly, respondents blamed continuing poverty and injustice for unrest in Central America: 76 percent of those who responded ranked this first in order of importance, followed by urbanization and growing political sophistication of the population, then by Cuban and other Communist and leftist agitation, and, finally, American weakness in the region.

Asked to choose among five possible policies toward "a country such as Guatemala, where the government has often been accused of condoning human rights violations, and which faces a challenge from leftist or Communist guerrillas," a large plurality (41 percent) advocated providing economic aid to the government on condition that it cease human rights abuses. The next largest endorsement, by 26 percent of the respondents, was for the U.S. to stay out of the area, letting Central Americans determine their own future. A somewhat smaller percentage—15 percent—opted for providing economic aid with no strings attached. Only 2 percent declared themselves in favor of covertly trying to undermine the government; more than twice as many (5 percent)

said they would provide unconditional military as well as economic aid; and 11 percent wrote in some policy alternative other than the five offered.

When confronted with the problem of dealing with leftist "revolutionary" governments such as that of Nicaragua, opinion was almost evenly divided between those who said "Keep relations open but provide no support" (35 percent) and those who favored keeping relations open and giving economic aid (39 percent). Only 15 percent selected the "stay out of the area" option in the case of leftist revolutionary governments; but 3 percent favored covertly trying to undermine the government, and another 3 percent favored trying to isolate the country and breaking diplomatic relations. In the case of Nicaragua, only 5 percent of the respondents volunteered some policy alternative other than the five offered.

TOPIC 4: THE PALESTINIANS: HISTORY, POLITICS AND CONFLICT

Like other samplings of public opinion, ballots by Great Decisions participants suggest a growing impatience with Israeli's stance in the Arab-Israeli dispute and increasing sympathy with the Palestinian position. Whereas a year ago almost two thirds of the respondents advocated continuing to work closely with Egypt and Israel to make the Palestinian autonomy negotiations a success, only 43 percent endorsed this option in 1982. In 1982, 35 percent advocated abandoning the autonomy talks and pressing for mutual recognition by Israel and the PLO and for a Palestinian state with adequate security guarantees for Israel; in 1981, only 14 percent had endorsed a similar option, one which did not, however, include explicit mention of security guarantees for Israel in the event a Palestinian state was created.

On a separate issue, which asked whether the U.S. should negotiate with the PLO under any circumstances or only if it accepted Israel's right to exist, 62 percent of the respondents advocated opening a dialogue regardless of the PLO's stance toward Israel.

TOPIC 5: PROTECTING WORLD RESOURCES: IS TIME RUNNING OUT?

Responses to a series of questions concerning hunger and population growth in poor countries show substantial majorities agreeing with the propositions that in populous poor countries, basic human needs should take priority over environmental concerns; and that in time, new technologies will be developed to prevent shortages of resources. By a similar margin (64 percent), respondents agreed that long-term supplies of food to poor countries encourage population growth, which in turn may lead to future famine. Very few respondents saw high population growth rates as contributing to a country's wealth, and only 40 percent saw the removal of inequalities between rich and poor nations as solving the problem of inadequate resoures for some countries.

There was little agreement among respondents on the best of dealing with environmental problems in less-developed countries, with response almost evenly divided among recommendations to provide ecomomic and technical help primarily through international organizations (36 percent), primarily through bilateral arrangements (27 percent), or primarily by encouraging self-help among less-developed countries (33 percent).

With respect to environmental problems in the U.S., however, there was more substantial agreement on policy options: 55 percent of the respondents said that the U.S. should strengthen existing environmental regulations; only 11 percent said that the regulations should be relaxed; and less than one percent were in favor of abolishing them altogether. The remaining respondents would keep environmental regulations as they are (24 percent) or advocate some "other" option (10 percent), including selective relaxation of existing regulations.

In 1980, Great Decisions participants were asked to rank seven sources of energy in the order in which they thought the U.S. should emphasize them in its long-term energy future. Conservation ranked first, by a large margin, followed by solar energy and then domestic oil and gas. Nuclear energy, synthetic fuels, coal, and, finally, foreign oil and gas all received less than 10 percent of the nominations for first place. The question was repeated in 1982 and received the identical ranking. However, no doubt reflecting the short-term easing of gas and oil supplies, the nominations of conservation declined significantly from 1982; both solar energy and domestic oil and gas, on the other hand, received somewhat more nominations for first place than they did two years ago.

TOPIC 6: JAPAN: STRATEGIC ALLY, ECONOMIC RIVAL

By a substantial margin (60 percent), Great Decisions participants who returned their ballots felt that, in its economic relations with Japan, the U.S. should seek reciprocal lowering of trade barriers. Neither of the other options offered—removal of all trade barriers between the two countries, or selective increases in trade barriers to protect U.S.industries—attracted more than 18 percent of the responses.

So far as Japan's defense commitments are concerned, opinion was divided between those who would use quiet diplomacy to persuade Japan to increase its commitments (44 percent), and those who would let Japan determine its own commitments (38 percent). None of the other opitions offered was endorsed by more than 6 percent of the respondents.

TOPIC 7: GLOBAL INFLATION: IS THERE A CURE?

Responses to a series of options designed to reduce inflation in the U.S. indicate mixed support for the Administration's economic policies: 75 percent of the respondents, for example, agreed that government spending should be cut, even if this meant reducing government services; an equal percentage said that military spending should be restrained, and 70 percent said that price supports and quotas should be reduced. By a somewhat smaller margin, respondents urged maintaining tight control over the money supply, even if this resulted in a period of high interest rates. But only about half agreed that taxes should be cut as a spur to savings and investment, and an equal percentage endorsed wage-price guidelines (though only 25 percent voted in favor of wage-price controls).

Asked about policies designed to counter worldwide inflation, respondents overwhelmingly endorsed working with other countries to reduce trade barriers, even if this caused hardships for some U.S. industries (81 percent), and an emphasis on measures, including aid to developing countries, which can increase the global supply of food and energy (85 percent). Only 32 percent advocated considering measures to end flexible exchange rates, including a return to the gold standard, as a way to reduce global inflation.

TOPIC 8: POLAND AND THE U.S.S.R.: TROUBLES IN THE WORKERS' PARADISE

As on many of the other issues already discussed, opinion on policies toward Poland is divided. (It should be mentioned that this topic and the opinion ballot were written before martial law was imposed in December 1981.) A majority—55 percent—believed the U.S. should continue financial aid to Poland and work with its allies to ease Poland's economic crisis. But a substantial minority—33 percent—advocated discontinuing economic and food aid to Poland in order to force the Soviet Union to bear the cost of sustaining Poland's economy, and an additional 12 percent urged a variety of other options.

In the light of a possible invasion of Poland, which seemed more likely at the time the Great Decisions ballots were drafted than it does today, 43 percent of those responding felt that the U.S. should make clear to the U.S.S.R. that reprisals would follow such an invasion. But about 20 percent of those responding selected one or the other of two alternative options offered—conceding that Poland legitimately fell in the Soviet sphere of influence, on the one hand, or encouraging labor discontent in the Soviet bloc, even at the risk of prompting a Soviet invasion, on the other. As with many of the other issues, a substantial proportion of the respondents wrote in a variety of other proposals, often some combination of those above.●

GOING BANKRUPT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. HYDE. Mr. Speaker, I was extremely pleased to read the Washington Post's July 15, 1982, editorial, "Going Bankrupt," and I wish to make it a part of the RECORD. The Post notes that since the passage of the Bankruptcy Reform Act in 1978, there has been a dramatic increase in the number of bankruptcies filed in this country. Some, like House Judiciary Committee Chairman PETER RODINO, New Jersey, and the original sponsor of the 1978 act, Congressman DON EDWARDS, California, deprecate the need for changes in the new law by saying that bankruptcies have increased due to the legalization of advertising by attorneys and by the decline of the economy. Others, like Senator ROBERT DOLE, Kansas, and 36 members of the Senate, together with Congressman BILLY LEE EVANS, Georgia, and 276 others in the House, including 12 of us on the House Judiciary Committee, believe some rather far-reaching changes in the law were made in 1978 and that they have also contributed significantly to the rise.

For example, much of the onus which has historically discouraged bankruptcies and thereby encouraged repayment has been removed from the law; the word "bankrupt" does not even appear in the statute, and the principal emphasis of the law has been

shifted to the "rehabilitation" of the "debtor" rather than the repayment of financial obligations. How many Americans realize that the 1978 law permits a couple who has gone bankrupt, that is, whose debts are greater than their combined assets, excluding salary or future earning potential, to protect up to $15,000 in equity in a house from their assets available for repayment—or, as is often the case, up to $15,000 in cash or other property if they rent? Or $1,200 more in equity in a car? Or up to $200 for each of any number of "household furnishings," clothes, appliances—including, presumably, televisions, radios, and stereos? A quick calculation suggests that a young professional couple with a combined income of over $50,000, and a taste for charging their purchases on credit cards, can reasonably deduct over $20,000 from the value of their assets before one single cent becomes available to creditors. In addition, their $50,000 plus income is not touched in any way. Though these people may be a small percentage of the whole, their numbers are significant and, as word spreads of the loopholes, they will be on the rise.

To be sure, credit has been too easily obtainable in the past through permissive Federal Reserve policies regulating bank credit and also because of the increased "ability to pay" of young professionals, not to mention the credit industry's lust for a quick profit. However, as the Post suggests, the 1978 act went too far and has now become a source of abuse. Whether defenders of the status quo are willing to admit it or not, changes in lending policies brought about by defaults will ultimately work to the disadvantage of poorer individuals who often have no security to offer in exchange for loans. "Ability to pay" determines eligibility for credit, yet opponents of change do not want it to be a consideration in calculating the repayment obligation.

Many of us in the Congress supported the 1978 act as the first meaningful effort in more than 40 years to streamline the bankruptcy system. Happily, the Post now joins us in our desire to plug some of the loopholes created by that act, and more equitably provide incentive to small businessmen to continue extending credit.

Unfortunately, the Judiciary Committee has chosen to sit on the Evans bill—H.R. 4786—in an attempt to kill it in committee. Now, the Supreme Court has ruled that the court system created by the Reform Act is unconstitutional and that the Congress must approve an alternative by the time the Court's fall term begins on October 4. I wish I could be as optimistic as the Post when it says that "Congress * * * will no doubt meet [this] deadline." It should, but what should happen often does not, and by early October the Court will probably be told that its stay should be extended until Congress begins a new session. Changes in the bankruptcy court and the act itself need to be made now, but do not be surprised if, once again, the will of the House, and, indeed, of a good part of the entire Congress, is frustrated.

The editorial follows:

GOING BANKRUPT

The Bankruptcy Act is one of those laws that silently regulate our lives, helping to determine who can get credit and on what terms, and how much goods and services that are purchased on credit will cost. So it makes sense to pay attention when Congress considers, as it is considering now, making important changes in the Bankruptcy Act—especially since Congress may act more rapidly than is usual in these matters. The reason is that Congress has suddenly been presented with a Supreme Court decision that found a constitutional defect in the law establishing bankruptcy judges and gave Congress an Oct. 4 deadline for curing that defect. Congress, led on bankruptcy issues by reasonable legislators in both houses, will no doubt meet that deadline. The question is whether it will decide to do anything else, and if so what.

The most important proposed change is one that would make it more difficult for individuals to use the provision of the Bankruptcy Act, Chapter VII, that allows them to expunge their debts. Backers of this change include consumer finance companies, department stores and banks, all of which suffer short-term losses when a larger-than-anticipated number of their debtors escape their debts through bankruptcy. They suggest that changes made in the 1978 Bankruptcy Act plus extraneous factors—notably the Supreme Court's legalization of advertising by lawyers and a lessening of the stigma attached to going bankrupt—have increased the number of bankruptcies. And they say that, though creditors may suffer short-term losses, in the long run it is other consumers who will have to pay more to compensate for those who will not pay their debts. Many people go bankrupt though they have steady paychecks; bankruptcy costs them most of their current assets but none of their future earnings. Advocates of change want bankrupts who do have steady paychecks to be required to use some future earnings to pay some or all of their debts. Opponents of these changes argue that bankruptcy traditionally has not touched future income, and that the harm to creditors and consumers has been overstated.

The Senate, led on this issue by Sen. Robert Dole (R-Kan.), seems inclined to support the changes. The House, led by Reps. Peter Rodino (D-N.J.) and Caldwell Butler (R-Va.), seems disposed to resist them. So it may turn out that this important matter will be settled under tight deadline in conference committee.

Our own view is that the Senate is right, and the present bankruptcy rules need tightening. Bankruptcy has become a little too easy for debtors, at too great a cost to other borrowers and consumers. But it's also true that broad changes in social standards have contributed to the increasingly common resort to bankruptcy. The changes that can be accomplished by this kind of amendment are, at best, limited.●

A TAX CREDIT FOR SENIOR CITIZENS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. FINDLEY. Mr. Speaker, senior citizens across America on fixed incomes have been hard pressed during the times of high inflation and a sluggish economy. Many of them work all their lives to buy a home. But once they own it, many find that paying the taxes on that home or paying increases in rent places an intolerable burden on them.

State and local governments control real estate taxes, of course, not the Federal Government. But the Federal Government could ease the strain by giving senior citizens a Federal income tax credit for taxes they pay on their homes. I am introducing a bill to do just that.

My bill would allow a credit of up to $300 for real estate taxes paid by those age 65 and older. Senior citizens who rent houses or apartments could take 25 percent of their rent as a credit up to the $300 limit. It would apply only to those with incomes of $8,000 or lower—$4,000 in the case of a married individual filing a separate return.

If a senior citizen pays no income tax, or if his or her income taxes are less than the real estate tax due, then he or she would get a check from the U.S. Treasury for the difference.

This feature is needed because many older persons pay little income tax. They get their income from social security and private pension payments which are not taxed. My bill would give them the relief they need regardless of how little income tax they pay.

This tax credit is an excellent way for the Federal Government to lend senior citizens a helping hand in these tough economic times.●

NO NET COST TOBACCO BILL

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. FOUNTAIN. Mr. Speaker, I rise in support of the "No Net Cost Tobacco Program of 1982" as amended by the Senate.

And while I am far from being totally satisfied with each and every aspect of this bill, I am confident that we have come up with the best possible bill at this time.

As many of our colleagues are aware, tobacco farmers have been "put on hold" for weeks awaiting action on this legislation; and the sooner we act, the better it will be for all concerned.

Indeed, our farmers have, in some cases, had to renegotiate loans and delay sales (at high costs to the farmers); and they have waited patiently and in good faith for responsible action by this Congress on this matter.

Regrettably, too few Members of this body and too few people all over this land realize that this is a life-or-death economic matter, not only for tobacco farmers, but also for agriculture in general—especially its financial impact upon our total economy, including every unit of government in America.

While it has been said before, I think it bears repeating that the tobacco program has traditionally been the least expensive commodity program; and the adoption of the "No Net Cost Tobacco Bill" will complete that job.

At a time when some commodity programs are literally costing the taxpayers billions of dollars annually, it is appropriate to recall that tobacco is a big plus, not a minus, on our country's balance sheets.

At a time when unemployment figures are going through the roof, it is well worth noting that over 850,000 people depend directly on the tobacco industry for employment. And while some of this work provides necessary seasonal supplemental income, tobacco also provides nearly 430,000 full-time jobs and $4.5 billion in personal compensation.

These jobs—from farming to auction warehousing to manufacturing and distribution to retailing—are in place and secure largely because of our Nation's successful tobacco program. And we need to insure that this program is maintained and strengthened.

In addition to the hundreds of thousands of jobs generated by tobacco, a lot of Federal, State, and local government activities are supported through the taxes collected from the tobacco industry.

In fact, in 1979 the Federal Government collected over $4.4 billion from taxes on cigarettes and other related items. At the same time, the States gathered over $4.3 billion in taxes and local governments cashed in to the tune of $248 million. With Federal deficits reaching all-time highs, we must act to insure that these much-needed funds continue to flow in.

And faced as we are with our Nation's anemic balance of trade picture, it is important to remember that the tobacco industry also provides America with nearly $2.3 billion in foreign exchange annually. And that's important today.

Mr. Speaker, our farmers need quick and responsible action on this legislation.

Many, many people have worked long and hard to comply with the requirements laid out in the 1981 farm bill, and the goals of that legislation have been met in the "No Net Cost Tobacco Bill."

Failure to act promptly and positively could bring disaster to our farmers and a devastating impact upon a $60-billion segments of our economy.

In this time of huge deficits, high unemployment, and high interest rates, the tobacco program is aiding our troubled economy, not draining it.

Again, I urge favorable action on the "No Net Cost Tobacco Bill." And I commend Mr. ROSE, Mr. WAMPLER, and Mr. WHITLEY and all others who have waged a desperate, but so far successful, fight to save our tobacco program. It has been a satisfying experience for me to have been able to cooperate with Republicans and Democrats alike in our joint, all-out effort to save such a big financial segment of our economy.

TO THE BEACHES—OIL RIGS ARE COMING

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. MARKEY. Mr. Speaker, the New York Times today carried an essay on the op-ed page which addressed the issues surrounding Interior's accelerated offshore leasing program. The plan, which is expected to be approved by Secretary Watt later this week, calls for the leasing of a billion acres of the Outer Continental Shelf for the purpose of oil and gas development.

The author points out some of the irreparable consequences of this unprecedented and environmentally dangerous program. Last week, 28 of our colleagues from the House and Senate, joined me in signing a letter to Secretary Watt which voiced some of the same deep concerns expressed in the Times article.

The article follows:

TO THE BEACHES! OIL RIGS ARE COMING!

(By Deni Greene)

SACRAMENTO, CALIF.—From Maine to Florida to California to Alaska, thousands of miles of America's coastline have long provided Americans with fishing, tourism, spiritual nourishment and a special way of life. Now all of this has been endangered by Secretary of the Interior James G. Watt's proposal for an unprecedented crash program to accelerate oil and gas drilling off the nation's coasts. California's spectacularly rugged Big Sur, New England's prime lobster and fishing areas and the magnificent icy bays along Alaska's coasts could be ravaged if Mr. Watt's irresponsible and reckless program is not stopped.

The damage—to commercial fisheries, marine mammals, endangered species, recreation and tourism—could be irreparable. Coastal splendors could be ruined by oil spills, tanker and barge traffic, busy harbors and air pollution. The subsistence economies of native Alaskans would be destroyed forever.

Secretary Watt's plan would lease a billion offshore acres to the oil industry over the next five years. His proposal has been reviewed by Congress and the President and is scheduled to be adopted this week by the Interior Department. Parts of the plan will start immediately unless it is opposed by local pressure and overridden by new initiatives in Congress and the courts.

President Nixon caused an outcry in 1974 when he ordered 10 million offshore acres to be leased, an amount equal to the total area leased since the outer-continental-shelf drilling program began in 1953. In 1980, President Carter announced a plan to lease nearly 60 million acres over five years, pointing out that this was the maximum that could be made available and still provide environmental safeguards. But Mr. Watt's program goes even further, affecting a billion acres with 41 oil and gas lease sales in the Gulf of Mexico, offshore Alaska, off California and in Atlantic coast waters.

In California alone, all 1,100 miles of the coastline from Mexico to Oregon would be involved, including offshore Santa Barbara, Santa Cruz, Big Sur, Monterey, Carmel, Los Angeles, Orange County, San Francisco, San Diego and the undeveloped California North Coast. California supports offshore oil development where there is sufficient oil to justify the danger to the environment, but the Watt plan would lease the entire coast without regard for environmental risk or the nature of the local economies.

The effects of the plan would be felt across the country—from New England's Georges Bank to Carolina waters to various offshore Alaska areas. Opponents complain about the rapid pace of leasing and charge that the amount of oil expected to be found in many areas is small in comparison with environmental costs. To further aggravate matters, the Reagan Administration is simultaneously eliminating Federal financing for coastal management programs that state and local officials need to deal with the consequences of offshore development.

The Watt program is not even part of any overall, comprehensive national energy policy. It is motivated above all by fiscal concerns. The Reagan Administration is dismantling the Department of Energy and has cut programs for conservation and renewable energy sources—solar, wind, geothermal, small hydroelectric and biomass sources. Those resources could provide as much energy as the Watt plan, and would do so without draining America's oil reserves. The Watt program appears to be driven solely by the Administration's need to raise revenue from lease sales and reduce the Federal budget deficit.

The Watt plan must be opposed by local political pressure and replaced by small-scale plans for offshore development that take into account citizens' concerns and protect the environment and lcoal economies. Moreover, changes in the plan should be mandated by Congress and the courts. Ten California Congressmen—Republicans and Democrats—have already proposed a bill to impose a moratorium until the year 2000 on oil drilling off the sensitive northern California coast. And recently, Gov. Edmund G. Brown, Jr. of California won a victory in Federal court to prohibit Mr. Watt from leasing certain offshore southern California tracts.

More such court and legislative actions are needed to stop this mindless rush to destroy America's coast. Secretary Watt must not be allowed to change the American coastline more in the next five years than

nature has changed it in the last five million.●

WHOSE SECURITY IS IT, ANYWAY?

HON. BENJAMIN S. ROSENTHAL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. ROSENTHAL. Mr. Speaker, in 1974, the Treasury Department agreed to an outrageous plan. The plan provided that details surrounding the bulk of investments made by Saudi Arabia, Kuwait, and the United Arab Emirates in the United States would be kept confidential from the American people.

Such Arab petrodollar investments in the United States could hold this country hostage to foreign government control. It is reported that these investments may total anywhere from $75 to $200 billion. Under these conditions, it is not hard to see that when information regarding investments of such massive size is not forthcoming, insidious, and quickening breaches in our economic and national security cannot be far behind.

Senate approval of the sale of AWAC's to the Saudi Government is illustrative of the influence brought by these huge petrodollar investments. Thousands of telegrams were received by Senators from business leaders, including the heads of such firms as Rockwell International, American Airlines, Firestone Tire & Rubber Co., Procter & Gamble, and Wells-Fargo Bank. It is frightening both that such pressure may be brought to bear and that such pressure may be successful even though the results of such actions are detrimental to our national interests.

Such a scenario—and it is not isolated in American industry and politics over the past several years—threatens to jeopardize the integrity of the American political process and may threaten U.S. national security. Another example: In the recent takeover of the Santa Fe International Corp. of California by Kuwait, the Kuwaitis not only gained control over 5 percent of the world's oil rigs but also of a Santa Fe subsidiary which is engaged in highly sensitive nuclear research and engineering for the Defense Department.

Last month, I had the privilege to speak before the annual meeting of the Anti-Defamation League of B'nai B'rith, a group that has keen insight into the dangerous implications of this unacceptable political situation. During their convocation, the National Commission overwhelmingly adopted a resolution calling into question the propriety of Arab investments, holdings, and economic influence in the United States, and detailing what they, and I, strongly believe should be done about the issue. The 400 American Jewish community leaders to whom I had the opportunity of speaking exhibited a presence of mind and an abiding desire to redress a position that should be untenable to all Americans. The action and concerns of the Anti-Defamation League are, as always, laudible ones.

As chairman of the Commerce, Consumer, and Monetary Affairs Subcommittee, and as a member of the Foreign Affairs Committee, I am drafting legislation in Congress to remedy this problem. I believe the time is long overdue to terminate the agreement of confidentiality made between the Treasury Department of the Arab bloc. My bill would:

First, restructure the U.S. Government's monitoring, and reporting foreign direct investment in the U.S. It would centralize these functions in one agency.

Second, restrict foreign direct investment in vital national interest sectors, such as defense and nuclear energy and weapons. It would require Federal review of foreign direct investment in several other important national interest sectors.

Third, strengthen U.S. Government reporting requirements. At the very least, the Federal Government would have to publish annually country by country and industry subsector breakdowns on inward investment in the United States. Penalties for violating the registration and reporting requirements would be strengthened.

I believe a serious error was made 8 years ago. All that has come of the association between our Treasury Department and these money-glutted Arab nations is a threat to the delicate balance in which rests our national security.

I would like, at this time, to share with my colleagues the text of the resolution adopted by the National Commission of the Anti-Defamation League of B'nai B'rith.

The resolution follows:

RESOLUTION ON ARAB INVESTMENTS, HOLDINGS, AND ECONOMIC INFLUENCE IN THE UNITED STATES

Whereas, investments and holdings by foreign governments, and agents and agencies they control, may pose a threat to the integrity of the American political process and to the independence of the United States in the formulation of domestic and foreign policy;

Whereas, since 1974, Arab members of the OPEC oil cartel, primarily Saudi Arabia, Kuwait and the United Arab Emirates (U.A.E.), have amassed an estimated $350 billion or more in surplus petrodollar earnings and have deployed an estimated $300 billion or more in investments and holdings around the world;

Whereas, the investments and holdings in the United States of these Arab OPEC governments, and agents and agencies they control, have been estimated at anywhere from $70 billion to as much as $200 billion;

Whereas, the detailed accounting of Arab government investments and holdings in the United States has been withheld from the American people and denied to their elected representatives because of preferential treatment, secrecy and anonymity demanded by Arab governments and granted to them in 1974 by the U.S. Treasury Department;

Whereas, in pursuance of this policy, the Treasury Department has refused to disclose, on a country-by-country basis, precise figures concerning the investments an holdings of Saudi Arabia, Kuwait and the United Arab Emirates, although such country-by-country statistics are publicly available for every other country in the world;

Whereas, this policy thwarts the "right-to-know" of the American people and has frustrated the efforts of Congressional investigators to obtain information necessary for the proper performance of their legislative duties;

Whereas, former officials of the American government have registered as agents of Arab governments while others, after leaving the U.S. public service, have formed close business associations with Arab companies, or with American companies holding large contracts with Arab governments, or seeking such contracts;

Whereas, the holdings, investments and purchase contracts of Arab OPEC governments have had a political influence on legislative and policy decisions of the U.S. governments—for example, in the 1978 sale of F-15 military jet planes and the 1981 $8.5 billion AWACS and F-15 enhancement package sale to Saudi Arabia;

Whereas, Certain U.S. banks manage, on a confidential basis, investment portfolios for Arab governments and agencies they control and often act as their agents, nominees and fiduciaries;

Whereas, Arab governments or arms of those governments—such as Kuwait—have been identified as owning more than a million shares of common stock in a number of leading American corporations, some of them involved in industries essential to the national security of the U.S.:

Whereas, Arab governments, or their agents or agencies, in recent years have purchased substantial or controlling interests in a number of American corporations, banks, and other enterprises, including American farm land and real estate;

And whereas, existing legislation to monitor and control foreign investments and holdings in the U.S. has failed to meet the dangers posed by these activities;

Now, therefore, be it resolved by the National Commission of the Anti-Defamation League of B'nai B'rith that:

(1) ADL calls on the Congress of the United States to adopt legislation which would:

a. End the preferential treatment, secrecy and confidentiality accorded to Saudi Arabia, Kuwait and the United Arab Emirates by requiring country-by-country disclosure and publication of their portfolio investments and holdings in the U.S., as is the case with all other foreign governments;

b. Strengthen the present disclosure requirements governing foreign investment in U.S. corporations;

c. Establish adequate and proper machinery for closer monitoring and more precise collection of information concerning foreign portfolio investments in the U.S., and for reporting such information to the public on a country-by-country and industry sector and sub-sector basis;

d. Strengthen and expand present prohibitions and restrictions on foreign ownership in areas essential to the national defense and national security of the U.S.; and

e. Strengthen the "Ethics in Government Act of 1978" so as to impose tighter restrictions on the readiness with which former officials of the U.S. government sell their influence, experience and expertise to foreign governments.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1982

● Mr. DERWINSKI. Mr. Speaker, this week marks the 24th anniversary of Capitive Nations Week as designated by Public Law 86-90. This week will be commemorated by events across the country in support of the millions of people held captive by totalitarian regimes.

This year the week will be dramatically highlighted since this is the first time that the President of the United States has held a special signing ceremony proclaiming the third week in July as Captive Nations Week. President Reagan will today sign the Proclamation in the Rose Garden at 11:45 a.m.

This commemoration is most important in light of the struggle of the Polish people under the marshall law imposed at the direction of the Soviet Union, and the fight of the Afghan patriots against the Soviet invaders.

We must underscore our stand for freedom of all captive nations under Communist domination. I continue to be optimistic that the day will come when communism, as a political force, will be eradicated.

I wish to include with my remarks an interview with Dr. Lev E. Dobriansky, the chairman of the Captive Nations Committee, on East-West relations and the importance of National Captive Nations Week, which appeared in the July 19 Washington Times newspaper.

In addition, I wish to insert a very interesting column by Roger Simon of the Chicago Sun-Times which appeared in the July 9 edition of that paper, that discusses the harshest and most isolated of the Captive Nations—Albania.

[From the Washington Times, July 19, 1982]

ROSTER OF CAPTIVE NATIONS THREATENS TO GROW

Since July 1959, Americans each year have commemorated Captive Nations Week. Congress passed a resolution affording this, and President Eisenhower signed it into Public Law 86-90.

Held the third week of July, the event this year will mark the 24th observance. In other countries, such as Taiwan, South Korea and Great Britain, this annual observance also has been kept alive.

Dr. Lev Dobriansky, professor of Soviet studies at Georgetown University, and Chairman of the Captive Nations Committee, is recognized as the initial force behind the efforts to officially recognize the plight of those countries held captive by communist domination.

Today's interview, by Washington Times reporter Bill Allegar, corresponds with today's proclamation by President Reagan in the White House Rose Garden of National Captive Nations Week, July 18-24.

Q: Are you pleased with President Reagan's response to the efforts of the Captive Nations Committee? Is he just giving lip service or is he giving the official recognition that you'd like to see?

A: He definitely is giving official recognition, and as I say, this is the first. Over the years with Eisenhower, Kennedy, Nixon, Ford and Carter, every year on behalf of the committee itself, I wrote a letter to the White House, asking for a proclamation. To me, in a sense having been with this right from the beginning, this (the President's signing of the proclamation) is historic. The president is doing it, so it's not really lip service—he actually is putting into deed what we've been seeking.

Q: Throughout the past 24 years, what have been the highlights of your organization's accomplishments?

A: You have a continuous reaction here on the part of the people in the Kremlin with regard to this resolution. And I would even go so far as to say there is no single idea or measure since World War II that has received such sensitive and vehement reaction on the part of the Kremlin.

Q: Can you explain the long-term goals of the Captive Nations Committee?

A: The matter of Captive Nations Week observance is not just a matter of commemorating the captive nations, although that's important. It's a matter of remembering who the captive nations are and this goes all the way back to 1920 rather than just the beginning of so-called captive nations in central Europe right after World War II.

The whole thing here—the basic idea conveyed in the resolution—is that the Soviet Union itself is an empire, made up of many nations that were forceably brought into the Soviet Union.

Here for the first time you have reference made to the captive nations who were supposedly officially sovereign, independent republics but voluntarily federated with Soviet Russia, which is entirely erroneous and false. And that's the crucial thing that is hit. The main thing is the Soviet Russian imperialism has been the basic thread, using and manipulating the deceptive and false tools of communism and Marxism.

Q: What are your views on the situation in Poland?

A: There's no doubt that Solidarity and that whole movement has been unprecedented among the captive nations. Here is an attempt to bring about an industrial democracy and have the contribution on the part of the workers to a sounder economy within Poland and, at the same time, have more participation. The propaganda in all of these areas, including the Soviet Union, has been that the Communist Party reflects the interests of the workers. Now you have the emergence of the workers attempting to unionize and saying, in effect, "Look, you haven't reflected our interests at all and we now want to assume greater economic power for ourselves as workers, or the good of the state and even for the good of Eastern Europe."

Q: How harmful do you think martial law has been or is going to be?

A: No question it has been harmful. The whole attempt has been to dissolve Solidarity and prevent any resurgence. When you get a crisis of this sort, you get the perennial question: What can we do? And my perennial answer is why didn't you anticipate this, why didn't you prepare for this. We go through this time and time again—inadequate preparation and anticipation for events of this sort.

Q: What about Afghanistan?

A: It is now really a captive nation. You have to give credit to President Reagan who went ahead and signed a proclamation back in March and perhaps more so to the members of the European Parliament that stimulated this. I thought it was significant that this should originate in Western Europe rather than here. I think many things could have been done. When things get out of hand and we allow them to continue to flow, you no longer see Afghanistan on the first page, you have to look in the obituary section or thereabouts to see any instances of heroic fighting and the like. For example, we could have gone ahead and immediately started sort of a radio campaign. But the point is we didn't develop it at all.

Q: What is your feeling towards détente, epecially Western European economic interaction with the Soviet Union?

A: It's an umbrella idea. You can get trade, you can get athletics into it . . . religion, politics, you name it, because of the captive nations' essence here. In connection with this, the "pol-trade" policy that I have advocated was this: Yes, we should trade, but not solely on the basis of commercial values, but on values that should be considered in any liberalizing of trade, in ways of political and cultural concessions.

Q: What about linkage?

A: Well, that's what Kissinger started using when he got in later, linkage. But he predicted trade on political-economic concessions and as a result, our policy has been a wavering one. There has not been a clear-cut policy. So that when we get the Polish situation the president gave an indication that here we must have a consistent clear-cut policy with regard to Western trade with the East. And I think this is a grand opportunity he's pushing for. But it requires compromise . . . compromise, let's say, with many of our west European allies.

On this matter of a pipeline, my feeling is that here we have this opportunity but how we will succeed I don't know. The pipeline came up, but here are many other things with regard to computers and electronics and so on which have had very conspicuous, indirect contributions to their military.

Theirs (the Soviet Union) is not a consumer-oriented economy, it never has been. So why should we go ahead and sustain the type of economy that they do have, which results in a growing military superiority by which they can advance their global purposes?

Q: Before you mentioned the need to anticipate or prepare—what trouble areas specifically do you see? I know you have a list of who's next at the bottom of the Captive Nations list.

A: Right. There are trouble areas all about. Take the entire region of the Persian Gulf. I think it should be pointed out that what the Russians are attempting in Afghanistan—they employed the same technique in many of these non-Russian areas now held within the Soviet Union 50 years ago. They play up ethnic divergencies and

differences, the whole thing being to disunify as much as possible Afghanistan itself. Another, of course, is in Central America via Havana and, of course, Nicaragua and El Salvador. They're there. It's the same thing in southern Africa via Angola and via the Cubans in Angola. There you have a definite Russian push.

The same thing one would say in southeast Asia—the tie-up here in connection with their establishment of a naval base in Vietnam, the importance of recognizing all of this and supporting Taiwan is an integral part of that whole chain of defense from Korea all the way down. Now we're doing that and of course there's a difference of opinion as to how far we can tilt with Taiwan.

Q: Do you think the president has done enough? What should his policy and his actions be?

A: Well, to answer the first part, in view of these accumulated problems over the decades . . . no president with four years or eight years in office will have done enough. Again it's a matter of accumulation and a process. Steps that he's taken? I think there are very notable ones which suggest the beginning of much-needed change.

For example, on more than one occasion, he uses the term Soviet empire. No president that I know of, outside perhaps Harry Truman, since World War II has used the term as frequently as President Reagan has. In other words, if you have this conception—and I think this is crucial—if you don't see the Soviet Union as an empire, if you think of it as Russia as many Americans do, your policy formulations are going to be ill-founded.

A second important thing, namely in his trade area, is the matter of pressing upon our allies for the purpose of concensus in connection with credits.

A third is the original sense of the word—propaganda agencies, the propagation of what we believe and our values. Here he has given impetus to a more effective Voice of America and Radio Liberty.

Q: What are the specific short-term goals you have and, looking at the future, the mid-range and long-term goals?

A: Specific goals really bear on what I call the sub issues that are under the umbrella issue—for example, with regard to trade, if we were to suspend in conjunction with Canada, Argentina, Australia and France exports of wheat and other agricultural commodities to the Soviet Union. The main problem is unified action.

If that were to take place, it would have the heaviest impact on the Soviet Union economically, because their agricultural output has been miserable.

Another important point is the need for an integrated global strategy. We can't continue as we have, going along economic lines without looking at what the political is, the social, the cultural and otherwise. In this case, all of these strains have to be integrated to have what I call a global-political-economic strategy. That's the Captive Nations' idea, by virtue of being founded on historical facts, and it furnishes a focal point, a groundwork for that kind of integration.

Q: Would you see yourself basically in consensus with Solzhenitsyn or are there major areas of disagreement?

A: He looks upon the central force as being communism. We look upon it as being Soviet Russian imperialism using communism in a typically Russian-Leninist tactic.

CAPTIVE NATIONS

*Armenia	1920
*Azerbaijan	1920
*Byelorussia	1920
*Cossackia	1920
*Georgia	1920
*Idel-Ural	1920
*North Caucasia	1920
*Ukraine	1920
*Far Eastern Republic	1922
*Turkestan	1922
Mongolia	1924
*Estonia	1940
*Latvia	1940
*Lithuania	1940
Albania	1946
Bulgaria	1946
Yugoslavia (Serbs, Croats, Slovenians, etc.)	1946
Poland	1947
Rumania	1947
Czecho-Slovakia	1948
North Korea	1948
Hungary	1949
East Germany	1949
Mainland China	1949
Tibet	1951
North Vietnam	1954
Cuba	1960
Cambodia	1975
South Vietnam	1975
Laos	1975
Afghanistan	1980

*Countries absorbed into U.S.S.R.

[From the Chicago Sun-Times, July 9, 1982]

ALBANIA: LAND OF RUBBER HOSES

(By Roger Simon)

When I'm wrong, I'm wrong. And I'm big enough to admit it.

A few weeks ago I made a somewhat offhanded remark about Albania. I did not insult the people of Albania, who I think are swell.

But I did insinuate that if the government of Albania were a building, it would probably be condemned.

My reason was simple and sincere: If you can't make fun of the government of Albania, who the hell can you make fun of?

I immediately got a long, angry letter from something called the "Committee to Form a U.S.-Albania Friendship Association."

The letter was from Sally Olson, chairman of the Chicago chapter. She said that Albania was an "independent, democratic country" that "supports democracy, peace and independence."

Ms. Olson said, in fact, that "Albania is a country in which democracy has reached its highest concrete expression today."

And she said I had better stop insulting the government because my insults were "neither appropriate nor accurate."

I felt like a jerk. After all, what did I really know about the government of Albania? For all I knew the government held an "AlbaniaFest" 365 days a year in which the people danced in the streets until dawn to celebrate their freedoms.

I was going to send a box of candy to the government of Albania by way of apology, but I figured I had better first check with the U.S. State Department in Washington.

I talked to a guy at the State Department's "Albania Desk" who asked me not to use his name. But he assured me that everything he said represented the official policy of the United States of America.

I read him Ms. Olson's letter.

"Oh brother," he said.

Well, what kind of government does Albania have? I asked.

"A communist dictatorship," he said, "which seized power at the end of World War II. It rigidly controls and severely restricts the exercise of political and civil rights. Foreign and domestic news is rigidly controlled and no party except the Albanian Labor Party is allowed to exist."

Gee, I said, that doesn't sound like much fun. What about basic freedoms like assembly, speech and religion?

"They do not really exist," he said. "According to the Albanian constitution, rights cannot be exercised in opposition to the socialist order. And all religious activity is strictly prohibited."

Sticks and stones, I figured. Maybe this guy was just jealous of Albania.

I went on in my pursuit of a fair and even-handed appraisal of the Albanian rulers. I checked with Amnesty International, a group that keeps track of human rights all over the world.

Sad to say, that organization reports there are at least 2,000 political prisoners detained in prison camps in Albania.

Life in those camps is harsh, the organization reports, and prisoners are punished "by stripping them to the waist and beating them with rubber hosing filled with sand or gravel."

Amnesty International also reports that the Albanian criminal code lists 34 crimes punishable by death, 23 of which are political and military crimes.

I plunged on with my research, however, in an attempt to come up with some positive things to say. Here are seven:

1. Albania is the 110th most populous country in the world.

2. In the Albanian monetary system, 100 qindarka equal 1 new lek.

3. Albanians are divided in two main groups: the Gegs in the north and the Tosks in the south.

4. Albania uses the metric system.

5. In 1938, Albanian ruler Ahmet Zogu renamed himself King Zog I.

6. There are frequent cyclones in the winter months.

7. The tourist motto "Albania—Gateway to Bulgaria!" was abandoned when it was found that Albania did not share a border with Bulgaria.

OK, OK, so I made the last one up. All the rest are true, however.

The last bit of research I came up with is a joke that, I understand, is sweeping the better night spots of Albania:

First Prisoner: How many members of government does it take to screw in a light bulb?

Second Prisoner: Six. One to hold the light bulb. One to hold ladder. Four to hold rubber hoses.

Sorry, Ms. Olson. I couldn't resist.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this infor-

mation, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 20, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 21

9:00 a.m.
Rules and Administration
Business meeting, to consider a proposed resolution of regulations and/or rules changes needed to implement television and/or radio coverage of the Senate.
301 Russell Building

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on miscellaneous tariff measures, including S. 1902, S. 2685, section 8(c) of S. 2094, H.R. 4566, S. 11, Sesses Subcommittee
To hold oversight hearings on Federal debt collection activities.
3302 Dirksen Building

Select on Indian Affairs
To hold hearings on H.R. 3731, relating to the use of distribution of certain judgment funds awarded by the Indian Claims Commission or the U.S. Court of Claims.
6226 Dirksen Building

10:00 a.m.
Appropriations
*Foreign Operations Subcomy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building

Judiciary
To hold oversight hearings on Government merger enforcement policy.
2228 Dirksen Building

Labor and Human Resources
Business meeting, to consider a proposed resolution concerning inquiry into Senate confirmation proceedings.
4232 Dirksen Building

Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice
To continue hearings on alleged abuses relating to the Abscam investigation by the Department of Justice.
318 Russell Building

2:00 p.m.
Environment and Public Works
To hold hearings on the nomination of Nancy A. Maloley, of the District of Columbia, to be a member of the Council on Environmental Quality.
4200 Dirksen Building

Governmental Affairs
To hold hearings on the nomination of Peter E. Voss of Ohio to be a Governor of the U.S. Postal Service.
3302 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

Select on Ethics
Closed business meeting.
324 Russell Building

Conferees
On S. 1193, authorizing funds for fiscal year ending September 30, 1982, and fiscal year 1983 for the Department of State; authorizing funds for fiscal year ending September 30, 1982, for the Arms Control and Disarmament Agency; authorizing funds for fiscal year ending September 30, 1982, and fiscal year 1983 for the International Communication Agency; and authorizing funds for fiscal year ending September 30, 1982, for the Board for International Broadcasting.
S-116, Capitol

2:30 p.m.
Environment and Public Works
*Toxic Substances and Environmental Oversight Subcommittee
To hold oversight hearings on the implementation of the National Environmental Policy Act by the Council on Environmental Quality.
4200 Dirksen Building

JULY 22

9:30 a.m.
Finance
International Trade Subcommittee
To continue hearings on miscellaneous tariff measures, including S. 1902, S. 2685, section 8(c) of S. 2094, H.R. 4566, S. 11, S. 231, S. 1552, S. 1565, S. 1588, S. 1717, S. 1723, S. 1746, S. 1979, S. 2031, S. 2247, S. 2396, S. 2560, S. 2566, S. 2692, S. 2699, and S. 2705.
2221 Dirksen Building

Judiciary
Juvenile Justice Subcommittee
To hold hearings to explore the problems of runaway youths.
2228 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Forestry, Water Resources, and Environment Subcommittee
To hold hearings on H.R. 3881, providing for the release of reversionary and mineral interests of the United States conveyed to the Arkansas Forestry Commission.
324 Russell Building

Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the Federal Trade Commission's authority over deceptive advertising.
235 Russell Building

Energy and Natural Resources
Energy Regulation Subcommittee
To hold hearings on S. 2500, reducing conflicts in the licensing of hydroelectric powerplants and expediting the development of and simplifying the regulation of hydroelectric powerplants.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building

Labor and Human Resources
Investigations and General Oversight Subcommittee
To hold hearings to review Federal and State expenditures for the purchase of children's vaccines.
4232 Dirksen Building

Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice
To continue hearings on alleged abuses relating to the Abscam investigation by the Department of Justice.
318 Russell Building

Joint Economic
Monetary and Fiscal Policy Subcommittee
To hold hearings to discuss alternatives to current Federal Reserve policy.
6226 Dirksen Building

10:30 a.m.
Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

1:30 p.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold oversight hearings on subsidized export financing in the domestic market.
5302 Dirksen Building

2:00 p.m.
Budget
Business meeting, to consider proposed legislation conforming the reconciliation provisions of section 310(c) of the Congressional Budget Act of 1974 as mandated in S. Con. Res. 92, revising the congressional budget for the Federal Government for fiscal years 1983, 1984, and 1985, and revising the congressional budget for the Federal Government for fiscal year ending September 30, 1982.
6202 Dirksen Building

Judiciary
To hold hearings on the Northern Pipeline bankruptcy decision.
2228 Dirksen Building

JULY 23

10:00 a.m.
Judiciary
To continue hearings on the Northern Pipeline bankruptcy decision.
2228 Dirksen Building

10:30 a.m.
Foreign Relations
Closed briefing on U.S. relations with China and Taiwan.
S-116, Capitol

JULY 26

10:00 a.m.
Judiciary
To hold hearings on S. J. Res. 199, proposing a Constitutional amendment providing for voluntary prayer in public schools and certain institutions.
2228 Dirksen Building

JULY 27

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on monetary policy.
5302 Dirksen Building

Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2634, providing for integration of handicapped persons

employed in work activity centers and sheltered workshops.
4232 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on Department of Energy's management of research and development facilities.
3302 Dirksen Building
Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice
To resume hearings on alleged abuses relating to the Abscam investigation by the Department of Justice.
Room to be announced

1:30 p.m.
Finance
Health Subcommittee
To hold hearings to review the policy of medicare coverage for the treatment of alcohol-based disorders and alcoholism.
2221 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on miscellaneous public land measures, including S. 1303, H.R. 1281, S. 1978, S. 2279, S. 1705, H.J. Res. 207, S. 2308, S.J. Res. 168, S. 1661, and S.J. Res. 155.
3110 Dirksen Building

JULY 28

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on S. 2539, extending for 2 years the act implementing the International Sugar Agreement, 1977, and S. 2540, extending for 1 year the application of the International Coffee Agreement Act of 1980.
2221 Dirksen Building
Labor and Human Resources
Labor Subcommittee
Business meeting, to mark up S. 1541, amending the Employee Retirement Income Security Act (ERISA) by simplifying both reporting and disclosure requirements, and the process for employers to provide retirement income to employees, and providing incentives for employers to provide pension benefits to employees.
4232 Dirksen Building
Veterans Affairs
To hold hearings on S. 2747, improving certain aspects of the VA's educational benefits programs and the Department of Labor's veterans' employment programs.
412 Russell Building
Select on Indian Affairs
To hold hearings on S. 2153, providing for the distribution of funds awarded the confederated tribes of the Warm Springs Indian Reservation in Oregon by the Indian Claims Commission.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building
Environment and Public Works
Environmental Pollution Subcommittee
To resume hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on Department of Energy's management of research and development facilities.
3302 Dirksen Building
Judiciary
To resume hearings on S. 818, S. 1558, S. 1106, S. 2658, S. 2669, S. 2672, S. 2678, and S. 2745, bills limiting the insanity defense, establishing a Federal criminal verdict of "not guilty only by reason of insanity," and establishing procedures for dealing with defendants obtaining such a verdict.
2228 Dirksen Building
Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice
To continue hearings on alleged abuses relating to the Abscam investigation by the Department of Justice.
Room to be announced

2:00 p.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To resume hearings on S. 2131, authorizing funds through fiscal year 1986 for the safe drinking water program.
4200 Dirksen Building

JULY 29

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Robert G. Dederick, of Illinois, to be Under Secretary of Commerce for Economic Affairs.
235 Russell Building
Labor and Human Resources
Business meeting, to mark up S. 1929, establishing an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1918, establishing the Northeast-Midwest States Hydropower Financing Authority to make lower cost loans and loan guarantees for hydropower development.
3110 Dirksen Building
Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building
Governmental Affairs
Congressional Operations and Oversight Subcommittee
To hold oversight hearings on proliferation of indexation.
3302 Dirksen Building
Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice
To continue hearings on alleged abuses relating to the Abscam investigation by the Department of Justice.
Room to be announced

AUGUST 2

9:30 a.m.
Finance
To hold hearings on S. 2237, extending trade and tax incentives to promote economic development in the Caribbean Basin and Central American region.
2221 Dirksen Building

AUGUST 3

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold hearings on S. 2704, revising certain provisions relating to the lease and production of coal reserves.
3110 Dirksen Building

10:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold oversight hearings on the implementation of the Toxic Substances Control Act by the Environmental Protection Agency.
4200 Dirksen Building

AUGUST 4

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 1405, proposed Carl Albert Congressional Research and Studies Center Endowment Act.
4232 Dirksen Building

AUGUST 5

10:00 a.m.
Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol and drugs on individuals while driving.
4232 Dirksen Building

AUGUST 10

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

AUGUST 11

9:00 a.m.
Office of Technology Assessment
The Board, to meet on pending business items.
EF-100, Capitol

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To resume hearings on S. 2634, providing for integration of handicapped persons employed in work activity centers and sheltered workshops.
4232 Dirksen Building
Select on Indian Affairs
To hold hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States; S. 2418,

permitting the Twenty-nine Palms Band of Luisena Mission Indians to lease certain trust lands for 99 years; S. 1799 and H.R. 4364, bills providing for the transfer of certain land in Pima County, Ariz., to the Pascua Yaqui Indian Tribe; and the substance of H.R. 5916, providing for certain Federal lands to be held in trust for the Ramah Band of the Navajo Indian Tribe.

6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).

4200 Dirksen Building

AUGUST 12

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

Veterans Affairs
Business meeting, to mark up S. 2378, proposed Veterans' Disability Compensation and Survivors' Benefits Amendments, and proposed legislation clarifying certain United States Code provisions relating to veterans' employment programs.

412 Russell Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the Student Loan Marketing Association (Sallie Mae).

4232 Dirksen Building

AUGUST 13

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

AUGUST 18

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.

4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.

3110 Dirksen Building

AUGUST 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.

3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.

4232 Dirksen Building

SEPTEMBER 21

10:30 a.m.
Veterans Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.

318 Russell Building

CANCELLATIONS

JULY 21

2:00 p.m.
Judiciary
Separation of Powers Subcommittee
To hold hearings on the treaty ratification process and separation of powers.

4232 Dirksen Building

JULY 22

2:00 p.m.
Governmental Affairs
Federal Expenditures, Research and Rules Subcommittee
To hold hearings on S. 1882, providing for uniform Federal debarment and suspension procedures with certain contractors.

3302 Dirksen Building